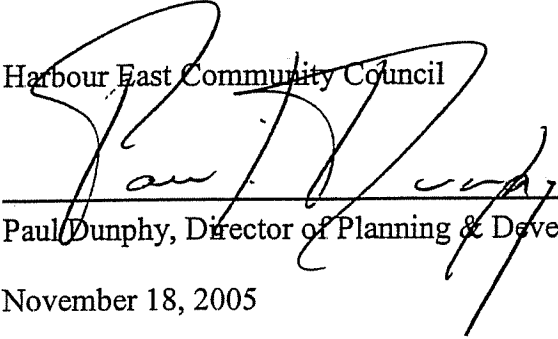


Harbour East Community Council
December 1, 2005

TO: Harbour East Community Council

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

DATE: November 18, 2005

SUBJECT: Case 00855 -Amendments to Heritage Hills CDD (Trails), Eastern Passage

ORIGIN

Motion of Harbour East Community Council at its meeting of October 18, 2005 requesting that staff prepare a report to amend the Heritage Hills CDD to require the developer to design and construct an alternative alignment to the recreation and active transportation corridor and trail system required by the existing development agreement.

RECOMMENDATION

It is recommended that Harbour East Community Council:

1. **Give Notice of Motion to consider the attached amending agreement and to schedule a public hearing for January 5, 2006;**
2. **Approve the amending agreement, attached to this report as Attachment A, to require the developer to design and build a recreation and active transportation corridor and trail system that connects Road A with Armenia Drive as generally illustrated on Concept 6.1. This alternative trail alignment replaces a previous requirement of the developer to design and construct a corridor and trail system to connect Road A with Astour Drive and the Astour Drive Neighbourhood Park, Phase 10, Heritage Hills, Eastern Passage; and**
3. **Require that the amending agreement be signed within 120 days from the date of final approval by Council and any other parties as necessary, including applicable appeal periods. Otherwise, this approval will be void and obligations arising hereunder shall be at an end.**

BACKGROUND

In 1994, Halifax County Council approved a development agreement for the development of Heritage Hills (Map 1). The Heritage Hills subdivision comprises a mix of semi-detached and single detached dwellings, three neighbourhood parks, a school and two areas classified as “conservation lands”.

Since 1994, various requests for amendments to the original development agreement have been considered. In 2004, another amendment was approved to accommodate additional single unit and semi-detached dwelling lots in an area originally designated as “conversation lands”. The following community benefits were negotiated as a reasonable trade-off for permitting residential development the 3.23 acre conservation area:

- The provision of additional land adjacent to the pumping station located at the eastern end of the Melrose Crescent section of the site, that will serve as a public trail head (Attachment B). The trail head will be designed and constructed by the developer and associated lands conveyed to HRM by the developer upon completion of the work.
- The development of a trail from the above noted trail head to the neighbouring Astour Drive neighbourhood park, which will be designed and constructed by the developer in consultation with Real Property and Asset Management (RPAM). (RPAM) has budgeted to construct another section of trail to connect the bridge at Smelt Brook to Armenia Drive. It is intended that this trail section in conjunction with the section to be built by the developer will improve the condition of an existing informal trail currently used by area children to cross Smelt Brook on their way to school and meet a community desire for additional parkland amenity.

The section of the public trail from the trail head to Smelt Brook including the bridge has been built. The public trail section from Smelt Brook to Astour Drive has not been constructed to date.

Community Meetings

On October 14, 2005 a community meeting hosted by Councillor Kent was held at the Eastern Passage Education Centre, Eastern Passage. This meeting, attended by approximately 30 residents, was held in response to opposition and/or concern of some members of the community for the planned trail. Specific resident concerns pertained to a recently reported rash of crime in the community and fear that the trail corridor will serve to facilitate additional criminal activity. The notification area proposed to be used for a future public hearing was confirmed in consultation with Councillor Kent (Map 1).

Requested Amendments

On October 18, 2005, Harbour East Community Council requested that staff prepare a report and amending agreement to amend the Heritage Hills CDD. The changes will require the developer to design and construct a new alignment for a trail system. The alternative alignment will connect the bridge at Smelt Brook to Armenia Drive (the trail connection planned to be constructed by RPAM). The changes that are proposed may be found by comparing the current Concept Plan 6.0 (Attachment B) to Concept Plan 6.1 (Attachment A).

