



Town of Hampden
Planning and Development Committee
Wednesday June 20, 2018, 6:00 pm
Council Chambers
Agenda

1. Approval of June 6, 2018 Minutes
2. Committee Applications: None
3. Updates:
 - A. MRC/Fiberight
 - B. Staff Report
4. Old Business: None
5. New Business:
 - A. Proposed amendments to the Fees Ordinance to address modifications in the site plan and conditional use approval processes in the revised Zoning Ordinance
 - B. Discussion of consequences of recent listing of Shaw Brook and Sucker Brook as urban impaired streams by DEP
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 June 6, 2018, 6:00 pm
Municipal Building Council Chambers
Minutes - Draft

Attending:

Committee/Council

David Ryder - Chair
Mark Cormier
Terry McAvoy
Ivan McPike

Staff

Karen Cullen, Town Planner
Myles Block, Code Enforcement Officer
Angus Jennings, Town Manager
Jim Chandler, Incoming Town Manager

Public

Eric Jarvi

After determining that Chairman Ryder and Mayor McPike constituted a quorum of the committee (2 out of 3), Chairman Ryder called the meeting to order at 6:00 pm.

1. Minutes for the April 18, 2018 meeting – **Motion** to approve as submitted made by Councilor McAvoy; second by Mayor McPike; carried 4/0/0.
2. Committee Applications: None
3. Updates:
 - a. MRC/Fiberight: Planner Cullen noted the packet contained a number of articles on Fiberight or MRC. Yesterday a meeting between staff and MRC representatives was held, and was successful in that we got the point across that they need to be focused on three main issues to prevent potential problems down the road. The first is the use issue during the period between opening with MRF and when the “wet end” is operational; they will submit information to CEO Block for him to make the determination as to whether the use constitutes a transfer station under our zoning ordinance. In regards to avoiding future potential shut-down if the wet-end is not operational before the 12 month conditional certificate of occupancy time period ends, staff suggested requesting an amendment to the Planning Board Order to create a phasing plan - that would solve the problem by allowing the CEO to issue a (final) certificate of occupancy by phase. Finally, they need to be aware that the Director of the DPW, if not fully satisfied that the roadway will not have problems similar to what was experienced since it was built, will recommend to Town Council that the road not be accepted until it has successfully survived a winter season. CEO Block also reported they had an onsite meeting that included all the stakeholders, including DEP.
 - b. Staff Report:
 - i. Planner Cullen reported that the escrow account reconciliation is going well, her research and recommendations will be completed soon and she plans to meet with

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the auditor to review it. She noted many of the accounts are so old that the records no longer exist, so it is likely to become a legal question as to whether the town has the authority to keep the money left in the accounts.

- ii. The project list in the packet reflects the current applications, and she is expecting an increase in applications after the zoning is adopted, based on inquiries she's received.
 - iii. Staff will be meeting with contract planner Ben Smith next week to nail down the scope of services in preparation for the beginning of work July 2. Planner Cullen will be the project manager and will attend public meetings, Ben Smith will do the majority of the work.
 - iv. Planner Cullen said that while the Town Center project is being done by Ben, she will be focused on getting the Shoreland Zoning completed. The goal is to have both projects done by the end of the year.
 - v. CEO Block reported that the Board of Appeals met last week and approved two requests for Shoreland Zoning boundary determinations.
4. Old Business: None.
 5. New Business: None.
 6. Zoning Considerations/Discussion: Planner Cullen started the discussion of the proposed zoning amendments which will be the subject of a Town Council public hearing on June 18th by reviewing the memo handed out tonight (see addendum to these minutes). The main points of the discussion were:
 - Regarding multi-family cluster developments:
 - The committee agreed with the suggested changes to deal with the inconsistencies in the language dealing with multi-family units in a cluster development.
 - The existing multi-family developments in the Rural district were done prior to the zoning amendment in 2007 that added the requirement for multi-family in that district be connected to both public water and sewer. Staff believes the reason for that change was due to fire flow and the requirements of the fire code.
 - Fire flow requirements are different for single family/two-family and for multi-family (3 or more units).
 - Discussion on allowing a property owner to install an on-site well and related water supply infrastructure that would have the capacity to handle fire flow. The cost would be high and it is questionable whether a single well could provide the flow needed.
 - A townhouse, which has a fire separation wall between units extending from the foundation through the roof, has different requirements from multi-family.
 - The committee decided to change the language in §3.2.1.1 to remove the restriction that the development be connected to public water, unless there is a line within 500'. In addition, add language related to financial feasibility, similar to what is in the sewer ordinance. The applicant would be responsible for providing accurate cost information to prove financial infeasibility.
 - The committee decided to add a definition of townhouse; CEO Block will give me the definition in the residential code.

