



PO Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

Western Region Community Council  
February 22, 2010

**TO:** Chair and Members of Western Region Community Council

**SUBMITTED BY:**

A handwritten signature in cursive script, appearing to read "Austin French".

Austin French, Acting Director of Community Development

**DATE:** February 4, 2010

**SUBJECT:** Case 01312 - Amending Agreement - Brunello Estates Subdivision  
(formerly Westgate Community), Timberlea

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### ORIGIN

Application by Nine Mile River Investments Ltd.

### RECOMMENDATION

It is recommended that Western Region Community Council:

1. By resolution, approve the non-substantive amendment to the Brunello Estates Subdivision (formerly Westgate Community) development agreement for Phase 1, as detailed in the Fifth Amending Agreement presented as Attachment A to this report; and
3. Require that the Fifth Amending Agreement be signed 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**

In December 2001, the Western Region Community Council approved a development agreement with Nine Mile River Investments Ltd. to allow for a new mixed use project in Timberlea. Known as "Westgate" at the time, the project, now Brunello Estates, would incorporate a golf course among residential, commercial and institutional developments over 500 acres of land extending from Hwy. 103 to St. Margaret's Bay Road on both sides of Timberlea Village Parkway (refer to Map 1).

Several amendments to the agreement have been approved since that time and a small amount of residential development has been constructed. The project, however, has largely been on hold pending a resolution of sewage treatment issues.

The original development agreement limited development to a maximum of 900 dwelling units and later 911 units, unless a resolution and method of funding sewage treatment improvements could be found. In 2005, the Province confirmed that only 180 units from Westgate/Brunello could be approved. Although HRM is committed to provide wastewater services in the Timberlea/Lakeside/Beechville Service Area and a previous 2007 amendment to this Agreement removed the limitation of 911 dwelling units, Nova Scotia Environment still maintains the 180 unit restriction.

Additional site inventory and analysis has been undertaken which has identified a significant number of wetlands on the property. This fact will necessitate some redesign of the project in order to avoid and accommodate the wetlands into the development.

## **DISCUSSION**

The recognition of the existing wetlands and efforts to avoid and redesign the elements of the development around them is a fairly substantial task. In order to allow some building construction to proceed on the lands, the redesign so far has focussed on Phase 1. It is anticipated that there will be a request to amend the development agreement when the rest of the development has been comprehensively redesigned to address the remaining wetlands.

Amendments proposed for Phase 1, in particular a revised road design, were necessitated by the existence of wetlands. In the original agreement, Marseille Avenue ran between Timberlea Village Parkway and Maple Drive but, as can be seen on Attachment B, Marseille Avenue now connects to Maple Grove Drive in order to avoid the wetland. Proposed uses in this area have been adjusted to accommodate this revised road layout.

As the 180 unit restriction imposed by the Province has never been formalized in the development agreement, it is now being proposed to be added along with requirements for tracking of the number of units. Staff recommend that the fifth amending agreement, presented as Attachment A to this report, be approved.

### **Public Information Meeting**

Given the technical nature of this application, a Public Information meeting was not held.

### **BUDGET IMPLICATIONS**

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

### **FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN**

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

### **ALTERNATIVES**

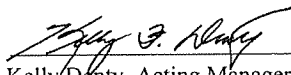
1. Community Council may choose to approve the proposed non-substantive fifth amending agreement appended as Attachment A.
2. Community Council may choose to approve the proposed non-substantive fifth amending agreement with modifications or conditions. Some modifications or conditions may be outside the scope of a non-substantive amendment and may require a substantive amendment to the development agreement.
3. Community Council may choose to refuse the proposed non-substantive fifth amending agreement. Reasons must be provided for a refusal, based on policies of the MPS.

### **ATTACHMENTS**

Map 1	Location
Attachment A	Amending Agreement
Attachment B	New Phase 1 Draft Lot Configuration

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 : Randa Wheaton, Senior Planner, Planning Applications, 490-4499

Report Approved by:   
Kelly Denty, Acting Manager of Planning Services, 490-6011



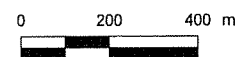
## Map 1 - Location

Brunello Estates  
Timberlea



Area under development agreement

**HALIFAX**  
REGIONAL MUNICIPALITY  
COMMUNITY DEVELOPMENT  
PLANNING SERVICES



Timberlea/Lakeside/Beechville Plan Area

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

**ATTACHMENT A**

THIS FIFTH AMENDING AGREEMENT made this       day of       , 2010,  
BETWEEN:

NINE MILE RIVER INVESTMENTS LIMITED  
a body corporate, in the Halifax Regional Municipality,  
Province of Nova Scotia ("the Developer")

**OF THE FIRST PART**

- and -

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

**OF THE SECOND PART**

**WHEREAS** the Developer is the registered owner of certain lands located within Timberlea and which said lands are more particularly described in Schedule A of this Agreement ("the Lands");

**AND WHEREAS** the Western Region Community Council of the Municipality ("the Community Council") approved an application by the Developer to enter into a development agreement (municipal reference number 00265) to allow for a mixed use community with a golf course on the Lands, which said development agreement was registered at the Registry of Deeds in Halifax on February 14, 2002 as Document Number 6552 in Book 6969 at Pages 933 to 993 ("the Agreement");

**AND WHEREAS** the Community Council approved certain amendments to the Agreement requested by the Developer (municipal reference number 00590) which were recorded at the Registry of Deeds in Halifax on August 22, 2003 as Document Number 37295 in Book 7458 at Pages 107 to 118 ("the First Amending Agreement");

**AND WHEREAS** the Community Council approved further amendments to the Agreement (municipal reference number 00623) which were recorded at the Registry of Deeds in Halifax on April 21, 2004 as Document Number 75364217 in Book 7667 in Pages 906 to 921 ("the Second Amending Agreement");

**AND WHEREAS** the Community Council approved further amendments to the Agreement (municipal reference number 00536) which were recorded at the Registry of Deeds in Halifax on July 15, 2004 as Document 75884560 in Book 7797 in Pages 156 to 162 ("the Third Amending Agreement");

**AND WHEREAS** the Community Council approved further amendments to the Agreement (municipal reference number 01040) which were recorded at the Halifax County Land Registration Office in Halifax on January 22, 2008, as Document 91321258 ("the Fourth Amending Agreement");

**AND WHEREAS** the Developer requested further amendments to the Agreement (municipal file number 01312) which were approved by the Community Council on (enter date of decision);

**THEREFORE** in consideration of the benefits from the covenants contained herein, the Parties agree that the Agreement, as previously amended ("the Amended Agreement"), is further amended as follows:

1. Amend Section 2.1 to add the following to the end of the list of Schedules:

Schedule J	Golf Course Community Plan
Schedule K	Community Concept Plan
Schedule L	Building Height Areas
Schedule M	Recreation Facilities
Schedule N	Road Hierarchy
Schedule O	Sanitary Sewer Servicing Schematic
Schedule P	Water Servicing Schematic
Schedule Q	Conceptual Storm Water Management Plan
Schedule R	Non-Site Disturbance Areas

2. Amend Section 2.1 to add the following immediately after the list of Schedules:

2.1.1 Notwithstanding Section 2.1, the new Schedules J to R inclusive apply to Phase 1 only and supercede only the Phase 1 portion of Schedules B1, B2, B3, C, D, F, G, H1 and I respectively.

