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PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Harbour East Community Council
August 4, 2005

TO: Chair and Members of Harbour East Community Council

SUBMITTED BY:


Sean Audas, Development Officer, Planning and Development Services

DATE: May 17, 2005

SUBJECT: Appeal of Site Plan Approval - 7 St. George's Lane, Dartmouth

ORIGIN

This report deals with the appeal of the Development Officer's decision to approve an application for site plan approval of a six (6) unit townhouse development at 7 St. George's Lane, Dartmouth.

RECOMMENDATION

It is recommended that Harbour East Community Council uphold the Development Officer's decision to grant site plan approval for a six (6) unit townhouse development at 7 St. George's Lane, Dartmouth including the revisions to the site plan which eliminates the driveway near Unit 1 and enables the existing vegetation to be retained.

BACKGROUND

Application:

Watermark Developments has submitted an application for Site Plan Approval of a six (6) unit townhouse development at 7 St. George's Lane, Dartmouth. The zoning of this property is Downtown Neighbourhood Zone (DN). In 2000, Regional Council adopted the Downtown Dartmouth Municipal Planning Strategy and Land Use By-Law. An additional use which may be considered through site plan approval in the Downtown Neighbourhood Zone is townhouse dwellings. Appendix 1 is a copy of the permitted uses in the Downtown Neighbourhood Zone.

Decision:

The Development Officer has approved Watermark Development's submission for Site Plan Approval as shown in Appendix 2. The proposal was evaluated under the criteria which is outlined in the Discussion section of this report.

Site Plan Approval Process:

The procedure for approving a site plan is similar to the process for a variance which involves:

- review of the site plan against specific evaluation criteria outlined in the land use by-law;
- Development Officer determines whether the site plan meets the criteria;
- if the criteria are satisfied, all assessed property owners within 30 meters of the subject property are notified of the decision; and
- these owners have the right to appeal the Development Officer's approval and refer the matter to Community Council for a final decision.

Council Options:

The decision of the Development Officer has been appealed and the decision now rests with Community Council which can either:

- i) uphold the decision of the Development Officer;
- ii) make changes to the site plan; or
- iii) reject the site plan.

In evaluating the application for a site-plan approval, the Development Officer is required to approve the application unless the matters subject to site-plan approval do not meet the criteria set out in the Land Use By-Law, or the applicant fails to enter into an undertaking to carry out the terms of the site plan.

In considering an appeal, the Council may make any decision that the Development Officer could have made. In making its decision, Council's discretion is therefore not unlimited; rather, as with

the Development Officer, the Council must approve the site plan unless the matters subject to site-plan approval do not meet the criteria set out in the Land Use By-Law, or the applicant fails to enter into an undertaking to carry out the terms of the site plan.

DISCUSSION

The submitted site plan was reviewed against the relevant site plan approval criteria contained in the Land Use By-Law for Downtown Dartmouth. The Development Officer has determined the proposal satisfies the relevant criteria outlined in the following table:

Criteria	Analysis
Adequate separation distances shall be provided for townhouse dwelling units which abut single detached dwellings	The minimum setback requirement in the Land Use By-Law is 10 feet. The right property line which abuts a single unit dwelling is 40 feet and the left side yard which abuts a two unit dwelling is 10 feet.
The front yard setback required for townhouse buildings shall be in context with the setbacks of buildings within the immediate neighbourhood.	The proposed front yard setback will be 15 feet from the street right of way. This is consistent with abutting properties at 5 St. George's Lane which is at 12.5 feet and 11 St. George's Lane which is at approximately 17 feet.
Driveways should not be located so as to dominate the front yard of the lot, and the remainder of the front yard not required for parking shall be landscaped.	There is only one driveway to the site. This is beside Unit 6. All parking is in the rear yard of the development. All the remaining front yards will be landscaped with a combination of grass and planting beds. The existing street trees will remain.
Any common parking areas shall be screened from adjacent single unit dwellings and the street by landscaping and/or fencing.	There is no common parking area for the proposal.
Landscaping and/or trees of an adequate caliper shall be provided in the front yard of the townhouse dwellings at a rate of one tree per two townhouse units.	Landscaping of planter beds are provided in the front yard. Also some large street trees will remain because of the shared driveway access. Also a large beech tree will remain in the rear yard along with a line of trees along the left property line.

To create additional opportunity for development on designated sites A, B, C, D and E on Schedule B of this Bylaw, provisions are established to permit construction of laneways narrower than the standard public width street to provide access to the development, provided that the laneway is of adequate width to facilitate the safe movement of traffic to and from the site, and adequate addresses maintenance.	This property is not a designated site.
Measures including lot grading shall be required to adequately dispose of storm and surface water	A lot grading plan will be required at the Building Permit stage. This grading plan will have to be signed by a Professional Engineer in order to address storm and surface water issues.
Provisions are established to ensure individual townhouse units and any required site improvements are maintained to a high standard.	The developer will be providing protective covenants which will be registered with each unit's deed to ensure that individual townhouse units and all site improvements are maintained to a high standard.

Appeals

The Development Officer has received 7 appeals which are attached to this report. One appeal was not within the 30 metre notification area. The stated reasons for appealing are summarized as follows:

- the proposed driveway adjacent 11 St. George's Lane will result in loss of privacy and mature trees will be destroyed.
- If there is not a buffer between the properties, where will the snow be disposed of?
- Insufficient Notice given to the assessed property owners
- Incorrect application of the Land Use By-Law respecting townhouse development
- Not adhering to the policy and objectives of the Municipal Planning Strategy and Land Use-By-Law
- Increased traffic on St. George's Lane
- Impact on Linden Lea pond
- Water run off

The applicant has met with one of the appellants and has revised the site plan to address some of the concerns raised. These changes will result in retaining the existing vegetation and removing the driveway from the left side property line. As a result of this change, one of the appellants has withdrawn their appeal (Appendix 6). This revised plan which is attached as Appendix 7 has been

circulated to all property owners within 30 meters.

