

10.1.3



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Harbour East Community Council
November 12, 2009

TO: Chair and Members of Harbour East Community Council

SUBMITTED BY: _____
Paul Dunphy, Director of Community Development

DATE: November 2, 2009

SUBJECT: Case 01336: Amending Agreement, Russell Lake West

ORIGIN

An application by Clayton Developments Ltd. for a non-substantive amendment to the existing Development Agreement for Russell Lake West to revise the conceptual layout of the townhouse site on Block I and enable the subdivision of individual townhouse lots.

RECOMMENDATION

It is recommended that Harbour East Council:

1. Approve, by resolution of Council, the establishment of 18 freehold townhouse units in Block I, as shown on the amended Schedule VIII and illustrated on Schedule VII(ii), as contained in Attachment A to this report; and
2. Require the amending agreement be signed within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

The Development Agreement for Russell Lake West development was signed on October 3, 2005 which permitted the creation of a mixed use development, consisting of residential and commercial uses (see Attachment B). The Existing Development Agreement outlines the design of Block I showing 5 townhouse condominium blocks with a single access point onto Basswood Run / Basswood Run Extension.

Proposal

Clayton Development has applied to amend the Existing Development Agreement to change the layout of Block I to allow 4 townhouse blocks as freehold units with shared driveway entrances from Basswood Run / Basswood Run Extension. (See Attachment A) The maintenance of these driveways will be shared amongst the home owners via a residents association.

Location, Designation, Zoning and Surrounding Land Uses

- Russell Lake West is a mixed use master planned area generally bounded by Russell Lake and Highway 111.
- The subject lands are located within a 4.2 acre area that constitutes Block I of the Russell Lake West Development Agreement.
- The lands are situated within the Morris-Russell Lake Secondary Planning Strategy under the Dartmouth Municipal Planning Strategy (MPS) and are zoned Comprehensive Development District (CDD) under the Dartmouth Land Use By-law (LUB) (Maps 1 and 2).

Enabling Policy

Part 5.1(a) of the Existing Agreement deems the replacement of low density housing with other low density housing can be considered by Council as a non-substantial amendment. Harbour East Community Council can consider the proposed amendment under the Dartmouth MPS through Policies ML-18(i) and ML-19.

Due to the non-substantive nature of this application, Harbour East Community Council can approve the requested amendments by resolution of Council as permitted under the *HRM Charter*.

DISCUSSION

Staff have reviewed the applicable sections of the Dartmouth Municipal Planning Strategy and the Existing Development Agreement. Staff are of the opinion that the requested amendments are consistent with the intent of the Dartmouth MPS regarding development of CDD sites and the intent of the Existing Development Agreement. The following issue has been identified for more detailed discussion.

Impact on Basswood Drive / Basswood Drive Ext.

The proposed amendments will increase the number of driveways accessed from Basswood Drive / Basswood Drive Ext. Staff have reviewed the impact of the requested amendments and have no

immediate concerns with the additional driveways access points. The location of the proposed driveways will be further reviewed during the building permit application stage.

BUDGET IMPLICATIONS

There are no budget 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 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

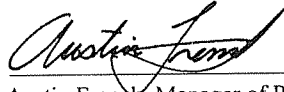
1. Council may choose to approve the proposed amending development agreement as set out in Attachment A of this report. This is the recommended course of action.
2. Council may choose to approve the proposed amending development agreement subject to modifications. This may necessitate further negotiation with the applicant.
3. Council may choose to refuse the proposed amending development agreement, and in doing so, must provide reasons based on a conflict with MPS policies and the general intent of the Existing Development Agreement. This alternative is not recommended for the reasons stated within this report.

