

## NEWRY PLANNING BOARD

# PUBLIC HEARING

## SUNDAY RIVER SKIWAY CORP; NEW LIFT AT MERRILL HILL—APPLICATION # 23-275

Wednesday, May 17, 2023

Newry Town Office

*Full discussion 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:**

**Staff Present:** Joelle Corey (Code Enforcement Officer)

**Members & Staff Absent:** Randy Akers (Alternate)

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**Public Hearing Call to Order:** Chairman John Gauthier called the Public Hearing to order at 6:30 PM and read aloud to those in attendance the rules and procedure of the Public Hearing. The Chairman identified the Board members, as well as the applicant, the recording secretary, and the Town's Code Enforcement Officer to those in attendance.

Peter Roberts of Sunday River Skiway Corporation explained the proposed project stating that the Merrill Hill area of the resort is a residential development that Sunday River purchased and developed with a chairlift and ski trails. The resort is planning to add another chairlift on the north aspect of Merrill Hill, as well as three new trails that will serve the residential development above and come down to the base of the lift. The proposed project also includes 3 new ski bridges over Morganite Way. Peter added that the chairlift is a fixed-grip triple chair. Peter displayed full-sized plans for those interested.

The Chair noted that the Planning Board has been reviewing this application for the past few months, and several changes have been made at the Board's request. The Board deemed the application complete on May 3<sup>rd</sup>, and the Board voted to hold a site visit and public hearing, both of which were scheduled for tonight.

**Tom Ketchum of 78 Goose Eye Drive, within Mahoosuc Glen subdivision.** Tom clarified upon request that he is a taxpayer in Newry but is not a resident of Newry. He stated that he currently serves as the President of the Mahoosuc Glen Homeowners' Association (MGHA) and read a statement from the MGHA Board. The statement noted that the Board is in favor of the project, and they have no intent to delay the project. The statement spoke of the relationship between the MGHA Board, the resort's executive management, and the resort's chief engineer. The three groups met last week to discuss the Merrill Hill project, and the meeting focused on two topics: 1) construction phase disturbance in regards to construction access from Monkey Brook Road & decommissioning that access after the project; parking for worker's vehicles; possible times when Monkey Brook may be temporarily blocked; and possible plans to reroute traffic through Mahoosuc Glen, and 2) stormwater drainage in regards to flows through existing culverts under Monkey Brook Road; possible impact from snowmaking operations; and any additives in the snowmaking which may impact ground water.

MGHA requested that the Planning Board allow them some near-term amount of time to complete or fail to complete professional stormwater analysis work and request some level of specificity be provided on the made-snow runoff.

After reading the statement, Tom submitted it to the Chair of the Planning Board.

**Bambi Baker of 15 Casita Lane.** Bambi confirmed that she is a resident and spoke of two concerns: 1) Section 13.H.5, Stormwater Management (which she read from page 61 of the UDRO) and asked that the Town continue to monitor the effect on neighboring properties, noting her concern with the amount of vegetation that has been removed. 2) Section 13.X.2, Vehicular and Pedestrian Traffic (which she read from page 66 of the UDRO) and noted her concern for the safety of people possibly walking along the roadway with no lighting, as well as traffic congestion, and traffic possibility of through traffic in the residential subdivision, and signage.

Ted Baker noted for the record that he and Mrs. Baker live under the same roof, are legally and spiritually bound to each other; however, he attests that he has not discussed the application with her over the course of the last 4 weeks.

The Chair noted that a traffic study was a condition of approval placed on the recently approved Barker Chairlift application.

**Jill Kenney of 1030 Sunday River Road.** Jill stated concerns with traffic and read from the UDRO Section 13.X.2.b. noting the issues she has experienced trying to get through the intersection of Sunday River Rd. and Skiway Rd. She read from Section 13.X.2.c. and noted that she often needs to turn right and make a U-turn at Red Farm Village to travel toward Bethel. Jill referenced UDRO Section 5.C, Traffic, and stated that the congestion is already unreasonable. She added that she is a skier and is not opposed to the project but would like to be able to leave her home when needed. She noted that the intersection can be congested on midweek days as well as weekends.

She asked that the Board keep the above in mind when reviewing this application.

