

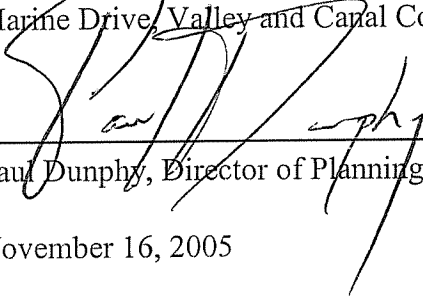


PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

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**Marine Drive, Valley and Canal Community Council
November 30, 2005**

TO: Marine Drive, Valley and Canal Community Council

SUBMITTED BY: 
Paul Dunphy, Director of Planning & Development Services

DATE: November 16, 2005

SUBJECT: **Case 00715 - Amendments to the Monarch/Rivendale Development Agreement, Beaver Bank**

SUPPLEMENTARY REPORT

ORIGIN:

- An application by KVM Consultants on behalf of Ramar Developments & Barrett Enterprises Limited;
- Staff Report dated October 12, 2005; and
- Motion of Marine Drive, Valley and Canal Community Council on October 26, 2005 deferring notice of motion and scheduling of a public hearing pending a staff report addressing water quantity issues and hydro geological testing options.

RECOMMENDATION:

It is recommended that Marine Drive, Valley and Canal Community Council:

1. Move Notice of Motion to consider amendments to the Monarch/Rivendale development agreement and schedule a Public Hearing;
2. Approve the proposed amending agreement to enable an increase of 20 lots, the removal of road reserve "H", and the allocation of parkland funds as described in Attachment B; and
3. Require the amending agreement be signed and returned to HRM within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval of said agreement by Council and any other bodies as necessary, whichever is later, including applicable appeal periods. Otherwise this approval shall be void and any obligations arising hereunder shall be at an end.

BACKGROUND:

The Motion:

On October 26, 2005, Marine Drive, Valley and Canal Community Council made the following motion:

“defer notice of motion and scheduling of a public hearing pending a staff report addressing water quantity issues and hydro geological testing options.”

Existing Development Agreement:

During the negotiations of the existing development agreement in 2001 concerns were expressed with respect to the quantity of groundwater. Therefore, a Stormwater Management Plan was required to address the issues. The Stormwater Management Plan contained specific provisions to ensure recharging the local groundwater supply was at a reasonable rate. Specifically, 75% of each phase is to be retained in its natural state to ensure the natural rate of stormwater flow is maintained thereby recharging groundwater supplies.

Recent Public Comments:

A Public Information Meeting was held on September 29, 2004 which outlined the proposed amendments to the Monarch/Rivendale development agreement. A summary of this meeting is provided in Attachment C of the staff report dated October 12, 2005. Respecting water quantity, several residents asked if an additional 20 lots will have an adverse effect on the existing wells in the area and if a hydro-geological assessment would be required. These questions are similar to those raised by Community Council in the above noted motion. This report provides a staff response to these questions.

Provincial:

In Nova Scotia the responsibility for the protection of groundwater resources rests with the Nova Scotia Department of Environment and Labour (NSDEL) pursuant to the *Environment Act*. Until the mid 1980's, the former Nova Scotia Department of Environment required hydro-geological assessments to be conducted before recommending subdivision approval. These assessments are no longer required. The NSDEL now requires well drillers to conduct pump testing after a lot has been created pursuant to the *Nova Scotia Well Construction Regulations*. There are no provincial requirements to test an area for a long term sustainable yield before a large subdivision is created. However, water withdrawal approvals are required if a groundwater withdrawal exceeds 23,000 litres per day in a single location - most individual household withdrawals do not exceed this volume.

Municipal:

There is no legislative authority under the *Municipal Government Act* (MGA) to allow municipalities to require hydro-geological assessments at this time. The manner in which development is currently permitted with on-site services (well and septic field) without any need for verification of the availability of an adequate water supply is an ongoing concern for the Municipality.

