

NEWRY PLANNING BOARD
MINUTES OF BOARD MEETING
Wednesday, July 3, 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)

Public Attendees: Leslie Otten; Chris Kennison

Call to Order: Chairman John Gauthier called the meeting to order at 5:57 PM.

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

Prior Attendance/Voting Eligibility: With no recent absences of full Board members, they are all eligible to vote. Rob Kates, alternate member, confirmed that he has listened to the recording, read the minutes, and has also completed and signed the affidavit for Missed Meetings.

Previous Meeting's Minutes: The Board reviewed the June 18th meeting's minutes. Following discussion, **Ted moved to approve the minutes as written. Bruce seconded. With no further discussion, the motion passed with all voting in favor.**

Business

a) **Election of officers:** Bruce nominated John Gauthier for Chairperson of the Planning Board; John accepted the nomination. Following discussion, the vote passed with all 3 full-board members voting in favor.

Ted nominated Bruce as Vice Chair of the Planning Board for another year; Bruce accepted. The vote passed with all 3 full-board members voting in favor.

Bruce nominated Ted as Secretary of the Planning Board, and Ted accepted. The vote passed with all 3 full-board members voting in favor.

b) **MALRY LLC, Chris Kennison representing – Locke Summit Estates (Newry project #16-2016 sale, and development rights permit transfer, review under Section 3.H of the UDRO):** Chris Kennison noted that he has hired Main-Land Development; however, they could not attend tonight. Chris distributed a proposal agreement packet prepared by Main-Land Development dated June 25, 2024. Chris explained to the Board that he is in the process of transferring from Jim Nichols (or Locke Summit Estates, LLC) to Malry, LCC the development rights for the 2nd phase of this subdivision and the remainder of the lots that have not yet been conveyed. It was noted that some of the lots in Phase 2 were transferred to members of the Locke Summit Estate LLC, and that the title company would like the Planning Board's approval before moving forward and closing this transfer.

Per Section 3h of the UDRO, there is nothing for the Board to approve. The applicant will need to submit certain requirements showing that he has assumed the development rights. The applicant will also need to provide proof of financial capability and show proof of DEPs approval of the transfer. The Board explained that the UDRO does not allow conveyance of lots within a subdivision if there is no road access. It was noted that the lots that were conveyed to the members of Locke Summit Estates LLC do not have any road access. Discussion ensued on this topic. It seems that Locke Summit Estates LLC has dissolved/fell apart, and that according to attorney Mike Steven

of Bethel, the conveyance was okay since the lots were conveyed from the LLC to the members of the LLC. It was reiterated that the Town of Newry's UDRO does not allow conveyance without road access. The Board suggested that Newry's Code Enforcement Officer have this reviewed by the Town's attorney.

Chris stated that the current permit does not expire until April 2026.

The Board reviewed Section 3H in the UDRO.

Ted distributed to the Board and the applicant a two-page memo addressed from Ted Baker to Members of the Planning Board, and dated July 3, 2024, with the subject: Locke Summit Estates Subdivision. Ted noted that the Board will need proof that the transfer has been accepted by DEP and that they will transfer their permit over to Malry, LLC. The applicant will also need to show proof of adequate technical and financial capacity to complete the proposed project. It was clarified that the applicant that he will need to come back before the Board prior to construction. Ted explained to the applicant that the memo mentioned above is not an all-inclusive list of requirements within the Ordinance and that he will be required to do his due diligence to ensure that the requirements of the ordinance are met.

It was noted that since this is a phased project, a detailed timeline of the phases will need to be submitted to the Planning Board for approval. Ted also mentioned some changes made to the ordinance – including the changes to Life Safety and Fire Suppression standards – and explained that the applicant will need to meet the new requirements. The applicant noted that he intends to require that the buildings include sprinkler systems. Prior to the start of any phase in Newry, the applicant will need to meet the Performance Guarantee Standards per the UDRO, which will require a detailed cost schedule. It was noted that since the application was approved prior to the most current revision of the UDRO, the Performance Guarantee would be just 10% of construction cost – not 100% as noted in the current UDRO. Ted noted that an independent third-party inspector, not affiliated with the DEP third-party inspector, performs the inspection duties for the Town, which will require an escrow account as detailed in the UDRO be established with the Town.

The Board reiterated the applicant work with Joelle, Newry CEO, and that the Town's attorney review the documentation that has been submitted.

Bruce moved to add Les Otten and his application to the agenda an Amendment Application for The Colony Development Co. LLC. Gootsch seconded. The motion passed unanimously.

