



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

Item No. 13.1
Halifax and West Community Council
October 14, 2014

TO: Chair and Members of the Halifax and West Community Council

SUBMITTED BY: Original Signed

Bob Bjerke, Director of Planning and Development

DATE: October 9, 2014

SUBJECT: **Case 18232: Substantive Amendments to the existing development agreement for Brunello Estates, Timberlea**

ORIGIN

- April 11, 2014 staff report to Halifax and West Community Council
- June 4, 2014 approval by Halifax and West Community Council of substantive amendments to the existing development agreement for Brunello Estates

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, Part VIII, Planning & Development

RECOMMENDATION

It is recommended that the Halifax and West Community Council:

1. Approve the corrected amending development agreement document for execution, as contained 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 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 / DISCUSSION

On June 4, 2014, Halifax and West Community Council approved the 9th amending development agreement for Brunello Estates in Timberlea to change the requirements in the development agreement for single unit dwellings. There were no appeals made to Council's decision and the amending development agreement was signed by the Developer. However, prior to execution of the agreement by Municipality's signing officers, a detailed review of the document recitals identified several errors in the Land Registration document numbers and registration dates noted for some of the previously approved development agreements for the project. The errors to be corrected are as follows:

- The original development agreement was registered on February 14, 2002;
- The 1st amending development agreement was registered on August 27, 2003;
- The 4th amending development agreement was registered on August 7, 2008 and was registered under several document numbers;
- The 5th amending development agreement was registered under several document numbers;
- The 6th amending agreement was registered on February 17, 2012 and was registered under several document numbers; and
- The 7th amending agreement was registered on January 9, 2013, and was registered under Document Number 102272615.

It is important to note that the required corrections have no effect on the content of the development agreement that was approved by Community Council nor do they require a new public hearing. Council is able to approve the corrections to the amending development agreement by motion of Council. Following this, the amending agreement can be authorized for execution by the Municipality's signing officers.

FINANCIAL IMPLICATIONS

There are no financial 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 2014/15 budget with existing resources.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy.

ENVIRONMENTAL IMPLICATIONS

No additional concerns have been identified beyond those raised in the original staff report, dated April 11, 2014, for the application.

ALTERNATIVES

1. Halifax and West Community 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. A decision of Council to reject this amending agreement, with or without a public hearing, is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Attachment A Corrected 9th Amending Development Agreement as approved by Community Council on June 4, 2014

The original staff report and development agreement can be found at:
<http://www.halifax.ca/Commcoun/west/documents/140604hwcc811.pdf>

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 902-490-4208.

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

Case 18232
Attachment A – Revised Proposed 9th Amending Development Agreement

THIS 8th 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, 2002 as 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 27, 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 several document numbers, including 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 August 7, 2008 as several document numbers, including Document Number 91320987 (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 several document numbers, including Document Number 97179270 (hereinafter called the "Fifth 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 road layout, parkland size and configuration and to complete minor text changes (municipal reference number 16934) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office on February 17, 2012 as several document numbers, including Document Number 100119347 hereinafter called the "Sixth Amending Agreement");

AND WHEREAS the Western Region Community Council of the Municipality approved an application to enter into an amending development agreement to develop Blocks 1, 2 and 3 for alternate housing (municipal reference number 17521) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office on January 9, 2013 as Document Number 102272615 (hereinafter called the "Seventh Amending Agreement");

AND WHEREAS the Western Region Community Council of the Municipality approved an application to enter into an amending development agreement to alter the Commercial Use boundary along Market Way Lane and clarify standards for commercial development on Ca lands (municipal reference number 17826) on the Lands, which said Development Agreement was registered at the Halifax County Land Registration Office on January 22, 2014 as Document Number 104497863 (hereinafter called the "Eighth Amending Agreement");

AND WHEREAS the Developer has requested further amendments to the Existing Agreement and Amending Agreements to alter lot frontage requirements for single unit dwellings;

AND WHEREAS the Halifax and West Community Council for the Municipality approved this request at a meeting held on [INSERT-Date], referenced as Municipal Case Number 18232;

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) deleting “Schedule B1.B: Golf Course Community Plan” and replacing it with “Schedule B1.C: Golf Course Community Plan”;
 - (b) deleting “Schedule B2.B: Community Concept Plan” and replacing it with “Schedule B2.C: Community Concept Plan”;
 - (c) deleting “Schedule B3.B: Building Height Areas” and replacing it with “Schedule B3.C: Building Height Areas”;
 - (d) deleting “Schedule C1.B: Public Recreation Facilities” and replacing it with “Schedule C1.C: Public Recreation Facilities”;
 - (e) deleting “Schedule C2.B: Private Recreation Facilities” and replacing it with “Schedule C2.C: Private Recreation Facilities”;
 - (f) deleting “Schedule D1.B: Road Hierarchy” and replacing it with “Schedule D1.C: Road Hierarchy”;
 - (g) deleting “Schedule F1.B: Sewer Servicing Schematic” and replacing it with “Schedule F1.C: Sewer Servicing Schematic”;
 - (h) deleting “Schedule G1.B: Water Servicing Schematic” and replacing it with “Schedule G1.C: Water Servicing Schematic”;
 - (i) deleting “Schedule H1.B: Conceptual Storm Water Management Plan” and replacing it with “Schedule H1.C: Conceptual Storm Water Management Plan”;
and
 - (j) deleting “Schedule I1.B: Major Non Disturbance Areas” and replacing it with “Schedule I1.C: Major Non-Disturbance Areas”.
2. The Existing Agreement as amended is further amended by:
 - (a) deleting all references to “Schedule B1.B” and replacing it with “Schedule B1.C”;
 - (b) deleting all references to “Schedule B2.B” and replacing it with “Schedule B2.C”;
 - (c) deleting all references to “Schedule B3.B” and replacing it with “Schedule B3.C”;
 - (d) deleting all references to “Schedule C1.B” and replacing it with “Schedule C1.C”;
 - (e) deleting all references to “Schedule C2.B” and replacing it with “Schedule C2.C”;
 - (f) deleting all references to “Schedule D1.B” and replacing it with “Schedule D1.C”;
 - (g) deleting all references to “Schedule F1.B” and replacing it with “Schedule F1.C”;
 - (h) deleting all references to “Schedule G1.B” and replacing it with “Schedule G1.C”;
 - (i) deleting all references to “Schedule H1.B” and replacing it with “Schedule H1.C”;
and
 - (j) deleting all references to “Schedule I1.B” and replacing it with “Schedule I1.C”.
3. Section 2.2.1(a) of the Existing Agreement as amended is further amended by adding “reduced frontage single unit dwellings (with a frontage less than 40 feet (12.19 metres))” after “townhouses” so the section reads as follows:

“2.2.1(a) a maximum of 3200 dwelling units of which a maximum number of 2500 may be multiple unit dwellings, inclusive of townhouses, reduced frontage single unit dwellings (with a frontage of less than 40 feet (12.19 metres)) and alternate housing types (Section 2.4.1(c) 2.4.2 and 2.4.3)”

4. Section 2.4.1(a) of the Existing Agreement as amended is further amended by changing 80 percent to 40 percent and to clarify that the required ratio for single unit dwellings does not include reduced frontage single unit dwellings so the section reads as follows:

“2.4.1(a) The following requirements shall apply to a minimum of 40 percent of single unit dwellings lots, exclusive of reduced frontage single unit dwellings (with a frontage of less than 40 feet (12.19 metres)):

5. Section 2.4.1(b) of the Existing Agreement as amended is further amended by changing 20 percent to 60 percent, deleting “except any boulevard or modified urban collector street, and to clarify that the required ratio for single unit dwellings does not include reduced frontage single unit dwellings so the section reads as follows:

“2.4.1(b) Notwithstanding 2.4.1 a maximum of 60 percent of single unit dwellings may be approved subject to the following exclusive of reduced frontage single unit dwellings (with a frontage of less than 40 feet (12.19 metres)):

6. The Existing Agreement as amended is further amended by the following section after section 2.4.1(b)(viii):

“2.4.1(c) Pursuant to Section 2.2.1 reduced frontage single unit dwellings (with a lot frontage of less than 40 feet (12.19 metres)) may be approved subject to the following except where the required lot frontage abuts any boulevard or modified urban collector street:

- | | | |
|-------|---------------------------------|---|
| (i) | Minimum Lot Area: | 3,400 square feet (315.87 square metres) |
| (ii) | Lot Frontage: | 34 feet (10.36 metres) except that for lots with a frontage on the outside curve, a frontage of 30 feet (9.14 metres) shall be permitted, provided that the lot width of 34 feet (10.36 metres) is provided measured at a distance 25 feet (7.62 metres) from the street line (Schedule E) at the centre point of the lot frontage. |
| (iii) | Minimum Front and Flankage Yard | 15 feet (4.57 metres) |
| (iv) | Minimum Side | 8 feet (2.44 metres) on one side, 4 feet (1.22 metres) on the other provided that there is 12 feet (3.66 metres) between each building |

- (v) Minimum Rear Yards 8 feet (2.44 metres)
- (vi) Maximum Lot Coverage 45%
- (vii) Building Height 40 feet (12.19 metres)
- (viii) Required Parking A minimum of 2 spaces per dwelling unit shall be provided. The driveway width shall be subject to the By-law S-300 Street By-law, and shall extend to provide sufficient depth for 2 parking spaces on the lot. A garage shall be considered to provide one parking space.”

7. The Existing Agreement as amended is further amended by adding the following at the end of Section 2.4.2(viii):

“To increase driveway spacing, wherever considered possible by the Development Engineer of the Municipality, driveways for adjacent townhouses on such streets shall be paired. These paired driveways shall include a landscaped strip separating the paired driveways where possible, as determined by the Development Officer.”

WITNESS that this Agreement, made in triplicate, was properly executed by the respective Parties on this _____ day of _____, 20____.

SIGNED, SEALED AND DELIVERED in the presence of:

