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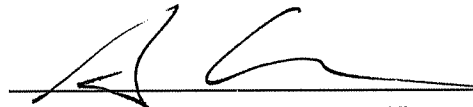


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Halifax Regional Council
November 18, 2003

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:


Sean Audas, Development Officer

DATE: November 12, 2003

SUBJECT: Appeal of Site Plan Approval - 4185 Old Guysborough Road, Antrim

ORIGIN

This report deals with an appeal of the Development Officer's decision to approve an application for site plan approval of a Construction and Demolition (C&D) materials disposal site at 4185 Old Guysborough, Antrim.

RECOMMENDATION

It is recommended that Regional Council uphold the Development Officer's decision to grant site plan approval for a C&D disposal operation at 4185 Old Guysborough, Antrim.

BACKGROUND

Application:

Dillon Consulting Ltd. has submitted an application for Site Plan Approval for a C&D disposal facility at 4185 Old Guysborough, Antrim. In 2002, Regional Council zoned this property to permit a C&D disposal facility as part of the C&D waste management strategy. Attachment 1 contains a brief summary of the implementation of the strategy.

Decision:

The Development Officer has approved Dillon Consulting Ltd's (Halifax C&D Recycling Ltd.) submission for Site Plan Approval, as outlined in Attachment 2.

Site Plan Approval Process:

The procedure for approving a site plan is similar to the process for a variance which involves:

- review of the site plan against specific evaluation criteria outlined in the land use by-law;
- Development Officer determines whether the site plan meets the criteria;
- if the criteria are satisfied, all assessed property owners within 30 meters of the subject property are notified of the decision; and
- these owners have the right to appeal the Development Officer's approval and refer the matter to Community Council for a final decision.

Council Options:

The decision of the Development Officer has been appealed and the decision now rests with Council which can either:

- i) uphold the decision of the Development Officer;
- ii) make changes to the site plan; or
- iii) reject the site plan.

DISCUSSION

The submitted site plan was reviewed against the relevant site plan approval criteria contained in the Land Use By-law for Musquodoboit Valley - Dutch Settlement. The Development Officer has determined the proposal satisfies the relevant criteria as outlined in the following table:

Criteria		Analysis
a	Driveway access to the site is located to minimize land use impacts on adjacent land uses	Existing driveway location positioned .16 km, west from the Antrim Road intersection. Entrance will be gated and has been approved by the Department of Transportation and Public Works.
b	Separation distances provided from any structure on the site and abutting residential or community facility properties to ensure development does not negatively impact upon surrounding properties	No structure will be located closer than 890 feet from the nearest property line. The scale house will be located approximately 375 feet from the Old Guysborough Road. All natural vegetation outside of the disturbance area will be retained.
c	All off-street loading and unloading areas, stockpiles, processing areas and parking facilities to be located 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	The facilities meet the setback requirements of the land use by-law and HRM's C&D License By-law; facilities shall be screened through the use of existing vegetation and a landscaped berm of 20 feet in height will be constructed to restrict the view from the Old Guysborough Road.
d	Landscaping plan to be prepared to protect and minimize land use impacts on adjoining lands and the plan to indicate type, size and location of all landscaping elements including the landscaping along the front of the property, to achieve the objective of the plan	The only portion of the property that will be disturbed is shown on the site plan attached (Attachment 3) the entire perimeter of the site is to be maintained in its natural state including a minimum non disturbance area of 890 feet from the nearest property line and a minimum non disturbance setback of 530 feet from the Old Guysborough Road.
e	Within any designated side and rear yards, existing vegetation shall be retained unless it does not provide for adequate screening measures	All existing vegetation to be maintained with provisions for a new landscaped berm.
f	All outdoor lighting shall be oriented such that it is directed away from adjacent properties	Lighting to be directed away from adjacent properties.
g	All solid waste storage containers shall be screened from adjacent properties and streets	These containers will be screened by way of natural vegetation

