



Staff Report

Planning and Development Services

Report To: Committee of the Whole
Meeting Date: February 11, 2020
Report Number: PDS.20.13
Subject: Request for Revised Draft Plan Conditions – Georgian Woodlands
Prepared by: Shawn Postma, BES, MCIP, RPP, Senior Policy Planner

A. Recommendations

THAT Council receive Staff Report PDS.20.13, entitled “Request for Revised Draft Plan Conditions – Georgian Woodlands”;

AND THAT Council not support the request for elimination of Draft Plan Conditions or obligations under the Preliminary Subdivision Agreement for financial and bonusing requirements.

B. Overview

The purpose of this report is to consider a request to revise Conditions to Draft Plan Approval for the Georgian Woodlands subdivision as it relates to bonusing obligations within a preliminary subdivision agreement between the Town and the Developer.

C. Background

Planning Services received a request for Redline Revision and Modifications to a Preliminary Subdivision Agreement on the Georgian Woodlands Phase 4 subdivision lands. The request is seeking the elimination of financial and development bonusing requirements approved and agreed to within the Subdivision Draft Plan Approval and through a signed Preliminary Subdivision Agreement. This request was originally received in June 2017 after the approval of the new Town of The Blue Mountains Official Plan. Town and County Planning Staff provided a joint response in September 2017 with the Owner now seeking direction from Council. The Local Planning Appeal Tribunal (LPAT) is the approval authority for this request, and the LPAT will seek support from the Town and County prior to considering the revision.

Georgian Woodlands Phase 4 is part of the larger Georgian Woodlands development that started in the 1960’s on lands bounded by Grey Road 19, Sleepy Hollow Road, Arrowhead Road and the Georgian Trail. Georgian Woodlands Phase 4 is partially developed. Homes are constructed on the Phase 4 Stage 1 and 2 Lands. Draft Plan approval exists for additional single detached dwellings on the remaining lands above the ridge, and multiple units below the ridge.

The request is based on the shift in policy direction for permitted residential density in the Craighleith area. The original Craighleith- Camperdown Secondary Plan and 2007 Town of The Blue Mountains Official Plan established 'as-of-right' density limits and included "Bonus Density" policies that permitted increased density on lands subject to providing a public benefit to the satisfaction of Council to offset the demands of the increased units. Bonus Density was a practice utilized by the Town and other municipalities in the Province under Section 37 of the Planning Act that authorizes a Council to permit increased density and/or height in return for the provision of a public benefit. Normal practice in the Town of The Blue Mountains was to receive contributions for shoreline acquisition and recreational lands and/or facilities. If shoreline or recreational lands/facilities could not be provided, or in instances where deemed not appropriate, the Town would accept financial contributions.

The Georgian Woodlands Phase 4 subdivision was draft plan approved and entered into a preliminary subdivision agreement in 2010 under the policy direction of the 2007 Official Plan. Approvals were granted based on the "Bonus Density" policy direction at that time with Draft Plan Conditions and a Preliminary Subdivision Agreement outlining the requirements to get to final approval and registration. In this case, Georgian Woodlands Phase 4 is Draft Approved with the condition that as part of Stage 3 of the development that cash-in-lieu of Shoreline Dedication in the amount of \$140,833.33 and recreational lands/facilities are provided with a minimum value of \$238,000. If recreational lands/facilities are not provided, cash-in-lieu may be accepted. (See Schedule 'C' to attached Preliminary Subdivision Agreement). The agreement includes details on the timing of when these payments are to be made with no payments to be made until the final phase of the development occurs.

D. Analysis

Under the 2007 Official Plan, the maximum permitted density was 2.5 units per hectare as of right and 5 units per hectare including Bonus Density.

Under the current 2016 Town of The Blue Mountains Official Plan, the maximum permitted density is 10 units per hectare and all policy direction related to Bonus Density has been eliminated from the Official Plan.

Georgian Woodlands Phase 4 has requested to eliminate all financial and bonusing requirements as a result of increased density permissions and the removal of bonusing policies in the new Official Plan. It is noted that Town Staff provided a response in 2017 stating that:

"Amendments to the preliminary subdivision agreement to remove bonusing obligations is also premature at this time. The preliminary subdivision agreement is based on the previous subdivision design and policy direction of the 2007 Official Plan. Changes to the preliminary subdivision agreement should be considered in its entirety based on what has been developed and the future development lands." (September 20, 2017 Letter)

Georgian Woodlands Phase 4 is requesting again to eliminate all financial and bonusing requirements noting that there are additional developments in the Blue Mountains with similar obligations through Draft Plan Conditions and Agreement.

Planning Staff note that there are a number of other Draft Plan Approved developments within the Town that have similar shoreline and recreational lands/facilities obligations within Draft Plan Conditions and/or Preliminary Subdivision Agreement. It is noted that these developments also received their approvals under the policy direction at the time of approval. In all cases, these approvals date back to previous versions of Provincial Policy Direction, Niagara Escarpment Plan, Grey County and Town of The Blue Mountains Official Plan and/or other planning documents. Planning Staff maintain the same opinion as was provided in 2017 that although the Bonusing requirements of the Town Official Plan have been eliminated, that the Draft Approvals cannot be modified to eliminate the agreed to bonusing obligations. The Draft Approvals were supported by a previous Council with the understanding that additional shoreline and recreational lands/facilities (or cash-in-lieu) would be received. Furthermore, a legal agreement has been entered into to obligate the developer to fulfill this condition of approval. These changes are not minor and should not be treated as same. Other aspects of the Draft Approvals may also require modification based on more up to date Plan and policy requirements. Should this development wish to maintain their Draft Plan Approval status, they must also maintain the conditions to that approval.

Modifications to Draft Plan Approvals and Preliminary Subdivision Agreements should be considered through a more fulsome review process including (but not limited to) a major redline revision application, supporting studies (or updated studies), public process, council consideration, and completion of new Draft Plan Conditions.

Based on the foregoing, Planning Staff recommend that Council not support the elimination of Draft Plan Conditions or obligations under the Preliminary Subdivision Agreement for financial and bonusing requirements.

