

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 
Jacques Dubé, Chief Administrative Officer

DATE: July 14, 2020

SUBJECT: Street Closure – Parcel C, Portion of Elizabeth Drive, Halifax

ORIGIN

This report originates with a request from the owner of the abutting PIDs 00302117 & 40595977 to acquire a portion of the Elizabeth Drive right-of-way.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, Chapter 39,

Section 61:

- (3) The property vested in the Municipality, absolutely or in trust, is under the exclusive management and control of the Council, unless an Act of the Legislature provides otherwise.
- (5)(b) The Municipality may sell property at market value when the property is no longer required for the purposes of the Municipality;

Section 325:

- (2) Notwithstanding subsection (1), where a street or part of a street is being altered, improved, or redesigned, part of that street may be closed without holding a public hearing under subsection (1) if
 - (a) the part of the street that remains open
 - (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 engineer to be surplus, and
 - (ii) is worth less than fifty thousand dollars.

- (3) The Council shall give notice of its intent to close the street by advertisement in a newspaper circulating in the Municipality.
- (4) The notice must set out the time and place of the public hearing at which those in favour or opposed to the street closing will be heard and describe the street to be closed sufficiently to identify it.
- (5) A copy of the notice must be mailed to the Minister of Transportation and Infrastructure Renewal before the public hearing.
- (6) A copy of the policy passed by the Council, certified by the Clerk under the seal of the Municipality, incorporating a survey or a metes and bounds description of the street that is closed, must be filed in the registry and with the Minister of Transportation and Infrastructure Renewal.
- (7) Upon filing the policy in the registry, all rights of public user in the land described in the policy are forever extinguished and the Municipality may sell and convey the land or may subsequently reopen the land as a street in the manner required by this Act. 2008, c. 39, s. 325.

Administrative Order 50 Respecting the Disposal of Real Property and Administrative Order 2018-004 Respecting Real Property Transactions.

RECOMMENDATION

It is recommended that Halifax Regional Council Approve Administrative Order SC-97 in Attachment “B” of this report, to close that portion of Elizabeth Drive shown as Parcel C on Attachment “A”.

BACKGROUND

In 2017, staff received a request from the owner of 101 Osborne Street (Depint Developments) to acquire a portion of the Elizabeth Drive right-of-way to facilitate development of PIDs 00302117 & 40595977 with two duplex structures. In 2017, PID 40595977 was re-zoned from R-1 to R-2 to permit the development.

This parcel was subject to technical review and declared surplus to municipal requirements and categorized as “Extraordinary” by Regional Council as part of Administrative Order 50 Package 07.19 on August 13, 2019.

The area of land sought for acquisition by the proponent is designated as Parcel C and outlined in red on Attachment “A” and measures 208 square metres. Parcel C represents a portion of the Elizabeth Drive right-of-way which does not form part of the traveled way.

DISCUSSION

The proponent wishes to acquire Parcel C to allow their development to meet the minimum street frontage requirements of the R-2 zone.

Pursuant to section 325 (2)(a) of the Charter, the municipal engineer has determined that if the street is altered by the closures of Parcel C, the part of the street that remains open would be open to vehicular and pedestrian traffic and meets all the municipal standards; that the part of the street that is proposed to be closed has been determined to be surplus and that the portion of the street that is being considered for closure is valued at less than fifty thousand dollars (\$50,000). Therefore, a public hearing is not required.

There is a Municipally installed and maintained walkway that crosses over the proponent's PID 40595977. In 1947, the former Halifax County expropriated an easement which encumbers PID 40595977 for the purposes of installing sewer, gas, and electrical infrastructure. This easement does not grant the Municipality the permission to have a walkway on the property; therefore, the walkway is encroaching on private property. The proponent has agreed to grant an easement in favour of HRM to formalize the use of the walkway.

There is currently public utility infrastructure located on Parcel C without easements, as easements are not required to install infrastructure in the municipal right-of-way. The infrastructure consists of a telecommunications box and overhead wires belonging to Bell Canada Enterprises and underground pipes belonging to the Halifax Regional Water Commission. Prior to conveying Parcel C to the proponent under the delegated authority of the *Real Property Transaction Policy ADM 2018-004*, easements will be established in favour of Bell Canada Enterprises and the Halifax Regional Water Commission for their existing infrastructure on Parcel C, subject to their agreement.

The purpose of this report is to close the portion of street right-of-way identified as Parcel C on Attachment "A" under Administrative Order SC-97. The conveyance of the parcel is subject to a separate Private and Confidential Recommendation Report pursuant to the *Real Property Transaction Policy ADM 2018-004*.

