

10.1.2

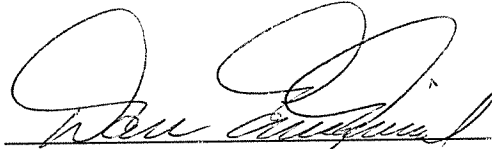


PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Halifax Regional Council**  
**February 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:** February 8, 2007

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

**ORIGIN**

Application for encroachment on public right of way at 2150 Gottingen Street (Application #81705).

**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.

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.

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.

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

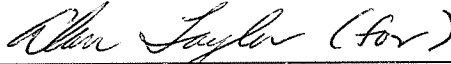
\$95.00 and a minimum annual rental fee of \$10.00 (per By-Law E-200 and Administrative Order 15).


**ATTACHMENTS**


Photos

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.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

