

**SANFORD PLANNING BOARD MINUTES\***  
**MEETING – October 7, 2015 – 7:00 P.M.**  
**City Hall Annex Third Floor Chambers**

**MEMBERS PRESENT:** John McAdam, Chair  
Lenny Horr, Vice Chair  
Kelly Tarbox, Secretary  
Lucas Lanigan  
Dianne Connolly  
Dana Peterson

**MEMBERS ABSENT:** Richard Bergeron (w/out notice)

**STAFF PRESENT:** Elizabeth Della Valle, AICP, Director of Planning & Development  
Michael Casserly, Asst. City Engineer

**STAFF ABSENT:** None

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**I. CALL TO ORDER**

Chair McAdam called the meeting to order at 7:00 PM.

**II. PUBLIC HEARING**

There were no public hearing items.

**III. NEW BUSINESS**

There were no new business items.

**IV. OLD BUSINESS**

1. **File #08-15-S: Heritage Realty Trust, c/o Dana Libby, PLS, Corner Post Land Surveying, Inc., Springvale, Maine.**

Chair McAdam called for a representative to present the project.

Robert Reinken, applicant, described the project. He stated he has worked closely with staff members Gulnac and Casserly.

Board member Peterson asked Mr. Reinken about the drainage easements and how the drainage plan will work. Mr. Reinken explained there were four (4) different areas of disbursement, the water moves through swales in three (3) buffers towards the southern portion of the property and one (1) buffer to the northern portion. Staff member Casserly assisted by pointing out the paths on the plan. Discussion took place on the flow of water.

Staff member Casserly noted the waivers being requested by the applicant and asked Mr. Reinken to comment on the following:

- Scale of drawings
- Requirement of trees in open space/identify trees larger than 24"
- Minimum culvert diameter – reduced to 15" rather than 18"
- Homeowners association – DEP ok with that
- Designation of flood hazard zone

Board member Tarbox asked about the homeowners association. She wanted clarification as to what the homeowner's responsibility would be versus developer responsibility.

Chair McAdam called for a motion.

Board member Tarbox made a motion to accept the Finding of Facts (see attached) and approve File #08-15-S: Robert J. Reinken, 469 Main Street, Suite 210, Springvale, Maine requesting major subdivision plan approval to create a 15-lot cluster subdivision with cul-de-sac on property owned by the applicant and located off Country Club #3 Road in Sanford (Tax Map R24, Lot 46C, Rural Residential zone). The approval is made subject to the following conditions:

1. That any and all review fees have been paid.
2. That the approved subdivision mylar is filed in the York County Registry of Deeds within 90 days and a verified copy be filed with the Planning Department.

Board member Connolly seconded the motion.

A vote was taken and the motion 6-0.

**2. File #14-15-W: Joe Sevigny, 655 Hanson's Ridge Road, Springvale, Maine.**

Chair McAdam and Board member Tarbox recused themselves for this project. Vice Chair Horr presided over the meeting.

The Board decided to reopen the public hearing.

Vice Chair Horr called for a representative to present the project.

Joe Sevigny, applicant, explained why he believed the proposal was consistent with the comprehensive plan. He passed handouts to the Board then reviewed them:

- The property is on the boarder of the growth area (all lines depicted on plan are approximate)
- The land is not suitable for farming
- The property has already been developed
- The existing building is not reflective of character of the area; the new building will be more reflective
- There is a need for market rate housing

Vice Chair Horr asked if anyone present wished to speak in favor of the project; other than the applicant, there was no one.

Vice Chair Horr asked if anyone present wished to speak against the project.

Darius McDowell, an abutter on Hanson's Ridge Road, was opposed to the proposal. He doesn't think it is consistent with the comprehensive plan. Mr. McDowell is concerned with the following:

- The project will change the character of the neighborhood
- Increase in traffic
- Parking
- Lighting (violates spirit as well as comprehensive plan)

Mr. McDowell then asked about the number of units being proposed.

Philip Desautels, an abutter who is building a house and farm on farmland on Hanson's Ridge Road, is also opposed to the project. He said "The Ridge" is farmland and that is what the comprehensive plan states as well. He is against the light, pollution, and cars a 26-unit apartment building will bring to the area. Mr. Desautels said Sanford needs farmland.

