

Halifax Regional Council  
January 21, 2004

To: Mayor Kelly and Members of Regional Council

Submitted by:   
George McLellan, Chief Administrative Officer

Date: January 16, 2003

Subject: Request to Minister of Municipal Affairs: Provincial Statement of Interest  
Regarding Infrastructure

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**ORIGIN:**

This report originates from Regional Planning Staff and the Provincial Statement of Interest regarding infrastructure (see Appendix C)

**RECOMMENDATION:**

**It is recommended that Halifax Regional Council Request that::**

The Minister of Service Nova Scotia and Municipal Affairs, in keeping with the Statement of Provincial Interest Regarding Infrastructure (Municipal Government Act), issue a Ministerial Order to establish an interim planning area for land within that part of HRM indicated in Map 1 for a period of 24 months or until amended or repealed. During the currency of the Ministerial Order, within the interim planning area, only one development permit per year allowing any new development containing a residential component shall be issued for each area of land in existence on the date of the Ministerial Order. Where such development is located on an area of land created after the date of the Ministerial Order, the new area of land shall have frontage on an existing approved private or public street. An area of land is exempt from this Order if prior to the date of the Order:

- a development agreement has been approved by Council; or
- a completed application for Final Approval of subdivision has been received; or
- a subdivision agreement has been executed with respect to the construction and acceptance of any service system; or
- Tentative Approval has been granted for subdivisions that involve private roads that are under construction as of the date of the Order.

## **BACKGROUND:**

HRM's regional planning project requires that Council consider amendments to existing property rights in HRM. Whenever this type of review takes place the options are to maintain the status quo, enhance existing property rights, or place new restrictions on some forms of development. The Goals and Objectives put forward by the Regional Planning Committee indicate that the status quo is not a viable option and it is very likely that some form of development restrictions may have to be adopted. There is a substantial risk that if no interim growth controls are put in place then Council's ability to adopt appropriate growth controls will be undermined.

The Province has attached Statements of Provincial Interest to the Municipal Government Act. Currently there are statements of interest relating to drinking water, flood risk areas, agricultural land, infrastructure and housing. These statements are not policy, but the Province states that "development undertaken by the Province and municipalities should be reasonably consistent with these statements."

The Goal of the Provincial Statement of Interest Regarding Infrastructure is "To make efficient use of municipal water supply and municipal wastewater disposal systems." This is based on the fact that all levels of government have made significant investment in providing municipal water supply and municipal wastewater disposal systems and that unplanned development will increase demand for costly infrastructure.

Regional Planning Principles (approved by Council June 10, 2003) reinforce the above, as do the draft Goals and Objectives.

The Regional Planning process is currently entering the stage where alternative land use and infrastructure development patterns will be mapped, in support of the Principles, Goals and Objectives. These land use and infrastructure development patterns will be implemented through a system of regulations and incentives - "growth management".

Past experience in HRM has shown that developers will undertake accelerated development approvals in order to pre-empt new growth management regulations. For example, more than 3,000 lots were created during the plan review process for the Hammonds Plains, Upper Sackville and Beaver Bank Plan Area, significantly undermining the original intent of the plan.

This potential for accelerated development presents a serious risk to the success of the Regional Plan (see Discussion) which can be solved by a Ministerial Order in support of the Provincial Statement of Interest.

## Previous Regional Plan

In 1975 the Province adopted the Halifax Dartmouth Regional Development Plan, and imposed growth management regulations on all areas outside of a Development Boundary. The Regional Development Plan placed limits on both the rate of sub-division approvals as well as the rate at which development permits could be issued on existing lots (See Appendix “B”).

The 1975 Regional Development Plan growth controls remained in effect until 1986. At this point in time community planning strategies and land use by-laws had been adopted for almost all areas in Halifax County which were outside the development boundary.

Several other provinces including Ontario, British Columbia and Alberta, as well as US states support municipal needs by creating growth management regulations to enable more effective regional planning at the municipal level.

## **DISCUSSION:**

The Regional Plan will need more comprehensive growth management than current community plans enable if the desired outcomes identified in the Goals and Objectives are to be achieved. The proposed interim limitation on issuing building permits through Ministerial Order is the most effective course to ensure Council’s ability to establish meaningful policy is not compromised.