E. The Blue Mountains Strategic Plan

Goal #3: Support Healthy Lifestyles
Objective #3 Manage Growth and Promote Smart Growth

F. Environmental Impacts

Nil

G. Financial Impact

Financial Contributions of up to \$378,833.33 are to be dedicated to the Town prior to Stage 3 of the Georgian Woodlands Phase 4 development

H. In consultation with

Nathan Westendorp, Director of Planning and Development Services
Ruth Prince, Director of Finance and IT Services / Treasurer

I. Public Engagement

The topic of this Staff Report has not been subject to a Public Meeting and/or a Public Information Centre as neither a Public Meeting nor a Public Information Centre are required. Comments regarding this report should be submitted to Shawn Postma at planning@thebluemountains.ca

J. Attached

1. September 20, 2017 Town/County Response Letter
2. Georgian Woodlands Phase 4 Preliminary Subdivision Agreement

Respectfully submitted,

Shawn Postma, MCIP RPP
Senior Policy Planner

Nathan Westendorp, RPP, MCIP
Director of Planning and Development Services

For more information, please contact:
Shawn Postma
planning@thebluemountains.ca
519-599-3131 extension 248



Town of The Blue Mountains

32 Mill Street
Box 310
THORNBURY, ON N0H 2P0
www.thebluemountains.ca

September 20, 2017

Via Email Only

David Slade
DC Slade Consultants Inc.
243 Hurontario Street
Collingwood, ON L9Y 2M1
dcslade@dcslade.ca

**RE: Request for Redline Revision, Zoning By-law Amendment, and
Modifications to Preliminary Subdivision Agreement
Georgian Woodlands Subdivision
G.H. Fleming & Associates Limited and Condo Developments Limited
Town of The Blue Mountains
OMB File No. PL030216**

Dear Mr. Slade,

Planning Staff from the County and Town have reviewed your letter of June 26, 2017 requesting support for proposed revisions to existing draft plan conditions, zoning by-law and preliminary subdivision agreement. The revisions seek to increase the maximum permitted density on future development lands from 148 to 224 and to eliminate all financial and development bonusing requirements as a result of increased density permissions and the removal of bonusing policies in the new Town of The Blue Mountains Official Plan. Approval authority remains with the Ontario Municipal Board.

This letter serves as a joint response of Town and County comments.

Planning Staff recognize that there may be merit in increasing residential density on the future development blocks of the Georgian Woodlands Subdivision, however support for the requested changes are premature at this time. The Town and County will require a formal application for Red-Line Revision and Zoning By-law Amendment. At a minimum a Planning Justification Report and supporting technical reports indicating how the additional density will be accommodated on the lands in accordance with new Official Plan policy. A formal pre-consultation between the Town and the County may be beneficial to outline submission requirements.

Amendments to the preliminary subdivision agreement to remove bonusing obligations is also premature at this time. The preliminary subdivision agreement is based on the previous subdivision design and policy direction of the 2007 Official Plan. Changes to the preliminary subdivision agreement should be considered in its entirety based on what has been developed and the future development lands

Town Planning Staff has no objections to transferring density from the currently undeveloped (but draft plan approved) upper lands to the lower lands now or in the future provided that the application process is followed and planning recommendation can be supported.

All applications and processes are subject to public process and Council acceptance.

If you have any questions with respect to the foregoing, kindly contact the undersigned at 519-599-3131 Ext. 248 or 1-888-258-6867.

Yours truly,

TOWN OF THE BLUE MOUNTAINS



Shawn Postma, BES MCIP RPP
Senior Policy Planner
Planning & Development Services

cc: Randy Scherzer, County of Grey

LRO # 16 Notice Of Subdivision Agreement

Received as GY38680 on 2010 10 20 at 14:59

The applicant(s) hereby applies to the Land Registrar.

yyyy mm dd Page 1 of 25

Properties

PIN 37145 - 0068 LT
Description PCL 22-1 SEC C3-COLL, PT LT 22 CON 3, PT 1, 16R9035; THE BLUE MOUNTAINS, COUNTY OF GREY
Address BLUE MOUNTAINS
PIN 37145 - 0067 LT
Description PCL 23-1 SEC C3-COLL, PTS LTS 23 & 24 CON 3, PT 1, 16R9034; THE BLUE MOUNTAINS, COUNTY OF GREY
Address BLUE MOUNTAINS

Applicant(s)

The notice is based on or affects a valid and existing estate, right, interest or equity in land.

Name GEORGE H. FLEMING & ASSOCIATES LIMITED
Address for Service 84 Donwoods Drive
Toronto, Ontario
M4N 2G5

I, GEORGE FLEMING, President and Authorized Signing Officer, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

Name CONDO DEVELOPMENTS LIMITED
Address for Service 84 Donwoods Drive
Toronto, Ontario
M4N 2G5

I, GEORGE FLEMING, President and Authorized Signing Officer, have the authority to bind the corporation.

This document is not authorized under Power of Attorney by this party.

Party To(s)	Capacity	Share
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Name	THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS
Address for Service	26 Bridge Street East P.O. Box 310 Thornbury, Ontario N0H 2P0

Statements

This notice is for an indeterminate period
The land registrar is authorized to delete the notice on the consent of the following party(ies) THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS
Schedule: See Schedules

Signed By

James Arthur Ironside	10 School Lane, box 280 Collingwood L9Y 3Z5	acting for Applicant(s)	Signed	2010 10 20
Tel 705-445-1382				
Fax 7054457042				

I have the authority to sign and register the document on behalf of all parties to the document.

PRELIMINARY SUBDIVISION AGREEMENT

GEORGE H. FLEMING & ASSOCIATES LIMITED AND CONDO DEVELOPMENTS LIMITED.

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PRELIMINARY SUBDIVISION AGREEMENT

THIS AGREEMENT made this 7th day of June, 2010.

