

BEFORE THE ISLAND REGULATORY AND APPEALS COMMISSION

IN THE MATTER OF an appeal pursuant to s.12 of the *Roads Act Highway Access Regulations*, PEI Reg EC580/95 by Jaycee and David Sabapathy with respect to the denial by the Department of Transportation, Infrastructure and Energy of an application for an entrance way permit for PID #529461 located off the East Suffolk Road, Prince Edward Island

**RECORD OF DECISION PREPARED BY
THE DEPARTMENT OF TRANSPORTATION AND INFRASTRUCTURE**

Mitchell O'Shea
Jessica M. Gillis
Legal Services
Justice and Public Safety
95 Rochford Street, PO Box 2000
Charlottetown, PE

**Solicitor for the Department of
Transportation and Infrastructure**

Ewan Clark
Cox & Palmer
97 Queen Street, Suite 600
Charlottetown, PE
C1A 4A9

Solicitor for the Appellants,
Jaycee and David Sabapathy

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Jaycee and David Sabapathy

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TAB 1

PROPERTIES SECTION - Policy and Procedural Manual

EFFECTIVE DATE OF THIS INSTRUCTION	SECTION NO. N	TITLE Nonessential Roads Applications for Subdivisions of Developments off nonessential roads.	PAGE NO. 1
DATE THIS AMENDMENT PAGE ISSUED	INSTRUCTION NO. 1		OF 1

1. **General:**

1.1 The Department of Transportation and Public Works ("TPW") has, on the advice of legal counsel, determined that entranceway permits are not required under the *Roads Act* or *Highway Access Regulations* for development involving access across or along a non-essential road. Accordingly, the purpose of this policy is to provide staff within TPW's Capital Projects Division and Land and Environment Division with direction regarding the procedure to be followed for assessing a land owner's request for such access across or along a non-essential road for the purpose of enabling development opportunities.

1.2 There will generally be two types of requests to TPW for use of a non-essential road in connection with a subdivision application or a development application being processed by the Department of Communities, Cultural Affairs and Labour, or the appropriate municipal authority (hereinafter severally referred to as "CCAL"): (a) a request for lateral movement along a non-essential road; or (b) a request to cross over a non-essential road. The latter type of request would involve situations where the non-essential road creates a natural subdivision of a property and the crossing over of the non-essential road is necessary to enable the land owner to develop that portion of his or her property that otherwise has no access to a road that is classified seasonal or better pursuant to the *Highways Access Regulations*. Alternatively, the request to cross over the non-essential road could lead onto a private right-of-way only.

2. **Policy Level:**

2.1 Departmental.

3. **Authority:**

3.1 Department of Transportation and Public Works, (a) Capital Projects Division, and (b) Land and Environment Division.

4. Procedure:

- 4.1 An Administrative Procedure has been developed by the Department of Communities, Cultural Affairs and Labour that requires every application for either a development permit or subdivision approval of a property along a non-essential road to be forwarded to TPW for consideration and processing. It has been agreed that such applications will only be further considered for approval by the Department of Communities, Cultural Affairs and Labour subsequent to the land owner executing an associated Road Development and Maintenance Agreement, on such terms and conditions as are prescribed by TPW.
- 4.2 Each application forwarded by CCAL as described above will be assessed by TPW on a case by case basis. A Property Agent will coordinate the assessment and the collection of all pertinent information including but not limited to location, maps and sketches, schedule for usage, etc.
- 4.3 The access onto the non-essential road will be located to provide access to the property proposed to be subdivided or developed within the frontage of the subject property on the non-essential road. The entranceway from the non-essential road to the property to be subdivided or developed will be placed at a location as determined by the Regional Engineer, or designate. The entranceway location will be determined by using the same criteria as if the non-essential road was upgraded and classified as a seasonal road pursuant to the *Highway Access Regulations*.
- 4.4 For any applications for subdivision or development which would involve lateral movement along a non-essential road, the following applies: (a) the non-essential road must either connect to a road that is identified as seasonal or better pursuant to the *Highway Access Regulations* or connect to such seasonal or better road directly by a private right-of-way; and (b) sight distance requirements apply at the location where the non-essential road meets the seasonal road (or better). These requirements will be assessed by the Traffic Operations person responsible for the relevant area.
- 4.5 The Property Agent will carry out an inspection of the site in question and take photos of same, noting any potential problems with the proposed crossing, ie. environmental issues or hazards, requirements for a culvert, impact on an adjacent property or properties, etc.
- 4.6 The Property Agent will then review same with the Supervisor of Highways and Right-of-Ways and the Manager of Provincial Lands for input and endorsement.

- 4.7 The Property Agent will then forward a summary of the information to:
- a. the Regional Engineer in the area in which the use of the non-essential road is proposed to seek approval of the request; and
 - b. Environmental Management Section of the Land and Environment Division of TPW regarding its approval requirements or other related environmental management issues.
- 4.8 Upon receipt of the approvals noted under clause 4.7 above, and assuming a positive response, the Property Agent will prepare a Ministerial Memo seeking permission to approve the proposed use of the non-essential road by execution of the Road Development and Maintenance Agreement.
- 4.9 Upon receipt of the Minister's approval of the proposed use as set out in clause 4.8 above, the Property Agent will request the TPW paralegal to prepare the Road Development and Maintenance Agreement in accordance with the document approved by the Manager of Provincial Lands.
- 4.10 Any approval provided under this policy for use of any non-essential road shall be provided in writing and include section 29(4) of the *Roads Act* as follows:
- " The Minister is not responsible for the maintenance of a non-essential road and no action shall be brought against the Crown for damages sustained by any person using a non-essential road."*
- 4.11 Following execution and registration of the Road Development and Maintenance Agreement, the Property Agent will notify CCAL of an approved request by forwarding a registered copy of the Agreement to CCAL and that Department will include an associated rider on any associated CCAL approved subdivision plan or development permit.
- 4.12 For greater certainty, additional covenants or requirements may be added to or result on modifications to the base Road Development and Maintenance Agreement, as determined by TPW on a case by case basis.
- 4.13 The land owner will be required to provide a scale plan acceptable to TPW that is suitable for the preparation of a legal description. The scale plan should indicate the location of the proposed entranceway to the property to be subdivided or developed, the location of any right-of-way that provides access to the proposed subdivision or development and the portion of the non-essential road to be used to access the said subdivision or development.

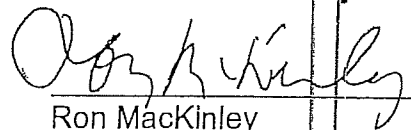
4.14 TPW's Chief Engineer reserves the sole right to deny any request for a Road Development and Maintenance Agreement if TPW determines that access to a classified road or the non-essential road does not satisfy current or future safety requirements.

5. Value/Charges:

- 5.1 The land owner will be charged an administration fee or charge for the processing of requests made to which this policy applies, pursuant to the current Properties Section policy for administration fee charges. Charges for administration fees may only be waived with the approval of the Manager of Provincial Lands, or designate.
- 5.2 The land owner will pay any and all other charges associated with the request (if any) including such things as permitting application fees, administration fees, registry fees, survey costs, etc.

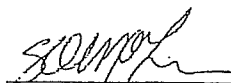
Dated:

Feb 6/2008



Ron MacKinley
Minister of Transportation and
Public Works

Feb 5/2008



Steve MacLean
Deputy Minister of Transportation
and Public Works

TAB 2



Transportation and
Infrastructure Renewal



Office of the Chief Surveyor
P.O. Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Rights-of-Way Status (East Su

To: Sharon Slauenwhite
Supervisor, Provincial Roads

From: David Morris
Chief Surveyor

Date: March 9, 2011

Subject: East Suffolk Road (Ext) - Rights-of-Way Status Inquiry RI132013, File 11-010

Upon review of records for the East Suffolk Road Extension situated at Winter River, Township No. 34, Queens County, I find as follows: .

- 1863 Lake Map, does not depict a Road leading Winter River South to the Cross Road leading to Mill Cove.
- James Bevan's plan of Lot 34 dated August 8, 1853 depicts a road to the south boundary of Parcel No. 486399. Pencil markings on the plan depict the road continuing north than east connecting to the Mill Cove Road.
- The 1880 Meacham's Atlas depicts a road in the location
- The 1926 Cummins Atlas, depicts a road in the location.
- 1935 through 2000 aerial photography depicts evidence of a road at this location, although it appears to be in non use starting in 1935.
- No conveyance for the road was found.
- Government records indicate that the properties were under lease in the 1850's which would suggest the road was built without any conveyances.
- Physical evidence would suggest that the road is less than 66' in width and appears to have an occupied width of 40'.
- Dabbs Control Surveys have prepared a survey drawing 170501. This plan demarcates the boundaries of the East Suffolk Road as a 40' wide public right of way.
- Historical deeds in the late 1800's to adjoining properties make reference to the road as a boundary.

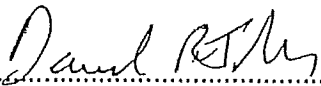
ROW
O' Donnell
How maintenance
has been requested
complete / enclosed
work on an
ess. ROW
to ST

Based on the foregoing facts it is my opinion that the the East Suffolk Road (Ext) located at Winter River is an unclassified Public Right of Way and would be considered a non-essential road. The right of way width appears to be 40' in width. The extents of the right of way would have to be confirmed through a legal boundary survey.

East Suffolk Road (Ext) meets the statutory requirements of a government right of way, pursuant to Section 2, and Section 4(2) of the Roads Act., R.S.P.E.I. 1988, Cap 15.

I trust your find the foregoing satisfactory.

Certified Correct



.....
David R.J. Morris, P.Eng., P.E.I.L.S., C.L.S.
Chief Surveyor

Owner Name:
Location:

EAST SUFFOLK ROAD EXPANSION
(NON-ESSENTIAL ROAD (40' WIDTH))



EAST SUFFOLK
ROAD (PUBLIC
ROAD) DEEMED
NON-ESSENTIAL



PROVINCE OF PEI DEPARTMENT OF
PROVINCIAL TREASURY
GEOMATICS INFORMATION CENTRE
11 KENT ST. CHARLOTTETOWN
PEI C1A 7N3

PHONE: 902-368-5167
FAX: 902-368-5255

WHILE THIS MAP MAY NOT BE FREE
FROM ERROR OR OMISSION, CARE HAS
BEEN TAKEN TO ENSURE THE BEST
POSSIBLE QUALITY. THIS MAP IS A
GRAPHICAL REPRESENTATION, IT IS NOT
INTENDED TO BE USED TO CALCULATE
EXACT DIMENSIONS OR AREAS.

SCALE: 1:14896
DATE: Mar 9, 2011
TIME: 12:29:12 PM
AVERAGE: 0.92
WORK UNIT: 2888

RI 132012
LOCAL CLASS 3 (0.2KM)

RI 132012
SEASONAL (0.4KM)

Roadfile No.: R529743	Sub File: R02	Vendor No: 156282	Client Type: CR - Client Request
MILLCOVE		Highway Project Name: EAST SUFFOLK ROAD EXT.	
HUGHES JOHN B.			

Assignment No: 11/078	Cross Ref: R529743-R01	Hard File: N
Category: ROADS	Admin Fee: \$0.00	Completed: YES
Location: MILLCOVE		
Type: ROAD STATUS		
Result: STATUS DETERMINED		
Date Received: 20 DEC 2010	Agent Assigned: Garnet Taylor	
Date Completed: 05 MAR 2014	Central Storage No:	

Notes: Mr. Mullally on behalf of his clients - owners of parcel 529743, wish to know the status of the road to their property.

Status of East Suffolk Road Extension determined. Non-essential and approximately 40' in width

Tasks: [More...](#)

Historical: [More...](#)

Photos: [More...](#)

Documents: [more...](#)

Trans Id: 22558

TAB 3

Wayne Tremblay - Re: East Suffolk Ext

From: Wayne Tremblay
To: Sabapathy, Jaycee
Date: 9/26/2018 10:08 AM
Subject: Re: East Suffolk Ext

Hi Jaycee,

If the portion of the road is not mentioned in HARs, then that portion of the road is considered to be non-essential.

On a non-essential road, maintenance would be at the discretion of the Department, with the most likely situation being little to no maintenance. This portion of the road would not be plowed in the winter. As far as entrance permits go, you would need to talk to Alan Aitken who looks after Traffic Operations. Alan would also be able to answer any other questions you may have about HARs.

For electrical, the only issue I could see is Maritime Electric asking us how wide the road is so they can ensure that they place any new poles along the road boundary. In this case, this upper portion of the road is only 40' wide, so they would be able to place their poles 20' from centre-line of the road.

Regards,
Wayne

>>> Jaycee Sabapathy <jaycee.sabapathy@outlook.com> 9/26/2018 9:33 AM >>>
Hi Wayne,

I have a couple of follow-up questions for you. You mentioned there wasn't any information in your file regarding the classification of the East Suffolk Ext road. In trying to figure this out I referenced the Highway Access Regulations. From my limited understanding it seems that a portion of this road falls under Local (Class 2) highways, a portion falls under Local (Class 3) highways and then the last portion of the road, outside of lot 529461 (see attached map), is not designated in the Act.

How do I find out if East Suffolk Ext is a seasonal or non-essential road? Particularly outside of lot 529461?

What are the implications of having a lot on a non-essential road, in terms of services and maintenance, putting up electrical, entrance permit etc?

Thank you for your help,
Jaycee

From: Jaycee Sabapathy
Sent: September 25, 2018 4:57 PM
To: Wayne Tremblay
Subject: RE: East Suffolk Ext

Thanks Wayne.

From: Wayne Tremblay [wltremblay@gov.pe.ca]
Sent: Tuesday, September 25, 2018 7:58 AM
To: Jaycee Sabapathy <jaycee.sabapathy@outlook.com>
Subject: Re: East Suffolk Ext

Hi Jaycee,

Correct, the road is public up to the northern boundary of PID 529461/southern boundary of PID 486399. The road in the red circled area is considered to be only 40' wide.

Wayne

>>> Jaycee Sabapathy <jaycee.sabapathy@outlook.com> 9/24/2018 9:59 PM >>>
Hi Wayne,

We spoke the other day regarding East Suffolk Ext. I thought it would be best to send a map just for confirmation which part of the road I was speaking to. To confirm, the road circled in the attached, up to and inclusive of the north boundary of PID 529461 is a public road. Correct?

Thanks again for your time,
Jaycee

Statement of Confidentiality

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TAB 4



Communities, Land and Environment

Application for Development (Building) Pursuant to the Planning Act

Type of development:

PAID

- Checkboxes for development types: New development / building, Addition, Mobile home, Mini home, Change in location of a building or structure, Change in the use of a building

APR 18 2019 Amount 137.50 Receipt # 3730

Fee schedule table with columns for description and amount. Total Fees = 137.50

Please Note: Personal information on this form is collected under section 31 (c) of the Freedom of Information and Protection of Privacy Act R.S.P.E.I. 1988, c. F-15.01...

1. Property Information

Property Tax No. 529461, Location (Geoline) Map #: 11L067C1, Property Owner's Name: Robin Lee Watt; Lindsay Ellen Coode Watt, Community Name: Suffolk, East Suffolk Road, Street Name: PID: 529461, Civic Address: Route No., Width of the Property: 340 feet, Depth of the Property: 985 feet, Existing Use of the Land: Vacant, Subdivision Lot Number (if applicable):

Is property identified under the PEI Lands Protection Act: Yes No

If yes, it is the applicant's responsibility to contact the Island Regulatory and Appeals Commission (IRAC) regarding the subdivision of identified properties...

2. Applicant Information

Applicant Name: David and Jaycee Sabapathy, Mailing Address: Unit 206, 4 Prince Street, Postal Code: C1A 4P5, Phone (H): 902-367-0055, Phone (W): 902-940-7850, Fax: Cell, Email: david.sabapathy@outlook.com

3. Development / Building Permit Information

What is the present use of the building: Vacant land.

The proposed use of the new or existing structure is:

- Checkboxes for proposed use: Single family dwelling, Duplex, Summer cottage, Rental cottage, Mini home, Mobile home, Non-commercial garage, Non-commercial storage building, Commercial, Storage building, Agriculture, Institutional, Industrial, Multiple, Windmill

If not listed above, what is the proposed use of the new building, structure, or addition?

CSSA-2018-095

The new building, structure, or addition will consist of:

Number of stories: 1, Number of bedrooms: 2, Main Building: First floor 20 Ft. X 20 Ft. = 400 Sq. Ft, Second floor, Total area of the main building 400 Sq. Ft.

Accessory building: Ft. X Ft. = Sq. Ft

Type of foundation: Slab, Type of roof material: Asphalt/Wood, Exterior wall finish: Composite/Wood

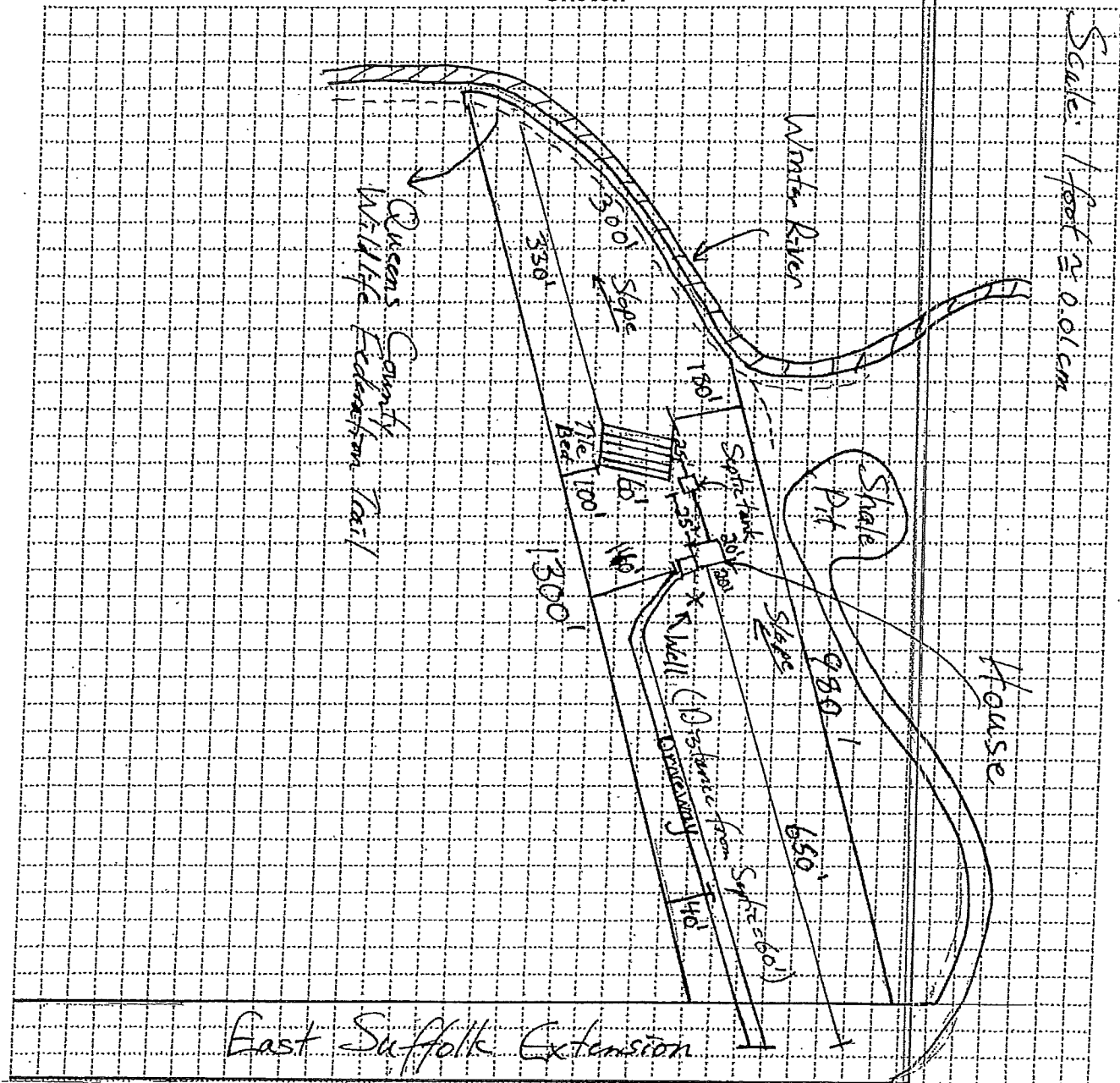
Development (Building) Application Sketch


Pursuant to the *Planning Act*

Note: This sketch is required as part of the Development Application. The information below must be checked, where applicable, and shown to scale in the sketch provide.