3. Amend Section 2.2 to add the following immediately after 2.2.1 (f):

2.2.1.1 Building Permits shall only be issued for a maximum of 180 units until a waste water solution meeting Nova Scotia Environment's requirements has been achieved or a wastewater servicing management plan, acceptable to Halifax Water and NSE, has been agreed to. To this end, the Developer shall provide, with each Building Permit application, a tracking sheet identifying the location and number of units previously receiving Building Permits and the location and number of units currently applying for Building Permits as well as the remaining number of units until the 180 unit cap is reached.

4. Amend Section 2.3 to add the following immediately after 2.3.6:

2.3.7 Phase 1 shall be developed in accordance with Schedules J to R inclusive as attached hereto.

2.3.8 Notwithstanding Section 2.3.7, all sections of the Amended Agreement which apply to the Lands identified as Phase 1 shall continue to apply.

5. New Schedules J to R inclusive, attached hereto, shall be inserted into the Amended Agreement immediately after Schedule I.

All other terms and condition of the Amended Agreement shall remain in effect.

**WITNESS** that this Agreement, made in triplicate, was properly executed by the respective Parties on this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2010.

SIGNED, SEALED AND DELIVERED ) NINE MILE RIVERS INVESTMENTS LTD.  
in the presence of )  
 ) Per: \_\_\_\_\_  
 )  
\_\_\_\_\_ )

SEALED, DELIVERED AND )  
ATTESTED to by the proper )  
signing officers of Halifax Regional )  
Municipality duly authorized )  
in that behalf in the presence )  
of )  
\_\_\_\_\_ ) Per: \_\_\_\_\_  
 ) MAYOR  
 )  
 ) Per: \_\_\_\_\_  
 ) MUNICIPAL CLERK

