

**Town of Milton**  
424 White Mtn Highway  
Milton NH, 03851



**Planning Board**  
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November 19, 2019 Meeting Minutes

**Attendance:** M. Morrill, J. Michaud, P. Hayward, B. Graham, R. Thibeault, L. McDougall, L. Brown. Also in attendance: Bruce Woodruff Town Planner, Ashley Morrill Land Use Clerk

**Absent members:** B. Boyers

**Public attendance:** Stephen Palmisano, Jill Palmisano, Rose Ham, Barry Carr, Robbin McPherson, Carol McLeod, Todd McLeod, S. Baker, Stephanie Townsend, Daniel Bisson, Victoria Finlaysom, Robert Bryant, Marie Doiron, Dennis Doiron, Tom Lamb, Elaine Lamb, Timm Gallagher, George Stevens, Savannah Smith, Rebecca Brownell-Smith, Arlene Bisson, Mark Bossie, Lisa Bossie, Paul Blanc, Walter Cheney, Cathy Stanley, Kathleen Hill, Robert Weiss, Karen Golab, Deb McCormack, Cynthia Wyatt, James Hill, Rick Fernald, Alexx Monastiero

Meeting called to order at 6:35pm

P. Hayward acted as Chair for B. Boyers.

L. Brown appointed to as full voting member in the absence of B. Boyers.

**Public Comment:** L. Brown stated the town received unanticipated funds which the amount was based on the number of free and reduced lunch students and expressed to the public if anyone knows of any child that would qualify for free or reduced lunch to please have them contact the school district, as the number will help increase the amount for future years from state aid.

**Public Hearing for update to Subdivision Regulations:**

Chair P. Hayward opened public hearing for the update to the Subdivision Regulations. Chair P. Hayward stated the last revision to the Subdivision Regulations were in December of 2010. Public spoke out of public comment (name not stated) stating there was no place to see the updates. B. Woodruff Town Planner stated there the current (12/2010) Subdivision Regulations are available on the town website under the Planning Board page and the draft updated Subdivision Regulations are also on the Town website under the Planning Board page. Public spoke out of public comment (name not stated) stating, it's not easy to find and you have to go page by page and normally when you make changes you strike a line through it or go line by line. Public spoke out of public comment (name not stated) asking if every word was updated. L.

McDougall said that's normally what happens when there's a revision. B. Woodruff Town Planner confirmed. B. Woodruff also stated with the Chair's approval the Board looked at how old the regulations were and that there were several regulations that were not up to date with state regulations, best management practices, and specifically with the safeguards that the Board wants to make sure developments adhere to like stormwater management, runoff protection, and groundwater protection. Public spoke out of public comment (name not stated) asking the draft Subdivision Regulations should apply to the new proposal in front of the Board. Chair P. Hayward stated not until they are approved/ adopted. B. Woodruff Town Planner said the applicant that's on the agenda for later on is applying under the Open Space Development Regulations which is different from Subdivision Regulations.

Board discussion: M. Morrill motions to approve the Subdivision Regulation. J. Michaud seconds. Vote U/A. Motion passes. L. Brown stated if you're out of compliance with state law you must bring regulations up to date.

#### **Review and discussion on draft CIP Report:**

B. Woodruff Town Planner went over the revised CIP 2020-2025 report-

page 3 of the report- put off purchase of ladder truck till next year. B. Woodruff, Town Planner stated he met with the Fire Chief and that the purchase was approved by the Board of Selectmen with the funds that were already saved in the Capital Reserve Fund. Therefore, he changed that bullet to say remove the requirement of 25 thousand for the purchase of ladder truck 1.

page 4 of the report- putting off the incremental 5 thousand starting in 2021 for purchase of fire department car 1. B. Woodruff Town Planner stated after meeting with the Fire Chief that the funds saved in the Capital Reserve Fund would cover department car 1 without raising taxes next year. Therefore he changed that bullet to say remove the incremental of 5 thousand for 2021.

page 4 of the report- updated with 711,600.67 and 500,450.00- tax levey costs.

page 6 of the report- updated with *several project are not recommended for no funding this year and to resume in 2021- predicated on the idea that most if not all the equipment or vehicles being saved up for replacement in the future can continue useful life for an additional year.*

B. Woodruff Town Planner stated he made the changes within the ranking and ratings based on the above changes.

The Board asked the Fire Chief to clarify the purchase of car 1. The Fire Chief stated the funds were freed up from the air pack grant, the ladder truck will be about 100 thousand all said and done, the remaining 60 thousand plus interest is already in the Capital Reserve Fund which is enough to replace the car when its due to be replaced. The Fire Chief explained again the funds

were freed up from the air pack grant. B. Woodruff Town Planner stated for clarity it does not change his bottom line.

