

8.1.2

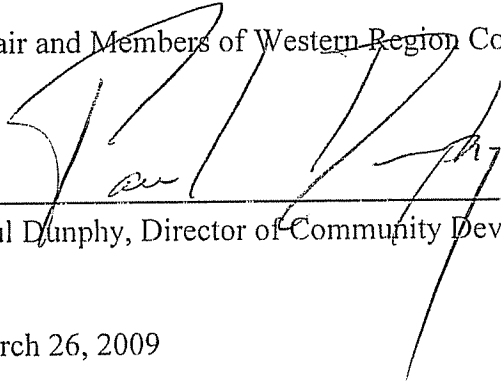


PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

Western Region Community Council  
April 27, 2009

TO: Chair and Members of Western Region Community Council

SUBMITTED BY:

  
Paul Dunphy, Director of Community Development

DATE: March 26, 2009

SUBJECT: **Case 01178: Development Agreement - Glen Baker Drive, Herring Cove.**

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### ORIGIN

Application by 3093952 Nova Scotia Limited for a development agreement to allow for a new residential subdivision on lands off Glen Baker Drive and the Herring Cove Road.

### RECOMMENDATION

It is recommended that Western Region Community Council:

1. Move Notice of Motion to consider approval of the proposed development agreement, presented as Attachment A, and schedule a Public Hearing.
2. Approve the proposed development agreement, presented as Attachment A, and;
3. Require that the development agreement be signed and delivered within 120 days, or any extension thereof granted by Community Council on request of the applicant, from the date of final approval by Community Council or any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

## BACKGROUND

The subject property is a 19 acre parcel of land located off Herring Cove Road and accessed by a private road, Glen Baker Drive. The property abuts along the north eastern and south eastern boundary 1156 acres of Provincial Crown Land zoned PA (Protected Area). Approximately 12 residential properties abut the property along the Herring Cove Road. (Map 1) Under previous ownership large sections of the property were cleared and the early stages of road construction were completed.

The current owner of the property proposes a residential development that will include:

- 50 single family residential lots
- 13 semi-detached residential lots (26 dwelling units)
- two new public roads with direct access to the Herring Cove Road
- 4.55 acres of conservation land
- HRM trail head and trail connections to the Provincial Crown Lands
- Municipal sewer and water

The two new public roads are located approximately 114 meters north of Glen Baker Drive. The second road is an upgrade of Glen Baker Drive to the public road standard and includes public sidewalks.

## DISCUSSION

### **Designation and Zoning**

The land is zoned HRC (Herring Cove Residential) and designated Urban Settlement under the Regional MPS and Residential in the Planning District 5 (Chebucto Peninsula) MPS. (Map 2) The application is being made pursuant to Policies RES-2C, RES-2D and RES-2E of the Chebucto Peninsula MPS. (Attachment B)

### **MPS Policy**

In 1999 Regional Council directed staff (Case # 00098) to examine development options for Herring Cove based on the plans to extend municipal water and sewage to the community. The study also examined other development issues in the community and made recommendations to amend the MPS and LUB. One of the amendments made to the MPS was the introduction of new policies requiring development agreements for the subdivision and development of lots on new public streets within the HRC (Herring Cove Residential) Zone (Attachment C).

The relevant policies adopted by Council in 1999 are presented in three parts, each policy performs a separate function, however, they must be evaluated collectively. The first policy, RES-2C, determines the application requirements to enable the development agreement while policies RES-2D and RES-2E provide basic design objectives and specific development agreement criteria. Together, the policies work to achieve a high standard of care and sensitivity for the environmental

conditions of the property. In return for achieving this environmental standard, reduced lot sizes are enabled provided a residential density typical within the plan area (4 units per acre) is maintained.

A key consideration in this application is the degree of land alteration that is proposed and whether the important environmental conditions of the site will be conserved or protected. The unusual circumstance in evaluating the proposal is that the property is largely impacted by previous construction activity whereas the policies assume a greenfield or undistributed site. Staff have reviewed the proposed development and determined that it is appropriate given the context of the site while satisfying the policy objectives. A reasonable amount of natural vegetation is to be retained on the conservation and park lands as well as at the rear of most of the residential lots. A detailed review of the policies is provided in table format as Attachment D.

Additionally, staff are proposing further flexibility in the lot frontage and area requirements in order to achieve greater compliance with the environmental objectives of plan policy. The policy is specific relative to minimum lot dimensions; lot frontages may be reduced to 60 feet from 75 feet and lot areas may be reduced to 6000 sq. ft. from 10,000 sq. ft. provided that an area equivalent to the total area reduction for each lot is provided as contiguous, common open space. However, such strict minimums are counter to the intent of the policy objectives to confine development to minimize land disturbance. Accordingly, staff are providing a practical application of the lot standards where the average frontages and areas must total 60 feet and 6000 square feet, respectively. The maximum permitted density of 4 units per acre remains unaffected by this approach.

### **Development Agreement**

The proposed development agreement (Attachment A) has been prepared with consideration of the MPS and for the attributes of the property and its surroundings. The following are key highlights:

- The proposed 76 dwelling units comply with the density control of 4 units per acre.
- Two new public roads provide access to the Herring Cove Road and will have no appreciable impact on traffic.
- The goal to retain 30% of the natural vegetation on the site in an undisturbed state is satisfied by retaining 4.55 acres of land as permanent conservation land and protecting additional land as tree and vegetation retention areas.
- The parkland dedication requirements are satisfied by constructing a trail head and trail connection to the Provincial Crown Lands with any remaining contribution to be received by HRM in the form of cash.
- The watercourse on the property is protected with a 100 foot buffer and is included as a portion of the conservation lands.
- The proposed development includes municipal sewer and water and is located in the Herring Cove Water Service District and is subject to a capital cost contribution.
- There is an extended period of time, five years, that the developer has before construction must commence to allow for commissioning of the Herring Cove Sewage Treatment Plant.

- In consideration of potential conflicts arising from non-residential uses in a residential area with reduced lot sizes, land uses permitted within the HCR zone such as Fishery support uses; Day Care Facilities and Bed and Breakfast operations are excluded as permitted uses.

### **Halifax Watershed Advisory Board**

The application was reviewed by the Halifax Watershed Advisory Board (HWAB) in November, 2008. The main focus of the HWAB's review was the establishment of a suitable riparian buffer, which HWAB has established as 100 feet from all watercourses. This buffer is consistent with the policy criteria for development agreements and the proposed agreement applies a 100 foot buffer to the watercourse. Other HWAB recommendations, such as a suggestion for a oil/grit separator is not specifically addressed in the agreement. This specific type of stormwater management technology is not a requirement of HRM's subdivision process or the Municipal Service Systems. Furthermore, stormwater management technologies, such as oil/water separators, are typically included in major commercial forms of developments. Nevertheless, the developer has agreed to investigate and install, if deemed necessary, stormwater treatment technologies to address storm water quality.

HWAB's interest in requiring water quality monitoring for site specific developments is not addressed in the agreement. However, the standardized application testing for development projects is a policy issue that will be addressed in the Water Quality Monitoring Functional Plan.

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

A Public Information Meeting for this application was held on October 2, 2008. Minutes of this meeting are provided as Attachment "E" of this report.

The proposed development agreement satisfies the applicable policies of the Planning District 5 (Chebucto Peninsula) MPS (Attachment "B"). As such, it is recommended that Western Region Community Council approve the development agreement. 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 associated with the processing of the Development Agreement. 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 approve the development agreement as provided in Attachment A. This is the recommended course of action.
2. Council may choose to refuse the proposed development agreement. Pursuant to subsection 254(6) of the *Halifax Regional Municipality Charter*, Council must provide reasons for this refusal, based on the policies of the MPS.
3. Council may choose to propose modifications to the development agreement. Such modifications may require further negotiations with the Developer.

ATTACHMENTS

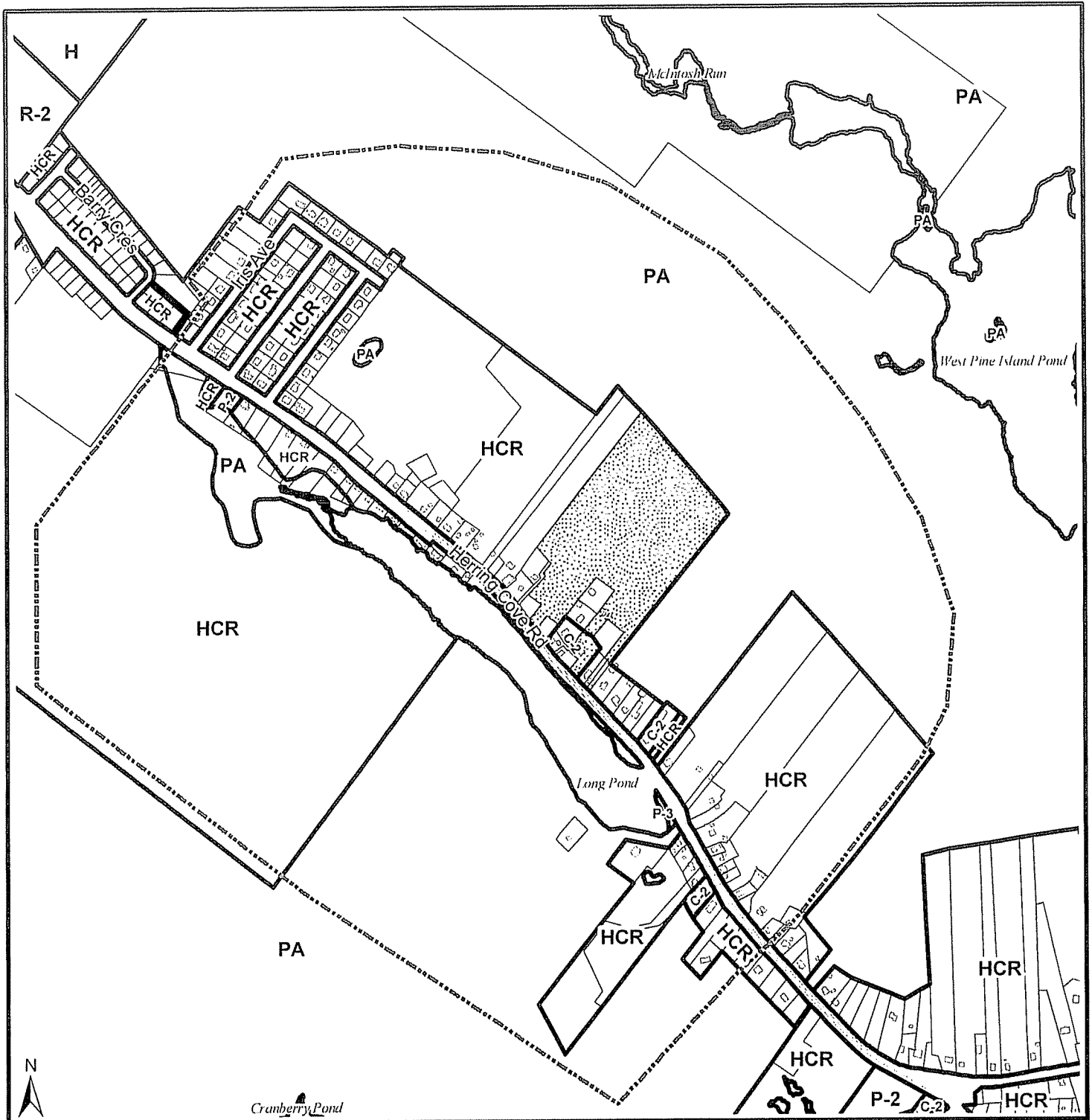
Map 1	Zoning and Area of Notification
Map 2	Generalized Future Land Use
Attachment "A"	Proposed Development Agreement
Attachment "B"	Excerpts from the Planning District 5 (Chebucto Peninsula) MPS
Attachment "C"	Excerpts from the Planning District 5 (Chebucto Peninsula) LUB
Attachment "D"	Planning District 5 (Chebucto Peninsula) MPS - Relevant Policy Analysis
Attachment "E"	Minutes from the November 12, 2008 Public Information Meeting