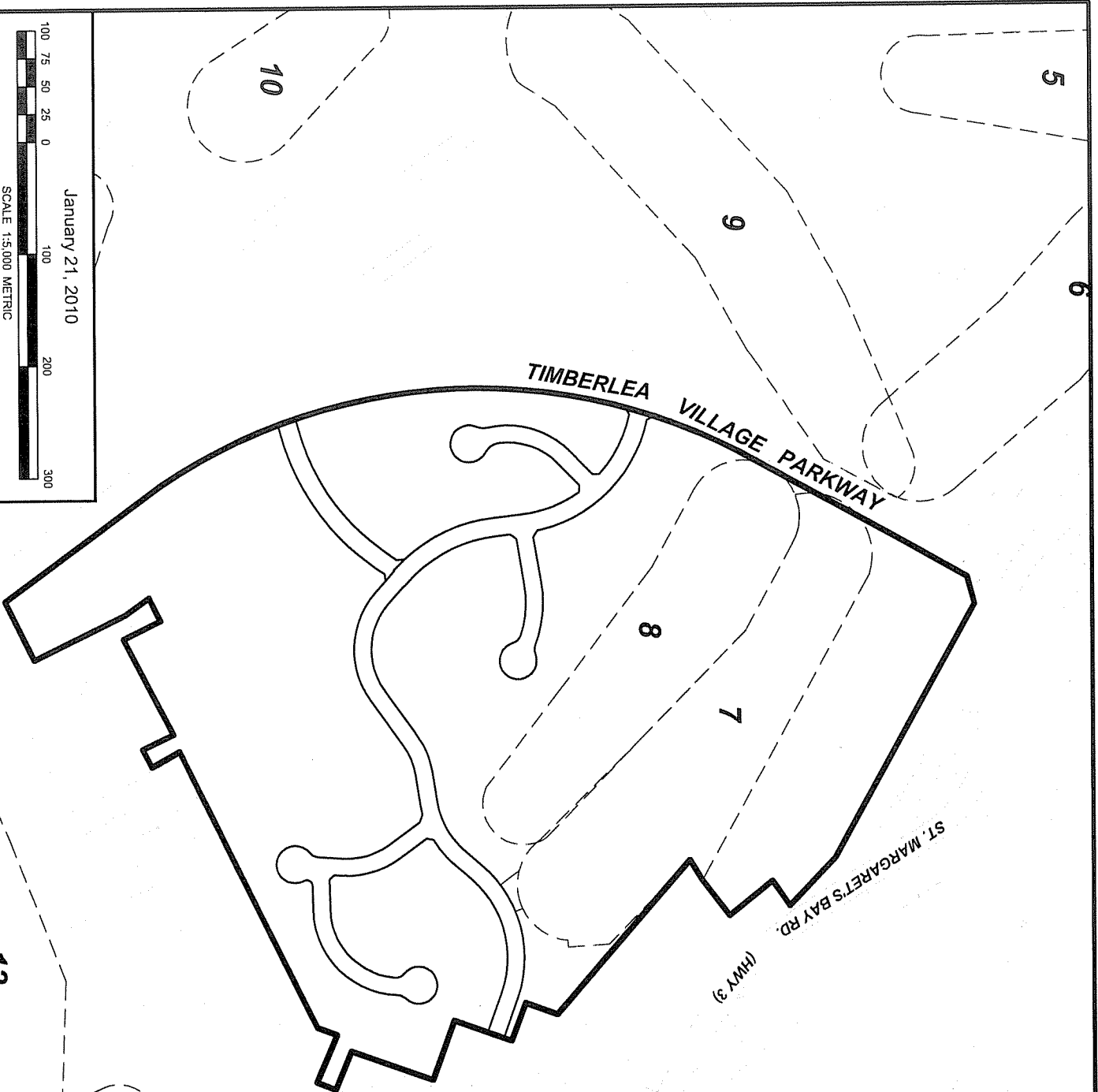


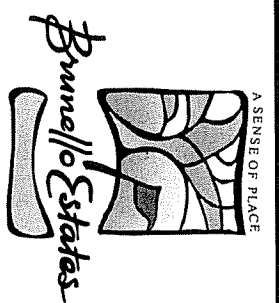


# SCHEDULE J

## Golf Course Community Plan

Approximate Golf  
Safety Margin





# SCHEDULE K

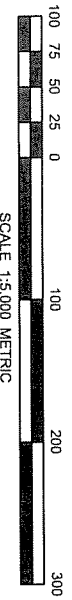
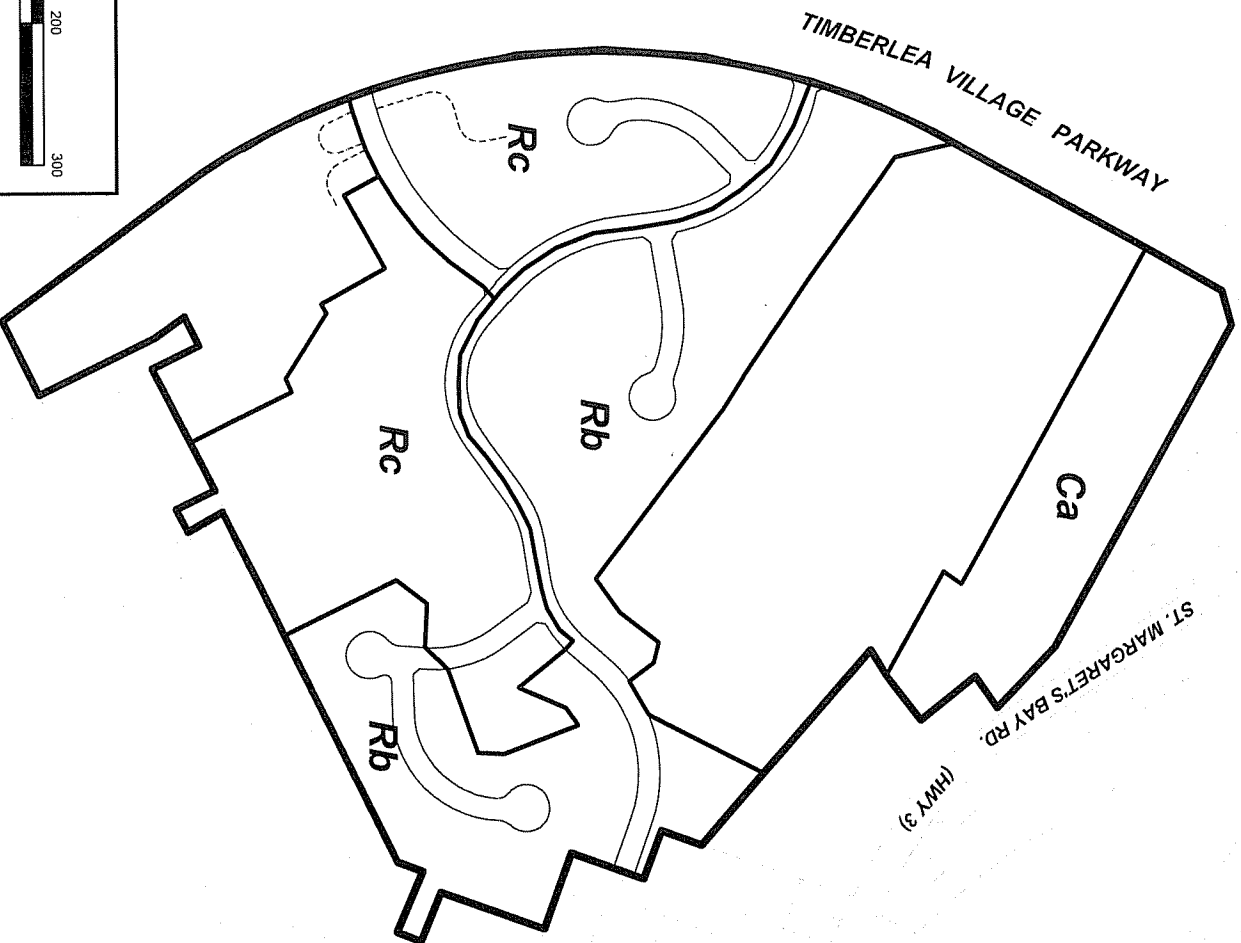
## Community Concept Plan

