

## Stacey M. Corbett

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**From:** CityClerk  
**Sent:** Monday, April 12, 2021 9:47 AM  
**To:** [REDACTED]  
Andrea Roberts; Ann-Marie Cashin; Ashley Murray; Dave Wadden; Jason Sinyard; Karen Chafe; Ken O'Brien; Lindsay Lyghtle Brushett; Planning  
**Subject:** RE: (EXT) 22 Shaw Street Re-Zoning Request

Good Morning:

We thank you for your feedback and advise that all submissions shall be presented to Council for consideration prior to a final decision being reached on this application.

Elaine Henley  
City Clerk  
709-576-8202

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**From:** [REDACTED]  
**Sent:** Friday, April 9, 2021 1:59 PM  
**To:** CityClerk <cityclerk@stjohns.ca>  
**Subject:** (EXT) 22 Shaw Street Re-Zoning Request

I am writing in response to the notice I received on the Application for the re-zoning of 22 Shaw Street from RA to R3. My wife and I are the registered owners and occupants of [REDACTED]. We purchased our property in 1998 and, like many others in the neighbourhood, we have spent considerable effort and expense in developing our property consistent with the area. We do not support the request to rezone 22 Shaw Street to R3 for a number of reasons.

In consideration of the subject request related to 22 Shaw Street I believe that it is important to review a previous rezoning request in this neighbourhood. In 2003 there was an application from a developer (Myles-Leger) to rezone the "Sparkes" property (now McLea Park) to R2/R3 to facilitate upwards of 41 town houses on that large piece of property. In light of a number of factors, including a significant pushback from the neighbours, this request was denied by the city. Subsequently, the Sparkes property was purchased by another party who developed the property into McLea Park which I'm sure you would agree is a suitable development for the neighbourhood as it contains RA and R1 lots, vs the high density re-zoning requested by the earlier developer.

The subject request to rezone 22 Shaw Street raises two concerns:

1. The McLea Park development included four R1 lots on Shaw Street ( #14, 16, 18 and 20). All of which have been developed and contain large, single family executive style townhouses. The request in question to rezone 22 Shaw Street from RA to R3 may significantly negatively impact the adjacent property (#20) which may have a knock on effect to others in the neighbourhood, including ourselves.
2. The precedent which may be created in rezoning 22 Shaw Street from RA to R3 would be very concerning in light of the number of RA lots which remain to be developed in the area. Certainly each rezoning request needs to stand on its own merits, and the rezoning of 22 Shaw Street from RA to R3, if successful, should not be seen as precedent-setting for RA or R1 lots in the neighbourhood.

The concerns above may result in a number of negative impacts to our property including but not limited to reduced property value should this type of rezoning occur in this neighbourhood.

Hopefully you will take these concerns into consideration during your review.

## Karen Chafe

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**From:** CityClerk  
**Sent:** Monday, April 12, 2021 2:06 PM  
**To:** [REDACTED]  
**Cc:** Andrea Roberts; Ann-Marie Cashin; Ashley Murray; Dave Wadden; Jason Sinyard; Karen Chafe; Ken O'Brien; Lindsay Lyghtle Brushett; Planning  
**Subject:** FW: (EXT) 22 Shaw Street - Rezoning Application  
**Attachments:** McLea Park - Site Plan.pdf; McLea Park - Homesite Covenants.pdf; City Submission 22 Shaw Street April 11th 2021[1].pdf

Good Afternoon:

We thank you for your feedback and advise that all submissions shall be presented to Council for consideration prior to reaching a final decision on this application.

Elaine Henley  
City Clerk  
709-576-8202

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**From:** [REDACTED]  
**Sent:** Monday, April 12, 2021 12:45 PM  
**To:** CityClerk <cityclerk@stjohns.ca>  
**Subject:** (EXT) 22 Shaw Street - Rezoning Application

Office of the City Clerk,

Please accept the following email as my objection to the rezoning application being considered for **22 Shaw Street**.

As the developer for **McLea Park**, I previously sought and was granted rezoning approval for a portion of the former "Sparkes Property" from RA to R1 for purposes of developing under covenants, a composition of architecturally designed homes. (See attached **McLea Park** site plan illustration and covenants).

Upon receiving the City's notice regarding the application for development of a semi-detached dwelling at civic **22 Shaw Street**, I was surprised to learn the subject property's present non-conforming and fragmented portion of contiguous land to **McLea Park** is currently zoned RA, and why implications regarding same, were not considered at the time our comprehensive development plan was reviewed?

In my opinion, the proposed rezoning of **22 Shaw Street** does not transition well from the immediately adjacent RA and R1 zones, and such consideration does not support, or compliment the immediately adjacent properties.

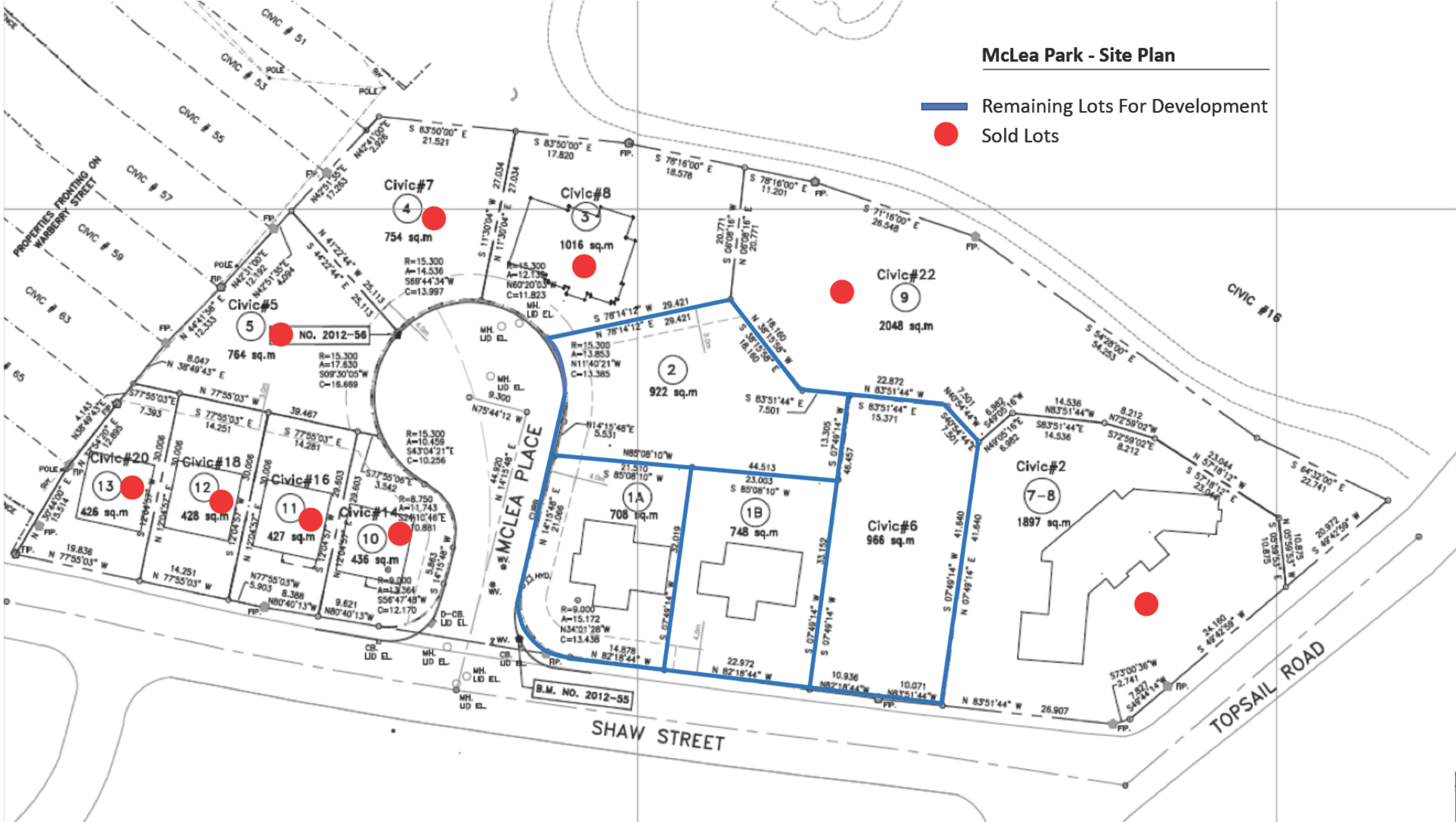
Additionally, in my opinion as a [REDACTED], permitting development of a semi-detached dwelling at **22 Shaw Street** will cause a direct negative impact to the valuation of **20 Shaw Street** specifically.

In concern of the immediate surrounding neighbourhood and extensive existing mature buffer area, (ironically presently contained within a R3 zone), it would be my recommendation, if rezoning is to be considered for the subject property, that R1 would alternatively represent the most compatible and transitional zoning change.

Thanks,

## McLea Park - Site Plan

- Remaining Lots For Development
- Sold Lots





## **Homesite Covenants**

### **Wrightland Development Corporation**

#### **McLea Park**

With the intention that the burden of these covenants shall run with and bind the land shown on a Plan of Development described in Schedule "A" (hereinafter called the "Development"), the Developer and the Owner do hereby covenant and agree with each other, and as to the Owner, with the owner or owners from time to time of any building lot in the Development, as to which the benefit and burden of the following stipulations, restrictions and provisions are attached, and to bind their, his, her or its respective heirs, executors, administrators, successors and assigns, to observe, perform and comply with the following Homesite Covenants (collectively referred to as the "Covenants"), namely:

1. For the purposes of these Covenants the following words shall have the following meanings:
  - (a) "Building Lot" shall mean any building lot located within the Development;
  - (b) "Developer" means Wrightland Development Corporation, its successors and assigns;
  - (c) "Garage" shall include any structure used or to be used for housing or protection of motor vehicles, all-terrain vehicles, boats and garden equipment;
  - (d) "House" shall mean a dwelling house occupied for residential purposes by a single family; and
  - (e) "Owner" means the person or persons, corporation or corporations, or any other party, or their respective heirs, executors, administrators, successors and assigns to whom the lands referred to in the Deed of Conveyance to which these Covenants are attached, are conveyed or transferred, or who otherwise acquire a beneficial or leasehold interest in the said lands, and "Owner" shall include all persons, corporations or any other parties who act as agents of the Owner, including all contractors, sub-contractors, or others retained or employed by the Owner to perform works or services in relation to the land described in the Deed of Conveyance.
2. The Owner shall be deemed to have inspected the Building Lot prior to executing an Agreement of Purchase and Sale for its purchase, or other agreement for the conveyance, transfer or acquisition of a beneficial or leasehold interest in the Building Lot, and shall be deemed to be satisfied as to its suitability for construction

of a House in accordance with the requirements of these Covenants. The Owner will ensure, and will be solely responsible for ensuring, that the design of the Building Lot, the House and its services meet all of the Owner's technical requirements. The Owner hereby acknowledges that the Developer is in no way responsible for any claims, damages, losses, expenses or costs that the Owner may suffer or incur by reason of the Owner's failure to comply with this and the other Covenants, and hereby indemnifies and saves harmless the Developer from any action, cause of action, claim or demand which may arise therefrom, save and except for any claims, damages, losses, expenses or costs that arise as a result of the Developer's negligence or willful misconduct.

