

A Public Hearing for 659 Main Street in the Town of Mahone Bay was held on Thursday, June 29, 2017, at 7:00 p.m.

**Present:**

Mayor D. Devenne  
Deputy Mayor K. Nauss  
Councillor J. Feeney  
Councillor R. Nowe  
Councillor P. Carver  
Councillor J. Bain (via Skype)  
Councillor S. Chia-Kangata  
CAO, J. Wentzell  
Deputy Clerk M. Hughes  
Planning Assistant, Peter Nightingale  
Director of Community Development, Tara Maguire  
Michael Kelly, Mahone Bay Resorts Ltd.  
Pat Nelder, Mahone Bay Resorts Ltd.

**Gallery: 22**

**Report of the Clerk**

The Report of the Clerk was presented by CAO, Jim Wentzell. The proposed development agreement between the Town of Mahone Bay and Mahone Bay Resort Ltd, would permit marine-related industrial uses and the construction of one permanent and one temporary structure at 659 Main Street.

The request for a development agreement went before the Planning Advisory Committee on December 6, 2016 and May 2, 2017 and before Council on May 25, 2017. Mr. Wentzell reported that the proposed development agreement was duly advertised and a public information session was held on June 7, 2017.

At the time that the report was prepared, no submissions had been received. Since the publication of the agenda, three written submissions have been received. The written submissions will be received under item number 6 on the agenda: submissions from the general public.

**Overview of the Project by the Planner**

Peter Nightingale, Planning Assistant, and Tara Maguire, Director of Community Development, provided an overview of the Staff Reports that were presented to the Planning Advisory Committee and Council, as well as a draft Development Agreement. Mr. Nightingale noted that Clause 15, Application of Land Use Bylaw, of the draft Development Agreement circulated to Council in advance of the meeting, has been struck from the Development Agreement presented for consideration, with the agreement of the property owner.

Planning staff have reviewed the Land Use Bylaw and Municipal Planning Strategy and believe that the proposed development agreement is a suitable agreement in a suitable location for the Town of Mahone Bay.

### **Report on the Public Information Meeting**

Mr. Nightingale reported that a Public Information Meeting was held on June 7, 2017 and that 18 members of the public, 2 representatives from the developers, 2 members of staff, as well as the Mayor and CAO were in attendance.

Mr. Nightingale reported on the questions posed and the responses at the Public Information Meeting.

### **General Public**

Deputy Town Clerk, Maureen Hughes, read three submissions into the minutes:

Submission #1

*From: John and Denise Perry, Heart's Desire Bed & Breakfast  
686 Main Street, Mahone Bay, NS, B0J 2E0*

*Ref: 659 Main Street, development agreement*

*To the Mayor and Council*

*With regards to the above development, we would ask you to consider our views as expressed in this letter.*

*We realize that ship building has a long history in Mahone Bay and have no real problem with any marine related operations, if they are carried out with care and thought to the environment surrounding them. However, we would like to ask whether delivery and movement of armour stone is not heavy construction rather than marine related – although we realise that some rocks do end up in the water!*

*We believe it is the responsibility, not only of the town, but of the developer of this land on Main Street in “one of the prettiest towns on Canada” to operate sympathetically and with respect for it’s surroundings. Many locals as well as tourists wander down to the wharf, or indeed sail into the Bay, in the evening to take in the sunset over the Three Churches & the moon rising over Strum Island, a most spectacular sight which should be preserved. Without these “iconic” views Mahone Bay would not be as attractive to visitors – many of whom (like us) go on to settle in the area and help the town survive as it is.*

*We trust the Council will give thought and consideration to what this, and indeed any waterfront development, requires before entering into any changes to existing by-laws. We also hope that*

*the Town of Mahone Bay will act with speed and purpose should there be any deviations from the new by-laws should they be granted.*

*Yours sincerely,  
Denise & John Perry*

Submission #2

*From: Mark and Patricia Belair  
25 Hirtle Cove Road, RR#2 Mahone Bay, NS, B0J 2E0*

*To: Town of Mahone Bay  
Re: Development Agreement Application 659 Main Street, Mahone Bay, PID# 60373990*

*To Whom it May Concern,*

*We are writing to express our support for approval of this application, for the following reasons:*

