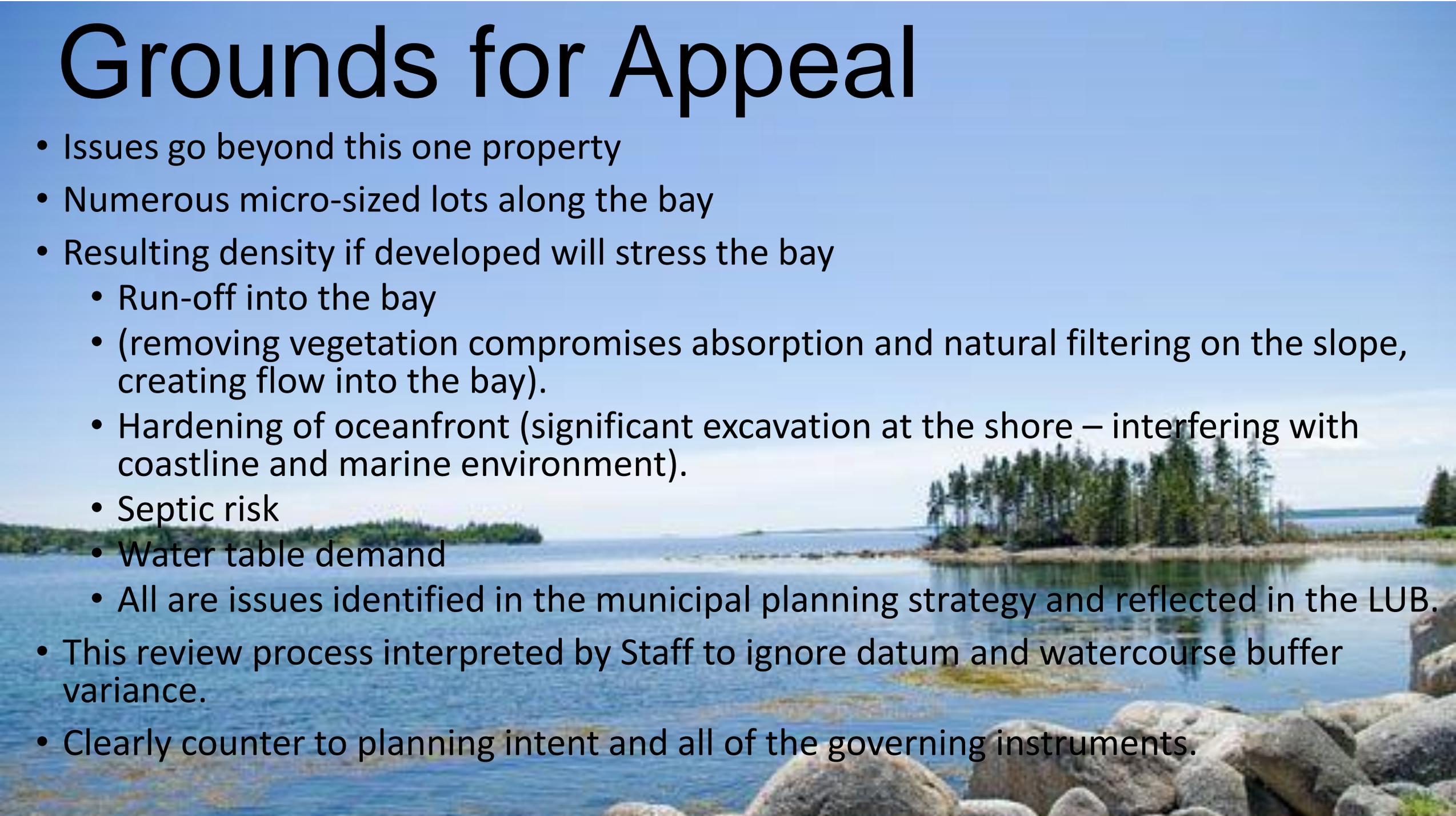


# Procedural Paths

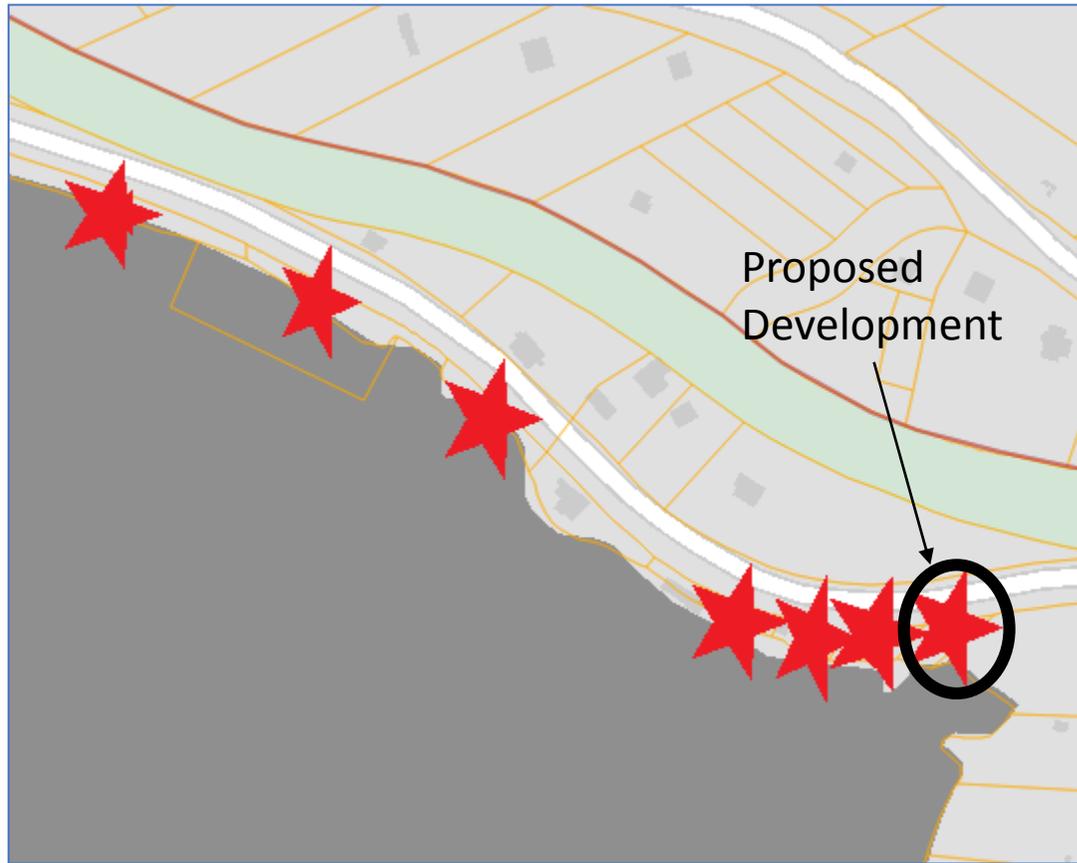
	Requirement	Accommodation	Review Instruments
<b>Minimum Front Yard</b>	20 feet	12 feet	250 (3) Council Appeal
<b>Watercourse Buffer</b>	91 feet (adjusted for slope)	81 feet	No review at HRM <b>Judicial Review Required</b>
Driveway Access			TIR <b>Judicial Review</b>
<b>Height above 3.8 m above Datum</b>	Absolute prohibition.	Plot plan shows significant portion of the building in prohibited area	Building permitting process <b>Judicial Review</b>
Septic	Numerous horizontal clearances	Administered by DOE	<b>Statutory Appeal/Judicial Review</b>

# Grounds for Appeal

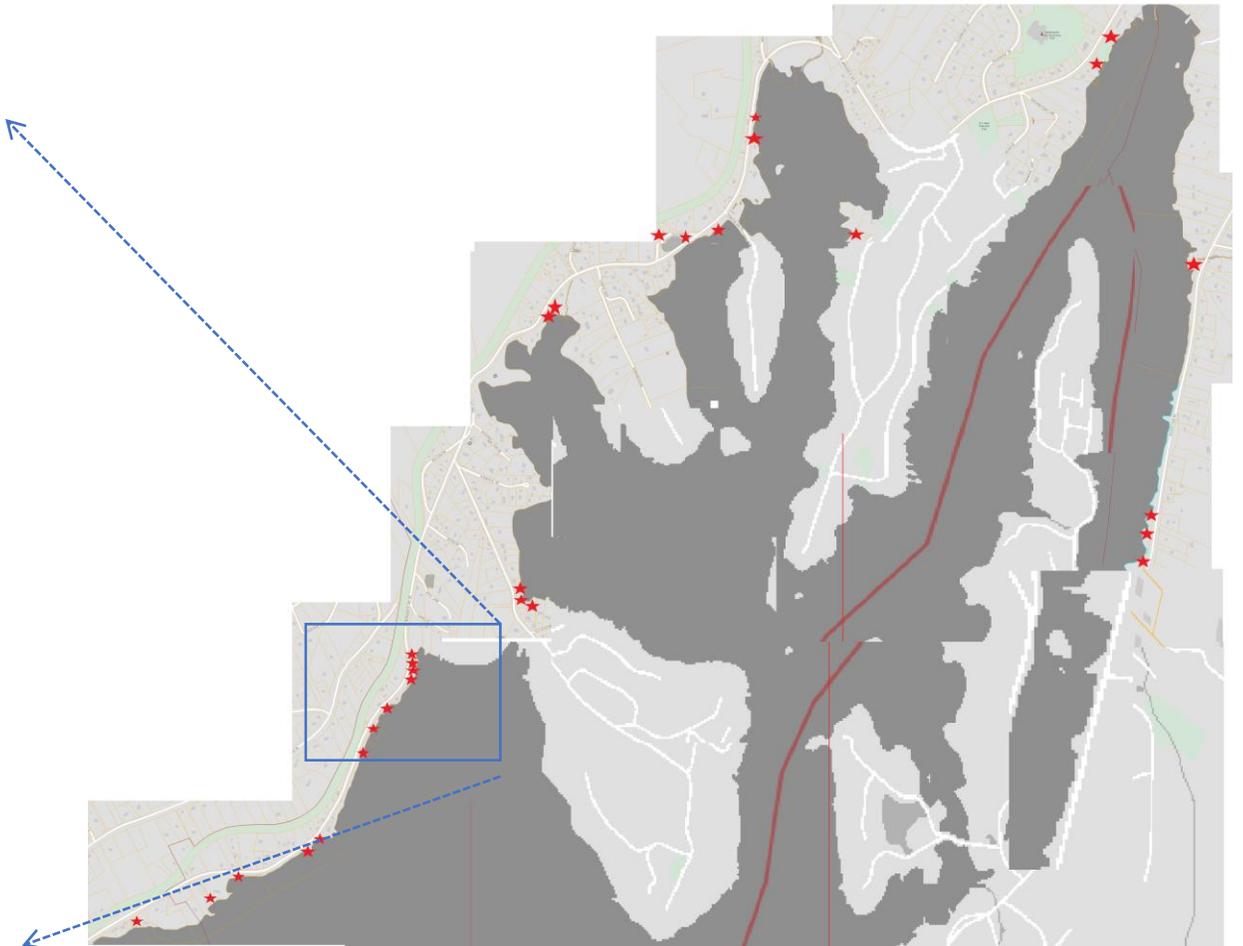
- Issues go beyond this one property
- Numerous micro-sized lots along the bay
- Resulting density if developed will stress the bay
  - Run-off into the bay
  - (removing vegetation compromises absorption and natural filtering on the slope, creating flow into the bay).
  - Hardening of oceanfront (significant excavation at the shore – interfering with coastline and marine environment).
  - Septic risk
  - Water table demand
  - All are issues identified in the municipal planning strategy and reflected in the LUB.
- This review process interpreted by Staff to ignore datum and watercourse buffer variance.
- Clearly counter to planning intent and all of the governing instruments.



