Re: IRAC File # LA 24021 Jerry Woolfrey vs The City of Charlottetown

Submission dated: 21 February 2025

My name is Jerry Woolfrey. I am a 70-year-old resident who has lived on Irwin Drive in Southview Estates for the past 44 years. I have registered this appeal because I am convinced Building and Development Permit #304-BLD-24 ought not to have been issued for reasons that I will explain below. I am gravely concerned that the proposed annexation of the nearby C-2 Highway Commercial Zone with our R-1L Single Detached Dwelling mature residential neighborhood threatens the safety of our residents and our future viability as a R-1L residential neighborhood.

This document contains my grounds for appeal as electronically provided to IRAC, the City of Charlottetown, and the developer at 12:31 P.M. on 4 January 2025 together with notice that they were to replace the original grounds submitted by me on 20 December 2024.

On 4 February 2025 IRAC asked me to respond (by February 21st) reply to the response from The City of Charlottetown, and expand upon and particularize my grounds submitted on 4 January 2025. The city's initial response to my grounds was in error as it referred to my original grounds submitted on 20 December 2024 rather than the grounds that replaced it on January 4th. I identified this to IRAC and they therefore requested that the city respond to my January 4th amended grounds by 14 February 2025, which I can confirm I received on that date.

Since I did not hear otherwise, I am providing this submission to adhere to the initial 21 Feb 2025 deadline that IRAC set for my reply. In this reply I have also included excerpts from The PEI Planning Act, The Charlottetown Plan, The Charlottetown Zoning and Development Bylaw, and The Charlottetown Street Access Bylaw as I understand that each pertains to law and governance surrounding the issue of the above permit.

Each excerpt from the above public documents is accompanied by my observations as to how each applies to the grounds detailed in my appeal. For ease of reference in this submission I have chosen to use a font color scheme denoting the origin of each portion of my submission.

The grounds that I submitted on 4 January 2025 appear throughout this submission in the original black font. Excerpts from the noted official documents, or other identified relevant quotes, are highlighted in yellow. My observations about how I believe each specific piece of legislation, or official public policy, applies to my grounds are typed using a red font.

My response to the City of Charlottetown's 31 January and 14 February 2025 submissions containing disclosure of relevant documentation and reply to IRAC is also referenced and written in red font below each of my original grounds.

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IRAC File # LA 24021 Date: 3 January 2024

Re: Grounds for Appeal of Building and Development Permit #304-BLD-24, issued by The City of Charlottetown on 19 Nov 2024 for PID # 889873

The residents of Southview Estates, West Royalty, in the City of Charlottetown hereby oppose the issue of the above noted permit. We request that the said permit be declared null and void for reasons outlined below. The rationale used to support each of our claims is also provided under each heading outline.

Rules of Natural Justice and Procedural Fairness

1. Residents of Southview Estates contend that the "Rules of Natural Justice and Procedural Fairness", a cornerstone of Canadian Law, were not adhered to in this application process. "Aggrieved persons" were thereby denied their right to appeal as provided for under Section 27 and 28 of the **PEI Planning Act**, and Section 3.15 of the city's **Zoning and Development Bylaw.** Residents assert that they were thereby denied their right to properly assess details of the application and appeal the granting of the permit. The 21-day time limit mentioned above applies to Reconsideration hearings under Section 3.15 of Charlottetown Zoning and Development bylaws. It also applies to appeals under Section 28 of the Provincial Planning Act through the Island Regulatory and Appeals Commission.

2. Public notice that Building and Development Permit #304-BLD-24, issued on **19 Nov 2024** for PID # 889873 was not posted on the City of Charlottetown's website Permit Approval Page until some period **after 2 Dec 2024.** Furthermore, on **23 Nov 2024** our duly elected city councillor, Councillor Trevor MacKinnon Ward 8, advised us that he had asked planning staff to let him know if any permit was issued for PID # 889873 and informed us that "there still has not been anything proposed for the corner lot". However, this permit application for PID # 889873 was dated 7 June 2024 – approximately five months before our Councillor's initial enquiry and request for notification. The permit was also issued four days **before** our councillor's enquiry and request for notification on 23 November 2024. All this, in addition to residents simultaneous ongoing monitoring of the Permit Appeal Page. The result was that residents received only 5 days in which to appeal – two of which were over a weekend. We therefore submit that the noted contravention of the **Rules of Natural Justice and Procedural Fairness** was a fatal flaw in this permit approval process.

Observation: I, together with 197 residents of my neighborhood who signed a petition to the City of Charlottetown in January 2025 (the signed petition is attached as Appendix "A") feel that failure to provide proper notice of the granting of permit #304-BLD-24, as required by the Zoning and Development Bylaw and the Planning Act, denied residents the right to a fair hearing before Charlottetown City Council (Reconsideration) and/or IRAC. A paper copy of my grounds for belief, as submitted by me on 4 January 2025, was hand-delivered to each household in Southview Estates one week prior to the circulation of the petition, thus allowing time for them to make an informed decision.

The consequence of the city's failure to provide proper notice potentially impacts the safety of our neighborhood streets, and our customary ways of daily living. It threatens the future viability of our

neighborhood as a mature R-1L low-density residential neighborhood and will undoubtedly have a significant negative financial impact on our residents through devaluation of our single-family homes. Our residents made those investment decisions with knowledge of the protections enshrined in our zoning and development bylaws governing R-1L Zones. "Permitted Uses" in an R-1L Zone includes two types of structures: single-detached dwellings or modular dwellings - nothing else. No other uses were present or permitted in our zone when any of our investment decisions were made, and there was never any expectation that an adjacent C-2 Highway Commercial development would ever be permitted to annex our low-density residential neighborhood by having dedicated commercial access to our neighborhood streets from the very centre of our mature low-density residential neighborhood.

That C-2 Highway Zone was historically located at 89 Malpeque Road and had two accesses onto that highway. It had no legal right-of way or any access to our low-density residential neighborhood until a lot was severed from the zone on January 19th 2001 for the purpose of constructing a single-detached family dwelling. A driveway for that home was installed and the family took an address on Trainor Street, which is in our R-1L low density neighborhood. However, **the lot has never had access to any of the city's public utilities such as water and sewer services through our Southview Estates network.** It therefore appears that PID #889873 obtained those services from the adjacent C-2 parent lot PID #388199. That single-detached dwelling was recently demolished, and nothing else has ever occupied that lot.

The developer is now attempting to use the existence of that historically single-detached dwelling residential driveway as leverage to create a much bigger roadway for a "change in intensity of use on the lot" to a large-scale commercial development that will cause an increase in "intensity of use on the driveway"- by at least 1700%. I will identify the legal considerations of this attempted "change of use" and "change of intensity of use" of the historical single-family driveway later in this submission.

Notwithstanding the city's reply to IRAC on 14 February 2025 wherein they state that they do not contest that the 21-day period for appeal was met in this case, I submit that the city's public notification process is fundamentally flawed and thereby deprived aggrieved residents of Southview Estates of their right to appeal. I will provide rationale for that assertion below.

Governance on Public Notice of Application Approvals as Articulated in our Zoning and Development Bylaws:

Section 2.6.1. The City shall post notice on their website of the approval of any Permit and Subdivision and this shall be deemed to be notification under the by-law of a Permit being issued.

Observation: This makes no sense, because Section 3.15 of this bylaw, and Section 28 of the Planning Act say the 21-day clock starts when the "initial decision" on the permit is made. If it is not posted until day 22, then the clock has already expired. This permit was issued on19 November 2024 and not posted until sometime on or about 3 December 2024 with a **"deadline for appeal" posted as 10 Dec 2024.** Furthermore, the notice identifies the permit as "#304-BLD-24". This too caused confusion because it provides an impression to the public that this is a "Building Permit" as opposed to a "Development Permit". Of course, that is an important distinction because "Building Permits" are not appealable under Section 28 of the Planning Act.

The city recently disclosed to IRAC (January 31st) that notice was posted on or about 3 December 2024. I submit that notification needs to be on the same day the "initial decision" is made in order to meet described 21-day time requirement. Alternatively, if this subsection was meant to mean 21 days from

"public notification" (as the city now suggests in their disclosure to IRAC) then the "deadline for appeal" date listed on the City of Charlottetown's website public notice on or about December 3rd **should not have been Dec 10th** – it should have been 21 days after the public posting – on or about December 3rd, so some time after **Dec 24th.** They cannot have it both ways.

Their notice informed residents that they were ineligible for a request for Reconsideration by council (Section 3.15 of the Zoning and Development Bylaw), because their posted appeal expiry date of December 10 had passed when most residents became aware of the posting. That was despite their ongoing active efforts noted above. That is unfair and resulted in unjust consequences for aggrieved persons. Personally, I decided to register an appeal even though the 21-day time period had apparently expired, because the city's guidance made no logical sense – and still doesn't.

3.15.2 An aggrieved person or an applicant wishing to launch a **reconsideration** shall make known their intention to do so and the grounds or reasons **within twenty-one (21) calendar days of the initial decision.**

Observation: This section's wording is very clear and specific, but it is at odds with the notification listed in section 2.6.1 above – which deems that notice is given when posted: that could be months after the "initial decision". This does not align with section 28 of the Planning Act and does not align with the Dec 10th appeal deadline date provided on the city's public notice – which was a maximum of only 6 days after the notice was made public. That is insufficient time for an aggrieved person to become aware of the posting, determine the applicable details of the decision, and then meet the legal threshold specified in this section.

3.19.1 A person who is dissatisfied with the administration of the by-law by Council may appeal certain decisions to the Island Regulatory and Appeals Commission in accordance with the *Planning Act.*

Observation: Section 28.1.3 of the **Planning Act** states that:

(1.3) A notice of appeal must be filed with the Commission within 21 days after the date of the decision being appealed.

So once again, one's ability to file such an appeal within 21days is dependent on the posting of a public notice of the decision being made. This is unjust and unfair (and perhaps impossible) when insufficient notice is given as in the present case, i.e. posted on or about Dec 3rd with a stated appeal expiry date of Dec 10th. Therefore, despite the best collective efforts of residents and our councillor we were limited to a maximum of 6-days, two of which were over a weekend. I verily believe that this limitation left insufficient time for residents to become aware of the posting and provide notice of an appeal and/or request for Reconsideration, together with determing and documenting grounds for such appeal. We believe this is unjust and unfair, because our legal right to a Reconsideration Request under Section 3.15 of the Zoning and Development Bylaw and an appeal under Section 28 of the Planning Act was violated.

