

Town of Milton
424 White Mtn Highway
Milton NH, 03851



Zoning Board of Adj.
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Meeting Minutes
June 28, 2018
6:00 PM

Members in Attendance: Larry Brown, Michael Tabory, Brian McQuade, Andy Rawson Alt., Steve Baker, Stan Nadeau, Chris Jacobs Alt. Also in attendance, Dana Crossley Land Use Clerk, Walter Mitchell Town Attorney

Public Attendance: Steve Hayes, Marilyn Hayes, Bill Thurber, Pat Thurber, Norm Turgeon, Joel Ponte, Bob Masre, Roland Meehan, Carol Bridges, Skip Bridges, Chris Boldt, Dennis Lapointe, Ronald, Elaine Sands, Michael Brandmeyer, Richard Harlow, George Petrillo, Fran Petrillo, Bob Carrier, Dan Flores, Richard Burke, Rhonda Burke, Paul Borges, Sue Houle, Ken Houle, Stan Berry, Holly Berry, Elizabeth Karchois, Cynthia Wyatt, Wayne Sylvester, George White, Lou Smith, Mary Ann Walsh, Deborah Wilson, Mary Lane, Jen King, Bev Peters, Mike Grondin, Karen Golab, Daryl Carlson, Peter Malia, Judy Boucher, Gene Boucher, Mike Desrochers, James Brossenbroek, Virginia Long, Steve Panish, Kaye Maggart, Dana L. Coull, George McGunagle, Carole McGunagle

M. Tabory called the meeting to order at 6:01 pm.

Public Comment: None.

Public Hearing: Case 2018-1 Request for a Variance from the provisions of article VII, first paragraph, and Article VII section D (2) of the zoning ordinance to allow for an expansion of a nonconforming structure and to allow an enclosed deck 5'-0" into the ten ft. side setback. Located at 39 Kingsbury Dr. Map 32 Lot 92 in the LDR, Applicant: Beverly Peters & Michael Grondin: Chairman Tabory offered the applicant a chance to reschedule this case to a date certain. Beverly Peters and Michael Grondin were in attendance. Applicant accepted. **S. Nadeau motions to postpone the public hearing of Case 2018-1 to July 26th at 6pm same location. L. Brown seconds the motion. All in favor motion carried.**

Continued Public Hearing: Amended Special Exception Application as part of the Rehearing of the Special Exception Request from Article III Section 3.5 of The Milton Zoning Ordinance, Table of Principal Uses #C Campgrounds. Application requesting the expansion of MiTeJo Campground submitted by Three Ponds LLC, Owner; Daniel Flores SFC Engineering Partnership Applicant. The property is located at 111 MiTeJo Rd, Milton NH, Tax Map 28 Lot 4 in the LDR: S. Baker stepped down from the board, Chairman Tabory brought A. Rawson in place as a full voting member. Chris Jacobs was brought to the board in place of B. McQuade as he was the acting member at the last meeting.

Point of Order: Chris Boldt brought up that the Town's Conservation Commission has submitted a letter of objection and wants to make sure the board had that (they did). Expressed concern that the property has been transferred in ownership.

Peter Malia reported that Three Ponds Resort, LLC still owns MiTeJo Campground. Chris Boldt asked if Northgate still owns Three Ponds Resort, they believe there is a new controlling entity. Peter Malia noted that the applicant is Dan Flores, and land owner being Three Ponds Resort, LLC. Discussion of the parent companies of Three Ponds Resort, LLC, and a phone call would have to be made to determine the percentage of ownership/membership interest in Three Ponds Resort, LLC, but still the Bossenbroek family. James Bossenbroek was in attendance representing Three Ponds Resort, LLC.

L. Brown questioned does Three Ponds have the executive controlling freedom of action that cannot be contradicted by the parent company. Chairman Tabory clarified if J. Bossenbroek is in a position of authority to make decisions on behalf of Three Ponds Resort, LLC and the parent companies would not change the decisions. (J. Bossenbroek replied that is correct to L. Browns question) Chairman Tabory felt they have the same applicant from a legal perspective of the property. Northgate is still involved. C. Jacobs noted burden of the applicant.

Dan Flores of SFC Engineering, Peter Malia of Hastings Malia Attorneys at Law applicant's attorney, James Bossenbroek owner representative, and George White Manager were in attendance.

Applicant Testimony: P. Malia reviewed the history since the amended application leading to the submission of explained amenities, asked if they could present an overview of the amenities plan and then the five criteria, open to the public, answer board questions then vote on the special exception to move things along quicker. *Board discussion:* Chairman Tabory questioned the board how they felt about that process. L. Brown particularly likes clarity and process on each topic to have a basis of decision for each point in either support or clear to what an appeal would be. S. Nadeau is indifferent. B. McQuade feels for clarity should continue as usual. **Chairman Tabory motions move forward with the normal format. L. Brown seconds the motion. Vote: 4 (Chairman Tabory, A. Rawson, L. Brown, S. Nadeau) in favor 0 (none) opposed and 1 (C. Jacobs) abstained.**

