

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 Charlottetown (name of City, Town or Community) on the 27 day of March, 2023, wherein the Minister/Community Council made a decision to issue a demolition permit (001-DEM-23) for 231 Richmond St (PID#340703), City of Charlottetown

(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)
Issuing a demolition permit, as part of a development, for this property is contrary to Charlottetown's Official Plan, Section 4.2.1 and the Zoning and Development Bylaw Section 3.5.2 and is not consistent overall with good planning principles.

Please see attached for details.


The permit is also in violation of Section 3.3.2 of the Zoning and Development Bylaw

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)

cancellation/revocation of demoltion permit 001-DEM-23

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

Name(s) of Appellant(s): Andrea Battison
Please Print

Signature(s) of Appellant(s): 

Mailing Address: 104 Prince Street

City/Town: Charlottetown

Province: Prince Edward Island

Postal Code: C1A 4R4

Email Address: andrea@crustipath.com

Telephone: 902.330.6878

Dated this 17 day of April, 2023
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

Information on this Form is collected pursuant to the **Planning Act** and will be used by the Commission in processing this appeal.
For additional information, contact the Commission at 902-892-3501 or by email at info@irac.pe.ca.

Manager of Planning
Planning and Heritage Department
Charlottetown

April 17, 2023

RE: RECONSIDERATION REQUEST – DEMOLITION PERMIT 231 Richmond St. (Permit #001-DEM-23)

Dear Mr. Forbes,

I, Andrea Battison, as an aggrieved person respectfully request that the City of Charlottetown reconsider the approval of the demolition permit for 231 Richmond St. (Permit #001-DEM-23), issued March 27, 2023. This request is made under provision of Section 3.15.3.c , of the Charlottetown Zoning and Development Bylaw.

The property in question, at 231 Richmond Street, owned by the PEI Housing Corporation. is surrounded by, and sits in harmony with, the rich unbroken streetscape of surrounding, numerous designated properties (See Figure 1a and 1b.)



Figure 1. Views of 231 Richmond Street from (a) the corner of Hensley looking to Hillsborough Street and (b) from Hillsborough looking to Hensley Streets

The only reason presented for demolition of 231 Richmond Street during the Planning Board meeting February 7, 2022, was an engineer’s report deeming it *“too cost prohibitive to make habitable”*. At no point, were the words *“unsafe”* or *“unsound”* used. The 500 Lots area is filled with renovated and restored properties - undoubtedly costly to make habitable – that now rejuvenate and beautify

streetscapes and enhance the distinctive charm and character of this downtown neighbourhood. This is enjoyed by all City residents, visitors, and tourists. The distinctiveness and vitality of the 500 Lots contributes to the economic engine of the City, and the Province and their tourism industry. *Each and every building contributes*. Every demolition permit that is issued slowly and steadily whittles away at this ambience, breaking up the continuity and historic sense of place of the 500 Lots.

The City of Charlottetown should be ensuring that these properties are maintained, protected, restored and leveraged for this purpose as outlined in the Official Plan. Actively enabling the practice of **“demolition by neglect”** is a slippery slope that results in the loss of rich heritage buildings that make up the fabric of the downtown. In this case, a subsidised housing unit that has sat empty for at least five years rather than housing Charlottetown residents is now at risk of being demolished.

At similar risk, are lower rental units which, left unmaintained, conveniently become “too cost prohibitive to make habitable”. What is the measuring stick for ‘too cost prohibitive’? Many residents and homeowners in the 500 Lots invest significant time, energy, and private funds to repair, maintain, restore and/or renovate these properties - often requiring Heritage Board review and approval. The City has a Planning and Heritage Department that with one hand encourages and provides some financial and advisory support for these endeavours; yet with the other, issues demolition permits requiring only the signatures of a Development Officer and a Building Inspector. While the former is consistent with the Official Plan which recognises the value of all of the properties in the 500 Lots and the need to preserve, restore and celebrate them – the latter is not.

Why should a property owner bother to put any effort into their properties when the City will allow others to simply neglect their properties, leaving them vacant and allowing them to fall into disrepair, with the goal of demolishing them?

