

STAFF REPORT:

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



REPORT TO: Planning and Building Committee
DATE: July 6, 2009
REPORT NO.: PL.09.80
SUBJECT: Application for
Consent: B03, B04, B05, B06-2009
and Zoning By-law Amendment.
Dr. Ian Cunningham
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.09.31, "Application for Consent: B03, B04, B05, B06-2009 and Zoning By-law Amendment. Dr. Ian Cunningham, Part of Lot 19, Concession 2, Town of The Blue Mountains"; and

THAT Council grant Application for Consent File Numbers B03-2009, B04-2009, B05-2009, each subject to the following conditions:

- 1. A Zoning By-law Amendment to rezone the lands from the Development 'D' zone to the Residential 'R3' zone**
- 2. That the owner make a cash payment for the hard costs of Town Wide Development Charges.**
- 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 existing constructed works benefitting this lot.**

THAT Council grant Application for Consent File Numbers B06-2009 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 existing constructed works benefitting this lot and the construction of full municipal services to the satisfaction of the Town.

THAT Council grant a Zoning By-law Amendment to rezone the subject lands from the Development 'D' zone to the Residential 'R3' and Residential 'R3-h' zone and establish a new minimum lot frontage requirement for the easternmost lots.

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

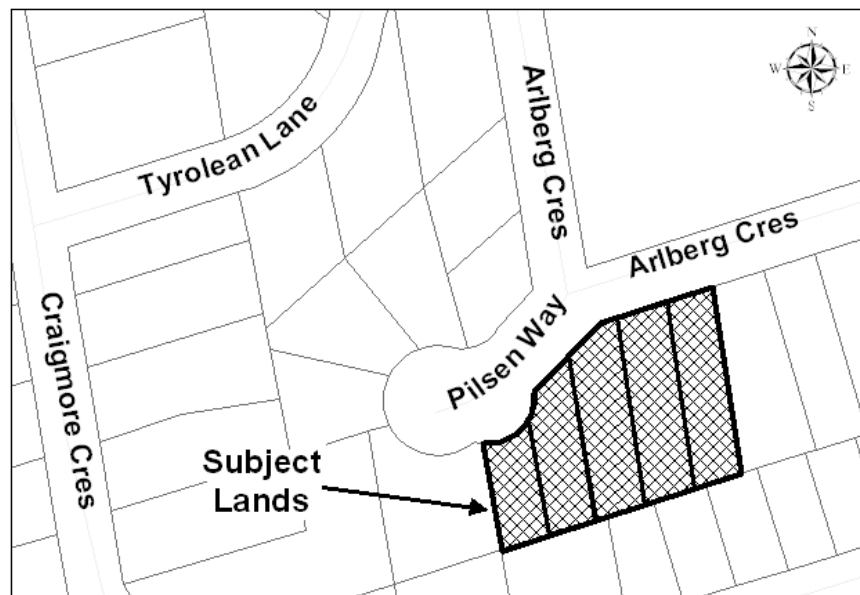
B. Background

The Planning Services Division has received an application for Zoning By-law Amendment and four applications for consent (File Nos. B03, B04, B05 and B06-2009). These applications propose to divide the subject lands into 5 residential lots with frontage on the existing road allowances of Pilsen Way and Arlberg Crescent.

The subject lands total 5,432 square metres and are described as Part of Lot 21 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 Pilsen Way and Arlberg Crescent and Municipal Water Services are located along Pilsen Way only

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 development does not appear to be inconsistent 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.

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 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 on to Highway 26
- e) The lot complies with the provisions of Section 3.15.

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 (17.7 to 22.9 metres frontage and 833 to 1185 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 two proposed lots located on Arlberg Crescent. A Development Agreement for a previous Plan of Subdivision (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. At the time of writing this report, an application has been made to develop these additional lands by another developer, but these applications are still early in the planning process. It has been acknowledged that the development of these 5 lots would be responsible for reasonable cost sharing for the road and servicing extensions. These extensions can be completed together with the adjacent lands, or alternatively if this development wishes to proceed in advance of the adjacent lands, the road and water could be extended under a separate development agreement with the Town. It is also acknowledged that the existing Development 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.

It should be noted that three of the proposed lots could be developed without the extension of the road and water works. Therefore, it is noted that 3 lots benefit from the existing works completed along Arlberg Crescent and Pilsen Way and 2 lots will benefit from the future extension of the road and water works.

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.

