

Town of Hampden

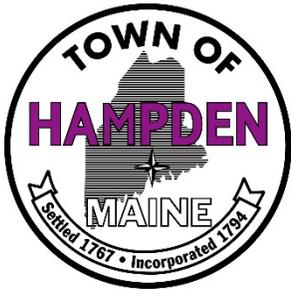
Planning Board

Wednesday, July 10, 2019, 7:00 pm

Municipal Building Council Chambers

Agenda

1. Administrative
 - a. Minutes - June 12, 2019 regular meeting and June 19, 2019 workshop
2. Old Business
 - a. Stanley & Sean MacMillan – Continuation of Public Hearing for Preliminary Subdivision plan for Stearns Farm. Proposal for a major subdivision for a single family 39 lot cluster housing development with three new roads, on a 27.7 acre parcel located on Main Road North (parcels 33-0-011-A & 33-0-015-A). This property is in the Residential A district.
 - b. R&B Development, LLC – Continuation of Public Hearing for Preliminary Subdivision plan for Honey Hill Estates. Proposal for a major subdivision for a single family 23 lot cluster housing development with one new road, on a 29.3 acre parcel located on Main Road South (parcel 06-0-050-1). This property is in the Residential A and Rural districts.
3. New Business
 - a. Town of Hampden – Municipal Complex Expansion. Public Hearing for a major site plan to expand the parking lot at the Lura Hoit pool recreational complex, add a right-turn lane at the exit onto Western Avenue, and make improvements to the stormwater management system at several locations on the property at 106 Western Ave, Parcels 09-0-018 and 09-0-018-A. This property is located in the Residential B and Rural districts.
4. Staff Report
5. Planning Board Comment
6. Adjournment



Town of Hampden
Planning Board Meeting
Wednesday June 12, 2019

Minutes

In Attendance:

Planning Board

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

Staff

Karen Cullen, AICP, Town Planner

Public

Larry Emery
Jim Kiser, representing Stearns Farm and Honey Hill Estates
Abutters for Honey Hill Estates, Emery, and Stearns Farm, see sign-in sheet

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

1. Administrative:

- a. **Motion** by Member Weatherbee to approve the minutes of the May 8, 2019 regular meeting, and May 21, 2019 workshop meetings; second by Member Austin; motion carried 4/0/0.

2. New Business:

- a. R&B Development, LLC – Public Hearing for Preliminary Subdivision plan for Honey Hill Estates. Proposal for a major subdivision for a single family 23 lot cluster housing development with one new road, on a 29.3 acre parcel located on Main Road South (parcel 06-0-050-1). This property is in the Residential A and Rural districts.

Chairman Weldon opened the public hearing at 7:01 pm.

Jim Kiser presented the application:

- 29.3 acre parcel of land located off Main Road South.
- 1 lot includes existing cottage that is currently rented.
- 21 lots in cluster development, mostly in the Rural district – the two lots closest to Main Rd S are in the Residential A district and comply with the dimensional requirements for that district.
- Requesting a few buffer/setback waivers. All areas with proposed reductions have no development abutting, and while the whole site was harvested, there is a line of standing trees around the perimeter of the site.
- Public sewer will be extended 500' up Main Rd S. to service this project.

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- Water District agreed to service. Water pressure is a problem due to the elevation. Houses in the higher areas will need to have pressure booster systems installed to provide adequate water pressure.
- The fire hydrant will be moved to Lot 9 and will put out 300-350 gallons a minute, rather than the Fire Department's requested 500 gallons a minute.
- Stormwater management is provided compliant with the standards of the zoning ordinance which requires the design to comply with Chapter 500. Treatment is provided by a stormwater pond at the entrance of the project in a low area and will drain into the DOT system. Asking for a waiver from the Subdivision Ordinance standards.
- Working with DOT on an entrance permit. They are anticipating having to move the utility pole, as part of the service into the project. They are also confirming the flow of stormwater in the DOT catch basins, to ensure that there is enough capacity under their criteria.
- The post office is requiring the use of cluster mailboxes for this subdivision so there will not be mailboxes along the roads.
- The stormwater pond will be maintained by a Homeowner's Association. Those documents should be completed at final approval.

Abutter comments:

- Resident Peter Cowin of 236 Main Road South:
 - stated he doesn't oppose to the project if the environmental concerns are considered.
 - He runs a Honeybee farm and is worried about the bee's picking up insecticide's and/or herbicide's in the backyard stormwater runoff that goes downhill into the pond. Jim Kiser responded that there isn't a lot of herbicide's and insecticide's used on residential properties. They may be used in limited amounts to fight the brown beetle or grub, but all commercial applicators would have to be approved by DEP.
 - What sort of plantings might be done in the area? Jim Kiser told the Board that they have been in talks with Mr. and Mrs. Cowin, but nothing has been resolved. The developers are willing to discuss this more going forward.
 - Speed limit? Issues with road and driveway proximity. Is that taken care of? Jim Kiser responded that the speed limit (on the new road) will be for a residential roadway which is 25-30 mph, but usually don't get posted. DOT is currently working on the entrance permit.
 - Dust and noise? Jim Kiser answered only during the construction phase. The construction schedule will be during the week through early Saturday. Through the winter, weather permitting.
 - Peak Traffic? Jim Kiser answered 22 vehicles during peak hour, and 211 during the entire day.
- Resident Anna Green of 216 Main Road South:
 - She is concerned about the blind spot. The speed limit on Main Rd S is 35, but traffic goes faster. With more traffic this might become more dangerous, will there be a traffic light? Or reduced speed limit? Jim Kiser answered there will be no changes to Main Road South, DOT hasn't required it. The developer can't control or enforce speed, this is a state and town responsibility.
 - How is the sewer/water hooked up? Jim Kiser answered the sewer connection to the existing main will be in front of her home. They are putting it underneath the sidewalk and will rebuild the sidewalk and extend it (the sidewalk) to the project. During this they will need to provide traffic control because of the location. They will provide service connections to any properties currently on septic in those

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locations. They talked to the Water District, and they have plenty of volume, it is just a pressure issue.

