NEWRY PLANNING BOARD
MINUTES OF BOARD MEETING
Wednesday, February 7, 2024
Raymond C. Foster Municipal Building

Full discussion on the 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 (Board Secretary), Meredith Harrop (Alternate), Rob Kates (Alternate)
Members Late:
Staff Present:
Members & Staff Absent: Joelle Corey (Code Enforcement Officer)

Call to Order: Chairman John Gauthier called the meeting to order at 6:03 PM.

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

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

Previous Meeting's Minutes: The Board reviewed the previous meeting's minutes. **Ted moved to approve the minutes of the January 17th meeting as written. Bruce seconded. With no discussion, the motion passed with all voting in favor.**

Business

a) **Working Meeting for UDRO Edits**: All Board members were provided with a copy of typed motions prepared by Ted. Ted reviewed each motion as the Board looked at the red-line edits displayed on the television screen in the meeting room.

MOTION 1:
Ted moved for the Planning Board to amend the UDRO Section 3.E. as written on the paper and displayed on the screen. That motion is written as:

- **Third paragraph, first sentence – After the word "commencement", add the words "and completion."**
- **Third paragraph – Delete the second sentence and replace it with, "The Planning Board may agree on a phasing timeline which lasts for no more than ten (10) years at which time all project activities must be substantially completed."**
- **Fourth paragraph – Change the escrow amount from $2,500 to $10,000.**

Bruce seconded. During discussion, the group discussed the escalation clause suggested by Rob; it was decided that the wording would be too complicated, and therefore it was not included in the proposed revisions. With no further discussion, **the motion passed unanimously.**

MOTION 2:
Ted moved for the Planning Board to amend the UDRO Section 5. as follows:

- **In Section 5.E. – Delete the existing paragraph, "The proposed development will not cause an unreasonable burden on the Town's ability to dispose of solid waste, if Town services are to be utilized (Town disposal for construction and demolition debris is not allowed except under Section 8.R.)" and replace it with "The proposed development will not cause an unreasonable burden on the Town's ability to dispose of solid waste. Use of Town services for the disposal of construction and demolition debris is not allowed except under Section 13.R."**
- **In Section 5.L. – In the second sentence, insert the word "year" between the words "100-" and "flood".**

Gootsch seconded. Ted explained that this was just cleaning up the language and correcting a reference to a non-existent Section (Section 8.R.). With no further discussion, **the motion passed unanimously**.

MOTION 3:

Ted moved for the Planning Board to amend the UDRO Section 10 particularly 10.B.6., 10.B.12.d., 10.C.1.b., 10.C.2.d.xvi., 10.C.2.d.xviii., and 10.C.2.f.vi. as written on the sheet. That motion is written as:

- **Section 10.B.6. – Change the escrow amount from $2,500 to $10,000.**
- **Section 10.B.12.d. – Replace the word "infrastructure" with the word "required".**
- **Section 10.C.1.b. – Insert a new subsection following 10,C.1.b.iv:**
  "10.C.1.b.v. Shall include a catalog of all the plans and documents which comprise the Final Plan."
- **Section 10.C.2.d.xvi. – Delete the entire sentence and replace it with the word "Reserved".**
- **Section 10.C.2.d.xviii. – In the first sentence, replace the words "copy of high-intensity soils" with the words "class A high intensity soil".**
- **Section 10.C.2.f.vi. – In the cited reference "BMPS Technical Design Manual, 2006", delete the year "2006".**

Gootsch seconded. Ted explained each of the edits. With no further discussion, **the motion passed unanimously**.

MOTION 4:

Ted moved for the Planning Board to amend the UDRO Section 13 as written on the motion sheet:

- **Section 13.G. – In the first sentence, replace "Planning Board" with "Code Enforcement Officer". At the end of the second sentence, add "Manual for Designers and Engineers".**
- **Section 13.J.3. – Replace the entire paragraph with "No change shall be made in the elevation or contour of any lot or site other than as shown on the final plan. This includes the removal or addition of earth to or from another lot or site. Minimal changes in elevations or contours necessitated by the field conditions may be made as long as the change does not substantially or negatively impact the site".**
- **Section 13.X.1. – Insert before the words "Road Design and Construction" the words "Section 14".**
- **Section 13.X.3.c. – Delete the existing paragraph and table and replace it with the following text, "Where new roads intersections or driveway curb cuts are proposed, site distances, as measured along the road onto which traffic will be turning, shall be in accordance with Section 14, Road Design and Construction Standards."**

Gootsch seconded. Ted proceeded to explain the edits. During discussion, one minor change was made to his typed motion: removing the "s" from "roads" in the statement where it was written as "Where new roads intersections…". **It would now read "Where new road intersections or driveway curb cuts are proposed".** Following discussion, **the motion passed unanimously with the "s" removed.**

MOTION 5:

Ted moved to for the Planning Board to amend Section 23 in the UDRO with a few minor edits as noted on the motion sheet.

- **Section 23.A.4. – After the semicolon, delete the word "and". Also replace the semicolon with a period.**
- **Section 23.H. – In the explanatory notes following the table, change the title to read "Notes to the Table of District Land Uses".**

Bruce seconded the motion, and Ted explained the edits. **The motion passed unanimously**.

MOTION 6:

Ted moved for the Planning Board to amend the three definitions detailed in the motion sheet for Section 24, Definitions, in the UDRO, as follows:

- **Amend the definition "Infrastructure Improvements" as follows: Delete the existing definition and replace it with "See required improvements".**
- **Add the following definition: "REQUIRED IMPROVEMENTS: Any and all improvements shown on the Final Plan. It includes but is not limited to roads, streetlights, potable water systems, fire protection, sewers and water treatment, stormwater systems, utilities, and structures."**

- **Amend the definition "Resubdivision" as follows: At the end of the definition, replace the word "approved" with the word "final".**
- **Amend the definition "Substantially Completed" as follows: Delete the existing definition and replace it with "Completion of at least 80% of the required improvements measured as a percentage of the total estimated cost of such improvements".**

Bruce seconded, and Ted explained the proposed edits. With no further discussion, **the motion passed unanimously**.

