

**Halifax and West Community Council**  
**July 22, 2013**

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

**SUBMITTED BY:** original signed  
\_\_\_\_\_  
Brad Anguish, Director, Community and Recreation Services

**DATE:** July 5, 2013

**SUBJECT:** Case 17826: Substantive Amendment to the existing development agreement for Brunello Estates, Timberlea

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**ORIGIN**

Application by Genivar

**LEGISLATIVE AUTHORITY**

*HRM Charter*; Part VIII, Planning & Development.

**RECOMMENDATION**

It is recommended that Halifax and West Community Council:

1. Give Notice of Motion to consider approval of the 8<sup>th</sup> Amending Agreement, as provided in Attachment A, to alter the Commercial Use classification boundary along Market Way Lane of Brunello Estates and implement housekeeping amendments and to schedule a public hearing;
2. Approve the 8<sup>th</sup> amending agreement, as provided in Attachment A, to alter the Commercial Use boundary along Market Way Lane in Brunello Estates and implement housekeeping amendments; and
3. Require the 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 will be void and obligations arising hereunder shall be at an end.

## **BACKGROUND**

The subject property is located within Brunello Estates (formerly known as Westgate), a residential and golf community approved on December 18, 2001 by the former Western Region Community Council by means of a development agreement. Since that time, there have been several amendments made to the original agreement. The applicant wishes to amend the development agreement to expand the commercial classification area along Market Way Lane to include land which was formally intended for a water tower. To enable this amendment, the applicant has requested a substantial amendment to the development agreement.

In addition to the proposed amendment on the water tower lands, staff is requesting that Council deal with two housekeeping amendments that clarify the schedules regarding land classification boundaries and which commercial uses can be considered through a non-substantial amendment.

### **Location, Designation and Zoning**

The subject property is:

- located within Brunello Estates: a residential and golf community covering approximately 550 acres of land within Timberlea (see Map 1);
- situated on Market Way Lane, in Brunello Estates, near the Timberlea Village Parkway and Highway 103 (see Map 2);
- designated Urban Residential in the Municipal Planning Strategy for Timberlea/Lakeside/Beechville; and
- zoned CDD (Comprehensive Development District) under the Land Use By-law (LUB) for Timberlea/Lakeside/Beechville.

### **Proposal**

The subject property is bound by an existing commercial area to the south (subject to a separate development agreement processed as Case 00238), the Timberlea Village Parkway to the north and east, and the golf course to the west. The applicant wishes to commercially develop the water tower lands subject to the C-2 Zone, as per the LUB, which sets out the types of commercial uses permitted and places controls on the design and layout of new commercial buildings.

### **Commercial (Ca) Classification**

Under the existing development agreement, the commercial (Ca) classification is generally located where Brunello Estates borders St. Margarets Bay Road and Highway 103 interchange. The existing agreement requires that all Ca classified lands along Highway 3, or St. Margarets Bay Road, comply with the C-2 (General Business) Zone of the LUB for Timberlea/Lakeside/Beechville. The existing development agreement is silent regarding the Ca lands near the Highway 103 interchange, as the lands are subject to another development agreement (processed as Case 00238). Attachment B of this staff report includes an excerpt of the existing development agreement regarding commercial uses, and Attachment C includes an excerpt from the LUB for Timberlea/Lakeside/Beechville outlining the requirements of the C-2 Zone.

On April 23, 2001, the former Western Region Community Council approved a development agreement that addresses land use requirements for Ca classified lands adjacent to Highway 103 and residential lands located at the end of Maple Drive and Parkdale Avenue (See Map 3). This agreement (Brunello Commercial Agreement) permits C-2 Zone uses, as per the LUB, on the lands adjacent to Highway 103, except for outdoor display courts (not including garden centres), automotive sales, rental and repair and welding, plumbing and heating, electrical and other special trade contracting services and shops. Site and building design standards are site specific and are subject to the schedules associated with the Brunello Commercial Agreement.

### **Water Tower**

In December 2000, the Nova Scotia Utility and Review Board (NSURAB) approved an interim water infrastructure rate for the high service area within the Lakeside-Timberlea Water Service District. An infrastructure master plan was prepared for the lands which are now under the ownership of Brunello Estates Inc. The master plan included a water tower near the corner of the Timberlea Village Parkway and Marketway Lane among other infrastructure components.

In 2012, it was determined by Halifax Water that the infrastructure master plan was no longer efficient, and engaged Genivar to prepare a revised infrastructure master plan. The revised master plan was approved by the NSURAB on December 12, 2012 and includes a booster station (with phased pump upgrades), an upgrade to the Lakeside Pressure Reducing Valve (PRV), and over sizing of transmission mains from 300mm to 400mm with a second connection back to the Bayers Lake water system. As a result, the reservoir proposed in the original infrastructure master plan is no longer required under the revised master infrastructure plan, leaving the land that was set aside for the water tower as being redundant.

### **Housekeeping Amendments**

During staff's review of this application, two issues were identified with the existing agreements that need to be clarified. The proposed amendments are, in staff's opinion, housekeeping in nature as they deal with:

- 1) a mapping error regarding the commercial use classification boundary south of Market Way Lane (Attachment D); and
- 2) clarification on the type of commercial development that can be considered by non-substantial amendment.

### **DISCUSSION**

Policies UR-27 to UR-34 of the Municipal Planning Strategy for Timberlea/Lakeside/ Beechville allow for the consideration of the mixed use development for the subject lands and it is these policies in which the development agreement for Brunello was adopted. In staff's opinion, the proposed amendment is consistent with the applicable policies of the Timberlea/Lakeside/Beechville MPS. Attachment E provides an evaluation of the proposed amendment against the applicable MPS policies. The following items have been highlighted for further discussion.

### **Expansion of the Commercial Classification Boundary**

The applicant wishes to develop the water tower lands with commercial uses. Policy UR-32 allows for the consideration of the expansion of the commercial area adjacent to exit 2 off Highway 103, subject to the provisions of Policy IM-12 of the MPS. Policy IM-12 is a general evaluation policy for all rezoning and development agreement applications within the plan area. The policy requires Council to consider a number of issues such as the adequacy of municipal services and the ability to minimize land use conflicts.

As the subject area only abuts the Commercial land use classification, it is appropriate that the property be classified commercial. The proposed amendment would create an additional 5,936 square metres of commercial land and increase the total commercial (*Ca*) area to 50,288 square metres along Market Way Lane. Through staff's review of the application, it was determined the proposed increase in commercial area can be adequately serviced by the existing municipal services and infrastructure.

Under the Brunello Commercial Agreement, the design of the proposed development is described in detail. In staff's opinion, detailed design of the development on the water tower lands is not necessary, as setbacks and building massing can be addressed through the provisions of the Land Use By-law and buffering from the golf course use is already required under the existing development agreement for Brunello Estates. However, to provide some consistency with the abutting commercial area, the amending agreement will permit C-2 Zone uses that match those permitted under the Brunello Commercial Agreement.

### **Housekeeping Amendments**

#### *Mapping Error*

When the 6<sup>th</sup> amending agreement was approved by the former Western Region Community Council, on November 9, 2010, it included an alteration to the commercial use classification boundary located to the south of Market Way Lane (see Attachment D). This alteration was in error and staff propose that the error be corrected through this application as shown on the Schedules of the proposed amending agreement (see Attachment A).

#### *Non-Substantial Amendments (Section 3.1(i))*

Section 3.1 of the existing development agreement outlines changes to the development agreement that are considered non-substantive and require only a resolution of Community Council. Section 3.1(i) of the existing development agreement states that development of commercial sites referenced in Section 2.4.8(b) of the development agreement are subject to a non-substantial amendment to the development agreement.

Section 2.4.8(b) of the existing development agreement addresses commercial development along the portions of the subject property classified as *Ca* and *BRa* on St. Margarets Bay Road. This section is broken up into two subsections:

- Section 2.4.8(b)(i) requires commercial development on the area identified as *Ca* to be subject to the C-2 requirements for the Land Use By-law for Timberlea/Lakeside/Beechville.

- Section 2.4.8(b)(ii) requires commercial development in those areas identified as BRa to be subject to a non-substantial amendment to the development agreement and outlines items to be considered (see Attachment B).

Although it is clear through Section 2.4.8(b) that only commercial development on the lands classified as BRa require a non-substantial amendment to the development agreement, Section 3.1(i) of the existing development agreement suggests that a non-substantial amendment is necessary for all commercial development. A non-substantial amendment for commercial development on the Ca lands would simply require a review of the C-2 requirement of the LUB, which would be completed through the development permit review process. As such, the proposed amending agreement includes an amendment to Section 3.1(i) to specify the non-substantial amendment requirement only applies to commercial development on those lands classified as BRa as specified in Section 2.4.8(b)(ii).

### **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 2013/14 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 information posted on the HRM website.

A public hearing has to be held by Council before they can consider approval of the proposed development agreement. Should Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area, as shown on Map 1, will be notified of the hearing by regular mail.

### **ENVIRONMENTAL IMPLICATIONS**

The proposal meets all applicable environmental policies contained in the Timberlea/Lakeside/Beechville MPS. No additional items have been identified.

