

HALIFAX

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Item No. 14.1.2
Halifax Regional Council
October 17, 2017

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY:

Original Signed by 

Jacques Dubé, Chief Administrative Officer

DATE: August 29, 2017

SUBJECT: Declaration of Surplus Property, Street Closure and Property Disposal – Lot K-1, Massachusetts Avenue

ORIGIN

This report originates with a request from the abutting owner located at 2071 Stanley Street, Halifax, PID 00153007 to acquire a portion of HRM right-of-way in front of their property.

LEGISLATIVE AUTHORITY

Administrative Order Number 50 Respecting the Disposal of Surplus Real Property.

Halifax Regional Municipality Charter, Chapter 39,

Section 61:

“(5)(b): “The Municipality sell property at market value when the property is no longer required for the purposes of the Municipality;”

Section 325:

“(2) Notwithstanding subsection (1), where a street or part of a street is being altered, improved, or redesigned, part of that street may be closed without holding a public hearing under subsection (1) if

(a) The part of the street that remains open

- (i) Is open to vehicular and pedestrian traffic, and*
- (ii) Meets all the municipal standards; and*

(b) The part of the street that is closed

- (i) Is determined by the engineer to be surplus, and*
- (ii) Is worth less than fifty thousand dollars.*

(6) A copy of the policy passed by the Council, certified by the Clerk under the seal of the Municipality, incorporating a survey or a metes and bounds description of the street that is closed, must be filed in the registry and with the Minister of Transportation and Infrastructure Renewal.”

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Declare the portion of the Massachusetts Avenue right-of-way, Halifax, shown as Lot K-1 in Attachment "A", surplus to municipal requirements, and categorize Lot K-1, as 'Extraordinary', as per Administrative Order 50;
2. Approve Administrative Order SC-86 in Attachment "B" of this report, to close that portion of Massachusetts Avenue shown as Lot K-1;
3. Subject to the approval of items 1 and 2, authorize the Mayor and Municipal Clerk to enter into an Agreement of Purchase and Sale for the disposal of Lot K-1, Massachusetts Avenue as per the key terms and conditions outlined in Table 1 of the Private and Confidential Information Report dated September 20, 2017;
4. Subject to the approval of the above recommendations, authorize the Mayor and Municipal Clerk to enter into such other agreements with the adjacent property owner as may be necessary, including easement and construction agreements.

BACKGROUND

In the Fall of 2016, HRM received a request from the owner of civic 2071 Stanley Street, PID No. 00153007 to acquire a portion of the Massachusetts Avenue right-of-way to facilitate the creation of a mixed use building.

The area of land is designated as Lot K, PID 00173997 (See Attachment "A" - Lot K is comprised of proposed Lots K-1 and K-2), and is approximately 1900 square feet in area. It was formerly part of Prescott Street, however in 1972 as part of the MacKay Bridge construction, a bridge approach road, now called Massachusetts Avenue, was constructed severing the former Prescott Street alignment. Lot K is a remnant of the former Prescott Street and is classified as street right-of-way.

As per Section 325 of the HRM Charter, Council may, by policy, permanently close any street or part of a street. The portion of the street, that is being closed, is valued less than fifty thousand dollars (\$50,000), therefore, a public hearing is not required.

DISCUSSION

The portion of the Massachusetts Avenue right-of-way sought for acquisition by the abutting property owner is located at the corner of Massachusetts Avenue and Stanley Street, Halifax, and is identified as Lot K-1 on Attachment "A". The proposed lot measures 148.9 square metres (1,603 square feet) in total area and is triangular in shape.

The request to declare the small area of right-of-way surplus was submitted for review by the Real Property Technical Review Committee as per Administrative Order 50. A number of points required addressing all of which the proponent has agreed to, are as follows:

- Maintaining appropriate sightlines from the traffic stopped at Stanley Street looking northward on Massachusetts Avenue necessitated retaining a portion of Lot K. This lot is designated as Lot K-2 and will remain part of the street right-of-way.
- A sidewalk currently exists on Lot K. This sidewalk will be realigned and will continue within the street right-of-way and run parallel to Massachusetts Avenue. A temporary easement permitting

the public use on proposed Lot K-1 will be established. The proponent has agreed to fund this relocation.