Bruce Woodruff Town Planner read the CIP bullets (attached)

L. McDougall motions to approve the language and to schedule a public hearing for December 3, 2019. R. Thibeault seconds. Motion passes.

J. Michaud thanked B. Woodruff Town Planner for his hard work on preparing the CIP and L. Brown for his assistance with the School.

**Site Walk Discussion (held on 11/11/2019 at Tax Map 41 lot 81):**

L. McDougall stated the Board walked the property and found a few high and low spaces and wetlands. R. Thibeault and J. Michaud stated they did not attend the site walk.

P. Hayward stated the Board came up with some questions from the site walk.

*Why is it in the Town portfolio?* B. Woodruff Town Planner stated the Town does not own the land, the town holds a tax deed, which is not owning the land, that is why the recommendation is needed from the Planning Board and Conservation Commission to the Board of Selectmen.

*How long has the property been town owned?* B. Woodruff Town Planner stated the length of time for the tax deed would not make a difference in their recommendation.

P. Hayward stated the Board's responsibility is to come up with a recommendation for the Board of Selectmen for the request to transfer the lot to the Conservation Commission.

The Board further discussed the Casey Rd. project and access to the property, the Town needing tax relief, the amount of current conservation land, which calculates over 20% of the land in Milton, and property value decreasing. R. Thibeault recalled during K. Golab's presentation that the plan was to not use Map 41 Lot 81 as an access point for the Casey Rd. property.

B. Graham motions to recommend that the Town not acquire Map 41 Lot 81 in fee and subsequently transfer the lot to the Conservation Commission and recommends to place the parcel of land up for sale or auction. L. McDougall Seconds. L. Brown opposed, R. Thibeault abstained. Motion passes.

**Public Hearing for a Continued *Preliminary Review* of an application for an OpenSpace Subdivision for a parcel located on Northeast Pond Rd, (Tax Map 23, Lots 40 and 44). The applicant is proposing the subdivision of a 49 acre lot into two lots, creating one development Lot of 5.04 acres, and a second Open Space Lot of 43.96 acres. The proposal is**

**to cluster three buildings containing 36-two bedroom condo units on the 5 acre lot and dedicate permanent open space on the 43.96 acre lot:**

P. Blanc from Norway Plains presented on behalf of his client; Three Ponds Investments, LLC & Bonnie-Jo Milo (W. Cheney) L. McDougall asked about the tree line along Bolan Rd. P. Blanc pointed them out on the site plan. L. McDougall asked if the trees that will be removed could be flagged. P. Blanc went over the color code on the site plan and reminded everyone that the application is preliminary and asked the Board their thoughts on the waiver requests.

Waiver request 1: Land within an OSD subdivision may be used for the following purposes: Single family and duplex residential dwellings, accessory uses and buildings, and minor home occupations as permitted in the zoning district in which the parcel lies.

L. McDougall confirmed the residents would be age 55+. P. Blanc explained that they are looking for a waiver to allow multifamily housing (more than two units) and that they would need this waiver in order to move forward with the project.

R. Thibeault confirmed with the Town Planner that conditions can be placed on the waivers if approved if and when at the point in the application process. L. Brown asked P. Blanc what is the good cause shown, what is the necessity and advantage to the neighborhood. P. Blanc said the impact would be less than the 36 units spread over the entire 49 acres. L. McDougall said she likes that the plan encompasses drainage. She also noted that one thing she noticed on the site walk was drainage between properties into the pond and this site plan shows drainage being controlled. P. Blanc said if they went with the duplex plan runoff from the driveway is not regulated but runoff from the roof would be and that the management responsibility is on the homeowners, with the cluster plan the runoff management responsibility would be with the homeowners association. B. Graham said the cluster plan allows a lot of land to be preserved. R. Thibeault said it's hard to make a decision on the waiver with an incomplete plan and it needs to fit the character of Milton. He also stated he's not sure based on the preliminary plan that it's completely fitting of Milton's character and that the area of development is right on the edge of property where the homes are and won't fit in very well. R. Thibeault stated this plan is the better option if the land is going to be developed but needs to fit in with the town and having it be geared towards the elderly will have less impact on the school system but still not sure it's fitting.

P. Blanc noted that one of the things that they would have to adhere to is channel protection which is one of the most difficult things to adhere to.

L. Brown stated if the camel gets into the tent, the camel will break the tent.

A. Monastiero stated if a condition is set by the Board for the units to be elderly, per the state, they are restricted to 80% 55 and older. She also stated if they can't get the height and location for water views then they would not move forward with this plan.

