

Town of Hampden

Planning Board

Wednesday, July 8, 2020, 7:00 pm

Municipal Building Council Chambers

Agenda

1. Administrative
 - a. Minutes – June 10, 2020 regular meeting
 - b. Minutes – June 16, 2020 workshop meeting

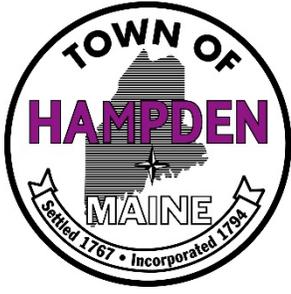
2. New Business
 - a. Public Hearing – Proposed Amendments to various sections of the Hampden Zoning Ordinance to clarify or correct language, allow “alternate frontage lots” in all zoning districts, modify the multi-family housing provisions, modify the provisions for filling and grading of land, delete the medical marijuana provisions because they are being moved to the Marijuana Ordinance, and modify or add definitions of terms used in the ordinance.

3. Old Business

4. Town Planner Report

5. Planning Board Comment

6. Adjournment



Town of Hampden
Planning Board Meeting
Wednesday June 10, 2020

Minutes

This meeting was held via remote means (Google Meet) due to the Covid-19 Pandemic, in accordance with SP0789 / LD2167, An Act To Implement Provisions Necessary to the Health, Welfare and Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency.

In Attendance:

Planning Board

Kelley Wiltbank, Chairman
Ladoiya Wells
Gene Weldon
Richard Tinsman

Staff

Karen Cullen, Town Planner
Ryan Carey, CEO
Jessica Rickman, Recording Clerk

Public

Jim Kiser

The meeting was called to order at 7:00 pm. Chairman Wiltbank explained that this meeting is being held remotely, with himself and Richard Tinsman in the Council Chambers and everyone else via Google Meet, in accordance with the guidelines for the pandemic. He took attendance by roll call; all members listed above participating with both audio and video. It was established that all board members were able to hear and speak to all the other members. All staff and public participants could likewise hear and speak to all other participants.

1. Administrative

- a. Minutes – May 19, 2020 regular meeting

Motion: by member Richard Tinsman to approve the minutes of the May 19, 2020 regular meeting, seconded by Ladoiya Wells; motion carried 4/0/0 by roll call vote.

2. New Business

- a. Bacon – Public Hearing for a Major Site Plan to construct a new self-service storage facility consisting of three buildings on property located at 271 Western Ave, parcel 29-0-011, in the Business district. Chairman Wiltbank opened the hearing at 7:02 pm after confirmation that the hearing was duly noticed.

Jim Kiser, representing the applicant, presented the proposed plan:

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- This project is a self-storage facility located on Western Avenue. It is directly across the street from the old redemption center, just before you get to the railroad tracks as you are heading out of town
- The property is almost two acres in size.
- We are proposing to build three single story self-storage buildings, which will total a little over 12,000 square feet in size.
- Creating 33,940 square feet (.78 acre) of impervious area.
- We have laid it out to utilize the existing access on the property, which was the driveway for the former house (now demolished). The front portion of the site is pretty much open field, and old lawn area.
- There is an existing septic system on the property, which will be removed during construction activities.
- Under section 4.7.6 of the Zoning ordinance, this project requires compliance with the stormwater treatment criteria under Chapter 500. It also requires a stormwater Permit by Rule from DEP. The stormwater design for the site includes two filter basins, we're directing pretty much all of the runoff from the proposed development area to those two basins to be treated and then discharged towards the rear of the property, which is a large swale and a stream that runs down and under Mayo Road. The filter beds will treat over 95% of the impervious area and 80% of the total development area.
- The overall development will require buffers along the one property line where the parcel directly abuts the residential district adjacent to us on the town side. We are proposing to install a fence along that property border.
- There is an existing row of trees going down that side of the property, most of them are on the abutters property but do overhang onto our property. Those are all serving currently as a good buffer for the property.
- We have applied for and received a wetland permit for alterations of wetlands on site.
- We have received the DOT entrance permit for access into the site.

Kelley Wiltbank mentioned that there was no one to speak positively for the application so, we will now switch over to anybody who wants to speak negatively. There is no one here but we have received a letter from an abutter that Karen Cullen, Town Planner read into the record (see Exhibit 1). This is from the direct abutter to the east of the property, Barbara Lawrence. Her concerns are:

1. what course of action can I take for excess water that goes to my front lawn and possibly through my basement? Will the town take responsibility for any flooding on my property from the storage unit property?
2. I do not want to see any lights in the evening. Is it possible that all lighting be motion activated?
3. Will the Hampden Police Department be responsible for any people hanging around, noise and any other disturbances?
4. If the large maple trees planted directly on my property line are damaged from a storm/snow/dying and fall on a storage unit, I want to be free from any financial liability regarding the removal of the trees/branches and any damage to the unit or units and/or contents of such and presented such in writing.

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5. The buffer should include hedge cedars at the edge of the pavement to cut down on my visibility of the storage units.

Kelley Wiltbank closed the public hearing at 7:11 pm since there was no one else to speak on the application.

Dick Tinsman asked if the applicant would like to respond to the letter that was just read into the record? Specifically, the noise, lights, and all the questions that were raised?

Jim Kiser responded:

- described the stormwater management design and said it should reduce the total amount of water going on to that property. In addition to the filter beds, the modifications to the site along Western Ave should keep stormwater from the road in the right-of-way, further reducing impacts on Ms. Lawrence's property.
- There are two security lights proposed, to aid the Police in observing the area on their patrols. Rather than shutting them off during the night we can provide dimmers on them to reduce the intensity at night. One light is located on the street side of the buildings and the other is located on the back of the property.
- Hampden Police are responsible for dealing with people loitering on the property.
- We do plan to retain the large maple trees, which are in a healthy condition. Any damage would be covered by property owners insurance.
- In regards to the buffer, the abutter requests planting cedars but we are proposing a fence, which is more durable and doesn't get eaten by deer during the wintertime.