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- Regarding building permits and road acceptance:
 - There are risks on both sides in allowing a building permit to be issued prior to road acceptance. The property owner could end up with a building that can never get a certificate of occupancy because the road may never get completed and accepted. The Town could end up with incomplete roads with no developer to finish it, with houses or non-residential buildings sitting there.
 - Staff will put together a form that property owners will need to sign if they are seeking a building permit for a lot in a subdivision with an unaccepted road, that will make it clear they are taking a risk in doing so. We'll have that reviewed by the Town Attorney to ensure the wording provides legal backing for it.
 - Lots can be sold at any time, we have no restrictions on timing of sale of lots.
 - There is a two year timeframe for completion of a road approved in a subdivision.
- Ideas on getting the word out after the amendments are adopted:
 - Mailing to local developers, engineers, architects, realtors, etc.
 - Newsletter article or separate mailing to all residents
 - Insert in the sewer bills
 - Info on the website
 - Update or summarize the 4 page summary – make it a marketing piece
 - Costs for this would be TIF eligible (Emera TIF)
 - Press release to the BDN, the “Edge”
 - Provide some examples of things that were fixed from the old to the new ordinance.
- Councilors thanked staff for the well done work; Councilor Cormier noted this was the reason he ran for office – to relax restrictions and make it easier for people to develop their land.
- Adult use marijuana uses are included in the new use table, prohibited in all districts; once the state competes their work then we'll go back in to make amendments to handle these uses as determined at that time.
- Regarding cluster housing density bonus related to provision of affordable housing – the developer has the option to get a density bonus if they provide a few units of workforce housing.
- The open space requirement for cluster housing remains at 30%, and 20% for mobile home parks, and 40% for multi-family development. Keep as-is because the differences are for density reasons – the different housing types have different needs. In cluster, the amendments allow a higher number of units due to a change in the calculations.
- The requirement for half of the open space to be non-wetland is to allow for useable land for community gardens, playgrounds, trails, gathering areas, etc.

It was noted the Town Council has already referred this to hearing for June 18th.

Motion by Councilor McAvoy to send the revisions as revised tonight to Town Council with a recommendation “ought to pass” for the public hearing; seconded by Mayor McPike; carried 4/0/0.

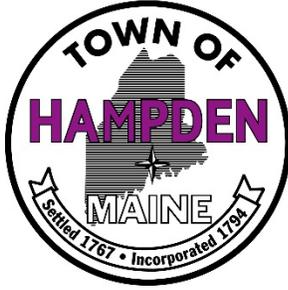
7. Citizen Initiatives: None.
8. Public Comments: None

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9. Committee Member Comments: Mayor McPike requested that the Councilors send him their three top priorities for discussion with incoming Town Manager Jim Chandler.
10. Adjournment: **Motion** to adjourn the meeting at 7:21 pm made by Mayor McPike, seconded by Chairman Ryder; motion carried 4/0/0.

*Respectfully submitted by
Karen Cullen, Town Planner*

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Town of Hampden
Land & Building Services

Memorandum

To: Planning & Development Committee
CC: Planning Board
From: Karen M. Cullen, AICP, Town Planner *KMC*
Date: June 6, 2018
RE: Amendments to Zoning Ordinance – Additional Changes

Well it always happens, we find additional items to address at the eleventh hour... in this case some people working on conceptual plans for cluster developments had raised some questions, and clarification language is needed in the permitting section.

