



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

**Item No.**  
**Halifax and West Community Council**  
**April 18, 2017**  
**May 30, 2017**

**TO:** Chair and Members of Halifax and West Community Council

**SUBMITTED BY:** Original signed  
Bob Bjerke, Chief Planner and Director, Planning and Development

**DATE:** February 9, 2017

**SUBJECT:** **Case 20449: Amendments to the Clayton Park West Phase 5 Stage I Development Agreement, Halifax**

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#### **ORIGIN**

Application by Arbor Vitalia Courtyard Properties Limited to amend the Stage 1 development agreement for Clayton Park West, Phase 5 to allow the development of 9 additional residential units at 372 Washmill Lake Drive, Halifax.

#### **LEGISLATIVE AUTHORITY**

Refer to Attachment C.

#### **RECOMMENDATION**

It is recommended that Halifax and West Community Council:

1. Give notice of motion to consider the proposed amending development agreement, as set out in Attachment A of this report, and schedule a public hearing;
2. Approve the proposed amending development agreement, which shall be substantially of the same form as set out in Attachment A of this report; and
3. Require the Amending Stage I Agreement be signed by the property owners of Block B and Block C 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 is applying for amendments to the existing Stage I and Stage II development agreements for phase 5 of the Clayton Park Subdivision, Halifax (Maps 1 and 2). 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 requested amendments is to add nine (9) residential units into an existing structure previously approved as a private clubhouse located at 372 Washmill Lake Drive, Halifax (Map 3). 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.

Pursuant to the existing terms and conditions of the Stage I and Stage II development agreements, the requested amendments are substantive in nature and require Council to hold a public hearing prior to deciding on the matter. Council should note that this report will address the amendments to the Stage I development agreement only. A separate staff report will follow in the near future to address the proposed amendments to the Stage II development agreements.

	<b>Block B Lands</b>	<b>Block C Lands</b>
<b>Subject Site</b>	The Stage I Agreement divides the phase into eight large blocks. The subject lands under this application are in Blocks B and C in Clayton Park West, Phase 5.	
<b>Location</b>	The subject lands are located in the Clayton Park West neighbourhood of Halifax.	
<b>Regional Plan Designation</b>	Urban Settlement (US) under the Halifax Municipal Planning Strategy (MPS)	
<b>Community Plan Designation (Map 1)</b>	The subject lands are designated 'Residential Environments' by the Halifax Municipal Planning Strategy (MPS).	
<b>Zoning (Map 2)</b>	The subject lands are identified as 'Schedule K' by the Halifax Mainland Land Use By-law (LUB).	
<b>Current Land Use(s) (Maps 3, 4 and 5)</b>	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, and consists of a 100 unit residential building.	Block C comprises a condominium development, consisting of 35 dwelling units within six buildings, and a private clubhouse for the use of condo residents.
<b>Surrounding Use(s)</b>	The subject lands are surrounded by mostly low density residential uses with some medium and high-density residential uses, as well as commercial and open space uses.	

### **Proposal Details**

The applicant proposes to amend the existing Stage I and 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 of Phase 5 in order to add nine (9) residential units within an existing accessory structure in Block C. This density transfer falls within the overall density bounds 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.

### **Existing Development Agreements - Clayton Park Subdivision (Phase 5)**

#### **Stage I Development Agreement – Eight Blocks**

In 2010, the former Chebucto Community Council held a Public hearing and approved the Stage I development agreement for Clayton Park West Phase 5. The Stage I Agreement:

- Allows for mixed-use subdivision design consisting of residential, commercial, institutional and park uses within eight large blocks;
- Divides the lands into eight large blocks: Blocks A, B, C and D are to be developed for residential, commercial or institutional uses; Block G is to be deeded to the Municipality for park uses; Block F will remain under the ownership of Halifax Water and be used for water utility purposes; and Block H will remain under the ownership of the Municipality and is not for development (Map 3);
- Includes design guidelines for each building within each of the Blocks and provides direction on the appropriate architectural treatment and finishing materials; and
- Limits the population density in Phase 5 to 30 persons per acre and an overall total of 1,866 persons. Density is regulated based on conditions in the Stage I Development agreement, which assigns a specific number of persons for each type of residential unit. For example, one person is assigned for a bachelor unit, two people for a one bedroom unit, 2.25 people for any other type of apartment unit (i.e. - 2 bedrooms or larger), and 3.35 people per townhouse unit.

