

HALIFAX

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Item No. 9.1
Halifax Regional Council
December 11, 2018

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by 

SUBMITTED BY: Jacques Dubé, Chief Administrative Officer

DATE: November 14, 2018

SUBJECT: **Case 20662: Amendments to the Regional Municipal Planning Strategy, Regional Subdivision By-law and Sackville Land Use By-law**

SUPPLEMENTARY REPORT

ORIGIN

- Application by Linda Williams.
- March 21, 2017, Regional Council initiation of the process to amend the Regional Subdivision By-law and the Municipal Planning Strategy (MPS) and Land Use By-law (LUB) for Sackville process.
- On June 19, 2018, Regional Council gave First Reading to consider proposed amendments and scheduled a Public Hearing.
- July 31, 2018, Regional Council held a Public Hearing and passed a motion approving amendments to the Regional Municipal Planning Strategy and Sackville Land Use By-law, however deferred consideration of amendments to the Regional Subdivision By-law pending a staff supplementary report.

LEGISLATIVE AUTHORITY

Halifax Regional Charter (HRM Charter), Part VIII, Planning & Development

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Refuse the proposed amendments to the Regional Subdivision By-law to expand the Water Service Area as shown on Map 1 of this report.

BACKGROUND

This supplementary report relates to the proposed amendments to the Regional Subdivision By-law to allow an expansion to the Water Service Area to include the properties identified on Map 1. The May 7, 2018 staff report¹ provides background and discussion on this item. On July 31, 2018, Regional Council held a public hearing to consider proposed amendments to the Regional Municipal Planning Strategy (RMPS), Regional Subdivision By-law and Sackville Land Use By-law (LUB).

At the July 31, 2018 meeting, Regional Council passed the following motion:

THAT Halifax Regional Council:

- 1. Approve the proposed amendments to the Regional Municipal Planning Strategy and Sackville Land Use By-law as set out in attachments A and B of the staff report dated May 7, 2018; and**
- 2. Defer consideration of recommendation three of the staff report dated May 7, 2018 pending a supplementary staff report which outlines options to achieve the extension of the municipal water service boundary as shown on Map 4 of the staff report dated May 7, 2018.**

AMENDED MOTION PUT AND PASSED UNANIMOUSLY.

DISCUSSION

Staff have conducted a second review of Council's policy direction relative to the expansion of Water Service Areas and have outlined alternative options for its consideration.

Regional Plan Policy

As noted in the May 7th staff report, Policy SU-15 of the RMPS represents Council's policy direction relative to Water Service Area expansions. An excerpt of the policy is provided for reference as Attachment A. Subject to the financial ability of HRM to absorb any costs related to the expansion, the following four components within the policy must also be satisfied in order for a Water Service Area expansion to be considered:

- Proximity to transmission lines;
- Water quantity or quality problems that cannot be rectified by an alternative means;
- Environmental issues related to the long-term integrity of on-site sewage disposal systems; and
- Approval of provisions for an area rated charge to fund local service expansions.

The applicant is requesting this amendment due to the presence of arsenic and overall water quality in the area. Of the four items listed above, water quality is identified as a concern, however the applicant has not provided information from a qualified person verifying issues cannot be resolved by alternative means.

The site is in general proximity to a water main, however expansion of the main to service the relatively moderate development capacity on the subject site would appear to be cost prohibitive. None of the other items identified in the policy are present. Similar to the recommendation provided in the May 7th staff report, given that the proposed Water Service Area expansion is not supported by policy, staff are unable to recommend in favour of the request.

Following the public hearing on July 31st, 2018, Council asked staff to identify any RMPS policies whereby the proposed Water Service Area expansion could be considered as a minor adjustment to the area. At that time, staff indicated that they were not aware of any such policies. Upon further review, staff can confirm there are no existing policy options to consider the proposed Water Service Area expansion. Policy SU-4 of the RMPS allows Council to consider minor amendments to the expansion of the Urban Service

¹ May 7, 2018, Staff Report: <https://www.halifax.ca/sites/default/files/documents/city-hall/regional-council/180731rc112.pdf>

Area. An excerpt of this policy is provided for reference as Attachment A. Unlike Water Service Areas, which are eligible for the connection of municipal water, Urban Service Areas are defined as areas serviced with both municipal water, waste-water and stormwater infrastructure. As such, Policy SU-4 does not support the consideration of expanding Water Service Areas. Map 2 of this report identifies existing Urban Service and Water Service areas within a portion of the Sackville Plan Area.

