

NEWRY PLANNING BOARD
MINUTES OF BOARD MEETING
Wednesday, March 2, 2022
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), Bruce Pierce (Board Vice Chair), Ted Baker (Secretary)

Members Late: Randy Akers (Alternate)

Members Absent:

Staff Present: Joelle Corey (Code Enforcement Officer)

Call to Order: Chairman John Gauthier called the meeting to order at 6:02 PM.

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

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

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

The representative for Sunday River was not yet present; it was noted that he may not know that the Planning Board meetings now begin at 6pm and not 7pm as was the schedule when he last attended. With that, the Board skipped over "Business" and began reviewing "Open Discussion".

Open Discussion

- a) **Building Code Ordinance proposed changes** – Changes were discussed including changing the name of the document to "Land Use and Building Code Ordinance". Discussion ensued regarding Permit of Occupancy and the inspections required for that program as well as the Building Code being applicable statewide. Joelle explained that the Newry citizens (because the town has less than 4,000 residents) would need to vote to authorize her, as the CEO, to enforce the Building Code. Joelle also spoke of the need to educate building contractors; however, Gootsch added that there is no licensing in place for contractors so it's difficult to hold contractors accountable.

Joelle explained the reason for adding "Land Use" to the title since she reviews setbacks to ensure they are met and reviews drainage to ensure it is done as noted on the approved plans. Other tweaks that Joelle made to the document include changing the term "building inspector" to "Code Enforcement Officer" throughout the document; updating the fee structure to a square-footage cost; the term "sewer system" was changed to "subsurface wastewater system"; proposed changes to the language in the wiring section; changing the deadline for work to commence from 6 months to 12 months; and adding language about a "letter of compliance". During the Board's review, they suggested various formatting changes and some additional edits, which included adding language to address the issues at the transfer station. Joelle made note of those suggestions on her printed draft.

During the review above, discussion veered briefly toward tiny homes and the new bill before the legislature that would amend the State code so that every lot in the state of Maine would be allowed to put an accessory dwelling unit on it. The group discussed possible changes to the UDRO to address these items ahead of time.

Joelle asked the Board to review her current draft of this ordinance and bring any additional edits to the next meeting. Once the Board approves the draft, the Planning Board would recommend it to the Select Board for review and approval.

Business

- a) Jordan Chairlift Replacement/Upgrade Site Plan Review – Peter Roberts: Peter Roberts of Sunday River Skiway Corp explained the resort's plan to replace/upgrade the current Jordan chairlift (Lift 14), which is a detachable quad, with an 8-passenger bubble chairlift. Peter noted that half of the lift is in Newry and the other half is in Riley Township.

The application fee of \$9500.00 was paid with check # 77001. Peter requested that the Board consider putting a cap on the application fee when the proposed project is to replace an existing structure. In these cases, the construction cost can be quite high; however, the review needed by the Planning Board is fairly straight forward.

Peter explained that the replacement chairlift will be installed on the same alignment as the existing chairlift; however, the lift line will be widened out to accommodate the larger chairs. There will be an enclosure around the bottom terminal to house all the chairs that will come off the haul rope each night. There will also be an attached building at the bottom to perform maintenance on the carriers. Peter spoke of the VHB survey done in May & July of 2021 to look for any wetlands in the area – none were found.

Peter noted that the top terminal is in Riley Township, and therefore, is not included in this application. He stated however, that the top terminal will also be enclosed, and that blasting will need to be done at the top to regrade the ski terrain.

The Board asked about the blasting debris. Peter explained that the blasting debris and soils will be kept on site and used as fill as various trails will be reconfigured to accommodate this project.

Peter stated that Loon Mountain has this type of lift in operation now if the Board would like to check it out.

Peter confirmed that the State of Maine would review the Riley portion of the project, and the project will also DEP approval.

The group discussed parking at Jordan.

Peter noted that the building's square footage has changed – the actual square footage will be smaller than what is noted on tonight's application.

Points of order: The Chair noted that Planning Board has jurisdiction to review this application per the UDRO. It was confirmed that no Board members have bias or any conflict of interest. Ted Baker disclosed that he is an employee of Sunday River; he will receive no financial gain upon approval of the application, and therefore, he has no conflict of interest. It was decided no additional escrow is needed. The application fee was paid, and the application was numbered 22-271.

Peter submitted the letter of financial capacity during the meeting.

Bruce moved to accept this application as complete. Ted seconded. With no discussion, the motion passed unanimously.

Gootsch moved that a site visit is not required; Bruce seconded. The motion passed unanimously.

Gootsch moved that a Public Hearing is not required, and Bruce seconded. The motion passed unanimously.

It was noted that no waivers are being requested, and that there are no conditions of approval attached to this project.

The Board asked about the reference to Barker Mountain Road in the Storm Mitigation Plan when Barker Mtn Road is so far away from the project site. Peter explained that the resort is subject to DEP Chapter 500 General Standard of Water Quality, which means the resort must capture and treat a certain percentage of all the stormwater coming off developed sites before it enters the natural waterway. To accomplish this goal at the project site, the resort would need to clear more trees in the sensitive area than what is needed for the project.

Therefore, the State will allow the resort to reference storm mitigation being done at other areas of the resort to meet that required percentage– it’s basically a trade-off.

The Board proceeded with reviewing the Criteria for Approval.