As a means of addressing this issue, HRM has done the following:

- sent a letter on March 3, 2004 to the NSDEL requesting that NSDEL require hydro-geological assessment be carried out as part of all development approval processes and that they be the regulatory approval agency for these assessments;
- approved Interim Growth Management Policies in April 2004 as a means to mitigate pre-emptive growth of unserved residential development while ensuring that a broad range of policy options are available to Regional Council while preparing the Regional Plan; and
- created draft policies in the Regional Plan requesting the Provincial government amend the *Municipal Government Act* to enable HRM to require hydro-geological assessments for any subdivision consisting of several lots or more which are not serviced with municipal water.

DISCUSSION:

Will the proposed 20 additional lots have an impact on the existing wells in the area?

According to NSDEL, the best methods of determining both water quality and quantity would be to conduct site-specific exploratory drilling, aquifer testing and water quality testing. These methods have not been conducted by the Developers (Ramar Developments Limited and Barrett Enterprise Limited).

However, individual drilled wells on large lots, similar to the proposed lots, generally have sufficient yields. With respect to the proposal, fourteen (14) of the twenty (20) additional lots are very large in size and isolated away from the existing residents (refer to Attachment A). Reducing the concentration of the additional lots will ensure the groundwater drawdown effects is minimal. Such effects could cause adverse impacts (lower water table and lower well yields) for both the new homes and/or existing homes. Further, municipal water service has been provided along the Beaver Bank Road thereby dramatically reducing the number of wells relying on the existing groundwater supply.

Can HRM require hydro-geological assessments?

No, currently there is no legislative authority under the *Municipal Government Act* to allow municipalities to require hydro-geological assessments prior to granting subdivision approval. With respect to planning application approvals, hydro-geological assessments have only been required when there is a groundwater withdrawal which exceeds 23,000 litres per day in a single location or an overwhelming issue with respect to water quality and quantity which have been identified by NSDEL.

As referenced previously, the Regional Plan should address this issue by providing Council with policy directive and guidance for future development not serviced by municipal water.

Comments from the Developer:

As a means of providing baseline information to Council on the water quantity issue in the area, the applicant has submitted a letter (Attachment A of this report) which outlines past practices and experiences with the existing groundwater supply.

Summary:

Currently there is no legislative authority under the Municipal Government Act to allow municipalities to require hydro-geological assessments. However, even without the assessment, it is anticipated that an additional 20 lots will have a minimal impact on the existing wells in the area for the following reasons:

- individual drilled wells on large lots, similar to the proposed lots, generally have sufficient yields;
- reducing the concentration of the lots will ensure the groundwater drawdown effects is minimal;
- municipal water services have been provided along the Beaver Bank Road thereby dramatically reducing the number of wells relying on the existing groundwater supply; and
- the existing Stormwater Management Plan contained specific provision to ensure recharging the local groundwater supply at a reasonable rate. Specifically, 75% of each phase is to be retained in its natural state to ensure the natural rate of stormwater flow is maintained thereby recharging groundwater supplies.

It is staff's opinion the proposal has been evaluated in accordance with the applicable policies of the Beaver Bank, Hammonds Plains, Upper Sackville Municipal Planning Strategy as outlined in the staff report dated October 12, 2005 and staff supports the proposed amendment to the Monarch Estates/Rivendale Development Agreement to enable an additional 20 lots.

BUDGET IMPLICATIONS:

None.

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:

The following alternatives may be considered by Community Council:

1. Council may approve the amending agreement as set out in Attachment B. This is the recommended alternative.

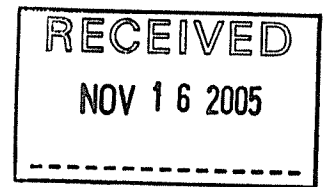
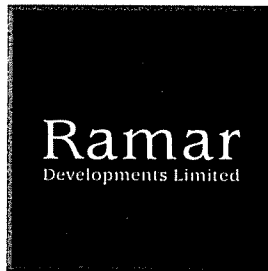
2. Council may choose to reject the proposed amendments to the agreement giving specific reasons. This alternative is not recommended, as staff advise the proposed amending agreement satisfactorily complies with the policies and intent of the MPS.
3. Council may choose to modify the amending agreement as set out in Attachment B. This alternative is not recommended, as staff advise the proposed amending agreement satisfactorily complies with the policies and intent of the MPS.

