



Corporate Report

NO: R175

COUNCIL DATE: July 24, 2006

REGULAR COUNCIL

TO: **Mayor & Council** DATE: **July 19, 2006**
FROM: **Acting General Manager, Planning and Development** FILE: **6520-20**
(Morgan Creek)
SUBJECT: **Completion and Maintenance of Morgan Creek Pathways and
Implementation of Other Amenities**

RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Receive this report as information;
2. Approve the amount of \$374,264 as the cash in lieu payment to the City from Morgan Creek Holdings Ltd. for pathways and other amenities that have not been constructed in the Morgan Creek development, but which were required under the related Development Permits;
3. Instruct staff to proceed with the recommendations previously endorsed by Council under Corporate Report No. R003 (attached as Appendix 1), based on the amended value of amenities documented in this report, as follows:
 - (b) Authorize staff to work with representatives of the Morgan Creek Homeowners Association to further detail the design, location, construction and maintenance costs and priority related to such amenities and, subsequently, to hold another public open house to provide a final opportunity for the public to provide input to the design and priority of the suggested amenities;
 - (c) Instruct staff to forward a report to Council, complete with recommendations on the matter, after the public open house, but prior to proceeding with construction of the amenities; and
 - (d) Instruct staff to utilize appropriate legal instruments including, without limitation, restrictive covenants and statutory rights-of-way on the title of appropriate lands within the Morgan Creek community that will document

the agreement between the City and the owner of the golf course, regarding the pathway system; and

4. Authorize the City Clerk to forward a copy of this report and the related Council resolution to the Rosemary Heights Residents Committee and the Morgan Heights Homeowners Association.

INTENT

The purpose of this report is to:

1. Inform Council about the objections of the Rosemary Heights Resident's Committee (RHRC), regarding the City's estimated value of the unconstructed portion of the Morgan Creek Golf Course pathways approved under Development Permit No. 6792-0106-00;
2. Inform Council about the results of the detailed review undertaken by the City, regarding the estimated value of the unconstructed portion of the Morgan Creek Golf Course pathways in response to the concerns raised by RHRC; and
3. Seek Council's authorization to update the final estimated value of the unconstructed pathways, based on the results of the recent review and to proceed with the recommendations in Corporate Report No. R003, based on the amended value.

BACKGROUND

Corporate Report No. R108, entitled "Pathways and Other Amenities in Morgan Creek" was considered by Council at its Regular Meeting on May 2, 2005 (Appendix "A" to Appendix 1). The report was the result of extensive discussion with the developer of the Morgan Creek Golf Course (Morgan Creek Holdings Ltd.) and addressed the issue of public access pathways through the golf course that were required as part of the Development Permit (No. 6792-0106-00) that was approved and issued for the golf course. The report documented that some sections of the pathway system were not constructed due to the golf course owner's concerns about the safety of the public and liability, and provided a detailed inventory and cost evaluation of the unconstructed pathways and amenities.

Corporate Report No. R108 further documented that Morgan Creek Holdings Ltd. has offered to provide alternative amenities in the Morgan Creek community, or funds-in-lieu of the unconstructed pathways. The report included a list of some possible alternative amenities that could be considered. Council endorsed the following recommendations:

- "1. *Instruct the developer to work with City staff in organizing and conducting a public information meeting to obtain input from the public with respect to the possible alternative use of the funds that will be made available in lieu of the construction for the pathways and other amenities in the Morgan Creek development: and*

2. *Instruct staff to forward a report to Council after the public information meeting, documenting the results of the meeting and including recommendations".*

Community Consultation on Alternative Amenities

In accordance with Council's direction, staff worked with the developer and the Morgan Creek Homeowners Association (MCHA), and a Public Information Meeting (PIM) was held on June 29, 2005. Several alternative amenities were discussed with the community, including completion of three sections of pathways leading away from the golf course fairways, two enhanced pedestrian crossings within the Morgan Creek residential area, and seven additional view points. Staff completed the review of the public's preferences for alternative amenities in lieu of unconstructed pathways and amenities, and reported back to Council on the results of the community consultation under Corporate Report No. R003 (Appendix 1).

Council approved the following recommendations contained in Corporate Report No R003:

- "1. *Approve, in principle, the list of amenities suggested by the Morgan Creek Homeowners Association, as documented in the report;*
2. *Authorize staff to work with representatives of the Morgan Creek Homeowners Association to further detail the design, location, construction and maintenance costs and priority related to such amenities and, subsequently, to hold another public open house to provide a final opportunity for the public to provide input to the design and priority of the suggested amenities;*
3. *Instruct staff to forward a report to Council complete with recommendation on the matter after the public open house, but prior to proceeding with construction of the amenities; and*
4. *Instruct staff to utilize appropriate legal instruments including, without limitation, restrictive covenants and statutory rights-of-way on the title of appropriate lands within the Morgan Creek community that will document the agreement between the City and the owner of the golf course regarding the pathway system".*

Prior to proceeding with Council's recommendations, staff received a submission from RHRC representatives objecting to the earlier Corporate Reports ("Report on the Morgan Creek Pathway System", February 6, 2006 attached as Appendix 2). The submission specifically objected to the City's cost estimates and valuation of the unconstructed pathways and amenities, which forms the basis of the alternative amenities under discussion with the community. This value was estimated by the City in Corporate Report No. R108 (May 2005), as \$329,954.00. The RHRC estimates this value at \$7,901,000.00.

Rosemary Heights Residents Committee (RHRC) Concerns

Staff met on several occasions with RHRC representatives to discuss the various concerns raised in the RHRC Report, including disagreements on pathway and landscaping construction unit rates, maintenance allowance, pathway length and size, gazebo construction costs, and other elements of the valuation. Staff also consulted with the Morgan Creek Homeowners Association (MCHA) and the developer, Morgan Creek Holdings Ltd. on the RHRC submission.

MCHA representatives have advised that they were not consulted nor involved in the preparation of the RHRC submission and they neither endorse nor object to the issues raised by RHRC.

A copy of the RHRC submission was forwarded to the developer, Morgan Creek Holdings Ltd. for their review and comment. The developer provided a written response to the City, disputing the information presented by RHRC. The developer also indicates that they have cooperated with the City and have fully complied with the process, to date, which has resulted in a negotiated agreement based on the requirements of the approved Development Permit No. 6792-0106-00 (Appendix 3). The developer also maintains that a surplus of public pathways were provided in subsequent subdivision phases to the north. The developer has declined to review the valuation again, and has stated their intention to continue to work with staff to proceed with Council's recommendations under Corporate Report No. R003.

In the interest of bringing this matter to a conclusion, staff has undertaken a final detailed examination of the valuation estimate for the unconstructed pathways and amenities required under Development Permit No. 6792-0106-00, in light of the objections raised by RHRC in their submission. The review has been conducted by the Planning and Development Department in cooperation with other City staff, including representatives from Legal Services, Engineering and Parks, Recreation & Culture, and is discussed below.

DISCUSSION

Development Permit No. 6792-0106-00

The Morgan Creek Golf Course pathways were required as part of the approval of the Morgan Creek Golf Course under Development Permit No. 6792-0106-00. The Development Permit was approved in 1995. The public access pathways and amenities were required as a way of ensuring that the golf course was integrated with the surrounding residential community and did not appear to be exclusionary "open space" within the neighbourhood, as much of the neighbourhood was being built around the course.

Development Permit No. 6792-0106-00 provides details regarding the development of the 18-hole golf course, as well the required pathways, fencing along residential properties, landscaping and other amenity requirements, such as public viewpoints and a gazebo (attached to Corporate Report R108 as Appendix I). All of the required amenities in this Development Permit have been evaluated to determine the appropriate values for

alternative amenities that could be constructed in lieu of the original amenities. The pathways and amenities were provided in addition to park requirements, which were met through the payment of Development Cost Charges that included a park acquisition component. The pathways and amenities were provided as a way of ensuring the golf course became part of the community.

The Development Permit specifies the pathways to be built, the location of a gazebo and required viewpoints, and the buffering locations. The attachments to the permit include a specific gazebo plan, a typical 2.5 metre limestone pathway section within a buffer area of the golf course, existing or supplementary landscaping on the fairway side of the path, and fence details noting permissible fence types (split rail and, to a lesser extent, chain link), which the golf course may employ. In order to secure these items, the Development Permit required security (valued at 100% of associated costs) in the following amounts:

(i)	<i>Landscaping for pathways and buffer areas</i>	\$ 82,700
(ii)	<i>Construction of pathways</i>	\$ 89,200
(iii)	<i>Installation of fencing</i>	\$ 48,000
(iv)	<i>Construction of gazebo</i>	\$ 19,440
	<i>(Total Financial Securities Originally Held</i>	<i>\$239,340)</i>

The City continues to hold the financial securities submitted by the developer for the construction of the golf course pathways and gazebo required under Development Permit No. 6792-0106-00. The landscaping and fencing components were deemed completed as part of the completion of the golf course and the majority of the residential lots, and were subsequently inspected and released by the City. The total amount of securities currently held by the City is \$116,910.

Outstanding Development Permit Items

To date, the developer has completed approximately 1,864 linear metres of golf course pathways and 3,500 linear metres of fencing and landscaping between the golf course and abutting residential lots. As noted in the previous Corporate Reports, the following items required under Development Permit No. 6791-0106-00 remain outstanding:

- Construction of 3,205 linear metres of pathways;
- Landscaping along the fairway pathways;
- Maintenance allowance for unconstructed pathways; and
- A gazebo and 3 public viewpoints.

A summary of all of the completed and outstanding elements related to the Morgan Creek pathways and amenities required under the Development Permit, including the discrepancy between the City's position and the request by RHRC on each issue, is provided below. The value of the outstanding components has been updated to 2006 to account for increased construction costs over the last 18 months, since the estimate that was documented in Corporate Report No. R108 (May 2005).

Construction of Pathways

Development Permit Requirement:	\$ 89,200
Status: 1,864 linear metres completed; 3,205 metres of path outstanding	
2004 City requirement for Outstanding Item:	\$118,585
Updated 2006 City requirement for Outstanding Item:	\$130,443
 RHRC request:	 \$245,600

A comparison of the City and RHRC estimate for fairway pathway construction is shown below:

	Cost Estimate	Pathway Length	Pathway Width	Installation Estimate	Assumptions
City Position	\$118,585 Updated 2006 Rate: \$130,443	3,205 linear metres	2.5 m	2004: \$37 per linear metre 2006: \$44.50 per linear metre **	* assumes regrading and site preparation already completed for golf course; reduced labour costs due to economies of scale ** updated construction cost to 2006
RHRC Position	\$245,600	3,565 linear metres	2.5 m	\$68.90 per linear metre	

City Position: Some of the pathways were completed; however, the City continues to hold securities for the fairway pathways that were not constructed. There are approximately 3,205 metres of pathways that have not been constructed to date. The pathway was expected to be a 2.5 metre wide crushed limestone path. Little or no site preparation costs were assumed to be required for the purpose of valuation, as site preparation and regrading would have been completed as part of the construction of the golf course and fairways. Also, labour costs would be absorbed by the golf course as part of the normal construction and maintenance functions of the golf course and, thus, would also be reduced.

The City's Parks, Recreation and Culture Department advised in 2004 that the cost associated with this type of path is \$14 to \$16 per square metre all inclusive, which results in approximately \$40 per linear metre (at 2.5 metres in width) with a deduction of \$3 per linear metre for labour/site preparation costs. This resulted in an estimate of \$37 per linear metre and equated to a total of \$118,585 for the 3,205 metres of unconstructed pathway in 2005.

The Parks, Recreation and Culture Department advises that a 10 % increase should be applied to account for increased construction costs over the last 18 months. The total 2006 estimate for unconstructed pathways is \$130,443.

RHRC Position: RHRC estimated that there are 3,565 metres of unbuilt pathways. RHRC also estimated 2.5 metres of limestone path at a cost of \$68.90 per linear metre. RHRC uses a figure that includes site preparation costs (assumed by the City to have

been completed as part of the golf course preparation and regrading) and no absorption of labour costs by the golf course into existing labour.

Landscaping for Pathways and Buffer Areas

Development Permit Requirement: \$ 82,700
 Status: Buffer Areas completed; some pathway landscaping outstanding
 2004 City requirement for Outstanding Item: \$ 57,720
 Updated 2006 City Requirement for Outstanding Item: **\$ 63,492**

RHRC request: \$654,000

A comparison of the City and RHRC estimate for pathway landscaping is provided below:

	Cost Estimate	Pathway Length Required to be Landscaped	Width of Additional Landscaping Strip	Amount of Landscaped Area	Installation Estimate	Assumptions
City Position	\$57,720 Updated 2006 Rate: \$63,492*	1,480 linear metres **	1.5 m	One side landscaped only***	\$39 per linear metre ****	* updated landscaping cost to 2006 ** Path length reduced from 3,205 linear metres to 1,480 linear metres on the assumption that path would not extend around tee boxes, greens, etc. *** assumes one side only as existing trees and landscaping incorporated **** assumes grading and site preparation already completed and reduced labour costs due to economies of scale
RHRC Position	\$654,000	2,180 linear metres	7.0 m	Both sides landscaped	\$42.85 per square metre	

City Position: The proposed landscaping/buffering under the Development Permit for the golf course was deemed completed as required and signed off by the City as part of the completion of the golf course.

In 2005, the City assigned a value of \$57,720 for the pathway-related landscaping that would have been required along the unconstructed portions of the pathway system. The base unit cost utilized by the City is \$39 per linear metre for landscaping. Standard landscaping costs, as provided by the Parks, Recreation and Culture Department, are \$20 per square metre for shrub beds and were factored at 1.5 metres of landscaping, with one tree per 75 metres. This estimate assumed that regrading and surface preparation is not

needed, as it would have been completed as part of the construction of the golf course fairways, and that some of the existing landscaping and trees would have been retained and utilized. Therefore an equivalent area of only one side of the pathway would need to be landscaped. In addition, not all of the pathways would be fully landscaped, given the location of play areas and tee boxes. Therefore a corresponding reduction in the amount of required landscaping has been estimated.

On this basis, the City estimate assumed 1,480 metres of pathway would need some additional landscaping on one side. As with the pathway construction estimate, the City estimate for landscaping installation also acknowledges the economies of scale that would be realized by Morgan Creek Holdings Ltd. in terms of labour costs for the construction of the landscaping, as part of their overall golf course landscaping and maintenance.

The Parks, Recreation and Culture Department advise that a 10% increase should be applied to update the landscaping installation estimate to 2006. All of the other assumptions related to length and area of landscaping, noted above, remain the same. This increase brings the landscaping estimate up to \$63,492.

RHRC Position: The RHRC uses a 7-metre width landscaping area for 2,180 metres of path. This assumption is not supported in the approved Development Permit. In addition, RHRC has assumed unit costs of \$300 per linear metre. This is approximately \$42.85 per square metre, which is double the City's landscaping estimates. In addition, the RHRC has interpreted the area defined in the permit as to require landscaping on both sides of the path and has treated it as if no landscaping ever existed on the golf course and site preparation had never been completed.

Installation of Fencing

Development Permit Requirement:	\$ 48,000
Status: Approx. 3,500 linear metres completed	
City requirement for Outstanding Item:	nil
RHRC request:	\$126,400

City Position: The Development Permit identified permitted types of fencing (split rail, and some chain link in specific locations), but did not specifically identify a length or location of required fencing. The original intent was to provide fencing between residential lots and the golf course, rather than along the required pathways.

A 2006 site review shows that approximately 3,500 linear metres of perimeter fencing (mostly split rail fencing between the golf course and abutting residential lots) has been completed. In some areas, rock feature landscaping was used instead of fencing; in other areas where private yards abut the environmental areas and not the golf course, the owners did not want fencing. Some portions of fencing are in the process of being completed. There are some locations of fencing that have been removed at the owner's requests or are not required due to the specific interface condition. Along the golf course, adjacent to the roadways, all of the fencing is complete. The City considers the fencing requirement completed.

RHRC Position: RHRC has estimated 2,180 linear metres of perimeter fencing is required, on the assumption that split rail fencing would be provided along all of the pedestrian pathways between the path and playable portion of the golf course. The Development Permit does not support this assumption. RHRC has used \$58 per linear metre for split rail fencing.

Construction of Gazebo and Three Viewpoints

Development Permit Requirement:	\$ 19,440
Status: Not constructed	
City requirement for Outstanding Item:	\$ 32,000
Updated City Requirement:	\$ 57,000
RHRC request:	\$ 67,000

City Position: The gazebo was detailed in the Development Permit as a wood construction with low stone knee walls, stamped concrete base, cedar shingle and decorative weather vane. The viewpoints were not detailed in the Development Permit. Staff have revisited the previous estimate included in the original Corporate Report for the gazebo (\$20,000) and recommend that this be increased to \$45,000 to reflect more accurate construction costs, based on the details in the Development Permit. Morgan Creek Holdings also acknowledges this discrepancy and has agreed to increase this amount. Each viewpoint has been estimated at \$4,000, based on the inclusion of benches, hard surfacing and landscaping. The three view points, in addition to the gazebo, will result in a revised total of \$57,000.

RHRC Position: RHRC has estimated the price of the gazebo and viewpoint features to be higher than the City estimate, likely due to the differences in assumed labour costs.

Maintenance for pathways

City Requirement for Pathway Maintenance:	\$ 108,329
RHRC request for Pathway Maintenance:	\$1,108,000

City Position: In addition to the costs associated with the original Development Permit, the developer has agreed to contribute an associated pathway maintenance cost, recognizing that the savings in maintenance to the developer in not constructing the pathways. The Parks, Recreation and Culture Department estimates a unit rate of \$1.69 per linear meter for annual maintenance, based on a pathway length of 3,205 linear metres of pathway, for 20 years. Accordingly, the City has estimated this value at \$108,329.

RHRC Position: RHRC has assigned "maintenance in perpetuity" to the unbuilt portions of the pathways in their calculation of a maintenance value. RHRC has assumed an annual replacement and upkeep costs for the pathway system, which includes resurfacing, landscaping, fencing, and various costs associated with viewpoints and gazebo. They have averaged the annual maintenance cost at \$36,010. This estimate is contrary to the developer's estimate of cost, which is based on knowledge of their maintenance and

upkeep of the existing golf course. On this basis, RHRC has requested that the maintenance value be increased to \$1,108,000.

Land Value for Pathways

City Requirement:	nil
RHRC request for Land Value Compensation:	\$ 5,700,000

City Position: The City has not assigned a land value to the unconstructed pathways, as the pathways were always assumed to be part of the golf course lands, therefore, the elimination of the pathways would not result in an increase in land available for development. The area of the golf course remains the same with or without the pathways. In addition, a detailed examination of the subdivision plans was conducted by staff for the lands around the golf course and it was determined that the present golf course boundaries remain nearly unchanged from what was originally approved. Therefore, no additional lots have been gained by the Morgan Creek developers through the elimination of the pathways.