3. The Building Lot shall not be used for any purpose other than for private single family, owner-occupied residential purposes and, save and except for the building known as Richmond Hill Municipal Heritage Building located within the Development, no attached or semi-detached House or duplex shall be erected on the Building Lot and no more than one detached House may be erected on the Building Lot.
4. The construction of a House on the Building Lot shall be started within eighteen (18) months of the closing date of the purchase of the Building Lot. If construction has not started within eighteen (18) months of the closing date of the purchase of the Building Lot, the Owner will, at the request of the Developer, convey the lot back to the Developer at the same purchase price which was paid by the Owner as set forth in the Deed of Conveyance by which the Owner purchased the Building Lot.
5. No House shall be erected or stand upon the Building Lot or any part thereof which shall have a floor area of less than:
  - (a) 150 square meters (1,615 square feet) main floor living area in the case of a one-storey House - exclusive of Garage and basement, if applicable;
  - (b) 115 square meters (1,238 square feet) main floor living area in the case of a two-storey House - exclusive of Garage and basement, if applicable; or
  - (c) 90 square meters (970 square feet) in the case of a three-storey House.

Split-level Houses shall be considered to have the number of storeys of their highest structure. The areas shall be calculated as the area of the ground floor only, measured to the outside of the main walls, and excluding any Garage, verandah, or fully-glazed attached conservatory, or sun-room.

6. Prior to the commencement of any construction, including excavation, the Owner shall submit to the Developer plans of the proposed House, which plans shall include a plot plan indicating location of footings and foundation, finished basement floor elevation, finished lot grading, driveway location, utilities location and exterior architectural materials, and any such plans shall be subject to review and approval by the Developer, with such approval not to be unreasonably withheld.
7. No shed, building, wall, fence (including hedges), gate, post or other structure shall be commenced, constructed or maintained on the Building Lot, nor shall any addition to or alteration thereof be made, until the architectural and engineering plans,

specifications and siting plan showing the nature, location, materials, colour and height of any such shed, building, wall, fence (including hedges), gate, post or other structure and any addition or alterations thereto shall have been submitted to and approved in writing by the Developer who, acting reasonably, may refuse to approve any such plans, specifications or siting plan, which, in its opinion, are unsuitable or undesirable. In approving or refusing to approve such plans, specifications and siting plan, the Developer may, but is not obliged to, take into consideration the material of all exterior walls, woodwork, windows, fencing, paving and landscape details proposed and the harmony thereof with the surroundings and the effect of the structures as planned on the outlook from adjacent or neighboring properties.

8. No excavation shall be made on the Building Lot except excavations for the purpose of construction at the time of commencement of such construction or for the improvement of the gardens and grounds of the Building Lot. No soil, sand or gravel shall be removed from the Building Lot except with the prior permission of the Developer.
9. The Owner may erect on the Building Lot and use a lighted swimming pool provided that it is first approved by the Developer, and any such swimming pool shall be maintained by the Owner in accordance with the requirements of any statute, regulation or by-law promulgated by any governmental authority having jurisdiction in that regard and the Owner shall hold the Developer harmless from any action, cause of action, claim or demand which may arise by reason of any such swimming pool being located on the Building Lot.
10. No external alterations or changes to the structure of, or in respect of, any House, Garage, shed or other structure erected by the Owner shall be made, done or permitted except with the written approval of the Developer.
11. No signs, billboards, notices or other advertising matter of any kind, except those offering the Building Lot or buildings thereon for sale or rent, shall be placed on any part of the Building Lot or upon or in any buildings or on any fence, tree or other structure on the Building Lot without the prior written consent of the Developer.
12. No exterior television or radio aerials (with the exception of a professionally installed satellite dish meeting normal standards for residential use) may be erected or maintained on any part of the Building Lot without the prior written consent of the Developer.
13. No repairs to any motor vehicle shall be effected on the Building Lot save within a wholly enclosed Garage.
14. No trailer with living accommodations shall be parked or placed upon any part of the Building Lot except in a Garage thereon in accordance with these Covenants.
15. No fill, building waste or other material of any kind shall be left, dumped or stored on the Building Lot, except clean earth for the purpose of leveling in connection with the erection of a building thereon or the immediate improvements of the grounds.

16. No animals other than domesticated household pets normally permitted in private homes in urban residential areas shall be kept or sheltered upon the Building Lot.
17. The Owner will repair to the satisfaction of the Developer any damage to sidewalks, curbs, streets or any lands abutting, or adjacent to, the Building Lot caused by any construction activities undertaken by or on behalf of the Owner, howsoever caused, and will complete such repairs at the direction of the Developer and to the Developer's satisfaction, and where necessary or applicable to the satisfaction of the Engineering Department of the City of St. John's; the Department of Transportation and Works of the Province of Newfoundland and Labrador; any other municipal or provincial authority; Bell Aliant Regional Communications Inc.; Bell Aliant Regional Communications, Limited Partnership; Newfoundland Power Inc.; Rogers Communications Inc.; or any similar or successor department, authority, corporation or entity to any of the foregoing, within ten (10) days from the receipt of written notice from the Developer.
18. The Developer shall provide an easement or right-of-way for the installation of electrical, telephone and cable services to such public or private utilities as may require the easement or right-of-way. The Owner shall be responsible for the provision of an electrical, telephone and cable connection to the Owner's House. The Owner will place or cause to be placed, at the Owner's expense, all wires and cables leading to the House foundation on the Building Lot under the surface of the Building Lot and, after placing such wires and cables, shall restore the surface of the Building Lot, as far as possible, to the condition it was in before such wires and cables were so placed. The location of these underground services shall be such as will minimize the need for the removal of trees and other natural landscape features.
19. The Owner will not damage or remove any survey stake or pin planted in or on the Building Lot and if any such stake or pin is damaged or removed by the Owner, or any of the Owner's contractors, servants, agents, workmen, vehicles, materials or equipment, and in the opinion of the Developer replacement of such stake or pin is necessary, the Owner will pay the cost of such replacement by a surveyor.
20. All construction by the Owner shall meet all requirements of all authorities having jurisdiction.
21. The Building Lot shall not be subdivided or have its boundaries changed without the approval of the Developer.
22. Driveways shall be finished with asphalt, concrete or paving stones and maintained in a good and attractive condition.
23. House designs shall be devised or selected to aesthetically blend with site slopes.
24. Fence details shall be approved by the Developer.
25. Landscaping shall be generally grass sod with shrubs, trees and hard surfaces of materials approved by the Developer. The Owner shall ensure that the Building Lot

is landscaped so that the view of surrounding property owners is not impeded. The Developer will endeavour, where possible, to resolve any landscaping concerns in an amicable and non-confrontational manner.

26. Where trees exist, trees shall be maintained. Deciduous trees such as Copper Beach, Birch, Larch, or Maple trees shall not be removed from the Building Lot unless specific approval is obtained from the Developer and the removal is reasonably necessary in order to facilitate construction of a House, or to provide utility services for the House.
27. Landscaped surfaces shall not have abrupt or steep changes in slope, other than by a retaining wall approved by the Developer.
28. The Owner agrees to obtain an agreement to observe the Covenants herein set forth, including this clause, from any person, corporation or other party who subsequently purchases the Building Lot, or otherwise acquires the Building Lot or a beneficial or leasehold interest therein, from the Owner.
29. In these Covenants, any approval, consent, decision, opinion or permission which the Developer may give or make shall be given or made by the Developer acting reasonably.
30. The Covenants herein contained are severable and the invalidity or unenforceability of any Covenant shall not affect the validity or enforceability of any other Covenants.
31. Provided always that notwithstanding anything herein contained, the Developer and its successors and assigns shall have power by instrument or instruments in writing from time to time to waive, alter or modify the above Covenants in their application to any Building Lot or to any part thereof comprising part of the Development without notice to the owner of any other Building Lot.
32. These Covenants shall be binding upon the Owner or any other person, corporation or any other party claiming by or through the Owner during the Owner's ownership of the Building Lot, and shall continue to be binding thereafter in respect of any breach of the Covenants committed or continued during the Owner's ownership of the Building Lot, upon or in respect of which such breach shall have been committed or continued.

[EXECUTION PAGE FOLLOWS]



DATED at the City of St. John's, in the Province of Newfoundland and Labrador, this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

**THE CORPORATE SEAL**

of the Developer was hereunto  
affixed in the presence of:

**WRIGHTLAND DEVELOPMENT  
CORPORATION**

\_\_\_\_\_

\_\_\_\_\_

**SIGNED, SEALED AND DELIVERED**

by the Owner in the presence of:

\_\_\_\_\_

\_\_\_\_\_

**SIGNED, SEALED AND DELIVERED**

by the Owner in the presence of:

\_\_\_\_\_

\_\_\_\_\_

**OBJECTION TO APPLICATION TO CITY BY DEVELOPER FOR A SEMI-DETACHED HOUSING DEVELOPMENT (TWO HOUSES) REQUIRING BOTH:**

- i. REZONING PROPERTY FROM SPECIAL (RA) ZONE TO THE RESIDENTIAL HIGH-DENSITY ZONE AND;**
- ii. RECONFIGURATION OF 22 SHAW STREET AND PART OF REAR YARD OF 67 Warbury Street.**

**EXECUTIVE SUMMARY**

**Our arguments against the above application will be in 5 parts:**

- I. The proposed development is not in keeping with the neighbourhood character and quality as required by the Municipal Plan.**
- II. The proposed development will be actively harmful to community interest in the existing and mature desirable Urban Forest in the immediate area and should be protected pursuant to the Tree Protection Policy of the City's progressive urban Forest Management Plan.**
- III. The proposed development will negatively impact already significant storm water runoff from Shaw Street during winter melts and rainstorms by preventing or impeding water flow into the old river or stream bed. This will have the added impact of tending to dry the wet and marshy former stream bed from which the trees mentioned above draw some water.**
- IV. The proposed development will potentially impact both snow clearing and parking on a very busy street designated for emergency use and frequently used for large truck traffic by Oceanex (and the City itself during salt season).**
- V. The Applicant (or his immediate predecessor in title) assembled the property in Schedule "C", and in particular acquired a portion of the backyard of Warbury Street, for the purpose of this development application without obtaining subdivision approval from the City. Without this approved subdivision, the very small size of the existing 22 Shaw Street property (about half of the 525 square meter assembled property without the addition of 67 Warbury Street), would not be large enough to permit rezoning to R3 for the purpose Semi-Detached dwellings. The City must receive and consider and grant an application for the subdivision of 67 Warbury Street in order to add it to the existing 22 Shaw Street before it can entertain a rezoning application for the property as assembled property in Schedule "C". The Rezoning application should follow that application, if successful.**

## SCHEDULES

We attach for easy reference the following Schedules:

- a) Satellite picture of the area from City Website. "A".
- b) Zoning overview Map of the area from City Website. "B".
- c) Deed of conveyance dated February 19, 2021 to Applicant for 22 Shaw Street and back portion of 67 Warbury Street containing survey description. "C".
- d) Pictures of old river or Stream bed between 20 and 22 Shaw Street. "D".
- e) Pictures of homes on Shaw Street, Davidson Place and Shaw Street below intersection with Warbury Street. "E".
- f) Pictures showing mature trees on 22 Shaw Street; on or near boundaries of 22 Shaw Street with 20 Shaw Street and 67 /69 Warbury Street and many other trees proceeding east on old river or stream bed behind 22 Shaw Street. "F".
- g) Old Arborists Report dated April 10<sup>th</sup>, 2021. "G".
- h) Tree Map and Building Line description for 22 Shaw Street. "H".