ATTACHMENTS

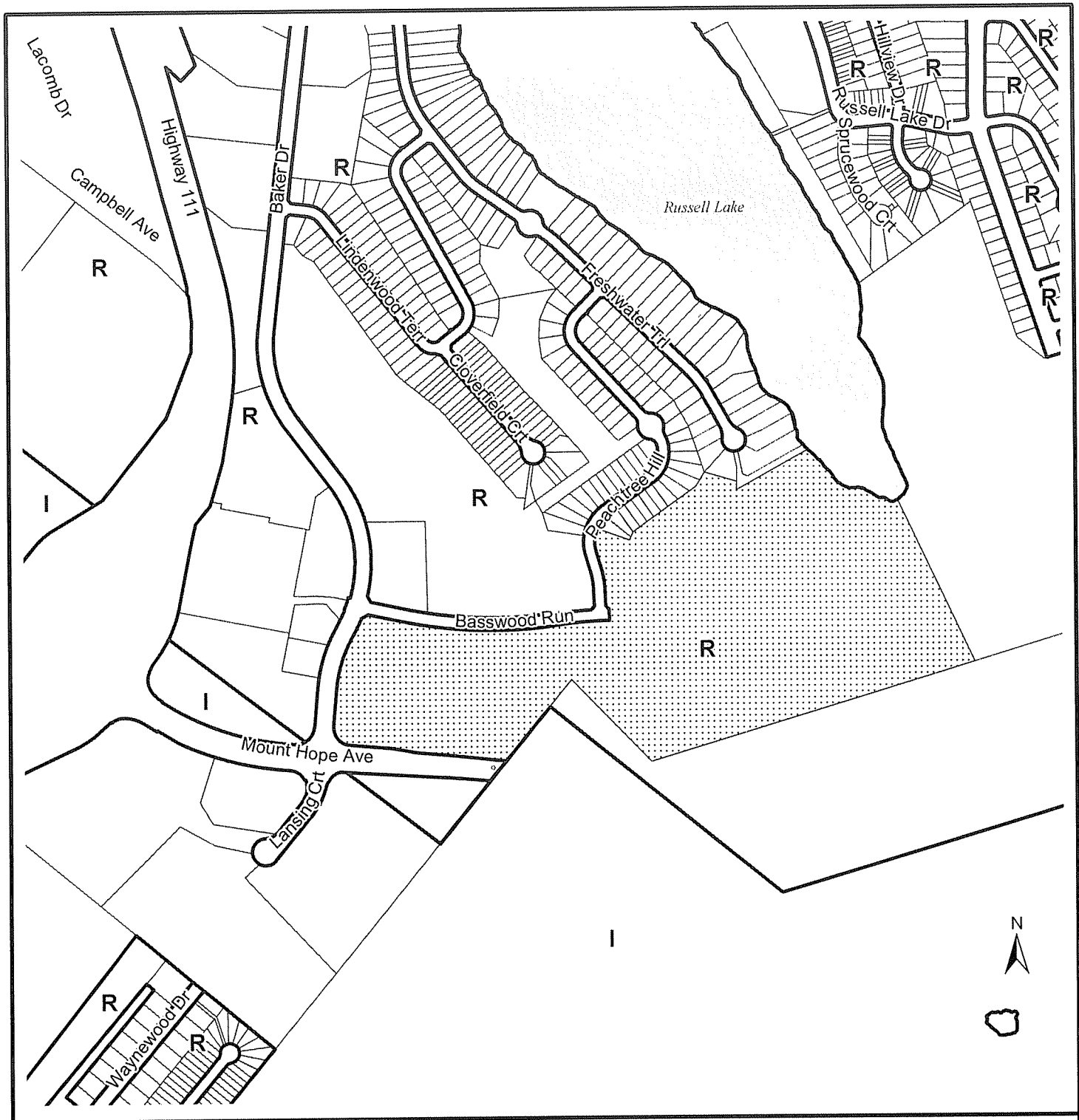
Map 1:	Generalized Future Land Use Map
Map 2:	Zoning Map
Attachment A:	Proposed Second Amending Agreement
Attachment B:	Excerpts from Existing Development Agreement
Attachment C:	Applicable Policies from Dartmouth MPS
Attachment D:	Applicable Dartmouth LUB Provisions

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 : Jillian MacLellan, Planner I, 490-3999




