

Town of Hampden

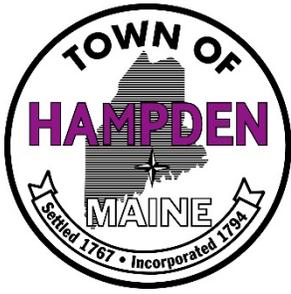
Planning Board

Wednesday July 12, 2017, 7:00 pm

Municipal Building Council Chambers

## Agenda

1. Administrative
  - a. Minutes – June 14, 2017
  
2. Old Business – None
  
3. New Business
  - a. Public Hearing, Zoning Ordinance Amendment: §5.3, Permits. Amend the section to differentiate between a Certificate of Occupancy and a Certificate of Compliance and establish clear procedures for the issuance of each. Add definitions of these terms to §7.2.
  
  - b. Public Hearing, Zoning Ordinance Amendment: §7.2, Definitions, regarding municipal solid waste, processing, and transfer station.
  
5. Staff Report
  - a. Zoning Map
  
6. Planning Board Comments
  
7. Adjournment



Town of Hampden

Planning Board

Wednesday June 14, 2017, 7:00 pm

Municipal Building Council Chambers

## Minutes

### In Attendance:

#### Planning Board

Gene Weldon, Chair  
Peter Weatherbee  
Michael Avery  
Jim Davitt  
Kelley Wiltbank  
Tom Dorrity

#### Staff & Others

Karen Cullen, AICP, Town Planner  
Myles Block, CEO  
  
Jim Kiser  
Tricia Carver  
Michael Griffin

Chairman Weldon called the meeting to order at 7:00 pm.

1. Administrative

- a. Minutes of May 10, 2017 meeting: **Motion** by Member Weatherbee to approve as submitted; second by Member Davitt, carried 4/0/1.

2. Old Business: None

3. New Business

- a. Public Hearing, with a new cul-de-sac off Constitution Ave, with the reconfiguration of two existing lots on Constitution Ave, on a portion of parcel 06-0-041-A and on parcels 06-A-056 and 06-A-058. This is Phase 3 of the Colonial Heights development. Chairman Weldon opened the hearing at 7:01 pm.

Jim Kiser represented the applicant and presented the plan, his main points were:

- 11 new lots with a reconfiguration of two existing lots on Constitution to provide for the access road into the new lots
- New road is about 970 feet long ending in a cul-de-sac
- Extension of the road is restricted by a narrow entrance to the cul-de-sac from the remaining land, which has frontage on Mayo Road
- There is full sewer, water, and storm drain infrastructure
- All lots are readily buildable, but due to the clayey soil they are providing for foundation drains to tie into the stormwater drainage system
- The plans have been revised to satisfy staff on all but a few minor items.

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There being no one else wishing to speak on the application, the hearing was closed at 7:05 pm.

Planner Cullen gave a brief summary of her report and noted that the Board had before them tonight the letter from Woodard and Curran, an email from Jim Kiser in response, and a map she prepared showing potential downstream impacts to help the Board understand one of Woodard & Curran's comments.

Discussion points:

- The DEP wetland permit has been issued.
- DEP does not require a stormwater permit for this subdivision since the amount of impervious surface (the road) is less than one acre; therefore the applicant is requesting a waiver to the requirements in the Subdivision Ordinance to allow conformance with the state requirements, rather than have two separate sets of stormwater standards to deal with.
- Other two waiver requests are for sidewalks and showing vegetation and trees over 12" diameter.
- Board was in receipt of the final report from Woodard & Curran; Jim Kiser's response is:
  - The map of drainage areas was provided showing existing grades;
  - One of the storm drain pipes was accidentally modeled as 12" instead of 15", it worked with that so installing 15" will obviously still handle the stormwater;
  - Regarding stormwater inspections required for the MS4 permit compliance, all the information needed by the town to add the components to the list (catch basins, outfalls, and open ditches) are on the plan;
  - Storm drain construction detail has been shown in response to DPW's earlier comments; perforated pipe is being installed along the north side of the road, and is not needed on the south side based on topography;
  - Building (foundation) elevations should be set by the builders; in the past when they are specified on subdivision plans they are ignored. When a house is built, if the owner doesn't mind having a sump pump to get the water up into the stormwater system, then the foundation can be set at any elevation.
- Will meet with Sean Currier (DPW) regarding the ditch detail to determine appropriate depth of the ditch.
- Regarding the sidewalk waiver request, there are no sidewalks in the other phases of the subdivision and it has not been a problem. Most traffic is slow and there are a lot of pedestrians using the roads daily. Requiring sidewalks here will impact DPW by requiring them to come out to plow the small section of sidewalk.
- Regarding the waiver request for showing vegetation and trees over 12" diameter, the site was harvested last year to avoid the potential impact on the breeding season of endangered bats that might be present in the area. In addition, saving trees on such small lots is impractical since the building activity impacts most of the area.

