

City of Surrey
PLANNING & DEVELOPMENT REPORT

File: 7908-0189-00

Planning Report Date: March 22, 2010

PROPOSAL:

- **Restrictive Covenant** Discharge
- **Development Permit** for Agricultural Buffer

in order to allow subdivision into 20 half-acre gross density type single family lots.

LOCATION:

15955/71/80/89/66 – 39A Avenue and 3833 – 160 Street

OWNER:

Morgan Creek Holdings Inc.

ZONING:

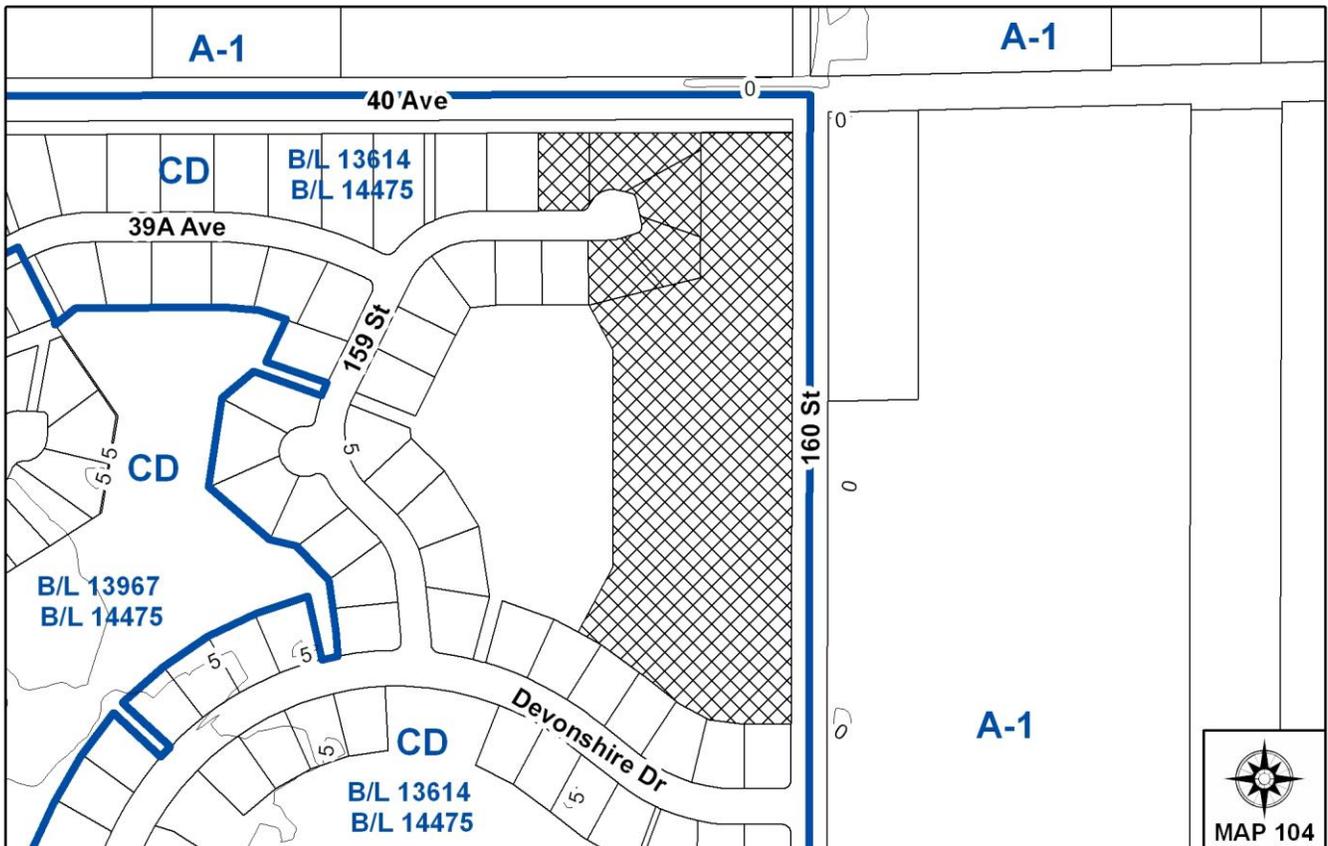
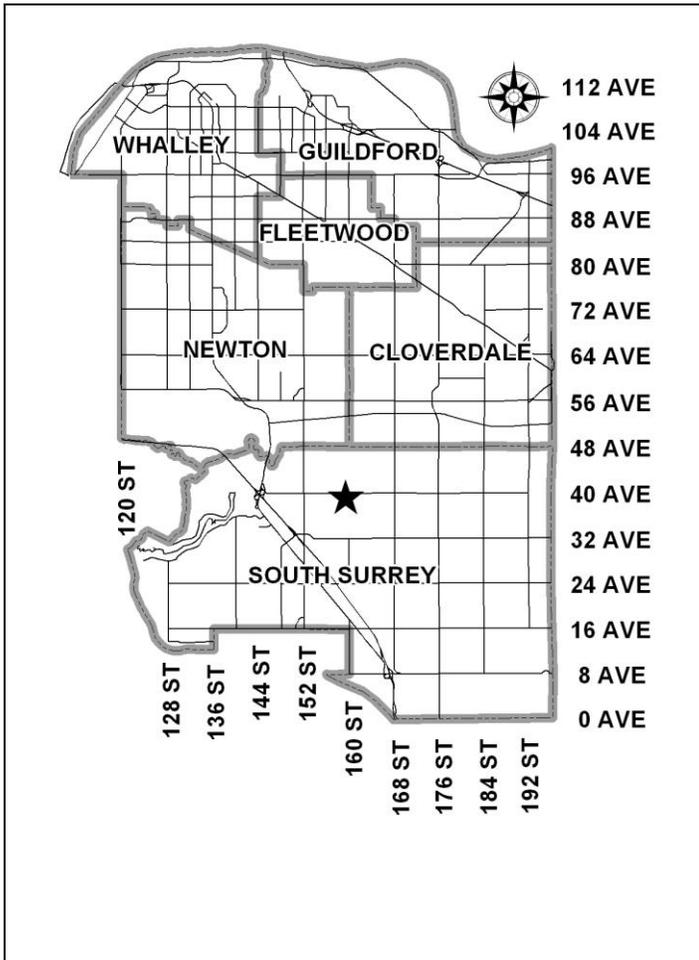
CD (By-law Nos. 13614 and 14475)