- Will the water runoff increase with construction? Jim Kiser said that a lot of the drainage will be cutoff by the new road. The drainage will then go into the state drainage system.
- Where is the developer based? Jim Kiser said it is a partnership of two local companies. One person lives in Hampden and the other lives in Newburgh. It's a local enterprise.
- When will the construction start? How long will it go? Jim Kiser answered construction will start as soon as they get a final approval. Will possibly start the end of August. What will be the construction times? Planner Cullen stated that there a no current regulations, but the Planning Board always puts a condition on approvals when a project is located in a residential area, and it is usually 7am. – 7 pm; we recognize the construction season is short and we try to strike a balance between the needs to the developer and the rights of the surrounding property owners to enjoy their own properties.
- Will this affect taxes? Chair Weldon said there is nothing the developer can speak to on this.

Planner Cullen's report/Discussion:

Jim Kiser addressed most of the items in the report. There are three items of primary importance to move forward.

- Determination on requested 75' buffer requirement along the perimeter of the cluster development. Question whether the Planning Board has the authority to grant reductions in the tract buffer/setback size.
 - It was agreed by the Planning Board to seek legal advice on whether the Board has the authority to grant a waiver on the setback/buffer requirement.
- Stormwater management- It's possible that the design of the stormwater management on this project meets the requirement of the subdivision ordinance, that the post construction stormwater peak flow doesn't exceed pre-construction flow, but we don't know that. Question raised by Woodard and Curran is whether the Planning board wants to see that proof?
 - The Planning Board agreed to require explanation in writing from the applicant that their stormwater management system, designed using the current zoning ordinance instead of the subdivision ordinance, will provide the required stormwater retention on site for this development.
- Road- To be eligible for acceptance as a public way, the road needs to meet both the subdivision and town ways ordinances. If they conflict, the more stringent of the two should be used.
 - The Board noted that roads built to the subdivision standards have been accepted by council in the past.

Motion by Member Wiltbank to seek the town attorney's opinion in regard to waivers of setbacks/buffers; second by Member Weatherbee; motion carried 5/0/0 by roll call vote.

Motion by Member Wiltbank to continue the public hearing to the July 10th meeting; second by Member Weatherbee; motion carried 5/0/0. [Ed. note: time was 8:30 pm.]

b. Hampden Village – Re-approval of Final Subdivision Plan.

Chairman Weldon explained this item was to take a new vote on the previously approved final subdivision for the Hampden Village multi-family project on Mayo Road, due to the original approval having only four voting members, one of whom passed away before the mylar was

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signed. Maine Municipal Association's legal team has advised we take a new vote to approve the final subdivision. In order to have the necessary four votes, Chairman Weldon has reviewed the entire record for the meeting he had missed and has signed a certificate stating this fact, thus making him eligible to vote on the application. Chairman Weldon asked Member Austin if she had reviewed the record for the meeting she had missed and she stated no, she had not and would not be voting on this application.

Motion by Member Wiltbank to approve the final revised mylar; second by Member Weatherbee; motion carried 4/0/1 by roll call vote (Member Austin abstained). (Time was 8:34 pm.)

3. Old Business

- a. Lawrence Emery – Continued deliberations for conditional use under the provisions of Section 4.2, Conditional Uses, and section 3.4.2.1.6 of the Zoning Ordinance, to allow the placement of a ham radio tower that exceeds the height limitation for accessory structures at 75 Chickadee Lane (parcel 10-0-003-32), within the Residential A district.

Chairman Weldon opened the continuation of the public hearing at 8:36 pm.

Applicant Lawrence Emery addressed the Board:

- The Planning Board in the previous meeting requested to look at the proposed site. Lawrence Emery mentioned with the foliage, everything is blocked, so you can't see anything on Daisy lane, or the back side.
- With the recommendation of Member Austin, if the pole was moved back 6' to line the pole up with a cluster of large trees, that would hide a lot of the tower in the winter time. It would also maintain everything within the fall zone, and not change anyone else's view within the cul-de-sac side. It was mentioned that it would be hard to hide the pole completely from others' view 365 days a year.
- Tried to select the structure and antenna with the most minimal visual impact.
- Put in a storage building to block the neighbors view of his propane tanks.
- A gentleman in the audience is here who can address RFI or interference questions. The interference is mostly due to electronics such as dishwashers making it rougher on amateur radio operators; interference from radio operations affecting televisions is no longer an issue with the improvements made in television technology.
- The structure will not fall.
- The structure is a free-standing tower.

Discussion:

- Chairman Gene Weldon mentioned that based on the memo and additional information provided, most of the items from the previous meeting had been addressed.
- The proposed new location will meet the required 50' fall zone on the north side but not the west side, where it would still fall 5' over the line into the town owned open space area.
- The applicant confirmed the tower cannot be moved closer to the house so 50' is not attainable.
-

Abutter comments:

- Abutter Roland Narofsky of 56 Daisy Lane.

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- Shed doesn't create any barrier for his property.
- Leaves in this climate are very temporary.
- Asked if he was going to do any plantings of trees to block this tower, like it was mentioned in the last meeting?
- What else can be done? Asked if he could paint or drape it with camouflage.
- Should be in a more rural setting.
- If he can view a tower from his house, this would impact the salability of his house.
- Further impacting the aesthetics of his house (in addition to the existing sewer manholes on the town owned land behind his house).

Discussion on the application:

Chairman Weldon mentioned that this is an allowed use. We are now just looking at the changes he has made on his application, and whether they meet the aesthetic concerns, and anything else we need to condition upon.

The biggest question is the setback question; it was noted the Board may not have the authority to "waive" it regardless of use or ownership of the affected land. Lawrence Emery asked if keeping the tower down to 45' would help? Chairman Weldon said yes, then the tower would meet the requirement. Mr. Emery agreed that he can keep the tower lowered to 45'.

