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Item No. 10.1.1
North West Community Council
March 23, 2015

TO: Chair and Members of the North West Community Council
Original Signed

SUBMITTED BY: _____
Bob Bjerke, Chief Planner and Director of Planning and Development

DATE: February 27, 2015

SUBJECT: **Case 19004 – Amending Development Agreement – Three Brooks Subdivision, Granite Cove Drive, Hubley**

ORIGIN

Application by Sunrose Land Use Consulting

LEGISLATIVE AUTHORITY

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

RECOMMENDATION

It is recommended that North West Community Council:

1. Give Notice of Motion to consider the proposed amending development agreement, as contained in Attachment A of this report, to permit for various text amendments and changes to the schedules;
2. Approve the proposed amending development agreement as contained in Attachment A of this report; and
3. Require that the amending development agreement be signed by the property owner within 120 days, or any extension thereof granted by Community Council on request of the applicant, from the date of final approval of said agreement by Community 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 Three Brooks subdivision began development approximately 20 years ago. In 2012, the former Western Region Community Council approved a development agreement to allow for an additional 25 units off Granite Cove Drive in the form of office space design development. Since Council's approval, the developer has begun the construction of the common shared driveway for Phase 1 and moved forward with the detailed design of the development.

Based upon initial work completed to date, the developer has submitted an application to amend the existing development agreement to enable more flexibility in achieving the approved development. Further, it has been noted by staff and the applicant that certain sections of the existing development agreement could be clarified to achieve better understanding of their intent. The requested amendments to the existing development are outlined in Attachment B to this report.

Location, Subject Area and Surrounding Area

The subject area is:

- a peninsula located off Granite Cove Drive in Hubley;
- comprised of two properties, which were created in 2014;
- bordered by Five Island Lake;
- primarily surrounded by low density residential uses; and
- 12.67 hectares in area.

Designation and Zoning

The subject area is:

- designated Mixed Use B within the Municipal Planning Strategy (MPS) for Planning Districts 1 & 3 (Map 1);
- zoned MRR-1 (Mixed Rural Residential) in the Land Use By-law (LUB) for Planning Districts 1 and 3 (Map 2); and
- further designated Rural Commuter in the Regional Municipal Planning Strategy (Regional Plan).

Enabling Policy and Zoning Context

During the review of this application, the 2014 Regional Plan was approved by Regional Council. Policy G-18 of the 2014 Regional Plan is as follows:

“G-18 Where any completed development agreement application was received by HRM prior to Council’s first notification to adopt this Regional Plan, the application shall be considered in accordance with the Regional Plan policies in effect at the time the application was received.”

As the application was received by HRM prior to May 31, 2014, the first notification ad for the adoption of the 2014 Regional Plan, the application is considered under the policies of the 2006 Regional Plan.

Policies S-15 and S-16 of the 2006 Regional Plan set out the criteria by which Council must consider Classic Open Space Design Development proposals (Attachment C). The policies focus on minimizing the overall disturbance to the site and the importance of retaining important ecological and cultural features, while demonstrating that there is sufficient groundwater to serve both the proposed and existing developed properties.

Open Space Design Development

With the adoption of the Regional Plan and Regional Subdivision Bylaw in 2006, the as-of-right subdivision of land in most unserved areas throughout HRM is limited to 8 lots on a new public road unless the subdivision was on file prior to 2004. New subdivisions involving more than 8 lots on a new public road are now only considered in the form of Open Space Design Developments through the development agreement process.

An Open Space Design Development is a creative form of subdivision design that conserves open space in a contiguous form. The basic principal is to locate homes on portions of the property which are best suited for development while retaining the remainder of the property as undisturbed open space. It is important to note that open space is different from public parkland.

The Classic form of Open Space Design Development involves the entire development being under a single ownership. The key objective of open space design developments is to minimize road development and focus development on areas that are most appropriate from an ecological and cultural stand point. Therefore, only 40% of the property can be developed while the remaining 60% must be retained as common open space. Dwellings are to be clustered together and services such as septic systems and driveways are to be shared.

Existing Development Agreement

The existing development agreement allows for a classic open space design development consisting of 25 single unit dwellings in three phases:

- phase 1 allows for 10 dwellings;
- phase 2 allows for 8 dwellings; and
- phase 3 allows for 7 dwellings.

A hydrogeological assessment was completed for the first phase of the development and the existing agreement requires supplementary assessments also to be conducted for phases 2 and 3.

Ownership of the lands is to be retained under a single entity, such as a private land owner or condominium corporation. As a classic open space design development, 60% of land is to be reserved as common open space and can only be developed for common use purposes. The 25 single unit dwellings are to share a common shared driveway, which will provide access to Granite Cove Drive. Individual home site driveways will provide access to each dwelling or home site. The existing development agreement establishes requirements for development within the common space area, building size and location, the amount of units to be accessed from a home site driveway, phasing, landscaping and information for development permit applications.

Proposal

The applicant is proposing various amendments to the development agreement to provide clarification to some provisions and to allow more flexibility for development (Attachment B). Through discussions with staff on the intent of the original development agreement and the municipal planning strategy, the applicant has revised the number of proposed amendments being requested. The applicant is now requesting amendments to the following items:

1. Common Open Space:
 - clarifying that buildings for common use are permitted in common open space areas;
 - removing the minimum setback requirements from common open space areas; and
 - allowing exchanges of land between areas that are delineated as common open space and developable areas.
2. Riparian Buffer: clarifying the extent of encroachment permitted in the riparian buffer.
3. Phasing:
 - permitting site work in later phases when 50% of the home sites of an earlier phase have obtained occupancy permits; and
 - allowing phases 2 and 3 to be combined.
4. Home Site Driveways: increasing the number of home sites that may share a driveway from 2 to 3.
5. Development Permit Application Requirements:

- clarifying the area that would need to be shown on a detailed site plan for the issuance of a development permit; and
 - removing the requirement that lawn areas and grade alterations be shown on a site plan.
6. Landscape Plan: allowing for the integration of existing vegetation into areas where landscaping is required.