The area to be effected by the Ministerial Order is shown on Map One. It includes all of the area outside the serviceable area boundaries or residential development boundaries and water service district boundaries as described in the appropriate Municipal Planning Strategies. The line on Map One for the Halifax Municipal Planning Strategy area is somewhat different in that it is not specifically described in the plan. The line describes where municipal water and sewer services are currently available. The area outside the line is covered by a holding zone which specifies development must occur on municipal services so these areas cannot develop until services are extended. The approach to extending services is normally agreed upon through a rezoning and development agreement process. If this process occurred during the period covered by the ministerial order then only one permit would be issued for any area of land with existing road frontage.

Work on the Region’s Master plan areas continues. The areas under master planning known as Bedford West, Morris-Russell Lake and Governor’s Lake North and any other area undergoing possible amendments to the Municipal Planning strategy are included in the Interim Plan area to be established by the Ministerial Order. However, the Ministerial Order can be changed at the appropriate time. The Minister’s signature is required to endorse any change to a Municipal Planning Strategy. This entails staff forwarding appropriate documentation on the amendments to the Minister after they have been approved by Council. The Minister can sign any required

change to the Ministerial Order at the time he signs off on other planning documents.

Growth management in HRM is generally limited to areas within or adjacent to urban/suburban areas. Limits on the rate of subdivision approvals have also been implemented in Hammonds Plains, Beaverbank, Upper Sackville, and Cow Bay in response to community issues. (See Appendix “A” for a list of current growth management tools).

Beyond these areas, there are very large land areas where “by right” rural estate subdivision is currently permitted. It is this very large area that is the main focus of this report and recommended action. There are approximately 25,000 acres of vacant land scattered throughout the rural commutershed which are owned by companies that have a development interest. There are hundreds of thousands of acres of land held by companies involved in forestry related activities which also have development potential based on current zoning. These lands could be put into residential development rapidly if land owners perceived a risk of increased regulation. Large numbers of subdivision applications in anticipation of growth management regulations (as has happened in the past) would prevent HRM from achieving the outcomes outlined in the Provincial Statement of Interest.

Experience has shown that the landscape of HRM may not sustain large-scale developments with individual on-site services, approved without the benefit of broad-based assessments on groundwater, soils, and watercourses. These developments often lead to requests for extension of central water and/or sewer services, in order to solve environmental and public health risks. The Provincial Statement of Interest is very clear on reducing the need for new infrastructure, and recommends that the following measures be considered:

- (a) encouraging maximum use of existing infrastructure by enabling infill development on vacant land and higher density development;
- (b) discouraging development from leapfrogging over areas served by municipal infrastructure to unserved areas;
- (c) directing community growth that will require the extension of infrastructure to areas where serving costs will be minimized. The use of practical alternatives to conventional wastewater disposal systems should be considered;
- (d) identifying known environmental and health problems related to inadequate infrastructure and setting out short and long-term policies to address the problems including how they will be financed.

There are many other risks associated with proceeding under the current regulations while the Regional Plan is being adopted, and significant benefits to be achieved through the recommended action, as outlined below.

#### Risks of Proceeding with Current Regulations during Adoption of a Regional Plan

- increase in the frequency and severity of water quantity and quality problems related to un-served development;

- undermine the ability of Council and citizens to engage in a meaningful public debate - choices will be limited as developers respond to the public issues prior to Council making decisions;
- Increase the frequency and severity of negative impacts on existing users of groundwater resources by permitting additional unserviced development to exceed the safe yield capacity of the existing aquifers.
- Increase the number of lost opportunities to extend municipal water to areas with known groundwater problems at the Developers' cost thereby committing the municipality to future servicing retrofit assessments and obligations.
- increase traffic on the trunk highway network as well as to the Arterial system, in areas which may not have adequate capacity;
- increase cost to major infrastructure and service delivery (eg road construction, transit operations, fire protection, policing, etc.) and a subsequent increase in the tax burden,
- undermine/reduce the success of the long-term regional plan if growth occurs in the wrong location;
- loss of open space and resource land, unnecessarily, to residential development;
- Failure to respond to public feedback to take steps now to manage (regionally) unplanned growth

#### Benefits of Proceeding with Interim Growth Management (Ministerial Order)

- Publicly generated Regional Plan Principles, Goals and Objectives are supported
- Public discussion and debate are encouraged and opportunities aren't lost while public participation proceeds
- Future revenue planning (and use of tax dollars) can focus on publicly generated priorities rather than having to respond to expensive and inefficient development patterns

#### Risks of proceeding with Interim Growth Management Regulations

- Increasing the cost of homes by reducing the number of lots which are available for new housing starts.  