There was also discussion about adding plantings/trees or painting the pole per the abutter's request. The Board didn't think plantings or painting would help screen the structure.

Motion by Member Austin to approve the conditional use to allow Lawrence Emery to install an Amateur Radio tower on his property at 75 Chickadee Lane, as shown on the plan submitted with the application with two conditions: to lower the antenna to the maximum height of 45' and to move the base of the antenna north 6' to the revised proposed location; second by Member Weatherbee; motion carried 5/0/0. (Time was 9:04 pm.)

- b. Stanley & Sean MacMillan – Continuation of Public Hearing for Preliminary Subdivision plan for Stearns Farm. Proposal for a major subdivision for a single family 39 lot cluster housing development with three new roads, on a 27.7 acre parcel located on Main Road North (parcels 33-0-011-A & 33-0-015-A). This property is in the Residential A district.

Jim Kiser addressed each item in the Planner's report; only those items which were discussed further at the May 8th meeting are noted here:

- Additional information of the visual impact concerning buffer/setback reductions; Jim Kiser handed out aerial and ground imagery for select locations where the reductions are sought.
- Drainage along RT 1A
- Additional drainage along lot 1, due to the abutter concerns
- Hydrant locations at the end of cul-de-sacs
- Plowing ability at the end of Adam's way
- Grade reduction on Adam's way, that we didn't have anything in writing from the Public Works Director.

Questions/Concerns/Opposition:

- Perry Anton owner of 27 Sunset Avenue and 17 Westbrook Terrace. Westbrook was built in the 1950's and the setback requirement was only 15' which resulted in small lots. Very little you could do with that. Lot 2 of the proposal is looking at reducing the

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buffer/setbacks to 20'. Our concern is that any structure built on that lot will be so close that it will be very intrusive to our home. The Town Ordinance talks about buffers/setbacks and is there to protect existing property owners from encroachment. As a property owner I shouldn't have to show impact; if they have a non-conforming lot, that isn't my issue, that is a design issue, redesign it. The ordinances are there so abutters don't have to fight a corporation.

- Karen Cullen spoke for Cale Burger of 180 Main Road North, abutter to lots 19, 21 and 23. He sent an email which states his concern is regarding the requested waivers of buffers/setbacks. He doesn't see any language included in the zoning ordinance, as it relates to cluster developments, that would allow the Board to allow/authorize the waiving of any buffer/setbacks request. The 50' buffer/setback falls solely on the develop, not the owner of the abutting property. He believed when he bought the property that his interests, as well as the other abutter's interests, would be protected by the ordinances enacted by the town. He is not in favor of the setback/buffer waiver request.

Planner Cullen's report/Discussion:

- Chair Weldon mentioned there has been much discussion tonight about the buffer/setback waivers, and we have requested a legal opinion for that. We need that guidance to move forward.
- Jim Kiser asked if they would be able to receive Preliminary approval based on what was discussed tonight.

Planner Cullen mentioned four issues remaining:

- Requested reductions in the required tract buffer. (Cluster provisions)
 - Waiting on legal opinion to proceed with discussion.
- Stormwater system design regarding compliance with requirement that post-development discharge does not exceed pre-development discharge.
 - The Planning Board agreed to require explanation in writing that their stormwater management design will provide for retention to address the peak flow requirement of the subdivision ordinance.
 - It was noted DEP will review for water quality as part of the MS4 program within the urban area.
- Language on the subdivision plan and in the covenants regarding permanent protection of the open space areas.
 - The covenants and restrictions documents will be submitted with the Final subdivision plan.
- Language on the subdivision plan and for individual deeds regarding permanent protection of the tract buffer on all lots where the buffer is within the plotted lot.
 - A sample deed and homeowner's association documents will be submitted with the Final subdivision plan.

Chairman Weldon requested that staff send the opinion of town attorney to the applicant as soon as we receive it.

Motion by Member Wiltbank to continue the public hearing to the July 10, 2019 meeting; second by Member Weatherbee; motion carried 5/0/0. (Time was 9:39 pm.)

4. Staff report:

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Chair Weldon said Planner Cullen has provided a memo for the Board to study for the next Planning Board workshop, to take place Tuesday June 18th at 6:30 pm. It was determined there would not be a quorum at the workshop, so Planner Cullen will reschedule it. Planner Cullen mentioned they will first work on finishing the shoreland ordinance, and if they have time review the cluster regulations in the zoning Ordinance. Planner Cullen also discussed board membership; two new applicants are expected to be appointed as full or alternate members next week, and a third in the next month or so.

5. Planning Board comment:

Chair Gene Weldon said he appreciated Tom Dorrity's service to the board, noting his pending resignation. No other comments by the Board.

6. Adjournment: Upon **motion** by Member Austin and second by Member Wiltbank, the meeting was adjourned at 9:49pm.

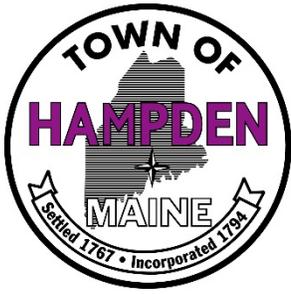
*Respectfully submitted by Jessica Albee,
CED Administrative Asst.*

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Planning Board Meeting – June 12, 2019

Sign-in Sheet

Name	Project you are here for
Peter Cowin	"Honey Hill"
Anne Cowin	" "
Jim Kiser	
Perry ANTORE	MacMillan D&S/p
Anna Green	? Honey Hill
Lawrence Emery	Ham support tower/ANTENNAS
Jimmy Carter	" " " "
Dee Carter	" " " "
Eugenia Maxwell	Ham Radio - Chickadee Lane



Town of Hampden
Planning Board Workshop
Tuesday June 19, 2019

Minutes

In Attendance:

Planning Board

Kelley Wiltbank
Peter Weatherbee
Jennifer Austin
Jake Armstrong
Tom Dorrity

Staff

Karen Cullen, AICP, Town Planner

Public

None

The meeting was called to order at 6:30 pm. Planner Cullen said the topic for this meeting is to complete the review of the proposed new Shoreland Zoning Ordinance, starting at section 15N. She reminded the board that pursuant to Town Council direction, the proposed ordinance does not include any shoreland districts that are optional (e.g. local stream protection).