FINANCIAL IMPLICATIONS

There are no financial implications directly associated with the recommendation in this report.

The financial implications associated with the proposed sale and grants of easements will be more fully described in a separate Private and Confidential Recommendation Report, in accordance with the appropriate delegated authority per the *Real Property Transaction Policy ADM 2018-004*. The net proceeds shall be credited to Capital Fund Reserve Q526.

RISK CONSIDERATION

There are no significant risks associated with the recommendations in this Report. The risks considered rate Low.

COMMUNITY ENGAGEMENT

As per Administrative Order 50, the area Councillor was advised of the recommendation to surplus the subject property with the Extraordinary categorization. A public hearing is not required to close this portion of Elizabeth Drive, as the closure meets Section 325(2) of the *Halifax Regional Municipality Charter*.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications identified with this report.

ALTERNATIVES

Halifax Regional Council could choose to **not** close this portion of the Elizabeth Drive right-of-way. This is not recommended as it is not required for street right-of-way purposes.

ATTACHMENTS

Attachment "A" – Site Plan

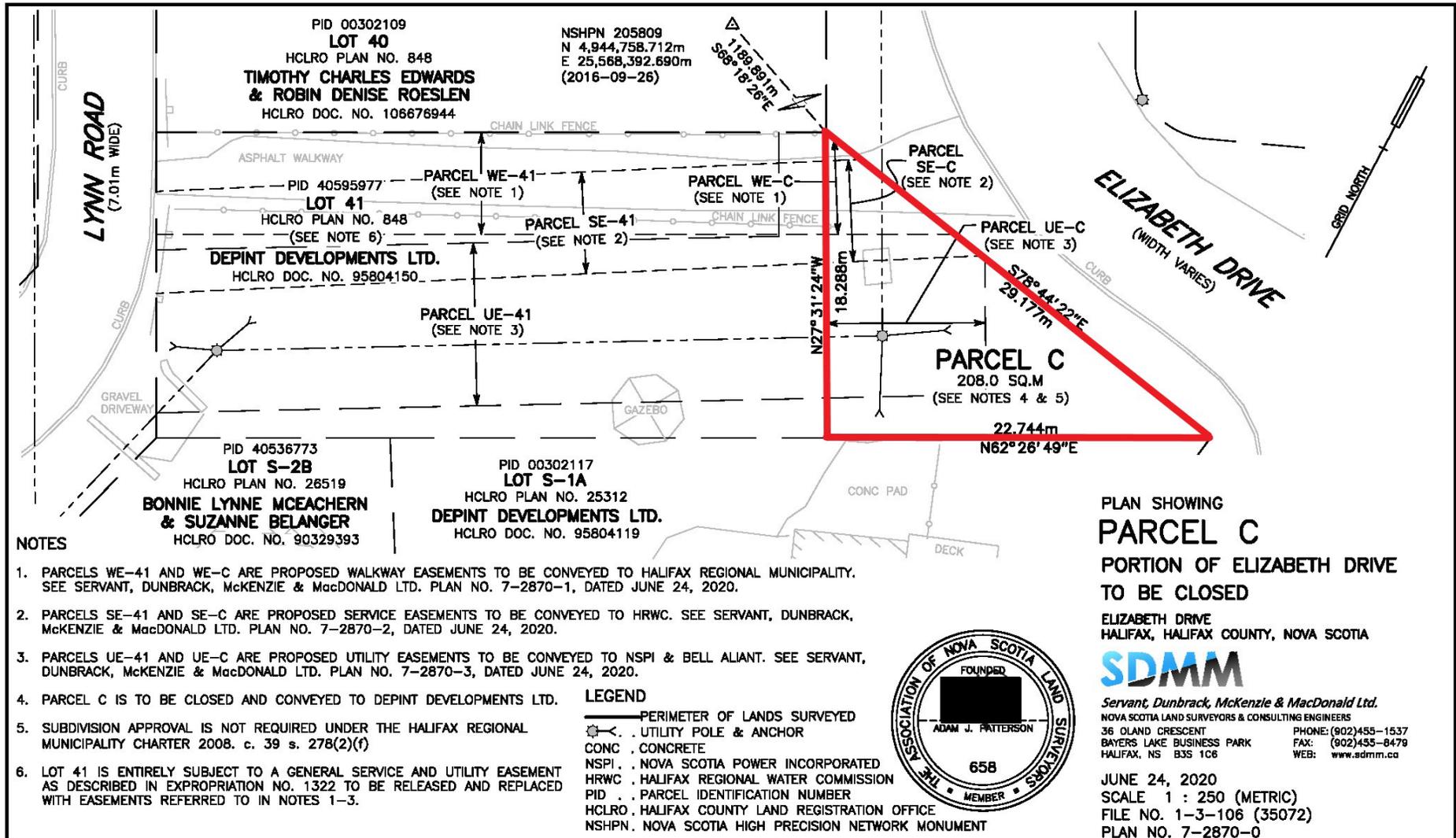
Attachment "B" – Administrative Order SC-97