Discussion points:

- Whether there will be security fencing around the storage units; Jim Kiser said not at this time. The units will be accessible 24/7.
- There have been some discrepancies on the acreage of the site; Jim Kiser said it is 1.96 acres.
- Whether the proposed fence counts as landscape buffer; board members felt it did.
- Hazardous materials cannot be stored inside any unit or anywhere on the site; Jim Kiser said this will be part of the rental agreement for each unit.
- Whether there should be buffer landscaping along a portion of the Western Ave frontage to buffer the residence on the other side of the road. Jim Kiser felt properties on the other side of a road did not need to be buffered, and the applicant wants the storage units to be visible to passing drivers.
- It was noted the vegetation is deciduous and will not provide buffering in winter.
- Discussion of planting vegetated buffer in a wetland.
- Further discussion on buffering; Jim Kiser agreed to move the fence up the slope closer to the pavement to increase the overall height of the fence to better block the view of the storage units for the abutter.
- No outdoor storage (of vehicles, camping trailers, boats, etc.) is proposed for this site.

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Motion by Richard Tinsman to approve the major site plan for Jeffrey and Trudy Bacon to construct the Western Ave Self-Storage facility at 271 Western Ave as submitted and based on the findings in the draft Board Order and the representations made by the applicant tonight, with the following conditions:

1. That trees or shrubs (or both) be planted along the frontage of Western Avenue and the north eastern corner to tie into the proposed fencing buffer to provide screening of the project, to minimize the visual impact from the public way and to the neighboring residential property to the east. A Landscaping Plan must be submitted and approved by the Hampden Code Enforcement Officer prior to the issuance of any Building Permit.
2. That no hazardous substances be stored within any unit in the facility. A copy of the rental agreement stating this restriction must be submitted to the Hampden Code Enforcement Officer for approval prior to the issuance of any Building Permit.
3. That the eastern boundary fencing be moved to near the top of the proposed berm (near the proposed 140' elevation), as represented by the applicant at the meeting, to minimize the visual impact to the adjacent residential property.

The motion was seconded by Ladoiya Wells; motion carried 4/0/0 by roll call vote.

[Ed. note: the following three items are explained in a memo, attached as Exhibit 2, from Planner Cullen dated May 28, 2020.]

- b. Stearns Farm – Request for extension of the Preliminary Subdivision Plan approval granted by default on January 10, 2020.

Motion: Dick Tinsman moved that we approve the requested extension of the preliminary plan approval for Stearns Farm to December 9, 2020; seconded by Ladoiya Wells; motion carried 4/0/0 by roll call vote.

- c. Honey Hill Estates – Request for a second extension of the Preliminary Subdivision Plan approval granted on July 16, 2019 and extended to July 16, 2020.

Motion: Dick Tinsman moved that we approve the requested extension of the preliminary plan approval for Honey Hill Estates to December 9, 2020; seconded by Ladoiya Wells; motion carried 4/0/0 by roll call vote.

- d. Lupine Meadow – Reapproval and re-signing of the Final Subdivision Plan.

Motion: Dick Tinsman moved that we reapprove the plan; seconded by Ladoiya Wells; motion carried 4/0/0 by roll call vote.

3. Old Business –

Karen Cullen, Town Planner mentioned that she included a project report that was requested by the Planning Board in the last meeting. She said it was a collaboration between herself and Ryan Carey the Code Enforcement Officer. She said she will keep this up to date and put it into the

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planning board packets each month. She also mentioned that she sent out an email to the board with materials for the workshop meeting for June 16th. She said during the meeting we will be going over proposed zoning amendments and a packet of materials that went to the Town Council on the Marijuana Ordinance.

4. Planning Board Comment

Gene Weldon mentioned he will be traveling next week and may not be able to participate in the workshop. Karen Cullen asked that if he had any comments to email them beforehand.

5. Adjournment

Motion: Dick Tinsman moved to adjourn the meeting at 8:12 pm, seconded by Ladoiya Wells; motion carried by roll call vote 4/0/0.

*Respectfully submitted by Jessica Rickman,
CED Administrative Asst.*

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Exhibit 1

Barbara Lawrence

June 9, 2020

261 Western Avenue

Hampden, ME 04444

To whom it may concern:

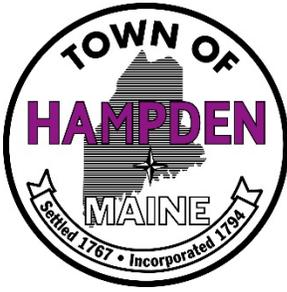
I have some concerns regarding the storage units that are going to be built beside me.

1. If any water goes past their run off system, what course of action can I take for excess water that goes to my upper and lower front lawns and possibly through my basement? Will the town take responsibility when/if my lawns get flooded from the storage unit property? Currently, each spring, the water from the storage unit property causes my abutting front lawn to be soft. If you add an impervious surface, I am afraid even more water will come onto my property. My home is one of the original Hampden homes and has a dirt basement and I do not want any damage whatsoever. Currently in spring I do get a lot of water running through the cellar and the sump pump takes care of it. If this increases because of the pavement, is it possible that either the Town of Hampden or the owner of the storage units will agree to financially upgrade my system such that this does not happen.
2. Lights - I do not want to see any lights in the evening - I have lived here for over 44 years and have never had an issue with excess light coming into my house and I don't want it now. Is it possible, as the units are going to be self-serve, that all lighting be motion activated?
3. Will the Hampden Police Department be responsible for any people hanging around, noise, and any other disturbances?
4. There are several large maple trees planted directly on the property line. If these trees are damaged from a storm/snow/dying and fall on a storage unit, I want to be free from any financial liability regarding the removal of the tree/branches and any damage to a unit or units and/or contents of such and presented such in writing.
5. It would be a plus if owner of the unit plant hedge cedars at the edge of the pavement to cut down on my visibility of storage units. This hedge would need to be planted from the front beginning of the pavement to the rear of the pavement. Any land on my side of the hedge to the property line would also need to be mowed on a regular basis.

