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The Island Regulatory
and Appeals Commission**Notice of Appeal**
(Pursuant to Sections 28 of the *Planning Act*)

TO: The Island Regulatory and Appeals Commission
National Bank Tower, Suite 501, 134 Kent Street
P.O. Box 577, Charlottetown, PE C1A 7L1
Telephone: 902-892-3501 Toll free: 1-800-501-6268
Fax: 902-566-4076 Website: www.irac.pe.ca

NOTE:

Appeal process is a public process.

TAKE NOTICE that I hereby appeal the decision made by the Minister of Agriculture and Land ("Minister") on the 15th day of December, 2022, wherein the Minister denied two applications for permits to construct a boathouse on each of Provincial Parcel No. 9436241 and 943274 in Greenwich, Prince Edward Island, being Lot 2 and Lot 30 - a copy of the decision is attached as Schedule "A".

AND FURTHER TAKE NOTICE that, in accordance with the provisions of Section 28.(5) of the *Planning Act*, the grounds for this appeal are as follows:

1. breached her duty of procedural fairness;
2. acted in an arbitrary manner;
3. procedural errors;
4. failed or refused to apply or enforce the conditions of the subdivision approval to the original developer and the successors in title in order to deny the permits;
5. erred in her interpretation of the *Planning Act* and associated Regulations;
6. erred in her interpretation of the requirements of the Department of Environment, Energy and Climate Action; and
7. such other grounds as may be revealed upon review of the full record produced by the Minister;

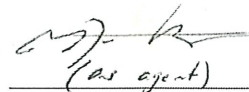
AND FURTHER TAKE NOTICE that, in accordance with the provisions of Section 28.(5) of the *Planning Act*, I seek the following relief:

1. quash the decision of the Minister;
2. grant the permits as requested; and
3. such further and other relief as may be authorized under the *Planning Act* and the *Island Regulatory and Appeals Commission Act*.

**Name(s) of
Appellant(s):**

Timothy Banks

**Signature(s)
of
Appellant(s):**


(as agent)

Mailing

Address: c/o Stewart McKelvey
Province: Prince Edward Island
Email Address: gdeuleaere@stewartmckelvey.com

City/Town: Charlottetown
Postal Code: C1A 1K8
Telephone: (902) 629-4509

Dated this 20th day of December, 2022.

SCHEDULE "A"



Land Division

31 Gordon Drive
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Agriculture
and Land

Agriculture
et Terres



Division de terres

31, promenade Gordon
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8



December 15, 2022

Tim Banks
PO Box 2859 Station Central
Charlottetown,
PE C1A8C4

Dear Mr. Banks:

Subject: Application to develop Lot #2 and Lot #30 St.Peters Estates Greenwich.
Property ID #: 943241 and 943274
Property Location: Greenwich
Our File References: M-2022-0277 and M-2022-0278

A. The Application

The Minister of Agriculture and Land has reviewed your application to construct Accessory Buildings on both Lot #2 and Lot #30 in the St. Peters Estates Ltd. resort development in Greenwich PEI. We have determined the lots in the resort development have been approved with conditions as per subsection 4.(1) of the *Planning Act* Subdivision and Development Regulations as they were at the time of application in 2004.

B. Decision

The Minister of Agriculture and Land is denying the application to construct Accessory Buildings on both Lot #2 and Lot #30 in the St. Peters Estates LTD resort development in Greenwich PEI pursuant to subsections 5.(a) and 51.(1) of the *Planning Act* Subdivision and Development Regulations.

C. Reasons

The 2004 Subdivision approval was subject to a number of conditions as indicated on the approval stamp and as per the requirements of subsection 51.(1) of the *Planning Act* Subdivision and Development Regulations(SDRs).

The Department of Environment, Energy and Climate Action (EECA) has not received a Certificate of Inspection nor the as-built drawings from an Engineer licensed to practice on PEI of the Central Water System. Also, EECA has not granted approval of the

Environmental Management Plan or the Human Use Management Plan for the St. Peters Estates Ltd. resort development in Greenwich PEI. As well, the Environmental Protection Plan is required to be updated and resubmitted for further approval. These approvals are required as per the *Planning Act* Subdivision and Development Regulations subsection 5.(a) prior to granting a development permit. The Minister is denying the Application to develop Lots 2 and 30 in the St. Peters Estates LTD resort development as EECA does not have the necessary documentation to fulfill their requirements for the operation of the central water system. The Environmental Protection Plan, Environmental Management Plan and the Human Use Management Plan must be updated and resubmitted for approval.

Planning Act Subdivision and Development Regulations

4. (1) An approved subdivision or development permit may be made subject to any conditions necessary to ensure compliance with these regulations, other regulations made pursuant to the Act, or any relevant sections of the Environmental Protection Act, Roads Act, Provincial Building Code Act R.S.P.E.I. 1988, Cap. P-24 , or the Fire Prevention Act R.S.P.E.I. 1988, Cap. F-11.

(2) Where an approved subdivision or development permit is granted subject to conditions in accordance with subsection (1), the owner shall ensure that the subdivision or development complies with the conditions.

5.(a) No approval shall be given pursuant to these regulations until the following permits or approvals have been obtained as appropriate:

(a) where an environmental assessment or an environmental impact statement is required under the Environmental Protection Act, approval has been given pursuant to that Act;

51. (1) A resort development shall be serviced by a central water supply system that complies with the Environmental Protection Act.

D. Right of Appeal

Notice of this decision will be posted on the PEI Planning Decisions website. We suggest typing "PEI Planning Decisions" into your internet search engine to link to the website.

Please be advised that pursuant to section 28 of the *Planning Act*, this decision may be appealed to the Island Regulatory & Appeals Commission ("IRAC") (PO Box 577, Charlottetown, PE, C1A 7L1: <http://www.irac.pe.ca>). An appeal must be filed within 21 days after the date of this letter or the Commission is under no obligation to hear the appeal. For more information about appeals, please contact IRAC.

If you have any questions in regards to this decision, contact me at (902) 368-4465 or emlloyd@gov.pe.ca.

Sincerely,



Eugene Lloyd
Manager (Acting) of Provincial Planning