Key points and modifications to be made to the draft (version 9) included:

- Question whether “buffer area” should be “shoreline buffer area” in section 15 N(4). *[Ed. note: the DEP Guideline says “buffer area” but after reviewing the guidelines and our proposed text I think “shoreline buffer” is the correct term.]*
- Change “Land & Building Services Office” to something else since that office has been disbanded.
- Change “subsurface waste disposal” in section S to be consistent with terminology elsewhere in the ordinance, which is “subsurface sewage disposal”.
- Unhyphenate “flood-plain”
- Section 16 I(2)(b) make “insure” or “ensure” consistent throughout.
- Make sure the term “DBH” is adequately defined; also review the use of the term “basal area”. *[Ed. note: DBH is the diameter of the tree, while basal area is the area of the cross section of the tree.]*
- Question why “driveway” as defined is limited to 500 feet in length. *[Ed. note: in the table of uses (section 14), a permit for a single or two family dwelling including the driveway is granted by the CEO, while a permit for a road is granted by the Planning Board. An access way to a single family house that is longer than 500 feet is a road under the Shoreland Ordinance. This is all as given in the DEP Guidelines.]*
- Check on the use of “floor area” in the ordinance. *[Ed. note: the term is used to exclude structures that don’t have any floor area, such as towers, steeples, etc.]*
- Check consistency of how numbers are handled throughout the ordinance (word written out or numbers, e.g. “three” or “3”). *[Ed. note: used the conventional practice of words for one through nine and numbers for ten and above.]*
- Definition of Great Pond classified GPA – delete “Article 4-A”
- Check on use of “local stream”. *[Ed note: the term appears in several places in the ordinance dealing with pollutants entering the local stream via stormwater runoff, and it is appropriate to keep those in the ordinance. One instance was deleted, in section 16 E(5) dealing with conditions that must be met to get a special exception.]*

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- Correct the citation for “licensed forester” definition.
- Check consistency of “non-conforming” vs “nonconforming” and the variations of the term.
- Check terminology “principal structure” as it may or may not relate to “principal building” in the zoning ordinance. *[Ed. note: the definition of “principal building” in the zoning ordinance was not changed in the 2018 rewrite. The use of the term “principal structure” in shoreland zoning is different from the use of the term “principal building” in the zoning ordinance.]*
- Add “and 15K” to the end of the definition of “service drop” to clarify that both sections apply.
- Check to see if the terms “skid road” or “skid trail” are used in the ordinance. *[Ed. note: neither term are used, the definition has been deleted.]*
- Add “saplings and seedlings” to the definition of “woody vegetation”.

The Board then reviewed the revised amendments to the cluster provisions in §4.6 of the Zoning Ordinance. A few minor edits were made and the Board agreed with the direction this is going – the idea with cluster developments is to have give and take – if a developer is going to get something beyond what is allowed in the zoning outside of the cluster provisions, then he/she needs to provide some tangible benefit to the town beyond simply having more housing units.

The Board set the public hearing date for both the Shoreland Zoning Ordinance and the miscellaneous amendments to the Zoning Ordinance for August 14, 2019 (regular board meeting).

The meeting was adjourned at 8:45 pm.

Respectfully submitted by Karen Cullen, Town Planner

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Town of Hampden
Land & Building Services

Report – Update 2

Preliminary Plan

Stearns Farm Cluster Subdivision

To: Planning Board
From: Karen M. Cullen, AICP, Town Planner *KMC*
Date: July 2, 2019

Project Information

Applicant: Stan & Sean MacMillan
Site Location: Main Road North (between Coldbrook Rd and Sunset Ave)
Zoning District: Residential A
Proposal: Using the cluster provisions of the zoning ordinance, subdivide this 27.7 acre property into 39 lots for single family homes. The proposal includes 11.98 acres of open space for a total of 43.2% open space. Three roads are proposed, designed for public acceptance. The development will be served by public sewer and water.

The public hearing for this application was opened on May 8, 2019, continued on June 12, 2019, and continued to July 10, 2019. We have not received any additional submissions for the upcoming meeting.

At the end of the June 12 meeting four issues remained:

1. Requested reductions to the buffer/setback; legal opinion was sought on whether the Board has the authority to grant waivers to the requirements set forth in §4.6.2 of the zoning ordinance. We have received legal advice, see letter from Attorney Kate Grossman dated June 26, 2019. In a nutshell, the answer is no, the Board does not have the authority to reduce the buffer/setback. As a result, the subdivision layout will need to be modified to comply with the requirement. In addition, Attorney Grossman has advised that the Board does have the authority to require as a condition of approval the planting of buffering vegetation in areas where the Board deems it appropriate.
2. To show compliance with the stormwater quantity requirement of the subdivision ordinance, the Board required an explanation in writing that the stormwater management system as designed will provide retention to meet the peak flow requirement of the ordinance.

It is my understanding, confirmed by DEP and Woodard & Curran, that when a subdivider is going to build the houses in a proposed subdivision (as is the case with this project), and the amount of impervious surface within the entire development – including the roadway and the houses and driveways – exceeds 3 acres, the project is required to meet the Flooding Standard of Chapter 500. For this project, if one assumes the amount of impervious surface per lot averages about 4,000 square feet (2,952 for the structure and 1,056 for the driveway, scaled from the plan), the total amount of impervious surface would be about 5 acres, exceeding the 3 acre threshold. Thus,

compliance with the Flooding Standard of Chapter 500 will be required. And again, §531.1 of the Hampden Subdivision Ordinance requires that the post-development peak discharge is not to exceed the pre-development discharge, regardless of how much impervious surface there is. If the Flooding Standard will need to be complied with for DEP permitting, there is no sense in the Planning Board granting a waiver to this requirement.