ATTACHMENTS:

Attachment A: Letter dated November 15, 2005 from Ramar Developments Limited
Attachment B: Proposed Amending Agreement

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Thea Langille-Hanna, Planner, 869-4262



November 15, 2005

**Attention: Marine Drive, Valley and Canal Community Council
HRM Staff Member – Thea Langille**

Ramar Developments have been asked to respond to a couple of concerns raised by the public regarding ground water conditions in the Monarch Estates Community. Specifically, these concerns are summarized with the following questions:

1. What potential impact will the proposed increased density have on the domestic water supply servicing the existing Community of Monarch Estates ?
2. What is the probability of obtaining adequate quantities of potable water for domestic consumption for all of the proposed home sites, both short term and long term?

These are certainly very important questions and understandably need to be generally understood, while considering land development in unserved neighborhoods.

Firstly, it would be important to provide a little background on the project referred to as Monarch Estates along with some history of the Corporate groups involved in this neighborhood. While considering groundwater conditions relative to Monarch Estates, Ramar Developments have provided historical data on approximately one hundred and forty home sites to the Dept. of Environment. These lots have been designed while following the Department of Environment regulations relative to site specific soil conditions. Historically, 100% of these home sites have been able to achieve adequate water supply. Six phases of development, to date, have been created and there have not been any adverse impact to the existing homes within the Monarch Community that we are presently aware of.

Ramar Construction has been the largest single family builder in Nova Scotia over the last four years and have concentrated on unserviced neighborhoods over the last seven years producing approximately six hundred unserviced homes. Primarily, these homes have been constructed in Beaverbank, Middle Sackville, and Hammonds Plains.

Of the six hundred homes that Ramar has built, I am not aware of one customer that does not have an adequate water supply. There have always been viable solutions for any and every concern ever expressed.

To address the first question regarding lot density; Lot Density is an interesting topic while considering acceptable density relative to septic design along with the complexity of considering groundwater conditions. Monarch Estates has been designed throughout all six phases presently developed, along with the remaining three phases undeveloped, by applying these existing design standards that govern the industry.

Interestingly, when one dissects the design layout of the proposed lot layout (attached Schedule A)and compare this to the approved layout agreed upon with HRM staff to date (attached Schedule B), it becomes very evident that fourteen of the twenty lots have been proposed in areas that will be undeveloped as residential lots at this time but rather, these are parcels that are extremely oversized and strategically set aside for re-division in the future. These areas of land are isolated away from the existing residents by proximity.

Therefore, the potential impact to the existing water supply would be in the very worst situation, extremely minor. Our experience has proven that there will be no noticeable impact over the course of at least seven years.

To address the second question regarding the probability of adequate water supply; It is important to once again understand that the engineering firm has continued to design this project with the fundamental intent of the original CDD agreement with HRM and the lot configurations consistently have met the Dept. of Environment's regulations. These regulations have been designed and approved to date while considering the site specific septic conditions in conjunction with groundwater recharge requirements for adequate water supply in these neighborhoods.

Naturally, in all unserviced neighborhoods, from time to time a well, or a few wells, may be slow producing or perhaps the water supply over-burdened. This neighborhood has proven, over the last seven years, that the groundwater conditions are definitely sustainable for this development and there have not been any technical data to suggest otherwise. We have developed over 90% of these 140 homesites, and to my knowledge, there has been a 100% success rate. The density is being consistently applied by design and adequate groundwater has been achieved successfully over the scope of this project.

In summary, I am extremely confident that the groundwater conditions are sustainable in the Monarch Estates Community, and I am also completely confident that the additional 20 lots proposed shall have adequate quantities of potable water for domestic consumption, certainly over the short term. History has proven this, the unknown will be is there ample water in the ground over one hundred years? Unfortunately, I do not have a qualified opinion on this.

