

P.O. Box 1749 Halifax, Nova Scotia B3J 3A5 Canada

# Western Region Community Council September 26, 2011

TO:

Chair and Members of Western Region Community Council

SUBMITTED BY:

Austin French, Manager of Planning Services

DATE:

September 9, 2011

**SUBJECT:** 

Case 16934: Non-substantial Amendments to the Existing

Development Agreement for Brunello Estates, Timberlea

# **ORIGIN**

Application by Genivar

#### **RECOMMENDATION**

It is recommended that Western Region Community Council:

- 1. Approve, by resolution, the 6<sup>th</sup> Amending Agreement, as provided 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 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**

Brunello Estates (formerly known as Westgate) is a proposed residential development which includes a golf course, town center and office campus. The existing development agreement permits a mixed use development including 3,200 dwelling units (2,500 which may be multiple unit residential), an eighteen hole golf course, commercial uses, a Town Center (consisting of commercial, residential, institutional and open space uses), an office campus and public and private open space uses. The original development agreement was approved by the Western Region Community Council on December 18, 2001. Since this time there have been several amendments made to the original agreement. The majority of amendments have mainly included revisions to the road layout but in 2004, an amending agreement was approved to include properties fronting along Trinity Way in the agreement. Due to issues with capacity at the Timberlea Waste Water Treatment Facility (TWWTF), there is a 180 unit limit on development for this project. This limit will remain until upgrading to the TWWTF is completed.

#### **Proposal**

The current proposal includes the alteration of the road layout and the size / configuration of HRM parkland and private, community association parkland. The applicant is further proposing minor housekeeping amendments such as correcting inaccurate conversions from metric to imperial measurements. These amendments are considered non-substantial and can be considered by resolution of community council.

# Location, Designation and Zoning

- The subject area is in Timberlea, near the Nine Mile River. It is made up of several properties and is approximately 550 acres in size.
- The subject area is zoned CDD (Comprehensive Development District) under the Land Use Bylaw for Timberlea/Lakeside/Beechville and is designated Urban Residential in the Municipal Planning Strategy for Halifax (See Map 1).

#### **DISCUSSION**

When the development agreement was first contemplated in 2001, the full extent of the wetlands on the property had not been determined. The purpose of these amendments is to alter the development to avoid wetlands on the property that were discovered after the initial development agreement was adopted.

Part 3.1 of the existing agreement discusses amendments that are considered to be not substantial. The proposed amendments fall within this description and, therefore, can be considered through a resolution of community council and do not require a public hearing. Changes to the road network and parkland are both considered not substantial under Section 3.1.

The proposed changes to the road layout are mainly intended to avoid the existing wetlands. The road hierarchy will generally remain the same. Neighbourhood classifications, although altered in configuration, will remain in the same locations.

The proposed changes to the parkland will result in less parkland, however, the parkland will more closely comply with HRM parkland requirements than that which is shown in the existing agreement. Instead of being scattered throughout the development, the proposed new layout for parks will be located in more central areas and will achieve a greater service area. In some instances, community association lands (private recreation lands) and public recreation lands have been placed adjacent to each other to create larger green spaces.

In some instances, parks will be moved to locations which were to be developed only for multiunit residential purposes. For multi-unit residential sites, the allowable density and required amenity space is to be calculated based on the total lot area of those sites. As the new location of the parks would result in a reduction to the total lot area of the multi-unit residential sites, provisions have been added to the agreement to enable the parkland to be included in the land area for the density and amenity space calculations. This will ensure the new location of the parkland will not negatively affect the development rights of those sites.

The applicant has also proposed a series of housekeeping amendments, mainly to correct metric to imperial unit conversions that were calculated incorrectly and to include conversions where they had not been provided. These corrections will ensure that there is a consistent approach to how the development agreement is interpreted.

#### **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, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

# **COMMUNITY ENGAGEMENT**

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. As the process requires approval by resolution of council, neither a public information meeting nor a public hearing is required. In keeping with standard practices, information concerning the application has been made available on the HRM website.

## **ALTERNATIVES**

- 1. Council may choose to approve the proposed amending 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 agreement subject to modifications. This may necessitate further negotiation with the applicant.
- 3. Council may choose to refuse the proposed amending agreement, and in doing so, must provide reasons based on a conflict with MPS policies. This alternative is not recommended as the proposal is consistent with the MPS.

