

DECLASSIFIED

FOIPOP Review [REDACTED]

Approved to [REDACTED]

Release Date September 21, 2022

Item No. 17.2

**Halifax Regional Council
August 23, 2022
September 13, 2022
In Camera (In Private)**

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY:

Original Signed by 

Jacques Dubé, Chief Administrative Officer

DATE: August 10, 2022

SUBJECT: Dartmouth Cove Infilling

PRIVATE & CONFIDENTIAL INFORMATION REPORT

ORIGIN

May 31, 2022 Regional Council Motion, Item - 15.4.1 Dartmouth Cove Infilling:

THAT Halifax Regional Council:

Direct the Chief Administrative Officer to provide a staff report regarding what rights HRM has to require that access to the Harbour Trail be maintained, and whether the municipality is obligated to facilitate access to the PID 00114132 across municipal property (PID 41127036).

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, S.N.S., 2008, c.39, as amended,

subsection 19(2):

The Council or any committee appointed by the Council may meet in closed session to discuss matters relating to

(a) acquisition, sale, lease and security of municipal property;

(g) legal advice eligible for solicitor-client privilege.

subsection 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.

It is recommended that this report not be released to the public.

BACKGROUND

This report involves five parcels of land, some of which contain water lots in the Dartmouth Cove area and their relevance to this request is set out below:

1. PID 00114132 (shown on Attachment "A" as the "**Company's Water Lot**") is an 8.2-acre parcel of land covered by water owned by [REDACTED] (the "**Company**"). It is located on the eastern side of Halifax Harbour between Parker Street and Maitland Street in Dartmouth. The legal description shows that the landward boundaries of the Company's Water Lot begin and end at the High-Water Mark of Halifax Harbour. Property Online shows that access to this land registered parcel is via navigable waterway. The Company's application for federal approval to infill the Company's Water Lot has led to Council's Motion requesting this Report.
2. PID 41127036 (shown on Attachment "A" as "**HRM's Lot**") extends from Maitland Street into the Halifax Harbour a width of 50 feet and a distance of 411.40 feet. This parcel, described as Public Dock No. 12, was conveyed to the Trustees of the Dartmouth Water Lots by Her Majesty Queen Victoria (in right of the Province of Nova Scotia) by Crown Grant dated July 1849. Property Online lists Halifax Regional Municipality as the owner of this parcel.
3. Access to HRM's Lot is via Maitland Street over land identified as PID 00339648, [REDACTED].
4. Located in between the Company's Water Lot and HRM's Lot, is another parcel of land and water lot identified as PID 00097550 owned by [REDACTED] (shown on Attachment "A" as [REDACTED]).
5. The Company's Water Lot is also bounded on the east by another land parcel owned by [REDACTED] which is identified as PID 40832859 (shown on Attachment "A" as [REDACTED]).

DISCUSSION

The Municipality acquired an easement over the Company's Water Lot from the Company's predecessor-in-title, [REDACTED] by an Easement Agreement dated July 25, 2006, which was recorded on August 2, 2006, as Document # 85780295. The Easement Agreement granted two easements to HRM. The primary easement is in connection with a Sewage Collection System including the rights:

- (a) to use that portion of the Grantor's Lands...for the purpose of entering, excavating, laying down, constructing, installing, operating, maintaining, inspecting, patrolling, altering, removing, replacing, reconstructing and repairing the Sewage Collection system including sewer mains, water lines, conduits, pumping stations, diversion chambers, outfall, diffusers, valves, appliances and fitting, together with all necessary appurtenances thereto and for all purposes in connection therewith, and to have the right of ingress and egress at any and all times over, along, across and upon the Easement Lands;
- (b) to have the right of access to and from the Easement Lands at any and all times over, along, across and upon the Grantor's Lands;
- (c) generally to do all acts necessary or incidental to the installation, construction, operation and maintenance of the Sewage Collection System in connection with the forgoing.

The Municipality transferred management of the Sewage Collection System to the Halifax Regional Water Commission pursuant to the 2007 Asset Transfer Agreement.

