


Item No. 9.2

Halifax Regional Council

June 19, 2012

July 10, 2012

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: Original signed by 
Richard Butts, Chief Administrative Officer

Original Signed by 
Mike Labrecque, Deputy Chief Administrative Officer

DATE: June 11, 2012

SUBJECT: Parkland Disposal – Portion of Parcel B (PID#00443820)
Civic No. 5 Josephine Court, Dartmouth

ORIGIN

This report originates with a request from the property owner of 5 Josephine Court expressing an interest in acquiring a portion of HRM land (Parcel B), more particularly described as a portion of PID 00613703.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Authorize staff to set a date for a Public Hearing for the closure and disposal of a 544 square foot portion of HRM Park property, Parcel B, Cole Harbour, as shown on Attachment “A”;
2. Subject to the outcome of the Public Hearing, approve the closure and disposal of a 544 square foot portion of HRM Park property, Parcel B, Cole Harbour, as shown in Attachment “A”; and
3. Authorize the Mayor and Municipal Clerk to enter into an Agreement of Purchase and Sale for the acquisition of a portion of PID#00613703, Parcel A, and the disposal of a portion of PID#00443820, Parcel B, as per the key terms and conditions outlined in Table 1.

BACKGROUND

The owners of 5 Josephine Court have owned the family home for several years and have done many improvements to the property (ie. Pool, shed, decking and fence). In 2005 the Halifax Water (HW) did extensive work in the area to protect low lying areas from flooding. In the process, HW had to raise the grade of the backyards by approximately 1.8 meters and build rock retaining walls. In 2010, HW had secured several easements along the watercourse to allow for the maintenance of the retaining wall with the exception of the subject property.

As a result of the HW scope of work, the owners of 5 Josephine Court have had to reconfigure their backyard improvements. In doing so, the owner's shed was relocated and subsequently encroaching on HRM property.

The owners have proposed that, rather than granting the necessary easement for the infrastructure improvements that they be permitted to purchase a portion of HRM's Parkland, Parcel (P-1) in exchange for the easement lands required; therefore, eliminating the shed encroachment on HRM lands.

The exchange will benefit both HRM and the owner as it will remove the shed encroachment as well as allowing HRM ownership of the lands, and HW easement rights to the retaining wall. The transaction will finish the project and give HRM/HW access to the brook that runs along the rear of the property. It is intention of staff to grant an easement to HW for the maintenance of the retaining wall.

DISCUSSION

The subject lands are "parkland dedicated" lands and therefore, as per Section 283 (14) of the Halifax Regional Charter, Council will have to approve the closure and sale of parkland. The disposal will require a public hearing to notify all the owners within the subdivision regarding the transaction. Notification will be by way of ads being placed in the newspaper.

Staff has reviewed market comparables of buildable, single family lots in the subject area and a market value of the property would be in the \$7.50 per square foot range. Due to the size, location, limited access, and configuration of the subject parcels, their value would be adjusted accordingly. However for the purpose of the exchange the generally equal sized lots were valued at the \$7.50 per square foot, based on their sizes of 532 sq. ft. and 544 sq.ft. the transaction value would be \$8,070.

Staff is recommending an exchange of lands, as the parcels are equal in size and value. There will be no funds associated with the purchase or disposal of HRM property. However, HRM will

be paying the legal fees associated with the transaction due to the encumbrance caused by the reconfiguration of the lands adjacent to the owner, as part of the previous work done on site by HW.

Staff is recommending the closure and sale of a portion of this parkland, subject to the outcome of the public hearing, to eliminate the encroachment issues.

General Terms:

<i>Property Address</i>	5 Josephine Court	
<i>PID</i>	00613703	00443820
<i>Vendor</i>	David Smith & Barbara King	HRM
<i>Purchaser</i>	HRM	David Smith & Barbara King
<i>Lot Area</i>	Area being conveyed +/- 532 ft ² (Parcel A) To be added to Parcel – P1 (Parkland dedicated parcel)	Area being conveyed +/- 544 ft ² (Parcel B)
<i>Special Terms</i>	The Municipality will be responsible for all legal costs associated with this transaction (estimated to be \$5,000 maximum).	

BUDGET IMPLICATIONS

Funds in the amount of \$5,000 plus net HST \$214.30 for a total value of \$5,214.30 is available in Capital Account CPX01149 – Park Land Acquisition to cover the Vendor’s associated costs of transaction. HRM will be responsible for the Vendor’s reasonable legal fees, the Municipality’s legal fees, preparing and registering the property conveyance documents, and migration of the subject property, if applicable.

Budget Summary

The Budget availability has been confirmed by Finance.

Capital Account CPX01149 - Park Land Acquisition

Cumulative Unspent Budget	\$1,435,185.68
Less: Property Purchases	\$ 0.00
Legal Fees: HRM & Vendor’s (Estimated)	<u>\$ 5,214.30</u>
Uncommitted Balance	\$1,429,971.38

Applicable adjustments to the Purchase Price include, but are not limited to, appraisal, survey, easements, environmental impacts, grading deficiencies, wetland management, legal, marketing

and administrative costs. Adjustments or deficiency allowances resulting from the Purchaser's due diligence inspection, if required, shall be to a maximum of 15 percent of the purchase price.

