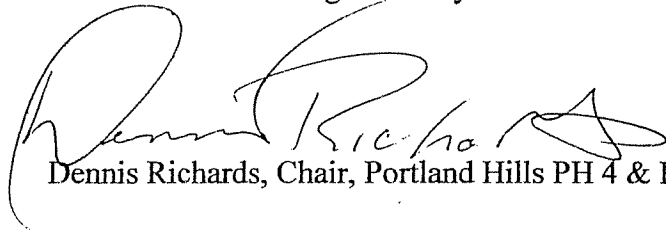


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

**Harbour East Planning Advisory Committee
June 5, 2006**

TO: Harbour East Planning Advisory Committee

SUBMITTED BY:



Dennis Richards, Chair, Portland Hills PH 4 & PH 5 PPC

DATE: May 18, 2006

SUBJECT: Portland Hills (PH 4 & PH 5) Development Agreement

ORIGIN

The Portland Hills Public Participation Committee (PPC) was given the mandate to advise Community Council with respect to an Application by Clayton Developments Ltd. to develop lands identified as PH 4 and PH 5 within the Morris Russell Lake Secondary Plan Area

RECOMMENDATION

The PPC recommends that the Harbour East Community Council approve the development proposal subject to the consideration of the recommended terms and conditions presented in the discussion section of this report.

BACKGROUND

The terms of reference of the Portland Hills (PH4 & PH5) PPC direct committee members to:

- (a) Identify the issues and constraints to development of the subject lands;
- (b) Determine alternatives and solutions to address issues and concerns identified;
- (c) Collaborate to produce a detailed conceptual plan for the subject lands that will form the basis of a development agreement.

The following actions were taken by the PPC in reviewing the application and preparing the recommendations made in this report:

1. Meetings were held on January 12 & 26, February 6 & 23, March 9, April 11 and May 1, 2006. Clayton Developments Ltd. submitted plans and documentation pertaining to land use, transportation, parkland, trails, open space, municipal services, and environmental protection. Plans were revised where possible further to suggestions from the committee, and resubmitted. HRM planning staff attended these meetings to provide support, and invited staff from other departments to attend as required.
2. The PPC hosted a public information meeting on March 6th, 2006. Minutes are attached.

DISCUSSION

The PPC is pleased to report that, overall, the development proposal being put forward by Clayton Developments Limited provides a strong degree of conformity with the policies of the Morris-Russell Lake Secondary Planning Strategy, however there are some outstanding concerns. The following items are recommended for consideration in the preparation of a development agreement:

Land Use

1. The PPC is satisfied that the number, type, and location of proposed residential units conforms with the MPS policies and an earlier concept plan prepared for Clayton's entire original land holding in this area that was approved in principle by Council in May of 2000 (Attachment A). The PPC was satisfied that the proposed development will be carried out with a great deal of sensitivity to existing residents in the adjacent community of Innishowen by way of locating new multiple unit dwellings far from existing single family homes; and retaining a treed buffer between existing and proposed low density residential uses. In fact, the PPC felt that the concept plan showed a great deal of goodwill from the developer towards the adjacent community.

Traffic and Transportation

1. The PPC is satisfied that Policy ML-6 is met as there is no street connection proposed between Caldwell Road and the Portland Hills subdivision. The extension of Cherrywood Drive to the boundary with the adjacent undeveloped lands does not violate this policy, and the decision to allow this street to eventually extend through to adjacent lands represents a sensible approach

to traffic in the area (the concept shows it terminating in a temporary cul-de-sac bulb for now, but if adjacent lands are developed, the street would be extended into a crescent).

2. The PPC reviewed a Traffic Study prepared by a consultant on behalf of the developer and in general, did not have any serious concerns with the report. The PPC agreed that they would be comfortable leaving the decision with staff as to whether or not the traffic study meets policy ML-8. However the committee did agree that the development agreement should not permit development of Cherrywood Extension before traffic issues on Caldwell Road are resolved
3. One exception to point #2 above was a concern expressed by one PPC member that the traffic study has not taken into account the impact of the shortcutting that is occurring on Dorothea Drive and throughout the Woodlawn area during the evening peak hours. It was felt that this shortcutting traffic results in an apparent reduction of the true eastbound traffic volume that should be on Portland Street, and in order to assess the true impact on Portland Street of this development, the volume of shortcutting traffic needs to be added to the base volume on Portland Street. The concern was that failure to do so may lead to additional shortcutting. Furthermore, if and when the shortcutting problem is addressed (policy ML-9(b) requires a shortcutting study to be undertaken) it may alter the favourable outcome of the traffic study. The staff report should address this concern.
4. Another concern raised with the traffic study was with the conclusion that the opening of Baker Drive and the Mount Hope Avenue/Highway 111 interchange will cause significant traffic shifts away from Portland Street. The concern is that these road developments will have more of an impact on the Portland Valley, and less of an impact on the eastern end of Portland Street. Though the PPC is comfortable that development will not cause significant burden, still the big problem is there will be no relief of the existing condition along the eastern end of Portland Street in the area from Alpine Drive to Caldwell Road until the Mount Hope Avenue Connector from Baker Drive to Caldwell Road is in place. The completion of the Mount Hope Avenue Connector should also address shortcutting issue raised in point 3 above.
5. Finally, the PPC was very concerned that the Municipality may not be implementing some of its own policies with regard to traffic and transit under the Morris Russell Lake Secondary Planning Strategy approved in 2005. HRM was directed under ML-9(b) to carry out a shortcutting study and this has not been done; ML-2 requires the Municipality to work with property owners to extend the Mount Hope Avenue Connector from the new interchange to Caldwell Road and it is not entirely clear what HRM is doing to advance the development of this road; and ML-3 requires the Municipality to prepare a public transit routing plan for the secondary plan area and the PPC is concerned that this has not been done yet.
6. The PPC is concerned that policy ML-9 (regarding the need to undertake transportation studies prior to the completion of the new Highway 111 Interchange) needs to be addressed before the interchange is complete this fall, however some things are happening that strongly encourage Council to continue with initiatives to further goals under ML-9.

Parkland, Trails and Open Space

1. The PPC felt strongly, and the developer complied, that trail connections to all dead end streets in Innishowen were necessary in order to connect the two communities. Without trail connectors, these adjacent communities would be entirely isolated from one another because of the policy restricting road connections.
2. The PPC also felt that a sidewalk with a trail connector at the end of Street 'V' was important in order to connect phase 5 with the Transit Terminal. The PPC encourages staff and the developer to ensure that this connector is designed appropriately so as to be a candidate for winter maintenance to encourage all season walking to the terminal.
3. While there was some concern that trails through the Bell Brook corridor are not proposed to be developed to a higher standard (the trails proposed are simply blazed hiking trails with a natural surface); it was acknowledged that a wider trail may compromise the environmental integrity of the buffer zone. The Portland Hills Residents Association has identified this alignment as a preferred location for a multi-purpose trail and the development agreement should be clear that HRM reserves the right to build the trail to a higher standard at some point in the future, as long as the corridor's primary purpose as an environmental buffer is retained.
4. The PPC is satisfied with the location, size, and extent of improvements proposed for the three neighbourhood parks shown on the concept plan, as well as the additional open spaces to be conveyed to the Municipality. The PPC is pleased that 100% of the shoreline and watercourse buffers are proposed as public lands.
5. The trail by the lake will be developed to a higher standard and the PPC is satisfied with this.
6. The PPC is concerned that provisions should be made for the maintenance of trails developed through this agreement.

Municipal Services

1. The PPC did not have any specific concerns on the subject of municipal sanitary, storm, or water servicing in regards to this development.
2. The PPC felt there should be a sidewalk on at least one side of every public street in the proposed development.

Environmental Protection

1. The PPC is satisfied that watercourse and lake shore buffers are proposed in accordance with, or in excess of, the MPS requirement of 50' on each side for streams, and 100' for lakes. The developer recognizes their responsibility to adhere to the Regional Plan and are prepared to add private buffer to meet the draft Regional Plan's 20 metre requirement.

2. The PPC again expressed concern that the Municipality (and its consultants, contractors, etc.) should comply with its own policies when undertaking any parkland improvements or other public works within the secondary plan area. Furthermore, the committee was concerned that the Municipality has yet to undertake a lake monitoring program, even though it has been an MPS policy to do so for several years.
3. In general, the PPC was satisfied that Clayton's proposal is capable of meeting the policies of the MPS with regard to environmental protection, as long as the developer and the Municipality can come to some agreement on how to implement the lake monitoring program required under ML-30. The PPC felt that the developer's proposal to cost-share this work was reasonable, given they are a relatively small landowner compared to the overall size of the watershed.
4. One dissenting opinion from the general consensus noted above should be acknowledged. The main concern stems from the timing of an exercise required by Policy ML-30 to set a eutrophication threshold level for Morris Lake. While staff have interpreted this policy in the past as not requiring the level to be set before further development takes place in the watershed, the concern was expressed that in order to be useful as a lake monitoring tool, the level should be set prior to any further development and the development agreement should contain a clause in this regard. Furthermore, it was felt that the development agreement should require the use of CCME guidelines (Canadian Council of Ministers of the Environment) to set this level. The PPC agreed to have this opinion attached as an addendum to this report.

