

**Arundel Planning Board**  
**Public Hearing**  
**Minutes**  
**May 22, 2014 at 7:00 pm**  
**Mildred L Day School Library**

**Board:** John Der Kinderen, Roger Morin, Bob Coon, Tom McGinn, Marty Cain, James Lowery, Rich Ganong, Tad Redway, Planner, Ann Tardif, Board Secretary

**Public:** Todd Shea, Town Manager, Dan Dubois, Tom Danylik, Phil Labbe, John Cliché, Richard Lovejoy, Dick Fritz, Pauline Fritz, Lloyd Pomber, Martha Hess-Pomber, Donna Der Kinderen, Rob Melvin, Jane Schaller, Florian Legros, Norman Leach, Roger Tobin, Suzanne Madore, James Nally, Alan Labrecque, Matthew Wyman, Philip Nystrom, David Goodale, Bev Goodale, John Bell, Mario Binette, P.J. Sfredo, Joanne Cacciapaglia, Tony Cacciapaglia, Paul Hemen, Gernold Nisius, Wayne Munroe, Jim Plamondon, Ann Plamondon, Linda Zuke, Col. Tom Sinclair, Bob Thibodeau, Philip Printz, Diane Robbins, Bill Spaulding, Jennifer Burrows, Bentley Warren, Alex Acquisto

**Call to Order:** Chairman Morin called the meeting to order at 7:05 pm. Attendance was taken and the agenda was reviewed. He reminded the audience to clearly state their name for the record if they wish to comment or ask questions this evening.

**I. Approval of Agenda:** *Ganong moved to approve the agenda as presented. Coon seconded the motion and it passed with all in favor.*

Todd Shea, Town Manager, was recognized by Chairman Morin and allowed to address the audience. Todd explained that he is present this evening to clear up any possible miscommunication that may have occurred at a recent Economic Development Committee meeting when he explained the process for the proposed ordinance revisions and how they are placed on the town meeting warrant. He explained that in discussions he had with the Planner, Tad Redway and by mutual decision they determined it best to recommend to the Board of Selectmen that the ordinance revisions go on the warrant as one single article. The reasoning behind the decision was the simple fact that all of these revisions are tied together so there were many scenarios discussed such as “what if” this article passes and this one fails, what would the overall effect be on the ordinance. It was determined that the end product could be somewhat convoluted and difficult from an administrative standpoint as well as a resident or business trying to decipher it. Todd made the decision to recommend to the Board of Selectmen that it be presented as one article. At the Board of Selectmen meeting on May 12<sup>th</sup> they voted in favor of sending the entire warrant as presented for printing in the Town Report book. The official, final warrant will be signed by the Selectmen on May 27, 2014. Depending upon the outcome of discussions at this public hearing they may re-visit the issue at the meeting on the 27<sup>th</sup> and if they so choose, amend how the article is presented on the official town warrant. Todd encouraged anyone with concerns or comments to come to that meeting and express their views to the Selectmen. He commended the Planning Board for the hard work they have done over the past year to get these ordinance revisions completed.

## **II. Public Hearing**

*Chairman Morin opened the public hearing at 7:20 pm.*

Phil Nystrom stood up and stated that he did not believe there was enough time to review the amendments prior to the public hearing tonight. He was informed that the documents have been available at the town office for at least 10 days and they have also been available on the town website.

### **Item 1: Proposed Amendments to Arundel Land Use Ordinance-General:**

The Planner began the presentation by explaining to the audience that the documents being reviewed are revisions to the Land Use Ordinance as well as new districts that have been developed over the past two years. The work done has been a collaborative effort of sorts between the Comprehensive Plan Review Committee as well as input that has been received by the Economic Development Committee. Any strikethroughs on the document indicates a deletion; an underlined item indicates something that is new.

#### **a. Definitions**

The definitions were reviewed by the Planner. These are changes and additions to the existing list of definitions in the Land Use Ordinance not a complete replacement of them.