The Easement Agreement further permitted the Municipality to:

construct, install, operate, maintain, replace, reconstruct and repair a pedestrian walkway of approximately 4 metres in width and known as the Dartmouth Harbour Walk Trail on and over the Easement Lands; **provide however, that the Grantor shall be able to construct, install, operate, maintain, replace, reconstruct and repair a roadway or roadways over the Dartmouth Harbour Walk Trail to provide access to and egress from the Grantor's Lands.** [emphasis added]



In summary, the Easement Agreement gives the Municipality the right to maintain the Harbour Trail and the owner of the Company's Water Lot cannot impede that right. However, the owner of the Company's Water Lot also has the right to cross the Harbour Trail for access to and egress from the Company's Water Lot, [redacted]. The Municipality is not obligated to facilitate access to the Company's Water Lot across municipal property.

FINANCIAL IMPLICATIONS

No financial implications at this time.

COMMUNITY ENGAGEMENT

N/A

ATTACHMENTS

- Attachment "A" – Property Online map showing relevant properties
- Attachment "B" – Plan showing access to Company's Water Lot

If the report is released to the public, a copy can be obtained by contacting the Office of the Municipal Clerk at 902.490.4210.

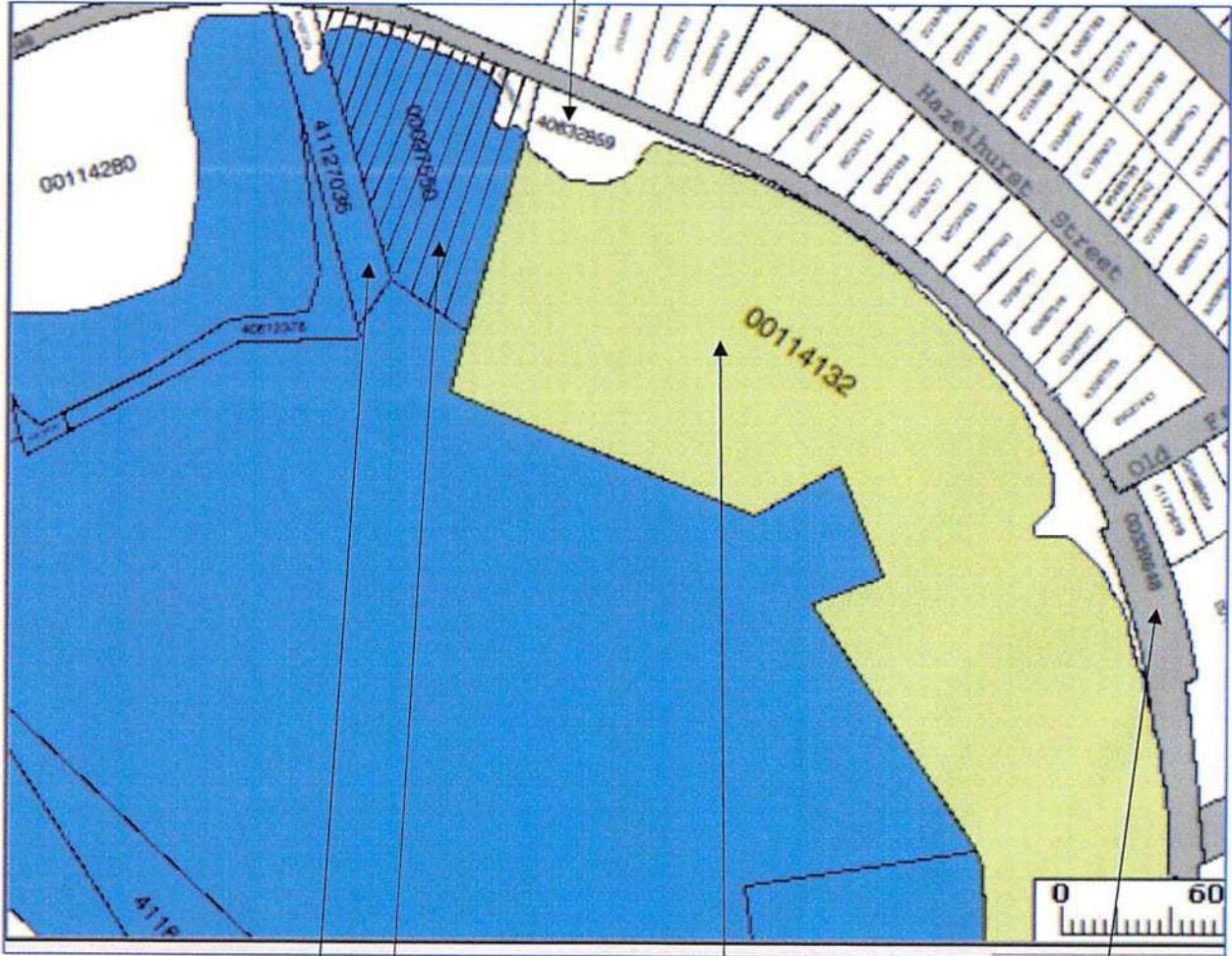
Report Prepared by: Karen Brown, Senior Solicitor, Legal and Legislative Services 902.490.4226
Maureen Ryan-Foley, Senior Solicitor, Legal and Legislative Services 902.490.4226