The Board took an unofficial straw poll for waiver request 1

(no official vote- preliminary review)

*Waiver request 1: Land within an OSD subdivision may be used for the following purposes: Single family and duplex residential dwellings, accessory uses and buildings, and minor home occupations as permitted in the zoning district in which the parcel lies.*

L. Brown- opposed

L. McDougall – in favor (would entertain)

B. Graham – in favor (would entertain)

R. Thibeault – opposed as presented

J. Michaud – in favor (would entertain)

M. Morrill – in favor (would entertain)

P. Hayward – in favor (would entertain)

B. Woodruff stated the Board could receive other proposals from the applicant.

The Board took an unofficial straw poll for request 2/ condition use permit (height)

(no official vote- preliminary review)

*Thirty-five (35) feet building height.*

*Under Article VI Section 9j "The Planning Board may authorize variations from the above standards, except for any requirement provided by state regulation or mandated elsewhere in this ordinance, by up to 25 percent by a Conditional Use Permit issued pursuant to Section 5 for the purpose of providing flexibility in the design of the subdivision to meet the objectives of this section."*

B. Graham stated the difference between what's allowed and what's being requested is the difference of 8.5 feet. He also spoke with the Fire Chief and there would be no problem putting out a fire at 43 feet. The Fire Chief stated there are no life safety concerns and that the buildings would have sprinkler systems.

B. Woodruff stated the applicant is applying for a conditional use permit and read part of sections 9a, 9f, and 9h of the open space development zoning regulations.

B. Graham asked where the measurement is taken from. P. Blanc confirmed from the garage level.

L. Brown talks about the light pollution the project would cause.

L. Brown- opposed

L. McDougall- in favor

B. Graham – in favor

R. Thibeault – opposed

J. Michaud – opposed

M. Morrill – opposed

P. Hayward – no vote

W. Cheney stated his goal was to provide max tax rate for the town. Based on the Board's unofficial vote they will go back to the drawing Board.

**Public Comment Opened:**

Barry Carr has concerns with the site view coming down the hill is less than 100 feet and feels it's very dangerous and the additional traffic will stress the road.

S. Panish – read a statement on behalf of the Conservation Commission (attached)

Rebecca Brownell-Smith read a letter she sent to the Planning Board and Conservation Commission (attached)

James Hill mentioned objective E in the open space development plan and objective H. Also stated his mother's property on Bolan Rd. holds the right away for her and 5 other people to access Northeast Pond Rd. The Town already routes emergency personal down there when there's a problem on rt. 125 but the Town refuses to maintain Bolan Rd. and if the road becomes impassible due to the development he would hold the developer accountable. Additionally he urges everyone to find out who will be held accountable for the maintenance of the road, which the Town refuses to maintain. In closing he thanked everyone for their time.

Rose Ham expressed her support for the Bolan Rd. residence and has concerns with the road, especially in bad weather conditions with limited DPW staff. She also stated Northeast Pond Rd. has a lot of traffic from local businesses ("which they do a fabulous job") and she's aware of other

properties that just sold and that are up for sale which could potentially bring in additional traffic that the roads cannot handle and most of the time it's a one lane road near McKenzie's Farm. Additional concerns with the children that have to walk up to Sue Ellen Dr. for the bus and stated there are no sidewalks for them to use.

Steve Palmisano talked about the stormwater management and asked if the alternative duplex development would require the same NHDES requirements. P. Blanc stated they are under the same rules but long maintenance becomes the responsibility of the homeowners in the duplex plan.

Jill Palmisano read a letter she sent to the Planning Board (attached)

Todd Lamb brought up the problem of ledge, stating the area is heavily ledged and if they have to blast it could lead to problems to the surrounding properties.

Timm Gallagher wanted to know if there was a fire how could they fight it based on the slope. He also asked how could the public use the conservation land if it belongs to the development owners.

Tracie T. asked about the price of the condos as the comps in the area does not support the asking price.

Marie Hill read a letter she sent to the Planning Board (attached)

R. Fernald read parts of the Open Space Development Regulations.

#### **Public Comment Closed**

**Town Planner Comments:** B. Woodruff Town Planner stated much of the public comments/concerns were filled with misconception which can be taken care of by going to the Town's website and reading the Zoning Ordinance, Subdivision Regulations, and Open Space Development Regulations in their entirety.

**Minutes:** J. Michaud motions to approve the November 5, 2019. L. Brown seconds. Motion passes

**Adjourn:** R. Thibeault motions to adjourn. L. McDougall seconds. Meeting adjourns at 9:37pm.

\$500,000 for 2020 CIP project spending. After rating and ranking the project submissions and totaling the cost from the highest ranked down the list, the Board stopped at that approximate cap. They then made recommendations regarding whether to reduce or put off some of their recommended projects. These recommendations are reflected in the 2020 Rating-Ranking-Recommendation Matrix. The Planning Board is therefore recommending the following changes to the 2020 submittals contained on the CIP Spreadsheet:

- Recommend funding the incremental savings into a CRF for the future Beach Restoration Project.
- Reduce the amount for the Maine-NH Bridges Fund 2026 this year from \$25,000 to \$10,000.
- Use the State Education Windfall funds to pay for the 2020 Engineering/Design of the new fire alarm systems in Nute and MES.
- Recommend funding the requested \$18,000 for the Police Taser X2 & Axon camera project.
- Use existing funds in the Police detail CRF to pay for the replacement of cruiser car 1.
- Use the State Education Windfall funds to pay for the 2020 Engineering/Design of the two new air handling systems in MES.
- Recommend funding the requested \$10,000 for the Town Technology project because the Town's servers and computers are old and are at risk of cyber-attacks and breakdowns.
- Put off the incremental \$1,000 for the CRF for future purchase of the DPW 10 Ton Trailer until next year.
- Reduce the amount for the Library Renovation Project this year from \$25,000 to \$20,000.
- Put off the incremental \$400 for the CRF for future purchase of the DPW 3 Ton Trailer until next year.
- Put off the incremental \$667 for the CRF for future purchase of the DPW Bandit Woodchipper until next year.
- Reduce the amount for the DPW Road Projects this year from \$350,000 to \$300,000.
- Reduce the amount for the 2021 Replacement of Fire Engine 4 from \$40,000 to \$30,000, which will require recalculating the lease payments in following years.
- Reduce the amount for the GIS system 5-year plan datasets Project this year from \$3,000 to \$2,500.
- Put off the incremental \$5,000 for the CRF for future purchase of the DPW one ton pickup with plow and sander until next year.
- Put off the incremental \$12,000 (\$4K, \$4K plus \$4K) for the CRF for future purchase of the DPW 2027, 2028, and 2029 Ford F-250 pickups with plows until next year.
- Remove the requested \$25,000 for the purchase of the Fire Ladder Truck 1. Funding from the existing CRF was approved by the BoS on 11-18-2019.
- Put off the incremental \$6,250 for the CRF for future purchase of the DPW Excavator until next year.
- Put off the incremental \$1,800 for the CRF for future purchase of the DPW Ford 5000 Tractor with boom mower until next year.
- Put off the incremental \$50,000 for the CRF for future engineering costs of the new DPW Garage until next year.

- Remove the incremental \$5,000 for the CRF for 2021 purchase of the Fire Dept. Car. There are enough funds in the existing CRF to purchase next year.
- Put off the incremental \$8,266.67 for the CRF for future purchase of the DPW Payloader with forks until next year.
- Recommend funding the requested \$7,400 incremental amount for the future purchase of a roll-off truck because the funding does not come from the tax levy, it comes from Transfer Station fees saved into a CRF.
- Put off the \$10,000 annual funding requested by the TPPA for the European Naiad Eradication Project until next year.

The foregoing changes, if followed, would result in a reduction from **\$711,600.67** to **\$504,050.00** for **2020 Capital Year project tax levy costs**.

The Board further recommends that the Town work with the UNH Technology Center to gather the necessary data and purchase the software for the RSMS (road surface management system) that will enable the DPW to prepare an annual Road Improvement Program. The program will prioritize roads in need of repair, rehabilitation or reconstruction and create an annual priority list of projects in Town.

## **BACKGROUND**

**Review of Town Meeting.** The annual review and update process begins in the spring of each year with a review of the decisions made at the Milton Town meeting. This review examines the capital improvement related decisions that were acted upon by the voters and looks at the status of one-time and continuing capital projects and their spending.

**Meetings with Project Sponsors.** Throughout the spring, the Planning Board meets with Boards, Commissions, Committees and Department Heads to discuss any updates to existing information, and to review and discuss any newly identified or revised capital projects. The Board did not meet with those entities that indicated they had no capital expenditures planned. The School District did prepare their capital submissions but were very late in the process this year.

**Formulation of CIP Recommendations.** In the summer, the Planning Board conducts final meetings with project sponsors if necessary. By consensus, the Planning Board develops its recommendations for the ensuing six-year program period. The Master Plan provides background information and provides guidance to the Board as it determines whether there is a strong, normal or weak tie-in to the Master Plan, however, this is a complicated, subjective task because the Town currently does not have an up-to-date Community Facilities Chapter.

**CIP Adoption.** The Planning Board presents its Draft recommended program to the community at a public hearing. This is an opportunity for the public to comment on the CIP prior to its adoption by the Board as its official recommendation to the Board of Selectmen. The Draft is then formalized based upon the comments received. The notification and hearing requirement process the Planning Board follows are the same process used for the adoption of a Master Plan, provided for in RSA 675:6. The adopted document is then filed with the Town Clerk and the NH Office of Strategic Initiatives.

From an ecological perspective, given the sensitivity of the lakeside area to drainage and erosion, and visual impact to the ridgeline, the best outcome would be no development at all. Such a conservation buyout is possible, but requires an initial large commitment of funds, and sufficient time and effort to acquire the balance of a purchase price that would satisfy the developer.

