



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

Item No.
Halifax and West Community Council
July 25, 2017

TO: Chair and Members of Halifax and West Community Council

SUBMITTED BY: Original Signed

Kelly Denty, Acting Director, Planning and Development

DATE: July 10, 2017

SUBJECT: **Case 20449: Stage II Development Agreement Amendments for Blocks B and C of Clayton Park West Phase 5, Halifax**

ORIGIN

- Application by Arbor Vitalia Courtyard Properties Limited
- Approval on May 30, 2017 by Halifax and West Community Council of the second amending Stage I Development Agreement.

LEGISLATIVE AUTHORITY

Attachment E.

RECOMMENDATION

It is recommended that Halifax and West Community Council:

1. Approve, by resolution, the proposed Amending Stage II Development Agreement for Block B, as contained in Attachment B of this report, for 50, 70 and 90 Grandhaven Boulevard and PID No. 41363706, Halifax;
2. Approve, by resolution, the proposed Amending Stage II Development Agreement for Block C, as contained in Attachment C of this report, at 372 Washmill Lake Drive, Halifax; and
3. Require the Amending Stage II Development Agreements be signed by the property owners within 120 days, or any extension thereof granted by Council on request of the property owners, 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

Arbor Vitalia Courtyard Properties Limited has requested substantive amendments to the existing Stage I and Stage II Development Agreements for Phase 5 of the Clayton Park West Subdivision in Halifax (Maps 3, 4, and 5). The existing Agreements divide the phase into eight large blocks, allowing for a mixed use development that includes residential, commercial, institutional, and park uses. The purpose of the substantive amendments is to add nine (9) residential units into an existing structure that was to be used as a private club house within Block C, located at 372 Washmill Lake Drive, Halifax (Map 2). This request involves transferring density between blocks referenced in multiple Development Agreements, and as such, multiple amendments are required in order to facilitate the proposal.

On May 30, 2017 Community Council approved an amendment to the Stage I development agreement to enable proposal. However, the associated amendments to the detailed stage II agreements, which are also necessary to allow the proposed development, could not be considered until such time that the Stage I agreement is executed and registered at the Land Registration Office. As the Stage I amending agreement has now been registered, the Stage II amending agreements which are the subject of this report are coming forward for Council's consideration.

	Block B Lands	Block C Lands
Subject Site	50, 70 and 90 Grandhaven Boulevard and parcel identified as PID No. 41363706, Halifax	372 Washmill Lake Drive, Halifax
Location	The subject lands are located in the Clayton Park West neighbourhood of Halifax.	
Regional Plan Designation	Urban Settlement (US)	
Community Plan Designation (Map 1)	The subject lands are designated 'Residential Environments' by the Halifax Municipal Planning Strategy (MPS).	
Zoning (Map 2)	The subject lands are identified as 'Schedule K' by the Halifax Mainland Land Use By-law (LUB).	
Current Land Use(s) (Maps 3, 4 and 5)	Block B is divided into four parcels with direct frontage on Grandhaven Boulevard and Washmill Lake Drive. The only developed parcel is located on the corner of Grandhaven Boulevard and Washmill Lake Drive. It consists of a residential building containing 100 units.	Block C comprises a condominium development, consisting of 35 dwelling units within six buildings and a private club house for the use of condo residents.
Surrounding Use(s)	The subject lands is surrounded by mostly low density residential, but some medium and high-density residential. Also, commercial and open space uses.	

Proposal Details:

The applicant proposes to amend the existing Stage II Development Agreements for Clayton Park West Phase 5 to transfer an approximate population density of 20 persons from Block B to Block C to add nine (9) residential units within the existing club house building in Block C. This density transfer falls within the overall density limits of the Clayton Park Phase 5 Agreements, and does not result in changing or altering the volume, size or exterior appearance of the current structure. On May 30, 2017, Halifax and West Community Council approved the require Stage I amending agreement to permit this type of density transfer.

Existing Stage II Development Agreements - Clayton Park Subdivision (Phase 5):

Stage II Development Agreement – Block B:

In 2011, a Stage II Development Agreement was approved by resolution of the former Chebucto Community Council to enable the development of four multiple-unit residential buildings each containing 100 units (total

of 400 units) (Map 4). The Agreement also allows for a fifth building that is to be utilized as an amenity space for the residential complex.

Stage II Development Agreement – Block C:

In 2012, a Stage II Development Agreement was approved by resolution of the former Chebucto Community Council to enable a condominium townhouse-style development on Block C of Phase 5 consisting of 35 townhouse-style dwelling units within six buildings (Map 5). The Agreement also included provisions for the establishment of a clubhouse with an associated parking area consisting of 18 spaces on the lands for the private use of the townhouse-development residents.

Enabling Policy and LUB Context:

Implementation Policy 3.3 of the MPS establishes the need for comprehensive planning in the Mainland North area of Halifax and enables the application of the Schedule K Zone under the LUB. All developments under Schedule 'K' is then subject to approval by Community Council, through the application of Stage I and Stage II Development Agreements which enable residential or mixed use projects.

COMMUNITY ENGAGEMENT

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation regarding the Stage I amendments, achieved through providing information and seeking comments through the HRM website, signage posted on the subject site, and letters mailed to property owners within the notification area.

As this stage of the process, a decision by resolution of Community Council is required. A Public Hearing is not a requirement to make changes to approve the proposed amending stage II agreement. In keeping with standard practices, information concerning the application has been made available on the HRM website.

The proposed amending Stage II Development Agreement will potentially impact residents and property owners.

DISCUSSION

Staff has reviewed the proposal relative to all relevant policies and advise that it is reasonably consistent with the intent of the MPS. Attachment D contains the relevant MPS Policies and LUB regulations.

Proposed Amending Stage II Development Agreements:

Attachments B and C contain the proposed Amending Stage II Development Agreements applicable to Block B and Block C of Phase 5 of Clayton Park West, and the conditions under which the development may occur. The proposed Amending Agreements include adjustments to the allocated population densities for Block B and Block C to reflect the requested density transfers, as shown on the following table:

	Block B Lands		Block C Lands	
	Total Units	Density (persons)	Total Units	Density (persons)
Existing Allowance (Stage I & Stage II DAs)	400	810	35 Townhouses	117.25
Proposed Transfer (from Block B to Block C)	-9	-20.25	+9	+20.25

Proposed Allowance (Amending Stage I & Stage II DAs)	391	789.75	35 Townhouses + 9 – Two Bedroom Units	137.50
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The attached Amending Development Agreements will permit a total of 9 new residential units within the existing club house structure. Of the matters addressed by the proposed Amending Development Agreements to satisfy the MPS criteria as shown in Attachments B and C, the following have been identified for detailed discussion.

Building Design - Exterior Architectural Appearance:

The Stage I Development Agreement provides design guidelines for buildings on each of the blocks, restricts the type of uses in each building, and speaks to appropriate architectural treatments and finishing materials of the building. Further, the Stage II Development Agreement for Block C includes design and development provisions for the townhouse units, the club house and associated parking area. As part of the proposed amendments to the Stage II Agreement for Block C, provisions are included to increase the allocated density to allow for adding 9 residential units within the club house structure.

The applicant is proposing minor changes to the appearance of the building including modifications to the materials and architectural treatments (Attachment C). While the new design differs from that which was originally shown within the existing Stage II Development Agreement, it has been determined that the essential composition, scale, and massing of the original building is being retained. The proposed amendments to the Stage II Development Agreement for Block C require the club house structure and parking area to be designed and constructed to comply with a series of new building elevations and a site plan appended to the Stage II Amending Agreement.

The Development Officer has reviewed the proposed amendments and has indicated that the proposed changes conform with the general intent of the existing Stage II Development Agreement for Block C (Schedule L-2 and M-2 of Attachment C). As such, the proposed changes to the building design are considered minor in nature, and conform with the intent of the existing Stage II Development Agreements, and with the applicable MPS policies.

