

Re: Item No. 12.1

HALIFAX

**Appeal Hearing
Case 23563- Site Plan Approval**

Highway 7, Porters Lake, PID 40740276

Halifax Regional Council

June 24, 2025

Summary

- Appeal of the Site Plan Approval was originally heard at Harbour East – Marine Drive Community Council on October 30, 2023.
 - Application originally approved by Development Officer April 23, 2023.
- Community Council allowed the appeal.
- Kiann Management Ltd. applied to the Supreme Court of Nova Scotia for judicial review of the Community Council Decision.
- The Supreme Court concluded the Community Council Process gave rise to a reasonable apprehension of bias, and ordered the matter be re-heard at Regional Council.

Proposed Development

Applicant: Kiann Management Ltd.

Location: Highway 7, Porters Lake, PID 40740276

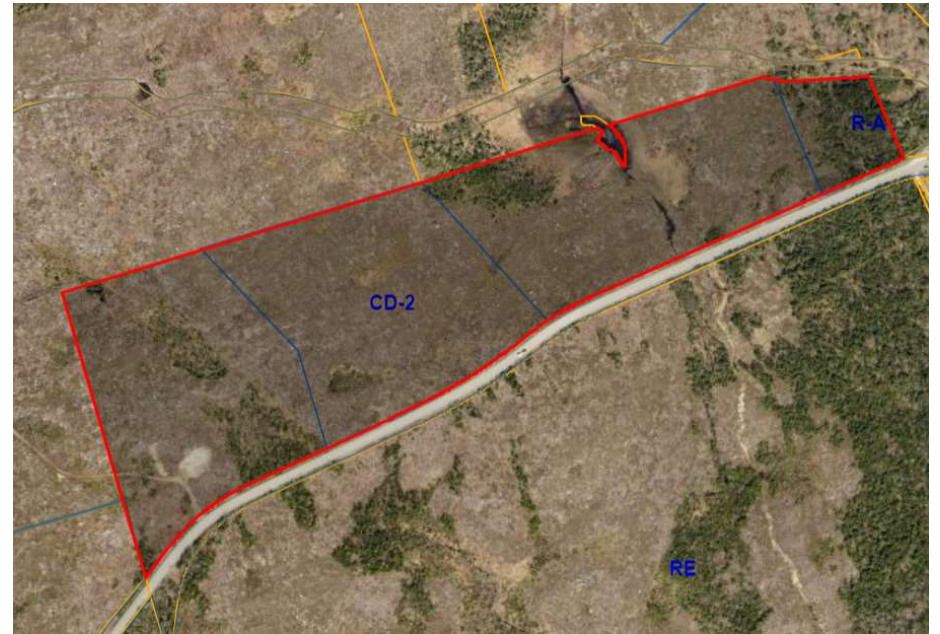
Proposal: Construction and Demolition Materials Process
Facility & Transfer Station

Type of Application: Site Plan Approval

Site Context



General Site location in Red



Site Boundaries in Red



Case # 23563

HALIFAX

Background

In 2002, as part of a regional-wide set of amendments, new policies and regulations were introduced within the Municipal Planning Strategy and Land Use By-law to provide greater detail on where and how construction and demolition materials facilities can operate.

- Policy P-46G CD-2 (C&D Materials Processing Facility) Zone shall be established in the Land Use By-law and shall permit C&D operations and CD-1 uses, and shall establish controls on setbacks from adjacent uses, provide buffering and screening, landscaping measures, regulate access and outdoor storage to minimize impact on adjacent uses. These criteria are included within the CD-2 Zone and form part of the site plan approval.

Background

- An application was made on May 5, 2015, to rezone a portion of the property at PID 40740276 along Highway 7 from RE (Rural Enterprise) to CD-2 (C&D Materials Processing Facility).
- On April 4, 2019, Harbour East-Marine Drive Community Council refused the proposed rezoning on lands based upon staff recommendation in a report dated December 12, 2018, under Case 19800.
- The applicant appealed this decision to the Nova Scotia Utility and Review Board (NSUARB) for which the NSUARB allowed the appeal and issued an order to HRM to re-zone the property to CD-2 on March 23, 2020.

