



Cape Breton Regional Municipality

Special Council Meeting Agenda

Thursday, October 16, 2025

1:30 p.m.

Council Chambers

Second Floor, City Hall

320 Esplanade, Sydney, Nova Scotia

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Land Acknowledgement

Roll Call

- 1. Approval of Agenda:** (Motion required)
- 2. Appeal of Site Plan Approval at PID 15467129 (Nicholson Avenue, New Waterford):** Karen Neville, Senior Planner (see page 3)

Adjournment



CAPE BRETON
REGIONAL MUNICIPALITY

TO: CBRM Mayor and Council

SUBMITTED BY: Demetri Kachafanas, Chief Administrative Officer

DATE: October 7th, 2025

RE: **Appeal of Site Plan Approval at PID 15467129 (Nicholson Avenue, New Waterford)**

ORIGIN

Initiated by landowner within 30 metres of subject property during 14-day appeal period.

RECOMMENDATION

It is recommended that CBRM Council uphold the Site Plan Approval granted by the Development Officer to allow for the development of a Long Term Care Facility at PID 15467129 (Nicholson Avenue, New Waterford).

BACKGROUND

The Planning and Development Department received an application from Fougere Menchenton Architecture Inc. to construct a Long Term Care Facility on PID 15467129 (Attachment A). In accordance with the Land Use By-law, Long Term Care Facilities are permitted subject to the provisions outlined in Subsection 4.16 Long Term Care Facilities (Attachment B). As the proposed development consist of more than 50 beds it is subject to the Site Plan Approval provisions under Subsection 2.13.2 of the Land Use By-law as outlined below:

2.13.2 Site Plan Approval Provisions

- a) Unless otherwise indicated in this Bylaw, the Development Officer shall approve a site plan where the following matters have been addressed. The Development Officer shall measure the degree of stringency in interpreting the criteria so that it correlates with the scale of the development and each and every feature of the development (e.g. buildings, parking area etc.), and the proximity of the development, or any specific feature of it, to any other development or streetscape intended to be protected by the criteria.
- i. Parking shall be provided on the lot parcel and shall be screened from abutting residential uses by an opaque vegetive buffer or fence or a combination thereof;
 - ii. All existing vegetation shall be retained except where its removal is necessary for the construction of the development;
 - iii. Signs advertising any business shall be of a scale and style and so located that they will not conflict with the streetscape.
 - iv. The location and orientation of any main buildings on the lot parcel must be carefully selected to prevent buildings that are significantly larger than any one or two unit dwellings in the vicinity (i.e.

greater than 3 times the floor area, and/or twice the height, and/or three times the length from looming over any such residential dwellings or their yards.

- v. Measures, including lot parcel grading, shall be required to adequately dispose of storm and surface water.
- vi. A minimum equivalent to 1/3rd of the floor area of the building shall be in compliance with the definition for landscaped open area. That percentage may be reduced to as low as 1/10th where the Development Officer is satisfied with the design of a Certified Horticultural Technician or Architect.
- vii. Ingress and egress points where the parking area is to be accessed from any public/street/road shall be designed to ensure that any known significant traffic problem identified by the Traffic Authority is not further exacerbated.

DISCUSSION

In consultation with the members of CBRM Engineering Department, Development Officer, Jarret Gosbee, has reviewed the applicant's request and found that the proposed development satisfied the criteria for Site Plan Approval (Attachment C). An updated site plan was received on September 15th, this was distributed to the inquiring property owners (Attachment D).

Pursuant to Sections 232 and 236 of the *Municipal Government Act*, the Development Officer is obliged to notify each assessed property owner within 30 metres of the development property of their decision to grant Site Plan Approval. Property owners have 14 days in which to formally lodge an appeal of the Development Officer's decision to grant Site Plan Approval to Council. A copy of the notice provided to property owners is attached as Attachment E. Appeals must be:

- in writing,
- sent to the Municipal Clerk,
- clearly state the grounds for appeal (explaining why it is believed the Development Officer's decision to grant Site Plan Approval was incorrect), and
- specify of which site plan evaluation criteria it is believed the Development Officer's interpretation was inconsistent with the requirements of (or a reasonable application of) the Land Use By-law.

