

Our File: 262254

May 9, 2025

Via Email

Council Members
Municipality of the District of East Hants
15 Commerce Court
Elmsdale, NS B2S 3K5

Dear Council Members:

**Re: Community Plan, SUB and LUB issues: Second Access Requirements
Submission for Executive/Planning Advisory Committee Meeting May 13**

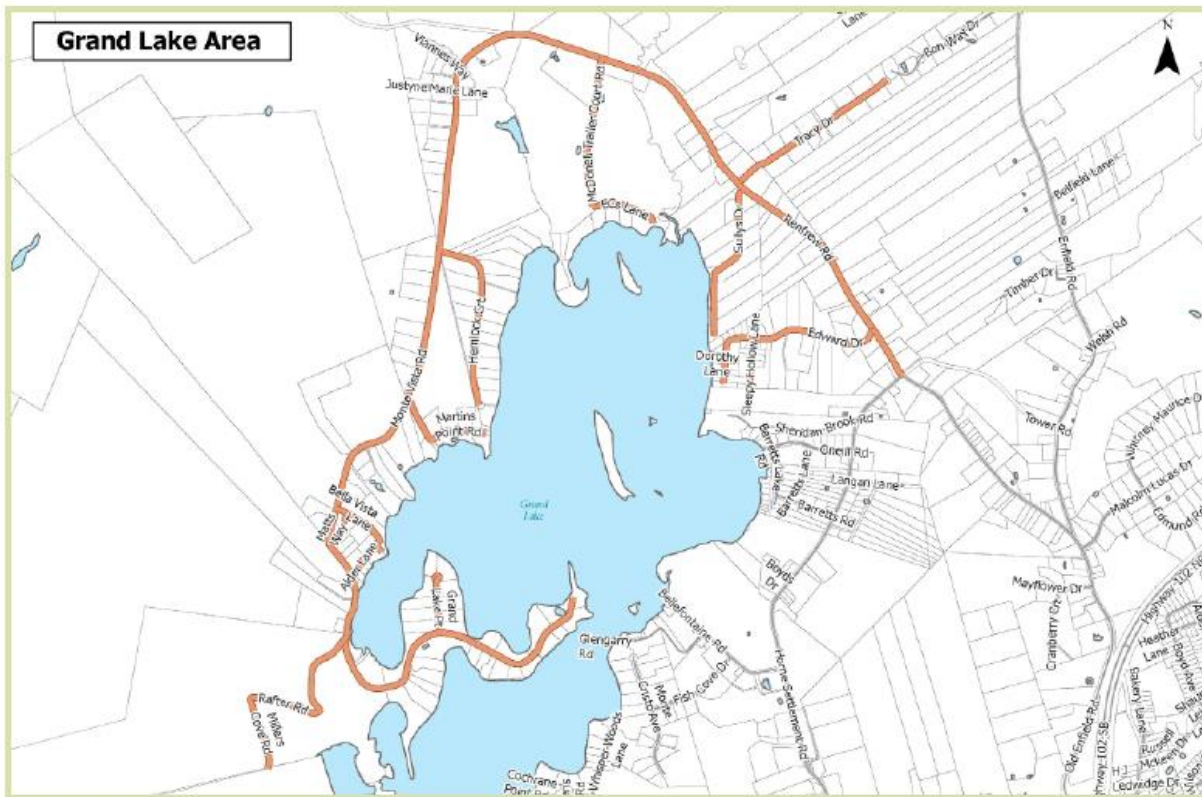
I act for several owners of land who are adversely affected by existing and proposed development restrictions on land in the Grand Lake area serviced by Renfrew and Monte Vista Roads. This letter is written on behalf of the Menger-Krug family who own a dwelling and land at 704 Monte Vista and who own M & M Developments, a significant landowner in the area. But many other owners in the area are adversely affected. Many potential residents seeking a rural lifestyle with lower cost, unserviced land to live upon are also adversely affected.

We acknowledge that the issue has been raised with the best of intentions about protecting human safety. Nevertheless, we endeavour to show in this correspondence that the s.10.16 of the SUB as amended in 2013 and the proposed additional restrictions are unwise for the following reasons:

1. The wildfire life and safety risk in the Renfrew/Monte Vista Rd. area has not been correctly evaluated and is actually very small;
2. Government development bans for a small wildfire life safety risk interfere with choices of adults regarding residence location for their families are:
 - a. an unreasonable restriction on their freedoms,
 - b. an unwarranted, uncompensated removal of the development rights of landowners, and
 - c. an unnecessary and severe aggravation of the housing crisis.
3. HRM's Municipal Design Guidelines being advanced as a precedent or model for East Hants do not in fact require multiple accesses to collector or arterial roads; those Guidelines accept the existing street network as it is and are much less restrictive; and
4. A focus on fire prevention, detection, containment and suppression is a better response to wildfire concerns than enacting what appear to be the most onerous access requirements for rural development anywhere in North America.

The Municipality, in the aftermath of the 2023 Wildfires in Nova Scotia, has already directed staff to alter its previous practices to now strictly enforce and apply a very restrictive bylaw provision,

s. 10.16 of the SUB, which disallows new lots to be created on Renfrew Rd., Monte Vista Rd. and existing and potential future roads beyond the intersection of Renfrew Rd and Horne Settlement Rd. The area's roads are depicted in orange in the below map prepared by your municipal staff.



