



Town of Hampden

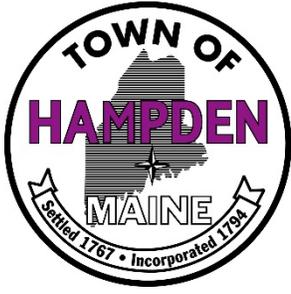
Planning Board

Wednesday, Sept 12, 2018, 7:00 pm

Municipal Building Council Chambers

## Agenda

1. Administrative.
  - a. Minutes – July 11 and August 8, 2018
2. Old Business – Planning Board Bylaws.
3. New Business
  - a. Daryl Couillard – Minor Subdivision – Splitting off a second lot within a five year period, triggering the requirement for subdivision approval. The property is located on Back Winterport Road, parcel 06-0-010. This 28.82 acre property is in the Rural zoning district.
  - b. MRC/Fiberight/Coastal Resources of Maine – Site Plan Modification – CES, representing the applicants, has submitted a revised site plan for consideration by the Planning Board as a minor modification as permitted under condition #2 of the Planning Board Order approved on July 19, 2016. The site is on Parcel 09-0-036 and is in the Industrial zoning district with access from Coldbrook Road.
4. Staff Report
5. Planning Board Comment
6. Adjournment



Town of Hampden  
Planning Board Meeting  
Wednesday July 11, 2018, 7:00 pm  
Council Chambers

## Minutes

In Attendance:

Planning Board

Gene Weldon, Chairman  
Peter Weatherbee  
Kelley Wiltbank  
Jennifer Austin  
Tom Dorrity

Staff

Karen Cullen, AICP, Town Planner

Public

Shelly Lizotte, Ames Associates  
Ken White, FA Peabody  
Peter White, FA Peabody  
Brent Dubois  
Rachel Beckwith

The meeting was called to order at 7:01 pm.

1. Administrative: Minutes of June 13, 2018. **Motion** by Member Weatherbee to approve the minutes as submitted; second by Member Austin; carried 4/0/1 (Member Wiltbank was not in attendance at that meeting).
2. Old Business: None.
3. New Business:
  - a. Site Plan application for F.A. Peabody to construct a new 4,500 square foot office building with parking for 28 vehicles on two parcels located at 36 and 38 Main Road North (parcels 36-0-008 & 009). This property is in the Village Commercial District. Chairman Weldon opened the public hearing at 7:02 pm.

Shelly Lizotte, representative for the applicant, presented the site plan:

- They are building on two lots, one which has a small office space and the other which had a house that has been demolished.
- The building will be 4,500 square feet and will house the fa Peabody business, which is currently located on the northern end of route 1a near the town line with Bangor.
- The parking was designed based on one space per 200 square feet of office space instead of the required one space per 250 square feet, and in addition extra spaces were included to handle anticipated needs when training sessions are held in the conference room of the building and staff from other area offices attend.
- Most of the parking is behind the building, and the parking lot has a raised bed landscaped island.
- ME DOT has approved the entrance permit in the location and as shown on this site plan.
- There is a fence and plantings along the southern boundary to satisfy the buffer requirements.
- There is also a fence for the first (eastern) 80 feet or so and plantings on the north boundary.

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- Stormwater was originally planned to sheet flow off the property but due to concerns about the abutting property being adversely impacted the system was designed with a berm, swale, and level spreader, with discharge in the same area as it had been previously.
- The architectural style of the building meets the criteria required in the zoning ordinance.

Abutter comments and questions:

- Rachel Beckwith, abutter to the north (42 Main Rd. N.) questioned whether the trees between her house and the new building would remain, and wanted to know what the construction schedule was.
  - The applicant responded that the trees will remain in the area about 80 feet into the site (i.e. the eastern most 80'), and construction should begin this summer and be completed in 4 to 6 months.
- Brent Dubois, abutter to the south (34 Main Rd. N.) is concerned about the traffic impact particularly at peak times of the day.
  - The applicant said there will only be 11 employees at the site so the traffic impact in the morning, between 7:00 and 7:30, will be minimal; likewise at the end of the day when they leave (4:00 to 4:30).
- Brent Dubois questioned the location of the fence and discussed the possibility of moving it to be further from his house (which is close to the property line). He is also concerned about the height of the fence and wondered if people standing in the parking lot would be able to see over the fence and into the windows of his house.
  - The applicant said the proposed fence is 6' tall and she has not looked at the elevation of his windows to determine if that would be an issue.
  - The Board encouraged the applicant to consider accommodating the abutter with a taller fence or taller plantings to shield the abutter's house; the applicant agreed.
  - Planner Cullen noted that if the fence is taller, it might be considered a structure and need to comply with setback requirements, and the applicant needs to look into that and if there is a problem with meeting those requirements than taller plantings should be used along with the (6') fence.

Key points from Planning Board discussion were:

- This area is zoned for mixed use and is transitioning from residential, need to be sensitive to abutting residents' concerns and needs.
- Stormwater drainage is a key concern in this area.
- There will be lighting in the parking lot, all fixtures (including on building) will be downcast and they will be turned on timers so they will turn on about half an hour before opening and off about half an hour after closing; office hours are 7:30 to 4:30.
- The current office houses 8 employees and this new one will house 11, with the potential to expand to 16.
- Clarification that most parking is behind the building and some is on the south side; none in the front (Main Road North side).
- The crosswalk across Main Road North will be installed at the end of the current water main work and will be located such that it does not interfere with this driveway, on the south side of Cottage Street.
- The fence on the south side of the property is currently located pretty much on the property line, but can be moved into the site if necessary.
- The applicant expects the conference room to be used for meetings that would bring additional people on-site about once a month.
- The signs will be designed to total a maximum of 30 square feet in accordance with the zoning ordinance, the intention was not to exceed the standards.

