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Item No. 4
North West Community Council
November 24, 2015

TO: Chair and Members of the North West Community Council

SUBMITTED BY: Original Signed

Bob Bjerke, Chief Planner & Director, Planning and Development

DATE: November 12, 2015

SUBJECT: **Case 19105: Development Agreement corrections, Meadow Ridge Open Space, Upper Sackville**

SUPPLEMENTARY REPORT

ORIGIN

- Application by WSP Canada.
- Original Staff Report dated May 1, 2015.
- June 15, 2015 public hearing and approval of a development agreement.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development

RECOMMENDATION

It is recommended that the North West Community Council:

1. Approve the corrected development agreement document for execution, as contained in Attachment A of this report; and
2. Require that the development agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval of said agreement by Council and any other bodies as necessary, including applicable appeal periods whichever is later; otherwise this approval shall be void and any obligations arising hereunder shall be at an end.

BACKGROUND

On June 15, 2015, North West Community Council approved a development agreement for an open space design residential community on lands (a 22.7 hectare parcel) located between Sackville Drive and Highway 101 in Upper Sackville. Council's decision was not appealed and the development agreement was signed by the property owner(s).

However, prior to execution of the agreement by the Municipality's signing officers, the following drafting errors were identified:

- Subsection 3.11.5 incorrectly references subsection 3.11.5. Subsection 3.11.5 should reference subsection 3.11.3;
- Subsection 3.11.6 incorrectly references subsections 3.6.5 and 3.7.5. Subsection 3.11.6 should only reference subsection 3.6.6;
- Subsection 3.11.8 incorrectly references subsection 3.11.8. Subsection 3.11.8 should reference subsection 3.11.7; the word "are" should be inserted following the word "which" in the first sentence; and
- Subsection 3.12.3 incorrectly references Subsection 3.11.2. Subsection 3.12.3 should reference subsection 3.10.2.

DISCUSSION

As a means of addressing the matters identified above, Attachment A includes a corrected development agreement document which rectifies the drafting errors. In addition, the staff recommendation includes a new 120 day timeframe within which the property owner must sign the corrected agreement.

It is important to note the required corrections have no effect on the intent of the development agreement that was approved by Community Council. The proposed changes correct the cross-referencing errors and inserted the missing word "are" in Subsection 3.11.8. None of the changes require a new public hearing and Community Council is able to approve the corrections to the development agreement by resolution.

If Community Council approves the staff recommendation, the corrected agreement must be signed by the property owner(s) and then the Agreement may be authorized for execution by the Municipality's signing officers.

FINANCIAL IMPLICATIONS

There are no financial implications. The Developer will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement. The administration of the Agreement can be carried out within the approved 2015/16 budget with existing resources.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy and is described in the May 1, 2015 staff report.

ENVIRONMENTAL IMPLICATIONS

No additional concerns have been identified beyond those raised in the original staff report.

ALTERNATIVES

1. North West Community Council may choose to propose modifications to the correction agreement. Such modifications may require further negotiations with the Developer, and may require a supplementary report and/or an additional public hearing. A decision of Council to approve the proposed development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. North West Community Council may choose to refuse the correction agreement and, in doing so, must provide reasons why the agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Attachment A Corrected Development Agreement – Meadow Ridge Subdivision as approved by Community Council on June 15, 2015

The original staff reports and development agreement can be found at:
<http://www.halifax.ca/commcoun/central/documents/150615nwcc811.pdf>

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902-490-4210, or Fax 902-490-4208.

Report Prepared by: Darrell Joudrey, Planner 1, Development Approvals, 902-490-4181

Original Signed

Report Approved by: _____
Kelly Denty, Manager of Development Approvals, 902-490-4800

Attachment A:
Corrected Development Agreement
Meadow Ridge Subdivision as approved by Community Council on June 15, 2015

THIS AGREEMENT made this _____ day of **[Insert Month]**, 20___,

BETWEEN:

[Insert Name of Corporation/Business LTD.]

a body corporate, in the 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 on the south side of Sackville Drive, Nova Scotia, and which said lands are more particularly described in Schedule A hereto attached (hereinafter called the "Lands");

AND WHEREAS the Developer has requested that the Municipality enter into a Development Agreement to allow for a Classic Open Space Design Development of up to a fifty-six (56) dwellings units and other associated land uses on the Lands, pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policies S-15 and S-16 of the Regional Municipal Planning Strategy (2006);

AND WHEREAS the North West Community Council for the Municipality approved this request at a meeting held on June 15, 2015, referenced as Municipal Case 19105;

AND WHEREAS the North West Community Council of Halifax Regional Municipality, at its meeting on the [INSERT DATE], confirmed corrections to this agreement and extended the timeframe for signature of this agreement;

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

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

1.1 Applicability of Agreement

The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.

1.2 Applicability of Land Use By-law and Subdivision By-law

Except as otherwise provided for herein, the development, use and subdivision of the Lands shall comply with the requirements of the Land Use By-law for Beaver Bank, Hammonds Plains and Upper Sackville Plan Area and the Regional Subdivision By-law, as may be amended from time to time.

1.3 Applicability of Other By-laws, Statutes and Regulations

1.3.1 Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Lands.

1.3.2 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater, sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of the Municipality and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer or appropriate professional as required by this Agreement or other approval agencies.

1.4 Conflict

1.4.1 Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.

1.4.2 Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

1.5 Costs, Expenses, Liabilities and Obligations

The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all Federal, Provincial and Municipal laws, by-laws, regulations and codes applicable to the Lands.

1.6 Provisions Severable

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

PART 2: DEFINITIONS

2.1 Words Not Defined under this Agreement

All words unless otherwise specifically defined herein shall be as defined in the applicable Land Use By-law and Subdivision By-law, if not defined in these documents their customary meaning shall apply.

2.2 Definitions Specific to this Agreement

The following words used in this Agreement shall be defined as follows:

- a. "Certified Arborist" means a professional, full member in good standing with the International Society of Arboriculture, which is the cultivation, management, and study of individual trees, shrubs, vines, and other perennial woody plants. A Certified Arborist generally focuses on the health and safety of individual plants and trees, rather than managing forests;
- b. "Classic Open Space Design Development" means a residential development enabled under Policy S-16 of the Regional Municipal Planning Strategy (2006) which has a maximum development density of 1 dwelling unit per 4000 m² and where approximately 60% of the Lands are retained in ownership of an individual, land trust, condominium corporation, or the Municipality;
- c. "Common Open Space" means the portion of the Lands not designated as Developable Area, that shall not be used for any purpose other than for passive recreation, forestry, agriculture or conservation-related use except for a portion of which may be used as a village common, or community parks, for active recreation or the location of community facilities designed to service the development;
- d. "Common Shared Private Driveway" means a shared private driveway in the Developable Area which provides access from a Municipal or Provincial street or road to the Developable Area and individual Home Sites;
- e. "Construction Constraint" means areas or features such as rock outcroppings, steep slopes or cultural artifacts that restrict construction activity or compel construction to avoid such an area;
- f. "Developable Area" means the portion of the Lands where development and site disturbance shall be located for common uses, such as but not limited to the Common Shared Driveway and for home site uses such as but not limited to Home Site Driveways, single unit dwellings, two unit dwellings, accessory buildings, lawns, and grading alterations, wells and on-site septic systems;
- g. "Developer" means the owner of the Lands who is responsible for development and infrastructure maintenance on the Lands as set out in this Agreement. The Condominium Corporation(s) or subsequent property owner(s) are considered as the Developer if and when they become the legal owner of the Lands;
- h. "Footprint" means the area of a building, including land over which the building projects, but excluding any area below the eaves of a roof, and excluding any portion not covered by a roof, such as unsheltered steps, verandas or decks;
- i. "Forester" means a professional, full member in good standing with the Registered Professional Foresters Association of Nova Scotia. A Certified Forester focuses on the science, art, and profession of managing forests, including timber harvesting, ecological restoration and management of protected areas;

- j. "Home Site" means a specific area designated for an individual single unit dwelling, two-unit dwelling, accessory buildings and uses associated with an individual single unit dwelling, and two-unit dwelling;
- k. "Home Site Driveway" means a driveway providing access to a Home Site from the Common Shared Private Driveway;
- l. "Landscape Architect" means a professional, full member in good standing with the Canadian Society of Landscape Architects;
- m. "Model or Display Home" means a newly built and habitable dwelling on the Lands that showcases a living space and features of dwelling units available in the development;
- n. "Recreation Facility" means a clubhouse, owned, operated and maintained in whole by a private organization on a commercial basis or for members only, designed and equipped for the conduct of leisure time activities and other customary and usual recreational activities; and
- o. "Residential Cluster" means the grouping of a specific area designated for individual Home Sites, within the Developable Area, closer together in the form of a loop or cul-de-sac. (See definitions of "Home Sites" and "Developable Area").