#### 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 3). The Agreement also allows for a fifth building 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 4). 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:**

Phase 5 of the Clayton Park West Subdivision, was approved pursuant to policies 2.1 and 2.4 of City Wide Policies and Implementation Policy 3.3 of the Halifax MPS related to Schedule 'K'. These policies enable Community Council to consider a mixed use development on vacant lands located in Mainland North through comprehensive development in the form of a Stage I and Stage II development agreements. They are also relevant to the substantive amendment requests discussed in this report.

Attachment B contains a copy of the applicable policy from the MPS and the Schedule K provisions from the Halifax Mainland Land Use By-law (LUB).

#### **Approval Process**

The approval process for this application involves two steps:

1. Halifax and West Community Council must consider and, if deemed appropriate, approve the proposed amending Stage I development agreement as outlined in this report; and
2. Once the amending Stage I development agreement is in effect, Halifax and West Community Council may then consider and, if deemed appropriate, approve amendments to the existing Stage II development agreements.

As noted, a public hearing is only required for the consideration of the amending Stage I development agreement. Further, amendments to the Stage II development agreements can only be considered once the amending Stage I Agreement is in effect. A Supplementary Report will then be provided to Council, which will include the proposed amending Stage II development agreements. An appeal mechanism to the Nova Scotia Utility and Review Board exists for both decisions of Council.

## **COMMUNITY ENGAGEMENT**

The community engagement process is consistent with the intent of the HRM Community Engagement Strategy. The level of community engagement was consultation, 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. There was no feedback received regarding this application.

A Public hearing must be held by Halifax and West Community Council before they can consider approval of the proposed Stage I development agreements. Should Halifax and West Community Council decide to proceed with a public hearing on this application, in addition to the published newspaper advertisements, property owners within the notification area shown on Map 2 will be notified of the hearing by regular mail.

The proposal will potentially impact local 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 B contains the relevant MPS Policies and LUB regulations.

### **Proposed Amending Stage I Development Agreement:**

Attachment A contains the proposed amending Stage I development agreement for Block B and Block C of Clayton Park Phase 5. The proposed Amending Agreement includes 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 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 DA)	391	789.75	35 Townhouses + 9 – Two Bedroom Units	137.50

The attached amending development agreement will permit a total of 9 new residential units within the existing club house structure. Council should note that there will be no change to the overall population density distribution cap permitted by the existing Stage I Agreement. The density table will be replaced with an updated version and the proposed amending development agreement will adjust the allocated density per block to reflect the proposed transfer.

## **Conclusion**

Staff have reviewed the proposal in terms of all relevant policy criteria and advise that it is consistent with the intent of the MPS to identify areas appropriate for comprehensive planning and to develop the site in a manner that mitigates potential land use conflicts which could arise. Therefore, it is recommended that Halifax and West Community Council approve the proposed Stage I amending development agreement.

## **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 may be carried out within the approved 2016-2017 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 identified.

## **ALTERNATIVES**

1. Halifax and West Community Council may choose to approve the proposed amending Stage I development agreement subject to modifications. Such modifications may require further negotiation with the applicant and may require a supplementary report or another public hearing. A decision of Council to approve the proposed Stage I amending development 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 amending Stage I development agreement, and in doing so, must provide reasons why the proposed amending agreement does not reasonably carry out the intent of the MPS. A decision of Council to refuse the proposed Stage I 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:	Proposed Stage I Amending Agreement & Schedules
Attachment B:	Excerpt of Relevant Policies and Land Use By-law Sections
Attachment C:	Legislative Authority

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A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