There were no other questions or discussion from the Board. Chairman Weldon said the Board would act on the waiver requests tonight and request the applicant work with staff to iron out any remaining issues prior to submitting the final plan for approval.

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**Motion** by Member Weatherbee to grant the three waivers requested as detailed in the application materials, and to direct the applicant to work with staff to finalize the plans prior to submission for final plan approval; second by Member Davitt; carried 6/0/0.

- b. Public Hearing, Conditional Use: Tricia Carver for conversion of an existing single family house located at 11 Ballfield Road to a two-family dwelling, under the provisions of §3.7.6 of the Hampden Zoning Ordinance, in the Residential A district.

Chairman Weldon opened the hearing at 7:20 pm. Tricia Carver, the applicant and owner, presented the application. She submitted revised floor plans showing a total of four bedrooms, two in the main unit and two in the rental (secondary) unit. She noted:

- When the house was built, they finished the basement first and lived there while the second floor was finished, the basement unit got a certificate of occupancy at that time
- The second floor has also received a certificate of occupancy
- A 90 minute (fire) rated door was installed last weekend
- Jason Lundstrom, the fire inspector, was at the house yesterday and inspected the door and smoke/CO detection system and it all passed
- Her living situation has changed and in order to stay in this house in Hampden she needs rental income
- She has found a potential tenant, a teacher at Hermon High School, who will be a good fit for the apartment
- Noted the tenant will pass through the workshop area (used for storage) to enter her unit
- The door to the main house is on the opposite end of the building

There being no other speakers on the application, the hearing was closed at 7:24 pm.

CEO Myles Block noted the basement unit had received a conditional certificate of occupancy from Ben Johnson on Feb 14, 2013, and now the entire house has a full occupancy permit.

Clarification of the location of this property; it is behind (to the south of) the ballfield, accessed from the driveway right next to the third base outfield.

Planner Cullen noted the Board has a draft Order before them tonight. She noted this application was submitted prior to the effective date of the newly adopted accessory apartment regulations so is being processed and approved under the "old" language. She added this application also meets the standards of the new language, although it is not required to do so. She also noted the Board has a copy of an email from Jason Lundstrom regarding his inspection of the property.

**Motion** by Member Wiltbank to approve the conditional use for a two family conversion as submitted and as detailed in the Board Order, with the addition of another finding stating that the application also meets the requirements of the newly adopted zoning regulations pertaining to accessory apartments; second by Member Avery; carried 6/0/0.

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- c. Amendment to Subdivision Approval: River View Heights (Perkins Drive), to remove the condition requiring Lot 3 to have a site plan with the building permit.

Mike Griffin, attorney for the buyers of the house that now occupies Lot 3 on the River View Heights subdivision (Perkins Drive), spoke on the request. He said when he was doing the title search, he found two notes on the subdivision plan approved in 2008 that have caused a problem for securing clear title to the property. The first, and a direct impact to his client, is note 11 on the plan which requires a “professionally designed and engineered site plan” for Lot 3 to be submitted at the time of application for a building permit. The second, for which he seeks clarification from the Board, is for a declaration of covenants to be recorded at the registry of deeds; that has never happened and he is asking the Board to say that’s okay. Mr. Griffin also showed the Board a plan showing the house was located far from the (Penobscot) river and would have no impact on the river.

Planner Cullen said the Board had before them tonight a package of materials from her research, including the June 7, 2017 letter from Attorney Griffin, the June 3 letter from CEO Block, a map of the subdivision showing Lot 3, an excerpt of the 2003 approved plan showing the notes (regarding note 1), an excerpt of the 2008 approved plan showing the notes (regarding both 1 and 11), the Planning Board minutes from October 8, 2008 highlighting the reason for note 11, and the copy of the covenants received by the Board May 22, 2003. She noted that the reason for note 11 had to do with concerns about the steep slopes on Lot 3. She also noted that the covenants had been briefly discussed in reply to an abutters question in 2003, and that since note 1 is on the plan one might assume it is a requirement that should be fulfilled; she added that towns do not enforce covenants and to a certain extent it is irrelevant if they ever get recorded or enforced by the developer or homeowners. She suggested the Board had two options with regard to note 1: state for the record that the Board is not requiring that covenants be recorded, or – the better choice – simply delete the note.

