

STAFF REPORT: Town of The Blue Mountains Planning Department



REPORT TO: Mayor and Members of Council
MEETING DATE: Monday, September 24, 2007
REPORT NO.: PL.07.115
SUBJECT: Modification to Standard Development Agreement – Insurance Provisions
Town of The Blue Mountains
PREPARED BY: Robert Armstrong,
Manager of Development Planning & IS
John Metras
Town Solicitor

A. Recommendations

THAT Council does receive Planning Staff Report PL.07.115, “Modification to Standard Development Agreement – Insurance Provision;

AND THAT Council supports the reduction in the Automobile Liability Insurance and the Environmental Pollution Insurance from \$5,000,000 million to \$2,000,000 as supported by the Town Insurer.

B. Background

Council adopted a new format of Development (Subdivision) Agreement to be applied to all new Developments within the Town on October 2, 2006 (Report PL.06.122). This template included the following provisions related to insurance:

9.7 General Liability Insurance Policy

- (a) Prior to commencing any work on the Lands the Developer shall take out and keep in full force and effect until Assumption of all of the Works, at its sole cost and expense, the following minimum insurance:
 - (i) Commercial General Liability insurance applying to all operations of the Developer which shall include coverage for bodily injury liability, property damage liability, products and completed operations liability, contractor's protective liability, contractual liability, non-owned automobile liability, contingent employers liability and employees as additional insureds..

This policy shall contain no exclusions for damage or loss from blasting, vibration, pile driving, the removal or weakening of support, shoring, and

underpinning or from any other activity or work that may be done in connection with the development of the Plan.

This policy shall be written with limits of not less than FIVE MILLION DOLLARS (\$5,000,000) exclusive of interest or costs, per occurrence and shall include the Town as an additional insured;

This policy shall provide primary insurance coverage and not excess to any other insurance available to the Town.

- (ii) Automobile Liability (Owned and/or Leased Vehicles) insurance with an inclusive limit of liability of not less than FIVE MILLION DOLLARS (\$5,000,000) exclusive of interest or costs, per occurrence for loss or damage resulting from bodily injury to or death of one or more persons and for loss or damage to property. This policy must cover all vehicles owned, leased or operated by or on behalf of the insured; and
- (iii) Environmental Pollution Liability insurance to cover third party bodily injury and property damage claims arising out of sudden and accidental pollution, including but not limited to unexpected and unintentional spill, discharge, emission, dispersal, leakage, migration, release or escape of pollutants. The coverage cannot be subject to the 120 hour reporting period and cannot be limited to hostile fire only.

This policy shall be written with a limit of not less than FIVE MILLION DOLLARS (\$5,000,000) exclusive of interest or costs, on a claims-made basis, or such other limit as the Town may reasonably require, and shall include the Town as an additional insured.

Since that time concern has been expressed by some developers with regard to the appropriateness of this insurance as it relates to the risk and other insurance coverage and the costs of this insurance. To address this matter, a conference call was initiated with the Developers, their Brokers and the Town Insurer - Jardine, Lloyd, Thompson Canada. As a result of the conference call, our Insurer has indicated that, based on the level of risk, the Town could consider a Two Million Liability on the Automotive and the Environmental Pollution.

Based on the foregoing, staff would support the reduction in security as mentioned in the report

C. The Blue Mountains' Strategic Plan

These changes continue to be consistent with Strategic Plan goal:

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

D. Budget Impact

NIL

E. Attached

Respectfully submitted,

John Metras
Town Solicitor

Robert Armstrong, MCIP, RPP, CPT
Manager of Development Planning & IS