

NEWRY PLANNING BOARD
MINUTES OF BOARD MEETING
Wednesday, September 4, 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: Joelle Corey (Code Enforcement Officer)

Members & Staff Absent:

Public Attendees: Brooks Morton, Ron Savage, Merek Franklin, Peter Roberts, Robert Berry

Call to Order: Chairman John Gauthier called the meeting to order at 6:01 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.

Ted made a motion to amend the agenda and to relocate “Elections of Officers” down to between items 6 & 7 (CEO Reports and Open Discussion) in order to expedite our applicant’s business. Bruce seconded. The motion passed unanimously.

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

Business

- a) **Review Final Plan(s) for Application #24-280, Shoreland Zone and Major Subdivision UDRO applications for The Pines at Sunday River; Pine Group LLC; Agent is Main-Land Development Consultants, Bob Berry, President and Senior Chief Engineer – Tax map R12 / Lot 014:** Bob Berry stated since the approvals happened at the last meeting, he has brought the final plans to tonight’s meeting for the Board to sign.

The audio recorders were paused while the Board proceeded to sign the final plans.

Bob asked about the Findings of Fact and if he had to be present for that; he was told that the applicant does not need to attend that meeting.

The applicant submitted a check (#1061) in the amount of \$10,000 for the third-party inspector escrow account.

- b) **Sunday River Resort Application 24-283 -- bathroom building in Jordan basin, Tax Map R12/Lot 026; Peter Roberts representing Sunday River Resort:** Peter Roberts, representing Sunday River, submitted check #92786 to cover the application fee of \$249.72 and sought questions or comments from the Board regarding the application he submitted to the Town prior to tonight’s meeting. The Board proceeded to refer to their UDRO Application Review tracking sheets.

Whereas the applicant, Sunday River Skiway Corporation, operates the recreational area for commercial purposes and the applicant is proposing the construction of a new structure within the area, therefore by Section 1.C.2. of the Unified Development Review Ordinance for the Town of Newry, Ted moved that the Planning Board has jurisdiction. Gootsch seconded. The motion passed unanimously.

Whereas the applicant holds a lease for the land in question, which is recorded with the Oxford County Registry of Deeds Book 1095 Pg 114, Ted moved that the applicant, Sunday River Skiway Corporation, has adequately demonstrated proof of ownership. Bruce seconded. The motion passed unanimously.

Whereas the Planning Board has received a letter dated Sept 8, 2022, from Dana Bullen, President of Sunday River Skiway Corporation, in which agency is given to Peter Roberts to represent Sunday River Skiway before the Board in all matters dealing with site plan applications, Ted moved that the Peter Roberts is authorized to represent the applicant. Bruce seconded. The motion passed unanimously.

Ted stated for the record that he is an employee of Sunday River Skiway Corporation in the capacity of a shuttle bus driver, and not a member of the management team nor in a position with management to be affect by or to affect any process brought before this Board.

Meredith stated that she is also an employee of Sunday River with the title of Vice President of Lodging.

The other Board members confirmed that they are not associated with Sunday River Resort.

Gootsch moved that all Board members do not have any bias or conflict of interest. Bruce seconded. The motion passed unanimously.

Ted moved that the Planning Board does not need to obtain an outside engineering review of this application, and therefore, there is no need for an escrow account. Bruce seconded. The motion passed unanimously.

Peter Roberts explained that the resort's plans of installing a 600 sq ft bathroom facility in the Jordan Basin area of the resort. The building will include a utility room, a small ticket kiosk, men's restrooms and women's restrooms. Adjacent to this building will be a pad made of either gravel or concrete for a few food trucks and permanent utilities hookups for those food trucks.

Ted moved that Form 10.1 for Application #24-283 is complete. Bruce seconded. The motion passed unanimously.

Whereas the applicant's parcel that this project is located on is greater than 1,500 acres more or less, and the number of abutters that would be required as per the definition of the Ordinance for notification is excessively high especially in view of the fact that within 1,000 feet of the project site, there are no abutters, the applicant has requested a waiver of the submissions requirement for abutter notification. Ted moved that the Board grant that waiver. Bruce seconded. The motion passed unanimously.

Ted moved that having granted the waiver for abutter notification, the applicant has completed Form 10.2. Bruce seconded. Joelle noted that where is askes on the application if the project is in shoreland zone, it is checked "yes". That is an error, this project is not in shoreland zone. The correction was noted on the application in ink, and the motion passed unanimously.

Ted moved that Form 10.3 is complete. Bruce seconded. The motion passed unanimously.

