

Arundel Planning Board Agenda
Minutes Regular Meeting
January 26, 2017 7:00 pm
Mildred L Day School Library 600 Limerick Road

Board Attendees: Rich Ganong, Chip Bassett, Marty Cain, Tom McGinn, and Tad Redway, *Town Planner*

Public Attendees: Amy Smith, Mason Drive; Sol Fedder, Rick Dubois, Randy Dubois, Marcel Dubois, Dawson Dubois, *Dubois Livestock, Inc*; Noah Wentworth and Flora Brown, *Frinklepod Farm*; Pam Drew of *Pamelamas LLC*.

Call to Order: Chair Ganong called the meeting to order at 7:01 pm.

I. APPROVAL OF AGENDA

MOTION: Mr. McGinn moved and Mr. Bassett seconded the motion to approve the agenda.

VOTE: Unanimous in favor

II. APPROVAL OF MINUTES: *Minutes of November 10, 2016; December 8, 2016*

MOTION: Mr. McGinn moved and Mr. Cain seconded the motion to approve the minutes of December 8, 2016 as written.

VOTE: Unanimous in favor

MOTION: Mr. Bassett moved and Mr. Cain seconded the motion to approve the minutes of January 12, 2017 with the correction that Mr. Basset rather than Mr. Lowery made the motion to require an \$11,200 cash performance assurance for the Lovejoy Subdivision.

VOTE: Unanimous in favor

III. PUBLIC HEARINGS

Item 1: **Dubois Automobile Salvage-Conditional Use Renewal:** Proposed application to renew to renew a conditional use permit to continue operation of an existing 85,000 sf +/- automobile salvage area on a 3.6 acre site located at 2 Irving Road, Tax Map 19, Lot 6 in the R-4 District. Dubois Livestock, Inc is the applicant.

Chair Ganong opened the Public Hearing at 7:07. No one from the Public spoke. The Chair closed the hearing at 7:08pm.

Item 2: **Frinklepod Farm: Major Conditional Use Pre-Application for Expansion of an existing Farm Retail Operation:** Request to construct an additional 3,784 sf two-story structure containing greenhouse, produce storage, work areas, and a residential apartment located on 16.3 acres of land at 244 Log Cabin Road Tax Map 31, lot 3 and 3B in the R-3 District. Noah Wentworth and Flora Brown are the owners and applicants.

Chair Ganong opened the Public Hearing at 7:09 pm.

Amy Smith of 13 Mason Drive identified herself as a direct butter to the proposed Frinklepod Farm and asked about buffering measures that would be installed between the building and her home. Noah Wentworth explained that 120 feet of vegetation would separate the two facilities and that buffering would be augmented during the foliate season. He also testified to a low frequency of traffic concentrated basically in the winter. Ms. Smith inquired about the apartment, to which Mr. Wentworth explained it was for a seasonal farm intern. Ms. Smith expressed her support for the project.

Chair Ganong closed the Public Hearing at 7:12 pm.

IV. PENDING APPLICATIONS

Item 1: Dubois Automobile Salvage-Conditional Use Renewal: Proposed application to renew a conditional use permit to continue operation of an existing 85,000 sf +/- automobile salvage area on a 3.6 acre site located at 2 Irving Road, Tax Map 19, Lot 6 in the R-4 District. Dubois Livestock, Inc is the applicant.

Randy Dubois insisted that the permit application had not been expired at the time of application.

MOTION: Mr. McGinn moved and Mr. Cain seconded the motion that the term “expired” be stricken from the record.

VOTE: Unanimous in favor.

The Chair reported that Messrs. Cain, Bassett, Lowery, and Ganong attended the site walk on January 19, 2017 and testified that no changes in the boundaries of the auto salvage yard.

The Chair read the prepared Findings of Fact and the Board voted as follows on the 8 conditions under LUO § 9.7.H:

MOTION: Mr. McGinn moved and Mr. Cain seconded the motion that the application met the standards of LUO §9.7.H.1.

VOTE: Unanimous in favor

MOTION: Mr. McGinn moved and Mr. Cain seconded the motion that the application met the standards of LUO §9.7.H.2.

