FBM

October 21st, 2025

Memorandum on the Application of Sound Planning Principles in Development Permit #304-BLD-24 (Royalty Maples Motel & Cottages)

I. Introduction

My name is James Coons, and I am a member of the Canadian Institute of Planners, a Licensed Professional Planner of Nova Scotia, and a Senior Planner and Associate with FBM Ltd. I have been retained by my client Jerry Woolfrey (appellant) to provide an expert and objective opinion of 'sound planning principles' as they relate to the appeal of the issuance of a Development Permit for Royalty Maples Motel & Cottages at 18 Trainor Street, Charlottetown, Prince Edward Island (LA24021 – Jerry Woolfrey v. City of Charlottetown). As the author of this memorandum, I note that my duty is to advise the Commission impartially on areas within my expertise, and that this duty overrides any duty to my client.

My professional planning experience includes multiple planning roles at Halifax Regional Municipality including as a development officer; my current position as a Senior Planner and Associate at FBM Ltd.; and my ongoing role as a board member for the Licensed Professional Planners Association of Nova Scotia. In my career, my work has included a wide range of areas including the review and issuance of numerous development permits, the development of secondary planning strategies and municipal strategic plans, and the submission and management of discretionary planning applications including land use bylaw amendments, planning strategy amendments, and development agreements. A curriculum vitae detailing my professional training, education, and experience is provided as an attachment to this memorandum.

Background:

The two-part test set out by the Commission in LA17-06 ("Stringer") provides the context through which this memorandum has been written. The scope of this submission does not call into question the first part of the two-part test regarding process and procedure, rather, it aims to provide an objective analysis of whether the Municipality's decision to issue the development permit has merit based on sound planning principles in the field of land use planning, and the objects of the Planning Act. The following guidance was further provided by the Commission in "Stringer":

> *"... Sound planning principles are a guard against arbitrary decision making especially where a regulatory checklist does not address a concern. Sound*

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> *planning principles require regulatory compliance but go beyond merely ensuring such compliance and require discretion to be exercised in a principled and informed manner. Sound planning principles required the decision maker to take into consideration the broader implications of their decisions. In order to ensure that sound planning principles have been followed in anomalous applications a professional land use planner must be consulted."* [1]

This guidance provides the useful direction for planning authorities that decision making must be aligned with sound planning principles, even if complying with these principles requires going above and beyond bylaw requirements as written.

Whether sound planning principles should form the basis of a decision maker's judgment may be reasonably questioned in a case where a land use bylaw exists, considers the land use being applied for, and has permitting requirements intended to mitigate land use conflict. However, what makes the application of sound planning principles particularly relevant to this specific case is that the scope of work included under permit #304-BLD-24 is anomalous in nature. This can be easily understood on the facts alone: A single-family home in an established residential neighbourhood, at a location that is considerably removed from any major thoroughfare, is demolished. The now vacant parcel, originally zoned C-2 due to its relation to a much larger parcel which fronts on a major transportation thoroughfare, is replaced by significant commercial accommodations which has its sole commercial access directly into the intersection of two local streets – neither of which have sidewalks. This scope of work includes a significant change of use and increase in intensity that directly abuts the side yard of a single-family home and routs all of its traffic through a local street.

The details of this application make it highly unique for a C-2 Highway Commercial Zone development, and it requires the consideration of sound planning principles to ensure that discretion is *"exercised in a principled and informed manner"*[2]. While the City of Charlottetown's submissions dated January 31, 2025 and February 14, 2025 state that sound planning principles were used in the evaluation of the permit application – it is unclear which sound planning principles were considered during the review, or whether a Registered Professional Planner considered them. This latter point is of note as the Commission's findings in "Stringer" were clear that a professional land use planner must be consulted in cases where sound planning principles are applicable.

The findings of this memorandum disagree with those of the City of Charlottetown and concludes that the decision to issue permit #304-BLD-24 failed to adequately adhere to the standard of sound planning principles. The reasonings for this

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[1] LA17-06, para. 64
[2] LA17-06, para. 64

conclusion, and the sound planning principles which are relied upon in making it, are discussed in the remainder of this memorandum.

II. Methodology and Scope

Lacking the sound planning principles which were used by the City of Charlottetown in their review of the application, this memorandum has assessed three sound planning principles which are uniquely applicable in this case:

1. Separation of incompatible uses,
2. Protection of established residential neighbourhood character,
3. Deference to the hierarchy of Roads.

