

Town of Milton
424 White Mtn Highway
Milton NH, 03851



Zoning Board of Adj.
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Meeting Minutes
December 28, 2017
6:00 PM

Members in Attendance: Nancy Wing Alt, Stan Nadeau, Larry Brown, Michael Tabory, Brian McQuade
Also in attendance, Dana Crossley Land Use Clerk
Excused Members: Bruce Woodruff

Public Attendance: Dan Flores, Wayne Sylvester, Steve Baker, Andrew Rawson, Frank Bridges, Carol Bridges, Richard Burke, Rhonda Burke, Zachary Bossenbroek, Lou Smith, Robert Michaud, Tom Kachoris, Elizabeth Kachoris, Kaye Maggart, Kim Silva, Chris Boldt, Steve Hayes, Marilyn Hayes, Jenn King, Judy Boucher, Gene Boucher, Wendy Beckwith, Peter Malia, Carlson, Roland Meehan, Joel Ponte, Mike Desrochers

Chairman Tabory called the meeting to order at 6:00pm.

Public Comment: No public comment.

Chairman Tabory brought N. Wing to the board as a full voting member in place of member B. Woodruff.

Limited Rehearing of Criteria #3 for: Case2017-7 Special Exception Request from Article III Section 3.5, Table of Principle Uses, C, Campgrounds; to expand MiTeJo Campground, 111 MiTeJo Rd, Milton, Low Density Residential Zone, Dan Flores, SFC Engineering Partnership Inc, Applicant, Three Ponds Resort LLC, Owner: Applicant Dan Flores of SFC Engineering Partnership Inc was in attendance of the meeting to present to the board. D. Flores presented to the board the history of the case so far, explained they will be presenting information outlining a traffic impact assessment conducted on Townhouse Road that concludes that the road will properly accommodate the campground expansion and a few changes to the campground layout based on abutter comment and in anticipation of site plan review before the Planning Board should the Special Exception be granted. D. Flores asked the board if they wanted him to read through the entirety of the application. Chairman Tabory asked for the highlight of their argument, as the application was made public. D. Flores discussed the traffic on Townhouse Road, acknowledged that there had been a lot of concern if Townhouse road could handle the traffic from the expansion, since the last hearing they have done a traffic impact assessment on the road, along with the intersection of Route 125 and MiTeJo campground. He explained the assessment produced the following results based on field review of the roadway alignment, modest projected traffic volume during peak season conditions, and limited crash history, it is the opinion of MDM Transportation Consultants (the traffic engineer who did the assessment) that the proposed campground expansion will be safely and properly accommodated along Townhouse Rd, with no material or undue operational or safety impact. D. Flores explained they have information that goes over the safety characteristics, projected trip

generation for the expansion, which includes the bridge being opened to Maine, vehicle type to be expected on the road with the expansion and the crash history. D. Flores provided a summary of the traffic impact study information, the baselines in the summer during campground season would expect 3,000 vehicles per day or 300 vehicles per hour on Townhouse Road. Chairman Tabory asked if those numbers were with the expansion or without. D. Flores clarified that it was with the expansion, he continued that NHDOT crash records show 6 incidents over the past four years, half occurring during the campground off season, of those incidents none involved pedestrians and no RV's involved in the crashes, addressed the available site lines at MiTeJo Road and Townhouse Road (the intersection to the campground) exceed the recommended site lines published by ASHDOW. He explained there is a modest trip generation produced from the expansion, the campground is expected to increase trips as follows, 36 new trips during Friday morning peak hour, 47 new trips during Friday evening peak hour, 67 new trips during Saturday midday peak hour, which is based on industry numbers, the actual comparable data from the study at this site and two other sites in the area show that those numbers are approximately 56% higher than how it should be expected, explained that the vast majority of vehicle trips recorded on the August weekend from the recorded data were automobile type, not RV types. The intersections of Townhouse-125 and Townhouse-MiTeJo were evaluated, the proposed development was found to have a minor impact on the intersections. D. Flores rounded with that at the last hearing the road was considered to be an issue, criteria #3 states that there will be no undue nuisance or serious hazard to pedestrian or vehicular traffic including location and design based on off street parking, the traffic impact assessment shows that this road is adequate for the expansion, and they ask tonight for the special exception to be granted.

