

**NEWRY PLANNING BOARD
MINUTES OF BOARD MEETING
Wednesday, October 21, 2020
Raymond C. Foster Municipal Building**

Full discussion on topics below is available on audio recording at the Newry Town Office.

Members Present: John (aka Gootsch) Gauthier (Board Chair), Kenny Young (Board Vice Chair),
Becky Bean (Board Secretary & Recording Secretary)

Members Late:

Members Absent:

Staff Present: Dave Bonney (Code Enforcement Officer); Shelley Norton of AVCOG via Zoom

Call to Order: Chairman John Gauthier called the meeting to order at 7:01 PM.

Current Attendance/Quorum: The Chair took attendance and confirmed the presence of a quorum.

Prior Attendance/Voting Eligibility: With no recent absences, all member are eligible to vote.

Previous Meeting's Minutes: The Board reviewed the previous meeting's minutes. **Kenny moved to accept the minutes as provided in the draft. Becky seconded. There was no discussion. The motion passed with all voting in favor.**

Old Business

- a) **Red Arrow Subdivision-Michael Orlov & Temkin Realty LLC; Gary Inman, agent—Site Plan Application (#20-258):**
For the record: The Board received an email from Gary Inman on October 15th with an attached letter dated October 8th to the Town of Newry stating that the applicant wishes to withdraw their application for Red Arrow Subdivision signed by the two owners: Leonid Timken and Michael Orlov.
- b) **Chase Hill Subdivisions-Keith P. Durgin & William A. Day Jr and Sons Land Holdings LLC; Gary Inman, agent; Amendment Application (#20-260):** Gary Inman distributed the revised documents which the Board requested during its previous meeting. Those documents included: a revised plan with a note explaining the purpose of the amendment; a more detailed information under "Project Description" on page 1 of the application; moving both owners to the "Applicant" line on page 1; and a revised signature page. Becky noted that each of the owners' addresses had small typos – the zip code for the Newry address should be 04261 (not 04361) and the state for the Porter address should be ME (not MW).

Kenny moved that Application #20-260 for Amendment to Chase Hill Subdivision be found complete as delivered. Becky seconded. With no discussion, the motion passed unanimously.

Becky moved that neither a site visit nor a public hearing is necessary for this application. Kenny seconded. With no discussion, the motion passed unanimously.

No waivers were requested for this application, and no conditions of approval were placed in the approval of this application.

CRITERIA FOR APPROVAL FOR THE UNIFIED DEVELOPMENT REVIEW ORDINANCE (page 9 of the UDRO)

- A. **Pollution** – see motion below
- B. **Erosion** – see motion below

- C. **Traffic** – see motion below
- D. **Sewage Disposal** – see motion below
- E. **Municipal Solid Waste Disposal** – see motion below
- F. **Aesthetic, Cultural and Natural Values** – see motion below
- G. **Financial and Technical Capacity** – see motion below
- H. **Sufficient Water** – see motion below
- I. **Public Water Supply** – see motion below
- J. **Surface Waters** – see motion below
- K. **Ground Water** – see motion below
- L. **Flood Areas** – see motion below
- M. **Freshwater Wetlands** – see motion below
- N. **River, Stream or Brook** – see motion below
- O. **Storm Water** – see motion below
- P. **Spaghetti-Lots Prohibited** – see motion below
- Q. **Municipal Services** – see motion below
- R. **Lake Phosphorus Concentration** – see motion below
- S. **Impact on Adjoining Municipality** – see motion below
- T. **Land Subject to Liquidation Harvesting** – see motion below
- U. **Conformity with Local Ordinances and Plans** – see motion below

Becky moved that items A through U of the Criteria for Approval are not applicable for this amendment application since nothing is being changed for the subdivision other than redrawing or redefining a few lot lines. Kenny seconded. With no discussion, the motion passed unanimously.

Kenny moved that Chase Hill Subdivision Amendment Application #20-260 be approved as presented. Becky seconded. With no discussion, the motion passed unanimously.

The Board proceeded to sign the final amendment plan.

- c) **Sweetwater Village Subdivision – Rick Eng; Rick Dunton, Main-Land Development, agent; Site Plan Application (#20-261):** Rick Dunton of Main-Land Development Consultants distributed the updated plans and documentation. Rick explained what was distributed: updated application; updated plans; updated Purchase and Sales agreement; density bonus request; on-site fire suppression waiver request; tax lien statement; certified mail notification to abutters; sign application & sketch; and an updated Declaration of Covenants.

