



Staff Report

Planning and Development Services

Report To: Council
Meeting Date: July 13, 2020
Report Number: PDS.20.62
Subject: Home Farm LPAT Appeal and Ongoing Negotiations
Prepared by: Denise Whaley, Planner II

A. Recommendations

THAT Council receive Staff Report PDS.20.62, entitled "Home Farm LPAT Appeal and Ongoing Negotiations", for information purposes.

B. Overview

This report summarizes the updated Home Farm appeal to the Ontario Municipal Board, now continued as the Local Planning Appeals Tribunal (LPAT). The report also outlines the settlement through negotiations between the Town and MacPherson Builders (Home Farm) as directed by Council.

C. Executive Summary

The proposal known as "Home Farm" and owned by MacPherson Builders was appealed to the former Ontario Municipal Board (OMB) on March 28, 2018. A 10-day hearing on these matters was scheduled to begin on July 20, 2020. Council provided direction to Town staff and Legal Counsel to proceed to a settlement based on the terms outlined in this report.

The current proposal is for a 215 residential unit subdivision known as "Home Farm" proposed by Macpherson Homes Blue Mountain. The original applications (Draft Plan of Subdivision, Official Plan Amendment, Zoning By-law Amendment) were received by the Town in 2015. The matter was appealed to the then Ontario Municipal Board (OMB), now the Local Planning Appeal Tribunal (LPAT) in 2018. As directed by Council, Planning Staff worked with the Town's Legal Counsel, the County of Grey and the appellant to work through the identified issues, towards a Minutes of Settlement that is satisfactory to all parties. The direction to Planning Staff and Legal Counsel, from Town Council was incorporated into the Draft Plan Conditions, as attached to this report. The Settlement has now been agreed to by all parties. With a settlement in place, it is anticipated that the LPAT will still require a shorter hearing (approx. 1 day) to hear the evidence and the content of the settlement.

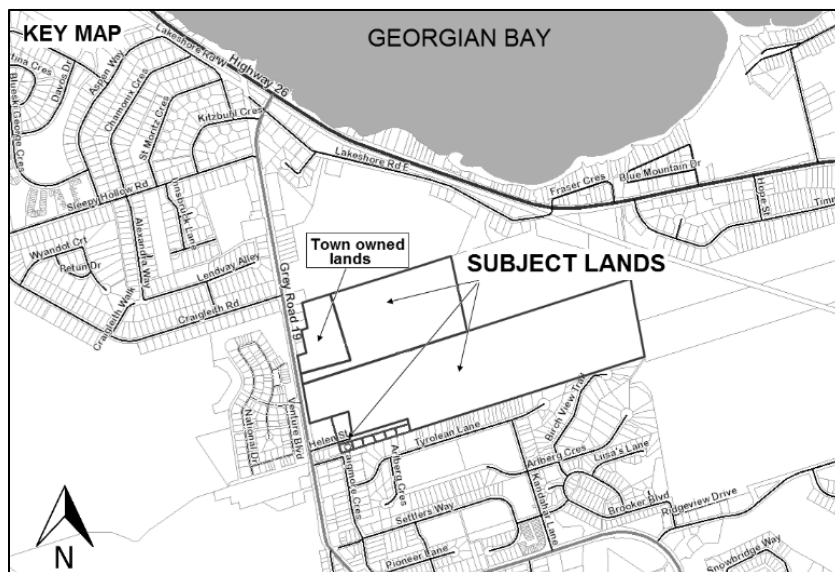
D. Background

The Town received the Official Plan and Zoning Amendment applications, and a Subdivision review application on June 25, 2015, for a project known as “Home Farm”. The subject properties were made up of several parcels owned by the developer and one owned by the Town. The original proposal was to develop 277 residential units through a Plan of Subdivision and contained both municipal and condominium roads and features.

Before Council was able to render a decision on these applications, the matter was appealed to the then OMB on March 28, 2018. The basis of the appeals was failure of Council to make a decision on the applications within the required Planning Act timelines. A concurrent appeal was also made with respect to the County Draft Plan of Subdivision application.

Location

The Subject lands are made up of several parcels within Part of Lot 20, Concession 2, fronting on Grey Road 19 and a portion of Helen Street, as seen in the Key Map below.



*Note that the current revised proposal does not include the Institutional Lands owned by the Town. The Town lands are shown in this Key Map for context purposes only.

The Home Farm lands are bordered by Parkbridge lands to the north, Eden Oak (Trailshead) and other vacant lands to the east, Tyrolean Lane to the south, and Grey Road 19 to the west. There are also existing houses adjacent to the Home Farm lands fronting onto Helen Street.

The Nipissing Ridge traverses through the property on its east/northeast side.

The total lands holdings owned by Macpherson Builders (Home Farm) are approximately 56 hectares.

Original Application Review and Appeal

Prior to the Appeal, the Town and other agencies identified some initial issues to be resolved:

- Concerns over the Stormwater Management System
- Concerns with the Environmental Impact Statement (EIS) findings
- Potential for land use conflicts with lots adjacent to Tyrolean Village Short Term Accommodation (STA) area

The County initiated a peer review process to review the Environmental Impact Study (EIS). The peer review was completed in winter 2016 and recommended additional field work to support the findings and recommendations of the EIS.

Staff understood that this additional field work was being completed following the results of the Peer Review. However, prior to receiving a final updated EIS, the Official Plan Amendment and Zoning Amendment and draft Plan of Subdivision applications were appealed to the OMB/LPAT.

It should also be noted that this proposal was also the subject of an earlier Memorandum of Understanding (MOU) between the Applicant and the Town. The purpose of the MOU was to help facilitate the protection of the Plater Martin significant archaeological site on these properties, through an exchange of Town developable lands for the Plater Martin and adjacent buffer lands. The Plater Martin and adjacent buffer lands would then become passive parkland / open space. This MOU was later cancelled by the Town in 2018.

An initial public open house was held on November 21, 2015. However, a statutory Public Meeting was not held for this proposal as the appeals were received prior to the Public Meeting being scheduled. Staff had anticipated holding the Public Meeting after resolution of the EIS and Stormwater Management matters. As these matters were not resolved prior to the Appeals, the Public Meeting was not held. In an appeal situation, the need for and consideration of public input transfers from municipal council to the LPAT. For this appeal, to provide for Public Consultation, the LPAT instructed the Appellant to hold an Open House. All parties agreed to this approach and that a further Open House be held in 2019. The Open House was held by the Appellant on November 12, 2019. While the Appellant hosted the Open House, Town staff also attended.

As part of the LPAT appeal process, property owners within 120 metres of the proposal were given notice of the appeal. As a result, participants and parties to the Appeals were added to the process.

Timeline

- File Received: June 25, 2015
- Deemed Complete: July 23, 2015
- Development Application Review Team meeting (with staff and developer's team): August 10, 2015
- Staff Information Report to Council – August 24, 2015
- Peer Review Process of EIS initiated by County of Grey – November 5, 2015
- Initial Open House – November 21, 2015 (as per the Planning Act, hosted by the Town and MacPherson)

- Peer Review results – January 22, 2016
- EIS updating – between March 2016 and January 2020
- Cancellation of the MOU by the Town - 2018
- Appeal March 28, 2018
- 2nd Open House (held by the Applicant) – November 12, 2019

Negotiations/resolution of issues – April – June 2020. For further background information, two previous staff reports PDS.15.71 and PDS.18.33 are attached to this report as Attachment 4.