Sanction of the ‘**demolition by neglect**’ approach for 231 Richmond Street sets a very dangerous precedent and risks disincentivizing further private investment in similar properties. ***Each and every building counts***. If adopted on a wider scale, the resulting disruption of the fabric and ‘sense of place’ in the 500 Lots area will be irreversibly lost. The City should be seriously considering the consequences of this approach in the long term.

There is also an element of sustainability involved here. The environmental costs of the destruction plus costs for production and transport of new materials added to the loss of the embodied energy in the existing structure should be considered.

I am respectfully requesting that the City reconsider its decision to permit demolition of 231 Richmond Street (Permit #001-DEM-23) based on the following points from the Official Plan and the Heritage Preservation Bylaw and the Zoning and Development Bylaw outlined below. Also attached, please find a petition supporting this reconsideration request.

Thank you for your time.

Sincerely,

Andrea Battison
104 Prince Street, Charlottetown, PE C1A 4R4

I. ***The demolition permit is not valid because the registered owner of PID# 340703, 231 Richmond Street, the PEI Housing Corporation (confirmed April 14, 2023, PEI Deeds Registry Department), is not the applicant named on the demolition permit.***

i. The name listed on the weekly Planning and Heritage permit issued summary is the Prince Edward Island Transportation and Infrastructure

II. ***The entire 500 Lots is part of the Great George Heritage Area per section 3.7 Capitalizing on Heritage Resources, Objective 1 of the Official Plan; therefore, section 4.2.1 of the Heritage Preservation Bylaw and Section 3.5.1 and 3.5.2, Demolition Permits, of the Zoning and Development Bylaw, which prohibit demolition of any property within a Heritage Preservation Area apply.***

3.7 Capitalizing on Heritage Resources

Starting Point

Charlottetown's historic resources are amongst the community's most valuable assets. Through the concerted efforts of several key individuals, the residents of Charlottetown have come to realize how important their heritage is. But a great deal more must be done if the City's heritage is going to be secure for the enjoyment and benefit of future generations.

The buildings and sites which are the physical manifestation of the City's rich history are valuable not only because they are irreplaceable touchstones with the past, but because they can become a valuable economic springboard to the future. Charlottetown's heritage buildings are one of the most important elements of the City's charm. They are also an under-utilized resource with considerable economic potential.

Over the last few years, a great deal has been done to establish Charlottetown as the Birthplace of Confederation. The City's heritage buildings are not only important as a reflection of Charlottetown's social history, but they are an invaluable backdrop for helping to depict and explain the political evolution of the entire nation. Therefore, it is crucial that a significant portion of this building stock be restored and protected in order to buttress Charlottetown's seminal role in the creation of Canada.

There will be no long lasting foundation for the success of a campaign based upon the municipality's identity as the Birthplace of Confederation unless there is a predominant sense that Charlottetown is an historic city. If done well, this initiative can be parlayed into significant gains for the local economy. In this sub-section, the **CHARLOTTETOWN PLAN** provides comprehensive guidance to protect, rehabilitate, and revitalize the City's heritage resources. By conserving this important physical legacy, and developing a strategy to better utilize these resources, the residents and business people of Charlottetown can create economic, environmental, and cultural benefits for themselves ... and provide a delightful attraction for their visitors.

Defining Our Direction:

Our **goal** is to protect and revitalize the heritage resources of Charlottetown for the benefit of current and future residents and visitors.

1. Our **objective** is to work with the various organizations and agencies in Charlottetown concerned with heritage to forge a strategy which guides the protection and development of the community's heritage resources.

Our **policy** shall be to expand the Great George Heritage Area to encompass the area known as the "500 lots" from the properties facing Euston Street and Brighton Road south to the Harbour, Illsborough River and North River and to designate additional properties which qualify as heritage resources.
Amended May 25, 2005

Heritage Preservation Bylaw

4.2.1 Demolition Permits

a. Demolition Permits pursuant to the *Zoning and Development By-law* regulations shall be prohibited for Designated Heritage Resource(s) or for any property(ies) within a Heritage Preservation Area.

