

**NEWRY PLANNING BOARD**  
**MINUTES OF BOARD MEETING**  
**Wednesday, March 5, 2025**  
**Raymond C. Foster Municipal Building**

*Full discussion on the topics below is available on audio recording at the Newry Town Office.*

**Members Present:** Ted Baker (Board Chair), Bruce Pierce (Board Vice Chair), John (aka Gootsch) Gauthier (Board Secretary), Rob Kates (Alternate)

**Members Late:**

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

**Members & Staff Absent:** Meredith Harrop (Alternate)

**Public Attendees:** Charles Little, John Marotta, Dana Bullen, David Stokes, Rick Dunton

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**Call to Order:** Chairman, Ted Baker, called the meeting to order at 6:00 PM and proceeded with his opening statements.

**Current Attendance/Quorum:** The Chair took attendance noting Meredith's absence and confirmed the presence of a quorum.

**Prior Attendance/Voting Eligibility:** With no recent absences of full Board members, all are eligible to vote during tonight's meeting.

**Previous Meeting's Minutes:** The Board reviewed the previous meeting's minutes. **Bruce moved to approved of the previous, February 19<sup>th</sup>, minutes of the Planning Board as written. Gootsch seconded. With no discussion, the motion passed with all voting in favor.**

**Correspondence Received:** Email from Brandon Mazer of PerkinsThompson, which was discussed during the review of Monkey Brook Road Subdivision (item a of Business, below).

**Business**

- a) **Forget Development LLC, Monkey Brook Road Subdivision APP # 25-285, Rick Dunton of Main-Land Development as agent – 7 lots on Monkey Brook Road; Map R13 Lot 013-D-1:** Joelle stated that no new materials have been received from this applicant. She spoke about the correspondence between her and the Town's attorney (Brandon Mazer of PerkinsThompson. Joelle read aloud portions of that email, which is dated 3/4/2025 with the Subject line: Newry Roads, STR's in residential covenants, and Title 38.

The Chair noted that the agent for Forget Development is present tonight, and therefore, the Board may discuss this application.

The Chair reminded the Board members that Application 25-285 must be found complete or incomplete not later than the Board's next meeting on March 19<sup>th</sup>.

Rick Dunton asked about extending the deadline if the applicant is still gathering materials. The Chair clarified that a mutually agreed upon extension would not come into play until the next step when the Board has 60 days after finding the application complete to either approve, approve with conditions, or disapprove the application. The Chair noted that when the Board finds an application incomplete, the Board must provide you with the list of items needed to deem the application complete. When an application is found incomplete, it is tabled until the required materials are submitted, and the Board may return to reviewing the application for completeness.

Application 25-285 was tabled by the Chair until the Board's next meeting March 19, 2025.

- b) **Timberline TH, LLC, The Village at Timberline Site Plan and Subdivision APP # 25-286, Mike Barnes or Rick Dunton of Main-Land Development as agent – 11 dwelling units and 1 existing business structure/building; Tax Map U03-001-A:** The Chair made his opening statements for this application. The proposed subdivision will be located on 8 Timberline Road.

The Board discussed the type of application being reviewed: a subdivision, a site plan, or both. It was noted that both "Site Plan" and "Major Subdivision" are checked on the application form. The Chair stated that the parcel currently has two approved site plan applications: 02-68 (for Commercial Restaurant – approved May 2003) and 12-197 (for Temporary Communications Tower – approved January 2013). The Chair spoke of the history of these two applications – App # 02-68 having a few amendments – and referred to various sections of the UDRO. Rick noted that the application was intentionally made ambiguous as there is currently commercial use in the existing former real estate building, and that use is expected to be maintained for a period of time. However, the ultimate plan is for that building to become a residential unit and be part of this current application. Discussion continued regarding State subdivision statute and the local ordinance. Joelle noted the two possible application fees for this project: If this is considered just a Subdivision only would be \$1,350; Change of Use Site Plan would be \$9,632. As expected, Rick confirmed that the applicant would like this to be considered just a Subdivision.

**Following discussion, Bruce moved that the application fee for the subdivision for Timberline TH LLC is voted as a subdivision as opposed to a change of use. Gootsch seconded. The motion passed unanimously.**

The Chair confirmed with the CEO that the application fee has been collected – check # 1023 in the amount of \$1,350, and that the application is available for public review.

