



PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Item No. 11.1.3**  
**Halifax Regional Council**  
**August 10, 2010**

**TO:** Mayor Kelly and Members of Halifax Regional Council

Original Signed by

A handwritten signature in black ink, appearing to be "Wayne Anstey".

**SUBMITTED BY:**

\_\_\_\_\_  
Wayne Anstey, Acting Chief Administrative Officer

Original Signed by

A handwritten signature in black ink, appearing to be "Mike Labrecque".

\_\_\_\_\_  
Mike Labrecque, Deputy Chief Administrative Officer

**DATE:** July 23, 2010

**SUBJECT:** Government Wharf Road, Eastern Passage, District 8

**ORIGIN**

This report originates from staff.

**RECOMMENDATIONS**

It is recommended that Regional Council approve the release of condition No. 2 under Recommendations as identified in the September 8, 2009 Council report (copy attached and identified in the Background section of this report), with respect to the acceptance of Government Wharf Road, Eastern Passage, shown as Parcel XA on the attached Plan No. 07033002.

## **BACKGROUND**

In the September 8, 2009 Council report (copy attached), staff provided the following recommendation:

“It is recommended that Regional Council approve the acceptance of ownership of Government Wharf Road, Eastern Passage as shown as Parcel XA on the attached Plan No. 07033002 conditional upon the following:

1. The Province of Nova Scotia provides a letter of intent, or quit claim deed to HRM releasing any responsibility of ownership;
2. HRM to obtain an encroachment agreement from property owner(s) who have known infrastructure elements or interests located within the proposed boundaries; and,
3. Halifax Water to obtain relevant easements from the Province for the purpose of maintaining the existing sewer system.”

Item Nos. 1 and 3 outlined above, have for the most part been completed. With respect to item No. 2, there are two known pre-existing infrastructure elements (refer to attached Plan No. 2) where the property owner is hesitant to enter into an encroachment agreement with the municipality. These items are currently not creating a problem for the proposed right-of-way area, and as such, staff is recommending the infrastructure remain in place without a standard agreement. Through the notification process, staff would advise the property owner of the municipality’s intent and the requirement for the property owner to remove the encroachments if deemed a problem in the future. Staff may also consider reviewing the feasibility of selling a small portion of land to the adjacent property owner, once parcel XA is accepted as a municipal street. In doing so, a sufficiently sized parcel would be sold thus eliminating the encroachment(s) altogether.

## **DISCUSSION**

HRM staff has been collaborating with a number of stakeholders for some time to have the municipality take over the ownership of Government Wharf Road, thus providing a level of certainty to the property owners and businesses regarding the future repair and maintenance of the road. As per the September 8, 2009 Council report, several conditions had to be met prior to take-over. The condition of obtaining an encroachment agreement with known pre-existing infrastructure components or elements located within the proposed right-of-way, has been problematic. Staff is unable to obtain consent from a property owner to meet the condition of entering into an encroachment agreement due to two known elements:

- a manhole (and associated lateral); and
- a small section of a wooden deck that is attached to an existing building (refer to attached Plan No. 2).

It is our understanding that the manhole is a part of the sanitary system that connects a lateral from an existing building to the main sewer pipe. The pipe that exits the manhole and connects to the main system does not conform to the Halifax Water standards, and therefore must remain a private system until upgraded.

These elements have been in place for some time and have not caused any known problems to the right-of-way to date. As a result, staff is recommending acceptance of these encroachments on a temporary basis. It is recommended that a letter be distributed advising the owner that an agreement will not be necessary at this time; however, if the municipality requires the area in the future, the responsibility to remove these elements will be that of the property owner. It is noted, a portion of the proposed right-of-way adjacent to the wooden deck, may be deemed surplus land and may be considered for sale, thus eliminating that particular encroachment. However, the acceptance of Parcel XA as a street would have to be finalized prior to this consideration.

### **BUDGET IMPLICATIONS**

Given the current condition of Government Wharf Road, a thin overlay asphalt application would be required in the short term. The estimated cost for this work is \$40,000. The funding for this work is currently available within Project No. CZU01082. Costs would also be incurred as a result of snow removal operations. In the long term, Government Wharf Road would be upgraded pursuant to HRM's maintenance and pavement management programs. As a note, there would be no costs associated with the encroachment issue since staff are recommending against any agreement.

