

SANFORD PLANNING BOARD MINUTES
MEETING April 20, 2011 – 7:30 P.M.
Town Hall Annex Third Floor Chambers

MEMBERS PRESENT: Kelly Tarbox, Chair
Robert Hardison, Vice Chair
Joseph Herlihy
Stephen Catalano, Jr.
David Mongeau, Secretary
Lela Harrison
Matthew Perkins

MEMBERS ABSENT: None

STAFF PRESENT: James Q. Gulnac, AICP, Planning & Development Director
Michael Casserly, P.E., Assistant Engineer
Shirley Sheesley, CEO

STAFF ABSENT: Charles Andreson, P.E., AICP, Town Engineer (w/notice)
Barbara Bucklin, Administrative Assistant (w/notice)

I. CALL TO ORDER

Chair Tarbox called the meeting to order at 7:30 P.M.

II. PUBLIC HEARINGS

1. **File #02-11-R:** Joe Shelton, Manager, Lowes Home Improvement, 1900 Main Street, Sanford, Maine.

Joe Shelton, Manager, said he is asking for a reduction in parking spaces on the east side of their site plan to use as additional seasonal display area from March 15 through July 30.

Chair Tarbox asked how many parking spaces they wanted to reduce; Mr. Shelton stated 51 spaces and added that would not affect the amount of spaces required by ordinance. Chair Tarbox asked what would be stored in this area; Mr. Shelton said it would be palletized merchandise, and explained their proposal.

Chair Tarbox asked if anyone present wished to speak in favor of this application; there was no one.

Chair Tarbox asked if anyone present wished to speak against this application; again there was no one.

Chair Tarbox closed the public hearing and moved the item to work session after the meeting.

After the work session, Chair Tarbox recalled the meeting to order at 8:15 PM to vote on the Lowes site plan amendment.

Chair Tarbox called for a motion.

Vice Chair Hardison made a motion that the Planning Board has discussed, with the applicant and staff, a proposed amendment to File #02-11-R final site plan approval for Lowes to

permit the outdoor display and sale of seasonal items from the time period of March 15 until July 31 on an annual basis as shown on the amended site plan, specific conditions relative to public safety and traffic movement subject to staff review and approval.

Board member Herlihy seconded the motion.

A vote was taken and the motion passed 7-0.

III. NEW BUSINESS

There were no new business items.

IV. OLD BUSINESS

- 1. File #13-10-W: Arista Development LLC, c/o Curtis Neufeld, Sitelines P.A., 8 Cumberland Street, Brunswick, Maine.**

Chair Tarbox asked Jim Gulnac, Director of Planning & Community Development if he had anything to update the Board on.

Staff member Gulnac stated that the Town Council, at their April 19, 2011 meeting, authorized the contract and approved the zone change portion of the application. He stated there is one question that staff would like clarification on, which was lighting. Mr. Gulnac said staff would like to ask the Board to consider that the lighting would be subject to the approval of the Chief of Police and store management, and explained why.

Chair Tarbox asked if there was any discussion from Board members.

Board member Mongeau asked if this condition would be an ongoing review by the police chief. Staff member Gulnac stated that staff members weren't asking to change the policy of lights out after one hour of store closing, but rather a determination of which lights, and how many, would remain on for security purposes. Discussion took place on the wording of the condition for the motion.

Staff member Gulnac told the Board all other issues have been resolved.

Chair Tarbox asked if there were any other questions or discussion from Board members; there were not.

Chair Tarbox called for a motion.

Vice Chair Hardison made a motion that the Planning Board confirm the Finding of Facts (see attached) and find that File #13-10-W: Arista Development LLC, c/o Curtis Neufeld, Sitelines, PA requesting approval as a contract zone and final major site plan with a minor subdivision has been prepared in conformance with the Town of Sanford land use code and grant final major site plan approval and final minor subdivision approval and recommend the zone change under contract zoning subject to the following conditions:

- The Town Council has approved the zone change.
- The Town Council has approved the contract for the application.
- The applicant has agreed to any and all changes recommended by the Planning Board.
- Prior to the issuance of any building permits a pre-construction meeting be held with the Town Engineer and that the appropriate inspection fees be posted.
- That the minor subdivision will be filed in the York County Registry of Deeds within 90 days and that a mylar with verification of filing be provided to the Planning Department.