# Issue is ~~not~~ general to the area



0.5 km



Partial map of bay micro-sized lots

# Site Visit



PREF

+044.670836° / -063.924916° ↑ 9ft

MAIL

MAP

18-08-30

09:54:53

LOG

-05

-03.9°

-01.6°

-05

00

169° S11E 3004mils TRUE

ZERO

A-B

CAL

150

S

LENS

1.0 X

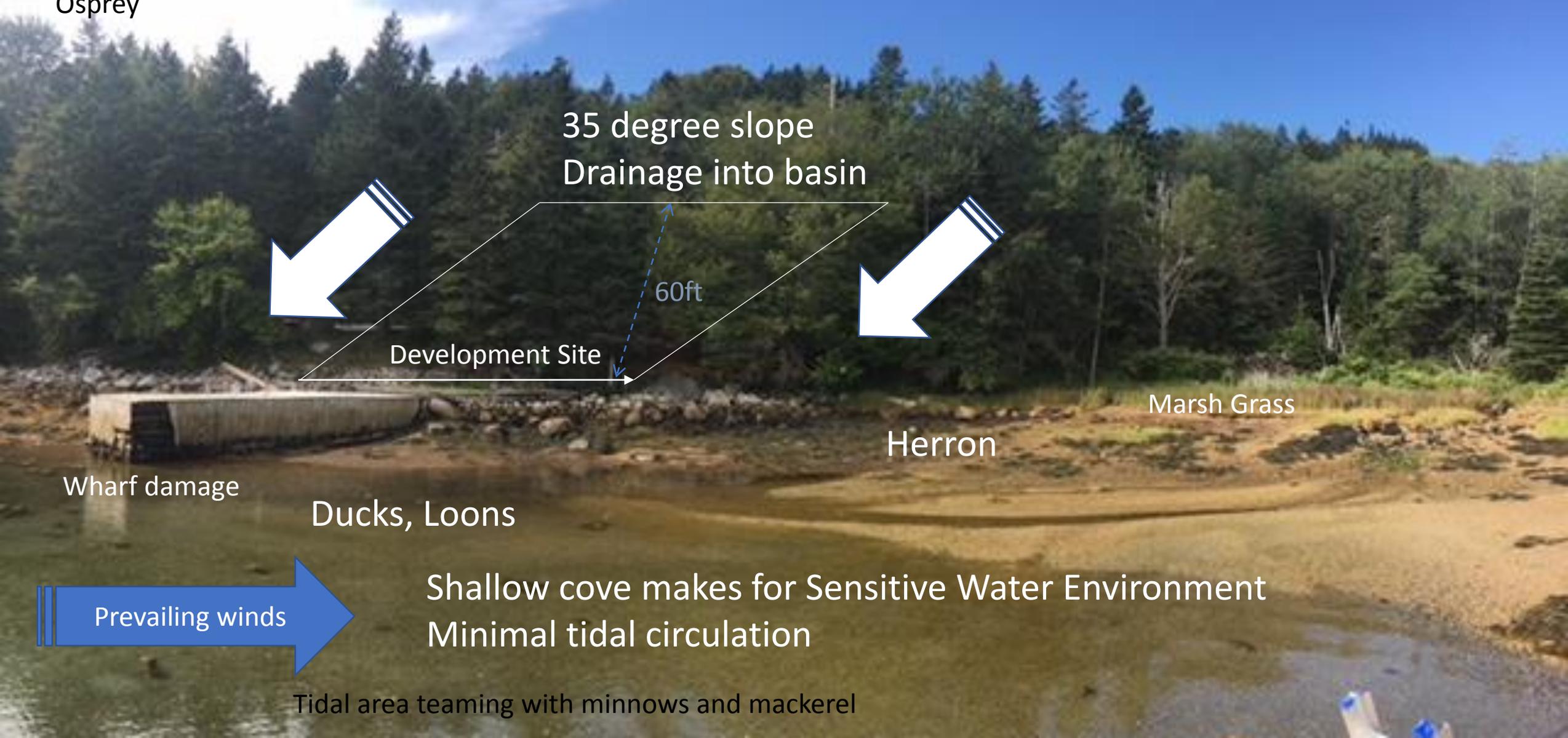
📷 S



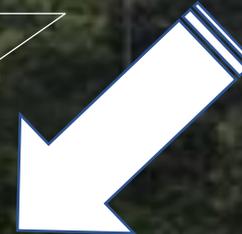
# A challenging and controversial site

\$20K Assessment

Osprey



35 degree slope  
Drainage into basin



60ft

Development Site

Marsh Grass

Herron

Wharf damage

Ducks, Loons

Prevailing winds

Shallow cove makes for Sensitive Water Environment  
Minimal tidal circulation

Tidal area teeming with minnows and mackerel



High Tide





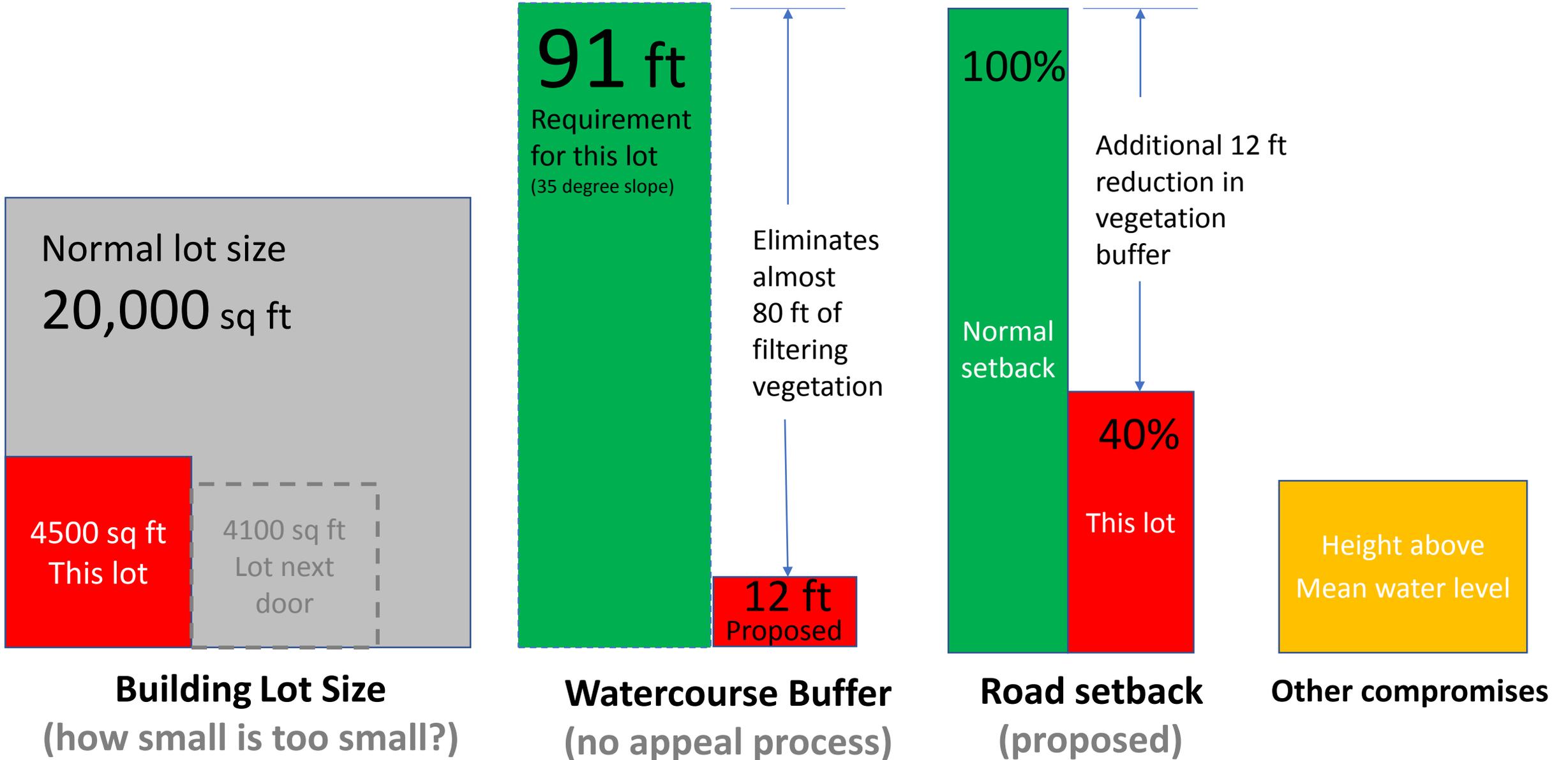
## Normal Very High Tide

-even higher with storm surge

-potential for 6-8 ft waves

-discuss height above mean water (datum) in a minute

# Extreme accommodation = compromised bay

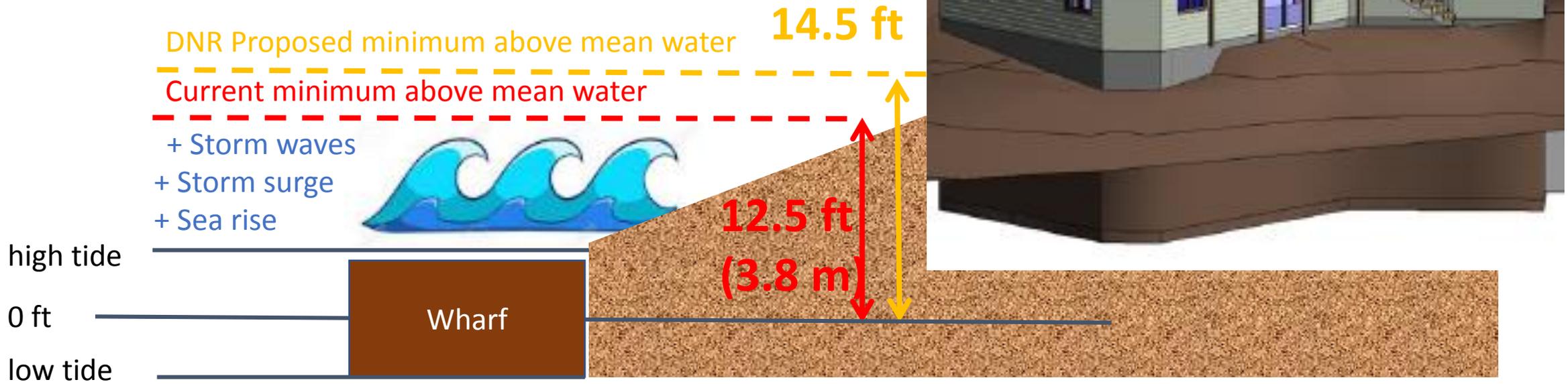


# Datum – a requirement of the LUB (4.19A(4))

- **No variance or accommodations allowed.**
- It is a requirement intended to avoid incursion of the ocean towards constructed properties. Municipal and Provincial risks regarding property damage from ocean proximity and rising sea levels.
- Datum corresponds to the average tide level.
- We don't have access to the background material, but our homework indicates that proposed construction appears to violate datum (see following slide).
- DO of HRM says it is not within this appeal to consider datum. Refers it to Building Permit process. That's a Black Box - **No procedural protections** in that process. Staff say it is not part of this process as we are only dealing with "minimum front yard."
- Forces public or aggrieved parties to use judicial review to gain any line of sight to datum adherence. **No Council review unless other "variances" trip-wired in application.**
- Requires an amendment to the LUB to avoid multiple forums review and allow transparency re DO work re Datum and Watercourse setbacks. Creates regulatory certainty for applicants *and* adjacent landowners.