### **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. A decision of Council to approve this amending agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
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 existing Development Agreement and the MPS. 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**


Map 1	Location of Brunello Estates
Map 2	Location of Proposed Amendment
Map 3	Location of the Lands Subject to the Development Agreement for Case 00238
Attachment A	Proposed 8 <sup>th</sup> Amending Agreement
Attachment B	Section 2.4.8 of Existing Development Agreement
Attachment C	C-2 (General Business) Zone of the Land Use By-law for Timberlea/Lakside/Beechville
Attachment D	Schedule B.2.A of 6 <sup>th</sup> Amending Agreement
Attachment E	Policy Review

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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 I, Development Approvals, 490-4423

original signed 

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


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## Map 1 - Location


Brunello Estates  
Timberlea

 Area under development agreement

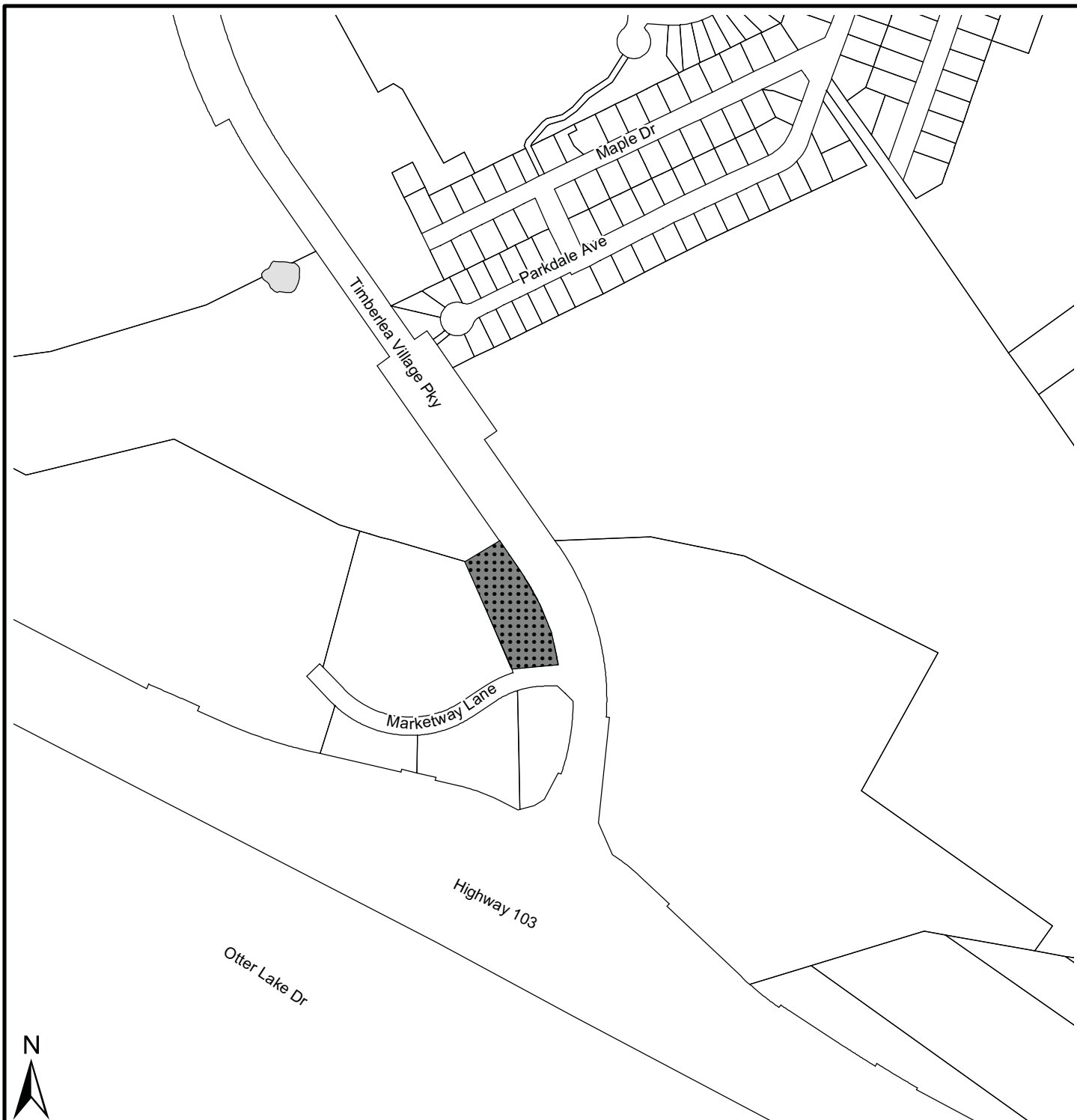
 Area of notification

Timberlea/Lakeside/Beechville  
Plan Area

**HALIFAX**  
REGIONAL MUNICIPALITY  
DEVELOPMENT APPROVALS

0 100 200 300 m  


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



## Map 2 - Location of Proposed Amendment

Brunello Estates  
Timberlea



Subject Area

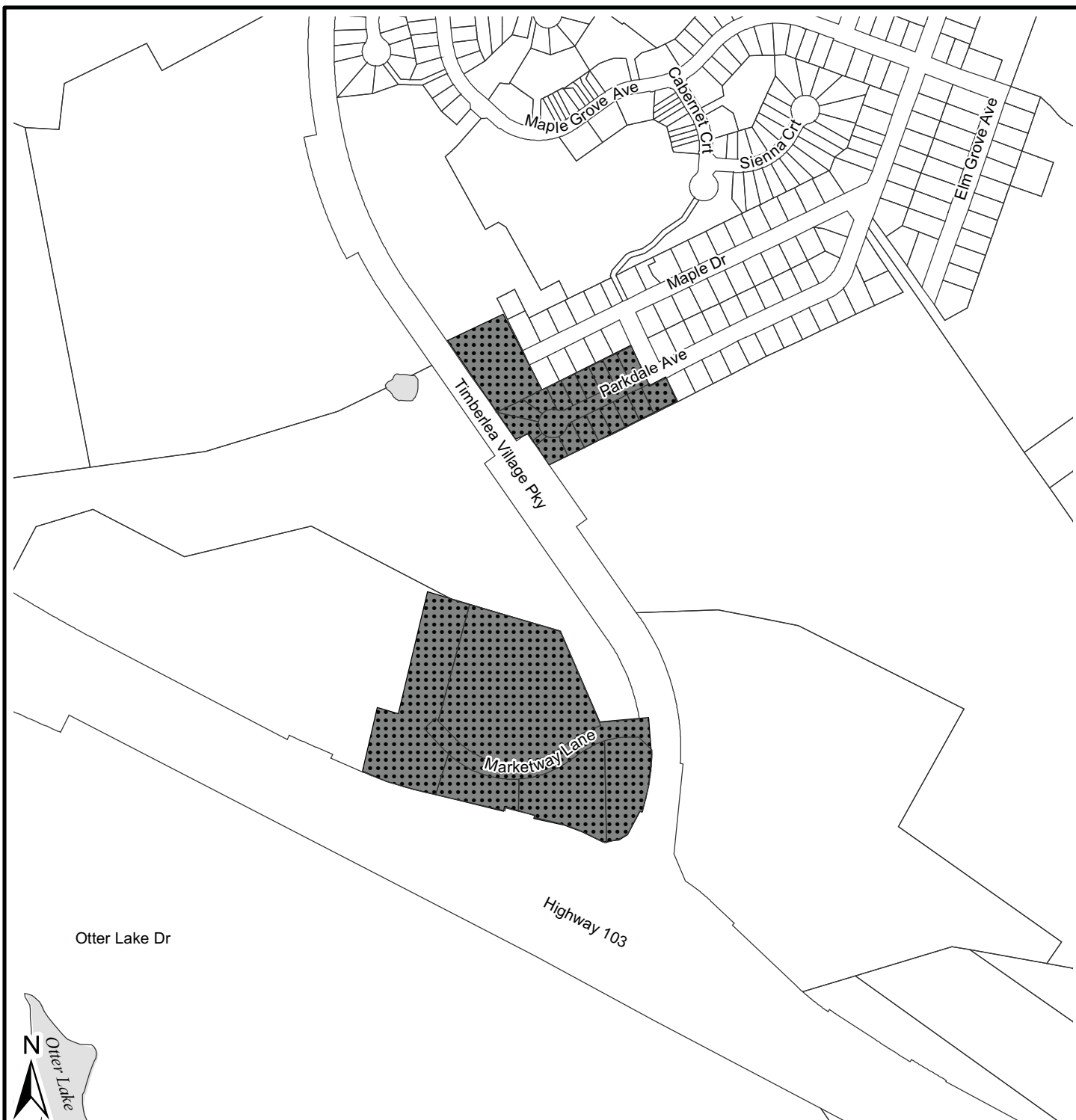
Timberlea/Lakeside/Beechville  
Plan Area

**HALIFAX**  
REGIONAL MUNICIPALITY  
DEVELOPMENT APPROVALS

0 100 m

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





### Map 3 - Location of Lands Subject to the Development Agreement for Case 00238

Brunello Estates  
Timberlea

 Area under development agreement

Timberlea/Lakeside/Beechville  
Plan Area

**HALIFAX**  
REGIONAL MUNICIPALITY  
DEVELOPMENT APPROVALS

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

## **Attachment A – Proposed 8<sup>th</sup> Amending Development Agreement**

THIS 8<sup>th</sup> 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, 2011 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 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 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 Document Number 100119404 (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 Developer has requested further amendments to the Existing Agreement and Amending Agreements to alter the Commercial Use boundary along Market Way Lane and housekeeping amendments;

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 17826;

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.A: Golf Course Community Plan" and replacing it with "Schedule B1.B: Golf Course Community Plan";
  - (b) deleting "Schedule B2.A: Community Concept Plan" and replacing it with "Schedule B2.B: Community Concept Plan";
  - (c) deleting "Schedule B3.A: Building Height Areas" and replacing it with

- “Schedule B3.B: Building Height Areas”;
  - (d) deleting “Schedule C1: Public Recreation Facilities” and replacing it with “Schedule C1.B: Public Recreation Facilities”;
  - (e) deleting “Schedule C2: Private Recreation Facilities” and replacing it with “Schedule C2.B: Private Recreation Facilities”;
  - (f) deleting “Schedule D1: Road Hierarchy” and replacing it with “Schedule D1.B: Road Hierarchy”;
  - (g) deleting “Schedule F.1: Sewer Servicing Schematic” and replacing it with “Schedule F1.B: Sewer Servicing Schematic”;
  - (h) deleting “Schedule G.1: Water Servicing Schematic” and replacing it with “Schedule G1.B: Water Servicing Schematic”;
  - (i) deleting “Schedule H1.1: Conceptual Storm Water Management Plan” and replacing it with “Schedule H1.B: Conceptual Storm Water Management Plan”;
  - and
  - (j) deleting “Schedule I.1: Major Non Disturbance Areas” and replacing it with “Schedule I1.B: Major Non-Disturbance Areas”.
- 2. The Existing Agreement as amended is further amended by:
  - (a) deleting all references to “Schedule B1.A” and replacing it with “Schedule B1.B”;
  - (b) deleting all references to “Schedule B2.A” and replacing it with “Schedule B2.B”;
  - (c) deleting all references to “Schedule B3.A” and replacing it with “Schedule B3.B”;
  - (d) deleting all references to “Schedule C1” and replacing it with “Schedule C1.B”;
  - (e) deleting all references to “Schedule C2” and replacing it with “Schedule C2.B”;
  - (f) deleting all references to “Schedule D1” and replacing it with “Schedule D1.B”;
  - (g) deleting all references to “Schedule F1” and replacing it with “Schedule F1.B”;
  - (h) deleting all references to “Schedule G1” and replacing it with “Schedule G1.B”;
  - (i) deleting all references to “Schedule H1.1” and replacing it with “Schedule H1.B”;
  - and
  - (j) deleting all references to “Schedule I.1” and “Schedule R” and replacing it with “Schedule I1.B”.
- 3. The Existing Agreement as amended is further amended by adding the following after Section 2.4.8 (a)(ii):
  - “2.4.8 (a)(iii) Commercial development in those areas identified as Ca2 shall be subject to the C-2 Zone of the Land Use By-law for Timberlea/ Beechville/ Lakeside.**
  - 2.4.8 (a)(iv) Notwithstanding sub-section 2.4.8(a)(iii) the following uses shall not be permitted in those areas identified as Ca2:**
    - (1) Outdoor Display Courts;**
    - (2) Automotive sales, rental and repair; and**
    - (3) Welding, plumbing and heating, electrical and other special trade contracting services and shops.**