Thank you.

A handwritten signature in black ink that reads "Barbara Lawrence". The signature is written in a cursive style with a large, decorative initial "B".

Exhibit 2



Town of Hampden

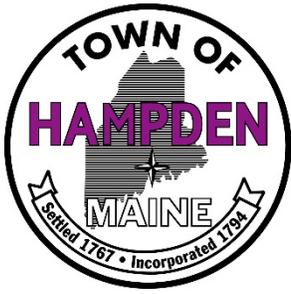
Town Planner

Memorandum

To: Planning Board
From: Karen M. Cullen, AICP, Town Planner *KMC*
Date: May 28, 2020
RE: Requests for Extensions and Re-signing an Approved Plan

The June Planning Board meeting includes three items which are due at least in part to the Coronavirus Pandemic which began earlier this year. All three of them have my support:

1. Extension of approval of the Preliminary Subdivision Plan for Stearns Farm. This application was heard at a public hearing last year and the hearing was closed on December 11, 2019. The Board did not make a decision that night. Per section 332.1 item 7 of the Subdivision Ordinance, the preliminary plan was approved by default 30 days after the close of the hearing, or January 10, 2020. Per section 332.1 item 1 of the Subdivision Ordinance, the Final Plan must be submitted no later than July 10, 2020, or the preliminary plan process must be re-done. Jim Kiser, on behalf of Stanley and Sean MacMillan, is requesting an extension of the Preliminary Plan approval until December 9, 2020.
2. Extension of approval of the Preliminary Subdivision Plan for Honey Hill Estates. This application was heard at a public hearing last year, which was closed on July 16, 2019 at which time the Board approved the Preliminary Plan. On December 11, 2019 the Board approved an extension of this approval to July 16, 2020. Jim Kiser, on behalf of R&B Development, LLC, is requesting a second extension of the Preliminary Plan approval until December 9, 2020.
3. Re-approval vote and re-signing the Lupine Meadow Subdivision Plan. This subdivision and site plan application was heard at a public hearing on February 12, 2020 at which time the hearing was closed and the Board approved the application. The final subdivision plan was to be recorded at the registry of deeds within 90 days (May 12, 2020) per section 332.1 item 11 of the Subdivision Ordinance. Due to the pandemic, the Board was unable to sign the subdivision plan to allow recording at the registry within that time frame. In order to prevent legal issues in the future, Jim Kiser, on behalf of T&M Contractors, is requesting that the Board re-approve the plan (for clarity) and re-sign the subdivision plan.



Town of Hampden
Planning Board Workshop
Tuesday June 16, 2020

Minutes

This meeting was held via remote means (Google Meet) due to the Covid-19 Pandemic, in accordance with SP0789 / LD2167, An Act To Implement Provisions Necessary to the Health, Welfare and Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency.

In Attendance:

Planning Board

Kelley Wiltbank
Jennifer Austin (remote)
Richard Tinsman (remote)
Jake Armstrong
Ladoiya Wells (remote)
Brent Wells (remote)

Staff

Karen Cullen, AICP, Town Planner (remote)
Ryan Carey, CEO (remote)

Public

(none)

The meeting was called to order at 6:30 pm. Chairman Kelley Wiltbank verified that all attendees could hear each other.

The Board reviewed proposed amendments to the zoning ordinance (attached).

1. §3.2.1 – Multi-family development:
 - a. There was some discussion regarding open space in subdivisions throughout the town; Karen noted that shortly before she began working in Hampden the requirement for providing open space in all subdivisions (not just cluster) was deleted from the subdivision ordinance. She noted that in her opinion, most of the open space provided in subdivisions was largely unusable for recreation purposes. There were no changes to the proposed language to require a portion of the open space required for multi-family developments to be reserved for recreational space.
 - b. Discussion regarding fire suppression; Ryan explained the situation in Maine regarding residential sprinklers, noting that some municipalities are going above and beyond the state requirement and they are requiring sprinklers in some residential units. He noted these could be wet or dry systems. He also noted sprinkler systems can reduce homeowners insurance costs. There were no changes to the proposed language.
2. §3.4.2.2 – conflict in language regarding lot size in Business and Town Center districts; no comments, questions, or changes to the proposed language.
3. §4.3 – rural alternate frontage lots – Karen explained that this change is simply to delete “rural” from the provisions, so any lot in any district could take advantage of the provision, however the new lot (“rear” lot) is only for single family residential use. A question was raised regarding the section reference in 4.3.3.8; it has been determined that it is correct.
4. §4.7.2 – buffering for multi-family developments; no comments, questions, or changes to the proposed language.
5. §4.7.5.7 – signage in the commercial districts; Karen explained that this applies to situations where someone has a residence in a commercial district (which is the primary use) and they operate a business there as well. The current ordinance does not allow a sign in this case, and this amendment will correct that. There were no changes to the proposed language.

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6. §4.9 – filling and grading of land; discussions regarding whether this included loam [it does], and what the site work scheduling is (whether this sort of site work can be done prior to Planning Board approval of a subdivision or site plan). There were no changes to the proposed language.
7. §4.24 – medical marijuana; Karen explained that we are moving the provisions for medical marijuana registered dispensaries and medical marijuana cultivation facilities to the Marijuana Ordinance. The provisions for methadone clinics will remain in the zoning ordinance. There were no questions or changes to the proposed language.
8. §6.2.1 – Board of Appeals; Ryan explained that the town’s attorney discovered a problem with the current language and this is intended to correct it. There were no questions or changes to the proposed language.
9. §7.2 – definitions; Ryan noted that the current situation with the definition of road or street has created problems with the utilization of land since the definition of frontage ties in with this definition. There were no questions or changes to the proposed language.

