

d

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: April 24, 2020

CASE NO(S): PL180810

The Ontario Municipal Board (the "OMB") is continued under the name Local Planning Appeal Tribunal (the "Tribunal"), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 51(39) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Pamela Spence
Subject:	Proposed Plan of Subdivision
Property Address/Description:	Lot 21, Concession 2, The Blue Mountains
Municipality:	Town of The Blue Mountains
Municipal File No.:	42T-2016-10
LPAT Case No.:	PL180810
LPAT File No.:	PL180810
LPAT Case Name:	Spence v. Blue Mountains (Town)

Heard: April 21, 2020 in writing

APPEARANCES:

Parties

Counsel

Pamela Spence

J. Meader

Parkbridge Lifestyle Communities
Inc.

M. Flynn-Guglietti
K. Sutton

The Town of The Blue Mountains

L. Longo

DECISION DELIVERED BY S. TOUSAW AND ORDER OF THE TRIBUNAL

[1] In response to a settlement among the Parties, this Decision grants draft plan approval for a subdivision, subject to conditions, affecting 27 hectares of land (“property”) at Craighleith in the Town of The Blue Mountains (“Town”).

[2] The County of Grey (“County”) had granted draft plan approval to a subdivision application by Parkbridge Lifestyle Communities Inc. (“Applicant”) and the decision was appealed by Pamela Spence (“Appellant”).

[3] The Appellant and Applicant have agreed to modified conditions to resolve the remaining issues. The Town supports the granting of draft plan approval subject to the conditions. The County did not participate in these proceedings.

[4] A second Appellant, Moira McIntyre, and two added Parties - MacPherson Builders (Blue Mountain) Limited and Eden Oak (Trails Head) Inc. – withdrew as Parties in advance of this settlement hearing.

[5] The Appellant’s parallel appeal to the Applicant’s zoning by-law amendment for the same property, passed by the Town, was heard and dismissed by the Tribunal in its Decision issued on January 7, 2020.

[6] The subdivision establishes four blocks of land: two blocks for the protection of the Nipissing Ridge, an environmental and topographic feature on the property, one block for 211 residential land lease units, and one block for private open space. The dwelling units will comprise a mix of detached, standard townhouse and back-to-back townhouse dwellings.

[7] In support of the settlement, Andrew Pascuzzo, a Registered Professional Planner retained by the Applicant, provided a signed affidavit and acknowledgement of expert’s duty. The Tribunal recognizes Mr. Pascuzzo as qualified to provide opinion evidence in land use planning as contained in his affidavit. Mr. Pascuzzo considers the draft plan and modified conditions to satisfy all statutory tests and to represent good planning, as follows.

[8] The Provincial interests for this matter are expressed through s. 2 of the *Planning Act* (“Act”), the Provincial Policy Statement, 2014 (“PPS”) and the Niagara Escarpment Plan (“NEP”). Mr. Pascuzzo details how the interests in these documents are satisfied by the subdivision, including accommodating growth and development in settlement areas supported by municipal sewer and water services, using land and infrastructure efficiently, providing a full range and mix of housing, conserving archaeological sites, protecting ecological features and functions, and developing in harmony with the character of the escarpment landscape.

[9] The consideration of a subdivision must have regard for the provisions of s. 51(24) of the Act. Mr. Pascuzzo details how each provision is satisfied by the subdivision and conditions, including having regard for provincial interests (above), conforming with the land use designation and policies of the County Official Plan and Town Official Plan, conserving natural resources, providing suitable stormwater management, utilizing available servicing capacity, providing trails with easements for public access, and implementing all requirements through the conditions and a subdivision agreement. Mr. Pascuzzo also confirms that the subdivision complies with the zoning approved for the property.

[10] Mr. Pascuzzo considers the modified conditions, altered in part to satisfy the Appellant’s issues in support of the settlement, to be suitable and to implement the policy requirements of provincial and local planning documents.

[11] At the request of the Parties, and with the Appellant’s support for the planning opinion of Mr. Pascuzzo, the Tribunal accepts the uncontested planning evidence and finds that the subdivision has regard for the provincial interests of s. 2 of the Act, is consistent with the PPS, conforms with the NEP, and has regard for the provisions of s. 51(24) of the Act. Accordingly, the Tribunal will grant draft plan approval, subject to the agreed conditions. In addition, the clearance of conditions and final approval of the subdivision is returned to the County.