PART 3: USE OF LANDS, SUBDIVISION AND DEVELOPMENT PROVISIONS

3.1 Schedules

The Developer shall develop the Lands in a manner, which, in the opinion of the Development Officer, generally, conforms to the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case 19105:

Schedule A	Legal Description of the Lands
Schedule B	Overall Concept Plan
Schedule C	Overall Phasing Plan
Schedule D	Concept Plan – Phase 1
Schedule E	Concept Plan – Phase 2
Schedule F	Overall Common Open Space Plan
Schedule G	Recreation Facilities
Schedule H	Common Shared Private Driveway Standards

3.2 General Description of Land Use

3.2.1 The uses of the Lands permitted by this Agreement are the following:

- a. A maximum of fifty-six (56) dwelling units, subject to the requirements of this Agreement;
- b. The permitted dwelling unit types shall be:
 - i. Single unit dwellings;
 - ii. Two unit dwellings (semi-detached or duplex);
 - iii. Each unit shall contain either two or three bedrooms;
 - iv. A maximum of 50% of units can be three-bedrooms; and
- c. Further to Section 3.2.1(b), a maximum of four (4) Model or Display Homes per phase shall be permitted, as part of the total number of dwellings in each phase;

- d. Accessory building and structure, as provided in Subsections 3.9.6 to 3.9.7;
- e. Home Business uses in conjunction with the permitted dwelling units, subject to the requirements of Section 8.3 of the Land Use By-law for Planning District 4, as amended from time to time, specifically excluding both day care facilities and bed and breakfast operations; and
- f. Recreation Facility as provided for a clubhouse in Subsection 3.9.7.

3.3 Common Open Space

- 3.3.1 The amount of Developable Area and Common Open Space shall be as generally shown on Schedule B.
- 3.3.2 A minimum of 60% of the Lands shall be retained as Common Open Space. The Common Open Space cannot be used for any purpose other than for recreation or conservation related uses or uses intended for common use including, but not limited to trails and common use buildings such as gazebos.

3.4 Subdivision & Consolidation of the Lands

- 3.4.1 Subdivision required for separate Condominium Corporation(s) shall be permitted on the Lands.

3.5 Phasing

- 3.5.1 Development of the Lands shall be completed in two (2) consecutive phases, as shown on Schedules C through G. Phase 1 shall consist of up to twenty-six (26) dwellings units. Phase 2 shall contain up to thirty (30) dwelling units subject to Section 3.7.
- 3.5.2 Notwithstanding Subsection 3.5.1, the Development Officer may approve changes in the location of Home Sites, and the types and number of units up to a maximum of 15% of the total number of units per phase, as shown on the applicable Schedules. Location of the units shall be on the portion of the Lands where soils are best suited for development while retaining the remainder of the Lands as Common Open Space. At no time shall the number of units on the Lands exceed 56 units.
- 3.5.3 At the completion of Phase 2, the Developer shall provide the Development Officer written confirmation that the development contains a total of 60% of the Lands that shall be retained as Common Open Space. If the 60% Common Open Space of the Lands cannot be achieved, the Developable Area in the last phase shall be reduced to achieve the 60% Common Open Space of the Lands.
- 3.5.4 Development Permits for site work for Phase 2 shall not be granted until development of the previous phase has been completed. Development of each phase will be considered complete when 50% of the total permitted number of dwelling units in the phase are built and have received Occupancy Permits.
- 3.5.5 Further to Section 3.5.4, site work required for the supplementary Hydrogeological Assessment for the second phase as required by Section 3.7 shall include a detailed monitoring program of existing wells in the previous phase of the development (minimum of 6 wells in the previous phase, where the wells are spread out and located in different sections of the previous phase). The scope of this work must be adequate for a qualified Hydrogeologist to determine whether existing well use indicates that long term withdrawals of groundwater in the previous phase(s)

will be sustainable. Indications of sustainability include, but are not limited to: reports of shortages or interruptions to the supply, changes in water quality or quantity over time, and well performance during dry and peak use periods. If the well survey indicates that sustainability of existing wells may be in question, the supplementary Hydrogeological Assessment for the second phase shall include a re-assessment of the sustainable yield for Phases 1 and 2 combined.

3.6 Requirements Prior to Permit Approvals for any Phase

3.6.1 Prior to the commencement of any site clearing or tree removal for the construction of the Common Shared Private Driveway and beyond, which is required to carry out these provisions, or construction on the Lands associated with any Phase, the Developer shall:

- a. Provide a detailed design of the Common Shared Private Driveway, in accordance with Section 3.10 of this Agreement and with the standards of the National Building Code.
- b. Provide a detailed Site Disturbance Plan, in accordance with Section 5.1.1(a) of this Agreement.

3.6.2 Prior to the issuance of a Development Permit for a dwelling, or any site preparation beyond that required to carry out this Section for all dwellings within each Phase, the boundary of the adjacent Common Open Space within 30 meters (98.42 feet) of the proposed structure, shall be clearly delineated on-site by an appropriate method as approved by the Development Officer. The Developer shall provide written confirmation to the satisfaction of the Development Officer that the Common Open Space has been appropriately marked. Such demarcations shall be maintained by the Developer or future property owner(s) for the duration of the construction and may be removed after the issuance of an Occupancy Permit for the dwelling.

3.6.3 In addition to the requirements of the Municipality, an application for the first Development Permit for a dwelling in any phase shall also include:

- a. Nova Scotia Environment approval of the on-site sewage treatment systems in accordance with Section 3.15 of this Agreement;
- b. Nova Scotia Environment approval of the on-site water distribution systems in accordance with Section 3.16 of this Agreement;
- c. Construction of the necessary services, including but not limited to the Common Shared Private Driveway, on-site sewage treatment system and on-site water distribution system, pursuant to Sections 3.10, 3.15 and 3.16 of this Agreement; and
- d. Site plans prepared and endorsed by a Professional Engineer that show the following:
 - i. Dwelling footprints, the location of all other structures, including setbacks from adjacent property lines, the Common Shared Private Driveways, all surrounding structures and Common Open Space;
 - ii. The Common Shared Private Driveway that shall be designed by a Professional Engineer in accordance with Section 3.2.5.6 of the National Building Code for access route design and Section 3.10 of this Agreement;
 - iii. The location of the Common Open Space delineation pursuant to Section 3.6.2 of this Agreement;

