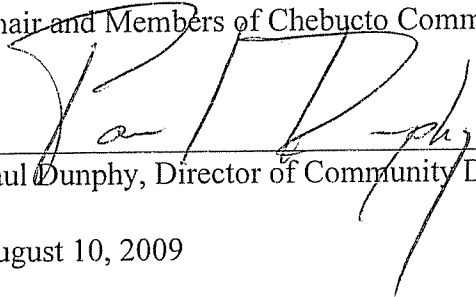




PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

Chebucto Community Council  
September 14, 2009

**TO:** Chair and Members of Chebucto Community Council

**SUBMITTED BY:**   
Paul Dunphy, Director of Community Development

**DATE:** August 10, 2009

**SUBJECT:** Case 01253: Amending Development Agreement - Governor's Brook  
Subdivision, Halifax

---

**ORIGIN**

Application by Armco Captial Inc. to amend the development agreement for the Governor's Brook subdivision, located off Danforth Road and Drysdale Road, Halifax.

**RECOMMENDATIONS**

It is recommended that Chebucto Community Council:

1. Give Notice of Motion to consider the proposed Amending Agreement, as described in Attachment "A", and schedule a public hearing.
2. Approve the Amending Agreement, as contained in Attachment A.
3. Require the agreement be signed and delivered within 120 days from the date of delivery of documentation to the applicant for execution, or any extension thereof granted by Community Council on request of the Applicant, from the date of final approval of said agreement by Community Council and any other bodies as necessary, whichever is later, including any applicable appeal periods; otherwise this approval shall be void and any obligations arising hereunder shall be at an end.

## **BACKGROUND**

The Governor's Brook subdivision is a 351 acre site located between McIntosh Run and Colpitt Lake (see Map 1). The development of the lands is subject to a development agreement for a comprehensive residential development that was approved by Council on January 10, 2005, and subsequently amended on July 30, 2007 and October 6, 2008. This agreement permits 902 residential units, a neighbourhood commercial facility, approximately 48 acres of park land, and approximately 194 acres of conservation land. To date, the first two phases of the development have been subdivided, resulting in the creation of 115 lots, and HRM has issued permits for approximately 15 dwelling units.

## **Requests**

Armco Capital Inc. has requested that their development agreement be amended to remove the provision that restricts the issuance of development permits for Governor's Brook to 50 dwelling units in a calendar year. This would allow development to proceed with no annual limitations.

At the request of staff, the applicant is also proposing changes to the configuration of the community parkland parcel and one of the multiple unit dwellings, as well as relocation of the neighbourhood commercial facility in the subdivision. As a result of these changes, three additional residential lots would be created.

## **DISCUSSION**

Staff have reviewed the application relative to all applicable plan policies which are included as Attachment C to this report. The following issues have been identified for more detailed discussion.

### **Rate of Development**

Under the existing agreement, the issuance of development permits is limited to a maximum of 50 dwelling units per year. Unused allotments from one year may be carried forward to the next year, but no more than 100 dwelling units may be issued permits in any one calendar year. When the development agreement was approved in 2005, there were concerns about the size of the subdivision and its related impact, particularly on traffic at the Armdale Rotary. This control on the rate of development helped to mediate these concerns and was a key component of the original agreement.

### **Traffic**

A significant concern in 2005 was the impact the additional traffic from this subdivision would have on the Armdale Rotary. Delays at the rotary were substantial and there were reservations about permitting a development that would further exacerbate traffic. Since that time, a variety of improvements have been made to the Rotary, including its conversion to a roundabout. The current

application was reviewed by HRM Traffic Services, who have advised that traffic capacity is adequate to accommodate the entirety of this development.

### **Municipal Planning Strategy Policy**

In considering this application, Council is to be guided by the policies of the Halifax Municipal Planning Strategy (MPS) and more specifically the policies of the Mainland South Secondary Planning Strategy (MSSPS). Within the MSSPS, Governor's Brook is identified as being within the Residential Development District (RDD) designation (see Map 2), and is subject to Schedule I - Guidelines for Residential Development Districts (Attachment C).

The MSSPS does not include a policy that speaks directly to timing or rate of development. The policy most relevant to this amendment requires that municipal infrastructure be adequate to service any proposed development (Schedule I [14], Attachment C).

As required by Section 2.9(c) of the development agreement, upgrades have been undertaken at the Roache's Pond pumping station. Although monitoring of the pumping station is not yet complete, a review by Nova Scotia Environment at the subdivision stage will ensure that capacity is adequate before subdivision occurs.

### **Re-Configuration**

The concept plan for Governor's Brook includes a large community park, a neighbourhood commercial facility, and a 48 unit building within Phases 4 and 5 of the development. Under the current configuration, the parcels of land designated for these uses are accessed from Lier Ridge and Quartz Drive, which are local streets. As these uses typically attract additional traffic, staff have requested that these parcels be accessed from Alabaster Way, which functions as the minor collector road for the development. The applicant has accommodated this request by relocating the neighbourhood commercial facility to the corner of Quartz Drive and Alabaster Way, and shifting the access for the multiple unit building and community park to Alabaster Way. The proposed changes will serve to reduce traffic on local streets, and provide a better connection between the neighbourhood commercial facility and the higher density residential uses in the area.

### **Density**

As a result of the above changes to the community park and multiple unit building, three additional single family dwellings lots have been created. The existing agreement results in a density of 18.59 persons per acre while the addition of three extra lots will increase the density to 18.64 persons per acre. This density is well within the density permitted by policy (Schedule I [5], Attachment C), which is 22 persons per acre. Staff have no objection to the three additional lots, which will increase the number of dwelling units in the development from 902 to 905.

### **Conclusion**

The proposed amendments are consistent with the applicable plan policies (Attachment "C") of the MPS and as such, it is recommended that Chebucto Community Council approve the attached amending agreement.