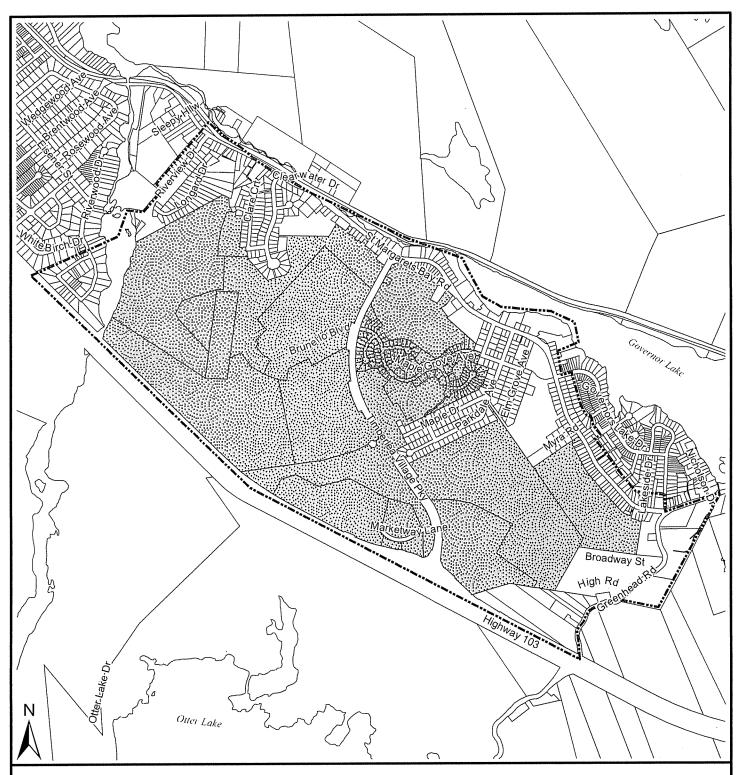
#### **ATTACHMENTS**

Map 1 Location and Notification Area

Attachment A Proposed 6<sup>th</sup> Amending Agreement Attachment B

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 490-4423



# Map 1 - Location

Brunello Estates Timberlea



Area under development agreement



Area of notification

Timberlea/Lakeside/Beechville Plan Area REGIONAL MUNICIPALITY
COMMUNITY DEVELOPMENT
PLANNING SERVICES

0 100 200 300 m



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

# Attachment A: Proposed 6<sup>th</sup> Amending Development Agreement

THIS AMENDING AGREEMENT made this

day of

, 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 within Timberlea which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Western Region Community Council of the Municipality approved an application to enter into a development agreement to allow for a mixed use community with a golf course on the Lands (municipal reference number 00265), which said Development Agreement was registered at the Halifax County Land Registration Office on February 14, 2011as Document Number 6552 (hereinafter called the "Existing Agreement");

AND WHEREAS the Western Region Community Council of the Municipality approved an application to enter into an amending development agreement to allow changes to the road network on the Lands, (municipal reference number 00590), which said Development Agreement was registered at the Halifax County Land Registration Office on August 22, 2003 as Document Number 37295 (hereinafter called the "First Amending Agreement");

AND WHEREAS the Western Region Community Council of the Municipality approved an application to enter into an amending development agreement to modify the approved road network (municipal reference number 00623) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office on April 21, 2004 as Document Number 75364217 (hereinafter called the "Second Amending Agreement");

AND WHEREAS the Western Region Community Council of the Municipality approved an application to enter into an amending development agreement (municipal reference number

00536) on the Lands, which said development agreement was registered at the Halifax County Land Registration Office on July 15, 2004 as Document Number 75884560 (hereinafter called the "Third Amending Agreement");

AND WHEREAS the Western Region Community Council of the Municipality approved an application to enter into an amending development agreement (municipal reference number 01040) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office on January 22, 2008 as Document Number 91321258 (hereinafter called the "Fourth Amending Agreement");

AND WHEREAS the Western Region Community Council of the Municipality approved an application to enter into an amending development agreement (municipal reference number 01312) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office on November 9, 2010 as Document Number 97179270 (hereinafter called the "Fifth Amending Agreement");

AND WHEREAS the Developer has requested further amendments to the Existing Agreement and Amending Agreement to modify the road layout, parkland size and configuration and to complete minor text changes;

AND WHEREAS the Western Region Community Council for the Municipality approved this request at a meeting held on [INSERT-Date], referenced as Municipal Case Number 16934;

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

- 1. Section 2.1 of the Existing Agreement as amended is further amended by
  - (a) replacing "Schedule B1: Golf Course Community Plan" with "Schedule B1.A: Golf Course Community Plan";
  - (b) replacing "Schedule B2: Community Concept Plan" with "Schedule B2.A: Community Concept Plan";
  - (c) replacing "Schedule B3: Building Height Areas" with "Schedule B3.A: Building Height Areas";
  - (d) deleting "Schedule C: Recreation Facilities";
  - (e) adding "Schedule C1: Public Recreation Facilities";
  - (f) adding "Schedule C2: Private Recreation Facilities";
  - (g) replacing "Schedule D: Road Hierarchy" with "Schedule D1: Road Hierarchy";
  - (h) replacing "Schedule E1: Crossing with Median" with "Schedule E1.B: Crossing with Median";
  - (i) replacing "Schedule E2: Commercial" with "Schedule E2.A: Commercial (Town Centre)";
  - replacing "Schedule E3: Modified Urban Collector" with "Schedule E3.A: Modified Urban Collector";

