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The Island Regulatory and Appeals Commission

Notice of Appeal (Pursuant to Section 28 of the Planning Act)

Reset Form

TO: The Island Regulatory and Appeals Commission National Bank Tower, Suite 501, 134 Kent Street P.O. Box 577, Charlottetown PE C1A 7L1 Telephone: 902-892-3501 Toll free: 1-800-501-6268 Fax: 902-566-4076 Website: www.irc.pe.ca

NOTE: Appeal process is a public process.

TAKE NOTICE that I/we hereby appeal the decision made by the Minister responsible for the administration of various development regulations of the Planning Act or the Municipal Council of Charlottetown (name of City, Town or Community) on the 19th day of November, 2024, wherein the Minister/Community Council made a decision to issue building permit # 304-BLD-24 as it pertains to C-2 Highway Commercial PID # 889873

(attach a copy of the decision).

AND FURTHER TAKE NOTICE that, in accordance with the provisions of Section 28.(5) of the Planning Act, the grounds for this appeal are as follows: (use separate page(s) if necessary)

The grounds for this appeal are the eleven (11) numbered reasons documented in the attached letter dated 19 December 2024 letter addressed to Mr. David Gundrum, Manager of Development Planning for the City of Charlottetown.

AND FURTHER TAKE NOTICE that, in accordance with the provisions of Section 28.(5) of the Planning Act, I/we seek the following relief: (use separate page(s) if necessary)

- That the City of Charlottetown Building Permit # 304-BLD-24 be declared null and void;
That Section 6.6 of the City of Charlottetown Zoning and Development Bylaw be recognized and enforced pertains to Highway Commercial Zone PID # 889873;
And that the City of Charlottetown be directed to rezone C-2 PID # 889873 if the owner insists on annexing Southview Estates, which is an established R-1L low-density neighborhood.

EACH APPELLANT MUST COMPLETE THE FOLLOWING: (print separate sheets as necessary)

Name(s) of Appellant(s): Jerry Woolfrey Signature(s) of Appellant(s): [Signature]

Mailing Address: 35 Irwin Drive City/Town: Charlottetown

Province: Prince Edward Island Postal Code: C1E 1R9

Email Address: jwoolfrey@gmail.com Telephone: 903-368-2602 or 629-9385

Dated this 20th day of December, 2024

IMPORTANT

Under Section 28.(6) of the Planning Act, the Appellant must, within seven days of filing an appeal with the Commission serve a copy of the notice of appeal on the municipal council or the Minister as the case may be.

Service of the Notice of Appeal is the responsibility of the Appellant

Information on this Form is collected pursuant to the Planning Act and will be used by the Commission in processing this appeal. For additional information, contact the Commission at 902-892-3501 or by email at info@irc.pe.ca.

To: Mr. David Gundrum
Manager of Development Planning
City of Charlottetown

19 December 2024

Dear Sir:

My name is Jerry Woolfrey, a resident of Southview Estates, West Royalty, City of Charlottetown. I am writing you today as a representative of our neighborhood group to express our dismay with respect to a 19 Nov 2024 permit issued by you for development on PID # 889873.

We, as residents of the impacted Low-Density Neighborhood of Southview Estates (zoned R-1L) assert that you must immediately issue a stop work order for work currently being carried out on PID 889873. We make this assertion for the following reasons:

1. Public notice that Building and Development Permit #304-BLD-24 was issued on **19 Nov 2024** for PID # 889873 was not posted on the City of Charlottetown website's Permit Approval Page until some period after **2 Dec 2024**. Our residents have therefore been deprived of the mandatory 21- day time frame in which to appeal. Furthermore, on 23 Oct 2024 our duly elected city councillor advised us that he had asked planning staff to let him know if any permit was issued for PID # 889873 and added "there still has not been anything proposed for the corner lot". All this, despite our simultaneous ongoing monitoring of the Permit Appeal Page. The importance of this oversight, and the resulting legal implications for our residents cannot be ignored. This oversight must therefore be corrected immediately, and the clock re-set.
2. This permit was approved based on the as-of-right doctrine governing specific uses within designated zones. However, we now know that the stated purpose of the application for the permit was no longer accurate or relevant at the time the permit was issued. The Royalty Maples Cottages and Motel was sold to the Province of PEI and moved from the site one month earlier. Therefore, the information being considered by planning staff under as-of-right doctrine was no longer applicable. This meant that a new application for consideration under the as-of-right rules was required. The as-of-right rules could no longer be applied to whatever the applicant then had planned for the lot. That information was not available to Planning when the as-of-right assessment was being made - and it still isn't.
3. Another major issue not adequately explored prior to the permit approval is the matter of legal street access for this property. The proposed access on the site plan is through a

lot line and into an intersection of two intersecting streets, which is a problem in and of itself. Furthermore, this was for a lot with a previous history of street access issues that were never ruled in the applicant's favor. Despite this information already being available on the department's PID file, it was not reviewed, nor approved by Public Works staff prior to this permit being issued. This was a major flaw in the approval process.

4. In May of 2024 our residents attended two separate public information sessions regarding the new Official Plan for our city. During those presentations the lead consultant showed an overhead of a City of Charlottetown Zoning Map that clearly showed PID # 889873 as a R-1L residential lot. When questioned about where the map came from the lead consultant advised that it was provided by The City of Charlottetown. The City's Development Officer, and another planner, were sitting in the front row, but when asked by our resident to respond to this finding they refused to say anything. So, based on that presentation, and being given no response to the contrary, it appeared clear to us that PID # 889873 was zoned residential – and appropriately so, as you will see in the following paragraph. That map was not created for the noted presentation, so it appears to have been an official zoning map at some point in time. Sometime prior to 8 Oct 2024 the map used in the presentation was changed to show PID # 889873 as being in a C-2 Highway Commercial Zone. That map should be traceable, because city staff provided it to the consultants. Where did it come from? Where is it now? And who changed it in the presentation? These questions need to be answered because they involve factors that are critical to the decision-making process involved in the issue of this permit.
5. PID # 889873 had historically been part of PID # 145961 – which was zoned C-2 Highway Commercial. In 2001 the owner of PID # 145961 decided to sever PID # 889873 from the parent lot, and to build his family home there. So, the R-1L zoning depicted in the Official Plan presentation map (see paragraph 4 above) aligns with that subdivision of lots. It also aligns with Section 25 of our Zoning and Development Bylaw in that a single detached dwelling is not permitted in a C-2 Highway Commercial Zone, hence the need to rezone residential.
6. In 2018 Section 6.6 was added to Charlottetown municipal bylaws to conform with the Provincial Planning Act. That section added a requirement for a 13ft Land Use Buffer such as a wall, a fence, a or a berm to act as a **“visual and spatial separation between incompatible zones”**. In our case that is a C-2 Highway and a R-1L low-density zone: two

clearly incompatible zones at extreme ends of the zoning spectrum. This new mandatory requirement was not considered in the permit approval process. More on that below.

7. In 2019 the current owner of PID # 889873 and PID 145961 attempted to consolidate the two lots, and then sub-divide it to accommodate multi-unit apartment buildings on the parcel abutting Trainor Street. Planning staff refused the permit due to safety concerns and incompatibility concerns with our low- density neighborhood – a clear and compelling reason to deny the application. They advised him to provide a right-of-way on his own property to the Malpeque Road. He chose not to do that.

