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October 16, 2023

**VIA HAND DELIVERY AND FIRST CLASS MAIL:**

Jeanie Forrester, Chair  
Select Board  
Town of Meredith  
41 Main Street  
Meredith, NH 03253

**Re: The Town's Unlawful Clear-cutting Of Private Property In The Shoreline District**

Dear Chair Forrester:

I write on behalf of Meredith Neck And Islands Alliance (“MerNIA”) regarding the Town’s clear-cutting of private, commercial property in the Shoreline District. We request that the Town immediately cease any further development of the so-called “Upper Lot” on the property of Goodhue Meredith Real Property, LLC (“Goodhue”) until Goodhue and the Town comply with the Select Board’s June 19, 2023 vote, until the Town Manager complies with this Board’s September 18, 2023 directive to prepare a “comprehensive parking plan” for the Lovejoy Sands/Cattle Landing parking lots, and until the development of the “Upper Lot” undertakes appropriate site plan and zoning review, including addressing the Conservation Commission and abutters’ concerns relating to drainage and other wetlands impact mitigation. We further request that the Board create a Meredith Neck parking committee, including MerNIA representatives, and that you place this matter on your October 30, 2023 or November 6, 2023 Board agenda for further discussion.

At the May 15, 2023 Select Board meeting, at which I addressed the unlawful, unreasonable, and highly irregular boundary line agreement being proposed by Town Manager Brown and Goodhue, you made some very appreciated remarks regarding the need for increased transparency and improved communications by Town staff. We could not have agreed you with more, and we appreciated you addressing the problem as you did.

Yet, in the face of your remarks, Town Manager Brown has done precisely what the Select Board publicly rejected and thereby increased transparency concerns. As stated in the Select Board’s June 19, 2023 meeting minutes, the Board “recognize[d] the community’s discomfort in regard to the boundary line adjustment and based on all the information the Board

Jeanie Forrester, Chair

October 16, 2023

Page 2

recommend[ed] Goodhue move forward with their plans and then revisit the boundary line adjustment.” June 19, 2023 Minutes, Section 6, Item 3. The Select Board then voted unanimously that “Goodhue should go through the Planning Board process and address the Select Board once that step is complete.” *Id.* Town Manager Brown’s actions to clear-cut the “Upper Lot” are in direct conflict with the Select Board’s June 19, 2023 vote.

Further, in front of the full Select Board on September 18<sup>th</sup>, the Town Manager Brown responded to a taxpayer’s question about whether there had been any activity relating to the public dock project and parking by stating:

There has been no further discussions on the Shep Brown’s marina project. With a comprehensive plan for parking and waterfront improvement, we will be working through the winter months on that. Feedback is important, and final documents should be in place by April. *See* September 18, 2023 meeting video.

Given that the so-called “Upper Lot” is located on Goodhue’s private property and given that the clear-cutting is aimed at assisting Goodhue to do what it otherwise cannot as a commercial business in the Shoreline District, it is obvious that there has been coordination between Town Manager Brown and Goodhue with respect to the clear-cutting. Thus, Town Manager Brown’s above-statement that there have been “no further discussions” with Goodhue, and/or that there would be a “comprehensive plan for parking” before any further activity at the site occurs appears to be untrue or was at the very least, intentionally misleading.

At that same Select Board meeting, when faced with Town Manager Brown’s request to restrict parking on Patricia Drive, the Board voted that no action should be undertaken until a “comprehensive parking plan” is prepared. Specifically, you, as Chair, asked Town Manager Brown “to come up with a plan before [the Town] address[es] Patricia Drive,” and you directed the Town Manager to “come up with a plan that we [the Select Board] can support.” *See* meeting video. Consistent with that September 18, 2023 vote and directive, a comprehensive parking plan should have been in place before the Town Manager allegedly undertook clear-cutting to create parking.

