



# 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 BELMONT P.E. (name of City, Town or Community) on the 5 day of APRIL, 2023, wherein the Minister/Community Council made a decision to approve the rezoning application submitted by Alexander Hochberg property # 336308.  
Property bordering on the property of Anne MacPherson. (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)  
\* discrepancy surrounding legal access to the Hochberg property.  
\* location of the property is such "line of sight" is not possible with access through the Hochberg land.  
See attached document.

**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)  
Delay in granting rezoning approval until survey of the MacPherson property is completed. The surveyor is trying to accommodate as a timely period.  
See attached notes.

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

Name(s) of Appellant(s): Linda MacMillan Signature(s) of Appellant(s): Linda MacMillan (ne MacPherson)  
Please Print  
Mailing Address: 4805 TCH. Eldon BELMONT P.E. City/Town: BELMONT P.O.  
Province: PE. Postal Code: C0A 1A0  
Email Address: lmmacmillan@gov.pe.ca Telephone: 902-654-2516  
Dated this 05 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.

4805 TCH Eldon  
Belfast PO PE  
COA 1A0

April 5, 2023

Notice of Appeal  
Alexander Docherty Rezoning Application

To Whom it May Concern

I am writing regarding the rezoning application by Alexander Docherty property # 330308 and noting our objection and disapproval.

We believe it is in the best interest of both parties to delay any impacting decisions until the issue surrounding legal access to the property is resolved. This is currently being investigated.

Initially our response was directed to Dean Lewis of Agriculture and Lands. In that appeal we documented the numerous reasons why we did not approve of the rezoning request. (See attached letter) In our response we were transparent, concise, and factual.

The MacPherson property # 330282 borders on the property owned by the Docherty family and as such we have a vested interest in any development that may impact the beauty surrounding Polly Hill as well as our property. The family has this land and paid taxes on it for seventy plus years.

We have also noted previously that there have been alterations to property access, with heavy equipment. This has certainly changed the landscape of our property and we question access to both properties. There was never any approval given by our family for such work.

Originally, we challenged that property# 330308 does not have legal access to their land. This was our most profound statement and reason for not supporting the request. Because of the property's location (on the hill and a turn) the associated line of vision is such they cannot gain legal access to the property independently; they cannot **legally access** property #330308 with their own driveway.

Since the original application we have contacted our lawyer at Stewart McKelvey and in their response, they determined that in previous documents/ requests it was determined that the driveway was indeed located on the property owned by the MacPherson family. Previous owners of their property were aware of this.

Government photos as well as the earlier survey documents received from our lawyer (sent to them by the previous owner) confirms that the driveway is indeed on the MacPherson property. Our legal counsel has advised us to survey the property as reaffirmation of ownership.

As a result, we have enlisted a company to survey the MacPherson property #330282 so as a result we are at the minimum requesting a delay in that approval process for rezoning until this survey has been completed.

*Linda MacPherson (MacPherson)*  
*Daughter of Anne MacPherson & Ross MacPherson*

### Summary Points

Our objection to the property rezoning request of Alexander Docherty property number # 330308 was noted previously (see attached document sent to Dean Lewis)

We believe it is in the best interest of both parties to delay any impacting decisions until the issue surrounding legal access to the property is resolved through a survey of the MacPherson property.

Since the approval of the original application by the Docherty family requesting rezoning of the property # 330308, we have contacted our lawyer at Stewart McKelvey Law.

In response, the law office verified that previous documents/ requests determined that the driveway is located on the property owned by the MacPherson family. The previous owner of the property was aware of this through correspondence with the lawyer's office. Legal documents exist around this. We ascertain that the Docherty family were cognizant of this information as well.

Aerial photos and the GeoLinc maps appear to show the driveway on the MacPherson property.

There have been alterations to our property driveway/access with heavy equipment. This has certainly changed the landscape of our property and we question access to both properties.

There was never at any time approval given by our family for such construction and legal counsel has noted the Docherty family does not have an easement over our family property.

