

STAFF REPORT: PLANNING & BUILDING SERVICES



REPORT TO: Council
MEETING DATE: March 9, 2011
REPORT NO.: PL.11.28
SUBJECT: North East Grey Health Clinic Inc. – Thornbury Medical Clinic
PREPARED BY: David Finbow, Director, Planning & Building Services

A. Recommendations

1. **THAT Council** receive Staff Report PL.11.28 respecting North East Grey Health Clinic Inc. – Thornbury Medical Clinic;
2. **AND THAT Council** confirm that the Town will require that North East Grey Health Clinic Inc. provide securities for the required “Works” in accordance with Town Policy;

or,

AND THAT Council confirm that the Town will not require security for the required “Works” subject to recommendation 4 of this Report;

3. **AND THAT Council** confirm that the Town requires that the “Parking Lot Payment” required pursuant to the Lease and Municipal Capital Facility Agreement between North East Grey Health Clinic Inc. and the Town is to be secured by way of the Town committed Loan and/or Grant provided pursuant to the Lease and Municipal and Capital Facility Agreement;

or,

AND THAT Council determine that the “Parking Lot Payment” required pursuant to the Lease and Municipal Capital Facility Agreement between North East Grey Health Clinic Inc. and the Town not be secured by way of the Town committed Loan and/or Grant provided pursuant thereto; and,

4. **AND THAT Council** direct that the Grant monies be advanced upon the submission of copies of the relevant invoices and associated Statutory Declaration(s) for the construction of the building on the basis of every dollar expended by the proponent on the building be matched by the Town whereas the Loan monies be advanced upon the submission of copies of the relevant invoices and associated Statutory Declaration(s) for the Works as set out in paragraph 11 of this Report on the basis of every dollar expended by the proponent on the Works being matched by the Town.

B. Background

MOU

1. Council at its meeting of June 2, 2008 endorsed a process with respect to the development of the King/Elgin/Huron Streets Block subject to the execution of Memorandums of Understanding (MOU) with the two land owners and North East Grey Health Clinic Inc. (the "Clinic").
2. Council at its meeting of July 13, 2009 authorized the Mayor and Clerk to execute MOU's with the two land owners and the Clinic. The MOU with the land owner to the north contains the following provision as it relates to the Clinic:
 - a) Conditions of site plan approval and the site plan agreement for the development of the Developer's Lands which will require, among other things, the conveyance of the "Parking Lot Lands" to the Town and the construction by the Developer of a municipally owned and operated parking lot on these lands. The Medical Centre will be required to contribute a minimum of \$110,888.00 to the cost of this construction.
3. The MOU with the Clinic provides for the following:
 - a) An agreement by the Parties that it is their intention to enter into a Financial MOU which will deal with the provision of financial assistance to the Medical Centre and the timing and terms under which the Town will convey the Medical Centre Lands and part of the Cidery Transfer Lands to the Medical Centre.
 - b) As a condition of site plan approval and the site plan agreement for the development the Clinic, the Clinic will require, among other things, the construction by the Medical Centre of the driveway from Highway 26 shown on the Concept Plan and the contribution of a minimum of \$110,888.00 to the cost of construction of a municipally owned and operated parking lot on the Parking Lot Lands.

Town Grant and Loan

4. On December 14, 2009 Council authorized the Mayor and Clerk to execute a Lease and Municipal Capital Facility Agreement wherein the Town would provide a Grant in the amount of \$350,000 and a Loan in the amount of \$420,000 to the Clinic. This Agreement, which supercedes the MOU, was subsequently executed by both parties and requires that the Clinic pay the \$110,888.00 required for the construction of the Parking Lot

Lands prior to the Town executing the Site Plan Agreement for Phase 2 or, the parking lot has been constructed.

Site Plan Approval

5. On September 13, 2010 Council granted Conditional Site Plan Approval to the Clinic for the development of the Thornbury Medical Clinic at 78 King Street East.
6. Earlier this year, the Town was provided with a revised submission for the Clinic wherein the size of the proposed building has been decreased by approximately 625 square feet. This revised submission has been determined by the Director, Planning & Building Services, to be substantially in accordance with the previously granted Conditional Site Plan Approval by Council and therefore no further action/direction is required from Council in this regard.