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

Report Prepared by: Brian White, Planner I, 490-4793





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



### Map 1 - Location and Zoning

Herring Cove Road  
Herring Cove

**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES

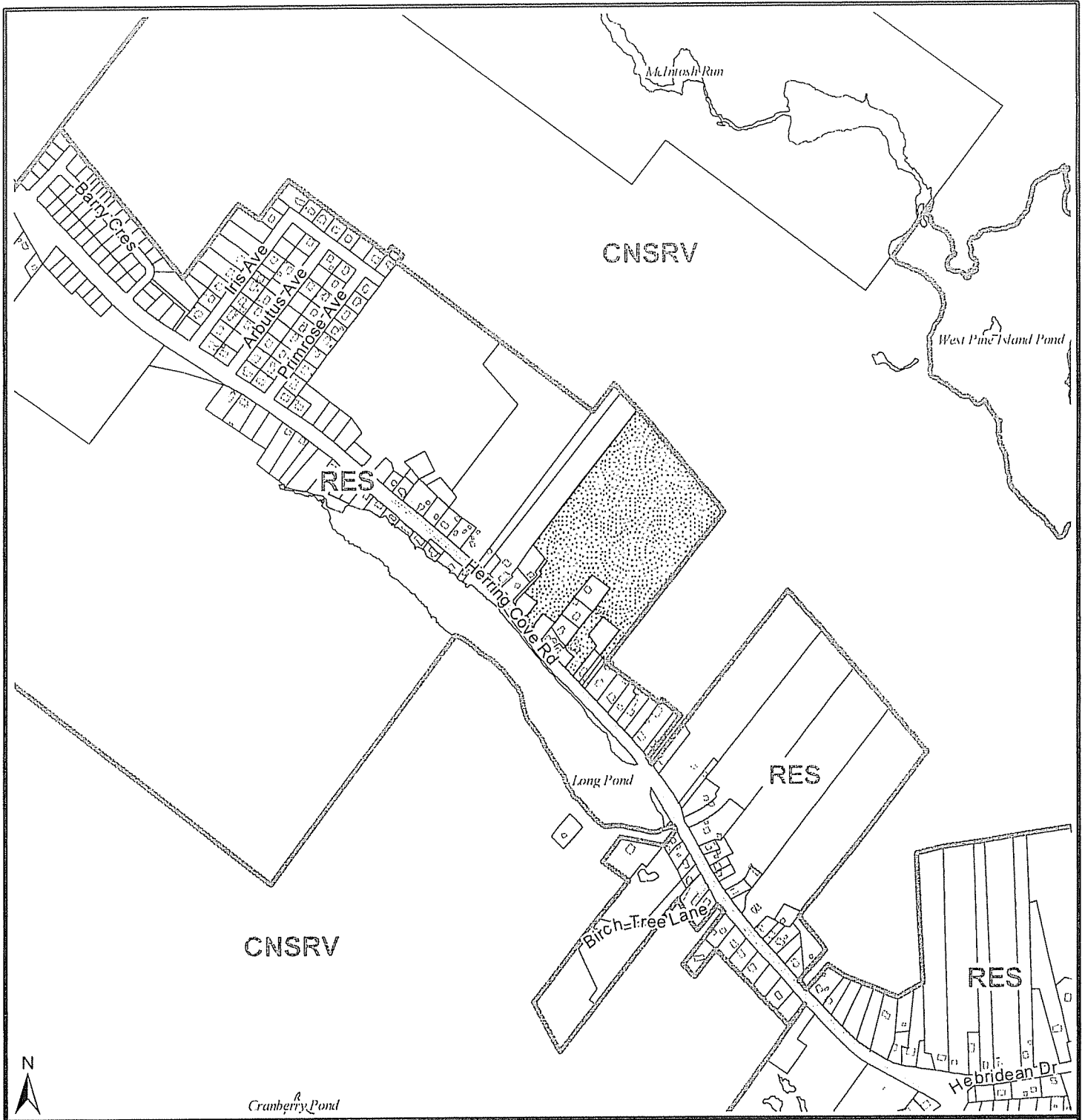
 Subject area  
 Area of notification  
Planning District 5  
(Chebucto Peninsula) Plan Area

**Zone**  
HCR Herring Cove Residential  
C-2 General Commercial  
P-2 Community Facility  
P-3 Park  
PA Protected Area




This map is an unofficial reproduction of a portion of the Zoning Map for the Planning District 5 Plan Area

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



**Map 2 - Generalized Future Land Use**

Herring Cove Road  
Herring Cove

 Subject area

Planning District 5  
(Chebucto Peninsula) Plan Area

**Designation**

RES Residential  
CNSRV Conservation

**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES



This map is an unofficial reproduction of a portion of the Zoning Map for the Planning District 5 Plan Area

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

**Attachment "A"**  
**Proposed Development Agreement**

THIS AGREEMENT made this            day of            , 2009,

BETWEEN:

**3093952 NOVA SCOTIA LIMITED**  
(hereinafter called the "Developer")

OF THE FIRST PART

-and-

**HALIFAX REGIONAL MUNICIPALITY**  
A body corporate, in the County of  
Halifax, Province of Nova Scotia  
(hereinafter called the "Municipality")

OF THE SECOND PART

**WHEREAS** the Developer is the registered owner of certain lands located at 894 A Herring Cove Road, Block 300-C, [ insert PID number ], Herring Cove and which said lands are more particularly described in Schedule "A" to this Agreement (hereinafter called the "Lands");

**AND WHEREAS** the Developer has requested that the Municipality enter into a development agreement to allow for the subdivision of the Lands for single unit dwellings and two unit dwellings pursuant to the provisions of the Halifax Regional Municipality Charter and the Planning District 5 (Chebucto Peninsula) Municipal Planning Strategy and Planning District 5 (Chebucto Peninsula) Land Use By-law;

**AND WHEREAS** the Western Community Council approved this request at a meeting held on \_\_\_\_\_, referenced as Municipal Case Number 01178;

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



## **PART 1: DEFINITIONS**

1.1 All words unless otherwise specifically defined herein shall be as defined in the Land Use By-law and the Subdivision By-law, as applicable. The following words used in this agreement shall be defined as follows:

- (a) “Community Council” means the Western Community Council of the Municipality or any subsequent body established by the Municipality under the provisions of the *Halifax Regional Municipality Charter*.
- (b) “Commencement of Construction” means the construction necessary for the installation of primary and secondary services for the subdivision.
- (c) “Land Use By-law” means the Planning District 5 (Chebucto Peninsula) Land Use By-law, as amended from time to time.
- (d) “Municipal Engineer” means a professional engineer employed by the Municipality to administer engineering guidelines, standards and by-laws adopted by the Municipality and to administer terms of this Agreement.
- (e) “Municipal Planning Strategy” means the Planning District 5 (Chebucto Peninsula) Municipal Planning Strategy, as amended from time to time.
- (f) “Municipal Service Systems” means the manual adopted by the Municipality which provides standards for the construction of infrastructure, as amended from time to time.
- (g) “Subdivision By-law” means the Regional Subdivision By-law for Halifax Regional Municipality, as amended from time to time.

## **PART 2: GENERAL REQUIREMENTS AND ADMINISTRATION**

### **2.1 Relationship with By-laws and Regulations**

- 2.1.1 The Developer agrees that the Lands shall be subdivided, developed, and used only in accordance with and subject to the terms and conditions of this Agreement.
- 2.1.2 Except as otherwise provided for herein, the development and use of the Lands shall comply with the requirements of the Land Use By-law, as may be amended from time to time.