A significant proportion of new housing starts are now on un-serviced lots, however, there are ample lots in place to accommodate this demand. There are approximately 2,700 lots available and about 700 hundred are built upon each year in this part of HRM. There are an additional 2,000 lots in areas of HRM where municipal services are provided and additional lots will continue to be created. There are no restrictions on permitting activity in serviced areas of HRM proposed.

The short time frame of the proposed Ministerial Order will not cause a shortage of

housing as: permits will continue to be issued on existing vacant lots outside of the serviceable area boundary and there will be continuation of plan amendment processes to expand the servicing boundary through the Master Plan Program.

### Options

1. Council could choose to proceed to implement interim growth management regulations through the municipal plan amendment process. The Municipal Government Act requires Council to undertake a public participation program before it places a notice in the newspaper of its intention to introduce growth management regulations through an amendment to a Municipal Planning Strategy. The contents of the public participation program are at the discretion of Council however, where they exist, Planning Advisory Committees must be consulted. Land owners would have ample opportunity to proceed with applications to subdivide their lands where new regulations are contemplated, thus undermining the intent and making success unlikely.

2. Council could choose to exempt areas in HRM such as Hammonds Plains, Beaver Bank and Upper Sackville as well as the Cow Bay area where strong growth controls already exist. This may have an adverse effect on these areas in terms of attracting growth which could not be sustained by the existing infrastructure. The existing regulations in these areas control the rate of subdivision development and establish the areas in question as having more stringent controls than other parts of HRM. If they are not included in the new controls their status will be reversed in that their form of growth control will be somewhat weaker than other areas of the municipality.

3. Council could choose to exempt the rural eastern area of HRM outside of the rural comutershed. However, this not recommended because it may open the door to development activity in sensitive communities and coastal areas.

### **Alignment with Regional Planning**

The recommended action supports the Regional Planning Principles, draft Goals and Objectives, and public feedback related to Regional Planning.

### **BUDGET IMPLICATIONS:**

There will be significant negative impacts on future capital budgets if interim growth management regulations are not implemented and accelerated un-serviced development occurs.

There is no impact on the operating budget associated with the recommended action.

## **FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN:**

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

## **ALTERNATIVES:**

Council could decide not to implement interim growth management regulations. This is not recommended for the reasons outlined in the report

Council could choose to implement interim growth management regulations through the existing plan amendment process without requiring the assistance of the Minister. This is not recommended for the reasons outlined in this report.

Council could choose to extend the time frame of the requested Ministerial Order. This is not seen as necessary as the proposed time frame of 18 months fits within the time line of the Regional Planning process previously approved by Council. If the Regional Planning process extends for any reason, Council may have to request that the Minister extend the time frame of the Order.

## **ATTACHMENTS:**

Appendix A: Existing Growth Management Regulations

Map1: Growth Management Areas

Appendix B: Halifax Dartmouth Regional Development Plan Excerpt

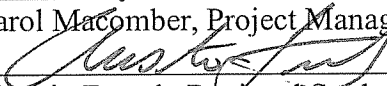
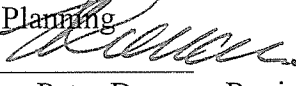
Appendix C: Statement of Provincial Interest on Infrastructure