Jim Kiser, who was involved with this application in 2008, said the discussion regarding Lot 3 was that the house would be built on the plateau – he described the topography of the lot as a steep slope down from the road, then a plateau, then a steep slope down from there. He added the Board felt it was important to have some control over construction of the house due to the slope challenges. The house was built up near the road, and the septic system is down in the plateau area; it doesn’t appear to be a problem.

**Motion** by Member Avery to amend the River View Heights subdivision to remove note 11 regarding the site plan for Lot 3; second by Member Weatherbee.

CEO Block pointed out this motion did not address note 1. After discussion, Member Avery rescinded his motion; Member Weatherbee agreed.

**Motion** by Member Avery to that the subdivision plan for River View Heights approved in 2008 be amended as referenced in the document “Amendment of the River View Heights Subdivision Plan” submitted by Attorney Griffin as amended by staff tonight; second by Member Weatherbee; carried 6/0/0.

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The Board signed the amended document and Attorney Griffin stated he would be filing it at the registry of deeds tomorrow morning. The document is attached and herein made a part of these minutes.

4. Ordinance Committee report: Planner Cullen noted that the Ordinance Committee met on June 16<sup>th</sup> and reviewed the proposed amendments to the definitions for transfer station, and voted unanimously to refer to the Planning Board for a public hearing which was scheduled for tonight, but due to our error the ad was not placed in the newspaper, so it will be at the July meeting. The committee also reviewed draft amendments being drafted for Article 3, primarily the dimensional table.
5. Staff report: None
6. Planning Board Comments: Discussion about Board member terms; Planner Cullen noted three members (Avery, Syversen, and Wiltbank) are due to expire at the end of 2017. She also noted there is a potential new member who will be before the Planning & Development Committee next week, for recommendation to Town Council for appointment to the vacant alternate seat.

The meeting was adjourned at 7:55 pm by motion of Member Davitt with second by Member Avery; motion carried 6/0/0.

*Respectfully submitted by Karen Cullen, Town Planner*

Materials reviewed or handed out at the meeting:

- Letter from Woodard & Curran dated June 7, 2017, regarding Colonial Heights Phase 3
- Email from Jim Kiser dated June 8, 2017 in response to above letter
- Map showing downstream impact for Colonial Heights Phase 3
- Draft Board Order for preliminary plan for Colonial Heights Phase 3
- Email from Jason Lundstrom dated June 13, 2017 regarding Carver two family conversion
- Letter from Michael Griffin dated June 7, 2017 regarding River View Heights subdivision (Perkins Drive)
- "Amendment of the River View Heights Subdivision Plan" document
- Letter dated June 3, 2017 from CEO Block regarding River View Heights subdivision
- Map from town GIS of River View Heights subdivision
- Excerpts of 2003 approved plan, River View Heights
- Excerpts of 2008 approved plan, River View Heights
- Planning Board minutes of October 8, 2008
- Declaration of Covenants and Restrictions for River View Heights, received May 22, 2003

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AMENDMENT OF THE  
RIVER VIEW HEIGHTS  
SUBDIVISION PLAN

The Subdivision Plan Entitled "River View Heights Subdivision" S.E. MacMillan Co., Inc., prepared by The Ames Corporation, dated May 2, 1990, recorded in Map File D153-90, was approved by the Hampden Planning Board on August 8, 1990. The plan was amended by plan dated May 21, 2003, approved on August 13, 2003, and recorded in Map File 2003-183; the plan was amended again by plan dated August 20, 2008, approved on October 8, 2008, and recorded in Map File 2008-210.

The plan is now further amended by deleting in its entirety General Note Eleven (11) on Map File 2008-210, which reads as follows: Lot Three (3) shall have a professionally designed and prepared site plan, provided by the Developer and submitted to the Town of Hampden with the Building Permit Application.

**GENERAL NOTE ONE (1) IS ALSO DELETED ON MAP FILE 2008-210.**  
In addition, ~~as to General Note One (1). This is to clarify that the Board does not require the filing and the recordation of a Declaration of Covenants and Restrictions for the River View Heights Subdivision as a condition of subdivision approval.~~

Approved and Signed:

Town of Hampden Planning Board

Eugene W. Wells Chair  
William W. Wells  
Jan D. Darr  
Kyle J. Wilbur  
Mark D. Dyer  
Mark D. Dyer

Dated: June 14, 2017

The Town of Hampden Planning Board

NOTE TO REGISTRAR: Please index this Amendment under Map File 2008-210.