Chairman Weldon closed the public hearing at 7:27 pm.

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Planner Cullen gave a summary of her report, noting the application is in compliance with the submission requirements and the review standards of the ordinance. She noted this application is being processed under the “old” zoning as the recently revised ordinance is not in effect until July 18<sup>th</sup>.

**Motion** by Member Weatherbee to grant site plan approval in accordance with the draft Board Order and subject to the two conditions contained in that Order; second by Member Wiltbank; carried 5/0/0 by roll call vote.

b. Planning Board Bylaws: Motion by Chairman Weldon to remove this item from the table; second by Member Weatherbee; carried 5/0/0.

- No changes to Article 1
- No comments on the change to Article 2
- No comments on the change to Article 3; Planner Cullen noted the language is already in the Town Charter and duplication is not recommended.
- The Board requested that we add an appendix to track amendments to the bylaws.
- Discussion on Article 4:
  - The Board agrees with the proposed changes to delete the secretary since the staff performs those functions, and the addition of a vice-chair to automatically serve as chair in the absence of the chair.
  - Instead of deleting the language in 4B regarding the secretarial duties, change it so it is staff responsibility (item 1) and change item 3 to just say that once minutes are approved they are posted online.
- Discussion on Article 5:
  - Suggested the language in 5B track whatever the Town Council does, and change the 24 hour to 48 hour notice and delete the last sentence about non-voting meetings.
  - A couple of minor changes were made to 5E.
- Discussion on Article 6:
  - Delete 6A since it's covered in 5E.
  - Move 5E to 6A.
  - Revert the language in 6C to the previous draft, with a minor revision.
- Discussion on Article 7:
  - Minor modifications to 7A, 7B, and 7E.
  - Keep language regarding retention of all materials used by the Board in their decision making for applications; follow the state's disposition laws regarding for how long.
  - Add language regarding the cost of transcripts, that people requesting them to pay the cost of having them done.
- The Board decided to add language regarding committees, to add a section to Article 3 to authorize the Board to create standing, special, or ad-hoc committees as needed.
- Planner Cullen will make these changes and send to the Town Attorney for review prior to the next meeting (August 8).

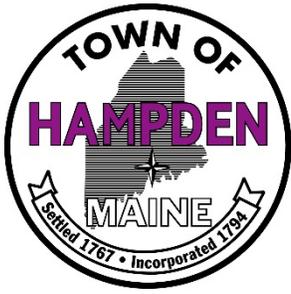
4. Staff Report:

- a. Planner Cullen noted that the town center planning project will have the first workshop later this month, staff was working on getting the venue set so we could nail down the date and time.
- b. Planner Cullen noted the next Planning Board meeting will have the FW Webb site plan application for a warehouse/wholesale business in the business park, and another site plan application for a dog daycare facility, also in the business park.

5. Planning Board comments: None.

**Motion** by Member Wiltbank to adjourn the meeting at 7:55.

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Town of Hampden  
Planning Board Meeting  
Wednesday August 8, 2018, 7:00 pm  
Council Chambers

## Minutes

In Attendance:

Planning Board

Gene Weldon, Chairman  
Kelley Wiltbank  
Jennifer Austin  
Jake Armstrong

Staff

Karen Cullen, AICP, Town Planner  
Myles Block, CEO

Public

See separate sign-in sheet

The meeting was called to order at 7:00 pm.

1. Administrative: Minutes of July 11, 2018. Chairman Weldon tabled this item to the next meeting since the minutes were not in the packet.
2. Old Business: Planning Board Bylaws. Chairman Weldon left this item on the table since we have not received comments from the town attorney yet.
3. New Business:
  - a. **Conditional Use application for Macie & Bryan Day** to convert an existing single family home located at 100 Mayo Road to a Child Care Center (parcel 35-0-004). This property is in the Residential B district. Chairman Weldon read the notice and opened the public hearing at 7:02 pm.

Macie Day, the owner and applicant, presented the application:

- They are proposing to open a day care center for up to 16 children
- She has years of experience working with children
- They have had difficulty finding child care for their daughter so they decided to open one themselves.

There being no abutter or public comments, Chairman Weldon closed the hearing at 7:03 pm.

Planner Cullen summarized her report:

- The board may wish to inquire as to financial capacity as that was the only item missing in the application; however they already own the property so this information is not critical to the application.
- The outdoor play area needs to be at least 25 feet from the property lines; from the aerial imagery it appears this will be met but she recommends it be a condition of approval to ensure it is installed at the correct distance.
- The proposal requires 6 parking spaces, which can be accommodated on the site. However, during busy times with pick-up or drop-off, it may become congested and parents may want to park on Mayo Road, which is a fairly busy road. It is recommended that a condition of approval be that no parking is permitted on the road at any time.
- Chief Rogers reported no public safety concerns.
- It is in the Residential B district and child care centers must be reuse of an existing building, which this is.

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Key points from Planning Board discussion were:

- Technical capacity – Macie Day stated she has years of experience working with children and the center will be properly licensed by the state.

**Motion** by Member Austin to grant conditional use approval in accordance with the draft Board Order and subject to the two conditions contained in that Order; second by Member Wiltbank; carried 4/0/0 by roll call vote.