Zoning and Development Bylaw

3.5.1 No Building or Structure shall be demolished without obtaining a Demolition Permit.

3.5.2 A Demolition Permit may be issued for a Building or Structure, or a part thereof, unless the property on which the Building or Structure is located is identified as a Designated Heritage Resource or is located within a Heritage Preservation Area, as per the City of Charlottetown Heritage Preservation By-law.

III. *By issuing a demolition permit for 231 Richmond Street, the City is failing in its duty to "... protect, restore and build upon the heritage resources in the area." and to "... not undermine or destroy" as stated in section 4.2.1 of the Official Plan*

i. There is no distinction between designated and non-designated heritage resources in the Official Plan. This "charming historical neighbourhood" is comprised of more non-designated than designated buildings. They all contribute to the sense of place and it is the City's obligation protect and restore – not destroy (demolish) all of them.

4.2 A Vibrant Downtown – The 500 Lot Area

4.2.1 A Starting Point – The Vision:

The 500 Lot Area is the City of Charlottetown's historic, cultural, civic and symbolic core and functions as the primary shopping, education, entertainment, recreational, service and employment hub within the City and the larger Region. The area is also a charming historical neighbourhood, home to many residents and visited by thousands of tourists each year. The 500 Lot Area benefits from its waterfront and its inventory of magnificent heritage buildings and features. Through the relevant policies of the CHARLOTTETOWN PLAN, the City should ensure that future planning actions within the 500 Lot Area continue to **protect, restore and build upon** the heritage resources in the area. New development, redevelopment, intensification and changes in land use should not be discouraged as they can have positive influences and make significant contributions to the evolution of the area. However, any proposed changes need to be carefully considered and managed to ensure that they do not undermine or destroy the very elements and qualities that define this area, but rather continue to create a distinct sense of place and contribute to its success.

IV. Issuing a demolition permit for 231 Richmond Street is a failure to recognise and so “...protect, restore, respect and leverage...” the heritage aspect of the streetscape within which 231 Richmond Street lies. (Official Plan, section 4.2.1. Objective 4).

- i. The building at 231 Richmond is integral to the local streetscape (Figure 1.)*
- ii. In the immediate area on Richmond Street, between Prince Street and Hillsborough Street, seven of the 12 (7 of 12) buildings are listed as designated resources with others having reasonable potential to be so (Figure 2; Table 1)*
- iii. The stretch of buildings along Richmond Street from Prince Street (eastern edge of Queen’s Square) to Cumberland Street, which includes Hillsborough Square, is an extensive and compelling streetscape of century homes, uninterrupted but for 273 Richmond Street.*
- iv. There is precedent for less grand houses to be incorporated into designated streetscapes as they function to support and protect the even more notable buildings near them e.g., 174, 179, and 181 Dorchester Street (Table 1).*

4.2.1 A Starting Point – The Vision:

4. Our **objective** is to **protect, restore, respect and leverage** all Heritage Resources.

- Our **policy** shall be to recognize that the 500 Lot Area is comprised of an extraordinary concentration of significant heritage buildings, landmarks and **streetscapes**. These resources play a prominent role in defining its distinct ‘sense of place’ and should be recognized as the life-blood of the area’s civic, cultural and economic well-being and as such **need to be protected and restored**.
- Our **policy** shall be to identify and recognize the heritage attributes of these buildings, landmarks and streetscapes related to their age, architectural interest and historical interest through on-going planning, studies, inventories and other municipal initiatives in order to enable adequate and appropriate protection of these heritage resources.
- Our **policy** shall be to provide direction through the Official Plan and regulation through the Zoning By-law for each property within the 500 Lot Area to determine the appropriate degree and design of alterations based upon an evaluation of its heritage attributes. The ability to demolish properties and buildings and the process and timing of granting demolition permits shall also be dependent upon an assessment of each property’s heritage attributes.