As-of-Right Development

1. This permit was approved based on the "as-of-right" doctrine governing specific uses within designated zones. As-of-right development doctrine simply means that you have the right to develop your property as you see fit; however, it is not an absolute right. The doctrine only applies after you have established that your development complies with all zoning bylaws and regulations. Section 3.3.8 a. of our Zoning and Development Bylaw makes this clear wherein it states that:

"An application for a Development and/or Building Permit shall be rejected if: The proposed Development does not conform to this by-law or other by-laws or applicable provincial legislation;"

2. We now know that the stated purpose of this development, as detailed on the application for this permit, was not accurate or relevant at the time the 19 November 2024 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 application information being considered by planning staff under as-of-right doctrine no longer applied, because that information was invalid. This meant that a "new" application and "new" review by city planning staff under the as-of-right rules as detailed in Section 3.3 of our Zoning and Development Bylaw 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 the city planners when the 19 November 2024 as-of-right assessment was being made - and it still isn't.
Observation: Not knowing that the submitted plans to move existing structures onto the lot had been abandoned, and without knowing what the details of the new plan were, made a meaningful assessment of the application impossible. It was therefore a blind approval. The permit ought not to have been issued, because the Development Officer could not conduct the required examination of the principles listed and required of him by Section 3 of the Zoning and Development Bylaw. Section 3 states that he/she shall give consideration to a list of principles specified therein (more on that later). "Shall" in the definition section of the bylaw means "must"- and in the above circumstances he/she obviously could not, and therefore did not do that.

   The city's response to IRAC on 14 February 2025 explained that because this permit was only for foundations, then the business of the sale of the motel and cottages to the province was immaterial. However, Building and Development Permit 304-BLD-24 contains a list of specific conditions that the permit holder must abide by. The 7th condition listed on the permit states:

   "Review against Zoning and Development Bylaw was completed for the proposed drawings that have been submitted ***which consists of existing structures that are being moved to the lot.*** *If the proposed plans change and/or alternative structures will be placed on the lot, a revision will be required,* ***including a new set of plans,*** *as per our requirements list, to be reviewed against the Zoning and Development Bylaw as well as the Building Code Bylaw and National Building Code."*

   The terms quoted in condition #7 above are very specific, are clearly written on the permit, and are unambiguous. In this case, the plans did change as the existing structures were sold and moved elsewhere long before the issue of this permit. The permit clearly states that a new set of plans and a new review was therefore required. This meant that the planning review previously conducted was invalid for the new structures that were then planned for the lot. That could be 4 storey buildings, or a tiny home community, or any "non-conforming" C-2 use. One cannot properly conduct an as-of-right review without knowing those details. The permit ought not to have been issued, because the required Section 3 review was not conducted for whatever the revised plan might have been.

3. Another major issue not adequately examined under Section 3.3 pertaining to as-of-right development applications 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. 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 file for PID #889873, it does not appear to have been used in the required as-of-right assessment process. Furthermore, the required approval of Public

Works staff (again a Section 3.3 requirement) was not given prior to this permit being issued. Therefore, it ought not to have been issued.

Observation: The site plan provided to us by the Planning Department shows the presence of a driveway directly into the intersection of Katie Drive and Trainor Street. However, the site plan shown on the last page of the January 31st disclosure material provided to IRAC also shows a second driveway onto Trainor Street from the adjoining C-2 lot (PID #388199). I know from previous enquiries made with the city in 2020 that no application for such driveway was ever made to the city after the developer acquired this property. I know **that the second driveway indicated on this site plan did not exist and was not a historical access point.** The current developer, who also owned the U-Haul parcel at that time (PID #388199), created what residents now refer to as "the illegal driveway" **after** he acquired the property in November 2010 – which was more than two years after the Street Access Bylaw requirements were enacted on 11 June 2008. He failed to comply with those bylaws when he created the "illegal driveway".

I provided all the above evidence to the city in a formal written complaint on the required form on 1 Sept 2021. The first reply from the former development officer (Mr. Alex Forbes) was not provided until 12 January 2022. His response was that they considered the driveway legal because of the length of time that the previous and present owner had used it illegally and without any documented complaints. Curious rationale at best.

Upon receiving this information from Mr. Forbes, I investigated further. On 18 February 2022 I provided the city with written testimonials from neighbors who live in the vicinity of the illegal driveway. I also provided time stamped arial and street level photos taken from a Provincial Government website and a Google Street View website which together disproved the statements purportedly made to Planning staff by the developer. The details of my written rebuttal and the official reply to my rebuttal from the city is important to the present case, because it applies to driveway access into our mature low-density neighborhood from this C-2 Highway Commercial Zone.

Five months after I submitted my rebuttal Mr. Forbes wrote to me stating that he decided to challenge the developer on his previous assertions about the historical nature of the driveway and requested **a statutory declaration to support his claims.** To the best of my knowledge, the issue of the illegal driveway onto Trainor Street ended there. That is, until it appeared on the current site plan submitted by this same developer for this development.

The "illegal driveway" details referenced above is applicable to the present case. It is part of the same C-2 Highway Commercial Zone that is also attempting to once again annex our mature low-density R-1L neighborhood. I am unable to provide a file number associated with my official complaint because the city repeatedly refused to provide one; however, the Planning Department should have the entire series of correspondence filed under whatever system they use i.e. by complainant name (Jerry Woolfrey) and or by date – 1 September 2021.

I recently brought the matter of my official complaint regarding the "illegal driveway" to the attention of the current manager of Planning and Development (Mr. David Gundrum) at our meeting on Monday December 16th, 2024. He advised me that he would examine the file and get back to me – he never did. However, in correspondence to another resident of our neighborhood on January 15th, 2025, Mr. Gundrum made the following relevant comment which I have highlighted in yellow:

"Regarding the potential U-Haul development on the parcel abutting to the east at 89 Malpeque Road (PID# 388199), this development would be required to have main access on to and off of Malpeque Road as there exists no legal means through a shared access easement that this parcel could route traffic through to the west onto Trainor Street/Katie Drive via 18 Trainor Street – ***that access for 89 Malpeque Road simply does not exist.***

***O*bservation:** I must point out here that while Mr. Gundrum stated that access through the 18 Trainor St. driveway "simply does not exist", there is a 2nd driveway shown on the site plan for this development. It is the "illegal driveway" described above and used illegally by this developer for his 89 Malpeque Road property for years. It is also the same driveway shown on the site plan submitted by the same developer and purportedly used by Mr. Gundrum 'et al' to approve this development.

All access would have to be to the east to Malpeque Road and any suggestion to do otherwise would be subject to scrutiny and review by the City, primarily Public Works – ***the possibility of us granting that would be very tenuous*** *and I would say very unlikely given the residential nature of the road network to the west via 18 Trainor Street.*

Observation: *Yes, and that same scrutiny ought to have been applied to the present application, but it was not. See details on that in the information I have provided below.*

All that said D….. (name redacted), the matter is now before IRAC who now transplant and take the place of both City staff and City Council as the arbiters and decision-makers on the matter and we will be standing by at this point to hear back from IRAC staff into February concerning their direction on the matter moving forward. It is important to keep in mind that the property at 18 Trainor Street is zoned (C-2) and has been for at least the last 26 years

Observation: *The parent lot, PID#388199 might have been zone C-2 since 1999; however, PID#889873 was not created until 19 January 2001, and that was for the purpose of constructing a single-family dwelling – in keeping with the neighborhood that it sought to annex.*

and as well, this property has an existing legal road access onto Trainor Street that the current (and future) owners can exercise for their use as related to any permitted uses under the (C-2) zone, subject to review by City Public Works for traffic impacts.

Observation: *This part of Mr. Gundrum's statement is true only* ***if*** *the requirements for street access, as enunciated in our Street Access Bylaw and Zoning and Development Bylaw, are met. I will explain below why they were not met. However, perhaps of even greater importance is Mr. Gundrum's forewarning to our resident that this former single-family driveway can be used by* ***all*** *future commercial operations on the lot, which can include warehouse and distribution centres, funeral homes, car dealerships, and many other "permitted uses" for C-2 Highway Commercial Zones.*

I hope that helps clarify and address your concerns - please advise if you have any further questions in regard that we can help answer.

Sincerely,
David Gundrum"

Next, I am providing excerpts (in yellow highlight) of applicable sections of the City of Charlottetown's Street Access Bylaw and the Zoning and Development Bylaw that I verily believe ought to have caused an informed and objective reviewer to reject this development application. Following each excerpt, I have again noted my observations (in red font) as to how each bylaw ought to apply to this development application.

2. Purpose of Street Access Bylaw

2.1. The purpose of this bylaw is to establish **rules and procedures** for the application for and approval of **modifications to existing accesses** and the creation of new accesses to public streets in the City of Charlottetown.

Observation: This commercial development roadway **is** a **"modification to an existing access"** that had previously been on an angle in the corner of two intersecting streets. It was installed to be used as a private driveway for a single-family dwelling. The driveway is now much larger. It now appears like a continuation of Katie Drive – a roadway into a large commercial development with 17 tourist accommodation units.

This bylaw, the Street Access Bylaw, establishes the **rules and procedures** to be followed for the required applications and approvals where such modifications to an existing access is planned. In fact, at our Dec 16th meeting with Mr. Gundrum the public works person present suggested that **the modification was so significant that a stop sign might be required for the driveway itself,** plus two new stop signs: one on Katie Drive and one on Trainor Street. None of that was required for the existing single-family dwelling driveway that is now being exploited by the developer and modified for use by his large commercial development. No driveway (including the driveway for the single-family dwelling that always occupied this lot) in our low-density residential neighborhood has ever needed a **stop sign**. So yes, this is clearly a "modification to an existing access" and as such required that the "rules and procedures" laid out in the Street Access Bylaw be applied to this development application.

4. Application of Street Access Bylaw

4.1. This bylaw applies to all persons seeking to modify or **intensify** the use of an existing access or to create a new access to a public Street within the City.

Observation: This development calls for a marked **intensification of use** of an existing access as covered by this bylaw. The existing driveway was built when the lot was first created on 19 January 2001 for the purpose of accommodating a single-family dwelling. That was in keeping with the rest of our neighborhood, and residents were surprised to learn in 2020 that it had reportedly retained C-2 Highway Commercial Zoning status after it was severed from the parent lot in 2001. It should not have retained that zoning status from the outset, because single family dwellings are not a legal "permitted use" in a C-2 Highway Commercial Zone. It would mean that Council had to approve a "non-conforming use" of that lot at the time they approved subdivision of PID #388199 – a nonsensical proposition.

