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10:43am  
The Island Regulatory  
and Appeals Commission

Jessica Gillis

# 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.ircac.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 11<sup>th</sup> day of July, 2023, wherein the Minister/Community Council made a decision to Deny Application To Subdivide

(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)

The Home owners don't want to take ownership of The Land I want To Subdivide hard Because its Just a waste of nice lots That people can build on it + I want have To pay Taxes on it, But The New Home owners will Pay a Lot more Taxes

**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)

I would like To Subdivide at least 5 lots

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

Name(s) of Appellant(s): Gordon MacCallum Signature(s) of Appellant(s): Gordon MacCallum  
Please Print

Mailing Address: 83 Parkside Drive City/Town: Brackley Beach

Province: P.E.I. Postal Code: C1E-3L1

Email Address: \_\_\_\_\_ Telephone: 902 629-9206

Dated this 10 day of July, 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@ircac.pe.ca.



Agriculture  
and Land

Agriculture  
et Terres



Land Division

31 Gordon Drive  
PO Box 2000, Charlottetown  
Prince Edward Island  
Canada C1A 7N8

Division de terres

31, promenade Gordon  
C.P. 2000, Charlottetown  
Île-du-Prince-Édouard  
Canada C1A 7N8

June 27, 2023

Gordie MacCallum  
83 Parkside Drive  
Brackley Beach, PE C1E 3L1

Dear Mr. MacCallum:

**Subject:** Application to Subdivide 5 Residential Lots  
**Property ID #:** 731307  
**Property Location:** Dunes View Drive, Brackley Beach, Queens County  
**Our File References:** Case # 56791

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The Department of Housing, Land and Communities has reviewed your application to subdivide 5 lots for Residential (single-unit) dwelling use from Property #731307, application received on June 15, 2023 located in Brackley Beach.

#### **A. The Application**

**Subdivision:** The Subject Property is currently approved and used as Open Space. The application was submitted to subdivide 5 lots from this parcel with access off Dunes View Drive.

#### **B. 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 clause 8(a) of the *Planning Act* and subsections 1.(m.2), 3.(2)(a), 15.(1), 15.(2), 28, 29.(1) and 34 of the *Planning Act* Subdivision and Development Regulations, the above noted application is Denied. The reasons for this decision are explained in detail below.**

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### C. Reasons

This parcel is identified as Open Space on the approved subdivision plan for this area. This Open Space was required as part of the original lot approvals and is intended to be held in common by the owners of lots in this subdivision. Due to these provisions within the regulations, we have no choice but to deny this proposal at this time.

Please refer to the *Planning Act* Subdivision and Development Regulations sections 1.(m.2), 3.(2)(a), 15.(1), 15.(2), 28, 29.(1) and 34.

#### ***Planning Act* Subdivision and Development Regulations:**

##### **1. (m.2)**

**“open space” means an outdoor amenity space for active or passive recreational use.**

**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;**

##### **15. Open space**

**(1) Except for a residential subdivision having five or fewer lots, or a subdivision intended for commercial, industrial or other non-residential uses, the owner of lots being subdivided shall set aside open space in the subdivision for recreation or park use equal to a minimum of 10% of the total area of the lots being subdivided. Idem, held in common**

**Idem, held in common**

**(2) Open space set aside in accordance with subsection (1) shall be held in common by the owners of lots in the subdivision.**

##### **28. Designation of permitted uses**

**(1) Final approval of a subdivision application shall specify the permitted uses of each lot on the plan of subdivision.**

**Offence (2) No person shall use a parcel for any purpose other than that which is specified on the approved plan of subdivision.**

##### **29. Change of use**

**(1) No person shall deviate from an approved plan of subdivision, including changing the use of a lot from the approved use, unless a revised plan of subdivision or an application for a change of use has been submitted to, and has been approved by, the Minister.**

**34. Proposed use contrary to plan No development permit shall be issued where the proposed use of the building or structure is contrary to the use specified on an approved subdivision plan.**

#### **D. 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.ircac.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) 569-0573 or [smacvarish@gov.pe.ca](mailto:smacvarish@gov.pe.ca).