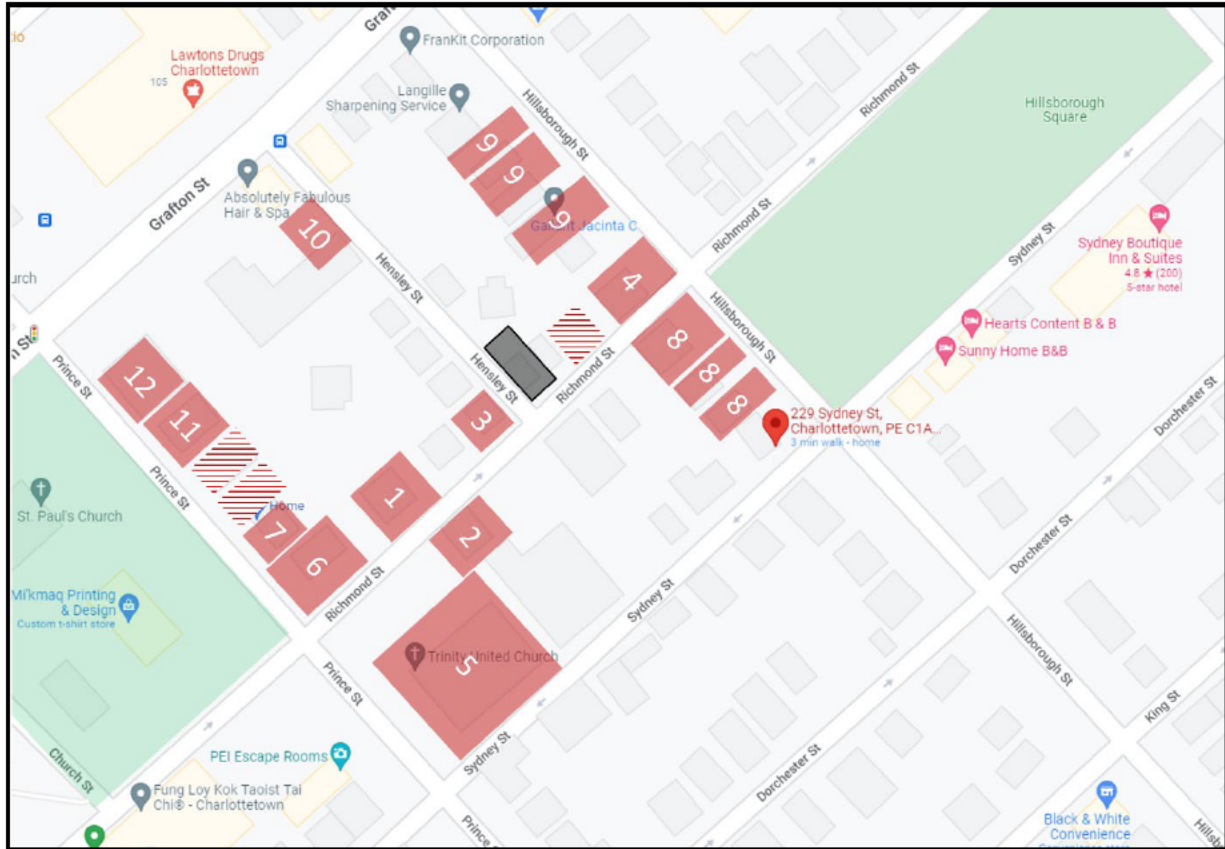


Figure 2. Street diagram (Google maps) of the area in downtown Charlottetown surrounding the site of the proposed demolition application. The status of neighbouring properties (recognised designated heritage resources and potential resources) are indicated.

- Designated heritage resource
- Potential heritage resource
- Site of current house and proposed unit after demolition

Table 1. Summary of Designated Heritage resources near 231 Richmond Street as shown in Figure 1 (excerpt from City of Charlottetown Designated Resources)

