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SEP 15 2021

The Island Regulatory
and Appeals Commission

Notice of Appeal

(Pursuant to Section 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/we hereby appeal the decision made by the Municipal Council of City of Charlottetown (name of City, Town or Community) on the 26th day of August, 2021, wherein the Community Council made a decision to approve Phase 1-Site and Foundation: for three (3) new 6-unit townhouses by Pan American Properties located at Towers Road – Townhouse #1, #2 & #3, and the proposed basis approved for subsequent consideration by Planning Board and Council for this project (attach a copy of the decision). Please see attached Charlottetown Planning & Heritage Summary (Week ending August 27, 2021) Planning Development Permit Approvals Permit #643-BLD-21, 644-BLD-21, 645-BLD-21 and also Council Approvals Work Description re the foregoing Permit #s.

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: (use separate page(s) if necessary)

1. As per the Planning Act, Section 24 (3) Absence of Approval: "Where any sub-division of land or a lot within a sub-division requires the approval of the appropriate authority, ... no building or development permit shall be issued by the appropriate authority prior to approval of the subdivision of land on the lot within the subdivision."

The land in question re this appeal is also currently the subject of an IRAC Rezoning Appeal, hence there was absence of approval for the necessary rezoning of the land at the time (August 26, 2021) the site and foundation permits were approved by City Council. In short, the permits were approved even though the land in question did not have the necessary rezoning in place to accommodate the proposed development and permit activity.

2. Both the developer and the city have maintained in the Sherwood Crossing case that they are able to have permits approved (in this case, site and foundation permits) for this project because there is a development agreement in place. A development agreement in place is not a sufficient condition to approve a development permit or a building permit or any other kind of permit. Additionally, although PEI legislation may be silent on the effect of an appeal on subsequent development approval processes, other jurisdictions are not. For example, the Nova Scotia Municipal Act states that "A development agreement does not come into effect until all appeals have been abandoned or disposed of or the development agreement has been affirmed by the board." There is an ongoing IRAC rezoning-related appeal re Sherwood Crossing lands which, at a minimum, needs to be resolved prior to any site development activity.
3. A serious conflict of interest by the Mayor of Charlottetown occurred at the August 26, 2021, City Council meeting at which the site and foundation permits were approved. Both the open and closed sessions of that meeting were chaired by Mayor Philip Brown who did not declare a conflict of interest at that meeting nor at related Planning Board meetings involving Sherwood Crossing permitting/approvals.

Mayor Brown's conflict is that he is employed and is a director and owner of his family crane business which has been doing ongoing business with Tim Banks/APM-related companies which rely on City Hall permits (including the August 26 site and foundation permits) to develop their projects. This pecuniary interest of Mayor Brown is contrary to Conflict of Interest provision in the Municipal Government Act and which flaw and taint the August 26, 2021, approval permits which were approved by City Council.

4. There are various other City Hall abuses of process related to the August 26th permit approvals with information to be provided in due process.

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

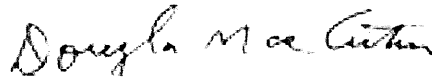
The Appellant requests that the Townhouse site and foundation permits issued on August 26, 2021, plus the additional provisions/approval processes cited in the second page of the August 27, 2021, Planning & Heritage Summary be disallowed. Also, the Appellant requests that prior to any further consideration by the City of Charlottetown re issuing of new permits of any type for the Sherwood Crossing development that such permit processes not proceed until the current IRAC rezoning appeal outcome is known, and not before the perceived conflict of interest involving Mayor Brown is remedied/resolved.

Name(s) of

Signature(s) of Appellant

Appellants. Douglas MacArthur

Please Print



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Dated this 15th day of September, 2021.

Day

month

Year

IMPORTANT

Under Section 28.(6) of the **Planning Act**, the Appellant must, within seven days of filing an appeal with the Commission serve a copy of the notice of appeal on the municipal council or the Minister as the case may be. In addition, the Commission requires the Appellant to provide the Notice of Appeal to any parties directly affected by the Notice of Appeal on the same date the municipal council or Minister is notified.

Service of the Notice of Appeal is the responsibility of the Appellant

Information on this Form is collected pursuant to the **Planning Act** and will be used by the Commission in processing this appeal.
For additional information, contact the Commission at 902-892-3501 or by email at info@irac.pe.ca.