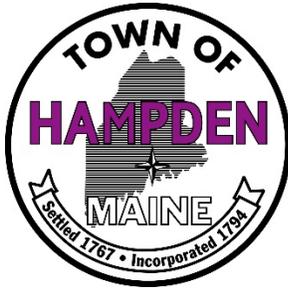
The Board agreed by consensus to set the public hearing for these amendments for July 8, 2020.

Karen reviewed the adoption schedule with the Board: the Planning Board public hearing will be on July 8, and the Town Council public hearing will be on July 27. The amendments will become effective on August 26 if the Council adopts them on July 27. She noted that the Town Council will be processing the proposed amendments to the marijuana ordinance on the same schedule, since the two ordinances need to be adopted at the same time.

The meeting was adjourned at 7:29 pm.

Respectfully submitted by Karen Cullen, Town Planner

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Town of Hampden

Town Planner

Memorandum

To: Planning Board
 From: Karen M. Cullen, AICP, Town Planner *KMC*
 Date: June 29, 2020
 RE: Proposed Amendments to the Hampden Zoning Ordinance

The following is a summary of the proposed amendments to the Hampden Zoning Ordinance:

No.	Section	Topic	Proposed Change & Comments
1	3.2.1	Multi-family	Require half of the open space to be recreational space; and require fire suppression infrastructure
2	3.4.2.2	Lot size, Business & TC districts	Eliminate a conflict in the ordinance
3	4.3	“rear” lots	Make section applicable to lots in any district, not just Rural. Note, these are limited to single family homes.
4	4.7.2	Buffers, multi-family	Add a requirement that any multi-family development in the Rural district must provide a class 3 buffer along each property line. (Class 3 is the most stringent.)
5	4.7.5.7	Signs, commercial districts	Add a provision addressing situations where there is a residence used for business purposes in the commercial districts.
6	4.9.2	Earth moving	Revise the provisions for exemptions to ensure an exemption granted for construction associated with a building permit or a subsurface wastewater disposal permit. Also reorganize the existing provisions so erosion and sedimentation control provisions apply to ALL earth moving activities (including exempted).
7	4.24	Medical marijuana, methadone	We are moving the medical marijuana dispensary and cultivation facility provisions to the Marijuana Ordinance, so delete them from here. Methadone clinics remain in the zoning ordinance.
8	6.2.1	Appeals to the BOA	Modify the section per the advice to the town’s attorney, to clarify what can be appealed to the BOA.
9	7.2	Definitions	Modifications to various definitions, addition of new ones as well. Note, the addition of those related to marijuana is due to the fact that the use table (§3.1.3) still has the various marijuana uses listed, since that is where we can regulate where they are allowed in town.

The Planning Board discussed these proposed amendments at their June 16, 2020 Workshop. No changes were made during this review.

The Marijuana Ordinance is also proposed to be amended, in significant ways. The Town Council reviewed the draft proposed changes at their workshop on June 8, 2020, and suggested additional modifications which were made and posted on the town's website. Since the medical marijuana dispensary and cultivation facility provisions currently in the zoning ordinance are being moved to the marijuana ordinance, then the Town Council will hold the public hearings for the two ordinances (Marijuana and Zoning) on the same day, and adoption will be the same day.

TOWN OF HAMPDEN

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

Deletions are ~~Strikethrough~~ Additions are Underlined

1

§3.2.1 – Multi-family development:

Change 3.2.1.3 to read:

3.2.1.3 Multi-family developments must provide a minimum of 40% of the ~~tract parcel~~ as permanent open space except in cluster developments where the provisions of §4.6.2 apply. A minimum of half of the required 40% must be set aside as recreational space for the enjoyment of the residents of the development.

And add a new item 6 to address the issue of fire suppression infrastructure for all mf developments:

3.2.1.6 All multi-family development, regardless of its location within the town, must have sufficient fire suppression infrastructure, including a water supply deemed adequate by the Hampden Public Safety Department. The installation and maintenance of all such infrastructure installed on the site of the development is the sole responsibility of the developer unless a Town-Developer Agreement is executed and recorded at the Penobscot County Registry of Deeds which provides alternative arrangements.

2

§3.4.2.2 – There is a conflict in the required minimum lot size increase in the Business and Town Center districts; item 1 sets the density for multi-family projects in these districts at 8 du/a. Delete item 2 and renumber item 3:

~~2. The minimum lot size is increased over the base requirement by 7,500 square feet per unit for projects in the Business district, and by 5,000 square feet per unit in the Town Center district.~~

3

§4.3 – Rural Alternate Frontage Lots: change to delete reference to the Rural district and amend as follows:

4.3 ~~Rural~~ Alternate Frontage Lots

4.3.1 Purpose - It is the purpose of this section of the Ordinance to establish a procedure which would allow for residential development on certain lots which, because of inadequate road frontage, would not otherwise be usable for residential purposes. The lots must meet certain requirements as established in this section of the Ordinance and the development

of the lots must be consistent with wise land use planning. This section applies to both existing lots and newly created lots.

4.3.2 Application Procedure [remains as-is]

4.3.3. Approval Standards - A building permit may only be issued if the following conditions are met:

~~4.3.3.1 The lot and access way must be located in the Rural District.~~

4.3.3.1 ~~2~~ The lot is of such dimensions that an imaginary square with minimum side dimensions of 200 feet can be accommodated within its borders. Any building that is located on the lot shall be located within the perimeter of such a square.

4.3.3.2 ~~3~~ No building shall be placed closer to any lot line or right of way boundary than 30 feet. No primary building shall be less than 100 feet from existing dwellings.

4.3.3.3 ~~4~~ The development of the lot shall cause no unsafe or unhealthful condition. Of particular concern in this regard should be traffic safety.

4.3.3.4 ~~5~~ The lot shall conform to all dimensional requirements of this Ordinance except road frontage.

