

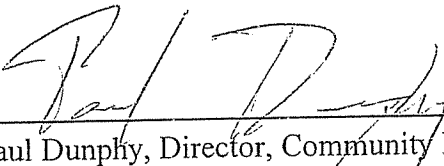


PO Box 1749
Halifax, Nova Scotia
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Marine Drive, Valley, and Canal Community Council
November 25, 2009

TO: Chair and Members of Marine Drive, Valley, and Canal Community Council

SUBMITTED BY:


Paul Dunphy, Director, Community Development

DATE: October 22, 2009

SUBJECT:

Case 01320: Amendment to development agreement - Oakfield Golf and Country Club

ORIGIN

Application by Oakfield Golf and Country Club (OGCC) to amend an existing development agreement to allow for flexibility related to the construction and expansion of accessory buildings, including a new maintenance building.

RECOMMENDATION

It is recommended that Marine Drive, Valley, and Canal Community Council:

1. Give Notice of Motion to consider the proposed amending agreement as set out in Attachment A of this report and schedule a public hearing;
2. Approve the proposed amending agreement to permit accessory buildings up to 5,000 square feet (464.5 m²), and one accessory building up to 10,000 square feet (929 m²) as set out in Attachment A of this report; and
3. Require the agreement be signed within 120 days, or any extension thereof granted by Council on request of the applicant, 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 Property

The subject property is generally described as follows:

- home to Oakfield Golf and Country Club since 1962;
- located on Highway #2 in Oakfield (Maps 1 & 2);
- approximately 400 acres (161.8 hectares) in size;
- located near Shubenacadie Grand Lake and abutting Fish Lake (Maps 1 & 2);
- designated Residential under the Municipal Planning Strategy for Planning Districts 14 and 17 (MPS) (Map 1);
- zoned R-1a (Residential Single Unit) under the Land Use By-law for Planning Districts 14 and 17 (LUB) (Map 2); and
- subject to a development agreement.

Existing Development Agreement

OGCC has an existing development agreement that was approved in February of 2002, which allowed for a small addition to its clubhouse. OGCC also has an amending development agreement that was approved in July of 2004, which allowed for the construction of a storage shed for golf carts.

Accessory Buildings

The existing development agreement permits accessory uses and buildings, however, accessory building size, height, and setbacks are regulated by the LUB. Based on the zoning of the golf course property, accessory buildings are limited 750 square feet (69.6 m²).

The Application

OGCC has an immediate need to construct a single story 8,000 square foot (743.2 m²) maintenance building, the proposed location of which is more than 1,000 feet (30.48m) from the closest residentially developed property. The application requests an amendment to the development agreement to enable the construction of the maintenance building and flexibility related to other accessory buildings.

DISCUSSION

Policy Intent

The subject property is designated Residential (R) under the MPS, which enables Council to consider new, or expansions to existing, commercial recreation uses. Policy P-91 establishes criteria that are to be considered when evaluating commercial recreation proposals. Policy P-155 contains a comprehensive list of criteria that are to be considered when reviewing any development agreement application (Attachment B).

It is the opinion of staff the proposal meets the intent of relevant MPS policies. While the proposal is consistent with the intent of the MPS, staff have identified the following issues for discussion:

Golf Course Accessory Buildings: The accessory building needs of golf course are typically greater than a residentially developed property. In most cases, a golf course will require several types and sizes of accessory buildings, including gazebos for shelter, washroom facilities, snack shops, and maintenance/storage buildings.

Traffic and Access (Policy P-91 & 155): The proposal requests the ability to construct larger accessory buildings in order to better serve the existing golf and country club. No additional traffic is anticipated and the existing access to the property will remain unchanged.

Compatibility with Adjacent Land Uses (Policy P-91): The subject property is approximately 400 acres (161.8 hectares) in size, and has been home to OGCC since 1962. Controls on accessory building mass, height, and setbacks in the proposed amending agreement will ensure adequate buffering of accessory buildings from surrounding land uses.

Treatment of Solid and Liquid Waste (Policy P-91): The subject property is not serviced with municipal sewer. The proposed maintenance building will require an on-site septic system. Prior to the Development Officer issuing a development permit, the design of the on-site system will require approval from Nova Scotia Environment.

