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To: Barrington Planning Board
From: Nippo Lake Association, Lynda Brushett, President
Re: Design Review for Proposed Major Subdivision Application, Tax Map 112, Lot 38 & 39;
John and Christina Maiorino, Owners
Date: December 2, 2023

Design Review Comments, Concerns and Recommendations

The subject property, part of Mt. Misery and the Hale Bog and Nippo Lake watershed, is a complex, environmentally sensitive and important parcel with a myriad of unique characteristics which require detailed consideration so that any and all adverse impacts are identified and prevented. Elevation, steep slopes, severely limited shallow to bedrock soils and wetlands characterize the property. Any one of these characteristics would provide sufficient cause for disapproval. The fact that all these features are present strongly speaks to the need to significantly scale back the design under review including removing sections from development and outright denial, as per Article 6.7.1(3)(a) of the Barrington Subdivision Regulation.

Development of this parcel for houses, driveways, lawns, septic systems, roads, etc. poses a serious threat to protected and historically impaired/endangered wetlands and waterbodies, both on and connected to the parcel. The potential for adverse impact to approximately \$2MM of watershed study and remediation actions that has returned Nippo Lake to a healthy state is a critical consideration.

Two additional matters concerning this developer and this proposed development are of note and bear directly on the standard of review and scrutiny appropriate to this proposal.

First, a significant part of the multi-million dollar Nippo Lake remediation efforts were necessary to address stormwater run-off and road maintenance failures (specifically Golf Course Way) by this same developer who operates Nippo Lake Golf Course and has developed housing at the northerly end of the lake. At a total expense approaching \$200,000, *Nippo Lake Association*— not this owner/developer who failed to acknowledge responsibility— paid for and executed both (1) a necessary re-engineering of the stormwater management culvert system and (2) paving of Golf Course Way's steep slopes to the lake, both of which fed large quantities of phosphorus laden run-off and road sediment directly into the lake. Both of these were significant contributors to the development of annual toxic Cyanobacteria blooms.

Second, in what arguably evinces a troubling insensitivity to legal, environmental and civic responsibilities, this developer proceeded without prior announcement or pre-approval of any sort with a devastating logging operation on this site. In doing so, the developer did not advise state or local authorities of an impending subdivision proposal and, when asked directly by abutters, claimed the activities were only an authorized timber cut and specifically denied any formulated plan to subdivide and develop the property. It's now plain, however, the timbering activity was executed in a pattern which corresponds with the proposed development and associated roadway network. In addition to what the circumstances indicate with respect to the

level of scrutiny and supervision appropriate to this proposal, these activities are arguably really inconsistent with the spirit, if not the letter, of NH RSA 227-J V III and NH RSA 485-A:32 III.

We recognize that a Design Review is not meant to be comprehensive, as detailed studies will follow. The purpose to provide guidance. As stated in article 3.3 "... All significant site features should be identified including, but not limited to: critical areas, vistas, ridge lines, wetlands, floodplains, slopes, tree lines, stone walls, significant rock outcrops and tree masses, rare and endangered species habitats, streams, and any additional features uniquely affecting a site.....". "Land unsuitable for development due to the presence of poorly drained soils, flood hazards, steep slopes or other conditions constituting a danger to health, safety or the environment, shall not be approved for development unless the applicant can provide satisfactory evidence or data to the Board establishing the methods that will be used to overcome such conditions and their adequacy." (Article 6.7.1(3)(a). "...subdivision plans shall be reviewed to ensure the protection of environmental quality during and after construction." 6.7.1(6).

Significant features of this uniquely sensitive property which limit development are:

1. This property abuts and steeply slopes to Nippo Lake and Hale Bog and abuts conserved property both adjacent and across Route 9/202 from one of the highest elevations in the Town. In addition
 - Streams, rare and endangered species habitats, rock outcrops. Are there any on the property? Neither the narrative nor the maps identify.
 - Vernal pools. While the property was evaluated in the Spring of 2023 and no vernal pools were identified, extensive pre-development logging operations undertaken earlier in 2023 may have destroyed or masked these critical areas. Since 3 were found on the neighboring Landry parcel of which this property shares similar character, topography and soils, the Environmental Impact Assessment (EIA, Article 7.6.4) should thoroughly review.
 - Wildlife with special emphasis on rare, threatened and endangered species, wildlife corridors, wintering areas, etc. Where located? These are not noted in the narrative or on maps.
 - Springs. Should be identified in the EIA, noted on maps and avoided.
 - Conserved land. Adjacent conserved properties, including across route 9, should be noted on maps as are a unique aspect of this site. Potential impacts to environmental features should be identified in the EIA and avoided.

Recommendation: Due to the potential for significant impact to critical ecosystems, wildlife habitat, conserved land, Nippo Lake, Hale Bog and wetlands, a comprehensive Environmental Impact Assessment (EIA) should be required.