D. Flores introduced the traffic engineer from MDM Transportation Consultants who did the traffic study, Robert Michaud. Peter Malia introduced himself, he represents the applicant is from Hastings-Malia Law Office, he was the one who filed the motion for re-hearing. Also in attendance was Zachary Bossenbroek owner of the campground.

Chairman Tabory opened for public comment.

Chris Boldt, partner at Donahue, Tucker and Ciandella, representing multiple abutters: his clients live on Lyman and Lakeside drive, expressed having a number of issues, and first expressed concern of lack of regional impact consideration (per RSA36:56) feels it should be considered, take issue with the limited scope of the rehearing to criteria 3 feels the board properly denied the special exception the first time and his clients had no reason to take issue for rehearing on the other four criteria, noted that special exceptions are solely the ZBA's jurisdiction (per RSA 674:33) therefore they have to find all the criteria to be met in order to grant one and cannot defer to Planning Board, spoke to the definitions provided in the Milton Zoning Ordinance of 'campground', 'developable land', 'manufactured housing' and 'seasonal dwelling', addressed the definition of Low Density Zone and stressed that when considering a special exception the language says to keep with the purpose and statement intent in the zoning ordinance. He recognized the campgrounds are allowed per the table of permitted uses, but that it ties in youth camps as well, discussed the requirements mobile home parks are constrained to for lot sizes, discussed the shoreland protection overly district and that it specifically calls out the protection of Townhouse Pond, Milton Pond and the Salmon Falls River, noted that it states impervious coverage shall not exceed 20% but does not see that addressed in the application. Discussed the overall acres of the property, that it was stated only 147 acres is qualified as developable land, and with the addition of 163 new campsites to the current 225 the total of 386 campsites on the parcel would make it to be .38 acres per site, which is less than what is required for a mobile home park, discussed concerns of park models, gave to the board handouts of information on park models (Park Model RV

Guide and Park Model RVs of Go RVing), expressed concern that it is different than a fifth wheel coming in and out of the campground since it would be a permanent fixture, passed out a hand out listing the other campgrounds owned by the applicant, expressed the issue with the park models that at other locations there are decks and shrubbery around the park models non-typical to RV's and to what has been done previously at MiTeJo also the concern of taxation of the park models. Chris Boldt continued to discuss the concerns with the MDM traffic study, that the road is too narrow being 20-22' wide, being difficult for multiple vehicles to travel with ease, no improved shoulders, no sidewalks the use by walkers, kids on bikes and skateboards, the use of the beach associated with the most narrow portion of the road, cars parking along the narrow road, does not feel it is a safe standard and to add pick-up trucks and semi-trucks hauling park models. Discussed his clients concern that the traffic study being done in the last week of August was not high season therefore does not give a reasonable and accurate traffic count, that the traffic study did not account for the number of occupied sites at the campground, feels it is not an accurate study to determine whether this level of increase into the campground is reasonable and safe for the community, expressed that he was unclear if the 25% increase on the bridge into Maine was carried through the entire study does not feel the bridge being reopened was adequately and appropriately addressed in the study, expressed concern that the crash information was only acquired from DOT and not the local Police Department, lack of acknowledgement of the abutters testimony of the near misses in the report, concern with the lack of projected indication of what the analysis of traffic is in a year to ten years, lack of comment on pedestrian use of the road and urged the board to have the traffic study analyzed by a third party (per RSA 676:5 V). Finalized that the board made the correct decision originally denying the request, feels it is too much development for the site, on this road, and will have a negative impact on the adjacent neighborhoods, water quality and the things the Master Plan says is important to the community, feels there is no appropriate or new evidence to remove the boards original doubt of undue nuisance or serious hazard to pedestrians or vehicular traffic. Reserved the right to make further comments after all other public comment.

