



RECEIVED: August 26, 2026

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

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 _____ (name of City, Town or Community) on the 24 day of August, 2026, wherein the Minister/Community Council made a decision to deny Change of Use Application CU-2026-012 for PID 924365 Lot 03-2, Sub. Plan 20959), Allen Road, Southwest Lot 16, requesting approval to change the use of the property from Wood Lot Use only to Residential (Single Unit Dwelling) Use. (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)
 We appeal the Minister's determination that PID 924365 is predominantly wetland and contains insufficient developable area for a Residential (Single Unit Dwelling) Structure. We dispute the extent and boundaries of the wetland and the conclusion that no compliant residential building envelope exists. We also dispute whether the assessment adequately established the wetland boundary and available developable area. We reserve the right to amend these grounds after reviewing the Minister's complete record and obtaining additional evidence.

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)
 We request that the Commission allow the appeal, overturn the Minister's decision denying Change of Use Application CU-2026-012, and approve the change of use of PID 924365 from Wood Lot Use only to Residential (Single Unit Dwelling) Use, subject to any lawful conditions the Commission considers appropriate. Alternatively, we request that the matter be returned to the Minister for reconsideration following a proper determination of the wetland boundary and available developable area.

EACH APPELLANT MUST COMPLETE THE FOLLOWING: (print separate sheets as necessary)

Name(s) of Appellant(s): Natasha Kelly
James Kelly
 Please Print

Signature(s) of Appellant(s): Natasha Kelly
James Kelly

Mailing Address: 26822 RTE 2
Prince Edward Island
Natasha.kelly.pei@gmail.com
James.kelly.pei@gmail.com

City/Town: Summerside
 Postal Code: C1N 4J8
 Telephone: 902 303-2973

Dated this 25 day of August, 2026
 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

August 24, 2026

James Arthur & Natasha Dawn Kelly
26822 Route 2
Summerside, PE
C1N 4J8

Dear Applicant:

Re: Change of Use Application CU-2026-012 – PID #924365, Allen Road, Southwest Lot 16

The Department of Land & Environment has completed the evaluation of your change of use application that you submitted March 12th, 2026, requesting approval to change the use of PID 924365 (Lot 03-2, Sub.Plan 20959) from Wood Lot Use only to Residential (Single Unit Dwelling) Use, located on the Allen Road in Southwest Lot 16.

A. Decision

The Subject Property is within a geographic area where land use and development is not regulated by a local official plan or zoning by-law. Therefore, the Subject Property falls within the jurisdiction of this Department. Land use and development are regulated by the *Planning Act* Subdivision and Development Regulations and other provincial laws and regulations.

Pursuant to sections 3(2)(a), 5(a) and 39(5)(c) of the *Planning Act* Subdivision and Development Regulations, **the above noted application is Denied.** The reasons for this decision are explained in detail below.

B. Reasons

***Planning Act* Subdivision and Development Regulations**

3.(2) No development permit shall be issued where a proposed building, structure, or its alteration, repair, location, or use or change of use would:

(a) not conform to these regulations or any other regulations made pursuant to the Act.

5. No approval shall be given pursuant to these regulations until the following permits or approvals have been obtained as appropriate:

(a) where an environmental assessment or an environmental impact statement is required under the Environmental Protection Act, approval has been given pursuant to that Act.

39. (5) The nearest exterior portion of a building or structure shall be located no closer than (c) 75 feet (22.9 metres) to the inland boundary of a wetland or watercourse.

PID 924365 was originally approved as Lot 03-2 via Sub.Plan 20959 for Wood Lot Use only on August 26th, 2003. The application proposes to change the use of PID 924365 (Lot 03-2, Sub.Plan 20959) from Wood Lot Use only to Residential (Single Unit Dwelling) Use and ultimately place a Residential (Single Unit Dwelling) Structure on the subject parcel. The Environmental Land Management (ELM) Division with the Department of Land & Environment concluded the following: "Our review and site visit on July 14, 2026, confirm the presence of wetland and insufficient developable area exists outside the buffer zone and additional setbacks. The majority of this site, excluding the driveway access and pad was confirmed to be wetland. This application should be denied due to the lack of developable area."

Section 5.(a) of the **Planning Act Subdivision and Development Regulations** indicates that no approval shall be given pursuant to these regulations until such time as approval (if required) is received for an Environmental Assessment under the Environmental Protection Act.

Additionally, as stated in Section 39. (5)(c) of the **Planning Act Subdivision and Development Regulations**, a building must be located no closer than 75 feet from the inland boundary of a wetland and no development is permitted within the 60ft buffer zone. As this property has been deemed predominately wetland and subsequent buffer zone, there would be no possibility of achieving the required setbacks for a Residential (Single Unit Dwelling) Structure.

For more information on the wetland, the delineation and subsequent buffer zone, you may contact Chad Quigley Environmental Officer with Environmental Land Management Division (ELM) of the Department of Land & Environment at cquigley@gov.pe.ca or 902-368-5044.

C. Right of Appeal

Notice of this decision will be posted on the PEI Planning Decisions website. We suggest typing "PEI Planning Decisions" into your internet search engine to link to the website.

Please be advised that pursuant to section 28 of the *Planning Act*, this decision may be appealed to the Island Regulatory & Appeals Commission ("IRAC") (PO Box 577, Charlottetown, PE, C1A 7L1: <http://www.irac.pe.ca>). An appeal must be filed within 21 days after the date of this letter or the Commission is under no obligation to hear the appeal. For more information about appeals, please contact IRAC.

If you have any questions in regards to this decision, contact me at (902) 213-4890 or smacfarlane@gov.pe.ca.

Sincerely,



Shawn MacFarlane
Senior Development Officer