Report Approved by: Original Signed
John Traves, O.C., Executive Director, Legal and Legislative Services 902.490.4219
Original Signed

Report Approved by: Caroline Blair-Smith, DCAO, Corporate Services 902.490.8456

Attachment "A"

PID 40832859 - [REDACTED] Land Lot

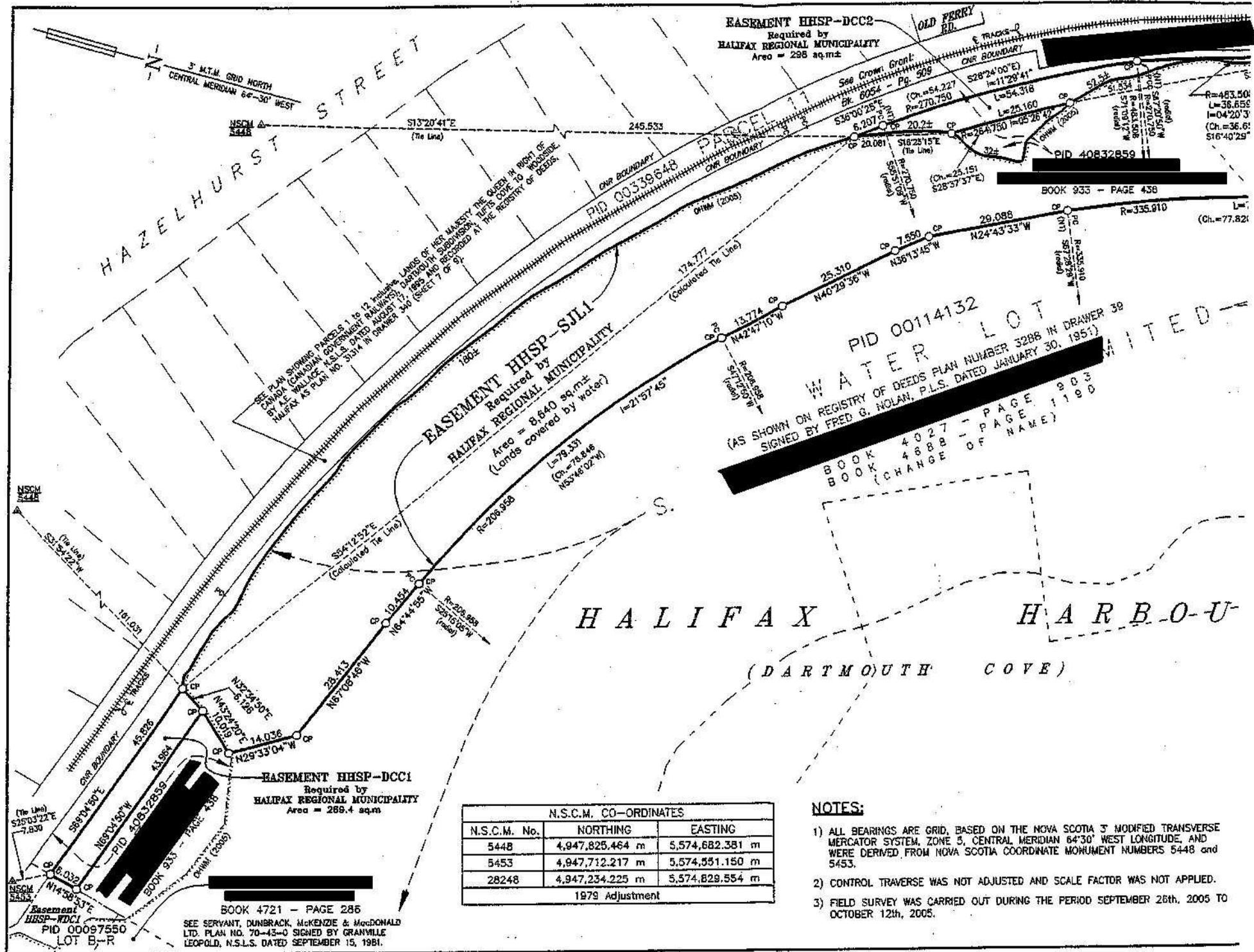


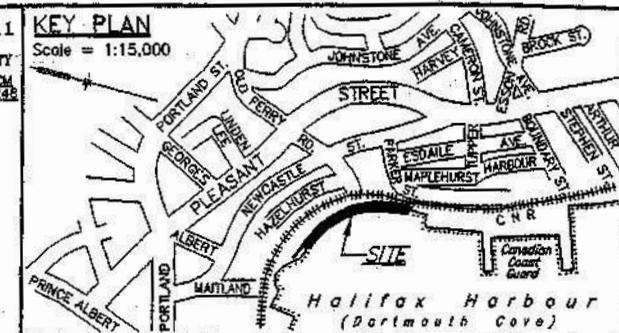
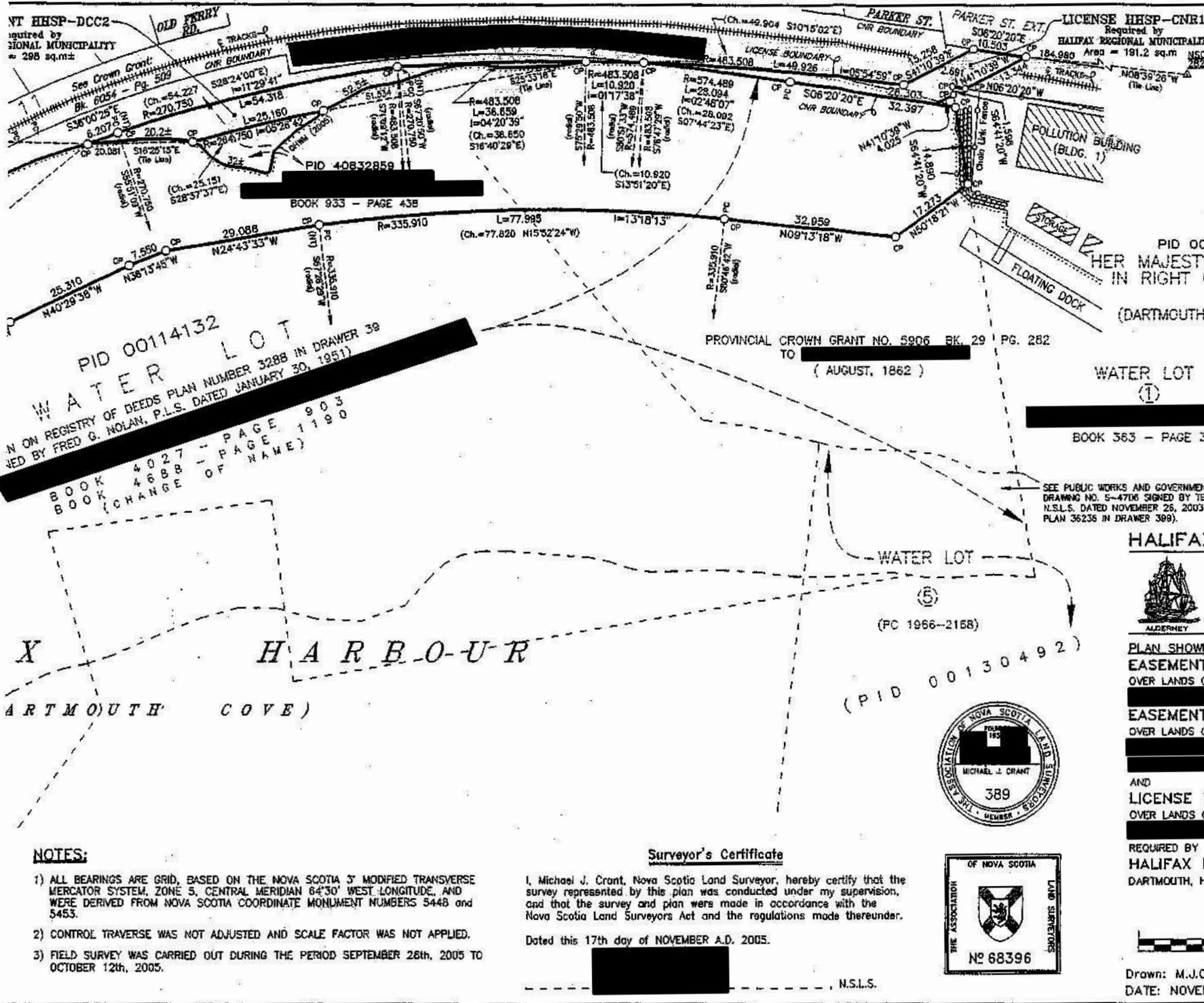
PID 41127036 - HRM's Lot