I am not addressing in this letter the situation of more dense suburban areas such as the Elmwood subdivision to which different considerations could apply, like the possibility of a traffic congested bottleneck at a single exit point. Renfrew Rd. and Monte Vista is a long road, and wildfires would threaten different parts of it at different times, even if it were a fast-moving wildfire. People would arrive at the Horne Settlement Rd intersection at different times.

I also do not address in this letter protections from the peril of flooding in flood risk areas – that is a different situation as (a) development in floodplains significantly consumes the storage capacity of the area for stormwater and thereby magnifies the flooding problem, and (b) is now proving a problem for homeowners to obtain insurance upon. Renfrew/Monte Vista Rd is not a floodplain, nor is there any evidence that wildfire hazards have resulted in homes being uninsurable in this province. Higher premiums for properties located away from Fire Halls is an appropriate market-driven deterrent for those choosing a remote location for their home, but no one has been denied the ability to obtain insurance in Nova Scotia due to wildfire risks.

To be clear, I am not saying restrictions on development in either of those other situations (the urbanized subdivision developments with exit chokepoints of traffic, or the floodplain developments) are either warranted or unwarranted. It is just not my business to comment upon them. For the Renfrew Rd. network, the reported concern is wildfire. And my focus is on the wildfire rationale for that area alone. People living farther from hospitals and fire stations are – and should be - free to choose to do so, accepting the risks which are no doubt offset by other

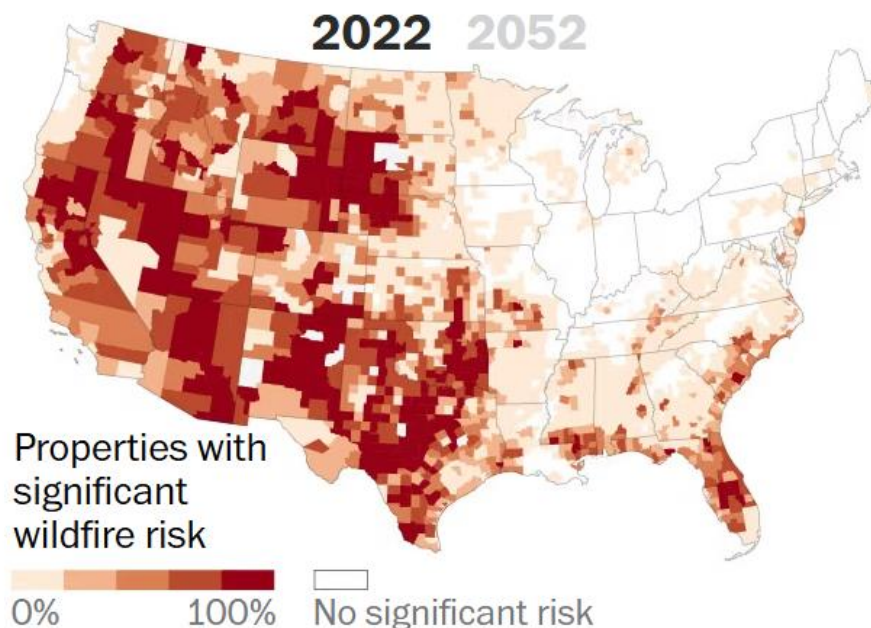
benefits they obtain, such as having a more affordable home and living a more rural, less crowded lifestyle.

Wildfire Risks to Human Safety

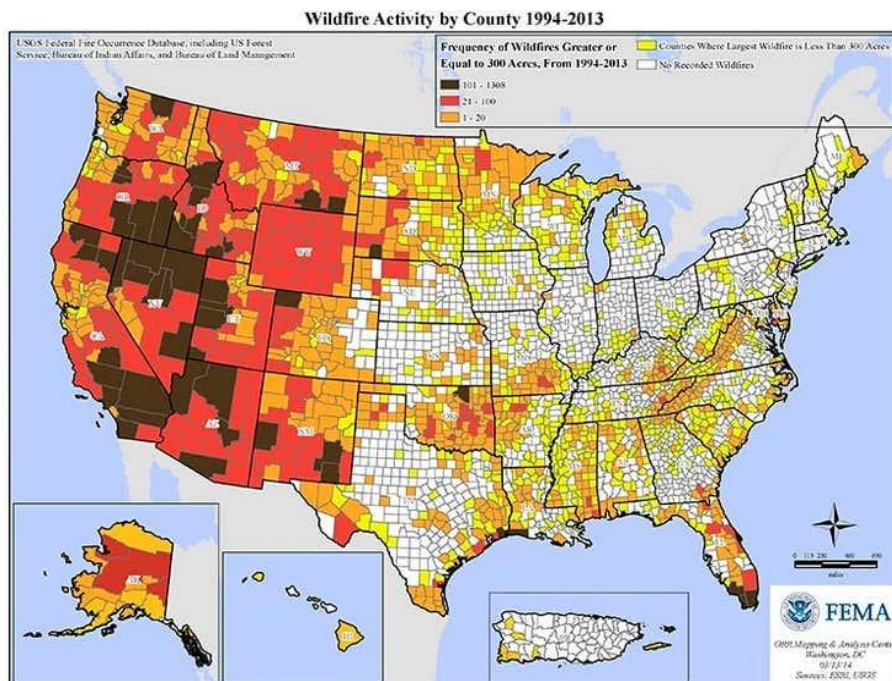
Restrictions on the fundamental freedom of families to choose a rural location to build upon or in which to rent, and the removal of virtually all development rights for property owners should only be undertaken in the most compelling circumstances.

