



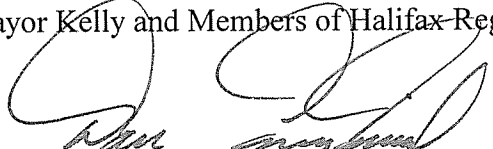
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Item No. 10.1.9

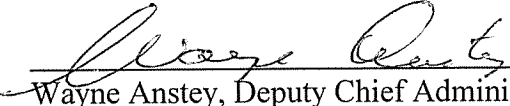
**Halifax Regional Council
September 18, 2007**

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



Dan English, Chief Administrative Officer



Wayne Anstey, Deputy Chief Administrative Officer - Operations

DATE: September 10, 2007

SUBJECT: **Case 01058 - Amendments to All Land Use By-laws Regarding
Temporary Construction Activities**

ORIGIN

On April 3, 2007 Regional Council requested staff to initiate a process to amend the Municipality's Land Use By-laws to clarify regulations related to temporary construction activities, specifically rock crushing activities in association with development.

RECOMMENDATION

It is recommended that Halifax Regional Council request staff to undertake the process to amend all HRM's Land Use By-laws (Region-wide) regarding temporary construction activities, and to follow the public participation program as presented in Attachment A of this report.

BACKGROUND

Temporary Construction Activities (Rock Crushers)

Aggregates are construction materials of stone, sand and gravel used for road construction, lot grading, concrete production and erosion control measures. In many cases, crushed aggregates are supplied by quarries licenced by the province.

The use of temporary rock crushers on development sites where in situ (native) rock is crushed and used on the site is an appropriate and efficient use of aggregate and reduces or eliminates the need to import or export aggregate to and from the site. While this activity results in certain impacts on existing adjacent uses, primarily noise and dust, such impacts can be minimized if the duration of the activity is restricted to only that required for the site development. However, impacts on adjacent uses are exacerbated in circumstances where rock crushers operate beyond the aggregate requirements for the site, through the import and export of materials.

The Land Use By-laws (LUBs) within HRM permit temporary construction uses to accommodate site development, however, only the Beaver Bank, Hammonds Plains and Upper Sackville LUB specifically cites rock crushers as a permitted temporary construction use, with stipulations (refer to Attachment B). The remaining LUB's do not specifically mention rock crushers.

In the past, staff have consistently made an interpretation that if a rock crusher is being used to crush native rock to be used on that construction site it is considered incidental to construction and therefore a permitted use. However, if this rock is being crushed and exported to another site staff considers this an industrial use, which is not permitted in a residential zone.

While investigating a complaint that crushed rock on a construction site was being exported, our legal staff advised that our LUBs should be amended to clarify regulations with respect to these temporary construction uses. Council, through it's Motion of April 3, 2007, requested that staff address this issue.

DISCUSSION

Land Use By-law Amendments

The matter of temporary (construction) uses typically appears in the "General Provisions" sections of the Municipality's LUBs. It is staff's intention that the new regulations developed for such activities will be applied consistently in all areas of HRM. This will create clarity for both the construction industry and residents and will avoid having different rules for different geographic areas.

The intended LUB amendments will address the issue of temporary construction activities by:

- (a) providing for a comprehensive definition including uses such as wood chippers, asphalt plants, soil screening, rock crushers, etc., that have the potential to cause nuisance effects on adjacent existing residential and institutional uses
- (b) requiring a development permit for the use
- (c) establishing time limitations on the use
- (d) establishing appropriate setbacks from existing residential and institutional uses

Public Participation Program

The proposed public participation program for considering amendments to all HRM LUBs respecting temporary construction activities is presented in Attachment A. In summary, it will entail consultation with industry stakeholders, including the Development Liaison Group, NS Home Builders Association, NS Road Builders Association, rock crusher operators, quarry operators and NS department of Environment and Labour. The program will also include a minimum of three public information meetings to enable input from the public. Meetings will be scheduled in each of the three administrative regions of the municipality.

Staff will then prepare a report and proceed to Regional Council for Public Hearing. The Hearing will deal with a proposed set of amendments for all of HRM's Land Use By-laws.

