

CONSENT AGREEMENT

This **Consent Agreement** (this “Agreement”) is made as of the 15th day of June, 2021 by and among the **TOWN OF FREEPORT**, a Maine municipal corporation, whose mailing address is 30 Main Street, Freeport, Maine 04032, acting by and through its Town Council (the “Town”), **PHIL A. RICHE** and **LYNN ROMANO RICHE** of Freeport, Maine, whose mailing address is 50 River Rock Lane, Freeport, Maine 04032 (the “Riches”), and **JEFFREY D. MILLER** and **MARY-LYNN MILLER**, of Freeport, Maine, whose mailing address is 25 River Rock Lane, Freeport, Maine 04032 (the “Millers”).

WHEREAS, Patricia M. Guild died on January 23, 2012, owning a certain lot or parcel of land located on the westerly side of Lambert Road in the Town of Freeport, County of Cumberland, and State of Maine (the “Guild Property”); and

WHEREAS, Jonathan G. Rogers, the duly appointed and acting Personal Representative of the Estate of Patricia M. Guild, conveyed a portion of the Guild Property to Michal Gould, William K. Rogers, and Jonathan G. Rogers by Deed of Distribution dated November 10, 2014, and recorded in the Cumberland County Registry of Deeds in Book 31919, Page 214 (the “Michal Gould, et al. Conveyance”); and

WHEREAS, said Jonathan G. Rogers, in his said capacity as Personal Representative of the Estate of Patricia M. Guild, conveyed the remaining portion of the Guild Property to the Riches by Deed of Sale by Personal Representative dated March 27, 2015, and recorded in said Registry of Deeds in Book 32171, Page 273 (the “Riche Conveyance”); and

WHEREAS, as a result of the Michal Gould, et al. Conveyance and the Riche Conveyance, the Guild Property comprised two (2) lots as defined under the Maine Subdivision Act (the “Act”) and the Freeport Subdivision Ordinance (the “Ordinance”); and

WHEREAS, in 2015 following the Riche Conveyance, the Riches advised the Town that they met with the then Town Planner (the “Former Town Planner”) to discuss whether a proposed gift conveyance to the Millers of a portion of the property the Riches acquired by virtue of the Riche Conveyance, Mary-Lynn Miller being the Riches’ daughter and Jeffrey D. Miller being the Riches’ son-in-law, would constitute a division that would create a lot under the Act and the Ordinance for purposes of determining whether such a conveyance, coupled with the prior conveyances referred to above, would result in the Guild Property being a three (3) lot subdivision under the Act and the Ordinance and thus requiring review and approval by the Freeport Project Review Board (the “Board”) under the Act and the Ordinance; and

WHEREAS, the Riches advised the Town that the Former Town Planner confirmed for them that such a conveyance to the Millers would not constitute a division creating a lot under the Act and the Ordinance (and provided contemporaneous documentary evidence substantiating these communications) and thus would not result in the Guild Property being a three (3) lot subdivision requiring review and approval by the Board under the Act and the Ordinance; and

WHEREAS, following the above-referenced meeting with the Former Town Planner, the Riches conveyed as a gift a portion of the property they acquired by virtue of the Riche Conveyance to the Millers by Warranty Deed dated December 23, 2015, and recorded in said Registry of Deeds in Book 32838, Page 134 (the “Miller Conveyance”);

WHEREAS, in 2015, following the Miller Conveyance, the Millers obtained a Building Permit from the Town to construct a residence on the property they acquired by virtue of the

Miller Conveyance (“25 River Rock Lane”), and in 2016, the Riches obtained a Building Permit from the Town to construct a residence on the remaining property they acquired by virtue of the Riche Conveyance (“50 River Rock Lane”), which residences have since been constructed and are currently occupied by the Riches and the Millers, respectively, as their principal residences, under Certificates of Occupancy issued by the Town; and; and

WHEREAS, the Town subsequently issued Building Permits for the construction of detached garages on 25 River Rock Lane and 50 River Rock Lane, which garages have since been constructed; and

WHEREAS, the Town has since determined, and the Riches and the Millers have since acknowledged and agreed, that under 30-A M.R.S.A. §4401, Subsection 4. D-4 of the Act and under the Ordinance, the Miller Conveyance was a division that created a lot under the Act and the Ordinance since the Riches had not owned the property they conveyed to the Millers by the Miller Conveyance for a continuous period of five (5) years prior to such conveyance and thus the Michal Gould, et al. Conveyance, the Riche Conveyance, and the Miller Conveyance, all of which constituted divisions that created lots under the Act and the Ordinance, having occurred within five (5) years of each other, created a three (3) lot subdivision of the Guild Property under the Act and the Ordinance requiring review and approval by the Board; and