RHRC Position: The RHRC has included land value in their cost estimation. They have assigned a market value based on a width of 18 metres of golf course lands and a length of 3,200 linear metres of pathways. The 18 metre width was derived from a sketch forming part of the original Planning Report seeking approval for Development Permit No. 6792-0106-00, which was identified as a "sample cross section" of where the pathways may be located. Staff have advised RHRC representatives that the sketch does not form part of Development Permit, but was shown as a sample condition that the golf course would work towards, but not necessarily be achieved in all cases. RHRC also assumes that the 18 metre width of golf course land should be considered "park" or some other public lands, rather than form part of the golf course as the City has suggested. Staff has advised that the golf course lands were never intended to be park space for the community and, thus, a value for the lands associated with pathway is not an appropriate cost. The developer of the Morgan Creek paid separately for park land acquisition purposes.

Total Value of Unconstructed Pathways and Amenities

The following provides a summary of the total estimated value of unconstructed pathways and amenities required from the developer, Morgan Creek Holdings Ltd. under Development Permit No. 6792-0106-00, with increases noted from 2004 to 2006 to account for recent inflation and increased construction costs over the last 18 months:

City Estimate for Unconstructed Pathways and Amenities	2005 estimate	Updated 2006 Estimate
Pathway Construction	\$118,585	\$130,443
Landscaping along Pathways	\$ 57,720	\$ 63,492
Gazebo and Viewpoints	\$ 32,000	\$ 57,000
Maintenance	\$108,329	\$108,329
TOTAL	\$316,634	\$359,264

In addition, as noted in the previous Corporate Reports, a portion of unconstructed pathway is located on the Dawson Lakewood Development. This was estimated at a value of \$13,320.00 in 2005. As with the other components, this estimate has been increased by 10% to account for construction cost increases up to 2006, bringing this estimate to \$15,000. Accordingly, the total estimated 2006 value of unconstructed pathways and amenities is **\$374,264**.

Confirmation of Valuation

In order to test the City's calculated costs, staff conducted a construction price increase calculation based on the financial securities collected under the original Development Permit, which would have represented 100% of the value of the total pathways and other amenities as approved by the City Council of the day, reduced accordingly for the works already completed (i.e., fencing, some pathways and landscaping). Staff has applied a construction price index increase to bring the values of the unconstructed works up to present day.

Securities Held Under Development Permit No. 6792-0106-00	1995 Securities	Reduction Due to Completion	Outstanding Requirement
Pathway Construction	\$89,200	64% of pathways not constructed	\$57,088
Landscaping along Pathways and Buffer Areas	\$82,700	- 50% (buffers) completed - pathway landscaping outstanding (64% of \$41,350)	\$26,464
Gazebo and Viewpoints	\$19,440	- not constructed	\$19,440
Fencing	\$48,000	- completed	nil
Total Securities Held (1992)	239,340		
		Dawson Lakewood Development contribution	\$13,320
TOTAL			\$116,312

The total securities held under the original Development Permit amount to \$239,340. However, as shown on the above table, this value has been adjusted to eliminate the components already completed. The resulting amount is \$116,312. This represents the value of the components of the original Development Permit that have not been completed.

The construction price index, with 1997 as a base year (100) for the securities equalling \$116,312 (116,312 = 100), using the Canada January 2005 construction price index increase (133.2) applied to the securities (\$116,312 x 1.332). The resultant price, or increase in price associated with the approved items under the Development Permit, is **\$154,927**. In other words, this is the assumed estimated value for the total unconstructed pathways and other amenities calculated in 2005 dollars. When added to the current maintenance value of \$108,329, the total value is **\$263,256**.

This indexed estimate of the Development Permit securities (\$263,256) is within an acceptable range of the valuation estimate reached by the City and utilized as a basis for alternative amenities in the previous Corporate Reports, and proposed to be adjusted upwards from \$329,954 to \$374,264 to account for increased construction costs in the last 18 months and to update the gazebo estimate. On this basis, the City's valuation approach and final estimate is considered reasonable to obtain a fair compensation for the unconstructed pathways and other amenities in Morgan Creek, as required under Development Permit No. 6792-0106-00.

City staff recommend that the cash in lieu of construction amount payable by the Morgan Creek developer be increased from \$329,954 to **\$374,264**, which incorporates an acceptable 2006 construction cost for the gazebo and for the pathways and other amenities. All other components of the valuation assumed under the original estimate have been confirmed to be consistent with the requirements adopted under Development Permit No. 6792-0106-00.

Staff has advised the developer of the increased estimate, and the developer has accepted staff's revised 2006 cost valuation of \$374,264. The developer has also been advised that the cost estimate is valid until the end of 2006, beyond which the estimate will again be adjusted for inflation and construction cost factors. The developer has also agreed to move forward with the City on the next steps of the public process on this basis.

Rosemary Heights Residents Committee Consultation

Staff has discussed the results of the latest comprehensive review with RHRC representatives at a meeting on July 19, 2006. RHRC representatives continue to object to the City's position on the proposed valuation for unconstructed pathways and amenities. Attached as Appendix 4 are previous letters submitted by RHRC, for reference. After staff discussing the general contents of this report with the RHRC representatives, they requested an opportunity to review this Corporate Report and provide further comments before the report was submitted to Council. This request was refused by staff as it is not consistent with City policy.

The RHRC Report, as well as the subsequent RHRC delegation to Council (February 20, 2006) respecting this matter, recommended that the City contract an independent third party to evaluate the funds-in-lieu. They recommended that the contract be paid for from the funds-in-lieu.

On the basis of the comprehensive review undertaken by staff of the calculated costs in Corporate Report No. R108, staff are of the opinion that a third party review is not required. Staff, therefore, recommend that Council approve an increase in the value of

unconstructed pathways and other amenities to be obtained from Morgan Creek Holdings from \$329,954 to \$374,264, and that staff proceed with the process that was approved by Council in relation to Council's consideration of Corporate Report No. R003.

Legal Review

Legal Services has reviewed this report and has no concerns.

CONCLUSION

Based on the information presented in this report, it is recommended that Council:

1. Receive this report as information;
2. Approve the amount of \$374,264 as the cash in lieu payment to the City from Morgan Creek Holdings Ltd. for pathways and other amenities that have not been constructed in the Morgan Creek development, but which were required under the related Development Permits;
3. Instruct staff to proceed with the recommendations previously endorsed by Council under Corporate Report No. R003 (attached as Appendix 1), based on the amended value of amenities documented in this report, as follows:
 - (a) Authorize staff to work with representatives of the Morgan Creek Homeowners Association to further detail the design, location, construction and maintenance costs and priority related to such amenities and, subsequently, to hold another public open house to provide a final opportunity for the public to provide input to the design and priority of the suggested amenities;
 - (b) Instruct staff to forward a report to Council, complete with recommendation on the matter, after the public open house, but prior to proceeding with construction of the amenities; and
 - (c) Instruct staff to utilize appropriate legal instruments including, without limitation, restrictive covenants and statutory rights-of-way on the title of appropriate lands within the Morgan Creek community that will document the agreement between the City and the owner of the golf course, regarding the pathway system; and

4. Authorize the City Clerk to forward a copy of this report and the related Council resolution to the Rosemary Heights Residents Committee and the Morgan Heights Homeowners Association.

How Yin Leung
Acting General Manager
Planning and Development

TW/RCA/saw

Attachments:

- Appendix 1- Corporate Report No. R003 (January 9, 2006)
- Appendix 2- RHRC Report (February 2, 2006)
- Appendix 3- Response Letter by Morgan Creek Holdings Ltd. (March 29, 2006)
- Appendix 4 - Letters from RHRC



Corporate Report

NO: R003

COUNCIL DATE: January 9, 2006

REGULAR COUNCIL

TO: Mayor & Council DATE: January 5, 2006
FROM: General Manager, Planning and Development FILE: 6520-20 (Morgan Creek)
SUBJECT: Completion and Maintenance of Morgan Creek Pathways and
Implementation of Other Amenities

RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Receive this report as information;
2. Approve, in principle, the list of amenities suggested by the Morgan Creek Homeowners Association, as documented in this report;
3. Authorize staff to work with representatives of the Morgan Creek Homeowners Association to further detail the design, location, construction and maintenance costs and priority related to such amenities and, subsequently, to hold another public open house to provide a final opportunity for the public to provide input to the design and priority of the suggested amenities;
4. Instruct staff to forward a report to Council complete with recommendations on the matter after the public open house, but prior to proceeding with construction of the amenities; and
5. Instruct staff to utilize appropriate legal instruments including, without limitation, restrictive covenants and statutory rights-of-way on the title of appropriate lands within the Morgan Creek community that will document the agreement between the City and the owner of the golf course, regarding the pathway system.

INTENT

The purposes of this report are:

- to inform Council about the results of a public information meeting that was held, regarding the possible alternative use of funds that will become available in lieu of the construction of the pathways and other amenities in the Morgan Creek development;
- to advise Council about a proposed resolution in relation to the completion and maintenance of the Morgan Creek pathway system; and
- to obtain Council's authorization to proceed with the actions toward finalizing and implementing other amenities in the Morgan Creek development.

BACKGROUND

Corporate Report No. R108, entitled "Pathways and Other Amenities in Morgan Creek" (copy attached as Appendix "A") was considered by Council at its Regular Meeting on May 2, 2005. The report outlined the status of implementation of the public pathway system in the Morgan Creek development and documented that some sections of the pathway system could not be constructed due to safety concerns. The report further documented that the developer, Morgan Creek Holdings, had offered to provide alternative amenities in the Morgan Creek community in lieu of the unconstructed pathways, based on the value of those pathways. The report included a valuation of the unconstructed pathways and other amenities and a list of some possible alternative amenities that could be considered. The report recommended that Council:

"Instruct the developer to work with City staff in organizing and conducting a public information meeting to obtain input from the public with respect to the possible alternative use of the funds that will made available in lieu of the construction of the pathways and other amenities in the Morgan Creek development; and

Instruct staff to forward a report to Council after the public information meeting, documenting the results of the meeting and including recommendations".

Council adopted the above-stated recommendations.

DISCUSSION

Public Information Meeting

Morgan Creek Holdings conducted a public information meeting on June 29, 2005 at Morgan Elementary School. Approximately 80 people attended the meeting, from the

Rosemary Heights Central and Morgan Creek neighbourhoods. Comment sheets were made available to those attending the meeting. Forty-one comment sheets were returned.

The information presented at the meeting included plans that illustrated sections of pathways and sidewalks and two pedestrian street crossings within Morgan Creek that are proposed to be constructed in addition to the pathway system that already exists, in order to ensure reasonable connectivity within the community (Appendix "B"). Information was also presented on possible viewpoint locations within the community and on the design of the proposed viewpoints. The viewpoints were proposed to include a landscaped area and seating for pedestrians using the pathway system.

Throughout this review process, staff has had on-going discussions with representatives of the Morgan Creek Homeowners Association about the status of the pathway system. The Association provided four additional suggestions for amenities within the community that were included in the information presented at the public information meeting. These suggestions are to:

- Re-landscape all traffic islands in the Morgan Creek community;
- Create uniform landscaping around the mailboxes in the community;
- Install traffic throats; and
- Install mock entryways.

The proposal to re-landscape all traffic islands and to create more uniform landscaping around the mailboxes is intended to improve the quality and long-term maintenance of these areas. The Morgan Creek Homeowners Association has advised that many existing landscaped areas have become overgrown and are in need of upgrading with more appropriate vegetation.

With respect to the proposal to install traffic throats and mock entryways, the Association recommends installing these traffic-calming measures with a view to minimizing the appearance of accessibility to criminal activity in the community.

Results of the Public Information Meeting

Based on the comment sheets, the suggestions made by the Morgan Creek Homeowners Association were supported by approximately 50% of the respondents. The suggestion of installing viewpoints along the trail system was supported by only 5% to 7% of the respondents. Approximately 39% of the respondents noted the need for additional maintenance on the existing pathways in the Morgan Creek community, while 15% of the respondents suggested that speed bumps be installed on Canterbury Drive. Three respondents suggested that tennis courts be installed in the community.

Recommended Course of Action

Based on the input from the public, it is recommended that Council:

- approve, in principle, the amenities suggested by the Morgan Creek Homeowners Association;
- authorize staff to work with representatives of the Morgan Creek Homeowners Association to further detail the design, location, and construction and maintenance costs related to such amenities and, subsequently, to hold another public open house to provide the public with a final opportunity to provide input on the design of the suggested amenities; and
- to provide a further report, complete with recommendations, back to Council on the matter after the open house, but prior to proceeding construction with the amenities.

It is also recommended that two pathway sections, one sidewalk section, and two pedestrian crossings, as illustrated on Appendix "B", be constructed with the some of the funds that will be made available by the Morgan Creek developer in lieu of construction of other pathways and amenities that were to be constructed in Morgan Creek. These improvements will act to create connectivity in the pathway system within Morgan Creek. This work is generally supported by the community.

Landscape Maintenance

Another concern raised in conversations between City staff and the residents of Morgan Creek during the public information meeting, and which was also documented in the comment sheets that were received after the public information meeting, was the issue of lack of proper maintenance of the existing pathway system in Morgan Creek. Concerns included that the pathway surfacing material was unacceptable in some sections of the pathway system and that some sections of the pathway system are overgrown with grass and weeds and are almost impassable. It was also noted that dead trees or shrubs have not been replaced along the pathways.

As a condition of approval of the various phases of the Morgan Creek development, the developer agreed to construct a pathway system and to maintain it in perpetuity. It is clear that, in some areas, the developer has not been expending sufficient efforts on maintaining the pathway system.

As a result of the concerns raised by the residents and staff observations, staff has met with representatives of Morgan Creek Holdings, the developer, to discuss the pathway maintenance concerns. In response to these meetings, the developer has improved some sections of the pathway system and some dead trees or shrubs have been replaced as part of the developer's winter maintenance program. However, it is recognized that maintenance must be done to a reasonable standard on a regular basis to ensure the on-going utility of the pathway system in the community. The City standards for maintenance of similar facilities throughout the City include regularly scheduled lawn cutting, insect and disease control, fertilizing, pruning and weed control. The developer has agreed to undertake pathway and landscaping maintenance to the City standard, subject to Ministry of Environment restrictions, and that such a maintenance schedule be attached as a condition to the annual business licence for the Morgan Creek Golf Course

operation, which will undertake the pathway and landscaping maintenance on an on-going basis. Under this approach, staff will inspect the pathways on an annual basis, prior to the issuance of the business license to ensure that maintenance is being undertaken to the agreed standard. The developer has further agreed that this approach can be detailed in a restrictive covenant and related rights-of-way that is registered on the title of the appropriate lands.

Legal Review

Legal Services has reviewed this report and has no concerns.

CONCLUSION

Based on the above discussion, it is recommended that Council:

- receive this report as information;
- approve, in principle, the list of amenities suggested by the Morgan Creek Homeowners Association, as documented in this report;
- authorize staff to work with representatives of the Morgan Creek Homeowners Association to further detail the design, location, construction and maintenance costs and priority related to such amenities and, subsequently, to hold another public open house to provide a final opportunity for the public to provide input to the design and priority of the suggested amenities;
- instruct staff to forward a report to Council complete with recommendations on the matter after the public open house, but prior to proceeding construction of the amenities; and
- instruct staff to utilize appropriate legal instruments including, without limitation, restrictive covenants and statutory rights-of-way on the title of appropriate lands within the Morgan Creek community that will document the agreement between the City and the owner of the golf course, regarding the pathway system.

Original signed by
Murray Dinwoodie
General Manager
Planning and Development

SL:saw

Attachments:

Appendix "A" - Corporate Report No. R108

Appendix "B" - Possible Alternative Amenities



Corporate Report

NO: R108

COUNCIL DATE: May 2/05

REGULAR COUNCIL

TO: **Mayor & Council** DATE: **April 25, 2005**
FROM: **General Manager, Planning and Development** FILE: **6520-20 (Morgan Creek)**
SUBJECT: **Pathways and Other Amenities in Morgan Creek**

RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Receive this report as information; and
2. Instruct the developer to work with City staff in organizing and conducting a public information meeting to obtain input from the public with respect to the possible alternative use of the funds that will be available in lieu of the construction of the pathways and other amenities in the Morgan Creek development; and
3. Instruct staff to forward a report to Council after the public information meeting, documenting the results of the meeting and including recommendations.

INTENT

The purpose of this report is to inform Council about the matter of pathways and other amenities that were to be constructed in the Morgan Creek development as part of the approved Development Permit and to seek Council authorization to hold a public information meeting to seek public input, regarding the matter, including the possible alternative use of the funds that will become available in lieu of the construction of the pathways and other amenities by the developer.

BACKGROUND

The Morgan Creek neighbourhood is a master-planned golf course community bounded by 40 Avenue to the north, 160 Street and 164 Street to the east, 32 Avenue in the south

and 156A Street and 156B Street to the west. The development was initiated in 1992 and consists of single-family suburban type lots and a number of townhouse developments.

The development is almost complete, except for a few suburban single-family lots that remain to be subdivided in the northeast corner of the development, near the intersection of 40 Avenue and 164 Street. As part of the development permit for the original phases of the Morgan Creek development, the developer was required to construct a network of pedestrian walkways, complete with viewpoints throughout the community. The walkways were, in part, to be constructed along the edges of several of the golf course fairways and in part on restrictive covenant areas within the residential areas of the community.

The original phases of the development consisted only of lands bounded by 32 Avenue, 164 Street, 36 Avenue and 38 Avenue and approximately 158 Street, as illustrated in Appendix I. As the Morgan Creek developer acquired more land, the development was expanded up to 40 Avenue and 156 Street. Development Permit No. 6792-0106-00 (Appendix II) was approved by Council in February 1995, for the original phases of the development, which included the location and design of the walkway and viewpoint system throughout this master-planned community.

In the first few years, as development of the neighbourhood and golf course occurred, construction of various sections of the pathway system was completed. However, in more recent years, further construction of the pathway system and viewpoints has not occurred. The sections that have not been completed are primarily within the golf course fairways or along environmental areas. The developer has indicated an unwillingness to complete these sections, due primarily to the liability that they believe will result from the inherent dangers associated with introducing pedestrians in a golf course setting while golf is being played on the golf course (i.e., golf balls could hit unwary pedestrians with the potential for serious injuries and significant liability to result). As a result, the pathway system, as it exists today, deviates substantially from the requirements of the original Development Permit No. 6792-0106-00 (Appendix II).

Since the development is nearing completion, this anomaly between the requirements of the Development Permit and the current state of the pathway system needs to be resolved. It is noted that the City continues to hold securities from the developer for the completion of the pathway system and viewpoints.