3. The final subdivision plan and covenants for the project need to include language providing for permanent protection of the open space areas.
4. The final subdivision plan and the deeds for any affected lots need to include language providing for permanent protection of the tract buffer to ensure buffering vegetation remains in place.

FARRELL, ROSENBLATT & RUSSELL

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June 26, 2019

SENT VIA ELECTRONIC MAIL ONLY

Karen M. Cullen, AICP
Town Planner
Town of Hampden
106 Hampden, ME 04444

Re: Planning Board Questions—Cluster Developments

Dear Karen:

This letter is in response to your email dated June 17, 2019. It is my understanding that the Planning Board has pending before it two subdivision applications, each of which are also “cluster housing” developments as defined in the Town of Hampden Zoning Ordinance (“ZO”). The Planning Board has asked a) whether it has the authority to waive or allow a reduction in the minimum “buffer/setback” dimensions contained in Section 4.6.2 of the ZO, and b) whether it has the authority to require that vegetation be planted in that “buffer/setback” area as a condition of application approval.

Relaxation of Minimum Setback or Buffer

Absent the express grant of authority to waive or relax standards, the standards of the ZO must be strictly applied. I have reviewed the entirety of both the Zoning Ordinance and the Subdivision Ordinance. Neither grants the Planning Board the authority to relax the minimum “buffer/setback” dimensions for a cluster housing development.

Section 4.6, relating specifically to cluster developments, states that “[i]n order to promote the health and general welfare of the community and to preserve and make available open space for recreation, agriculture, and conservation, the Planning Board may grant a developer permission to vary lot *size* requirements in districts in which cluster development is allowed” (Emphasis supplied). Section 4.6.2. in turn sets forth the overall “dimensional

requirements” for cluster developments, including the separate minimum *size* and minimum *buffers/setbacks*, as well as other dimensional requirements including minimum percentage of open space. Because Section 4.6 is explicit that the Planning Board has the authority to relax “lot *size* requirements,” and because “size” is a specific term referring to overall area of a lot in acres, distinct from “dimensional requirements”, I think it is clear that this section does *not* give the Planning Board the authority to waive or relax any of the dimensional requirements in Section 4.6.2 other than lot size itself.¹

As the proposed developments are governed not only by the Zoning Ordinance but also by the Subdivision Ordinance, I did review this ordinance as well to ensure that the two are consistent with respect to the question at hand. The Subdivision Ordinance provides for waiver of the regulations found in the *Subdivision Ordinance* where “extraordinary and unnecessary hardship may result from strict compliance with these regulations, or where there are special circumstances of a particular plan.” The setback and buffer requirements, however, are not found in the Subdivision Ordinance, but only in the Zoning Ordinance. Therefore, Article 600 of the Subdivision Ordinance does not grant any authority to grant a waiver from the setback or buffer requirements of Section 4.6.2 of the Zoning Ordinance.

Requirement of Vegetation as a Condition of Approval

The Planning Board has also asked whether it has the authority to require, as a condition to approval, the planting of vegetation within the buffer/setback area. Here, the ZO does contain an express grant of such authority. Section 4.1.6.2 sets forth nine objectives, among them minimization of soil erosion, controlling visibility of outdoor service areas, and minimizing glare and light trespass from headlights and outdoor lighting. That same section provides that “[t]he Committee or Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, limiting hours of operation, and other reasonable conditions to promote these objectives.” Thus, the requirement of the planting of vegetation as a condition of approval is authorized by Section 4.1.6.2 if that requirement is imposed in the service of one or more of the listed objectives.

Even more broadly, however, Section 332.1.8 of the Subdivision Ordinance directs the Planning Board to act on a complete subdivision application by either denying, approving, or “grant[ing] approval on such terms and conditions as it may deem advisable to satisfy the criteria

¹ For the sake of completeness, I note one other Section of the ZO that could be seen as relevant, but does not, in fact, change the answer to the question posed. Section 3.4.2.12 provides that “[i]n any district, where a parcel of land is to be occupied by more than one building for a principal use . . . each such building must be treated as though on a separate lot and must meet all applicable dimensional requirements for the district in which it lies . . . However, for non-residential or multi-family residential developments, the Planning Board may authorize building locations that do not comply with this provision in order to achieve a site design that provides safer pedestrian and vehicular circulation into and within the site, or to protect natural resources on or off the site.” Based upon my review of the Stearns Farm and Honey Hill Estates application packages, the applicants are seeking a reduction in the setback minimums *from other lots*, and not from the “imaginary line” contemplated by Section 3.4.12. Thus, this section does not give the Planning Board the authority to grant the waiver sought.

Karen M. Cullen, Town Planner

June 26, 2019

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contained in these regulations and state law and to preserve the public's health, safety, and general welfare.”

Either of these ordinance provisions, therefore, would give the Planning Board the authority to impose the condition of planting vegetation.

I hope this letter is responsive. Please let me know if there are follow-up questions or if I may assist further.

Very truly yours,

FARRELL, ROSENBLATT & RUSSELL

S/Kate J. Grossman



Town of Hampden
Land & Building Services

Report on Application
Preliminary Plan – 2nd Submission
Honey Hill Estates Cluster Subdivision

To: Planning Board
From: Karen M. Cullen, AICP, Town Planner *KMC*
Date: July 2, 2019

Project Information

Applicant: R&B Development LLC
Site Location: 238 Main Road South (across from Dorothea Dix Park); parcel 06-0-050-1
Zoning District: Residential A and Rural
Proposal: Using the cluster provisions of the zoning ordinance, subdivide this 29.3 acre property into 23 lots for single family homes. The proposal includes 12.76 acres of open space for a total of 43.6% open space. One new road is proposed, designed for public acceptance. The development will be served by public sewer and water.

The revised plans (dated June 24, 2019) for this application have been reviewed by staff.