Conclusion

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that it is reasonably consistent with the intent of the MPS. Therefore, it is recommended that Halifax and West Community Council approve the proposed Stage II Amending Development Agreements as contained in Attachments B and C of this report.

FINANCIAL IMPLICATIONS

There are no budget implications. The applicant will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this proposed development agreement. The administration of the proposed development agreement can be carried out within the approved 2017-2018 budget and with existing resources.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application may be considered under existing MPS policies. Community Council has the discretion to make decisions that are consistent with the MPS, and such decisions may be appealed to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed Amending Development Agreement are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No environmental implications are identified.

ALTERNATIVES

1. Halifax and West Community Council may choose to approve the proposed amendments to the Stage II Development Agreements for Block B and Block C subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or a public hearing. A decision of Council to approve the proposed Stage II Amending Developments Agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Halifax and West Community Council may choose to refuse the proposed amendments to the Stage II Development Agreements for Block B and Block C, and in doing so, must provide reasons why either or both do not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed Stage II Amending Development Agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

ATTACHMENTS

Map 1:	Generalized Future Land Use
Map 2:	Zoning and Notification
Map 3:	Clayton Park Phase 5 Stage I Development Agreement
Map 4:	Stage II Development Agreement – Block B
Map 5:	Stage II Development Agreement – Block C
Attachment A:	Approved Stage I Agreement Concept Plan
Attachment B:	Proposed Stage II Amending Agreement – Block B
Attachment C:	Proposed Stage II Amending Agreement – Block C & Schedules
Attachment D:	Excerpts of Relevant Policies and Land Use By-law Sections
Attachment E:	Legislative Authority

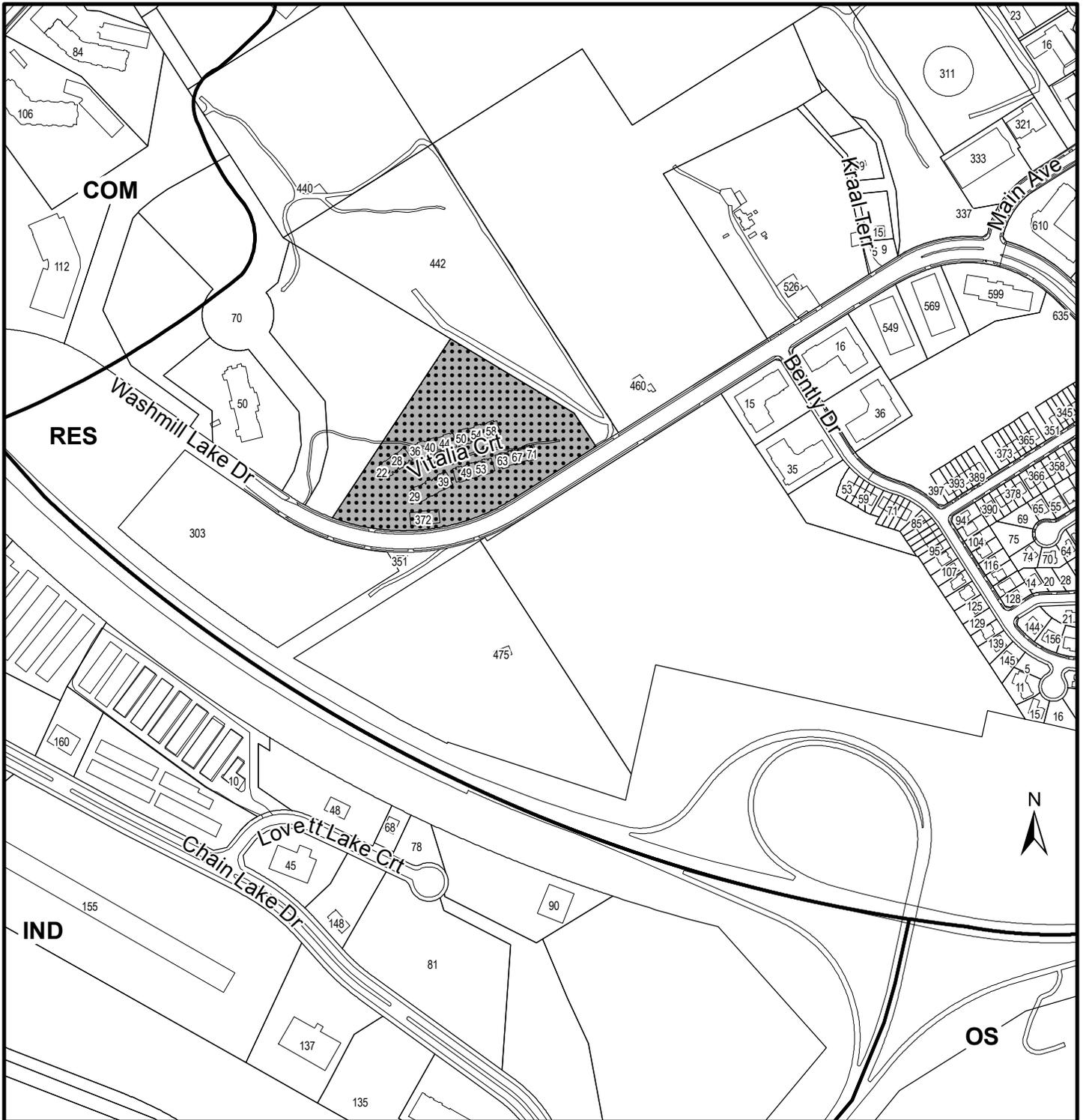
A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

Report Prepared by: Dali Salih, Planner II, Current Planning, 902-490-1948

Original Signed

Report Approved by:

Kelly Denty, Manager, Current Planning, 902.490.4800



Map 1 - Generalized Future Land Use

HALIFAX

Washmill Lake Drive,
Halifax

 Area proposed for Substantive Amendments to an Existing Development Agreement

Designation

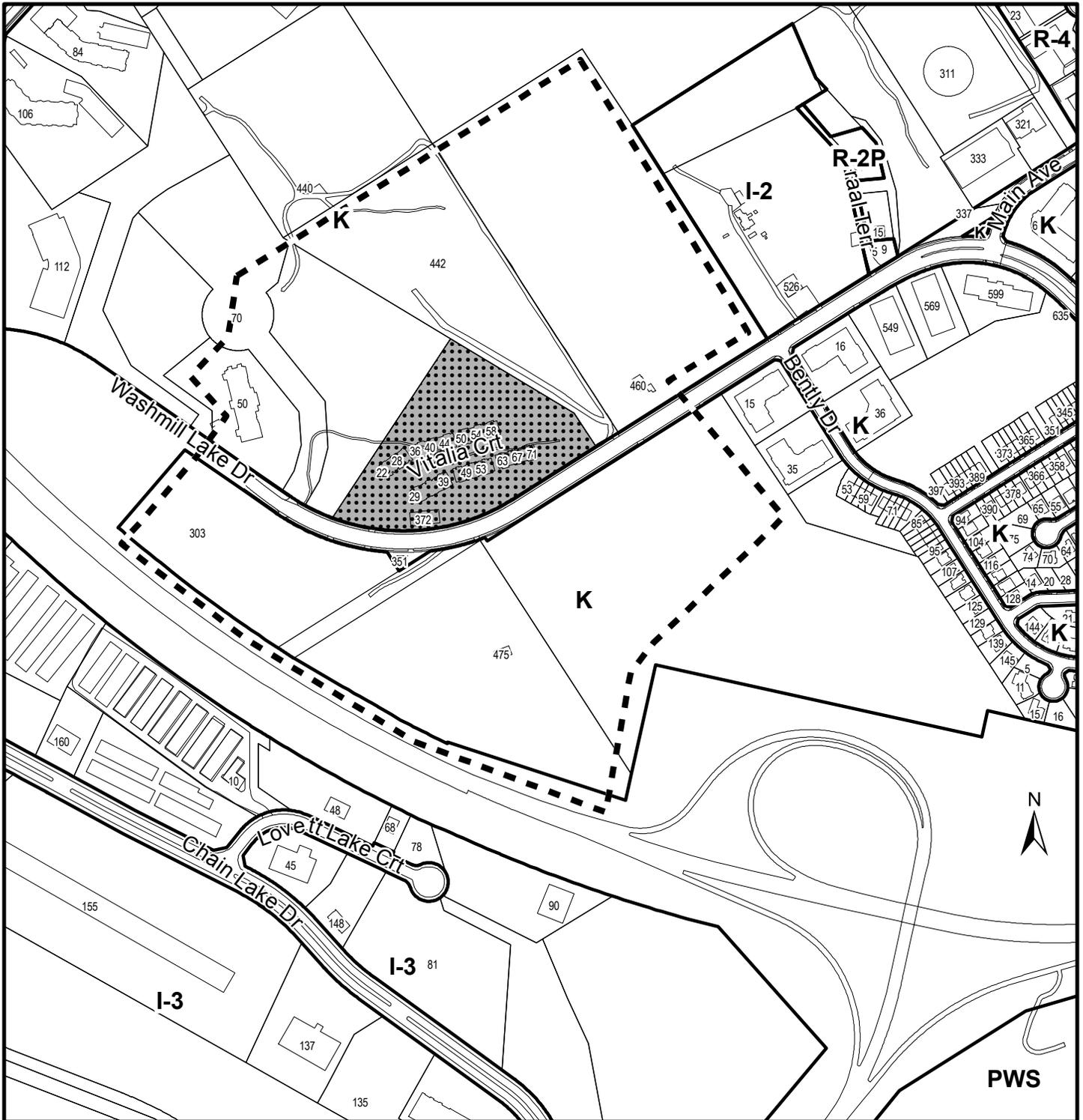
- Res Residential Environments
- Com Commercial
- IND Industrial
- OS Major Community Open Spaces