BETWEEN:

**GEORGE H. FLEMING & ASSOCIATES LIMITED AND
CONDO DEVELOPMENTS LIMITED**

(hereinafter referred to as the "Developer")

- and -

THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS
(hereinafter referred to as the "Town")

WHEREAS the Developer warrants that it is the registered owner of Lands;

AND WHEREAS the development of the Lands is subject to all of the policies of the Official Plan, including the General Exception Policies and the Specific Exception Policies set out in Parts A and B of Paragraph 50 of Section 13.2 of the Official Plan;

AND WHEREAS the Lands are described as Parcel A28 in Part B of Paragraph 50 of Section 13.2 of the Official Plan;

AND WHEREAS the General Exception Policies require the Developer to enter into a Master Subdivision Agreement with the Town, prior to the Town approving any draft plan or site plan applications, to address, among other things, the items set out in the General Exception Policies;

AND WHEREAS the Developer has appealed to the Ontario Municipal Board under subsections 34(11) and 51(34), respectively, of the Planning Act from the Town's refusal or neglect to enact a proposed amendment to the Town's zoning by-law and the Town's failure to make a decision respecting a proposed plan of subdivision of the Lands (the "Appeals");

AND WHEREAS the Parties have entered into Minutes of Settlement dated as of the 7th day of June, 2010 for the purposes of resolving all of the outstanding issues arising out of the Appeals, including the approval by the Parties of the form of the Draft Plan and the Conditions;

AND WHEREAS Town has executed the Minutes of Settlement on the condition that the Developer enters into this Agreement in accordance with the requirements of the General Exception Policies.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the covenants hereinafter expressed and other good and valuable consideration, the Parties hereto covenant and agree one with the other as follows:

PART I

DEFINITIONS AND BASIS OF AGREEMENT

1.1 Definitions

In this Agreement, including the recitals, the following terms shall have the meanings set out below, unless otherwise redefined or where the subject matter or context requires another meaning to be ascribed:

"Accepted for Construction" means the signing and stamping of a Required Plan "Accepted for Construction" by the Director;

"Accepted Plans" means the Required Plans for the Works which have been Accepted for Construction.

"Development Charges Act" means the Development Charges Act, 1997, S.O. 1997, c.27

"Agreement" means this agreement;

"Approval Authority" means the County of Grey;

"Bonus Density" has the meaning ascribed to it in the Official Plan;

"Business Day" means any day other than Saturday, Sunday or any statutory or civic holiday in Ontario;

"CBO" means the person holding the title of Chief Building Official for the Town or his designate;

"Conditions" means the conditions, as imposed by Decision/Order of the Ontario Municipal Board in accordance with the provisions of the Planning Act for the subdivision, development and servicing of the Lands;

"Condominium Act" means the Condominium Act, 1998, S.O.1998 c.19;

"County" means the County of Grey;

"DC By-law" means the Town's Development Charges By-law 2010-18 or any amending, successor or replacement by-law thereto;

"DC Prepayments" means the amounts, as set out in Schedule "E", equal to the total amount of the Development Charges for the service categories described in Schedule "E" that would be payable by the Developer under the DC By-law in respect of the Lands;

"Default" means any default by the Developer in the performance of its obligations under this Agreement, including the failure of the Developer to make any payments to the Town required by this Agreement when due;

"Director" means the person holding the title of Director of Engineering and Public Works for the Town or his designate;

"Draft Plan" means the draft plan of subdivision as approved by Decision/Order of the Ontario Municipal Board in accordance with the provisions of the Planning Act for the subdivision, development and servicing of the Lands;

"Final Approval" means the release of the final plan of subdivision and/ or condominium for the subdivision of the Lands by the Town to the Approval Authority for final approval for registration under the Planning Act and/or the Condominium Act;

"Financial Contributions" means the amounts set out in Schedule "C" which are to be paid to the Town in accordance with this Agreement;

"General Exception Policies" means the policies set out in Part A of Paragraph 50 of Section 13.2 of the Official Plan;

"Government Authority" means any government authority or agency, including conservation authorities that are specifically referred to in the Conditions or have jurisdiction over the Lands or the design, installation or maintenance of any part of the Works:

"install" shall also mean do, provide, construct, reinstall or reconstruct;

"Lands" shall mean the lands shown on the Draft Plan and described in Schedule "A";

"Notice" means any written notice, demand, request, direction or instructions given and received in accordance with the provisions of Section 8.3;

"Official Plan" means the Town's adopted Official Plan in effect in accordance with the Planning Act on the date of this Agreement:

"Overall Grading Plan" means the overall grading and drainage plan for the Plan, being one of the Accepted Plans:

"Parties" mean the Developer and the Town;

"Plan" means the final plan of subdivision and includes, where applicable, the final plan of common elements condominium and the final plan of vacant land condominium which the Developer proposes to register in accordance with the provisions of the Planning Act and the Condominium Act for the purpose of subdividing, developing and servicing the Lands;

"Planning Act" means the Planning Act, R.S.O. 1990, c. P.13, as amended or any successor statute;

"Power Utility" means Hydro One Networks Inc. or Collus Power Corp, whichever has jurisdiction to supply hydro-electric power to the Lands;

"Prepaid DC Credits" means the Prepaid DC Credits as set out in Schedule "E";

"Required Plans" means all the studies, reports, designs, plans, drawings and specifications for the installation of all of the Works:

"Services" means the Works described in Schedule "D" which are to be designed and installed by the Developer in accordance with this Agreement and the Subdivision Agreement;

"Site Plan Agreement" means an agreement within the meaning of and authorized by section 41 of the Planning Act;

"Specific Exception Policies" means the policies set out in Part B of Paragraph 50 of Section 13.2 of the Official Plan;

"Subdivision Agreement" means an agreement within the meaning of and authorized by sections 51(25)(d) and 51(26) of the Planning Act for the subdivision, development and servicing of the Lands;

"Town Standards" means the Town's approved design criteria, design standards, specifications, maintenance standards and procedures for the design, installation and maintenance of the Works in effect on the date of the Subdivision Agreement.

"Treasurer" means the person holding the title of Director of Finance and Information Services for the Town or his designate;

"Utility Services" means all of the utility services for the Plan including hydro-electric, gas, telephone, cable television and telecommunication;

"Works" means all of the works, services, facilities, landscaping, fencing, matters and things which are required by the Town, the utility corporations, including the Power Utilities and all Government Authorities to be designed, installed and done by the Developer for the subdivision, development and servicing of the Lands, Where the subject matter or context of a particular section of this Agreement requires reference to an individual component of the Works, it may be referred to by its individual name (i.e. the Grading and Drainage Works, the Storm Water Management Works, the Park Landscaping Works etc);

"Works Fee" has the meaning ascribed to it in Section 6.2;

All other capitalized terms shall have the meanings ascribed to them in this Agreement.