Previously Resolved Issues

The two major issues from the original submission were the Environmental Impact Study and the Stormwater Management System, have been resolved to the extent that Town staff, the County and applicable agencies are satisfied with these matters, and would be resolved through the Draft Conditions as proposed.

The EIS has been updated and the conclusions supported by the Peer Review. The EIS is now considered final and accepted by the County of Grey, Grey Sauble Conservation, Niagara Escarpment Commission and the Town Staff.

The Stormwater Management concept includes a regional approach, with a shared system among Parkbridge, Eden Oak and the Home Farm. Town Development Engineering staff and the Grey Sauble Conservation Authority support this “regional” approach in principal. Further details and design will need to be completed and the Draft Plan Conditions include this requirement to ensure the solution is acceptable prior to development proceeding. The Analysis Section of this report provides further details about the proposed Stormwater solution.

Regarding potential compatibility issues with the Short Term Accommodations area along Tyrolean Lane, MacPherson has switched the lots in the original Draft Plan from single detached units to townhouses for the lots bordering the Tyrolean STA's, as recommended by the Town staff.

The original applications were for Draft Plan of Subdivision, Official Plan Amendment (to the Town's 2004 Official Plan) and a Zoning By-law Amendment. It should be noted that as part of the appeal, the revised Draft Plan no longer included the Town's former school property. The original submission in 2015 proposed an Official Plan Amendment to re-designate the former school property and increase the permitted density on the lands with “Bonusing” provisions. The revised Subdivision plan now includes development on MacPherson Builders properties only, and because of the approval of Town's 2016 Official Plan since the original applications, an Official Plan Amendment is no longer necessary.

The Zoning By-law amendment is still required to facilitate the development to change the zoning category from Deferred Development (DD) to suitable residential, hazard and open space zones.

Archeological Site

During 2011-2014 Town staff worked with the Developer to come up with an appropriate method to preserve the Plater-Martin archaeological site, in consultation with Indigenous Communities, Provincial ministries, the County of Grey and other agencies. The proposed solution was for the Plater-Martin site to be transferred to the Town and preserved as parkland, in exchange for a surplus parcel of Town-owned lands which could be developed as part of the subdivision.

A Memorandum of Understanding (MOU) was signed between the Town and MacPherson Builders in November 2014, which set out a land exchange. The MOU did not act to fetter Council in its review of the development proposals for these properties and no land would be exchanged if the proposal was not approved or the project did not move forward. The MOU and plan for the Town acquiring the Plater-Martin site was supported by several Indigenous Communities and letters were received in support.

However, in 2018, the Town determined that one of the intents of the MOU was the establishment of the Craigeleith Heritage Park and Interpretive Centre, which the Town considered to be in the public interest, could not be achieved as originally considered by the MOU. Council directed staff to give notice of cancellation of the MOU at that time.

The proposal put forward by the appellant did not anticipate dedication of the Plater-Martin site to the Town or any other public body.

E. Analysis

In April 2020, appellant/developer submitted a revised Draft Plan, Zoning By-law Amendment and Draft Plan Conditions for feedback from the Town and County. Staff reviewed these documents and identified issues with these revised documents and provided feedback which was used to further refine the proposal.

The revised April Draft Plan triggered the identification of new issues that had not been previously identified, including conformity with the Town's Official Plan. These are summarized as follows:

- Majority of the lands were now "Retained lands" owned by MacPherson
- Parkland Dedication was insufficient and not located in a manner that met Town Official Plan policy
- Nipissing Ridge was not included as lands to be dedicated to the Town and instead formed part of the MacPherson's "Retained" lands
- Open Space lands were insufficient and did not conform with the Official Plan
- Protection and access to the Plater-Martin Site not addressed in a manner that had been supported by First Nations
- While the road layout was not changed, the transition from private to public roads had changed

During negotiations with Town and County staff between April and June 2020, the above matters were resolved in a manner that Town staff can support.

The revised proposal now includes:

- 177 Townhouses
- 44 Single Detached houses
- Maximum Density 10 units per hectare
- Open Space 44%
- Parkland Dedication of 5.34 % which satisfies the minimum 5% of this and all future development phases
- Dedication of the Nipissing Ridge to the Town
- Future development lands to be retained by the Owner – land to the west of the Town owned lands and a separate block below the Nipissing Ridge adjacent to the Eden Oak proposal
- A board fence to buffer the properties adjacent to the Tyrolean STA properties
- Easements where necessary, for public access to trails, open spaces and roads
- Further consultation with the Saugeen Ojibway Nation is required to the satisfaction of the County and the Town as part of Draft Plan Approval to further address the dedication and long-term protection of the Plater-Martin Site.

In order to address the commitments of protection and public access to the site of the original proposal, Town staff and Legal Counsel recommended further consultation with Saugeen Ojibway Nation, and a Draft Plan Condition was added to require these consultations be completed to the satisfaction of the County and Town.

Council Direction

Through this process Council further directed Planning staff and Legal Counsel to proceed with a settlement provided the following additional matters are addressed:

- The final Draft Plan reflects the previous LPAT Settlement agreed to between the other Parties and the Appellant.
- That conditions of draft plan approval and zoning applicable to this draft plan of subdivision ensure that all agreements on title and zoning prohibit short term accommodation uses
- A draft plan condition is added to require the preparation of a communication plan be prepared to the Town's satisfaction prior to execution of the subdivision agreement

Council also rescinded all delegated authority to staff (for example, site plan approval).

Town staff have made the changes and additions requested by Council and confirmed that all previously settled LPAT matters are included in this final Draft Plan and Draft Plan Conditions, and the final Draft Zoning By-law Amendment, as directed by Council. All parties have now agreed to the final Draft Plan and Draft Plan Conditions. The Zoning By-law is currently being finalized.

Conclusions

Feedback and further direction from Council has been incorporated into the Draft Plan Conditions and Settlement. Based on the revisions within the final Draft Plan and Draft Plan Conditions, Planning staff are satisfied that the revised proposal is consistent with the Town's Official Plan and includes consultation with Indigenous Peoples to ensure the long-term protection and dedication of the archaeological site is appropriate. The County of Grey Planning Department also supported the final Draft Plan and Draft Plan Conditions and presented the matter to County Council on June 25, 2020.

Attached materials show the final Draft Plan dated June 15, 2020 (Attachment 1) and Draft Plan Conditions (Attachment 2), as well as a table outlining the identified issues and matters addressed through this process (Attachment 3).

F. The Blue Mountains Strategic Plan

- Goal #3: Support Healthy Lifestyles
Objective #2 Increase the Range of Housing Choices and Promote Housing Affordability
Objective #3 Manage Growth and Promote Smart Growth
Objective #4 Commit to Sustainability
- Goal #5: Ensure Our Infrastructure is Sustainable
Objective #3 Implement Best Practices in Sustainable Infrastructure
Objective #4 Ensure that Infrastructure is Available to Support Development

G. Environmental Impacts

An Environmental Impact Statement has been prepared for the subject development and has been supported by the County of Grey, Grey Sauble Conservation Authority, and the Niagara Escarpment Commission.