VOTE: Unanimous in favor

MOTION: Mr. McGinn moved and Mr. Cain seconded the motion that the application met the standards of LUO §9.7.H.3.

VOTE: Unanimous in favor

MOTION: Mr. McGinn moved and Mr. Cain seconded the motion that the application met the standards of LUO §9.7.H.4.

VOTE: Unanimous in favor

MOTION: Mr. McGinn moved and Mr. Bassett seconded the motion that the application met the standards of LUO §9.7.H.5, as amended (See Exhibit A).

VOTE: Unanimous in favor

MOTION: Mr. McGinn moved and Mr. Bassett seconded the motion that the application met the standards of LUO §9.7.H.6.

VOTE: Unanimous in favor

MOTION: Mr. Cain moved and Mr. Bassett seconded the motion that the application met the standards of LUO §9.7.H.7.

VOTE: Unanimous in favor

MOTION: Mr. McGinn moved and Mr. Cain seconded the motion that the application met the standards of LUO §9.7.H.8.

VOTE: Unanimous in favor

MOTION: Mr. McGinn moved and Mr. Cain the motion to approve the conditional use renewal of an existing 85,000 sf +/- automobile salvage area on a 3.6 acre site located at 2 Irving Road, Tax Map 19, Lot 6 in the R-4 District

VOTE: Unanimous in favor

See Exhibit A attached for a copy of the approved Planning Board Findings of Fact.

Item 2: Frinklepod Farm: Major Conditional Use Pre-Application for Expansion of an existing Farm Retail Operation: Request to construct an additional 3,784 sf two-story structure containing greenhouse, produce storage, work areas, and a residential apartment located on 16.3 acres of land at 244 Log Cabin Road Tax Map 31, lot 3 and 3B in the R-3 District. Noah Wentworth and Flora Brown are the owners and applicants.

The Planner reviewed the revisions to the proposed site plan, including the provision of four parking spaces, a designated handicap space and an additional space for the occupant of the second floor apartment. The Board agreed that the applicant was in compliance. Mr. Bassett thanked Ms. Adams for her testimony.

The Chair read the prepared Findings of Fact and the Board voted as follows on the 8 conditions under LUO § 9.7.H:

MOTION: Mr. Mr. McGinn moved and Mr. Bassett seconded the motion that the application met the standards of LUO §9.7.H.1.

VOTE: Unanimous in favor

MOTION: Mr. McGinn moved and Mr. Cain seconded the motion that the application met the standards of LUO §9.7.H.2.

VOTE: Unanimous in favor

MOTION: Mr. Cain moved and Mr. McGinn seconded the motion that the application met the standards of LUO §9.7.H.3.

VOTE: Unanimous in favor

MOTION: Mr. McGinn moved and Mr. Cain seconded the motion that the application met the standards of LUO §9.7.H.4.

VOTE: Unanimous in favor

MOTION: Mr. Cain moved and Mr. Bassett seconded the motion that the application met the standards of LUO §9.7.H.5.

VOTE: Unanimous in favor

MOTION: Mr. Cain moved and Mr. McGinn seconded the motion that the application met the standards of LUO §9.7.H.6.

VOTE: Unanimous in favor

MOTION: Mr. McGinn moved and Mr. Bassett seconded the motion that the application met the standards of LUO §9.7.H.7.

VOTE: Unanimous in favor

MOTION: Mr. Cain moved and Mr. McGinn seconded the motion that the application met the standards of LUO §9.7.H.8.