1.2 Interpretation of Agreement

- (a) The part numbers and headings, subheadings and section, subsection, clause and paragraph numbers are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.
- (b) Unless the context otherwise requires, in this Agreement words importing the singular include the plural and vice versa and words importing a gender include all genders.
- (c) Every provision of this Agreement by which the Developer is obligated in any way shall be deemed to include the words "at the expense of the Developer" unless the context otherwise requires.
- (d) References herein to any statute or any provision thereof include such statute or provision thereof as amended, revised, re-enacted and/or consolidated from time to time and any successor statute thereto.
- (e) All obligations herein contained, although not expressed to be covenants, shall be deemed to be covenants.
- (f) Whenever a statement or provision in this Agreement is followed by words denoting inclusion or example and then a list of or reference to specific items, such list or reference shall not be read so as to limit the generality of that statement or provision, even if words such as "without limiting the generality of the foregoing" do not precede such list or reference.
- (g) The Parties agree that all covenants and conditions contained in this Agreement shall be severable, and that should any covenant or condition in this Agreement be declared invalid or unenforceable by a court of competent jurisdiction, the remaining covenants and conditions and the remainder of the Agreement shall remain valid and not terminate thereby.
- (h) All references to parts, sections, clauses, paragraphs and schedules unless otherwise specified are references to parts, sections, clauses, paragraphs and schedules of this Agreement.

The Draft Plan and the Conditions, as and when approved and imposed by Decision/Order of the Ontario Municipal Board are incorporated into and form part this Agreement and shall have the same force and effect as if the information shown on them were contained in the body of this Agreement.

1.3 Administration of Agreement

This Agreement shall be administered on behalf of the Town by the Treasurer, unless another Town official is otherwise specifically referred to in this Agreement. Where under the terms of this Agreement, decisions, approvals, Notices and certificates are to be made or given, such decisions, approvals, Notices and certificates shall be made or given by the Treasurer or other official in their sole and absolute discretion, acting reasonably.

1.4 Lands Affected

This Agreement applies to Lands, which lands are all of the lands included in the Draft Plan.

1.5 Joint Authors

Each Party acknowledges and agrees that it has participated in the drafting of this Agreement and that no portion of this Agreement shall be interpreted less favorably to either Party because that Party or its legal counsel was primarily responsible for the drafting of that portion.

1.6 Recitals

The Parties agree that the recitals herein are true and accurate and form part of this Agreement.

1.7 Official Plan

The Developer acknowledges and agrees that the Lands shall only be developed in accordance with all of the provisions of the Official Plan, including Section 6.5.3 and the General Exception Policies and the Specific Exception Policies set out in Parts A and B of Exception 50 of Section 13.2 of the Official Plan.

The Developer acknowledges and agrees that the Bonus Density for the Lands is as set out in Schedule "A".

The Developer acknowledges and agrees that the payment of the Financial Contributions, the provision of additional recreational lands and/or facilities and/or payments to the Town in lieu thereof and the other requirements all as set out in Part II and the provision of the Services as set out in Part III are requirements of the Official Plan for the subdivision, development and servicing of the Lands.

1.8 Scope of Agreement – Master Subdivision Agreement

The Parties acknowledge and agree that this Agreement is the Master Subdivision Agreement required to be entered into by General Exception Policies to satisfy the requirements of the Official Plan for the subdivision, development and servicing of the Lands and is also an agreement within the meaning of and authorized by sections 51(25) (d) and 51(26) of the Planning Act. The Parties further acknowledge and agree that this Agreement is not a front-ending agreement within the meaning of and authorized by the Development Charges Act.

This Agreement shall define the obligations and duties of the Developer with respect to the subdivision, development and servicing of the Lands and, without limiting the generality of the foregoing, shall include the design and installation of the Services, the provision of additional recreational lands and/or facilities and/or payments to the Town in lieu thereof in accordance with section 6.5.3 of the Official

Plan and such other payments to the Town and other matters as may be more specifically set out herein.

1.9 Servicing Capacity.

The Developer hereby acknowledges that by entering into this Agreement, the Town is not reserving or allocating existing servicing capacity for water and sewer for the development. It being understood and agreed that draft approval of the Draft Plan is required to obtain reservation of existing servicing capacity and that registration of the Plan is required to obtain allocation of existing servicing capacity.

1.10 Subdivision Agreement

The Developer agrees that prior to Final Approval, the Developer shall enter into a Subdivision Agreement with the Town, in a form satisfactory to the Town to satisfy the requirements of this Agreement, the Conditions and without limitation to satisfy all of the financial, legal, servicing, engineering, landscaping, phasing and other requirements of the Town for the subdivision, development and servicing of the Lands. The Town may, in its sole and absolute discretion, include provisions of this Agreement in the Subdivision Agreement and require the Developer to enter into a Subdivision Agreement and/or Site Plan Agreement for each phase of the development of the Lands. This section shall not be interpreted to allow for any changes to any of the principles set out in this Agreement.

1.11 Phasing

The Developer agrees that the Lands shall be subdivided, developed and serviced in accordance with the general phasing requirements set out in Schedule "B" and the more detailed phasing requirements to be set out in the Subdivision Agreement.

1.12 Term

The term of this Agreement shall commence on the date this Agreement is executed by the Town and shall remain in full force and effect until the earlier of the date the draft approval for the Draft Plan lapses under subsection 51(32) of the Planning Act, subject to the ability to acquire extensions to the draft approval of the Draft Plan, or the date the Town has executed a Subdivision Agreement and /or Site Plan Agreement for the last phase of the development of the Lands.

PART II

FINANCIAL CONTRIBUTIONS, RECREATION AND OTHER REQUIREMENTS

2.1 Financial Contributions

Subject to the credit provisions set out in Schedule "E", the Developer covenants and agrees to pay the Financial Contributions, to the Town by certified cheque prior to Final Approval.

2.2 Recreation Requirements

Subject to the credit provisions set out in Part IV and Schedule "E" and in addition to the requirements of Section 51.1 of the Planning Act with respect to the conveyance of land for park or other public recreational purposes or the payment of money in lieu thereof, the Developer, in accordance with the requirements of the Official Plan, covenants and agrees to:

- (a) convey the lands;

- (b) provide the recreational facilities; and
- (c) make the payments, which includes the DC Prepayments, to the Town by certified cheque,

all as set out in Schedules "C" and "E", prior to Final Approval.