DISCUSSION

A development agreement is the product of a comprehensive planning process and as such is intended to establish reasonable standards for the development of a given area of land. However, as is the case with many development agreements, often there is a need for amendments to reflect land owner requests due to unanticipated change and correct omissions, etc.

There is merit to Council considering amendments to the development agreement in this case:

- The proposed amendments result from exceptional circumstances. The Councilor and community have expressed strong concerns for a reported recent rash of crime in their community and fear that the planned development of a trail connection from the bridge at Smelt Brook to Astour Drive will serve to facilitate criminal activity in their community;
- In accordance with the terms of the amending development agreement, the alternative trail connection to Armenia Drive will be designed and constructed at the developer's expense. This will improve the condition of an existing informal trail currently used by children to cross Smelt Brook on their way to school; and
- While the developer is prepared to construct the trail as required by the existing development agreement, the developer has agreed to the terms of the proposed amendments to help resolve a community concern.

However, the proposed amendments do present the following concerns:

- The existing development agreement was negotiated with the developer in good faith in a planning process that incorporated accepted public consultation processes. No concerns for the proposed trail alignment were voiced during that planning process.
- The lands planned to accommodate the trail from the bridge at Smelt Brook to Astour Drive have been reserved by HRM for planned passive recreation use while facilitating active transportation connectivity between neighbourhoods. Connecting the Astour Drive neighbourhood park to the larger park and open space network via a trail is an important objective of RPAM's. This particular trail connection would efficiently use the land acquired along Smelt Brook and encourage more people to use the park - potentially discouraging undesirable activity.
- Staff recognize that frequently used, properly designed and maintained park and trail systems are valuable community resources. Therefore, staff are concerned that the proposed amendments may send a message to the public that parks and trails facilitate community crime and in doing so diminish the importance of parks and trails as an important component of healthy, sustainable communities.
- The existing development agreement requires that the trail head and trail be completed to the satisfaction of HRM prior to HRM's acceptance of services (i.e. Road A). This provision provides security to the municipality ensuring the timely completion of the trail head and trail. In accordance with the development agreement the developer is prepared at this time to complete all required trail construction and have Road A accepted by HRM. Consideration of the proposed amendments by Council will delay the developer's ability to petition HRM

to accept Road A. To obtain the developer's agreement to the proposed amendments and to respect the cooperation shown by the developer on this issue, HRM should agree to accept Road A prior to completion of the trail between the bridge at Smelt Brook and Armenia Drive.

BUDGET IMPLICATIONS:

RPAM has budgeted to construct the trail connection between the bridge at Smelt Brook and Armenia Drive. Construction costs associated with the Astour Drive trail connection were not anticipated by RPAM. If the proposed amendments are approved by Community Council, construction of the Astour Drive trail connection will become a future Capital Budget item with no guarantee of approval by Regional Council.

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. Council may choose to approve the proposed amendments. This is the staff recommendation.
2. Since the proposed amendments were initiated by Council, Council may choose not to approve them. Council may have the discretion to do this, given that the current development agreement is in accordance with the Municipal Planning Strategy, but it should state the reasons for a refusal.