The location of the Docherty property on the Polly Hill does not allow access to the roadway from their property. The line of sight associated with this property # #330308 prevents them gaining access independently; this is the reason for accessing from the MacPherson property.

As stated, Government photos as well as the earlier survey documents received from our lawyer (sent to them by the previous owner) confirms that the driveway is indeed on the MacPherson property. Our legal counsel has advised us to survey the property as reaffirmation of ownership.

The MacPherson property # 330282 borders on the property owned by the Docherty family. and as such we have a vested interest in any development that may impact the beauty surrounding Polly Hill as well as our property.

As a result, we have enlisted a company to survey the MacPherson property #330282 so at a minimum we are requesting a delay in that rezoning approval process until this survey has been completed.

Our family has owned this property and paid taxes on it for seventy plus years and we will not hesitate to continue to resolve this concern to ensure our rights as property owners is not abused.

*Linda MacMillan  
(daughter of Ken & Anne MacPherson)*

# PEI Planning Decisions

This feature contains land use planning decisions for the communities and municipalities under provincial planning authority and municipalities with local land use planning responsibility. Search for the status of a decision and other details about subdivision, development permits or recently approved municipal bylaw amendments, including rezonings.

To search the full directory, select **All under Application Type** and leave remaining fields blank.

The following municipalities are not covered by this site:

- City of Charlottetown
- City of Summerside
- Town of Cornwall
- Town of Stratford

For municipal contact information search the Municipal Directory

This feature contains records dating back to December of 2022. For older records, please reach out to your municipality using the municipal directory above or by contacting Provincial Planning at 902-368-5590.

Community	BELFAST
Application Type	Development Permits
Address	11 POLLY HILL RD
File Number	M-2022-0266
Nature of Decision	Approved
PID	330308
Consolidation PIDs	
Decision Date	2023-03-22
Posted Date	2023-03-23
Last Appeal Date	2023-04-13



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To search the full directory, select **All under Application Type** and leave remaining fields blank.

The following municipalities are not covered by this site:

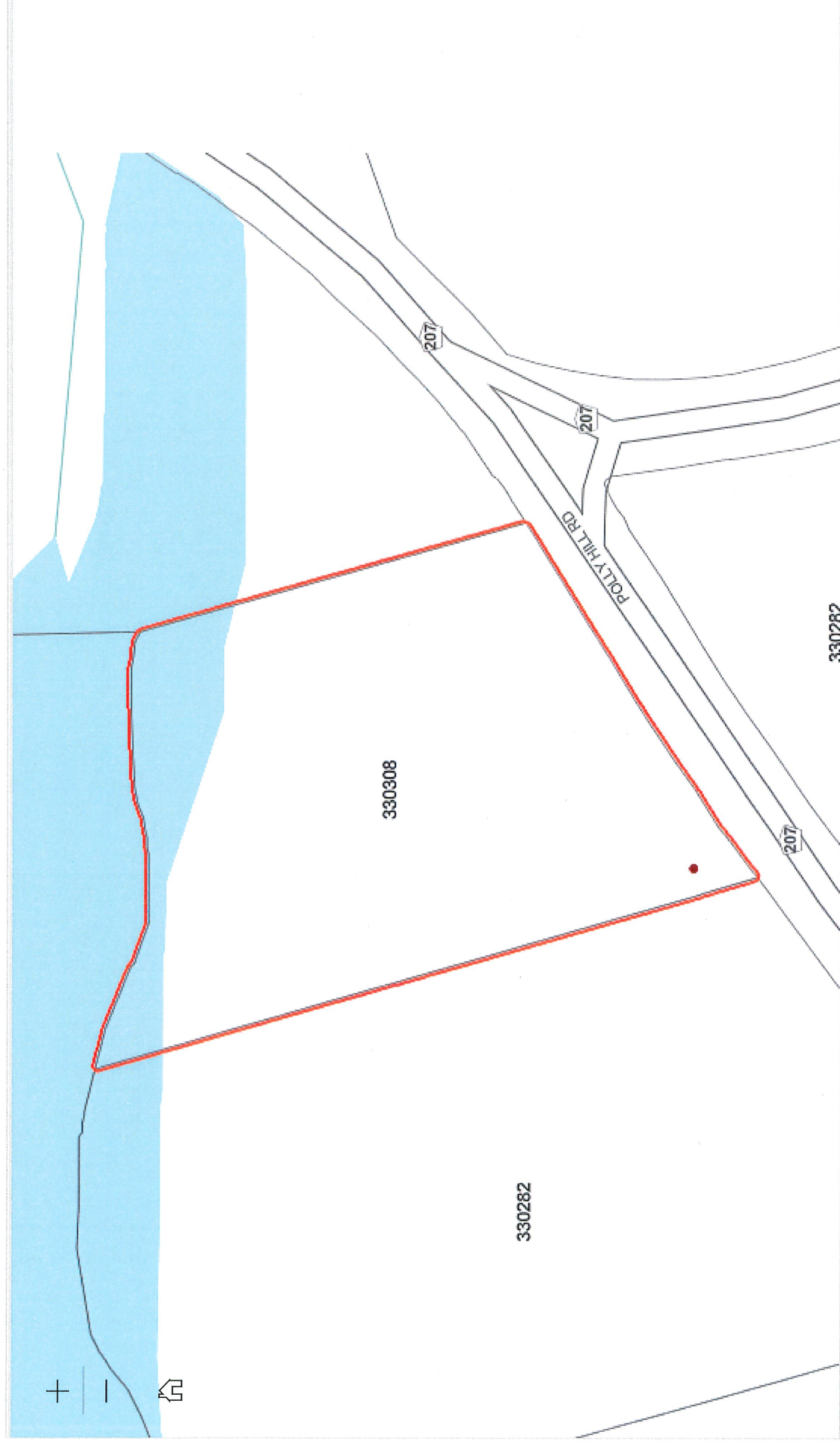
- City of Charlottetown
- City of Summerside
- Town of Cornwall
- Town of Stratford

For municipal contact information search the Municipal Directory

This feature contains records dating back to December of 2022. For older records, please reach out to your municipality using the municipal directory above or by contacting Provincial Planning at 902-368-5590.

Community	BELFAST
Application Type	Subdivision
Address	11 POLLY HILL RD
File Number	64000
Nature of Decision	Approved
PID	330308
Consolidation PIDs	
Decision Date	2023-03-20
Posted Date	2023-03-23
Last Appeal Date	2023-04-11

Application Details	
Proposed Number of Lots	
Approved Number of Lots	
Approving Authority	Province of PEI



# PEI Planning Decisions

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To search the full directory, select **All under Application Type** and leave remaining fields blank.

The following municipalities are not covered by this site:

- City of Charlottetown
- City of Summerside
- Town of Cornwall
- Town of Stratford

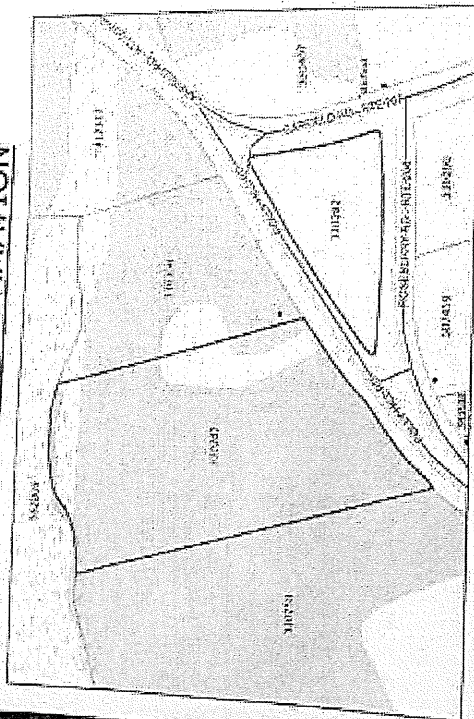
For municipal contact information search the Municipal Directory

This feature contains records dating back to December of 2022. For older records, please reach out to your municipality using the municipal directory above or by contacting Provincial Planning at 902-368-5590.