1. That the specific site is an appropriate location for the proposed use or structure.

Applicant Response: D. Flores addressed the change in the plans being the 29 future sites were removed from the east area, 95 proposed sites only, had shown 225 acres by a previous boundary survey and assessors records, have done a new survey it is actually 218 acres updated on plans, added a view of the amenities area, the amenities area is approximately 3 acres, defined by a tree line, shows a pool, water playground, mini golf, sand volley ball, basketball, food truck, bath house, pavilion (covered picnic tables) shows the 50 ft. wetland buffer, 100 ft. vernal pool buffer completely out of both, showing storm water management, will have bio retention in two places, the water playground is approximately 110' x 115' slides are 15 ft. tall, photo in package to show a similar example, the pool is 90' x 95' and 4ft deep, for scale example superimposed onto the Town Hall parking lot to give an idea of size of the water park, explained the filtration system, provide holding tank with high water alarm, back wash will be hauled off by a licensed septic hauler disposed offsite, mini golf 80' x 240', also a fenced dog park, 34 spaces for parking for the motorized carts, for campers only not outside public, (C. Jacobs questioned for campground only, where would the other people not within the campground park. D. Flores stated that it would be for campground patrons only, day passes have been taken off the table) explained the septic, dumpsters, existing wells, spoke with the State in regards to the layout, looking to remain using the well have 3 other wells with one being active currently, meets all setbacks reviewed with drinking water at DES, amenities as they are showing are very common for a campground, gives a family a safe clean area for the children, a lot of concern of the use of the pond, this attraction keeps people off the pond.

Board Comment: S. Nadeau questioned if that was the total amount of new amenities (D. Flores listed what is current at the campground for amenities: sports field-baseball and volley ball, tennis court, basketball, jumping pillow, game area -shuffle board, chess, bocce and disc golf in the woods)

Chairman Tabory questioned if there was a cafeteria place. D. Flores originally they had a bathhouse with café, now changed to a food trailer, serves hot dogs, pizza, for campground only.

L. Brown questioned the auditorium if that was already an amenity or in place. D. Flores would be an amenity but not proposing that, they had originally proposed a pavilion in the East Area, which is a concrete slab and roof, not a laser light show or outdoor amphitheater, part of the building is for covered seating. L. Brown questioned if the golf carts are a day cost rental. G. White day pass rental yes, there are 12. C. Jacobs asked if people can bring their own. G. White replied no.

Chairman Tabory opened to the public, he noted that the Milton Conservation Commission submitted a letter of concern that will be part of the record.

Public Comment: Dennis Lapointe, Lebanon: has experienced at least two evenings of concert music.

Steve Hayes 104 Lakeside: questioned if the pools were chlorine or salt water, or if salt water has been considered.

D. Flores informed the board they were chlorine could look into salt water.

Deborah Blair Lake: thought a food truck was not allowed in the zone. Questioned if they would be able to register at a site for a day to use golf carts and amenities.

Chairman Tabory did not believe a food truck had been addressed at the last meeting.

G. White added that reservations are 2 day minimum.

Question of where the boat docks, has a picture of a boat tied up to the woods not being on the docks, expressed there are no docks.

D. Flores explained there is no proposal for new docks no proposal for expansion near the pond.

Chairman Tabory addressed that if there are complaints or concerns of a violation this board is not the enforcement board, should contact the Code Enforcement or State.

Chip Harlow, Lebanon: addressed comments from last meeting regarding Flat Rock Bridge Campground in Lebanon, the definition of red herring, and does not think resorts are allowed.

Cynthia Wyatt, Milton Conservation Commission: read to the board the letter submitted by the MCC. Felt a study should be done on the groundwater and wells. Surmised they are strongly against the expansion.

Deborah Wilson Lebanon, felt the amenities area was not good, since it is on the vernal pool, concerned with the direct distance from the pools to lakes to vernal pools.

Judy Boucher, Townhouse: questioned if everyone would be able to install a water amenities, feels the amenities will not remain the size being proposed, addressed the definition of camping ground, the franchise of Jelly Stone change concern, felt it was not appropriate for a theme park, water park.

Dennis Lapointe, Lebanon: questioned how many boat slips they have, last year he counted 37 boats tied to non-boat docks. Suggested it being a condition to allow Code Enforcement to enforce it.

Richard Burke Lakeside: expressed concern of the park model RVs.

Chris Boldt, Attorney for abutters: questioned if the board would allow 95 seasonal cottage usages on this properties, felt the campground was already starting to transform, looked at the files at Town hall, no building permit for the park models or the jump pillow, things are going forward with ZBA approval or PB approval, the MZO table of uses expresses that there is no concert hall, food service, retail sales and service, feels they are already in violation.

Steve Hayes: reviewed the DES website for dock permits for the property, State was unable to find any permits in their system, went through all of the permits for NE Pond, Mi-Te-Jo was approved for 17 docks (known then as piers) in the 90's.

Deborah Wilson Lebanon: questioned gem mining or gaga ball that is listed on the website has not been discussed.

Gene Bouche 220 Townhouse: discussed research of water parks and the hourly capacity. Expressed concern of expansion of the amenities in the future and that the water park can stand alone without the campground.

Norm Turgeon 88 Lakeside on behalf of TPPA: has nothing to add from last time.

Virginia Long, Tenerife Mtn: felt the expansion is inappropriate because the lakes are already sick.

Steve Baker: assisted in starting a lake association 14 years ago, which pays for people to inspect boats, wants to keep the lake clean. Feels the pools will add problems for emergency services, also that there is too many boats on the lake already.