Also, staff and the applicant have identified minor housekeeping amendments such as typos and duplicate information that are to be corrected.

DISCUSSION

Staff has conducted a review of the requested amendments relative to the applicable policy criteria and have determined that the proposed changes to the existing development agreement are consistent with the intent of the Regional MPS and the intent of the existing development agreement. Attachment C contains staff's analysis of the applicable policies and existing development agreement. Based upon this evaluation, a proposed amending development agreement has been prepared (Attachment A).

Based upon staff's review of the proposed amendments, the following discussion and recommendations is provided on each item:

1. Common Open Space

Clarifying that Buildings for Common Use are permitted within the Common Open Space: As part of the original development proposal, the applicant had intended to develop a gazebo for common use. The applicant advises that the existing development agreement is not clear on whether or not such a use would be permitted in the common open space area. The Regional Plan policy does allow for common use buildings to be permitted in the common open space area. Staff recommends the proposed clarification through the proposed amending development agreement by revising definitions for "Developable Area" and "Home Site" which are more specific in the types of uses permitted in each area. Further, Section 3.2.2 of the existing development agreement, which discusses the common open space area, was expanded to include examples of common uses permitted such as buildings and structures for common use.

Removing the 3 metre Setback Requirement from the Common Open Space Areas: The existing development agreement includes a 3 metre setback for any structure from the common open space to ensure that there is no disturbance within the common open space during development. Also, no development or disturbance for the home sites is permitted within the common open space. The applicant suggests that more flexibility is required to determine the most appropriate building location for the home sites. This amendment is considered acceptable as it will enable the Development Officer to determine the required set back to ensure a structure will not disturb the common open space.

Altering the Common Open Space and Developable Boundaries: The existing development agreement requires 60% of the land to be retained as common open space. The remaining 40% can be developed for the common shared driveway and the individual home sites. There are no provisions within the existing development agreement that allow for any alteration of the common open space area. The applicant is requesting to change the boundaries of the common open space area and developable area to address constraints with the placement of houses. The proposed amendment would not reduce the common open space requirement below 60% as required by policy and is, therefore, recommended by staff. The proposed amending agreement amends the Schedules of the existing development agreement to change the common open space boundary. Further, the proposed amending agreement allows for alterations to the common open space as a non-substantial amendment.

2. Riparian Buffer: Clarifying the Amount of Encroachment within the Riparian Buffer: The existing development agreement requires the development to comply with Section 4.19 of the LUB which requires a 20 metre riparian buffer around all water courses or wetlands contiguous with a watercourse. The majority of the subject area is within the riparian buffer as it abuts a watercourse (Five Island Lake) and is comprised of wetlands that are contiguous to a watercourse. Under the LUB, only limited development, which consists of a deck or accessory structure to a combined maximum of 20 square metres per property is permitted in the riparian buffer.

The applicant has proposed an amendment to the existing development agreement to include clarification regarding the amount of permitted encroachment in the riparian buffer. Specifically, the applicant requested clarification that the 20 square metres encroachment permitted under the LUB would be permitted for each home site and not shared throughout the whole development.

Staff recommends the proposed amendment as it would provide consistency with development rights throughout HRM. However, to respect the conservation intent of open space design developments, such encroachments are subject to further controls than would be applicable in an as-of-right situation. This is achieved in the proposed amending agreement by requiring verification that the structure cannot be located elsewhere without significantly affecting the grade and providing verification from a qualified professional that the riparian buffer will not be significantly impacted. No development for individual use is permitted within the open space area whether it is in the riparian buffer or not. The proposed amending agreement further clarifies that no building or structure for common use shall be permitted any encroachment within the riparian buffer.

3. Phasing: The existing development agreement requires the development be completed in three phases. The second and third phases are subject to a Level II hydrogeological assessments and no work can be completed, such as road development or site preparation in a phase, until 100 % of the occupancy permits have been issued for the previous phase(s). During the hydrogeological assessment of the first phase of the development it was noted that there were concerns regarding the water storativity of the proposed wells.

Permitting Site Work in Future Phases: The applicant has proposed an amendment to the existing development agreement to permit site work in later phases when 50% of the home sites of an earlier phase have obtained occupancy permits. The applicant noted there are various factors that could delay the issuance of all occupancy permits, such as the inability to sell a particular site or that the owner of a site is not prepared to build immediately. Staff agree the proposed amendment is reasonable and therefore the proposed amending agreement requires 50% of the dwelling units to receive an occupancy permit before allowing development in future phases. Further, to address concerns regarding storativity, the amending development agreement includes a provision requiring that a hydrogeologist determine whether the existing well use indicates that long term withdrawals of groundwater of the previous phase are sustainable before proceeding to a future phase.

Allowing Phases 2 and 3 be Combined: The applicant has requested an amendment to the existing development agreement to combine Phase 2 and 3, if it is determined that the number of units permitted in two phases is supported by a hydrogeological assessment. Due to the overall small size of the development, staff recommends the proposed amendment. The proposed amending agreement includes a provision to allow for the combination of phase 2 and 3 if such development can be supported by a Level II hydrogeological assessment.

4. Driveways: Increasing the Number of Home Sites on a Shared Driveway: The existing development agreement includes a common shared driveway that runs throughout the property. Each home site is accessed by an individual home site driveway which can be no wider than 6.1 metres. The existing development agreement allows for up to 2 home sites to share a home site driveway. The applicant has proposed an amendment to the existing development agreement to allow an increase in the number of home sites that can be accessed from a home site driveway from 2 to 3. It was noted that the detailed placement of home sites could be better accommodated with such an amendment. Staff recommends

that the proposed amendment as it is considered reasonable and is consistent with policy. HRM typically allows up to 3 dwellings to share a single driveway. As a result in the increase to home sites sharing a home site driveway, the proposed amending agreement permits driveways that are shared to be wider than those used for a single home site and clarified that parking areas are not subject to the driveway width requirements as per the existing development agreement.

