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JUL 09 2019

The Island Regulatory  
and Appeals Commission

# **Notice of Appeal** (Pursuant to Section 28 of the *Planning Act*)

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

**NOTE:**  
Appeal process is a public process.

**TAKE NOTICE** that I/we hereby appeal the decision made by the Minister responsible for the administration of various development regulations of the **Planning Act** or the Municipal Council of the City of Charlottetown (name of City, Town or Community) on the 13th day of May, 2019, wherein the Minister/Community Council made a decision to amend the City of Charlottetown Zoning and Development Bylaw to allow asphalt, aggregate and concrete plants in the Heavy Industrial (M-2) Zone. Council gave final reading to the Bylaw amendment on the 21st day of June, 2019 (see attached). (attach a copy of the decision).

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

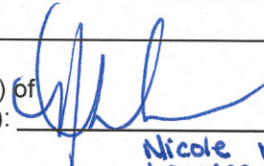
Please see attached.

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

The Appellants respectfully request that the Island Regulatory and Appeals Commission allow this appeal, quash the amendment to the Zoning Bylaw to allow asphalt, aggregate and concrete plants, and declare the said amendment to the Zoning Bylaw null and void.

Name(s) of Appellant(s): Please see attached.  
Please Print

Signature(s) of Appellant(s):



*Nicole M. McKenna  
Lawyer for the Appellants*

Mailing Address: 65 Queen Street

City/Town: Charlottetown

Province: Prince Edward Island

Postal Code: C1A 7L1

Email Address: nmckenna@csmlaw.com

Telephone: 902-626-4266

**Dated this** 9th day of July, 2019.  
day month year

## **IMPORTANT**

Under Section 28.(6) of the **Planning Act**, the Appellant must, within seven days of filing an appeal with the Commission serve a copy of the notice of appeal on the municipal council or the Minister as the case may be.

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

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

# Notice of Appeal (Continued)

(Pursuant to Section 28 of the *Planning Act*)

## Names of Appellants:

1. Jamie Brown on behalf of Brown's Volkswagen
2. Warren Phillips on behalf of Phillips Suzuki
3. Tim Kember on behalf of the Centennial Auto Group
4. Cathy Feener, Resident

## Grounds of Appeal:

1. The City of Charlottetown (the "City") failed to comply with the notice provisions set forth in section 18(1) of the *Planning Act*, R.S.P.E.I. 1988, Cap. P-8 (the "*Planning Act*"), and in sections 3.10.4 and 3.10.7 of the City of Charlottetown Zoning and Development Bylaw (the "Zoning Bylaw");
2. The City generally failed to provide proper and adequate notice to the public of the proposed amendment to the Zoning Bylaw;
3. Residents and other interested persons did not have the opportunity to make representations to Council with respect to the Zoning Bylaw amendment, contrary to section 18(1)(a) of the *Planning Act*, and contrary to the express objects of the *Planning Act*;
4. The amendment to the Zoning Bylaw to allow asphalt, aggregate and concrete plants in the Heavy Industrial (M-2) Zone, and in the City generally, is inconsistent with the City's Official Plan;
5. The City failed to apply sound planning principles in approving the amendment to the Zoning Bylaw to allow asphalt, aggregate and concrete plants in the Heavy Industrial (M-2) Zone, and in the City generally;
6. Members of Council, the Planning Board and/or City employees failed or refused to declare a conflict of interest, real or perceived, with respect to the decision under appeal;
7. The City has otherwise failed to comply with the *Planning Act* and the City's own Bylaws; and
8. Such further and other grounds as counsel for the Appellants may advise upon receipt of the complete record on which the decision is based.



# CITY OF CHARLOTTETOWN

## RESOLUTION

Planning #9

MOTION CARRIED 6-4

MOTION LOST \_\_\_\_\_

Date: May 13, 2019

Moved by Councillor [Signature] Greg Rivard

Seconded by ~~Deputy Mayor~~ [Signature] Jason Coady [Signature]

### RESOLVED:

That the request to amend Section 36 of the Zoning & Development Bylaw (PH-ZD.2) to permit an Asphalt, Aggregate and Concrete Plant and insert a definition for said use under Appendix A, be approved.

*Carried*

*6-4*

*(Councillors Doreen  
Twiss  
Coady  
M. Coady  
Opposed)*





**CITY OF CHARLOTTETOWN  
BYLAW**

To adopt Bylaw PH-ZD.2-015, to amend sections of the Zoning & Development Bylaw (Bylaw PH-ZD.2) to permit an Asphalt, Aggregate and Concrete Plant and insert a definition for said use under Appendix A. Definitions

**BE IT RESOLVED THAT THE "BYLAW TO AMEND THE CITY OF CHARLOTTETOWN ZONING AND DEVELOPMENT BYLAW, (PH-ZD.2-015, as it pertains to Zoning & Development Amendments)", as attached, be read a first time.**

Date: June 17, 2019

Moved by Councillor: [Signature] X Rivard

Seconded by Councillor: [Signature] X Bernard

**BE IT RESOLVED THAT the Zoning & Development Amendment Bylaw (PH-ZD.2-015), be approved and that it be read a second time at the next Public Meeting of Council.**