MOTION 7:

Ted moved for the Planning Board to amend the UDRO Section 6 as detailed on the motion sheet:

- **Section 6.A.1.a. – In the first sentence, insert the words "and Inspecting Official" immediately following the words "Code Enforcement Officer". In the last sentence, replace the term "infrastructure improvements" with the term "required improvements".**
- **Section 6.A.1.b. – In the first sentence, delete the word "infrastructure" and replace it with the word "required". At the end of the first sentence, add the following "or $10,000, which ever is greater".**
- **Section 6.A.2. – In the first sentence, delete the term "infrastructure improvements" and replace it with the term "required improvements".**
- **Section 6.A.3. – In the first sentence, insert the word "Final" between the words "with" and Plan". Also in the first sentence, insert the word "required" before the word "improvements". In the last sentence, remove the word "approved" and replace it with the word "Final".**
- **Section 6.A.4. – In the first sentence, delete the phrase "of the of the required improvements" between "before or during construction" and "the Inspecting Official" so it reads: "…modify the required improvements before or during construction, the Inspecting Official is authorized…"**
- **Section 6.G. – In the first sentence, insert after the words "in accordance with this Ordinance" the words "and Final Plan". Delete the last sentence of Section 6.G.**
- **Insert a new subsection following Section 6.G. as follows: "6.H. LIFE SAFETY AND FIRE SUPPRESSION PRIOR TO CONVEYANCE REQUIRED. No lot or dwelling in a subdivision may be sold, leased, occupied, or otherwise conveyed prior to proof is provided to the Town that Life Safety and Fire Suppression as required by the Final Plan and Section 13.AC. have been satisfied.**

Bruce seconded. As Ted explained his proposed edits noted on his motion sheet, he mentioned that after the sheet was distributed, he noticed another revision that should be made, which is **within the "Section Users Guide" noted at the beginning of Section 6. The word "infrastructure" should be removed and replaced with "required" to read "required improvements"**. He also later found **the word "infrastructure" in section 6.A.1. which should be replaced with "required" to read "required improvements."** Following discussion, **the motion passed unanimously.**

MOTION 8:

Ted moved for the Planning Board to amend the UDRO Section 21 as detailed on the motion sheet:

- **Section 21.A. – Amend the first sentence by removing the word "infrastructure". Amend the first sentence by removing the following wording: "to be accepted and maintained by the Town or 10% of the total construction costs of all required infrastructure improvements to remain private". In the second sentence, replace the word "taking" with "take". At the end of the third sentence, add the words "on an application for a subdivision (major or minor)."**
- **Section 21.A.3. – In the first sentence, replace the word "infrastructure" with the word "required".**
- **Section 21.A.4. – In the first sentence, replace the word "infrastructure" with the word "required".**
- **Section 21.D. – In the second sentence, replace the word "infrastructure" with the word "required".**
- **Section 21.F. – In the second sentence, remove the words "building permits may be issued" and replace them with the words "lot or unit may be conveyed".**
- **Section 21.F.1. – In the first sentence, remove the word "infrastructure". In the first sentence, just prior to the semicolon, remove the words "this Ordinance, conditions of approval and the regulations of the appropriate utilities" and replace with the words "the Final Plan".**

- **Section 21.F.2. – In the first sentence, remove the word "infrastructure".**
- **Section 21.I. – In the first sentence, replace the word "infrastructure" with the word "required". NOTE: there are two replacements in this sentence. Delete the last sentence.**
- **Section 21.J. – In the first sentence, remove the word "infrastructure".**
- **Section 21.K. – In the first sentence, replace the word "infrastructure" with the word "required".**

Gootsch seconded. Ted proceeded to explain the proposed edits. During discussion, it was noted that many of the commas within Section 21.F. should be cleaned up, where they are currently placed does not make sense. Following discussion, **the motion passed unanimously.**

MOTION 9:

Ted moved for the Planning Board to amend Section 13.AC. Life Safety and Fire Suppression as depicted on the motion sheet:

- **Section 13.AC.**
  1. **Fire Protection Options**
     All subdivisions (major or minor) created or amended on or after the effective date of tis Performance Standard shall implement one of the following options to provide fire protection within the subdivision.
     a. **Install within each dwelling unit, as defined by this ordinance, the appropriate NFPA 13 sprinkler system.**
     b. **Install or provide proof of deeded access to a 60,000 gallon or greater water storage facility dedicated solely for fire fighting with appropriate hydrant constructed as outlined in subsections 4, 5, and 6 below.**
  2. **Documentation of Approved Fire Protection Option**
     Approved option, ownership and maintenance responsibility shall be depicted in detail on the final plan.
  3. **Sprinkler Systems**
     A Fire Sprinkler Permit shall be obtained from the State Fire Marshall's Office. A copy of which, when obtained, shall be submitted to the Code Enforcement Officer.
  4. **Location of Water Storage Facilities:**
     The location of a fire fighting water storage facility shall not exceed the following:
     a. **Note more than 1,500 linear road feet and 300 feet vertically measured from hydrant head to the midpoint of the lot's road frontage on which lot the dwelling is located.**
     b. **Roads used to determine distances in subsection 4.a. above must meet the standards of Section 14 of this Ordinance.**
  5. **Water Storage Facilities**
     The purpose of water storage facilities for fire fighting shall be to meet a water supply requirement of five hundred (500) gallons per minute for the duration of two (2) hours. Water delivery may be through either dry or wet hydrants. Water Storage Facilities:
     a. **Must be engineered and certified compliant with requirements set forth in NFPA 22: Standard for Water Tanks for Private Fire Protection. Proof of engineering or tank compliance with this applicable standard are required to be submitted as part of the final plan.**
     b. **That were originally designed for purposes other than firefighting water supplies will not be accepted.**
     c. **Shall be equipped with a visual gauge to clearly display the tank water level above ground.**
     d. **Shall be protected and maintained by owner from disturbance of frost and other natural soil actions.**
     e. **Shall be graded smooth with a maintained surface, by owner, to be free of trees, shrubs, brush, and grass fourteen (14) inches or higher.**
     f. **Shall be inspected at least monthly by the owner or designated representative. A written record of such inspections and all maintenance performed must be kept and provided to the Code Enforcement Officer upon request.**

g. Shall be kept filled to designated capacity by the owner. It is the owner's responsibility to notify the Town immediately upon discovery if designated capacity cannot be maintained.

h. Shall provide a deeded right of way or easement to the Town to allow the inspection, testing, training, and emergency use in perpetuity.

6. Hydrants:

All hydrants and their access placement, associated piping and materials are to be installed as follows. The applicant and the Code Enforcement Officer shall be in agreement of final hydrant placement before any hydrants are installed.

a. All hydrants must be maintained by owner and accessible for use at all times throughout the entire year. Snow will be removed from around any hydrant, so that fire equipment can maneuver next to and around the hydrant area.

b. Access and location of hydrants shall comply with figure A.C.1 and hydrant pad area shall be no greater than two (2) percent slope.

c. In cases where the hydrant cannot be located in compliance with subsection 4.b., and access road built to standards for a Neighborhood Road as specified in Section 14 Road Design and Construction, shall be constructed accessing the hydrant. The owner will be responsible for maintaining the access road to the hydrant and around the hydrant itself. The hydrant pad area shall be no greater than two (2) percent slope. The access road shall be posted as No Parking Fire Lane.

d. Fencing is optional; however, if fence is provided, it shall be maintained by owner and have a gated access point and a lock box shall be installed holding keys for the gate. Keys for the lockbox shall be provided to the Newry Fire Department. The hydrant may be located outside the fence.

e. All hydrants shall be primed and then painted with red fluorescent paint and protected by a minimum of two, four (4) inch steel bollards placed parallel in line to the pull up parking area three (3) feet on each side of the hydrant. Bollards shall be primed and then painted with red fluorescent paint and white reflective tape affixed to the upper three (3) inches of bollard.