h	Impact of the location, number and size of signs	No signs were shown on the original proposal which was approved by the Development Officer, however the applicant has indicated that they would like to place a ground sign near the scale house. The location and size of the sign is shown in attachment 4. The attachment has been circulated to all property owners within 100 feet in order for the any objections to be raised prior to Council's decision.
i	Lot grading, berms and other appropriate measures shall be required to adequately address the management of stormwater and surface water	A detailed stormwater management plan has been prepared that controls stormwater on the site and provides protection of watercourses. Which has been reviewed by the Development Engineer.
j	Provisions are established to ensure the operation and any required site improvements are maintained to a high standard	To ensure site features are maintained, an Operations Manual will be prepared, approved, and enforced through the C&D License By-law. In addition to the licensing requirements, any violations of the Land Use By-Law will also be addressed in conjunction with the C & D License By-Law

Appeals

The Development Officer has received 2 appeals which are attached (Attachment 5) to this report. The stated reasons for appealing are summarized as follows:

- continued enjoyment of the property
- devalue surrounding properties
- the property assessment
- potential of the property as the neighbouring development matures
- negatively impact the recreational use of the land and the surrounding area
- environmental concerns such as groundwater and air quality

Many of the issues which have been raised by the appellants suggest that the C&D disposal site should not be located here. It should be noted that this is not the issue before Council in this appeal hearing. Council has dealt with this issue when the property was zoned CD-3. Once the property is re-zoned any proposal has to meet the site plan approval criteria. The decision before council in this appeal hearing is whether or not the site plan submitted meets the criteria outlined in the above table.

Another issue raised in the appeal letters is the notification process. Prior to re-zoning this site several public meetings were held in addition to a public hearing. All abutters were notified of the public meetings and hearing, in addition to newspaper ads. One of the appeal letter states "There has been no contact with any of these owners by either the developer or the Halifax Regional Municipality, other than "Dear Sir or Madame" letter dated September 26, 2003." The letter dated September 26, 2003 is the notification of the Development Officer's decision for site plan approval. This letter is sent after the decision has been made by the Development Officer in accordance with the criteria for site plan approval as outlined in the Municipal Government Act. The Development Officer is obligated to follow this process which is similar to the process used for a Variance. Also, the Municipality always encourages applicants to discuss there proposal with any abutting land owners, however, we cannot require it prior to approval/refusal of the application.

One of the appeal letter's also raises environmental concerns such as groundwater and air quality. This proposal has been approved for this type of facility by the Department of Environment, the governing authority.

BUDGET IMPLICATIONS

There are no implications on the Capital Budget associated with this report.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

- i) Council may uphold the decision of the Development Officer, with or without minor changes. This is the recommended course of action for the reasons stated in this report.
- ii) Council may request major changes to the proposal subject to preparation of a supplementary report. This is not a recommended course action.
- iii) Council may reject the proposed site plan. This recommendation is not supported by the Development Officer since the proposal satisfies the relevant approval criteria.

ATTACHMENTS

- 1) Approval Process- C&D Disposal Operations
- 2) Site Plan
- 3) Disturbed Area
- 4) Sign Plan
- 5) Letters of Appeal

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Sean Audas, Development Officer, 490-4341

Attachment 1

Approval Process- C&D Disposal Operations

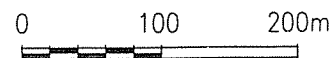
The C & D Waste Management Strategy adopted by Council consists of the two elements:


- i) C&D Licensing By-Law that regulates all C&D operations; and
- ii) MPS and LUB documents that outline how, where, and under what conditions such operations will be permitted.