Mr. Cheney has presented two development options, the 18 duplex "Yield Plan", and an Open Space Cluster Development plan condensing the same number of units into a much smaller footprint and number of buildings. From a purely ecological perspective, the OSD plan is superior due to the much smaller disturbed area, and simplified roadway, drainage, septic and well issues resulting from consolidation of these services in comparison to the Yield plan. Additionally, Mr. Cheney has offered to donate the balance of the property, roughly 42 acres, for conservation, which has ecological and recreational value to the town.

However, there are ecological and other issues with both plans. Both plans involve significant visual impact, and require extensive engineering to protect the 3 ponds. The Yield plan is a large disturbance near steep slopes and impaired waters. Has the destabilization from the previous, failed development been fully remediated? Given the large footprint, are any sensitive animal or plant species present? Can drainage be successfully routed away from the ponds given the altered topography and impervious surfaces? Is the Yield plan currently legal given that it consists of duplexes, or would it, like the OSD Plan, require waiving the LDR multi-family restriction? Is there any consideration of mitigating the impacts on vehicular traffic to the abutters (such as upgrading some of Bolan road)?

The OSD plan carries less ecological cost, but has ridge top visual disturbance, which goes against the Master Plan. This is because ridge top developments are a more salient detractor from the natural beauty of the landscape than are structures in other locations. Camouflage coloration as promoted by the developer will reduce, but not eliminate visual impact. Unless tree cover rises above the structures from behind, the buildings will stand out in silhouette. However, this is an aesthetic, rather than ecological issue. There may be creative ways to reduce the issue. Perhaps it would be possible to structure angled rows of trees on the lake side of the buildings, so as to create visual corridors which allow views of the ponds from certain angles in the buildings, while hiding the buildings from most vantage points below. There may be consultants who can advise on this issue.

Should the OSD plan be adopted, we recommend including the following conditions:

- 1) The balance of the property be donated to the town, and specified to be placed under a conservation easement held by a qualified land trust, OR, the land be donated directly to a qualified land trust. In either case all related costs are to be covered by the developer. The PB may also desire that well-planned trails be created in the conservation area.
- 2) It should be noted that waivers of zoning or site plan regulations such as building height and multifamily be contingent upon the easement in 1) above. This avoids a precedent for waivers being set without contingencies.

*We do not approve of rooftop decks,*

3) ~~The rooftops of the buildings should not be used as balconies,~~ which effectively makes any visual disturbances even higher and more obvious.

4) Any remaining remediation imposed from the previous development project must be addressed as part of the project.

Lastly, we note that concerned abutters have brought to the CC a desire to mitigate impacts on current residents of Bolan and NE Pond roads. For instance, increased traffic on NE Pond and Bolan roads, particularly due to lake access. This is not within the CC's purview but we mention concerns that have been brought to us and would welcome creative solutions.

## Land Use

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**From:** Rebecca Brownell-Smith <smtr38@gmail.com>  
**Sent:** Friday, November 15, 2019 2:35 PM  
**To:** landuse@miltonnh-us.com; RBSmith Printer  
**Subject:** Ashley Please forward this email to all members of the Milton Planning Board and Conservation Committee

Dear Town of Milton Planning Board and Conservation Committee Members:

I am sending this email in advance of the Planning and Conservation meetings Monday 11/19/19. I'm not sure that it is fair or wise to schedule two different meetings with similar items on their agenda at the same time but that is not why I write to you now.

I would like to start by introducing myself. My name is Rebecca Brownell-Smith and I am the daughter Lawrence and Maxine Brownell. I am also the DPOA for the Brownell Family Revocable Trust, who owns the property at 330 Bolan Road Milton, NH.

I am contacting you in the hopes that you will carefully consider the facts and implications of the Development Walter Cheney wishes to build on Northeast Pond Rd. Walter and Three Ponds Investments, LLC. is the current owner of the parcel of land that abuts my family's property, and in fact, he is the same owner of the property in 2005-2008 as well when we had so many problems with their practices and eventually we worked together to stop the development then. Walter's supposed ignorance about his "partner's" methods of doing things just adds to this issue. As you know, you can't claim ignorance as an excuse for destroying the local natural resources and the other citizen's quiet enjoyment of their own homes. He is seeking approval to put a 4-story, multi-family, multi-building 55+ community development on his property. He can not guarantee or promise who will live there and say that there would be no burden placed on town services. One can not discriminate against a family with three school-aged children anymore than they can deny anyone who is not a younger professional with no children a sale of a unit. I, along with other abutters have reached out to the State of NH DES and respectfully sought their guidance in preserving the Lake and our own properties. In December of 2008, the Administrative Order #WD 06-011 that the State encumbered the property with was satisfactorily released. This release was based on the thought that all the stipulations of the order to mitigate the wetlands back to it's original condition and deal the unlawful timber harvesting. The Order was handed down due to the NHDES Wetlands Complaint #2005-2859 which I have copies of, as does the Milton Planning Board and Conservation Committee when Kathleen Merrill was the Land Use Clerk. **Several items on the Order were not completed and NH DES David Price has been in contact and plans an investigation and site visit.** Mr. Walt Cheney is seeking to place this development just above the ledge and slope of our homes.