Report Approved by: Austin French, Manager of Planning Services, 490-6717

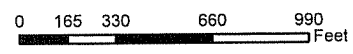


Map 1 - Generalized Future Land Use



 Subject Property

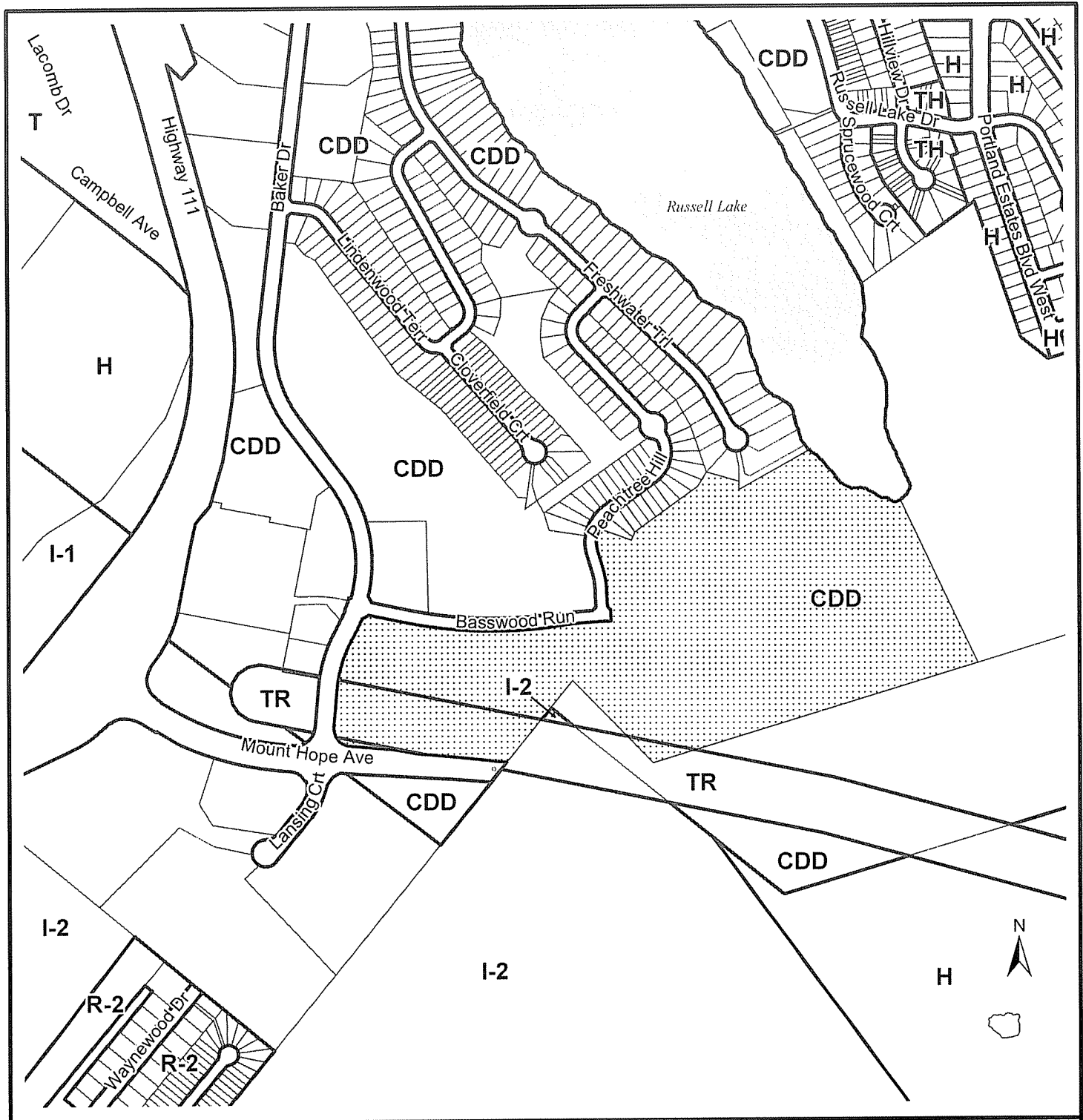
Designation
 R Residential
 I Industrial




This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the Dartmouth Plan Area

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

Dartmouth Plan Area



Map 2 - Location and Zoning

 Subject Property

Zone

- R-2 Two Family Residential
- TH Town Housing
- T Mobile Home Park
- I-1 Light Industrial
- I-2 General Industrial
- H Holding
- CDD Comprehensive Development District
- TR Transportation Reserve

Dartmouth Plan Area

HALIFAX
REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES

0 160 320 640 960 Feet

This map is an unofficial reproduction of a portion of the Zoning Map for the Dartmouth Plan Area

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

Attachment A
Proposed Second Amending Agreement

THIS SECOND AMENDING AGREEMENT made this day of , 2009,

BETWEEN:

CLAYTON DEVELOPMENTS 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 at Russell Lake West, Dartmouth, PID 00256438 and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Harbour East Community Council of the Municipality approved an application by the Developer to enter into a Development Agreement to allow for a mixed use development, consisting of residential and commercial uses on the Lands (Municipal Case Number 00731), which said Development Agreement was registered at the Registry of Deeds in Halifax as Document Number 83812249 (hereinafter called the "Existing Agreement");

