

**Arundel Planning Board  
Minutes Regular Meeting  
October 13, 2016 at 7:00 pm  
Mildred L Day Library 600 Limerick Road**

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

**Public Attendees:** Mark Welch, *M. Welch & Sons*; Helen Petrin; Kurt Hissong, *Hissong Properties LLC*; Amy McNally, *Woodman Edmunds et al*; Phil Labbe, *Selectman*; Dan Dubois, *Selectman*; Roger Taschereau, *Public Works Director*; Terry Merrill, *PW Foreman*; Keith Trefethen, *Town Manager*; Bruce Mullen, *Arundel Fire Chief*; Jenny Delzell; Steve Dalzell; John R. Cote; Paul Marrocco, *Hissong Properties LLC*; Craig Millett, *Champagne Energy*.

**CALL TO ORDER:** Chair Ganong called the meeting to order at 7:02 pm. Attendance was taken.

**I. APPROVAL OF AGENDA:**

**MOTION:** Mr. Ganong moved and Mr. Morin seconded the motion to move the Champagne Energy application to be moved to the end of the applications due to the tardy receipt of new information.

**VOTE:** *Aye:* Ganong, Lowery, McGinn and Morin. *Nay:* Cain.

**MOTION:** Mr. Morin moved and Mr. Lowery seconded the motion to approve the agenda as amended.

**VOTE:** Unanimous in favor

**II. APPROVAL OF MINUTES:** *Minutes of August 11, 2016, September 8, 2016, September 22, 2016*

**MOTION:** Mr. McGinn moved and Mr. Morin seconded the motion to minutes consideration until after Ordinance Revisions.

**VOTE:** Unanimous in favor

**III. PUBLIC HEARING**

**Item 1:** **M Welch & Sons: Registration of Existing Contractor Yard 2:** Request to register an existing Contractor Yard and Construction Business as a *Contractor Yard 2* on a 30 acre site located at 24 Welch Lane, Tax Map 34, Lot 1A in the R-1 District. M Welch & Sons is the applicant and Mark Welch is the owner.

Chair opened the Public Hearing at 7:05. Steve Dalzell asked if the registration would increase the impact of the existing operation on Welch Lane. Mr. Welch responded that he did not anticipate expanding much beyond the intensity of the current operation.

Chair closed the Public Hearing at 7:06.

**IV. PENDING APPLICATIONS**

**Item 1:** **M Welch & Sons: Registration of Existing Contractor Yard 2:** Request to register an existing Contractor Yard and Construction Business as a *Contractor Yard 2* on a 30 acre site located at 24 Welch Lane, Tax Map 34, Lot 1A in the R-1 District. M Welch & Sons is the applicant and Mark Welch is the owner.

The Chair read the prepared Findings of Fact and Motion for approval.

*MOTION:* Mr. moved and Mr. Morin seconded the motion that the applicant's proposal was compliant with LUO section 9.7.H.1.

*VOTE:* Unanimous in favor

*MOTION:* Mr. McGinn moved and Mr. Cain seconded the motion that the applicant's proposal was compliant with LUO section 9.7.H.3.

*VOTE:* Unanimous in favor

*MOTION:* Mr. Morin moved and Mr. McGinn seconded the motion that the applicant's proposal was compliant with LUO section 9.7.H.4.

*VOTE:* Unanimous in favor

*MOTION:* Mr. McGinn moved and Mr. Lowery seconded the motion that the applicant's proposal was compliant with LUO section 9.7.H.5.

*VOTE:* Unanimous in favor.

*MOTION:* Mr. McGinn moved and Mr. Morin seconded the motion that the applicant's proposal was compliant with LUO section 9.7.H.6.

*VOTE:* Unanimous in favor

*MOTION:* Mr. Morin moved and Mr. Lowery seconded the motion that the applicant's proposal was compliant with LUO section 9.7.H.7.

*VOTE:* Unanimous in favor

*MOTION:* Mr. Morin moved and Mr. McGinn seconded the motion that the applicant's proposal was compliant with LUO section 9.7.H.8.