5. Development Permit Application Requirements:

Clarifying Area of Detail Site Plans: The existing development agreement requires that applications for development permits include two site plans; one general site plan which shows the whole subject area and one detailed site plan. The existing development agreement does not specify the extent that should be shown in the detailed site plan. The applicant has proposed an amendment to the existing development agreement to clarify the extent of the area that should be shown on the site plan. In the applicant's request they suggested a radius of 30.5 metres be shown on the detailed site plan. A defined scope to be shown in the detailed site plan was intended to be originally included in the existing development agreement and its exclusion is considered to be in error. Staff recommends the proposed amendment to include the requirement of 30.5 metres scope for the detailed site plan.

Removing Lawn Areas and Grade Alteration from Site Plans: The existing development agreement requires the detailed site plan to focus on the proposed buildings and show setbacks, lawn area and grade alteration. The applicant is requesting that the existing development agreement be revised to remove the location of the lawn areas and grade alterations on the detailed site plan as the requirements provide too much detail compared to what is generally provided on a site plan in a rural area.

Regarding the provision requiring the location of the lawn area, staff recommends the proposed amendment as it was determined that the intent of the requirement for providing the lawn area was to ensure no lawn area for a home site would be located within the common open space. As there are already provisions in the existing agreement that restrict lawn area from being located within the common open space, it was agreed that this requirement could be removed.

Regarding the provision requiring grade alteration, it should be noted that a site grading plan and stormwater management plan has already been provided as required at an earlier stage in the existing development agreement. It is recommended that the provision be removed as a site plan requirement; however, a provision is included in the proposed amending development agreement requiring that the developer, through a professional engineer, confirm that any development is in conformance with the already provided site grading plan and storm water management plan. The proposed provision further requires any changes to either plans be prepared by a professional engineer and that such changes to not result in any disturbance to the common open space.

6. Landscape Plan: Allowing the Integration of Existing Vegetation: The existing development agreement requires landscaping at the entrance of the development and includes a landscaping plan outlining the general design. The applicant has proposed an amendment to the existing development agreement to include existing vegetation in the landscaping plan. Through the construction of the common shared driveway in the first phase of the development, the applicant was able to retain much more existing vegetation than originally anticipated. Staff recommends the applicant's request as the proposed amendment is consistent with the intent of the open space design development. The proposed amending agreement includes a revised landscape plan which incorporates the retention of existing vegetation.

Housekeeping Amendments: Through a review of the existing development agreement by the applicant and staff it was noted that there are some typos and some duplicate information within the development agreement. Through the proposed amending development agreement, these housekeeping amendments have been corrected. A house-keeping amendment worth noting is the combination of Schedules B and C. As both schedules generally provided the same information, which includes the location of the open space area and common shared driveway it was agreed that the two schedules could be combined.

Conclusion

The proposed amending agreement provides a reasonable amount of flexibility in the development of the project and clarifies the intent of several provisions. The proposed amendments are consistent with the objectives and policies of the Open Space Design policies of the 2006 Regional Plan and therefore, staff recommends approval of the proposed amending development agreement as contained in Attachment A.

FINANCIAL IMPLICATIONS

There are no financial implications. The Applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Amending Development Agreement. The administration of the Amending Development Agreement can be carried out within the approved 2014/15 budget with existing resources.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was information sharing, achieved through notices posted on the HRM website, and mailed to property owners and residents within the notification area as shown on Map 3. In consultation with the area Councillor, it was determined that a Public Information Meeting would not be held given the nature of the request.

A public hearing must be held by North West Community Council before they can consider approval of the Amending Development Agreement. Should North West Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area will continue to be notified as shown on Map 3. The HRM website will also be updated to indicate notice of the public hearing.

The proposed amending development agreement will potentially impact the following stakeholders: local residents and property owners, community or neighbourhood organizations, and business and professional associations.

ENVIRONMENTAL IMPLICATIONS

No additional concerns have been identified beyond those raised in this report.

ALTERNATIVES

1. North West Community Council may choose to approve the proposed amending development agreement subject to modifications. This may necessitate further negotiation with the applicant a supplementary staff report and the need to hold a second public hearing. A decision of Community Council to approve an amendment to a development agreement is applicable to the N.S. Utility & Review Board as per Section 262 of the HRM Charter.
2. North West Community Council may choose to refuse the proposed amending development agreement, and in doing so, must provide reasons why the amendment is not reasonable consistent with the MPS. This alternative is not recommended, as the proposal is consistent with the MPS. A decision of Council to refuse an amendment to a development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the HRM Charter.