8. Meanwhile, in June of 2020 the current owner brought forward another Lot Consolidation request for approval concerning these same lots. Planning staff recommended approval, but we contend that they failed to address the new Land Use Buffer requirements. Instead, they considered the Section 6.5 requirements for a “Landscape Buffer”: **an entirely different requirement that applies to only a beautification feature within a common zone - not between zones.** Our Planning Board voted against the development proposal, but Council initially approved. Our residents submitted a Reconsideration Request and Council heard our arguments. We stressed the safety of residents, and the new requirement for a 13ft Land Use Buffer along the entire lot line where this C-2 Zone abuts Trainor Street. This requirement applied to any “new” construction in the highly incompatible C-2 zone. The bylaws made no exceptions or provisions for street access through that visual and spatial barrier. Conversely, the “Landscape” buffer the planners referenced did contain such a provision. They appeared unaware of the new Land Use Buffer legislation. Note: details of the Land Use Buffer portion of our assertions are contained in the copy you have of Jerry Woolfrey’s presentation to Council dated 15 Dec 2020. It is important to note that upon considering our submissions Council rescinded their approval of the consolidation/development request. So, for a second time the current landowner was informed that access from his Commercial Zone into our low-density neighborhood was not permitted. We believe that decision of Council, made after a thorough review, research, and discussion over several months, was correct. We also believe that it has established precedent for PID # 889873 street access.

9. So, fast forward to 2024. Despite being refused street access to our low-density neighborhood from a C-2 zone on two previous submissions, the property owner is trying for a third time to force annexation of his C-2 lot with our R-1L zone. He is also doing this with full knowledge that this has never been done before, because he listened

to our presentations. **This has never been done because it is prohibited by law.** Section 6.6 was inserted in our bylaws in 2018 for the explicit purpose of preventing it. To allow the annexation of such incompatible C-2 and R-1L zones would ignore the fundamental purpose of zoning. It would also threaten the safety and viability of all our low-density neighborhoods - neighborhoods that our Official Plan specifically promised to protect and preserve.

10. The applicant for this permit has been offered choices for PID # 889873. For the past five years he was offered the choice to provide access to this commercial lot through his own land - he chose not to. He was offered the opportunity to re-zone his single detached dwelling lot in keeping with the low-density neighborhood he was attempting to annex - he chose not to. Instead, he chose to demolish that twenty-something year old house and try his luck once again seeking approval to annex two extremely incompatible zones.
11. The applicant made his choices. Now, what about the safety concerns of the residents in our low-density neighborhood? What about **their** legal protections such as the Land Use Buffer bylaw that was enacted to provide a visual and spatial barrier between incompatible zones? What about the negative financial implications for residents that would be a direct consequence of annexing our neighborhood with this C-2 Highway Zone? Have you considered all the as-of-right commercial activities that can occupy that same lot, and operate in our low-density neighborhood? How do you control that under the as-of-right doctrine then? Have you (or anyone at public works) considered the safety risks associated with all those scenarios? I have, and I know that it is downright dangerous for our entire neighborhood.

The applicant has made his choices respecting this lot over the past five years. He has been denied twice – and for very good reason. As detailed above, this applicant knowingly created the current dilemma. He also created it while knowing the full consequences that are facing him today, because he tried twice before and was refused. So now, he is once again pressuring our city staff to break the rules and accommodate him.

The landowner and the City of Charlottetown have only one path forward: if PID # 887893 wants to be part of Southview Estates: the lot must be re-zoned R-1L. Not a difficult decision to make given the informed choices the landowner has made.

We believe that the granting of this permit was a mistake for all the reasons noted above. Our residents have been wronged, and now is the time to correct those wrongs. We believe that a stop work order must be issued immediately, and all the above issues addressed. The longer this project continues, the greater the liability cost for the City of Charlottetown. We, the citizens of Southview Estates, look forward to your reply.

Respectfully submitted,


Jerry Woolfrey

Resident of Southview Estates



Planning & Heritage Summary (Week ending November 29th, 2024)

ISLAND REGULATORY APPEALS COMMISSION (IRAC) APPEAL PERIOD INFORMATION

The information on this page is intended to provide notice to the public when building and development permits have been approved by the Charlotte Town Planning and Heritage Department and/or decisions are rendered by Charlotte Town City Council as governed by the Prince Edward Island Planning Act. The deadlines to make an appeal are listed for each application below as per the requirements of the Planning Act.

