

**Item No.**  
**North West Community Council**  
**May 13, 2013**

**TO:** Chair and Members of North West Community Council

**SUBMITTED BY:** Original Signed  
Ellinor Williams, Chair, Halifax Watershed Advisory Board

**DATE:** April 15, 2013

**SUBJECT:** Case 18044: Development Agreement Amendment, 148 Nautical Way

**RECOMMENDATION REPORT**

**ORIGIN**

Staff memo dated February 11, 2013 regarding Case 18044, reviewed by Halifax Watershed Advisory Board on February 20, 2013 – Item 7.1.

**LEGISLATIVE AUTHORITY**

Halifax Watershed Advisory Board, Terms of Reference – 1.1 (b) “To provide input to Community Council and/or Regional Council and the Community Planning Advisory Committees on applications for development agreements, rezoning, amendments to land use by-laws and major project proposals of Halifax Water with regard to potential impact on the Municipality’s lakes, rivers, watercourses and coastal inlets”

**RECOMMENDATION**

The Halifax Watershed Advisory Board recommends that North West Community Council request that Shining Waters Marine consider planting native species in the proposed new stand of evergreen trees.

## **BACKGROUND**

The applicant, Shining Waters Marine, operates a multi-use marina on a coastal inlet off the Peggy's Cove Road, Tantallon. It is proposing to add new internal uses to the building, replace existing ground signage, legalize the existing outdoor boat storage, and plant a line of trees along the watercourse. The current boat storage already disturbs the 20 metre riparian buffer; so too will the proposed trees, which aim to separate the boat storage from the watercourse on the west side of the site. Implementing these changes requires modifications to the existing Development Agreement.

## **DISCUSSION**

The Halifax Watershed Advisory Board, having reviewed this matter on February 20, 2013, recommended that the applicant consider planting native species in the stand of trees adjacent to the watercourse.

## **FINANCIAL IMPLICATIONS**

None were identified.

## **COMMUNITY ENGAGEMENT**

All meetings of the Halifax Watershed Advisory Board, including that of February 20, 2013 at which this matter was discussed, are open to the public.

## **ENVIRONMENTAL IMPLICATIONS**

The recommendation put forward is in keeping with the Advisory Board's aim to encourage the restoration of the natural forest near watercourses.

## **ALTERNATIVES**

None were identified.

## **ATTACHMENTS**

1. Staff memo dated February 11, 2013 regarding Case 18044, an application by Shining Waters Marine, 148 Nautical Drive, Tantallon, to amend existing Development Agreement

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Ted Aubut, Legislative Assistant, 490-6519

Original Signed

Financial Approval by: Greg Keefe, Director of Finance & ICT/CFO, 490-6308

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P.O. Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

## MEMORANDUM

**TO:** Chairperson and Members of the Halifax Waters Advisory Board  
**FROM:** Shayne Vipond, Senior Planner, Planning Applications  
**DATE:** February 11, 2013  
**SUBJECT:** **Case 18044: Application by Peter Vokey of Shining Waters Marine at 148 Nautical Way (PID 40664252), Tantallon to amend their existing Development Agreement.**

**Location:**

The subject lands identified as PID 40714578 is an 11.7 acre parcel located at 148 Nautical Way, off of the Peggy's Cove Road in St. Margaret's Bay area as shown on the enclosed concept plan. The subject lands are located within the Planning Districts 1 & 3 Plan area. The lands are designated Mixed Use B – Municipal Planning Strategy(MPS) for Planning Districts 1 & 3 and zoned MU-2 (Mixed Use 2) in the Land Use By-law for Planning Districts 1 & 3. Attached are the relevant policies from the MPS.

**Proposal:**

The applicant has made a submission to consider the proposed changes to their existing Development Agreement (DA). The DA provision is enabled through Policies MU-6 and MU-9 of the Districts 1 & 3 MPS as attached. The purpose of the proposal is to establish additional uses for the Multi-use Marina facility. This includes:

- a licensed lounge;
- additional floor area within the existing multi-use for commercial retail and office uses;
- signage – request for replace the existing ground sign; and
- legalize existing outdoor boat storage.

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**Background information:**

The Property has been in operation as a Marina since 1991. The proposal is to add new uses internal to the building, a new sign on the property, additional parking and a line of new trees along the watercourse.

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Accordingly all new construction is proposed to be internal to the building. The new parking will be established over existing hard surface.

The Marina draws its potable water from a well that has sufficient flow to accommodate the additional floor area and proposed uses. The Marina discharges its sewage to an existing septic system. Nova Scotia Environment has reviewed the proposal and has indicated that they have no concerns with the change in the proposed development.