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Colin Walsh, A/Project Manager, Corporate Real Estate
Finance, Asset Management, and ICT 902.579.2824

HALIFAX

ATTACHMENT 'A' SITE PLAN

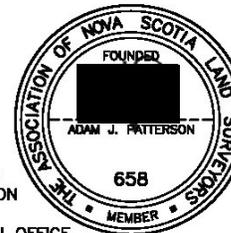


NOTES

1. PARCELS WE-41 AND WE-C ARE PROPOSED WALKWAY EASEMENTS TO BE CONVEYED TO HALIFAX REGIONAL MUNICIPALITY. SEE SERVANT, DUNBRACK, MCKENZIE & MacDONALD LTD. PLAN NO. 7-2870-1, DATED JUNE 24, 2020.
2. PARCELS SE-41 AND SE-C ARE PROPOSED SERVICE EASEMENTS TO BE CONVEYED TO HRWC. SEE SERVANT, DUNBRACK, MCKENZIE & MacDONALD LTD. PLAN NO. 7-2870-2, DATED JUNE 24, 2020.
3. PARCELS UE-41 AND UE-C ARE PROPOSED UTILITY EASEMENTS TO BE CONVEYED TO NSPI & BELL ALIANT. SEE SERVANT, DUNBRACK, MCKENZIE & MacDONALD LTD. PLAN NO. 7-2870-3, DATED JUNE 24, 2020.
4. PARCEL C IS TO BE CLOSED AND CONVEYED TO DEPINT DEVELOPMENTS LTD.
5. SUBDIVISION APPROVAL IS NOT REQUIRED UNDER THE HALIFAX REGIONAL MUNICIPALITY CHARTER 2008. c. 39 s. 278(2)(f)
6. LOT 41 IS ENTIRELY SUBJECT TO A GENERAL SERVICE AND UTILITY EASEMENT AS DESCRIBED IN EXPROPRIATION NO. 1322 TO BE RELEASED AND REPLACED WITH EASEMENTS REFERRED TO IN NOTES 1-3.

LEGEND

- PERIMETER OF LANDS SURVEYED
- ⊙ . UTILITY POLE & ANCHOR
- CONC . CONCRETE
- NSPI . NOVA SCOTIA POWER INCORPORATED
- HRWC . HALIFAX REGIONAL WATER COMMISSION
- PID . PARCEL IDENTIFICATION NUMBER
- HCLRO . HALIFAX COUNTY LAND REGISTRATION OFFICE
- NSHPN . NOVA SCOTIA HIGH PRECISION NETWORK MONUMENT



PLAN SHOWING
PARCEL C
 PORTION OF ELIZABETH DRIVE
 TO BE CLOSED
 ELIZABETH DRIVE
 HALIFAX, HALIFAX COUNTY, NOVA SCOTIA

SDMM

Servant, Dunbrack, McKenzie & MacDonald Ltd.
 NOVA SCOTIA LAND SURVEYORS & CONSULTING ENGINEERS
 36 OLAND CRESCENT
 BAYERS LAKE BUSINESS PARK
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 PHONE: (902)455-1537
 FAX: (902)455-8479
 WEB: www.sdmm.ca

JUNE 24, 2020
 SCALE 1 : 250 (METRIC)
 FILE NO. 1-3-106 (35072)
 PLAN NO. 7-2870-0



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

ATTACHMENT 'B' – ADMINISTRATIVE ORDER NO. SC-97

HALIFAX REGIONAL MUNICIPALITY

ADMINISTRATIVE ORDER NUMBER #SC-97

RESPECTING CLOSURE OF A PORTION OF

ELIZABETH DRIVE, HALIFAX

BE IT RESOLVED AS AN ADMINISTRATIVE ORDER of Council of the Halifax Regional Municipality pursuant to Section 325 of the Halifax Regional Municipality Charter Act as follows:

1. A portion of Elizabeth Drive, Halifax, Nova Scotia more particularly shown as Parcel C on the Attachment is hereby closed.