H. Financial Impact

Legal costs associated with appeals to the Local Planning Appeals Tribunal are provided for in the Planning & Development Services annual budget. The reduction in hearing time is anticipated to save significant legal costs and staff costs.

I. In consultation with

Brian Worsley, Manager of Development Engineering
Leo Longo, Town's Legal Counsel
Nathan Westendorp, Director of Planning and Development Services

J. Public Engagement

The topic of this Staff Report has not been subject to a Public Meeting because the Planning Files were appealed to the Ontario Municipal Board [now Local Planning Appeals Tribunal (LPAT)] prior to the Public Meeting being held. There were two Open Houses held at the Craigeleith Community Centre with the Developer's Team and Town Staff in attendance:

- 1st Open House: November 21, 2015
- 2nd Open House: November 12, 2019

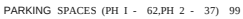
K. Attached

1. Final Draft Plan June 15, 2020
2. Draft Plan Conditions
3. Table of Issues
4. Previous staff reports PDS.15.71 and PDS.18.33

Respectfully submitted,

Denise Whaley, MSc MCIP RPP
Planner II

Nathan Westendorp, MCIP RPP
Director of Planning and Development Services



KEY PLAN

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ADDITIONAL INFORMATION

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TOWN OF THE BLUE MOUNTAINS
PLANNING DEPARTMENT

PLAN OF PROPOSED SUBDIVISION
PART LOT 20, CONCESSION 2,
TOWN OF THE BLUE MOUNTAINS
COUNTY OF GREY

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WITHOUT PREJUDICE – Draft Plan Conditions Revision Date June 22, 2020

Plan of Subdivision File No. 42T-2015-03 is hereby granted draft approval. The conditions of final approval for registration of this draft plan of subdivision are as follows:

The conditions have been listed under the following general headings:

- General Planning Requirements
- Servicing, Grading and Road Requirements
- Landscape, Fencing and Streetscape Requirements
- Park and Open Space Requirements
- Miscellaneous Requirements

General Planning Requirements

1. That this approval applies to the draft Plan of Subdivision File No. 42T-2015-03, as per drawing 1410-210-S prepared by Higgins Engineering Limited dated April 3, 2020 and revised June 11, 2020 to provide for a maximum of 215 residential units, private open space uses, storm water management facilities, public streets and private streets on the property legally described as lots 2, 3, 4, 5, 6 and 7, Registered Plan 555 and Part of Lot 20 Concession 2; Part of Helen Street ROW, R.P. 555; Town of The Blue Mountains, County of Grey. In addition to the foregoing, it is acknowledged that the Draft Plan of Subdivision referenced above may be revised prior to Final Approval to show the proposed townhome lots/buildings within Blocks on the Final Plan. These Blocks would be further subdivided through Part Lot Control Exemption By-law(s), or otherwise, as applicable.
2. A Subdivision Agreement shall be entered into and executed by the applicant, and the Town of The Blue Mountains to satisfy all financial, legal, and engineering matters, including the installation of municipal services, landscaping and other requirements of the Town of The Blue Mountains and the County of Grey including the payment of all applicable Town and County development charges in accordance with their applicable Development Charges By-law.
3. 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. The zoning shall address the

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development lands, as well as those lands not being developed at this time, in addition to the Town's open space provisions, protection of the Nipissing Ridge, and the Plater Martin lands.

4. All new roads shall be named to the satisfaction of the Town of The Blue Mountains in accordance with the Town's Street Naming Policy.
5. That the Subdivision Agreement between the Owner and the Town of The Blue Mountains be registered against the lands to which it applies, and that a copy of the registered Subdivision Agreement be filed with the County of Grey.
6. 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 Town of The Blue Mountains 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.

Servicing, Grading and Road Requirements

7. That prior to final approval by the County, a Site Servicing Plan is prepared, and the development is fully serviced with stormwater management, sanitary sewer and water to the satisfaction of the Town of The Blue Mountains.
8. Prior to the initiation of any site grading or servicing and prior to the registration of the plan, the Owner shall submit a Regional Stormwater Management Report by a qualified consultant which describes the stormwater drainage system for the proposed development on the subject and adjacent lands to the satisfaction of the Town of The Blue Mountains, the Grey Sauble Conservation Authority, and Grey County Transportation Services. This report be incorporated into the Subdivision Agreement with the Town, and the Report shall include:
 - a. A detailed engineering and drainage report which describes the stormwater drainage system for the proposed development on the subject lands. The report should include:
 - i) Plans illustrating how the drainage system will tie into the drainage of surrounding properties;

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- ii) The coordination of stormwater management recommendations on the subject lands and adjacent lands;
- iii) The technique to be utilized to ensure that all stormwater overland flow routes shall be restricted within roads or approved outlets only;
- iv) The stormwater management techniques required to accommodate the 2 through 100, and Regional storm events;
- v) How external flows will be accommodated and the design capacity of the receiving system;
- vi) Location and description of all outlets and other facilities which may require permits; and
- vii) Proposed methods for controlling or minimizing erosion and siltation on-site and/or in downstream areas during and after construction.

It is recommended that the developer or his consultant contact the Town Development Engineering Department, Grey Sauble Conservation Authority, and County Transportation Services prior to preparing the above report to clarify the specific requirements of this development.

- b. Overall grading plans for the subject lands.
 - c. The Owner shall agree in the subdivision agreement, in wording acceptable to the Town of The Blue Mountains:
 - i) To carry out, or cause to be carried out, all the works referred to in condition 8(a) above;
 - ii) To obtain any necessary permits from the Grey Sauble Conservation Authority (see Note #5); and
 - iii) Prior to the initiation of any grading or construction on the site, to erect any silt fence as referred to in condition 8(a)(vii) above.
9. That a detailed Stormwater Management Plan be prepared and implemented through the Subdivision Agreement, including the detail design of flood conveyance facilities including channel works, detention pond and floodplain/spill area grade alterations for the development, be prepared by a qualified consultant and approved by Grey Sauble Conservation Authority. This plan shall also detail the retention of wetland habitat on the property to ensure no negative impacts to the natural features and their ecological functions and no net loss in identified wetland habitat to the satisfaction of the Grey Sauble Conservation Authority, County Transportation Services, Niagara Escarpment Commission, and the Town of The Blue Mountains.

