

**Dartmouth Lakes Advisory Board
September 5, 2012**

TO: Chair and Members of Dartmouth Lakes Advisory Board



SUBMITTED BY: Richard MacLellan, Acting Director, Planning & Infrastructure

DATE: August 10, 2012

SUBJECT: Erosion & Sedimentation Control via HRM Development Processes

INFORMATION REPORT

ORIGIN

Discussion of Item 6.1.1 at the June 6, 2012, Dartmouth Lakes Advisory Board (DLAB) meeting.

BACKGROUND

The RP+5 Public Consultation process in the Spring of 2012, engaged the Halifax Regional Municipality (HRM) residents, as well as groups and organizations, in considering their communities. One of these groups, the Oathill Lake Conservation Society (OLCS), submitted their recommendations on lakes and watercourse to the RP+5 team and subsequently submitted those same considerations to DLAB for its consideration.

The discussion of this set of policy recommendations highlighted the issue of erosion and sedimentation control, and the circumstances of its use by HRM.

DISCUSSION

1. Preamble

The Province of Nova Scotia has the sole authority to regulate Erosion and Sediment Control (ESC) plans; consequently, HRM exercises no regulatory control over ESC. However, HRM does have the authority to require developers to conform to existing by-laws and to submit ESC plans, in accordance with the planning and development process through which construction occurs. ESC Plans submitted to the HRM must include Site Engineering Analysis to a level consistent with the size of the development, its location within the drainage basin and the sensitivity of the area's drainage system.

2. Development Processes

ESC Plans are required for development activities that involve construction. This activity is only enabled through a Subdivision Agreement or a Building Permit. Developments Agreements, Site Plan Approvals, and Subdivision Approvals are processes that precede the construction process.

2.1 Development Agreement

A Development Agreement (DA) is a negotiated agreement between the property developer and HRM Regional Council. This process is used in cases where the proposed subdivision of land is not in compliance with all existing zoning and Land Use By-Laws (LUBs).

How is ESC applied?

Depending on the nature of the Development Agreement, the requirement for an ESC Plan may be written into the document to be supplied as a part of the detailed design drawings. Development Agreements do not directly enable construction to occur.

2.2 Site Plan Approvals

A Site Plan Approval is a regulatory tool enabled under the *Halifax Regional Municipality Charter* that replaces the use of development agreements in certain areas. Currently, these areas include downtown Halifax, downtown Dartmouth, some areas of downtown Sackville and various Construction & Demolition (C&D) locations. Site Plan Approvals are typically employed in smaller-scale areas where a building already exists on a lot with street frontage.

How is ESC applied?

The Halifax Regional Municipality Charter Act does not enable HRM to require ESCPs through Site Plan Approvals. Erosion and sedimentation are not controlled through Site Plan Approvals. Site Plan Approvals do not directly enable construction to occur.

2.3 Subdivision Approvals

A Subdivision Approval is the result of a successful Subdivision Application. The Subdivision Application process enables property owners to subdivide a property into two or more lots, and it occurs As-of-Right if the property developer plans to develop in compliance with all existing zoning and Land Use By-Laws (LUBs).

From a regulatory perspective, there are two primary types of Subdivision Approvals:

- A) Infill developments with existing frontage on municipal services (roads, etc.);
- B) Other developments without such frontage, which require the construction of new roads or the installation of municipal services.

Type 'A' subdivision approvals are not required to submit ESC Plans as no construction activities are permitted by this process.

Type 'B' subdivision approvals are required to develop and submit ESC plans (ESCPs). These Plans must be developed by a professional engineer in accordance with the provincial Erosion and Sedimentation Control Handbook for Construction Sites. Responsibility for the performance of ESCPs is held by the engineer whose signature and stamp appear on those plans as well as the contractor – not by HRM.

How is ESC applied?

HRM's Development Engineering staff are directly involved in the review of road design and central sewer services. ESCPs are required of developers. These plans are reviewed by HRM staff and forwarded on to the Nova Scotia Department of Environment (NSE).

2.4 Subdivision Agreement

A Subdivision Agreement (SA) is a written contract between the Halifax Regional Municipality and the subdivider which describes the responsibilities of each party with respect to the subdivision and servicing of the land as outlined in the Regional Subdivision By-Law. Prior to the SA being signed, a review of the detailed design drawings are completed and, when necessary, comments are provided by a variety of departments and agencies back to the applicant for required changes or modifications to the drawings. Upon completion of this review and the signing of the SA, construction may commence once the proper permits are in place.

How is ESC applied?

Once construction commences, the contractor will need to comply with the various design drawings as completed by a Professional Engineer. HRM will conduct audit inspections of the site and communicate on an ongoing basis with the contractor regarding ESC concerns and modifications.

2.5 Building Permits

A Building Permit is a document which enables the construction of a structure and associated works. Prior to the issuance of a building permit, the applicable drawings are reviewed by various departments and changes are made where necessary.

How is ESC applied?

Building permits for smaller sites such as a single family home, duplex or town home, would not have ESC Plans created. Larger developments such as apartment buildings or commercial complexes would have ESC Plans created, as with these types of development there would be larger components of infrastructure such as manholes and catchbasins that would be constructed and connected to the central service systems.

3. Enforcement

The province of Nova Scotia has exclusive jurisdiction for the enforcement of erosion and sedimentation under Section 71 of the Environment Act. While HRM does not have the authority to enforce the Environment Act through regular site visits and communication with the contractor, the attempt is made to ensure the ESC Plans, and necessary modifications made thereto, are followed. When HRM is notified of alleged infractions of an ESCP, in addition to visiting the site and attempting to rectify the situation, notification is made to the appropriate district office of NSE. NSE may respond directly to these complaints as well as those brought directly to its attention – i.e., those not routed through the HRM.

BUDGET IMPLICATIONS

There are no budget implications associated with this report.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

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

COMMUNITY ENGAGEMENT

The Dartmouth Lakes Advisory Board is comprised of community members appointed by Harbour East Community Council, and one elected member of that council.

ATTACHMENTS

None

Erosion and Sediment Control via HRM

Development Processes

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A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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