### RESIDENTIAL

- 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

### COMMERCIAL

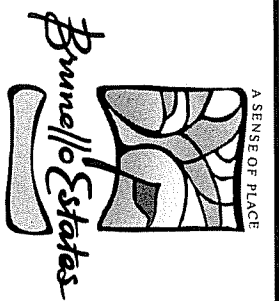
- Ca** Commercial Use



SCALE 1:5,000 METRIC

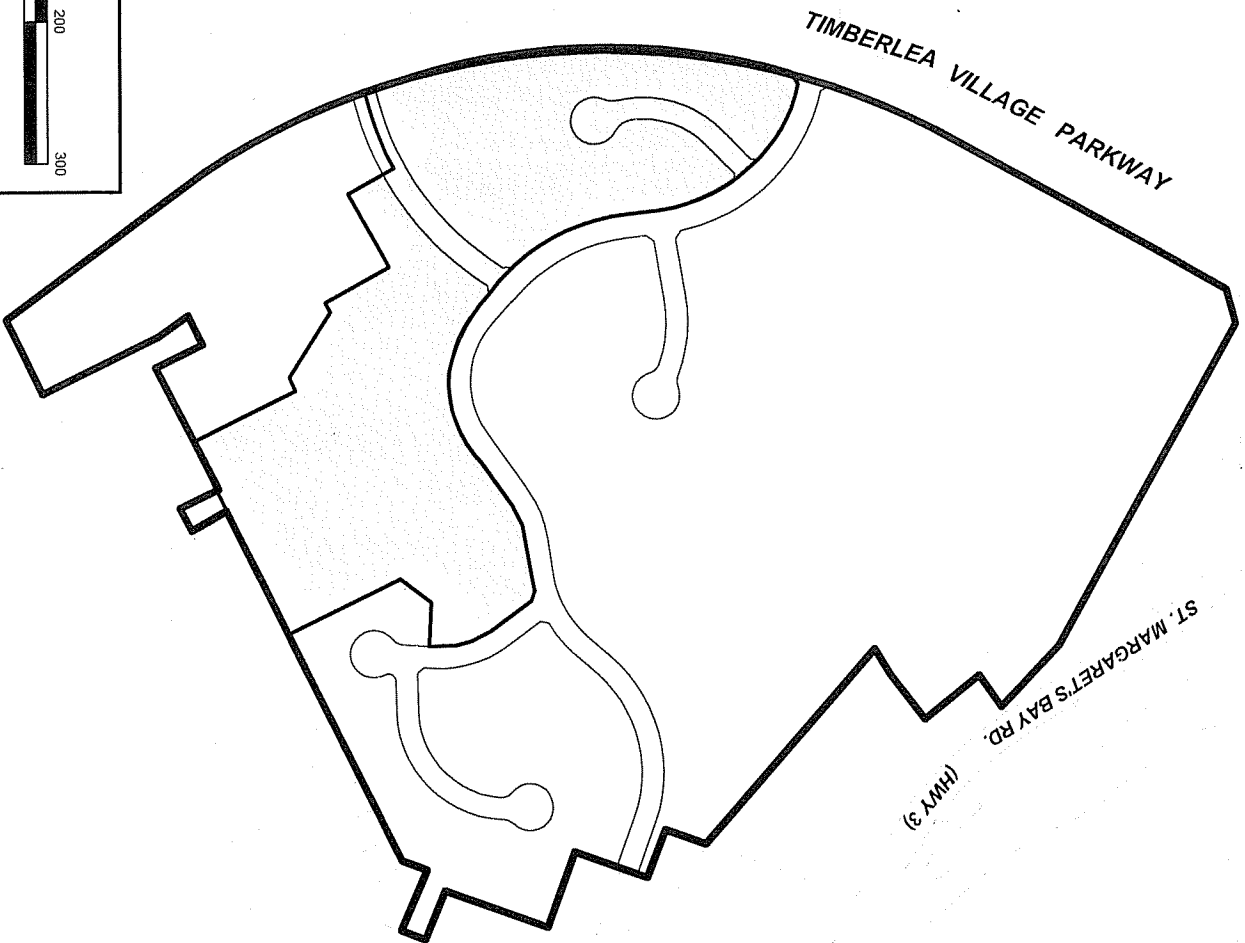
January 21, 2010

SOURCE BASE PLAN: EDM SCHEDULE B1, DATED MAY 29, 2003

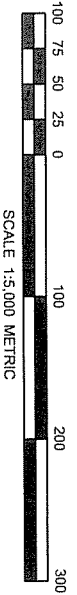


**SCHEDULE L**  
Building Height Areas

- ☐ Multi-Unit Buildings
- ☐ Not to exceed 12 storeys



January 21, 2010



SCALE 1:5,000 METRIC

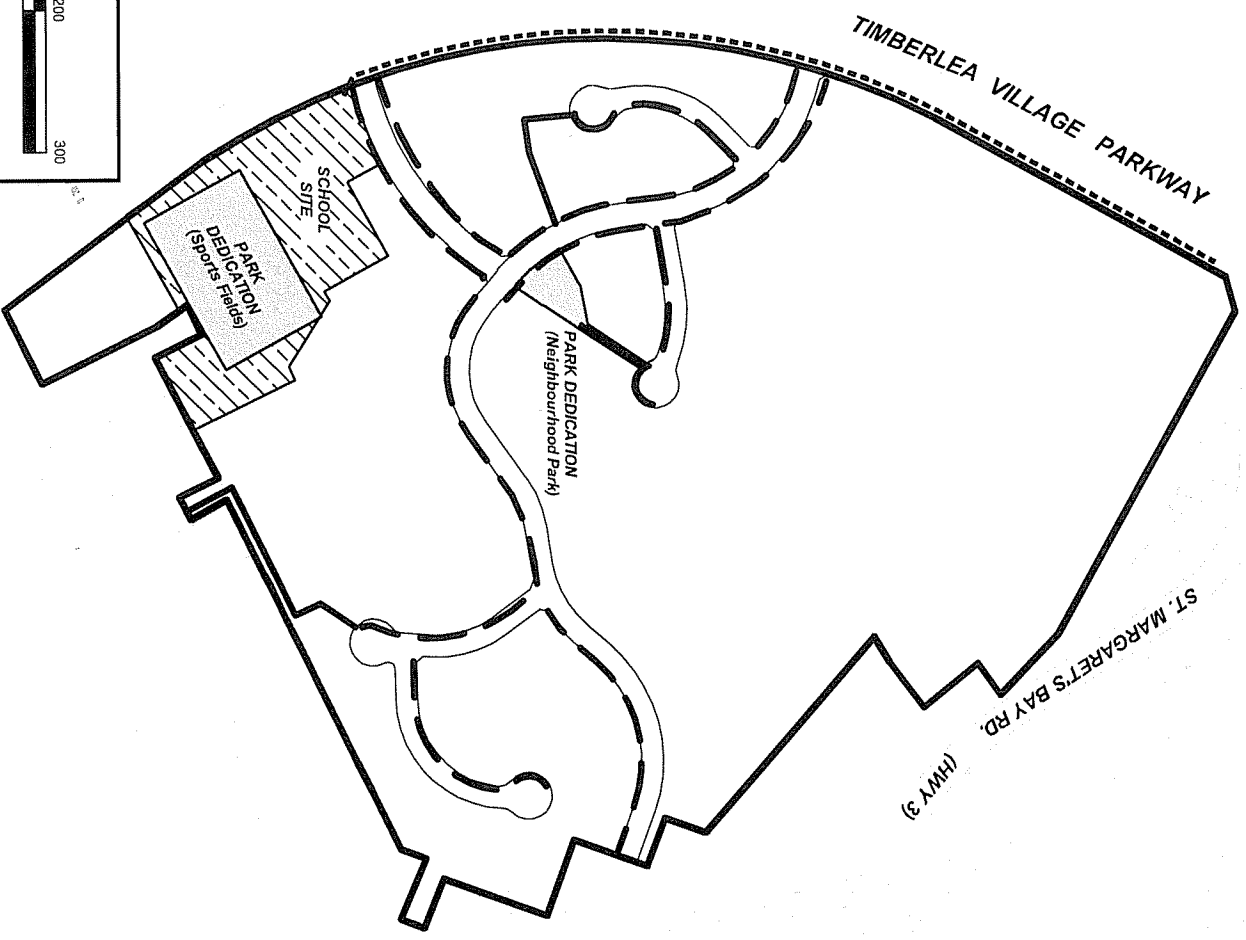
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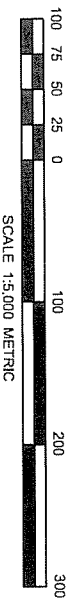
# SCHEDULE M

Recreation Facilities

- Public Walkways  
(unless cul-de-sac is privately owned, then community association trails)
- Sidewalk
- Proposed HRM Multi-Use Trail
- Park Dedication