4.3.3.5 ~~6~~ Only single family residential uses shall be allowed on these lots.

4.3.3.6 ~~7~~ The development of the lot shall not preclude the orderly development of the neighborhood and the community.

4.3.3.7 ~~8~~ The lot must have at least 66 feet of road frontage.

4.3.3.8 ~~9~~ Building permits can be issued for existing lots fronting on the cul-de-sac portion of a subdivision provided the standards in this §4.3.3 are met. Lots within Pproposed subdivisions in the Rural district must meet the frontage requirements of §3.4.1 or §3.4.2.3.

4.3.3.9 ~~10~~ No more than one dwelling unit may be placed on the lot.

4

§ 4.7.2 – buffering of multi-family development: In order to protect the character of the Rural district, provide better buffering for multi-family development in that district. Amend the class 3 buffer provisions by adding a new item 3 under §4.7.2.7, Location of Class III Buffers:

3. Any multi-family development in the Rural district must provide a buffer along each property line of the tract.

5

§4.7.5.7 – signs in the commercial districts; add a new item 8 to read:

8. In all commercial districts, where a residence is also used for business purposes, one sign, which may be freestanding, wall, or projecting, is permitted, not to exceed 16 square feet in area and 15 feet in height above grade for freestanding signs or projecting signs.

6

§4.9 Filling and Grading of Land and Stockpiling of Materials. To deal with unintended consequences related to large scale earth moving allowed under a building permit:

4.9.1 Purpose [no changes]

4.9.2 ~~Earth Moving Permit Required~~ Applicability – All earth moving activities, processing, and storage within the Town of Hampden ~~shall~~ require an earth moving permit in accordance with this section.

~~EXCEPTIONS~~ EXEMPTIONS: The following earth moving activities do not require an earth moving permit:

1. Earth moving activity conducted during construction of Planning Board approved subdivisions or site plans, provided all earth moving activity was included in the Planning Board application and approval and that the standards of §4.9.6 are met.
2. Earth moving activity conducted during the construction of structures authorized by a building permit or a subsurface wastewater disposal permit. This activity must be directly related to the construction of said structure or subsurface wastewater disposal permit. The building or subsurface wastewater disposal permit application must include existing and proposed topographic information for the area to be disturbed. If the Code Enforcement Officer determines the area of earth moving activity proposed is excessive for the purpose of the construction/ installation, then this exemption will not apply and the applicant must submit an application for the earth moving activity under §4.9.5 of this ordinance. This exemption does not allow for the sale of material that is removed.

Reorganize the remainder of §4.9:

4.9.3 Erosion and Sedimentation Control –combine §§4.9.2.1 and 4.9.3.1 into a stand-alone section so the requirement applies to ALL earth moving activities including those that are exempted by 4.9.2. (And delete current 4.9.2.1 and 4.9.3.1)

4.9.3 Erosion and Sedimentation Control. All earth moving activities, including exempt activities, must utilize erosion and sedimentation control measures in accordance with the Maine Department of Environmental Protection’s publication entitled “Erosion and Sediment Control Best Management Practices”. The Code Enforcement Officer must be notified that erosion and sedimentation control devices are in place prior to commencing work authorized by any permit or approval issued by any entity of the Town of Hampden.

~~4.9.2.1 Erosion and Sedimentation Control. All earth moving activities, including filling and grading activities and stockpiling activities shall utilize erosion and sedimentation control measures in accordance with Maine Department of Environmental Protection’s publication entitled “Erosion and Sediment Control Best Management Practices”. (This document is available online at www.hampdenmaine.gov and a printed copy is available for purchase from the Code Enforcement Office).~~

~~4.9.3.1 Erosion and Sedimentation Control. All earth moving activities, including filling and grading activities and stockpiling activities shall utilize erosion and sedimentation control measures in accordance with Maine Department of Environmental Protection’s publication entitled “Erosion and Sediment Control Best Management Practices”. The Code Enforcement Officer shall be notified that erosion and sedimentation control devices are in place prior to commencing work authorized by any earth moving permit.~~

And renumber the subsequent sections (and subsections):

- 4.9.4 ~~3~~ Earth Moving Permit Issued by the Code Enforcement Officer
- 4.9.5 ~~4~~ Earth Moving Activity Requiring a Permit from the Planning Board
- 4.9.6 ~~5~~ ~~Conditions~~ Standards of an Earth-Moving Permit from the Planning Board – The Planning Board may approve an earth moving permit ~~providing~~ provided the following ~~conditions shall be~~ standards are met: [remainder not changed]
- 4.9.7 ~~6~~ Optional Conditions of an Earth-Moving Permit from the Planning Board
- 4.9.8 ~~7~~ Performance Guarantees
- 4.9.9 ~~8~~ Existing Operations
- 4.9.10 ~~9~~ Stockpiles
- 4.9.11 ~~10~~ Stockpiles in Excess of One Acre

7

§4.24 – Since we are moving the regulations pertaining to medical marijuana to the Marijuana Ordinance, amend the zoning ordinance to only deal with methadone clinics.