Witness

Witness

<INSERT REGISTERED OWNER NAME>

Per:_____

Per:_____

=====

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

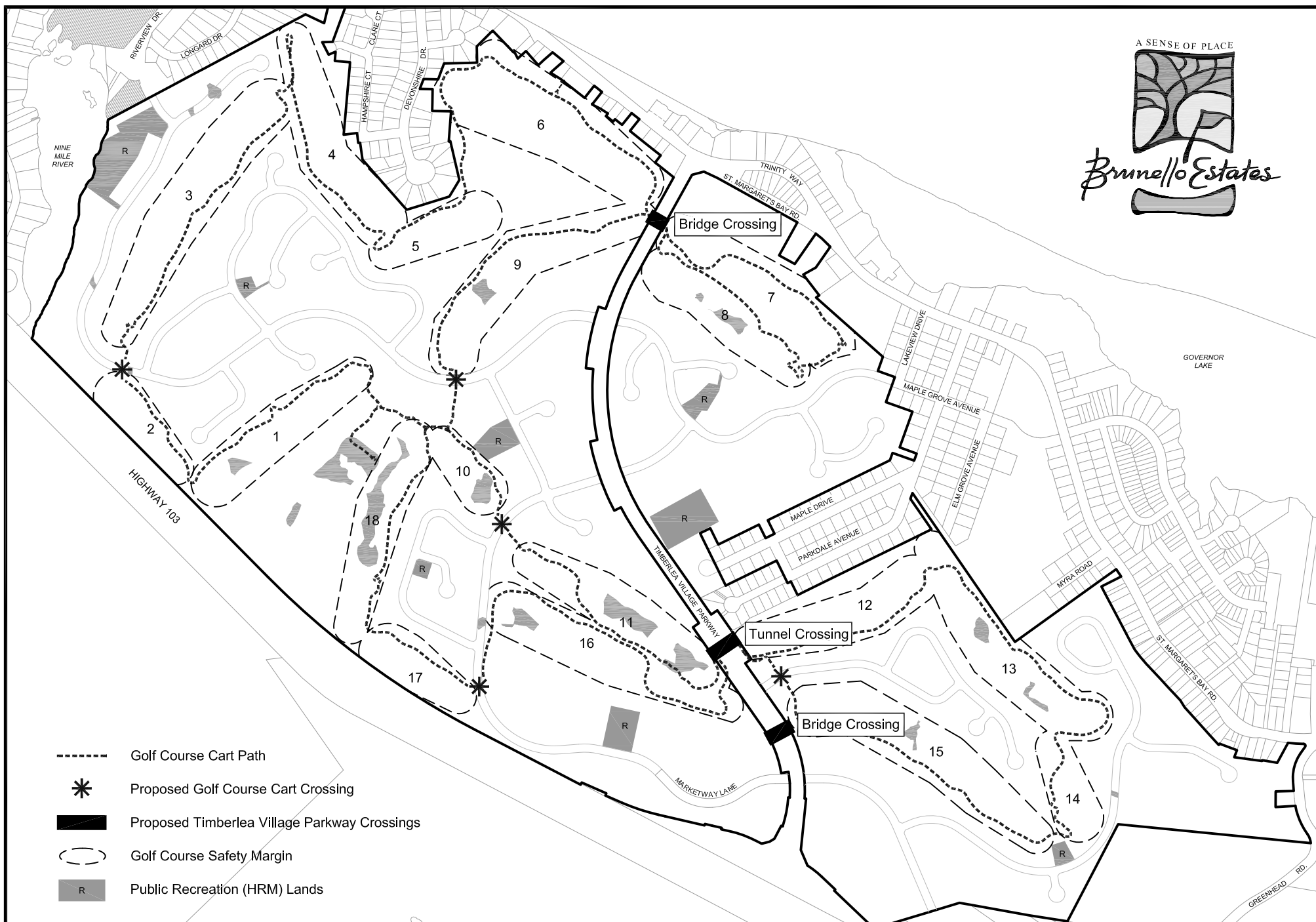
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HALIFAX REGIONAL MUNICIPALITY

Per:_____
Mayor

Per:_____
Municipal Clerk

A SENSE OF PLACE



- Golf Course Cart Path
- * Proposed Golf Course Cart Crossing
- █ Proposed Timberlea Village Parkway Crossings
- Golf Course Safety Margin
- R Public Recreation (HRM) Lands



SCHEDULE B1.C: GOLF COURSE COMMUNITY PLAN
Brunello Estates, Timberlea



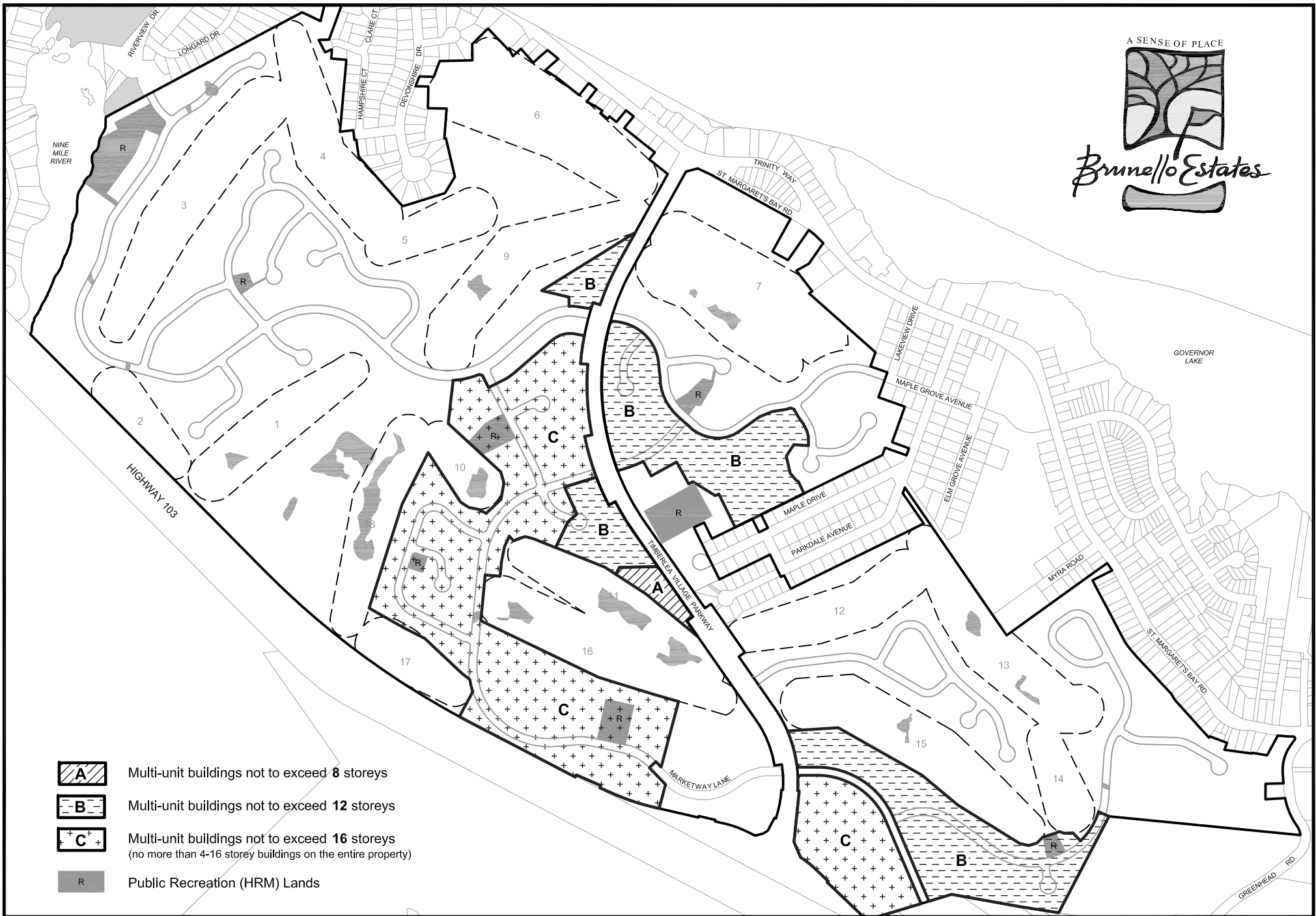
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A SENSE OF PLACE





