

Arundel Planning Board
Minutes
May 8, 2014 at 7:00 pm
M L Day Library
600 Limerick Road

Board: Tom McGinn, Marty Cain, Bob Coon, Roger Morin, James Lowery (arrived at 7:35)

Public: Dan Dubois, Phil Labbe, Jared Jacobs, John Formella, Paul Lariviere, Allison Leary, Lucas Patry, Peter Lovejoy, John Toothaker, Suzanne & Ben Madore, Pauline & Dick Fritz

Call to Order: Chairman Morin called the meeting to order at 7:04 pm. Attendance was taken and the agenda was reviewed.

Minutes:

May 1, 2014 *Coon moved to approve the minutes of May 1, 2014 as written. McGinn seconded the motion and it passed with all in favor.*

Public Comment-Non-agenda Items

Dick Fritz is present this evening and he expressed concern about his property located on Portland Rd. He states that he was promised, although he cannot state when exactly, by the Board that his property would remain in the BI district. The Planner clarified that his parcels are currently located in the CCS district. Fritz claims that when the zoning changed on his lots from BI to CCS his lots were supposed to remain in the BI Zone. He said that some of the current members were Board members at that time. He believes it may have been some time in 2007. The Board advised him to meet this week with Tad to see if they could determine what transpired and when that occurred. He indicated that he would meet with the Planner.

I. Public Hearing

Item 1: AIM Recycling USA Conditional Use Application- Proposed application to renew expired permit to continue operation of an existing 43,000 +/- sf solid waste recycling facility on a 22.9 acre site locate at 2244 Portland Rd, Tax Map 12, Lot 9 in the BI district. AIM Recycling USA is the owner/applicant and Jared Jacobs is the applicant's agent.

Chairman Morin opened the public hearing at 7:15 pm. There were no comments from the public. Chairman Morin closed the public hearing at 7:15 pm.

Item 2: Kate's Butter Cow Barn: Conditional Use Application: Proposal to construct a 6,476 square foot dairy barn and hay barn on the site of the *Kate's Homemade Butter Agricultural Demonstration Facility* on a 37.82 acre parcel located at 852 Alfred Road Tax Map 5, Lot 9A in the R4 District. Daniel and Karen Patry are the owners and Lucas Patry and Alison Leary are the applicants.

Chairman Morin opened the public hearing at 7:50 pm. There were no comments from the public. Chairman Morin closed the public hearing at 7:50 pm.

II. Pending Applications

Item 1: AIM Recycling USA Conditional Use Application- Proposed application to renew expired permit to continue operation of an existing 43,000 +/- sf solid waste recycling facility on a 22.9 acre site locate at 2244 Portland Rd, Tax Map 12, Lot 9 in the BI district. AIM Recycling USA is the owner/applicant and Jared Jacobs is the applicant's agent.

Jared Jacobs of AIM and John Formella of Pierce Atwood are present this evening.

The Planner indicates that the only outstanding issue is the requirement of a closure bond in the event that the business should fail and materials are left on site. This bond would provide the Town with financial means to clean up the site so it does not become a burden to the taxpayers.

The Planner explained that in this case most likely the DEP would take on that cost and responsibility.

Formella explained that the DEP received their cost and revenue reports to prove financial ability to operate and put up the costs if the facility were to close and the State DEP was satisfied with this submission. He further indicated that the parent company of AIM would also be willing to submit a letter for the record indicating they would bear the financial responsibility for any closure costs. The Board was in agreement with this proposal and it was added to the conditions of approval.

Chairman Morin read the following findings of fact and motion for approval:

FINDINGS OF FACT AND MOTION FOR APPROVAL
Conditional Use Permit for American Iron & Metal LP Solid Waste Facility
2244 Portland Road

WHEREAS on December 12, 2013 the Arundel Planning Board received a Conditional Use application from **One Steel Recycling** to reinstate an expired conditional use permit to continue operation of an existing 43,000 +/-sf solid waste recycling facility on a 22.9 acre site located at 2244 Portland Road, Tax Map 12, Lot 9 in the BI District. On December 12, the company was sold to American Iron & Metal LP and the application was continued under the new corporate name.

WHEREAS, on January 4, 2014 the Arundel Planning Board conducted an advertised Public Site Walk on the premises and came to the conclusion that given the length of the permit expiration and the potential for changes on the site the applicant was instructed to submit a new Conditional Use application for the solid waste facility.

