

HALIFAX

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

Item No. 15.1.3
Halifax Regional Council
January 28, 2020

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 

Jacques Dubé, Chief Administrative Officer

DATE: November 18, 2019

SUBJECT: **Declaration of Surplus Property and Street Closure – PID 40921926,
Rosedale Avenue, Halifax**

ORIGIN

A functional design plan for improvements to Dutch Village Road was recently conducted by HRM Planning and Development.

LEGISLATIVE AUTHORITY

Administrative Order Number 50 Respecting the Disposal of Surplus Real Property.

Halifax Regional Municipality Charter, Chapter 39, Section 61(5) The Municipality may (b) sell property at market value when the property is no longer required for the purposes of the Municipality.

Halifax Regional Municipality Charter, Chapter 39, Section 325(2); Street Closure.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Declare the portion of the Rosedale Avenue right-of-way (PID 40921926), shown as Parcel A in Attachment A, surplus to Municipal requirements and categorize Parcel A, as 'Extraordinary', as per Administrative Order 50; and
2. Approve Administrative Order SC-93 to close a portion of Rosedale Avenue, shown as Parcel A in Attachment B of this report.

BACKGROUND

A functional design plan was recently completed for Dutch Village Road between Joseph Howe Drive / Bayers Road and Alma Crescent / Supreme Court. The street currently lacks curb and sidewalk on most of the west side and recent zoning amendments increased residential and commercial density in the area. The functional plan recommends improving the pedestrian realm with sidewalk and curb on both sides of the street, a raised protected bicycle lane on both sides of the street, and, potentially, space for amenities such as benches, waste receptacles, bicycle parking, transit waiting areas and vegetation. It also includes on-street parallel parking, standard width travel lanes, intersection improvements and shortened pedestrian crossing distances. The plan would improve access to properties by eliminating street conflicts created by “nose-in” parking and replacing that with defined driveways.

Detailed design is anticipated to begin in 2020/2021 with construction planned in 2021/22 at the earliest.

The plan identified several small parcels of privately-owned land that are required by the Municipality to provide adequate right of way (ROW) width to accommodate the preferred cross-section along the corridor. These property line inconsistencies are largely the result of an irregular street line. One parcel already includes portions of the public sidewalk. Staff have confirmed the parcels identified are necessary to achieve the preferred cross-section and have begun the real estate acquisition process.

One of these parcels is a 40.6m² portion of PID 00183145 at 3488 Dutch Village Road (Parcel “B”). The owners of this parcel, BMP Developments Limited (“the developer”) have begun the process to develop a multiple unit dwelling on the property in compliance with the existing zoning. This project includes affordable housing units. The Municipality issued a development permit for that project and has received an application for a construction permit.

The proposed building has a zero-meter setback from the property line along Dutch Village Road as permitted by the Land Use By-law (LUB). If built as proposed, the building would be located on the portion of the property required to accommodate the functional design plan. HRM’s capacity to deliver on the preferred cross-section would therefore be compromised at this location. Staff have reviewed the full range of alternatives to achieve the preferred cross section without acquiring this land and there are no practical options available.

Staff have engaged with the owner based on the possibility of closing a portion of Rosedale Avenue and consolidating it with 3488 Dutch Village Road to create sufficient space on the lot to allow the proposed building to be moved 1.5m to the west. This would allow the building to be constructed as designed while providing the capacity for the Municipality to acquire the land needed to deliver the preferred cross section along Dutch Village Road.

Closing and selling this portion of the Rosedale Avenue ROW is the subject of this staff report.

DISCUSSION

Attachment A shows the 54.3m² portion of the Rosedale Avenue ROW to be acquired by BMP Developments Limited (Parcel “A”) and the 40.6m² portion of land which the Municipality would acquire that is fronting on Dutch Village Road (Parcel “B”).