A SENSE OF PLACE



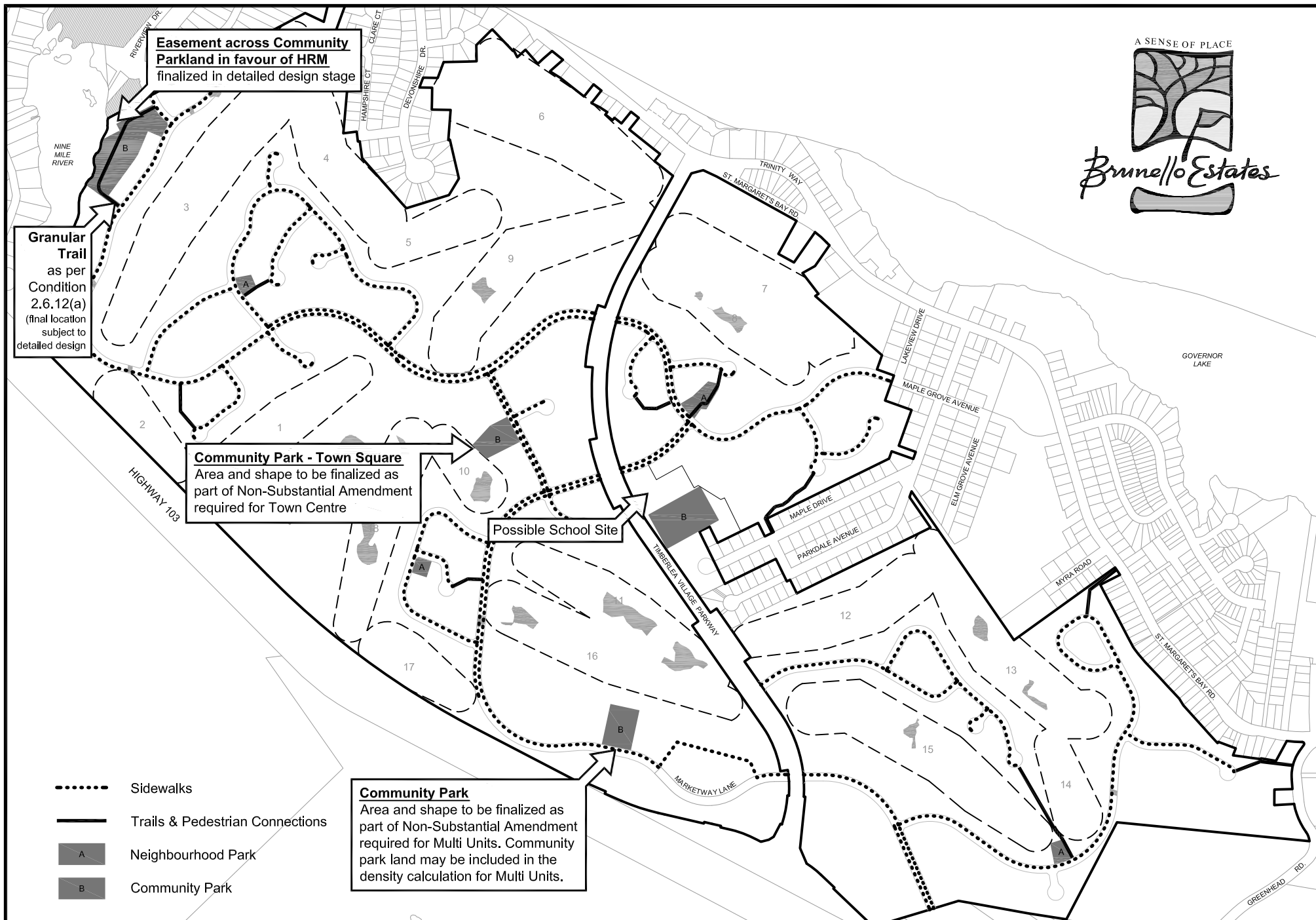
GOVERNOR LAKE



SCHEDULE B3.C: BUILDING HEIGHT AREAS Brunello Estates, Timberlea