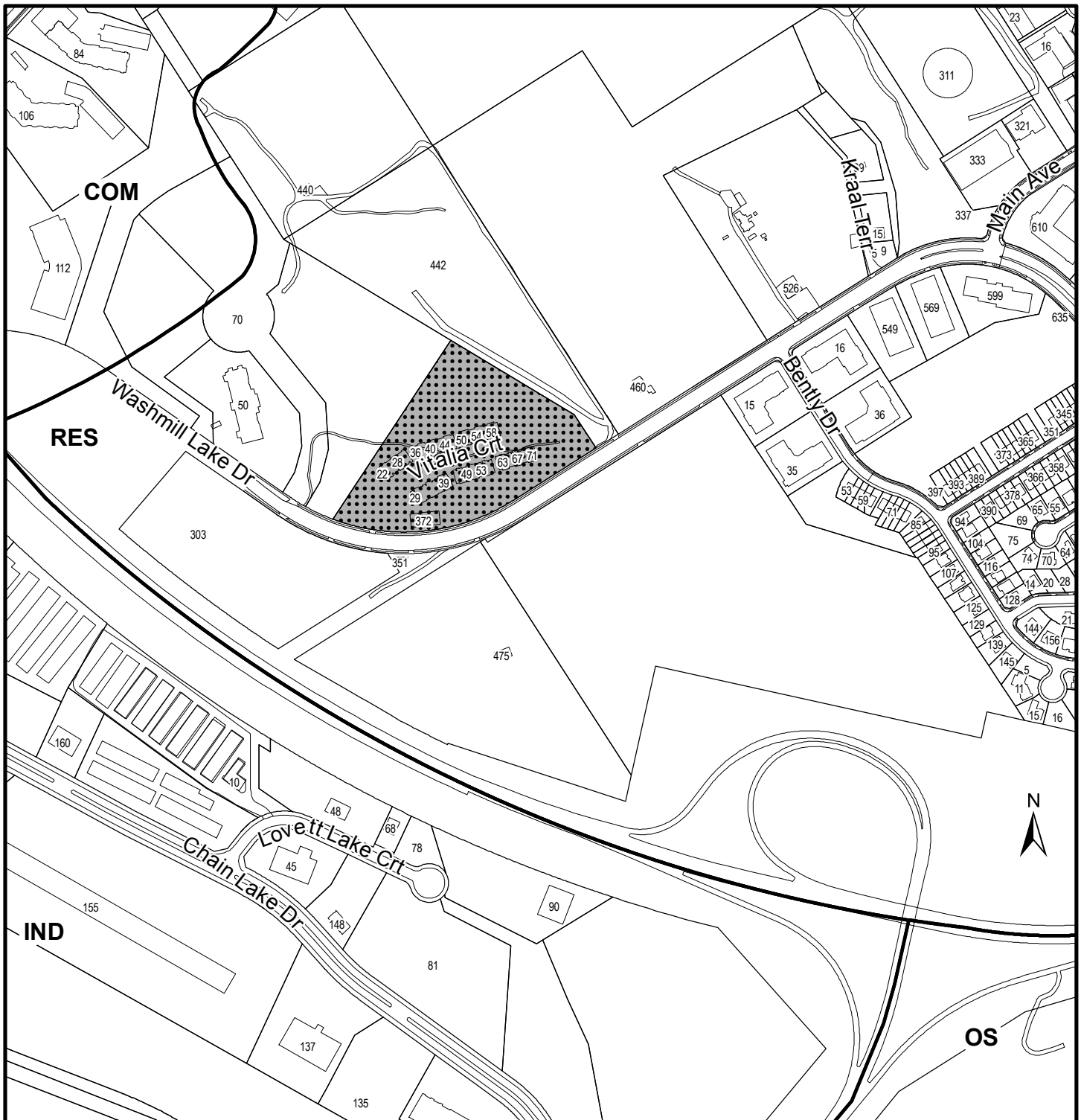
Report Prepared by: Dali Salih, Planner II, Current Planning, 902-490-1948