In hearing an appeal concerning a Site Plan Approval, Council may make any decision that the Development Officer could have made.

The Municipal Clerk received two written submissions associated with the Development Officer's decision to grant Site Plan Approval (Attachment F and G). Both submissions speak to concerns about stormwater management on the site.

As part of the Development Officer's review, the proposed site plan and civil drawings submitted by the applicant were examined and provided to the Engineering Department for comment. The civil plan includes a series of catch basins, notably several located near the adjacent property (Attachment H). Engineering has requested modifications to the stormwater management and site servicing; however, have stated these changes would not alter the site plan.

Staff from several CBRM departments engaged with the applicant prior to the application being filed. During these consultations, the applicant was advised that the proposed use was permitted subject to Site Plan Approval requirements, including provisions for stormwater management and servicing.

Following circulation of the Site Plan, staff became aware that construction activity had commenced on the property without the required Building and Development Permits. A Stop Work Order was issued on September 18th. No further work may proceed until a Building and Development Permit is issued. A permit cannot be issued until the following items are addressed: 1) the development has an approved site plan; 2) the Building Official has granted the required permits; and 3) Engineering and Public Works are satisfied with stormwater management and site servicing.

CONCLUSION

The Planning and Development Staff, with support from CBRM Engineering, are of the opinion that the site plan meets the criteria set out for Site Plan Approval in the CBRM Land Use By-law. As such, staff recommend that CBRM Council uphold the Site Plan Approval granted by the Development Officer to allow for the development of a Long Term Care Facility at PID 15467129

LEGISLATIVE AUTHORITY

Municipal Government Act (MGA), Part VIII Planning and Development, Section 231, 232, 233, 236, 236A, And 237 (Attachment

ALTERNATIVES

CBRM Council may choose to grant the appeal and refuse approval of the site plan; however, in doing so, they must clearly state how the site plan does not comply with the criteria as outlined in the Land Use By-law.

ATTACHMENTS

Attachment A:	Location Map
Attachment B:	Excerpts from the Land Use By-law
Attachment C:	Site Plan Circulated
Attachment D:	Updated Site Plan September 15
Attachment E:	Site Plan Approval Notice
Attachment F:	Appellant Notice of Appeal
Attachment G:	Appellant Notice of Appeal
Attachment H:	Civil Drawings
Attachment I:	Excerpts from the <i>Municipal Government Act</i>

Report Prepared by: Karen Neville, Senior Planner, Planning and Development



2.13 SITE PLAN APPROVAL

Uses subject to Site Plan Approval are identified in the General Provision Part of this By-law or are listed in the permitted use tables at the beginning of each zone section.

2.13.1 Site Plan Approval Requirements

An application for Site Plan Approval shall meet the following requirements:

- a) The application shall include any supporting information necessary to explain the rationale for the request;
- b) The application shall be accompanied by the application fee; and
- c) The application shall meet the appropriate conditions prescribed by the zone.
- d) The Development Officer shall notify assessed owners of properties within 30 metres of the proposed subject site of:
 - i. Their decision to approve the development; and
 - ii. To allow them to provide feedback on the proposed site plan.

2.13.2 Site Plan Approval Provisions

- a) Unless otherwise indicated in this Bylaw, the Development Officer shall approve a site plan where the following matters have been addressed. The Development Officer shall measure the degree of stringency in interpreting the criteria so that it correlates with the scale of the development and each and every feature of the development (e.g. buildings, parking area etc.), and the proximity of the development, or any specific feature of it, to any other development or streetscape intended to be protected by the criteria.
 - i. Parking shall be provided on the lot parcel and shall be screened from abutting residential uses by an opaque vegetive buffer or fence or a combination thereof;
 - ii. All existing vegetation shall be retained except where its removal is necessary for the construction of the development;
 - iii. Signs advertising any business shall be of a scale and style and so located that they will not conflict with the streetscape.
 - iv. The location and orientation of any main buildings on the lot parcel must be carefully selected to prevent buildings that are significantly larger than any one or two unit dwellings in the vicinity (i.e. greater than 3 times the floor area, and/or twice the height, and/or three times the length from looming over any such residential dwellings or their yards.
 - v. Measures, including lot parcel grading, shall be required to adequately dispose

of storm and surface water.

