



PRINCE EDWARD ISLAND
Regulatory & Appeals Commission
Commission de réglementation et d'appels
ÎLE-DU-PRINCE-ÉDOUARD

National Bank Tower
5th Floor, 134 Kent St.
P.O. Box 577, Charlottetown, PE C1A 7L1
Tel: 902-892-3501 / PEI toll free: 1-800-501-6268
Fax: 902-566-4076
appealinquiries@irac.pe.ca



Commission Case Number
(Commission Office Use Only)

Date Stamp
Appeal Received by the Commission

Notice of Appeal

(Pursuant to Section 28 of the Planning Act)

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. In addition, the Commission requires the Appellant to provide the Notice of Appeal to any parties directly affected by the Notice of Appeal on the same date the municipal council or Minister is notified.

Please review each section of the form carefully and fill out all relevant sections. Kindly note that if a Notice of Appeal is deficient it may not be accepted for filing.

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 appealinquiries@irac.pe.ca.


Section 1 – Contact Information

NOTE: Fill out a separate contact information sheet for each individual appellant if applicable

Appellant Information

Last Name:		First Name:	
Company Name or Association Name (if applicable): MARLIN PROPERTY DEVELOPMENT INC. (Melvin Griffin)			
Email address: <u>mpd-inc@hotmail.com</u>			
Daytime Telephone Number: 305 393 4526		Alternative Telephone Number:	
Mailing Address:			
Unit Number:	Street Number: 797	Street Name: SW TULIP BLVD.	P.O. Box:
City / Town / Community: PORT ST. LUCIE	Province: FL	Country: USA	Postal Code: 34953
Signature of Appellant / Legal Counsel (if applicable): 			
C/O KENNETH G. LECKY, BARRISTER & SOLICITOR (as provided below)			

Representative Information (If applicable)

I hereby authorize the named individual(s) to represent me.			
Last Name: LECKY		First Name: KENNETH	
Company Name or Association Name (if applicable): LECKY LAW			
Email address: <u>kenneth@leckylaw.ca</u>			
Daytime Telephone Number: 902 370 3227		Alternative Telephone Number:	
Mailing Address:			
Unit Number:	Street Number: 55	Street Name: FITZROY STREET	P.O. Box:
City / Town / Community CHARLOTTETOWN	Province: PE	Country CANADA	Postal Code C1A1R4
I certify that I understand that my representative is not licensed under the <i>Legal Profession Act</i> and I have provided my written authorization (attached) to my representative to act on my behalf with respect to this matter. I understand that my representative may be asked to produce this authorization at any time.			
Signature of Appellant: 			
Signature of Representative: 			

Section 2 – Appeal Information

Appeal Reasons and Specific Information

Municipal Reference Number(s) (if applicable): **56465**

List the reasons for your appeal in accordance with the provisions of Section 28.(5) of the **Planning Act** (if more space is required, kindly fill out a separate sheet and attach it to this form):

The Appellant (Marlin Property Development Inc., owned by Melvin Griffin) owns a subdivision in Pleasant Grove. This subdivision has private, gravel roads.

The Appellant submitted a subdivision application along with survey for the next phase of the subdivision (20 lots). In accordance with regulation 17(6), the Appellant would be able to obtain further approvals without being required to pave existing roads (which would not be feasible financially):

Section 17(6):

Exception - multi-phase subdivision

(6) Notwithstanding subsections (2) and (5), where a subdivision was to be completed in phases and final approval was granted for at least one phase of the multi-phase subdivision prior to March 21, 2009, the Minister may on application

(a) permit the roads servicing the completed and remaining phases to be constructed to a lesser standard that is consistent with the standards approved for roads in the phase completed prior to March 21, 2009; and

(b) impose additional conditions in the interests of safety including, but not limited to, referring the application for approval to

(i) the Minister of Transportation and Infrastructure, and

(ii) the Provincial Fire Marshal.

Communications with the staff of the Land Division appeared to indicate all was in order and approval would be forthcoming.

On July 27, 2022, a letter signed by Eugene Lloyd was received via email by the Appellant indicating that the Minister decided that the Minister no longer had jurisdiction to process the application, and indicating that the Appellant had 3 options:

1. Transfer the application to the Municipality for processing under their official plan and bylaws.
2. Withdraw the application (and re-submit with the Municipality for processing under their official plan and bylaws);
3. Appeal to IRAC.

The Appellant appeals the decision of the Minister, and respectively submits that the Minister should retain jurisdiction to process and presumably approve (if all is in order otherwise) the 20 lot subdivision application. The application was submitted under provincial law (ie, rural rules) and should be processed under same.

Alternatively, the Appellant appeals the decision of the Minister to approve the Official Plan of the Municipality without regulation 17(6) being contained within that Official Plan.