- I. The site development provides a valuable service to local residents and the local area. Many area residents use the various services, directly, or indirectly, that are provided. By definition, this service needs proximity and access to water, especially for larger craft. Dock maintenance services 50 units in the town and a further 150 units in the area, all owned by area landowners and the town.*
- II. The development does not significantly interfere with viewing planes. In fact, it looks immeasurably better than the vacant and overgrown lots that were present, prior to the start of this development. The site, as it is currently used, is well maintained and clean.*
- III. The business being carried on is locally owned, provides employment to local/area residents, as well as significant revenue to the town. It helps to support many other local businesses, as well as several local charities and events in the town and surrounding area. Employment continues in part at least, on a year round basis. It supports the values expressed in the Ivany report and helps promote a sustainable economy in the area.*
- IV. This continuation of a traditional activity for the MacLean Shipyard site creates a point of interest for tourists that are visiting the area. When passing the site, one often can see tourists observing and asking about the current activities. It provides a different dimension to the retail and restaurant/food services that line Main Street.*

*In summary, in our opinion, this development application provides far more in benefits to the local area and residents. Approval of this application is therefore recommended.*

*Sincerely,  
Mark and Patricia Belair*

Submission #3

*To: Mayor Devenne and the Mahone Bay Council*

*Fr: Leah Maloney, 49 Clearway St*

***Re: Development Agreement, Mahone Bay Resorts Ltd.***

*I am writing to express my concern regarding Council's intent to enter into a development agreement with Mahone Bay Resorts Ltd.*

*I have obtained a copy of the Staff Report dated 28 April 2017 and offer the following opinion/comments:*

*I am surprised that Staff has recommended this proposal and considering the short time intervals I hope that the upcoming public hearing is not just a formality. It does seem odd that the Mayor's newsletter finds its way to our mailbox every month yet I've not seen one thing with regards to this proposed development until I saw it on the Mayor's Facebook page. Mahone Bay Resorts Ltd. is a deceptive name for what is being proposed for that parcel of land. Waterfront development needs to be in the form of something that will attract people, not drive people away. Staff's covering letter talks about the town's shipyard history and how John Zwicker built his first ship here in 1862. There is no denying that Mahone Bay's history is largely entrenched in shipbuilding and repair, and we must recognize, embrace and celebrate our heritage but this can be done in the form of festivals and a trip to the museum. This town has morphed into something quite different in the 21st Century. We are a tourist town and our businesses largely depend on visitors coming and spending their money here.*

*My son works in the shipbuilding and repair industry and believe me, it's a dirty business. The safety and environmental protocols put in place are enormous. A shipyard is not a good fit in "today's" Mahone Bay.*

*Along that stretch of road we have a pub/restaurant, an ice cream parlour, a quilt shop, several B&B's, residences and a public wharf and marina. This would be the only industrial lot in the whole area. I have sat out on the deck of the Mug & Anchor and have commented on how unsightly the parcel of land under review looks now and how something should be done. Construct a **five-storey** shop with undefined temporary structures and "open storage of vessels, materials, and equipment which will occur everywhere on the site" and you will have an unsightly mess. You will have the tallest building in Mahone Bay blocking the waterfront and in contradiction to section 2.1.3 (vii) of the Municipal Planning Strategy which states "**protect the aesthetics and environment of the harbour and waterfront and to maximize access to the water**".*

*There's the noise, dirt, dust and pollution that will fill the air; the trucks coming and going and the unsightly barge that's polluting our beautiful harbour view. Section 6.4.1 (iv) Page 7, and 6.4.2 (a) Page 9 details criteria regarding noise, dust, pollution etc. To summarize it states that the development shall not generate emissions to the air, water or ground so as to create a health or safety hazard and shall not impact the development potential and value of properties in the vicinity. Reading staff's comments I would like to point out the following highlights:*

- Noise could include but not be limited to hammering, sawing, sandblasting, motor vehicle engines and haulage devices*
- Hours of Operation 7am-10pm*
- Impact on the value of properties is UNKNOWN*

*This alone should be reason to give you pause.*

*Very close by is the Mahone Bay Nursing Home comprised of elderly people, probably not in the best of health, many with weakened immune systems and respiratory issues. The items I mentioned in the aforementioned paragraph should be enough for you to consider rejecting this proposal.*

*It is troubling to note Section 3 of the report that covers the definition of "light industrial" or should I say the lack of definition. The inference that it would be a "less intense version of INDUSTRIAL USE" is totally ambiguous. Page 1 of Staff's letter covers in number format the types of activities that will happen on the site. Skip to page 3 where it defines INDUSTRIAL USE... I fail to see the difference. A shipyard, in any shape or form, is not light industrial.*

*Is this proposal for a development agreement coming before Council now because this company has been doing certain business on that property that has initiated complaints and now it wants to ensure that it can do anything it wants? Because that is exactly what will happen if you approve this proposal as it stands. And then it will be too late.*