WHEREAS, on April 10, 2014, the Arundel Planning Board reviewed the new submissions and application and determined them to be complete.

WHEREAS, on May 8, 2014, the Arundel Planning Board conducted a public hearing on the proposed project;

WHEREAS, the Arundel Planning Board has arrived at the following findings of fact:

FINDINGS OF FACT

1. The applicant and owner of the property is American Iron & Metal LP
2. The property is located at 2244 Portland Road, Tax Map 12, Lot 9 in the BI District
3. The property has been used for the past 15 years as a solid waste recycling facility specializing in the collection, reduction, and exporting of recycled metals.
4. As depicted on the Proposed Improvements Map prepared by Civil Consultants and dated March 19, 2014, the applicant proposes to re-permit the recycling facility to process the same types of metal materials that the facility has historically processed. In addition the applicant proposes to install a 10' x 20' Scale House, a second vehicle weighing scale, a Radcomm detection unit, install ten parking spaces, reduce the driveway entrance to 42 feet in width and install a 29 foot landscape isle between Rte 1 and the parking area.

5. All other recycling areas and collection points are to remain as shown on the Existing Conditions Map prepared by Civil Consultants and dated January 31, 2014.
6. The driveway entrance maintains a sight distance in excess of 600 feet to the north and the south along Rte 1 in conformance with the minimum distances for a 50 mph road as specified in section 7.7.A of the Land Use Ordinance.
7. The applicant has both a current and active Solid Waste Permit and Storm water Permit from the Maine Department of Environmental Protection. All peak runoff will be detained on the site and all runoff is collected in storm water treatments ponds.
8. Water service is provided by the Kennebunk Kennebunkport Wells Water District from the Route 1 mains, and on-site septic is provided by an on-site septic system.
9. No new site lighting is proposed..
10. The Planning Board has determined that existing vegetation with limits of cutting as depicted on the existing conditions the plan set will be sufficient to meet all landscaping and parking lot buffering standards of the BI district to the side and the rear property boundaries.
11. The applicant has submitted construction detail sheets for all site work

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 uses and the sizes of the strictures are similar in scale and scope to surrounding properties and other land uses in the BI district.

McGinn moved to approve 9.7.H.1, seconded by Coon. Vote: All in favor

- 9.7.H.2 The use is consistent with the Comprehensive Plan and the anticipated future development of the neighborhood in that
The Comprehensive Plan permits such uses for the BI district as conditional uses and therefore the proposed use is in conformance with the 2005 Comprehensive Plan.

McGinn moved to approve 9.7.H.2, seconded by Coon. Vote: All in favor

- 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 changes will not generate an increase in significant trip generation, the applicant's driveway sight distances exceed the minimum standards of Section 7.7.A., and the applicant has received a MDOT driveway opening permit for the proposed activity.

McGinn moved to approve 9.7.H.3, seconded by Cain. Vote: All in favor

- 9.7.H.4 That there is adequate water supply and sewage disposal available to service the use.
Existing onsite septic will be provided on site and water is provided to the site by Kennebunk Kennebunkport, Wells Water District. The proposed use will not increase the demands for water or septic flow on the property.

McGinn moved to approve 9.7.H.4, seconded by Coon. Vote: All in favor

- 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 -
Noise: The nature of the business does generate noise from crushing and unloading of materials, however, the Board finds that the use is and proposed sound levels are not unreasonable for the use or the district.

Odor: This use will not generate any odor issues.

Vibration/Smoke: No vibration or smoke issues are generated on-site.

Glare: The applicant is not proposing to add any additional lighting on-site.

McGinn moved to approve 9.7.H.5, seconded by Coon. Vote: All in favor

- 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 applicant proposes no additional site modifications that would impact the existing slope and drainage conditions on the site.

Coon moved to approve 9.7.H.6, seconded by McGinn. Vote: All in favor

- 9.7.H.7 That the use will not constitute a public or private nuisance.
No nuisances will be generated by the proposed use.

Coon moved to approve 9.7.H.7, seconded by McGinn. Vote: All in favor

- 9.7.H.8 That all other requirements and applicable provisions of this ordinance, particularly any pertinent performance standards, are met.

The applicant has demonstrated financial and technical capacity to operate and close the facility and therefore is in compliance with section 8.10.G.3 of the Arundel Land Use Ordinance. The applicant has met all pertinent portions of the Arundel Land Use Ordinance in the design of the proposed activities.

