

February 6, 2026

VIA EMAIL (mwalshdoucette@irac.pe.ca)

The Island Regulatory & Appeals Commission
Attention: Michelle Walsh-Doucette, Commission Clerk
National Bank Tower, Suite 501
134 Kent Street
Charlottetown, PEI
C1A 7L1

Dear Ms. Walsh-Doucette:

Re: Appeal #LA25024 – Nicholas Haddad v City of Charlottetown

We write in response to your correspondence dated December 2, 2025 and ensuing email correspondence dated January 22, 2026, requesting the City of Charlottetown's ("City") Reply to the preliminary submissions of the Appellant, Nicholas Haddad ("Appellant").

The City concurs with the facts outlined in the Introduction of correspondence submitted by the Appellant dated January 22, 2026 ("Appellant Submissions"). The Appellant relies on his grounds of appeal stated in the Notice of Appeal dated December 2, 2025. Based on the broadly stated grounds of appeal and the Appellant Submissions, the City has attempted to summarize and respond accordingly, keeping in mind the Commission's duty to make a determination on the basis of a two-part test¹.

Process

The Appellant and the Respondent concur that the City complied with the process requirements set out in the City's *Zoning & Development Bylaw* (the "Bylaw")².

Procedural Fairness & Sound Planning Principles

The Appellant alleges that City Council acted contrary to the principles of natural justice and procedural fairness failing to provide adequate reasons for their decision to vote against a recommendation of approval from the City's Planning & Heritage Department staff and Planning Board.

¹ *New Homes Plus Inc. v City of Charlottetown*, 2023 PEIRAC 3, para. 34.

² Appellant Submissions, pg. 8.

The Commission has previously ruled that it does not lightly interfere with decisions made by municipal council³. When decisions are properly made, the Commission will typically be deferential towards planning decisions made by Council. On the issue of adequate and/or sufficient reasons, the Commission's position is as follows:

The Commission has previously held that reasons are sufficient when they explain why a municipal council arrived at its decision. When reviewing for adequacy or sufficiency, the Commission must consider the reasons given as a whole in the context of the application before council and with an appreciation for the type of decision made⁴.

When a municipal council votes contrary to recommendations of professional staff, there is an added obligation on Council:

Importantly, Council's decision in this case was contrary to the recommendation of City Planning Staff and the recommendation from Planning Board. Where that happens, the Commission has said there is an added obligation on Council to demonstrate reasons for not following the advice of its professional planning staff. Council's decision-making process should clearly demonstrate what factors were considered that support the final decision, and those factors must be based on sound planning principles⁵.

The City submits that Council provided adequate and sufficient reasons, which reasons were well informed by sound planning principles. In particular, the following reasons were communicated by Council⁶:

1. Councillor MacKinnon: *phone calls from residents, concerns about commercial operations on a residential property* (Record, pg. 64), *exceeds maximum allowable square footage set out in the Bylaw* (Record, pg. 65), *number of buildings already located on the property* (Record, pg. 66)
2. Councillor Jankov: *concerns from residents* (Record, pg. 65)
3. Councillor Doiron: *concerned with additional expansion on already built garage* (Record, pg. 66)

³ *Landfest Company Ltd v Town of Stratford*, Order LA22-07 at para. 32.

⁴ *Derek French v City of Charlottetown*, Order LA25-01 at para. 17.

⁵ *French* at para. 18.

⁶ City's Record, Tab 14 – Regular Meeting of Council Minutes, November 12, 2025

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4. Deputy Mayor Jankov: *new information on the number of buildings located on the property and its status as illegal non-conforming* (Record, pg. 67)

The City submits that Council successfully undertook the exercise required by the Commission to provide sufficient reasons for rendering a decision contrary to the Department's recommendations, which reasons were based in sound planning principles. The Department, Planning Board and Council each have different roles in the process prescribed by legislation and bylaws. Councillors, as elected representatives of their constituents also have an added obligation to consider the perspective of and input from their constituents. Case law has recognized the obligation that elected municipal councillors have and that they should be accorded a certain latitude/deference due to the unique nature of their job (see: *Nanaimo (City) v Rascal Trucking Ltd*, 2000 SCC 13). The City submits that in this case, Council discharged that obligation and guided their decision in accordance with the requirements set out in the legislation, bylaws and by the Commission.

Bias

The Appellant has made allegations of bias against Councillor MacKinnon. The City takes allegations of this nature very seriously but more than a mere allegation or statement of bias is needed in order to substantiate such a serious allegation. The City submits that there is no evidence beyond the Appellant's assertions of bias and no additional evidence exists (see: *Old St. Boniface Residents Associations Inc. v Winnipeg (City)*, 1990 CarswellMan 235).

We trust the foregoing to be of assistance and look forward to a resolution of this matter.

Yours very truly,



Melanie McKenna
MM/MM