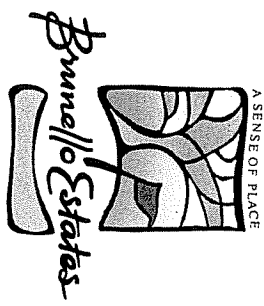


February 3, 2010



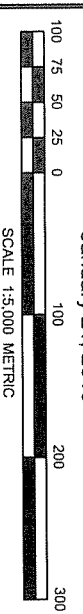
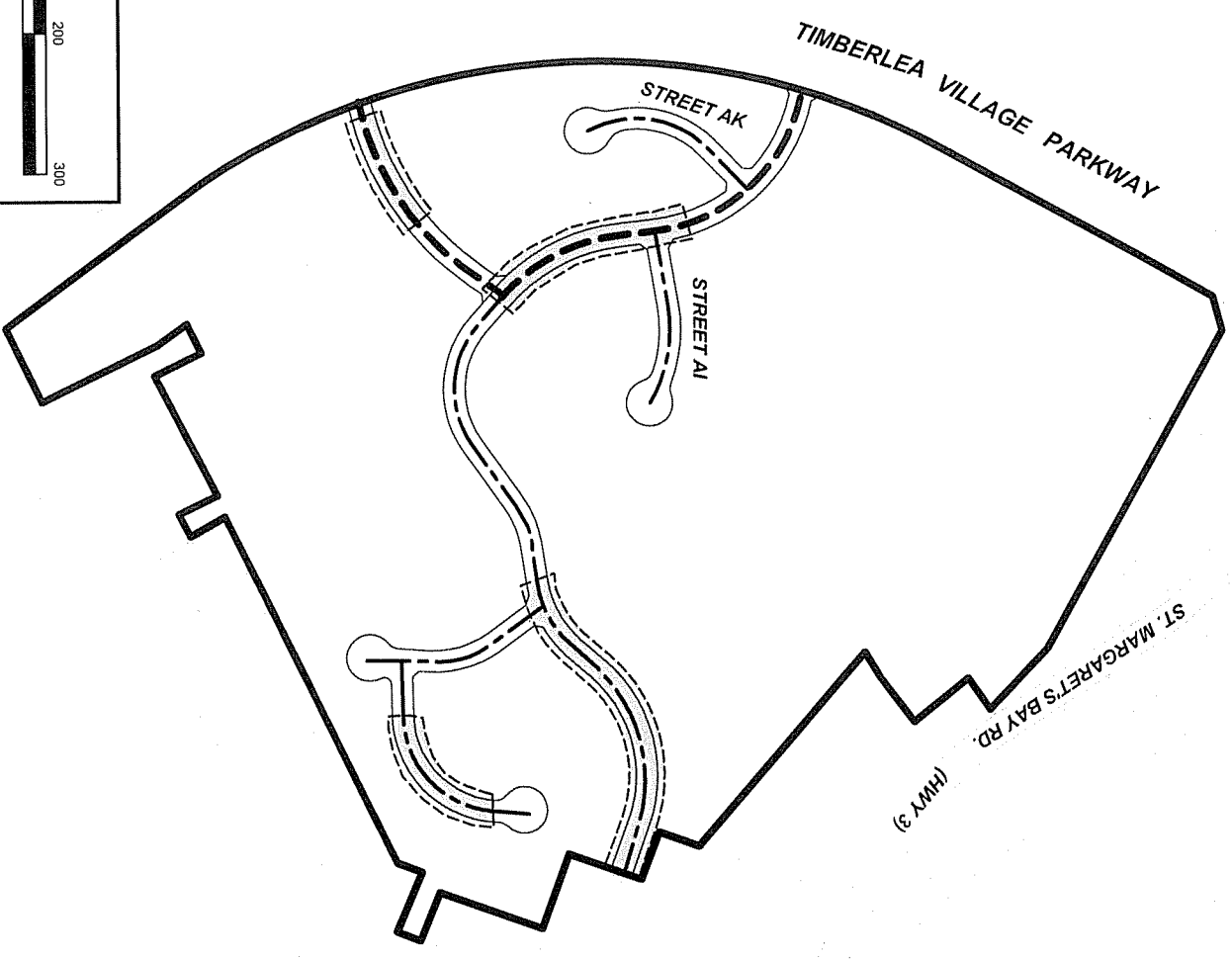
SOURCE BASE PLAN: EDM SCHEDULE B1, DATED MAY 29, 2003





# **SCHEDULE N** Road Hierarchy

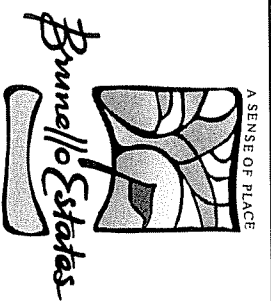
- Boulevard
- Commercial (Town Centre)
- Modified Urban Minor Collector
- Modified Urban Local
- Modified Rural Local or Private Road
- Shared Driveway
- Locations of Potentially Steep Grade ( $\geq 10\%$ )
- Subdivision Approval Limit (pending connection to Riverview Drive)



