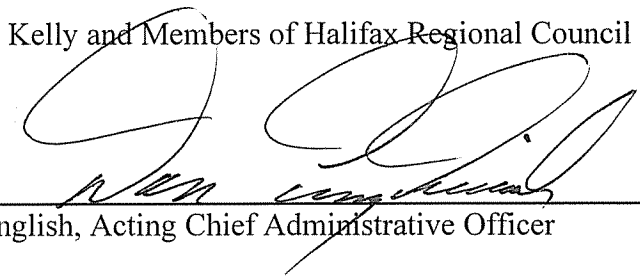


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Halifax Regional Council  
August 27, 2002

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

**SUBMITTED BY:**

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

**DATE:** August 20, 2002

**SUBJECT:** Encroachment - 3240 Kempt Road

**ORIGIN**

Application for Encroachment License by Halifax BMW Limited pursuant to Bylaw E-200, Encroachment Bylaw.

**RECOMMENDATION**

It is recommended that :

1. Council refuse the application for encroachment.

## **BACKGROUND**

A permanent vehicle display structure was constructed within the street right of way during construction of the new Halifax BMW Limited building located at 3240 Kempt Road. This type of encroachment requires approval by Regional Council, pursuant to Bylaw E-200, the Encroachment Bylaw.

The display structure consists of a concrete ramp placed on an earth mound approximately three (3) feet in height, and measures approximately twenty-five (25) feet in length by nine (9) feet in width. The closest point of the encroachment is within one (1) foot of the curb.

The encroachment was not indicated on the site plan submitted as part of the building permit application which was received on January 19, 2001.

## **DISCUSSION**

Staff have reviewed the application for a permanent encroachment and recommend that the application be refused, for the following reasons:

- The structure creates a safety hazard, by significantly restricting the view of left turning vehicles exiting the parking lot of Halifax BMW Ltd.
- The structure restricts available storage space for snow during snow removal activities.
- The structure, as constructed, restricts pedestrian use of the right of way. Although there is no sidewalk on this side of Kempt Road, the grassed area behind the curb is used for pedestrian traffic and pedestrians are forced closer to the travelled portion of the street.
- The portion of the public right of way which is outside of the travelled way should be reserved for uses which benefit the public, such as for sidewalks, traffic control signage, locating utilities, etc. In this case, staff can find no special circumstances which would warrant approval, so approving this encroachment would be precedent setting. Setting such a precedent will compromise Council's ability to ensure a public right of way benefits the public, by making it difficult for Council to refuse similar applications in the future.

## **BUDGET IMPLICATIONS**

N/A

**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 permit the structure to remain in the right of way as a permanent encroachment. If approved by Council, Bylaw E-200 imposes an encroachment license fee of \$125.00 and an annual encroachment rental fee of \$1.00 per 0.1 square metre of encroachment (a minimum of \$10.00) both of which are prescribed in Administrative Order Number 15. Based on the area of the right of way being encroached upon, the annual rental fee would be \$209.00.

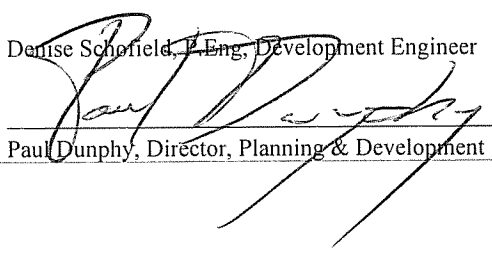
Staff do not recommend this option for the reasons outlined in this report.

**ATTACHMENTS**

1. Site plan showing encroachment at 3240 Kempt Road

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Denise Schofield, P.Eng., Development Engineer

Report Approved by:   
Paul Dunphy, Director, Planning & Development Services

