



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

Item No. 12.2
Halifax Regional Council
August 13, 2019
September 24, 2019

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed

SUBMITTED BY: _____
Councillor Sam Austin Chair, Harbour East-Marine Drive Community Council

DATE: July 30, 2019

SUBJECT: Case 21937: Regional Municipal Planning Strategy Amendment to enable amendments to the Existing Development Agreement for Seven Lakes Development, Porters Lake and Non-Substantive Amendments to existing Conservation Design Development Agreements

ORIGIN

Special meeting of Harbour East-Marine Drive Community Council July 30, 2019, Item 5.2.

LEGISLATIVE AUTHORITY

Section 25(c) of the *Halifax Regional Municipality Charter* sets out the powers and duties of Community Council to include “recommending to the Council appropriate by-laws, regulations, controls and development standards for the community”.

RECOMMENDATION

Harbour East-Marine Drive Community Council recommends that Halifax Regional Council:

1. Give First Reading to consider the proposed amendments to the Regional Municipal Planning Strategy as set out in Attachments A of the staff report dated June 19, 2019 and schedule a Public Hearing to:
 - a. Amend the site-specific policy G-19 to include lands of the existing Seven Lakes Development Agreement in Porters Lake and allow substantive and non-substantive amendments to the lands to be considered under the policies in effect at the time the development agreement was approved;
 - b. Establish policy which enables non-substantive amendments to all existing Conservation Design Developments under the 2006 Regional Plan policies to be considered under the policies in effect at the time the development agreement was approved; and
 - c. Adopt the proposed amendments to the Regional Municipal Planning Strategy, as set out in Attachment A.

BACKGROUND

The Harbour East-Marine Drive Community Council received a staff report dated June 19, 2019 at their special meeting held July 30, 2019 respecting amendments to the Regional Plan (RMPS) and to the existing Seven Lakes development agreement to accommodate a revised phasing plan. The proposed amendments to these two documents would allow a 16-unit cul-de-sac proposed for Phase 2 of the development to be constructed in Phase 1.

Additional information can be reviewed in the attached staff report dated June 19, 2019.

DISCUSSION

The Harbour East-Marine Drive Community Council considered the June 19, 2019 staff report and approved a motion recommending Halifax Regional Council give first reading and schedule a public hearing.

FINANCIAL IMPLICATIONS

Refer to the staff report dated June 19, 2019.

RISK CONSIDERATION

Refer to the staff report dated June 19, 2019.

COMMUNITY ENGAGEMENT

Community Council meetings are open to public attendance and members of the public are invited to address the Community Council for up to five minutes at the end of each meeting during Public Participation. Community Councils' agendas, reports, and minutes are posted on Halifax.ca.

ENVIRONMENTAL IMPLICATIONS

Refer to the staff report dated June 19, 2019.

ALTERNATIVES

The Community Council did not discuss alternatives. Refer to the staff report dated June 19, 2019.

ATTACHMENTS

Staff report dated June 19, 2019.

If the report is released to the public, a copy can be obtained by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Krista Vining, Legislative Assistant, Office of the Municipal Clerk, 902.490.6520

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

Item No. 5.2

**Harbour East-Marine Drive Community Council
July 30, 2019 special**

TO: Chair and Members of Harbour East-Marine Drive Community Council
Original Signed

SUBMITTED BY:

Kelly Denty, Director of Planning and Development

Original Signed

Chief Ken Stuebing, Acting Chief Administrative Officer

DATE: June 19, 2019

SUBJECT: **Case # 21937: Regional Municipal Planning Strategy Amendment to enable amendments to the Existing Development Agreement for Seven Lakes Development, Porters Lake and Non-Substantive Amendments to existing Conservation Design Development Agreements.**

ORIGIN

- Application by WSP Canada Inc. (WSP), on behalf of Seven Lakes Developments; and
- January 15, 2019, Regional Council initiation of the MPS amendment process.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter (HRM Charter), Part VIII, Planning & Development

RECOMMENDATION

It is recommended that Harbour East-Marine Drive Community Council recommend that Regional Council:

1. Give First Reading to consider the proposed amendments to the Regional Municipal Planning Strategy as set out in Attachments A of this report and hold a Public Hearing to:
 - a. Amend the site-specific policy G-19 to include lands of the existing Seven Lakes Development Agreement in Porters Lake and allow substantive and non-substantive amendments to the lands to be considered under the policies in effect at the time the development agreement was approved; and,
 - b. establish policy which enables non-substantive amendments to all existing Conservation Design Developments under the 2006 Regional Plan policies to be considered under the policies in effect at the time the development agreement was approved.

2. Adopt the proposed amendments to the Regional Municipal Planning Strategy, as set out in Attachment A of this report.

Contingent upon the amendment to the Regional Municipal Planning Strategy being approved by Regional Council and becoming effective pursuant to the requirements of the *Halifax Regional Municipality Charter*, it is further recommended that Harbour East-Marine Drive Community Council:

3. Approve, by resolution, the proposed Second Amending Agreement to allow a non-substantive amendment (phasing change), which shall be substantially of the same form as contained in Attachment B of this report;
4. Require the Second Amending Agreement be signed by the property owner within 120 days, or any extension thereof granted by Council on request of the property owner, from the date of final approval by Council and any other bodies as necessary, including applicable appeal periods, whichever is later, otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

WSP Canada Inc. on behalf of Seven Lakes Developments, has requested amendments to the Regional Plan (RMPS) and to the existing Seven Lakes development agreement to accommodate a revised phasing plan. The proposed amendments to these two documents would allow a 16-unit cul-de-sac proposed for Phase 2 of the development to be constructed in Phase 1.

The Regional Plan policy enabling the original 2013 approval of the Seven Lakes development agreement was created in 2006. This policy was substantially changed during the 2014 review of the Regional Plan. Those changes effectively eliminated the potential for amendments to this development agreement as well as other Open Space Design development agreements that were approved prior to the changes.

The proposed amendments would enable consideration of substantive and non-substantive amendments to the existing development agreement pursuant to the original 2006 RMPS policy for Open Space Design Development rather than the revised 2014 RMPS policy criteria for Conservation Design Developments (CDD).

On January 15, 2019, Regional Council initiated the RMPS amendment process in response to this site-specific application. That initiation process also requested that staff consider policy that would allow non-substantive amendments to approved Open Space Design development agreements pursuant to the 2006 policies in effect at the time the agreement was approved.

Subject Site	Development known as Seven Lakes Community, Porters Lake PIDs 40717621, 41393976, 40717621, 41393984, 40182078 and 41323817. Non-Substantive Amendment only applies to PID 40717621
Location	North of Highway 7, south of Conrod Lake - between Alps Road and Conrad Settlement Road, Porters Lake
Regional Plan Designation	Rural Commuter (RC)
Community Plan Designation	Mixed Use (MU) under Planning Districts 8 & 9 (Map 1)
Zoning	RE (Rural Enterprise) under Planning Districts 8 & 9 (Map 2)
Size of Site	256.6 hectares (634 acres) Non-Substantive Amendment applies to 35 hectares (86.7 acres)
Current Land Use(s)	- 40 residential unit Conservation Design Development - Undeveloped mixed forest

Proposed number of units	634 units approved under existing development agreement (no proposed increase).
Surrounding Use(s)	Adjacent to existing residential development on Alps Road and Conrod Settlement Road

Existing Development Agreement

On May 16, 2013 Harbour East Marine Drive Community Council approved a development agreement permitting a clustered 634-unit residential development known as Seven Lakes in Porters Lake. The development agreement was enabled through the Classic Open Space Design policies of the 2006 RMPS. A subsequent amending agreement was approved on June 18, 2014 to allow model homes, a sales office, equipment storage, and up to 2 single unit dwellings on a home site driveway. Phase 1 of the development is underway, while Phases 2 through 7 remain undeveloped.

Regional MPS Enabling Policy

With the adoption of the Regional Municipal Planning Strategy and the Regional Subdivision By-law in 2006, larger scale residential developments in the rural designations could only be considered through the Open Space Design Development policies. These policies were established to manage residential growth in rural areas and protect environmentally sensitive lands. The key objective of Classic Open Space Design Developments (currently referred to as Conservation Design Development) was to minimize road construction and focus development in locations that are most suitable from an ecological and cultural stand point. The maximum development density was 1 unit per hectare of gross site area with at least 60% of the property retained as open space.