Date: June 17, 2019

Moved by Councillor: [Signature] X Rivard

Seconded by Councillor: [Signature] X Bernard

**WHEREAS THE "BYLAW TO AMEND THE CITY OF CHARLOTTETOWN ZONING AND DEVELOPMENT BYLAW, (PH-ZD.2-015, as it pertains to Zoning & Development Amendments)", as attached, was read and approved a first time on May 17, 2019;**

**BE IT RESOLVED THAT the said Bylaw be read a second time.**

Date: June 26, 2019

Moved by Councillor: [Signature] X Terry Bernard

Seconded by Councillor: [Signature] X Mike Duffy

**BE IT RESOLVED THAT the said Bylaw be approved and adopted.**

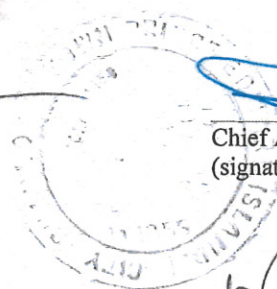
Date: June 21, 2019

Moved by Councillor: [Signature] X Terry Bernard

Seconded by Councillor: [Signature] X Mike Duffy

Mayor/Chairperson  
(signature sealed)

Chief Administrative Officer  
(signature sealed)



*Handwritten notes:*  
Councillor Rivard  
Mike Duffy  
via conference call  
Councillor Bernard  
absent  
Councillor Tweed, Cook, Doiron, McCabe  
Councillors Duffy, Jankovics, Rivard  
C-4/B

**City of Charlottetown**  
**A Bylaw to amend the Zoning and Development Bylaw**  
**BYLAW # PH-ZD.2-015**

**BE IT ENACTED** by the Council of the City of Charlottetown as follows:

**PART I – INTERPRETATION AND APPLICATION**

**1. Title**

- (1) This Bylaw shall be known and cited as the “Bylaw to amend the Zoning and Development Bylaw, Bylaw # PH-ZD.2-015”

**2. Authority**

- (1) Section 16 of the Planning Act R.S.P.E.I 1988 Cap. P-8, enables the Council of the City of Charlottetown, to adopt bylaws implementing an official plan for the municipality

**3. Purpose**

- (1) The purpose of this bylaw is to amend the City of Charlottetown’s Zoning and Development Bylaw provisions to permit an Asphalt, Aggregate and Concrete Plant and insert a definition for said use under Appendix A. Definitions

**PART II – AMENDMENTS**

**4. Section 36.1 is amended as follows:**

By inserting 36.1.2 as “Asphalt, Aggregate, Concrete Plant” and renumbering all subsequent permitted uses.

**5. Appendix A: Definitions are amended and added as follows:**

Add definitions for:

*Asphalt, Aggregate and Concrete Plant* means a use where the production of asphalt, aggregate or concrete products take place and may include the stockpiling and storage and sale of finished products manufactures on the premises.



**PART III – EFFECTIVE DATE****7. Effective Date:**

- (1) The effective date of the Zoning & Development Bylaw amendment is the date as signed by the Minister of Communities, Land and Environment.

**First Reading:**

This Zoning & Development Bylaw, Bylaw # PH-ZD.2-015, was read a first time at Council meeting held on the 17<sup>th</sup> day of June, 2019.

This Zoning & Development Bylaw, Bylaw # PH-ZD.2-015, was approved by a majority of Council members present at the Council meeting held on 17<sup>th</sup> day of June, 2019.

**Second Reading:**

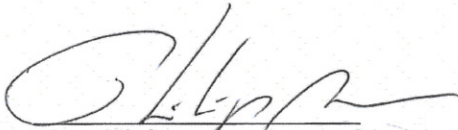
This Zoning & Development Bylaw, Bylaw # PH-ZD.2-015, was read a second time at Council meeting held on the 21<sup>st</sup> day of June, 2019.

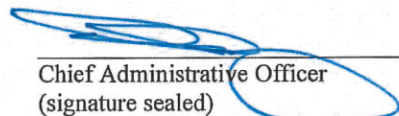
This Zoning & Development Bylaw, Bylaw # PH-ZD.2-015, was approved by a majority of Council members present at the Council meeting held on 21<sup>st</sup> day of June, 2019.

**Approval and Adoption by Council:**

This Zoning & Development Bylaw, Bylaw # PH-ZD.2-015, was adopted by a majority of Council members present at the Council meeting held on 21<sup>st</sup> day of June, 2019.

**8. Signatures:**

  
Mayor/Chairperson  
(signature sealed)

  
Chief Administrative Officer  
(signature sealed)

This Zoning & Development Bylaw, Bylaw # PH-ZD.2-015, adopted by the Council of the City of Charlottetown on 21<sup>st</sup> day of June, 2019 is certified to be a true copy.

  
Chief Administrative Officer  
(signature sealed)

June 26, 2019  
Date:

**MINISTERIAL APPROVAL**

This Zoning and Development Bylaw amendment (PH-ZD.2-015) is hereby approved.

Dated on this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Hon. Bloyce Thompson  
Minister of Agriculture and Land