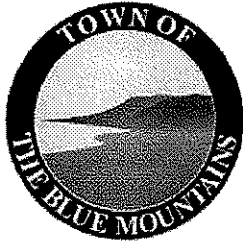


**STAFF REPORT: Planning & Building Services Department**



**REPORT TO:** Planning & Building Committee  
**MEETING DATE:** April 6, 2009  
**REPORT NO.:** PL.09.36  
**SUBJECT:** Trail Woods - Transfer of Capacity to The Lora Bay Corporation  
**PREPARED BY:** D. Finbow, Director, Building & Planning Services/CBO

**A. Recommendations**

THAT Council receive Staff Report No. PL.09.36 respecting "Trail Woods – Transfer of Capacity to The Lora Bay Corporation" and authorize the Mayor and Clerk to execute a "Supplementary Development Agreement" upon the advice of the Director, Planning & Building Services/CBO and the Town's solicitor.

**B. Background**

1. Sometime ago, Trail Woods Corporation and The Lora Bay Corporation approached the Town with respect to the transference of "Existing Capacity" from the lower portion of the Trail Woods Corporation lands to lands owned by The Lora Bay Corporation. This request was formalized by way of a letter dated March 2, 2009 (Appendix "A").
2. The Lora Bay Corporation has, via the Ontario Municipal Board, received Draft Plan Approval for all lands for which there was servicing capacity for. All of these lands have now been registered.
3. The Trail Woods Corporation received Draft Approval for 137 units a number of years ago and therefore has reservation of Existing Capacity for that number of units. Since that time, Trail Woods Corporation proceeded with the registration of Plan 16M-14 which is comprised of 24 units (leaving reservation of Existing Capacity of 113 units).
4. The Lora Bay Corporation is now desirous of gaining Draft Plan Approval for additional lands and requires the transfer of capacity to do so.
5. The Lora Bay Corporation's Land Use Planner has advised that the Director, Planning & Development, County of Grey, is in concurrence with the transference of capacity. The author of this report has requested confirmation from the County in this regard and at the time of writing of this report had not received same. The Director, Planning & Building Services will not forward the Transference Agreement to the Mayor and Clerk until same has been received.
6. A Draft Supplementary Development Agreement has been prepared by the Town's solicitor to allow for the transference as well as to address any claims

from the Trail Woods Corporation, or any future owners of the affected lands, as they relate to reservation of capacity for the affected lands.

**C. The Blue Mountains' Strategic Plan**

1. *Managing growth to ensure the ongoing health and prosperity of the community.*
2. *Providing a strong well-managed municipal government.*

**D. Environmental Impacts**

N/A

**E. Budget Impact**

N/A

**F. Attached**

Appendix "A"	Travis and Associates Inc. letter dated March 2, 2009
Appendix "B"	Draft "Supplementary Development Agreement"

Respectfully submitted,

David Finbow  
Director, Planning & Building Services

planning consultants  
approvals facilitators  
development managers



March 2, 2009

Mr. David Finbow  
Director of Building, By-law and  
Planning  
Town of the Blue Mountains  
26 Bridge Street  
Thornbury, Ontario  
N0H 2P0

Mrs. Janice McDonald, MCIP, RPP  
Director of Planning  
Planning Department  
595 9th Avenue East  
Owen Sound, ON  
N4K 3E3

Dear Mr. Finbow and Mrs. McDonald,

RE: Lora Bay  
Draft Plan Subdivision 42T-2006-14 and  
proposed Zoning By-law Amendment  
Our File: 2.48

### Background

In 2006, our firm filed an application to the County of Grey for a Plan of Subdivision consisting of 146 residential units and also a Zoning By-law Amendment application to the Town of The Blue Mountains to implement the Draft Plan of Subdivision. A joint Public Meeting was held on March 7, 2007 to consider the applications (see attached notice).

As a result of the public process, our client received partial approval of the Draft Plan and Zoning By-law for 93 units. As noted in the staff report from the Town and recognized in the staff report from the County (attached), the additional units could not be approved due to servicing reservation issues. It is noted that the approvals involved an appeal to the OMB, which was subsequently dismissed. This appeal was primarily related to the lands below the ridge. It is also noted that concern was expressed by the public with regard to the Manor Home.