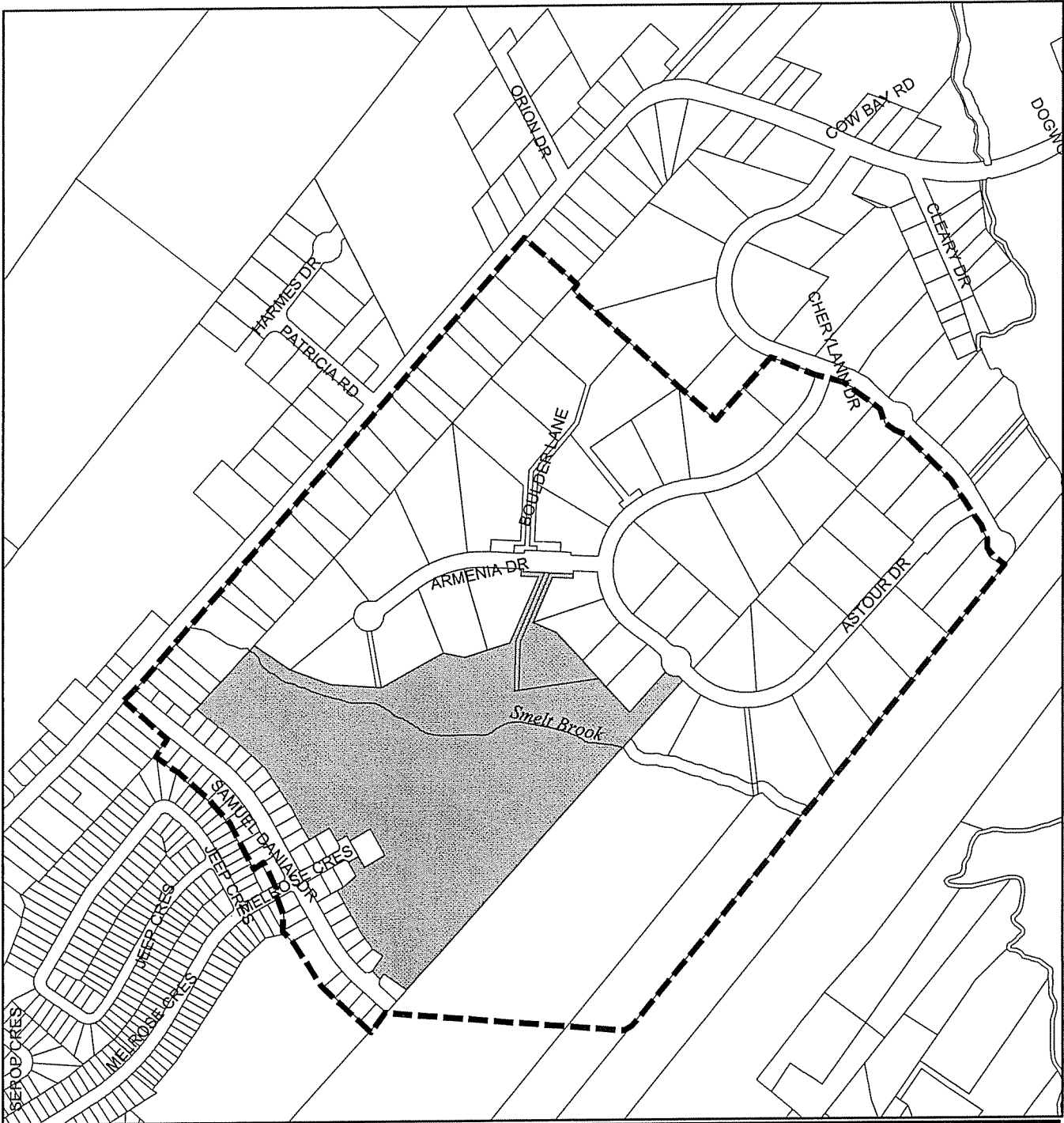
If Council decides to refuse the proposed amendments, staff recommend that the development agreement be amended to extend the deadline for completing the trail since construction has been delayed by this amendment process.

ATTACHMENTS

- Map 1: Location and Notification Area
Attachment A - Amending Agreement with Concept Plan 6.1, dated November 18, 2005
Attachment B - Original Concept Plan 6.0, August 31, 2004



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

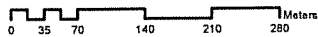
Report prepared by John MacPherson, Planner, 490-5719



Map 1 - Location

Heritage Hills
Eastern Passage

-  Subject Area
-  Notification Area



Eastern Passage - Cow Bay Plan Area

HALIFAX
REGIONAL MUNICIPALITY

PLANNING AND DEVELOPMENT
SERVICES



This map is an unofficial reproduction
of a portion of the Zoning Map for the
Eastern Passage By-Law area.