Barry Barkow Lakeside: surprised it has taken till now to get the information on the amenities that has been given, expressed concern that the expansion is a cover to bring in things not allowed in the zone. Feels the amenities do not fit in this ordinance or application and should be treated separately.

Jim Hanney Elm St: from UNH with focus on water quality, the ponds are sensitive, asked the board to be concerned with impervious surfaces. Concern of degraded water quality.

Chairman Tabory Closed Public Comment.

Board Comment: L. Brown questioned the relationship of Mi-Te-Jo with the corporate parent, do they have franchise options from the parent company. J. Bossenbroek replied that the Jelly Stone franchise is for a specific geographic territory, this property is in someone else's territory do not have the right and could not negotiate a franchise agreement with the company could not do that because it is within someone else's territory. Chairman Tabory clarified it would not be a franchised campground. J. Bossenbroek replied that is currently is the case is unsure of what would happen in the future, but they currently could not have a Yogi in this territory.

A. Rawson, questioned if they have been doing updates on storm water drainage. D. Flores explained that he did a walk to review stormwater conditions, existing sites have a nice buffer between site and shore, identified locations that can be improved and have proposals to correct the identified issue locations.

S. Nadeau questioned if the boat count had increased with the new ownership. (G. White replied no, same since Gary and Sue) the additional boats that people are saying should not be there were there with the previous owners. (G. White replied the boats have not increased with new ownership, had been with previous owners for 6 years, nothing has changed)

Chairman Tabory questioned the gem mining, is it there now, has it been there all along (G. White explained it is new from over the winter, you buy a bag of sand and use a six foot trough that one gem mine water is contained.)

D. Flores spoke to the amenities, they are an accessory to the campground, campground users not outside people, brought examples of other NH campgrounds. A. Rawson questioned if the amenities are for the patrons only, but guests are allowed to have visitors. (G. White stated that there are only so many guests allowed per site, max 7 per site guests/visitors) feels the potential impact is higher.

Peter Malia addressed issues brought up: in regards to loud music, there are four bands booked for the summer could be a condition of approval to have no bands, when there are bands stop playing at 10pm, Mi-Te-Jo was established in the 1970s, the Conservation Commission's letter the issues brought up are

not applicable to criteria 1 but might be to criteria 2 or 4 are legitimate concerns of lake quality but does not feel they are reason for denial, untrue that the primary use will not be campground, will not be a Jelly Stone, future expansion would require reapplication before this board, 95 campsites being added to an existing campground, pointed out that accessory structures are permitted in this zone, violations have not been brought to the attention of the owners does not believe they are in any violations, the board found in their favor when the application was in much bigger expansion for criteria 1, site plan with the Planning Board is much more detailed and that was when they had intended to present the specifics of the plan not a cover, just simply applying for a SE, not everyone brings guests to campgrounds, proposed use is a campground, meets definition, ordinance allows through SE, campground since 1970, the specific site clearly is appropriate.

S. Nadeau commented that he reads the ordinance and they need to by the letter of the law.

Motion: S. Nadeau motions that the criteria has been met. A. Rawson seconds the motion.

Discussion: Chairman Tabory feels part of their role is to interpret the ordinance, feels it is an appropriate for a campsite per the definition of campsite, if this is a campground and if it fits that definition should be determined at criteria 5. L. Brown the application before them is not so much if the location is appropriate for the proposed use, but that the application is appropriate for the proposed uses, have heard comments on nature and qualities of campgrounds in general, how the MZO defines it, and historic experience of camping as it has been in Milton, nature and extent of amenities are still uncertain, use of Park Model RVs for RV Parks, in the original application the expansion from the original request changes it from proposed use to proposed uses.

Vote: (Yes: 3 Chairman Tabory, C. Jacobs, and S. Nadeau --No: 2 L. Brown, A. Rawson) Criteria has been met.

2. That the use will not be injurious, noxious, offensive or detrimental to the neighborhood.

Applicant Response: D. Flores attested the use will be similar to the campground as it exists today, providing seasonal campsites for tents, rvs and park models, it is an expansion to the existing use, proposed current phase results in an approximately 43% increase in campsites, half are in the western portion far from the abutting residential dwellings, far exceeds setbacks required, SRPC review noted that noise should be similar to current, but to consider screening during site plan review and that the expansion is not anticipated to be different in character from the existing campground, the amended application shows reduced campsites providing greater wooded buffered areas, amenities area proposed in the center of the campground for campers to congregate and enjoy swimming pools, water attractions and min golf and the location provides substantial buffer from residential lots, nearest home to a campsite is over 410' feet away, boat wash program is in place and two employees have completed the NH Lakes Association training, boats entering the campground will be inspected and receive a sticker to use the pond, camp fires have been discussed, fires will be in accordance with local Fire Department and there is a NH rule to which campground fires are specifically permitted. This criteria was voted in favor in September, have reduced campsites from 173 to 95, sites are further from residential development.

Chairman Tabory opened to the public:

Public Comment: Steve Baker TPPA: questioned the procedure for boat inspections and process for unwilling guests. (G. White explained they would not be allowed in the Lake, would be asked to leave as any irate customer would be)

Chip Harlow Lebanon Selectman: Lebanon's big concern, highlighted the will not be, the lake across the shore is part of the neighborhood, urged to consider the environment as part of the neighborhood, feels

the expansion will impact the scenery, noise and water traffic, decrease values, expressed concern of run-off and phosphorus, concern of smoke coming across the lake, invasive species, ground water impacts, questioned on lack of study of air quality, ground water, etc. does not think criteria 2 has been met.