ATTACHMENTS

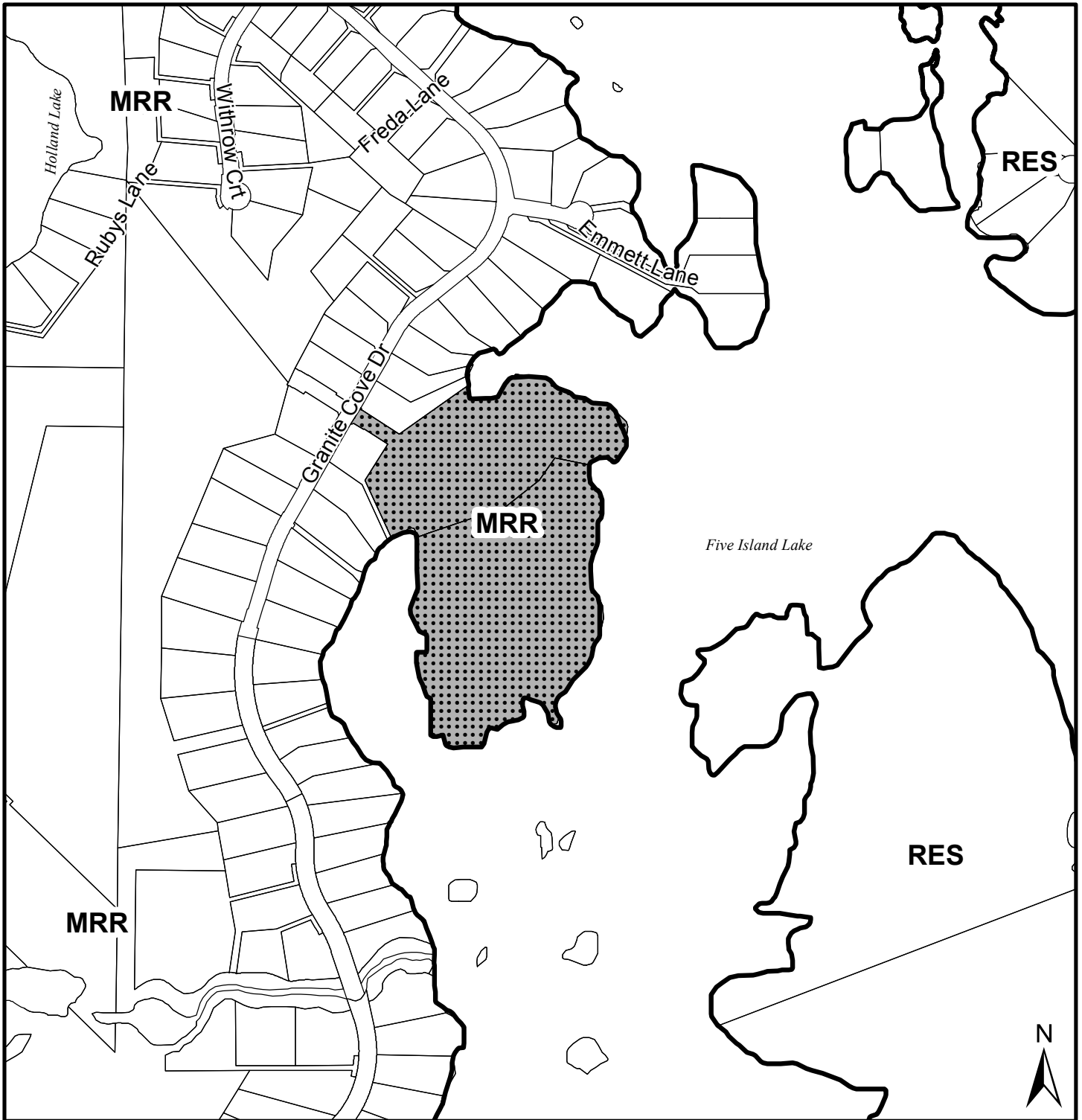
Map 1	Generalized Future Land Use Map
Map 2	Zoning and Notification Map
Map 3	Notification Area
Attachment A	Proposed Amending Development Agreement
Attachment B	Submission from Applicant
Attachment C	Review of Relevant Policies of the 2006 Regional Plan

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

Report Prepared by: Jillian MacLellan, Planner, Development Approvals, 902-490-4423

Original Signed


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



Map 1 - Generalized Future Land Use

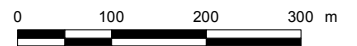
Granite Cove Drive
Hubley



 Area of proposed development agreement

Designation

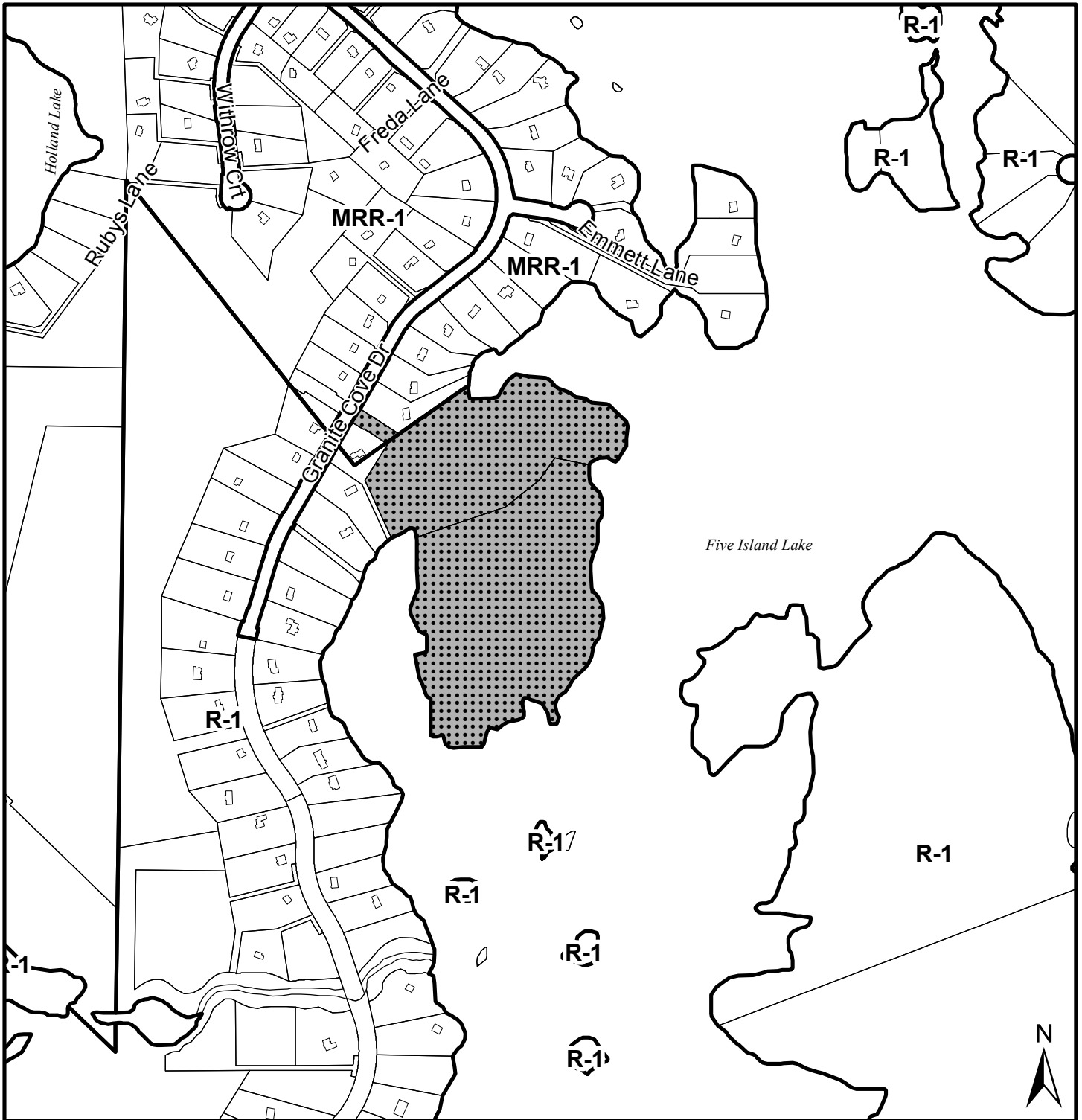
RES Residential
MRR Mixed Rural Residential