- 2.1.3 Except as otherwise provided for herein, the subdivision of the Lands shall comply with the requirements of the Subdivision By-law, as may be amended from time to time.
- 2.1.4 Pursuant to clauses 2.1.2 and 2.1.3, 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 and Subdivision By-law to the extent varied by this Agreement), or any statute or regulation of the Province of Nova Scotia, and the Developer or lot owner agrees to observe and comply with all such laws, by-laws, and regulations in connection with the development and use of the Lands.
- 2.1.5 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 and Subdivision 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.
- 2.1.6 The Developer and each lot owner 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 regulations, by-laws, or codes applicable to any lands owned by the Developer or lot owner.
- 2.1.7 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 3: USE OF LANDS AND DEVELOPMENT PROVISIONS**

#### **3.1 Schedules**

- 3.1.1 The Developer shall develop and use the Lands in reasonable conformance, as determined by the Development Officer, with the site plans, design drawings, renderings, and supporting technical documents, attached as the following Schedules to this Agreement:

Schedule "A"	Legal Description of the Lands
Schedule "B"	Concept Site Plan
Schedule "C"	Concept Water Schematic
Schedule "D"	Concept Sanitary Schematic
Schedule "E"	Concept Storm Schematic
Schedule "F"	Trailhead Park
Schedule "G"	Conservation Area

Schedule "H"                      Approximate Limit of Disturbance

- 3.1.2    In the case of a conflict between the Schedules and the written requirements of this Agreement, the written requirements shall prevail.

**3.2    Land Uses**

- 3.2.1    Subdivision and development of the Lands shall not exceed a maximum density of 4 dwelling units per net developable acre.

- 3.2.2    The land uses permitted by this Agreement, subject to its terms and as generally illustrated on Schedule "B", shall be the following:

- (a) single unit dwellings;
- (b) two-unit dwellings;
- (c) auxiliary dwelling units;
- (d) home occupations in conjunction with permitted dwellings;
- (e) open space uses;
- (f) recreation uses; and
- (g) uses accessory to any of the foregoing uses.

**3.3    Requirements**

- 3.3.1    Buildings erected, altered or used for the land uses specified by Section 3.2 shall comply with the HCR (Herring Cove Residential) Zone of the Land use By-law.

- 3.3.2    Notwithstanding Subsection 3.3.1, the minimum required lot area and frontage may be reduced such that the average minimum lot area shall be not less than 60 feet (18 metres) and the average minimum lot area shall not be less than 6000 square feet (557 square metres). Where the front lot line, or any portion thereof, of any lot is a curved line, the minimum lot frontage shall not be less than 40 feet (12 metres).

- 3.3.3    Notwithstanding Subsection 3.3.1, the required setbacks, may be reduced such that the minimum front or flankage yards shall be not less than 15 feet (4.5 meters) and the minimum side yard shall be not less than 5 feet (1.5 meters).

- 3.3.4    No buildings shall be situated within the bounds of the municipal sanitary sewer pipe easements or other easement unless otherwise agreed to by the Municipality.

**3.5    Park Dedication**

- 3.5.1    The Developer agrees to provide prior to the approval of the final plan of subdivision, an "equivalent value" park dedication to the Municipality in the form of:

- (a) land as generally identified on Schedule "F" as Lot PL2 (HRM Park)
- (b) trail head improvements at the end of the "Road A" cul-de-sac as shown on Schedule "F" as Lot PL2 (HRM Park) and pursuant to Section 3.7 of this Agreement; and
- (c) "cash" pursuant to Section 82 of the Subdivision By-law.

3.5.2 The Developer agrees to provide construction drawings and cost estimates for the trail head improvements, pursuant to Section 3.7, with the final plan of subdivision.

### **3.6 Streets and Walkway**

3.6.1 All design and construction shall meet the standards in the Municipal Service Systems manual or as determined and approved by the Municipal Engineer.

### **3.7 Parkland and Conservation Area**

3.7.1 The Developer shall establish a trail head and connections, that are to be located on Lot PL2 (HRM Park) in reasonable conformance with Schedule "F" and, unless otherwise varied by the Development Officer and Municipal Engineer, designed and constructed to the Municipality's specifications.

3.7.2 The Developer agrees, prior to preparation of construction drawings, to provide detailed plans for the final location and design of the trail head for review by the Development Officer and Parkland Planner, pursuant to Section 3.7.1 of this Agreement.

3.7.3 The Developer agrees to maintain permanently in a substantially natural state the conservation area as shown on and in reasonable conformance with Schedule "G" Lot PL (Conservation).

### **3.8 Existing Vegetation**

3.8.1 Existing trees and other vegetation, as shown on Schedule "H", shall be retained unless otherwise permitted by this Agreement, or as approved by the Development Officer. Prior to the commencement of subdivision construction, the limits of site disturbance shall be demarcated on the site through the use of snow fence or other means suitable to the Development Officer.

### **3.9 Municipal Services**

3.9.1 The developer agrees that any development permitted by this Agreement shall be subject to confirmation of sufficient capacity of Municipal services, such as sanitary sewage services and water, to accommodate the development and such services proposed or existing shall be installed or upgraded pursuant to the requirements and specifications of the Municipality.

### **3.10 Environmental Protection**

3.10.1 The Developer agrees to submit a storm water management plan as part of the subdivision application process which must address erosion and sediment control, balancing of pre and post development flows, and disbursement of run off.

3.10.2 The Developer agrees that nothing in this Agreement shall exempt or imply an exemption from environmental protection requirements as may be required by Municipality or other levels of government. Further to this, the Developer recognizes that any such requirement may result in a reduction of the number of proposed lots shown on Schedule "B."

3.10.3 The Developer agrees to investigate and install, if deemed necessary, stormwater treatment technologies or other stormwater management measures upon approval of the Municipal Engineer.

### **3.11 Land Alteration Prior to Subdivision Approval**

3.11.1 The Developer agrees that site preparation and construction required for the installation of municipal services shall only be granted prior to final subdivision approval on the condition that all other requirements of this Agreement have been met, and engineering design plans, including stormwater management and erosion and sedimentation control plans, have been approved by the Municipal Engineer and Nova Scotia Environment as may be required.

### **3.12 Phasing**

3.12.1 The Developer agrees that phasing of the development shall be as shown on Schedule B.

## **PART 4: AMENDMENTS**

### **4.1 Approval by Development Officer**

4.1.1 The Developer agrees that this agreement shall form approval only of the information required to be submitted at the Concept Plan stage, as stated in the

Subdivision By-law. Concept Plan approval serves to allow the Developer to proceed with tentative or final subdivision design preparation as outlined in the Subdivision By-law.

4.1.2 The Development Officer may approve the following modifications provided such are in general conformance with and further the intent of this Agreement as follows:

- (a) changes to lot fabric provided as per Subsection 3.1.1 of this Agreement;
- (b) changes to the mix of single unit dwellings and two unit dwellings provided the maximum density of 4 unit per acre is not exceeded;
- (c) minor changes in the street alignment resulting from the engineering design process;
- (d) minor changes to Schedules "F", "G", and "H"; and
- (e) relaxations of the minimum lot and yard requirements as per Subsection 3.3.2 and Subsection 3.3.3 of this Agreement.

#### **4.2 Non-substantive Amendments**

4.2.1 The following items are considered by both Parties to be non-substantive and may be amended by resolution of Council:

- (a) The granting of an extension to the date of commencement of development, as identified under Subsection 5.1.6 of the Agreement;
- (b) The granting of an extension to the length of time for the completion of the development, as identified under Section 5.1.7 of the Agreement;

#### **4.3 Substantive Amendments**

4.3.1 Amendments to any matters not identified under Section 4.2 shall be deemed substantive and may only be amended in accordance with the approval requirements of the *Halifax Regional Municipality Charter*.

### **PART 5: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE**

#### **5.1 Application**

5.1.1 A copy of this Agreement and every amendment and discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax, Nova Scotia, and

the Developer shall pay or reimburse the Municipality for the registration cost incurred in recording such documents.

- 5.1.2 This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the land which is the subject of this Agreement until this Agreement is discharged by the Council.
- 5.1.3 Notwithstanding any subdivision approvals granted pursuant to this Agreement or any transfer or conveyance of any lot or of all or any portion of the Lands, this Agreement shall continue to apply to and bind the Developer, the Lands and each lot and, subject to 5.1.4, the Developer shall continue to be bound by all terms and conditions of this Agreement until discharged by the Council.
- 5.1.4 Upon the transfer of title to any lot, the owner thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot.
- 5.1.5 Notwithstanding 5.1.4 or any transfer of title to a lot, the Developer shall continue to be responsible for the fulfilment of the Developer's covenants under this Agreement and any Subdivision Agreement entered pursuant to this Agreement.
- 5.1.6 In the event that construction of the project has not commenced within 5 years from the date of approval of this Agreement by the Municipality, as indicated herein, the Municipality may, by resolution of Council, either discharge this Agreement whereupon this Agreement shall have no further force or effect, or upon the written request of the Developer, grant an extension to the date of commencement of construction.
- 5.1.7 Upon the completion of the development or portions thereof, or within 7 years from the date of approval of this Agreement, whichever time period is less, 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; and
  - (c) discharge this Agreement on the condition that for those portions of the development that are deemed complete by Council, the Developer's rights hereunder are preserved and the Council shall apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law, as may be amended.