Norm Turgeon TPPA: the proposed use is to expand the campground, thinks the only possible way to find this criteria is to ignore all that has been said by abutters.

Skip Bridges Lakeside: feels it is the applicant's burden of proof to show it will not be noxious, offensive or detrimental. Feels they should have done a study to prove that they won't be noxious, offensive or detrimental. Expressed concern of increased boating and affects.

Marian Walsh Lebanon: reminded the board they are elected, hope the board protects them.

Deborah Wilson Lebanon: expressed that Milton has no businesses and that everyone will have to go to Cumberland Farms. Noted that the Park Models sleep 10.

Steve Hayes Lakeside: finds the smoke to be an issue, presented the board with a picture of the lake showing smoke, expressed that smoke is an issue most weekends.

Judy Boucher Townhouse: expressed concern on the boat density, increase of risk of accidents, feels delivery trucks are detrimental to the neighborhood listed the types of possible delivery trucks.

Marilyn Hayes Lakeside: questioned where the boat washing station was located and if the cars have to go directly there, is they are washing kayaks and canoes as well.

G. White explained the wash station is located right at the gate, two kids were sent to the class, it will be designed into the new check in, all boats are being checked motorized and not.

Richard Burke Lakeside: believes there is a pontoon boat that has been there all winter.

Kaye Maggart Lakeside: concerned with the water table, wants to be sure there is nothing noxious or detrimental to her families health, feels it should be rejected because of water table issues.

Cynthia Wyatt MCC: points in the letter submitted from the MCC from criteria 1, can be moved to criteria 2, agrees burden of proof is on the applicant to not harm the water, and feels it would behoove them to have the studies.

Steve Baker TPPA: vehemently expressed he felt the boats are not being inspected and washed.

Chris Boldt: the will not, is the board's certainty, expressed concern of the smoke being noxious, offensive or detrimental, expressed concern of the number of people.

Virginia Long Tenerife: asked the board which criteria is relevant to water quality. Feels it is the most important issue.

Barry Barkow Lakeside: feels the campground is maxed out now, won't get better.

Chairman Tabory Closed Public Comment.

P. Malia felt that Steve Baker attacked G. White. Lake quality is a concern and important to everyone, the owners of the campground included, D. Flores has summarized the steps they've taken to control storm water runoff, two employees have completed the training offered by NH Lakes Association. Proposed the following condition of approval 'campground shall train at least two employees by requiring them to attend the 3 hour training course offered through the NH Lakes Association, all boats will have to be washed and inspected by trained employee a boat that passes inspection will receive a sticker indicating it is good to launch and boats not passed shall not be launched.' Need evidence as a board cannot rely on assumptions, increase number of fishermen or impact on loon population not grounds for denial, did the studies asked to complete, abutters could have done a study, feels they have met their burden of proof, apply facts to the law, no evidence it will be injurious noxious or detrimental, criteria 2 has been voted in favor before, campground does not have pools right now, people will use the pools which will get them out of the lake, done best to control stormwater runoff.

Board Comment: Chairman Tabory asked if the sticker would be removed when they leave and what happens with returning guests. (G. White they would know on their records they were coming back, but it is a good point they will consider what to do with return guests)

L. Brown the comment was made it is an expansion of camping, but he does not have a sense of how much of that expansion would be tents, RV sites, storage, golf cart spaces, football fields worth of jumping pad, swimming pool and water world, does not seem to be an expansion of camping, but an expansion of amenities where a difference in degree is a difference in kind. Understands very few tent sites being added and the majority will be RV sites, increased septic field development, jumping pad, and other amenities, how does it expand camping. (D. Flores replied sheet one shows a site inventory, 20 tent sites, rest are considered 3-way sites RV hookups like the other sites on the existing campground. P. Malia ordinance allows camping grounds by SE, does not necessarily require tents, proposing an expansion of the campground together with amenities incidental to camping, it's not 1950s, people expect certain amenities, think it will help by keeping people off the lake, amenities that are accessory uses to the campground.)

Chairman Tabory proposed a five minute break. L. Brown seconds the motion. Motion carried.

Chairman Tabory brought the meeting back into session at 8:37pm.

D. Flores offered to describe the measures they have taken for stormwater for water quality does address it in criteria 5, taken measures to protect forested buffers to the waterways, water quality, C. Jacobs felt they could address it in 5 as intended.

S. Nadeau questioned if there is a curfew for fires. (G. White said 11-11:30, quite hours is 10)

Motion: S. Nadeau motions that the criteria has been met. A. Rawson seconds the motion.