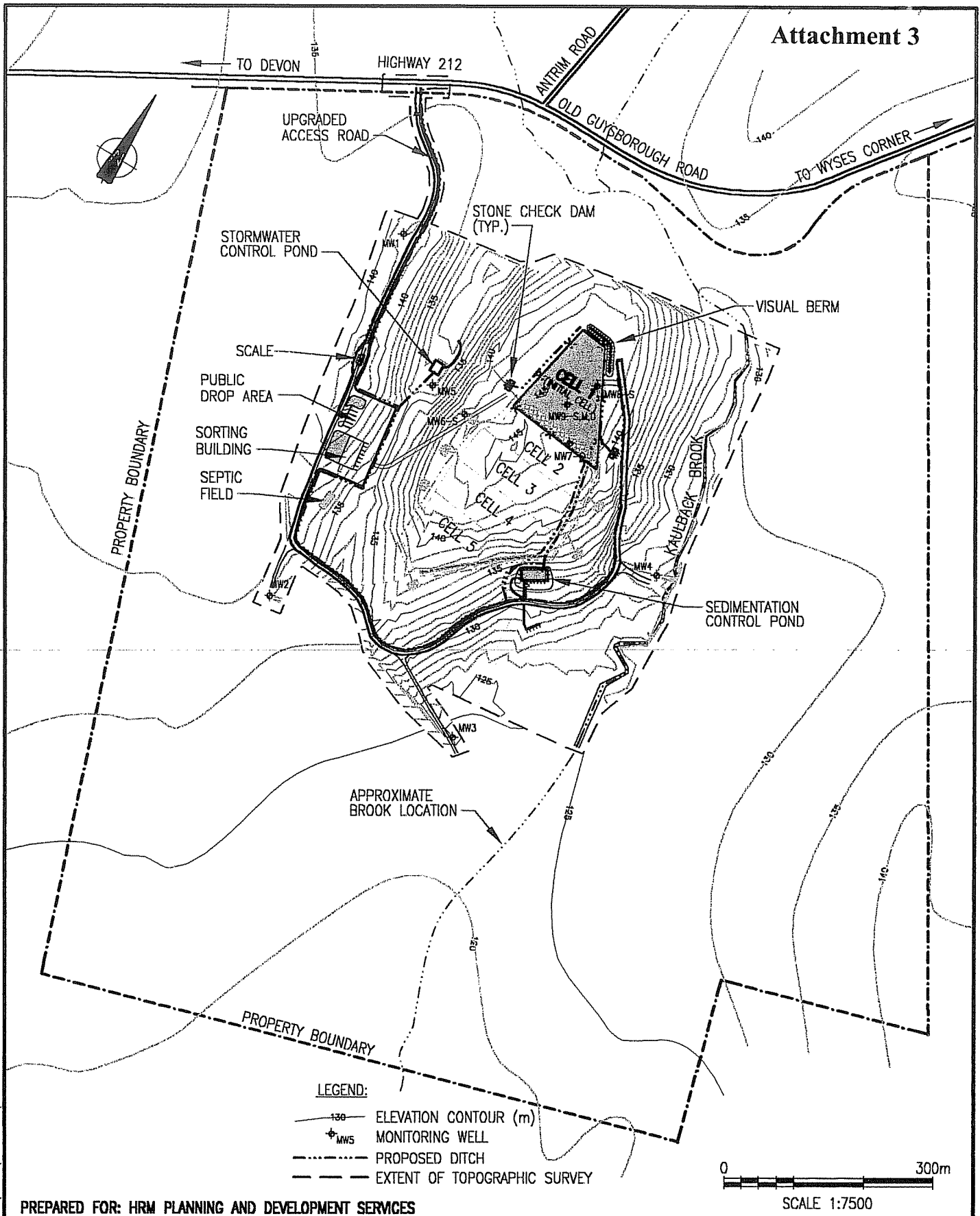
Both elements provide a consistent regulatory framework throughout HRM. In addition to establishing the framework, Council applied CD-3 (C&D Disposal) Zoning to two sites: RDM Recycling - Harrietsfield and Halifax C & D Recycling - Antrim. The application of the CD-3 Zone to both the Harrietsfield and Antrim sites was the key component of the C&D Strategy as the Municipality lacks an approved site for the disposal of C&D materials.