Water Service (Policy P-155): The subject property is not serviced with municipal water. The proposed maintenance building will require an alternative to municipal water. OGCC has indicated they currently draw their water from a lake source and intend to service the maintenance building from the same source, which will require approval from Nova Scotia Environment.

Protection of Watercourses: The LUB contains provisions related to the protection of watercourses. In short, the LUB requires a minimum 66 feet (20 metre) buffer from watercourses, which will apply to accessory buildings. Attachment C provides more detail related to these provisions.

Halifax Watershed Advisory Board (HWAB)

HWAB reviewed the proposal on October 21, 2009. Although minutes from the October 21st meeting are not yet finalized and approved by the Board, the Board expressed no concerns with the proposal.

Public Information Meeting

Given the minor nature of the application, a public information was not held. Should Council decide to proceed with a public hearing on this application, in addition to published newspaper advertisements, property owners in the immediate area will be individually notified, as shown on Map 2.

Conclusion

The proposed amending development agreement reasonably satisfies the applicable policies of the MPS (Attachment B). Staff could not identify any issues that would suggest this proposal is

inappropriate. It is recommended that Marine Drive, Valley and Canal Community Council approve the proposed amending agreement to permit accessory buildings up to 5,000 square feet (464.5 m²), and one accessory building up to 10,000 square feet (929 m²) at the Oakfield Golf and Country Club as set out in Attachment A.

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

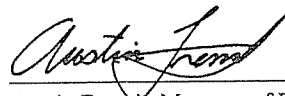
1. Council may choose to proceed with the amending agreement. This is the staff recommendation.
2. Council may choose to approve the proposed amending agreement subject to modifications. This may necessitate further negotiation with the applicant and may require a second public hearing.
3. Council may choose to refuse the proposed amending agreement, and in doing so, must provide reasons based on a conflict with MPS policies.

ATTACHMENTS

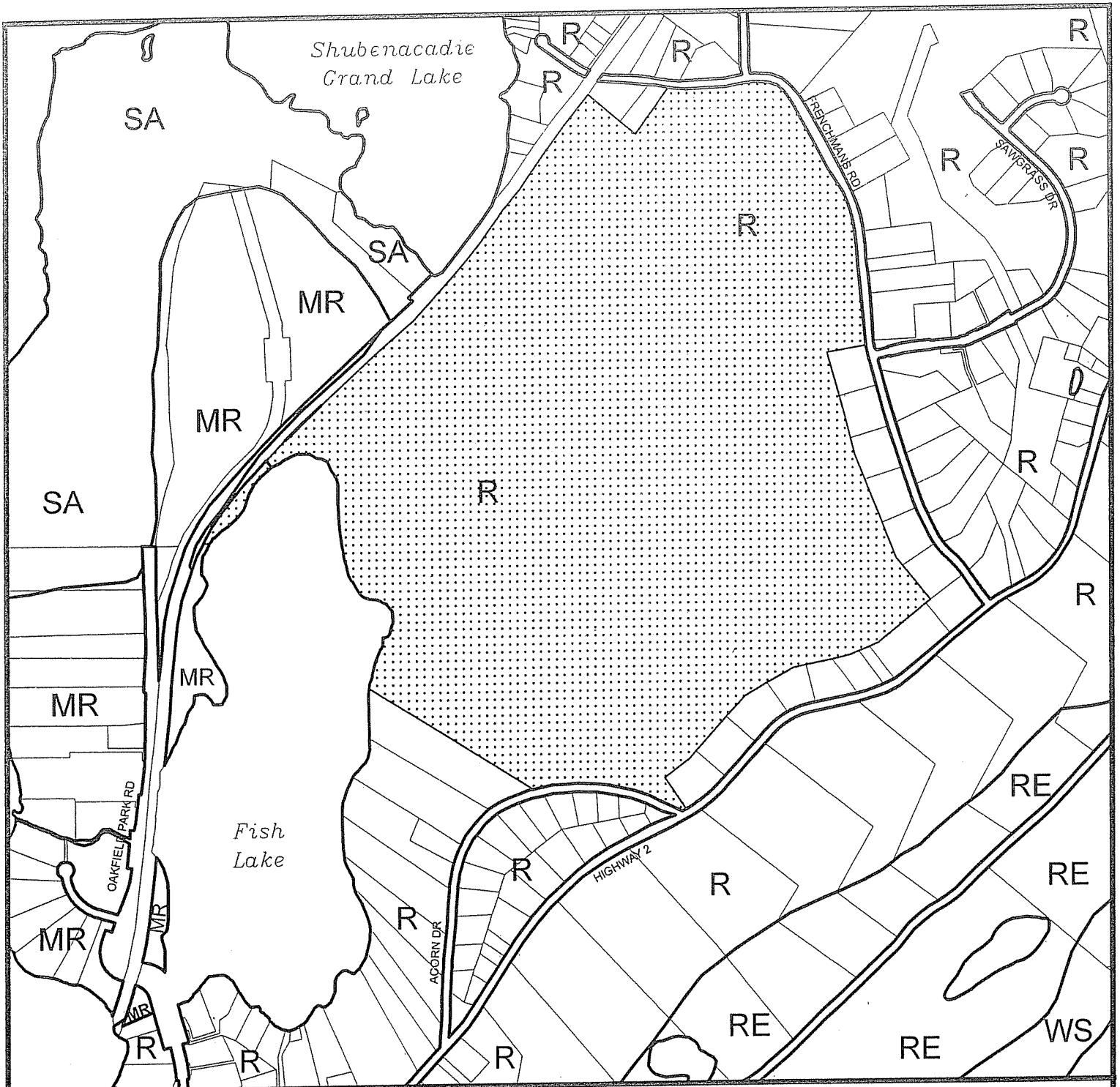
Map 1:	Generalized Future Land Use Map
Map 2:	Zoning Map and Public Hearing Notification Area
Attachment A:	Proposed Amending Agreement
Attachment B:	Applicable MPS Policies
Attachment C:	Applicable LUB Requirements