It is therefore our opinion that 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 of existing works, 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' and Residential 'R3-h' zone which permits single detached dwellings and related uses. 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.

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 two new vacant residential lots and is appropriate for the subject lands.

Additional Comments

An old road allowance remains in place adjacent to the subject lands which anticipated the construction of a short cul-de-sac which has been constructed as Pilsen Way. The cul-de-sac as constructed was located on and adjacent to the original road allowance, with a small portion of the original road allowance not being used. This portion is identified as Part 3 of 16R-6360 (see attached) and is no longer required by the Municipality. This portion should be formally stopped up and closed and disposed of in accordance with Town policy.

Comments through the Development Review Committee reiterated the requirements to extend Arlberg Crescent and water services to the easternmost lots. 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.

Comments were also received on behalf of an adjacent landowner who has interests in receiving compensation for the existing works as constructed, and also to contribute to the future extension of Arlberg Crescent. Contributions towards the existing and proposed works should be incorporated into a Development Agreement (as a condition of consent) to the satisfaction of the Town.

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 generally do not support the creation of new lots that do not have access to an open and maintained public road. They have noted that the two easternmost lots will not have the required frontage, and that as a condition of consent a Development Agreement should be required to bring the road up to proper standard.

Comments from the Conservation Authority indicate that previous stormwater management plans were prepared for the previous subdivision and should be updated to ensure that this proposed development will not increase peak flows to adjacent properties to the satisfaction of the Grey Sauble Conservation Authority. This can be added as a condition of consent.

Comments from the Niagara Escarpment Commission indicate that the lands are substantially wooded and that the retention of some of the existing vegetation should be encouraged. The NEC has no objections to the Consents or Zoning By-law Amendment.

The Public Meeting was held on June 1, 2009. No other members of the public provided any written or verbal comments on the applications.

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 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

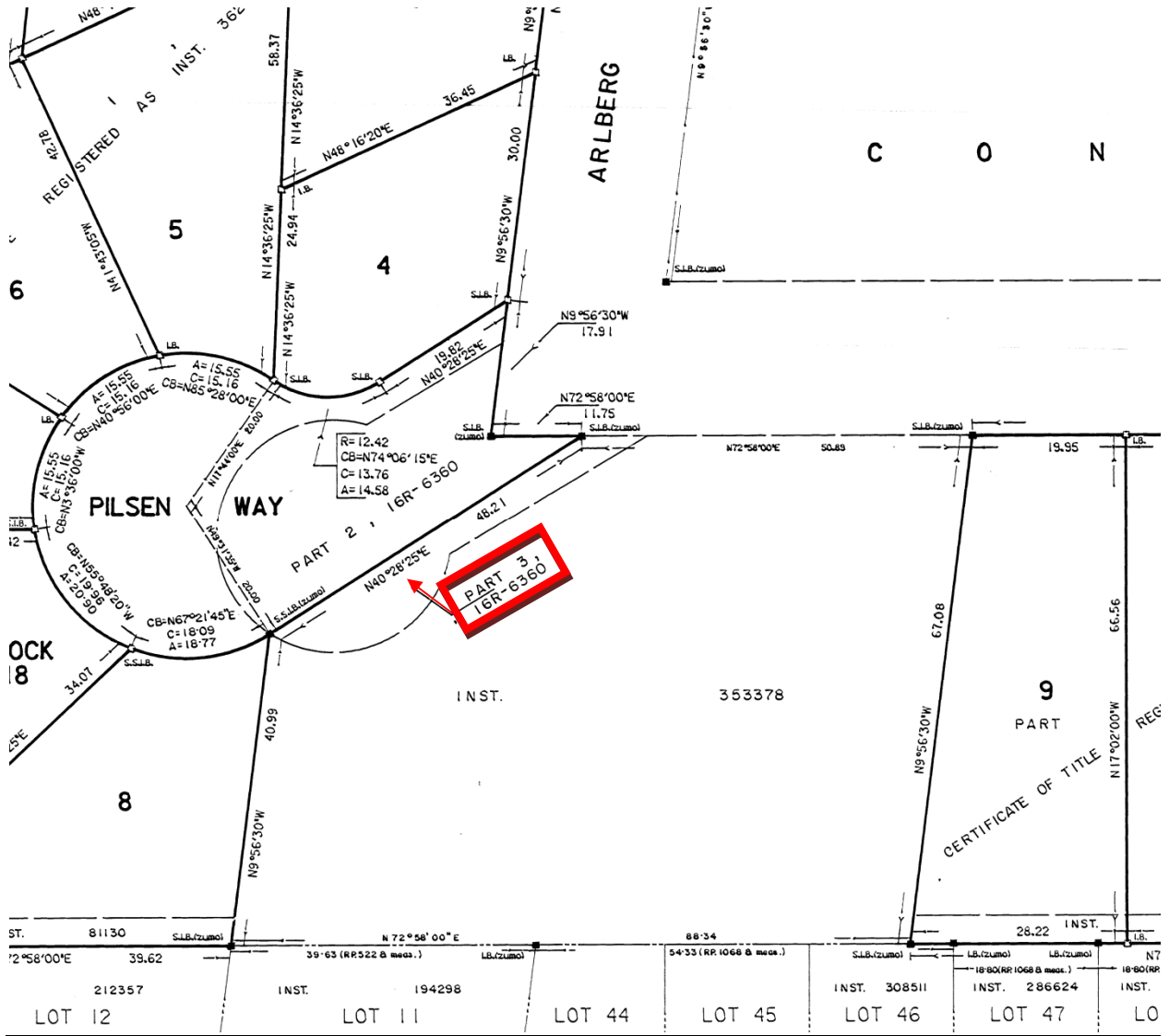
1. Excerpt from Registered Plan of Subdivision 1107 - Part 3 of 16R--6360
2. Zoning By-law Amendment