Public Information Meeting

1. The developer is to comply with all commitments made in the information package distributed at the March 6, 2006 public information meeting

ATTACHMENTS

Attachment A: Original 2000 Concept Plan











Attachment B: Minutes of the March 6, 2006 Public Information Meeting

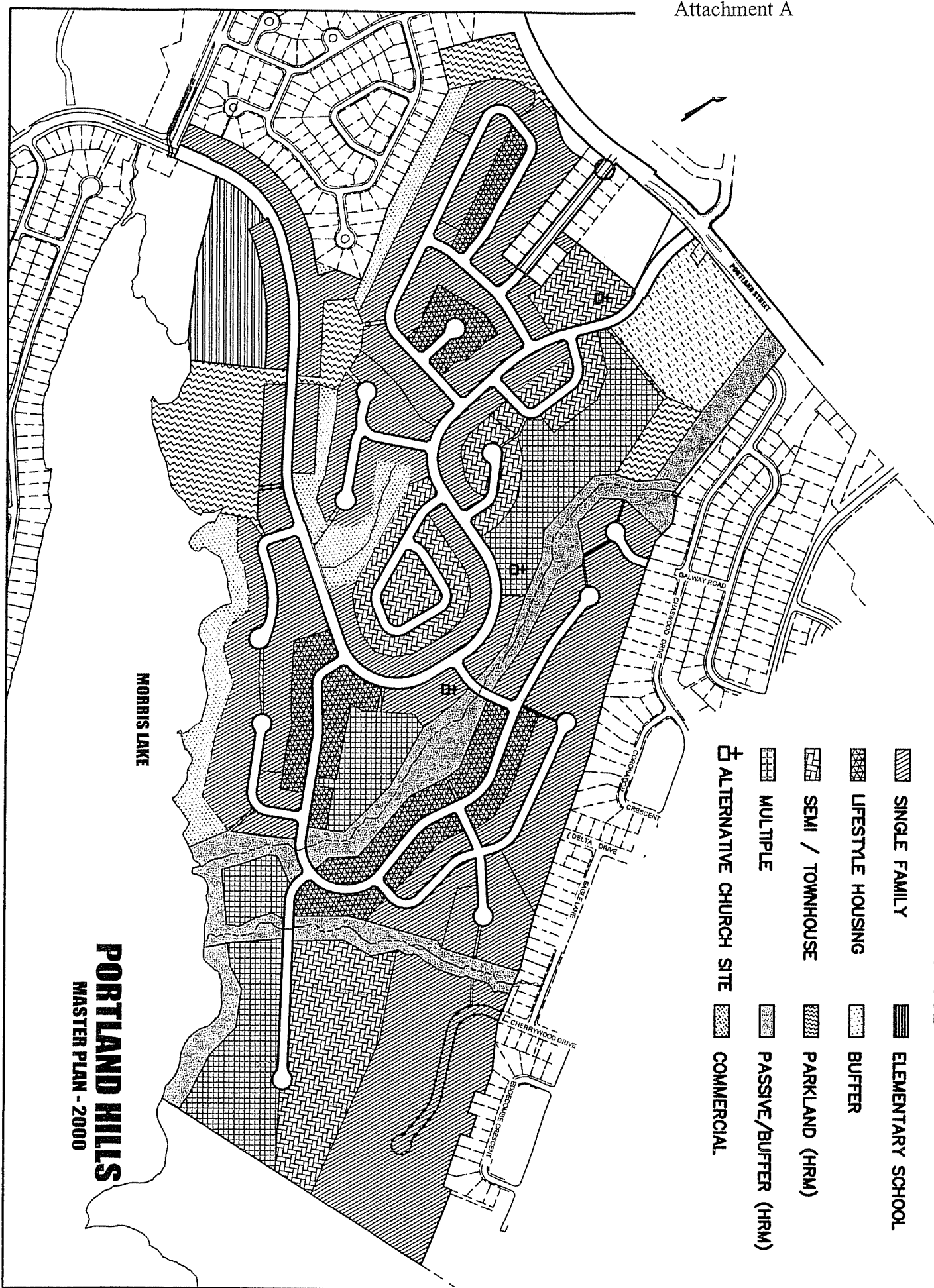
Attachment C: Dissenting Opinion

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 Prepared by: Dennis Richards, Chair, Portland Hills PH4 & 5 PPC and Hanita Koblents, Planner, HRM Planning & Development Services 490-4181

LAND USE

- | | |
|---|--|
|  SINGLE FAMILY |  ELEMENTARY SCHOOL |
|  LIFESTYLE HOUSING |  BUFFER |
|  SEMI / TOWNHOUSE |  PARKLAND (HRM) |
|  MULTIPLE |  PASSIVE/BUFFER (HRM) |
|  ALTERNATIVE CHURCH SITE |  COMMERCIAL |



MORRIS LAKE

PORTLAND HILLS
MASTER PLAN - 2000

**PUBLIC INFORMATION MEETING
CASE 00846 - PORTLAND HILLS PHASE 4 & 5
DARTMOUTH PLAN AREA**

March 06, 2006

**Bel Ayre Elementary School, Gymnasium
7:00 p.m.**

STAFF IN

ATTENDANCE:

Hanita Koblents, Planner
Kenda MacKenzie, Development Engineer
Tony Blouin, Manager, Environmental Performance (Water)
Jan Skora, Parkland Planner
Don Bickford, Planning Technician
Samantha Charron, Administrative Support

APPLICANT:

Mike Hanusiak, Clayton Developments Ltd.
Earl Richardson, Clayton Developments Ltd.
Bill MacIntyre, Clayton Developments Ltd.
Lynne Illsley, Clayton Developments Ltd.
Andrew Connor, Clayton Developments Ltd.
Andrew Alcorn, Clayton Developments Ltd.
Ken O'Brien, Traffic Consultant
Greg O'Brien, Traffic Consultant

OTHER:

Bill Karsten, Local Councillor

**PORTLAND HILLS PUBLIC
PARTICIPATION COMMITTEE**

IN ATTENDANCE:

Dennis Richards, Chair
Phil Elliott, Vice Chair
Norman Weichert
Hugh Millward
Scott Mawdsley

**MEMBERS OF
THE PUBLIC:**

Approximately 71 people

PRESENTATION/OPENING COMMENTS

Dennis Richards welcomed residents to the meeting and thanked them for attending. He explained his role in this application as the Chair of the Public Participation Committee (PPC) for Portland Hills Phase 4 & 5 development. He introduced the other PPC members in attendance Phil Elliott, Norman Weichert, Hugh Millward, Scott Mawdsley and Mike Hanusiak who also represents Clayton Developments Ltd. He then introduced the additional representatives in attendance from Clayton Developments Ltd. Earl Richardson, Bill MacIntyre,

Lynn Illsley, Andrew Alcorn and Andrew Connor along with their traffic consultants Ken and Greg O'Brien. He also introduced local Councillor Bill Karsten and HRM staff in attendance Hanita Koblents, the planner assigned to this case, Kenda MacKenzie, Development Engineer, Tony Blouin, Manager of Environmental Performance, Jan Skora, Parkland Planner, Don Bickford, Planning Technician and Samantha Charron, Administrative Support. Mr. Richards explained Ms. Koblents would begin this evening's meeting with an overview of the planning process, reviewing applicable policies and regulations staff must consider when formulating a recommendation regarding this application. He stated that following Ms. Koblents's overview, Clayton Developments Ltd. would summarize the Portland Hills Phase 4 & 5 development application. He indicated once that has concluded, residents will have an opportunity to ask staff or the developer questions.

Dennis Richards explained the PPC has been undergoing a review of this application since January 2006 and have been raising any points of concern they have to staff. He explained tonight they will listen to residents concerns and indicated the committee will then go back to review these questions and concerns to ensure they have been addressed.

Ms. Koblents thanked everyone for attending this meeting and briefly described the committee's involvement with this phase of the Portland Hills development.

Ms. Koblents explained the purpose of the public information meeting (PIM) was for residents to review the application submitted by Clayton Developments Ltd. for a development agreement to build a mixed residential community on approximately 103 acres of land south of Bell Brook, as the next phase of the Portland Hills Subdivision, Dartmouth.

Ms. Koblents then gave a brief overview of the planning process so residents could better understand how an application is evaluated and how resident's input is considered.

Ms. Koblents explained the planning process typically begins with an application from a developer to receive planning approval for their project. An HRM planner is assigned to the case and begins a technical review of the proposal by circulating it to relevant agencies and departments for example, engineering, the Water Commission, traffic services, parkland planning, metro transit, fire services, the school board, etc. The purpose of this circulation is to get feedback and recommendations for the proposal. While the technical review is proceeding, a PIM (what we are doing now) is scheduled, to help staff get a sense of any issues the community may have and if and how these might be addressed.