With **this proposal**, as was with the former proposal: **will most certainly come a tax on the land, timber, waters, wetlands, fish and wildlife that we, nor the Town of Milton, and the States of New Hampshire and Maine will be willing or ABLE to pay! That tax will come in the form of the destruction of those natural resources I speak of.** We need the intercession of the Planning Board and Conservation Committee to assist us with this protection. Mr. Cheney has already made his plans, made proposals to the Town of Milton, and made up his mind with what he wishes to do with his property while personally going around to the abutters of his property and individually selling them a fake bill of goods and a heaping serving of empty promises. He has come in to these meetings and has all the confidence in the world that this project will be rubber stamped and the Board and the Town snug in his pocket. That also begs the question as to why a sitting member of the Conservation Committee (Paul Blanc) is allowed to also act as his agent on the applications and works directly on this project. If he were not to recuse himself from recommendations and votes all together, this will scream of impropriety and a clear conflict of interest.

With specific regards to the reasons Cheney's "Open Space" Development is not viable for the Town of Milton; I plan on using the same arguments that Cheney cited on his Application for subdivision and waiver.

**-Waiver for Permitted Uses:** Cheney states by not allowing him to build multi-family buildings on his property, it would cause him "an unnecessary hardship" In the same paragraph, he also states his property is adjacent to a high-density area. Both these arguments are false. He already has a back-up plan of a subdivision that has 18 duplexes, so his hardship is him not getting what he wants. The Zoning Committee and other Town entities made this area a low-density

residential area. We are not adjacent, but miles from any high-density zone (which Milton has almost none of). He can not be allowed a waiver for this permitted use. If the Board had wanted to they could have listed the LDR with the "SE" designation for multi-family dwellings. It didn't do this for a reason. Cheney also states that his development will "meet and exceed" the Town's Master Plan "purpose and objectives" with regards to Open Space Development. From the Master Plan- "Purpose to promote traditional rural character and retain and protect scenic and natural resources, the development of balanced residential communities in harmony with the natural landscape." This development will kill the rural character and harmony of the neighborhood. Clear cutting a property, then coming back 11 years later to cut down more trees and put up high rise buildings is not in line with the of the OSD.

-With regards to the dimensional requirements waiver- The rule is 35' and there is language that a builder can apply as Mr. Cheney has, for up to 25% increase which would be 43'9" to be exact. His request is unreasonable because these buildings will not fit in our neighborhood and will the building be taller on the lakeside of the buildings where it appears to have a "walk out" aspect? The height is only because he wants to create a lake view where currently, one doesn't exist. Painting the buildings forest green and black will not camouflage them into the hill side.

-With regards to the overall Open Space development, the LDR zone requires all buildable lots be a minimum of two acres. The lot is 5.04 acres but he will be placing three very large uncharacteristic buildings that will also have accessory buildings. I would think the building lot should be a minimum of 6 acres (2 acres per dwelling) because we are talking about upwards of 72 people living there and that is very crowded as it is. From the Master Plan- OSD Purpose is to ...encourage flexibility in the design and development of land to preserve open space and the traditional rural character, retain and protect important natural, scenic, and historic resources, promote the development of balanced residential in harmony with the natural landscapes.

Walter's open space development plans do not preserve rural character, they don't protect important natural and scenic resources, and the plans don't create a balanced residential community with the natural landscape. The buildings will stick out of the landscape and the trees he cuts for his lake view are not preserving anything.

-Walter also envisions selling these units for \$350k-\$500k. How do those prices reflect the Town's housing policy goal of "Allow a range of housing opportunities in a manner that protects and enhances rural and agricultural character while providing housing for the elderly and lower income residents." This is one of the quotes Chaney used on his application that is being reviewed. Those price points won't provide anything beneficial for the Town residents.