Acquisition of Parcel “A” will enable the developer to shift their proposed building back by approximately 1.5m, sell Parcel “B” to HRM, and still meet all the Land Use By-law requirements. After discussions with HRM staff, BMP Developments Limited has agreed to put its building permit application on hold until both land transactions are completed, because its directors recognize the value that the improvements proposed by the functional plan would deliver to future tenants of its building.

The developer has voluntarily explored the impacts of setting its proposed building back by the required amount without impacting the Rosedale Avenue ROW and determined that it would result in a significant loss of units and building functionality due to the small lot size and limits imposed by the Land Use By-law.

If Parcel "A" is not declared surplus, the developer will not be willing to sell 'Parcel B' to the Municipality and will receive a permit to build on its lot as originally intended. The preferred cross-section will be compromised and, more specifically, there will be a loss of four on-street parking or loading spaces in front of the proposed development. While this would not compromise the main design goals of the functional plan, it would result in an inconsistent cross section and be less ideal from the perspective of commercial business operators along the Dutch Village Road corridor.

If Parcel "A" was declared surplus and the road closed as proposed, the ROW on Rosedale Avenue at this location would be reduced from (15.2m) to (14.2m). Rosedale Avenue is a local street with low traffic volumes and no future proposals identified in any Municipal plan¹. The proposed 14.2m width is adequate and would not impede traffic or transit operations or preclude the addition of another sidewalk in the future. Furthermore, there would be no parking impacts as parking is not currently permitted on either side of this section of Rosedale Avenue. In conclusion, increasing the ROW width on Dutch Village Road, which is a major collector roadway, is considered to be more important than a 1m reduction of ROW on Rosedale Avenue. Under these conditions, Parcel "A" is surplus to Municipal needs and therefore available for disposal.

As Parcel "A" is a portion of street right-of-way, Section 325 of the HRM Charter applies. Council may, by policy, permanently close any street or part of a street. The purpose of this report is to recommend that Council declare Parcel "A" surplus, categorize it as 'Extraordinary' under Administrative Order 50, close the portion of street Right-of-Way under Administrative Order SC-93.

The title to the portion of the street to be closed must be migrated under the *Land Registration Act*. Thus, the proposed transaction is subject to a title search.

FINANCIAL IMPLICATIONS

The market value and recommended terms and conditions of the sale of the subject property will be the subject of a separate approval report with the appropriate delegated authority. As per Administrative Order 2018-004-ADM: Respecting Real Property Transactions.

The 20/21 proposed capital budget includes supplementary sheet Mobility2 for Major Strategic Modal Corridor: Dutch Village Road and identifies \$50,000 in 20/21 to support in house detailed design, and \$2,250,000 in 21/22 for the construction of the upgrades. Acquisition of properties will be funded through CT190009-IMP Land Acquisition.

RISK CONSIDERATION

As outlined in the Discussion section, the risks of not proceeding with the declaration of surplus will compromise the preferred cross-section along Dutch Village Road. Four proposed on-street parking / loading spaces would be eliminated to maintain priority on delivering the infrastructure required for pedestrians and cyclists.

The developer has voluntarily delayed their application for a construction permit. Delays associated with this land transaction may present a high risk to the developer, and a reverse of their willingness to participate. This risk can be mitigated with timely actions to advance the transaction process.

¹ Integrated Mobility Plan Moving Forward Together Plan, Active Transportation Priorities Plan, Halifax Municipal Planning Strategy

The sale of Parcel “A” and the purchase of Parcel “B” will be contingent on one another – therefore, the risk of the Municipality not receiving the intended benefits of this transaction are rated *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. 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.

The preferred functional design was presented at a public meeting on February 20, 2019 at the Centennial Arena and shared on the Municipality’s website. Feedback was collected via in-person comments and an online survey. Most of the open house attendees and survey respondents were in favor of the functional design.

