

HALIFAX

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Item No. 12.2
Halifax Regional Council
October 26, 2021

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by 

SUBMITTED BY:

Jacques Dubé, Chief Administrative Officer

DATE: September 22, 2021

**SUBJECT: Administrative Order 50: Disposal of Surplus Real Property
5802 Highway 357, Elderbank**

ORIGIN

March 27, 2018 – Regional Council approved substantive amendments to the Community Interest category of Administrative Order 50 that included the inception of Schedule 1 and Schedule 2 respecting cost recoveries and a Direct Sale option in addition to the existing Call for Submissions process.

December 16, 2020 – Correspondence dated July 8, 2019 was received from the Musquodoboit Valley Ground Search and Rescue Team, a non-profit organization, requesting to purchase by Direct Sale the property located at 5802 Highway 357, Elderbank.

April 20, 2021 Regional Council (item 11.1.1) – The following motion was approved as part of the Consent Agenda:

MOVED by Councillor Cleary, seconded by Councillor Mason

That Halifax Regional Council:

1. Declare Parcel 2 – a portion of PID 41435561, 5802 Highway 357, Elderbank, as shown in Attachment A of the staff report dated February 16, 2021 – Site Plan and Photograph, surplus to municipal purposes and categorize it as 'Remnant', in accordance with Administrative Order 50 – Respecting the Disposal of Real Property;

RECOMMENDATIONS ON PAGE 3

2. Subject to subdivision approval, authorize the Chief Administrative Officer to negotiate an agreement of purchase and sale with the abutting owner of Parcel 1 (a portion of PID 40547366 5812 Highway 357, Elderbank shown on Attachment A of the staff report dated February 16, 2021), for the sale of Parcel 2 to the abutting owner in exchange for the acquisition by HRM of Parcel 1 from her, for the nominal consideration of \$1.00;
3. Upon completion of the subdivision and land exchanges referred to in Recommendation 2, declare Parcel 1 – a portion of PID 40547366, with the HRM lands identified as PID's 40283285, 41403130 and 41435561, located at 5812 and 5802 Highway 357, Elderbank as shown in Attachment A of the staff report dated February 16, 2021 – Site Plan and Photograph (collectively referred to as “the Property”) surplus to municipal purposes and categorize the Property as Community Interest Property for direct sale disposal pursuant to Administrative Order 50 – Schedule 1;
4. Authorize the Chief Administrative Officer to invite the Musquodoboit Valley Ground Search and Rescue Team to submit within ninety (90) days of Council approval of the foregoing recommends, a written proposal to acquire the Property addressing the items set out in the discussion section of the staff Report dated February 16, 2021 and Recommendation and other information in support of a direct sale consideration under Schedule 1 of Administrative Order 50 and schedule a public hearing for Regional Council in due course;
5. Waive the requirements for a public information meeting and an advertisement notifying the public of Council's consideration of the direct sale of the Property contemplated in Recommendation 3; and
6. Authorize the Chief Administrative Office to enter into a short term less-than-value market lease of the former Fire Station 37 to the Musquodoboit Valley Ground Search and Rescue Team for immediate occupancy which shall require the tenant to pay all utilities, security and maintenance in lieu of market rent.

MOTION PUT AND PASSED UNANIMOUSLY.

LEGISLATIVE AUTHORITY

The *Halifax Regional Municipality Charter*, S.N.S. 2008, c.39 section 63 provides:

- 63 (1)** The Municipality may sell or lease property at a price less than market value to a non-profit organization that Council considers to be carrying on an activity that is beneficial to the Municipality.
- (2)** A resolution to sell or lease property referred to in subsection (1) at less than market value shall be passed by a two-thirds majority of the Council present and voting.
- (3)** Where the Council proposes to sell property referred to in subsection (1) valued at more than ten thousand dollars at less than market value, the Council shall first hold a public hearing respecting the sale
- (4)** The Council shall advertise the public hearing at least twice, in a newspaper circulating in the Municipality, the first notice to appear at least fourteen days before the hearing.
- (5)** Notice of the public hearing shall include the date, time and place of the hearing, the location of the real property or description of the tangible personal property, the estimated value of the property and the purpose of the sale.

Administrative Order 50, the Disposal of Surplus Real Property Administrative Orders
Section 2(2)(b) Community Interest.