### **Public Information Meeting / Area of Notification**

The public information meeting was waived in consultation with the area Councillor. Should Community Council decide to hold a public hearing, in addition to published newspaper advertisements, property owners in the area shown on Map 1 will be sent written notification.

### **BUDGET IMPLICATIONS**

There are no budget implications. The Developer will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred to satisfy the terms of this Agreement. The administration of the agreement can be carried out within the approved budget with existing resources.

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

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

### **ALTERNATIVES**

1. Council may approve the Amending Development Agreement (Attachment "A"). This is the recommended course of action.
2. Council may choose to alter the terms of the Amending Development Agreement. This may necessitate further negotiations with the applicant, and may require an additional public hearing.
3. Council may refuse the entire development agreement. Pursuant to the *Halifax Regional Municipality Charter*, Council must provide reasons for this refusal, based on the policies of the MPS.

### **ATTACHMENTS**

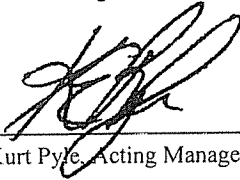
Map 1	Zoning, Location, and Notification Area
Map 2	Generalized Future Land Use
Attachment A	Amending Agreement

Attachment B            Excerpts from Existing Development Agreement  
Attachment C            Excerpts from the Halifax Municipal Planning Strategy

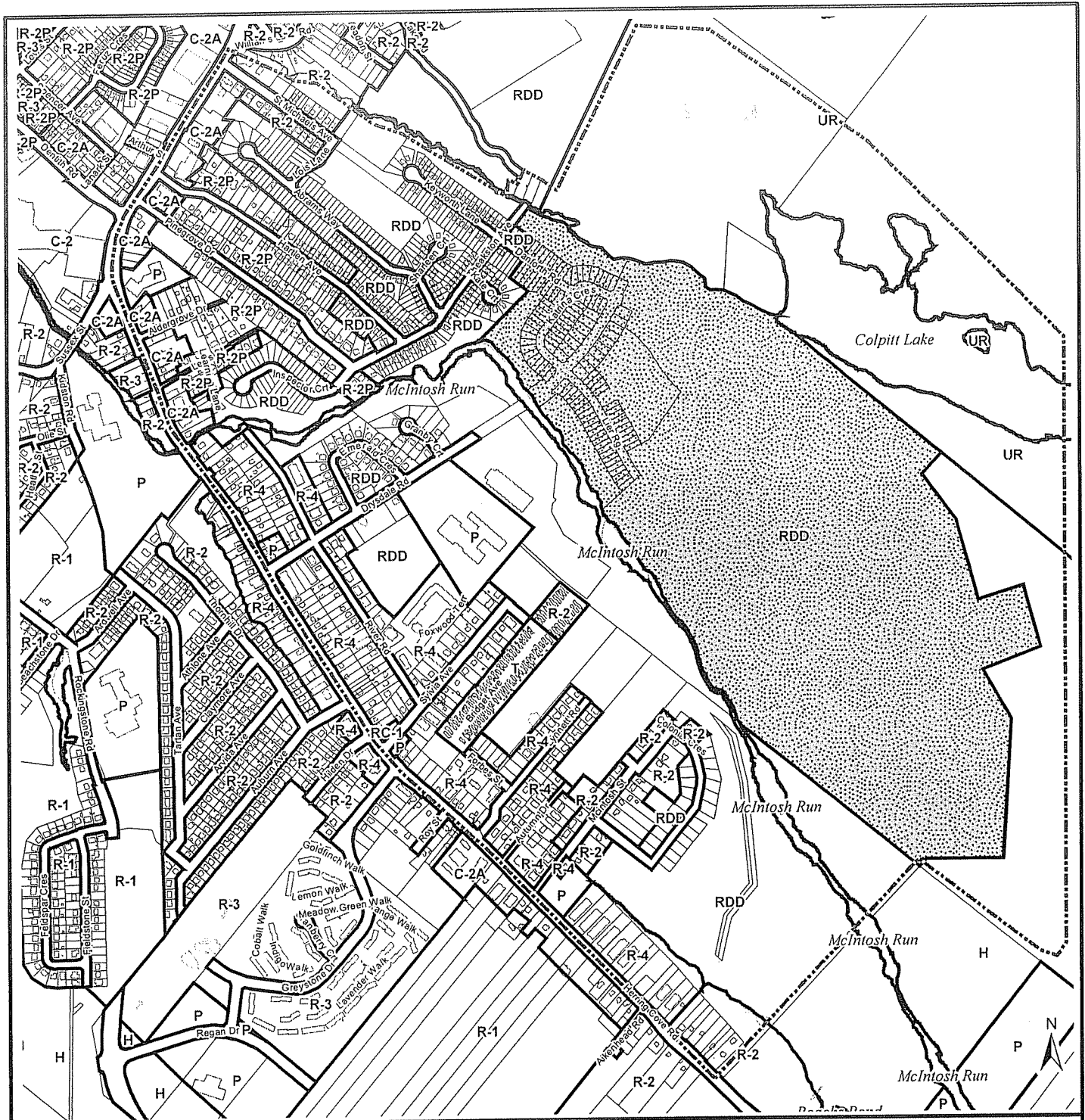
A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by :            Patricia Hughes, Planner I, 490-1948

Report Approved by:





Kurt Pyle, Acting Manager of Planning Services, 490-7066



### Map 1 - Location and Zoning

Governors Brook  
Halifax

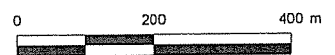
-  Subject area
-  Area of notification

Halifax Mainland  
Land Use By-Law Area

#### Zone

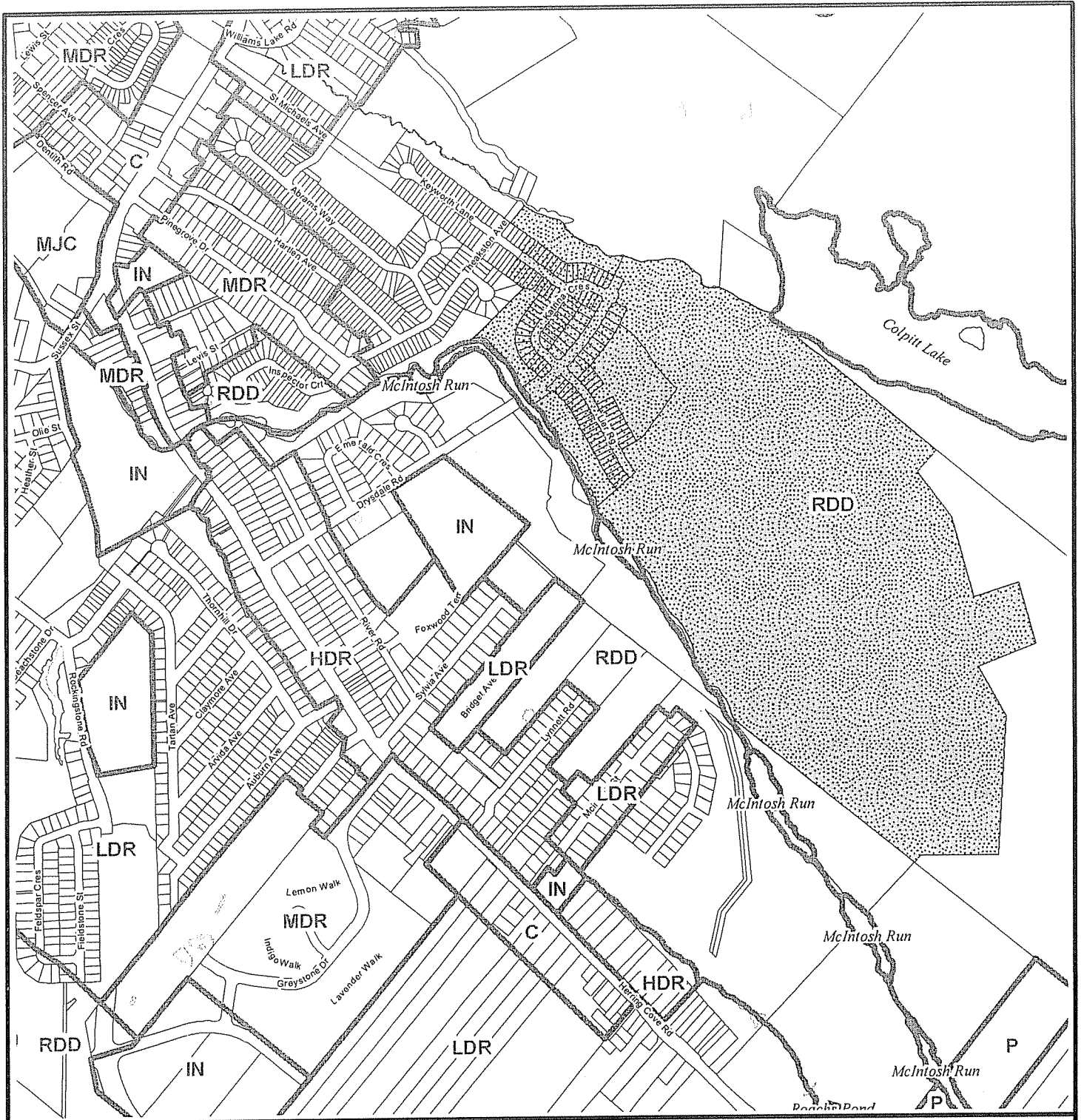
- R-1 Single Family Dwelling
- R-2 Two Family Dwelling
- R-2P General Residential
- R-3 Low Rise Apartment
- R-4 Multiple Dwelling
- T Mobile Home
- RDD Residential Development District
- C-2 General Business
- C-2A Minor Commercial
- P Park and Institutional
- H Holding
- UR Urban Reserve

**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES




This is an unofficial reproduction of a portion of the Zoning Map for the Halifax Mainland Land Use By-Law area

HRM does not guarantee the accuracy of any representation on this plan.



## Map 2 - Generalized Future Land Use

Governors Brook  
Halifax

 Subject area


Halifax Plan Area  
Mainland South Secondary Plan Area

### Designation

- LDR Low Density Residential
- MDR Medium Density Residential
- HDR High Density Residential
- RDD Residential Development District
- C Commercial
- MJC Major Commercial
- INS Institutional
- P Major Community Open Space

**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES

0 100 200 300 m



This is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Halifax Plan area.

HRM does not guarantee the accuracy of any representation on this plan.

Attachment "A" - Amending Agreement

THIS THIRD AMENDING AGREEMENT made this      day of      , 2009  
BETWEEN:

ARMCO CAPITAL INCORPORATED,

a body corporate, in the Halifax Regional Municipality,  
Province of Nova Scotia (hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY,

a municipal body corporate in the Province of Nova Scotia,  
(hereinafter called the "Municipality")

OF THE SECOND PART

**WHEREAS** the Developer is the registered owner of certain lands located off Danforth Road and Drysdale Road (insert PID here), Halifax, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

**AND WHEREAS** the Chebucto Community Council of the Halifax Regional Municipality granted approval of an application by the Developer to enter into a development agreement to allow for a comprehensive residential development on the Lands on January 10, 2005 as Municipal Case Number 00066 which said agreement is recorded at the Registry of Deeds at Halifax as Document Number 82165268 (hereinafter called the "Existing Agreement");