- | | |
|--|---|
| <input type="checkbox"/> Show property boundaries and dimensions
<input type="checkbox"/> All structures including exterior dimensions
<input type="checkbox"/> Distance of structures from centre of roads
<input type="checkbox"/> Location of driveway from the centre to the nearest property boundary
<input type="checkbox"/> Location of well, septic tank, and field tile and show distances from structures | <input type="checkbox"/> Show roads
<input type="checkbox"/> Setback from side and rear yard property lines
<input type="checkbox"/> Distance from watercourse, top of bank, and sand dune
<input type="checkbox"/> Natural slope of the land
<input type="checkbox"/> Separation distance between well and septic system |
|--|---|

Sketch



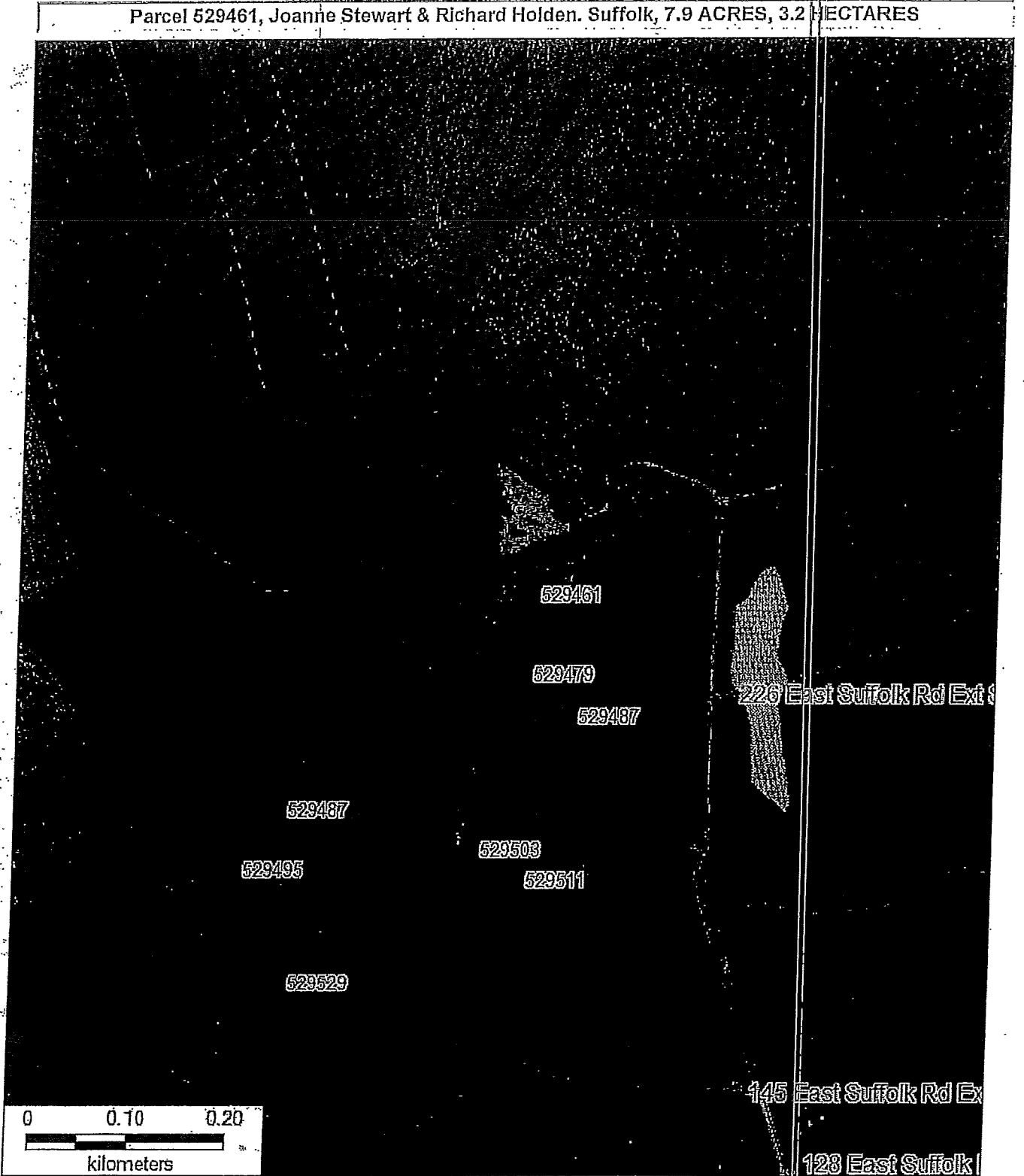

 Property Owner's Signature or Designate

Apr 18, 2019
 Date

 <p>COMMISSION DE RÉGLEMENTATION ET D'APPELS DE L'ÎLE THE ISLAND REGULATORY AND APPEALS COMMISSION Prince Edward Island Île-du-Prince-Édouard CANADA</p>	<p>Click to return to Main Page</p>
<p>Identified Land Search Results</p>	
<p><small>WARNING! The Land Information System databank is based on information filed as part of applications made under the Lands Protection Act. The Commission does not warrant the accuracy of the information. Without limiting the generality of the foregoing, certain information may have changed after processing the applications including, in some cases, the assignment of new parcel numbers to identified land. The new parcel numbers are not necessarily contained in the databank. The databank does not include parcels that were identified prior to 1979.</small></p>	
<p>Questions? Email us by clicking here.</p>	
<p>Please enter parcel number (you must enter 6 or 7 digits): 529461 <input type="button" value="Search"/></p>	
<p>No records found!</p>	

PEI Department of Agriculture & Forestry

Parcel 529461, Joanne Stewart & Richard Holden. Suffolk, 7.9 ACRES, 3.2 HECTARES



Produced by the Prince Edward Island Department of Agriculture & Forestry. This map is a graphic representation and is not intended to be used for legal description or to calculate exact dimensions.

TAB 5

From: Shawn MacFarlane
To: Kevin Campbell
Date: 5/1/2019 11:40 AM
Subject: Re: PID 529461 - East Suffolk Road Ext. - Road Status

Hey Kevin,

Just wondering if you had a chance to check on the status of this road.

Thanks

>>> Kevin Campbell 4/24/2019 9:12 AM >>>
I'll check on the status and get back to you

>>> Shawn MacFarlane 4/23/2019 3:35 PM >>>
Hey Kevin,

I have an application for a development on PID 529461 and before I proceed I wanted to check on the status of the road (East Suffolk Road Ext.) along the frontage of this property. Is it being reviewed? Does the applicant require an entrance way permit?

Let me know.

Thank you very much and have a great day.

Regards,

Shawn MacFarlane
Safety Standards Officer
Land Division
Communities, Land, & Environment
(902) 569-0573
smacfarlane@gov.pe.ca

TAB 6

From: Shawn MacFarlane
To: Sharon Slauenwhite
CC: Eugene Lloyd
Date: 5/14/2019 2:00 PM
Subject: Re: Development and Maintenance Agreements - Non-Essential Road
Attachments: Case-55737.pdf; C-2019-0111.pdf

Hey Sharon,

I have attached both applications for your review. As for the meeting, I cannot speak for Eugene but I am available both Thursday and Friday next week.

Let us know.

Thanks and have a great day.

Regards,

Shawn MacFarlane
Safety Standards Officer
Land Division
Communities, Land, & Environment
(902) 569-0573
smacfarlane@gov.pe.ca

>>> Sharon Slauenwhite 5/14/2019 1:21 PM >>>
Hi Eugene,

We'll check our records to get some details those two roads to confirm the specifics of their classifications and identify what sections are nonessential.

If you or Shawn could please provide copies of the two subdivision applications, that would be helpful, so that we have an idea of the areas being proposed for development.

Then I can assign an agent to the requests and we'll get together for a meeting, maybe next week, if that works for you?
Sharon

>>> Eugene Lloyd 5/13/2019 1:40 PM >>>
Please review the email below; we need to start the D&M agreement process for at least two files we have currently in process. Let me know if you'd like to meet on these.

Thank you

Eugene M. Lloyd, CET
Senior Development Officer
Inspection Services Section
Department of Communities, Land & Environment
31 Gordon Drive
Phone: (902) 368-4465
Fax: (902) 368-5526
Email: emlloyd@gov.pe.ca

>>> Shawn MacFarlane 5/13/2019 1:36 PM >>>

Hey Eugene,

I currently have two applications that require development and maintenance agreements. One is a development application on the East Suffolk Road Ext. (PID 529461) and the other is a subdivision application with frontage on the New Orleans Road (PID 234625). Could you please forward this email along to the right people so we can get this process started.

Thank you very much and have a great day.

Regards,

Shawn MacFarlane
Safety Standards Officer
Land Division
Communities, Land, & Environment
(902) 569-0573
smacfarlane@gov.pe.ca

TAB 7

From: Shawn MacFarlane
To: cmcraswell@gov.pe.ca
CC: Eugene Lloyd
Date: 6/7/2019 12:54 PM
Subject: Fw: Fwd: Re: Fw: Building Permit Application for Sabapathy, PID
Attachments: Re: Development and Maintenance Agreements - Non-Essential Road; Re: PID 529461 - East Suffolk Road Ext. - Road Status

Hey Carol,

I have been the officer reviewing the building application for the Sabapathys. I first made contact with K.Campbell April 23, 2019 asking about the class of the road. I received confirmation from him May 02, 2019 that the road was non-essential. We sent an email to S.Slaunwhite on May 13, 2019 asking if she could look into this road status for us and if necessary, begin the process required to get a development and maintenance agreement.

I have attached all correspondence below and if you have any other questions let me know.

Thank you very much and have a great day.

Regards,

Shawn MacFarlane
 Safety Standards Officer
 Land Division
 Communities, Land, & Environment
 (902) 569-0573
 smacfarlane@gov.pe.ca

>>> Eugene Lloyd <emlloyd@gov.pe.ca> 6/7/2019 12:11 PM >>>

Sent from my BlackBerry - the most secure mobile device - via the TELUS Network

Original Message

From: cmcraswell@gov.pe.ca
 Sent: June 7, 2019 12:10 PM
 To: EMLLOYD@gov.pe.ca
 Subject: Fwd: Re: Fw: Building Permit Application for Sabapathy, PID 529461, Suffolk

Hi Eugene....I will get someone to check into this and get back to you.....was there contact made to TIE on this already....if so when and to who.....maybe there is already a file going on this....Carol

>>> Eugene Lloyd 6/7/2019 11:47 AM >>>
 Good morning,

We've been trying to gather some information for these clients for a few weeks now and I think they're getting a bit anxious. The lot they are looking to buy appears to front on a non-essential road. They would like to know if and how this can become a Seasonal Road and if not, what are all the steps needed and some information on accessing a non-essential road with a Development and Maintenance Agreement.

Is this anything you may be able to assist them with or should we just wait for Sharon to get back?

Thank you.

I am not sure if any action was started on this request.

Eugene M. Lloyd, CET
Senior Development Officer
Inspection Services Section
Department of Communities, Land & Environment
31 Gordon Drive
Phone: (902) 368-4465
Fax: (902) 368-5526
Email: emlloyd@gov.pe.ca

>>> Jaycee Sabapathy <jaycee.sabapathy@outlook.com> 6/7/2019 11:40 AM >>>
Hi Shawn,

Wanted to discuss next steps on our building permit application. We're now 7 weeks post our application submission and the closing date for our property is coming up in a week.

I haven't heard anything back from transportation. I tried to connect with someone again today and Alan is out of the office today and Sharon is out of province until Jun 17.

We will need to contact our lawyer on Monday (Jun 10) regarding how we proceed with the vendor. But in order to have that conversation we need information on where things are at with the road status and how long it will take until a decision is made.

If there's anything yourself and Eugene can do to help get this information from transportation for Monday we would appreciate it.

Thank you, you can reach me on my cell phone at 902-940-7279 to discuss,
Jaycee

From: Shawn MacFarlane <smacfarlane@gov.pe.ca>
Sent: June 3, 2019 9:21 AM
To: Jaycee Sabapathy
Subject: Re: Fw: Building Permit Application for Sabapathy

Hey Jaycee,

I will contact you between 10:30 and 11:00am this morning so we can discuss your application.

Regards,

Shawn MacFarlane

>>> Jaycee Sabapathy <jaycee.sabapathy@outlook.com> 6/3/2019 9:17 AM >>>
Hi Shawn,

David is tied up in meetings most of today. Wondering if you'd be able to call me on my cell phone at 902-940-7279 between 10:30-11:00am or after 12:00pm today.

Thank you,
Jaycee

From: Jaycee Sabapathy <jaycee.sabapathy@outlook.com>
Sent: May 26, 2019 5:20 PM
To: Shawn MacFarlane
Cc: David Sabapathy
Subject: Re: Fw: Building Permit Application for Sabapathy
Thanks Shawn for letting us know.

Since we last connected we noticed the Highway Access Regulations, Part VIII - Non-Essential Highways, section 36 indicates "The Minister shall not issue an entrance way permit to authorize placement of a new entrance way or a change of use of an existing entrance way to a non-essential highway."

We hope the classification of the road will be changed but in the event it remains a non-essential road, we need to have a clear answer from transportation if there's any way an entrance way can be granted for this property.

Our offer is conditional on getting an entrance way permit and a building permit secured by the middle of June so we hope to get an answer on this soon.

Thanks for your help with this,
Jaycee

From: Shawn MacFarlane <smacfarlane@gov.pe.ca>
Sent: May 24, 2019 12:19 PM
To: Jaycee Sabapathy
Subject: Re: Fw: Building Permit Application for Sabapathy

Hey Jaycee,

Unfortunately, our meeting with transportation was postponed. I am currently in the process of finalizing a new time for us to discuss this matter and any next steps with transportation. I will be in contact as soon as the new meeting is completed.

Thanks and have a great day.

Regards,

Shawn

>>> Jaycee Sabapathy <jaycee.sabapathy@outlook.com> 5/24/2019 12:15 PM >>>

Hi Shawn,

Wanted to touch base with you regarding the meeting with transportation this week. David and I have a window between 1:15-2:00pm today if you'd be free for a call. Alternately, I'm free from right until 5:00pm.

Thanks,
Jaycee

From: Shawn MacFarlane <smacfarlane@gov.pe.ca>
Sent: May 16, 2019 1:37 PM
To: Jaycee Sabapathy
Subject: Re: Fw: Building Permit Application for Sabapathy

That answer should come up during the review that transportation is doing on the road. My best guess is that the owners of the shale pit are grading the road each spring to gain access to the pit.

I will let you know if I find anything out about this during our meeting.

Thanks and have a great day.

Regards,

Shawn MacFarlane
Safety Standards Officer
Land Division
Communities, Land, & Environment
(902) 569-0573
smacfarlane@gov.pe.ca

>>> Jaycee Sabapathy <jaycee.sabapathy@outlook.com> 5/16/2019 1:31 PM >>>

Thanks Shawn for the call.

Another thought came to mind. We've noticed each spring someone grades the road all the way to the end to remove the deep ruts in the mud that form over winter. We're not sure who has provided this service.

Thanks,

Jaycee

From: Shawn MacFarlane <smacfarlane@gov.pe.ca>
Sent: May 15, 2019 3:16 PM
To: Jaycee Sabapathy
Cc: David Sabapathy
Subject: Re: Fw: Building Permit Application for Sabapathy

Hey Jaycee,

I would happy to answer any questions you may have, as well as provide you with an update on your application. I am available tomorrow between 12-2pm for a phone call or a meeting. Just let me know. My phone number here in the office is 902-569-0573.

Thanks and have a great day.

Regards,

Shawn MacFarlane
Safety Standards Officer
Land Division
Communities, Land, & Environment
(902) 569-0573
smacfarlane@gov.pe.ca

>>> Jaycee Sabapathy <jaycee.sabapathy@outlook.com> 5/15/2019 2:09 PM >>>

Hi Shawn,

Wondering if we could give you a quick call sometime this week to ask a couple more questions regarding the non-essential road our property sits on.

Wondering if you have availability tomorrow between 12:00-2:00pm or 3:00-4:30pm or Friday 8:00-9:00am or 11:00am-2:00pm.

Thanks,
Jaycee

From: Shawn MacFarlane <smacfarlane@gov.pe.ca>
Sent: April 29, 2019 9:29 AM
To: Jaycee Sabapathy
Cc: David Sabapathy
Subject: Re: Fw: Building Permit Application for Sabapathy

Hey Jaycee,

I was in contact with transportation early last week asking for an update on the status of the East Suffolk Road Ext. in front of the proposed development. They are currently reviewing the application and road status and will be getting back to me. If I do not hear anything from them in the next few days I will follow up. I will let you guys know as soon as I hear anything.

Let me know if you have any more questions.

Thanks and have a great day.

Regards,

Shawn MacFarlane

Safety Standards Officer

Land Division

Communities, Land, & Environment

(902) 569-0573

smacfarlane@gov.pe.ca

>>> Jaycee Sabapathy <jaycee.sabapathy@outlook.com> 4/29/2019 7:10 AM >>>

Good morning Shawn,

I wanted to touch base and see if you've heard anything from transportation regarding the road status and access for our building permit application.

Thank you,

Jaycee

From: Lee Watt <leewatt100@gmail.com>

TAB 8

Jaycee 940-7279

Have Sharon G.

Check on Sharon S.

Rest Monday to

See if there has been

anything started on

this

✓

June 10/19

Called Wayne T.

- Sharon did not request Road status.
- Clients called Wayne about age of old shale pit. Wayne looked at Air photos to make a best guess.
- called A's not answer.

Not Plowed or graded

Carl Moynaux

400' beyond

end of seasonal

Seasonal 1372' ±

From end of A

Pave or 0.4 Km

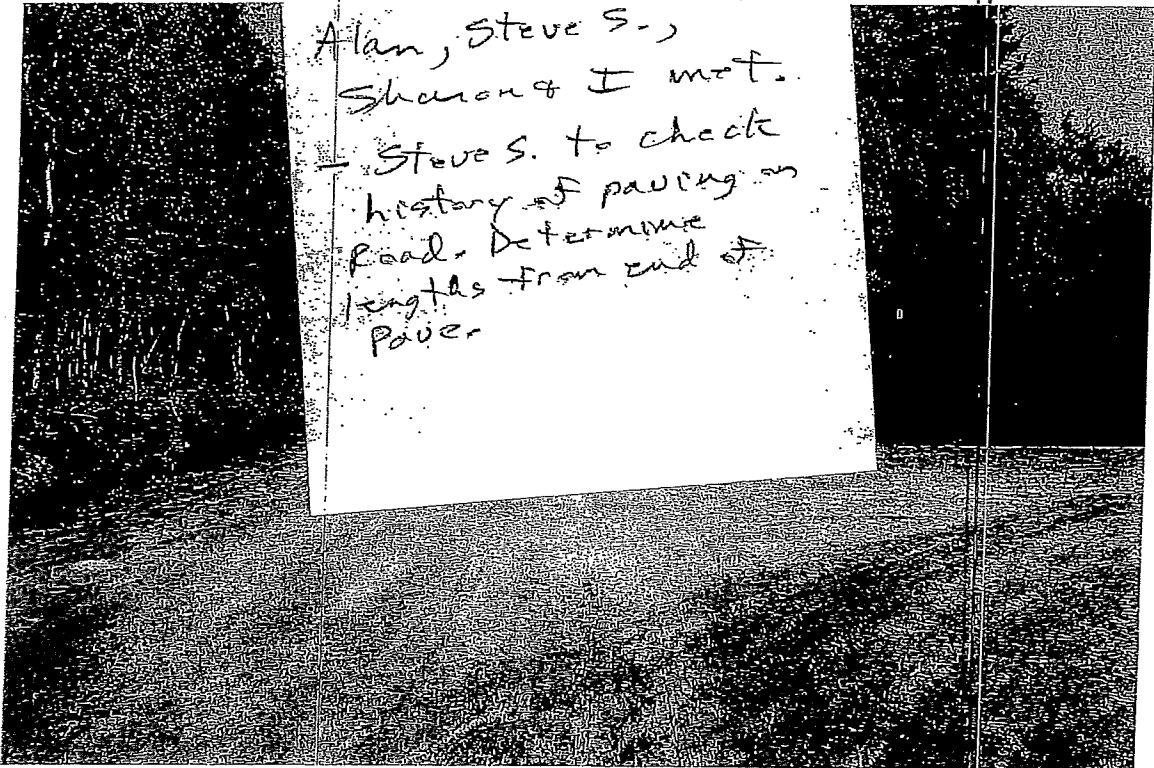
TAB 9

6/17/19



Feb 3/20

Alan, Steve S.,
Sharon & I met.
Steve S. to check
history of paving on
road. Determine
lengths from end of
paver





TAB 10

Alan Aitken - RE: Re: Development & Maintenance Agreement for PID 529461

From: Jaycee Sabapathy <jaycee.sabapathy@outlook.com>
To: Garnet Taylor <getaylor@gov.pe.ca>
Date: 6/17/2019 12:23 PM
Subject: RE: Re: Development & Maintenance Agreement for PID 529461
CC: Alan Aitken <AAAITKEN@gov.pe.ca>, Carol Craswell <CMCRASWELL@gov.pe.ca>,...

Thanks Garnet, we will take a look through this and get back to you with any questions. In the meantime, I'd like to outline the next steps as I understand them from our last conversation. Please let me know if this is correct or if there are any steps missing in our work with the Transportation Department:

- 1) Kevin goes out to our parcel (529461) to assess safe access before we pay for a surveyor to survey the road
- 2) We pay to get the road surveyed and provide that survey to yourself (Properties section in Transportation)
- 3) Transportation will provide us with a Development and Maintenance Agreement specific to our parcel of land
- 4) We sign the Development and Maintenance Agreement and provide this back to Eugene and Shawn at the Planning Office (Gordon Drive)

Road Classification Status:

Earlier in the process, we were told someone from Transportation was reviewing the non-essential road in front of the parcel (PID 529461) to determine if the class of the road should remain non-essential or be changed. Essentially, to determine if it was out of date with the HARs. We were told someone had done a site visit and begun this assessment and that it may be possible, given the rest of the dirt road is already classified as seasonal.

We are wondering if **anyone cc'd on this email** can provide clarification on this:

- Was there a site visit and was this assessment started?
- Should the road classification be changed to seasonal to align with the rest of the dirt road on East Suffolk Extension where there's already an existing year-round property?

Thank you,
 Jaycee

From: Garnet Taylor [getaylor@gov.pe.ca]
Sent: Tuesday, June 11, 2019 12:06 PM
To: jaycee.sabapathy@outlook.com
Cc: Alan Aitken <AAAITKEN@gov.pe.ca>; Carol Craswell <CMCRASWELL@gov.pe.ca>; Eugene Lloyd <EMLLOYD@gov.pe.ca>; Shawn MacFarlane <smacfarlane@gov.pe.ca>; Sharon Slauenwhite <SNSLAUENWHITE@gov.pe.ca>
Subject: Fwd: Re: Development & Maintenance Agreement for PID 529461

Sorry forgot attachment.

>>> Garnet Taylor 6/11/2019 12:01 PM >>>
 Morning Jaycee,

As requested yesterday, please find attached a blank PDF of our Development & Maintenance Agreement. Please review and advise if you have any questions or concerns.

Thanks,
 Garnet

Garnet E. Taylor, SR/WA
 Property Agent
 Land and Environment Division - Properties Section

Department of Transportation, Infrastructure and Energy

Phone 902-368-5142

Fax 902-368-5395

E-mail getaylor@gov.pe.ca

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TAB 11

Garnet Taylor - East Suffolk Road Ext. PID 529461

From: Garnet Taylor
To: Paul Strain; Stephen Pigott
Date: 6/19/2019 1:33 PM
Subject: East Suffolk Road Ext. PID 529461
CC: Kevin Campbell
Attachments: DSC08115.JPG; DSC08117.JPG; DSC08119.JPG; PID 529461.jpg

Hi Stephen and Paul,

David and Jaycee Sabapathy are in the process of buying PID 529461, being approx. 7.7 acres at the end of the East Suffolk Road Ext.

Road is classified as Seasonal from end of pavement in approx. 0.40 km or 1312'.

Clients are looking for Dev. & Maint. Agreement for a 400' +/- section of this 40' Non Essential Road.

Can you Stephen provide your determination if you have any objection to TIE entering into a D&M Agreement with the clients on a 400' portion of this road.

Can you Paul determine if there are any Environmental concerns with this proposed use of this Non Essential Road for approx. 400' +/-.

Kevin Campbell has already determined there are no concerns for SSD.

See attached pics of Non Essential portion and map showing Parcel.

Thanks,
Garnet

TAB 12

Garnet Taylor - Re: Development & Maintenance Agreement for PID 529461

From: Garnet Taylor
To: Jaycee Sabapathy
Date: 6/19/2019 1:44 PM
Subject: Re: Development & Maintenance Agreement for PID 529461

Hi Jaycee,

Visited site this morning and did my inspection. No concerns.
Kevin also visited site and had no concerns with sight distance along entire parcel.

I have now requested TIE Environment Section, and TIE Capital Projects Division, Regional Engineer, assess this portion of this nonessential road.

I will keep you posted on the progress of this file.

Thanks,
Garnet

>>> Jaycee Sabapathy <jaycee.sabapathy@outlook.com> 6/17/2019 12:24 PM >>>
Good morning Garnet,

I wanted to follow-up on the email below to confirm timing and next steps.

Thank you,
Jaycee

From: Jaycee Sabapathy
Sent: June 12, 2019 9:17 AM
To: Garnet Taylor
Cc: David Sabapathy
Subject: RE: Development & Maintenance Agreement for PID 529461

Thanks Garnet for the information.

You mentioned yesterday that the first step is to get Kevin out to the parcel to determine if safe access is possible before we hire a surveyor. Our closing date is coming up very soon so we were wondering the earliest Kevin can go out to do the assessment?