*As I read through sections 6.4.1, 6.4.2, 4.5.1 and 4.5.4 (pages 6-15) staff has admitted in too many places to mention in this letter how this proposal contradicts the criteria for development on the waterfront. Equally stated too many times to mention are the words "however" and "provided that". I am willing to bet that those three words don't mean much to the businesses and residents living in the surrounding area. The proposed Development Agreement doesn't appear to have much in the way of protection for the Town, its businesses and its residents. For example, there is no non-compliance clause(s). This suggests that rules can be broken with no consequence and basically what I read into the Agreement is Carte Blanche for Mahone Bay Resorts Ltd. and no protection for the rest of us.*

*On page 16 Staff discusses towns in which a reasonable co-existence of commercial, residential and marine-industrial uses occur, and one good example being Baddeck Marine in Baddeck,*

*Cape Breton. I have looked into this facility and besides the building only being approx. 2.5 storeys high, the business itself is nowhere close to being considered industrial. Staff's comparison does not hold water. I have included information from their website but in summary they are a Marina who provides sales, service, fuel, shower facilities and storage to recreational pleasure craft that boat on the Bras d'Or Lakes.*

*Section 2.1.3 (vii) of the MPS states that one of the goals of the Harbourfront Commercial Zone is to protect the aesthetics and environment of the harbour and to maximize access to the water. The Town should be thinking more along the lines of developing this land for use by the public. A much more appropriate use would be along the lines of something that could be enjoyed by the public such as the extension of the marina and the services that would go along with that. Mahone Bay Resorts could certainly provide an environment as described above and I believe this business would not only prosper but would be accepted by most of the town.*

*I have read each one of your bios and the majority of you come from away, like myself. I would like you to each think about why you decided to settle in Mahone Bay in the first place. Was it because it was a nice little seaside town and a great place to retire or raise kids (or something close to that) or because it was a booming industrial town? A shipyard does not belong in Mahone Bay in 2017. Whatever you decide will be your legacy to this town and what the people of this town will remember you by - so please make your decision a good one.*

*To sum it up, I believe that the last thing we want for our post card perfect little town is an industrial marine facility which:*

- has no definition or scope except for the inferences*
- will have equipment, materials etc. that will be stored everywhere and anywhere on the property*
- could literally change the face of the waterfront and have a detrimental impact on the existing businesses and residences in the area*
- has the potential to pollute the air we breathe and cause an unknown level of noise pollution*
- will create an area where tourists will avoid, hurting the surrounding businesses and ultimately the town in general*
- has a FIVE Storey structure that will not fit into the rest of the landscape plus the temporary structures which have no criteria*

*I hope that Council will take the appropriate time to have a second look at this proposal before making any decisions to move forward with this.*

*Thank you for your consideration,  
Leah Maloney  
49 Clearway St.*

Ms. Hughes noted that attached to the written submission from Ms. Maloney were a print-out of the “About Us” page of the Baddeck Marine website, the “Services and Rates” page of the Baddeck Marine Website, and two picture of the waterfront at 651 Main, one from August 2013 and one from June 2017.

The Planners responded to points raised in the three written submissions as well as to questions from members of Council regarding the contents of the written submissions.

Comments were then received from members of the public in attendance.

Chris Reardon, of 668 Main Street, expressed his opinion that Mr. Kelly is encouraging the growth of his business and that the proposed development is in the best interests of the Town.

Brian Malone, of 674 Main Street, commented that the marine industry is very noisy and messy and that there is great potential for environmental impact; Mr. Malone asked who is financially responsible for an environmental clean up in the event that it is required.

Mr. Kelly, the property owner, advised Council that his business carries environmental liability insurance.

Bruce Gallop, of 662 Main, stated that he would not vote for anyone who did not vote to protect his property values.

Norman Whynot, of 680 Main Street, who also owns property at 33 Lowe Lane, spoke in support of the application for a development agreement, stating that as a resident of the area for 59 years, the proposed development is similar to what he has seen in the area in the past. Mr. Whynot noted that Mr. Kelly’s marine-industrial operations are not as noisy as the former sawmill and that the proposed building is not as large as the building at the sawmill.

Mike Brown, of 49 Clearway Street, asked if the development agreement could limit hours of operation; hours for armour stone delivery; and specific operations such as sandblasting.

Mr. Nightingale and Ms. Maguire advised Council that a development agreement can limit hours of operations, though it was noted that Mr. Kelly’s operations on the adjacent property would not be limited by the hours of operation imposed on the property at 659 Main Street, but that the land use bylaw does not permit limitations of activities, only use. It was also noted that concerns about the “dirtiness” of activities such as sandblasting would be subject to provincial environmental legislation and failure to meet provincial regulations would be a breach of the development agreement.