She explained in some cases the review process can be an interactive one, with the applicant bringing additional information forward to respond to concerns and recommendations, and adjusting their proposal to meet those concerns, if possible. Once the review is complete, the planner prepares a staff report with a recommendation to Community Council. Harbour East Community Council (HECC) normally meets the first Thursday of every month and consists of a

subset of Regional Council including the representatives from Dartmouth, Cole Harbour and Eastern Passage.

If Community Council decides to proceed, they will set a Public Hearing (PH) date. Ms. Koblents stated that if residents received notice in the mail for this PIM, they will receive notice for the PH. If they didn't, she suggested they make sure to include their name and full mailing address on the attendance sheet. The PH will also be advertised in the Herald for two consecutive Saturdays before the hearing.

The public hearing is a formal opportunity for any member of the public to speak for or against the proposal before Council makes a decision to approve or reject the proposal. After the decision is made, there is a 14 day appeal period.

Ms. Koblents then explained a development agreement is a contract between the landowner and the municipality. It contains development standards that basically supercede the zoning standards. She explained a development agreement can control a range of aspects such as site design, architectural form, landscaping, maintenance, parking, etc.

Ms. Koblents stated once signed, a development agreement gets registered with the Registry of Deeds, obligating future land owners to abide by the terms of the agreement. The agreement stays in effect until it's discharged which can typically be done only if both parties consent.

Ms. Koblents then reviewed applicable policy which directs staff on how to review this particular proposal. She suggested there are a number of criteria planners must review.

She suggested residents keep these criteria in mind while they listen to the proposal. She then invited Mr. Hanusiak to give his presentation on behalf of Clayton Developments Ltd. and suggested residents hold their questions until Mr. Hanusiak has concluded his presentation.

Mr. Hanusiak introduced himself as the senior planner for Clayton Developments Ltd. he indicated representatives from Clayton will be around after the meeting to answer any specific concerns residents may have.

Mr. Hanusiak introduced Clayton staff in attendance and thanked residents for attending this evening's meeting.

Mr. Hanusiak began with a brief history of Clayton Developments Ltd. He described earlier developments residents may be familiar with such as Colby Village, Portland Hills, Bedford South, Clayton Park West, Russell Lake West.

He explained there was a Public Participation Committee formed in 1999 to review the original Portland Hills Development. He explained this consisted of a 93 acre portion of Clayton's lands. He noted although approval has been given for the first phases of this area, major decisions such

as road way layouts, water and sewer configurations and storm water management were addressed for the entire phasing project. He then described the phasing plan for Clayton's remaining undeveloped lands and continued with a description of the Municipal Planning Strategy policies they are required to meet regarding this application

Mr. Hanusiak explained phase one should be completed and occupied by this fall. He stated the pattern of development of phases four and five would reflect that of phase one.

Mr. Hanusiak described the topography of the land included in phases four and five. He then gave a full description of land use including the layout of development explaining the locations of single family dwellings, townhouses and multi unit developments. He indicated the density threshold for the area and noted there has been no significant changes from the original master plan.

Mr. Hanusiak described water course buffering and intended trail conditions and connections upon completion. He spoke to street connections briefly and indicated any connections from Cherrywood Drive to Caldwell Road would be done in the future through neighboring lands.

Mr. Hanusiak described elevations for the development, with use of an overhead. He suggested the grade differences and separations will allow views to be maintained.

Mr. Hanusiak described the proposed park areas noting the size, intended use, landscaping, terrain, elevations, buffering and locations.

Mr. Hanusiak stated in the handouts residents received this evening there are three main issues, the first being traffic. He noted traffic has always been an issue in this area and suggested Ken O'Brien their traffic consultant, is in attendance to address any questions or comments. The second is the interchange construction. He indicated that Clayton is spending approximately six million dollars to build out Baker Drive to the interchange. He explained they are required in their Russell Lake West development agreement to have this completed and fully operational by the end of October 2006. The third issue is the protection of Morris Lake, he explained there is policy in the Dartmouth MPS to address water quality monitoring.

He then asked residents to come forward with questions or concerns they may have regarding this development.

QUESTIONS/COMMENTS

Sara Pace noted the current vegetation behind Eagle lane was significantly damaged by the hurricane. She asked if Clayton plans to clear cut everything behind Eagle Lane or salvage some of the existing vegetation and mix in new trees.

Mike Hanusiak stated Clayton will retain the services of an arborist to evaluate the area, and is willing to collectively decide what vegetation will come out and what can stay. He stated even though they will not be developing that area for approximately two years, where ever physically possible, they could begin tree planting a little earlier.

Wayne Harvey also spoke to the damage from Hurricane Juan behind his home on Edgecombe Crescent. He asked Mr. Hanusiak if Clayton would have an issue with him cutting half down trees on their property located directly behind his property.

Mike Hanusiak suggested Clayton representatives will go and meet with residents to do a walk through of the property abutting theirs to look into issues like Mr. Harvey's. He stated they would like to work with residents to clear these areas.

Shirley McLeod stated water pressure has recently changed for the better on Eagle Lane, she would like to have some assurances this will not be negatively effected by this development.

Earl Richardson indicated there will be future talks regarding water supply for the area.

Kenda MacKenzie stated typically there is a master plan for the water system so that review can be done of existing adjacent areas to ensure there are no impacts. She stated the Water Commission is well aware of the issues regarding water supply in the area.

Harold Whit questioned the traffic counts noted in the final traffic report. He asked Mr. O'Brien how he arrived at the number of trips travelling along Portland Street.

Ken O'Brien explained residential units generate a typical number of trips, this allows us to calculate the number of trips using the same formula the traffic authority would . He noted the study was fairly conservative when confirming the final results.

Chris Melgrove spoke to water pressure as well. He indicated he has spoken with his neighbours on Donegal Drive and they have not noticed an increase in water pressure in the past year. He also spoke to path construction leading to the transit terminal. He noted there is a path proposed from Galway to the terminal but wondered if a second path could be constructed at the end of Donegal Drive.

Mr. Hanusiak explained the walkway connecting Galway to the transit terminal is Clayton's responsibility to construct. He asked Councillor Karsten to address the suggestion of a path from Donegal Drive, suggesting he has been dealing with this issue in conjunction with residents.

Councillor Karsten explained he has discussed this issue with residents and has received assurance from transit staff that a pathway connecting Donegal Drive and the transit station will be constructed.

Chris Melgrove noted Donegal Drive is already being used for overflow parking from the bus terminal. He would like to see HRM staff consider extending the parking area of the transit terminal before the path way is constructed.

Councillor Karsten suggested this could be examined and asked Mr. Melgrove if they could speak after the meeting regarding this issue.

Chris Melgrove also asked if there will be a buffer zone constructed behind the transit terminal.

Jan Skora explained this area will need a design review.

Chris Melgrove suggested residents on Donegal drive already feel let down by HRM staff regarding the noise level not buffered from the terminal now and suggested there is a high level of concern in the community that with an extension of the terminal it will cause more of an inconvenience to residents.

Jan Skora suggested when the capital budget is approved to construct this trail all these concerns will be taken into consideration.

Mike Estabrooks asked for contact information for any questions he may have in future. He also asked how much latitude there was to move the location of certain units located behind Eagle Lane.

Mr. Hanusiak stated the detail on the site map is hard to see but there is a limited amount of space due to sloping. He also stated if there is a possibility of moving the units back they will consider this.

Marie Weatherby asked if the pathways proposed through this development will be lit for safety.

Jan Skora suggested parks are not for public use after dark. He noted these paths will be intended for day use and lighting will likely not be provided.

Betty Sample is concerned about the proposed park 3 area, which directly abuts their property on Eagle Lane. The other proposed parks 1 and 2 seem to be located in a green area.

Mr. Hanusiak noted Clayton discussed this proposed location with HRM staff. He suggested that originally there was a house planned for this area.

Betty Sample suggested this area is a drainage area and she does not see how it would be suitable for a park area.

Mr. Hanusiak replied that was correct it is a drainage corridor.

Betty Sample suggested this little easement should not be considered as a park area.

Mr. Hanusiak stated Clayton is open to ideas and suggestions for this area.

Betty Sample asked if the pump station will remain on this property.

Mr. Hanusiak suggested Kenda MacKenzie may be able to address this issue.

Kenda MacKenzie indicated this is something that will have to be discussed further, at this time she could not give Ms. Sample a definitive answer.

Larry Hatt asked if Clayton would be willing to create park access off Eagle Lane if the pumping station is removed. He suggested this would be a step in the right direction. He is concerned Clayton may want to purchase the land for additional dwelling construction.

Mike Hanusiak stated Clayton has no interest in purchasing the land, he suggested Clayton would like to work with HRM staff to find an acceptable location for a park and access.