Attached is a map of the property, PID 529461. We'd like to request Kevin assess the entire East Suffolk Extension road frontage of the parcel as highlighted with a yellow line on the attached map (east side of the parcel) and not limit the assessment to one specific spot for an entrance way on the parcel. Reason being that the location of our driveway is likely to change as we make changes to our building plans in the future. We were told this shouldn't be a problem so please confirm if this is doable.

Thank you for your help,
Jaycee

From: Garnet Taylor [getaylor@gov.pe.ca]
Sent: Tuesday, June 11, 2019 12:02 PM
To: jaycee.sabapathy@outlook.com
Cc: Alan Aitken <AAAITKEN@gov.pe.ca>; Carol Craswell <CMCRASWELL@gov.pe.ca>; Eugene Lloyd <EMLLOYD@gov.pe.ca>; Shawn MacFarlane <smacfarlane@gov.pe.ca>; Sharon Slauenwhite <SNSLAUENWHITE@gov.pe.ca>
Subject: Re: Development & Maintenance Agreement for PID 529461

Morning Jaycee,

As requested yesterday, please find attached a blank PDF of our Development & Maintenance Agreement. Please review and advise if you have any questions or concerns.

Thanks,
Garnet

Garnet E. Taylor, SR/WA
Property Agent
Land and Environment Division - Properties Section
Department of Transportation, Infrastructure and Energy
Phone [902-368-5142](tel:902-368-5142)
Fax [902-368-5395](tel:902-368-5395)
E-mail getaylor@gov.pe.ca

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TAB 13

Garnet Taylor - RE: Development & Maintenance Agreement for PID 529461

From: Paul Strain
To: Taylor, Garnet
Date: 6/25/2019 9:16 AM
Subject: RE: Development & Maintenance Agreement for PID 529461

Hj Garnet

Our concerns with classification changes to non essential roads pertains to use and maintenance. The East Suffolk Road is in an environmentally sensitive area and has been the subject of numerous complaints in the past from residents and the Winter River Watershed Group. Any development and change in maintenance regime will have implications for our Department to install and maintain additional environmental controls. We will also assume environmental liability for any environmental damage.

Thanks
Paul

>>> Garnet Taylor 6/25/2019 8:24 AM >>>
Morning Jaycee,

As part of the requirements for a Development & Maintenance Agreement for PID 529461, I am working my way through all the requirements for this Agreement to be processed.

In regard to question 1 below, Kevin Campbell had no concerns with sight distance along the entire parcel. I have cc'd Inspection Services in on this e-mail.

In regard to question 2 below, TIE Environment and Capital Projects are doing their required assessment as it pertains to the Development & Maintenance Agreement only. There are no plans at this time, to have this portion of the road re-classified from Non-essential to Seasonal.

Please let me know if you require any further clarification on this matter.

Thanks,
Garnet

>>> Jaycee Sabapathy <jaycee.sabapathy@outlook.com> 6/24/2019 8:53 PM >>>

Thank you Garnet for the information. Two follow-up questions for you:

- 1) Will the information regarding the safe site access be passed along to the Planning Office or is there any documentation we will receive regarding this outside of this email?
- 2) What will the TIE Environment Section and the TIE Capital Projects Division be assessing? Are they performing an assessment to determine if the classification of the road should be changed from non-essential to seasonal?

Thank you,
Jaycee

From: Garnet Taylor [getaylor@gov.pe.ca]
Sent: Wednesday, June 19, 2019 1:45 PM

To: Jaycee Sabapathy <jaycee.sabapathy@outlook.com>
Subject: Re: Development & Maintenance Agreement for PID 529461

Hi Jaycee,

Visited site this morning and did my inspection. No concerns.
Kevin also visited site and had no concerns with sight distance along entire parcel.

I have now requested TIE Environment Section, and TIE Capital Projects Division, Regional Engineer, assess this portion of this nonessential road.

I will keep you posted on the progress of this file.

Thanks,
Garnet

>>> Jaycee Sabapathy <jaycee.sabapathy@outlook.com> 6/17/2019 12:24 PM >>>
Good morning Garnet,

I wanted to follow-up on the email below to confirm timing and next steps.

Thank you,
Jaycee

From: Jaycee Sabapathy
Sent: June 12, 2019 9:17 AM
To: Garnet Taylor
Cc: David Sabapathy
Subject: RE: Development & Maintenance Agreement for PID 529461

Thanks Garnet for the information.

You mentioned yesterday that the first step is to get Kevin out to the parcel to determine if safe access is possible before we hire a surveyor. Our closing date is coming up very soon so we were wondering the earliest Kevin can go out to do the assessment?

Attached is a map of the property, PID 529461. We'd like to request Kevin assess the entire East Suffolk Extension road frontage of the parcel as highlighted with a yellow line on the attached map (east side of the parcel) and not limit the assessment to one specific spot for an entrance way on the parcel. Reason being that the location of our driveway is likely to change as we make changes to our building plans in the future. We were told this shouldn't be a problem so please confirm if this is doable.

Thank you for your help,
Jaycee

From: Garnet Taylor [mailto:getaylor@gov.pe.ca]
Sent: Tuesday, June 11, 2019 12:02 PM
To: jaycee.sabapathy@outlook.com
Cc: Alan Aitken <AAAITKEN@gov.pe.ca>; Carol Craswell <CMCRASWELL@gov.pe.ca>; Eugene Lloyd <EMLLOYD@gov.pe.ca>; Shawn MacFarlane <smacfarlane@gov.pe.ca>; Sharon Slauenwhite <SNSLAUENWHITE@gov.pe.ca>

Subject: Re: Development & Maintenance Agreement for PID 529461

Morning Jaycee,

As requested yesterday, please find attached a blank PDF of our Development & Maintenance Agreement. Please review and advise if you have any questions or concerns.

Thanks,
Garnet

Garnet E. Taylor, SR/WA
Property Agent
Land and Environment Division - Properties Section
Department of Transportation, Infrastructure and Energy
Phone 902-368-5142
Fax 902-368-5395
E-mail getaylor@gov.pe.ca

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TAB 14

Garnet Taylor - RE: Development & Maintenance Agreement for PID 529461

From: Paul Strain
To: Taylor, Garnet
Date: 6/25/2019 10:00 AM
Subject: RE: Development & Maintenance Agreement for PID 529461

Hi Garnet

The Environment Section is ok with a Maintenance and Development Agreement but will have conditions with regards to environmental controls that may be required.

Paul

>>> Garnet Taylor 6/25/2019 8:24 AM >>>

Morning Jaycee,

As part of the requirements for a Development & Maintenance Agreement for PID 529461, I am working my way through all the requirements for this Agreement to be processed.

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- 1) Will the information regarding the safe site access be passed along to the Planning Office or is there any documentation we will receive regarding this outside of this email?
- 2) What will the TIE Environment Section and the TIE Capital Projects Division be assessing? Are they performing an assessment to determine if the classification of the road should be changed from non-essential to seasonal?

Thank you,
Jaycee

From: Garnet Taylor [getaylor@gov.pe.ca]
Sent: Wednesday, June 19, 2019 1:45 PM
To: Jaycee Sabapathy <jaycee.sabapathy@outlook.com>
Subject: Re: Development & Maintenance Agreement for PID 529461

Hi Jaycee,

Visited site this morning and did my inspection. No concerns.
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I will keep you posted on the progress of this file.

Thanks,
Garnet

>>> Jaycee Sabapathy <jaycee.sabapathy@outlook.com> 6/17/2019 12:24 PM >>>
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Thank you,
Jaycee

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Sent: June 12, 2019 9:17 AM
To: Garnet Taylor
Cc: David Sabapathy
Subject: RE: Development & Maintenance Agreement for PID 529461

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We were told this shouldn't be a problem so please confirm if this is doable.

Thank you for your help,
Jaycee

From: Garnet Taylor [<mailto:getaylor@gov.pe.ca>]
Sent: Tuesday, June 11, 2019 12:02 PM
To: jaycee.sabapathy@outlook.com
Cc: Alan Aitken <AAAITKEN@gov.pe.ca>; Carol Craswell <CMCRASWELL@gov.pe.ca>; Eugene Lloyd <EMLLOYD@gov.pe.ca>; Shawn MacFarlane <smacfarlane@gov.pe.ca>; Sharon Slauenwhite <SNSLAUENWHITE@gov.pe.ca>
Subject: Re: Development & Maintenance Agreement for PID 529461

Morning Jaycee,

As requested yesterday, please find attached a blank PDF of our Development & Maintenance Agreement. Please review and advise if you have any questions or concerns.

Thanks,
Garnet

Garnet E. Taylor, SR/WA
Property Agent
Land and Environment Division - Properties Section
Department of Transportation, Infrastructure and Energy
Phone 902-368-5142
Fax 902-368-5395
E-mail getaylor@gov.pe.ca

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TAB 15

Garnet Taylor - Development and Maintenance Agreement East Suffolk Road Ext.

From: Garnet Taylor
To: Carl Molyneaux
Date: 6/27/2019 8:47 AM
Subject: Development and Maintenance Agreement East Suffolk Road Ext.
Attachments: DSC08115.JPG; DSC08117.JPG; DSC08119.JPG; PID 529461.jpg

Morning Carl,

David and Jaycee Sabapathy are in the process of buying PID 529461, being approx. 7.7 acres at the end of the East Suffolk Road Ext.

Road is classified as Seasonal from end of pavement in approx. 0.40 km or 1312'.

Clients are looking for Dev. & Maint. Agreement for a 400' +/- section of this 40' Non Essential Road.

Can you respond to this e-mail advising if you have any objection to TIE entering into a D&M Agreement with the clients on a 400' portion of this road.

Kevin Campbell has already determined there are no concerns for SSD.

See attached pics of Non Essential portion and map showing Parcel.

Thanks,
Garnet

Garnet E. Taylor, SR/WA
Property Agent
Land and Environment Division - Properties Section
Department of Transportation, Infrastructure and Energy
Phone 902-368-5142
Fax 902-368-5395
E-mail getaylor@gov.pe.ca

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TAB 16

Garnet Taylor - Re: Fw: Development and Maintenance Agreement East Suffolk Road Ext.

From: Stephen Szwarc
To: Garnet Taylor
Date: 6/27/2019 8:59 AM
Subject: Re: Fw: Development and Maintenance Agreement East Suffolk Road Ext.
CC: Carl Molyneaux

Hi Garnet,

We don't see any issues as long as they are made aware that the Maintenance Division will never provide any assistance on the non-essential portion and the seasonal portion will be maintained at it's current condition (no upgrades).

Has the Environment section been consulted on the non-essential section?

Thanks,

Stephen

Sent from my BlackBerry - the most secure mobile device - via the TELUS Network

From: getaylor@gov.pe.ca
Sent: June 27, 2019 8:47 AM
To: cjmolyneaux@gov.pe.ca
Subject: Development and Maintenance Agreement East Suffolk Road Ext.

Morning Carl,

David and Jaycee Sabapathy are in the process of buying PID 529461, being approx. 7.7 acres at the end of the East Suffolk Road Ext.

Road is classified as Seasonal from end of pavement in approx. 0.40 km or 1312'.

Clients are looking for Dev. & Maint. Agreement for a 400' +/- section of this 40' Non Essential Road.

Can you respond to this e-mail advising if you have any objection to TIE entering into a D&M Agreement with the clients on a 400' portion of this road.

Kevin Campbell has already determined there are no concerns for SSD.

See attached pics of Non Essential portion and map showing Parcel.

Thanks,
Garnet

Garnet E. Taylor, SR/WA
Property Agent
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Stephen Szwarc P.Eng.
Acting Director - Highway Maintenance Division
PEI Dept. of Transportation, Infrastructure and Energy
Tel. (902) 368-5103
Fax. (902) 368-6244

TAB 17

Garnet Taylor - Re: Fwd: East Suffolk Road Ext. PID 529461

From: Stephen Piggott
To: Garnet Taylor
Date: 6/27/2019 9:39 AM
Subject: Re: Fwd: East Suffolk Road Ext. PID 529461
CC: Stephen Yeo

Hi Garnet,

Capital projects does not object to this request.

Thanks,

Stephen

>>> Garnet Taylor 6/25/2019 1:27 PM >>>

As requested.

Thanks,
Garnet

>>> Garnet Taylor 6/19/2019 1:33 PM >>>

Hi Stephen and Paul,

David and Jaycee Sabapathy are in the process of buying PID 529461, being approx. 7.7 acres at the end of the East Suffolk Road Ext.

Road is classified as Seasonal from end of pavement in approx. 0.40 km or 1312'.

Clients are looking for Dev. & Maint. Agreement for a 400' +/- section of this 40' Non Essential Road.

Can you Stephen provide your determination if you have any objection to TIE entering into a D&M Agreement with the clients on a 400' portion of this road.

Can you Paul determine if there are any Environmental concerns with this proposed use of this Non Essential Road for approx. 400' +/-.

Kevin Campbell has already determined there are no concerns for SSD.

See attached pics of Non Essential portion and map showing Parcel.

Thanks,
Garnet

649' x 40'
= 2378m²
or
0.58ac

TAB 18

Garnet Taylor - Re: Development & Maintenance Agreement for PID 529461

From: Garnet Taylor
To: Jaycee Sabapathy
Date: 6/28/2019 3:54 PM
Subject: Re: Development & Maintenance Agreement for PID 529461
CC: David Sabapathy

Hi Jaycee,

The Road Status report from 2011 states, *"the East Suffolk Road Ext. located at Winter River is an unclassified Public Right of Way and would be considered a non-essential road. The ROW width appears to be 40' in width"*.

Thanks,
Garnet

>>> Jaycee Sabapathy <jaycee.sabapathy@outlook.com> 6/17/2019 12:24 PM >>>
Good morning Garnet,

I wanted to follow-up on the email below to confirm timing and next steps.

Thank you,
Jaycee

From: Jaycee Sabapathy
Sent: June 12, 2019 9:17 AM
To: Garnet Taylor
Cc: David Sabapathy
Subject: RE: Development & Maintenance Agreement for PID 529461

Thanks Garnet for the information.

You mentioned yesterday that the first step is to get Kevin out to the parcel to determine if safe access is possible before we hire a surveyor. Our closing date is coming up very soon so we were wondering the earliest Kevin can go out to do the assessment?

Attached is a map of the property, PID 529461. We'd like to request Kevin assess the entire East Suffolk Extension road frontage of the parcel as highlighted with a yellow line on the attached map (east side of the parcel) and not limit the assessment to one specific spot for an entrance way on the parcel. Reason being that the location of our driveway is likely to change as we make changes to our building plans in the future. We were told this shouldn't be a problem so please confirm if this is doable.

Thank you for your help,
Jaycee

From: Garnet Taylor [getaylor@gov.pe.ca]
Sent: Tuesday, June 11, 2019 12:02 PM

To: jaycee.sabapathy@outlook.com

Cc: Alan Aitken <AAAITKEN@gov.pe.ca>; Carol Craswell <CMCRASWELL@gov.pe.ca>; Eugene Lloyd <EMLLOYD@gov.pe.ca>; Shawn MacFarlane <smacfarlane@gov.pe.ca>; Sharon Slauenwhite <SNSLAUENWHITE@gov.pe.ca>

Subject: Re: Development & Maintenance Agreement for PID 529461

Morning Jaycee,

As requested yesterday, please find attached a blank PDF of our Development & Maintenance Agreement. Please review and advise if you have any questions or concerns.

Thanks,
Garnet

Garnet E. Taylor, SR/WA
Property Agent
Land and Environment Division - Properties Section
Department of Transportation, Infrastructure and Energy
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TAB 19

Garnet Taylor - RE: Development & Maintenance Agreement for PID 529461

From: Jaycee Sabapathy <jaycee.sabapathy@outlook.com>
To: Garnet Taylor <getaylor@gov.pe.ca>
Date: 7/1/2019 10:12 PM
Subject: RE: Development & Maintenance Agreement for PID 529461
CC: David Sabapathy <david.sabapathy@outlook.com>

Thank you for Garnet for this information. Once you have confirmation to send it to us, we'd like to receive a copy of the 2011 road status report.

Also, regarding road maintenance, we have observed that the road is graded to the end of the East Suffolk Extension, including the portion that is referred to as non-essential. The MacLean's have indicated the province does this grading work. Can you confirm why the road is being graded by the province if it is a non-essential road?

Thank you for your help,
Jaycee

From: Garnet Taylor [getaylor@gov.pe.ca]
Sent: Friday, June 28, 2019 3:55 PM
To: Jaycee Sabapathy <jaycee.sabapathy@outlook.com>
Cc: David Sabapathy <david.sabapathy@outlook.com>
Subject: Re: Development & Maintenance Agreement for PID 529461

Hi Jaycee,

The Road Status report from 2011 states, "*the East Suffolk Road Ext. located at Winter River is an unclassified Public Right of Way and would be considered a non-essential road. The ROW width appears to be 40' in width*".

Thanks,
Garnet

>>> Jaycee Sabapathy <jaycee.sabapathy@outlook.com> 6/17/2019 12:24 PM >>>
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I wanted to follow-up on the email below to confirm timing and next steps.

Thank you,
Jaycee

From: Jaycee Sabapathy
Sent: June 12, 2019 9:17 AM
To: Garnet Taylor
Cc: David Sabapathy
Subject: RE: Development & Maintenance Agreement for PID 529461

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You mentioned yesterday that the first step is to get Kevin out to the parcel to determine if safe access is possible before we hire a surveyor. Our closing date is coming up very soon so we were wondering the earliest Kevin can go out to do the assessment?

Attached is a map of the property, PID 529461. We'd like to request Kevin assess the entire East Suffolk Extension road frontage of the parcel as highlighted with a yellow line on the attached map (east side of the parcel) and not limit the assessment to one specific spot for an entrance way on the parcel. Reason being that the location of our driveway is likely to change as we make changes to our building plans in the future. We were told this shouldn't be a problem so please confirm if this is doable.

Thank you for your help,
Jaycee

From: Garnet Taylor [<mailto:getaylor@gov.pe.ca>]

Sent: Tuesday, June 11, 2019 12:02 PM

To: jaycee.sabapathy@outlook.com

Cc: Alan Aitken <AAAITKEN@gov.pe.ca>; Carol Craswell <CMCRASWELL@gov.pe.ca>; Eugene Lloyd <EMLLOYD@gov.pe.ca>; Shawn MacFarlane <smacfarlane@gov.pe.ca>; Sharon Slauenwhite <SNSLAUENWHITE@gov.pe.ca>

Subject: Re: Development & Maintenance Agreement for PID 529461

Morning Jaycee,

As requested yesterday, please find attached a blank PDF of our Development & Maintenance Agreement. Please review and advise if you have any questions or concerns.

Thanks,
Garnet

Garnet E. Taylor, SR/WA
Property Agent
Land and Environment Division - Properties Section
Department of Transportation, Infrastructure and Energy
Phone [902-368-5142](tel:902-368-5142)
Fax [902-368-5395](tel:902-368-5395)
E-mail getaylor@gov.pe.ca

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TAB 20

Garnet Taylor - RE: Development & Maintenance Agreement for PID 529461

From: Jaycee Sabapathy <jaycee.sabapathy@outlook.com>
To: Garnet Taylor <getaylor@gov.pe.ca>
Date: 7/1/2019 10:12 PM
Subject: RE: Development & Maintenance Agreement for PID 529461
CC: David Sabapathy <david.sabapathy@outlook.com>

Thank you for Garnet for this information. Once you have confirmation to send it to us, we'd like to receive a copy of the 2011 road status report.

Also, regarding road maintenance, we have observed that the road is graded to the end of the East Suffolk Extension, including the portion that is referred to as non-essential. The MacLean's have indicated the province does this grading work. Can you confirm why the road is being graded by the province if it is a non-essential road?

Thank you for your help,
Jaycee

From: Garnet Taylor [getaylor@gov.pe.ca]
Sent: Friday, June 28, 2019 3:55 PM
To: Jaycee Sabapathy <jaycee.sabapathy@outlook.com>
Cc: David Sabapathy <david.sabapathy@outlook.com>
Subject: Re: Development & Maintenance Agreement for PID 529461

Hi Jaycee,

The Road Status report from 2011 states, "the East Suffolk Road Ext. located at Winter River is an unclassified Public Right of Way and would be considered a non-essential road. The ROW width appears to be 40' in width"

Thanks,
Garnet

>>> Jaycee Sabapathy <jaycee.sabapathy@outlook.com> 6/17/2019 12:24 PM >>>
Good morning Garnet,

I wanted to follow-up on the email below to confirm timing and next steps.

Thank you,
Jaycee

From: Jaycee Sabapathy
Sent: June 12, 2019 9:17 AM
To: Garnet Taylor
Cc: David Sabapathy
Subject: RE: Development & Maintenance Agreement for PID 529461

*Called Carl July 21/19
- He advised TIE grader
may be leaving grader
blade down to end at
Road to turn around.
Just being nice.*

*Called Jaycee
Back July 31/19
Told her road
graded at
operator's
desire to
turn around
He can stop it
they wish.
she said no
continue.
[Signature]*

TAB 21

MM78/19

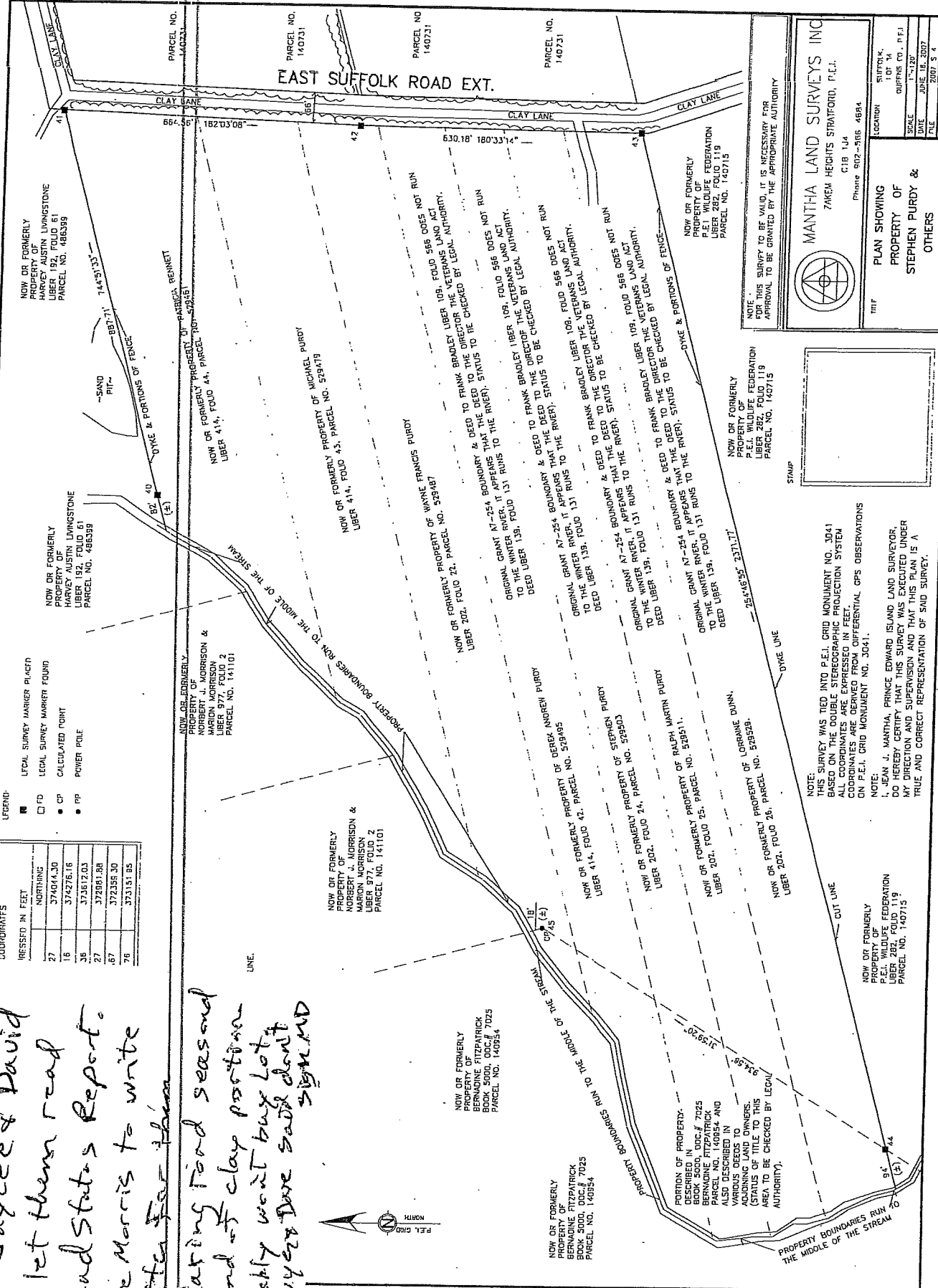
Met Jaycee & David
to let them read
Road Status Report.
Dave Morris to write
letter for them

declaring road seasonal
to end of clay portion
- Probably want buy lot
Lawyer Dave said about
signature

COORDINATES

MEASURED IN FEET	NORTHING
27	37404.30
16	374276.16
36	373817.03
27	372981.88
67	372358.30
76	373131.95

- LEGEND:
- LEGAL SURVEY MARKER PLACED
 - FD LEGAL SURVEY MARKER FOUND
 - CP CALCULATED POINT
 - PP POWER POLE



NOTE: FOR THIS SURVEY TO BE VALID, IT IS NECESSARY FOR APPROVAL TO BE GRANTED BY THE APPROPRIATE AUTHORITY.