Properties known to have potential for community use, in particular where:

- (i) there has been a prior community or institutional use of the property; or
- (ii) by location or scarcity of available property the consideration would reasonably arise.

Schedule 1 Disposal of Community Interest Properties

Section 11 Direct Sale Request

- (1) A non-profit organization may make a request to purchase, by Direct Sale, a community interest property owned by the Municipality.
- (2) If a request to purchase a community interest property by Direct Sale is received by the Municipality and the subject property has not been declared surplus and classified as a community interest property, the request must:
 - (a) be included in the next review provided to Council pursuant to subsection 3(1) of this Administrative Order; or
 - (b) be forwarded to Council with a report and recommendation respecting the property.
- (3) No action may be undertaken by the Municipality in respect of the request to purchase except those actions required to satisfy subsection 2 of this section.
- (4) For greater certainty, the property may only be sold by Direct Sale if the property is declared surplus by Council, is categorized as community interest property by Council in accordance with this Administrative Order, and sections 7, 8, 9, 11, 12 13, and 14 are satisfied.
- (5) If Council decides to proceed by Direct Sale, such decision must be made at the same meeting where the property is categorized as community interest property.
- (6) An applicant will have up to 90 days to submit to the Municipality the information that would otherwise be required under section 8.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Set a date for a public hearing to consider the sale of 5802 Highway 357, Elderbank to the Musquodoboit Valley Ground Search and Rescue Team as per the terms and conditions outlined in Table 1 of this report; and
2. Subject to the outcome of the public hearing approve the sale and authorize the Chief Administrative Officer to direct the Mayor and Municipal Clerk to execute on behalf of the Municipality an agreement of purchase and sale and the deed for the subject property to the Musquodoboit Valley Ground Search and Rescue Team as per the terms and conditions outlined in Table 1 of this Report.

BACKGROUND

Municipal Policy: Administrative Order 50 is a standardized process for the sale of surplus real property. Section 2(2)(b) defines Community Interest properties as known to have potential for community use, in particular where:

- (i) there has been a prior community or institutional use of the property; or
- (ii) by location or scarcity of available property the consideration would reasonably arise.

In 2021 the subject property was declared surplus by Regional Council and subsequently assigned to the Community Interest category for direct sale pursuant to Administrative Order 50-Schedule 1. Following Council's decision, a technical package was sent to the proponent.

Property Description: The subject property is located on Highway 357 in the village of Elderbank. The area has a small population. Most properties in the vicinity of the subject property are well-established owner-occupied homes with a limited number of commercial properties serving small independent businesses. The site is not attached to municipal water and sewer services and is served by an on-site dug well and a septic holding tank. The building is a single-storey wood frame structure on concrete slab. The garage is approximately 1,400sf of which 1,200sf is an open two-bay garage with a small office/meeting

room/kitchenette (~200sf) and utility room. Constructed in 1987, the building is located at the intersection of three parcels of land owned by the Municipality and a fourth parcel that abuts the site on which is located a private residence, all of which are identified as

PID 41403130	5802 Highway 357	HRM	AAN 03376486
PID 41435561	5802 Highway 307	HRM	AAN 03376486
PID 40283285	5802 Highway 307	HRM	AAN 03376486
PID 40547366	5812 Highway 357	Private Owner	

To enable conveyance HRM has negotiated a land exchange with the private property owner. (See: Attachment A) The acquisition of approximately 1,695 square feet of PID 40547366 will allow for the consolidation of all four parcels and compliance in aligning one Property Identification Number (“PID”) with one Assessment Account Number (“AAN”). The latter will realize an administrative efficiency for both the new owner and HRM with respect to annual tax billing.

Zoning: The property is zoned MU (Mixed Use) Zone-Musquodoboit Valley-Dutch Settlement Land Use By-law. This zoning permits a broad array of residential, commercial, industrial, institutional, and resource uses including a community centre or community hall.

