

July 24, 2026

VIA EMAIL

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

Dear Ms. Walsh-Doucette:

Re: Anchored Construction Group Inc. and Allan Fraser v. Town of Three Rivers  
Appeal #LA26006

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**Introduction**

This letter is in response to the Commission's letter of June 19, 2026, requesting the Town of Three Rivers' Appeal Record and written response to the Notice of Appeal filed by Anchored Construction Group Inc. and Allan Fraser. Please accept this correspondence as the Town's written response to the Notice of Appeal.

The Town respectfully submits that the appeal should be considered in light of the full Appeal Record, the applicable provisions of the Town's Official Plan and Development Bylaw, and the discretion afforded to Council in reaching a decision on the application.

**Notice of Appeal**

The Appellants have appealed a June 12, 2026 decision, whereby Council declined to approve the Appellants' proposed 3-storey mixed-use building with 24 residential units and 3,000 square feet of office space at Murphy Lane and Gaul Road, Montague, being PIDs 199232, 198887 and 199224.

The motion before Council was to approve the proposed development subject to conditions, including: the duration of the permit, approval of any proposed changes or revisions to approved plans, submission of a construction erosion control plan, an entrance permit from the Department of Transportation, Infrastructure and Energy, approval of a master servicing plan by the Montague Water & Sewer Collection and Treatment Corporation, completion of landscaping, final approval of the PIDs property consolidation, and identification of the approved plans. The motion was defeated.

The Appellants have submitted that Council failed to correctly follow and apply the provisions of the Development Bylaw and Official Plan; failed to identify, follow, or apply sound planning principles; considered irrelevant factors, failed to account for relevant factors supporting the

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application, and failed to provide adequate reasons for declining to approve the application, contrary to the common law duty of procedural fairness.

The Appellants have asked the Commission to conduct a hearing *de novo*, substitute its own decision for that of Council, quash the Town's decision, and order that the application be approved.

### **Background**

On April 10, 2026, the Town received an application from the Appellants proposing a 3-storey mixed-use building with 24 residential units and 3,000 square feet of office space at Murphy Lane and Gaul Road, Montague. The application was validated in accordance with the Town's processes and complete on April 14, 2026.

A report concerning the proposal was prepared for the Planning Board meeting on April 27, 2026. The Planning Board unanimously supported the application and recommended that Council approve it, which was consistent with the recommendation of the Town's Planning and Development Officer.

The application was presented at a regular Council meeting on May 11, 2026, at which time Council resolved to table the proposal pending receipt of an updated report on Main Street traffic, to supplement the May 2022 report of the Department of Transportation, Infrastructure and Energy.

On May 28, 2026, a report entitled *Montague Traffic Congestion Evaluation* was provided to Council. The Town understands that the Appellants may also rely on written confirmation from the Department of Transportation, Infrastructure and Energy on May 22, 2026, indicating that the proposed development was not considered to have an effect on Main Street traffic.

At the June 10, 2026 Council meeting, the application was considered, together with the updated traffic report. Following discussion on a range of issues, Council defeated the motion to approve the development.

### **Town's Response**

The Town does not dispute that its Planning Staff and Planning Board recommended approval of the application, or that the application was assessed as being compliant with the Development Bylaw and Official Plan. Indeed, this was confirmed by Planning Staff and the Chair of the Planning Board confirmed at both the May 11 and June 10, 2026 meetings, as was the fact that the entranceway permit process through the Department of Transportation, Infrastructure and Energy was the appropriate mechanism for addressing any site-specific traffic and access concerns.

Council's discussion on the application included input received informally from residents of Gaul Road in the days preceding the Council meeting. One Councillor noted resident opposition to the development and a second Councillor expressed similar reservations. The Town acknowledges that this input was conveyed informally rather than through a formal objection process, but submits that Council was entitled to and appropriately considered the views of residents as part of its deliberations. Council discussion also addressed "open space" requirements.

### Council's Discretion and Standard of Review

The Town submits that a Council's discretion to reach a different conclusion than its Planning Staff or Planning Board is well established, and that a departure from a Staff or Planning Board recommendation does not, on its own, constitute a reviewable error.

The Commission has previously addressed the scope of this discretion in *Dennis v. City of Charlottetown*, Order LA23-05, where it held that a planning body's departure from professional staff advice carries "an added obligation on Council to demonstrate sound planning reasons for not following the advice of its professional planning staff," and that the decision-making process should clearly show which factors were considered in reaching the final decision. Council must provide reasons that are thorough, cogent, and grounded in sound planning principles, particularly where an application has attracted public input and where Council has departed from a staff recommendation.

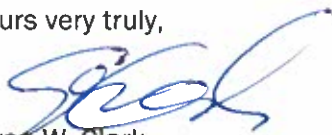
In the present matter, the Town submits that the appropriate inquiry for the Commission is not whether it would have reached the same or different conclusion as Council on the merits of the application, but whether Council's process afforded the Appellants procedural fairness, and whether Council's decision should be afforded deference falls pursuant to its discretionary power under the Development Bylaw and Official Plan, having regard to the matters raised in deliberation, including the concerns of impacted residents.

### Conclusion

The Town does not dispute that the recommendation of its Planning Staff and Planning Board was to approve the application, nor that the application was compliant with the Development Bylaw and Official Plan. However, Council's discretion to depart from a staff recommendation is well established, when exercised correctly. The record reflects that procedural fairness was afforded the Appellants, Council's deliberations on the application were wide ranging, and that the motion to approve was defeated following considerable discussion.

The Town submits that any review by the Commission should be limited to whether Council's process afforded the Appellants procedural fairness, and whether Council's decision falls within the discretion afforded to Council in view of the Development Bylaw and Official Plan. The Town welcomes the Commission's review of the full record.

Yours very truly,



Ewan W. Clark  
EWC/aw

c.c. Anchored Construction Group Inc. & Allan Fraser  
c/o Gary Scales, K.C. & Chera-Lee Gomez, McInnes Cooper