*VOTE:* Unanimous in favor

*MOTION:* Mr. McGinn moved and Mr. Cain seconded the motion that Planning Board approve the application of M Welch & Sons to be designated a registered Contractor Yard 2 as specified in the Findings of Fact and Motion for Approval.

*VOTE:* Unanimous in favor

Copy of the Findings and Motion for Approval are attached as Exhibit A

- Item 2: Bartlett Farms II: Amendment to Approved Subdivision Plan:** Request to amend the Condition # 5 of 2007 Bartlett Farms II Subdivision Approval to authorize the issuance of up to 25 building permits prior to the completion of all infrastructure improvements on the Bartlett Farms Subdivision, Tamrox Drive, Tax Map 3 in the R-2 District. Northeast KBS, Inc is the applicant/owner and Kurt Hissong is the agent.

Representing Northeast KBS, Kurt Hissong explained the past history of the Bartlett Farms II subdivision and the conditions of the 2006 Subdivision Approval and 2007 revision, whereby developer agreed to complete all of the infrastructure improvements prior to applying for Building Permits in Phases 2-5. The developer is now requesting an amendment to the 2007 approval so that up to 25 permits could be issued prior the completion of the second means of egress via Liberty Acres Drive. The applicant cited section 12.2.B.2.e of the Subdivision Ordinance that would permit this change and would enable the developer to sell lots in various phases that are requested by the market.

Mr. Lowery expressed concern about the amount of traffic that would be discharged onto the Old Alfred Road /Route 111 intersections before the MDOT improvements were complete. Mr. John Cote expressed concern that the second means of egress should be established for emergency services access and building permits should be limited until that access was provided.

Mr. Ganong stated that the applicant must submit a construction cost estimate and a surety for the remaining uncompleted work. In response to the Chair's question, Mr. Hissong confirmed it was Northeast KBS' intention to petition that the Town of Arundel take the completed roads.

Mr. Hissong confirmed that the \$50,000 impact fee would be paid to the Town on a per building permit basis.

**MOTION:** Mr. Morin moved and Mr. McGinn seconded the motion that a public Hearing on the subdivision revision request be scheduled for November 10, 2016.

**VOTE:** Unanimous in favor

**Item 3: Champagne Energy Parking Lot: Amendment to Site Plan Permit- Discussion of Site Walk Findings:** Proposal to implement a landscape restoration plan to replace an approved natural buffer along Old Post Road removed during the construction of a 41,000 square foot parking lot associated with the fuel storage and distribution facility on a 6.36 acre parcel located at 833 Old Post Road, Map 1 Lot 1A-1E in the BI district. Champagne's Energy is the owner applicant

Ms. Amy McNally, representing Champagne Energy, made a presentation to the Board using the original proposal prepared by Tom Emery LLA of Foreside Architects to construct a double row of arborvitae (*Thuja occidentalis*) on a raised earthen berm. She stated that the naturalized buffer that had been requested by the Board at the September 9<sup>th</sup> meeting was not financially feasible or as effective as the current proposal. Ultimately the Planning Board's objective is to have the applicant meet the buffering ordinance requirements and the proposed methodology will accomplish that to a 75% initially and 100% in a few years.

Craig Millet of Champagne Energy stated that the buffer had been intact and no neighbors had complained until the Arundel Public Works Department cleared the Old Post Road right-of-way. Roger Taschereau, PW Director reported that his department cleared the Old Post Right-of way generally twenty feet from the edge of pavement. The only place that they may have cut off the property line was where they had to blast a dig the drainage ditch. They did not grub stumps except in the drainage ditch. The work was done in February 2016 while the Champagne parking lot was completed in November 2015 and the cleared areas had been grubbed, loamed and seeded.

Mr. Lowery stated that the replacement of the natural buffer with the formal buffer initially requested by the applicant did not sit well with him. While many board members stated they agreed, the Board instructed the applicant to provide additional sight section lines from the Toussaint and the Townsend properties to insure that the proposed plan met the LUO buffering requirements. Mr. Cain reminded the applicant that they still have not addressed the allegation of parking lot lights shining into the bedrooms of the two properties.