Upon the adoption of the 2014 RMPS, new Conservation Design Development policies replaced the 2006 Open Space Design policies. Pursuant to Policies S-14 and S-17 of the 2014 RMPS, Conservation Design Developments can be considered but at a lower density of 1 unit per 0.4 hectares of net developable area which is significantly less than what was permitted under the 2006 Open Space policies (Attachment C). Given this shift in policy criteria, amendments to existing development agreement approved under the 2006 policy cannot be considered as they can not satisfy the revised 2014 RMPS policy criteria.

Site-specific policy G-19 was adopted under the 2014 RMPS. This is a policy that allows lands immediately north of the Seven Lakes development to be considered pursuant to the 2006 Open Space Design policies. However, the lands under the existing Seven Lakes Development Agreement were not included in these "grandfathering" provisions (Schedule A of Attachment A). As a result, any amendment to the existing agreement would need to satisfy the most recent 2014 Conservation Design policy criteria.

Proposal Details

The applicant is seeking amendments to the RMPS to enable non-substantive and substantive amendments to the existing Seven Lakes Agreement in accordance with the policies in effect at the time the development agreement was approved. Due to changes in market demand, topographic constraints, and servicing requirements, the Developer has experienced challenges with the phasing approved under the existing agreement. The applicant has indicated that the existing plans for phasing and infrastructure are not economically feasible and therefore phasing changes and changes to unit types and location to the agreement are necessary. The applicant is also anticipating that additional amendments (substantive and non-substantive) may be necessary in the future to respond to market conditions. At this point in time, the application before Council is limited to shifting the extent of Phase 1 line to permit the construction of a cul-de-sac with 16 residential units in the first phase of development rather than in Phase 2 (Map 3).

In accordance with the Section 6.1.1(a) of existing development agreement, shifting phase lines are considered a non-substantive amendment. However, any amendment (substantive or non-substantive) to an existing agreement must meet plan policy. Given the aforementioned 2014 change to Regional Plan policy, the approved development of Seven Lakes can not meet the current Conservation Design Development policy criteria. Therefore, non-substantive amendments cannot be considered unless the

RMPS is amended to allow such amendments for Seven Lakes Development to be considered in accordance with the 2006 RMPS policies.

Approval Process

The approval process for this application involves two steps:

- a) First, Regional Council must consider and, if deemed appropriate, approve proposed amendments to the RMPS; and
- b) Secondly, Harbour East-Marine Drive Community Council must consider and, if deemed appropriate, approve, by resolution, the proposed non-substantive amendments to the existing development agreement once the RMPS amendment is in effect.

In the event Regional Council approves the RMPS amendments, Harbour East Marine Drive Community Council may only decide on the proposed non-substantive amendments following the amendment to the RMPS coming into effect. A decision on the proposed RMPS amendment is not appealable to the Nova Scotia Utility and Review Board (Board). However, the subsequent decision on the proposed amending agreement for the non-substantive amendments is appealable to the Board.

COMMUNITY ENGAGEMENT

The community engagement process for the original development agreement was consistent with the intent of the HRM Community Engagement Strategy, the HRM Charter, and the Public Participation Program approved by Council on February 25, 1997. As was indicated in the Initiation Report, given the minimal impact and localized nature of this request, the level of community engagement included information on the HRM website, signage posted on the subject site, and letters mailed to property owners within the notification area (Map 2).

As a result, staff received questions about the scope of the proposal and comments pertaining to the following concerns:

- Traffic – there is currently only one access via Alps Road into the Seven Lakes as the access from Conrad Settlement Road will not be built until phase 4; and
- Restricted access to private recreational facilities to Seven Lakes residents only until the proposed HRM public parkland is constructed which is scheduled in phase 2.

The proposal will potentially impact residents and property owners.

DISCUSSION

The RMPS is a strategic policy document that sets out the goals, objectives and direction for long term growth and development in Municipality. Amendments to an RMPS are significant undertakings and Council is under no obligation to consider such requests. However, in this case, staff advise that proposed changes to the RMPS are a reasonable approach and necessary to enable development to proceed in the Seven Lakes Community. The following paragraphs review the rationale and content of the proposed RMPS amendments, as well as the associated non-substantive amendment to the existing development agreement.

Regional Plan Amendment – Site Specific Policy G-19

Since the approval of the site-specific Policy G-19 in the 2014 RMPS for the lands north of the existing Seven Lakes DA, it has been determined that any amendment requests to the existing Seven Lakes DA must comply with the 2014 Conservation Design Development policies. Notwithstanding a general awareness of the process for updating the Regional Plan which took place in 2014, the Developer assumed that any amendment requests could be considered under the policies by which the agreement was

approved. As a result, the lands which are the subject of this application were not included in the site-specific Policy G-19 (Schedule A of Attachment A).

Staff advise the proposed amendments are reasonable given the relatively unique and generally unintended impacts on the Seven Lakes project. Staff note this is one of only a few Conservation Design subdivisions currently being constructed and advise it is reasonable to allow the project to continue to be considered under the policies by which it was originally approved. This would enable construction as originally envisioned with the flexibility to consider amendments to the development agreement in response to circumstances not anticipated during the original approval 6 years ago.

Regional Plan Amendment – Non-Substantive Amendments for Approved Conservation Design Developments

Currently in the RMPS, there is no distinction between substantive and non-substantive amendment requests for approved Conservation Design Development Subdivisions. Staff advise there is merit in considering RMPS amendments not just for the Seven Lakes project but for all Conservation Design Developments that were approved under the 2006 policies where development has begun in compliance with the conditions of the original approval. This would allow consideration of non-substantive amendments to these projects under the policies in place when the agreements were originally approved. This proposed amendment is included as Attachment A. A summary of the proposed amendment is as follows:

- To distinguish between substantive and non-substantive amendments for all approved Conservation Design Development where development has begun in compliance with the conditions of the original approval by introducing a policy under the existing Policy G-19; and
- Allow non-substantive amendments to all approved Conservation Design Development subdivisions where development has begun in compliance with the conditions of the original approval to be considered under the previous 2006 RMPS policies.

A detailed discussion and rationale for this policy approach is as follows:

Non-Substantive Amendments

Non-substantive amendments generally provide the property owner and Council moderate flexibility to respond to future market demand, unforeseen conditions or changes which typically have negligible impact on the overall design and intent of the agreement. For this reason, their approval only require staff review and resolution of Council. Permitted non-substantive amendments for these existing agreements include minor adjustments such as phasing line changes, parkland and trail locations, signage, a minimal percent increase in number of units and type and location in each phase, change of use to include daycares, home businesses, auxiliary dwelling units, and extensions to commencement and completion dates. They are minor in nature and have minimal impact in the overall proposed development.

The existing policy for Conservation Design Development permits subdivision within the Rural Commuter Designation of the RMPS through development agreement or through amendments to existing development agreements. However, the policy does not, distinguish between substantive or non-substantive amendments. Currently the policy requires approval of new development agreements and any type of amendment to existing agreements to comply with the policies and criteria in the 2014 RMPS.

There are 10 Conservation Design Developments approved under the 2006 RMPS. Of those 10, 7 have initiated development in compliance with the conditions of the original approval. The remaining 3 have not undertaken construction and the commencement of construction dates in the agreements have expired.

The proposed new policy would apply to all Conservation Design Developments approved under the 2006 RMPS where development has begun in compliance with the conditions of the original approval. It distinguishes between substantive and non-substantive amendments and allows these developments to be completed as per the original approval including non-substantive amendments, pursuant to the policy in place at the time of that original approval.

Non-substantive amendments to Conservation Design Developments approved under the 2006 RMPS where development has not been undertaken in compliance with the original approval and substantive amendments to all existing Conservation Design Development approved under the 2006 RMPS would have to comply with the 2014 policies.

Proposed Non-Substantive Amendments to the Seven Lakes

Attachment B contains the proposed second amending agreement for the subject site. The proposed non-substantive amendment is to shift the Phase 1 and Phase 2 line boundary to include the proposed 16 unit cul-de sac in Phase 1 rather than Phase 2 (Map 3).