- iv. The location and size of the wells and wastewater systems, including wastewater system types;
 - v. the proposed location and size of all paved areas; and
 - vi. any watercourse setbacks and buffers.
- 3.6.4 Section 3.6.3 notwithstanding, Development Permits may be issued for the dwellings and model or display homes per Phase prior to the Common Shared Private Driveway being constructed provided that the Developer has submitted site plans in accordance with 3.6.3 (d) (ii) above. Prior to the occupancy of any dwelling, the shared private driveway accessing the home site must be complete.
- 3.6.5 At the time of the issuance of the first Occupancy Permit within any phase, the Developer shall provide the necessary inspections and acceptance of work completed to the Development Officer, including but not limited to:
 - a. A Certificate of Construction Compliance from a Professional Engineer for the Common Shared Private Driveways in accordance with Section 3.10 and as per Schedule H;
 - i. Notwithstanding the above the Development Officer shall accept Certification from a Professional Engineer that the Common Shared Private Driveway is completed in accordance with Clause 3.6.4 and as per Schedule H from the last completed dwelling unit or model or display home in a contiguous connection to the public road access provided that a vehicle turnaround area for fire department use is provided.
 - b. Certification from a qualified professional that the on-site sewage treatment systems comply with Section 3.15 of this Agreement;
 - c. Certification from a qualified professional that the on-site water distribution system complies with Section 3.16 of this Agreement;
 - d. Certification from a Professional Engineer indicating that the Developer has complied with the Erosion and Sedimentation Control Plan required pursuant to Section 5.1.1(b) of this Agreement; and
 - e. Certification from a Professional Engineer indicating that the Developer has complied with the Site Grading and Stormwater Management Plan required pursuant to Section 5.1.1(c) of this Agreement.
- 3.6.6 Notwithstanding any other provision of the Agreement, the Developer shall not occupy a dwelling or use the Lands for any uses permitted by this Agreement unless an Occupancy Permit has been issued by the Municipality. No Occupancy Permit shall be issued by the Municipality unless and until the Developer has complied with all applicable provisions of this Agreement, the Land Use By-law and the Subdivision By-law (except to the extent that the provisions of the Land Use By-law and Subdivision By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement

3.7 Requirements Prior to Permit Approvals for Phase 2

- 3.7.1 In addition to the phasing requirements of Section 3.6, prior to the commencement of any site clearing or tree removal beyond that which is required to carry out these provisions or construction on the Lands associated with Phase 2, except for what is necessary for the supplementary Hydrogeological Assessment as required in this section, the Developer shall:
- a. Provide a supplementary Hydrogeological Assessment that determines water quality and quantity levels for the phase. Such testing and analysis shall respect the requirements of Section 3.5.5 and meet the *HRM Guidelines for Groundwater Assessment and Reporting* (2006), as amended from time to time. If analysis identifies insufficient quantity or quality in the local aquifer for the remaining dwellings, the number of permitted dwellings shall be reduced to a point where there is adequate groundwater. In order to carry out the Supplementary Hydrogeological Assessment, the Developer is permitted to clear only one pathway per Phase, which shall not exceed 3 meters (9.84 feet); and
 - b. The supplementary hydrological assessment shall also consider if there is sufficient capacity to service the common community accessory building, or clubhouse, in Phase 2.

3.8 Home Site Driveways

- 3.8.1 Each Home Site shall include a Home Site Driveway with a maximum width of 6.1 meters (20 feet), not inclusive of parking areas.
- 3.8.2 Each dwelling shall include at least one parking space at least 2.74 meters (9 feet) wide and 6.1 meters (20 feet) long and said parking space may be included within the Home Site Driveway serving the unit.
- 3.8.3 Home Sites may share a Home Site Driveway with a maximum width of 6.1 metres (20 feet), not inclusive of parking areas, provided that the units are limited to:
- a. Up to 2 Residential Clusters of 4-single unit dwellings; and
 - b. Up to 2 Residential Clusters of 2-two unit dwellings (semi-detached or duplex).
- 3.8.4 Paved parking areas for each individual Home Site for each unit shall not exceed 50.17 square metres (540 square feet), not inclusive of the Home Site Driveway.

3.9 Siting and Architectural Requirements - All Phases

- 3.9.1 Notwithstanding Section 4.4 of the Land Use By-law for Beaver Bank, Hammonds Plains and Upper Sackville, as amended from time to time, more than one dwelling is permitted on the Lands in accordance with this Agreement.
- 3.9.2 Notwithstanding Section 4.21 of the Land Use By-law for Beaver Bank, Hammonds Plains and Upper Sackville, window bays and solar collectors, and exterior enclosed staircases, balconies, porches, and verandas shall not encroach into a required setback but shall be permitted to encroach within separation distances pursuant to Section 3.9 of this Agreement.
- 3.9.3 Nothing in this Agreement shall exempt the Lands from the requirements of Section 4.18 of the Land Use By-law for Beaver Bank, Hammonds Plains and Upper Sackville concerning watercourse setbacks and buffers as amended from time to time.
- 3.9.4 Further to Section 3.9.3, no building or structure shall be located within the watercourse setback or buffer described in Section 4.19 of the Land Use By-law for Beaver Bank, Hammonds Plains and Upper Sackville as amended from time to time.

Dwelling Units:

- 3.9.5 Dwelling units shall be located within the limits of the Developable Area as generally illustrated on Schedules C through G and subject to the Land Use By-law and the following requirements:
- a. No portion of a dwelling shall be located less than 6.1 meters (20 feet) from a street line;
 - b. No portion of a dwelling shall be located less than 6.1 meters (20 feet) from a Common Shared Private Driveway;
 - c. No portion of a dwelling shall be located less than 3.05 meters (10 feet) from the boundary of the Lands or the Common Open Space;
 - d. No portion of a dwelling, other than internal dividing walls of two unit dwellings shall be located less than 4.8 metres (16 feet) from any other dwelling on the Lands;
 - e. The maximum Footprint of a single unit dwelling, or each unit of a two unit dwelling shall not exceed 167.23 square metres (1,800 square feet), excluding any area for an attached garage, which shall not exceed 55.74 square metres (600 square feet); and
 - f. The maximum height of a single unit dwelling, or two-unit dwelling shall not exceed a height of 10.67 meters (35 feet). Height shall be measured as per the Beaver Bank, Hammonds Plains and Upper Sackville Land Use By-law.

Accessory Buildings and Structures:

- 3.9.6 Within the Developable Area, each single unit dwelling or two unit dwelling is permitted one accessory building or structure, subject to the following requirements:
- a. No portion of the building or structure shall be located less than 6.1 meters (20 feet) from a Common Shared Private Driveway;
 - b. No portion of the building or structure shall be located less than 6.1 meters (20 feet) from any dwelling, other than the associated buildings or structures, on the Lands;
 - c. The maximum Footprint of an accessory building or structure shall not exceed 55.74 square metres (600 square feet);
 - d. Notwithstanding Section 3.9.6 (c) the clubhouse shall be permitted a maximum footprint of 92.9 square metres (1000 square feet); and
 - e. The maximum height of the building or structure shall not exceed 6.1 meters (20 feet). Height shall be measured as per the Beaver Bank, Hammonds Plains and Upper Sackville Land Use By-law.
- 3.9.7 Accessory buildings for club house use and those associated with groundwater and wastewater treatment and management in all phases shall be limited to six (6) buildings, subject to the following requirements:
- a. The Footprint of each building shall not exceed 92.9 square meters (1000 square feet);
 - b. No portion of the building or structure shall be located less than 6.1 meters (20 feet) from a Common Shared Private Driveway;
 - c. No portion of the building or structure shall be located less than 3.05 meters (10 feet) from the boundary of the Lands;

- d. No portion of the building or structure shall be located less than 12.19 meters (40 feet) from any dwelling on the Lands;
- e. The maximum height of the building or structure shall not exceed 6.1 meters (20 feet). Height shall be measured as per the Beaver Bank, Hammonds Plains and Upper Sackville Land Use Bylaw;
- f. A minimum of two parking spaces shall be provided for the clubhouse including one barrier free parking space. A minimum of 5 bicycle parking spaces shall be provided; and
- g. The building or structure shall not be serviced with groundwater, unless a supplementary Level II Hydrogeological Assessment supports such development. Such testing and analysis shall meet the *HRM Guidelines for Groundwater Assessment and Reporting* (2006), as amended from time to time. If analysis identifies insufficient quantity and quality, groundwater service to the building or structure shall not be permitted.