Appendix D: Frequently asked Questions and Answers

Appendix E: Halifax Water Commission Letter Re: Groundwater Issues in HRM

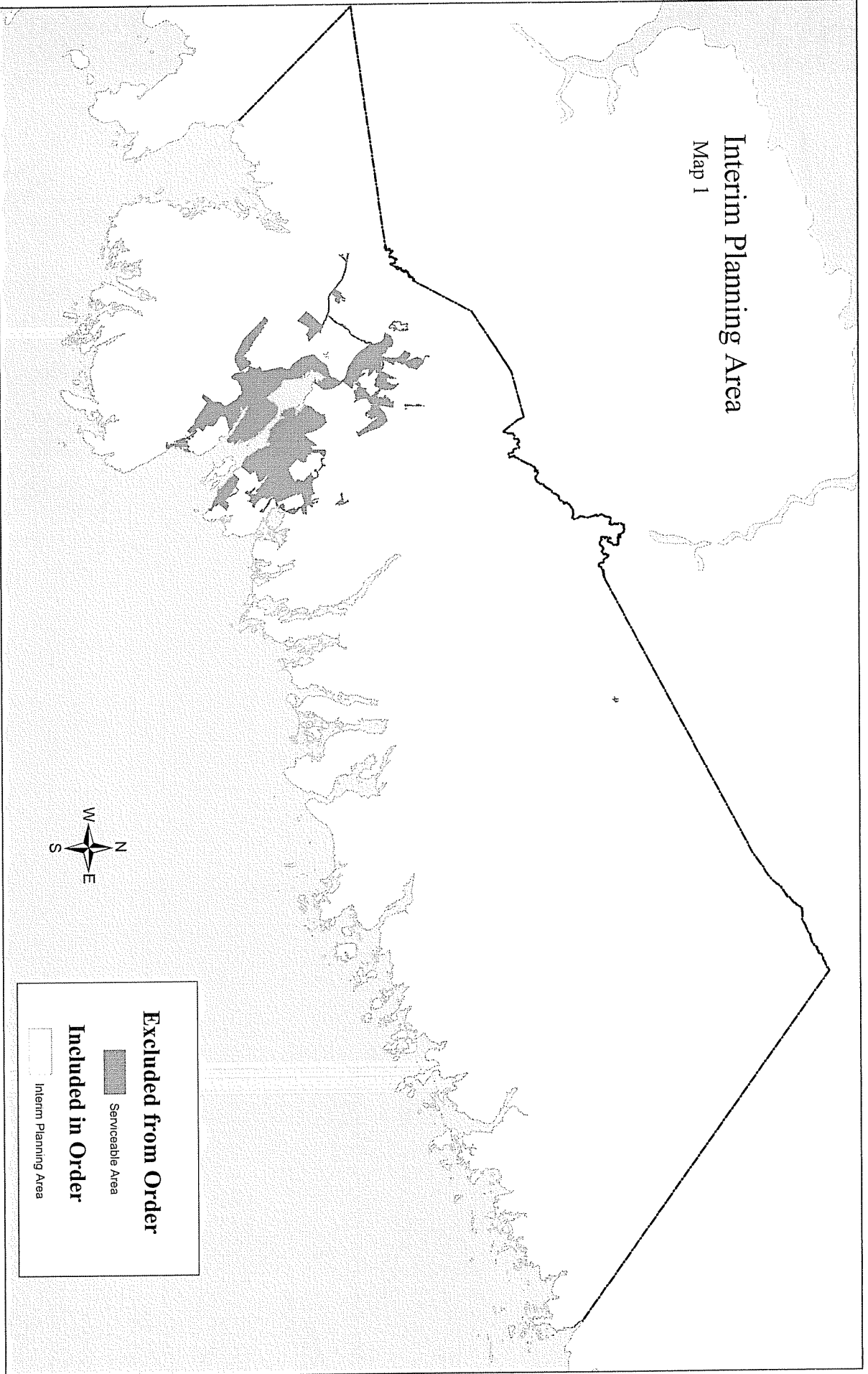
Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Approved by:   
Carol Macomber, Project Manager Regional Planning

Report Prepared by:    
Austin French, Regional Settlement Manager, Peter Duncan, Regional Environment Manager



# Interim Planning Area Map 1



**Excluded from Order**

Serviceable Area

**Included in Order**

Interim Planning Area

## **Appendix “A”**

### **Existing Growth Management Tools**

The following growth management tools are currently used in some form by HRM:

- Service Boundaries

The most fundamental form of growth management within the existing Municipal Planning Strategies in HRM consists of a network of servicing boundaries (Map A). Only development within these boundaries may hook into municipal services.

Approximately 76 percent of HRM’s population lives within boundaries where both sewer and water services are provided. A small percentage of the population lives within boundaries where only water service or only sanitary sewer service is provided. Approximately 20 percent of HRM’s population lives in areas outside servicing boundaries in the area generally referred to as the rural commutershed. Properties in the rural commutershed are serviced by on-site well and septic systems.

- Holding Zones

Much of the land area on the edge of the servicing boundary is under a Holding Zone status which permits very limited forms of development in contemplation of services eventually being extended to these areas.

- Limit the Number of Lots

Section 271(4)(c) of the Municipal Government Act allows the municipality, further to an amendment to all municipal planning strategies, to limit the number of lots that may be created in a calendar year. This provision of the Act is currently supported by policy in Hammonds Plains, Upper Sackville and Beaver Bank, as well as in Eastern Passage and Cow Bay.

This authority exists now under the MGA, and could be applied HRM-wide. This approach does allow for some subdivision activity.

