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**Item No. 15.1.10**  
**Halifax Regional Council**  
**July 30, 2019**

**TO:** Mayor Savage and Members of Halifax Regional Council  
Original Signed

**SUBMITTED BY:** \_\_\_\_\_  
Chief Stuebing, A/Chief Administrative Officer

**DATE:** June 1, 2019

**SUBJECT:** **Surplus Property Classification and Disposal of PID 41287137, near Highway 101 and Margeson Drive, Middle Sackville**

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**ORIGIN**

February 7, 2017 - Regional Council approved the following motions:

- (1) Declare two acres of PID 41287137, Highway 101 and Margeson Drive, Middle Sackville, as shown on Attachment "A", as no longer required for the purposes of the Municipality and surplus to municipal requirements, and categorize the parcel, as 'Economic Development', as per Administrative Order 50;
- (2) Direct Planning and Development staff to review and advise CCS respecting the planning application approvals required in order to facilitate the development proposal on this site inclusive of addressing land use, subdivision, shared parking, vehicle access and egress, proximity to Provincial right of ways, as well as the size and location of septic fields, and report back to Council as may be required; and
- (3) Following the resolution and determination of the planning approval process return to Council with the recommended terms of the shared parking agreement and terms of the property conveyance for final approval by Council.

**LEGISLATIVE AUTHORITY**

*Halifax Regional Municipality Charter ("HRM Charter"), S.N.S 2008, c.39*

**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.

*Administrative Order 50, the Disposal of Surplus Real Property Administrative Order.*

**Clause 2(2)(b)** The Municipality will dispose of real property Council determines is no longer required for the purposes of the Municipality. Staff will identify surplus properties by the following categories:

**Community Interest**

(b) Properties known to have potential for community use, in particular where:

**RECOMMENDATION ON PAGE 2**

- (i) there has been a prior community use or institutional use of the property, or
- (ii) by location or scarcity of available property the consideration would reasonably arise.

### **SCHEDULE 1**

**Section 3.** A community interest property shall be disposed of by either:

- (i) A Call for Submissions; or
- (ii) A Direct Sale.

*Administrative Order 1 The Procedures of the Council Administrative Order*

### **Section 63**

- (1) A motion of rescission shall not be made at the same meeting when the matter is decided but may be put at any other subsequent meeting.
- (2) A motion of rescission may be put by any Member regardless of how the Member voted on the original matter.
- (3) At a subsequent meeting of the Council, the giver of such notice, or in the Member's absence any other Member on the Member's behalf, may put forward the motion of rescission.
- (4) A motion of rescission must be seconded.
- (5) A motion of rescission is debatable as to the merits of the question which is proposed to be rescinded.
- (6) A motion of rescission is amendable.
- (7) A motion of rescission shall be passed by a vote of two-thirds (2/3<sup>rd</sup>s) of the Members present and voting.

### **RECOMMENDATION**

It is recommended that Halifax Regional Council:

1. Rescind Part 1 of Regional Council's February 7, 2017 motion to categorize the surplus two acre portion of that parcel of land identified as PID 41287137 as 'Economic Development' and reclassify the surplus two acre portion as a 'Community Interest' property;
2. Subject to the outcome of the Secondary Planning Process and the approvals required to facilitate the development proposal on this site inclusive of addressing land use, subdivision, shared parking, vehicle access and egress, proximity to Provincial right of ways, as well as the size and location of septic fields; and subject to the parties reaching a viable shared parking arrangement; return to Council with the recommended steps and terms of the property conveyance for final approval by Council.

### **BACKGROUND**

In 2008, the subject 21-acre property PID 41287137, of which the subject property (the "property") is a two-acre portion, was acquired by the Municipality from a third party for the Highway 101 interchange, the southward alignment of Margeson Drive, Middle Sackville, and a future Halifax Transit Park & Ride facility at a cost of \$108,135. The interchange was constructed leaving the remaining 8.9 acres of vacant land for the Park & Ride facility.

- March 23, 2015 - North West Community Council directed staff to provide the following transfer of funds in the amount of \$100,000 from the Sackville Community Compensation Fund to the Cobequid Cultural Centre of the Arts Society ("CCS" or "the Society") upon successfully negotiating a long-term lease agreement between the Society and the Halifax Regional Municipality for the construction of an arts and cultural center on HRM-owned land located at the intersection of Margeson Drive and Highway 101 in Middle Sackville.
- August 4, 2015 - Regional Council requested a staff report exploring the potential for a long-term lease agreement between CCS and HRM for the construction of an arts and cultural center on HRM-owned land located at the intersection of Margeson Drive and Highway 101 in Middle Sackville.