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.

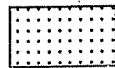
Report Prepared by: Miles Agar, Planner I, Community Development, 869-4262



Report Approved by: Austin French, Manager of Planning Services, 490-6717



Map 1
Generalized Future Land Use

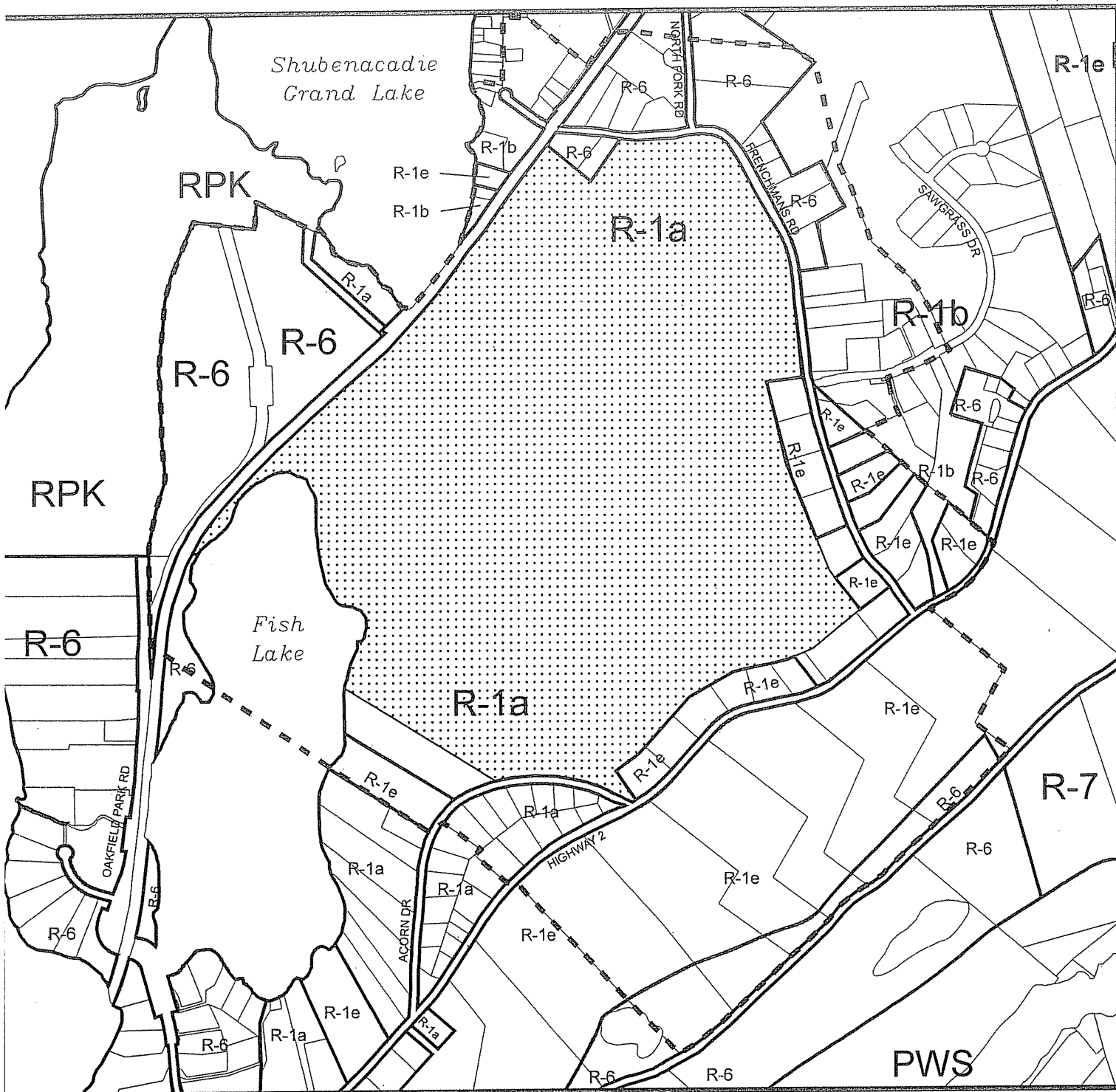


Subject Property

- R Residential Designation
- MR Mixed Residential Designation
- SA Special Area Designation
- RE Resource Designation
- WS Watershed Designation

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Community Development
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**Map 2
Zoning**



Subject Property

- R-1a Single Unit Dwelling Zone
- R-1b Suburban Residential Zone
- R-1e Residential Estate Zone
- R-6 Rural Residential Zone

- R-7 Rural Estate Zone
- RPK Regional Park Zone
- PWS Protected Water Supply Zone

--- Notification Area

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Attachment A
Proposed Amending Agreement

THIS 2nd AMENDING AGREEMENT made this day of , 2009,

BETWEEN:

OAKFIELD GOLF AND COUNTRY CLUB
(hereinafter called the "Developer")

OF THE FIRST PART

-and-

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

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located in Oakfield and which said lands are more particularly described in Schedule "A" to this Agreement (hereinafter called the "Lands");

