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**STAFF REPORT: Planning & Building Services Department**



**REPORT TO:** Committee of the Whole  
**MEETING DATE:** March 17, 2014  
**REPORT NO.:** PL.14.34  
**SUBJECT:** Application for Consent B04-2013  
 Tynwald Investments Inc.  
 Town Plot Park Lot 17 Alice W/S  
 Town of The Blue Mountains

**PREPARED BY:** Shawn Postma, Planner II

**A. Recommendations**

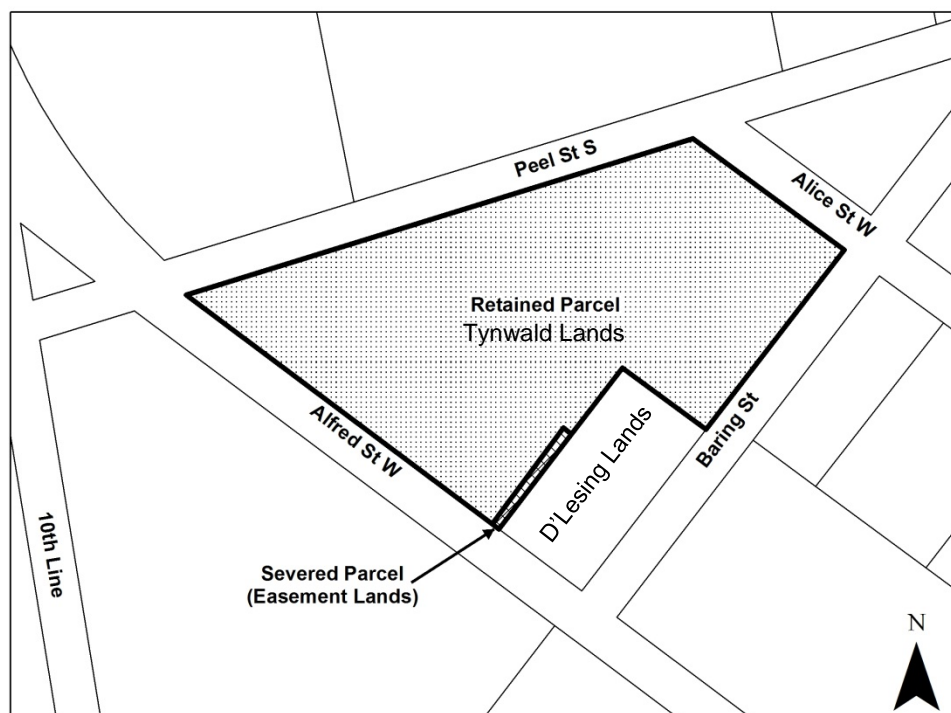
THAT Council receive Staff Report PL.14.34 “Application for Consent B04-2013, Tynwald Investments Inc., Town Plot Park Lot 17 Alice W/S, Town of The Blue Mountains”; and,

THAT Council refuse Application for Consent B04-2013.

**B. Background**

Planning Services received an application for Consent from Peter Lush and Rene D’Lesing on behalf of Tynwald Investments Inc. The application proposes to create a new 251 square metre permanent easement for driveway access purposes. The easement would be in favour of the adjacent residential property to the south-east owned by Mr. D’Lesing in order to provide access to an existing detached accessory building. The proposed easement includes an existing driveway entrance and laneway that has been used to access the accessory building for a number of years.

**LOCATION**



The Subject Lands are legally described as Town Plot Park Lot 17 Alice W/S, and has a lot area of 2.79 hectares. The lands are currently being used for agricultural purposes (field crops) and include a small storage shed. The lands are generally flat and cleared of vegetation, except around the proposed easement lands which include a small number of older apple trees. The lands have access and frontage to Peel Street, Alice Street, Baring Street and Alfred Street. The lands to receive the proposed easement include an existing dwelling and accessory building with frontage on to Baring Street and Alfred Street. Water and Sewer services are provided by a private on-site well and private on-site septic system.

### **Provincial Policy Statement**

The Provincial Policy Statement 2005 (PPS) provides direction on appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. Land use patterns within settlement areas shall be based on densities and a mix of land uses which efficiently use land and resources. The proposed easement does not appear to impact Provincial interest and Planning Services is of the opinion that the proposal is consistent with the 2005 PPS.

### **County of Grey Official Plan**

The Subject Lands are designated 'Primary Settlement Area' within the County of Grey Official Plan. The Primary Settlement Area designation recognizes existing major urban settlement areas, and that these areas shall be the focus of a majority of the growth within the County. Land use policies and development standards shall be in accordance with the local Official Plan. Comments regarding the policies and development standards within the local Official Plan are contained in the next section of this report. Based on the direction provided in the local Official Plan, it would appear that the proposed consent could compromise the future development potential of the larger retained parcel and cannot be supported. Planning Services is of the opinion that the proposed easement is not consistent with the County of Grey Official Plan. Comments from the County of Grey are provided later in this report.