First, there are some inconsistencies in the draft language for cluster housing that can be remedied with the following:

1. To clarify that multi-family (3- or 4-unit) buildings must be serviced with public water, add to the end of §4.6.1.1: "and subject to §3.2.1 for projects including multi-family." This applies to all zoning districts.
2. To clarify that the open space requirement for cluster projects with multi-family is as stated in the cluster provisions, add to the end of §3.2.1.3: "except in cluster developments where the provisions of §4.6.2 apply."
3. To be consistent with the density for multi-family between the cluster provisions and the dimensional standards in article 3 (§3.4.2.2), change §4.6.2, maximum density for multi-family in the Rural district, from "NA" to "2". Note that during discussions, the Planning Board had felt that most multi-family developments would be done as site plans and not as cluster developments. To the extent that people want to do a cluster with multi-family in the Rural district, the density should be consistent with that allowed if developed through site plan review. Note the open space requirement under the non-cluster provisions is actually more stringent than in the cluster provisions (40% vs. 30%); this is what the current ordinance requires.
4. To allow flexibility in the buffer area around the tract, rename §4.6.4.2 "Utilities and roads" and add to the end: "Roads may be located within the tract buffer provided no portion is closer than 25 feet to the tract boundary and the amount of roadway is minimized. The intent is to allow flexibility to account for tract configuration and the location of natural features on the site."

Second, there has been a question of when a building permit can be issued in relation to road acceptance. In looking at the current language under §5.3.1, Building Permits, §5.3.2.1, Certification of Occupancy, and the definitions of road frontage and road in §7.2, I have found that three changes can provide clarity to the situation:

- 5.3.1.2 No building permit shall be issued except in conformity with the provisions of this ordinance. However, when a building permit is requested for a lot within a subdivision approved by the Planning Board and recorded in the Penobscot County Registry of Deeds and has not been vacated, a building permit may be issued without compliance with the frontage requirement of §3.4.1.

~~5.3.1.8 Building permits for structures to be located on subdivision lots shall not be issued by the Code Enforcement Officer until the road and infrastructure has been accepted by the Town in accordance with the Town Ways Ordinance.~~

5.3.2.1.4 Certificates of occupancy for structures on subdivision lots may only be granted if the public improvements in accordance with the Planning Board approved Subdivision Plan or phase are completed and associated roads, if any, are accepted by the Town Council, or for a private road, approved by the Director of Public Works.



Town of Hampden
Land & Building Services

Memorandum

To: Planning & Development Committee
 From: Karen M. Cullen, AICP, Town Planner *KME*
 Date: June 19, 2018
 RE: Proposed Amendments to Fees Ordinance

Due to the changes in the Zoning Ordinance related to the application process for conditional uses and for site plan review, the Fees Ordinance needs to be updated to reflect the new procedures. Previously, all conditional use applications were processed through the site plan review section of the zoning ordinance, whether they had an actual site plan or not (e.g. a home occupation application required a conditional use approval yet rarely did such applications need any site plan review). The revised zoning ordinance has separated the two processes so those who need a conditional use application are no longer fed through the site plan review process.

The Fees Ordinance currently has fees for site plan review, but not for conditional use review. The attached excerpt pages of the Fees Ordinance provide the amendments proposed to address this. While doing this, I've also made a few other changes to this section of the Fees Ordinance. In order of the sections in the Fees Ordinance, the changes are:

1. Adding a draw account deposit for construction inspections for subdivisions. Based on recent inspection costs, we've set this at \$5,000 which may be sufficient for some subdivisions and will be under the actual cost for others. As you can see in endnote 2 (on page 10 of the attached), we request additional deposits to ensure we have sufficient funds to pay our consultants who are performing the inspections. And as stipulated in endnote 3, upon issuance of a certificate of compliance, any balance remaining (after all payments to be made from the account are processed) is returned to the applicant.

In the past, the final subdivision application fee was set at 10% of the total cost of the improvements, and was used as a draw account. As I discovered in my research on the old escrow (draw) accounts, this caused confusion countless times, and resulted in many accounts being handled incorrectly. To make things consistent, anything called a "fee" in the Fees Ordinance should be an actual fee which is deposited into the General Fund as revenue. Draw accounts are handled separately and, as mentioned above, any funds left in them upon completion of the project and after all invoices are paid should be returned to the applicant.