AND WHEREAS the Marine Drive, Valley, and Canal Community Council of the Municipality approved an application by the Developer to enter into a development agreement to allow for expansion to buildings on the Lands, which said development agreement was registered at the Registry of Deeds in Halifax as Document Number (15848) in Book Number (7021) at Pages (222 to 240) (hereinafter called the "Agreement");

AND WHEREAS the Marine Drive, Valley, and Canal Community Council for the Municipality previously amended the Agreement by entering into an Amending Agreement with the Developer on August 9, 2004 as Municipal Case Number 00681 to allow further expansions to buildings on the Lands, said Agreement was registered at Registry of Deeds in Halifax as Document (76096172) in Book (7846) at Pages (27-33) (hereinafter called the "Amending Agreement");

AND WHEREAS the Developer wishes to further amend the to the provisions of the Agreement;

AND WHEREAS the Marine Drive, Valley, and Canal Community Council for the Municipality approved this request at a meeting held on xxxxxx, 2009, referenced as Municipal Case Number 01320;

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

1. To remove in *Section 1.2*, the words "Land Use By-law of the", which immediately follow the words "requirements of the", for the purposes of correcting a duplication of wording in the Agreement.
2. To insert in *Section 2.2, Permitted Uses*, a new paragraph and associated criteria following the existing paragraph in the Agreement:

"Accessory uses, buildings and structures shall be permitted on the Lands, subject to the Land Use By-law, as may be amended from time to time, and the provisions of this Agreement. Where the written text of this Agreement conflicts with the requirements of the Land Use By-law related to accessory uses and buildings, the written text of this Agreement shall prevail. The following are specific requirements related to accessory uses, buildings, and structures on the Lands:

- (a) no accessory building on the Lands shall exceed five thousand (5,000) square feet;
 - (b) no accessory building on the Lands shall be built closer than one hundred (100) feet from a residentially zoned property;
 - (c) no accessory building on the Lands shall exceed a height of twenty five (25) feet; and
 - (d) notwithstanding (a) and (b), one accessory building, a maximum of ten thousand (10,000) square feet, shall be permitted on the Lands, provided the building is not built closer than one hundred fifty (150) feet from a residentially zoned property."
3. To insert immediately after *Section 4.2 (d)* of the Agreement, a new Part dealing with following the existing paragraph:

PART 5 AMENDMENTS

5.1 Substantive Amendments

Amendments to any matters not identified under Section 5.2 shall be deemed substantive and may only be amended in accordance with the approval requirements of the Halifax Regional Municipality Charter.

5.2 Non-Substantive Amendments

The following items are considered by both parties to be not substantive and may be amended by resolution of the Council.

- (a) An increase in the maximum size of accessory buildings, beyond five thousand (5,000) square feet.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals on the day and year first above written:

Signed, sealed and delivered
in the presence of:
per: _____

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

) Oakfield Golf and Country Club
)
)
) per: _____
)

) Halifax Regional Municipality
)
)
) per: _____
) MAYOR
)
) per: _____
) MUNICIPAL CLERK

Attachment B
Applicable Sections of the MPS

Within the Plan Area, there are a number of larger commercial recreation uses which serve a more regional market. Golf courses are located at Goffs, Fall River and Oakfield and a private equestrian ring is located at Miller Lake. Given the substantial lake system within the Plan Area, there is also considerable potential for the development of marina facilities. As a result of the attractive natural environment, accessibility, and relatively lower land prices, pressures may exist for additional commercial recreation proposals.

While new commercial recreation uses can provide both local and regional benefits, it is important that such uses do not negatively affect either the natural or residential environments. Commercial recreation uses which create disturbances by reason of noise, dust, or excessive traffic are not to be encouraged. Since many such uses entail the use of large amounts of land or are intended to serve either a metropolitan or regional market, particular attention must be given to both the hours of operation and long-term maintenance, among other matters.

- P-91 Within the Mixed Residential Designation, and the Residential Designation, it shall be the intention of Council to consider permitting the expansion of existing or the development of new commercial recreation uses according to the provisions of Sections 55, 66, and 67 of the Planning Act. In considering such an agreement, Council shall have regard to the following provisions:
- (a) the effects of the development on the natural environment as contained in a report from the appropriate provincial or federal government authority;
 - (b) the volume, pattern, and projected impacts of any additional traffic created by the proposed use;
 - (c) the manner by which solid and liquid waste will be treated;
 - (d) that there are adequate fire protection measures for the proposed use;
 - (e) that the hours of operation will not unreasonably interfere with the use of surrounding properties;
 - (f) that the architectural design and scale of any building(s) is compatible with nearby land uses;
 - (g) any other matters relative to the impact of the proposed use upon the community;
 - (h) that proper separation distances and visual buffering from surrounding land uses is provided;
 - (i) that the use does not involve racing, motorized vehicles or firearms; and
 - (j) the provisions of Policy P-155.

