

NEWRY PLANNING BOARD
MINUTES OF BOARD MEETING
Wednesday, May 7, 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)

Members Late:

Staff Present:

Members & Staff Absent: Meredith Harrop (Alternate), Rob Kates (Alternate), Joelle Corey (Code Enforcement Officer)

Public Attendees: Charlie Little, John Marotta, Rick Dunton, Brooks Morton, Peter Roberts, Carson Deeds

Call to Order: Chairman, Ted Baker, called the meeting to order at 6:17 PM and proceeded with his opening statements noting the Public Hearing held tonight prior to this meeting.

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 April 16th Public Hearing minutes for Monkey Brook Road Subdivision. **Bruce moved to approve the minutes Public Hearing on April 16 as written, and Gootsch seconded. With no discussion, the motion passed with all voting in favor.**

The Board reviewed the minutes of the April 16th Planning Board meeting. **Gootsch moved to approve the minutes of the April 16, 2025, meeting as written. Bruce seconded, and with no discussion, the motion passed unanimously.**

The Chair spoke with Peter Roberts of Sunday River about tonight's agenda. Peter chose to postpone the Board's review of his application until the next meeting. For the record, Ted noted that the Board is in receipt of Application # 25-287 for Sunday River Skiway Corporation's Cascade Booster Pumphouse Site Plan. Before leaving, Peter submitted check # 97174 dated 5/2/2025 in the amount of \$640.39 to cover the application fee for Application # 25-287, as well as an updated letter of authorization.

Old 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:** Rick Dunton submitted the final application binder and final plans for Monkey Brook Road Subdivision, and the Board proceeded to sign the final plans.

The recording secretary will have the Findings of Fact for this application ready for the Board's review at their next meeting.

- b) **Timberline TH, LLC, The Village at Timberline Subdivision APP # 25-286, Mike Barnes or Rick Dunton of Main-Land Development as agent – 11 dwelling units; Tax Map U03-001-A:** The Chair summarized the previous determinations made by the Board regarding this application. He noted that the Application had been found complete on April 2nd, and that the applicant was informed that no major changes to the application would be allowed from that point forward.

The Chair stated for the record that the Board attended a Site Walk at 8 Timberline Road, which began at 5pm and adjourned at 5:40pm this evening, and a Public Hearing was held this evening from 6pm to 6:15pm. He noted that

the Board has until June 4th to approve, approve with conditions, or deny this application unless the applicant and the Board mutually agree to extend the review period.

The Chair reminded the Board that the applicant stated at the April 2nd meeting that an irrevocable letter of credit would be used for the Performance Guarantee, and at that point the Board reminded the applicant of the documents required to support the financial Performance Guarantee. Since the financial institution which would provide the letter of credit would not issue the letter until after the approval of the plan, the Board would need to include a Condition of Approval concerning the Performance Guarantee.

The Board discussed the Site Walk noting various distances between the proposed access ways along Skiway Road and talking about the intersection of Skiway Rd, South Ridge Rd, and the access way to Parking Lot 3. Concern was expressed regarding the amount of open ground until revegetation.

The Board discussed the Public Hearing held earlier. The Chair noted that an abutter, Mr. Little, expressed concern about the availability of potable water from the wells; however, no credible evidence was submitted during the Public Hearing to substantiate those concerns. The Board only has the geologist's reports, which the applicant submitted, showing an inventory of surrounding wells and their rated output. It was noted that there is no plan for a cistern for this project; the plan is for on-demand pressure with no cistern. The developer plans to remove the two cisterns that are currently on the lot.

Rick was asked to talk about the applicant's rebuttal to Gorrill Palmer latest Engineering Review Memo dated April 28th. Rick spoke about their updated and addressed items saying that they have added E-911 addressing with the guidance of the Town's CEO, tweaked some landscaping to better conform with the buffering standards. Rick referred to EX1 and EX2 which includes exhibits and explanations in response to the concerns mentioned by the Newry Fire Chief in his letter dated April 7, 2025. Rick stated that a Phased Construction estimate as well as updates to the Phasing Plan that tabulate phased infrastructure were provided to the Board. Rick reviewed with the Board the applicant's responses to the remaining Gorrill Palmer comments on the April 28th memo.

The Chair spoke about plan S2.1, the Condominium Plan, and C2.2, the Phasing Plan. A block noting "Building 1 of the plan must be built; Building 2 need not be built" was added to the plan. Building 2 was to be part of Phase 1 along with Building 1. Discussion ensued regarding the addition of this language to the plan. Rick stated that language was added by the condominium attorney, that the phasing plan was not intended to be changed, and that he will go back to that attorney to have any language referring to "needs not be built" be removed.

The Chair also spoke about the comment that was added to Plan C2.1 following the Board's April 16th meeting regarding the accessway to Lot 3. The Chair clarified that the Code Enforcement Officer does not have the responsibility to approve a road design for a subdivision. The Chair emphasized that this is another plan that has been revised since the Board's last meeting. It was noted that the UDRO defines a driveway as an access way that services two dwellings or less. Since the planned access ways service three or more dwelling units, they will need to be brought up to Neighborhood Road Standards.