Chairman Tabory noted that a letter was sent in from abutters Kaye and James Maggart expressing that the increased traffic hazards and that they are against the request.

S. Nadeau commented that he feels it would be most prudent to have the Town's attorney involved in the discussion as there are multiple attorneys here now. Chairman Tabory conceded but would like to give the public the opportunity to speak since everyone was present at this time.

Gene and Judy Bouche 220 Townhouse: noted that as the traffic study references ASHDOW requirements, his research on ASHDOW showed that for a road that has 1,500-2,000 vehicles per day the minimum safety standards is 32' allowing for 10' travel lanes and 6' shoulders and Townhouse road does not come anywhere near that and also the information from NHDOT in their minimum structural guides for roads and streets states that for roads with greater than 1,500 vehicles per day the road width should be 24' with 8-10' shoulders total 40'. It gets back to the general safety hazard, perhaps Townhouse is not conforming as it stands today, so any further growth does not seem appropriate.

Kaye Maggart, Lyman Rd: asked if it was 3,000 vehicles a day or 300 vehicles per hour. Chairman Tabory replied that was the number he heard.

Wendy Beckwith: appreciates having clarification on where the data points for the traffic study were taken at the intersection of MiTeJo and the 125 intersection, the two data points indicated there were no pedestrians, listed various types of pedestrians likely to find walking down the road, action they are concerned about is between those two intersections, expressed that the intersection of Townhouse,

St. James and Vachon is a difficult intersection, personally has been nearly hit or had to stop abruptly numerous times, feels that is a critical intersection.

Steve Baker, Micah Terrace: asked if it was public information that the bridge was going to reopen. The board responded that it is on the State of NH list, Maine is a consideration in the reopening, and the date is a projected opening.

Peter Malia represents the owners of MiTeJo Campground: responded to comments made, most of the issues raised until the actual traffic issues are Planning Board issues, such as density per site, are issues for the Planning Board to grapple with. If the board has already made a decision on regional impact at the earlier public hearing, does not think there is any reason to revisit that. Noted what the ZBA is limited to for proceedings that the board has already found in his clients favor on criteria 1, 2, 4 and 5, they filed a motion of rehearing in relation to 3, that being granted, application filed, noticed, appropriate information provided, does not think boards need to go back and visit other criteria. Continued that criteria 3 says that a special exception cannot result in an undue nuisance or serious hazard to pedestrian or vehicular traffic, thinks it is important to note the words undue and serious it's not just a nuisance or hazard but an undue nuisance or serious hazard, thinks that the information presented proves that granting the special exception would not result in an undue nuisance or serious hazard and criteria 3 should be found in his clients favor and the special exception granted and then they can go to the Planning Board and they can take a more in depth look at the issues raised by Attorney Boldt, does want to allow the traffic engineer to respond to some of the traffic issues raised during earlier comments. Chairman Tabory asked for him to define the difference between an undue nuisance and just a nuisance. Peter Malia responded the word undue, whenever faced with a word which is undefined in the ordinance you look to the general dictionary definition, so looking up undue it would surely say something like an extreme or significant nuisance something above and beyond a normal nuisance. L. Brown asked if he would be speaking to the plain English usage, which suggests that there is a body of individuals out there that represent the plain English usage, in this case would you or would you not agree that the community of people who live on that road, side roads and people directly as abutter are the community that makes the definition and that is their place in English or would you claim a wider use of plain English. P. Malia replied there are definitely people who live on the road who think it is undue hazard, they have attended the meetings, he read the minutes of the last meeting and feels that the chairman mentioned that this is not a decision for the public to make or the people who live on the road, the board does not make their decision based on how many people speak in favor or against, the board has to apply the facts to the law the law for them is the ordinance and in this case the special exception criteria 1-5, those need to be applied to the application, you wouldn't disregard the opinion of the people on the road their opinions are important and the concerns are real and legitimate, the owners will take them into consideration and do the best to address them but they don't make the decision for the board; the board needs to make the decision on their own if expansion of the campground creates an undue nuisance or serious hazard, taking all of the evidence into consideration the concerns raised by abutters, evidence presented by the engineer and traffic engineer and the boards knowledge of the campground, the abutters opinion is important and concerns are real but they will try to address them. L. Brown asked if he would then agree that the opening of the bridge and the potential traffic of it is germane at this moment. Peter Malia responded that he believes he read that the bridge is scheduled to open in 2019, does think the bridge is relevant.