Planning District 1 & 3
(St Margarets Bay) Plan Area


This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

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



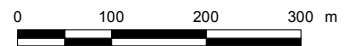
Map 2 - Zoning

Granite Cove Drive
Hubley

 Area of proposed development agreement

Zone

R-1 Single Unit Dwelling
MRR-1 Mixed Rural Residential



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.



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

Planning District 1 & 3
(St Margarets Bay) Plan Area

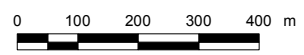


Map 3 - Area of Notification

Granite Cove Drive
Hubley

-  Area of proposed development agreement
-  Area of notification

Planning District 1 & 3
(St Margarets Bay) Plan Area



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

Attachment A
Proposed Amending Development Agreement

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

BETWEEN:

[Insert Name of Corporation/Business LTD.]
a body corporate, in the Province of Nova Scotia
(hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY
a municipal body corporate, in the Province of Nova Scotia
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located near Granite Cove Drive, Hubley, known as PID #41255548, and 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 Classic Open Space Design Development of up to twenty-five (25) single unit dwellings in three (3) phases on the Lands pursuant to the provisions of the *Halifax Regional Municipality Charter* and pursuant to Policy S-16 of the Regional Municipal Planning Strategy, which said development agreement was registered at the Halifax County Land Registration Office on December 10, 2012 as Document Number 102118545 (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer has requested amendments to the Existing Agreement to allow for changes to phasing, site disturbance for further hydrogeological assessments, alteration of the common open space boundary, changes to setbacks from the common open space boundary, changes to the landscaping along the common shared driveway, changes to the home site driveway requirements and parking areas and housekeeping amendments;

AND WHEREAS the North West Community Council for the Municipality approved this request at a meeting held on **[Insert - Date]**, referenced as Municipal Case 19004;

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

1. Amend Section 2.2(e) by inserting the following text as shown in **bold** and deleting text as shown in ~~strikeout~~ as follows:
 - (e) “Developable Area” means the portion of the Lands where all development and site disturbance shall be located, ~~including but not limited to~~ **for common uses, such as but not limited to** the Common Shared Driveway **and for home site uses such as but not limited to** Home Site Driveways, **single unit dwellings, accessory buildings, Home Sites, buildings,** lawns, and grading alterations, wells and on-site septic systems.
2. Amend Section 2.2(h) by inserting the following text as shown in **bold**:
 - (h) “Home Site” means a specific area designated for an individual single unit dwelling **and accessory buildings and uses;**
3. Amend Section 3.1 and the corresponding Schedules by deleting Schedules B, D, and E and replacing them with Schedules B.2 and Schedule C.2 as attached to this Agreement:

Schedule B.2:	Site Plan
Schedule C.2:	Landscaping Plan
4. Replace all references to Schedule B or Schedule C with Schedule B.2
5. Replace all references to Schedule D or E with Schedule C.2
6. Amend Section 3.2.2 by inserting the following text as shown in **bold** as follows:
 - 3.2.2 A minimum of 60% of the Lands shall be retained as Common Open Space. The Common Open Space cannot be used for any purpose other than for passive recreation or conservation related uses **intended for common use including, but not limited to trails and common use buildings or structures such as gazebos.**
7. Amend Section 3.3.3 by inserting the following text as shown in **bold** and deleting text as shown in ~~strikeout~~ as follows:
 - 3.3.3 Development for each phase will be considered complete once ~~the occupancy permits for the last single unit dwelling of the phase is issued~~ **have been issued for 50% of the dwelling units in the phase.**
8. Add the following Section after Section 3.3.3, as shown in bold:

“3.3.4 Further to Section 3.3.3, site work required for the Level II Hydrogeological Assessment of Phase 2 and 3 shall include a detailed survey of existing wells in the previous phase(s) of the development (minimum 50% of total number of homes in the previous phase). The scope of this work must be adequate for a qualified hydrogeologist to determine whether existing well use indicates that long term withdrawals of groundwater in the previous phase(s) will be sustainable. Indications of sustainability include (but are not limited to) reports of shortages or interruptions to the supply, changes in water quality or quantity over time, and well performance during dry and peak use periods. If the well survey indicates that

sustainability of existing wells may be in question, the Level II Assessment of Phase 2 and 3 shall include a reassessment of the sustainable yield for Phases 1 and 2 and 3 combined."