**2.4.8(a)(v) Notwithstanding sub-section 2.4.8(a)(iv) Outdoor Garden Centers are a permitted use.”**

4. Deleting Section 3.1(i) of the Existing Agreement, as amended, and replacing it with a new section as follows:

**“3.1(i) development of commercial sites referenced in 2.4.8 (b)(ii)”**

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:

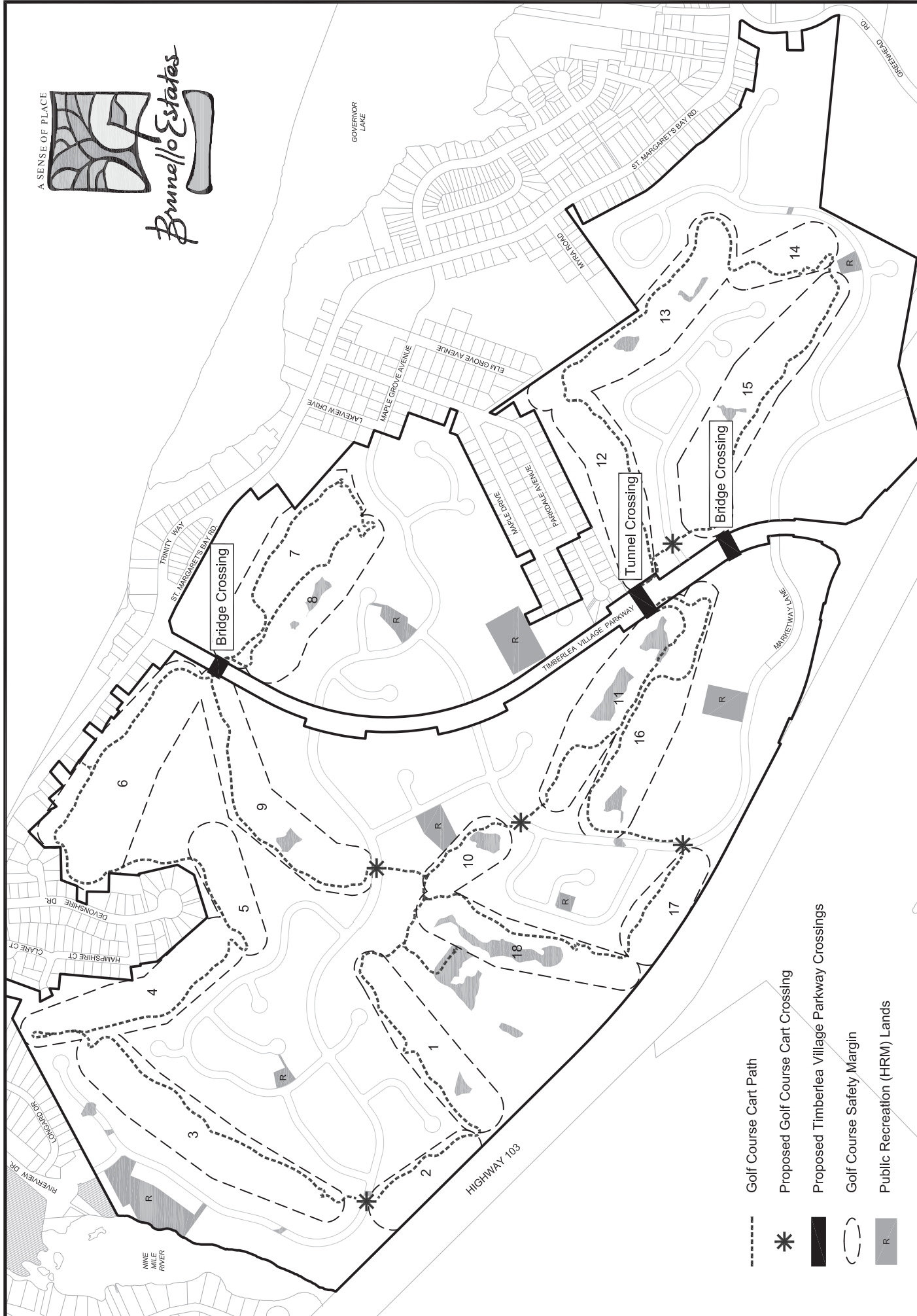
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**HALIFAX REGIONAL MUNICIPALITY**

Per: \_\_\_\_\_  
Mayor

Per: \_\_\_\_\_  
Municipal Clerk



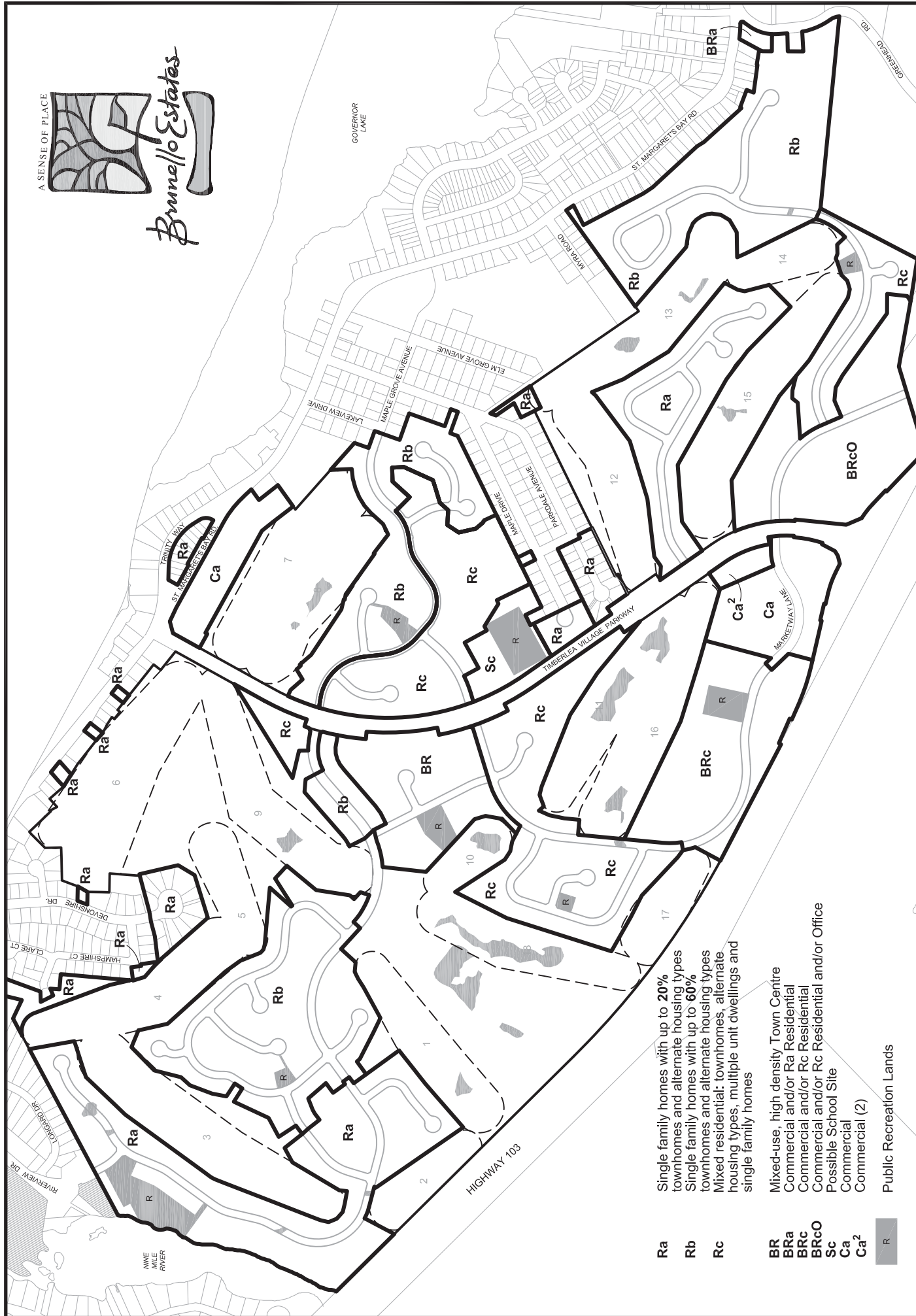
- Golf Course Cart Path
- \* Proposed Golf Course Cart Crossing
- █ Proposed Timberlea Village Parkway Crossings
- - - Golf Course Safety Margin
- R Public Recreation (HRM) Lands



SCALE: 1:10,000 METRIC  
DATE: 22-MAY-2013

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





- Ra** Single family homes with up to 20% townhomes and alternate housing types
- Rb** Single family homes with up to 60% townhomes and alternate housing types
- Rc** Mixed residential: townhomes, alternate housing types, multiple unit dwellings and single family homes
- BR** Mixed-use, high density Town Centre
- BRa** Commercial and/or Ra Residential
- BRc** Commercial and/or Rc Residential
- BRcO** Commercial and/or Rc Residential and/or Office
- Sc** Possible School Site
- Ca** Commercial
- Ca<sup>2</sup>** Commercial (2)
- R** Public Recreation Lands