- vi. A minimum equivalent to 1/3rd of the floor area of the building shall be in compliance with the definition for landscaped open area. That percentage may be reduced to as low as 1/10th where the Development Officer is satisfied with the design of a Certified Horticultural Technician or Architect.
- vii. Ingress and egress points where the parking area is to be accessed from any public/street/road shall be designed to ensure that any known significant traffic problem identified by the Traffic Authority is not further exacerbated.

4.16 LONG TERM CARE FACILITIES

4.16.1 Beds per Lot Parcel Area

- a) New long term care facilities are permitted in all other zones, except the Environmental Protection (EP) zone.
- b) Where Health Care is identified as a permitted use, long term care facilities shall be permitted subject to the zone provisions in effect for the given zone; otherwise, long term care facilities shall be permitted in compliance with the provisions below;
 - i. For Long Term Care Facilities with up to and including 25 beds shall be permitted by Site Plan Approval in accordance with Section 2.13.2 of this By-law and the following table:

Public Street/Road Level	Maximum Density Threshold 2 or more storeys	Maximum Density Threshold 1 storey
Level 1, 2, and 3	1 bed per 90 square metres of lot parcel	1 bed per 180 square metres of lot parcel
Level 4	1 bed per 140 square metres of lot parcel	1 bed per 230 square metres of lot parcel
Level 5	1 bed per 275 square metres of lot parcel	1 bed per 370 square metres of lot parcel

- ii. For Long Term Care Facilities with 26 up to and including 50 beds shall be permitted by Site Plan Approval in accordance with Section 2.13.2 of this By-law and the following table:

Public Street/ Road Level	Maximum Density Threshold
Level 1, 2, and 3	1 bed per 140 square metres of lot parcel
Level 4	1 bed per 180 square metres of lot parcel

- iii. For Long Term Care Facilities with greater than 50 beds shall be permitted by Site Plan Approval in accordance with Section 2.13.2 of this By-law and the following table:

Public Street / Road Level	Maximum Density Threshold
Level 1, 2, and 3	1 bed per 180 square metres of lot parcel
Level 4	1 bed per 275 square metres of lot parcel

- iv. Long Term Care Facilities shall only be permitted by zone amendment if the density is greater than the maximum threshold prescribed.



**FOUGERE
MENCHENTON
ARCHITECTUR**

LANDSCAPE ARCHITECTURE

C B C L

M&R ENGINEERING

Vollick McKee Petersmann

Client  **MapleHillManor**

Consultant's Project No.
22022MHW

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1. DO NOT SCALE FROM THIS DRAWING.
2. CONTRACTOR SHALL VERIFY ALL EXISTING CONDITIONS ON SITE PRIOR TO PROCEEDING WITH ANY PORTION OF THIS WORK.
3. CONTRACTOR SHALL DO ALL WORK IN ACCORDANCE WITH THE APPLICABLE STANDARD AND CODES INCLUDING, BUT NOT LIMITED TO, THE NATIONAL BUILDING CODE OF CANADA.

Rev.	Revisions	DATE
4	FOR REVIEW WITH CBMA	09/12/2
3	FOR REVIEW WITH CBMA	08/26/2
2	R1 - ISSUED FOR CO	07/31/2
1	ISSUED FOR CONSTRUCTION	05/23/2
0	ISSUED FOR TENDER	01/10/2

PROJECT TITLE
Maple Hill LTC

Siteworks Layout Plan
1.250

L-10

CBRM*A Community of Communities***Cape Breton Regional Municipality**

Jarret Gosbee
Development Officer
Planning and Development Department

320 Esplanade, Room 200
Sydney, NS B1P 7B9
Phone: 902-563-5134

Email: jagosbee@cbrm.ns.ca

September 5th, 2025

To: All Addresses Property Owners within 30m of PID 15467129

Re: Construction of a Long Term Care Facility

The Cape Breton Regional Municipality (CBRM) Planning and Development Department has received an application to construct 64-Bed Long Term Care Facility located at the above-mentioned address.