That house remained in place, essentially unchanged, until it was demolished last year. Nothing else has ever occupied PID # 889873. We remain unconvinced that this lot was not rezoned R-1L. It was created for a single-family dwelling taking an address on our residential street – not the 89 Malpeque Road address that was associated to the parent lot from which it was severed. It would also be immediately used for a non-conforming use for a C-2 Highway Commercial Zone.

Furthermore, in May 2024 I was present at a public meeting when a City of Charlottetown Zoning map was placed on the overhead showing that PID #889873 was colored the same as the remainder of our R-1L neighborhood: **yellow, not red,** as was the case with the parent lot (PID #388199) from which it was severed in 2001. That discrepancy has never been explained - despite my requests to do so during that public meeting, and many times since – including at our 16 Dec 2024 meeting with the Manager of Planning and Development. The city's 14 February 2025 reply to IRAC also failed to explain why that city map showed PID #889873 colored the same as our

R-1L zone while the remainder of the C-2 zone, PID #388199, was not. The consultants told me at that May 2024 public meeting that they did not make that change and that it came from the City of Charlottetown - colored yellow the same as all our R-1L lots.

This proposal is for a large commercial development consisting of 10 rental cottages, plus a 7-unit motel and office, plus accommodations staff and service vehicles. I submit that is clearly an **intensification of use** – at least by 1700%. Therefore, the requirements of this Street Access Bylaw **do apply** to this driveway and to this development application.

Planner Stephanie MacDonald noted this as a concern that was not satisfied, so she put the file on hold on Sept 10th 2024 - see page 178 of the 31 January city disclosure document to IRAC wherein she stated the following:

> *"We are missing the lot grading as Melissa pointed out. I've notified Chris that I've officially put the file on hold, as every time I peak at this one, something unanswered arises. The previous use was a single-family dwelling, and the proposed use would mean an increase of intensity of use on this lot. So, I will not rush through the review on this one, especially since we are not doing public consultation."*

5.2. "Access Change(s)" includes the creation or addition of any new Street access or any change or modification to the design, location, configuration, use or intensity of use of an existing Street access.

Observation: Again, I submit that the proposed access point for this commercial development is clearly captured within this "Access Change" definition detailed in this section. Please refer to the same rationale provided by me under section 4.1 above.

7.1. The Committee hereby authorizes and empowers the Manager of the Public Works Department:

(a) to, approve or deny Street Access Changes within the City and, where necessary or **advisable,** to do so in consultation with the Committee, the Manager of the Planning Department and any other applicable City department;

Observation: The Manager of Public Works must approve or deny this "Street Access Change" (this is an "Access Change" as defined in section 5.1 above) and the **manager** must do so **within the guidelines and requirements of this Street Access Bylaw**. It is not a responsibility the manager can delegate or designate to Planning staff. Although in this case, I would submit it was also advisable for the manager to consult with the Committee and/or the Planning Department. That did not happen, in fact, no application was ever made to Public Works for the required "Access Change" as required by Section 8.1 provided below.

8.1. **No Street Access Change shall be permitted unless** a completed application form is first submitted to and is approved by the Manager of the Public Works Department.

Observation: This written requirement is clear and unequivocal. No "application" for an "access change" was ever submitted as **required** under this section. Therefore, no application was considered or approved or denied by the Manager of Public Works prior to the issue of this development permit. On pages 194 -195 of the city's 31 January disclosure to IRAC there is a fleury of email exchanges amongst city staff relating to the need for driveway approval for this property due to constant pressure from the developer. During this time period Planning staff received a previous 2022 drainage plan from another potential developer of this site and forwarded that to Public Works for review.

The only reference to any driveway review that followed was a short note from Donovan Neelin at 8:55 a.m. Oct 1st to Planning intake officer where he stated, "No city trees, all clear". That is the **only** record of approval documented in the city file. Ten minutes later, the said intake officer at Planning forwarded the above "approval" email to Melissa Kitson, technical and administrative assistant in the Planning Department. Within four minutes she had changed the follow up flag status in the internal tracking system from "pending" to "completed" and sent a copy of the Donovan Neelin "approval" email to the case manager, Stephanie Macdonald. On Oct 4th MacDonald advised the developer that she had completed her work on the building and moving permit and forwarded it for review by building code staff. However, the Building and Development permit was approved and signed by her 9 days earlier, 26 September 2024 – 6 days before Donovan Neelin gave the "No city trees – all clear" approval. I respectfully submit, that what we see here does not amount to an "approval" by the Manager of Public Works as required under the Street Access Bylaw but rather, an effort by the Planning Department to change the driveway flag status from "pending" to "approved", get it off the desk, and get the developer off their back. Our residents had no input, because we were supposed to be protected by our bylaws – they were not followed.

I submit that the review of the street access in this case was non-existent, beyond a statement saying: "no city trees – all clear". This development permit was approved despite clearly not meeting the **requirements** of this Street Access Bylaw.

This is not a trivial oversight. The negative consequences of this failure to adhere to the bylaws for the low-density residential neighborhood of Southview Estates are significant and unacceptable. Please refer to the January 2025 petition to the City of Charlottetown signed by nearly 197 Southview Estates constituents to appreciate the residents' sentiments on this.

8.3. Where the application relates to or is associated with an application to the Planning Department, the application shall include a plan detailing the current access and **any requested Access Change**.

Observation: "shall" as noted in this section means "must"; however, the application to Public Works required under this by-law was never submitted. A development permit was issued anyway - without any meaningful input or approval from the Manager of Public Works. That was yet another oversight by the Planning Department in this permit approval process that will have significant negative consequences for our residential neighborhood.

9.2 No work shall commence on the Access Change prior to the issuance of a Permit by the City.

Observation: As outlined in the above excerpts from the Street Access Bylaw the proposed "change in use" for PID #889873 and the associated **"change in intensity"** of the use of an existing driveway required an application to the Manager of Public Works for an "access change". However, no such application was made, and no permit was ever issued by the Manager of Public Works.

The work on the "access change" proceeded anyway – without proper approval as required by the Street Access Bylaw. The development permit ought not to have been issued unless and until that requirement was met. It was not met and, based on the requirements of the Street Access Bylaw, I verily believe that it could not be met. It is also my belief that the developer knew that it could not be met, because he was rejected twice before – by Planning staff in 2019, and by Planning Board and Council after Reconsideration Hearings in 2020/2021.

I also submit that the January 2021 decision of Council set a precedent for street access for this C-2 Highway Commercial Zone – no street access to the R-1L low-density residential neighborhood of Southview Estates. I submit that this failure to obtain the required permit from The Manager of Public Works was yet another fundamental oversight in this Building and Development Permit approval process - one that will cause enormous negative consequences for residents of our mature low-density residential neighborhood.

10.1. Access from a land parcel to an adjacent public street is not a property right.

Observation: This directly addresses the assumption by some decision-makers that the as-of-right doctrine is an absolute right - it is not. This section makes that declaration clear with respect to street access. This is yet another reason why this as-of-right development permit ought not to have been approved. The requirements of the foregoing sections of the Street Access Bylaw were not met. Either they were not considered, or they were ignored due to a misinterpretation of the as-of-right doctrine. Either way, the decision was wrong. It resulted in a serious injustice to, and lack of consideration for, Southview Estates residents.

10.2. In determining if a proposed Access Change be approved, the following factors **shall** be considered:

(e) The distance to adjacent intersections or accesses;

Observation: The proposed access is directly into the intersection of two streets – it is zero distance from an adjacent intersection.

(f) The anticipated additional volume of traffic on the Street, as well as **volumes anticipated using the access to the subject property** and using accesses to adjacent properties;

Observation: There will be guests from 10 cottages and 7 motel units, plus facility staff and service vehicles, using this access point that is **directly into an intersection**. Most users will be tourists who are unfamiliar with the neighborhood and the unique placement of the driveway into an intersection. There will also be children from the commercial development playing in the intersecting driveway - because there is no other playground for them in this development – and no room for one as shown in the site plan. I submit that these factors present an unacceptable and serious safety risk for all users, and an unacceptable liability risk for the approving authority: The City of Charlottetown. It is preventable. That is why these by-law requirements were written, enacted, and meant to be followed and enforced. That is why the word “shall” is so frequently used throughout. Instead, all the noted requirements were ignored. Ignored at the peril of Southview Estates residents who no longer have any public input into these decisions, and ignored at the peril of visiting tourists and their families.

(i) Alternate property accesses possible;

Observation: This property, and the adjacent C-2 Highway Commercial Zone property (89 Malpeque Road) on which the Royalty Maples Cottages and Motel were located, were both owned by this current developer in 2019. At that time, he attempted to annex his commercial zone with the low-density residential neighborhood of Southview Estates via a proposed access road onto Trainor Street. Planning staff rejected that proposal due to the incompatibility with our neighborhood. They recommended that access for that proposed commercial development be provided along the southwest lot line and unto the Malpeque Road. Land for that proposed right-of-way was part of that C-2 Highway Commercial Zone and was owned by the same developer – the same developer as in the present case. The same incompatible uses exist now as existed then: incompatible uses in two incompatible zones at opposite ends of the zoning spectrum.

The developer tried again in 2020 to consolidate PID # 889873 with a portion of his other property (PID #388199) and to once again seek access onto Trainor Street. That proposed consolidation of lots was designed with no right-of-way provided to the Malpeque Road. Of course, the developer knew that this

meant the 2019 recommendation of Planning staff was no longer an option, and that the only access would therefore have to be into our low-density residential neighborhood via an annex to Trainor Street.

Planning Board rejected that proposal on two occasions, and Council rescinded its initial approval after a comprehensive Reconsideration Hearing. During the hearings residents cited safety concerns, requested strict adherence to The Charlottetown Plan's stated strategic policy of **preserving existing low-density residential neighborhoods**, and enforcement of the new 2018 Land Use Buffer requirement designed to serve as a visual and spatial separation of uses in a C-2 Highway Commercial Zone from the incompatible uses in a R-1L Residential Zone.