Coon moved to approve 9.7.H.8, seconded by Cain. Vote: All in favor

THEREFORE BE IT RESOLVED that based on the above findings and conclusions the Arundel Planning Board hereby approves the Conditional Use application of American Iron and Metal LP to operate a solid waste facility as herein presented contingent upon the following:

1. No Certificate of Occupancy shall be issued for the approved improvements until a letter is presented to the Code Enforcement Officer and Town Planner by the design engineers certifying that all improvements have been installed in accordance with the approved plans.
2. 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.
3. Any change from the approved plans shall require submittal of revised plans to the Board.
4. The applicant shall submit a letter from the AIM management assuring complete site cleanup and restoration of the site in the event of the facilities closure.

5. This permit expires on May 8, 2017 and must be renewed prior to the permit expiration.

SO APPROVED by the Arundel Planning Board this 8th day of May 2014.

McGinn moved to approve the Conditional Use permit based on the above findings of fact and conditions of approval. Coon seconded the motion and it passed with all in favor.

** James Lowery, Board member arrived at 7:35 pm and did not vote on this application since he came in during the middle of the reading of the FOF.

Item 2: Kate's Butter Cow Barn: Conditional Use Application: Proposal to construct a 6,476 square foot dairy barn and hay barn on the site of the *Kate's Homemade Butter Agricultural Demonstration Facility* on a 37.82 acre parcel located at 852 Alfred Road Tax Map 5, Lot 9A in the R4 District. Daniel and Karen Patry are the owners and Lucas Patry and Alison Leary are the applicants.

Board member Bob Coon recused himself as he owns property that abuts this applicant's parcel.

Lucas Patry and Alison Leary are present this evening.

The Planner indicates that the only outstanding issue to be addressed is the non-installation of the landscaping at the butter factory. The reason that this has not yet occurred varies, but include the harsh winter we had this year. The landscaping not yet done includes the buffering and screening of the loading docks and the parking area. The Planner proposed three possible solutions for the applicant to consider.

Lucas informed the Planner and the Board that he would choose the second option which is that no Certificate of Occupancy for the barn or hay barn will be issued until the landscaping is completed.

Chairman Morin read the following findings of fact and motion for approval:

FINDINGS OF FACT AND MOTION FOR APPROVAL

Conditional Use Permit for Kate's Homemade Butter Cow and Hay Barn

WHEREAS on March 12, 2014 the Arundel Planning Board received a Conditional Use application from **Kate's Homemade Butter Inc** to construct a 6,476 square foot dairy barn and hay barn on the site of the *Kate's Homemade Butter Agricultural Demonstration Facility* on a 37.82 acre parcel located at 852 Alfred Road Tax Map 5, Lot 9A in the R4 district.

WHEREAS, on April 10, 2014 the Arundel Planning Board conducted an advertised Public Site Walk on the premises.

WHEREAS, on May 8, 2014, the Arundel Planning Board conducted a public hearing on the proposed project;

WHEREAS, the Arundel Planning Board has arrived at the following findings of fact:

FINDINGS OF FACT

12. The applicant and owner of the property Daniel and Karen Patry.
13. The property is currently used as an *Agricultural Demonstration Facility* and currently contains a 17,728 sf dairy products production facility as well as 4,004 sf residence located at 852 Alfred Road in the R-4 district.

14. The applicant proposes to construct a 6,476 sf dairy barn for the housing and milking of dairy cattle, along with a 2,800 sf hay barn located to the north of the existing residence on the property. The dairy barn will contain up to 40 head of dairy cattle that will be grazed in the pasture lands to the west and downhill of the barn.
15. Access to both barns will be provided by the existing access driveway between the Factory facility and the residence. A second emergency access from Drew's Mills Road will be maintained open by the applicant for emergency fire apparatus access.
16. The applicant has received amended Storm water Management permit from the Maine Department of Environmental Protection for the proposed activity dated January 27, 2014.
17. The plan will not generate any increased net peak runoff from the site.
18. The applicant has submitted a soil erosion and sedimentation control plan as part of the application and has agreed to implement Best Management Practices itemized in the DEP Storm water Management Law permit # L-24920-NJ-B-B
19. Record plans submitted as part of the Conditional Use application include the following:
 - *Sheet 2 Third Amended Layout Plan* , Kate's Homemade Butter by BH2M Inc and dated June 6, 2013 with revisions to March 26, 2014 ;
 - *Sheet 3 Details*, Kate's Homemade Butter by BH2M Inc and dated June 6, 2013 with revisions to July 16, 2013;
 - Floor Plans and Elevations for the Dairy Barn, prepared by The Design Company and date April, 2, 2013;
20. The applicant's proposed layout meets all of the space and bulk standards for the R-4 district and is in conformance with coverage and dimensional requirements of the *Agricultural Demonstration Facility* performance standards of section 8.18 of the LUO;
21. The submitted design elevations of both barns depict construction that is consistent with traditional New England farm architecture, as required in section 8.18.B.9.
22. The facilities will be served by existing private water and no septic systems will be required or installed. An enclosed and impervious manure pit will be installed beside the barn to accommodate manure generation.

