

Town of Milton
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Milton NH, 03851



Planning Board
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Planning Board Minutes

September 3, 2019

6:30

Members in Attendance:, Matthew Morrill, Bob Graham, Joseph Michaud, Peter Hayward, Larry Brown, Lynette McDougall, Ryan Thibeault Ex. Officio. Also in attendance, Ashley Morrill Land Use Clerk, Bruce Woodruff Town Planner

Absent Members: Chairman Brian Boyers

Public Attendance Bob Carrier, Kristen Rice, Steve Baker, Norm Turgeon, Arlene Marquis, David Marquis, Houle, Sue Houle, Ken Houle, Scott Marquis, Richard Burke, Rhonda Burke, Thomas McDougall, Lee Chase, Connie Chase, Alice Mowery, Mike Boudreau, Susan Hoag, Wayne Sylvester, Roy Tisley, Roland Meehan, Marilyn Hayes, Steve Hayes, Karen Golab, Tom Kachoris, Elizabeth Kachoris, Stephen Coyne, Nancy Coyne, David Cormier, Robert Silva, Dana Wilson, John Locke, Karen Locke, Joan Goulet, Harrison Thorp, James Maggart, Deborah Blair, Cindy Thornton, Deb McCormack, Dan Heon, Brenda Heon, Erick Dunbar, Dan Audet, Jane Audet, Bill Cuff, Cynthia Wyatt, Chip Gehres, Bob Weiss, David Allinson, Stephanie Allinson, Mary Engels, Jim Engels, Paul Blanc, Skip Bridges, Rax Jerome, Peg Hurd, Katherine Ayers, Lori Smith, George White, Marry Currier, Russell Neal, Virginia Long, Brian Kearns, Jeannette Kearns, Allen Barbi, Ann Barbi, Kari Lygren, Tim Perkins, Judy Perkins, Lind Kane, Eric Knapp, Elaine Parker, Robert Parker, Steve Panish, Michael Paradis, Dan Flores

Vice Chairman P. Hayward called the meeting to order at 6:30 pm.

Vice Chairman P. Hayward brought Alternate L. Brown to the board as a full voting member in place of Chairman B. Boyers

Public Comment: No public comments were made.

Capital Improvement Submittals by School Board:

P. Hurd discussed the CIP submittals on behalf of the School Board which consisted of- design air handler replacement, fire alarm installation, first floor elementary air handler replacement, second floor elementary air handler duct work, 2005 pickup truck with plow and a 2009 dump truck with sander and plow. P. Hurd stated there may be a couple more submittals the School Board would like to add. The Board stated the latest they could submit the additional requests is September 17, 2019. R. Thibeault asked about the total dollar amount they are requesting and if they are requesting them all in one year as warrant articles. P. Hurd expressed this is a new

process for the School Board and that they will present the submittals on September 17, 2019. J. Michaud stated they should consider presenting the submittals with incremental amounts.

Continued public hearing for the proposed Revised Site Plan Review Re: addition of accessory uses for Mi Te Jo Campground – Three Ponds Resort, LLC, Owner; SFC Engineering Partnership, Inc., Applicant; 111 Mi Te Jo Road; Map 28, Lot 4.

M. Morrill asked the Board whether or not they wanted him to recuse himself from the continued public hearing. The Board agreed the decision was up to him but feels he has always been fair. M. Morrill remained on the Board.

D. Flores from SFC Engineering asked for a waiver of the Milton Site Plan Review Regulation section 11 (D)(5) requiring building elevations be submitted as part of the site plan review application: *an accurate rendering or elevation views (to scale) of what that the exterior of the structure will look like shall be submitted as part of the site plan review application*

D. Flores stated the nearest property line is over 850' from a proposed building, and therefore, the development will not be visible beyond property limits.

D. Flores asked for a second waiver of the Milton Site Plan Review Regulation section 15 (H)(1)(A) Requiring a lighting plan be submitted as part of the site plan review application. *All non-residential and multi-family residential site design plans presented to the Planning Board for approval shall include a lighting plan which provides for a method and level of lighting appropriate for the proposed use or uses as determined by the Planning Board. All such lighting plans shall, as a minimum, identify the location, number, height, type and intensity of all exterior lighting fixtures to be installed. Proposed exterior lighting fixtures shall provide for a level of illumination appropriate for the proposed use or 34 uses. Illumination patterns proposed shall be such that all sites subject to these regulations will enjoy an adequate level of lighting to insure user safety and security. However, care shall be taken to avoid lighting patterns and intensities which "over light" a site, creating nuisance and glare at abutting properties, public streets and the neighborhood in general. All lighting plans shall be subject to review and approval by the Planning Board. No changes or modifications in approved lighting plans may be proposed without the specific approval of the Board.*

D. Flores stated that the nearest property line is over 750ft away. Exterior lighting will be limited, in keeping with the camping experience. Any outdoor lighting that is provide shall be dark sky approved with cut-off fixtures.