**Site:**

The subject site is a Marina that has been in operation since 1991 and is accessed from the Peggy's Cove Road. The site lies along a coastal inlet located on St. Margaret's Bay. Please note that there is existing disturbance within the 20m riparian buffer in the form of outdoor boat storage. The developer is proposing development within the buffer by way of tree planting at the west of the site adjacent to the watercourse there.

**Issues concerning the Halifax Watershed Advisory Board**

- *The application is proposed to include a new stand of evergreen trees proposed to separate the existing boat storage from the watercourse at the west of the site.*

The subject property is located in on a coastal inlet on St. Margaret's Bay. Pursuant to the Board's terms of reference, your input with respect to the potential impact on the areas watercourses is requested. Please find attached relevant MPS Policies that the application will be reviewed under.

If you have any questions or require further information please do not hesitate to contact me at 490-4335.

Sincerely,

Shayne Vipond  
Senior Planner

**Attachments:**

Planning District 1 and 3 MPS Policies  
Air Photo  
Application Letter  
Concept Site Plan.  
Detailed Concept Site Plan

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**District 1 and 3 Municipal Planning Strategy Policies**

Although most commercial uses will be permitted by right, certain operations will be restricted due to the nature of the operation or concerns over noise or hours of operation.

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Commercial entertainment uses such as beverage rooms, nightclubs and cabarets are one such category of use. There are a few such establishments within the Plan Area most of which are connected to hotels or motels.

There is concern, however, that licensed operations can bring about increased traffic, noise and related problems to an area. In order to ensure public input into the location of these types of uses, they will be permitted to proceed only through the development agreement process and be restricted to one such use per lot.

MU-6 Notwithstanding Policy MU-2, within the Mixed Use "A" and "B" Designations, Council shall only consider commercial entertainment uses according to development agreement provisions of the Planning Act. When considering such agreements, Council shall have regard for the following:

- (a) the potential for adversely affecting nearby residential and community facility development;
- (b) the impact of the entertainment use on traffic circulation and, in particular, sighting distances and entrances to and exits from the site;
- (c) proximity of a residential environment;
- (d) the provision of landscaping or buffering from adjacent development;
- (e) the general maintenance of the developments; and
- (f) the provisions of Policy IM-9.

Two uses that could find the designation attractive to locate in but bring with them potential negative side effects are campgrounds and marinas. Such uses are recognized, given the Plan Area's reliance on the tourist industry. However, residents are anxious to ensure that when they are developed they will not create disruption to neighbouring uses. Therefore, campgrounds and marinas shall only be considered by development agreement.

MU-9 Notwithstanding Policy MU-2, within the Mixed Use "A" and "B" Designations, Council shall only consider campgrounds and marinas according to the development agreement provisions of the Planning Act. When considering such development agreements, Council shall have regard to the following:

- (a) that the site exhibits characteristics which make the location particularly suitable for the proposed use;
- (b) the potential for adversely affecting existing residential and community facility development in the area by virtue of noise, visual intrusion and traffic generation;
- (c) the provision of landscaping or buffering from adjacent development and the public road to which it has access in order to reduce the impact of the proposed development;
- (d) the impact on traffic circulation and, in particular, sighting distances and entrances to and exits from the site;

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- (e) the layout and design of the facility and public safety regarding the operation of boats;
- (f) the general maintenance of the facility;
- (g) the means by which solid and liquid waste will be treated;
- (h) the provision of sewage pump-out facilities for marine craft;
- (i) that provisions for storage of marine craft require all masts and rigging be removed;
- (j) that the architectural design and scale of any buildings are compatible with nearby uses;
- (k) the ability to meet any applicable Provincial requirements;
- (l) the effects of the use on the natural environment as contained in a report from the appropriate Provincial or Federal government authority;
- (m) hours of operation; and
- (n) the provisions of Policy IM-9.