OCP DESIGNATION:

Suburban

LAP DESIGNATION:

½ Acre Gross Density



RECOMMENDATION SUMMARY

- Approval of the applicant's request to discharge Restrictive Covenant No. BN164121 to permit subdivision into twenty (20) half-acre gross density type lots.
- Approval to draft Development Permit.

DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- There is currently a restrictive covenant on title of the property at 3833 - 160 Street, limiting the number of new lots that may be created to a maximum of seven. This reflects a layout, showing seven one-acre lots in this location, which was presented to Council at the time the site was rezoned in 1999. The applicant seeks to subdivide a total of twenty (20) half-acre gross density type lots under the current CD Zone, therefore the restrictive covenant must be discharged in order for the proposed subdivision to move forward.

RATIONALE OF RECOMMENDATION

- Complies with OCP Designation.
- Complies with CD By-law (Nos. 13614; 14475)
- Complies with the Rosemary Heights Local Area Plan (LAP).
- The proposed subdivision pattern is consistent with the half-acre, gross density type of subdivision in the surrounding area.
- The application complies with the buffer requirements along the ALR boundary (160 Street).
- The applicant has consulted the surrounding community and has gained general support for the proposal.

RECOMMENDATION

The Planning & Development Department recommends that:

1. Council approve the discharge of Restrictive Covenant No. BN164121 in order to permit subdivision into twenty (20) half-acre gross density type single family lots.
2. Council authorize staff to draft Development Permit No. 7908-0189-00, to establish an Agricultural Buffer, in accordance with the attached drawings (Appendix II).
3. Council instruct staff to resolve the following issues prior to approval:
 - (a) ensure that all engineering requirements and issues including restrictive covenants, and rights-of-way where necessary, are addressed to the satisfaction of the General Manager, Engineering;
 - (b) submission of a subdivision layout to the satisfaction of the Approving Officer;
 - (c) the applicant address the concern that the development will place additional pressure on existing park facilities to the satisfaction of the General Manager, Parks, Recreation and Culture;
 - (d) registration of a Section 219 Restrictive Covenant requiring minimum 10 metre (33 ft.) setbacks for the principal building from the east property line for all lots adjacent to the ALR boundary, and advising future owners of existing agricultural practices in the area; and
 - (e) registration of a Section 219 Restrictive Covenant over the buffer lands to ensure that the landscaping is planted, and is maintained in perpetuity by Morgan Creek Holdings.

REFERRALS

Engineering: The Engineering Department has no objection to the project subject to the completion of Engineering servicing requirements as outlined in Appendix III.