Discussion: C. Jacobs not every injurious, noxious or detrimental point has to be brought up, have a certain level of common sense, know camp fires can be obnoxious burning brush can be also, but everybody does it creating smoke, the common complaints are all due to the human condition, everyone has septic systems that puts back into the environment with hopes the septic system will be properly designed and installed, some put chemicals on their lawns, some sprinkler their lawns, knows talking about the campground thinks there is an injurious, noxious, accumulative detrimental effect to the neighborhood and town, as does every subdivision, something not addressed in the traffic study is the intersection of RT 125 and Townhouse, is not too many uses that occur in Milton that would not be injurious noxious or detrimental to those who live there, have to question is the intensity of the use or the increase make it so injurious, noxious or detrimental to the reasonable use of the homes, yes, for instance he would be looking for monitoring wells around the property for the ground water, neighbors could be polluting the campground, does not know the impact of PFOAS from the campground, does not have a problem with 95 campsites, has a problem with the amenities and other uses that come with that, traffic, smoke, water discharge, cleaning of RVs, boat traffic in and off the lake, will be voting No. Chairman Tabory commented the C. Jacobs said some of his concerns and some, the scope of this project he finds to be too intense, yes it has been lowered, in his opinion does not feel it has been lowered enough, still strongly concerned on impacts of smoke, water quality, if they get it wrong cannot go backwards, would want to move forward in baby steps, will be voting no. L. Brown the professionalism and pride of D. Flores for the plans was well said, still concerned of the nature and extent of the changes compared to the historic uses, nature of changes to the site, gives considerable weight of the perceptions of the abutters and neighborhood, which reviewing the comments of the audience is complementary of the "1950s" nature of the project and think if that is lost the neighborhood suffers, hi vote is No. A. Rawson, worked very hard with TPPA to fight the NAIAD, the Town, Lebanon

and TPPA has spent lots of money on it, knows Three Ponds is the economic engine, has a very sensitive spot for the lake, respect the MCC and their letter, there is no do-over on the lake, a lot of tax revenue from around the lake would not be fair of the tax payers who have taken the brunt of the NAIAD fight, voting No. S. Nadeau, lives on the 125 side of the lake this has been a hard criteria for him, hears the town beach some have to grow and accept change, not sure ready for this change, originally voted yes but a lot of new information has come to his knowledge such as the amenities, certain things he was unaware of during the first hearing, vote will be no, need to get away from the not in my neighborhood, honestly believes they want to build the town with business, make it a reason for why people want to come here, does not agree with the amenities.

Vote: (Yes: 0 No: 5, L. Brown, C. Jacobs, Chairman Tabory, S. Nadeau, A. Rawson) Criteria has not been met.

Point of Order: Chris Boldt questioned that there is a motion that has been voted no unanimously, the SE requirements on page 28 of the MZO require that the ZBA shall affirmatively find the following criteria exist to approve a SE and now one has been knocked out of the five required. Feels the board does not need to take any more time and vote to deny the application. There is a criteria that has been voted no by.

Chairman Tabory stated that has made it clear from the beginning that they, and their by-laws say so, do five criteria with straw votes that are non-binding and at the very end will vote on the entire project, personally thinks that if one fails the whole thing should fail, and if an individual says no to any criteria they should also at the end, but that is not necessarily alternate opinion to that, from a straw vote criteria which is the format they have used and he has made clear at all of the meetings, non-binding straw vote says no to that criteria move forward so the applicant knows all of the objections. C. Jacobs noted that as counsel has already said both sides have basically said if this is in court the judge would look at the entire case to see why the board voted a certain way, if the board does not complete the full review the judge could remand it back to the board.

3. That there will be no undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking.

Applicant Response: D. Flores explained that MDM Transportation Consultants prepared a traffic impact analysis on the original proposed expansion of 173 new campsites, in the TIA they summarized the baseline traffic and safety conditions on Townhouse Rd, estimated trip increases associated with the expansion and quantified traffic impacts of the campground expansion along Townhouse Rd. MDM summarized their findings to say based on field review of the roadway alignment during peak season conditions and limited crash history, it is the opinion of MDM that the proposed campground expansion will be safely and properly accommodated along Townhouse RD with no material or undue operational or safety impact. Town had a third party Dubois & King to review the MDM TIA, Dubois reported that the traffic study used typical methodology for these types of studies for the developing baseline volumes and projecting future traffic volumes for the proposed development, review of crash history and computation of the crash rate indicates there is not a significant safety issue on Townhouse RD, while detailed crash reports were not provided the prevalence of winter crashes and single vehicle crashes the latter of which are associated with driving too fast for road conditions or distracted driving, no reason to expect that additional campground traffic would have an undue or inordinate safety impact. MDM replied to the three recommendations from Dubois & King, MDM provided an addendum to the original TIA to reflect the amended SE application for the reduced expansion plan stating that there will be no undue nuisance or serious hazard to pedestrian or vehicular traffic, study showed it would be fine at 173

sites and would be fine with the 95 sites expansion. Explained this represents 55% of the original, 45% decrease, generates fewer than 20 peak direction trips during week day commuter periods, Saturday peak hour is 37 additional, existing is 54 trips, trips recorded by MDM who also has data from another campground in Ossipee they have worked on, along with information from a campground in Freedom all of that actual recorded data corroborates what was discovered at MiTeJo, looking at additional trips from the proposed sites used industry standards, higher than what they recorded so used that number, being conservative, ITE Land use 416 used for campgrounds to look at trip generation. Townhouse RD has ample width, no material changes in operations or level of service at primary intersections, operates below capacity based on higher expansion, site lines were checked found to be adequate, when the bridge reopens expected to add 747 more trips data is from a July 2008 NHDOT study at the Maine State line which showed peak hour of 67 trips, MDM speaks to pedestrian safety by noting the owner is willing to contribute up to \$10,000 to the Town for purposes of implementing improvements along Townhouse RD to enhance pedestrian safety, all campground roads are designed to be 20' in width, safely pass fire apparatus, new roads and turn arounds inside the campground, new gated entrance 1000' from Townhouse RD moved away from abutters, sites will have parking tent sites have 20 parking spots near the sites, additional parking is provided at the new entrance for check in purposes, motorized cart parking provided, strictly enforced speed limit of 5mph. Reviewed additional data from when the bridge was open looking at a 23% increase when it is open. MiTeJo peak hour on Saturday looks at 23 additional trips with the expansion based on higher number, data shows less than that.

