

HALIFAX

P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 15.1.5
Halifax Regional Council
April 2, 2019

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 
Jacques Dubé, Chief Administrative Officer

DATE: March 13, 2019

SUBJECT: **Remnant Property Disposal – Parcel A – Portion of PID No. 00397208, 3725 Old Sambro Road, Sambro.**

ORIGIN

An unsolicited request from the Saint James United Church Cemetery Committee in Sambro to acquire from the Municipality a portion of PID No. 00397208 at less than market value for use in consolidation with the Church's abutting non-profit community cemetery.

March 20, 2018 – Regional Council approved the surplus status and disposal of Parcel A – Portion of PID No. 00397208, 3725 Old Sambro Road, Sambro, through the Remnant category of Administrative Order 50 - Respecting the Disposal of Surplus Real Property.

LEGISLATIVE AUTHORITY

Administrative Order 50 Respecting Disposal of Surplus Real Property

Section 2(2)

Remnant

- (d)** Properties which are remaining or sub-divided lands which
- (i) by the nature of their size or dimensions have limited or no reasonable use;
 - (ii) but which may have utility for abutting property owners and can be disposed under s.64 of the HRM Charter.

Halifax Regional Municipality Charter, 2008, S.N.S c.39

Section 61 (3) The property vested in the Municipality, absolutely or in trust, is under the exclusive management and control of the Council, unless and Act of the Legislature provides otherwise.

Section 63(1) The Municipality may sell or lease property at a price less than market value to a non-profit organization that the Council considers to be carrying on an activity that is beneficial to the Municipality.

Section 63 (2) A resolution to sell or lease property referred to in subsection (1) at less than market value shall be passed by at least a two thirds majority of Council present and voting.

Section 64 Where the Municipality holds land that is of insufficient size or dimensions to be capable of any reasonable use, in the opinion of the Council, all or part of the land may be sold to the owner of any lot abutting that land and may be consolidated with such lot and, notwithstanding section 63, the sale price of the land so sold may be set by the Council at a price that is less than market value at the time of sale.

Recommendation on next page

Section 79 The Council may expend money required by the Municipality for (av) a grant or contribution to (v) any charitable, ... or religious... organization within the Province.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Approve the subdivision and the sale of Parcel A, being a portion of a parcel of land identified as current PID 397208 situate at 3725 Old Sambro Road, Sambro, Nova Scotia, to the Trustees of the St. James United Church of Canada (or their nominee) for the less than market value of \$1.00, plus closing costs on terms to include the key terms and conditions outlined in Table 1 of this report.
2. Authorize the Mayor and Clerk of the Municipality to execute an Agreement of Purchase and Sale, the Deed and any other documents required to convey the said Parcel A to the Trustees of the St. James United Church of Canada, (or their nominee).

BACKGROUND

During the Saint James United Church Cemetery Committee's ("the Cemetery Committee") efforts to migrate their cemetery property, it was discovered by plan of survey that the cemetery's main gate, a community veteran's memorial, and some graves and headstones are located on a portion of the Sambro Elementary school property which abuts the Cemetery. To correct this situation, the Cemetery Committee contacted HRM seeking to acquire a small portion of the school property at nominal value. To accommodate the request and rectify the encroachment, a small parcel of land must be sub-divided out of the parent parcel (3725 Old Sambro Road, Sambro) and consolidated with the cemetery property owned by the Trustees of the St. James United Church of Canada and the United Church of Canada.

The operation of the cemetery in Sambro by the St. James United Church of Canada, (a non-profit organization), can be considered an activity that is beneficial to the Municipality.

Section 64 provides for where the Municipality holds land that is of insufficient size or dimensions to be capable of any reasonable use, in the opinion of the Council, all or part of the land may be sold to the owner of any lot abutting that land and may be consolidated with such lot and, notwithstanding section 63, the sale price of the land so sold may be set by the Council at a price that is less than market value at the time of sale.

The subject area of encroachment is not an existing distinct parcel of land and must be created through sub-division. The area of land which the Trustees of the St. James United Church of Canada wish to acquire for the cemetery, is identified as proposed Parcel A as shown in **Attachment 1**.

The proposed Parcel A is a small portion of the property accommodating the Sambro Elementary School (PID No. 00397208). Parcel A was declared surplus by Regional Council and assigned to the Remnant category of Administrative Order 50. Section 2. 2 (d) defines properties assigned to the Remnant category of disposal.

The Halifax Regional Centre for Education which operates the school on the property has approved of the proposed disposition of Parcel A. Subject to a plan of survey, Parcel A measures approximately 1,440 square feet in area and is located at the West side of the HRM property at the rear of the school building. Due to its proposed size, Parcel A does not meet the municipal land use by-law for minimum lot size and therefore conveyance requires consolidation with the abutting the Saint James United Church Cemetery property as a condition of disposal.

DISCUSSION

Zoning: Parcel A is zoned as PA (Protected Area) Zone which permits scientific study, trails, walkways, board walks, conservation uses and uses accessory to the foregoing uses. The abutting Saint James United Church cemetery property is zoned V-4 (Sambro General Building) Zone which permits most land

uses except for mobile home parks, salvage yards and construction and debris transfer stations.

Due to the dates of two headstones (1960's) encroaching Parcel A, Planning & Development staff are of the opinion the encroaching cemetery items are a non-conforming use of the PA (Protected Area) zone to which it is subject. A condition of sale to the Cemetery Committee is that no additional bodies may be buried on Parcel A unless it is re-zoned to the abutting V-4 (Sambro General Building) Zone.

Property Valuation and Assessment: For 2019, Property Valuation Services Corporation has assessed the parent land parcel (the school property) at \$32,000. This equates to a \$0.45 per square foot or an assessed value for Parcel A of \$648.