- (k) replacing "Schedule E4: Modified Urban Local" with "Schedule E4.A: Modified Urban Local";
- (l) replacing "Schedule F: Sewer Servicing Schematic" with "Schedule F1: Sewer Servicing Schematic";
- (m) replacing "Schedule G: Water Servicing Schematic" with "Schedule G1: Water Servicing Schematic";
- (n) replacing "Schedule H1: Conceptual Storm Water Management Plan" with "Schedule H1.1: Conceptual Storm Water Management Plan"; and
- (o) replacing "Schedule I: Major Non Disturbance Areas" with "Schedule I.1: Major Non-Disturbance Areas".
- (p) deleting "Schedule J Golf Couse Community Plan"
- (q) deleting "Schedule K Community Concept Plan"
- (r) deleting "Schedule L Building Height Areas"
- (s) deleting "Schedule M Recreational Facilities"
- (t) deleting "Schedule N Road Hierarchy"
- (u) deleting "Schedule O Sanitary Sewer Servicing Schematic"
- (v) deleting "Schedule P Water Servicing Schematic"
- (w) deleting "Schedule Q Conceptual Storm Water Management Plan
- (x) deleting "Schedule R Non-Site Disturbance Areas
- 2. The Existing Agreement as amended is further amended by
  - (a) replacing all references to "Schedule B1" and "Schedule J" with "Schedule B1.A";
  - (b) replacing all references to "Schedule B2" and "Schedule K" with "Schedule B2.A";
  - (c) replacing all references to "Schedule B3" and "Schedule L" with "Schedule B3.A";
  - (d) replacing all references to "Schedule D" and "Schedule N" with "Schedule D1";
  - (e) replacing all references to "Schedule E1" with "Schedule E1.B";
  - (f) replacing all references to "Schedule E2" with "Schedule E2.A";
  - (g) replacing all references to "Schedule E3" with "Schedule E3.A";
  - (h) replacing all references to "Schedule E4" with "Schedule E4.A";
  - (i) replacing all references to "Schedule F" and "Schedule O" with "Schedule F1";
  - (j) replacing all references to "Schedule G" and "Schedule P" with "Schedule G1";
  - (k) replacing all references to "Schedule H1", "Schedule H" and "Schedule Q" with "Schedule H1.1"; and
  - (l) replacing all references to "Schedule I" and "Schedule R" with "Schedule I.1".
- 3. The Existing Agreement as amended is further amended by deleting Section 2.1.1
- 4. Section 2.3.3 of the Existing Agreement as amended is further amended by replacing all references to "Maple Drive" with "Maple Grove Avenue".
- 5. Section 2.3.7 of the Existing Agreement as amended is further amended by replacing
  - "Phase I shall be developed in accordance with Schedules J to S inclusive as attached hereto." with,

"The Maple Grove Phase shall be developed in accordance with Schedule S and the applicable portions of all other Schedules of this agreement."

- 6. Section 2.4.1 of the Existing Agreement as amended is further amended by
  - (a) replacing all references to "15.2 m" with "15.24 m";
  - (b) replacing all references to "7.5 m" with "7.62 m"; and
  - (c) replacing all references to "325.2 sq. m." with "371.61 sq. m.".
- 7. Section 2.4.2(iv) of the Existing Agreement as amended is further amended by replacing "10 feet" with "8 feet".
- 8. Section 2.4.4(i) of the Existing Agreement as amended is further amended by
  - (a) replacing "111.5 sq. m." with "92.9 sq.m."; and
  - (b) adding "or where the site abuts a neighborhood park site as indicated on Schedule C-1" at the end of the sentence "Consideration may be given for a reduction in this figure where underground parking is provided".
- 9. Section 2.4.4(vii) of the Existing Agreement as amended is further amended by
  - (a) adding "(9.3 sq. m.)" after "100 square feet"; and
  - (b) adding ""Consideration may be given for a reduction in this figure where the site abuts a neighborhood park site as indicated on Schedule C-1"." at the end of the paragraph.
- 10. Section 2.4.5 of the Existing Agreement as amended is further amended by adding "6.1 m" after every reference to "20 feet".
- 11. Section 2.4.11of the Existing Agreement as amended is further amended by replacing "4.6 m" with "3 m".
- 12. Section 2.4.12(i) of the Existing Agreement as amended is further amended by
  - (a) adding "(91.4 m)" after "300 feet"; and
  - (b) adding "(30.5)" after "100 feet".
- 13. Section 2.4.13 of the Existing Agreement as amended is further amended by replacing "Schedule C" with "Schedule C1".
- 14. Section 2.6.1 of the Existing Agreement as amended is further amended by
  - (a) replacing all references to "Schedule C" to "Schedule C1"; and
  - (b) adding the sentence "It is acknowledged that the Town Centre and Community Park Lands as indicated in Schedule C1 are subject to change in area and shape through the non-residential approval process required under 3.1(c) and 3.1(d) of this agreement.
- 15. Section 2.6.2 of the Existing Agreement as amended is further amended by
  - (a) changing the number of Neighbourhood Parks from "six" to "four";
  - (b) adding "(929 sq. m.)" after "10,000 sq. ft.;