# 3.8 m height above mean water level (DATUM):

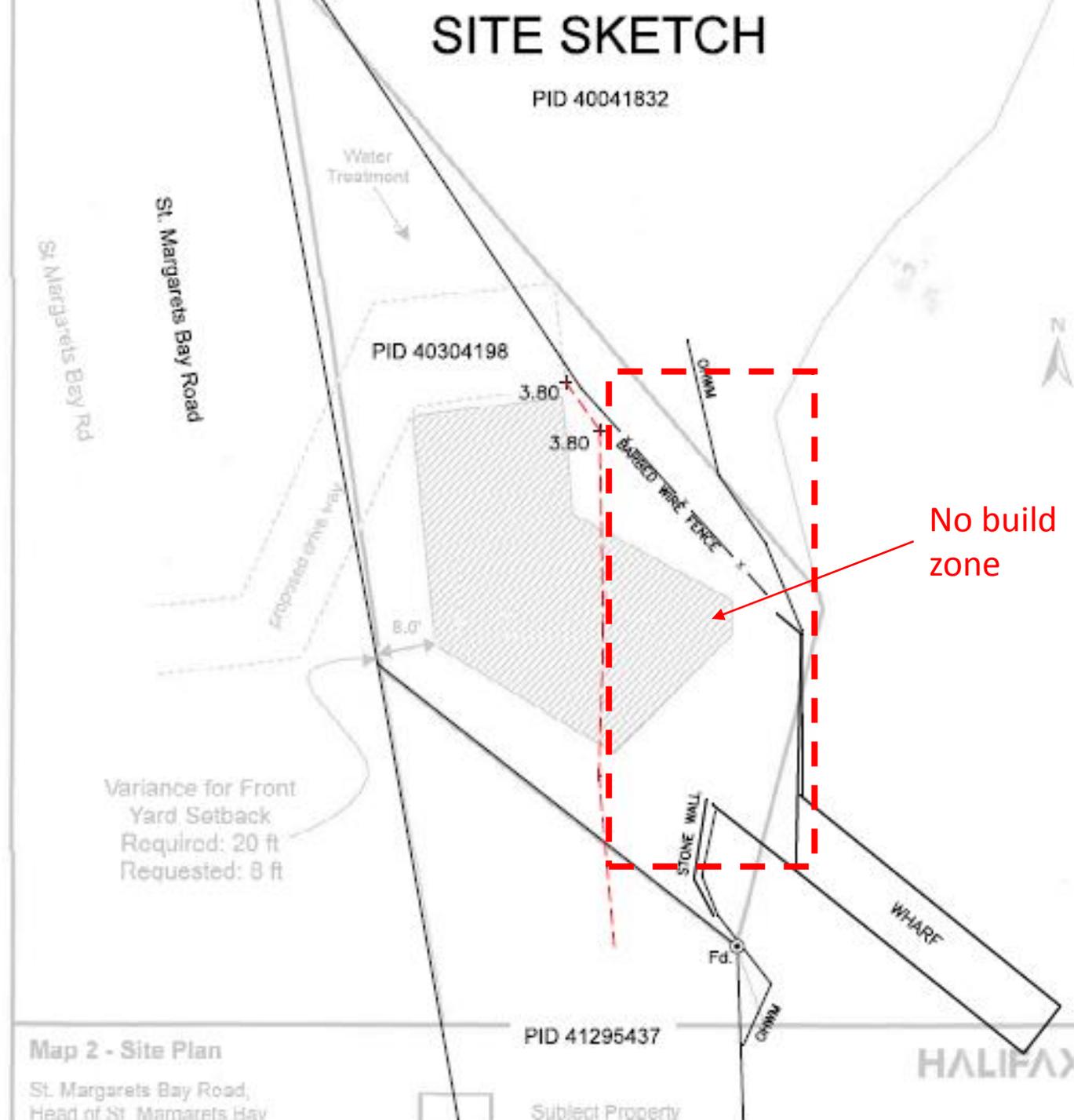
Proposed dwelling implies disturbance and construction of the site located below 3.8M