**Patrick Hunt representing Maine Mountain Homes owner of Lot 50 on Monkey Brook Road; he is a resident of Bethel on Grover Hill Road.** Patrick expressed concerns with a new culvert Sunday River installed under Monkey Brook Road which flows into a buffer zone that flows into his property adding that the buffer zone was disturbed, and a plunge pool created. He noted that per DEP regulations, the buffer zone is to be undisturbed. Patrick showed photos to the Board of the runoff through his property. He read from the DEP language on the topic and spoke of erosion and sediment buildup on his property from the water flow. He noted that per Maine Uniform Building and Energy Code he was not notified that his property would become flooded by the development. He added that the flow now exceeds the easement and deed restrictions standards set forth in the original plan for the buffer on his property. Patrick read an excerpt from the Maine Uniform Building and Energy Code. He summarized that he is dealing with an increase in historic flow throughout the buffer zone and beyond, extensive flooding during rain events, extensive erosion, channelized flow, and sediment buildup on his lot inside and outside the buffer zone. He noted that he is not able to form a development plan due to the uncertainty of future issues. He stated that he is not opposed to the development, that he understands that it is important for the mountain to grow the local economy. He added that given margins calculated by his Real Estate agent, and timeframes to complete projects, he is losing on average \$2,087 to \$2,777 per day.

He asked that the Planning Board 1) require an independent third-party engineering firm to reevaluate all permits submitted by Sunday River to the DEP and to the Town of Newry; 2) require the DEP permits be resubmitted to reflect the lack of data on snowmaking runoff and the effect that it will have below Monkey Brook Road; 3) set conditions of approval on the project contingent on restoration and remediation of his lot and other effected lots. He requests that Sunday River Skiway be held responsible for the restoration and remediation of his land to it predevelopment condition including the implementation of erosion control measures for the restoration of the deeded buffer zone of runoff. He asked that the Board ensure that no lot has water flow higher than DEP approval for the drainage system existing through Mahoosuc Glen. Patrick added that he is looking for injunction relief and asked that the Board issue an injunction restricting Sunday River Skiway from further violating the DEP flooding standard and undertaking any development activities that cause harm to his property.

**David Powell, 2 Wilderness Drive with his wife and son; they are year-round residents.** David noted that he submitted a letter with photos to Joelle on Monday for the Board to review. He talked about the impact the Merrill Hill project has had on the lives of him and his family as well as on their home and property. He noted that Peter Roberts has come to his property, but that there has been no resolution. David showed and explained some videos he had presented to the Board; the CEO had distributed the videos to the Board via email before this Public Hearing. His concerns included the water flow across his property and has requested that Sunday River voluntarily stop the waterflow across his yard. He'd like the Board to consider what has already gone wrong in the first stage of development, and how it will worsen with the increased ski trails, additional excavation, bridges, etc. He expressed concern with toxicity of the water passing through their yard near their well. He would like Sunday River to divert the waterflow down Monkey Brook Road to the next culvert, which is a plastic, 24" culvert.

**Bruce Pierce, 1014 Sunday River Road, year-round resident of Newry.** Bruce spoke of concerns with 100-year weather events resulting in water damage, and the stormwater off the development – is the developer looking at meeting the needs of the future in terms of deciding culvert sizes and not just using the current waterflow calculations.

**Jill Kenney (1030 Sunday River Road)** spoke again asking if, during construction, would the same Sunday River pit be used this summer as was used during the summer of 2021, and is there a way to limit the trucking to 12 hours per day. She also asked if signage could be installed indicating the heavy trucking activity as a safety aspect for pedestrians using the Sunday River Road.

The Chair asked the applicant about which pit would be used and the number of trucks expected each day, and Peter responded that a decision has not yet been made regarding where the resort would be sourcing the fill. He added that the resort is committed to following the Town ordinances and State laws, and committed to making sure they are in line with direction received from the Code Enforcement Officer. He confirmed with the CEO that any signage would be decided by the Road Commissioner (which is also the Select Board).

Peter stated that he did not believe that truck traffic is addressed in the ordinance. The ordinance does address construction noise stating that it is limited to the hours of 7am to 7pm. Peter stated that the resort is committed to abiding by the construction noise guidelines as well as any State laws or other regulations in the Town ordinance.

**Peter Kenney of 1030 Sunday River Road.** Peter asked who the go-to person is at Sunday River for any situation that may arise. Dana, the Resort President, replied that Public Safety would be the best place to start (207-824-5054). Peter added that his contact information is included on the abutter notices. He also noted that issues related to Town Ordinances should be directed to Joelle, the Town's CEO.

**Public Hearing Adjournment** With no additional comments, the Public Hearing adjourned at 7:14 PM.