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Halifax, Nova Scotia
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Appeals Standing Committee
June 12, 2014

TO: Chair and Members of the Appeals Standing Committee

SUBMITTED BY: Original Signed

Brad Anguish, Director Community & Recreation Services

DATE: May 21, 2014

SUBJECT: **Appeal of the Driveway Access Refusal - 6980 Armview Avenue,
Halifax**

ORIGIN

Appeal of the Development Engineer's decision to approve a second driveway access.

LEGISLATIVE AUTHORITY

HRM By-law S-300 (Streets By-Law)

RECOMMENDATION

The question before the Appeals Standing Committee is whether to allow or deny the appeal before them.

BACKGROUND

The subject property, 6980 Armview Drive, Halifax, is owned by John Goshen and currently contains a single unit dwelling (Map 1). On February 10, 2014 the owner submitted an application to construct a new single unit dwelling on the subject property (Construction Permit #136746). The permit application included a proposal for a second driveway access to the subject property as shown on Map 2. The Development Engineer refused the approval of the second driveway access as it was contrary to Section 35 of the Streets By-law. On March 24, 2014, the applicant submitted a Notice of Appeal regarding the decision of Development Engineer (Attachment A). The role of the Appeals Standing Committee is to hear the appeal and make a decision relative to the application.

Site Context

The subject property is located in a mature residential neighbourhood, adjacent to the intersection of Armview Avenue and Tupper Grove. The surrounding area consists primarily of single unit dwellings on tree lined streets. The property contains an existing single unit dwelling; which is to be removed, and the existing driveway access is situated adjacent the northern boundary of the property as shown on Map 2. Attachment B provides photographs of the subject property and the surrounding context.

The existing driveway for the subject site is located between two existing speed humps, installed by HRM in 2001 as a traffic calming measure. The first speed hump is located approximately 25 feet (7.7 metres) north of the existing driveway. The second speed hump is located approximately 43 feet (13 metres) south of the existing driveway. The posted speed limit in the immediate area is 30 km/h.

Streets By-law

The purpose of the Streets By-law is to regulate activities within the public right-of-way. Section 35 of the Streets By-Law outlines the access management criteria for the Development Engineer when planning and designing driveway accesses to private properties from the public road network (Attachment C). Regulating the number of driveway accesses to a property from a public street ensures efficient and safe ingress and egress movements of vehicles for the property while also reducing potential conflicts with the traffic flow on the public street.

Appeal Process

Under Section 42 (2) of the Streets By-Law, an applicant who has been refused a permit or whose permit has been revoked pursuant to the exercise of any discretion by the Development Engineer may appeal to the Appeals Standing Committee (Attachment C). The role of the Appeals Standing Committee is to hear the appeal and make a decision on the application that:

- i) confirms the refusal or revocation by the Engineer;
- ii) directs the Development Engineer to issue the permit; or
- iii) directs the Development Engineer to re-issue the permit subject to such conditions as the Appeals Standing Committee may determine.

DISCUSSION

Under Section 31 of the Streets By-law, every property owner is required to obtain a Streets and Services permit from the Development Engineer before constructing a driveway access. The Engineer shall not issue a permit to construct a driveway which does not conform to the requirements specified in Section 35(1). The subject application does not meet the requirements of Section 35(1)(a) which states that “no more than one driveway may serve any residentially used or zoned lot having less than 100 feet (30m) of frontage on one street...”. The subject property has approximately 81 feet (25 metres) of property frontage and, therefore does not meet the requirements of Section 35(1). However, Section 35(3) states:

“35(3) Notwithstanding subsection (1), where there are limiting or special circumstances, the Engineer may approve an additional driveway subject to special conditions, where in the opinion of the Engineer the driveway will not affect the safe movement of traffic”

Section 35(3) enables the Development Engineer to exercise discretion, thus the decision of the Development Engineer may be appealed to the Appeals Standing Committee.

Reasons for the Appeal

On March 24, 2014, the applicant submitted an Appeal Notice (Attachment A) to HRM which indicates the reasons for the appeal as:

“The current driveway configuration backs into a speed bump and backs directly into an intersection with oncoming traffic.”

For these reasons, the applicant contends that the second driveway access is needed to safely enter and exit the property. Thus, the application may be considered as a “special circumstance” under Section 35(3).