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10. That any works identified within the final stormwater management plan and the applicable provisions of the Craigeith Camperdown Subwatershed Study be included in the subdivision agreement to the satisfaction of the Grey Sauble Conservation Authority and the Town of The Blue Mountains.
11. Prior to the registration of the Plan, arrangements shall be made to the satisfaction of the Town of The Blue Mountains for any relocation of utilities required by the development of the subject lands, to be undertaken at the developers' expense.
12. Prior to the initiation of any site grading or servicing and prior to registration of the plan, submit for the approval of the Town of The Blue Mountains Development Engineering Department a detailed soils investigation of the site prepared by a qualified geotechnical engineer. A copy of this report shall also be submitted to the Town's Chief Building Official.
13. That the Subdivision Agreement contain specific clauses related to the required Ontario Building Code / Engineering Standards, as applicable, of the Town of The Blue Mountains and the County of Grey including but not limited to the following:
 - i. That the roadway widths and the horizontal and vertical alignments of all public roads and underground services including their intersection geometrics shall be designed to the Town of The Blue Mountains Engineering Standards. Private roads shall be designed to Ontario Building Code standards. Where Ontario Building Code standards do not address engineering design elements, or where public Infrastructure will be located in an easement in a private road, then Town of The Blue Mountains Engineering Standards shall apply.
 - ii. That any intersections with Grey Road 19 follow County Transportation Services standards, and are granted any applicable permits.
 - iii. That suitable construction traffic routes are identified to the satisfaction of the Town of The Blue Mountains and County of Grey Transportation Services.
 - iv. That an exemption be received from County of Grey's Director of Transportation Services to exempt the new intersection at Street B and Birches Boulevard from the County's standard intersection separation distance requirements.
 - v. That appropriate signage and/or barricades be placed at the emergency access to ensure that it is used for emergencies only, and that it does not become a permanent intersection or pedestrian crossing at Grey Road 19.

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- vi. That a Turn Pathway Analysis be submitted to ensure adequate movement and turning of vehicles within roads and lanes.
14. That an appropriate easement be dedicated to the Town of The Blue Mountains and Public to provide for Public Access over the Condominium Roads.
15. The street lighting system on all roadways for this subdivision shall be designed and constructed in accordance with the Town of The Blue Mountains Engineering Standards or as otherwise approved by 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 in the required Site Plan Agreement.
16. That a composite utility plan be provide to the Town of The Blue Mountains approved by all appropriate utilities, including a standard cross-section of appropriate width or including easements to the satisfaction of Town.
17. The Owner shall dedicate "Street A" and "Street B" of the Draft Plan to the Town of The Blue Mountains as public roads.
18. That prior to final approval and registration, the Owner shall transfer a portion of Helen Street to the Town of The Blue Mountains free and clear of all encumbrances. The Helen Street transfer shall include from the westerly boundary at Grey Road 19 extending easterly to Block 229 at a municipal road turning circle.
19. That the Subdivision Agreement will contain provisions dealing with the design and construction of any portion of a temporary municipal road turning circle that may be required to be constructed on Town of The Blue Mountains owned lands adjacent to Street A.

Landscape, Fencing and Streetscape Requirements

20. That prior to initiation of any site alteration, the Owner prepares a Landscape Analysis, Vegetation/Tree Preservation/Management Plan, Restoration Plan and Landscape Plan by a qualified consultant to the satisfaction of the Town of The Blue Mountains, the Grey Sauble Conservation Authority, and the Niagara Escarpment Commission. The plans shall be incorporated into the Subdivision

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Agreement with the Town. The Landscape Plan, Vegetation/Tree Preservation/Management Plan and Restoration 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 Ministry of the Environment Conservation and Parks;
- iii) A forest edge management plan to avoid impacts to areas where woodlands or trees are to be maintained; and
- iv) As per the Environmental Impact Study, a restoration plan that addresses the loss of wetland habitat, the creation of new wetland and appropriate buffers and the loss of habitat for Eastern Wood Peewee and Area Sensitive Forest Breeding Birds on the subject lands.

21. That the Subdivision Agreement include provisions for the installation of a privacy board-fence along the southern property boundary between Lots 140 and 198 to the satisfaction of the Town of The Blue Mountains.

Parks, Trails and Open Space Requirements

22. That the Owner shall dedicate Blocks 227, 232 and 242 to the Town of The Blue Mountains for Parkland purposes.

23. The Parkland dedications shall satisfy Parkland requirements under this and future phases of the development lands.

24. That the Subdivision Agreement include the requirement for a Trail Plan to submitted to the satisfaction of the Town of The Blue Mountains.

25. That the Owner design and install all trails and walkways to the satisfaction of the Town. However, all trails and walkways to be located on slopes or in the valley (below top of slope of the Nipissing Ridge) shall be maintained in their natural condition and form, with as little disturbance to the grades, contours and natural environment as possible.

26. That the Owner dedicate appropriate easements to the Town to provide for public trail access provided for in the approved Trail Plan.

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27. Protection of the Nipissing Ridge shall be reflected in appropriate zoning, to the satisfaction of the Town.
28. The Owner shall dedicate the Nipissing Ridge, identified as Blocks 241 and 243 of the Draft Plan, to the Town of The Blue Mountains for Open Space purposes.
29. The dedication of the Open Space Blocks, along with the other identified open space areas on the Draft Plan, satisfies the 40% open space requirement for this and all future phases of the development lands.
30. Protection of the Significant Archaeological Site (Plater-Martin BdHb-1), identified as Block 240 of the Draft Plan, shall be reflected in the appropriate restrictive zoning to the satisfaction of the Town.

Miscellaneous Requirements

31. That the Subdivision Agreement include the requirement of a Site Plan Agreement, where necessary, prior to building permits being issued.
32. 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.
33. The Subdivision Agreement include a requirement that arrangements be made with Canada Post and the Town of The Blue Mountains Operations 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.
34. 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.
35. That the Owner prepare a Communication Plan to the satisfaction of the Town of The Blue Mountains prior to execution of the Subdivision Agreement.

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36. That a restrictive covenant be placed on the lots within the draft plan of subdivision advising all future owners that Short Term Accommodation uses are prohibited within the subdivision.
37. That prior to final approval, a copy of the fully executed Subdivision Agreement between the Owner and the Town of The Blue Mountains shall be provided to the County of Grey, the Niagara Escarpment Commission, and the Grey Sauble Conservation Authority.
38. The Owner shall dedicate a 0.3 metre reserve to the County of Grey along Grey Road 19 on Blocks 227, 228 and 235.
39. That prior to Final Approval and registration, the Owner shall consult with the Saugeen Ojibway Nation (as the identified Indigenous lead Nation) regarding the long term protection of Block 240 (Plater-Martin BdHb-1). The implementation of such consultation shall be in a manner to the satisfaction of the County of Grey and the Town of The Blue Mountains.
40. That prior to any site alteration, Final Approval and registration, the Owner shall agree to the following in the Subdivision Agreement or any applicable Pre-Servicing Agreement:
 - i) The Owner shall facilitate monitoring by experienced Saugeen Ojibway Nation representatives when the topsoil/ploughzone is removed from residential, recreation centre, and stormwater management pond areas.
 - ii) The Owner shall develop a monitoring plan to the satisfaction of the Saugeen Ojibway Nation to ensure exposed subsoil surface is examined for features and/or characteristics that may be consistent with cultural or archaeological resources.
 - iii) The Archaeological Monitoring Plan shall be included as a schedule to the Subdivision Agreement.
41. Prior to the signing of the final plan by the County of Grey, the Town of The Blue Mountains is to be advised that all Draft Plan conditions have been carried out to the Town's satisfaction.