## PART 6: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

### 6.1 Enforcement and Rights

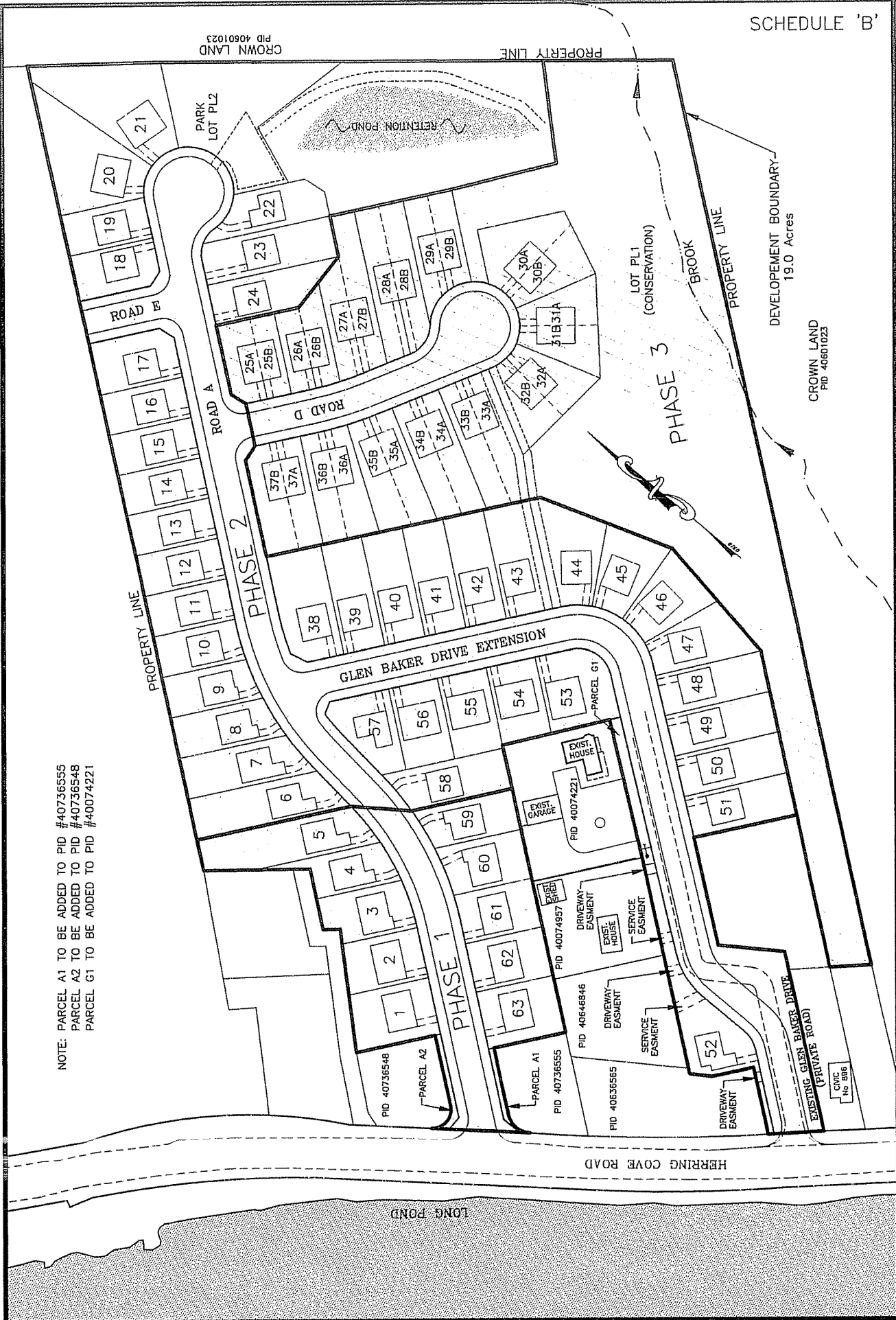
- 6.1.1 The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the Lands during all reasonable hours without obtaining consent of the Developer.
- 6.1.2 If the Developer fails to observe or perform any covenant or condition of this Agreement 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 defence based upon the allegation that damages would be an adequate remedy;
  - (b) the Municipality may enter onto the Property and perform any of the covenants contained in this Agreement whereupon all reasonable expenses whether arising out of the entry onto the lands or from the performance of the covenants may be recovered from the Developer by direct suit and such amount shall, until paid, form a charge upon the Property 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; and/or
  - (d) in addition to the above remedies the Municipality reserves the right to pursue any other remediation under the *Halifax Regional Municipality Charter* or Common Law in order to ensure compliance with this Agreement.



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	)	3093952 NOVA SCOTIA LIMITED
in the presence of:	)	
	)	
per: _____	)	per: _____
	)	
	)	
Sealed, Delivered and Attested	)	Halifax Regional Municipality
by the proper signing officers of	)	
Halifax Regional Municipality	)	
duly authorized on that behalf	)	per: _____
in the presence of	)	MAYOR
	)	
per: _____	)	per: _____
	)	MUNICIPAL CLERK

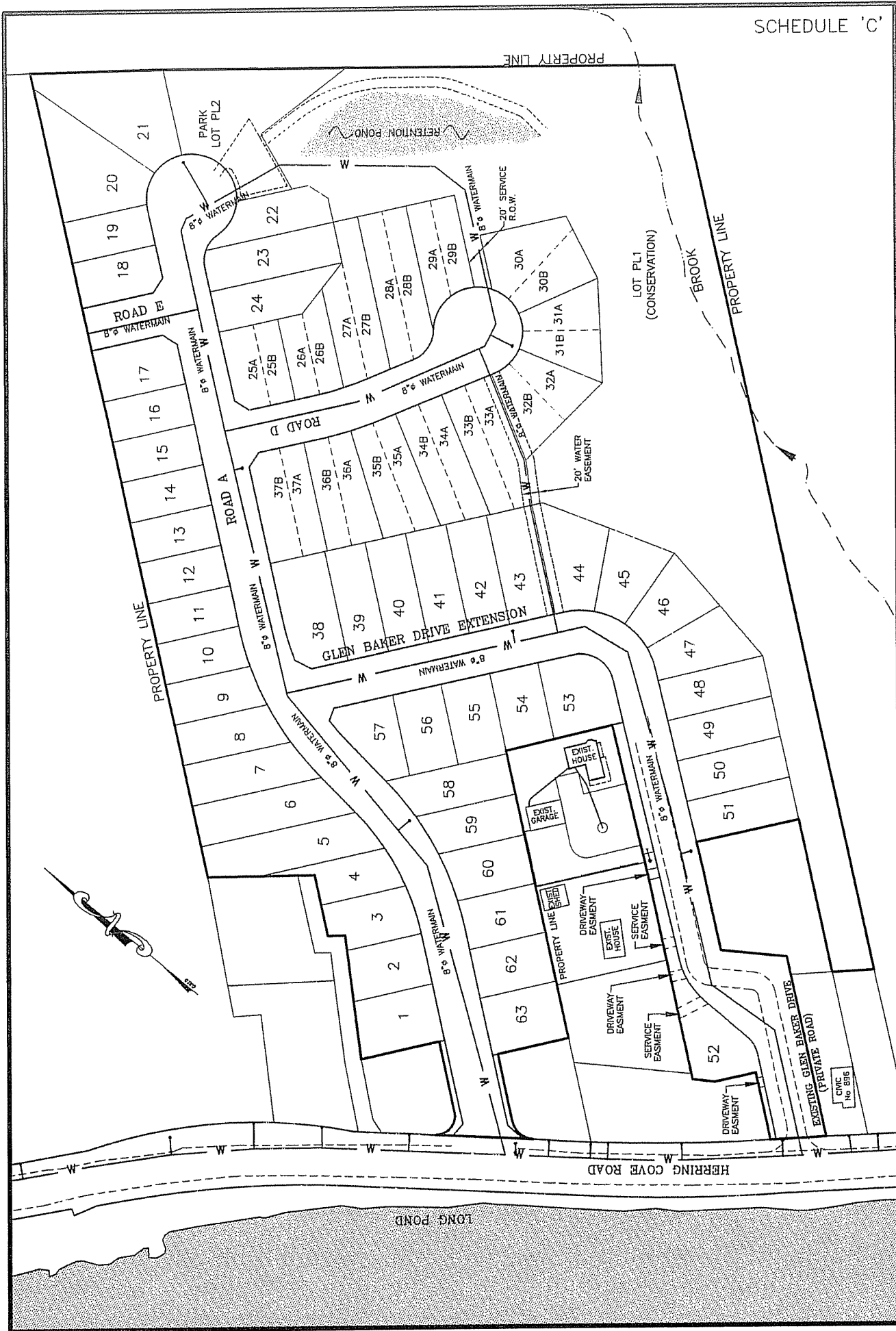
NOTE: PARCEL A1 TO BE ADDED TO PID #40736555  
 PARCEL A2 TO BE ADDED TO PID #40736548  
 PARCEL G1 TO BE ADDED TO PID #40074221




SCHEDULE 'B'