Elizabeth (Beth) Della Valle, Director of Planning & Development, read two (2) letters for the record. One letter is from Bud Johnston, President of the Sanford Springvale Mousam Way Land Trust. The other letter is from Jace Clark, an abutter on Hanson's Ridge Road.

Mr. Sevigny responded to the letter concerning proper septic disposal. The letter states there have been issues with the current septic system and questions whether a proper disposal system could be placed on the property. Mr. Sevigny said an engineer says a septic system can be done on this property.

Board member Connolly asked when the septic system on this property was replaced; the response was 1996.

Vice Chair Horr asked if anyone else present wanted to speak on the proposal; there were none.

Vice Chair Horr closed the public hearing and went into a work session at 7:40 P.M.

The Board reconvened at 8:33 P.M. to take action on the proposal.

Vice Chair Horr took a straw poll to assess the Board's general opinion.

The Board then reviewed the potential Finding of Facts.

Staff member Della Valle read the Finding of Facts for the record:

- The applicant is the owner of the property and has standing to submit the application.
- The proposed multifamily use is not permitted in the RR Zone and therefore the applicant is requesting a contract zone.
- Section 280-38A of the zoning ordinance states in part "All rezoning under this Section shall establish rezoned areas that are compatible with the existing and permitted uses within the original zones. Nothing in this section shall authorize a rezoning, or an agreement to change or retain a zone, that is inconsistent with the Town's Comprehensive Plan."
- Section 280-38G. (1) of the City's Zoning Ordinance allows the Planning Board to conduct a required site plan or subdivision review associated with a proposed contract zone "concurrently with its review of the request for rezoning". However, the Planning Board's policy is to consider the finding of consistency as a threshold consideration. Should the Planning Board find that the proposed rezoning is consistent with the Comprehensive Plan; the applicant will then proceed to submit a major site plan/subdivision application along with the contract zone agreement document for review and approval by the Planning Board and the City Council.
- Chapter 7. Future Land Use Plan, Section A. Land Use Patterns, subsection 11. Flexible Zoning of the City's Comprehensive Plan (page 7-5), states "There may be an occasional situation within a designated growth area in which a parcel or grouping of parcels of land is so unique in its location, configuration, or potential use that it should be accorded an opportunity to be designed free of the predetermined restrictions normally contained in a zoning district. To

accommodate these situations, the Town should make provision within the growth area for contract zoning, a planned development zoning designation, or similar flexible zoning tool. Its use should be reserved for those situations in which all of the following conditions apply; (a) the property is in fact unique (such as the Sanford Mill Yard), (b) it is demonstrably in the public interest to allow the use of such tool, (c) the applicant to use the tool has the proven technical and financial resources to properly plan and implement the proposal, and (d) the plan can be integrated with the surrounding area.

- Chapter 7. Future Land Use Plan, Section D. Land Use Areas, subsection 1. Rural Areas and the associated Town of Sanford Updated Future Land Use Plan, September 2002, define the RR District in the City's Comprehensive Plan (pages 7-11 and 7-19) as a part of the designated Rural Areas in the community.
- Chapter 7. Future Land Use Plan, Section D. Land Use Areas, definition of Rural and Rural Residential (pages 7-9) indicates that residential uses should be limited to single family homes and Section 280-40 of the City's Zoning Ordinance states that the purpose of the Rural Residential Zone is to "promote high-quality rural residential environments in section of the community which cannot be served by public water and sewerage systems, while maintaining the rural character of these areas".
- Chapter 7. Future Land Use Plan, Section C. Rural v Growth (pages 7-8) defined rural areas as "free of development sprawl along rural roads and highways and that should be maintained as such."
- The applicant provided a written statement that in their opinion the proposed contract zone is not inconsistent with the City's Comprehensive Plan because "its goal is:
  - 'To encourage and promote affordable decent housing opportunities for all Maine citizens.'
  - 'The town wants to increase the amount and expand the range of types of market rate housing within and on the fringes of the built-up areas of Sanford and Springvale.'
  - 'To create good quality, moderate density, residential neighborhoods (both single family and multifamily) that preserve significant open space in some areas outside of the existing built-up areas to diversity the market rate housing available to middle income households.'
  - 'To maintain the 'rural character' in the remaining rural areas of the community by minimizing the development of large scale suburban style residential projects, preserving open space and rural uses, and assuring that the residential development does occur in the rural areas maintains the rural character'."
- The applicant provided a written statement that in their opinion the proposed contract zone is not inconsistent with the City's Comprehensive Plan because the "Population and Household Growth states:
  - 'The town should encourage good quality, market rate residential development.'
  - Sanford needs to complement its large inventory of subsidized housing with more quality market-rate rental units that can support a moderate income labor force.'
  - 'A house or apartment is more than just a shelter. It represents security, privacy, health, community and all of the other things we associate with 'home'. It is a basic necessity of life. Many would argue that safe, decent, affordable housing is a right that all Americans should enjoy.'"
- The applicant provided a written statement that in their opinion:
  - "The character of the existing building does not fit its location up on Hanson Ridge Rd. there are only brick buildings in the downtown area."

