

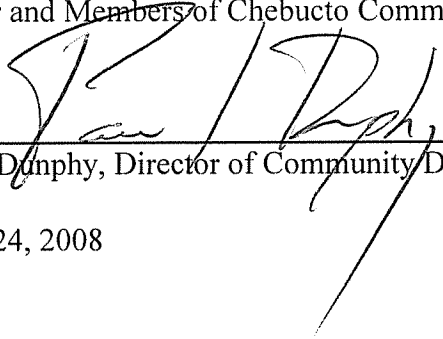


PO Box 1749
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Chebucto Community Council
September 8, 2008

TO: Chair and Members of Chebucto Community Council

SUBMITTED BY:



Paul Dunphy, Director of Community Development

DATE: July 24, 2008

SUBJECT: **Case 01124: Second Amending Development Agreement -
Governor's Brook Subdivision, Halifax**

ORIGIN

Application by Armco Captial to amend the Governor's Brook subdivision development agreement, located off Danforth Road and Drysdale Road, Halifax, to modify the maximum permitted driveway width.

RECOMMENDATIONS

It is recommended that Chebucto Community Council:

1. Give Notice of Motion to consider the proposed Amending Agreement, as described in Attachment "A", to modify the maximum permitted driveway width, and schedule a public hearing;
2. Approve the Second Amending Agreement, as contained in Attachment A; and
3. Require that the Second Amending Agreement be signed within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval by Council and any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

The Governor's Brook subdivision is a 351 acre site (PID 00284760 and 40089906) located between McIntosh Run and Colpitt Lake (see Map 1). The development of the lands is subject to a development agreement for a comprehensive residential development that was approved by Council on January 10, 2005, and amended on July 30, 2007. This agreement permits 902 residential units, a neighbourhood commercial facility, approximately 48 acres of park land, and approximately 194 acres of conservation land.

The existing development agreement as amended limits lots for single and semi-detached dwellings (lot types A, B, C and D) to one driveway per unit, to a maximum width of 10' (3m), and prohibits vehicular parking in any other portion of the front yard. The agreement also limits driveways for type B lots on streets G and J (Alabaster Way) to one 10' (3m) wide shared driveway for every two units, and allows 10' (3m) of vehicular parking in the front yard.

The applicant is requesting that the development agreement be amended to allow wider driveways on type A, B, C and D lots to allow for additional vehicles to be parked on residential lots.

DISCUSSION

In considering this application, Council is to be guided by the policies of the Halifax Municipal Planning Strategy (MPS) and the Mainland South Secondary Planning Strategy (MSSPS). MPS policy (Attachment "B") states that for low and medium density residential uses, controls for landscaping, parking, and driveways shall ensure that the front yard is primarily landscaped. The MSSPS does not contain policy specific to driveway width.

The existing development agreement as amended permits a maximum of 10' wide driveways on type A, B, C and D lots. Staff acknowledge that due to the configuration of the lots (width, front yard setbacks, side yard setbacks, etc) in most cases this provision will limit property owners from parking more than one vehicle on a lot. In other areas in HRM with similar constraints, on-street parking has not been sufficient to meet residents needs, and this limited parking availability has resulted in requests to relax driveway width provisions.

Staff recommend that driveways be permitted to a maximum of width of 16' (4.9m) for type D lots, which require 50' (15.2m) of frontage. This value is consistent with the Halifax Mainland Land Use By-law requirements, which permits up to one third of the front yard be used for parking and maneuvering.

Type A and B lots are required to have a minimum frontage of 32' (9.8m) while type C lots are required to have a minimum frontage of 40' (12.2m). As these lots are relatively narrow, staff recommend an amendment which permits type A, B and C lots to have a maximum driveway width

of 12' (3.7m) from the curb to the front property line, and parking areas in the front yard that do not exceed a total width of 16' (4.9m). The additional 4' (1.2m) of parking area would be required to consist of a decorative hard surface material of a different texture from the adjacent paving such as pressed concrete, exposed aggregate, cobblestone or brick pavers, having the appearance of a walkway (Attachment "D"). This flared driveway approach will better meet the needs of the residents by allowing two vehicles to be parked on the lot, while keeping with the MPS intent which requires front yards of low density residential uses to be primarily landscaped. These decorative types of hard surfaces are included within the definition of "landscaping" in the Mainland Land Use By-law and serve to provide a measure of visual interest in the finished front yard.

Currently, the development agreement limits driveways for type B lots located on the Streets G and J (Alabaster Way) to one driveway for every two units. The concept plan for this development shows three type B lots for which this provision would apply. Because this street is considered a minor collector, it is desirable to minimize the number and size of accesses to the street. Separate driveways for each of these three lots would result in three access points in close proximity on a curve, therefore the development agreement will retain the requirement that these driveways be shared.