### **FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN**

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

### **COMMUNITY ENGAGEMENT**

Two letters have been distributed to all property owners advising them of HRM's intent of taking over Government Wharf Road as a municipal road, and notifying the owners regarding possible encroachments. As well, numerous discussions have been held with the varying levels of governments and with the local business association regarding the future ownership of this road.

**ALTERNATIVES**

1. Council may choose not to approve the release of this condition in relation to the acceptance of ownership of Government Wharf Road. Since this is the only impediment to acceptance, and because other government levels refuse to accept ownership and associated maintenance responsibilities, staff does not recommend this alternative.
2. Council may choose to accept ownership of Government Wharf Road from Shore Road to Civic 104, thus avoiding the encroachments identified above. The remaining portion of Government Wharf Road from Civic 104 to the end, would remain as HRM property but not an accepted street. Staff does not recommend this alternative as that section of road would not receive future repair and maintenance/project upgrades.
3. Council may choose not to accept the road as a public street until all conditions are met.

**ATTACHMENTS**

Government Wharf Road - A1

Government Wharf Road - A2

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax at 490-4208.

Report prepared by: David Hubley, P. Eng. Manager, Design & Construction Services at 490-4845

Report Approved by: \_\_\_\_\_  
Phillip Francis, P.Eng., Manager, Rights-of-Way at 490-6219

Report Approved by: \_\_\_\_\_  
Ken Reashor, P. Eng. A/Director, Transportation and Public Works at 490-4855

Report Approved by: \_\_\_\_\_  
Phil Townsend, Director, Infrastructure and Asset Management at 490-7166

Original Signed



PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

Halifax Regional Council  
September 8, 2009

**TO:** Mayor Kelly and Members of Halifax Regional Council

A handwritten signature in cursive script, appearing to read "Dan English".

**SUBMITTED BY:** \_\_\_\_\_  
Dan English, Chief Administrative Officer

A handwritten signature in cursive script, appearing to read "Wayne Anstey".

\_\_\_\_\_  
Wayne Anstey, Deputy Chief Administrative Officer - Operations

**DATE:** July 30, 2009

**SUBJECT:** Government Wharf Road, Eastern Passage, District 8

**ORIGIN**

This report originates from staff.

**RECOMMENDATIONS**

It is recommended that Regional Council approve the acceptance of ownership of Government Wharf Road, Eastern Passage as shown as Parcel XA on the attached Plan No. 07033002 conditional upon the following:

1. The Province of Nova Scotia provides a letter of intent or quit claim deed to HRM releasing any responsibility of ownership;
2. HRM to obtain an encroachment agreement from property owner(s) who have known infrastructure elements or interests located within the proposed boundaries; and,
3. Halifax Water to obtain relevant easements from the Province for the purpose of maintaining the existing sewer system.

**RECOMMENDATIONS CONTINUED ON PAGE 2**

Upon acceptance the following terms and conditions shall apply:

1. HRM to notify all property owners of Government Wharf Road of HRM's intent to own;
2. HRM will not be required to install a new sidewalk in the future within Parcel XA; and,
3. HRM will be responsible only for the future maintenance and capital improvements within the boundaries illustrated as Parcel XA on the attached Plan No. 07033002. Infrastructure components including the boardwalk that are located beyond the proposed right-of-way boundaries shall be the responsibility of others.

### **BACKGROUND**

Government Wharf Road is located in Eastern Passage, District 8. The road boundaries are approximately 281 meters in length and an average of 8 meters in width (refer to attached Plan No. 07033002). This road has been in operation for many years, and serves as the only access to a wharf and fish processing plant for the local fishing community. As well the road services many businesses that are linked to the local economy and tourism industry. Given the uniqueness and popularity of this community, the road is subjected to significant volumes of traffic, particularly during the summer and fall season.