- b. **Conditional Use and Site Plan applications for Zucco's Dog House.** LTZ Holdings, LLC proposes to construct a new 3,512 square foot building to house a dog daycare facility (kennel) on lot 25 of the Hampden Business Park, parcel 10-B-025, in the Industrial Park district. Chairman Weldon read the notice and opened the public hearing at 7:07 pm.

Jim Kiser presented the application on behalf of the owners, Darlene and Corey Webb.

- The 1.3 acre site is on the new road on the left side, near the church, and it is currently an open field.
- It is served by public water and sewer, which are stubbed in, and the driveway apron is also already built, which limited the design of the site to some degree.
- They are requesting two waivers: one to the stormwater requirement in §4.7.6, since the entire park has already had stormwater management approved in the DEP permit for the Site Location of Development Act; and secondly for the class 1 buffer since no site within the park has installed a buffer in compliance with this standard, and furthermore such a dense buffer is somewhat contradictory to the business park setting since it would block the view of the site.
- They have designed landscaping along the street and around the sides and back; over time these plants will grow to provide a more pleasant setting.
- The outdoor play area will be fenced all the way around, with solid fencing in the front area and chain link elsewhere.

Chairman Weldon closed the hearing at 7:12 pm.

Planner Cullen summarized her report:

- The conditional use application is complete and meets the required standards for approval.
- The site plan application is complete and, if the requested waivers are granted, meets the standards for approval.
- Both the zoning ordinance and the covenants for the park deal with landscaping, and as Mr. Kiser has stated, there are no developed sites within the park that meet the class 1 buffer requirement. Planner Cullen supports the waiver request since the proposed landscaping is consistent with or better than landscaping at other sites.
- Comments from the DPW Director and Woodard & Curran have been addressed in the revised plans which were in your packet.
- Staff recommends granting the waiver for the stormwater requirement of §4.7.6 of the zoning ordinance, since the site is within the park which has DEP approval under SLODA.

Key points from Planning Board discussion were:

- The impact of the kennel/daycare operations on abutting properties should be minimal as there are no residential uses nearby, and impact on the church will be minimal since the dog daycare business will not be open on Sunday.
- There may be some kenneling on weekends but no daycare.

**Motion** by Member Wiltbank to grant conditional use approval as proposed and in accordance with the draft Board Order; second by Member Austin; carried 4/0/0 by roll call vote.

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**Motion** by Member Wiltbank to grant waivers to §4.7.6 for stormwater management, given that the site is covered by the DEP SLOD permit, and to §4.7.2.5 for the Class 1 buffer since the proposed landscaping is consistent with the landscaping at other sites within the park, and to grant major site plan approval as proposed and in accordance with the draft Board Order; second by Member Austin; carried 4/0/0 by roll call vote.

- c. **Major Site Plan application for FW Webb** to construct a new 86,288 square foot building to house a wholesale and warehouse facility on lots 33, 34, and 35 of the Hampden Business Park, parcels 10-B-033, -034, and -035, in the Industrial Park district. Chairman Weldon read the notice and opened the public hearing at 7:24 pm.

Sean Thies of CES and Andy McBeth of Green Leaf Construction presented the application on behalf of the applicant:

- FW Webb is a wholesaler of pipes and materials for the mechanical trades.
- Described the project, noted that they expanded the building by 12 feet toward the back due to interior architectural design, increasing the building space to 86,288 square feet.
- They will be connecting to the water and sewer service in the park.
- They are proposing to install all the parking for current and future needs for visitors, customers, and employees now.
- There is an outdoor storage area which is located in an area that will be the least visible from Route 202.
- The uses in the building include office, “self-serve” wholesale where customers can go through and choose their own products, and storage (warehouse).
- There are 6 loading docks on one side of the building.
- The site is designed with a circular traffic flow for trucks to drive around the back of the building and into the pipe barn or outdoor storage area.
- There are overhead cranes in the pipe barn for moving heavy loads.
- There is a mezzanine area which is for storage of bathtubs and other bulky items.
- Initially there will be around 25 employees in the office area.
- The exterior of the building is metal siding, with split-masonry along the bottom portion of the front, wrapping partially around the sides, which is similar to other buildings in the park.

Main points from discussion with Planning Board:

- In regards to consolidation of operations in the region, the warehouse in Bangor will be closed and those operations relocated to this site. The retail operation on Hammond Road will remain there, with the possibility of it being relocated here within 10 years.
- The applicant is seeking a waiver for the maximum number of parking spaces, which is being exceeded for the current condition since they want to construct all the parking now for their future expansions.
- The applicant is also seeking a waiver to the requirement that outdoor storage be in the rear two-thirds of the site. The outdoor storage area will be screened with fencing and is not very visible to the general public (on Route 202) due to the way the site is situated and designed.
- The proposed signage is in compliance with the requirements except for the “pylon” sign, which is an off-premises sign considered to be an “Industrial Park” sign under §4.7.5.8.3 of the zoning ordinance. That sign needs to include “Hampden Business & Commerce Park”, “Webb Drive”, and have four panels for the tenants – two for the site under consideration (one “FW Webb” and the other reserved for the future retail operation) and two for the other lots accessing Webb Drive. A revised drawing needs to be submitted for the pylon sign.
- Stormwater management is being approved by DEP through the application for an amendment to the SLOD permit which was issued previously for the entire business park. This

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site has been designed to handle stormwater on site, with two detention ponds, and will comply with current DEP standards.