**AND WHEREAS** the Chebucto Community Council of the Halifax Regional Municipality approved an amendment to the provisions of the Existing Agreement to enable the replacement of 48 multi-family units with single and/or semi-detached dwelling units and to allow for an additional 32 single and/or semi-detached dwelling units within the comprehensive residential development on July 30, 2007 as Municipal Case Number 00943 which said agreement is recorded at the Land Registration Office in Halifax as Document Number 89091657 (hereinafter is called "the First Amending Agreement");

**AND WHEREAS** the Chebucto Community Council of the Halifax Regional Municipality approved an amendment to the provisions of the Existing Agreement to enable a modification to the maximum permitted driveway width on October 6, 2008 as Municipal Case Number 01124 which said agreement is recorded at the Land Registration Office in Halifax as Document Number 92570341 (hereinafter is called "the Second Amending Agreement");



AND WHEREAS the Developer has requested a Third Amending Agreement to remove the limitation on the rate of development;

AND WHEREAS the Chebucto Community Council of Halifax Regional Municipality, at its meeting on the day of 2009, approved the requested amendment (referenced as Municipal Case Number 01253);

**THEREFORE** in consideration of the benefits accrued to each party from the covenants herein contained, the Parties agree as follows:

1. Section 2.1 (a) of the Existing Agreement as amended is further amended by:
  - I) inserting the words "and Case 01253" after the words "Case 00943";
  - ii) replacing "Schedule "B" Landscape Plan (Plan # 0094300006)" with "Schedule "B" Landscape Plan (Plan # 0125300006)"
  - iii) replacing "Schedule "D" Concept Plan (Plan # 0094300007)" with "Schedule "D" Concept Plan (Plan # 0125300007)"
  - iv) replacing "Schedule "F" Unit Types (Plan # 0094300008)" with "Schedule "F" Unit Types (Plan # 0125300008)"; and
  - v) replacing "Schedule "G" Phasing (Plan # 0094300009)" with "Schedule "G" Phasing (Plan # 0125300009)".
2. The Existing Agreement as amended is further amended by repealing Subsection 2.1 (b) and replacing it with the following:

2.1 (b) Land use within the development shall be as follows:

  - I) 60 single family dwelling units on lots with a minimum of 50' frontage (Type D);
  - ii) 173 single family dwelling units on lots with a minimum of 40' frontage (Type C);
  - iii) 270 single family dwelling units on lots with a minimum of 32' frontage (Type B);
  - iv) 119 semi-detached dwellings (238 units) on lots with a minimum of 32' frontage unit (Type A);
  - v) 96 multi-family units;
  - vi) 68 townhouse units; and,
  - vii) 1 neighbourhood commercial facility.
3. Clause 2.4 (c) of the Existing Agreement is deleted.
4. The Existing Agreement as amended is further amended by repealing Schedule "B" Landscape Plan (Plan # 0094300006) and replacing it with the attached Schedule "B" Landscape Plan (Plan # 0125300006).

5. The Existing Agreement as amended is further amended by repealing Schedule "D" Concept Plan (Plan # 0094300007) and replacing it with the attached Schedule "D" Concept Plan (Plan # 0125300007).
6. The Existing Agreement as amended is further amended by repealing Schedule "F" Site Plan by Unit Type (Plan # 0094300008) and replacing it with the attached Schedule "F" Site Plan by Unit Type (Plan # 0125300008).
7. The Existing Agreement as amended is further amended by repealing Schedule "G" Phasing Plan (Plan # 0094300009) and replacing it with the attached Schedule "G" Phasing Plan (Plan # 0125300009).
8. All other terms of the Existing Agreement as amended shall remain in full force and effect.
9. This Third Amending Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which is the subject of this Third Amending Agreement until it is discharged by the Council.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals on the day and year first above written:

Signed, sealed and delivered in the presence of:

per: \_\_\_\_\_  
=====

Sealed, Delivered and Attested by the proper signing officers of Halifax Regional Municipality duly authorized on that behalf in the presence of