To minimize the visual impact of increased driveway width in this development, and to maximize available on-street parking, staff are recommending that the development agreement be amended to require driveways to be paired, separated only by a 3' (0.9m) to 5' (1.5m) wide strip of landscaping. To account for any instances where there may be technical barriers to pairing driveways, and to encourage some mix of driveway style, the proposed amendment only requires 50% of driveways to be paired.

The proposal satisfies the applicable policies (Attachment "B") of the Halifax Municipal Planning Strategy and as such, it is recommended that Chebucto Community Council approve the second amending development agreement.

Public Information Meeting / Area of Notification

The public information meeting was waived in consultation with the area Councillor. Should Community Council decide to hold a public hearing, in addition to published newspaper advertisements, property owners in the area shown on Map 1 will be sent written notification.

BUDGET IMPLICATIONS

There are no budget implications. The Developer will be responsible for all costs, expenses, liabilities and obligations imposed under or incurred to satisfy the terms of this Agreement. The administration of the agreement can be carried out within the approved budget with existing resources.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

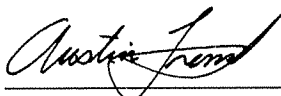
1. Council may approve the Second Amending Development Agreement (Attachment "A"). This is the recommended course of action.
2. Council may choose to alter the terms of the Second Amending Development Agreement. This may necessitate further negotiations with the applicant, and may require an additional public hearing.
3. Council may refuse the entire Amending Development Agreement. Pursuant to Section 230(6) of the *Municipal Government Act*, Council must provide reasons for this refusal, based on the policies of the MPS. This alternative is not recommended.

ATTACHMENTS

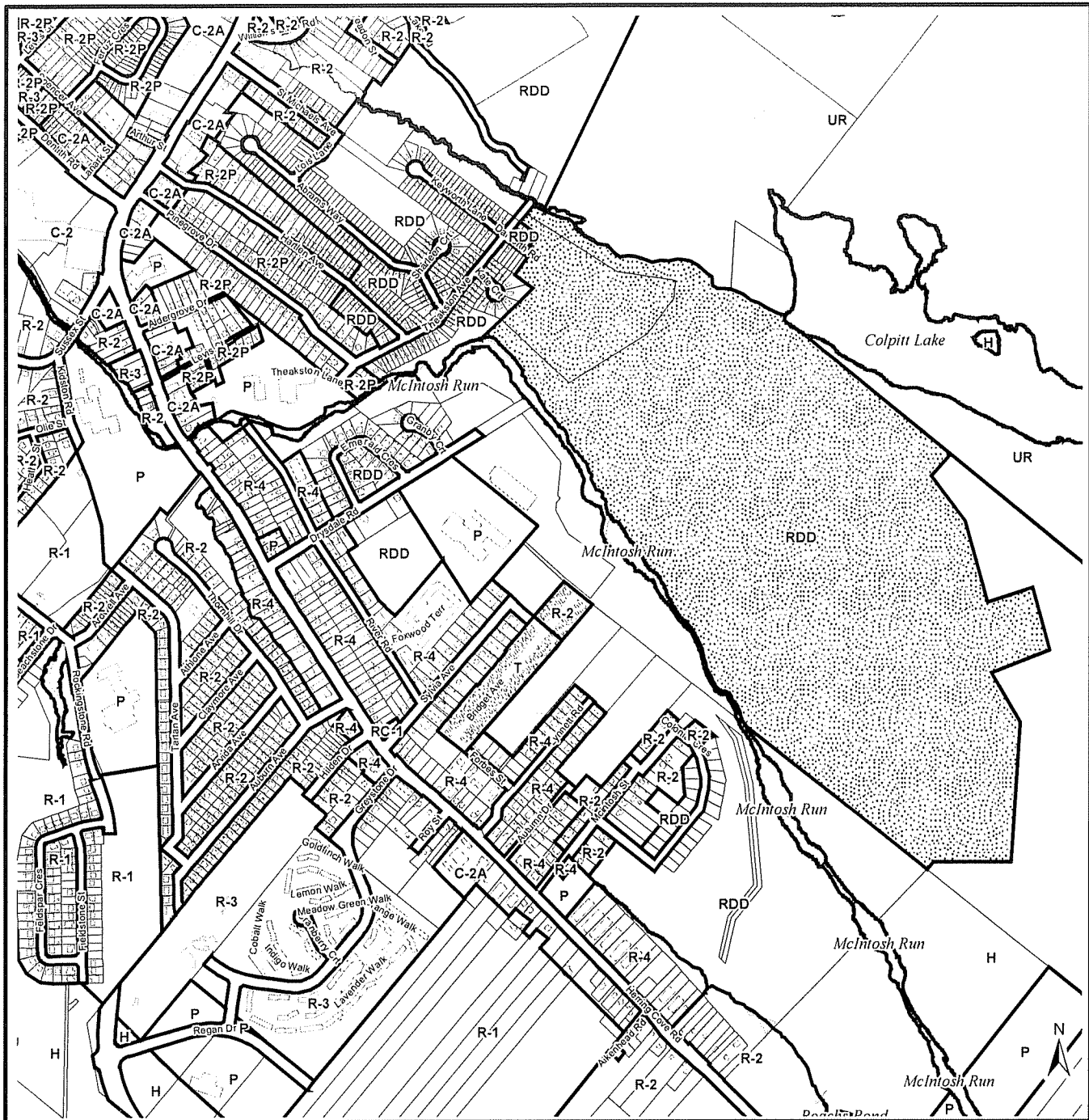
Map 1	Zoning, Location, and Notification Area
Attachment A	Second Amending Development Agreement
Attachment B	Excerpts from Existing Development Agreement
Attachment C	Excerpts from the Halifax Municipal Planning Strategy
Attachment D	Driveway Schematic