January 21, 2010

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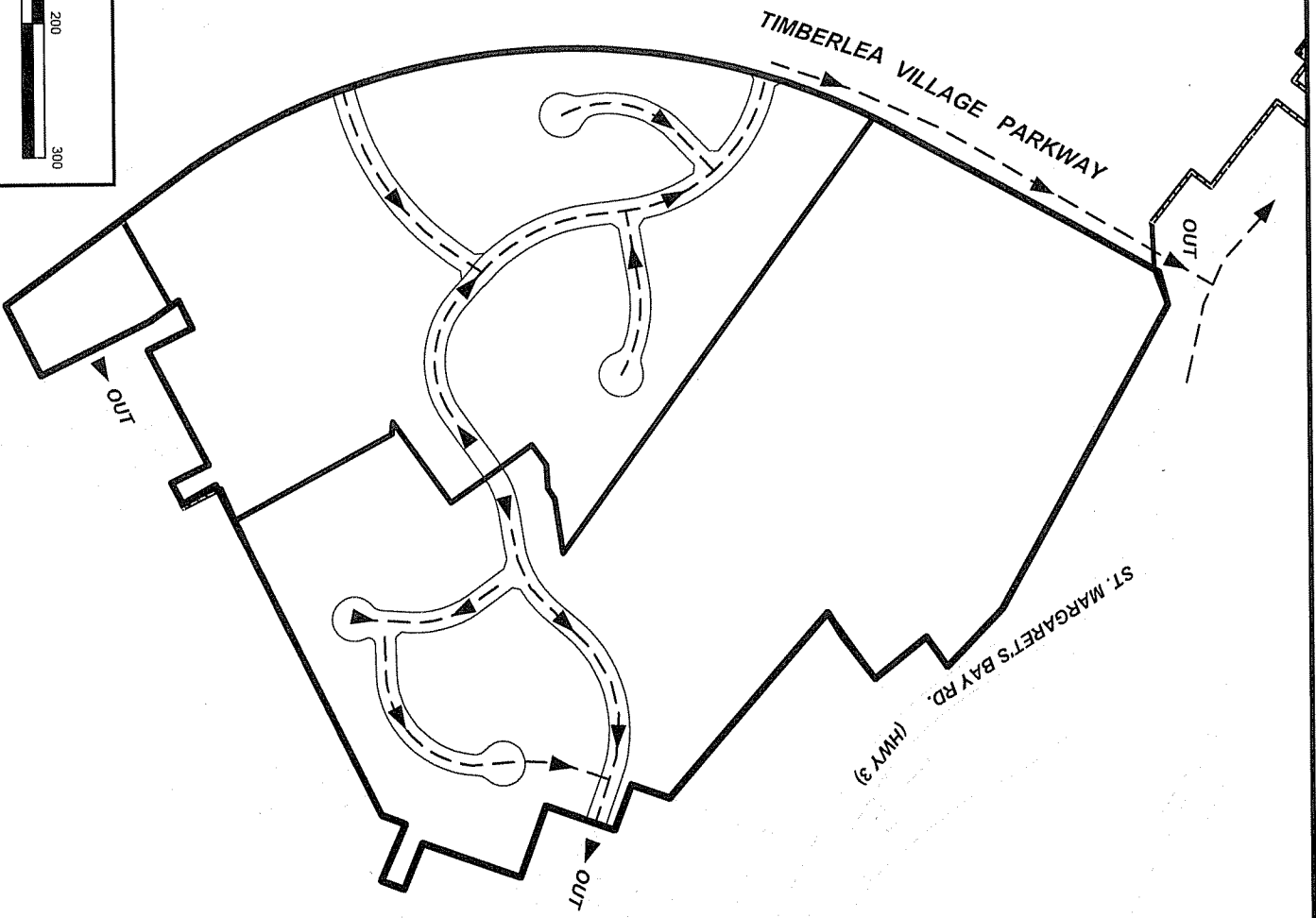
SOURCE BASE PLAN: EDM SCHEDULE B1, DATED MAY 29, 2003



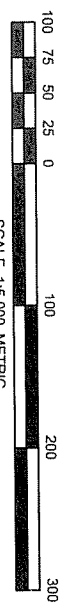
# SCHEDULE O

Sanitary Sewer Servicing  
Schematic

- Sewershed Boundary
- Sewer Service Line
- Sewer Direction

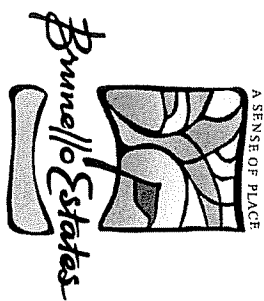


January 21, 2010



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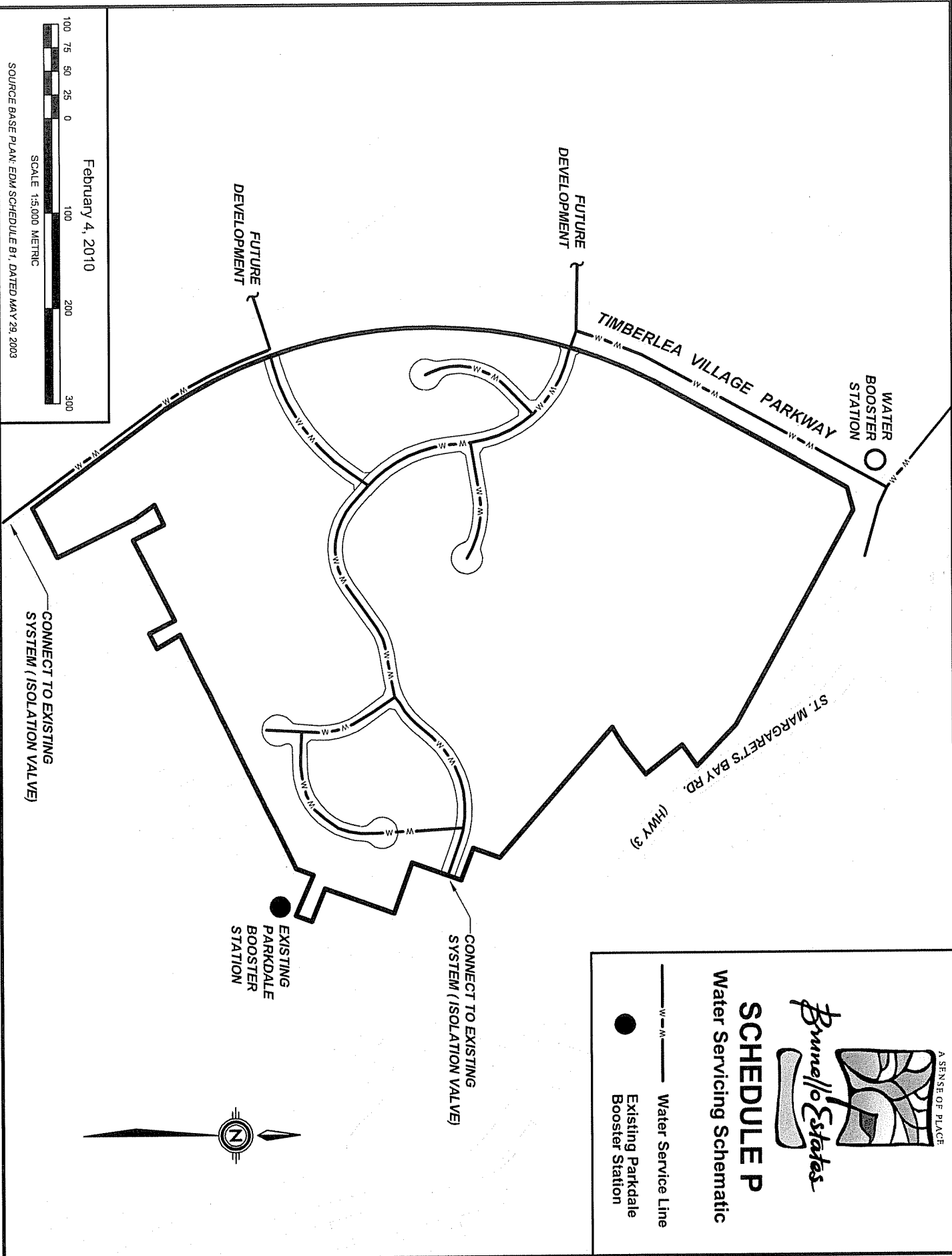
SOURCE BASE PLAN: EDM SCHEDULE B1, DATED MAY 29, 2003