A majority of HRM’s municipal planning strategies and land use by-laws, as well as its subdivision by-law would require amendments in order to bring about limitations on lot approvals. It is expected that some subdivision activity would occur during the process to amend these documents. In addition, some level of controversy, due to loss of property rights, especially for large land holdings, could be expected.

- “Master Planning” Program

HRM initiated a Master Plan program four years ago to identify and investigate potential for serviced development in priority growth areas. This is an important mechanism for controlling sprawl and traffic congestion in that it supports transit-friendly development in locations with good access to existing services and employment centres.

The following growth management tools are currently enabled by the MGA but are NOT currently used by HRM:

- Infrastructure Charges Holding Zones

All HRM Land Use By-laws allow for the Council to establish Infrastructure Charges Holding Zones. These zones are intended to essentially halt all development activity for a period of one year to give Council the opportunity to undertake a study and create a Comprehensive Development District (CDD) or similar zone.

The Holding Zone approach enables HRM to target specific “hot spots” and pro-actively address concerns for over-extending the capacity of the infrastructure before problems become too severe. It may be welcomed by landowners concerned that neighbouring landowners are over-extending local infrastructure. It can be used in conjunction with incentives to cooperate with long range planning such as the potential extension of piped sewer and water services. Funds have been set aside for required studies.

The Infrastructure Holding Zone can only be applied to a specific geographic area. It requires approval of the Community Council further to a public hearing and requires that HRM undertake studies costing in the area of \$50,000 to \$100,000.

- Decline to Accept New Roads

Section 271(4)(a) of the Municipal Government Act states that further to an amendment to a Municipal Planning Strategy, the municipality may prohibit new municipally-owned streets in all or part of the municipality, where in the opinion of Council, they would be premature.

While this provision could be applied region-wide to limit subdivision activity to existing roads, it would not entirely eliminate subdivision activity and some subdivision activity would occur while an amendment process is underway. A high level of controversy, due to loss of property rights, especially for large land holdings, could be expected.

- Building Permit Limitations

Section 220(5)(n) of the Municipal Government Act allows a municipality to apply a time-limited moratorium on development where providing services like sewer, water and

street maintenance would create an undue burden on the municipality. While this would not stop subdivision activity, the lots could not be developed until the moratorium expires.

Application of this section of the Act may occur only in serviced areas of the municipality, therefore cannot be applied in areas beyond the serviceable area boundary.

## **Appendix B**

### **Excerpt from Halifax Dartmouth Regional Development Plan**

The requested Ministerial Order would put in place interim controls very similar to those adopted by the Province through the Halifax Dartmouth Regional Development Plan in anticipation of areas undergoing municipal planning processes.

The Plan established a Development Boundary and policies dictating how development should proceed inside and outside the boundary.

Respecting areas outside the Boundary:

To control sprawl outside the boundary... to more effectively provide services to protect the rural environment..

Until the municipal development plan and by-laws are approved, development shall not be permitted on more than 20 lots that have received final approval after the coming into effect of this plan in any subdivision in any 12 month period.

Other than as stated above, no development shall be permitted in any subdivision not finally approved before the coming into effect of this Plan except for one lot per 12 month period with a minimum of 20,000 square feet and a minimum of 150 feet of road frontage.

Development permits were continued for industrial purposes.

## Appendix C

### Statement of Provincial Interest Regarding Infrastructure

#### Goal

To make efficient use of municipal water supply and municipal wastewater disposal systems.

#### Basis

All levels of government have made significant investment in providing municipal water supply and municipal wastewater disposal infrastructure systems.

Unplanned and uncoordinated development increases the demand for costly conventional infrastructure.

#### Application

All communities of the Province.

#### Provisions

1. Planning documents must promote the efficient use of existing infrastructure and reduce the need for new municipal infrastructure. Measures that should be considered include:

(a) encouraging maximum use of existing infrastructure by enabling infill development on vacant land and higher density development;

(b) discouraging development from leapfrogging over areas served by municipal infrastructure to unserved areas;

(c) directing community growth that will require the extension of infrastructure to areas where serving costs will be minimized. The use of practical alternatives to conventional wastewater disposal systems should be considered;

(d) identifying known environmental and health problems related to inadequate infrastructure and setting out short and long-term policies to address the problems including how they will be financed.

2. Where on-site disposal systems are experiencing problems, alternatives to the provision of conventional wastewater disposal systems should be considered. These include the replacement or repair of malfunctioning on-site systems, the use of cluster systems and establishing wastewater management districts.