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/cc.html> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Patricia Hughes, Planner I, 490-1948




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



Map 1 - Location and Zoning

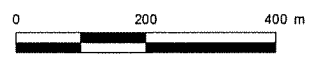
Governors Brook
Halifax

 Subject area

Halifax Mainland
Land Use By-Law Area

Zone

- R-1 Single Family Dwelling
- R-2 Two Family Dwelling
- R-2P General Residential
- R-3 Low Rise Apartment
- R-4 Multiple Dwelling
- T Mobile Home
- RDD Residential Development District
- C-2 General Business
- C-2A Minor Commercial
- P Park and Institutional
- H Holding
- UR Urban Reserve



This is an unofficial reproduction of a portion of the Zoning Map for the Halifax Mainland By-Law area

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

Attachment "A"

THIS AMENDING AGREEMENT made this day of , 2008
BETWEEN:

ARMCO CAPITAL INCORPORATED,
a body corporate, in the Halifax Regional Municipality,
Province of Nova Scotia (hereinafter called the "Developer")

OF THE FIRST PART

- and -

HALIFAX REGIONAL MUNICIPALITY,
a municipal body corporate,
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located off Danforth Road and Drysdale Road (PID # 00284760 and 40089906), Halifax, and which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND WHEREAS the Chebucto Community Council of the Halifax Regional Municipality granted approval of an application by the Developer to enter into a development agreement to allow for a comprehensive residential development on the Lands on January 10, 2005 as Municipal Case Number 00066 which said agreement is recorded at the Registry of Deeds at Halifax as Document Number 82165268 (hereinafter called the "Existing Agreement");

AND WHEREAS the Chebucto Community Council of the Halifax Regional Municipality approved an amendment to the provisions of the Existing Agreement to enable the replacement of 48 multi-family units with single and/or semi-detached dwelling units and to allow for an additional 32 single and/or semi-detached dwelling units within the comprehensive residential development on July 30, 2007 as Municipal Case Number 00943 which said agreement is recorded at the Land Registration Office in Halifax as Document Number 89091657 (hereinafter is called "the First Amending Agreement");

AND WHEREAS the Developer has requested a Second Amending Agreement to enable an modification to the maximum permitted driveway width;

AND WHEREAS the Chebucto Community Council of Halifax Regional Municipality, at its meeting on the day of 2008, approved the requested amendment (referenced as Municipal Case Number 01124);

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

Clause 2.2 (m) of the Existing Agreement is deleted and replaced with the following:

- 2.2(m)**
- (i)** There shall be only one driveway per unit for Type A, B, C, and D lots, except for Type B lots located on Alabaster Way as shown on Schedule F in which case there shall only be one driveway entrance for every two lots. For Type A, B, and C lots, the maximum width of any driveway between the curb and front property line shall not exceed 12 feet. Within the front yard, an additional four feet in width may be used for vehicular parking provided that this additional parking area be constructed with a decorative hard surface material of a different texture from the adjacent paving, such as pressed concrete, exposed aggregate, cobblestone, brick pavers, or any similar quality or finish that will provide the appearance of a walkway, and that the maximum width of any combined parking area not exceed 16 feet and no other portion of the front yard shall be used for vehicular parking. A letter of undertaking signed by the property owner(s) describing the width and materials used for any parking areas beyond the permitted 12 foot wide driveway is required at the time of an application for a development permit.
 - (ii)** For Type D lots, the maximum driveway width shall not exceed 16 feet, and no other portion of the front yard shall be used for vehicular parking.
 - (iii)** A minimum of 50% of driveways in each phase of development shall be paired with a landscaped strip between driveways. Such strip shall be a minimum of 3 feet in width, and a maximum of 5 feet in width. Lots with paired driveways shall be identified on the engineering design drawings submitted with each phase of subdivision, and the percentage of driveways that are paired for the entire phase shall be noted in a tally chart on the drawings. The Development Officer, in consultation with the Development Engineer, may relax this requirement if design constraints (including but not limited to the placement of services, utilities, etc.) limits the pairing of driveways. This requirement shall not apply to any phases of subdivision submitted prior to the approval of this amendment.