IM-9 In considering development agreements and amendments to the land use by-law, in addition to all other criteria as set out in various policies of this strategy, Council shall have appropriate regard to the following matters:

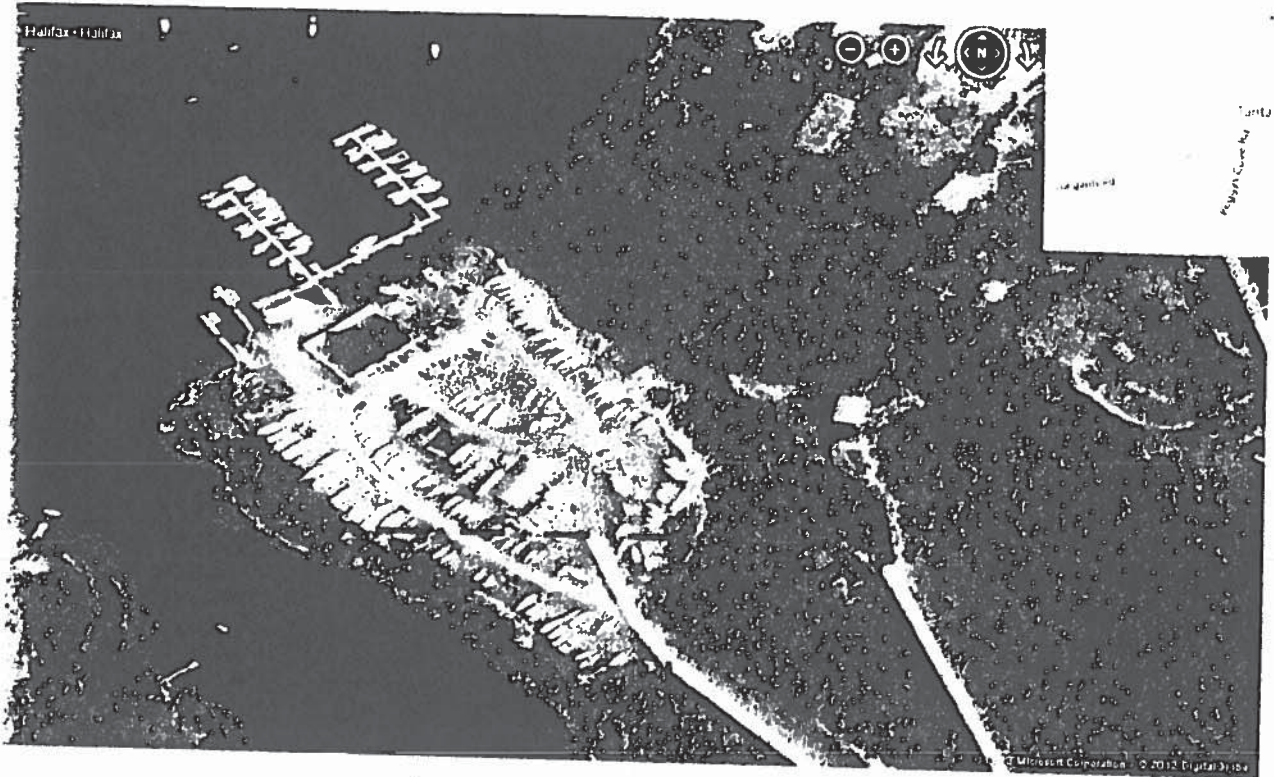
- (a) that the proposal is in conformity with the intent of this strategy and with the requirements of all other municipal by-laws and regulations;
- (b) that the proposal is not premature or inappropriate by reason of:
  - (i) the financial capability of the Municipality to absorb any costs relating to the development;
  - (ii) the adequacy of on-site sewerage and water services;
  - (iii) the adequacy or proximity of school, recreation or other community facilities;
  - (iv) the adequacy of road networks leading or adjacent to or within the development; and
  - (v) the potential for damage to destruction of designated historic buildings and sites.
- (c) that in development agreement controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:
  - (i) type of use;
  - (ii) height, bulk and lot coverage of any proposed building;
  - (iii) traffic generation, access to and egress from the site, and parking;
  - (iv) open storage;
  - (v) signs; and
  - (vi) any other relevant matter of planning concern.
- (d) that the proposed site is suitable with respect to the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility to flooding; and
- (e) any other relevant matter of planning concern.
- (f) **Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy p-79F", Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the "Infrastructure Charges" Policies of this MPS, (RC-Jul**