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.

COMMUNITY ENGAGEMENT

A public hearing will be required for the recommended parkland closure, as per section 283 (14) of the Halifax Regional Charter.

ALTERNATIVES

1. Proceed with the disposal of the parkland for cash rather than the land as consideration.
2. Deny the disposal of the parkland and grant the owner an encroachment license for the shed.
3. Instruct the owner to remove his shed from HRM parkland.

ATTACHMENTS

Attachment "A" – Site Plan

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: Nathan Hines, Real Estate Officer, Planning & Infrastructure 490-5477

Report Approved by: _____
Tom Crouse, Manager of Acquisition and Disposal, P&I 490-5931

Financial Approval by: _____
for Greg Keefe, A/Director of Finance & Information Technology/CFO, 490-6308

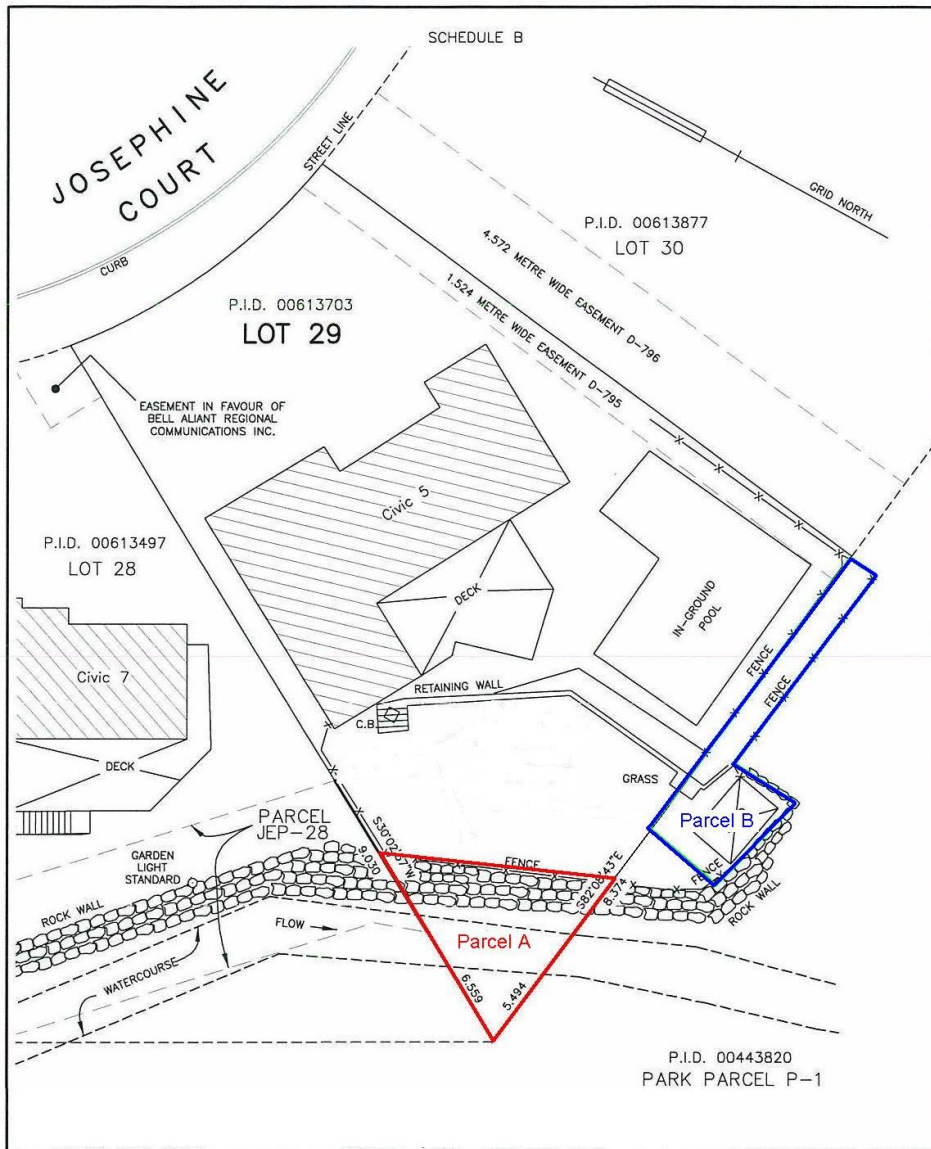
Report Approved by: Peter Stuckings, Acting Director of Planning & Infrastructure 490-6047

Original Signed

ATTACHMENT "A"

Property Exchange – 5 Josephine Court, Dartmouth

SITE PLAN



Site Area

- Parcel A (to be deeded to HRM) +/- 532 ft²
- Parcel B (to be deeded to Owner) +/- 544 ft²