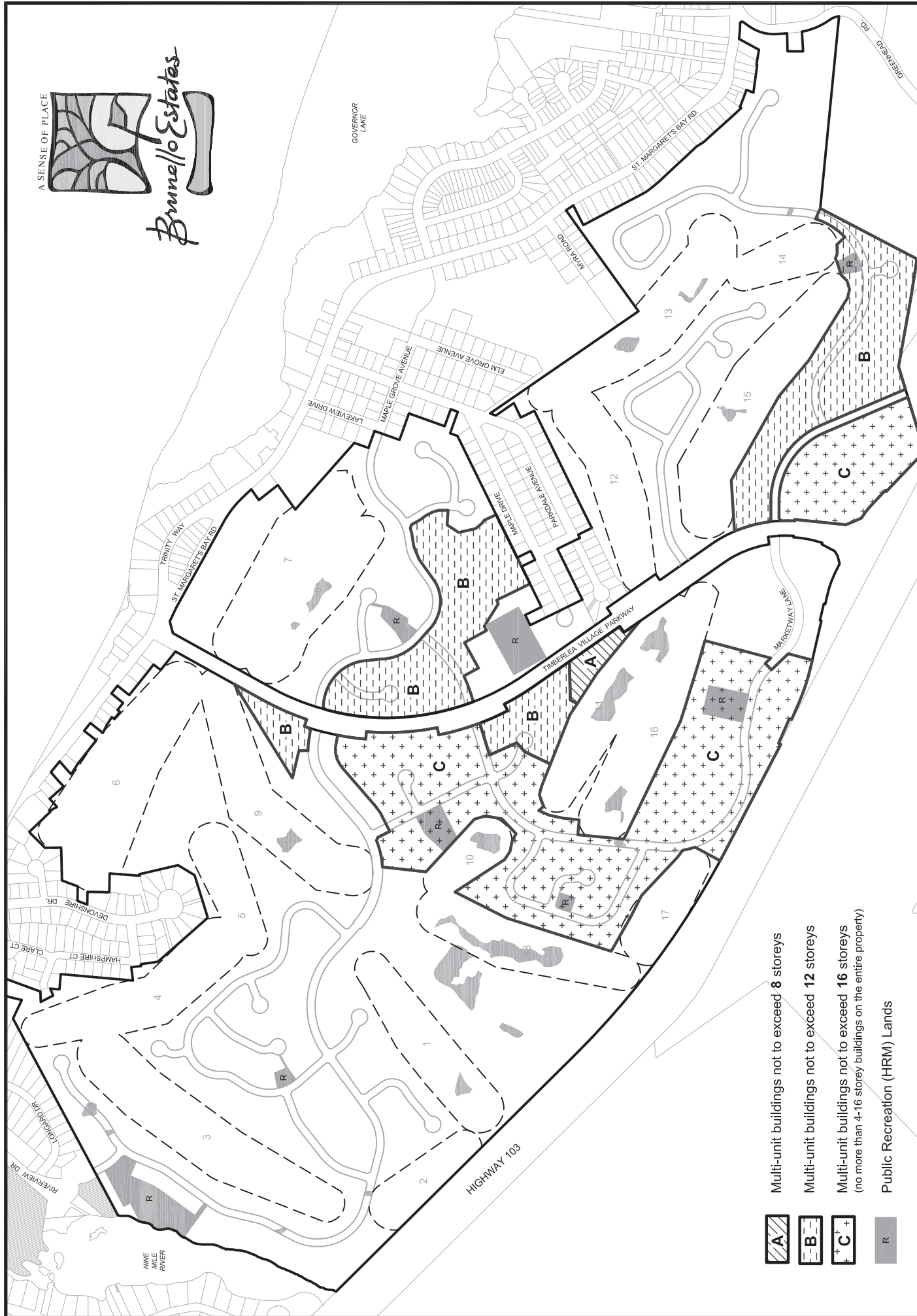






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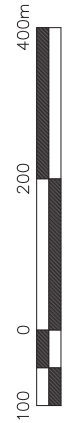
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## SCHEDULE B2.B: COMMUNITY CONCEPT PLAN

Brunello Estates, Timberlea

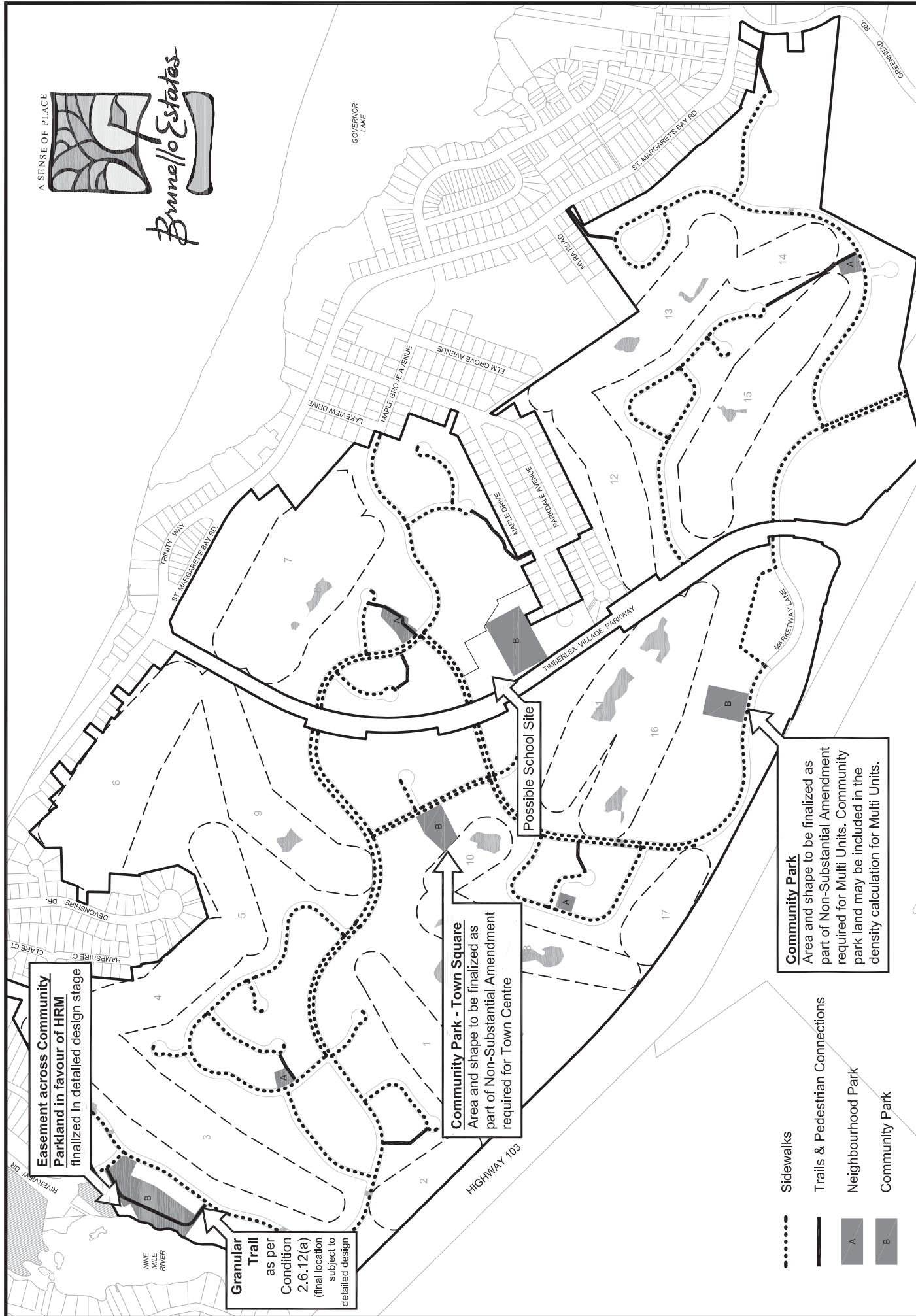


-  Multi-unit buildings not to exceed **8** storeys
-  Multi-unit buildings not to exceed **12** storeys
-  Multi-unit buildings not to exceed **16** storeys  
(no more than 4-16 storey buildings on the entire property)
-  Public Recreation (HRM) Lands



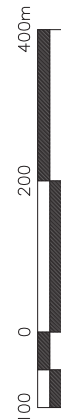
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DATE: 22-MAY-2013