This map is an unofficial reproduction of a portion of the Generalized Future Land Use Map for the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.

Halifax Plan Area



Map 2 - Zoning and Notification

Washmill Lake Drive,
Halifax

HALIFAX

 Area proposed for Substantive Amendments to an Existing Development Agreement

 Area of Notification

Zone

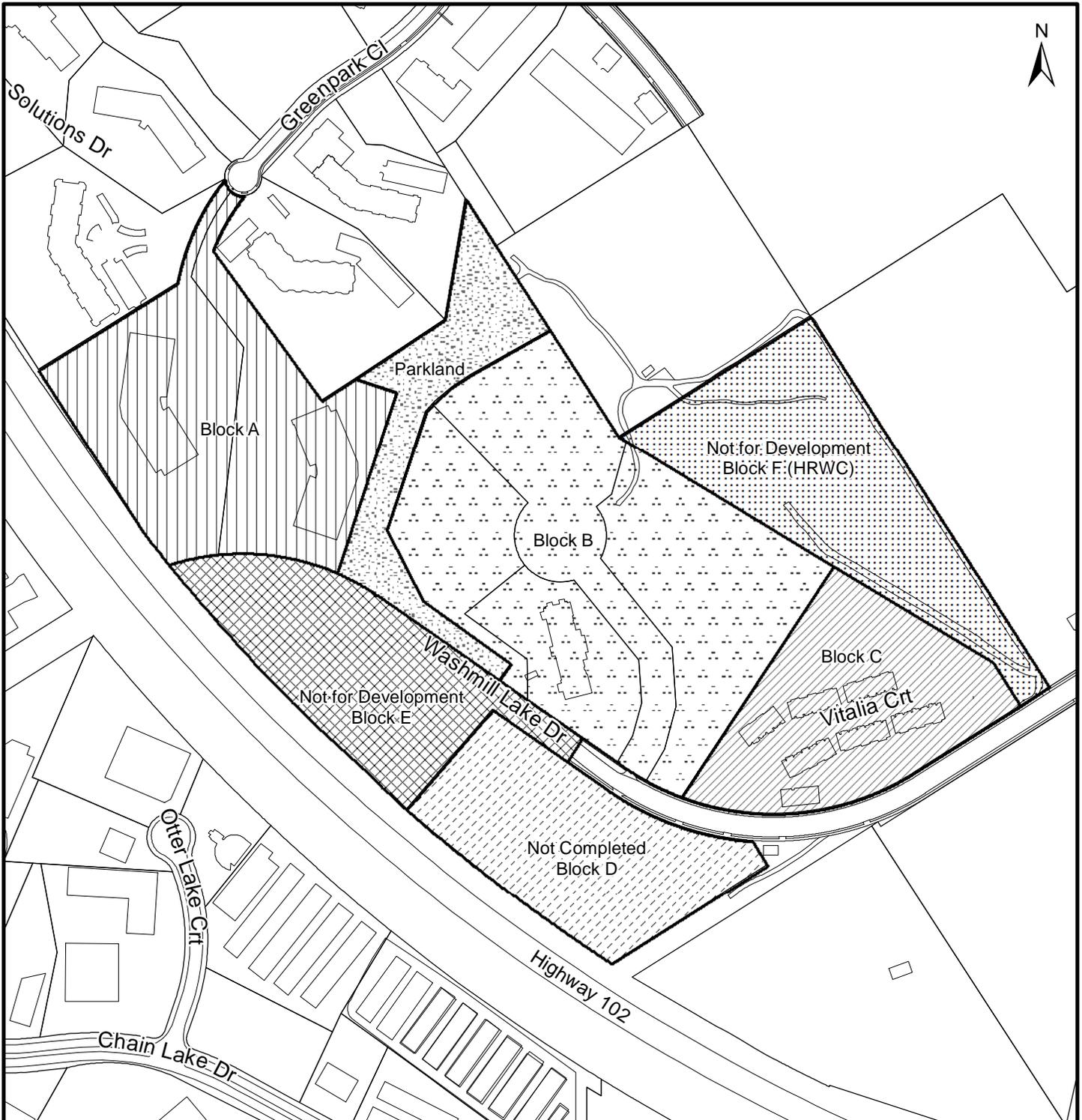
R-2P	General Residential
R-4	Multiple Dwelling
I-2	Radio Transmitter
I-3	General Industrial
PWS	Protected Water Supply
K	Schedule K



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.

