

STAFF REPORT:

**The Town of The Blue Mountains Planning and
Building Services Department**



REPORT TO: Planning and Building Committee
DATE: December 7, 2009
REPORT NO.: PL.09.135
SUBJECT: Application for Consent: B13, B14,
B15, B16, B17, B18-2009 and
Zoning By-law Amendment.
Tyrolean Village Resorts Limited
Part of Lot 19, Concession 2
Town of The Blue Mountains
PREPARED BY: Shawn Postma, Planner II

A. Recommendations

THAT the Planning and Building Committee receive Planning Staff Report PL.09.135, "Application for Consent: B13, B14, B15, B16, B17, B18-2009 and Zoning By-law Amendment. Tyrolean Village Resorts Limited, Part of Lot 19, Concession 2, Town of The Blue Mountains"; and

THAT Council grant Application for Consent File Numbers B13, B14, B15, B16, B17, and B18-2009 each subject to the following conditions:

- 1. A Zoning By-law Amendment to rezone the severed and retained lands from the Development 'D' zone to the Residential 'R3-h' zone**
- 2. That the owner make a cash payment for the hard costs of Town Wide Development Charges for the severed parcel.**
- 3. That the owner make a cash payment in lieu of parkland in the amount of 5% of the value of the land to be conveyed with such value to be determined as of the day before the day of the approval of the consent by an accredited appraiser (AACI, P.App., CRA) with the Appraisal Institute of Canada.**
- 4. The execution of an Agreement with the Town that would include, but not be limited to matters related to cost sharing for the proposed works for all benefitting lots, the construction of full municipal services to the satisfaction of the Town and the dedication of a 6.0 metre wide walkway block to the Town.**

THAT Council grant a Zoning By-law Amendment to rezone the subject lands from the Development 'D' zone to the Residential 'R3-h' zone.

THAT Council authorize the Mayor and Clerk to execute a Development Agreement regarding the dedication of a walkway block and cost sharing for proposed works in a form approved by the Director of Planning & Building Services and the Town Solicitor.

B. Background

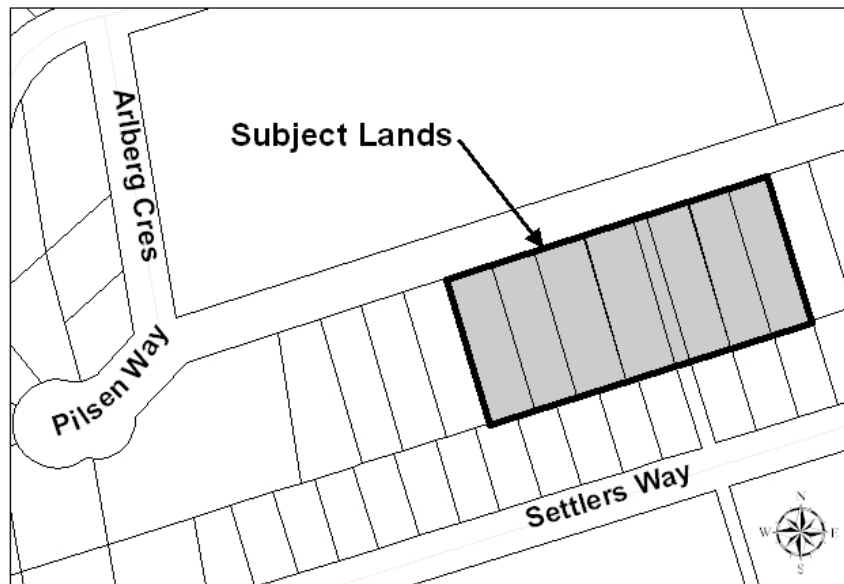
The Planning Services Division has received an application for Zoning By-law Amendment and six applications for consent (File Nos. B13, B14, B15, B16, B17 and B18-2009). These applications propose to divide the subject lands into seven residential lots with frontage on the existing unopened road allowance known as Arlberg Crescent. Included in the development is the dedication of a 6.0 metre strip of land to the Municipality for the continuation of a walkway block that connects Arlberg Crescent to Grey Road 19 and ultimately the Blue Mountain Inn and the Village at Blue. The Zoning By-law Amendment further proposes that the seven lots will also be permitted to be used for Short Term Accommodation purposes.

The subject lands total 10,140 square metres in area and are described as Part of Lot 19 Concession 2.

Surrounding land uses include existing and future low density residential uses, mainly single detached dwellings on individual lots. Municipal Sewer Services are located along Arlberg Crescent and Municipal Water Services are located within the opened portion of Arlberg Crescent, but terminate at Pilsen Way.

