

NEWRY PLANNING BOARD
MINUTES OF BOARD MEETING
Wednesday, December 6, 2023
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:

Staff Present: Joelle Corey (Code Enforcement Officer)

Members & Staff Absent:

Call to Order: Chairman John Gauthier called the meeting to order at 6:00 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. Ted noted a few corrections that should be made within the section regarding the Pre-Application Conference for The Pines. Ted clarified that the original Unit 1 modular building from Schiavi had been demolished and that unit was rebuilt as a stick-built unit by Ron Savage and his company. He also suggested that the phrase "Ron also managed the building...", be changed to "Ron also managed the condominium..." or "...managed the property...". **Ted moved to accept the minutes as amended with the two changes that the Board just discussed for the meeting that was held on November 15, 2023. Bruce seconded. With no further discussion, the motion passed with all voting in favor.**

Business

- a) **Pre-Application Conference – Sunday River Bike Park, R12 Lot 25 & 26 – Carson Deeds, SR Representative:** Peter Roberts and Carson Deeds represented Sunday River. Peter noted that they are very early in the planning stages for the proposed bike park, but that he wanted to have a discussion with the Board in hopes of minimizing any permitting delays once the application is presented to the Board. Peter noted that Sunday River had lift-serviced mountain biking in the past and is hoping to bring that back to the resort. Peter nor Joelle could find any past applications for the two previous bike parks.

Carson explained the plan to clean up and reestablish the existing bike park trail network the resort used in the past and add some new trails aimed at providing terrain for beginners. He noted that to rehab the existing trails would consist of clearing leaves and any brush or vegetation that has grown in on the trails and repair any drainage issues – reestablishing ditches & swales for drainage and ensure that culverts are in working order. Most of the existing trails are still rideable; they just need to be cleaned up. Three or more new trails are proposed to be added in the first phase. These would be machine built and geared more toward beginner riders with smoothly flowing trails – something that the previous bike parks did not have available. The previous trail network was made up of mostly rutty, rocky technical trail riding.

The plan is, as with the previous bike parks, trail access would initiate from South Ridge via Lift 2.

In response to Bruce's question as to whether all trails will be maintained within the boundaries that Sunday River owns, Peter stated that all trails will be on property that Sunday River owns, leases, or has easements across. Peter noted that for now, the resort is focusing on the trails that were in existence in 2018 centered around the South Ridge/North Peak area. Peter added that there is a historic trail that came down from the cell tower on Locke; guests would ride the Chondola to North Peak and then pedal a mile up the service road to get to the tower; it's a bit strenuous.

Discussion ensued as to whether a new application would be needed for reestablishing this formerly existing recreational bike trail system within the existing recreational ski resort area.

Peter stated the bike trails would be mainly in the woods and would be an approximate total of 4-5 miles of trails, roughly 5' wide. Peter stated that recent DEP laws exempt (with limitations) mountain biking, hiking, ATV, and snowmobile trails from permit review. Peter can provide the Board with a copy of that law when he formerly submits the application.

Ted noted that since the bike hasn't operated since 2018, an application would need to be resubmitted. Ted also spoke of his desire to see a plan for annual trail winterization when the bike park would close for the winter. Further discussion ensued on this topic, noting that the trails are often naturally winterized with the leaf drop, and it was noted that the trails are mostly located in wooded areas (not open-air trails), which would also minimize erosion issues. It was noted that most bike parks are not "put to bed" for the winter.

The Board and CEO discussed in length who is responsible for determining whether an application needs to be submitted or not: the Selectboard, the Planning Board, or the Code Enforcement Officer? As an example, Ted spoke about businesses such as short-term rentals with owners out of state, the property being managed & maintained by contractors, and the property is primarily a rental; however, these businesses have not historically been required to come before the Planning Board. Ted noted the according to the UDRO, this type of business would require a site plan approval; Joelle added that MMA does not agree and would not back up the Town on that decision. In regards to who within the Town is responsible for determining whether an application must be submitted to the Planning Board, Joelle noted that it depends on how it comes to the Town's attention. When she receives complaints from neighbors, she, as CEO, can address them as a nuisance. The Board and the potential applicant discussed whether this proposed bike park is considered a change of use and who makes that determination.

It was decided that an application would be warranted to be sure all 5 criterium that would be of interest: Erosion; Surface Waters; Wetlands; River, Stream, or Brook; and Stormwater. There would also be 2 performance standards that would apply: 13.G, Erosion and Sedimentation Control, and 13.H, Stormwater Management, and if trails are within the boundary of a wetland or stream, they would need to be identified on a map.

Peter asked for guidance from the Board, he is hoping to have a permit written in a manner that would allow the resort to grow the bike park within certain parameters, perhaps with certain conditions of approval, without needing to come back before the Board with a new or amended application for potential future individual trails. The group discussed a possible phasing plan, and Peter explained that the growth would depend upon the financial success of the bike park, and therefore, the resort doesn't know at this point that the future plan looks like. Following discussion, the Board felt that this could possibly be done if the boundaries of this approval were well documented, and the protections were well detailed in writing. Peter noted that if the application was approved in this manner, that perhaps before future trails were built the resort could submit a site plan to the CEO showing a wetlands report and if the resort is required to submit a permit-by-rule to the State, it would show that that document was submitted and that no comments were received from the State and it is approved by the State (if that's the case).