## INTRODUCTION

We live at [REDACTED] We purchased our home in 2017. It is part of a relatively new development including 4 large single detached townhomes on Shaw Street, of which ours was the last one built and is the immediate neighbour to the south of 22 Shaw Street and 67 Warbury Street. We, like many of our neighbours were particularly attracted to this area by both the downtown location and character of the neighbourhood on and around Shaw Street, from Warbury Street and below, and its beautiful Urban Forest nature surrounded by mature trees both on and off our property and up and down Shaw Street and Davidson Place. The many trees on our property and that of our immediate neighbours to the side of and behind our houses, in turn frame what we understand from local history and appearance to be an old river or stream bed which was redirected many years ago into a City storm sewer which now runs down Shaw Street. Indeed, a long-time resident informs us that a bridge at one time was required to cross that river or stream which flowed from Mundy Pond on what was then called Shaw's Lane. This river or stream was subsequently redirected underground with new municipal works (we surmise the storm sewer running down Shaw Street on the City Map at Schedule "B"). However, as you can see from photos we have attached at Schedule "E", this not only has the appearance of a riverbed, it remains wet and marshy.

North of Warbury, the area has a somewhat different character, including a large multi unit residential apartment building at the top on the west side and a large garage and vehicle parts business on the top on the east side. As you return south down the west side of Shaw, there is a substantial club building and yet further south set back from the road, a plumbing supplies business. Houses are interspersed in this higher density (and commercial) area and include a Quadruplex and a duplex. Below Warbury, there exist only individual houses.

Our housing development is in the Residential Low Density (R1) Zone. 22 Shaw Street is in the Special (RA) Zone. Warbury Street is zoned Residential High Density (R3).

To our rear, is a cul de sac (McLea Place) on which a single large home has been built, but two other lots on it have been purchased and are waiting development. Other large building lots on the cul de sac, which are the actual location of the late, beautiful Richmond Cottage, remain on the market. To the rear (east) of that cul de sac is a beautiful old treed estate property. To the southeast, is a very large new home on the corner of Shaw and Old Topsail Road. All of this property appears to be zoned RA. Across diagonally from our home and looking south are modern individual homes (some of significant size). Immediately across from our home is the entrance to Davidson Place (a lovely cul de sac of modern individual homes). North of that entrance on Shaw Street as you proceed to the intersection with Warbury Street, are several modern individual homes. These homes are zoned R1. As you cross Shaw Street to the south side of the Warbury Street entrance and head south towards 22 Shaw Street (a modest bungalow with frontage parallel to Shaw Street), though zoned R3 like Warbury Street itself, are two very nicely renovated homes built on very small lots, both with frontage at an angle to the Shaw Street. We presume same must have been necessary because of a pre-existing footprint.

We thought it best before making specific arguments against the granting of this rezoning application, to provide this overview of the neighbourhood. Our arguments are below and will be organized as set out in the Executive Summary above.

## **ARGUMENTS**

### **I. The proposed development is not in keeping with the neighbourhood character and quality as required by the Municipal Plan.**

The relevant portion of the Development Regulations are as follows:

#### **5.1.3 Discretionary Powers**

##### **(1) Compatibility with the Municipal Plan**

***In considering an application for approval to carry out Development, Council shall take into account the policies expressed in the Municipal Plan and any further scheme, plan or regulation pursuant thereto.***

*Where the requirements appear inadequate to meet the policies of the Municipal Plan or any document pursuant thereto, or where requirements have not been specified in these Regulations or are left to the discretion of Council, Council may establish the necessary requirements.*

***The Municipal Plan in turn requires that the following be considered.***

#### **2.1 OBJECTIVE**

***Maintain and improve neighbourhood character and quality of life in residential neighbourhoods through maintenance and improvement of housing quality and variety, good subdivision design, management of non-residential land use, and appropriate infill.***

#### **2.2 GENERAL POLICIES**

***The fundamental role of the City with respect to residential land use is to provide good quality neighbourhoods in which to build houses and live. Provision of necessary municipal services and protection from incompatible uses are fundamental to achieving this goal. The***

*following policies seek to enhance neighbourhood quality and ensure an adequate supply of land for housing.*

#### *2.2.1 Maintain and Improve Neighbourhood Character and Quality*

*The City views the neighbourhood as the basis for comprehensive planning of the residential environment. **The historic pattern of development has given the City a varied housing stock in well- defined neighbourhoods. It is accepted that these differences contribute to the character of St. John's. Through public initiatives and appropriate development, the City shall encourage and guide the development of such areas so as to conserve and improve their individual quality.***

*Based on the above, the principle that we submit is the primary one for consideration by the City in this application is to. "... **Maintain and improve neighbourhood character and quality of life in residential neighbourhoods** ...".*

In the context of this application for approval, we suggest that in order to understand the neighbourhood character, it is best to take a tour around Shaw Street below Warbury Street. We have already given detailed written description of the area in the Introduction. In addition to this, for those who have not had a site visit, this is perhaps best accomplished through a review of the photographs of the houses in this area contained in Schedule "E". What is notable in this review (beyond the high quality of the housing stock situated in a lush Urban Forest), is that there are no semi-detached houses, duplexes or other larger multi-unit houses (even where they might be permitted uses. In the R3 zoned 24 and 26 Shaw) It is of interest that the proposed Rezoning for this small lot is not for R2 medium density which permits Semi Detached dwellings; but rather for high density R3; despite the fundamentally low density nature of the area. Each existing house in this beautifully treed area is a stand alone individual house; of quality. The mere fact that in order to allow Semi -Detached homes to be "shoehorned" into a small lot in an otherwise individual home area as room does not exist to do so in the more incremental and land intensive medium density R2 zone), is insufficient reason to move to High Density R3 zoning. In fact, it is reason not to do so. Schedule "H" sketches an estimate of the available building area on the proposed property accounting for building setback requirements for Semi-Detached dwellings in an R3 zone. It also shows the location of adjacent trees for easy reference.

In the case of the neighbourhood surrounding 22 Shaw Street, as can be seen from the zoning map at Schedule "B" and the survey of 22 Shaw Street at Schedule "C", there is minimal frontage of about 15 meters on 22 Shaw Street, (though its front boundary also extends behind the property at 24 Shaw Street). This is the bare minimum necessary for a high density R3 zone Semi-Detached dwellings, but given that the lot (even if subdivision of 67 Warbury had been approved for subdivision as required, which it has not been ), it is likely that to get to the footprint for the what we understand to be the developer's planned unit size of 1600 square feet (nearly 150 square meters ) that the structure could need to be angled northwards away from being parallel to Shaw Street (unlike the current modest home at 22 Shaw Street ) beyond the minimal frontage and in part behind the already southward angled home on 24 Shaw Street. In turn of course, 26 Shaw Street is also angled northward from being parallel with Shaw Street. Independent of any other reason to not permit approval for the for the proposed Semi-Detached dwellings, surely this is one. Zoning should not be departed from to accommodate two Semi-Detached homes wedged into a lot too small for the purpose which have the impact of exacerbating irregular home placement at its neighbours at 24 and 26 Shaw Street; the development of which as we will see later also puts the Urban Forest nature of the area at great risk.

For these reasons, we urge the City to conclude that the proposed Semi-Detached Dwellings do not Maintain and Improve Neighbourhood Character ...through maintenance and improvement of housing quality. "and therefore to reject this application.

## **II. The proposed development will be actively harmful to community interest in the existing and mature desirable Urban Forest in the immediate area and should be protected pursuant to the Tree Protection Policy of the City's progressive Urban Forest Management Plan**

In the case of the proposed development at 22 Shaw Street, it sits within a beautiful and irreplaceable Urban Forest in a historic downtown neighbourhood. As noted previously, mature deciduous trees abound which during the growing season ( which will begin shortly) provide all residents in our neighbourhood with a beautiful canopy of leaves growing from the many branches of the tall and mature trees in the immediate area of 22 Shaw Street in particular, such mature trees exist on that property, on our property, on are deserving protection of the boundary of our two properties ( indeed we at a minimum may share roots of such trees and continuing behind and to the side as a visitor moves east through what appears to be an old river or stream bed. Many of these trees along the boundary and river or stream bed appear to form part of the perimeter of the former Late, Richmond Cottage property.

A satellite photograph showing the extent of the substantial leaf canopy in summer taken from the City website is at Schedule "A". Pictures showing mature trees on 22 Shaw Street; on or near boundaries of 22 Shaw Street with 20 Shaw Street and 67 /69 Warbury Street and many other trees proceeding east on old river or stream bed behind 22 Shaw Street are shown at Schedule "F". Of historical and human interest is that we are advised that a long line of mature trees running along the eastern boundary of 67 Warbury Street was planted in the 1930s as a Boy Scout project by the great uncle of the current resident.

This City is indeed fortunate that it has developed a progressive Urban Forest Management Plan and associated operational policies; guided by the Municipal Plan. Relevant excerpts are copied below and bolded for emphasis. This importantly includes a Tree Protection Plan.