I do not minimize the distress caused by the Tanttallon fire in 2023, or to take away any credit due for the hard work of the fire fighters and emergency personnel in response to it – including many East Hants firefighters. We must bear in mind, however, that policy should not be made in response to a single fire season, particularly where no lives were lost in it, and particularly when it involved very unusual conditions of dryness, high temperature and high wind, described by some as the perfect storm. Policies aimed at life safety – particularly paternalistic policies to prevent people from living in places or doing things deemed by others to be unwise – should at a minimum be based on reliable longitudinal data taken over many years; or should involve mild inconveniences like having to buckle up a seat belt.

I wish we had a map that showed in one graphic the wildfire hazards across North America. Instead, I will show you on the next page what I do have, starting with the USA. You will see two maps below that identify wildfire risk across in the USA. One is from a 2022 Washington Post article.¹

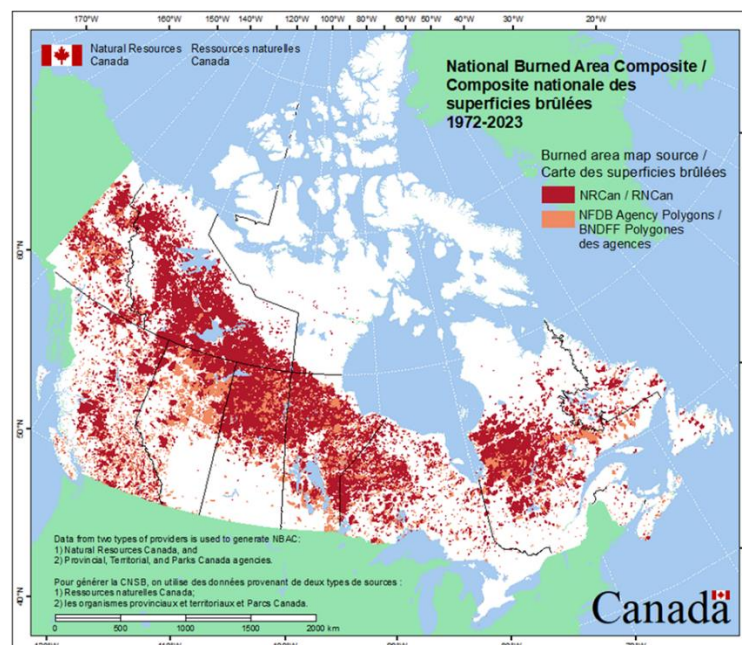


¹ John Muyskens, Andrew Ba Tran, Naema Ahmed and Anna Phillips, “1 in 6 Americans live in areas with significant wildfire risk”, *Washington Post*, May 17, 2022.

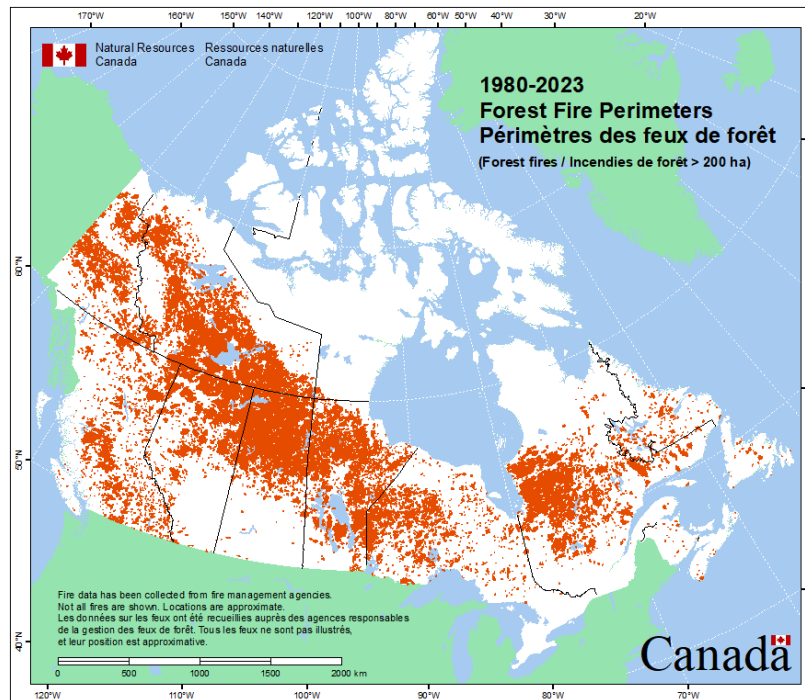


The second is from the US Agency responsible for emergency management, whose acronym is FEMA, Federal Emergency Management Agency. It shows by county a thirty year history of wildfires greater than 300 acres. The northeastern corner, closest to us here in Nova Scotia, is shown as having a relatively small risk.