3.9.8 Home Business uses are subject to the following provisions:

- a. Any dwelling and accessory building which is used for such purposes shall be the principal residence of the operator of the business;
- b. No more than twenty-five (25) per cent of the gross floor area of any dwelling shall be devoted to any business use;
- c. No open storage or outdoor display shall be permitted; and
- d. No more than one (1) sign shall be permitted for any business and no such sign shall exceed four (4) square feet (0.4 m²) in area.

3.10 **Common Shared Private Driveway, Access and Parking Requirements**

3.10.1 Access to the Home Sites shall be via a Home Site Driveway off a Common Shared Private Driveway, as generally shown on the attached Schedules. Common Shared Private Driveway names are subject to the requirements of the *Civic Addressing By-law*.

3.10.2 The Developer is responsible for the placement and maintenance of driveway name signage in accordance with the *Civic Addressing By-law* (By-law C-300).

3.10.3 All Common Shared Private Driveways shall be designed by a Professional Engineer as per Subsection 3.6.1 of this Agreement. The Common Shared Private Driveways shall comply with requirements set out in Schedule H of this Agreement.

3.10.4 A vehicle turnaround area for Fire Services use shall be provided for each Phase and may be removed after the completion of any Common Shared Private Driveway in that Phase or the subsequent Phase, as necessary.

3.11 **Landscaping**

3.11.1 All plant material shall conform to the *Canadian Nursery Trades Association Metric Guide Specifications and Standards*, as amended from time to time.

3.11.2 All disturbed areas shall be re-graded and stabilized with suitable materials as per the direction of the Development Officer.

- 3.11.3 No development, tree removal or grade alteration shall be permitted within the Common Open Space except where approved in writing by the Development Officer to remove fallen timber and dead debris where a fire or safety risk is present, or to remove a tree that is dead, dying or in decline and which represents a danger to private property, public infrastructure or other natural trees and vegetation. Prior to granting approval for such removal, the Development Officer may require that the Developer engage a Certified Arborist, Forester or Landscape Architect to certify in writing that the timber or debris poses a fire or safety risk, that the tree poses a danger to people or property, or that it is in severe decline.
- 3.11.4 Further to Subsection 3.11.3 of this Agreement, the Developer may remove trees from the Common Open Space for passive recreation trail development. Any removal of trees with a caliper greater than 6 inches (15 cm) must be approved in writing by the Development Officer and the Developer must provide evidence that a Certified Arborist, Forester or Landscape Architect has been engaged.
- 3.11.5 If trees are removed or tree habitat is damaged beyond repair in the Common Open Space, the Developer or subsequent property owner, as the case may be, shall replace each tree removed or damaged as directed by the Development Officer, in consultation with the appropriate HRM Business Units. This section applies to trees removed without permission, as well as trees removed with permission as outlined in Subsection 3.11.3 of this Agreement.
- 3.11.6 Notwithstanding Subsection 3.6.6 of this Agreement, where the weather and time of year does not allow the completion of the outstanding landscape works at the time of issuance of the Occupancy Permit, the Developer may supply the Municipality with a security deposit in the amount of 110 percent of the estimated cost to complete the landscaping. The cost estimate is to be prepared by a member in good standing of the Canadian Society of Landscape Architects. The security shall be in favour of the Municipality and shall be in the form of a certified cheque or automatically renewing, irrevocable letter of credit issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work as described herein and illustrated on the Schedules, and as approved by the Development Officer. Should the Developer not complete the landscaping within twelve months of issuance of the Occupancy Permit, the Municipality may use the deposit to complete the landscaping as set out in this section of the Agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work and its certification.
- 3.11.7 The Developer shall provide community space and trails as shown on Schedule G.
- 3.11.8 All elements identified in Subsection 3.11.7 are private, which are to be built and maintained by the Developer. The Regional Subdivision By-law's definition of HRM Parkland Quality and Land Criteria does not apply.

3.12 **Signage**

- 3.12.1 Signs shall be limited to those permitted under the Land Use By-law for Beaver Bank, Hammonds Plains and Upper Sackville, as amended from time to time.
- 3.12.2 One (1) ground sign for civic addressing and community name shall be permitted, in conformance with the following requirements:
- The sign shall be permitted at the entrance to the Lands from Sackville Drive (Trunk 1). The sign shall be located on the Lands and the specific location of such a sign is subject to approval by the Development Officer and Development Engineer;
 - The height of the sign shall not exceed 4.6 meters (15 feet) inclusive of support structures;
 - The face area of the sign shall not exceed 4.7 square meters (50 square feet);

- d. The face area of the sign shall be constructed of natural materials such as wood or stone;
- e. The supports of the sign shall be constructed of wood, stone or metal;
- f. Illumination of the sign shall include only down-pointing, full cut-off fixtures; and
- g. Ornamental plants shall be planted and maintained by the Developer around the base of the sign.

3.12.3 Signage for the Common Shared Private Driveway signs shall be permitted in accordance with Section 3.10.2 of this Agreement.

3.13 **Outdoor Lighting**

3.13.1 Lighting shall be directed to the Common Shared Private Driveways, parking areas, building entrances and walkways and shall be arranged so as to divert the light away from adjacent lots and adjacent buildings.

3.13.2 Lighting on the Common Shared Private Driveway shall use a full cut-off fixture design.

3.14 **Solid Waste**

3.14.1 Municipal collection of solid waste shall not be provided along the Common Shared Private Driveway, unless the development fulfills the requirements of the Solid Waste Resource Collection and Disposal By-Law (By-law S-600) for a condominium.

3.15 **On-Site Sewage Treatment Systems**

3.15.1 The Lands shall be serviced through privately owned and operated on-site sewage treatment systems. The Developer agrees to have a qualified professional prepare and submit to Nova Scotia Environment, and any other relevant agency, a design for any on-site private sewage system. A Development Permit for permitted dwellings shall not be issued until the Development Officer receives a copy of all permits, licences, and approvals required by Nova Scotia Environment and other appropriate agencies respecting the design, installation and construction of the on-site water and sewage treatment systems.

3.15.2 The Developer agrees that the on-site sewage treatment plants shall provide appropriate disinfection and tertiary treatment before the treated effluent is dispersed on-site in accordance with approvals by Nova Scotia Environment.

3.15.3 The Developer shall provide written correspondence from a qualified professional that the on-site sewage treatment systems comply with this Section, at the time of issuance of an Occupancy Permit for any dwelling.

3.16 **On-Site Water Distribution System**

3.16.1 The Lands shall be serviced through privately owned and operated on-site water distribution systems. The Developer agrees to follow the recommendations of the Hydrogeological Analysis prepared for each Phase and those that require Supplemental Hydrogeological Analyses. The Developer agrees to have a qualified professional prepare and submit to Nova Scotia Environment, and any other relevant agency, the design of the on-site water distribution system.

3.16.2 The Developer agrees that each dwelling unit shall be equipped, where necessary, with the water treatment facilities to the specifications of Nova Scotia Environment.

3.16.3 The Developer shall be responsible for implementing the maintenance plans for all water systems until such time as a Condominium Corporation or other responsible management entity is established and accepts responsible for all maintenance and repairs, in perpetuity.