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

Attachment A

THIS AMENDING AGREEMENT made this day of , 2005,

BETWEEN:

ANAHD INVESTMENTS LIMITED
a body corporate, in the County of Halifax
("the Developer")

OF THE FIRST PART

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of lands located between Caldwell Road and Smelt Brook in Eastern Passage in the County of Halifax, which said parcel of land is more particularly described in Schedule "A" of this Agreement ("the lands);

AND WHEREAS the Parties have previously entered into a Development Agreement to allow residential development on the lands;

AND WHEREAS Harbour East Community Council approved this request at a meeting held on , 2006 (referenced as Municipal Case 00855);

THEREFORE in consideration of the mutual benefits from the covenants contained herein, the Parties agree as follows:

- 1. Part 3, Section 3.6 of the Agreement referring to Concept Plan 6.0 is hereby replaced by Concept Plan 6.1 dated 2005/11/18.
- 2. Part 5, Section 5.7 is amended by adding the following:
 - "5.7 Further to Section 5.2 an educational facility shall be permitted within the CDD and shall be located as generally illustrated on Concept Plan 6.1."**
- 3. Part 8, Section 8.6 is deleted and replaced with the following:
 - "8.6 The developer shall design and build a recreation and active transportation corridor and trail system as generally illustrated on Concept Plan 6.1. The system shall:**
 - connect Road A with Armenia Drive;
 - Cross Smelt Brook with a bridge able to accommodate pedestrians, cyclists, and maintenance vehicles. All other motor vehicles are prohibited from crossing; and
 - provide landscaping such as topsoil, grass hydroseed, bark mulch, and plant material for the corridor as per the Concept Plan."

4. Part 8, Section 8.9 is deleted and replaced with the following:

“8.9 The trail head adjacent to the existing pump station and section of the trail between Road A and Smelt Brook, including the bridge shall be completed by the developer and approved by Real Property Planning prior to acceptance of Road A. All work required by the developer to complete the section of trail east of Smelt Brook to Armenia Drive this section shall be approved by Real Property Planning prior to July 31, 2006.”

5. Part 8, Section 8.10 is deleted and replaced with the following:

“8.10 As illustrated on the Concept Plan 6.1, the developer shall provide a minimum of 600 square metres of Community Park Trail head land adjacent to and east of the lands occupied by the pumping station and storm pond. This parcel is to have a minimum of 20 metres of frontage on Road A and have a minimum of 30 metres for lot depth.”

6. Part 10, Section 10.9 is amended by adding the following:

“10.9 Notwithstanding Section 10.1, an educational facility is a permitted land use and shall be located and developed as generally illustrated on the Concept Plan 6.1.”

7. Part 12, Section 12.2 (c) is deleted and replaced with the following:

“12.2(c) minor changes to the open space and parkland requirements of Section 8.4, 8.6, 8.9 and “8.10.

8. All other terms of the Existing Agreement shall remain in full force and effect.

9. This Amending Agreement and everything contained herein shall be binding upon the Parties hereto, their heirs, successors and assigns.