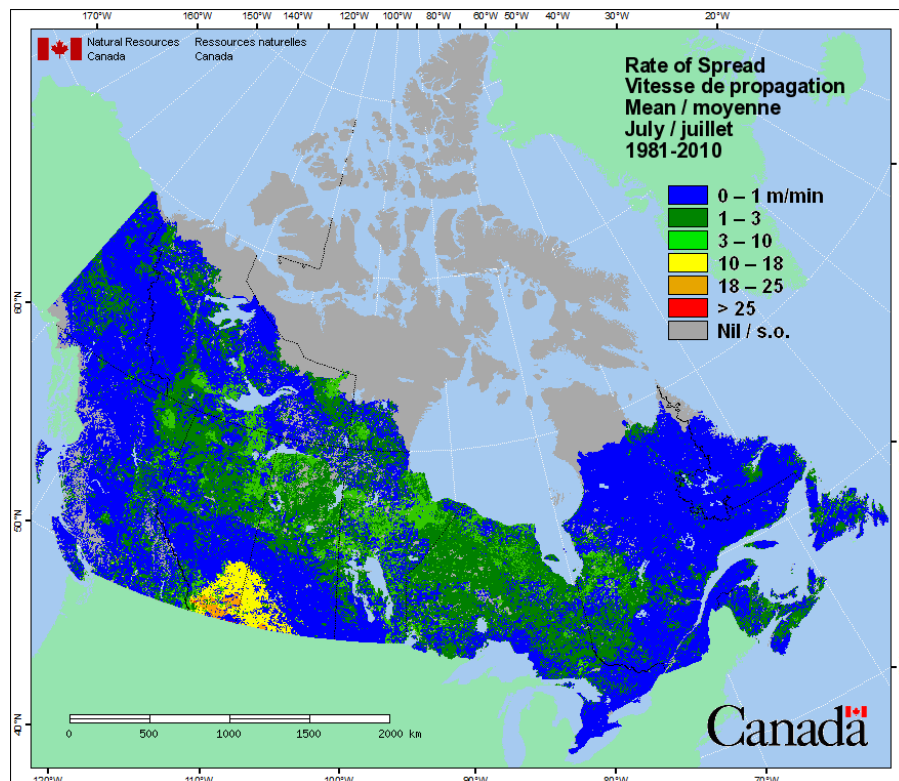
Turning to Canada, below is a map showing a 52 year history between 1972 and 2023 from Natural Resources Canada. The only areas better than us here are in the far North, or in the more developed part of Southern Ontario or in some of the southern prairies where crop-land and grass land prevail over trees.



Next we see from the same source a map showing perimeters burnt over a 44 year period from 1980 to 2023:



Finally, we see rate of wildfire spread data over a 30 year period, showing our expected spread rates to be at 10 meters per minute or less:



Within Nova Scotia, East Hants is blessed with the proximity of 4 firefighting helicopters owned by the Provincial Department of Natural Resources and Renewables (DNRR).

The Municipality has a more modest wildfire history than most other places in the Province using data from DNRR. In terms of wildfire numbers East Hants had 2.05% of the total for the Province².

WILDFIRES BY COUNTY PER YEAR												
COUNTY	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	TOTAL PER COUNTY
LUNenburg	1	1	10	14	10	14	6	21	10	8	27	138
SHELBURNE	7	10	7	14	10	17	9	16	8	5	9	130
QUEENS	9	2	10	16	10	10	9	14	10	9	12	128
YARMOUTH	9	13	8	19	8	14	8	17	9	11	21	178
DIGBY	2	1	6	19	7	8	7	6	4	3	9	93
ANNAPOLIS	5	5	0	14	5	8	1	9	1	4	11	81
KINGS	23	14	12	22	16	13	12	18	22	12	16	230
HANTS	13	12	16	21	11	3	5	8	7	14	18	142
east	7	4	8	5	3	3	3	3	3	5	5	51
west	6	8	8	16	8	0	2	5	4	9	8	86
HALIFAX	14	16	25	28	21	16	17	13	10	27	19	237
east	5	8	18	9	10	6	9	6	7	13	9	121
west	9	8	7	19	11	10	8	7	3	14	10	116
CUMBERLAND	25	15	14	15	11	11	7	21	10	8	11	186
east	10	9	9	8	5	10	6	18	10	6	8	111
west	15	6	5	7	6	1	1	3	0	2	3	75
COLCHESTER	9	6	5	3	1	5	2	4	5	6	8	77
PICTOU	13	17	28	24	9	23	12	9	6	5	14	204
ANTIGONISH	4	7	6	0	5	3	5	6	1	5	10	59
GUYSBOROUGH	0	6	9	3	7	5	6	2	1	3	5	53
St. Marys	0	5	5	0	4	2	1	1	0	2	2	25
Guysborough	0	1	4	3	3	3	5	1	1	1	3	28
CAPE BRETON	34	40	81	60	30	32	26	7	8	10	14	453
INVERNESS	2	3	4	1	9	5	6	0	1	13	8	62
VICTORIA	1	0	0	1	0	3	4	1	0	3	1	15
RICHMOND	0	3	6	0	4	0	1	1	0	6	3	26
TOTAL PER YEAR	171	171	247	274	174	190	143	173	113	152	213	2489

² [wildfire-statistics-2023.pdf](#) at pg 5.

In terms of area consumed East Hants had only 1.23% of the provincial total over the 13 year period reported in the Provincial Wildfire Centre Annual Statistics shown by DNRR.