2.3 Other Requirements

The Developer covenants and agrees to comply with all of the other requirements set out in Schedule "C" required by the Town, the County and Government Authorities for the subdivision, development and servicing of the Lands.

PART III

PROVISION OF THE SERVICES

3.1 Installation of the Services by the Developer

The Developer covenants and agrees to design and install the Services in accordance with the provisions of the Subdivision Agreement for the phase in which the Services are located, at its sole cost and expense, without reimbursement from the Town or any other person and the Developer hereby waives its right to assert or to claim any right against the Town or any other person for reimbursement for the whole or any part of the costs of the Services. The Parties agree that the Services shall be Works within the meaning of the Subdivision Agreement.

Part IV

DC PREPAYMENTS AND PREPAID DC CREDITS

4.1 Prepayment of Development Charges

The Parties acknowledge and agree that this Agreement is also an agreement within the meaning of section 27 of the Development Charges Act and that the DC Prepayments when provided by the Developer to the Town pursuant to the provisions of this Agreement are a prepayment pursuant to section 27 of the Development Charges Act of a portion of the development charges otherwise payable by the Developer under the DC By-law in respect of the Lands for the service category described in Schedule "E".

4.2 Prepaid Development Charges Credits

The Developer is entitled to, and the Town shall recognize in favour of the Developer, credits equal to the amounts of the DC Prepayment (the "Prepaid DC Credits") as a prepayment, pursuant to Section 27 of the Development Charges Act, of a portion of the development charges that would be payable pursuant to the DC By-law for the service category described in Schedule "E". The Parties agree that the final amount of the Prepaid DC Credits shall not exceed the amounts as shown Schedule "E". The Developer shall be entitled to use the Prepaid DC Credits against the development charges otherwise payable under the DC By-law for the service category described in Schedule "E" on each occasion that such Development Charges would be payable under the DC By-law in respect of the Lands.

4.3 The Town's Obligations – DC Credits

The Developer acknowledges and agrees that the Town shall not be obligated to give any credits to the Developer as compensation for its providing the DC Prepayments except in the form of the credits as set out in Schedule "E".

4.4. Credits against the DC By-law Only

The Developer shall not be entitled to use the Prepaid DC Credits against development charges payable under the DC By-law for any service category under the DC By-law other than the service category for which the prepayment was made or under any other development charge by-law of the Town or against any lands owned by the Developer other than the Lands.

4.5 Transfer of Credits

The Parties acknowledge that the entitlement to use the Prepaid DC Credits shall accrue to a successor in title to the Developer, in the event that title to the Lands, or any portion thereof, that have not been developed are transferred prior to the Developer using all of its Prepaid DC Credits. No such assignment or transfer is valid unless such successor has entered into an agreement with the Town agreeing to be bound by the provisions of this Agreement as if such successor were an original party to this Agreement.

PART V

WORK ON THE LANDS

5.1 Work on the Lands

The Developer agrees that it shall not commence any work on the Lands, including filling, grading, or removal of trees (except trees situate on a proposed highway shown on the Draft Plan) and top soil, installing any Works or constructing any buildings or structures until:

- (a) a detailed soils investigation of the Lands prepared by a qualified Geotechnical Engineer has been submitted to and accepted by the Director. A copy of this detailed soils investigation shall also be submitted to the CBO;
- (b) the following has been submitted to and accepted by the Director.
 - (i) a Phase I Environmental Site Assessment for the Lands;
 - (ii) a Phase 2 Environmental Site Assessment for the Lands if required as a result of the Phase 1 Environmental Site Assessment;
 - (iii) a decommissioning report if contaminated material has been identified and is removed or, alternatively, a copy of the risk assessment together with a copy of the written acknowledgement of its acceptance by the Ministry of the Environment; and
 - (iv) a copy of a Record of Site Condition and confirmation of the filing of the Record of Site Condition in the Environmental Site Registry, if required.
- (c) the Developer, if required by the Town and/or the Conditions, has carried out an archaeological resource assessment of the Lands and has mitigated, through avoidance or documentation, adverse impacts to any significant archaeological resources found. No demolition, grading, filling, or any form of soil disturbances shall take place on the Lands prior to the issuance of a letter from the Ministry of Culture and Communications, to the Town, advising that all archaeological resource concerns have met licensing and resource conservation requirements;
- (d) a report identifying all existing water wells and private sewage disposal systems on the Lands has been submitted and verification provided to the satisfaction of the CBO that all wells and septic systems identified have been decommissioned in accordance with all applicable laws and regulations.

- (e) a detailed engineering and drainage report which describes the storm water drainage system and the storm water management techniques which may be required to control minor or major flows for the proposed development on the Lands has been accepted by the Director.

NOTE: it is recommended that the Developer contact the Town's Engineering and Public works Department and the appropriate Conservation Authority prior to preparing the Report to clarify the specific requirements of this development.

- (f) the Town has approved a detailed phasing plan for the subdivision, development and servicing of the Lands.
- (g) all approvals have been obtained from all Government Authorities whose approval is required and all certificates and permits required by law have been obtained;
- (h) all of the Required Plans have been Accepted for Construction;
- (i) and it has entered into a Pre-Servicing Agreement and/or Subdivision Agreement with the Town, in a form satisfactory to the Town to satisfy all the requirements of this Agreement, the Conditions and without limitation to satisfy all of the financial, insurance, legal, servicing, engineering, landscaping and other requirements of the Town for the subdivision, development and servicing of the Lands.

5.2 Policy on Commencing Work

The Developer acknowledges and agrees to abide by the Town Policy with regard to the Commencement of Work as set out in Schedule "F".

5.3 Town Standards

All Works required to be designed, installed, provided and maintained pursuant to the Subdivision Agreement shall be designed, installed, provided and maintained in strict accordance with the Town Standards except for certain roads within the subdivision which are to be designed and installed in accordance with the road standards set out in Schedule "D".

5.4 Changes to the Town Standards

Subject to section 5.3 despite anything contained in the Subdivision Agreement, if the Town or any Government Authority changes or causes changes to any of the Town Standards for any of the Works which the Developer is required to install before the particular Works are installed, the Developer shall, at its own expense, if required by Notice given by the Director redesign and install the particular Works in accordance with the new Town Standards.

5.5 Utility Services

The Utility Services shall be installed as a total underground installation at no cost to the Town. The Developer shall enter into an agreement or agreements with such applicable utility companies, to provide the Utility Services as required, to satisfy all requirements, including but not limited to the maintenance and repair of their facilities and equipment until the Assumption of all of the Works by the Town.

