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January 28, 2022

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Ronald E. Cook  
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Daniel J. Mullen  
1953-2021

<sup>1</sup> Also admitted  
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Town of Effingham Planning Board  
c/o Ms. Theresa Swanick, Chair  
68 School Street  
Effingham, NH 03882

**RE: Meena, LLC- Site Plan Review Process**

Dear Planning Board:

As you know, our firm represents Green Mountain Conservation Group (“GMCG”), Ossipee Lake Alliance (“OLA”), William Bartoswicz, and Tammy McPherson in regards to Meena, LLC’s attempts to gain various approvals from both the Town of Effingham Planning Board and Zoning Board of Adjustment (“ZBA”) concerning its attempt to develop and operate a gas station at 41 NH Route 25 in Effingham, also known as Tax Map 401, Lot 5 (the “Property”). I am writing to you now regarding Meena’s site plan application, which the Planning Board should either find to be incomplete or deny.

During the Planning Board meeting held on November 4, 2021, the Planning Board reviewed Meena’s site plan application for completeness and determined the application would not be accepted due to a defect regarding abutter notification. Since that time, Meena has submitted a new site plan application. In particular, Meena is seeking to develop and operate a gas station within the groundwater protection district in Effingham, over the State’s largest stratified drift aquifer (the Ossipee Aquifer), and within 300 feet of Phillips Brook, which runs directly into Ossipee Lake.

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Our clients are greatly affected by the Planning Board's consideration of Meena's site plan application. Both Mr. Bartoswicz and Ms. McPherson are abutters to the Property at issue here. OLA is a charitable volunteer organization dedicated to preserving and protecting Ossipee Lake and the surrounding waters. Its mission includes the defense of the Ossipee Aquifer, which is the source of drinking water for the Ossipee Lake community, which includes Effingham, among other towns. Similarly, GMCG is a community-based, charitable organization dedicated to the protection and conservation of natural resources in the Ossipee Watershed in central Carroll County, including Effingham, among other towns. Additionally, GMCG recently acquired land in close proximity to the Property at issue here. This land abuts other GMCG owned land and is the headwaters to Phillips Brook.

The issues involved in the Meena site plan application, especially those posed by being located over a stratified drift aquifer, are beyond the reasonable experience of the typical Planning Board member. In particular, the application contains multiple documents submitted by multiple professional engineers, some of whom purport to have reviewed certain plans and to have confirmed them despite certain plans not being stamped by a professional engineer. The decision as to whether or not the site plan application is complete should not be made until it has been reviewed by an independent, third-party engineer engaged by the Planning Board at the applicant's expense.

As discussed herein, and for the reasons we intend to discuss at the next applicable Planning Board hearing, the Planning Board should find Meena's site plan application to be incomplete. Should the Planning Board find the application to be complete, however, then it should deny the application.

First, Meena is not in compliance with the Town's Zoning Regulations, as is required when submitting a site plan application. Under Section 8 of the Town of Effingham's Site Plan Review Regulations, all applicants must "be in compliance with the articles contained in the Effingham Zoning Regulations when applying for site plan review." Meena, however, is not in compliance. In particular, the Town issued a cease and desist order against Meena on or about May 13, 2021 due to Meena's decision to install underground storage tanks and conduct work on the Property without proper permits or site plan approval in violation of the zoning regulations.

Moreover, the ZBA's erroneous decision to grant Meena's variance application is currently pending before the Carroll County Superior Court. In its variance application, dated May 14, 2021, Meena seeks a variance from Article 22, Section 2207(A)(8) of the Effingham Zoning Ordinance in order to develop and operate a gas station on the Property. Although our clients vigorously maintain that the Court should find the ZBA's decision unlawful and unreasonable and that the Planning Board should deny the site plan application, should the Planning Board decide to grant it, it should at the very least require any approval of Meena's site plan application to be conditioned upon the Court upholding the ZBA's decision.

Additionally, the Planning Board must address the regional impact that Meena's application implicates. The Property is on the Effingham/Ossipee town-line. Although Meena's proposed project is in Effingham, many abutters and other individuals that may be affected by potential groundwater contamination, increased traffic, fumes, and light pollution are in the neighboring Town of Ossipee. In fact, both Mr. Bartoswicz and Ms. McPherson live in Ossipee. Similarly, homes and businesses that may not abut the Property but are in close proximity to it, those that are along Phillips Brook, or those that abut Ossipee Lake, whether or not they are in the towns of Effingham, Ossipee, or Freedom, New Hampshire or downstream in Porter or Parsonsfield, Maine, are in the same aquifer area and are therefore at risk of having their drinking water contaminated should there be a leak or spill at the proposed gas station.

The Town of Effingham voted to adopt a groundwater protection ordinance for a reason. That purpose is "in the interest of public health, safety, and general welfare, to preserve, maintain, and protect from contamination existing and potential groundwater supply areas and to protect surface waters that are fed by groundwater." ZBA Ordinance at Art. 22, Sec. 2202. "The purpose is to be accomplished by regulating land uses that may contribute pollutants to designated wells and to aquifers that provide current or future water supplies for [Effingham] and surrounding municipalities which share such wells and aquifers." Id.

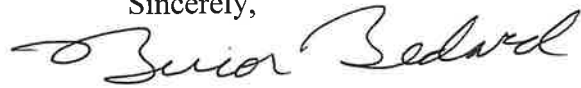
The wide impact the Ossipee Aquifer has on the area and the Property's location on the border of Effingham and Ossipee requires the Planning Board to find regional impact here. Under Section 7 of Effingham's Site Plan Review Regulations, "[a]ll applications shall be reviewed for potential regional impacts." Furthermore, "[a] local land use board, as defined in RSA 672:7, upon receipt of an application for development, shall review it promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact. Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact." RSA 36:56. It is clear that there are regional impacts here, and the Planning Board should find accordingly.

Finally, we request that Theresa Swanick recuse herself as a member of the Planning Board for this application. Although it is our understanding that she has stepped down as the Chair of the ZBA, Chairwoman Swanick was the Chair of both the ZBA and the Planning Board at the beginning of Meena's application process with the Town, and she is still a member of the ZBA as well as being the Chair of the Planning Board. She was the Chair of the ZBA when that board made its decision regarding Meena's variance application. Her votes at the ZBA clearly establish that she is predisposed favorably to this application. Chairwoman Swanick's discussions and votes regarding Meena at both the Planning Board level and at the ZBA pose a conflict of interests. As a result, she should recuse herself from all decisions regarding Meena's site plan review application to help ensure a fair and impartial process.

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Thank you for your attention in this matter.

Sincerely,

A handwritten signature in black ink that reads "Biron Bedard". The signature is written in a cursive style with a large, sweeping initial "B".

Biron L. Bedard

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