Each of these sound planning principles are discussed in individual sections that provide a reasonable definition of the principle, which objects of the Planning Act the principle relates to, an analysis of the principle with respect to the application, and mitigation measures that could be taken where the principle has not been adhered to.

In addition to the author's professional experience, a variety of sources were relied upon to support this analysis, including but not limited to:

- Appeal documents for LA24021, in particular the Record Filed by the City of Charlottetown – January 31, 2025,
- City of Charlottetown Zoning & Development Bylaw,
- City of Charlottetown Official Plan (1999),
- City of Charlottetown Draft Official Plan (2025)
- PEI Planning Act

III. Sound Planning Principles

Principle 1: Incompatible Use Separation

Principle Definition:

Land uses which create land use conflict when in proximity of each other are incompatible and should be geographically separated by the application of planning policy and regulation.

Relevance to the Objects of the Planning Act:

> *"2. Provincial Purposes*
>
> *(b) to promote sustainable and planned development;*
>
> *(c) to address potential conflicts regarding land use;*
>
> *(g) to ensure compatibility between land uses."*

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And

"2.1 Provincial Interests

(h) the effect of proposed planning development on, and measures for the protect of, public health and safety;

(k) the direction of development to areas designed to support servicing;

(l) the orderly and sustainable development of safe and healthy communities;"

Analysis:

Historically, a core goal of professional planning has been the separation of industrial and commercial uses from residential environments due to the nuisance created by way of noise, smell, vibration, aesthetics, or traffic generation. Deemed incompatible with residential uses, these high intensity uses have typically been sequestered in areas with strong transportation accessibility and without proximity to residential uses. In these concentrated areas, commercial and industrial uses are able to benefit from 'agglomeration economies' (the mutually beneficial effect of compatible uses being co-located close to one another). For example, the co-location of a commercial accommodation use, tourist attractions, and restaurants naturally benefit each other. This principle of incompatible use separation forms the basis of modern land use planning and the regulatory tool of 'zoning' – the process of ordering the human environment by distinct 'zones', each containing their own sets of regulation and permitted land uses.

Royalty Maples Motel & Cottages, a 17 unit commercial accommodation use, represents an intensive commercial use relative to the context of the Southview Estates low-density established residential neighbourhood. Because motels have a strong potential to create nuisance (increased traffic generation, noise from a concentration of travelers, light from common area parking lots, and loss of privacy), this use should be considered an incompatible with surrounding low-density residential uses. The effects of this incompatibility is exacerbated due to the motel's location directly adjacent to the side yard of a low-density residential property. Because properties are typically deeper than they are wide, and residential lots typically leave much larger rear yards than side yards, a side yard adjacency provides significantly less separation between the in-compatible uses than would a rear yard adjacency. Furthermore, limiting conflicting uses to rear yard adjacencies reduces the likelihood that the incompatible uses must share a street for their access.

Adherence to the sound planning principle of incompatible use separation would require that a transitional zone be provided between an intensive commercial zone (for example a highway commercial zone), and a low-density residential zone.

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Where a direct adjacency of such zones is unavoidable, the principle would then dictate that arrangement of the conflicting zones should be limited to a rear-yard adjacency in order to reduce the length of the conflicting adjacency, provide greater separation between the incompatible use, and direct commercial traffic away from the residential neighbourhood.

Mitigative Measures:

There are times when land use conflicts are inevitable – existing non-conforming uses for example. A standard mitigation measure for mitigating land use conflict is a combination of a setback and visual screening which together are referred to as a "buffer". What makes a buffer effective at land use conflict mitigation is dependent on the unique circumstances of the conflict being mitigated, however, it is generally a factor of the density and depth of the buffer. For example, an 8-metre landscaped buffer may do little to nothing in terms of noise, privacy, and light mitigation if it does not simultaneously provide for a significant integration of buffer elements. Effective buffer elements should be provided for the entire length of a lot line and may include a combination of staggered double rows of coniferous trees or shrubs, a tall opaque fence or masonry wall, or a raised berm.

It is important to note that a landscape buffer is not a suitable replacement for the sound planning principle of incompatible use separation, it can only serve to lessen the conflict where it is inevitable. Based on the record filed by the City of Charlottetown, it is impossible to assess to what extent the effect of locating the incompatible use (Royalty Maples Motel & Cottages) directly adjacent to a single-family home is mitigated through a landscaped buffer. However, with a separation distance of 8 metres from the motel cottages to the side yard of the residential property, substantial buffer elements would be required to significantly mitigate nuisance caused by light, noise, and visual detraction.