The Chair acknowledged receipt of the application on March 5<sup>th</sup>, 2025, and assigned file number 25-286 to the application. The Chair stated that per the UDRO, the Planning Board has 30 days to determine completeness of the application; therefore, the decision needs to be made by the Board's April 2<sup>nd</sup> meeting.

Findings of Fact: The applicant is proposing to construct a subdivision at 8 Timberline Road, Tax Map U03-001-A, known as the parcel. The parcel currently has two approved Site Plans: Application 02-68 a Site Plan Review for Commercial Restaurant – applicant Maine PSL LLC and the application was approved on 5/7/2003 (amended 5 times). The second application current with the parcel is Application 12-197 a Site Plan Application for a Temporary Communications Tower for Cellular Service – applicant Northeast Wireless Network; this application was approved 1/2/2013. Sections 1.C.2.b (new uses of existing buildings, structures and land) and 1.C.1 (subdivisions as defined by Title 30-A-MRSA Section 4401) of the UDRO defines applicability of the ordinance.

Conclusion of Law: The Planning Board has jurisdiction.

**Gootsch moved that the Planning Board has jurisdiction over Application 25-286. Bruce seconded. With no discussion, the motion passed unanimously.**

Findings of Fact: The initial application submitted by the applicant is for 12 residential units. Section 24.B of the UDRO defines a major subdivision as any subdivision of 10 or more lots and/or dwelling units.

Conclusion of Law – Application 25-286 is for a major subdivision.

**Bruce moved that the type of review is that of a major subdivision for Application 25-286. Gootsch seconded. With no discussion, the motion passed unanimously.**

Findings of Fact – The Applicant is proposing to subdivide a parcel of land defined by a Quitclaim Deed dated 9/20/2024 and filed with the Oxford County Registry of Deeds in Book 5833, page 724. The Quitclaim Deed conveys the parcel at 8 Timberline Road, Newry Tax Map U03-001-A, to Timberline TH LLC.

Conclusion of Law – The applicant, Timberline TH LLC, has standing.

**Gootsch moved that the applicant has standing. Bruce seconded. With no discussion, the motion passed unanimously.**

Findings of Fact: The applicant has submitted letter dated 1/9/2025 authorizing Main-Land Development Consultants Inc. to act on its behalf in obtaining federal, state, and local permitting including attending meetings, signing forms, and generally representing the project's interests for The Village at Timberline in Newry Maine.

Conclusion of Law – Main-land Development Consultants Inc. is a duly authorized agent for the applicant.

**Bruce moved that the agent has a letter of authorization for Application 25-286. Gootsch seconded. With no discussion, the motion passed unanimously.**

Conflict of Interest and bias. The Chair stated that he is an employee of Sunday River Skiway Corporation, which is an abutter and a beneficiary to several encumbrances to the parcel. Ted clarified that he is not directly or indirectly the owner of 10% of Sunday River Skiway Corporation, nor its parent corporation, Boyne USA, Inc. Therefore, he does not have a financial conflict of interest for 30-A-MRSA-2605. He added that he is free of any bias based on blood and/or marital relations to the applicant or other parties involved in the application. The remaining board members in attendance confirmed that they have no conflict of interest nor bias.

The applicant stated that he has no objection to the two alternates, the CEO or the recording secretary being involved in discussions on this application.

Rick Dunton presented the application and referenced Plan C3.1 as he explained the proposed development. He stated that principals of the LLC are Brian Munro, Kevin Munro, and John Marotta. Rick noted that the proposed development lot which Tax Map U3 Lot 1A. The parcel is near South Ridge Lodge near the South Ridge parking lots. The lot is 2.92 acres. There is currently a cell tower and one building on the lot – a real estate office building in which there are also some small sublet businesses as well. The lease for the cell tower expires October 2025 and will not be renewed. The tower will be removed. Rick noted that the former restaurant building had been demolished and removed. Rick spoke of the proposed residential condominium project with 12 units – 11 five-bedroom units and then the existing commercial use building may be converted to a residential unit. Each of the 11 units will have a garage at ground level. Water will be supplied by drilled wells; there is one on site currently, which is an approved public drinking water supply, and additional wells will be added as needed. The sewer will be connected to Sunday River's private municipal-style treatment system. Rick stated that connection to that system for up to 67 bedrooms is deeded as part of the parcel. Stormwater will be treated on site with a vegetated filter pond, a dry pond, grassed, and part of the green landscape.