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

Time is of the essence of this agreement.

This Second Amending Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Lands which is the subject of this Second Amending Agreement until it is discharged by the Council.

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

Signed, sealed and delivered in the presence
of:

per: _____
=====

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

per: _____

ARMCO CAPITAL INCORPORATED

per: _____
=====

HALIFAX REGIONAL MUNICIPALITY

per: _____
MAYOR

per: _____
ACTING MUNICIPAL CLERK

Attachment B
Excerpt from Existing Development Agreement

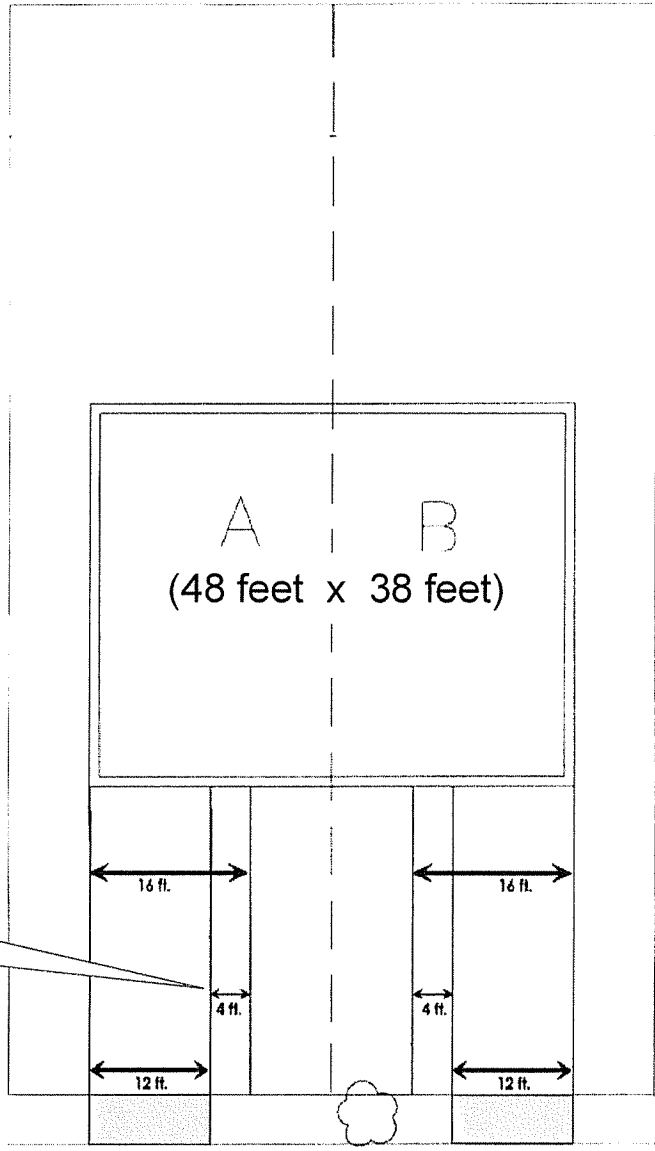
2.2 LAND USE CONTROLS

- (m) There shall be only one driveway per unit for Type A, B, C, and D lots, the maximum width of which shall not exceed 10 feet, and no other portion of the front yard shall be used for vehicular parking except for type B lots on streets G and J as shown on Schedule F in which case there shall be only one driveway entrance per two units, the maximum width of which shall not exceed 10 feet and each such lot may use a portion of the front yard for vehicular parking not to exceed 10 feet in width.

Attachment C
Excerpt from Halifax MPS

Policy 2.10 (Part II, Section II City-Wide Policies):

For low and medium density residential uses, controls for landscaping, parking and driveways shall ensure that the front yard is primarily landscaped. The space devoted to a driveway and parking space shall be regulated to ensure that vehicles do not encroach on sidewalks.



Additional Parking Area shall be constructed with decorative hard surfaces such as exposed aggregate, brick pavers or pressed concrete.

Road

Attachment D

Driveway Schematic
 Governors Brook
 Halifax

Maximum Width of Driveway = 12 feet
 Maximum Width of Additional Parking Area = 4 feet
 (within private property boundary)