HECTARES BY COUNTY PER YEAR														
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	TOTAL PER COUNTY
LUNenburg	2.4	34.9	0.5	2.9	2.4	19.45	2.24	3.52	3.16	46.75	0.97	1.58	12.831	133.601
SHELburne	14.31	59.539	2.53	8.56	0.462	19.102	92.59	13.06	28.84	43.64	5.12	0.8	23477.6	23766.113
QUEENS	0.91	11.4	2.11	1.901	13.8	17.8	7.5	1.22	1.99	1.764	120.199	24.42	298.56	503.5737
YARMOUTH	61.25	258	32.6	285.25	160.005	93.86	504.4	90.71	14.0071	215.09	11.3438	3217.21	64.98	5008.7059
DIGBY	1.22	9.7	21	0.14	0.79	9.5	2.31	1.69	6.35	2.8	1.98	36.67	122.32	216.47
ANNAPOLIS	1.88	11.25	1.15	19.5	0	392.01	0.28	5.28	0.12	7	0.5	0.32	10.83	450.12
KINGS	2.46	10.41	6.55	2.2	4.72	10.23	5.32	3.35	3.96	134.846	5.53	1.75	2.2437	193.5697
HANTS	1.19	2.45	61.36	84.01	13	17.569	5.62	0.73	1.72	2.29	7.161	18.13	6.71	221.94
EAST	1	0.7	9.12	1.62	11.16	16.2	3.95	0.73	0.5	0.61	3.501	9.31	2.3	60.701
WEST	3	1.75	52.24	82.39	1.84	1.369	1.67	0	1.22	1.68	3.66	8.82	4.41	164.049
HALIFAX	5.31	39.304	8.92	9.5101	28.6699	13.271	5.408	8.6	1.991	51.573	6.88	58.0006	1038.61	1276.0486
EAST	8	10.23	6.39	6.6201	27.7389	6.36	3.293	0.89	1.241	50.72	5.98	54.64	59.27	234.983
WEST	1	29.074	2.53	2.89	0.931	6.911	2.115	7.71	0.75	0.853	0.91	3.3606	1019.34	1078.3756
CUMBERLAND	0.05	61.7813	35.657	54.361	23.97	25.89	29.401	12.6	15.265	27.65	2.1	8.9	18.62	316.2453
EAST	0	32.282	16.462	8.581	13.42	16.89	23.83	9.4	15.235	23.31	2.1	8.6	17.95	188.06
WEST	0.05	29.4993	19.195	45.78	10.55	9	5.571	3.2	0.03	4.34	0	0.3	0.67	128.1853
COLCHESTER	5.5	34.2	12.93	7.4	4.2	2.42	0.01	1.043	0.6	0.91	2.35	2.81	4.8961	79.2691
PICTOU	12.054	65.84	10.32	13.0384	21.93	35.15	11.22	26.82	3.96	4.57	1.23	1.11	8.97	216.2124
ANTIGONISH	1.22	2.73	3.65	3.89	8.72	0	0.83	0.03	5.23	148.52	1	0.86	9.82	186.5
GUYSBOROUGH	1.473	9.1	0	0.58	63.363	0.2	3.69	0.34	17.1	0.02	0.1	1.88	1.82	99.666
ST. MARYS	2	1.6	0	0.48	49.6	0	3.51	0.11	0.01	0.01	0	0.31	0.32	57.95
GUYSBOROUGH	2	7.5	0	0.1	13.763	0.2	0.18	0.23	17.09	0.01	0.1	1.57	1.5	44.243
CAPE BRETON	35.101	180.62	101.32	69.2	163	98.41	53.5	77.57	46.5	19.12	30.65	4.71	32.922	912.623
INVERNESS	4.051	21.202	0.38	0.84	5.21	0.01	2.181	2.94	1.5	0	0.06	2.22	2.7	43.294
VICTORIA	0	2.5	0.37	0	0	0.1	0	1.53	1.79	0.4	0	0.55	0.01	7.25
RICHMOND	0	2.11	0	1.1802	2.51	0	1.93	0	0.41	0.175	0	7.194	0.949	16.4582
TOTAL PER YEAR	150.379	817.036	301.347	564.461	516.75	754.972	728.43	251.033	154.493	707.118	197.174	3389.11	24819	4946.019

Statistics Canada keeps records of deaths by fire, but none of the listed causes identify wildfire deaths. Statistics Canada shows fire casualties from structural fires to vary between 1 and 18 people in each year between 2005 and 2021, with an average in the last four years of that period of 11 people per year³. Indeed I have been unable to find a reported wildfire death in any statistical source for Nova Scotia. Anecdotally there have been a few deaths in other places in Canada, but even elsewhere in Canada - where there is a much worse history of wildfires than here - the wildfire deaths are fortunately few and far between. Any deaths or injuries from accidental causes are tragic for those involved and their families, but it does mean that the regulatory objective should automatically be to eliminate any possibility of them.