Zoning

Planning Districts 8 and 9 Land Use By-Law Zone: C&D Materials Processing Facilities Zone (CD-2)

No development permit shall be issued in any CD-2 (C&D Materials Processing Facilities) Zone except for the following, pursuant to the Site Plan Approval process:

- Construction and Demolition Materials Processing Facilities
- All CD-1 Zone uses
- Uses accessory to permitted uses, excluding construction and demolition disposal
- An accessory dwelling unit for the purpose of safety, security, or maintenance

Zoning

22B.6 General Requirements: Site Plan Approval

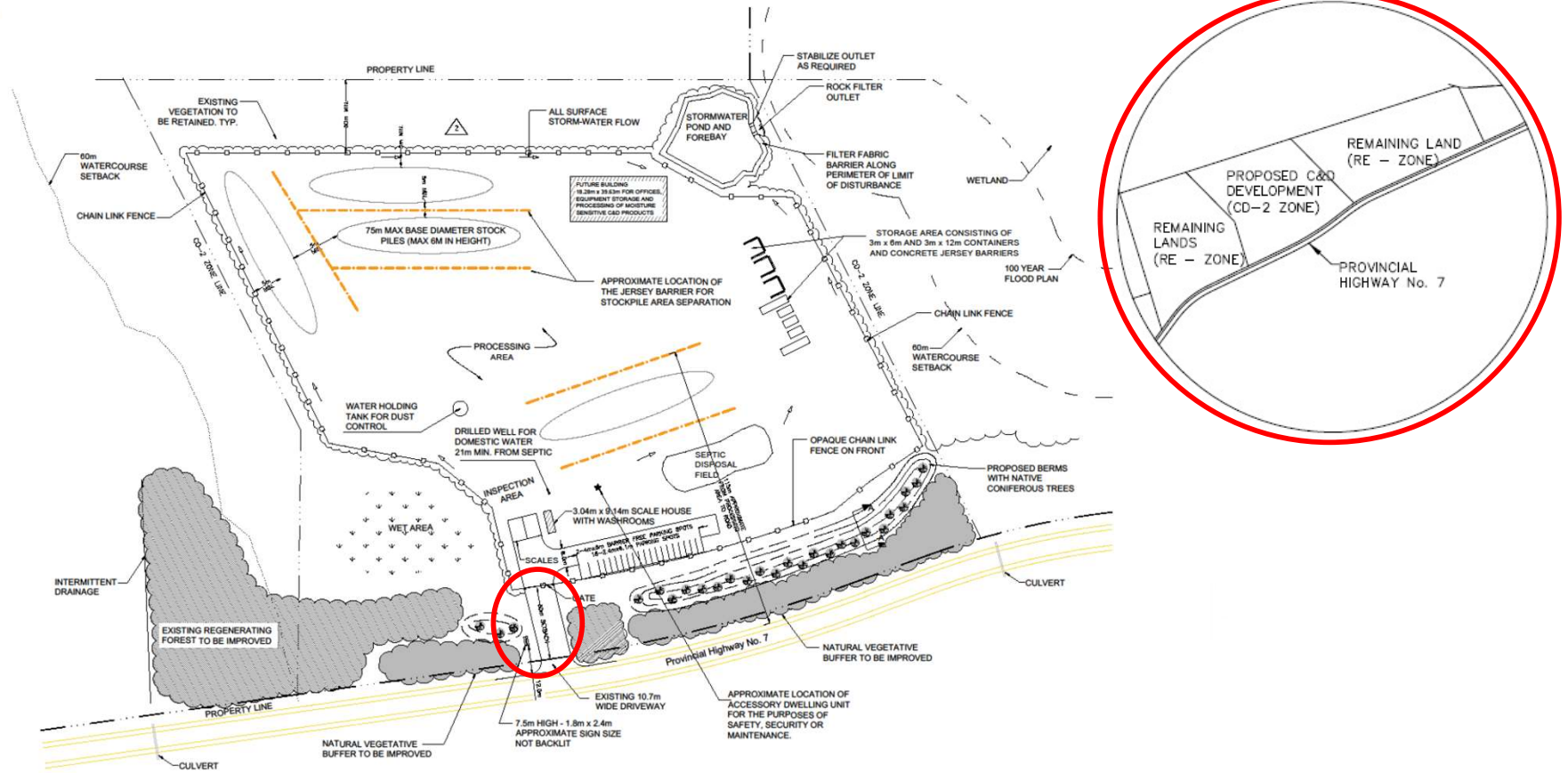
C&D Materials Operations are subject to approval of a site plan. The Development Officer shall approve a site plan for each use which deals with those matters outlined in Section 22A.5.