The second appeal has stated that the Development Officer did not provide sufficient notice given to assessed property owners, incorrect application of the Land Use By-Law respecting townhouse development and not adhering to the policy and objectives of the Municipal Planning Strategy and Land Use By-Law.

This appeal noted that the site planning section of the Land Use By-Law referenced in the appeal notice was incorrect. As a result of that error, the notice was revised and hand delivered to all assessed property owners within 30 meters. The revised notice was also faxed to an assessed owner who currently resides in Alberta.

The appellant also stated that insufficient notice was given to all assessed property owners. The requirements under the Municipal Government Act were followed in the initial notification, however the re-notification adequately addresses any issue of sufficient notice being provided.

The appellant has also stated that the Development Officer did not adhere to the policy and objectives of the Municipal Planning Strategy and Land Use By-Law. In evaluating the application, the Development Officer, in the first instance, and the Community Council, on appeal, is not required to evaluate the application against the policies of the Municipal Planning Strategy. Rather the Municipal Government Act requires that the application, in both instances, be evaluated against the provisions of the Land Use By-Law. This application was assessed according to the site planning requirement of the Downtown Neighbourhood Zone contained in the Land Use By-Law. The Land Use By-Law provisions respecting site plans (as with all other provisions of land use by-laws) are required to be consistent with the policies of the Municipal Planning Strategy. Therefore, the site planning criteria used to evaluate site plan applications as contained in the Land Use By-Law are a reflection of the goals and objectives of the Municipal Planning Strategy. However, the application must be evaluated against the particular wording used in the Land Use By-Law provisions and not the more general wording of the Municipal Planning Strategy.

Many of the items which were brought forward with the appeal were discussed at the last public hearing on May 25, 2005

BUDGET IMPLICATIONS

There are no implications on the Capital Budget associated with this report.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

- Council may uphold the decision of the Development Officer. This is the recommended course of action for the reasons stated in this report.
- Council may request changes to the proposal subject to preparation of a supplementary report. This is not a recommended course action.
- Council may reject the proposed site plan. This recommendation is not supported by the Development Officer since the proposal satisfies the relevant approval criteria.

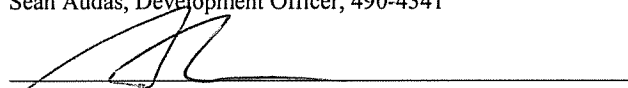
ATTACHMENTS

- Appendix 1 - Downtown Neighbourhood Zone list of permitted uses
- Appendix 2 - Original Site Plan which was approved by the Development Officer (2 pages)
- Appendix 3 - Notice of appeal from 11 St. George's Lane
- Appendix 4 - Notice of appeal from 286 Portland Street
- Appendix 5 - Notice of appeal from 8 St. George's Lane
- Appendix 6 - Withdrawal of appeal from 11 St. George's Lane
- Appendix 7 - Revised site plan to address concerns of 11 St. George's Lane

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Sean Audas, Development Officer, 490-4341

Report Approved by:


Sean Audas, Development Officer, Planning and Development Services, 490-4341

DOWNTOWN NEIGHBOURHOOD ZONE

9. (1) *Purpose:* The goal of the Downtown Neighbourhood Zone is to protect the integrity and character of existing residential neighbourhoods by limiting the type, scale and design of new development, renovations, and home based businesses.

(2) *Permitted Uses:*

Single Unit Dwellings
 Two Unit Dwellings
 Converted Dwellings ✓
 Bed and Breakfasts in conjunction with single unit dwellings
 Home Business Uses
 Public Parks and Playgrounds
 Townhouse and multiple residential uses in existence on the effective date this By-law
 Institutional uses (**Deletion - HECC - Sept 5/02, Effective - Sept 29/02**)
 Accessory Uses

(3) *Additional Uses Which May be Considered Through Site Plan Approval:*

- Townhouse Dwellings
- Neighbourhood Commercial Uses
- Downtown Business Uses Along Prince Albert Road between Eaton Avenue and Pleasant Street

(4) *Additional Uses Which May be Considered by Development Agreement:*

- Multiple unit dwellings and townhouses on those sites noted on Schedule B.
- Conversions of registered heritage properties to uses of land not permitted above.
- Expansion of the St. Georges Tennis Club