PID 00097550 - [REDACTED] Land/Water Lot

PID 00339648 - [REDACTED]

PID 00114132 - Company's Water Lot





PID 00114132
WATER LOT
ON REGISTRY OF DEEDS PLAN NUMBER 3288 IN DRAWER 39
ED BY FRED G. NOLAN, P.L.S. DATED JANUARY 30, 1951)
BOOK 4027 - PAGE 903
BOOK 4688 - PAGE 1190
(CHANGE OF NAME)

PROVINCIAL CROWN GRANT NO. S906 BK. 29 PG. 282
TO [REDACTED]
(AUGUST, 1862)

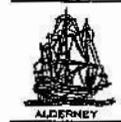
PID 00130492
HER MAJESTY THE QUEEN
IN RIGHT OF CANADA
(DARTMOUTH CCG BASE)

SEE PUBLIC WORKS AND GOVERNMENT SERVICES CANADA
DRAWING NO. S-4706 SIGNED BY TERRANCE R. DOOGUE,
N.S.L.S. DATED NOVEMBER 26, 2003 (REGISTRY OF DEEDS
PLAN 36236 IN DRAWER 389).

SYMBOL LEGEND:

—	PERIMETER OF LANDS DEALT WITH BY THIS PLAN
△ NSCM	NOVA SCOTIA COORDINATE MONUMENT
D. P. M. C	DEED, PLAN, MEASURED, CALCULATED
PC	POINT OF CURVATURE
PCC	POINT OF COMPOUND CURVATURE
PRC	POINT OF REVERSE CURVATURE
R, L, I, Ch.	RADIUS, ARC LENGTH, INTERNAL ANGLE
Ch.	CHORD
PID	LAND INFORMATION SERVICES PROPERTY IDENTIFIER NUMBER
OWHM	ORDINARY HIGH WATER MARK
NT	NON-TANGENTIAL
E.O.P.	EDGE OF PAVEMENT
○ CP	CALCULATED POINT

HALIFAX HARBOUR SOLUTIONS PROJECT



ALDERNEY SURVEYS LIMITED

NOVA SCOTIA LAND SURVEYORS
327 PRINCE ALBERT RD. DARTMOUTH, N.S.

PLAN SHOWING

EASEMENT HHSP-SJL1
OVER LANDS COVERED BY WATER OF [REDACTED]
EASEMENTS HHSP-DCC1 & HHSP-DCC2
OVER LANDS OF [REDACTED]
AND
LICENSE HHSP-CNR11
OVER LANDS OF [REDACTED]

REQUIRED BY
HALIFAX REGIONAL MUNICIPALITY
DARTMOUTH, HALIFAX COUNTY, NOVA SCOTIA

GRAPHIC SCALE (metres)



Drawn: M.J.C.
DATE: NOVEMBER 17, 2005

1 : 000

File No.:
055166-P

NOTES:

- 1) ALL BEARINGS ARE GRID, BASED ON THE NOVA SCOTIA 3rd MODIFIED TRANSVERSE MERCATOR SYSTEM, ZONE 5, CENTRAL MERIDIAN 64°30' WEST LONGITUDE, AND WERE DERIVED FROM NOVA SCOTIA COORDINATE MONUMENT NUMBERS 5448 and 5453.
- 2) CONTROL TRAVERSE WAS NOT ADJUSTED AND SCALE FACTOR WAS NOT APPLIED.
- 3) FIELD SURVEY WAS CARRIED OUT DURING THE PERIOD SEPTEMBER 26th, 2005 TO OCTOBER 12th, 2005.

Surveyor's Certificate

I, Michael J. Crant, Nova Scotia Land Surveyor, hereby certify that the survey represented by this plan was conducted under my supervision, and that the survey and plan were made in accordance with the Nova Scotia Land Surveyors Act and the regulations made thereunder.

Dated this 17th day of NOVEMBER A.D. 2005.

[REDACTED SIGNATURE]

N.S.L.S.