Amend entries in §3.1.3, Use Table as follows:

~~D-5 medical marijuana registered dispensary~~ business (see §2.24 Marijuana Ordinance)

~~D-6 Medical marijuana cultivation facility~~ (see §2.24)

change D7 methadone clinic to D6

~~G-3 Adult use marijuana social club~~ [delete entry since they are not permitted per state statute]

Amend §2.24 as follows:

4.24 Performance Standards for ~~Medical Marijuana Registered Dispensaries, Medical Marijuana Cultivation Facilities and Methadone Clinics~~

- 4.24.1 *Adequacy of Building for the Subject Use.* The property and building for a ~~Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility and/or~~ Methadone Clinic shall be adequate to accommodate sufficient interior space so as not to have outside patient queuing on sidewalks, parking areas, and other areas outside of the building(s). ~~The size of the inside waiting area shall be calculated at a minimum of 15 square feet per person based on total client capacity.~~ A ~~letter of compliance report~~ from the Town of Hampden Code Enforcement Officer shall be submitted to the Planning Board as part of the site plan application ~~regarding the adequacy of the building to meet this requirement.~~ ~~The size of the inside waiting area shall be calculated at a minimum of 15 square feet per person based on total client capacity (registered patients and the registered primary caregiver of each registered patient).~~ Any ~~Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility~~ shall adhere to the laws of the State of Maine and the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122), and any ~~Methadone Clinic~~ shall adhere to the laws of the State of Maine and the State of Maine Regulations for Licensing and Certifying Substance Abuse Treatment Programs (14-118 CMR Chapter 5), as any the same may be amended from time to time, and to Ordinances and Codes of the Town of Hampden, as the same may be amended from time to time.
- 4.24.2 *Required Setbacks.* No ~~Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility and/or~~ Methadone Clinic shall be located within 500 feet of the property line upon which the ~~Dispensary and/or Facility and/or~~ Methadone Clinic is ~~or are~~ located and the nearest property line of a preexisting public or private school.
- 4.24.3 *Maximum Number of Subject Use Within the Town of Hampden.* No more than one (1) ~~Medical Marijuana Registered Facility and/or one (1) Marijuana Cultivation Facility and/or one (1) Methadone Clinic~~ shall be located in the Town of Hampden. If both a ~~Medical Marijuana Registered Dispensary and a Medical Marijuana Cultivation Facility~~ are located in Hampden, they shall be located on the same property and shall be under common ownership.
- 4.24.4 *Hours of Operation.* A ~~Medical Marijuana Registered Dispensary~~ shall only be open for business between the hours of 8:00 a.m. and 8:00 p.m. daily. A Methadone Clinic shall only be open between the hours of 6:00 a.m. and 8:00 p.m.
- 4.24.5 *Signs and Advertising.* ~~Medical Marijuana Registered Dispensary and/or Medical Cultivation Facility and/or~~ A Methadone Clinic shall conform to the provisions of §4.7.5, Signs, of this Ordinance. In addition thereto, any freestanding or sign attached to building(s) in which the ~~Dispensary and/or Facility~~ clinic is located in shall clearly state that it is a ~~Medical Marijuana Dispensary and/or Medical Cultivation Facility and/or~~ Methadone Clinic. There shall be no signage in any window and/or door, except for the hours of operation and the presence of a security system. ~~In addition, no signage or advertising shall use the word “marijuana” or “cannabis,” or any other word, phrase or symbol commonly understood to refer to marijuana unless such word, phrase or symbol is immediately preceded by the word “medical” in type and font that is at least as readily discernible as all other words, phrases or symbols on the sign.~~ Such signage and

advertising must clearly indicate that the products and services are offered only for ~~medical marijuana patients and primary caregivers and/or~~ methadone clinic patients.

- 4.24.6 *Security Requirements for Subject Use.* Security measures at a ~~Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility and/or Methadone Clinic~~ shall include at minimum the following ~~at a very minimum~~:
- 4.24.6.1 Security surveillance cameras installed and operating twenty-four (24) hours a day, seven (7) days a week to monitor all entrances, along with the interior and exterior of the ~~Dispensary and/or Facility and/or Clinic~~, to discourage and facilitate the reporting of criminal acts and nuisance activities occurring on the property;
 - 4.24.6.2 Door and window intrusion, robbery and burglary alarm systems with an audible on-site system and Police Department notification components that are professionally monitored and maintained in good working condition, using hard line traditional telephone communications and cellular communications;
 - 4.24.6.3 A safe affixed to the building in which it is located that is suitable for the ~~storage of all prepared and/or processed marijuana and cash stored overnight in the Dispensary and/or Facility, and~~ a secure storage container for methadone and cash stored overnight in a Clinic; and
 - 4.24.6.4 ~~Exterior lighting that illuminates all exterior walls of the licensed Dispensary and/or Facility and/or Clinic; and~~
 - 4.24.6.45 Deadbolt locks on all exterior doors and locks or bars on any other access point.
 - 4.24.6.56 All security recordings shall be preserved for thirty (30) days by the management of the licensed Dispensary and/or Facility and/or Clinic.
- ~~4.24.7 *Consumption, Ingestion Or Inhalation Of Medical Marijuana.* The consumption, ingestion or inhalation of medical marijuana on or within the property of a Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility is prohibited; provided, however, that a Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility employee who is a registered patient, as that term is defined in 22 M.R.S.A. Section 2422(12), as the same may be amended from time to time, may consume medical marijuana inside the building(s) on the licensed property, if such consumption occurs via oral consumption and not by smoking. For purposes of this subsection, the term "licensed property" shall include the lot or parcel of the land upon which the Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility are located.~~
- 4.24.78 *Visibility Of Activities; Control Of Emissions; Disposal Plan for Subject Use.* Visibility of activities; control of emissions; disposal plan for a ~~Medical Marijuana Registered Facility and/or Medical Marijuana Cultivation Facility and/or Methadone Clinic~~ shall be as follows:
- 4.24.78.1 All activities of a ~~Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility and/or Methadone Clinic~~, including, without limitation, cultivating, growing, processing, displaying, selling and storage shall be conducted indoors.
 - 4.24.8.2 ~~No marijuana or paraphernalia shall be displayed or kept in a Dispensary or Facility so as to be visible from outside the building (s).~~

~~4.24.7.2~~ ~~8.3~~ Sufficient measures and means of preventing smoke, odors, debris, dust, fluids and other substances from exiting a ~~Dispensary and/or Facility and/or~~ Clinic must be provided at all times. Sufficient measures shall be provided for the proper disposal of all such materials, items and other substances in a safe, sanitary and secure manner and in accordance with all applicable state and local laws and regulations.