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

SIGNED, SEALED AND DELIVERED
in the presence of

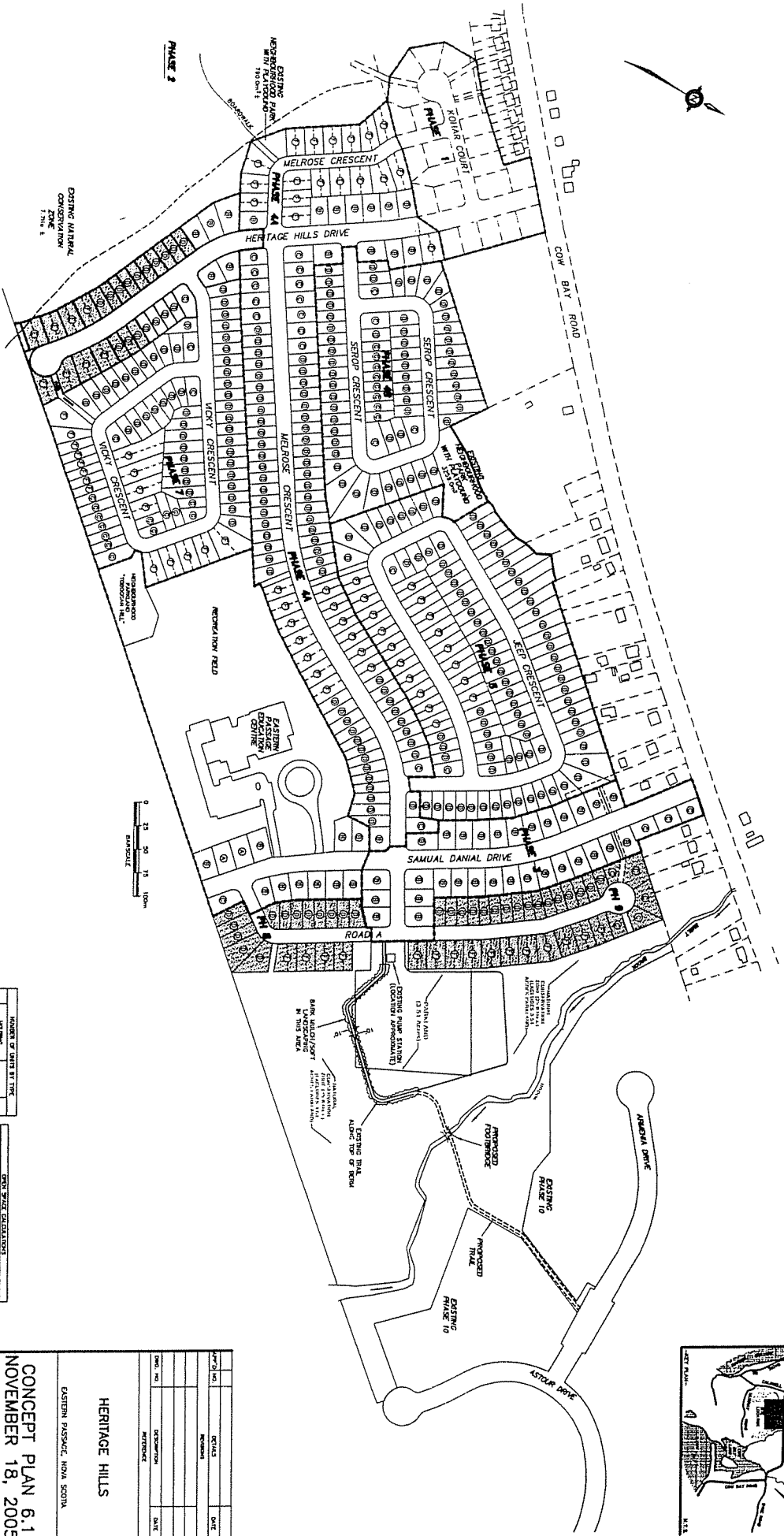
Per _____

) Anahid Investments Limited
)
)
) Per _____
)
) Per _____

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

Per _____

) Halifax Regional Municipality
)
)
) Per _____
) Mayor
)
) Per _____
Municipal Clerk



NUMBER OF UNITS BY TYPE	
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HERITAGE HILLS
 EASTERN PASSAGE, HOWA SCHEM