Resources Designated under the Heritage Preservation Bylaw City of Charlottetown			
Figure Number	Property Address	PID #	Description
1	215 Richmond St.	340471	The early Mission house of the Methodist Church moved from across the street; also, classic design and scale of house.
2	220 Richmond St.	339481	Trinity Church Manse.
3	227 Richmond St. (1 Hensley St.)	340497	Built c 1846. Good, unchanged cottage – interesting association with Davy (Smithwright family) and Davy's Lane.
4	243 Richmond St.	340737	Good symmetrical, mid-19th century house undamaged by renovation; important position at corner of Square.
5	78 Prince St. (Trinity United Church)	339499	The oldest church in town, built in 1864. Architect Thomas Alley.
6	96 Prince St.	340695	Brick house designed by W.C. Harris for Railway Superintendent.
7	100 Prince St.*	340687	Oldest house on block. Henry Smith (contractor for Gov't House) house
8	67 Hillsborough St. 75 Hillsborough St. 79 Hillsborough St.	339416 339424 339432	The importance of these houses is providing a good streetscape. No. 75 was designed by C.B. Chappell.
9	89 Hillsborough St. 97 Hillsborough St. 105 Hillsborough St.	340752 340778 340786	Hillsborough St. is made up of very good streetscape. This is another block which would be hurt by poor renovation.
10	33 Hensley St.	340554	Representatives of an early subdivision, 1846.
11	112-114 Prince St.*	340646	Built before 1862; renovated 1875. Round headed windows set in squares, unusual feature
12	120 Prince St.* 124 Prince St.*	340620 340612	Good representative brick building of 1870 period. John Corbett, Architect. Quirk's bakery, owner.
	171 Dorchester St. 179 Dorchester St. 181 Dorchester St.	338418 338426 338434	These buildings provide good residential housing; however their main significance is as a streetscape and as protection for the most important house at 187 Dorchester Street.
*This is a block of excellent buildings. They need to be preserved both for themselves and the good of the street and the important church opposite.			

V. Issuing a demolition permit for 231 Richmond Street without conducting a heritage assessment is a failure to adhere to policy regarding heritage assessments and demolition in the Official Plan, section 4.2.1. Objective 4 to “protect, restore, respect and leverage all Heritage Resources”:

- i. *Each property within the 500 lots requires an assessment of its heritage attributes prior to granting a demolition permit.*
- ii. *A copy of the assessment report for 231 Richmond Street as an individual house and as part of a streetscape was requested but not provided. Per information provided by the Planning and Heritage Department, no report was completed.*
- iii. *Failing to complete a detailed and thorough heritage assessment can result in the significance of properties being overlooked when only cursory evaluations are done. The house at 41 Prince Street, initially dismissed as irrelevant, exemplifies where a thorough review revealed that the house merited, and was granted approval by the Planning and Heritage Department, for Designated Heritage Property status. Ultimately, the process was not finalised due to a change in the property’s ownership; however, the point remains that cursory evaluations can be inadequate.*

4.2.1 A Starting Point – The Vision:

4. Our **objective** is to protect, restore, respect and leverage all Heritage Resources.

- Our **policy** shall be to recognize that the 500 Lot Area is comprised of an extraordinary concentration of significant heritage buildings, landmarks and **streetscapes**. These resources play a prominent role in defining its distinct ‘sense of place’ and should be recognized as the life-blood of the area’s civic, cultural and economic well-being and as such need to be **protected and restored**.
- Our **policy** shall be to identify and recognize the heritage attributes of these buildings, landmarks and streetscapes related to their age, architectural interest and historical interest through **on-going planning, studies, inventories** and other municipal initiatives in order to enable adequate and appropriate protection of these heritage resources.
- Our **policy** shall be to provide direction through the Official Plan and regulation through the Zoning By-law for each property within the 500 Lot Area to determine the appropriate degree and design of alterations based upon an evaluation of its heritage attributes. **The ability to demolish properties and buildings and the process and timing of granting demolition permits shall also be dependent upon an assessment of each property’s heritage attributes.**