-Objectives of the OSD that the Town has set forth are:

- 1) Maintaining rural character through preservation farmland, forests, and rural viewsapes and encouraging residential development that is sited in harmony with the environment and promotes a sense of neighborhood. **[Cutting down additional trees that are within the Shoreland 250' buffer are aimed at creating more harm to the abutters that live below him. When the land was clear-cut years ago, we had flooding, road washouts, dirty streams, and a very large forest fire. This development already has so many people up in arms and worried about their own properties, that there is no way harmony would exist in this community.]**
- 2) Preserve those areas of the site that have high environmental or ecological value such as wildlife habitat and significant water resources value such as critical watersheds, wetlands, streams, and rivers. **[There is at lease one mating pair of American Bald Eagles that nest right near the edge of where Walter wants to situate his buildings, and the wetlands have grown in size since the last time the property was being clear cut. There is a significant amount of what the Town and State deems as "non-buildable". These areas include wetlands, land with slopes in excess of 25% grade, and further more the proposed wastewater and stormwater management systems, leach fields, utility easements, driveways, roads, and buffer zones also contribute to "non-buildable" land. To qualify for an Open Space Development, the 43 acres he wishes to hold (not donate, mind you) in a conservation easement must be calculated to consist of at least 50% buildable property. That means at least 21.5 acres that is buildable. I doubt Cheney meets that requirement by a long shot. Cheney can not remove trees, soil, and natural features. It is prohibited unless the removal is consistent with conservation objectives. Cutting trees for a lake view doesn't do that. The Open Space shall be natural and in an undisturbed state unless an approved and permitted conservation agreement and management plan is written by a qualified natural resource professional. If Cheney plans on putting his leach fields and stormwater management systems in the open space, that negates the natural undisturbed state of said space.]**
- 3) Preserve undeveloped frontage along existing roads, protecting transportation corridors from encroachment of structures. **[The location that Cheney wishes to place the private entrance is a very narrow parcel that is situated just at the crest of a smaller hill that is part of a much larger steeper hill. People entering and exiting that spot will create many traffic and road maintenance issues. It is just above the intersection of Northeast Pond Rd. and Bolan Rd. In the winter, our portion of Bolan Rd. is not maintained by the Town. Adding 36 families to that location will be detrimental to the Bolan Rd. neighbors as many people are unable to get up the Northeast Pond Rd. hill in the winter and end up turning around and going out Bolan Rd. This would place a few traffic safety concerns and undue financial and time constraints on the few neighbors who maintain the road and is not fair.]**

The ZBA grants special exceptions based on 1- Appropriate use of the site. 2- Not injurious, noxious, offensive, or detrimental to the neighborhood. 3- No undue nuisance or serious hazard to pedestrian or vehicular traffic. I believe I have outlined many valid reasons for not allowing Mr. Cheney to put his 4-story cluster community in Town. None of which have been emotional pleas, but stating the facts and using the very ordinances the Town already has in place.

**This is a fight we will not give up on. So please listen to our arguments and concerns. Be thoughtful. If this many citizens are against this development, there has to be some merit to it!** When I went to the Economic Development meeting last week (because I just had to hear what Walter Cheney's vision for Milton is!), he took his time not at sharing a vision but urged the Committee to get on the Planning Board's case to change the zoning on Elm St. Why should it be the Town making the initial moves to change zoning? Why would they? They created it for a reason. Walter Cheney does a lot of saying one thing and doing another and has been so praising about how the Town is bending over backwards and been nothing but attentive to all his needs and even gave him a building permit ahead of schedule. He has said this development was going to be many different things, elderly community, possible Section 8 and if he can't sell the units, we CAN NOT give him carte blanche to build whatever he wants in Town. If this goes through without the proverbial brakes being pumped, it will only come back on the Planning Board and any other Committee that has a hand in it. As I said before, many of the same reasons he is selling you this Open Space Development are the very ordinances you put in place to protect us from his irresponsible plans, poor overall planning, and bad past practices. We are only interested in protecting this water, this land, these people, and the Common Loons and American Bald Eagles that live here. We wish to also re-involve the DRED and NH Fish and Wildlife, the US Dept. of Interior and even the State of Maine, because as you know, they also share these resources with us. This is only the beginning of doing what I feel is necessary. So, in closing, I ask that you work with us (there are many abutters that support these measures) to preserve and protect all of our properties; including that of the developer, Three Ponds Investments, LLC. Please see my contact information below. I will see you all Tuesday night.

Respectfully Submitted,

Rebecca Brownell-Smith  
PO Box 246  
Milton, NH, 03851  
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## Land Use

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**From:** DM Doiron <ddandmd@gmail.com>  
**Sent:** Sunday, November 17, 2019 11:30 PM  
**To:** Land Use  
**Subject:** Cheney development

Ashley please forward my email to the Planning Board prior to the meeting on November 19th, 2019.

Dear Planning Board Members,

My name is Marie Hill Doiron and I write this letter for myself, my family and most importantly my 88 year old mom, Celina Hill who has owned her home at 292 Bolan Rd for 54 years. It has been a pleasure to share the peaceful environment, Bald Eagles, Loon families and the Milton Three Ponds watershed with family, extended family and many friends over the years.

My mom and my husband, Dennis, attended the Economic Development meeting when Walter Cheney presented his vision for Milton, NH. It's strange that a non-resident of Milton gets to present HIS vision for OUR town. It seems that he is trying to win over all of our town boards. Next thing you know he'll want to call it "Cheneytown".