3. Installing municipal water systems without municipal wastewater disposal systems should be discouraged.

4. Intermunicipal solutions to address problems and provide infrastructure should be considered.

## Appendix D

### Questions and Answers

### Concerning Interim Growth Controls in HRM

**Q: What are the Interim Growth Controls?**

**A:** With the Interim Growth Control, only one development permit can be issued on an “area of land” that existed prior to January \_\_, 2004.

The Interim Growth Controls only apply to residential uses in the Interim Plan Area. Any type of commercial, industrial or any other non-residential development may continue as before. Any residential use outside the Interim Plan Area can be developed.

Note: A residential lot is considered an “area of land”, so any lot, which was approved prior to January \_\_, 2004 can be developed.

In addition, new lots created after January \_\_, 2004 must be a minimum of 10 acres and must have frontage on an existing road.

**Q: What is included in the Interim Plan Area?**

**A:** See attached map.

**Q: What is subject to the Interim Growth Controls?**

**A:** Any property located within the Interim Plan Area, except properties that:

- are located in an area where an amendment to a Municipal Planning Strategy has been initiated by Council; or
- are subject to a development agreement that has been approved by Council; or
- are located in a subdivision where a “Subdivision Agreement” for construction and acceptance of any municipal service system has been signed by the Development Officer.

**Q: How long are the Interim Controls in place?**

**A:** 18 months.

**Q: Why 18 months?**

**A:** The Regional Plan will be completed in 18 months and will include new land use regulations.

**Q: Who implemented the Interim Controls?**

**A:** The Province of Nova Scotia issued a Ministerial Order at the Request of HRM Regional Council.

**Q: Why are Interim Controls necessary?**

**A:** HRM is currently developing a Regional Plan for land use. The Interim Controls are necessary to protect the integrity of HRM's Regional Plan.

The public will soon be asked to comment on growth and settlement patterns in HRM in upcoming workshops. As the regional plan takes shape, land developers may perceive that their ability to develop land will be restricted. In order to avoid new regulations, some developers may request development approvals faster than normal. If this happens it will undermine the intent of a Regional Plan.

Interim controls are necessary to slow development while the public is consulted and a Regional Plan is adopted.

**Q: Why was there no public consultation prior to adopting the Interim Controls?**

**A:** The controls are intended to protect the public participation process being conducted for Regional Planning.

Public input received to date indicates people feel strongly that HRM should look at reducing sprawl and this may require changing property rights. As indicated above, interim controls are the best way to allow discussion and debate to occur without being overshadowed by undue development pressure.

**Q: Why are Interim Controls only limited to a portion of HRM?**

**A:** The temporary restriction applies to areas where HRM is concerned that development is proceeding at a rate and in an area where it will be difficult to provide appropriate infrastructure and services. HRM's regional planning process is attempting to steer growth to areas where the need to invest in additional infrastructure is minimized. This will result in substantial tax savings for all of HRM's residents.

The area where new restrictions apply has generally been referred to as the "rural comutershed". In this area, there has been a substantial amount of subdivision with large lots on well and septic services. Historically HRM has had to bring municipal water and sewer and/or new transportation services to the areas after the houses are built. It is much more cost effective to plan for appropriate infrastructure and put it in place before development occurs. This is one of



the goals of the regional plan.

Areas which can be developed on central water and sewer services are NOT part of the Interim Plan Area.

**Q: Will this new regulation cause land and housing shortage and make prices rise?**

**A:** The short time frame of the proposed Ministerial Order will not cause a shortage of lots for housing development because an ample supply of residential lots exist within HRM.

There are more than 4,000 approved lots in HRM and about 2,200 of these are in the Interim Plan Area.

The number of lots consumed for housing in the Interim Growth Area is about 600 each year, so there is more than a three-year supply.

There are also more than 2,000 developable lots outside the Interim Growth Area, but inside the areas of HRM where development occurs on municipal water and sewer services. There is no restriction on issuing permits for these lots.

**Q: Does the new regulation stop property owners from subdividing their land?**

**A:** Technically, subdivision of land can still proceed under the current sub-division by-law. However, development permits can only be issued for one lot

Furthermore, if a lot of less than 10 acres is created after January \_\_, 2004, a permit for a residential use will not be issued. There is no guarantee that the rules concerning issuance of development permits will become less restrictive after the Ministerial Order has been lifted. By the time the order is no longer in effect, the Regional Plan will be in place and this may, or may not, contain new regulations. So property owners are strongly cautioned to examine the risk of spending money on the subdivision process.