- (c) adding "(30.5 m)" after "100 ft"
- (d) adding "(9.1 m)" after "30 feet";
- (e) adding "(464.5 sq. m)." after "5000 sq. ft.";
- (f) adding "(30.5 m)" after "100 contiguous feet";
- (g) changing the number of Community Parks from "Four" to "Two"; and
- (h) replacing all references to "Schedule C" to "Schedule C1".
- 16. Section 2.6.3 of the Existing Agreement as amended is further amended by replacing "Schedule C" to "Schedule C2".
- 17. Section 2.6.5 of the Existing Agreement as amended is further amended by replacing "Schedule C" with "Schedule C-1.
- 18. Section 2.6.5(i) of the Existing Agreement as amended is further amended by adding "(328 ft)" after "100 m".
- 19. Section 2.6.5(ii) of the Existing Agreement as amended is further amended by replacing "Schedule C" to "Schedule C2".
- 20. Section 2.6.5(iv) of the Existing Agreement as amended is further amended by replacing "Schedule C" with "Schedule C1".
- 21. Section 2.6.12(a) of the Existing Agreement as amended is further amended by replacing the text

"the site preparation, construction and completion of a 5 foot (1.5 m) wide self contained granular trail as generally shown through the Community Park on the Nine Mile river, from the northwest boundary of the park connecting through to the cul de sac on the parks southern boundary or alternative subdivision sidewalk. The travel way shall consist of a compacted gravel base and a crusher dust surface to current specifications of the Parkland Planning and Development Division; except that standard walkway requirements shall apply where the walkway abuts residential lots,"

#### with

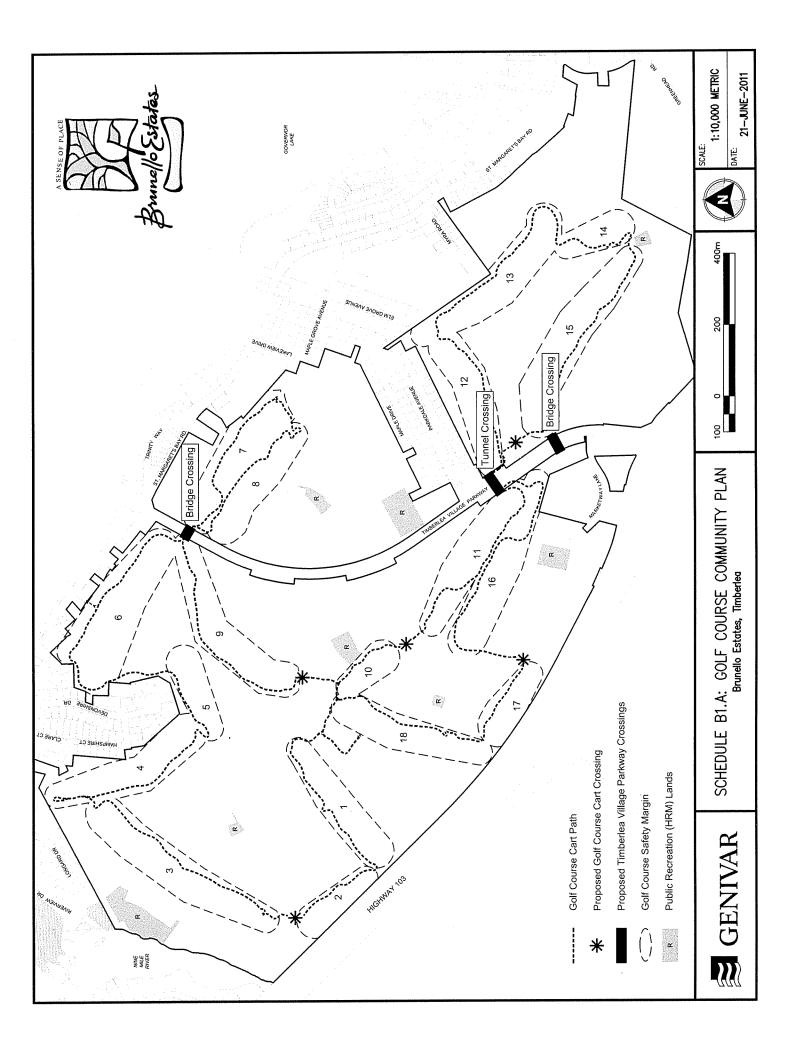
"the site preparation, construction and completion of a 5 foot (1.5 m) wide self contained granular trail as generally shown through the Community Park on the Nine Mile river, from the northwest boundary of the park connecting through to Street J as shown on Schedule D1 or alternative subdivision sidewalk. The travel way shall consist of a compacted gravel base and a crusher dust surface to current specifications of the Parkland Planning and Development Division; except that standard walkway requirements shall apply where the walkway abuts residential lots,"