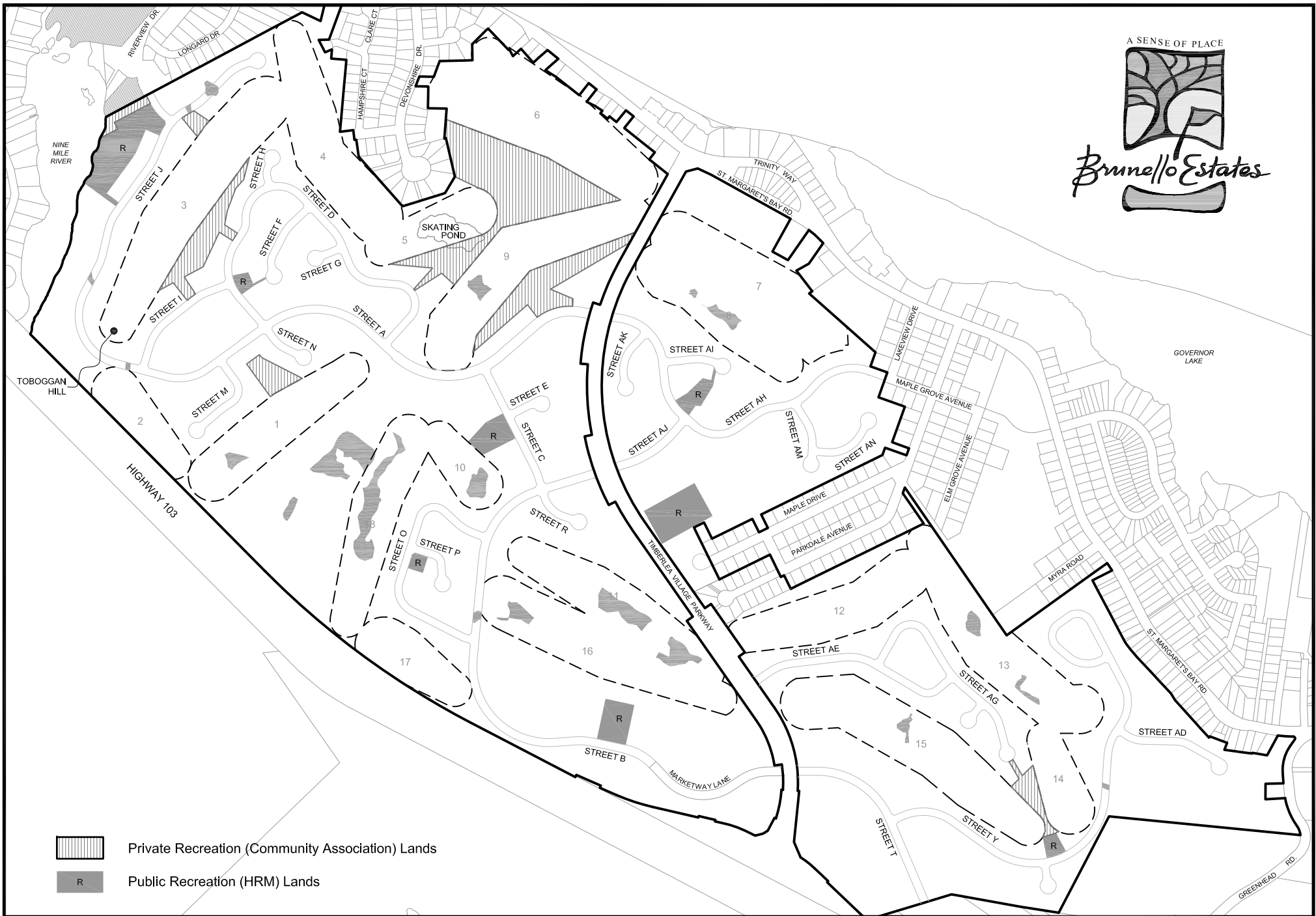


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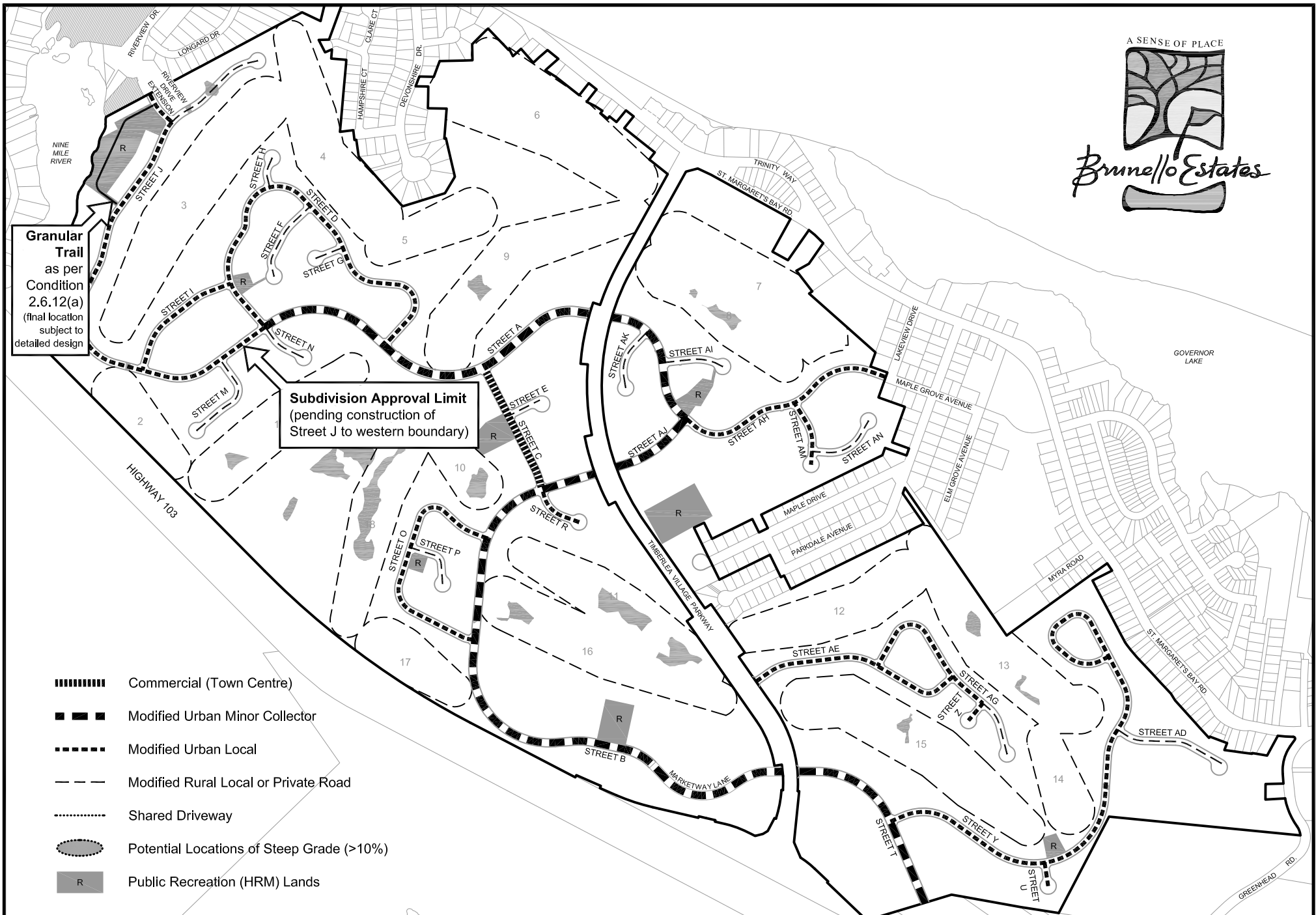
A SENSE OF PLACE