Zach Bossenbroek, CEO of Northgate Resorts, MiTeJo is the eleventh property that his company has purchased, he has walked down Lyman Rd, does appreciate the abutters attendance and thinks it is a wonderful neighborhood, does not fault them for their concerns, if they are permitted to move forward and develop more sites, is willing to say they would not see any difference, they do a very nice job

running their properties and think they would see that. Knows there is a lot of hyperbole during these proceedings, concerns get heightened, but when they do develop out people find that there is no reason to worry, that is why they hire good engineers, hire experts to do the studies, to make sure they do not cause harm, safety issues and they do not. They do a nice job renting out RV sites, rent out Park Model Cabins on a short term basis during the season, families come from Boston and all over the place, have a very nice time, it is a good thing, draws tourism, it's good for the community and if they give them a chance they are good neighbors, want to be good neighbors and wants this to be a special asset to the community. Chairman Tabory asked if the information passed out would be like the park models they have, the park model RV guide are they are representative of the park models at MiTeJo. Zach Bossenbroek replied that they are possibly, they have some that are like that, theirs tend to be log cabin, much more rustic, feel more like a cabin to him, some of the examples in that information do look more like a mobile home, but a park model RV is specifically defined under federal regulations as an RV, no different than a fifth wheel or pop up, you can put whatever labels you want but they are specifically defined under federal regulations and have to have a seal on them saying that they comply with those federal regulations that they constitute a park model RV.

Robert Michaud, managing principal of MDM transportation consultants, they were retained to quantify what is happening and what was historically occurred on Townhouse Road to provide a basis as to whether or not the expansion of the campground would create an undue nuisance in the stand point of the pedestrian or vehicle. R. Michaud discussed the analyzation process used to in generating the traffic study information, information gathered from NHDOT, used information from when the bridge was open in anticipation of the bridge being reopened in near future, examined the crash data for four year period while the bridge was open, information showed there was not an inordinate number of crashes or crashes related to pedestrians or motor vehicles. He explained their process of collecting traffic counts and movements at the 125-Townhouse intersection and Townhouse-MiTeJo intersection, with that information and in considering the bridge data study showed Townhouse carries 3,000 vehicles a day, peak hour ranges 150-300 two way traffic, traffic reduces to 1,000-1,200 vehicles per day when approaching the campground portion of the road, this information is the basis of the formal analysis for safety capacity of the roadway leads to their conclusion that Townhouse does provide ample width alignment and capacity to accommodate an expanded campground operation, in addition to that analysis the crash data does not indicate that any section of Townhouse is classified as a high crash location, noted that a number of crashes were during the campground off season. Noted that they quantified the trips on Townhouse, Friday/Saturday trips showed vast majority being automobile trips, transient trips, short term recreational trips, peak hour trips being less than 30, trips highest during evening and midday, some tow-behinds observed, this information suggests to them during the highest volume times the vast majority of trips are automobile trips. Explained they compared the information gathered for MiTeJo to two other NH campgrounds (Westward Shores 300 campsite campground and Danforth Bay Campground) and found both data sets to corroborate the level of trip information. R. Michaud discussed the industry standards used to estimate how much additional traffic a campground would generate based on occupied campground sites, the Institute of Transportation Engineers provides a specific Land Use code for that purpose when applied assists in the estimate of additional trip generation, which formed the basis of their opinion, in applying the standard found the additional trip generation would be very similar to current.