Respectfully submitted,

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1. Excerpt from Registered Plan of Subdivision 1107 – Part 3 of 16R-6360



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' and Residential 'R3-h' Zones 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 extension of Arlberg Crescent and related works.
3. Notwithstanding the minimum lot frontage provisions of Residential 'R3' Zone of Schedule 'AA' to the By-law, the minimum lot frontage shall be 17.7 metres 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".
4. 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

NOTICE OF THE PASSING OF A ZONING BY-LAW

TOWN OF THE BLUE MOUNTAINS

TAKE NOTICE THAT the Council of the Town of the Blue Mountains passed By-law No. _____ on the _____ day of _____, 2009 under Section 34 of the Planning Act, R.S.O. 1990, c. P.13.

AND TAKE NOTICE that any person or agency may appeal to the Ontario Municipal Board in respect of the by-law by first obtaining a prescribed Appellant Form and filing same with the Clerk of the Town of the Blue Mountains not later than the _____ day of _____, 2009 and completing said Form setting out the objection of the By-law and the reasons in support of the objection, together with the required \$125 fee made payable to the Minister of Finance.

AND TAKE NOTICE that only individuals, corporations and public bodies may appeal a zoning by-law to the Ontario Municipal Board. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or the group on its behalf.

No person or public body shall be added as a party to the hearing of the appeal unless, before the by-law was passed, the person or public body made oral submissions at a public meeting or written submissions to the council or, in the opinion of the Ontario Municipal Board, there are reasonable grounds to add the person or public body as a party.

An explanation of the purpose and effect of the by-law, describing the lands to which the by-law applies, and a key map showing the location of the lands to which the by-law applies (or, alternatively, an explanation as to why a key map is not provided) are attached. The complete by-law is enclosed for inspection.

DATED at the Town of The Blue Mountains, this _____ day of _____, 2009.

Stephen Keast
Clerk
Town of The Blue Mountains
P.O. Box 310
26 Bridge Street
THORNBURY, Ontario
NOH 2P0 (519) 599-3131

PURPOSE AND EFFECT OF THIS BY-LAW

The purpose of this By-law is to satisfy a potential condition of consent submitted by Dr. Ian Cunningham that proposes to create four new residential lots, while retaining one residential lot. (See Consent File Nos. B03-2009, B04-2009, B05-2009 and B06 2009) An amendment is required to the Township of Collingwood Zoning By-law No. 83-40 in order to permit the proposed new lot development and to also recognize a deficient lot frontage for two of the five lots.

The effect of the Zoning By-law Amendment is to re-zone the subject lands from the Development 'D' Zone to the Residential 'R3' and Residential 'R3-h' Zone, and to establish a new lot frontage requirement of 17.7 metres for the two easternmost lots.

The Holding '-h' symbol will be used with conditions for the execution of a Development Agreement for the required extension of Arlberg Crescent and related services.

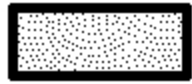
Town of The Blue Mountains

Key Map Schedule A-1

By-Law No. 2009-_____



Area Affected By This Amendment



Area Affected By Section 3 of This Amendment