**SCHEDULE B3.B: BUILDING HEIGHT AREAS**  
Brunello Estates, Timberlea

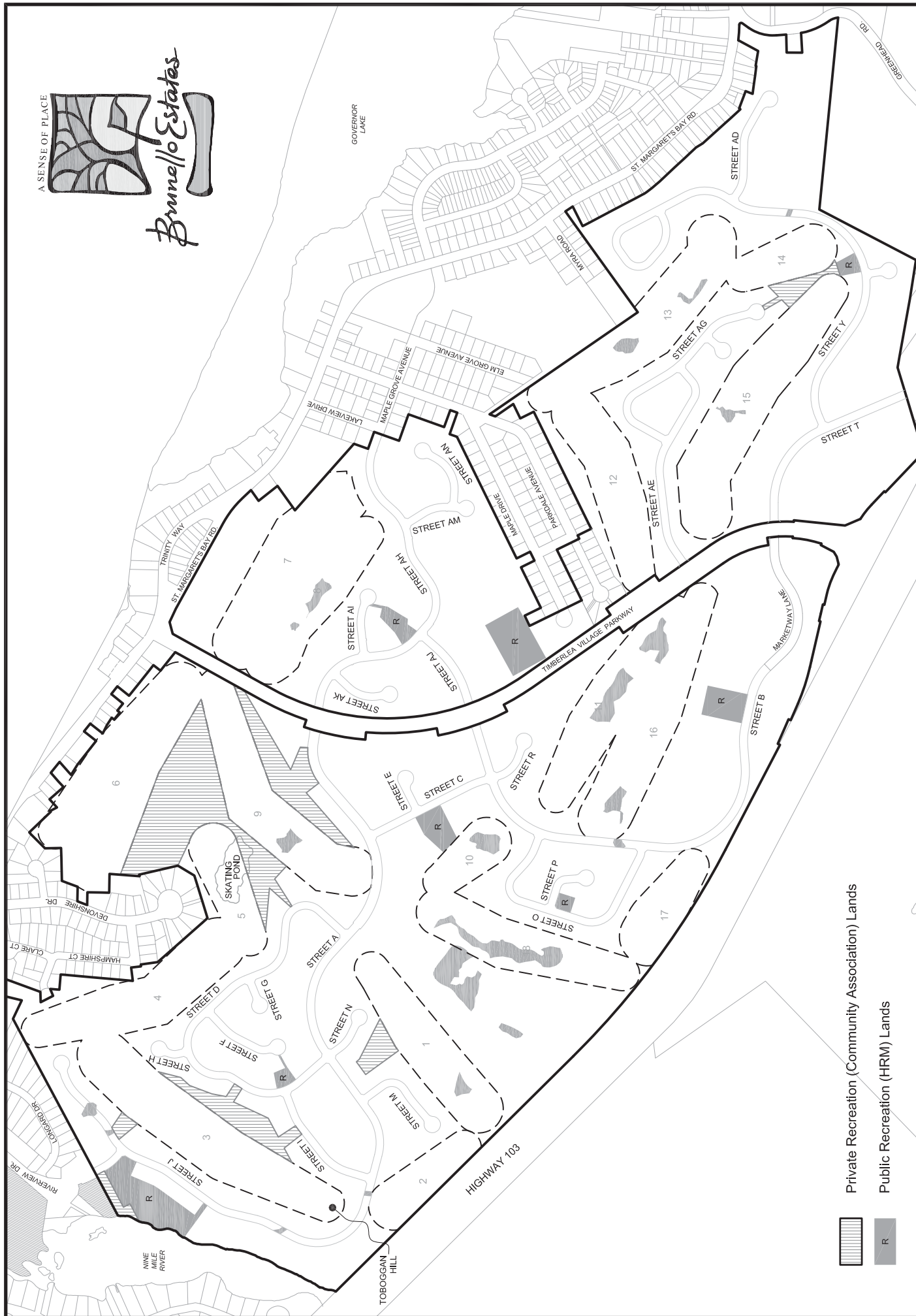


**SCHEDULE C1.B: PUBLIC RECREATION FACILITIES**  
Brunello Estates, Timberlea

SCALE: 1:10,000 METRIC  
DATE: 22-MAY-2013

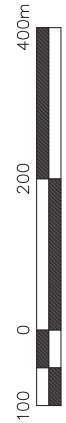






Private Recreation (Community Association) Lands

R Public Recreation (HRM) Lands



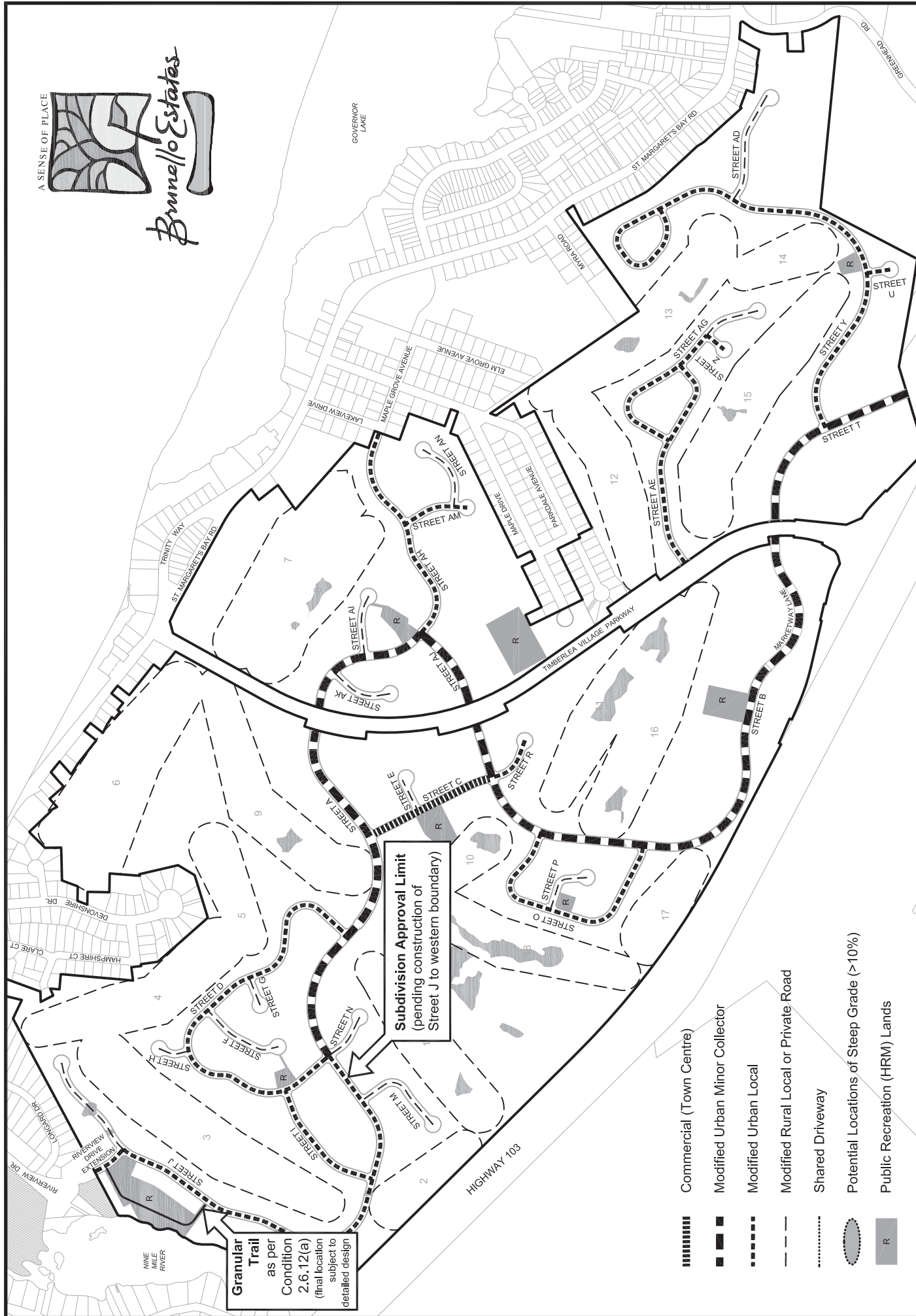
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DATE: 22-MAY-2013

SCHEDULE C2.B: PRIVATE RECREATION FACILITIES








Brunello Estates, Timberlea





**Granular Trail**  
Trail  
as per  
Condition  
2.6.12(a)  
(final location  
subject to  
detailed design)

**Subdivision Approval Limit**  
(pending construction of  
Street J to western boundary)

-  Commercial (Town Centre)
-  Modified Urban Minor Collector
-  Modified Urban Local
-  Modified Rural Local or Private Road
-  Shared Driveway
-  Potential Locations of Steep Grade (>10%)
-  Public Recreation (HRM) Lands



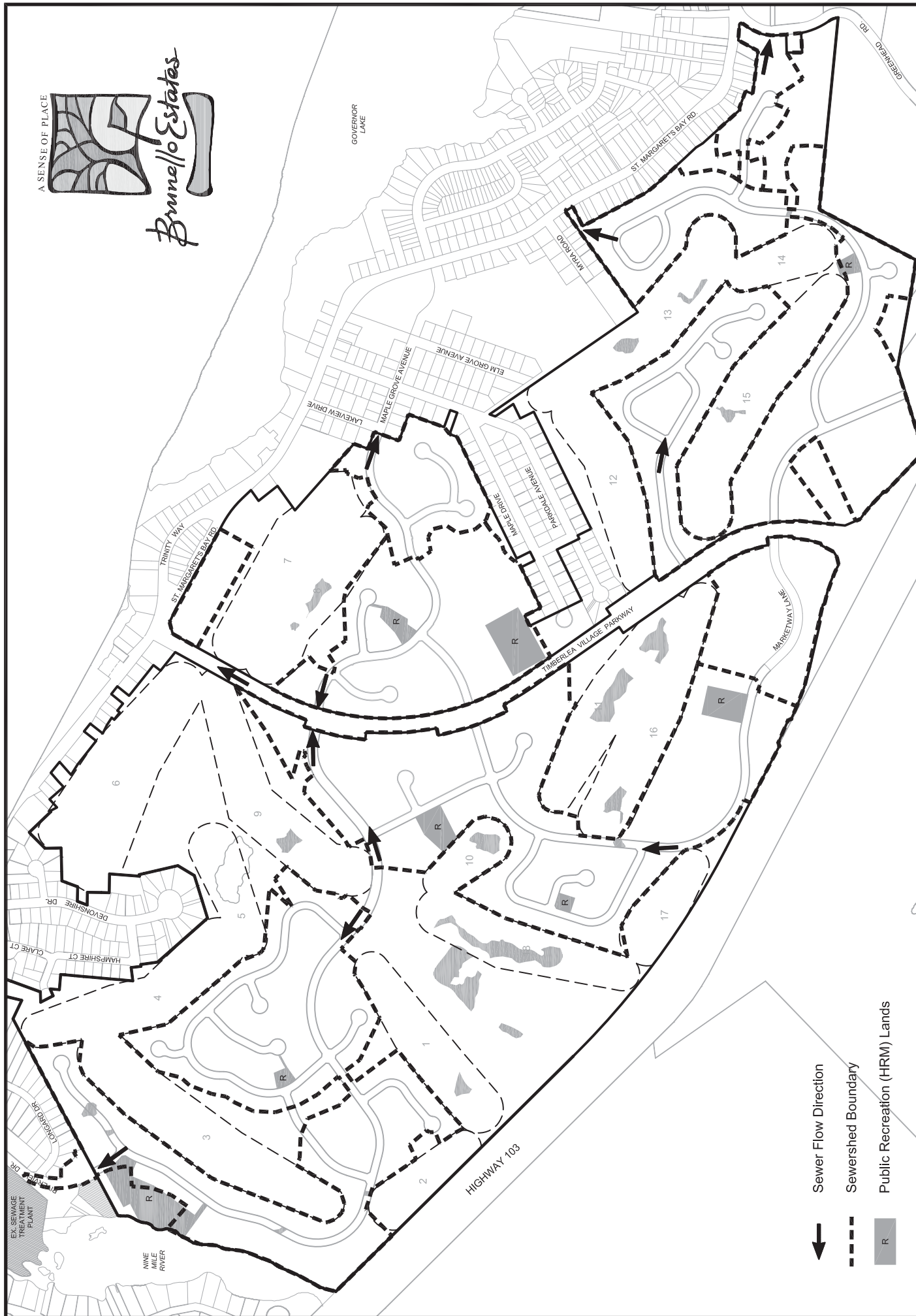
**SCHEDULE D1.B: ROAD HIERARCHY**  
Brunello Estates, Timberlea