MANTHA LAND SURVEYS INC
7MKEM HEIGHTS STRATFORD, P.E.I.
C1B 1J4
Phone 902-566 4684

PLAN SHOWING
PROPERTY OF
STEPHEN PURDY &
OTHERS

STAMP

NOTE:
THIS SURVEY WAS TIED INTO P.E.I. CRID MONUMENT NO. 3041
BASED ON THE DOUBLE STEREOGRAPHIC PHOTOGRAPHIC SYSTEM
ALL COORDINATES ARE EXPRESSED IN FEET
COORDINATES ARE DERIVED FROM DIFFERENTIAL GPS OBSERVATIONS
ON P.E.I. CRID MONUMENT NO. 3041.

NOTE:
I, JEAN J. MANTHA, PRINCE EDWARD ISLAND LAND SURVEYOR,
DO HEREBY CERTIFY THAT THIS SURVEY WAS EXECUTED UNDER
MY DIRECTION AND SUPERVISION AND THAT THIS PLAN IS A
TRUE AND CORRECT REPRESENTATION OF SAID SURVEY.

DRAWN BY: J.J.M. SHEET NO. 114

TAB 22

Alan Aitken - Fwd: Entrance Way Permit - PID 529461

From: Garnet Taylor
To: Alan Aitken
Date: 7/30/2019 2:19 PM
Subject: Fwd: Entrance Way Permit - PID 529461
Attachments: 20190715 Morris - Road classification.pdf; 20190715 Morris - 2008 DMA.PDF

FYI...

>>> Jaycee Sabapathy <jaycee.sabapathy@outlook.com> 7/16/2019 9:51 PM >>>
Good morning Wayne,

My husband David Sabapathy and I have conditionally purchased a piece of property in Winter River, PID 529461. We submitted a building application to the planning office on Gordon drive mid-April. The key issue that has arisen was the matter of getting an entrance way permit to the property. The planning office put us in touch with Garnet and we have been working on next steps. Garnet has indicated this property sits on a non-essential highway and as such require we enter into a Development and Maintenance Agreement to gain access to the property.

In the process of getting quotes for a road survey required for the DMA, David Morris indicated this property does not sit on a non-essential highway. Rather, Interpretation of the Highway Access Regulations should be that the property is located on a seasonal road. Attached is a detailed letter from David outlining his professional opinion on this matter. *We would ask the Department of Transportation to review and reconsider the Interpretation of the Regulations to determine if this road is indeed seasonal as David Morris indicates.*

Due to communication issues between the planning office and transportation, we have obtained an extension on the closing date. However, this extension is now running out and we need to resolve this matter as soon as possible.

Thank you for taking the time to review this,
Jaycee



July 15th, 2019

Jaycee Sabapathy
4 Prince Street
Unit 206
Charlottetown, PE
C1A 4P5

Via email: jaycee.sabapathy@outlook.com

RE: SUFFOLK ROAD EXTENSION ACCESS TO PID 529461

Ms. Sabapathy,

It was a pleasure speaking with you regarding your interaction with the Department of Transportation Infrastructure and Energy (TIE) regarding the East Suffolk Road Extension, and the Development and Maintenance Agreement (DMA), that the Province has requested you have executed. Further to our conversation I provide to you the following:

Development and Maintenance Agreement

Under the *Roads Act, RSPEI 1988, Cap R-15*, Highway Access Regulations, the Minister may either authorize or issue an entrance way permit for a new entrance way to Arterial Highways, Collector Highways, Local Highways, Seasonal Highways and Scenic Heritage Roads. Under Part VIII NON-ESSENTIAL HIGHWAYS, s 36.

*“36. The Minister **shall not** issue an entrance way permit to authorize placement of a new entrance way or change of use an existing entrance way to a non-essential highway. (EX580/95)”*

The “Non-Essential Highway” is the only class of highway whereby the minister cannot authorize a change in an existing entrance or authorize a new entrance to be created. To approve a subdivision or approve a building permit that fronts on a Non-Essential Highway would require authorization for an entrance way to be created to access the lot or parcel of land. If a subdivision or building permit is issued it would be contrary to statute law and void. The statute law would need to be changed in order to allow development along a Non-Essential Highway.

Morris Geomatics & Engineering Ltd.
P.O. Box 21016
Charlottetown, PE, C1A 8Z3
tel: (902)-213-0487
email: info@morrisgeomatics.ca
morrisgeomatics.ca



TIE created the DMA to work around statute law to enable a developer to subdivide lots along what was deemed to be a Non-Essential Highway. The DMA is not without flaw and as taken from a registered DMA found in Document # 1004, in the year 2008 :

- ▶ *"2. That the Non-Essential Highway shall remain the lands of the Grantor and shall be subject to all the rights and privileges the Grantor may enjoy or grant including, but not limited to, the right of passage by the Grantor and the General Public."*

The agreement has been written as if a Non-Essential Highway is privately owned lands of the government. While the roads are administered by government they belong to the province and all members of the public. They are referred to as Common and Public Highways. The public including yourself always have the right to use any Common and Public Highway, unless TIE has followed the statute law required to restrict access temporarily or close permanently the Public Road.

- ▶ *'7. That the Grantee, as developer of the subdivision, must have the grade elevation in front of Lot #2, as shown on Schedule "A" attached, lowered by approximately one (1) metre to ensure safe access from the road to the said Lot #2 and the said work to be completed under the direction of the District Traffic Operations Technician and County Environment Officer.'*

Under this section of the DMA, it acknowledges that, an access is to be created under direction of TIE, contrary to the *Highway Access Regulations* s 36.

- ▶ *"12. That the entranceway from the Non-Essential Highway to the Grantee's Land is subject to relocation, at the discretion of the Department of Transportation and Public Works so as to provide a safe entrance to the Non-Essential Highway, and all costs to relocate any infrastructure on the Grantee's Land as a result of the relocation aforesaid will be at the sole expense of the Grantee and the Grantee's heirs, successors and assigns."*

Under this section of the DMA, it acknowledges that an entrance way from the non-essential road can be changed contrary to *Highway Access Regulations* s.36.

There are sections of the DMA that are related to maintenance and liability. In the document, the government is transferring all risks and liabilities associated with the road to yourself, however at the same time it is not limiting the public from enjoying use of said road.

- ▶ *"16. That the Grantee will indemnify, defend and save harmless the Grantor from and against all claims, actions, causes of action, loss, damage, expenses and costs, whatsoever, made by any persons, arising out of or resulting directly or indirectly and whether by reason of negligence or otherwise, from the performance by the Grantee of any of the covenants under this Agreement and from any default of the*



Grantee in the performance of the covenants under this agreement, and from the remedying of such default by the Grantee or by the Grantor or by any other person(s).

The main thrust of the DMA is to allow development to occur on a Non-Essential Highway, however creating an entrance or access from a Non-essential Highway is forbidden, regardless of what is spelled out in the DMA. Through an Order in Executive Council, the Highway Access Regulations could easily be amended to change the word "shall" to "may" under section 36, which would enable the DMA operate as intended, however this is currently not the case.

East Suffolk Road Extensions – Non-Essential or Classified

The East Suffolk Road Extension is referred to in three sections of the Highway Access Regulations:

Schedule C-2

(138.1) **East Suffolk Extension Road RI32012:** The portion of the East Suffolk Road commencing at the intersection of Route 229 in the settlement of Suffolk, to the end of the pavement.

Schedule C-3

(214.1) **East Suffolk Extension Road RI32012:** The East Suffolk Extension Road in the settlement of Suffolk commencing at a point 0.5 km from the intersection with Route 229, for a distance of 0.2 km.

Schedule D

(214.1) **East Suffolk Extension Road RI32012:** The East Suffolk Extension Road in the settlement of Suffolk commencing at a point 0.5 km from the intersection with Route 229, for a distance of 0.2 km.

This section would appear to be in error as it is repetition of the same section previously referenced in Schedule C-3. The higher order description would prevail.

(216) **East Suffolk Extension Road RI32012:** The East Suffolk Extension Road in the settlement of Suffolk commencing at a point 0.7 km from the intersection of Route 229 to the end of the road, a distance of 0.4 km.

In following the layout of the *Highway Access Regulations*, the *Interpretation Act* and *The Interpretation of Legislation in Canada* we have the following:

- ▶ Local Class 2 Highway (being the asphalt portion of the road with no length provided) is self-explanatory and includes all of the East Suffolk Road that has an asphalt surface.



- ▶ Local Class 3 Highway unpaved 200 metres in length (regardless of starting position it cannot be paved, cannot overlap a higher order of road and starts at the end of the asphalt and has a length of 200 metres)
- ▶ Seasonal Highway (regardless of starting position it cannot be paved and cannot overlap the higher order of road being the Local Class 3 highway. The Seasonal Highway would start 200 metres from the end at the end of the existing asphalt surface at the limit of the Local Class 3 highway and has a length of 400 metres or to the end of road. In this case the end of road supersedes all measurements.

On the following map published by the Province of Prince Edward Island we have overlaid the classified portions of East Suffolk Road as defined in the Highway Access Regulations. A few comments on the map and the classified road sections:

- ▶ Your property and the adjacent properties within the map area, pre-date the classification system of highways which came into being around 1993.
- ▶ Your property and the adjacent properties to the south were subdivided from a larger parcel of land prior to the introduction of the current taxation PID system.
- ▶ At the time classification was being assigned to roads would have taken into consideration subdivisions of lands. The classification of the highway at the time would have recognized the East Suffolk Road as being the only method to access each lot within the subdivision.
- ▶ The classification of the highway as laid out in the hierarchy of classification coincides with the northern boundary of your property being the extents of lands that had been subdivided previous to the classification system while providing access to a classified road for PID 486399, being lands of Harvey Livingstone
- ▶ The apparent end of the road as defined in the Seasonal Classification is consistent with the measurements as stated in the Seasonal Classification.

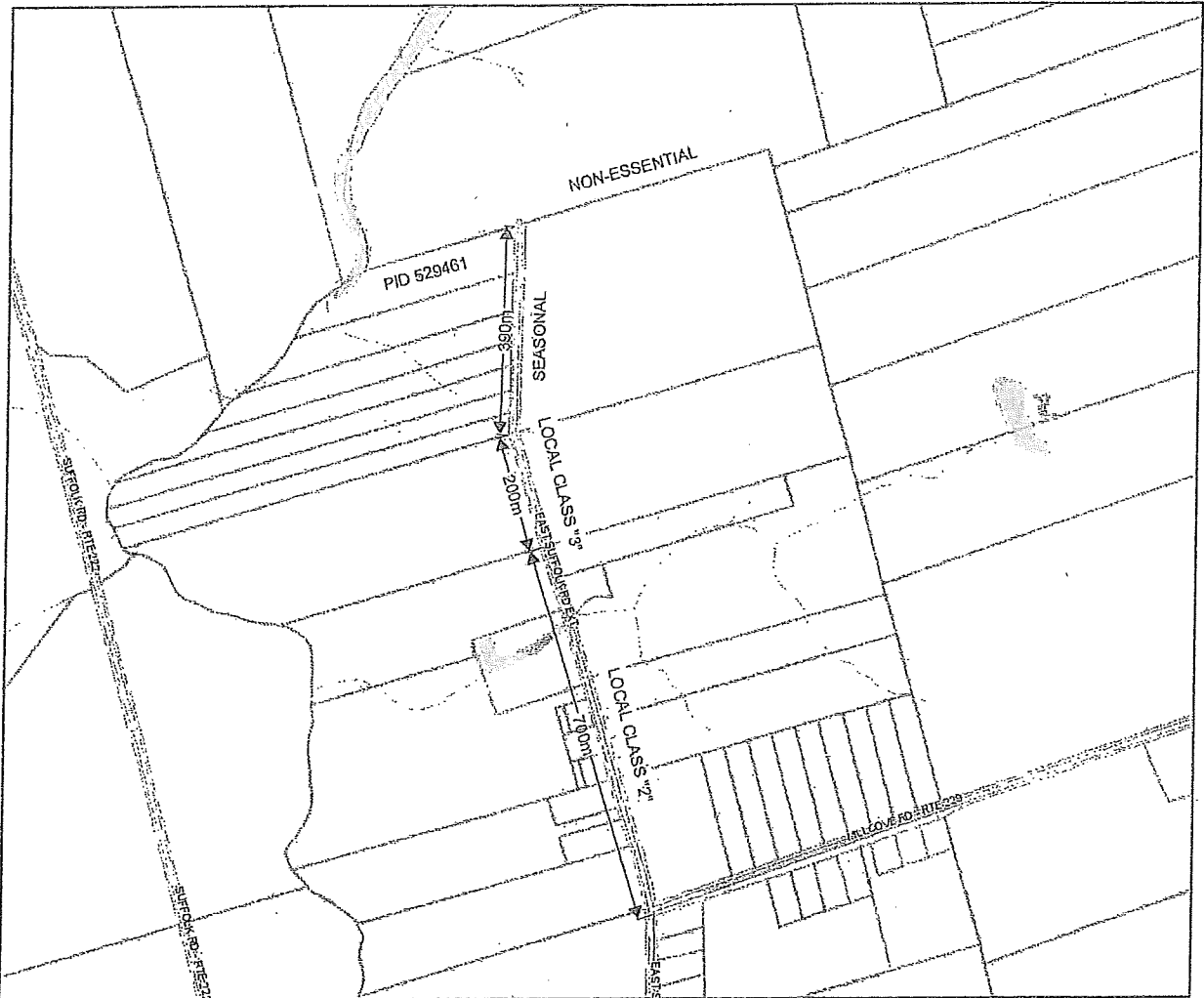


Figure 1 Provincial Road Atlas, Prince Edward Island Transportation and Infrastructure Renewal, 2014, page 28

The classified road as depicted on the map above is consistent with the portions of road classified as "Local" on the Prince Edward Island Road Atlas of 2014 as published by the Government of Prince Edward Island.

When interpreting legislation, emphasis is placed on those things that are least to be mistaken. In this case, the end of the asphalt being the limiting factor of the Local Class 2 Highway, and the end of the road being the end of the Seasonal Road. Each classified section would commence at the previous classified sections end point. The lots and roads as depicted on the ground are consistent with the Highway Access Regulations.



It is my opinion that PID 529461 has frontage on a Common and Public Highway as identified on page 26 of the Provincial Road Atlas as a "Local Un-Paved Road" and classified under the *Roads Act RSPEI 1988*, Cap R-15, Highway Access Regulations Schedule "D" s (216) being Road Index R132012 as a Seasonal Highway for the full width of the Lot.

Should you have any questions please do not hesitate to contact the undersigned.

Yours truly,

Morris Geomatics & Engineering Ltd.

A handwritten signature in black ink, appearing to read "David R. J. Morris".

David R. J. Morris, P.Eng, PEILS, CLS
President

1004

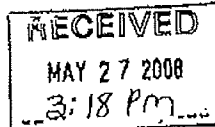
DEVELOPMENT AND MAINTENANCE AGREEMENT

THIS INDENTURE made the 27 day of *May*, A.D., in the Year of Our Lord Two Thousand and Eight.

BETWEEN: GOVERNMENT OF PRINCE EDWARD ISLAND as represented by the Minister of Transportation and Public Works;

(hereinafter called the "Grantor")

OF THE FIRST PART



AND: IVOR SARGENT of Ste. Adele, Province of Quebec (hereinafter called the "Grantee")

OF THE SECOND PART

WHEREAS the Grantor herein is seized in fee simple of certain lands and premises located at St. Margarets, Township No. 44, Kings County, Province of Prince Edward Island hereinafter described as Queens Road on Sketch Plan Showing Subdivision of a Portion of Property of Ivor Sargent by Delta Surveys, Drawing DL-08-33 dated Feb. 11, 2008 attached as Schedule "A"; being a portion of an unpaved highway or part thereof which is not designated as a local highway or seasonal highway under the Roads Act R.S.P.E.I. 1988, Cap. R-15 and Highway Access Regulations, and is hereinafter referred to as a "Non-Essential Highway."

AND WHEREAS the Grantee has requested permission to maintain and upgrade the Non-Essential Highway for the purpose of ingress and egress to the lands described as Lots 1-4 in Schedule "A" annexed hereto, (hereinafter referred to as the "Grantee's Land").

AND WHEREAS the Minister of Transportation and Public Works has agreed to the granting of permission to maintain and upgrade the Non-Essential Highway subject to the terms and conditions as hereinafter contained.

NOW THEREFORE, in consideration of the sum of ONE (\$1.00) DOLLAR, now paid by the Grantee to the Grantor (the receipt thereof is hereby acknowledged), the Grantor DOES, SUBJECT TO THE TERMS OF THIS AGREEMENT, GRANT UNTO THE GRANTEE, the Grantee's heirs, successors and assigns and the occupants of the Grantee's Land, permission to maintain and upgrade the Non-Essential Highway for the sole purpose of ingress and egress to the Grantee's lands to enable the proposed

development of Four (4) Lot subdivision for summer cottage use only, provided always that the Grantee and the Grantee's heirs, successors and assigns fulfill all their obligations, conditions, and covenants herein stated or until such time as the Grantee, the Grantee's heirs, successors or assigns abandons, surrenders or terminates the rights and privileges herein granted.

The Grantee, for the Grantee, the Grantee's heirs, successors and assigns, hereby acknowledges and agrees as follows:

1. That the Grantor shall not be responsible for the upgrading or maintenance of the Non-Essential Highway or the costs associated with such upgrading/maintenance, said costs shall be at the sole expense of the Grantee and the Grantee's heirs, successors and assigns.
2. That the Non-Essential Highway shall remain the lands of the Grantor and shall be subject to all the rights and privileges the Grantor may enjoy or grant including, but not limited to, the right of passage by the Grantor and the General Public.
3. That pursuant to Section 29(4) of the Roads Act "The Minister is not responsible for the maintenance of a non-essential road and no action shall be brought against the Crown for damages sustained by any person using a non-essential road".
4. That the Grantor bears no liability for any and all nuisance to the Grantee and the Grantee's heirs, successors and assigns, caused by the General Public exercising its right to use the Non-Essential Highway. In the event of unlawful use of the Non-Essential Highway the Grantee shall look solely to the appropriate law enforcement body and the appropriate Court of Law to curtail such activity.
5. That any and all damage which may be caused by use of the Non-Essential Highway by the General Public including any damage to upgrades undertaken by the Grantee remain the sole responsibility of the Grantee and the Grantee's heirs, successors and assigns, who shall look solely to the person or persons causing said damage for compensation. To clarify, the Government of Prince Edward Island shall not be responsible to repair or compensate for any damage caused to the Non-

Essential Highway by members of the General Public exercising their right to use the Non-Essential Highway in a lawful manner. In the event of unlawful use of the Non-Essential Highway, the Grantee shall look solely to the appropriate law enforcement body and the appropriate Court of Law to curtail such activity and for compensation for damages.

6. That any material upgrades to the Non-Essential Highway shall not be undertaken by the Grantee, the Grantee's heirs, successors and assigns, until prior notice has been given in writing to the Department of Transportation and Public Works' Chief Engineer, or their assigns. This does not apply to the Grantee's normal maintenance of the upgraded Non-Essential Highway including snow removal.
7. That the Grantee, as developer of the subdivision, must have the grade elevation in front of Lot #2, as shown on Schedule "A" attached, lowered by approximately one (1) metre to ensure safe access from the road to the said Lot #2 and the said work to be completed under the direction of the District Traffic Operations Technician and County Environment Officer.
8. That the Grantee shall complete this work outlined in 7 above prior to the final subdivision approval being granted.
9. That any future material upgrades contemplated, including but not limited to road construction, provisions for electric, phone, cable or other utilities to the Non-Essential Highway by the Grantee, the Grantee's heirs, successors and assigns, shall be approved by written authorization from the Department of Transportation and Public Works' Chief Engineer or their assigns, and such authorization shall include an "Approval-to-Proceed" issued by the Department of Transportation and Public Works' Environmental Management Section, or its assigns, and no such upgrades shall proceed until such authorization has been obtained. This does not apply to the Grantee's normal maintenance of the Non-Essential Highway including snow removal.
10. That beyond the point at which the Non-Essential Highway meets a classified provincial highway, the Government of Prince Edward Island has no responsibility to provide any services, including but not limited to

the following; snow removal, maintenance of any description, school bus service, emergency vehicle service including but not limited to fire and ambulance, garbage removal, mail service. Road construction, provisions for electric, phone, cable or other utilities remain solely at the cost of the Grantee and the Grantee's heirs, successors and assigns.