9. Add the following Section after Section 3.3.4, as shown in bold:

"3.3.5 Development in Phases 2 and 3 may be combined provided that the number of units is supported by the supplementary hydrogeological assessment"

10. Amend Section 3.5.4(a) by deleting text as shown in ~~strikeout~~ as follows:

3.5.4(a) Certification of the construction of the Common Shared Private Driveway for Phase 1 and compliance with the detailed design of ~~the~~ as required in Section 3.4.2(a);

11. Amend Section 3.5.4(b) by inserting the following text as shown in **bold** as follows:

3.6.4(b) Inspection and acceptance of the Common Shared Private Driveway in the Phase as required by Fire Services, and a registered agreement with the Traffic Authority for Designated Fire Lanes, **if required**;

12. Amend Section 3.6.1 by inserting the following text as shown in **bold** as follows:

"3.6.1 Prior to any site clearing, tree removal or construction on the Lands associated with Phase 2 or 3, **except for what is necessary for the hydrogeological study as required in this section, the developer shall:**"

13. Amend Section 3.7.1(b) by inserting the following text as shown in **bold** and deleting text as shown in ~~strikeout~~ as follows:

3.7.1(b) A detailed site plan focusing on the specific development illustrating **the following features within 30.5 metres from the proposed structure:**

- (i) the proposed location of the building or structure, including setbacks from adjacent property lines, **Granite Cove Drive**, the Common Shared Private Driveway, all surrounding buildings and structures and Common Open Space;
- (ii) the proposed location of the Common Open Space delineation pursuant to Sections 3.5.3 and 3.6.3 of this Agreement;
- (iii) the proposed location and size of the well and septic system;
- ~~(iv) the proposed location and size of the lawn area;~~
- (v) the proposed location and size of all paved areas;
- (vi) any watercourse or wetland be delineated by a qualified professional and confirmed by the Nova Scotia Department of Environment, and the associated riparian buffers;
- ~~(vii) grade alteration; and~~
- (viii) any wetland.

14. Add the following Section after Section 3.7.1(b), as shown in **bold**:

"3.7.1(c) Confirmation from a Professional Engineer that the development is in conformance with the site grading plan and storm water management plan as required in Section 5.1.1 (b) of this Agreement. Any required changes to the site grading plan must be prepared by a Professional Engineer and must confirm that such changes will not create any disturbance within the Common Open Space."

15. Amend Section 3.8.3 by inserting the following text as shown in **bold** and deleting text as shown in ~~strikeout~~ as follows:

~~3.8.3~~ Nothing in this Agreement shall exempt the Lands from the requirements of Section 4.19 of the Land Use By-law for Planning Districts 1 & 3 concerning watercourse setbacks and buffers as amended from time to time.

“3.8.3 Any development in this Agreement shall be subject to the requirements of Section 4.19 of the Land Use By-law for Planning Districts 1 & 3 as amended from time to time.

3.8.4 Further to Section 3.8.3 no building or structure shall be located within the watercourse buffer described in Section 4.19 of the Land Use By-law for Planning Districts 1 & 3, except as follows:

- (a) the structure, or main building to which the structure is attached, cannot be placed elsewhere on the Lands without meeting all other requirements of this Agreement or without significantly disturbing the grades on the Lands, as determined by the Development Officer;**
- (b) a letter is provided from a qualified professional, such as but not limited to a landscape architect, confirming that the encroachment will not significantly impact the watercourse or buffer area;**
- (c) activity is limited to the placement of one accessory structure or one attached deck not exceeding a footprint of 20 sq. metres or a combination of an accessory structure and attached deck not exceeding 20 sq. metres for each Homesite; and**
- (d) no portion of the building or structure is located within the Common Open Space as shown on the Schedules.**

3.8.5 No building or structure for common use shall be permitted within the watercourse setback and buffer as described in Section 4.19 of the Land Use By-law for Planning Districts 1 & 3.”

16. Amend Section 3.8.4(b) by deleting text as shown in ~~strikeout~~ as follows:

3.8.4(b) No portion of a dwelling shall be located less than 3.05 meters (10 feet) from the boundary of the Lands ~~or the Common Open Space~~;

17. Amend Section 3.8.5(b) by deleting text as shown in ~~strikeout~~ as follows:

3.8.5(b) No portion of a building or structure shall be located less than 3.05 meters (10 feet) from the boundary of the Lands ~~or the Common Open Space~~;

18. Amend Section 3.9.6 by inserting the following text as shown in **bold** as follows:

3.9.6 Each single unit dwelling shall include a Home Site Driveway with a maximum width of 6.1 metres (20 feet), **not inclusive of parking areas**”.

19. Amend Section 3.9.7 by inserting the following text as shown in **bold** and deleting text as shown in ~~strikeout~~ as follows:

3.9.7 Up to ~~two~~ **three** single unit dwellings may share a Home Site Driveway **with a maximum width of 7.6 metres (25 feet), not inclusive of parking areas**”.

20. Add the following Section:

“3.9.8 Paved parking areas for each Home Site shall not exceed 540 square feet, not inclusive of the Home Site Driveway.”

21. Amend Section 3.10.8 by inserting the following text as shown in **bold** and deleting text as shown in ~~strikeout~~ as follows:

3.10.8 Prior to issuance of ~~any~~ **the first** Occupancy Permit the Developer shall submit to the Development Officer a letter prepared by a member in good standing of the Canadian Society of Landscape Architects certifying that all landscaping has been completed according to the terms of this Development Agreement.

22. 6.1.1(d) Changes to the Common Open Space and Developable Area boundary as shown on the Schedules, pursuant to maintaining a minimum of 60% of the Land within the Common Open Space area.