Our society tolerates accidental deaths on the highways in significant numbers – 79 driving deaths in Nova Scotia in 2024 for example⁴. We do not ban motor vehicles or impose 20 kmh speed limits to avoid those unfortunate deaths. We also tolerate an average of 14 per year in Nova Scotia per year between 2015-2019, the latest period for which I could find data, without banning boating or

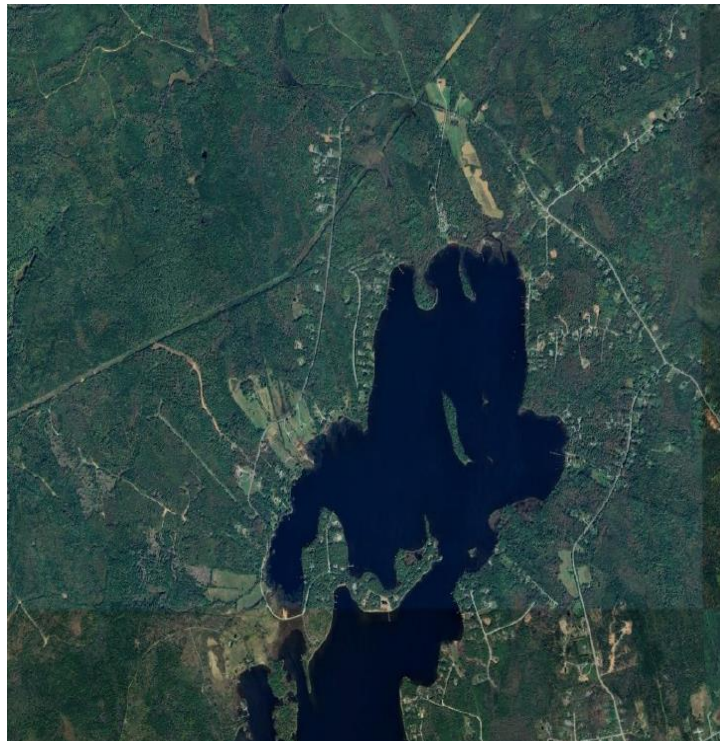
³ Statistics Canada <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3510019501>

⁴ [Motor Vehicle Driver Deaths | Open Data | Nova Scotia](#)

swimming⁵. Nothing is sadder than losing a family member prematurely. But perfect safety is not a valid regulatory objective. Some small risks – and wildfire fatalities in Nova Scotia are just that, small risks – are not worth aggravating the housing crisis, impairing human freedoms and devastating the property rights of landowners for.

Turning to the specific location on which I am most focused – the Grand Lake road system shown in an earlier diagram – its pre-eminent geographic characteristic is its proximity to the Lake. Lakes are potential safe harbours, particularly lakes like Grand Lake accessible by boats from multiple public access points. Many private dwellings along the Lake have boats as well and - if worst comes to worst - fire can be escaped by going into the Lake even without a boat, like those who escaped lava into the Pacific after a volcanic eruption in Hawaii a few years ago. Wildfire season naturally coincides with warmer weather, and anyone stranded beside or in the Lake can be picked up by boats before their life is at high risk of being imperilled – whether boats owned by responding organizations like police, fire and search and rescue; or by boats reflecting Nova Scotians' famous tendency to look after their neighbours when the chips are down.

Renfrew and Monte Vista roads are of good quality allowing travel at speeds of 70 or 80 kmh, and there are several large clearings which would serve as firebreaks as we see in the imagery below. More development likely will lead to the same thing it now does in Southern Ontario – more clearings and fewer wildfires. The location of existing firebreaks is advantageous for containment or suppression of fires originating from the southwest – which is the direction of prevailing winds in wildfire season, when average windspeeds are 10-15 kmh.⁶



⁵ [LS-Canadian-Drowning-Report-2024-Web.pdf](#)

⁶ https://publications.gc.ca/collections/collection_2016/eccc/En56-259-2016-eng.pdf.

The roads in question are not classified as “collectors” but Renfrew and Monte Vista could easily be upgraded to that status and arbitrary road classifications do not in any event affect the fundamentals. Highway 103 and other major roads got washed out in the July 2023 rainstorm, and collector or arterial status is simply not a valid criteria for defining safety. The Grand Lake area in question is further enhanced by a wide power line right away which is also visible on the satellite imagery. Disallowing development will reduce the likelihood of road improvements in the future, including the likelihood that eventually development will itself make economic alternate access connections which currently are not financially viable.

The Detriment of Regulatory Over-reach

The restriction on our freedoms when we impose undue regulation is very real. When we ban creation of new lots, whether based upon the existing lot numbers criteria in s.10.16 of the SUB or based upon proposed criteria relating to dwelling unit numbers, we are denying people the right to develop their property.

For existing property owners, we are reducing the value of their property – even if the property was bought with future development in mind – to a low value based on forestry revenue. Owners have been paying real property taxes reflecting its development potential – in some cases, they have been doing so for many decades. That is a drastic reduction in value - almost as drastic as a complete expropriation but there is no compensation available. This kind of thing should only be done in the most compelling of circumstances.

Our housing crisis was not only fuelled by increased demand arising from factors like population growth and lack of subsidized social housing, but by over-regulation by all three levels of government which has made housing unduly expensive even for families with two income-earning parents. Some of those problems are being partially corrected by changes in municipal zoning to allow more dwelling units within existing. But effectively removing all development rights for areas like this one can only aggravate the problem.

Experienced Councils and staff, like East Hants', know that people often show up at planning hearings to oppose densification or development near their own residences – the NIMBY effect. Those who are potential residents do not have their voice reflected in those planning meetings – including meetings like this - because they lack the same intensity of interest in any single planning change. Their housing affordability suffers from a thousand cuts for each regulatory restriction on new dwelling construction in many different municipalities, rather than from any single planning application or change.