Council applied the CD-3 Zone to the Antrim site in August of 2002 knowing that the development of this site could not occur until four additional approvals are obtained. These are outlined in the chart below:

	<u>Approvals Required</u>	<u>Status</u>
1	Site Plan Approval - HRM staff review	Site Plan Appealed: awaiting decision of Council
2	C & D License - HRM staff review	Awaiting decision on appeal of site plan
3	Department of the Environment - Provincial staff review	Completed
4	Department of the Environment - Ministerial Decision	Approved



 DILLON CONSULTING	TITLE	GENERAL SITE LAYOUT	PROJECT No. 02-9933
	PROJECT	THREE CORNERS C&D MATERIAL MANAGEMENT FACILITY	FIGURE No. 1
DATE	JULY 2003		



PREPARED FOR: HRM PLANNING AND DEVELOPMENT SERVICES



DATE **NOV. 2003**

TITLE

SITE LAYOUT

PROJECT

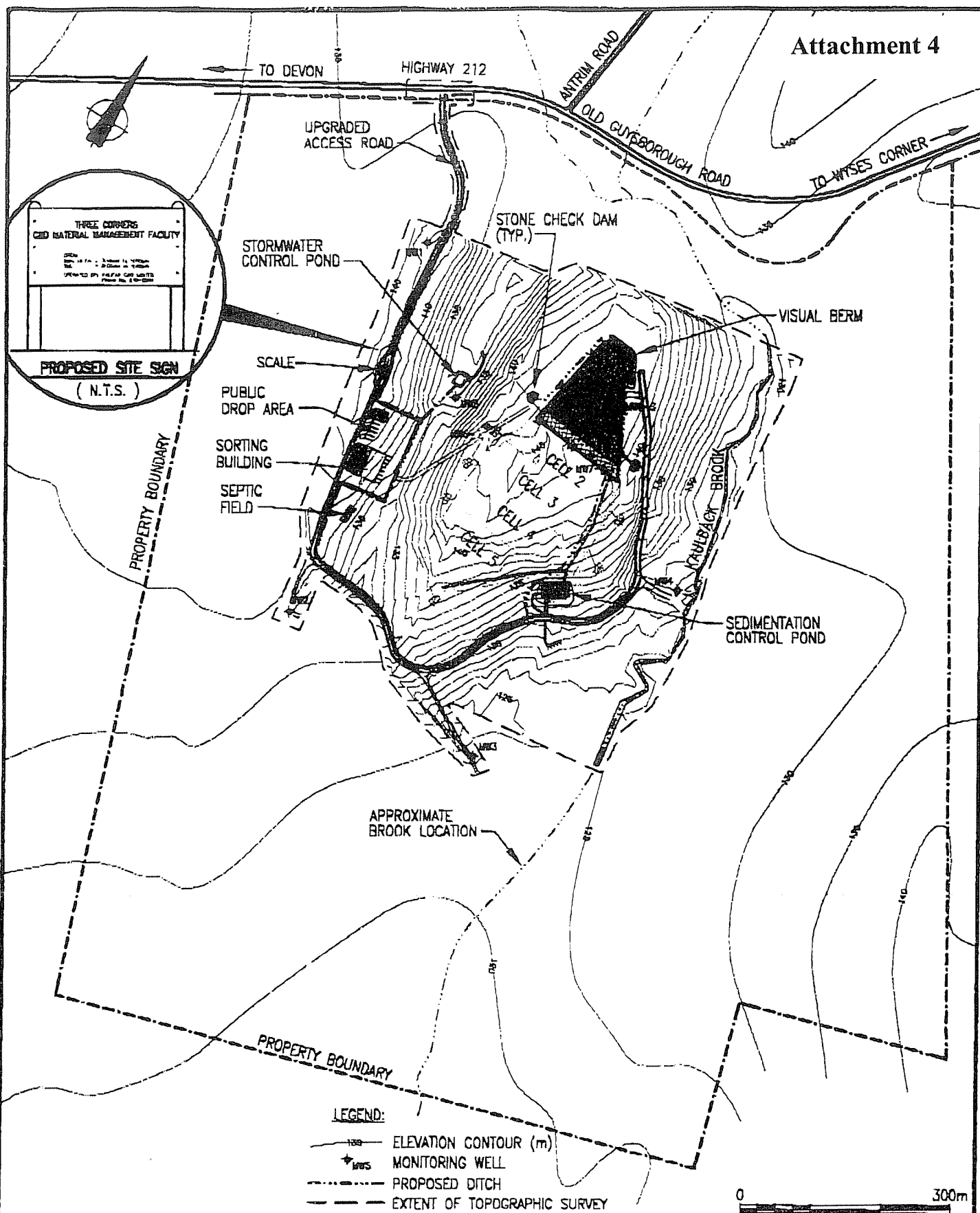
**THREE CORNERS C&D MATERIAL
MANAGEMENT FACILITY**

PROJECT No.