f. All hydrants shall be installed and maintained by the owner to not have any trees, shrubs, brush, or grass fourteen (14) inches or higher within ten (10) feet in front of hydrant and within five (5) feet in back of hydrant.

g. Dry hydrants are defined as a non-pressurized water pipe installed in a water source where water is obtained by suction through a fire truck's onboard pump. Dry hydrants shall be installed in accordance with the following standards:

i. The maximum amount of lift permitted for a dry hydrant shall be fifteen (15) feet, as measured from the surface of the water to the center of the hydrant hose connection.

ii. A suction screen shall be formed in the end of the steel or PVC pipe so as not to impede or restrict any water flow by volume. The suction screen shall be raised off the bottom twenty-four (24) inches and be twenty-four (24) inches away from any of the sides.

iii. A minimum of six (6) inch schedule forty (40) steel or PVC piping and fittings shall be utilized from the suction screen to one (1) ninety (90) degree elbow or two (2) forty-five (45) degree elbows raising the hydrant above the graded surface.

iv. The piping from the suction screen to the ninety (90) degree elbow for the riser below ground shall be schedule forty (40) steel or PVC pipe with a distance of no more than fifty (50) feet.

v. The riser piping and ninety (90) degree elbows shall be schedule forty (40) steel or PVC.

vi. The riser piping shall be exposed above grade level thirty-six (36) inches as measured from the center of the hydrant opening to the grade level of the fire equipment's parking location.

vii. **The ninety (90) degree elbow below ground shall have six (6) feet of cover measured from the elbow to finished grade.**

viii. **The hydrant hose connection shall be aluminum or bronze with six (6) inch National Standard Thread (NST). Additional piping and fittings shall be a minimum of schedule forty (40) steel or PVC.**

ix. **All pipe connections shall be cleaned and welded so as to provide airtight connections.**

h. **Wet hydrants are defined as hydrants, which under normal conditions, have a positive water pressure.**

i. **All Pressure Hydrants shall be NFPA Standard 24.**

j. **Static Pressure at the hydrant shall be greater than zero (0) pounds per square inch and less than one hundred and fifty (150) pounds per square inch.**

k. **Wet hydrants shall be placed not more than four (4) feet from the edge of the road shoulders.**

7. **Fire Ponds**

All fire ponds that were placed in service prior to the latest amendment to this Performance Standard are deemed to be nonconforming structures and are subject to Section 23.I., Nonconforming Structures, Uses and Lots. In addition, these fire ponds:

a. **Shall be maintained by their owner to not have any trees, shrubs, brush, or grass fourteen (14) inches or higher within ten (10) feet of the high-water mark.**

b. **Shall be dredged, by its owner, if it becomes affected by vegetation and/or silt as determined by the Code Enforcement Officer.**

c. **Shall maintain all installed hydrants so as to meet the standards for hydrants in this Performance Standard.**

Bruce seconded the motion. Ted proceeded to explain his proposed edits. During discussion, it was noted that item **5.c. should read "Shall be equipped with a visual gauge above ground to clearly display the tank water level."** It was suggested that the order of the two sentences in the opening paragraph of **subsection 6 be swapped to read "The applicant and the Code Enforcement Officer shall be in agreement of final hydrant placement before any hydrants are installed. All hydrants and their access placement, associated piping and materials are to be installed as follows:"**. Following discussion, **the motion passed unanimously**.

MOTION 10a:

Ted moved for the Planning Board to amend the UDRO by adding the following performance standard covering solar energy systems as Section 13.AG. as depicted on the motion sheet:

- **Section 13.AG.**

1. **Purpose**

The purpose of this ordinance is to establish a municipal review procedure and performance standards for Solar Energy Systems (SES). These standards are intended to:

a. **Establish clear guidelines, standards and time frames for the Town to regulate Solar Energy Systems;**

b. **Permit the Town to fairly and responsibly protect public health, safety, and welfare;**

c. **Minimize any potential adverse effect of solar development on surrounding land use:**

d. **Provide for the decommissioning/removal of panels and associated utility structures that are no longer being used for energy generation and transmission purposes; and**

e. **Support the goals and policies of the Comprehensive Plan, including orderly development, efficient use of infrastructure, and protection of natural, scenic, and agricultural resources.**

2. **Applicability**

a. **Notwithstanding the provisions of 1 M.R.S.A. section 302 or any other law to the contrary, the requirements of this Performance Standard shall apply to all roof-mounted and ground-mounted solar energy systems modified or installed after the date of its enactment.**

b. **All Solar energy systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and standards.**

c. **Any upgrade, modification, or structural change that materially alters the size, placement, or output of an existing solar energy system shall comply with the provisions of this Performance Standard.**

3. **Review and Approval Authority**

No person shall construct, make significant changes to, or expand a solar energy system without approval of the Code Enforcement Officer (CEO) or the Planning Board as follows:

a. **Solar Energy Systems or devices shall be installed or operated in the Town in compliance with this Performance Standard and any other applicable local, state, and federal regulations or codes.**

b. **Review and approval shall be determined by the Growth Management District within the Town, type of solar system, and proposed size. The Town has designated the proper permitting process for each solar system in the following matrix:** (NOTE: a table entitled "Review and Approval Authority for Solar Energy System" was provided to be included in this motion).

4. **Dimensional Requirements**

a. **Roof-mounted solar energy systems shall be considered to be mechanical devices and, for purposes of height measurement, are restricted only to the extent consistent with other building-mounted mechanical devices.**

b. **Ground-mounted solar energy systems shall not exceed twelve (12) feet in height when oriented at maximum tilt, except that the maximum height is twenty-two (22) fee for systems set back at least thirty (30) fee from any property line.**

c. **Setbacks for Ground-Mounted Solar Energy Systems**

i. **Notwithstanding any other provision of this ordinance to the contrary, the setbacks for ground-mounted solar energy systems shall be as follows:**

(1) **The minimum front setback in all Growth Management Districts is fifty (50) feet.**

(2) **Minimum side and rear setbacks are per the dimensional requirements established in Section 23.F.**

ii. **Additional setbacks may be required to mitigate visual and functional impacts.**

d. **Solar energy systems shall not be included in calculations for lot coverage or impervious cover as defined in Section 23.F.**

5. **Standard for Approval**

In addition to the site review standards and requirements established elsewhere in the ordinance, the following standards must also be met:

a. **Large- and Medium-Scaled Ground-Mounted Solar Energy Systems**

i. **Lots – SES shall not exceed 20% coverage of a lot area. Lot coverage shall be calculated based on the total SES airspace projected over the ground. All SES should be designed and located to ensure solar and physical access without reliance on and/or interference to/from adjacent properties.**

ii. **Legal Responsibilities – The applicant must provide proof that it has authorization to construct, use, and maintain the property and any access drive for the life of the project and including the decommissioning of the project. The roles and responsibilities of the system owner, operator, landowner, and any other party involved in the project must be clear and meet the satisfaction of the Planning Board that the public interest is protected. The owner or operator of a Ground Mounted Solar Energy System shall build and maintain it in compliance with all relevant federal, state, and local laws and regulations and ordinances.**

iii. **Deed Registration – Any large- or medium-scaled SES shall be incorporated into the description of the real property in the lot/property deed and registered with the Oxford County Registry of Deeds as a condition of Planning Board approval.**

iv. **Prohibited Locations – Components of a ground mounted SES shall not be placed within any legal easement or right-of-way location, or be placed within any**

stormwater conveyance system, or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.