SCALE: 1:10,000 METRIC

DATE: 22-MAY-2013







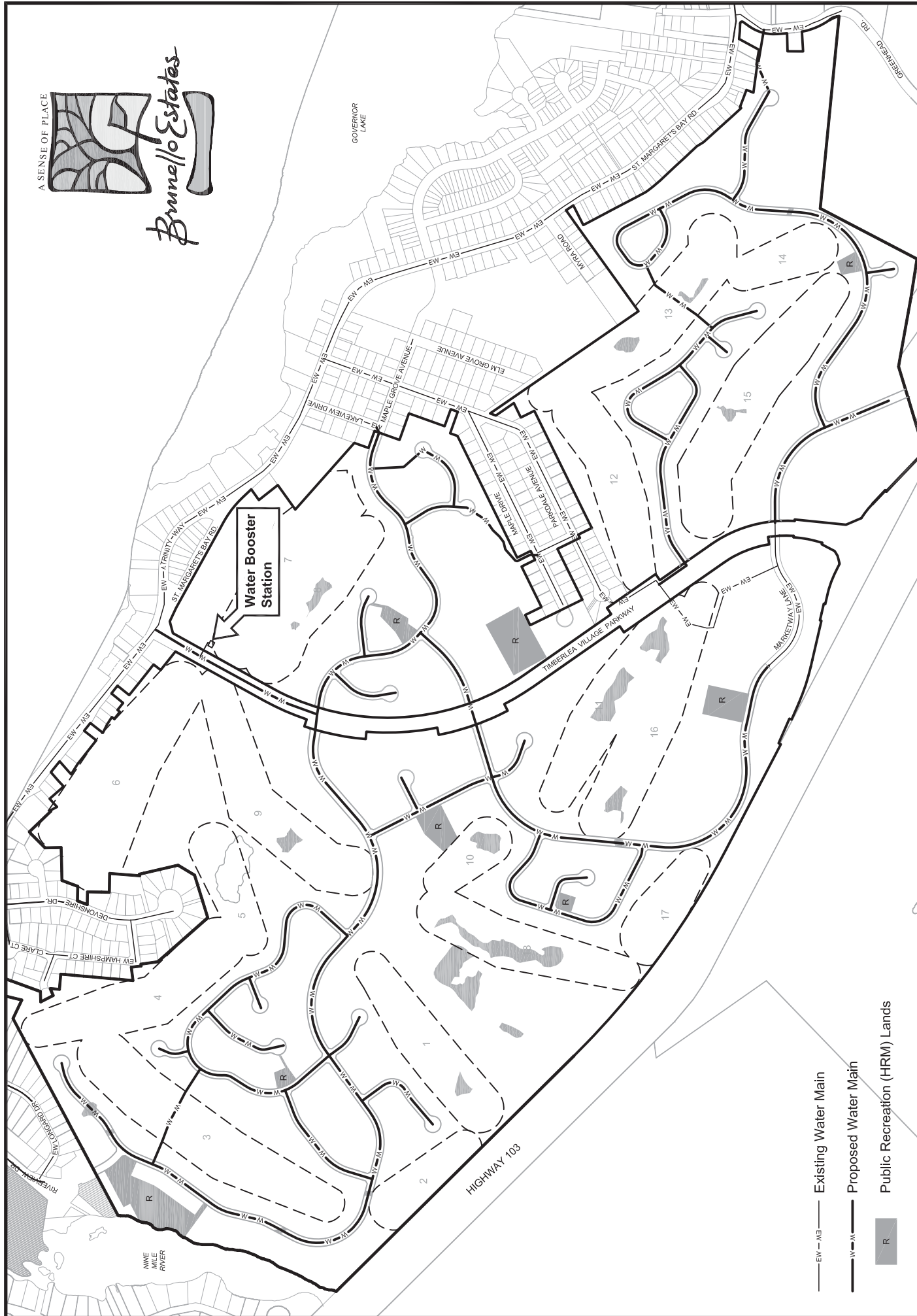
-  Sewer Flow Direction
-  Sewershed Boundary
-  Public Recreation (HRM) Lands



SCALE: 1:10,000 METRIC  
DATE: 22-MAY-2013

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



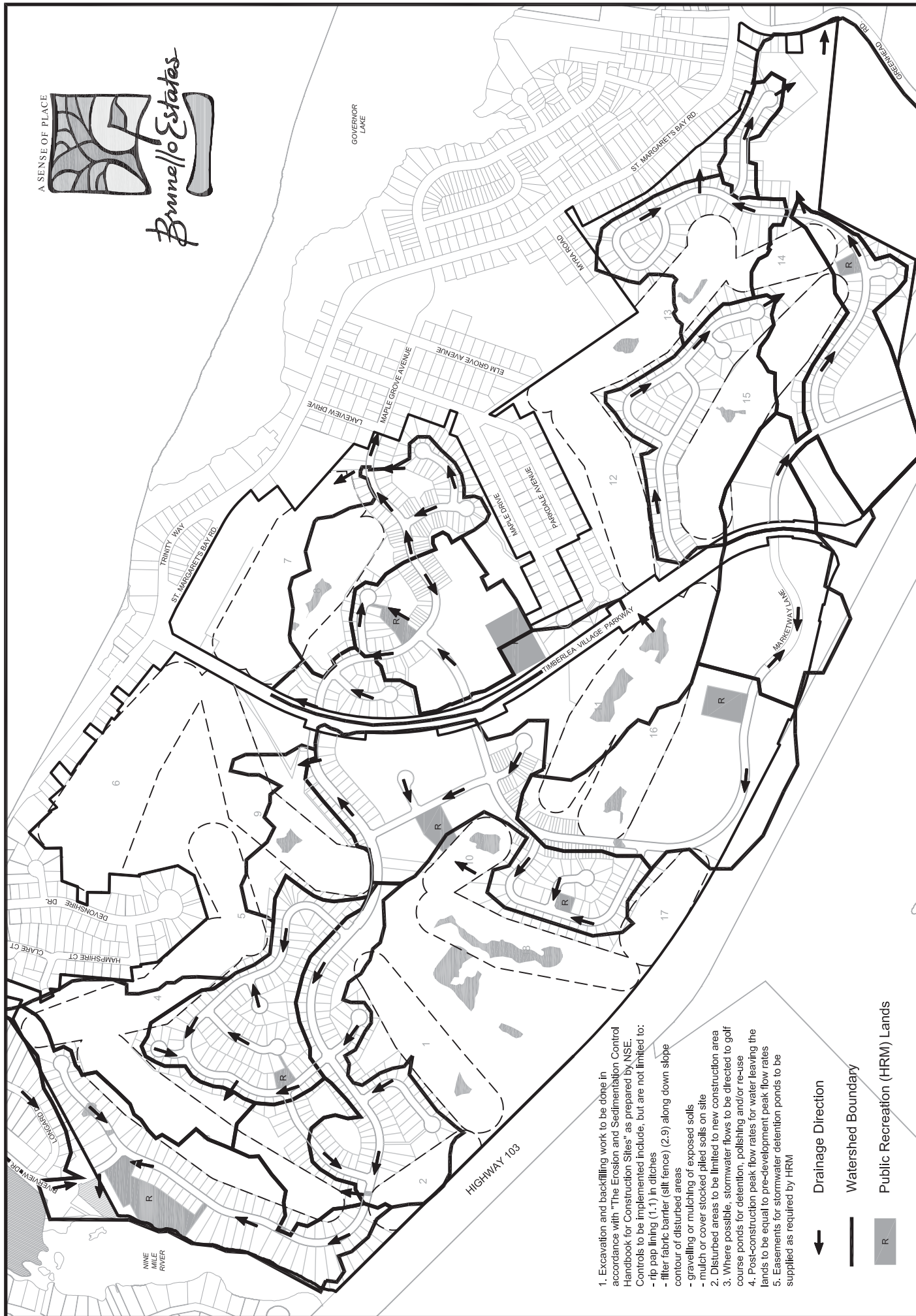


- EW - M3 Existing Water Main
- W - M Proposed Water Main
- R Public Recreation (HRM) Lands

SCALE: 1:10,000 METRIC  
DATE: 22-MAY-2013

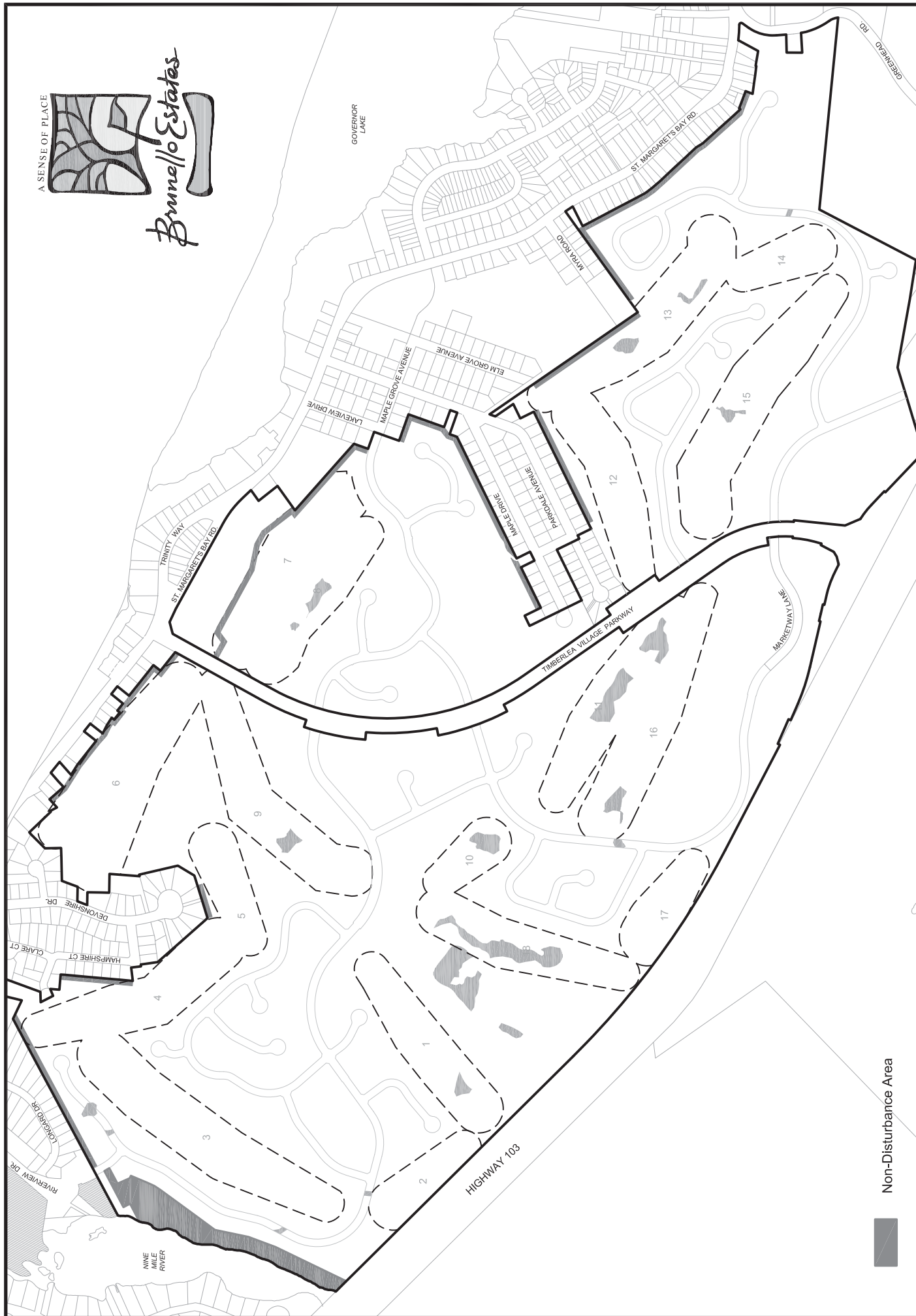


**SCHEDULE G1.B: WATER SERVICING SCHEMATIC**  
Brunello Estates, Timberlea



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:
  - tip cap lining (1:1) in ditches
  - filter fabric barrier (silt fence) (2:9) along down slope contour of disturbed areas
  - graveling 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
- R Public Recreation (HRM) Lands