- Water supply in regards to fire flow is currently lacking, the site has about 600 gpm and to meet the needs for fire flow they need about 17-1800 gpm. The water flows through two 4 inch meters from Bangor which are believed to be causing a significant restriction on the flow. There are three realistic options they are currently looking at to find a solution to this problem. Discussion that this should be a condition of approval, so the Board can make a positive finding regarding not overburdening the public water system. It was noted that fire flow throughout the park is very important to ensure development of this asset, thus is crucial to the Town as well as to this particular applicant.
- Applicant needs to comply with the Town's Post-Construction Stormwater Management Ordinance, which will entail an agreement signed by the Town Manager and the site owner.

Chairman Weldon closed the public hearing at 7:58 pm.

**Motion** by Member Wiltbank that based on the findings outlined in the Board Order, to grant the waivers listed below and to grant approval to the site plan for FW Webb as submitted, subject to the conditions listed below.

Waivers:

1. To the Class 1 buffer requirements of §4.7.2.5 of the zoning ordinance, given the site location at the back of the park and the landscaping proposed is similar to that provided on other lots in the Business Park.
2. To the maximum amount of parking restriction in §4.7.1.2, to allow parking for future expansions to be constructed along with the rest of the paving, given that the stormwater management system has been designed to handle all stormwater runoff on-site, and is being approved by MDEP.
3. To the location of the outdoor storage within the front one-third of the site as required in §3.2.35, given that the outdoor storage area is located in an area where it will not be obviously visible from Route 202 and it will be screened from view of Webb Drive.

Conditions:

1. That the applicant will provide to the Code Enforcement Office documentation from the Hampden Water District that water capacity will serve building and fire code requirements prior to issuing the Certificate of Compliance.
2. That the applicant receive approval for all state permits, specifically the amendment to the Site Location of Development permit and the Natural Resources Protection permit.
3. That the signage meet the standards of the zoning ordinance, particularly the pylon sign, and to submit revised plans for signage.
4. That the requirements of the Post-Construction Stormwater Management Ordinance be met.

Motion seconded by Member Austin; carried 4/0/0 by roll call vote.

#### 4. Staff Report:

- a. Planner Cullen noted that the Staff Review Committee met this afternoon and approved a site plan for JS Insulators for an addition to their building at the corner of Main Road South and Swan Ave. There are two more minor site plans in the pipeline for the SRC, one is an ice cream stand on the property at the Eagle Security building on Main Road North, and the other is for an addition at the Hampden Historical Society site on Main Road South.

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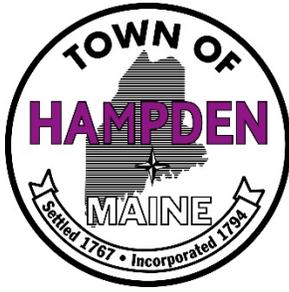
- b. The abutter to the south of the FA Peabody site has contacted staff regarding a potential appeal of the Planning Board approval granted last month.
- c. Town Council has set a public hearing to modify the separation requirements in the Mobile Home Park ordinance.
- d. Town Council has adopted an emergency ordinance to prohibit medical marijuana caregiver retail stores, and has set a public hearing to adopt a moratorium on these stores. The first is effective immediately and lasts for 60 days, the second is adopted per the normal process and will become effective 30 days after adopted (after public hearing, set for Aug 20), which will be in effect until February 2, 2019. These actions were taken to protect the town and ensure such caregiver retail stores are allowed in a manner to not create problems – we are waiting for the state to complete work on the amendments to the rules to go along with the recently amended Medical Marijuana Act before we can figure out how we can and want to regulate caregivers and caregiver retail stores.
- e. Town Council has set a public hearing for Aug 20 to adopt a new ordinance called simply “Marijuana Ordinance” which will eventually contain most of the regulations pertaining to marijuana (medical and adult use) for Hampden. Initially it will contain a limit on the number of adult use mature marijuana plants that can be grown for personal use on a single property. She described the state law limitations and said the local limit is proposed to be nine mature marijuana plants plus the number permitted by state law for adults age 21 or over who are domiciled on the property. She said her concern was with someone starting what would essentially be a marijuana co-op farm in the middle of a residential area, which raises public health, safety, and welfare concerns.
- f. Planner Cullen noted the town center planning project had the first workshop last week, which was well attended and apparently resulted in good discussions and information sharing. Ben Smith is working on compiling the data gathered.
- g. The next Board meeting is scheduled for September 12, currently there is a request for determination (by the Chairman) that proposed changes to the Fiberright site plan are “insubstantial” and therefore do not require a public hearing, but will require Board action. There may also be a conditional use application for an accessory apartment.

5. Planning Board comments: None.

**Motion** by Member Wiltbank to adjourn the meeting at 7:55; seconded by Member Austin; carried 4/0/0.

*Respectfully submitted by Karen Cullen, Town Planner*

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Town of Hampden  
Land & Building Services

## Memorandum

To: Planning Board  
From: Karen M. Cullen, AICP, Town Planner *KME*  
Date: September 5, 2018  
RE: Amendments to Planning Board Bylaws

Attached is a third revised draft of proposed amendments to the Board's Bylaws. This version includes the modifications discussed at the July Planning Board meeting as well as edits suggested by the Town Attorney. I have also attached the email with the attorney's comments on the Bylaws.



Karen Cullen <planner@hampdenmaine.gov>

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## FW: Hampden PB Bylaws

1 message

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**Edmond J. Bearor** <ebearor@rudmanwinchell.com>  
To: Karen Cullen <planner@hampdenmaine.gov>

Tue, Aug 14, 2018 at 12:04 PM

Karen, you asked about the By-Laws Review. My bad. We did it earlier this month and I didn't forward to you. See attached.