Site Plan Approval Criteria

Section 22A.5: General Requirements: Site Plan Approval Criteria

Criteria		Review Comment
(a)	<i>Driveway access to the site shall be located in such a manner to minimize land use impacts on adjacent land uses;</i>	The driveway is located near the center of the property, approximately 330 metres away from abutting property to the west and 625 metres away from the abutting property to the east. The driveway is approximately 10.7 metres wide which is designed to accommodate large sized vehicles.
(b)	<i>Separation distances shall be provided from any structure on the site and abutting residential or community facility properties to ensure the development does not negatively impact upon surrounding properties;</i>	The CD-2 zoned portion of the property sits in the approximate center of the larger 47.83 acre property, as shown on inset of the site plan (Attachment B). One large building for offices and equipment storage is proposed to be located near the rear of the property and a smaller scale house building is located well behind the entrance gates. There are no abutting residential or community facilities.

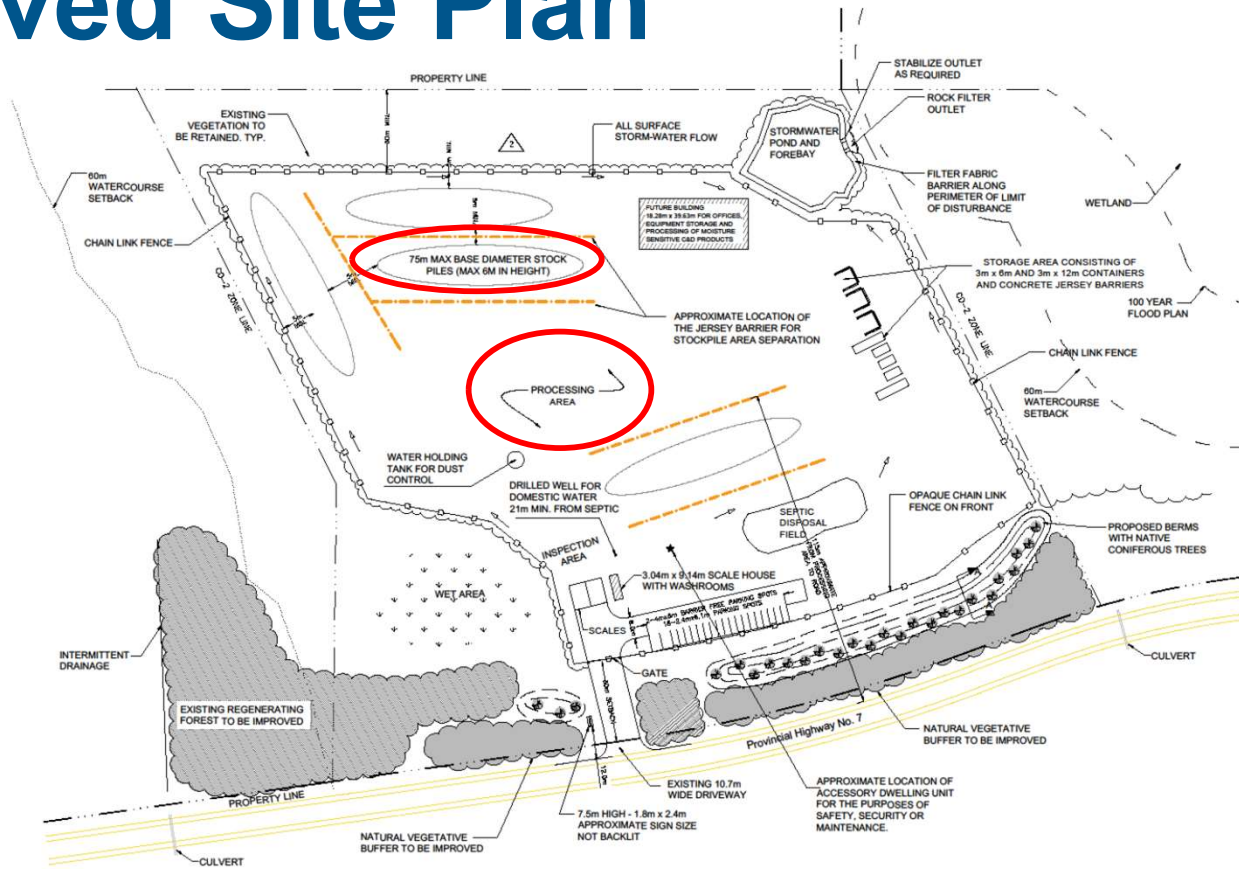
Approved Site Plan



Site Plan Approval Criteria

Criteria		Review Comment
(c)	<i>Off-street loading and unloading areas, stockpiles, processing areas, and parking facilities shall be located on the site such that no aspect impacts upon adjacent uses or streets and screening can be in the form of fencing, berms, vegetation, or a combination of elements.</i>	All off-street loading and unloading areas are located within the fenced enclosure shown on the site plan. The stockpiles are located centrally and to the rear of the site. The processing area is located behind the stockpile and container storage areas. The processing area is a minimum of 60 metres from both the front and rear property lines and from the CD-2 side zone lines. The parking facilities are located 30 metres from the street. Screening of all these components is provided in the form of the preservation of 30 metres of existing vegetation on all sides, planting of new vegetation along the front, opaque fencing along the front, and berms in the front as shown on the site plan. Stockpiling and processing areas will be delineated with jersey barriers.