2. Delete the footnote at the bottom of page 8, since it is identical to the one (before edits) on page 10.

3. Under site plan review, change “minor development” to “minor revision” to match the language in §4.1. The fee is \$75, which I do not propose to change. It currently applies to reuse proposals or new structures with less than 3,000 square feet and site improvements of less than 5,000 square feet. These thresholds are not mentioned in the zoning ordinance, they were apparently created in the Fees Ordinance to provide for the variety of proposals submitted. In the revised zoning ordinance, a minor revision application is one that:
 - a. increases the size of a structure by 500 sq ft or less and which exceed 50% of the size of the existing structure
 - b. alterations in utility services (changes in elevation, pipe sizes, or relocation)
 - c. re-grading that doesn’t adversely impact abutters or stormwater management
 - d. adding landscaping, plantings, or fencing
 - e. rearranging parking spaces
 - f. expanding paved areas by less than 2,000 sq ft
 - g. change of use from one use category to another if deemed necessary by the CEO to further the purposes set forth in §4.1.1 (purpose of site plan review).

Note, most of these are in the current (pre-amendment) zoning ordinance.
4. Under site plan review, change (and renumber) “all others” to “minor site plan” and keep the current fee of \$150.
5. Under site plan review, change (and renumber) “major development” to “major site plan” and keep the current fee of \$500. If the intention of these fees is to cover the cost of staff time in processing and reviewing applications, then there is merit in establishing several fees for major site plan review to address the amount of time applications of different sizes require, such as:
 - a. less than 1 acre of land disturbance: \$500
 - b. 1 to less than 3 acres of land disturbance: \$750
 - c. 3 to less than 5 acres of land disturbance: \$1,000
 - d. 5 or more acres of land disturbance: \$1,500

Examples of recent site plan applications:

| <i>Project</i> | <i>What it was for</i> | <i>Fee Paid</i> | <i>New Fee would be</i> |
|-----------------------|---|-----------------|-------------------------|
| Good Sheppard | added 7500 sq ft of pavement | \$150 | \$500 |
| Pat’s Pizza | replacement of current building with new one in a different location (on the same site) | \$150 | \$500 |
| Tradewinds | 50,949 sq ft of impervious surface | \$500 | \$750 |
| Hannaford | Addition of 320 sq ft CLYNK structure | \$75 | \$75 |
| Hamlin’s Marina | 10,000 sq ft boat storage bldg. | \$150 | \$500 |
| Hannibal Hamlin Plaza | 2800 sq ft addition with new parking lot for 25 vehicles | \$150 | \$500 |
| MRC/Fiberight | New 160,000 sq ft industrial building, associate site improvements including new road | \$500 | \$1,500 |

6. Under site plan review, under the draw account deposit section, add a new section for construction inspections with a deposit amount of \$5,000. This is essentially the same thing discussed above in item 1, but would apply to any site plan application that involved infrastructure that was proposed to be turned over to the town. This is not common, but when it occurs we need a

mechanism to collect funds to pay our consultants who provide the inspection services (typically a registered professional engineer).

7. Given the fact that the revised ordinance does not allow a new landfill, and the existing landfill cannot be expanded, staff recommends deleting this section of the Fees Ordinance.
8. Add a new section for Conditional Use applications:
 - a. for conditional use proposals that do not involve work that requires a site plan, set the fee at \$75, which is the same as the lowest fee for site plan applications.
 - b. for conditional use proposals that do require site plan review, set the fee at \$50 since the applicant will also be paying the site plan application fee. I believe this lower fee is warranted since there is some level of efficiency in reviewing both types of applications together.
 - c. for all conditional use proposals, the cost for public notices and mailings is proposed to be at (the actual) cost.