~~4.24.8.4~~ Any ~~Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility~~ shall have in place an operation plan, subject to the approval of ~~Hampden Public Safety~~, for proper disposal of ~~marijuana related byproducts~~.

~~4.24.7.3~~ ~~8.5~~ Class II Buffers in accordance with §4.7.2 Buffers and Landscaping shall be provided along each lot line or at least along each line of the developed area of buildings and parking areas.

~~4.24.9~~ ~~Limitations of Food Products.~~ No food products shall be sold, prepared, produced or assembled by a ~~Medical Marijuana Registered Dispensary~~ except in compliance with all operation and other requirements of state and local law and regulation, including without limitation, food establishment licensing requirements. Any goods containing marijuana for human consumption shall be stored in a secure area.

~~4.24.8~~ ~~10~~ *Compliance With State and Local Law.* A ~~Medical Marijuana Registered Dispensary and/or Medical Marijuana Cultivation Facility and/or Methadone Clinic~~ shall meet all operating and other requirements of state and local law and regulation. To the extent the State of Maine has adopted or adopts in the future any stricter law or regulation governing ~~medical marijuana dispensaries or methadone clinics~~, the stricter law or regulation shall control. Any Methadone Clinic shall adhere to the laws of the State of Maine and the State of Maine Regulations for Licensing and Certifying Substance Abuse Treatment Programs (14-118 CMR Chapter 5), as any the same may be amended from time to time, and to Ordinances and Codes of the Town of Hampden, as the same may be amended from time to time.

§6.2.1 – Appeals to BOA:

6.2.1 *Administrative Appeals* - All administrative appeals shall be subject to the provisions of the Town of Hampden Board of Appeals Ordinance including but not limited to filing deadlines, application requirements, fees, appeal procedures, decisions of the Board of Appeals and subsequent appeals to Superior Court. The Board of Appeals shall hear and decide administrative appeals except for appeals of enforcement decisions made by the Code Enforcement Officer. The term “enforcement decisions” refers to violation determinations and enforcement actions taken by the Code Enforcement Officer. An administrative appeal is an appeal:

6.2.1.1 “Where it is alleged that there is an error in any order, requirement, decision, or determination by the code enforcement officer or the planning board in the

~~enforcement administration~~ of this Ordinance. For an alleged error to be reviewed, it must involve a standard which is easily measurable such as a dimensional or numerical standard. A decision of the planning board, based on a judgmental, non-numerical standard, is not a matter for review by the Board of Appeals. If the Board of Appeals finds that the code enforcement officer or the planning board acted wrongly in the administration ~~or enforcement~~ of this Ordinance relative to such dimensional or numerical standards, upon a vote in favor of the appellant of at least five (5) members of the Board of Appeals, the board may order the code enforcement officer or the planning board to modify or reverse their decision.”

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§7.2 - Definitions:

Adult use marijuana: ~~All parts of the plant of the genus Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin including cannabis concentrate. "Adult use marijuana" does not include industrial hemp, fiber produced from the stalks, oil, cake made from the seeds of the plant, sterilized seed of the plant that is incapable of germination or any ingredient combined with cannabis to prepare topical or oral administrations, food, drink or any other product. Marijuana that is cultivated, manufactured, distributed, or sold by a marijuana establishment for adult use (i.e. non-medical use).~~

~~Adult use marijuana social club: An entity licensed to sell adult use marijuana and adult use marijuana products to consumers for consumption on the licensed premises.~~

Adult use marijuana store: An entity licensed by the State of Maine to purchase adult use marijuana, immature marijuana plants and seedlings from an adult use marijuana cultivation facility, ~~and~~ to purchase adult use marijuana and adult use marijuana products from an adult use marijuana products manufacturing facility and to sell adult use marijuana, ~~and~~ adult use marijuana products, immature marijuana plants and seedlings to consumers.

Dwelling unit: A room or group of rooms designed and equipped exclusively for use as living quarters for one family, including provisions for living, sleeping, cooking and eating. The term ~~shall~~ includes mobile homes but ~~shall~~ does not include travel trailers or recreational vehicles. The term also includes so-called "tiny homes" that are built to the standards in the residential building, energy, plumbing, electrical, and fire codes and which has a permanent foundation.

Hemp: The plant Cannabis sativa L. and any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis, or as otherwise defined in federal law. "Hemp" includes agricultural commodities and products derived from hemp and topical or ingestible consumer products, including food, food additives and food products derived from

hemp, which in their final forms contain a delta-9-tetrahydrocannabinol concentration of not more than 0.3% or as otherwise defined in federal law. "Hemp" does not include marijuana for medical use pursuant to Title 22, chapter 558-C or adult use marijuana pursuant to Title 28-B, chapter 1.

Lot Split: The division of a parcel of land into two or more lots where the division does not meet the definition of “Subdivision” in the Subdivision Ordinance.

Marijuana: The leaves, stems, flowers, and seeds of a marijuana plant, whether growing or not, including marijuana concentrate. This term does not include hemp.

Medical Marijuana business: A cultivation facility, a products manufacturing facility, or a testing facility for medical marijuana.