Site Plan Agreement Security and Timing of the Parking Lot Payment

7. One of the conditions associated with the granting of Site Plan Approval was that the Clinic enter into a Site Plan Agreement with the Town. The Town's policy related to required "Works" pursuant to a Site Plan Agreement is that same be fully secured until the Works are completed. Required Works includes servicing, including grading and drainage work; siltation and erosion control; internal sidewalks/walkways; garbage facilities; parking lot work, including lighting; streetscape improvements, including sidewalks and boulevard treatments; and, landscaping. This security is in place to ensure that the Works are completed. If they are not, the Town has the option of realizing on the security and proceed with completing the Works.
8. With respect to the required Site Plan Agreement Security and Timing of the Parking Lot Payment, the Clinic advised on January 5, 2011 that:

"...we have spoken to Paul Graham concerning two major issues in the proposed Site Plan Agreement. He has assured us that the two issues need not form part of the agreement.

The first issue deals with the Parking Lot Payment. There is no need for the Town to hold back any of the \$420,000 interest free loan. The Town has adequate security in the form of the building to guarantee future payment. Should we default, the Town gets the building.

The second issue also deals with security. There is no need for a letter of credit nor the expense of obtaining a letter of credit. Again, should we default on the project, the Town gets the building.

9. Town Staff confirm that the Lease and Municipal Capital Facility Agreement indicates that in the instance of a default that is not remedied

within 90 days that the Town may enter into the possession of the Clinic without compensation to the Clinic, and free of any claim or encumbrance.

10. As to security for the Works, the Town's Policy is that the Works must be fully secured. If Council is desirous of the Town not securing the required Works, Town Staff advise that there is some risk associated with relying on the default provisions of the Lease and Municipal Capital Facility Agreement as the Town Grant and Loan may have been fully expended prior to the completion of construction and/or prior to the completion of all required Works. If the Clinic defaults, the Town would be in a position wherein it would be required to complete the construction and/or Works without security being in place to do so or, be required to return the site to its former condition.

11. The revised Site Plan Submission is supported by the following estimates related to the Works:

Servicing/Roadworks/Earthworks	\$336,770.50
Electrical	\$62,947.50
Landscaping	<u>\$37,032.00</u>
Total	\$436,750.00

12. With regard to the timing of the Parking Lot Payment, Town Staff note that the Clinic had previously agreed to the timing of this payment by way of the Lease and Municipal Capital Facility Agreement and further note that our comments found at item 10 are also applicable in this instance (i.e. if the Parking Lot Payment is not secured and there is a demand for same from the land owner to the north in accordance with the Developer/Town MOU, being \$110,888.00, and if the Clinic does not have funds in place, the Clinic may turn to the Town for these funds or, the Clinic would be in default and the Town would likely be held responsible for the Parking Lot Payment).

Advancement of Town Funds

13. Sections 5 and 6 of the Lease and Municipal Capital Facility Agreement require that the Clinic prepare a "cash flow for construction schedule" that must be approved by the Town's Treasurer. This schedule has yet to be submitted to the Town however, Town Staff are of the opinion that to mitigate risk, that the Grant monies be advanced upon the submission of copies of the relevant invoices and associated Statutory Declaration(s) for the construction of the building on the basis of every dollar expended by the proponent being matched by the Town whereas the Loan monies be advanced upon the submission of copies of the relevant invoices and associated Statutory Declaration(s) for the Works as set out in paragraph 11 of this Report on the basis of every dollar expended by the proponent being matched by the Town.

A copy of this Report was circulated to the Clinic Group on the afternoon of March 8, 2011.

C. The Blue Mountains' Strategic Plan

"Providing a strong, well managed municipal government."

D. Financial Impact

As contained in this Report.

E. Addendums

N/A

Respectfully submitted,

David Finbow
Director, Planning & Building Services