Staff’s Evaluation

A review of the street network surrounding the subject property and the location of the existing driveway access was undertaken by the Development Engineer as part of the permit process. Staff review indicated that:

- The existing driveway access has good visibility in both directions along Armview Avenue.
- The approaches of the existing tee intersection at Tupper Grove also have good visibility (Map 2).
- The location of the driveway in proximity to both speed humps is not a safety concern due to the adequacy of the sightlines from the existing driveway, the reduced speed limit in the area, as well as the openness of the stop controlled intersection at Tupper Grove.
- The location of the proposed second driveway is also within the area of the southerly speed hump and would also require the removal of an existing HRM street tree.

Conclusion

Based upon staff's review of the application, the Development Engineer concluded that the existing driveway location does not pose a safety issue or demonstrate reasons that warrant special consideration be given to the second driveway access. Therefore, staff recommends that the Appeals Standing Committee uphold the decision of the Development Engineer and refuse the second driveway access to the residential property at 6980 Armview Avenue, Halifax.

FINANCIAL IMPLICATIONS

There are no financial implications related to this appeal.

COMMUNITY ENGAGEMENT

Community Engagement, as described by the Community Engagement Strategy, is not applicable to this process as only the applicant can appeal the decision of the Development Engineer to the Appeals Standing Committee.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications.

ALTERNATIVES

1. The Appeals Standing Committee may choose to allow the appeal as proposed and direct the Development Engineer to issue the Streets and Services permit. This is not recommended.
2. The Appeals Standing Committee may choose to allow the appeal and direct the Development Engineer to issue the permit subject to conditions. This is not recommended.

ATTACHMENTS

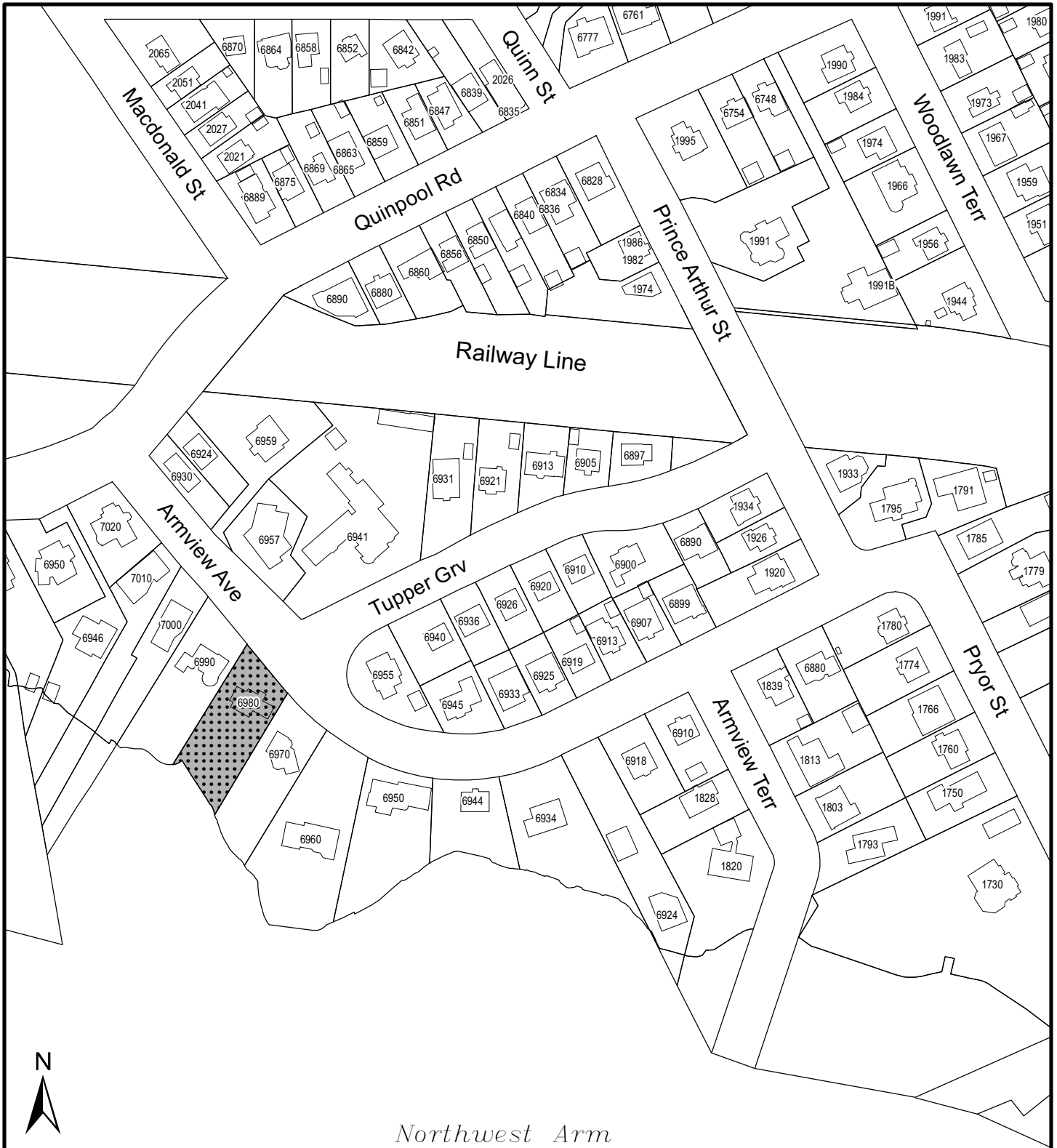
- Map 1: Location Map
- Map 2: Site Plan
- Attachment A: Letter of Appeal
- Attachment B: Site Photos
- Attachment C: Relevant Sections of the Streets By-law