Factors including age, traffic volumes and lack of general maintenance have impacted on the condition of the travelled way. Currently no government level is taking responsibility for the ownership of this road. The Fisherman's Cove Association and the local community are concerned about its state, and the potential impact on local and general travel. As a result they have conveyed their concerns to the District 8 Councillor, and request that the road ownership be transferred to HRM, and upgraded and maintained to a suitable standard.

### **DISCUSSION**

The ownership of Government Wharf Road is unknown and/or unclear, and both the Federal and the Provincial Governments have informed HRM they currently do not have an ownership interest in this parcel of land. Over the past several years, meetings and other forms of communication have occurred with representatives at the Provincial and Federal government levels, as well with the Fisherman's Cove Association and the local business community to determine ownership and maintenance responsibilities. Based on those discussions, it appears the Federal Government has maintained Government Wharf Road for many years; however, according to local business representatives their involvement ceased approximately 8-10 years ago. Since that time, there has been no regular maintenance conducted on the road, and snow removal at times has been a significant challenge to the community.

The Federal Government suggests there is no clear title to the road, and to date the research supports this claim. As a result, the ownership continues to be in question. However due to past paving and maintenance operations by the Federal Government it appears that the federal Crown considered the road to be its property or at least its obligation for some period of time.

In order to support the local community and maintain the paved section of the road, HRM requested quit claim deeds conveying any interest in the road from the federal and provincial governments. The Federal Government has provided a deed. The Provincial Government has not provided a quit claim deed but rather has agreed to provide a letter of intent that it has no ownership interest in the road. As a result, the recommendation would be to have HRM accept these interests in the road as described as Parcel XA on the attached Plan No. 07033002, and provide the necessary short and long term maintenance and capital improvements. It is noted the Province has expressed concern about the road extending over their original high water mark which suggests there is some level of interest. Also it is noted HRM has yet to receive this letter of intent from the Province.

The boundaries as identified on Plan No. 07033002 do not meet the current HRM road standards. A local urban road typically has a 16.0 metre right-of-way, an asphalt surface that is 9.0 metres in width, concrete curb and gutter on both sides of the paved surface and a sidewalk complete with a grassed median. A preliminary estimate to upgrade to this standard including a piped storm system is in excess of \$400,000. Given the nature and configuration of the area it would be problematic to construct to the current standard. A 16.0 metre right-of-way would encompass an area that includes buildings and a wooden boardwalk. As well this road and surrounding locale has a more rural quality, and converting to the urban standard would impact on the character of the community. In contrast to an urban road standard, the current rural local road standard has a pavement width of 6.4 metres which is more comparable to the configuration of Parcel XA. Given the constraints beyond the existing asphalt boundaries (i.e.; building structures and boardwalk), the recommendation is to accept ownership of a right-of-way that equals the width of the existing asphalt surface (approximately 6.0 metres). Beyond this area, HRM would have no responsibility. The right-of-way area would accommodate the asphalt surface, some sanitary sewermain alignment and the full watermain alignment. There is a section of sanitary sewer pipe that transverse beyond the proposed right-of-way; however, Halifax Water has made a request to the Province to acquire an easement for future maintenance and capital requirements. As an additional note, there is sufficient turning area at the end of the road to facilitate the movement of larger emergency vehicles including fire trucks.

Although the proposed takeover boundaries do not meet current HRM road right-of-way standards, the uniqueness of the community supports the roadway configuration. In order for this area to continue to prosper and grow, appropriate access is imperative. Therefore by acquiring this road and land, it would provide a level of certainty to the property owners and businesses regarding the future repair and maintenance of the road.

### **BUDGET IMPLICATIONS**

Any costs associated with obtaining the encroachment(s) and easements identified in items 2 and 3 of the recommendation will be submitted under a separate Council Report at the time of acquisition.

Given the current condition of Government Wharf Road, a thin overlay asphalt application would be required in the short term. The estimated cost for this work is \$40,000. The funding for this work is currently available within project # CZU01082. Costs would also be incurred as a result of snow removal operations. In the long term Government Wharf Road would be upgraded pursuant to HRM's maintenance and pavement management programs.