The proposed non-substantive changes comply with the original Development Agreement provisions and the 2006 Conservation Design Development policies under which the original agreement was approved. They are minor in nature and have minimal impact in the overall proposed development.

Conclusion

Staff have reviewed the request in terms of the context, relevant existing and previous policy criteria and advise that the RMPS should be amended to include the lands of the existing Seven Lakes development agreement in the site-specific Seven Lakes Policy G-19.

Staff also advise that the RMPS should be amended to allow the non-substantive amendments of all approved Conservation Design Development agreements where development has begun in compliance with the conditions of the original approval to be considered in accordance with the 2006 RMPS policies. Therefore, staff recommends approval of the proposed RMPS amendments as contained in Attachment A of this report.

Should Regional Council approve the RMPS amendments, staff will bring this report to Harbour East-Marine Drive Community Council for consideration of the proposed non-substantive amendments to the existing Seven Lakes development agreement (Attachment B). Staff advise that the proposed amendments are consistent with Regional Plan policies and therefore recommend approval of the second amending development agreement as contained in Attachments B of this report.

FINANCIAL IMPLICATIONS

There are no financial 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 Development Agreement. The administration of the development agreement can be carried out within the approved 2019-2020 budget with existing resources.

RISK CONSIDERATION

There are no significant risks associated with the recommendations contained within this report. This application involves proposed RMPS amendments. Such RMPS amendments are at the discretion of Regional Council and are not subject to appeal to the N.S. Utility and Review Board. Information concerning risks and other implications of adopting the proposed amendments are contained within the Discussion section of this report. Regarding the Non-substantive Amendment, 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 non-substantive amendments are contained within the Discussion section of this report.

ENVIRONMENTAL IMPLICATIONS

No additional concerns were identified beyond those raised in this report and the previous planning process for the existing Development Agreement.

ALTERNATIVES

The Harbour East -Marine Drive Community Council may choose to recommend that Regional Council:

1. Modify the proposed amendments to the RMPS, as set out in Attachments A of this report. If this alternative is chosen, specific direction regarding the requested modifications is required. Substantive amendments may require another public hearing to be held before approval is granted. A decision of Council to approve or refuse the proposed amendments is not appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
2. Refuse the proposed amendments to the RMPS. A decision of Council to approve or refuse the proposed amendments is not appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.

The Harbour East Marine Drive Community Council may choose to:

3. Approve the proposed amending agreement 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 this development agreement is appealable to the N.S. Utility & Review Board as per Section 262 of the *HRM Charter*.
4. Refuse the proposed amending agreement, and in doing so, must provide reasons why the proposed agreement does not reasonably carry out the intent of the RMPS. A decision of Council to refuse the proposed 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 Area
Map 3: Phase 1 and 2 Boundary Line

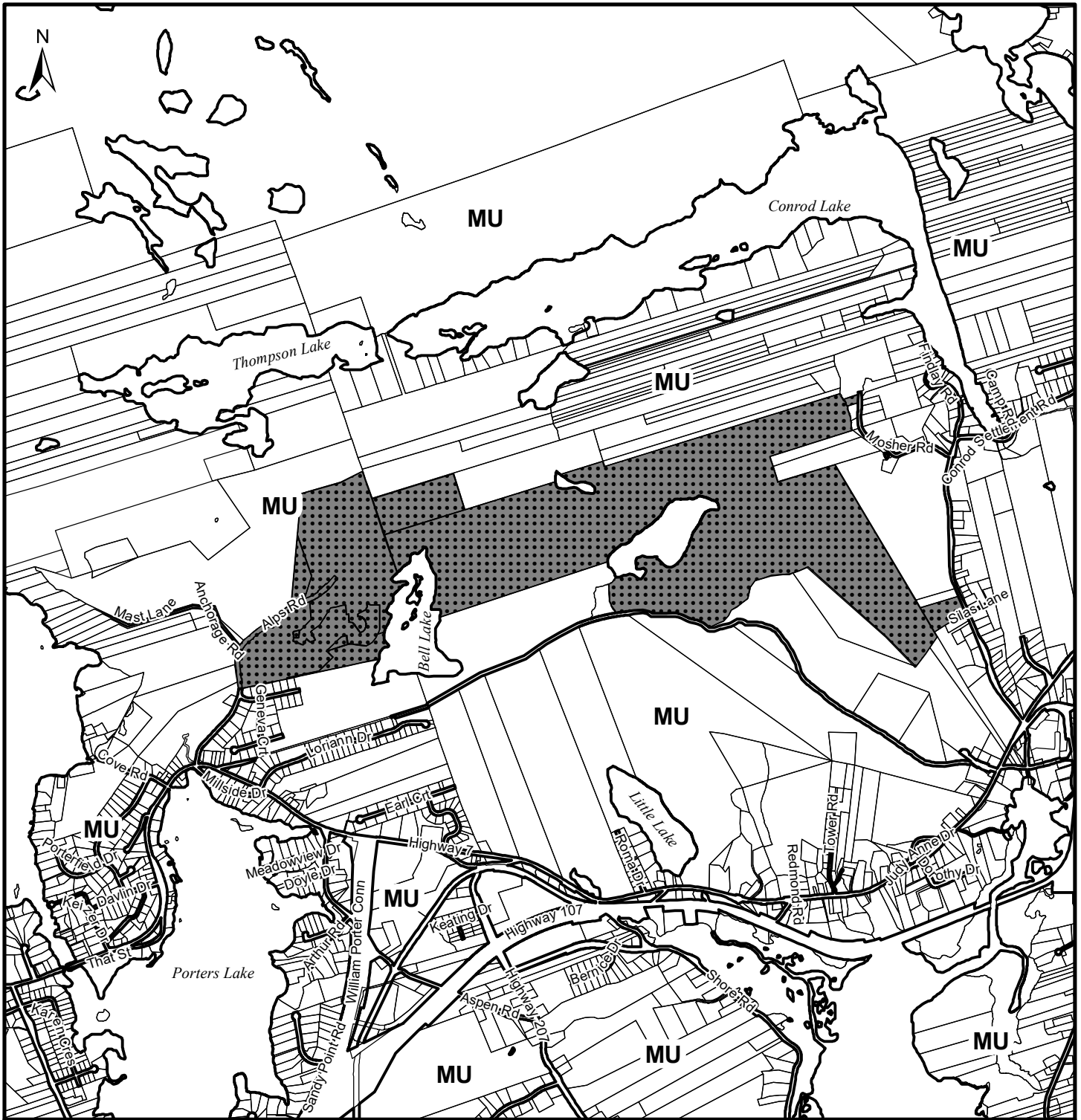
Attachment A Proposed Amendments to Regional Municipal Planning Strategy
Attachment B Proposed Second Amending Development Agreement
Attachment C Evaluation of Regional Municipal Planning Strategy: Non-Substantive Amendment

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: Maria Jacobs, Planner II, Current Planning, 902.490.4911

