

January 31, 2025

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 #LA24-021 – Jerry Woolfrey v. City of Charlottetown**

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We write in response to your correspondence dated December 24, 2025, requesting the City of Charlottetown's (the "City") Record and Reply to the Notice of Appeal filed by Jerry Woolfrey in LA 24-021 (the "Appellant") on December 20, 2024 (the "Appeal"). The City's Record was also filed on today's date. Please accept this correspondence as the City's initial reply to the Notice of Appeal.

The Appellant has appealed a decision of the City of Charlottetown Municipal Council ("Council")<sup>1</sup> dated November 19, 2024, whereby Council issued permit #304-BLD-24 (the "Permit") upon approving an application submitted on behalf of Royalty Maples Properties Inc. (the "Developer") to complete foundation work at the property located at 18 Trainor Street, Charlottetown and identified as PID 889873 (the "Property"). This Property is located in the Southview Estates Subdivision.

The Permit is a Building and Development Permit subject to conditions pursuant to both the City's Zoning & Development Bylaw and the *Building Codes Act*, RSPEI 1988, c B-5.1. This response addresses the Development Permit portion of the Permit.

The Notice of Appeal contains eleven grounds of appeal. The City has endeavored to summarize and provide preliminary comments to each of the said grounds of appeal below.

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<sup>1</sup> By way of delegated authority pursuant to section 20(2) of the *Planning Act*, RSPEI 1988, c P-8.

**Meaghan Hughes | Partner**

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## **Grounds of Appeal**

### Ground 1: Date of Notice

Notice of the Permit's approval was posted on the City's website on or about December 3, 2024 as part of a revised list dated November 29, 2024. The Appellant filed the Notice of Appeal within twenty-one days of said notice being provided. The City does not intend to argue that the Commission is without jurisdiction to hear this Appeal for non-compliance with section 28(1.3) of the *Planning Act, supra*.

### Ground 2: 'As of Right' Development

The Appellant argues that the information contained in the permit application was inaccurate such that the proposed development is not "as-of-right."

The Property is located in a C-2 Zone. Section 26 of the City's Zoning and Development Bylaw sets out the permitted uses in a C-2 zone which, include the uses sought in the Application. Specifically, the Application sought to develop foundations for future development which would include eleven cottages and one motel building containing six suites. As the Application met all requirements of the C-2 Zone, the development was available based on the current zoning of the property.

Additionally, the City states that its decision was made in accordance with sound planning principles, which were considered throughout the development application process and, in the case of an as-of-right development, some of these principles are integrated into the requirements of the Zoning and Development Bylaw, such as the types of development permissible, the density of such development, etc. The City's decision to approve the development application reflected sound planning principles.

### Ground 3: Street Access

The Appellant argues that the permit application ought to have been reviewed and approved by the Department of Public Works before it was approved.

The City provided a copy of the Permit and grading plan to the Department of Public Works on September 26, 2024 for review and consideration.

On October 2, 2024, the City's Planning Department received confirmation from the Department of Public Works that there were no issues identified with street access.

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#### Ground 4: Current Zoning

The Appellant has requested further information respecting the Property's zoning. Specifically, he states that he observed the Zoning Map in May 2024 and understood from said map that the Property was located in a R-1L Zone. He further states that as of October 2024, the Zoning Map has been revised to indicate that the Property located in a C-2 Zone.

The City states that the Property has been zoned C-2 Zone since 1999.

While the City hosted a presentation of the new Official Plan in May of 2024, this presentation focused only on proposed land-use designation for the new Official Plan and did not involve any discussion regarding zoning.

#### Ground 5: Rezoning

This ground of appeal appears to argue that the Property ought to be rezoned as it is in proximity to R-1L Zoning which has just two permitted uses: single-detached dwellings and modular dwellings. According to the Appellant, because these are not permitted uses in a C-2 Zone, the Property ought to be rezoned R-1L.

The permitted uses for a particular property are not dictated by the properties around it. But rather, by how that particular property is zoned. The Property is in a C-2 Zone and is therefore permitted to those uses which are outlined at section 26 of the Zoning & Development Bylaw.

While the Property is in close proximity to an R-1L Zone, it is further in close proximity to an Institutional Zone, a Comprehensive Development Area, Arterial and Collector Streets and Open Space. However, the Property must comply with the requirements of the C-2 Zone where it is located.

#### Ground 6: Compliance with Zoning & Development Bylaw

The Appellant states that the Zoning and Development Bylaw requires that there be a 13-foot buffer zone. He further states that the decision to issue the Permit did not consider this requirement.

The Permit is for foundation work only. However, in reviewing the application, the City also considered the site plan provided as part of the Application to confirm there was sufficient space

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between the future proposed exterior building walls and property boundaries. In other words, City staff have confirmed that there is a sufficient amount of space along the lot lines bounding R-1L zoned abutting properties to satisfy the buffer requirement.

Future work beyond the scope of the Permit will be required to comply with all land-use buffer requirements.

Ground 7: Previously Denied Application (2019)

The Appellant states that the Property owner applied for a permit to develop the property in 2019 and was denied.

The Property owner's 2019 application differed from the current Application and is not relevant to this application. In any event, the previously proposed development was much greater in scope and scale with respect to land-use intensity than the currently proposed development.

Ground 8: Previously Denied Application (2020)

The Appellant states that the Property owner applied for a permit to develop the property in 2020 which was not recommended by Planning Board and although initially approved by Council, ultimately denied following Reconsideration.

As alluded to above, each application is evaluated independently on sound planning principles, the Official Plan, and Zoning and Development Bylaw. Council's decision to deny a previous application, even for the same property, is not binding or determinative of future applications.

Ground 9: Safety and Viability of Low-Density Neighborhoods

The Appellant argues that the proposed development is prohibited by law, ignores the fundamental purpose of zoning and threatens safety and viability contrary to the Official Plan.

The City reiterates that the decision under appeal is the issuance of a Permit for foundation work only.

The Property currently has a legal street access and the proposed development would not resolve in the annexing of land as argued in the Notice of Appeal. The proposed use is permitted in the C-2 zone and there is no evidence of a threat to public safety. The Department of Public Works has considered these matters and has not identified any issues.

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Grounds 10 and 11: Developer's Alternative Options / Safety Concerns of Residents and Financial Implications

The Appellant's arguments contained at grounds 10 and 11 of the Notice of Appeal do not appear to disclose an appealable issue with respect to the issuance of a development permit. If further clarity is provided on these grounds, and how they relate specifically to the issuance of this development permit, the City will respond in further detail.

**Summary**

The above comments are provided in general reply to the grounds of appeal listed. The City reserves the right to provide a further written response upon receipt of the Appellant's submissions.

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

Yours very truly,



Meaghan Hughes & Maggie Hughes

Cc: Philip Rafuse, IRAC  
Jessica Gillis, IRAC  
David Gundrum, City of Charlottetown  
Chris Daley, Royalty Maples  
Jerry Woolfrey, Appellant

# APPENDIX G. ZONING MAP