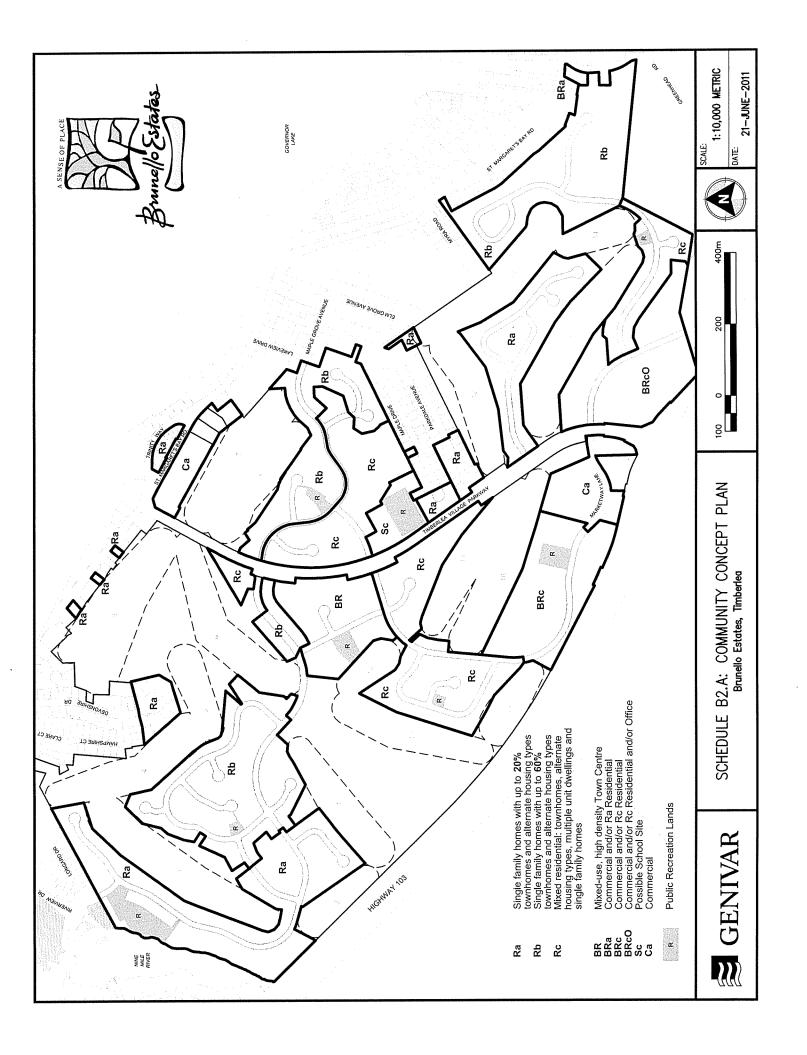
22. Deleting Section 2.6.12(b).

