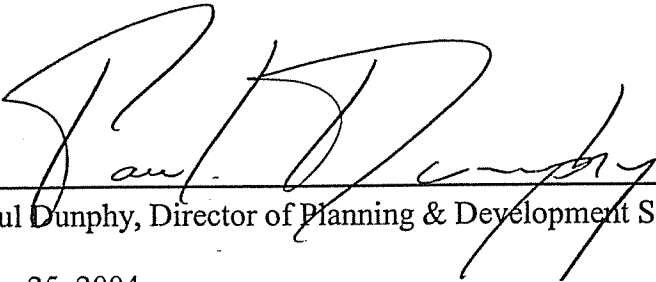


Halifax Regional Council
June 8, 2004

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:


Paul Dunphy, Director of Planning & Development Services

DATE: May 25, 2004

SUBJECT: Gateway Quarry Operation

INFORMATION REPORT

ORIGIN:

Regional Council requested a staff report on August 19, 2003 (see attached Minutes) related to an event related to the Gateway Quarry operation which posed a risk to public safety. Council's request included several specific questions which staff were to investigate and provide response. Councillor Whalen asked that the recommendations and findings of the investigation into the accident be brought to Council with the requested staff report. Although the investigation is not complete, staff is bringing forward this report due to the length of time from the original Regional Council meeting.

BACKGROUND AND DISCUSSION:

When was the Quarry approved? The quarry was operating from the early 1970s. An Application was made in 1979 and approval given in 1980. Amended approval has been given for the operation to continue until December 2013. The extent of current quarry operations is illustrated on Map 1, attached to this report.

What was the minimum setback between the quarry and neighbouring uses at the time of the original approval by the Province? The quarry was required to maintain a minimum setback of 800 metres from the foundation or base of any structure not related to the proposed quarry operation.

What is the current setback requirement? The minimum setback remains the same at 800 metres from foundation or base of any unrelated structure.

What was the actual setback measured when the blast occurred? The actual distance to the building which incurred the most damage was 460 metres. Residential development permitted by the Municipality encroached upon the minimum setback distance.

Are there established limits on the quarry's duration and/or its size ("foot-print")? There are established limits in this regard. Quarry operations are restricted to the original footprint identified on the Provincial approval.

Was there any consideration of the quarry operation during the approval of the developments on the other side of the BiCentennial Highway? The staff reports for Clayton Park West (Case 5006 of April 23, 1987) and Glenbourne (Case 6511 of June 14, 1993) make no reference to the quarry operation or any other consideration for the quarry activity. The Glenbourne report did allow for the oversizing of the sewer to provide for future development of the 1,900 acres west of the Bicentennial Highway which would include the quarry lands.

The Birch Cove Lakes Area Environmental Study Issues and Opportunities Task Force 3 Report prepared by Porter Dillon, June 1996, on page 22 indicates that "The quarry is likely to be depleted of rock within a few years, however, unless quarrying is extended below the water table." It was likely perceived at the time that the quarry would not be operational in the foreseeable future. No minimum setbacks were considered or implemented.

What is the extent of HRM's authority with regard to pits and quarries? Can HRM restrict or regulate a quarry? The conclusion of the Courts in Nova Scotia is that the Province has retained the jurisdiction over the operation of pits and quarries. Any land use bylaw would not have any effect over the operation or extent of the quarry. The Municipal Government Act in Section 220 does provide the ability to "regulate the location of developments adjacent to pits and quarries." This could include, for example, provisions in a land use bylaw that any unrelated structure be a certain distance, possibly the distance used by the Province of 800 metres, from a quarry operation.

Are there different standards for quarry blasting versus construction blasting? There are no differing standards - the air blast limits are the same at 128 dBA, and the limits for ground vibration are both based on the threshold to prevent cracking in plaster.

How far did the material travel and at what height? This question cannot be answered until the investigation is completed, which is expected in the near future. On September 7, 2003, the Department of Environment & Labour issued a Compliance Order under the authority of the Occupational Health and Safety Act to Gateway Material Limited outlining how the company is to develop a code of practice, which is more stringent than the standard regulations. Staff will submit the report when it becomes available.

Possible MPS and Land Use By-law Amendments: Staff recognizes that there is a major inconsistency with the absence of any municipal regulation related to the distance of buildings from a quarry. Staff will be bringing back a report to Regional Council which will provide options for

regulation of future buildings around existing and new quarries. This will help to prevent the type of encroachment of buildings within the 800 metre buffer that the Province imposes on the quarry operator.

ALTERNATIVES:

None at this time.

BUDGET IMPLICATIONS:

None

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.