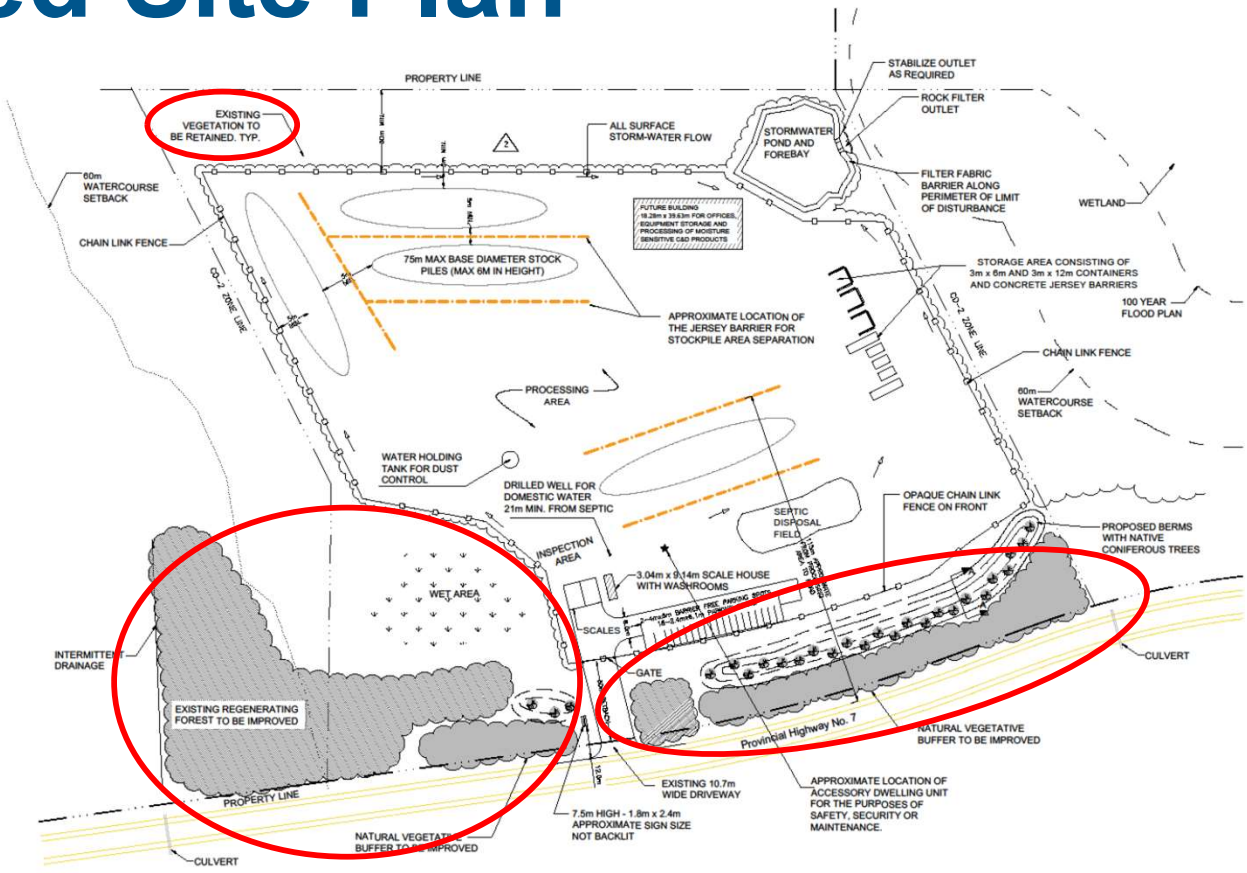
Approved Site Plan



Site Plan Approval Criteria

Criteria		Review Comment
(d)	<i>A landscaping plan shall be prepared that protects and minimizes land use impacts on adjoining lands and the plan shall indicate the type, size, and location of all landscaping elements including the landscaping along the front of the property, to achieve the objective of the plan;</i>	The site plan incorporates the landscaping plan that was prepared by Gordon Ratcliffe Landscape Architects. The objective is to maintain and improve the existing vegetation on all sides of the operation and to provide berms with new plantings of coniferous trees along portions of the front of the site to provide screening from the street.
(e)	<i>Within any designated side and rear yards, existing vegetation shall be retained unless it does not provide for adequate screening measures;</i>	The proposal shows a 30 metre rear yard setback, within which the natural vegetation provides adequate screening and shall be retained. The proposed operation is located within the center of the larger site and wholly contained within the CD-2 zone. The operation will be setback approximately 235 metres to the west property line and 340 metres to the east property line where existing vegetation is being retained.

