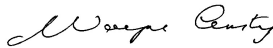




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Item No. 10.1.2
Halifax Regional Council
April 6, 2010

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: 
Wayne Anstey, Acting Chief Administrative Officer

DATE: March 12, 2010

SUBJECT: Case 15953: Utility Uses - All Plan Areas

ORIGIN

On January 26, 2010, Halifax Regional Council approved-in-principle the concept of establishing a Green Thermal Utility (GTU) comprised of the Alderney 5 and Mill Cove GTU projects. The January 14, 2010 staff report on the project noted that amendments to the Bedford and Downtown Dartmouth planning documents are required to accommodate the proposed projects.

Due to a lack of consistent direction and language in many of HRM's planning documents, similar amendments are needed in relation to the use of land and development of structures that support other utilities such as Halifax Water, Heritage Gas, and Nova Scotia Power.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Initiate the process to consider amending the Regional Municipal Planning Strategy, all Secondary Municipal Planning Strategies and all Land Use By-laws to clarify HRM's land use policies and regulations in relation to utility uses; and
2. Direct staff to hold a Public Meeting regarding this issue in each of the three administrative regions of HRM.

BACKGROUND

Prior to amalgamation, each of the former municipalities that now comprise HRM regulated utility uses differently. The practice in at least one municipality was to permit many of these uses in all zones as essential infrastructure without specific zoning provisions, while another permitted the uses only where specifically enabled by a Land Use By-law, or in some cases, by development agreement only. As a result, there is not a consistent approach for regulating utility uses within HRM.

Impact of Current Regulations

The inconsistent approaches employed by the former municipalities that comprise HRM have become problematic in recent years because these uses cannot be permitted according to past practice due to interpretation of specific policies and zoning provisions in other areas of HRM. As a result, Halifax Water went through several recent planning processes to enable projects that may have been permitted at the same locations in years past. In these cases, discretionary planning approvals were required to upgrade existing water and wastewater infrastructure because the uses were not specifically permitted in the zones or the applicable definitions were not clear.

In most cases, there may be limited practicality or benefit derived as a result of Halifax Water undertaking discretionary planning processes to upgrade public infrastructure. The purpose of these projects are most often to ensure a safe supply of drinking water and a wastewater system that complies with provincial health and environmental regulations. Public involvement may be important in certain situations but a discretionary planning approval process may not always be the most appropriate or efficient mechanism. The same holds true for many, but not all, types of uses and structures related to other utility services.

GTU Facilities

The issue of the proposed GTU facilities is somewhat different in that these uses were not envisioned at the time that the Bedford and Downtown Dartmouth planning documents were adopted. As a result, there is a lack of clear policy direction and regulation for this type of use. Neither the Mill Cove or Alderney 5 GTU projects are permitted under their existing zoning even though one project requires a limited expansion to an existing sewage treatment plant and the other is located within a zone that permits a variety of other commercial uses.

Since it is not appropriate to permit a commercially oriented GTU in a residential area unless the planning documents permit the use, it is therefore not appropriate to permit municipally owned or operated GTU uses in locations where that use is not specifically permitted. Consequently, HRM needs to update its planning policies and regulations to address this new land use.

Other Utility Uses

In recent years similar issues have also arisen in relation to other utility uses. Rather than undertake an initial planning process to only address the issues at Mill Cove and Alderney 5 and then move on to address similar issues with other utility uses through a second process, a more efficient use of resources and public input would be to address the issues as part of a comprehensive planning process. Furthermore, unless the issue is addressed comprehensively, HRM may encounter similar zoning issues again in the future if the GTU project is expanded across the region.

DISCUSSION

Generally, MPS amendments should only be considered where factors related to MPS policies have changed significantly. Although green thermal utilities and district energy systems have been utilized in Europe and other parts of Canada for quite some time, their use has thus far been limited in HRM. As interest in these uses increases so does the need for HRM to clarify how they should be regulated from a land use perspective. Sustainable energy initiatives such as GTUs and district energy systems provide economic and environmental benefits to the operator, customers and the broader community. Meanwhile, the services provided by traditional utility providers such as wastewater, water, electricity, cable, phone, natural gas, and internet, are essential for safety, quality of life and business enterprise throughout HRM.

The characteristics of utility uses can range quite widely and that the uses are both present and required throughout all areas of HRM. As a result, staff anticipate that the potential amendments proposed pursuant to this case may focus on the size and nature of the uses only. For instance, land uses or structures of a certain size or characteristics may be required to be screened or completely enclosed within a structure that meets specific new provisions and/or the provisions of the applicable zone. The process may also clarify, for instance, that less obtrusive and smaller structures are permitted as-of-right in all zones pursuant to more general provisions. Furthermore, for situations where a green thermal utility is not permitted as a stand alone commercial use, the amendment package would investigate allowing such a use as an ancillary component of a permitted or existing commercial, institutional, industrial or residential use.

Conclusion

A range of issues have arisen in recent years related to Halifax Water construction projects, a lack of clarity for utility structures, and most recently the need to accommodate the Alderney 5 and Mill Cove GTU projects. Staff are of the opinion that the best use of resources and the public's input is to consider the issue of utility uses comprehensively as part of a single process. Therefore, staff recommend that Council initiate the process to consider amendments to the Regional Municipal Planning Strategy (RMPS), and all MPSs and LUBs, in order to establish direction and clarity with respect to utility land uses.

BUDGET IMPLICATIONS

The costs to process this planning application can be accommodated within the proposed 2010/11 operating budget for C310 Planning & Applications.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the proposed 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 consider amending the RMPS, and all Secondary MPSs and LUBs for the reasons set out in this report. This is the recommended course of action.
2. Council may choose to initiate a process to consider amending only the Bedford MPS and LUB and Downtown Dartmouth LUB in order to accommodate the Alderney 5 and Mill Cove GTU projects.
3. Council may choose not to initiate the RMPS, MPS and LUB amendment process. A decision not to amend the RMPS or MPS cannot be appealed. This alternative is not recommended, as staff feels that there is merit in considering the potential amendments.


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.

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