The Board expects an undated plan for the November 10<sup>th</sup> meeting.

## VI: ORDINANCE REVISIONS

**Item 1: Discussion with Action:** Proposed Fire Protection Performance Standards and modifications to Land Use and Subdivision Ordinance

Fire Chief Bruce Mullen introduced the proposed revisions to the proposed Fire Protection Performance standards, labeled Version D.

Highlights of the proposed revisions include:

- Mandatory sprinklers have been eliminated, however installation of residential sprinkler systems is the preferred of three alternative ways of providing fire protection in residential subdivisions along with cisterns and fire ponds;
- Requirements for on-site water supply is determined by the size of the subdivision and the distance from existing adequate fire water supplies;

- Sizes of cisterns and fire ponds have been drastically reduced from the ISO standards in the current ordinances;
- Specific construction performance standards for fire ponds and cisterns have been provided;
- Siting provisions for ground ladders and turnouts for long driveways have been eliminated;
- A special exemption provision is included to permit the Fire Chief to alter certain water supply standards based on field and fire conditions.

Review by the Planning Board and Town Public Works and Planning staff resulted in a number of other changes reflected in the corrected Ordinance document attached labeled Version D-1 [Strikeouts indicate eliminations and underlines signify additional text].

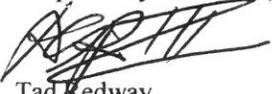
Considerable discussion occurred regarding responsibility for the maintenance of cisterns and fire ponds. The Planner stated that there is no reasonable mechanism the Planning Board can impose and enforce that will coerce Homeowner Associations to maintain community fire ponds and cisterns. The Chief concurs that ultimately the Town will have to maintain these systems if they want them to provide reliable water supply for the department. The Selectmen will have to budget for regular maintenance of these water supplies. The Chief further stated that the only way to remove this financial liability from the Town Government is to advocate for application of integrate low pressure sprinkler systems in the household plumbing of new residential and commercial structures.

#### **VII. PLANNER'S REPORT:**

The Planner reported on several on-going and prospective projects.

**ADJORNMENT:** Mr. McGinn moved to adjourn at 9:37 pm, with Mr. Morin seconding the motion. Motion passed unanimously.

Respectfully Submitted,



Tad Redway

*Planning Board Secretary, Pro Temp*

**Exhibit A**

**FINDINGS OF FACT AND MOTION FOR APPROVAL**

**M Welch & Sons Contractor Storage Yard 2 Designation**

**WHEREAS** on September 22, 2016, the Arundel Planning Board received an application from **M Welch & Sons** to register an existing Contractor Yard and Construction Business as a *Contractor Yard 2* on a 30 acre site located at 24 Welch Lane, Tax Map 34, Lot 1A in the R-1 District.

**WHEREAS**, on September 22, 2016, the Planning Board determined the application complete and scheduled a Public Hearing for October 13, 2016.

**WHEREAS**, on October 13, 2016, the Planning Board conducted a public hearing in conformance with LUO section 9.7.F.1 .

**AND WHEREAS** the Arundel Planning Board has determined the following Findings of Fact and Notice of Decision:

**FINDINGS OF FACT**

1. The owner of the property and the applicant is Mark Welch.
2. The property is located at 24 Welch Lane, Tax Map 34, Lot 1A in the R-1 District.
3. The current owner has operated an earth material storage facility and contractor staging yard on the site since 1985. The applicant has been receiving three year conditional use permits to operate an earth moving operation on the site since 2006.
4. The Assessor confirms that the operation has been assessed as a contractor staging yard, and the applicant has personal property for contractor use on the site.
5. The applicant has provided a survey of existing conditions on the project site, prepared by Post Road Surveying and dated 7/21/16, and the Board has reviewed the operation for compliance with the qualifying criteria for a Contractor Yard 2 in the R1 district as specified in LUO section 8.29.2.4 and has made the following findings:
6. The property meets or exceeds space and bulk standards in LUO 8.29.2.4.a;
7. The property meets driveway setback requirements of LUO 8.29.2.4.b;
8. Parking and storage areas are visually blocked from adjacent residential properties as required in LUO 8.29.2.4.c;
9. Site lighting does not spill onto adjacent properties in accordance with LUO 8.29.2.4.d;
10. Stockpiles of earth materials are stabilized or below gradient of surrounding properties eliminating debris and odor nuisances in accordance with LUO 8.29.2.4.e;
11. The applicant does not have any asphalt paving equipment or supplies stored on the site.
12. Hours of operation and employee parking conform to the requirements of sections LUO 8.29.2.4.g and h.