WHEREAS, for the Miller Conveyance to have not been a division that created a lot under 30-A M.R.S.A. §4401, Subsection 4. D-4 of the Act and under the Ordinance, such conveyance could not have occurred any earlier than March 27, 2020, and the Millers would have thereafter not been able to convey that property to anyone not related to the Riches any earlier than March 27, 2025 without that property being retroactively deemed a division that

created a lot under 30-A M.R.S.A. §4401, Subsection 4. D-4 the Act and under the Ordinance;
and

WHEREAS, given (a) the advice the Riches advised the Town they received from the Former Town Planner regarding the Miller Conveyance, and (b) the issuance by the Town of Building Permits and Occupancy Permits with respect to the residences and garages that have been constructed on 25 River Rock Lane and 50 River Rock Lane, the Town is willing to enter into this Agreement with the Riches and the Millers subject to the terms and conditions thereof.

NOW THEREFORE, in consideration of the foregoing, the Town, the Riches and the Millers agree as follows:

1. The Town agrees that 25 River Rock Lane and 50 River Rock Lane meet the current dimensional requirements and other zoning requirements for the Zoning District in which they are located.

2. The Town agrees that it will not pursue any action against the Riches, the Millers, and subsequent owners of 25 River Rock Lane and 50 River Rock Lane, based upon the Michal Gould, et al. Conveyance, the Riche Conveyance, and the Miller Conveyance having creating a three (3) lot subdivision of the Guild Property requiring review and approval by the Board under the Act and the Ordinance.

3. The Riches and the Millers agree that 50 River Rock Lane may be further divided no more than once (i.e. into a total of two lots) between the date of this Agreement and March 27, 2025, including, but not limited to, divisions that are exempt and thus do not create lots under the Act or the Ordinance, without obtaining Board review and approval. The foregoing prohibition does not preclude the Riches from conveying either portion of 50 River Rock Lane resulting from the single additional division of 50 River Rock Lane authorized by this Agreement at any time after the date of this Agreement.

4. The Riches and the Millers agree that 25 River Rock Lane shall not be further divided in any manner including, but not limited to, divisions that are exempt and thus do not create lots under the Act or the Ordinance, no earlier than March 27, 2025, without obtaining Board review and approval. The foregoing prohibition does not preclude the Millers from conveying 25 River Rock Lane as it exists on the date of this Agreement at any time after the date of this Agreement.

5. In the event of a violation of the terms and provisions of this Agreement by either the Riches or the Millers, or subsequent owners of 25 River Rock Lane and 50 River Rock Lane, the Town may pursue all remedies available to it including, but not limited to, remedies as a result of a violation of the Act and the Ordinance.

6. This Agreement represents the entire agreement among the parties as to the matters specifically addressed herein. Any modification of this Agreement shall be made in writing and signed by the parties.

7. This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto, and their heirs, successors and assigns, and shall run with 25 River Rock Lane and 50 River Rock Lane.

8. This Agreement shall be recorded in the Cumberland County Registry of Deeds and the recording fees with respect thereto shall be paid by the Riches and the Millers and a copy of said recorded version shall be provided to the Town for inclusion in the Town's files relating to 25 River Rock Lane and 50 River Rock Lane.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first set forth above.

[End of document. Execution pages follow.]

WITNESS:

Phil A. Riche

Lynn Romano Riche

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

_____, 2021

Personally appeared the above-named Phil A. Riche and Lynn Romano Riche and acknowledged the foregoing to be their free act and deed.

Before me,

Notary Public/Maine Attorney at Law

Printed Name: _____

Commission Expires: _____

WITNESS:

Jeffrey D. Miller

Mary-Lynn Miller

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

_____, 2021

Personally appeared the above-named Jeffrey D. Miller and Mary-Lynn Miller and acknowledged the foregoing to be their free act and deed.

Before me,

Notary Public/Maine Attorney at Law

Printed Name: _____

Commission Expires: _____

WITNESS:

TOWN OF FREEPORT

For its Town Council:

John Egan, Council Chair

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

_____, 2021

Personally appeared the above-named John Egan, Councilor and Chair of the Town Council of the Town of Freeport, and acknowledged the foregoing to be his free act and deed in his said capacity and the free act and deed of said Town of Freeport.

Before me,

Notary Public/Maine Attorney at Law

Printed Name: _____

Commission Expires: _____