DISCUSSION

Original Pathway Plan and Modifications

The approved Development Permit (Appendix II) illustrates an overall subdivision concept for the original phases of the Morgan Creek development, including a pedestrian pathway system and viewpoints. The pathways on the approved Development Permit measure approximately 5,069 metres (16,630 feet) in total length throughout the development and include other features, such as a gazebo and viewpoints. The pathway system and other amenities were to be constructed by the developer and were to be covered by a Restrictive Covenant to allow public access to the pathways and amenities

and to specify that the developer was responsible for the ongoing maintenance of these features.

As the Morgan Creek development has evolved over the past 10 years, approximately 1,504 metres (4,900 feet) of walkways have been constructed. Currently, 3,565 metres (11,700 feet) of the originally proposed pathway system remain unconstructed. Of this length, Morgan Creek Developments is responsible for 3,205 metres (10,500 feet) and the developer of the Wedgewood townhouse development is responsible for the remaining 360 metres (1,180 feet). Appendix III illustrates the sections of pathway and the location of the other amenities that remain to be constructed, based on the original Development Permit.

The originally proposed pathway system has not been fully completed for the following reasons:

- Conflict between the alignment of the pathways through or along environmentally-sensitive areas, such as at the east end of Fairways 17 and 18 (west of Morgan Creek Crescent);
- Concerns with the potential for criminal activity in the Deer Run Townhouse development if the existing walkway through this development was connected to 32 Avenue;
- Potential for serious injuries to unwary pedestrians using the pathways along the lengths of Fairways 8, 9, 11, 12, and 13, due to errant golf shots if such walkways are constructed;
- Concerns with crime and safety by single-family homeowners who do not wish to have walkways constructed adjacent to or behind their homes;
- Sidewalks were constructed instead of pathways along some sections of streets in Morgan Creek;
- Site planning and subdivision layout modifications; and
- Concerns about possible conflict between pedestrians on the pathways and golf carts and golf course maintenance equipment.

Safety and Liability Issues

One of the major concerns, related to the completion of the originally planned pathways has been the issue of safety and liability. Morgan Creek Holdings has consulted their lawyer and insurance underwriter on the issue of allowing public access on the pathway system.

The lawyer for Morgan Creek Holdings expressed concern over the ability to adequately protect and educate the general public with respect to the dangers of walking next to a golf course. The lawyer further advised that allowing the public to use the pathways along the golf course exposes Morgan Creek Holdings and the City of Surrey to an

indeterminate risk of potentially significant loss, especially in the absence of adequate insurance and indemnifications against potential losses (Appendix IV).

The insurance representatives for Morgan Creek Holdings have also advised that their underwriters will not accept additional third party liability exposure if the pathways within the golf course allow for public right-of-passage (Appendix V). The City has requested that Morgan Creek Holdings save the City harmless from claims arising from the use of the subject pathways and Morgan Creek Holdings, the developer, has requested that the City save Morgan Creek Holdings harmless from claims arising from the use of the pathways, if the City directs that the pathways be installed.

In response to the issue of unfinished pathways, Morgan Creek Developments submitted a letter, dated February 2, 2005, that outlines the history of the Morgan Creek development and their opinion relative to the completion of the pathway system (Appendix VI). The letter states that, throughout the past 10 years of developing Morgan Creek, various pathways were constructed, as required by the Development Permit; however, possible injury to pedestrians became evident on many sections of the pathway system and, particularly, on pathways proposed along the length of fairways. Morgan Creek Holdings further advised that to compensate for not constructing some of these original pathways, additional pathways were included in subsequent phases of the development. They have also committed to working with the City to provide alternative amenities and/or cash-in-lieu for the unconstructed pathways so as to compensate for the intended amenity in the community.

Based on a detailed review of the proposed pathways and the opinions provided by the developer's lawyer and insurance provider, it is recommend that the pathways within or along the Morgan Creek golf course fairways not be constructed and that the developer be required to provide on a "value for value" basis other amenities in the Morgan Creek area or cash in lieu of the unconstructed works for use in providing other amenities to the neighbourhood.

Alternative In Lieu of Pathways on the Golf Course

City staff and the developer, Morgan Creek Holdings, have had extensive dialogue regarding the means by which the developer could provide amenities within the Morgan Creek community in lieu of the unconstructed pathways and amenities, as specified in the approved Development Permit. The developer has advised that they do not intend on taking any action to prohibit the informal use by pedestrians of the extensive system of paved cart paths throughout the golf course during times when golf is not being played on the golf course. Such informal use is taking place now on a regular basis by residents of the Morgan Creek and Rosemary Heights neighbourhoods. However, the developer does not want to formalize this arrangement related to the golf cart paths for liability reasons, similar to those forming the basis for not constructing the walking paths.

Value of Unconstructed Works

A cost estimate was undertaken to determine the value of the pathways and other amenities that have not been constructed by the developer, based on the original Development Permit requirements. The unconstructed works include:

- 3,205 metres of limestone pathway;
- landscaping along various sections of the pathway;
- one gazebo; and
- three viewpoints.

A value for the ongoing maintenance of the pathways, which was also the responsibility of the developer under the Development Permit, was also calculated. Based on unit estimates provided by the Parks Division, it has been calculated that the unconstructed works, including ongoing maintenance for a 20-year period, have a total value of \$316,634. No value was included for property, since the pathways were being constructed generally within the golf course lands and the deletion of these pathways will not result in additional development potential in the Morgan Creek development. Details of the cost estimates are contained in Appendix VII.

The developer of the Wedgewood Townhouse development (Dawson Lakewood Developments) has also committed to providing the necessary funding for 360 metres (1,190 feet) of pathway, which was that firm's responsibility under the Development Permit approved for that development. The estimate for this work was based exclusively on the construction cost of a limestone path, since the area through which the pathway was proposed to be located has been well landscaped with the development of the townhouses. Maintenance was not factored into the estimate since the maintenance responsibility would have been eventually transferred to the townhouse development. On this basis, the value of the unconstructed pathway for which Dawson Lakewood Development is responsible is \$13,320.

Therefore, the total value of the unconstructed pathways and other amenities in comparison to the requirements of the original Development Permit is \$329,954.

Construction of Other Amenities in Lieu of the Original Development Permit Requirements

The developer has advised that, in lieu of constructing the pathways or paying cash-in-lieu, he is prepared to construct other amenities in the Morgan Creek community with the same value as the unconstructed pathways and amenities, as specified in the original Development Permit (i.e., "value for value" balance). To demonstrate "good faith" in this regard, the developer has provided a list of possible alternative amenities that he could construct within the community. These include:

- three sections of pathway away from the golf course fairways;
- two enhanced pedestrian crossings within the Morgan Creek development; and
- seven additional viewpoints.

These suggested alternative amenities are illustrated on Appendix VIII.

Staff has also reviewed possible amenities that could be constructed (in advance of when they might otherwise be constructed) in the Morgan Creek area. These amenities include:

- development of a neighbourhood park at 15473 – 34 Avenue; and
- development of a neighbourhood park at 3965 – 155 Street (Nicomekl Blueways Launch site).

Community Input To Date

Both the Morgan Creek Home Owners Association and Rosemary Heights Residents Association have recently been in contact with staff of the Planning and Development Department, regarding the construction of the pathways and other amenities in Morgan Creek and alternatives that may be proposed in lieu of the construction of these unconstructed works. Both Associations have requested an opportunity to provide input to the City, prior to a final decision by City Council. Similarly, a spokesperson for the residents of the Deer Run Townhouse development has advised that the residents of that complex are concerned with the construction of certain sections of the walking paths that may jeopardize the security of their development. The City has also received several communications from the members of the Morgan Creek Golf Club, who have expressed strong concerns with the construction of the public walkways within the golf course, related to the safety of the people using the walkways and potential liability that may accrue to golfers using the golf course.

Public Consultation

If Council approves the recommendations of this report, Planning staff will work with the developer in arranging a Public Information Meeting ("PIM") to present information to the public, regarding the matter, including the value and location of the unconstructed pathways and amenities and possible alternative amenities that could be constructed in the community in lieu of the unconstructed works. The PIM would also provide an opportunity for the public to provide input to the City, regarding their views and opinions on the possible use of the "cash-in-lieu" funds and any other comments they may have. A comment sheet will be made available at the PIM for the public to provide written feedback to the City.

The Morgan Creek Home Owners Association, the Deer Run Residents Association, the Morgan Creek Golf Course Club Captains, the Wedgewood Townhouse Residents Association and the Rosemary Heights Residents Committee will be notified regarding the date and time of the public information meeting, at least two weeks in advance of such a meeting.

The results of the input received at the meeting will be summarized in a further Corporate Report to Council, along with recommendations for Council's consideration.

Legal Services has reviewed this report.

CONCLUSION

Based on the above, it is recommended that Council instruct the developer to work with City staff in organizing and conducting a public information meeting to provide information to the public about the walkways and other amenities that have not been constructed and to obtain input from the public about possible alternative amenities for

which the funds that will be available in lieu of the construction of the pathways and other amenities in Morgan Creek could be used and instruct staff to forward a report to Council after the Public Information Meeting, documenting the results of the meeting, along with recommendations for Council's consideration.

Original signed by

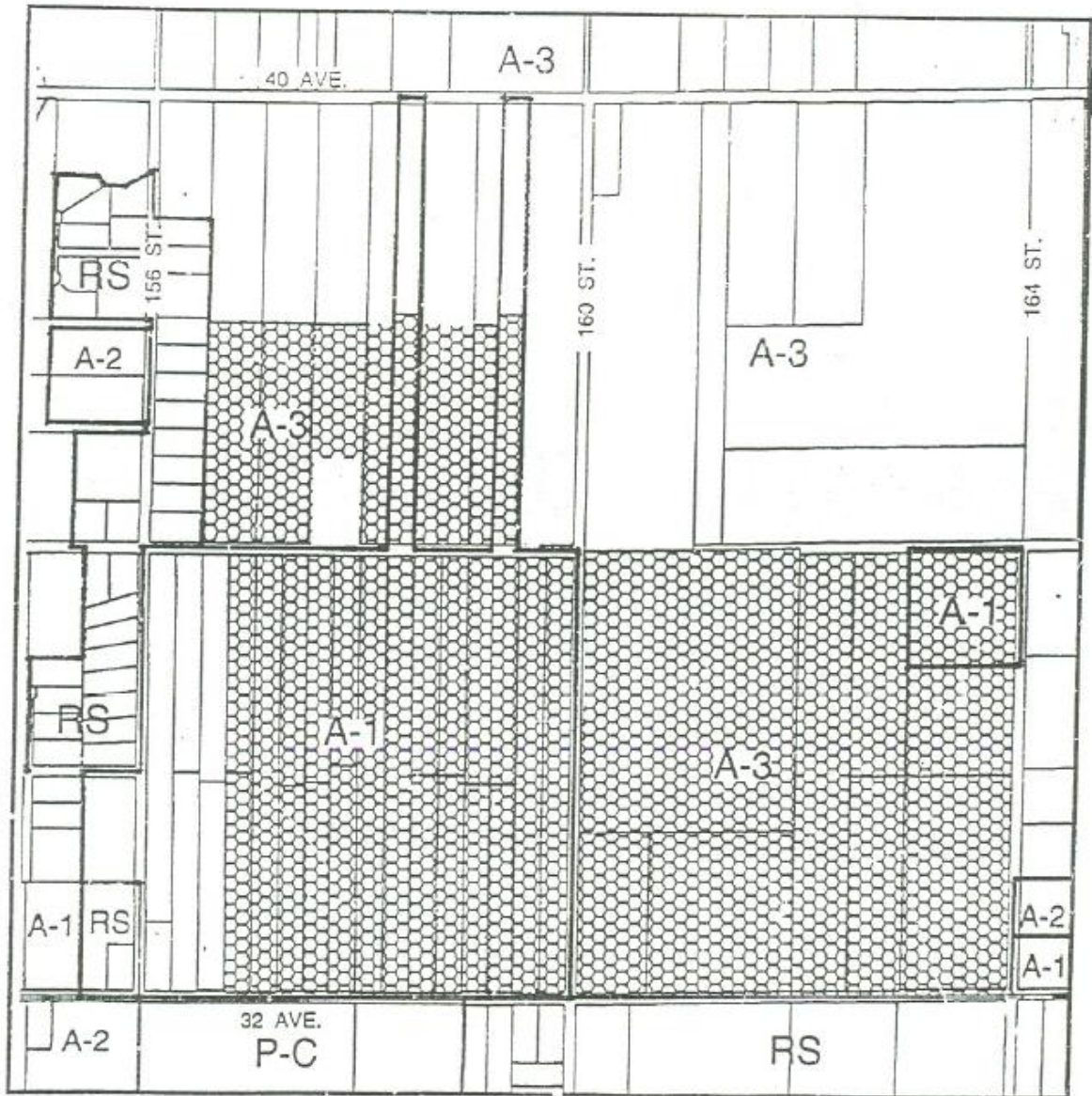
Murray Dinwoodie
General Manager,
Planning and Development

SL/kms/saw

Attachments:

- Appendix I Initial development phase for Morgan Creek
- Appendix II Development Permit No. 6792-0106-00
- Appendix III Pathways Built and Not Built
- Appendix IV Letter from Morgan Creek's lawyer
- Appendix V Letter from Morgan Creek's insurance representative
- Appendix VI Letter from Morgan Creek summarizing history of pathway development
- Appendix VII Calculation of Deficiencies and Estimated Costs
- Appendix VIII Proposed Possible Alternative Amenities by Morgan Creek

Map 1



Borden Ladner Gervais LLP
Lawyers • Patent & Trade-mark Agents
1200 Waterfront Centre
200 Burrard Street, P.O. Box 48500
Vancouver, B.C., Canada V7X 1T2
tel: (604) 687-5744 fax: (604) 687-1415
www.blgcanada.com



BORDEN
LADNER
GERVAIS

January 18, 2005

FILE NO: 507806/000040

BY COURIER

P.D. (DON) MACDONALD
direct tel: (604) 640-4119
direct fax: (604) 622-5819
email: pdmacdonald@blgcanada.com

Morgan Creek Golf Course
504 - 1367 West Broadway
Vancouver, BC V6H 4A7

Attention: Geoff Barker

Dear Sirs/Mesdames:

Re: Public Pedestrian Pathways on
Morgan Creek Golf Course Fairways

You have asked for our preliminary views on issues arising or likely to arise from authorizing public use of existing or future pathways along certain golf course fairways (the "Fairway Pathways"). A summary of our initial observations follows.

Public Safety

- By inviting or authorizing the public to use otherwise private property, you will very likely attract a duty of care in law not otherwise there. This duty of care will likely oblige you to take reasonable steps to protect the safety of such users. What are reasonable steps may vary widely given the diverse locations, features and configurations of the Fairway Pathways;
- If you assume this duty in law, you may be subject to an ever increasing standard of care if the initial measures you take for protecting the public prove, in fact, to be insufficient;
- Unlike golfers, the general public will likely be unaware of the true nature of the risk posed, the extent of the danger zone and of the severity of injuries that may be suffered;
- You cannot adequately protect yourself with notices or warnings as these are all too often ignored by users and found inadequate by the courts. (For example, despite repeated notices, the Musqueam Golf Course decided to permanently bar pedestrian access and use of the pathway adjacent to its fairways following repeated injuries to users who ignored such warnings);

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Liability

- Stray golf balls can kill or cause severe injuries. Inviting or authorizing public use of pathways on or adjacent to golf course fairways, an inherently dangerous environment, exposes you to an indeterminate risk of potentially significant loss. (If such pathways were created by registered interests in land in favour of the City of Surrey, we think the City would face a similar exposure);
- In the absence of obtaining adequate insurance and indemnifications against such potential losses, we do not recommend you agree to the public use of golf course pathways. We understand that Surrey's policy and position at this time is that it will not indemnify for the risk of losses or damages suffered by the public while using public walkways on private lands;
- If public use of the pathways is considered to be a desirable or required public good, then the cost of that public good, including any indemnities against losses resulting from that use, should be borne by the public at large, not by one owner of private land;

The foregoing is a brief summary of our initial comments. We would be pleased, at your convenience, to discuss them in detail.

Yours truly,

Borden Ladner Gervais LLP

By:


P.D. (Don) MacDonald

PDM/mmc



*Insurance Brokers
Risk Consultants*

October 25, 2004

Mr. N. Schmalig
Bartrac Holdings Ltd.
#504 - 1367 West Broadway
Vancouver, B.C.
V6H 4A7

Dear Nick:

Re: Morgan Creek Golf Course

We have approached your underwriters to determine if it would be acceptable to them if you granted to Surrey a public walkway right-of-way along your paths throughout your golf course.

We have to advise you that your underwriters will not accept this additional third party liability exposure and we would have difficulty in finding an underwriter who would.

We cannot help but agree with your underwriters position as the increased liability exposure is too great to assume.

Yours very truly
AON REED STENHOUSE INC.

A handwritten signature in black ink, appearing to read "D. Wotherspoon", is written over the typed name.

PER: DENIS F. WOTHERSPOON
DFW/sr

slr96699.doc

MORGAN CREEK HOLDINGS INC.

February 2, 2005

The City of Surrey
14245 – 56 Avenue
Surrey, BC V3X 3A2

Attn: - Mayor and Council
- Planning Department

Re: Golf Course Fairway Pathways

The purpose of this letter is to summarize in point form the history and other pertinent issues re the above.

(1) 1994 – Conceptual Plan

In May 1994 Morgan Creek agreed to a conceptual plan for fairway pathways subject to viability with respect to safety (see attached letter dated May 30, 1994), the importance of public safety, with respect to pathways, was also referenced in the Development Permit.

(2) 1994 – Phase 1 pathway constructed and then closed

Pathways were built in Phase 1, including a 500m long path from #1 green to #9 tee, which we subsequently closed the same year due to the hazard of wayward golf balls from fairway #7 and the tee box #8.

(3) No fairway pathways in P.L.As – Potential for injuries

The Planning Department did not include a requirement for fairway pathways in any P.L.A. after Phase 1. We believed that this was due to their being more aware of how these pathways could put pedestrians at risk for serious injuries.

(4) Fairway Pathways – other examples

In our research we could not find other golf courses with fairway pathways. There are three local examples of pathways on adjacent dykes; without going into detail, one is in a high risk location and has never been open; one has been closed down due to pedestrians being hit by balls; and the third is not working as it was intended and it is only a matter of time until someone is injured.

(5) Existing pathways in Morgan Creek

Even without the fairway pathways, Morgan Creek has 3.0 km of public pathways owned and maintained by Morgan Creek and an additional 450m of pathways in the non-roadway sections of 36th-Avenue which were also built and are maintained by Morgan Creek. Please note the following summary for comparison purposes.