Waiver 1- Vice Chair P. Hayward stated the Board expects to see what the building will look like in this part of the application process. **J. Michaud motions to deny the waiver request for requiring building elevations be submitted as part of the site plan review. M. Morrill seconded. Vote six (6) in favor, 1 (one) opposed.**

Waiver 2- L. Brown expressed his concern with this waiver request. **B. Graham motions to approve waiver 2. J. Michaud seconded. Vote six (6) in favor, 1 (one) opposed.**

B. Woodruff Town Planner read the following suggested conditions should the Board approve the application.

1. The campground shall prepare a storm water management plan that among other things, shall mandate a recurring maintenance and inspection schedule for all storm water treatment and infiltration infrastructure. The report shall provide the inspection report forms and the campground shall inspect on the required schedule and submit said reports to the Land Use Office specifically for all swales, berms and bio-retention areas on that schedule.
2. The campground shall conduct a quarterly inspection of the campground shoreline and other areas to report on the status of stormwater runoff retention treatment and infiltration infrastructure and submit an inspection report with photos to the Land Use Office and for the file. If determined that there is undue runoff or runoff in any location(s) not identified in the Storm Water Management Plan, the campground shall prepare an engineered plan to correct these defects and after review by the Town and NHDES, shall repair, remediate and mitigate said defects.
3. Pool or spa discharge of any kind shall not be directed into storm drains or storm water treatment or infiltration infrastructure. The owner shall obtain a NHDES discharge permit prior to operation of the pool(s) and spas. Monthly inspection and maintenance reports for the pool water drain infiltration trench and the pool water holding tank pumping event records shall be submitted to the Land Use Office (and to NH DES upon their request).
4. The campground shall take water samples from wells in the campground and/or on participating abutting properties and have them tested by a NHDES accredited lab annually to certify that groundwater aquifers are not being damaged by pool and spa discharge. Lab reports shall be submitted to the Land Use Office annually. If adverse conditions are found, the campground shall dispose of the discharge into a certified disposal facility.

The applicant shall agree to submit a dollar amount to the Town sufficient to pay for the Planning Board's Consultant Engineer for construction inspection of all storm water quality infrastructure and pool/spa water drain infrastructure. If the agreed-to amount is not enough, the applicant shall submit additional required funds. If the submitted amount is not expended at project completion, the remaining balance shall be refunded to the

B. Graham motions to continue the public hearing to October 1, 2019. J. Michaud seconded. Vote six (6) in favor, none (0) opposed.

R. Tilsley stated there is no expansion to the number of sites, amenities are for campers and guest only and the number of guest allowed on a site remains the same.

D. Flores presented the site plan to the Board.

Vice Chair P. Hayward opened public comment.

B. Kearns expressed concerns with the applicant coming before the Board without complete plans.

J. Locke referenced a letter written by N. Turgeon and his concern with the quality of the lake water.

K. Silva stated she's concerned with water safety, noise and illegal sand piles.

S. Bridges asked if the public will get another chance to speak once they have the opportunity review everything.

S. Baker said his number one concern is that the campground was voted down by 60% of the voters.

D. Blare stated she doesn't understand how the Board allowed the new campground owners to come into town.

W. Sylvester referenced global warming and the shallow water depths on the lake.

E. Parker believed the conditions suggested by B. Woodruff Town Planner should be stronger.

R. Thibeault and L. Brown explained the Planning Board's authorities and legal obligations along with the required processes. R. Thibeault stated the Planning Board can require conditions for the applicant to meet but cannot go back in time and change where the application process is currently today. Additionally, if the application is meeting site plan regulations the Board cannot simply say no.

L. McDougall stated it's up to the residents to vote to change the regulations and ordinances at election time but the board must follow the current ordinances and regulations.

Norman Turgeon read the following on behalf of TPPA:

The subject site plan is for a part of the developer's plan to convert MiTeJo to a resort styled park of the kind advertised in Northgate Resorts' website, where MiTeJo is described as one of "Our Resorts":

While we are concerned that the amenities in the site plan could potentially adversely impact the Milton Three Ponds and groundwater aquifers, we are far more concerned with other parts of the developer's plan that have not been disclosed to you for review.