### **The Blue Mountains Official Plan**

The subject lands are designated Deferred Development 'DD' and Hazard 'H' within the Town of The Blue Mountains Official Plan. The purpose of the Deferred Development designation is to identify lands intended to be developed in the future when additional lands are required for development. Permitted uses are strictly limited to a single detached dwelling, minor / low-intensity commercial uses and agricultural uses. It is intended that lands designated Deferred Development are kept in a state that will not adversely impact the long term development of the property. Lands are to retain their ultimate development potential and individual consents to divide the lands shall not be permitted except in cases where it can be proven that an individual consent does not adversely impact the future development potential of the land. The re-designation of Deferred Development lands shall only occur on a comprehensive basis such as through an Official Plan 5-year review and when it has been deemed appropriate to add additional development land to the Town inventory and when growth criteria policies under the plan can be addressed. Policies for re-designation include a review of public

interest, other designated properties being developed, and sufficiency of available municipal services. Site specific amendments are discouraged.

The Hazard 'H' designation recognizes an existing watercourse that flows through the southern corner of the subject lands. Lands within the Hazard 'H' designation are not suitable for development purposes due to the environmental hazards associated with the watercourse.

Consent policies under Section 9 to the Plan permit consents for easement and states that each application must be evaluated on their own merit. The proposed size and shape of an easement, potential adverse impacts, or other development constraints must all be considered.

Planning Staff has reviewed the above policies and are not satisfied that the proposed easement can meet the requirements under the Official Plan. Planning Staff note that the proposed easement shape and size is being kept to a minimum by including only the existing entrance and laneway, however as small as the easement is, it does create a potential long term impact on the future development possibilities for the larger retained parcel. At this time, it is unknown what will be developed on the retained parcel, and what impact an easement might have on future development plans. Current direction under the Official Plan is to ensure the maximum amount of flexibility for future development is maintained.

It would appear that driveway access to the accessory building can be obtained over the existing driveway of the residential parcel. Planning Staff note that there are some grade issues and a retaining wall that would need to be modified in order to provide access, but that these works could be accommodated on the lot. Alternatively, and subject to the approval of an Entrance Permit from the Engineering and Public Works Department, a new entrance could possibly be constructed off of Alfred Street, immediately south of the proposed easement. This new driveway could also provide access to the accessory building from Alfred Street. The applicant has noted that this option is not preferred due to the number of existing mature trees located in this area.

Planning Services is therefore of the opinion that alternative options exist to provide access to the accessory building without the need to create a permanent easement.

Planning Services is of the opinion that the proposed easement is not consistent with the Town of The Blue Mountains Official Plan.

### **Town of Thornbury Zoning By-law 10-77**

The subject lands are zoned Development 'D' within the Town of Thornbury Zoning By-law 10-77. The Development 'D' zone permits one single detached dwelling on a lot existing at the date of passing of the Zoning By-law. The proposed easement is for the continued use of the existing entrance and laneway only. No new buildings or structures are proposed. A Zoning By-law Amendment is not required in order to permit the proposed consent for easement.

Planning Services is of the opinion that the proposed easement will meet the

requirements of the Town of Thornbury Zoning By-law 10-77.

### **Public Meeting**

A Public Meeting as required under the Planning Act was held on February 24, 2014. Comments were received from the County of Grey Planning and Development Department, Hydro One and the property owner.

The County of Grey Planning Department and the Grey County Transportation Department has reviewed the proposed consent and have no objections.

Hydro One has no objections.

Peter Lush on behalf of Tynwald Investments Inc. spoke at the meeting providing additional information and history on the proposed easement. Mr. Lush indicated that the original residential lot was purchased by Mr. D'Lesing in 1986 and at that time it was understood that the existing driveway and entrance to the accessory building was included with the property. The entrance and driveway has been used by Mr. D'Lesing continually since 1986. A recent survey has since confirmed that the laneway and entrance were not part of the residential property. Mr. Lush and Tynwald Investments Inc. has no objections to establishing a new easement on their lands in favour of Mr. D'Lesing and the adjacent residential property. Mr. Lush offered that the only viable access to the accessory building is through the existing entrance and laneway on the Tynwald lands, and that in his opinion, the easement will not impact the future development potential of the Tynwald lands.

No other comments have been received.

Based on the foregoing, it is the opinion of Planning Staff that the proposed easement is not consistent with the intent and direction of the County of Grey Official Plan and the Town of The Blue Mountains Official Plan. Planning Staff therefore recommend refusal of Consent Application B04-2013.

Should Council authorize the creation of the proposed easement, Planning Staff recommend the following be implemented through provisional consent:

THAT Council grant Application for Consent B04-2013 subject to the following conditions:

1. That the Applicant meet all the requirements, financial, and otherwise of the Town for the Certificate of Consent to be issued.
2. That the Applicant provide a description of the easement lands which can be registered in the Land Registry Office.
3. That all conditions noted above shall be fulfilled within one year of the decision so that the Town's Clerk is authorized to issue the Certificate of Consent pursuant to Section 53(42) of the Planning Act.

The recommendation in this Planning Staff Report is consistent and supports the following Strategic Plans Goals: *"1. Managing growth to ensure the ongoing health and prosperity of the community"*.

**D. Environmental Impacts**

Nil

**E. Financial Impact**

Nil

**F. In Consultation With**

Public Meeting – February 24, 2014

**G. Attached**

Nil

Respectfully submitted,

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Shawn Postma, Planner II

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David Finbow, Director of Planning and Building Services

**For more information, please contact:**

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