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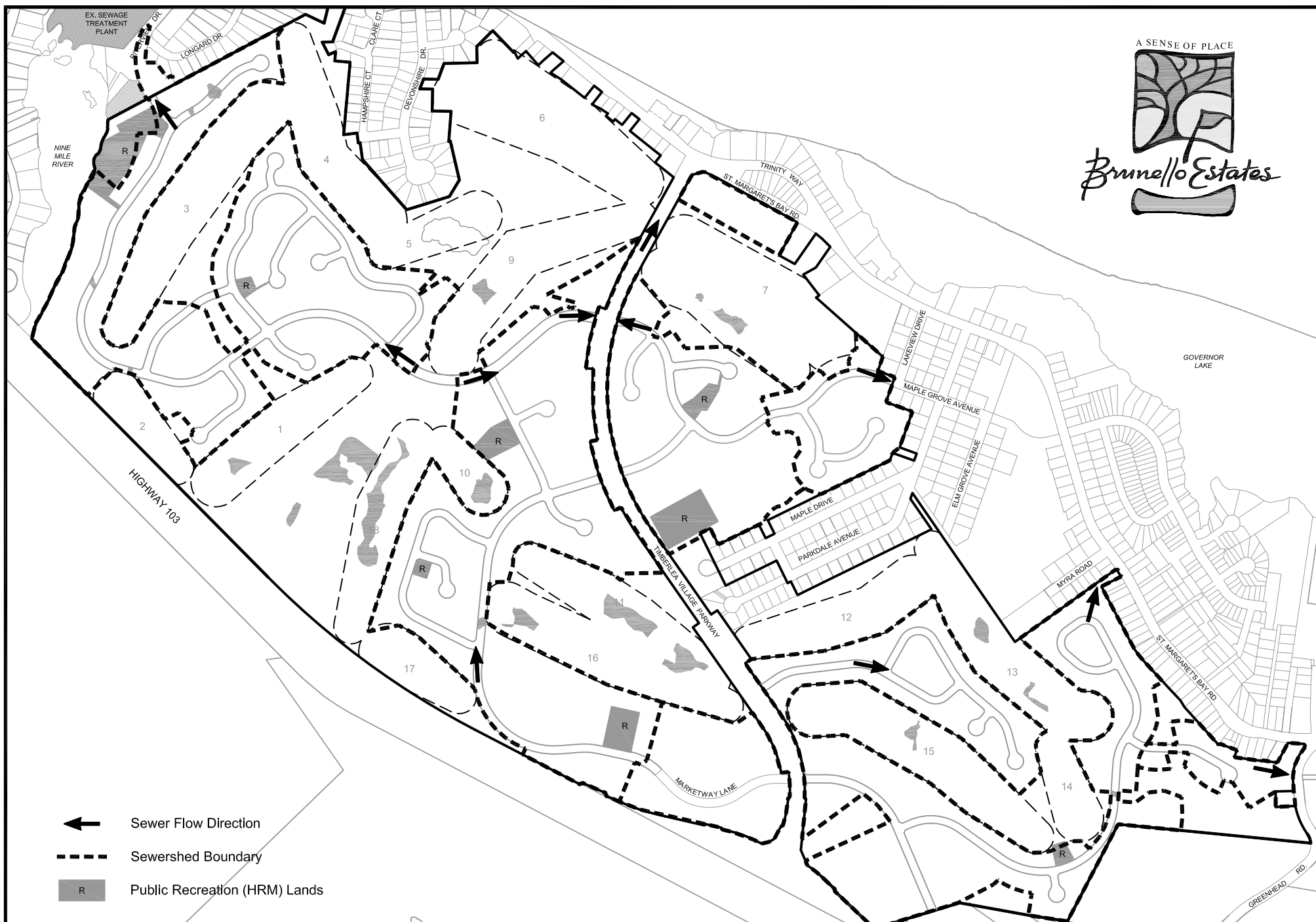


