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Item No. 7.1.1 (i)
North West Community Council
July 20, 2015

TO: Chair and Members of North West Community Council

Original Signed

SUBMITTED BY:

Bob Bjerke, Director, Planning & Development

DATE: June 24, 2015

SUBJECT: **Case 01192: Halifax Stanfield International Airport: Regulation of Adjacent Development - Response to Council Questions**

SUPPLEMENTARY REPORT

ORIGIN

At its June 15, 2015 meeting, North West Community Council passed a motion directing staff to prepare responses to questions raised at the meeting and report back to Council by the next scheduled meeting of July 20, 2015.

LEGISLATIVE AUTHORITY

Halifax Charter Sections 229(1)(p) & 235 (5)(q) establish the ability for the Municipality to regulate development in areas near airports.
Policy EC-14A of the 2006 Regional Municipal Planning Strategy
Policies EC-10 and 11 of the 2014 Regional Municipal Planning Strategy

RECOMMENDATION

It is recommended that North West Community Council recommend that Halifax Regional Council:

1. Approve the amendment package presented at the June 15, 2015 meeting; and
2. Schedule a public hearing.

BACKGROUND

At the June 15, 2015 North West Community Council meeting, a staff report was tabled with recommended amendments to the Districts 14 & 17 Municipal Planning Strategy and Land Use By-law and the Regional Subdivision By-law. A copy of the report and amendments can be found at:

<http://www.halifax.ca/Commcoun/central/150615nwcc-agenda.php> under item 10.1.1

Council passed a motion which requested staff to respond to requests for three pieces of information:

1. **Further clarification/information regarding reducing the allowable lot frontage from the proposed 300' to 200' and number of new residences that would be permitted because of the change.**
2. **Other potential forms of restrictions, such as the construction of homes with sound barriers**
3. **The potential for lands within the NEF which can be zoned commercial (ie: a quarry etc.)**

Staff have prepared responses to these questions as provided in the discussion section of this report.

DISCUSSION

Question 1 - Further clarification/information regarding reducing the allowable lot frontage from the proposed 300' to 200' and number of new residences that would be permitted because of the change.

The proposed NEF 30 Contour covers portions of five of the seven residential zones in the Districts 14 and 17 Plan area. Of these five zones, only the Rural Estate (RE) zone requires a minimum of 200 ft. frontage in order to create a new subdivided lot; all other residential zones require a minimum of 100 ft. of frontage for this purpose.

The residential subdivision capability that would be permitted if the proposed policy changes were to be approved by Council is largely dictated by two central factors. These factors are the established community settlement pattern within the area, and the Nova Scotia Department of Environment minimum lot size requirements for on-site services. Many of the long existing residential properties are large in area, but lack adequate existing road frontage. Additionally, many of the recently subdivided parcels do not contain a large enough land area to accommodate on-site (well and septic system) infrastructure which is required for further subdivision.

Existing LUB Frontage Requirements

The staff memo to the Development Liaison Group (Attachment I of the May 11, 2015 Staff Report) referenced the potential future subdivision of 176 additional lots using the existing Land Use By-law (LUB) zone minimum frontage requirements. As the 176 lots included the 53 parent parcels, the number of potential new lots is 123.

Proposed 300 ft. Frontage Requirements

The analysis of the proposed amendments of a uniform minimum of 300 ft. frontage requirement for all residential zones reduced the existing LUB potential future subdivision from 123 to 46 lots.

Proposed 200 ft. Frontage Requirements

Reducing the proposed amendments minimum required frontage from 300 ft. to 200 ft. results in an additional 23 lots. When combined with the previous DLG memo analysis of 46 the total number of potential lots equals 69.

Question 2 - Other potential forms of restrictions, such as the construction of homes with sound barriers etc.

Staff addressed five alternatives to the use of the proposed planning document amendments in the Discussion section of the submitted May 11, 2015 Staff Report, under the sub-heading "Other Alternatives to Deal with Airport Noise". As outlined within the report these options include the following:

Notice on Deed/Noise Disclosure: A Notice on Deed would involve a disclosure on the land title indicating that the subject property could potentially be impacted by noise generated from a nearby airport. The use of noise disclosures does not solve the issue of airport noise. Such disclosure simply formally identify that the lands are subject to frequent noise from an airport, but do not reduce the conflict. They simply act as advisory. Transport Canada recommends the limiting of new land uses which are not compatible.