Alternative Options

Council may consider the proposed amendments to the Regional Subdivision By-law, as shown on Map 1, as part of the next review of the Regional Municipal Planning Strategy. This approach represents the preferred alternative option should Council wish to proceed with consideration of the proposed Water Service Area expansion.

As a second alternative option, Council may direct staff to prepare amendments to the relevant planning documents to allow for consideration of the proposed Water Service Area expansion. In accordance with Policy G-11 of the RMPS, when amendments to the Regional Subdivision By-law are brought forward for approval, HRM shall consider whether the proposed amendments are consistent with or further achieve the objectives and policies of the RMPS. An excerpt of the subject policy is provided as part of Attachment A. As previously noted, the proposed amendments are not consistent with RMPS policy and objectives pertaining to the location of water services. This option will require Council to give first reading to consider the proposed amendments and schedule a public hearing.

Conclusion

For the reasons identified in this supplementary report and the staff report dated May 7, 2018, staff recommend that Regional Council refuse the proposed Water Service Area expansion. Alternatively, should Council proceed with the consideration of the proposed expansion, there are two options: 1) Council may direct staff to consider the requested amendments as part of the next review of the RMPS; or 2) Council may direct staff to prepare amendments to the relevant planning documents to allow for consideration of the proposed Water Service Area expansion through a public hearing process.

FINANCIAL IMPLICATIONS

There are no financial implications of the report recommendation. However, HRM costs associated with processing this planning amendment could be accommodated within the approved 2018/2019 operating budget for C310 Urban and Rural Planning Applications.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application involves proposed amendments to a Municipal Planning Strategy. Such amendments are at the discretion of Regional Council and are not subject to appeal to the Nova Scotia Utility and Review Board.

COMMUNITY ENGAGEMENT

The level of community engagement on this file included providing information and seeking comments through the HRM website, signage posted on the subject site, letters mailed to property owners within the notification area and a public meeting held on May 17, 2017. During the public meeting, the applicant's request for an expansion to the Water Service Area was discussed. Should Council proceed with alternative option 2 and direct staff to prepare amendments to the relevant planning documents, Council will not be required to approve a public participation program. However, if desired, Council may direct staff to conduct additional public engagement.

ENVIRONMENTAL IMPLICATIONS

No additional concerns were identified beyond those identified in the May 7, 2018 staff report.

ALTERNATIVES

Regional Council may choose to:

1. Direct staff to consider amendments to the Water Service Area, as identified on Map 1, as part of the next review of the Regional Municipal Planning Strategy. A decision of Council to approve or refuse amendments to the Regional Municipal Planning Strategy and Regional Subdivision By-law is not appealable to the N.S. Utility & Review Board.
2. Direct staff to prepare amendments to the relevant planning documents to consider the proposed Water Service Area expansion through a public hearing process. A decision of Council to approve or refuse amendments to the Regional Subdivision By-law is not appealable to the N.S. Utility & Review Board.

