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Response to the RECORD, Appeal LA24-010

This is written in response to the RECORD (referred to as “the Record”) as provided by Stewart McKelvey on behalf of the Rural Municipality of West River concerning Appeal LA24-010.

It is also in response to the “Reply to Notice of Appeal” dated June 12, which I received July 22.

As mentioned previously, my farm field (PID 204644) is abutting the full length of PID818500. My farm, which belonged to the Honourable W R Shaw, is a registered heritage place under the *Heritages Places Protection Act* as of 2021.

Preliminary Comments:

To clarify, my appeal refers to the April 25 decision to amend the 2022 Land Use Bylaw. The future land use map does not include PID 818500 as future residential so there was no need to reference.

The request to rezone PID 818500 to Rural Residential has been made for the express purpose of developing it into 13 lots as documented by the Rural Municipality of West River in their Record (submitted by Stewart McKelvey) and in their planning assessment. The Record included an extensive report by East Tech on the Sewage Disposal System for each lot. The public meetings and the presentations by the Municipality also reference this intent. For this reason, it is important to address my concerns on the rezoning with this in mind as I was directed to do.

Specific comments on the Record are as follows:

Tab 1: East Tech Report on On-site Sewage Disposal System, Site Soils Assessment & Site Categorization:

Although most of the report on the lot specific information relating to soil and slope was illegible, it was focused on the intent for further development of 13 lots and infers there are no wetland or storm water considerations.

Tab 3 – Application for Rezoning as submitted by S Buchanan:

The Application defines the reason for the request for rezoning to Rural Residential is in order for a housing development project. In the section about foreseeable impacts to adjacent properties it only recognizes “Traffic” concerns. There is no recognition of the effect of agriculture as raised in my appeal.

Tab 4 - Municipal council agendas and minutes

Appendix 6.1 to the planning meeting of January 9th was a comprehensive planning assessment written by S. Murphy for a similar rezoning request. The planner went into detail explaining where and why the request was in conflict with the bylaws. Although slightly different in the request, Appendix 6.2 had a similar detailed assessment by the same planner. I raise this as these documents were included in the record provided by the municipality in the Record and provide a comparison of the detail in the assessments and particularly with Appendix 6.1, resulted in a different decision. I compared these assessments to the preliminary (and only) assessment which was included on PID 818500.

Tab 5 - Planning Report PID818500.

General Comments on Tab 5 - This report was written by Mirko Terazas and it states it is preliminary. The referenced reports above are not defined as preliminary. Was there a final report?

In general, the report is relatively non-specific and, in many instances, does not conform to the policies or by-laws, particularly in relation to agriculture. It seems to be more focused on residential expansion which is surprising for a Rural Municipality. Additionally, regarding the amendment procedures 12.3, 4) statements are miss labeled (e.g. ‘e.’ which is supposed to be comments from residents which has not been included). More details are included below.

Specific Comments on Tab 5 (referred to as “the assessment”) as related to my appeal.

Economic Policies – Assessment states weighing is required but there is limited detail provided and there are some inconsistencies.

RU1 – Policy to protect agricultural and other resource related land uses.... The assessment erroneously states that “the land over 23 years ago has been used for agriculture”. This land is and always has been used for agriculture. This may have been a typo.

Reference to my property PID204644 as a large producing potato acreage is not referenced although it runs the full length of PID 818500 and was referenced in my appeal and earlier letter to the Council as follows:

Potato land is required to be ploughed, planted, sprayed for pests (e.g. for Potato Late Blight, Colorado Potato Beetle, etc.) and harvested. These various activities can cause conflict (due to resulting drift, dust, etc.) between a residential homeowner and the farmer. Although most farmers are very respectful and try to keep the homeowner informed, this does not always work. The introduction of 13 new neighbouring residential lots immediately adjacent to an existing crop (potato) field significantly alters the appeal of the property to any prospective farmer. It would take only one of these new neighbours to cause difficulties with the farmer leading to lost economic opportunity for me as well as a potential devaluation of my land for farming.

Our family has always been and continues to be very supportive of PEI's farmers. As my field is mainly class 2 land, I would expect that most of PID#818500 would also be class 2 land as it is very similar and, potatoes were also grown there for many years. The continued loss of high-quality farmland in the community for yet another subdivision does not seem to align with the Island's reliance on agriculture as a major industry.

With significant development in the area there is a definite shortage of agricultural land. I have been informed of 4 farmers looking for more arable land for farming in this area.