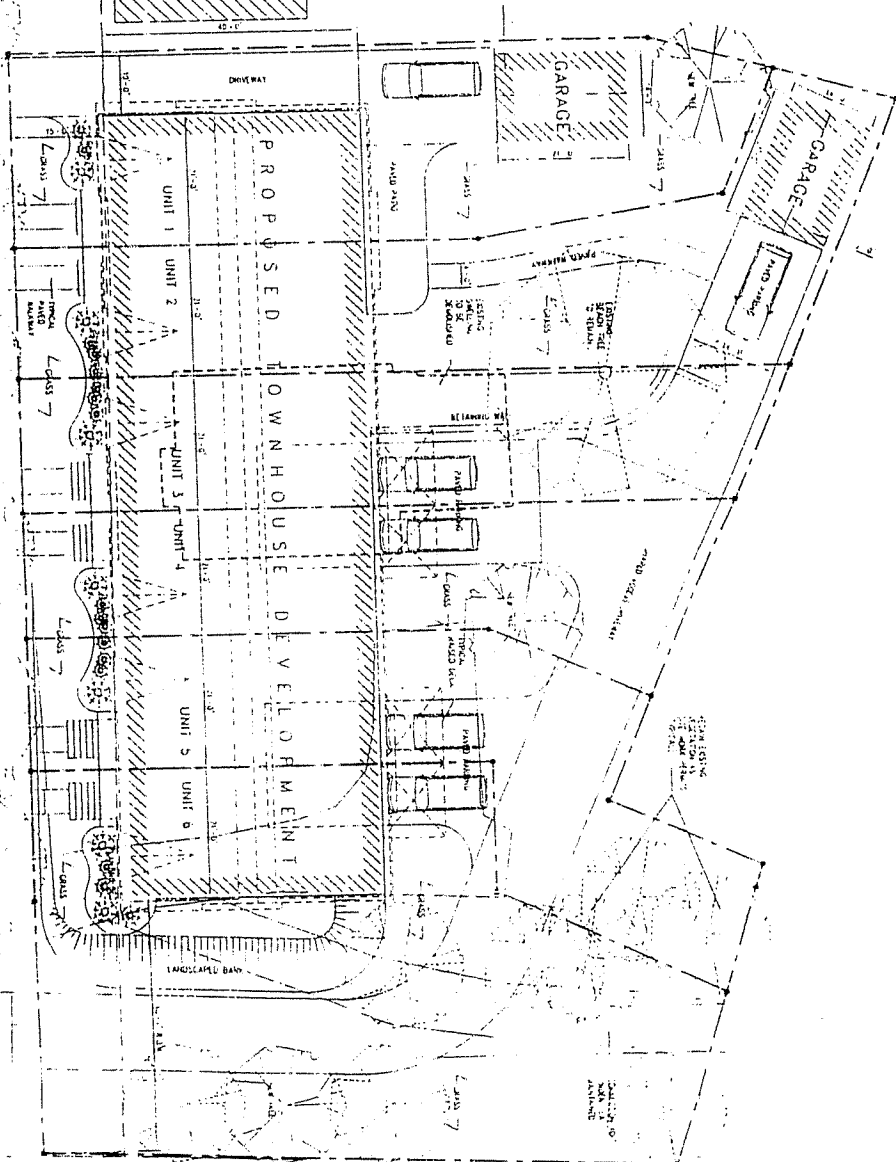
(5) *Zone Standards*

One & Two Unit Dwellings and Institutional Uses (HECC - Sept 5/02, Effective - Sept 29/02)	
Minimum Lot Area	2500 square feet (232.3 square metres)
Minimum Lot Frontage	25 feet (7.6 metres)
Maximum Height	30 feet (9.14 metres) except that this may be waived under Section 9 (8) where existing buildings exceed this height or where the grades of a lot present design limitations (HECC - Sept 5/02, Effective - Sept 29/02)
Maximum Lot Coverage (for new construction)	40%



