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MEMORANDUM

TO: Chair and Members of the North West Community Council

FROM:  Barbara Coleman, Legislative Assistant for Halifax Watershed Advisory Board

DATE: May 8, 2008

SUBJECT: Case 01118: Watercourse setback requirements, Sackville Drive LUB

Attached for your review is the above-mentioned report.

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PO Box 1749
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North West Community Council
May 22, 2008

TO: Chair and Members of North West Community Council

SUBMITTED BY: 
for Dr. Wayne Stobo, Chair, Halifax Watershed Advisory Board

DATE: 6 May 2008

SUBJECT: Case 01118: Watercourse setback requirements, Sackville Drive
LUB

ORIGIN

North West Community Council requested that staff review the watercourse setback requirements in the Sackville Drive Land Use By-Laws to determine under what circumstances the setback could be reduced from 30m to 20m. This issue was brought before the Halifax Watershed Advisory Board by Andrew Bone, Senior Planner on 19 March 2008.

RECOMMENDATION

The Halifax Watershed Advisory Board (HWAB) recommends that the 30m setback requirement in the Sackville Drive Land Use By-Law not be reduced.

BACKGROUND

The existing Sackville Drive LUB has a 30m setback which is greater than the Regional Plan setback requirement of 20m. The Provincial setback guideline is 20m.

Staff were asked to identify situations in which a reduction of the setback could be granted, for existing lots. The presentation made to HWAB by Mr. Bone gave five (5) situations which staff were considering as possible reasons for a reduction in the setback: i) where there is existing disturbance or development on the portion of the property identified within the setback); ii) where avoidance of right-of-ways creates a hardship; iii) where the configuration of a lot creates a hardship; iv) where the impact of the setback on a lot creates a hardship (percentage of lot covered by setback; and, v) where a building cannot be built on a lot. Mr. Bone also indicated that staff were not considering recommending such reductions in cases where extreme gradients occurred towards the watercourse, when the land use involved potential petroleum products, or when the floodplain boundary exceeds the setback.

Approximately 20 properties would benefit from a change in the setback requirements.

The HWAB initially developed a set of environmental guidelines to ensure consistency in advice provision, over a decade ago. The guideline for undisturbed buffers, or setbacks, from any watercourse and wetlands, was 30m. This setback distance has been reviewed by the HWAB on a number of occasions since that time. On each occasion it was confirmed that a 30m setback was the minimum distance to convey reasonable protection for watercourses and wetlands.

DISCUSSION

The Board was pleased to have been consulted on this issue. HWAB has long felt that the setbacks required by most HRM planning strategies were inadequate to protect watercourses from sedimentation, erosion and pollution. HWAB advised against incorporating into the Regional Plan only a 20m setback requirement. Many studies have indicated that any undisturbed buffers of less than 30m results in inadequate stormwater 'polishing', nutrient removal and pollutant removal.

HWAB reviewed the potential circumstances under which HRM staff would advise for a reduction in the setback, and concluded that any developer could provide a case for reduction of the setback. HWAB reaffirmed that the setback provision is to protect the watercourse, thus the potential to create a hardship for the developer should be secondary to the intent of the setback provision. Notwithstanding the existence of development or disturbance within the setback area, of a right-of-way, of a difficult lot configuration or that the lot is significantly within the setback area, the intent of the setback is to prevent further development which would degrade the watercourse; the existence of the above conditions should not be used as reason to allow further degradation of that watercourse. The fact that a building may not be accommodated on the lot due to the setback only emphasizes that a building should not be put there, rather than reducing the setback to allow a building.

The HWAB members were unanimous in the rationale for not supporting any reduction in the setback requirement.

BUDGET IMPLICATIONS

Budget Implications associated with the recommendations have not been identified. Any associated budget implications would need to be determined by HRM staff and disclosed to North West Community Council/Regional Council in a subsequent report.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report does not address implications to 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

None

ATTACHMENTS

None

<p>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: Barbara Coleman, Legislative Assistant</p>