# SCHEDULE P

Water Servicing Schematic

- Water Service Line
- Existing Parkdale Booster Station





## SCHEDULE Q

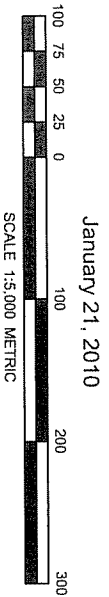
### Conceptual Storm Water Management Plan

Stormwater Detention Pond (for irrigation)

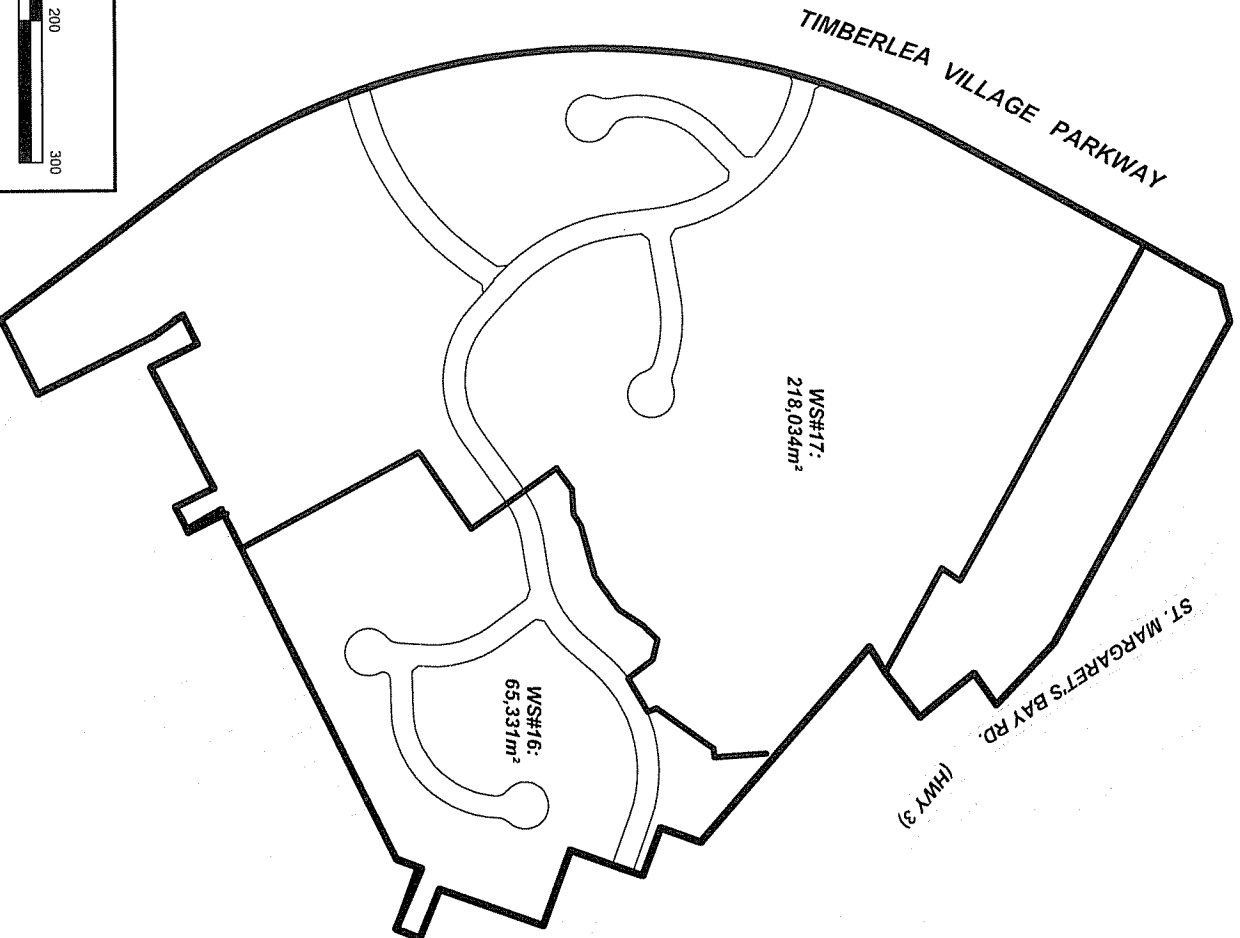
Watershed Boundary

#### Notes:

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) (2:1) 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 waters 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.