Original Signed


Report Approved by: _____
Steven Higgins, Manager, Current Planning 902.490.4382



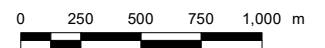
Map 1 - Generalized Future Land Use

HALIFAX

Porters Lake

 Subject Lands

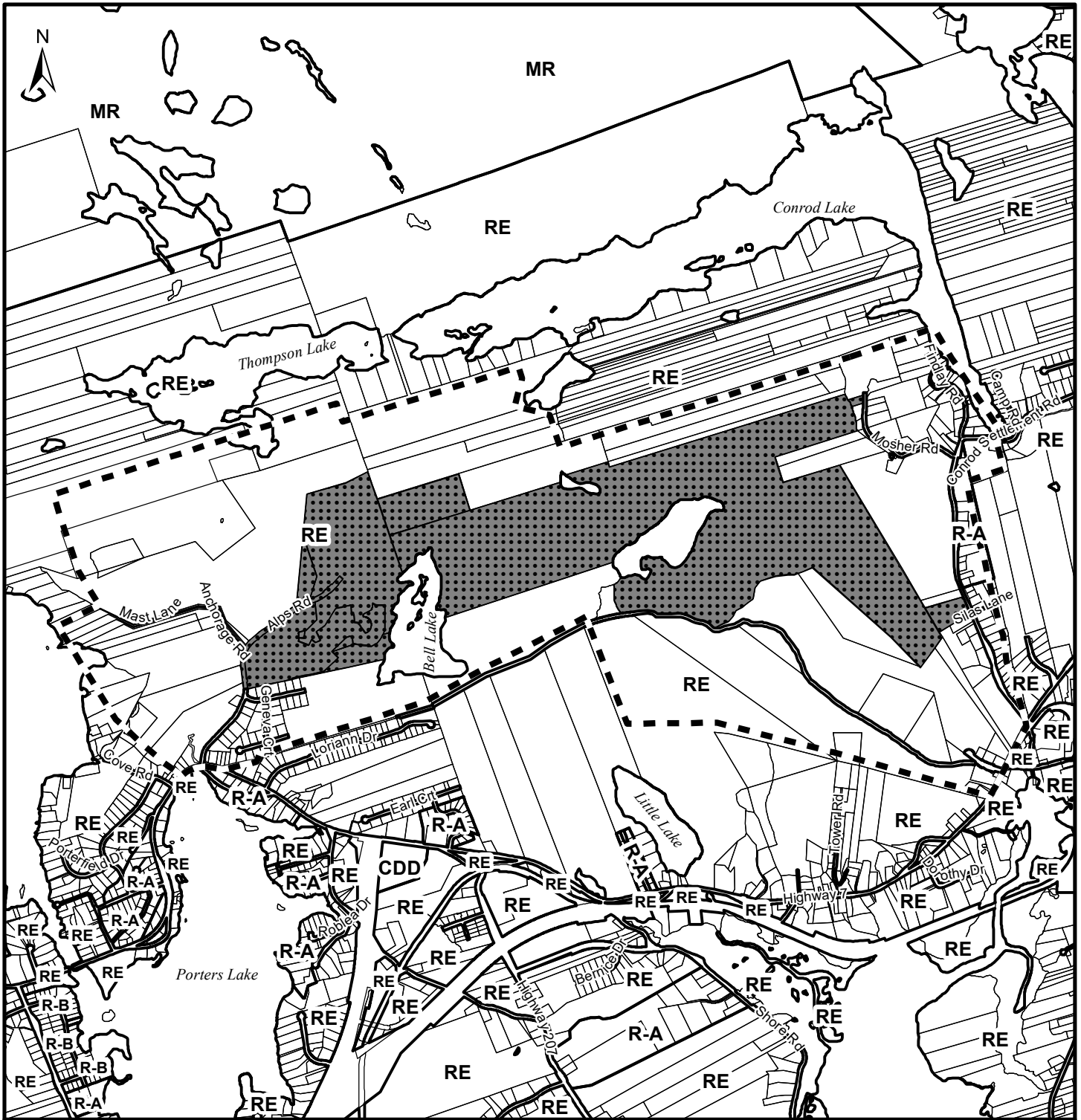
Designation
 MU Mixed Use



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.



Planning Districts 8 & 9



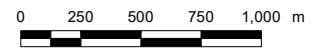
Map 2 - Zoning and Notification

HALIFAX

Porters Lake

-  Subject Lands
-  Area of Notification

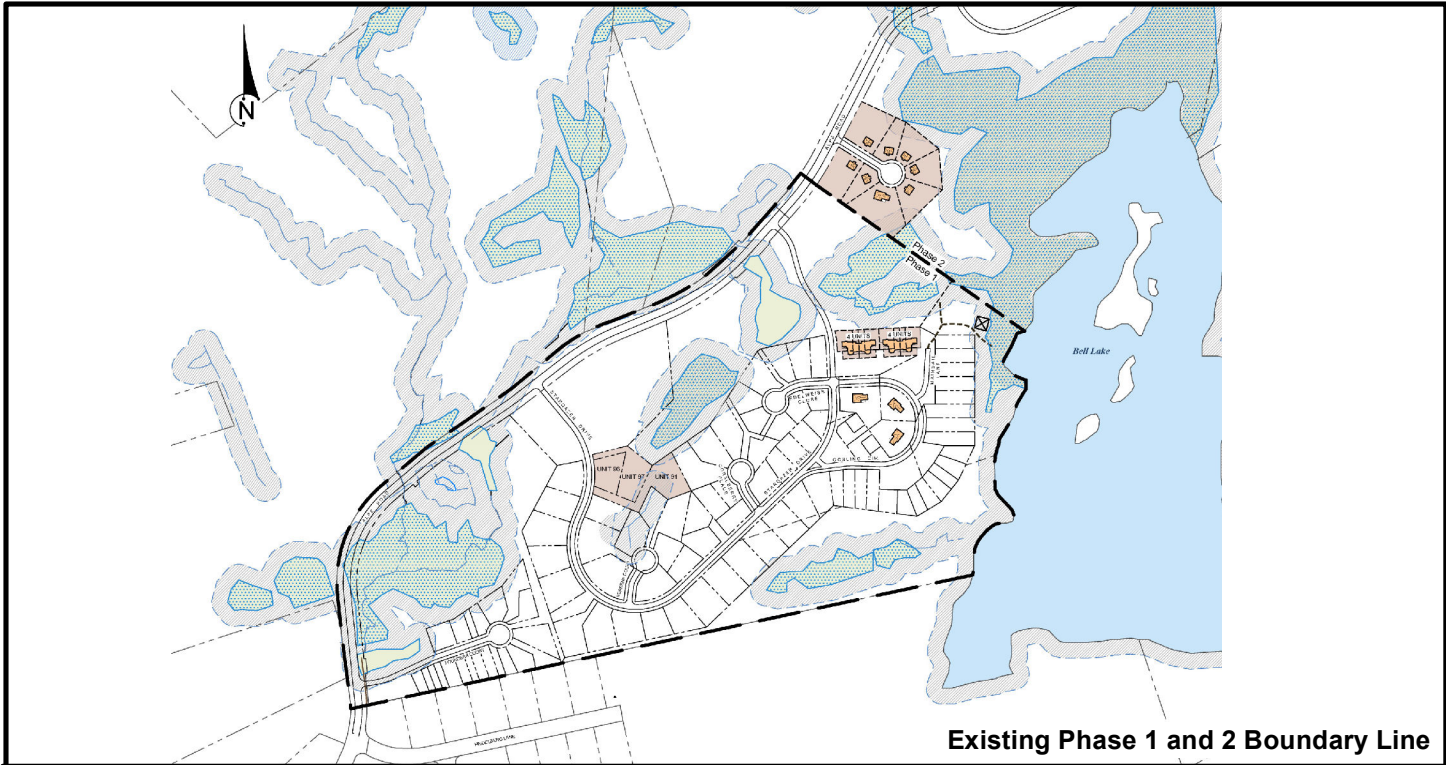
- Zone**
- R-A Residential A
 - R-B Residential B
 - RE Rural Enterprise
 - CDD Comprehensive Development District
 - MR Mixed Resource