Halifax Mainland
Land Use By-Law Area



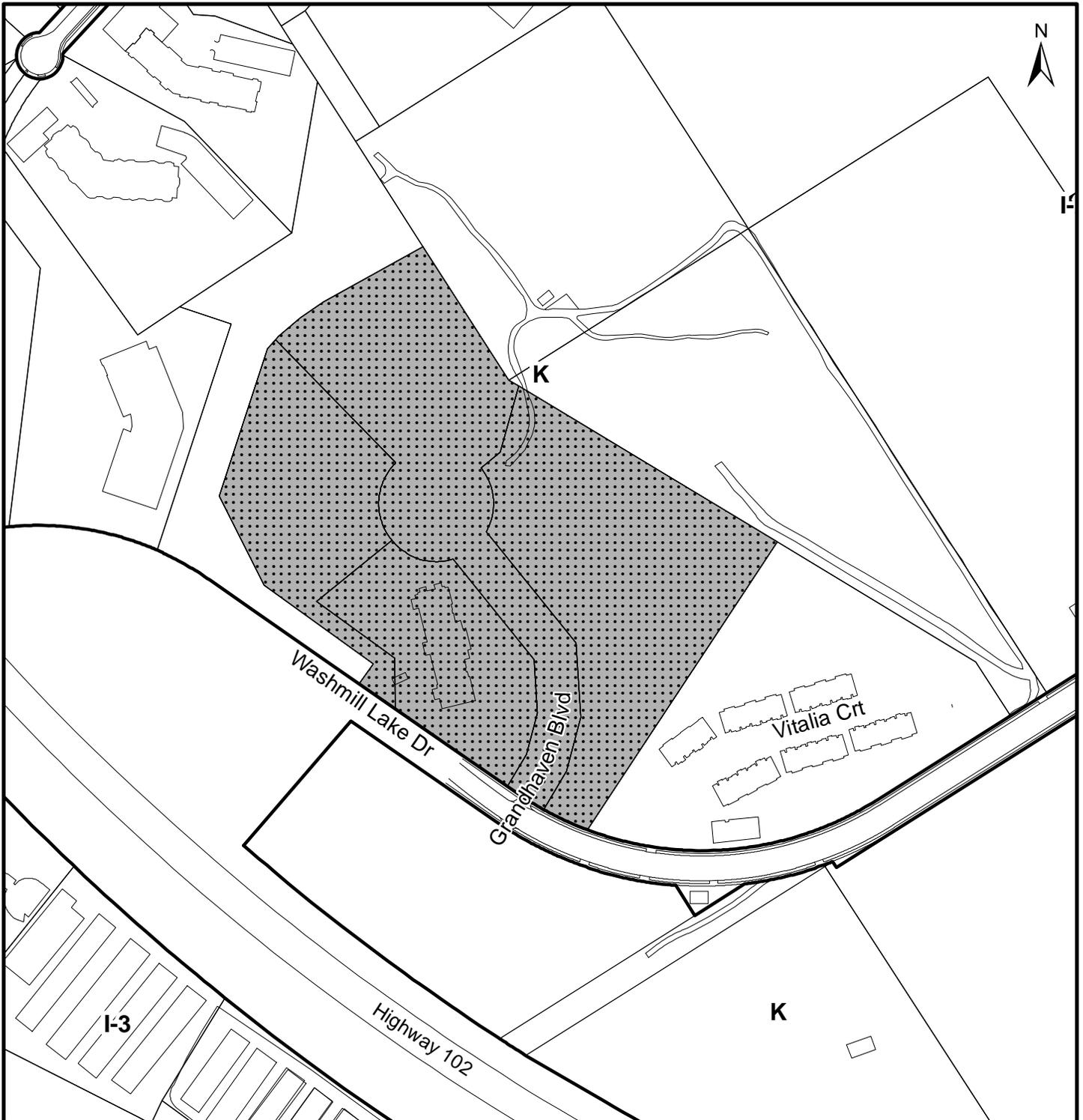
**Map 3 - Clayton Park Phase 5
Stage I Development Agreement**
Washmill Lake Drive,
Halifax

HALIFAX

0 40 80 120 160 m



The accuracy of any representation on this plan is not guaranteed.



**Map 4 - Stage II Development Agreement
Block B**

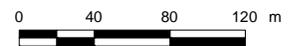
HALIFAX

Washmill Lake Drive,
Halifax

 Block B

Zone

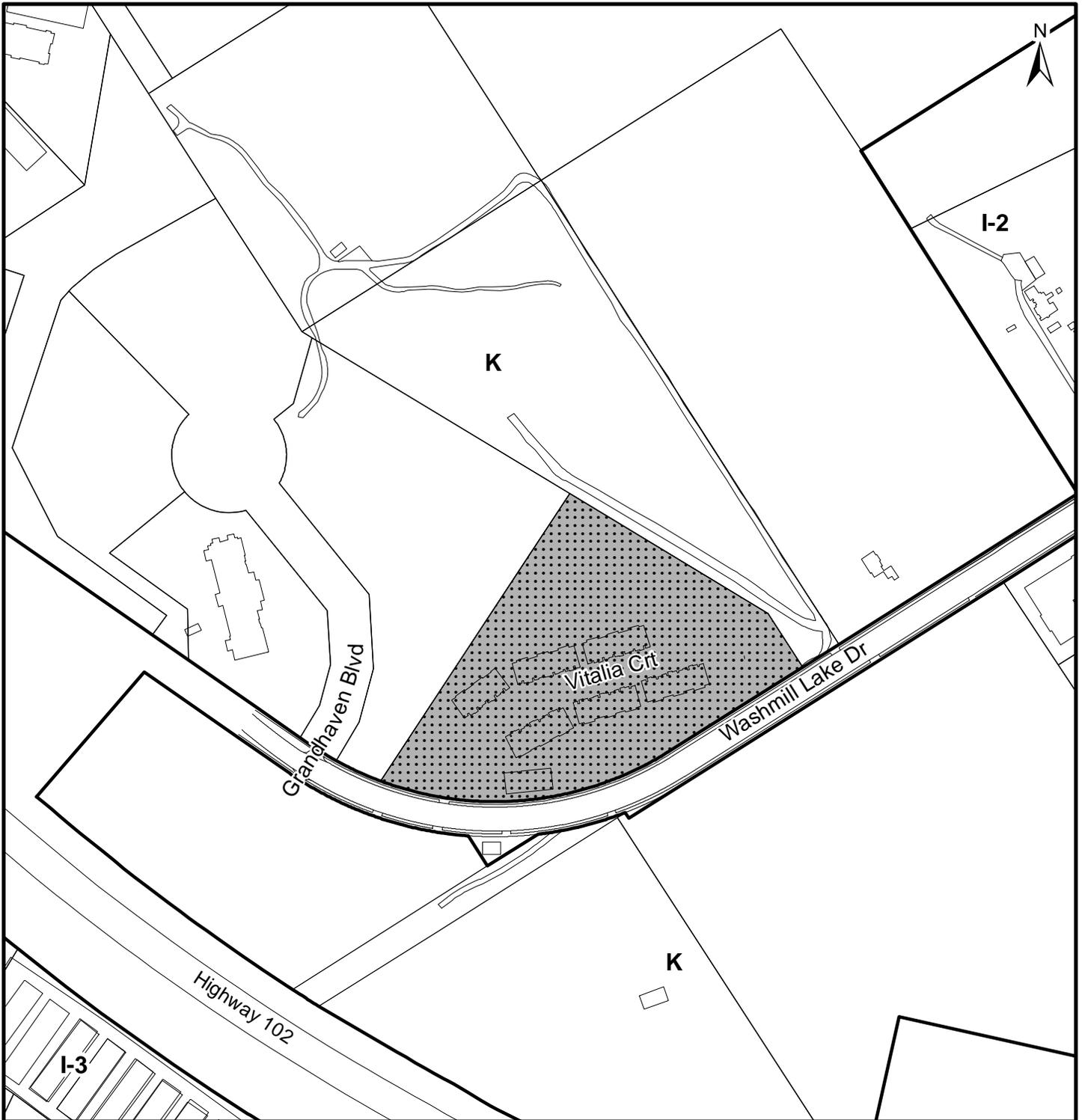
- I-2 Radio Transmitter
- I-3 General Industrial
- K Schedule K



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.