It is not lost on anyone that Town Manager Brown started the clear-cutting operation the day after the October 9, 2023 holiday. The obvious intent was to do what the Town suggested in multiple public appearances that it would not do, when fewer people might notice. If this matter proceeds to Court, this conduct will be raised as a basis to seek attorneys’ fees and costs.<sup>1</sup>

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<sup>1</sup>MerNIA will seek Court assistance, as necessary, at the appropriate time with respect to the issues raised in this letter, and such Court assistance may include seeking the restoration of the property, related Court-orders, and attorneys’ fees and costs.

Jeanie Forrester, Chair

October 16, 2023

Page 3

The so-called “Upper Lot” is approximately one acre, and it is located on 19 Lovejoy Sands Road, Map U35, Lot 14 in the Shoreline District. It was developed based upon the granting of a special exception, and when the Planning Board granted approval to develop the “Upper Lot” for parking on June 24, 2003, the Planning Board consented to 75-80% development of the one acre. *See* June 24, 2003 Planning Board Minutes. Consequently, any further development of the “Upper Lot” requires a variance or special exception along with planning board site plan review. Because the “Upper Lot” is owned and is likely to be used at least in part by a private, commercial entity, that private entity, Goodhue, is required to make those applications and to obtain the necessary approvals before the “Upper Lot” can be developed—with or without the assistance of the Town to develop it.

In particular, the impact on wetlands requires additional site plan and zoning review. At the time the “Upper Lot” was constructed, Gove Environmental Services delineated wetlands on a site plan that showed that most of the “Upper Lot” is in a buffer zone to wetlands owned by an abutting property owner. That abutter was not notified in advance of the clear-cutting further exposing the Town to complaints and/or liability. Stormwater runoff abatement should be required as part of site plan review to protect abutters from any erosion from site disturbance and from stormwater run-off caused by the clear-cutting of the “Upper Lot.”

Your counsel confirmed to me in an email dated April 21, 2023, that “the town is fully aware that the Select Board cannot approve changes to a property without the required planning board approval, nor can it approve variances to the zoning ordinance.” Indeed, that is well-settled law. It is therefore puzzling as to why the Town Manager would assist in commercially developing property in the shoreline district, where a variance would be required, especially after the Board voted on June 19, 2023 to require Goodhue to seek any necessary permits before undertaking any aspect of the proposed Boundary Line Adjustment agreement.

Although your counsel has taken the position that a variance and site plan review is not required to develop the “Upper Lot” because the Town *hopes* to use the “Upper Lot,” that is not what is occurring here. While it is clear that a municipality is exempt from zoning regulations with respect to the *municipality’s use of municipal property*, a municipality is not exempt from zoning to develop private property to be used by a private party. *See McGrath v. City of Manchester*, 113 N.H. 355, 356 (1973) (citations omitted). The Town does not own the “Upper Lot.” The Town has clear-cut *private* property to assist the expansion of a *private, commercial* property in the Shoreline District.

Setting aside the fundamental flaws in the Town’s legal analysis and the harm that the Town has caused to the Shoreline District by this clear-cutting, the Town Manager/Town Counsel’s approach is also shortsighted in two very practical respects relating to parking, which as the Board is aware, is a priority of MerNIA. Island members of MerNIA require and depend on parking, and MerNIA’s mainland supporters also share concern over parking to provide them

lake access for fishing, boating, and other lake activities. That is why the Town Manager's actions to clear-cut without having a "comprehensive parking plan" in place, which has been prepared with public input, is particularly disappointing and troubling to all MerNIA supporters.