Plan 1107 is a registered subdivision that takes in a portion of Tyrolean Lane and all of Arlberg Crescent and Pilsen Way. A Subdivision Agreement dated October 19, 1995 is in effect for Plan 1107 and recognizes 17 residential lots, together with blocks, easements, reserves and right-of-ways. The subject lands are identified under the Subdivision Agreement as "Block 3" or "Parking Block" which were originally anticipated to provide parking for a Hotel on the north side of Arlberg Crescent. Section 54(m) of the agreement identifies that the Parking Block lands are not part of the Plan of Subdivision, but are bound by the Subdivision Agreement as extraneous lands owned by the Developer.

Location



Provincial Policy Statement

The Provincial Policy Statement (PPS) identifies that settlement areas shall be the focus of growth and their vitality and regeneration shall be promoted. Land shall be efficiently used, with consideration for intensification, redevelopment, mix of uses and densities that ensure appropriate development will take place. The proposed would appear to be consistent with the PPS.

County of Grey Official Plan

The subject lands are designated Escarpment Recreation Area in the County of Grey Official Plan. Section 2.5.2(2) of the County Plan states that local Official Plans and/or Secondary Plans shall provide detailed land use policies and development criteria that are not in conflict with the provisions of the Niagara Escarpment Plan. Section 2.5.2(5) states that the Escarpment Recreation Area designation, in addition to the designated Settlement Areas, will generally be the focus of growth within the County.

It is our opinion that the proposal will comply with the County of Grey Official Plan, and are not in conflict with the provisions of the Niagara Escarpment Plan.

The Blue Mountains Official Plan

The subject lands are designated Residential Infilling RI in the Town of The Blue Mountains Official Plan. The purpose of this designation is to recognize existing residential plans of subdivision which have been registered and other existing residential areas which have been substantially developed. Section 4.12.3(2) states that within registered plans of subdivision, further lot creation shall generally be prohibited in order to maintain the intended density and character of the development. On the basis that these lands were intended to become a parking area for a hotel use which is no longer anticipated, and that the lands are not located within a Plan of Subdivision, individual consents for residential purposes may be permitted subject to the following criteria:

- a) The lots being created are of a similar size to those in adjacent areas;
- b) The development would not adversely affect the character of the area or the natural environment;
- c) Services are provided in accordance with the servicing requirements of Section 5;
- d) The creation of the new lot does not result in an additional access onto Highway 26;
- e) The lot complies with the provisions of Section 3.15.

It should be noted that the lands to the north originally intended to be developed for a Hotel, are currently designated under the Official Plan for a maximum of 41 single detached residential units (west side) and for a maximum of 125 commercial resort units subject to the Recreational Commercial Policies of Section 4.19 of the Plan (east side). Parking for the commercial resort units must be accommodated on site, and prior to development a Zoning By-law Amendment and Site Plan Approval will be required. It should also be noted that although the lands are not part of Plan 1107, it is clear that the Subdivision Agreement for Plan 1107 applies to the subject lands.

Additional policies regarding new lot creation in built up areas are outlined in Section 3.15 of the Plan. New lots must generally conform in style and character with surrounding development, and where the general circumstances including the physical condition of the site are considered appropriate for development. All new lots must comply with the lot creation and land use policies of the plan, and new lot sizes shall generally be consistent with the size and shape of lots in the surrounding area.

The Plan puts a lot of emphasis on protecting the established character and style of a neighbourhood. New lots should only be considered under strict control, and where the character of the neighbourhood can be maintained. Looking to the surrounding area and adjacent residential uses, the proposed lot frontages and lot sizes (18.5 to 22 metres frontage and 1250 to 1490 square metres in area) remain within the range of surrounding residential uses.

Section 7 of the Plan establishes the 'Roads Policies' to ensure the safe and efficient movement of both vehicles and pedestrians throughout the municipality. New development shall only be permitted where there is direct frontage and access onto a year round appropriately maintained road. It has been noted that proper road frontage does not exist for the proposed lots located on Arlberg Crescent. The Subdivision Agreement for Plan 1107 was completed for the creation of a number of new residential lots in the area, including lots along Arlberg Crescent further east from the subject lands. This agreement requires the upgrading of Arlberg Crescent and the extension of water services prior to development. Related to this development, a previous set of consent applications have been made to develop additional lands by another developer. These applications are conditionally approved with two of the five proposed lots having frontage on the unopened portion of Arlberg Crescent. It has been acknowledged that the developer of these lands would be responsible for reasonable cost sharing for the road and servicing extensions. These extensions can be completed in concert with one another, which would complete the development of the south side of Arlberg Crescent from Pilsen Way to Kandahar Lane. It is also acknowledged that the existing Subdivision Agreement for Plan 1107 contains a "best efforts" clause to collect funds as the proposed development will be responsible for a proportionate cost sharing of the existing works along Pilsen Way, and the sanitary sewer along Arlberg Crescent.