The Chair noted that normally at this point the Board would review the Criteria for Approval; however, in the interest of brevity he would like to instead ask the Board if they have found any items that are not in accordance with the Ordinance or Criteria of Approval that they would like to discuss. Bruce spoke of his concern with the parking spaces and the area for emergency vehicles. The Board referenced Section 14.B.6. regarding dead-end roads requiring a cul-de-sac or hammerhead turnaround. The Chair proceeded to read aloud the letter dated April 7, 2025, from the Newry Fire Chief stating various concerns from the Newry Fire Department.

Finding of Fact #1: UDRO Section 14.B.6. states if a road is to be a dead-end road, a cul-de-sac or hammerhead turnaround must be built at the end of the dead-end. The cul-de-sac must have an 86-foot property line radius, and a 70-foot outer-edge-of-travel radius as drawn in Exhibit A to the Ordinance. A hammerhead turnaround must have a minimum travel way and right of way as drawn in Exhibit B1 or B2 of the Ordinance.

Finding of Fact #2: The Newry Fire Department in a letter to the Planning Board dated April 7th, 2025, brings attention to the access ways in the proposed development do not meet the dimensions required for a cul-de-sac or a hammerhead turnaround as specified in Exhibits A and B in Section 25 of the UDRO.

The Conclusion of Law: Application 25-286 is not in conformity with the local ordinance and plans specifically UDRO Section 14.B.6, and Section 25 Exhibits A and B.

Therefore, Ted moved that the application is not in conformity. Bruce seconded. Following discussion, the motion passed unanimously.

The Board reviewed UDRO Performance Standard 13.X.3.a., which states that a lot which has frontage on two or more roads, the access to the lot shall be provided to the lot across the frontage and to the road where there is less potential for traffic congestion and for hazards to traffic and pedestrians. The lot in question has frontage on both Skiway Road and Timberline Road. It was noted that Skiway Road is a primary road that services several commercial entities and well over 200 residential lots and/or dwelling units. Timberline Road is a secondary¹ road that services approximately 45 lots and/or dwelling units. Therefore, Timberline Road would be the lesser traveled of the two roads. The Chair noted that per his interpretation of the UDRO, there should be only one access way into the lot, and that the access way should be off Timberline Road. The access ways off Skiway Road and off Parking Lot 3 are not in accordance with the Ordinance. Further discussion ensued.

Finding of Fact #1 – UDRO Section 13.X.3.a. requires a lot which has frontage on two or more roads, the access to the lot shall be provided to the lot across the frontage and to the road where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians.

Finding of Fact #2 – Newry Tax Lot U03-001-A has frontage on Skiway Road and Timberline Road. Skiway Road is a primary road that services several commercial entities and over 200 residential lots and/or dwelling units. Timberline Road is a neighborhood road that services approximately 45 lots and/or dwelling units. Timberline Road has a lesser potential for traffic congestion and hazards to traffic and pedestrians.

Finding of Fact #3 – The Newry Fire Department in a letter to the Planning Board dated April 7, 2025, brings attention to the congested traffic and the heavy pedestrian use on Skiway Road west of Timberline Road.

Finding of Fact #4 – The multiple access ways proposed by the applicant do not meet the Performance Standard set out in UDRO Section 13.X.3.a.

Conclusion of Law – Application 25-286 is not in conformity with local ordinances and plans and specifically UDRO Section 13.X.

Ted so moved; Gootsch seconded. With no further discussion, the motion passed unanimously.

The Board reviewed Road Design Standards per UDRO Section 14.B.4. Ted referred to the table that speaks to minimum distances between intersections for both Neighborhood Roads and for Primary Roads. Discussion ensued regarding the various distances for the proposed development. The Chair pointed out that the access ways do not meet the Design Standards required per Section 14 of the UDRO. Gootsch noted that the grade of the access way off Timberline Road is greater than the 4% maximum per the Standard.

Finding of Fact #1 – The UDRO defines a driveway as vehicular access way serving two or less lots and/or dwelling units in UDRO Section 24. The four proposed access ways to the subdivision service three or more units each, and therefore, do not meet this definition of a driveway. The four proposed access ways must be reviewed as, and meet the standards of, a neighborhood road.

Finding of Fact #2 – The Road Design Standards for a Neighborhood Road, UDRO Section 14.B.4. require a minimum of horizontal distance between road intersections on the same side to be 300’. The two access ways off Skiway Road proposed by the project are only 170’ apart approximately from each other. The easternmost access way is only 160’ approximately from the intersection of Skiway Road and Timberline Road, which is also on the same side as the access way. The westernmost access way is only 50’ approximately from the access way to Parking Lot 3, which is on the same side of the road.

Conclusion of Law – Application 25-286 is not in conformity with local ordinances and plans, specifically UDRO Section 14.B.4.

Ted so moved, and Gootsch seconded. With no discussion, the motion passed unanimously.