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 use is compatible with neighboring agricultural uses and facilities.
McGinn moved to approve 9.7.H.1, seconded by Cain. Vote: all in favor
- 9.7.H.2 The use is consistent with the Comprehensive Plan and the anticipated future development of the neighborhood in that
The Comprehensive Plan encourages agricultural uses in the R-4 district.
McGinn moved to approve 9.7.H.2, seconded by Lowery. Vote: all in favor
- 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.

Since the resulting dairy products produced from the dairy barn will be used primarily in the Kate's Homemade Butter facility, there will be negligible additional vehicular trips generated by the proposed uses.

McGinn moved to approve 9.7.H.3, seconded by Lowery. Vote: all in favor

9.7.H.4 That there is adequate water supply and sewage disposal available to service the use.

The proposed use will not increase the demands for water or septic flow on the property.

Lowery moved to approve 9.7.H.4, seconded by Cain. Vote: all in favor

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 -

Noise: The nature of the business does not generate any undue noise, aside from the dairy herd.

Dust: Open spaces will be paved or grassed and therefore the generation of dust by the proposed use will be minimal.

Odor: Odors may arise from handling and turning of manure, but they will be infrequent and not unusual for a permitted dairy operation.

Vibration/Smoke: No vibration or smoke issues are generated on-site.

McGinn moved to approve 9.7.H.5, seconded by Lowery. Vote: all in favor

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.

Significant grading will be involved in the construction of the facilities. The applicant has prepared a sediment and erosion control plan that must be implemented and maintained during construction.

McGinn moved to approve 9.7.H.6, seconded by Cain. Vote: all in favor

9.7.H.7 That the use will not constitute a public or private nuisance.

No nuisances will be generated by the proposed expansion.

McGinn moved to approve 9.7.H.7, seconded by Lowery. Vote: all in favor

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.

McGinn moved to approve 9.7.H.8, seconded by Lowery. Vote: all in favor

THEREFORE BE IT RESOLVED that based on the above findings and conclusions the Arundel Planning Board hereby approves the Conditional Use application of Daniel and Karen Patry to construct a 6,476 square foot dairy barn and hay barn on the site of the *Kate's Homemade Butter Agricultural Demonstration Facility* on a 37.82 acre parcel located at 852 Alfred Road Tax Map 5, Lot 9A in the R4 district., subject to the following conditions:

1. The applicant shall complete all screen, buffering and landscaping approved and associated with the Butter Factory facility to the satisfaction of the Code Enforcement Officer prior to the issuance of a certificate of occupancy for the dairy or hay barns.
2. All sediment and erosion control structures shall be installed prior to any further excavation or earth-moving activities on the site, and shall be maintained throughout the construction process.

3. No Certificate of Occupancy shall be issued for the approved storage buildings until a sealed letter is presented to the Code Enforcement Officer and Town Planner by BH2M certifying that all improvements have been installed in accordance with the approved plans.
4. 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.
5. Any change from the approved plans shall require submittal of revised plans to the Board.

SO APPROVED by the Arundel Planning Board this 8th day of May, 2014:

McGinn moved to approve the conditional use application for Kate's Homemade Butter-Cow Barn & Hay Barn based on the above findings of fact and motion for approval. Lowery seconded the motion and it passed with all in favor.

Item 3: Southern Maine Marine: Plenary Site Plan Review: Discussion with Action: Proposal to remove an existing 1,125 square foot building and box trailers, construct a 6,000 square foot retail building, a 11,800 square foot storage building, and a 23,500 square foot gravel boat storage yard on a 2.9 acre parcel containing an existing marine sales, service and storage facility located at 2461 Portland Road, Tax Map 12, Lot 4-2 in the BI district. PBL Holdings, LLC is the owner and Paul Gadbois, PE is the applicant's agent.