The CBRM Land Use Bylaw permits for Long Term Care Facilities with greater than 50 beds to be permitted subject to the provisions of Site Plan Approval. Attachment A provides the criteria used by the Development Officer to use to evaluate the site plan. A copy of the proposed site plan is enclosed with this correspondence.

I have found that the proposed development satisfies the Criteria for Site Plan Approval (Attachment A). I am therefore in a position to grant Site Plan Approval for this development.

Pursuant to Section 232 and 236 of the Municipal Government Act, I am obliged to notify each assessed property owner within 30 meters of the developer's property of this decision and to provide an opportunity for feedback regarding the proposed site plan.

If, after contacting me with your comments, you are not satisfied the site plan complies with the Criteria for Site Plan Approval (Attachment A), you have fourteen (14) days from the date of this correspondence to formally lodge an appeal to Council.

The Land Use By-law does not give the authority to lodge an appeal requesting Council to reject the application. The proposed development is a permitted use as per the CBRM Land Use Bylaw, your appeal must be in regard to the Criteria for Site Plan Approval (Schedule A).

The mechanism to do so is outlined in Section 236A(1) of the Municipal Government Act; Grounds for Appeal. If you wish to file an appeal, you must;

- a) clearly state the grounds for the appeal, explaining why you believe the Development Officer's decision to grant site plan approval was incorrect, and

E

- b) specify which site plan evaluation criteria (Attachment A) you believe the Development Officer's interpretation of was inconsistent with the requirements of (or a reasonable application of) the Land Use By-law.

An appeal to Council must be submitted in writing to the attention of the Clerk of the Cape Breton Regional Municipality at the following address:

Christa Dicks
Clerk of the CBRM
320 Esplanade
Sydney NS. B1P 7B9
clerksoffice@cbrm.ns.ca

If you have any questions or require further information, please do not hesitate to contact our office.

Sincerely,

Original Signed by

Jarret Gosbee
Development Officer
Cape Breton Regional Municipality

Group of 5 King Street Property Owners

To: Christa Dicks

Clerk of the CBRM

RE: Construction of a Long Term Care Facility PID 15467129 Maple Hill Manor

This is a letter in response to the correspondence that we received from the CBRM dated September 9th, 2025. We as a group of King Street property owners, have been asked to send this letter to outline our issues with the Maple Hill Manor building site located in New Waterford. We will submit one letter on behalf of the 5 undersigned property owners. Before we address our issues, we have to say as property owners we were treated with nothing but disrespect from the Developers and the management. Our needs and concerns have never been addressed. We were told one thing, and they did another.

Our issues are as follows:

1... The Federal area.... We have been in contact with the Federal Land surveyor, she states that this area is coal road that (a Coal or Hunny Road is a landlocked piece of land) is to be divided between the landowners that border the Federal area. This area has become a major stumbling point because as landowners we are entitled to the land. This will connect our property with the coal road, therefore, extending our land by several feet. Kendra Baldwin (Administer of Maple Hill Manor and charge person for the build) stated in a meeting that without success they tried to obtain this area but was denied because of the fore mention reason. As you can see in the 2024 site plan (it was sent with the CBRM Letter) even though they were denied the Federal land they were going to develop it anyway. This alone would be ground for an appeal

2... The next issue is the height of the property as it pertains to water and storm drainage. The new property height is several feet higher than the old soccer field grounds. We as property owners are concerned about the amount of water that can flood or damage our property as it pertains to the new development. I have not seen a drainage plan because no plan has been submitted as of yet, therefore they have no permit. The water protection that was in place was removed by the developer apparently with no permit. Our neighbor had a catch basin (manhole) behind his fence with a drainage system that went down his driveway to a catch basin on King Street. This system worked and it worked well (it was installed by the CBRM). However, the developer tore it up and now the properties are getting water. Grounds for an appeal

3... The Developers along with Maple Hill Manor left us as property owners exposed to security and privacy issues. We all had 8 foot industrial grade chain-link fence around our properties, this was our peace of mind and security. The developer tore down all the fence and left us exposed. They put up some snow fence along a bit of the area and then nothing. This is a safety issue for the property and for the owners. We are uncomfortable being outside at night because there are people hanging around the site. An issue for sure


Shortly after I wrote this letter, I was informed by the Development Officer (CBRM) that the site plans are changed, and no development will take place on the Federal land. A new site plan was sent also. We still want to go on record with this issue in case the developer does not abide by the site plans.

