

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 _____ (name of City, Town or Community) on the 5 day of February, 2024, wherein the Minister/Community Council made a decision to issue a Development Permit to construct a new 7,961 square foot detaching dwelling on PID 926279, owned by Nicholas & Tara Waddell

(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)
See Schedule "A"

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)
See Schedule "A"

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

Name(s) of Appellant(s): <u>MacMillan Point HOA</u> <small>Please Print</small>	Signature(s) of Appellant(s): <u><i>J. Brown</i></u> <small>for</small>
Mailing Address: <u>c/o Cox & Palmer - 600-97 Queen St.</u>	City/Town: <u>Charlottetown</u>
Province: <u>PE</u>	Postal Code: <u>C1A 4A9</u>
Email Address: <u>jbrown@coxandpalmer.com</u>	Telephone: <u>902-628-1033</u>

Dated this 23 **day of** February, 2024
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.

SCHEDULE "A" - NOTICE OF APPEAL (continued)
Pursuant to section 28 of the Planning Act

TAKE NOTICE that the MacMillan Point Homeowners Association (the "Appellant") hereby appeals the decision of the Rural Municipality of North Shore (the "Respondent") of February 5, 2024 issuing a Development Permit to Nicholas & Tara Waddell (the "Owners"), permitting the Owners to develop a new 7,961 square foot single detaching dwelling on Lot 9A MacMillan Point Road, West Covehead, being PID 926279 (the "Permit");

AND FURTHER TAKE NOTICE that in accordance with section 28(5) of the *Planning Act*, the grounds for this appeal are as follows:

- The Respondent failed to make a decision in accordance with sound planning principles;
- The Respondent failed to comply with the requirements set out in the Respondent's Land Use Bylaw (2021), including, but not limited to:
 - Contrary to subsection 3.2(3)(d), the Permit was approved without being accompanied by the required documentation, including approval of the plans by the Appellant as required in subsection 3.2(2)(d) of the Bylaw and Article VI(e) of the Appellant's Declaration of Covenants and Restrictions;
- The decision to issue the Permit did not adhere to the 2021 Official Plan;
- The Respondent violated its common law duty of procedural fairness and the principles of natural justice; and
- Such further or other grounds that may be revealed upon review of the full record as produced by the Minister.

AND FURTHER TAKE NOTICE that in accordance with section 28(5) of the *Planning Act*, the Appellant seeks the following relief:

- The Appellant requests that the Commission allow this appeal and quash the issuance of the Permit.

DATED this 23rd day of February, 2024


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Lawyers for the Appellant

Rural Municipality of North Shore

DEVELOPMENT PERMIT - AMENDED

Permission is hereby granted, to construct a new 7,961 square foot Single detached dwelling in Parcel No. 926279.

This permit is subject to the following conditions:

1. a minimum front yard depth of 15.2m. (50 feet);
2. a minimum side yard width of 4.6 m. (15 feet);
3. the minimum setback of any building or structure from a coastal area, wetland, watercourse or shoreline shall be 23 m (75.5 ft);
4. a minimum flankage yard width of 15.2 m. (50 feet);
5. a maximum height of 10.6 m. (35 feet);
6. the lot shall be graded in accordance with Ardezen Design Group Site plan and Grading plan, Stormwater Management Plan v2.0 Addendum 1, Project number 21-009 C103 site-grading plan. Project Number 21-009 C102, dated January 11, 2024 MAY 08, 2023 and with acceptable standards, and no additional water runoff (no amounts greater than the amount naturally occurring prior to development) is permitted onto other lands;
7. no development (including, but not limited to, the placement/construction of a building or other structure, the cutting of trees/shrubs, the operation of heavy equipment and excavation/disturbance of the ground) is permitted in a watercourse, wetland or buffer zone without a Watercourse, Wetland and Buffer Zone (WWBZ) Activity Permit;
8. the use of best practices like silt fences or other activities is required in order to address siltation and overland erosion during construction that may impact an adjacent wetland or watercourse;
9. ~~a Coastal Erosion and Flood Risk Assessment must be submitted by June 18, 2023; and~~
10. a building permit must be obtained from the province. The contact info is Email: landsdivision@gov.pe.ca or by Tel: 902-368-5590. The Building Permit application is at: www.princeedwardisland.ca/sites/default/files/forms/build_development_permit.pdf

Permit Holder: Nicholas Jay (Craftsman Construction)

Property owner(s): Nicholas & Tara Waddell

Location: Lot 9A Mac Millian Point Road, West Covehead

Permit Number: NS-23-025



Authorized by: Mirko Terrazas; Development Officer

Date: February 5, 2024 May 18, 2023

Permit to be displayed in a prominent location on or near the property being developed.

Issued by the authority of the Rural Municipality of North Shore.