per: \_\_\_\_\_

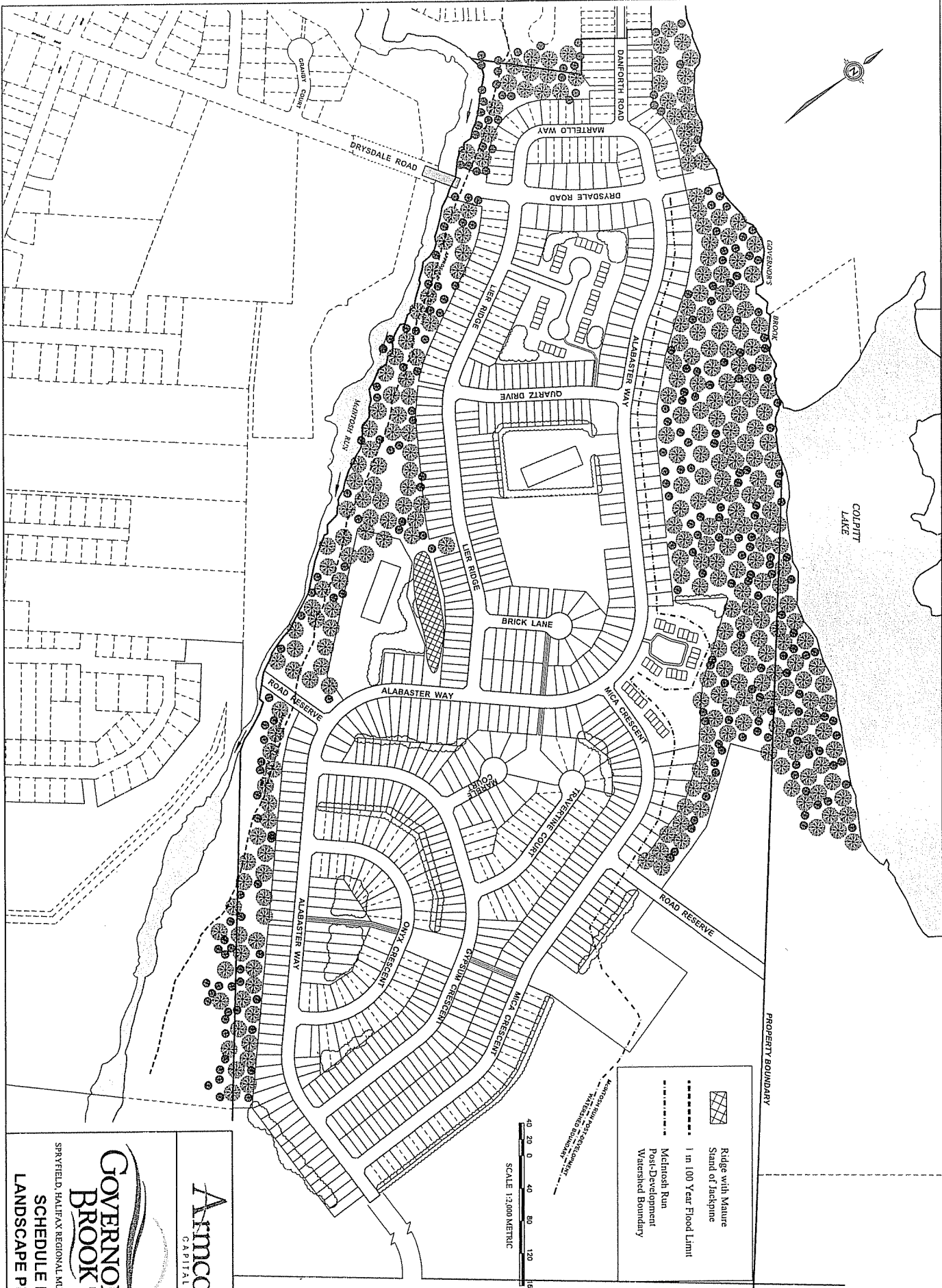
**ARMCO CAPITAL INCORPORATED**

per: \_\_\_\_\_  
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


**HALIFAX REGIONAL MUNICIPALITY**

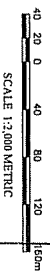
per: \_\_\_\_\_  
MAYOR

per: \_\_\_\_\_  
MUNICIPAL CLERK

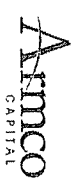


PROPERTY BOUNDARY

-  Ridge with Mature Sand of Jackpine
-  1 in 100 Year Flood Limit
-  Meadow Run
-  Post-Development Watershed Boundary



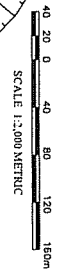
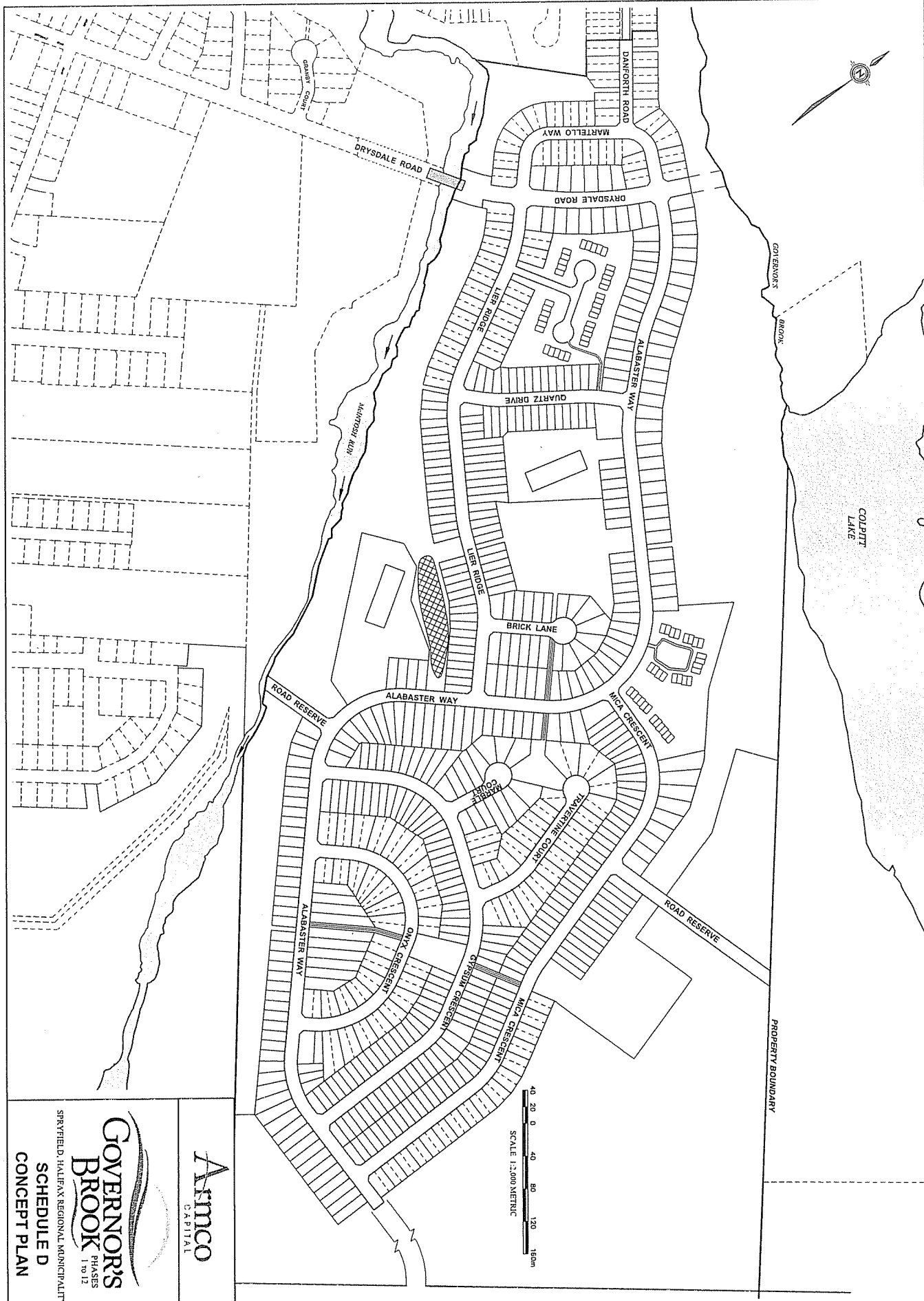
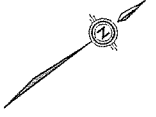
ALL DISTANCES ARE APPROXIMATE  
 AND SHOULD BE VERIFIED IN THE FIELD