Non-Disturbance Area

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



SCALE: 1:10,000 METRIC  
DATE: 22-MAY-2013



**Case 17826**  
**Attachment B – Section 2.4.8 of Existing Development Agreement**

**2.4.8 Commercial areas**

- (a) The Developer and the Municipality agree that commercial development may be located as generally and conceptually shown in the areas identified as "BRc" and "BRcO" near Highway 103 on Schedule B2, and subject to the following guidelines being addressed on detailed plans which shall be subject to approval under clause (ii) of this section.
- (i) Design Criteria: Development of the commercial area for general commercial, retail, institutional, office and service uses may be considered following completion of a detailed design which addresses:
- building height and lot coverage
  - architecture and signs
  - landscaping
  - provisions for traffic, transit, and parking
  - pedestrian and bicycle flows and access
  - land use
  - storm water management
  - separation from nearby residential uses not on the Lands,
  - public safety,
  - lot servicing,
  - lot access.
- (ii) Approval: The approval of development within the commercial area shall be contingent on review of detailed plans which address the criteria of this section, and approval of an amending development Agreement by minor amendment pursuant to Section 3.1 (e).
- (b) Commercial development shall be permitted in those areas identified as "Ca" and "BRa" on Highway 3 (Schedule B2):
- (i) Development on those lands located at the intersection of Timberlea Village Parkway and Highway 3 shall be subject to the requirements of the C-2 Zone under the Land Use Bylaw for Timberlea/Lakeside/Beechville
- (ii) Notwithstanding 2.4.8 (a), local commercial uses may be developed at the corner of Greenhead Road and Highway 3 ("Bra") subject to approval of a non-substantial amendment to this Agreement, with consideration given to architecture, building height and lot coverage, landscaping, parking, location of access and egress points, signage, provision of adequate landscaping, and provision of adequate separation and screening from adjacent residential uses.

**Case 17826**  
**Attachment C – C-2 (General Business) Zone**  
**of the Land Use By-law for Timberlea/Lakeside/Beechville**

**13.1 C-2 USES PERMITTED**

No development permit shall be issued in any C-2 (General Business) Zone except for the following:

**Commercial Uses**

Retail stores  
Food stores  
Service and personal service shops  
Offices  
Commercial schools  
Banks and financial institutions  
Restaurants and drive-in and take-out restaurants  
Outdoor display courts  
Shopping plazas and malls  
Theatres and cinemas  
Existing entertainment uses  
Entertainment uses associated with motels, hotels and hostels  
Motels, hotels and hostels  
Commercial recreation uses  
Service stations  
Taxi and bus depots  
Parking lots  
Greenhouses and nurseries  
Veterinary hospitals and kennels  
Welding, plumbing and heating, electrical and other special trade contracting services and shops  
Local fuel distribution facilities  
Re-cycling depots

**Residential Uses**

Existing dwellings  
Boarding and rooming houses  
Two or fewer dwelling units in conjunction with permitted commercial uses

**Community Uses**

Open space uses Institutional uses

### 13.2 C-2 ZONE REQUIREMENTS: COMMERCIAL AND RESIDENTIAL USES

In any C-2 Zone, where uses are permitted as Commercial Uses or Residential Uses, no development permit shall be issued except in conformity with the following:

Minimum Lot Area	6,000 square feet (558 m <sup>2</sup> )
Minimum Frontage	60 feet (18.3 m)
Minimum Front or Flankage Yard	30 feet (9.1 m)
Minimum Rear or Side Yard	15 feet (4.6 m)
Maximum Lot Coverage	50 percent
Maximum Height of Main Building	35 feet (10.7 m)
Minimum Width of Main Building	20 feet (6.1 m)

### 13.3 OTHER REQUIREMENTS: SERVICE STATIONS

Notwithstanding the provisions of Section 13.2, where any service station is erected in any C-2 Zone the following shall apply:

- (a) Minimum Lot Area 30,000 square feet (2787 m<sup>2</sup>)
- (b) Minimum Frontage 150 feet (45.7 m)
- (c) No portion of any pump island shall be located closer than twenty (20) feet (6.1 m) from any street line.
- (d) The minimum distance between ramps or driveways shall not be less than thirty (30) feet (9.1 m).
- (e) The minimum distance from a ramp or driveway to a road intersection shall be fifty (50) feet (15 m).
- (f) The minimum angle of intersection of a ramp to a road line shall be forty-five (45) degrees.
- (g) The width of a ramp shall be a minimum of twenty (20) feet (6.1 m) and a maximum of twenty-six (26) feet (7.9 m).

### 13.4 OTHER REQUIREMENTS: COMMERCIAL FLOOR AREA

- (a) Notwithstanding the provisions of Section 13.2, where welding, plumbing and heating, electrical and other special trade contracting services and shops are permitted in any C-2 Zone, no such shop shall exceed two thousand (2,000) square feet (186 m<sup>2</sup>) in gross floor area.
- (b) Notwithstanding the provisions of Section 13.2, where shopping plazas and malls are permitted in any C-2 Zone, no such plaza or mall shall exceed fifty thousand (50,000) square feet (4645 m<sup>2</sup>) of gross floor area.



### 13.5 OTHER REQUIREMENTS: OPEN STORAGE AND OUTDOOR DISPLAY

Where any portion of any lot in any C-2 Zone is to be used for open storage or outdoor display, the following shall apply:

- (a) Any area devoted to open storage shall not exceed fifty (50) percent of the lot area.
- (b) No open storage shall be permitted within any required front yard.
- (c) No outdoor display shall be located within ten (10) feet (3 m) of any front lot line.
- (d) No open storage or outdoor display shall be permitted within any yard in a C-2 Zone where such yard abuts any Residential or Community Uses Zone, except where a fence or other visual and physical barrier is provided within the abutting yard.

### 13.6 OTHER REQUIREMENTS: PARKING LOTS

Where parking lots are permitted in any C-2 Zone, whether in conjunction with other uses or as a separate use of land, the following shall apply:

- (a) Where any C-2 Zone abuts any Residential or Community Uses Zone, no portion of any parking space within the C-2 Zone shall be permitted within ten (10) feet (3 m) of any side or rear lot line.
- (b) No portion of any parking space within any C-2 Zone shall be located within ten (10) feet (3 m) of any front lot line.

### 13.7 C-2 ZONE REQUIREMENTS: COMMUNITY USES

In any C-2 Zone, where uses are permitted as Community Uses, no development permit shall be issued except in conformity with the provisions of Part 18 and Part 19 as are applicable.

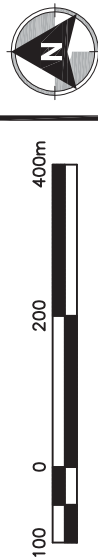


- Ra** Single family homes with up to 20% townhomes and alternate housing types
- Rb** Single family homes with up to 60% townhomes and alternate housing types
- Rc** Mixed residential: townhomes, alternate housing types, multiple unit dwellings and single family homes
- BR** Mixed-use, high density Town Centre
- BRa** Commercial and/or Ra Residential
- BRc** Commercial and/or Rc Residential
- BRco** Commercial and/or Rc Residential and/or Office
- Sc** Possible School Site
- Ca** Commercial

Public Recreation Lands



SCHEDULE B2.A: COMMUNITY CONCEPT PLAN  
Brunello Estates, Timberlea



SCALE: 1:10,000 METRIC  
DATE: 21-JUNE-2011

**Case 17826**  
**Attachment E – Policy Review**  
**Excerpt from the MPS for Timberlea/Lakeside/Beechville**

Within the existing service boundary, a large contiguous undeveloped area of approximately 600 acres presents a major urban infill opportunity within the region. With the site's proximity to existing urban development, and major government investments locally in road, sewer and water infrastructure, development of this site is critical to encouraging cost-effective, rational urban growth in the region.

These lands were rezoned from R-1 to CDD in 1992 to enable broad planning for the whole site, and a conceptual master plan for a mixed use community of up to 10,000 residents was prepared for this area in 1994. A first phase of approximately 240 units was given approval through the development agreement process, however, development did not proceed. A new landowner is now proposing a different master plan, which would provide for a mixed use community of up to 3200 homes with up to 8000 residents, in association with an 18-hole golf course, a town centre, and a commercial area. The proposal represents an innovative and efficient community design, with benefits to both the municipality and area residents. Given the unique nature and large size of the proposal, a set of site-specific policies to guide Council in considering detailed development proposals for this site is appropriate. Where there is disagreement between these site specific policies and other policies of this plan, the site specific policies shall prevail.

Given the size of the site and the length of time to reach buildout, it is reasonable to assume that any development agreement should allow flexibility, as market conditions and phasing are subject to change. Aspects of the development may require further detailed analysis prior to development proceeding. Conceptual approval can be given to certain land use components (such as the town centre, commercial areas, and multiple unit dwellings) of the project through an initial development agreement. Council would then have the ability to consider detailed site and building plans as nonsubstantial amendments to the initial agreement.

<b>Policy Criteria</b>	<b>Staff Comment</b>
<b>UR-27</b> Within the area as shown on Map UR-1, Council may consider permitting a mixed use development, with a range of land uses including a golf course, low density residential, townhousing, multiple unit dwellings, a town centre, various commercial development, and an office campus. Such development may only be considered through the development agreement process, and pursuant to the policies outlined specific to this site, and having regard to the provisions of Policy IM-12.	The Development Agreement permits a mixed use development, with a range of land uses including a golf course, low density residential, townhousing, multiple unit dwellings, a town centre, various commercial development, and an office campus was permitted by the former Western Region Community Council on December 18, 2001.
Under the mixed use community scenario, up to 45% of the land may be taken up by the golf course use. In order to provide for an economic density, and to ensure that existing municipal infrastructure is adequately utilized, it is appropriate to provide for a greater proportion of	

higher density uses on the site. It is important, however, that a range of housing types be provided for to accommodate a range of household needs.