## 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 existing operation conforms to the qualifying standards of LUO 8.29.2.4. and therefore is configured to have minimized impact on adjacent properties and the neighborhood.*
- 9.7.H.2 The use is consistent with the Comprehensive Plan and the anticipated future development of the neighborhood in that:  
*The 2014 and 2015 Comprehensive Plan updates advocates the process of designating existing and legal contractor yards as conforming conditional uses in the residential districts. The registration of the M Welch & Sons operation as a legal Contractor Yard 2 is therefore in conformance with the Comprehensive Plan.*
- 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.  
*Welch Lane is more than adequate to accommodate the existing and even increasing vehicle traffic generated by the operation. Sight distances along Limerick Road exceed requirements of LUO 7.7.A.*
- 9.7.H.4 That there is adequate water supply and sewage disposal available to service the use.  
*The registration of the existing operation will have no adverse impact upon the existing on-site well and septic system serving the administration office.*
- 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 applicant has long mitigated adverse dust odor and debris nuisances that could be generated by the stockpiled earth materials and has historically been in compliance with this requirement in all of his previous Conditional Use permit renewals. The Town has not received any nuisance complaints from this operation from abutting property owners or the neighborhood.*
- 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 proposed use will require no further alteration of the existing site topography. Tree cover will be retained on the perimeter of 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 designation of the use as a Contractor Yard 2. Any substantial expansions of operations that trigger a Conditional Use Review per LUO 9.7.B will be reviewed by the Planning Board.*
- 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 portions 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 designates the M Welch & Sons operation as a conforming Contractor Yard 2, subject to the operating conditions and limitations of LUO 8.29.4. The applicant is no longer required to file Earth Moving Permit renewals and any major expansion of operation area is subject to Planning Board approval under LUO regulations.

SO APPROVED by the Arundel Planning Board this 13th day of October 2016:

**Exhibit B**  
**Proposed Fire Protection performance Standards- LUO**  
**Version D-1**

**5.7 FIRE PROTECTION & PUBLIC SAFETY**

**5.7.1 AUTHORITY**

Except for exemptions cited herein, Section 5.7 shall be applicable to the following structures constructed after June 14, 2017:

1. Residential subdivisions regulated by *30-A MRSA §4403* and subdivisions exempt by *30-A MRSA §4401.4 and 4401.4D-1, D-2, D-3, and D-4* [Probate and family divisions] consisting of:
  - a. Eight (8) lots or more;
  - b. Between four (4) and seven (7) lots located more than 2,500 linear feet by established travelway from a designated and operational Fire Department water supply of at least 15,000 gallon capacity;
2. Commercial and institutional structures with in excess of 4,000 square feet of area, excepting agricultural buildings.