- October 27, 2015 - Regional Council directed staff to:
  - (1) request that a formal business plan be submitted by the CCS regarding their proposal to construct an Arts and Cultural Centre on HRM owned land;
  - (2) evaluate the business plan provided by the CCS and report to Council regarding the proposal once the detailed design for the Transit Park & Ride project is more advanced, and
  - (3) direct staff to work with the CCS to review the terms and conditions needed to be met to allow for a long-term lease.
- February 11, 2016 - correspondence from CCS indicating that they would prefer entering into an agreement of purchase and sale for the property rather than a less than market lease.
- May 19, 2016 - Community Planning & Economic Development Standing Committee Information Report updating status of CCS request.
- February 7, 2017 – Regional Council directed staff to:
  - (1) declare two acres of PID 41287137, Highway 101 and Margeson Drive, Middle Sackville, as shown on Attachment “A” of the staff report, as no longer required for the purposes of the Municipality and surplus to municipal requirements and categorize the parcel as ‘Economic Development’ as per Administrative Order 50;
  - (2) direct Planning & Development staff to review and advise CCS respecting the planning application approvals required in order to facilitate the development proposal on this site inclusive of addressing land use, subdivision, shared parking, vehicle access and egress, proximity to Provincial right of ways, as well as the size and location of septic fields, and report back to Council as may be required; and
  - (3) following the resolution and determination of the planning approval process return to Council with the recommended terms of the shared parking agreement and terms of the property conveyance for final approval by Council.
- February 7, 2017 - a two-acre portion of the subject property was declared surplus for the consideration of a market value conveyance to the Cobequid Cultural Centre of the Arts Society for the construction of a performing arts center. The highest and best use market value of the land was appraised at \$435,600.00.
- December 4, 2018 – Regional Council direct staff to:
  - (1) initiate a process to consider amendments to the Regional Municipal Planning Strategy, the Regional Subdivision By-law, the Secondary Municipal Planning Strategies and Land Use By-laws for Sackville and Beaverbank, Hammonds Plains and Upper Sackville to enable mixed use residential, commercial, institutional and recreational development on lands surrounding the Highway 101 Interchange at Margeson Drive, Middle Sackville as shown on Maps 1-4 of the staff report; and
  - (2) follow the public participation program as set out in Attachment D of the staff report.
- April 2019 - the Cobequid Cultural Centre of the Arts Society requested that Council rescind their previous motion and change the categorization of the property from ‘Economic Development’ to ‘Community Interest’, and that they wished to purchase the property at less than market value for the sum of \$1.00. Staff reviewed the request within the context of the revised Administrative Order 50 while awaiting the initiation of a report to fulfill the second recommendation of the February 7, 2018 staff report (a review and determination of the planning application approvals required to facilitate the Society’s proposed use for the site).

## **DISCUSSION**

### **Previous Motion**

The third recommendation of the February 7, 2017 Report was that; *“Following the resolution and determination of the planning approval process return to Council with the recommended terms of the shared parking agreement and terms of the property conveyance for final approval by Council.”*

The secondary planning process is underway for the area around the Margeson Drive / Hwy 101 interchange including the subject property. While that process is still in the research and information gathering stage, implications on the development of the proposed cultural centre have been identified and should be acknowledged when considering the proposed property disposal:

- The scope and use(s) proposed for the CCS building are still in the concept stage. As a result, precise requirements for the amount and configuration of access and parking facilities cannot yet be determined. This may impact the site design as the CCS project proceeds;
- Notwithstanding the current conceptual status of the CCS project, it is not anticipated that adequate parking and access capacity exists within the boundaries of the property currently proposed for disposal. A significant component of the CCS proposal is the presumption of the coordinated development of access and parking to be shared with an HRM Park & Ride facility to be established on the abutting lands. A significant impact on the viability of the CCS project may occur if the timing of Halifax Transit’s Park & Ride project and the CCS project do not align.
- The subject property has frontage on Highway 102 and a portion of Margeson Drive which are controlled access streets. Access to the proposed CCS development would therefore have to be provided at a different location which may require an access agreement or easement to allow CCS access through HRM property outside the boundaries of the currently proposed acquisition (see Shared Parking Agreement section below for additional detail);
- As part of the ongoing planning process, staff are obliged to consider provision for alternate uses on the subject property(s) in the event either the CCS project or Park & Ride facility do not move forward as presently anticipated;

These issues are noted by staff to inform Council of the most material planning related items that are associated with the proposed property disposal and are unresolved at the time of the preparation of this report. While these items do not represent material risk to HRM with respect to the proposed property disposal, they do represent risk to the design and timelines of the CCS development concept as currently understood by staff. These implications should be acknowledged by all parties as early as possible in the overall process.