The trees in this Urban Forest are deserving of protection pursuant to the terms of the Urban Forest Protection Plan. I will not repeat here in detail but do ask that you review the excerpt below (especially where bolded). This plan also includes requirements for Tree Protection about which I will say more below. I do note however that despite the obvious presence of a mature, beautiful and fragile urban forest, to our knowledge, no consideration has been given in the application to the requirement for preservation of existing landscape character and existing trees as per #1 below. Neither has a professional Landscape Plan as per #2 below been submitted to the City. This has the impact that no or insufficient attention has been paid to the issues clearly identified in the tree protection plan below to mitigate the damage which construction activities (e.g. **Excavation, storage of material, refuse or other debris, changes of grade, cutting of tree limbs or roots, operation, of heavy equipment**) on this small and cramped property may cause to the trees

## **Urban Forest Protection Plan**

### **Requirement**

The policy is guided by the City's Municipal Plan, [Urban Forest Management Plan](#), [Parks and Open Space Master Plan](#) and other direction provided by City Council. These requirements offer guidelines for developers and property owners to align with the City's vision for future development.

**1. The existing landscape character shall be preserved to an extent reasonable and feasible. This includes the preservation of existing trees and incorporation of new trees into the landscape to obtain a tree density as outlined in the City's Street Tree Planting Standard.**

*St. John's is fortunate in that it is surrounded by existing forests and natural areas, many of which extend deep into the city. These forested areas are ethically pleasing, provide areas for passive recreation and respite from the pressures of urban living, and contribute significantly towards the City's management of stormwater runoff.*

**St. John's is a slow growing environment, primarily due to its relatively short growing season and other climatic conditions. This requires that additional emphasis be placed on the preservation of existing resources through the course of development. There are site development alternatives that allow existing resources to be retained.**

**2. Submission of a landscape/site plan identifying the following, prepared by a qualified landscape professional:**

- minimum 20% of the total development area to be landscaped
- **location, species (common and botanical name) size, condition/stock type and quantity of trees, shrubs and any other plant material proposed**
- areas to be sodded or seeded shall identify a minimum of 150 mm of topsoil
- **existing trees to be retained and proposed protection, e.g. protective hoarding**
- flower beds and planters
- description and locations of hard landscaping
- existing vegetation to be removed
- planting details
- **soil specifications**
- snow storage plan
- applicable technical requirements of the current edition of the Canadian Landscape Standard

***Landscape plans and associated details are required components of development applications. These plans must be prepared by a qualified landscape professional with the requisite skills to interpret construction plans and develop landscape designs that are harmonious with all elements of the proposed development.***

***Landscape plans should be developed in concert with the overall site development process. Engaging the services of a landscape professional early in the project planning stages can help to ensure alignment with City requirements, avoiding costly delays and revisions at a later stage.***

The failure to provide a landscape plan in accordance with other the requirements of the Urban Forest Protection Plan above has the impact that no or insufficient attention has been paid to the issues clearly identified in the Tree Protection Plan excepted and bolded below to mitigate the damage which construction activities (e.g. Excavation, storage of material, refuse or other debris, changes of grade, cutting of tree limbs or roots, operation , of heavy equipment ) on this small and cramped property may cause to the trees.

#### ***Tree Protection***

***Existing trees to be protected must be identified on all plans, including landscape plans, where proposed work has the potential to cause damage. In some instances, prior to the start of construction it may be necessary to install protective fencing, establishing a tree protection zone (TPZ), prohibiting the following.***

- ***excavation***
- ***storage of material, refuse or other debris***
- ***changes of grade***
- ***cutting of tree limbs or roots***
- ***dumping of slurries or other liquids***
- ***operation of heavy equipment***
- ***entry of vehicular traffic, etc.***

***The size of TPZ required is determined based upon the trunk diameter of the tree in question, multiplied by a factor of six (6). For example, a tree measuring 40 cm in diameter would require a tree protection zone of 2.4 m measured from the base of the tree (40 cm x 6 = 240 cm or 2.4 m). The minimum required TPZ is 2.4 m.***

***Tree protection hoarding is to be constructed of plywood or other rigid material where necessary to block debris from entering the TPZ. Otherwise, TPZ's can be defined using orange snow fencing attached to rebar, t-rails, or similar posts. Signage must be attached to the fencing identifying the area as a tree protection zone. Below is a sample City of St. John's Tree Protection Zone sign. This sign may be reproduced for use throughout the city.***





*Where excavation in close proximity to existing trees to be protected cannot be avoided, hand digging and root pruning may be required. Individual tree assessments will be required in these instances and where minimum TPZ's cannot be achieved, to determine the tree's ability to withstand the impact of the proposed work and maintain structural integrity.*

In the absence of the availability of any landscape plan for review, we retained the services of Old Earth Arborists to review the site and advise of issues which should be considered by the City in respect of Tree Protection in relation to the area surrounding 22 Shaw Street. This brief report (also attached as Schedule "G"), is copied below:

April 10, 2021 For [REDACTED]  
St. John's, NL  
Mr. [REDACTED]

Thank you for contacting me and conveying your concern and care for the trees in your neighbourhood, expressly, the trees on your property, and adjacent properties that may be affected by development.

Understanding how injury may occur to trees during construction is essential to long-term tree health, thoughtful consideration and tree management will support environmental benefits and beautification that trees provide to our neighbourhoods. Locating and determining significant trees to be retained as landscape assets and identifying trees that may be impacted on neighbouring properties and designating Tree Protection Zones/Critical Root Zones is an essential step in pre-construction. Using best retention standards, in partnership with local municipal development bylaw should be integrated into building design, footprint and execution of the project. Clearance pruning is performed prior to construction to reduce risk of stem or branch injury by machinery, work crews and provide adequate room for operators, material deliveries and trades to undertake their duties.

Established root systems and soil biology are critical to tree health, roots store energy, anchor the tree, absorb water, nutrients and minerals which are distributed throughout the tree. A sensitive and unique relationship exist between soil micro-organisms, fungi, oxygen and the tree roots. It is essential a Tree Protection Zone of fixed-temporary fencing is erected beyond the drip line of the tree, guarding the roots from physical injury by severing, and the established soil ecosystem from pollutants, and soil compaction caused by materials staging, foot and vehicle traffic.

Grade change or piling greater than 15cm should be avoided, or, soil will require retaining beyond the tree protection zone. A smooth non-toothed bucket must be used while excavating near a root zone

and in a radial direction, not across the roots. Roots larger than 15cm in diameter should not be severed, where roots lesser than 15cm are severed they must be pruned by hand, with sanitized tools, depending on species and if exposed, covered with fabric or burlap and kept moist.

In our urban forest trees can absorb hundreds of liters of water per day, reducing loads to our water table, storm and sewer infrastructure, minimizing erosion to banks and drainages. By providing shade and a wind break trees lower heating and cooling costs, trees clean our air, are habitat for wildlife and where established trees exist, property values are higher, crime is reduced, traffic moves slower, and neighbourhoods are generally more desirable and experience more recreational activity by residents.

Ryan Painter

Old Earth Arborists

Old Earth Arborists | [REDACTED] | St. John's, NL | [REDACTED] | [info@oldearth.ca](mailto:info@oldearth.ca)

While this report is not meant to be a comprehensive Landscape Plan as per the Urban Forest Protection Plan, it does provide an excellent overview of the **complexity** of the issues which need to be reviewed and planned for to determine of the feasibility of and adequacy of strategies for protection of this Urban Forest if this application is to be considered.

Having read the Urban Forest Management Plan above and the report of Mr. Painter the arborist and knowing the location of the trees on or near 20 and 22 Shaw Street, it is all but certain that grade changes in the rear yard and excavation of the new smaller side yard will put the 69 Warbury line of tree and the trees on the boundary of 20 and 22 Shaw Street at grave risk. The above is sufficient reason to exercise discretion to reject this application.

In the alternative the Development Regulations grant the City the authority to order a Land Use Impact Assessment Report (LUIA) as per the excerpt copied below:

### **5.6.3 Discretionary LUIA**

***Council may require a Land Use Impact Assessment to evaluate any proposed land use, Development and/or situation that affects the policies contained in the Municipal Plan.***

*Such an LUIA includes an Environmental Analysis Report as per the excerpt from the Development Regulations copied below. While we acknowledge that this report may be waived in the case of a small development, the potential environmental impact on a valued Urban Forest in a wet and marshy area would favour. Preparation of such a report if the City is to consider this application.*

## **5.7 ENVIRONMENTAL ANALYSIS REPORT (EAR)**

### **5.7.1 Environmental Analysis Report Defined**

***An Environmental Analysis Report is considered a Land Use Impact Assessment as defined in Section 5.6.***

***The Environmental Analysis Report shall include***

***(a) a description of the project as described under the requirements for an Approval-in-Principle, including a quantification of hard and permeable surfaces and locations and discharge points of storm sewers, and furthermore a description of and a statement of***

*the rationale, including advantages and disadvantages to environment, for the undertaking;*

*(b) a location plan showing the Development in relationship to the drainage basin(s) in which it is situated;*

*(c) a description of the environment likely to be affected by a Development, and this shall include:*

- the alternative methods of carrying out the undertaking, including the effect of not carrying out the undertaking; and*
- the alternatives to the undertaking;*
- a description of the physical environment, including:*
  - terrain features such as soil type, topography;*
  - site and near-site hydrology, including data on water quality;*
  - boundaries of potentially affected waterways and Wetlands (using existing data, field survey, and air-photo analysis techniques),*
  - a description of the biological environment on site and in the impacted area as it relates to:*
    - fish and fish habitat,*
    - vegetation,*
    - wildlife and wildlife habitat*

*(d) a*

*description of:*

- the effects that will be caused or that might reasonably be expected to be caused to the environment; and*

*St. John's Development Regulations Section 5 - Page | 10*

- the actions necessary or that may be reasonably be expected to be necessary to prevent, change, mitigate or remedy the effects that might reasonably be expected upon the environment by the undertaking, the alternative methods of carrying out the undertaking and the alternatives to the undertaking;*

*(e) the terms of reference for, or the proposed contents of, a Conservation Plan. 5.7.3 Small Developments of Low Environmental Impact*

*Where a development is deemed to have a relatively low impact on the environment; and/or is relatively small scale, Council may change or waive the requirements of Sections 5.7.2 (c), (d) and (e).*

**III. The proposed development will negatively impact already significant storm water runoff from Shaw Street during winter melts and rainstorms by preventing or impeding water flow into the old river or stream bed. This will have the added impact of tending to dry the wet and marshy former river or stream bed from which the trees mentioned above draw water.**

In support of this argument, the following brief (and self-explanatory) excerpt from the above report of The Old Arborist, Mr. Painter, bears repeating:

***In our urban forest trees can absorb hundreds of liters of water per day, reducing loads to our water table, storm and sewer infrastructure, minimizing erosion to banks and drainages.***

We can personally speak to both points made in this excerpt by Mr. Painter.