The following table summarizes compliance with the dimensional requirements for cluster subdivisions in the Rural district. Since this proposal is for single family units, the requirements for individual lots (which are optional) apply, based on the design submitted. The subdivision includes two lots in the Residential A district which both comply with the dimensional standards (non-cluster) for that district; they are not included in calculations for the cluster development but they are part of the subdivision to be approved.

	Requirement	Requirement	Comments
Tract	Min size	10 acres	Exceeds (29.3 acres)
	Min frontage	100 feet	Exceeds (263.9 feet)
	Min buffers/setbacks (all)	100 feet (front) and 75 feet (all others)	Meets. If you consider the two lots and the open space area within the Residential A district to be the front of the cluster development, the 100' requirement is met. The required 75' along all other tract boundaries is met, see discussion below.
	Min open space	30%	Meets (31.0%)
	Max density	1.5 units per ac	Meets (0.74 units/acre) [Note the density of 1.5 listed on the subdivision plan is incorrect.]
Individ Lots	Lot size	8,000 sq ft	All lots exceed (17,618 to 26,119 sq ft)
	Frontage	50 feet	All lots exceed (52.0 to apx. 180.0 feet)
	Front setback	20 feet	All lots should meet
	Side & rear setbacks	10 feet	All lots should meet

Staff has the following comments from our review of this revised preliminary subdivision plan.

Zoning Ordinance §4.6.2, dimensional requirements for cluster housing:

- The entire buffer as required (75') is now shown on the plans, with 11 lots including a portion of the buffer area within the platted lot. These areas are shown as “buffer/setback green space” on the revised subdivision plan. Affected lots are: 2 through 8, 15, 16, and 22. As noted on the subdivision plan, the restrictions on these “buffer/setback green space” areas allow more activity than is allowed in the “buffer/setback natural” areas. In all cases, there is a minimum of 30' of “buffer setback natural” area between the tract boundary and any area of increased activity (either the lot line or the “buffer/setback green space” area).
- Requested encroachment into the buffer to allow the roadway right-of-way to be within 24.7' of the tract boundary. §4.6.4.2 allows encroachment of the buffer for roads provided no portion of the roadway is within 25' of the tract boundary; with the road centered in the 66' right-of-way this design is in compliance with the provision.

§331.3, submission requirements; all items are either provided or are not applicable except for:

331.1.2, item 3 – the map survey has not been signed by the surveyor (Plisga); this will be done on the final plan.

331.1.2, item 8 – the restrictive covenants have not been submitted, they will be with the final plan.

331.3.3, item 7 – the location of trees 12” dbh are not shown – a waiver is requested to this requirement.

331.1.3, item 8 – there is no existing culvert across the existing driveway. There is an existing septic system from the old motel which should be shown on the plans and properly removed following the applicable standards.

331.1.3, item 15 – no landscaping is indicated anywhere, nor are trees or other vegetation indicated to remain or be removed.

Article 500, general requirements and design standards:

§511 – there will be a condition of approval that all applicable laws and regulations (local or otherwise) must be met.

§521 – lots to be buildable; lots 11 and 12 have been reconfigured to avoid wetland impacts to the greatest extent practical.

§530 – drainage requirements; see letter in the revised submission addressing this. I note two things: first, the second paragraph in Jim’s letter alludes to minor and private street subdivision not needing to comply with the stormwater requirements – this subdivision doesn’t fall into either of those categories. Second, while I appreciate the letter and explanation, I don’t think it answers the question the Board had, which was whether the stormwater system as designed will handle the peak flow to the extent that it will not create problems in the DOT system. In addition, it is my understanding, confirmed by DEP and Woodard & Curran, that when a subdivider is going to build the houses in a proposed subdivision, and the amount of impervious surface within the entire development – including the roadway and the houses and driveways – exceeds 3 acres, the project is required to meet the Flooding Standard of Chapter 500. For this project, if one assumes the amount of impervious surface per lot averages 2,230 square feet (1,600 for the structure and 720 for the driveway), the total amount of impervious surface would not exceed the 3 acre threshold. Nevertheless, §531.1 of the Hampden Subdivision Ordinance requires that the post-

development peak discharge is not to exceed the pre-development discharge, regardless of how much impervious surface there is. It is up to the Planning Board to determine whether it is reasonable to grant a waiver to this requirement, and that depends on whether the Board is satisfied that the stormwater system as designed will not create any downstream problems once the runoff leaves the site.

§523.5 – driveway aprons should be constructed with the roadway to ensure the drainage system as designed is not compromised. The revised plan shows the location of some of the driveways (sheet 2-5) but there are locations on lots 8 through 21 (sheet 3-5) where driveway culverts will be needed and none are shown on that sheet. The DPW Director is requesting that all driveway culverts be installed with the road construction.

§553 – design and construction standards for streets; all okay except:

item 14, sidewalks are required but are not shown. I still suggest that a sidewalk on one side is an important pedestrian facility to provide a safe place for residents to walk, regardless of age. The Board has not discussed this yet, presumably the applicant is seeking a waiver to the requirement based on past practice of not providing sidewalks within subdivisions.

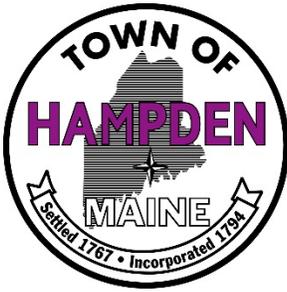
item 16, minimum pavement curb radii is not shown.

§561 – utilities; will the water and sewer systems in the development have the capacity to handle future expansion if abutting parcels are developed? I don't believe this has been addressed yet.