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Date of Notice:

42. That consistent with the County of Grey's current provisions for processing and approving plans of subdivision the Owner's surveyor shall agree to provide to the County a digitized disk of this final plan to be registered in a computerized format which is compatible with AutoCAD ".dwg" file.
43. That the Owner's surveyor provide to the County of Grey a copy of the deposited Reference Plan which had been submitted to the Land Registry/Land Titles Office for Grey for "First Registration Under the Land Titles Act, R.S.O. 1990, c.L.5".
44. That prior to final approval being given, the County is advised in writing by the Town of The Blue Mountains, how Conditions 2 to 41 have been satisfied.
45. That prior to final approval being given, the County is advised in writing by the Grey Sauble Conservation Authority how Conditions 8, 9, 10, 20, and 37 have been satisfied.
46. That prior to final approval being given, the County is advised in writing by the County Transportation Services Department how Conditions 8, 9, 13, and 38. have been satisfied.
47. That prior to final approval being given, the County is advised in writing by Canada Post how Conditions 33 and 34 have been satisfied.
48. That prior to final approval being given, the County is advised in writing by the Niagara Escarpment Commission how Conditions 9, 20 and 37 have been satisfied.
49. That the Owner have prepared by an Ontario Land Surveyor a final plan in accordance with the Surveys Act, and with the Registry Act or the Land Titles Act, as the case may be and have provided that plan to the County of Grey prior to the lapsing date the mylars and white prints necessary for final approval and registration.
50. That the Owner remit to the County the applicable final approval fee when the final plan is being presented to the County for the County's consideration for final approval.

Applicant: MacPherson Builders (Blue Mountains) Limited
Municipality: Town of The Blue Mountains
Location: Part Lot 159, Plan 529, South Part of Lot 20, Concession 2,
Date of Decision:
Last Date of Appeal:

File No.: 42T-2015-03

Date of Notice:

NOTES TO DRAFT APPROVAL

1. It is the applicant's responsibility to fulfil the conditions of draft approval and to ensure that the required clearance letters are forwarded by the appropriate agencies to the County of Grey, quoting the County file number 42T-2015-03.
2. An electrical distribution line operating at below 50,000 volts might be located within the area affected by this development or abutting this development. Section 186 - Proximity - of the Regulations for Construction Projects in the Occupational Health and Safety Act, requires that no object be brought closer than 3 metres (10 feet) to the energized conductor. It is proponent's responsibility to be aware, and to make all personnel on site aware, that all equipment and personnel must come no closer than the distance specified in the Act. They should also be aware that the electrical conductors can raise and lower without warning, depending on the electrical demand placed on the line. Warning signs should be posted on the wood poles supporting the conductors stating "**DANGER - Overhead Electrical Wires**" in all locations where personnel and construction vehicles might come in close proximity to the conductors.
3. Clearances are required from the following:
 - Town of The Blue Mountains, 32 Mill Street, P.O. Box 310, Thornbury, ON N0H 2P0
 - Grey Sauble Conservation Authority, 237897 Inglis Falls Road, RR#4, Owen Sound, ON, N4K 5N6
 - Grey County Transportation Services, 595 9th Avenue East, Owen Sound, ON, N4K 3E3
 - Canada Post, 955 Highbury Avenue, London, ON, N5Y 1A3
 - Niagara Escarpment Commission, 1450 7th Avenue East, Owen Sound, ON N4K 2Z1
4. We suggest you make yourself aware of the following subsections of the Land Titles Act:
 - a) subsection 144(1) requires all new plans to be registered in a Land Titles system if the land is situated in a land titles division; and
 - b) subsection 144(2) allows certain exceptions.The subdivision plan for Registration must be in conformity with the applicable Ontario Regulation under The Registry Act.

Applicant: MacPherson Builders (Blue Mountains) Limited
Municipality: Town of The Blue Mountains
Location: Part Lot 159, Plan 529, South Part of Lot 20, Concession 2,
Date of Decision:
Last Date of Appeal:

File No.: 42T-2015-03

Date of Notice:

5. A portion of the subject lands are affected by Ontario Regulation 151/06: Development, Interference with Wetlands and Alteration to Shorelines and Watercourses regulation. As such, permits are required from the Grey Sauble Conservation Authority prior to site alterations and/or construction within the affected areas.
6. Inauguration or extension of a piped water supply, a sewage system, or a storm drainage system is subject to the approval of the Ministry of the Environment Conservation and Parks under the Ontario Water Resources Act, RSO 1990, as amended.
7. All measurements in subdivision final plans must be presented in metric units.
8. That the applicant contacts Canada Post at the address below to determine any arrangements required by Canada Post for the provision of mail service to the proposed residential lots:
Delivery Planning Officer, Canada Post Corporation, 955 Highbury Ave, London, Ontario, N5Y 1A3
9. The final plan approved by the County of Grey must be registered within thirty (30) days or the County may withdraw its approval under subsection 51(32) of the Planning Act RSO 1990, as amended.

Table 1: Summary of Issues

Issues	Original Draft April 6, 2020	Negotiated Draft Plan June 15, 2020
Open Space	• 27% of “Phase One” on current development lands only • Does not conform to OP policy • Future Phases need additional Open Space Total Lands: 5.92 ha	• 41.16% of all Subdivision lands • Conforms with OP policy • Satisfies this and future phases Total Lands: 23.10 ha
Parkland	• Block 232 • 4.1% • Includes Hazard Lands/ watercourse areas not useable as parkland • Location, lack of street frontage, Hazard lands, access and overall usability does not conform to OP policies • Lands not supported by Community Services Department Total Lands: 2.2841 ha	• Blocks 227, 232, 242 • 5.45% • Hazard area removed and added to Open Space lands • Block 227 has street frontage on two sides, access to other open space lands & trails • Additional Block 242 below ridge works with Eden Oak and Parkbridge for future uses • Conforms with OP policies • Block 227 supported by Community Services Department Total Lands: 3.06 ha
Nipissing Ridge	• Retained by Owner/Developer – part of Block 235 • Does not conform to OP policy Total dedicated lands: 0.0 ha	• All of the Nipissing Ridge Blocks 241, 243 dedicated to Town • Conforms with OP policy Total dedicated lands: 12.28 ha

Issues	Original Draft April 6, 2020	Negotiated Draft Plan June 15, 2020
Plater Martin Archaeological Site	• To be retained by the owner (part of Block 235) • Zoned Open Space • Future ownership and protection unclear • Not consistent with previous commitments to Indigenous Peoples for the lands • Staff requested dedication to Town or other Public Body • As an alternative, Staff requested a conservation easement to allow for protection and access to the lands (if they are to remain in private ownership)	• To be retained by the owner • Now represented by separate Block of land - Block 240 • Zoned Open Space with exception for no site alteration • Further consultation with Indigenous Community is now required to the satisfaction of County and Town (draft plan condition) • Developer did not consent to dedication of the lands or the conservation easement • Further consultation noted above considered a compromise
Roads	• Public roads transitioning to private roads with no turning bulbs does not conform to Town Standards • Staff requested that the private condo road running north-south between Street B and Hellen Street be a Public Road Connection	• Both Street A and Helen Street public roads now have turnaround bulbs conforms with Town Standards • Town easements across private roads for garbage etc. • Developer did not agree to Public Road connection • Turnaround bulb at Street A proposed as temporary within the Town Lands (former school property) which would provide for options for future development
Public Access to Roads, Trails and Parks/Open Space	• Not Addressed	• Public Access across roads, trails and open space lands within the condo