On the revised plans: the proposed lot lines were added for reference; culvert was increased to 36"; street name signs added above Stop signs; septic tanks were moved outside of unit property lines; sewer and underground electric utilities moved slightly; paved roads changed to gravel; extra parking spaces eliminated; and subdivision sign location was moved.

Rick also distributed copies of an email chain from Brent Lawson of State of Maine Subsurface Wastewater Program approving the design with the ATU system; evidence of other required permits; ME DOT Entrance Permit; letter from Newry's E-911 Addressing Officer; and a Statement of Ownership and Harvesting.

Shelley Norton of AVCOG proceeded to go over her Unified Development Review Checklist dated 10/21/2020 that she provided to the Board and the applicant. The applicant's proposed method of fire protection, using an off-site fire pond, was discussed at great length.

Gootsch moved that Application # 20-261 that their fire pond does not have to be on their property, but they need to have an agreement and an easement signed by both parties in place with the owner of the fire pond allowing the applicant to do maintenance and use the fire pond. Becky seconded. With no further discussion,

the motion passed unanimously. However, Kenny expressed concern with this motion and asked that a recent applicant be made aware of this decision so they may pursue the same if they so choose.

Becky moved that the maintenance of the fire pond by the Sweetwater Village Subdivision's HOA be a condition of approval for Application 20-261. Gootsch seconded, and the motion passed unanimously.

The Board discussed a second condition of approval stating that all required local, state and federal permits are received prior to construction.

The Traffic data requirement was discussed, and it was decided that this requirement cannot be waived for a major subdivision.

At 9:33, Becky moved to extend the meeting for one-half hour. Kenny seconded, and the motion passed unanimously.

Outstanding items needed from the applicant:

- A signed application
- Fire protection – if moving forward with the off-site fire pond (rather than sprinklers), then revised HOA documents, revised subdivision plan showing the condition of approval, as well as a letter of agreement signed by both parties regarding the use and maintenance of the fire pond, and an easement to allow the HOA to access the fire pond for maintenance would all be needed.
- Traffic data
- Updated letter to the Fire Chief stating the newly proposed fire suppression plan
- Provide a zoomed-out map showing the heights of buildings within 500' of site as well as the location of rivers, streams, and brooks on-site and within 250' of the parcel
- Building heights show on architectural elevation views
- A maintenance plan/schedule and the estimated associated costs for the fire pond, shared elements, etc., for the HOA
- Add downward-facing lighting language to the HOA document
- Space on the plan for approval and the conditions of approval

Lengthy discussion ensued regarding the requirements and set up of the Public Hearing with state law requiring that the application be complete prior to the Hearing and with the state's COVID-19 guidelines in place.

The applicant was asked to provide his documents as soon as possible so the Board has a chance to review them before November 4th.

Gootsch moved that the next meeting of the Planning Board begin at 6:30pm on November 4th to look at the completeness of Application 20-261, and if 20-261 is deemed complete, then the Board will convene a Public Hearing on that application. Kenny seconded. With no further discussion, the motion passed unanimously.

Becky will call Amy at the Town Office tomorrow and ask her to post notice of the earlier Planning Board meeting time.

At 10:03, Becky moved to extend the meeting for no more than another half hour. Kenny seconded. The motion passed unanimously.

New Business

- a) **New ski trail –Sunday River Resort; Peter Roberts, agent; Site Plan Application (#20-262):** Peter Roberts of Sunday River Skiway Corporation distributed copies of his application and site plan, and explained the resort's plan to build a two new ski trails, each one a groomer-width wide, to ski in to and out of the Jordan Hotel overflow

parking lot. He stated that his application is a little time-sensitive, so his goal for tonight is to get feedback from the Board and provide any required changes or additional information needed in hopes of getting an approval at the Nov 4th meeting.

Peter noted that the State of Maine DEP gives the resort some leeway to do a project such as this without a permit. However, Peter said that notified the State and received an email reply, which he will share with the Board.

The applicant is looking for waivers on municipal notification letters and abutter notifications due to the small scope and the fact that the project falls in line with normal operations at the resort.