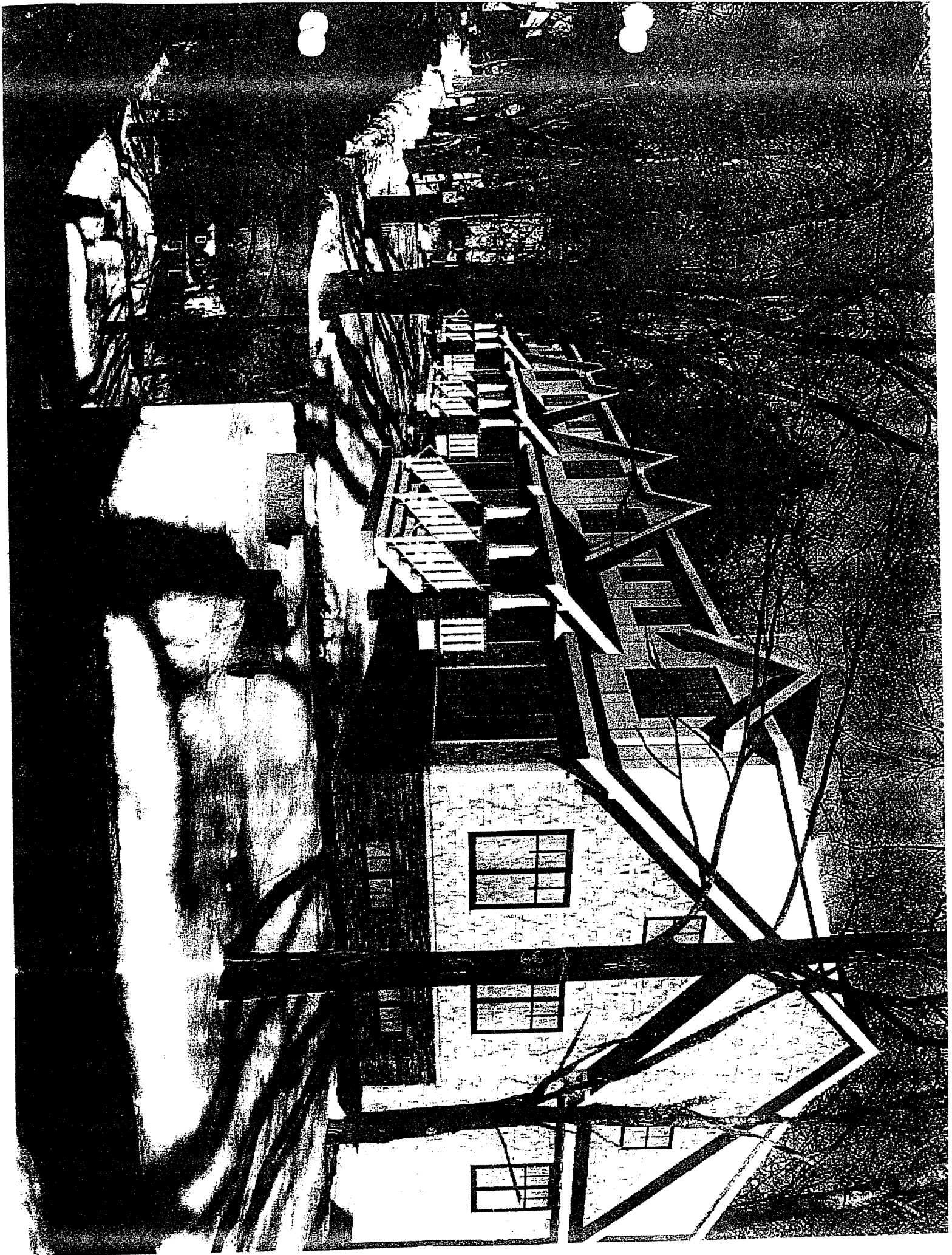
ST. GEORGE'S LANE townhouses

ST. GEORGE'S LANE



UNIT 1			
Garage	100 sq. ft.	100 sq. ft.	100 sq. ft.
Garage	100 sq. ft.	100 sq. ft.	100 sq. ft.
Garage	100 sq. ft.	100 sq. ft.	100 sq. ft.
Garage	100 sq. ft.	100 sq. ft.	100 sq. ft.
Garage	100 sq. ft.	100 sq. ft.	100 sq. ft.
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Garage	100 sq. ft.	100 sq. ft.	100 sq. ft.
Garage	100 sq. ft.	100 sq. ft.	100 sq. ft.

A-12
12.12.03



LETTER OF APPEAL

TO:

Sean Audas, Development Officer
Halifax Regional Municipality
APPELLANT:

Michael and Sandra Smith
11 St. Georges Lane
Dartmouth Nova Scotia
B2Y 1R5
Telephone: Residence 464-0226 Business 496-8155

Do hereby appeal the following:

Site Plan Approval at 7 St. Georges Lane, Dartmouth NS

APPLICATION BEING APPEALED:

Application # 11771

Property Address of the Appeal: 7 St. Georges Lane

The grounds for this appeal are as follows:

The Downtown Dartmouth Secondary Planning Strategy states the following-
Small scale townhouse development may occur within the neighborhoods without impacting on neighborhood character or stability. Such developments shall be considered through the site plan approval process to ensure appropriate site design standards are satisfied to maintain compatibility and minimize any adverse effects on adjacent dwellings. The Land use Bylaws shall set out the requirements for the site plan approval.

As one of the home owners directly adjacent to this property development, we will suffer the greatest adverse impact. We believe that we have a few genuine concerns

- 1) The property adjacent to ours now has a buffer of mature grown trees. According to the plan, these trees will be cut down and a 10 foot driveway constructed between these two properties, Unit # 1 and 11 St. Georges Lane. Ironically on the other end of the development new trees will be planted to provide I assume a 40 foot buffer. (There is no provision for adequate setback and buffering, which is vital to ensure the retention of reasonable privacy between the two yards)
- 2) Although the land use bylaw deals with the disposal of storm and surface water, what about snow accumulation and removal. Where is this to be disposed of or piled, with no buffer between the two properties?

We feel that by eliminating the driveway that runs adjacent to unit # 1(one), would minimize the impact this Development will have on our residence. The residents could use the shared access driveway and rear entry, as the other residence will

Date: April 4/05

Signature of Appellant

Michael Smith

APPEAL

SITE PLAN APPLICATION No. 11771 - 7 ST. GEORGE'S LN, DARTMOUTH

JOAN RANKIN & ED LAKE

286 Portland Street
Dartmouth, NS
B2Y 1K4
(902)466-7423

APPELLANT

SUMMARY

The applicant property includes an existing 1-1/2 story single family home which is proposed to be demolished and replaced with a 6-unit townhouse. The area is zoned Downtown Neighbourhood which allows small scale townhouse development via site plan approval process.

This appeal of the Development Officer's approval is based on: insufficient notice given to assessed property owners, incorrect application of the Land-Use-Bylaw respecting townhouse development and not adhering to the policy and objectives of the Municipal Planning Strategy and Land-Use-Bylaw.

BACKGROUND

7 St. George's Lane is a modest 1-1/2 storey single family detached dwelling that is good condition generally. The site is located in the Dartmouth downtown neighbourhood known as Hazelhurst. The property conforms with the governing Downtown Neighbourhood Zone regulations.

A development application for the redevelopment 7 St. George's Lane was reviewed and approved by the planning department of Halifax Regional Municipality, subject to a site approval process.

GROUND OF APPEAL

This Appeal is based on the Development Officer's failure to adhere to and correctly apply all provisions of the applicable legislation and planning documents which include: the Municipal Government Act, the Downtown Dartmouth Secondary Planning Strategy and the Land Use-By-Law For Downtown Dartmouth.

DETAILS

Site Plan Approval: Right of Appeal

As required by the Municipal Government Act (MGA), the Development Officer notified all assessed property owners within 30m of the applicant property that the request for site plan approval had been approved in accordance with the Downtown Dartmouth Land-Use-Bylaw (the LUB).

The Development Officer gave notice in writing advising that an appeal may be made on or before April 4, 2005. The Development Officer's written notice was received by the Appellant on March 24, 2005.

The Development Officer failed to properly notify the assessed property owners as the MGA stipulates that the appeal period extends 14 days after receiving notice.

Improper notice is not an informality in these circumstances as some of the assessed property owners within 30 m were no longer in their homes. As well, St. George's Tennis Club members, many with a strong, longtime interest in the neighbourhood, did not have the benefit of discussing the proposed development, due to court closure and the abbreviated time-frame.

Site-Plan Approval: Criteria

Policy N-4 of the Downtown Dartmouth Secondary Planning Strategy (SPS) permits small scale townhouse developments subject to specific requirements including those set out in the LUB.