Jan Skora noted HRM staff will be looking to locate a neighbourhood park in the Eagle Lane area and stated at this time he could not be sure what type of park it will be ie, playground or other form or park area. He suggested the critical aspect is determining the size, configuration and location of the land being considered at this point in time.

Larry Hatt suggested he could not speak for his neighbours but he would prefer to see a park rather than a house located next door. Mr. Hatt also asked why the plans are showing Cherrywood being extended to the edge of Clayton's property line. He suggested this was not the case in the original plans and questioned whether it was to accommodate the private property land owners adjacent to Clayton's land. He asked if Cherrywood would be developed as a cul-de-sac.

Mike Hanusiak stated the original plan was to make Cherrywood a cul-de-sac, and Clayton is still comfortable to develop this as a cul-de-sac and noted the only reason Clayton has proposed to take the street over to the property line is for future development of the lands adjacent. He suggested if these lands are developed there will have to be two points of access. He noted in future if there is a decision to connect Cherrywood to Caldwell, this would be subject to another development agreement.

Larry Hatt stated in his opinion a crescent would be the best choice for the Cherrywood area.

Norman Wiechert asked if Mr. Hanusiak could give an approximate time line for this.

Mike Hanusiak suggested an approximately five year time line is likely.

Larry Hatt asked what hours and days will the clearing and construction be done.

Mike Hanusiak suggested Clayton and any contractors they hire must abide by the Municipality's Noise By-Law. He stated if residents have concerns they would like addressed regarding the noise level during construction they should contact Andrew Connor. He explained Mr. Connor is on site daily to deal with issues such as these.

Larry Hatt is concerned about noise levels on the lake. He would like to know if the municipality has considered ways to reduce the noise level.

Jan Skora indicated the municipality can not control the noise level on the lake. He stated it would be a provincial issue.

Larry Hatt suggested HRM should consider looking into this issue, he feels established residents could be negatively effected by this type of noise all day long. He asked if Mic Mac Lake has provisions regarding noise levels.

Jan Skora suggested provincial legislation would have to be established and he indicated this possibility could be explored.

Marlene York asked if the tree line behind Edgecombe Crescent would remain or will residents that purchase the property be able to cut all the vegetation down.

Mr. Hanusiak stated maybe a non-disturbance zone can be considered to ensure the tree line behind Edgecombe Crescent will not be cut down.

Marlene York replied she would like a non-disturbance zone created to ensure the tree line buffer remains when the new construction is complete.

Mr. Hanusiak suggested the final development agreement that will be the subject of a future public hearing would contain provision for a non-disturbance zone if this is possible. If not there will be an explanation.

Glen Potter asked if the planning process and construction moves along according to Clayton's schedule, when do they foresee construction behind Coronation Street beginning.

Mr. Hanusiak indicated Clayton's intention is to begin construction this summer. He suggested construction behind Coronation Street is expected to begin some where around the summer of 2007.

Dick Blair suggested the plans do not have clear details for the properties along Eagle Lane, he asked for clarification on property distances and lot lines.

Mr. Hanusiak agreed the details were very difficult to make out and suggested this week Clayton will provide a more detailed set of drawings to the residents of Eagle Lane.

Dick Blair also has concerns regarding the removal of the pumping station. He suggested his property will be located between this area, which some have suggested would be a good park area. He feels having a park on one side of his property and a right-of-way on the other would not be acceptable.

Mr. Hanusiak suggested the pumping station land is HRM property and there is public access to it now. He indicated Clayton plans to convey to HRM public open space right up to that point. He noted what the municipality decides to do with that site is entirely up to them.

Dick Blair suggested Clayton's land would not extend to where the pumping station is because there is a brook that drains there. He also stated his lot line goes straight up through the centre of the park.

Mr. Hanusiak asked Mr. Blair to describe the property lines on the site map.

Mr. Blair outlined his property line on the site map and explained the flow of drainage from the pumping station.

Mr. Hanusiak stated his understanding is that HRM owns the land along Mr. Blair's property, he described future plans for this to be developed as a walking trail leading to a hiking trail.

Dick Blair indicated years ago the trail was used frequently but it is rarely used anymore.

Mike Mayhue asked Mr. Hanusiak if there will be a sound buffer located between the transit terminal and Donegal Drive. He suggested there is a great deal of noise generated from the terminal.

Mr. Hanusiak suggested it is not an issue that Clayton will address and this is something HRM will have to remedy.

Mike Mayhue stated he recalls Mr. Hanusiak addressing this issue at a previous meeting which he recalls Mr. Hanusiak stating Clayton would provide a buffer area for residents located behind the transit terminal.

Mr. Hanusiak noted he recalls stating trees would be planted in a certain area.

Mike Mayhue suggested if that is the case, would Clayton consider planting trees along the whole area.

Mr. Hanusiak stated those lands are municipal property and noted HRM representatives are in attendance this evening and he is sure will take note of residents requests.

Bob Morrison asked Mr. Hanusiak to confirm his understanding that there will be no connection from Cherrywood Drive to Caldwell Road until the Mount Hope extension is constructed. He is not totally convinced that the traffic study accurately depicts the traffic situation on Portland Street and does not want to see it worsen.

Mr Hanusiak stated he is confident the final traffic study results are accurate and that Mr. Morrison's understanding is correct, that Cherrywood would not be connected to Innishowen until the Mount Hope extension is complete.

Bob Morrison stated he recalls Cherrywood Drive as the street that would be connected to Caldwell Road.

Mr. Hanusiak stated Regional Council decided there would be no through connection from Innishowen through to Portland Hills. He noted there has always been shown to be a cul-de-sac and stated all Clayton has done is pushed the road over a little further to possibly connect to the property abutting Clayton's. It is not intended to replace or override the original intention, of accessing this area from Cherrywood.

Greg Gerrard asked if the tree line could remain along the back of Edgecombe Crescent.

Mr. Hanusiak stated if it is physically possible depending on the excavation requirements, there would be a 20 to 25 foot buffer.

Lee Harvey a long term resident of the area explained he purchased an additional 50 feet on the back side of his property which was destroyed during Hurricane Juan. He noted the downed trees have not been cleaned up to date and he is concerned if they are the minimal amount of trees that will be left will only be blown down by high winds.

Mr. Hanusiak stated Clayton will have their arborist take a good look at this. He suggested they are in the same position as residents are when it comes to hurricane damage.

An unknown resident asked if there has been any consideration given to a ballfield or soccer field for the area.

Mr. Hanusiak stated that when Clayton worked with staff to design this area they were required to set aside 9 acres of land adjacent to the school. He explained at the time this was done Clayton was unaware there would be a P3 school constructed with a private field. He pointed out the utility field area on the site map and stated the field was intended to provide an active sports field for this development. It will be up to HRM staff to decide the appropriate type of sports field for this area.

Ethan Munroe asked if condo developments would be maintained by Clayton ie; landscaping and maintenance.

Mr. Hanusiak the construction would be done by a private contractor then turned over to the condo corporation.

Ethan Munroe asked about vegetation in this area.

Clayton staff described the vegetation in the area.

Dennis Richards suggested with the use of the site and land use maps provided by Clayton residents could come forward and have any further questions or concerns addressed by Clayton staff, HRM staff or the committee. He thanked residents for attending and explained the committee members are volunteers, doing their in the best interest of our community. He stated being a long term resident of the area he has a good understanding of the issues in the neighbourhood and suggested if residents have additional concerns they would like to bring forward to the committee members they can contact him.

An unknown resident asked when the next public forum will be for residents to address this application.

Dennis Richards outlined the remaining planning process, and the committee's role in it.

Ms. Koblents also thanked residents for attending and bringing forward their concerns for staff to consider.

Councillor Karsten thanked residents for attending and suggested thanks should be given to the PPC for all their hard work surrounding this phase of Morris/Russell Lake.

MEETING ADJOURNMENT

Meeting Adjourned at approximately 9:20 p.m.

TO: HARBOUR EAST COMMUNITY COUNCIL

SUBMITTED BY: Scott Mawdsley, BScH, MD, FRCSC
Portland Estates Resident
Portland Hills Public Participation Committee (PPC)

DATE: April 21, 2006

**ADDENDUM TO PUBLIC PARTICIPATION REPORT
RELATIVE TO THE CDD FOR PH 4 and 5**

ORIGIN

The Portland Hills Public Participation Committee (PPC) was given the mandate to advise Community Council with respect to an Application by Clayton Developments Ltd. to develop lands identified as PH 4 and PH 5 within the Morris Russell Lake Secondary Plan Area. A new agreement is being negotiated, not simply amending the existing agreement, as new lands are being developed.

I was the representative for Portland Estates, and was tasked with bringing community concerns regarding transportation; preservation of water quality; and safe maintained trails/public parklands to the committee. Residents were particularly concerned that recent development agreements in this area have been vague in regards to environmental protective mechanisms.