Firstly, as to the absorption of water by the trees, in the nearly three and a half years we have lived adjacent to this river or stream bed is that it is constantly wet and marshy. While we understand it has not been identified as a wetland by the City in its recent inventory, in our view it might well be described as that. Whether or not it meets the technical definition of “wetland”, it certainly is a repository for water which must nourish the many nearby mature trees in our highly valued Urban Forest. For this reason alone, it should be protected from adverse development activities which may tend to limit it attracting water from runoff down Shaw Street.

Secondly, as to the reduction of loads to the water table, storm sewers and drains, in our home, my wife attends to snow clearing. She and our next door neighbour wage a constant battle to avoid flooding by removing snow and ice around a flooded storm sewer drain in front of our house as winter snow melts and runs past our homes. If the runoff to the old river or stream bed is prevented or impeded, this problem would be much exacerbated.

**IV The proposed development will potentially impact both snow clearing and parking on a very busy street designated for emergency use and frequently used for large truck traffic by Oceanex (and the City itself during salt season).**

Shaw Street is a very busy Street. Large trucks (often Oceanex and, in season, City Salt trucks) frequently use this route. Indeed, we understand that the frequency of large trucks using Shaw Street at night has occasioned multiple noise complaints to the City. During summer months, vehicles regularly speed up and down this Street (despite the blind hill just south of 22 Shaw Street) The addition of a Semi-Detached dwelling on the small space available at 22 Shaw Street will in all likelihood increase on street parking and thereby danger to residents from large trucks and speeding traffic. During winter snow clearing season, such increased on street parking will interfere with proper Street clearing; thereby limiting the convenient use of the Street by area residents.

**V The Applicant (or his immediate predecessor in title) assembled the property in Schedule “C”, and in particular acquired a portion of the backyard of Warbury Street, for the purpose of this development application without obtaining subdivision approval from the City.**

The following excerpt from the City Website says the following (in part) about the necessity for subdivision approval. This excerpt begins with the definition of subdivision found in the Development Regulations:

#### **Part I: An Overview of the Process**

The [St. John's Development Regulations](#) defines subdivision to mean the dividing of any land, whether in single or joint ownership, into two or more pieces for the purpose of development.

#### **Submitting the Application**

Any person wishing to subdivide property in the City of St. John's should contact the development officer, Planning and Development Division, fourth floor, John J. Murphy Building (City Hall Annex) and complete the applicable [application form](#). Any person may make an application to subdivide property. Where the Applicant is not the property owner, the property owner's authorization signature must appear on the application form before it can be officially accepted for processing .....

As a minimum, the Applicant must provide information on the location and current use of the property, the lot area and frontage, access, and the proposed land-use of the subdivision. For larger subdivisions where an internal road network and/or municipal services are to be constructed, the Applicant is required to submit information on the proposed layout of internal streets and lots, the proposed municipal services, including the method of water supply and the generation of sanitary and storm sewer, and information on proposed public open spaces if applicable.

Many factors are considered in designing a subdivision, including topography, surrounding development, natural vegetation, natural drainage courses, legal surveys, and servicing systems. To ensure all aspects have been considered, it is recommended that the Applicant make use of design professionals such as surveyors, engineers or land-use planners.

Without this approved subdivision, the very small size of the existing 22 Shaw Street property (about half of the 525 square meter assembled property without the addition of 67 Warbury Street), would not be large enough to permit rezoning to R3 for the purpose Semi-Detached dwellings. The City should receive, consider and grant an application for the subdivision of 67 Warbury Street in order to add it to the existing 22 Shaw Street before it can entertain a rezoning application for the property as assembled property in Schedule "C". The Rezoning application should follow that application, if successful. If not, the rezoning application is at best premature. To consider the rezoning application prior to or conjointly with the subdivision application is to ignore (or at least only give lip service to) the many factors including potentially uses of design professionals required in the excerpt above. In our respectful submission, the subdivision application process must be concluded before an application for rezoning can be made and considered.

The current application for rezoning with the particular purpose of permitting semi-detached dwellings has this backwards. Each step in the process has a purpose. The application should not start with the

notion that a particular type of development is desired and then work backward to arrive at the necessary rezoning and only then to rubber stamp the subdivision of land required for the already approved rezoning for the desired development application. This application is irregular and should not be permitted to proceed. It should be denied by the City as premature. If it is considered and granted by the City, in our respectful submission it will needlessly predispose the City to granting the subdivision application without objective consideration in accordance with its own rules. This would be a fatal flaw.

If the Applicant wishes to proceed, he should start at the beginning. He should submit a subdivision application for the required analysis in order to find out if there is a regulatory basis for assembling for development purposes the tiny original 22 Shaw Street property (see Schedule "B" and the fenced area of the survey Plan attached to the Deed of Conveyance in Schedule "C") and the roughly similar sized portion of the backyard of 67 Warbury comprising the remainder of the survey Plan attached to Schedule "C".

RESPECTFULLY SUBMITTED,

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**SCHEDULE "A"**





**SCHEDULE "B"**





**SCHEDULE "C" - Page 1**

**THIS DEED OF CONVEYANCE** made this 19 day of February, 2021, in the City of St. John's, Newfoundland and Labrador,

**BETWEEN:** [REDACTED] of the City of St. John's, in the Province of Newfoundland and Labrador,  
(hereinafter called the "Vendor")

OF THE FIRST PART

**AND:** [REDACTED] the City of St. John's, in the Province of Newfoundland and Labrador,  
(hereinafter called the "Purchaser")

OF THE SECOND PART

**WHEREAS** the Vendor is the sole owner of the hereinafter described property and he has agreed to sell the property to the Purchaser for the consideration hereinafter appearing.

**NOW THIS INDENTURE WITNESSETH THAT** for and in consideration of the sum of Eighty Thousand Dollars (\$80,000.00) paid by the Purchaser to the Vendor on or before execution of these presents (the receipt whereof is hereby acknowledged by the Vendor), the Vendor, as beneficial owner, hereby sells, assigns, transfers and conveys unto the Purchaser, **ALL THAT** piece or parcel of land municipally known as Civic 22 Shaw Street, in the City of St. John's, in the Province of Newfoundland and Labrador, which property is more particularly described in the Schedule "A" attached hereto (which Schedule "A" forms part and parcel of these presents) **TOGETHER WITH** all buildings and erections thereon **TO HOLD** the same unto the Purchaser, absolutely and forever.

**DESCRIPTION  
CIVIC NO. 22  
SHAW STREET**

**ALL THAT** piece or parcel of land situate and being on the North side of Shaw Street, in the City of St. John's, in the Province of Newfoundland & Labrador, Canada, bounded and abutted as follows, that is to say: Beginning at a point, the said point having T.M. Grid Co-ordinates (NAD 83) of N 5,267,545.863 m and E 325,502.438 m with reference to Monument No. 80G2226 with Co-ordinates of N 5,267,595.736 m and E 325,209.422 m;

**THENCE** running along the Northern limits of Shaw Street along the arc of a curve having a chord bearing and distance of North eighty one degrees zero seven minutes forty five seconds West fifteen decimal one four one metres and a radius of 298.630 metres;

**THENCE** turning and running by land of Susan Elizabeth Crocker North forty four degrees forty one minutes zero seconds West twelve decimal two one three metres;

**THENCE** turning and running by land of Craig Matthew Ivany & Roger Conway Ivany and Gerald Tulk North forty one degrees fifty one minutes zero seconds East twenty two decimal two six six metres;

**THENCE** turning and running by land of Eric & Collette Prior South fifty one degrees sixteen minutes forty nine seconds East twenty one decimal eight eight one metres;

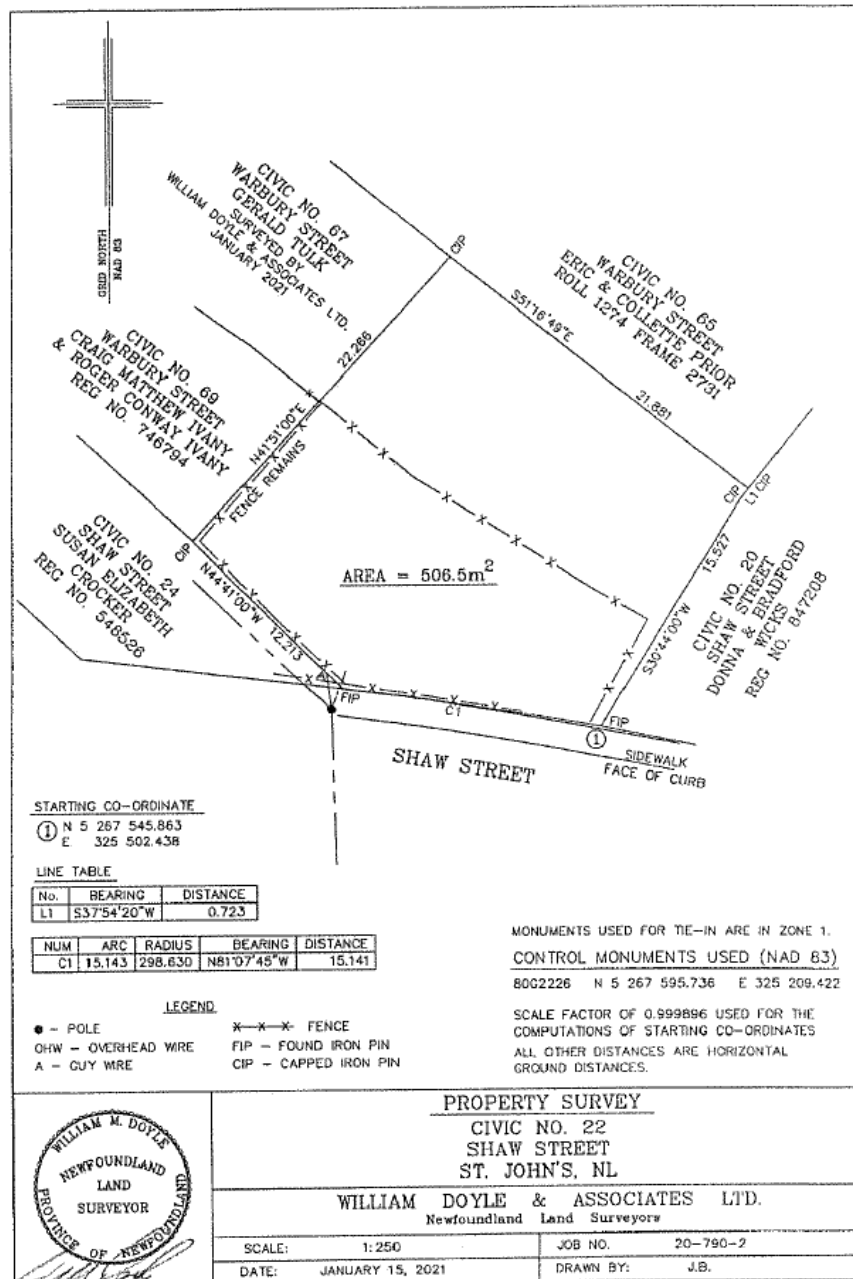
**THENCE** turning and running by land of Donna & Bradford Wicks South thirty seven degrees fifty four minutes twenty seconds West zero decimal seven two three metres; **THENCE** South thirty degrees forty four minutes zero seconds West fifteen decimal five two seven metres more or less, to the point of beginning and containing in all an area of 506.5 sq. metres as more particularly described on the plan hereto annexed.