	<u>Pathways</u>	<u>Residential Area</u>	<u>No. of Units</u>
Morgan Creek (including multi-family sites)	3,450m	210 acres	873
Rosemary Heights (not including MC multi-family sites)	3,200m	300 acres	1,500+

On an area basis (metres of path/acre), Rosemary Heights has only two thirds the pathways of Morgan Creek, and on a unit basis (metres of path/unit), barely more than half of the pathways of Morgan Creek. As you know, the development of Rosemary Heights was guided by an NCP process which was initiated in 1994 and finally adopted in February of 1997 and thus it incorporates City of Surrey criteria for pathways.

(6) Authorizing off-hours usage

We examined the possibility of authorizing the public use of the cart paths during non-golfing hours but found that our insurance company would not provide coverage for such use (see attached letter), nor will the City of Surrey accept liability or indemnify Morgan Creek for such use.

(7) Compensation for unbuilt pathways

Morgan Creek has negotiated with the Planning Department a plan to provide alternate amenities and cash-in-lieu for the unconstructed pathways based on the estimated construction and maintenance costs of these pathways.

The only item we have not come to an agreement on is the concept that there should be compensation for the land on which the pathways would have been built. We feel that the points against this are as follows:

- (i) Restrictive Covenants are legal instruments used to authorize a land use; they are not the same as holding title to lands.
- (ii) The pathways were intended to be ancillary to the land's primary use as a golf course. A ball landing on a path or in a R/C area is still in play. The golf course does not gain any additional land usage by not granting a R/C nor does the absence

of the fairway pathways and R/C give Morgan Creek more land for any other use, such as residential lots.

- (iv) Perhaps most importantly, this is not a case of us asking for something that the City of Surrey does not want to give. Surrey's desire for fairway pathways in 1994, although well intended, was not a fully informed decision. Upon review, City of Surrey staff share our concerns that mixing golfers and pedestrians will potentially lead to public harm. Issues of liability and insurance aside, one must consider the human cost of losing an eye or suffering a brain injury.

Now that we and the Planning Department agree on the merits of considering alternative public amenities, and have come to an agreement on value for construction and maintenance, to look to us for compensation for an R/C to authorize non-existent pathways would be more costly than the original concept of providing the pathways and would therefore, in our opinion, be punitive.

Yours truly,



Geoff Barker

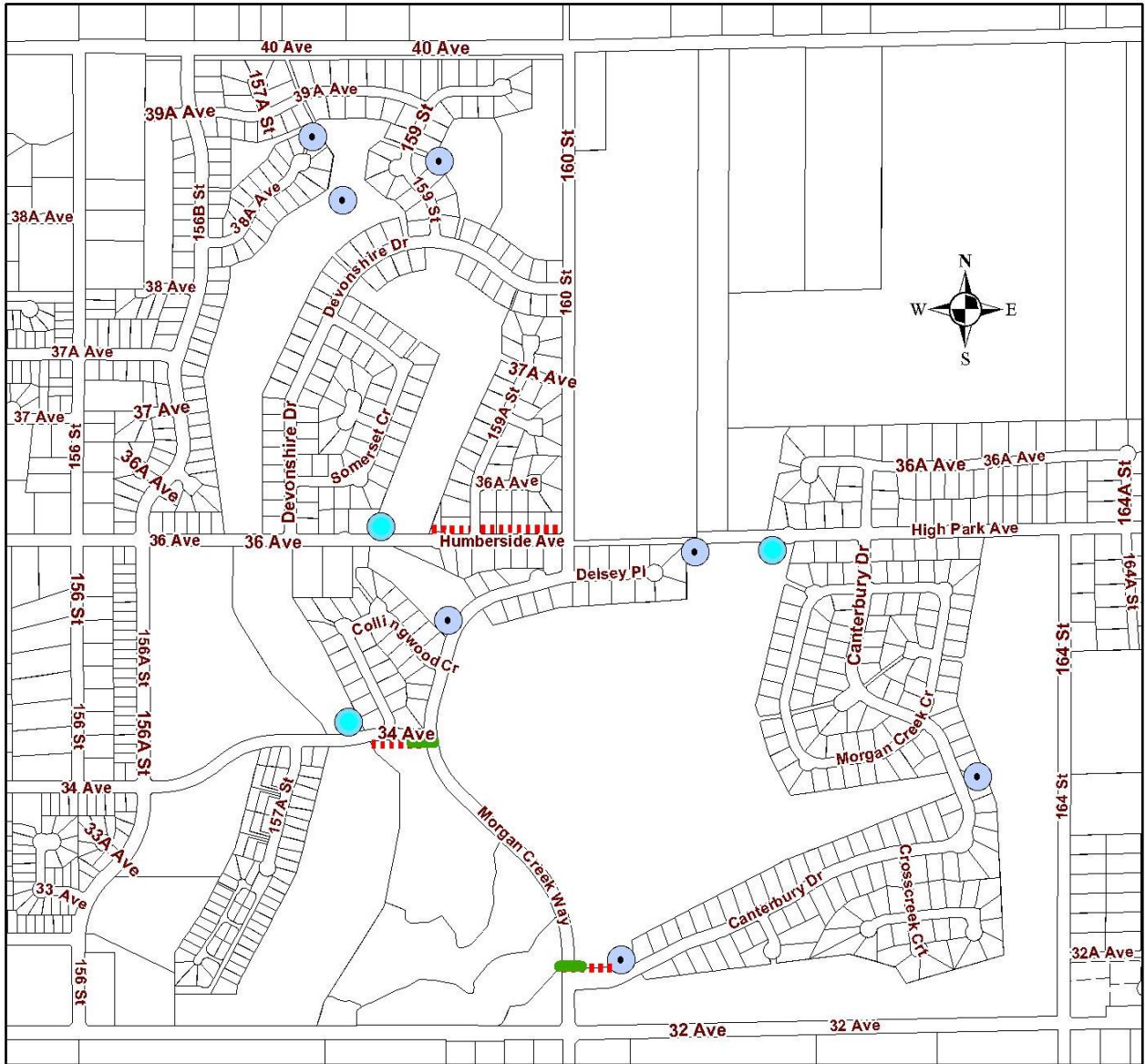
**Morgan Creek Pathways
Deficiencies and Estimated Costs
Feb 15/05**

Pedestrian System Item	Development Permit Deficiencies	
	Morgan Creek Holdings	Dawson Lakewood
Pathway	3,205 m.	360 m.
Gazebo	1	0
View Points (Lookouts)	3	0





Morgan Creek Holdings			
<u>Pathway</u>	<u>Net Path Length</u> (metres)	<u>Cost/Linear metre</u> (\$)	<u>Estimated Cost</u>
Limestone path	3205	37	\$ 118,585.00
Landscaping	1480	39	\$ 57,720.00
Sub-total			\$ 176,305.00 \$ 176,305.00
<u>Twenty Year Pathway Maintenance Costs</u>			
\$1.69 X 3,205 metres X 20 years			\$ 108,329.00 \$ 108,329.00
<u>Gazebo and Viewpoints</u>			
1 Gazebo	(@ \$20,000/gazebo)		\$ 20,000.00
3 Viewpoints	(3 X \$4,000 each)		\$ 12,000.00
Sub-total			\$ 32,000.00 \$ 32,000.00
Total for Morgan Creek Holdings			\$ 316,634.00

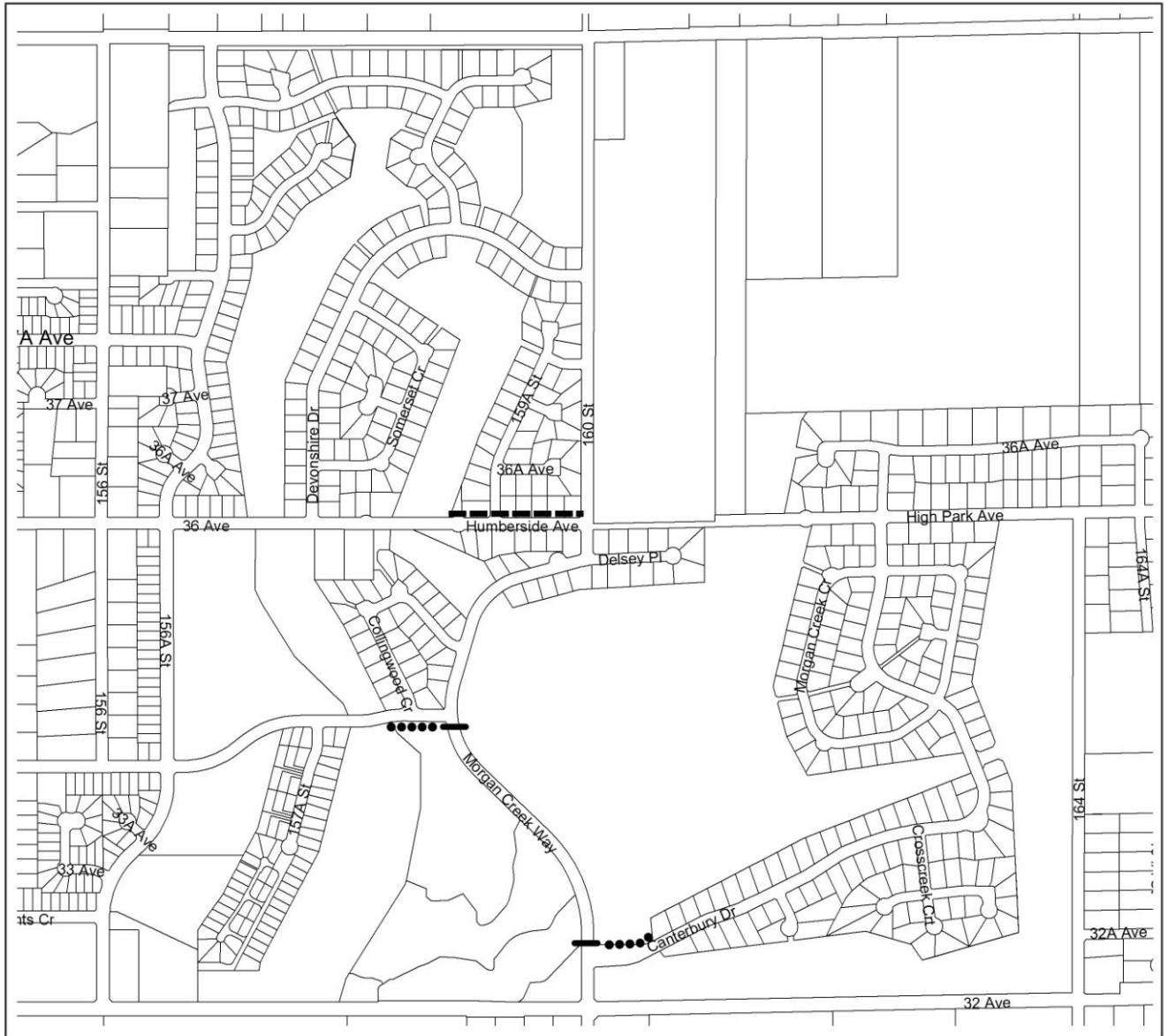
Dawson Lakewood Development			
<u>Pathway</u>	<u>Net Path Length</u> (metres)	<u>Cost/Linear metre</u> (\$)	<u>Estimated Cost</u>
Limestone Path	360	37	\$ 13,320.00 \$ 13,320.00

Grand Total	\$ 329,954.00
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**MORGAN CREEK
POSSIBLE ALTERNATIVE AMENITIES**

-  Pedestrian Crossings
-  Suggested Pathways by Morgan Creek
-  Viewpoint Required by Development Permit
-  Viewpoint Proposed by Developer



MORGAN CREEK
 Recommended Sections to Complete Pathway System



**Report on the
Morgan Creek Pathway System**

dated February 6th, 2006

**Prepared by the
Rosemary Heights Residents Committee**

Report on the Morgan Creek Pathway System

dated February 6th, 2006

Page 1 of 9

**Prepared by the
Rosemary Heights Residents Committee**

Summary of 2005 Compensation

for the Residents of Rosemary Heights and Morgan Creek .

Construction (minimum)	=	\$ 1,093,000	
Maintenance 'In Perpetuity' (minimum)	=	<u>\$ 1,108,000</u>	
Total Construction and Maintenance	=	\$ 2,201,000	
+ Land Value (minimum)	=	+ <u>\$ 5,700,000</u>	—
Total Compensation (minimum)	=	\$ 7,901,000	

Important Note

These figures are based on confirmed Unit Costs provided by Surrey Parks and on conservative estimates of the length and width of the Unbuilt Pathway System.

**Reference : City of Surrey, British Columbia
Development Permit File : # 6792 – 0106 - 00**

Morgan Creek Pathway System

Page 2 of 9

Unit Costs

Important Note

The 2005 Unit Costs were provided by Surrey Parks on July 20th, and August 10th, 2005 and were confirmed in writing in the Memorandum to both Parks Development Co-ordinators on these same days.

They were asked to consider the Planning Department's Corporate Report No. R108, dated April 25th, 2005 that included, in Appendix VII, the "Deficiencies and Estimated Costs"– February 15 / 05. These senior Parks Co-ordinators were specifically asked to provide "Fair and Reasonable 2005 Unit Costs". They considered Development Permit DP 6792-0106 and a package of information described in the Memorandum to Surrey Parks dated July 18th, 2005. (Attached to this document as Appendix 2).

In late January of 2006 these same Parks Co-ordinators reconfirmed the Unit Costs that they previously provided as being 'Fair and Reasonable'.

Reference : City of Surrey, British Columbia
Development Permit File : # 6792 – 0106 - 00

Morgan Creek Pathway System

Page 3 of 9

Construction Costs

**Limestone = 2 ½ M @ \$ 68.90 / Lin.M x 3,565 M = \$245,600
Pathway – (see Note 1)**

**Landscaping = 7 M @ \$300.00 / Lin. M x 2,180 M = 654,000
Natural – (see Note 2)**

**Perimeter Fencing = \$ 58.00 / Linear M x 2,180 M = 126,400
(see Note 3)**

**Gazebo (18'- 0") = \$ 49,000 x 1 unit = 49,000
(see Note 4)**

**Viewpoints = \$6,000 x 3 units = 18,000
(see Note 5)**

Total Construction Costs (minimum) = \$ 1,093,000

**Reference : City of Surrey, British Columbia
Development Permit File : # 6792 – 0106 - 00**

(Construction Costs – Continued)

Page 4 of 9

Note 1. Limestone Pathway – 2 ½ M wide as per Development Permit.

Length of 3,565 M was used in the Surrey Planning Corporate Report No. R108, dated April 25th, 2005, even though a written calculation by Planning on April 22nd, 2004 stated that there was a shortfall **difference of 4,445.78 Metres !**

Note 2. Landscaping – for “Natural Areas” and **only 7 M wide** used in this calculation instead of up to 15 ½ M wide (18M less 2 ½ M pathway).

The Development Permit requires a “Restrictive Covenant for landscaping within buffer areas and walkway system to ensure pedestrian and residents safety”.

See Development Permit Drawing Appendix V. + (B) to (M). (“the proposed walkway system will be sited at least 24 metres away from the edge of the fairways as shown in a sample cross section (Appendix V).” The length of 2,180 M is the distance, adjacent to development, from the 11th Tee to the 15th Green and from the 8th Green to the 17th Green.

Note 3. Perimeter Fencing (1200 high) – \$ 58 / M is the average between \$56 / M (Chain Link) and \$ 60 / M (Split Rail). The length of 2,180 M is the distance, adjacent to development, from the 11th Tee to the 15th Green and from the 8th Green to the 17th Green.

The Development permit requires a “Restrictive Covenant for the installation and maintenance of perimeter fence”.

Perimeter Fencing could be provided between the Golf Course and all adjacent developed properties.

(Construction Costs – Continued)

Page 5 of 9

Note 4. Gazebo – including site preparation, grading, foundations, drainage, “shake” roof, natural stone walls, iron brackets, wood seating slats, cupola, weather vane, and stamped concrete floor with 18” wide steps.(as per Development Permit Drawings H, I, & J).

Note 5. Viewpoints – including site preparation, drainage, surface treatment from the pathway system to and around the viewpoint area, with Park Benches, and Landscape Features (Reference Planning and Development Report to Council for the Development Permit pages 3, 4, & 5).

Fair and Reasonable

The Residents of Rosemary Heights and Morgan Creek expect that their Community shall receive Fair and Reasonable compensation in lieu of the amenities that were not provided by the Developer as per the Development Permit Agreement.

Rosemary Heights Residents Committee February 6th , 2006

Morgan Creek Pathway System

Page 6 of 9

Maintenance Costs "In Perpetuity"

1st Year Cost

**Limestone = 2 ½ M @ \$1.65 / Linear M x 3,565 M = \$5,880
Pathway – (see Note 1)**

**Landscaping = 7 M x \$1.60 / M squared x 2,180 M = 24,420
Natural – (see Note 2)**

**Perimeter Fencing = \$0.39 / Linear M x 2,180 M = 850
(see Note 3)**

**Gazebo (18' – 0") = \$1,640 x 1 unit = 1,640
(see Note 4)**

**Viewpoints = \$1,075 x 3 units = 3,220
(see Note 5)**

Total Maintenance Costs for the 1st year = \$ 36,010

"Present Value" of "In Perpetuity" amount = \$ 1,108,000

Note that: 20 years x \$ 36,010 (no inflation incl.) = \$ 720,200

and : 40 years x \$ 36,010 (no inflation incl.) = \$1,440,400

Important Note

The Development Permit states that the Walkway System shall be maintained ' In Perpetuity' and a Restrictive Covenant shall be placed on the Golf Course Property to ensure compliance.

(Maintenance Costs – Continued)

Page 7 of 9

Note 1. Limestone Pathway – 2 ½ M wide as per Development Permit.

Note 2. Landscaping – for “Natural Areas” and only 7 M wide used in this calculation instead of up to 15 ½ M wide (18M less 2 ½ M pathway) See Development Permit Drawing Appendix V. + “the proposed walkway system will be sited at least 24 metres away from the edge of the fairways as shown in a sample cross section (Appendix V)”.

Note 3. Perimeter Fencing (1200 high) – could be as high as \$ 0.45 / Linear M).

The Development Permit requires a “Restrictive Covenant for the installation and maintenance of perimeter fence”.

Note 4. Gazebo – including “shake roof”, natural stone walls, iron brackets, wood seating slats, cupola, weather vane, and stamped concrete floor with 18” wide steps.

(as per Development Permit Drawings H, I, & J).