Halifax Mainland
Land Use By-Law Area



**Map 5 - Stage II Development Agreement
Block C**

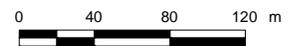
Washmill Lake Drive,
Halifax

 Block C

Zone

- I-2 Radio Transmitter
- I-3 General Industrial
- K Schedule K

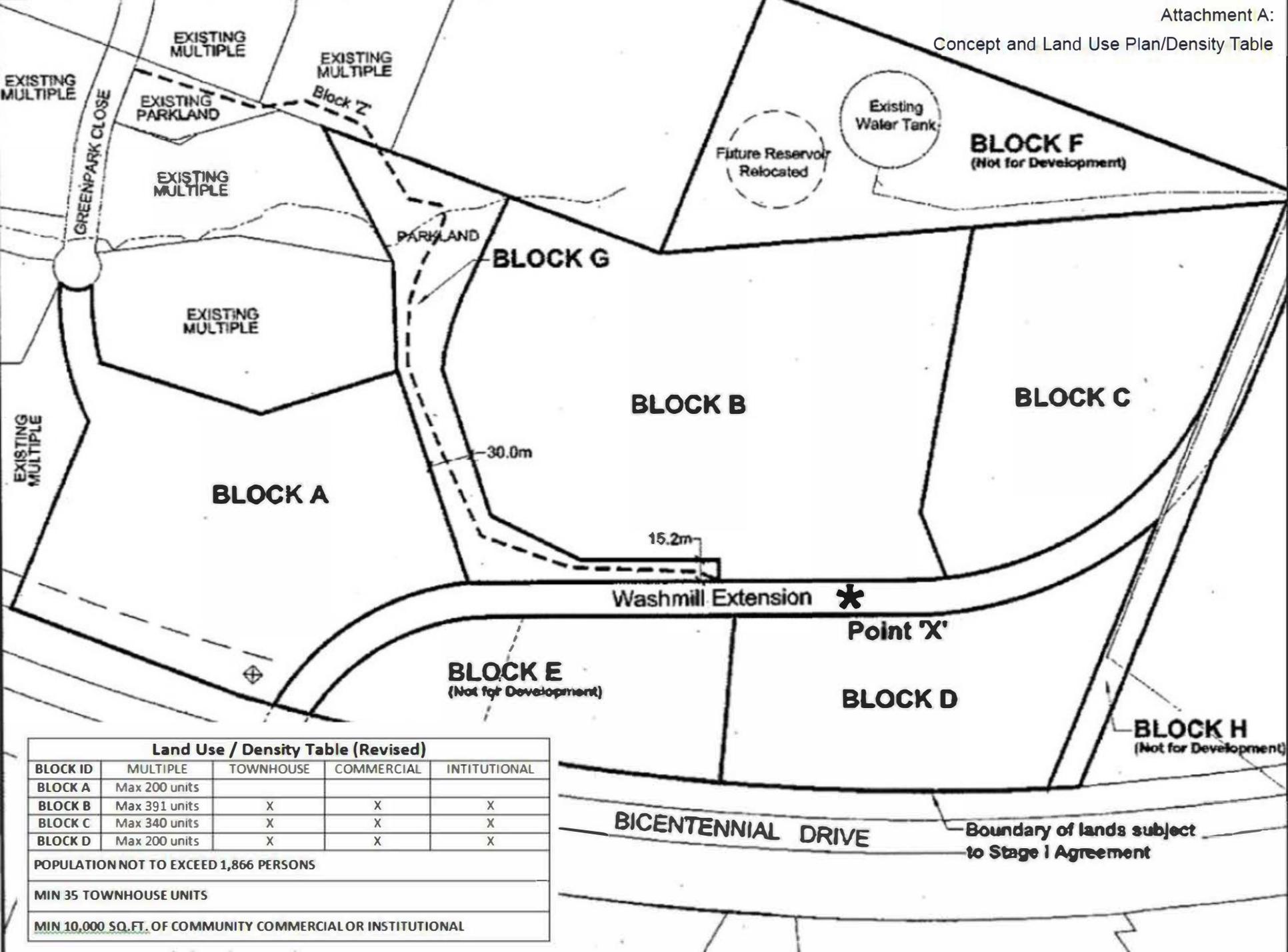
HALIFAX



This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

The accuracy of any representation on this plan is not guaranteed.

Halifax Mainland
Land Use By-Law Area



Land Use / Density Table (Revised)

BLOCK ID	MULTIPLE	TOWNHOUSE	COMMERCIAL	INTITUTIONAL
BLOCK A	Max 200 units			
BLOCK B	Max 391 units	X	X	X
BLOCK C	Max 340 units	X	X	X
BLOCK D	Max 200 units	X	X	X

POPULATION NOT TO EXCEED 1,866 PERSONS

MIN 35 TOWNHOUSE UNITS

MIN 10,000 SQ.FT. OF COMMUNITY COMMERCIAL OR INSTITUTIONAL

Charter and pursuant to the Existing Stage I Agreement, on September 11, 2011 (Municipal Case 16783), which said Stage II Development Agreement was registered at the Halifax County Land Registration Office as Document No. 99590185 (hereinafter called "Existing Stage II Agreement");

AND WHEREAS the Halifax and West Community Council for the Halifax Regional Municipality approved further amendments to the Stage I Development Agreement on May 30, 2017 (Municipal Case Number 20449), which said Amending Development Agreement was registered at the Halifax County Land Registration Office as Document No. 111068822 (hereinafter called "Second Amending Stage I Agreement);

AND WHEREAS the Developer has requested amendments to the provisions of the Existing Stage II Agreement, to adjust the allocated density on the Lands, pursuant to the provisions of the Halifax Regional Municipality Charter, and pursuant to the Existing Stage I Agreement, First Amending Stage I Agreement and Second Amending Stage I Agreement;

AND WHEREAS the Halifax and West Community Council for the Halifax Regional Municipality approved this request at a meeting held on [**INSERT-Date**], referenced as Municipal Case Number 20449;

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

1. Section 3.3.1(a)(i) of the Existing Stage II Agreement is amended by deleting the text shown in ~~strikeout~~ and inserting the text shown in **bold**, as follows:

3.3.1 The uses of the Lands permitted by this Agreement are the following:

(a) Block B:

- (i) ~~Four (4) multiple unit dwellings, each containing approximately ninety (90) units. The development shall not exceed four hundred (400) units in total;~~ **The development on the block is limited to four (4) multiple unit dwellings, that shall not exceed three hundred and ninety one (391) units in total;**

2. Section 3.3.2 of the Existing Stage II Agreement is amended by deleting the text shown in ~~strikeout~~ and inserting the text shown in **bold**, as follows:

3.3.2 The density for Block B shall not exceed ~~810 people~~ **789.75 theoretical persons**. Density shall be calculated in accordance with Section 3.4 of the Stage I Agreement for Clayton Park West (Phase 5).

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:

=====

HALIFAX REGIONAL MUNICIPALITY

Per: _____
Mayor

Per: _____
Municipal Clerk

the Existing Stage I Agreement, on May 7, 2012 (Municipal Case 17330), which said Stage II Development Agreement was registered at the Halifax County Land Registration Office as Document No. 101079938 (hereinafter called “Existing Stage II Agreement”);

AND WHEREAS the Halifax and West Community Council of the Halifax Regional Municipality approved amendments to the Existing Stage II Agreement to expand the layout of the private club house on September 15, 2015, (Municipal Case No. 20067), which said Amending Stage II Agreement was registered at the Halifax County Land Registration Office as Document No. 108056525 (hereinafter called the “First Amending Stage II Agreement”);

AND WHEREAS the Halifax and West Community Council for the Halifax Regional Municipality approved further amendments to the Stage I Development Agreement on May 30, 2017 (Municipal Case Number 20449), which said Amending Development Agreement was registered at the Halifax County Land Registration Office as Document No. 111068822 (hereinafter called “Second Amending Stage I Agreement”);

AND WHEREAS the Developer has requested further amendments to the provisions of the Existing Stage II Agreement and the First Amending Stage II Agreement, to further address the density distribution and the number of units in Block C and eliminate the private club house on the Lands, pursuant to the provisions of the Halifax Regional Municipality Charter and pursuant to the Existing Stage I Agreement, First Amending Stage I Agreement and Second Amending Stage I Agreement;

AND WHEREAS the Halifax and West Community Council for the Halifax Regional Municipality approved this request at a meeting held on [**INSERT-Date**], referenced as Municipal Case Number 20449;

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

1. Section 2.2 of the Existing Stage II Agreement, as amended by the First Amending Stage II Agreement, is further amended by deleting section 2.2(b) (the definition of the *Club House*).

2. Section 3.1 of the Existing Stage II Agreement, as amended by the First Amending Stage II Agreement, is further amended by deleting the Schedules shown in ~~strikeout~~ and inserting the Schedules shown in **bold**, as follows:

Schedule B-1	Site Plan
Schedule L-1	Front & Right Elevations, Club House
Schedule M-1	Left & Rear Elevations, Club House
Schedule B-2	Site Plan
Schedule L-2	Front & Right Elevations – Multiple-Unit Dwelling
Schedule M-2	Left & Rear Elevations – Multiple-Unit Dwelling

3. The Existing Stage II Agreement, as amended by the First Amending Stage II Agreement, is further amended by:

- (a) deleting all references to “Schedule B-1” and replacing each with a reference to “Schedule B-2”;
- (b) deleting all references to “Schedule L-1” and replacing each with a reference to “Schedule L-2”;
- (c) deleting all references to “Schedule M-1” and replacing each with a reference to “Schedule M-2”;

4. The Existing Stage II Agreement, as amended by the First Amending Stage II Agreement, is further amended by attaching Schedule B-1 (attached hereto), Schedule L-1 (attached hereto) and Schedule M-2 (attached hereto).