Has a public meeting been held by the municipality? Yes ☒ No

Did you apply for a development permit, occupancy permit, subdivision approval, change of use amendment or bylaw amendment? ☒ Yes No

Oral / Written Submissions to Council	
Did you make your opinion regarding this matter known to council / the Minister?	
Oral Submissions at a public meeting of council / the Minister?	
<input checked="" type="checkbox"/>	Written Submissions to council
<input checked="" type="checkbox"/>	Not Applicable

Related Matters	
Are there other appeals not yet filed with the Commission?	
Yes	<input checked="" type="radio"/> No
Are there other matters related to this appeal? (For example: An Environmental Protection Act Appeal)	
Yes	<input checked="" type="radio"/> No
If yes, please provide the Commission Appeal Number(s) and / or Municipal File Number(s) and / or the Provincial File Number(s) or Court Docket Number(s) for the related matters:	

Section 3 – Relief Sought



Relief Sought and Specific Information
List or describe the relief sought in accordance with the provisions of Section 28.(5) of the Planning Act (if more space is required, kindly fill out a separate sheet and attach it to this form):
<p>The Appellant submits that the Minister should retain jurisdiction to process and presumably approve (if all is in order otherwise) the 20 lot subdivision application. Alternatively, the Appellant submits that the Minister should revoke its approval or amend its approval of the Official Plan of the Municipality to include provisions of regulation 17(6).</p>

Section 4 – Declaration

Declaration

I solemnly declare that all the statements and the information provided, as well as any supporting documents, are true, correct and complete.

By signing this appeal form below, I consent to the collection of my personal information.

Name of Appellant	Signature of Appellant or Legal Counsel	Date (yyyy/mm/dd)
MARLIN PROPERTY DEVELOPMENT INC. (MELVIN GRIFFIN)		2022/08/15
Name of Representative (if applicable)	Signature of Representative	Date (yyyy/mm/dd)
KENNETH LECKY		2022/08/15

Personal information or documentation requested on this form is collected under the authority of the *Island Regulatory and Appeals Commission Act* and the legislation under which the proceeding is commenced. All information collected is included in the IRAC case file and the public record in this proceeding. In accordance with the ***Freedom of Information and Protection of Privacy Act***, some of the information collected herein may be available to the public subject to exceptions.

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, the Minister or the third party(ies) as the case may be. ***Service of the Notice of Appeal is the responsibility of the Appellant.***



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

July 26th, 2022

Melvin Griffin
797 SW Tulip Blvd.
Port St. Lucie
Florida, USA
34953
mpd-inc@hotmail.com

Dear Mr. Griffin:

Re: Action Required – Case # 56465

In accordance with subsections 8(1) and 9(1) of the *Planning Act*, subsection 2(1) of the *Planning Act Subdivision and Development Regulations*, and subsection 1(1) of the *Province-Wide Minimum Development Standards*, as of April 6, 2022, the Municipality of North Shore is now the authority having jurisdiction over your proposed 20-lot residential subdivision application located in the community of Pleasant Grove, is now within the boundary of the Municipality.

What does this mean?

Upon Ministerial approval of a new municipal official plan for a Municipality, all planning and development responsibilities are transferred from the Minister of Agriculture and Land ("Minister") to the Municipality. Once the official plan is approved, the Minister no longer has any legislated authority to make land use decisions on subdivision or development applications related to the land within the municipality's boundaries.

Application case #56465, is located in the Municipality of North Shore. The Municipality's Official Plan was approved by council of the Municipality on November 16, 2021 and approved by the Minister on April 6, 2022. Once the Official Plan is approved, the ability of the Minister to make a decision on the land ceases and the Municipality takes over.

As such, the Minister no longer has the legislated authority to either approve or deny your application for the 20-lot residential subdivision. This authority now rests with the Municipality.

What happens next?

Should you choose to accept that the Minister has lost jurisdiction to either approve or deny the application, the Minister offers the two following options:

1. The Department of Agriculture and Land will submit application case #56465 to the Municipality to process under their new Official Plan and associated bylaws. The application fees will be refunded, in accordance with the Department's refund policy, and payment of the Municipality's application fees by the Applicant will be required by the Applicant.
2. Withdraw application case #56465 from the Department of Agriculture and Land and the application fees will be refunded, in accordance with the Department's refund policy. You may then apply to the Municipality at your own convenience.

The Minister requests that you provide instruction, in writing, on the preferred option within 21 business days (date decision due). Instructions can be emailed to (Staff name and email address) or mailed to (mail address).

Should you not accept the Minister's decision regarding the lack of jurisdiction to either approve or deny the application, then you may appeal the matter to the Island Regulatory and Appeals Commission. An appeal must be filed with the Island Regulatory and Appeals Commission within 21 days of the date of this letter. For more information about commencing an appeal, please contact the Island Regulatory and Appeals Commission directly.

If you have any questions regarding the above, please contact Eugene Lloyd at emlloyd@gov.pe.ca or (902) 368-4465.

Yours sincerely,



Eugene Lloyd
Manager (Acting) Provincial Planning

c: Glenda MacKinnon-Peters, Director of Land
Stephanie Moase, CAO North Shore Municipality