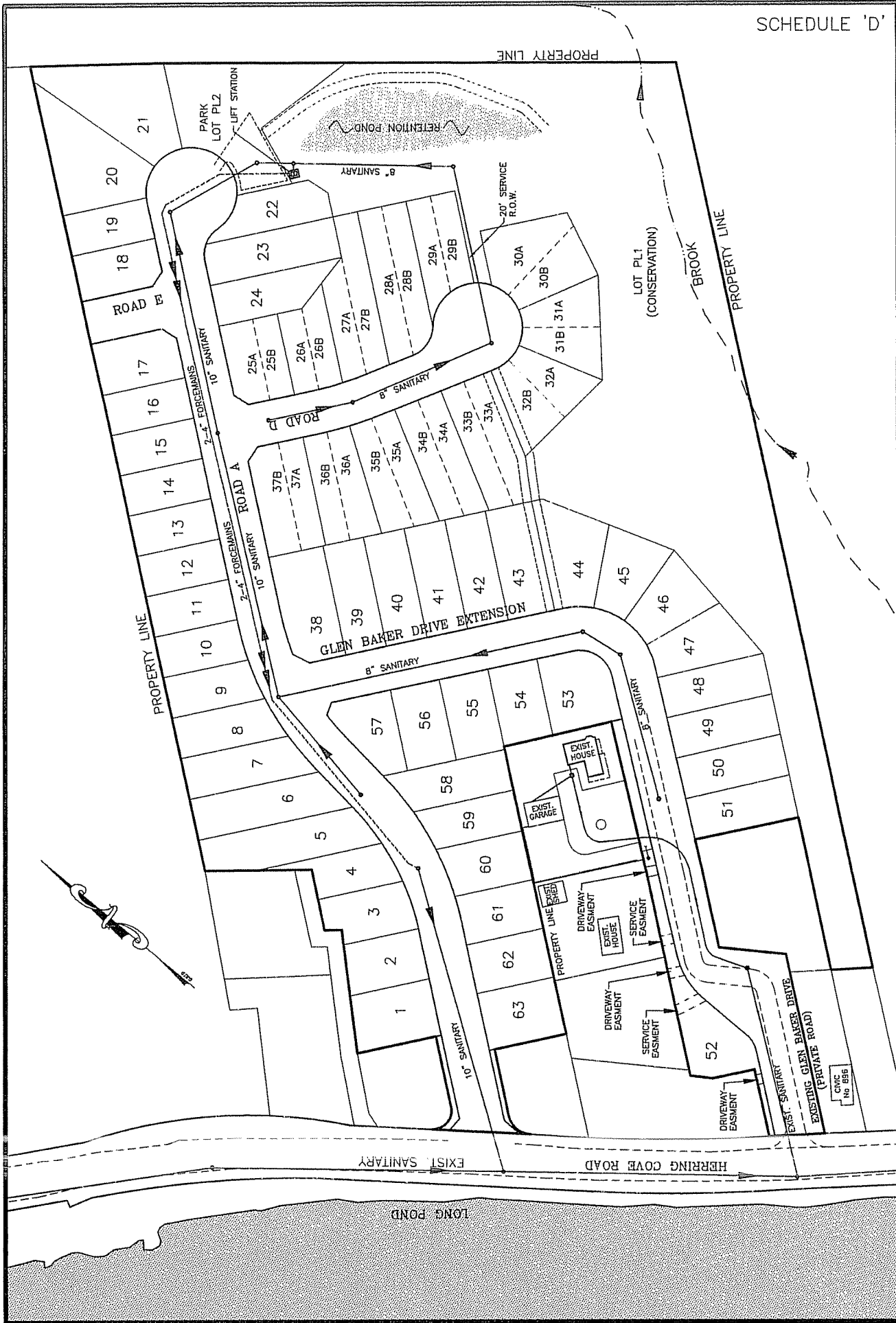
LANDS OF 3093952 NOVA SCOTIA LTD. HERRING COVE ROAD, HALIFAX, NS.		Revision		Date: Feb. 26, 2009	
CONCEPT SITE PLAN		No.	Comments	Date	By
		1.	Adjust Lots	Mar. 6, 2009	DMW
		2.	Add Phase Limits	Apr. 8, 2009	DMW
				Scale:	1" = 150'
				Project No.	05635
				Drawing No.	05635-SK01

**MAC WILLIAMS ENGINEERING  
LIMITED**

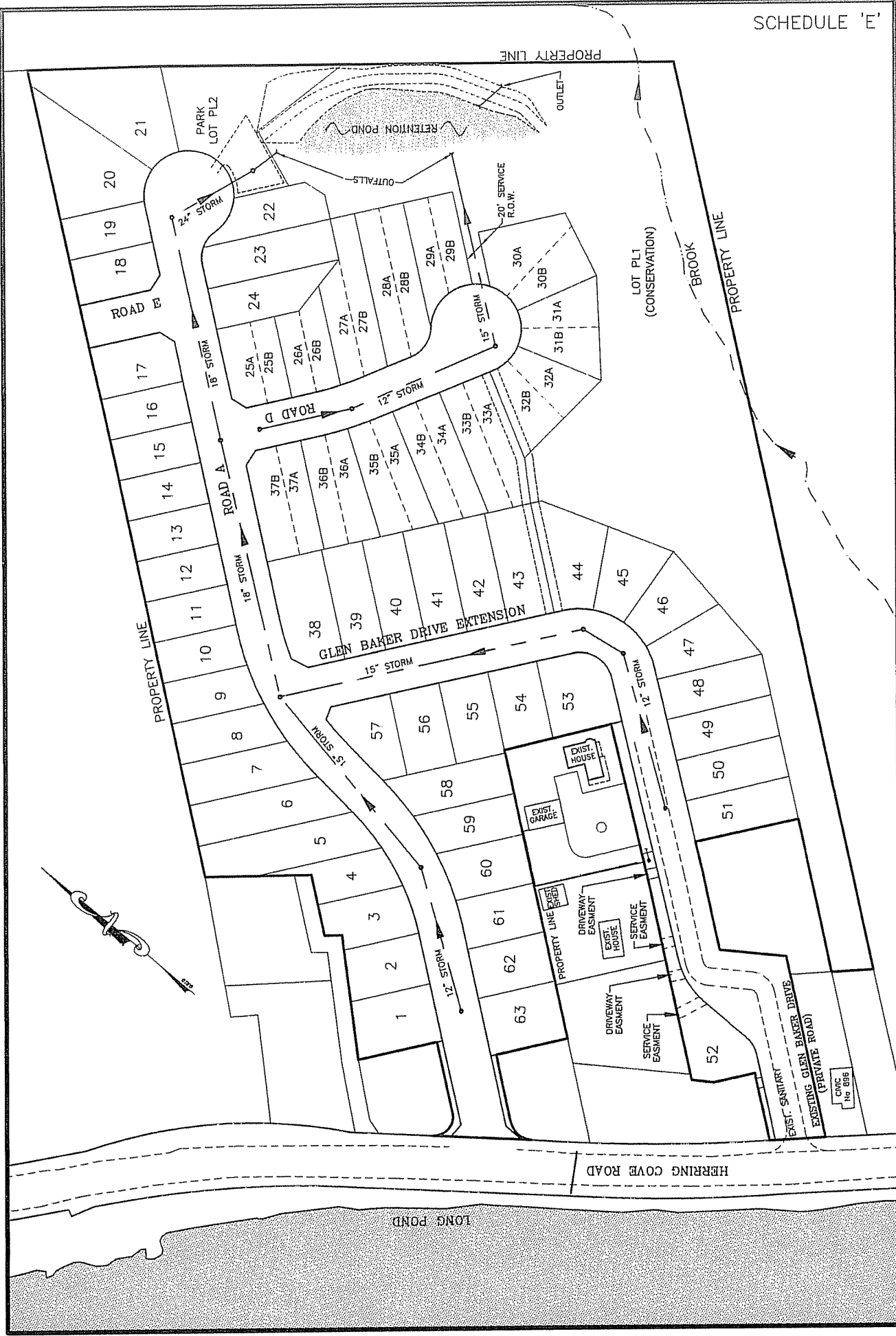


SCHEDULE 'C'

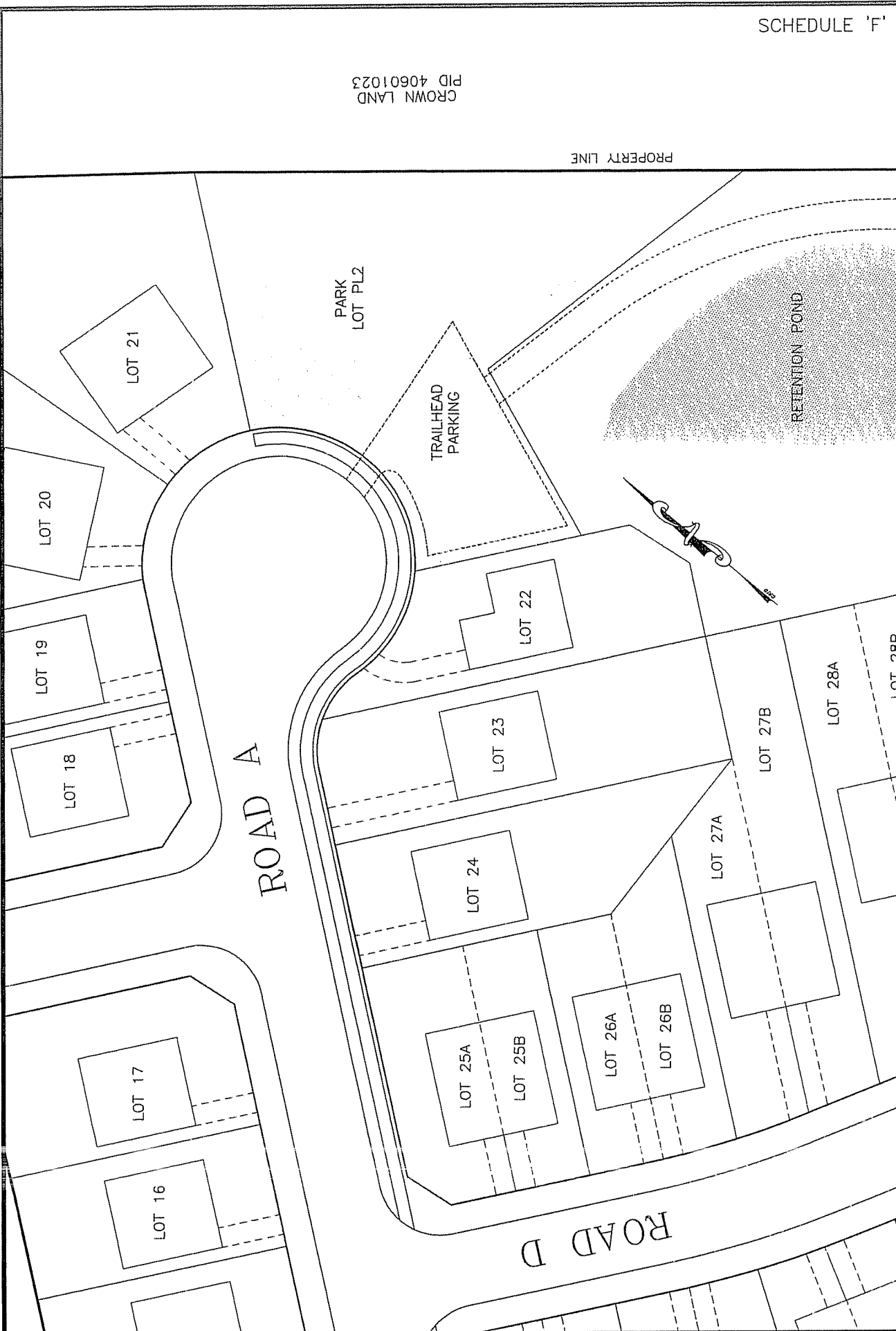
<p><b>MAC WILLIAMS ENGINEERING LIMITED</b></p> 		<p>LANDS OF 3093952 NOVA SCOTIA LTD. HERRING COVE ROAD, HALIFAX, NS.</p>		<p>Revision No. 1. Adjust Lots</p>		<p>Date: Feb. 26, 2009</p>	
<p>CONCEPT WATER SCHEMATIC</p>		<p>Comments 1. Adjust Lots</p>		<p>Date Mar. 6, 2009</p>		<p>Scale: 1" = 150'</p>	
<p>DMW</p>		<p>Project No.: 05635</p>		<p>By</p>		<p>Drawing No.: 05635-SK02</p>	