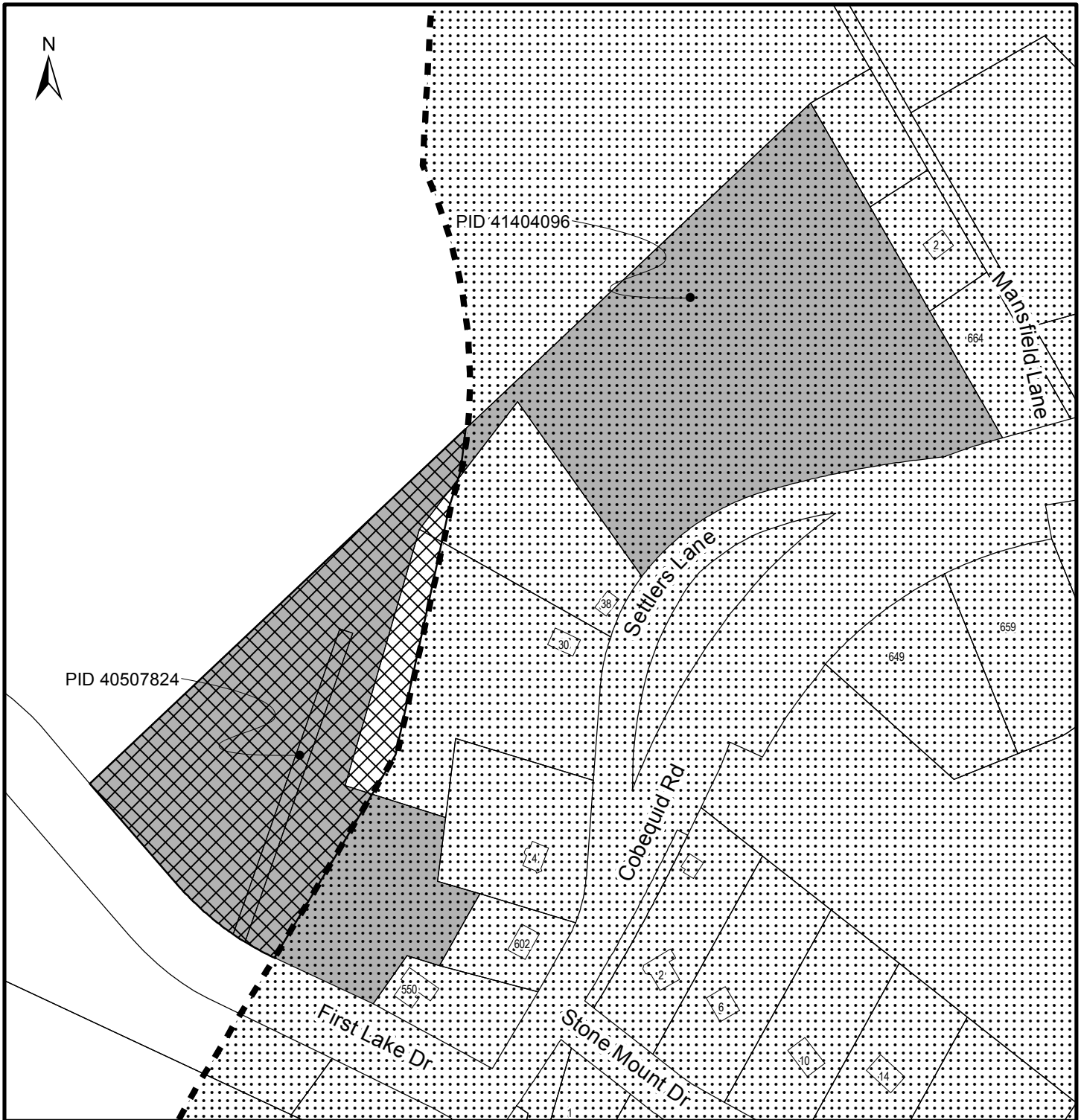
ATTACHMENTS

Map 1	Proposed Water Service Area Expansion
Map 2	Existing Service Areas
Attachment A	Excerpt of Regional Municipal Planning Strategy

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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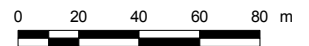


Map 1 - Proposed Water Service Area Expansion

PIDs 41404096 & 40507824
Lower Sackville

HALIFAX

-  Subject Lands
-  Water Service Area
-  Proposed Water Service Area Expansion



The accuracy of any representation on this plan is not guaranteed.




Sackville Plan Area



Map 2 - Existing Service Areas

PIDs 41404096 & 40507824
Lower Sackville



-  Subject Lands
-  Water Service Area
-  Urban Service Area



Sackville Plan Area

The accuracy of any representation on this plan is not guaranteed.

Attachment A
Excerpt of Regional Municipal Planning Strategy

8.3 WATER, WASTEWATER AND STORMWATER SERVICES: PLANNING FOR GROWTH IN SERVICED AREAS

This Plan seeks to focus development in areas where infrastructure can be provided in a cost-effective manner with consideration given to both capital and operating costs. HRM also seeks to support a competitive housing market by maintaining a 15 year supply of serviced lands. A primary tool for achieving these objectives will be directing the supply and location of lands to be serviced with wastewater and water services.