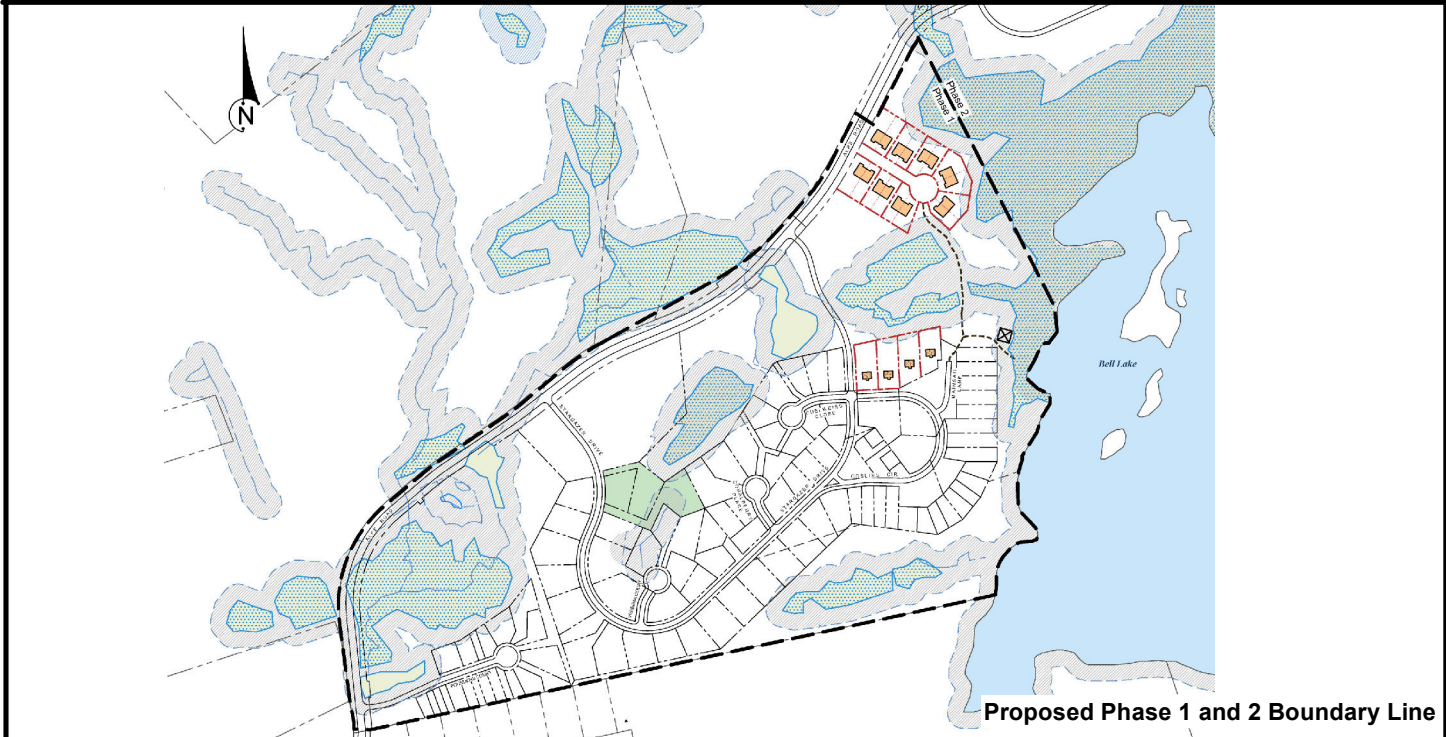
This map is an unofficial reproduction of a portion of the Zoning Map for the plan area indicated.

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

Planning Districts 8 & 9
Land Use By-Law Area

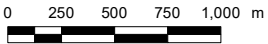


Existing Phase 1 and 2 Boundary Line



Proposed Phase 1 and 2 Boundary Line

Map 3 - Phase 1 and Phase 2 Boundary Line



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

Attachment A

Proposed Amendments to Regional Municipal Planning Strategy

BE IT ENACTED by Regional Council of the Halifax Regional Municipality that the Regional Municipal Planning Strategy is hereby further amended as follows:

1. Amend the Table of Contents under Chapter 9: Governance and Implementation 9.8 Effectiveness by inserting the following text shown in bold immediately after the text "Appendix C: Species at Risk in HRM 2013:

Appendix D: Lands Subject to Policy G-19

2. Amend Section 9.8 Effectiveness Policy G-19 by deleting the text shown in strikethrough and inserting the text shown in bold, as follows:

G-19 Notwithstanding Policies S-14, S-15, S-16 and S-17 of this Plan, Council may consider a development agreement application on lands identified on Appendix D of this Plan in accordance with Policies S-15 and S-16 of the 2006 Regional Plan provided that a completed application has been submitted to HRM prior to December 31, 2014. **Further, Council may consider substantive and non-substantive amendments to an existing development agreement on lands identified on Appendix D of this Plan in accordance with Policies S-15 and S-16 of the 2006 Regional Plan.**

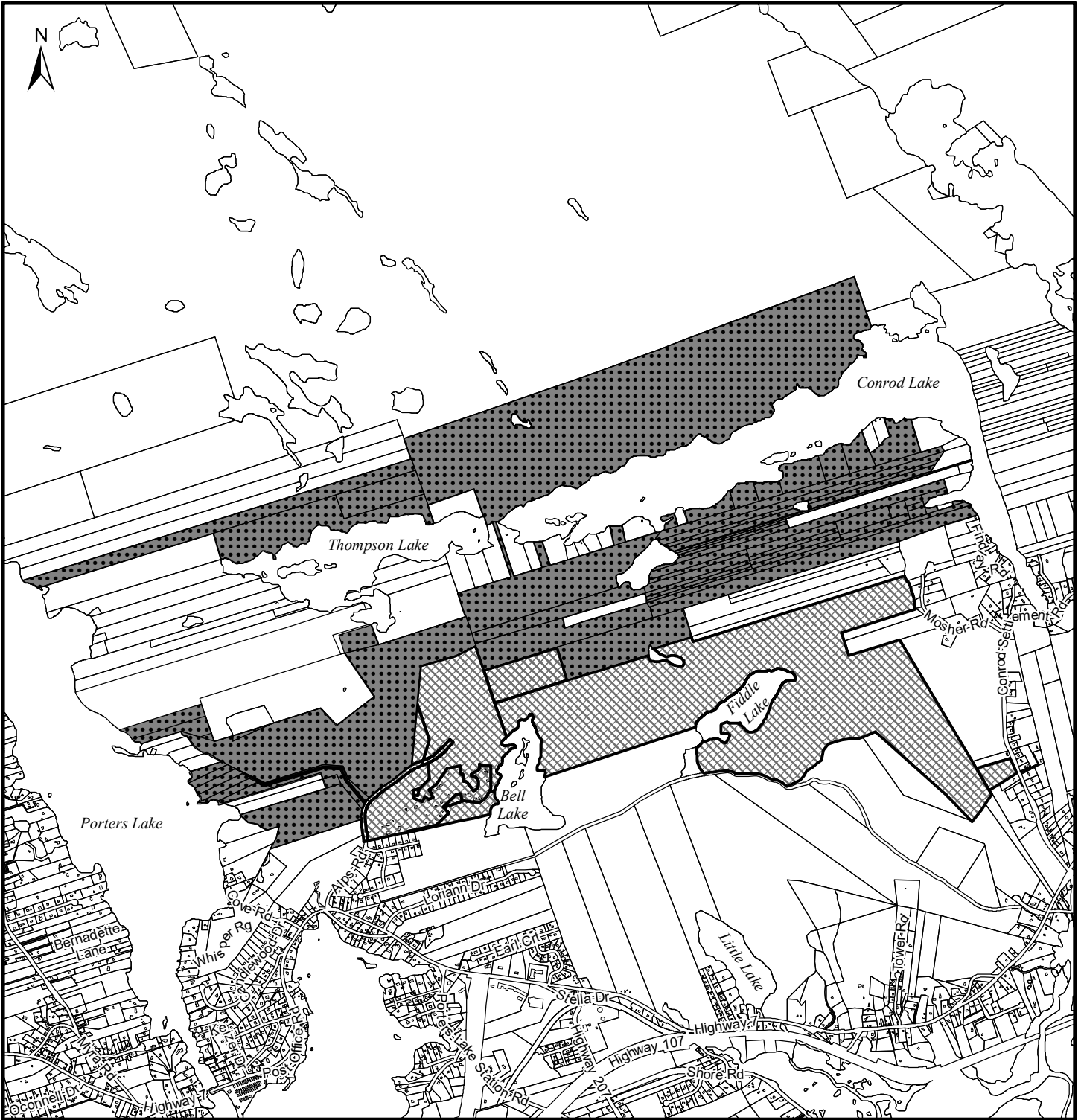
3. Amend Section 9.8 Effectiveness by inserting the following text shown in bold immediately after Policy G-19:

G-20 Notwithstanding Policies S-14, S-15, S-16 and S-17, applications for non-substantive amendments to approved development agreements for Conservation Design Development shall be considered under the policies in effect at the time the development agreement was approved provided that the proposed amendments were identified in the agreement as non-substantive.

4. Amend Appendix D – Lands Subject to Policy G-19 to include the lands of the existing Seven Lakes Development Agreement shown as "Area to be added to Lands Subject to Policy G-19" as shown on Schedule A attached hereto.



I, Kevin Arjoon, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted amendment was passed at a meeting of the [INSERT COUNCIL NAME] held on [DATE], 201[#].