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**From:** Cynthia M. Mehnert  
**Sent:** Thursday, August 02, 2018 10:23 AM  
**To:** Edmond J. Bearor  
**Subject:** RE: Hampden PB Bylaws

Ed,

I have reviewed the bylaws looking at 30A MRSA Section 3001 et seq and I do not see any notation that is in violation of the statute. I did have a few comments and made a minor change in wording to Article 5 and 6 which are shown in green on the attached bylaws.

My comments were:

Article 3- Membership – the Board has taken the methods for removing someone off the Board out of the Bylaws, so that mechanism will now default to town ordinances or state law. That is perhaps what the Board wanted.

Article 4 – Officers and Duties – I can understand that the Chairperson does not need to be obligated to do any orientation, but should there be a reference for training of new Planning Board members.

Article 5 – Meetings – Would the Board want any provision for allowing a member to attend the meeting telephonically. I know an official vote cannot be taken from the member on the phone.

These suggestions may not be needed. I did not find any amendment in violation of Maine law.

Please let me know if you need anything further,

# HAMPDEN PLANNING BOARD

## BY-LAWS

### ARTICLE 1 – NAME

This organization shall be known as the Hampden Planning Board.

### ARTICLE 2 – PURPOSE

These By-Laws are established by the Hampden Planning Board to aid in the fulfillment of its responsibility under the Maine Constitution, the Statutes of Maine, the Charter of the Town of Hampden and the Municipal Ordinances, all of which have precedence. These By-Laws are intended to insure fair and equitable treatment in all proceedings of the Hampden Planning Board. A copy of these Bylaws is available at the Town office and on the Town of Hampden web site.

### ARTICLE 3 – MEMBERSHIP

- A. The Planning Board consists of seven regular members and two alternates appointed by the Town Council for terms of five years each.
- B. All Planning Board members, regular and alternate, shall be expected to attend all meetings.
- C. An alternate member may participate in the Board's proceedings but may vote only when s/he has been designated by the Chairperson to sit in for a regular member. The Chairperson shall so designate when any regular member is absent or when a regular member is unable to act because of conflict of interest or any other satisfactory reason.
- ~~D. Any person serving on any town board or committee shall forfeit their seat if they (1) lack any time during their term of office any qualification for the office prescribed by this charter or by law, (2) violates any express prohibition of this charter, (3) is convicted of a crime or offense which is, during their term, reasonably related to their inability to serve, or (4) fails to attend three consecutive regular meetings or no more than a maximum of six meetings per year of the board without being excused by said board. (Amended: 8/11/82)~~
- D. The Planning Board may create standing or special committees at any time by majority vote of its members, for the purpose of handling specific tasks as may be necessary for the conduct of business, with the exception that no such committee may be created for the purpose of reviewing or otherwise dealing with an application before the Board under the Subdivision or Zoning Ordinances.

### ARTICLE 4 - OFFICERS AND DUTIES

- A. The Board shall elect a Chair ~~and Vice Chair person~~ from its members annually at its regularly scheduled meeting in January for a one year term. The ~~Chairperson~~ Chair and Vice Chair ~~are~~s eligible for reelection.
  - 1. The Chairperson shall call all meetings of the Planning Board and shall preside at all meetings of the Board.
  - 2. The Chairperson shall call at least eight regular meetings of the Board each year.
  - 3. The Chairperson shall represent the Planning Board and be its official spokesperson in all matters.
  - ~~4. The Chairperson shall be responsible for ensuring that new members receive an orientation.~~
  - ~~5.4.~~ The Chairperson may appoint committee Chairpersons subject to Board approval.

- ~~6.5.~~ In the event that the Chairperson is unable to attend a called meeting of the Planning Board, ~~s/he shall designate another member of the~~ the Vice Chair of the Board ~~will~~ act in his/her stead at that meeting.
- B. ~~The staff (planner, administrative assistant) is responsible for maintaining~~ Board shall elect a secretary from among its members annually at its regularly scheduled meeting in January for a one year term. The secretary is eligible for re-election.
- ~~1. The secretary shall be responsible for supervising the maintenance of~~ accurate records of the Planning Board meetings, including all official actions, as well as.
  - ~~2. Records and~~ correspondence of the Planning Board. All records shall be maintained in accordance with the Maine State Archives Local Government Record Retention Schedules in the Town Office and may be inspected during municipal business hours.
  - ~~3. Minutes of all meetings of the Planning Board shall be distributed to the members of the Board, Town Council, the Chairman of the Zoning Board of Appeals, the Town Manager, Code Enforcement Officer, and to such other persons as the Chairperson deems advisable and posted on the Town's website after approval.~~
  - ~~4. Minutes of the Planning Board meetings shall be officially approved at the next regular meeting of the Board, subject to corrections. Such approved minutes shall constitute the official record of the meetings of the Board.~~

#### ARTICLE 5 – MEETINGS

- A. ~~A~~ Regular meetings, if called, of the Planning Board shall be held on the second Wednesday of the month, and workshop meetings, if needed, shall be held on the third Tuesday of the month. (Amended: 9/10/81)
- B. Special meetings may be called by the Chairperson ~~and shall be called when requested by a majority of the Planning Board, provided that twenty four (24)48 hour notice is given to each Planning Board member. Unless proper public notice is able to be given, it will be a non-voting meeting.~~
- C. A quorum of the Board necessary to conduct official business shall consist of four members. A concurring vote of a majority of those present and eligible to vote is required in order for the Planning Board to act officially. ~~However, no official action may be taken unless the majority includes at least three.~~
- ~~D.~~ D. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members except the member who is challenged.
- ~~D.~~
- E. The agenda and materials for regular meetings shall be e-mailed/distributed to all members at least six days prior to the meeting.
- ~~F. The Planning Board agenda and minutes of meetings shall be mailed to the current chairpersons of the Town's standing and special committees. (Amended: 7/10/85)~~