v. **Utility Notification – No grid-intertied photovoltaic system shall be installed until evidence has been given to the Code Enforcement Officer that the applicant has an agreement with the utility to accept the power. Off-grid systems are exempt from this requirement.**

vi. **Fence – Ground Mounted Solar Energy Systems shall be protected by a perimeter fence. Such fences shall allow for small wildlife passage and movement.**

vii. **Buffers and Screening – Lots on which ground mounted solar energy systems are located shall be buffered and screened from roads and residences by plantings, berms, and natural topographical features. Ground mounted SES shall be screened from view to the greatest extent practical of any adjacent property that is residential, as well as any public way. Buffers and screening shall comply with Section 13.AA.**

viii. **Glare – SES shall be situated to eliminate concentrated glare onto nearby structures or roadways.**

ix. **Noise – SES or solar related equipment shall comply with Section 13.Z., Noise.**

x. **Lighting – Lighting shall be limited to that required for safety and operational purposes and shall be shielded from interference with abutting properties. Lighting of the SES shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution and shall otherwise comply with the provisions of Section 13.O., Lighting Design Standards. Other than required lighting, lighting shall not be used between 9pm and 7am.**

xi. **Impervious Assessment – The surface area of the arrays of a ground mounted SES, regardless of the mounted angle of any solar panels, may or may not be considered impervious contingent upon conformity with the stormwater management plan.**

xii. **Utility Connections – Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.**

xiii. **Emergency Services – SES owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Code Enforcement Officer. Upon request, the owner or operator shall coordinate with local emergency services in developing an emergency response plan. A "3200 Series KNOX-BOX", or agreed equivalent, shall be provided and installed by the operator to be used to allow emergency service personnel continuous access. All means of shutting down the solar energy system shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.**

xiv. **Maintenance Conditions – The SES owner or operator shall maintain the facility in good condition. Maintenance shall include, but is not limited to, painting, structural repairs, vegetative screenings, fences, landscaping and plantings, and integrity of security measures. The SES must be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition, or detrimental to public health, safety, or general welfare. Site access shall be maintained to a level acceptable to the Code Enforcement Officer. The owner or operator shall be responsible for the cost of**

maintaining the SES and any access road(s), including regular plowing of snow to maintain road access.

xv. Satisfaction with All Aspects of Capacity and Plans Submitted – The Planning Board must find that the applicant has the capacity to finance, safely operate, and decommission the SES.

xvi. Removal – When any portion of a ground mounted SES is removed, any earth disturbance must be graded and re-seeded, unless authorized for another developed use.

xvii. Alternatives Assessment – As determined by the Planning Board, if a proposed ground-mounted SES does not meet the standards in this Ordinance or goals and objectives as established in the Town's Comprehensive Plan, then other potential suitable alternative area(s), on the lot(s) included in the application, where a SES can meet the Town's standards, goals, and objectives needs to be evaluated by the applicant. Alternative lot areas should be evaluated against those same Ordinance standards, and Town goals and objectives.

xviii. Preservation of Town's Character – All reasonable efforts, as determined by the Planning Board, shall be made to ensure any SES is consistent with the character of the community via visual consistency with local neighborhood area, maintenance of scenic views, maintenance of open space land and farms, and the Town's Comprehensive Plan and associated Town planning documents.

b. Small-Scaled Ground-Mounted Solar Energy Systems

i. Lots – SES shall not exceed 10% coverage of a lot area. Lot coverage shall be calculated based on the total SES airspace projected over the ground. All SES should be designed and located to ensure solar and physical access without reliance on and/or interference to/from adjacent properties.

ii. Setback – Structures within a SES shall be setback a minimum of fifty (50) feet from the side and rear property lines and meet the front setback requirements for structures within Growth Management District. Any solar photovoltaic cells or arrays shall be subject to a maximum height of ten (10) feet above the ground surface. Associated SES structures shall be subject to the maximum height regulations specified for principal and accessory buildings within the applicable Growth Management District.

iii. Prohibited Locations – Components of a ground mounted SES shall not be placed within any legal easement or right-of-way location, or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.

iv. Glare – All SES shall be situated to eliminate concentrated glare onto nearby structures or roadways.

v. Lighting – Lighting shall be limited to that required for safety and operational purposes and shall be shielded from interference with abutting properties. Lighting of the SES shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution and shall otherwise comply with the provisions of Section 10.O., Lighting Design Standards. Other than required lighting, lighting shall not be used between 9pm and 7am.

vi. Preservation of Town's Character – All reasonable efforts, as determined by the Planning Board, shall be made to ensure any SES is consistent with the character of the community via visual consistency with local neighborhood area, maintenance of scenic views, maintenance of open space land and farms, and the Town's Comprehensive Plan and associated Town planning documents.

c. Roof-Mounted Solar Energy Systems

i. The owner shall provide evidence certified by an appropriately licensed professional that the roof is capable of supporting the collateral load of the SES.

ii. **SES mounted on roofs of any building shall be subject to the maximum height regulations specified for principal and accessory buildings within the applicable Growth Management District.**

iii. **Glare – All SES shall be situated to eliminate concentrated glare onto nearby structures or roadways.**

iv. **For firefighter access, a minimum of a three (3) foot buffer zone is required from the ridge and one (1) edge of the roof or parapet.**

v. **Preservation of Town's Character – All reasonable efforts, as determined by the Code Enforcement Officer, shall be made to ensure any SES is consistent with the character of the community via consistency with local neighborhood area, maintenance of open space and farms, and the Town's Comprehensive Plan and associated Town planning documents.**

6. **Decommissioning and Removal**
   a. **Any ground mounted solar energy system that has reached the end of its useful life, ceases to generate power, or has been abandoned shall be removed pursuant to a plan approved by the Planning Board during the application process. The landowner, or SES owner or operator shall physically remove the installation no more than 180 days after the date of discontinued operations. The owner or operator shall notify the Code Enforcement Officer by certified mail, return receipt requested, of the proposed date of the discontinued operations and plans for removal.**
   b. **Decommissioning shall consist of:**
      i. **Physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site;**
      ii. **Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations; and**
      iii. **Stabilize or re-vegetation of the site as necessary to minimize erosion. The Code Enforcement Officer may allow the owner or operator to leave landscaping or designated below-grade foundations to minimize erosion and disruption of vegetation.**
   c. **Absent a notice of a proposed dated of decommissioning or written notice of extenuating circumstances, a ground mounted solar energy system shall be considered abandoned when it fails to generate 10% or less permitted capacity of electricity for a continuous period of twelve (12) months without having first obtained the written consent of the Code Enforcement Officer. Determination of abandonment shall be made by the Code Enforcement Officer.**
   d. **If the owner or operator of a ground mounted solar energy system fails to remove the installation in accordance with the requirements of this section within 180 days of abandonment or the proposed date of decommissioning, the Town of Newry retains the right to use the performance guarantee and any and all legal or available means necessary to cause an abandoned, hazardous or decommissioned solar energy system to be removed.**