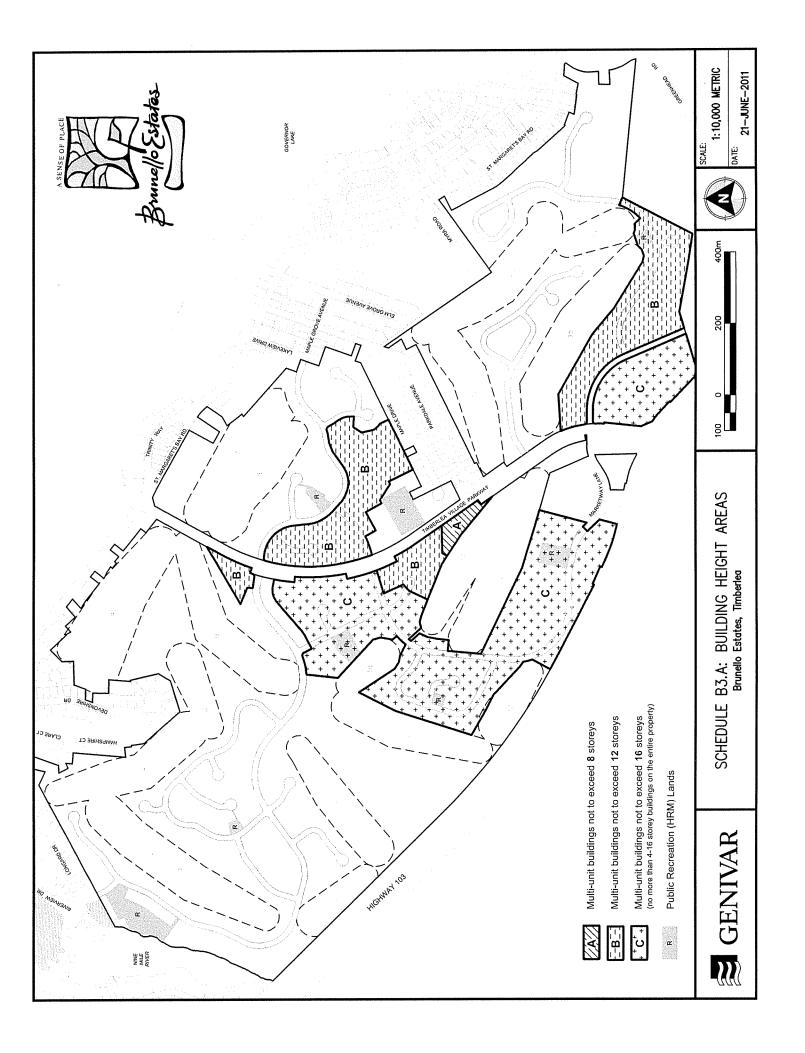
Section 2.6.12(d) of the Existing Agreement as amended is further amended by replacing 23. "Schedule C" to "Schedule C1". Section 2.6.12(f) of the Existing Agreement as amended is further amended by replacing 24. "Schedule C" to "Schedule C2". The Existing Agreement as amended is further amended by adding the following after 25. Section 2.6.14 2.6.15 An easement in favour of HRM will be located across the Community Association Lands adjacent to Nine Mile River Parkland in favour of HRM as indicated on Schedule C-1. Section 2.7.8 of the Existing Agreement as amended is further amended by 26. adding "(9.1 meters)" after "30 feet"; and adding "(30.5 meters)" after "100 feet". (b) WITNESS that this Amending Agreement, made in triplicate, was properly executed by the respective Parties on this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 201[#]. SIGNED, SEALED AND DELIVERED ) (INSERT REGISTERED in the presence of ) OWNER NAME)
per \_\_\_\_\_\_ ) per: \_\_\_\_\_\_ SEALED, DELIVERED AND ATTESTED to by the proper signing officers of Halifax Regional ) Municipality duly authorized