#### ARTICLE 6 - RULES OF PROCEDURE

- A. Submission Deadlines.
- a. Applications for projects that do not require a public hearing per Article 7 or other requests are due to the Planning Department 15 days prior to the meeting date.
  - b. Applications for projects that require a public hearing but do not require third party peer review are due to the Planning Department 30 days prior to the meeting date.
  - c. Applications for projects that require a public hearing and require third party peer review are due to the Planning Department 44 days prior to the meeting date.

- d. Whenever the due date falls on a day the Town Office is closed, the due date is automatically shifted to the next date the Town Office is open.
- ~~A. An individual wishing to assure Planning Board consideration of any matter other than subdivision review, site plan review, conditional use review or conditional lot dimension review shall notify the Code Enforcement Officer/Town Planner at least 15 days in advance of a regular or special meeting.~~
- B. Meetings shall be conducted in accordance with Maine Statutes, including Maine's Freedom of Access – Public Right to Know Law, as outlined in Title 1, M.R.S.A., Sections 401-410, as amended, Town Ordinances, these By-Laws and pertinent parts of the latest revisions of Roberts Rules of Order ~~;~~ However, the Board may also establish special rules for the conduct of any business provided such establishment of rules does not violate state or municipal law or ordinance.
- C. Information regarding applications before the Board shall be presented to the Planning Board ~~in one or more of the following manners. No information shall be submitted except in one of these manners. (Amended: 11/12/86)~~
1. ~~As as~~ part of a formal application to the Planning Board submitted in accordance with the zoning and/or subdivision ordinances; or
  2. ~~As as~~ verbal or written testimony during for a public hearing; ~~or~~
  3. ~~At the request of the majority of the Board present and eligible to vote.~~

#### ARTICLE 7 - PUBLIC HEARINGS

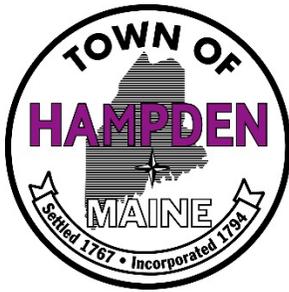
All public hearings held by the Planning Board as required by law or ordinances of the Town of Hampden, in addition to meeting special requirements of such law or ordinances, shall comply with the following procedures unless waived by the Planning Board.

- A. Public hearing notice.
- a. Public hearings must be advertised in a local newspaper at least 10 calendar days prior to the date of the hearing.
  - b. Notice of public hearings must be mailed to all property owners within 300 feet of the property subject to the application as shown in the Assessor's records.
  - c. Town staff is responsible for preparing and distributing such notices, but the applicant is responsible for paying the costs of the newspaper ad and abutter notification. No hearing notice will be published in the newspaper until payment is received.
- ~~A.B.~~ All Under state disposition requirements, only paper, microfilm, or microfiche copies of records are official. However, public hearings shall may be tape-recorded and the recording of the hearings kept in the permanent record of the Planning Board shall may be posted on the Town of Hampden web site.
- C. The applicant, or the applicant's representative, shall present opening statements regarding the project, including any plans, reports, testimony or other evidence.
- D. The Town Planner, followed by other Town staff or other officials may introduce any correspondence, present reports, commentary and recommendations.
- E. All interested parties and members of the public shall be given an opportunity to be heard offer statements relevant to the project under consideration; however, the Chairperson may limit discussion to new information and pertinent information. By majority vote of its members, the Board may limit testimony to a set time period for each member of the public present and may extend or modify this time period based upon a majority vote of those Board members present and voting.
- F. Any interested party may submit written testimony at or prior to the public hearing.
- ~~B.~~ The order of presentation shall be as follows unless the Chairperson rules otherwise:
1. ~~Major proponents~~ 30 minute limitation
  2. ~~Other proponents~~ 5 minute limitation

- ~~3. Major opponents – 30 minute limitation~~
- ~~4. Other opponents – 5 minute limitation~~
- ~~5. Appropriate town officials~~
- ~~6. Rebuttal – 5 minute limitation~~
- ~~C. Major proponents and opponents shall be encouraged to present written information for distribution in advance and at such public hearing.~~
- ~~D. Decisions required as a result of public hearings shall be made in accordance with appropriate laws and/or ordinances.~~
- ~~E.G.~~ All information, recordings and materials made part of the public hearing shall be maintained as part of the permanent record of the ~~hearing~~meeting. Costs of transcriptions of the hearings shall be borne by the party requesting the transcript.
- ~~F. A public announcement of the hearing shall be made by posting a notice of intent in the Bangor Daily News in accordance with State and municipal laws and ordinances.~~

#### ARTICLE 8 - ADOPTION AND AMENDMENTS

These By-Laws may be adopted and/or amended by a concurring vote of at least 5 members at any regular meeting of the Planning Board, provided the proposed By-Laws or the proposed amendment has been discussed at the previous regular meeting of the Board.