ALL bearings are referred to Grid North.

Date: January 15, 2021

Job No. 20-790-2

**SCHEDULE "C" - Page 3**



**SCHEDULE "D"**





## SCHEDULE "E" - Page 1



22 Shaw Street (Left) and 20 Shaw Street (Right) – 2019



22 Shaw Street (Right) and 24 Shaw Street (Left) – 2009



24 Shaw Street 2019



28 Shaw Street - 2019

**SCHEDULE "E" – Page 2**



21 Shaw Street (Left) and 23 Shaw Street(Right) - 2019



19 Shaw Street (Left) – 2019



15 Shaw Street (Right) and 1 Davidson Place(Left) - 2019

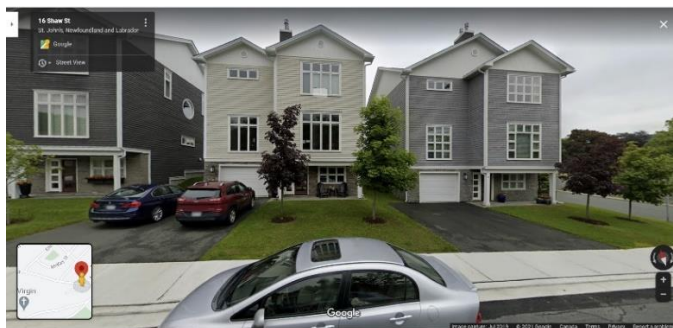
## **SCHEDULE "E" – Page 3**



9 Davidson Place (Left) 10 Davidson Place (Center) 11 Davidson Place (Right) – 2020



7 Davidson Place (Left) 8 Davidson Place (Right) – 2020



16 Shaw Street (Left) and 14 Shaw Street (Right) - 2019



20 Shaw Street (Left) and 18 Shaw Street (Right) – 2019



**SCHEDULE "F"**



Border Trees between 20 and 22 Shaw Street



Trees Behind 22 Shaw Street



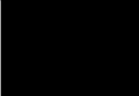
Trees on 24 Shaw Street next to 22 Shaw Property Line



## **SCHEDULE "G"**



April 10, 2021



Mr. [REDACTED]

Thank you for contacting me and conveying your concern and care for the trees in your neighbourhood, expressly, the trees on your property, and adjacent properties that may be affected by development.

Understanding how injury may occur to trees during construction is essential to long-term tree health, thoughtful consideration and tree management will support environmental benefits and beautification that trees provide to our neighbourhoods. Locating and determining significant trees to be retained as landscape assets and identifying trees that may be impacted on neighbouring properties and designating Tree Protection Zones/Critical Root Zones is an essential step in pre-construction. Using best retention standards, in partnership with local municipal development bylaw should be integrated into building design, footprint and execution of the project. Clearance pruning is performed prior to construction to reduce risk of stem or branch injury by machinery, work crews and provide adequate room for operators, material deliveries and trades to undertake their duties.

Established root systems and soil biology are critical to tree health, roots store energy, anchor the tree, absorb water, nutrients and minerals which are distributed throughout the tree. A sensitive and unique relationship exist between soil micro-organisms, fungi, oxygen and the tree roots. It is essential a Tree Protection Zone of fixed-temporary fencing is erected beyond the drip line of the tree, guarding the roots from physical injury by severing, and the established soil ecosystem from pollutants, and soil compaction caused by materials staging, foot and vehicle traffic.

Grade change or piling greater than 15cm should be avoided, or, soil will require retaining beyond the tree protection zone. A smooth non-toothed bucket must be used while excavating near a root zone and in a radial direction, not across the roots. Roots larger than 15cm in diameter should not be severed, where roots lesser than 15cm are severed they must be pruned by hand, with sanitized tools, depending on species and if exposed, covered with fabric or burlap and kept moist.

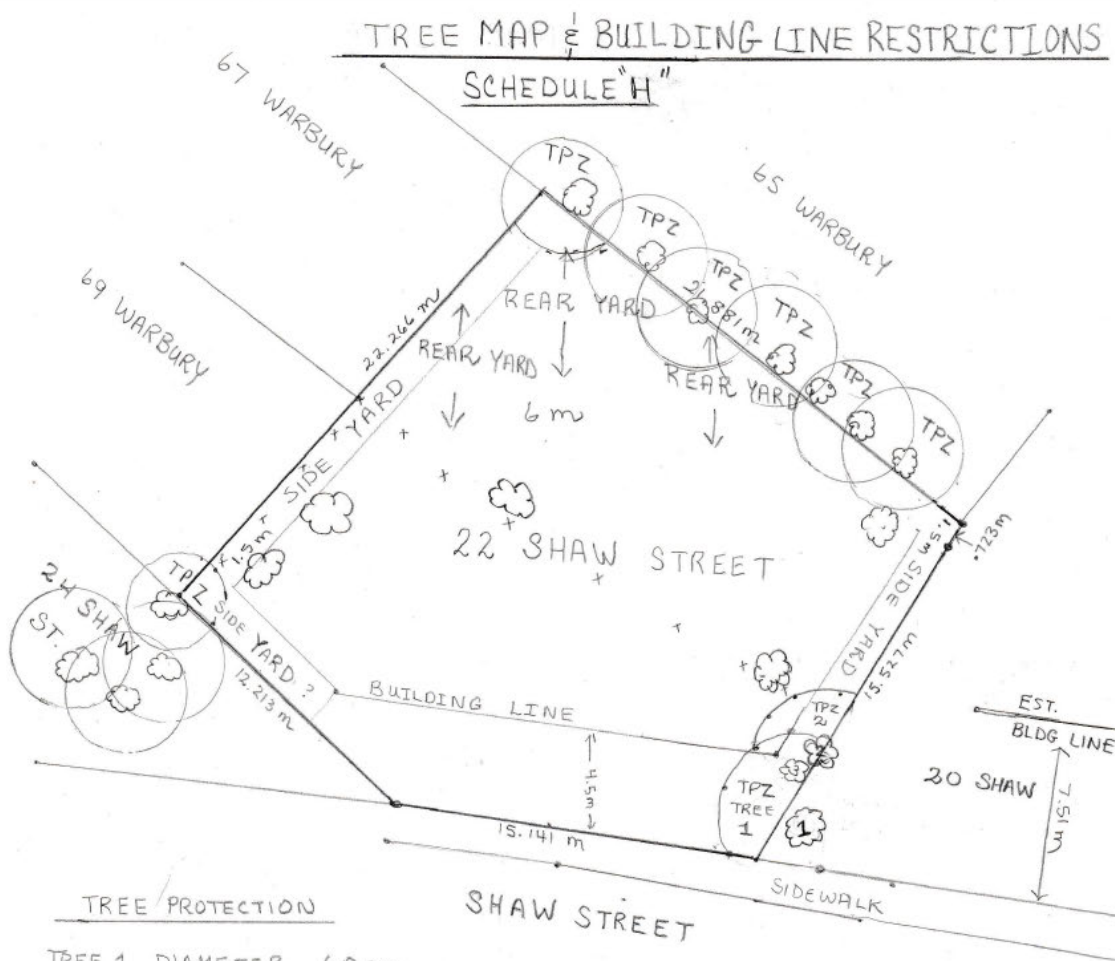
In our urban forest trees can absorb hundreds of liters of water per day, reducing loads to our water table, storm and sewer infrastructure, minimizing erosion to banks and drainages. By providing shade and a wind break trees lower heating and cooling costs, trees clean our air, are habitat for wildlife and where established trees exist, property values are higher, crime is reduced, traffic moves slower, and neighbourhoods are generally more desirable and experience more recreational activity by residents.

Ryan Painter

Old Earth Arborists

Old Earth Arborists [REDACTED] | St. John's, NL | [REDACTED] [info@oldearth.ca](mailto:info@oldearth.ca)

## SCHEDULE "H"



## TREE PROTECTION

TREE 1 DIAMETER 60 cm

TREE 1 TP2 - 360 cmv 3.6 mv

TREE 2 TPZ 2.4 m (minimum)

SCALE 1:219

- ☁ - Trees (placements of trees)  
(are estimates only)

x - fence

TPZ - Tree Protection Zone

### R3 DEVELOPMENT REGULATIONS

BUILDING LINE 4.5 m.

SIDE YARDS TWO of 1.5m.

REAR YARDS 6 m

**OBJECTION TO APPLICATION TO CITY BY DEVELOPER FOR A SEMI-DETACHED HOUSING DEVELOPMENT (TWO HOUSES) REQUIRING BOTH:**

- i. REZONING PROPERTY FROM SPECIAL (RA) ZONE TO THE RESIDENTIAL HIGH-DENSITY ZONE AND;
- ii. RECONFIGURATION OF 22 SHAW STREET AND PART OF REAR YARD OF 67 WARBURY STREET.

Our arguments against the above application are as follows:

- I. The proposed development is not in keeping with the neighbourhood character and quality as a required by the Municipal Plan.
- II. The proposed development will be actively harmful to community interest in the existing and mature desirable Urban Forest in the immediate area and should be protected pursuant to the Tree Protection Policy of the City's progressive urban Forest Management Plan.
- III. The proposed development will negatively impact already significant storm water runoff from Shaw Street during winter melts and rainstorms by preventing or impeding water flow into the old river or stream bed. This will have the added impact of tending to dry the wet and marshy former stream bed from which the trees mentioned above draw some water.
- IV. The proposed development will potentially impact both snow clearing and parking on a very busy street designated for emergency use and frequently used for large truck traffic (and the City itself during salt season).