ORDER

[12] The appeal is allowed in part, and pursuant to s. 51(56) of the Act, approval to the draft plan of subdivision, contained on p. 48 of the Settlement Hearing Record and as set out in Attachment 1, is given, subject to the conditions contained on p. 215 to p. 218 of the Settlement Hearing Record as set out in Attachment 2.

[13] Pursuant to s. 51(56.1) of the Act, the County shall have the authority to clear the conditions of draft plan approval and to administer final approval of the plan of subdivision for the purposes of s. 51(58) of the Act.

[14] The Tribunal may be spoken to should issues arise.

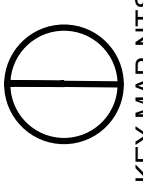
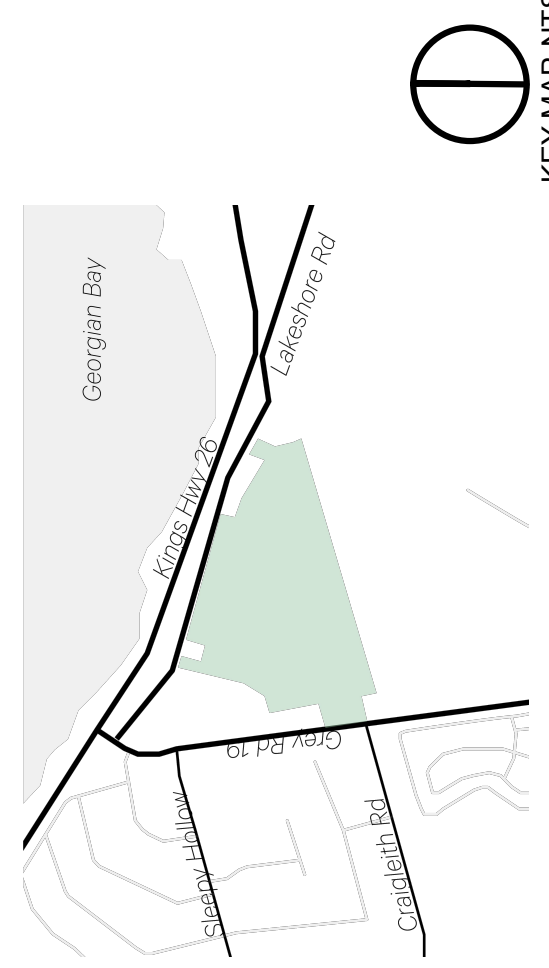
"S. Tousaw"

S. TOUSAW
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Tribunals Ontario - Environment and Land Division
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248



KEY MAP-NTS

DRAWING / MAP:
**CRAIGLEITH RIDGE: PARKBRIDGE
LIFESTYLE COMMUNITIES INC.**

TOWN OF THE BLUE MOUNTAINS

BLOCKS			
BLOCKS	Ha	Acres	
A	1.53	3.78	
B	1.05	2.59	
C	24.10	59.55	
D	0.64	1.58	
TOTAL SITE AREA			67.51

LOT 172 AND PARTS OF LOTS 181 AND 173 - REGISTERED PLAN 529 (FORMERLY TOWNSHIP OF COLLINGWOOD) TOWN OF BLUE MOUNTAINS, COUNTY OF GREY.

BLOCK A - LANDS TO BE DEDICATED TO THE TOWN OF BLUE MOUNTAINS FOR A PUBLIC TRAIL

BLOCK B - LANDS TO BE DEDICATED TO THE TOWN OF BLUE MOUNTAINS FOR A PUBLIC TRAIL

BLOCK C - LANDS TO BE DEVELOPED VIA SITE PLAN (RESIDENTIAL AND OPEN SPACE, SEE SITE PLAN)

BLOCK D - LANDS TO BE DEVELOPED VIA SITE PLAN (RESIDENTIAL AND OPEN SPACE, SEE SITE PLAN)

