



Staff Report

Planning and Development Services

Report To: Committee of the Whole
Meeting Date: May 19th, 2020
Report Number: PDS.20.50
Subject: Solcorp Developments (Peaks Ridge) Inc.
Prepared by: John G. Metras Q.C., Town Solicitor
Nathan Westendorp, Director of Planning & Development Services

A. Recommendations

THAT Council receive Staff Report PDS.20.50, entitled "Solcorp Developments (Peaks Ridge) Inc." for information.

AND THAT Council support the recommendations contained within Staff Report PDS.20.12 endorsing the County of Grey to grant Draft Plan Approval of Subdivision and Draft Plan Approval of Condominium (County File 42T-2018-13A & B) subject to the Draft Plan Conditions attached to Staff Report PDS.20.12;

AND THAT Council enact a Zoning By-law Amendment to rezone the subject lands from the Residential 'R2-47' Zone, Open Space 'OS' Zone and Hazard 'H' Zone to the Residential 'R1-3-Exception' Zone and Recreation 'REC3' Zone, and to add an Exception to the Residential 'R1-3' zone to increase the maximum permitted height from 8 metres / 2 storeys to 9.5 metres / 2.5 storeys.

B. Overview

The purpose of this report is a follow up to the March 30, 2020 meeting of Council where Council requested additional information with respect to questions raised by Council as a result of considering Staff Report 2020 PDS.20.34.

C. Executive Summary

Town legal counsel first gave a legal opinion which was set out in Staff Report PDS.20.34.

Based on the additional review of the available materials, the opinion of the Town's Legal Counsel has not changed.

The opinion of Town's legal counsel is that the current owner of Block 38 does not have a legal obligation to remedy the defects in the works already installed.

The current owner of Block 38 Plan 16M-24 is Solcorp Developments (Peaks Ridge) II Inc. ("Solcorp").

D. Background

The following is some background material and response to questions raised by members of Council for Councils information:

1. Plan 16M-24 was registered by Ridge Estates Land Corporation ("Ridge Estates Land Corporation ("Ridge Estates") on December 18, 2008.
2. Ridge Estates signed a subdivision agreement with the Town dated October 30, 2008 and registered in the Land Registry Office as Instrument GY12390 on December 12, 2008 (the "Agreement") which remains on the title to all the lands in Plan 16M-24, including Block 38.
3. The Agreement provided for, among other things the installation of all the public works for the servicing of Plan 16M-24. The public works to be installed on George McCrae Road would provide for road access to and the servicing for the ultimate development of Block 38.
4. Legal Counsel has been advised that no additional public works, such as turning lanes or traffic signals, would have to be installed on George McCrae Road to service the development of Block 38.
- 5 The Agreement did not require the installation of any public works or services on Block 38.
6. Ridge Estates provided a Letter of Credit to the Town in the amount of \$433,124.90 as security for installation of all the public works for the servicing of Plan 16M-24.
7. In February of 2015 HSBC Bank Canada, a mortgagee of the lands in Plan 16M-24, transferred Block 38 to Solcorp under a power of sale procedure. The Town did not have any involvement in this power of sale procedure and this procedure was not linked to the Town declaring Ridge Estates in default.
8. Ridge Estates did not install and maintain all these public works in accordance with the requirements of the Agreement.
9. Solcorp was not responsible for the installation and maintenance of any of these public works on George McCrae Road.
10. The Town declared Ridge Estates in default under the Agreement and in September 2018 drew the full amount of the Letter of Credit which will be used by the Town to pay the cost of installing the public works required by the Agreement and/or addressing deficiencies in the public works that have already been installed.
11. Council was advised in January of 2019 that the Town would be retaining Crozier and Associates to determine the extent of the public works required to be completed to remedy the default and the current cost of doing this work. Council will be provided a separate report from Town staff in this regard.

12. The Town is the owner of Reserve Block 47 at the west end of George McRae Road shown on Plan 16M-24 which limit access to Block 38. Title to this reserve block would be transferred to Solcorp when all approvals for the development of Block 38 have been given and Solcorp had entered into a subdivision agreement with the Town for this development.