CONCEPT PLAN 6.1
 NOVEMBER 18, 2005

Kimberly-Lloyd

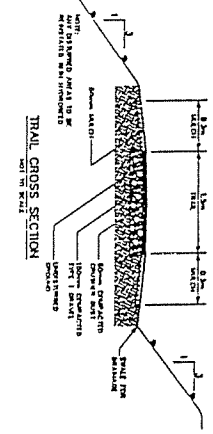
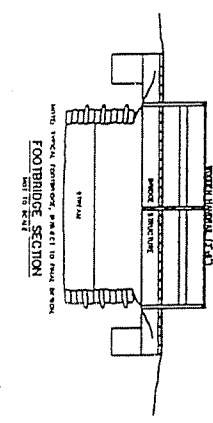
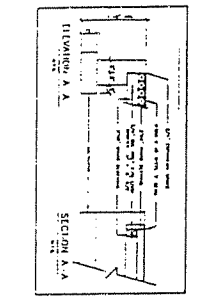
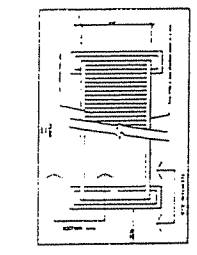
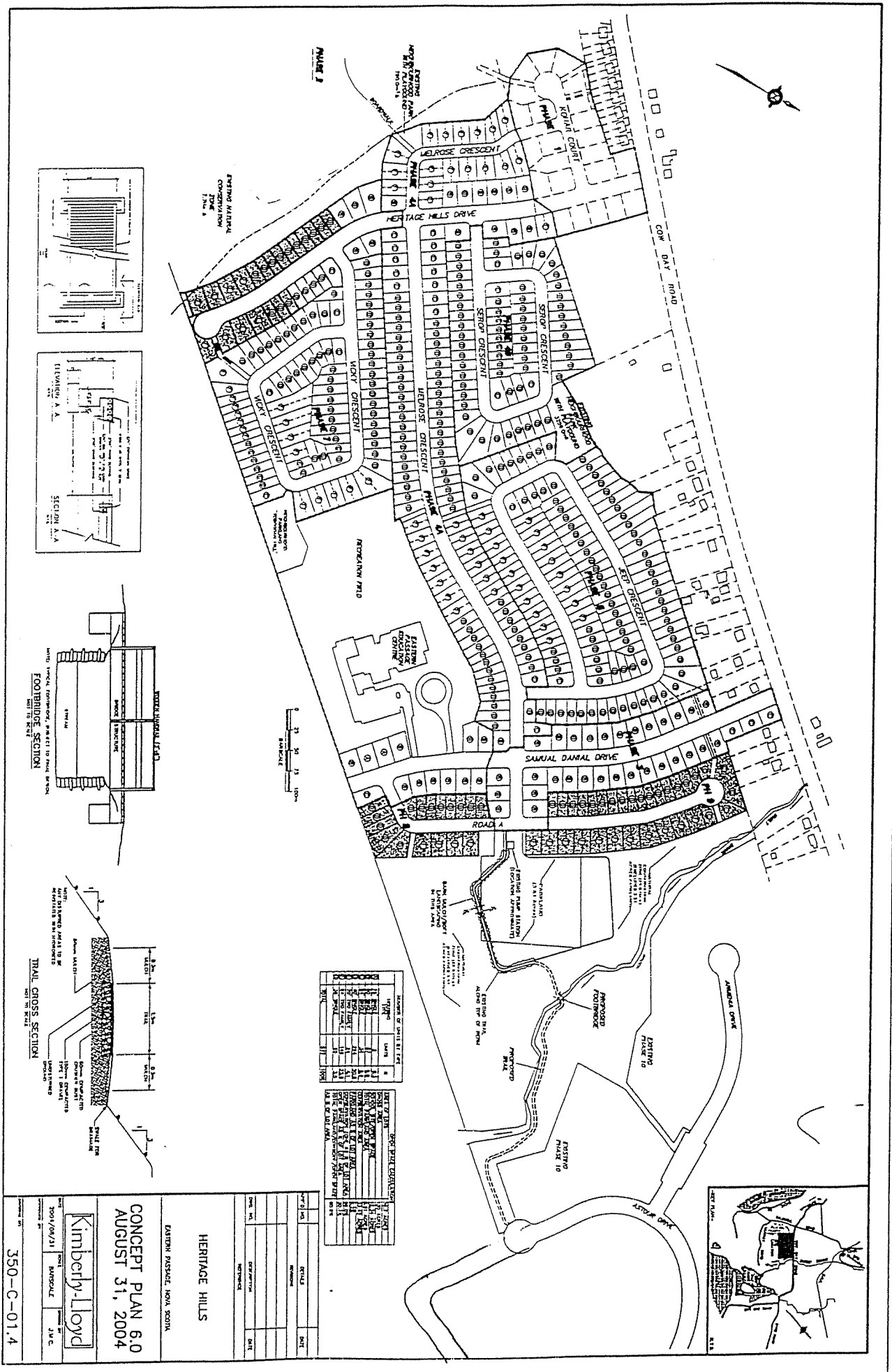
DATE: 2004/08/31
 DRAWN BY: BARSCALE
 CHECKED BY: J.M.C.

DRAWING NO: 350-C-01.5

NO.	REVISION	DATE

ATTACHMENT A

ATTACHMENT B



HERITAGE HILLS
 EASTERN PASSAGE HOVA SCHEM

CONCEPT PLAN 6.0
 AUGUST 31, 2004

Kimberly-Lloyd

300/04/21 BUNSCUL JVC
 350-C-01.4

NO.	REV.	DATE	DESCRIPTION
1	0		ISSUED FOR PERMITTING