First, it does not appear that the Town has given much thought as to how the "Upper Lot," would benefit town taxpaying residents, if at all. While there is no dispute that more parking on Meredith Neck is necessary for *Meredith taxpaying residents*, it is by no means clear that the "Upper Lot" will provide any additional parking for *Meredith taxpaying residents*. Upon information and belief, the Town relies upon an alleged 2003 easement for the authority to expand the so-called "Upper Lot." MerNIA denies the validity and legality of that easement, but to the extent it is the basis for the Town's clear-cutting, that easement states that the purpose of any parking must be for "the benefit of the Town and the general public." See 2003 "easement" at ¶2 (emphasis added). The potential use of the "Upper Lot" for parking for "the general public" is not likely to address in any meaningful way the shortage of available parking on Meredith Neck for *Meredith taxpaying residents*.

Second, by allowing for the unlawful expansion of the commercial boatyard in the Shoreline District without undertaking zoning and site plan review, the Town has inherently increased the demand for parking without sufficiently increasing its supply. Typically, site plan and zoning review necessitates a review of parking and allows public input. That process should not be circumvented here. Rather, the public should have the opportunity to express concern about being unable to park to go fishing or boating on the lake due to the increased demand for parking caused by Goodhue's expansion and its own use of the "Upper Lot."

By clear-cutting the "Upper Lot" prior to the permitting review the Board specifically voted on June 19, 2023 was necessary, Town Manager Brown has potentially stripped the public from the site plan and zoning review process, while simultaneously placing a greater demand for parking through the Town's expansion of Goodhue's commercial property. And, despite the Board's September 18, 2023 directive, the Town Manager has done this *at the Town's expense* without having a "comprehensive parking plan" in place to present to Town taxpayers to explain how, if at all, the expanded "Upper Lot" will benefit them in any way.

Of particular concern is when Town taxpayers would be able to use the "Upper Lot" (if at all). Currently, there appears to be no written agreement setting the dates during which Goodhue can store boats on the "Upper Lot." In fact, storage of boats on this lot currently precludes early spring fishermen and fishing derby participants from parking trailers on any public lots on Meredith Neck. When would Town taxpayers be allowed to use the proposed expanded "Upper Lot," if at all? How does allowing Goodhue more boat storage help solve the Town taxpayers' parking problem? Again, these and other issues should be considered in a "comprehensive parking plan" before the "Upper Lot" is further developed.

Jeanie Forrester, Chair

October 16, 2023

Page 5

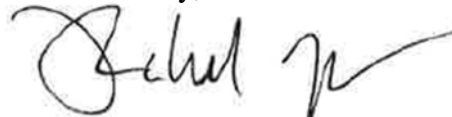
Notably, the Conservation Commission was not consulted before any of the trees were cut. The Town and Goodhue should submit a report on wetlands impacts and buffer disruptions before any further work is done to the "Upper Lot." Additionally, any excavation and fill for the expansion of the "Upper Lot" should require a permit in accordance with the Meredith Erosion and Sedimentation Ordinance. Goodhue, as the owner of the lot, should seek this permit.

We therefore respectfully request that the Board direct the Town Manager to immediately cease this development, to provide an accounting of the costs incurred by the Town to date to clear-cut the "Upper Lot," to provide a budget for further costs relating to any proposed development of the "Upper Lot," to undertake a wetlands impact review with the Conservation Commission, and to provide a "comprehensive parking plan and to require Goodhue to seek all necessary permits before any further development of the "Upper Lot" occurs. We also respectfully request that the Board create a Meredith Neck parking committee and include members of MerNIA on the committee. Finally, we ask that the Board place this matter on one of its upcoming meeting agendas.

We hope that the Board will sufficiently address the concerns raised in this letter so that litigation can be avoided. As noted above by the requested placement of members on a proposed committee, MerNIA seeks to be part of a proposed solution to remedy the unlawful clear-cutting.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rachel A. Hampe', with a long horizontal flourish extending to the right.

Rachel A. Hampe

cc: MerNIA  
Alexandra C. Cote, Esq.  
Troy Brown, Town Manager (Hand-delivery)  
Meredith Conservation Commission (Email: [conservation@meredithnh.org](mailto:conservation@meredithnh.org))  
Laura Spector-Morgan, Esq. (First Class Mail)