Note: All areas shown area subject to rounding and may not add up to total

INFORMATION REQUIRED UNDER THE PLANNING ACT SEC. 51 (17)

(a) As shown on plan
(b) As shown on plan
(c) As Shown on key map
(d) Land to be used in accordance with land use schedule
(e) As shown on plan
(f) As shown on plan
(g) As shown on plan
(h) Municipal water supply
(i) Soil is silty sand and sandy silt
(j) As shown on plan
(k) Full municipal services
(l) As shown on plan

NO	ISSUANCE	DATE
01	DRAFT FOR SUBMISSION	Dec 13, 2016
02	DRAFT FOR SUBMISSION	May 1, 2018

OWNER'S CERTIFICATION
Parkbridge Lifestyle Communities Inc. has authorized D.C. Slater Consultants Inc. to prepare and submit this Draft Plan of Subdivision to the County of Grey for approval.

DATE

SURVEYOR'S CERTIFICATION
I certify that the boundaries of the lands to be subdivided and their relationship to adjacent lands are accurately and correctly shown.

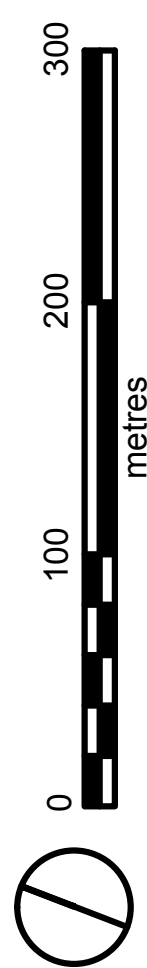
DATE

CONSULTANT
SvN
SvN
110 Adelaide Street East
Toronto, Ontario M5C 1K9
t 416 593 6499
f 416 593 4911
info@planningalliance.com