Subsequent to receiving approval, Lora Bay proceeded with the execution of a Preservicing Agreement and subsequent development agreement. The works under these agreements also included the road and servicing works for the remainder of the Draft Plan. The reason for the installation of these works at that time was to address town engineering requirements, efficiency of construction activity and removal of requirement for temporary turning circle amongst other matters.

Discussion commenced with the approval agencies early in 2008 with regard to a potential process to transfer a portion of the existing servicing capacity that was reserved for Trailwoods. It was noted that the 65 lots below the ridge in the Trailwoods subdivision cannot proceed until 40% of the lots on top of the ridge have been built upon. Through this discussion, there was consensus that an amending Development Agreement for Trailwoods could address this matter together with the holding -h symbols.

### Approvals

Since the original submission, Lora Bay has decided to remove the two Manor Home Blocks of 24 units, and replace with one large Villa block consisting of 10 units. We have attached a redline plan that denotes the requested change. Our opinion is that this change is minor in nature, results in a reduction in units and is consistent with concerns raised by members of the public. Therefore, we do not believe that another public meeting is necessary before proceeding with the approval of the remainder of the Draft Plan.

The Draft Plan Approval would consist of Phase 2 of Draft Plan 42T-2006-14a, with the previously mentioned revision. Therefore the approval will be for 23 single detached lots, 1 villa block (Block R.R. 91) consisting of 10 units an extension of West Ridge Road as a Public Street and the remainder of the Common Elements Condominium Road (Block CEC. 94) within Phase 2.

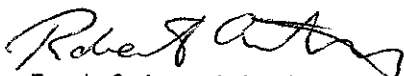
It is proposed that the implementing zoning By-law would rezone the single detached lots on the Public Street (Lots 26 to 28) to the R3-h zone, the remainder of the single detached lots on the Condominium Road to the R3-213-h zone and the Villa Block to the Residential R6-214-h zone. This is consistent with the Phase 1 zoning.

The Planning Rationale in support of the original submission and supported in the respective Planning Staff Reports would still apply for this Phase.

With regard to the amending Development Agreement (attached), we note that this Agreement has been reviewed by Trailwoods, Lora Bay and their solicitor and are prepared to execute the agreement as proposed by the Town. It is recognized that this agreement denotes that the actual number of units and timing of the reservation of servicing capacity will be based on units Draft Approval for Lora Bay. Based on the approvals being requested through this letter, this would consist of 33 units.

Should you require any additional information in order to proceed with this approval, please do not hesitate to contact myself.

Yours truly,



Travis & Associates Inc.  
Robert Armstrong MCIP RPP

cc: Rob Anderson, Lora Bay



"B"

**SUPPLEMENTARY DEVELOPMENT AGREEMENT**

**THIS AGREEMENT** made this      day of March, 2009.

**BETWEEN:**

**TRAIL WOODS CORPORATION**  
(Hereinafter referred to as the "Developer")

- and -

**THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS**  
(hereinafter referred to as the "Town")

**WHEREAS** the Developer warrants that it is the registered owner of the Lands, which are included in the lands shown on the Draft Plan;

**AND WHEREAS** the Approval Authority has given approval to draft plan of subdivision 42T-80006 (the "Draft Plan") for the subdivision, development and servicing of the lands shown thereon in accordance with the Conditions;

**AND WHEREAS** the Parties executed a Development Agreement dated October 2<sup>nd</sup>, 2007 and registered in the Land Registry Office for the Land Titles Division of Grey (16) as Instrument No. GY4639 on the 12<sup>th</sup> day of October, 2007 (the "Development Agreement") which provides for the subdivision, development and servicing of all of the lands shown on the Draft Plan in certain phases as described in Schedule "C" to the Development Agreement;

**AND WHEREAS** existing design capacity for water and sanitary sewer servicing (the "Existing Capacity") has been reserved to provide these services to 137 residential dwelling units being all of the residential dwelling units shown on the Draft Plan without the need for the expansion of the Town's water and waste water treatment plants;

**AND WHEREAS** registered plan 16M-14, being Phase 1 described in Schedule "C" to the Development Agreement received an allocation of Existing Capacity for 24 residential dwelling units leaving a reservation of Existing Capacity for 113 residential dwelling units for Subsequent Phases;

**AND WHEREAS** the Developer has requested the Town to transfer all or a portion of the Existing Capacity which has been reserved for the 65 residential dwelling units shown on the Draft Plan north of Block 151 shown on the Draft Plan to The Lora Bay Corporation to be used for the development of residential dwelling units on Block 1 Registered Plan 16M-8 and the Town has agreed to this request subject to the Developer entering into this Agreement.