- f) That the contract zone agreement and any other easement documents be filed in the appropriate manner with the York County Registry of Deeds and that copies of same be provided to the Planning Department.
- g) All application review fees be paid.
- h) Prior to any construction the developer will obtain any and all permits required.
- i) The approval is subject to any conditions or requirements of the Sanford Land Use Code.
- j) That the Chief of Police and the store management agree on the overnight security lighting that will be required to provide the safety of the customers and other patrons of that area.

Board member Herlihy seconded the motion.

A vote was taken, and the motion passed 7-0.

2. File #18-10-W: Sanford Property Holdings, LLC, c/o Alton Palmer, PE, Gorrill-Palmer Consulting Engineers, Inc., PO Box 1237, 15 Shaker Road, Gray, Maine.

Chair Tarbox asked staff member Gulnac to bring the Board up to date on this project.

Staff member Gulnac again stated that the Town Council, at their April 19, 2011 meeting, authorized the contract and approved the zone change portion of the application, but this project did have some outstanding issues with it and asked Vice Chair Hardison to explain.

Vice Chair Hardison said that the outstanding issue was that the applicant did not yet have their traffic movement permit, but Maine DOT has issued a letter stating that the department would be issuing a traffic movement permit by Friday of this week so this issue is resolved. Discussion took place on how the Board would state the approval of this project.

Staff member Gulnac explained the reason why the applicant was asking for a conditional approval tonight.

Discussion also took place on the timeline the applicant had to put sewer lines in before paving and the TIF approval by the Town to help offset the cost of the sewer line to the applicant.

Staff member Casserly discussed the performance guarantee item in his memo.

Chair Tarbox asked if there were any questions or discussion by the Board.

Vice Chair Hardison asked staff member Casserly if all items listed in staff member Gulnac's report for April 20, 2011 were addressed. Mr. Casserly stated they were.

Chair Tarbox called for a motion.

Vice Chair Hardison made a motion that he Planning Board confirm the Finding of Facts (see attached) and find that File #18-10-W: Sanford Property Holdings LLC, c/o Alton Palmer PE, Gorrill-Palmer Consulting Engineers, Inc., PO Box 1237, 15 Shaker Road, Gray, ME 04039 requesting approval as a contract zone and major site plan with a minor subdivision has been prepared in conformance with the Town of Sanford land use code and grant final major site plan and final minor subdivision approval, subject to the following conditions:

- a) The Town Council has approved the zone change.
- b) The Town Council has approved the contract for the application.
- c) The applicant has agreed to any and all changes recommended by the Planning Board.

- d) Prior to the issuance of any building permits a pre-construction meeting be held with the Town Engineer and that the appropriate inspection fees be posted.
- e) That the minor subdivision will be filed in the York County Registry of Deeds within 90 days and that a mylar with verification of filing be provided to the Planning Department.
- f) That the contract zone agreement and any other easement documents be filed in the appropriate manner with the York County Registry of Deeds and that copies of same be provided to the Planning Department.
- g) All outstanding review fees are paid.
- h) Prior to any construction the developer will obtain any and all permits required.
- i) The approval is subject to any conditions or requirements of the Sanford Land Use Code.
- j) That final approval will not be completed until such time as a traffic movement permit from MDOT has been submitted to, reviewed and approved by the town engineer. At that time, the project (if traffic movement permit has been found to be satisfactory) will constitute final approval so staff can move forward.

Board member Mongeau seconded the motion.

A vote was taken and the motion passed 7-0.

Wes Thames, representing the applicant, thanked everyone in the Town who reviewed the project and said that the Town of Sanford worked with the applicant to help the project through the approval process.