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

SIGNED, SEALED AND DELIVERED in the presence of:

(Insert Registered Owner Name)

Witness

Per: _____

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

HALIFAX REGIONAL MUNICIPALITY

Witness

Per: _____
MAYOR

Witness

Per: _____
MUNICIPAL CLERK

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

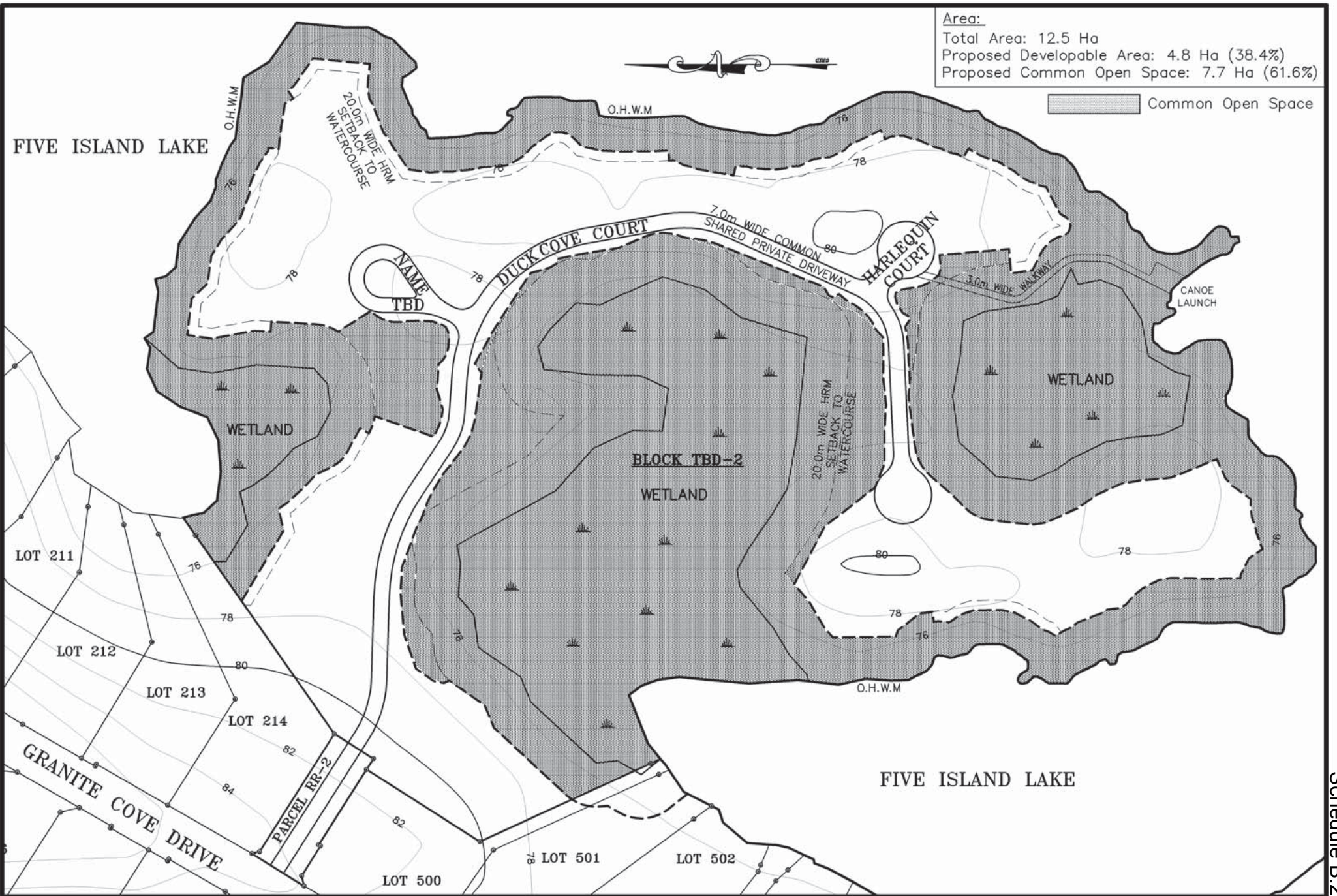
On this _____ day of _____, A.D. 20____, before me, the subscriber personally came and appeared _____ a subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that _____, _____ of the parties thereto, signed, sealed and delivered the same in his/her presence.

A Commissioner of the Supreme Court
of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this _____ day of _____, A.D. 20____, before me, the subscriber personally came and appeared _____ the subscribing witness to the foregoing indenture who being by me sworn, made oath, and said that Mike Savage, Mayor and Cathy Mellett, Clerk of the Halifax Regional Municipality, signed the same and affixed the seal of the said Municipality thereto in his/her presence.

A Commissioner of the Supreme Court
of Nova Scotia



Area:
 Total Area: 12.5 Ha
 Proposed Developable Area: 4.8 Ha (38.4%)
 Proposed Common Open Space: 7.7 Ha (61.6%)

 Common Open Space

MW
MAC WILLIAMS ENGINEERING LIMITED

THREE BROOKS VILLAGE
 HUBLEY, NOVA SCOTIA

Revision			
No.	Comments	Date	By
1.	Edit Text	Dec 12/11	SRW
2.	Common Area Revised	Sept 27/13	SRW
3.	Common Area Revised	Feb 11/14	SRW

Date:	April 12, 2011
Scale:	Not to Scale
Project No.:	09507
Drawing No.:	9507-SK04