Council's decision meant that, for a second time, this developer was denied a C-2 Highway Commercial Zone access point onto Trainor Street. We believe that Council's 2021 decision established precedent for access for PID #889873 and PID #388199. The decision applied to the entire C-2 Highway Commercial Zone: no commercial access point from the C-2 zone into our low-density residential neighborhood. Council's decision was consistent with the stated objective in The Charlottetown Plan wherein it defines the role of the city as one that *"articulates policies which preserve existing residential low-density neighborhoods"*.

The Land Use Buffer requirement is an instrument designed to ensure such preservation and to enhance the safety of users on both sides of the physical barrier. **The Land Use Buffer requirement is a safe, simple, unambiguous, long-term solution to present and future efforts of landowners of this C-2 Highway Commercial Zone to annex on our incompatible low-density residential neighborhood.** It is an instrument designed with citizen safety in mind, and with clarity in mind.

In recognition of the Land Use Buffer requirement, the residents of Southview Estates have provided the city with a proposal to again provide access to PID #889873 via the same route proposed by Planning staff in 2019. We believe that option is still available through negotiation with U-Haul who recently purchased the remaining parcel from the developer. At the time of our submission no application for development had yet been made by U-Haul, so we suggested that it was an excellent opportunity for an access point negotiation between the City of Charlottetown and developers for both these C-2 lots. Our proposal is made in recognition of Section 10.2. (i) of our Street Access Bylaw for mandatory consideration of: **"Alternate Property Accesses Possible".**

Unfortunately, the Mayor, and the Manager of Planning and Development, has repeatedly told me and other residents their hands have been tied because I had registered this appeal. We know that is not the IRAC policy, and we continually encouraged the city to explore our proposal – they have continually refused. The city has claimed in their 31 January and 14 February replies to IRAC that our proposal for an alternate street access is not an appealable ground. I disagree, because it is a **required** consideration in the approval process by virtue of Section 10.2. (1) of our Street Access Bylaw and by extension Section 3.3. of the Zoning and Development Bylaw. It is an important aspect of our overall appeal of this permit approval, because it is a **required** part of the as-of-right review.

Recognition of the Land Use Buffer Requirement would mean that all parties seeking an approved safe access to a public street in this C-2 Highway Commercial Zone would have to work with the City of Charlottetown to establish one safe and efficient access onto the Malpeque Road – instead of the two historical access points for this C-2 Highway Commercial Zone onto that roadway.

If that is not acceptable to the owner of PID #889873, then the lot can be rezoned residential. It is not landlocked. This would merely be a technical change, because from day one the lot was created to accommodate a single-family dwelling that mirrored the rest of our 134-home neighborhood. In fact, we have provided evidence that it is perhaps already zoned R-1L, and if not, our bylaws indicate that it should have been.

So, as for the question posed in the above excerpt of Section 10.2. (i) of the Street Access Bylaw, the answer is yes: **alternate property access is possible**, but the city did not do that, and thus far shown an unwillingness to explore that alternative.

(j) The impact on public safety and convenience for the subject property and for the general public in providing optimal traffic flows overall on the City's Street Network. Driveway Width.

Observation: All the factors for consideration listed above in Section 10.2 are mandatory considerations. We know this because the requirement is prefaced by the word "shall", not "may". All those factors for consideration that I have copied from the Street Access Bylaw are applicable to this required "Access Change". **This development permit was issued even though none of the noted requirements were met**, and despite the obvious safety concerns that they were intended to address through those mandatory consideration factors.

In their January 31 and February 14 replies to IRAC the city purports that the decision to approve this development permit for PID #889873 was based on sound planning principles considering the Official Plan and Zoning and Development Bylaws. I disagree. While it is easy to make that subjective statement, it flies in the face of the intent of the Street Access Bylaw requirements detailed above: which is also part of the objective as-of-right assessment process under Section 3.3 of the Zoning and Development Bylaw.

10.3. In addition to the factors for consideration in section 10.2, the following criteria regarding driveway width **shall apply to all applications** for Access Change:

(a) For a low to medium density residential property located on a corner lot, the driveway opening at the curb must be located no closer than 11 metres from the property line of the intersecting street.

Observation: I realize that this requirement is for a residential property; however, a reasonable person would expect that a commercial property with significantly more traffic flow would be even more restrictive, not less. The existing driveway does not meet even this less restrictive requirement. It is smack in the middle of the intersection of two streets – 0 metres from the property line of the intersecting street.

(b) **For a commercial property**, a site plan must accompany the Application, which will be reviewed by the Manager of the Public Works Department.

Observation: This refers to an "Application" for Access Change required under this Street Access Bylaw. No application was made as **required** by this bylaw, so no review was possible. If a review had taken place, then the minimum requirements outlined in paragraph (a) above would apply. However, because the access point is being changed from single-family residential use to new large commercial development use, one would think the reviewer would have insisted on even greater restrictions, i.e. further than 11 meters from the intersecting street. Again, this driveway is zero meters. Another flagrant violation of this bylaw that was missed or ignored in the granting of this permit. Another oversight contributing to safety risks for my neighbors and their families, and for visiting tourists and their families. I submit that does not amount to the application of sound planning principles as the city has espoused in their replies to IRAC – at a minimum, sound planning principles ought to comply with the laws that govern it. More on this below.

Zoning and development Bylaws

1.5.1 Nothing in this by-law shall relieve any person from the obligation to comply with the requirements of any other by-law of the City in force from time to time, or the obligation to obtain any license, Permit, authority, or approval required under any by-law of the City

Observation: This applies to all the Street Access Bylaw requirements described above. It includes the requirement for an application to, and approval by, Public Works where there is a change of use, and a change in **intensity** of use of the existing residential driveway. As I mentioned earlier in this submission this was flagged by Planner Stephanie MacDonald when she decided to put the application on hold. The developer did not apply as required. The requirements were not met despite the many safety issues identified herein. The development permit was issued anyway. That is unacceptable. That is not an application of solid planning principles.

3.3.6 An application for a Development and/or Building Permit shall be rejected if:

Observation: This section clearly states that this permit "shall", meaning "must", be rejected for reasons specified in paragraphs a.,c., and e. of this Section (see below). All three requirements ought to have caused rejection of this permit, but it was approved anyway. That was a mistake and was not in keeping with sound planning principles.

a. The proposed Development does not conform to this by-law or other by-laws or applicable provincial legislation;

Observation: It does not conform to the Street Access Bylaw for the reasons noted above. It does not conform to this bylaw for the reasons I have identified in the paragraphs below.

b. …

c. There is not a safe and efficient access to the Public Street;

Observation: The proposed access is illegal. It is directly into the intersection of two streets and do not meet the specific minimum location requirements and many other restrictions and requirements of the Street Access Bylaw and Zoning and Development Bylaw as detailed in this submission.

d. …

e. The proposed Development would be detrimental to the convenience, health or safety of the occupants or residents in the vicinity or the general public.

Observation: This would include interfering with the safety of daily neighborhood family pedestrian activities. It would also include the health and safety of motel guests and their children, as well as local and visiting motorists.

Guests arriving via Katie Dr looking straight ahead at the motel would drive directly through the flow of traffic from Trainor St, and straight into the driveway as if it was a continuation of Katie Drive. Even worse, the parking lot and the offending driveway would serve as **the only playground available for guests' children** - children who are unfamiliar with the precarious position of the driveway and intersecting streets - a driveway which I submit is illegal under this bylaw, see Section 6.3.4 below, and the Street Access Bylaw requirements noted above. There is nowhere else for the children staying in the 17 units to play. This commercial property is only 1.3 acres. There no space for a playground: It is all roadways, buildings, and parking spaces – a recipe for fatalities and resulting civil liability for the City of Charlottetown and its taxpayers.

As a 35-year police veteran, I have personally experienced the grim consequences of such tragic accidents. My neighbors and I will not stand idly by and allow the casual handling of this permit to contribute to such preventable loss of life.

In the 31 January disclosure documents submitted to IRAC, the Planning Department staff frequently note that they have a heavy workload and cite it as a factor in permit delays. This application for a development permit was submitted on 7 June 2024 and not approved until 19 November – over 5 months. The developer was constantly chasing staff for updates, which added more pressure. I verily believe that contributed to many of the oversights and omissions that I have identified; however, that perhaps legitimate excuse does not right a wrong, and residents and tourists ought not to pay the price. When mistakes are identified, they must be corrected.

3.3.13 The Development Officer **shall** give consideration to the disposition of a Development and/or Building Permit application having regard to the following Development principles:

a. Compatibility and interrelationship of the proposed uses of the Building(s);

Observation: See my comments under 3.3.6.e above, in addition to the finding by Planning staff in 2019 that the proposed development was incompatible with our low-density residential neighborhood.

The convenience, adequacy and safety of the Street and pedestrian connections including

Parking spaces, driveways, and access points; see above comments in 3.3.6.e

a. The impact on the Public Street system and traffic flow; see above comments in 3.3.6.e

b. Safe and convenient access and egress between the site and the Public Street; see above comments in 3.3.6.e

c. **Building form and design that is compatible with** adjacent urban or natural landscape, natural environment, **adjacent Building forms, architectural features and scale;**

Observation: A 17-unit tourist accommodation development consisting of 10 tiny rental buildings, plus a 7-unit motel and office, is not compatible with the single-family dwelling building form of any of the 134 homes located in our adjacent low-density residential neighborhood. This is also a marked departure from the single-family dwelling form that was the only structure to ever occupy that same lot previously. All aspects of the proposed commercial development are incompatible as they apply to this required consideration.

d. Appropriate infrastructure and Municipal Services, traffic and traffic controls, (there are no traffic controls present and none were previously needed)

4.9 Street Orientation

4.9.2 All Buildings will be generally aligned with the Street. **Observation:** The proposed motel foundation is not at all aligned with Trainor Street or Katie Drive. It is end on to the street.

6.3 Access to a Public Street

6.3.2 All access to a Lot, both vehicular and pedestrian, shall be safe and where there is concern, an independent assessment by a qualified traffic consultant may be required at the Owner's expense.