Chairman Tabory opened to the public:

Public Comment: Chris Boldt, Attorney: feels the flaw of the study is that it was done in August, thinks the report is not valid, has concerns.

Dennis Lapointe, Lebanon: expressed concern of when the study was done, and that pedestrian safety is a big concern.

Barry Barkow Lakeside: feels the proposal does not describe Townhouse exists, addressed the Pineland Park beach parking issue, concern with the site line of the hill after the beach, bicycle riders, and new traffic won't know that hazards. Feels if they had another road and not using Townhouse, would not be an issue.

Judy Boucher Townhouse: feels it is a flaw of the traffic study in the project description, that the additional amenities are not addressed, specifically for truck traffic for the amenities. Concerned that death needs to happen before seen has a hazard.

Chip Harlow, Lebanon: does not think issue for Lebanon for the traffic impact.

Deborah Wilson, Lebanon: does not think Lebanon would be impacted by the traffic, Lebanon got rid of their Code Enforcement officer who issued a lot of permits.

Chairman Tabory closed public comment.

Board Comment: S. Nadeau questioned if the Police or Fire Department had submitted Land Use Review forms. Clerk D. Crossley believes they had been submitted for the first case and they had no significant comments.

Applicant Testimony: D. Flores reiterated there were three campgrounds studied, showed trips were less than industry standard, study done by MDM used industry standard which is more trips than actually recorded, addressed the description of campground from ITE to generate the numbers which takes into consideration recreational facilities, swimming pools, convenience store and laundry mat, the amenities serve the population using the campground it is tied to a number of proposed campsites.

P. Malia, reiterated the history till now in regards to criteria 3, stated that Dubois & King and SRPC supported the MDM Traffic Study.

Board Comment: L. Brown the traffic study, when coming into a curve on the inside forces you over yellow line. C. Jacobs has pointed out before that 22ft is not adequate, personally does not cycle it while Mi-Te-Jo is in season, as a civil engineer thinks the road is a problem, applicant states there is a lot of bicycle traffic in the campground, thinks Townhouse should have a bike-lane, thinks intersection of Townhouse and 125 should be re-designed, real issue and safety concern is that there is a 20ft main road in and out, forest fire does not have a second exit, trapped all of the people in there, those reasons cannot support criteria 3.

Motion: S. Nadeau motions the criteria has been met, A. Rawson seconds the motion.

Discussion: A. Rawson has lived in Town for 20 years, the Town does not put enough money away to maintain the roads to standards, do not have the type of revenue. C. Jacobs noted it is a maintenance line, it's not the applicants problem the Town does not have the money. A. Rawson expressed that is where he is and would be saying no. L. Brown noted that Townhouse is a road of legal passage and requires no further action by the Town to make it of legal passage. Chairman Tabory the numbers used and intensity of what that traffic is, believes it is accurate, from the study the volume he's not as concerned about, but talks about site lines where roads intersect, but does not talk about in-between and pedestrians, increasing the intensity with larger vehicles potentially towing things was not addressed, asked the same question when sent to Dubois who did not mention it, cannot disagree with the technical aspects reviewed, even with the lower intensity being proposed does not improve the safety of pedestrians, but continues to degrade the safety of pedestrians and cyclists. S. Nadeau finds it tough because people are saying can't make a decision because there is no study, but now there is a study and saying to not go by the study, does not agree with the dates used for the study, (C. Jacobs agreed with the fact the date of the study was not done at a good time) does not know how to ever make the road safe without major renovations. C. Jacobs discussed the benefits of a bike lane over a side walk.

Vote: (Yes: 0 No: 5, A. Rawson, S. Nadeau, Chairman Tabory, C. Jacobs, L. Brown) Criteria has not been met.

4. That adequate and appropriate facilities and utilities will be provided to insure the proper operation of the proposed use and structure so that the use will not be contrary to the public health, safety or welfare:

Applicant Response: D. Flores explained the sewage disposal systems that will be permitted through NHDES, will be designed for 13,000gal/per day. Meeting setbacks of all kinds, one field for the East area, and one for the West area and a final one for the amenities area, will meet all local and state setback requirements. The existing public water supply will be expanded and permitted through NHDES for the additional campsites. Will obtain state subdivision approval from NHDES, which is where density comes into play, it is controlled by the state must show them they have proper soils for the number of campsites proposed, they do. Storm water management plan will be developed and submitted to NHDES as part of the permitting application for the alteration of terrain permit as part of the expansion.

Chairman Tabory opened to the public.

Public Comment: Chris Boldt, concerned with volume of usage, pulling for drinking water and pools and then putting the amount of septic where the wells are.

Steve Baker, agrees with Chris Boldt, has neighbors that have had to go deeper with their wells.

Deborah Blair Lakeside: clarified they are not talking about wells, but they are talking about points with the surface water.

Chairman Tabory Closed Public Input.