- “There has been a large demand for market rate residential housing in this area and we feel that this property would be a great location, close to town with a country feel.”
- “The former ‘Mountain View Residential Living’ housed 26 beds with kitchen and staff. The Ridge will double in square footage with a second floor but house the same number of bedrooms. This is little change from the number of residents the building had in its past as a nursing home.”
- The property of about six (6) acres was purchased from the City of Sanford on July 31, 2012 after the City decided it could not be maintained as a nursing home. The structure is a single story brick building with a flat roof of approximately 6,200 square feet. There is a free-standing garage of about 1,000 square feet north of the building. Using the existing foundation and septic system the applicant proposes to construct a new building with ten (10) two-bedroom and six (6) one-bedroom units. The property is proposed to be developed with appropriate landscaping and lighting.
- The property is currently served by public water. The property is currently not served by public sewer.
- The property is in the Residential Conservation District abutting Rural Residential, as defined by the Future Land Use Plan in the City’s Comprehensive Plan.
- A public hearing was held on September 9, 2015. The Chair identified himself as an abutter. The Planning Director (Gulnac) asked the applicant if they were concerned about a conflict of interest and they indicated that they were not. The Planning Director asked if any members of the Planning Board were concerned; no one indicated they were concerned and the Chair opened the Public Hearing. The Chair subsequently recused himself from deliberations on the requested contract zone. Another member of the Planning Board, Kelly Tarbox, also recused herself because she had not participated in all elements of the Board’s review of the application.
- The applicant was given time to describe the project and explain to the Planning Board and public why they feel the proposal is “not inconsistent” with the City’s Comprehensive Plan. The applicant presented an overview of the proposal and handed out an updated information packet showing other projects they have completed in the City. They noted that the property has a lot of ledge and has never been farmed.
- Jim Nimon, Executive Director of the Sanford Regional Growth Council, spoke in favor of the project indicating that the proposed use will have a positive impact with a new tax base without impacting municipal costs. He also noted that the project will reuse a grayfield and provide quality housing.
- A number of members of the public spoke against the project indicating that the proposed multifamily use is not consistent with the rural nature of the area and is inconsistent with the intent of the RR Zone and Comprehensive Plan. They raised concerns about continued use of the trails on the property, increased traffic, the lack of public sewer in the area and limited access to water. They suggested that it is the wrong place to put an apartment complex, that they’d rather see renovation than removal of the building, contract zones are more appropriate for commercial areas, and approval of the requested contract zone in the RR Zone will set a precedent.
- The Planning Director (Gulnac) read two documents into the record – a letter from Evan R. McDougal and an email from Jean Noon, both indicating that they feel the proposal is not consistent with the City’s Comprehensive Plan.
- Mr. Chase from the public pointed to Chapter 7 Future Land use Plan, Flexible Zoning as evidence that the proposal is not consistent with the Comprehensive Plan because it is in the RR Zone, which is not included in the growth region.

- The Planning Board agreed that a site visit was needed and the application was tabled until the October 7, 2015 meeting.
- A site visit was scheduled, noticed, and then conducted on September 21, 2015. Several members of the public joined the Planning Board at the site visit.
- Subsequent to the September 9<sup>th</sup> Public Hearing, the Planning Director (Della Valle) received a letter from Bud Johnston, President of the Sanford Springvale Mousam Way Land Trust, who expressed concerns about the disposal of waste water in a septic system by an increased number of occupants, loss of scenic and rural nature, and the impact of increased traffic and human activity encroaching on conservation land. In addition, the City Manager forwarded a letter from Jace Clarke. Both letters were read into the record at the Planning Board's October 7, 2015 meeting.
- The Planning Board reopened the Public Hearing at the October 7, 2015 meeting and received further testimony in support of the project by the applicants as well as additional comment in opposition to the contract zone by the two individuals. The Planning Board discussed the proposed contract zone change at the meeting in work session and the members appeared to reach consensus that the proposal is not consistent with the City's Comprehensive Plan.
- The Board went back into formal meeting to take action on the request.