**UR-28** Within the area shown on Map UR-1, a range of housing types to a maximum of 3200 dwelling units shall be provided for, subject to the following:

(a ) That a substantial number of single unit dwellings be provided, especially adjacent to existing low density neighbourhoods;

(b) Alternative forms of single units such as clustered units, retirement cottages and live-work units may be considered as a small proportion of the total number of single units;

(c) Auxiliary dwellings, two unit dwellings and townhousing shall be permitted subject to appropriate criteria on building and site design;

(d) Medium density housing may be permitted, subject to appropriate limits on density, and with appropriate requirements for landscaping and tree retention, architectural design features to ensure a high quality appearance of buildings, variety in scale, massing and height, and provision of sufficient amenity space;

(e ) That where single unit dwellings abut the Westgate site, only single unit dwellings or open space uses may be considered,

(f) That a range of adequate recreation facilities is provided, pursuant to current municipal parkland planning guidelines.

Addressed in the existing agreement.

The development of a golf course can provide for substantial retention of existing grades and forested areas. Diversion of storm water from developed areas to the golf course for irrigation and creation of water features is also of benefit, by reductions in peak flows leaving the site when compared to more typical developments, and providing a level of storm water treatment, provided that adequate easements are given to the municipality. However, concerns do exist with regard to the potential for erosion and sedimentation to occur during construction, and to ensure that nearby watercourses are not detrimentally affected. The potential for stray golf

balls impacting on non-golf course uses is also to be addressed, as is the potential for providing for regulated, public use in designated portions of the course in winter, in a manner that balances the public benefits with the need for course operators to protect the course from vandalism and unintentional damage to greens, tees, and other sensitive areas.

**UR-29** Within the area shown on Map UR-1, development of a golf course and associated uses shall only be permitted through the development agreement process, to address the following:

(a) potential environmental impacts of the golf course on waterbodies (namely Nine Mile River, and streams and piped systems leading into Otter Lake and Governor's Lake) during and after construction;

(b) provision of adequate separation of golf holes from existing and new housing according to current accepted standards;

(c) provisions of municipal easements for stormwater drainage from streets and residential properties onto the golf course;

(d) conditions for any use of treatment plan effluent in irrigation;

(e) regulated public use of designated portions of the course for pond skating and sledding in a manner which does not encourage damage of the golf course.

(f) The use of alternative street and access standards, grading, and private streets, can assist with tree preservation, and create a more country like character for a development, even within an urban area. However, past experience has shown that there is very often a demand from residents to upgrade to a higher street standard, and any development agreement must therefore address this to ensure that costs for such upgrading are not borne by the public. In addition, it is important that an adequate mechanism is put in place to deal with snow and ice clearing and surface maintenance of any private roads and lanes.

Addressed in the existing agreement.

<p><b>UR-30</b> The use of private roads which function as minor local streets within the development may be considered by Council. Private lanes for lot access for up to 6 dwelling units may further be considered. In considering such developments, Council shall have regard to the following:</p> <p>(a) That the width of the traveled way meets applicable requirements for emergency vehicle access;</p> <p>(b) That the roads are capable of being upgraded to a public street standard, provided that any such upgrading shall be wholly at the cost of the developer and/or abutting property owners; and</p> <p>(c) That an adequate mechanism through a body such as the developer, a condominium corporation or homeowners' association is set up to administer regular road maintenance and repairs in the long term.</p>	<p>Addressed in the existing agreement.</p>
<p>A major component of the community proposal is the concept of recreating a traditional town centre. This would consist of buildings placed at the street line with minimal sideyards to encourage pedestrian use, on street parking, wide sidewalks, greater lot coverages and densities, with a goal of replicating those features and characteristics of successful town centres. The ultimate population of the development, and of Timberlea/Lakeside as a whole, will be of a size which can support such a concept. Attention to detail and careful consideration of all aspects of land use, architecture and urban design is needed, if the goal of creating a mixed use core with an attractive, traditional town character is to be properly achieved. Land uses in the town centre should cover a broad range of categories, and may be directed at the local, neighbourhood or regional market. The volatility of the office and retail market dictates that there be flexibility, however, no uses which are unacceptable by reason of noise, dust, odour or the need for outdoor working or storage areas should be considered.</p>	
<p><b>UR-31</b> Within the area as shown on Map UR-1, it shall be the intention of Council to permit the development of a mixed use town centre, inclusive of medium to high density residential development, retail, hotel, commercial, office and personal service uses, and community and open space uses. Such an area must be carefully designed in order to function as intended, and to be aesthetically pleasing, therefore any</p>	<p>Addressed in the existing agreement.</p>



<p>development agreement for the site shall require a design study prior to issuance of development permits which will address:</p> <ul style="list-style-type: none"> <li>(a) streetscape appearance and furniture;</li> <li>(b) landscaping,</li> <li>(c) architecture,</li> <li>(d) parking,</li> <li>(e) traffic circulation and transit,</li> <li>(f) pedestrian use,</li> <li>(g) open space provision.</li> </ul>	
<p>The size of the community as a whole dictates that provision be made for larger commercial developments to provide groceries, retail, service, and office uses. Under the current scenario, lands adjacent to Exit 3 are targeted for major commercial development, to include a grocery store, strip mall, offices and personal service uses, food service, gas station and similar uses. As the community grows, an expansion of this commercial area may be warranted to serve the community and larger market areas, subject to appropriate design and servicing considerations. Particular concerns relate to landscaping and means of storm water collection and treatment.</p>	
<p><b>UR-32</b> It shall be the intention of Council to consider an expansion of the commercial area adjacent to Exit 3 off Highway 103 subject to the provisions of Policy IM-12.</p>	<p>The proposed amendment to the existing development agreement would add an additional 5,936 square metres of commercial land to this area. The proposed amending agreement would require the additional commercial lands to comply with the requirements of the C-2 Zone of the Land Use By-law, with some restrictions on the uses to match those in the Brunello Commercial Agreement.</p> <p>Please see a detailed review of Policy IM-12 below.</p>
<p>The development of employment nodes in key areas can help reduce traffic congestion, by creating jobs closer to employees' homes. Within this area, there is potential for creation of a small office park adjacent to Exit 3, between Highway 103 and the planned Timberlea East Collector road.</p>	

<p><b>UR-33</b> It shall be the intention of Council to consider development of an office campus, between the proposed Timberlea East Collector and Highway 103, adjacent to Exit 3 through the development agreement process and subject to the following criteria:</p> <p>(a) landscaping,</p> <p>(b) signage design;</p> <p>(c) provision of adequate internal roads, parking, and service areas.</p>	<p>Addressed in the existing agreement.</p>
<p>Timberlea Village Drive was constructed by the Municipality to help alleviate traffic volumes on Highway 3, and serve as a major access point for the larger community to Highway 103. Construction of this road at public expense has been of substantial benefit to the abutting lands, by providing ease of access to four pre-approved intersection locations. Although the road is currently below its design capacity, development of this site will likely trigger the need for upgrading. Additional municipal expenditures on this road which would support development on this site or any other are not acceptable, as such costs should be borne by the cost causer. Council should require developers to pay for any portion of future upgrading costs which are attributable to their development.</p>	
<p><b>UR-34</b> It shall be the intention of Council to require the developer of the lands as shown on Map UR-1 to contribute toward the future upgrading of Timberlea Village Drive which bisects the site. The amount of such contribution shall be determined based on the findings of a transportation study, to be undertaken at the developer's expense, which shall determine the proportion of costs attributable to the development.</p> <p>RC - October 31, 2001 / E - December 8, 2001</p>	<p>Addressed in the existing agreement.</p>
<p><b>SECTION IV – IMPLEMENTATION</b></p>	
<p><b>IM-12</b> In considering amendments to the land use by-law or development agreements, in addition to all other criteria as set out in various policies of this strategy, Council shall have appropriate regard to the following:</p>	

<p>(a) that the proposal is in conformity with the intent of this strategy and with the requirements of all other municipal by-laws and regulations.</p>	<p>The proposal meets the intent of the MPS. The Agreement requires conformity with all other municipal by-laws and regulations.</p>
<p>(b) that the proposal is not premature or inappropriate by reason of:</p> <p>(i) the financial capability of the Municipality to absorb any costs relating to the development;</p> <p>(ii) the adequacy of sewer and water services;</p> <p>(iii) the adequacy or proximity to school, recreation or other community facilities;</p> <p>(iv) the adequacy of road networks leading or adjacent to, or within the development; and</p> <p>(v) the potential for damage to or for destruction of designated historic buildings and sites.</p> <p>(vi) the proposed means of handling storm water and general drainage within and from the development. RC - October 30, 2001 E / December 8, 2001</p>	<p>(i) The proposed amendment will not require the Municipality to absorb any costs.</p> <p>(ii) This application was reviewed by Halifax Water. It was determined the proposed commercial boundary expansion would have a negligible impact on the municipal sewer and water services.</p> <p>(iii) n/a</p> <p>(iv) A Traffic Impact Statement was not required component of this application as it was determined that the expansion to the commercial area will not have a significant impact to the road network.</p> <p>(v) There are no municipally or provincially designated historic buildings or sites within this area.</p> <p>(vi) Details regarding the handling of the storm water and general drainage of the development will be required during the permitting stage.</p>
<p>(c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</p> <p>(i) type of use;</p> <p>(ii) height, bulk and lot coverage of any proposed building;</p>	<p>The C-2 Zone of the LUB for Timberlea Lakeside Beechville includes provisions for building height, size and setbacks.</p> <p>Also, the existing development agreement already requires buffering from the golf course area.</p>

<p>(iii) traffic generation, access to and egress from the site, and parking;</p> <p>(iv) open storage and outdoor display;</p> <p>(v) signs; and</p> <p>(vi) any other relevant matter of planning concern.</p>	
<p>(d) that the proposed site is suitable in terms of steepness of grades, soil and geological conditions, locations of watercourses, potable water supplies, marshes or bogs and susceptibility to flooding.</p>	<p>The proposed site is considered suitable.</p>
<p>(e) Within any designation, where a holding zone has been established pursuant to “Infrastructure Charges - Policy IC-6”, Subdivision Approval shall be subject to the provisions of the Subdivision By-law respecting the maximum number of lots created per year, except in accordance with the development agreement provisions of the MGA and the “Infrastructure Charges” Policies of this MPS. (RC July 2, 2002 / E - August 17, 2002)</p>	<p>N/A</p>