There have been different interpretations of what is actually required. ML-30c states that the monitoring program will establish eutrophication levels for the lakes which would be used as a basis for reevaluating watershed management controls and future development potential in the area. Dr. Tony Blouin, the HRM Environmental Performance (Water) manager tasked with lake protection, has effectively had his hands tied because of this confusion. Residents have met with Mayor Kelly and Dr Blouin, and it was suggested that the next development agreement should be more specific in regards to what is required and when.

After reviewing the final committee report, I was not comfortable that the final comments with respect to an Application by Clayton Developments Ltd to develop lands identified as PH 4 and PH 5 within the Morris Russell Lake Secondary Plan Area, relative to the Comprehensive Development District Agreement, addressed these concerns fully. I question whether it actually conforms with the revised environmental policies prepared for the Morris-Russell Lake Secondary Planning Strategy and the Regional Plan which will likely be in effect at the time of approval of this application. The committee was unable to arrive at a consensus in regards to these concerns, and therefore I am submitting a dissenting opinion. Residents trust that Community Council will assure that appropriate protective mechanisms are included in the agreement, enforced, and that all municipal policies are followed.

To provide context for my concern, and the concern of residents in this area, I will outline by way of background the issues including:

- Eutrophication
- 2004 CCME Guidance Framework
- Setting a Phosphorus Level
- Utilizing the CCME Framework (an example)
- HRM Environmental Policy

The concerns that compel me to write this dissenting opinion involve timing and funding for:

- Parkland, Trails and Open Space
- Environmental Protection

BACKGROUND

(1) Eutrophication

Eutrophication (nutrient enrichment) is the process by which sediment, silt, and organic matter gradually fills in a lake as it ages. Eutrophication is the natural process, often taking thousands of years, by which a clear lake becomes a marsh and eventually a meadow. However, with human activity in the watershed this natural process can be accelerated through the addition of excess nutrients (phosphorus) and sediment. This is often referred to as "cultural eutrophication." The dense aquatic vegetation (a nuisance to some residential watersport activities) at the north end of Morris Lake (Birches Park) is a prime example of this process.

Excess nutrients can enter the lake from point and non-point sources. Point sources are easily identified and therefore easy to correct, such as municipal storm outlets and sewage overflow. Non-point sources are harder to mitigate as they involve runoff over developed lands and erosion. Most municipalities have regulated and controlled point sources of pollution so non-point sources are usually the main concern. However, in HRM point sources are still a significant cause of excess nutrients.

Phosphorus is typically the rate limiting nutrient in freshwater lakes, meaning that it is the nutrient in shortest supply and therefore controls plant and algae growth. Increased phosphorus levels lead to increased plant growth and productivity (eutrophication). This eventually leads to water conditions which are no longer compatible with community recreational and aesthetic requirements.

Lakes can be described in terms of their nutrient input and therefore productivity (trophic status). Oligotrophic lakes are characterized by low nutrient input. They typically have minimal algae and plant growth, and clear waters. They are often enjoyed for recreational swimming. Eutrophic lakes, on the other hand, have high nutrient input. They harbor an ecosystem compromised of algae blooms, excess weed growth, slimy lake bottoms, unpleasant smells, and the disappearance of desirable fish species. A mesotrophic lake is the middle stage and describes Morris Lake currently.

As phosphorus levels increase, freshwater lakes typically progress along this eutrophication spectrum. Controlling phosphorus input is usually the only practical solution to slowing down, or reversing the eutrophication process.

This cultural eutrophication process is discussed in the preamble to the Morris-Russell Lake Secondary Planning Strategy.

Morris Lake was identified as being of danger of becoming eutrophic if a Master Plan was not prepared for this area to ensure development occurs in an environmentally sensitive and comprehensive manner.

(2) 2004 CCME Phosphorus Guidance Framework

Owing to the significant environmental and aesthetic concerns of phosphorus in freshwater lakes, phosphorus management was considered a priority by the Canadian Council of Ministers of the Environment (CCME) and national guidelines were developed.

As discussed, the effects of phosphorus occur on a sliding scale with a higher concentration having a more significant impact on lake water quality. Therefore the measurement of phosphorus in freshwater lakes can assist in monitoring and preventing cultural eutrophication.

In 2004 the CCME produced a Canadian Guidance Framework for the management of Phosphorus in Freshwater Systems. As with all CCME guidelines, a thorough review of the scientific literature was conducted, expert consultation was obtained, and approaches used by other jurisdictions, throughout the world, for setting phosphorus guidelines were examined.

The Nova Scotia Department of Environment and Labour, as a member of the CCME, endorses the use of the phosphorus guideline and framework in Nova Scotia. HRM has the complete set of CCME Guidelines. The draft regional plan (Appendix A), and the Water Resource Management Report on which the Regional Plan's environmental policies are based, recommend adherence to these standards.

For five years, as Manager of Water Quality for the province of Newfoundland and Labrador, Dr. Tony Blouin was the provincial representative on the CCME guidelines review committee. He is very capable of utilizing this guideline to preserve our freshwater lakes if HRM policy and development agreements mandate that this CCME framework be followed.

There is no better method for monitoring and managing phosphorus in freshwater lakes than this guidance framework.

(3) Setting a Phosphorus Threshold Level

Given the wide range of phosphorus levels in freshwater lakes, it was not possible to establish a single "maximum allowable level" for phosphorus. Although this is often done for other pollutants, phosphorus is unique in that some lakes naturally have higher levels than others. The CCME, therefore recommended a "guidance framework" to manage phosphorus that determines an appropriate level for each individual lake.

Essentially a range of desired phosphorus levels, compatible with desired water quality and community lake needs, are set and the framework attempts to maintain phosphorus, and therefore water quality, within this range.

If phosphorus increases above this range, the potential exists for lake water quality to change (cultural eutrophication) and impact current community use and enjoyment of the lake. The framework is quite simple.

As a first step, management goals and objectives for the lake are defined. Do we want to maintain current water quality, improve it, or restore it? Next, the water quality and desired uses of the lake are considered, and a "reference condition" is established.

This is the most difficult step as the reference condition is used to identify the "trigger range" or "threshold level" which is the maximum allowable level.

The reference condition, and therefore phosphorus threshold level, does not require current water sampling, but instead is based on site-specific historical data, similar clean lakes, or by mathematical modeling.

Many jurisdictions (British Columbia and Ontario) are actively managing phosphorus and have developed appropriate reference conditions. Nova Scotia is fortunate that the natural background phosphorus concentrations for many lakes, including Morris Lake, has already been scientifically established and are readily available.

The "reference condition" is then compared to a CCME chart, and fits into a "pre-defined" category (oligotrophic, mesotrophic etc) reflecting the lakes trophic status.

Each trophic category is associated with a "pre-determined" phosphorus threshold level which is the level at which the lake may begin to transform to the next trophic state..

It is therefore very simple to determine a CCME baseline condition and establish a phosphorus threshold level for Morris Lake. It does not require current water sampling, and can be determined in a matter of days by any environmental consultant.

However, in order to be an effective water quality protective tool, this CCME framework needs to be utilized, and a phosphorus threshold value set, before development proceeds.

If the threshold is exceeded, phosphorus reduction strategies must be maximized in the development plan and during development to maintain or improve water quality.

If phosphorus is allowed to increase unimpeded, water quality may eventually become unsuitable for desired community needs.

(4) Utilizing the CCME Framework (an example)

As an example of the above framework, if the baseline phosphorus concentration was determined to be 4 ug/L reflecting a natural oligotrophic lake, the pre-defined trigger range would be 4-10 ug/L which reflects the range of phosphorus levels compatible with this type of lake.

10 ug/L would be the threshold level which indicates the level at which the lake would become "mesotrophic" (the next step in eutrophication) which is associated with more nutrients and characterized by more algae and nuisance plant growth.

Monitoring during development, is then compared to this threshold level, and if exceeded, further environmental assessment and possible mitigation is recommended either at the new development site or through remedial measures to existing development areas within the watershed, as the potential exists for water quality to be impacted.

(5) HRM Environmental Policy

The protection of our water resources is of critical importance to Halifax Regional Municipality. Over the last few years, HRM staff has developed comprehensive and "modern" policies with respect to water resource issues.

The Water Resource Management Study Report (WRMS Report) prepared by Dillon Consulting Limited and dated December 2002 was accepted by Regional Council. The recommendations from this report formed the basis for the Environmental policies incorporated into the Environmental Section of the draft Regional Plan (Appendix A).

The Morris Lake Stormwater Management Plan (Jacques Whitford, 2004) contained appropriate recommendations to preserve this lake and manage storm water.

The Morris-Russell Lake Secondary Planning Strategy involved a substantial amount of public consultation and input, and contained policies to guide future development in this area in a comprehensive manner. The Plan included several policies in regards to environmental protection (Appendix B)

ML-27, 28 and 29 (Stormwater) of the Dartmouth (MPS) discusses the need to control stormwater to remove sediments and phosphorus throughout the watershed, and states that any development in this area must adhere to the recommendations within the Morris Lake Stormwater Management Plan. The impact of stormwater management in the existing developed areas that cause runoff into Ellensvale Run was recognized. The municipality was also encouraged to undertake storm water wetland projects in the waters of Ellensvale Run and at appropriate locations throughout the watershed.

