

Arundel Planning Board
Minutes
July 24, 2014 at 6:30 pm
M. L. Day School Library

Board: Rich Ganong, Roger Morin, John Der Kinderen, Bob Coon, Marty Cain (arrived at 7:00pm), Tad Redway, Planner

Public: Chip Haskell, Dan Dubois, Bud Legros, Paul Sfredo, John Bell, Linda Zuke, Donna Der Kinderen, Scott Dombrowski, Steve & Kim Monks, John Fitzpatrick, Milda Castner, Harry Porter, Susan Kamuda, Jennifer Burrows

Call to Order: Chairman Ganong called the meeting to order at 6:30 pm. Attendance was taken and the agenda was reviewed.

I. Approval of Agenda

Morin made the motion to move the approval of minutes to item VI. Coon seconded the motion and it passed with all in favor.

II. New Applications

Item 1: AIM USA Conditional Use Application- Pre-Application Review: Proposed application to develop a 5 acre +/- short-term automobile graveyard within the existing solid waste recycling facility on a 22.9 acre site located at 2244 Portland Road, Tax Map 12, Lot 9 in the BI District. AIM USA is the owner/applicant and Chip Haskell, PE of CES Inc. is the applicant's agent.

Chip Haskell is present tonight representing AIM USA. He gave an overview of the proposed expansion. The applicant is proposing to develop a 5 acre area within the existing solid waste facility for use as an automobile salvage yard. They are proposing that they would have vehicles there for 90 days during which time the public may purchase parts off of them. After 90 days the vehicles will be stripped of any remaining parts and removed off the property.

There are a variety of waiver requests with this application. The Board addressed each one as follows:

High Intensity Soil Survey- The applicant is asking for a waiver of this requirement and instead would like to submit a medium intensity survey. The Board determined that they will need to hold a site walk first before acting on this waiver request.

Site Distance- The applicant states that the existing driveway will be utilized and no changes from existing conditions will occur. The Board determined that the site distances existing will need to be shown on the plan.

Traffic Impact Study- The applicant states that based on traffic at their other similar facilities they do not believe this new use will impact the traffic into and out of the sight in a significant manner and are requesting this item be waived. The Board would ask that the applicant submit their documentation so the board can make the determination if that is enough information to make a decision on this waiver request.

Ground Water Study- The applicant states that the operation will be done on impervious surface and that there will be a very low probability of leakage into groundwater. The Board indicated that they will need a minimum of the distances to the neighboring wells shown on the plan. The Board informed the applicant that a blasting plan will be required as well for the ledge removal planned.

Market Study- The Board decided that a market study is not necessary for this application, waiver granted.

Fiscal Impact Study- The Board determined that this is not necessary for this application, waiver granted.

Landscaping Plan- The Board will conduct the site walk prior to acting on this request.

DEP and Federal Permits- The applicant is asking the Board to proceed with their review prior to their obtaining the required State and Federal Permits. The applicant would like some clear direction on the Boards opinion of the preliminary plan to prevent any major changes once they have submitted the DEP application. The Board will gladly give that feedback and would be acceptable to

continuing review so long as the applicant submits a copy of all the necessary permit applications. The applicant must have all necessary permits and submit copies of them to the Board prior to final approval of the plan.

Site walk: The Board set a date for the site walk on August 28, 2014 at 6 pm. The applicant is asked to have the proposed expansion area staked out for the site walk.

III. Public Workshop: *Public Workshop on Proposed Townhouse Corner District*

The Planner gave an overview of the proposed ordinance for the Townhouse Corner District. He explained that there was a public hearing held in May, at which time there were several concerns the Planning Board wanted to address before sending the new ordinance to the voters. As a result of that meeting some changes were made to the TCD and this meeting is to get further feedback from the residents and business owners in town. The public hearing was advertised on the Town's website and first class notice went out to property owners in the TCD and surrounding districts.

The Planner briefly reviewed the permitted and conditional uses and informed the audience that this proposed ordinance is different from the current ordinance in that it is an omitted uses ordinance. This means that if a use is not listed as either permitted or conditional then that means it is not permitted in that district.

One of the changes that came out of the May public hearing was the extension of the TCD boundary line to include John Cluff Lane. Richard Lovejoy currently owns property on John Cluff Lane which are two commercial properties related to his contracting business. He requested that the Planning Board include John Cluff Lane in the Townhouse Corner district, which they have.

The Planner invited the public to comment on the proposed TCD, the extent of the district as well as the uses proposed for the district.

Florian Legros asked the Planner to comment on the maximum lot coverage, it is listed at 80%. Bud commented that if you had a 20,000 sq. ft. lot you could put up a building that was 16,000 sq. ft. The Planner stated that yes, it was correct but for certain uses the size of the building would be restricted. Legros commented that perhaps that needs to be reduced to 50%.