In summary, in a more typical situation where roads fronting a development parcel were appropriately constructed and build-out of the development did not require the enhancement of any existing roads (i.e. signals, turning lanes, etc.), the owner of the development parcel would not be expected to contribute any funds. Given that Legal Counsel's opinion is that the current owner of Block 38, Solcorp, has no legal obligation through the original subdivision agreement to address the public works deficiencies within Plan 16M-24, it appears that the Town has no recourse to compel Solcorp to contribute to addressing the existing road deficiencies.

However, Section 51(24) of the Planning Act outlines matters that planning authorities shall have regard to when considering a draft plan of subdivision. Specifically, Section 51(24) (e) refers to the following:

(e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;

Considering this, the Town does have the ability to address any impacts the construction and build-out of Block 38 may have on the existing roads to ensure any existing deficiencies are not made worse. Effectively this will address the adequacy of the road leading to Block 38. Planning staff have made sure this matter is referenced in the proposed draft plan conditions and would be further outlined in more detailed in the Subdivision Agreement between the Town and the owner of Block 38.

While Town Legal Counsel and staff have provided their professional recommendations for Council's consideration, should Council wish to move in an alternate direction options include amending the conditions of draft plan approval, deferring the Planning Act applications until a later date, and/or refusing the Planning Act applications. However, appeal(s) to the Local Planning Appeals Tribunal remains possible.

E. The Blue Mountains Strategic Plan

Goal #3 Support Healthy Lifestyles
Objective #3 Manage Growth and Promote Smart Growth
Objective #4 Commit to Sustainability

Goal #5 Ensure Our Infrastructure is Sustainable
Objective #4 Ensure that Infrastructure is Available to Support Development

F. Financial Impact

Based on the current applicable DC Bylaw, development of Block 38 as per the current zoning and maximum permitted unit yield (42 Townhouses) would result in \$1,321,740 in development charges collected by the Town.

If the applications for Block 38 were approved resulting in 31 single detached units, it would result in \$1,143,404 in development charges collected by the Town.

Municipal servicing in the Camperdown area was front ended by multiple area specific developers.

After development charge flow-through funds are accounted for, the Town would receive \$82,449 less in development charges for 31 single detached units than 42 townhouses.

G. In Consultation With

Will Thomson, Director of Legal Services

Senior Management Team

H. Public Engagement

The development proposal for Block 38, Plan 16M-24 that is referred to in this Staff Report was the subject of a Public Meeting which took place on October 7, 2019. Those who provided comments at the Public Meeting, including anyone who has asked to receive notice regarding this matter, have been provided notice of this Staff Report Attached.

1. [Report PDS.20.12](#)
2. [Report PDS.20.34](#)
3. Plan 16M-24
4. LRO – Parcel Register 37308-0086 (LT) for Block 38 Plan 16M-24

Respectfully submitted,

John G. Metras Q.C.
Town Solicitor

Will Thomson
Director of Legal Services

Nathan Westendorp, MCIP RPP
Director of Planning and Development Services

For more information, please contact:

Legal Matters
John G. Metras Q.C.

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519-599-3131 Extension 248

Planning Application
Shawn Postma, MCIP RPP

spostma@thebluemountains.ca
519-599-3131 Extension 248

PLAN 16M-24

I CERTIFY THAT THIS PLAN 16M-24 IS REGISTERED IN THE LAND REGISTRY OFFICE AND THE LAND TITLES DIVISION OF GREY No. (16) AT 14:07 O'CLOCK ON THE 12th DAY OF December 2008, AND ENTERED IN THE PARCEL REGISTER FOR PROPERTY IDENTIFIER 37308-0048 (LT) AND REQUIRED CONSENTS AND ARE REGISTERED AS PLAN DOCUMENT No. 612434

L. McConachie
LAND REGISTRAR

NOTE: THE LANDS SUBDIVIDED COMPRISE ALL OF PIN 37308-0048 (LT)

BLOCKS 37, 43 AND 44 ARE SUBJECT TO EASEMENT AS IN INSTRUMENT R518822

PLAN OF SUBDIVISION OF
PART OF LOT 25
CONCESSION 7

(GEOGRAPHIC TOWNSHIP OF COLLINGWOOD)
TOWN OF THE BLUE MOUNTAINS
COUNTY OF GREY

SCALE 1:1250
0 10 20 30 40 50 60 70 80 METRES
ZUBEK, EMO, PATTEN & THOMSEN LTD.
2008

METRIC

DISTANCES ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYORS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.