7. **Modifications**
   a. **Any physical modification to any existing SES, whether or not existing prior to the effective date of this Ordinance, shall require review and approval under the Performance Standard.**
   b. **Any modifications to a medium- or large-scale ground-mounted solar energy system made after issuance of the required town permit(s) shall require approval by the Planning Board.**
   c. **Any modifications to a small-scale ground-mounted solar energy system made after issuance of the required town permit(s) shall require approval by the Code Enforcement Officer.**
   d. **Application fees for modifications shall be consistent with the overall size of the SES, not solely the modification.**
   e. **Permit fees for modifications shall be based on the modified portion of the SES.**

Bruce seconded the motion. Ted proceeded to explain his proposed addition. Following discussion, **the motion passed unanimously**.

MOTION 10b:

Ted moved for the Planning Board to modify Section 24, Definitions, in the UDRO to account for the following definitions that are related to Solar Energy Systems as depicted on the motion sheet. Bruce seconded this motion and the group discussed the current and proposed definitions for Height of Structure. Following discussion, the group decided to keep the current definition of Height of Structure with no changes, and Ted withdrew his original motion.

Ted then moved that the Planning Board accept the proposed definitions related to Solar Energy Systems, with the exception of Height of Structure, as depicted below:

ELECTRICAL EQUIPMENT – When referring to a solar energy system, means any device such as an outdoor Electrical unit/control box, that transfers the energy from the solar energy system to the intended location.

ELECTRICITY GENERATION (PRODUCTION, OUTPUT) – The amount of electric energy produced by Transforming other forms of energy, commonly expressed in kilowatt-hours (kWh) or megawatt-hours (MWh).

MOUNTING – When referring to a solar energy system, means the manner in which a solar photovoltaic System is affixed to the roof or ground (i.e., roof mount, or ground mount).

POWER – The rate at which work is performed (the rate of producing, transferring, or using energy). Power is measured in Watts (W), kilowatts (kW), megawatts (MW), etc.

SOLAR ARRAY – Multiple solar photovoltaic panels or thermal collector panels combined together to create one system.

SOLAR COLLECTOR – A solar photovoltaic cell, panel, or array, or solar thermal collector device, that relies upon solar radiation as an energy source for the generation of electricity or transfer of heat.

SOLAR ENERGY SYSTEM – A system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means. It may be roof-mounted or ground-mounted, and may be of any size as follows:

1. **Small-scale Solar Energy System is one whose physical size is based on total airspace projected over a roof or the ground is less than 15,000 square feet (approximately one-third of an acre);**
2. **Medium-scale Solar Energy System is one whose physical size based on total airspace projected over a roof or the ground is equal to or greater than 15,000 square feet but less than 87,120 square feet (two acres);**
3. **Large-scale Solar Energy System is one whose physical size based on total airspace projected over a roof or the ground is equal to or greater than 87,120 square feet (two acres).**

SOLAR ENERGY SYSTEM, GROUND-MOUNTED – A Solar Energy System that is structurally mounted to the ground and is not roof-mounted; may be of any size (small-, medium-, or large-scale).

SOLAR ENERGY SYSTEM, ROOF-MOUNTED – A Solar Energy System that is mounted on the roof of a Building or structure; may be of any size (small-, medium-, or large-scale).

TILT – The angle of the solar panels and/or solar collector relative to horizontal. Tilt is often between 5 and 40 degrees. Solar energy systems can be manually or automatically adjusted throughout the year. Alternatively, fixed tilt systems remain at a static tilt year-round.

Bruce seconded, and with no further discussion, **the motion passed unanimously.**

MOTION 10c:

Ted moved for the Planning Board to amend the UDRO by adding the following subsection to Section 10, Application Procedure and Submission Requirements, specifically Section 10.C.2.k. as depicted on the motion sheet.

k. Additional Information for Solar Energy Systems

i. A description of the owner of the SES, the operator if different, and detail of qualifications and track record to run the facility.

ii. If the operator will be leasing the land, a copy of the agreement (minus financial compensation) clearly outlining the relationship inclusive of the rights and responsibilities of the operator, landowner, and any other responsible party with regard to the SES and the life of the agreement.

iii. A description of how and to whom the energy produced will be sold.

iv. A copy of the agreement and schematic details of the connection arrangement with the transmission system (most likely Central Maine Power), clearly indicating which party is responsible for various requirements and how they will be operated and maintained.

v. The layout, design, and installation shall conform to applicable industry standards, such as those of the American National Standards (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC), National Electrical Code (NEC) or other similar certifying organizations, and shall comply with local ordinances, and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application.

vi. A description of the panels to be installed, including make and model, and associated major system components.

vii. A construction plan and timeline, identifying known contractors, site control and anticipated on-line date.

viii. An operations and maintenance plan, including site control and the projected operating life of the system. Such a plan shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation. Additionally, such plans shall include efforts to promote beneficial flora and fauna (e.g. honeybees, butterflies, etc.) as well as commitment to not using pest-control substances (e.g. pesticides, herbicides, fungicides, and/or insecticides).

ix. An emergency management plan for all anticipated hazards.

x. A stormwater management plan, certified by a licensed Maine engineer, that demonstrates stormwater from the SES will infiltrate into the ground beneath the SES at a rate equal to that of the infiltration rate prior to the placement of the system.

xi. A background noise measurement for the site location as per Section 13.Z., Noise.

xii. Proof of financial capacity to construct and operate the proposed facility.

xiii. A decommissioning plan, including:

(1) A description of the trigger for implementing the decommissioning plan. There is a rebuttable presumption that decommissioning is required if 10% or less permitted capacity of electricity is generated for a continuous period of twelve (12) months. The applicant may rebut the presumption by providing evidence, such as a force majeure event that interrupts the generation of electricity, that although the project has not generated electricity for a continuous period of twelve (12) months, the project has not been abandoned and should not be decommissioned.

(2) A description of the work required to physically remove all Solar Energy System and Solar Related Components, including associated foundations, buildings, cabling, electrical components, and any other associated facilities to the extent they are not otherwise in or proposed to be placed into productive use. All earth disturbed during decommissioning must be graded and re-seeded unless the landowner of the affected land requests otherwise in writing and subject to Planning Board approval.