Community engagement was also carried out in 2015 before Municipal Planning Strategy and Land Use By-law amendments enabled increased development in the area. The staff report in support of these amendments stated that:

A prevailing theme throughout the public consultation for these plan amendments was active transportation: staff repeatedly received requests from residents to complete the sidewalk connections in the community and build bicycle lanes.²

ENVIRONMENTAL IMPLICATIONS

There are no immediate environmental implications associated with the recommended closure of the applicable section of Rosedale Avenue or with the land disposal.

ALTERNATIVES

Halifax Regional Council could instruct staff to **not** declare the subject parcel as surplus under Administrative Order Number 50, and to retain ownership of this portion of the Rosedale Avenue street right-of-way. This is not recommended as it is not required for Municipal purposes and poses a risk to the preferred cross-section on Dutch Village Road.

ATTACHMENTS

Attachment A – Legal Survey

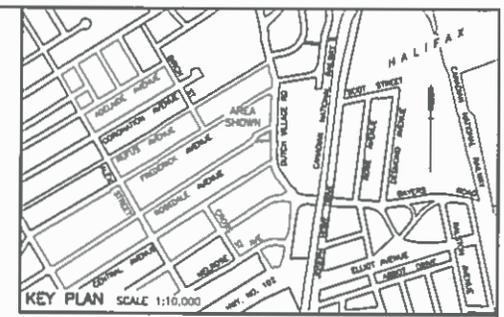
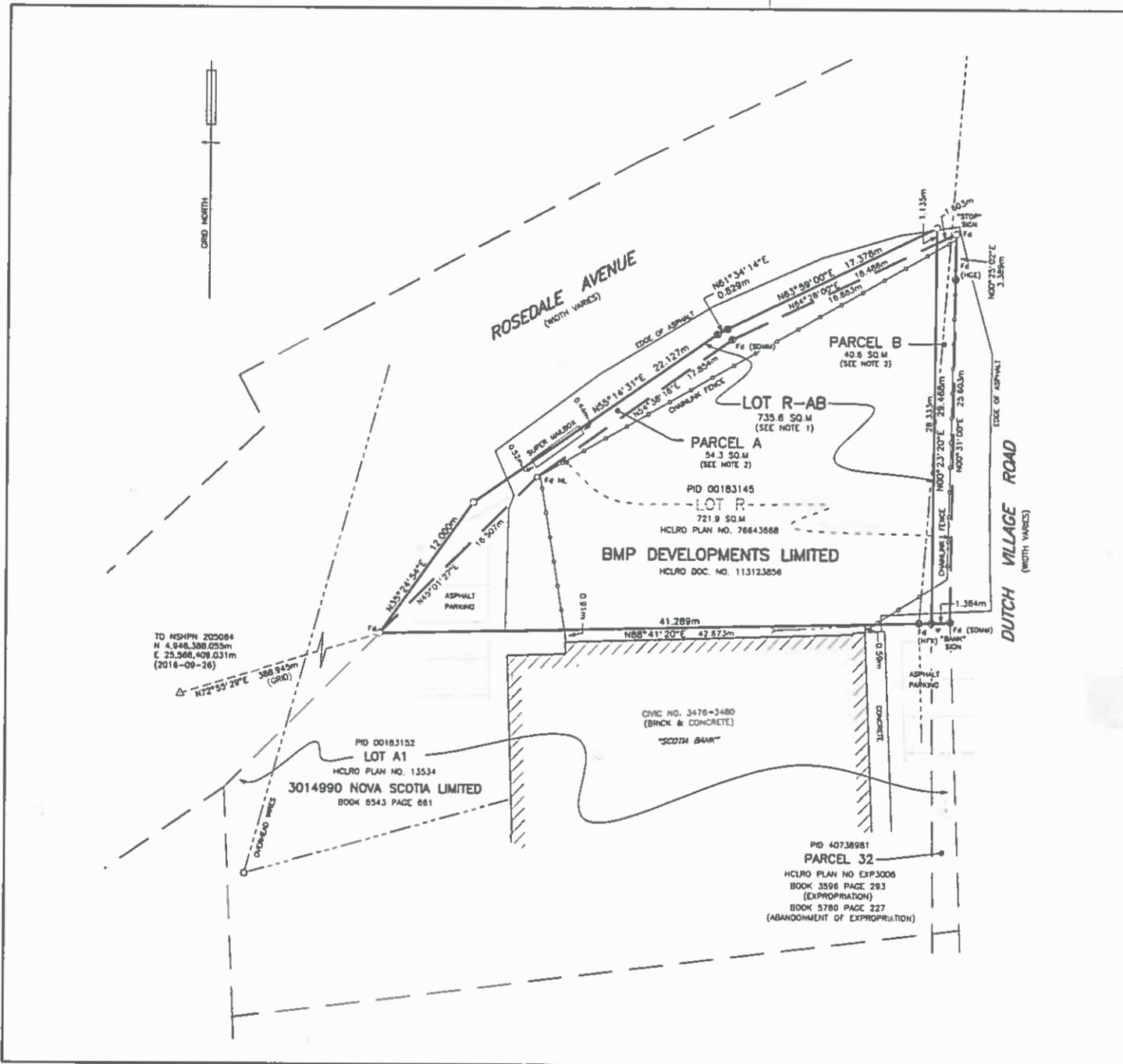
Attachment B – Administrative Order SC-93