VI. A substantive Heritage Permit application was required under the Heritage Preservation Bylaw for a demolition.

- i. *The property is within the expanded Great George Heritage Area (see point II re Official Plan Section 3.7)*
- ii. *Section 1.5 (Scope) of the Heritage Preservation Bylaw indicates that the Bylaw applies to “**all** lands, Buildings, Structures and Developments within the City of Charlottetown, specifically to designated heritage resources and all properties within a heritage preservation area”.*
 - a. *While specific to designated heritage resources and properties within heritage preservation areas, the Bylaw does not apply exclusively to designated heritage resources and all properties within a heritage preservation area, i.e., ‘all’ buildings etc. in the City are within its scope.*
 - b. *The house at 231 Richmond Street would therefore be within the scope of the Heritage Preservation Bylaw given that it is a building within the City of Charlottetown. It is also within the Great George Heritage Area.*
- iii. *The Heritage preservation Bylaw defines (section 9.1) an ‘alteration’ as “any change in a structural or architectural component, or any increase or decrease in the volume of a Building or Structure.”*
 - a. *Demolition of a building is the most extreme decrease in volume of a building possible and as such, must be considered a ‘significant alteration’.*
 - b. *A substantive Heritage permit was therefore required under section 4.2.5.a.ii*

Heritage Preservation Bylaw

4. HERITAGE PERMITS

4.1 HERITAGE PERMITS

4.1.1 No Person shall carry out or cause to be carried out any exterior Alteration, Development or demolition of a Designated Heritage Resource, or of any property within a Heritage Preservation Area with the exception of Ordinary Maintenance, without first obtaining a Heritage Permit.

4.2 TYPES OF HERITAGE PERMIT APPLICATIONS

4.2.5 Substantive Applications:

a. A Heritage Permit application is considered a substantive application if it involves:

- i. An addition of more than 20 m² or ten percent (10%) of the Building’s original footprint.
- ii. A significant Alteration to the Building’s original style, design or materials.

9. DEFINITIONS

9.1 **Alteration** means any change in a structural or architectural component, or any increase or decrease in the volume of a Building or Structure

VII. *Issuing a demolition permit for 231 Richmond Street is not consistent overall with good planning principles.*

- i. The demolition permit was issued to create an 'infill' opportunity even before a new proposed design is assessed by the Design Reviewer, Design Review Board, Planning Board and Council.
- i. Failure to follow the Official Plan to protect, restore, respect, leverage and build upon the heritage resources in the 500 Lots area

VIII. *The city is in violation of Section 3.3.2 Development and Building Permits in the Zoning and Development Bylaw as a development permit is required before demolition can occur, or a demolition permit be issued*

- i. *The Zoning and Development Bylaw indicates that 'Development' shall have the same meaning as defined in the Planning Act.*
- ii. *The Planning Act (1.d.ii) indicates that a 'development' includes "...adding to or demolishing structures in, under, on or over the land"*
- iii. *Section 3.3.2 states "No Development shall be undertaken without a Development Permit"*
- iv. *As there is no development permit in place, the demolition permit can not be issued*

Permit #	001-DEM-23
File #	23-280
PID #	340703
Zone	DN

Mailing Address P.O Box 98, 70 Kent Street, Charlottetown, PE, C1A 1M9
Contact information Phone 902-629-4158 | Fax 902-629-4156 | planning@charlottetown.ca | www.charlottetown.ca

DEMOLITION PERMIT

POST THIS IN A CONSPICUOUS LOCATION DURING CONSTRUCTION

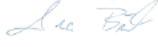
This document certifies that **PEI Department of Transportation and Infrastructure** of **P.O. Box 2000, Charlottetown, PE C1A 7N8** has a Permit to **Demolition of 2-storey house** at the location of **231 Richmond St.**


Provided that the person accepting this permit shall in every respect conform to the City of Charlottetown Zoning & Development Bylaw, The Building Code Bylaw, and any other provisions set by the City of Charlottetown.

Any violation of the terms or conditions listed below may be deemed cause for revocation of this permit.

	Division	Condition
1.	Zoning & Development	The foundation of the demolition site shall be leveled to Grade.
2.	Zoning & Development	A Demolition Permit is valid for sixty (60) calendar days from date of issue.
3.	Building	The applicant will ensure that safety measures comply with Part 8 of the National Building Code and also comply with 5.6 of the National Fire Code. A Fire Safety Plan must be onsite at all times. See Fire Inspector for details of Fire Safety Plan (902) 629-4083

Approved By

Development Officer: Ira Birt  Date: 2023-03-22

Building Inspector: Karyn Palmer  Date: 2023-03-27

THIS IS NOT AN "OCCUPANCY PERMIT"

