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Item No. 11.1.15

Halifax Regional Council
March 31, 2009
April 7, 2009

TO: Mayor Kelly and Members of Halifax Regional Council

A handwritten signature in cursive script, appearing to read "Dan English".

SUBMITTED BY:

Dan English, Chief Administrative Officer

A handwritten signature in cursive script, appearing to read "Wayne Anstey".

Wayne Anstey, Deputy Chief Administrative Officer - Operations

DATE: March 9, 2009

SUBJECT: **Street Closure - Portion of Princess Place, Halifax**

ORIGIN

Real Estate received a request from the developer of the Armoury Square Development, Cunard Street and Princess Place, to close a portion of the Princess Place street right-of-way (Parcel 1) as shown on Attachment "B".

RECOMMENDATION

It is recommended that Council close a portion of the Princess Place right-of-way, Halifax, as per Administrative Order # SC-56 (Attachment "A").

BACKGROUND

Cunard Street Developments Inc. built an apartment complex at the corner of Cunard Street and Princess Place. This development was done pursuant to a Development Agreement and during the Development Agreement process it was decided that the fronts of the townhouse units along Princess Place would be in keeping with the existing houses on the street. That meant the face of the units would be at the street line and that the entrance steps would encroach into the street line. The Developer went through the encroachment license process and was issued an encroachment license for the steps.

Now that the development is completed the developer has made application to the Registrar of Condominiums to register the complex as a condominium. The Registrar of Condominiums has advised Cunard Street Developments Inc. that the property cannot be registered so long as any portion of the complex is outside the property boundary line. The developer has two options; (1) remove the steps, or (2) acquire a 480 sq. ft. strip of the right of way from HRM.

DISCUSSION

The owner of Armoury Square Development is in the process of condominiumizing a part of the building and has applied to the Registrar of Condominiums for approval. The Registrar of Condominiums has taken the position that the encroachment of the building must be owned by the applicant. This position is based on Legislation contained in Nova Scotia's Condominium Act. Section 6(1) of the Act requires that a property submitted for registration "shall comprise only freehold land and interest, if any, appurtenant to that land".

Since the steps are the principle front entrance to the units, they are required to gain access to the units from the street. For this reason, the steps cannot be removed and the developer would like to acquire the 480 sq. ft. strip of right-of-way from HRM.

Staff has reviewed the request to close the portion of the Princess Place right of way, and is somewhat reluctant to close the requested portion as it is a compromise on HRM's part. However, considering the alternative of telling the developer to "cut off" the front steps, which could be considered heavy handed, staff has agreed to give up this portion of the Princess Place right of way. This decision is based on the fact that there is a Legislative requirement (Nova Scotia's Condominium Act) that requires ownership as opposed to an encroachment license. Staff will be meeting with staff from the Province to discuss this legislation and any flexibility in the future for situations like this, which effectively forces the Municipality to sell a portion of the public right of way.

In October 2004, the Municipality was successful in amending the Municipal Government Act in that a Public Hearing is not required where part of a street is being altered, improved or redesigned, if:

- (a) the part of the street that remains opens
 - (i) is open to vehicular and pedestrian traffic, and
 - (ii) meets all the Municipal standards; and

- (b) the part of the street that is closed
 - (i) is determined by the engineers to be surplus;
 - (ii) is worth less than fifty thousand dollars.

It has been determined that this street closure meets all of the above noted criteria and; therefore, a public hearing is not required for the Street Closure of Parcel 1.

The developer has requested that HRM sell it the 480 sq. ft. strip of land. A Director's Approval report dealing with the actual sale of the right of way, which complies with the Real Property Transaction Policy, as approved by Regional Council on October 8, 2002, has already been approved pending Council Approval of the street closure. The sale price of the 480 sq. ft. right of way is \$20,740.80 and the developer is responsible for all costs associated with the conveyance. The Developer will also be responsible for all future maintenance of the sidewalk in front of 2303-2319 Princess Place.

KEY BUSINESS TERMS AND CONDITIONS OF TRANSACTION	
<i>Property Address</i>	2303 - 2319 Princess Place Street, Halifax
<i>Location</i>	Corner of Cunard Street and Princess Place
<i>Owner</i>	Cunard Street Developments Inc,
<i>Area</i>	480 sq. ft. (4 ft. wide by 120 ft. long)

<i>Special Conditions</i>	<ul style="list-style-type: none">• At this time Council is being asked to formally close a portion of the Princess Place street right of way as shown on Attachment “B”;• The closure will also facilitate the sale of Parcel 1 to Cunard Street Developments Inc., which was the subject of a previously approved report;• The closure will allow Cunard Street Developments Inc. to register the property as a condominium;• Property owner to pay all expenses to register Administrative Order #SC-56;• Cunard Street Developments Inc. to be responsible for future maintenance of the sidewalk in front of 2303 - 2319 Princess Place.
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BUDGET IMPLICATIONS

All HRM costs associated with this conveyance, will be the responsibility of the purchaser. The budget implications of the sale of Parcel 1 have been addressed in a previous Director’s Approval Report dated March 9, 2009, entitled Sale of HRM Right of Way - Portion of Princess Place, Halifax.

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

None

ATTACHMENTS

Attachment “A” - Administrative Order # SC-56.