11. That the Government of Prince Edward Island reserves the unilateral right to reclassify the Non-Essential Highway. Upon reclassification whereby the Government of Prince Edward Island assumes any of the Grantee's responsibilities arising hereunder and the reclassification permits access to the Grantee's Land, this Agreement may be terminated or amended to the extent necessary to give effect to the reclassification by registration of a Notice of Termination or Amendment as the case may be.
12. That the entranceway from the Non-Essential Highway to the Grantee's Land is subject to relocation, at the discretion of the Department of Transportation and Public Works so as to provide a safe entrance to the Non-Essential Highway, and all costs to relocate any infrastructure on the Grantee's Land as a result of the relocation aforesaid will be at the sole expense of the Grantee and the Grantee's heirs, successors and assigns.
13. That the Government of Prince Edward Island has and will continue to enjoy the right to grant similar permissions and other rights to other persons over the Non-Essential Highway and the Grantee further acknowledges and agrees that such permissions or rights so granted will be concurrent with those of the Grantee and the Grantee's heirs, successors and assigns, notwithstanding any improvements the Grantee may have made to the Non-Essential Highway.
14. In any instance where the Government of Prince Edward Island determines that a bridge or culvert located on the Non-Essential Highway has failed or is deemed to be unsafe and action must be taken to remove or otherwise restrict access for public safety purposes, the replacement of said bridge or culvert would be at the Grantee's expense and the Grantee's heirs, successors and assigns, subject to 6 and 9 above.

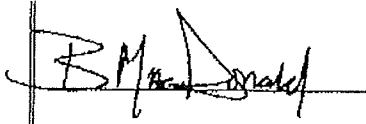
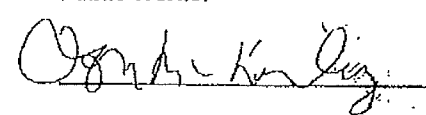
15. The rights, obligations and privileges in this Agreement shall be binding upon and shall run with the Grantee's Land, or any part thereof, and the Grantee shall ensure that any successors or assigns to the Grantee's Land, or part thereof acknowledges and agrees to be bound by the terms and conditions of this Agreement. The said acknowledgement and agreement shall be in writing and shall be included within the instrument of transfer of the Grantee's Land.

16. That the Grantee will indemnify, defend and save harmless the Grantor from and against all claims, actions, causes of action, loss, damage, expenses and costs, whatsoever, made by any persons, arising out of or resulting directly or indirectly and whether by reason of negligence or otherwise, from the performance by the Grantee of any of the covenants under this Agreement and from any default of the Grantee in the performance of the covenants under this agreement, and from the remedying of such default by the Grantee or by the Grantor or by any other person(s).

IN WITNESS WHEREOF the said Parties have hereunto set their hands and seals on the day and year first above written.

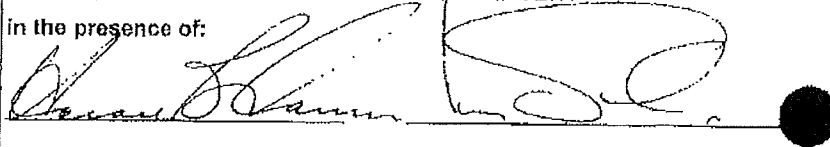
SIGNED, SEALED & DELIVERED
in the presence of:

GOVERNMENT OF PRINCE EDWARD
ISLAND as represented by the
Minister of Transportation and
Public Works:

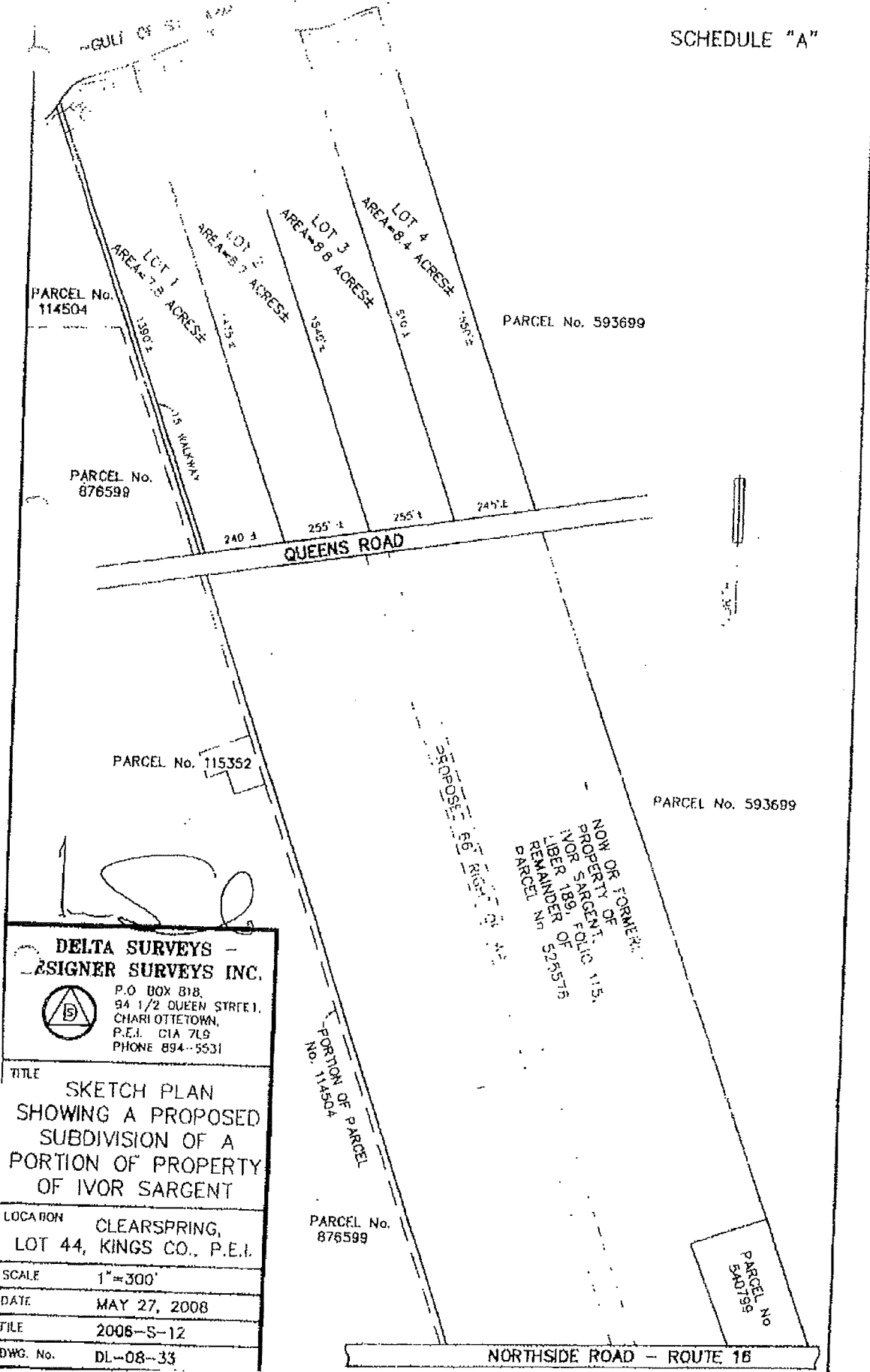
 

SIGNED, SEALED & DELIVERED
in the presence of:


IVOR SARGENT



SCHEDULE "A"



**DELTA SURVEYS -
DESIGNER SURVEYS INC.**



P.O. BOX 818,
94 1/2 QUEEN STRE I,
CHARLOTTETOWN,
P.E.I. C1A 7L9
PHONE 894-5531

TITLE
SKETCH PLAN
SHOWING A PROPOSED
SUBDIVISION OF A
PORTION OF PROPERTY
OF IVOR SARGENT

LOCATION
CLEARSRING,
LOT 44, KINGS CO., P.E.I.

SCALE 1"=300'

DATE MAY 27, 2008

FILE 2006-S-12

DWG. No. DL-08-33

NON OR FORMER
PROPERTY OF
IVOR SARGENT,
LIBER 189, FOLIO 115,
REMAINDER OF
PARCEL No. 520516

PORTION OF PARCEL
No. 114504

PARCEL No.
540755

Dated the 27th day of MAY, A.D. 2008.

GOVERNMENT OF PRINCE EDWARD ISLAND
as represented by the
Minister of Transportation and Public Works
GRANTOR

and

IVOR SARGENT

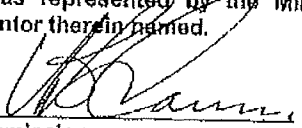
GRANTEE

DEVELOPMENT AND MAINTENANCE AGREEMENT

On the ~~day of~~ ~~_____~~, A.D. 2008, personally appeared before me
~~of _____~~ in
County and being sworn, testified that (s)he is a subscribing witness to the within
Indenture and that (s)he was present and did see the same duly executed by Ivor
Sargent, the Grantee therein named.

Commissioner

On the 27th day of MAY, A.D. 2008, personally appeared before me
BONNIE MASTONARD of CORNWALL in QUEENS County and
being sworn, testified that (s)he is a subscribing witness to the within indenture
and that (s)he was present and did see the same duly executed by the
Government of Prince Edward Island as represented by the Minister of
Transportation and Public Works, the Grantor therein named.



Commissioner

Office of the Registrar of Deeds
For Kings County, Charlottetown, P.E. Island
Book 2058
Doc # 1004

The within document was registered on
The 27th Day of May A.D., 2008 on

COMMISSIONER WITNESSED
ENDORSED CERTIFICATE

Registrar


REGISTRAR

TAB 23

Garnet Taylor - Fwd: Re: Entrance Way Permit - PID 529461

From: Wayne Tremblay
To: Taylor, Garnet
Date: 7/23/2019 2:42 PM
Subject: Fwd: Re: Entrance Way Permit - PID 529461

See below, copy of response sent earlier today to the Sabapathys
 Wayne

>>> Wayne Tremblay 7/23/2019 12:40 PM >>>
 Good Afternoon Jaycee,

I apologize for not getting back to you earlier. Thank you for your email from last week with the copy of Dave Morris' report attached. The issue is in the process of being reviewed within the Department, but may take some time as Alan Aitken, the person who deals with the road classifications, is currently out on sick leave. Upon examination, the report you sent me appears to contradict the opinion that Dave Morris had given Government when he was Chief Surveyor, regarding the classification of that portion of the East Suffolk Road in 2011. Further investigation may be needed to consider what changes may have occurred since then that would cause this shift in Dave's opinion on the matter, which may take time.

Regards,
 Wayne Tremblay, P.Eng, PEILS
 Chief Surveyor, PEI Department of Transportation, Infrastructure & Energy

>>> Jaycee Sabapathy <jaycee.sabapathy@outlook.com> 7/23/2019 12:13 PM >>>
 Good afternoon Wayne,

David and I wanted to get an update on our request below.

Thank you,
 Jaycee

From: Jaycee Sabapathy
Sent: July 16, 2019 9:51 PM
To: Wayne Tremblay <wtremblay@gov.pe.ca>
Cc: Garnet Taylor <getaylor@gov.pe.ca>; David Sabapathy <david.sabapathy@outlook.com>
Subject: Entrance Way Permit - PID 529461

Good morning Wayne,

My husband David Sabapathy and I have conditionally purchased a piece of property in Winter River, PID 529461. We submitted a building application to the planning office on Gordon drive mid-April. The key issue that has arisen was the matter of getting an entrance way permit to the property. The planning office put us in touch with Garnet and we have been working on next steps. Garnet has indicated this property sits on a non-essential highway and as such require we enter into a Development and Maintenance Agreement to gain

access to the property.

In the process of getting quotes for a road survey required for the DMA, David Morris indicated this property does not sit on a non-essential highway. Rather, interpretation of the Highway Access Regulations should be that the property is located on a seasonal road. Attached is a detailed letter from David outlining his professional opinion on this matter. *We would ask the Department of Transportation to review and reconsider the interpretation of the Regulations to determine if this road is indeed seasonal-as David Morris indicates.*

Due to communication issues between the planning office and transportation, we have obtained an extension on the closing date. However, this extension is now running out and we need to resolve this matter as soon as possible.

Thank you for taking the time to review this,
Jaycee

TAB 24

Alan Aitken - Re: Entrance Way Permit - PID 529461

From: Jaycee Sabapathy <jaycee.sabapathy@outlook.com>
To: Wayne Tremblay <wltremblay@gov.pe.ca>
Date: 7/29/2019 12:17 PM
Subject: Re: Entrance Way Permit - PID 529461
CC: Alan Aitken <AAAITKEN@gov.pe.ca>, Sharon Slauenwhite <SNSLAUENWHITE@gov....>

Thank you Wayne for the update, much appreciated.

We hope to let our lawyer, Ewan Clarke, know approximately how long the review might take as our deal is scheduled to close at the end of summer. We appreciate there are extenuating circumstances at play however, we were wondering if you might be able to give us a sense of the timeline.

Thanks for your help,
Jaycee

From: Wayne Tremblay <wltremblay@gov.pe.ca>
Sent: July 23, 2019 12:40 PM
To: Jaycee Sabapathy <jaycee.sabapathy@outlook.com>
Cc: Alan Aitken <AAAITKEN@gov.pe.ca>; Sharon Slauenwhite <SNSLAUENWHITE@gov.pe.ca>
Subject: Re: Entrance Way Permit - PID 529461

Good Afternoon Jaycee,

I apologize for not getting back to you earlier. Thank you for your email from last week with the copy of Dave Morris' report attached. The issue is in the process of being reviewed within the Department, but may take some time as Alan Aitken, the person who deals with the road classifications, is currently out on sick leave. Upon examination, the report you sent me appears to contradict the opinion that Dave Morris had given Government when he was Chief Surveyor, regarding the classification of that portion of the East Suffolk Road in 2011. Further investigation may be needed to consider what changes may have occurred since then that would cause this shift in Dave's opinion on the matter, which may take time.

Regards,
Wayne Tremblay, P.Eng, PEIS
Chief Surveyor, PEI Department of Transportation, Infrastructure & Energy

>>> Jaycee Sabapathy <jaycee.sabapathy@outlook.com> 7/23/2019 12:13 PM >>>
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Thank you,
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Sent: July 16, 2019 9:51 PM
To: Wayne Tremblay <wltremblay@gov.pe.ca>
Cc: Garnet Taylor <getaylor@gov.pe.ca>; David Sabapathy <david.sabapathy@outlook.com>
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In the process of getting quotes for a road survey required for the DMA, David Morris indicated this property does not sit on a non-essential highway. Rather, interpretation of the Highway Access Regulations should be that the property is located on a seasonal road. Attached is a detailed letter from David outlining his professional opinion on this matter. *We would ask the Department of Transportation to review and reconsider the interpretation of the Regulations to determine if this road is indeed seasonal as David Morris indicates.*

Due to communication issues between the planning office and transportation, we have obtained an extension on the closing date. However, this extension is now running out and we need to resolve this matter as soon as possible.

Thank you for taking the time to review this,
Jaycee

Statement of Confidentiality

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TAB 25

Wayne Tremblay - Re: Entrance Way Permit - PID 529461

From: Wayne Tremblay
To: Sabapathy, Jaycee
Date: 8/1/2019 3:02 PM
Subject: Re: Entrance Way Permit - PID 529461

Hi Jaycee,

Alan has just returned to work and is going through his files. It is on his list to do, but it may take up to a month for him to get the opportunity to review it. Once he has had a chance to review it.

Regards,
Wayne

>>> Jaycee Sabapathy <jaycee.sabapathy@outlook.com> 7/29/2019 12:15 PM >>>
Thank you Wayne for the update, much appreciated.

We hope to let our lawyer, Ewan Clarke, know approximately how long the review might take as our deal is scheduled to close at the end of summer. We appreciate there are extenuating circumstances at play however, we were wondering if you might be able to give us a sense of the timeline.

Thanks for your help,
Jaycee

From: Wayne Tremblay <wltremblay@gov.pe.ca>
Sent: July 23, 2019 12:40 PM
To: Jaycee Sabapathy <jaycee.sabapathy@outlook.com>
Cc: Alan Aitken <AAAITKEN@gov.pe.ca>; Sharon Slauenwhite <SNSLAUENWHITE@gov.pe.ca>
Subject: Re: Entrance Way Permit - PID 529461

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Regards,
Wayne Tremblay, P.Eng, PEILS
Chief Surveyor, PEI Department of Transportation, Infrastructure & Energy

>>> Jaycee Sabapathy <jaycee.sabapathy@outlook.com> 7/23/2019 12:13 PM >>>
Good afternoon Wayne,

David and I wanted to get an update on our request below.

Thank you,
Jaycee

From: Jaycee Sabapathy
Sent: July 16, 2019 9:51 PM
To: Wayne Tremblay <wltremblay@gov.pe.ca>
Cc: Garnet Taylor <getaylor@gov.pe.ca>; David Sabapathy <david.sabapathy@outlook.com>
Subject: Entrance Way Permit - PID 529461

Good morning Wayne,

My husband David Sabapathy and I have conditionally purchased a piece of property in Winter River, PID 529461. We submitted a building application to the planning office on Gordon drive mid-April. The key issue that has arisen was the matter of getting an entrance way permit to the property. The planning office put us in touch with Garnet and we have been working on next steps. Garnet has indicated this property sits on a non-essential highway and as such require we enter into a Development and Maintenance Agreement to gain access to the property.

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Thank you for taking the time to review this,
Jaycee

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supprimer complètement de votre système informatique.

TAB 26

Alan Aitken - East Suffolk Ext Review

From: Jaycee Sabapathy <jaycee.sabapathy@outlook.com>
To: Alan Aitken <AAAITKEN@gov.pe.ca>
Date: 8/2/2019 12:16 PM
Subject: East Suffolk Ext Review
CC: David Sabapathy <david.sabapathy@outlook.com>

Hi Alan,

We understand that you're reviewing the report we've submitted from Dave Morris regarding the classification for East Suffolk Ext road. Thank you for taking a look at this. We've been working with Transportation on this property since April, in conjunction with the planning office. We're now running out of time to close this deal with the owner via our lawyer, Ewan Clark, however also appreciate you have many files you're working on. If it's okay with you, we'll check back with you in a week or so. In the meantime, we'll get back to Ewan to provide an update on our situation.

Any questions at all regarding this please feel free to contact myself (902-940-7279) or David (902-940-7850).

Thank you,
Jaycee

TAB 27

Garnet Taylor - Fwd: East Suffolk Road extension

From: Garnet Taylor
To: n
Date: 8/21/2019 10:06 AM
Subject: Fwd: East Suffolk Road extension

Good morning

Sharon Slauenwhite forwarded me your inquiry into your properties on the East Suffolk Road Extension.

I reviewed our road classification information for this portion of the East Suffolk Road Extension.

Our records indicate the East Suffolk Road Extension is Classified as Seasonal to the southern portion of your PID 529487, or to the driveway to parcel PID 140731 (across the road from your parcel PID 529487).

As such, there would be no requirement to enter into a Development and Maintenance Agreement with the Province should you apply to Develop PID 529487, PID 529495, 529503, 529511 and PID 529529.

However, should you wish to develop PID 529461 or PID 529479, these two parcels are fronting on an Unclassified portion of the East Suffolk Road Extension, and as such, would require a Development and Maintenance Agreement.

Please let me know if you require anything further on this matter?

Regards,
Garnet

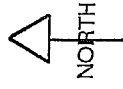
Garnet E. Taylor, SR/WA
Property Agent
Land and Environment Division - Properties Section
Department of Transportation, Infrastructure and Energy
Phone 902-368-5142
Fax 902-368-5395
E-mail getaylor@gov.pe.ca

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INFORMATION CENTRE

Location: null



PROVINCE OF PEI DEPARTMENT OF
PROVINCIAL TREASURY
GEOMATICS INFORMATION CENTRE
11 KENT ST. CHARLOTTETOWN
PEL C1A 2N6

PHONE: 902-368-5178
FAX: 902-368-4399

WHILE THIS MAP MAY NOT BE FREE
FROM ERROR OR OMISSION, CARE HAS
BEEN TAKEN TO ENSURE THE BEST
POSSIBLE QUALITY. THIS MAP IS A
GRAPHICAL REPRESENTATION. IT IS NOT
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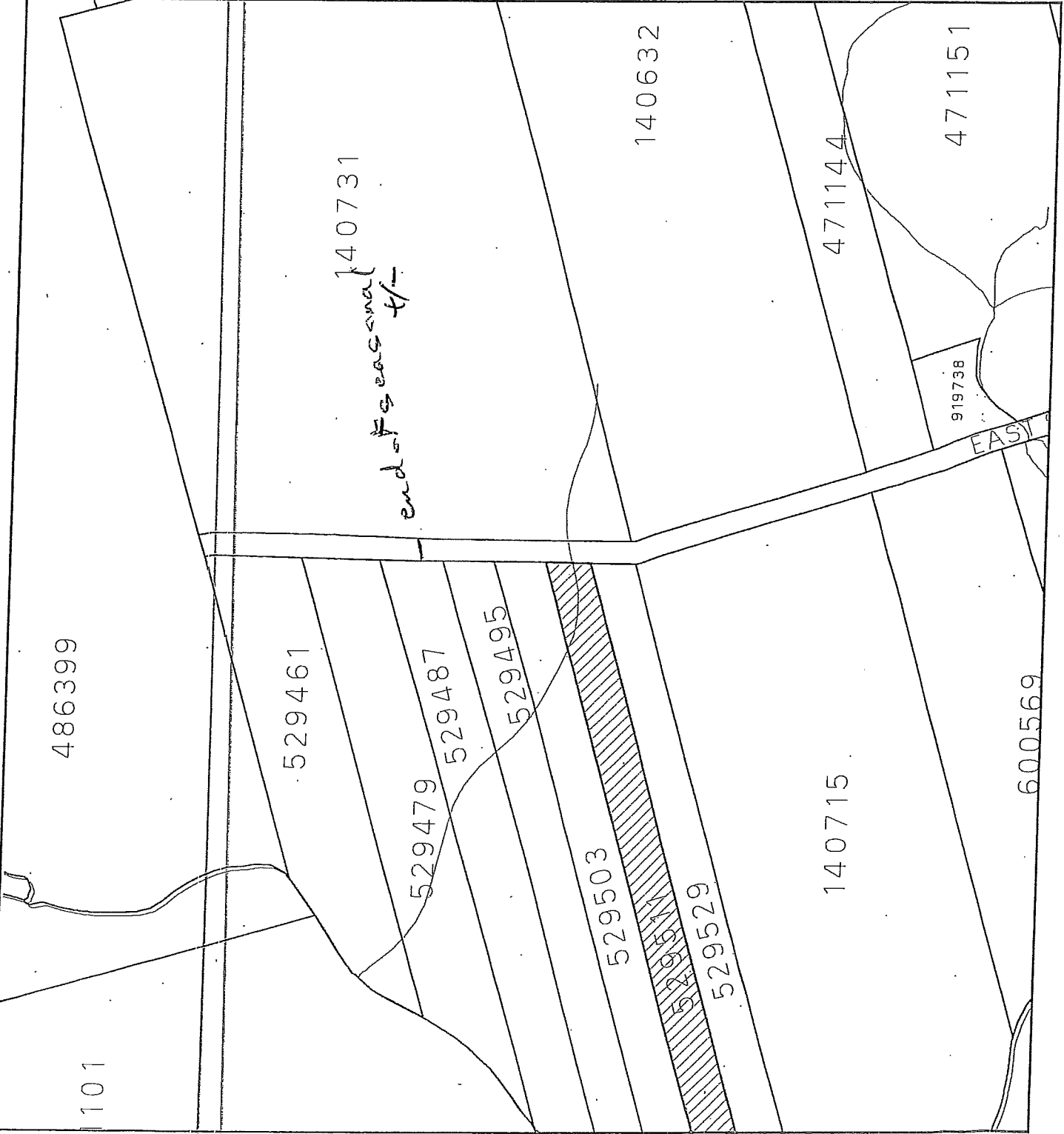
SCALE: 1:5000

DATE: Aug 21, 2019

TIME: 08:38:20 AM

ACREAGE: 7.43

WORK UNIT: 2049



486399

529461

529479

529487

529495

529503

529529

140715

600569

140731

end of Seasonal

140632

471144

471151

919738

EAST

101

TAB 28

Garnet Taylor - Fwd: 19096 - Sabapathy - Suffolk Road Extension

From: Sharon Slauenwhite
To: Taylor, Garnet
Date: 11/25/2019 4:12 PM
Subject: Fwd: 19096 - Sabapathy - Suffolk Road Extension
Attachments: 196096.200.00 NO1819.pdf

FYI
For your file.
S.