Peter distributed to the Board a letter addressed to the Planning Board dated Sept 4, 2024, RE: Sunday River Skiway Corp. Jordan Basin Bathrooms. The letter, requesting a waiver for a performance guarantee, was read aloud for the record. Ted referred to Section 21.A. of the UDRO where it states that "the Planning Board shall not waive the requirement for a performance guarantee on an application for a subdivision, major or minor,..." Ted noted that in that language it is inferred that a waiver could be granted for a site plan application. The Board was in agreement.

In view of the applicant's request for a waiver of a performance guarantee and given that the project under review is relatively minor in nature and is not a subdivision, Ted therefore moved that the Board accept or approve the waiver request. Bruce seconded. The motion passed unanimously.

Ted moved that Form 10.4 is complete. Bruce seconded. The motion passed unanimously.

With the information that has been submitted, Bruce moved that site visit will not be needed for this project. Ted seconded. The motion passed unanimously.

With the information that has been received and the requirements that have been met above, Bruce moved that a Public Hearing will not be needed for this project. Ted seconded. The motion passed unanimously.

The Board proceeded to review the Performance Standards in Section 13 of the UDRO.

- A. **Conformance with the Comprehensive plan:** Ted moved the application is centered around an already existing recreation area which is central to the Town's Comprehensive Plan and therefore, the applicant is in conformance with the Comprehensive Plan. Bruce seconded. The motion passed unanimously.
- B. **Municipal Services:** The Board agreed that Municipal Services is not applicable to this application.
- C. **Preservation and Enhancement of the Landscape:** Whereas preservation and enhancement has been reviewed extensively in previous applications, primarily the Jordan lift most recently, and there were no issues with that, and this project is well within that umbrella, therefore Ted moved this project is in conformance with the preservation and enhancement of the landscape. Bruce seconded. The motion passed unanimously.
- D. **Relation of Proposed Buildings to Environment:** Whereas this is a low aspect building, not readily visible from any vantage point, therefore, Ted moved that this application meets the performance standard for Relation of Proposed Buildings to Environment. Gootsch seconded. The motion passed unanimously.
- E. **Land Not Suitable for Building:** Whereas this project is well above normal high-water mark for any waterbody, and is located a long way from the 100-year floodplain, and other than the whole area is a lease, it is not part of any permanent road right-of-way or permanent road easement, and there is no filling or draining of a pond or wetland, nor has from previous reviews, primarily the Jordan lift review conducted two years ago, there's been no sighted significant wildlife habitat, therefore, Ted moved that the Performance Standard for Land Not Suitable for Building has been met. Bruce seconded. The motion passed unanimously.

Peter noted that a few trees will need to be cleared for the propane pad. Discussion ensued regarding the igloo, Peter explained the igloo and noted that Sunday River will be coming before the Board in the future with an application for that temporary structure.

Peter stated that he expects 200 cubic yards of fill to be brought in for this bathroom building so that folks can walk on a level surface and not down an icy slope to access the building. Four-foot frost walls and a concrete slab will be installed under the building.

- F. **Topsoil and Vegetation Removal:** Peter noted that the topsoil that gets removed from the site will be screened and then reapplied to the fill extensions. Ted moved that the applicant has demonstrated compliance with Topsoil and Vegetation Removal performance standard. Bruce seconded. The motion passed unanimously.