02-9933

FIGURE No.

1



PREPARED FOR: HRM PLANNING AND DEVELOPMENT SERVICES



DATE **NOV. 2003**

TITLE

SITE LAYOUT

PROJECT

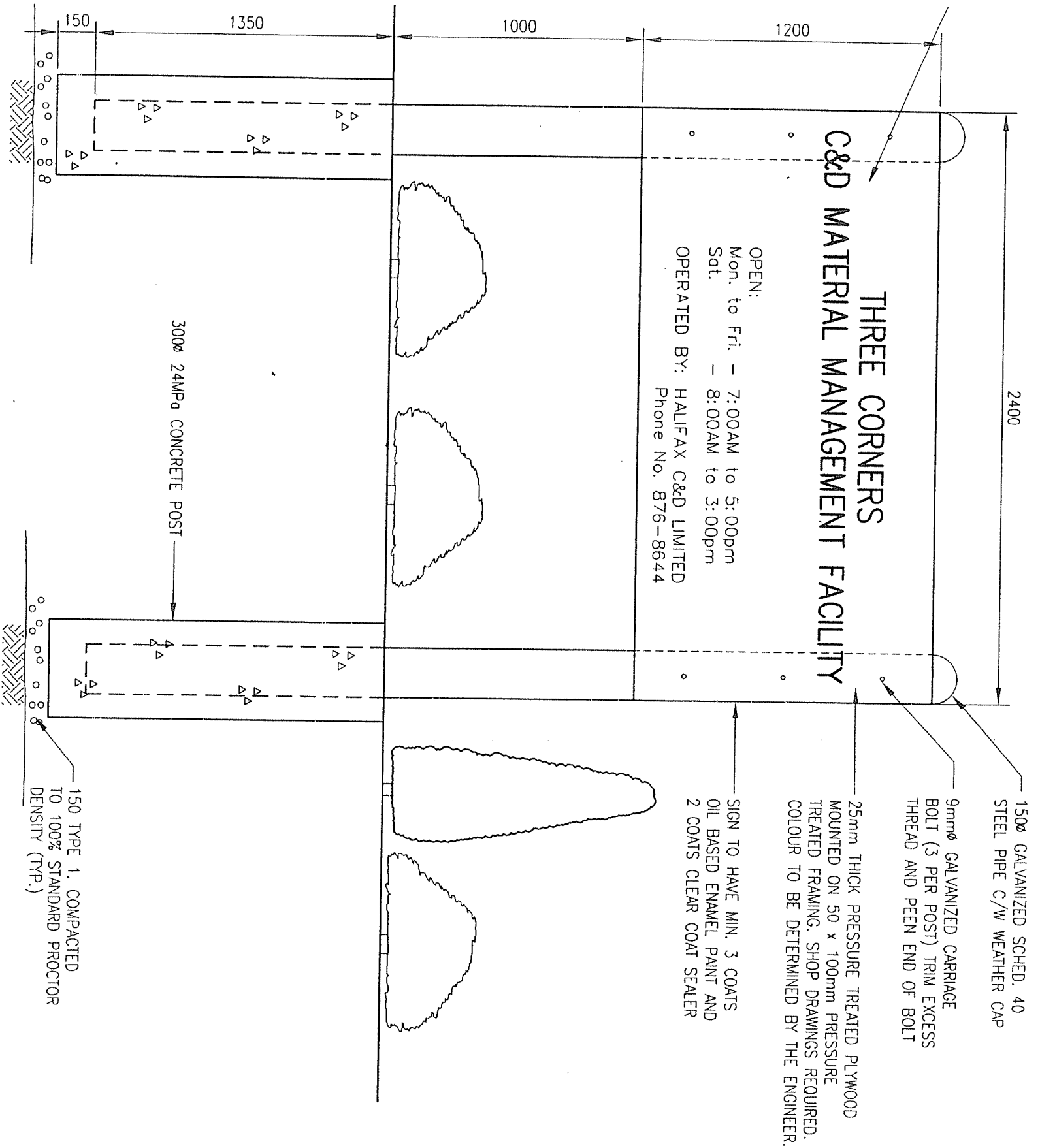
**THREE CORNERS C&D MATERIAL
MANAGEMENT FACILITY**

PROJECT No.