Sincerely,



Sarah MacVarish  
Property Development Officer





200 m  
600 ft

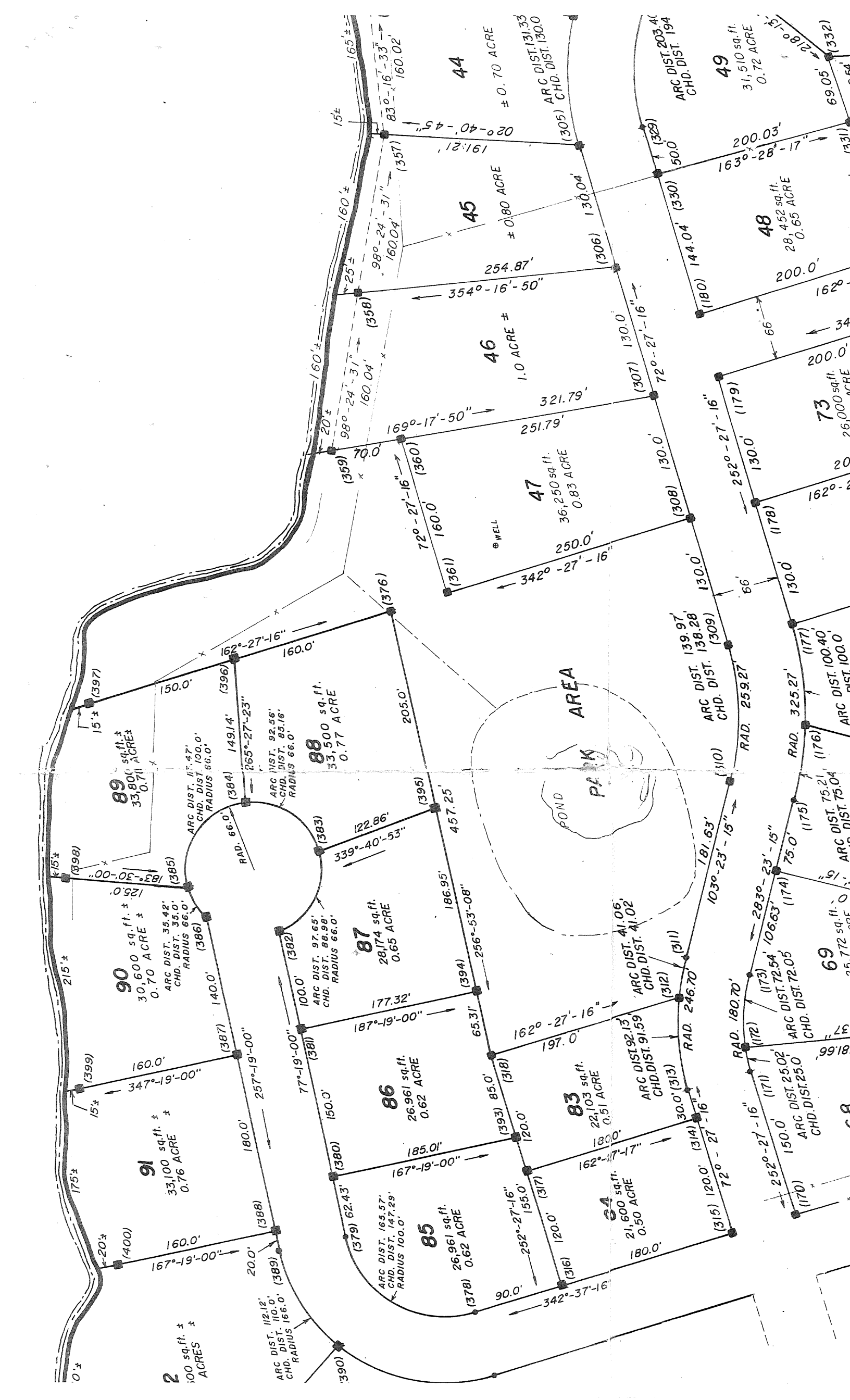
744789

731307

PARTEYSEN

731307





31"  
BRACKLEY POINT ROAD

# GULF SURVEYS LTD.

PLAN SHOWING SUBDIVISION OF PROPERTY OF

**E. GORDON MacCALLUM & DONALD B. MacCALLUM** (Liber

BRACKLEY BEACH LOT 33 QUEENS CO.

FIELDWORK BY R.T.  
DRAWN BY D.W.R.  
DATE SURVEYED MAY, 1988  
DATE DRAWN MAY 31, 1988

*20 new lots  
not on this plan*

SCALE 1" = 100'