Schedule B.2 : Site Plan

Attachment C
Review of Relevant Policies of the 2006 Regional Plan

Policy Criteria	Staff Comment
<p>Policy S-15 <i>HRM shall permit the development of Open Space Design residential communities, as outlined in this Plan, within the Rural Commuter and Rural Resource designations and within the Harbour designation outside of the Urban Service Area, but not within the portions of the Beaver Bank and Hammonds Plains communities as identified in the Subdivision By-law under Policy S-25 and within the Rural Area Designation under the Eastern Passage / Cow Bay Plan Area.</i></p>	
<p><i>HRM will consider permitting the maximum density of such developments to one unit per hectare of gross site area.</i></p> <p>[As per Policy S-16, for classic open space developments, maximum density is 1 unit per 4000 square metres.]</p>	<p>Addressed in existing development agreement</p>
<p><i>In considering approval of such development agreements, HRM shall consider the following:</i></p>	
<p><i>(a) where the development is to be serviced by groundwater and as determined through a hydrogeological assessment conducted by a qualified professional, that there is an adequate supply of ground water to service the development and that the proposed development will not adversely affect groundwater supply in adjacent developments;</i></p>	<p>The existing development agreement was informed by a hydrogeological assessment that determined there is sufficient groundwater for 10 units in the first phase and requires a supplementary hydrogeological assessment before development within Phases 2 and 3.</p> <p>The amending development agreement requires that at least 50% of the dwelling units within the first phase are occupied prior to completing the supplementary hydrogeological assessment for Phases 2 and 3.</p> <p>As the hydrogeological assessment completed for the first phase indicated that there may be issues with storativity, the proposed amending development agreement also includes provisions to ensure that the withdrawals from the existing wells in the previous phase are considered sustainable when completing the hydrogeological assessments for future phases.</p>
<p><i>(b) that there is sufficient traffic capacity to service the development;</i></p>	<p>Addressed in existing development agreement</p>
<p><i>(c) the types of land uses to be included in the development which may include a mix of residential, associated public or privately-owned community facilities, home-based offices, day cares, small-scale bed and breakfasts, forestry and agricultural uses;</i></p>	<p>The types of uses permitted on the Lands is addressed in the existing development agreement. Some clarification was provided for the types of uses permitted in the developable area and common open space area.</p>

<i>(d) whether soil conditions and other relevant criteria to support on-site sewage disposal systems can be met;</i>	Addressed in existing development agreement
<i>(e) the lot frontages and yards required to minimize the extent of road development, to cluster building sites on the parcel and provide for appropriate fire safety separations;</i>	Setback provisions for building placement are addressed in the existing development agreement. The proposed amending agreement provides further ability to provide safe separations between buildings by removing the required setback from the common open space.
<i>(f) that the building sites for the residential units, including all structures, driveways and private lawns, do not exceed approximately 20% of the lot area;</i>	Not applicable for classic open space design.
<i>(g) approximately 80% of the lot is retained as a non-disturbance area (no alteration of grades, except for the placement of a well or on-site sewage disposal system in the non-disturbance area shall be permitted, and provision shall be made for the selective cutting of vegetation to maintain the health of the forest);</i>	Not applicable for classic open space design.
<i>(h) that the development is designed to retain the non-disturbance areas and to maintain connectivity with any open space on adjacent parcels;</i>	Addressed in existing development agreement
<i>(i) connectivity of open space is given priority over road connections if the development can be sited on the parcel without jeopardizing safety standards;</i>	Addressed in existing development agreement
<i>(j) trails and natural networks, as generally shown on Map 3 or a future Open Space Functional Plan, are delineated on site and preserved;</i>	Addressed in existing development agreement
<i>(k) parks and natural corridors, as generally shown on Map 4 or a future Open Space Functional Plan, are delineated on site and preserved;</i>	Addressed in existing development agreement
<i>(l) that the proposed roads and building sites do not significantly impact upon any primary conservation area, including riparian buffers, wetlands, 1 in 100 year floodplains, rock outcroppings,</i>	The proposed amending agreement provides clarification for allowable encroachments into the riparian buffer and added a provision requiring that any encroachment into the riparian buffer cannot significantly impact the

<i>slopes in excess of 30%, agricultural soils and archaeological sites;</i>	buffer as determined by a qualified professional.
<i>(m) the proposed road and building sites do not encroach upon or are designed to retain features such as any significant habitat, scenic vistas, historic buildings, pastoral landscapes, military installations, mature forest, stone walls, and other design features that capture elements of rural character;</i>	Addressed in existing development agreement
<i>(n) that the roads are designed to appropriate standards as per Policy T-2;</i>	Addressed in existing development agreement
<i>(o) views of the open space elements are maximized throughout the development;</i>	Addressed in existing development agreement
<i>(p) opportunities to orient development to maximize the capture of solar energy;</i>	Addressed in existing development agreement
<i>(q) the proposed residential dwellings are a minimum of 800 metres away from any permanent extractive facility;</i>	Addressed in existing development agreement
<i>(r) the proposed development will not significantly impact any natural resource use and that there is sufficient buffering between any existing resource use and the proposed development to mitigate future community concerns; and</i>	Addressed in existing development agreement
<i>(s) consideration be given to any other matter relating to the impact of the development upon surrounding uses or upon the general community, as contained in Policy IM-15.</i>	Addressed in existing development agreement
Policy S-16	
<i>Further to Policy S-15, within the Rural Commuter, Rural Resource and Agricultural Designations, HRM shall permit an increase in density for Open Space Design Developments up to 1 unit per 4000 square metres, or greater in centres as may be provided for in secondary planning strategies, where approximately 60% or more of the site is retained in single ownership of an individual, land trust, condominium corporation or the Municipality. Notwithstanding Policy E-5, the parkland dedication shall be relaxed to a minimum of 5% for this type of development. In considering approval of such development agreements, HRM shall consider the following:</i>	
<i>(a) the criteria specified in Policy S-15, with the exception of items (f) and (g); and</i>	See above.

<p><i>(b) that the common open space cannot be used for any other purpose than for passive recreation, forestry, agriculture or conservation-related use except for a portion of which may be used as a village common for active recreation or the location of community facilities designed to service the development.</i></p>	<p>The types of uses permitted in the Common Open Space is addressed in existing development agreement. Some clarification is provided in the proposed amending agreement to the types of uses permitted in the Developable Area and Common Open Space.</p>
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