Parks, Recreation & Culture: Parks have some concerns about the pressure that this project will place on existing parks recreation and culture facilities in the neighbourhood.

Parks supports the proposed concept for the buffer area and pathway to be owned and maintained by Morgan Creek Holdings.

Parkland dedication has already been provided and will not be required as part of the subject application.

Department of Fisheries and Oceans (DFO):

DFO has no objection to a proposed minor encroachment to the required 15 metre setback from a Class AO watercourse on the south side of 40 Avenue.

Agricultural Advisory Commission (AAC):

The AAC believes that the lots adjacent to the ALR are too small. They also recommend that windows on all homes facing the ALR should be sound-proofed or triple-glazed, and that the buffer should include taller trees.

SITE CHARACTERISTICS

Existing Land Use: Undeveloped single family residential lots (By-law Nos. 13614 and 14475) and one large vacant parcel that has been used by Morgan Creek Holdings for soil deposition under authorization from the City of Surrey and Department of Fisheries & Oceans (DFO).

Adjacent Area:

Direction	Existing Use	OCP/NCP Designation	Existing Zone
North (Across 40 Avenue and east across 160 Street):	Agricultural	Agricultural	A-1
South and West:	Single family, (half-acre gross density type) residential lots.	Suburban	CD (By-law Nos. 13614 and 14475)

DEVELOPMENT CONSIDERATIONS

Background

- The subject site is located on the southwest corner side of 40th Avenue and 160 Street in the Morgan Creek area. The site is designated "Suburban" in the Official Community Plan (OCP). The site is part of the lands developed by Morgan Creek Holdings, but is not within a Neighbourhood Concept Plan (NCP) area. However, the site is within the Rosemary Heights Local Area Plan (LAP). The LAP was amended in 1999 as part of file #7995-0156-00 to designate this site "Half-Acre Gross Density Residential".
- The subject site is currently zoned "Comprehensive Development Zone" (CD), under By-laws #13614 and 14475. This is the same CD Zone that governs the majority of the Morgan Creek lands. This zone permits generally half-acre gross density type residential lots with a minimum parcel size of 930 m² (10,000 ft²).
- The applicant proposes to subdivide the site as per the existing CD Zone into twenty (20) half-acre gross density type single family lots (see Appendix II for proposed layout).

Restrictive Covenant Discharge

- The site was originally part of a larger parcel created by a subdivision of convenience in 1999. At the time that lot was created, a Section 219 Restrictive Covenant (No. BN16421) was registered on the title of this remnant property that limited the subdivision potential of the large parcel to 68 lots in total (see Appendix VIII). Approximately 60 new single family lots have been created since 1999, leaving the possibility of creating only 8 more lots within the remnant parcel under the restrictions imposed by the covenant.
- This limit is consistent with a layout that was presented to Council at the time of the rezoning of the Morgan Creek lands (file #7994-0303 and 7995-0156), which showed seven (7) large one-acre lots in this location, fronting 160 Street (see Appendix VII).
- The large seven one-acre lot concept was proposed by the applicant at the time of the original rezoning and a review of the public record does not show that this was a mandated City requirement. The applicant now proposes to subdivide under the existing zoning, which would be consistent with the surrounding half-acre gross density type single family lots. Proposed lot sizes range from 930 m² (10,000 ft²) to 2,020 m² (21,740 ft²).
- Staff have determined that the proposed subdivision concept meets the OCP and LAP Designations, as well as the City's policy on Residential Buffering Adjacent to the ALR/Agricultural Boundary (Policy #O-23). For this reason, the Restrictive Covenant discharge can be considered, subject to consultation with the surrounding community, as noted below.

Development Permit/Agricultural Buffer

- The applicant requires a Development Permit to install a landscaping buffer along the interface between the residential lots and neighbouring Agricultural Land Reserve (ALR) lands.
- The applicant's proposal complies with the City's policy on Residential Buffering Adjacent to the ALR/Agricultural Boundary:
 - The unit density calculated on the basis of the subject site only is slightly higher than the 2 units per acre (upa) requirement adjacent to the ALR, at 2.3 upa / 5.7 units per hectare (uph). However, at the time the lands were zoned, density was calculated based on all of the lands in the Morgan Creek development. From this perspective, the unit density is well under the 2 upa limit, at only 1.5 upa, even with the additional lots that the applicant proposes.
 - The new lots will be separated from the ALR lands by 160 Street and 40 Avenue. The largest lots (approximately ½ acre) will be located adjacent to 160 Street. This will allow the required 37.5m (125 ft) setback to any homes, measured from the edge of the ALR boundary.
 - The applicant proposes a 7.5m (25 ft) wide landscaped buffer adjacent to 160 Street. The buffer will comprise a separate lot, which will belong to and be maintained by the Morgan Creek golf course. This does not meet the full 15m outlined in the City's policy, but buffering will be greater than on existing lots to the south, and consistent with the treatment that has been established along the south side of 40 Avenue.

