

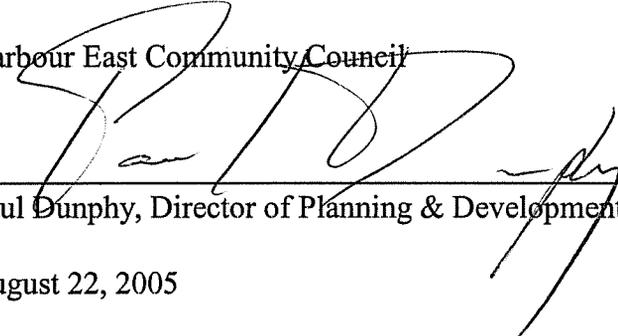
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Harbour East Community Council  
September 8, 2005

To: Harbour East Community Council

Submitted by:   
Paul Dunphy, Director of Planning & Development Services

Date: August 22, 2005

Subject: Case # 00777: Morris Lake Estates - Discharge Portion of Development Agreement

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## SUPPLEMENTARY REPORT

### ORIGIN:

Motion of Harbour East Community Council at their meeting of February 3, 2004 that staff prepare a report regarding amendments to the CDD for Morris Lake Estates with respect to allowing more flexibility in area of driveway widths.

### RECOMMENDATION:

It is recommended that Harbour East Community Council:

- 1. Move to discharge by resolution, Part Two of the existing development agreement dated August 28, 1997 with Anahid Investments Limited, filed with the Halifax County Registry of Deeds as Document #40550, Book #6120 on Pages 133-161. Part Two of the development agreement is included in this report as Attachment A.**
- 2. Direct staff to file a certified copy of this resolution with the Registry of Deeds.**

**BACKGROUND:**

Morris Lake Estates subdivision was created by Armco Capital Corp. through a development agreement (DA) in 1997. The original plan was to build small lot housing (40' frontages) along a minor collector road (Southampton Drive). HRM's engineering staff permitted a minimum frontage of 40' only if a provision in the development agreement required driveways to be shared to minimize the number of access points and allow a more efficient flow of traffic.

At the time of subdivision however, the Developer chose to exceed this minimum requirement and create much wider lots along most of Southampton Drive. Given the original rationale for requiring shared driveways was no longer an issue (40' frontages on a minor collector) and that residents who expressed their views overwhelmingly favoured increased flexibility with regard to driveway location and the option to separate shared driveways, staff agreed that the portion of the development agreement restricting this matter, could be discharged.

According to the terms of the development agreement regarding its discharge, Council first needed to amend the land use by-law for Cole Harbour/Westphal to replace provisions of the agreement, before any part of the agreement could be discharged. Council did this at their meeting of August 4, 2005. As no appeal of this decision was filed, Council is now in a position to discharge a portion of the development agreement by resolution.

**DISCUSSION:**

The August 4, 2005 amendment of the Land Use By-law for Cole Harbour/Westphal, resulted in the creation of a new zone for the area known as Morris Lake Estates. This ensures that properties here will continue as legal and conforming entities under the by-law, once the land use provisions (Part Two) of the development agreement have been discharged.

The requirements under Part Two of the agreement that constrain driveway location and width were not included in the new zone for Morris Lake Estates. Once this portion of the development agreement is discharged, control of residential driveway width and location will revert to the HRM Streets By-Law (S-300). Residents will be able to alter their driveway openings by obtaining a permit under this By-law, if the proposed alteration meets S-300 requirements.

A discharging agreement is not required because the terms of the agreement state that Council may discharge the agreement by resolution once the land use by-law has been amended. This criteria has been satisfied.

**BUDGET IMPLICATIONS**

Not applicable.

**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 could discharge Part Two of the Development Agreement to allow the land use provisions for Morris Lake Estates to revert to the amended Cole Harbour/Westphal Land Use By-law, and driveway provision to revert to the HRM Streets By-Law. This is the recommended alternative.
2. Council could refuse to discharge a portion of the Development Agreement. This is not recommended.

**ATTACHMENTS**

Attachment A: Part 2 of the 1997 Development Agreement for Morris Lake Estates.