Linda Zuke asked what Net Development Density is. The Planner explained that it is the amount of area you can develop on a parcel once you have subtracted the unsuitable soils, wetlands, etc. This calculation actually affects the residential uses more than the business uses. Tad agreed that lot coverage, vs. building coverage, vs. NDD needs to be better clarified in the ordinance.

Donna Der Kinderen commented that the Comprehensive Plan Committee discussed small, medium and large scale buildings and the Townhouse Corner District description references small scale. She asked Tad to clarify small scale for the audience. Tad explained that small scale refers to buildings 6,000 sq. ft. or less, which would eliminate very large buildings such as what Mr. Legros referred to earlier.

Milda Caster commented that she was surprised to see the expansive types of uses proposed for this district. She states that this area has not historically been a business area and that it has been more residential. She cited a few of the smaller business that have been operating there for some time such as Winks and others as well. She sees no need for the business area to continue down as far as Meadowbrook Lane. She does not think the proposed uses fit in with the character of the neighborhood at all. She feels the proposed uses are too expansive and needs to be reconsidered by the Board.

Steve Monks owns property on the Sinnott Rd. and has the same concerns as Mrs. Castner. He states that there are two businesses on John Cluff Lane, which abuts his property, he has not had any issues with them but is concerned about the other lots being developed there. He believes that the list of permitted uses are too much for an area that is 90% residential and that there are many parcels available on Route One and Route 111 where the uses would fit in better. He also states that he wants to be able to give his land to his sons and grandchildren for residential use and feels the commercial development will cause his property value to go down. He sees no

need for commercial development in this area, Arundel has always been rural in the 28 years he has lived there and to see this in his backyard would be very disappointing.

John Fitzpatrick owns the Kennebunkport bicycle shop and commented that he disagrees with Mrs. Castner, he believes that historically there have always been businesses in that area. He touched on a comment made earlier by the Planner where he stated that the town wanted to take advantage of the higher traffic areas in developing business and he agrees. There is a lot of traffic in this area already so adding a few more businesses would not generate a huge increase in traffic and it would help ease the tax burden on the residents of Arundel.

He continued and commented that the requirement in the proposed ordinance regarding façade materials is too restrictive based on what is available to build with today. He agrees that T-111 is unattractive and should not be allowed but other materials should be, particularly vinyl siding. The Planner noted that on page 2 it states that the façade requirements are limited to buildings that are visible from the roadway, however the Board has reconsidered and will allow vinyl siding.

Fitzpatrick also believes that the materials listed for railings and steps is too vague and restrictive in terms of material, he does however agree with not allowing chain link fencing when visible from the roadway.

Fitzpatrick commented regarding signage allowance of 1 sq. ft. of signage for every 2 linear ft. of building, he was confused by this and suggested clarifying store front vs. building front. Tad explained that store frontage would apply to buildings which house multiple uses. Tad will discuss further with the Planning Board and consider amending it to building frontage.

Fitzpatrick asked about the landscaping requirements which state a “new use” has to comply with these standards, he wonders if an existing use would be grandfathered and perhaps the intent was for “new structures” having to come into compliance. The Planner stated that the intent was for new structures and he will correct this.

Dan Dubois commented that he believes the intent of an ordinance is to bring standards of existing buildings up to the current standards. The Planner stated that if it is a substantial change of use that triggers review either by Staff or by Planning Board then yes it would have to come up to current standards, but if it is a simple change of use it does not. Dubois stated that the information about that needs to be made clear within the ordinance.

Cain commented that since most of the lots in that area have been out of existence, basically anything there needs to come before the Planning Board. Ganong stated yes, anything new is reviewed. Cain stated that if someone wanted to re-open a restaurant on the old Forefathers’ lot they would have to meet the new standards. Ganong said yes, they would be permitted but they would have to meet the new standards.

Kim Monks commented that there were many issues when the Forefathers restaurant was open, including traffic, noise issues, fighting in the parking lot etc. and it was a happy day when they closed and she would not like to see it re-open. She feels the traffic on Sinnott Rd. is already very bad and does not want to see it worsen. She inquired if the TCD is already passed as an ordinance.

The Planner explained that it has not. The Comprehensive Plan which passed at the June town meeting called for the creation of the Townhouse Corner District. In fairness to the CPC, the Planning Board and Economic Development Committee developed this district and it was given to the CPC to review the proposal. The CPC made their recommended changes which were incorporated into the draft proposal of the TCD.

Donna Der Kinderen read the description of the TCD from the Comprehensive Plan.

Town House Corner District (TCD)

The Town House Corner district designation applies to the nexus of Arundel Road, Log Cabin Road, and Sinnott Road, known as Town House Corner. This district has historically been a mixed-use district and an important institutional and commercial crossroads.