Paul Lariviere, owner is present this evening.

The Planner explained that the applicant did submit a cost estimate for the project but the Planner would like it broken down further by phase and also more itemized. He will meet with the applicant to discuss the details of the estimate further.

The Planner informed the Board that on a prior plan approval back in 2012 one of the conditions listed was that the driveway was to be relocated for improved site distance prior to any further/future expansion. He asked the Board how they wish to handle this since the current phased plan lists Phase I as the new storage building and Phase II is the driveway relocation.

Paul states that it is his intention to complete both the new building and the driveway relocation prior to winter of 2014. He explained that the new storage building will be used to house boats that are currently stored outdoors in the location of the new driveway. The Board was in agreement that both will occur fairly simultaneously. Lowery offered the suggestion that Phase I & II be combined into one phase to alleviate the conflict. All were in agreement, including the applicant.

Chairman Morin read the following findings of fact and motion for approval.

**FINDINGS OF FACT AND MOTION FOR APPROVAL
Southern Maine Marine Expansion
2014**

WHEREAS on February 27, 2014, the Arundel Planning Board received a Plenary Site Plan application from PBL Holdings LLC to remove an existing 1,125 square foot building and box trailers, construct a 6,000 square foot retail building, a 11,800 square foot storage building, a new access driveway from Route 1 and construct a 23,500 sf gravel boat storage yard on a 2.9 acre parcel containing an existing marine sales, service and storage facility located at 2461 Portland Road, Tax Map 12, Lot 4-2 in the BI district.

WHEREAS, on March 27, 2014 the Arundel Planning Board conducted a public site walk of the project site accordance with Section 9.8.F.3.c of the Arundel Land Use Ordinance and to determine the legitimacy of requests by the applicant for a variety of application submission waivers.

WHEREAS, on April 10, 2014 the Arundel Planning Board conducted a public hearing of the project after duly notifying abutters and posting and advertisement in the Journal Tribune and on the Arundel Town website;

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

FINDINGS OF FACT

1. The owner and applicant of the property are PBL Holdings LLC.
2. The property is located at Portland Road, Tax Map 12, Lot 4-02 in the BI district.
3. The property is approximately 2.9 acres in size.
4. The property is currently used as a marine sales and service facility and as an off-season boat storage facility
5. The applicant proposes to re-subdivide the adjacent lot also in PBL holdings remove an existing 1,125 square foot building and box trailers, construct a 6,000 square foot retail building, a 11,800 square foot storage building, and a 23,500 sf gravel boat storage yard The indoor boat storage structure will not contain any facilities including electrical, plumbing, and other utility services at this time.
6. The proposed project will be conducted in 3 phases consisting of the following:
 - a) Phase 1: construction of 72x 165 foot indoor storage building. Construction of the improved access road across the proposed Lot 1 and into Lot 2 and a closing of the current substandard access point at the northern end of the property;
 - b) Phase 2: Construction 6,000 sf retail facility;
 - c) Phase 3: Construction of the outdoor gravel storage area.
7. The proposed building meets all setbacks and dimensional requirements of the B-I district as established in Section 6 of the Land Use Ordinance.
8. Due to the increase in impervious surface and concentrated runoff, the applicant proposes to install extensive series of storm water detention facilities to accommodate the maximum build out of the facility. The proposed design meets the storm water design performance standards of Section 7.13. The proposed project will not yield any net increased peak runoff from the site in a 25-year storm event.
9. The applicant proposes to close off the current road in Phase 1 and re-landscape the area with loam and grass seed and five street trees as indicated on the plans in accordance with section 7.6.C.3.c.
10. Documentation provided by the applicant include an Existing Conditions Plan, a Site Plan, a Grading, Utility and Layout Plan and a Detail Sheet, prepared by Paul Gadbois, PE and dated January 27, 2014 with revisions to April 28, 2014, along with storm water calculations prepared by Paul Gadbois, PE.
11. The Arundel Fire Chief has testified that existing hydrant resources on Route 1 are sufficient to meet fire protection needs of the proposed project.

12. The proposed project is not located in or in close proximity to a Shoreland Zoning district or critical wildlife resources and therefore will have no impact upon such resources.
13. The proposed project improvements are estimated to cost \$350,000.