- G. **Erosion and Sedimentation Control:** Ted stated that the applicant has submitted an Erosion and Sediment control plan, which is drawing # 3, and pointed out item # 7 under Maine DEP Chapter Housekeeping Standards, 7a that specifically talks about concrete washout procedures. Ted asked that the applicant have a proper washout facility. **Ted moved that the applicant has demonstrated that they will meet the standard for Erosion and Sediment Control. Bruce seconded. The motion passed unanimously.**
- H. **Stormwater Management:** It was noted that the Stormwater management system put in place for the Jordan Lift project two years ago will cover this area. Discussion ensued. **Gootsch moved that the applicant has demonstrated quite good knowledge about Stormwater Management. Bruce seconded. The motion passed unanimously.**
- I. Borrow Pits: The performance standard for Borrow Pits is not applicable to this project.
- J., & K. Site Conditions & Plumbing: Site Conditions and Plumbing are both enforcement issues and not applicable for the Board's review.
- L. **Water Supply: Whereas this is a registered public water supply, Gootsch moved that the Water Supply meets the Performance Standard. Bruce seconded. The motion passed unanimously.**
- M. **Utilities:** The applicant noted that the National Electrical Code requires a light fixture at each exterior door of a public building, and therefore he has included information in the application about the downward facing LED or Halogen lights that will be installed. The applicant confirmed that all utilities will be underground. **Ted moved that the applicant has demonstrated conformance with Section M., Utilities, in the Performance Standards. Bruce seconded. The motion passed unanimously.**
- N. Sign Standard: Sign Standards is not applicable to this project.
- O. **Lighting Standards: Bruce moved that this application meets the Performance Standards for Lighting Standards. Gootsch seconded. The motion passed unanimously.**
- P. Dust, fumes, Vapors, Gases, Odors, Glare, and Explosive Materials: The Performance Standard for Dust, fumes, Vapors, Gases, Odors, Glare, and Explosive Materials is not applicable.
- R. **Refuse Disposal:** The applicant explained that any construction debris will be brought to the 80-yard roll-off dumpster that the resort keeps on lease from Casella in their Lot 9, and two dumpsters are leased from Casella that are located at the end of the service road for the solid waste from operations of the building. **Ted moved that the applicant has demonstrated conformance with the Refuse Disposal performance standard. Bruce seconded. The motion passed unanimously.**
- S. Protection of Significant Fisheries and Wildlife Habitat: The Board agreed that this item is not applicable.
- T. U., V., W., & X. Scenic Locations, Archaeological Sites, Historical Locations, Agriculture Protection Buffer Strips, Vehicular and Pedestrian Traffic: The Board agreed are all not applicable.
- Y. **Ground Water Protection:** Peter pointed out that this application does not deal with subsurface wastewater disposal nor storing or handling any chemicals in any volume that would affect ground water. **Gootsch moved that Y, Ground Water Protection, has been met. Bruce seconded. The motion passed unanimously.**
- Z. Noise: Is not applicable
- AA. Buffers and Screening Standards: Bruce moved that this application meets AA, Buffers and Screening Standards, performance standards. Ted seconded. The motion passed unanimously.**

AB., AC., AD., AE., AF., AG., AH., Home Occupations, Life Safety and Fire Suppression, Commercial Wind Energy Facilities, Mineral Exploration or Extraction, Wireless Telecommunications Facilities, Solar Energy Systems, Recreational Lodging Facilities: The Board agreed that these items do not apply.

Having reviewed all 34 Performance standards outlined in Section 13 of the Ordinance and having found no issues with any of them, Ted made an overall motion that the applicant is in compliance with the Performance Standards of the Ordinance. Bruce seconded. The motion passed unanimously.

The Board proceeded to review the Criteria for Approval.

CRITERIA FOR APPROVAL FOR THE UNIFIED DEVELOPMENT REVIEW ORDINANCE (Section 5; pages 21-24)

- A. **Pollution** – It was noted that this project is well above floodplain and well above sea level, the waste is being shipped off site, there is no subsurface wastewater and therefore no effluence, applicable State and local health and water resource rules and regulations have been met, and therefore, Gootsch moved that A, Pollution, has been met. Bruce seconded. The motion passed unanimously.
- B. **Erosion** – Whereas the applicant has submitted an Erosion Control Plan as part of the application siting that submission, Ted moved that Erosion criteria for approval has been met. Bruce seconded. The motion passed unanimously.
- C. **Traffic** – Ted moved that Section C., Traffic, for Criteria for Approval does not apply to this application. Bruce seconded. The motion passed unanimously.
- D. **Sewage Disposal** – Whereas the applicant will be using their private sewage treatment facility which is already in existence and has adequate capacity for this project, Ted moved that Criteria for Approval for Sewage Disposal has been met. Bruce seconded. The motion passed unanimously.
- E. **Municipal Solid Waste Disposal** – Whereas the applicant will be contracting with private waste haulers to deal with their solid waste for this project, Ted moved that Criteria for Approval E., Municipal Solid Waste Disposal, has been met. Bruce seconded. The motion passed unanimously.
- F. **Aesthetic, Cultural and Natural Values** – Whereas over a period of several decades this recreational area of which this site will be part of has never been identified as having scenic or natural significance nor wildlife habitat significance by the Dept of Inland Fisheries and Wildlife or by any other municipal entity, therefore, Ted moved that F., Aesthetic, Cultural, and Natural Values, has been met or do not apply. Bruce seconded. The motion passed unanimously.
- G. **Financial and Technical Capacity** – Bruce moved that the applicant has demonstrated sufficient financial and technical capacity to meet this requirement in the Criteria for Approval. Gootsch seconded. The motion passed unanimously.
- H. **Sufficient Water** – Bruce moved that H., Sufficient Water, has been met through the already existing infrastructure for this proposed application. Gootsch seconded. The motion passed unanimously.
- I. **Public Water Supply** – Gootsch moved that Public Water Supply is not applicable. Bruce seconded. The motion passed unanimously.
- J. **Surface Waters** – Gootsch moved that J., Surface Waters, is not applicable. Bruce seconded. The motion passed unanimously.
- K. **Ground Water** – Bruce moved that this project will not adversely affect the ground water. Gootsch seconded. The motion passed unanimously.
- L. **Flood Areas** – Ted stated that the proposed application is not located within a Federal Emergency Management Agency flood boundary or floodway, or flood insurance rate map, nor is it within a 100-year flood elevation and flood hazard boundary, and therefore, Ted moved that L., Flood Areas, do not apply. Bruce seconded. The motion passed unanimously.
- M. **Freshwater Wetlands** – Gootsch moved that M, Freshwater Wetlands, is not applicable to this project. Bruce seconded. The motion passed unanimously.