Observation: 197 constituents of Southview Estates signed a petition to the City of Charlottetown in January 2025 voicing safety concerns with this commercial development directly annexing our low-density residential street network that is not designed to accommodate C-2 Highway Commercial traffic. Our neighborhood must be protected from the myriad of "permitted uses" having as-of-right ability to locate on this C-2 lot and the adjacent C-2 lot. Permitted uses in a C-2 zone includes many of the same "permitted uses" approved for a Heavy Industrial Zone, (M-2), a Business Park Industrial Zone (M-3) or a Port Zone (P-2). Do any of those zones and as-of-right permitted uses sound even remotely compatible with an existing mature low-density residential neighborhood? To be more specific such "permitted uses" include:

> ***Retail and Distribution Warehouses; Equipment Sales and Rental Services; Cannabis Retail Stores; Theatres; Shopping Centres; Eating and Drinking Establishments; Drive-thru Businesses; Automobile Service Stations; Funeral Establishments; Automobile Sales and Services***

This is a C-2 Highway Commercial Zone and is appropriately named. **If the proposed access point for this development is allowed, then as the manager of Planning and Development forewarned us: any of the future commercial ventures listed above can claim as-of-right privilege and continue to use this access point to move heavy commercial equipment and vehicles through the narrow streets of our low-density residential neighborhood.** That is alarmingly unsafe for our residents, unacceptable, unwanted, and threatens the viability of our entire neighborhood as we know it. Our neighborhood would essentially be transformed from a R-1L Zone into a Mixed-Use Zone - and that is not what we signed up for based on the zoning restrictions established for a R-1L single-detached dwelling low-density residential neighborhood.

That defies the whole purpose of zoning and the certainty that zoning restrictions are designed to provide to prospective investors. That is why the first stated objective in The Charlottetown Plan cites the need for the city to preserve existing low-density residential neighborhoods. That is also why a 13-ft Land Use Buffer requirement was added to our Zoning and Development Bylaw in 2018: to separate incompatible commercial uses in a C-2 Highway Commercial Zone from residential uses in a R-1L Zone. Resident safety ought to be paramount. We do not oppose as-of right commercial development provided that there is recognition of the need to apply the Land Use Buffer requirements for this new commercial development. It is fundamentally essential to protecting our residents – now and in the future. That, I submit, would be an application of sound planning principles.

6.3.4 An access to a Corner Lot shall be placed **no closer than 15.24 m (50 ft) to the Right-of-way of the intersection or** may be permitted at **the furthest possible** distance from the street intersection**.**

> **Observation: This lot is 0 ft from the intersection of Trainor St and Katie Dr** – it is right in the middle of the intersection. At our 16 Dec 2024 meeting the representative from Public Works suggested the need for three stop signs to address safety concerns – one on Trainor, one on Katie, and one on the proposed **driveway**. This is a red flag that the proposed development does not meet the requirements of this section, or the foregoing section. In other words, the requirements of Section 3.3 for the issuance of a development permit were not met. This is a disregard for resident safety, and the safety of hotel guests – especially children. The access was not reviewed nor approved as required by our Street Access Bylaw. For these and other reasons noted in this submission, it ought to have resulted in a rejection of the application for this commercial development as required by Section 3.3.6 shown above.

6.3.9 Where there is an **intensification of use** on a Lot, one (1) or more access points may need to be closed to enhance the safety of the Street access to that Lot.

Observation: This is consistent with the above Section 6.2, 6.3, and 6.4 safety concerns and those of all our residents. There is a clear **intensification of use** on this lot: from single-family residential use to a large commercial 17-unit motel and cottage operation. That is why Planner Stephanie MacDonald stated in the city's January 2025 disclosure package that she put the file on hold on 10 September 2024. Additionally, as we can see from the requirements of the Street Access Bylaw and the above section of this Zoning and Development Bylaw, the existing driveway did not even meet legal requirements for a single-family residential driveway. Approval was not sought, not obtained, and according to our bylaws - appears unattainable, yet the development permit was approved anyway. That was wrong and is causing significant harm to our neighborhood and our residents.

6.3.10 All access locations and curb crossings shall require the approval of the City's Public Works Department, …

Observation: This is another requirement that was also not met as disclosed to us by the Public Works attendee at our Dec 16 Meeting – he had not even seen the file until **after** the permit was issued. Again, this alone requires rejection under Section 3.3.6 above.

6.3.11 The City and/or the Province may restrict or eliminate existing access to a Lot if there are Street improvements necessary or for public safety due to the activities on the Lot.

Observation: See my comments above in the Section 3.3.6.e excerpt from the zoning bylaw relating to children from 17 units playing in the driveway at the intersection. The historic street access to this lot ought to have been closed due to the change in use on the lot, and the change in the intensity of use precipitated by that. This subsection provides authority to do that, but the casual appearance of this review by reportedly overtasked staff failed to consider it.

6.3.12 A traffic study may be required for any Development or proposed Subdivision in the City, and it will be reviewed by both the Public Works and the Police Department.

Observation: None requested so there was nothing to rely on during this application review.

6.3.14 No Building and/or Development Permit shall be issued where the proposed Building or Structure, or its Alteration, repair, location or use **would be detrimental to the convenience, health or safety of occupants or residents in the vicinity** or the general public with regards to traffic access and circulation.

Observation: Please see the concerns expressed by residents in the citizens' petition, and the safety concern noted above for guests staying in the 17 tourist accommodation units - typically with small children running and playing in the driveway, because there is no playground. This is again the precise purpose of the Land Use Buffer requirement for new commercial development. It was designed to mitigate potential safety risks stemming from incompatible uses between incompatible zones: a C-2 Highway Commercial Zone and a R-1L Residential Zone - A barrier providing a visual and spatial separation of incompatible uses. However, to be the effective safety mechanism envisioned, it must be recognized and enforced.

Land Use Buffer Requirement

1. The requirement for a **Land Use Buffer,** a physical barrier designed to separate Commercial uses from Residential uses does not appear to have been considered in this as-of-right development application.

Observation: ***Nothing in the Planning Department material provided to IRAC on January 31st 2025 by the City of Charlottetown makes any mention whatsoever of consideration by anyone of the Land Use Buffer requirement – and it is not depicted or mentioned on the site plan. At the time of that submission, the city solicitor noted that there is room for a Land Use Buffer along a portion of the lot. However, no details are shown on the site plan used in the consideration process. That does not amount to any consideration of the requirement before the permit was issued.***

The requirement was added to our Zoning and Development Bylaws in 2018. Here is the text as it appears in our bylaw:

a. *"6.6.1 The provision and Maintenance of a Land Use Buffer between* ***Commercial*** *or Industrial* ***Uses*** *and adjoining* ***Residential Uses*** *shall be required for all* ***new*** *Development, and such a Land Use Buffer shall include one (1) or more of the following features: a berm; a natural area containing a Watercourse or trees; or a man-made feature such as a wall, Fence, or walkway.*

b. *6.6.2 Unless otherwise provided for in this by-law, a 4.0 m (13 ft) Land Use Buffer* ***shall be shown on the site plan and constructed*** *along any Lot Line of a Multi-unit Residential, Commercial, or Institutional Building where the said Lot Line abuts a* ***R-1L****, R-1S, R-1N, R-2, or R-2S* ***Zone.****"*

2. So, the above Section 6.6.1 text describes a requirement for a 13ft Land Use Buffer between Commercial **"Use"** and adjoining Residential **"Use".** That is precisely the situation presented in this application for "new development" for which Section 6.6.1 states that a Land Use Buffer **"shall be required".**

3. Charlottetown's Official Plan defines the role of the city as one that *"articulates policies which preserve existing residential low-density neighborhoods"*. The City of Charlottetown fulfilled that role in 2018 when it articulated a new policy in our 2018 Zoning Bylaw. Through that bylaw amendment, **Council added a Land Use Buffer requirement** for any **new development** in a C-2 Highway Commercial Zone that shares a boundary with a R-1L low-Density Zone - like Southview Estates. That Section 6.6.1 Land Use Buffer requirement mandates a **barrier** like a wall, a fence, or watercourse designed as a "**visual and spatial separation between commercial uses and adjoining residential uses".** We believe that the purpose and intent of that bylaw requirement is very clearly spelled out in black and white plain language that any reasonable person should easily understand. It also reflects an objective laid out in our Official Plan: one of preserving residential low-density neighborhoods.

4. Section 6.6.2 of that bylaw clearly specifies that ***"a 13ft Land Use Buffer shall be shown on the site plan and constructed along any Lot Line of a… Commercial…Building where the said Lot Line abuts a R-1L…. zone"***. Note that the term "zone" is key here because the bylaw specifies the requirement for that barrier along any lot line of a commercial development where it abuts a R-1L "**zone"** - not only where it abuts a **"residential Lot"**, as was the case with the repealed 2006 **Landscaped Open Space** Buffers requirement.

5. "**Land Use** Buffers" are also very different from the "**Landscape** Buffers" provided for in the nearby Section 6.5. of our zoning bylaw. Landscape Buffers are beautification features like flowers and shrubs within a zone, and the bylaw specifically **permits** driveways through those buffers so that people can access property within their zone. Conversely, Land Use Buffers make **no** provision for driveways, roads, or any access points. This is because Land Use Buffers are intended to act as a visual and spatial **separation** between highly incompatible commercial "uses" and low-density residential "uses".

6. Proponents of the **annexation** of this C-2 Highway Commercial zone with the R-1L Low-Density Residential zone of Southview Estates purport that Trainor Street is not part of a R-1L zone, and that therefore the Land Use Buffer requirement does not apply. That supposition is incorrect - and here's why. The developers of Southview Estates built every square inch of this neighborhood on their residential-zoned property. That residential development included construction of all our streets, like Trainor Street and Kati Drive. All that construction was built on the developer's land that was located 100% inside a residential zone. The owners of the C-2 Highway Commercial Zone contributed nothing to that development. It's western border just happened to back onto that residential property. **Observation:** The C-2 Zone had no assigned right-of-way to that residential land. The Commercial Zone (which contained PID #889873) had street access only unto the Malpeque Road. It had no street access at the back of the property where it bordered our developer's residential land.

7. Trainor Street is not colored yellow on the city's current zoning map - as our lots are, but it is not colored red either - as is the case with the Commercial Zone. So, does that mean it is not part of any zone? No, it does not. Our Zoning and Development Bylaw at Section 1.4.4 (a) states that:

> *"Where the boundary of any **Zone** is* uncertain*, and the boundary substantially follows a street, lane, or public right-of-way then **the centre line** of such feature is the boundary."*

So, it follows that if the boundary of two dissimilar zones on opposite sides of a street is uncertain, then **the center line** of that street is the boundary between the two zones.

