

10.1.13

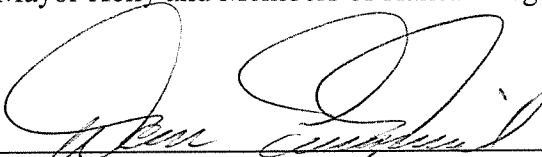


PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Halifax Regional Council**  
**March 27, 2007**

**TO:** Mayor Kelly and Members of Halifax Regional Council

**SUBMITTED BY:**

  
\_\_\_\_\_  
Dan English, Chief Administrative Officer

  
\_\_\_\_\_  
Wayne Anstey, Deputy Chief Administrative Officer - Operations

**DATE:** March 6, 2007

**SUBJECT:** Request for Permanent Encroachment - 2150 Gottingen Street

### SUPPLEMENTARY REPORT

#### ORIGIN

Item 10.1.2 raised at the February 27, 2007 meeting of the Halifax Regional Council. Item referred to staff with a request that pictures and schematics of the building be provided to Council.

#### RECOMMENDATION

It is recommended that Halifax Regional Council **deny** the application for permanent encroachment of proposed duct work in the street right of way at 2150 Gottingen Street to serve a proposed restaurant.

## **BACKGROUND**

A restaurant is proposed at 2150 Gottingen Street (corner of Gottingen Street and Cornwallis Street). The application requests permission to have an exhaust system encroach in the right of way on the Cornwallis Street side of the building. Pictures of the building are attached in Appendix 1.

The proposed duct work would extend about 0.54 metres (21 inches) over the sidewalk and would be 0.6 metres (24 inches) wide. The system would extend from about 3 metres (10 feet) above the sidewalk to the top of the building. Pictures of a similar system are attached in Appendix 2. The applicant does not have drawings or schematics of the proposed work, but has indicated that 'the duct work will be similar to Papa Marios (see Appendix 2) only I will be also adding bracing to the side of the building to make the duct work more secure'.

The request for permanent encroachment was refused by staff on the basis that such encroachment could only be approved by Council. The applicant was advised that HRM staff would recommend that the application be denied should the matter proceed to Council. However, the applicant requested that the issue be presented to Council for a decision.

## **DISCUSSION**

In general, the HRM right of way is required for municipal purposes, that is pedestrian and vehicular traffic, transit and as a utility corridor. The public right of way is not intended to be used to resolve private building owners design or cost issues. There is no public benefit from this proposal. The exhaust system can be installed and operate safely and effectively inside the building.

Staff are concerned about condensation and associated ice build-up on the sidewalk associated with this project. The applicant has provided a letter from his contractor to address this issue (Appendix 3).

Allowing construction of this permanent encroachment would set an undesirable precedent jeopardizing the integrity of the HRM right of way by implying that it can be used to resolve private business issues.

## **BUDGET IMPLICATIONS**

There are no budget implications.

## **FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN**

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating,

Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

**ALTERNATIVES**

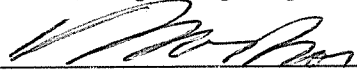
Council could choose to approve an Encroachment Agreement to allow permanent encroachment. If approved by Council, the applicant is required to pay a one-time license fee of approximately \$95.00 and a minimum annual rental fee of \$10.00 (per By-Law E-200 and Administrative Order 15).

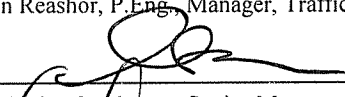
**ATTACHMENTS**

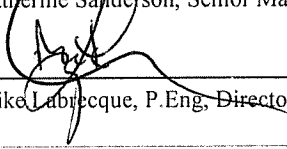
- Appendix 1 - Pictures of the Existing Building
- Appendix 2 - Pictures of Similar Duct Work
- Appendix 3 - Letter from Applicant's Contractor Regarding Condensation

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Erica Copeland, P.Eng., Transportation Engineer, Traffic & Right of Way, 490-5525  
Phil Francis, P.Eng., Manager, Right of Way Engineering, 490-6219