- P-155 In considering development agreements and amendments to the land use by-law, in addition to all other criteria as set out in various policies of this Plan, Council shall have appropriate regard to the following matters:
- (a) that the proposal is in conformity with the intent of this Plan and with the requirements of all other municipal by-laws and regulations;

- (b) that the proposal is not premature or inappropriate by reason of:
 - (i) the financial capability of the Municipality to absorb any costs relating to the development;
 - (ii) the adequacy of central or on-site sewerage and water services;
 - (iii) the adequacy or proximity of school, recreation or other community facilities;
 - (iv) the adequacy of road networks leading or adjacent to or within the development; and
 - (v) potential for damage to or for destruction of designated historic buildings and sites.
- (c) that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:
 - (i) type of use;
 - (ii) height, bulk and lot coverage of any proposed building;
 - (iii) traffic generation, access to and egress from the site, and parking;
 - (iv) open storage;
 - (v) signs; and
 - (vi) any other relevant matter of planning concern.
- (d) that the proposed site is suitable in terms of the steepness of grades, soil and geological conditions, locations of watercourses, marshes or bogs and susceptibility or flooding.
- (e) Within any designation, where a holding zone has been established pursuant to "Infrastructure Charges - Policy P-64F", 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 2/02; Effective-Aug 17/02)

Attachment C
Applicable LUB Requirements

- 2.1 ACCESSORY BUILDING OR STRUCTURE means a building or structure which is used exclusively for an accessory use and which is not attached in any way to the main building and which conforms with all applicable requirements of this by-law. (MC/SCC-Jun 26/95;E-Jul 22/95)
- 2.2 ACCESSORY USE means a use which is subordinate, normally incidental, and exclusively devoted to a main use or building permitted under the provisions of this by-law and, where residential uses are permitted by this by-law, shall include home occupations related to the domestic arts of cooking, sewing, tutoring or repairing household articles, or related to traditional crafts carried on within a dwelling without alteration to the dwelling and without devoting any space within the dwelling exclusively to such occupations. (MC/SCC-Jun 26/95;E-Jul 22/95)
- 2.11 COMMERCIAL RECREATION USE means a building or lot or part of a building or lot used solely for commercial recreation, sport or entertainment purposes and without limiting the generality of the foregoing, may include such establishments as dance halls, animal or vehicle racing tracks, rifle ranges, marinas, bowling alleys, golf courses, bingo halls, roller skating rinks, drive-in theatres, and may include a dwelling unit or dwelling units for maintenance or security personnel.

4.6 EXISTING USES

Except as may be stated elsewhere in this By-law, the uses listed below shall be permitted as existing uses within any zone, subject to the following:

.....

- (g) Existing commercial recreation uses are permitted to the extent that they presently exist and no expansion or enlargement to any main building or area of land devoted to the use shall be permitted. New accessory buildings, or the expansion or replacement of existing accessory buildings, shall be permitted subject to the requirements of Section 4.11. (MC-Mar 14/94;SCC-Apr 12/94;E-May 7/94)

4.10 ACCESSORY USES AND BUILDINGS

Provisions made under this by-law to permit uses, buildings, and structures shall, unless otherwise stated by this by-law, also be deemed to include any accessory uses buildings or structures provided that:

- (a) the accessory use, building, or structure is located within the same zone as the principal building or use it is intended to serve or is located within an abutting zone in which the principal use or building is permitted;

- (b) the accessory use building or structure is located on a lot which directly abuts or is directly across a public street or highway, private road or private right-of-way from the lot containing the principal building or use it is intended to serve; and
- (c) all other applicable conditions and requirements of this by-law are satisfied.
(MC/SCC-Jun 26/95;E-Jul 22/95)