5. Section 3.3.1 of the Existing Stage II Agreement, as amended by the First Amending Stage II Agreement, is further amended by deleting the text shown in ~~strikeout~~ and inserting the text shown in **bold**, as follows:

3.3.1 The uses of the Lands permitted by this Agreement are the following:

- a) A townhouse-style residential development of up to thirty-five (35) dwelling units;
- b) ~~A clubhouse, as designed by this agreement, which shall not be used as a dwelling or a guest suite or for commercial purposes; and~~
One (1) multiple-unit dwelling, consisting of up to nine (9) dwelling units; and
- c) Uses accessory to the above uses.

6. Section 3.3.2 of the Existing Stage II Agreement, as amended by the First Stage II Agreement, is further amended by deleting the text shown in ~~strikeout~~ and inserting the text shown in **bold**, as follows:

3.3.2 The density for Block C shall not exceed ~~447.25~~ **137.50 theoretical** persons. ~~Each townhouse dwelling unit shall be calculated as 3.35 theoretical persons, in accordance with Section 3.4 of the Existing Stage I Agreement.~~ **Density shall be calculated in accordance with Section 3.4 of the Stage I Agreement for Clayton Park West (Phase 5).**

7. Section 3.4.1 of the Existing Stage II Agreement, as amended by the First Amending Stage II Agreement, is further amended by deleting the text shown in ~~strikeout~~ and inserting the text shown in **bold**, as follows:

3.4.1 The townhouse-style residential development and **multi-unit building** ~~club house~~ shall be in conformance with Schedules ~~B through M~~ **B-2, D through K, L-2 and M-2** of this agreement.

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

=====

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

<INSERT REGISTERED OWNER NAME>

Per: _____

Per: _____

=====

HALIFAX REGIONAL MUNICIPALITY

Per: _____
Mayor

Per: _____
Municipal Clerk

Schedule L-2 Front & Right Elevations

Block C - Building Plans



FRONT ELEVATION

SCALE: 3/32" = 1'-0"



RIGHT SIDE ELEVATION

SCALE: 3/32" = 1'-0"

GENERAL NOTES:

ALL WORK MUST BE IN CONFORMANCE WITH THE N.B.C.C. 2005 & THE LOCAL BUILDING CODE.

CONTRACTORS TO VERIFY ALL DIMENSIONS BEFORE STARTING ANY WORK.

CONTRACTORS ARE RESPONSIBLE FOR CLEANUP OF THE JOB SITE.

ONCE THE PLANS ARE APPROVED BY OWNERS THEY ARE CONSIDERED TO BE THE FINAL ONES. NO CHANGES TO BE DONE AFTER THIS STAGE EXCEPT DUE TO GRADE CONDITIONS.

GRADES SHOWN ON ELEVATIONS ARE FOR PERMIT PURPOSE ONLY.

GRADES TO BE DETERMINED ON SITE BY PROJECT MANAGER & IN COMPLIANCE WITH SITE GRADING PLANS.

2x6 BEARING WALLS IN FOUNDATION ARE SUBJECT TO CHANGE BY PROJECT MANAGERS TO LAMINATED OR STEEL BEAMS DUE TO SITE CONDITIONS.

ALL WINDOW AND DOOR SIZES ARE APPROXIMATES

THIS DRAWING IS INVALID FOR CONSTRUCTION UNLESS SIGNED & STAMPED BY THE OFFICE.

SUBFLOOR DEPRESSURIZATION:

- PROVIDE A PIPE NOT LESS THAN 4"Ø INSTALLED VERTICALLY THROUGH THE SLAB-ON-GRADE, AT OR NEAR THE CENTRE, SUCH THAT:
 - A. THE BOTTOM END OF THE PIPE OPENS INTO GRANULAR FILL MINIMUM 12"x12"x6" DEEP.
 - B. THE TOP END OF THE PIPE IS SEALED WITH A REMOVABLE CAP AND LABELLED "FOR REMOVAL OF SOIL GAS".

KIVOTOS
Developments Ltd.

drawing name:

ELEVATIONS

drawn by: CADtech

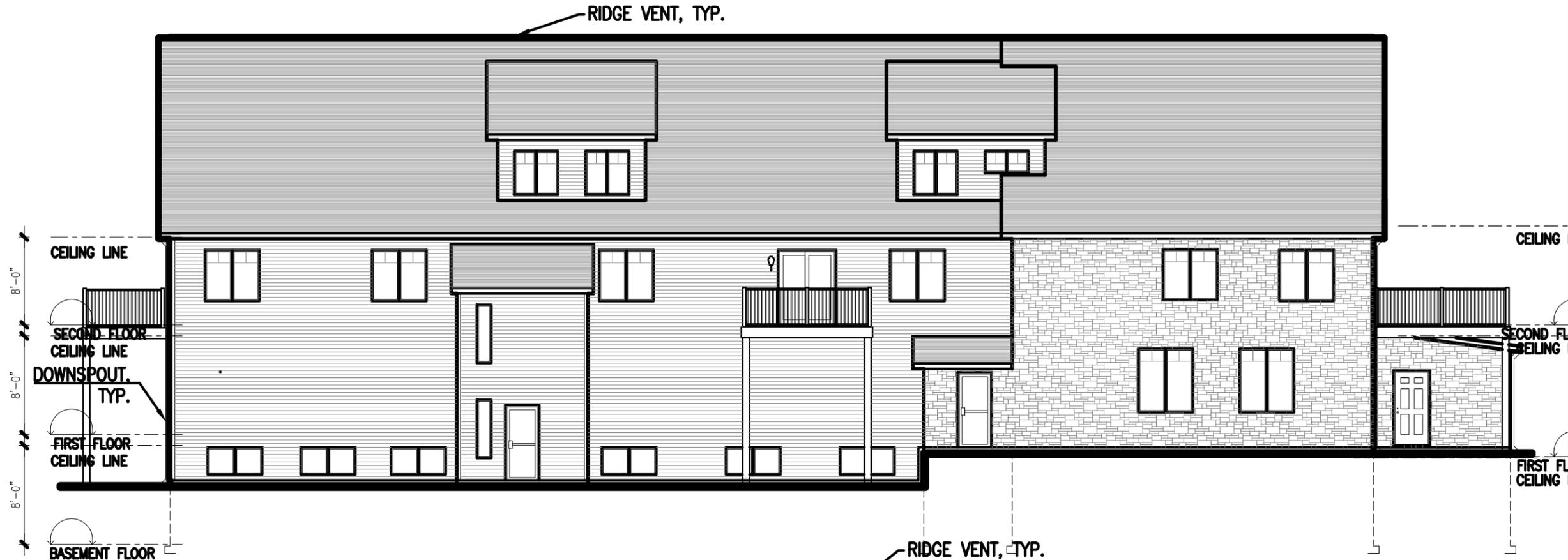
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date: FEBRUARY 2, 2016
REVISED JUNE 6, 2017