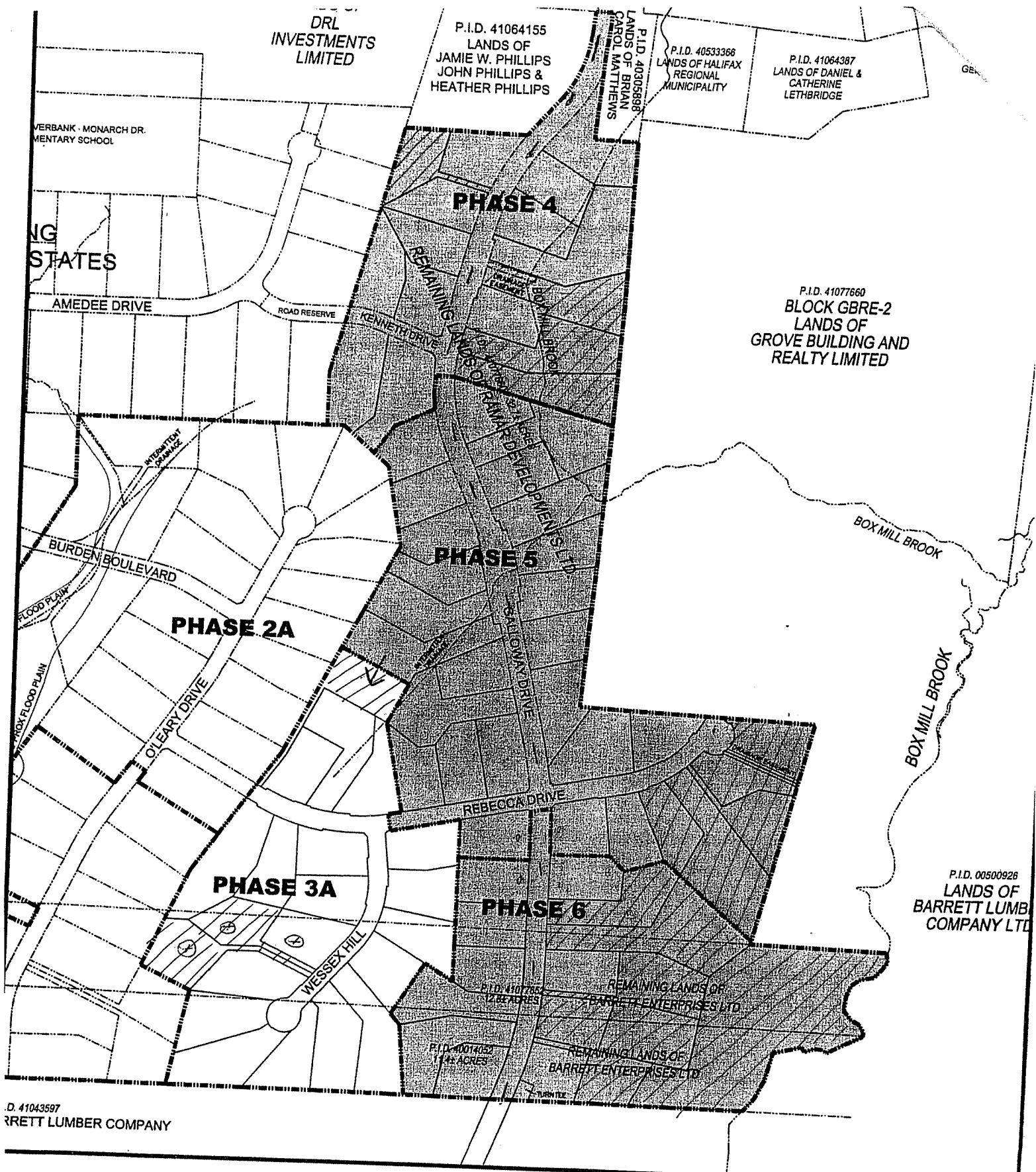
In summary, Ramar Developments is extremely confident that there is a sustainable water source in Monarch Estates to support the increased 20-lot density.

Alternatively to the concerns raised, the only fool-proof method to provide guaranteed quantities over an extremely longer time line is to enable municipal water to extend from Galloway into these lands and remove completely any uncertainty with adequate water supply for the long term. Either way, increased density of 20 lots is certainly sustainable and your support would sincerely be appreciated to enable completion of this Community of Monarch Estates.

Regards,

A handwritten signature in black ink, appearing to read "Kevin Marchand". The signature is fluid and cursive, with a large, stylized initial "K" and "M".