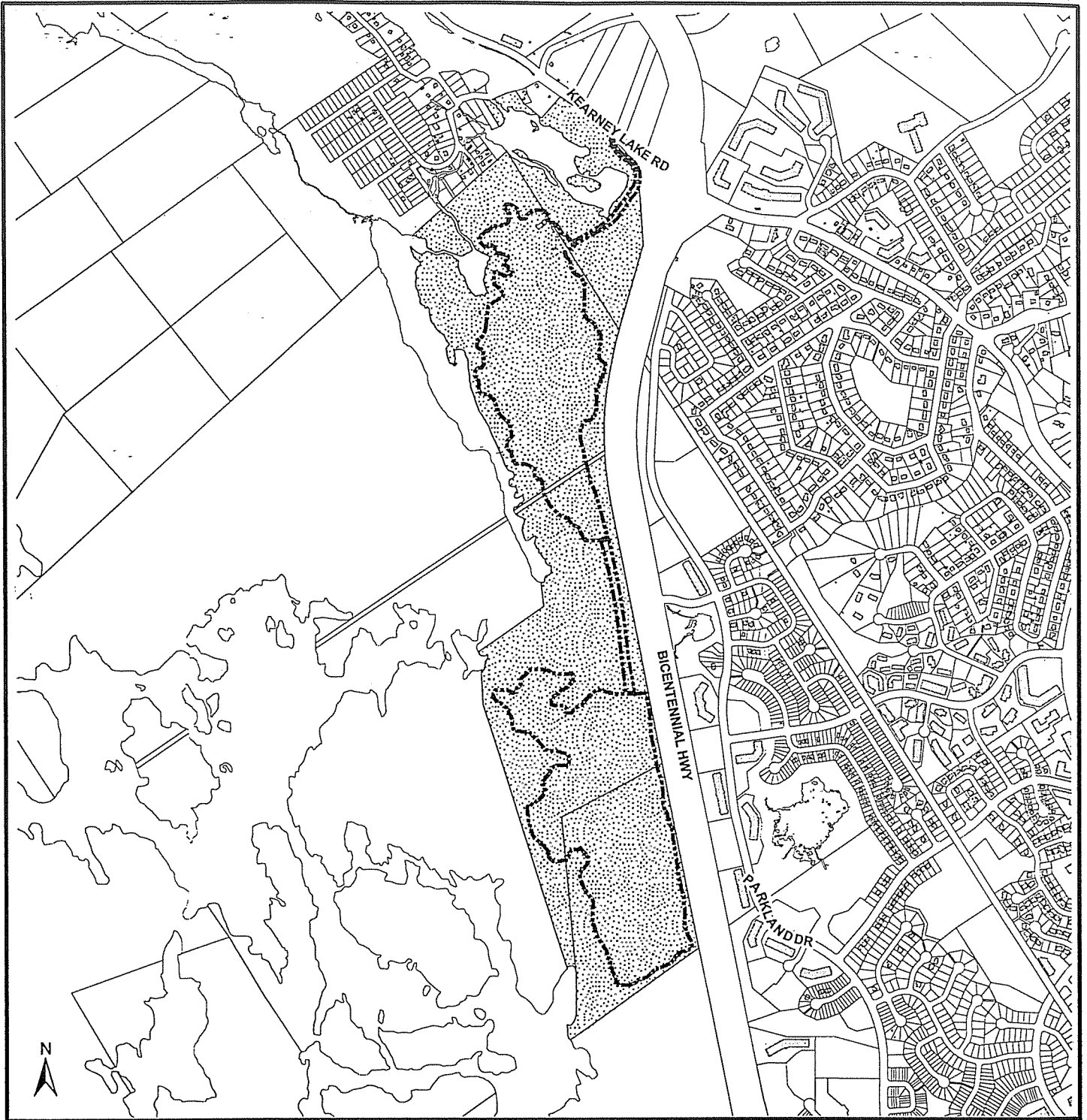
ATTACHMENTS:

Map 1: Gateway Quarry Location

Attachment A: Halifax Regional Council Minutes - August 19, 2003

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: Angus Schaffenburg, Planner II at 490-4495



Map 1 - Location

Bicentennial Drive
Halifax

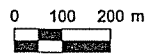


Lands of Gateway Materials Ltd.



Approximate extent of
current quarry operation

HALIFAX
REGIONAL MUNICIPALITY
PLANNING AND
DEVELOPMENT SERVICES



Quarry extents captured from aerial
photography, Department of Natural
Resources, October 2003

HRM does not guarantee the accuracy
of any representation on this plan.

Halifax Plan Area

Attachment A: Halifax Regional Council Minutes August 19, 2003**12.2 Councillor Whalen - Gateway Quarry Operation**

In response to a question of Councillor Whalen regarding the stop work order in place at the Gateway Quarry operation, Mr. Anstey stated if the stop work order was issued with respect to the blasting by-law, and HRM does not have jurisdiction over blasting in quarries, the municipal stop work order has no legal effect. However, as long as the provincial stop work order is in place, blasting would be illegal.

Councillor Whalen requested a staff report regarding the history of the quarry, the extent of the operation, when it was first approved, and any time or area restrictions of the approval to determine what the future holds. The Councillor also asked that the report address how the planning approvals were allowed for development so close to a quarry, and whether or not the minimum setbacks were considered at the time, and are they still being followed.

MOVED by Councillor Whalen, seconded by Councillor Walker, that this matter be referred to staff for a report.

Ms. Sharon Bond, Manager, Subdivision and Land Use Compliance, advised Council that staff have begun the research for this report and will be looking to the results of the investigation before finalizing the report. It is hoped the report will be to Council in early October.

Councillor Whalen asked that the report also address the following:

- the extent of HRM's authority with regard to pits and quarries
- whether or not HRM has the authority to restrict or regulate a quarry
- do HRM's land use by-laws apply to quarries
- does the land zoning have any bearing on the activity taking place on the site
- are there different standards for quarry blasting versus construction blasting

Councillor Walker asked that the report also include information on the incident regarding how far the material traveled and at what height.

Closing the debate, Councillor Whalen requested that HRM staff work with the provincial counterparts in reviewing the recommendations of the investigative report. The Councillor also suggested there is a need for a working group to review all of the blasting regulations as there is an overlap of responsibility between the Municipality and the Province. Councillor Whalen also asked that the recommendations and findings of the investigation be brought to Council with the requested staff report.

MOTION PUT AND PASSED UNANIMOUSLY.