RU-2 - Policy of the Council to promote the overall protection of Resource lands and shall further support the rights of farmers ...to conduct appropriate farming practices without harassment... Again, the Assessment has not referenced the fact that the residential zoning would abut 204644, representing a large potato acreage (as per my comments above).

RU-3 – Policy to limit the number of parcels ...in the rural area zone. This zoning change is intended to expand the residential zone in a rural area where the intent is to protect agriculture and other resource industries. *Please note that the development of homes to the east of PID 818500 does not directly abut PID 818500 but the agricultural field PID 204644 directly abuts PID 818500 for its full length.*

Physical Policies – Assessment states weighing required but details provided are limited and there are inconsistencies and not enough information to make an assessment.

PHY-6: Policy applies to coastal areas watercourses and wetlands. The documents in the record nor the assessment do not reference the fact of storm water and wetlands through this property due to insufficient information, but I have referenced this aspect in my appeal.

PHY-7 – Policy on Scenic Vistas

Although this policy was not addressed in the assessment, particular attention should be paid to point b. in the policy. This aspect was included in my appeal as **Iconic Island View:** *The view from the West River Rd bend where it meets the St Catherines Rd is a much photographed and painted island pastoral view of farmland, trees and waterways. It is representative of the beauty of PEI. It is there for everyone's enjoyment, Islanders and tourists alike. Additionally, it is on the route of the Island Walking Trail. Tour buses from cruise ships frequent this route in the summer for the views and it is not uncommon to see cars parked at the roadside with their passengers taking pictures.*

Residential Policies – Assessment states weighing required but details provided are limited.

R-1 – This is a policy to change to Rural Residential only where it is less likely to create conflicts with established farming operations. Specifically point f. where the transition will not pose a significant risk of increased land use conflicts with adjoining agricultural uses. I have also referenced this issue in my appeal (see above under RU1)

Environmental Policies – Assessment states weighing required but details provided are limited and there was also insufficient information.

EN-3 - Stormwater Management has not been recognized as a concern. In fact, the East Tech Report did not even reference the movement of water and wetland through PID 818500. It was referenced in my appeal and earlier letter to the Council as follows. **Stormwater Management:** *The stormwater runs from the West River Rd roadside ditches from the east and west, plus, from the fields across the road (sloping down to the road) through the culvert under the West River Road to the east side of my field (adjacent to the property in question). A grassy strip has been established through my field following good agricultural practices to reduce erosion and allow the water flow to be managed as it flows down and across PID 818500 to the West River. This has been completely ignored in the drawing provided by the municipality and in fact where the water flows there is a lot planned for development. If this land is developed, there would be a need for fill to be trucked in resulting in the backflow of the water from the area into my field or, there would need to be ditches indicated in the drawing. I am therefore requesting that there be an environmental review of the stormwater management plan and a proposal for structures to be put into place allowing for the flow of water prior to any rezoning being considered.*

EN -6 - Habitat areas were not addressed in the report although referenced in my appeal and letter to the Council as follows. **Osprey:** *The area of PID 818500 (north end*

by the river), is an important area for nesting Osprey. As much of the land on the West River seems to have been sold for residential development, this is leading to trees along the waterways being cut, etc., and osprey habitat in this area is disappearing.

EN-10 - Sustainable practices also referencing Stormwater Management (see also EN-3)

EN-11- Climate Change Decisions not addressed although land is quite low to the river

12.3 Bylaw Amendment Procedures:

b. the assessment is referring to housing development in a rural residential area. This is an RA area and the effect on the agriculture neighbour abutting 818500 has still to be weighed. The assessment states "generally consistent". I believe there should be a more detailed assessment.

c. this refers to suitability for development. There are many open questions and insufficient data and yet the assessment states "generally consistent". I believe there should be a more detailed assessment.

d. compatibility with surrounding land. The statement in the assessment ignores agriculture as the main land base abutting 818500 and yet the assessment states "generally consistent". I believe there should be a more detailed assessment.

e. This is the point where comments from residents were to be included. This point has not been addressed anywhere in the assessment. Instead, the assessment jumped to what was to be f. - water supply,

f. Misidentified in Assessment

g. Misidentified in Assessment

h. Misidentified in Assessment

i. Misidentified in Assessment

j. Missing from Assessment

Conclusion:

Based on the "weighing required" and "insufficient data" and errors in the assessment (bylaws) and the fact that many of the policies to protect agriculture in a Rural Municipality have been disregarded, I respectfully suggest that the decision to approve the request for rezoning is premature and should be overturned.

Sincerely,
Judy Shaw

Cc: Rural Municipality of West River,
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