2. THE SURVEY WAS COMPLETED ON THE 22ND DAY OF OCTOBER 2008.

NOVEMBER 18, 2008

LYNN H. PATTEN
ONTARIO LAND SURVEYOR
COLLINGWOOD

NOTES:

BEARINGS HEREON ARE ASTRONOMIC AND ARE REFERRED TO THE BEARING OF THE WESTERLY LIMIT OF THE ORIGINAL ROAD ALLOWANCE BETWEEN CONCESSIONS 6 AND 7 BEING N9°04'00"W IN ACCORDANCE WITH PLAN 16R-9371.

- ⊕ DENOTES SET
- ⊙ DENOTES FOUND
- ⊕ S.B. DENOTES STANDARD IRON BAR
- ⊕ I.B. DENOTES IRON BAR
- ⊕ S.S.B. DENOTES SHORT STANDARD IRON BAR
- ⊕ C. DENOTES CUT CROSS
- P.I. REFERS TO PLAN 16R-9371
- UNLESS OTHERWISE INDICATED ALL SET BARS ARE I.B.
- UNLESS OTHERWISE INDICATED ALL FOUND BARS ARE MARKED (ZUMO)

OWNER'S CERTIFICATE

THIS IS TO CERTIFY THAT:

1. LOTS 1 TO 36 (BOTH INCLUSIVE), BLOCKS 37 TO 44 INCLUSIVE, THE 0.30 RESERVES NAMELY BLOCKS 45, 46 AND 47, AND THE STREETS, NAMELY MARYWARD CRESCENT AND GEORGE MCRAE ROAD HAVE BEEN LAID OUT IN ACCORDANCE WITH OUR INSTRUCTIONS.

2. THE STREETS ARE HEREBY DEDICATED TO THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS AS PUBLIC HIGHWAY.

DATED THIS 27th DAY OF NOVEMBER 2008
RIDGE ESTATES LAND CORPORATION

RUSSELL ALLAN
I HAVE THE AUTHORITY TO BIND THIS CORPORATION

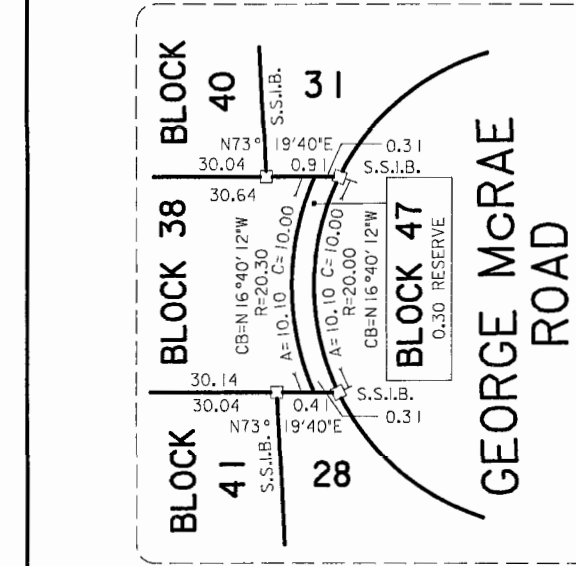
THIS FINAL PLAN OF SUBDIVISION IS APPROVED UNDER SECTION 5(15B) OF THE PLANNING ACT, CHAPTER P 13 R.S.O. 1990 AS AMENDED.

THIS 12th DAY OF December 2008.