Kevin Marchand
President
Ramar Developments Limited



Map 2
Phasing Plan and Lot Configuration



HALIFAX
REGIONAL MUNICIPALITY
PLANNING SERVICES

Schedule "A"



Company

Schedule "B"

ATTACHMENT B

THIS AMENDING AGREEMENT made this _____ day of _____, 2005

BETWEEN:

RAMAR DEVELOPMENTS LIMITED

&

BARRETT ENTERPRISES LIMITED

(hereinafter called the "Developers")

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 Developers are the registered owner of certain lands located within Beaver Bank and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the North West Community Council of the Municipality approved an application by the Developers to enter into a development agreement to permit an expansion (single unit dwellings) to Monarch Estates and Rivendale subdivisions at a rate greater than 20 lots/4 years on the Lands on August 29, 2001 pursuant to the provisions of the Municipal Government Act and Municipal Planning Strategy and Land Use By-Law for Beaver Bank, Hammonds Plains and Upper Sackville, which said development agreement was registered at the Registry of Deeds in Halifax as Document Number 32650 in Book Number 6852 at Pages 60 to 91 (hereinafter called the "Existing Agreement");

AND WHEREAS Halifax Regional Municipality previously amended the Existing Agreement by entering to an amending agreement (Case 00612) with Ramar Developments Limited and Barrett Enterprises Limited on September 25, 2003 to enable the relocation of Park-3, said agreement being recorded at the Registry of Deeds in Halifax as Document Number 51094 in Book Number 7538 at Pages 57 to 61 (hereinafter called the "First Amending Agreement");

AND WHEREAS the Developers have requested an amendment to the provisions of the Existing Agreement;

AND WHEREAS Marine Drive, Valley and Canal Community Council for the Municipality approved this request at a meeting held on *****, referenced as Municipal Case 00715;

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

1. Replace Schedule B of the Existing and First Amending Agreement with Schedule B of this Second Amending Agreement.
2. Section 2.2 (a) of the Existing Agreement shall be amended by deleting " 140 "and replacing it with "160 ".
3. Section 2.3.1 (a) of the Existing Agreement shall be deleted and replaced with "Phases 4, 5, and 6 shall be built in sequence as per Schedule B. The Development Officer, in consultation with the Development Engineering and Real Property and Asset Management, may consider alternative sequencing as per Schedule B."
4. Section 2.3.9 (t) of the Existing Agreement shall be amended by deleting "The \$10,000 contribution shall be provided to Parkland Planning and Development Division or a community group for the sole purpose of funding the self contained trail if such is not completed by the Developer prior to final endorsement of Phase Three." replacing it with "The \$10,000 contribution shall be provided to Real Property and Asset Management by October 01, 2006.
5. Section 2.3.9 (u) of the Existing Agreement shall be amended by adding "or for the development of Park-1, and Park-2." after the wording "the Joan Drive Neighbourhood Park.
6. Section 2.3.8 (m) of the Existing Agreement shall be amended by deleting "Further, Phase V shall include a road reserve to the Lands of Grove Building and Reality Limited, as generally shown on Schedules, which shall be constructed to the Municipal Service

Systems Specifications.” and adding “or by the Development Officer, in consultation with the Development Engineer.” and after “unless otherwise specified in this agreement”

- 7. Section 2.3.8 (q) of the Existing Agreement shall be amended by deleting “January 01, 2006 “ and replacing it with “January 01, 2009 “.
- 8. All other terms of the Existing Agreement shall remain in full force and effect.
- 9. This Amending Agreement and everything contained herein shall be binding upon the Parties hereto, their heirs, successors and assigns.

IN WITNESS WHEREOF the parties hereto have hereunto set hands and seals to this Amending Agreement on the day and year first above written.