Board Comment: S. Nadeau questioned water testing and when a licensed operator is needed. C. Jacobs stated that they already have a certified non-public community system. S. Nadeau questioned if they were required to do test wells and effects on the neighbors. (D. Flores noted that they are considered a transient non-community water, the testing involved is water quality testing)

C. Jacobs suggested if it got to a point of approval to require the applicant to install groundwater monitoring wells around the perimeter and sample for nitrates, total nitrogen, phosphates, sodium PHVOCs and any other additional constituents as may be deemed appropriate by the NHDES Subsurface bureau or assigns, because PFOAS are more of a concern in the world now, the State would in lieu of testing impose nitrate setbacks but given what they know about the lake thought it would be a reasonable demand, especially given the intensity of the use. As an engineer looking at the plans can reasonably assert criteria 4 can be met but would add some testing to protect themselves, noted the Town Beach has issues every year in the water in front of the beach due to the geese and some of the septic systems across the lake, concluded will be voting yes for 4 because from a technical basis it can be met.

Applicant Testimony: P. Malia expressed that some of the concerns expressed by the public while legitimate concerns are unsubstantiated concerns, D. Flores has designed a project adequate and appropriate for the facilities and utilities to ensure the proper operation of the proposed use so that the expansion will not be contrary to the public health safety or welfare, the condition proposed by C. Jacobs if they ever got that far, believes would be acceptable to his clients.

Motion: S. Nadeau motions that the criteria has been met. (Straw vote) A. Rawson seconds the motion.

Discussion: L. Brown commented if he remembers correctly the ZBA cannot require the applicant to receive State or Federal permits to be in place before a decision, concerned with the nature of the hydrological plume, not certain water will not travel. C. Jacobs replied to L. Brown in regards to water travel. Chairman Tabory does believe the engineering put forth is sound, regulations and other pieces they would have to meet would allow that yes the criteria would be met, as long as they were properly used and followed.

Vote: (Yes: 5 Chairman Tabory, L. Brown, C. Jacobs, S. Nadeau, A. Rawson – No: 0) Criteria has been met.

5. That the proposed use or structure is consistent with the spirit of this ordinance and the intent of the Master Plan.

Applicant Response: (the application narrative was submitted to the record) D. Flores it was voted in their favor at the first meeting with a much larger proposal, application before them he dived further into the Milton Master Plan, address water and watershed to protect water quality, asking for an expansion of the campground for a use, the issues of environmental, nuisances, can be designed for, would expect to do that at the site plan level, states how each item can be addressed in the project narrative. Water and watersheds, it is important to have a buffer, ordinance requires a 25ft. and then 50ft. maintained the forced buffers as much as possible, stormwater design anticipates using bio-retention areas and forested buffers that cannot be cut, development kept away from the lake as much as possible, done as much as

could with the layout to be in harmony with the surroundings to protect the important environmental aspects, reviewed the existing campground for areas that could be improved as it is today is in good shape, groundwater aquifer protection put into place best management practices by the State, floodplains are part of the master plan stayed out of the flood plains, the wetlands identified vernal pools doubled the buffer coming from the wetland (100ft), campground by its nature is rural and intent to keep as much tree coverage as possible, showed the typical campsite, owners have requested larger than normal campsites, to keep trees as much as possible, campground is a seasonal use vacant half the year, not a residential development, may have 95 campsites does not mean 95 are occupied, night sky protection from light pollution it is very important to see stars, lighting would be dark sky approved, wildlife habitat protection part of DES permitting steps is to do a NH natural heritage bureau review showed no record of rare species or exemplary natural communities within the property, Economic Development and Land Use encourage well planned industrial and commercial growth in appropriate sections of Milton this is appropriate existing campground they are asking to expand it, putting every effort into making it fit into this piece of land as best as possible to minimize any ecological environmental damages, this campground would bring visitors that would help the local economy, campground itself would support local businesses, MiTeJo is an iconic attraction to Milton and the expansion will be very similar to what it is now.

Chairman Tabory opened to the public:

Public Comment: Norm Turgeon TPPA: expressed the four reason he felt the application should be denied: allowing approximately 380 more people to use the land are contrary to encouraging the wise use of land inconsistent of the spirit of the ordinance and intent of master plan, increase in vehicular traffic and boating traffic on NE Pond and 380 people to a peninsula is contrary to enhancing public safety, existing 223 campsites are a grandfathered non-conforming use and adding to it is contrary to the ordinance, feels that campgrounds are allowed in LDR through SE because this campground existed and not consistent with the spirit of the ordinance.

Chris Boldt, Attorney: two things make it different than historically, park models because they stay on the site permanently and the amenities significant change from the historical use, feels there is going to be a change in the neighborhood. Feels there is concern of health, safety and welfare.

Chip Harlow, Lebanon: the protection of Milton Three Ponds is a goal of the Master Plan and one that Lebanon agrees with, tax base depends on the lakes, stresses that there are no studies for the effects on Milton Three Ponds.

Cynthia Wyatt MCC: read from her advisory letter in regards to concerns for criteria 5.

Deborah Blair Lakeside: finds it interesting to decide to put everything at risk for people who do not live here. Has not heard how the Town will benefit from this expansion.

Gene Boucher: pointed out his concern of this expansion with the Master Plan, in the vision of Milton's rural character, concern with lack of particular information from the application, feels the new amenities will affect the neighbors quality of life, concerned of noise, expressed concern that the bungalows have not been permitted as well as the jumping pillow.