In the letter giving notice of site plan approval, the Development Officer advised that the application was approved according to LUB requirements.

With the notice, the Development Officer attached a copy of Section 10 Downtown Business District Zone: (6) Land Use-By-Law For Downtown Dartmouth, Site Plan Approval Requirements for Townhouse or Multiple Unit Dwellings on Residential Opportunity Sites.

7 St. George's Lane **is not** located within the Downtown Business District Zone or any of the Residential Opportunity Sites identified in either the SPS or LUB.

Because the applicant property **is located** within a Downtown Neighbourhood Zone, the Development Officer should have reviewed the application to ensure the proposed development was in accordance with the correct requirements, 9(14) Requirements for Site Plan Approval for Townhouse Dwellings and 9(15) Architectural Requirements: Townhouse Dwellings.

Further, even Policy N-5 of the SPS governing the development of Neighbourhood Residential Opportunity Sites discourages demolition in favour of site redevelopment: "*d) the proposal should not involve the wholesale demolition of existing housing stock;*"

Limitations of Development

The planning documents provide a context for reviewing proposed developments in the form of stated policy and planning objectives which overlay for all planning requirements. This places limitations on all developments in general and townhouse developments specifically.

The SPS states that among its objectives, it is to *"protect and strengthen the traditional character and stability of the downtown neighbourhoods."*;

In Policy N-4, the SPS specifically states *"Small scale townhouse development may occur within the neighbourhoods without impacting on the neighbourhood character or stability."*

The LUB states that the *"goal of the Downtown Neighbourhood Zone is to protect the integrity and character of existing residential neighbourhoods . . ."*;

Increasing land values, a strong demand of building lots within the service boundaries, rising real estate prices and reduced lot size regulations have created economic conditions which invite the subdivision of existing properties.

While this is not a recent phenomenon, an acute shortage of serviceable land in the downtown zones and reduced lot sizes created by new subdivision regulations has provided new development opportunities. Subject to appropriate planning criteria, infill housing is seen as having a positive impact on neighbourhoods.

The SPS defines and characterizes Dartmouth's neighbourhoods. The SDS repeatedly emphasizes that the existing neighbourhoods must be preserved. *"Within the neighbourhoods, the consensus is to preserve the character, scale and mix of housing and amenities. Dramatic changes in this housing mix are not desired. The community would like to build upon the traditional housing stock in the downtown in an effort to attract more families and young people into the area. This will help offset an increasingly aging population and declines in school enrollments."*

When meeting with some of the assessed property owners, the developer stated that the units, having a footprint of 640 sq.ft. each, would be marketed at \$325,000 each and targeted at 'empty nesters'. The planned concept is not intended to support the needs of the community and exacerbated the need for affordable family housing in the community.

Few things could destabilize or threaten the integrity of this neighbourhood any more than demolition of a traditional, modestly priced dwelling in favour high-end development.

Very little could risk the character or stability of a community more than destruction of suitable, affordable single family homes if alternate, less family-oriented development could take place.

The stated objectives of the planning documents are to preserve, protect and stabilize the existing neighbourhoods. There is no intent to accomplish this through revitalization, regeneration or redevelopment. To the contrary, the conservation of buildings is promoted. Likewise, the LUB is extremely restrictive by severely limiting the physical expansion of single dwelling structures when converting to two or three dwelling units.

The Development Officer has failed to follow the policy and objectives of the planning documents because it is clear that the approval of the proposed development will not preserve or protect the integrity, character and stability of the existing downtown neighbourhood.

Responsibility of the Community Council

The Development Officer must exercise sound judgement in applying all planning document requirements. Under appeal of the Development Officer's decision, the Community Council may make any decision that the Development Officer could have made, MGA s.237.

Further, the principles of the NS Court of Appeal decision of **Kynock v. Bennett** and subsequent NSUARB decisions have all affirmed the Community Council's authority (and duty) to reasonably carry out the intent of a municipal planning strategy, MGA s250.

In the matter of an appeal by **Hage Enterprises Limited** of the **North West Community Council** decision to deny a development agreement contrary to a staff recommendation, the NSUARB recognizes the Council right to use its judgement and base its decision on the intent of a municipal planning strategy. NSUARB-PL-04-06

DATED at Dartmouth, Nova Scotia this th day of May, AD 2005.

Joan Rankin

Ed Lake

Attachments:

Sample Petition Form
NSUARB Decision Hage Enterprises
HRM North West Community Council Minutes - Feb 26, 2004

NOTICE OF APPEAL


**CARROLL GARDNER
& JANE GARDNER**

8 St. George's Lane
Dartmouth, NS
B2Y 1R6

APPELLANT

TAKE NOTICE that the HRM Development Officer's approval of townhouse development on 7 St. George's Lane, Dartmouth, will be appealed.

DATED at Dartmouth, Nova Scotia this 12 th day of May, AD 2005.


Carroll Gardner

DATED at Calgary, Alberta this 11 th day of May, AD 2005.


Jane Gardner

c. Gloria McCluskey

Jane M. Gardner RN, BPE, MSc, CCRP
793 Ranchview Circle N.W.
Calgary, Alberta
T3G 1S1

Planning Department,
Halifax Regional Municipality
Halifax, Nova Scotia.

To Whom It May Concern;

Re: Appeal of Site Plan #11771 & St. Georges' Lane, Dartmouth Nova Scotia

I am writing to appeal the pending application (#11771) of 7 St. Georges' Lane, Dartmouth, Nova Scotia, which involves the demolition of the existing single family home and the development of 6 townhouses.

As joint owners of 8 St. Georges' Lane, my father, Carroll R. Gardner and myself have grave reservations and concerns about this development. My family has resided at #8 for almost 39 years and are very familiar with the neighbourhood.