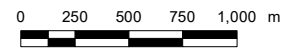
Kevin Arjoon
Municipal Clerk



Schedule A
Amendment to Appendix D Lands Subject to Policy G-19

HALIFAX

-  Lands subject to Policy G-19
-  Area to be added to Lands Subject to Policy G-19



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

ATTACHMENT B

Proposed Second Amending Agreement to the Existing Development Agreement

THIS SECOND AMENDING AGREEMENT made this day of **[Insert Month]**, 20__.

BETWEEN:

SEVEN LAKES DEVELOPMENTS LIMITED.

a body corporate, in the Province of Nova Scotia

(hereinafter collectively called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY

a municipal body corporate, in the Province of Nova Scotia

(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located on the northeast side and south side of Alps Road, Porters Lake (portion of the area known as Seven Lakes Development), identified as PID 40717621 which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Harbour East Marine Drive Community Council of the Municipality approved an application to enter into a Development Agreement with Seven Lakes Development Limited at a meeting held on May 16, 2013 to allow for a Classic Open Space Design Development for up to 634 residential dwelling units and other associated land uses (Municipal Case Number 17463), pursuant to the provision of the *Halifax Regional Municipality Charter* and pursuant to Policy S-16 of the 2006 Regional Municipal Planning Strategy, which said Development Agreement was registered at the Land Registration Office on August 27, 2013 as Document Number 103662939 (hereinafter called the "Original Agreement");

AND WHEREAS the Harbour East Marine Drive Community Council of the Municipality approved an application to allow substantive amendments to the Original Agreement to allow model homes, a sales office/equipment storage building, up to 2 single unit dwellings on a Home Site Driveway, construction of Common Shared Private Driveways by phases on the lands (Municipal Case Number 19011), pursuant to the provision of the *Halifax Regional Municipality Charter* and pursuant to Policy S-16 of the 2006 Regional Municipal Planning Strategy, which said First Amending Agreement was registered at the Land Registration Office on July 18, 2014 as Document Number 105444021 (hereinafter called the "First Amending Agreement");

AND WHEREAS the Original Agreement and the First Amending Agreement together comprise the Existing Development Agreement (hereinafter called the "Existing Agreement");

AND WHEREAS the Developer has requested that non-substantive amendments to the Existing Agreement to allow for changes in the phasing line between Phase 1 and Phase 2 pursuant to the provisions

of the *Halifax Regional Municipality Charter* and pursuant to Policies S-15 and S-16 of the Regional Municipal Planning Strategy and Sections 6.1 of the Existing Agreement;

AND WHEREAS the Harbour East Marine Drive Community Council of the Municipality approved this request at a meeting held on [insert- Date], referenced as Municipal Case Number 21937;

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

-
1. Except where specifically varied by this Second Amending Agreement, all other terms, conditions and provisions of the Existing Agreement as amended shall remain in effect.
 2. The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Second Amending Agreement and the Existing Agreement.
 3. Section 3.1 of the Existing Agreement shall be amended by deleting the text shown in ~~strikeout~~ and inserting the text shown in **bold**, as follows:
 - 3.1 The Developer shall develop the lands in a manner, which in the opinion of the Development Officer, conforms with the following Schedules attached to this Agreement and filed in the Halifax Regional Municipality as Case Number **21937**:

Schedule A	Legal Description of the Lands
Schedule A-1	Legal Description of the Lands
Schedule B	Overall Concept Plan
Schedule B-1	Overall Concept Plan
Schedule C	Overall Phasing Plan
Schedule C-1	Overall Phasing Plan
Schedule C-2	Overall Phasing Plan
Schedule D	Concept Plan Phase 1
Schedule D-1	Concept Plan Phase 1
Schedule E	Concept Plan Phase 2
Schedule E-1	Concept Plan Phase 2
Schedule F	Concept Plan Phase 3
Schedule G	Concept Plan Phase 4
Schedule H	Concept Plan Phase 5
Schedule I	Concept Plan Phase 6
Schedule I-1	Concept Plan Phase 6
Schedule J	Concept Plan Phase 7
Schedule K	Overall Common Open Space Plan
Schedule K-1	Overall Common Open Space Plan
Schedule L	Public Recreation Facilities
Schedule L-1	Public Recreation Facilities
Schedule M-1	Public Local Road Cross Station
Schedule M-2	Rural Minor Collector Road Cross Station
Schedule N	Private Recreation Facilities
Schedule N-1	Private Recreation Facilities
Schedule O	Public Road and Road Reserves
Schedule O-1	Public Road and Road Reserves
Schedule P	Conceptual Stormwater Management Plan (Western)
Schedule Q	Conceptual Stormwater Management Plan (Eastern)
Schedule Q-1	Conceptual Stormwater Management Plan (Eastern)
Schedule R	Common Shared Private Driveway Design Standard

4. The Existing Agreement shall be amended by deleting the following schedules:

Schedule C-1	Overall Phasing Plan
Schedule D	Concept Plan Phase 1
Schedule E	Concept Plan Phase 2

And inserting the following Schedules:

Schedule C-2	Overall Phasing Plan (attached)
Schedule D-1	Concept Plan Phase 1 (attached)
Schedule E-1	Concept Plan Phase 2 (attached)

5. The Existing Agreement shall be amended by deleting all text references to Schedules A, B, D, E, I, K, L, N, O, Q and replacing them with the respective reference to Schedules A-1, B-1, C-2, D-1, E-1, I-1, K-1, L-1, N-1, O-1, and Q-1.

6. Section 3.3.2 of the Existing Agreement shall be amended by inserting the text shown in bold, as follows:

3.3.2 The Development Officer may approve changes in the location and type of units and changes in the number of units up to a maximum of 15% of the total number of units per phase, as shown on the applicable Schedules. Location of the units will be on the portion of the site where soils are best suited for development within the developable area. At no time shall the number of units on the Lands exceed 634 units, including a maximum of 10 multiple unit buildings. **This provision shall not apply to Phase 1.**

7. The Existing Agreement shall be amended by deleting all text references to Schedules C and C-1 and replacing them with reference to Schedule C-2.

8. Section 6.1 of the Existing Agreement shall be amended by deleting the text shown in strikeout and inserting the text shown in bold, as follows:

6.1.1 Non-Substantive Amendments

The following items are considered by both parties to be non-substantive and may be amended by resolution of Council: **under the policies in effect at the time the Original Agreement was approved.**

IN WITNESS WHEREAS the said parties to these presents have hereunto set their hands and affixed their seals the day and year first above written.

SIGNED, SEALED AND DELIVERED in the presence of:

(Insert Registered Owner Name)

