

RECEIVED: January 10, 2025

# 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 Resort Municipality (name of City, Town or Community) on the 17th day of December, 2024, wherein the Minister/Community Council made a decision to deny the application of the applicant for a 3 lot subdivision as filed

(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 Resort Municipality previously approved a similar application notwithstanding that the current applical  
and that the roadway servicing the proposed lot subdivision was the one and the same as that which the f  
prior application, citing that " the Application does not meet the requirements of the 2017 Zoning and Subi  
fact it had approved the which prior application was governed by the same 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)  
Approval of the subdivision as applied for.

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

Name(s) of Appellant(s): Montgommery Cavendish Cottag  
Please Print

Signature(s) of Appellant(s): [Handwritten Signature] Solicitor for.

Mailing Address: 59 Sunset Lane

City/Town: Cavendish

Province: PEI

Postal Code: C0A 1N0

Email Address: office@tweellaw.ca

Telephone: 902-368-8600

Dated this 8th day of January, 2025.  
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.



Phone: (902)963-2698

7591 Cawnpore Lane  
Cavendish, PE  
C0A 1N0

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December 17, 2024

Montgomery Cavendish Cottages Inc.  
c/o Monty Drummond  
59 Sunset Lane  
Cavendish, PE  
C0A 1N0

**RE: Property located at Sunset Lane - PID # 232868:**

Dear Monty,

At its recent Council Meeting, the Council of the Resort Municipality of Stanley Bridge, Hope Rivew, Bayview, Cavendish and North Rustico (the "Resort Municipality") reviewed your subdivision permit application to subdivide the existing property into three (3) lots at property # 232868, Sunset Lane, Cavendish, Prince Edward Island (the "Property").

Parcel # 232868 does not front on a public road, which is required in order for a lot to be subdivided. Paragraph 17.3(1)(d) of the Resort Municipality's Zoning & Subdivision Control (Development) Bylaw (the "Bylaw") requires the subdivision to have "Street access" and paragraph 17.3(1)(j) of the Bylaw requires the Parcel of Land in respect of which the Subdivision is requested to have "Frontage on a Street". Under the Definitions Section of the Bylaw, a "Street" is a road that is vested in either the Province or the Municipality (and therefore doesn't include a privately owned road or the Gulf Shore Parkway). There is, however, an exception to paragraph 17.3(j). Subsection 17.3(2) of the Bylaw does allow Council to approve a subdivision on a private road if the private road meets the requirements in section 4.14 of the Bylaw, the access driveway is at least 66 feet, and the lot size conforms to the requirements of the Zone in which the lot is located. The "private road" that provides the access from a public road to this lot appears to be part of PID 826446 (geolinc indicates that this parcel is owned by Sergiu Dragos and Alysa Johannes) and the Gulf Shore Parkway. We understand that Parks Canada would have to consent to this intensified use of the access and we have written confirmation from Danny Cusack with Parks Canada that ***"Parks Canada will not enter into any Right-of-Way Agreement over PID # 232405 concerning a 66 foot right-of-way to Sunset Lane. The existing access does not allow for any increase in traffic for commercial or residential purposes"***. (e-mail attached from Parks Canada)

Based on the preliminary survey plan of the property, the private road falling within PID 826446 is 40 feet wide from the park boundary starting at Sunset Lane to PID # 232868. If the access driveway from the public road is not 66 feet, then it does not meet the requirement in subsection 17.3(2)(b) and subdivision is not permitted

Please see attached sections 4.14 on Access and 17.3 on Permission to Subdivide of the 2017 Zoning and Subdivision Control (Development) Bylaw.

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Fax: (902) 963-2932 / e-mail: [resortmunicipal@eastlink.ca](mailto:resortmunicipal@eastlink.ca)

**4.14 ACCESS**

1. *No Development Permit shall be issued unless the Lot intended to be used or upon which the Building or Structure is to be Erected abuts and fronts upon a Street.*
2. *Notwithstanding Section 4.14(1) above, Council may approve a Development Permit for a residential or commercial Structure which fronts on a Private Road, provided that the following criteria are met:*
  - a. *no reasonable provision can be made to provide access to a Street;*
  - b. *safe ingress and egress from the Lot can be provided; and*
  - c. *an agreement providing for the long term ownership and maintenance of the Private Road is registered in the Province's Land Registry Office, binding on the Owner of the Private Road, the Lot Owner making application for the Development Permit, and their respective heirs, successors and assigns.*
3. *Council may issue a Development Permit for a Lot created pursuant to the provisions of subsection 17.3 (2) and subsection 17.3 (3) of this Bylaw.*

**17.3 PERMISSION TO SUBDIVIDE**

**(1)** *No Person shall subdivide land within the Municipality unless the Subdivision:*

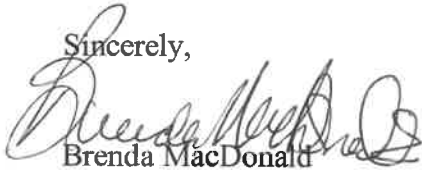
- a) *conforms with the requirements of this Bylaw and any other laws which may be in force;*
- b) *is suitable to the topography, physical conditions, soil characteristics, and natural surface drainage of the land;*
- c) *will not cause undue flooding or erosion;*
- d) *has Street access;*
- e) *has adequate utilities and services available or can be conveniently provided with such utilities and services;*
- f) *will reasonably conform with existing land Use in the immediate vicinity;*
- g) *will provide for safe traffic flow;*
- h) *is designed so that Lots will have suitable dimensions, shapes, orientation and accessibility;*
- i) *is suitable to the Use for which it is intended, and the future Use of adjacent lands;*
- j) *the Parcel of Land in respect of which the Subdivision is requested has Frontage on Street.*