Note 5. Viewpoints – including surface treatment from the pathway system to and around the raised Viewpoint areas, with Park Benches, and Landscape Features (Reference P & D Report to Council for the Development Permit pages 3, 4, & 5)

Reference : City of Surrey, British Columbia
Development Permit File : # 6792 – 0106 - 00

Morgan Creek Pathway System

Page 8 of 9

Land Value

Land Calculation = 18 Metres wide x 2,180 Metres in length
= 39,240 Square Metres
or = 9.7 Acres

**This 9.7 Acres of land represents about 19 building lots
(Suburban Density of 2 units / Acre) in Morgan Creek
and at \$ 300,000 / Lot (conservatively) :**

Land Costs = 19 Lots x \$ 300,000 = \$5,700,000

Important Note

**Designated pathway property has clearly been used in the
development of adjacent lands.**

The Development Permit specifically states on page 4 that
“..... the proposed walkway system will be sited at least
24 metres away from the edge of the fairways as show in a
sample cross section (Appendix V)”. Note carefully this cross
section (Appendix V) clearly shows that a strip of land “at
least” 18 Metres wide has been used for development. This
cross section was included with the Memorandum to the
Planning Department dated July 21st, 2005 (a copy is attached
to this document as Appendix # 1).

(Land Value – Continued)

Page 9 of 9

This 18 Metres is over and above the average distance of 10 Metres that is part of the Golf course between the edge of fairways and where the actual property line has been established by the Developer.

The the length of 2,180 Metres is the distance, adjacent to development, from the 11th Tee to the 15th Green and from the 8th Green to the 17th Green. This totals 2,180 Metres of land that is a minimum of 18 Metres wide.

**Reference ; City of Surrey, British Columbia
Development Permit File : # 6792 – 0106 - 00**

Fair and Reasonable

The Residents of Rosemary Heights and Morgan Creek expect that their Community shall receive Fair and Reasonable compensation in lieu of the amenities that were not provided by the Developer as per the Development Permit Agreement.

Rosemary Heights Residents Committee February 6th , 2006

Morgan Creek Pathway System

Appendix # 1

Including :

**Memorandum : To City of Surrey Planning Department
dated July 21st, 2005**

with attached :

- **DP Drawing Appendix II of the Development Permit**
- **DP Drawing Appendix V of the Development Permit**

**Reference : City of Surrey, British Columbia
Development Permit File : # 6792 – 0106 - 00**

Memorandum

 **COPY**

July 21st, 2005

To: City of Surrey Planning Department

**Attention : Murray Dinwoodie , Nicholas Lai , Stella Lee , Raul Allueva,
and Mike Dickenson.**

**Re: Morgan Creek Pathways DP 6792 – 0106
' FAIR AND REASONABLE SETTLEMENT '**

Re: Meeting at Planning Department, 1PM, Thursday July 21st, 2005

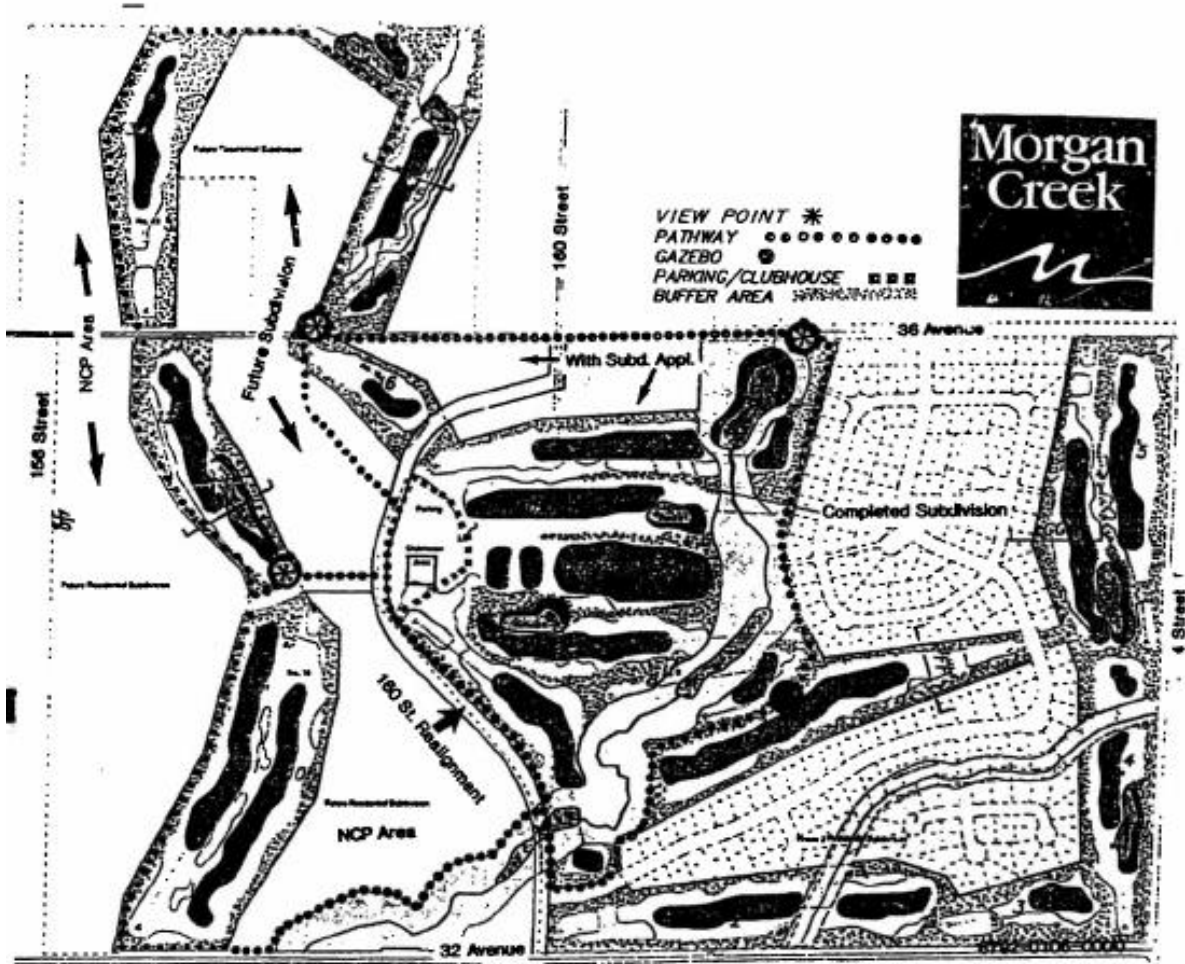
**We attach a copy of the Development Permit Drawing Appendix II , showing the
plan of the Proposed Pathway System.**

**We attach a copy of the Development Permit Drawing Appendix V that has been
enlarged for clarity and has notes that point out the " Amenity Land Area " in
question.**

Submitted by,

Blair Anderson

Rosemary Heights Residents Committee



DEVELOPMENT PERMIT DRAWING
(APPENDIX II)

Morgan Creek Pathway System

Appendix # 2

Including :

**Memorandum : To Steve Whitton – Surrey Parks
dated July 18th, 2005**

with attached :

- Pages 3 to 5 of the DP Report to Council
- Appendix II
- Development Permit Page 1
- DP Drawings - (H, I, J, K, L, & M)
- Appendix V, V1(a), & V1(b)

**Morgan Creek Pathways Review – dated June 30th, 2005
(4 pages)**

**Reference : City of Surrey, British Columbia
Development Permit File : # 6792 – 0106 - 00**



Memorandum

To Tim Neufeld - Surrey Parks

July 20th, 2005

Re: Morgan Creek Pathways DP 6792-0106

Attached for your info:

Pages 3 to 5 Develop. Report to Council
Appendix II
Develop. Permit Pg. 1
DP drawings (H,I,J,K,L,&M)
Appendix V, V1(a),&V1(b)

We also bring your attention to the Corporate Report dated April 25th, 2005,
Re: " Pathways and other Amenities in Morgan Creek." (Council- May 2nd 05)

Morgan Creek Pathways Review – dated June 30, 2005 (4 pages)(copy attached)

The purpose of our meeting today is for you to establish and confirm the " Fair and Reasonable " maintenance unit costs for the ' unanswered questions ' # 4, 7, 9, 11, & 13, plus the ' Viewpoints ' as noted in the ' Review ' as follows:

- #4. - 2 ½ M wide typical 'Limestone' pathway annual maintenance costs / Metre?
- #7. Minimum maintenance Standards for Pathways ?
- #9. - Perimeter fencing (1200 high) – annual maintenance of Chain Link or Split Rail Fencing / Metre?
- # 11. - 7 Metre wide (minimum) – maintenance of ' Soft' Landscaping Strip ?
- # 13. - 18' – 0 " wide Gazebo annual maintenance cost ?
- VIEWPOINTS - Annual Maintenance Costs of 'Viewpoint' areas that are ' raised for better viewing ' including the Park Benches, and Landscape Features.

As time is of the essence we look forward to hearing from you at this meeting as to what you believe are the Fair and Reasonable unit costs for the 6 items noted above.

Thank you,

Blair Anderson

Rosemary Heights Residents Committee



Memorandum

To Steve Whitton - Surrey Parks

July 18th, 2005

Re: Morgan Creek Pathways DP 6792-0106

Attached for your info:

Pages 3 to 5 Develop. Report to Council
Appendix II
Develop. Permit Pg. 1
DP drawings (H,I,J,K,L,&M)
Appendix V, VI(a), & VI(b)

We also bring your attention to the Corporate Report dated April 25th, 2005,
Re: " Pathways and other Amenities in Morgan Creek." (Council- May 2nd 05)

Morgan Creek Pathways Review – dated June 30, 2005 (4 pages)(copy attached)

The purpose of our meeting today is to establish the " Fair and Reasonable " construction unit costs, in \$ 2005, for the ' unanswered questions ' # 3, 8, 10, & 13 in the ' Review ' plus the ' Viewpoints ' as follows:

- #3. - 2 ½ M wide typical Limestone pathway, including clearing, grading, sub grading, preparation, drainage, and final installation ?
 - 2 ½ M wide Asphalt pathway including all the above ?

- #8. - Perimeter fencing (1200 high) including clearing, site preparation, and installation of Chain Link fencing ?
(reference Appendix II, & drawing M as noted above) + (Restrictive Covenant stated on page 5 (c) of the Planning and Development Report to Council for the Development Permit - " installation and maintenance of perimeter fence " & the Development Permit paragraph 4. ".....and perimeter fencing to be as shown on Drawings.....").
 - As above for Split Rail fencing ?
 - As above for Wood Rail fencing ?

- **# 10. - 7 Metre wide (minimum) of ' Soft' Landscaping Strip including: clearing, grading, site preparation, substantial 'berming', drainage, shrubbery, and a substantial number of trees. (reference drawings K, L, and M as noted above) ?**
(reference also P & D Report, page 4 "..... the proposed walkway system will be sited at least 24 Metres away from the edge of the fairways.....").
- **# 13. - 18' – 0 " wide Gazebo including site preparation, grading, foundations, drainage, shake roof, natural stone walls, iron brackets wood slats for seating on top of the wall, cupola, weather vane with pheasant motif, raised " stamped and reinforced concrete ' floor' and 18" wide steps. (reference drawings H, I, and J).**
- **VIEWPOINTS - Viewpoint areas to be ' raised for better viewing ' and shall include site preparation, drainage, surface treatment from the pathway system to and around the viewpoint area, Park Benches, and Landscape Features. (reference P & D Report to Council for the DP, pages 3, 4, and 5).....**

As time is of the essence we look forward to hearing from you at this meeting as to what you believe are the Fair and Reasonable unit costs for the 5 items noted above.

Thank you,

Blair Anderson

Rosemary Heights Residents Committee

ENGINEERING REQUIREMENTS

The Engineering Department can support this application from a servicing perspective. (Appendix IV)

PLANNING ANALYSIS

The proposal forms part of the 335 acre development in the Rosemary Heights area which consists of a 350-unit residential lots at suburban density and an 18-hole golf course under the Comprehensive Development Zone (By-law No. 11941). The rezoning had final adoption on June 19, 1994.



The golf course site was recently declared a Mandatory Development Permit Area No. LXIII under By-law No. 12314 in order to achieve orderly development of the golf course site, secure public amenities such as linear walkways and viewpoints and ensure safety of future residents and pedestrians. The By-law had final adoption on July 25, 1994.



Except for the required Fertilizer and Pesticide Management Plan, other issues relating to the protection of environment have been addressed in the rezoning stage. A Restrictive Covenant on stream preservation has been registered on title of the affected lots. The required Fertilizer and Pesticide Management Plan has been accepted by the Ministry of Environment and a Restrictive Covenant securing the same will be registered on title of the golf course.

The Plan provides working guidelines on administration of required fertilizer and pesticide on the golf course site to ensure continuing maintenance of the fairways and the environmental integrity of the site.

The applicant is requesting approval of a two-phased Development Permit based on the following:

PHASE	PURPOSE
Phase 1	Installation of pedestrian walkway system and viewpoint area.
	Establishment of natural buffers along the golf course' perimeter area and between the golf course site and residential lots.
	Tree and natural area preservation and landscaping.
	Development of the fairways.

The following is quite clear, in there any records to show amendments

Planning & Development Report

Staff Report to Council

6792-0106-00

Page 4

- Phase 2 Construction of the Clubhouse and ancillary buildings
- Construction of the Parking lot
- Installation of Landscaping around the Clubhouse

NB

The Development Permit that is currently applied for covers Phase 1 only. A separate application will be made by the applicant for Phase 2 and a subsequent report for that purpose will be forwarded to Council, detailing architectural drawings and landscaping requirements.

Pedestrian Walkways



The proposed pedestrian walkways within the periphery of the golf course site comprises one of the amenities that allows access by the general public. The system will afford pedestrians access to the site's natural features. As illustrated in the site plan (Appendix II), a meandering walkway system will be installed along the edges of the golf course and the future residential lots. A looped system is proposed where the future clubhouse will serve as the final destination area. In some points, the connections will be achieved via the road right-of-ways, i.e., along 32 and 36 Avenue.



NB



To ensure pedestrian safety from any wayward balls that may come out of the fairways, the proposed walkway system will be sited at least 24 metres away from the edge of the fairways as shown in a sample cross section (Appendix V).



Viewpoints

The proposed walkway east of the creek will lead to a view point area which provides walkway users specific destination from where visual appreciation of view corridors can be achieved. The proposed location is set in a comparatively higher elevation and, therefore, it provides the best vantage point from where views can be appreciated.

Other destination points are proposed within the system which will be developed with benches and landscape features.

Buffer Zones



In order to achieve safety for future residents and pedestrians, the applicant is committed to preserve and enhance existing vegetation around the golf course perimeter area as well as between the golf course site and the residential lots as illustrated in sample cross sections between Lot 50 and Fairway No. 7 (Appendix VIa), and between Lot 117 and Fairway No. 7 (Appendix VIb). A minimum buffer of 35 metres is in place between the property lines of these lots and the edge of the fairway. The buffer, including the additional 3 metre setback on residential lots, will consist of natural vegetative cover which will be further enhanced through tree planting.



Planning & Development Report

Staff Report to Council

6792-0106-00

Page 5

Several portions of the subject site are heavily treed while some portions have been logged over through the years. The applicant is committed to preserve and relocate a number of trees within the identified buffer area. A Tree Preservation, Replacement and Maintenance Plan (Appendix VII) provides details on tree management.

Restrictive Covenants

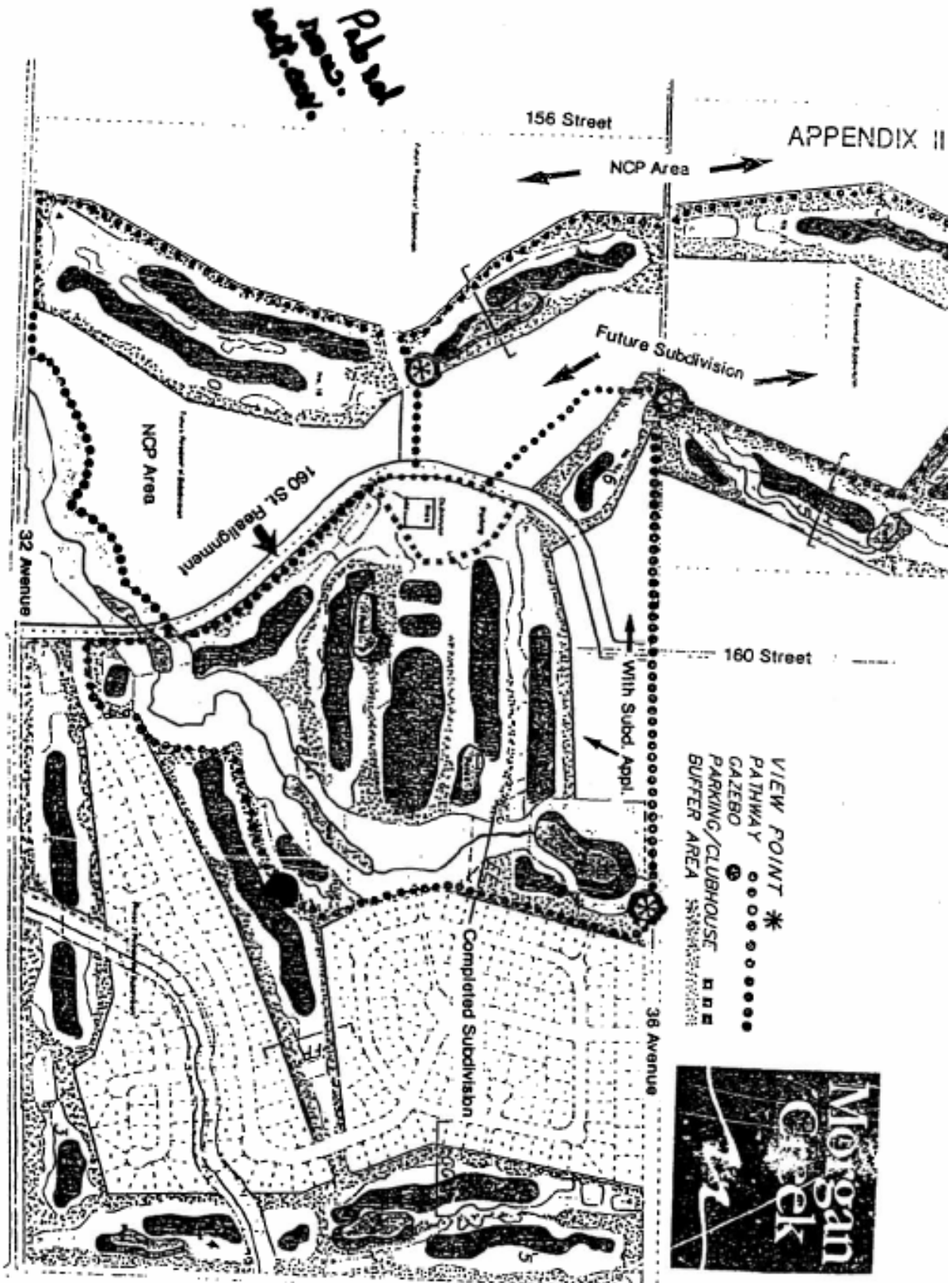
To further ensure that the following identified amenities and requirements are secured and maintained, the applicant has submitted separate Restrictive Covenants that will be registered against title of the golf course to achieve the following:

- (a) public access and maintenance of walkway system;
- (b) landscaping within buffer areas and walkways system to ensure pedestrian and residents safety; and
- (c) installation and maintenance of perimeter fence.