The format of the updated application was explained to Peter, noting that the intent is for each section to stand on its own. It was noted that electronic signatures are only allowed if done with a true electronic signature such as Docu-Sign, otherwise, an ink signature is required.

Carson spoke about the traffic data that he attached to the document that was submitted for tonight's meeting. Further discussion ensued regarding traffic studies.

Peter asked if the Board felt that this application would require a Performance Guarantee. It was noted in the UDRO that the Performance Guarantee cannot be waived. The Performance Guarantee is calculated according to infrastructure, and if the value of the infrastructure is \$0.00, then the Performance Guarantee would be \$0.00. Peter and Carson will contact Joelle with they are ready to come back before the Board. Gootsch noted that he felt that performance guarantees were aimed more toward subdivisions where the property would eventually change ownership and were in place to protect the Town and the eventual future owners of the property to ensure the infrastructure was done and done correctly. The Board stated that they felt that a performance guarantee would not be a stumbling block for this application. Peter noted that he would prepare a statement for the Board in this regard.

Ted reiterated that the items that he felt must be addressed are erosion, surface water, stormwater management, and he would like to see a winterization plan as well, and a convincing statement that the resort will be good stewards of the trails – perhaps volunteering to submit a letter at the end of each season reporting that the trails have been stabilized, etc. Peter was advised that for any section that he notes as not applicable on the application should include a statement as to why he feels it does not apply to this project.

Peter and Carson will contact Joelle when they are ready to come before the Board with a formal application. He added that it will not be until into the new year.

CEO Reports

- a) Joelle received an email from AVCOG, they will hold some two-hour long meetings around the State of Maine to get towns up to date on LD2003, the previous legislature's law regarding accessory dwelling units, taking away the town's home rule and dictating what towns will allow on residents' property. Joelle will attend, and take notes at the meeting that will be held January 4th at the Mexico Public Library; Retta may also attend.
- b) Comprehensive Plan Update has been received from the State of Maine. Joelle reported that AVCOG will help the necessary language for the accessory dwelling unit law to be added to the UDRO, or it can be incorporated into the Town's Comprehensive Plan. AVCOG will also work with the Town on any sections within the Comprehensive Plan that deal with traffic. Joelle noted that AVCOG is also a resource whenever the Town wants to do a traffic study. AVCOG has already provided an estimate for the traffic studies planned for this ski season – six Saturday mornings have been chosen from December through March. These studies are done with cameras, and will be done in two intersections: Skiway Rd and Sunday River Rd, and Sunday River Rd and Monkey Brook Rd. It was suggested that some midweek days be included as a base line for comparison purposes. It was noted that weather could affect the cameras during some of these studies.
- c) Joelle noted that she needed signed Freedom of Access training forms from two Board members: Gootsch and Bruce. They each signed their respective forms and returned them to Joelle.
- d) Joelle reported that the Town is in good standing with Gorrill Palmer.
- e) Joelle has issued 28 building permits for houses this year in the Town of Newry with a total value of approximately \$30-35 million; she's issued another 20 permits for decks and sheds and such.

Open Discussion

- a) It was decided that the CEO would begin issuing application numbers, and with that, Gootsch gave her the application number tracking sheets that he had in his Planning Board binder.
- b) The group discussed a plan for proposed revisions/amendments to the UDRO. It was decided that a work meeting would be scheduled. The Board discussed the possibility of creating separate ordinances for site plans and for subdivisions (major & minor); but following discussion, agreed to keep them within the same ordinance to reduce redundancy, but perhaps clearly note to which type of application (subdivision or site plan or both) various standards apply. The Town meeting will be held in May; therefore, suggested revisions should be submitted to the

Selectboard by March so there's time for the attorney's review and a public hearing, which must be held within 30 days prior to the Town meeting. With that in mind, the Board agreed to hold the workshop during the first meeting in January. To make the most of the work meeting, each Board member agreed to take certain sections of the UDRO (see below) to review over the next few weeks – noting any suggested corrections, edits, and revisions that should be made. Sections 4, 11, 12, and 16 are Reserved, and obviously do not need to be reviewed.

- a. Joelle – Section 14 (Road Design and Construction Standards); and the subsection on sprinklers.
- b. Gootsch – Sections 1, 2, 3, 5, 6, 7, & 8
- c. Ted – Sections 13, 21, 22, 23 & 24
- d. Bruce – Sections 9, 10, 15, 17, 18, 19, & 20

It was noted that if an exhibit or map is referenced within a section which a Board member is reviewing, they should also turn to the Exhibits and Maps section (Section 25) and review that particular exhibit or map.

The group also talked about proposing new sections for Solar Farms and Telecommunication Towers.

Joelle can provide Word versions of the UDRO, so that Board members may “track changes” during their review.

There is one pre-application conference expected at the January 3rd meeting. Joelle will limit any additional requests to be added to that meeting's agenda, so the Board has ample time for the work session. If she receives any other requests to be added to an agenda, she will add them to the January 17th agenda.

- c) **Bruce moved that the Board cancel the December 20th meeting of the Newry Planning Board; Ted seconded, and the motion passed unanimously.**

Next Scheduled Meeting – Wednesday, January 3, 2024

Adjournment Ted moved to adjourn the meeting and reconvene on January 3rd, 2024, at 6:00 in the evening to include the work meeting. Gootsch seconded. Motion passed with all voting in favor. The meeting adjourned at 7:42 PM.