### **FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN**

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

### **ALTERNATIVES**

Council may choose not to approve the takeover of ownership of Government Wharf Road. Since other government levels refuse to accept ownership and associated maintenance responsibilities, staff does not recommend this alternative.

### **ATTACHMENTS**

Plan No. 07033002 - Parcel XA

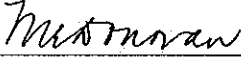
Attachment No. 1 - Terms and Conditions of Transaction





A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax at 490-4208.

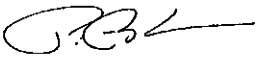
Report prepared by: David Hubley, P. Eng. Manager, Design & Construction Services at 490-4845

Report prepared by: Kirby Grant, Senior Solicitor, Legal Services, at 490-4226

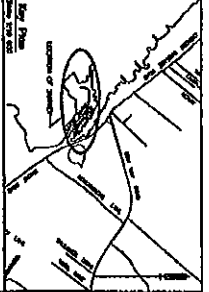
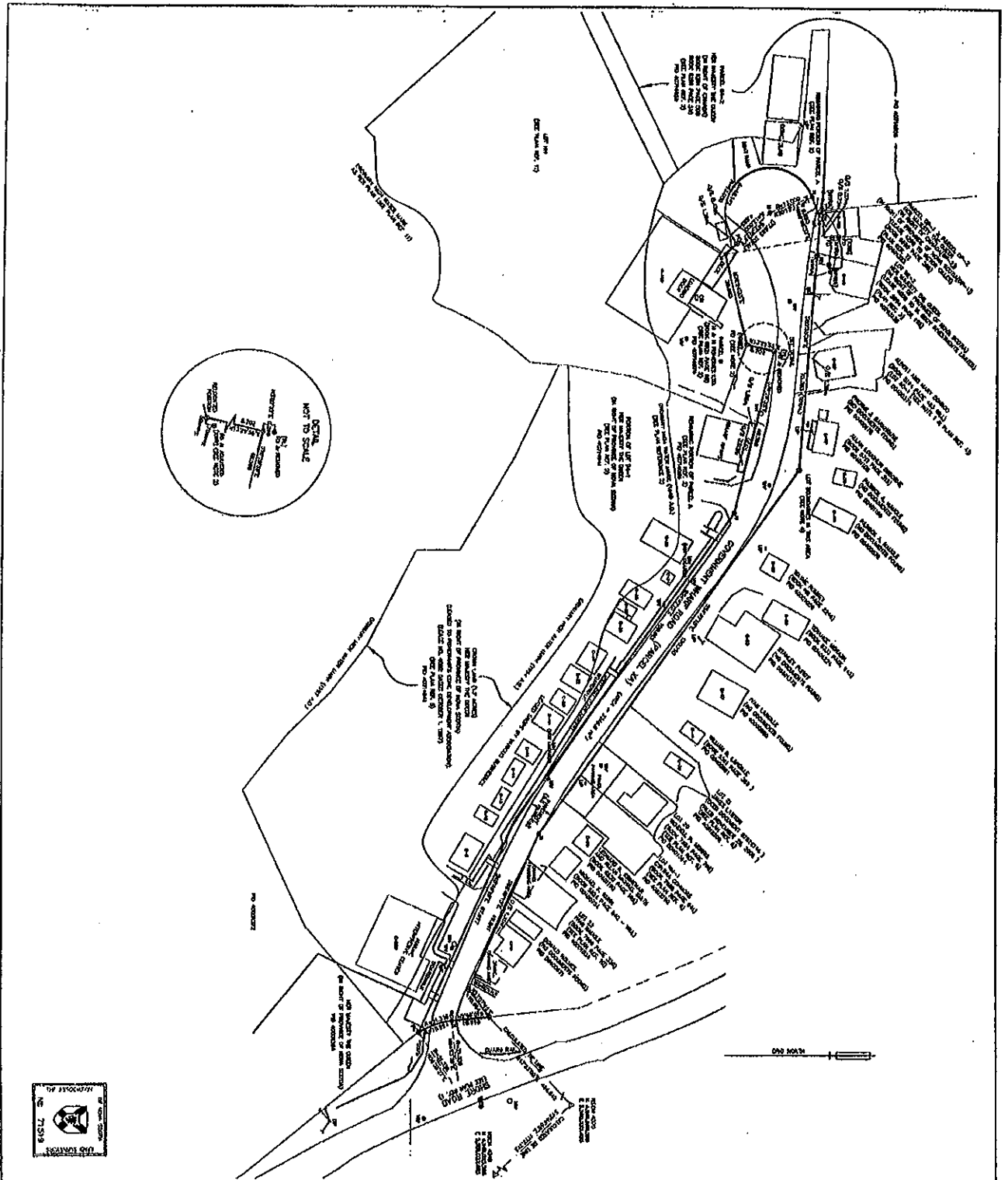
Report Approved by:   
M.E. Donovan, Director, Legal Services & Risk Management at 490-4226