(3) An estimate of the total cost of decommissioning value of the equipment and itemization of the estimated major expenses, including the projected costs of measures taken to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. The itemization of major costs may include, but is not limited to, the cost of the following activities: panel removal, panel foundation removal and permanent stabilization, building removal and permanent stabilization, transmission corridor removal and permanent stabilization, and road infrastructure removal and permanent stabilization.

(4) Demonstrate in the form of a performance bond, surety bond, letter of credit, or other form of financial assurance as may be acceptable to the Select Board that upon the end of the useful life of the Solar Energy System, the applicant will have the necessary financial assurance in place for 150% of the estimated total cost of decommissioning, subject to a review of such cost by the Code Enforcement Officer. The financial assurance shall include a provision granting the Town the ability to access the funds and property and perform the decommissioning if the facility is abandoned or the applicant or subsequent responsible party fails to meet their obligations after reasonable notice, to be defined in the agreement and approved by the Planning Board. for a Medium-scale SES, the applicant may propose securing the necessary financial assurance in phases, as long as the total required financial assurance is in place a minimum of five (5) years prior to the expected end of useful life of the Solar Energy System.

Bruce seconded. Ted explained his proposed amendment, and following discussion, **the motion passed unanimously.**

<u>MOTION 11a:</u>

Ted moved that the Planning Board amend the UDRO by adding the following Performance Standard covering wireless telecommunication facilities as Section 13.AF. as noted on the motion sheet:

AF. Wireless Telecommunication Facilities

1. Purpose

To provide a process and a set of standards for the construction of Wireless Telecommunication Facilities in order to:

- **Preserve the character and appearance of the Town of Newry while allowing adequate development of wireless telecommunications services.**
- **Implement a municipal policy concerning the provision of wireless telecommunications services, and the siting of their facilities;**
- **Establish clear guidelines, standards, and time frames for the exercise of municipal authority to regulate Wireless Telecommunication Facilities;**
- **Allow competition in telecommunication service;**
- **Encourage the provision of advanced telecommunications services to the largest number of businesses, institutions, and residents of Newry;**
- **Permit and manage reasonable access to the public rights of way of Newry for telecommunications purposes on a competitively neutral basis;**

- **Ensure that all telecommunications carriers providing facilities or services within Newry comply with the ordinances of Newry;**
- **Ensure that Newry can continue to fairly and responsibly protect the public health, safety, and welfare;**
- **Encourage the colocation of Wireless Telecommunication Facilities, thus helping to minimize adverse visual impacts on the community;**
- **Enable the Town to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition, and technological development;**
- **Further the goals and policies of the Comprehensive Plan, while promoting orderly development of the Town with minimal impacts on existing uses; and**
- **Protect the scenic and visual character of the community.**

2. **Applicability**
   This performance standard applies to all construction and expansion of wireless telecommunication facilities, except as provided in Section 13.AF.3.
3. **Exemptions**
   The following are exempt from the provisions of this subsection:
   a. **Emergency Wireless Telecommunication Facility – Temporary Wireless Communications Facilities for emergency communications.**
   b. **Amateur Radio Service – Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).**
   c. **General Mobile Radio Service (GMRS) – GMRS stations licensed by the Federal Communications Commission (FCC).**
   d. **Maintenance or Repair – Maintenance, repair, or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.**
   e. **Temporary Wireless Telecommunication Facility – Temporary Wireless Telecommunication Facility, in operation for a maximum period of one hundred eighty (180) days.**
   f. **Antennas as accessory uses – An antenna that is an accessory use to a residential dwelling unit.**
4. **Review and Approval Authority**
   No person shall construct, make significant changes to, or expand a Wireless Telecommunication Facility without approval of the Code Enforcement Officer (CEO) or the Planning Board as follows:
   a. **Expansion of or significant changes to an existing facility and colocation.**
      Approval by the CEO is required for any of the following actions, provided the overall height of the facility does not increase beyond the maximum heights set out elsewhere in this section:
      i. **Replacement of antennas with different kinds of antennas or relocating antennas to a new location on the wireless telecommunication facility;**
      ii. **Accessory use of an existing wireless telecommunication facility; or**
      iii. **Colocation on an existing wireless telecommunication facility.**

      Approval of the Planning Board is required for any increase in the facility height.
   b. **New Construction**
      Approval of the Planning Board is required for construction of a new Wireless Telecommunication Facility, and any expansion of an existing Wireless Telecommunication Facility that increases the height of the Facility.
   c. **Approval Authority**
      The CEO or Planning Board as appropriate shall review applications for Wireless Telecommunication Facilities, and shall approve with conditions, or deny such applications and make written findings on whether the proposed Facility complies with this Ordinance.
5. **Application Procedures**
   All persons seeking approval of the CEO or the Planning Board under this Performance Standard shall submit an application as detailed in Section 10 of this ordinance.

6. **Standard of Review**

To obtain approval from the CEO or Planning Board, an application must comply with the standards in this section.

a. **CEO Approval Standards**
   i. **The proposed Facility is an expansion, significant change, accessory use, or colocation to a structure existing at the time the application is submitted.**
   ii. **The applicant has sufficient right, title, or interest to locate the proposed Facility on the exiting structure.**
   iii. **The proposed changes to the Facility increase the height of the existing structure by no more than thirty (30) feet.**
   iv. **The proposed Facility will be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable.**
   v. **The proposed Facility, to the greatest degree practicable, shall have no unreasonable adverse impact upon districts, historic landmarks, sites, buildings, structures or objects significant in American history architecture archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).**

b. **Planning Board Approval Standards**
   i. **New Wireless Telecommunication Facilities must be located according to the priorities below. The applicant shall demonstrate that a Facility of a higher priority cannot reasonably accommodate the applicant's proposed Facility.**
      (1) **Colocation on an existing Wireless Telecommunication Facility or other existing structure as allowed in Section 23.H. of this ordinance.**
      (2) **A new Facility on public or private property as allowed in Section 23.H. of this ordinance.**

c. **If an applicant proposed to locate a new Wireless Telecommunication Facility, or expand an existing Facility on municipal property, the applicant must show the following:**
   i. **The proposed location complies with applicable municipal ordinances.**
   ii. **The proposed Facility will not unreasonably interfere with the municipal purpose of the property.**
   iii. **The applicant has adequate liability insurance and a lease agreement with the municipality that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interests in the property.**

d. **A new Wireless Telecommunication Facility and related equipment must be designed and constructed to accommodate expansion for future colocation of at least three (3) additional Wireless Telecommunication Facilities or providers. However, the Planning Board may waive or modify this standard where the district height limitation effectively prevents future colocation.**

e. **A new Wireless Telecommunication Facility shall not exceed a height of one hundred twenty-five (125) feet above ground level, except that where evidence of technical effectiveness as a wireless communications facility, acceptable design, and colocation is provided, the Planning Board may approve an additional twenty-five (25) fee to tower height per each additional wireless communication service provider, not to exceed a maximum tower height of one hundred and fifty (150) feet.**

f. **A new or expanded Wireless Telecommunication Facility must comply with the setback requirements for the Growth Management District in which it is located or be set back one hundred five percent (105%) of its height from all property lines, whichever is greater. Including the areas outside the property boundaries if secured by an easement may satisfy the setback. An antenna is exempt from the setback requirement if it extends no more than five (5) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.**

g. A new Wireless Telecommunication Facility and related equipment must be screened with vegetation, such as shrubs and trees, from view by abutting properties, to the maximum extent practicable. Existing vegetation and natural landforms on the site shall also be preserved to the maximum extent practicable.