V. APPROVAL OF MINUTES – March 9, 2011 and March 16, 2011

Chair Tarbox asked Board member Mongeau if he had a chance to review the minutes.

Board member Mongeau said he had reviewed both sets of minutes.

Chair Tarbox called for a motion.

Board member Mongeau made a motion to approve the minutes of March 9, 2011 and March 16, 2011 as written.

Board member Perkins seconded the motion.

A vote was taken and the motion passed 7-0.

VI. PLANNING DIRECTOR'S REPORT

Staff member Gulnac said there was no report tonight.

VII. ADJOURN

The meeting adjourned at 7:45 PM. The reopened meeting adjourned at 8:16 PM.

Attachment to April 20, 2011 Minutes

*Finding of Facts for Old Business Item #1
File #13-10-W: Walgreens Contract Zone Final*

- The applicant has demonstrated that they have the right to submit the request for compliance with the Comprehensive Plan.
- The proposal is to combine the seven (7) parcels identified into two (2) parcels, one of which will contain a redesigned (3,000 sf) York County Federal Credit Union and the other to contain a new (14,250 sf) Walgreens. Both structures will include drive-thru windows.
- The CEO submitted a memo itemizing a comparison of the zoning requirements and the proposed contract zone submitted by Arista. Upon any site plan approval granted by the Planning Board these differences would be included in the contract and constitute the zone change(s) approved. A thorough comparison between the CEO's report and Attachment A of the applicant's submittal is required.
- Attachment B of the report includes a description of how the proposed activity (retail) is consistent with the goals and objectives of the Town's Comprehensive Plan. The applicant has presented information on the specific goals as identified in Part C Chapter 6. The Planning Board will need to determine if the applicant's proposal is not inconsistent with the Comprehensive Plan.
- The Planning Board has conducted public hearings during which presentations by representatives of the Downtown Legacy expressed an opinion that due to some of the proposed design elements of the development they felt that the proposed development was not consistent with the goals and objectives of the Comprehensive Plan.
- The staff of the Growth Council testified that the introduction of investment into the downtown at a time when there was little if any development was in and of itself demonstration that the proposal was consistent with the goals and objectives of the comprehensive plan.
- The applicant had presented in their application references from the comprehensive plan supporting the proposal that the change of use from residential to retail for the properties in question was consistent with the comprehensive plan.
- The Planner indicated that the question in front of the Board was to determine if the change in use was not inconsistent with the comprehensive plan. The questions concerning the design elements and the specifics of the site plan construction would be reviewed during the site plan application process. The first step in that was to permit the applicant to submit an application under the provisions of the contract zone process since technically the Planning Board could not take jurisdiction of an application for a use not permitted by the zoning ordinance.
- At the Planning Board meeting of March 16, 2011 the Board approved the following motion:
The Planning Board confirms the Finding of Facts above and finds that File #13-10-W: Arista Development LLC, c/o Curtis Neufeld, Sitelines PA requesting approval as a contract zone and preliminary major site plan with a minor subdivision has been prepared in conformance with the Town of Sanford land use code and grants preliminary major site plan and recommends the zone change under contract zoning subject to the following conditions:
 - a) The Town Council approves the zone change.
 - b) The Town Council approves the contract for the application.
 - c) The applicant has agreed to any and all changes recommended by the Planning Board.
 - d) The approval does not authorize any construction on the site.
 - e) The approval is subject to any conditions or requirements of the Sanford Land Use Code.
 - f) Any conditions specifically required by the Planning Board.

- The zone application has been reviewed and approved by the Town Council and they have also authorized the Town Manager to sign the contract subject to the final site plan approval by the Planning Board.
- The Planning Board will need to confirm that the conditions outlined above in the Finding of Facts have been satisfied and, if they are satisfied, take action to approve the two applications: a final major site plan and a final minor subdivision.