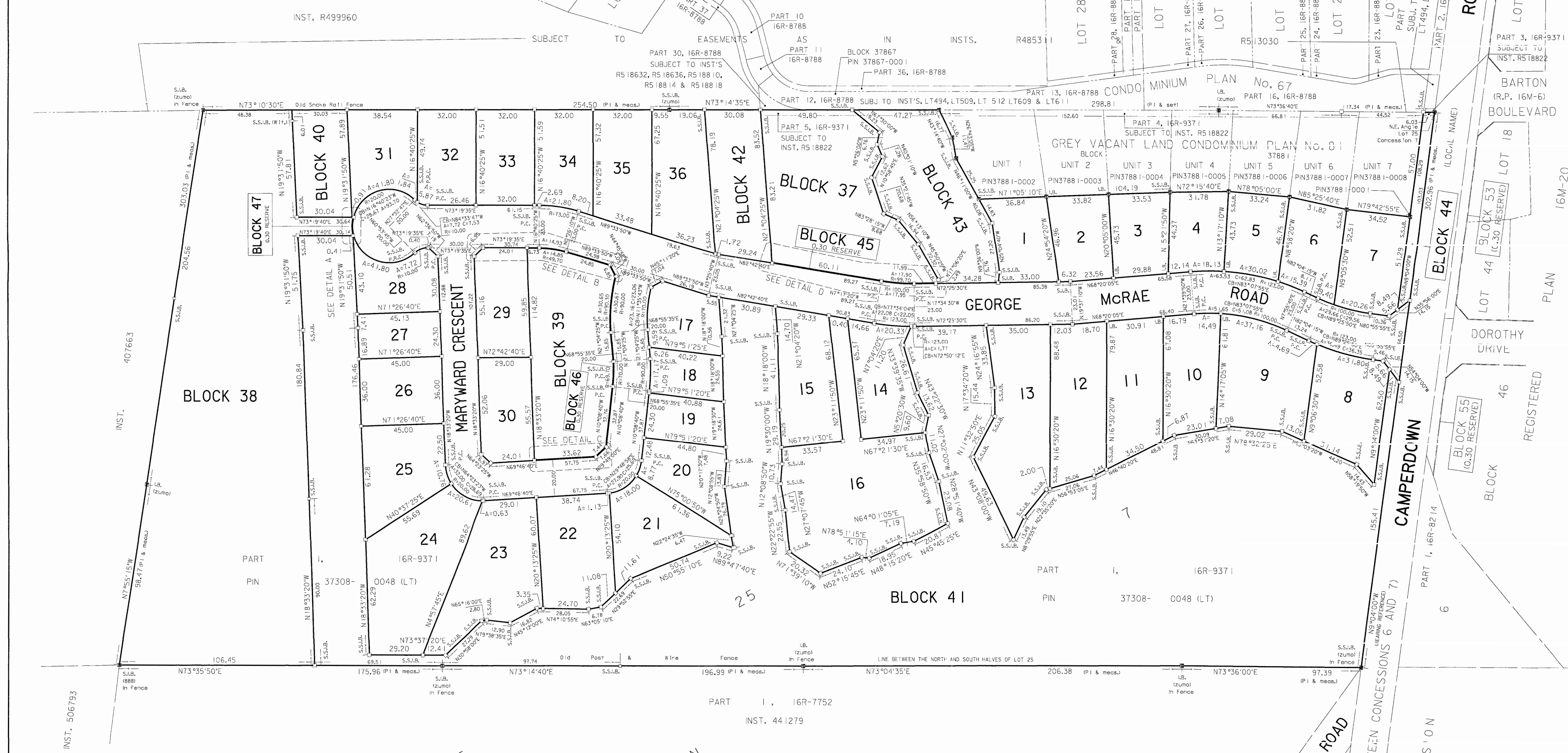
Janice McDonald
DIRECTOR OF PLANNING

ZUBEK, EMO, PATTEN & THOMSEN
39 STEWART ROAD
COLLINGWOOD, ONTARIO L9Y 4M7
PHONE: (705) 445-4910 FAX: (705) 445-5866

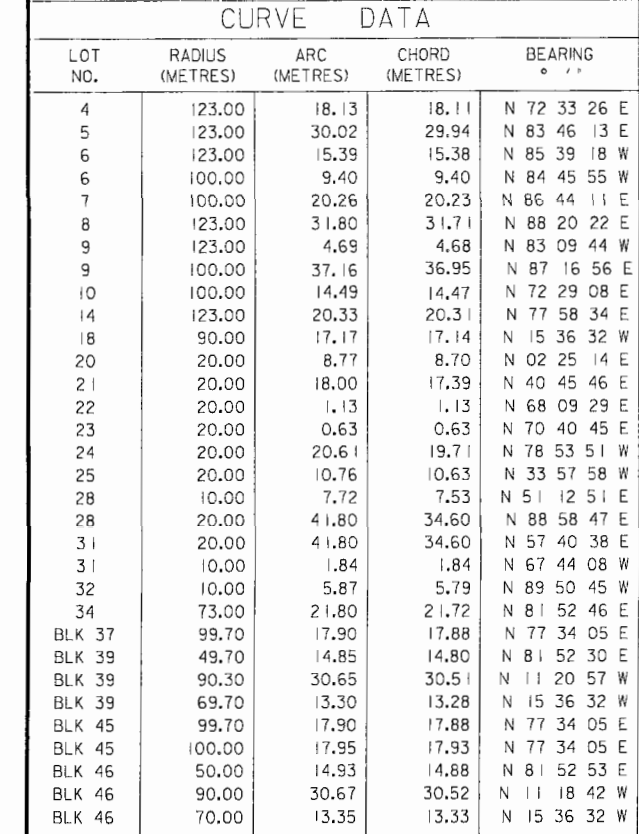
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SURVEY FOR: RIDGE ESTATES LAND CORPORATION
DWG FILE: C:\GNDN\2008-PJCN\ALLAN-1620N



