

STAFF REPORT: Planning & Building Services Department



REPORT TO: Council
MEETING DATE: October 28, 2013
REPORT NO.: PL.13.114
SUBJECT: Site Plan Agreement Security
PREPARED BY: D. Finbow, Director, Planning & Building Services

A. Recommendations

THAT Council receive Staff Report PL.13.114 respecting "Site Plan Agreement Security" and that Council affirm the provision of security, and the security amounts, as outlined in Staff Report PL.13.114.

B. Background

Section 41 of the *Planning Act* indicates that no person shall undertake development within an area of site plan control without the approval of plans and drawings by Council.

Council by way of By-law No. 2010-57, as amended, designated all of the lands within the municipality as being an area of site plan control. It is noted that the By-law does exempt, subject to certain conditions, certain classes of development from site plan control including, single detached residential dwellings, duplex dwellings, semi-detached dwellings, converted dwelling houses and buildings/structures for agricultural uses including temporary farm help accommodation.

Council by way of By-law No. 2012-76 delegated its powers to approve plans and drawings to the Director, Planning & Building Services (Director).

As a condition of Site Plan Approval, Section 41 of the *Planning Act* permits a municipality to require that the proponent enter into one or more agreements so as to provide to the satisfaction of the municipality certain works, matters and/or facilities. These are:

1. Subject to the provisions of subsections (8) and (9), widenings of highways that abut on the land.
2. Subject to the *Public Transportation and Highway Improvement Act*, facilities to provide access to and from the land such as access ramps and curbing and traffic direction signs.
3. Off-street vehicular loading and parking facilities, either covered or uncovered, access driveways, including driveways for emergency vehicles, and the surfacing of such areas and driveways.
4. Walkways and walkway ramps, including the surfacing thereof, and all other means of pedestrian access.
5. Facilities designed to have regard for accessibility for persons with disabilities.
6. Facilities for the lighting, including floodlighting, of the land or of any buildings or structures thereon.

7. Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the landscaping of the lands or the protection of adjoining lands.
8. Vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material.
9. Easements conveyed to the municipality for the construction, maintenance or improvement of watercourses, ditches, land drainage works, sanitary sewage facilities and other public utilities of the municipality or local board thereof on the land.
10. Grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon.

The Director, save and except for minor approvals, requires as a condition of approval that the proponent enter into a Site Plan Agreement with the Town.

The Town's form of Site Plan Agreement is standard however certain Schedules within the Agreement, such as the Description of the Lands; Description of the Approved Plans and Drawings; Special Provisions; List of Financial Obligations of the Owner; and, the Cost of the Works and Security, are populated to address the specific approval.

All of the above Schedules save and except for the Cost of the Works and Security, are straight forward and easily/readily populated.

The Cost of the Works is prepared by the proponent and reviewed by the Town's Engineering & Public Works Department and forms the basis for the calculation of the Town's Engineering Works Fee.

Also, the Cost of the Works is utilized to determine the security to be provided. With respect to Security, the Town has utilized different methodologies over the years in terms of what should be secured, what should not be secured and the amount of security required (typically expressed as a percentage of the Cost of the Works).

The current methodology used by the Town to determine the amount of security is:

100% of the on-site works + 100% of the off-site works that are within road allowances/lands owned/controlled by the Town of The Blue Mountains with it being noted that minor on-site works that are not relevant to the general public's interest/concerns and not potentially detrimental to the Town's infrastructure is excluded from the amount of security required.

The on-site works typically secured by the Town include:

1. Off-street parking and loading areas, including the surfacing of such areas and driveways.
2. Walkways and trails, including the surfacing, and related amenities such as benches, street lights, etc. where they are, may be seen to be, or potentially utilized as, a public amenity.

3. Facilities for the lighting, including floodlighting, of the land or of any buildings or structures thereon.
4. Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the landscaping of the lands that are visible from the public realm or visible by way of public entry onto the lands (e.g. landscaping internal to a site that has parking spaces for the public).
5. Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the protection of adjoining lands.
6. Vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material.
7. Grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon. This would include stormwater works, stormwater ponds, etc.

With respect to off-site works that are within road allowances/lands owned by the Town and include driveways, curbs, sewer and water connections/laterals, drainage features such as swales, ditches, storm sewers, sod/grass, plantings, lights, sidewalks, paths, etc.

As to off-site works that are not within road allowances/lands owned or controlled by the Town, these require approvals from the authorities having jurisdiction and through this process any concerns related to securing works is addressed by the authority having jurisdiction. Town staff ensures that an approval or acceptance is in place for these works prior to finalizing the Site Plan Agreement.

An informal inquiry of neighbouring municipalities determined that the Town's practices related to what is secured, and to what extent, is not that different from other jurisdictions. However, many municipalities are currently reviewing their practices and Town staff will continue to monitor best practices and report back if warranted.

With respect to the maintenance period of the secured works, given the nuances or variety of what may or may not be secured, it is recommended that the maintenance period be up to two years depending upon the potential impact on the Town's infrastructure, the public realm and/or other privately owned property. This determination will be made by the Director in consultation with other Town work groups.