Airport or Government to Purchase Affected Lands: The purchase of private properties surrounding airports to deal with noise complaints is not a recommended practice. Transport Canada recommends dealing with land use issues before they are created by not permitting activities which would be in conflict. Neither the HIAA nor any other levels of government have the resources to embark on a land acquisition program. Notwithstanding the lack of resources, the acquisition of land is a very effective means of dealing with conflicting land uses.

Sound Insulation/Building Code Modifications: The practice of insulation and noise control techniques in relation to a building can achieve reduction of aircraft noise. There is a lack of a national standard relating to aircraft noise and appropriate insulation techniques, thus the creation of a program would be time consuming and complex. CMHC has previously developed a sound insulation standard for use around airports. This standard is out of date and is no longer recommended by Transport Canada. Further the major limitation of insulation is that it only improves noise issues within a building and does not generate any improvement on outdoor activities.

Mitigating Airport Activities: There are various techniques that can be used by an airport to manage aircraft noise. All of these techniques have some impact at managing noise, but ultimately airport noise will exist at an airport. The following are some of the techniques that an airport can employ to manage noise: pilot awareness programs, access restrictions (limiting flights, usually at night), enhanced navigational aids, restricting apron/gate power, noise barriers, berms and shielding, preferential runway use programs, flight path programs, thrust and flap management programs, etc. These techniques do not effectively deal with the land use conflict.

Compensation: It has been suggested that property owners should be compensated for changes to land use regulations. Changes to planning regulations are considered non-injurious by the Halifax Charter and thus, not eligible for compensation.

In addition to the above, and as further detailed in Transport Canada document TP1246 (Attachment K of the May 11, 2015 report), the application of any or all of these mitigating approaches is not deemed an acceptable solution by Transport Canada.

Question 3 - The potential for lands within the NEF which can be zoned commercial (ie: a quarry etc.)

Community Plan

The Districts 14 and 17 Shubenacadie Lakes Municipal Planning Strategy establishes the community's goals and aspirations for future development. To guide this growth, the Plan policy statements approved by Council direct how and where residential, commercial and industrial land uses are located, while ensuring areas identified for environmental protection are preserved.

The proposed NEF 30 Contour overlays four land use designations as shown on the attached Map 1, Generalized Future Land Use. The future land use intent and general location within the NEF 30 Contour of each of these designations is as follows:

Airport: To recognize the unique opportunities offered by the Halifax Stanfield International Airport, the Designation reflects the importance of the airport as a major regional facility (Approx. 5,000 acres in combined area).

Resource: Primarily intended to recognize both the tradition of resource use and the need to provide for future growth. Portions of Resource designated lands are located to the west, east and north of the HSIA (Approx. 2,000 acres).

Residential: to recognize, support and protect the predominantly low density residential environment along with associated community uses such as churches, schools, community halls, and police and fire stations. In addition, the Residential Designation supports certain home businesses which will not be incompatible with the residential environment. Lands designated Residential are located exclusively west of the HSIA in the Oakfield subdivision (Approx. 400 acres).

Mixed Residential: to recognize and support the existing semi-rural environment while providing for the protection of the more suburban type residential neighbourhoods, and to recognize the importance of protecting the area's sensitive natural environment. In order to reduce the possibility of land use conflict and to protect the natural environment as the area grows, limitations are placed upon the business use of a residential property and the development of resource uses. In addition to recognizing existing smaller local commercial uses, Council may also consider permitting local commercial and personal service uses and associated residential uses. The Mixed Residential designation applies to lands located to the north, east and west of the HSIA (Approx. 4,000 acres).

Commercial Land Uses

While the Residential and Mixed Residential designations provide for limited local commercial uses, larger scale commercial uses are directed to the Community Centre Designation. While not encompassed by the proposed NEF 30 Contour, the Community Centre Designation is intended to recognize, support and encourage the continued development of small village-style commercial centres and to provide for the development of larger more regionally oriented commercial uses in concentrated locations. The designation limits the size, type, mix of commercial services, office and residential uses in locations served by the secondary road network, while providing for the location of larger uses near the major highway network.