**5.7.2 RESIDENTIAL FIRE PROTECTION WATER SUPPLY**

1. **Proximity to Fire Protection Water Supply:** All residential buildings governed by § 5.7.1. shall be located with 1,000 linear feet by established travelway of a designated and operational Fire Department water supply of at least 15,000 gallon capacity.
2. **Alternative Water Supply Required:** Proposed new residential structures failing to meet the standard of §5.7.2.1 will be required to provide one of the following remedies:
  - a. Install a residential fire sprinkler system in all residential units in conformance with the standards of NFPA 13D;
  - b. Install an enclosed concrete or polycarbonate cistern with a minimum 15,000 gallon capacity on site or within 500 feet by established travelway of the principal structure and provide Fire Department vehicular access to the cistern;
  - c. Install a fire pond with a minimum water capacity of 60,000 gallons according to standards of the Arundel Fire Chief.
3. ~~**Exemptions:** The following structures shall be exempt from the requirement of section 5.7.2.2.b:~~
  - a. ~~Mobile Homes;~~
  - b. ~~Seasonal residences, occupied less than 6 months of a calendar year;~~
  - e. ~~Replacement structures~~

**5.7.3 NON-RESIDENTIAL FIRE PROTECTION WATER SUPPLY**

1. **Proximity to Fire Protection Water Supply:** Commercial and institutional structures in excess of 4,000 square feet in area must be located within 2,500 linear feet by established travelway of a designated and operational Fire Department water supply of at least 15,000 gallon capacity. The Fire

Chief and/or Planning Board may require a water supply in excess of 15,000 gallons based on building size, use, fire load, and/or number of buildings served by the water supply.

2. **Non-residential uses along Route 1:** Non-residential located in the DB-1, DB-2, B-1, and GW districts that fail to meet the standard of Section 5.7.2.1 above, shall install a dry barrel fire hydrant in the existing water line along Route 1 operated by Kennebunk, Kennebunkport and Wells Water District (KKWWD). The location of the hydrant shall be at a location closest to the new structure, and not less than 1,000 feet.
  - a. **Water Line Laterals:** Water line laterals may be constructed beneath Route 1 to supply dry barrel hydrants where the KKWWD water main is located on the opposite side from the proposed non-residential structure. The Fire Chief and/or Planning Board's decision to require a hydrant lateral will be based on building(s) size, use, fire load, exposures and neighborhood safety.
  - b. **Interior Water Line Extensions:** Non-residential uses and buildings located more than 1,000 feet from the Route 1 water main by established travelway shall construct water line extensions along access roads, private ways and driveways and install dry barrel hydrants to meet the requirements of §5.7.3.2. The Fire Chief or his/her designee may require the installation of additional hydrants at 500 foot intervals along such roads to service the fire protection needs of infill non-residential uses.
  - c. **Design Standards:** All hydrants shall be designed and constructed in conformance with NFPA 24. No hydrant shall be serviced by a water supply main of less than six (6) inch diameter
  - d. **Costs & Responsibilities:** The applicant shall be responsible for expenses associated with the installation, maintenance, and/or lease of fire hydrants located in private ways, driveways, and private property. Applicants shall also be responsible for the installation and lease costs associated with a hydrant installed in the right-of-way of a Town or State road for a period of three (3) years, whereupon all lease costs shall be assumed by the Town of Arundel.

#### 5.7.4 AUTOMATIC FIRE SPRINKLER SYSTEMS

##### 1. Fire Sprinkler Design Standards

All Automatic Fire Sprinkler Systems shall conform to the following design criteria:

- a. NFPA 13D for one and two family residential dwelling units;
- b. NFPA 13R in all residential structures except for one and two family dwelling units;
- c. NFPA 13 in any commercial or non-residential structure.

#### 5.7.5 CISTERNS AND FIRE POND STANDARDS

##### 1. Cisterns: Fire Water Supply cisterns shall be designed as follows:

- a. All cisterns shall be waterproofed prior to installation.
- b. Cisterns shall be plumbed with six (6) inch drafting outlet with a threaded fitting with long handles and a metal cap mounted on an elbow at least two (2) feet above the surface of the ground
- c. All plumbing fixtures shall be metal in construction.
- d. A separate vent pipe shall be installed
- e. A separate fill pipe on an elbow mounted at least 2 feet above the ground and fitted with a threaded 2.5 inch wye.
- f. A sight gauge showing water level in the cistern.
- g. Cisterns shall be constructed with a cleanout manhole enabling maintenance access to the interior with a locking mechanism to prevent vandalism.

