



MILTON CONSERVATION COMMISSION
PO BOX 310
MILTON, NH 03851

Milton Board of Selectmen
Milton Planning Board
Town of Milton
PO Box 310
Milton, NH 03851

February 27, 2019

Dear Boards,

This letter is an advisory letter from the Conservation Commission regarding Article 3.

In general, the amendments contained in Zoning Article 3 are very comprehensive and reflect an admirable effort by the Planning Board and Town Planner Bruce Woodruff. The Conservation Commission commends the PB for the scope and vision of Article 3 - with some important exceptions.

The Milton Conservation Commission is appointed by the Board of Selectmen to act as an advisory land use board regarding Milton's natural resources. Unfortunately, the Milton Conservation Commission was not invited to be part of the zoning update process. We were unaware of the Zoning amendments until the week before the Deliberative Session when we were contacted by Three Ponds Protective Association and other citizens and landowners concerned about some of the changes.

This purpose of this letter is to alert the PB and BOS that there are certain zoning changes that could result in unintended consequences that may be deleterious to Milton's natural resources.

Here are our major concerns:

- (Article II Definitions) Adding a definition for a Recreational Facility which uses Amusement Park as an example included in the definition. An Amusement Park is a high impact use, inconsistent with the other, low impact uses stated in the definition. This addition is particularly unfortunate given the current MiTeJo vs. Milton lawsuit. The change may make the town's defense more difficult and encourage the applicants to resubmit as an amusement park.
- (Article III Section 3.5 Table of Principal Uses) Modifying the existing requirement that a Recreational Facility in the Low Density Residential zoning district be permitted by Right rather than by Special Exception granted by the ZBA. Please be aware that according to the Strafford Regional Planning Commission, the Planning Board cannot legally enforce more stringent conditions than are contained in existing town and state regulations, to protect sensitive ecological areas, or otherwise. Conformance to any additional conditions imposed during a PB site review would be strictly voluntary. Especially in view of the 1st bullet point, we (and other towns) do not assume that in all instances the existing regulations are sufficient to protect the welfare of the town and its natural resources, which is why the current status is Special Exception.
- (Article VIII Section I-A) Removing certain general ZBA criteria for special exceptions. Existing general criteria, such as *"...the use will not be injurious, noxious, offensive, or detrimental to the neighborhood"* have been removed and replaced with more specific criteria for given uses. While this makes what is allowed and disallowed more clear-cut, it presumes perfect foresight – that there will never be an unforeseen condition that is allowed but detrimental to the neighborhood and its natural environment. Eliminating general criteria removes the power of interpretation for the sake of clarity. We believe general criteria should be retained as a fallback to protect our neighborhoods. Doing so does not preclude using the

additional, specific criteria. Note that Rochester, North Hampton, Ossipee, and Wolfeboro, and doubtless other towns as well, use general ZBA criteria very similar to what Milton has now.

- (Article VIII Section I-A) The Special Exception General Conditions should include one that explicitly states the goal of protecting natural resources in a manner consistent with the Master Plan. Although that should be understood, it is useful to state it in this context so that the intent is not lost in the narrow focus of specific reviews.
- (Article VIII Section III-A-1) “On an existing lot, the erection of a structure or septic system within the wetland may be permitted by special exception.....”
- (Article VIII Section III-A-3) “... Shall not prohibit the construction of ... structures within the buffer zone or for unimproved lots that were approved for subdivision by the Planning Board or which otherwise legally existed on or before November 21, 2018.” Please note that the town wetland ordinance, in existence long before 2018, does not allow construction in wetland buffer zones. This will be interpreted as permission to violate buffer regulations which were in effect prior to subdivision of a lot.
- (Article VIII Section III-B) Allowing up to 400 sq. ft. camping cabins on 15% of campground sites, which will result in additional impervious surfaces, septic systems, and other activities that may be detrimental to lake or pond water quality. This appears to be a high density residential situation without a requirement for town sewer.

The Conservation Commission realizes that Article 3 will be voted on by the citizens on March 12th, but we would like assurance that the Planning Board will work with the Conservation Commission, this year, to discuss and come to agreement on the above Zoning issues.

Sincerely,
Milton Conservation Commission

cc: David Owens, Town Administrator
Bruce Woodruff, Town Planner