ML-30 and ML-31 (Monitoring) discusses the current "health" of Morris Lake, and the need to be vigilant with lake monitoring and environmental protection to prevent further deterioration (eutrophication) of this water resource.

However, to be effective these policies must be implemented and included in all development agreements with clear concise language not subject to interpretation.

DISCUSSION

(1) *Parkland, Trails and Open Space*

The developer has stepped up to the plate, and voluntarily proposed an exceptional public parkland commitment in addition to committing to build an active trail system throughout the development.

100% of the stream and lakeshore buffer zones are proposed to be public.

My only concern is with a small strip of land, intended to be a buffer zone, along Bell Brook.

The Bell Brook corridor is protected by a 50 foot stream buffer zone, on either side, as required under the MPS and recommended in the Water Resource Management Report. This area is very steep and composed of highly erodible clay soil.

This land is proposed to be public to ensure that it remains undisturbed as much as possible so that its primary role, as a buffer zone, is not diminished. A buffer zone such as this play an important role in filtering and absorbing surface runoff before it enters the stream and eventually the lake. An undisturbed stream buffer prevents erosion and possible flooding. It also provides aesthetic beauty and animal habitat.

The developer understands the importance of a protective buffer zone, but also appreciates the importance to this community of public trails. One only has to look at the developed portion of Portland Hills to appreciate the wonderful active trail system meandering close to the lake. However, one also appreciates the fact that the main trails are set back from the waters edge with occasional side trails leading to lake viewing or access points. This preserves the lake's shoreline buffer. It also provides an aesthetic undisturbed shoreline appearance.

In regards to the Bell Brook corridor, the developer did not feel that a formal trail would work in this area given the steep terrain and erodible soil. It was felt that significant erosion and runoff would occur. As a compromise, understanding the importance of public access, the developer agreed to develop a "blazed" natural surface hiking trail along this area. I felt this was a very reasonable compromise and fully supported the developer's initiative.

However, it was subsequently brought up that HRM, as part of the Regional Trails Initiative, has plans for an "active" trail (i.e. 3 meter wide hard surface) in this area to connect with other active trails.

To my astonishment, it was suggested that a passive trail in this area, given the steep terrain and erodible soil, may actually become so damaged from erosion that a paved trail may be required in the future to correct the damage. This suggests that perhaps the municipality has not fully investigated the environmental impact. If that concern is valid, perhaps this area should remain public, but with little or no site disturbance.

The final PPC report includes a statement, that HRM reserves the right to build this trail to a higher standard, subject to environmental issues being met.

Given the above environmental issues, I have significant concerns as to why this statement is included.

"Environmental issues being met" is very vague, and opens the door for development of a higher standard trail at a later date without the benefit of this formal planning process.

HRM should comply with its own environmental policies when undertaking work in these areas, and the environmental impact of various scenarios needs to be fully investigated at this planning stage.

This is the ideal location for a "natural" undeveloped public space where those who wish to take a leisurely hike and experience mother nature can do so. However, it must be remembered that first and foremost, this area is intended to function as a buffer zone to Bell Brook.

An "active trail" is not required in this sensitive area. There is plenty of opportunity for the active trail system to bypass this stream buffer zone and continue along community sidewalks until rejoining the active trail at the shoreline.

However, if HRM feels strongly that an "active trail" is required in the Bell Brook corridor, it should be included in this development agreement and planned properly.

Given the steep terrain and soils involved, to protect the buffer function, the active trail would have to be developed outside of this 50 foot stream buffer required under the MPS. Additional public space would be required on the side of Bell Brook where the trail is planned. Given the steep terrain, this 3 meter trail would require significant slope retention extending well beyond the trail edge. To allow for a reasonable distance from residential backyards, a 100 foot public area in total, or more, would be required to incorporate this active trail. Provisions for maintenance of this trail, including immediate correction of erosion, needs to be included as well.

An active trail developed in this area, without the benefit of this formal planning process, may destroy the primary function of this buffer zone and potentially impact lake water quality.

(2) *Environmental Protection*

As discussed in the background section, the protection of our water resources is of critical importance to Halifax Regional Municipality.

Morris Lake, in particular, is well known to be within 10-15% of the eutrophic boundary.

The dense aquatic vegetation at the north end, where Ellenvale Run enters, is the result of excess nutrients (Ellenvale Run) and is an example of cultural eutrophication.

This excessive plant growth already interferes with boating activity, and any further deterioration of water quality may make this lake unsuitable for community recreational activities.

Both the MPS and draft Regional Plan describe HRM's desire to stem the decline of our urban lakes from the accelerated process of eutrophication.

Recent implementation of HRM Environmental policies

The most recent development agreement for this area, Russell Lake West, incorporated what was felt to be comprehensive and modern environmental policies. Unfortunately, these policies have been described as "vague", and unfortunately were not clarified in the development agreement. I discuss this development agreement only in the context of reviewing how recent municipal environmental policies have been implemented, and if there is room for improvement.

The preamble to ML-30 (Appendix B) describes the current water quality in Morris Lake and how a well designed lake monitoring program, with the adoption of a "preset" maximum permissible limit for total phosphorus (threshold level) is required to prevent cultural eutrophication. It goes on to describe that if total phosphorus continues to increase, the watershed management plan will have to be revised and development controls strengthened.

ML-30c states that the monitoring program will establish eutrophication levels for the lakes which would be used as a basis for reevaluating watershed management controls and future development potential in the area.

ML-31 states that pursuant to ML-30, if the threshold level is reached, it shall be the intention of council to immediately undertake a review of existing plan policies and determine an appropriate course of action.

To an outsider, simply concerned about preserving water quality, these environmental policies seem very comprehensive, simple to implement, and in agreement with HRM environmental policy goals.

Essentially a threshold phosphorus level is determined according to CCME guidelines, and subsequent monitoring determines if this level is exceeded.

A phosphorus measurement above this threshold level indicates the potential of water quality impairment, and the CCME guidance framework would recommend investigation and mitigation measures to preserve lake water quality.

The threshold level is based on the reference range and does not require current sampling.

Mr Mandaville, a local limnologist, has submitted scientific documents to community council, based on this CCME guidance framework, with suggestions for both a reference range and threshold level for Russell Lake.

Dr Tony Blouin, at the mayor's request in January 2006, described his own threshold value for Russell Lake which was almost identical to that suggested by Mr Mandaville.

However, to this day, a phosphorus threshold has not been established for Russell Lake, and, as a result, construction proceeds unimpeded, or subject to, these new HRM environmental policies designed to preserve our freshwater lakes.

The sole reason for this delay is the "interpretation" of these policies by HRM Planning which effectively has resulted in little or no action.

HRM Planning interpreted these policies to mean that the "developer" must establish the threshold level and submit it to HRM and DLAB for approval. It was also interpreted that development could proceed before this level was determined.

This interpretation by Planning was somewhat unusual as it appeared to simply undermine the intent and implementation of municipal environmental policy. In particular ML-30 states that the monitoring is to be "financed in whole or in part by developers" and is to be negotiated in "consultation with the Dartmouth Lakes Advisory Board." It does not state that the developer has to conduct the monitoring themselves nor that DLAB must "approve" the threshold level.

Dr Blouin effectively has his hands tied. He is unable to set a level himself, or in consultation with other experts, but instead must wait for the developer's consultant to submit a level. There is no plausible reason why a threshold level has not been set by the developer. Without a threshold level, ML-31 and municipal environmental policy, in general, becomes meaningless and ineffective.

Residents became concerned when it became apparent that a threshold level was not forthcoming.

Dr Blouin, at the request of a councillor, subsequently interpreted the intent of the development agreement in a December 2005 e-mail (Appendix C).

Dr Blouin indicated that he was still waiting to receive a "threshold value" to review, but assured the councillor that when received, he would review the consultant's suggested level and Mr Mandaville's submission, and submit a "staff report" to community council with his recommendation.

This appeared very appropriate, transparent, and certainly was the intent of these policies when the wording was debated at great length over two years ago.

However, Dr Blouin was subsequently required to publicly "clarify" his interpretation of these environmental policies to conform with the "interpretation" of the Planning Department (Appendix D).

The subsequent interpretation by HRM Planning stated that the suggested level would be presented to DLAB by the developer for approval, and the final level would then be communicated to community council as an "information item" only.

Two things strike me as extremely concerning in regards to this interpretation. One, the Developer's paid environmental consultant has a potential conflict-of-interest, and two, the DLAB is an "advisory" board to community council not an approval mechanism.

The implementation of this policy has become ridiculous and almost comical.