PART VI

FINANCIAL ARRANGEMENTS AND INSURANCE

6.1 Fees and Charges

The Town acknowledges receipt a non-refundable administration fee from the Developer in the amount stipulated in Schedule "C" for expenses incurred by the Town for the processing and administration of this Agreement and the Subdivision Agreement.

6.2 Works Fee

The Developer shall pay to the Town, upon application for a Subdivision Agreement or Pre-servicing Agreement, a non-refundable works fee in the amount prescribed by Town By-law in force at the time of execution of the Subdivision Agreement or Pre-servicing Agreement for expenses incurred by the Town for review of the design of the Works and for inspections and other matters related to the installation of the Works.

6.3 Disbursement and Expenses

- (a) In addition to the non-refundable administration fee referred to in Section 6.1, the Developer shall pay to the Town, within twenty (20) Business Days of receipt of a Notice demanding payment, the full amount of such costs, expenses and disbursements as may be or are incurred by the Town in connection with the preparation, administration and enforcement of this Agreement and the Subdivision Agreement, including, without limiting the generality of the foregoing, the Town's legal costs and the costs of other consultants (the "Agreement Costs").
- (b) As security to ensure payment of the Agreement Costs by the Developer, the Developer shall pay to the Town, upon execution of this Agreement, a refundable deposit of \$5,000.00 to be used by the Town for the purpose of paying the Agreement Costs. The Developer shall replenish this refundable deposit to its full amount within twenty (20) Business Days of receipt of a Notice providing details of the amounts of the Agreement Costs incurred by the Town and requesting replenishment of this deposit.

6.4 Challenges to the Fees and Charges

Nothing in this Agreement shall affect any right which the Developer may have to challenge the fees and charges pursuant to the Planning Act.

PART VII

BUILDING AND PLANNING

7.1 Model Homes

- (a) Building permits may be issued for model homes prior to Final Approval provided that the Developer and the builders comply with the Town's Model Home Policy. This policy requires, among other things, that the lot or block for which the building permit is applied for is zoned accordingly to permit the construction of the model home, including, where applicable, the removal of the holding –h symbol from the zoning by-law and that the Developer and that the builder enter into a Model Home Site Plan Agreement with the Town, with appropriate security, in a form satisfactory to the Town.
- (b) Where building permits have been issued to permit the construction of model homes, adequate water supply and access for firefighting purposes

shall be available to the lot or block at all times during construction and occupancy of such model homes as may be determined in the sole and absolute discretion of the Director.

PART VIII

ADMINISTRATION

8.1 Indemnity

The Developer shall indemnify and save completely harmless the Town and its elected officials, officers, agents, contractors and employees from and against all actions, causes of actions, suits, claims and demands whatsoever which may arise directly or indirectly or in any way connected with a breach by the Developer of its obligations under this Agreement.

8.2 Transfer of Lands

In the event the Developer transfers the Lands to a third party prior to execution of the Subdivision Agreement, the Developer shall prior to completing this transfer provide the Town with an agreement from the new owner in a form satisfactory to the Town in which the new owner agrees to be bound by the terms of this Agreement.

8.3 Notices

- (a) Any Notice to be given by the Town to the Developer with respect to this Agreement shall be given in writing and may be mailed by postage prepaid mail, personally delivered or sent by facsimile transmission to the Developer at the Address shown on Schedule "A" or such other address of which the Developer has by Notice notified the Municipal Clerk and any such Notice mailed or delivered shall be deemed good and sufficient Notice under the terms of this Agreement.
- (b) Any Notice to be given by the Developer to the Town with respect to this Agreement shall be given in writing and may be mailed by postage prepaid mail, personally delivered or sent by facsimile transmission to or delivered to:

The Town of The Blue Mountains
26 Bridge Street East,
Box 310, Thornbury, ON, N0H 2P0
Attention: The Director of Engineering and Public
Works
Facsimile: (519) 599-3664

or such other address of which the Town has by Notice the Developer and any such Notice mailed or delivered shall be deemed good and sufficient Notice under the terms of this Agreement.

- (c) Any Notice shall be deemed to have been given to and received by the party to which it is addressed;
 - (i) if delivered, on the date of delivery;
 - (ii) if mailed, on the fifth day after mailing thereof; or
 - (iii) if faxed, on the date of faxing, as confirmed

8.4 Other Applicable Laws

Nothing in this Agreement shall relieve the Developer from compliance with all applicable municipal by-laws, laws and/or regulations or laws and/or regulations established by any Government Authority.

8.5 Waiver

The failure of the Town at any time to require performance by the Developer of any obligation under this Agreement shall in no way affect its right thereafter to enforce such obligation, nor shall the waiver by the Town of the performance of any obligation hereunder be taken or be held to be a waiver of the performance of the same or any other obligation hereunder at any later time. The Town shall specifically retain its rights at law to enforce this Agreement.

8.6 Extension of Time

Time shall be of the essence of this Agreement. Any time limits specified in this Agreement may be extended with the consent in writing of both the Developer and the Town, but no such extension of time shall operate or be deemed to operate as an extension of any other time limit, and time shall be deemed to remain of the essence of this Agreement notwithstanding any extension of any time limit.

8.7 Registration of Agreement

The Parties hereby covenant and agree that this Agreement may be registered upon title to the Lands. The Developer further shall pay all costs associated with the preparation and registration of this Agreement, as well as all other costs incurred by the Town as a result of the registration of any other documents pertaining to this Agreement notwithstanding that such registration may have been solely at the instance of the Town.

8.8 Postponement and Subordination

The Developer covenants and agrees, at its own expense, to obtain and register such documentation from its mortgagees or encumbrances as may be deemed necessary by the Town to postpone and subordinate their interest in the Lands to the interest of the Town to the extent that this Agreement shall take effect and have priority as if it had been executed and registered before the execution and registration of the document or documents giving to the mortgagee and/or encumbrancers their interest in the Lands.

8.9 Governing Law

This Agreement shall be interpreted under and is governed by the laws of the Province of Ontario.

8.10 Successors & Assigns

It is hereby agreed by and between the Parties hereto that this Agreement shall be enforceable by and against the Parties hereto, their heirs, executors, administrators, successors and assigns and that the Agreement and all the covenants by the Developer herein contained shall run with the Lands.