Witness

Per:_____

HALIFAX REGIONAL MUNICIPALITY

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

Witness

Per:_____
MAYOR

Witness

Per:_____
MUNICIPAL CLERK

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

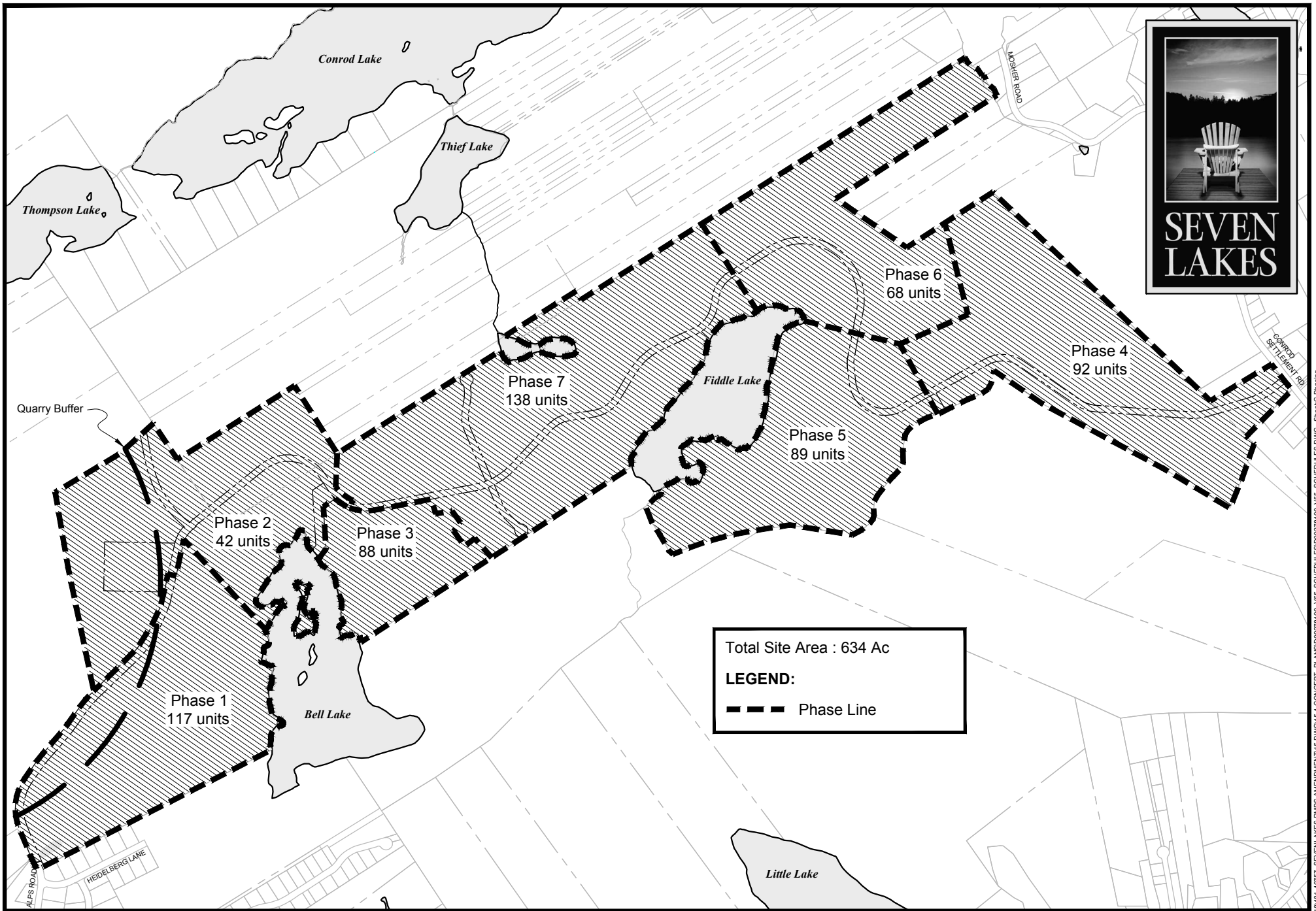
On this ____ day of _____, A.D. 20____, before me, personally came and appeared _____, the subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that _____ of the parties thereto, signed, sealed and delivered the same in his/her presence.

A Commissioner of the Supreme Court
of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX

On this ____ day of _____, A.D. 20____, before me, personally came and appeared _____, the subscribing witness to the foregoing indenture who having been by me duly sworn, made oath and said that Mike Savage, Mayor and Cathy Mellett, Clerk of the Halifax Regional Municipality, signed the same and affixed the seal of the said Municipality thereto in his/her presence.

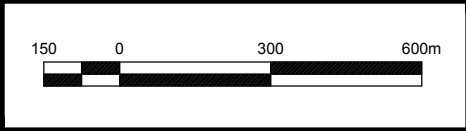
A Commissioner of the Supreme Court
of Nova Scotia



Total Site Area : 634 Ac
LEGEND:
 - - - Phase Line










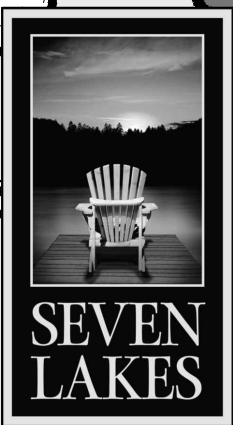
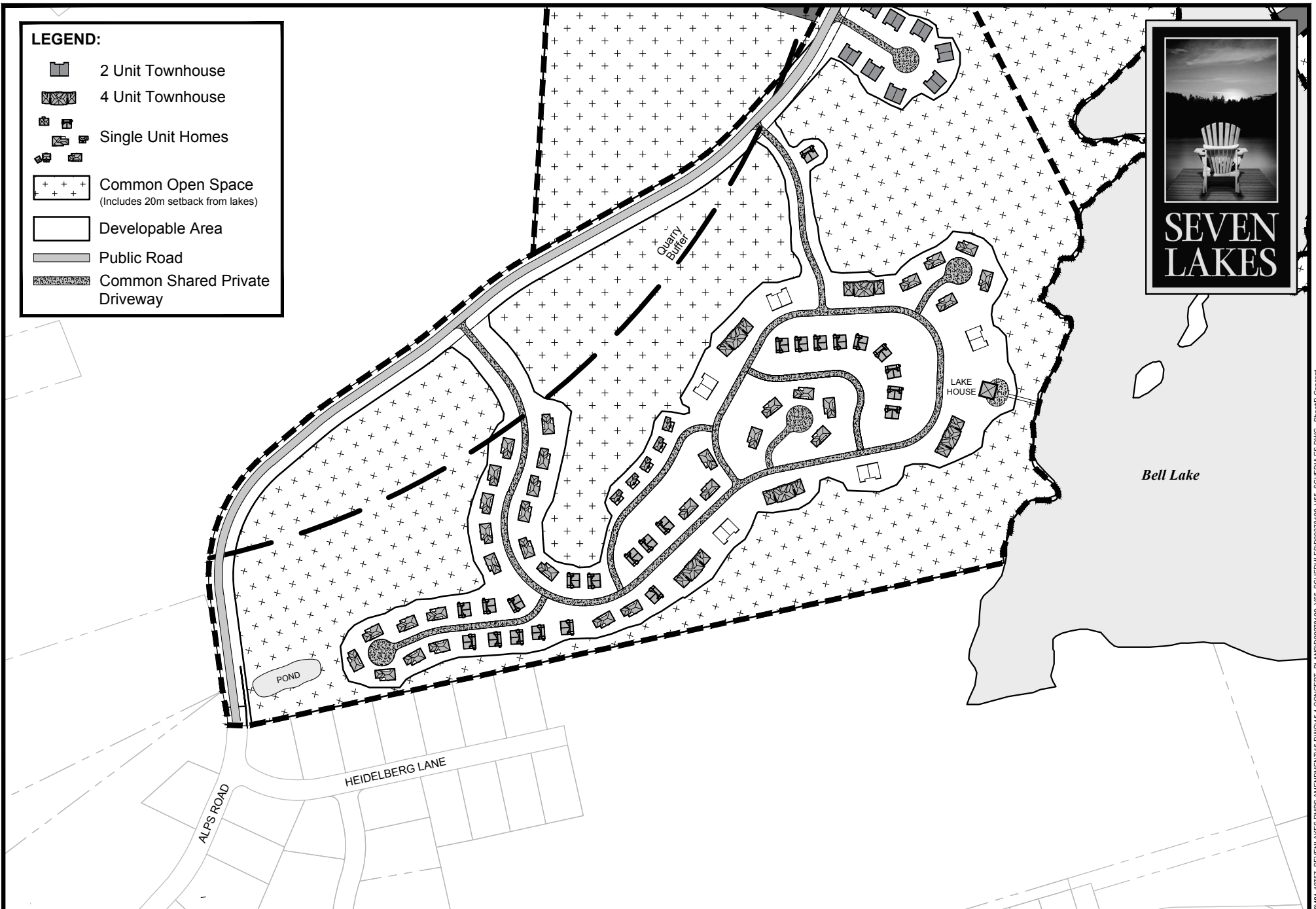
SCHEDULE C-2: OVERALL PHASING PLAN
 Porters Lake, Nova Scotia



SCALE:
 1:15,000 METRIC
 DATE:
 16-APRIL-2019

LEGEND:

-  2 Unit Townhouse
-  4 Unit Townhouse
-  Single Unit Homes
-  Common Open Space
(Includes 20m setback from lakes)
-  Developable Area
-  Public Road
-  Common Shared Private Driveway



Bell Lake



SCHEDULE D-1 : CONCEPT PLAN PHASE 1
Porters Lake, Nova Scotia



SCALE:
1:5,000 METRIC
DATE:
16-APRIL-2019

Attachment C

Evaluation of Regional Municipal Planning Strategy: Non-Substantive Amendment

Policy 2014 Regional Municipal Planning Strategy

G-19 *Notwithstanding Policies S-14, S-15, S-16 and S-17 of this Plan, Council may consider a development agreement application on lands identified on Appendix D of this Plan in accordance with Policies S-15 and S-16 of the 2006 Regional Plan provided that a completed application has been submitted to HRM prior to December 31, 2014.*