AND WHEREAS the Harbour East Community Council of the Municipality previously amended the Existing Agreement by entering into an Amending Agreement with the Developer on the 8th day of May 2007 (Municipal Case Number 00966) to replace the deadline date for completing all work associated with the extension of Baker Drive, which said Agreement was registered at Land Registry Office in Halifax as Document Number 87992815, (hereinafter called the "First Amending Agreement");

AND WHEREAS the Developer wishes to further amend the Existing Agreement to allow for the revised layout of Block I of the "Lands" and the revised Land Use Chart shown in Schedule VIII pursuant to the provisions of the *HRM Charter*, (hereinafter called the "Second Agreement");

AND WHEREAS the Harbour East Community Council for the Municipality approved this request at a meeting held on [INSERT-Date], referenced as Municipal Case Number 01336;

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

-
1. Except where specifically varied by this Second Amending Agreement, all other terms and conditions of the Existing Agreement and the First Amending Agreement shall remain in effect.
 2. Schedule VIII of the Existing Agreement shall be amended to permit 18 freehold townhouse units in Block I, as shown on the amended Schedule VIII attached to this Second Amending Agreement.
 3. The Existing Agreement shall be amended so that Block I shall be developed as illustrated on Schedule VII(ii) attached to this Second Amending Agreement. One driveway is permitted for each townhouse block and no more than four driveways in total shall access Block I from Basswood Run / Basswood Run Extension.
 4. Further to Section 3 of this Agreement, both parties agree that Schedule VII of the Existing Agreement shall remain in force for all other portions of the Lands contained therein.

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, A.D., 2009.

SIGNED, SEALED AND DELIVERED)
in the presence of

CLAYTON DEVELOPMENTS
LIMITED

per _____)

per: _____)

per _____)

per: _____)

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

HALIFAX REGIONAL MUNICIPALITY

per _____)

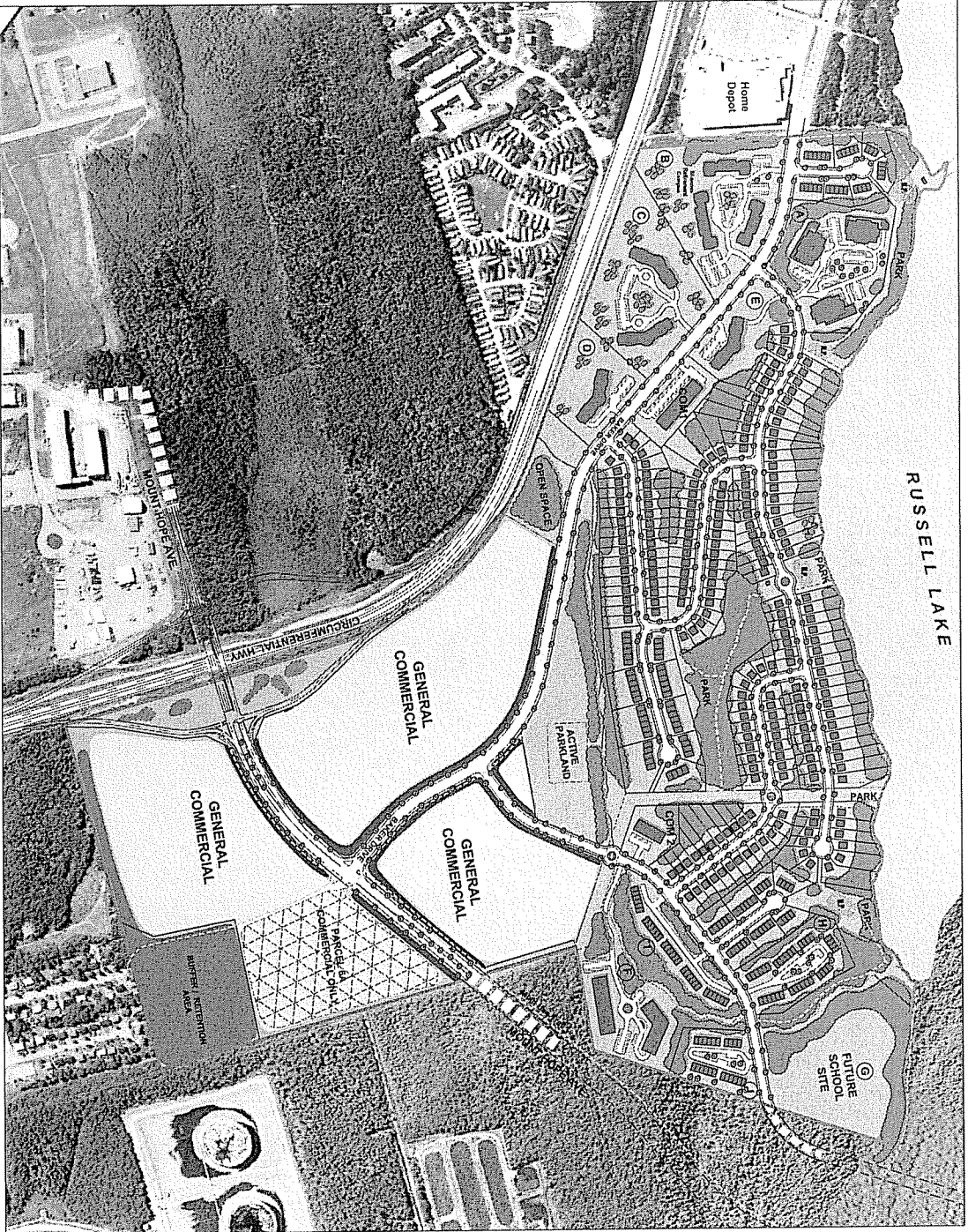
per: _____)