If you have any questions regarding the approvals listed below, please contact the Planning and Heritage Department at 902-629-4158.

Planning Development Permit Approvals

FILE#	PIB	PERMIT#	APPLICATION DATE	DECISION DATE	DECISION	PROPERTY LOCATION	WORK DESCRIPTION	NAME	DEADLINE TO MAKE AN APPEAL
23-1322	1047562	276-BLD-23	19-Jul-23	28-Nov-24	APPROVED	75-77 Starmul Drive (Lot 117)	Occupancy Permit: New semi-detached dwelling	Falcon Homes PEI	19-Dec-2024
23-1735	355008	308-BLD-23	15-Aug-23	25-Nov-24	APPROVED	50 Ambrose Street	Occupancy Permit: Convert from 1.5 story to 2 story. Alter rear deck and create new side entrance.	Open Practice Inc.	16-Dec-2024
24-1035	368689	323-BLD-24	20-Sep-24	27-Nov-24	APPROVED	39 Eden Street	Occupancy Permit: Interior Renovation	Harpreet Kaur	18-Dec-2024
24-1113	387712	357-BLD-24	16-Oct-24	28-Nov-24	APPROVED	690 University Ave B (Unit 2)	Interior Alteration including Plumbing, HVAC & Electrical Work	Christina Shin	19-Dec-2024
24-1172	340687	018-HRT-24	4-Nov-24	26-Nov-24	APPROVED	100 Prince St	Window Replacement	Peter Rukavina	17-Dec-2024
24-1195	278960	061-SGN-24	13-Nov-24	27-Nov-24	APPROVED	110 Kensington Road	Free Standing Signage for Red Shore Dental	Dalmac Signs	18-Dec-2024
24-382	387761	079-BLD-24	21-Mar-24	27-Nov-24	APPROVED	670 University Ave. Unit 211	Occupancy Permit: Interior and Exterior Renovation	Ann Marie Paul / K Paul Architect	18-Dec-2024
24-572	462739	130-BLD-24	15-Apr-24	29-Nov-24	APPROVED	193 Minna Jane Drive	Occupancy Permit: Unit 3 Surgical Suite	Colin McQuillan	20-Dec-2024
24-587	1167311	141-BLD-24	2-Apr-24	29-Nov-24	APPROVED	71-73 Fairdale Drive	Occupancy Permit: New Semi-Detached Dwelling	Affleck Construction Inc	20-Dec-2024
24-696	1158062	185-BLD-24	29-May-24	27-Nov-24	APPROVED	61 Bridget Drive (Lot 128)	Occupancy Permit: Construction of a Single Detached Dwelling with a Secondary Suite	Paul Llewellyn	18-Dec-2024
24-884	362665	021-DEM-24	23-Jul-24	26-Nov-24	APPROVED	241 Euston Street	Demolition of Former Curling Club and Ice Rink Building	PEI Department of Transportation & Infrastructure	17-Dec-2024

Lot Subdivisions

FILE#	PIB	CASE#	APPLICATION DATE	APPROVAL DATE	DECISION	PROPERTY LOCATION	WORK DESCRIPTION	NAME	DEADLINE TO MAKE AN APPEAL

PA's is the version that appeared on the City's web page on Dec 2nd 2024



REVISED: Planning & Heritage Summary (Week ending November 29th, 2024)

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24-969	889873	304-BLD-24	7-Jun-24	19-Nov-24	APPROVED	18 Trainor Street	Foundation Only for Cottages	Royalty Maple Properties Inc	10-Dec-2024

Lot Subdivisions

FILE#	PID	CASE#	APPLICATION DATE	APPROVAL DATE	DECISION	PROPERTY LOCATION	WORK DESCRIPTION	NAME	DEADLINE TO MAKE AN APPEAL

*This is the "Revised" posting that appeared after Dep 2nd 2024
 Note: the only revision was for permit # 304-BLD-24*