**Comments:**

Diane Robbins- Age Restricted Community, missing the word "is" in the first sentence. Medical Facilities: There is no reference to Methadone Clinics and she feels that type of facility needs to be considered by the Board

**b. 6.2 District Regulations**

The Land Use Table was reviewed, it includes permitted, not permitted, and conditional uses in the various districts. He explained that the DB1, DB2, and TCD districts make reference to that specific district's section in the LUO for permitted/conditional uses at this time.

**Comments:**

Bob Coon, Planning Board member noted that on pages 2 and 6 the section reference for the TCD district should be corrected to read See Section 8.24 for use table as Section 8.23 has been reserved for another future district at this time.

Wayne Munroe: Believes that Farm Retail and Mineral Extraction should both be a conditional use in the BI district.

John Der Kinderen, Planning Board member noted there is a misspelling on page 2; Aquiculture should be corrected to Aquaculture.

**c. 6.3 Dimensional Requirements**

The Planner reviewed this section and there were no comments or questions from the audience.

**Item 2: Proposed Amendments to Arundel Land Use Ordinance-Performance Standards**

**a. 7.5 Lighting**

The standards were reviewed by the Planner and he explained that there are district specific standards for the DB1, DB2 and TCD districts that are listed within the specific district sections of the ordinance.

**Comments:**

Diane Robbins- The TCD district has different standards than the ones for the DB1 and DB2 and she doesn't think it is fair that they do. The Planner commented that the TCD district is a mixed residential and commercial area and that is why the standards are different.

Martha Hess-Pomber- 7.5.B should also include the TCD district in the statement. Tad agreed that the TCD should be added to the statement for 7.5.B but removed from 7.5.B.1 since automobile service stations are not permitted in the Townhouse Corner District.

Bentley Warren and Gernold Nisius both commented and asked about 7.5.A, specifically the final sentence which states that when an outdoor lighting installation is being modified, extended, expanded or added to the entire lighting installation shall be subject to the requirements of this section.

Tad clarified that the entire NEW lighting installation is subject to the requirements of the section.

Marty Cain, asked to comment as a business man and not a Planning Board member. Chairman Morin acknowledged him.

Cain- “ Fact is all this lighting and everything else, that is all falling on the businesses, what responsibility does the Town have for lighting for the business?”

Chairman Morin acknowledged his comment by replying, “comment taken”. Chairman Morin then asked if there were any other comments on lighting and hearing none, moved on to the next topic.

#### **b. 7.6 Off-Street Parking & Loading**

The Planner reviewed the section and there were no questions or comments from the audience.

#### **c. 7.8 Landscaping**

The Planner reviewed the section and explained that this section is a repeal & replace of the old section. It was changed by the Planning Board to be more clear and specific for the applicants, create a minimum standard and to allow for the ease of site design by applicants.

#### **Comments:**

Diane Robbins- 7.8.3.b Town Maintenance Easement- Diane is concerned that the Town will be performing maintenance and utilizing tax dollars to do so. Todd Shea addressed Diane’s concern and explained that this will allow the Town to be able to perform “emergency maintenance” such as when a tree limb breaks on someone’s property and is an obstruction in the Town’s right of way and may be causing a hazard it would permit the Town to cut the limb and clear the hazard. The Town will not be performing routine maintenance that is not within its’ right of way.

Diane Robbins- 7.8.5.7 Performance Assurances- She questions the need for this. The Planner explained that this is a lessening of the current provision in the ordinance. Currently the Town has the authority for any number of years to require a business owner to replace any landscaping that dies off that was part of the original approved plan. This limits the length of time the Town can require the owner to replace landscaping.

Wayne Munroe- 7.8.6.4 Island Plantings- Wayne commented that he feels this standard is ahead of its’ time for Arundel and it may be more applicable for storm water runoff. The Planner stated that the depressed planted islands are intended for storm water runoff management.