4.11 ACCESSORY BUILDINGS

- (a) Accessory uses, buildings and structures shall be permitted in any zone but shall not:
 - (i) be used for human habitation except where a dwelling is a permitted accessory use;
 - (ii) be built closer to the front lot line than the minimum distance required for the main building or be built closer than eight (8) feet (2.4 m) to any other lot line except that:
 - 1. in any Residential Zone, garages which are accessory to dwellings shall be a minimum of four (4) feet (1.2 m) from any side or rear lot line;
 - 2. common semi-detached garages Day be centred on the mutual side lot line;
 - 3. boat houses, boat docks and float plane hangars may be built to the lot line when the line corresponds to the high water Dark;
 - 4. accessory buildings and structures in a P-2 (Community Facility) Zone shall not be built closer to any side or rear lot line than ten (10) feet (3.0 m) or one half (½) the height of such building or structure, whichever is the greater; and
 - 5. accessory structures shall be permitted to be constructed within the front yard of an AE-1 (AeroTech Core) Zone and AE-2 (General Airport) Zone, but shall not be permitted within the minimum required front yard.
 - (iii) Exceed a height of:
 - 1. twenty five (25) feet (7.62 m) in any R-1A zone or the height of the main building, whichever is less; (MDVCCC-Dec 6/07;E-Dec 22/07)
 - 2. twenty five (25) feet (7.6 m) in any R-1B, R-1C, or R-1D zone;
 - 3. thirty five (35) feet (10.7 m) in any R-6 or R-7 zone;
 - (iv) Exceed a gross floor area of:
 - 1. seven hundred and fifty (750) square feet (70 m²) in any R-1A, R-1B, R-1C or R-1D zone; or
 - 2. one thousand (1,000) square feet in any R-6 or R-1E zone. (C-Jun 29/93;M-Aug 6/92)
 - (v) (deletion - MC-Mar 28/94;SCC-Apr 12/94;E-May 7/94)
 - (vi) Be built within eight (8) feet (2.4 m) of the main building within any Residential Zone or twelve (12) feet (3.7 D) in any other zone.
 - (vii) be used for the keeping of livestock, except where agriculture is a permitted use. (C-Aug 27/90;E-Sep 22/90)

- (b) Notwithstanding anything else in this By-law, drop awnings, clothes poles, flag poles, garden trellises, fences and retaining walls shall be exempted from the requirements of Subsection (a).

4.17 WATERCOURSE SETBACKS AND BUFFERS

- (1)
 - (a) No development permit shall be issued for any development within 20m of the ordinary highwater mark of any watercourse, except on lots zoned R-1C.
 - (b) Where the average positive slopes within the 20m buffer are greater than 20%, the buffer shall be increased by 1 metre for each additional 2% of slope, to a maximum of 60m.
 - (c) Within the required buffer pursuant to clauses (a) and (b), no excavation, infilling, tree, stump and other vegetation removal or any alteration of any kind shall be permitted in relation to a development.
 - (d) Within the required buffer pursuant to clauses (a) and (b), activity shall be limited to the placement of one accessory structure or one attached deck not exceeding a footprint of 20 m² or a combination of an accessory structure and attached deck not exceeding 20 m², fences, boardwalks, walkways and trails not exceeding 3 metres in width, wharfs, boat ramps, marine dependent uses, fisheries uses, conservation uses, parks on public lands, historic sites and monuments, and public road crossings, driveway crossings and wastewater, storm and water infrastructure.
 - (e) Notwithstanding clause (a), the required buffer for construction and demolition operations shall be as specified under the applicable CD Zone.
 - (f) Within the buffer required pursuant to clause (e), no excavation, infilling, tree, stump and other vegetation removal or any alteration of any kind shall be permitted in relation to a development.
- (2) Notwithstanding subsection (1), where an existing residential main building is located within the required buffer, accessory structures, subject to meeting other requirements of this by-law, shall be permitted provided they are located no closer to the watercourse than the existing main building.
- (3) Where the configuration of any existing lot, including lots approved as a result of completed tentative and final subdivisions applications on file prior to the effective date of the Regional Municipal Planning Strategy, is such that no main building could be located on the lot, the buffer distance shall be reduced in a manner which would provide the greatest possible separation from a watercourse having regard to other yard requirements.
- (4) Notwithstanding subsection (1), nothing in this by-law shall prohibit the removal of windblown, diseased or dead trees, deemed to be hazardous or unsafe.
- (5) Notwithstanding subsection (1), the selective removal of vegetation to maintain the overall health of the buffer may be authorized by the Development Officer where a management plan is submitted by a qualified arborist, landscape architect, forester or forestry technician.
- (6) Every application for a development permit for a building or structure to be erected pursuant to this section, shall be accompanied by plans drawn to an appropriate

scale showing the required buffers, existing vegetation limits and contours and other information including professional opinions, as the Development Officer may require, to determine that the proposed building or structure will meet the requirements of this section. (RC-Jun 27/06;E-Aug 26/06)