<p>LANDS OF 3093952 NOVA SCOTIA LTD. HERRING COVE ROAD, HALIFAX, NS.</p>		<p>Revision</p>		<p>Date: Feb. 26, 2009</p>	
<p>CONCEPT SANITARY SCHEMATIC</p>		<p>No. Comments</p>		<p>Scale: 1" = 150'</p>	
<p>MAC WILLIAMS ENGINEERING LIMITED</p>		<p>1. Adjust Lots</p>		<p>Project No.: 05635</p>	
<p>CHAS No. 896</p>		<p>Date Mar. 6, 2009</p>		<p>Drawing No.: 05635-SK03</p>	
<p>BY</p>		<p>By DMW</p>		<p></p>	




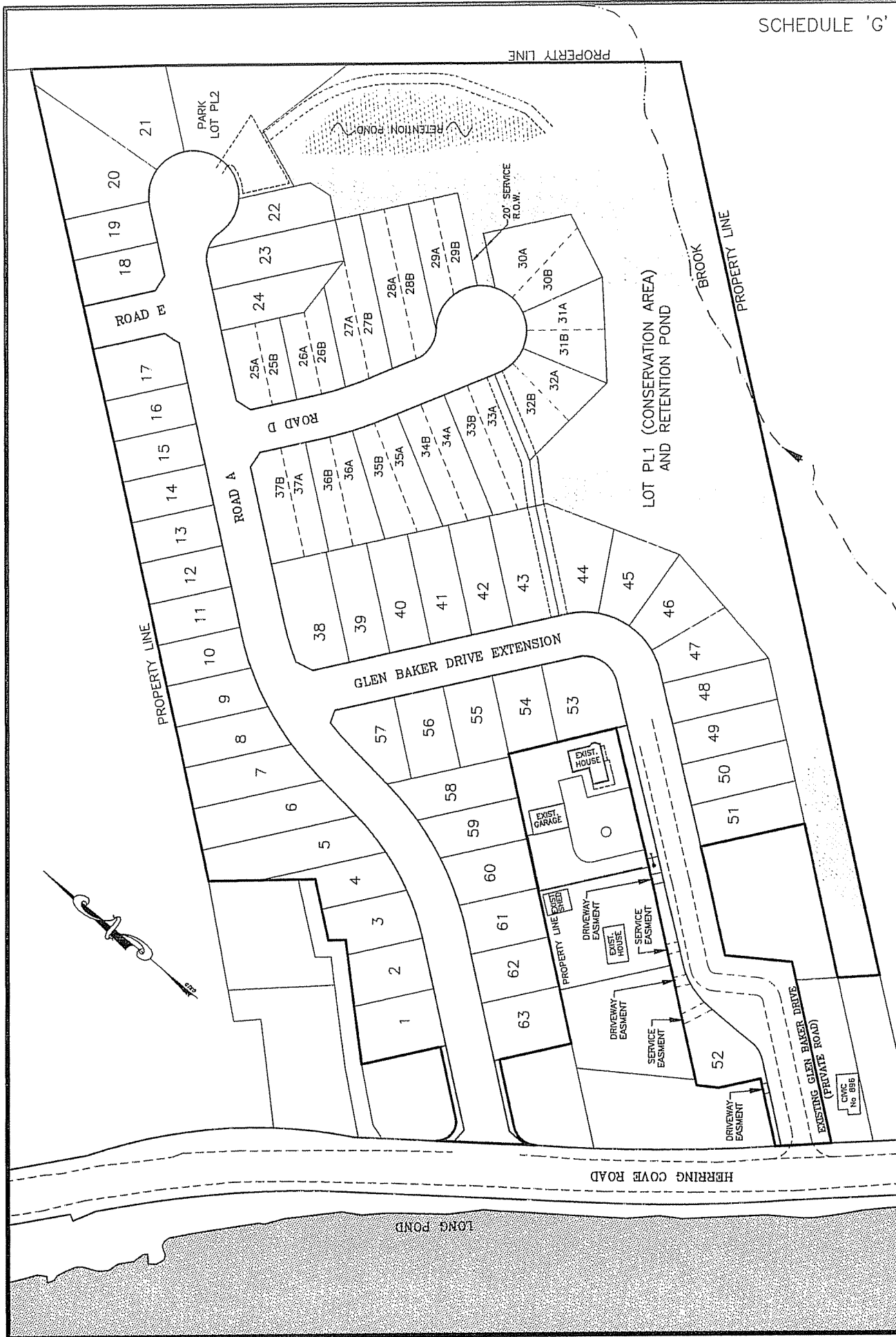
<p><b>MAC WILLIAMS ENGINEERING LIMITED</b></p>		<p>LANDS OF 3093952 NOVA SCOTIA LTD. HERRING COVE ROAD, HALIFAX, NS.</p>		<p>Revision</p>		<p>Date: Feb. 26, 2009</p>	
<p><b>CONCEPT STORM SCHEMATIC</b></p>		<p>1. Adjust Lots</p>		<p>Comments</p>		<p>Scale: 1" = 150'</p>	
<p>CIVIC No 886</p>		<p>EXIST. SANITARY EXISTING GLEN BAKER DRIVE (PRIVATE ROAD)</p>		<p>Mar. 6, 2009</p>		<p>Project No.: 05635</p>	
<p>DRIVEWAY EASEMENT SERVICE EASEMENT</p>		<p>EXIST. HOUSE EXIST. GARAGE</p>		<p>DMW</p>		<p>Drawing No.: 05635-SK04</p>	



CROWN LAND  
PID 40601023

SCHEDULE 'F'

 <b>MAC WILLIAMS ENGINEERING LIMITED</b>		LANDS OF 3093952 NOVA SCOTIA LTD. HERRING COVE ROAD, HALIFAX, NS.		Revision No. 1. Adjust Lots		Comments Mar. 6, 2009 DMW		Date: Feb. 26, 2009 Scale: 1" = 50' Project No.: 05635 Drawing No.: 05635-SK05	
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SCHEDULE 'G'

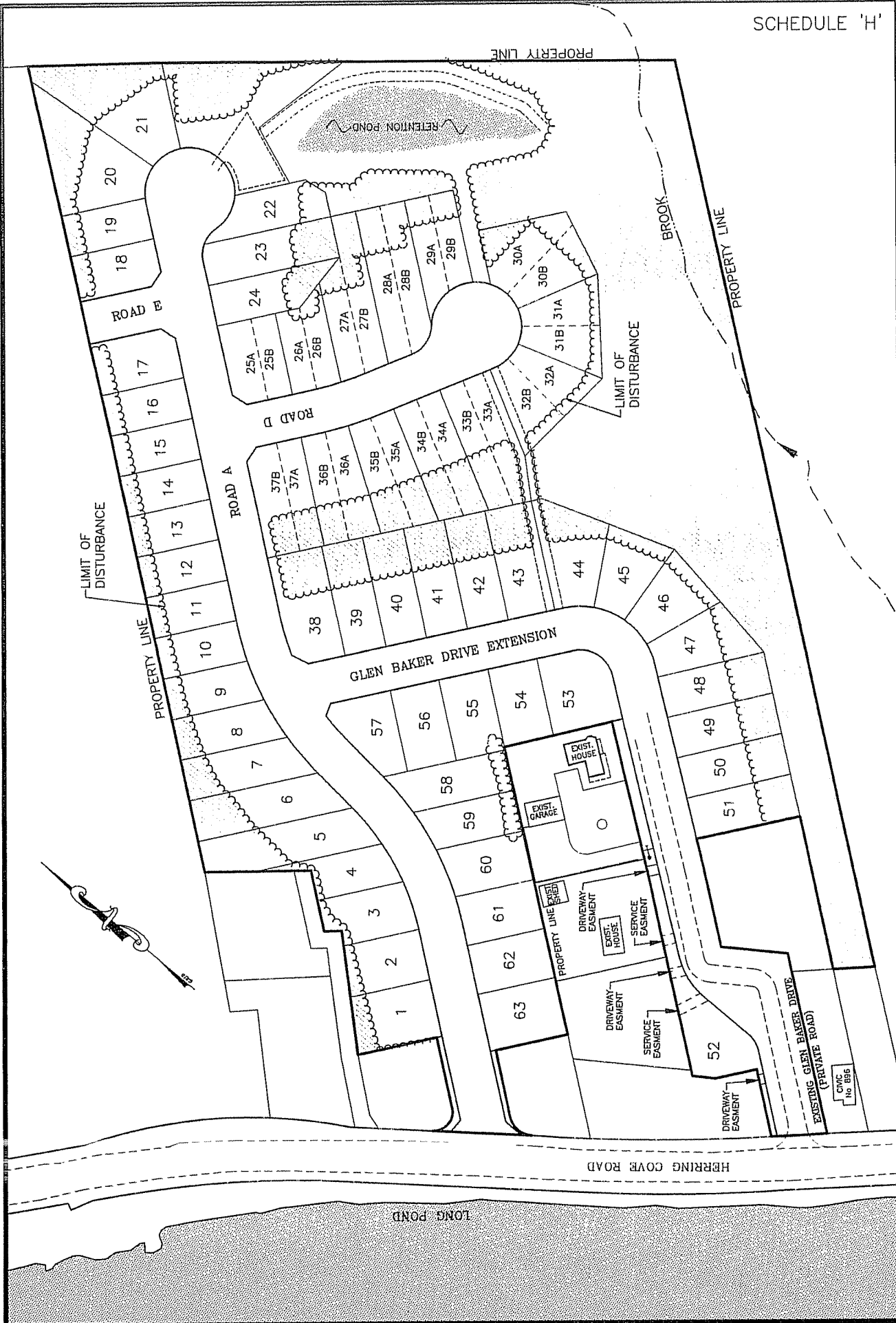
Date:	Feb. 26, 2009
Scale:	1" = 150'
Project No.:	05635
Drawing No.:	05635-SK06