>>> David Morris <dmorris@morrisgeomatics.ca> 11/18/2019 4:59 PM >>>
Good afternoon, Alan

Attached please find our plan of survey prepared that delineates the two section of the East Suffolk Road Extension as Local Class 3 and Seasonal.. According to the evidence we found in the field and the Highway Access Regulations, the portion of the East Suffolk Road Ext that fronts on PID 529461 is a Seasonal Road. It is my understanding issuance of building permit has been held up based upon a review by your department.

Once you have reviewed the plan I would like to meet to discuss further. Please let me know a date and time it is suitable to meet.

Thank-you

Dave

David (Dave) R.J. Morris, P.Eng, PEILS, CLS | **Morris Geomatics & Engineering Ltd.** | P.O. Box 21016, Charlottetown, PE, C1A 9H6 | **902-213-0487**
Providing effective, innovative, solutions in the fields of Land Surveying, Engineering and Geo-spatial Information.

TAB 29

From: Alan Aitken
To: Sharon Slauenwhite; Szwarc, Stephen; Wayne Tremblay
CC: Stephen Yeo
Date: 11/19/2019 4:36 PM
Subject: Re: East Suffolk Rd extension

Further to my email below Stephen was onsite this morning and is of the opinion that this section of the east Suffolk Rd should be considered to be non-essential and that he does not intend to upgrade it to a higher standard. We should probably meet sometime to review and provide response to David Morris and the Sabapathy's. David emailed me yesterday.

Alan A. Aitken, P.Eng
Traffic Operations Engineer
Transportation, Infrastructure and Energy
aaaitken@gov.pe.ca
902-368-5006 (ph)
902-368-5425 (fax)

>>> Alan Aitken 11/19/2019 8:22 AM >>>
Thanks.

a3

>>> Stephen Szwarc 11/19/2019 8:21 AM >>>
I'm going out on the road sometime today. I'll take a look.

>>> Alan Aitken 11/19/2019 8:20 AM >>>
Stephen.

Have you had a chance to review the email below from Sept 26th.

a3

Stephen.

It appears from mapping that you do not plow beyond the end of pave on the East Suffolk Rd approximately near # 135. Beyond that point the road changes to sandstone and is considered to be seasonal to civic # 226 which has an Entrance Way Permit (EWP) to a seasonal highway.

Beyond #226 the road narrows again and extends for roughly another 200m. What classification would you consider this last 200m from a maintenance perspective? And, are you prepared to upgrade it?

Alan A. Aitken, P.Eng
Traffic Operations Engineer
Transportation, Infrastructure and Energy
aaaitken@gov.pe.ca
902-368-5006 (ph)
902-368-5425 (fax)

TAB 30

Garnet Taylor - Fwd: 19096 East Suffolk Road - Jaycee Sabathy

From: Sharon Slauenwhite
To: Taylor, Garnet
Date: 1/22/2020 3:27 PM
Subject: Fwd: 19096 East Suffolk Road - Jaycee Sabathy
Attachments: 196096.200.00 NO1819.pdf; 19049 Jaycee Sabapathy - PID 529461.pdf

FYI

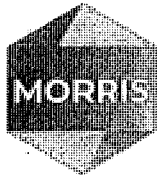
This was sent to Alan Aitken, Wayne Tremblay and me.

>>> David Morris <dmorris@morrisgeomatics.ca> 1/22/2020 3:20 PM >>>
 Good afternoon,

Our client has been trying to obtain permit for their property that fronts on the East Suffolk Road since at least June 2019, some 8 months ago. At that time your department had stated that the road was classified as a non-essential road, and that they would be required to enter into a Development and Maintenance Agreement to obtain access to their parcel of land. Our office undertook research on the East Suffolk Road, the Highway Access Regulations (HARS) and the Development and Maintenance Agreement, and provided a letter regarding the same. A letter was provided to Ms. Sabapathy July 15, 2019 and subsequently forwarded to government (a copy is attached herewith for your records). Government insisted that the road was non-essential and requested a plan of survey be prepared for the East Suffolk Road, Our office prepared drawing 19096.200.00 dated November 18th, 2019, that identifies each classified portion of the road (a copy is attached herewith for your records).

I do not believe that this file has received the intention warranted based and have not received acknowledgement of a time to meet as requested earlier this month. I am requesting a response for a time and place to meet and discuss the issues that are impacting a permit application on Ms Sabapathy property. In particular I would like to discuss:

- "Un-Classified Road Designation" The rationale to declare a road providing the only access to the buildings lots fronting on the winter river as a non-essential road and in particular the portion fronting on 529461.
- The Development and Maintenance Agreement, in particular the section that over rides the provisions that provides access to a Non-Essential Highway.
 - Under the Highway Access Regulations all highways require authorization for an entrance. The minister is forbidden to authorize an entrance way to a non-essential highway.
 - **May issue** an entrance way permit **to authorize** of a new entrance or change in use for specific cases to a Arterial Highway.
 - **May issue** an entrance way or permit the change in the location of an entrance way onto a Limited Access Arterial Highway;
 - **May authorize** a new entrance or change in use of an entrance onto a Collector Highway;
 - **May authorize** a new entrance or change in use of an entrance onto a Local Highway;
 - **May issue** an entrance way permit **to authorize** placement of a new entrance way or to change the use of an entrance way to an Seasonal highway;
 - **Shall not issue** an entranceway permit **to authorize** placement of a new entrance



July 15th, 2019

Jaycee Sabapathy
4 Prince Street
Unit 206
Charlottetown, PE
C1A 4P5

Via email: jaycee.sabapathy@outlook.com

RE: SUFFOLK ROAD EXTENSION ACCESS TO PID 529461

Ms. Sabapathy,

It was a pleasure speaking with you regarding your interaction with the Department of Transportation Infrastructure and Energy (TIE) regarding the East Suffolk Road Extension, and the Development and Maintenance Agreement (DMA), that the Province has requested you have executed. Further to our conversation I provide to you the following:

Development and Maintenance Agreement

Under the *Roads Act, RSPEI 1988, Cap R-15*, Highway Access Regulations, the Minister may either authorize or issue an entrance way permit for a new entrance way to Arterial Highways, Collector Highways, Local Highways, Seasonal Highways and Scenic Heritage Roads. Under Part VIII NON-ESSENTIAL HIGHWAYS, s 36.

*“36. The Minister **shall not** issue an entrance way permit to authorize placement of a new entrance way or change of use an existing entrance way to a non-essential highway. (EX580/95)”*

The “Non-Essential Highway” is the only class of highway whereby the minister cannot authorize a change in an existing entrance or authorize a new entrance to be created. To approve a subdivision or approve a building permit that fronts on a Non-Essential Highway would require authorization for an entrance way to be created to access the lot or parcel of land. If a subdivision or building permit is issued it would be contrary to statute law and void. The statute law would need to be changed in order to allow development along a Non-Essential Highway.

Morris Geomatics & Engineering Ltd.
P.O. Box 21016
Charlottetown, PE, C1A 8Z3
tel: (902)-213-0487
email: info@morrisgeomatics.ca
morrisgeomatics.ca



TIE created the DMA to work around statute law to enable a developer to subdivide lots along what was deemed to be a Non-Essential Highway. The DMA is not without flaw and as taken from a registered DMA found in Document # 1004, in the year 2008 :

- ▶ *"2. That the Non-Essential Highway shall remain the lands of the Grantor and shall be subject to all the rights and privileges the Grantor may enjoy or grant including, but not limited to, the right of passage by the Grantor and the General Public."*

The agreement has been written as if a Non-Essential Highway is privately owned lands of the government. While the roads are administered by government they belong to the province and all members of the public. They are referred to as Common and Public Highways. The public including yourself always have the right to use any Common and Public Highway, unless TIE has followed the statute law required to restrict access temporarily or close permanently the Public Road.

- ▶ *'7. That the Grantee, as developer of the subdivision, must have the grade elevation in front of Lot #2, as shown on Schedule "A" attached, lowered by approximately one (1) metre to ensure safe access from the road to the said Lot #2 and the said work to be completed under the direction of the District Traffic Operations Technician and County Environment Officer.'*

Under this section of the DMA, it acknowledges that, an access is to be created under direction of TIE, contrary to the *Highway Access Regulations* s.36.

- ▶ *"12. That the entranceway from the Non-Essential Highway to the Grantee's Land is subject to relocation, at the discretion of the Department of Transportation and Public Works so as to provide a safe entrance to the Non-Essential Highway, and all costs to relocate any infrastructure on the Grantee's Land as a result of the relocation aforesaid will be at the sole expense of the Grantee and the Grantee's heirs, successors and assigns."*

Under this section of the DMA, it acknowledges that an entrance way from the non-essential road can be changed contrary to *Highway Access Regulations* s.36.

There are sections of the DMA that are related to maintenance and liability. In the document, the government is transferring all risks and liabilities associated with the road to yourself, however at the same time it is not limiting the public from enjoying use of said road.

- ▶ *"16. That the Grantee will indemnify, defend and save harmless the Grantor from and against all claims, actions, causes of action, loss, damage, expenses and costs, whatsoever, made by any persons, arising out of or resulting directly or indirectly and whether by reason of negligence or otherwise, from the performance by the Grantee of any of the covenants under this Agreement and from any default of the*



Grantee in the performance of the covenants under this agreement, and from the remedying of such default by the Grantee or by the Grantor or by any other person(s).

The main thrust of the DMA is to allow development to occur on a Non-Essential Highway, however creating an entrance or access from a Non-essential Highway is forbidden, regardless of what is spelled out in the DMA. Through an Order in Executive Council, the Highway Access Regulations could easily be amended to change the word "shall" to "may" under section 36, which would enable the DMA operate as intended, however this is currently not the case.

East Suffolk Road Extensions – Non-Essential or Classified

The East Suffolk Road Extension is referred to in three sections of the Highway Access Regulations:

Schedule C-2

(138.1) **East Suffolk Extension Road RI32012:** The portion of the East Suffolk Road commencing at the intersection of Route 229 in the settlement of Suffolk, to the end of the pavement.

Schedule C-3

(214.1) **East Suffolk Extension Road RI32012:** The East Suffolk Extension Road in the settlement of Suffolk commencing at a point 0.5 km from the intersection with Route 229, for a distance of 0.2 km.

Schedule D

(214.1) **East Suffolk Extension Road RI32012:** The East Suffolk Extension Road in the settlement of Suffolk commencing at a point 0.5 km from the intersection with Route 229, for a distance of 0.2 km.

This section would appear to be in error as it is repetition of the same section previously referenced in Schedule C-3. The higher order description would prevail.

(216) **East Suffolk Extension Road RI32012:** The East Suffolk Extension Road in the settlement of Suffolk commencing at a point 0.7 km from the intersection of Route 229 to the end of the road, a distance of 0.4 km.

In following the layout of the *Highway Access Regulations*, the *Interpretation Act* and *The Interpretation of Legislation in Canada* we have the following:

- ▶ Local Class 2 Highway (being the asphalt portion of the road with no length provided) is self-explanatory and includes all of the East Suffolk Road that has an asphalt surface.



- ▶ Local Class 3 Highway unpaved 200 metres in length (regardless of starting position it cannot be paved, cannot overlap a higher order of road and starts at the end of the asphalt and has a length of 200 metres)
- ▶ Seasonal Highway (regardless of starting position it cannot be paved and cannot overlap the higher order of road being the Local Class 3 highway. The Seasonal Highway would start 200 metres from the end at the end of the existing asphalt surface at the limit of the Local Class 3 highway and has a length of 400 metres or to the end of road. In this case the end of road supersedes all measurements.

On the following map published by the Province of Prince Edward Island we have overlaid the classified portions of East Suffolk Road as defined in the Highway Access Regulations. A few comments on the map and the classified road sections:

- ▶ Your property and the adjacent properties within the map area, pre-date the classification system of highways which came into being around 1993.
- ▶ Your property and the adjacent properties to the south were subdivided from a larger parcel of land prior to the introduction of the current taxation PID system.
- ▶ At the time classification was being assigned to roads would have taken into consideration subdivisions of lands. The classification of the highway at the time would have recognized the East Suffolk Road as being the only method to access each lot within the subdivision.
- ▶ The classification of the highway as laid out in the hierarchy of classification coincides with the northern boundary of your property being the extents of lands that had been subdivided previous to the classification system while providing access to a classified road for PID 486399, being lands of Harvey Livingstone
- ▶ The apparent end of the road as defined in the Seasonal Classification is consistent with the measurements as stated in the Seasonal Classification.



Figure 1 Provincial Road Atlas, Prince Edward Island Transportation and Infrastructure Renewal, 2014, page 28

The classified road as depicted on the map above is consistent with the portions of road classified as “Local” on the Prince Edward Island Road Atlas of 2014 as published by the Government of Prince Edward Island.

When interpreting legislation, emphasis is placed on those things that are least to be mistaken. In this case, the end of the asphalt being the limiting factor of the Local Class 2 Highway, and the end of the road being the end of the Seasonal Road. Each classified section would commence at the previous classified sections end point. The lots and roads as depicted on the ground are consistent with the Highway Access Regulations.



It is my opinion that PID 529461 has frontage on a Common and Public Highway as identified on page 26 of the Provincial Road Atlas as a "Local Un-Paved Road" and classified under the *Roads Act RSPEI 1988, Cap R-15*, Highway Access Regulations Schedule "D" s (216) being Road Index R132012 as a Seasonal Highway for the full width of the Lot.

Should you have any questions please do not hesitate to contact the undersigned.

Yours truly,

Morris Geomatics & Engineering Ltd.

A handwritten signature in black ink, appearing to read "David R. J. Morris". The signature is written in a cursive style with a large initial 'D'.

David R. J. Morris, P.Eng, PEILS, CLS
President

TAB 31

Alan Aitken - Fwd: RE: East Suffolk Road Extension

From: Alan Aitken
To: Garnet Taylor; Sharon Slauenwhite; Stephen Szwarc; Wayne Tremblay
Date: 2/18/2020 11:17 AM
Subject: Fwd: RE: East Suffolk Road Extension

Folks.

As a follow up from our meeting of Feb 3rd that Wayne was unable to attend is it possible through review of maintenance records or annual reports to determine if the paved portion of this road was lengthened by approximately 0.2km sometime after 1995 when this roadway was added to the HAR's.

a> 2/14/2020 8:02 AM >>>
Thanks Alan,

Please let me know when you will be scheduled to meet again, so that I can notify my client.

Thank-you

Dave

David (Dave) R.J. Morris, P.Eng, PEILS, CLS | **Morris Geomatics & Engineering Ltd.** | P.O. Box 21016,
Charlottetown, PE, C1A 9H6 | **902-213-0487**
Providing effective, innovative, solutions in the fields of Land Surveying, Engineering and Geo-spatial Information.

From: Alan Aitken <aaaitken@gov.pe.ca>
Sent: February-12-20 1:39 PM
To: David Morris <dmorris@morrisgeomatics.ca>
Subject: Re: East Suffolk Road Extension

David.

We met briefly last week but Wayne was not able to attend. He's back, Sharon is out until tmr. Hope to meet again soon.

Alan

Alan A. Aitken, P.Eng
Traffic Operations Engineer
Transportation, Infrastructure and Energy
aaaitken@gov.pe.ca
902-368-5006 (ph)
902-368-5425 (fax)

>>> David Morris <dmorris@morrisgeomatics.ca> 2/12/2020 10:26 AM >>>
Good morning Alan,

Just following up to your internal meeting regarding the East Suffolk Road Ext. that you had on February 3, 2020. Do you have any information that I can relay to my client.

Thank-you

Dave

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TAB 32

Alan Aitken - Fwd: RE: East Suffolk Road Extension

From: Stephen Szwarc
To: Alan Aitken; Garnet Taylor; Sharon Slauenwhite; Wayne Tremblay
Date: 2/18/2020 11:18 AM
Subject: Fwd: RE: East Suffolk Road Extension

I'll take a look through the annual reports when I have some time.

>>> Alan Aitken 2/18/2020 11:17 AM >>>
Folks.

As a follow up from our meeting of Feb 3rd that Wayne was unable to attend Is it possible through review of maintenance records or annual reports to determine if the paved portion of this road was lengthened by approximately 0.2km sometime after 1995 when this roadway was added to the HAR's.

a> 2/14/2020 8:02 AM >>>
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Thank-you

Dave

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From: Alan Aitken <aaaitken@gov.pe.ca>
Sent: February-12-20 1:39 PM
To: David Morris <dmorris@morrisgeomatics.ca>
Subject: Re: East Suffolk Road Extension

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Alan

Alan A. Aitken, P.Eng
Traffic Operations Engineer
Transportation, Infrastructure and Energy
aaaitken@gov.pe.ca

902-368-5006 (ph)
902-368-5425 (fax)

>>> David Morris <dmorris@morrisgeomatics.ca> 2/12/2020 10:26 AM >>>
Good morning Alan,

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Thank-you

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TAB 33

From: Alan Aitken
To: Slauenwhite, Sharon; Szwarc, Stephen; Taylor, Garnet; Tremblay, Wayne
Date: 2/19/2020 8:49 AM
Subject: Fwd: RE: East Suffolk Road Extension
Attachments: ES Extension Original EC approval.pdf

Folks.

I received a copy of the original Executive Council Memo (ECM) from Darlene Ching at EC office, see attached. It provides very little information relating to the lengths of roadway that was actually paved at that point in time (1995). See page 3 and 4 of the attached document for the actual EM. I wish we could be that brief in our submissions, we'd have the HAR's corrected in a week or so!

Presuming that the Department actually measured the road based on the recommended HAR amendments (page 5) I think it is absolutely safe to say at the time of the changes that:

1. The C-2 (paved) classification (s. 138.1) was 0.5 km +/- in length, (subtotal 0.5km)
2. The C-3 (unpaved) classification (s. 214.1) was 0.2 km +/- in length (new subtotal 0.7 km), and
3. The D (seasonal) classification (s. 216.1) was 0.4 km +/- in length (total of 1.1 km).

And thus, beyond the 1.1 km mark from Route 229 was not listed in the HAR' s and would be considered to be non-essential.

My suggested response to David Morris on this issue is as follows:

David.

TIE have reviewed this issue and have concluded the following:

The East Suffolk Extension Road (RI132012) was added to the Highway Access Regulations in October of 1995, by Executive Council decision which included the insertion of s. (138.1) in Schedule C-2, s. (214.1) in Schedule C-3 and the revocation and replacement of s (216) in Schedule D.

These sections now read as follows in the HAR's and are consistent with the original approval by EC (see attached document)

(138.1) East Suffolk Extension Road RI32012: The portion of the East Suffolk Road commencing at the intersection of Route 229 in the settlement of Suffolk, to the end of the pavement.

(214.1) East Suffolk Extension Road RI32012: The East Suffolk Extension Road in the settlement of Suffolk commencing at a point 0.5 km from the intersection with Route 229, for a distance of 0.2 km.

(216) East Suffolk Extension Road RI32012: The East Suffolk Extension Road in the settlement of Suffolk commencing at a point 0.7 km from the intersection of Route 229 to the end of the road, a distance of 0.4 km.

These amendments would conclude at the time of inclusion in the HAR's that the paved section was 0.5 km (C-2 classification), followed by 0.2km of unpaved year round highway (C-3 classification), followed by 0.4 km of Seasonal Highway for a total of 1.1 km.

Since that time it appears that the paved portion has been extended 0.2 km of pavement, in or around 2008, which would automatically extend the C2 portion to the end of what would have been C3 at the time of the inclusion in the HAR's. This extension of the C2 portion would not however shift the beginning of the C3 and seasonal portion by 0.2km. Thus, effectively the East Suffolk Extension Road would now be classified as 0.7km C2, followed by 0.4km of Seasonal Highway for a total of 1.1km. The remaining length, approximately 0.2km beyond the seasonal would be classified as non-essential. Maintenance

division has confirmed that they consider this last portion as non-essential and have no intention to upgrade it to a higher standard.

Thus, should your client wish to develop on PID 529461 they have at least two options, the first being entering into a Development and Maintenance Agreement (DMA) which will permit access to the property. The second option would be that they may upgrade the road to a seasonal standard at their cost and TIE will re-classify that portion to a seasonal highway which will then permit issuance of an Entrance Way Permit. In either case they will need to consult with the Department.

Do you concur with the above suggested response to David?

Alan

>>> Alan Aitken 2/18/2020 11:17 AM >>>

Folks.

As a follow up from our meeting of Feb 3rd that Wayne was unable to attend Is it possible through review of maintenance records or annual reports to determine if the paved portion of this road was lengthened by approximately 0.2km sometime after 1995 when this roadway was added to the HAR's.

a> 2/14/2020 8:02 AM >>>

Thanks Alan,

Please let me know when you will be scheduled to meet again, so that I can notify my client.

Thank-you

Dave

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94K10.1



Certified to be a true copy of an Order of His Honour the Lieutenant Governor in Council dated 5 October 1995.

Executive Council
Prince Edward Island

No. EC706/95

ROADS ACT
HIGHWAY ACCESS REGULATIONS
AMENDMENT

Pursuant to subsection 29(1) of the *Roads Act* R.S.P.E.I. 1988, Cap. R-15, Council made the following regulations:

1. The Highway Access Regulations (EC580/93) are amended
 - (a) In Schedule C-2 Local (Class 2) Highways, by the insertion of the following:

(138.1) East Suffolk Extension Road RI32012: The portion of the East Suffolk Road commencing at the intersection of Route 229 in the settlement of Suffolk, to the end of the pavement.
 - (b) In Schedule C-3 Local (Class 3) Highways, by the insertion of the following:

(214.1) East Suffolk Extension Road RI32012: The East Suffolk Extension Road in the settlement of Suffolk commencing at a point 0.5 km from the intersection with Route 229, for a distance of 0.2 km.
 - (c) In Schedule D Seasonal Highways, item (216) is revoked and the following substituted:

(216) East Suffolk Extension Road RI32012: The East Suffolk Extension Road in the settlement of Suffolk commencing at a point 0.7 km from the intersection of Route 229 to the end of the road, a distance of 0.4 km.