S. Nadeau asked why Sunday was not the high volume for review. Robert Michaud replied that the Sunday data was included in the study and the trips were no higher than the Saturday. Discussed high peak weekends with what was studied, the last weekend in August. Robert Michaud responded that the industry standards do not speak out to a particular weekend/month, they average all campground

information nationally, Westward Shores was analyzed on Memorial Day weekend and the data compares favorably with these data observed in August here. Chairman Tabory questioned if for holiday weekends the trip information would be the same as what was observed in August. Robert Michaud replied that it is consistent with what was observed at a very similar campground site, operated by the same owner, and cannot guarantee that. Chairman Tabory commented that the peak hour numbers have more than doubled. Robert Michaud explained the reason for that is because they take the observed trip generation characteristics counted, adding to that what they believe to be a conservatively high standard, to generate those numbers, they will be equivalent or slightly higher than what was actually counted. Discussed the traffic study and estimated trips, campground activity and how the numbers were generated.

L. Brown questioned the turnaround rate of campers by number of available spots for campers with RVs who would be come and go with their camper, his estimate would be 1,100-2,200 RV trips coming through over a 12 week camping season. Robert Michaud replied to what standards they apply to determine impact are based on what a motorist or pedestrian would experience during a peak season over a course of an hour, which is how they define the impact. L. Brown expressed that did not answer his question, not considering those who rent on site rentals, but people who drive the RV in stay for two weeks and then go home and repeat, general statistics for other places is not useful for Milton. Robert Michaud replied that is why they use the information for NH campgrounds as a point of reference, to see if they are reasonable numbers, they believe they are very reasonable number, the national industry standards are 30-50% higher. Chairman Tabory clarified that he believes L. Brown is asking how many of the sites will not have an owned RV structure by the company, how many will be left empty for folks to drive their own RV in, park, stay, how many would be available. Zach Bossenbroek replied they do not know those numbers yet, noted some will be seasonal campers who leave their campers (towable or RV) on site all season, it would then only be car/SUV traffic at that point, not every site will have a two week turn over. L. Brown expressed that he has still not received an analysis of what the makeup is. Chairman Tabory asked if they have an idea of how many sites would be turnover sites, seasonal, or owned by the campground for rent. Zach Bossenbroek explained that the market dictates the demand, the demand will change. N. Wing noted that the peak hours are noting that no RV's are coming in during those times, when are the RV's coming in. Zach Bossenbroek replied the campers are coming in just not during the peak hours that the traffic study is focused on since that is where the impact is. N. Wing noted that people are concerned though when the actual RV's are going through the road. Zach Bossenbroek replied that they could address the road width and talk about RV traffic.

Robert Michaud discussed the roadway width, noted the suggestion that because it is 20-22' width that is somehow unsafe, they recorded travel speeds of up to 35mph, noted that NHDOT data for Townhouse shows 4% of the overall trips are larger vehicles(recreation vehicles, tow behinds, trailers). In their analysis to understand if the roadway width or alignment was an issue they looked at the safety records, to see any regular occurrence of crashes, stressed they did reach out to local police and were instructed the correct repository for the information is NHDOT, any reported local crash information is provided to NHDOT for their crash data base, he personally visited the Police Department to confirm that information, reached out to NHDOT to receive the specific records for the entirety of Townhouse Rd for a four year period, noted the 6 crashes in that information and that it shows no particular point of Townhouse having more than a singular crash incident, acknowledged that half of the crashes took place during campground off season due to hazardous weather, the dry pavement crashes had no involvement of pedestrians, RV's or bicyclists. Continued that when the bridge was open traffic counts were 2,000-3,000 vehicles per day and the campground was at full operation, based on this information there is nothing at a professional level they can say that there is a safety deficiency. Noted that he personally