Cheney's company, Three Ponds Investments, LLC is proposing to erect multiple four story buildings consisting of 36 condos on five acres of land bordering our land. This will create too much traffic with the probability of 72 more vehicles whether they go out Northeast Pond Road or Bolan Road. When Northeast Pond Road is impassable during the bad weather it brings traffic out through Bolan Road. Our land provides a right of way to five neighboring homes and Cheney's property does NOT have a right of way over our land. Furthermore, our portion of Bolan Road that deeds this right of way is NOT town maintained.

The steep embankment that he plans to build on will cause run-off adversely affecting the private road and all abutting properties. The run-off which will likely contain fertilizer and other chemicals used to maintain grounds will end up going into the watershed which provides enjoyment and beauty to Milton and Lebanon, Maine residents. Since our lakes run into the Salmon Falls River and eventually into the Atlantic Ocean the damage is even more far reaching than lakeside properties and the Milton Town Beach. It will destroy the natural habitat of much wildlife, cause hardship to abutting properties and in no way does it maintain the rural character and harmony of our neighborhood.

In closing, please don't venture from Milton's well thought out Master Plan and Zoning Regulations to accommodate developers that want to get the biggest profit out of their projects. Developers often use a "bait and switch" approach to get their exceptions in place and once they get their plans approved things don't happen as planned. The Master Plan and Zoning is meant to protect our town, to keep the rural charm with beautiful landscape intact. We're counting on you!

Thank you in advance,  
Marie Hill Doiron and Celina Maciel Hill

Mr. Cheney purchased this acreage without a view of the lake. His intention to develop condos and provide a view of the lake is detrimental to the properties abutting his property and every single person who enjoys our precious resource, the lake and the unspoiled slope views that currently exist.

While I understand Mr. Cheney's desire to develop this land for personal gain, it should be done in a thoughtful and reasonable manner with as little destruction as possible and cause no ill effects to the abutters or the lake itself. The only way for this to happen is for him not to remove trees to provide a view.

A 4-story condo project is not in keeping with the rural character of the area. We are in a low-density area and it should be kept that way.

I think it is important for everyone to understand that his proposed development is adjacent to six properties on Bolan Road.

When we stood at the corner of the first building on the tour in October, the stake was at the very edge of a steep slope. Standing there or anywhere else on the property, you could not see even a peek of the lake, the land is so densely forested.

Mr. Cheney has marked trees along his property on the right side of Bolan Road. Removing these trees does not guarantee a view as there are trees on the left side of Bolan Road that are as high as the ones slated for removal. Before a single tree is removed, a realistic topography study needs to be performed which will show what the actual view would look like were he to remove the trees that he deems necessary for providing a view for all 4 stories of his project. I believe the resulting view will be a very minimal one if there is one at all.

When I asked if this project would be viable if there were no water view, Mr. Cheney's response was "in my opinion, no. This project would not be viable without the views today." If he has no confidence in this project without a view, why should we have confidence that this project is a viable one for our town?

Many people purchase homes in the woods. If this is such an attractive project, it should work in the woods without a view and still be of interest to potential buyers. It would not

need to be 4 stories if the lake view were not an issue and could blend in with the low density of the area.

Removing any trees on this steep slope will result in further damage to the properties abutting this parcel. There have already been a number of basements with flooding since the destruction of the trees many years ago. Removing any trees off the slope will cause further damage since they are our only protection against landslides and flooding caused by heavy rain and snow melt.

Mr. Cheney has indicated that his project has been approved by the Conservation Commission. I can't find in the CC minutes if the removal of trees to provide a view was discussed. No one questioned it when Mr. Cheney said there would be a lake view. Since we were not notified of this project until September, prior to the PB meeting, we were not aware that this was to be discussed at the CC and were unable to address our concerns to the CC. This "approval" should not stand without a complete representation of this project and the concerns of the abutters being addressed

W. Cheney stated the units will be elevated 2 bedrooms. The units will have a water view and will have access to the water. Boat slips will not be put in however, there may be a rack for kayaks

W. Sylvester asked if there are going to be accesses to the pond. W. Cheney stated they will provide access but has no intention at this time to put in boat docks. But does envision providing a pontoon boat and kayaks.

W. Sylvester asked about a Beach area. W. Cheney stated there's presently a beach area that would remain. P. Blanc stated residents would have to walk to the beach area.

According to Mr. Cheney's, he states, "it is unreasonable to expect a landowner to retain a property and not utilize the land for some purpose. We are trying to create a development that will not only work for us, but also work for the town; has the least impact to the abutters with the least impact on the environment. Our goal is to steward the development in the best way we can."

If the only attraction is a manufactured view which desecrates the view of everyone who uses the lake and puts abutter's properties and the water quality in jeopardy, then this project should not be allowed to move forward.

Jill Palmisano