**GOVERNOR'S BROOK**  
 PHASES 1 TO 12

SPRINGFIELD, HALIFAX REGIONAL MUNICIPALITY  
**SCHEDULE B**  
**LANDSCAPE PLAN**

Plan # 0125300006



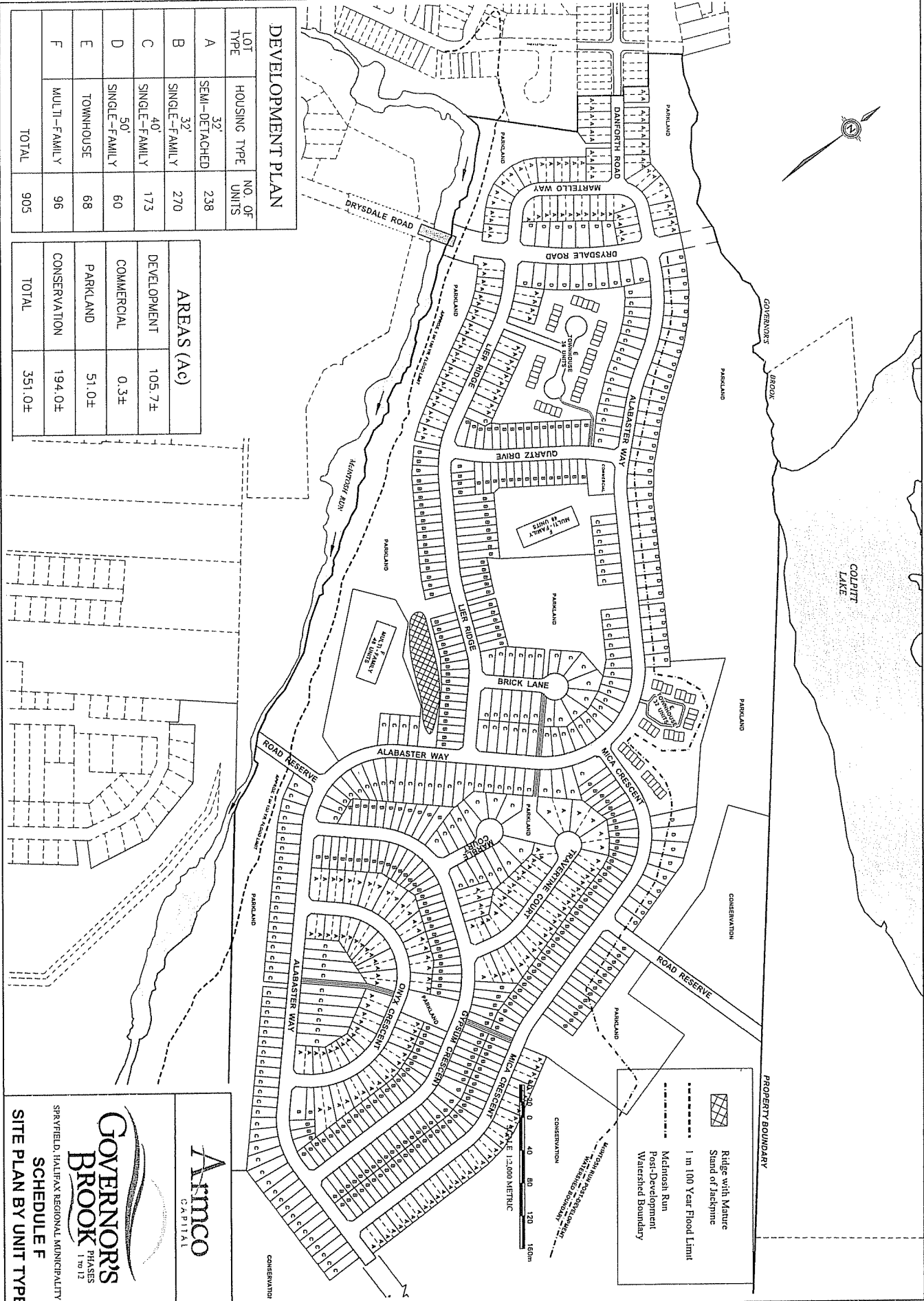
**Armco**  
CAPITAL

**GOVERNOR'S BROOK**  
PHASES 1 to 12

SPRUEFIELD, HALIFAX REGIONAL MUNICIPALITY

**SCHEDULE D**  
**CONCEPT PLAN**

Plan # 0125300007



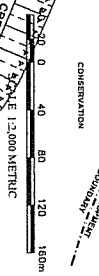
**DEVELOPMENT PLAN**

LOT TYPE	HOUSING TYPE	NO. OF UNITS
A	SEMI-DETACHED 32'	238
B	SINGLE-FAMILY 32'	270
C	SINGLE-FAMILY 40'	173
D	SINGLE-FAMILY 50'	60
E	TOWNHOUSE	68
F	MULTI-FAMILY	96
<b>TOTAL</b>		<b>905</b>