*Finding of Facts for Old Business Item #2
File #18-10-W: Sanford Property Holdings Contract Zone Final*

- A public hearing for the major site plan and the proposed zone change was held on Wednesday March 9, 2011. A work session followed the hearing. At the work session the Planning Board determined that the application should be scheduled for a vote to recommend the zone change and to confirm a preliminary major site plan approval subject to conditions agreed to by the applicant and approval by the Town Council for the zone change and the contract portion of the application.
- The applicant has provided proof of ownership or the right of ownership through purchase and sales agreements with the owner of the property.
- The Planning Board considered the contract zone request and found that it was not inconsistent with the goals and objectives of the Comprehensive Plan.
- Both a MDEP Stormwater Permit and MDOT Traffic Movement permit are required for the application. No final site plan approval will be considered until verification that the permits have been issued.
- Consideration and any approvals granted are conditioned upon the transfer of ownership of the right-of-way of Country Club Road from the State of Maine to the Town of Sanford and the realignment of the width including the transfer of land to the applicant.
- To support the application the applicant will be bringing public sewer and water to the site. In addition, the sewer service has been sized to accept additional flows from adjacent potential development.
- The applicant has agreed with the minor adjustments to the plan recommended by the town engineer.
- The applicant and the CEO will provide a list of the specific zone change items required for the contract zone.
- The applicant will continue to talk with the adjacent residential property owner concerning the specific treatment along the boundary.
- The applicant has agreed to make some revisions to the site plan including the realignment of the proposed SIS Bank and the right in only entrance from Route 109.
- Any preliminary approval will be considered a conditional approval pending the approval by the Town Council of the proposed zone change and the contract document itself.
- At the meeting of March 16, 2011 the applicant agreed to comply with the comments detailed in Charles Andreson's memo to James Gulnac, Planning Director dated March 16, 2011. This was confirmed by Mr. Andreson.
- The Planning Director suggested that the 19 items listed in the memo be added by reference to the finding of facts and specifically listed as conditions of the preliminary major site plan approval. Incorporation of the comments would be required as a condition of completeness final review and approval.
- The Planning Board accepted staffs recommendation that the major site plan application could be given preliminary approval and that both the request for a contract zone (zone change) and the site plan be referred to the Town Council for their review and action.
- At the Planning Board meeting of March 16, 2011 the Board approved the following motion:
Bob Hardison moved and Joe Herlihy seconded a motion that the Planning Board accepts the finding of facts listed above and finds that File #18-10-W: Sanford Property Holdings LLC, c/o Alton Palmer, PE, Gorrill-Palmer Consulting Engineers, Inc., PO Box 1237, 15 Shaker Road, Gray, ME 04039 requesting approval as a contract zone and preliminary major site plan with a

minor subdivision has been prepared in conformance with the Town of Sanford land use code and grants preliminary major site plan approval and recommends the zone change under contract zoning subject to the following conditions:

1. The Town Council approves the zone change.
2. The Town Council approves the contract for the application.
3. The applicant has agreed to any and all changes recommended by the Planning Board.
4. The approval does not authorize any construction on the site.
5. The approval is subject to any conditions or requirements of the Sanford Land Use Code.
6. Final site plan approval will not be considered until the MDOT permit and the MDEP permit have been issued.
7. TO BE ACCOMPLISHED PRIOR TO FINAL APPROVAL - Maine DEP Storm Water Permit is pending and must be issued prior to final approval. The design conforms to the Town's requirements.
8. TO BE ACCOMPLISHED PRIOR TO FINAL APPROVAL - The Applicant shall provide storm water analysis for a 50 Year Storm Event for MDOT, examining the downstream drainage capacity, and has agreed to analyze a 100 Year Storm Event (this is to assess extreme impacts, but is not intended to require a design upgrade).
9. TO BE ACCOMPLISHED PRIOR TO FINAL APPROVAL - Maine DOT Traffic Movement Permit must be issued prior to final approval. The Applicant will provide AM Peak Hour traffic information to MDOT.
10. TO BE ACCOMPLISHED PRIOR TO FINAL APPROVAL - The Applicant shall complete the acquisition of excess ROW from Country Club No. 1 Road as portrayed on the plans.
11. TO BE ACCOMPLISHED PRIOR TO FINAL APPROVAL - The Applicant shall provide copies of "Executed" purchase and sales agreements of the property, to both Maine DOT and the Town, to establish adequate right, title and interest.
12. TO BE ACCOMPLISHED PRIOR TO FINAL APPROVAL - The Applicant will submit a final Traffic Study based upon the final project layout, which shall include at a minimum trip generation, trip assignments over intersections subject to the Town of Sanford Road Impact Fee Ordinance, and an assessment of warrants for road design and traffic controls. The Traffic Study shall specify the respective trips assigned over all road impact fee intersections from each lot in the subdivision. Necessary improvements shall be made by the applicant, and road impact fees shall be paid at the time that building permits are applied for.
13. TO BE ACCOMPLISHED PRIOR TO FINAL APPROVAL - The Applicant will amend the plans to show interim field inlets to the storm drain system for lot 3, where grading is proposed to prepare for future hotel construction. Grading on lot 3 will be stabilized, loamed and seeded to prevent erosion or sedimentation until the lot is fully developed.
14. TO BE ACCOMPLISHED PRIOR TO FINAL APPROVAL - The plans will be amended to include a public hydrant within the ROW for Country Club No. 1 Road at the southerly end of the main access drive. This hydrant shall be located in such a location as to permit fuel supply trailer trucks and others to have unobstructed access and egress to the main access driveway.
15. TO BE ACCOMPLISHED PRIOR TO FINAL APPROVAL - All buildings will be built with sprinkler systems approved by the Sanford Fire Marshal. A note to this effect will be placed on the site plans.
16. TO BE ACCOMPLISHED PRIOR TO FINAL APPROVAL - The Applicant has agreed to provide inter-lot easements and agreements between the properties having to do with snow plowing and maintenance responsibilities for access and egress, sewers, water, storm water management systems and other utilities and features that are common to two or more. This "Cross Easement" document shall be recorded and notes on the subdivision plan and respective site plans shall reference the "Cross Easement"

including the Book and Page numbers of the recording at the York County Registry of Deeds.

17. TO BE ACCOMPLISHED PRIOR TO FINAL APPROVAL - The Applicant shall install public water on the main entrance drive from Rte. 109 to Country Club No. 1 Road.
18. TO BE ACCOMPLISHED PRIOR TO FINAL APPROVAL - The Applicant shall install municipal water and sewer to the site as provided for in their application to the Town. These utilities shall conform to the respective standards of those Districts.
19. TO BE ACCOMPLISHED PRIOR TO FINAL APPROVAL - The Applicant must coordinate the construction of all utilities in Rte. 4 and within the Roundabout area with the MDOT, which is planning a paving project on Rte 4 during the spring of 2011.
20. TO BE ACCOMPLISHED PRIOR TO FINAL APPROVAL - The Applicant shall provide a narrative of the proposed project "phasing".
21. TO BE ACCOMPLISHED PRIOR TO FINAL APPROVAL - The Applicant shall provide a schedule of values for all improvements, and shall propose a performance guarantee consistent with the schedule of values and the project phasing. The performance guarantee may be in the form of Escrow Funds, Letter of Credit, Performance Bond, and/or Restrictions on Issuance of Occupancy Permits, and shall guarantee the construction of public improvements, common infrastructure and the adherence to the provisions of the approved site plans.
22. TO BE ACCOMPLISHED PRIOR TO FINAL APPROVAL - The Applicant shall submit fencing and landscaping proposals along the "McEwen" property line to minimize the impacts of litter and vehicle head lights on that abutting property.
23. TO BE ACCOMPLISHED PRIOR TO FINAL APPROVAL - The Applicant shall consider a visual buffer between Lot 1 and the Lil General Store property.
24. TO BE ACCOMPLISHED PRIOR TO FINAL APPROVAL - The Applicant shall propose modifications to the landscape plan to provide for more winter and site condition tolerant Maple tree species.