observed the curve near the St. James, Vachon and Townhouse intersection and that it has adequate sight lines based on the travel speeds measured acknowledged that some people may feel hesitant at that location but there is not a preponderance of crashes to indicate that portion of road is a problem. Commented that there is no evidence to suggest that pedestrians are in regular conflict or peril by the use of Townhouse Rd at the volume levels that existed when the bridge was open, he knows that the increase associated with the campground use again using the higher industry standards and not the actual information they see from this campground or other NH campgrounds, those high estimates are still what they would classify as modest increases and trip activity, there is nothing to suggest that additional volume, roadway width, incident crash experience, suggest that there is an inherent problem or safety issue involving either vehicles or pedestrians along this quarter. Discussed the sight lines at intersecting ways on Townhouse, noted that some people choose to travel at higher speeds than the regulatory limit of 30 mph, but that even under those circumstances there is nothing to suggest those speeds have created a safety issue, with that body of information it is their opinion there is no undue nuisance being created by the perspective by adding 1 additional vehicle every two minutes during peak season, peak hour condition, the crash experience does not point to any safety deficiency or defect in the roadway, spoke with the Highway Department and quizzed the gentleman if there were any specific defects or concerns they had relating to the road, it is a conforming local roadway, there are not any structural defects no major pot holes, cracks or structural deficiencies, the alignment is appropriate, and understands there are other things that happen along the road such as the parking, he specifically asked the Highway Department about that point to what extent that created an issue for pass or repass of the roadway, they could not identify a period of time, two way flow was inhibited by parking along that area, in their experience sees to the extent that parking needs to be regulated there, there is a no park zone there, whether that is adhered to or not he cannot speak to but there are provisions in place to ensure legally that two way traffic is maintained along certain portions. Their conclusion is stated in their report that they do not find undue nuisance or hazard to pedestrian or vehicular travel as a function of this project.

L. Brown questioned the determination of sight line, what is the distance for visibility. Robert Michaud discussed visibility. L. Brown asked what the width from the fog line to the ditch is. R. Michaud replied it varies depending where they are, he went out and personally measured the paved edge to edge dimension of the road every tenth of a mile for the entire length of the road, photo documenting it, know that the width of the paved structural surface is no less than 20 feet 2 inches. L. Brown questioned how the qualitative measurement of the community is weighted into this. R. Michaud responded in the application of traffic engineering to determine impact, they actually quantify that by assigning a delay value, based on a capacity analysis, which is included in the report, when they do a level of service analysis, the analysis quantifies the amount of delay it would make a motorist to make a particular movement from a side street, depending on the number of seconds on average it would take to do the maneuver, you would assign a letter grade value, the capacity analysis presented has a capacity analysis looking at 2017 baseline conditions and design years that add on the expansion of the campground, so you can see incrementally in a quantified way, how much additional delay is added depending on where you are, the results indicate that all of the locations they looked at operate at a level of service B or better condition, meaning there is no specific location that experiences any more than a 15 second delay making a turn, with the addition of the campground only go up about a second, to be clear when talked about quantifying impact they do so based on delay, when looking at other aspects of the road like alignment or the width those are factors those are looked at and applied engineering standards to determine whether or not they meet certain safety criteria, sight line is one of those criteria

Chairman Tabory questioned between intersections, going up curves and around hills, how was that determined to be safe. R. Michaud first looked at all of the crashes to determine hot spots along any

sections, they do not see any, second does know that based on the analysis 125 is the highest volume intersections existing on Townhouse Rd, there are no locations on Townhouse that present a site line issue that would go against ASHDOW standards and criteria. Chairman Tabory asked based on the crash data the volume may be appropriate for today, how they extrapolate from that the increased volume would be appropriate. R. Michaud explained that you can and they did calculate a crash rate, because of the dearth of crashes (1 or 2 a year) the crash rate is so low, to extrapolate those rates based on doubling the volume (not suggesting will happen) even doubling it, it would still be classified as a low crash rate corridor. Chairman Tabory noted that though they say they are not talking about doubling traffic previous information noted that during peak hours it could be doubled. R. Michaud explained for the campground to be clear the 3,000 ADT was taken at the midpoint for the end of Townhouse that is closer to 125, as you proceed toward the campground near the beach area the volume conditions go down by about 70%, the campground itself is generating 30 trips and would become 60, relative to the volumes that currently exist on the road the campground only accounts for 10% of the volume today on the road, that goes up to 15-18% due to the expansion it is not the highest contributing factor to traffic on the road.