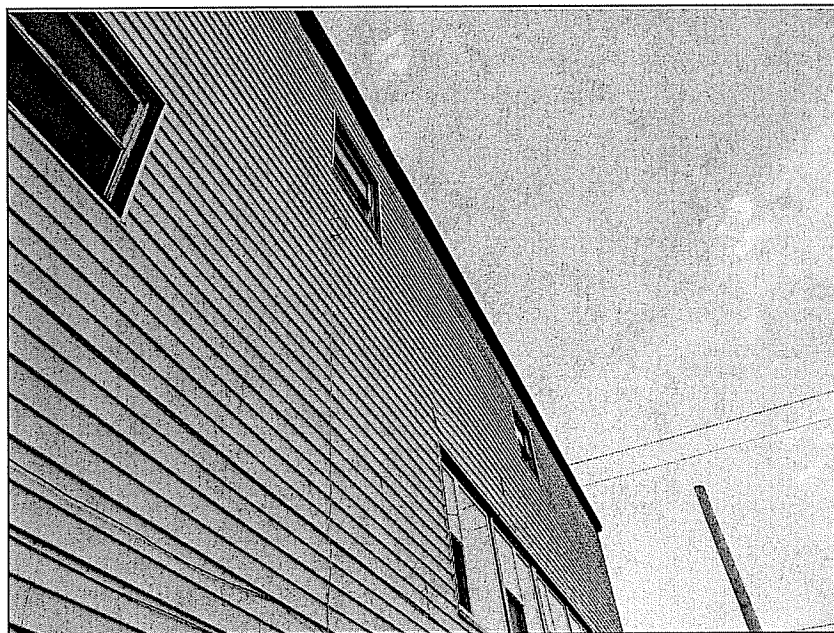
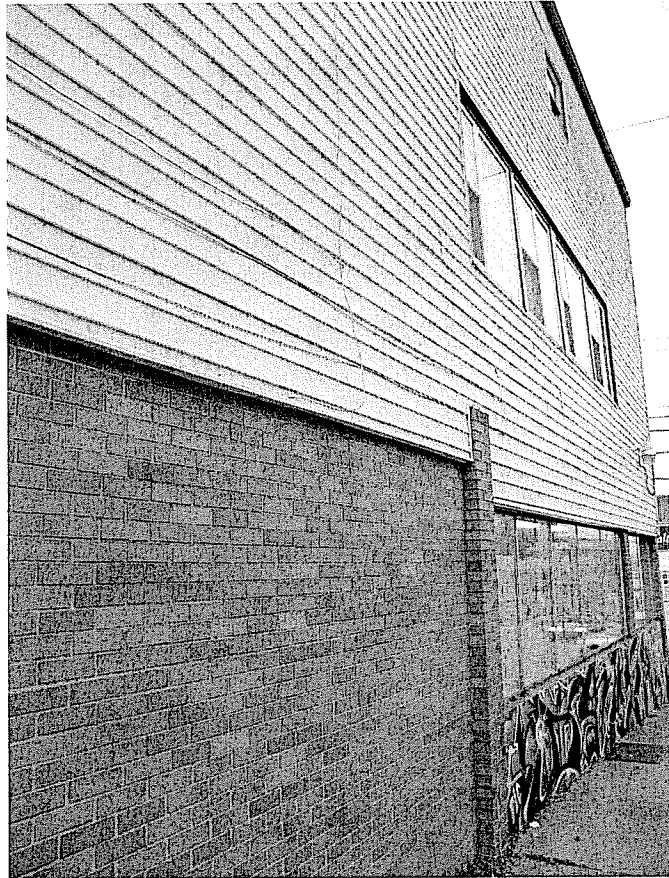
Report Approved by:   
Ken Reashor, P.Eng., Manager, Traffic & Right of Way, 490-6637

Financial Approval by:   
Catherine Sanderson, Senior Manager, Financial Services, 490-1562

Report Approved by:   
Mike Labrecque, P.Eng., Director, Transportation & Public Works, 490-4855