h. A new Wireless Telecommunication Facility must be fenced to discourage trespassing on the Facility and to discourage climbing on any structure by trespassers.

i. A new Wireless Telecommunication Facility must be illuminated only as necessary to comply with FAA or other applicable state and federal requirements. However, security lighting may be used as long as it is shielded to be down directional to retain light within the boundaries of the site, to the maximum extent practicable.

j. A new Wireless Telecommunication Facility must be constructed with materials and colors that match or blend with the surrounding natural or build environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.

k. A new Wireless Telecommunication Facility must comply with the current Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Antenna Supporting Structures and Antennas and Small Wind Turbine Support Structures". Monopole or self-supported structures are preferred over structures with guy wires.

l. The proposed Wireless Telecommunication Facility will have no unreasonable adverse impact upon Designated Scenic Resources within the Town, as identified either in the municipally adopted Comprehensive Plan, or by state or federal agency. In determining the potential unreasonable adverse impact of the proposed Facility upon the Designated Scenic Resources, the Planning Board shall consider the following factors:

- **i. The extent to which the proposed Wireless Telecommunication Facility is visible above tree line, from the Viewpoint(s) of the Designated Scenic Resource;**
- **ii. The type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed Facility;**
- **iii. The extent to which the proposed Wireless Telecommunication Facility would be visible from the Viewpoint(s);**
- **iv. The amount of vegetative screening;**
- **v. The distance of the proposed Facility from the Viewpoint and the Facility's location within the Designated Scenic Resource; and**
- **vi. The presence of reasonable alternatives that allow the Facility to function consistently with its purpose.**
- **vii. The proposed Facility, to the greatest degree practicable, will have no unreasonable adverse impact upon a Historic District, site, or structure that is currently listed on or eligible for listing on the National Register of Historic Places.**

7. Standard Conditions of Approval

The following standard conditions of approval shall be a part of any approval or conditional approval issued by the CEO or the Planning Board. Where necessary to ensure that an approved project meets the criteria of this ordinance, the Planning Board can impose additional conditions of approval. Reference to the conditions of approval shall be clearly noted on the final approved site plan, and shall include:

a. The owner of the Wireless Telecommunication Facility and his or her successors and assigns agree to:

- **i. Respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;**
- **ii. Negotiate in good faith for shared use of the Wireless Telecommunication Facility by third parties;**

iii. **Allow shared use of the Wireless Telecommunication Facility if an applicant agrees in writing to pay reasonable charges for colocation.**

iv. **Require no more than a reasonable charge for shared use of the Wireless Telecommunication Facility, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the Facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the Wireless Telecommunication Facility.**

b. **Upon request by the municipality, the applicant shall certify compliance with all applicable FCC radio frequency emission regulations.**

c. **The applicant to obtain a surety bond as set forth in Section 10.C.2.j.xi. to pay for the cost of removal of the Facility by the Town if the Facility is abandoned, or in lieu pf such surety bond, the Planning Board shall require the deposit of sufficient funds in an escrow account in the name of the Town for the Town to pay the cost of removal of an abandoned Facility set forth in Section 13.AF.8. of this ordinance.**

d. **During construction, repair, or replacement, operation of a back-up power generator at any time during a power failure, and testing of a back-up generator between 8 a.m. and 9 p.m. is exempt from existing municipal noise standards.**

8. **Abandonment**

A Wireless Telecommunication Facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The CEO shall notify the owner of an abandoned Facility in writing and order the removal of the Facility within ninety (90) days of receipt of the written notice. The owner of the Facility shall have thirty (30) days from the receipt of the written notice to demonstrate to the CEO that the Facility has not been abandoned.

If the owner fails to show that the Facility is in active operation, the owner shall have sixty (60) days to remove the Facility. If the Facility is not removed within this time period, the municipality may remove the Facility at the owner's expense. The owner of the Facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and re-establishment of vegetation.

The owner of the Facility may apply to the Planning Board for release of the surety or return of any unexpended portion of the required escrow account as set forth in Section 13.AF.7.c. when the Facility and related equipment are removed to the satisfaction of the Planning Board.

Bruce seconded. Ted explained the proposed addition. During discussion, it was suggested that **the bullet points under AF.1. be changed to lower case letters** to be consistent with the formatting throughout the UDRO. With no further discussion, **the motion passed unanimously.**

MOTION 11b:

Ted moved for the Planning Board to amend the UDRO by inserting the following definitions to Section 24, Definitions, definitions in support of Wireless Telecommunications Facilities as depicted on the motion sheet:

ANTENNA – Means any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

COLOCATION – When referring to a wireless telecommunications facility, means the use of such facility by more than one wireless telecommunications provider.

DESIGNATED SCENIC RESOURCE – Means that specific location, view, or corridor, as identified as a scenic resource in the municipally adopted Comprehensive Plan an ordinance adopted by the Town or by a State or federal agency, that consists of:

1. **A three-dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, resulting in a narrow corridor, or group of objects, such as a downtown skyline or mountain range or views of seascapes or offshore islands, resulting in a panoramic view; or**
2. **Lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from the viewpoint on a public way or within a public recreational area.**

EXPANSION – When referring to wireless telecommunications facility, means the addition of antennas, towers, or other devices to an existing structure.

FAA – Means the Federal Aviation Administration or its lawful successor.

FCC – Means the Federal Communications Commission or its lawful successor.

HEIGHT – When referring to wireless telecommunications facility, means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the Facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating antenna height.

HISTORIC OR ARCHAEOLOGICAL RESOURCES – Means resources that are:

1. **Listed individually in the National Register of Historic Places or eligible for listing on the National Register;**
2. **Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered Historic District or a district preliminarily determined by then Secretary of the Interior to qualify as a registered Historic District;**
3. **Individually listed on a state inventory of historic places in states with historic preservation programs approved by the Secretary of the Interior;**
4. **Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by Secretary of the Interior through the Maine Historic Preservation Commission; or**
5. **Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the municipality's Comprehensive Plan, which have been listed or are eligible to be listed on the National Register of Historic Places.**

HISTORIC DISTRICT – Means a geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings structures or objects united by past events or aesthetically by plan or physical development and identified in the municipality's Comprehensive Plan, which is listed or is eligible to be listed on the National Register of Historical Places. Such Historic Districts may also comprise individual elements separated geographically but linked by association or history.

HISTORIC LANDMARK – See historic site

LINE OF SIGHT – When referring to wireless telecommunications facility, means the direct view of the object from the Designated Scenic Resource.