- c) **The Colony Development Co., LLC; Les Otten as representative; Subdivision Amendment Application #24-282:** Les Otten submitted an Amendment Application packet and explained his request to merge Lots 48 and 49 of The Colony Subdivision into one lot and delete the common boundary and the buffers between the two lots to accommodate a larger, single-family dwelling. The Board proceeded to review the submitted documentation.

This application was numbered 24-282.

Ted moved given that The Colony Subdivision has previously been approved by this Board, that the Planning Board has jurisdiction over this lot line adjustment application. Gootsch seconded, and the motion passed unanimously.

As a matter of fact, the applicant has submitted a copy of the Registry of Deeds that shows that he has proof of ownership for the two lots in question – Lots 48 & 49 of The Colony, and therefore, **Ted moved that he has provided proof of ownership. Bruce seconded. The motion passed unanimously.**

Ted moved that the owner is present, and therefore, agency is not required. Bruce seconded. The motion passed unanimously.

Given that none of the Board members have indicated any bias nor conflict of interest, Ted moved that there is no existence of bias or conflict from members of the Board. Bruce seconded. The motion passed unanimously.

Given that this is strictly a lot line adjustment on a previously approved subdivision known as the Colony, Ted moved that no additional escrow is needed for the Board to review this matter. Bruce seconded. The motion passed unanimously.

The application fee has been paid in the form of a blank check in the Town's safe. The fee will be determined by the CEO. *(NOTE: On June 8th via email to the Recording Secretary, the CEO confirmed the check # to be 739, and the amount of the check as \$150.)*

Ted moved that Application forms 10.1, 10.2, 10.3, and 10.4 are complete. Bruce seconded. The motion passed unanimously.

Ted moved that a site visit is not required for this application. Bruce seconded. The motion passed unanimously.

Ted moved that a public Hearing is not required for this application. Bruce seconded. The motion passed unanimously.

Ted moved that given the fact that no infrastructure required improvements surrounding this application, any performance guarantee would be zero dollars, and therefore, the performance guarantee requirement has been met. Bruce seconded. The motion passed unanimously.

No waiver requests were submitted by the applicant.

No conditions of approval were applied to this application.

Given the fact that the application is strictly a legal matter of combining two lots into one and has no other significant nor insignificant change to the approve subdivision, **Ted moved that all performance standards applicable have been met with the fact that the previous application was approved. Bruce seconded. The motion passed unanimously.**

Bruce moved that because this application is for previously approved subdivision and that this amendment application is essentially just removing one lot line, that the Criteria for Approval have been met. Gootsch seconded. The motion passed unanimously.

Bruce moved that the Board approves the application to remove a lot line between two lots within The Colony Subdivision, Application 24-282. Gootsch seconded. The motion passed unanimously.

The Board proceeded to sign the final plan, and one copy was kept for the Town's files.

CEO Reports

- a) Affidavits have been updated and emailed, per Joelle's note on the agenda.
- b) Enforcement Actions: Ted reported for Joelle regarding two enforcement actions happening now: a lot clearing in Mahoosuc Glen that obliterated the 75-foot buffer zone near a stream and she is taking action on that violation, and there is a similar enforcement action at the Great Brook subdivision off Route 26 in the Bear River valley.

Open Discussion

- a) MMA workshop for Local Planning Boards & Boards of Appeals – at the Freeport Hilton Garden Inn on Tuesday, July 30. Registration is 4-4:30, and workshops are 4:30-8:30pm. Please let Retta know if you are interested in attending so she can submit your registration. The Town will pay for your attendance as well as your round-trip mileage. It was noted that there will probably be one scheduled in the fall in Augusta. Discussion ensued regarding the workshops MMA offers via Zoom.
- b) Fire Ponds: Bruce asked about enforcement action being taken on existing fire ponds. Ted replied that the Town took action on some fire ponds last year and noted that he had recommended that the fire pond option be taken out of the UDRO since they are so difficult to maintain, and the enforcement action is cumbersome. Other Board members express their recommendation that fire ponds be eliminated as a fire suppression option in the Ordinance. Further discussion ensued regarding fire ponds.
- c) Upcoming Attendance: Bruce noted that he will not be attending the next meeting (July 17th); he will be away, and he may need to miss the meeting on August 7th as well. Rob mentioned that there is a possibility that he may miss the meeting as well for potential jury duty.

Next Scheduled Meeting – Wednesday, July 17, 2024 -- Public Hearing at 6:00 followed by Planning Board meeting.

Adjournment Ted moved to adjourn this July 3rd meeting of the Newry Planning Board and reconvene on the 17th of July at 6pm for a Public Hearing followed by the Board's regularly scheduled meeting. Gootsch seconded. Motion passed with all voting in favor. The meeting adjourned at 7:27 PM.

APPROVED