

Our File: 182762
April 22, 2024

Michelle Walsh-Doucette
Commission Clerk
Prince Edward Island Regulatory & Appeals Commission
5th Floor, Suite 501,
National Bank Tower
134 Kent Street
Charlottetown, PE

Dear Ms. Walsh-Doucette:

RE: LA22002 – Parry Aftab and Allan McCullough v Minister of Agriculture and Land

This Reply Submission is made on behalf of Parry Aftab and Allan McCullough (the “Appellants”) pursuant to Rule 18 of the IRAC Rules of Hearing Practice and Procedure (the “Rules”), in relation to an application to intervene in LA22002 made by Brian Gillis and Elaine MacKenzie (the “Proposed Intervenor”) via email, on April 15, 2024.

The Proposed Intervenor has applied to intervene in LA22002 as a “Friend of the Commission Intervenor”. Rule 17 outlines the process for an application to intervene in an IRAC matter as a Friend of the Commission, and Rule 20(2) sets out a list of factors which may be considered by the Commission in determining whether to grant Friend of the Commission status.

The Appellant opposes the Proposed Intervenor’s application to be granted Friend of the Commission status. In simplest terms, the participation of the Proposed Intervenor in these circumstances is not consistent with the factors outlined at Rule 20(2), and would not assist the Commission in resolving the issues raised in the proceeding – to the contrary, it appears clear that the participation of the Proposed Intervenor would only have the effect of adding to the costs and complexity of this proceeding, and could potentially put the dates for hearing of this matter at risk.

The factors outlined in Rule 20(2) are reproduced below:

20. Factors to be Considered by the Panel

...

2. In determining whether to grant status as a Friend of the Commission, the Panel may consider any factor the Panel deems relevant in the circumstances, including, but not limited to, the following:
 - (a) the extent to which the issues raised by the proceeding have implications that extend beyond the parties;
 - (b) the extent to which the applicant is engaged with the subject matter of the proceeding;
 - (c) whether the proposed submissions of the applicant will reproduce the submissions of the parties or other interveners;
 - (d) whether the proposed submissions will assist the Commission in resolving the issues raised in the proceeding; and
 - (e) the extent to which the proposed intervention will add to the costs and complexity of the proceeding.

(a) The issues raised by LA22002 do not have implications extending beyond the parties

The issues raised by the Appellant in LA22002 relate solely to the review of a discrete development permit application Decision made by the Respondent, and do not trigger broad public interest considerations. Granting neighbouring property owners Friend of the Commission intervenor status just five weeks before the Hearing of LA22002 is inappropriate—especially considering that the Proposed Intervenor has not raised public interest considerations in its application. Further, the Proposed Intervenor’s application fails to demonstrate how it can meaningfully contribute to the proceeding, beyond “[having] the opportunity to be able to respond to possible questions the IRAC panel may have arising from this hearing”. The current parties to this matter are best positioned to canvass Commission inquiries respecting this private planning application matter, which has been convened solely for the purpose of reviewing the Respondent’s Decision.

(b) The Proposed Intervenor’s interests are peripheral to the subject matter of LA22002

As noted above, LA22002 relates solely to review of a development permit application (Application M-2021-0200) Decision made by the Respondent in respect of the Appellant's property (PID# 877647). This matter pertains to the Appellant and the Minister (Respondent). Allowing the participation of a neighbouring property owner in the Hearing will unquestionably create distraction at the Hearing and which can only serve to derail the Commission's very specific role.

(c) The proposed submission of the Proposed Intervenor will reproduce the submissions of the parties

The Proposed Intervenor's application does not contemplate making formal Hearing submissions, but rather, seeks *carte blanche* opportunity to "participate at the Appeal". The Appellant submits that such participation is not the purpose of granting Friend of the Commission status and will not add probative value to the Hearing.

(d) The proposed submissions will disrupt the resolution of issues raised by LA22002

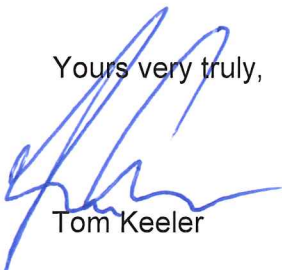
Similarly, the Appellant's view is that any submission or participation by the Proposed Intervenor will only serve to inflame the Hearing of this matter, and detract from the resolution of issues, as defined by the Appellant's Notice of Appeal. The Proposed Intervenor's request to be granted Friend of the Commission status will not add substantive value to the Commission's review of the Respondent's exercise of statutory provisions contained within the *Planning Act*, and *Planning Act Subdivision and Development Regulations*, nor the Respondent's compliance with sound planning principles, in relation to the Decision.

(e) The proposed intervention will unnecessarily add to the costs and complexity of LA22002

Finally, the Appellant submits that the proposed intervention will only add to the cost, duration, and ultimate complexity of this matter. As currently defined, the Hearing is efficiently restricted to review of the Respondent's Decision. Adding the peripheral view of neighbouring property owners as intervenors will slow the proceeding, muddy the assessment of clearly defined issues, and increase the overall cost of the matter.

All of which is respectfully submitted.

Yours very truly,



Tom Keeler

Cc:

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