As this week went by, I was informed that the Developers had no site plan Permit and have no Drainage Permit..as the plans were not sent therefore can't be approved by CBRM Planning. I understand that a lot of things come under a Building Permit but how a Building Permit can be used if the grounds they must work on have not been Permitted. How can they destroy the storm drainage system before they had sent a plan for a new one. They can do what they want and where they want until someone states otherwise. As we know that is why the CBRM sent the King Street property owners the letter in the first place. We are not a Planning experts nor am we Development Officers, but it looks like an end run around the middle....

Signed

Original signed by

Leslie and Jonna Gillis

 **King Street**

Ronald and Mary Paula MacDonald

 **King Street**

Cape Breton Rentals

Charles Jennex

 **King Street**

Patrick and Stella Ryan

 **King Street**

Jared Verbeski

 **King Street**

From: [ClerksOffice](#)
To: [Rod Mitchell](#)
Cc: [PlanningConsult](#); [ClerksOffice](#)
Subject: RE: Site plan approval for lot - PID 15467129
Date: September 16, 2025 3:42:28 PM

Good afternoon Roderick and Mary Mitchell,

The CBRM Clerk's Department has received your correspondence and by means of this email, have forwarded your communication to the Planning and Development Department.

Best,

Sharon

Sharon MacSween | Senior Administrative Assistant
Clerk's Department | Cape Breton Regional Municipality
 320 Esplanade, Sydney, NS B1P 7B9 | Suite 405
 ☎ 902.563.5010 | ✉ clerksoffice@cbrm.ns.ca



From: Rod Mitchell [REDACTED]
Sent: September 16, 2025 10:17 AM
To: ClerksOffice <ClerksOffice@cbrm.ns.ca>
Subject: Site plan approval for lot - PID 15467129

Some people who received this message don't often get email from [REDACTED] [Learn why this is important](#)

Jarret Gosbee
 Development Officer CBRM

Sir,

Firstly, I must protest that the correspondence my wife and I received from you, dated September 9, 2025, regarding the construction of a Long Term Care Facility on Lot PID 15467129 was many months later than it should have been sent to us.

Our concern regarding this construction development is with section a) v. of the Site Plan Approval Provisions - adequate disposal of storm and surface water.

In November of 1990, to facilitate good drainage of the soccer field built for the former Mount Carmel School (PID 15467129) the Town of New Waterford (now part of CBRM) created a catch basin at the end of the soccer field behind our property and placed a drain from that catch basin running through our property to the storm drain on the southeast side of King St.

This drainage system has worked very well for the past 35 years.

However, since the construction project, referred to above, dug up all of that drainage system, right up to our back fence, we have had flooding on a low spot on our back lawn that we have never had before. And this has been a Very Dry summer!

Sincerely,

Roderick and Mary Mitchell

Excerpts from the *Municipal Government Act*

Site-plan approval

231 (1) Where a municipal planning strategy so provides, a land-use by-law shall identify

- (a) the use that is subject to site-plan approval;
- (b) the area where site-plan approval applies;
- (c) the matters that are subject to site-plan approval;
- (d) those provisions of the land-use by-law that may be varied by a site-plan approval;
- (e) the criteria the development officer shall consider prior to granting site-plan approval;
- (ea) the notification area;
- (f) the form and content of an application for site-plan approval.

(2) repealed 2003, c. 9 s. 61.

(3) No development permit shall be issued for a development in a site-plan approval area unless

- (a) the class of use is exempt from site-plan approval as set out in the land-use by-law and the development is otherwise consistent with the requirements of the land-use by-law; or
- (b) the development officer has approved an application for site-plan approval and the development is otherwise consistent with the requirements of the land-use by-law.