Rick brought with him tonight documentation narratives for some of the sewer and water statements that reference the proposed 12 units – he noted that the documentation previous submitted to the Board referenced just 11 units. He also brought Evidence of Corporate Standing for the LLC as well as letters from the principals of the LLC stating no interest in abutting land.

Discussion ensued regarding the number of units (12 total – one unit in the existing building and 11 proposed units within 3 buildings) and a density waiver that the applicant is hoping to be granted.

The Chair stated that, per UDRO Section 10.B.6, the Planning Board may require an additional fee to aid in its review of the application. The amount of this fee is either one-half of the application fee or \$10,000, whichever is greater.

**The Chair moved that the applicant be required to pay the additional fee of \$10,000. Bruce seconded. The motion passed unanimously.** The CEO stated that she has received that check, and it is in the Town's safe.

The Chair asked the CEO to engage the consulting services of the engineering firm, Gorrill Palmer, to review the application for conformance with the following sections of the UDRO: Sections 13.G (Erosion and Sedimentation Controls); 13.H (Stormwater Management); 13.Y (Groundwater Protection); 15 (Parking and Entrance Design Standards); and 17 (Storm Drainage Design and Construction Standards).

The Chair noted that UDRO Section 22.A allows the Planning Board to grant waivers to submission requirements.

The applicant is requesting a waiver for the submission requirement for a Class A High-Intensity Soil Survey (UDRO Section 10.C.2.d.XVIII). Rick provided his argument to the Board as to why the Board should grant this waiver noting that the site is already highly developed. The Chair stated that the lot size is greater than 2 acres; however, with the number of units proposed, this would be a major subdivision. Since these units will be sewered and there will be no subsurface wastewater fields on this property, Joelle recommended that the Board grant the waiver.

**Following discussion, Gotsch moved that the Board grant the waiver of not requiring a high-intensity soil survey. Bruce seconded. With no discussion, the motion passed unanimously.**

The applicant has requested a waiver on density as set by UDRO Section 23.F, Dimensional Requirements. The Chair stated that exceptions to dimensional requirements cannot be granted by the Planning Board – this is a variance, and variances must be approved by the Board of Appeals. The applicant was given the choice to proceed with the application (which will more than likely be denied due to not having a variance) or withdraw the application and approach the Planning Board again once the variance has been resolved. If the applicant wanted to continue with the proposed 12 units, which exceeds the dimensional requirement for this parcel, the applicant would need a variance granted by the Board of Appeals.

Discussion ensued regarding the process to go before the Board of Appeals. Section 7 in the UDRO explains the process of bringing an application before the Board of Appeals. Basically, the Planning Board would need to disapprove the application, and a written appeal by the aggrieved party may be submitted to the Board of Appeals.

The applicant's agent requested a recess to allow him the opportunity to meet with his client in private.

*The recorder was paused while the Board entered recess.*

When the Board came back into session, further discussion ensued regarding the Appeals process. The Chair clarified that the Board can make one of three decisions on an application: 1) the application is approved; 2) the application is approved with conditions; or 3) the application is disapproved.

After a lengthy discussion with the applicant talking through their various options, the applicant stated that instead of withdrawing the application, they would like the Board to continue with the review of this application. Therefore, the Planning Board proceeded to review the application for completeness.

The applicant submitted a packet of additional documentation to the Board, which included a Sewage Disposal Statement; a Groundwater Supply Statement; a Solid Waste Statement; a Traffic Data Statement; as well as statements regarding no interest in abutting properties from Kevin Munro and Brian Monro, and Certificate of Legal Existence in Good Standing in the State of Maine for Timberline TH, LLC.