Report Approved by:

Original signed

Kelly Denty, Manager, Current Planning, 902.490.4800

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## Map 1 - Generalized Future Land Use

Washmill Lake Drive,  
Halifax

**HALIFAX**



Area proposed for Substantive  
Amendments to an Existing  
Development Agreement

### Designation

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

0 40 80 120 160 200 m

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

 Area proposed for Substantive  
Amendments to an Existing  
Development Agreement

 Area of Notification

Halifax Mainland  
Land Use By-Law Area

### Zone

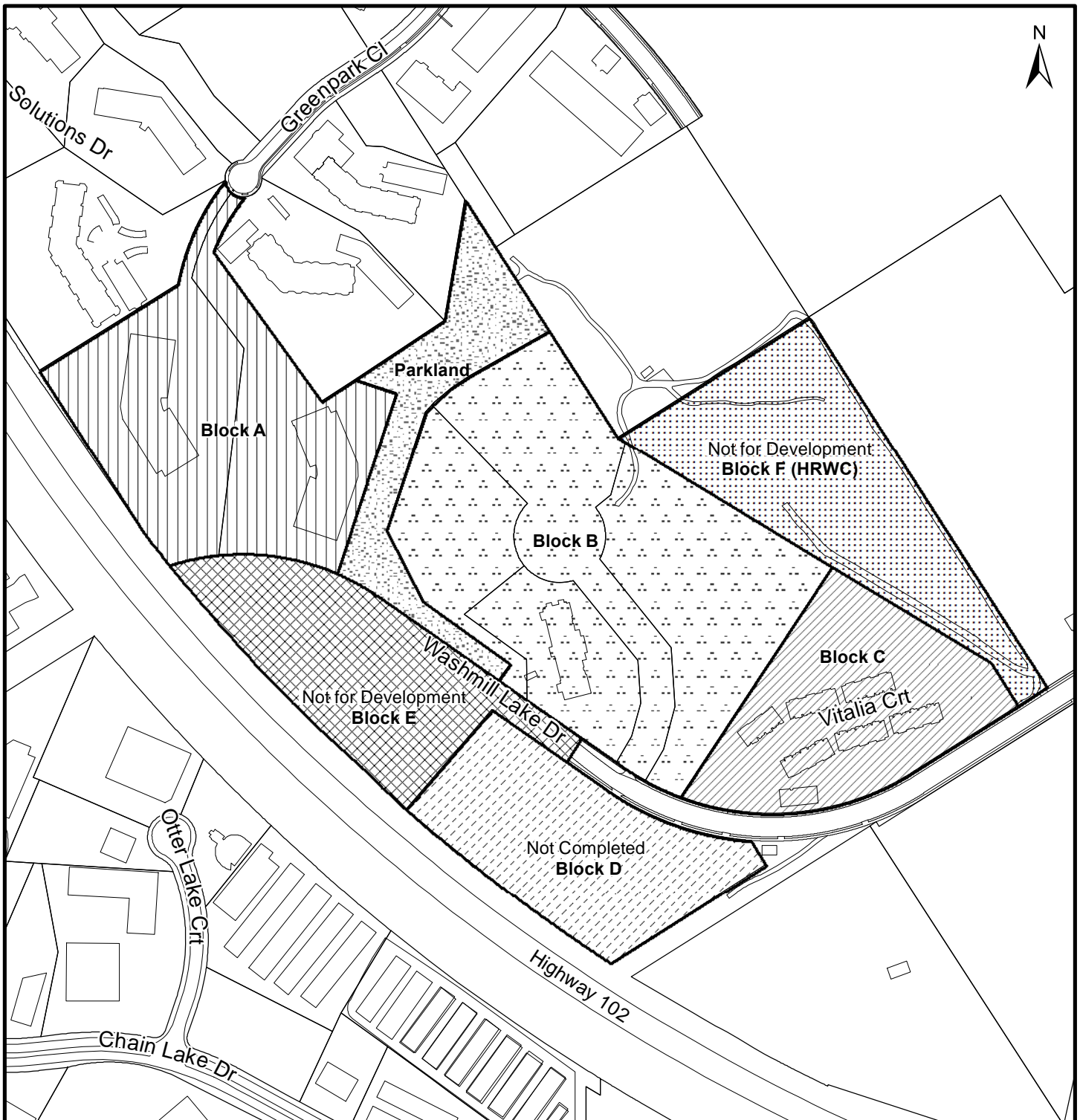
R-2P General Residential  
R-4 Multiple Dwelling  
I-2 Radio Transmitter  
I-3 General Industrial  
PWS Protected Water Supply  
K Schedule K