- The subject site also interfaces with ALR lands to the north, across 40 Avenue. On this portion of the site, the applicant proposes a slight reconfiguration of single family lots that have already been created. Lot sizes will remain consistent with the existing lots, and the buffer treatment has already been established as part of an earlier subdivision. The applicant does not currently propose any change to the buffer area on 40 Avenue.
- A Section 219 Restrictive Covenant will be required to be registered over all lots adjacent to the ALR boundary to advise of existing agricultural practices, and to require that a minimum 10m (33 ft) setback be maintained from the property line adjacent to the buffer on 160 Street. A 10m setback will ensure that no homes can be constructed within 37.5m (125 ft) of the ALR boundary.
- A restrictive covenant will also be required over the landscaping buffer area to ensure that the planting is installed and maintained in perpetuity by the Morgan Creek golf course.

Agricultural Advisory Committee Review

- The proposal was considered by Surrey's Agricultural Advisory Committee (AAC) on February 4, 2010. See minutes in Appendix IV.
- The AAC felt that although proposed lot are consistent with the zoning and with the established development pattern, the lot sizes are too small adjacent to the boundary with the Agricultural Land Reserve (ALR).
- The AAC is concerned with protecting farming in the area, and as such they recommended that all windows facing the ALR be either sound-proofed or fitted with triple-glazing in order to reduce any potential noise impact of the adjacent farmland on the new residents.
- Planting as shown in the cross section drawing of the ALR buffer was not considered to be tall enough. The AAC recommended that tall trees be included where possible within the buffer area. The applicant has agreed to include tall trees in the planting plan where possible, which will be established as part of the Development Permit.

Subdivision Layout

- The subject site consists of five existing vacant single family lots at the end of the 39A Avenue cul-de-sac, and one large undeveloped parcel.
- The applicant is proposing to reconfigure the existing cul-de-sac into a through road, and to create approximately 20 new residential lots (see Appendix II).
- All twenty (20) lots proposed conform to the minimum requirements of the existing CD Zone in terms of lot area, width and depth.
- Staff support the revised 20-lot layout on the basis that the lot sizes are consistent with the surrounding neighbourhood, and the servicing concept is more appropriate for lands located adjacent to the ALR. The previous seven-lot concept would require servicing to be installed along 160 Street in order to service the new lots, which could trigger development pressure on the ALR lands by making the agricultural lands much easier to service.
- The proposed subdivision concept could be serviced via the new internal road, thus potentially eliminating the need for servicing directly on 160 Street.

Watercourses

- City maps identify a Class AO watercourse in a ditch on the south side of 40 Avenue, and a Class C watercourse on the west side of 160 Street. The applicant hired ECL Envirowest Consultants to prepare a report, which was presented to the City's Environmental Review Committee (ERC) on February 17, 2010.
- The proposed layout requires a small encroachment into the 15m (50 ft) setback from top-of-bank of the Class A watercourse, for lots adjacent to 40 Avenue. The Department of Fisheries and Oceans has approved the proposal.

Design Guidelines

- House design on the new lots will be consistent with the design of existing homes in the Morgan Creek area. The building scheme will reflect this requirement.
- The homes are proposed to have in-ground basements, and grades on the subject site will match the grades of existing single family lots at the interface with these lots.
- Basement-entry homes and secondary suites will not be permitted.

Tree Planting

- A tree cutting permit was issued for the subject site in 2001 as part of a previous subdivision application. The large parcel at 3833 – 160 Street has been used for soil deposition for a number of years in order to prepare the land for development. Consequently, there are no trees on the property.
- The applicant will be required to prepare a tree planting plan as part of the subdivision process. Trees should be planted at a ratio of 5/half-acre lot and 3/lot for smaller lots.

PRE-NOTIFICATION

Pre-notification letters were sent on December 18, 2009 and a Public Information Meeting was held by the applicant on March 3, 2010 in order to advise neighbours of the proposed development and solicit comments. Residents of 15 households registered on the sign-in sheet at the public meeting, and 5 filled out comment sheets in writing. 6 residents contacted Planning staff with comments. Some individuals who contacted staff were among those who attended the meeting.