Town of Hampden

Public Notice

Notice is hereby given that the Hampden Planning Board will conduct a public hearing at 7:00 pm on Wednesday, July 12, 2017, in the Municipal Building Council Chambers, located at 106 Western Avenue, Hampden, to hear the following:

1. Proposed Zoning Ordinance Amendment to Section 5.3, Permits, and Section 7.2, Definitions, related to Certificate of Compliance and Certificate of Occupancy.
2. Proposed Zoning Ordinance Amendment to Sections 7.2, Definitions, related to definitions of municipal solid waste, processing and transfer station.

Copies of the proposed ordinance amendments are available at the Municipal Building or online at [www.hampdenmaine.gov](http://www.hampdenmaine.gov).

Paula A. Scott  
Town Clerk



Town of Hampden  
Land & Building Services

Memorandum  
Zoning Amendment: Permits

May 31, 2017

In order to streamline the process for businesses opening in Hampden, and to create more user-friendly and understandable language with regard to certificates of occupancy and compliance, the following amendments are proposed to §5.3 of the Zoning Ordinance. The proposed amendments require a Certificate of Occupancy for anything that requires a building permit, and a Certificate of Compliance for anything that requires site plan review, a conditional use permit, or subdivision review (where new public infrastructure is involved).

## TOWN OF HAMPDEN

The Town of Hampden Hereby Ordains  
Proposed Amendments to the Fees Ordinance

Deletions are ~~Strikethrough~~ Additions are Underlined

**Amend §5.3 Permits**

5.3 Permits – Application for a building permit and/or a certificate of compliance shall be made in accordance with the following ~~concurrently with the initial application.~~

5.3.1.7. No building permit, demolition permit, earth moving permit, sign permit, certificate of occupancy, or certificate of compliance shall be issued without payment of fees in accordance with the Town of Hampden Fees Ordinance. (Amended: 11-17-03)

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. ~~all improvements, including public utilities (sewer, water and electrical), roads and drainage facilities as approved by the Planning Board and required by town ordinances, are completed to the satisfaction of the Town designated engineering consultant and the road, if any, has been accepted by the Town Council as a town way.~~ (Amended: 03-01-10)

5.3.2. Certificate of Occupancy and Certificate of Compliance

5.3.2.1 Certificate of Occupancy. A certificate of occupancy is required for any structure requiring a building permit.

1. After completion of the work permitted by the building permit and stabilization of the site, the applicant shall submit an application for a certificate of occupancy to the Code Enforcement Officer.
2. The Code Enforcement Officer, Building Official, and Fire Inspector shall inspect the site and the Code Enforcement Officer shall issue the certificate of occupancy only upon finding that the building, structure, or site and the use or occupancy thereof comply with the provisions of this Ordinance, any other applicable codes/ordinances, and of any site plan or subdivision plan approved by the Planning Board (see certificate of compliance, below).
3. The Code Enforcement Officer shall issue or deny the certificate of occupancy within fifteen days of receipt of the application.
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.
5. The Code Enforcement Officer may issue one conditional certificate of occupancy, valid for no more than twelve (12) months from the date issued, upon the request of the permit holder, if in the judgment of the Code Enforcement Officer the portion or

portions of the structure may be occupied safely. Once the structure is completed, the applicant shall apply for a "final" certificate of occupancy.

6. The Code Enforcement Officer shall maintain a public record of all certificates of occupancy which are issued.

5.3.2.2 Certificate of Compliance. A certificate of compliance is required for any development requiring a site plan approval, conditional use permit, or subdivision approval from the Planning Board. A Certificate of Compliance is also required for Home Day Care.

1. After completion of the work permitted by the Planning Board and stabilization of the site, the applicant shall submit an application for a certificate of compliance to the Code Enforcement Officer.
2. The Code Enforcement Officer, Fire Inspector, and Town Planner shall inspect the site and the Code Enforcement Officer shall issue the certificate of compliance only upon finding that the site, including all buildings, structures, site improvements, use, and occupancy comply with the provisions of this Ordinance, other applicable ordinances, and the site or subdivision plan and decision (Board Order) approved by the Planning Board.
3. The Code Enforcement Officer shall issue or deny the certificate of compliance within fifteen days of receipt of the application.
4. Certificates of compliance for developments within approved subdivisions 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.
5. The Code Enforcement Officer may issue one conditional certificate of compliance, valid for no more than twelve (12) months from the date issued, upon the request of the permit holder, if in the judgment of the Code Enforcement Officer and Town Planner the completed portion or portions of the site may be occupied safely. Once the development is completed, the applicant shall apply for a "final" certificate of compliance. Failure to do so shall constitute a violation of the Planning Board approval.
6. The Code Enforcement Officer shall maintain a public record of all certificates of compliance which are issued.