SIGNED, SEALED AND DELIVERED
in the presence of

Per _____

)RAMAR DEVELOPMENT LIMITED

)

)

) Per _____

)

)BARRETT ENTERPRISES LIMITED

)

)

) Per _____

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

Per _____

) HALIFAX REGIONAL MUNICIPALITY

)

)

) Per _____

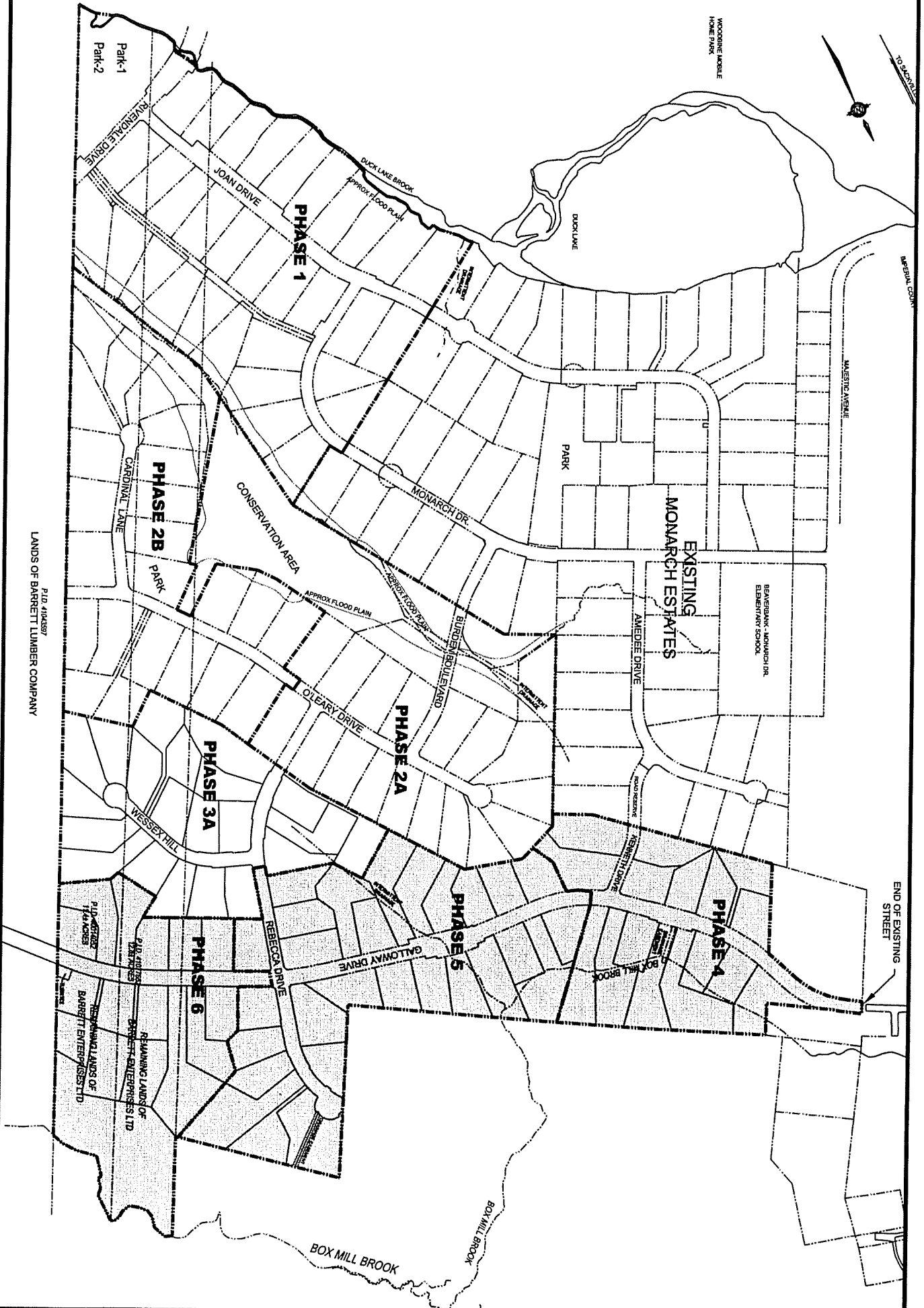
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Mayor

)

) Per _____

Municipal Clerk



Schedule "B"
Concept Plan

Oct. 12, 2005

HRM does not guarantee the accuracy of any base map information on this map.

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PLD 4/05/07
LANDS OF BARRETT LUMBER COMPANY

PLD 4/05/07
REMAINING LANDS OF
BARRETT ENTERPRISES LTD