2.11. Special Amusement Ordinance (Amended 11/6/17)

2.11.1. Permit Application Fee (Public Hearing Required) \$125.00

2.12. Subdivision Ordinance

2.12.1. Subdivision Sketch Plan No Charge
 2.12.2. Minor Subdivision (Amended 5/15/17) \$100.00 plus \$20.00/lot
 2.12.3. Minor Subdivision Review/Inspection Draw Not required
 2.12.4. Major Subdivision Preliminary Plan

on existing road (Amended 5/15/17) \$150.00 plus \$50.00/lot
 with new road \$500.00 plus \$50.00/lot

Draw Account Deposit (for technical review)^{1,2,3} \$2,000.00
 (Amended 5/15/17)

2.12.5. Major Subdivision Final Plan (Amended 5/15/17)

Following Preliminary Plan \$150.00 plus \$20.00 per lot
 If no Preliminary Plan \$500.00 plus \$50.00 per lot
 Draw Account Deposit (for technical review)^{1,2,3} None if Preliminary Plan
 completed and no significant
 modifications to infrastructure
 made; otherwise \$2,000.00.

2.12.6. Draw Account Deposit for Construction Inspections^{2,3} \$5,000.00
(Required prior to the start of construction
for any subdivision with infrastructure that
is proposed to be accepted by the Town of Hampden.)

2.12.6~~7~~ Cost for public notices and mailings (Amended 5/15/17) At cost

2.13. Victualers Ordinance (Amended 6/15/09, 4/19/16)

2.13.1. Victualers License Application
 2.13.1.1. Public hearing not required \$100.00
 2.13.1.2. Public hearing is required \$150.00
 2.13.1.3. Cost for public notices and mailings At cost

The above fees include all inspections required by Town of Hampden Victualers Ordinance. If an inspection is performed and the Code Enforcement Officer or Fire Inspector, or their alternate, believe a reinspection is needed because of a fault of the applicant or agent then a fee per 2.16.5 will be charged and due prior to the issuance of the Victualers License.

2.14. Waste Disposal Facility Licensing Ordinance

2.14.1. Application Fee \$50,000.00

~~⁺In addition to the Planning Board application fees the applicant must make a deposit for a Peer Technical Review draw account when the nature of the review exceeds the technical capability of Town personnel. Applications which require subsequent re-review of additional information, or amended submittals shall be responsible to provide additional funds to cover the full peer review costs. Upon exhausting in excess of 75% of the funds in the original deposit, the applicant shall provide additional funding increments of 50% of the original deposit. Any remaining funds held in the draw account upon completion of the review process shall be returned to the applicant. (Amended 5/15/17)~~

This is a draw account to be used by the Council to hire consultants as necessary to review the proposal. If at any time balance drops to \$10,000.00 the applicant shall deposit an additional \$10,000.00. Any unexpended balance shall be returned after a final decision on the application is rendered.

2.16. Zoning Ordinance

| | |
|---|--|
| 2.16.1. Building Permit Applications for all Construction | \$25.00 plus \$0.10 per sq. ft. of total building area including but not limited to finished areas, basements, attics, decks, pools, porches, sheds, garages, etc. |
| <i>(Plumbing Permit Application)</i> | <i>State Regulated</i> |
| 2.16.2. Demolition/Earth Moving Permit Application | |
| 2.16.2.1 Demolition (residential-with sewer connection) <i>(Amended 5/15/17)</i> | \$100.00 |
| 2.16.2.2 Demolition (residential-no sewer connection) <i>(Amended 5/15/17)</i> | \$ 50.00 |
| 2.16.2.3 Demolition (commercial) <i>(Amended 5/15/17)</i> | \$150.00 |
| 2.16.2.4 Earth Moving (Code Enforcement Issued) <i>(Amended 5/15/17)</i> | \$100.00 |
| 2.16.2.5 Earth Moving (Planning Board Issued) <i>(Amended 5/15/17)</i> | \$200.00 |
| 2.16.3. Sign Permit Application | \$25.00 per sign |
| 2.16.4. Certificate of Compliance or Occupancy | |
| 2.16.4.1 Certificate of Compliance Application <i>(Amended 5/15/17)</i> | \$100.00 |
| 2.16.4.2 Certificate of Occupancy Application <i>(Amended 5/15/17)</i> | \$100.00 |
| 2.16.4.3 Dual applications (filed together) <i>(Amended 5/15/17)</i> | \$150.00 |
| 2.16.5. Additional Inspections <i>(If the town needs to perform additional inspections as a result of applicant deficiencies). (Amended 5/15/17)</i> | \$35.00 per hour per inspector |
| 2.16.8. Zoning Board of Appeals Variance Application | |
| 2.16.8.1. General Variance | \$250.00 |
| 2.16.8.2. Dimensional Variance | \$250.00 |
| 2.16.8.3. Disability Variance | Free |
| 2.16.8.4. Administrative Appeal Application | \$250.00 |
| 2.16.8.5 Cost for public notices and mailings | At cost |
| 2.16.9. Zoning Ordinance Map Amendment Request <i>(Amended 5/15/17)</i> | |
| 2.16.9.1 Amendment Application <i>(Amended 5/15/17)</i> | \$650.00 |
| 2.16.9.2 Cost for public notices and mailings | At cost |