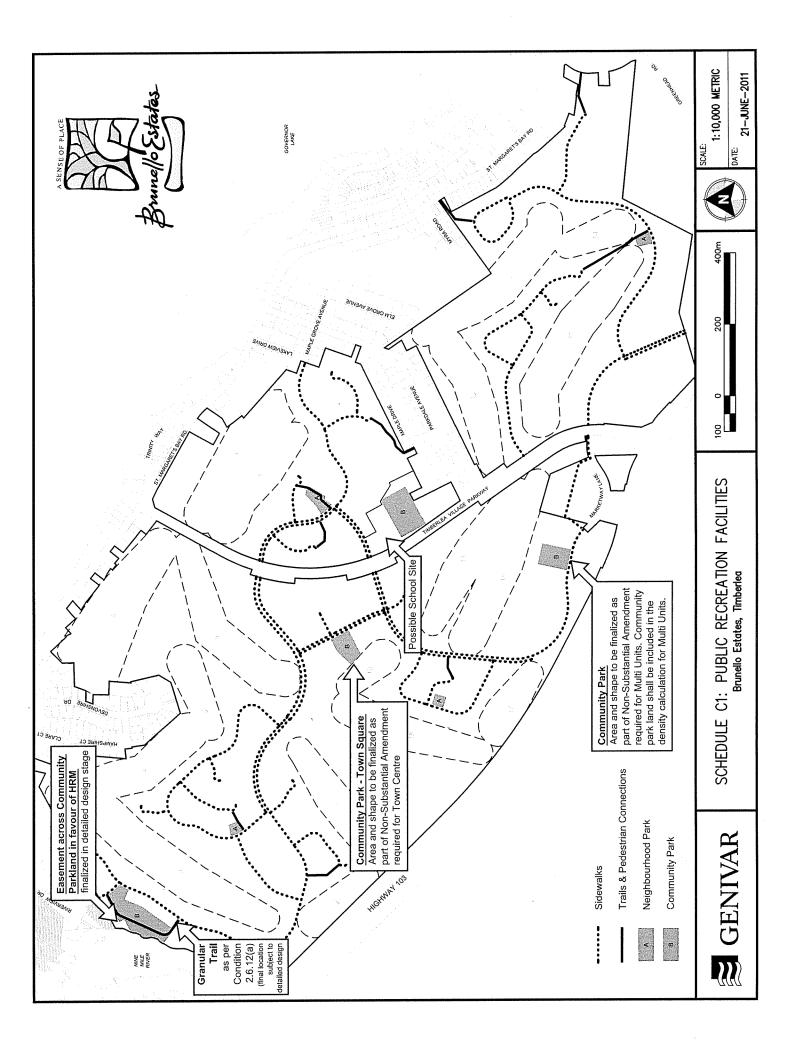
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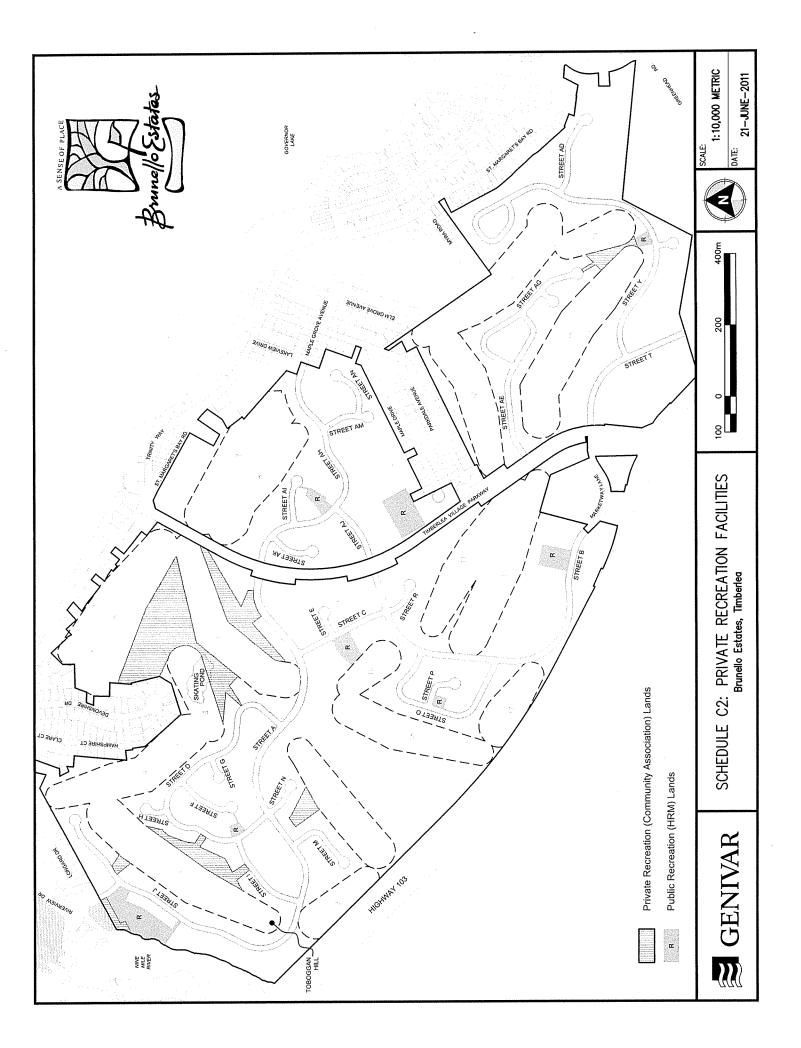
HALIFAX REGIONAL MUNICIPALITY 