Not only is it suggested that there is no time line for submission of a time-sensitive threshold level, but the process suggested by Dr Blouin, which was very reasonable, was essentially over-ruled in favour of a DLAB "rubber stamping" process.

Although Dr Blouin has the knowledge and his office is tasked with lake protection, his hands have been effectively tied by this interpretation, and a threshold level is yet to be determined.

With all due respect, I feel the interpretation of ML-30 by the Planning Department is complete nonsense, and needs to be clarified immediately.

The role of Dartmouth Lakes Advisory Board (DLAB) also needs to be clarified.

DLAB, according to its Terms of Reference, should function in an advisory role only, upon community council's request. They should not be approving anything, at any time, but merely communicate their agreement and support to community council for subsequent approval.

All environmental concerns, protective mechanisms, and monitoring should be clearly defined in the development agreement which is approved by community council at this stage of the Planning process.

Dr Blouin could easily set a threshold level himself, or with an independent consultants assistance. He could review monitoring results throughout development, and make recommendations to community council. ML-30 states that DLAB should review the monitoring program which is appropriate, although perhaps not necessary, but they should not "approve" anything.

To be effective as a lake monitoring tool, the threshold level needs to be established prior to development and protective mechanisms reevaluated immediately if it is found to be exceeded. The current interpretation effectively prevents this from happening.

What if the threshold is found to be exceeded, can development proceed?

This does not mean that development can not occur, but simply means that more stringent phosphorus reduction strategies will be required on site, and that HRM needs to investigate phosphorus reduction strategies at it's own municipal storm outlets.

For instance, in the Russell Lake development agreement, storm water is only required to pass through a gross-pollutant removal device (CDS unit) before entering the lake, and in-lake booms to contain construction sediment are recommended.

A gross-pollutant removal device (CDS unit) essentially rapidly spins the storm water, removing litter and some nutrients and sediment, before it enters the lake. With heavy rain, these devices may be bypassed altogether. They may not be adequate to maximize phosphorus reduction and prevent cultural eutrophication. The Morris Lake Watershed Management Plan, of which the MPS states should be followed, discusses these devices as "pre-treatment" and recommends incorporating other strategies such as a detention basin or constructed wetland after these units.

In-lake booms are typically used to contain emergency spills and are not intended to form the basis of a phosphorus reduction strategy during construction. Sediment in these confined areas suggests a failure of erosion control techniques on land. The sediment (and phosphorus) contained by these booms eventually settles to the bottom of the lake accelerating eutrophication.

The Dartmouth Home Depot development agreement, in the same watershed and prepared by the same environmental consultant, recommends very different phosphorus reduction strategies to preserve the lake. For example, gross-pollutant removal devices, followed by a detention basin and wetlands were required at the Dartmouth Home Depot site. The detention pond allows storm water to collect and gradually be released over the next few days. Sediment and nutrients settle to the bottom of this pond and are removed every few years. This treatment strategy was recommended as it effectively removed over 90% of storm water phosphorus which was felt necessary to preserve the lake.

Community council needs to ask why phosphorus reduction strategies, in the same watershed, are less important now than when the Home Depot development agreement was drafted.

If a CCME phosphorus threshold level was allowed to be established for Russell Lake, as part of the development agreement, it would not have prevented development, but simply required more stringent protective mechanisms to maximize phosphorus reduction.

HRM needs to conform to its own environmental policies

It must also be stated that HRM must also "step up to the bat" in regards to phosphorus reduction strategies. For Morris Lake, most of the phosphorus input that is accelerating eutrophication is from HRM municipal point sources such as Ellenvale Run.

Untreated storm water and occasional sewage overflow enters the lake at the Birches Park area.

It is difficult, without significant capital expenditure, to upgrade the sewer system to prevent these wet weather overflows, from the Anderson Street Pumping Station, but steps can be taken to protect public health and maximize phosphorus reduction.

HRM should notify the public when known sewage overflow occurs into the Birches Park area as many residents, including young children, use this area for swimming and recreation, and could be exposed to significant health risks.

This notification requirement, for public safety, was included in the Secondary Planning Strategy by the PPC, but was removed by staff prior to approval. There is minimal cost to notifying residents of potential health risks. The potential embarrassment of publicly acknowledging this problem should not override the health risks involved.

In regards to the untreated storm water at Ellenvale Run, HRM should consider the installation of a gross-pollutant removal device (CDS-type unit) and the construction of a detention basin and artificial wetland in this area. This could be similar to the one constructed for the Dartmouth Home Depot. ML-29 supports storm water wetland initiatives such as this.

There are obviously costs associated with these improvements, but if HRM is serious about implementing the environmental policies described in the Water Resource Management Study and draft Regional Plan, they need to be budgeted for and implemented. Preservation of our freshwater resources is not solely a developer's responsibility.

What should we incorporate into this development agreement?

It is acknowledged that the lands under current review are a small percentage of the overall Morris Lake Watershed, and have minimal impact on overall lake water quality.

Therefore the Developer should not be responsible for overall lake water quality or comprehensive monitoring, but they should be required to ensure that the storm water leaving the land under consideration complies with the recommended sediment and phosphorus reduction efficiencies.

For this development agreement, HRM should immediately tender a contract for an environmental consultant to determine the appropriate CCME reference range for Morris Lake and therefore the threshold level, review and make recommendations in regards to proposed storm water and environmental strategies, and provide ongoing site-specific monitoring.

The developer should fund this brief initial study and ongoing monitoring, through means of a grant to HRM. The environmental consultant would work for, and be accountable, to the municipality as was required in the Dartmouth Home Depot monitoring agreement.

This determination of a threshold level should not hold up the development plan as it can be completed very quickly. If the threshold is found to be exceeded, the phosphorus reduction and watershed management strategies included in the proposed development agreement may need to be reviewed and possibly strengthened.

Given that the phosphorus threshold level is known to be currently exceeded in Morris Lake, the consultant would likely simply make recommendations to maximize phosphorus reduction to the fullest extent possible. They would likely provide guidelines for expected phosphorus removal efficiencies of the planned storm water treatment remediation measures, and make appropriate suggestions.

These recommendations would obviously only apply to the area under review (PH 4 and 5) and would be similar to those suggested by the Environmental Consultant hired for the Home Depot development agreement.

The consultant may recommend, for example, including a storm water detention basin at the storm water/CDS outlet planned for this area. The use of in-lake sediment booms may be frowned upon.

Policy ML-26(e), Public Awareness and Education Programs, discusses establishing an educational demonstration site on the importance of protecting lakes. A storm water detention basin, with a small area of natural wetlands at the outlet, could be the first step in implementing this policy. A properly designed detention basin can be the centerpiece of a public park, and have an educational component in addition to active trails and playground.

As the lands under review are such a small percentage of the watershed, the developer should only be responsible for ensuring that storm water leaving these lands conforms to the environmental phosphorus and sediment removal efficiencies recommended by the consultant.

However, should it be determined at any time, during the monitoring program, that water quality leaving the site is unsatisfactory, mitigating measures shall be immediately undertaken and the costs of such measures shall be the responsibility of the developer.

Overall lake monitoring, as required under the draft Regional Plan, should be the responsibility of HRM. If monitoring shows that the threshold is exceeded, HRM should take steps to reduce point source pollution.

This would involve, at tax payer expense, installing a CDS device, detention pond, and perhaps constructed wetland in the Ellenvale Run area. This is recommended in ML-29, and once again, this area could be developed into an educational site and incorporate active trails.

RECOMMENDATIONS

Parkland, Trails and Open Space

Clarify in the development agreement that the Bell Brook corridor should remain public, but undeveloped; or simply have a natural "blazed" trail in the area as suggested by the developer; or

If an active trail is felt necessary, it should be described and properly planned in the development agreement. Additional public space must be negotiated to allow for the trail to be developed outside of the stream buffer zone.

Environmental Protection

Ensure that the wording of the development agreement incorporates the intent of multiple current HRM policies to stem cultural eutrophication from destroying our lakes. The confusion and multiple interpretations that have plagued the Russell Lake West development agreement need to be addressed.

The Developer should fund through means of a grant to HRM, an independent "tendered" report to determine the CCME reference range for Morris Lake and the corresponding threshold level. The same independent consultant should review the draft development and environmental protection plan, and make recommendations based on the CCME Guidance Framework.

This process needs to be initiated immediately to avoid delaying the development. If the threshold is found to be exceeded or at risk of being exceeded, techniques must be incorporated into the development and environmental protection plan to maximize phosphorus reduction.

Dr Blouin should submit the consultant's report to community council by means of a staff report. The threshold value and any suggestions could be incorporated into the development agreement.

Monitoring during development, funded by the developer but tendered by HRM, would simply consist of determining whether or not the storm water leaving the lands complies with the recommended phosphorus and sediment removal efficiencies set by the consultant. Should it be determined at any time, during the monitoring program, that water quality leaving the site is unsatisfactory, mitigating measures shall be immediately undertaken and the costs of such measures be the responsibility of the developer.