**AREAS (Ac)**

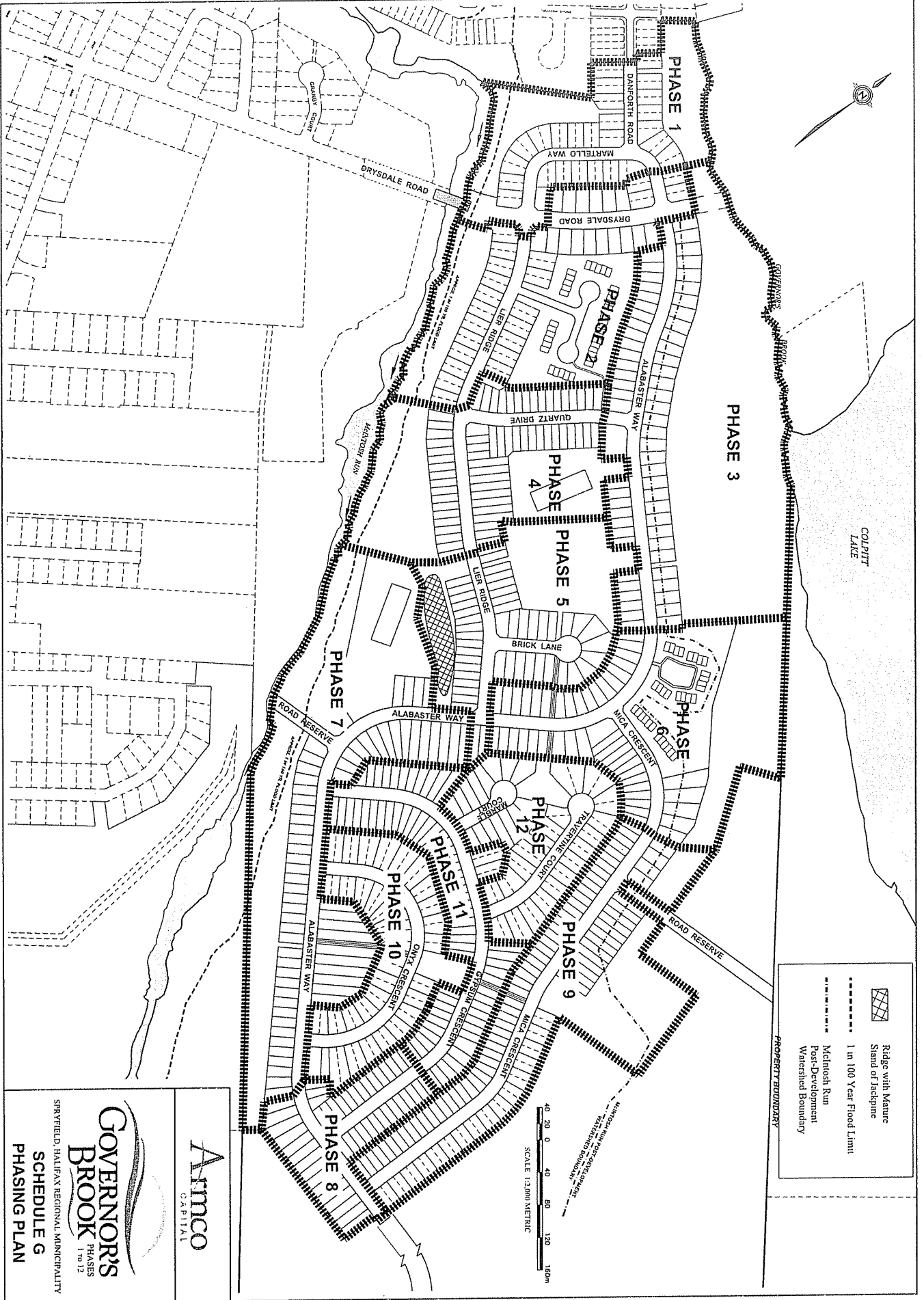
DEVELOPMENT	105.7±
COMMERCIAL	0.3±
PARKLAND	51.0±
CONSERVATION	194.0±
<b>TOTAL</b>	<b>351.0±</b>

Ridge with Mature Stand of Jackpine  
 1 in 100 Year Flood Limit  
 Macintosh Run Post-Development Watershed Boundary  
 PROPERTY BOUNDARY



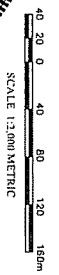
SPRINGFIELD, HALIFAX REGIONAL MUNICIPALITY  
**SCHEDULE F**  
**SITE PLAN BY UNIT TYPE**

Plan # 0125300008



**PROPERTY BOUNDARY**

- Ridge with Mature Stand of Jackpine
- 1 in 100 Year Flood Limit
- McIntosh Run Post-Development Watershed Boundary



**Armco**  
CAPITAL

**GOVERNORS BROOK**  
PHASES 1 to 12

SHEFFIELD, HALIFAX REGIONAL MUNICIPALITY

**SCHEDULE G PHASING PLAN**

Plan # 0125300009

Attachment B  
Excerpts from Existing Development Agreement

2.1 (a) The Developer shall not develop or use the Lands for any purpose other than a comprehensive residential development which, in the opinion of the Development Officer, is substantially in conformance with plans filed in the Halifax Regional Municipality's Community Development as Case 00066 and Case 00943 and are attached as the following Schedules to this Agreement:

Schedule "A"	Legal Description of the Lands
Schedule "B"	Landscape Plan (Plan # 0094300006)
Schedule "C"	Servicing Schematic (Plan # 00066 017)
Schedule "D"	Concept Plan (Plan # 0094300007)
Schedule "E"	Area to be Rezoned (Plan # 00066 013)
Schedule "F"	Unit Types (Plan # 0094300008)
Schedule "G"	Phasing (Plan # 0094300009)
Schedule "H"	Road Layout in Context of GoPlan (Plan # 00066 016)
Schedule "I"	Walkway Layout (Plan # 0094300010)

2.1 (b) Land use within the development shall be as follows:

- i) 60 single family dwelling units on lots with a minimum of 50' frontage (Type D);
- ii) 179 single family dwelling units on lots with a minimum of 40' frontage (Type C);
- iii) 261 single family dwelling units on lots with a minimum of 32' frontage (Type B);
- iv) 119 semi-detached dwellings (238 units) on lots with a minimum of 32' frontage unit (Type A);
- v) 96 multi-family units;
- vi) 68 townhouse units; and,
- vii) 1 neighbourhood commercial facility.

2.4(c) In order to control the rate of development, the issuance of development permits will be limited to a maximum of 50 dwelling units in any calendar year, including the year of approval of this agreement. Any unused allotment may be carried over to subsequent years, provided that the number of dwelling units for which development permits have been issued shall not exceed 50 times the number of years elapsed from the year of approval including the year of approval nor 100 dwelling units in any calendar year. Nothing in this clause shall limit the number of lots which may be endorsed for final approval nor alter the developer's obligation pursuant to clause 2.4(b).

- 2.9(c) Prior to granting subdivision approval to any lot on the Lands, approval from the Nova Scotia Department of the Environment shall be required. In the event that, at the time of application for subdivision approval, overflows at the Roache's Pond pumping station has not been addressed as part of the Harbour Solutions project, or any other initiative, a plan to implement such alterations to the Roache's Pond pumping station to address the overflow situation, as required by the Nova Scotia Department of the Environment, shall be submitted to the Municipality. Such plan shall be subject to approval of the Nova Scotia Department of the Environment and Halifax Regional Municipality. In the event that the developer requests that the Municipality share in the cost of such alterations, nothing in this agreement shall commit the Municipality to cost sharing. Cost sharing will be subject to availability of funds or approval of methods to raise funds (development charges, area rates) and negotiation at such time as cost sharing may be requested.



Attachment C  
Excerpts from Halifax MPS

Policy 1.5 (Part II, Section X Mainland South Area Plan Policies):

*Areas designated as "Residential Development District" on the Generalized Future Land Use Map shall be residential development areas planned and developed as a whole or in phases under a unified site design, providing a mixture of residential uses and related recreational, commercial and open space uses, with an emphasis on a mix of dwelling unit types.*

Policy 1.5.1 (Part II, Section X Mainland South Area Plan Policies):

*Pursuant to Policy 1.5, the Land Use By-law shall provide a new zone, the Residential Development District, within which "Low-Density Residential" development and public community facilities shall be permitted and other development shall be permitted only under the contract development provisions of the Planning Act and the requirements in Schedule I.*

Schedule I - Guidelines for Residential Development District  
(Part II, Section X Mainland South Area Plan Policies):

*Pursuant to Policy 1.5.1, contract development in any area designated "Residential Development District" on the Generalized Future Land Use Map must conform with the following guidelines:*

Uses Which May be Permitted

1. Residential Uses
2. Community Facilities
3. Institutional Uses
4. Neighbourhood Commercial Uses
5. Commercial Convenience Centres.

Site Development Guidelines

5. Residential
  - a density of twenty-two persons per gross acre shall be permitted. Proposals in excess of twenty-two persons per gross acre may be considered provided that no development shall exceed the capacity of existing or proposed sewers. In calculating the permissible density of any project, the capacities available to the drainage area shall be considered.
  - no more than 15 percent of any area covered by a development agreement may be developed for apartment uses including the building(s), ancillary parking, open space, and landscaping.
  - the design and layout of the portion of new residential developments abutting existing residential areas shall endeavour to protect the character and scale of these areas by attention to such matters as use of open space, landscaping, and ensuring adequate transition between areas of differing building forms and densities.

6. *Commercial*

- *neighbourhood commercial uses are permitted at or near the intersection of local streets, and on the ground floor of high-density residential buildings. In addition, consideration may be given for a commercial convenience centre, except in the RDD areas generally west of the Herring Cove Road and south of Leiblin Drive. The amount of gross leasable space may be limited to ensure that the development primarily serves the adjacent neighbourhoods. The intent is to provide for a range of uses such as retail, rental and personal service, household repair shops, service stations, restaurants and office uses. The additional matters to be considered are found in the guidelines of Policy 3.7 of Section II.*

Landscaping and Open Space

7. *At least 5 percent of the area of the district development must be useable, landscaped, open space.*
8. *No residential or accessory building shall be constructed within 50 feet of any lake, watercourse, or water body. No commercial or accessory structure shall be constructed within 100 feet of any lake, watercourse, or water body.*
9. *Any proposal to construct a community facility or institutional use within 100 feet of the water's edge should ensure, through the use of landscaping or other means, that adverse effects on water quality will be avoided or ameliorated during and after construction.*
10. *A landscape plan shall be submitted as part of the approval process and the preservation of natural amenities, including rock outcroppings, groves of trees, mature trees, ponds, streams, shores, and wetlands should be preserved whenever possible.*

Circulation

11. *Access to arterial or collector streets should be such that additional traffic along local streets in residential neighbourhoods adjacent to the development is minimized.*
12. *Where common parking areas are provided, they should be so aligned as to restrict through traffic.*

General

13. *The minimum required site size for a contract within this area shall be three acres.*
14. *Municipal infrastructure must be adequate to service any proposed development.*

Policy 5.2 (Part II, Section X Mainland South Area Plan Policies):

*The City shall seek to minimize through traffic on local residential streets.*