LIST OF SCHEDULES

The following schedules are attached hereto and form part of this Agreement:

"SCHEDULE A" being a description of the Lands;

"SCHEDULE B" being the Phasing Requirements

"SCHEDULE C" being the Financial Contributions and the Recreation Requirements

"SCHEDULE D" being a Description of the Services

"SCHEDULE E" being the DC Prepayments and Prepaid DC Credits

"SCHEDULE F" being a copy of the Town's Policy on commencing work on the Lands

IN WITNESS WHEREOF the parties hereto have hereunto affixed their hand and corporate seals duly attested by the hands of their proper signing officers in that behalf.

SIGNED, SEALED AND DELIVERED

GEORGE H. FLEMING & ASSOCIATES LIMITED

[REDACTED]
Name

Title

I have authority to bind the corporation

CONDO DEVELOPMENTS LIMITED

[REDACTED]
Name

Title

I have authority to bind the corporation

THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

[REDACTED]
[REDACTED]
Ellen Anderson - Mayor

[REDACTED]
[REDACTED]
Corrina Giles - Clerk

SCHEDULE "A"

This Schedule forms part of a Preliminary Subdivision Agreement between George H. Fleming & Associates Limited, Condo Developments Limited and the Corporation of the Town of The Blue Mountains

1. DESCRIPTION OF THE LANDS

Firstly – Condo Developments Limited – PIN 37145-0067 (LT)

PCL 23-1 SEC C3 - COLL, PTS LTS 23 & 24, CON 3, PT 1, 16R-9034
The Blue Mountains, County of Grey.

Secondly - Condo Developments Limited – PIN 37145-0068 (LT)
George H. Fleming & Associates Limited

PCL 22-1 SEC C3 - COLL, PT LT 22 , CON 3, PT 1, 16R-9035
The Blue Mountains, County of Grey.

2. ADDRESS OF THE DEVELOPER FOR SERVICE

**84 Donwoods Drive
Toronto, Ontario
M4N 2G5**

3. OFFICIAL PLAN EXCEPTION DESCRIPTION (Section 13, Exception 50, Part B)

Parcel A28 Fleming

"Development of these properties is also required to provide for looping of waterlines, sanitary sewer servicing and road upgrades to Arrowhead Road, dedication of the Lake Nipissing Shorecliff and the dedication of other Environmental areas to the Town.

In recognition of shorefront lands previously dedicated to the Town as part of previous planning approvals and unused bonus density, the Schedule B unit yields for these lands has been increased by 10 units."

4. DESCRIPTION OF THE DRAFT PLAN

Draft Plan revised December 18, 2009 prepared by D.C. Slade Consultants Inc. DWG. #; 296-99-DP11 – 249 dwelling units

5. BONUS DENSITY

In accordance with the provisions of the Official Plan, the Bonus Density for the Lands is 119 dwelling units

SCHEDULE "B"

This Schedule forms part of a Preliminary Subdivision Agreement between George H. Fleming & Associates Limited, Condo Developments Limited and the Corporation of the Town of The Blue Mountains

PHASING REQUIREMENTS

The Lands shall be subdivided, developed and serviced in the following three (3) phases:

Phase 1

Lots 1 to 64 and Blocks 107, 109, 110, 111, 112, 118, 122, 123, 124, and 125 shown on the Draft Plan – 64 Single Family Residential Units.

Phase 2

Lots 65 to 101 and Blocks 102, 103, 104, 105, 106, 108, 113, 114, 116, 117, 119, 120, and 121 shown on the Draft Plan. - 37 Single Family Residential Units.

Phase 3

Block 115 shown on the Draft Plan – Future Development - 148 Multiple Residential units

All of which phases are shown on a Phasing Plan Revised December, 18, 2009 prepared by D.C. Slade Consultants Inc. DWG. # 296-99-DP11 - Phases which is on file in the Town Clerk's Office and may be viewed during normal office hours.

SCHEDULE “C”

This Schedule forms part of a Preliminary Subdivision Agreement between George H. Fleming & Associates Limited, Condo Developments Limited and the Corporation of the Town of The Blue Mountains

FINANCIAL CONTRIBUTIONS, RECREATION AND OTHER REQUIREMENTS

PART 1 – FEES AND CHARGES (Section 6.1)

1. Administration Fee	\$10,200.00
2. Security for Agreement Costs	\$5,000.00
3. County of Grey Planning Application Fees	\$17,475.00

PART 2 - FINANCIAL CONTRIBUTIONS (Section 2.1)

1. Combined EA	\$25,000.00 (Paid)
2. Water Modeling Study	Nil
3. Land Acquisition	Nil
4. Other	Nil

PART 2 - RECREATION REQUIREMENTS (Section 2.2)

Additional Recreational Lands and/or Facilities – Bonus Density
(Section 6.5.3 of the Official Plan) (Section 2.2)

Shoreline Dedication	Nil
Cash in Lieu of Shoreline Dedication See Note 1	\$140,833.33
Recreational Facilities See Note 2	equivalent to \$238,000.00

Note 1

The first Subdivision Agreement and/or Site Plan Agreement for Phase 3 will require the Developer to make this payment to the Town prior to the Town executing the agreement. The \$140,833.00 is based on 148 units within Block 115 being developed. If the unit yield is reduced the “cash-in-lieu of shoreline dedication” shall be reduced by \$5,000.00 per unit.

Note 2

The type of Recreational Facilities to be provided shall be agreed upon by the Parties prior to the Town executing the Subdivision Agreement for Phase 1 and a provision shall be included in this agreement which provides that the first Subdivision Agreement and/or Site Plan Agreement for Phase 3 will require the Developer to provide these Recreational Facilities or to make the equivalent payment to the Town prior to the Town executing the Phase 3 agreement based on the number of units that warrant the bonus requirement.

PART 3 - OTHER REQUIREMENTS (Section 2.3)**1. Parkland and Money in Lieu Thereof**

The Developer agrees that the Subdivision Agreement for Phase 1 will require the Developer to convey Block 112 for park or other public recreational purposes and to pay money in lieu thereof to satisfy the provisions of section 51.1 of the Planning Act with respect to the parkland requirements for Phases 1, 2 and 3. It is acknowledged that Block 112 represents 2.73% of the 5% parkland dedication requirement and that the payment of money in lieu represents the remaining 2.27% of the parkland dedication requirement.