### **Shared Parking Agreement**

The shared parking arrangement also presents some potential future challenges. It is staff’s understanding that the entire CCS business model is based on their utilization of parking facilities that are to be constructed on the adjacent property in support of a transit facility. At one point, it was envisioned that CCS would be prepared to proceed with construction before Halifax Transit, and would construct the parking area at its cost. This was a key potential benefit to the collaboration for the Municipality, however, this is no longer the case, as CCS has confirmed that it is not planning on building the parking area. No municipal budget has been identified for the parking at this point and the timeline for construction is unknown. CCS has identified this property as its preferred location, in part due to the potential perceived synergies of CCS’s parking requirements and the Park & Ride facility. If Transit’s planning for this facility and the CCS plans for their building do not end up aligning with respect to timing, this could result in a major obstacle for the CCS’s plans late in their process which in turn could result in pressure for Transit to develop at least a parking facility where no valid transit related demand would be present. To be certain, CCS’s timing of their plans would not bind HRM / Halifax Transit to any specific timing to construct the HRM Park & Ride parking lot. The perimeters of the parking areas must satisfy the future parking requirements for Transit, and the parking requirements for CCS, both of which are unknown at this point.

Again, this issue is being identified by staff now to make Council aware of it. It will be addressed in more detail in a future report for the less than market conveyance of the property, if the Direct Sale of the property is approved by Council.

### **Property Conveyance - Change in Disposal Category**

In 2017, Council approved the surplus status of the property, (the two-acre portion of vacant land) acquired for municipal infrastructure (roads, transit) and assigned the Economic Development category of Administrative Order 50. Arguably, the Economic Development disposal category may be of strategic benefit to some non-profit interests in that the policy permits proposals from joint ventures that include non-profit/for-profit or non-profit/government. This latitude may be useful for ventures that rely on private sector funding and/or commercial uses in addition to non-profit uses that might leverage private investment. However, sales under the Economic Development disposal category are through an open process and sold at market value.

Following Council's decision with respect to the surplus status of the two- acre property and assignment to the Economic Development disposal category, the Society requested the Municipality to sell the property to the Society at less than market value. If Council is agreeable to this consideration, it is requested that the original decision to sell under Economic Development category be rescinded in accordance with Administrative Order 1 and a motion to assign to the Community Interest category approved. A motion of rescission requires a two-thirds majority of those members of Council present and voting.

### **FINANCIAL IMPLICATIONS**

The recommendations presented in this report have no immediate financial implications. The financial implications specific to a property sale would be included in a subsequent staff recommendation report to Regional Council.

### **RISK CONSIDERATION**

Low. The recommendations contained in this report are in accordance with the HRM Charter, Administrative Order 50, and Administrative Order 1.

### **COMMUNITY ENGAGEMENT**

Pending the outcome of the Master Plan process undertaken by HRM Planning & Development it is anticipated that the findings of this planning exercise will inform CCS of the development issues of the site, including but not limited to the building's configuration, underground septic infrastructure, and the associated construction and annual operating costs. Site-specific constraints might also impact the availability of financing or future re-sale marketability of the site. This technical information would assist a potential Purchaser in the development of business plan should the property be offered for sale under the Community Interest category of Administrative Order 50, either through an open Call for Submissions or a Direct Sale.

### **ENVIRONMENTAL IMPLICATIONS**

There are no environmental implications as this time. Any due diligence is the responsibility of the Purchaser.

### **ALTERNATIVES**

1. Regional Council could overturn the staff recommendation to rescind their decision of February 7, 2017, which assigned the potential disposal of the 2-acre portion of land under the Economic Development category and direct staff to pursue a sale at market value under the original classification.
2. Regional Council could rescind its decision of February 7, 2017, that declared two acres of PID 41287137 surplus and retain the entire property for municipal interests.

If Council selects this option, a motion of rescission requires a two-thirds majority vote of those members of Council present and voting.

**ATTACHMENTS**

Attachment 1 Site Plan.

Attachment 2 Correspondence to HRM from the Cobequid Cultural Society.

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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.

