

STAFF REPORT:

Planning & Building Services Department



REPORT TO: Council

DATE: August 9, 2010

REPORT NO.: PL.10.74

SUBJECT: Site Plan Control Area By-law –
Section 41 of the *Planning Act*

PREPARED BY: David Finbow, Director, Planning &
Building Services

A. Recommendations

That Council receive Staff Report PL.10.74 respecting "Site Plan Control Area By-law – Section 41 of the *Planning Act*" and enact a by-law to establish a Site Plan Control Area and to repeal previous Site Plan Control Area By-laws.

B. Background

1. The Town currently has the following by-laws related to the establishment of Site Plan Control Areas:
 - i) Former Township of Collingwood By-law No. 80-10, being a By-law designating the area within the limits of the Township of Collingwood as a Site Plan Control Area.
 - ii) Former Township of Collingwood By-law No. 92-22, being a By-law designating an area within the limits of the Township of Collingwood as a Site Plan Control Area.
 - iii) Former Town of Thornbury By-law No. 16-1988, being a Site Plan Control By-law.
2. With the adoption of the Town's Official Plan, it was anticipated that a new Site Plan Control Area By-law would be enacted to address the entire municipality.
3. The Draft Site Plan Control Area By-law:
 - a. applies to the entire municipality;
 - b. provides for exemptions related to certain house form and agricultural buildings provided that they are not located within specific areas identified in the Official Plan (Hazard, Escarpment, Natural Heritage, ANSI's);
 - c. provides for exemptions for works or undertakings by the Town or a local board thereof;
 - d. provides for exemptions for development approved under a Plan of Condominium; and,
 - e. provides for exemptions for development within the NEC Development Control Area.
4. For clarity, it should be noted that the Draft Site Plan Control Area By-law requires Site Plan Approval for Bed & Breakfast Establishments and Short Term Accommodation uses.

5. The Draft Site Plan Area Control By-law spells out submission requirements with it being noted that the Town's Fees By-law addresses the related application fees.
6. The Draft Site Plan Control Area By-law references the Town's Delegation by Council of Powers and Duties Policy.
7. The Draft Site Plan Control Area By-law allows for the Town to complete works anticipated by a Site Plan Agreement should they not be completed by the proponent
8. It is anticipated that the Site Plan Control Area By-law, if enacted, will be amended at some point in the future upon the completion of the Towns development of Site Plan Control and/or Exterior Design and./or Sustainable Design Guidelines.
9. The Draft Site Plan Control Area By-law has been reviewed by Aird & Berlis LLP.

C. The Blue Mountains' Strategic Plan

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. Budget Impact

N/A

E. Attached

1. Draft Site Plan Control Area By-law.

Respectfully submitted,

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THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

BY-LAW NO. 2010 -

Being a By-law to establish a Site Plan Control Area
and to repeal previous Site Plan Control Area By-laws

WHEREAS Subsection 41(2) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, provides that where an Official Plan is in effect in a municipality, the Council of the municipality may by by-law designate the whole or any part of the area covered by the Official Plan as a site plan control area;

AND WHEREAS there is an Official Plan in effect in the Town of The Blue Mountains that pertains to certain lands within its municipal boundaries;

AND WHEREAS Section 11.9.1(1) of the Town of The Blue Mountains Official Plan indicates that all lands in the Town of The Blue Mountains shall be considered for inclusion in the Site Plan Control Area; and,

AND WHEREAS Council of the Corporation of the Town of The Blue Mountains has determined that all lands in the Town shall be in the Site Plan Control Area.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS ENACTS AS FOLLOWS:

1. Definitions

- (i) The following words or phrases in this by-law shall have the following meanings:
 - (a) "Act" means the *Planning Act*, R.S.O. 1990, c. P.13, as amended;
 - (b) "Converted Dwelling House" means a single detached residential dwelling or a semi-detached dwelling unit that has been converted so as to provide for a second dwelling unit;
 - (c) "Corporation" means the Corporation of the Town of The Blue Mountains;
 - (d) "Council" means the municipal council of the Corporation;
 - (e) "Development" means development as defined in subsection 41(1) of the Act;
 - (f) "Duplex Dwelling" means a building that is divided horizontally into two (2) dwelling units each of which has an independent entrance either directly or through a common vestibule;
 - (g) "Dwelling Unit" means a room or suite of rooms occupied or capable of being occupied as an independent and separate housekeeping establishment and having self-contained culinary and sanitary facilities but does not include a bed and breakfast establishment, boarding or rooming house, short term accommodation use, tourist cabin or cottage, commercial resort unit, hotel or motel;
 - (h) "Mobile Home" means a mobile home as defined in subsection 46(1) of the Act;
 - (i) "Official Plan" means the Official Plan for the Town of The Blue Mountains;
 - (j) "Owner" means the person(s) appearing as the registered owner(s) according to the records of the proper land registry office;

- (k) "Semi-detached Dwelling Unit" means one of a pair of two attached dwelling units divided vertically, each such dwelling unit having an independent entrance; and,
- (l) "Single Detached Residential Dwelling" means a single dwelling unit which is not joined by any other dwelling.
- (ii) Words or phrases not defined in subsection (i) of this section that are defined by Zoning By-law No. 83-40, as amended, or Zoning By-law No. 10-77, as amended, or successors thereto, shall have the meanings attributed to them in the applicable Zoning By-law.

2. Site Plan Control Area

All of the lands within the Town of The Blue Mountains are hereby designated as a site plan control area pursuant to Section 41 of the Act.

3. No Development unless Approved

No person shall undertake any development within a site plan control area unless the Council, or any person delegated authority to do so by Council, has approved the plans and drawings in accordance with Subsection 41(4) of the Act and imposed any conditions in accordance with Subsection 41(7) of the Act.

4. Exempted Classes of Development

Notwithstanding Section 3, the following classes of development shall not be subject to site plan control and may be undertaken without the approval of the plans and drawings otherwise referred to in Subsection 41(4) or (5) of the Act:

- (i) A building or structure which is constructed, erected, placed, altered or enlarged and used for the purpose of a single detached residential dwelling, duplex dwelling, semi-detached dwelling unit or converted dwelling house and is not within the following:
 - (a) Hazard (H) and Escarpment (E) Land Use Designations, as identified on Schedule A of the Official Plan; and,
 - (b) Natural Heritage features and development constraints, as identified on Appendices A (not including "Adjacent Lands"), C and D (not including "Archeology Areas") of the Official Plan.
- (ii) A building or structure which is constructed, erected, placed, altered or enlarged and used for the purpose of agricultural uses, including temporary farm help buildings, but excluding any ancillary commercial or industrial uses, nurseries, fruit stands or commercial greenhouses, and is not within the following:
 - (a) Hazard (H) and Escarpment (E) Land Use Designations, as identified on Schedule A of the Official Plan; and,
 - (b) Natural Heritage features and development constraints, as identified on Appendices A (not including "Adjacent Lands"), C and D (not including "Archeology Areas") of the Official Plan.
- (iii) Accessory uses, buildings and structures to those exempted classes of development described in (i) and (ii) above.
- (iv) Any proposed facilities, works or matters undertaken by the Corporation or any local board of the Corporation.
- (v) Development approved under a Plan of Condominium with an appropriate

development agreement registered on title.

- (vi) Development within the Niagara Escarpment Commission Development Control Area Regulation R.R.O. 1990, Reg. 828, as amended, or a successor thereto.
- (vii) Any building or structure which is not greater than 10 square metres.