DESIGNER'S CERTIFICATE

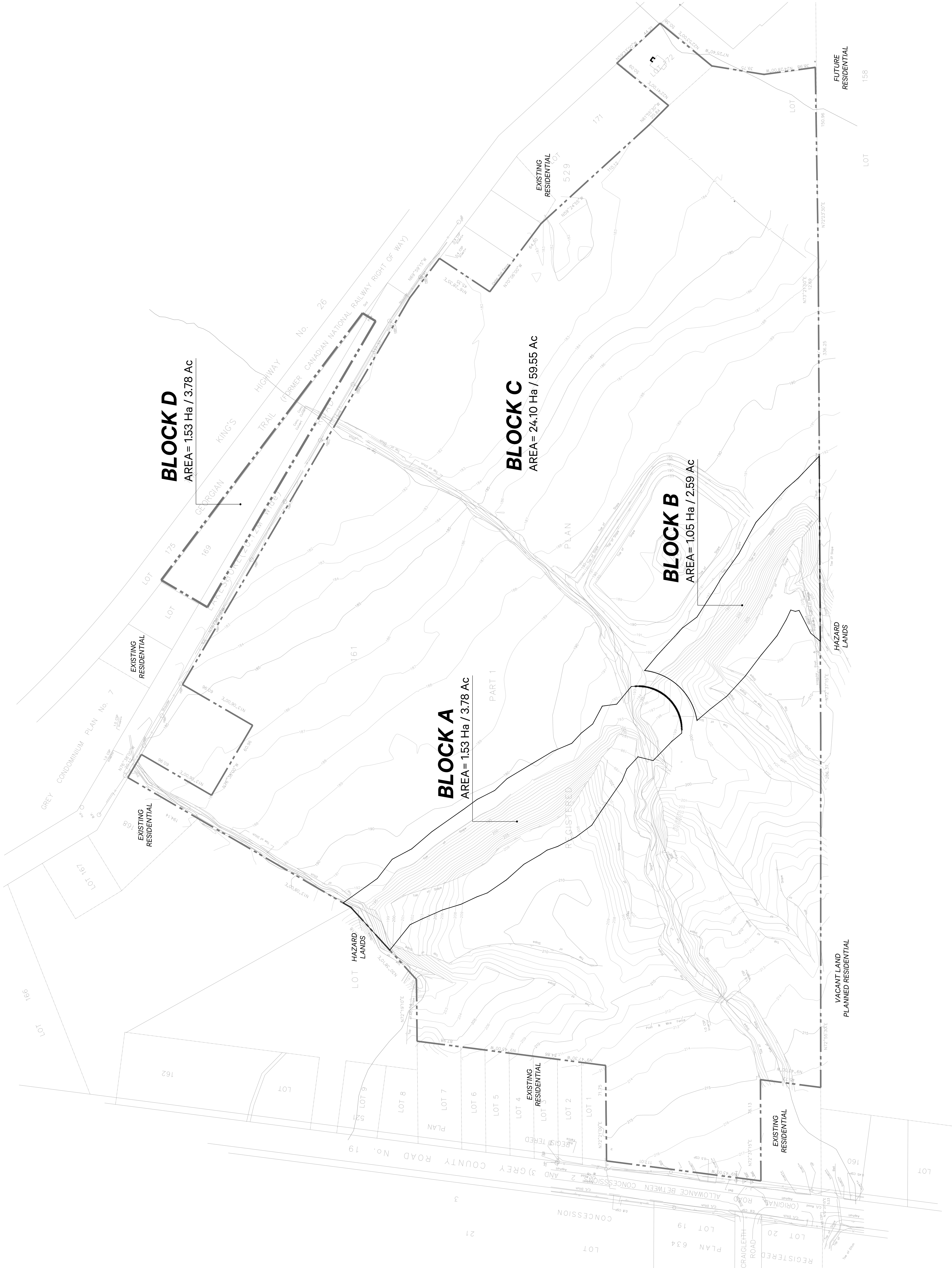
Plan designed and prepared by **SvN**

Drew Sinclair
M Arch, OAA, MAA, MRAIC
Date
May 1, 2018



Note:
All measurements are in metres and can be converted to feet by dividing by 0.3048

DATE:	DRAWN BY:	CHECKED BY:	SCALE:	DRAWING NO:
May 1, 2018	FP	DS	1:1250	D-03



ATTACHMENT 2

Draft Plan Conditions

1. That the Final Plan shall conform to Draft Plan of Subdivision File No. 42T-2016-10, as per drawing D-03 prepared by SvN dated May 1, 2018 showing 4 Blocks (A, B, C, and D), Blocks A, B and D as open space blocks and a public trail, and Block C to provide for a maximum of 211 residential units, private open space uses, storm water management facilities and private streets on Part of Lot 21, Concession 2, being Part Lot 161, East Part of Lot 169, 172 and 173, Registered Plan 529, (geographic Township of Collingwood) in the Town of The Blue Mountains, County of Grey.
2. That a suitable Subdivision Agreement be entered into between the Owner and the Town of The Blue Mountains. The agreement shall contain all matters set out as Conditions of Approval as deemed necessary in this Decision and any other matters as deemed appropriate by the Town of The Blue Mountains, including financial, legal, and engineering matters, including the installation of municipal services, landscaping and other requirements of the Town of The Blue Mountains, Grey Sauble Conservation Authority, Niagara Escarpment Commission and the County of Grey including the payment of all financial obligations.
3. That the Subdivision Agreement shall contain provisions related to the owner providing cash-in- lieu of parkland (5%) in accordance with the *Planning Act*.
4. That prior to final approval by the County a Traffic Impact Study is completed to the satisfaction of the Town of the Blue Mountains, the County of Grey and the Ministry of Transportation and that the requirements of the Traffic Impact Study be included in the Subdivision Agreement. Cautionary wayfaring and signage for pedestrian and vehicular purposes advising of environmentally sensitive areas, shall be installed to the satisfaction of the Town of the Blue Mountains.
5. That prior to final approval by the County a Visual Impact Study is completed to the satisfaction of the Niagara Escarpment Commission and that the requirements of the Visual Impact Study are included in the Subdivision Agreement.
6. That prior to final approval by the County, that appropriate zoning is in effect for this proposed subdivision that conforms to the County of Grey Official Plan and the Town of the Blue Mountains Official Plan and that addresses, inter alia, the following:
 - i. An appropriate setback from watercourse 7, 9 and 10 and such setback shall be no less than that set out in By-law No. 2018-42;
 - ii. An appropriate development setback from the brow and base of the Nipissing Ridge as set out in By-law No. 2018-42;