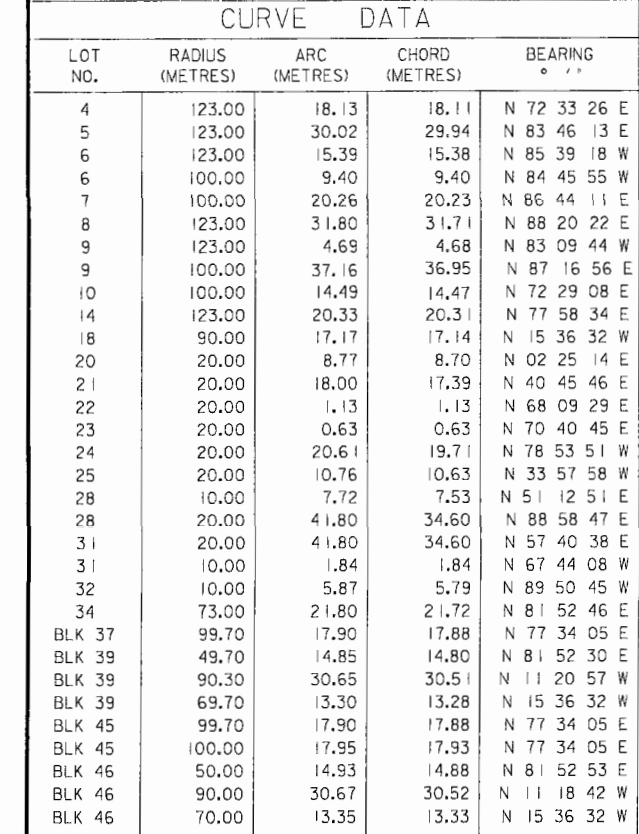
DETAIL A
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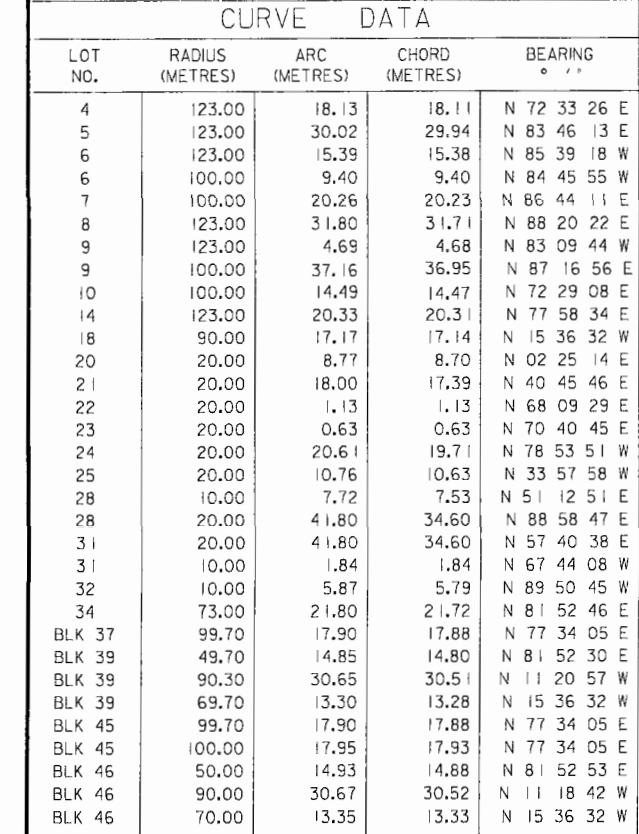
CURVE DATA				
LOT	RADIUS (METRES)	ARC (METRES)	CHORD (METRES)	BEARING
4	123.00	18.13	18.11	N 72°35'26"E
5	123.00	30.03	29.94	N 83°46'13"E
6	123.00	5.39	5.38	N 89°39'18"W
7	100.00	9.40	9.40	N 84°45'55"W
8	100.00	20.08	20.03	N 86°44'11"E
9	123.00	31.80	31.71	N 88°20'22"E
10	123.00	4.68	4.68	N 89°39'18"W
11	100.00	14.49	14.47	N 72°39'08"E
12	123.00	20.33	20.33	N 71°58'34"E
13	90.00	17.14	17.14	N 15°36'32"W
14	20.00	8.70	8.70	N 02°25'14"E
15	20.00	18.00	17.39	N 40°45'46"E
16	20.00	1.13	1.13	N 68°09'29"E
17	20.00	0.63	0.63	N 70°40'45"E
18	20.00	20.61	19.71	N 78°53'51"W
19	20.00	0.76	0.64	N 89°50'45"W
20	10.00	1.75	1.75	N 5°12'51"E
21	20.00	41.80	34.60	N 88°58'47"E
22	20.00	14.80	14.80	N 57°40'38"E
23	10.00	1.84	1.84	N 67°44'08"W
24	10.00	5.81	5.79	N 89°50'45"W
25	75.00	21.80	21.75	N 81°52'46"E
26	98.70	17.90	17.88	N 77°34'05"E
27	45.70	14.80	14.80	N 81°52'46"E
28	90.30	30.65	30.51	N 11°20'57"W
29	69.70	13.20	13.28	N 15°36'32"W
30	99.70	17.80	17.88	N 77°34'05"E
31	50.00	14.53	14.48	N 81°52'46"E
32	90.00	30.67	30.52	N 11°20'57"W
33	70.00	13.35	13.33	N 15°36'32"W