Steve Hayes Lakeside: questioned if a restaurant is allowed in a LDR. Looking at the plan shows a restaurant, restaurant by Wikipedia definition (C. Jacobs questioned if they needed to hear the Wikipedia says feels they are being addressed like they have not heard anything tonight, noted that it is a food truck,) expressed that the attitude of the applicant when they proposes (C. Jacobs expressed that comments should be addressed to the written documentation not the persons in the room) the plan shows a restaurant that is not (Chairman Tabory clarified that it's a food truck, C. Jacobs explained why a food truck would not need to go before site plan and is different from a restaurant, it was because it had a

valid registered truck with a plate. S. Nadeau expressed that the board has no authority over violations) questioned if the board appreciates that one of the aspects of the proposal is to circumvent the original intention of the zoning regulation to not have a restaurant in the LDR.

Kaye Maggart Lakeside: thanked the board on the straw vote on criteria 2, echoes the spirit of the long range plan, telling that the lake is important.

Chris Boldt Attorney: discussed that there are five abutting properties that pay in excess of what Mi-Te-Jo pays in taxes, people can file abatements.

Chairman Tabory closed public comment.

Applicant Response: P. Malia feels that the application thoroughly addresses this criteria, addresses the Master Plan in great detail with 9 bullet points, feels the project is clearly consistent with the Master Plan, there is not much to go on for the consistency with the spirit of the ordinance it is very subjective, referenced the purpose paragraph in the beginning of the MZO this modest compared to the original expansion of the campground that has been there since 1970 is consistent with the ordinance, feels future tax abatements are irrelevant, disagrees that the amenities are a significant change from what was proposed before these amenities of in ground pool, water playground, and mini golf sees them as accessory uses to a campground that people expect to see, accessory uses on page 16 of the MZO are permitted, disagrees that this is an expansion of a non-conforming use this is a use allowed by SE also was granted site plan approval by the Planning Board in 2012, disagrees this changes the use from a campground to a franchise park, believes the proposed use is consistent with the ordinance and intent of the master plan.

Board Comment: S. Nadeau questioned if the new development is in current use. Chairman Tabory commented that he felt their role was not to consider taxes and current use.

Motion: A. Rawson motions the criteria has been met. C. Jacobs seconds the motion.

Discussion: A. Rawson thanked the applicants for being professional and giving a good presentation and the love of the community from the audience, Mi-Te-Jo has been around since the 70s and was one of the top campgrounds in NH, people will still come without the amenities, agrees with the statements by Norm Turgeon, wants new business but has to be the right business, need to protect the natural resources, voting no. Chairman Tabory stated when looking at the ordinances and definitions that were adopted in 1989, when they envisioned what a campground was it did not have waterslides or water features, the fact that the definition changed around them does not change the intent when the MZO was adopted, does he have an issue with more tents and mobile RVs based on scope it depends, as a general rule would say yes those would fit, but does not see the other pieces, does agree that a pool would keep people out of the lake, but does not what he believes the intent of the zoning was when it was adopted, think that the PB should revisit the definitions, but if he has to interpret what he believes what was intended when the definitions were adopted, has to say the amenities were not what would fit campgrounds, food and drink service is not allowed or retail sales, feels this expansion with those additional amenities does not fit the criteria, vote is a no. C. Jacobs his definition of campground may be out of date and understands it may be changing, looking at application as a whole at its entirety, it is the other things that are trying to come along with the camping sites that he has an issue with, feels they do not follow or permissible under the current ordinance or follow the master plan, looking at the flood zone pointed out there is no additional development in the flood zone, but there are current sites in the flood zone, when looking at a property like this with wetlands when expressing the number of sites for density should be based on an upland area not a wooded or swamp area and to extract from the usable

land the possible slopes that exceed the Town slope ordinance could be even less land, the storm drainage areas are in the flood zone will be worthless in a 4ft flood, taking the project as a whole (for criteria five) the spirit of the ordinance and intent of the master plan it would not. L. Brown this has been the most difficult and nuanced application the board has had in some time, some of the technical presentations were very interesting, the problem iconic gets tossed around a lot get a campground that is treasured in memory and comes in hard opposition, and to the town to protect the health safety and welfare, will vote no, not for lack of appreciation of the presentation.

Vote: (YES: 0 – No: 5 Chairman Tabory, L. Brown, A. Rawson, C. Jacobs, S. Nadeau) Criteria has not been met.

Final Motion: S. Nadeau motions to approve application as written. A. Rawson seconds the motion.

Final Vote: (YES: 0 – NO: 5 Chairman Tabory, L. Brown, C. Jacobs, S. Nadeau, A. Rawson)

S. Nadeau motions to deny the application as written. L. Brown seconds the motion.

(YES: 5 Chairman Tabory, L. Brown, S. Nadeau, A. Rawson, C. Jacobs – No: 0) Application DENIED

Discussion and Approval of Minutes: May 24, 2018 meeting minutes, S. Nadeau motions to tabled. L. Brown seconds the motion all in favor, motion carried.

Other Business: No Other Business

S. Nadeau motions to adjourn, L. Brown seconds all in favor motion carried. Meeting adjourned at 10:42pm.

Respectfully Submitted,

Dana Crossley, Land Use Clerk