Additional copies of this report and information on its status can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report prepared by: Hanita Koblents 490-4181

## Part 2 of the 1997 Development Agreement for Morris Lake Estates.

## PART 2: LAND USE AND DEVELOPMENT CONTROLS

- 2.1 The uses of the lands permitted by this agreement, subject to its terms, and generally illustrated by Schedule "B", are as follows:
- (a) a maximum of 120 single detached dwelling units;
  - (b) home office uses, as per the requirements of Sections 2.27A and 8.3 of the Land Use By-law;
  - (c) parkland, tot lot and walkway;
  - (d) uses accessory to the foregoing.
- 2.2 No development permit shall be issued for a single detached dwelling unit except in conformance with the following:
- |                                    |   |
|------------------------------------|---|
| Minimum lot frontage               | 40 feet   |
| Minimum lot area                   | 4,000 square feet   |
| Minimum front yard                 | Refer to section 2.3  |
| Minimum rear yard                  | 15 feet   |
| Minimum side yard                  | 4 feet on one side and 10 feet on opposite side, subject to Section 2.4 |
| Minimum flankage yard              | 15 feet   |
| Maximum lot coverage               | 35 percent  |
| Maximum height of primary building | 30 feet, as measured from the established grade on the front facade     |
- 2.3 Minimum front yards shall be as typically illustrated by Schedule "C". On Roads "B" and "C" such yards shall range from a minimum of 20 feet to a maximum of 25 feet and on Road "D" from a minimum of 15 feet to a maximum of 20 feet, provided that in no case shall any portion of the structure be closer than 5 feet from the street line pursuant to Section 2.12. In all cases, no more than 3 contiguous dwellings shall have a similar set back from the street line, as measured to the nearest wall of the building. The variation in set backs shall take place in intervals of not less than 2 feet and not greater than 5 feet.
- 2.4 Pursuant to the minimum side yard requirement of Section 2.2, where a dwelling includes an attached garage, both minimum side yards may be 4 feet.
- 2.5 On all lots where there is no attached garage, the driveway shall extend into the side yard of the lot a minimum of 15 feet beyond the front wall of the dwelling.
- 2.6 There shall be only one driveway per lot (as illustrated by Schedule "C"), the maximum width of which shall not exceed 10 feet, and no other portion of the front yard shall be used for vehicular parking.

- 2.7 All lots fronting on Streets "B" and "C" shall have shared driveways, as typically illustrated by Schedule "C". The maximum curb cut for the shared driveway shall be 20 feet. The maximum curb cut for all other driveways shall be 10 feet.
- 2.8 The Developer agrees that an objective of this development is to provide an aesthetically pleasing streetscape which exhibits a complementary variety of house types and architectural designs. In this regard; a suitable mixture of house types including, but not limited to, bungalows (including basement walk-outs), two-storeys and split-entries shall be constructed, in a dispersed rather than concentrated pattern.
- 2.9 The architectural design of the dwellings, particularly with respect to the front elevation design, shall be varied. In this regard, a similar house plan, having similar roof lines (planes), facade articulation (projections/recesses), fenestration, primary exterior wall colour and roof colour, shall not be repeated within a three-lot radius on the same side of the street.
- 2.10 The front facade of all dwellings shall contain accentuated trim detailing, including minimum 6 inch corner boards and 4 inch window moldings. Other specialized trim features shall also be encouraged where appropriate, in order to add variety to the streetscape appearance, including front entry detailing, cornice treatment, barge boards decorative window moldings, shutters, and so on.
- 2.11 All house designs shall contain a covered verandah or porch on the front facade, complete with railings. The minimum depth of the verandah or porch shall be 5 feet (from building wall to outside edge of decking). The verandah shall extend the full length of the facade unless, because of roof lines, facade articulation or other similar design features, such length is deemed inappropriate, as determined by the Development Officer.
- 2.12 The elevation of the front entrance to any dwelling shall be a maximum of 2 feet 6 inches above finished grade unless otherwise permitted in writing by the Development Officer and any increase in this dimension shall be permitted only where the associated architectural features of the front facade as described herein result in an overall design that furthers the intent of this agreement. In this regard the decision of the Development Officer shall be final.
- 2.13 Fuel storage tanks, heat pumps/air exchangers and other similar objects shall be located only in the rear yard of the lot.
- 2.14 No electrical service mounts (house connection, conduit, meter) shall be permitted on the front facade of the dwelling.
- 2.15 Accessory buildings shall not exceed 300 square feet in floor area and 15 feet in height. Such buildings shall not be permitted in the front yard or the flankage yard and shall not be situated closer than 4 feet from the side or rear lot lines, nor closer than 8 feet from the dwelling unit.