02-0933

FIGURE No.

1



VLADI PRIVATE ISLANDS LTD.

2nd Floor Anchorage House, Historic Properties, Suite 158
1889 Upper Water Street, Halifax, Nova Scotia, B3J 1S9 Canada

Vladi Private Islands Ltd., Halifax, NS, B3J 1S9 Canada

Tel: (902) 423-3202
Fax: (902) 425-4765
Email: info@vpil.ns.ca

Halifax Regional Municipality
Planning and Development Services
Attn. Sean Audas
49 Aldermy Drive, 2nd Floor
Halifax, NS B3J 3A5

October 6, 2003

Dear Mr. Audas,

**Site Approval for Construction and Demolition Disposal Site
4185 Old Guysborough Road, Antrim**

As property manager for Mr. Frank Fritsch, owner of property PID 40216129, we herewith appeal the approval of the construction and demolition disposal site on the Old Guysborough Road.

Mr. Fritsch has held this unique parcel of land for many years as a natural recreational area. The property has its own small private lake, which is very rare.

The approval of a construction and demolition disposal site would greatly devalue this land and negatively impact the recreational use of his land and the surrounding area, not to mention the possible impact on the environment, groundwater and air quality.

We hope that you will consider our reasons for appeal and hope that an alternative site can be found for the disposal site.

We look forward to a favorable decision.

Sincerely,

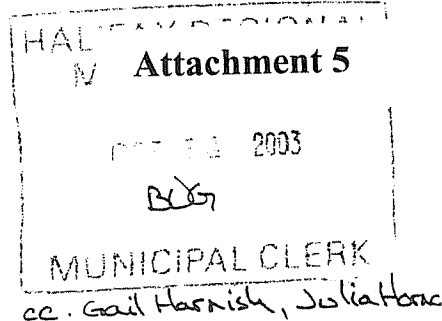
F. Vladi

VLADI PRIVATE ISLANDS LTD.

October 9, 2003

Dear Sir or Madame

Sean Audas



RE: Development Permit Application #10438 – Site Plan Approval Application

This letter is to serve as notice of our formal appeal of the approval of the above noted Site Plan Approval Application #10438.

As the current owners of the property to the southwest, PID 00521831, know as the property of Margaret Oakes and Others, we are extremely concerned of the impact of such a development. Our concerns include the families continued enjoyment of the property, the real value of the property today, the property assessment, and the value and potential of the property as the life of such a neighboring development matures.

This property is currently owned by Margaret Oakes, Pauline Silmarie, Marion Silmarie, and George McDonald, direct heirs of the original owners. There has been no contact with any of these owners by either the proposed developer or Halifax Regional Municipality, other than a "Dear Sir or Madame" letter dated September 26, 2003. This was received by Margaret Oakes notifying her of the appeal deadline. One would think that it would only be common courtesy to inform or involve the bordering properties long before this point. Our property has significant sentimental value as it was the homestead of our great grandparents and we feel this project significantly diminishes its value.

Absolutely no consideration has been given to us as adjoining property owners which would appease our fears and nervousness about this project. What arrangements are the owners of the facility and /or H.R.M. willing to agree to based on our properties current market value and future depressed value?

We are sure that all of the arguments and opposing points of view of local residents have been clearly voiced to aldermen and H.R.M. council with little or no affect. These people however are not boundary neighbors of this project and as such are not impacted in the significant personal, financial and /or potential resale manner that we are.

In conclusion, we request that you decline application #10438.

Sincerely,

Margaret Oakes
Margaret Oakes

Pauline Silmarie
Pauline Silmarie

Marion Silmarie
Marion Silmarie

George McDonald
George McDonald

Copy to: VI Carmichael
Councillor Gary B. Hines
Sean Audas, Development Office