SOURCE BASE PLAN: EDM SCHEDULE B1, DATED MAY 29, 2003



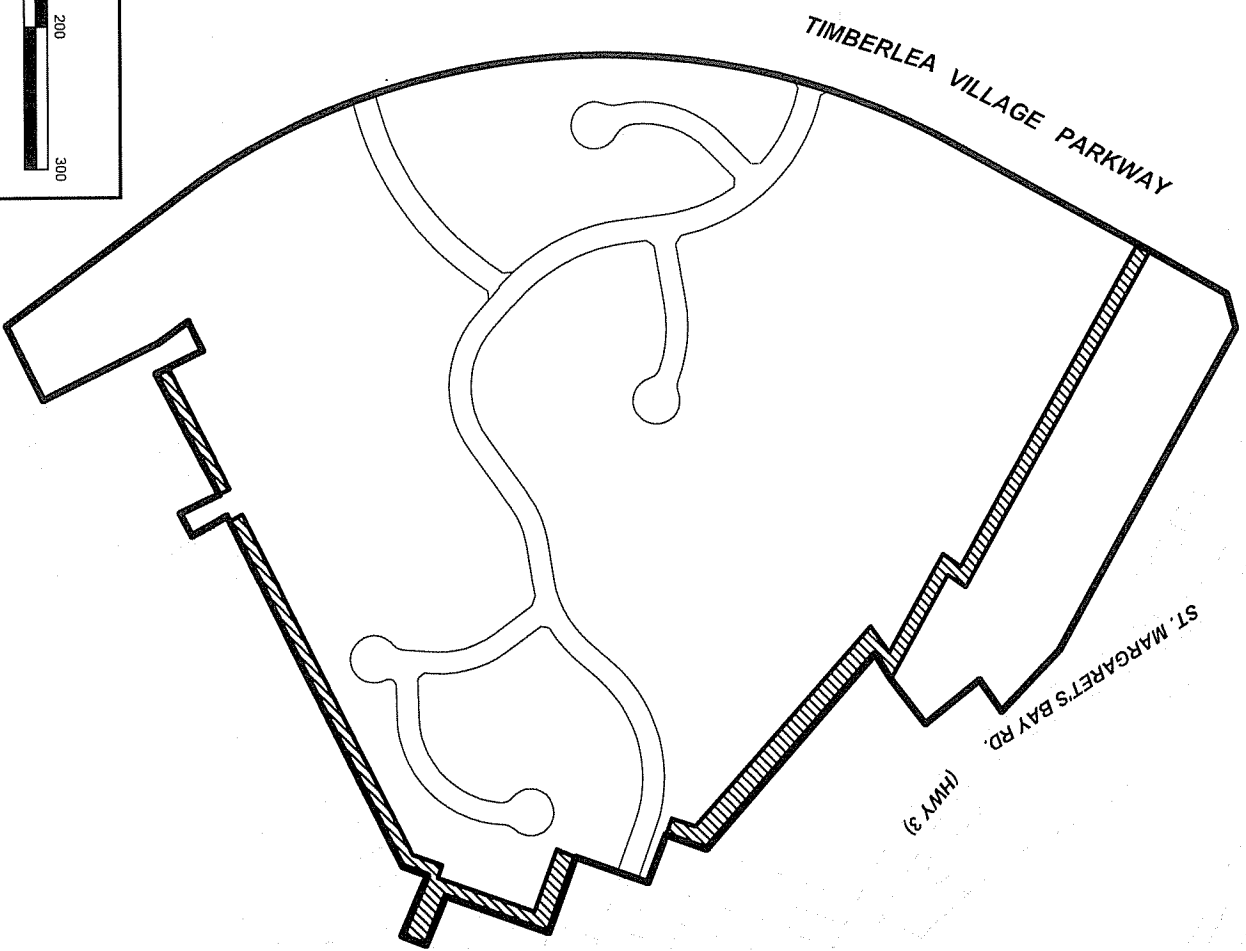




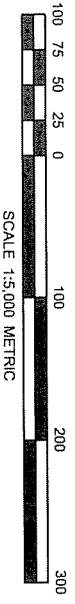
A SENSE OF PLACE

# SCHEDULE R

Non-Site Disturbance Areas



January 21, 2010



SCALE 1:5,000 METRIC

SOURCE BASE PLAN: EDM SCHEDULE B1, DATED MAY 29, 2003



**DRAFT LOT CONFIGURATION**

Potential Watercourse  
(to be confirmed by NSE)



Wetland

**RESIDENTIAL**

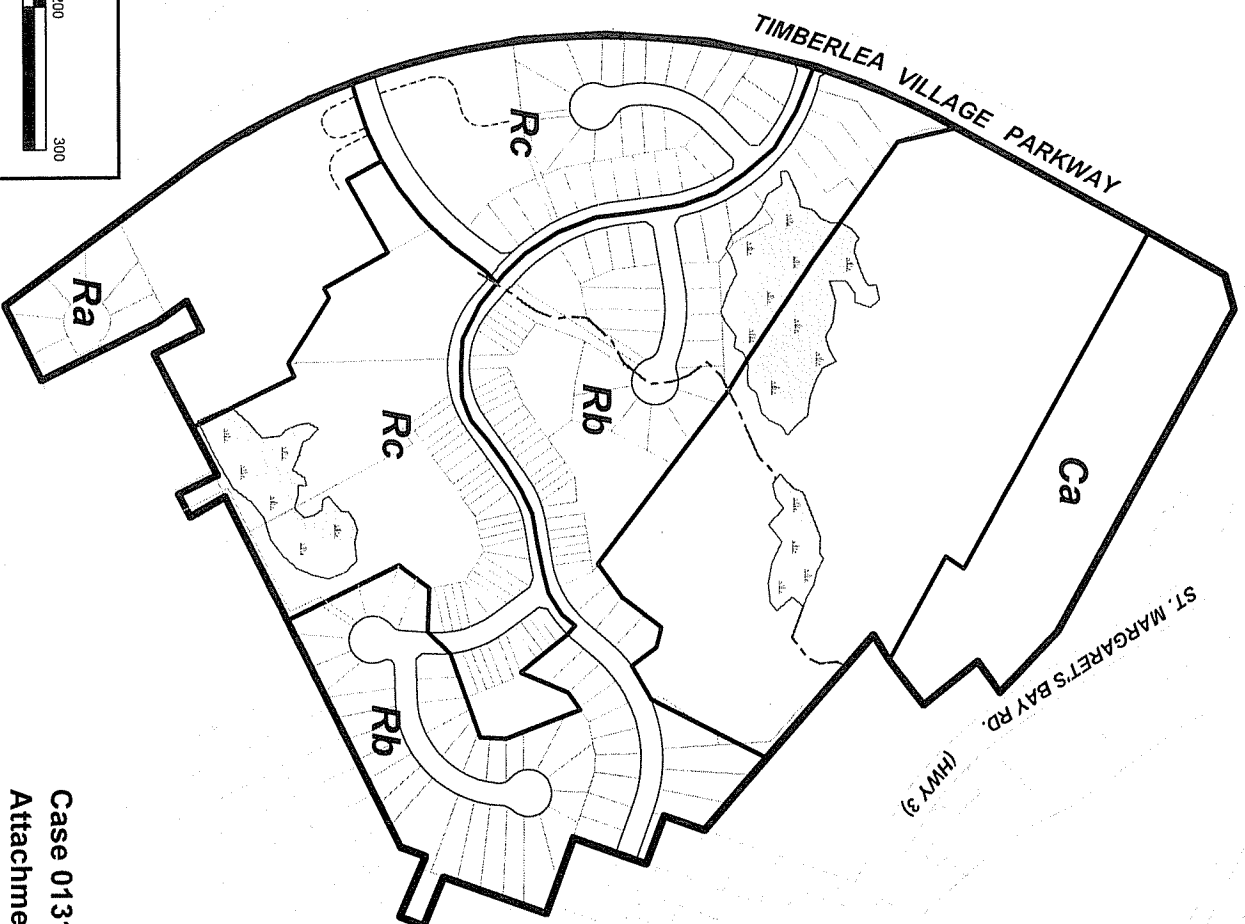
**Ra** Single family homes with up to 20% townhomes and alternate housing types

**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

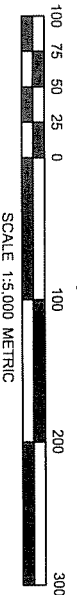
**COMMERCIAL**

**Ca** Commercial Use



Case 01312  
Attachment B

January 21, 2010



SOURCE BASE PLAN: EDM SCHEDULE B1, DATED MAY 29, 2003