##### 2. Fire Ponds:

- a. **Fire Pond Capacity:** The water capacity of a proposed fire pond shall be determined based on the geometric volume of the pond minus that volume located from the bottom to 1 foot above the strainer elevation and minus a three (3) foot thick ice pack at the pond surface.
- b. **Fire Pond Water Supply:** The fire pond shall be lined with clay, a synthetic liner, or any other impervious material approved by the Fire Chief or his/her designee to minimize water loss in the facility. Fire ponds should be fed by a perennial surface water source or by groundwater to reliably maintain design capacity year-round.
- c. **Dry Hydrant:** A Dry hydrant connection shall be installed consisting of a six (6) inch strainer situated on granular material in the pond bottom, a connector line, riser pipe and elbow with a 6 inch threaded connection mounted at least two feet above the ground surface.
- d. **Cleanout Access:** A minimum of one access point shall be provided of sufficient size to enable pond maintenance and periodic silt cleanout by excavator or similar equipment.

### 3. Pumping Apron:

- a. **Apron Design:** A paved access apron at least 15 feet long shall be constructed from the cistern or fire pond's dry hydrant to the edge of the street or private way to provide easy Fire Department access to the dry hydrant and fill pipe.
- b. **Bituminous Surface:** The apron shall consist of 2.5 inch bituminous concrete surface constructed on 18 inches of MDOT Type D gravel compacted to 95 Proctor.
- c. **Protective Bollards:** Two three-inch concrete filled metal pipe bollards shall be installed at on either side and in front of the hydrant and fill pipe connections in order to protect the fittings from impact from vehicles.

## 5.7.6 FIRE RESPONSE ACCESSIBILITY

1. **Road & Parking Design:** All private ways, subdivision roads, private driveways, and parking lots shall be designed to provide adequate travelway widths and curve/curb radii to accommodate a 100-foot ladder /tower apparatus with a minimum 42-foot inside turning radius.
2. ~~**Long Driveways:** Driveways with a travelway less than a uniform fifteen (15) feet in width and a length exceeding 400 feet to the principal structure by established travelway.~~
3. **Fire Lanes:** Buildings of high-density occupancy, public accommodation or hazardous conditions; including but not limited to multi-family complexes, shopping centers, auditoriums, theaters, office buildings, hospitals, lodging, and manufacturing facilities, shall provide 15-foot fire lanes designated as "No Parking zones" that will enable rapid and unimpeded access of fire/rescue equipment and personal to a the interior, roof, mechanical room, and/or other critical areas.

The Arundel Fire Chief shall exercise sole discretion in the location and design of such Fire Lanes.

### 4. Fire Department Connection (FDC)

All buildings fitted with an Automatic Fire Sprinkler System in conformance with NFPA 13 and NFPA 13R shall provide an exterior Fire Department Connection (FDC) in a location readily accessible to responding Fire apparatus. The Fire Chief shall exercise sole discretion on the location of the FDC, and the configuration of road access to the FDC.

### 5. "Knox Box" Rapid Entry System (RES)

All multi-family uses and non-residential buildings, including but not limited to places of public accommodation,, manufacturing and fabrication facilities, gated emergency accesses and similar uses shall install a secure Rapid Entry System box, containing keys facilitating rapid entry of fire and rescue personnel to a locked facility. The Arundel Fire Chief shall specify the location and number of such Knox Box systems.

#### 5.7.7 EXEMPTIONS & ADDITIONS:

The Fire Chief or his/her designee may provide exemptions from or may impose additional standards beyond the requirements specified in this section based upon site conditions, topography, isolation, fire loads, exposures, and neighborhood safety.

1. **Exemptions:** Given the proximity of adequate established Fire Department water supplies, the Fire Chief or designee may exempt a proposed development from providing an on-site water supply.
2. **Additional Requirements:** Given site conditions and constraints, inaccessibility, fire loads, and /or exposures, the Fire Chief or designee may impose additional fire protection standards beyond the minimum requirements specified in Section 5.7, in order to maintain neighborhood safety, preserve property, and protect civilian and firefighter lives.