CHARLOTTETOWN

Planning & Heritage Summary (Week ending August 27, 2021)

ISLAND REGULATORY APPEALS COMMISSION (IRAC) APPEAL PERIOD INFORMATION

The information provided on this page is intended to provide notice to the public when building and development permits have been approved by the Charlottetown Planning and Heritage Department. Residents or interested parties have **21 days to appeal** to the Island Regulatory and Appeals Commission (IRAC) any building and development permit approvals listed below within the required time period.

If you have any questions regarding the approvals listed below please contact the Planning and Heritage Department at 902-629-4158.

Planning Development Permit Approvals

FILE #	PID #	PERMIT #	APPLICATION DATE	DECISION DATE	DECISION	PROPERTY LOCATION	WORK DESCRIPTION	NAME	DEADLINE TO MAKE AN APPEAL
20-552	1121821	705-BLD-20	03-Nov-20	26-Aug-21	APPROVED	31 Bambrick Drive (Lot 17-25)	Occupancy Permit: New single family dwelling	Joe Billesberger	16-Sep-21
20-564	746164	723-BLD-20	16-Nov-20	20-Aug-21	APPROVED	93-95 Parent Street (Lot 153)	Occupancy Permit: New semi-detached dwelling	Jaycor Inc.	10-Sep-21
21-011C	387761	627-BLD-21	16-Aug-21	25-Aug-21	APPROVED	670 University Avenue	Tent in parking lot (The Brick)	Derek Arsenault	15-Sep-21
21-032	1016294	036-BLD-21	20-Jan-21	25-Aug-21	APPROVED	35-37 Essex Crescent (Lot 2B)	Occupancy Permit: New semi-detached dwelling	Hay Enterprises	15-Sep-21
21-097	1124288	105-BLD-21	19-Feb-21	24-Aug-21	APPROVED	98-100 Kindred Avenue (Lot 70)	Occupancy Permit (unit 98 only): New semi-detached dwelling	Homeway Builders PEI Inc.	14-Sep-21
21-125D	1054972	620-BLD-21	12-Aug-21	25-Aug-21	APPROVED	20 Babineau Avenue	Fascia signs	International Neon (c/o David Danielis)	15-Sep-21
21-138E	372276	625-BLD-21	16-Aug-21	25-Aug-21	APPROVED	449 University Avenue (Co-operators)	Fascia sign and free-standing sign	Cy Atkinson	15-Sep-21
21-269	442202	309-BLD-21	27-Apr-21	25-Aug-21	APPROVED	185 Parkwood Crescent	24' x 32' attached garage + secondary suite	Todd Bannister	15-Sep-21
21-280B	390823	630-BLD-21	18-Aug-21	27-Aug-21	APPROVED	289 Brackley Point Road (Lot 19-2; formerly 384 Sherwood Road)	Phase I: Foundation: New commercial building (package distribution center)	Moltus Canadian Inc.	17-Sep-21
21-352C	455642	612-BLD-21	06-Aug-21	24-Aug-21	APPROVED	58 Sherwood Road (Lot 18-2)	Phase I: Foundation: 35-unit apartment building	Arsenault Bros Holdings	14-Sep-21
21-482B	390534	643-BLD-21	25-Aug-21	26-Aug-21	APPROVED	Towers Road - Townhouse #1	Phase I: site and foundation: New 6-unit townhouse	Pan American Properties	16-Sep-21
21-483B	390534	644-BLD-21	25-Aug-21	26-Aug-21	APPROVED	Towers Road - Townhouse #2	Phase I: site and foundation: New 6-unit townhouse	Pan American Properties	16-Sep-21
21-484B	390534	645-BLD-21	25-Aug-21	26-Aug-21	APPROVED	Towers Road - Townhouse #3	Phase I: site and foundation: New 6-unit townhouse	Pan American Properties	16-Sep-21
21-491	746164	579-BLD-21	26-Jul-21	27-Aug-21	APPROVED	98 Parent Street (Lot 148)	Footing Permit: New single family dwelling	Curran Developments Inc.	17-Sep-21
21-501	1132349	596-BLD-21	30-Jul-21	24-Aug-21	APPROVED	8 Cobirt Drive (Lot 07-21)	Phase I: Foundation: New 40' x 80' commercial building (offices and workshop)	Harvey Chandler	14-Sep-21