Section 6.4.1 of the Plan provides Parkland policies, and that parkland dedication shall be required up to a maximum of 5% of the total land holding for all residential lots created under the consent process. Required parkland dedication for smaller parcels shall generally be encouraged as a cash-in-lieu provision.

The Official Plan does not place a fixed limit on the number of new lots that may be created by consent versus a plan of subdivision. Instead, direction is provided under Section 9.3 which provides consent policies for the creation of new lots. Section 9.3(1) identifies that a consent for severance may only be granted where the applicant can demonstrate that a plan of subdivision is not necessary for the proper orderly development of the lands, or in the public interest for surrounding lands. In reviewing the seven consent applications proposed along the unopened portion of Arlberg Crescent, it would appear that a Plan of Subdivision could be warranted. However, it

should be noted that all issues and concerns over lot layout and design, extension of services and the provisions of trails have all been recognized and approved through the previous Subdivision Agreement for Plan 1107, and that these seven lots represent the final build out of the south side of Arlberg Crescent. It is further recognized that Planning Staff and Council supported the creation of five lots via consent earlier this year. Through condition of Consent, it is recommended that the requirements under the Subdivision Agreement be updated to reflect the current standards and requirements of the Town. These updates will be required under a new Development Agreement.

It is therefore our opinion that the proposed lots are similar in size to those in adjacent areas and that the proposed development would not adversely impact the character of the surrounding area as required by the Town of The Blue Mountains Official Plan. As a condition of consent a Development Agreement should be required for the proportionate cost sharing and contributions or requirements for upgrading Arlberg Crescent and the extension of water services.

Zoning

The subject lands are zoned Development 'D' within the Township of Collingwood Zoning By-law 83-40. A Zoning By-law Amendment has been submitted as part of this development proposal to rezone the subject lands to the Residential 'R3-226-h' zone. The R3 zone permits single detached dwellings and related uses. Exception 226 proposes a site specific exception that would permit the lands to also be used for short term accommodation purposes. Schedule 'AA' to the By-law states that lots must include a minimum frontage of 18 metres, a lot area of 550 square metres, maximum lot coverage of 30%, setbacks of 7.5m from the front, 9m from the rear and 2m from the sides. The maximum height for a new dwelling is 2.5 storeys. The amendment also proposes to reduce the minimum lot frontage from 18 metres to 17.7 metres for the two easternmost lots.

Lot development requirements of Section 5.8(a) to the By-law states that land shall not be used for any permitted use unless the lot fronts and has direct access to an improved public street.

The proposed By-law Amendment includes a request that the subject lands can also be used for short term accommodation (STA) purposes. Official Plan Amendment (OPA 11) and Zoning By-law No. 2009-03 were both approved and passed by Council in January 2009 and are known as the Short Term Accommodation OPA and By-law. The two amendments establish the policies and regulations to govern STA units including a By-law Schedule that identifies the locations where STA's are permitted. Both the By-law and the Official Plan Amendment are under appeal and are not in effect. Planning Staff see merit in permitting STA units in this location, however recommend that this component of the By-law be deferred until such time as the Official Plan Amendment and Zoning By-law are enacted.

It is our opinion that the proposed Zoning By-law Amendment including the use of the holding '-h' symbol will permit the proposed development of seven new vacant

residential lots and that the By-law is appropriate for the subject lands. The proposed exception to also allow the lands to be used for short term accommodation purposes should be deferred to a future Planning Staff Report subsequent to the enactment of the Official Plan Amendment and Zoning By-law Amendment. The holding symbol will be used to ensure that a Development Agreement is entered into for matters related to cost sharing for the proposed works for all benefitting lots, the construction of full municipal services to the satisfaction of the Town and the dedication of a 6.0 metre wide walkway block to the Town. To include an exception to also permit the lands to be used for short term accommodation uses either in the same By-law under the same holding symbol, or in a second By-law with a second holding symbol may conflict with the timing of development on the new lots. The intent of the holding symbol on the short term accommodation component is to ensure that the short term accommodation use is not permitted until the Official Plan Amendment and Zoning By-law Amendment are in place

Public Meeting

A public meeting as required under the Planning Act was held on September 9, 2009. A presentation was provided by Clint Stredwick of DC Slade Consultants Inc. on behalf of the Owner. No members of the public offered any written or oral comments at the Public Meeting.

Additional Comments

Comments through the Development Review Committee reiterated the requirements to extend Arlberg Crescent and water services from Pilsen Way to Kandahar Lane. Engineering and Public Works have reviewed the matter and new Engineering Drawings will be required outlining the road and servicing extension design. E/PW has also noted that the approved original design includes a modified urban standard with open ditches which remains appropriate for this development.