Our first objection comes from the increased traffic to the lane which will necessarily result from such a development. The "Lane" is not of sufficient width to allow for two small vehicles to pass each other – it is at best one and one half lanes, without tennis club members parking along the club fence. When two vehicles approach from opposite directions, one must often back up or drive into the Linden Lea right of way or into one of the residents driveways until the other vehicle has passed. This is an infringement of the residents property and a danger to pedestrians on the lane. The Lane is just that...a laneway to provide residential access and access to an historic tennis club. It was never designed, nor meant to be "a street of 3000 vehicles per day". Anyone familiar with the Lane would simply find no validation for such a claim. Should the Linden Lea access be paved, again this is asking for increased speed and usage by vehicles that merely seek a short cut and have no real reason for being there. However, the cost to the residents, environment and pedestrians would be high.

Due to the lack of parking facilities for the tennis club, there are a significant number of tennis club adults and children on the Lane from 07:30 to 22:30, seven days a week from mid-April to often mid November – going to and from the club, chatting with friends at their vehicles and loading and unloading handfuls of children for lessons, to play and have picnics. The Lane also has large non-club pedestrian and bicycle traffic at all hours, and days throughout the year. It is a desirable and lovely place to walk! But traffic and pedestrians do not mix well and certainly not when both share the same narrow space. It would be a rare day that my Father or myself, in the spring, summer and fall, are able to readily access our walkway or our driveway due to pedestrians/cyclists but most pertinently, parked cars. Adding six new units to the lane will increase this existing

problem. Family and friends to the new residents will want to drop by and will undoubtedly park in front of the townhomes, in front of our home or anywhere they can fit. Believe me we have seen it already. I cannot think of a greater opportunity for disaster.

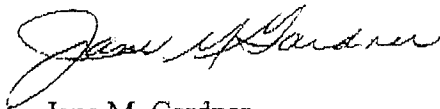
Our second concern lies with maintaining the heritage, integrity and stability of the immediate area of St Georges' Lane. One of the main many attractions to families coming to the area is the fact that homes are not stacked upon each other, people take great pride in local history, area character, ambiance and the traditional values of those who live here. It is not transient in nature. It is a place for children to grow and where homes owners take great pleasure, spend hours and large amounts of money to maintain their properties, as they were built. This has only served to make the area more desirable and an asset to the City of Dartmouth. Attracting families prepared to stay, hopefully over generations, is what lends stability to downtown environments, any environment. Substituting single family homes with higher density buildings are not so conducive.

Thirdly is the fear of the impact to the Linden Lea pond. The pond has served as a wildlife sanctuary for years before my family discovered 8 St. Georges' Lane. It is an asset to the community – a quiet haven filled with a multitude of species (chirping frogs, ducks and their ducklings etc), a place for neighbourhood children to discover the wonder of it all, close to home and a place of balance and contemplation for adults. Hundreds of children have had their first skating lessons on that pond and it has provided a place for family fun. To expect or accept that, higher density developments leading to increased noise, water drainage and traffic would not damage such a fragile ecosystem is simply erroneous and irresponsible.

Unfortunately, I am not able to currently live in my family home but it is ever my intention to "come home" to stay within the next several years. St. Georges' Lane is a special place – it is special for many reasons, one of the largest is its character and intimacy. Permitting the development of such a proposed complex would be dangerous to its inhabitants, its visitors, its character, its desirability and its ecosystems.

Sometimes, newer, bigger, more, is NOT an asset to the neighbourhood or the City.

Most Sincerely Yours,



Jane M. Gardner
Carroll R. Gardner

April 16, 2005

Sean Audas, Development Officer
Planning and Development Services
Halifax Regional Municipality
PO Box 1749, Halifax, NS
B3J 3A5

Dear Mr. Audas,

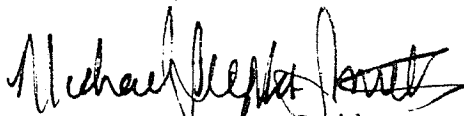
Re: **Watermark Developments Inc. proposal to construct a six unit townhouse at
7 St. Georges Lane, Dartmouth**

As property owners of 11 St. Georges Lane, we recently submitted a letter of appeal to HRM's decision to grant site plan approval to Watermark Developments Inc. to construct a six unit townhouse adjacent to our property on lands identified as 7 St. Georges Lane.

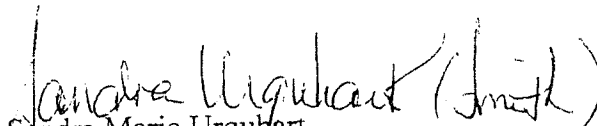
Our cause for appeal was in respect to the single driveway proposed to be located between our property and the proposed townhouse block. Our primary concern with the construction of a driveway in this location is with respect to the anticipated loss of mature trees required to accommodate a driveway at this location. Please note, that since we filed our appeal, Watermark Developments Inc. has approached us to discuss our concerns and has revised the site plan in accordance with our discussions (Please see attached Site Plan). In the revised site plan, Watermark Developments Inc. has removed the driveway between our property and the proposed townhouse thereby enabling the existing trees to be maintained.

Please note, the concerns expressed in our letter of appeal have been mitigated to our satisfaction though the revisions to the site plan by Watermark Developments Inc. As a result, provided the site plan originally reviewed and approved by Development Services is repealed and replaced by the attached site plan, we agree to formally withdraw our appeal.