CONFORMANCE WITH SITE PLAN APPROVAL CRITERIA

After due review and consideration the Arundel Planning Board has determined the application to be in conformance with the criteria of Section 9.8.F.4 of the Arundel Land Use Ordinance as follows:

- a. The proposed project conforms to all standards of the zoning district and meets or exceeds performance standards specified in Sections 7, 8, and 9.8 of this Ordinance;
- b. The proposed project does not require any state or Federal permits.
- c. The proposed project does not unreasonably impact public safety and fire protection, and will not create a financial burden for the Town of Arundel in the provision of emergency services and law enforcement to the project site and the neighborhood; in that the Arundel Fire Department has determined that adequate fire protection resources are available on Rte 1, the project will generate no additional traffic or situations that will increase demand public safety resources.
- d. The proposed project will not have an adverse impact upon the quality of surface or groundwater resources.
- e. The project provides adequate storm water management facilities to produce no additional peak runoff from the site during a 25-year storm event and will not have an undue impact on municipal storm water facilities or downstream properties;
- f. The proposed project will not have an adverse on-site and off-site impact upon existing vehicular and pedestrian circulation systems within the community or neighborhood; in that the proposed project will not generate any additional vehicle trips from and to the site.
- g. The proposed project will not have an adverse impact upon environmental quality, critical wildlife habitats, marine resources, important cultural resources, or visual quality of the neighborhood, surrounding environs, or the community; in that the project is not located in or in close proximity to such resources.
- h. The proposed project will not produce noise, odors, dust, debris, glare, solar obstruction or other nuisances that will adversely impact the quality of life of surrounding parcels, in that the proposed facility will not be serviced by any utilities that can produce off-site nuisances, and the proposed use as enclosed boat storage will not generate dust, odors, or other such nuisances.
- i. The proposed project will have a positive fiscal impact on municipal government, in that the property tax revenue generated by the proposed activity will exceed the costs of municipal services demanded by the activity.

THEREFORE BE IT RESOLVED that based on the above findings and conclusions the Arundel Planning Board hereby approves the Plenary Site Plan application of PBL Holdings LLC to remove an existing 1,125 square foot building and box trailers and construct a 6,000 square foot retail building, a 11,800 square foot storage building, a new access driveway from Route 1 and construct a 23,500 sf gravel boat storage yard on a 2.9 acre parcel containing an existing

marine sales, service and storage facility located at 2461 Portland Road, Tax Map 12, Lot 4-2 in the BI district., subject to the following conditions:

1. The applicant shall post with the Town of Arundel a performance assurance in an amount agreed to by the Town Planner as either a Letter of Credit, Tri-Party Agreement or Escrow Account, prior to the commencement of Work on each phase on the site or the issuance of a Building Permit for each phase;
2. No Certificate of Occupancy shall be issued for any phase of the proposed project until the design engineer certifies in writing to the Town Planner that all improvements have been completed in accordance with these approved plans;
3. All soil erosion control devices shall be installed prior to the commencement of site work, and no site work shall be shut down for the winter until all required soil stabilization mechanisms prescribed herein are made effective;

SO APPROVED by the Arundel Planning Board this 8th day of May 2014

Cain moved to approve the Site Plan for Southern Maine Marine based on the above findings of fact and conditions for approval. Coon seconded the motion and it passed with all in favor.

The applicant will submit a new Mylar Plan for Board signature and meet with the Planner to further develop the cost estimate details. The Board will sign the plan as soon as it is corrected to show new Phasing details and at their next scheduled meeting thereafter.

III. New Application

Item 1: Lovejoy Subdivision: *Sketch Plan application for Major Subdivision:* Proposal to construct a 5-lot cluster subdivision serviced by a 725 foot private way on a 17.97 acre parcel located at 295 Limerick Road, Tax Map 28, Lot 6 in the R1 district. Peter Lovejoy is the owner and applicant and Tooth and Associates is the applicant's agent.

John Toothaker is present this evening along with Peter Lovejoy.

Toothaker presented the sketch plan to the Board and asked for their feedback. He indicates that test pits have been done on the site as well as a boundary and topography survey. Toothaker believes that the project will require a Tier II permit from the DEP.

They are proposing a 6-lot cluster subdivision with a cul-de-sac. The Board reviewed the plan and asked that the applicant meet with the Fire Chief about the requirements for fire suppression for the subdivision.

The Planner reminded the agent to calculate the net residential density for the project.