2. These regulations are deemed to have come into force on August 12, 1995.

Lynn E. Ellsworth
Clerk Assistant of the Executive Council



EXECUTIVE COUNCIL
DECISIONS OF EXECUTIVE COUNCIL

D	D548/95
FN:	99R10.1

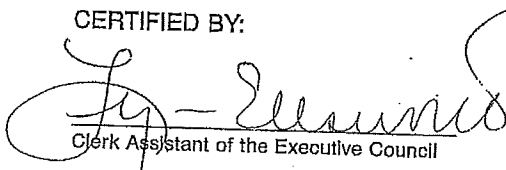
DATE: October 5, 1995
TO: Ginger Breedon, Deputy Minister
 Transportation and Public Works
COPIED TO: M. Raymond Moore
 Legislative Counsel

Date of Meeting: October 5, 1995
Agenda Number: 7
Memorandum Number 95-1.75

AGENDA SUBJECT: **REGULATIONS:** to amend Highway Access Regulations
 (designation of Suffolk Road)

DECISION: Approved as recommended, for effect October 14, 1995.

CERTIFIED BY:


 Clerk Assistant of the Executive Council

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ACTION TO FOLLOW:	
ORDER-IN-COUNCIL	<input checked="" type="checkbox"/>
ROYAL GAZETTE (PT. I)	<input type="checkbox"/>
ROYAL GAZETTE (PT. II)	<input checked="" type="checkbox"/>
PROCLAMATION	<input type="checkbox"/>
MINUTE-IN-COUNCIL	<input type="checkbox"/>
OTHER:	



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GOVERNMENT OF PRINCE EDWARD ISLAND

AGENDA
ITEM
NUMBER: 7

SECRETARIAT USE ONLY

NUMBER: 95-1.75
DEPT: TPW
DATE: 5.10.95
CLASS: Unclass
FILE: 99R10.1

MEMORANDUM TO EXECUTIVE COUNCIL

SUBJECT: HIGHWAY ACCESS REGULATIONS
AMENDMENT

SUBMITTED BY: TRANSPORTATION AND PUBLIC WORKS
(DEPARTMENT OR AGENCY)

APPROVED BY: [Signature] MINISTER
[Signature] DEPUTY OR EQUIVALENT

SUMMARY:

To amend certain schedules of the Highway Access Regulations.

1. OBJECT

1.1 To make amendments to schedules of the Highway Access Regulations (EC580/95).

2. BACKGROUND

Nil

3.0 FACTORS


3.1 Since publication of the Regulations, the Department has been asked to reconsider designation of one highway as a Seasonal Highway.

4.0 CONCLUSION

4.1 The attached amendment to the Regulations will apply the necessary corrections.

5.0 FINANCIAL CONSIDERATIONS

Nil

APPROVED FOR  COUNCIL AGENDA	RECEIVED BY THE EXECUTIVE COUNCIL OFFICE (Date and Time): October 3, 1995 2:30 p.m.	RECEIVED BY: kc
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6.0 ENVIRONMENTAL CONSIDERATIONS

Nil

7.0 INTERGOVERNMENTAL CONSIDERATIONS

Nil

8.0 RECOMMENDATIONS

8.1 It is recommended the Lieutenant-Governor-in-Council adopt the attached amendment.

Oct 3, 1995
allroads\Oct03.exc

APPROVED FOR
COUNCIL AGENDA

EC /95
ROADS ACT,
HIGHWAY ACCESS REGULATIONS
AMENDMENT

Pursuant to subsection 29(1) of the *Roads Act* R.S.P.E.I. 1988, Cap. R-15, Council made the following regulations:

1. The Highway Access Regulations (EC580/95) are amended as follows:
 - (a) In Schedule C-2 Local (Class 2) Highways, by the insertion of the following:
 - (i) (138.1) East Suffolk Extension Road RI32012: The portion of the East Suffolk Road commencing at the intersection of Route 229 in the settlement of Suffolk, to the end of pavement.
 - (b) In Schedule C-3 Local (Class 3) Highways, by the addition of the following:
 - (i) (214.1) East Suffolk Extension Road RI32012: The East Suffolk Extension Road in the settlement of Suffolk commencing at a point 0.5 km from the intersection with Route 229, for a distance of 0.2 km.
 - (c) In Schedule D Seasonal Highways:
 - (i) Item (216) is revoked and is replaced with the following:
 - (216) East Suffolk Extension Road RI32012: The East Suffolk Extension Road in the settlement of Suffolk commencing at a point 0.7 km from the intersection of Route 229 to the end of the road, a distance of 0.4 km.
2. These Regulations are deemed to have come into force on August 12, 1995.

TAB 34

Alan Aitken - RE: East Suffolk Road Extension

From: Alan Aitken
To: Morris, David
Date: 2/19/2020 3:54 PM
Subject: RE: East Suffolk Road Extension
CC: Brett Wallace; Dale McKeigan; Eugene Lloyd; Slauenwhite, Sharon; Szw...
BC: Yeo, Stephen
Attachments: ES Extension Original EC approval.pdf

David.

TIE have reviewed this issue and have concluded the following:

The East Suffolk Extension Road (RI132012) was added to the Highway Access Regulations in October of 1995, by Executive Council decision which included the insertion of s. (138.1) in Schedule C-2, s. (214.1) in Schedule C-3 and the revocation and replacement of s (216) in Schedule D.

These sections now read as follows in the HAR's and are consistent with the original approval by EC (see attached document)

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Since that time it appears that the paved portion has been extended 0.2 km of pavement, in or around 2008, which would automatically extend the C2 portion to the end of what would have been C3 at the time of the inclusion in the HAR's. This extension of the C2 portion would not however shift the beginning of the C3 and seasonal portion by 0.2km. Thus, effectively the East Suffolk Extension Road would now be classified as 0.7km C2, followed by 0.4km of Seasonal Highway for a total of 1.1km. The remaining length, approximately 0.2km beyond the seasonal would be classified as non-essential. Maintenance division has confirmed that they consider this last portion as non-essential and have no intention to upgrade it to a higher standard.

Thus, should your client wish to develop on PID 529461 they have at least two options, the first being entering into a Development and Maintenance Agreement (DMA) which will permit access to the property. The second option would be that they may upgrade the road to a seasonal standard at their cost and TIE will re-classify that portion to a seasonal highway which will then permit issuance of an Entrance Way Permit. In either case they will need to consult with the Department.

Alan A. Aitken, P.Eng
Traffic Operations Engineer
Transportation, Infrastructure and Energy

aaaitken@gov.pe.ca
902-368-5006 (ph)
902-368-5425 (fax)

>>> David Morris <dmorris@morrisgeomatics.ca> 2/14/2020 8:02 AM >>>
Thanks Alan,

Please let me know when you will be scheduled to meet again, so that I can notify my client.

Thank-you

Dave

David (Dave) R.J. Morris, P.Eng, PEILS, CLS | **Morris Geomatics & Engineering Ltd.** | P.O. Box 21016,
Charlottetown, PE, C1A 9H6 | **902-213-0487**
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From: Alan Aitken <aaaitken@gov.pe.ca>
Sent: February-12-20 1:39 PM
To: David Morris <dmorris@morrisgeomatics.ca>
Subject: Re: East Suffolk Road Extension

David.

We met briefly last week but Wayne was not able to attend. He's back, Sharon is out until tmr. Hope to meet again soon.

Alan

>>> David Morris <dmorris@morrisgeomatics.ca> 2/12/2020 10:26 AM >>>
Good morning Alan,

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Thank-you

Dave

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94K10.1



Certified to be a true copy of an Order of His Honour the Lieutenant Governor in Council dated 5 October 1995.

Executive Council
Prince Edward Island

No. EC706/95

ROADS ACT
HIGHWAY ACCESS REGULATIONS
AMENDMENT

Pursuant to subsection 29(1) of the *Roads Act* R.S.P.E.I. 1988, Cap. R-15, Council made the following regulations:

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 - (b) In Schedule C-3 Local (Class 3) Highways, by the insertion of the following:
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 - (c) In Schedule D Seasonal Highways, item (216) is revoked and the following substituted:
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- 2. These regulations are deemed to have come into force on August 12, 1995.

Lynn E. Ellsworth
Clerk Assistant of the Executive Council



EXECUTIVE COUNCIL
DECISIONS OF EXECUTIVE COUNCIL

D	D548/95
FN:	99R10.1

DATE: October 5, 1995
TO: Ginger Breedon, Deputy Minister
 Transportation and Public Works
COPIED TO: M. Raymond Moore
 Legislative Counsel

Date of Meeting: October 5, 1995
Agenda Number: 7
Memorandum Number 95-1.75
AGENDA SUBJECT: **REGULATIONS:** to amend Highway Access Regulations
 (designation of Suffolk Road)
DECISION: Approved as recommended, for effect October 14, 1995.

CERTIFIED BY:

[Signature]
 Clerk Assistant of the Executive Council

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ACTION TO FOLLOW:	
ORDER-IN-COUNCIL	<input checked="" type="checkbox"/>
ROYAL GAZETTE (PT. I)	
ROYAL GAZETTE (PT. II)	<input checked="" type="checkbox"/>
PROCLAMATION	
MINUTE-IN-COUNCIL	
OTHER:	



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AGENDA ITEM NUMBER: 7

SECRETARIAT USE ONLY

NUMBER: 95-1.75 DEPT: TPW DATE: 5.10.95 CLASS: Unclass FILE: 99R10.1

MEMORANDUM TO EXECUTIVE COUNCIL

SUBJECT: HIGHWAY ACCESS REGULATIONS AMENDMENT

SUBMITTED BY: TRANSPORTATION AND PUBLIC WORKS (DEPARTMENT OR AGENCY)

APPROVED BY: [Signatures] MINISTER DEPUTY OR EQUIVALENT

SUMMARY:

To amend certain schedules of the Highway Access Regulations.

- 1. OBJECT 1.1 To make amendments to schedules of the Highway Access Regulations (EC580/95). 2. BACKGROUND Nil 3.0 FACTORS 3.1 Since publication of the Regulations, the Department has been asked to reconsider designation of one highway as a Seasonal Highway. 4.0 CONCLUSION 4.1 The attached amendment to the Regulations will apply the necessary corrections. 5.0 FINANCIAL CONSIDERATIONS Nil

Table with 3 columns: APPROVED FOR COUNCIL AGENDA, RECEIVED BY THE EXECUTIVE COUNCIL OFFICE (Date and Time), RECEIVED BY.

6.0 ENVIRONMENTAL CONSIDERATIONS

Nil

7.0 INTERGOVERNMENTAL CONSIDERATIONS

Nil

8.0 RECOMMENDATIONS

8.1 It is recommended the Lieutenant-Governor-in-Council adopt the attached amendment.

Oct 3, 1995
allroads\Oct03.exc

APPROVED FOR
COUNCIL AGENDA

EC /95
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HIGHWAY ACCESS REGULATIONS
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TAB 35

Alan Aitken - RE: East Suffolk Road Extension

From: David Morris <dmorris@morrisgeomatics.ca>
To: Alan Aitken <aaaitken@gov.pe.ca>
Date: 2/19/2020 5:07 PM
Subject: RE: East Suffolk Road Extension
CC: Brett Wallace <bawallace@gov.pe.ca>, Dale McKeigan <DFMCKEIGAN@gov.pe.ca...>

Good afternoon Allan,

Thank you for providing your rational in the status of the various portions of the East Suffolk Road.

We would ask that you provide further clarity regarding the following:

- the definition contained in HAR's Schedule "D", section (216), prior to the August 12, 1995 amendment;
- the date that the asphalt was extended 200 metres;
- your rational for ignoring the hierarchy of evidence (*things which people are less likely to mistake*) within the description for the seasonal road. The description for the seasonal portion of the road states "from Route 229 to the end of the road".

You have stated that a DMA is required to provide access to the property. Our client is currently entitled to drive on the East Suffolk Road, it being a public highway, however they are not entitled to place a new or change an existing entrance to their property. HAR's, explicitly states, that the Minister shall not allow the foregoing to take place. Please explain how an entrance can contrary to HARs through the DMA

Under the Highway Access Regulations all highways require authorization for an entrance. The minister is forbidden to authorize an entrance way to a non-essential highway.

- **May issue** an entrance way permit **to authorize** of a new entrance or change in use for specific cases to a Arterial Highway
- **May issue** an entrance way or permit the change in the location of an entrance way onto a Limited Access Arterial Highway;
- **May authorize** a new entrance or change in use of an entrance onto a Collector Highway;
- **May authorize** a new entrance or change in use of an entrance onto a Local Highway;
- **May issue** an entrance way permit **to authorize** placement of a new entrance way or to change the use of an entrance way to an Seasonal highway;
- **Shall not issue** an entranceway permit **to authorize** placement of a new entrance **or change in use of an existing entrance** to a non-essential highway;
- **May issue** a permit for a new entrance of change in use of an existing entrance to a Scenic Heritage Road.

From: Alan Aitken <aaaitken@gov.pe.ca>
Sent: February 19, 2020 2:55 PM
To: David Morris <dmorris@morrisgeomatics.ca>
Cc: Brett Wallace <bawallace@gov.pe.ca>; Dale McKeigan <DFMCKEIGAN@gov.pe.ca>; Eugene Lloyd <EMLLLOYD@gov.pe.ca>; Stephen Szwarc <SJSZWARC@gov.pe.ca>; Sharon Slauenwhite <SNSLAUENWHITE@gov.pe.ca>; Wayne Tremblay <wltremblay@gov.pe.ca>
Subject: RE: East Suffolk Road Extension

David.

TIE have reviewed this issue and have concluded the following:

The East Suffolk Extension Road (R1132012) was added to the Highway Access Regulations in October of 1995, by Executive
file:///C:/Users/aaaitken/AppData/Local/Temp/XPgrpwise/5E4D6B47GOVMAINGOVMOBPO2100134... 3/16/2020

Council decision which included the insertion of s. (138.1) in Schedule C-2, s. (214.1) in Schedule C-3 and the revocation and replacement of s (216) in Schedule D.

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Thus, should your client wish to develop on PID 529461 they have at least two options, the first being entering into a Development and Maintenance Agreement (DMA) which will permit access to the property. The second option would be that they may upgrade the road to a seasonal standard at their cost and TIE will re-classify that portion to a seasonal highway which will then permit issuance of an Entrance Way Permit. In either case they will need to consult with the Department.

Alan A. Aitken, P.Eng
Traffic Operations Engineer
Transportation, Infrastructure and Energy
aaaitken@gov.pe.ca
902-368-5006 (ph)
902-368-5425 (fax)

>>> David Morris <dmorris@morrisgeomatics.ca> 2/14/2020 8:02 AM >>>
Thanks Alan,

Please let me know when you will be scheduled to meet again, so that I can notify my client.

Thank-you

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Sent: February-12-20 1:39 PM

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Subject: Re: East Suffolk Road Extension

David.

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Alan

>>> David Morris <dmorris@morrisgeomatics.ca> 2/12/2020 10:26 AM >>>

Good morning Alan,

Just following up to your internal meeting regarding the East Suffolk Road Ext. that you had on February 3, 2020. Do you have any information that I can relay to my client.

Thank-you

Dave

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TAB 36

Alan Aitken - RE: East Suffolk Road Extension

From: Alan Aitken
To: Morris, David
Date: 2/20/2020 1:26 PM
Subject: RE: East Suffolk Road Extension
CC: Lloyd, Eugene; McKeigan, Dale; Slauenwhite, Sharon; Szwarc, Stephen; ...
Attachments: EC580-95-D-216 original.pdf

David,

Please find attached a scan of the original s. 216 of Schedule D of the HAR's.

It would seem originally that the seasonal section was 0.6km long and it started at 0.5 km from Rte 229 again for a total of 1.1 km.

I've also looked at some old (1990) aerial photography and it appears that there was a distinct change to the road at the 1.1 km mark. I was not with the Department when the HAR's were first written, or when the three amendments for this road were added, but can only conclude that since the original and amended sections refer to a total of 1.1 km that the Department made a conscious decision that this 1.1 km length was the length that was intended to be classified as C2, C3 or Seasonal.

Furthermore, as I've mentioned before the Maintenance Division has informed me that they consider it to be a non-essential highway.

You may not agree with the DMA policy put in place a number of years ago but it was implemented such that properties abutting a non-essential could develop.

Unless a change to the HAR's is made to include the section in question as a seasonal highway which would allow issuance of an EWP, or until the proponent is prepared to enter into a DMA, I consider this matter closed.

Alan A. Aitken, P.Eng
 Traffic Operations Engineer
 Transportation, Infrastructure and Energy
 aaaitken@gov.pe.ca
 902-368-5006 (ph)
 902-368-5425 (fax)

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Alan Aitken - RE: East Suffolk Road Extension

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To: Alan Aitken <aaaitken@gov.pe.ca>
Date: 2/20/2020 1:42 PM
Subject: RE: East Suffolk Road Extension
CC: Brett Wallace <bawallace@gov.pe.ca>, Dale McKeigan <DFMCKEIGAN@gov.pe.ca...

Alan,

Thanks for the information

From: Alan Aitken <aaaitken@gov.pe.ca>
Sent: February 20, 2020 12:27 PM
To: David Morris <dmorris@morrisgeomatics.ca>
Cc: Brett Wallace <bawallace@gov.pe.ca>; Dale McKeigan <DFMCKEIGAN@gov.pe.ca>; Eugene Lloyd <EMLLOYD@gov.pe.ca>; Stephen Szwarc <SJSZWARC@gov.pe.ca>; Sharon Slauenwhite <SNSLAUENWHITE@gov.pe.ca>; Wayne Tremblay <wltremblay@gov.pe.ca>
Subject: RE: East Suffolk Road Extension

David,

Please find attached a scan of the original s. 216 of Schedule D of the HAR's.

It would seem originally that the seasonal section was 0.6km long and it started at 0.5 km from Rte 229 again for a total of 1.1 km.

I've also looked at some old (1990) aerial photography and it appears that there was a distinct change to the road at the 1.1 km mark. I was not with the Department when the HAR's were first written, or when the three amendments for this road were added, but can only conclude that since the original and amended sections refer to a total of 1.1 km that the Department made a conscious decision that this 1.1 km length was the length that was intended to be classified as C2, C3 or Seasonal.

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Alan A. Aitken, P.Eng
Traffic Operations Engineer
Transportation, Infrastructure and Energy
aaaitken@gov.pe.ca
902-368-5006 (ph)
902-368-5425 (fax)

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Good afternoon Allan,

Thank you for providing your rational in the status of the various portions of the East Suffolk Road.

We would ask that you provide further clarity regarding the following:

- the definition contained in HAR's Schedule "D", section (216), prior to the August 12, 1995 amendment;
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From: Alan Aitken <aaaitken@gov.pe.ca>

Sent: February 19, 2020 2:55 PM

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Subject: RE: East Suffolk Road Extension

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Thus, should your client wish to develop on PID 529461 they have at least two options, the first being entering into a Development and Maintenance Agreement (DMA) which will permit access to the property. The second option would be that they may upgrade the road to a seasonal standard at their cost and TIE will re-classify that portion to a seasonal highway which will then permit issuance of an Entrance Way Permit. In either case they will need to consult with the Department.

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Please let me know when you will be scheduled to meet again, so that I can notify my client.

Thank-you

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David (Dave) R.J. Morris, P.Eng, PEILS, CLS | Morris Geomatics & Engineering Ltd. | P.O. Box 21016, Charlottetown, PE, C1A 9H6 | [902-213-0487](tel:902-213-0487)
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From: Alan Aitken <aaaitken@gov.pe.ca>
Sent: February-12-20 1:39 PM
To: David Morris <dmorris@morrisgeomatics.ca>
Subject: Re: East Suffolk Road Extension

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>>> David Morris <dmorris@morrisgeomatics.ca> 2/12/2020 10:26 AM >>>
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TAB 38

Alan Aitken - RE: East Suffolk Road Extension

From: David Morris <dmorris@morrisgeomatics.ca>
To: Alan Aitken <aaaitken@gov.pe.ca>
Date: 3/4/2020 10:27 AM
Subject: RE: East Suffolk Road Extension
CC: Brett Wallace <bawallace@gov.pe.ca>, Dale McKeigan <DFMCKEIGAN@gov.pe.ca...

Good morning Alan,

I discussed the file and DMA with my client yesterday. If you could give a quick answer a couple of questions regarding the DMA it may make it easier for them make a decision on whether to enter into the agreement.

1. If the public damages the road, the Sabapathy's would be responsible to make repairs, but will have to receive permission from TIE
2. If the public incurs damage or injury using the portion of road under the DMA, liability rests with the Sabapathy's
3. The DMA is for permission for the Sabapathy's to maintain and upgrade a non-essential road subject to the terms and conditions contained within, is an entrance way permit issued to for access to their property.
4. If the Sabapathy's decide to postpone their development plans, can they create an access to their property without the DMA.

Thankyou

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file:///C:/Users/aaaitken/AppData/Local/Temp/XPgrpwise/5E5F8290GOVMAINGOVMOBPO21001346... 3/16/2020

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aaaitken@gov.pe.ca
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Sent: February-12-20 1:39 PM
To: David Morris <dmorris@morrisgeomatics.ca>

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TAB 39

Alan Aitken - RE: East Suffolk Road Extension

From: Jaycee Sabapathy <jaycee.sabapathy@outlook.com>
To: Alan Aitken <aaaitken@gov.pe.ca>
Date: 3/4/2020 12:52 PM
Subject: RE: East Suffolk Road Extension
CC: Brett Wallace <bawallace@gov.pe.ca>, Dale McKeigan <DFMCKEIGAN@gov.pe.ca...>

Good afternoon,

We received your response to our request for an entrance way permit via David Morris, whose services we've engaged to assist us with this process. In follow-up to your review as outlined below, we are requesting clarification on three points:

- 1) As you outlined in your email below, Schedule D Seasonal Highways, Item (216) in the Highway Access Regulations, describes the East Suffolk Ext Road as seasonal "commencing at a point 0.7 km from the intersection of Route 229 to the end of the road, a distance of 0.4 km." **Can you please explain on what basis TIE is excluding the description "to the end of the road" in interpreting this section of the regulations?**
- 2) The road survey and accompanying letter provided by David Morris to TIE on November 18, 2019, provides physical evidence demonstrating the portion of the road declared Seasonal in Schedule D (Item 216) is of a similar standard to the portion of the road that TIE has stated is a non-essential road. **Given this, please clarify what specific upgrades would be required to make the "non-essential" portion of the road the same standard as the seasonal road preceding it?**
- 3) You have suggested we enter into a Development and Maintenance Agreement to permit us access to our property. **Please provide us with an explanation as to how the DMA can provide us with an entrance way permit to access our property? The HARs state that under s. 36 "The Minister shall not issue an entrance way permit to authorize placement of a new entrance way or a change of use of an existing entrance way to a non-essential highway".**

We submitted our building permit application on April 17, 2019 after which the planning office immediately commenced work with TIE to obtain an entrance way permit. We've waited weeks to months at a time for responses from TIE on this process despite multiple phone calls and emails from ourselves, the planning office and David Morris. The lack of response by TIE has cost us time, money and significantly delayed the development of our property.

We ask that you please respond to this email no later than end of day **Friday, March 6, 2020**. David Morris is also awaiting a response to his e-mail dated February 19, 2020.