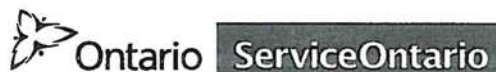
DETAIL B
Not to Scale



DETAIL C
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DETAIL D
Not to Scale



PARCEL REGISTER (ABBREVIATED) FOR PROPERTY IDENTIFIER

LAND
REGISTRY
OFFICE #16

37308-0086 (LT)

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PREPARED FOR ssteadman
ON 2020/03/31 AT 12:53:42

* CERTIFIED IN ACCORDANCE WITH THE LAND TITLES ACT * SUBJECT TO RESERVATIONS IN CROWN GRANT *

PROPERTY DESCRIPTION:

BLOCK 38, PLAN 16M24, THE BLUE MOUNTAINS. T/W EASEMENT OVER PT BLK 1, PL 1157, PTS 30, 31, 32, 33, 34 & 35 16R8788 & PT 7 16R8505 AS IN R518810; T/W EASEMENT OVER PT GREY COMMON ELEMENTS CONDOMINIUM PL 67, PTS 12, 13, 16, 17, 18 & 19 16R8788, PT LT 28 PL 16M6, PT 14 16R8788 PT LT 27 PL 16M6, PT 15 16R8788 AS IN LT512;

PROPERTY REMARKS:

ESTATE/QUALIFIER:

FEE SIMPLE
ABSOLUTE

RECENTLY:

SUBDIVISION FROM 37308-0048

PIN CREATION DATE:

2009/01/06

OWNERS' NAMES

SOLCORP DEVELOPMENTS (PEAKS RIDGE) II INC.

CAPACITY SHARE

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED) **						
GY12390	2008/12/17	NOTICE	\$2	RIDGE ESTATES LAND CORPORATION	THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS	C
16M24	2008/12/18	PLAN SUBDIVISION				C
GY12889	2009/01/22	APL ANNEX REST COV		RIDGE ESTATES LAND CORPORATION		C
GY102462	2015/02/20	TRANS POWER SALE	\$250,000	HSBC BANK CANADA	SOLCORP DEVELOPMENTS (PEAKS RIDGE) II INC.	C
REMARKS: R528534.						

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

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