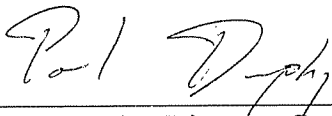




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**Item No. 2**  
**Halifax Regional Council**  
**December 15, 2009**

**TO:** Mayor Kelly and Members of Halifax Regional Council

**SUBMITTED BY:**   
Paul Dunphy, Director, Community Development

**DATE:** November 10, 2009

**SUBJECT:** Permitted and Potential Land Use at 209 Kearney Lake Road, Halifax

### INFORMATION REPORT

#### ORIGIN

September 22, 2009 - HRM Regional Council (item #12.3)  
MOVED BY Councillor Hum, seconded by Councillor Wile, that Halifax Regional Council request a staff report regarding the land use of the former Lafarge property located on Kearney Lake Road including information on permitted and potential land use and the investigation of environmental concerns. MOTION PUT AND PASSED.

#### BACKGROUND

A review of our records indicates that an Occupancy Permit was issued in 1971 to erect an office, machine shop, screening plant, temporary asphalt plant and a quarry. At the time the permits were issued the zoning of the property permitted these uses.

In 1978 the zoning changed with adoption of the Halifax Mainland Land Use By-law to R-2, which limited uses to single- and two-unit dwellings leaving the use of the land non-conforming. In 2006 the Regional Plan was adopted and the zoning changed to Urban Settlement, a zone which further limits use to single unit dwellings with on-site sewage disposal.

The quarry and screening plant have not operated on the land for approximately twenty years, however the office use continues to date.

## **DISCUSSION**

The HRM Charter protects the rights of uses pre-dating the land use by-law. These uses are considered to be non-conforming, traditionally referred to as “grand-fathered” uses, and have the right to continue indefinitely. A change in ownership has no bearing on this right.

Should a non-conforming use cease operation for a six month, continuous period then all non-conforming rights are lost and the only use permitted on the land from that point forward is a use permitted in the land use by-law. In this instance the temporary asphalt plant ceased operation approximately twenty years ago and has lost non-conforming rights. Although the quarry is no longer non-conforming, it is a land use regulated by the Province of Nova Scotia and could be re-established regardless of zoning if it meets Provincial regulations.

The present use of the land is an office building and accessory vehicle storage yard. Should the new owner continue the existing use or propose the same use under a new name, they have the right to continue operation on the property.

The Regional Municipal Planning Strategy designates this land as Urban Settlement. Should the owners wish to develop the land for any use other than that permitted in the zone, they are required to initiate a secondary planning process. This would require public consultation and ultimately, Council approval.

There have been longstanding concerns by residents of the Kearney Lake community over the environmental impact of future development on groundwater and surface water quality in the immediate area. The secondary planning process described above would include a watershed study which, among other outcomes, would recommend measures to protect and manage water quality in the area."

## **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

None

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

Report Prepared by: Andrew Faulkner, Development Officer, 490-4402

Report Approved by: Sharon Bond  
Sharon Bond, Manager, Subdivision & Land Use, 490-4800