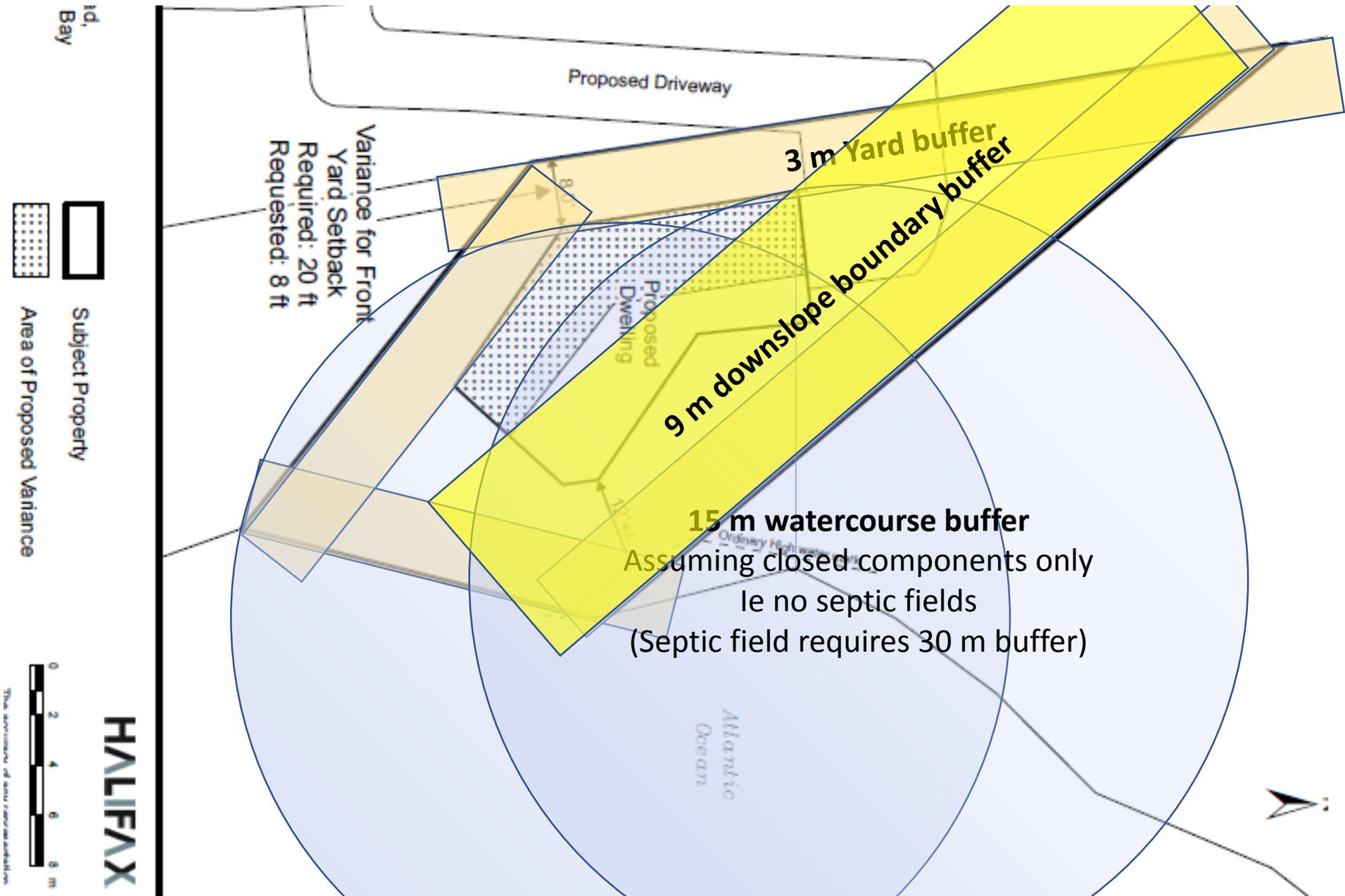
**3.8 m height above  
mean water level  
(DATUM):**