Agency comments were received from the County of Grey Planning and Development Department, the Grey Sauble Conservation Authority, and the Niagara Escarpment Commission.

The County of Grey has indicated that they do not support the process of creating new lots through the Consent process. The County has identified concerns that the development proceed by way of Plan of Subdivision as approvals for larger developments can be more easily enforced/applied and the review of plans of subdivisions are more easily interpreted under a single application. The County has noted that conditions of consent cannot be attached to retained parcels. It is noted that the seventh lot is created as a retained parcel, and that the walkway lands are to be deeded to the Town. A plan of subdivision can apply conditions to the entire lands, including the dedication of a 'block' for walkway purposes. The final concern is over a fair and accessible process. The County notes that appeals to the proposed development would require separate appeals and fees to each and every application. The County concludes that due to the complexity of the development (including the

unopened road allowance, trail access and the comments summarized above) that the development proceed by way of Plan of Subdivision.

In response, the Town, the Developers Agent and the County met to discuss these concerns. Background information on the status of the existing subdivision agreement, and planning justification as submitted by the Developers Agent were discussed. Further discussions over the legality of applying conditions of consent, and the function of the Development Agreement as required under the Holding provisions of the Zoning By-law, it would appear that proceeding with this development by way of consent over a plan of subdivision would appear acceptable. The County remains committed to their original position and comments submitted at the public meeting.

Comments from the Conservation Authority indicate that although the lands are not within a regulated area and that permits are not required from their office, sediment and erosion controls should be utilized during construction to minimize silt migration to downstream watercourses. The Town is committed to require detailed engineered drawings for the proposed road upgrade and that sediment and erosion controls will be reviewed.

Comments from the Niagara Escarpment Commission identify that the lands are within the Niagara Escarpment Plan area, but are not subject to Development Control. The NEC offers that a consent for new lot creation is not permitted as identified under Section 4.6.7(2) of the Town of The Blue Mountains Official Plan. Town Staff have reviewed the NEC comments, and have provided an interpretation, and followed up with a policy paper that states that Section 4.6.7(2) shall only apply to those lands which are designated both 'Escarpment' under the *Town of The Blue Mountains Official Plan* **and** designated 'Escarpment Recreation' under the *Niagara Escarpment Plan*. It is noted that the subject lands are designated Residential Infilling under the Town of The Blue Mountains Official Plan and therefore an Official Plan Amendment is not required.

Based on the foregoing, it is the opinion of Planning Staff that the proposed Zoning By-law Amendment and Consent applications conforms to the intent and direction of the Town of The Blue Mountains Official Plan and represents good planning. Therefore, Planning Staff support these applications conditional upon the recommendations contained in this report.

C. The Blue Mountains' Strategic Plan

The recommendation in this Planning Staff Report is consistent with and supports the following Strategic Plans Goals:

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

D. Budget Impact

NIL

E. Attached

1. Draft Zoning By-law Amendment

Respectfully submitted,

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THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

BY-LAW NO. _____

Being a By-law to amend Zoning By-law No. 83-40
which may be cited as "The Zoning By-law of the
Township of Collingwood".

WHEREAS the Council of the Corporation of the Town of the Blue Mountains deems it necessary in the public interest to pass a by-law to amend By-law No. 83-40;

AND WHEREAS pursuant to the provisions of Section 34 and 36 of the Planning Act, the by-law may be amended by Council of the Municipality;

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

1. Map 24 to Schedule 'A' to the Zoning By-law of the Township of Collingwood, being By-law No. 83-40, is hereby amended by rezoning the subject lands from the Development 'D' Zone to the Residential 'R3-226-h' Zone for those lands lying and being in the Town of The Blue Mountains, comprised of Part Lot 19, Concession 2, as indicated on the attached key map Schedule "A-1".
2. In accordance with Section 36 of the Planning Act R.S.O. 1990 c-P.13, as amended, the holding 'h' symbol shall not be removed from the whole or part of the lands until such time as:
 - a. A Development Agreement has been executed for the required public walkway, extension of Arlberg Crescent and related works.
3. Schedule "A-1" is hereby declared to form part of this By-law.

AND FURTHER that this By-law shall come into force and take effect upon the enactment thereof.

Enacted and passed this _____ day of _____, 2009.

Ellen Anderson, Mayor

Stephen Keast, Clerk

I hereby certify that the foregoing is a true copy of By-law No. _____ as enacted by the Council of the Corporation of the Town of The Blue Mountains on the

_____ day of _____, 2009.

DATED at _____

this _____ day of _____, 2009.

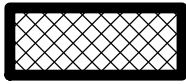
Signed: _____

Stephen Keast, Clerk

Town of The Blue Mountains

Key Map Schedule A-1

By-Law No. 2009-_____



Area Affected By This Amendment