In 2010, the Review Board directed Halifax Water, in consultation with stakeholders, to prepare a long term infrastructure plan estimating capital expenditure requirements for municipal water, waste-water and stormwater infrastructure. Key drivers in developing this Integrated Resource Plan (IRP) are regulatory compliance, asset renewal and growth related costs.

The IRP (Genivar/XCG/Halcrow, October 2012) outlines a 30 year capital program for Halifax Water. The growth related cost estimates are proposed to be used for the development of a regional development charge that will replace the existing charges. Halifax Water also anticipates that area charges will be sought, as required, to pay for service upgrades associated with planned municipal growth through the adoption of secondary planning strategies.

SU-4 When considering any expansion of the Urban Service Area, HRM shall have regard to the following:

- (a) that a Secondary Planning Strategy for the lands to be included within the Urban Service Area has been adopted by HRM except that this requirement may be waived where, in the opinion of HRM, the proposed extension represents a minor adjustment to the Area;
- (b) the financial ability of HRM to absorb any costs relating to the extension;
- (c) if required, a watershed or sub-watershed study has been completed in accordance with Policy E-23;
- (d) that, if required to pay for growth-related municipal infrastructure costs, a municipal infrastructure charge area has been established or is adopted concurrently with the boundary amendment;
- (e) the need to oversize the water, wastewater or stormwater systems to allow for future development within an Urban Settlement or Urban Reserve designation; and
- (f) a charge needed to pay for growth related improvements to the water, wastewater or stormwater systems has, where required, been approved by the Review Board.

8.5 RURAL SERVICES

The capability of the land to support rural settlement throughout the Rural Commuter, Rural Resource, and Agricultural Designations (refer to Chapter 3) is constrained to varying degrees by soil, surface water, and groundwater conditions for development. The *Options for On-site and Small Scale Wastewater Management Study*³² concluded that there are very few inland communities where a municipal wastewater system can be developed. This is due to low flows in river systems during the summer months and provincial requirements for both the dilution of treated wastewater as well as the removal of phosphorous from wastewater that rely on land-based effluent dispersal. However, alternative treatment technologies may be feasible for servicing the levels of wastewater expected from the centres, including those inland from the coast.

Similarly, there are areas with varying degrees of groundwater quality because of the predominant geology. Most areas of HRM require some mitigation of groundwater quality. Others have a higher risk for groundwater quality problems due to the presence of radionuclides, base metals or contamination from former mining operations.

8.5.1 Water Service Areas

Although this Plan encourages a more compact urban form in which development is serviced with wastewater and water distribution systems, it recognizes that developments already exist that are serviced with a water distribution system and on-site sewage disposal systems.

However, the risk of inadequate performance of on-site sewage disposal systems in areas which are serviced with a central water supply is of concern. According to the Dillon Consulting HRM *Water Resource Management Study 34*, there is a higher degree of risk of on-site sewage disposal system failure in areas serviced with central water because the unlimited source of water can cause hydraulic overloading.

HRM intends to recognize the established Water Service Districts and allow for consideration of further extensions in accordance with the following policies:

- SU-15** HRM may consider expanding existing Water Service Areas to existing communities, subject to the financial ability of HRM to absorb any costs related to the expansion, if:
- (a) the lands are in proximity to a water transmission main planned or constructed by Halifax Water to improve the performance of the water distribution system;
 - (b) a study has been prepared by a qualified person verifying that there is a water quality or quantity problem that cannot reasonably be rectified by an alternative means;
 - (c) there are environmental concerns related to the long-term integrity of on-site sewage disposal systems and a wastewater management plan is also considered in accordance with Policy SU-19; and
 - (d) an area charge needed to pay for growth related improvements to the water, or stormwater services has been approved by the Review Board or Halifax Water has advised that an area charge is not required.

9.5 THE REGIONAL SUBDIVISION BY-LAW

A Regional Subdivision By-law was adopted concurrently with this Plan. This By-law is an effective tool in achieving various objectives of this Plan such as regulating where municipal water and wastewater services will be provided and establishing design standards for municipal streets and parkland acquisitions.

G-11 When amendments to the Regional Subdivision By-law are brought forward for approval, HRM shall consider whether the proposed amendments are consistent with or further achieve the objectives and policies of this Plan, including any plans referenced by policies of this Plan for guidance.