Given the forgoing, it is recommended that the Town's current practices be affirmed by Council. Specifically:

What is to be secured:

1. Off-street parking and loading areas, including the surfacing of such areas and driveways.

2. Walkways and trails, including the surfacing, and related amenities such as benches, street lights, etc. where they are, may be seen to be, or potentially utilized as, a public amenity.
3. Facilities for the lighting, including floodlighting, of the land or of any buildings or structures thereon.
4. Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the landscaping of the lands that are visible from the public realm or visible by way of public entry onto the lands (e.g. landscaping internal to a site that has parking spaces for the public).
5. Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the protection of adjoining lands.
6. Vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material.
7. Grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon. This would include stormwater works, stormwater ponds, etc.
8. All off-site works located with the Town of The Blue Mountains right-of-ways(s).

To what extent is security required:

100% of the on-site works + 100% of the off-site works that are within road allowances/lands owned/controlled by the Town of The Blue Mountains with it being noted that minor on-site works that are not relevant to the general public's interest/concerns and not potentially detrimental to the Town's infrastructure may be excluded from the amount of security required.

With it being noted that the Director, Planning & Building Services, being the delegated authority, in consultation with other work groups must be satisfied that the matters secured, and the security provided, is adequate to address those matters of concern/interest to the Town and the public.

C. The Blue Mountains' Strategic Plan

"Managing growth to ensure the ongoing health and prosperity of the community."

D. Environmental Impacts

N/A

E. Financial Impact

N/A

F. In Consultation With

Senior Management Team
J. Metras, Q.C.

G. Attached

Site Plan Agreement Security Policy

Respectfully submitted,

D. Finbow
Director, Planning & Building Services

TOWN OF THE BLUE MOUNTAINS

POLICY & PROCEDURES

Subject Title: Town of The Blue Mountains Site Plan Agreement Security Policy

Corporate Policy (Approved by Council)	<input checked="" type="checkbox"/>	Policy Ref. No.:	POL.P.13.02
Administrative Policy (Approved by CAO)	<input type="checkbox"/>	By-law No.:	
Department Policy: (Approved by Mgr.)	<input type="checkbox"/>	Name of Dept.:	Planning & Building Services
Date Approved: October 28, 2013		Staff Report:	PL.13.114

Policy Statement

Security required to be provided in support of a Site Plan Approval/Agreement in accordance with Section 41 of the *Planning Act* shall be provided in accordance with this Policy.

Purpose

Section 41 of the *Planning Act* indicates that no person shall undertake development within an area of site plan control without the approval of plans and drawings by Council.

Council by way of By-law No. 2010-57, as amended, designated all of the lands within the municipality as being an area of site plan control. It is noted that the By-law does exempt, subject to certain conditions, certain classes of development from site plan control including, single detached residential dwellings, duplex dwellings, semi-detached dwellings, converted dwelling houses and buildings/structures for agricultural uses including temporary farm help accommodation.

Council by way of By-law No. 2012-76 delegated its powers to approve plans and drawings to the Director, Planning & Building Services (Director).

As a condition of Site Plan Approval, Section 41 of the *Planning Act* permits a municipality to require that the proponent enter into one or more agreements so as to provide to the satisfaction of the municipality certain works, matters and/or facilities. Further, as a condition, the municipality may require the provision of security so as to ensure the provision and/or completion of these works, matters and/or facilities.

Application

This Policy applies to all Site Plan Approvals wherein an Agreement is required to be entered into or an Undertaking is provided.

Definitions

Nil

Procedures

The following matters shall be secured to their full extent (100% of the Estimated Cost of the Works):

1. Off-street parking and loading areas, including the surfacing of such areas and driveways.
2. Walkways and trails, including the surfacing, and related amenities such as benches, street lights, etc. where they are, may be seen to be, or potentially utilized as, a public amenity.
3. Facilities for the lighting, including floodlighting, of the land or of any buildings or structures thereon.
4. Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the landscaping of the lands that are visible from the public realm or visible by way of public entry onto the lands (e.g. landscaping internal to a site that has parking spaces for the public).
5. Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the protection of adjoining lands.
6. Vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material.
7. Grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon. This would include stormwater works, stormwater ponds, etc.
8. All off-site works located with the Town of The Blue Mountains right-of-ways(s).

Minor on-site works that are not relevant to the general public's interest/concerns and not potentially detrimental to the Town's infrastructure may be excluded from the amount of security required by the Director, Planning & Building Services.

The Director, Planning & Building Services, being the delegated authority, in consultation with other work groups must be satisfied that the matters secured, and the security provided, is adequate to address those matters of concern/interest to the Town's infrastructure and the broader public.

The maintenance period of the secured works shall be up to two years with such determination having regard to the potential impact on the Town's infrastructure, the public realm and/or other privately owned property. The determination of the maintenance period shall be made by the Director in consultation with other Town work groups.

Exclusions

Nil

References and Related Policies

Section 41, *Planning Act*

Consequences of Non-Compliance

Nil

Review Cycle

This policy will be reviewed during the term of every Council.