Finding:

In the case of Permit #304-BLD-24 the incompatible use has been permitted to occupy an area of land which directly abuts the side yard of the lower intensity use. On this point alone, the sound planning principle of incompatible use separation has not been adhered to. Further, no detail was provided in the record filed by the City of Charlottetown (January 31, 2025) regarding the quality of the implied landscape buffer to confirm its effectiveness in mitigating the newly created land use conflict.

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Principle 2: Protection of Established Residential Neighbourhood Character

Principle Definition:

The character of established residential neighbourhoods should be protected wherever possible, with consideration for incremental intensification over time that is aligned with an overarching vision for the community.

Relevance to the Objects of the Planning Act:

> *"2. Provincial Purposes*
>
> *(b) to promote sustainable and planned development;*
>
> *(c) to address potential conflicts regarding land use;*
>
> *(g) to ensure compatibility between land uses."*
>
> *And*
>
> *"2.1 Provincial Interests*
>
> *(l) the orderly and sustainable development of safe and healthy communities;"*

Analysis:

A core aim in the field of professional planning is to provide a greater level of certainty and stability for established neighbourhoods. While zoning may often permit significant change in areas which are anticipated to experience significant growth and development, in the field of land use planning considerable priority is given to the protection of established residential neighbourhood character. While residents of established residential neighbourhoods should not expect their communities to be locked in stasis, it is reasonable for them to expect that change be incremental in nature. This pace of change allows a neighbourhood to evolve along with the changing needs of its residents while still providing a level of stability in its character and identity that residents value.

It is worth noting that in recent years the planning profession has increasingly recognized the need for greater flexibility in permitted uses within zoning designations – for example the introduction of 'missing middle housing' uses into low-density residential neighbourhoods. However, strong restrictions on commercial uses in established low-density residential neighbourhoods continues to be considered a best practice. This planning principle is reflected in the City of Charlottetown's Official Plan (1999). Policy 3.2 (3) which states:

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> *"Our policy shall be to allow small-scale commercial and institutional development which serves the local needs of the neighbourhood, subject to the City's development regulations." (pg. 19, Charlottetown Official Plan, 1999)*

This is similarly reflected in the recently adopted Official Plan for the City of Charlottetown (draft). Section 3.2.5 Neighbourhoods, a new designation that applies to the City's existing low-density residential neighbourhoods, includes the following in its objectives:

> *"Embrace the predominantly low-density residential character of these areas"*

And;

> *"Allow small-scale commercial and institutional development to serve local neighbourhood needs" (pg. 55, Charlottetown Official Plan DRAFT, 2025)*

Both of these policy statements regarding the integration of commercial uses into established residential neighbourhoods represent the sound planning principle of protecting established residential neighbourhood character when dealing with commercial uses.

While the subject property is zoned C-2 Highway Commerical, it can not be separated from the established residential neighbourhood context which it is surrounded by. A commercial development that adheres to the principle of the protection of established residential neighbourhood character would be small in scale and serve local resident's needs as its primary focus. Appropriate commercial use might include a small retailer, café, or personal service use and be located at a prominent intersection within the neighbourhood. In contrast, the Royalty Maples Motel & Cottages is a 17-unit commercial accommodation use that serves the needs of the travelling public rather than the local neighbourhood, goes beyond an incremental intensification, and is not aligned with a reasonable future vision for the community (as demonstrated by the City of Charlottetown's Official Plans past and present).

Mitigative Measures:

Where a significant change of use is being introduced into an established residential neighbourhood, the scale and character of the use should be carefully regulated to support integration with the existing architectural character of the neighbourhood. The Southview Estates neighbourhood is comprised of low-rise single family residential buildings which front and face the street. A sensitive integration of a commercial accommodations use would therefore focus on being small in scale, limiting the number of buildings on the lot, and providing a main building that matches the architectural character of the neighbourhood and which fronts and faces the street. While the exact scale of a commercial accommodations

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use that could considered appropriate is dependent on the proposed design, it is helpful to consider that the smallest scale version of a commercial accommodations use can be represented by a traditional bed and breakfast operated from within a private residence.

Finding:

At 17 units and 11 buildings, the Royalty Maples Motel & Cottages is too intensive in scale relative to the neighbourhood of Southview Estates to be considered having adhered to the sound planning principle of protecting established residential neighbourhood character. Further, the scale and placement of the buildings have not attempted to replicate the character of established neighbourhood and have therefore failed to mitigate the impact of failing to adhere to this principle.