How many tens or hundreds of dwelling units are being precluded by this regulation for the Grand Lake area can never be known for sure – but imposing on the map of East Hants vast swaths of “no-development” is a serious problem for the future consumers of housing. People with jobs in the city who want less expensive housing rely on real estate outside the city, and this has resulted in the very strong growth being experienced in East Hants. By precluding development, you would preclude organic improvements in road maintenance and new road construction in affected areas, including organic growth eventually leading to additional access routes.

The cost of the proposed regulatory changes is listed at zero in the staff report. But that only reflects the lack of cash costs to the Municipality directly associated with those changes, not the million of dollars in lost future municipal tax revenue that would help with the overhead needed for things like new or improved athletic centres, libraries, and new and better fire fighting equipment. This is one of the great problems in Canada at the moment – the real costs of

excessive regulatory restrictions cannot be accurately measured and is therefore treated as if massive opportunity costs like this do not exist. They do exist and East Hants would suffer relative to municipalities with less restrictive regulations.

Jurisdictional Scan and HRM's Municipal Design Manual

The HRM Municipal Design Manual is cited in staff reports as an indication that HRM has similar restrictions to s.10.16 or to the proposed suite of amendments. Section 2.2.1 appears to be the section referred to. In material part it says:

...
(j) Other than culs-de-sac meeting the requirements of section 2.2.3, any lot in a subdivision shall have two or more independent street accesses to the existing street system⁷, and these accesses shall, at minimum, be located at opposite ends of the subdivision.

(k) Where there is an approved phasing plan and subdivision agreement in place confirming that a second street access will be provided within a specified time approved by the Municipal Engineer, up to 300 lots containing a maximum of 300 dwelling units may be approved prior to the second access being provided.

(l) Where, in the opinion of the Municipal Engineer, it is impractical to provide a second access, up to 100 lots containing a maximum of 100 dwelling units may be approved with a single access.

The Glossary of that Manual makes it clear that “street” includes both municipal streets and provincial roads. Accordingly, where staff in HRM recognize the impracticality of requiring a second access, HRM’s single access lot maximum of 100 in para (l) of section 2.2.1 does not count in that 100 lot total the pre-existing lots that are located on the existing street network.

A problem of s.10.16 of the East Hants SUB is that it requires the access to be to a collector or arterial. The entirety of Renfrew and Monte Vista Roads would be the “existing street network” under HRM’s Manual. The HRM 100 lot maximum provision would thus only apply if very large new subdivisions were added onto the existing Renfrew/Monte Vista road network.

The jurisdictional scan undertaken by staff and referred to in the reports found on the Municipality’s Community Planning Webpage dealing with this “Second Access” issue, indicates that apart from HRM, which often has the most intensive regulatory regime and the highest taxes in the Province, other municipalities in Nova Scotia are not imposing such requirements. Even beyond Nova Scotia, including in the many areas in North America with much higher wildfire risks, there is virtually no regulation restricting rural development as intensively as s.10.16 does. While it is possible that everyone else is wrong, and that s.10.16 is right, I submit that it is unwise to be at the regulatory forefront in North America on a restriction with such severe impacts, particularly when housing issues are so problematic.

The history of s.10.16 of your SUB suggests that it was developed as a result of a large suburban subdivision development – Elmwood – which is broadly of the type targeted by the HRM design manual. Until 2013 s.10.16 only applied in Growth Management Areas or Growth Reserve areas. It was expanded beyond those areas in 2013 when a multiple sections of the planning documents

⁷ [Part A - Municipal Design Guidelines 2021.pdf](#) at pg 13.

were being overhauled and with fairly minimal analysis in the staff reports (there sentences). I understand from the staff reports that until the aftermath of the 2023 Tantallon wildfire, it was largely not being applied.

The jurisdictional scan does not support the recommendations being made to Council. Does Council really want restrictions like these to hamper housing development in this Municipality so very much beyond those found in elsewhere on the continent?

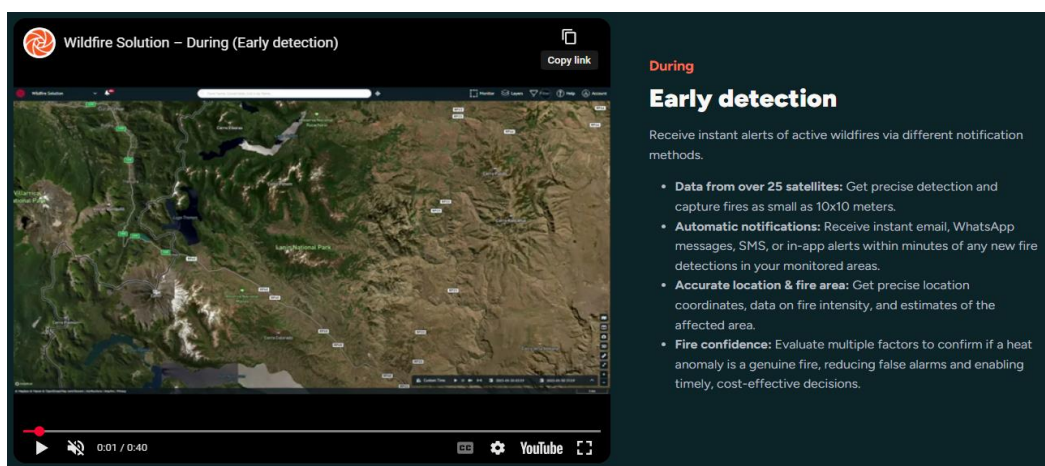
Wildfire Concerns – A Better Approach

I respectfully submit that there is a better response to the hazard of wildfires than one of sweepingly restricting rural development along provincial roads like these. The better approach is continuing to work with senior levels of government, fire departments and land owners to reduce the wildfire hazard itself. This can be done gradually and need not be a rushed exercise.