Revision		Date	By
No.	Comments		
1.	Adjust Lots	Mar. 6, 2009	DMW

LANDS OF 3093952 NOVA SCOTIA LTD.  
 HERRING COVE ROAD, HALIFAX, NS.  
 CONSERVATION AREA

**MAC WILLIAMS ENGINEERING LIMITED**

SCHEDULE 'H'



<p>LANDS OF 3093952 NOVA SCOTIA LTD. HERRING COVE ROAD, HALIFAX, NS.</p>		<p>Revision No. Comments Date By</p>		<p>Date: Feb. 19, 2009</p>	
<p>APPROXIMATE LIMIT OF DISTURBANCE</p>		<p>1. Adjust Lots Mar. 6, 2009 DMW</p>		<p>Scale: 1" = 150'</p>	
				<p>Project No.: 05635</p>	
				<p>Drawing No.: 05635-SK07</p>	



CMV No. 896



**Attachment "B"**

**Excerpts from the Planning District 5 (Chebucto Peninsula) MPS**

**RES-2C** Subdivisions which include new or extended public streets may only be considered by development agreement, where:

- a) municipal sewer and water services are to be provided;
- b) sewage treatment facilities are available, and
- c) a public street is to be constructed.

**RES-2D** It shall be the intention of Council to encourage all new development under Policy RES-2C to meet certain basic design objectives as follows:

- (a) to reproduce the pre-development hydrological conditions;
- (b) confine development and construction activities to the least critical areas of the site and consider cluster development to minimize land disturbance; and that the subdivision design minimizes change to the existing landscape by matching new streets, services and lot grading to the existing topography as closely as possible.
- (c) allocate permitted density to those areas most suitable for development;
- (d) minimize changes to the existing topography;
- (e) preserve and utilize the natural drainage system to the greatest possible extent,
- (f) attempt to retain a minimum of 30% of the natural vegetation on the site in an undisturbed state; and
- (g) all shorelines shall be protected by a 100 foot wide buffer zone within which no vegetation or soil should be removed or altered except as required for utilities, trails or water access.

**RES-2E** In considering a development agreement proposal pursuant to Policies RES-2C and RES-2D, the following development criteria shall be addressed:

- a) That the maximum permissible density is 4 units per net developable acre based on HCR and F-1 zone requirements. The net developable area shall be calculated based on the gross land area less any designated wetland areas;
- b) That only single unit dwellings, two unit dwellings and auxiliary dwellings may be considered. Individual lot frontages per dwelling may be reduced to

60 feet, and lot areas to 6,000 square feet provided that an area equivalent to the amount of lot area reduction for each lot is provided as contiguous common open space which shall be maintained permanently in a substantially natural state, in addition to the minimum 10 percent public parkland dedication as required by Policy REC-10;

- c) That adequate erosion and sediment control plans and stormwater management plans are prepared;
- d) That full consideration is given to use of a public road standard in keeping with that identified in Policy TR-18;
- e) That there is adequate provision of public access to traditional trails and recreation areas and that adequate open space areas are provided, including substantial parkland areas and frontages on any lake to serve appropriate parkland functions; and
- f) The provisions of Policy IM-10. (RC - February 13, 2001 / E-May 5, 2001).

**IM-10**

In considering development agreements and amendments to the Land Use By-law, in addition to all other criteria as set out in various policies of this Plan, Council shall have appropriate regard to the following matters:

- (a) that the proposal is in conformity with the intent of this Plan and with the requirements of all other municipal by-laws and regulations;
- (b) that the proposal is not premature or inappropriate by reason of:
  - (i) the financial capability of the Municipality to absorb any costs relating to the development;
  - (ii) the adequacy of on-site sewerage and water services;
  - (iii) the adequacy or proximity of school, recreation or other Community facilities;
  - (iv) the adequacy of road networks leading or adjacent to or within the development;
  - (v) pedestrian safety; and
  - (vi) the potential for damage to or for destruction of designated historic buildings and sites.
- (c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:
  - (i) type of use;

- (ii) height, bulk and lot coverage of any proposed building;
  - (iii) traffic generation, access to and egress from the site, and parking;
  - (iv) open storage;
  - (v) signs; and
  - (vi) any other relevant matter of planning concern.
- (d) that the proposed site is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility of flooding.
- (f) Within any designation, where a holding zone has been established pursuant to “Infrastructure Charges - Policy P-79F”, Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the “Infrastructure Charges” Policies of this MPS. (RC - July 2, 2002 / E- August 17, 2002)

**Attachment "C"**  
**Excerpts from the Planning District 5 (Chebucto Peninsula) Land Use By-law**

PART 11: HCR (HERRING COVE RESIDENTIAL) ZONE

11.1 HCR USES PERMITTED

No development permit shall be issued in any HCR (Fishing Village Residential) Zone except in conformity with the following:

Single unit dwellings;  
Two unit dwellings;  
Existing mobile dwellings  
Fishery support uses;  
Home occupations in conjunction with permitted dwellings;  
Day care facilities for not more than seven (7) children and in conjunction with permitted dwellings;  
Open space uses;  
Bed and Breakfast uses not exceeding three bedrooms in conjunction with permitted dwellings;  
Recreation uses. (RC-Feb 13/01;E-May 5/01)

11.2 HCR ZONE REQUIREMENTS

In any HCR Zone, no development permit shall be issued except in conformity with the following:

Minimum Front or Flankage Yard	20 feet
Minimum Rear or Side Yard	8 feet (2.4 m)
Maximum Lot Coverage	35 per cent
Maximum Height of Main Building	35 feet (10.7 m)
Minimum Lot Area	
Full Central Services:	10,000 square feet (929 square metres) per dwelling unit
Onsite Service(s):	30,000 square feet(2787 square metres) per dwelling unit

Minimum Lot Frontage 75 feet (22.9m) per dwelling unit  
(RC-Feb 13/01;E-May 5/01)

### 11.3 OTHER REQUIREMENTS: HOME OCCUPATIONS

Where home occupations are permitted in any HCR Zone, the following shall apply:

- (a) any home occupation shall be wholly contained within the dwelling which is the principle residence of the operator of the home occupation.
- (b) No more than three hundred (300) square feet (28 m<sup>2</sup>) of gross floor area shall be devoted to any home occupation.
- (c) No open storage or outdoor display shall be permitted.
- (d) One (1) facial wall sign, not exceeding two (2) square feet (.2 m<sup>2</sup>) in size, shall be permitted to advertise the home occupation and shall be constructed of wood.
- (e) One off-street parking space, other than that required for the dwelling, shall be provided for every one hundred and fifty (150) square feet of floor area devoted to any home occupation.

### 11.4 OTHER REQUIREMENTS: DAY CARE FACILITIES

Where day care facilities are permitted in any HCR Zone, the following shall apply:

- (a) With the exception of outdoor play space, any facility shall be wholly contained within the dwelling.
- (b) No open storage or outdoor display shall be permitted.
- (c) One facial wall sign, not exceeding two (2) square feet (.2 m<sup>2</sup>) in size, shall be permitted to advertise the day care facility, and shall be constructed of wood.

### 11.4A OTHER REQUIREMENTS: BED AND BREAKFAST USES

Where bed and breakfast uses are permitted in any HCR Zone, the requirements of subsection 8.7 shall apply. (RC-Feb 13/01;E-May 5/01)

### 11.5 EXEMPTION: EXISTING MULTI-UNIT DWELLING

Notwithstanding Section 11.1, the multi-unit dwelling on Lot LIMS Number 40075772 shall be a permitted use within the HCR Zone subject to the requirements of Section 11.2.

11.6 OTHER REQUIREMENTS: FISHERY SUPPORT USES

- (a) Where fishery support uses are permitted in any HCR Zone, the following shall apply:

Minimum Side Yard   8 feet (2.4 m)

- (b) Notwithstanding the provisions of Section 4.1, where uses are permitted as fishing support uses in an HCR Zone, no development permit shall be required.