SCHEDULE "D"

This Schedule forms part of a Preliminary Subdivision Agreement between George H. Fleming & Associates Limited, Condo Developments Limited and the Corporation of the Town of The Blue Mountains

SERVICES

DESCRIPTION OF THE SERVICES

Trunk Sanitary Sewer

Trunk Sanitary Sewer Works to be installed on the Lands to connect the existing sanitary sewer on Old Lakeshore Road to the sanitary sewer on Arrowhead Road at the top of Nipissing Ridge shall be designed and installed by the Developer, at the Developer's sole cost, in accordance the Subdivision Agreement for Phase 2.

The exact location, including the location of any easements required to be transferred to the Town, and the detailed design and specifications for these sanitary sewer works shall be shown on the Accepted Plans for Phase 2 and included in the Subdivision Agreement for Phase 2.

Road Standards

1. 23 Metre Wide Rights of Way

The Accepted Plans for Streets A, B and part of Street E up to the bulb of the cul-de-sac thereon, being the 23 metre wide streets shown on the Draft Plan, shall be based on the "Modified " Rural Typical Section (6.0m Road - 23m R.O.W.) Drawing No. Fig. 1B prepared by Crozier & Associates – Engineers and dated October 28, 2009.

2. 20 Metre Wide Rights of Way

The Accepted Plans for the 20 metre wide streets shown on the Draft Plan, shall be based on the "Modified "Rural Typical Section (6.0m Road - 20m R.O.W.) Drawing No. Fig. 1A prepared by Crozier & Associates – Engineers and dated October 28, 2009.

Copies of these two drawings are on file in the Town Clerk's Office and may be viewed during normal office hours.

SCHEDULE "E"

This Schedule forms part of a Preliminary Subdivision Agreement between George H. Fleming & Associates Limited, Condo Developments Limited and the Corporation of the Town of The Blue Mountains

DC PREPAYMENTS AND PREPAID DC CREDITS

PART 1 – DC PREPAYMENTS

"DC Prepayment – Craigleith – Waterworks System Service Category

\$12,500. – Combined EA

"DC Prepayment - Craigleith – Sanitary Sewage System Service Category

\$12,500. – Combined EA

PART 2 – PREPAID DC CREDITS

"Prepaid DC Credits - Craigleith - Waterworks System Service Category

Maximum credits \$12,500. (per unit as provided in DC By-law up to the maximum)

"Prepaid DC Credits - Craigleith – Sanitary Sewage System Service Category

Maximum credits \$12,500. (per unit as provided in DC By-law up to the maximum)

SCHEDULE “F”

This Schedule forms part of a Preliminary Subdivision Agreement between George H. Fleming & Associates Limited, Condo Developments Limited and the Corporation of the Town of The Blue Mountains

TOWN POLICY ON COMMENCING WORK

POLICY

Subject Title: Processing of Applications for Land Use Approvals

Corporate Policy:	<input checked="" type="checkbox"/>	Policy Ref. No.:	
Administrative Policy:	<input type="checkbox"/>	By-law No.:	N/A
Department Policy:	<input type="checkbox"/>	Name of Dept.:	N/A
Date Approved:	Nov. 5, 2007	Staff Report:	SRB.07.31
Prepared By: D. Finbow, Director, Building & By-law/Chief Building Official			

Policy Statement(s)

- 1 In the instance of works proceeding in advance of the necessary Land Use Approvals, Town Staff will immediately stop processing any and all associated approval requests, including the preparation of Staff Reports, Agreements, Certificate of Approval Requests and the review of engineering and related drawings.
- 2 Notwithstanding the commencement of works in advance of the necessary Land Use Approvals, Town Staff will process applications to those stages that the municipality is obligated by Provincial Law to proceed to (i.e. proceeding to a public meeting for Official Plan, Rezoning Approvals, Subdivision and Condominium Approvals).
- 3 If works have proceeded in advance of the necessary Land Use Approvals, the Town may retain a solicitor in order to proceed with injunctive relief from the courts to cause the works to stop.
- 4 The Town will prioritize those Land Use Approval applications where the proponent, in particular the Principal(s), is not, or has not been, in violation of this Policy.

Purpose

The Town of The Blue Mountains Strategic Plan identifies the following Goals:

- a. “Managing growth to ensure ongoing health and prosperity of the community.”
- b. “Addressing the Town’s municipal infrastructure needs.”
- c. “Preserving and enhancing natural and environmental features, and cultural heritage of the community.”

The purpose of this Policy is to ensure that the Town can fulfill these goals by precluding certain development related works from proceeding in advance of the necessary Land Use Approvals.

Application

This policy applies to all current and future Land Use Approval applications.

Definitions

Land Use Approval(s) - includes, but is not limited to, Pre-Servicing, Subdivision, Condominium and Site Plan Approval.

Works – includes, but is not limited to, tree clearing, grubbing, alteration of grade, and the commencement of the installation of infrastructure/servicing.

Policy

It is the Town's Policy that:

- 1 In the instance of works proceeding in advance of the necessary Land Use Approvals, Town Staff will immediately stop processing any and all associated approval requests, including the preparation of Staff Reports, Agreements, Certificate of Approval Requests and the review of engineering and related drawings.
- 2 Notwithstanding the commencement of works in advance of the necessary Land Use Approvals, Town Staff will process applications to those stages that the municipality is obligated by Provincial Law to proceed to (i.e. proceeding to a public meeting for Official Plan, Rezoning Approvals, Subdivision and Condominium Approvals).
- 3 If works have proceeded in advance of the necessary Land Use Approvals, the Town may retain a solicitor in order to proceed with injunctive relief from the courts to cause the works to stop.
- 4 The Town will prioritize those Land Use Approval applications where the proponent, in particular the Principal(s), is not, or has not been, in violation of this Policy.

Exclusions

N/A

References and Related Policies

Town of The Blue Mountains Strategic Plan
Planning Act
 Town By-laws
 Town Engineering Standards

Consequences of Non-Compliance

Town Staff will immediately stop processing any and all associated Land Use Approval requests where works have proceeded in advance of the necessary Town Approvals.

Review Cycle

This Policy will be reviewed on a yearly basis by the Senior Management Team.