MAYOR

per _____)

per: _____)

MUNICIPAL CLERK

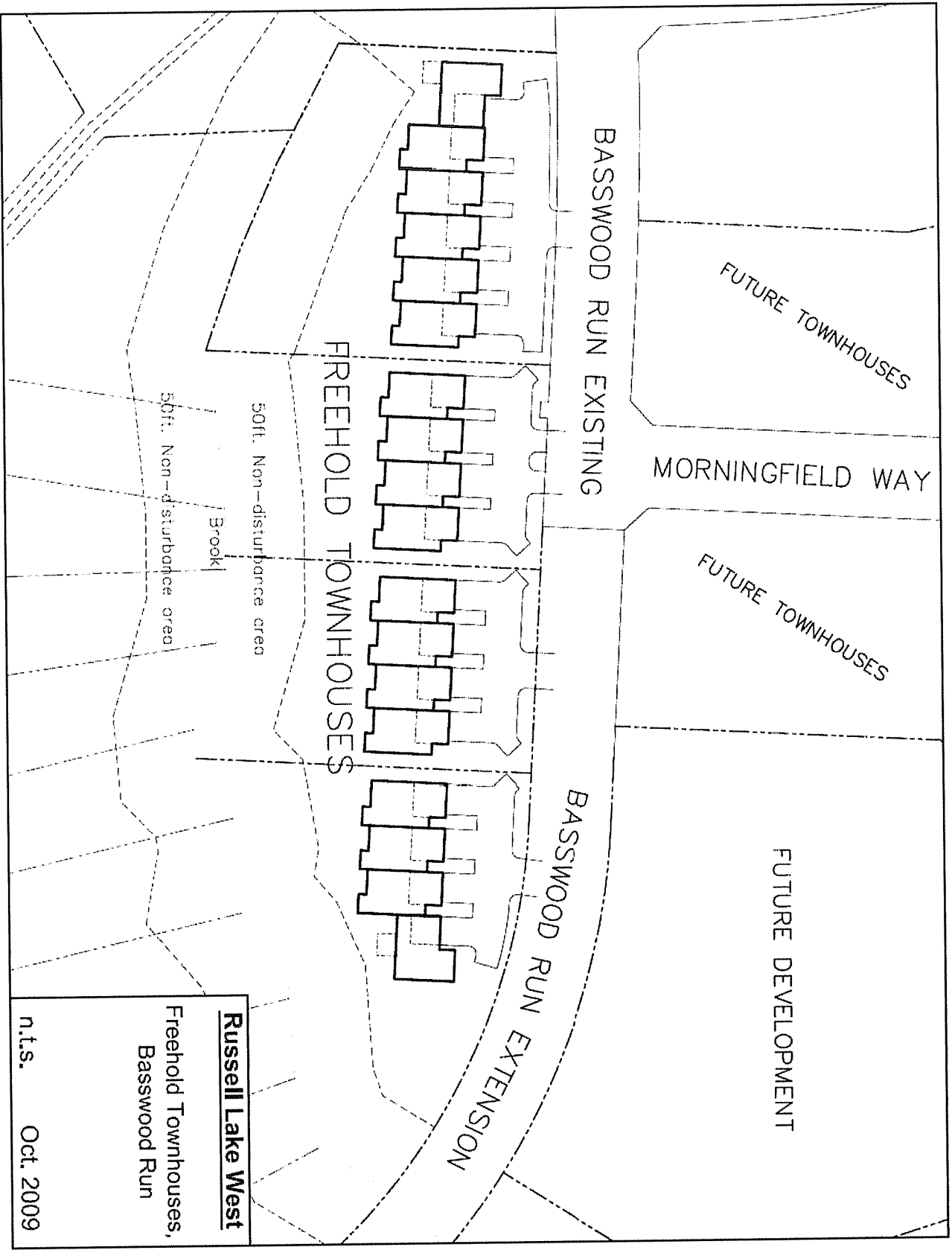


RUSSELL
LAKE
WEST

LAND USE PLAN

SUB AREAS 1 & 2
SCALE: NTS
March, 2005





Schedule VII (ii)
Parcel I - Land Use Plan

HRM does not guarantee the accuracy of any base information.

October 19, 2009

Case 01336

T:\work\planning\Holly\Official_Maps\case_maps\Case_01336\SchVII (ii) 01336.PDF (HLK)



SCHEDULE VIII

Russell Lake West

October, 2009

Sub Area 1 Land Use Chart

Total Acreage 165 acs.

Low Density Residential	Single Lake 50 - 60' LOTS	Single Lake Cul-De-Sac	Single > 50 FT.	Single < 50 FT.	Townhouse	Bungalow Townhouse
Street A	37	6	47	*	34	
Street B			70	*		
Street C			46	*		
Street D			*	*	*	47
Street F			*	*	36	*
Street G					18	
* Block I						47
Total	37	6	163	*	88	47

(* - Alternative Landuse, ** - Not to exceed 50% of Total Low Density Residential Units)

Condo Townhouses	Acres	upa
Block H	36	3.9
Block J	22	2.7
Total	58	6.6

	Units	ppu	People
Total Number of Single Units	206	3.35	690
Total Number of Townhouses	135	3.35	452
Total Number of Condo Townhouses	58	3.35	194
Total Low Density Residential Units	399		1377
% of total Units	36%		

Shannex Seniors Complex	Units*	Acres	upa
Block B (BD-2, BD-3)	150	8.9	16.9
* calculated based on 2 BR unit equivalents			
Total	150	8.9	

Total Number of Seniors Units	150	2.25	338
% of total Units	14%		

High Density Residential	Units	Acres	upa
Block A (BD-1)	180	7.3	24.7
Block C (BD-5)	110	8.4	13.1
Block D (BD-6)	64	4.1	15.6
Block E (BD-4)	64	3.5	18.3
Block F	128	7.9	16.2
Total	546	31.2	

Total High Density Residential Units	546	2.25	1,229
% of total Units	50%		

Total Residential Units 1095 2943

Total Gross Acres (Non Commercial) 161.8

6.8 upa 18.2 ppa

Community Commercial	Acres
COM 1 (BD-7)	2.1
COM 2	1.1
Total	3.2

Total Community Commercial Acreage 3.2 40 128

Total Gross Acres 165