**WE THE UNDERSIGNED OBJECT TO THE APPLICATION TO CITY BY DEVELOPER AS STATED ABOVE.**

NAME (printed)	Address	Signature
BRIAN C. WALSH	[REDACTED]	Brian C. Walsh
C. Robert Lucas	[REDACTED]	C. Robert Lucas
DAVID TAYLOR	[REDACTED]	David Taylor
Scott Norman	[REDACTED]	Scott Norman
Dorothy Jenkins	[REDACTED]	Dorothy Jenkins
LINDA EBBARY	[REDACTED]	L. Ebbary
BARRY OLIVER	[REDACTED]	Barry Oliver
NELLIE NORMORE	[REDACTED]	N. Normore
GEORGIE ANDREWS	[REDACTED]	Georgie Andrews

OVER →



**OBJECTION TO APPLICATION TO CITY BY DEVELOPER FOR A SEMI-DETACHED HOUSING DEVELOPMENT (TWO HOUSES) REQUIRING BOTH:**

- i. **REZONING PROPERTY FROM SPECIAL (RA) ZONE TO THE RESIDENTIAL HIGH-DENSITY ZONE AND;**
- ii. **RECONFIGURATION OF 22 SHAW STREET AND PART OF REAR YARD OF 67 WARBURY STREET.**

**Our arguments against the above application are as follows:**

- I. The proposed development is not in keeping with the neighbourhood character and quality as a required by the Municipal Plan.
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**WE THE UNDERSIGNED OBJECT TO THE APPLICATION TO CITY BY DEVELOPER AS STATED ABOVE.**

[illegible]

## Karen Chafe

---

**From:** CityClerk  
**Sent:** Monday, April 12, 2021 4:02 PM  
**To:** [REDACTED] CityClerk; Sheilagh O'Leary; Jamie Korab; Debbie Hanlon  
**Cc:** Andrea Roberts; Ann-Marie Cashin; Ashley Murray; Dave Wadden; Jason Sinyard; Karen Chafe; Ken O'Brien; Lindsay Lyghtle Brushett; Planning  
**Subject:** RE: (EXT) Application for 22 Shaw St Rezoning,  
**Attachments:** Executive Summary - 22 Shaw Street.pdf

Good Afternoon:

We thank you for your feedback and advise that all submissions shall be presented to Council for consideration prior to a final decision being reached by Council on this application.

Elaine Henley  
City Clerk  
709-576-8202

---

**From:** [REDACTED]  
**Sent:** Monday, April 12, 2021 2:22 PM  
**To:** CityClerk <cityclerk@stjohns.ca>; Sheilagh O'Leary <soleary@stjohns.ca>; Jamie Korab <jkorab@stjohns.ca>; Debbie Hanlon <dhanlon@stjohns.ca>  
**Subject:** (EXT) Application for 22 Shaw St Rezoning,

Dear City clerk

This email serves as confirmation that I agree with our neighbors position objecting to the Rezoning Application for 22 Shaw Street. The executive summary of said objection is attached.

Sincerely  
[REDACTED]

**Disclaimer:** This email may contain confidential and/or privileged information intended only for the individual(s) addressed in the message. If you are not the intended recipient, any other distribution, copying, or disclosure is strictly prohibited. If you have received this email in error, please notify me immediately by return email and delete the original message.

Any correspondence with employees, agents, or elected officials of the City of St. John's may be subject to disclosure under the provisions of the Access to Information and Protection of Privacy Act, 2015, S.N.L. 2015, c.A-1.2.

**OBJECTION TO APPLICATION TO CITY BY DEVELOPER FOR A SEMI-DETACHED HOUSING DEVELOPMENT (TWO HOUSES) REQUIRING BOTH:**

- i. REZONING PROPERTY FROM SPECIAL (RA) ZONE TO THE RESIDENTIAL HIGH-DENSITY ZONE AND;**
- ii. RECONFIGURATION OF 22 SHAW STREET AND PART OF REAR YARD OF 67 WARBURY STREET.**

**EXECUTIVE SUMMARY**

**Our arguments against the above application will be in 5 parts:**

- I. The proposed development is not in keeping with the neighbourhood character and quality as a required by the Municipal Plan.**
- II. The proposed development will be actively harmful to community interest in the existing and mature desirable Urban Forest in the immediate area and should be protected pursuant to the Tree Protection Policy of the City's progressive urban Forest Management Plan.**
- III. The proposed development will negatively impact already significant storm water runoff from Shaw Street during winter melts and rainstorms by preventing or impeding water flow into the old river or stream bed. This will have the added impact of tending to dry the wet and marshy former steam bed from which the trees mentioned above draw some water.**
- IV. The proposed development will potentially impact both snow clearing and parking on a very busy street designated for emergency use and frequently used for large truck traffic (and the City itself during salt season).**

**The Applicant (or his immediate predecessor in title) assembled the property in Schedule "C", and in particular acquired a portion of the backyard of Warbury Street, for the purpose of this development application without obtaining subdivision approval from the City. Without this approved subdivision, the very small size of the existing 22 Shaw Street property ( about half of the 525 square meter assembled property without the addition of 67 Warbury Street), would not be large enough to permit rezoning to R3 for the purpose Semi-Detached dwellings The City must receive and consider and grant an application for the subdivision of 67 Warbury Street in order to add it to the existing 22 Shaw Street before it can entertain a rezoning application for the property as assembled property in Schedule "C". The Rezoning application should follow that application, if successful.**

## Karen Chafe

---

**From:** Planning  
**Sent:** Thursday, April 8, 2021 8:30 AM  
**To:** City Clerk  
**Subject:** FW: (EXT) Fwd: 22 Shaw Street

Stacey Corbett  
Administrative Clerk– Planning and Development  
Planning, Engineering & Regulatory Services  
City of St. John's

---

**From** [REDACTED]  
**Sent:** Wednesday, April 7, 2021 9:46 PM  
**To:** Planning <planning@stjohns.ca>  
**Subject:** (EXT) Fwd: 22 Shaw Street

Sent from my iPhone

Dear Sir or Madame,

My name is [REDACTED] and my husband and I live at [REDACTED]. We received a letter from the city about the rezoning of 22 Shaw Street. We are preparing our submission about this rezoning and several of our neighbours want to sign on to our submission. Given the current Covid situation, I am not comfortable with going to individuals houses ( and vice versa) to receive their signature and/ or exchange papers so we would like our neighbours to join our submission via email approval. Please advise whether this method is acceptable.

Kindest Regards,

[REDACTED]

**Disclaimer:** This email may contain confidential and/or privileged information intended only for the individual(s) addressed in the message. If you are not the intended recipient, any other distribution, copying, or disclosure is strictly prohibited. If you have received this email in error, please notify me immediately by return email and delete the original message.

Any correspondence with employees, agents, or elected officials of the City of St. John's may be subject to disclosure under the provisions of the Access to Information and Protection of Privacy Act, 2015, S.N.L. 2015, c.A-1.2.

**OBJECTION TO APPLICATION TO CITY BY DEVELOPER FOR A SEMI-DETACHED HOUSING DEVELOPMENT (TWO HOUSES) REQUIRING BOTH:**

- i. REZONING PROPERTY FROM SPECIAL (RA) ZONE TO THE RESIDENTIAL HIGH-DENSITY ZONE AND;
- ii. RECONFIGURATION OF 22 SHAW STREET AND PART OF REAR YARD OF 67 WARBURY STREET.

Our arguments against the above application are as follows:

- I. The proposed development is not in keeping with the neighbourhood character and quality as a required by the Municipal Plan.
- II. The proposed development will be actively harmful to community interest in the existing and mature desirable Urban Forest in the immediate area and should be protected pursuant to the Tree Protection Policy of the City's progressive urban Forest Management Plan.
- III. The proposed development will negatively impact already significant storm water runoff from Shaw Street during winter melts and rainstorms by preventing or impeding water flow into the old river or stream bed. This will have the added impact of tending to dry the wet and marshy former stream bed from which the trees mentioned above draw some water.
- IV. The proposed development will potentially impact both snow clearing and parking on a very busy street designated for emergency use and frequently used for large truck traffic (and the City itself during salt season).

**WE THE UNDERSIGNED OBJECT TO THE APPLICATION TO CITY BY DEVELOPER AS STATED ABOVE.**

NAME (printed)	Address	Signature
BRIAN C. WALSH	[REDACTED]	Brian C. Walsh
C. Robert Lucas	[REDACTED]	C. Robert Lucas
DAVID TAYLOR	[REDACTED]	David Taylor
Scott Norman	[REDACTED]	Scott Norman
Dorothy Jenkins	[REDACTED]	Dorothy Jenkins
LINDA ESSARY	[REDACTED]	Linda Essary
BARRY OLIVER	[REDACTED]	Barry Oliver
NELLIE NORMORE	[REDACTED]	N. Normore
GEORGIE ANDREWS	[REDACTED]	Georgie Andrews

OVER →



**OBJECTION TO APPLICATION TO CITY BY DEVELOPER FOR A SEMI-DETACHED HOUSING DEVELOPMENT (TWO HOUSES) REQUIRING BOTH:**

- i. **REZONING PROPERTY FROM SPECIAL (RA) ZONE TO THE RESIDENTIAL HIGH-DENSITY ZONE AND;**
- ii. **RECONFIGURATION OF 22 SHAW STREET AND PART OF REAR YARD OF 67 WARBURY STREET.**

**Our arguments against the above application are as follows:**

- I. The proposed development is not in keeping with the neighbourhood character and quality as a required by the Municipal Plan.
- II. The proposed development will be actively harmful to community interest in the existing and mature desirable Urban Forest in the immediate area and should be protected pursuant to the Tree Protection Policy of the City's progressive urban Forest Management Plan.
- III. The proposed development will negatively impact already significant storm water runoff from Shaw Street during winter melts and rainstorms by preventing or impeding water flow into the old river or stream bed. This will have the added impact of tending to dry the wet and marshy former stream bed from which the trees mentioned above draw some water.
- IV. The proposed development will potentially impact both snow clearing and parking on a very busy street designated for emergency use and frequently used for large truck traffic (and the City itself during salt season).

**WE THE UNDERSIGNED OBJECT TO THE APPLICATION TO CITY BY DEVELOPER AS STATED ABOVE.**

[illegible]

## Karen Chafe

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**From:** CityClerk  
**Sent:** Tuesday, April 27, 2021 10:35 AM  
**To:** [REDACTED] CityClerk  
**Cc:** Andrea Roberts; Ann-Marie Cashin; Ashley Murray; Dave Wadden; Jason Sinyard; Karen Chafe; Ken O'Brien; Lindsay Lyghtle Brushett; Planning  
**Subject:** RE: (EXT) 22 Shaw Street

Good Morning:

We thank you for your feedback and advise that all submissions shall be presented to Council for consideration prior to a final decision being reached on this application.

Elaine Henley  
City Clerk  
709-576-8202

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**From:** Webber, Karen <kwebber@mun.ca>  
**Sent:** Monday, April 26, 2021 1:03 PM  
**To:** CityClerk <cityclerk@stjohns.ca>  
**Subject:** (EXT) 22 Shaw Street

I write to express my concern that as few trees as possible are removed from the site and that the waterway not be disturbed as it provides water for the wetland downstream.

Thank you for the opportunity to provide comments.