The following comments were received:

- All respondents support the number and size of lots proposed as part of the subdivision, indicating that the development will be compatible with the neighbourhood and preferable to the vacant lot that exists now. Some expressed opinions that the 7-lot concept would create lots that are too large and out of place in the neighbourhood context.
- Some residents are not supportive of the extension of the 39A Avenue cul-de-sac into a through road, although some believe it is a good idea.

(Those who were opposed to the road connection suggested a concern for increased traffic in their neighbourhood. Those who supported it preferred to see an access point to the neighbourhood in that location, rather than encouraging all residents to drive through the existing streets. They saw the new access as a way for residents of the new lots, as well as construction vehicles, to enter and exit the neighbourhood. The City in general supports this connection to 160 Street to provide better connectivity to the area)

- Many respondents stated that they would like for the new homes to comply with the same high design standards that apply elsewhere in Morgan Creek.

(The applicant will be required to register a building scheme that maintains the Morgan Creek design standards on the new lots.)

- Some residents in attendance at the meeting expressed concern that the development would encourage large trucks and other construction vehicles to drive through their neighbourhood and/or park in front of their homes. They would like to see construction impacts minimized as much as possible.

(By providing a direct connection from the new lots to 160 Street, the applicant has minimized the potential impact of construction traffic on the existing residents. The applicant is sensitive to this issue and has indicated a willingness to direct construction traffic away from existing residents. The City's Engineering Department has also been advised of the neighbours' concerns and a pre-construction management plan will be brought forward at the servicing stage to address construction impacts.)

- One resident suggested that the new landscape buffer area should be maintained to a high standard. There is concern that the buffer strip could become overgrown with undesirable varieties of plants such as blackberries.

(The applicant will be required to register a restrictive covenant over the buffer area to ensure that maintenance is undertaken regularly by the Morgan Creek golf course.)

Consultation with Community Groups

- The Rosemary Heights Neighbourhood Committee and the Morgan Creek Homeowners' Association were both contacted by the City and the applicant to inform them of the details of the proposed development
- Both organizations were sent an information package by the applicant's consultant in November, 2009 outlining the proposal and including a plan showing the proposed layout.
- The groups were also sent the City's pre-notification letter on December 18, 2009, and were informed by the applicant of the Public Information Meeting held on March 3, 2010.
- City staff received no comments from either community group.

INFORMATION ATTACHED TO THIS REPORT

The following information is attached to this Report:

Appendix I.	Lot Owners, Action Summary and Project Data Sheets and Survey Plan
Appendix II.	Proposed Subdivision Layout and Landscape Plans
Appendix III.	Engineering Summary
Appendix IV.	Agricultural Advisory Committee Minutes
Appendix V.	Public Information Meeting Map of Responses
Appendix VI.	Policy: Residential Buffering Adjacent to the ALR/Agricultural Boundary (Policy No. O-23)
Appendix VII.	Previous Subdivision Concept
Appendix VIII.	Map Showing Boundary of Original Large Lot with Existing Subdivision Pattern

INFORMATION AVAILABLE ON FILE

- Environmental Report prepared by ECL Envirowest dated February 3, 2010.

Jean Lamontagne
General Manager
Planning and Development

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SUBDIVISION DATA SHEET

Existing Zoning: CD (By-law No. 13614 and 14475)

Requires Project Data	Proposed
GROSS SITE AREA	
Acres	8.57 ac
Hectares	3.47 ha
NUMBER OF LOTS	
Existing	6
Proposed	20
SIZE OF LOTS	
Range of lot widths (metres)	26.0 – 53.5 m
Range of lot areas (square metres)	930 – 2,020 m ²
DENSITY	
Lots/Hectare & Lots/Acre (Gross)	5.7 uph/2.3 upa
Lots/Hectare & Lots/Acre (Net)	
SITE COVERAGE (in % of gross site area)	
Maximum Coverage of Principal & Accessory Building	
Estimated Road, Lane & Driveway Coverage	
Total Site Coverage	36 – 40%
PARKLAND	
Area (square metres)	
% of Gross Site	
	Required
PARKLAND	
5% money in lieu	NO
TREE SURVEY/ASSESSMENT	NO
MODEL BUILDING SCHEME	YES
HERITAGE SITE Retention	NO
BOUNDARY HEALTH Approval	NO
DEV. VARIANCE PERMIT required	
Road Length/Standards	NO
Works and Services	NO
Building Retention	NO
Others	NO