Financial Approval by:   
Cathie O'Toole, Director of Finance 490-6308

Report Approved by:   
Mike Labrecque, P. Eng. Director, Transportation and Public Works at 490-4855

Report Approved by:   
Acting for Phil Townsend, Director, Infrastructure and Asset Management at 490-7166

DH/pm



**NOTICE:** THIS PLAN IS A PRELIMINARY PLAN AND IS NOT TO BE USED FOR CONSTRUCTION OR AS EVIDENCE OF TITLE. THE OWNER OF THIS PARCEL IS RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE STATE OF VIRGINIA DOES NOT GUARANTEE THE ACCURACY OF THIS PLAN. THE STATE OF VIRGINIA DOES NOT GUARANTEE THE ACCURACY OF THIS PLAN. THE STATE OF VIRGINIA DOES NOT GUARANTEE THE ACCURACY OF THIS PLAN.

**PLAN REVISIONS:**

- 1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
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**GENERAL NOTES:**

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**HALIFAX**  
 COMMONWEALTH OF VIRGINIA  
 DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS  
 DIVISION OF HIGHWAYS

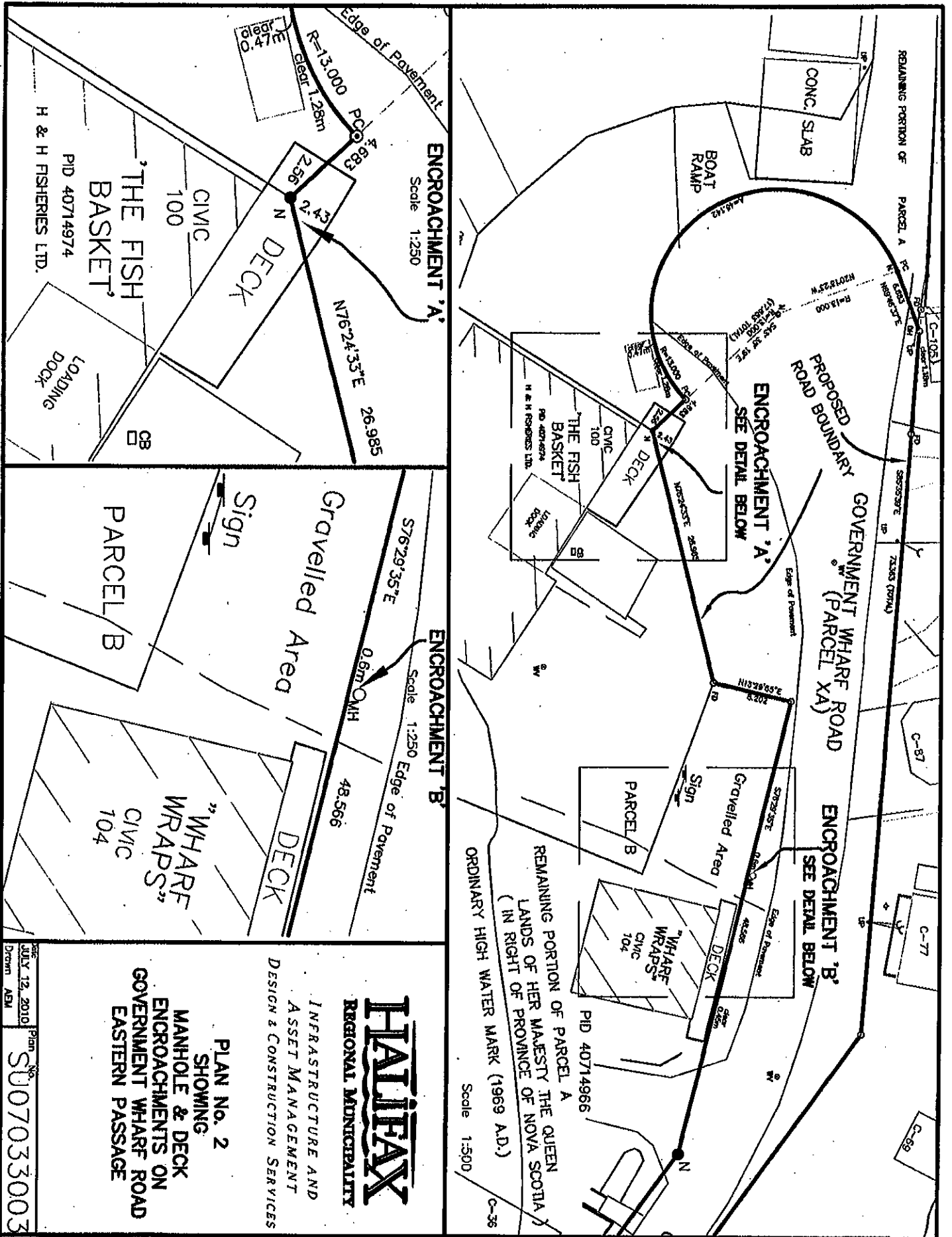
**PLAN OF SURVEY SHOWING**  
**PARCEL VA**  
**GOVERNMENT WHARF ROAD**  
 TO BE ACQUIRED BY HALIFAX SPECIAL JURISDICTION  
 DIVISION OF HIGHWAYS  
 COUNTY OF HALIFAX, VIRGINIA