3.16.4 The Developer shall be responsible for providing educational materials regarding the use and maintenance of the water systems to the residents of the Development until such time as a Condominium Corporation or other responsible management entity is established and accepts legal responsibility for educating residents regarding the water systems, in perpetuity.

3.16.5 The Developer shall provide written correspondence from a qualified professional that the on-site water distribution system complies with this Section, at the time of issuance of an Occupancy Permit for any dwelling.

3.17 Maintenance

3.17.1 The Developer shall maintain and keep in good repair all common portions of the Lands, including but not limited to, the exterior of all buildings, structures, fencing, walkways, recreational amenities, Home Site Driveways, Common Shared Private Driveways and parking areas, and the maintenance of all landscaping including the replacement of damaged or dead plant stock or trimming, and litter control, and snow and ice control.

3.17.2 The Municipality shall not be responsible for any aspects of maintenance of the Common Shared Private Driveways and the Home Site Driveways, and these private driveways shall not be taken over by the Municipality.

PART 4: STREETS AND MUNICIPAL SERVICES

4.1 Off-Site Disturbance

4.1.1 Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, street trees, landscaped areas and utilities, shall be the responsibility of the Developer, and shall be reinstated, removed, replaced or relocated by the Developer as directed by the Development Officer, in consultation with the regulating Development Engineer.

PART 5: ENVIRONMENTAL PROTECTION MEASURES

5.1 Site Disturbance Plans, Erosion and Sedimentation Control Plans and Stormwater Management Plans

5.1.1 Prior to the commencement of any site work on the Lands, including earth movement or tree removal other than that required for preliminary survey purposes, or associated off-site works, the Developer shall provide the Development Officer and the Development Engineer:

a. A detailed Site Disturbance Plan for each Phase, prepared by a Professional Engineer indicating the sequence and phasing of construction and the areas to be disturbed or undisturbed;

b. A detailed Erosion and Sedimentation Control Plan for each Phase prepared by a Professional Engineer in accordance with the Erosion and Sedimentation Control Handbook for Construction Sites as prepared and revised from time to time by Nova Scotia Environment. Notwithstanding other sections of this Agreement, no work is permitted on the Lands until the requirements of this clause have been met and implemented. The Erosion and Sedimentation Control Plan shall indicate the sequence of construction, all proposed detailed erosion and sedimentation control measures and interim stormwater management measures to be put in place prior to and during construction;

- c. A detailed Site Grading and Stormwater Management Plan for the Lands (including all Phases) prepared by a Professional Engineer, which shall include an appropriate stormwater collection and treatment system. The Site Grading and Stormwater Management Plan shall identify structural and vegetative stormwater management measures, which may include infiltration, retention, and detention controls, wetlands, vegetative swales, filter strips, and buffers that will minimize adverse impacts on receiving watercourses during and after construction; and
- d. Further to 5.1.1 (c), the Site Grading and Storm Management Plan shall be reviewed and approved by NSTIR prior to the commencement of Phase 1. The Plan shall consider the full build-out (all phases) of the development, identify pre- and post-development drainage areas and storm flows for 10- and 100- year storms, consider all downstream NSTIR drainage infrastructure and demonstrate with sufficient detail that post-development storm flows balance existing, otherwise provide hydraulic analysis to demonstrate the existing system can accommodate increased storm flows without adverse effects.

PART 6: AMENDMENTS

6.1 Non-Substantive Amendments

- 6.1.1 The following items are considered by both parties to be not substantive and may be amended by resolution of Council:
 - a. Changes to the Phasing Plan, as shown on Schedules C through G, and increasing the number of units per phase to a maximum of 20%, provided that the changes are supported by the Level II Hydrogeological Assessment, and that the total number of units does not exceed 56 units;
 - b. A change to the percentage of Developable Area to Common Open Space per phase up to a maximum of 20%, provided that the changes are supported by the Level II Hydrogeological Assessment, and that the total number of units does not exceed 56 units;
 - c. Variances to setbacks and separation distance between main dwelling and accessory building or main dwelling and Common Shared Private Driveway or accessory building and Common Shared Private Driveway;
 - d. The granting of an extension to the date of commencement of construction as identified in Section 7.3 of this Agreement; and
 - e. The length of time for the completion of the development as identified in Section 7.4 of this Agreement.

6.2 Substantive Amendments

Amendments to any matters not identified under Section 6.1 of this Agreement shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

PART 7: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

7.1 Registration

A copy of this Agreement and every amendment or discharge of this Agreement shall be

recorded at the Registry of Deeds or Land Registry Office at Halifax, Nova Scotia and the Developer shall incur all costs in recording such documents.

7.2 Subsequent Owners

7.2.1 This Agreement shall be binding upon the parties hereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which are the subject of this Agreement until this Agreement is discharged by Council.

7.2.2 Upon the transfer of title to any lots, the subsequent owners thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lots.

7.3 Commencement of Development

7.3.1 In the event that development on the Lands has not commenced within **three (3) years** from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law. For the purpose of this section, commencement of development shall mean Subdivision Design Approval for Phase 1.

7.3.2 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 6.1 of this Agreement, if the Municipality receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the commencement of development time period.

7.4. Completion of Development

7.4.1 Upon the completion of the whole development, Council may review this Agreement, in whole or in part, and may:

- a. Retain the Agreement in its present form;
- b. Negotiate a new Agreement; or
- c. Discharge this Agreement.

7.4.2 In the event that development on the Lands has not been completed within **ten (10) years** from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law.

7.4.3 In the event that development on the Lands has not been completed within time period indicated in 7.4.2 the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law.

7.4.4 For the purpose of this section, completion of development shall mean the issuance of a Development Permit the last dwelling for the development.

7.4.5 For the purpose of this section, Council may consider granting an extension of the completion of development time period through a resolution under Section 6.1 of this Agreement, if the Municipality receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the completion of development time period.

PART 8: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

8.1 Enforcement

The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the Lands, the Developer agrees to allow for such an inspection during any reasonable hour within twenty four hours of receiving such a request.

8.2 Failure to Comply

8.2.1 If the Developer fails to observe or perform any condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, then in each such case:

- a. The Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defense based upon the allegation that damages would be an adequate remedy;
- b. The Municipality may enter onto the Lands and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the Agreement, whereupon all reasonable expenses whether arising out of the entry onto the Lands or from the performance of the covenants or remedial action, shall be a first lien on the Lands and be shown on any tax certificate issued under the Assessment Act;
- c. The Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By law; or
- d. In addition to the above remedies, the Municipality reserves the right to pursue any other remedy under the Halifax Regional Municipality Charter or Common Law in order to ensure compliance with this Agreement

IN WITNESS WHEREAS the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

SIGNED, SEALED AND DELIVERED in the presence of:

(Insert Registered Owner Name)