Staff member Della Valle then clarified that the most relevant section of the Comprehensive Plan is the Future Land Use Plan (FLUP) and associated map. She noted that the Comprehensive Plan is a guidance document that includes visionary language and one can often find something in it to support/oppose a proposal. She further explained that in respect to future land use, it's the FLUP that is the most relevant and specific and policy is reflected in ordinance language.

Staff member Della Valle then explained the Planning Board's and City Council's responsibility in regards to responding to a contract zone request for comments on the consistency of a proposal with the Comprehensive Plan.

Vice Chair Horr called for a motion.

In keeping with the Planning Board's policy that motions are made in the affirmative, Board member Peterson made a motion that the Planning Board, after hearing a presentation by Joe Sevigny and comments from public and staff, finds that the information presented in the application File #14-15-W Tax Map R8, Lot 64A has established a finding of facts that determines the proposal "is not inconsistent" with the City's Comprehensive Plan" and therefore is eligible to be approved as a contract zone under Section 280-38 of the Town Zoning Code.

Vice Chair Horr seconded the motion.

A vote was taken, and the motion failed 1-3-2, with Board members Connolly and Peterson and Vice Chair Horr voting against the motion; and Chair McAdam and Board member Tarbox abstaining.

The Board members voting against the proposal were asked to state the reason for their vote:

- Board member Connolly voted against the motion because (1) in the Comprehensive Plan 7(11) definition of rural residential areas are single family – the proposal is an apartment complex; and (2) in the Comprehensive Plan 7-5 Flexible Zoning is intended to be used in growth areas and is not appropriate for rural areas.

- Board member Peterson was reluctant in voting against, but the Comprehensive Plan clearly states the request is ineligible.
- Vice Chair Horr voted against for the same reason, strict interpretation of the Comprehensive Plan that contract zoning is not intended for the rural zone, it would be a great project elsewhere.

**V. APPROVAL OF MINUTES – June 17, 2015; July 15, 2015; and August 5, 2015**

All sets of minutes were tabled until next meeting.

**VI. PLANNING DIRECTOR'S REPORT**

Planner Della Valle reminded the Board of the Planning Board training on October 29, 2015. She also told the Board City Manager Steve Buck may set-up training with the City Council as well.

**VII. ADJOURN**

The meeting adjourned at 9:15 P.M. (approximately)

\*The meeting was not recorded so the minutes were completed using notes taken at the meeting.

**Attachment to October 7, 2015 Minutes**

*Finding of Facts for Old Business Item #1  
File #08-15-S: Cottonwood Meadow Final*

- The application was reviewed by the Site Plan Review Committee (SPRC) on August 19, 2015. The SPRC forwarded the application to the Planning Board as a preliminary, not a final, because the applicant did not have the required DEP permit.
- The application was considered by the Planning Board in a public hearing on August 19<sup>th</sup> and tabled until such time as the applicant could provide a copy of the DEP permit.
- The applicant has indicated that he does not want to create a homeowners association. There was a concern raised by the Planning Board that the DEP might require a homeowners association as a condition of the DEP permit.
- The Planning Board would not require a homeowners association as long as the conditions of shared responsibility for any common property were clearly identified both on the mylar and in the individual deeds.
- Please remember that the Planning Board may only recommend that the City assume ownership of any infrastructures and/or streets. The final acceptance authority rests with the City Council.
- It seems that for the application to be considered as a final, the Planning Board may be required to grant a conditional approval based upon the applicant submitting revised plans which are then reviewed and accepted by the City Engineer and Planner. This decision is up to the Planning Board.
- The Board also determined that as soon as the applicant supplied a copy of the DEP permit the Planner could schedule the matter without any further notice requirements or public hearings.
- The Planning Board granted the following waivers of submission requirements – scale of drawings, requirement of trees in open space/identification of trees over 24" caliper, minimum culvert diameter was reduced to 15" rather than 18"; formation of a homeowners association designation of the flood hazard zone.