These Covenants further absolve the City from any future liabilities that may arise in the course of operating the golf course.

Letters of Credit for the following purposes have also been secured:

- (a) Construction of the walkway system;
- (b) Landscaping on the buffer area and walkway system ;
- (c) Installation of perimeter fence; and
- (d) Construction of gazebo and provision of landscape features in identified viewpoint sites.



CITY OF SURREY
("the city")
DEVELOPMENT PERMIT

APP. III

NO. 6792-0106-00

Issued To: MORGAN CREEK HOLDINGS INC.
(Owner as defined in the Municipal Act,
hereinafter referred to as the Permittee)

Address: 1180 - 1333 West Broadway
Vancouver, B.C.
V6H 4C1

1. This Development Permit is issued subject to compliance with all of the By-laws of the City applicable thereto, except as specifically varied or supplemented by this permit.
2. This Development Permit applies to and only to those lands within the City described below, and any and all buildings, structure and other development thereon:

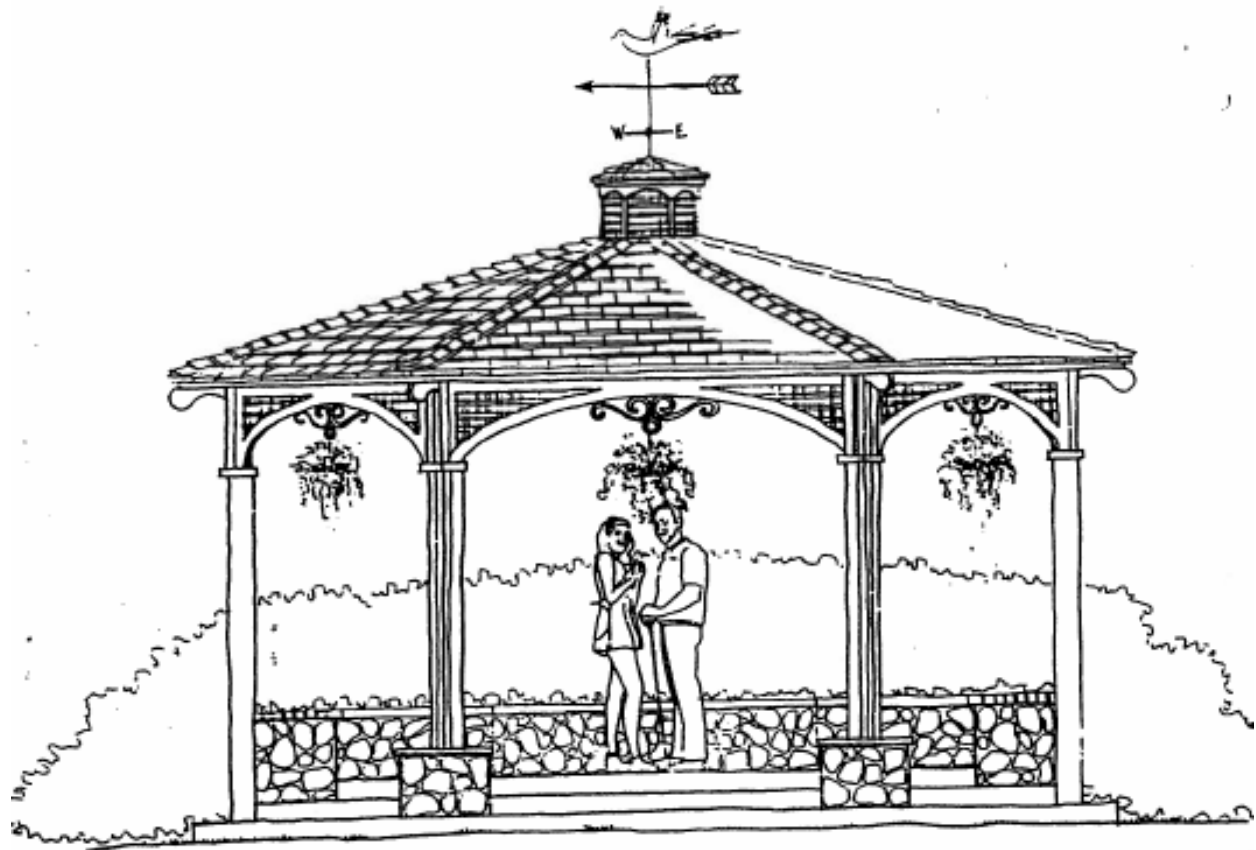
Lot 1 Sections 25 and 26, Township 1, New
Westminster District Plan LMP21759

(Legal Description of Property)

3. The above property has been designated as Development Permit Area No. LXIII in the Official Community Plan.
4. "Surrey Zoning By-law, 1993, No. 12000", as amended is supplemented as follows:

Tree planting and replacement, gazebo design, siting of pedestrian walkways and buffer areas, typical cross section of a landscape plan, and perimeter fencing to be as shown on Drawings Numbered 6792-0106-00 (A) to (M) which form part of Phase 1 of this two-phased Development Permit, and are attached hereto and form part of this permit. Details of Phase 2 will be provided at a later date and will supplement this Development Permit.

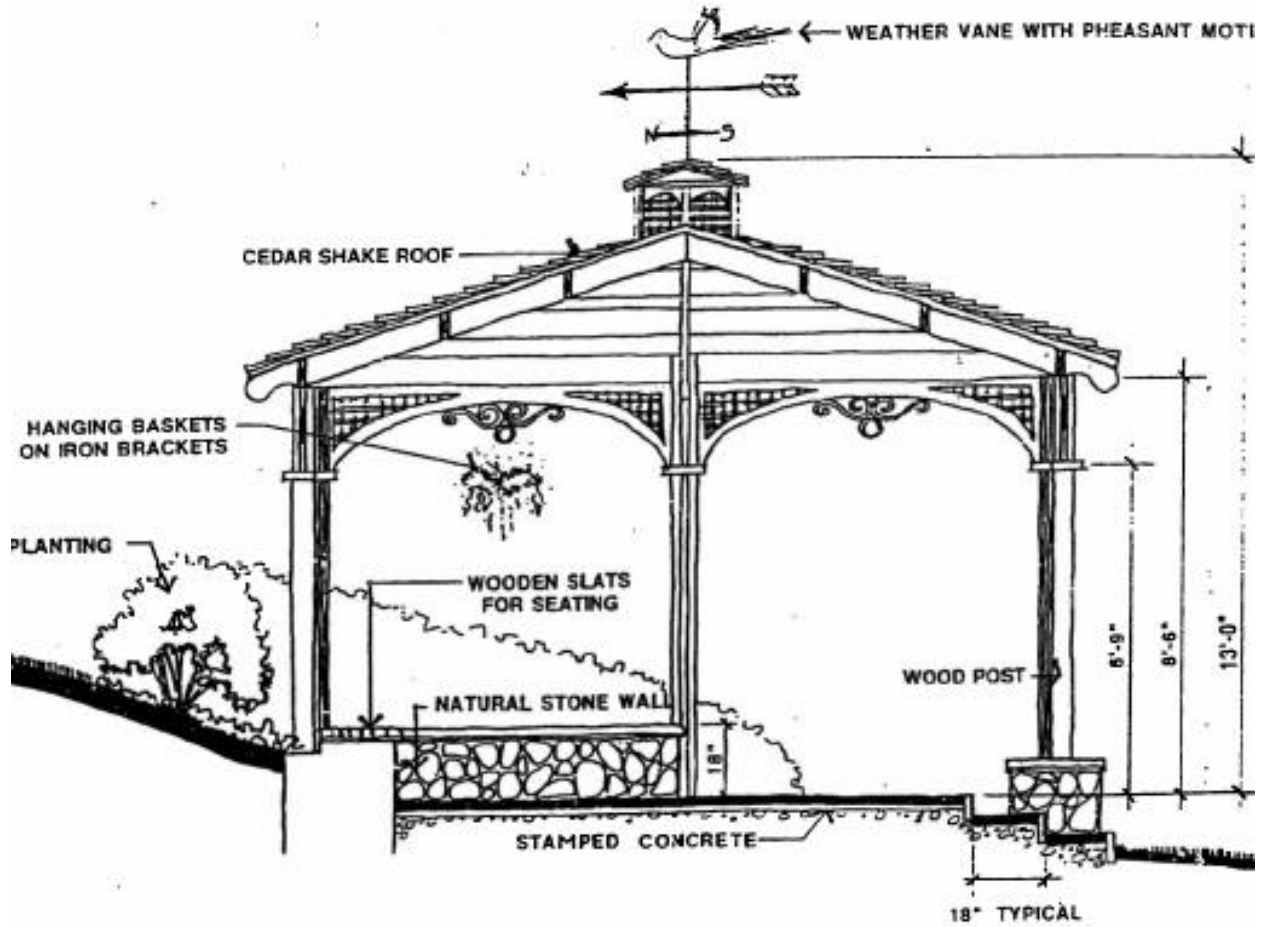
NB



6792-0106-0000

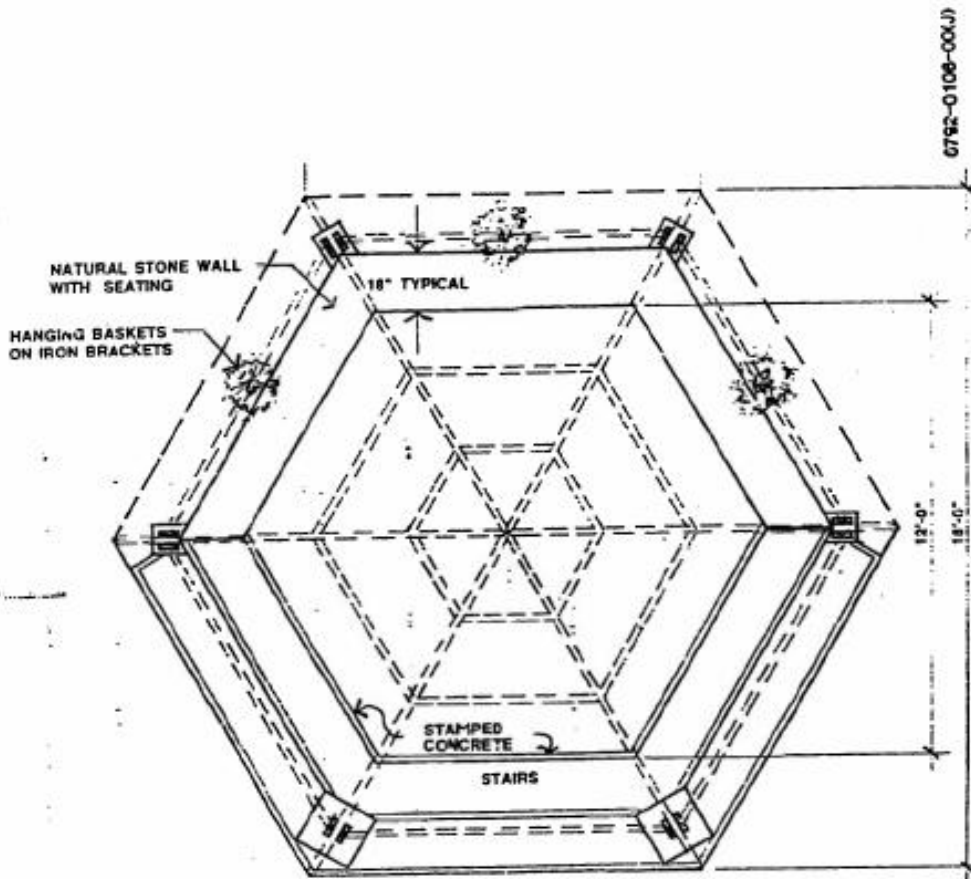
FRONT ELEVATION

SCALE 1/2"-1'-0"



SECTION
SCALE 1/2"=1'-0"

6792-0106-00(1)

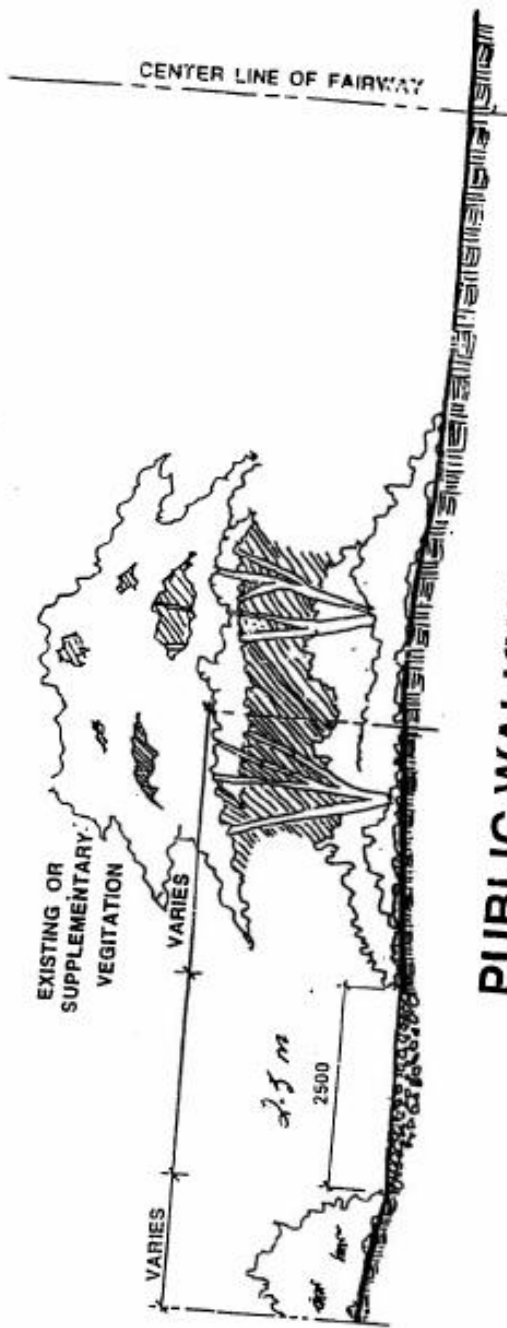


PLAN VIEW



6792-0106-00(K)

**PUBLIC WALKWAY -
TYPICAL SECTION -
SEE OVERALL PLAN -
SECTION II**

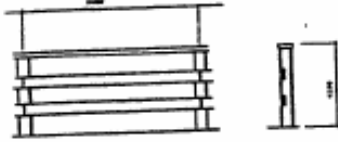


**PUBLIC WALKWAY -
TYPICAL SECTION**
SEE OVERALL PLAN
SECTION 'HH'

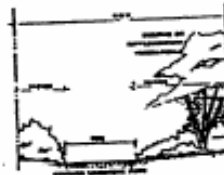


6792-0106-00(L)

┌



WOOD RAIL FENCE
SCALE 1/8" = 1'-0"



**PUBLIC WALKWAY -
TYPICAL SECTION**
SCALE 1/8" = 1'-0"



CHAIN LINK FENCE
SCALE 1/8" = 1'-0"



ELEVATION
SCALE 1/8" = 1'-0"