In considering whether to approve or disapprove the current site plan you should not turn a blind eye to those undisclosed parts of the developers plan, which are likely far more harmful to our natural resources.

So, we strongly recommend you disapprove this site plan and require the developer to comply with the intent of your Site Plan Review Regulations by seeking approval for their entire plan, and detailing the critical design features of that plan, that will protect public health and that of the Milton Three Ponds.

Consider the following relevant facts:

All Three Ponds are at risk of becoming seriously impaired due to phosphorus loading from storm water runoff. The data in enclosures 1 and 2 shows that phosphorus over the last two years in the Northeast Pond was at an unacceptably high level. Data for the other Ponds are similar.

According to UNH professor of biological sciences, Dr. Jim Haney, even a small increase in phosphorus levels could push the Ponds into a state of toxic cyanobacteria blooms. He says the question is not whether the planned development would negatively impact the water quality in Northeast Pond, but rather how great this impact would be, and whether the increased health risks are justified.

We must be certain that any development plan includes a storm water management plan designed to ensure no increase in phosphorus loading. At MiTeJo, this plan must take into account all impervious surfaces that are part of the development, not just the amenities.

Your Site Plan Review Regulations require that no development shall be established, nor shall any structure be erected except in conformity with a site plan approved by the Planning Board; and no site work shall occur in advance of site plan review.

These requirements are meaningless if you allow the developer to continue what he has started without site plan review. He has installed 27 structures described in his new MiTeJo website as "Meadow Cottages" and "Lake Bluff Bungalows" (enclosures 3 and 4 refer). The website describes these as "cabins". They are not on any approved MiTeJo site plan. And the site work in the Meadow area occurred this Spring.

Although the developer describes these structures as "cabins" in his website, and also says "cabin camping is the way to go" at MiTeJo, he has publicly stated that they are not cabins, but Park model RVs not regulated by our zoning ordinance, and that he can legally install them on every campsite at the MiTeJo campground.

What storm water management infrastructure has the developer installed to control runoff caused by these 27 structures? Apparently, none. How many more of these structures does he plan to install without permits or site plan reviews to reach his target occupancy level? No one knows; but based on what he has done at other campgrounds, like Westwood Shores in Ossipee, the number could well exceed that which no storm water management plan would be capable of handling.

Perhaps some of you believe that Milton will benefit from a MiTeJo expansion through an increase in the property tax base. If so, consider this: Even if they increase the number of cabins to 150, and the Town taxes them at fair market value, this would yield about \$75,000 annually. Conversely, if the Ponds are impaired from phosphorous loading, the reduction of other waterfront property values will cost the Town about \$450,000 annually, a burden that would shift to all Milton property taxpayers.

Remember also, that this developer has appealed to the New Hampshire Supreme Court to overturn this Town's earlier decision to deny permission to expand the campground, and to install amenities essentially the same as are on the current site plan. In our opinion, it would be terribly unwise for Town officials to undo part of this decision and give the developer a basis to suggest that the Court ruled against the Town.

In summary:

The site plan before you for review tonight is incomplete. The developer is asking you buy a pig in a poke, by approving a relatively small part of his plan to convert MiTeJo without knowing his entire plan.

Don't reward this developer for this and for also violating your Site Plan Review Regulations by installing 27 cabins in advance of a site plan review.

And don't underestimate the adverse consequences of undoing the Town's earlier decision about these amenities before the New Hampshire Supreme Court rules on the developers appeal to that decision.

Disapprove this site plan and require the developer to comply with the intent of your Site Plan Review Regulations by seeking approval for their entire plan, and detailing the critical design features of that plan that will protect public health and that of the Milton Three Ponds.

Cynthia Wyatt from Milton Conservation Commission read the following letter on behalf of MCC:

The Milton Conservation Commission (MCC) called a Special Meeting on August 27th to discuss its concerns regarding the Milton Planning Board's acceptance of the Site Plan submitted by Three Ponds Resort, LLC to develop resort amenities for MiTeJo Campground in a sensitive ecological area of the Milton Three Ponds. Members of the Three Ponds Protective Association (TPPA) were invited and several members attended. Other concerned neighbors were present and voiced their concerns.