- (2) *Notwithstanding clause 17.3(1)(j), above, Council may approve the Subdivision of a Lot which has Frontage on a Private Road if:*
- a) the Private Road meets the criteria set forth in section 4.14 of this Bylaw;*
  - b) access to a Street is by way of a legally defined access driveway at least 66 feet in width;*  
*and*
  - c) the Lot size conforms to the requirements of the Zone in which the Lot is located.*

At this time, the Council has to deny your request for a subdivision of three (3) lots as the application does not meet the requirements of the 2017 Zoning and Subdivision Control (Development) Bylaw and cannot be approved.

Pursuant to Section 28 of the Planning Act, any person who is dissatisfied with the decision of Council in respect to the administration of regulations or bylaws made under the Act, may appeal within twenty-one (21) days to the Island Regulatory and Appeals Commission.

Sincerely,



Brenda MacDonald  
CAO,  
Resort Municipality

/bm

Encl. (e-mail from Parks Canada)

## Brenda MacDonald

---

**From:** Daniel Cusack <daniel.cusack@pc.gc.ca>  
**Sent:** Monday, November 25, 2024 7:41 AM  
**To:** resortmunicipal@eastlink.ca  
**Subject:** RE: subdivision permits

Hi Brenda,

As we discussed, Parks Canada will not enter into any Right of Way agreement over PID 232405 concerning a 66-foot Right of Way to Sunset Lane. The existing access does not allow for any increase in traffic for commercial or residential purposes.

Please let me know if this meets your needs.

Regards,  
Danny

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**From:** Brenda MacDonald <resortmunicipal@eastlink.ca>  
**Sent:** Saturday, November 9, 2024 11:22 AM  
**To:** Daniel Cusack <daniel.cusack@pc.gc.ca>  
**Subject:** subdivision permits

COURRIEL EXTERNE – FAITES PREUVE DE PRUDENCE / EXTERNAL EMAIL – USE CAUTION

Danny,

Please find attached two subdivision permits for PID #'s 563908 and 232868 belonging to Montgomery Cavendish Cottages Inc. – Monty Drummond on Sunset Lane.

He is looking to do a subdivision on each parcel of land as you will see from the proposed survey plans.

Please review and forward your comments.

Any questions, please advise.

Thanks.

Brenda MacDonald, CAO  
7591 Cawnpore Lane  
Cavendish, PE  
COA 1N0  
Phone: 902-963-2698  
Fax: 902-963-2932  
e-mail: [resortmunicipal@eastlink.ca](mailto:resortmunicipal@eastlink.ca)  
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c/o Monty Drummond  
59 Sunset Lane  
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C0A 1N0

**RE: Property located at Sunset Lane - PID # 563908:**

Dear Monty,

At its recent Council Meeting, the Council of the Resort Municipality of Stanley Bridge, Hope Rivew, Bayview, Cavendish and North Rustico (the "Resort Municipality") reviewed your subdivision permit application to subdivide the existing property into two (2) lots at property # 563908, Sunset Lane, Cavendish, Prince Edward Island (the "Property").

Parcel # 563908 does not front on a public road, which is required in order for a lot to be subdivided. Paragraph 17.3(1)(d) of the Resort Municipality's Zoning & Subdivision Control (Development) Bylaw (the "Bylaw") requires the subdivision to have "Street access" and paragraph 17.3(1)(j) of the Bylaw requires the Parcel of Land in respect of which the Subdivision is requested to have "Frontage on a Street". Under the Definitions Section of the Bylaw, a "Street" is a road that is vested in either the Province or the Municipality (and therefore doesn't include a privately owned road or the Gulf Shore Parkway). There is, however, an exception to paragraph 17.3(j). Subsection 17.3(2) of the Bylaw does allow Council to approve a subdivision on a private road if the private road meets the requirements in section 4.14 of the Bylaw, the access driveway is at least 66 feet, and the lot size conforms to the requirements of the Zone in which the lot is located. The "private road" that provides the access from a public road to this lot appears to be part of PID 826446 (geolinc indicates that this parcel is owned by Sergiu Dragos and Alysya Johannes) and the Gulf Shore Parkway. We understand that Parks Canada would have to consent to this intensified use of the access and we have written confirmation from Danny Cusack with Parks Canada that ***"Parks Canada will not enter into any Right-of-Way Agreement over PID # 232405 concerning a 66 foot right-of-way to Sunset Lane. The existing access does not allow for any increase in traffic for commercial or residential purposes"***. (e-mail attached from Parks Canada)

Based on the preliminary survey plan of the property, the private road falling within PID 826446 is 40 feet wide from the park boundary starting at Sunset Lane to PID # 563908. If the access driveway from the public road is not 66 feet, then it does not meet the requirement in subsection 17.3(2)(b) and subdivision is not permitted

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