Uses

The Town House Corner district will permit small scale retail, office, service, and community uses as well as single and multi-family dwellings. Mixed-use projects will also be permitted.

Development Standards

New construction shall be designed to reflect the character of the surrounding residential neighborhoods, with significant reduction in lot sizes, lot frontages, and setbacks. A pedestrian-oriented approach to development will be applied where feasible. New residential subdivisions, as defined by state statute, will be excluded.

Donna went on to explain that the original development of the TCD came about as a result of public requests of some of the property owners in that area. This proposal has had a great deal of public input along the way prior to tonight. When the CPC worked on this they attempted to respect, as much as humanly possible, private property rights and the decisions that property owners could make about their own property. What the Planning Board does with the district in terms of specifics is not final yet, and that is what's being discussed tonight.

Harry Porter commented that he agrees with Mrs. Monks concerns. One of the two largest parcels that come back towards Sinnott Rd actually abuts the Sinnott Rd. What would prevent someone from opening a business there and have it face the Sinnott Rd. and access it from the Sinnott Rd. as well, and then you have made a commercial property on the Sinnott Rd. He has no problem with a business using frontage on Log Cabin Rd. but it seems there is no provision for how far back a business will be allowed to go in.

The Planner replied that Mr. Porter is correct in that there is nothing that would prevent someone from gaining access via the Sinnott Rd. however the setbacks would all still have to be met. Porter replied that if that were the case then the character of the neighborhood would change on the Sinnott Rd. and the traffic problems would increase.

Steve Monks asked if the boundary of the district is already decided and the Planner stated that it is not, the only thing that has been voted on is the district description as read by Donna Der Kinderen this evening. The details have not been decided yet.

Jen Burrows commented that she is a business owner in the TCD and has a substantial interest in the proposal. She does not think there will be a huge change in the neighborhood as the standards are proposed. She states that as the business owner of Winks she would like to make improvements and maintain her building but has difficulty obtaining financing through a bank because the property is not in a business zone. She stated that when they developed the standards they were careful not to have business that wouldn't fit in with the neighborhood such as drive thru's and bigger scale business so that they would be considered good neighbors. She continued, stating that any business that goes in there will have to receive approval by the Planning Board and adhere to the design standards.

Kim Monks noted that drive thru facilities are listed as a conditional use so they could in fact go into the Townhouse Corner District. She went on to say that if the lot that goes back to the Sinnott Rd. is developed it would be in her back yard and couldn't the Planning Board put in a requirement that the lot is only allowed access from the Log Cabin Rd. to prevent that.

John Der Kinderen replied that there are ways to address that situation when drafting the standards for the district.

Linda Zuke states that she is the owner of the property being discussed and she doesn't want to be limited in that way. She does not believe that any business that may go in there would impact traffic on Sinnott Rd. anymore than the Red Apple Campground currently does.

Kim Monks responded that it would certainly depend on what kind of business was developed on the property.

Zuke responded that those concerns could be brought up when a proposed use for the property is being reviewed by the Planning Board.

Zuke states that she thinks that this meeting is back pedaling. The TCD is going to happen as it's been voted in with the passing of the Comprehensive Plan. Tonight the public hearing is supposed to be about the details of what can go in the district for uses.

Cain commented that a portion of Sinnott Rd. is in Kennebunkport and they could do something on that section of Sinnott Rd. that goes against what Arundel proposes or allows.

Scott Dombrowski asked if accessory apartments are allowed in the district. The Planner stated that the standard for an accessory apt. is that it has to be attached to the main building and no larger than 500 sq. ft. Mr. Dombrowski would like the Board to consider allowing them to be detached from the main structure. The Board said they will consider that in their discussion.

Milda Castner asked for clarification that what has been passed is the direction to the Comprehensive Plan Committee based on small scale retail, office, service, and community uses as well as single and multi-family dwellings. Mixed-use projects will also be permitted, as read from the Comp Plan document. That is all that's etched in stone at this point that was recently passed. The actual delineation of the stone and the details laid out in this proposal are still up for discussion correct?

The Planner replied, yes, that is correct.

Milda continued and stated that if the Planning Board, for example, felt that use #19 fits the description as small scale then that would be consistent with what the comprehensive plan change is and the comments tonight need to be directed at whether this list of 22 permitted uses and 13 conditional uses fit in that very short purpose or use as has been passed? The Planner agreed.

Jen Burrows commented to shed some light on why the EDC proposed restaurants was due to the State licensing requirements. You could have a small scale restaurant with only 10 seats and serve breakfast, but Wink's is classified as a convenience store and is grandfathered as such therefore it cannot be changed. The EDC didn't want to limit the opportunity for someone to open a small scale operation. The Planning Board would have the say in the number of seats, hours of operation, etc.