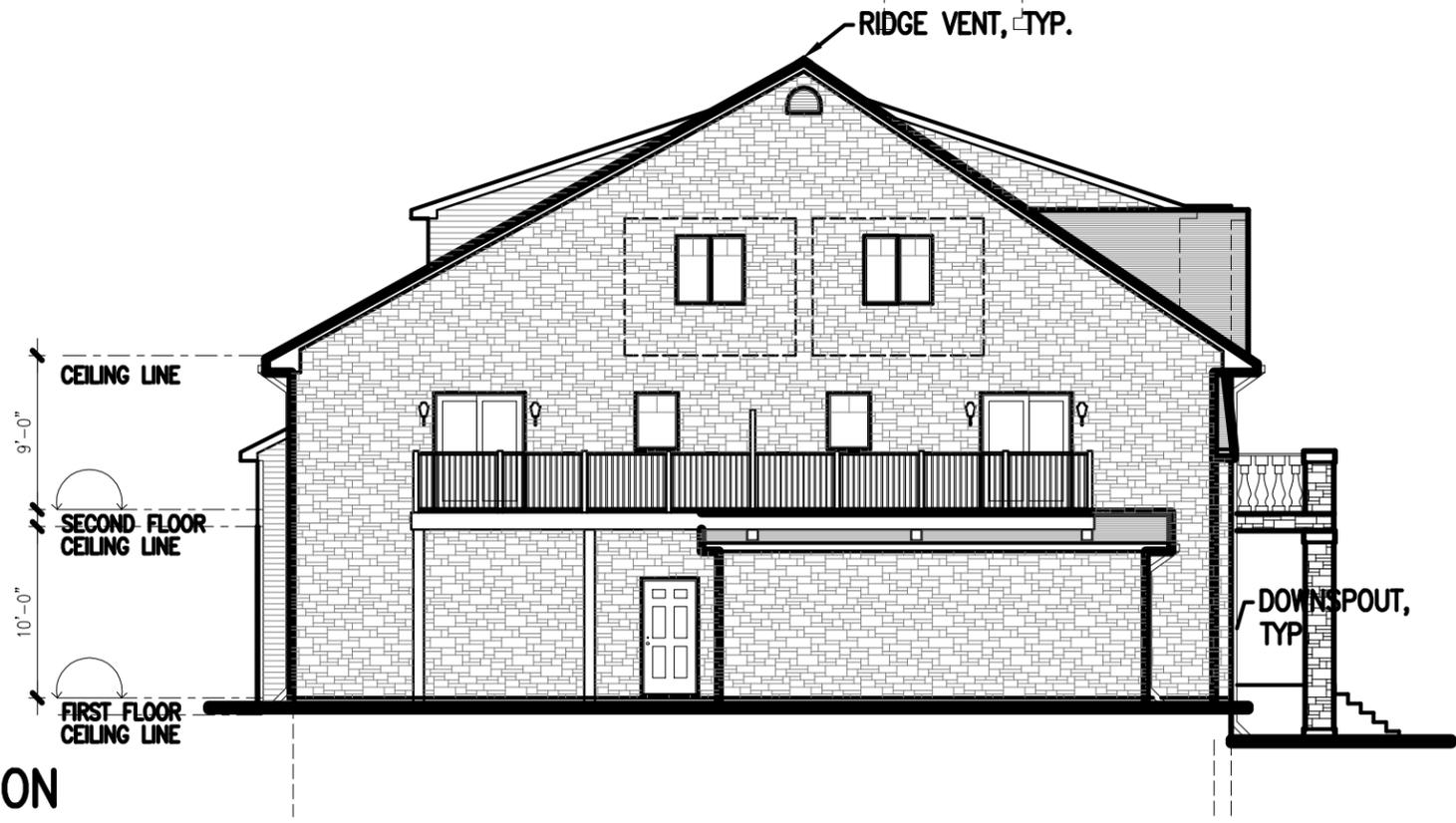
project no. 2011KDL-06 drawing no. A1

Schedule M-2 - Left & Rear Elevations

Block C - Building Plans



REAR ELEVATION
SCALE: 3/32" = 1'-0"



LEFT SIDE ELEVATION
SCALE: 3/32" = 1'-0"

GENERAL NOTES:
 ALL WORK MUST BE IN CONFORMANCE WITH THE N.B.C.C. 2005 & THE LOCAL BUILDING CODE.
 CONTRACTORS TO VERIFY ALL DIMENSIONS BEFORE STARTING ANY WORK.
 CONTRACTORS ARE RESPONSIBLE FOR CLEANUP OF THE JOB SITE.
 ONCE THE PLANS ARE APPROVED BY OWNERS THEY ARE CONSIDERED TO BE THE FINAL ONES. NO CHANGES TO BE DONE AFTER THIS STAGE EXCEPT DUE TO GRADE CONDITIONS.
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 THIS DRAWING IS INVALID FOR CONSTRUCTION UNLESS SIGNED & STAMPED BY THE OFFICE.
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 A. THE BOTTOM END OF THE PIPE OPENS INTO GRANULAR FILL MINIMUM 12"x12"x6" DEEP.
 B. THE TOP END OF THE PIPE IS SEALED WITH A REMOVABLE CAP AND LABELLED "FOR REMOVAL OF SOIL GAS".

KIVOTOS Developments Ltd.	
drawing name:	
ELEVATIONS	
drawn by:	CADtech
scale:	AS NOTED
date:	FEBRUARY 2, 2016 REVISED JUNE 6, 2017
project no.	drawing no.
2011KDL-06	A2

Attachment D:
Excerpt of Relevant Policies and Land Use By-law Sections

Halifax Municipal Planning Strategy

Section II – City-Wide Objectives and Policies
Residential Environments

Objective: The provision and maintenance of diverse and high quality housing in adequate amounts, in safe residential environments, at prices which residents can afford.

Policy	Comment
<i>2.1.2 On the Mainland, residential development should be encouraged to create sound neighbourhoods through the application of a planned unit development process and this shall be accomplished by Implementation Policy 3.3. It is the intention of the City to prepare and adopt a planned unit development zone subsequent to the adoption of this Plan.</i>	The existing Stage I agreement is enabled as per this policy.
<i>2.4 Because the differences between residential areas contribute to the richness of Halifax as a city, and because different neighbourhoods exhibit different characteristics through such things as their location, scale, and housing age and type, and in order to promote neighbourhood stability and to ensure different types of residential areas and a variety of choices for its citizens, the City encourages the retention of the existing residential character of predominantly stable neighbourhoods, and will seek to ensure that any change it can control will be compatible with these neighbourhoods.</i>	The proposed subdivision is in keeping with the character of the neighbourhood.

Implementation Policies

Zoning

Policy	Comment
<i>3.3 For the residentially designated undeveloped areas of Mainland North, the City shall, pursuant to Section 38(2)(p) of the Planning Act, establish such development regulations as are necessary to implement the policies of this Plan.</i>	The subject property is designated residential environments and is located in Mainland North.
<i>3.3.1 Further to Policy 3.3 above, these areas shall be identified on the zoning map and within such areas no development permit shall be issued unless the proposed development has been approved by a resolution of Council, and further, except under an agreement with Council pursuant to Section 34(1) of</i>	The subject property is zoned Schedule K which allows development subject to Stage I and Stage II development agreements.

<i>the Planning Act.</i>	
<i>3.3.2 Further to Policy 3.3.1 above, the purpose for which land within these areas is to be developed shall be primarily residential, and an emphasis shall be placed on a mix of housing types, shall include provision for local commercial uses that are intended to serve the residents of the immediate area, and shall include provision for automobile, transit and pedestrian circulation and an emphasis on conservation of natural environment features including lakes and waterways, mature trees and natural topographic features. In addition to the above, City Council may consider provision for minor commercial uses in accordance with Policy 3.1.2 in Section II, provided that such uses are consistent with the policies of this Plan, are compatible in design form and function with comprehensively planned development and with development adjacent to a comprehensively planned development, and that such uses are located in such manner as to be in accord with Policy 2.4.1 of Section II, as the principles of said policy may apply to areas of vacant land.</i>	The proposed units will be within an existing structure (club house). No changes are proposed to the existing streets.
<i>3.3.3 The City shall prepare and adopt plans for major public facilities including the location of collector roadways, schools and major community open space in the residentially designated undeveloped areas of the City.</i>	N/A
<i>3.3.4 In entering into agreements pursuant to Policy 3.3.1 above, Council shall be guided by the policies contained in Section II of this Plan, and shall not enter into agreements which are inconsistent with the policies of this Plan.</i>	The proposal is consistent with Section II of the Halifax MPS.
<i>3.3.5 Prior to entering into any agreements pursuant to Policy 3.3.1, Council shall advertise its intention to do so and shall hold a public hearing at which time any objections shall be heard.</i>	A public hearing is required before Council can consider approval of the proposed Stage I amending agreement.