~~Medical marijuana registered dispensary: Medical Marijuana Registered Dispensary means a not for-profit An entity as defined under Title 22 M.R.S.A. Section 2422 and registered pursuant to under Title 22 M.R.S.A. Chapter 558-C Section 2428 2425-A and to Section 6 of the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122) that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana plants or harvested marijuana, paraphernalia or related supplies and educational materials to qualifying registered patients who have designated the Dispensary to cultivate marijuana for their medical use and the registered primary caregivers of those patients. Any Medical Marijuana Registered Dispensary shall be further defined in, and shall adhere to, the laws of the State of Maine and to the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122), as the same may be amended from time to time.~~

~~Medical marijuana cultivation facility: A building or site used for the planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana for use or sale, including “nursery cultivation” as that term is used in 28-B MRSA Chapter 1. "Cultivation" does not include manufacturing, testing or marijuana extraction. Medical Marijuana Cultivation Facility means a building owned or operated by a not for profit entity registered pursuant to the laws of the State of Maine and to Section 6 of the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122) that is used for the cultivation or storage of marijuana for the Medical Marijuana Registered Dispensary licensed by the State of Maine for Penquis District 6. Any Marijuana Cultivation Facility shall be further defined in, and shall adhere to, the State of Maine Rules Governing the Maine Medical Use of Marijuana Program (10-144 CMR Chapter 122), as the same may be amended from time to time.~~

~~Road or street: Shall mean a right-of-way in the Town of Hampden intended for motorized traffic which is one of the following either:~~

- ~~a. Maintained by the Town of Hampden, the County of Penobscot, or the State of Maine., or~~
- ~~b. Has been constructed and is shown on a plan of a subdivision which has been duly approved by the Hampden Planning Board and recorded in the Penobscot County Registry of Deeds and has not been vacated as a result of 23 M.R.S.A. §3032, 23 M.R.S.A. §3031, 23 M.R.S.A. §3027, or 23 M.R.S.A. §3027-A., or~~

- c. Is a private road, owned, established, and maintained by an individual, corporation, or any group such as but not limited to a property owner's association and having been inspected and deemed consistent with the Subdivision Ordinance private road standards by the Public Works Director.
- d. Is a private road right-of-way created in a lot split and shown on a plan which has been recorded at the Penobscot County Registry of Deeds, provided no more than two primary structures (e.g. houses) obtain their frontage from the private road right-of-way, and that legal access to the lot(s) exists elsewhere (e.g. in a deeded access easement across another lot).

Tract: An area of land consisting of one or more parcels which is the subject of a development proposal.

Travel trailer: A vehicle designed to be moved on wheels and intended as a temporary dwelling for travel, recreation, and vacation use. This term ~~shall~~ also includes campers, recreational vehicles, so-called "tiny homes" if mounted on a chassis, and other short term devices.

Project Report - Planning Board

Project Name	Location	What it is	Size ¹	PB Action/Date	Type	Status
Stearns Farm Subdivision	Main Rd North	single family cluster subdivision	39 lots	Approved	Prelim Subdiv	pending submission of Final plan
Carmichael Transport	178 Ammo Park Rd	addition of a garage bay	1,800 sq ft	Approved	Minor Site Plan	No Building Permits Pulled
Historical Society	83 Main Rd South	addition to building	1,020 sq ft	Approved	Minor Site Plan	completed
T&A Realty	50 Main Road North	convert retail space to apartment	1 unit	Approved	Conditional Use	Completed
Zucco's Dog House	Hampden Busn Park lot 25	change grass to turf in outdoor dog area	16,000 sq ft	Approved	Minor Site Plan	completed
Andrew Connolly	256 Main Rd N	convert existing space to accessory apartment	1 unit	Approved	Conditional Use	No Building Permits Pulled
Dysart's	370 Coldbrook Rd	expand store, relocate pumps & replace USTs	4,275 sq ft	Approved	Major Site Plan & Shoreland	completed
Amy Young	1240 Carmel Rd N	daycare facility (in home)	12 children	Approved	Conditional Use	No Permit on File
Larry Emery	75 Chickadee Lane	amateur radio operator tower	50 ft tall	Approved	Conditional Use	Completed
Fiberight/CRM	348 Coldbrook Road	insubstantial modifications to site plan	NA	Approved	Site Plan Modification	On hold
Honey Hill Estates	238 Main Rd S	single family cluster subdivision	23 lots	8/12/2020	Final Subdivision Plan	
Hampden Municipal Complex	106 & 146 Western Ave	parking lot expansion, stormwater mgt system	add 105 spaces	Approved	Major Site Plan	construction underway
Nate Wicklow	Monroe Rd	new multi-family building	4 units	Approved	Major Site Plan & Subdiv.	Septics in ground, no building permit yet
Kris Brooker	Old County Road	addition to home with accessory apartment		Approved	Conditional Use	In progress (foundation in the ground)
Honey Hill Estates	238 Main Rd S	single family cluster subdivision	23 lots	pending submission	Final Major Subdivision	pending submission of Final plan
ReVision Energy - HO Bouchard	Coldbrook Road	solar array by the trucking facility	NA	Approved	Major Site Plan	completed
Kongsuriya multi-family	Old County Road	new multi-family building	4 units	Approved	Major Site Plan & Subdiv.	Building framed no floors poured
Paul Phillips	544 Main Rd S	addition to home encroaching setback	2,200 sq ft	Approved	Conditional Use	Approved Building Permit 05/20/2020
Lupine Meadows	Western Ave	multi-family project (2 buildings)	8 units	Approved	Major Site Plan & Subdiv.	No Building Permits Pulled
Michael Levesque	Western Ave	subdivision	4 lots	Approved	Minor Subdivision	In progress (groundwork underway)
BNA Properties	Monroe Rd	multi-family project (7 buildings)	24 units	pending submission	Major Site Plan & Subdiv.	
Erickson's Hardware	13 Main Rd North	addition of pavement sealer distribution	784 sq ft	Approved	Major Site Plan amendment	Construction underway
ReVision Energy - Good Shepherd	11 Penobscot Meadow Rd	installation of a 303.75 KW solar array	1.29 ac	Approved	Major Site Plan	Construction underway
Hampden Woods Subdivision	62 Hampden Woods Rd	boundary line adjustment	NA	Approved	Subdivision Amendment	
Kongsuriya - Emerson Luxe	Emerson Mill Rd	multi-family project (3 buildings)	10 units	8/12/2020	Major Site Plan & Subdiv.	
Western Ave Storage	271 Western Ave	self-service storage facility	3 bldgs	Approved	Major Site Plan	No Building Permits Pulled

1. Size refers to square footage of building (new or addition), number of new building lots, number of new units, or acreage.