- Two Norway Maple street trees, both of which are in fair condition, exist on Lot K and will be impacted by the transaction. One tree is in close proximity to the realigned sidewalk, the other is located on proposed Lot K-1, which is to be conveyed to the abutter. HRM Urban Forestry has advised that the trees can be removed as per the HRM Tree Bylaw, T-600. The proponent has agreed to pay the required fees.
- Massachusetts Avenue is comprised of four traffic lanes where it abuts the proponent's property. During the winter months this portion of street right-of-way is used for snow storage. Lot K-1 will be encumbered with a snow storage easement. This will ensure HRM's continued use of that area for snow storage. The easement area will be free and clear of any encumbrances that may impact the snow storage use.

Staff recommend declaring Lot K-1 surplus to municipal requirements, and formally closing this portion of Massachusetts Avenue right-of-way.

The purpose of this report is to declare the subject lot surplus, categorize it as 'Extraordinary' under Administrative Order 50, close the portion of street right-of-way under Administrative Order SC-86, and approve the sale to the abutting property owner at market value, the details of which are contained in a separate Private and Confidential Information report dated September 20, 2017.

FINANCIAL IMPLICATIONS

The net proceeds from the sale of the property will be placed in the Capital Fund Reserve Q526.

Applicable vendor adjustments to the Purchase Price include, but are not limited to, appraisal, survey, subdivision fee, easements, environmental impacts, grading deficiencies, wetland management, vendor's legal, brokerage, marketing and administrative costs. Vendor adjustments or deficiency allowances, if required, shall be to a maximum of 15 percent of the purchase price. HST applies to this transaction.

Market Value Definition

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition are the consummation of a sale as of the specific date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised, and acting in what they consider their best interests;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in Canadian Dollars or in financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

(Appraisal Institute of Canada. Canadian Uniform Standards of Professional Appraisal Practice)

RISK CONSIDERATION

There are no significant risks associated with the recommendations in this Report. The risks considered rate Low.

COMMUNITY ENGAGEMENT

As per Administrative Order 50, the area Councillor was advised of the recommendation to surplus the subject property with the Extraordinary categorization. A public hearing is not required, as the closure meets Section 325(2) of the Halifax Regional Municipality Charter.

ENVIRONMENTAL IMPLICATIONS

Implications not identified.

ALTERNATIVES

Halifax Regional Council could instruct staff to *not* declare the subject property as surplus under Administrative Order Number 50, and to retain ownership for street right-of-way. This is not recommended as it is not required for street right-of-way purposes.

ATTACHMENTS

Attachment "A" – Surplus Plan
Attachment "B" – Administrative Order SC-86

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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Attachment “B”

HALIFAX REGIONAL MUNICIPALITY

ADMINISTRATIVE ORDER NUMBER Admin Order #SC-86

RESPECTING CLOSURE OF A PORTION OF

MASSACHUSETTS AVENUE, HALIFAX

BE IT RESOLVED AS AN ADMINISTRATIVE ORDER of Council of the Halifax Regional Municipality pursuant to Section 325 of the Halifax Regional Municipality Charter Act as follows:

1. A portion of Massachusetts Avenue, Halifax, Nova Scotia more particularly shown as Lot K-1 on the Attachment is hereby closed.

I HEREBY CERTIFY THAT the foregoing Administrative Order was duly adopted by Halifax Regional Council, the ____ day of _____, 2017.

Mayor

Municipal Clerk

I, Kevin Arjoon, Municipal Clerk of Halifax Regional Municipality, hereby certify that the above-noted Administrative Order was passed at a meeting of Halifax Regional Council held on _____, 2017.

Kevin Arjoon, Municipal Clerk