- iii. Any hazardous areas identified by the Grey Sauble Conservation Authority; and
 - iv. The imposition of a Holding (-h) prefix to be lifted upon identified conditions being met.
7. That prior to final approval by the County a Site Servicing Plan is prepared and the development is fully serviced with sanitary sewer and water to the satisfaction of the Town of The Blue Mountains and the Ministry of the Environment and Climate Change.
8. That the Owner shall grant all necessary easements and/or blocks and/or enter into agreement for drainage, utility and servicing purposes, as may be required, to the appropriate agency or public authority.
9. That the Subdivision Agreement include a clause requiring that the Owner agrees to relocate any existing utilities as a result of the subject development at the sole expense of the owner.
10. That the Subdivision Agreement include clauses requiring:
- i. that the Owner provide an easement to the Town of the Blue Mountains for an east-west public trail along the Nipissing Ridge and a north-south public trail between Grey Road 19 and the Georgian Trail; and,
 - ii. that the trail shall include the installation of public education signage providing a description of environmental and ecological features and conservation measures.
11. That the private streets:
- i. shall traverse the escarpment slope at a single location;
 - ii. shall cross watercourse 9 at no more than 3 locations;
 - iii. shall be restricted to posted speed limits of a maximum of 30 kmph; and,
 - iv. shall be named to the satisfaction of the Town of The Blue Mountains.
12. That prior to initiation of any site grading or servicing and prior to registration of the Plan, the Owner has prepared a Regional Stormwater Management report by a qualified consultant which describes the stormwater drainage system for the proposed development on the subject lands to the satisfaction of the Town of The Blue Mountains, Ministry of Transportation and the Grey Sauble Conservation Authority, and that said report be incorporated into the Subdivision Agreement with the Town. The report shall include:
- i. Plans illustrating how the drainage system will tie into the drainage of surrounding properties;
 - ii. The coordination of stormwater management recommendations on the subject lands and adjacent lands;

- iii. The stormwater management techniques which may be required to control minor and major flows;
- iv. How external flows will be accommodated and the design capacity of the receiving system;
- v. Location and description of all outlets and other facilities which may require permits;
- vi. Proposed methods for controlling or minimizing erosion and siltation onsite and/or in downstream areas during and after construction;
- vii. The technique to be utilized to ensure that all stormwater overland flow routes shall be restricted within roads or approved outlets only.

The final design shall require that the stormwater pond to be established in the existing pond at the base of the Nipissing Ridge shall be designed to the satisfaction of the Grey Sauble Conservation Authority and the Town of The Blue Mountains. Where full reconstruction of the pond/berm is required, the pond shall be designed to include a naturalized component which mimics current water regimes and habitat features (including turtle overwintering and potential nesting habitat) as recommended by a qualified consultant. Removal or disturbance to tree cover located between the existing pond and watercourse 9 shall be limited to the extent possible.

- 13. That prior to final approval by the County, the Owner has prepared a detailed soils investigation by a qualified geotechnical engineer to be submitted to the Town of The Blue Mountains.
- 14. That the Subdivision Agreement contains a requirement that a secondary emergency access point be provided beyond the 85th unit or any alternate unit count required by the Town of the Blue Mountains Engineering Standards, but which unit count requirement shall not, in any event, be less than 85.
- 15. That the Subdivision Agreement contain specific clauses related to the required Ontario Building Code / Engineering Standards, as applicable, of the Town including but not limited to the following:
 - i. The appropriate horizontal and vertical alignments of all roads and underground services including their intersection geometrics;
 - ii. That suitable construction traffic routes are identified to the satisfaction of the Town;
 - iii. The street lighting system on all roadways be designed and constructed to the satisfaction of the Town. The Subdivision Agreement shall also require that all external lighting, including street lighting, be dark-sky compliant and this requirement shall also be incorporated into the required Site Plan Agreement.

