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Halifax, Nova Scotia
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Item No. 15.1.9
Halifax Regional Council
August 22, 2023

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed

SUBMITTED BY:

Cathie O'Toole, Chief Administrative Officer

DATE: July 24, 2023

SUBJECT: **Partial Street Right-of-Way Closure – Windmill Road, Dartmouth**

ORIGIN

This report originates with a request from the abutting property owner to purchase a portion of surplus Windmill Road street right-of-way identified as Parcel B-2B (PID 40380313) Windmill Road for consolidation with their adjacent property.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, Chapter 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 an Act of the Legislature provides otherwise.

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

Street closure

325 (1) The Council may, by policy, permanently close any street or part of a street and the Council shall hold a public hearing before passing the policy.

- (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.

LEGISLATIVE AUTHORITY CONTINUED & RECOMMENDATION ON PAGE 2

- (3) The Council shall give notice of its intent to close the street by advertisement in a newspaper circulating in the Municipality.
- (4) The notice must set out the time and place of the public hearing at which those in favour or opposed to the street closing will be heard and describe the street to be closed sufficiently to identify it.
- (5) A copy of the notice must be mailed to the Minister of Transportation and Infrastructure Renewal before the public hearing.
- (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.
- (7) Upon filing the policy in the registry, all rights of public user in the land described in the policy are forever extinguished and the Municipality may sell and convey the land or may subsequently reopen the land as a street in the manner required by this Act. 2008, c. 39, s. 325.

Administrative Order 50 Respecting the Disposal of Real Property

and

Administrative Order ADM 2018-004 Respecting Real Property Transactions.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Set a date for the public hearing to consider closing the portion of former Windmill Road street right-of-way shown in Attachment 'A' as 'Parcel B-2B', save and except a 0.2 meter portion for street purposes, with notice to be published in a newspaper at least 14 days prior to the public hearing for the street closure; and,
2. Subject to the outcome of the public hearing, approve Administrative Order SC-102, as set out in Attachment "B" of this report, to officially close a portion of the surplus Windmill Road Street right-of-way shown as Parcel B-2B.

BACKGROUND

The section of the Windmill Road Street right-of-way shown as Parcel B-2B (PID 40380313) on Attachment "A" was declared surplus to municipal requirements pursuant to Administrative Order 50 (AO50). Traffic and Right of Way Services recommends retaining 0.2 meters of right of way behind the sidewalk for operational purposes.

The owner of the adjacent lands, being PID's 00090738, 00090746, 00090753 and 00090761 (Civic #'s 330-336) Windmill Road, has requested HRM sell Parcel B-2B for consolidation with their adjacent properties for development purposes. Attachment A-2 illustrates Parcel B-2B in relation to the adjacent privately-owned properties.

DISCUSSION

Parcel B-2B Windmill Road shown on Attachment “B” of this report, is not currently improved or used as a street or travelled way. In order to enable the future sale of Parcel B-2B, Council must first approve, pursuant to Administrative Order SC-102, the closure of Parcel B-2B as a part of the official Windmill Road public street right of way.

The Halifax Regional Municipality Charter states that street closures with a value of more than fifty thousand dollars are subject to a public hearing. An appraisal confirms the value of Parcel B-2B (Attachment ‘B’) exceeds \$50,000.

The Charter also requires notice of the street closure matter be advertised in a newspaper and circulated to the Minister of Public Works. Once approved by Regional Council the street closure is to be registered in the land registry and filed with the Minister of Public Works.

The future sale of the Parcel B-2B will be the subject of a separate report, in accordance with the delegated authority pursuant to Administrative Order 2018-004 ADM respecting Real Property Transactions.

FINANCIAL IMPLICATIONS

There are no financial implications directly associated with the recommendation. The future financial implications associated with the proposed sale will be the subject of a separate report as outlined above.

RISK CONSIDERATION

There are no significant risks associated with the recommendations in this Report. Any risks considered are low.

COMMUNITY ENGAGEMENT

The property was declared surplus by Regional Council as per Administrative Order 50. In reference to the street right of way closure, a public hearing is required, as per Section 325 of the Halifax Regional Municipality Charter as the value is more than fifty thousand dollars.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications identified with this report.

ALTERNATIVES

Halifax Regional Council could choose to *not* close this part of the Windmill Road public street right-of-way. This is not recommended as it is not currently required for street right-of-way purposes and has been previously approved by Regional Council as surplus to municipal needs.

ATTACHMENTS

Attachment “A” – Plan of Survey
Attachment “A-2” – Site Plan
Attachment “B” – Administrative Order SC-102

If the report is released to the public, a copy can be obtained by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

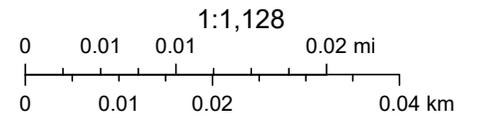
Report Prepared by: John Dalton, Senior Real Estate Officer, Corporate Real Estate,
Property, Fleet & Environment 902.497.5700

ATTACHMENT A-2 - Site Plan



2023-06-07, 3:15:22 p.m.

- | | |
|---|---|
|  Community Boundaries | HRM Owned Land by Classification |
|  Override 1 |  Open Space Land |
|  Parcel |  Right-of-Way Land |
| |  Other |



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PO Box 1749
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ATTACHMENT 'B'

ADMINISTRATIVE ORDER NO. SC-102

HALIFAX REGIONAL MUNICIPALITY

ADMINISTRATIVE ORDER NUMBER Admin Order #SC-102

RESPECTING CLOSURE OF A PORTION OF

WINDMILL ROAD, DARTMOUTH

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 Windmill Road, Dartmouth, Nova Scotia more particularly shown as Parcel B-2B on the Attachment is hereby closed.

I HEREBY CERTIFY THAT the foregoing Administrative Order was duly adopted by Halifax Regional Council, the ____ day of _____, 20__.

Mayor

Municipal Clerk

I, Iain MacLean, 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 _____, 20__.

Iain MacLean, Municipal Clerk