0 40 80 120 160 200 m

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.





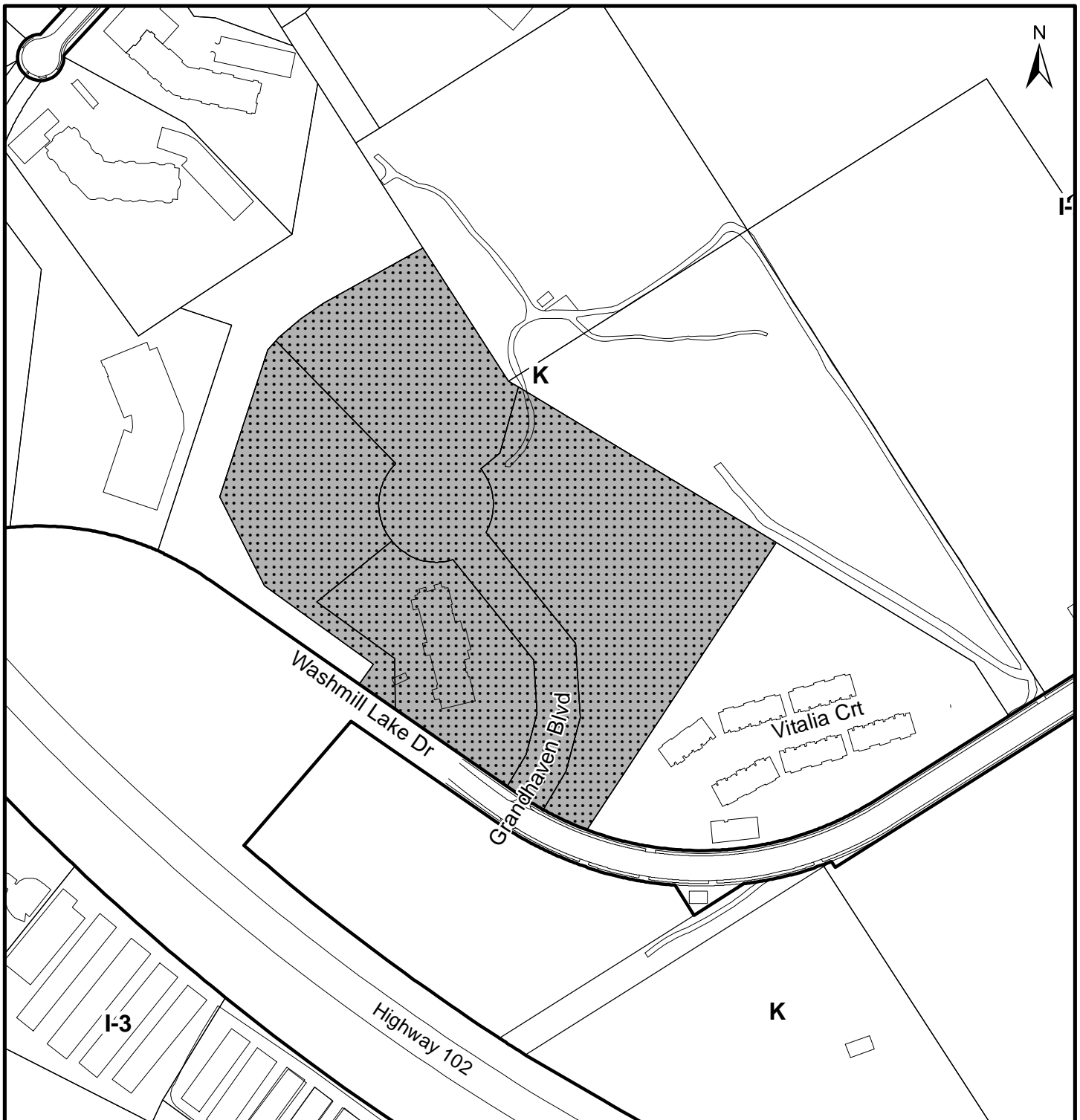
### Map 3 - Clayton Park Phase 5 Stage I Development Agreement