**Following review of the additional documentation, Gotsch moved that Form 10.1 is complete. Bruce seconded. With no discussion, the motion passed unanimously.**

When reviewing Form 10.2, the Chair noted that for item 18 the Board has granted a waiver for the high-intensity soils map; that item is satisfied. The CEO noted that the book and page number are inconsistent; it should be

Book 5833/Page 724. It was also noted that information about the existing building is missing in the text box at the bottom of page 1. Discussion ensued regarding the cross easement for parking. The applicant stated that the incumbrance for parking is going away and that the lawyers are writing the language. The Chair noted that the Planning Board will need a copy of the recorded amendment recorded in the Oxford County Registry of Deeds. The proposed declaration of condominium is incomplete; it does not include the existing structure on the parcel, and the legal description of the land is blank. Both the proposed Bylaws and the Declaration of Condominium will need to acknowledge the existing structure on the parcel. It will need to be clarified if that existing building will be a common area or a unit. Regarding the driveway, Joelle stated that as Deputy Road Commissioner, she has no issues with the proposed changes in width to the entrance onto Timberline Road. The Chair asked about the proof of Application for Drinking Water and noted that a preliminary application is acceptable.

**Ted moved that Form 10.2 is incomplete. Gootsch seconded, and the motion passed unanimously.**

The Board reviewed Form 10.3 and found that for item 12, the marking and delineation of parking areas on Plan C2.1 need to be shown on the plans (at a minimum of 9'x18' per the UDRO). The applicant was asked to provide an additional detailed plan showing only parcel's boundaries, the encumbered areas on the parcel along with the square footage of each of the two (or three) encumbered areas – the Chair pointed out that areas that are encumbered cannot be included in the calculation for density. It was noted that Plan C2.1 has a typo in the Book noted for Newry Tax Map R-13 Lot 31, Sunday River Skiway Corporation parking – it's currently shown as 54506.

**Ted moved that Form 10.3 is incomplete. Gootsch seconded. The motion passed unanimously.**

The Board reviewed Form 10.4, under Item 11 – the Chair noted that this would be the extra plan showing encumbrances would be added. The applicant confirmed that the intent is to phase this development. With that intent, a phasing plan will be required with a list of required improvements for each phase. The Board will also need to know how the applicant plans to meet the Performance Guarantee in Section 21.

**Ted moved that Form 10.4 is incomplete. Bruce seconded, and the motion passed unanimously.**

**Ted moved that Application 25-286 is incomplete. Bruce seconded. With no discussion, the motion passed unanimously.**

The Chair explained to the applicant that once the application is found complete, the Board will determine if a Site Visit will be scheduled. Since this is a major subdivision, a Public Hearing must be scheduled. The Board will also review the phasing plan, discuss the Performance Guarantee, talk about conditions of approval, if any, put forth. The Board will then review all Performance Standards (Section 13 of the UDRO) applicable to the application, and then the Criteria for Approval will be reviewed. Once the Criteria for Approval has been reviewed, the Board will make its determination to approve, approve with conditions, or deny the application. This will be followed by the Findings of Fact.

Discussion ensued regarding the timing of GorrillPalmer's review. The Chair emphasized that once the application is found complete, no changes can be made to the application. The applicant discussed with the Board and the CEO the possibility of reducing the number of units on the property (perhaps removing the existing building) to bring it into compliance in terms of density – for which the calculation would need to take the encumbrances into account.

The Chair tabled Application 25-286, and review will be resumed once the missing items are submitted to the Board.

**Findings of Fact** - none

**CEO Reports** - none

**Open Discussion**

- a) The Board briefly spoke about the 10-day requirement for additional submissions. Joelle noted that if the Vacation Rental Registration Ordinance passes, then the UDRO will need to be amended because the definitions in both of those documents need to be consistent. It's believed that the 10-requirement is written in the Planning Board's Bylaws not the UDRO. The Chair added that when the UDRO is amended, Vacation Rentals will need to be exempted from Site Plan review.
- b) The Chair polled each Board member and asked how they feel the Planning Board is doing, and if they are happy with what is going on. Some members noted that the meetings are run very efficiently. Some expressed that they feel that they're in over their head and a bit overwhelmed with the amount of information included in the UDRO. Members spoke of the professionalism of the meetings. The Chair asked Board members to voice any suggestions since this is a team effort.

**Next Scheduled Meeting** – Wednesday, March 19, 2025, at 6:00 pm

**Adjournment** Bruce moved to adjourn the meeting of the Planning Board for today – March 5. Gootsch seconded. Motion passed with all voting in favor. The meeting adjourned at 8:30 PM.

APPROVED