John Bell commented that the intent of the CPC was to resolve this area as a mixed use area so businesses could be allowed but at the same time keep the size and scale down so as not to interfere with the residences there and the character there. He referred to R.H. Brown and stated that there is nothing in this ordinance that would allow a business anywhere near the impact R.H. Brown has and he feels there is enough business there now that we should allow some new businesses there as well.

The Planner suggested the conversation focus on the uses; he asked the audience what they felt didn't fit well in terms of scale or use.

Harry Porter feels that low impact manufacturing could be an issue. He feels there are ways that people will be able to get around the ordinance. Rich Ganong reviewed the current definition of small scale manufacturing. The Planner clarified that all of these businesses are subject to Planning Board review. Porter commented that the review is held up front but how can you be sure there is compliance afterwards. The Planner stated that the Town can deal with violations; once a complaint is made the CEO will deal with it.

Steve Monks commented that small business is fine but to go to a small commercial manufacturing operation is out of hand for that area. Low impact is fine but it has to be more specific about what kind of use can be allowed in these 5,000 square foot buildings.

Donna Der Kinderen commented that this area is a mixed use area of residential and small business and in fact there are only a few areas of town that are not mixed use. A mixed use district is intended to be small scale, neighbor friendly where business should become a part of the neighborhood. Uses should be compatible with the neighborhood and consideration as to what is fair to the

residents and the small business should be given. There is a happy medium; scale has to be considered as well as the specific use. That was the intent of the Comprehensive Plan and the standards have to meet that intent.

John Fitzpatrick stated that this ordinance, as proposed will create smaller, nice businesses in structures that will fit into the neighborhood well and will improve the area.

Chairman Ganong brought the public hearing to a close with the intention that it will continue at another meeting in the near future. He reminded the audience to visit the Town website at www.arundelmaine.org to sign up to be on an email distribution list to receive various agendas and messages based on their personal choices.

Dan Dubois commented that he thinks there should be many more public hearings held before this or any new ordinance goes to town meeting.

Chairman Ganong stated that it is certain the intention of the Board to do so. The public hearing was closed at 8:50 pm

IV. By Law Revisions: *Amendments to various procedural sections*

The Board did not have their copies of the revisions for review and will defer to the next meeting.

V. Approval of Minutes: *April 10, 2014 Kate's Butter Site Walk; May 8, 2014; June 12, 2014 Lovejoy Site Walk; July 10, 2014*

April 10, 2014 Kate's Butter Site Walk: *Morin moved to approve the minutes as written, seconded by Cain. Motion passed with three in favor and two (Coon & Der Kinderen) abstentions.*

May 8, 2014: *Morin moved to approve the minutes as written, seconded by Coon. Motion passed with three in favor and two (Ganong & Der Kinderen) abstentions.*

June 12, 2014 Lovejoy Site Walk: *Coon moved to approve the minutes as written, seconded by Cain. Motion passed with four in favor and one (Der Kinderen) abstention.*

July 10, 2014: *Der Kinderen moved to approve the minutes as written, seconded by Coon. Motion passed with all in favor.*

VI. Planner's Report

1. Lovejoy Subdivision: The Planner informed the Board that there will be a delay in the review of the Lovejoy subdivision. The Planner regrets to inform the Board that Mr. John Toothaker, the applicant's agent whom the Board met at the first presentation has passed away. Mr. Lovejoy is currently seeking a new designer. The Boards' condolences go out to the Toothaker family.

2. Seasonal Cottage TIF District: The Town had to hold a second public hearing and town meeting to vote on the Seasonal Cottage TIF District due to an error made by the Journal Tribune in the advertising of the first one. The law requires appropriate advertising therefore it was necessary. The results of the meeting were the same with the TIF district being approved by the voters.

3. Comprehensive Plan Committee: There is an upcoming meeting of the CPC on July 29, 2014. The Planner encourages the Board to come to the meetings and get involved in the discussions.

4. Shoreland Zoning: The Planning Board will need to review the Shoreland Zoning ordinance due to recent changes made at the State level. Regarding Bud Legros' property, Al Frick gave the Planner a revised wetland map of the parcel. The Planner intends to visit the site with a representative from the State Department of Shoreland Zoning. The mapping by the Town needs to be more specific to show where conditions exist. This will be a time consuming task for staff but it is necessary.

5. Next Meeting: The Board agreed to continue working on the Townhouse Corner District, dealing with the comments received at tonight's workshop. The various items to address include reviewing NDD, building coverage, small scale commercial, John Cluff Ln., whether to revert the parcel back to R4 or perhaps make the access only from Log Cabin Rd., consider Contractor Storage Yards in the TCD, traffic on Sinnott Rd. Discuss scale in more detail, come up with something measurable, perhaps adjust the square footage allowed, etc.

Adjourn

Cain moved to adjourn at 9:11 pm, seconded by Der Kinderen. Motion passed with all in favor.