Sincerely,



Michael Stephen Smith
11 St. Georges Lane



Sandra Marie Urquhart
11 St. Georges Lane

APPEAL

Re: Application # 11771 – Site Plan Approval at 7 St. George's Lane, Dartmouth

**Dr. Joanne E. MacDonald (POA) on behalf Mrs. E. Frances MacDonald
288A Portland Street
Dartmouth, NS
B2Y 1K4**

Appellant

Pursuant to Section 232 of the Municipal Government Act, as an assessed property owner within 30 metres of the site, I am appealing the approval of this application.

I did not receive the first notification concerning the site plan approval. Consequently, I missed an important meeting with the developer. Fortunately, neighbours have provided details.

The first basis for this appeal is that the proposed development repeatedly contradicts the Downtown Dartmouth Secondary Planning Strategy (DDSPS).

Part 1.

Objective “To protect and strengthen the traditional character and stability of the downtown neighbourhoods.”

Policy N-1: “a Downtown Neighbourhood Zone will control future development to ensure it is consistent with the traditional lot and housing patterns in the neighbourhoods. Lower density housing types such as one and two unit dwellings, small scale townhousing, and limited conversion of exiting dwellings will be encouraged throughout the neighbourhoods.”

Policy N-2: “This plan encourages the retention and creation of dwelling units suitable for families with children in an effort to diversify the population and maintain area schools.”

Policy N-5: The preferred form of development...(d) should not involve wholesale demolition of existing housing stock.

The house at 7 St. George's Lane is single-family dwelling in good condition and also an fine example of the traditional character of the neighbourhood. The site plan indicates “existing dwelling to be demolished”.

The creation of 840 ft² townhouses selling for \$325,000 will not attract families with children. Moreover, the developer has stated the target demographic for marketing the properties will be “empty nesters”.

Policy N-5: The preferred form of development...(h) adequate recreation and amenity space including play areas for children should be provided as well.

The site plan does not indicate recreation or amenity space other than one "paved patio" for two units and two "typical raised deck" for four units. In the area directly behind the townhouses, 4 areas designated "grass" occur but these are dwarfed by the "shared access driveway" and "paved parking".

Part 2.

Objective: "To foster the recognition, protection and enhancement of historically-significant properties."

Objective: "To preserve and enhance buildings, streetscapes, areas and views that are of historical or cultural significance."

Policy H-1: "The Municipality shall seek the retention, preservation, rehabilitation and restoration of those areas, sites, streetscapes, structures and conditions such as views which impart a sense of the community's heritage, particularly those which are relevant to important occasions, eras, or personages, which are architecturally significant, or are of a significant age. Where appropriate, in order to assure the continuing viability of such areas, sites, streetscapes, structures, and/or conditions, suitable re-uses shall be encouraged."

The property at 7 St. George's Lane has extensive lawns that are continuous to the green area around a pond below the property. The combined area is all that remains of the J. Walter Allison farm that was active at the turn of the 19th Century. Furthermore, the large Victorian homes nearby on Portland Street were part of the Allison estate. A copy of a postcard, and its 1909 postmark, illustrating the area as it was at that time will be provided later. The essence of the open green area as it existed then has been maintained. Many of the vintage houses on Pleasant Street visible on the postcard are still in existence, and some have been painstakingly restored. St. George's Tennis Club is also visible.

Also mentioned: "The St. George's Tennis Club has been in operation for over 100 years, on St. George's Lane off Portland and Pleasant Street. It is a popular club, and adds an interesting character to the Hazelhurst neighbourhood."

Given the DDSPS' recognition of St. George's Tennis Club, it is a logical extension that the open area around the pond together with the lawns of 7 St. Georges Lane, that are remnants of a by-gone era, be recognized as adding character as well.

The extensive lawns and single house at 7 St. George's Lane create an appealing area and streetscape.

The removal of the lawns and house and their replacement with 6 townhouses (with the setback in context with the adjacent buildings – as dictated by the Landuse Bylaw) together with paved driveway and walkway will dramatically change the appeal of the streetscape and area visible not just from St. George's Lane, but also from Pleasant Street, Linden Lea, and Portland Street.

In addition to the lawns and house, another significant feature of 7 St. George's Lane is a large open-grown beech tree that dominates the property. Indeed, this tree was clearly seen as an asset by the developer because the site plan indicates that it is to be retained. However, it is unlikely that the tree will survive because of following multiple stresses:

1. The shared access driveway as well as the paved walkway lie under the drip line of the tree. Specifically, 1/3 of the lawn under the tree will be covered with asphalt. Since the root system extends as far as the perimeter of the crown, this much of the root system will die. Thus, a significant supply of water and nutrients to the tree will be lost.

2. In addition to the loss of roots, rainwater will runoff the driveway and walkway rather than being absorbed by the lawn (see below), further reducing water to the tree.

3. The tree's branches extend to the ground, so I am not sure how the paving will be done without dramatic pruning within the crown (the food factory for the tree). The result will be a sudden reduction in the amount of sugars and starches available for growth.

Did the municipality's forester visit the site?

Part 3.

Objective: "to ensure the provision of adequate, diverse, and accessible open space and recreational opportunities, both passive and active, to meet the needs of downtown citizens and visitors."

The lawns of 7 St. George's Lane together with those surrounding the pond below create an open green space of significant size within a neighbourhood, otherwise devoid of such space.

The proposed site plan illustrates the shared access driveway and paved parking for the 6 units that will cover much of the existing lawns, thus reducing the size of the open green space.

The second basis for this appeal is the proposed development shows little concern for the environment.

At a time when the conservation, if not expansion, of landscape to reduce runoff into sewers is encouraged in urban areas, the proposed plan is removing it and replacing it with hardscape. This causes concern for two reasons.

1. Given that the land on which the proposed development sits, slopes to the pond and that the rainwater-absorbing capability of the lawns will be gone, there is a potential problem of non-filtered run-off (carried over the asphalt) into the pond.