* Block I: type of ownership changed from condominium to freehold units; number of townhouse units has decreased from 30 units to 18 units as per the Second Amending Development Agreement (November 2009)

Attachment B
Excepts from the Existing Development Agreement

PART 3: SUBDIVISION OF THE LANDS

Subdivision Grading Plans:

5. Prior to the commencement of any site works on the Lands, the Developer shall obtain a recommendation of approval by the Development Engineer for a detailed Subdivision Grading Plan for the phase of development for which subdivision approval is sought. The Subdivision Grading Plan shall delineate non-disturbance boundaries for all lots, and the Developer shall be responsible for ensuring that individual house plans and building pads minimize the amount of site disturbance on each lot;

Lot Layout:

- (r) The number, configuration and dimensions of lots within Sub Area 1 shall substantially conform with Schedules VII and VIII and shall conform with the following requirements:
- (i) lots intended for townhouse dwellings shall have a minimum lot frontage of twenty (20) feet as measured at the building line and a minimum lot area of 2,000 square feet;

PART 4: DEVELOPMENT OF THE LANDS

- 4.2 No municipal development permit shall be granted for any townhouse dwelling unit except in accordance with the following provisions:

Minimum front yard	15 ft. (to nearest portion of the structure) 18 ft. (to the building wall)
Minimum rear yard	15 ft. (to the building wall) 2 ft. (for accessory buildings)
Minimum side yard	9 ft. (ends of building) 2 ft. (for accessory buildings)
Minimum flankage yard	15 ft. (to the building wall)
Maximum lot coverage	40%
Maximum number of units per building block	6
Maximum building height	30 ft. (from average finished grade to top of cornice, excepting gables)

Minimum driveway length 18 ft. (to the building wall)

Maximum driveway width 9 ft.