Chris Boldt- feels they have heard a lot of information that does not make sense, agrees that the board should check with their lawyer if they have any doubt, should get a third party review of the traffic study, discussed the traffic accidents and that the beach is a safety concern, feels it is too much, ask if they vote tonight to vote no, states it's not something to punt to the Planning Board that they would be violating the statutes which would be the abutters golden ticket in appeals.

Steve Baker, mentioned a couple times that the bridge might reopen, when it opens there will be a lot more traffic added, fully loaded lumber trucks added to the summer volume feels that traffic is not factored in.

Jen King Lakeside: questioned the original application, there was mention of water features (waterpark, etc.) and wondered if that was considered for more than just a straight campground, in regards to traffic, day traffic. Dan Flores: informed the board it was addressed at that last hearing, those features are for campground uses only.

Wayne Sylvester, represents TPPA: expressed that the residents know how to handle the road, but the new people from outside the area won't know the road, current residents do not follow the speed limit, thinks the other issues can be resolved but the traffic is still the big concern. Expressed the concern that they will be attracting people from outside New England, and will not have the knowledge of the area. Zach Bossenbroek informed the board that they get at least 50% repeat business at all of their campgrounds, it would be people who would know the roads.

Judy Bouche: asked if in the study anyone walked the road to see the walking hazards exist. Robert Michaud informed the board again he and one of his engineers have walked the road, the town has opted not to provide sidewalks on the road, the study does not find that it will effect pedestrian use, feel strongly that this use is appropriate to the limited impact.

Kim Silver, Hideaway: asked if the applicants live on the lake, knows that the highest rental use month is not August, they know the highest use month is July.

Roland Meehan: the traffic study focusses on just summer months and suggests that board takes into consideration other events take place after the camping season, noted that there are winter events that brings traffic, if there are cabins at MiTeJo could be extra attraction to winter tourists. Zach Bossenbroek informed the board they do not rent in the winter, their rentals are winterized, no rentals in the winter months.

Steve Hayes: would like to know what amount of traffic would be an unsafe situation. Robert Michaud informed the board he cannot say a number, the study is based on known conditions, would not go out on a limb to say the road would be unsafe at a certain level.

Zach Bossenbroek expressed to the board that when you have a bridge that has been closed down for a while, that will be reopened will increase traffic by adding about 500 a day, which is surpassing what they are proposing, and to his knowledge no one has objected to the reopening of the bridge as presenting a major or any safety issue, to him if the bridge is not a safety issue, how can anyone preclude that their 10% of traffic contribution is a safety hazard.

L. Brown his sense from the audience “community” feel rather that with the reopening of the bridge which would demonstrate the safety of the road way is compromised without MiTeJo, the opening of the bridge that will already be the compromising factor.

Peter Malia: thinks that if the board is to find that the special exception in itself is not to create an undue nuisance or serious hazard but in conjunction with the future bridge reopening in a couple of years will create a serious hazard then that would be a decision overturned in court, but that is his opinion. Feels you can consider the bridge, but if you say the special exception in itself would not create an undue nuisance or serious hazard but in conjunction with a possible bridge reopening in a couple years it would, does not think that would be a legitimate reason to deny the special exception. Does agree the facts must be applied to the law, disagrees that it would be violating a statute to grant this special exception, thinks the special exception has to be granted if the criteria has been met, in this case the criteria has been met, reference *Cormier v. Danville ZBA* (1998) that a mere recitation of conclusion is not sufficient, feels the board has a mere recitation of conclusion here against this special exception, there is not any evidence, the applicant has presented evidence to the board and there is no evidence to support the finding that the special exception would create an undue nuisance or serious hazard, can’t base decision on public sentiment, decision must be based on the facts before the board. Not asking for the ZBA to punt to the Planning Board, asking them to apply the facts to the criteria, if granted the PB will do its own review which will include a much more thorough review of the traffic study.