Halifax Mainland Land Use By-law

Schedule "K"

- 68(1) Any area of land shown as Schedule "K" shall be a Comprehensive Development District.
- 68(2) No development permit shall be issued for a development in a Schedule "K" unless the proposed development has been approved by a resolution of Council.
- 68(3)(a) The purpose for which land within a Schedule "K" area is to be developed shall be primarily residential, and an emphasis shall be placed on a mix of housing types; shall include provision for

local commercial uses that are intended to serve the residents of the immediate area, and community facilities for the use of residents in the immediate area; and shall include provision for automobile, transit, and pedestrian circulation; and an emphasis on conservation of natural environment features including lakes and waterways, mature trees, and natural topographic features. In addition to the above, Council may consider provision for commercial uses in accordance with the policies of the Municipal Planning Strategy.

68(3)(b) Notwithstanding clause (a), pursuant to Section II, Policy 3.3 of the Municipal Development Plan, the lands designated commercial on the east of Bicentennial Drive at the Bayers Lake Interchange shall be developed primarily as a mixed commercial/residential area.

68(4) For greater certainty, but without limiting the general powers of Subsection 68(3) above, the following uses may be permitted;

- a) detached one family dwellings;
- b) semi-detached dwellings;
- c) duplex dwellings;
- d) apartment houses
- e) attached houses;
- f) public park or playground;
- g) commercial uses;
- h) local commercial uses intended for the use of residents of the immediate area;
- i) a community centre;
- j) golf course;
- k) notwithstanding Section (h) above, regional scale retail uses, including large-format outlets, shall only be permitted on those lands situated at the south-east quadrant of the Lacewood Drive/Bicentennial Drive interchange; and
- l) uses accessory to any of the foregoing uses.

68(5) An application for a development permit in any Schedule "K" area shall be submitted in two stages, the first stage of which shall be a tentative plan that shall include the following information for the entire area of land owned by the applicant which is designated as Schedule "K":

- a) A plan to a scale of 1" = 100', or 1" = 40', showing the following information:
 - i) The location of the various uses and their areas;
 - ii) Delineation of the various residential areas indicating for each such area its size and location, number of dwelling units (including number of bedrooms for each unit), types of dwelling units (i.e., townhouse, apartments, single family dwellings), parking layout and population density;
 - iii) The location, size, shape, and surface treatment of public and private open spaces;
 - iv) The proposed interior roadway system and connection to existing roadways including location of bus bays;
 - v) Topography of the area showing contour intervals of not more than five feet of elevation, as well as an indication of soil coverage of the site;
 - vi) All existing and proposed rights-of-way and easements, either public or private, within the area;
 - vii) Description, size and location of the proposed community cultural facilities, community centres, etc.;
 - viii) Description, size and location of proposed local commercial uses intended for the use of residents of the immediate area;
 - ix) The uses and ownership of land abutting the area in question;
 - x) A key plan with a scale between 1" = 200' and 1" = 1,320' showing the location of the site in relation to the surrounding communities;
 - xi) General indication of how the phasing and scheduling is to proceed, if phasing is intended for the project.

- b) A plan to a scale of 1" = 100' and 1" = 40' showing an outline of the existing and proposed:
 - i) roadways, walkways, rights-of-way and easements;
 - ii) sanitary sewer system;
 - iii) storm sewer system;
 - iv) water system;
 - v) surface drainage and means of disposal of the water;
 - vi) street and walkway lighting;
 - vii) telecommunication system; and
 - viii) electrical distribution system.
 - c) A plan showing the overall drainage areas contributing to the flows of the area in question.
- 68(6) After holding a public hearing and considering the plan proposal submitted under Subsection 68(5), Council shall determine whether the applicant may proceed to final approval and on what conditions, if any, Council may refuse the proposal where, in the opinion of Council, the proposal is inconsistent with the purposes of Schedule "K" or Section 5 of this by-law.
- 68(7) In the event that Council does not refuse the application, the applicant shall provide:
- a) such information as required by Sections 63 and 64 of the by-law for that portion of the proposal for which the applicant is applying for a development permit;
 - b) such additional information (final servicing plans, survey plan, etc.) as may be required by the Development Officer; and
 - c) the terms of the proposed agreement pursuant to Subsection (8).
- 68(8) Approval by Council under Section 68(6) shall only be granted subject to the condition that the registered owner of the land upon which the development is to occur shall enter into an agreement with Council containing such terms and conditions as Council may direct.
- 68(9) Council shall consider the application for final approval and shall either approve the development or notify the applicant of the objectionable features of the final plan.

Attachment E – Legislative Authority

Development Agreements By Community Council

The *Community Council Administrative Order*, subsection 3 (1) “Subject to subsection (3) of this section, sections 29, 30 and 31 of the *Halifax Regional Municipality Charter* apply to each Community Council.”

Halifax Regional Municipality Charter.

Development agreements by community councils

- 31 (1)** This Section applies to a community council if the Council so provides in the policy establishing the community council.
- (2)** Where a municipal planning strategy of the Municipality provides for development by agreement, the community council stands in the place and stead of the Council and Part VIII applies with all necessary changes.
- (3)** A development agreement, or amendment to a development agreement, entered into by a community council must be signed by the Mayor and the Clerk on behalf of the Municipality.
- (4)** Where a development agreement entered into by a community council purports to commit the Municipality to an expenditure, the commitment has no force or effect until approved by the Council. 2008, c. 39, s. 31.

HRM Charter, Part VIII, Planning and Development, including:

Development agreements

- 240 (1)** The Council may consider development by development agreement where a municipal planning strategy identifies
- (a) the developments that are subject to a development agreement;
 - (b) the area or areas where the developments may be located; and
 - (c) the matters that the Council must consider prior to the approval of a development agreement.
- (2)** The land-use by-law must identify the developments to be considered by development agreement. 2008, c. 39, s. 240.

Content of development agreements

- 242 (1)** A development agreement may contain terms with respect to
- (a) matters that a land-use by-law may contain;
 - (b) hours of operation;
 - (c) maintenance of the development;
 - (d) easements for the construction, maintenance or improvement of watercourses, ditches, land drainage works, stormwater systems, wastewater facilities, water systems and other utilities;
 - (e) grading or alteration in elevation or contour of the land and provision for the disposal of storm and surface water;
 - (f) the construction, in whole or in part, of a stormwater system, wastewater facilities and water system;
 - (g) the subdivision of land;
 - (h) security or performance bonding.
- (2)** A development agreement may include plans or maps.
- (3)** A development agreement may
- (a) identify matters that are not substantive or, alternatively, identify matters that are substantive;
 - (b) identify whether the variance provisions are to apply to the development agreement;

Attachment E – Legislative Authority

- (c) provide for the time when and conditions under which the development agreement may be discharged with or without the concurrence of the property owner;
- (d) provide that upon the completion of the development or phases of the development, the development agreement, or portions of it, may be discharged by the Council;
- (e) provide that, where the development does not commence or is not completed within the time specified in the development agreement, the development agreement or portions of it may be discharged by the Council without the concurrence of the property owner. 2008, c. 39, s. 242.

Requirements for effective development agreement

- 243**
- (1)** A development agreement must not be entered into until
 - (a) the appeal period has elapsed and no appeal has been commenced; or
 - (b) all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Board.
 - (2)** The Council may stipulate that a development agreement must be signed by the property owner within a specified period of time.
 - (3)** A development agreement does not come into effect until
 - (a) the appeal period has elapsed and no appeal has been commenced or all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Board;
 - (b) the development agreement is signed by the property owner, within the specified period of time, if any, and the Municipality; and
 - (c) the development agreement is filed by the Municipality in the registry.
 - (4)** The Clerk shall file every development agreement, amendment to a development agreement and discharge of a development agreement in the registry. 2008, c. 39, s. 243.