~~5.3.2.3-7. The Code Enforcement Officer or Building Inspector shall in writing, suspend or revoke a certificate of occupancy or a certificate of compliance issued under the provisions of this ordinance if the certificate was issued in error, if the certificate was issued on the basis of incorrect information supplied by the applicant, or where it is determined that the building, or structure, or site portion thereof is in violation of the Town of Hampden Zoning Ordinance.~~

~~5.3.2.1 No building or other structure for which a building permit is required shall be occupied or used until and unless a certificate of compliance has first been obtained from the Code Enforcement Officer and the Building Inspector. In addition, a certificate of compliance shall be required for the following activities undertaken in the Town of Hampden:~~

- ~~1. The change of use of a lot or structure;~~
- ~~2. The resumption of use in a structure which has been abandoned for the continuous period of one year;~~

- ~~3. The establishment of a new use of a lot or structure.~~
- 5.3.2.2. ~~A Certificate of Compliance shall be issued only after the work on the building or structure is completed and the site has been stabilized. If a site plan approval has been obtained from the Planning Board then all of the improvements shown on the site plan, including off-site improvements, must be completed in accordance with the approved site plan.~~
- 5.3.2.3. ~~It shall be unlawful to use or occupy or permit the use or occupancy of any land, building, structure or part thereof for which a building permit is required until a certificate of compliance is issued therefore by the Code Enforcement Officer and the Building Inspector and endorsed to the effect that the proposed use of the land, building, or structure conforms with the requirements of this Ordinance, any other codes or ordinances of the Town of Hampden, and with applicable state statutes or regulations.~~
- 5.3.2.4. ~~After completion of the work permitted by the building permit, the applicant shall notify the Building Inspector, who with the Code Enforcement Officer, shall issue or deny the certificate of compliance within fifteen days. The Code Enforcement Officer and Building Inspector shall issue the certificate of compliance only upon finding that the building, structure, or site and the use or occupancy thereof comply with the provisions of this Ordinance, and of any site plan or subdivision plan approved by the Planning Board. The Code Enforcement Officer shall maintain a public record of all certificates of compliance which are issued.~~
- 5.3.2.5. ~~Certificates of Compliance for structures on subdivision lots may only be granted if the public improvements in accordance with the Planning Board approved Subdivision Plan or if approved in phases the approved phase are completed and associated roads, if any, are accepted by the Town Council.~~
- 5.3.2.6. ~~The Code Enforcement Officer may issue one conditional certificate of compliance, valid for no more than six (6) months from the date thereof, upon the request of the permit holder, if in the judgment of the Code Enforcement Officer portion or portions of the structure and site development may be occupied safely. Once the project is completed, the Code Enforcement Officer upon finding that the standards of 5.3.2.3 have been met shall issue a Certificate of Compliance.~~

#### **Amend §4.19.4.1 Day Care Provisions, Approvals Required**

Home Day Care. Home Day Care shall be subject to Article 5.3.2.2 Certificate of Compliance regulations.

#### **Amend §7.2 Definitions:**

Certificate of Occupancy: A certification by the Town stating that a structure has been constructed in compliance with all applicable codes and approvals. This includes MUBEC, the Hampden Life Safety Code Ordinance, the Hampden Zoning Ordinance, the State of Maine Plumbing Code, and the building permit that was issued for the structure.

Certificate of Compliance: A certification by the Town stating that a development site has been constructed in compliance with all applicable codes and approvals. This includes the Hampden Zoning Ordinance, Hampden Subdivision Ordinance, and the approved site plan or subdivision plan for the development.



Town of Hampden  
Land & Building Services

**Memorandum**  
**Zoning Amendment: Definitions**

May 31, 2017

In order to protect the public interest, the following amendments to the definitions in the Zoning Ordinance are proposed. The effect of these amendments would be to prohibit solid waste transfer stations in Hampden, while not impacting the existing and approved solid waste facilities in town.

## TOWN OF HAMPDEN

The Town of Hampden Hereby Ordains  
Proposed Amendments to the Zoning Ordinance

Deletions are ~~Strikethrough~~ Additions are Underlined

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**Amend §7.2 Definitions**

Municipal Solid Waste: Any solid waste emanating from household and normal commercial sources.

Processing: For industrial uses, including but not limited to: treating, converting, filtering, screening, coating, heating, separating, refining or otherwise altering the initial state, form, or substance of materials and the collection, sorting, or handling, but not the on-site disposal, of solid waste. This definition does not include transfer stations or on-site disposal of solid waste. (Amended: 6-19-95)

Transfer station: Any solid waste facility constructed or managed for the transfer of household or municipal solid waste.