Chris Boldt: clarified that the board cannot defer to the PB to satisfy a criteria, that is the violation. Discussed the weight of testimonies and evidence. Argues that the other four criteria should not have been voted in favor of because the board did not have all the information.

Kaye Maggart: asked the board to get more data, really questions this data, the curve is an issue, the time of the study and the beach is an issue.

Kim Silver: sees a lot of RV’s going in and out of MiTeJo, her husband drives on the left hand lane of the road, finds the corner to be dangerous.

Chairman Tabory closed public comment.

Board discussion: S. Nadeau commented that he feels they should not go farther without legal counsel, and would like having legal counsel present at the meeting. Chairman Tabory replied that they are quasi-judicial board and need to put weight of the information provided, their role here is to make a decision. L. Brown commented that the regional planning commission input is advisory and toothless, to say that the Town’s more rigorous watershed standards they do not hold water for individual right to use of the common water, in the table of uses any person who claims the right under the topic has the right to use those uses to the full extent permissible under the zoning law, all issues not part of the discussion tonight. He continued he is not satisfied with the traffic count is accurate as to its projections, and present peaks for the locality, not satisfied on the “quality anecdotal” information of the abutters has been regarded as information of fact and quality, not content do not have the assessment of the town planner on this last presentation, not content that they do not have the opinion of the Town attorney,

stands with Stan, what is the most reasonable statement, do we table pending, do we request a third party independent traffic review.

Chairman Tabory stated that he has concerns in when the traffic study was done, if had to make a decision today, based off data presented is not comfortable with granting something, would be open to having an independent study done, not opposed in having the attorney's opinion. Board discussed the possibility of a new study being done in the summer and if they could table that far ahead. It was noted by the applicant that they have comparable data showing Memorial Day traffic, suggested towards having the third party review the current study. S. Nadeau felt they would not need to push it out to summer, maybe a month or two, to get legal counsel advice.

L. Brown noted doing a traffic study next July would be discourteous to anyone in business, wants to see what effects here in Milton on that road, and would like to have a neutral third party review. S. Nadeau asked if the applicant would agree to that.

Owner (Zach Bossenbroek) replied yes, was in agreeance to have a third party traffic study done.

S. Nadeau motions to table the case to with the agreement from the applicant (applicant footing a reasonable bill), the board will choose a third party engineer to review the traffic data from MDM Transportation Consultant's Inc. with opinion received for the February 22 meeting, and with written opinion from Town Counsel on the statements from attorneys Chris Boldt and Peter Malia, with access to all documents, with attorney to attend the meeting on February 22, 2018 at 6pm. L. Brown seconds the motion. All in favor. Motion carried.

The next meeting will be on February 22, 2018 at 6pm.

Discussion and Approval of Minutes: October 26, 2017 meetings minutes, S. Nadeau motions to approve. L. Brown seconds the motion, all in favor (Chairman Tabory abstained) motion carried, 10/26/17 minutes approved.

Other Business: D. Crossley informed the board that the normal meeting date of April 26, 2018, will be on vacation if the board wants to move the meeting to a different Thursday for that month. Board will decide in February at the next meeting if they will change the date of the meeting. D. Crossley updated the board of members whose terms are coming to an end with the upcoming election.

S. Nadeau motions to adjourn, L. Brown seconds the motion, all in favor meeting adjourned at 8:19pm.

Respectfully Submitted,

Dana Crossley, Land Use Clerk