Principle 3: Deference to the Hierarchy of Roads

Principle Definition:

Higher intensity uses should be matched to an appropriate intensity of transportation infrastructure in the hierarchy of roads (Arterial, Collector, Local). Local streets should be prioritized for neighbourhood access and quiet enjoyment, not for commercial through traffic.

Relevance to the Objects of the Planning Act:

> *"2. Provincial Purposes*
>
> *(c) to address potential conflicts regarding land use;*

And

> *"2.1 Provincial Interests*
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> *(h) the effect of proposed planning development on, and measures for the protect of, public health and safety;*
>
> *(k) the direction of development to areas designed to support servicing;*
>
> *(l) the orderly and sustainable development of safe and healthy communities;*

Analysis:

Transportation planning, a field in which multiple disciplines work, has a core goal of moving people and objects as efficiently as possible. In addition to the quantitative performance of transportation infrastructure, professional planners also focus on the vital role that streets play in placemaking - the act of fostering a community's sense of identity through public and semi-private realms including

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streets, sidewalks, parks, front yards, and building elements that are visible from public spaces. Placemaking is vital for the enjoyment and health of a community, providing space for the social interactions needed in any healthy community.

The use of a road for social interaction and community, and the goal of moving people and objects as efficiently as possible are competing in nature. This conflict is represented on the hierarchy of roads which begins with local residential streets designated for local traffic, social interactions, and quiet enjoyment, and ends with roads that have the sole objective of moving vehicles and goods as efficiently as possible such as a controlled-access highway, and arterial roads.

For a commercial accommodation use like a motel, an arterial road is typically the preferential choice for a main access as it has high visibility from passing motorists, strong transportation accessibility to the surrounding area, and the ability to create driveway accesses. In contrast, locating the sole commercial vehicle access on a local residential street, which is in an area unrelated to the travelers' visit, hinders the operation of the business while at the same time stretches the use of the local road beyond its originally intended purpose. While the resulting increase in traffic from Royalty Maples Motel & Cottage may not cause traffic congestion, it will detract from the road's ability to function as a gathering space for residents of all ages to have social interactions.

Mitigative Measures:

Where commercial access is provided onto a local street, the impact should be mitigated with the provision of grade separated pedestrian infrastructure such as sidewalks. Further, the access provided should be limited to a secondary access with the primary access located on a higher-order road such as Malpeque Road. Taken together, these interventions would lessen the impact of failing to meet the principle of deference to the hierarchy of roads.

Finding:

Sound planning principles state that local streets are more than conduits for vehicles but elements of a community which foster social interaction and wellbeing. Because a high-intensity commercial use that is best suited to an arterial road has made use of a local street as its sole access, it has not adhered to the sound planning principle of deference to road hierarchy. Further, because Katie Drive and the corresponding section of Trainor Street do not have sidewalks, it cannot be said that the impact of failing to meet this principle has been mitigated.

IV. Conclusion and Finding

Based on the analysis of the relevant planning principles and the record filed by the City of Charlottetown, it is the professional opinion of the author that the decision to issue Development Permit #304-BLD-24 failed to adequately adhere to the standard of sound planning principles.

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The decision represents a failure of informed planning judgment that contravenes established best practices, as evidenced by the findings under the three applied principles:

1. **Incompatible Use Separation:** The approval permitted a high-intensity commercial use (17-unit motel/cottage complex) to be placed on a side-yard abutment to a low-density residential property, violating the core principle of spatial separation. The City's failure to require details regarding the mandatory buffer could not confirm the efficacy of the mitigation measure.

2. **Protection of Established Residential Neighbourhood Character:** The decision does not align with the sound planning principle of established residential neighbourhood protection which dictates that commercial integration into established neighborhoods must be small-scale and local-serving. This principle is reflected in both the City's Official Plan from 1999 – present, and 2025 draft adopted by Council. The Motel's significant scale and regional function are a distinct departure from an incremental evolution of the neighborhood, failing to protect its established character.

3. **Deference to the Hierarchy of Roads:** The permit's approval of a sole commercial access onto the intersection of two local residential streets disregards the established transportation planning principle of the hierarchy of roads. This failure to match a high-volume use to an appropriate road, compounded by the absence of pedestrian infrastructure (sidewalks), fundamentally compromises the street's ability to function as a safe community asset.

For these reasons, and in accordance with the second part of the Stringer test, the decision to issue Development Permit #304-BLD-24 has violated several key planning principles.

Respectfully submitted,

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