PUBLIC RECREATIONAL FACILITY OR AREA – Means a regionally or locally significant Facility or area, as defined and identified either by State statute or in the municipality's adopted Comprehensive Plan or a municipal ordinance adopted by the Town, designated to serve the recreational needs of municipal property owners.

TARGETED MARKET COVERAGE AREA – Means the Town of Newry that is targeted to be served by this proposed telecommunications Facility.

TOWN – Means the Town of Newry.

UNREASONABLE ADVERSE IMPACT UPON DESIGNATED SCENIC RESOURCE – Means that the proposed project would produce an end result that is:

1. **Excessively out of character with the Designated Scenic Resources affected, including existing buildings, structures, and features within the Designated Scenic Resource, and**
2. **Would significantly diminish the scenic value of the Designated Scenic Resource.**

VIEWPOINT – Means that location which is identified either in the municipality's adopted Comprehensive Plan or a municipal ordinance adopted by the Town or by a federal or State agency, and which serves as the basis for the location and determination of a particular Designated Scenic Resource.

WIRELESS TELECOMMUNICTION FACILITY – Means any structure, antennas, tower, or other device which Provides commercial mobile wireless services, cellular telephone services, specialized mobile radio communications (SMR), common carrier wireless exchange access services, personal communications services (PCS) or pager services, and internet services.

Bruce seconded. Ted explained the additional definitions specific to Wireless Telecommunication Facilities. With no further discussion, **Ted withdrew his motion, and then moved for the Planning Board to amend the UDRO by adopting definitions for Wireless Telecommunication Facilities in Section 24 as written with the exception of Line of Site, which will be edited to include "When referring to a wireless telecommunication facility, means the direct view of the object from the Designated Scenic Resource". Bruce seconded, and the amended motion passed unanimously.**

MOTION 11c:

Ted moved for the Planning Board to amend the UDRO by adding the following subsection to Section 10, Application Procedures and Submission Requirements, specifically adding Section 10.C.2.j., Additional Information for Wireless Telecommunication Facilities, as written on the motion sheet:

j. Additional Information for Wireless Telecommunication Facilities

i. A copy of the FCC license for the Facility or a signed statement from the owner or operator of the Facility attesting that the Facility complies with current FCC regulations.

ii. For a proposed expansion of a facility, a signed statement that commits the owner of the facility, and his or her successors in interest, to:

(1) Respond in a timely, comprehensive manner to a request for information for a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;

(2) Negotiate in good faith for shared use by third parties;

(3) Allow shared use if colocation applicant agrees in writing to pay reasonable charges for colocation;

(4) Require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

iii. Applicants for a wireless telecommunication tower or facility permit must be a telecommunications provider or must provide a copy of its lease/contract with an existing telecommunications provider. Alternatively, applicants may provide letters of intent from carriers to place antennas on the tower once all necessary permits and authorizations have been obtained, including approval by the Planning Board. A permit issued under this ordinance shall not be granted for a wireless communications facility to be built on speculation.

iv. A USGS 7.5 minute topographic map showing the location of all structures and Wireless Telecommunication Facilities above 150 feet in height above ground level, except antennas located on roof tops, within a five (5) mile radius of the proposed Facility, unless this information has been previously made available to the municipality. This requirement may be met by submitting current information (within thirty days of the date the application is filed) from the FCC Tower Registration Database.

v. Certification by a registered electrical or electronics engineer that the proposed facility complies with all FCC standards for radio emissions.

vi. A scenic assessment, consisting of the following:

(1) Elevation drawings of the proposed Facility, and any other proposed structures, showing Height above ground level;

(2) A landscaping plan indicating the proposed placement of the Facility on the site, location of existing structures, trees, and other significant site features, the type and location of plants proposed to screen the Facility, the method of fencing, the color of the structure, and the proposed lighting method.

(3) Photo or video simulations of the proposed Facility taken from perspectives determined by the Planning Board, or their designee. Each photo and video must be labeled with the Line of Sight, elevation, and with the date taken imprinted on the photograph. The photos and videos must show the color of the Facility and method of screening.

vii. A narrative discussing:

(1) The extent to which the proposed Facility would be visible from or within a Designated Scenic Resource,

(2) The tree line elevation of vegetation within 100 feet of the Facility, and

(3) The distance to the proposed Facility from the Designated Scenic Resource's noted Viewpoints.

viii. A written description of how the proposed Facility fits into the service provider's telecommunications network. This submission requirement does not require disclosure of confidential business information.

ix. Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed Facility, the evidence for which may consist of any one or more of the following:

(1) Evidence that no existing Facilities are located within the targeted market coverage area as required to meet the applicant's engineering requirements,

(2) Evidence that existing Facilities do not have sufficient Height or cannot be increased in Height at a reasonable cost to meet the applicant's engineering requirements,

(3) Evidence that existing Facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:

(a) Planned, necessary equipment would exceed the structural capacity of the existing Facility, considering the existing and planned use of those Facilities, and these existing Facilities cannot be reinforced to accommodate the new equipment.

(b) The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing Facility would cause interference with the applicant's proposed antenna.

(c) Existing or approved Facilities do not have space on which planned equipment can be placed so it can function effectively.

(4) For Facilities existing prior to the effective date of this ordinance, the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing Facility are unreasonable. Costs exceeding the pro rata share of a new Facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a tower built after the passage of this ordinance.

(5) Evidence that the applicant has made diligent good faith efforts to negotiate colocation on an existing Facility, building, or structure, and has been denied access;

x. **A signed statement stating that the owner of the Wireless Telecommunication Facility and his or her successors and assigns agree to:**
   (1) Respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
   (2) Negotiate in good faith for shared use of the Wireless Telecommunication Facility by third parties;
   (3) Allow shared use of Wireless Telecommunication Facility if an applicant agrees in writing to pay reasonable charges for colocation;
   (4) Require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

xi. **A form of surety approved by the Planning Board to pay for the costs of removing the Facility if it is abandoned.**

xii. **Evidence that a notice of the application has been published in a local newspaper of general circulation in the community.**

Bruce seconded the motion. Ted proceeded to explain his proposed addition to Section 10 specific to Wireless Telecommunication Facilities. With no further discussion, **the motion passed unanimously.**

CEO Reports - none

Open Discussion

a) It was noted that a Special Town Meeting is scheduled for 5pm on February 20th, at which time the Planning Board will present the proposed changes to the UDRO to the Selectboard at the Grange Hall. The timing of this presentation will allow time for a public hearing, attorney review, and printing of the warrant books. Ted will attend this meeting and present the proposed edits to the Selectboard. Bruce stated that he may attend as well. Gootsch is unable to attend.

Next Scheduled Planning Board Meeting – Wednesday, February 21, 2024, at 6 pm

Adjournment – **Ted moved to adjourn the February 7th meeting of the Newry Planning Board and reconvene on Wednesday, February 21, at 6:00. Bruce seconded. Motion passed with all voting in favor.** The meeting was adjourned at 8:30 PM.