8. Therefore, Section 1.4.4.(a) clarifies that the streets built by our developer on residential-zoned land **are not meant to be excluded from zoning**. Furthermore, if the **boundary** of a zone can follow the centre line of a street, as noted in Section 1.1.4 (a), then the street **must be** part of that zone.

Observation: This Section 1.4.4.(a) guidance on zoning boundaries, and in particular the practise of using the centre line of a street to define zone boundaries, is not unique to the City of Charlottetown. Other jurisdictions apply the same zoning principle and use it to regulate activities such as food trucks and mobile canteens.
Prince Edward Island's other city, the City of Summerside, applied this zoning practise when it enacted its new Zoning and Development Bylaw in January 2025. Section 4.1 of that bylaw dealing with zone boundaries states as follows:

4.1 ZONING BOUNDARIES

Boundaries between zones on the zoning map shall be determined as follows:

a. Where a zone boundary is indicated as following a street, the boundary shall be the centre line of such street.

9. In our case, the boundary for that C-2 Highway Commercial Zone is not uncertain. Therefore, there was no need to use the centre line of Trainor Street to establish the boundary of that C-2 zone as per Section 1.1.4.(a). The **boundary** between the C-2 and R-1L zones remained in its pinned survey position when our

developer created Trainor Street. Trainor Street was constructed 100% on the R-1L Residential side of the zone boundary line. So yes, the C-2 Highway Commercial Zone boundary line and lot line remained where it always was - and where it still is - colored red on our zoning map.

10. To further illustrate this point, Section 5.1.1 of our Zoning and Development Bylaw states that:

    "Nothing in this by-law shall prevent the use of land **in** any Zone for: a. **Public streets**; …."

    Our developer did just that – he used land within, and only **within, his residential zone** to create **public streets**. Both these sections of our Zoning and Development Bylaw reinforce our argument that public streets are **permitted** (Section 5.5.1) in any zone and **are not excluded** (Section 1.1.4. a) **from the zone in which they are built.** When our new development was constructed 45 years ago, it was built entirely within the developer's residential zone - the "permitted" public streets included. Accordingly, Trainor Street was built entirely within our R-1L Residential Zone, full stop

    Therefore, in the present case, the requirement for a Land Use Buffer "along **any lot line** of a commercial development" (as described in Section 6.6.2) includes where this entire C-2 Highway Commercial lot line (the C-2 zone boundary) abuts our R-1L Low-Density Residential **Zone** along Trainor Street. To suggest otherwise would pretend that all the above bylaw guidance and requirements do not exist. It would also ignore the purpose and intent of our Land Use Buffer bylaw: to create a "**visual and spatial separation between commercial uses and adjoining residential uses"**. And finally, it would ignore our Official Plan objective of preserving existing low density residential neighborhoods. In fact, the suggestion would have the **opposite** effect of the stated objectives of Section 6.6. and our Official Plan because it would blatantly **annex** C-2 Highway Commercial and R-1L Residential uses – a nonsensical supposition that flies in the face of stated governance.

11. It is also critical to note that **the construction of a private road** through a Land Use Buffer is prohibited. Section 6.6.2 of our Zoning and Development Bylaw states that the Land Use Buffer shall be required ***"unless otherwise provided for in this by-law"***. We know that a driveway or roadway through a Land Use Buffer is **not otherwise provided for** in this bylaw. Obviously, a roadway would defeat the Section 6.6.1 purpose and intent of a visual and spatial **separation** between incompatible uses. It would also ignore and conflict with the stated goal on page 8 of our Official Plan: to Preserve and Protect existing Residential Neighborhoods.

    Observation: The Zoning and Development Bylaw does make a provision for driveways in the case of "Landscape" Buffers described in Section 6.5.4.b; however, the bylaw does **not make such a provision f**or "Land Use" Buffers as required by Section 6.6. A driveway or roadway would defeat the purpose and intent of a Land Use Buffer to separate incompatible uses visually and spatially.

12. Section 45.12.2 of our Zoning and Development Bylaw states that: *"Council may after receiving a recommendation from the Planning Board, approve the consolidation of a lot which has a suitable private street access for pedestrian and vehicular traffic, where: the purpose and intent of the Lot consolidation or subdivision sought is consistent with the goals and objectives of the City's Official Plan and this by-law,"*

13. As detailed above this proposed development would have **no** legal private street access, and it is not consistent with the noted goals and objectives of the Official Plan or this by-law. Also of note is that a

similar consolidation and as-of right development application for this same lot was submitted by this same applicant in 2020. At that time the same issues of street access, the Land Use Buffer requirements, and resident safety that we have in the present application were considered by Planning Board, and by Council. Planning board twice considered the application and twice recommended that Council deny the application. First, with 78% of eligible board members voting against, and the second time with 86% of the board voting against. Council initially approved the application, but upon further examination in an extensive Reconsideration Process **Council rescinded its earlier approval and denied the application.** I verily believe that the decision of our duly elected Council, and the recommendations of our duly appointed Planning Board **established precedent for Commercial Development on this lot - i.e. no Commercial Development annexation of C-2 PID # 889873** with the existing R-1L Low-density neighborhood of Southview Estates.

Observation: On 31 January and 14 January 2025, lawyers for the City of Charlottetown responded to our identification of this precedent that was established by Council on 6 January 2021by claiming that the decision is not "legally" binding. That might be technically correct; however, I submit that available knowledge of those recent decisions by Planning Board and by Council for the City of Charlottetown ought to weigh heavily on any future land use planning decisions affecting that same lot. Council is the democratically elected governing body for the City of Charlottetown and their decision was a governance decision respecting direct access from this C-2 Highway Commercial Zone into our R-1L low-density residential neighborhood. That proposed annexation was rejected by our democratically elected governing body and that official decision ought to be respected unless revoked by the same governing body. It was not.

Note also that Council's 2001 decision is consistent with the overarching guidance provided by the Official Plan for the City of Charlottetown wherein Section 1.3 states that:

The ***CHARLOTTETOWN PLAN*** articulates policies which:

- preserve existing residential low density neighbourhoods;
- and, …the City's rural neighbourhoods…. deserve to be protected and nourished within this plan.

Observation: Annexing a C-2 Highway Commercial Zone with a mature R-1L low-density residential neighborhood does not conform with these stated strategic policies of The Charlottetown Plan; however, recognition of the requirement for a Land Use Buffer to serve as a visual and spatial separation between the incompatible uses occurring in those two zones does. That is what our governing body, city council, did on 6 January 2021 - and that precedent-setting decision needs to be recognized and observed. It is impossible to otherwise separate such incompatible "permitted uses" that would effectively transform our existing low-density residential neighborhood into a Mixed-Use zone.

14. The present case also involves a "new" Commercial Development application. Section 6.6.2 of our Zoning and Development Bylaw therefore requires that the applicant show a 13ft Land Use Buffer **on the site plan** along the entire Trainor Street lot line where it abuts the adjoining R-1L Low-density zone. That Land Use Buffer bylaw requirement was not met. **Section 3.3.8. states that an as-of right application be rejected if the requirements of the same bylaw are not met**. This application for a commercial

development permit ought to have been rejected because it did not show the required Land Use Buffer, or a **legal** street access, on the site plan. As detailed above, a legal street access could not be shown, because a driveway through the required Land Use Buffer is **"not otherwise provided for in this bylaw."**

In its submission to IRAC on 14 February 2025 lawyers for the city conceded that no Land Use Buffer was shown on the site plan as required. Instead, they said that there appeared to be room for one behind the proposed cottage foundations where they back onto a residential lot. We don't know that because it was not on the plan and those measurements were not provided. Furthermore, they claimed that a buffer was not required along the Trainor Street lot line because the city streets are not included in zoning. This is incorrect as recognized by **Section 4.1.1 (a)** of our Zoning and Development Bylaw. See details and rationale provided in paragraphs 6-10 above in support of our stance on this.
The following excerpts from Section 6 of the Zoning and Development Bylaw further clarify the requirement for a Land Use Buffer in the present case:

6.6.3 Where an Employment/Industrial Development abuts a Residential Zone along a Side or Rear Lot Line, a Land Use Buffer of not less than 8.0 m (26.2 ft) in width shall be shown on the site plan and constructed along the Side or Rear Lot Line of the Employment/Industrial Development. **Observation:** This is different than for a C-2 zone in that in this case it specifies that the buffer is required only along the side and rear lot lines where it abuts a residential zone, whereas for a C-2 zone it specifies the requirement "along **any** lot line where it abuts a R-1L zone - **which would include a front lot line that follows a street.**

6.6.4 Where a **new** Residential Subdivision abuts any Employment/Industrial or CDA Zone, the Subdivision shall include a 4 m (13 ft) Land Use Buffer along the adjoining boundary.

Observation: So, if Southview Estates was being developed today abutting the noted incompatible zones, then **our** residential zone developer would be required to place that 13 ft Land Use Buffer on his residential land. **This would necessitate moving Trainor Street 13 ft from the incompatible zone boundary** to accommodate a Land Use Buffer separating the two incompatible zones.
The protection afforded **new** residential neighborhoods by this requirement is consistent with the letter, the spirit, and the intent of the Official Plan's stated objective: "to protect **existing** low-density residential neighborhoods."

It is also consistent with the Land Use Buffer requirement for "new" commercial development abutting a R-1L residential Zone. Both reflect that same Official Plan objective and Zoning and Development Bylaw objective of separating incompatible land uses. In the present case, it is the commercial development that is "new", therefore the requirement to provide that Land Use Buffer between incompatible uses rests with the developer in the abutting incompatible C-2 Highway Commercial Zone.

In both above scenarios the responsibility to provide the Land Use Buffer rests with the owner of the "new" development: residential or commercial. In the present case that onus is placed on the owner of the "new" commercial development.

The Land Use Buffer requirement will also protect our low-density neighborhood from all **future** commercial development and as-of-right "Permitted Uses" in the C-2 Highway Commercial Zone. Uses such as warehousing and transport terminals, or automobile dealerships. Without it, there is no protection. Those "permitted uses" would operate from within the very heart of our low-density

residential neighborhood, and funnel C-2 commercial traffic throughout our neighborhood. That is why it is so important to now recognize that requirement along "any" C-2 lot line that abuts our R-1L zone, and that includes where the C-2 Zone abuts our zone along Trainor Street. That is appropriate and prudent land use planning practise. That is what is envisioned in The Charlottetown Plan. That is the purpose of the new Land Use Buffer requirement, and that was the decision of Charlottetown City Council on 6 January 2021.