\*\* Pg. 2, 7.8.5.2 correct the percentage to read 75-100%, not 140%.

#### **d. 7.12 Signs**

The Planner reviewed section 7.12 and there were no comments or questions from the audience.

#### **e. 8.17.A.5 Seasonal Resorts**

The Planner explained the change is to allow occupancy through December 31 as opposed to October 31.

Diane Robbins- She is concerned about the seasonal residents putting their children into the school system from September to December.

Dan Dubois- He feels there is minimal risk of seasonal residents placing kids into the school system compared to the benefits the Town will realize from potential tax revenue the project will generate.

Todd Shea- The group has already invested approximately \$100,000 to date for the pump station they funded through the K.K. & W. D. that benefits the town. If the TIF District is approved by voters at town meeting Todd's understanding is that they will begin construction ASAP. He has also been informed that the developer will be covering the legal fees incurred for the creation of the TIF district Todd stated that he would send an email to Andrew Dolloff, Superintendent of RSU 21 and ask the question regarding whether or not any children living at a seasonal resort would be considered residents for purposes of admission into the school district.

**f. 8.25 Drive Thru Facilities**

The Planner explained that this use was developed as a result of a workshop in which various business owners indicated this use would be welcome in the DB1, DB2 and TCD. It will be a conditional use and include performance standards as presented.

There were no comments or questions from the audience.

**g. 8.26 Pet Day Care Centers**

The Planner reviewed the proposed use for the audience.

**Comments:**

Diane Robbins- She believes that #8, which restricts the number of dogs allowed at a facility based on various districts is too limiting. She also feels that the determining factor in #9 should be based upon the number of acres the facility is located on and not the size of the dog.

**Item 3: Proposed Amendments to Arundel Land Use Ordinance- New Districts**

**a. 8.21 Downtown Business District 1**

The Planner explained that these districts were developed to be in compliance with the 2007 Comprehensive Plan. The Planner explained the concept behind the DB1 district. He explained that this zone will include smaller scale business with reduced setbacks and design standards drafted to create a downtown feel and scale. This zone will be mixed use, incorporating residential and commercial uses.

**Comments:**

Linda Zuke had a comment regarding 8.21.4.2.e. #3 which states that the use of Vinyl siding or T-111 is "specifically discouraged". She disagrees with this and believes those materials, if done correctly, should be allowed. The Planner explained that specifically discouraged does not eliminate the possibility that they would and could be acceptable to the Board. She recommended changing the wording.

Dick Fritz- Commented that his property is shown on the map as being in the CCS district and this is incorrect. He indicates that he was promised his parcel would be in the BI zone and that the map was incorrect that passed at the town meeting. He states he was told it would be corrected and he never bothered to check the map again because the district descriptions were correct. He does not recall the date of that town meeting. His wife, Pauline Fritz distributed documentation that he claims supports his position. He further commented that he believes the standards for the DB1 district are to "cookie cutter".

The Planner commented that he had discussion with Mr. Fritz earlier in the day and had explained to him that there is a means to addressing his issue with the board and there is a process in place which can be followed to possibly amend the problem.

Alan Labrecque commented that family divisions of land should be allowed to occur in all zones in the Town of Arundel.

Donna Der Kinderen asked for clarification regarding 8.21.4.2 Architectural Design Standards uses the term shall conform to the following design guidelines; was that the intent to use the word shall. The Planner clarified and confirmed that it is correct as stated.

Jim Plamondon- asked if vinyl lettering on signs would be permitted. The Planner informed him that vinyl letters would be permitted under 8.21.5.4.b and is indicated within that item as “attached in relief”.

**b. Downtown Business District 2**

The Planner reviewed the district standards and there were no questions or comments from the audience.

**c. Townhouse Corner District**

The Planner gave an overview of the TCD and explained that a majority of the work done on the TCD in terms of the concept of the district was done by the Economic Development Committee. The details were worked out by the Planning Board as part of their normal duties. The Planner explained that the district will be comprised of residential and neighborhood level commercial uses.