**NOW THEREFORE THIS AGREEMENT WITNESSETH THAT** in consideration of the Town agreeing to transfer all or a portion of the Existing Capacity which has been reserved for the 65 residential dwelling units to The Lora Bay Corporation, the covenants hereinafter expressed and other good and valuable consideration, the Parties hereto covenant and agree one with the other as follows:

## PART I

### DEFINITIONS AND BASIS OF AGREEMENT

#### 1.1 Definitions

In this Agreement, including the recitals, the following terms shall have the meanings set out below, unless otherwise redefined or where the subject matter or context requires another meaning to be ascribed:

"Agreement" means this Supplementary Development Agreement;

"Approval Authority" means the Ontario Municipal Board;

"Lands" means the lands described in Schedule "A";

"Parties" mean the Developer and the Town.

All other capitalized terms shall have the meanings ascribed to them in the Development Agreement.

#### 1.2 Interpretation of Agreement

- (a) The part numbers and headings, subheadings and section, subsection, clause and paragraph numbers are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.
- (b) Unless the context otherwise requires, in this Agreement words importing the singular include the plural and vice versa and words importing a gender include all genders.
- (c) References herein to any statute or any provision thereof include such statute or provision thereof as amended, revised, re-enacted and/or consolidated from time to time and any successor statute thereto.
- (d) All references to parts, sections, clauses, paragraphs and schedules unless otherwise specified are references to parts, sections, clauses, paragraphs and schedules of this Agreement.

#### 1.3 Lands Affected

This Agreement applies to Lands.

#### 1.4 Recitals

The Parties agree that the recitals herein are true and accurate and form part of this Agreement.

## PART II

### AMMENDMENTS TO THE DEVELOPMENT AGREEMENT

#### 2.1 Amendments

The Parties agree that the Development Agreement shall be amended in the manner set out in Schedule "B".

#### 2.2 Development Agreement in Force

The Parties Agree that all of the provisions of the Development Agreement shall apply to the subdivision, development and servicing of the Lands and shall

remain in full force and effect unamended except for the amendments set out in Schedule "B".

### **PART III**

#### **ADMINISTRATION**

##### **3.1 Registration of Agreement**

The Parties hereby covenant and agree that this Agreement may be registered upon title to the Lands. The Developer further shall pay all costs associated with the preparation and registration of this Agreement, as well as all other costs incurred by the Town as a result of the registration of any other documents pertaining to this Agreement.

##### **3.2 Postponement and Subordination**

The Developer covenants and agrees, at its own expense, to obtain and register such documentation from its mortgagees or encumbrances as may be deemed necessary by the Town to postpone and subordinate their interest in the Lands to the interest of the Town to the extent that this Agreement shall take effect and have priority as if it had been executed and registered before the execution and registration of the document or documents giving to the mortgagee and/or encumbrancers their interest in the Lands.

##### **3.3 Governing Law**

This Agreement shall be interpreted under and is governed by the laws of the Province of Ontario.

##### **3.4 Successors & Assigns**

It is hereby agreed by and between the Parties hereto that this Agreement shall be enforceable by and against the Parties hereto, their heirs, executors, administrators, successors and assigns and that the Agreement and all the covenants by the Developers herein contained shall run with the Lands.

**PART IVI**

**LIST OF SCHEDULES**

The following schedules are attached hereto and form part of this Agreement:

"SCHEDULE A" being a Description of the Lands;

"SCHEDULE B" being the amendments to the Development Agreement.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their corporate seals duly attested by the hands of their proper signing officers in that behalf.