**Development below  
3.8 m prohibited**

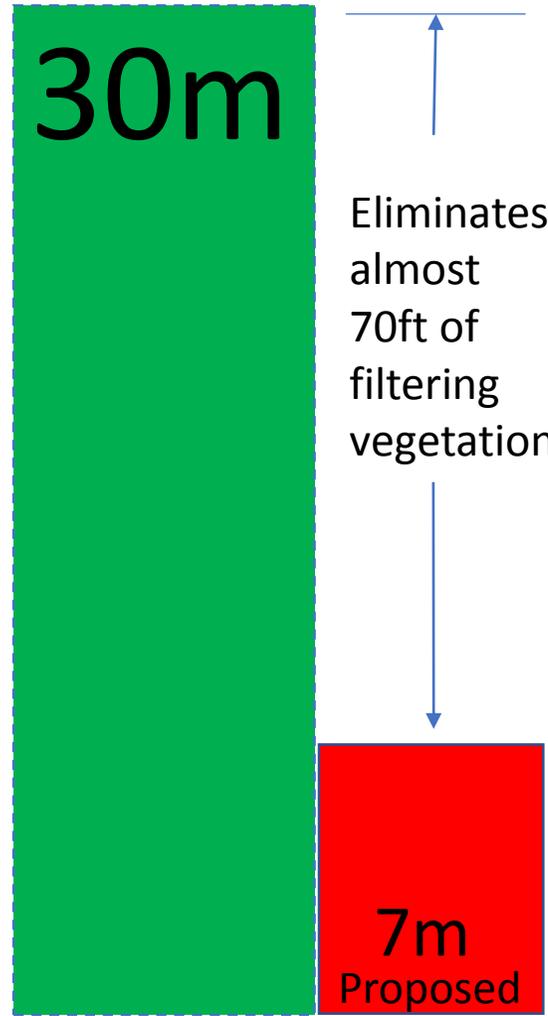
**not prudent**



# No regulation compliant area for septic

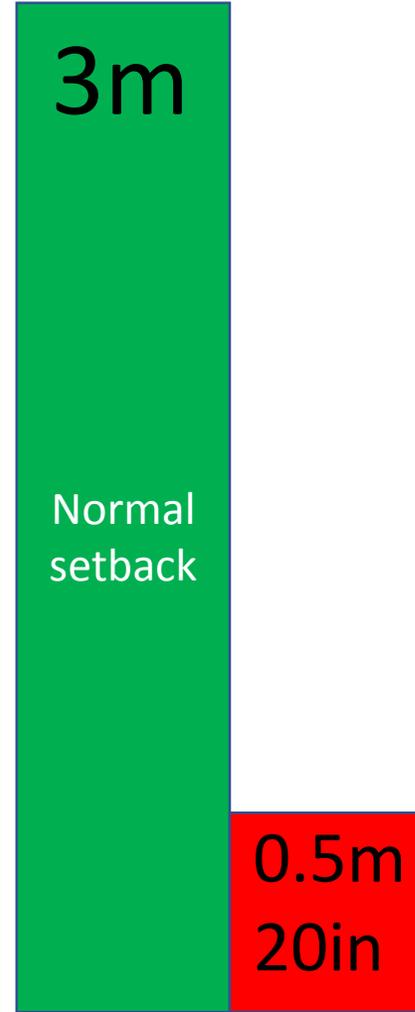


# Waste Water: Clearances compromised by 66-83%

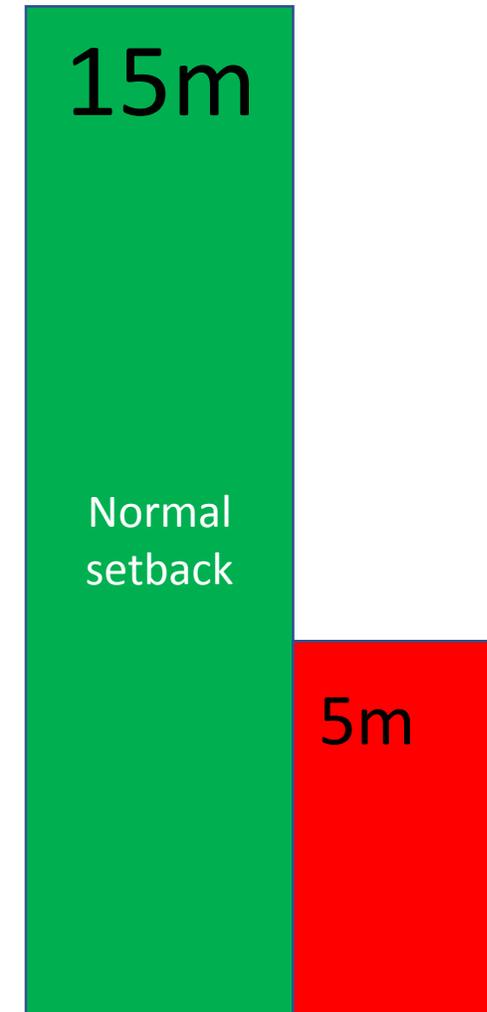


Field to Watercourse

**\*field/tank just 10ft above ocean**



Lot boundary



Down slope  
boundary

# FYS & Existing Undersized Lots – the Blank Cheque

- DO Interpretation: 4.19(3) uses “shall”, so I have to “accommodate”.
- Not an accommodation: this is a capitulation.
- The approach: I cannot even get a lot on this property because of the waterfront setback, so I will do everything to make it so.
  - Reduce the watercourse buffer (87%)
  - Reduce the Front Yard Setback, FYS (60%)
  - Ignore datum and leave it to Building Permits process.
- DO notes you cannot even build on this property if the 20ft water buffer is accommodated (p.3, para 3). DO then doesn't just “reduce” as 4.19(3) directs, DO “creates” a buffer by incursion into the FYS (60%). Clear excess of jurisdiction, especially when 4.19(3) actually tells DO to “have regard to the other yard requirements”
- DO is reading the accommodation direction at the expense of everything else. There isn't even any analysis in the report about the environment, the risk of proximity the road. Just bold statements like “it is reasonable” Why? “It complies with the intent of LUB” How?
- No discussion of making the house smaller.
- 4.19(3) is not an absolute imperative: “in a manner” and “greatest possible” and “having regard to other yard requirements.” Interpreting it in a way that provides a blank cheque to applicants is legally and technically incorrect.