**Attachment "D"**  
**Planning District 5 (Chebucto Peninsula) MPS - Relevant Policy Analysis**

MPS POLICY	STAFF ANALYSIS
<b>RES-2C</b> Subdivisions which include new or extended public streets may only be considered by development agreement, where:	
a) municipal sewer and water services are to be provided;	The proposed development includes municipal sewer and water and is located in the Herring Cove Water Service District and is subject to a capital cost contribution.
b) sewage treatment facilities are available, and	HRM is in the late construction phases towards completion and commissioning of a sewage treatment plant in Herring Cove.
c) a public street is to be constructed.	The proposal includes the construction of new public streets and the upgrade of an existing private road to the public road standard. The agreement requires that all road design and construction shall meet the standards in the Municipality's Municipal Service Systems manual as determined and approved by the Municipal Engineer.
<b>RES-2D</b> It shall be the intention of Council to encourage all new development under Policy RES-2C to meet certain basic design objectives as follows:	

<p>(a) to reproduce the pre-development hydrological condition</p>	<p>The developers engineers have provided staff with an analysis regarding management of post development stormwater flows at a rate equivalent to the pre-developed site condition. To satisfy this criteria the developer proposes a stormwater retention pond, the stormwater hydraulic analysis of the proposed design indicates that it will meet the policy design objective.</p>
<p>(b) confine development and construction activities to the least critical areas of the site and consider cluster development to minimize land disturbance; and that the subdivision design minimizes change to the existing landscape by matching new streets, services and lot grading to the existing topography as closely as possible.</p>	<p>The property, under previous ownership, has been subject to early stages of road construction for the purpose of subdivision and was the used for the disposal of construction debris.</p> <p>The policy objective assumes a greenfield scenario, the proposed development effectively utilizes the previous disturbed portions of the property thereby minimizing changes to the existing landscape by matching new streets, services and lot grading to the existing topography as closely as possible.</p>
<p>(c) allocate permitted density to those areas most suitable for development;</p>	<p>The policy objective assumes a greenfield scenario, the proposed development effectively utilizes the previous disturbed portions of the property.</p>
<p>(d) minimize changes to the existing topography;</p>	<p>The policy objective assumes a greenfield scenario, the proposed development effectively utilizes the previous disturbed portions of the property.</p>
<p>(e) preserve and utilize the natural drainage system to the greatest possible extent,</p>	<p>The policy objective assumes a greenfield scenario, the proposed development effectively utilizes the previous disturbed portions of the property.</p>



<p>(f) attempt to retain a minimum of 30% of the natural vegetation on the site in an undisturbed state; and</p>	<p>The proposed development includes 4.55 acres (24%) of the lands as conservation lands, (see Schedule "G"). The proposed agreement also includes a requirement to retain existing trees and vegetation as shown on Schedule "H".</p>
<p>(g) all shorelines shall be protected by a 100 foot wide buffer zone within which no vegetation or soil should be removed or altered except as required for utilities, trails or water access.</p>	<p>The proposed development includes a 100 foot buffer of the existing watercourse that is incorporated into the conservation lands.</p>
<p><b>RES-2E</b> In considering a development agreement proposal pursuant to Policies RES-2C and RES-2D, the following development criteria shall be addressed:</p>	
<p>a) That the maximum permissible density is 4 units per net developable acre based on HCR and F-1 zone requirements. The net developable area shall be calculated based on the gross land area less any designated wetland areas;</p>	<p>The property is 19 acres and contains no wetland areas. The permissible density is 76 units, the developer meets the density requirement. The development agreement states that the developer shall not exceed a maximum permissible density of 4 dwelling units per net developable acre and that the total number of dwelling units shall not exceed 76 units.</p>

<p>b) That only single unit dwellings, two unit dwellings and auxiliary dwellings may be considered. Individual lot frontages per dwelling may be reduced to 60 feet, and lot areas to 6,000 square feet provided that an area equivalent to the amount of lot area reduction for each lot is provided as contiguous common open space which shall be maintained permanently in a substantially natural state, in addition to the minimum 10 percent public parkland dedication as required by Policy REC-10;</p>	<p>The agreement specifies that only single unit dwellings, two unit dwellings are permitted. In order to provide greater balance in achieving both the environmental objectives and density criteria the agreement provides for some flexibility on the minimum lot area and minimum lot frontage whereby these requirement may be further reduced where on average<sup>1</sup> the calculated total frontage and area of all lots complies with the minimum requirements.</p> <p>At 4.55 acres, the amount of contiguous open space proposed is 0.83 acres in excess of the amount of the total lot area reduction for each lot.</p>
<p>c) That adequate erosion and sediment control plans and stormwater management plans are prepared;</p>	<p>Staff and the Halifax Watershed Advisory Board have reviewed both the erosion and sediment control plan and stormwater management plan and found it satisfactory. The agreement also requires the Developer to submit a storm water management plan as part of the final sub-division application process to address erosion and sediment control, balancing of pre and post development flows, and disbursement of run off.</p>

<sup>1</sup> The result obtained by adding the frontage or area of all lots, as shown on Schedule "B" of the agreement and dividing the total by the number of lots.

<p>d) That full consideration is given to use of a public road standard in keeping with that identified in Policy TR-18;</p>	<p>The agreement requires that all road design and construction shall meet the standards in the Municipality's Municipal Service Systems manual as determined and approved by the Municipal Engineer.</p>
<p>e) That there is adequate provision of public access to traditional trails and recreation areas and that adequate open space areas are provided, including substantial parkland areas and frontages on any lake to serve appropriate parkland functions; and</p>	<p>The proposal has been reviewed by HRM's Parkland Planning staff. The agreement requires that the developer establish a trail head and trail connections, designed and constructed to the Municipality's specifications, at the end of the cul-de-sac abutting the Provincial Crown Lands.</p>

<p>f) The provisions of Policy IM-10.</p>	<p>Policy IM-10 (Attachment B) concerns several issues regarding site suitability and the municipality's ability to accommodate the proposed rezoning. The property is located in the established community of Herring Cove / Spryfield and would have adequate access to public schools and community facilities. The property contains a single watercourse, no wetlands, and some steep grades, these conditions have been effectively incorporated into the conservation lands as per Schedule "G" of the Agreement.</p> <p>The development agreement requires that all sidewalks and roads shall meet the design and construction standards in the Municipality's Municipal Service Systems manual as determined and approved by the Municipal Engineer. The construction of all roads and services including the wastewater pumping station are the responsibility of the developer, additionally, the proposed development would be subject to a capital cost contribution towards municipal services.</p> <p>The provisions of IM-10 have been adequately addressed.</p>
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**Attachment "E"**  
**Public Information Meeting**  
**Case 01178 - Herring Cove Road**  
**Planning District 5 (Chebucto Peninsula) Plan Area**

7:00 p.m. October 2, 2008 57 Ketch Harbour Road Fire Station

**STAFF IN ATTENDANCE:** Brian White, Planner  
Hilary Campbell, Planning Technician  
Jennifer Little, Planning Controller

**APPLICANT:** 3093952 Nova Scotia Limited (Mr. Kevin Marriott)

**OTHER:** District 18 Councillor Stephen Adams

**MEMBERS OF THE PUBLIC:** 20

**PRESENTATION/ OVERVIEW**

Mr. White welcomed residents to the meeting and thanked them for attending. He introduced Jennifer Little, Planning Controller; Hilary Campbell, Planning Technician and Councillor Adams, District 18 Councillor.

Mr. White explained the purpose of the meeting is to discuss an application to permit a development agreement (DA) to allow for a mix of 76 Single and semi-detached residential lots on lands off the Herring Cove Road.

With use of a power point presentation Mr. White gave an overview of the planning process. He reviewed photos of the site, location map and the current zoning and policy. He explained that it is an 19 acre property approximately 2 kilometers from Herring Cove.

Mr. White reviewed the MPS Policies and described a Development Agreement, explaining that it is a contract between the landowner and the Municipality that governs the use of land and that it is recorded at the Registry of Deeds and is binding on the lands until discharged by Council. He explained the planning process begins with an application. The planner assigned to the case begins a technical review of the proposal by circulating it to relevant agencies and departments. A public information meeting (what we are doing tonight) is held to help staff and Council determine any issues or concerns the community may have, and how these might be addressed.

Once the review is complete, the planner prepares a staff report with a recommendation to Community Council.

At this time Mr. White introduced Kevin Marriott, Applicant; Larry Foran, and Don Williams, of Mac Williams Engineering.

Mr. Foran expressed his excitement to speak with the Community about this project. He explained that there will be 54 single family lots and 24 semi-detached homes. He reviewed the potential look of the houses and noted that they may develop the houses themselves or may hire a contractor. There is 5 acres of conservation land with HRM parkland trailhead and explained that the surrounding land is crown land.

### QUESTIONS AND COMMENTS

Marilyn Pierce, Herring Cove Road, explaining how beautiful the land is with the surrounding ocean view questioned how many houses will be facing the water.

Mr. Foran showing a drawing of the future housing layout pointed to the top half of houses. He added that there is also a lake in walking distance.

David Drysdale, Herring Cove Road asked where the storm water will lie. He noted concern with the possibility that a 'stranger' could purchase the land and place a structure too close to the River.

Mr. White explained that future changes or amendments to a development agreement would have to go through an amendment application process the same as this process that Mr. Marriott is following requiring public review and approval from Community Council.

Don Williams, Engineer explained that all developers are required to comply with engineering standards and regulations as determined by HRM as will all future land owners. Mr. Williams showing a drawing of the land, pointed out where the additional water will go. The impact on the natural environment is nil.

Mr. Drysdale asked if there will be any water/oil filtration.

Mr. Williams explained that there will not be a water/oil separator in place but, there should not be any oil there. Residents should not be putting oil down the storm sewer.

Paul Worden, Herring Cove Road asked if the crown land surrounding this area is owned by the Province.

Mr. Foran explained that it is Provincial.

Mr. Worden, pointing to the picture of the land questioned what the intention was of one of the roads off Herring Cove Road was.

Mr. Marriott explained that it was a future extension road.

Mr. Williams explained that the engineering standards requires a connect road for a certain distance of cul-de-sac. This does not mean that there will be a development next door.

Mr. White explained that there will be a pumping station which will lift sewage uphill into the Herring Cove Road to go to the treatment plant. He added that there will be 5 acres that will be set aside as an non disturbed area.

Ms. Pierce asked if there are any requirements for landscaping made by HRM.

Mr. White explained that approximately 30% of the natural vegetation be maintained.

Mr. Williams explained that the construction of the road way requires tree planting by HRM standards which is one tree in front of every property. He then explained that there has been a traffic study conducted which concluded that there will be no impact on Herring Cove Road.

At this time Mr. Foran reviewed with the residents pictures of the possible house structures, noting that they will be all different depending on what the owner will build but, the quality of the homes will be of the same nature.

It was asked what the time line will be before houses are being built.

Mr. White explained that if the development agreement was approved by Council, the developer would (subject to final subdivision approval) be able to start the construction of the development in the fall 2009.

Charles Baker, Fall River Road explained recent conversations with a number of people who were interested but, unable to locate property for sale in the Herring Cove area. He added that he is in support of this application and feels that it would be great for the community.

### **CLOSING COMMENTS**

Mr. White thanked everyone for attending. He encouraged anyone with further questions or comments to please contact him directly.

### **MEETING ADJOURNMENT**

Meeting adjourned at approximately 7:30 p.m.