This document can be made available in other accessible formats as soon as practicable and upon request

STAFF REPORT: Planning & Development Services – Planning Division



REPORT TO: Committee of the Whole
MEETING DATE: August 24, 2015
REPORT NO.: PDS.15.71
SUBJECT: Home Farm Subdivision Proposal – Information Report
PREPARED BY: Denise Whaley, Planner I

A. Recommendations

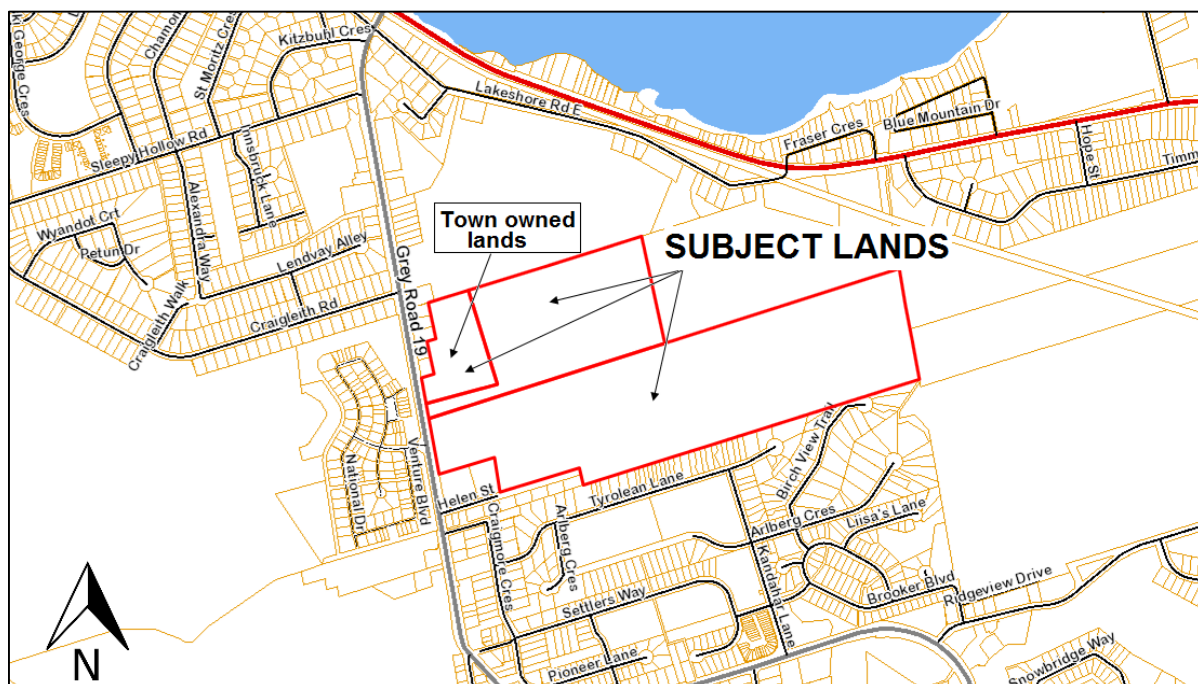
THAT Council receive Staff Report PDS.15.71 Home Farm Subdivision Proposal Information Report, for information only.

B. Background

The Town received Official Plan and Zoning Amendment applications, and a subdivision review application on June 25, 2015, for a project known as “Home Farm”. The property is made up of three separate parcels on Concession 2, Part of Lot 20. Two parcels are owned by the developer and one is owned by the Town of The Blue Mountains.

Various proposals for the Home Farm property have come forward since the 1980’s, but because the property contains a significant Archaeological site known as “Plater-Martin BdHb-1”, any development required substantial mitigation prior to moving forward. The Plater-Martin site is a 17th Century, Petun-Wendat village and was previously subject to Stage 1-3 Archaeological Assessments.

Figure 1: Home Farm Subject Lands



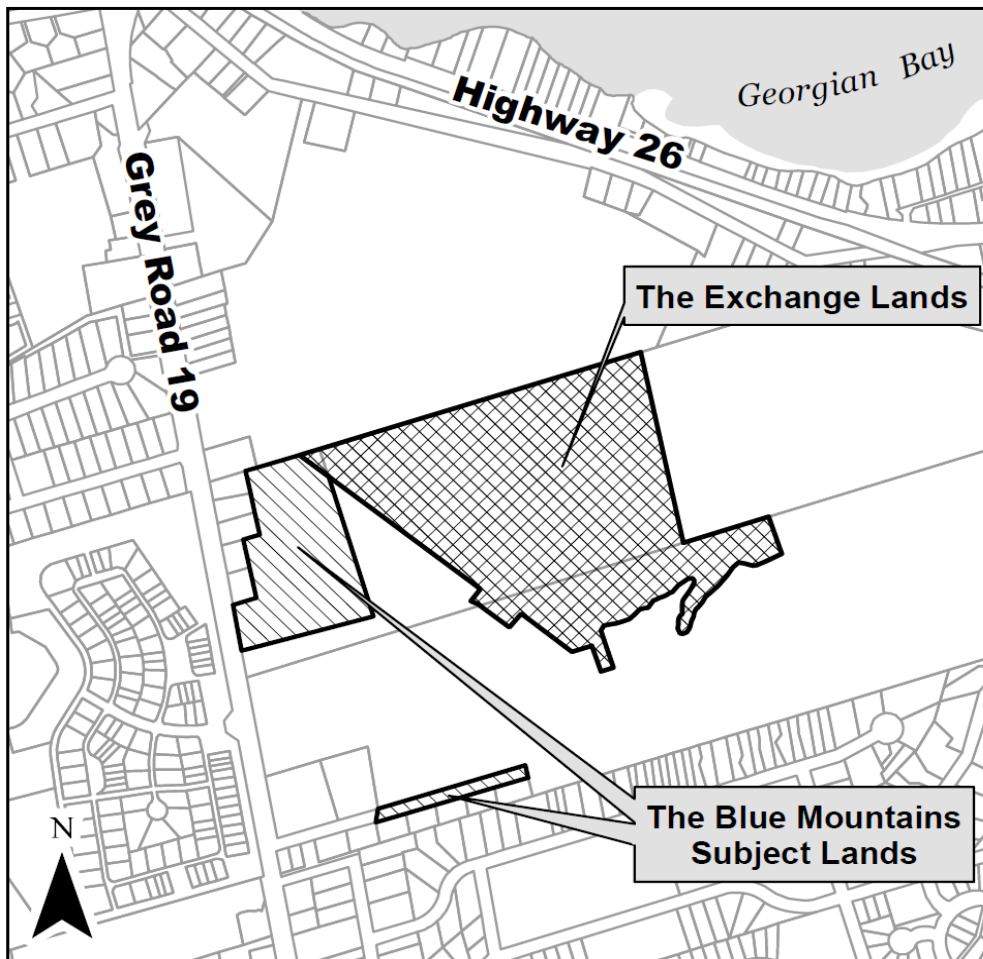


Figure 3: Home Farm Aerial Photo**Table 1: Project Statistics**

Total Lot Area (3 parcels)	60.3 hectares
Official Plan Designations	Recreational Residential (RR) Recreational Residential Exception (RR-50) Institutional (I) Hazard Lands (H)
Zoning By-law 83-40	Deferred Development (D) and Hazard (H)
Total Units Proposed	277
Single Detached	85
Semi-Detached	60
Townhomes	132
Net Unit Density	13 units / hectare

The applicant submitted the following studies and documents in support of this proposal:

1. Planning Justification Report
2. Urban Design Report
3. Visual Impact Assessment Report
4. Draft Plan of Subdivision
5. Geotechnical Investigation
6. Traffic Impact Study
7. Environmental Impact Study
8. Functional Servicing and Stormwater Management Report
9. Well Assessment Report
10. Phase 1 Environmental Site Assessment
11. Stage 1-2 Archaeological Assessment
12. Cultural Heritage Assessment Report
13. Cultural Heritage Documentation Report
14. Natural Hazard Setback and Slope Stability Requirements Report

Town staff deemed the applications complete on July 23, 2015. Staff have also put together a Development Review Team which met with the proponents on August 10, 2015. Early comments are still being assembled from Town Departments on this project which will be provided to the proponents prior to the project moving forward into public consultation.