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.html> then choose the appropriate Committee and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Ashley Blissett, Sr. Development Engineer, 490-6848

Original Signed

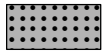
Report Approved by: Kelly Denry, Manager, Development Approvals, 490-4800



Northwest Arm

Map 1 - Location Map

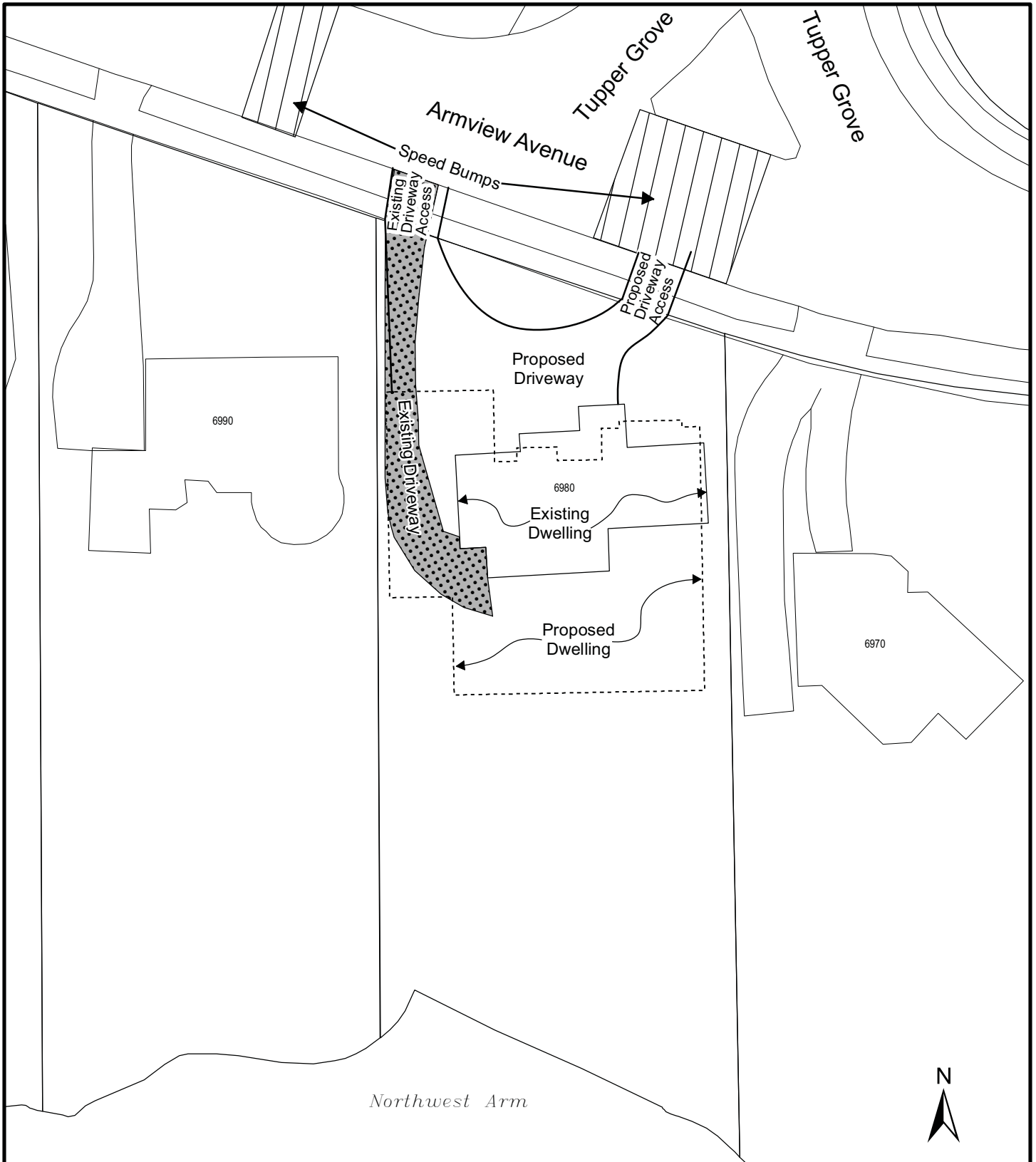
6980 Armview Avenue
Halifax



Subject Property



HRM does not guarantee the accuracy of any representation on this plan.



Map 2 - Site Plan

6980 Armview Avenue
Halifax



HRM does not guarantee the accuracy of any representation on this plan.

ATTACHMENT 'A'

Driveway Access Appeal - 6980 Armview Avenue

Office of the Municipal Clerk
City Hall
1841 Argyle Street, Main Floor
PO Box 1749
Halifax, Nova Scotia B3J 3A5

March 24, 2014

Re: Appeal of Decision to Deny Second Driveway Access (Permit #136746)

To Whom It May Concern,

Please accept this letter as my formal appeal of the decision to deny the second driveway access based on the section of the By-law S-300. This decision was based on Permit Number 136746 for the property at 6980 Armview Avenue Halifax Nova Scotia.

Though this property does not have 100ft frontage as typically required for a second driveway (By-Law D-300) the plan submitted included a circular driveway with two access points from the street. However the current driveway configuration backs into a speed bump and backs directly into an intersection with oncoming traffic. Therefore the two access points are required to safely enter and exit the new proposed property.

Should you wish to discuss this further please do not hesitate to contact me. Otherwise please let me know the date of the informal hearing.