A SENSE OF PLACE





Brunello Estates

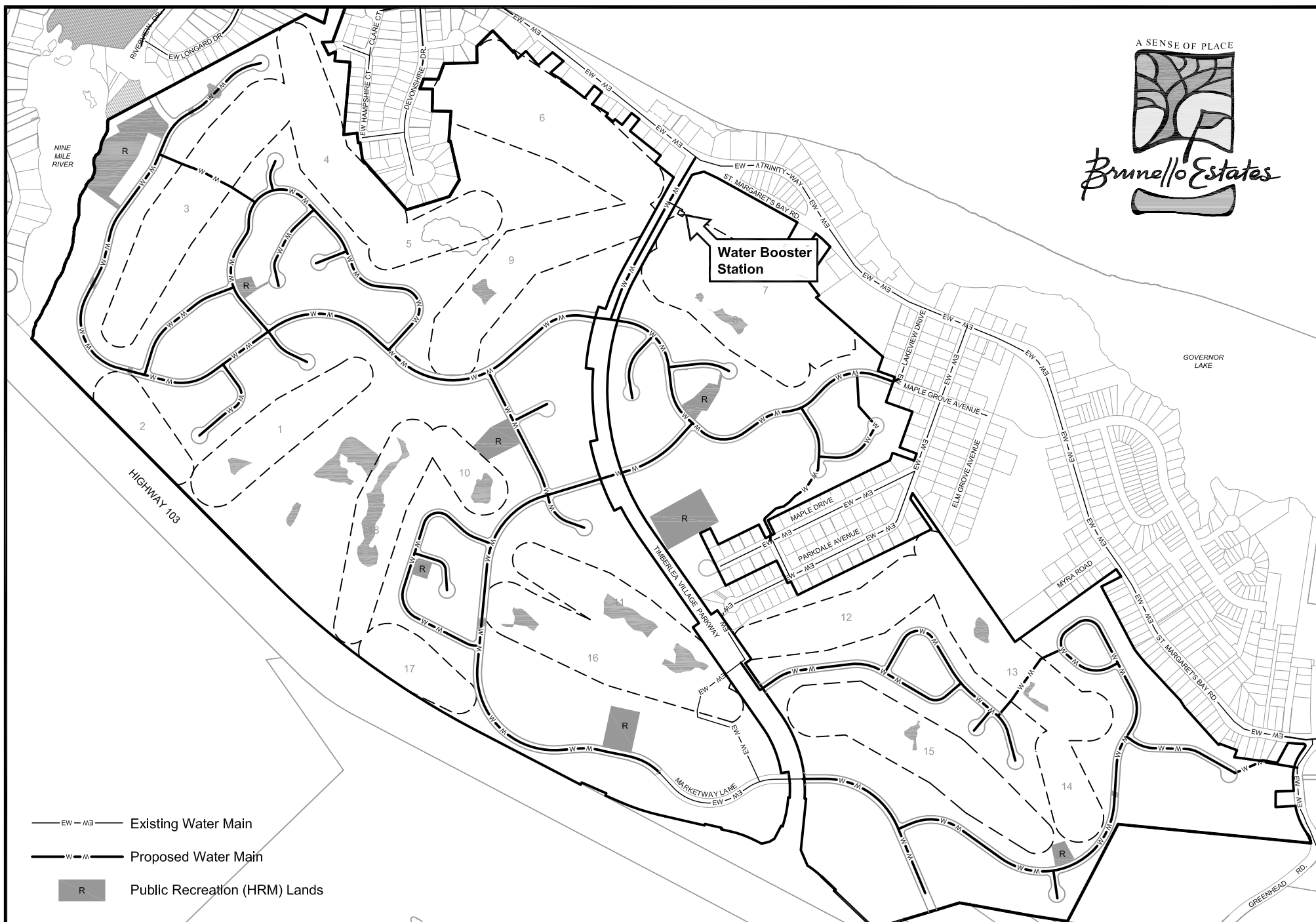


SCHEDULE F1.C: SEWER SERVICING SCHEMATIC
Brunello Estates, Timberlea



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DATE:	18-FEB-2014

A SENSE OF PLACE



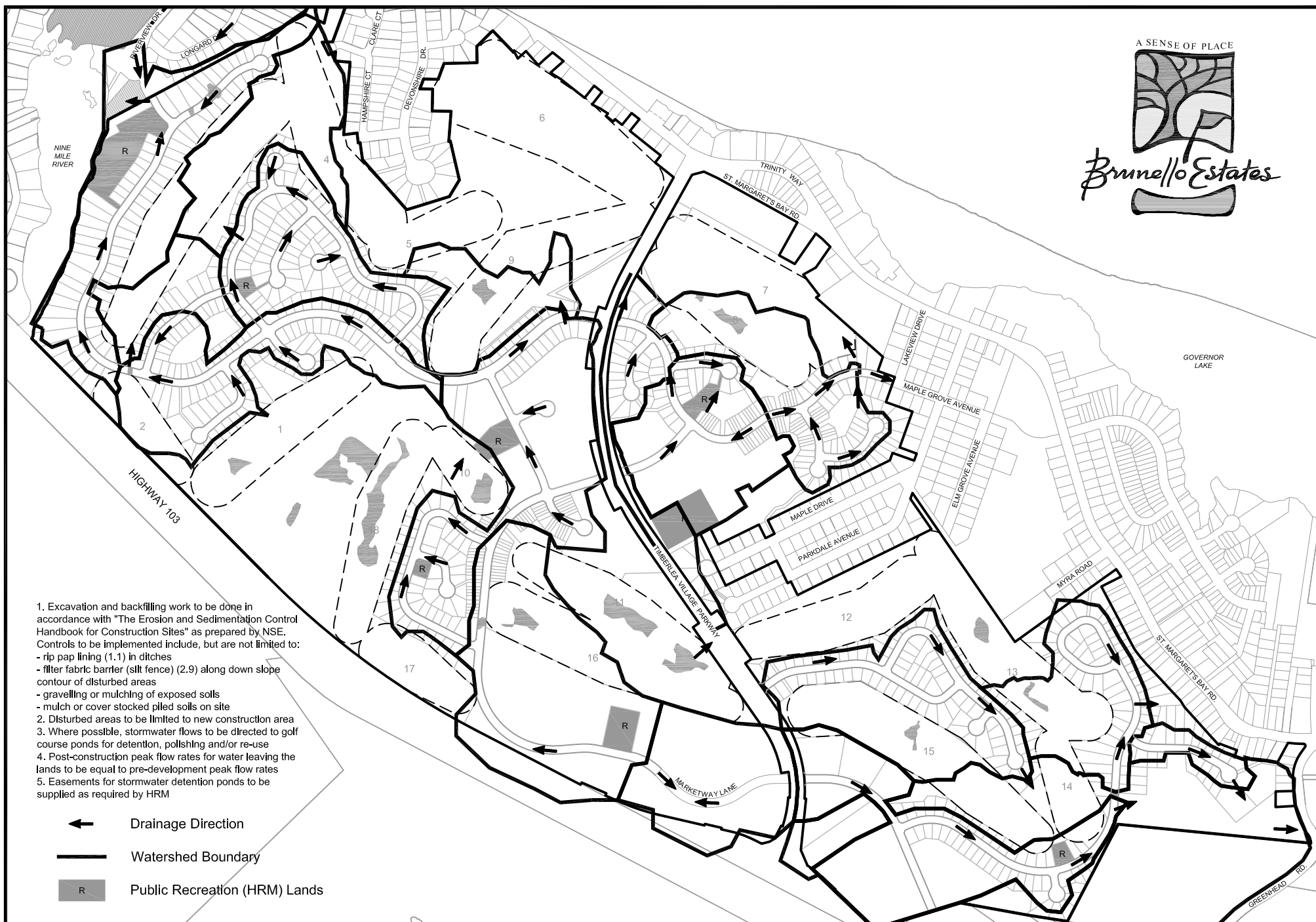
SCHEDULE G1.C: WATER SERVICING SCHEMATIC Brunello Estates, Timberlea






