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Halifax Regional Council
August 31, 2004

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:

A handwritten signature in black ink, appearing to read "RR Paynter", written over a horizontal line.

Rick Paynter, P.Eng., Director, Public Works & Transportation

DATE: August 25, 2004

SUBJECT: Victoria Rd. at Ochterloney St.

INFORMATION REPORT

ORIGIN

Halifax Regional Council In Camera session, May 11, 2004 - Property Matter - Victoria Estates, item # 2.

BACKGROUND

In July 2003, Public Works & Transportation (PWT) were advised that a portion of the new Victoria Estates condominium development was constructed over the property line and within the Victoria Rd. right-of-way. The developer's request was that a portion of the right-of-way be sold to the building owner to correct the problem. The building is located on north side of Ochterloney St. between Victoria Rd. and Pine St.

The encroaching landscape wall was not shown on the building plans reviewed by Development & Planning staff. This was discovered when one of the condominiums was purchased. HRM's position is that it is the responsibility of the developer, through his surveyor, to ensure that property lines are properly depicted.

PWT staff reviewed the matter and recommended that the HRM right-of-way lands be retained as they may be required for potential future street improvements to Victoria Rd. The developer was offered an encroachment agreement so that the encroaching landscaping could remain until such time that the lands may be required by HRM. However, this apparently was not satisfactory to the developer. Council subsequently requested further information on the matter.

DISCUSSION

The parcel of land in question is a 4 ft. wide strip on the east side of Victoria Rd. which was acquired back in the 1960's by the former City of Dartmouth for potential street widening purposes.

Victoria Road in this area is very narrow with the right-of-way approximately 30 feet wide and the vehicle travelled way approximately 18 feet wide. This does not meet the current HRM specifications. Ideally, this street should be widened but due to the unavailability of land this has not occurred to date and it is not being considered as a future transportation project at this time. Nevertheless, it is staff's view that this is not a reason for HRM to give up its option on potential future widening or intersection improvements at Ochterloney Street.

Further, the encroaching part of the development is not part of the building structure but rather is a landscaping wall and associated landscaping. Again, it is staff's view that this is not sufficient reason for HRM to give up its right-of-way options.

Subject to Council's approval, the developer was offered an encroachment agreement to allow the landscaping to remain. Under such an agreement, the landscaping would only have to be removed if HRM ever requires the lands for street improvement purposes.

BUDGET IMPLICATIONS

None at this time.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

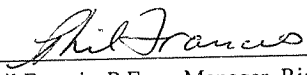
This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

Council could direct that the right-of-way lands be sold to the developer. This is not recommended.

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:


Phil Francis, P.Eng., Manager, Right of Way Services

490-6219