16. That the Subdivision Agreement include a requirement that arrangements be made with Canada Post and the Town's infrastructure and Public Works department for the provision of suitable mail delivery methods which may include the installation of Canada Post Community Mailboxes and that the locations be included on the appropriate servicing plans.
17. That should Community Mailboxes be required, that the Subdivision Agreement contain further clauses requiring that the Owner install an appropriately sized sidewalk section (concrete pad) per Canada Post specifications, to place the mailbox on, plus any required walkway access and/or curb depressions for wheelchair access and the provision of a temporary Community Mailbox location until curbs, sidewalks and final grading have been completed.
18. That the Subdivision Agreement include the requirement of a Site Plan Agreement prior to building permits being issued.
19. That the Subdivision Agreement include a section for Part Lot Control to permit land lease up to 99 years, in conjunction with the lands that are zoned Residential in By-law No. 2018-42.
20. That prior to final approval, the Owner prepares a Landscape Analysis, Vegetation/Tree Preservation/Management Plan and Landscape Plan by a qualified consultant to the satisfaction of the Town of The Blue Mountains, the Grey Sauble Conservation Authority the Niagara Escarpment Commission and the Ministry of Natural Resources and Forestry. The Landscape Plan shall include amongst other matters:
 - i. special provisions to ensure that the existing vegetation on the periphery of the site be maintained and protected during the development process;
 - ii. Mitigation and compensation for impacts to Butternut trees shall be in conformity with Ontario Regulation 242/08 (Section 23.7) and to the satisfaction of the Ministry of Natural Resources and Forestry (MNRF);;
 - iii. a forest edge management plan to avoid impacts to areas where woodlands or trees are to be maintained;
 - iv. wildlife enhancement plantings in the stormwater ponds and along portions of the watercourses for baseflow temperature moderation and bank stabilization; and
 - v. installation of a minimum of 5 bat boxes around the perimeter of the stormwater pond at the base of the Nipissing bluff.

and that said plan be incorporated into the Subdivision Agreement with the Town. The Landscape/Tree Preservation Plan will also need to address the protection of the Butternut trees to the satisfaction of the Ministry of Natural Resources and Forestry (MNRF).

21. That prior to final approval, the Owner prepares a Slope Stability Study for the development of any structures that back on to the Nipissing Ridge slopes by a qualified consultant to the satisfaction of the Grey Sauble Conservation Authority and the Town of The Blue Mountains. The recommendations of that study shall be incorporated into the Subdivision Agreement which shall also require that any appropriate requirements be set out in the Site Plan Agreement.
22. That prior to final approval the required Archaeological reports are entered into the registry at the Ministry of Tourism, Culture and Sport (MTCS).
23. That prior to final approval, a copy of the fully executed Subdivision Agreement between the Owner and the municipality shall be provided to the County of Grey and the Grey Sauble Conservation Authority.
24. Prior to the signing of the final plan by the County of Grey, the Town is to be advised that all Draft Plan conditions have been carried out to the Town's satisfaction.
25. That prior to final approval the County is advised in writing from the Grey Sauble Conservation Authority how Conditions 2, 12, 20 and 21 have been satisfied.
26. That prior to final approval the County of Grey is advised in writing from the Ministry of Transportation how Conditions 4 and 12 have been satisfied.
27. That prior to final approval, the County of Grey is advised from the County Transportation Services Department how Condition 4 has been satisfied.
28. That prior to final approval being given, that the County is advised in writing by Canada Post Corporation how Condition 16 and 17 have been satisfied.
29. The prior to final approval the County of Grey is advised in writing from the Niagara Escarpment Commission how Conditions 2, 5 and 20 have been satisfied.
30. That prior to final approval the County of Grey is advised in writing from the Town of The Blue Mountains how Conditions 2 to 25 have been satisfied.
31. If final approval is not given to this plan within five years of the draft approval date, and no extensions have been granted, draft approval shall lapse under Subsection 51(32) of the *Planning Act*, RSO 1990, as amended. If the owner wishes to request an extension to draft approval, a written explanation together with the applicable application fee and a resolution/letter of support from the local municipality must be submitted to the County of Grey, prior to the lapsing date. Please note that an updated review of the Plan and revisions to the conditions of approval may be necessary if an extension is to be granted.

32. That the owner submit to the Town of The Blue Mountains and the County of Grey a digitized copy of the Final Plan in a format acceptable to the County of Grey.