- N. River, Stream or Brook – Bruce moved that rivers, streams, or brooks, within the abutting or proposed development have been identified for this project and meet the criteria. Gootsch seconded. The motion passed unanimously.
- O. Storm Water – Bruce moved that the applicant has demonstrated a stormwater management plan for this project that meets the criteria. Gootsch seconded. The motion passed unanimously.
- P. Spaghetti-Lots Prohibited – Ted moved that subsection P., Spaghetti-Lots Prohibited, subsection Q., Municipal Services, subsection R. Lake Phosphorous Concentration, subsection S. Impact on Adjoining Municipality, and subsection., Land Subject to Liquidation Harvesting, do not apply to this application. Bruce seconded. The motion passed unanimously.
- Q. Municipal Services – See motion above.
- R. Lake Phosphorus Concentration – See motion above.
- S. Impact on Adjoining Municipality – See motion above.
- T. Land Subject to Liquidation Harvesting – See motion above.
- U. Conformity with Local Ordinances and Plans – Ted moved that having duly reviewed the Performance Standards in Section 13 and the Criteria for Approval requirements in Section 5, that the application is in conformity with local ordinances and plans. Bruce seconded. The motion passed unanimously.

Having duly reviewed the application against the Unified Development Review Ordinance, and having found it to be in compliance, and whereas no conditions of approval have been stipulated, Ted moved that the Planning Board approve Application # 24-283, Jordan Basin Bathrooms. Bruce seconded. The motion passed unanimously.

The audio recorders were paused while the Board proceeded to sign the final plans.

Off the agenda, Ted asked Peter about The Glades at Ridge Run subdivision in regards to the roads and the rain gardens, and if this could be aggravating the stormwater running down the west branch of Barker Brook and therefore, helping with the washout on Skiway Road. Peter didn't have any data prepared but agreed that it could. Further discussion ensued. The discussion turned to paving of the roads at Merrill Hill and the 20,000 sq ft building envelope restrictions per DEP and then on to issues with enforcement actions.

CEO Reports

- a) Locke Summit Estates information update: Joelle stated that the update is not ready; they are waiting on the DEP transfer for the Newry side of that project.

Election of Officers: Ted noted that at the last meeting he requested that Gootsch step down as Chair, and Gootsch agreed that he is onboard with that request.

Gootsch formerly requested to be relieved of his duties as Chairman of the Planning Board. Gootsch clarified that he would like to remain a full member of the Board member.

In the absence of a Chair, Bruce, as Vice Chair, opened the elections for the Planning Board. **Bruce nominated Ted Baker for Planning Board Chair. Gootsch seconded the nomination, and Ted accepted the nomination. Bruce and Gootsch voted in favor; Ted abstained. The vote passed,** and Ted Baker is now Chair of the Planning Board. Bruce remained as Vice Chair.

Ted nominated Gootsch as secretary of the Planning Board. Following lengthy discussion, Gootsch accepted the nomination. Bruce seconded. The motion passed unanimously.

Ted moved that elections are now closed.

Open Discussion

- a) Ted noted that there is a Planning Board & Board of Appeals training seminar being put on by Maine Municipal Association in August and via zoom on Thursday, October 10th, from 4:30-8:30pm. There is a dinner included for those who attend in person. If you plan to attend, in person or via zoom, please be sure to let Joelle know so she can complete the registration form.
- b) Discussion ensued regarding the Performance Standards list (Form 10.5) that Ted prepared. It was asked that a list such as that be prepared for the Criteria for Approval as well. The Board will also look at expediting the review process for applications and when a motion is needed and when it is not. Discussion continued on this topic.
- c) Discussion ensued regarding the Board's procedure for reviewing applications as being 2 independent reviews: 1) for completeness and then 2) for compliance. The Board discussed the idea that once an application is deemed complete, then the application cannot be modified. Discussion continued on this topic.
- d) The group talked about public participation during the review process of an application.

Next Scheduled Meeting – Wednesday, September 18, 2024

Adjournment Bruce moved to adjourn the Sept 4th Planning Board meeting; Gootsch seconded. Motion passed with all voting in favor. The meeting was adjourned at 8:15 PM.

APPROVED