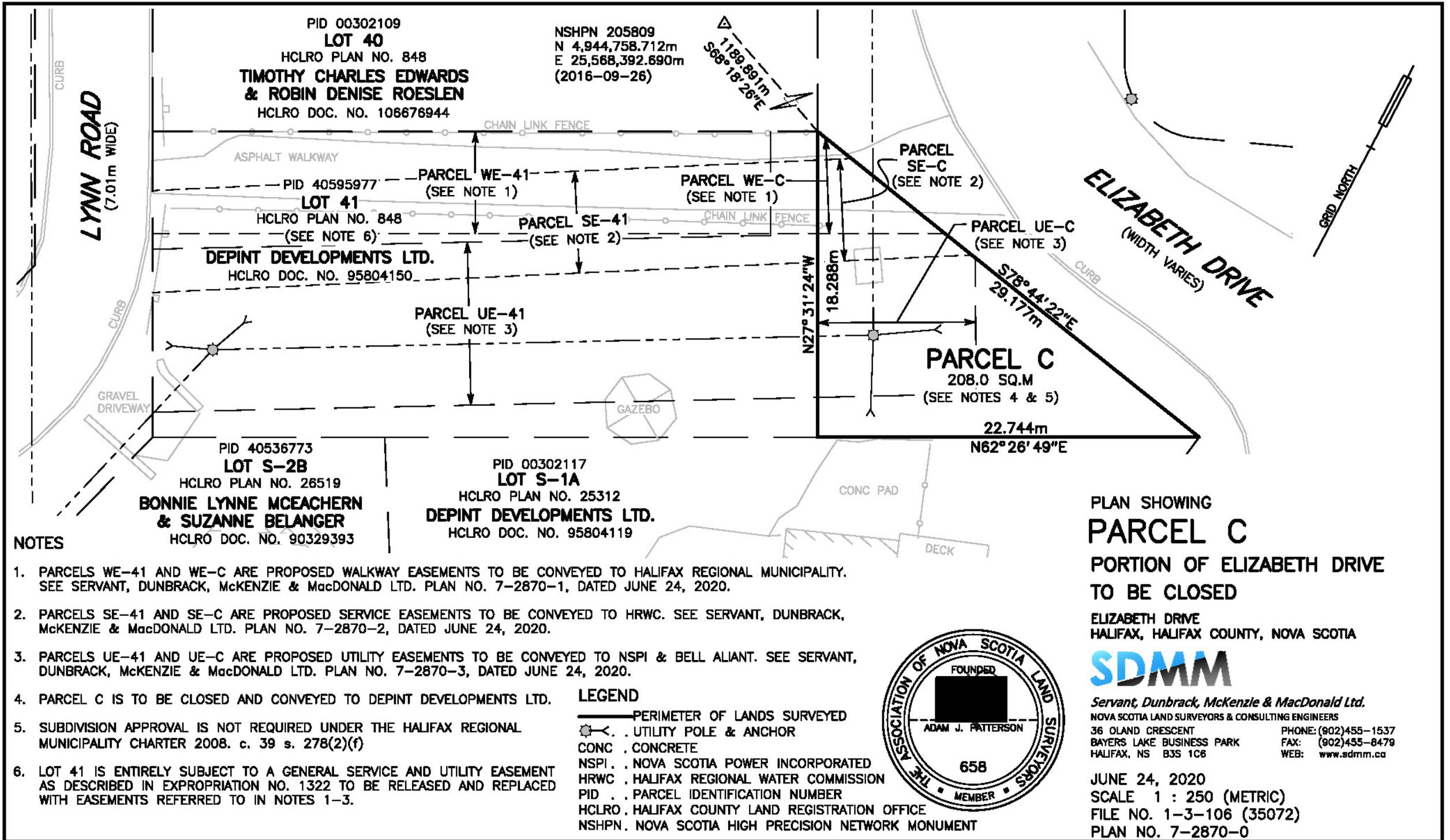
I HEREBY CERTIFY THAT the foregoing Administrative Order was duly adopted by Halifax Regional Council, the 22nd day of September, 2020.

Mayor

Municipal Clerk

I, _____, 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 September 22nd, 2020.

_____, Municipal Clerk

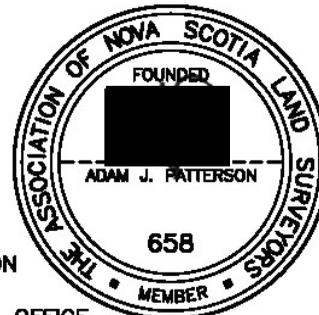


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