Town of Hampden  
Land & Building Services

Report on Application  
Minor Subdivision  
Ware Field

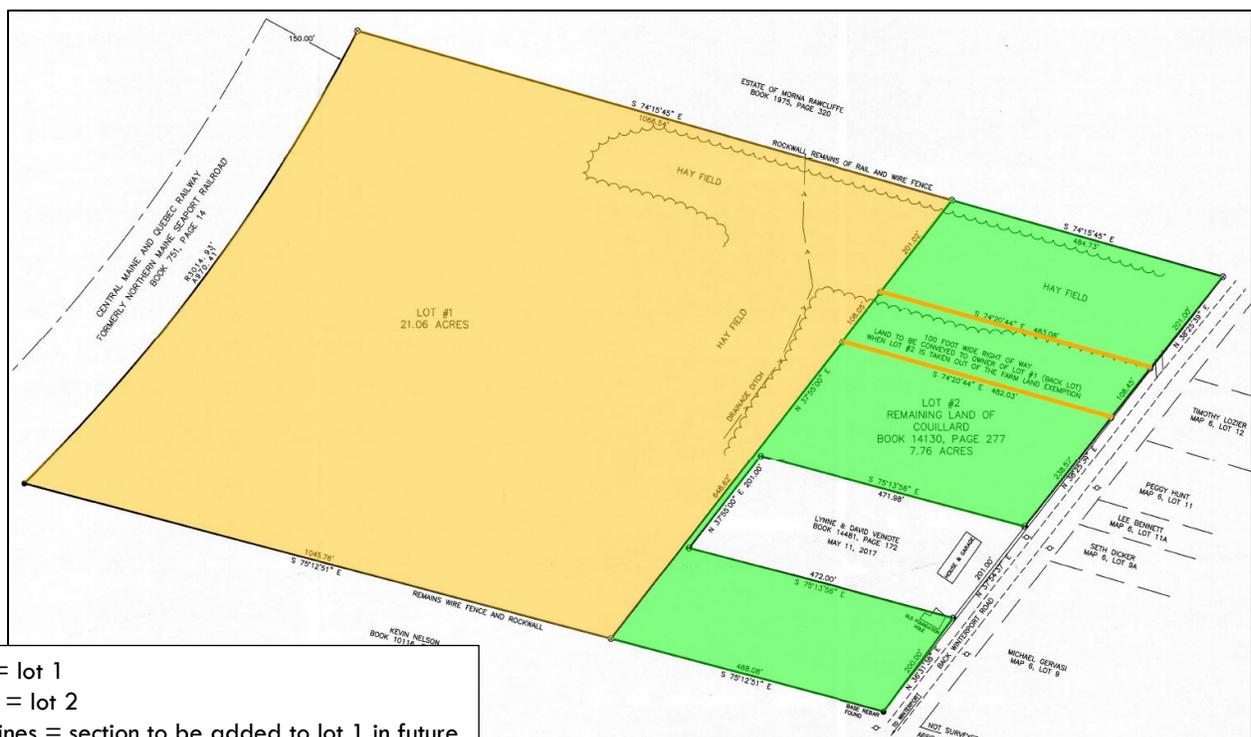
To: Planning Board  
From: Karen M. Cullen, AICP, Town Planner *KMC*  
Date: September 6, 2018  
RE: Report on Subdivision Application for Daryl Couillard

Project Information

Applicant: Daryl Couillard  
Site Location: Back Winterport Road, Parcel 06-0-010  
Zoning District: Rural  
Proposal: Split off a second lot within a five year period.

I have reviewed this minor subdivision application and find it to be in compliance with the submission requirements of the Subdivision Ordinance. The applicant is seeking a waiver to Section 343.3.7, soils report.

The land is currently being used for agricultural purposes and will continue to be used as such after this subdivision is created. The subdivision proposal is to create two lots, as depicted below.



gold = lot 1  
green = lot 2  
gold lines = section to be added to lot 1 in future

There are a couple of concerns with this proposal, both related to Section 521 of the Subdivision Ordinance, *Lots to be Buildable*, which states in part: “Lots should not be of such dimension as to later encourage the creation of a second building lot out of the first.” As drawn, when Lot 2 is taken out of the farm land exemption program (a taxation program), the 100 foot strip (between the gold lines in the image above) will be conveyed to Lot 1, providing permanent access to the 21.06 acre back land. When I had spoken with the applicant about this potential subdivision, I had recommended that the strip providing access to the rear lot (Lot 1) be placed along one of the outside boundary lines (abutting Rawcliffe or Nelson) so there would not be a third lot created. The problem I see with the proposed plan is that when that conveyance is made, the portion to the north of the 100 foot strip will be isolated from the other portion of Lot 2, essentially creating a new lot. While that area will have the area and frontage required to be a buildable lot, it will not have been approved by the Planning Board as a lot. Assuming state law does not change the definition of “subdivision” there is potential that this could occur beyond the five year period and thus that new lot could be recorded legally without Planning Board action. Since removal of a parcel from a taxation program has nothing to do with the Planning Board, there is no automatic process to deal with this when the conveyance occurs. Please see also the attached memo from Kelly Karter, the Town Assessor.

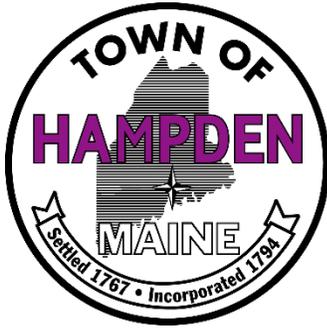
The second concern is that Lot 2 wraps around the lot owned by Veinote, with a 16 foot wide strip between Veinote and Lot 1. As with the northly portion discussed above, this area to the south of Veinote would have the required acreage and frontage to become a separate lot if split at the 16 foot strip. That would require Planning Board approval unless the split is done outside of the five year period stipulated in state law. This proposed configuration also seems to be contradictory to the intent of Section 521.