Other comments from staff (in no particular order):

1. As noted earlier, the covenants and restrictions have not been submitted, although there are notes on the subdivision plan regarding the buffer/setback area. These must include provisions for the permanent protection of the open space areas in this development, including the open space at the entrance where the detention pond is located.
2. FB8 by lot 23 should be relabeled FB11.
3. The potential for the abutting lot to the north of the driveway (Peter Cowin, 06-0-050) to have access to the new road was mentioned at the June 12 meeting; has there been any resolution to this question?
4. A water supply for fire suppression must be provided and must provide a minimum flow of 500 gpm for 1 hour at a residual pressure of 20 psi, or an alternative means of protecting property from fire must be provided.
5. The application does not address the state criterion for financial and technical capacity: "The subdivider has adequate financial and technical capacity to meet the standards of this section." (30-A MRSA §4404 subsection 10).
6. The cluster mailbox is to be maintained – including snow and ice removal – by the HOA and not the Town.

In summary, there are a few issues remaining to be resolved before the Board can act on this application. Per §331.2, item 7, the Board is "to take action to give preliminary approval, with or without modifications, or to disapprove such Preliminary Plan." I have prepared a draft Board Order in the event the Board is ready to take action on this preliminary plan application at the meeting.



Town of Hampden
Planning Board Order
Honey Hill Estates
Preliminary Subdivision Plan

Approval Date: July 16, 2019

Project Name: Honey Hill Estates Subdivision

Location of Project: Off Main Road South

Assessor's Reference: 06-0-050-1

Deed Reference: B14342/P220

Zoning District: Residential A and Rural

Total Acreage: 29.3 acres

Type of Use: Single family residential cluster subdivision

Number of Lots: 23

Applicant: R&B Development, LLC
107 Main Road
Holden, Maine 04429

Owner: Same as Applicant

Plans Prepared by: Kiser & Kiser Co.

Plans Dated: April 26 1, 2019, revised June 24, 2019

Application Date: April 29, 2019

Public Hearing: June 12, 2019, continued to July 10 and July 16, 2019

*PB Members:*¹ Kelley Wiltbank, Peter Weatherbee, Jennifer Austin, and Tom Dorrity

PB Action: This Preliminary Subdivision Plan is approved under Section 331 of the Hampden Subdivision Ordinance and Section 4.6 of the Zoning Ordinance.

¹ Planning Board Members who were appointed to vote on this case.

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Summary Description of Application: This application is for a new 23 lot cluster subdivision for single family homes on individual lots, on a new road with access from Main Road South. The subdivision will have public water and sewer service. There is a total of 31.0% open space in the project.

Findings: After the public hearing duly noticed and held, the Hampden Planning Board found that the applicable requirements in Article 500 of the Subdivision Ordinance, in 30-A MRSA §4404 (subdivision review criteria), and in Section 4.6 of the Zoning Ordinance can be met provided the conditions below are complied with. Based on this, the Hampden Planning Board voted _____ to grant the requested waivers listed below and to approve the Preliminary Subdivision Plan for R&B Development LLC to construct the Honey Hill Estates cluster subdivision as previously described and as shown on the subdivision plans, subject to the conditions below.

Waivers:

1. To §331.3.3, item 7 of the Subdivision Ordinance to show the location of trees that are at least 12” dbh. The proposed project will not protect any trees on the lots from removal, with the exception of those within the tract buffer/setback area as provided in Condition 1 below.
2. To §553 item 14 of the Subdivision Ordinance for the provision of sidewalks; the proposed project does not include any sidewalks.

Conditions:

1. That the deeds for Lots 2, 3, 4, 5, 6, 7, 8, 15, 16, and 22 include a restriction that prohibits the removal of trees and buffering vegetation within the buffer/setback area as shown on the subdivision plan as “buffer/setback natural”.
2. That the covenants for the project include specific restrictions on the use and protection of the common open space areas as depicted on the subdivision plan in compliance with §4.6.4.3 of the Zoning Ordinance.
3. That the subdivision plan either include a note indicating that the entire open space area is subject to an easement for utilities, including but not limited to water (to the Hampden Water District), sewer, and stormwater management; or that specific easements for these utilities be created within the open space area as needed.
4. That the minimum pavement curb radii must be 20 feet, in compliance with §553 item 16 of the Subdivision Ordinance.
5. That the stormwater management system be shown to comply with §531.1 of the Subdivision Ordinance, that post-development peak stormwater runoff does not exceed the pre-development peak runoff.

6. That where necessary to ensure the stormwater drainage system is constructed according to the plans, driveway culverts and driveway aprons must be installed during road construction at each lot where needed.
7. That a water supply for fire suppression be provided which provides a minimum flow of 500 gpm for one hour at a residual pressure of 20 psi or an alternative fire protection system be provided which is approved by the Hampden Public Safety Department. Furthermore, if a water supply is provided for the subdivision, that the Homeowner's Association must be responsible for the maintenance of the facility with periodic testing by the Hampden Public Safety Department.
8. That documentation showing that the subdivider has the financial and technical capacity to meet the standards of 30-A MRSA §4404 be submitted with the final subdivision plan.
9. That the cluster mailbox must be maintained, including snow and ice removal, by the Homeowner's Association.
10. That the existing septic system for the former motel be removed and disposed on in compliance with applicable standards.
11. That all applicable laws and regulations, local or otherwise, must be complied with. Permits issued by any state agencies must be submitted to the Planning Board and if any modifications to the plan reviewed for this decision is required, the final subdivision plan must include such modifications.
12. That all documents required by the Subdivision Ordinance for Final Plan review be submitted within six months of this Board Order, in accordance with the ordinance.

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For the Hampden Planning Board:

Kelley Wiltbank

Date

Peter Weatherbee

Jennifer Austin

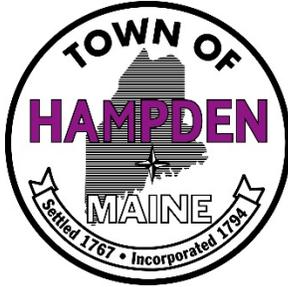
Tom Dorrity

Notes:

1. *A copy of this decision is on file with the Land & Building Services Office at the Town Offices, 106 Western Avenue, Hampden, ME 04444.*

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Town Planner
planner@hampdenmaine.gov



Report
Major Site Plan
Municipal Complex Expansion

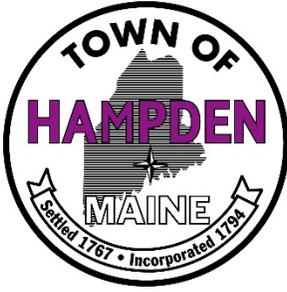
To: Planning Board
From: Karen M. Cullen, AICP, Town Planner *KMC*
Date: July 1, 2019
RE: Report on Application for Expansion of Municipal Complex on Western Ave.