Thank you,
 Jaycee Sabapathy

From: Alan Aitken <aaaitken@gov.pe.ca>
Sent: February 19, 2020 2:55 PM
To: David Morris <dmorris@morrismet.com>
Cc: Brett Wallace <bawallace@gov.pe.ca>; Dale McKeigan <DFMCKEIGAN@gov.pe.ca>; Eugene Lloyd <EMLLOYD@gov.pe.ca>; Stephen Szwarc <SJSZWARC@gov.pe.ca>; Sharon Slauenwhite <SNSLAUENWHITE@gov.pe.ca>; Wayne Tremblay <wltremblay@gov.pe.ca>
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From: Alan Aitken <aaaitken@gov.pe.ca>

file:///C:/Users/aaaitken/AppData/Local/Temp/XPgrpwise/5E5FA482GOVMAINGOVMOBPO21001346... 3/16/2020

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TAB 40

From: Alan Aitken
To: Sabapathy, Jaycee
CC: Lloyd, Eugene; McKeigan, Dale; Morris, David; Slauenwhite, Sharon; S...
Date: 3/5/2020 10:25 AM
Subject: RE: East Suffolk Road Extension

Good Morning.

1. In my response to David's 2nd email of Feb 19th I provided the following response:

David.

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As noted in the above response I essentially indicated that to the best of my knowledge the Department made a conscious decision to only classify 1.1 km of the road. The Director of Maintenance has indicated to me on several occasions that they do not perform regular maintenance on the portion beyond the 1.1 km mark and thus consider it to be non-essential.

2. I would suggest that you should be dealing with the Director of Maintenance, Stephen Szwarc,, to confirm what upgrades would be required to bring it up to a seasonal standard but I do expect that widening and strengthening of the driving surface, and improved ditching would be required. He has mentioned to me that the area is very flat and adequate drainage of any ditch system may be very difficult to achieve.

3. A DMA will not provide you with an entrance way permit (EWP). EWP's are only issued to properties abutting arterial or seasonal highways. EWP's, are not issued for any properties requiring access to any other classification of highway. The DMA would grant you permission to construct an access and would then also enable Agriculture and Land to issue a development permit.

Alan A. Aitken, P.Eng
Traffic Operations Engineer
Transportation, Infrastructure and Energy
aaaitken@gov.pe.ca
902-368-5006 (ph)
902-368-5425 (fax)

>>> Jaycee Sabapathy <jaycee.sabapathy@outlook.com> 3/4/2020 12:50 PM >>>

Good afternoon,

We received your response to our request for an entrance way permit via David Morris, whose services we've engaged to assist us with this process. In follow-up to your review as outlined below, we are requesting clarification on three points:

1) As you outlined in your email below, Schedule D Seasonal Highways, Item (216) in the Highway Access Regulations, describes the East Suffolk Ext Road as seasonal "commencing at a point 0.7 km from the intersection of Route 229 to the end of the road, a distance of 0.4 km." **Can you please explain on what basis TIE is excluding the description "to the end of the road" in interpreting this section of the regulations?**

2) The road survey and accompanying letter provided by David Morris to TIE on November 18, 2019, provides physical evidence demonstrating the portion of the road declared Seasonal in Schedule D (Item 216) is of a similar standard to the portion of the road that TIE has stated is a non-essential road. **Given this, please clarify what specific upgrades would be required to make the "non-essential" portion of the road the same standard as the seasonal road preceding it?**

3) You have suggested we enter into a Development and Maintenance Agreement to permit us access to our property. **Please provide us with an explanation as to how the DMA can provide us with an entrance way permit to access our property? The HARs state that under s. 36 "The Minister shall not issue an entrance way permit to authorize placement of a new entrance way or a change of use of an existing entrance way to a non-essential highway".**

We submitted our building permit application on April 17, 2019 after which the planning office immediately commenced work with TIE to obtain an entrance way permit. We've waited weeks to months at a time for responses from TIE on this process despite multiple phone calls and emails from ourselves, the planning office and David Morris. The lack of response by TIE has cost us time, money and significantly delayed the development of our property.

We ask that you please respond to this email no later than end of day **Friday, March 6, 2020**. David Morris is also awaiting a response to his e-mail dated February 19, 2020.

Thank you,
Jaycee Sabapathy

From: Alan Aitken <aaaitken@gov.pe.ca>
Sent: February 19, 2020 2:55 PM
To: David Morris <dmorris@morrisgeomatics.ca>
Cc: Brett Wallace <bawallace@gov.pe.ca>; Dale McKeigan <DFMCKEIGAN@gov.pe.ca>; Eugene Lloyd <EMLLOYD@gov.pe.ca>; Stephen Szwarc <SJSZWARC@gov.pe.ca>; Sharon Slauenwhite <SNSLAUENWHITE@gov.pe.ca>; Wayne Tremblay <wltremblay@gov.pe.ca>
Subject: RE: East Suffolk Road Extension

David.

TIE have reviewed this issue and have concluded the following:

The East Suffolk Extension Road (RI132012) was added to the Highway Access Regulations in October of 1995, by Executive Council decision which included the insertion of s. (138.1) in Schedule C-2, s. (214.1) in Schedule C-3 and the revocation and replacement of s (216) in Schedule D.

These sections now read as follows in the HAR's and are consistent with the original approval by EC (see attached document)

(138.1) East Suffolk Extension Road RI32012: The portion of the East Suffolk Road commencing at the intersection of Route 229 in the settlement of Suffolk, to the end of the pavement.

(214.1) East Suffolk Extension Road RI32012: The East Suffolk Extension Road in the settlement of Suffolk commencing at a point 0.5 km from the intersection with Route 229, for a distance of 0.2 km.

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These amendments would conclude at the time of inclusion in the HAR's that the paved section was 0.5 km (C-2 classification), followed by 0.2km of unpaved year round highway (C-3 classification), followed by 0.4 km of Seasonal Highway for a total of 1.1 km.

Since that time it appears that the paved portion has been extended 0.2 km of pavement, in or around 2008, which would automatically extend the C2 portion to the end of what would have been C3 at the time of the inclusion in the HAR's. This extension of the C2 portion would not however shift the beginning of the C3 and seasonal portion by 0.2km. Thus, effectively the East Suffolk Extension Road would now be classified as 0.7km C2, followed by 0.4km of Seasonal Highway for a total of 1.1km. The remaining

length, approximately 0.2km beyond the seasonal would be classified as non-essential. Maintenance division has confirmed that they consider this last portion as non-essential and have no intention to upgrade it to a higher standard.

Thus, should your client wish to develop on PID 529461 they have at least two options, the first being entering into a Development and Maintenance Agreement (DMA) which will permit access to the property. The second option would be that they may upgrade the road to a seasonal standard at their cost and TIE will re-classify that portion to a seasonal highway which will then permit issuance of an Entrance Way Permit. In either case they will need to consult with the Department.

Alan A. Aitken, P.Eng
Traffic Operations Engineer
Transportation, Infrastructure and Energy
aaaitken@gov.pe.ca
902-368-5006 (ph)
902-368-5425 (fax)

>>> David Morris <dmorris@morrisgeomatics.ca> 2/14/2020 8:02 AM >>>
Thanks Alan,

Please let me know when you will be scheduled to meet again, so that I can notify my client.

Thank-you

Dave

David (Dave) R.J. Morris, P.Eng, PEILS, CLS | **Morris Geomatics & Engineering Ltd.** | P.O. Box 21016, Charlottetown, PE, C1A 9H6 | **902-213-0487**
Providing effective, innovative, solutions in the fields of Land Surveying, Engineering and Geo-spatial Information.

From: Alan Aitken <aaaitken@gov.pe.ca>
Sent: February-12-20 1:39 PM
To: David Morris <dmorris@morrisgeomatics.ca>
Subject: Re: East Suffolk Road Extension

David.

We met briefly last week but Wayne was not able to attend. He's back, Sharon is out until tmr. Hope to meet again soon.

Alan

>>> David Morris <dmorris@morrisgeomatics.ca> 2/12/2020 10:26 AM >>>

Good morning Alan,

Just following up to your internal meeting regarding the East Suffolk Road Ext. that you had on February 3, 2020. Do you have any information that I can relay to my client.

Thank-you

Dave

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2/2

TAB 41

Alan Aitken - RE: East Suffolk Road Extension

From: Alan Aitken
To: Morris, David
Date: 3/5/2020 10:34 AM
Subject: RE: East Suffolk Road Extension
CC: Lloyd, Eugene; McKeigan, Dale; Sabapathy, Jaycee; Slauenwhite, Sharon...
Attachments: Dev & Maint Agreement Non-Ess Rds Sept 2011.pdf

David.

Please find attached a draft copy of a DMA which I understand was previously provided to your clients. A review of that document should provide you with answers to your questions.

Alan A. Aitken, P.Eng
 Traffic Operations Engineer
 Transportation, Infrastructure and Energy
 aaaitken@gov.pe.ca
902-368-5006 (ph)
902-368-5425 (fax)

>>> David Morris <dmorris@morrismetronics.ca> 3/4/2020 10:25 AM >>>
 Good morning Alan,

I discussed the file and DMA with my client yesterday. If you could give a quick answer a couple of questions regarding the DMA it may make it easier for them to make a decision on whether to enter into the agreement.

1. If the public damages the road, the Sabapathy's would be responsible to make repairs, but will have to receive permission from TIE
2. If the public incurs damage or injury using the portion of road under the DMA, liability rests with the Sabapathy's
3. The DMA is for permission for the Sabapathy's to maintain and upgrade a non-essential road subject to the terms and conditions contained within, is an entrance way permit issued to for access to their property.
4. If the Sabapathy's decide to postpone their development plans, can they create an access to their property without the DMA.

Thankyou

David (Dave) R.J. Morris, P.Eng, PEELS, CLS | Morris Geomatics & Engineering Ltd. | P.O. Box 21016, Charlottetown, PE, C1A 9H6 | 902-213-0487

From: Alan Aitken <aaaitken@gov.pe.ca>
Sent: February 20, 2020 1:27 PM
To: David Morris <dmorris@morrismetronics.ca>
Cc: Brett Wallace <bawallace@gov.pe.ca>; Dale McKeigan <DFMCKEIGAN@gov.pe.ca>; Eugene Lloyd <EMLLOYD@gov.pe.ca>; Stephen Szwarc <SJSZWARC@gov.pe.ca>; Sharon Slauenwhite <SNSLAUENWHITE@gov.pe.ca>; Wayne Tremblay <vtremblay@gov.pe.ca>
Subject: RE: East Suffolk Road Extension

David.

Please find attached a scan of the original s. 216 of Schedule D of the HAR's.

It would seem originally that the seasonal section was 0.6km long and it started at 0.5 km from Rte 229 again for a total of 1.1

I've also looked at some old (1990) aerial photography and it appears that there was a distinct change to the road at the 1.1 km mark. I was not with the Department when the HAR's were first written, or when the three amendments for this road were added, but can only conclude that since the original and amended sections refer to a total of 1.1 km that the Department made a conscious decision that this 1.1 km length was the length that was intended to be classified as C2, C3 or Seasonal.

Furthermore, as I've mentioned before the Maintenance Division has informed me that they consider it to be a non-essential highway.

You may not agree with the DMA policy put in place a number of years ago but it was implemented such that properties abutting a non-essential could develop.

Unless a change to the HAR's is made to include the section in question as a seasonal highway which would allow issuance of an EWP, or until the proponent is prepared to enter into a DMA, I consider this matter closed.

Alan A. Aitken, P.Eng
Traffic Operations Engineer
Transportation, Infrastructure and Energy
aaaitken@gov.pe.ca
[902-368-5006](tel:902-368-5006) (ph)
[902-368-5425](tel:902-368-5425) (fax)

>>> David Morris <dmorris@morrisgeomatics.ca> 2/19/2020 5:07 PM >>>

Good afternoon Allan,

Thank you for providing your rational in the status of the various portions of the East Suffolk Road.

We would ask that you provide further clarity regarding the following:

- the definition contained in HAR's Schedule "D", section (216), prior to the August 12, 1995 amendment;
- the date that the asphalt was extended 200 metres;
- your rational for ignoring the hierarchy of evidence (*things which people are less likely to mistake*) within the description for the seasonal road. The description for the seasonal portion of the road states "from Route 229 to the end of the road".

You have stated that a DMA is required to provide access to the property. Our client is currently entitled to drive on the East Suffolk Road, it being a public highway, however they are not entitled to place a new or change an existing entrance to their property. HAR's, explicitly states, that the Minister shall not allow the foregoing to take place. Please explain how an entrance can contrary to HARs through the DMA

Under the Highway Access Regulations all highways require authorization for an entrance. The minister is forbidden to authorize an entrance way to a non-essential highway.

- **May issue** an entrance way permit to authorize of a new entrance or change in use for specific cases to a Arterial Highway
- **May issue** an entrance way or permit the change in the location of an entrance way onto a Limited Access Arterial Highway;
- **May authorize** a new entrance or change in use of an entrance onto a Collector Highway;
- **May authorize** a new entrance or change in use of an entrance onto a Local Highway;
- **May issue** an entrance way permit to authorize placement of a new entrance way or to change the use of an entrance way to an Seasonal highway;
- **Shall not issue** an entranceway permit to authorize placement of a new entrance or change in use of an existing entrance to a non-essential highway;
- **May issue** a permit for a new entrance of change in use of an existing entrance to a Scenic

Heritage Road.

From: Alan Aitken <aaaitken@gov.pe.ca>
Sent: February 19, 2020 2:55 PM
To: David Morris <dmorris@morrisgeomatics.ca>
Cc: Brett Wallace <bawallace@gov.pe.ca>; Dale McKeigan <DFMCKEIGAN@gov.pe.ca>; Eugene Lloyd <EMLLOYD@gov.pe.ca>; Stephen Szwarc <SJSZWARC@gov.pe.ca>; Sharon Slauenwhite <SNSLAUENWHITE@gov.pe.ca>; Wayne Tremblay <wltremblay@gov.pe.ca>
Subject: RE: East Suffolk Road Extension

David.

TIE have reviewed this issue and have concluded the following:

The East Suffolk Extension Road (RI132012) was added to the Highway Access Regulations in October of 1995, by Executive Council decision which included the insertion of s. (138.1) in Schedule C-2, s. (214.1) in Schedule C-3 and the revocation and replacement of s (216) in Schedule D.

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Thus, should your client wish to develop on PID 529461 they have at least two options, the first being entering into a Development and Maintenance Agreement (DMA) which will permit access to the property. The second option would be that they may upgrade the road to a seasonal standard at their cost and TIE will re-classify that portion to a seasonal highway which will then permit issuance of an Entrance Way Permit. In either case they will need to consult with the Department.

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 902-368-5006 (ph)
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>>> David Morris <dmorris@morrisgeomatics.ca> 2/14/2020 8:02 AM >>>

Thanks Alan,

Please let me know when you will be scheduled to meet again, so that I can notify my client.

Thank-you

Dave

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Subject: Re: East Suffolk Road Extension

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Alan

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Good morning Alan,

Just following up to your internal meeting regarding the East Suffolk Road Ext. that you had on February 3, 2020. Do you have any information that I can relay to my client.

Thank-you

Dave

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The Grantee, for the Grantee, ** heirs, successors and assigns, hereby acknowledges and agrees as follows:

1. That the Grantor shall not be responsible for the upgrading or maintenance of the Non-Essential Highway or the costs associated with such upgrading/maintenance, said costs shall be at the sole expense of the Grantee, ** heirs, successors and assigns.
2. That the Non-Essential Highway shall remain the lands of the Grantor and shall be subject to all the rights and privileges the Grantor may enjoy or grant including, but not limited to, the right of passage by the Grantor and the General Public.
3. That any and all damage which may be caused by use of the Non-Essential Highway by the General Public including any damage to upgrades undertaken by the Grantee remain the sole responsibility of the Grantee, ** heirs, successors and assigns, who shall look solely to the person or persons causing said damage for compensation. To clarify, the Government of Prince Edward Island shall not be responsible to repair or compensate for any damage caused to the Non-Essential Highway by members of the General Public exercising their right to use the Non-Essential Highway in a lawful manner. In the event of unlawful use of the Non-Essential Highway, the Grantee shall look solely to the appropriate law enforcement body and the appropriate Court of Law to curtail such activity and for compensation for damages.
4. That the Grantor bears no liability for any and all nuisance to the Grantee, ** heirs, successors and assigns, caused by the General Public exercising its right to use the Non-Essential Highway. In the event of unlawful use of the Non-Essential Highway the Grantee shall look solely to the appropriate law enforcement body and the appropriate Court of Law to curtail such activity.
5. That any material upgrades to the Non-Essential Highway shall not be undertaken by the Grantee, ** heirs, successors and assigns, until prior notice has been given in writing to the Department of Transportation and Infrastructure Renewal's Chief Engineer, or their assigns. This does not apply to the Grantee's normal maintenance of the upgraded Non - Essential Highway including snow removal.

6. That any material upgrades contemplated to the Non-Essential Highway by the Grantee, ** heirs, successors and assigns, shall be approved by written authorization from the Department of Transportation and Infrastructure Renewal's Chief Engineer or their assigns, and such authorization shall include an "Approval-to-Proceed" issued by the Department of Transportation and Infrastructure Renewal's Environmental Management Section, or its assigns, and no such upgrades shall proceed until such authorization has been obtained. This does not apply to the Grantee's normal maintenance of the Non-Essential Highway including snow removal.
7. That, beyond the point at which the Non-Essential Highway meets a classified provincial highway, the Government of Prince Edward Island has no responsibility to provide any services, including but not limited to the following; snow removal, maintenance of any description, school bus service, emergency vehicle service including but not limited to fire and ambulance, garbage removal, mail service. Provisions for electric, phone, cable or other utilities remain solely at the cost of the Grantee, ** heirs, successors and assigns.
8. That the Government of Prince Edward Island reserves the unilateral right to reclassify the Non-Essential Highway. Upon reclassification whereby the Government of Prince Edward Island assumes any of the Grantee's responsibilities arising hereunder and the reclassification permits access to the Grantee's Land, this Agreement may be terminated or amended to the extent necessary to give effect to the reclassification by registration of a Notice of Termination or Amendment as the case may be.
9. That the entranceway from the Non-Essential Highway to the Grantee's Land is subject to relocation so as to provide a safe entrance to the Non-Essential Highway, and all costs to relocate any infrastructure on the Grantee's Land as a result of the relocation aforesaid will be at the sole expense of the Grantee, ** heirs, successors and assigns.
10. That the Government of Prince Edward Island has and will continue to enjoy the right to grant similar permissions and other rights to other persons over the Non-Essential Highway and the Grantee further acknowledges and agrees that such permissions or rights so granted will be concurrent with those of the Grantee, ** heirs, successors and assigns, notwithstanding any improvements the Grantee may have made to the Non-Essential Highway.

11. That in any instance where the Government of Prince Edward Island must remove bridges or culverts on the Non-Essential Highway to protect public safety, the replacement of same for the Grantee's use will be at the expense of the Grantee, ** heirs, successors and assigns, subject to 5 and 6 above.
12. The rights obligations and privileges in this Agreement shall be binding upon and shall run with the Grantee's Land, or any part thereof, and the Grantee shall ensure that any successors or assigns to the Grantee's Land, or part thereof acknowledges and agrees to be bound by the terms and conditions of this Agreement. The said acknowledgement and agreement shall be in writing and shall be included within the instrument of transfer of the Grantee's Land.
13. That the Grantees will indemnify, defend and save harmless the Grantor from and against all claims, actions, causes of action, loss, damage, expenses and costs, whatsoever, **made by any persons lawfully accessing the lands of the Grantees as described in Schedule "B"**, arising out of or resulting directly or indirectly and whether by reason of negligence or otherwise, from the performance by the Grantees of any of the covenants under this Agreement and from any default of the Grantees in the performance of the covenants under this agreement, and from the remedying of such default by the Grantees or by the Grantor or by any other person(s).

IN WITNESS WHEREOF the said Parties have hereunto set their hands and seals on the day and year first above written.

SIGNED, SEALED & DELIVERED
in the presence of:

**GOVERNMENT OF PRINCE EDWARD
ISLAND as represented by the
Minister of Transportation and
Infrastructure Renewal:**

SIGNED, SEALED & DELIVERED
in the presence of:

TAB 42

Process for Change in Highway Classification

A. Application and Data Collection

1. When someone wishes to have a road reclassified for whatever reason, they will usually contact someone with whom they are familiar. Whoever received the request should direct the Applicant to the Traffic Manager or the Regional Engineer for an application.
2. The Application must indicate road location, length of reclassification requested, property # of land to be served by change, reason for change, provide map/plan of proposed development
3. Traffic manager - confirm existing classification
 - prepare file for the case based on classification existing prior to the application
 - Files for Arterial Highways - File Series 4810/20 - Rte/Sect/subs - Highway Name
 - Files for Collector Highways - File Series 4810/21 - Rte/Sect/subs - Highway Name
 - Files for Local Highways - File Series 4810/22 - Rte/Sect/subs - Highway Name
 - Files for Seasonal Highways - File Series 4810/23 - Rte/Sect/subs - Highway Name
 - Files for Non-essential Highways - File Series 4810/24 - Rte/Sect/subs - Highway Name
 - Files for Scenic Heritage Roads - File Series 4810/25 - Rte/Sect/subs - Highway Name
 - Files for Summer Cottage Roads - File Series 4810/26 - Road Name
 - Files for Private Roads - File Series 4810/27 - Road Name
 - Circulate application and GIS-T map for information and comments by set date
4. GIS-T section - Prepare map showing road in question with name, Route or RI #,
 - identify locations where classification changes
 - 911 addresses on the road
 - show extent of winter and summer maintenance if mapped
 - measure length to be reclassified
 - any comments
5. Survey Section - Confirm whether public or private
 - Determine ROW width on section to be improved.
 - Identify areas where ROW < 20m
 - any comments
6. Regional Engineer
 - determine standards for new classification
 - identify difficulties with respect to drainage, alignment, grade, cross-section
 - identify any optional means of access
 - Determine approximate costs of upgrading road from current to proposed classification
 - any comments
7. EMD - Identify any environmental issues
 - any comments
8. Maintenance Supervisor - identify/confirm current extent of winter and summer maintenance
 - any comments
9. Property Section - advise of any easements, or legal impediments on or along the roadway
 - indicate approximate land costs if land will be needed.

B. Review and Recommendation

1. Traffic manager - At set date review the data and contact those who have not replied.
 - Set agenda and meeting with regional engineer, L&E rep
 - Review info
 - Recommend action based on policy
 - Send recommendation to Chief Engineer, DM
 2. CE will prepare Memo to EC to get approval for the process to proceed, indicating classification changes, developers costs, TPW costs, required increase in funding for Maintenance.
 3. Upon receipt of EC approval, the Regional Engineer will be advised to contact the applicant with the recommended action. This will include any requirements for land and/or financial contributions.
 4. If the applicant agrees with the conditions, the Regional Engineer will
- Alignment Standards: In all instances where road improvements are required for changes to classification, the road work will be considered as Local Reconstruction for 80 km/h. Where the roadway is of a consistently curved or hilly alignment, the standards for Local Restoration may be used. A determination should be made of the anticipated future traffic. For short roads to the shore or roads which will not become short cuts, the projected traffic may be small <100 vpd if less than 10 lots can be developed. In this case Where the road is considerably longer and there is land available for considerable development
- Cross-section standards: See