Charles Otter, business owner (Oh My Cod and Mahone Bay Bed and Breakfast), asked about Section 6.4.2.0 of the Land Use Bylaw which permits Council to seek the advice of a qualified person to perform an environmental assessment. Mr. Otter also asked if the development of a foot path at the front of the property at 659 Main Street could be included as part of the development agreement.

Mr. Wentzell and Mr. Nightingale discussed with Council the conditions under which an environmental assessment would be requested in response to an environmental concern, stating that staff would contact the Department of the Environment.

In response to questions about the establishment of a footpath, Mr. Wentzell advised that other than the driveway the proposed Development Agreement does not affect Town property.

Comments about a footpath were also made by Mike Brown, of 49 Clearway Street, who spoke in favour of including a footpath in the development agreement, and Norman Whynot, of 680 Main Street, who expressed opposition to a footpath in front of 659 Main Street, citing concerns about pedestrian visibility.

The CAO stated that the use of Town property along the street in front of 659 Main Street can be reviewed by Town staff in respect to the comments received at the hearing regarding a foot path.

Brenton Aulenback, of 690 Main Street, expressed his opinion that traffic should be slowed in the stretch of Main Street in front of the government wharf and 659 Main Street.

**Comments by the Applicant**

Mr. Kelly declined comment.

The mayor advised those present that this matter would be discussed by Town Council at a meeting to be held immediately following this hearing.

**The hearing adjourned upon motion at 8:45 p.m.**

**TOWN OF MAHONE BAY**

**TOWN OF MAHONE BAY**

CAO, James A. Wentzell

Mayor, D. Devenne



A Special Meeting of Town Council for the Town of Mahone Bay was held on Thursday, June 29, 2017, at 8:50 p.m.

**Present:**

Mayor D. Devenne  
Deputy Mayor K. Nauss  
Councillor J. Feeney  
Councillor R. Nowe  
Councillor P. Carver  
Councillor J. Bain (via Skype)  
Councillor S. Chia-Kangata  
CAO J. Wentzell  
Deputy Clerk M. Hughes  
Planning Assistant, Peter Nightingale  
Director of Community Development, Tara Maguire

**Gallery:** Nine

Mayor Devenne announced that the guest scheduled to discuss the South Shore Regional Enterprise Network 2017-18 Business Plan had deferred until the next meeting of Council.

**Development Agreement Application – Mahone Bay Resorts Ltd.**

The Clerk reported that a Public Hearing was held immediately preceding the Council meeting to receive verbal and written submissions regarding Council’s intention to enter into a Development Agreement with Mahone Bay Resorts to undertake marine-related industrial uses and construct one permanent and one temporary structure on the property located at 659 Main Street, PID 60373990. Council had received at the Public Hearing the Report of the Clerk, the Planners Report, including the results of the Public Information Meeting held on June 7, 2017. Three submissions were received in respect to the proposed development agreement, one indicating support of the proposed development agreement and two indicating objection to the proposed development agreement; the three submissions were read into the minutes. Several members of the public spoke at the public hearing, expressing both support and objections.

A motion by Deputy Mayor Nauss, seconded by Councillor Bain, **“THAT Council enter into a development agreement with Mahone Bay Resorts Ltd for PID 60373990 to permit marine industrial occupation of the site, and the construction of permanent and temporary structures.”**

A motion by Councillor Carver, seconded by Councillor Chia-Kangata, **“THAT the vote be deferred pending more information from staff, specifically demonstration of environmental liability insurance, negotiation of hours of operation, clarification of open areas of storage, and the inclusion of a requirement for a qualified individual to conduct an environmental impact statement.”**

**Motion defeated**

A recorded vote was requested, and the vote was as follows:

Mayor D. Devenne	No
Deputy Mayor K. Nauss	No
Councillor J. Bain	No
Councillor P. Carver	Yes
Councillor S. Chia-Kangata	Yes
Councillor J. Feeney	No
Councillor R. Nowe	No

**The motion to defer being defeated, the original motion was put to a vote.**

**“THAT Council enter into a development agreement with Mahone Bay Resorts Ltd for PID 60373990 to permit marine industrial occupation of the site, and the construction of permanent and temporary structures.”** **Motion carried**

A roll call vote was requested. The vote was as follows:

Mayor D. Devenne	Yes
Deputy Mayor K. Nauss	Yes
Councillor J. Bain	Yes
Councillor P. Carver	No
Councillor S. Chia-Kangata	No
Councillor J. Feeney	Yes
Councillor R. Nowe	Yes

**The meeting adjourned upon motion at 9:10 pm.**

**TOWN OF MAHONE BAY**

**TOWN OF MAHONE BAY**

CAO, James A. Wentzell

Mayor, David Devenne