Per: _____

Witness

HALIFAX REGIONAL MUNICIPALITY

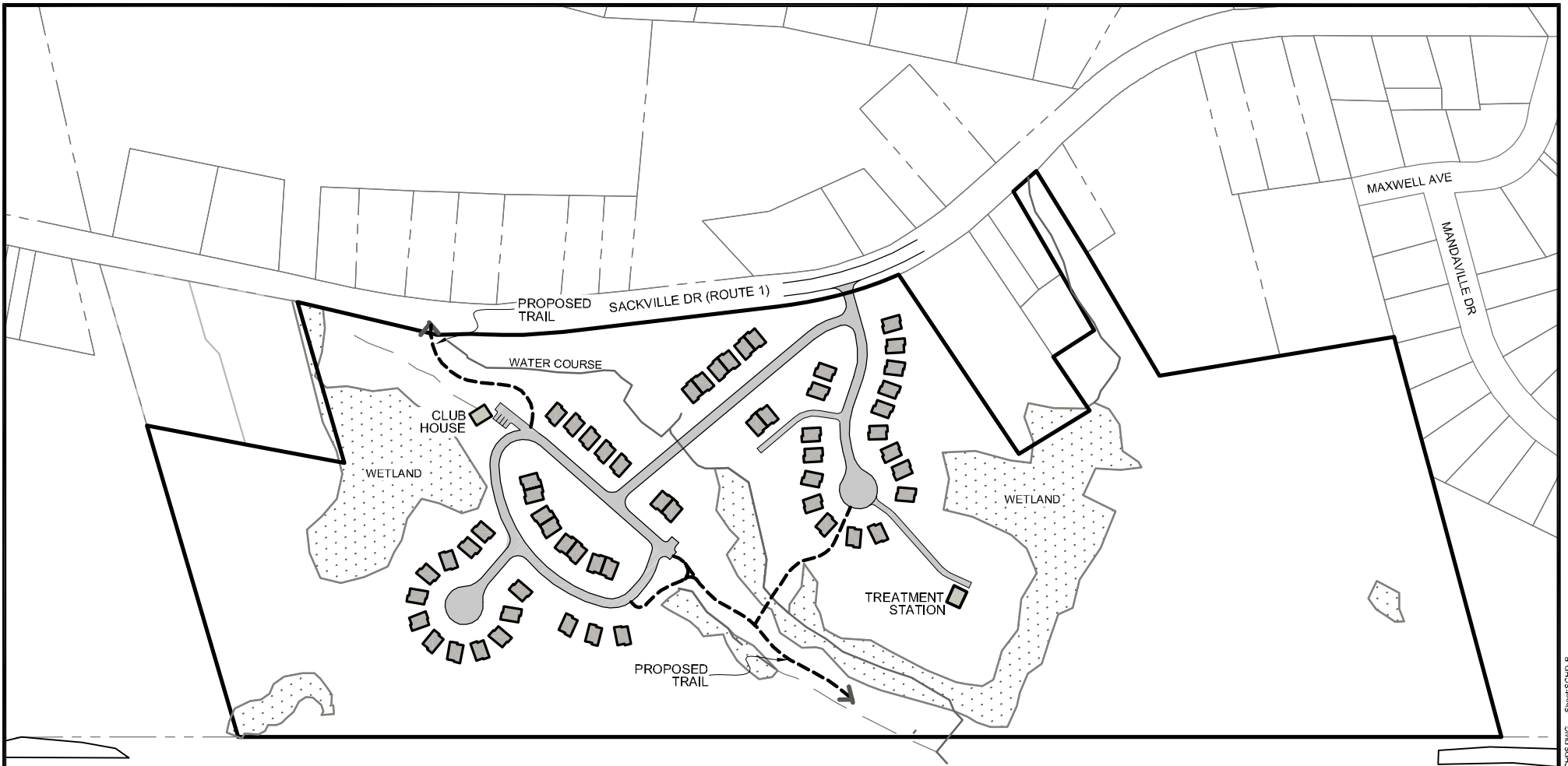
SIGNED, DELIVERED AND ATTESTED to by the proper signing officers of Halifax Regional Municipality, duly authorized in that behalf, in the presence of:

Witness

Per: _____
MAYOR

Witness

Per: _____
MUNICIPAL CLERK



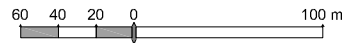
HIGHWAY 101

LEGEND:

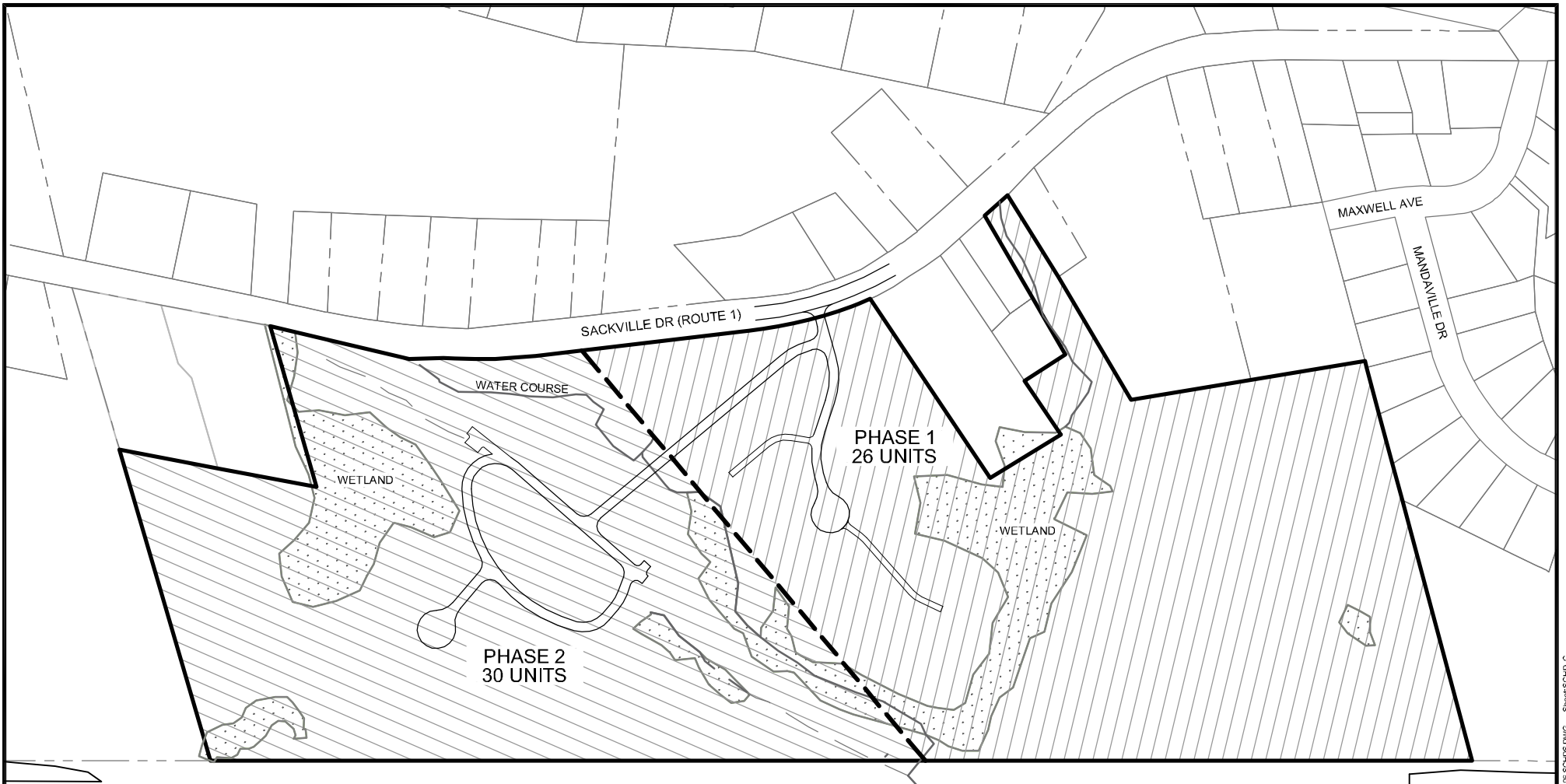
- Semi-Detached
- Single Unit Homes
- Proposed Trail



SCHEDULE B: OVERALL CONCEPT PLAN
Upper Sackville, Nova Scotia



SCALE:
1:4,000
DATE:
30-MAR-2015



SACKVILLE DR (ROUTE 1)

MAXWELL AVE

MANDAVILLE DR

WATER COURSE

PHASE 1
26 UNITS


WETLAND


WETLAND

PHASE 2
30 UNITS

HIGHWAY 101

LEGEND:

 Phase 1

 Phase 2

Total Site Area: 56 Ac (22.6 ha)

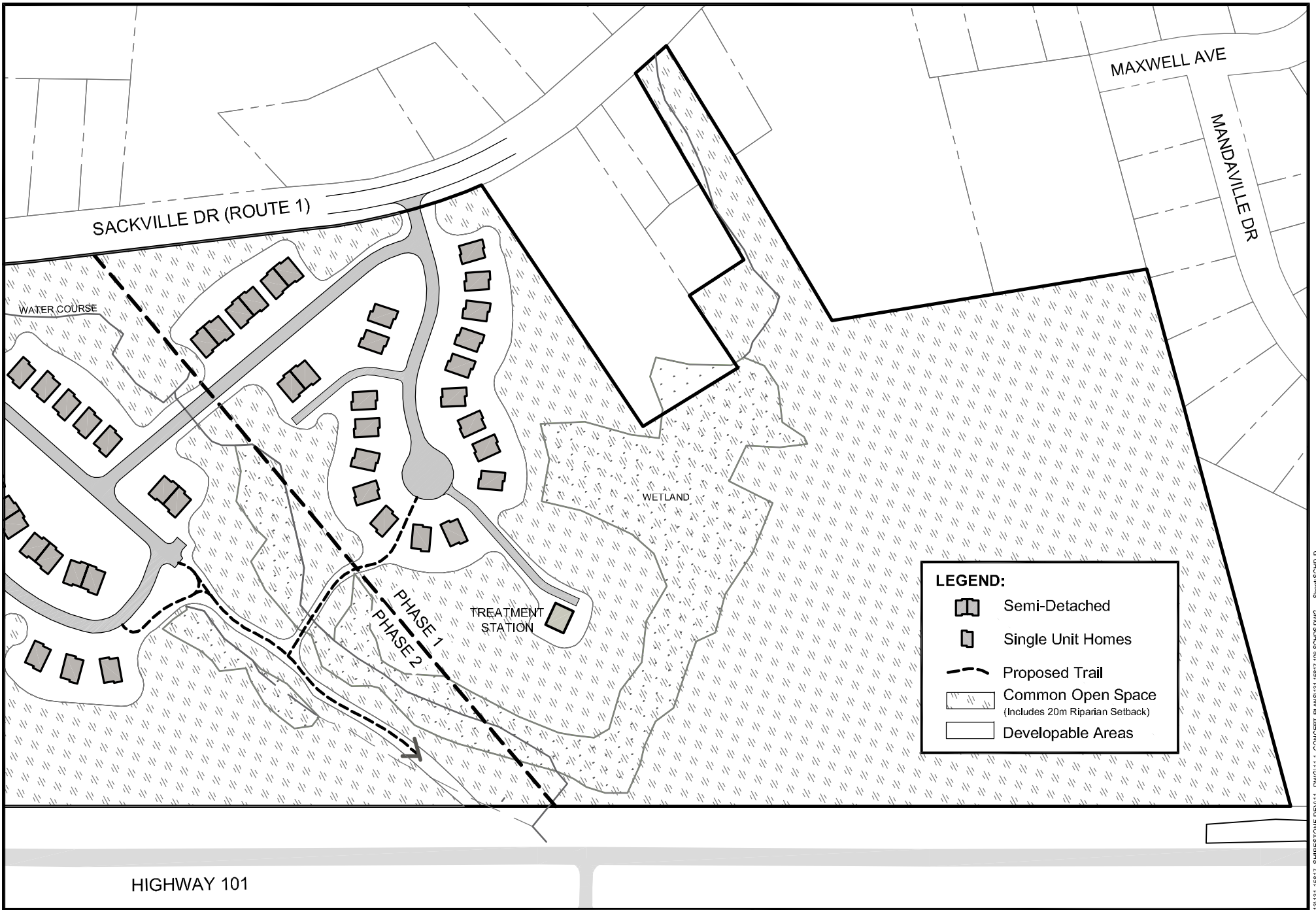


SCHEDULE C: OVERALL PHASING PLAN
Upper Sackville, Nova Scotia








SCALE:
1:4,000

DATE:
30-MAR-2015



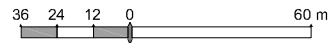
HIGHWAY 101

LEGEND:

-  Semi-Detached
-  Single Unit Homes
-  Proposed Trail
-  Common Open Space
(Includes 20m Riparian Setback)
-  Developable Areas








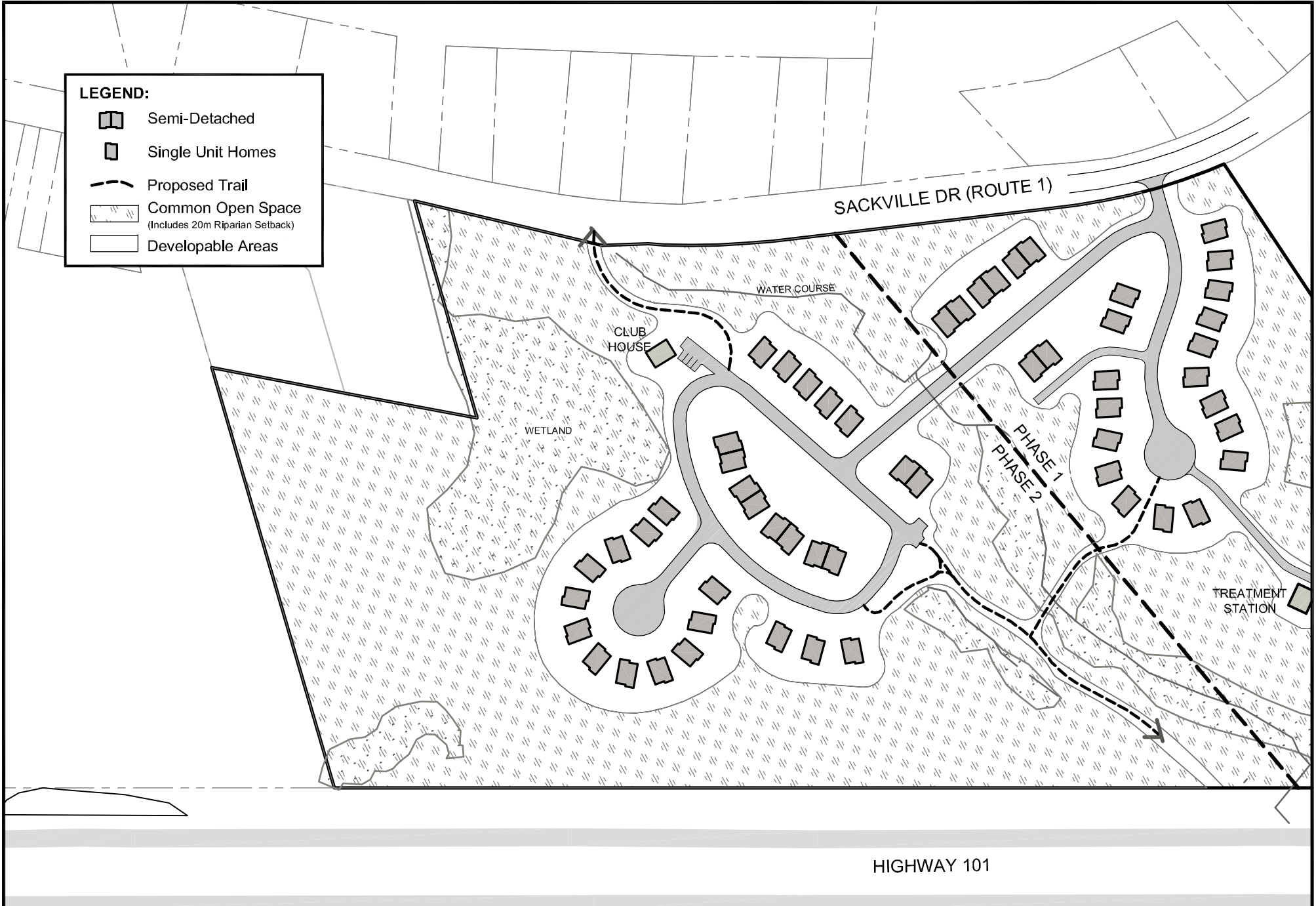
SCHEDULE D: CONCEPT PLAN PHASE 1
Upper Sackville, Nova Scotia