Attachment “B” -Location Plan

Attachment “C” - Site Photography

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: Tom Crouse, Acquisition & Disposal Manager, Transportation & Public Works, 490-5931



Report Approved by:

Peter Stickings, Manager, Real Property, TPW, 490-7129



Report Approved by:

Ken Reashor, Manager, Traffic & Right of Way, TPW, 490-6637



Financial Review/Approval by:

Catherine Sanderson, Senior Manager, Financial Services, 490-1562



Report Approved by:

Michael Labrecque, Director, Transportation & Public Works, 490-4855

Attachment "A"
Street Closure - Portion of Princess Place, Halifax
Administrative Order # SC-56

HALIFAX REGIONAL MUNICIPALITY

ADMINISTRATIVE ORDER NUMBER SC-56

RESPECTING CLOSURE OF A PORTION OF

PRINCESS PLACE, HALIFAX

BE IT RESOLVED AS AN ADMINISTRATIVE ORDER of Council of the Halifax Regional Municipality pursuant to Section 315 of the Municipal Government Act as follows:

- (vi) A portion of Princess Place, Parcel 1, Halifax, Nova Scotia more particularly described in Attachment "A" is hereby closed.

I HEREBY CERTIFY THAT the foregoing Administrative Order was duly adopted by Halifax Regional Council, the ____ day of _____, 2009.

Mayor

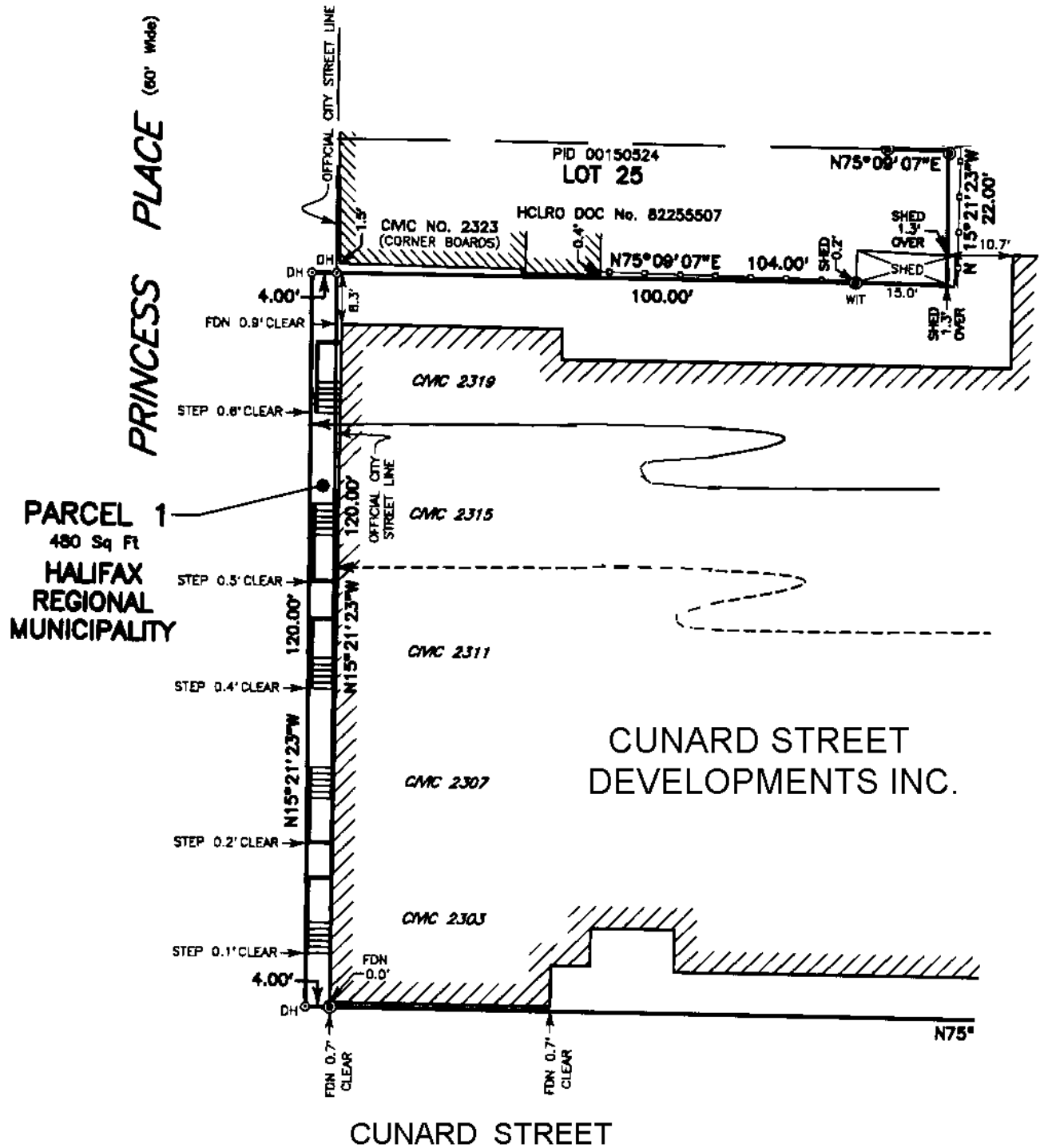
Acting Municipal Clerk

I, Julia Horncastle, Acting Municipal Clerk of Halifax Regional Municipality, hereby certify that the above-noted Administrative Order was passed at a meeting of Halifax Regional Council held on _____, 2009.

Julia Horncastle, Acting Municipal Clerk

ATTACHMENT "B"

Sale of HRM Right of Way - Portion of Princess Place, Halifax SITE PLAN



ATTACHMENT "C"
Street Closure - Portion of Princess Place, Halifax
SITE PHOTOGRAPHY



View of corner of Cunard Street & Prince Place



View of area of

be closed

right of way to