Policy Review: 2006 Regional Municipal Planning Strategy

S-15 *HRM shall permit the development of Open Space Design residential communities, as outlined in this Plan, within the Rural Commuter and Rural Resource designations and within the Harbour designation outside of the Urban Service Area, but not within the portions of the Beaver Bank and Hammonds Plains communities as identified in the Subdivision By-law under Policy S-25 and within the Rural Area Designation under the Eastern Passage/Cow Bay Plan Area. HRM will consider permitting the maximum density of such developments to one unit per hectare of gross site area. In considering approval of such development agreements, HRM shall consider the following:*

Policy Criteria	Staff Comment
a) <i>where the development is to be serviced by groundwater and as determined through a hydrogeological assessment conducted by a qualified professional, that there is an adequate supply of ground water to service the development and that the proposed development will not adversely affect groundwater supply in adjacent developments;</i>	The requested amendment for phasing line change does not impact the findings of the original hydrogeological study or impact traffic capacity. The requested phasing line change does not add any additional dwelling units to the proposed development. The cul-de-sac is permitted under the existing development and the amendment request is a matter of timing, Phase 1 instead of Phase 2.
b) <i>that there is sufficient traffic capacity to service the development;</i>	
c) <i>the types of land uses to be included in the development which may include a mix of residential, associated public or privately-owned community facilities, home-based offices, day cares, small-scale bed and breakfasts, forestry and agricultural uses;</i>	The requested amendment for phasing does not add any additional dwelling units and the unit type and number is permitted with the existing development agreement.
d) <i>whether soil conditions and other relevant criteria to support on-site sewage disposal systems can be met;</i>	The phasing request does not impact proposed on-site sewage. The overall approved unit counts remains the same.
e) <i>the lot frontages and yards required to minimize the extent of road development, to cluster building sites on the parcel and provide for appropriate fire safety separations;</i>	The phasing request does not impact lot frontages or yards.
f) <i>that the building sites for the residential units, including all structures, driveways and private lawns, do not exceed approximately 20% of the lot area;</i>	This policy provision applies to the Hybrid form of Open Space Design and not the Classic form.

<p><i>g) approximately 80% of the lot is retained as a non-disturbance area (no alteration of grades, except for the placement of a well or on-site sewage disposal system in the non-disturbance area shall be permitted and provision shall be made for the selective cutting of vegetation to maintain the health of the forest);</i></p>	<p>This policy provision applies to the Hybrid form of Open Space Design and not the Classic form.</p>
<p><i>h) that the development is designed to retain the non-disturbance areas and to maintain connectivity with any open space on adjacent parcels;</i></p>	<p>The non-disturbance areas will not be affected by the requested phase change.</p>
<p><i>i) connectivity of open space is given priority over road connections if the development can be sited on the parcel without jeopardizing safety standards;</i></p>	<p>The potential for connectivity was taken into account when designing the development in 2013 and the proposed amendments do not impact or alter these connections.</p>
<p><i>j) trails and natural networks, as generally shown on Map 3 or a future Open Space Functional Plan, are delineated on site and preserved;</i></p>	<p>This policy was considered under the existing agreement and the proposed amendments do not impact or alter the networks, corridors or conservation areas.</p>
<p><i>k) parks and natural corridors, as generally shown on Map 4 or a future Open Space Functional Plan, are delineated on site and preserved;</i></p>	
<p><i>l) that the proposed roads and building sites do not significantly impact upon any primary conservation area, including riparian buffers, wetlands, 1 in 100 year floodplains, rock outcroppings, slopes in excess of 30%, agricultural soils and archaeological sites;</i></p>	
<p><i>m) the proposed road and building sites do not encroach upon or are designed to retain features such as any significant habitat, scenic vistas, historic buildings, pastoral landscapes, military installations, mature forest, stone walls, and other design features that capture elements of rural character;</i></p>	<p>The proposed the change in phasing line does not encroach on any such features. The area was always intend for development under the existing agreement and the request is timing of the development of the cul-de-sac.</p>
<p><i>n) that the roads are designed to appropriate standards as per Policy T-2;</i></p>	<p>The public road will meet appropriate municipal standards except where varied by the Agreement.</p>
<p><i>o) views of the open space elements are maximized throughout the development;</i></p>	<p>This policy was considered under the existing agreement and the proposed amendments do not impact or alter views of the open space elements.</p>
<p><i>p) opportunities to orient development to maximize the capture of solar energy;</i></p>	<p>The location of the Common Shared Private Driveways which is within this Phase change continues to present opportunities to capture solar energy.</p>
<p><i>q) the proposed residential dwellings are a minimum of 800 metres away from any permanent extractive facility;</i></p>	<p>This policy was considered under the existing agreement and the proposed amendments do not alter or impact this provision.</p>
<p><i>r) the proposed development will not significantly impact any natural resource</i></p>	<p>It is the opinion of staff the proposed amendments will not impact any natural</p>

<i>use and that there is sufficient buffering between any existing resource use and the proposed development to mitigate future community concerns; and</i>	resource use as it is only a change to the phasing line.
s) <i>consideration be given to any other matter relating to the impact of the development upon surrounding uses or upon the general community, as contained in Policy IM-15.</i>	The proposed amendments do not impact surrounding uses or general community.

S-16 *Further to Policy S-15, within the Rural Commuter, Rural Resource and Agricultural Designations, HRM shall permit an increase in density for Open Space Design Developments up to 1 unit per 4000 square metres, or greater in centres as may be provided for in secondary planning strategies, where approximately 60% or more of the site is retained in single ownership of an individual, land trust, condominium corporation or the Municipality. Notwithstanding Policy E-5, the parkland dedication shall be relaxed to a minimum of 5% for this type of development. In considering approval of such development agreements, HRM shall consider the following:*

Policy Criteria	Comments
a) <i>The criteria specified in Policy S-15, with the exception of items (f) and (g); and</i>	The Policy S-15 criteria are responded to in the above table.
b) <i>That the common open space cannot be used for any other purpose than for passive recreation, forestry, agriculture or conservation-related use except for a portion of which may be used as a village common for active recreation or the location of community facilities designed to service the development.</i>	The common open space requirement that 60% or more of the site be retained in single ownership of an individual, land trust or condo corporation and the proposed phasing amendments will not change this.

IM-15 *In considering development agreements or amendments to land use by-laws, in addition to all other criteria as set out in various policies of this Plan, HRM shall consider the following:*

Policy Criteria	Comment
a) <i>That the proposal is not premature or inappropriate by reasons of:</i>	
i. <i>The financial capability of HRM to absorb any costs relating to the development</i>	The proposed changes do not impact the financial capability for HRM.
ii. <i>The adequacy of municipal wastewater facilities, stormwater systems or water distribution systems</i>	The stormwater management plan required under the approved development agreement adequately addresses runoff and conveyance from the public road as the total number of dwelling units permitted is not changing. The water distribution system (on-site wells) will not change.
iii. <i>the proximity of the proposed development to schools, recreation or other community facilities and the capability of these services to absorb any additional demands</i>	The proposed amendment does not increase the number of dwelling units beyond what is approved by the original agreement.

<i>iv. The adequacy of road networks leading to or within the development</i>	The proposed amendment does not change the adequacy of the road network as the overall number of dwelling units permitted in the agreement is not changing.
<i>v. The potential damage to or for destruction of designated historic buildings and sites</i>	This policy was considered under the existing agreement and the proposed amendments do not alter or impact this provision.
<i>b) That controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</i>	This policy was considered under the existing Agreement and the proposed phasing change any of these criteria.
<i>i. Types of use;</i>	
<i>ii. Height, bulk and lot coverage of any proposed building</i>	
<i>iii. Traffic generation, access to and egress from the site, and parking</i>	
<i>iv. Open storage</i>	
<i>v. Signs</i>	
<i>c) That the proposed development is suitable in terms of the steepness of grades, soil and geological conditions, location of watercourse, marshes or bogs and susceptibility to flooding.</i>	The proposed amendment does not impact these primary conservation areas.