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A SENSE OF PLACE



1. Excavation and backfilling work to be done in accordance with "The Erosion and Sedimentation Control Handbook for Construction Sites" as prepared by NSE. Controls to be implemented include, but are not limited to:
 - rip rap lining (1.1) in ditches
 - filter fabric barrier (silt fence) (2.9) along down slope contour of disturbed areas
 - gravelling or mulching of exposed soils
 - mulch or cover stocked piled soils on site
2. Disturbed areas to be limited to new construction area
3. Where possible, stormwater flows to be directed to golf course ponds for detention, polishing and/or re-use
4. Post-construction peak flow rates for water leaving the lands to be equal to pre-development peak flow rates
5. Easements for stormwater detention ponds to be supplied as required by HRM

-  Drainage Direction
-  Watershed Boundary
-  Public Recreation (HRM) Lands

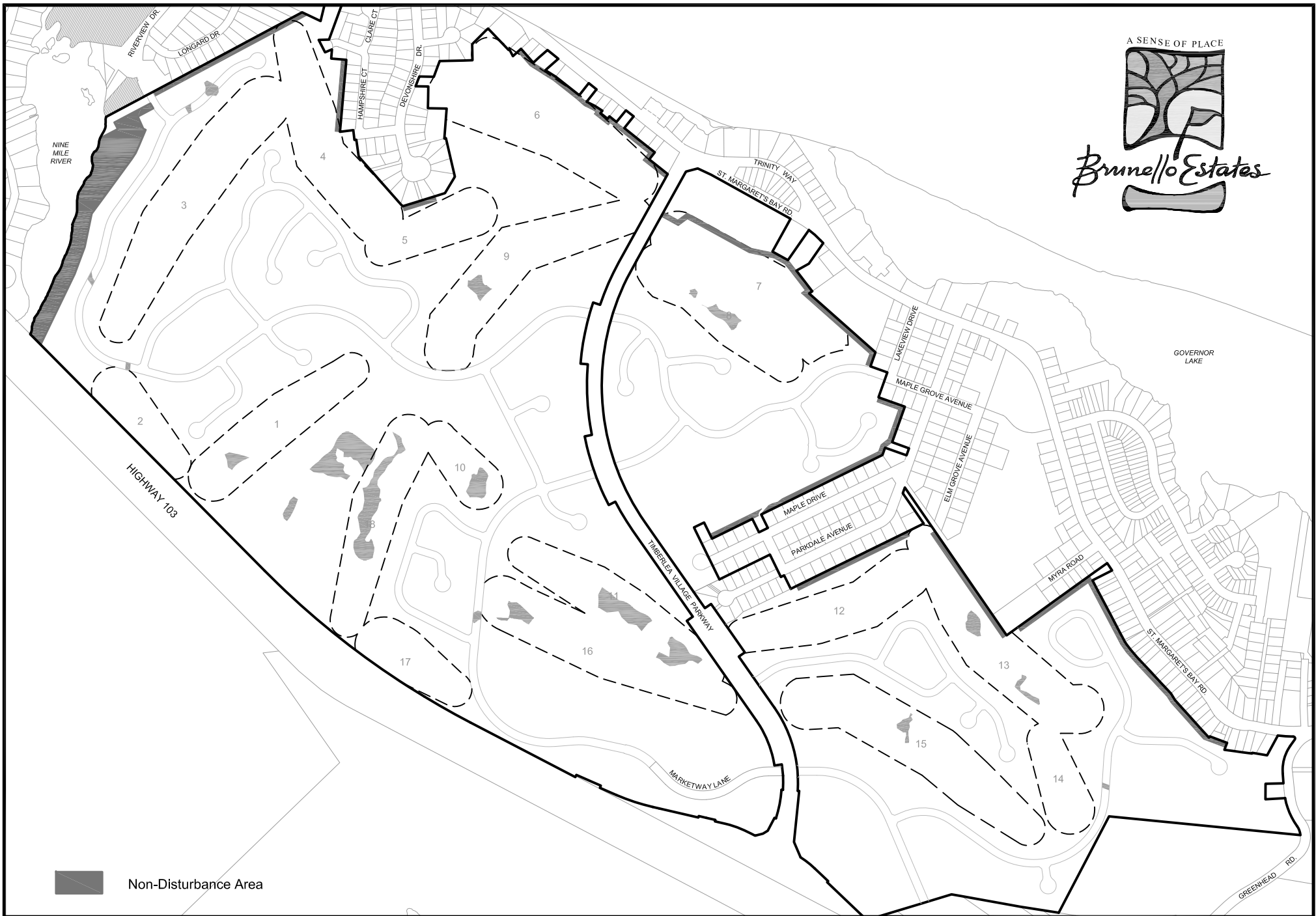


**SCHEDULE H1.C: CONCEPTUAL
STORMWATER MANAGEMENT PLAN**
Brunello Estates, Timberlea



SCALE:
1:10,000 METRIC

DATE:
18-FEB-2014



A SENSE OF PLACE



GENIVAR

SCHEDULE 11.C: MAJOR NON-DISTURBANCE AREAS
 Brunello Estates, Timberlea



SCALE:
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18-FEB-2014