VOTE: Unanimous in favor

MOTION: Mr. McGinn moved and Mr. Cain seconded the motion to approve the conditional use to construct an additional 3,784 sf two-story Farm Retail structure containing greenhouse, produce storage, work areas, and a residential apartment located on 16.3 acres of land at 244 Log Cabin Road Tax Map 31, lot 3 and 3B in the R-3 District, contingent upon the following conditions:

- 1. No disturbance of soil on the site shall occur until all soil and erosion control measures specified in soil erosion control plan of the approved plan set are installed.*
- 2. No Certificate of Occupancy shall be issued for the new structure until a sealed letter is presented to the Code Enforcement Officer and Town Planner by Ransom Consulting Inc. certifying that all improvements approved by the Planning Board have been installed in accordance with the approved plans.*
- 3. All site improvements approved in this Planning Board action shall be substantially completed within two years of this approval date, otherwise this approval shall be deemed null and void.*

4. Any change from the approved plans shall require submittal of revised plans to the Board.

VOTE: Unanimous in favor

Text of the Findings of Fact and Decision are attached to the Minutes as Exhibit B.

V. AMENDMENTS TO LAND USE ORDINANCE

Item 1: Discussion with Action: Proposed Farm Retail Performance Standards LUO 11.3.21

The Planner referred the Board to Version 5.1 of LUO §11.3.21 (December 8, 2016), for final review.

Mr. Bassett proposed an alternative to the special exception for fur producers in item 11.3.21.5 which would include other producers of raw materials or bulk material such as honey or dairy. In Bassett's proposal, a farm retailer may sell finished or packaged goods made in part from principal product equal to 110% of the total volume or weight of raw or bulk material produced by the farm the previous year. As such, an alpaca farmer could sell finished alpaca sweaters and socks equal to 110% of the weight of harvested wool the farmer sold to a manufacturer or broker the previous year. Mr. Cain argued that 110% was too low a threshold, Noah Wentworth suggested 150%. Mr. Ganong questioned the enforceability of any measurement.

MOTION: Mr. Bassett moved and Mr. McGinn seconded the motion that §11.3.21.5 be amended to permit a retail farmer to sell finished goods made, in part, from agricultural or animal material grown on site equal to 150% of the weight/volume of that raw material produced the previous year.

VOTE: *AYE* : Bassett and McGinn. *NAY*: Ganong and Cain. Motion fails.

MOTION: Mr. Cain moved and Mr. Bassett seconded the motion that §11.3.21.5 be amended to permit a retail farmer to sell finished goods made, in part, from agricultural or animal material grown on site equal to 175% of the weight/volume of that raw material produced the previous year.

VOTE: *AYE* : Bassett, Cain , & Ganong. *NAY*: McGinn. Motion passes.

Pam Drew of *Pamelamas LLC* applauded the 175% provision, but reminded the Board that existing farm facilities such as hers was not currently permitted to have Farm Retail facilities in the R1 district. The Planner reminded the Board that the proposed LUO §11.3.21.2 allows Farm Retail facilities as conditional uses in the R1 district provided the farm operation is on a minimum 5 acre lot.

Mr. Ganong stated that the R1 district has always intended to be a high density residential district, and that a pockmarking of farm retail establishments in the 1 acre developments would diminish the livability of these neighborhoods and subsequent property values. The 2015 Comprehensive Plan calls for the maintenance of the R1 district as high density residential district and MAY permit compatible non-residential on lots of 10 acres or more. The proposed 11.3.21 ordinance does not achieve these Comp Plan standards.

The Planner stated that he would make appropriate amendments to the proposed LUO §11.30. 21 for action at the next meeting.

Item 2: Review existing Shoreland Zoning: Definitions and District classifications

The Chair postponed this item to February 16, 2017.

VI. MYLAR & NOD SIGNING: Sargent Gravel Pit, Lovejoy Subdivision

VII. Planner's Report

Mr. Bassett discussed the Moratorium on Marijuana growing and sales proposed by the Selectmen for adoption at a Special Town Meeting to be held on January 30, 2017, and its implications for the Planning Board.

The Planner exhorted Board to attend the Special Town Meeting on January 30, 2017 to vote both on the Marijuana Moratorium and the repeal of the 2016 LUO and replacement with the new format LUO.

Adjourn: *MOTION:* Mr. Ganong moved and Mr. Bassett seconded the motion to adjourn the meeting at 9:25 pm.

VOTE: Unanimous in favor.

I hereby attest the preceding is a true and accurate account of the Arundel Planning Board Meeting of January 26, 2017.