Should it be Council's desire to consider significant changes to the Plan wherein commercial land uses are expanded beyond the extent envisioned in the Community Plan it is highly recommended that these changes be considered within a separate process. Typically these types of amendments would warrant a full secondary plan review process and Regional Council approval. These types of changes were not the subject of staff review in the scope of the NEF Contour plan amendments being considered within this project, nor were they considered within any of the engagement sessions with the members of the public.

Quarries

The recent Nova Scotia Court of Appeal decision 2015 NSCA 44 Northern Construction Enterprises Inc. v. Halifax Regional Municipality (dated May 12, 2015) determined the Municipality has no jurisdiction to

regulate quarry operations. As quarries and their operation fall exclusively within the jurisdiction of the Province of Nova Scotia the Municipality's planning documents on the issue are superseded.

A copy of the decision can be found at: <http://decisions.courts.ns.ca/nsc/nsca/en/item/109595/index.do>

Notwithstanding the aforementioned Nova Scotia Court of Appeal decision, for Council's information, the Districts 14 & 17 Community Plan addresses community concerns regarding pits and quarries near residential areas with Plan policy seeking the authority to control their location. Plan policy also restricts pit and quarry locations to the Resource Designation located to the north of the Oldham and Goffs Roads, as well as to the south of Goffs Road and to the east of the Halifax Stanfield International Airport (Attachment A).

SUMMARY

Staff recommend that North West Community Council recommend that Halifax Regional Council give first reading to the amendment package presented at the June 15, 2015 meeting and schedule a public hearing.

FINANCIAL IMPLICATIONS

The costs to process these planning document amendments can be accommodated within the approved 2015/16 operating budget for C320 Planning & Development.

COMMUNITY ENGAGEMENT

A public participation program was undertaken in accordance with that approved by Council. A summary of this program is included in the May 11, 2015 staff report.

ENVIRONMENTAL IMPLICATIONS

This report does not have environmental implications.

ALTERNATIVES

1. Regional Council could choose to not amend the planning documents, thereby maintaining the existing planning policy and regulations. Regional Council has complete discretion in taking this action and its decision is not subject to appeal. This is not recommended as the amendments are a result of existing Regional MPS policies and is a further implementation of the direction provided by Council.

2. Council could seek amendments to the proposed planning policy and regulations which are more or less stringent from those that have been proposed in the attachments. Depending on the magnitude of the desired amendments, a new review process and public hearing may be required. This is not the recommended course of action.

ATTACHMENTS

Map 1	Districts 14 & 17 Generalized Future Land Use Map
Attachment A	Districts 14 & 17 Municipal Planning Strategy Excerpts