Site Walk: The board will meet the applicant on site on June 12, 2014 at 5:30pm to conduct a site walk. They ask that the road and lot locations be staked out along with the cul-de-sac and also the test pit sites.

Item 2: Weirs Motor Sales: *Revision to Approved Conditional Use Permit:* Proposal to eliminate all approved landscaping in the 5-foot island between Route 1 and customer parking lot at Weirs Motor auto dealership, 1513 Portland Road, Tax Map 33, Lot 2 in the Highway Commercial District. Ben Madore is the owner, Linda Zuke is the applicant, and David Graham Architects is the applicant's agent.

Ben and Suzanne Madore are present this evening. Mr. Madore is here requesting an amendment to the Conditional Use Permit plan which was approved by the Board on June 14, 2012. He is proposing to eliminate the approved landscape buffer and instead use artificial turf in its place. He presented a sample of the artificial turf he is asking to use for their inspection.

The Board held lengthy discussion regarding the requirements of the ordinance and that those standards were relaxed in the approval granted by the Board allowing an 8" buffer as opposed to the 15' buffer required by the ordinance. Several members indicate that they believe the compromise was a good one that worked for both the Town and the applicant and reminded Mr. Madore that it was his agent who proposed that resolution, and Mrs. Zuke who presented it. Mr. Madore stated that he still wants to change it because he doesn't want the maintenance headaches with plowing etc.

Coon commented that he doesn't believe the Board has the authority to waive the requirement, although he states that perhaps, for certain business types the standard may not be appropriate but that is something the Board will have to discuss and consider changing.

Phil Labbe is in the audience and asked if the Board thought grass was a form of landscaping and he asked if the Board had any latitude to change the requirements.

Dan Dubois is also in the audience and commented that the Board worked hard to reach a compromise with the applicant and further stated that Mr. Madore's other car dealership, Arundel Ford is nicely landscaped and looked great with the plantings in the front.

Mr. Madore presented a sketch plan to the Board of his proposal.

Cain moved to approve the amendment and to allow the use of artificial turf as a landscaping buffer. Coon seconded the motion for purposes of discussion.

Lowery states that he believes there could be other, better alternatives to consider besides artificial turf and indicated that he might be more inclined to see the stonework remain and perhaps some low, easy maintenance shrubs installed. McGinn agrees with Lowery as does Morin.

Vote: 2 in favor (Cain & Coon) and three opposed (McGinn, Morin and Lowery), motion fails.

IV. Planner's Report

1. The Planner wanted to remind the Board of the two upcoming public hearings.

May 15, 2014 at 7:00 pm at the M L Day Library the Comprehensive Plan Review Committee will hold the public hearing for the proposed amendments to the Comprehensive Plan.

May 22, 2014 at 7:00 pm at the M L Day Library the Planning Board will hold the public hearing for the proposed changes to the Land Use Ordinance.

He asked that any who can attend to please do so.

2. Mr. Coon asked the Planner about the email he had sent out regarding ex parte communication by Board members.

The Planner explained that last week there was an issue involving an Arundel business with a possible violation issue. This matter was brought to the attention of the CEO who was informed that an employee of the business in question stated that he had communicated with three different Planning Board members about the matter.

Tad reminded the Board that ex parte communication cannot occur. The Planning Board is a judicial board that makes decisions and any ex parte communication compromises the Board's authority. Any such communication has the potential to cause accusations by the public of unfairness or bias by the Board. The Town is looking into having the Town Attorney do a joint meeting with the Selectmen and Planning Board to conduct a refresher course into the acceptable behaviors by such boards, and discussion of legal ramifications etc.

Lord Boys, LLC

The Planner informed the Board that the wetland line on the Portland Rd. property of Lord Boys, LLC has been re-established by Jim Logan of Al Frick Associates. A letter has been received by the Town and has become part of the record on file at the Town office.

Board Tasks-

The Board discussed amending applications that appear before the Board to include the location of and distance from the nearest water supply for fire suppression and an explanation of what that water source is, i.e.; fire pond, hydrant, etc.

Public Comments-

Phil Labbe expressed his opinion regarding Weir's Motor Sales request to amend the landscaping by stating that he believes the Astro-turf proposed would qualify as landscaping. He also thinks that the Board has the latitude to allow it.

Adjourn

McGinn moved to adjourn at 10:05 pm, Lowery seconded the motion and it passed with all in favor.

Respectfully Submitted,

Ann Tardif
Planning Board Secretary