

HALIFAX

P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 14.1.2
Halifax Regional Council
May 9, 2017

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by



SUBMITTED BY: _____
Brad Anguish, A/Chief Administrative Officer

DATE: March 20, 2017

SUBJECT: Housekeeping Amendments to Administrative Order SC-70 and
Administrative Order SC-71

ORIGIN

On September 11, 2012 Regional Council passed the following motions:

MOVED by Councillor McCluskey, seconded by Deputy Mayor Karsten, that Halifax Regional Council approve Administrative Order SC-70, Street Closure of a portion of the Marilyn Drive right-of-way, Dartmouth, as outlined in Attachment "A" and "B" of the July 12, 2012 report.

MOVED by Councillor Smith, seconded by Councillor Nicoll, that Regional Council approve Administrative Order SC-71, Street Closure of a portion of Victoria Road right-of-way, Dartmouth, as outlined in Attachment "A" and "B" of the July 12, 2012 staff report.

LEGISLATIVE AUTHORITY

Halifax Regional Municipal Charter ("HRM Charter"), subsections 325(1), (2), (6), (7)

325 (1) The Council may, by policy, permanently close any street or part of a street and the Council shall hold a public hearing before passing the policy.

(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

Recommendation on next page

- (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.
- (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 [emphasis added].
- (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.

RECOMMENDATION

It is recommended that Halifax Regional Council adopt the amendments to Administrative Order SC-70, *Respecting Closure of a Portion of Marilyn Drive, Dartmouth* and Administrative Order SC-71, *Respecting Closure of a Portion of Victoria Road, Dartmouth*, adding Attachment C to each Administrative Order, as set out in Attachment 3 of this report.

BACKGROUND

On September 11, 2012, Regional Council considered closing a portion of Marilyn Drive, Dartmouth, being 194.84 square metres (2,097 square feet) in area and identified as the hatched area on Attachment 1 of this report. A public hearing was not required as the transaction is valued at less than \$50,000 and subsection 325(2) of the HRM Charter exempts it from the public hearing process. Regional Council adopted Administrative Order SC-70 closing that part of Marilyn Drive that was under consideration.

Also on September 11, 2012, Regional Council considered closing a portion of Victoria Road, Dartmouth, being 309.91 square metres (3,336 square feet) in area, highlighted in yellow and identified as PID 40937799 on Attachment 2 of this report. A public hearing was not required as the transaction is valued at less than \$50,000. Regional Council adopted Administrative Order SC-71 closing that part of Victoria Road that was under consideration.

DISCUSSION

The HRM Charter requires that an Administrative Order closing a part of a street include either a survey or a metes and bounds description (legal description) for that part of the street that is being closed. The HRM Charter also requires that a certified copy of each Administrative Order be filed in the land registry and with the Minister of Transportation and Infrastructural Renewal ("Minister"). Once the Administrative Order is registered in the registry, the public right to use the closed portion of the street is extinguished.

Without a survey or legal description, the Administrative Orders cannot be registered and the public right of use continues. The sketches that were used as attachments in the 2012 reports are not considered sufficient.

The property transaction closings were delayed at the request of the proponents. The parties are now interested in completing the transactions.

To ensure consistency with the HRM Charter, staff is recommending that Attachment "C" of each Administrative Order be added in the form of a legal description for SC-70 and SC-71. These amendments will provide clarity of Council's direction to close the street.

FINANCIAL IMPLICATIONS

None.

RISK CONSIDERATION

There are no significant risks associated with the recommendations in this report as Council has already closed the applicable parts of the street. The risks considered rate as being Low.

COMMUNITY ENGAGEMENT

None.

ENVIRONMENTAL IMPLICATIONS

None

ALTERNATIVES

Regional Council may refuse to amend the Administrative Orders. This is not recommended as staff will be unable to register the Administrative Orders.

ATTACHMENTS

Attachment 1	Showing the part of Marilyn Drive that was closed
Attachment 2	Showing the part of Victoria Road that was closed
Attachment 3	Amending Administrative Order

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Mike Cowper, Real Estate Officer 902.490.5332

Original Signed

Report Approved by:

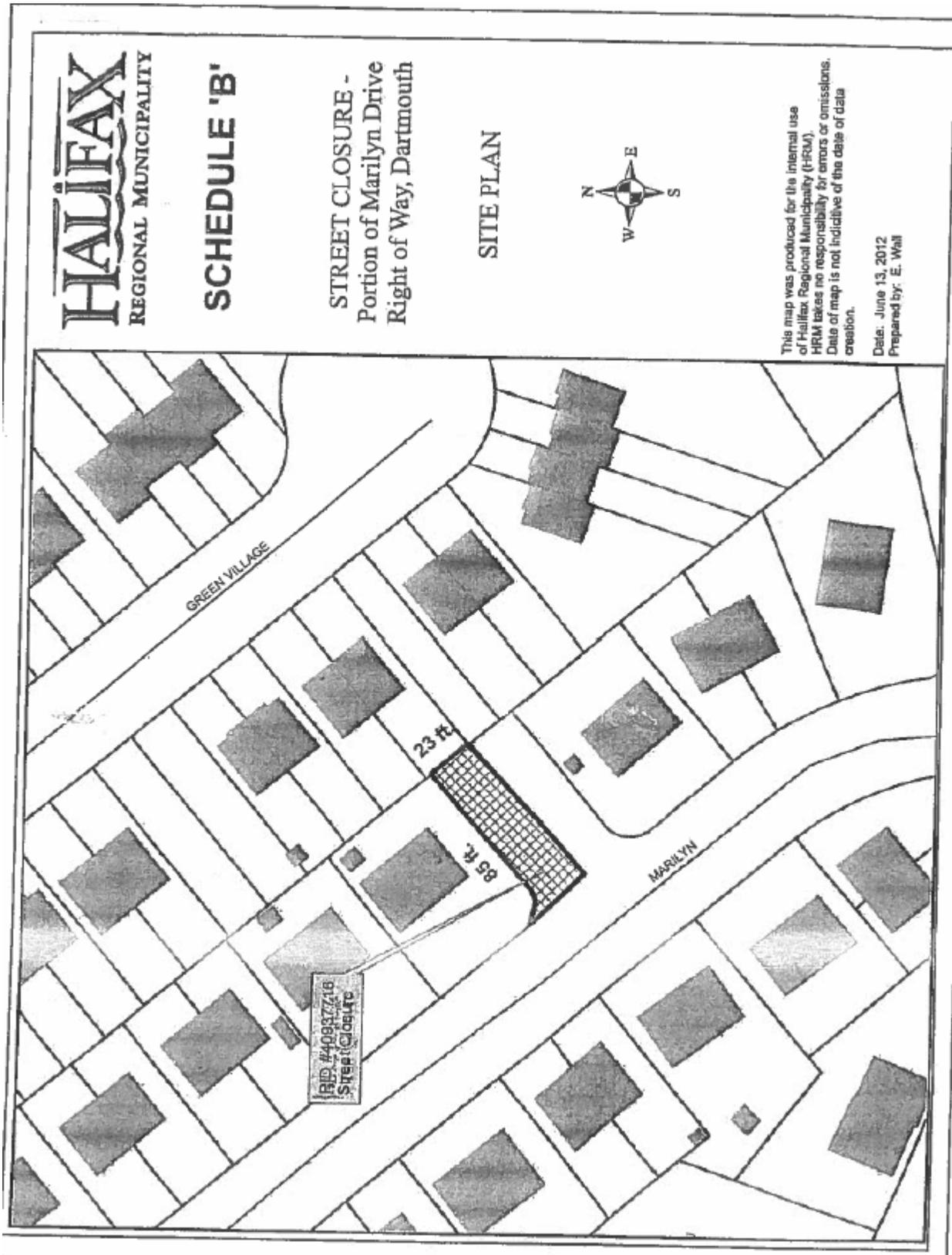
Tom Crouse, Manager Acquisitions and Disposals 902.490.5931