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January 14, 2004

Halifax Regional Municipality  
PO Box 1749  
Halifax, Nova Scotia B3J 3A5

Attention: Austin French, HRM Regional Planning

Dear Mr. French:

**Re: As-Of-Right Development Outside Water Service District Boundaries in HRM**

In recent years, the Halifax Regional Water Commission (HRWC) has seen a wide range of interrelated issues arise as a result of the current Water Service District (WSD) boundaries and policies. At your request, we have provided a summary of HRWC's comments and concerns relating to the above-noted issue.

#### **Water Service Districts**

The current WSD policies were instituted in 1993 in part as a pre-development stage tool to ration the finite water supply (i.e. 25% of Pockwock) allocated to the Halifax County Municipality from the Pockwock WTP. Even though the issue of rationing flow between separate municipalities no longer applies because of amalgamation, the WSD boundaries and policies have become virtually 'cast in stone' and are still being used as a surrogate growth management planning tool.

#### **As-of-Right Development Outside the Water Service District Boundaries**

In theory, the establishment of urban service boundaries and urban development boundaries is intended to act as a tool to direct growth inside the established boundaries. There is an implied assumption that there are comprehensive controls in place to prohibit or restrict growth from occurring outside the boundaries. HRM's Water Service District (WSD) boundaries and policies have been used as a way of trying to slow and restrict development in the unserved areas. The premise is that if municipal water is denied or is not available, it will slow the growth and direct it to serviced areas. The past ten years of accelerated growth outside the water service boundaries has shown that this approach is ineffective.

#### **Groundwater Resources in HRM**

In recent years, we have seen a growing list of groundwater problems encountered by owners of new and existing homes in areas of development outside the current water service boundaries.

The igneous and metamorphic bedrock in our province means that many areas of HRM have very limited groundwater resources. Additionally, the groundwater in certain areas of HRM does not the

## Regional Planning Comments.

January 14, 2004

Page 2

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meet health objectives of the Canadian Drinking Water Quality Guidelines due to naturally occurring minerals/elements (e.g. arsenic, uranium, radionuclides).

Presently, the NSDEL has the legislative authority/responsibility for issues associated with groundwater resources and on-site services. The Municipality typically defers comment to the Province on the viability of on-site services for new developments. No-one seems to be taking an active lead role in assessing the site-specific details and the cumulative impacts of 'unserved' development in HRM.

Ideally, 'unserved' lots would not be created in areas where hydrogeological investigations have determined that the groundwater resources are not suitable or sustainable. However, under the current subdivision process, as-of-right developments are being approved without regard for groundwater issues. A fundamental change is needed regarding how new developments with onsite services are reviewed and approved. The Municipality needs to play a greater partnership role in managing the impacts of development on groundwater resources.

Currently, when home owners start encountering unsafe drinking water, dry or contaminated wells, HRWC, HRM staff and Councillors are pressed to solve the problem. Health concerns, homes that can't be sold and lowered property values tend to generate a great deal of pressure to solve the problem.

The solutions typically involve significant staff resources and usually need external funding partnerships (i.e. federal, provincial infrastructure funding as well as possibly HRM capital funding, financing and HRWC stewardship funding) in order for the servicing projects to be affordable to the local residents.

The list of applications and waiting times for these requests continue to grow at the same time as available funding dwindles. There are numerous examples of this all around the HRM Water Service District Boundaries (Beaverbank, Herring Cove, Upper Hammonds Plains, Maplewood, Salmon River, Fall River, Windsor Junction Crossroads, Upper Sackville, Kingswood, Purcell's Cove, Spider Lake Road, Portobello, Cow Bay Road, Porter's Lake, etc.).

The areas with unsuitable or inadequate groundwater resources are well known. Unfortunately, under current policies and legislation, as-of-right developments continue to receive approval in areas that are known to have inadequate groundwater resources without any assessment of the suitability and the cumulative impacts on the groundwater resources and how the additional demands on the resource will affect existing and future residents.

### **Review and Approval of New Development**

Approval of new development proposals under the current policies without clear technical support increases the probability that HRM and HRWC will be 'drawn into' costly future servicing obligations. Since Walkerton, there is a heightened public awareness that 'bad' water can kill. Considering the public health issues associated with unsafe drinking water, the continued approval of new onsite developments in areas known or suspected of having 'bad' water is difficult to defend.

A new process is needed.