Property Valuation and Assessment: The 2021 assessed values are as follows:

PID 41403130	AAN 03376486	Resource Exempt	\$13,700
PID 41435561	AAN 03376486	Resource Exempt	\$13,700
PID 40283285	AAN 03376486	Resource Exempt	<u>\$13,700</u>
			\$41,000

The small area of land to be acquired from the abutting property owner has an estimated assessed value of \$1,611 for the land¹ for a combined estimated assessed value of \$42,611. However, conveyance will trigger a re-evaluation through Property Valuation Services Corporation (“PVSC”) and will change from Resource Exempt to Commercial taxable. In preparing their submission the society contacted PVSC and were advised that the value will increase following conveyance but, excluding any major capital investment, is expected to be modest. As a registered non-profit society, the proponent is eligible to make application to HRM’s annual Tax Relief for Non-Profit Organizations Program.

In September 2021 HRM retained the services of Cushman & Wakefield Atlantic to provide an independent valuation of the building and the three parcels of land owned by HRM. The evaluation was based on consolidation into one parcel. The market value of \$107,500 was based on the value of the building less depreciation, site improvements (dug well, septic tank and paving), and local land values.

History of Ownership and Use: In 1987 the property was developed by the former Elderbank Volunteer Fire Department Association with construction of a fire station.

In 2002, operating and capital funding for volunteer and core fire departments coordinated by HRM Fire & Emergency Services was included in the general tax rate, effective January 1, 2003². Over the next ten (10) years smaller operations were merged and some fire stations were used in an auxiliary capacity, for example equipment storage. In 2012, HRM Fire & Emergency Services undertook a service review and the

¹ The total land area of PID 40547366 is 14,940sf and is valued at \$14,200 Residential taxable. HRM will acquire a portion with a total area of 1,695sf; using the assessed value of the parent parcel the estimated assessment value is \$1,611.

² Recommendation report to the Regional Council meeting of December 17, 2002, Tax Structure Recommendations, dated December 10, 2002.

following year five (5)³ volunteer fire stations were de-commissioned including Elderbank Fire Station 37 due to insufficient volunteers, low call volume, and/or opportunities for consolidation. Since de-commissioning the building has been vacant except for sporadic use for local fundraising or social events.

It was discovered that the fire station building had been constructed at the intersection of 4 individual lots, one of which was owned by the abutting landowner, not by the Municipality. To resolve this issue, in April 2021 Regional Council approved an arrangement with the owner of that parcel to exchange a portion of it for a portion of HRM's property identified as PID 40283285 (civic 5812 Highway 357). The land exchange transaction has not been completed yet due to a title issue with HRM's parcel related to restrictive covenants in prior deeds which restricted the use of the property to a community hall for Elderbank. If the title issue is not resolved by court application, staff will be filing a subsequent Council report recommending expropriation of all outstanding interests in the property to clear the title. The land exchange is also contingent upon subdivision approval. The proposed sale of the subject property to the Musquodoboit Search and Rescue Team cannot be completed until these items are completed.

DISCUSSION

Proponent's Profile: The Musquodoboit Valley Ground Search and Rescue Team ("the society") incorporated as a non-profit society in 1983 and is one of four organizations formally recognized by the Municipality in the provision of services to assist HRM Fire and Emergency Services, Halifax Regional Police, and the RCMP. These teams assist all three levels of government in the event of a missing persons search, an evacuation, natural or man-made disaster, or evidence search. Although the society primarily serves rural communities in the Musquodoboit Valley area they may be called upon to provide personnel and equipment to assist field operations throughout the region. A municipal operating grant awarded under Administrative Order 2014-018-ADM sustains operations supplemented by a modest provincial grant, non-recurring capital grants, and fundraising. Prior to a formal request to acquire the de-commissioned fire station located at 5802 Highway 357, Elderbank, the team was party to a less than market value lease with HRM for occupancy of a former bus garage in Middle Musquodoboit. In recent years the age and poor condition of this structure has necessitated re-location to ensure the safe storage of vehicles and specialized equipment. The request to acquire title to the subject property is considered time-sensitive to enable regular operations to resume.

Proponent's Intended Property Use: The society proposes to use the premises for the storage of vehicles and equipment. The small office area will be used to host team meetings/training. The facility might also be used to accommodate hourly rentals or community fundraising events subject to availability and suitability.

Proponent's Terms and Conditions of Offer: The society's offer to purchase includes the following:

- a Purchase Price of \$1.00;
- up to \$2,500 for migration and deed transfer fees;
- the lesser of 50% of the cost of the appraisal or comparative market value of market value or \$2,500;
- a closing date determined upon completion of the land exchange with the abutting property owner;
- that consolidation of the four (4) land parcels be completed by HRM prior to conveyance and at the Municipality's cost.