Section 1.5.1 of our Official Plan states that "this is the primary plan through which the future growth and development of Charlottetown shall be encouraged and coordinated. Council shall seek to implement the ***CHARLOTTETOWN PLAN*** in accordance with the following:

a) The Zoning & Development Bylaw shall be the principal instrument of implementation and **shall contain regulations and maps that are in compliance with the Plan;**
b) **The Plan shall be consulted for guidance** with respect to all forms of development approval including zoning amendments, land subdivision, and construction;
c) Bylaws adopted by Council **shall be in general compliance with the Plan and shall be appropriately enforced;**
d) Development schemes and planning studies may be prepared to address specific areas of issues in greater detail. **All development schemes** and planning studies **shall be in general compliance with the Plan;**

Section1.5.2 further states that: "The Zoning & Development Bylaw shall be the principal instrument for implementing the vision and objectives of the ***CHARLOTTETOWN PLAN***.

Then, under the heading **"Defining our Direction"** the Charlottetown Plan states that:

"Our **goal** is to maintain the distinct character of Charlottetown's neighbourhoods, to enhance the special qualities of each, and to help them adjust to the challenges of economic and social transformation.

Observation: These just meaningless words if their intent is dismissed by city staff. Annexation of this C-2 Zone and its attendant "permitted uses" into the very heart of our existing mature low-density neighborhood does not "enhance the special qualities of our neighborhood". That is, unless one thinks that the site of an automobile car hauler unloading vehicles on our residential street where children play is an enhancement. I don't think so, our residents don't think so, and our Council didn't think so in 2021.

1. Our **objective** is to preserve the built form and density of Charlottetown's **existing neighbourhoods**, and to ensure that **new** development is harmonious with its surroundings."

Observation: The annexation of our mature low-density residential neighborhood with an incompatible C-2 Highway Commercial Zone is **not in conformity** with this stated objective of the Charlottetown Plan. A 17-unit motel and cottage business is **not harmonious** with the 134 surrounding single-family dwellings in Southview Estates. Nor are any of the "permitted uses" for C-2 Highway Commercial zones that approval of this access point would pave the way for going forward. Remember, last year this lot was occupied only by a single-detached dwelling – which was the original purpose of the lot's creation in January 2001. Now, a 17-unit motel and cottage development, a listed "permitted use" seeks to use that house's access point into our neighborhood. What "harmonious enhancement" will be next for our

residential neighborhood? We don't know – and that's the point. That is the purpose of a Land Use Buffer in the preservation of our existing low-density residential neighborhoods. It is essential for directing commercial traffic and heavy industrial equipment away from our narrow residential streets: streets designed for family transport, parents, children and pets, and senior pedestrian use.

That is why such annexation does not exist anywhere else in our city. That is an application of prudent and sound planning principles. That is recognition of the stated objectives of our Official Plan.

3.

- Our **policy** shall be to ensure that a short-term rental operation in a residential area shall be restricted to the operator/host's principal residence and be of a scale that is compatible with the character of the surrounding neighbourhood.

Observation: Southview Estates is a 100% mature low-density residential area, and any annexation with this large commercial 17-unit motel and cottage development (or other future as-of-right "permitted Use") is not compatible with the scale or the character of the surrounding neighborhood. It is therefore not in conformity with any aspect of this official plan policy and must never be annexed to our residential neighborhood streets.

Historical Zoning Designation of PID 889873 ?

1. 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 a member of his staff 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.

   Observation: The city's 14 February 2025 reply to IRAC also failed to explain why that city map showed PID #889873 colored the same as our R-1L zone while the remainder of the C-2 zone, PID #388199, was not.
   The consultants told me at that May 2024 public meeting (both during the meeting and in a separate conversation afterwards) that they did not make that change and that it came from the City of Charlottetown - colored yellow the same as all our R-1L lots. I realize that when the map was presented at the May 2024 meeting it was not presented for the purpose of a "zoning" discussion as the city lawyers claim. That is not the point. The point is that it was an **unaltered** official City of Charlottetown map that was being used. Coincidentally, it just happened to be an unaltered official map that revealed a zone

coloring scheme. Of concern to me was that the said official map showed PID#889873 colored yellow – the same as the rest of Southview Estates, and in contrast to adjacent C-2 PID#388199 – colored red. My questions about this map are still unanswered; however, its relevance to this development application cannot be understated. The lot was severed from C-2 PID#388199 on 19 January 2001 for the purpose of constructing a single-detached dwelling - which is the same as all 134 of our R-1L neighborhood homes. The said map showing PID#889873 colored the same as the rest of our R-1L neighborhood reflected that land use transition - a perfectly rational expectation, especially since single-detached dwellings are not a "permitted use" in a C-2 Highway Commercial Zone.

2. PID # 889873 had historically been part of PID # 388199 – zoned C-2 Highway Commercial. In 2001 the owner of PID # 388199 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, 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.

Annexation of Incompatible Zones

1. 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 in the amalgamated City of Charlottetown, because he listened to our presentations in 2020. **This has never been done and does not exist anywhere in the city because it is prohibited by law.** Section 6.6 was inserted in our bylaws in 2018 for the explicit purpose of preventing it. In addition to being prohibited by law, permitting 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.

Observation: The point here is that a decision to allow this C-2 Highway Commercial Zone to annex the very heart of our mature single-family dwelling R-1L residential neighborhood would be precedent setting. This would be a first for the City of Charlottetown, and it would also ignore the precedent set for this same lot by Planning Board and Council on 6 January 2021. That is a very slippery slope for all existing residential neighborhoods throughout our city. It would demonstrate to all our citizens a **lack of value** placed on The Charlottetown Plan, and its attendant bylaws, in the present planning and development environment. That is not an application of sound long-term land use planning principles.

Historical Street Access Issues

1. 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.

2. 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? Consider also all the as-of-right heavy commercial vehicle activities that can occupy that same lot, and operate in our low- density neighborhood? How can the city control that under the as-of-right doctrine then? Has the city considered the safety risks associated with all those scenarios? Our residents have, and we know that it is downright dangerous for our entire neighborhood.

3. 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.

A Path Forward

1. The landowner and the City of Charlottetown has only two paths forward: if PID # 889873 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.

2. Otherwise, if the landowner wants to continue with this Application for Commercial Development on the C-2 Lot, then he and The City of Charlottetown must explore a viable option for a well-designed safe egress onto the Malpeque Road for this C-2 zone. That is the historical access point for the entire C-2 Highway Commercial Zone.

3. The proposal described in paragraph (2) above is not new – it was part of a recommendation for this same lot in 2019. Planning staff then recommended that any approval of that similar Development Permit for this property be made subject to a Development Agreement for a common access point along the entire South-facing lot line onto the Malpeque Road. The current dilemma provides an excellent opportunity to re-visit this option. It would meet the egress needs of both C-2 lots, ensure compliance with our Zoning and Development Bylaw, and protect the existing low-density residential neighborhood of Southview Estates from present and future encroachment from the myriads of possible C-2 as-of-right commercial activities in this C-2 zone.

Summary:

The two C-2 Highway Commercial Lots that abut our residential zone can be bought and sold at any time, as has been recently demonstrated with this lot. Mr. Gundrum also pointed this out in the above excerpt from his letter addressed to our neighbor in January 2025. If so, and as Mr. Gundrum correctly noted, they will retain all the same entitlements under the as-of-right doctrine described above. That would include an entitlement to use this same driveway – or perhaps as is the case here - one that bears little resemblance to the historical one.

It is therefore important to consider the big picture here. We all know that if this annexation with our residential neighborhood is approved, then any of those "permitted uses" can enter the heart of our residential neighborhood and use our narrow neighborhood streets for heavy commercial transport. As noted earlier, this includes many of the same "permitted uses" approved for a Heavy Industrial Zone (M-2), a Business Park Industrial Zone (M-3), or a Port Zone (P-2). Such as-of-right permitted uses are incompatible with an existing mature low-density residential neighborhood. The Permitted Use that these zones have in common include:

Retail and Distribution Warehouses; Equipment Sales and Rental Services; Cannabis Retail Stores; Theatres; Shopping Centres; Eating and Drinking Establishments; Drive-thru Businesses; Automobile Service Stations; Funeral Establishments; Automobile Sales and Services.

All these "permitted uses" within a C-2 Highway Commercial Zone are highly incompatible with our R-1L residential family living, and with our neighborhood streets. **Katie Drive and Trainor Street are not all-weather highways**. They were not designed for heavy commercial vehicles. Nor were any of our neighborhood streets that this commercial traffic would be required to navigate. However, if this application to annex our neighborhood is approved, then **any** of those commercial uses can use the as-of-right doctrine to do just that. No review required. That is wrong. It is unsafe. It will destroy our single-detached dwelling neighborhood as we know it, and potentially others. I believe it will undoubtedly drive concerned families from the city and be a deterrent for others.

That is why the Land Use Buffer, the street access restrictions, and the other safety requirements were placed in our bylaws. That is why The Charlottetown Plan listed as its first strategic policy: the need to **"preserve existing low-density residential neighborhoods."** The Charlottetown Plan also distinguished between "new" and "existing" residential neighborhoods and applied different land use criteria for each. Our existing neighborhoods were not designed for, and cannot safely accommodate, such commercial uses.

Our neighborhood was designed for low-density family living, not for competition with commercial traffic from "permitted uses" like warehouse and distribution centres. Any approval for this C-2 Highway Commercial Zone must recognize and conform with The Charlottetown Plan, our Street Access Bylaw, and our Zoning and Development Bylaw requirements - including the Land Use Buffer requirement. That is what our Official Plan and attendant bylaws demand. Any attempted annexation of this C-2 Highway Commercial Zone with our mature low-density residential neighborhood must be rejected for any number of the reasons detailed throughout this document.

I therefore respectfully ask this tribunal to acknowledge:

- That the guidance provided by The Charlottetown Plan regarding the preservation of existing low-density residential neighborhoods must factor into the review of the application for Building and Development Permit #304-BLD-24; and,
- That the City of Charlottetown failed to follow the requirements of its own bylaws, as detailed throughout this submission, in its review of the application for this Building and Development Permit; and,

- That the errors, omissions, and oversights demonstrated by The City of Charlottetown in this permit approval process, and identified by me in this submission, regarding mandatory considerations and requirements articulated in the said bylaws, are cause for rejection of this permit; and,

- That the requirement of Charlottetown City Council to provide public notice of the granting of this permit, as articulated in the Planning Act and in the city's Zoning and Development Bylaw was not met, and that aggrieved persons were thereby denied their right to a seek a Reconsideration by Council as provided for by Section 3.15 of The Zoning and Development Bylaw; and,

- That the requirements of the Land Use Buffer enunciated in Section 6 of the Zoning and Development Bylaw apply to any new development on PID #889873, including along the lot line that borders Southview Estates R-1L residential zone along Trainor Street.