**APLIN &
MARTIN**
ARCHITECTS, INC.
1000 WEST 10TH AVENUE
DENVER, CO 80202

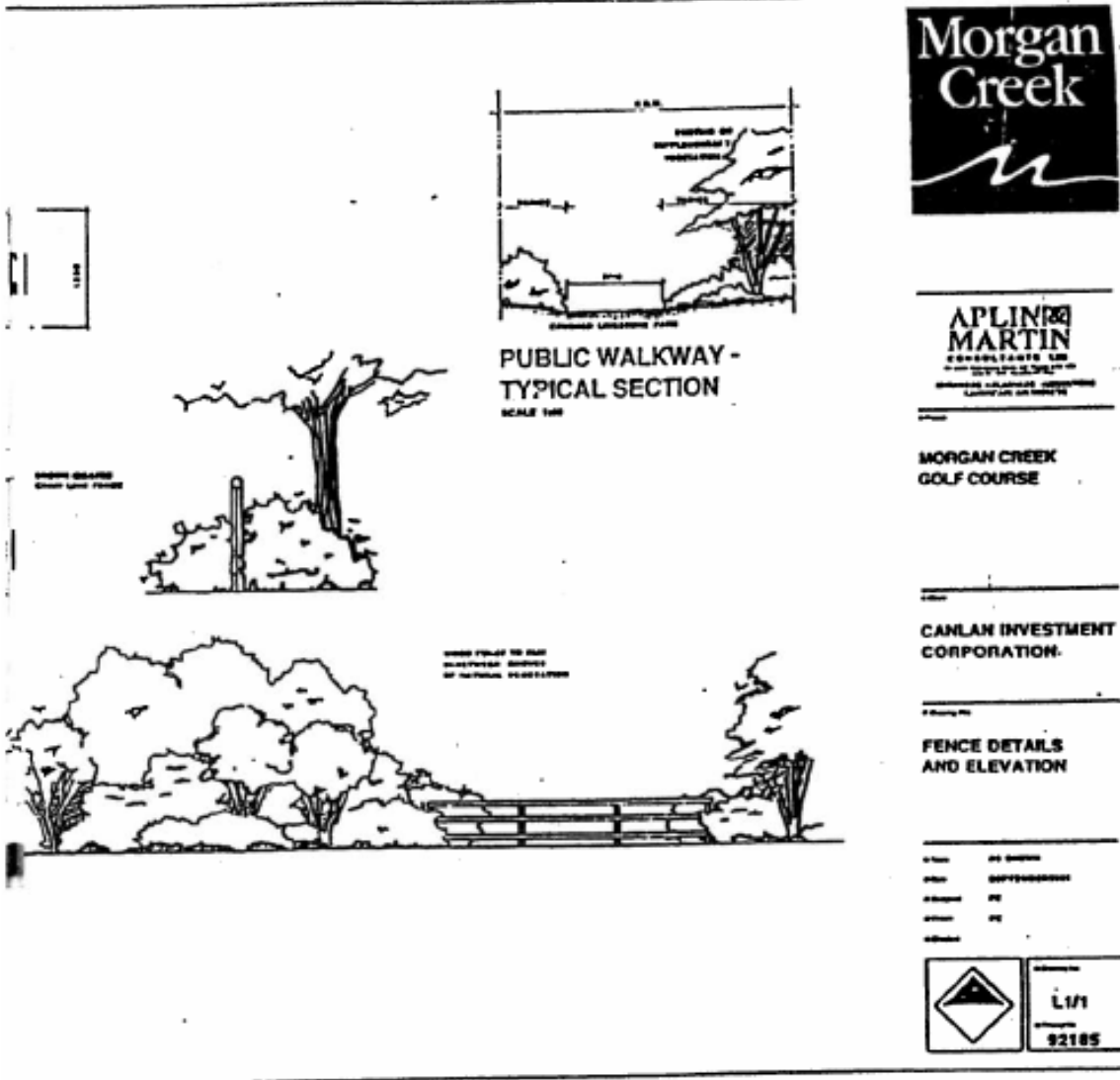
**MORGAN CREEK
GOLF COURSE**

**CARLAN INVESTMENT
CORPORATION**

**FENCE DETAILS
AND ELEVATION**



6792-0106-000M



APLIN & MARTIN
 CONSULTANTS LTD.
 1000 WEST 10TH AVENUE
 CALGARY, ALBERTA T2P 0K1

**MORGAN CREEK
 GOLF COURSE**

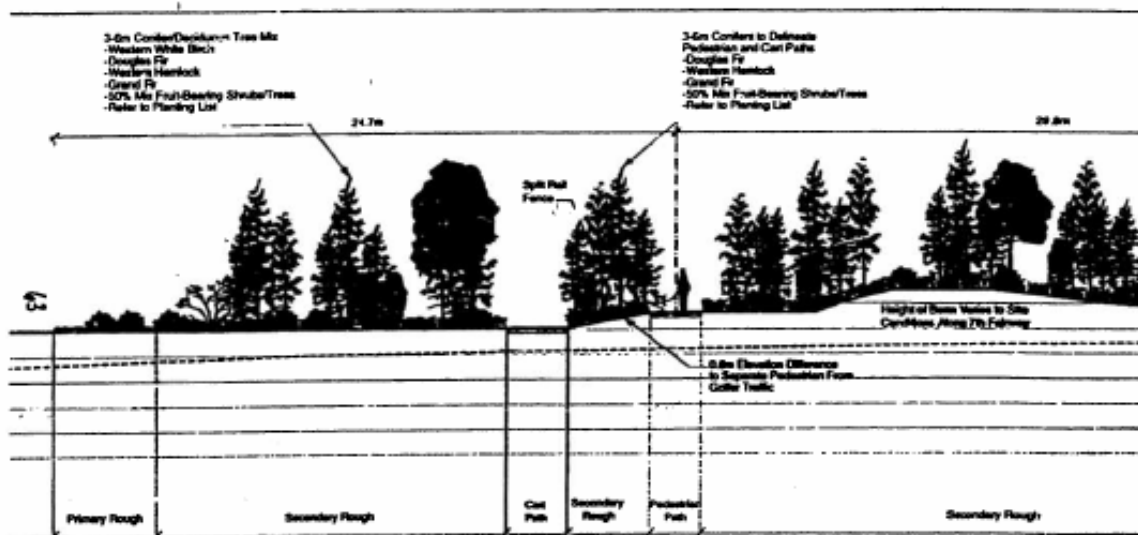
**CANLAN INVESTMENT
 CORPORATION.**

**FENCE DETAILS
 AND ELEVATION**

DATE: 02/01/00
 DRAWN BY: JEFFREY BROWN
 CHECKED BY: JEFFREY BROWN
 SCALE: AS SHOWN

	L/1/1
	92185

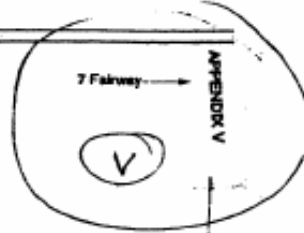
6792-0106-00(M)

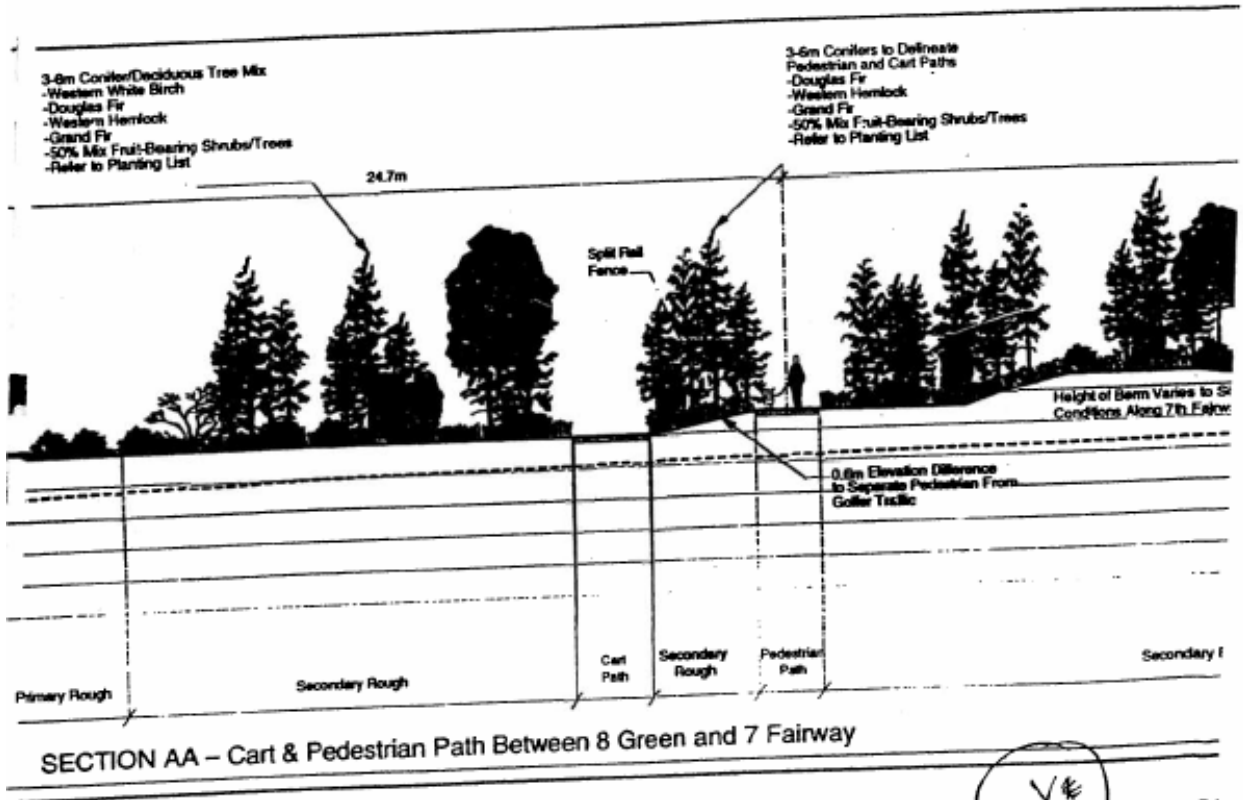


SECTION AA - Cart & Pedestrian Path Between 8 Green and 7 Fairway

← 8 Green

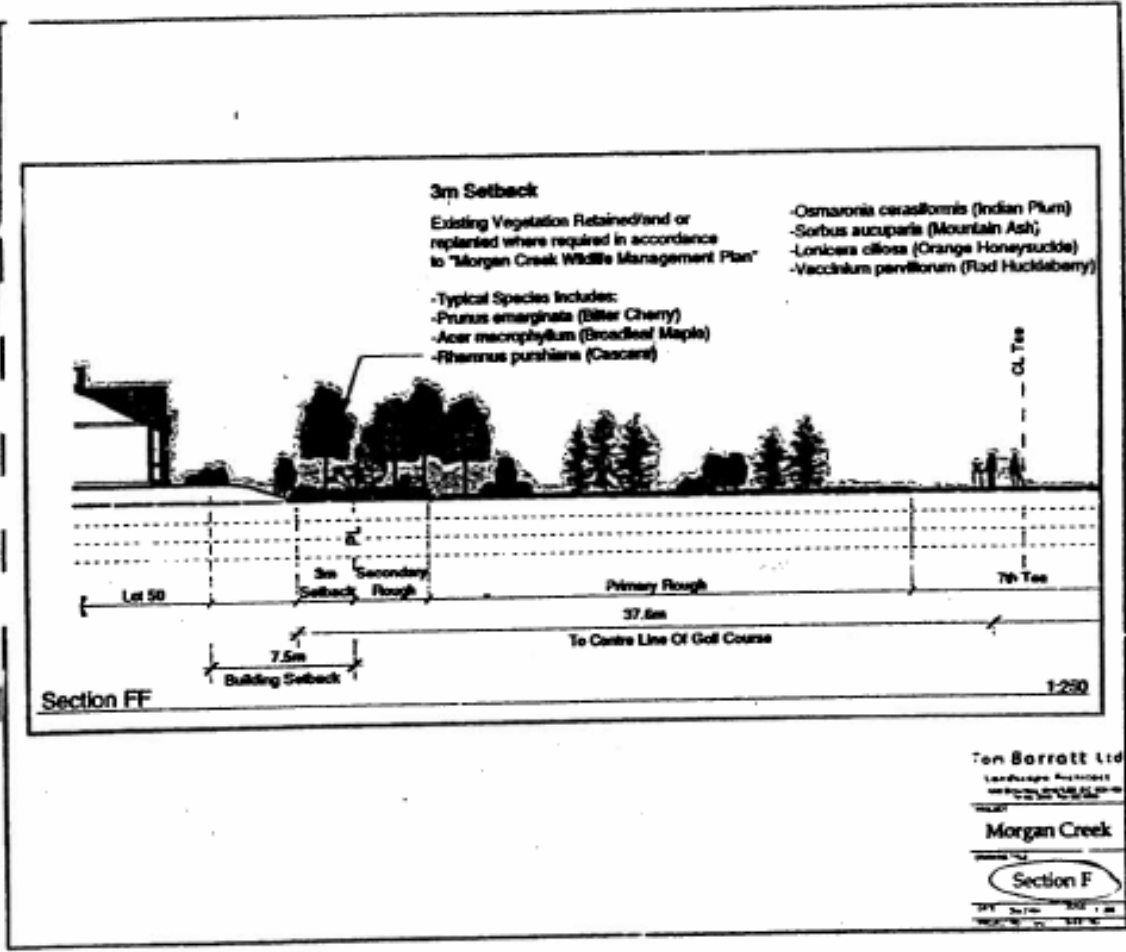
7 Fairway →

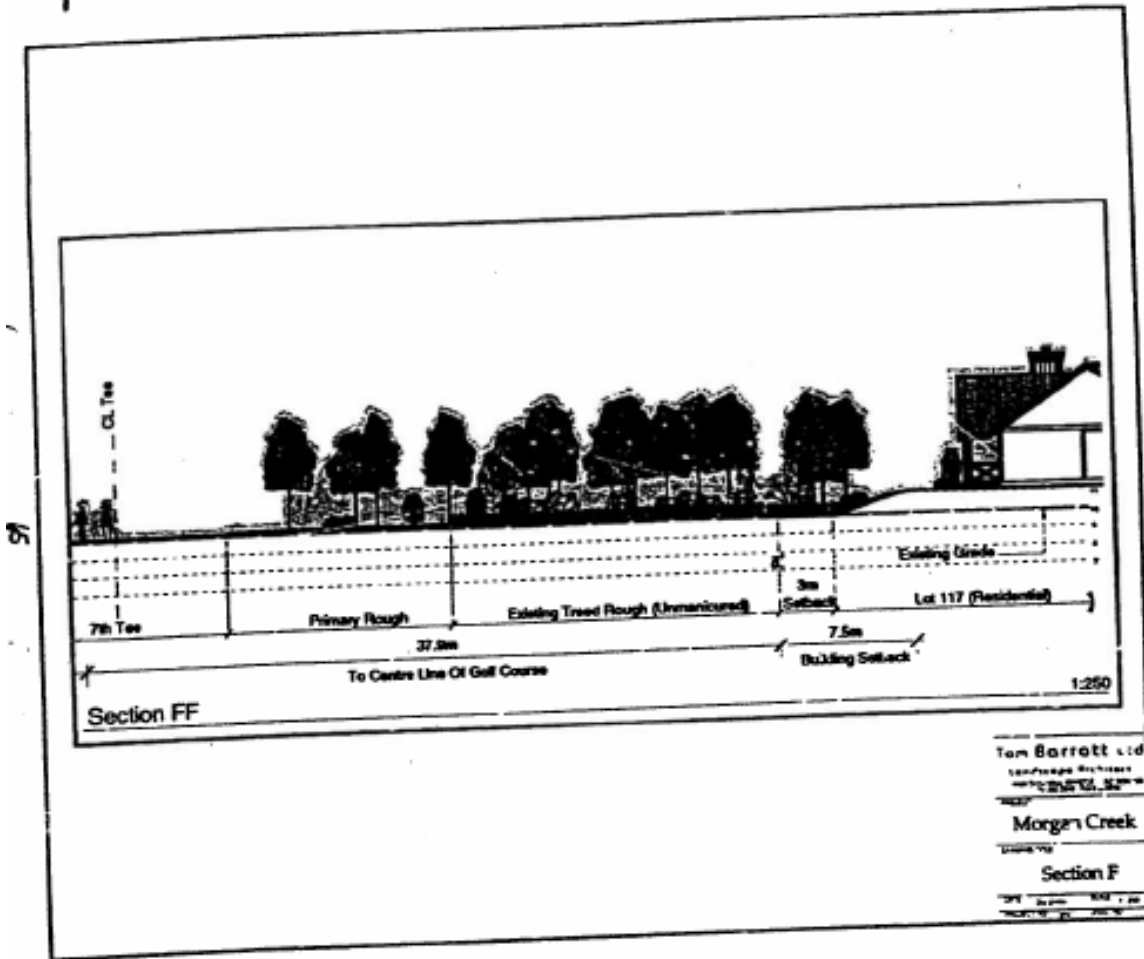




8 Green







Surrey Planning & Development Report on the Development Permit Application : File : 6792 – 0106 - 00

Proposal:

- The applicant has requested approval to establish pedestrian walkways, viewpoints, and natural buffers on the site in the Rosemary Heights Area.

Analysis :

- The site was declared a Mandatory Development Permit Area No. LXIII in order to secure public amenities such as linear walkways and viewpoints and to ensure the safety of future residents and pedestrians.
- A Restrictive Covenant on 'stream preservation' has been registered on title.
- Pedestrian Walkways : The proposed pedestrian walkways within the periphery of the golf course site comprise one of the amenities that allow access by the general public. The system will afford pedestrians access to the sites natural features. A meandering walkway system will be installed along the edges of the golf course and future residential lots. A looped system is proposed.
- To ensure pedestrian safety from any wayward balls that may come out of the fairways, the proposed walkway system will be sited at least 24 metres away from the edge of the fairways as shown in the sample cross section. (Appendix V)
- Viewpoints : Provide walkway system users specific destinations with raised vantage points that will be developed with benches and landscape features.

Restrictive Covenants :

- To further ensure that the following amenities and requirements are secured and maintained, the applicant has submitted separate Restrictive Covenants that will be registered against the title of the golf course.
- Public access and maintenance of the walkway system.
- Landscaping within buffer areas and walkway system to ensure pedestrian and residents safety.
- Installation and maintenance of the perimeter fence.
- Absolve the City from any future liabilities that may arise in the course of operating the golf course.

Missing Information:

- Provide a complete copy of this Planning & Development Report (File 6792 – 0106 - 00) for viewing at City Hall.

SURREY 'Corporate Report' dated April 25, 2005
FILE: 6520-20 (Morgan Creek)

Unanswered questions regarding the above mentioned report:
(including Appendix VII)

Pathways

1. Pathway Length "required" by the Development Permit
(On April 22/04 Surrey calculated this at 8,432 m) ?
2. What is the Proposed Length of Pathways that will be usable to the public ? (not the original " built "pathways that have no relevance now)

Typical Limestone Pathway width = 2.5 m on Development permit. "Asphalt" ?

3. Construction cost / m for a 2 ½ m wide Limestone (asphalt ?) pathway system with drainage ?
4. Maintenance costs for a 2 ½ m wide Limestone (asphalt ?) pathway per year ?
5. Provide assurance that all the 'pathways' and 'landscaping' are built to an agreed upon "Parks" standard and get a confirmed early completion date. Note that the "Parks Standard" throughout Rosemary Heights Area has been an asphalt pedestrian pathway and complete landscaping.
6. Design and provide for pathways and landscaping on 'unbuilt' areas, generally in the North East sector of the Development , that provide for a " looped" pathway system as originally intended NOW as part of this agreement.
7. Establish minimum maintenance standards for the pathways that shall be adhered to 'in perpetuity' by the land owner.

Perimeter
Fencing

8. Construction cost of a perimeter fence using Split Rail / Wood rail / Chain Link as per the Development Permit ?
9. What is the maintenance cost of this fencing amenity / year ?

- Landscaping** – Development Permit Drawings indicate at least 2 m between the pathway and the Property Line PLUS at least 3 m for a Total of at least 5 to 7 m between the Pathways and the Golf Course of substantial 'bermed', treed, and fully landscaped areas. Note that the Planning and Development Report states that the proposed walkway system will be sited at least 24 metres away from the edge of the fairways .
10. What is the cost / m for the construction of this minimum 5 to 7 m wide 'soft' landscaping complete with extensive trees, berms, and shrubbery ?
 11. What is the maintenance cost of this minimum 5 to 7 m wide strip that has extensively developed landscaping / year?
 12. Establish minimum maintenance standards for the landscaping that shall be adhered to "in perpetuity" by the land owner.
- Gazebo** Construction cost of this amenity called for in the 1995 Development permit was \$ 19,440.
13. What is the current inflated cost of this facility 10 years later ?
- Landscape Plans**
14. Please provide the landscape plans 6792-0106-00 (B) to (M) as noted in the Development permit for viewing at City Hall.
- Legal Status**
15. What will the legal status be of the " usable" pathways after this agreement has been concluded ?
 16. What will be the legal status of all the " other " pathways ?
 17. Provide a written opinion from the Surrey Legal Services ' Department ' with regard to their experience with " in perpetuity "Contracts ?
 18. What has this ' Department ', and other municipalities in the BC Union of Municipalities , concluded in general were ' fair and reasonable ' in similar circumstances ? How many Years ? (40 to 99 ??)

Land Value

Designated pathway property ('Right of Way') has clearly been incorporated into part of the golf course and into residential lots. The walkway system would have required additional land over and above that which has been provided from the golf course. The Planning and Development report on the Development Permit states under 'Pedestrian Walkways' that " to ensure pedestrian safety from any wayward balls that may come out of the fairways, the proposed walkway system will be sited at least 24 metres away from the edge of the fairways as shown in a sample cross section (Appendix V) ".

(Note that the Feb 2nd, 2005 from Morgan Creek Holdings letter February 2nd / 05, to the City of Surrey states that ' we have not come to an agreement that there should be compensation for the land on which the pathways would have been built ').

19. Area of property = " Required " Pathway Length (# 1.) m
LESS " Useable " Pathway Length (# 2.) m X 7 ½ to 10 m
wide X Current Value of Land / m Squared.

20. Fair and Reasonable

The Residents of Rosemary Heights and Morgan Creek expect that their Community shall receive fair and reasonable compensation in lieu of the amenities that were not provided by the developer as per the Development Permit Agreement. This compensation shall be spent within the Community after consultation with the residents.