Kind regards,

[REDACTED]

[REDACTED]

St. John's, NL

[REDACTED]

**Disclaimer:** This email may contain confidential and/or privileged information intended only for the

## Karen Chafe

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**From:** CityClerk  
**Sent:** Monday, May 3, 2021 12:57 PM  
**To:** [REDACTED] CityClerk; Mayor; Sheilagh O'Leary; Deanne Stapleton; Shawn Skinner; Jamie Korab; Ian Froude; Wally Collins; Maggie Burton; Sandy Hickman; Debbie Hanlon; [REDACTED]  
**Cc:** Andrea Roberts; Ann-Marie Cashin; Ashley Murray; Dave Wadden; Jason Sinyard; Karen Chafe; Ken O'Brien; Lindsay Lyghtle Brushett; Planning  
**Subject:** RE: (EXT) Opposition to the rezoning application for 22 Shaw St.  
**Attachments:** 22 Shaw St. Re-zoning Application.docx

Good Morning:

We thank you for your feedback and advise that all submissions be presented to Council for consideration prior to a final decision being reached on this application.

Elaine Henley  
City Clerk  
709-576-8202

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**From:** [REDACTED] <bcvwalsh@gmail.com>  
**Sent:** Friday, April 30, 2021 2:45 PM  
**To:** CityClerk <cityclerk@stjohns.ca>; Mayor <mayor@stjohns.ca>; Sheilagh O'Leary <soleary@stjohns.ca>; Deanne Stapleton <dstapleton@stjohns.ca>; Shawn Skinner <sskinner@stjohns.ca>; Jamie Korab <jkorab@stjohns.ca>; Ian Froude <ifroude@stjohns.ca>; Wally Collins <wcollins@stjohns.ca>; Maggie Burton <mburton@stjohns.ca>; Sandy Hickman <shickman@stjohns.ca>; Debbie Hanlon <dhanlon@stjohns.ca>; [REDACTED]  
**Subject:** (EXT) Opposition to the rezoning application for 22 Shaw St.

Attached is my letter in support of the opposition to the rezoning application for #22 Shaw St. Several people from the neighbourhood have indicated their support for this opposition to the application when they signed a document that was previously submitted by [REDACTED]. I will be attending the virtual session and I hope all the members of council have had a chance to read my submission. If you are unable to open the attached file, please contact me and I can arrange to have a copy delivered to you.

Thank You for your consideration in the matter.

Take Care

[REDACTED]  
Sent from [Mail](#) for Windows 10

**Disclaimer:** This email may contain confidential and/or privileged information intended only for the individual(s) addressed in the message. If you are not the intended recipient, any other distribution, copying, or disclosure is strictly prohibited. If you have received this email in error, please notify me immediately by return email and delete the original message.

## Karen Chafe

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**From:** CityClerk  
**Sent:** Thursday, May 13, 2021 3:01 PM  
**To:** [REDACTED] CityClerk; Mayor; Sheilagh O'Leary; Deanne Stapleton; Shawn Skinner; Jamie Korab; Ian Froude; Wally Collins; Maggie Burton; Sandy Hickman; Debbie Hanlon; [REDACTED]  
**Cc:** Andrea Roberts; Ann-Marie Cashin; Ashley Murray; Dave Wadden; Jason Sinyard; Karen Chafe; Ken O'Brien; Lindsay Lyghtle Brushett; Planning  
**Subject:** RE: (EXT) RE: Opposition to the rezoning application for 22 Shaw St.

Good Afternoon:

We thank you for your feedback and advise that all submissions shall be presented to Council for consideration prior to a final decision being reached on this application.

Elaine Henley  
City Clerk  
709-576-8202

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**From:** [REDACTED]  
**Sent:** Thursday, May 13, 2021 12:42 PM  
**To:** CityClerk <cityclerk@stjohns.ca>; Mayor <mayor@stjohns.ca>; Sheilagh O'Leary <soleary@stjohns.ca>; Deanne Stapleton <dstapleton@stjohns.ca>; Shawn Skinner <sskinner@stjohns.ca>; Jamie Korab <jkorab@stjohns.ca>; Ian Froude <ifroude@stjohns.ca>; Wally Collins <wcollins@stjohns.ca>; Maggie Burton <mburton@stjohns.ca>; Sandy Hickman <shickman@stjohns.ca>; Debbie Hanlon <dhanlon@stjohns.ca>; [REDACTED]  
**Subject:** (EXT) RE: Opposition to the rezoning application for 22 Shaw St.

I would like to thank the City for the opportunity to participate in the public meeting which was held last night regarding the rezoning application for #22 Shaw St. Please ensure that the following comments are included in the info package before any decision is made.

To para-phase one of Mr. White's (the developer) closing comments "It's my property and I can do what I want. That comment encapsulates exactly the basis for the neighbourhood's opposition to this development. Under the present zoning (RA) for this property, Mr. White can not do "what he wants" with this project, but it appears that people at city hall were prepared to accommodate his wishes by recommending a change in the zoning to R3. This recommendation for approval was submitted to the City Council a couple of weeks ago, but was deferred to a public meeting based on concerns.

It is worth repeating that every property zoned as R3 on Warbury St. consists of a single dwelling with off-street parking for 1 vehicle and a large garden. Mr. White is proposing to put 2 units as a semi-detached building on a smaller piece of land. With a city hall approval to a zoning of R3, Mr. White is right "It's my property and I can do what I want".

In the big picture, the city's master zoning principles are designed to ensure that citizens know that when they purchase property in St. John's their investment is protected by the city's rules and regulations. In most cases, this is true. But in this case, the developer purchased a property (zoned RA) knowing quite well that his proposed development would not be approved without a re-zoning to R3. Up until now it appears that he was correct because city staff were recommending approval before the neighbourhood expressed its concerns.

Mr. White also stated that each unit of the semi-detached would be priced in the range of \$450K. This price per unit seems to be rather high when you consider that #3 Shaw St. was listed at a reduced price of \$539K and no offers were received. It was later taken off the market. #3 Shaw St. consists of a large three story home with a large lot and a 2 car garage and paved parking for 2 vehicles. All I am stating is that information being provided is not consistent with the existing market.

Once again thank you for the opportunity to provide input.

[REDACTED]

ent from [Mail](#) for Windows 10

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**From:** [REDACTED]  
**Sent:** May 2, 2021 12:06 PM  
**To:** [CityClerk](#); [mayor@stjohns.ca](#); [soleary@stjohns.ca](#); [dstapleton@stjohns.ca](#); [sskinner@stjohns.ca](#); [Jamie Korab](#); [ifroude@stjohns.ca](#); [wcollins@stjohns.ca](#); [mburton@stjohns.ca](#); [shickman@stjohns.ca](#); [dhanlon@stjohns.ca](#); [REDACTED]  
**Subject:** Re: Opposition to the rezoning application for 22 Shaw St.

As a follow up to my email of Apr 30th, I have only received an acknowledgement of receipt from Maggie Burton. It is very important to my submission that all the council members have read the background info. Could you reply that you have at least have received it.

TKS & Take Care  
[REDACTED]

Sent from my iPhone

On Apr 30, 2021, at 2:44 PM, [REDACTED] wrote:

Attached is my letter in support of the opposition to the rezoning application for #22 Shaw St. Several people from the neighbourhood have indicated their support for this opposition to the application when they signed a document that was previously submitted by [REDACTED]. I will be attending the virtual session and I hope all the members of council have had a chance to read my submission. If you are unable to open the attached file, please contact me and I can arrange to have a copy delivered to you.

Thank You for your consideration in the matter.

Take Care  
[REDACTED]

Sent from [Mail](#) for Windows 10

<22 Shaw St. Re-zoning Application.docx>

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April 28, 2021

City of St. John's

Re: Opposition to the Rezoning Application for 22 Shaw St.

To Whom it may Concern,

My name is [REDACTED] and I live at [REDACTED]. I have been a resident of this area for over 42 years and I am submitting this letter in opposition to the requested rezoning for the property at #22 Shaw Street. The primary focus of this letter is to provide pertinent historical information to inform the decision makers (councillors) of the lack of fairness and consistency in the rezoning process.

Back several years ago, the developer of the large plot of land that was bordered Topsail Road and Shaw Street, applied for a rezoning for a "High Density Zone" which the City rejected after a public meeting with the residents was held and their input was considered before the decision to reject was made. Once the "High Density Zone" application was rejected, the developer changed gears and proceeded to develop the large plot as it exists today. But before the developer could proceed, the City advised him that it was his responsibility to install all the underground services (water, sewer, etc.) at his cost which was quite significant. Based on the developer's business plan, the city presently is receiving approximately \$43K annually (not including water tax) in taxes from this property based on the City's combined assessment role for this area of \$5.6M. There are still 6 plots to be developed, so the annual revenue stream for the City will only increase over time.

The above paragraph is one example of where "**Fairness & Consistency**" has to be brought into the decision making process. The developer of the McLea Park area was rejected for a "High Density Zone" application and as per the City's direction was subject to the installation cost of very expensive underground services, but the new owner of #22 Shaw Street is now being considered for a "High Density Zone" application. **Where is the consistency?** Presently the property at #22 Shaw Street does have zoning rating of "**RA**" that does not allow this development but the owner was presumptuous enough to assume that they could get an approval after the fact, therefore, they purchased the adjacent land in order to proceed.

**Lack of Consistency** is also a factor in the proposed rezoning of this property to a "**R3**" rating because every property in the "R3" zone along Warbury St. consists of a single dwelling with off-street parking for 1 vehicle and large gardens. The proposed new development at #22 Shaw Street does not meet the standard of the other properties in the Warbury St. "R3" zoning.

Better still, if the proposed development is approved, it will result in 2 houses being constructed on a postage stamp size lot. **Once again where is the consistency?**

Regarding the **“Fairness” component** of the decision process, the City of St. John’s in all their marketing promotional materials has stated that a cornerstone of their business model is that it is a “Business Friendly City”. Here we have the developer of the McLea Park area who has adhered to every condition and regulation imposed by the City to move forward on the project at considerable upfront cost to himself, while all the rules and regulations can now be modified to accommodate the owner of #22 Shaw Street.

As previously stated, the development of the McLea Park area has resulted in the City receiving \$43K per annum in taxes which if extrapolated out over a 20 year period equates to approximately \$0.86M to the City’s operating revenues. Also as previously stated, there are still 6 plots to be developed, so the taxation revenues stream will increase going forward. As an aside, the annual tax revenue based on City assessment for #22 Shaw Street is \$802. Considering the significant on-going economic impact of the developer of the McLea Park area created for this City, the City owes a duty to him and to all other entrepreneurs to protect their investment in our fair city.

Thank you for the opportunity to be able to present my issues and concerns on this matter.

Take Care,

[REDACTED SIGNATURE]

CC: Office of the City Clerk; Mayor; Deputy Mayor and all sitting councilors .