Original Signed by Director

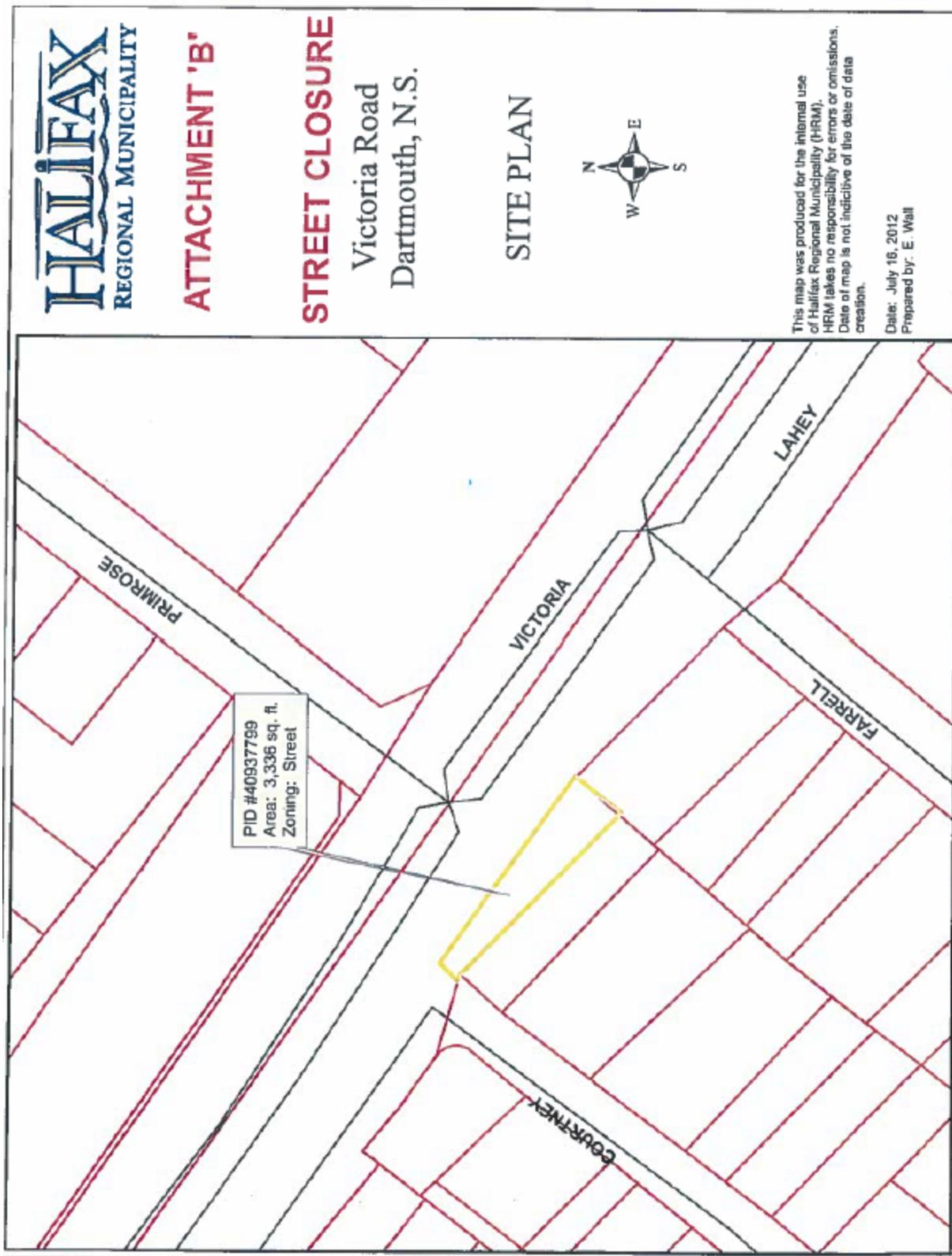
Financial Approval by:

Amanda Whitewood, Director of Finance and Asset Management/CFO, 902.490.6308

Attachment 1 (Showing the part of Marilyn Drive that was closed)



Attachment 2 (Showing the part of Victoria Road that was closed)



ATTACHMENT 3 (Amending Administrative Order)

**HALIFAX REGIONAL MUNICIPALITY ADMINISTRATIVE ORDER #SC-70,
RESPECTING CLOSURE OF A PORTION OF MARILYN DRIVE, DARTMOUTH AND
ADMINISTRATIVE ORDER #SC-71, RESPECTING CLOSURE OF A PORTION OF
VICTORIA ROAD**

BE IT RESOLVED AS AN ADMINISTRATIVE ORDER of Council of the Halifax Regional Municipality that Administrative Order SC-70, *Respecting Closure of a Portion of Marilyn Drive, Dartmouth* and Administrative Order SC-71, *Respecting Closure of a Portion Victoria Road, Dartmouth* are amended as follows:

1. Administrative Order SC-70, *Respecting Closure of a Portion of Marilyn Drive, Dartmouth* is amended by:
 - (a) adding the words and letter “and Attachment C” after the word and letter “Attachment “B””; and before the word “is”; and
 - (b) adding the Attachment C that is attached to this Administrative Order as Schedule 1.
2. Administrative Order SC-71, *Respecting Closure of a Portion Victoria Road, Dartmouth* is amended by:
 - (a) adding the words and letter “and Attachment C” after the word and letter “Attached “B”” and before the word “is”; and
 - (b) adding the Attachment C that is attached to this Administrative Order as Schedule 2.

