

**STAFF REPORT:**

REPORT TO: Council

MEETING DATE: June 27, 2011

REPORT NO.: PL.11.59

SUBJECT: Far Hills (Siljon Investments Inc.) – Amending Site Plan Agreement

PREPARED BY: John G. Metras Q.C. – Town Solicitor

A. Recommendations

THAT the Council receive Report PL.11.59. and authorize the Mayor and Clerk to execute an Amending Site Plan Agreement between BDO Canada Limited and the Town in a form approved by the Director of Planning and Building Services and the Town Solicitor and further that upon the execution of this agreement by the Town, the Director of Planning and Building Services is authorized to provide a clearance for the registration and creation of the second phases of Grey Standard Corporation No. 82 and Grey Standard Corporation No. 83.

B. Background

Siljon Investments Inc, (“Siljon”) and the Town executed a Site Plan Agreement dated October 6th, 2005 as amended by an Amending Agreement dated December 23rd, 2008 (the “Site Plan Agreement”) which provided for the development of two phased condominium projects. Siljon registered declarations and descriptions to create the first phases Grey Standard Corporation No. 82 and Grey Standard Corporation No. 83 (the “Corporations”) as freehold standard condominium corporations that are phased condominiums;

The Honorable Mr. Justice Morawetz of the Ontario Superior Court of Justice, by an order dated November 30, 2010 appointed BDO Canada Limited (the “Receiver”) as receiver of all of the assets, undertakings and properties of Siljon, which included the Corporations.

The Receiver now wishes to create the second phases of the Corporations by amending the declarations and descriptions of the Corporations to create additional units and common elements.

The Site Plan Agreement provides that all of the tax arrears on the lands, which amount to approximately \$168,500., must be paid prior to the Town providing a clearance for the registration and creation of the second phases of the Corporations.

In addition, the Site Plan Agreement requires that the developer not be in default of provisions in the Site Plan Agreement prior to clearance being given. Currently, in addition to the tax arrears the developer is in default as it relates to water and sewer accounts and the developer security account. We are advised that all of the outstanding financial obligations of the developer to the Town, except tax arrears will be satisfied prior to the Town giving clearance.

The Receiver has advised the Town that it does not have the funds available to pay the tax arrears before registration of the second phases of the Corporations and has requested the Town to amend the Site Plan Agreement to provide for the payment of the tax arrears from the proceeds of the sale of condominium units as they occur after registration.

Staff have reviewed the Receiver's request and are recommending that the Site Plan Agreement be amended by adding the following paragraph to it. The Town's interests are also protected by the priority lien status of tax arrears in the Municipal Act.

"Despite section 54(f)(v), the Town agrees to provide a clearance for the registration of amendments to the declarations and descriptions Grey Standard Corporation No. 82 and Grey Standard Corporation No. 83 to create additional units and common elements on the condition that that before providing such clearance the Town receives an irrevocable direction from BDO Canada Limited, the receiver of all of the assets, undertakings and properties of Siljon Investments Inc. which includes its interest in units in Grey Standard Corporation No. 82 and Grey Standard Corporation No. 83 (the "Siljon Units"), to its solicitors, in a form satisfactory to the Town Treasurer and the Town Solicitor, to pay to the Town the net proceeds (sale proceeds less commissions and sale costs) from the sale of the Siljon Units which the Town will apply to pay the outstanding tax arrears, including interest and penalties, until such time as these outstanding tax arrears are paid in full."

C. The Blue Mountains' Strategic Plan

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

D. Budget Impact

Nil

Respectfully submitted,

John G. Metras Q.C. – Town Solicitor

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