Tad Redway
Secretary Pro Temp

Exhibit A
FINDINGS OF FACT AND MOTION FOR APPROVAL
Conditional Use Application for Dubois Automobile Salvage Yard

WHEREAS, on January 12, 2017 the Arundel Planning Board did receive a Conditional Use permit application from Dubois Livestock Inc to relicense an existing 85,000 +/- sf automobile salvage yard automobile salvage area on a 3.6 acre site located at 2 Irving Road, Tax Map 19, Lot 6 in the R-4 District;

WHEREAS on January 19, 2017 the Arundel Planning Board conducted a public site walk of the existing facility;

WHEREAS on January 26, 2017 the Planning Board conducted a public hearing on said application;

WHEREUPON the Arundel Planning Board reviewed and given due consideration of the applicant's amended application and has arrived at the following findings and conclusions:

FINDINGS OF FACT

1. The land owner and applicant with right title and interest is Cynthia Dubois, Trustee for Randrick Trust.
2. The property is located at 2 Irving Road and is identified as Arundel Assessors Tax Map 19 lot 6;
3. The parcel consists of 3.6 acres of grassland currently containing salvage vehicles of various types and is contained within a 98 acre parcel.
4. The applicant proposes to continue utilizing the designated area for storage of salvage commercial vehicles and automobiles.
5. The applicant has general plans of the salvage area entitled Automobile Salvage Re-Licensing Plan N/F Dubois 2 Irving Road as prepared by Albert Frick Associates Inc. dated April 9, 2010 with revisions through to June 17, 2010.
6. The existing facility is not located over a sand and gravel aquifer or aquifer recharge area as mapped by the Maine Geological Survey;
7. Neither the designated facility nor any abandoned or salvage vehicle is located within the 100-year floodplain as mapped by FEMA, nor is the facility located within 300 feet of a church, school, public park, cemetery, recreational area, or neighboring dwelling.

8. The designated facility has been configured to be situated more than 300 feet from the upland edge of Brimstone Brook and other natural watercourses on the property.

CONFORMANCE WITH CONDITIONAL USE CRITERIA

After due review and consideration the Arundel Planning Board has determined the application to be in conformance with the criteria of Section 9.7.H of the Arundel Land Use Ordinance as follows:

- 9.7.H.1 **The use is compatible with and similar to the general categories of uses of neighboring properties, in that** –The proposed use is not similar with other residential uses in the district, but is consistent with the operation of an industrial mixed use farm complex. The use is not permitted in the R-4 district but is a pre-existing non-conforming use and cannot be expanded beyond the existing boundaries.
- 9.7.H.2 **The use is consistent with the Comprehensive Plan and the anticipated future development of the neighborhood, in that** –The use is in conflict with the comprehensive plan and the anticipated development of the neighborhood as an agricultural and low-density residential zone. The use is legally non-conforming and therefore has standing as an existing use.
- 9.7.H.3 **There is adequate and safe pedestrian and vehicular access to and into the site to accommodate anticipated traffic to and from the proposed use, in that**–The site has ready access via a gravel road from the Dubois Livestock complex and adequate sight distance and access to Irving /Brimstone Road.
- 9.7.H.4 **That there is adequate water supply and sewage disposal available to service the use in that**–Water supply is not essential to the operation of the facility. Waste liquids are drained from incoming vehicles and incinerated on site. The draining operation is conducted in the barn on impervious surfaces.
- 9.7.H.5 **That there will be no noise, dust, odor, vibration or smoke generated by the use that will adversely affect neighboring properties,** All vehicular fluids shall be drained from all vehicles before storage within the salvage yard. Waste petroleum fluids will be burned on site, and waste coolants shall be recycled in accordance with State of Maine regulations.
- 9.7.H.6 **The physical characteristics of the site including location, slope, soils, drainage and vegetative cover are suitable for the proposed use, in that**– The physical characteristics of the site are suitable for the use. The underlying impervious soils prevent percolation of petroleum fluids into the groundwater and proposed improvements and erosion control measures shall preserve the integrity of the existing lands.
- 9.7.H.7 **That the use will not constitute a public or private nuisance.** The facility will not present public or private nuisances to the adjoining property owners or the neighborhood. The site will not be visible from the street and most adjoining property owners.
- 9.7.H.8 **The proposed use conforms to all other requirements and applicable provisions of this ordinance, particularly any pertinent shoreland zoning standards.** The applicant has designed the facility in compliance with all other performance standards and technical requirements of the Land Use Ordinance.