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**Air Photo**



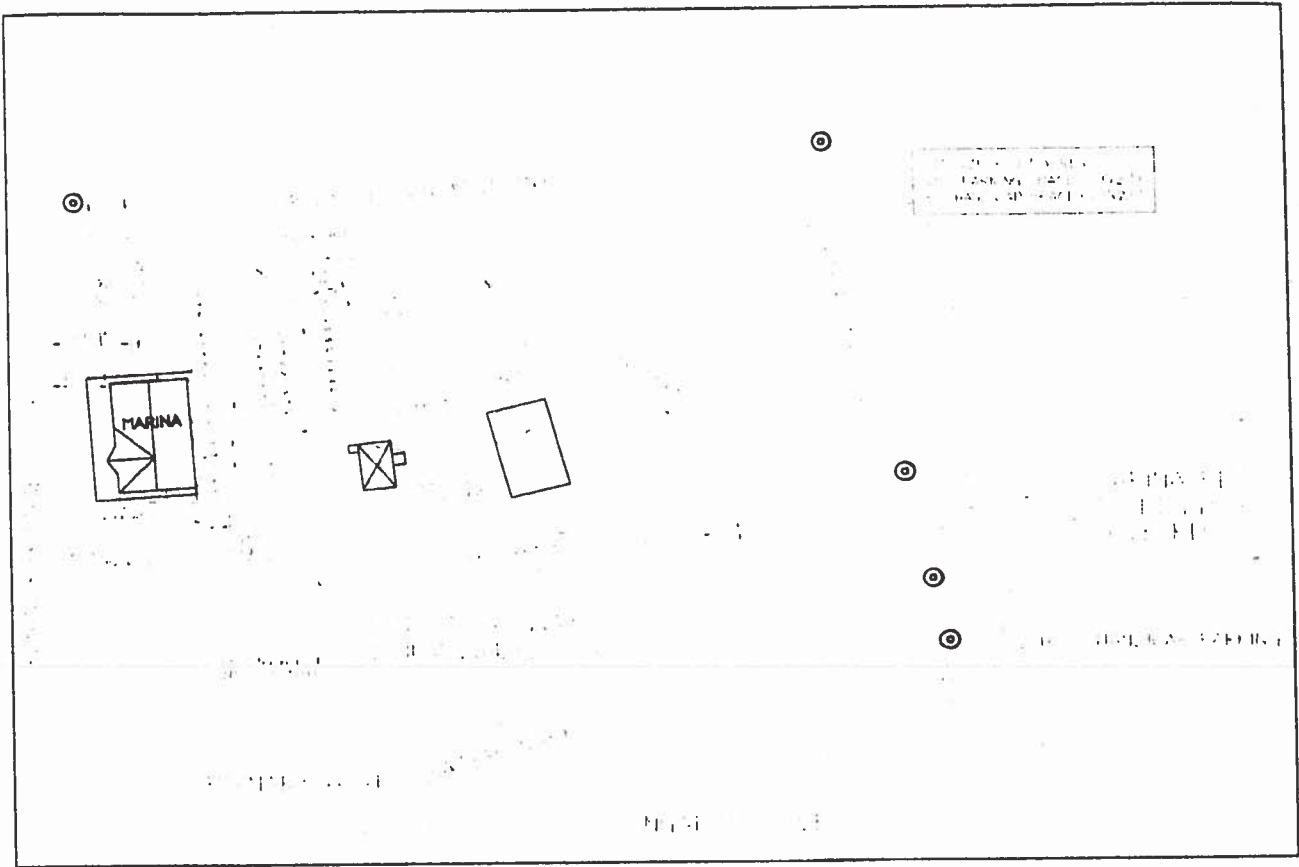
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**Site Plan**