Overflow from the pond feeds to the municipal sewer system.

Has the engineering department examined the issue of minimizes the erosion aspect of this runoff or the effect on the sewer lines leading from the pond?

Does the developer bear the cost of these expenses?

2. Currently, within cities, there is a trend to leave habitat "islands" as part of a corridor for birds and wildlife. The pond below 7 St. George's Lane is not dead, but alive - filled with aquatic life and visited by migratory birds.

Has an environmental impact on the effect of runoff on the ecological integrity of the pond been conducted?

Will the developer bear the cost of making the development environmentally sound for this urban wetland?

The third basis for this appeal is the proposed development does not address the Landuse Bylaw for Downtown Dartmouth, Section 9.14, (14), (d).

"Any common parking areas shall be screened from adjacent single dwellings and the street by landscaping and/or fencing".

Screening from the adjacent property at 288A Portland Street is not indicated.

As indicated above, I did not receive the first notice of the proposed development or the related meeting with the developer. Consequently, I could not make my concern known.

DATED at Fredericton, New Brunswick this 22 th day of May, AD 2005.

Joanne E. MacDonald
Dr. Joanne E. MacDonald

190 Woodbridge Street
Fredericton NB E3B 4R3

NOTICE OF APPEAL

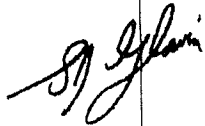
ST. GEORGE'S TENNIS CLUB

St. George's Lane
P.O. Box 422, Dartmouth, NS
B2Y 3Y5

APPELLANT

TAKE NOTICE that the HRM Development Officer's approval of townhouse development on 7 St. George's Lane, Dartmouth, will be appealed.

DATED at Dartmouth, Nova Scotia this 22nd day of May, AD 2005.



Stephen Glavin, Chair
Townhouse Development Appeal Committee

- c. John Joyce-Robinson, President, St. George's Tennis Club
Gloria McCluskey, Councillor - District 5

45 Birchwood Terrace
Dartmouth, Nova Scotia
B3A 3W4
May 20, 2005

Halifax Regional Municipality

Attention: Sean Audas, Development Officer

Re: Application # 11771 - Site Plan Approval at 7 St. Georges Lane, Dartmouth, NS

I am writing further to your letter of May 06, 2005. I would like to file an appeal in relation to Application #11771.

The basis of this appeal relates primarily to, but not exclusively, to concerns re water runoff as a result of this development.

Sincerely,

Bill Greateorex

NOT WITHIN 30 METERS NOTIFICATION AREA.

APPEAL

Stephanie S. Young & Sergey V. Gorbanchenko
280 Portland Street
Dartmouth, N.S.
B2Y 1J9
(902) 464-0049

Re: Site plan application No. 11771
7 St. Georges Lane, Dartmouth

Grounds of Appeal:

Based on the development officers failure to adhere to and judiciously apply, in an unbiased manner, all provisions of applicable legislation and planning documents including, but not limited to

- the Municipal Government act
- Downtown Dartmouth Secondary Planning Strategy
- Land use by-law for downtown Dartmouth
- City of Dartmouth Subdivision Regulations

Details:

As stated in appeal submitted by Joan Rankin and Ed Lake – see attached copy of their appeal previously submitted to HRM on or about May 5, 2005.

Site Plan Approval Criteria:

Section 14 (1) (1a) and 20(b) of the Dartmouth Subdivision Bylaw requiring a minimum lot frontage of 50 feet and minimum lot area of 5000 square feet.

These sections have not been amended during the past 30-40 years to provide for smaller lot sizes to accommodate townhouse lots, semi-detached dwellings or infill lots.

Site Plan Approval :Criteria

City of Dartmouth Subdivision Regulations – specifically street drainage: storm water which will accumulate on the street, both from the street surface and from adjacent property, shall be disposed of through a suitable drainage system. What, if any provisions have been proposed by the developer or are city mandated to address this issue?

Curbs and gutters – shall be installed by the developer in conformance with City of Dartmouth current specifications. Currently there are no curbs, sidewalks, gutters or storm sewers on either side of St. Georges Lane. What, if any provisions have been proposed by the developer or are city mandated to address this issue?

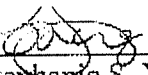
Traffic Concerns:

St. George's Lane is a narrow secondary street measuring only 23 feet (+ or -) in width. Currently traffic flow is generally limited to local residents of the area and St. Georges Tennis Club patrons. The paved roadway is quite narrow and often two vehicles are unable to pass one another if going opposite directions – one must pull to the side and greatly slow its speed or stop in order to pass safely. As noted above, there are presently no sidewalks to facilitate safe pedestrian travel in the inevitable increase in traffic flow between Portland Street and the tennis club. What, if any provisions have been proposed or are mandated to ensure safety of drivers or pedestrians? Who will incur the financial responsibility for these upgrades to street width and/or sidewalk installation?

Environmental Concerns:

A small body of water lies to the right rear corner of the proposed development. This area is home to migratory waterfowl and other birds. Has any study been proposed or initiated to examine how the development will impact on this ecosystem? Has the city development officer contacted the Department of Natural Resources to gain the department's view on this matter? Because it is so close to a wet land, lot grading changes, possible changes in ground water run off patterns and increased noise and traffic flow occurring as a result of this development will very conceivably impact negatively on the ecosystem and its resident wildlife.

Dated at Dartmouth, Nova Scotia this 20 th day of May, 2005


Stephanie S. Young

Sergey V. Gorbachenko

Attachments: Appeal submitted by Joan Rankin/Ed Lake

Cc: Jan Gibson – Municipal Clerk
Rick Brown – Supervisor Permits/Inspection
Sean Audis – Developments Officer
Gloria McClusky – Councillor District 5