The MCC, as an advisory Land Use Board, calls the Planning Board's attention to the 2017 update to the Natural Resource Chapter of Milton's Master Plan. The Master Plan is the foundation to guide town officials in the overall character, growth and development of a community. This update includes a 2015 community survey. The survey revealed the top three goals with 90 percent public support "to prioritize water quality in Milton Three Ponds, ensure drinking water quality, and protect Milton's lakes, streams, and wetlands." In the section dedicated to the Milton Three Ponds, the Master Plan states: "The Three Ponds represent a prime source of tourism and tax revenue for Milton. Properties with pond access are assessed at higher values relative to the rest of Milton, and therefore generate significantly higher tax revenues. The ponds attract seasonal occupants and tourists that contribute to the overall economic health of Milton by infusing the local economy with non-resident retail and service business. The ponds are a key element of Milton's health, community character, and are crucial to Milton's quality of life."

Based on the Master Plan, the Town's guiding planning document; input from TPPA; and, the scientific evidence from Dr. James Haney, UNH Professor of Biological Sciences with a PhD in Aquatic Biology & Limnology and Milton Resident, the Milton Conservation Commission strongly advises the Planning Board to NOT approve Three Ponds Resort's site plan application for the following reasons:

1. The Three Ponds are in an exceptionally fragile state.
 - Based on 30 years of lake monitoring data, TPPA advises that the shallow depth of the Three Ponds have left the ponds in an exceptionally fragile state due to stress from the invasive European Naiad and past blooms of cyanobacteria; vulnerability to increased nutrients from storm water runoff in the watershed; and increased human activity including motorized boats.
 - According to Dr. Haney, even a small increase in phosphorus and nitrogen levels could push the Milton Three Ponds into a state of toxic cyanobacteria blooms. Dr. Haney states that “Impacts of shore land development on water quality are well known and have been studied intensively. The question is not whether such a development would negatively impact the water quality in Northeast Pond, but rather how great this impact would be and whether the increased health risks are justified. Considering the fragility of the lake, the impact of the proposed development would most likely be considerable.”
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2. Increases of impervious surfaces: According to Three Ponds Resort’s site plan, the total disturbed land is calculated to be 248,300 square feet or 5.7 acres. Even though the application is described as minor, please note that the impervious area increase in the application is 66,350 square feet or 1.5 acres with the swimming pool, water playground, hot tubs, mini golf course, etc. This does not include the additional impervious surfaces created by the roofs of the 27 new camping cabins that are already in place without town permitting. An increase in impervious surfaces increases the likelihood of greater stormwater run-off and nutrient loading.
3. Increase in groundwater withdrawal and disposal: The Commission is concerned about the potential impact of groundwater withdrawal for the 90’ by 85’ swimming pool, the 90’ by 100’ water playground, and several rental hot tubs. There is also concern about the disposal of the contaminated water. Many neighbors are justifiably concerned about their wells. For this reason, the Commission recommends a third party professional hydrological study of this proposal’s impact on the groundwater due to the proposed large withdrawals and the onsite disposal of contaminated water.
4. Regional Impact: The PB voted that this plan does not have regional impact. Based on the information provided in this letter, the PB should reconsider this decision. The towns of Acton and Lebanon would be profoundly impacted by the degradation of water quality and the increased risk of cyanobacteria blooms in the Ponds. The downstream towns of Somersworth and Berwick rely on the Salmon Falls River for their public drinking water supply. The Commission believes that based on the information stated in this letter, it would be irresponsible and negligent not to pursue regional impact.

In June of 2018, The Milton Zoning Board of Adjustment denied Three Ponds Resorts plan to expand the campground inclusive of amenities. The fragile tipping point state of the Three Ponds was an important and compelling reason for the ZBA denial. This tipping point state is

substantiated by science-based data and analysis by Dr. Haney and catalogued by TPPA. The MCC strongly advises that the Planning Board immediately suspend review of the application until more professional studies can be provided on the serious environmental and economic impacts of the Site Plan. The potential economic costs to Milton and neighboring towns of remediation expenses for increases of cyanobacteria outbreaks, increases in invasive species, other water quality degradation, as well as resulting negative impacts on the Town's assessment base could be staggering, and must be considered when deliberating about this application. Furthermore, neighboring and downstream towns should be notified and given the opportunity to comment on the proposed Site Plan as part of the Planning Board deliberative process.

In summary, the Planning Board appears to be seriously deviating from the Town of Milton's Master Plan's top three priorities that ensure Milton's environmental water quality.