This application is for a major site plan under the provisions of Section 4.1, Site Plan, of the Zoning Ordinance, to allow the expansion of the existing parking lot at the Lura Hoit pool recreational complex, add a right-turn lane at the exit onto Western Avenue, and make improvements to the stormwater management system at several locations on the property at 106 Western Ave, Parcels 09-0-018 and 09-0-018-A.

Staff has reviewed the proposal and provided preliminary comments to the applicant, who has subsequently submitted revisions addressing the comments. There are only two remaining issues:

- note 24 on sheet C9 includes standards for tree sizes that are not Hampden's; the only problem is the size of deciduous trees must be a minimum of 2 inches DBH, not 1.5 inches.
- since lighting has been added to the parking lot by the playing fields, a lighting plan and details showing compliance with §4.7.3 is required.

Otherwise the application is complete and is in compliance with all other provisions of the zoning ordinance. A draft Board Order is attached.



Town of Hampden

Planning Board Order
Municipal Complex Expansion

Approval Date: July 10, 2019

Project Name: Hampden Municipal Complex Expansion

Location of Project: 106 Western Ave.

Assessor's Reference: 09-0-018 and 09-0-018-A

Deed Reference: B 3134/P 333

Zoning District: Residential B and Rural

Total Acreage: 47.46 acres

Type of Use: Municipal Complex – recreational facilities, municipal offices, public safety department, and post office

Building Area: 26,315 square feet; no changes proposed to existing buildings

Applicant: Town of Hampden
106 Western Ave
Hampden, ME 04444

Owner: Same as Applicant

Plans Prepared by: Plymouth Engineering, Inc.

Plans Dated: 2/19/2019; sheets C5, C6A, C6B, and C9 revised 6/26/2019

Application Date: 5/23/2019

Public Hearing: 7/10/2019

PB Members:¹ Eugene Weldon, Peter Weatherbee, Kelly Wiltbank, Jennifer Austin, Jake Armstrong, Tom Dorrity, and Brent Wells

PB Action: _____. This Site Plan is _____ under Section 4.1 of the Hampden Zoning Ordinance.

¹ Planning Board Members who were appointed to vote on this case.

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Summary Description of Application: This application is to replace the existing 37 space parking area at the Lura Hoyt Pool with a new 142 space parking lot, an increase in area of approximately 1 acre. The purpose of this expansion is to provide adequate parking for the existing recreational fields. A new right-turn lane will be added at the exit to Western Ave. to improve traffic circulation. In addition, space is designated for two portable toilets to be installed and used for the seasons the playing fields are utilized, and an area is designated for a new shed to store recreational equipment. There will be improvements to the stormwater management system at the post office and behind the public safety building. Finally, there is approximately 900 square feet of new pavement proposed on the east side of the public safety building to improve maneuvering space for emergency vehicles.

Findings: After the public hearing duly noticed and held, the Hampden Planning Board made the following findings as required by Section 4.1.6 of the Hampden, ME Zoning Ordinance:

1. The proposed project has been designed to minimize the volume of cut and fill and the removal of trees, there are no wetland impacts, and the stormwater management system has been designed in accordance with the applicable requirements and will have minimal impact on the area.
2. The proposed project provides for safe ingress and egress and on-site circulation for vehicles and pedestrians; given that a new turn lane will be added and a sidewalk from the new parking lot to the fields will be installed. It is noted that current users of the playing fields park in unmarked/undesignated spaces on the property and along Western Ave. and the proposed improvements will be an improvement to that situation.
3. The proposed project will not impact scenic views from public ways.
4. All proposed improvements, with the exception of the new turn lane, are located to the rear of the existing development and therefore visual intrusion will be minimized. Additionally, existing wooded areas will be retained to the maximum extent possible to maintain buffering for the nearby residential properties.
5. Per the condition of approval, the proposed exterior lighting will comply with the applicable regulations of the Zoning Ordinance and will not present a hazard due to location, glare, or other conditions that negatively impact abutting property or the travelling public.
6. The project does not involve construction of buildings or additions that might deviate from the character, materials, or scale of existing buildings in the area.
7. The proposed project does not involve any change in the use of hazardous substances and therefore will not pose a threat that could contaminate groundwater.

8. The proposed project is designed to provide adequate access for fire and service equipment, as well as for utilities and stormwater management.
9. The proposed project will not change the existing level of service or use of public utilities, therefore will not exceed the capacity of such services or utilities.

Based on these findings, the Hampden Planning Board voted _____ to approve the Site Plan for the Town of Hampden to expand the parking lot at the Lura Hoit Pool site and make additional improvements to the municipal complex site as previously described, with the following conditions.

Conditions:

1. That all trees planted on the site must be a minimum of two inches in diameter at breast height; and
2. That the proposed lighting for the new parking lot is in compliance with §4.7.3 of the zoning ordinance; a lighting plan and details showing compliance must be submitted to the Town Planner and the Code Enforcement Officer prior to starting construction.

[continued on the next page]

For the Hampden Planning Board:

Eugene Weldon, Chairman

Date

Kelley Wiltbank

Peter Weatherbee

Jennifer Austin

Tom Dorrity

Jake Armstrong

Brent Wells

Notes:

1. *A copy of this decision is on file with the Land & Building Services Office at the Town Offices, 106 Western Avenue, Hampden, ME 04444.*
2. *This decision is subject to appeal in accordance with Article 6 of the Hampden Zoning Ordinance within 30 days after the date this decision is made by the Planning Board.*

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