I therefore ask that you declare Building and Development Permit #304-BLD-24 to be null and void.

I also ask that you direct the City of Charlottetown to do what should have been done in 2001 and rezone PID #889873 to R-1L if the landowner insists on annexing our R-1L neighborhood, otherwise alternative access onto the Malpeque Road must be secured.

Submitted by:

Jerry Woolfrey

Appellant

The residents of Southview Estates petition the City of Charlottetown as follows:

Whereas the development permit issued to construct foundations for cottages and a motel on **PID 889873** was approved based on moving units from 89 Malpeque Road and said units no longer existed at the time the permit was issued, and,
Whereas the City of Charlottetown failed to provide residents proper notice of the permit's approval in the time frame called for within its own regulations, and,
Whereas the approval of a driveway associated with said permit was not reviewed or approved by Public Works prior to the granting of the permit, and,
Whereas this development represents a significant "change of use" for the lot, and
Whereas this development represents a "change of intensity" for the existing driveway, and
Whereas this driveway is less than the required 50 feet from an intersection, and
Whereas the developer is not abiding by the regulations concerning a Land Use Buffer which prohibits a driveway through said buffer, and,
Whereas the City of Charlottetown had produced (and have since changed) a zoning map at a public meeting in May 2024 that showed 18 Trainor as a R-1L zone, and,
Whereas the annexation of such incompatible C-2 and R-1L zones would ignore the fundamental purpose of zoning, threaten the safety, viability & home values of this low-density neighborhood and be precedent setting as the only example of such a combination in the city of Charlottetown,

Therefore, the residents as signatories to this document demand that either the current building permit be revoked for the reasons outlined above or, the City of Charlottetown negotiate with the Developer and the owners of the U-Haul facility to seek alternate access and egress to the 18 Trainor Street development via Malpeque Road.

Name (Print)	**Address**	**Signature**
LESLIE MACEACHERN	4 GATES DRIVE	
DHANA SEKAR	1 GATES DRIVE	
SHARMILA	— do — "	
Valerie MacLeod	4 Gates Dr	
[illegible]	3 gates	
Sisira Pathiranage	2A and 2B Gates Drive	
Fr. Elian Alhakeem	9 Gates Dr.	

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Name (Print)	Address	Signature
John Barrett	25 Katie Drive	
Faye Barrett	25 Katie Drive	Faye Barrett
Shawn MacGillivray	8 Trainor St	Signed by Telephone
Shelia MacGillivray	8 Trainor St.	Signed by Telephone
Louise Johnston	21 Katie	x Louise Johnston
Clark Johnston	21 Katie	
Sana Dehbozorgi	4 Trainor	

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Name (Print)	Address	Signature
Debbie Lavers	25 IRWIN Dr.	
Jennifer Campbell	10 Irwin Dr	
Julian Taylor	10 Irwin Dr	
GREG COLBURN	8 IRWIN	
Raddad Kabalan	6 Irwin Dr	
Stephen MacMillan	20 Irwin dr	
LEON WALSH	23 IRWIN	
PAM B Walsh	23 Irwin Dr	
JIM LAVERS	25 IRWIN DR	
MICHELE VEARY		

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Name (Print)	Address	Signature
Jerry Woolfrey	[redacted]	
Darwin Deagle		
DEBBie Good		
ETIENNE CÔTÉ		
THU DINH		
VIET NGUYEN		
Dan King		

The residents of Southview Estates petition:

Name (Print)	Address	Signature
Dou Simmons	[redacted]	Dou Simmons
Darlene Simmons		Darlene Simmons
Paula Silliker		Paula Silliker
Alan Silliker		Alan Silliker
Maram Alsalibe		
SANDA BADESCU		Sanda Badescu
DAVID ABBOTT		David Abbott
LINDA Abbott		Linda Abbott
Jo Zhang		Jo Zhang
Cindy Chan		BGB
Jeff Cook		Jeff Cook
Gail Cook		Gail Cook
Tim Woodward		Tim Woodward
Lloyd Watelin		Lloyd Watelin
Carla LeBlanc		Carla LeBlanc
Lawrence LeBlanc		Lawrence LeBlanc
Myrtle Hambly		Myrtle Hambly
Julie Noye		Julie Noye
Jenna Haicly		Jenna Haicly
Sara Jackson		Sara Jackson
LAURIE HICK		Laurie Hick
Mike Murphy		Mike Murphy
Barbie Murphy		Barbie Murphy

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The residents of Southview Estates petition:

Name (Print)	Address	Signature
Fran MacPherson	[redacted]	Fran MacPherson
Stephanie Chalonec		S Chalonec
M Chalonec		M Chalonec
JOE HICKEY		Joe Hickey
Denise Gallant		Denise J. Gallant
Kent Mill		
Jason Ellsworth		
Sandi Ellsworth		SE
Lisa Bassett		
JANIE DIAMOND		
Joe Hamsley		
Sydney INNIS		S. Innis
Kyle INNIS		
BILL BEST		William H Best
MARY BEST		Mary Best
MYRNA WHEELER		Myrna Wheeler
Glenna Harper		Glenna Harper
CYRIL HARPER		Cyril Harper
Maureen Diamond		Maureen Diamond
Joan Fisher		Joan Fisher
Cathy Rose		Chase
DAVID Aitken		
SO HAN CHUNG		SIGNED BY TELEPHONE

The residents of Southview Estates petition:

Name (Print)	Address	Signature
CARL SHARPE	[redacted]	Carl Sharpe
REBA SHARPE		C.S.
BARB SEALES		Barbara Seales
JOHN SEALES		BS
Julie Cole		Julie Cole
Derrick Vokey		
Ty Good		
Ben Fraser		Ben F
Kelvin Van		
Wally MacDonald		
CARMEN ROSS		Carmen Ross
MARGARET ROSS		Margaret Ross
FLORENCE BELL		Florence Bell
Carolyn Silvaggio		
Chris Silvaggio		
Tobia Isa		
David Isa		
Terry Ferguson		Terry Ferguson
Michael Shea		Michael Shea
Marlene Shea		
DON MACINTYRE		Don MacIntyre
Eunice MacIntyre		Eunice MacIntyre
RAEY MA		

The residents of Southview Estates petition:

Name (Print)	Address	Signature
ALTHY FAJUYAGA	[redacted]	
Lisa Fournawit		
Barry Hunt		
Yanling Liu		
Peter Noonan		
P. Morgan		
Peggy R.		
Chris Halliwell		
Tina Halliwell		
PATRICIA WIEDEMER		
Jacqueline Wiedemer		
KHANH MAI		
CHAU VO		
Edwin Callaghan		
ERIC MACDONALD		
IRNED BOOTCHER		
Ryan Townshend		
Brenda Kelly		
Grant Critch		
Kevin Kelly		
Beth Gaudet		
Lorne Gaudet		
Bonnie Hood		

The residents of Southview Estates petition:

Name (Print)	Address	Signature
Roxy Hood	[redacted]	
Tessa Hood		
Tobias Hood		
GLORIA DALZIEL		
Charles M George		
Mark Cumpson		
Laurence Cole		
Brenda Cole		
Matthew Cole		
Danica Steele		
Patrick Rideout		
Jon III (Hisp)		
Ashley Cole		
Jackie Rew		
JOAN OATWAY		
MARILYN OATWAY		
Linda Blackwood		
Dennhorn		
Jennifer LaRose		
Lisa Cox		
Janet Doyle		
Manpreet Singh		
Gurleen Kaur		

The residents of Southview Estates petition:

Name (Print)	Address	Signature
Margaret Boswall	[redacted]	
Gary Devine		
Leanne Devine		
Ellen Devine		
JAMES BUTLER		
TREVOR THOMPSON		
Sharon Cameron		
DERRICK CAMERON		
BEV MORRISSEY		
LYNNE MORRISSEY		
Alyssa Stewart		
Brett Farrelly		
Kim Love		
Sarah Doyle		
M.R. Dehbozorgi		
Epifé Espara		
Zoey MacIntyre		
SharonDoyle		
Kody Doyle		
Keisha Doyle		
TODD McKENNA		
KRISTINE SUTHERLAND		
		SIGNED APPROVAL BY EMAIL
		SIGNED APPROVAL BY EMAIL

The residents of Southview Estates petition:

Name (Print)	Address	Signature
Paul Lee	[redacted]	Paul Lee
Kim GRIFFITH		Kimberly Griffith
KATHRYN PHALC		Kathryn Phalen
Faith-Marie M		Faith-Marie McKenn
Todd McKen		TODD
Doug McKenn		K McKenney
H Elaine Seele		H Elaine Seeler
Dr. Patrick Seel		Seeler
Sharon Bo		Sharon Bo
Don Cossa		
Rob Carson		Robert Carson
Christine Doyle-Ca		C. Doyle-Carson
Ella Wang		
Yunpeng		
MARK UEMURA		Mark Uemura
JOHN CORBIN		
Judy Dixon		Judy Dixon
Brian Adam		Brian Adam
Janet Adams		Janet Adams
PAUL SMITH		Paul Smith
Natalie Smith		Natalie Smith
Cathie Gerasi		Cathie Gerasi
Lowell BERNARD		Lowell Bernard

The residents of Southview Estates petition:

Name (Print)	Address	Signature
Dwayne McNeill	[redacted]	Dwayne McNeill
Rachael McNeill		Rachael McNeill
Nancy Dunbar		Nancy Dunbar
PAUL DUNBAR		
Corey Veld		
Gillian Veld		Gillian Veld
Don Rees		
Zuzana Nagy		
Zuchae Nguyen		ZN

The residents of Southview Estates petition:

Name (Print)	Address	Signature
Jane Carver	[redacted]	Jane Carver.
Scott Carver		Scott Carver
Jacob Carver		
David Stirling		
Susan Joy Nowe		S J Nowe
Gaye Hood		Gaye Hood
Simon Hood		