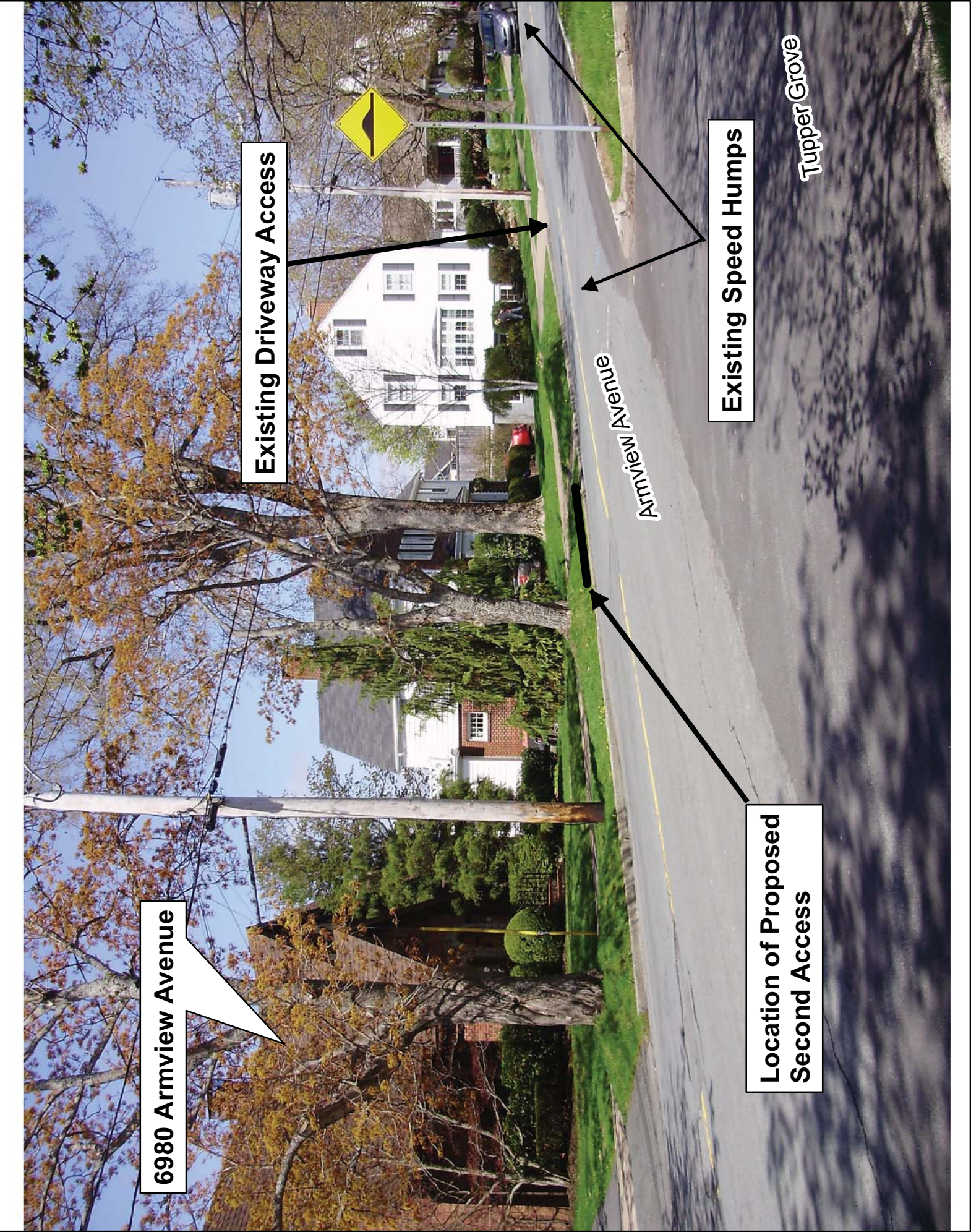
Sincerely

ORIGINAL SIGNED

John Ghosn

(902) 453-8888





6980 Armview Avenue

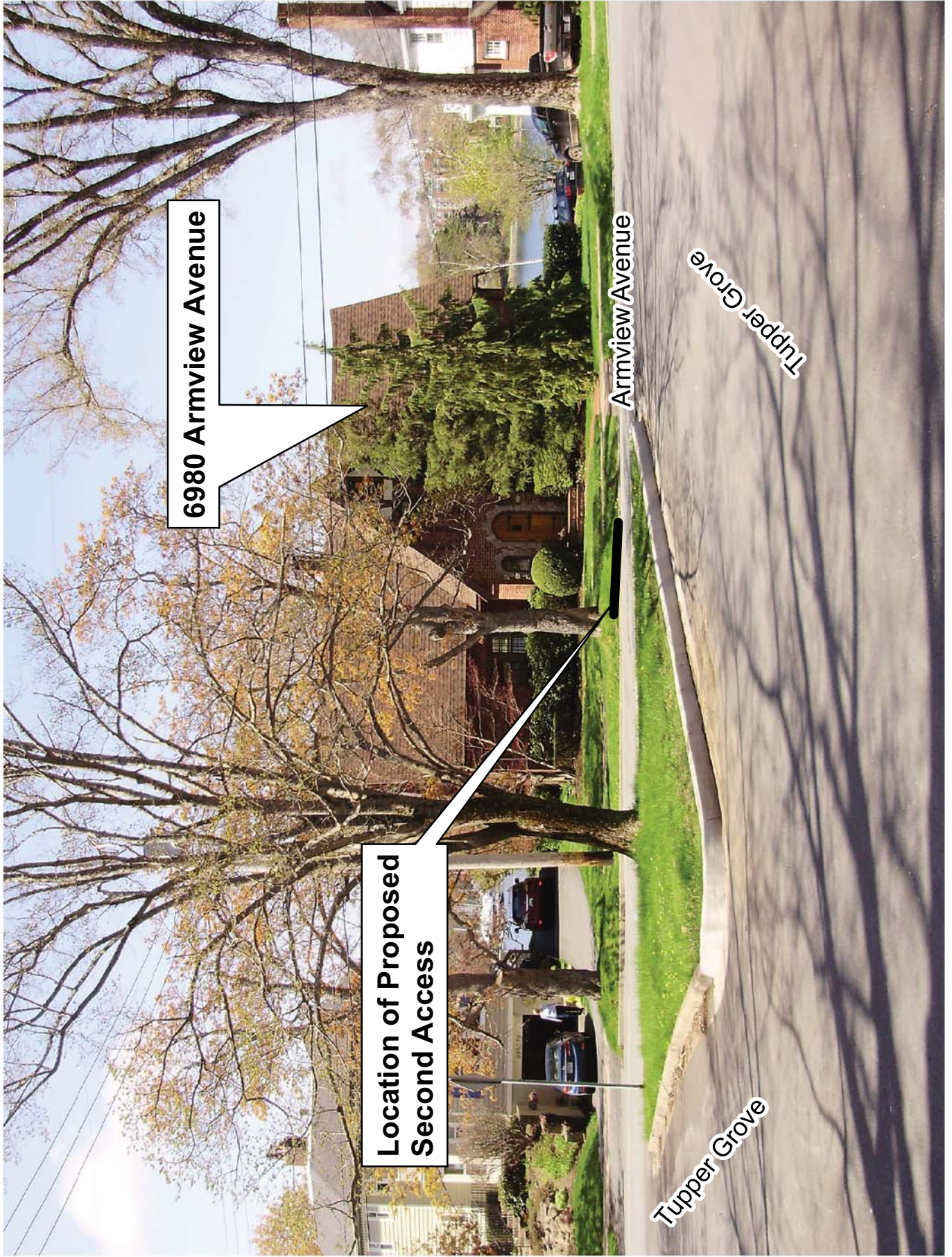
Existing Driveway Access

Existing Speed Humps

Location of Proposed Second Access

Armview Avenue

Tupper Grove



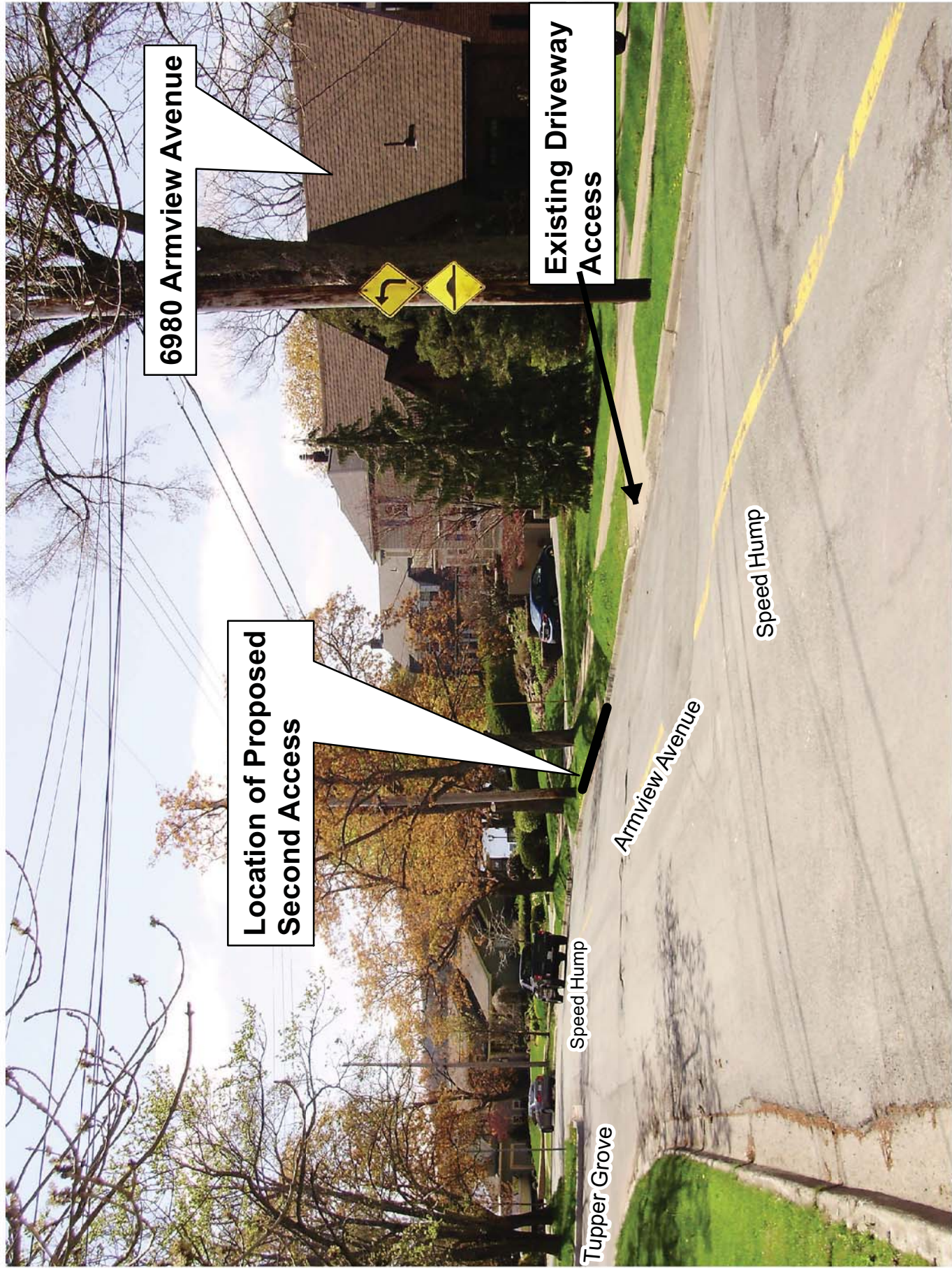
Location of Proposed
Second Access

6980 Armview Avenue

Armview Avenue

Tupper Grove

Tupper Grove



Attachment C
Relevant Sections of the Streets By-law

Maximum Number of Driveways

35. (1) The Engineer shall not issue a permit to construct a driveway which does not conform to the following requirements:
- (a) no more than one driveway may serve any residentially used or zoned lot having less than 100 feet (30m) of frontage on one street, except where the lot is a corner lot fronting on two local streets in which case one driveway on each street may be permitted;
 - (b) no more than two driveways may serve any residentially used or zoned lot which having less than 600 feet (180m) and more than 100 feet (30m) of frontage on one street;
