

### **Acknowledgement of Duty**

I acknowledge that I have been retained to advise the Commission impartially on matters within my area of expertise as a land use planner, and that this duty overrides any duty to the Minister as the party calling me as an expert.

### **Identification and Qualifications**

I have worked as a planner in the public sector for nearly a decade. I have substantial experience working on land use planning: analyzing complicated development permit applications and issuing decisions on them, reviewing and issuing decisions on subdivision applications, and reviewing and proposing amendments to land use bylaws and long range planning documents such as municipal development plans and area structure plans. I have experience enforcing regulations, negotiating with applicants, and providing planning feedback to external and internal (to government) stakeholders.

Please see attached my resume.

### **Nature of Request**

I was asked to provide an independent review of the development permit applications, and to speak to Ms. Bryanton's experts' reports at the hearing.

### **Facts and Assumptions**

I am basing my review off the information provided, as listed below. I did not conduct a site visit.

### **Disclosure**

Delineating the exact boundary of the 'high flood hazard' area on the property is outside of my area of expertise. I would rely on feedback from a professional such as a surveyor or a subject matter expert within the Department of Environment, Energy and Climate Action to do so.

### **List of Documents Reviewed**

I reviewed

- the *Planning Act*,
- the *Subdivision and Development Regulations*,
- the three development permit applications,
- the Record of Decision for File No. LA23-002,
- the October 26, 2022 Coastal Hazard Assessment,
- Jenifer Tsang's Land Use Planning Report, and
- IRAC Order LA17-06

### **Opinion Sought**

(1) In your opinion, would the proposed development have a detrimental impact?

(2) In your opinion, would the proposed development meet the technical requirements in the *Planning Act* and the *Planning Act Subdivision and Development Regulations*?

(3) In your opinion, would the proposed development be in accordance with sound planning principles in the field of land use planning?

Very rarely is anything in planning black and white. If one looks at the three applications for the accessory buildings, and just the applications, then the answers for the above are no, yes, and irrelevant. That's not how proper application review is done, however. The history of the property is investigated, site visits are done, and a number of other lines of inquiries are conducted to ensure the person issuing the decision on the application has a good understanding of the property, its context, and the application request.

In terms of history of the property, there was an IRAC Order (LA17-06) issued in 2017 in relation to the accessory buildings themselves. It noted within the "Commission's Consideration of Permit 88" section that the Minister's staff knew that the intended use was not what was stated in the application. Therefore, by accepting and approving the application, they breached "the first part of the two-part test and did not follow proper process and handling of the application".

If I had been assigned the three development permits to review, I would consider this precedence. If I conducted a site inspection and observed the accessory buildings being used as sleeping quarters and knowing that historically these buildings were used as sleeping quarters, I would discuss my concerns with the applicant. I would ask for confirmation, in writing, what the intended uses of the buildings were. If they did not identify sleeping quarters then I would mitigate my concerns through conditions on the development permit.

Enforcement is an important and essential part of land use planning, and an important topic to address for this application. There's no sense having rules and regulations without the authority to enforce them. When issuing a decision on a development or subdivision, one of the questions the file manager should be asking themselves is 'can I enforce this condition?'. For example, if we asked an applicant/developer to provide a security for infrastructure they're required to install, we must have

- 1) Regulations that allow us to take securities
- 2) Regulations that allow us to halt development if we don't receive these securities
- 3) A process we can follow to notify the applicant/developer, halt the development, and fine or issue liens on the property.

Until very recently, the Province's abilities to enforce, specifically to enact fines, was very, very limited. Mitigating concerns through development permit conditions was risky, as we had no means to penalize the applicant/developer if they didn't follow those conditions.

To discuss the sound planning principles question, and the fact that they're not required for accessory buildings, it's important the reader understands the different levels of planning and development. To simplify it, there are two general streams of planning: 'current' planning and 'long-range' planning. Long-range planning uses policies to help guide the long-term growth of a community. This is where sound planning principles are more heavily referred to, to help form the policies. In relation to PEI, this would be an official plan.

In order to achieve the goals of these policies, they need to be translated into regulations. This would be current planning. Generally speaking, these regulations will enforce sound planning principles inherently. That's not to say that complicated applications don't require sound planning principles applied to them, above what the regulations outline; but for applications that have minimal to no

impact on the surrounding lands or residents, the regulations suffice. In relation to PEI, land use/development/subdivision bylaws would be considered current planning.

With the above in mind, my answers to the original three questions are

- maybe (with conditions to mitigate, and the ability to enforce those conditions),
- yes (with conditions to mitigate, and ability to enforce those conditions), and
- irrelevant.

Respectfully,



Megan Williams, RPP, MCIP