(4) A site-plan approval may deal with

- (a) the location of structures on the lot;
- (b) the location of off-street loading and parking facilities;
- (c) the location, number and width of driveway accesses to streets;
- (d) the type, location and height of walls, fences, hedges, trees, shrubs, ground cover or other landscaping elements necessary to protect and minimize the land-use impact on adjoining lands;
- (e) the retention of existing vegetation;
- (f) the location of walkways, including the type of surfacing material, and all other means of pedestrian access;
- (g) the type and location of outdoor lighting;
- (h) the location of facilities for the storage of solid waste;
- (i) the location of easements;
- (j) the grading or alteration in elevation or contour of the land and provision for the management of storm and surface water;
- (k) the type, location, number and size of signs or sign structures;
- (ka) security or performance bonding;
- (l) provisions for the maintenance of any of the items referred to in this subsection.

Site-plan approval

232 (1) A development officer shall approve an application for site plan approval, unless the

- (a) matters subject to site-plan approval do not meet the criteria set out in the land-use by-law; or
- (b) applicant fails to enter into an undertaking to carry out the terms of the site plan.

(2) Where a development officer approves or refuses to approve a site plan, the process and notification procedures and the rights of appeal are the same as those that apply when a development officer grants or refuses to grant a variance.

(2A) Notwithstanding subsection (2), council may require a larger notification distance for site-plan approvals in its land-use by-law where the municipal planning strategy so provides.

(3) The council, in hearing an appeal concerning a site-plan approval, may make any decision that the development officer could have made.

(4) A council may by resolution provide that any person applying for approval of a site plan shall pay the municipality the cost of

- (a) notifying affected land owners;
- (b) posting a sign.

(5) A development officer may, with the concurrence of the property owner, discharge a site-plan, in whole or in part.

Development permit in site-plan approval area

233 A development officer shall issue a development permit for a development in a site-plan approval area if a site plan is approved and the development otherwise complies with the land-use by-law, and

- (a) the appeal period has elapsed and no appeal has been commenced; or
- (b) all appeals have been abandoned or disposed of or the site plan has been affirmed by the council.

Variance procedures

236 (1) Within seven days after granting a variance, the development officer shall give notice in writing of the variance granted to every assessed owner whose property is within the greater of thirty metres and the distance set by the land-use by-law or by policy of the applicant's property.

(2) The notice shall

- (a) describe the variance granted;
- (b) identify the property where the variance is granted; and
- (c) set out the right to appeal the decision of the development officer.

(3) Where a variance is granted, a property owner served a notice may appeal the decision to the council within fourteen days after receiving the notice.

(4) Where a variance is refused, the applicant may appeal the refusal to council within seven days after receiving notice of the refusal, by giving written notice to the clerk who shall notify the development officer.

(5) Where an applicant appeals the refusal to grant a variance, the clerk or development officer shall give seven days written notice of the hearing to every assessed owner whose property is within thirty metres of the applicant's property.

(6) The notice shall

- (a) describe the variance applied for and the reasons for its refusal;
- (b) identify the property where the variance is applied for; and
- (c) state the date, time and place when council will hear the appeal.

Grounds for appeal

236A (1) Any appeal of a decision or matter referred to in Sections 232 to 236 must, at the time the appeal is filed, clearly state the grounds for appeal.

(2) An appeal of a decision or matter referred to in Sections 232 to 236 may not be made in respect of a non-substantive matter prescribed by the regulations.

(3) A council shall dismiss without hearing any appeal that fails to comply with subsection (1) or is in respect of a non-substantive matter prescribed by the regulations.

(4) The Minister may make regulations prescribing non-substantive matters for the purpose of this Section.

(5) The exercise by the Minister of the authority contained in subsection (4) is a regulation within the meaning of the Regulations Act.

Variance appeals and costs

237 (1) Where a council hears an appeal from the granting or refusal

of a variance, the council may make any decision that the development officer could have made.

(2) A development officer shall issue a development permit for any development for which a variance has been granted and which otherwise complies with the terms of the development agreement or a land-use by-law, whichever is applicable, if

(a) the appeal period has elapsed and no appeal has been commenced; or

(b) all appeals have been abandoned or disposed of or the variance has been affirmed by the council.

(3) A council may by resolution provide that any person applying for a variance shall pay the municipality the cost of

(a) notifying affected land owners;

(b) posting a sign.