CRITERIA FOR APPROVAL FOR THE UNIFIED DEVELOPMENT REVIEW ORDINANCE (pages 9-12)

- A. **Pollution** – This project is not in a floodplain; there is no wastewater disposal and no effluence. The applicant added that they do not anticipate an increase in the solid waste stream, they are not doing any wastewater disposal, and they will meet the State’s standards for erosion control and stormwater management. With the above information in mind, Gootsch moved the proposed project meets the standards of item A, Pollution. Bruce seconded. The motion passed unanimously.
- B. **Erosion** – With the submission of their erosion control plan, etc., Ted moved that the applicant has taken adequate measures to ensure that the project will not cause unreasonable soil erosion or reduce the land’s capacity to hold water and will avoid dangerous or unhealthy condition resulting thereof. Gootsch seconded. The motion passed unanimously.
- C. **Traffic** – The applicant stated that traffic may increase by 100 cars per day (about a 10% increase) and added that the road was built to primary road standards with the anticipation of much more development in that area. Gootsch moved that this development will not cause unreasonable highway or public road congestion. Bruce seconded. The motion passed unanimously.
- D. **Sewage Disposal** – Gootsch moved that items D & E are not applicable to this project. Bruce seconded. The motion passed unanimously.
- E. **Municipal Solid Waste Disposal** – *see motion above.*
- F. **Aesthetic, Cultural and Natural Values** – This project is replacing an existing chairlift. The applicant added that, as part of the DEP review process, the Maine Historical Preservation Commission and the Maine Natural Areas Program reviewed the project and neither organization had any objections to the project. With the above information in mind, Gootsch moved that the standards for F have been met. Ted seconded. The motion passed unanimously.
- G. **Financial and Technical Capacity** – The applicant submitted a letter from the resort’s VP of Finance noting the funding for this project. With that in mind, Gootsch moved that the Financial and Technical Capability has been met. Bruce seconded. The motion passed unanimously.
- H. **Sufficient Water** – Gootsch moved that items H and I are not applicable to this project. Ted seconded. The motion passed unanimously.
- I. **Public Water Supply** – *see motion above.*
- J. **Surface Waters** – Gootsch moved that items J, K, and L are not applicable to this project. Bruce seconded. The motion passed unanimously.
- K. **Ground Water** – *see motion above.*
- L. **Flood Areas** – *see motion above.*
- M. **Freshwater Wetlands** – On the third page of the VHB memorandum, it is noted that VHB did not observe or document any wetlands within the study area during their wetland delineation efforts, and therefore, Gootsch moved that item M has been met. Bruce seconded. The motion passed unanimously.
- N. **River, Stream, or Brook** – The applicant pointed out the jurisdictional stream that runs through the two 48” culverts near the bottom terminal noted on map. With that information, Gootsch moved that item N has been met. Bruce seconded. The motion passed unanimously.
- O. **Storm Water** – The applicant spoke about the State law that the resort must meet called the General Standard of Stormwater Management where the resort has to capture, detain, and treat a large percentage of runoff that comes off the site; he added that since there is not enough space to accommodate stormwater ponds on the work road that’s being built, the resort is doing some treatment on an old work road that was built before these standards were in place as an off-set credit, which meets the State’s requirement. This is noted on the maps submitted to the Planning Board. With that in mind, Gootsch moved that item O has been adequately met. Ted seconded. The motion passed unanimously.

- P. Spaghetti-Lots Prohibited – Gootsch moved that P is not applicable to this project; Bruce seconded. The motion passed unanimously.
- Q. Municipal Services – This project will not have any effect on the school system, and with its remoteness, it will not be a burden on the fire department. With that in mind, Gootsch moved the criteria for Q has been met. Ted seconded. The motion passed unanimously.
- R. Lake Phosphorus Concentration – Gootsch moved that R is not applicable to this project; Ted seconded. The motion passed unanimously.
- S. Impact on Adjoining Municipality – There are no public roads in Riley within the vicinity of this project, and the applicant noted that since part of the chairlift is in Riley, this project is being reviewed by the adjoining municipality. With that in mind, Gootsch moved that item S has been met. Bruce seconded. The motion passed unanimously.
- T. Land Subject to Liquidation Harvesting – Gootsch moved that item T is not applicable to this project. Bruce seconded. The motion passed unanimously.
- U. Conformity with Local Ordinances and Plans – Bruce moved that the project conforms with local ordinances and plans. Gootsch seconded. The motion passed unanimously.

Bruce moved that Application # 22-271 has met the criteria and is approved. Gootsch seconded. The motion passed unanimously.

The recorder was paused with the Board proceeded to sign the final plans.

Ted moved that the Board extend the meeting for another 30 minutes for the meeting to end by 9:00. Gootsch seconded. The motion passed unanimously.

Open Discussion - continued

- b) Metal mining discussion and possible UDRO changes – Joelle distributed to the group the revisions provided by Shelley via email which included some language for adding a new section, Mineral Exploration or Extraction (noted as section AE) to section 13 – General Performance Standards. Shelley had added proposed language for item AE.2.e (Where an access road joins a public or private road...) and left a placeholder for Joelle and the Board to discuss language for item AE.2.f (Access Road Design). Joelle presented the Board with a diagram for depicting her proposed measurements for where the access road meets the public/private road as well as some additional language which she is borrowing from the City of Knoxville handout she provided.

The group discussed what type of mining would or would not be allowed in the various districts.

Joelle will provide another draft of this document at the Board's March 16th meeting.

- c) Joelle presented the Board with the new zoning maps that reflect the changes in the new UDRO and SZO, which were passed last year. Joelle noted that she now needs to contact all the abutters affected by the zoning changes.
- d) Town meeting is scheduled for the evening of May 17th.

Next Meeting – Wednesday, March 16, 2022

Adjournment Bruce moved to adjourn; Gootsch seconded. Motion passed with all voting in favor. The meeting adjourned at 8:32 PM.