PART 5: AMENDMENTS

- 5.1 The provisions of this Agreement relating to the following matters are identified as and shall be deemed to be not substantial and may be approved by resolution of the Community Council:
- (a) Within Sub Area 1 as illustrated on Schedule I, lots designated for low density housing units (where low density housing units means single unit two unit or townhouse dwelling units) may be replaced with other low density housing units provided that the total number of dwelling units within Sub Area 1 does not exceed one thousand three hundred and twenty (1,320) and the proportion of single unit dwellings with less than fifty (50) feet of street frontage does not exceed twenty-five percent (25%) of the total number of single unit dwellings within Sub Area 1;

Attachment C
Applicable Policies from Dartmouth MPS

To overcome these deficiencies, City Council would be required to pursue amendments to its Charter. However, a preferred alternative exists under the Planning Act. Therefore, the policies of this Plan respecting comprehensive development districts will be implemented according to that legislation.

(3) Comprehensive Development District (CDD)

The CDD mechanism permits a land owner and the City to negotiate the development standards for a designated property, allowing for more flexibility than offered by zoning and subdivision regulation. In keeping with the City's concerns regarding the residential development of large vacant parcels inside the development boundary, several properties will be designated as CDDs and others may be considered by Council or owners in the future.

An important objective in providing for CDDs is to create mixed residential developments, with variety in dwelling type, building design and lot characteristics. In most cases, this mix will be achieved within each CDD. However, some districts may be located in the immediate vicinity of alternate housing forms and in these cases, the surrounding neighbourhood will be taken into account in determining an acceptable mix of housing for the property.

(Deleted: RC-Jan 12/99;E-Jun 26/99)

CDDs will be developed according to master plans and implemented by development agreement(s). Policies H-3 through H-3E expand on City Council's intentions in providing for CDDs. (As amended by By-law C-697, June 18, 1993).

Policy H-3 It shall be the intention of Council to establish a comprehensive development district (CDD) within the land use by-law. A CDD may be applied to vacant lands which have a minimum area of ten acres and which are located within the development boundary. It is the intention that a CDD shall be primarily a residential development and shall provide a mix of residential uses. Within the CDD, Council may consider permitting any residential use and institutional, commercial and recreational facilities to serve the area.

Future Land Uses

ML-18 The Future Land Use and Transportation Plan, presented as Map 9N, shall provide overall guidance for land use allocation within this secondary plan area and the following guidelines shall be adhered to in any development agreement application:

- (i) Parcel 7: A mixture of residential developments shall be supported provided that higher density development is located adjacent to the Caldwell Road Connector but no driveway access is permitted to this road;

Density

ML-19 The allowable density on parcel 1 shall conform with the requirements of clause (a) of policy ML-18 and the allowable density on parcel 8 shall conform with the requirements of

clause (i) of policy ML-18. The density limitation established under clause (d) of policy H-3B shall be applied to the following aggregated parcels:

- (a) parcels 2, 3, 4, 4a, 5, 7 and 8;
- (b) parcels 9, 10, 11, 12 and 13;
- (c) parcels 20, 21 and 22;
- (d) parcels MLE1, MLE2 and 18;
- (e) parcels PH4 and PH5.

Attachment D
Applicable Dartmouth LUB Provisions

PART 27: CDD (COMPREHENSIVE DEVELOPMENT DISTRICT) ZONE

53(A) (a) The following uses only shall be permitted in a CDD:

- (i) residential uses;
 - (ii) commercial, institutional and recreational uses.
 - (iii) All equipment, structures and buildings associated with extracting water from Morris Lake in association with an existing oil refinery operation.
(RCMar22/05;E-Apr 23/05)
- (b) No development permit shall be issued except in conformity with an agreement pursuant to Section 56(3) of the Planning Act. (As amended by By-law C-698, Jun 18/93)