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**

Washmill Lake Drive,  
 Halifax

 Block B

## **Zone**

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

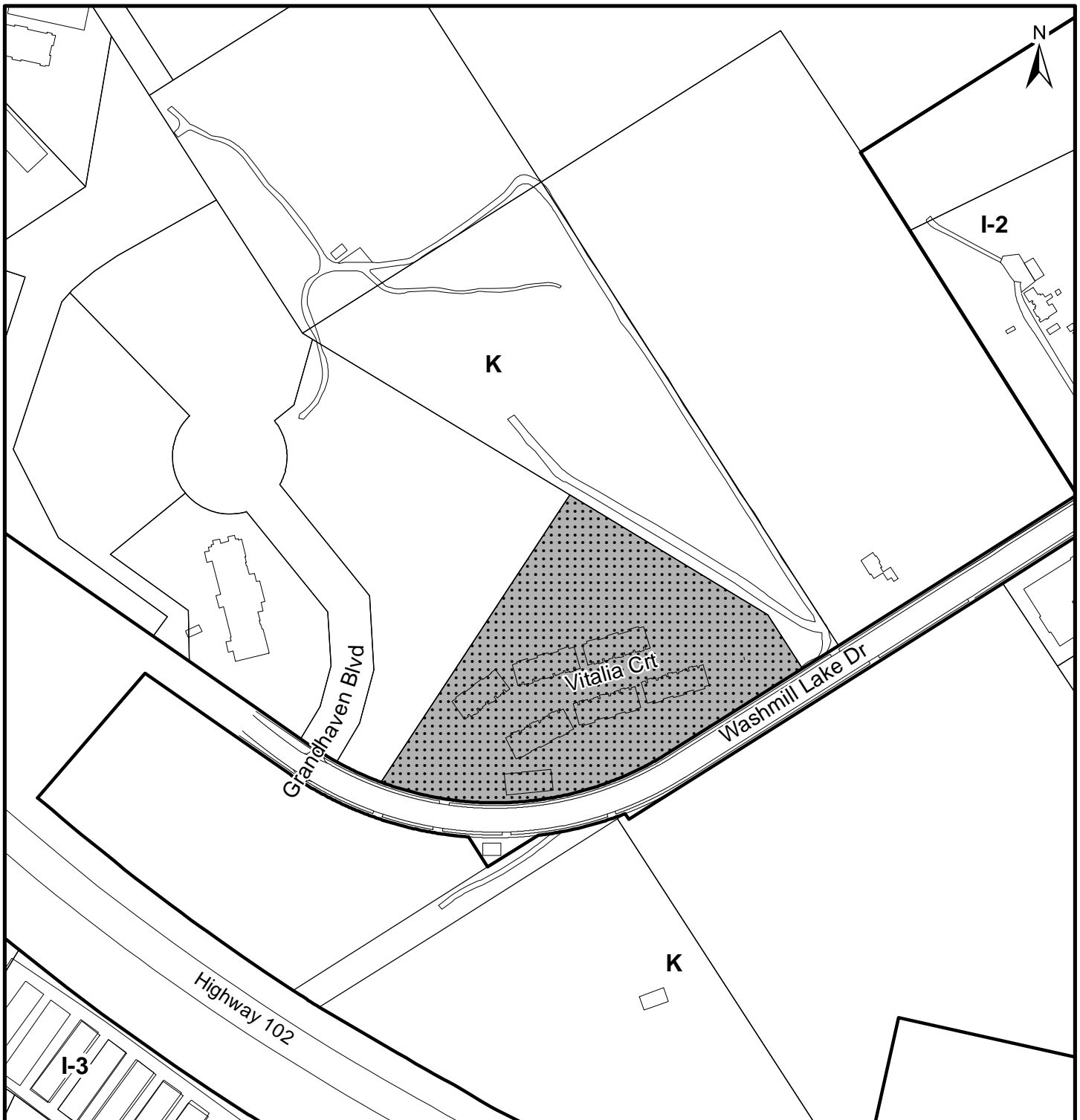
**HALIFAX**



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 a portion of the Zoning Map for the plan  
 area indicated.

The accuracy of any representation on  
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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**

0 40 80 120 m



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

AND WHEREAS the former Chebucto Community Council of Municipality approved a Stage I Development Agreement with Clayton Developments Limited and The Shaw Group Limited and Halifax Regional Water Commission to allow for the primary design and planning of a mixed commercial / residential development (Clayton Park West Phase 5) on January 4, 2010 (Municipal Case No. 01304), which said

Development Agreement was registered at the Halifax County Land Registration Office as Document No. 95611076 (hereinafter called the "Existing Stage I Agreement");

AND WHEREAS the former Chebucto Community Council of Municipality amended the Stage I Agreement to address density distribution, the maximum number of multiple units per development block, and the clarification of the Stage II approval process on February 6, 2012, (Municipal Case No. 17123), which said Amending Development Agreement was registered at Halifax County Land Registration Office as Document No. 100476598 (hereinafter called the "First Amending Stage I Agreement");

