

STAFF REPORT: **Planning**



REPORT TO: **Council**
MEETING DATE: **April 23, 2007**
REPORT NO.: **PL.07.55**
SUBJECT: **Site Plan Agreement
Modification
Realty 1 Real Estate Inc.
Edgewater Development
Part Lot 27, Plan 529
Town of The Blue Mountains
Grey County File No.: 42-CDM-
2006-16**
PREPARED BY: **Robert Armstrong**

A. Recommendations

THAT Council authorizes a modification to Clause 54(g)(iii) of the Site Plan Agreement for Realty 1 Real Estate Inc. Edgewater Development Part Lot 27, Plan 529 Town of the Blue Mountains, Instrument Number 0533377 so as to permit the Town to provide a clearance letter for condominium registration upon receipt of Schedule G in accordance with Section 6 of Ontario Regulation 48/01 to the Condominium Act instead of a Final Inspection of all Buildings by the Chief Building Official conditional upon the following being provided to the satisfaction of the Town Staff and Town Solicitor:

- 1. Receipt of a release from all persons acquiring an interest in the Lands acknowledging the modification of the Site Plan Agreement.**
- 2. An amending Site Plan Agreement being registered on title for the lands.**

AND THAT the Mayor and Clerk are hereby authorized to execute an Amending Site Plan Agreement to incorporate the change to clause 54(g)(iii) of the Site Plan Agreement registered as Instrument Number 0533377.

B. Background

The Town executed a Site Plan agreement with the proponent that was registered as Instrument No. 0533377 on December 12, 2006. The Site Plan Agreement contains provisions requiring that, prior to the Town's clearance for a Condominium, a Final inspection of all buildings intended to be registered must be completed by the Chief Building Official, amongst other matters.

The proponent is looking to register the first phase of Condominium (6 units), but does not have a final inspection completed on the buildings. The outstanding matters are resolvable building envelope matters (flashing), occupancy, final grading and

landscaping. With regard to grading and landscaping, then Town has retained adequate security to address same. The proponent's solicitor has written a letter (attached) requesting that the Town consider a variance to the Agreement to enable the registration at this time. The Solicitor contends that the Town's interests are protected by virtue of the provisions of the Condominium Act.

It is also noted that we have received concerns from other Developers with regard to this provision and the hardship that has been created in order to register a plan of Condominium. Town Staff and the Town Solicitor are reviewing this provision in light of the new Condominium Act.

The Chief Building Official, Town Solicitor and I have met to discuss this issue and we note the following:

- a) That the Condominium Act has changed since this provision was put in place. In reviewing the new Condominium Act, we are of the opinion that the Town is better protected than in the past. In this regard, it could be considered in the same fashion as a single detached home being purchased wherein the purchaser knows the status of a unit at the time they take interest in the property.
- b) Consideration will be give under a new standard form of Condominium Agreement that will include provisions as they relate to the requirements of the new Condominium Act including the receipt of the entire Condominium Declaration by the Town.
- c) In order to recognize that there is a change in the Agreement registered on the lands, we believe that everyone who will be acquiring an interest in the lands must sign an acknowledgement that the requirements of the Agreement has changed.
- d) That the amending Agreement, which will replace clause 54(g)(iii) with – Receipt by the Town of a Schedule “G” signed by the Developer's Engineer and/or Architect in accordance with Ontario Regulation 48/01 to the Condominium Act.”, also include an indemnification by the Developer, saving harmless the Town from any action that may arise from this proposed change.

Based on the foregoing, we can support the proposed modification to the Site Plan Agreement that would permit the clearance of the Condominium by the Town to the County in advance of a Final Inspection as currently required by the Agreement.

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

1. Letter from Solicitor

Respectfully submitted,

Robert Armstrong MCIP RPP CPT
Manager of Development Planning and IS