) SIGNED, SEALED AND DELIVERED  
)  
) **TRAIL WOODS CORPORATION**  
)  
) \_\_\_\_\_ c/s  
) Name:  
) Title:  
) I have authority to bind the corporation.  
)  
) **THE CORPORATION OF THE TOWN**  
) **OF THE BLUE MOUNTAINS**  
)  
) \_\_\_\_\_  
) Mayor - Ellen Anderson  
)  
) \_\_\_\_\_ c/s  
) Clerk - Stephen Keast

**SCHEDULE "A"**

**This schedule forms part of a Supplementary Development Agreement  
between Trail Woods Corporation and  
The Corporation of the Town of The Blue Mountains**

**DESCRIPTION OF THE LANDS**

Part of Lots 35 and 36, Concession 10 designated as Part 1 on Plan 16R-7056,  
save and except Plan 16M-14 and Part 1 on Plan 16R-9276

Town of the Blue Mountains (formerly Township of Collingwood), County of Grey

PIN 37131 – 0003 LT and PIN 37131 – 0004 LT

## SCHEDULE "B"

**This schedule forms part of a Supplementary Development Agreement  
between Trail Woods Corporation and  
The Corporation of the Town of The Blue Mountains**

### **AMENDMENTS TO THE DEVELOPMENT AGREEMENT**

The Parties agree that the Development Agreement shall be amended by:

1. Deleting the words "County of Grey from the definition of Approval Authority and adding the words "the Ontario Municipal Board" to this definition.
2. Adding the following sections to Schedule "C" (Phasing Requirements) under the heading Special Phasing Provisions – Subsequent Phases

### **SPECIAL PHASING PROVISIONS – SUBSEQUENT PHASES**

In these Special Phasing Provisions the term "units" means residential dwelling units.

1. The Parties acknowledges that existing design capacity for water and sanitary sewer servicing (the "Existing Capacity") has been reserved to provide these services for 137 units being all of the units shown on the Draft Plan without the need for the expansion of the Town's water and waste water treatment plants and that Registered Plan 16M-14, being Phase 1 described in this Schedule, received an allocation of Existing Capacity for 24 units leaving a reservation of Existing Capacity for 113 units for Subsequent Phases;
2. The Parties further acknowledge that the Developer has requested the Town to transfer all or a portion of the Existing Capacity reserved for the 65 units north of Block 151 shown on the Draft Plan to The Lora Bay Corporation to be used for the development of units on Block 1 Registered Plan 16M-8 on the basis that these 65 units cannot proceed until such time as 40% of the units south of Block 151 have been built upon and the Town has agreed to this request subject to the provisions of the following sections.
3. The Parties agree that the transfer of Existing Capacity shall take effect when the The Lora Bay Corporation receives draft approval for additional units over and above the 250 units it has already received draft approval for. The transfer of Existing Capacity shall be for the number of additional units receiving draft approval up to 65 units.
4. In consideration of the Town consenting to the transfer of the Existing Capacity reserved for up to 65 units to The Lora Bay Corporation, the Developer understands and agrees that in addition to the other requirements of this Schedule, development of Subsequent Phases shall be restricted to a maximum of 48 units, plus any of the 65 units not transferred. The Developer agrees that it will not make an application to the Town and/or the Approval Authority for and the Town will not give Final Approval for Subsequent Phases totaling more than 48 residential dwelling units, plus any of the 65 units not transferred.
5. The Developer further understands and agrees that the number of units transferred no longer have a reservation of Existing Capacity and that the Town will not reserve Existing Capacity for the units transferred until such time as the Comprehensive Environmental Study Phase 4 Report (ESR) under the Class EA process has been approved and

MOE approval has been received to make the Existing Capacity available for the units transferred.

6. in addition to the current requirements for the removal of the holding – h symbol, the Developer consents to the –h holding symbol in the Town's zoning by-law remaining on the units transferred until the Town determines that it has enough built capacity available for the units transferred and a plan of subdivision including the units transferred has been registered.
7. The Parties recognize and agree that the Town is under no obligation to expand such treatment facilities based on the approval of the Draft Plan and the provisions of this Agreement.