Table 1: KEY TERMS AND CONDITIONS	
Civic Address	PID No. 00397208 (Portion of) 3725 Old Sambro Road, Sambro
Vendor	Halifax Regional Municipality.
Purchaser	Trustees of the St. James United Church of Canada or their nominee
Area	1,440 sq. feet (0.145 acres). <i>(Subject to plan of survey and subdivision approval)</i>
Zoning	PA (Protected Area) Zone.
Assessed Value	\$648 (estimated based on 2019 assessed value) *
Tax Status	Commercial Exempt. Under s.5(1) of the Assessment Act a cemetery is tax exempt.
Proposed Purchase Price	\$1.00 plus HST.
Proposed Use	Continuation of existing cemetery main gate, community veteran's memorial, and existing grave headstones.
Conditions of Sale	Property to be conveyed "as is" and as zoned. Purchaser acknowledges and agrees no new burials on the subject property unless first re-zoned. Subject to subdivision approval and consolidation with the Purchaser's cemetery property. The Purchaser shall pay the Municipality's closing costs including the costs for sub-division and consolidation, the plan of survey, and HRM Legal Services' fees and disbursements for the title migration and sale in addition to the purchase price of \$1.00.
Closing Date	Within three (3) months of Council's approval.

* Based upon the 2019 per square foot assessed value of the land.

FINANCIAL IMPLICATIONS

There are no immediate property tax implications from the sale of the subject property for the purchase price of \$1.00 plus HST. Under Section 5(1) of the Assessment Act (i) a public school and associated school grounds are exempt, and (ii) a cemetery is exempt. Consequently, the proposed sale is budget neutral insofar as there will be no increase or decrease in municipal real property tax revenues.

<p>Obligation Reserve – Capital Fund Reserve Q526 The reserve is funded by the sale of land in HRM, other than Business/Industrial Parks or sale of land conveyed to HRM for parks, playgrounds or similar public purposes. Several other large properties are now excluded from deposit to this reserve and are being redirected to the Strategic Capital Reserve Q606. The Capital Reserve Fund is governed by the Halifax Regional Municipality Charter Section 120(1), (3) and (4). Withdrawals from the reserve are for capital expenses for which the Municipality may borrow. The recommendation does not have a negative impact to the reserve balance as this would be a contribution to the reserve that is part of the budgeted revenue to March 31, 2020.</p>

RISK CONSIDERATION

There are no significant risks associated with the recommendations with 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 Remnant categorization in March 2018. Broader community consultation was not obtained based on the pre-existing use of the subject land and retention as part of on-going cemetery operations. Due to the value of the proposed Parcel A being less than \$10,000, a public hearing is not required.

ENVIRONMENTAL IMPLICATIONS

No environmental testing has been undertaken at this location. The proposed terms and conditions of sale include conveyance “as is” and the Purchaser’s due diligence.

ALTERNATIVES

Regional Council could decline the Proponent’s request to sell the property at less than market value and direct staff to obtain an independent appraisal and proceed to sell the property at market value.

This action is not recommended: The presence of the abutting cemetery main gate, community veteran’s memorial, and several grave headstones significantly devalues the subject property. Furthermore, the presence of the cemetery-related improvements located on a small portion of the school grounds is a historical oversight on the part of both owners.

ATTACHMENTS

Attachment “A” - Site Plan & Photo

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Chad Renouf, Senior Real Estate Officer, Acquisitions & Disposals, Finance, Asset Management & ICT. 902.490.6798.

HALIFAX

ATTCHMENT 'A'- SITE PLAN & PHOTO



DETAIL INSET

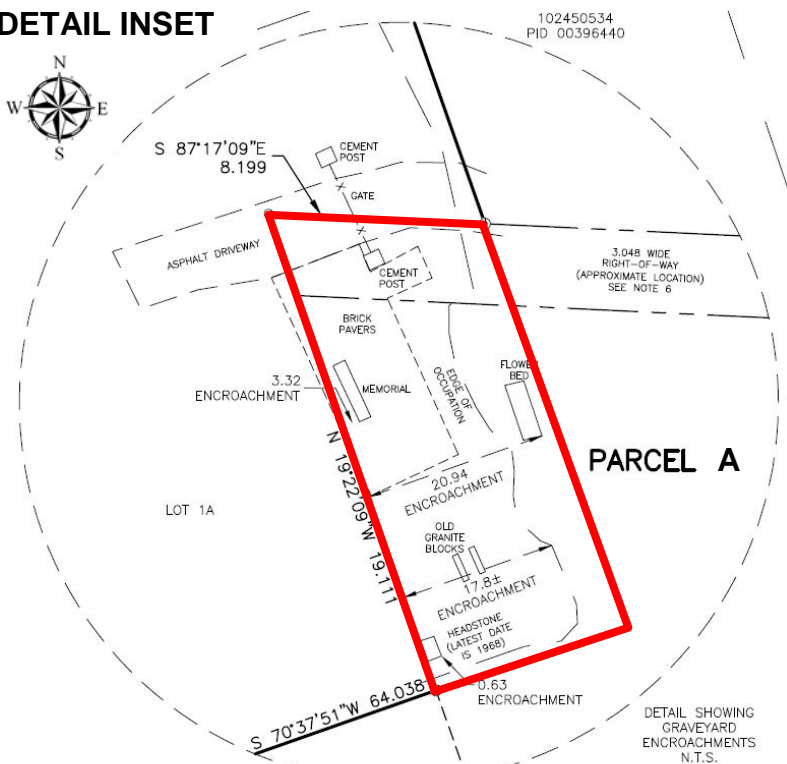


PHOTO OF CEMETERY MAIN GATE & VETERANS MEMORIAL