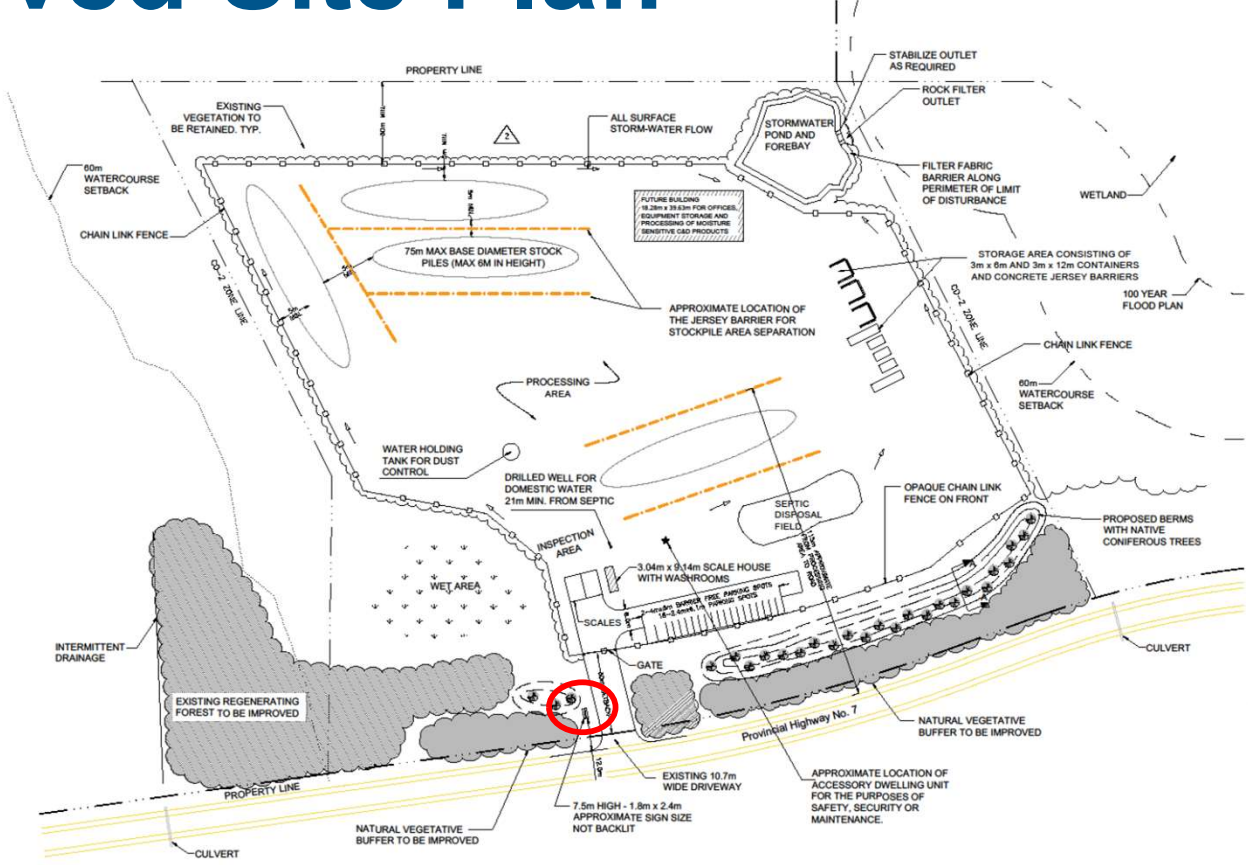
Approved Site Plan



Site Plan Approval Criteria

Criteria		Review Comment
(f)	<i>All outdoor lighting shall be oriented such that it is directed away from adjacent properties;</i>	All outdoor lighting shall be oriented towards the operation area and parking lot. No lighting will be directed toward the adjacent properties.
(g)	<i>All solid waste storage containers shall be screened from view from adjacent properties and streets;</i>	All solid waste containers are within the container storage area which will be fenced and screened by existing vegetation.
(h)	<i>Impact of the location, number and size of signs;</i>	One ground sign is proposed, which is shown on the site plan near the driveway. It is proposed to be set back from the front property line by 12 metres and is proposed to be 7.5 metres in height with a sign face of 1.8 metres by 2.4 metres (4.3 square metres/46 square feet).

