

**STAFF REPORT: Planning**



**REPORT TO: Mayor & Members of Council**  
**MEETING DATE: June 25, 2007**  
**REPORT NO.: PL.07.79**  
**SUBJECT: Draft Plan Approval / Agreement Update - Peaks Bay and Delphi / Phoebus**  
**Town of The Blue Mountains**  
**PREPARED BY: Robert Armstrong, Manager of Development Services & IS**

#### **A. Recommendations**

**THAT Council does receive Planning Staff Report #PL.07.79, “Draft Plan Approval / Agreement Update - Peaks Bay and Delphi / Phoebus and does endorse the action plan contained therein.**

#### **B. Background**

The purpose of this Staff report is to provide an update to Council with regard to certain matters that have arisen as part of the finalization of the agreements and related matters related to the Peaks Bay lands. This update also includes some matters that are inter-related to the Phoebus / Delphi development.

A staff report (copy attached) was presented to Council on April 2, 2007 (PL.07.38) which recommended that Council support requesting that the Ontario Municipal Board make certain revisions to the draft plan approval and related zoning. The report also noted that the primary purpose of the changes was to address requests by the Ministry of Transportation (the “MTO”) to coordinate access locations and the Town’s desire to obtain access to our park lands. The previous report contained principles of an agreement with the MTO and referenced a Memorandum of Understanding. We have attached the current draft of the Memorandum of Understanding, which we are still discussing with Peaks Bay.

In order to achieve the desired road pattern for the development of the lands, which is shown as Street “A” on the attached Composite Plan, there were three separate properties that were affected. The Smith property and the Tabone/Lees property were included and facilitated in the original design of the Peaks Bay subdivision and these property owners were participants at the Ontario Municipal Board hearing that approved the development. The other property owned by Mr. Szekely only became part of the picture with the request by the MTO to provide a link from the Peaks Bay lands to the Pheobus lands and exiting at Peaks Road on Highway 26. The linkage on Mr. Szkeley’s land was only required for access

purposes, where the other lands were required for the ideal servicing and access on Street "A".

Recently, Peaks Bay advised the Town that they have been unable to conclude agreements with Smith and Tabone/Lees to provide for the transfer to the Town of that part of Street "A" on their lands (the "road connections"). This severely hampers Peaks Bay's ability to service the development based on the engineering drawings which are substantially complete. In this regard, they have indicated that they have no option but to revise the engineering scheme and avoid these lands in the interim until such time as the road connections can be obtained. From an engineering perspective, we have been advised that this can be achieved subject to verification of final details.

Peaks Bay is desirous of proceeding as soon as possible with the preservicing of their lands which can proceed subject to Peaks Bay obtaining construction access to Peaks Bay West. We have attached a copy of the Preservicing Agreement for Council's information in this regard.

The only concern with proceeding with the Peaks Bay East development without the road connections in place is the 5 year limitation on the use of the park access road for access to the Peaks Bay East development imposed by the MTO. This limitation is referred to in detail in the attached planning report. In the event the road connections are not secured within 5 years, these lots could potentially be left with no public road linkage to Highway 26. The MTO will require the Town to enter into an agreement to secure these road connections and to obtain securities to ensure the construction of the roads. The installation of services will now become the sole responsibility for the property owners when they proceed with development of their lands. Town or Developers may have to build the services and front end costs.

The Peaks Bay West lands cannot proceed until access is obtained to the west based on the 20 lot limitation for using the park access imposed by the MTO and because the Smith and Tabone/Lees lands are not currently available for road construction.

The Town will need to explore its options to obtain the road connections. Our preference would be to continue to negotiate with these property owners in conjunction with Peaks Bay and obtain the road connections through mutual agreement. If unsuccessful, the Town may need to expropriate these lands. We have indicated to the land owners that it is not the practice of the Town to obtain lands through expropriation; however, based on the greater public interest of the MTO to reduce access, there may be no other option. The Town would caution all those involved that this would be a lot more costly for everyone as all benefiting lands (Developers, Tabone/Lees and Smith) will eventually need to pay for these costs.

Although it is anticipated that the Pheobus/Delphi lands will be developed shortly, Town Staff considers it in the best interest of the Municipality to obtain the public road allowances now and prior to the Peaks Bay development subdivision agreement being registered. The proponent's consultant has indicated that they should not have a problem with this, subject to receiving approval of the Ontario Municipal Board of their revisions. We will also get an update on the position of Mr. Szekely.

### **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.*

This development scheme is an integral part of securing access to the Town's Delphi Park.

### **D. Budget Impact**

Nil

### **E. Attachments**

1. Staff Report #PL.07.38
2. Memorandum of Understanding
3. Composite Plan
4. Pre-Servicing Agreement
5. Cost Sharing Agreement

Respectfully submitted,

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Manager of Development Planning and IS