 - (c) no more than two driveways may serve any commercially used or zoned lot having less than 100 feet (30m) of frontage on one street;
 - (d) no more than three driveways may be permitted to serve any commercially used or zoned lot which has less than 600 feet (180m) and more than 100 feet (30m) of frontage on one street;
 - (e) any lots having more than 600 feet (180m) of frontage on one street may be permitted an additional driveway for each additional 500 feet (150m) of lot frontage on the street.
- (2) Notwithstanding subsection (1), the Engineer may refuse more than one access where the additional access would affect the safe movement of traffic on the street due to high traffic volumes or other reason.
- (3) Notwithstanding subsection (1), where there are limiting or special circumstances, the Engineer may approve an additional driveway subject to special conditions, where in the opinion of the Engineer the driveway will not affect the safe movement of traffic

Revocation of Permits

42. (1) The Engineer may cancel, revoke or suspend any permit where there is a violation of this bylaw, any order made pursuant to this bylaw and any condition of any permit issued under the authority of this bylaw.
- (2) Any person who has been refused a permit or whose permit has been revoked pursuant to the exercise of any discretion by the Engineer may appeal to the Appeals Committee.
- (3) All appeals shall be in writing, in the form of a notice, and filed with the Municipal Clerk within 15 days of the refusal or revocation and shall clearly state the grounds for the appeal.
- (4) The Appeals Committee shall hear the appeal at a time and place as it determines and may confirm the refusal or revocation by the Engineer or direct the immediate issuance or re-issuance of the permit by the Engineer subject to such conditions as the Appeals Committee may determine.