Administrative Order 50 – Community Interest Category

Consideration under the Community Interest category is a two-step process to determine the feasibility of the applicant's proposal. The first step requires a technical evaluation by a staff team followed by overall consideration by Regional Council.

³ The other de-commissioned stations were Mooseland, Terence Bay, Ketch Harbour, and Upper Hammonds Plains.

1. Staff Evaluation Results

An inter-disciplinary team of staff was convened to evaluate the proponent's submission comprising staff from Finance & Asset Management (Grants & Contributions), Corporate & Customer Services (Real Estate), and Fire & Emergency Services (Emergency Management & Community Risk Reduction). Because the subject property is valued below \$250,00 staff evaluates submissions on four (4) criteria:

- Viability.
- Benefit to the Community.
- Benefit to the Municipality.
- Compensation.

Key Findings:

The submission was received prior to the application deadline and was complete.

1. **Viability** – The society has operated for close to 40 years and during that time has developed a team of trained volunteers, acquired an inventory of specialized equipment, and maintained a modest but stable financial position. Financial records provided with the submission demonstrate a pattern of no deficits and prudent reserves for re-capitalization or unplanned expenditures. The projected capital and operating budgets provided are itemized and assumptions clearly stated with priority expenditures targeting functionality and safety. Further, an established base of operations may help in volunteer recruitment and retention which is challenging in an area with an aging population and rural out-migration. Although the society has an established working relationship with government and peer organizations that generate financial resources and opportunities for organizational and personal development, a refurbished, permanent facility offers the potential for networking and organizational stability. If there is sufficient community interest, revenues could be diversified to include hourly/day rentals that might decrease any over-reliance on government grants and/or strengthen reserves to address the risk associated with property ownership (i.e., contingency reserves and/or future re-capitalization to leverage third-party financing).
2. **Benefit to the Community** - Conveyance of the subject property would enable resumption of an array of programs and services aligned with HRM's Strategic Priorities Plan 2021-2025, notably in relation to urban/rural search and rescue, strategically located municipal comfort centres⁴, and community risk reduction.
3. **Benefit to the Municipality** – Ownership and operation by a local, well-established non-profit organization is considered desirable given the formal relationship between the society and HRM Fire & Emergency Services. The proposed use also aligns with several municipal goals in terms of: (i) public safety, (ii) community risk reduction, and (ii) volunteerism.
4. **Compensation** – A proposed purchase price of \$1.00 is below the property's appraised and assessed value but is considered appropriate given that the Municipality has no operational requirement for the premises.

Summary and Recommendation Rationale

In summary, the submission scored 92/100 based on information provided by the applicant. The review concluded that ownership of the subject property should be conveyed to the society unencumbered by a Buy-Back Agreement. In the event the society elect to sell or convey the property at some future date the Municipality has no interest in a repurchase. Proceeds from any future sale or conveyance would be to the

⁴ This facility has not been identified as an HRM comfort centre but the society has indicated an interest in developing this capacity. Formal designation as a comfort centre is at the discretion of HRM Fire and Emergency Services.

society and any liabilities associated therewith.

Buy-Back Agreement

It is recommended that a Buy-Back Agreement not be applied to the proposed conveyance of 5802 Highway 357, Elderbank based on the following:

- the age and specialized nature of the building limits its marketability and value;
- the scarcity of property suitable for the storage of multiple vehicles and communications equipment;
- emergency response services provided by the society’s volunteers are free to the public and realize a tangible benefit aligned with HRM’s emergency preparedness and public safety priorities; and
- conveyance of the property supports the continuation of the existing services carried out by the Musquodoboit Valley Search and Rescue Team.