The Board reviewed UDRO Sections 14.B.7.d and 14.B.7.e. The Chair noted that Skiway Road west of Timberline is a primary road, and it services multiple commercial establishments and well over 200 residential and/or dwelling units. The intersection of Skiway Road, South Ridge Road, and the access to Parking Lot 3 do not meet current intersection standards as outlined in UDRO 14.B.7.d and 14.B.7.e. The chair noted that the current configuration of this intersection is Skiway Road being two-way traffic, South Ridge Road is one-way east onto Skiway Road, and the access to Parking Lot 3 is one-way north off Skiway Road into the parking lot. This intersection is an existing non-conforming intersection; the intersection has been in place since before the Town adopted any intersection standards. Making the access way into Parking Lot 3 into a two-way neighborhood road would add an additional entrance/turnout onto this non-conforming intersection and further aggravate the situation.

Finding of Fact #1 – Skiway Road west of the intersection of Timberline Road services multiple commercial entities as well as over 200 residential lots and/or units. Using the guidelines outlined in UDRO Section 24, this section of Skiway Road meets the primary road classification.

Finding of Fact #2 – The three-way intersection comprising of Skiway Road, South Ridge Road, and the access way to Parking Lot 3 does not meet current intersection standards as outlined in UDRO Section 14.B., Road Design Standards, particularly 14.B.7.d and 14.B.7.e.

Finding of Fact #3 – The three-way intersection comprising of Skiway Road, South Ridge Road, and the access way to Parking Lot 3, which with the current traffic configuration listed below is best described as an existing non-conforming situation. The current traffic flow configuration is:

- a) Skiway Road – two-way traffic
- b) South Ridge Road – one-way traffic heading east with a stop sign
- c) The access way to Parking Lot 3 – one-way traffic heading north and entering into Parking Lot 3.

Finding of Fact #4 – Converting the access way to Parking Lot 3 to a two-way road as proposed by the applicant will deteriorate the current existing non-conforming condition of the three-way intersection at Skiway Road, South Ridge Road, and the access way to Parking Lot 3 by introducing vehicles exiting Lot 3 via the access way and entering the intersection.

Conclusion of Law – Application 25-286 is not in conformity with local ordinances and plans specifically UDRO Section 14.B.7.

Ted so moved, and Gootsch seconded. With no discussion, the motion passed unanimously.

Ted moved that given the above stated Findings of Facts and Conclusions of Law, the Newry Planning Board denies the application of Timberline TH, LLC to build a major residential subdivision on Newry Tax Map U03-001-A. Gootsch seconded. With no discussion, the motion passed unanimously.

The Chair thanked Rick Dunton for his time and effort and informed him that he has 30 days to file an appeal as outlined in the UDRO as well as the Town's ordinance for the Board of Appeals.

The Recording Secretary will complete the Findings of Fact for Application 25-286 and have them ready for review at the Board's next meeting.

New Business

- a) **Sunday River Resort – Cascades Booster Pumphouse; Tax Map R12; Lot 026:** Review of this application was postponed until the next meeting. The Chair noted, however, that the 30-day clock has started since the Board received the application at tonight's meeting.

Findings of Fact - none

Open Discussion

- a) The Chair distributed to the Board materials for Locke Mountain Estates Subdivision on the Newry/Bethel town line. The developer, Malry LLC, has requested a Pre-Application Conference. This will be added to the agenda for review at the Board's next meeting.
- b) Bruce noted that he will attend the next Planning Board meeting but will then be gone for approximately 3 weeks.
- c) Gootsch will take the lead on reviewing Sunday River's application for the new Cascades Pumphouse.
- d) The Chair spoke to Charlie Little regarding the subject of ground water noting that it is difficult to ascertain the capacity of an aquifer even though the Board is required to review the adequacy of water for a proposed subdivision. Ted noted that he is on the Comprehensive Plan committee which will begin meeting sometime after the Town Meeting takes place. Ted stated that this should be a topic of discussion during these committee meetings given the density of wells in the Resort Development District.
- e) The Chair noted that Joelle will not attend the next Planning Board meeting.
- f) Gootsch spoke of a well drilled by Maine Adaptive (Maine Handicapped Skiing) 30 years ago. Discussion ensued regarding various wells within the Resort Development District.
- g) Town Meeting is scheduled for next Tuesday, May 13, at 6pm at the Grange Hall, with several ordinances up for vote including the Vacation Rental Ordinance, a Driveway Entrance Ordinance, as well as revisions to the Land Use Building Permit Ordinance, and an amendment to the UDRO redefining the definition of a road. The chair encouraged the Board Members to attend.
- h) The Chair talked about possible proposed edits to the UDRO to be considered for a March 2026 revision. He stated that Section 15, which is Entrance Ways and Parking, stipulates the number of parking spaces for multi-unit housing as 2 spaces per unit. However, it does not take into consideration the number of bedrooms in the unit. Discussion ensued.
- i) The topic of Vacation Rentals was discussed briefly.

Next Scheduled Meeting – Wednesday, May 21, 2025, at 6pm

Adjournment Bruce moved to adjourn the meeting; Ted seconded. Motion passed with all voting in favor. The meeting adjourned at 7:54 PM.

Footnote 1: The Chair meant to refer to Timberline Road as a neighborhood road and not as a secondary road during the course of the Board's discussion. This error was discussed at the Board's 5/21/2025 meeting prior to approving the minutes.