## Regional Planning Comments.

January 14, 2004

Page 3

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### Solutions: Options To Consider

A number of possible solutions are outlined below for consideration:

#### New Planning Controls

Fundamentally, through the Regional Planning Process, the Municipality must determine where it chooses to have future development occur. If there is a desire to control or regulate development outside the service boundaries, stronger and more comprehensive planning tools such as holding zones, restrictive bylaws, or phasing should be implemented rather than relying on the existing WSD policies and boundaries. As noted earlier, although the technical rationale for the current WSD policies no longer applies, yet the water service boundaries are still being enforced.

#### Hydrogeological Investigations

For new developments proposed on individual wells and septic systems, the onus must be placed on the proponent to demonstrate the long-term sustainability of any proposed servicing option. This would entail an assessment of the cumulative impacts, development phasing, land and water use impacts on existing users, and well-water quality testing to confirm suitability of the water. The assessment would take the form of a geotechnical/hydrogeological study carried out by a professional hydrogeologist or engineer and would be required prior to any municipal endorsement or approval of the development concept.

Approval of future proposed development (to be serviced by onsite systems) should be withheld until the proponent has satisfactorily demonstrated to the Municipality (and NSDOEL) that the proposed servicing plan for onsite wells:

1. has a high probability of having a safe and sustainable groundwater supply;
2. will not have a negative impact on existing residents and other users of the resource;
3. will not increase the likelihood of future municipal servicing obligations.

In other words, why should a new development receive approval without first requiring the proponent to demonstrate that it can be self-sustaining and will not become a burden on municipal resources. There are already planning policies requiring proponents to investigate and address the development impacts on traffic, schools, transit, view-plains, heritage resources, trees, the environment, etc. as part of the approval process. The issue of impacts on groundwater resources and sustainability should be a 'Go/No-Go' requirement.

From a public health perspective (and even when viewed by existing taxpayers or new lot purchasers), the Municipality's approval of new 'unserved' development without supporting hydrogeological assessments is difficult to defend.

#### Extension of Water Service

If the Municipality chooses to permit new development in areas of known or suspected 'bad' groundwater, the Municipality should consider taking the approach that new development must be

serviced by an extension of the central water system at the developer's cost, subject to the technical recommendations of the HRWC.

## Regional Planning Comments.

January 14, 2004

Page 4

This approach would help limit the Municipality's liability relating to its current practice of approving new lots in areas of unsafe or inadequate groundwater resources. This would also make the issue of the water service extension a question of economics to be decided by a developer at the time of subdivision creation rather than a question of economics that the Municipality is faced with in future years when it is obliged to address a community's petitions for water.

Warning Clauses Registered on Title

In some situations, the extension of municipal water to new developments may not be practical or possible.

In areas with known groundwater problems and in the absence of site-specific hydrogeological data, the Municipality may wish to consider that, as a condition of subdivision approval, warning clauses (or covenants) be registered on title for each newly created lot. These warning clauses/covenants would outline the probable health risks or problems associated with lots in the subdivision (arsenic contamination, radionuclides, insufficient quantity, etc). This approach would guarantee that every time the property is sold, a prospective purchaser is made fully aware of potential well water problems and would then be in a position to make an informed decision.

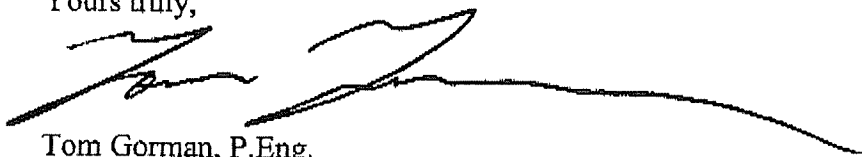
If the use of warning covenants is implemented, it is likely that all developers will soon show a willingness to carry out hydrogeological investigations 'upfront' to demonstrate that the groundwater resources in a development area are suitable and sustainable. Currently, when it comes to purchasing a property, the process is basically a 'buyer beware' approach to groundwater issues.

Conclusions

The reality of the situation in HRM is that much of the 'unserved' development that has taken place in the last decade has occurred in areas where the groundwater resources are either unsuitable or inadequate. We are now starting to see the magnitude of the problems faced by home owners in these areas. It is hoped that the current process to develop the new Regional Plan and the updated Water Service District boundaries and associated policies will reflect the lessons learned from the last ten years of development.

If you have any questions, please contact the undersigned at 490-4176.

Yours truly,



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