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: Leen Romaneh, Planner 1, Strategic Transportation Planning, 902.490.4495

John Dalton, Senior Real Estate Officer, Real Estate, 902-490-5477

² <http://legacycontent.halifax.ca/council/agendasc/documents/160719ca1462.pdf>



LEGEND

- PERIMETER OF LANDS SURVEYED
- △ NSHPN NOVA SCOTIA HIGH PRECISION NETWORK MONUMENT
- SURVEY MARKER SET
- RAILWAY SPIKE
- NL NAIL
- UTILITY POLE & ANCHOR
- HCLRO HALIFAX COUNTY LAND REGISTRATION OFFICE
- PID PARCEL IDENTIFICATION NUMBER
- Fd FOUND
- (HFX) CITY OF HALIFAX
- (HGE) HIGHLAND GEOMATICS & ENGINEERING LTD.
- SQ M SQUARE METERS

BEARINGS AND COORDINATES REFER TO ZONE 5, CENTRAL MERIDIAN 64°30' WEST, OF THE NOVA SCOTIA 3°N TM PROJECTION OF THE NAD83(CSRS) 2010.0 HORIZONTAL REFERENCE FRAME AND ARE DERIVED FROM GNSS OBSERVATIONS.

GROUND DISTANCES ARE SHOWN WITH NO SCALE FACTOR APPLIED UNLESS OTHERWISE NOTED. GRID DISTANCES MAY BE CALCULATED BY MULTIPLYING GROUND DISTANCE BY AN AVERAGE COMBINED SCALE FACTOR OF 0.999953.

FIELD SURVEYS WERE CARRIED OUT DURING THE PERIOD OF JULY 25, 2019 TO DECEMBER 10, 2019 AND HAVE NOT BEEN ADJUSTED.

NOTES:

1. SUBDIVISION APPROVAL IS NOT REQUIRED UNDER THE HALIFAX REGIONAL CHARTER 2006, c. 39 SECTION 278(2)(f)
2. PARCEL B IS TO BE CONVEYED TO HALIFAX REGIONAL MUNICIPALITY FOR STREET PURPOSES. PARCEL A IS TO BE CLOSED AND CONVEYED TO BMP DEVELOPMENTS LIMITED.

SURVEYOR'S CERTIFICATE

I, **ADAM J. PATTERSON** have
 as a **Registered Professional Engineer** and **Professional Geomatics Engineer**
 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 *Land Surveyors Act*, regulations
 and standards made thereunder.