THEREFORE BE IT RESOLVED that based on the above findings and conclusions the Arundel Planning Board hereby approves the application of Dubois Livestock, Inc. to continue operation of the existing Automobile Salvage facility contingent upon the following conditions:

1. The applicant shall maintain all State of Maine Permits in full force and shall maintain compliance with all state regulations and standards at all times.
2. No salvage parts or vehicles shall be stored outside of the designated area shown on the record maps, nor shall any materials be located closer than 300 feet to any stream, intermittent stream, well, or body of water. No salvage materials shall be stored within the Shoreland Zones located on the property.
3. This conditional use permit shall expire on December 12, 2019. Failure to renew this conditional use permit prior to its expiration date shall result in the loss of legal non-conforming status of the salvage operation.

SO APPROVED by the Arundel Planning Board this 26^h day of January 2017:

Exhibit B
FINDINGS OF FACT AND MOTION FOR APPROVAL
Frinklepod Farm Building Expansion
Farm Retail Conditional Use Permit

WHEREAS on November 10, 2016 the Arundel Planning Board received a Conditional Use Pre-Application from Frinklepod farms to construct an additional 3,784 sf two-story structure containing greenhouse, produce storage, work areas, and a residential apartment as part of an existing Farm Retail operation located on 16.3 acres of land at 244 Log Cabin Road Tax Map 31, lot 3 and 3B in the R-3 District..

WHEREAS, on November 19, 2015 the Planning Board conducted an advertised Public Site Walk on the premises.

WHEREAS, upon examining the site, the Planning Board advised the applicant on additional submissions that would have to be addressed by their formal application.

WHEREAS, on January 12, 2017 the applicant submitted a Conditional Use application for the proposed activity which the Planning Board deemed complete, subject to the provision of handicapped parking space.

WHEREAS, on January 26, 2017, the Arundel Planning Board conducted a public hearing on the proposed project in conformance with section 9.F.1 of the Arundel Land Use Ordinance.

THEREFORE, the Arundel Planning Board has arrived at the following Findings of Fact:

FINDINGS OF FACT

1. The applicants and owners of the property are Noah Wentworth and Flora Brown.
2. The property is located at 244 Log Cabin Road Tax Map 31, lot 3 and 3B in the R-3 District
3. The applicant proposes to construct a second farm retail building on the site consisting of 3,784 sf two-story structure containing greenhouse, produce storage, work areas, and a studio residential apartment for farm intern. While most of the facility is dedicated to propagation of plant material and storage and processing of harvested product, the applicants will conduct retail sales of winter produce in a 300 sf distribution room and will offer a 375 square foot commercial kitchen available for public use and demonstration.
4. The proposed building expansion meets all space and bulk requirements of the R-3 district.
5. Vehicular ingress and egress to and from the will be via a second driveway onto Log Cabin Road. The applicant received a Driveway /Entrance Permit # 21200 for this second curbcut from the Maine Department of Transportation on December 14, 2016.
6. The proposed driveway will consist of gravel surface. The applicant has indicated that there will be an Average Daily Traffic load of less than 15 cars per day served by the facility, and therefore is exempt from bituminous paving per LUO section 7.6.B.2.
7. The applicant will be providing four parking spaces and a dedicated ADA handicap space in conformance with Section 7.6.C3.g of the LUO.
8. The applicants proposed to contain all runoff generated by the Pod facility, parking lot, driveway, and impervious surfaces into a rain garden and building drip strip and then discharge the runoff southward into the irrigation ditches located in the adjacent cultivated beds. Any large storm excess will be directed to an existing drainage facility located to the south of the proposed building expansion. The Planning Board finds that the proposed alternative system will meet the standards of LUO section 7.13.
9. A dry hydrant is located 800 feet south of the project site at the Goff's Mill Brook bridge crossing, and therefore the Arundel Fire Chief has determined that adequate fire protection resources are available.
10. The applicant is proposing no additional signage or site lighting at this time.
11. The applicants have submitted a completed HHE-200 permit for the proposed septic system serving the new structure. A second well will also be developed to provide potable water supplies.
12. A soil erosion control plan has been submitted to meet the standards of the Arundel Land Use Ordinance.