SCALE:
1:2,500
DATE:
30-MAR-2015

LEGEND:

-  Semi-Detached
-  Single Unit Homes
-  Proposed Trail
-  Common Open Space
(Includes 20m Riparian Setback)
-  Developable Areas



HIGHWAY 101



SCHEDULE E: CONCEPT PLAN PHASE 2
Upper Sackville, Nova Scotia



SCALE:
1:2,500
DATE:
30-MAR-2015

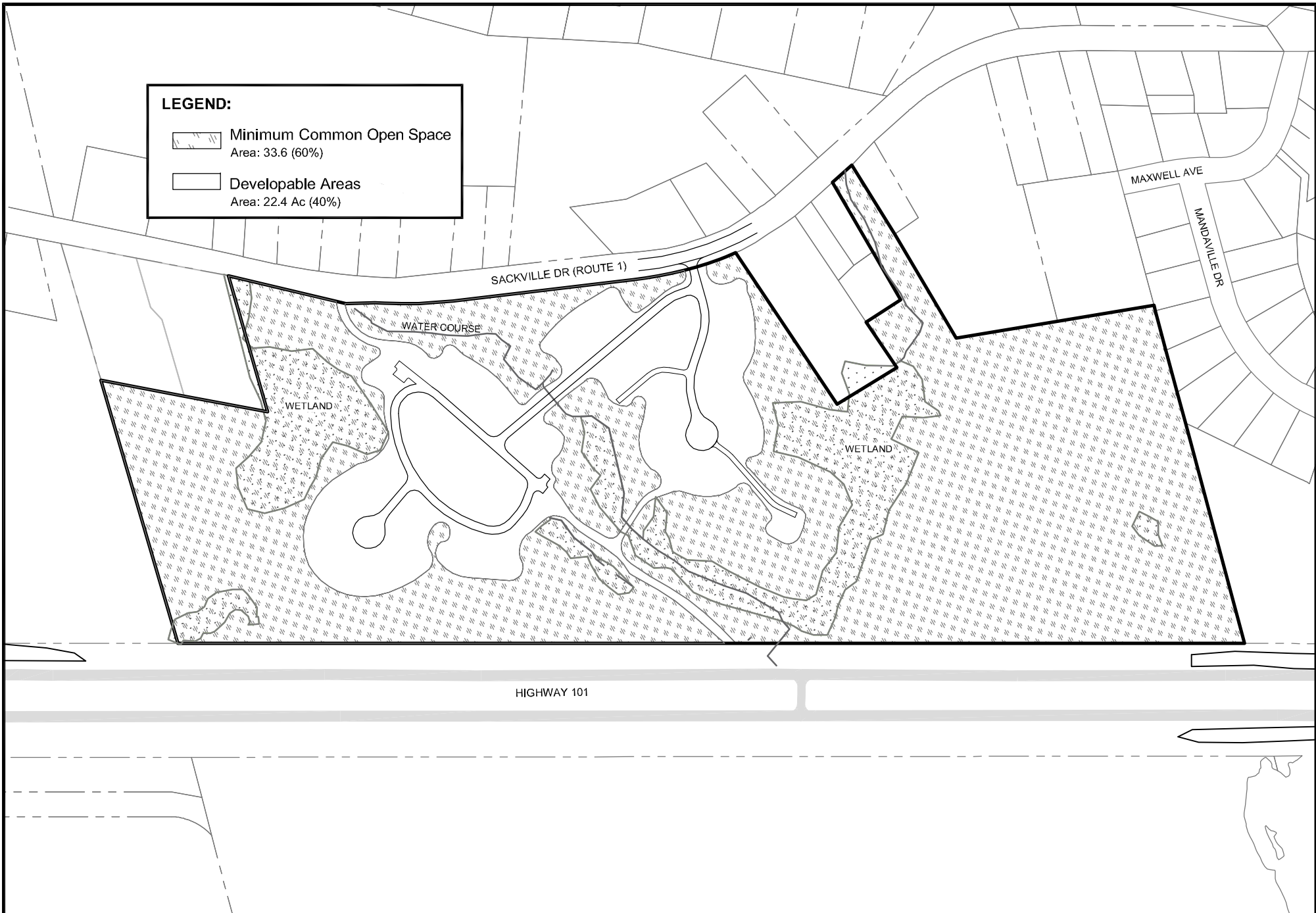
LEGEND:



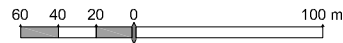
Minimum Common Open Space
Area: 33.6 (60%)



Developable Areas
Area: 22.4 Ac (40%)



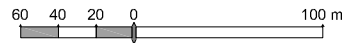
**SCHEDULE F: OVERALL
COMMON OPEN SPACE**
Upper Sackville, Nova Scotia



SCALE:
1:4,000
DATE:
30-MAR-2015



SCHEDULE G: RECREATION FACILITIES
Upper Sackville, Nova Scotia



SCALE:
1:4,000
DATE:
30-MAR-2015

Schedule H: Common Shared Private Driveway Design Standards

Common Shared Private Driveways to be developed as part of the Open Space Design Development Agreement for Meadowridge shall meet the following design standards.

1. All Common Shared Private Driveways shall have a minimum clear width of 9 metres (29.52 feet) as follows:
 - (a) Travel lanes shall be a minimum of 3 meters (9.84 feet) for each direction of travel and shall not include parking areas. Travel lanes shall be designed and constructed, complete with a paved asphalt surface, to adequately support the loads produced by all emergency vehicles.
 - (b) A minimum 1.5 meter (4.92 feet) clearance (shoulders) shall be provided on both sides of the travel lanes and shall be comprised of stable ground as agreed to by the HRM Development Engineer in consultation with HRM Fire Services. The stable ground shall be designed to adequately support all emergency vehicles that may utilize the area to support their necessary operations
2. All Common Shared Private Driveways shall be constructed so as to prevent the accumulation of water and ice on any section of the driveway. Where the driveway grades are less than 0.5 percent, the Common Shared Private Driveway shall be crowned in the center to prevent pooling of water in a travelled way. Swales shall be installed if required to prevent erosion of the shoulders.
3. Provisions for drainage systems, snow banks, utilities, and the like shall be provided and shall not be located within the required 9 meter (29.53 foot) Driveway.
4. At least 4.26 meters (14 feet) nominal vertical clearance shall be provided and maintained over the full width of the Common Shared Private Driveway.
5. Common Shared Private Driveways shall not have grades greater than 10 % with no change in grade over 8% in 15 meters (49.21 feet) of travel distance.
6. All cul-de-sacs shall be constructed with a minimum radius of 13 meters (42.65 feet) to the edge of asphalt and 15 meters (49.21 feet) to outside of shoulder.
7. All travel lane curves and turns at intersection, are to have a minimum 12 meter (39.37 feet) centreline travel radius. Curves and turns shall not reduce the clear width of the driveway.
8. The angle of approach and the angle of departure shall not exceed 8 degrees at any point of the driveway or its intersection with another driveway.
9. Sight distance shall be incorporated into the design of intersections.
10. If speed bumps are going to be constructed; acceptable warning signs shall be required.