**Comments:**

Martha Hess-Pomber states that she is a resident in this district and prior to receiving the notice of public hearing from the Town she had no idea this was being proposed. The Planner explained that the EDC held neighborhood meetings on the issue and asked two of those members, Jennifer Burrows and Linda Zuke to address the issue.

Jennifer Burrows and Linda Zuke both responded to the comment and stated that they mailed invitations to everyone in the neighborhood. Martha Hess-Pomber stated again, that she did not receive a notice.

Richard Lovejoy is present and referenced the map depicting the TCD. He would like John Cluff Lane included in the district since he owns two lots on that road that have a commercial use located on them. As shown on the map currently the district stops at the property line for John Cluff Lane.

**Item 4 Proposed Amendments to Arundel Land Use Ordinance-Map**

**a. Official Zoning Map**

The Planner reviewed the official zoning map and explained that whenever feasible the boundary lines followed property lines.

There were no questions or comments from the audience.

**b. District Descriptions (Sections 13.1, 13.3, and 13.5)**

The Planner reviewed the District Descriptions for the audience.

**Comments:**

Dick Fritz- States he has an issue with the district descriptions and wants the map corrected regarding his property, that his lots should be in the BI zone, prior to town meeting.

Linda Zuke- Questioned again why the warrant article included all the revisions under one article. She indicates that she believes they should all be separated out.

Dan Dubois commented that if the districts were split out and listed separately then perhaps there could be wording in the warrant that would indicate the map would be updated should any district fail.

The Chairman asked if there were any further comments from the audience before the public hearing portion of the meeting is closed.

Hearing none, *Chairman Morin closed the public hearing at 10:55 pm.*

### **III. Regular Meeting**

**Item 1: Proposed Amendments to the Arundel Land Use Ordinance & Official Zoning Map:** Vote to forward proposed revisions to the Board of Selectmen for inclusion on the warrant for Town meeting.

Warrant Article- The Board discussed the issue of the warrant article being divided and concurred that it would be the decision of the Board of Selectmen as to how to break up the warrant article should they choose to do so.

#### **Seasonal Cottage Amendment 8.17.A.5**

The board had discussion as to whether or not to send this amendment for inclusion separately on the warrant.

*Der Kinderen moved to forward the Seasonal Cottage Amendment to the Board of Selectmen for inclusion on the warrant as a separate article. McGinn seconded the motion. Discussion continued with some members commenting that they should wait for word from the Town Manager on the answer to the question regarding educating seasonal residents in the RSU.*

*Vote: motion failed.*

#### **District Descriptions vs. Official Zoning Map**

John Der Kinderen states that he disagreed with the statement made earlier in the evening that district descriptions do not prevail over the official zoning map. The Planner commented that the opinion was given by the Town's attorney and it was based on recent court decisions and the law. Tom Danylik concurred that in his opinion the map takes precedence.

The Planner reminded the Board that tonight the decision is really whether or not to forward the amendments on to the Board of Selectmen or not.

Der Kinderen stated that based on the comments tonight of which he noted fifteen issues to be resolved and/or discussed that those changes being substantive issues he would not be in favor of sending the amendments forward at this time.

*Ganong moved to not forward any of the proposed Land Use Ordinance amendments discussed at this public hearing to the Board of Selectmen. McGinn seconded the motion and it passed with six in favor and one (Coon) opposed.*

#### **Item 2: Other Business**

There was no other business brought forward by the Board or the Planner.

### **IV, Public Comment**

Dan Dubois commented that speaking as a resident the normal process would be for the public hearing to be held much earlier in the process so any changes that might need to be done are able to be done with plenty of time for a new public hearing as required.

**V. Adjourn**

*Ganong moved to adjourn at 11:20 pm. McGinn seconded the motion and it passed with all in favor.*

Respectfully Submitted

Ann Tardif  
Planning Board Secretary