A GOLF COURSE RESIDENTIAL COMMUNITY

March 29, 2006

City of Surrey
Planning and Development Department
14245 – 56 Avenue
Surrey, BC V3X 3A2

Attn: Mike Dickinson

Dear Mr. Dickinson:

RE: Pathways at Morgan Creek/Council Report R003

At your department's request Morgan Creek Holdings Inc. (MCHI) is submitting this summary outlining the pathway issue at Morgan Creek.

In the fall of 2004 MCHI and the Surrey Planning Department held a series of meetings thru 2005 to resolve the pathways on the Morgan Creek Golf Course. The Planning Department set out a process for MCHI to follow in order to reach a consensus on alternative options in lieu of completing the original pathways concept plan due to liability concerns. The process included a review of:

- 1) Alternate pathway locations
- 2) Metres of pathways built
- 3) Metres of pathways unbuilt
- 4) Lookouts planned and unbuilt
- 5) Current costs of pathway construction
- 6) Current costs of landscape and fencing
- 7) Future costs of pathway maintenance by the owner
- 8) Alternate amenities such as traffic calming, street landscape, sidewalks
- 9) Public input and public consultation
- 10) Parks and Recreation and City Solicitor review
- 11) City council reviews, reports and directives to staff in Morgan Creek

Having gone through this lengthy process, City of Surrey staff seem reticent about following it through to its completion. I can only assume that this is in response to the derision of one Morgan Creek resident who has tried to derail this process by writing his own opinion on the matter. An opinion that could not be described as unbiased.

The agreement negotiated between the City and Morgan Creek was not treated casually by either party. It involved a review of the requirements of the original Development Permit, a determination of the scope of the requirements that were going to remain unfulfilled, and the cost benefit accruing to Morgan Creek of not meeting these requirements.

Fundamental to these negotiations was an understanding by both parties that due to safety issues, construction of all of the pathways specified in the original Development Permit was not in the best interests of the public, and that compensation due to the City of Surrey for the community was to be a fair assessment of the actual cost savings of not building and maintaining these pathways by Morgan Creek. It was not intended that it include something akin to punitive damages, which is where the author of the dissenting opinion seems to be coming from. Besides his errors regarding lengths of path, lengths of fence, areas of landscaping, construction and maintenance costs, the most relevant error pertains to land. Pathway tenure is by Right of Way or Legal Covenant, not Fee-Simple Title. Land occupied by pathways was not excluded from its primary purpose as golf course; golf balls landing on pathways are still in play. Deleted pathway areas are still part of the golf course and to apply a residential land value to these pathways is to invent a non-existent benefit. Which is why land values were never part of negotiations in the first place.

In conclusion Morgan Creek Holdings Inc. has complied fully with a process set out by the City of Surrey and therefore we should reasonably expect to complete the current requirements as instructed by City Councils on January 9, 2006.

Very truly,



Geoff Barker

c.c. Morgan Creek Resident Association

Rosemary Heights Residents Committee

March 2nd, 2006

City of Surrey
Mayor Dianne L. Watts
142 - 56th Avenue
Surrey, B.C.
V3X 3A2

Attention : Mayor

Re: Morgan Creek Pathways - " A SECOND OPINION "

Dear Madam Mayor (Dianne),

I trust that your trip to Torino was terrific and that you spread the word about how great a place Surrey is to visit and to do business with.

I have just emailed a letter to you for the Mayor and Council, dated February 28th, 2006. I believe that it would be very helpful to Council if the Clerk could package this with a letter of February 15th, 2006 including the Attachments.

We would request that this be presented to all of Council for a decision. We strongly believe that Council should decide to get a " Second Opinion " on this important settlement proposal for the residents of our communities. This is not something that should just be given to "Staff" for their opinion.

Council has already been told of the enormous difference of opinion that there is regarding the proposal that was submitted to them in Corporate Report No. 108, on May 2nd, 2005. In that there is this difference, especially in the magnitude of \$ 7 million +, the residents of this community in Surrey and Council itself deserve to get a " Second Opinion " so that a fair and just settlement can be reached.

We again respectfully request that Council "Receive" our letter of February 15th, 2006, with all "Attachments", and together with these letters, dated February 28th, and March 2nd, 2006, make a decision to accept the proposed "Recommendation" to get a proper Independent Opinion on this very important matter.

Thank you again for your consideration.

Yours truly,

A handwritten signature in cursive script that reads "Boak Alexander".

**Boak Alexander
Rosemary Heights Residents Committee**

cc. Acting Mayor Judy A. Villeneuve

**Blair Anderson - Rosemary Heights Residents Committee
Andrew Bennett - Past President - Morgan Creek Homeowners
Association**

Rosemary Heights Residents Committee

**February 28th, 2006
City of Surrey
Mayor and Council
142 - 56th Avenue
Surrey, B.C.
V3X 3A2**

Attention : Mayor and Council

Re: Morgan Creek Pathways - File : 6792 - 0106 - 00

Dear Madam Mayor and Members of Council,

We believe that the "Primary Issue" for Council to decide regarding the Morgan Creek Pathway System is the "Recommendation" put forward in our letter to Council dated February 15th, 2006.

Recommendation

" That Council direct the City Manager to engage an Unbiased Independent Third Party whose task will be to establish the "Fair and Reasonable" value for "Compensation" for the Unobstructed Pathways and other Amenities that were not provided under the terms of the Development Permit for the residents of Rosemary Heights and Morgan Creek. This specific recommended "Value for Compensation" shall be submitted to Council for consideration and final decision."

This extremely important matter to get a Second Opinion is for Council to decide and NOT the Planning Department who have been unable to negotiate a "Fair and Reasonable" settlement for the residents of Rosemary Heights and Morgan Creek.

A single recommendation from an Unbiased Third Party on the Land Issue alone could have a \$5 million+ effect on the outcome for the residents! Clearly this can only be determined by an Independent Third Party and **NOT by the Planning Department and the Developer.**

We are hopeful that Council will acknowledge the importance of this decision to get an 'Independent Opinion' to make recommendations to them for their consideration. This is critical for two reasons - firstly because we believe that, having carefully considered the documents over the last 4 years, it is the correct procedure for a just settlement to be reached.

Secondly we believe that this new Council is continuing to work hard to ensure that Surrey is for the residents of Surrey and is not influenced by special interest groups. If an Independent Opinion is not sought in this very large issue there could be an impression that nothing has changed in Surrey and that Developers can negotiate deals with the Planning Department. We feel confident that this is not Councils direction and that they only want to do what is best for the City as a whole.

If there is a difference of opinion, especially in the magnitude of \$ 7 million +, the residents of this community of Surrey and Council itself deserve to get a "Second Opinion".

In our discussion with the Planning Department we agreed with them that we could "live" with an "Independent" opinion if they would also respect this "Independent" Opinion.

We again respectfully request that Council "Receive" our letter of February 15th, 2006, with all "Attachments", and together with this letter, dated February 27th, 2006, make a decision to accept the proposed "Recommendation" to get a proper Independent Opinion on this very important matter.

Thank you again for your consideration.

Yours truly,



Boak Alexander
Rosemary Heights Residents Committee

cc. Blair Anderson - Rosemary Heights Residents Committee
Andrew Bennett - Past President - Morgan Creek Homeowners Association

Rosemary Heights Residents Committee

February 13th, 2006

**City of Surrey
Mayor and Council
142 - 56th Avenue
Surrey, B.C.
V3X 3A2**

Delivered by hand

Attention : Mayor and Council

Re: Morgan Creek Pathways - File : 6792 – 0106 – 00

Dear Madam Mayor and Members of Council,

We have been trying, for the past 4 years, to ensure that a Fair and Reasonable settlement is reached with regard to the Unconstructed Pathway System and other Amenities for the Rosemary Heights and Morgan Creek Communities.

We have been effectively excluded from discussions by the Planning Department ever since we stated that there were very serious Errors and Omissions in their Corporate Report R108, dated April 25th, 2005 that went to Council with our comments last May 2nd, 2005.

We finally got an opportunity recently, with the Mayors assistance, to present our "Report on the Morgan Creek Pathway System", dated February 6th, 2006 to the Planning Department.

There is an enormous difference in the calculations of the Corporate Report # R108 at a "valuation" of \$329,954 and the Report that we presented at a valuation of \$7,900,000 ! This recent Report of February 6th, 2006 is totally based, "Without Prejudice", on information from the Development Permit and information provided by Senior Surrey Parks Co-ordinators.

We wanted to bring to your attention not what has happened or not happened in the past 9 months but rather what would be a positive direction that would lead to a fair and reasonable solution. With the very large diverging calculations for this settlement it would seem very appropriate that a Third Party be used to conclude this very long and difficult negotiation. It is critical that it be carried out correctly as well as being seen to be carried out correctly in a fair and reasonable manner.

We strongly believe that it is in the very best interests of the residents of Rosemary Heights, Morgan Creek and the City of Surrey that an Unbiased Independent Third Party be used to determine a Fair and Reasonable settlement. The gap between \$329,954 AND \$7,900,000 cannot be rationalized away.

We respectfully request that an Independent Third party be used and that you direct the City Manager to independently arrange for this to happen so that all parties can fairly present their views and a just settlement can be reached.

Thank you for your consideration.

Yours truly,



**Boak Alexander
Rosemary Heights Residents Committee**

**cc. Blair Anderson - Rosemary Heights Residents Committee
Andrew Bennett – Past President – Morgan Creek Homeowners Association**

Attachments : Report on the Morgan Creek Pathways dated February 6th, 2006

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Letter to Mr. Dinwoodie, Planning, dated February 2nd, 2006

Letter to Mr. Allueva, Planning, dated February 10th, 2006

**See Appendix 2*

 COPY

Rosemary Heights Residents Committee

February 10th, 2006

City of Surrey
Planning and Development
142 - 56th Avenue
Surrey, B.C.
V3X 3A2

Delivered by hand

Attention : Mr. Raul Allueva, Manager Current Planning South

Re: Morgan Creek Pathways - File : 6792 – 0106 – 00

Dear Mr. Allueva,

Thank you for meeting with Mr. Andrew Bennett, Past Present of the Morgan Creek Homeowners Association and myself yesterday.

I welcomed the opportunity to finally, after 9 months, to meet with the Planning Department to address the “serious concerns of the Errors and Omissions” contained in the Corporate Report No. R108, dated April 25th, 2005. We gave notification of these very serious concerns to Council and the Planning Department at the same time that R108 was given to Council on May 2nd, 2005.

Our concerns are as they have consistently been over the past 4 years. That has been to very strongly encourage that a Fair and Reasonable ‘Compensation Package’ is reached between the City of Surrey and the owner of the Morgan Creek Golf Course. All funds received from this settlement are to be spent for amenities for the residents of Rosemary Heights and Morgan Creek areas.

We are very apprehensive about the process to date with regard to establishing a fair “Valuation of the Unconstructed Pathway System and other Amenities”. As we reviewed the 2 Corporate Reports (No. R108 and R003) in our meeting as follows:

Corporate Report No. 108, April 25th, 2005

- 1. There were no “Recommendations” regarding a ‘Compensation Package’.
- 2. On page 5 under ‘Discussions’ it states that “Planning has had extensive discussions with the Developer” AND “it has been calculated” that \$329,954 is the ‘cost’ and that it excludes the cost of land .
- 3. At the back of the report in Appendix VII it specifies on one page only titled “Morgan Creek Pathways – Deficiencies and Estimated Costs – February 15th, 2005 totaling \$329,954.
- 4. It says that Legal Services has reviewed this report.

Corporate Report No. R003, dated January 5th, 2006

Recommendations:

- 1. Receive and find attached Corporate Report No. R108, April 25th, 2005.
- 2. Recommend approval of some amenities and recommend that Staff work with the Morgan Creek Homeowners Association.
- 3. It asks councils approval “ to draw up a legal agreement between the City and the owner of the Golf Course.”
- 4. Legal Services has reviewed this report and has no concerns!

Intent:

- 1. Advise Council about “a proposed resolution” in relation to the completion and maintenance of the Morgan Creek Pathway System.
- 2. Ask Council’s authority to proceed with actions toward finalizing and implementing other amenities.
- Reference to R108 including a “Valuation of Unconstructed Pathways and Amenities.”

We had a brief ¼ hour meeting with you on July 21st, 2005 where we presented you with a number of Preliminary Questions that we had regarding the Compensation Package contained in Appendix VII at the back of the Corporate Report R108. We also provided you with Memorandum that we had with the two Senior Parks Co-ordinators that Surrey had suggested were the best people to discuss Unit Costs with for both Construction and Long Term Maintenance. We advised you that our discussions with Surrey Parks would be complete in early August, 2005 when one of the Co-ordinators returned from his vacation. Our discussions with Surrey Parks were complete and confirmed to them in writing by August 10th, 2005.

After six (6) months had passed since our meeting and we had received no response to our letters and many phone calls we asked the Mayor for a meeting on January 26th, 2006. At this meeting we were shocked and very disappointed to learn that the Planning Department had sent a further Corporate Report (No.R003, dated January 5th, 2006) to Council on January 9th, 2006 having totally ignored our many requests for the past 6 months. We didn’t receive any notification or follow up call from the Planning Department. The Mayor requested that the Planning Department meet with us ASAP. As you are aware we met with Mr. Dinwoodie and Mr. Lai on February 2nd, 2006 and they said that they would arrange this meeting with you today.

We were very concerned that these Reports to Council meant that the City was committing itself to the “proposed resolution” that would include the \$ 329,954 in Appendix VII of CR # R108 having not investigated the “Errors and Omissions” in their report that were suggested on May 2nd, 2005 when their Report was put forward to Council.

We provided you with 2 copies of the Report on the Morgan Creek Pathway System dated February 6th, 2006. You will note the enormous gap between the CR # R108 of \$329,954 and the \$7,900,000 in the attached February 6th Report ! This Report is not just an opinion from a group of residents. It is totally based, "Without Prejudice", on information from the Development Permit and information from Senior Surrey Parks Co-ordinators.

We also noted that the calculations were based on the false assumptions that the " In Prepetuity " Maintenance Period is only 20 years long and that no inflation costs will occur. We twice verbally and at least once in writing asked that Legal Services provide a Fair and Reasonable interpretation of this clause as it applies to this contract. We find it very difficult to believe that they Reviewed the Corporate Reports and that they "have no concerns" with these Reports that suggest that a 20 year period with no inflation include is in any way Fair and Reasonable. It is our understanding that Legal Services are responsible to the Residents of Surrey and not just the Planning Department.

When we asked Mr. Dinwoodie and yourself WHY !! the Planning Department has gone out of its way to ignore us by not responding to our letters and telephone calls (about our serious concerns of the Errors and Omissions in their Report) for the past 6 months and then put forward yet another Corporate Report on the Pathway System – WE RECEIVED NO ANSWER !

At our meeting with you and separately with Mr. Dinwoodie we specifically noted that you both agreed that a "Fair and Reasonable" settlement must be looked at again ! Specifically the "Deficiencies and Estimated Costs – Feb 15 / 05" in Corporate Report R108 will be looked at again in light of all of the questions that have been raised.

We strongly believe that it is in the very best interests of the residents of Rosemary Heights, Morgan Creek and the City of Surrey that an Unbiased Independent Third Party be used to determine a Fair and Reasonable settlement. The gap between \$329,954 AND \$7,900,000 cannot be rationalized away.

Yours truly,

A handwritten signature in cursive script that reads "Boak Alexander".

**Boak Alexander
Rosemary Heights Residents Committee**

**cc. Acting Mayor Ms. Judy Villeneuve
Mayor Dianne Watts
Blair Anderson - Rosemary Heights Residents Committee
Andrew Bennett – Past President – Morgan Creek Homeowners Association**

Attachment : Report on the Morgan Creek Pathways dated February 6th, 2006

Letter to Mr. Dinwoodie dated February 2nd, 2006

Rosemary Heights Residents Committee

February 2nd, 2006

City of Surrey
Planning and Development
142 - 56th Avenue
Surrey, B.C.
V3X 3A2

Delivered by hand

Attention : Mr. Murray Dinwoodie, General Manager

Re: Morgan Creek Pathways - File : 6792 – 0106 – 00

Dear Mr. Dinwoodie,

Thank you for meeting with us today and having Mr. Nicholas Lai present. We advised you again of the very serious concerns that were expressed in our notice, of May 2nd, 2005 that was given to the Mayor and Council, the City Manager, and the Planning Department. These concerns stated that there were 'Errors and Omissions' in the Corporate Report No. R108, dated April 25th, 2005 specifically with regard to the 'Deficiencies and Estimated Costs dated February 15th, 2005' in Appendix VII (7) of that Report. We have been very disappointed that we have had no meaningful response from the Planning Department for the past 9 months and have not therefore been given the opportunity to provide specific details of the extremely large differences between the \$329,954 amount recommended in No. R108 and a much more appropriate, fair and reasonable amount. We were especially concerned at our meeting with the Mayor on January 26th, 2006 when she noted that a follow up Corporate Report (No. R003), was sent to Council on January 9th, 2006 while we still had not received a response from your Department!

We provided you with a "Draft Release", dated January 30th, 2006 at our meeting today. This clearly shows the order of magnitude of the discrepancy, in dollar terms, from what we believe to be the Fair and Reasonable compensation for the residents of South Surrey for the Unbuilt Pathways, the Maintenance thereof "in perpetuity" and the Value of the Land that was not provided for this Pathway System. This is the difference between the \$329,954 that was proposed in Appendix VII of the Corporate Report No.R108 and the Millions of Dollars that we believe to be the Fair and Reasonable amount. As we advised you we have been ready to provide all the specific details of our calculations for the past 6 months but so far we have been not allowed to meet with your Department to provide them with this very important information.

Thank you for advising us that you are also interested in establishing a truly Fair and Reasonable Cost Estimate for the residents of Surrey. Thank you also in this regard for instructing Mr. Lai to communicate immediately with Morgan Creek Holdings to advise them that the Planning Department will be reviewing what should be the appropriate amount of compensation used in the No. R108 'Deficiencies and Cost Estimates' Appendix VII with the Rosemary Heights Residents Committee.

You assured us that we should be able to meet with your Department before February 10th, 2006 so that we can present all the research material that is taken directly from the Development Permit and the information we have received from the Parks Department regarding the appropriate compensation values for Construction, Maintenance and Land Values.

We agree it is very important to establish the true 'Fair and Reasonable Compensation Package' that will be put forward to Council for their Specific Consideration and Approval.

Thank you again for meeting with us today.

Yours truly,



**Boak Alexander
Rosemary Heights Residents Committee**

**cc. Mayor Dianne Watts
Blair Anderson - Rosemary Heights Residents Committee
Andrew Bennett – Past President – Morgan Creek Homeowners Association**

Attachment : Draft Release dated January 31st, 2006