| | | |
|--|---|---|
| 2.16.10. Site Plan Review Applications | | |
| 2.16.10.1. | Minor Development <u>Revision</u> <i>This includes reuse proposal or new structures with less than 3,000 sq. ft., and total site improvements of less than 5,000 sq. ft</i> | \$75.00 |
| 2.16.10.23. | Major Development <u>Site Plan</u> <i>This includes new structures in excess of 20,000 sq. ft or developments with more than 50,000 sq. ft. of site improvements</i> | \$500.00 |
| 2.16.10.32. | All Others <u>Minor Site Plan</u> | \$150.00 |
| 2.16.10.4 | Draw Account Deposit (for technical review) ^{1,2,3} <i>(Amended 5/15/17)</i> | |
| 2.16.10.4.1 | General Engineering <i>(Amended 5/15/17)</i> | \$800.00 |
| 2.16.10.4.2 | Stormwater Analysis <i>(Where proposed use disturbs more than one acre <u>20,000 sq. ft.</u> of land). <i>(Amended 5/15/17)</i></i> | \$600.00 |
| 2.16.10.4.3 | Traffic Analysis <i>(Where proposed use will generate at least 350 average daily trip ends). (Amended 5/15/17)</i> | \$1,000.00 |
| <u>2.16.10.4.4 Construction Inspections^{2, 3}</u> | | <u>\$5,000</u> |
| <i>(Where proposal includes any infrastructure proposed to be accepted by the Town of Hampden.)</i> | | |
| 2.16.10.5 | Cost for public notices and mailings <i>(Amended 5/15/17)</i> | At cost |
| 2.16.11. | Commercial Secure Landfill Applications | \$0.005/cubic yard of capacity |
| <i>(Application to expand or construct a Commercial Secure Landfill in addition to the above fees).</i> | | |
| 2.16.11.1 | Cost for public notices and mailings | At cost |
| <i>(Amended 5/15/17)</i> | | |
| 2.16.12-11 DELETED Conditional Use Applications (Amended 5/15/17) | | |

¹In addition to the Planning Board application fees the applicant must make a deposit for a Peer Technical Review draw account when the nature of the review exceeds the technical capability of Town personnel. Applications which require subsequent re-review of additional information, or amended submittals shall be responsible to provide additional funds to cover the full peer review costs. (Amended 5/15/17)

²Upon exhausting in excess of 75% of the funds in the original deposit, the applicant shall provide additional funding in increments of 50% of the original deposit. (Amended 5/15/17)

³Any remaining funds held in the draw account upon ~~completion of the review process~~ endorsement of the plan (for technical review accounts) or issuance of a certificate of compliance (for construction inspections), after all invoices are paid, shall be returned to the applicant. (Amended 5/15/17)

2.16.~~1211~~.1 ~~DELETED~~ Conditional Use without site plan (Amended 5/15/17) \$75

2.16.~~1211~~.2 ~~DELETED~~ Conditional Use with site plan (Amended 5/15/17) \$50
(This is in addition to the site plan review application fee)

2.16.~~1211~~.3 ~~DELETED~~ Cost for public notices and mailings (Amended 5/15/17) At Cost