Done and passed this _____, day of May, 2017,

Mayor

Municipal Clerk

SCHEDULE 1

ATTACHMENT C

Legal Description of

PARCEL S

Marilyn Drive, Dartmouth,
Halifax County, Nova Scotia

ALL that certain parcel of land situate, lying and being on the northeastern side of Marilyn Drive and being a portion of Shalloway Court, Dartmouth, Halifax County, Nova Scotia; and being **PARCEL S** as shown on a plan titled - STREET CLOSURE - Plan of Survey of **LOT A4S**, Consolidation of Lot A4, Lands of Ellen Hilda Kelly & Marjorie Jocelyn Campbell with Parcel S, A Portion of Shalloway Court, Lands of Halifax Regional Municipality, Marilyn Park Subdivision, Shalloway Court & Marilyn Drive, Dartmouth, Halifax County, Nova Scotia; certified by Clinton C. Garland, N.S.L.S., dated January 18, 2013, filed in the office of the Director of Transportation and Public Works, Design & Construction Services, Halifax Regional Municipality, as Plan No. 13002101; said **PARCEL S** being more particularly described as follows:

BEGINNING at a point on the northeastern boundary of Marilyn Drive where it is intersected by the northwestern boundary of Parcel SR, said point being North 34 degrees 59 minutes 11 seconds West, 40.103 metres from Nova Scotia Coordinate Monument No. 22340, as shown on above noted plan;

THENCE North 40 degrees 00 minutes 00 seconds West along said northeastern boundary of Marilyn Drive, 12.908 metres to a point of curvature, also being a southern corner of Lot A4;

THENCE Easterly along a curved southern boundary of said Lot A4, following a curve to the left, having a radius of 6.096 metres and an arc distance of 9.576 metres to a point of curvature;

THENCE North 50 degrees 00 minutes 00 seconds East along the southeastern boundary of said Lot A4, 21.336 metres to the southwestern boundary of Lot 20A;

THENCE South 40 degrees 00 minutes 00 seconds East along the said southwestern boundary of Lot 20A, 6.812 metres to the northern corner of Parcel SR;

THENCE South 50 degrees 00 minutes 00 seconds West along the northwestern boundary of said Parcel SR, 27.432 metres to the point of BEGINNING.

PARCEL S contains an area of 194.84 square metres.

BEARINGS are grid, referred to the Nova Scotia 3 degree Modified Transverse Mercator projection, Zone 5, Central Meridian 64 degrees 30 minutes West Longitude.

SCHEDULE 2

ATTACHMENT C

Legal Description of
Parcel X
Victoria Road, Dartmouth,
Halifax County, Nova Scotia

ALL that certain lot of land situate, lying and being on the southeastern side of Courtney Road and being **Parcel X** as shown on a plan titled ; Plan of Survey of **Lot 75X** Subdivision and Consolidation of Lot 75, Lands Acquired by Maxwell Elroy Ernst and Parcel X, a Portion of Victoria Road, Lands Acquired by Halifax Regional Municipality, Courtney Road and Victoria Road, Dartmouth, Halifax County, Nova Scotia; certified by Clinton C. Garland, N.S.L.S., dated July 13, 2012, filed in the office of the Director of Transportation and Public Works, Design & Construction Services, Halifax Regional Municipality, as Plan No. 11037601; said **Parcel X** being more particularly described as follows:

BEGINNING at the intersection of the southeastern boundary of Courtney Road and the southwestern boundary of Victoria Road at the northern corner of the parcel under description, said point being North 78 degrees 09 minutes 44 seconds West, 28.623 metres from Nova Scotia Coordinate Monument No. 5362, as shown on above noted plan;

THENCE South 55 degrees 38 minutes 20 seconds East along the southwestern boundary of Victoria Road, 48.974 metres to the northwestern boundary of Lots 69 & 70;

THENCE South 39 degrees 19 minutes 25 seconds West along the northwestern boundary of said Lots 69 & 70, 10.512 metres to the eastern corner of Lot 75;

THENCE North 45 degrees 53 minutes 36 seconds West along the northeastern boundary of said Lot 75, 48.930 metres to the southeastern boundary of Courtney Road;

THENCE North 38 degrees 31 minutes 04 seconds East along southeastern boundary of Courtney Road, 2.196 metres to the point of BEGINNING.

PARCEL X contains an area of 309.91 square metres.

BEARINGS are grid, referred to the Nova Scotia 3 degree Modified Transverse Mercator projection, Zone 5, Central Meridian 64 degrees 30 minutes West Longitude.