

August 5, 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 #LA26007 – Jonathan Chandler v City of Charlottetown

We write in response to your correspondence dated July 16, 2026, requesting the City of Charlottetown's ("City") Record and Reply to the Notice of Appeal of the Appellant, Jonathan Chandler ("Appellant"). The City's Record was filed with the Commission on August 5, 2026. Please accept this correspondence as the City's preliminary response to the Notice of Appeal.

The Appellant appeals against the decision to issue an occupancy permit to Star Homes & Construction Inc. (the "Developer") for PID 1114354, located at 39-41 MacWilliams Road, Charlottetown, PE (the "Property"), for occupancy of a semi-detached dwelling.

The Notice of Appeal

The Notice of Appeal was filed on June 19, 2026. The Appellant outlines the grounds of appeal as follows:

"Occupancy granted when property sits too high, improper water drainage, neglect to address issues and to meet with myself and have property surveyed as "they do no have the means to verify". There is a retaining wall and water still comes to my property. I received a copy of the drainage plan and it does not call for wall, but here it is without consult. Also, the revision was June 18th with a deadline to appeal of June 17th, meaning the City is trying to circumvent the rules."

Melanie McKenna | Lawyer

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The Permit

A Temporary Occupancy Permit was issued by the City on or about February 11, 2026 (the “Temporary Permit”) **[Record, Tab 15]**. The Occupancy Permit, which permit is the subject of this appeal, was issued on May 27, 2026 (the “Permit”) **[Tab 17]** following satisfaction by the Developer of the following 3 conditions:

1. Rough grading and appropriate siltation measures shall be installed to mitigate surface water runoff and erosion until final grading is complete.
2. Final Drainage Plan and landscaping requirements shall be completed by no later than June 15, 2026.
3. Guard railings at stairs in garages to be secured to ensure they do not move under pressure as per 9.8 of the 2020 National Building Code of Canada.

Surface drainage is governed by section 6.4 of the City’s Zoning & Development Bylaw (the “Bylaw”). 6.4.1 reads:

6.4.1 A Surface Drainage Plan shall be:

- a. Submitted with all Building and/or Development Permits, indicating the existing and proposed Grade elevations of the property relative to the adjoining property(s);*
- b. Designed to ensure that surface water runoff on the Lot will not cause damage or water runoff onto adjoining Lots; and*
- c. Prepared by a qualified engineer or landscape architect.*

Section 6.4.3 then provides that surface drainage shall be approved in two stages:

6.4.3 For any Development, the surface drainage on the Lot shall be approved in two stages:

- a. Approval of the proposed Surface Drainage Plan at the time of the approval of the Building and/or Development Permit; and*

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- b. Approval of the Final Grading Plan, which shall be submitted after the site grading portion of the Development has been completed and which shall be a condition of the approval of an Occupancy Permit, when applicable.*

The Developer satisfied the three conditions included on the Temporary Permit to the satisfaction of the City. In accordance with section 6.4.1, the Developer submitted the plans required for permit issuance (a) **[Tab 1]**, which plans demonstrate drainage flow direction not towards adjoining lots (b) and which plans were stamped Joel Legault, Professional Engineer (c). In accordance with section 6.4.3, the Developer submitted a Surface Drainage Plan with the Building & Development Permit Application **[Tab 1]** and a Final Grading Plan prior to issuance of the Permit **[Tab 16]**.

Relief Sought

The Appellant seeks the following relief from the Commission in his Notice of Appeal:

1. The City to be fined in accordance with continually failing to update the permit approvals within the mandatory timeline;
2. The City to pay for a third-party survey to shoot elevation and take ownership for allowing the building to be built too high; and
3. Mediate payment for a water catch basin to collect rainwater.

The Commission is a body of statute, meaning that the Commission's authority is defined by statute. As a result, the Commission does not have inherent jurisdiction over matters and must exercise only that authority and those powers conferred upon the Commission by the legislature¹.

The Commission's authority to hear and decide appeals of municipal decisions respecting land use is granted by the *Planning Act*, RSPEI 1988, c P-8 (the "Act"). The City submits that while the Commission has the authority to hear and decide this matter, pursuant to subsection 28(1.1) and (8), the relief sought by the Appellant goes beyond the scope of the kind of order the Commission would ordinarily issue. Generally speaking, the Commission may allow the appeal, with or without conditions, or dismiss the appeal. This case may lend itself to mediation which may in turn facilitate a more flexible outcome mutually amenable to the parties.

With respect to item (1), the Commission determined, in Order LA26-11, that the appeal would proceed. The Commission has no authority to "fine" the City as suggested by the Appellant. With

¹ 629857 *NB Inc. et al. v City of Charlottetown*, Order LA09-11, paras 14-15.

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respect to items (2) and (3), similarly, the Commission, in the City's submission, has no authority to order the City to pay for a third-party survey or pay for the installation of a catch basin.

The City reserves the right to respond to further particulars on the grounds of appeal as provided by the Appellant. We trust the foregoing to be satisfactory and looking forward to working with the parties to resolve this matter.

Yours very truly,



Melanie McKenna
MM/MM