This suggested monitoring is identical to that included in the Home Depot development agreement.

It is acknowledged that the land under review is a small portion of the entire watershed, and that the bulk of pollution (nutrients) entering the lake is from HRM municipal sources such as Ellenvale Run.

Therefore, HRM should design and implement a comprehensive monitoring program for this lake, and take steps to reduce the excess nutrients that enter through Ellenvale Run. This could involve installation of a gross-pollutant removal device, followed by a detention basin and constructed wetland incorporated into a park setting with an educational component and active trails.

Due to health implications, and potential HRM liability, I feel very strongly that HRM should notify the public when sewage overflow occurs in the Birches Park area. Many residents, including small children, use Morris Lake for swimming and recreation, and could potentially be exposed to significant health risks. This could take the form of an inexpensive HRM Environmental web site warning, notice at the park, and e-mail notification for those who request this option on the HRM Environmental web site.

ATTACHMENTS

- | | |
|------------|--|
| Appendix A | HRM Regional MPS – Draft 2 (November 30, 2005) |
| Appendix B | Morris Russell Lake Secondary Planning Strategy (Storm water and Monitoring) |
| Appendix C | December 2, 2005 E-mail from Tony Blouin |
| Appendix D | December 13, 2005 E-mail from Tony Blouin |

Appendix A
HRM Regional MPS – Draft 2 (November 30, 2005)

2.4.1 Water Quality Monitoring Functional Plan

HRM will strive to meet body contact recreation standards for our lakes, waterways and coastal waters where feasible. It is also the desire of HRM to stem the decline of lakes from the accelerated process of eutrophication, and sedimentation and inputs from other urban runoff by managing development on a watershed basis.

To examine where and how these long-term objectives may be met, an on-going water quality monitoring program is needed for selected lakes. The program is to be designed and undertaken by qualified persons financed in whole or in part by developers proposing large-scale developments which could have a significant impact on lakes through a master planning or development agreement process. Monitoring of water quality will be based on national guidelines established by the Canadian Council for Ministers of the Environment (CCME). Details of the program are to be negotiated under the terms of a development agreement in consultation with the applicable Watershed Advisory Board.

The Water Quality Monitoring Functional Plan should consider:

1. specifying the duration of monitoring for the pre-construction, construction and post-construction phases of development;
2. specifying the physical and chemical water quality indicators to be measured, the location and frequency of testing and the format of submissions to the Municipality in each phase of development;
3. assessing lake water quality against the water quality objectives established under Policy E-17 to detect changes such as eutrophication;
4. conforming with all water quality policies, specifications, protocols and review and approval procedures approved by Regional Council; and
5. establishing an on-going monitoring program for selected lakes and rivers to determine the state of water resources and to detect changes over time.

E-18 HRM shall prepare a Water Quality Monitoring Functional Plan to establish a comprehensive water quality monitoring program for the Municipality.

**Appendix B – Dartmouth (MPS)
Morris Russell Lake Secondary Planning Strategy**

Stormwater Management

As the Morris-Russell Lake area is developed there will be a need for stormwater to be controlled to remove sediments and phosphorus. The municipality has commissioned a stormwater management plan for Morris and Russell Lakes. The plan contained recommendations regarding structural and non-structural approaches for stormwater management and implementation strategies for both new and existing development.

- ML-27 Any development agreement application within the Morris-Russell Lake secondary plan shall adhere to the recommendations of the Morris Lake Stormwater Management Plan (Jacques Whitford 2004). All government works within the Morris Lake Watershed area shall also adhere to the recommendations of this plan and, where feasible, the plan recommendations shall be applied to existing development.
- ML-28 Within the Morris Lake Watershed, as illustrated on Map 9M, where applications are received for the expansion of existing or new commercial, institutional and multiple unit residential buildings, or for proposed grade alterations on such properties, it shall be the intention of Council to require the developer, where possible, to prepare and implement stormwater remediation measures to improve water quality entering the Morris Lake system.
- ML-29 Where deemed appropriate, the Municipality shall undertake stormwater wetland projects in the waters of Ellenvale Run and at appropriate locations throughout the watershed area. Also, council shall, through the CDD approval process, negotiate with applicable land owners to establish similar wetland projects at appropriate locations within the watershed.

Monitoring

The eutrophication process is gradual and takes place over many years. Its progress will be seen in extension of vegetation in shallow areas and the seasonal occurrence of algae. In the Morris Lake Watershed Study a Phosphorus Loading Model was used to determine the relationship of the lake phosphorus inputs to trophic status.

The model determined that Morris Lake is currently mesotrophic and is within 10 to 15 percent of the eutrophic boundary. Thus, the amount of land developed within the watershed should be controlled to prevent Morris Lake from reaching a borderline eutrophic state. The actual amount of land that can be developed can only be determined by undertaking a well designed lake monitoring program and adopting a preset maximum permissible limit for total phosphorus. If the results indicate that Total Phosphorus continues to increase, the watershed management plan will have to be revised and development controls strengthened.

ML-30 A water quality monitoring program shall be undertaken for Morris and Russell Lakes to track the eutrophication process. The program is to be designed and undertaken by qualified persons financed in whole or part by developers within the secondary plan area. Specifics of the program are to be negotiated under the terms of a development agreement in consultation with the Dartmouth Lakes Advisory Board. The monitoring program shall:

- (a) specify the duration of monitoring for the pre-construction, construction and post-construction phases of the development;
- (b) Specify the physical and chemical water quality indicators to be measured, the location and frequency of testing and the format of submissions to the Municipality in each phase referenced under clause (a);
- (c) Establish eutrophication threshold levels for the lakes which would be used as a basis for reevaluating watershed management controls and future development potential within the area;
- (d) Conform with all water quality policies, specifications, protocols and review and approval procedures approved by Regional Council.

ML-31 Pursuant to policy ML-30, in the event the critical water quality threshold for Morris or Russell Lakes are reached, it shall be the intention of Council to immediately undertake a review of existing plan policies contained herein and determine an appropriate course of action respecting watershed management and future land use development in this area. Critical water quality thresholds shall be made available to the public.

Appendix C
December 2, 2005 E-mail from Tony Blouin

>>> Tony Blouin December 2, 2005 9:58 am >>>

Good morning all. I would like to try to address the concerns which have been raised recently.

I don't believe there is any disagreement over the process and methodology to be used in setting threshold levels for Russell Lake. The CCME "Canadian Guidance Framework for the Management of Phosphorus in Freshwater Systems" (Environment Canada, 2004) provides the appropriate process, and this is the document to which Jacques Whitford referred in describing their intended water quality program.

I also do not believe there should be any disagreement over who will set the threshold level. As I clarified in an e-mail to the HECC yesterday, it is HRM who must set the value. The Planning staff had indicated that Policy ML-30 of the MPS requires that "a water quality program shall be undertaken" ... "by qualified persons financed in whole or in part by developers" ... and that "the monitoring program shall" ... "establish eutrophication threshold levels". Planning had indicated that this requires the developer to conduct the work. However, the level will be a matter of HRM policy and as such must be set by HRM. The process we had anticipated was that the developer's consultants would suggest a level based on the CCME process, and that this would be approved (or modified if appropriate) by HRM. If Community Council wishes, a suggested level can certainly be referred to the Dartmouth Lakes Advisory Board or any other party, for advice. I would anticipate that formal approval of a level would take place through a staff report to HECC, with a staff recommendation. I know that Mr. Mandaville has made a submission in which he suggests a level, and this will also be considered in any recommendation to HECC.

By copy of this, I will ask Planning & Development to confirm that this is the appropriate process. This is the first instance in which HRM has used MPS policy to establish a formal threshold level.

I do want all parties to be aware that I am out of the province all of next week, and so I will likely be unable to respond to further questions or comments after today, until my return on Dec. 12.

Tony

Appendix D
December 13, 2005 E-mail from Tony Blouin

>>> Tony Blouin December 13, 2005 10:55 am >>>

Further update: The HRM Planning & Development Department has provided further information on the required process for setting a phosphorus level for Russell Lake, as follows.

--- Section 3.1 of the development agreement between HRM and Clayton Developments states in part: "The Development Officer shall refer the proposed monitoring program to the Dartmouth Lakes Advisory Board for an opinion regarding its acceptability (this has been done) and may seek the advice of any person deemed qualified within the Municipality or the Province". One of the required components of the program is establishing eutrophication threshold levels (MPS Policy ML-30c). The recommended threshold level should therefore be forwarded to the DLAB for acceptance. A staff recommendation would be made to DLAB regarding the acceptability of the proposal made by the applicant's consultant. A recommendation would be made by staff and the DLAB, which could then be tabled with the HECC as an information item. Section 3.3 requires that the findings of the monitoring program are to be submitted to a person designated by the Municipality, and the developer is to present the findings to the DLAB and HECC on an annual basis. ---

I hope this clarifies the required process. HRM is awaiting the consultant's proposal on a phosphorus level.

Tony