Becky stated for the record that she works at Sunday River and that the approval or denial of this application has no bearing on her employment there. She added that she does not feel that she has any conflict of interest or bias, and asked if any Board members felt that she should step down during this application's review. All Board members were fine with her participating.

Peter explained that the resort is using a new trail-building method, which uses a subsoil, forestry mulcher that grinds all of the stumps down to the ground into shredded woody debris and keeps the root-mat intact for better erosion control.

The project area is ~~6.2 acres~~ [the correct acreage for this project area is 0.64]. There is no snowmaking on this trail.

Peter will provide a letter showing Financial Capacity as well as a copy of his email from DEP at the next meeting.

The application fee of \$25 was paid with check #69867. The application was numbered 20-262.

This project will be added to the next agenda.

Findings of Fact - none

Mail *All emails listed below (received between the Oct 7th meeting and tonight's meeting) were forwarded to the Board prior to tonight's meeting; the email were not read aloud at the meeting.)*

- Email received 10/8/2020 from Gary Inman RE: updated information for Chase Hill Amendment application
- Email received 10/8/2020 from Shelley Norton RE: Escrow from Sweetwater Subdivision/Main-Land Development
- Email received 10/13/2020 from Shelley Norton RE: Oct 21st PB Mtg agenda-stating that she is still awaiting escrow payment on Sweetwater Village application
- Email received 10/13/2020 from Becky Bean sent to Rick Dunton RE: Sweetwater Village Subdivision Submittal explaining the needs for the payment of escrow and application fee for the application review to move forward
- Email response received 10/13/2020 from Rick Dunton regarding fee payment Sweetwater Village Subdivision
- Email received 10/13/2020 from Amy Bernard RE: Tax Lien letter for Sweetwater Village Subdivision
- Email received 10/13/2020 from Shelley Norton RE: Newry's Town Meeting
- Email received 10/14/2020 from Amy Bernard RE: Tax Lien letter for Sunday River
- Email received 10/14/2020 from Peter Roberts RE: Application for Ski Access Trail
- Email received 10/15/2020 from Gary Inman RE: Red Arrow Subdivision – stating owners are formerly withdrawing their application
- Email received 10/16/2020 from Rick Dunton RE: 20-125 Planning Board Submission for 10/21 Meeting
- Email received 10/21/2020 from Shelley Norton RE: Fire Suppression Comments from Fire Chief (Sweetwater)
- Email received 10/21/2020 from Shelley Norton RE: Fire Suppression Comments from Fire Chief (Sweetwater) – additional info
- Email received 10/21/2020 from Trent Rosenberg RE: Newry Mall Rental and Repurposing Application

- Email received 10/21/2020 from Shelley Norton RE: 20-261 Sweetwater Village SD Completeness Review
- Emails received from MMA
 - Spurring Civic Engagement-Live Zoom Webinar-Nov 16 from 2-5pm
 - Identities and Privileges – Live Zoom Webinar- Nov 10 from 9-11am
 - MMA’s Virtual Convention – Day 5, Oct 14th
 - MMA’s Virtual Convention – Final Day, Oct 15th
 - Managing Freedom of Access Requests – Live Zoom Webinar-Nov 5 from 2-4:30pm

Open Discussion

- a) **Length of recent Board meetings** – Shelley suggested adding to a future agenda for the Board a brainstorming session in regards to possible changes to the meetings to help them move along more quickly.
- b) **Trent Rosenberg’s email** – Becky explained Trent’s email and his plan to open a gym in the mall where the post office is located. The Board discussed the other retail uses that have been located in that mall, and noted that gyms are not specifically called out in the UDRO.

Becky moved that the Board discussed the email from Trent Rosenberg regarding his proposal to run a private gym at the Newry Mall, which is already considered retail space, that the private gym is not a change of use since the ordinance does not have specific guidelines for gyms, that this would also be considered a retail business (he just provides a service to his clients) and therefore, I move that this proposed project does not need to come before the Board for Planning Board review. Kenny seconded. The motion passed unanimously.

Next Meeting – Wednesday, November 4, 2020 at **6:30 pm**

Adjournment Kenny moved to adjourn; Becky seconded. Motion passed with all voting in favor. The meeting adjourned at 10:28 PM.

APPROVED