2. Another significant feature is that the property consists primarily of "Hollis-Charlton extremely rocky fine sandy loams, 8-25% slopes" (HeD, CsC. Strafford County Soils

Survey). These soils are considered "severe" for any kind of development due to "bedrock at a depth of 20 inches or less; bedrock out crops; slope." P.80-81.

- These soils have severe limitation for developing foundations, lawns, landscaping, septic systems and roads. Will blasting be required? Noise, Dust? Mitigation? As noted in the applicant's narrative a 'robust stormwater management plan will be required'.

Recommendation: As outlined in Article 6.7.1(3) above, land with soils unsuitable for development should be identified as part of the EIA left undisturbed. Article 7.2. a Grading, Erosion and Sediment Control Plan should be required along with Article 7.3. a Stormwater Management Plan should be required, during and after development.

3. Another significant feature of the property is wetland. As noted on the maps and in the narrative, these are significant features which should not be impacted in any way. A review of the current design raises these concerns:

- Lot 38-11 has significant wetlands which connect to wetlands across Route 9, high elevation, steep slopes and shallow to bedrock soils. The proposed house location is narrowly sited in between the wetland buffers on steep slopes with a test pit on wetland buffer boundary. The potential for adverse impacts to Hale Bog and adjacent wetlands should be studied and avoided.
- One entry to the proposed development goes through the wetland buffer between Lot 38-11 and 38-12. The other entry is also very close in the area adjacent to lot 38-4 as is the test pit for lot 38-4. Both have potential for adverse pre-as well as post-development impacts.
- Any degradation, disturbance to the wetland on lots 38-2, -3, -4, -5 will also adversely impact the lake. Test pit is on the access road boundary. The small access road to lots 38-1, -2 and -4 and the proposed house on lot 38-4 is perilously close to the wetland raising concern for adverse pre-as well as post-development impacts.

Recommendation: An Environmental Impact Assessment should include impacts to neighboring conserved properties as well as to Nippo Lake, Hale Bog and wetlands. A Grading, Erosion and Sediment Control Plan and Stormwater Management Plan should be designed to prevent pre- and post-development impacts. No special exceptions should be allowed for incursions in to wetlands or their boundaries.

4. Elevation and steep slopes are another significant feature of the property. It is one of the highest points in Barrington and the Seacoast. Steep slopes are legally defined as hillsides having a 15 foot, or greater, vertical rise over 100 feet of horizontal run, or 15% slope. These are very undesirable areas for development due to the difficulty and impacts of building on steep grades, disruption of natural drainage systems and

potential for erosion, as well as high failure rates of septic systems. While the whole property is subject to steep slope issues which need to be addressed, of particular concern is intensity of development from two duplexes on lots 38-8 and 39-9. These lots are at the highest elevation of the property and on steeply sloped bedrock soils with severe limitations for development. Duplexes are not in keeping with the character of homes in the area. As evidenced from video of run-off from logging in 2023, even placement of single family houses in that area would be problematic. Lot 38-7 suffers from the same impediment.

Disturbance of steep slopes especially when combined with shallow to bedrock soils create stormwater run-off, erosion and sediment flows into Nippo Lake, Hale Bog and wetlands and will adversely impact abutter access roads, driveways, foundations, septic systems and wells. These impacts have already occurred as a consequence of pre-development woodland clearing.

Recommendation: The design's current standard of excluding slopes 35% and over should be reduced to a minimum of 15%. As outlined in Article 6.7.1(3) above, land unsuitable for development should be identified as part of the EIA and removed from development. A Grading, Erosion and Sediment Control Plan, Article 7.2., should be required along with a Stormwater Management Plan, Article 7.3., should be required, during and after development.

5. Viewshed. Article 6.7.1(6)(c) specifically calls out the protection of "scenic views (both from the site and onto or over the site) shall be retained to the maximum extent feasible..." Given that logging operations were observed and heard from homes around Nippo Lake, the design for this property needs to explicitly address the viewshed as well as noise and potential for light pollution given elevation, pre and post development.
6. Special exceptions. As proposed, the design will require special exceptions and a 9.6 waiver to allow a wetland impact.
 - **Recommendation:** Because of elevation, wetland, slope and soil limitations to development activities **NO Special Exceptions or waivers** should be allowed on this property that would permit more intense development than is otherwise allowed. At almost 42 acres, the property is sufficiently large to accommodate development and 'ensure the protection of environmental quality during and after construction' (6.7.1(6) (a). Design should fit the unique character of the property.
7. Roads and traffic. The Nippo Court/Sarah Lane Road Association has outlined concerns specific to those private roads. The condition of both roads and associated ditches has suffered this year from run-off from the pre-development logging operation emphasizing the need and recommendations for Erosion, Sediment and Stormwater controls noted above. In addition, on the proposed plan Nippo Court goes through Lots 38-7, -3 and -5.

Impacts to proposed homes and to the road should be addressed. Traffic is a related and major concern. The density currently proposed poses a serious traffic hazard potential.