Dated the 11th day of DECEMBER, 2019

Original Signed _____
 N.S.L.S.



PLAN OF SURVEY OF
LOT R-AB
 SUBDIVISION & CONSOLIDATION OF LANDS REGISTERED TO
BMP DEVELOPMENTS LIMITED &
HALIFAX REGIONAL MUNICIPALITY
DUTCH VILLAGE ROAD & ROSEDALE AVENUE
 HALIFAX, HALIFAX COUNTY, NOVA SCOTIA



Servant, Dunbrack, McKenzie & MacDonald Ltd.
 NOVA SCOTIA LAND SURVEYORS & CONSULTING ENGINEERS
 36 OLAND CRESCENT PHONE: (902) 455-1537
 BAYERS LAKE BUSINESS PARK FAX: (902) 455-8478
 HALIFAX, NS B3S 1C8 WEB: www.sdmm.ca

DATE: DECEMBER 11, 2019
SCALE 1 : 200 (METRIC)
FILE No. 1-4-8 (34746)
PLAN No. 13-2788-0

0m 5 10 15 20m

OF NOVA SCOTIA
 THE REGISTRATION
 NUMBER
 NS 60378

HALIFAX REGIONAL MUNICIPALITY

ADMINISTRATIVE ORDER #SC-93

RESPECTING CLOSURE OF A PORTION OF ROSEDALE AVENUE, 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. That portion of Rosedale Avenue, Halifax, Nova Scotia more particularly shown as Parcel A on the Attachment is hereby closed.

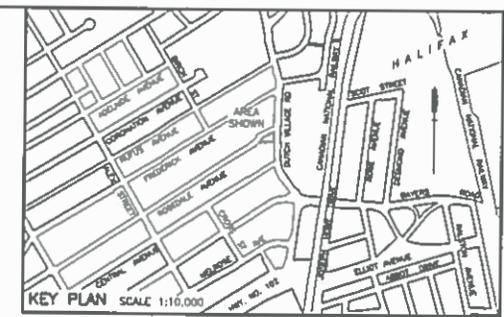
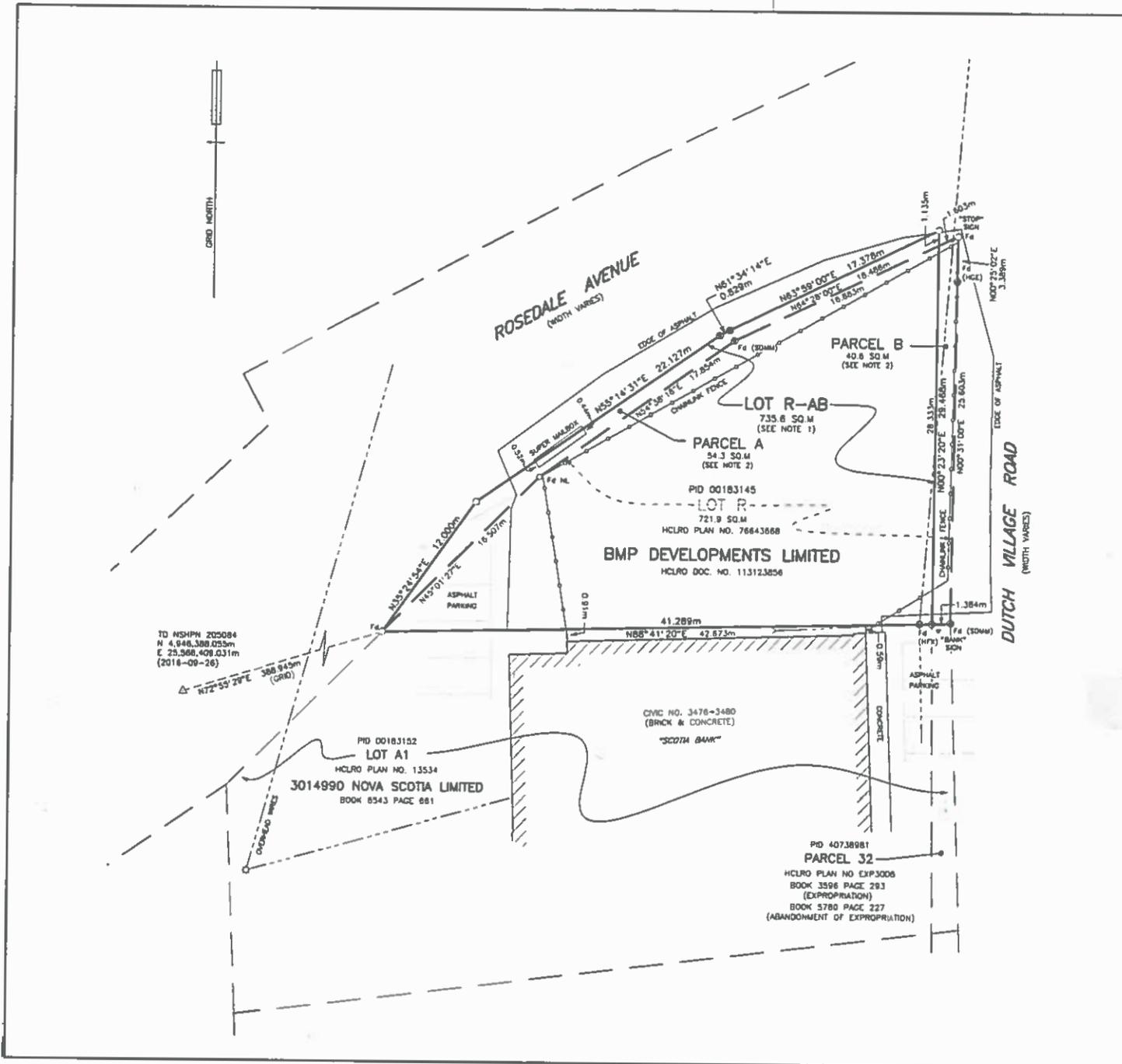
I HEREBY CERTIFY THAT the foregoing Administrative Order was duly adopted by Halifax Regional Council the 28th day of January 2020.