5. Application for Approval

- (i) Every application for an approval pursuant to this By-law shall be accompanied by the following plans, specifications, documents and information:
 - (a) a completed and signed application form;
 - (b) the requisite fees and payments in accordance with the Town's Fees By-law;
 - (c) the plans referred to in Paragraph 1 of Subsection 41(4) of the Act, showing all facilities and works to be provided in conjunction with the building or structure and all the facilities, works and matters referred to in Clause 41(7)(a) of the Act;
 - (d) the drawings referred to in Paragraph 2 of Subsection 41(4) of the Act;
 - (e) where required, one or more agreements with the Corporation dealing with the provision and maintenance of the facilities and works to be provided in conjunction with the building or structure and the facilities, works and matters mentioned in Subsection 41(7) of the Act in accordance with the plans and drawings approved pursuant to this Act and this By-law; and,
 - (f) where required under an agreement referred to in Clause (e) above, cash or one or more security bonds in a form acceptable to the Corporation and in favour of the Corporation to assure satisfactory provision and maintenance of the facilities and works to be provided in conjunction with the building or structure and the facilities, works and matters mentioned in Subsection 41(7) of the Act in accordance with the plans and drawings approved pursuant to the Act and this By-law.

6. Delegation to Appointed Officers

Council's powers or authority under Section 41 of the Act, except the authority to define any class or classes of development as mentioned in Clause 41(13)(a) of the Act, may be delegated by Council in accordance with the provisions of the *Municipal Act*, 2001, S.O. 2001, Chapter 25.

7. Lapse of Approval

Unless so authorized by Council or a delegated officer, a development approval pursuant to Section 41 of the Act, which has been authorized by Council or a delegated officer, lapses at the expiration of three years from the date of approval if the development does not proceed within a three year period from the date of the approval.

8. Acts Authorized

- (i) The Mayor and Clerk are hereby authorized to execute on behalf and under the seal of the Corporation any document necessary to give further effect to the provisions of this By-law.
- (ii) A delegated officer is hereby authorized to execute on behalf of the Corporation any document necessary to give further effect to the provisions of the delegated authority.

9. Agreement to be Registered

Unless otherwise determined by Council, the agreement shall be registered on title against the land to which it applies at the applicable Land Registry Office, in accordance with the provisions of subsection 41(10) of the Act.

10. No Building Permit unless Development Authorized

No building permit shall be issued for any development subject to this By-law until site plan approval has been obtained.

11. Development without Approved Plans

Every person who, without having plans or drawings approved in accordance with Section 41 of the Act and this By-law, undertakes any development in the site plan control area designated by this By-law is guilty of contravening Section 41 of the Act and Section 3 of this By-law.

12. Penalty upon Conviction

Every person who is convicted of an offence of contravening Section 41 of the Act or this By-law is liable to the fine or penalty prescribed by Section 67 of the Act.

13. Facilities Provided by Town

In default of an owner of land providing or maintaining any of the facilities, works or matters or facilities that are to be provided in conjunction with all buildings and structures to be erected or that are mentioned in Clause 41(7)(a) of the Act and that are required by the Corporation as a condition to the approval of plans or drawing referred to in Subsection 41(4) of the Act, the Council may direct that such facilities, works or matters shall be provided or maintained by or on behalf of the Corporation at the expense of the owner and the expense incurred in doing so shall be recovered,

- (i) by use of any securities furnished to the Corporation under clause 5(i)(f) of this By-law; or,
- (ii) by action; or,
- (iii) in like manner as municipal taxes; or,
- (iv) in annual installments payable by the owner, with interest, not exceeding ten (10) years.

14. Repeal

- (i) That the former Township of Collingwood By-law No. 80-10, being a By-law designating the area within the limits of the Township of Collingwood as a Site Plan Control Area, is hereby repealed.
- (ii) That the former Township of Collingwood By-law No. 92-22, being a By-law designating an area within the limits of the Township of Collingwood as a Site Plan Control Area, is hereby repealed.
- (iii) That the former Town of Thornbury By-law No. 16-1988, being a Site Plan Control By-law, is hereby repealed.

15. Effective Date

This By-law shall come into force and take effect upon the enactment thereof.

Enacted and passed this ____ day of _____, 2010.

Ellen Anderson, Mayor

Corrina Giles, Clerk