FILE #	PID #	PERMIT #	APPLICATION DATE	DECISION DATE	DECISION	PROPERTY LOCATION	WORK DESCRIPTION	NAME	DEADLINE TO MAKE AN APPEAL
21-509	622233	605-BLD-21	04-Aug-21	25-Aug-21	APPROVED	9 Keaton Drive (Lot 18-13)	Footing Permit: New single family dwelling + secondary suite	Falcon Properties Inc.	15-Sep-21
21-512	578864	611-BLD-21	06-Aug-21	25-Aug-21	APPROVED	92 Scott Street	10' x 20' accessory building	Cezar Campeanu	15-Sep-21
21-520	192211	622-BLD-21	11-Aug-21	23-Aug-21	APPROVED	372 St. Peters Road	Replace part of foundation	Angela Banks	13-Sep-21
21-523	1044254	628-BLD-21	17-Aug-21	25-Aug-21	APPROVED	44 Gardiner Drive	16' x 36' in-ground pool	Kevin MacLean	15-Sep-21
21-530	600908	640-BLD-21	24-Aug-21	27-Aug-21	APPROVED	582 North River Road	Change existing free-standing sign to electronic sign	Sign Craft	17-Sep-21

Lot Subdivisions

FILE	PID#	APPLICATION DATE	APPROVAL DATE	MAILED OUT	DECISION	PROPERTY LOCATION	WORK DESCRIPTION	NAME	DEADLINE TO MAKE AN APPEAL
2021-030	192401	13-May-2021	19-Aug-2021	24-Aug-2021	APPROVED	MacRae Drive and Norwood Road	Lot subdivision (34 lots)	Leroy MacLeod	9-Sep-2021
2021-041	949388	15-Jul-2021	25-Aug-2021	26-Aug-2021	APPROVED	10-12 Herbert Street	Lot subdivision	Geoff Gibson	15-Sep-2021
2020-022	145284	18-Jun-2020	19-Aug-2021	24-Aug-2021	APPROVED	Trailview Drive Extension	Lot Subdivision (9 lots)	Arnold MacRae	9-Sep-2021

Council Approvals

FILE #	PID#	PERMIT #	APPLICATION DATE	APPROVAL DATE	DECISION	PROPERTY LOCATION	WORK DESCRIPTION	NAME	DEADLINE TO MAKE AN APPEAL
21-482B, 21-483B, 21-484B	390534, 390559, 390542	643-BLD-21, 644-BLD-21, 645-BLD-21	25-Aug-21	26-Aug-21	APPROVED	Towers Road	That the foundation plans for three (3) townhouse dwellings on the corner of Mount Edward Road and Towers Road (PID #'s 390534, 390559 and 390542), be approved, subject to the final architectural plans being submitted by the applicant and reviewed and approved by Planning Board and Council before any other phased building permits are issued for three town houses (Buildings 1, 2 and 3) on the approved site plan for the property, and the 60 foot public road corridor on the north boundary of the property is deemed to the City prior to the issuance of any Building Permit subject to Section 2.5 of the Development Agreement as it relates to the subject property on the corner of Mount Edward Road and Towers Road.	Pan American Properties	16-Sep-21

FILE #	PID#	PERMIT #	APPLICATION DATE	APPROVAL DATE	DECISION	PROPERTY LOCATION	WORK DESCRIPTION	NAME	DEADLINE TO MAKE AN APPEAL
21-471	346486	552-VAR-21	16-Jul-21	26-Aug-21	APPROVED	203 Fitzroy Street	Request for three (3) major variances to: • Reduce the minimum required side yard setback from 18ft to approximately 13ft; • Remove the requirement for a minimum 9.8ft setback from the base building; and • Remove the requirement for a 45-degree angular plane taken from the top of the rear façade of the base building that faces abutting residential dwellings; in order to permit a four (4) storey (approximately 44.5ft) modular building containing 28 residential dwelling units and office space on the vacant lot located at 203 Fitzroy Street (PID# 346486), be approved, subject to the condition that the Design Review Board reviews and supports the proposed building design.	Canadian Mental Health Association	16-Sep-21
2021-042	999730, 335026, 626309		20-Jul-2021	26-Aug-21	APPROVED	1 Haviland Street	Request for a lot consolidation of 1 Haviland Street (PIDs # 999730 & 335026) and Parcel A-1 (portion of PID #626309), be approved, subject to a pinned final survey plan and a new perimeter deed description being registered describing the outer boundaries of the consolidated parcels.	Queens County Condo Corp. #13	16-Sep-21