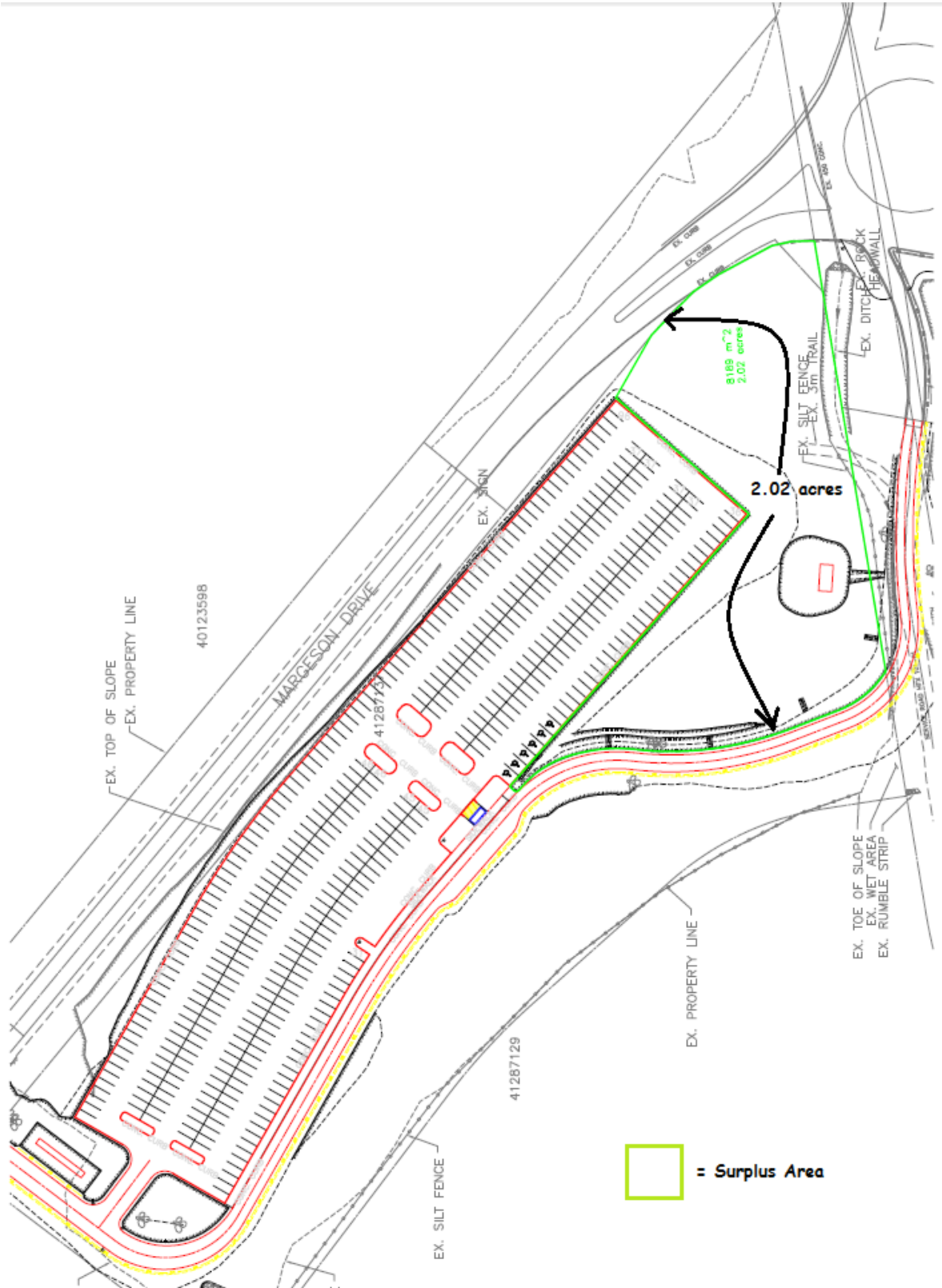
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## ATTACHMENT '1' Property Disposal, PID 41287137, Highway 101 and Margeson Drive SITE PLAN



**ATTACHMENT '2'**  
**Property Disposal, PID 41287137, Highway 101 and Margeson Drive**  
**Correspondence to HRM from Cobequid Cultural Society**



[cobcc@ns.sympatico.ca](mailto:cobcc@ns.sympatico.ca)

*March 15, 2019*

Mr. Tom Crouse  
Acquisition & Disposal Manager  
Corporate Real Estate, Finance and Asset Management  
Halifax Regional Municipality

Dear Mr Crouse :

Regarding the property on Margeson Drive known as PID #41287137, we ask that you proceed with the documents needed to get a purchase and sale agreement approved.

We request a less than market and direct sale as per A050.

Yours truly,

D.Rae Smith  
Vice President  
Cobequid Cultural Society