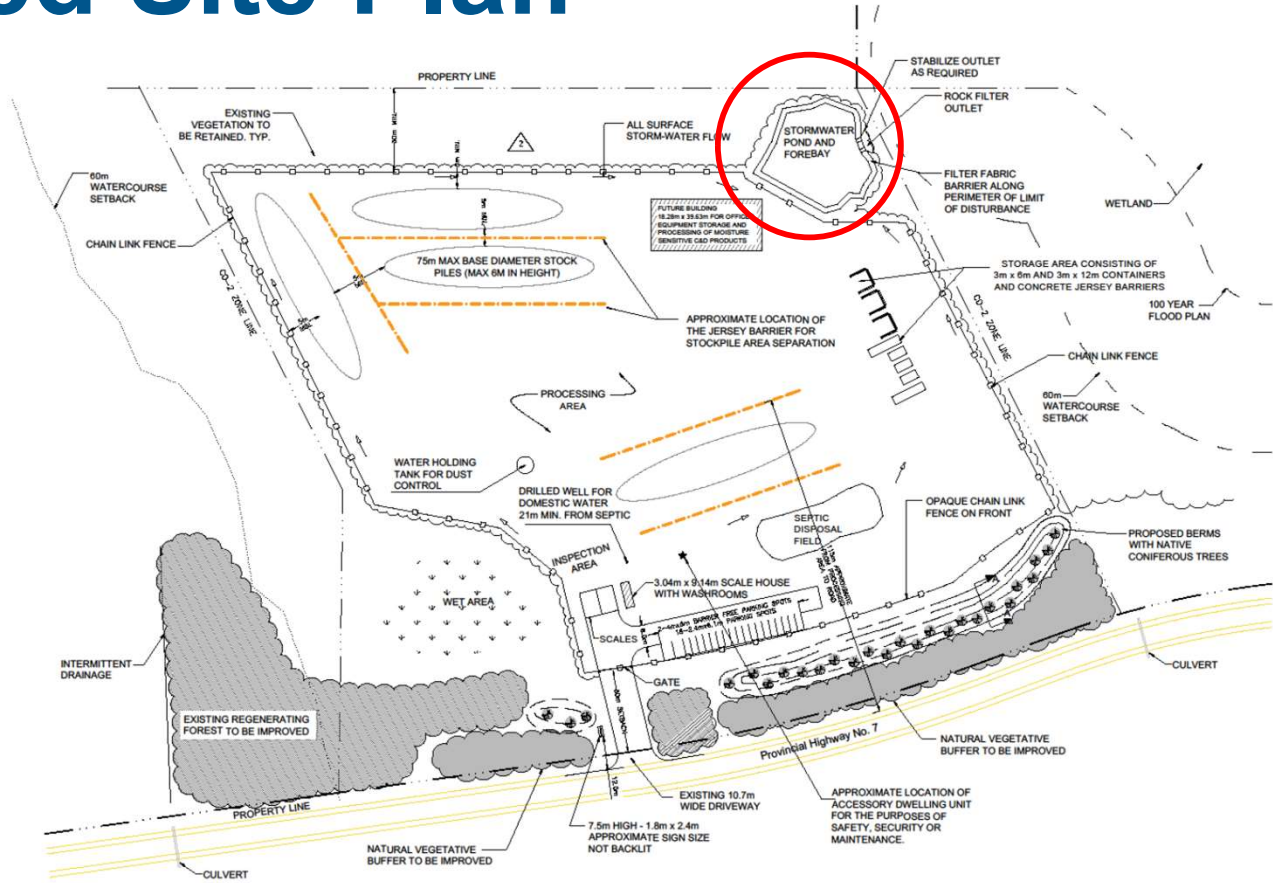
Approved Site Plan



Site Plan Approval Criteria

Criteria		Review Comment
(i)	<i>Measures, including but not limited to lot grading and berms, shall be required to adequately address the management of stormwater and surface water;</i>	The proposed stormwater management is shown on the site plan. Details on the construction of the stormwater pond and surface water channeling will be provided during the review of the required Grade Alteration Permit as per Bylaw G-200.
(j)	<i>Provision are established to ensure the operation and any required site improvements are maintained to a high standard.</i>	The operation will employ staff that will include an operations manager. The operations budget includes provision of dust control, waste disposal, maintenance of machinery, and overall site organization.

Approved Site Plan



Points of Appeal

Appeal Period  14 days

Notifications Mailed  7

Appeal Received  4

The Site Plan Approval was mailed out to property owners within 30 metres from the property boundary of the subject site.

The following points of appeal were received:

- Noise, air and water quality
- Impacts from lighting on adjacent properties
- Increased traffic
- Visual screening
- Property values

Development Officer's Assessment

The Halifax Regional Municipal Charter sets out the following criteria by which the Development Officer shall approve an application for site plan approval:

*“247 (1) A development officer shall approve an application for site plan approval unless
a) the matters subject to site-plan approval do not meet the criteria set out in the land-use by-law; or
(b) the applicant fails to enter into an undertaking to carry out the terms of the site plan.”*

To be approved, any proposed site plan approval must not conflict with any of the site plan approval requirements of the CD-2 Zone of the LUB.

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HRM Charter Criteria

The Halifax Regional Municipal Charter sets out the following criteria by which Council hears an appeal”

“247 (4) *Where the Council, in hearing an appeal concerning a site plan approval, may make any decision that the development officer could have made.*

Staff Recommendation

In accordance with Administrative Order One, the following motion shall be placed on the floor:

That the appeal be allowed.

Regional Council's approval of the appeal will result in refusal of the site plan approval.

Regional Council's denial of the appeal will result in approval of the site plan approval.

Staff recommend that Regional Council deny the appeal.

HALIFAX

Thank You

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June 24, 2025