13. Record plans submitted as part of the Conditional Use application include a plan set prepared by John Bruckner LLS and Ransom Consulting Inc. of Portland, Maine and dated August 25, 2011, with revisions through to January 18, 2017. All plans in the set are made part of this motion of approval.

CONFORMANCE WITH CONDITIONAL USE CRITERIA

After due review and consideration the Arundel Planning Board has determined the application to be in conformance with the criteria of Section 9.7.H of the Arundel Land Use Ordinance as follows:

- 9.7.H.1 ***That the use is compatible with and similar to the general categories of uses of neighboring properties.*** The building is in similar size and scale with the existing Frinklepod Farm structures and surrounding neighborhood residences and is shielded from abutting properties to the north by existing vegetative stands.
- 9.7.H.2 ***The use is consistent with the Comprehensive Plan and the anticipated future development of the neighborhood in that-*** The Farm Retail operation is in conformance with the 2015 Arundel Comprehensive Plan for the R-3 district.
- 9.7.H.3 ***That there is adequate and safe pedestrian and vehicular access to and into the site to accommodate anticipated traffic to and from the use.*** The proposed use will not generate significant additional vehicular off-site trips. MDOT has granted the applicants a Driveway/Entrance Permit onto Log Cabin Road.
- 9.7.H.4 ***That there is adequate water supply and sewage disposal available to service the use.*** The proposed use will provide adequate on-site septic system and potable water supply for the proposed use.
- 9.7.H.5 ***That there will be no noise, dust, odor, vibration or smoke generated by the use that will adversely affect neighboring properties in that-***The proposed processing building will produce agricultural wastes that will be composted and reused as soil and garden amendments for the agricultural operations. NO additional dust, vibration, odor or noise nuisances will be generated by the proposed use.
- 9.7.H.6 ***That the physical characteristics of the site including location, slope, soils, drainage and vegetative cover are suitable for the proposed use.*** The site has already been cleared and developed, and the proposed expansion will minimally disturb existing topography soils and vegetation on the site. The Stormwater Management strategy will dispose of runoff in a manner that will retail soil stability and will not increase peak runoff discharges from the site.
- 9.7.H.7 ***That the use will not constitute a public or private nuisance.*** No additional nuisances will be generated by the proposed use.
- 9.7.H.8 ***That all other requirements and applicable provisions of this ordinance, particularly any pertinent performance standards, are met.*** The applicant has met all pertinent sections of the Arundel Land Use Ordinance in the design of the proposed activities.

THEREFORE BE IT RESOLVED that based on the above findings and conclusions the Arundel Planning Board hereby approves the Conditional Use application of Frinklepod Farm to construct an additional 3,784 sf two-story structure containing greenhouse, produce storage, work areas, and a residential apartment as part of an existing Farm Retail operation at 244 Log Cabin Road Tax Map 31, lot 3 and 3B in the R-3 District, subject to the following conditions:

1. No disturbance of soil on the site shall occur until all soil and erosion control measures specified in soil erosion control plan of the approved plan set are installed.
2. No Certificate of Occupancy shall be issued for the new structure until a sealed letter is presented to the Code Enforcement Officer and Town Planner by Ransom Consulting Inc. certifying that all improvements approved by the Planning Board have been installed in accordance with the approved plans.
3. All site improvements approved in this Planning Board action shall be substantially completed within two years of this approval date, otherwise this approval shall be deemed null and void.
4. Any change from the approved plans shall require submittal of revised plans to the Board.

SO APPROVED by the Arundel Planning Board this 26th day of January 2017