AND WHEREAS the Developer has requested further amendments to the Existing Stage I Agreement and First Amending Stage I Agreement to further address the density distribution and the number of units in Block B and Block C on the Lands;

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 3.1.1 of the Existing Stage I Agreement is amended by deleting the Schedules shown in ~~strikeout~~ and inserting the Schedules shown in **bold**, as follows:

~~Schedule B — Concept Plan and Land Use/Density Table~~  
**Schedule B-A                      Concept and Land Use Plan/Density Table**

2. The Existing Stage I Agreement is further amended by:

(a) deleting all references to "Schedule B" and replacing it with "Schedule B-A";

3. Section 3.1.3 of the Existing Stage I Agreement is amended by deleting the text shown in ~~strikeout~~, as follows:

3.1.3 Development Permits shall only be granted for the Lands after approval of Stage II Development Agreements by ~~Chebucto~~ Community Council and registration of the Stage II Development Agreement.

4. Section 3.4.4 of the Existing Stage I Agreement, as amended by the First Amending Stage I Agreement, is further amended by deleting the text shown in ~~strikeout~~ and inserting the text shown in **bold**, as follows:

3.4.4 Individual Stage II Development Agreements may develop at higher densities than 30 persons per acre, provided that the overall limit of 1866 persons as specified in Section 3.4.1 is not exceeded and provided the limit of persons per Block as specified below are not exceeded.

Block A – 450 persons  
~~Block B – 810 persons~~  
**Block B – 789.75 persons**  
~~Block C – 117.25 persons~~  
**Block C – 137.50 persons**  
Block D – 488.75 persons