Proposed Terms and Conditions of Conveyance

Table 1. KEY TERMS AND CONDITIONS (PROPOSED)	
Civic Address	5802 Highway 357, Elderbank
Area	105,032 sf (2.2acres)
Zoning	MU (Mixed Use)
Assessed Value	\$42,611 (PID 41403130PID 41435561 and PID 40283285 @ \$13,700 each plus a portion of PID 40283285 at an estimated value of \$1,611 for land only)
Appraised Value	\$107,500
Current Tax Status	Resource Exempt and subject to re-assessment by Property Valuation Services Corporation based on a substantive change in use.
Proposed Purchase Price	\$1.00
Terms of Offer	The Association shall be responsible for all operating and capital costs including annual real property tax.
Proposed Use	Operation as a Ground Search and Rescue facility.
Conditions of Sale	Property to be conveyed “as is/as zoned” including contents.
Buy-Back Agreement	There shall be no Buy-Back Agreement applied to the proposed conveyance.
Closing Date	Following subdivision approval and completion of the land exchange with the adjacent landowner, and a new Plan of Survey if required.
Cost of Sale Recoveries	In accordance with Schedule 2 of Administrative Order 50 the Purchaser shall pay up to a maximum of \$2,500+ HST towards migration and deed registration fees plus the lessor of 50% or up to \$2,500+HST for the realtor’s comparative market valuation.

Council's Consideration

Upon review of staff's evaluation, Council is to review the submission based on criteria set out in subsection 4(2)(i) of the policy, namely:

- (i) the market value of the property as appraised;
- (ii) the Planning Strategies of the area;
- (iii) the benefit of any cost saving to HRM;
- (iv) the consequences, beneficial or otherwise, to the community or to the Municipality as a whole;
- (v) the beneficial consideration of any submission against the benefit to the Municipality of selling the property at market value; and
- (vi) whether or not a Buy-Back Agreement is a condition of sale.

The following information is provided for Council's consideration:

- the estimated assessed value is \$42,611;
- the appraised value is \$107,500;
- the proponent's intended use complies with current zoning.

Alternatively, Regional Council could decline the offer of \$1.00 in favour of a higher sale price. This action is not recommended. At their meeting of April 20, 2021 Council approved the subdivision and disposal of a portion of HRM-owned property to facilitate a land exchange to enable consideration of a Direct Sale to the Musquodoboit Valley Ground Search and Rescue Team. Further, Council recognized the need to relocate this service through the execution of a short-term less than market value lease for the subject property to allow for immediate occupancy of the premises. In lieu of rent the tenant pays all utilities, security and maintenance.

FINANCIAL IMPLICATIONS

If approved, the terms of conveyance recommended by the staff review constitutes a less than market value sale based on (i) assignment to the Community Interest category which restricts the opportunity to acquire title to only non-profit and charitable organizations, and (ii) acceptance of a purchase price of \$1.00. Conveyance will release HRM from insurance and any future re-capitalization costs. Excluding those costs incurred in relation to the land exchange to resolve the building's encroachment on private property, the opportunity cost to the Municipality includes the following:

Acceptance of a Purchase Price of \$1.00	=	(\$107,500)
Loss of deed transfer tax @ 1.5% of market value	=	<u>(\$ 1,612.50)</u>
		\$109,112.50

The value of HRM's in-kind contribution excludes any municipal cash expenditures not recovered due to the maximum payment threshold established in Schedule 2 of Administrative Order 50.

If Council decides to proceed with disposal, funds received will be directed to the Capital Fund Reserve Q526.

RISK CONSIDERATION

Low – Although the society has limited experience in property ownership and relies upon volunteers their formal relationship with government Emergency Measures Operations affords a reasonable degree of operating stability. Should the society cease operations or elect to sell or convey the Property all proceeds shall be to the society .

COMMUNITY ENGAGEMENT

At their meeting of April 20, 2021 Regional Council agreed to waive the requirement for a public information meeting and an advertisement notifying the public of Council's consideration of a Direct Sale.

ENVIRONMENTAL IMPLICATONS

All environmental records have been shared with the Musquodoboit Valley Ground Search and Rescue Team who have agreed to assume the risk associated with the existing septic system which is nearing the end of its useful life. In 2021 the society capped the existing septic tank and installed a new alarm system to prevent overflow and their projected capital budget includes \$5,000 for septic field improvements.

ALTERNATIVES

1. Regional Council could decline the offer of \$1.00 in favour of a higher sale price.
2. Regional Council could apply a Buy-Back Agreement for an initial term of 25 years as per policy (2014) or apply other terms and conditions as Council may deem appropriate. At the 25-year benchmark the Council shall consider continuation, amendment or release of the agreement.