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

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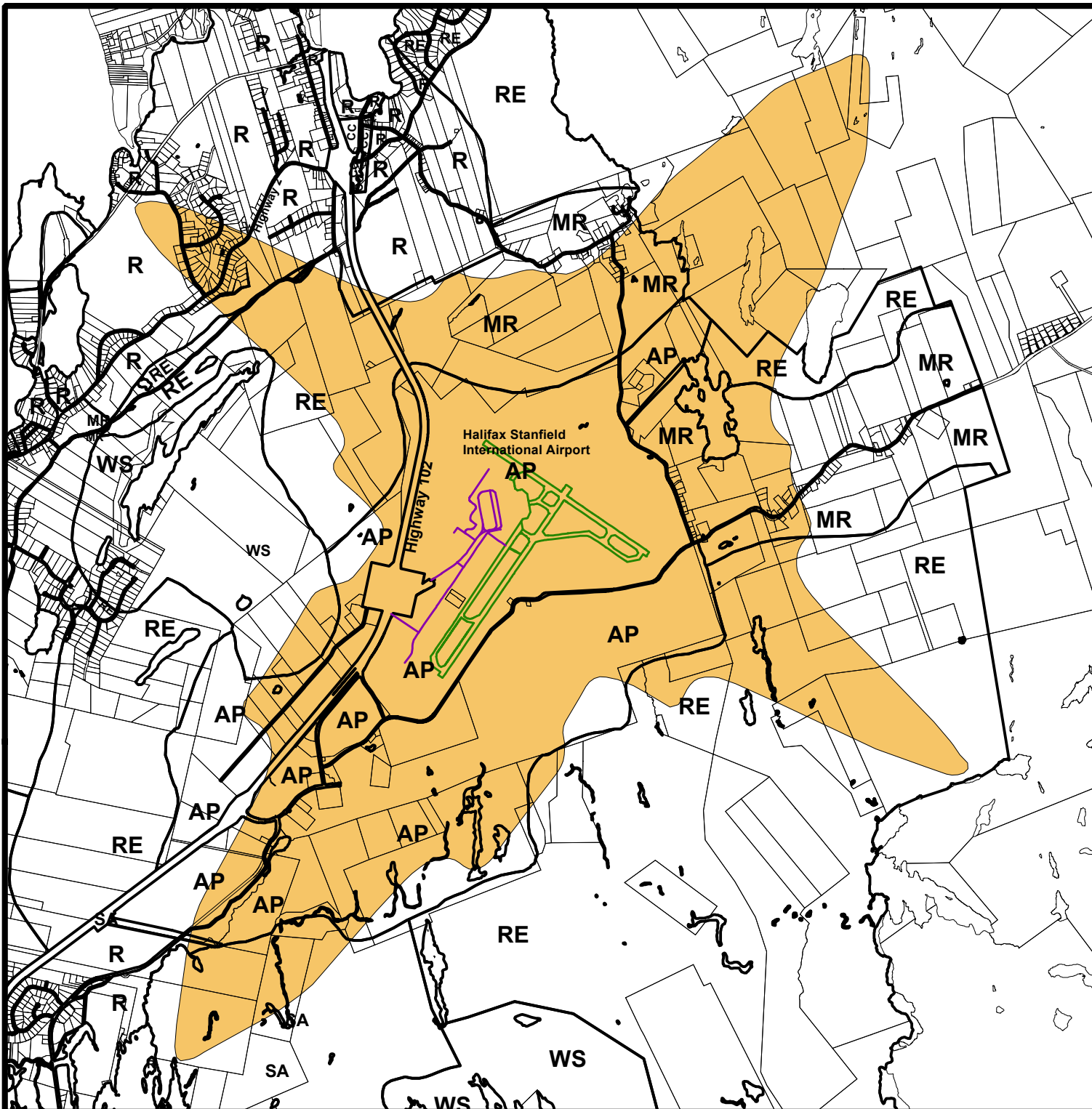
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Map 1
Generalized Future Land Use



NEF 30 Contour

HALIFAX

R Residential Designation
MR Mixed Residential Designation
AP Airport Designation
WS Watershed Designation

CC Community Centre Designation
RE Resource Designation
SA Special Area Designation



Attachment A
Districts 14 & 17 Municipal Planning Strategy Excerpt

LAND USE INTENT

The **Generalized Future Land Use Maps 1A and 1B (RC-Oct 23/12;E-Jan 12/13)** illustrates seven (7) land use designations intended to direct the pattern of future development in the Plan Area. The designations reflect existing development patterns as well as the potential for a transition of uses. The designations are:

- (a) Residential
- (b) Mixed Residential
- (c) Community Centre
- (d) Industrial
- (e) Special Area
- (f) Watershed
- (g) Resource

The Residential Designation recognizes the pattern of suburban residential development which has occurred in parts of the Plan Area in recent years, and which is expected to continue. This pattern of growth is associated with the improved accessibility provided by the 100 series of highways and affects the communities of Waverley, Fall River, Fletchers Lake and, most recently, the Enfield area. The development pattern is one of low density single unit dwellings with scattered two unit dwellings and some home business uses.

The Mixed Residential Designation has been applied to areas less influenced by suburban type development which have retained a more traditional semi-rural character. This designation includes communities such as Grand Lake, Goffs, Wellington, and Oldham. A linear pattern of single and two unit dwellings with mobile homes and interspersed community uses has resulted. Business uses are common and resource based activities are also dispersed throughout the area. Limited suburban style development has taken place. The designation recognizes the need to protect the natural environment and to minimize the potential for conflicts.