Better prevention, detection, containment and suppression is needed for environmental reasons as well as human safety reasons. In 2023 Canada's greenhouse gases from wildfires actually exceeded the greenhouse gases from hydrocarbon consumption for each country in the world except China, India and the USA.⁸ The health effects on those affected indirectly – through wildfire smoke - are also potentially very serious.

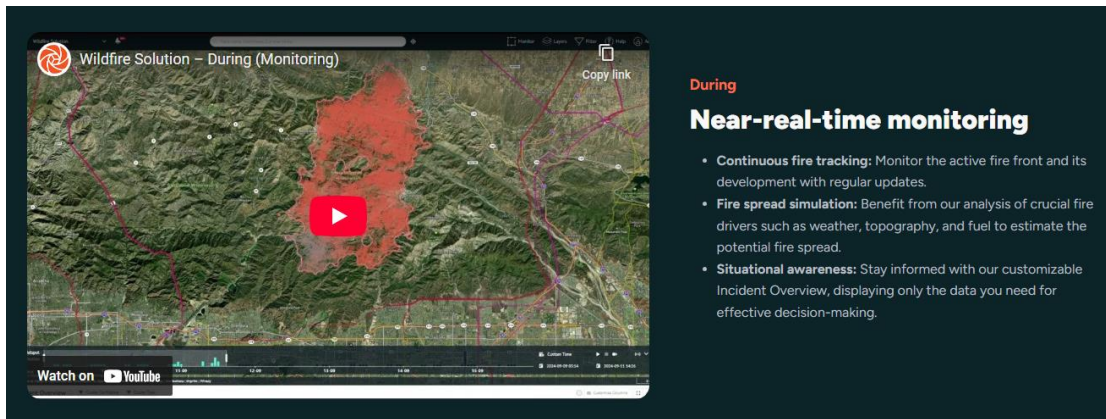
The Province has recently made permanent a penalty of \$25,000 for breaching its fire ban restrictions. Previously the penalty had been just a few hundred dollars. This signals welcome renewed effort at improved prevention. As noted on the DNRR website, municipalities can also pass their own burning restrictions to further deter irresponsible burning practices⁹. It could completely ban the setting of grass and piled brush fires at all times, for example. Some municipalities do have bylaws restricting burning. I couldn't find one for East Hants, and I submit this might also be explored in the fullness of time.

If the Grand Lake development restriction is removed, my client, M & M Developments, is prepared to fund a satellite and thermal intelligence fire detection and monitoring system pilot project covering 50,000 hectares – more than a quarter of the entire Municipality. It has been in communication with and has obtained a quotation from [Orora Technologies](#) to do so:



⁸ Byrne, B., Liu, J., Bowman, K.W. *et al.* Carbon emissions from the 2023 Canadian wildfires. *Nature* **633**, 835–839 (2024). <https://doi.org/10.1038/s41586-024-07878-z>.

⁹ <https://novascotia.ca/natr/forestprotection/wildfire/burnsafe/Q-As.asp>



Better containment can be achieved by offering incentive or bonus zoning, for those who provide wildfire containment or suppression benefits on their land such as access to the Lake, or dry hydrants or constructing beneficial firebreaks. M & M Developments have already given consent for access to the lake by fire departments, and they have a gravelled access point going into the Lake available near the south end of Monte Vista now.

Better equipment to protect the safety of fire fighters and enhance mobility of wildfire suppression equipment is also well-worth exploring: ideally in partnership with senior levels of government and fire departments, so that such equipment is geographically deployed efficiently. Some possible examples are shown below – just for illustration purposes.



- Self-protection system cools tires and driver's cab in an emergency
- Special vehicle structure protects the occupants, even in the event of a rollover
- Pump & roll function enables extinguishing while driving
- Turret can be operated from the driver's cab¹⁰



- Kodiak K6 TFFV Tracked Fire Fighting Vehicle¹¹

¹⁰ [MT Forest | Modular Technology - Rosenbauer](#)

¹¹ [Kodiak K6 TFFV Fire Fighter](#)

What do we seek?

We seek repeal of Subdivision Bylaw s.10.16 or ask that this section of the bylaw be amended to apply to developments off the existing street network rather than off collectors or arterials. Alternatively, we ask that the section's application be restricted geographically to Growth Areas, as it was when it was first enacted. We also ask that Council not approve recommendations to make its bylaws even more hostile to new rural developments by amending its planning documents to create similar restrictions based on a different metric - the number of dwelling units.

We acknowledge that the proposed development restrictions are made with the best of intentions about safety, but respectfully my clients submit that this does not make them wise to enact.

Thank you for the opportunity to provide our input.

Respectfully,

A handwritten signature in blue ink, appearing to read "Peter M. Rogers", with a stylized flourish at the end.

Peter M. Rogers