Mayor Mike Savage

Kevin Arjoon, Municipal Clerk

I, Kevin Arjoon, Municipal Clerk of the Halifax Regional Municipality, hereby certify that the above-noted Administrative Order was passed at a meeting of Halifax Regional Council held on January 28, 2020.

Kevin Arjoon, Municipal Clerk



- LEGEND**
- PERIMETER OF LANDS SURVEYED
 - △ NSHPM NOVA SCOTIA HIGH PRECISION NETWORK MONUMENT
 - SURVEY MARKER SET
 - RAILWAY SPIKE
 - NL NAIL
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SURVEYOR'S CERTIFICATE

I, **ADAM J. PATTERSON**, 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 Land Surveyors Act, regulations and standards made thereunder.

Dated the 11th day of **DECEMBER**, 2019

Original Signed K.S.L.S.



PLAN OF SURVEY OF
LOT R-AB
 SUBDIVISION & CONSOLIDATION OF LANDS REGISTERED TO
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TD NSHPM 205084
 N 4,948,389.025m
 E 25,560,409.031m
 (2018-09-26)

PID 00183152
LOT A1
 HCLRO PLAN NO. 13534
3014990 NOVA SCOTIA LIMITED
 BOOK 8543 PAGE 681

CIVIC NO. 3476-3480
 (BRICK & CONCRETE)
 "SCOTIA BANK"

PID 40738981
PARCEL 32
 HCLRO PLAN NO EXP3006
 BOOK 3596 PAGE 293
 (EXPROPRIATION)
 BOOK 5789 PAGE 227
 (ABANDONMENT OF EXPROPRIATION)