# “accommodation” grants more setback reduction than the historical LUB

- prior to the increase in watercourse setback rules in 2006, an applicant could only receive 25 feet setback from a watercourse
  - 4.19 SETBACKS FROM WATERCOURSES (a)
  - The LUB did not provide for Watercourse setback accommodation for undersized lots
- The “accommodation” extended here grants *more setback* than that which would have be available to an applicant *before* the change in the LUB was enacted;
- The Existing Undersized Lot rule was meant to preserve rights; this “accommodation at all costs” approach is now being used to create them. This is a clear excess of jurisdiction and is an error of law.

# Your acceptance of the appeal will:

Recognize that the difficulty experienced **is** “general to the area”

- Reject an unreasonable and unsafe setback from the highway.
- Respect the sensitive cove and the waters of the bay.
- Deter this controversial development and avoid a very dangerous precedent that will fundamentally affect density at the coastline.
- Ensure that waterfront buffers are maintained & underline their importance.
- Avoid development in the sensitive waterfront zone under 3.8 m

If rejected, all of these issues will get a free ride on the back of the reduced front yard setback variance

# Fay Lee, Senior Citizen

Unfortunately unable to attend.

“Our family are long-term property owners within the wider community that you currently have the jurisdiction and all-important duty to maintain, protect and preserve and we ask for your kind support of our very reasonable, justifiable objection to this proposed Variance.”