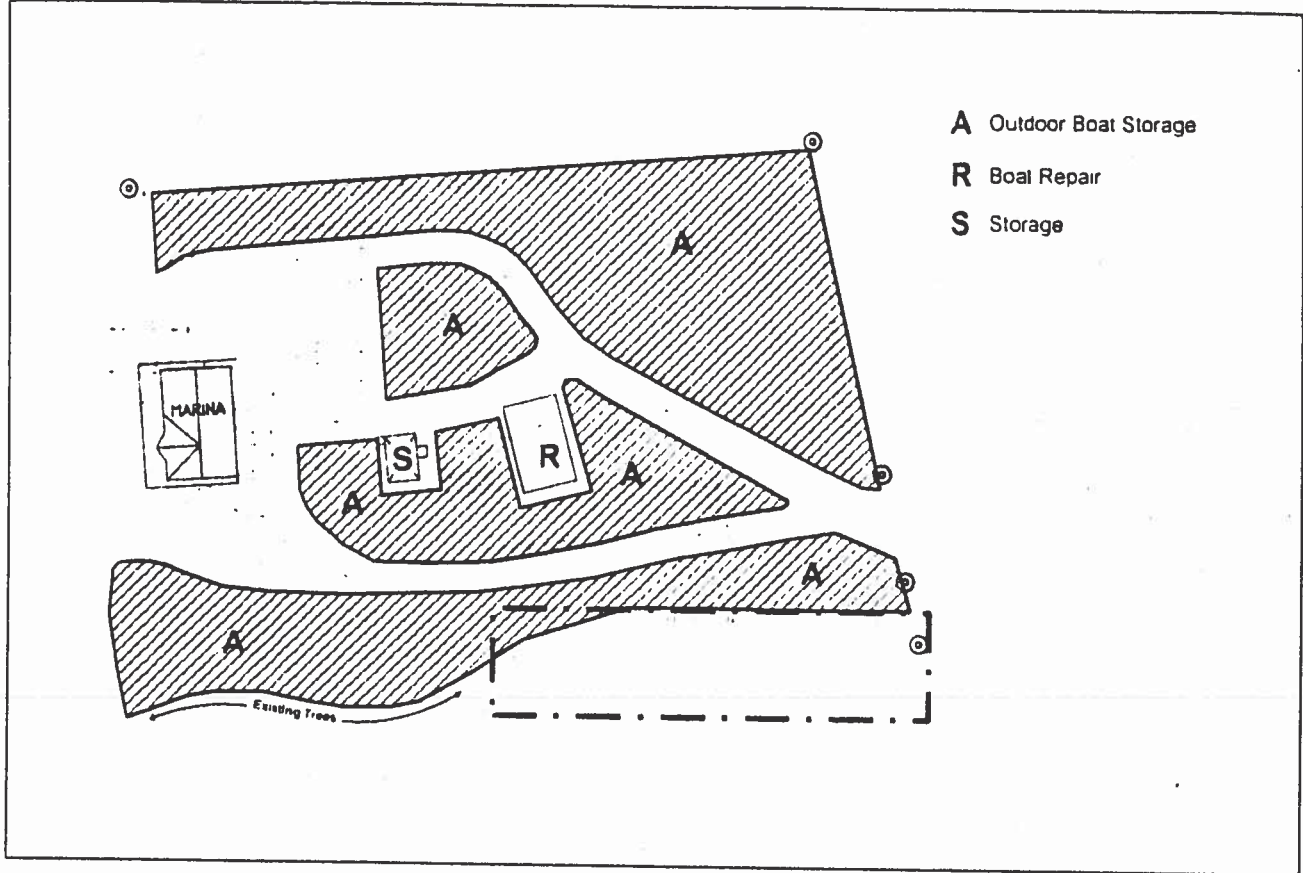


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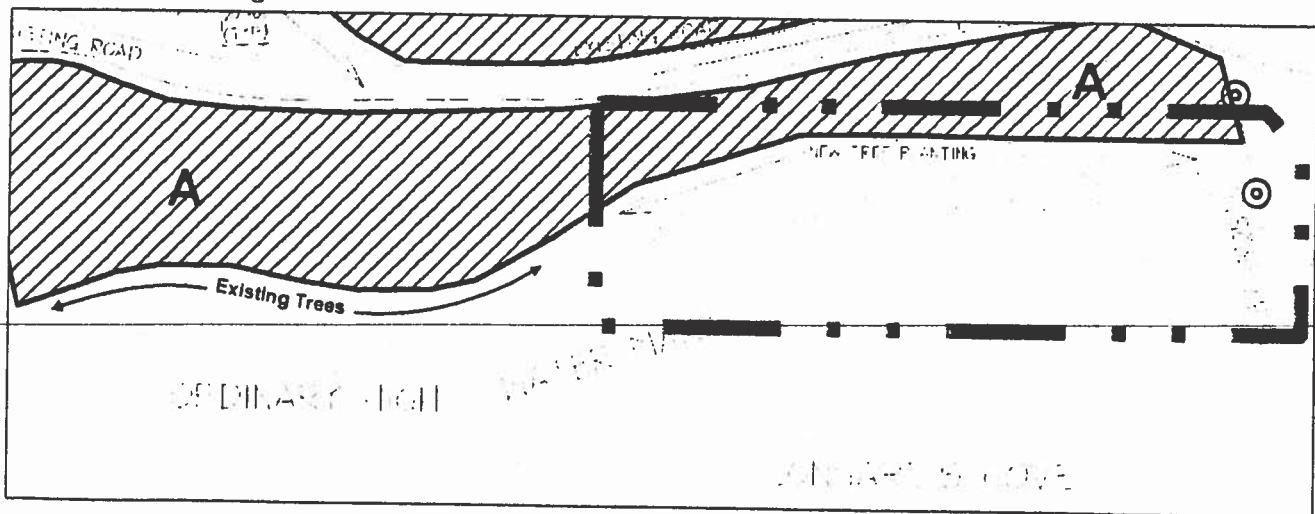
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**Detailed Site Plan**



**New Tree Planting**



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