ATTACHMENTS

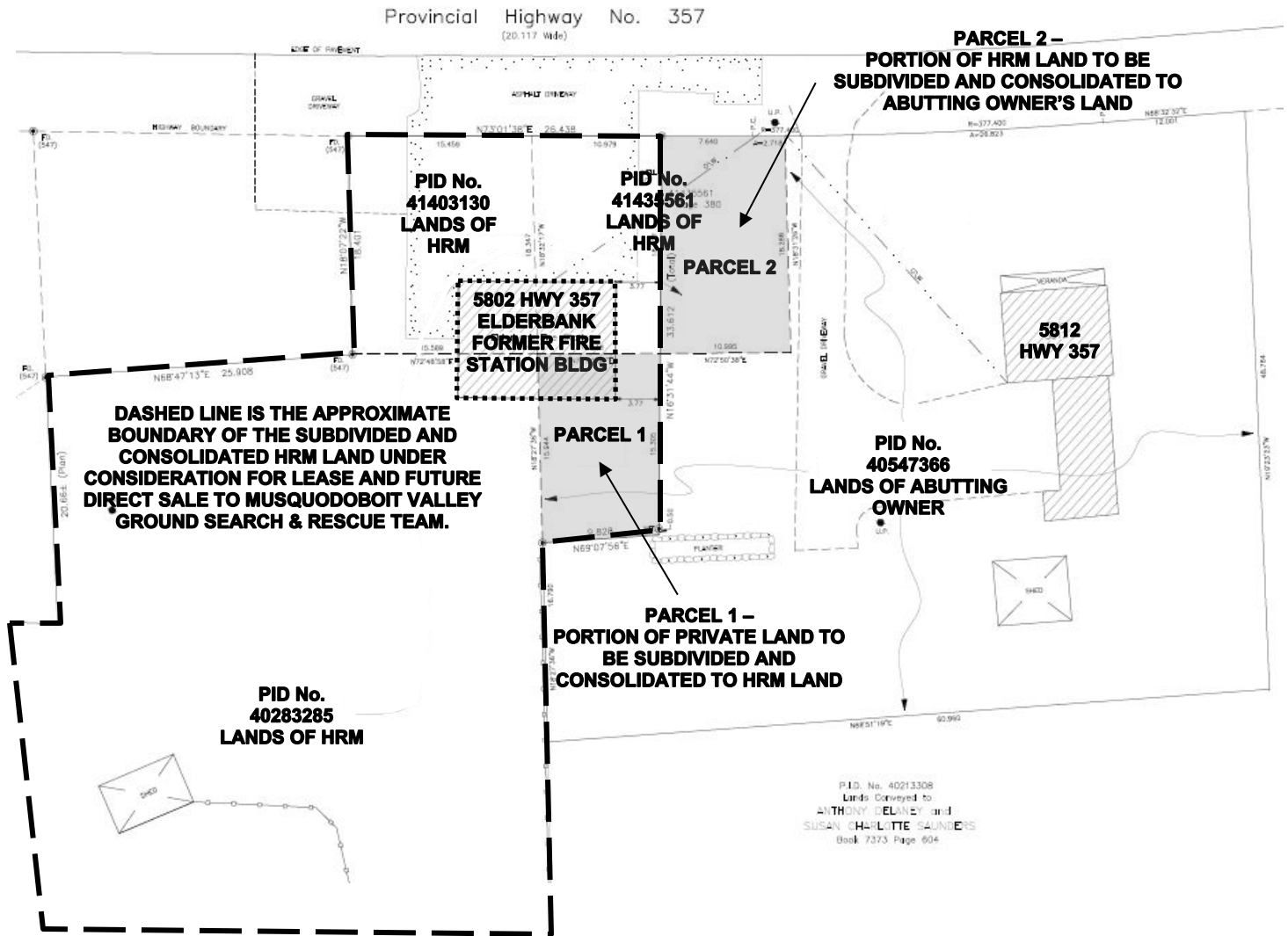
Attachment A - Site map and photograph.

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.

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ATTACHMENT 'A'- SITE PLAN & PHOTO



STREETVIEW OF 5812 (ABOLIT) & 5802 FORMER FIRE STATION (HRM), HIGHWAY 357 ELDERBANK.