Community	BELFAST
Application Type	Development Permits
Address	11 POLLY HILL RD
File Number	M-2023-0069
Nature of Decision	Approved
PID	330308
Consolidation PIDs	
Decision Date	2023-03-22
Posted Date	2023-03-23
Last Appeal Date	2023-04-13



# PROPERTY INFORMATION



CREATED ON 2023-03-29 2:25 PM

**PARCEL NUMBER**  
330282

**OWNER**  
ANNE MACPHERSON

**ADDRESS**  
BELFAST

**ACREAGE**  
4

**SCALE**  
1:2,000



**DISCLAIMER:** Can't has been taken to provide high quality information from the data available to the Department. However, the user is cautioned that data may have been obtained from third party sources and it may be incomplete or inaccurate. Conditions may also have changed since the collection of the data.

**GOVERNMENT OF PRINCE EDWARD ISLAND  
DEPARTMENT OF FINANCE  
TAXATION AND PROPERTY RECORDS DIVISION**

95 Rodney Street  
1st Floor  
Charlottetown, PE C1A 7N8

Office: (862) 368-4070  
Fax: (807) 368-6164  
taxandland@gov.pe.ca

**PARCEL NU**  
330282

**OWNER**  
ANNE MACP

**ADDRESS**  
BELFAST

**DISCLAIM**  
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of the dat

**GOVERN**  
**DEPART**  
**TAXATIC**  
95 Rodney  
1st Floor  
Charlott



Case # 64000

February 20, 2023

Polly Hill Road, Belfast

Application for Rezoning to Commercial submitted by Alexander Docherty

Dean Lewis

Senior Development Officer

After consideration we cannot in good conscience support the rezoning request submitted on behalf of Alexander Docherty for the property located in Belfast.

Our family affirms that the lot associated with the rezoning request does not have legal access onto Polly Hill Road/ Roseberry Road but utilizes access through our family lot.

The property 330282 has been in the MacPherson family since 1952; tax receipts will certainly support this position. We are lifelong residents of the community and recognize the historic significance of the Polly Hill property. Altering the landscape for purely financial gain is not sufficient cause for changing or damaging this historic site or its waterways.

This property is zoned as residential single unit dwelling and we believe it should continue to do so. Rezoning this lot to commercial will have a detrimental impact on our bordering property. This could potentially affect any future options for the MacPherson family, such as development as a family residence or even resale. Again, this property has been in our family for seventy plus years.

We submit that the Polly Hill properties are not adequately suited to the increased traffic and at best offers limited visibility that would be associated with request.

Questions such as has there been an environmental impact study completed on the effects of this construction associated on the river? The lot is located on a steep hill. Is this work being carried out by a reputable construction company trained in such tasks and with knowledge of the fragile eco system associated?

Past developments on our parcel of land have occurred without proper authorization by the MacPherson family; buildings, subsequently moved, were located on our property and perhaps a portion of one building still is, roadways were constructed through the property, and even a park created. Construction has been carried out without regard/respect for the MacPherson property.

Past and present actions described above, cause us to be skeptical and as such we want to ensure all our interests are protected.

We cannot, in summary, support this request for rezoning by Alexander Docherty.

Requesting your thoughtful consideration

Linda MacMillan (daughter of Anne and Ross MacPherson)

902-659-2516

Appeals to IRAC must be filed within 21 days of the decision in question. The calculation of the days included in the 21-day appeal period will be made in accordance with section 23 of the "Interpretation Act" and it is recommended that you contact IRAC to obtain confirmation of the last day of the appeal period.

**Published date:**  
September 22, 2022