070333002

**ATTACHMENT NO. 1**

The following are the Recommendations of Acceptance and Key Business Terms and Conditions of the conveyance:

<b>KEY BUSINESS TERMS AND CONDITIONS OF TRANSACTION</b>	
<b>Property Location</b>	Government Wharf Road, Fisherman's Cove, Eastern Passage
<b>Site Area</b>	3246.8 square meters
<b>Vendor</b>	Unknown / Unclear
<b>Purchaser</b>	Halifax Regional Municipality
<b>Purchase Price</b>	\$1.00
<b>Recommendations of Acceptance</b>	<ol style="list-style-type: none"> <li>1. The Province of Nova Scotia provides a letter of intent or quit claim deed to HRM releasing any responsibility of ownership;</li> <li>2. HRM to obtain an encroachment agreement from property owner(s) who have known infrastructure elements or interest located within the proposed boundaries;</li> <li>3. Halifax Water to obtain relevant easements from the Province for the purpose of maintaining the existing sewer system;</li> </ol>
<b>Key Business Terms and Conditions</b>	<ol style="list-style-type: none"> <li>1. HRM to notify all property owners of Government Wharf Road of HRM's intent to own;</li> <li>2. HRM will not be required to install a new sidewalk in the future within Parcel XA;</li> <li>3. HRM will be responsible only for the future maintenance and capital improvements within the boundaries illustrated as Parcel XA on the attached Plan No. 07033002. Infrastructure components including the boardwalk that are located beyond the proposed right-of-way boundaries shall be the responsibility of others.</li> </ol>



**HALIFAX**  
REGIONAL MUNICIPALITY

INFRASTRUCTURE AND  
ASSET MANAGEMENT  
DESIGN & CONSTRUCTION SERVICES

PLAN No. 2  
SHOWING  
MANHOLE & DECK  
ENCROACHMENTS ON  
GOVERNMENT WHARF ROAD  
EASTERN PASSAGE

DATE: JULY 12, 2010  
DRAWN: AEM  
PLAN No. S007033003