Next Steps

This project is still in the early stages. Once some of the high level issues are resolved, an Open House for the project will be scheduled at a future date – tentatively Fall 2015. Following that would be a Public Meeting and full staff review of the project.

C. The Blue Mountains' Strategic Plan

This report is consistent with the following Strategic Plan's Goal: "1. Managing growth to ensure the ongoing health and prosperity of the community".

D. Environmental Impacts

None at this time.

E. Financial Impact

None at this time.

F. In Consultation With

Development Review Team meeting August 19, 2015 and external agencies.

G. Attached

None.

Respectfully submitted,

Denise Whaley, MCIP RPP
Planner I

Michael Benner, MCIP RPP
Director, Planning and Development Services

For more information, please contact:

Denise Whaley, Planner I
32 Mill Street, Thornbury, Ontario, N0H 2P0
Phone: 519-599-3131 x262
Email: planning@thebluemountains.ca



Staff Report

Planning and Development Services

Report To: Committee of The Whole
Meeting Date: April 23, 2018
Report Number: PDS.18.33
Subject: Home Farm Development Notice of OMB Appeal
Prepared by: Michael Benner, Director of Planning and Development Services

A. Recommendations

THAT Council receive Staff Report PDS.18.33, entitled "Home Farm Development Notice of OMB Appeal", and;

THAT Council authorize staff to develop an appropriate response to the appeal in consultation with Grey County staff, Town legal Counsel, and the appellant.

B. Overview

The Town has received an appeal to the Ontario Municipal Board respecting the Home Farm Development. The intent of this report is to advise Council of this appeal.

C. Executive Summary

Application File # P2067

OMB Appeal Received: March 28, 2018 Application Deemed Complete: July 16, 2015

Official Plan Designation: Residential Recreational Area

Zoning Bylaw Designation: Development and Hazard

Location: East side of Grey Road 18

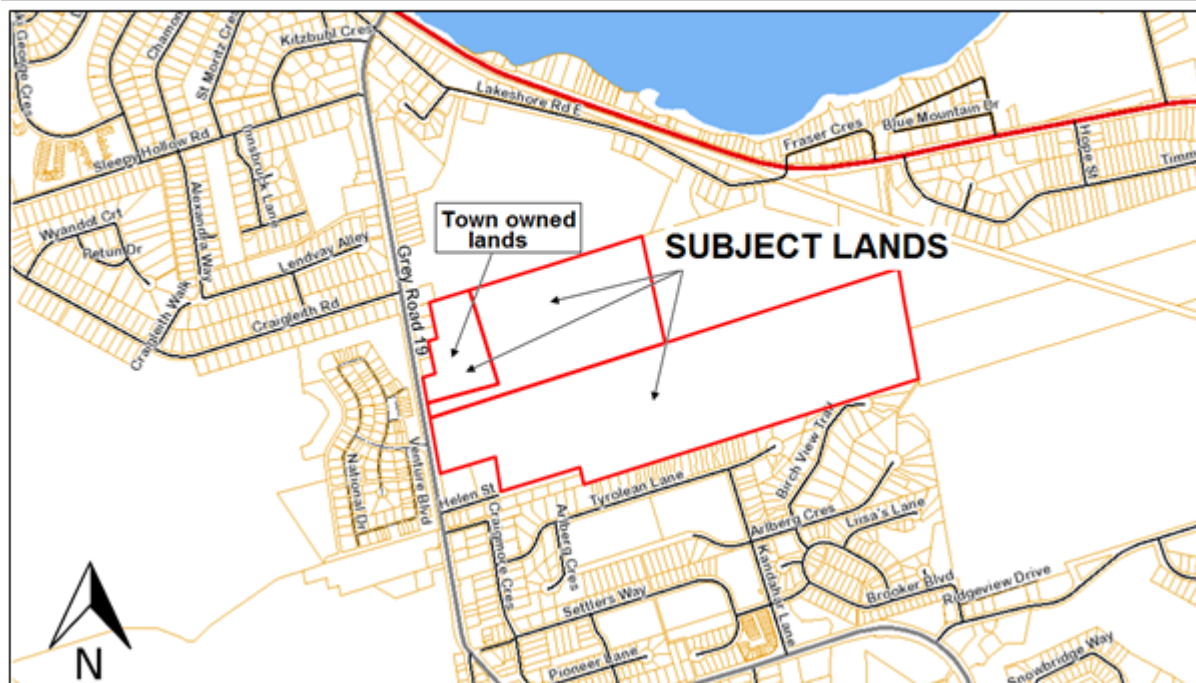
The Town has received an appeal to the Ontario Municipal Board for the Home Farm Development Lands. The Home Farm Development application was deemed complete in July 2015. Several studies have been prepared in support of the proposal. These studies have been under review by various agencies with some, such as the archaeological and planning justification studies, being approved, while others, such as the environmental, stormwater and traffic studies, still under review.

The appeal centres around the County and Town's failure to make a decision within the allotted timeframes set out in the Planning Act for the Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision supporting the development proposal.

D. Background

The Town received Official Plan and Zoning Amendment applications, and a draft plan of subdivision application on June 25, 2015, for a project known as the "Home Farm". The project is made up of three separate parcels on Concession 2, Part of Lot 20. Two parcels are owned by the developer and one is owned by the Town of The Blue Mountains.

Figure 1: Home Farm Subject Lands



Various proposals for the Home Farm property have come forward since the 1980's, but because the property contains a significant Archaeological site known as "Plater-Martin BdHb-1", any development required substantial mitigation prior to moving forward. The Plater-Martin site is a 17th Century, Petun-Wendat village and was previously subject to Stage 1-3 Archaeological Assessments.

During 2011-2014 Town staff worked with the developer to come up with a solution to the archaeological issues that would preserve the Plater-Martin site, in consultation with First Nations, Provincial ministries, the County of Grey and other agencies. The proposed solution was for the Plater-Martin site to be given to the Town and preserved as parkland, in exchange for a surplus parcel of Town-owned lands which could be developed as part of the subdivision.