Cynthia Wyatt read the following on behalf of Jim Haney UNH Center for Freshwater Biology and Milton Resident

Milton Three-Ponds: Sensitivity to Disturbance and Costs of Degraded Water Quality
The Town of Milton has been fortunate to have the Three Ponds Protective Association, one of the most effective citizen monitoring groups in New Hampshire, monitoring the water quality of Townhouse Pond, Depot Pond and Northeast Pond. The data they have collected each year for nearly three decades has allowed us to track changes and better understand the condition of the lakes and their vulnerability to pollution. We know, for example, that all three lakes have intermediate water quality and because Northeast Pond is largely shallow, it is the most sensitive to invasion by aquatic weeds and outbreaks of toxic cyanobacteria (aka blue-green algal blooms).

Concerns for lake water quality have changed since monitoring began on Milton Three Ponds. The recent increase in blooms of toxigenic cyanobacteria in New Hampshire lakes (see cyanobacteria advisories on the NHDES website:http://www4.des.state.nh.us/WaterShed_BeachMaps/), as well as throughout New England has focused concern of states and the USEPA on the potential effects of cyanobacteria on public health. For example, lakes in the Wakefield area have recently had lake advisories warning the public against recreational use of these lakes until the cyanobacteria concentrations become less than the 70,000 cells per mL limit. Through lake monitoring we know that the same toxic cyanobacteria are present and have produced blooms in Milton Three Ponds. One of the underlying causes of the increase in blooms is the release of nutrients (phosphorus and nitrogen) into lakes, caused by disturbances of the soils near the lake shore and in the lake watershed. Stormwater drainage, often accompanying development, also exacerbates the problem by flushing released nutrients directly into the lake during rain events. Much like fertilizers applied to a garden, cyanobacteria respond the added phosphorus and nitrogen by growing and outcompeting the "good" algae in the system. Levels of concerns about cyanobacteria blooms have grown with the results from recent scientific studies. For example, the deaths of dogs after short exposures to cyanobacteria contaminated lake water have been confirmed in many states and indicated the serious danger of recreational activities in a lake with surface scums of cyanobacteria. At UNH, the Center for Freshwater Biology as well as other researchers across the country, have been working to

examine the causes and consequences of toxic blooms in lakes, from Lake Okeechobee in Florida to Lake Erie. For example, our laboratory will be investigating whether the recent death of a young common loon in Province Lake is related to blooms of the cyanobacteria *Anabaena*, known to produce a fast-acting nerve toxin. Also, our UNH team is working closely with the Association to Preserve Cape Cod, developing a citizen cyanobacteria monitoring program for the roughly 1000 lakes on Cape Cod that have had increasing incidents of toxic cyanobacteria. At Cape Cod, we are also examining potential cyanobacterial toxin contamination of the ground water because of its porous sand, which in many ways is very similar to the Milton public water supply wells located in a sand lens between Northeast Pond and Townhouse Pond. There is also growing evidence that long-term exposure to lakes with toxic cyanobacteria, through recreational activities and possibly through toxic aerosols emitted by the lakes, may be linked to non-alcoholic liver disease as well as neurological disorders such as Lou Gehrig's Disease or ALS. In this regard, degraded water quality may be a potential threat and concern to citizens who simply live in the vicinity of a lake.

The proposed expansion and development of the Mi-Te-Jo campground would clearly represent a major disturbance and increase in human activity in the Milton Three Ponds watershed. Considering its close proximity to the eutrophication-sensitive Northeast Pond, the likely consequence will be increases in loading of nutrients such as phosphorus. It is also important to note that once a lake develops cyanobacteria problems, the costs of short-term remediation are considerable. For example, this summer Lake Attitash, Amesbury MA (360 acres versus Milton Three Ponds 271 acres) underwent an alum treatment to reduce phosphorus at a cost of roughly 1.7 million dollars.

Across the country, communities near lakes are working to decrease the influx of nutrients and control or reverse their negative impacts. Protecting the health of a lake is a complex process that requires the cooperation of an informed Town and its motivated citizens. It is hoped that in deliberating the expansion of the Mi-Te-Jo campground, the Town of Milton will consider the costs of a decline in water quality in Three Ponds on the recreational use of the lakes, the long term effects on the health of Milton's citizens, the property values around the lake as well as on future expenses for remediation.

Other Business: No other business

Town planner Comments: B. Woodruff Town Planner asked the Board to make time to re-read the letters presented to the Board in regards to the application. Also stated the Master Plan does not consist of only the natural resource chapter and asked the Board to look through the Master Plan and frame a balance between all chapters.

Approval of minutes: J. Michaud motioned to approve August 20, 2019 minutes. M. Morrill seconded. Vote U/A

Adjourn: J. Michaud motions to adjourn. M. Morrill seconded. Meeting adjourn 9:40pm