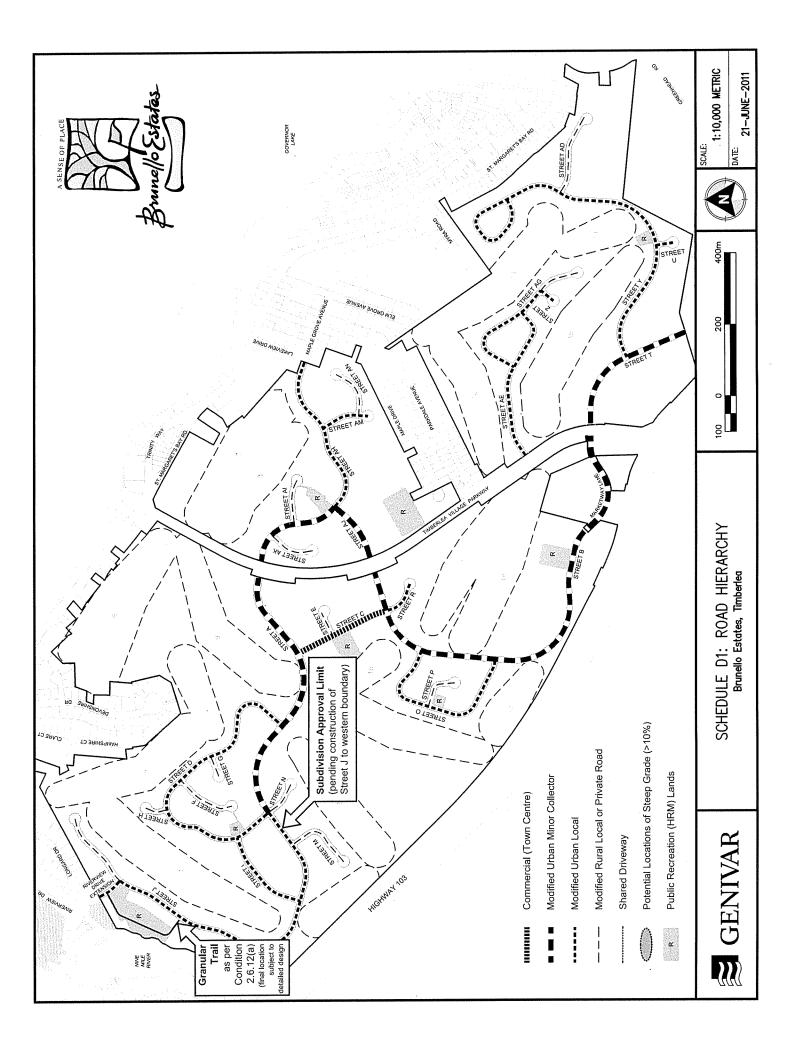




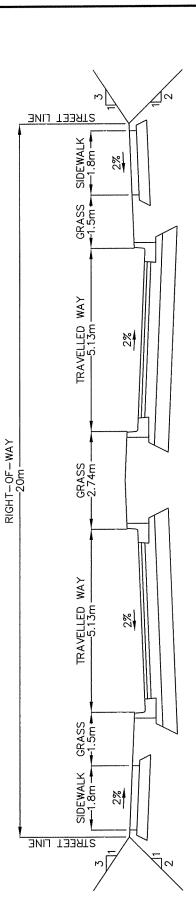












NOTE: SIDEWALK LOCATIONS AS PER SCHEDULE C1.



SCHEDULE E1.B: CROSSING WITH MEDIAN Brunello Estates, Imberlea

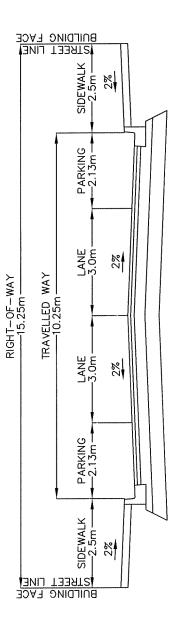
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SCALE:

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NOTE: SIDEWALK LOCATIONS AS PER SCHEDULE C1.

**GENIVAR** 

SCHEDULE E2.A: COMMERCIAL (TOWN CENTRE)

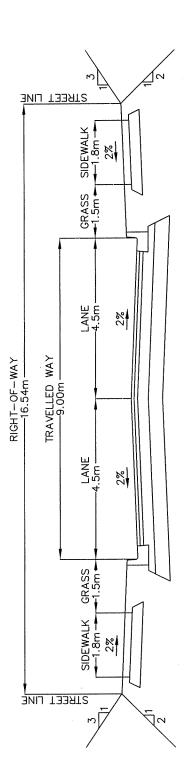
Brunello Estates, Timberlea

N.T.S. DATE

SCALE:

21-JUNE-2011





NOTES:
1. SIDEWALK LOCATIONS AS PER SCHEDULE C1.
2. EXISTING TREES/VEGETATION MAY BE RETAINED IN R.O.W. TO WITHIN 0.6m OF EDGE OF CURB OR SHOULDER.

**GENIVAR** 

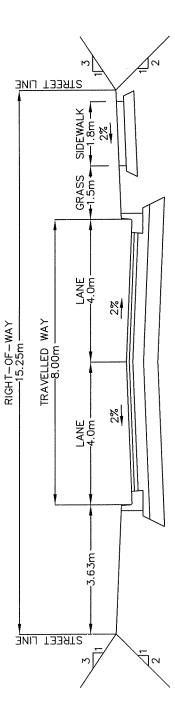
SCHEDULE E3.A: MODIFIED URBAN MINOR COLLECTOR Brunello Estates, Timberlea

N.T.S.

SCALE:

21-JUNE-2011





NOTES:
1. SIDEWALK LOCATIONS AS PER SCHEDULE C1.
2. EXISTING TREES/VEGETATION MAY BE RETAINED IN R.O.W. TO WITHIN 0.6m OF EDGE OF CURB OR SHOULDER.



SCHEDULE E4.A: MODIFIED URBAN LOCAL Brunello Estates, Timberiea

N.T.S. DATE

SCALE:

21-JUNE-2011