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: \_\_\_\_\_

**SIGNED, SEALED AND DELIVERED** in the presence of:

\_\_\_\_\_  
\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

**<INSERT REGISTERED  
OWNER NAME>**

Per: \_\_\_\_\_

Per: \_\_\_\_\_

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

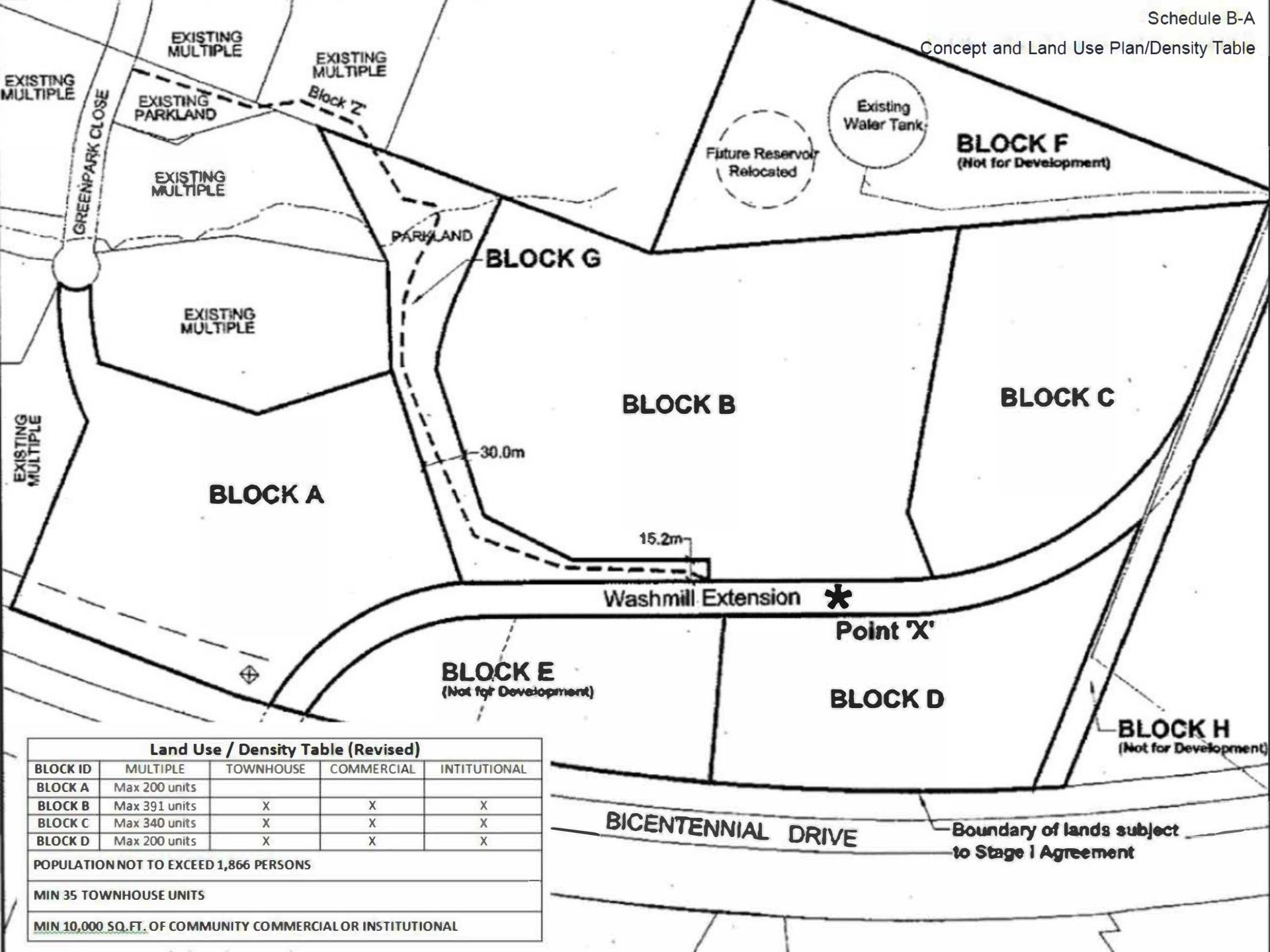
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**HALIFAX REGIONAL MUNICIPALITY**

Per: \_\_\_\_\_  
Mayor

Per: \_\_\_\_\_  
Municipal Clerk



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

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

**Attachment B:**  
**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.

<b>Policy</b>	<b>Comment</b>
<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***

<b>Policy</b>	<b>Comment</b>
<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 C – 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 C – 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.