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.

ALTERNATIVES

1. Council may choose to initiate the process to amend all LUBs to clarify regulations respecting temporary construction activities, including rock crushers. This is the staff recommendation.
2. Council may choose not to initiate amendments to the LUBs regarding temporary construction activities. This is not recommended for the reasons outlined in this report.

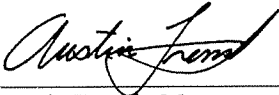
3. Council could consider a separate By-law to regulate temporary construction activities. This is not recommended since the MGA specifically enables the regulation of such uses in a LUB and staff agrees this is the appropriate legislative document.

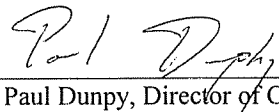
ATTACHMENTS

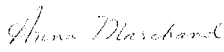
- Attachment A: Proposed Public Participation Program - LUB Amendments Respecting Temporary Construction Activities
- Attachment B: Excerpt from the Existing Beaver Bank, Hammonds Plains, Upper Sackville LUB Respecting Temporary Construction Uses Permitted

A copy of this report may be obtained online at <http://www.halifax.ca/council/agendas/caagenda.html> by choosing the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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For, Catherine Sanderson, Sr. Manager, Financial Services, 490-1562

Attachment A

**Proposed Public Participation Program:
Region-wide LUB Amendments Respecting Temporary Construction Activities**

1. Meet with the Development Liaison Group (DLG) to discuss issues and opportunities, identify industry stakeholders and determine appropriate methods/forums for stakeholder input. Minutes recorded.
2. Schedule consultation(s) with industry stakeholders, based on direction provided by the DLG. Minutes recorded.
3. Schedule minimum three (3) Public Information Meetings; one to be held in each administrative region of HRM (Eastern, Central, Western). Minutes recorded.
4. Staff report prepared, including proposed LUB amendments, and proceed to Regional Council for First Reading.
5. Public Hearing before Regional Council.

Attachment B
Excerpt From the Existing Beaver Bank, Hammonds Plains, Upper Sackville
Land Use By-law

PART 4: GENERAL PROVISIONS FOR ALL ZONES

4.13 TEMPORARY CONSTRUCTION USES PERMITTED

- (a) Nothing in this By-law shall prevent the use of land or the use or erection of a temporary building or structure which is accessory to construction in progress, such as a work camp or construction camp, mobile home, sales or rental office, tool or maintenance shed or scaffold, provided that a development permit has been issued.
- (b) Nothing in this By-law shall prevent the use of land for a temporary rock crusher associated with a pit operation provided that the rock crusher is located on the same site for which permits have been issued by the Municipality under the Gravel Pits and Excavations By-law and the Removal and Movement of Topsoil and Earth and the Alteration of the Grade of Land By-law, and the Province under the Nova Scotia Environment Act; that the rock crusher is only used for the rehabilitation of the pit; and that it is not used for the crushing of rock from an offsite location or the production of gravel for another site. A non-illuminated sign indicating that rock crushing activity will be taking place must be posted in a visible location on the site at least 48 hours in advance of the crushing. A permit for a temporary rock crusher associated with a pit shall not exceed a period of one (1) month and shall only be issued for the subject area of land once.
- (c) Nothing in this By-law shall prevent the use of land for a temporary rock crusher associated with the construction in progress of a residential subdivision or public road improvements that require on-site crushing in order to prepare the site for development provided that, in the case of a residential subdivision, the rock being crushed is from the site for which a subdivider's agreement has been entered into with the Municipality; and that, in both cases, the rock crusher is located 800 metres (2624 ft.) away from the foundation of the nearest occupied residential dwelling and institutional use except for fire and police stations, public works, cemeteries, historical sites and monuments and recreational trails, and that it is not used for the production of gravel for another site. A non-illuminated sign indicating that rock crushing activity will be taking place must be posted in a visible location on the site at least 48 hours in advance of the crushing. A permit for a temporary rock crusher associated with a residential subdivision or public road improvement shall not be issued for more than one cumulative month per year.