As mentioned above, the applicant is seeking a waiver to the requirement for a soils report to be provided with this application. That requirement reads: “A soils report, identifying soil types and location of soil test areas. If subsurface sewage disposal is to be used, evidence of soil suitability for subsurface sewage disposal as determined by the Maine Plumbing Code shall be presented. There shall be at least one soils test per lot.” My concern is that while this is currently presented as a subdivision creating two lots, it is setting up future creation of four lots – the 21.06 acre back lot + the 100 foot strip to be conveyed later, and three lots along Back Winterport Road, each of which would, if properly approved, be buildable. I raise the issue whether it is appropriate to deny the waiver request and require the normal soil tests to show suitability for subsurface sewage disposal for those future lots. While the action to create such lots is not present at this moment, it appears to me the intent is. I took the initiative to look up the soils as mapped by the USDA NRCS, with their ranking for subsurface sewage disposal suitability, for the land area covered by this proposed subdivision – all soils within this subdivision are ranked “very limited” for septic tank absorption fields.

Note that Lot 1 as drawn is nonconforming since it has no frontage, and will remain nonconforming and unbuildable even after conveyance of the 100 foot strip since there will still be inadequate frontage. However, once the strip is conveyed, there will be room for a new road to be built into Lot 1 for future subdivision with all those lots having the required frontage on a new street.

Finally, if the Board decides to approve the proposed subdivision as-is, I recommend that two conditions be placed on the plan:

- 1) Lot 1 is nonconforming to the current Zoning Ordinance dimensional requirements and therefore is a non-buildable lot until such time as either the Zoning requirements change or the parcel configurations are amended to provide the necessary frontage and lot area for each lot.
- 2) Lot 2 is approved as a single building lot until such time that it is divided in compliance with state and local subdivision laws; the conveyance of the 100 foot strip to Lot 2 will not automatically make the area north of that strip a separate lot.



Town of Hampden  
Land & Building Services

Report on Application  
Site Plan Modification  
MRC/Fiberight

To: Planning Board  
From: Karen M. Cullen, AICP, Town Planner *KMC*  
Date: September 5, 2018  
RE: Report on Site Plan Application for Modification to Approved Site Plan for Fiberight

Project Information

Applicant: MRC/Fiberight/Coastal Resources of Maine  
Site Location: 348 Coldbrook Road  
Zoning District: Industrial  
Proposal: Modify the approved site plan in numerous ways (see below).

The applicant has submitted revised site plans and a request that this be considered an “insubstantial modification” under Condition #2 of the Board Order approved on July 19, 2016. The Chairman of the Planning Board, in consultation with the Town Attorney, has made the determination that the request meets the intent of Condition #2 and therefore this request is before the Board for consideration at a regular Planning Board meeting, without requiring a public hearing.

There are many minor modifications on the revised site plans involving the exact location of various utilities, which are not detailed in this memo. The primary modifications sought include:

1. Move the administration building about 21 feet southeast.
2. Delete parking lot #2 and expand parking lot #1; this amounts to a reduction in parking from 54 spaces to 40 spaces.
3. Construct an access drive to the building where parking lot #1 was located.
4. Revise location of fueling area from the easterly end of the “truck yard” to the north side of the building by the “chemical transfer containment” area.
5. Revise location of above ground propane tank.
6. Revise location of air handling units (AHU); moved one of the two on south side of building to the north side.
7. Revise alignment of the pervious travel surface along the south side of the building to avoid the AHU.
8. Modified pervious travel surface south of the administration building.

9. Extended sidewalk along the west side of the building to the entry door.
10. Added a lighting plan (C104) to show proposed lighting along the edges of the pavement on the north and east sides of the building, plus three lights in the parking lot area; this is providing more detail than the July 2016 approved site plan and includes modified locations of some of the fixtures.
11. Added a new Site Detail sheet (C505) with details for the process waste water flow meter pit, the bio-gas condensate sump, the gas trench, and the process waste water sump.

It is staff's opinion that none of the proposed changes will increase the intensity of the use or the operations of the site. Comments from staff:

1. There must be a minimum 10 foot separation between the water and sewer lines, this is not achieved along the south side of the building.
2. Avoid having the water and sewer lines crossing each other; there is a crossing southwesterly of the building.
3. The 12 inch gate valve shown at the property line for the fire suppression is not connecting to the water line shown along the access road.
4. The reduction in parking from 54 to 40 spaces is acceptable given the apparent discussions in 2016 that the appropriate parking ratio for this use is .75 spaces per employee, which per the applicant is 38 spaces needed. However, the Board Order does not mention this ratio, instead referring to 53 spaces in Motion 4. Staff believes that the proposed 40 spaces should be sufficient, but recommends that a condition be placed on any approval of this modification request that would prohibit any parking on the access road, regardless of whether it is public or private. This is to ensure there is adequate room for trucks and emergency vehicles to reach the site at all times.

Included in the Board's packet is a draft of the Board Order for this request. Rather than continue to have separate documents for each modification (this is the third), which creates confusion, the draft order incorporates the previously approved modifications as well as the current request. In addition I am recommending changing the language of condition #2 to more closely match the original intent and practice. This draft order also includes a new condition #22 regarding no parking in the access road.