The Community Centre Designation recognizes existing shopping and service areas in the ~~communities~~ community (RC-Oct 23/12;E-Jan 12/13) of Waverley ~~and Fall River~~ (RC-Oct 23/12;E-Jan 12/13), and provides for the development of similar centres in other communities as well as near major highway interchanges. Present commercial development is oriented towards local markets and this pattern is expected to continue reinforcing the community centre/village atmosphere. The continuation of this pattern of commercial development is encouraged as is the realisation of new commercial opportunities derived from the 100 series highways. Interchanges on these highways have the potential to support a more regional scale of highway oriented commercial development.

The Industrial Designations recognize the distinction between the needs of private industrial developers and the needs of the Municipality in establishing the Aerotech Business Park. The Airport Industrial Designation provides for the Municipality's commitment to industrial growth and improved employment opportunities through the development of the Aerotech Industrial Park. The Light Industrial Designation accommodates existing industrial uses located in the Plan Area, as well as areas which are advantageously located with respect to the transportation network.

The Resource Designation recognizes the long tradition of resource use in the Plan Area, and the need to provide for its continued activity. However, the designation also recognises that future development throughout the Plan Area will be largely residential and that it will, therefore, be necessary to encourage compatibility between the resource and residential land uses which may in future occupy these lands. This is a secondary area for residential development.

Aggregates

Pits and quarries producing gravel, fill, or crushed rock provide commodities essential to modern construction methods. However, proposals for new pits and quarries, particularly in the southern portions of the Plan Area have raised serious public concerns. In addition to considerations of environmental impact and public safety, there are also concerns with the location of such uses close to rapidly growing residential areas.

The Planning Act states that a municipal planning strategy may protect pits, quarries and aggregate deposits and regulate developments adjacent to pits and quarries. Council has asked the Province to provide municipal governments with the authority to control the location of pits and quarries. Thus far, such authority has not been given.

P-133 It shall be the intention of Council to continue to seek the authority to control the location of pits and quarries in the Plan Area.

The maintenance of an adequate supply of aggregate materials is of regional concern. Although there are portions of the Province where suitable rock is in short supply, this situation does not appear to be the case in the metropolitan region. However, the need to identify and protect, as yet untapped future sources, is important.

P-134 It shall be the intention of Council to cooperate with and encourage the Provincial Department of Mines and Energy to identify areas of high quality aggregate materials in the Plan Area.

While the specific locations of high quality aggregate resources have not yet been identified, it is apparent that additional exploitation of the deposits in the southern portion of the Plan Area will create severe long-term conflicts with the expanding residential communities. There are, however, large areas within the northern and eastern portions of the Plan Area where acceptable locations for future aggregate operations may be found.

When and if the Municipality is empowered to specifically regulate and prohibit the location of pits and quarries, it is important to have an established policy and regulatory structure. In this regard, it is appropriate for the Council to provide for the development of new pit and quarry operations in specific portions of the Resource Designation while prohibiting the expansion of existing operations.

P-135 In recognition of both the need for aggregates and the importance of expanding communities, when so empowered by statute, it shall be the intention of Council to permit the development of new pits and quarries only in those portions of the Resource Designation located to the north of the Oldham and Goffs Roads as well as to the south of the Goffs Road and to the east of Halifax International Airport.

Public and municipal concerns with respect to the overall impacts of pits and quarries on nearby communities, the safety and integrity of the public road network and the protection of natural environment can be expected to continue. In order to provide for adequate consideration of these concerns, it is appropriate to consider such uses by development agreement.

P-136 Within the portion of the Resource Designation described in Policy P-135, it shall be the intention of Council to consider the development of extractive facilities according to the provisions of Sections 55, 66 and 67 of the Planning Act. In considering such an agreement, Council shall have regard for:

- (a) the provisions of the Provincial Department of Environment's proposed Regulations for Pits and Quarries where applicable;
- (b) the maintenance of adequate separation distances from other non-industrial land uses;
- (c) the impact of the proposed use on the development and use of lands at or near Halifax International Airport;
- (d) the effect of the proposed use on surrounding traffic patterns and general public safety;
- (e) hours of operation;
- (f) provisions for limiting public access to the site;
- (g) provisions for the ongoing rehabilitation and ultimate reuse of the lands;
- (h) the location of structures and storage areas on the site;
- (i) the effects of the use on the natural environment as contained in a report from the appropriate provincial or federal government authority; and
- (j) the provisions of Policy P-155.