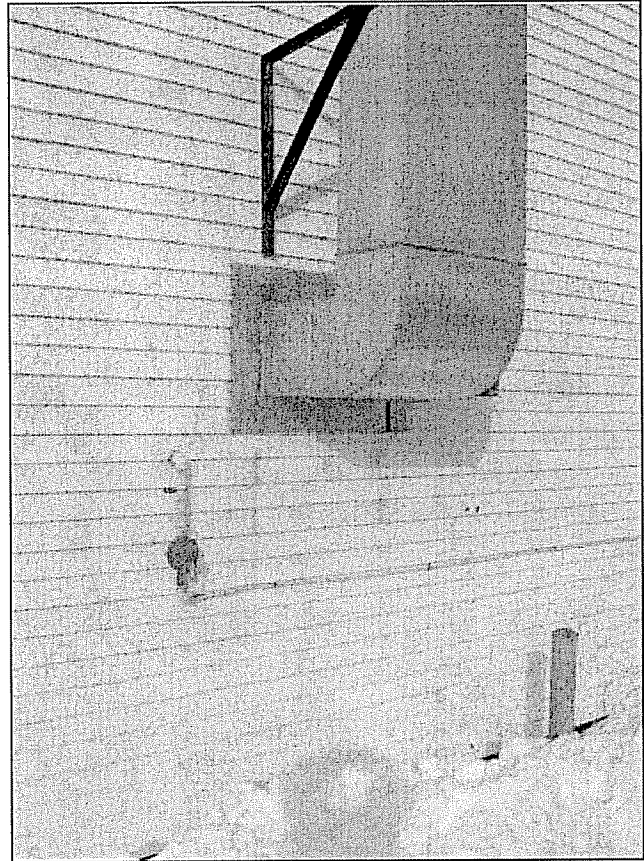
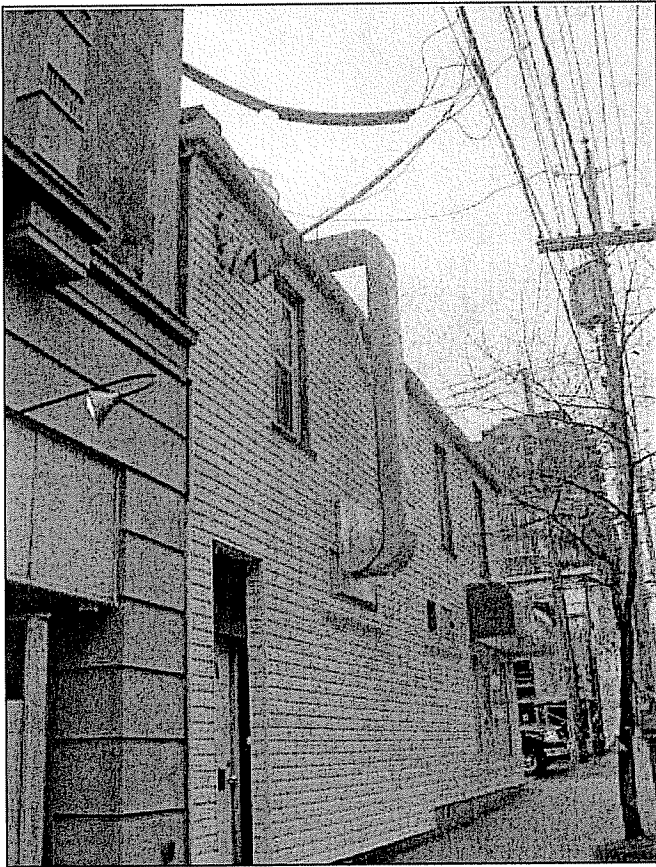
**APPENDIX 1**

Pictures of the Existing Building - 2150 Gottingen St.  
(Cornwallis St. side of the building)



APPENDIX 2

Pictures of Similar Duct Work - Papa Mario's, 1283 Barrington St.  
(Morris St. side of the building)



APPENDIX 3

Letter from Applicant's Contractor Regarding Condensation

S G M CONSTRUCTION  
C/O 3097509 NOVA SCOTIA LIMITED  
44 REGAL ROAD  
DARTMOUTH, NOVA SCOTIA  
B2W 4H6

January 18, 2007


To Whom It May Concern:

In regards to 2150 Gottingen Street, Halifax, with our experience we have never encountered a time that the pipe from the exhaust hood leading to the outer part of the building structure to ever build enough condensation and drip down onto the ground. We have been installing exhaust hoods for ten or more years.

With that said, we understand your concern of the condensation build up and dripping on to the sidewalk. Therefore, we would be willing to install a drip pan of sort to eliminate any condensation that the pipe may discharge.

Should you have any more concerns on this matter, please feel free to contact me at 902-456-3927.

Thank you,

  
SAAD MASSAN  
President  
3097509 NOVA SCOTIA LIMITED