A Memorandum of Understanding (MOU) was signed between the Town and MacPherson Builders in November 2014, which sets out a land exchange, including a portion of Helen Street road allowance. The MOU did not fetter Council in its review of the development proposals for

these properties and no land would be exchanged if the proposal was not approved or the project did not move forward.

The proposal was to develop 277 residential units through a plan of subdivision. Table 1 provides a very general overview of the project details. The subdivision would have access on Grey Road 19 and contain both municipal and condominium roads.

Several archaeological, environmental, and planning justification studies have been prepared in support of the proposal. These studies have been under review by various agencies with some, such as the archaeological and planning justification studies, being approved, while others, such as the environmental, stormwater and traffic studies, are still under review.

In late 2017 and early 2018 Council revisited the notion of the land exchange, and after careful consideration, decided to cancel the Memorandum of Understanding and abandon the proposed land exchange.

Additionally, the Home Farm development group launched an appeal to the Town's 2016 Official Plan which has been adjourned for the time being to allow the parties to reach a negotiated settlement. This appeal deals with the extent of environmental features identified on the Home Farm property under the 2016 Plan and the request to change the existing designation on the Town owned lands from Institutional to Residential. This appeal is still active and may be merged with this most recent appeal.

E. Analysis

The Town has very recently received a new appeal to the Ontario Municipal Board on the Home Farm development. A concurrent appeal has also been launched against the County with respect to the Draft Plan of Subdivision. These appeals still fall under the Ontario Municipal Board and not the Local Planning Appeal Tribunal (LPAT) given the timing of the original submissions. A copy of the appeal letter is included as Attachment "1" to this report.

Specifically, the following matters have been listed for the basis of the appeal:

1. The Town has failed to make a decision with respect to the application for an Official Plan Amendment within the 180 day time period;
2. The Town has failed to make a decision with respect to the application for a Zoning Bylaw Amendment within the 120 day time period;
3. The County has failed to make a decision with respect to the Draft Plan of Subdivision within the 180 day time period;
4. The applications are consistent with the 2014 Provincial Policy Statement, and conform to the Niagara Escarpment Plan, the County of Grey Official Plan, and the Town's Official Plan as amended through the application, and;
5. The applications would permit development that represents good land use planning and is in the public interest.

It should also be noted that this latest appeal does not include the Town owned lands. The developer has submitted a revised draft plan of subdivision showing the area to which the

Official Plan and Zoning By-law amendments would apply and which depicts a revised lotting pattern and street layout for 215 residential units. Given that the Home Farm development consists of nearly 56 hectares of land, this revised unit count falls well within the 10 units/hectare density target in the Official Plan. The revised lotting pattern still closely resembles the original draft plan submitted in 2015. A copy of the revised Draft Plan is included as Attachment “2” to this report.

Planning staff are preparing the typical submission to the Ontario Municipal Board as per Board directions. It is anticipated that Planning staff will also be dialoguing with County staff and the Home Farm consulting team as all parties prepare for an upcoming hearing. Staff also anticipate preparing further staff report(s) on this matter once the appeal has been accepted by the Ontario Municipal Board.

F. The Blue Mountains Strategic Plan

Goal #3:	Support Healthy Lifestyles
Objective #2:	Increase the Range of Housing Choices and Promote Housing Affordability
Objective #3:	Manage Growth and Promote Smart Growth
Objective #4:	Commit to Sustainability

G. Environmental Impacts

Environmental impacts have been assessed through the existing development proposal and will be re-examined through the OMB hearing

H. Financial Impact

Given that this appeal is based on “non-decision”, Town planning staff can provide evidence to support the Town’s position. Legal Counsel will need to be retained to administer the Town’s defense of the appeal. Accordingly, this appeal and resulting hearing will have an impact on the Town budget.

I. In consultation with

Denise Whaley, Planner
Shawn Postma, Senior Planner
Shawn Everitt, Interim CAO

J. Attached

1. OMB Appeal Letter
2. Revised Draft Plan

Respectfully Submitted,

Michael Benner, MCIP RPP
Director of Planning and Development Services

For more information, please contact:
Michael Benner, Director of Planning and Development Services
planning@thebluemountain.ca
519-599-3131 extension 246

RECEIVED
MAR 28 2018



TOWN OF THE BLUE MOUNTAINS

PER:

*Received by C. Giles
Town Clerk*

Quinto M. Annibale*

*Quinto M. Annibale Professional Corporation

Tel: (416) 748-4757

Email: gannibale@loonix.com

BY COURIER

March 28, 2018

Town Clerk
Town of the Blue Mountains
32 Mill Street PO Box 310
Thornbury, ON N0H 2P0

Attention: Corrina Giles, Town Clerk

Dear Ms. Giles:

**Re: MacPherson Builders (Blue Mountains) Limited
Home Farm Subdivision Proposal
Applications for Official Plan Amendment and Zoning By-law Amendment
Municipal File No.: 33
Appeals Pursuant to ss. 22(7) and 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13,
as amended**

I am the solicitor for MacPherson Builders (Blue Mountains) Limited ("MacPherson") with respect to the above noted matter. MacPherson is the owner of a 55.7 hectare (137.6 acre) property legally described as Lots 2, 3, 4, 5, 6 and 7 Plan 555; Part of Lot 159 Plan 529 and Part Lot 20, Concession 2 Collingwood All Being Part 1 on 16R10467 Town of the Blue Mountains, County of Grey ("Subject Property").

In 2015 MacPherson filed applications for Official Plan and Zoning By-law amendment with the Town of the Blue Mountains, and an application for Draft Plan of Subdivision with the County of Grey to facilitate the development of a portion of the Subject Lands and an adjacent 4 hectare (10 acre) parcel of surplus land owned by the Town of the Blue Mountains as a residential subdivision (collectively, the "Applications").

On July 23, 2015 the Town of the Blue Mountains issued a notice of complete application with respect to the applications for Official Plan and Zoning By-law amendment. A separate notice of complete application was issued by the County on August 20, 2015 with respect to the application for Draft Plan of Subdivision.



Numerous studies have been undertaken and filed with the County and the Town in support of the Applications which demonstrate the merits of the proposed development. In spite of this, almost three years have passed since the Applications were deemed complete and no decision has been made with respect to any of the Applications. Given the passage of time, MacPherson now seeks to appeal the Official Plan and Zoning By-law amendment applications to the Ontario Municipal Board for a hearing pursuant to subsection 22(7) and 34(11) of the *Planning Act*. An appeal of the application for Draft Plan of Subdivision, brought pursuant to subsection 51(34) of the *Planning Act* has been filed concurrently with the County under separate cover.

The reasons for my client's appeals are as follows:

1. The Town has failed to make a decision with respect to the application for Official Plan Amendment within 180 days after the application was received;
2. The Town has failed to make a decision with respect to the application for Zoning By-law Amendment within 120 days after the application was received;
3. The County has failed to make a decision with respect to the application for Draft Plan of Subdivision within 180 days after the application was received;
4. The Applications are consistent with the *Provincial Policy Statement, 2014*, and conform to the *Niagara Escarpment Plan*, the County of Grey Official Plan, and the Town of the Blue Mountains Official Plan as amended through the Applications;
5. The Applications would permit a development that represents good land use planning and is in the public interest.

I note that my clients' appeal of the Applications is limited to the Subject Lands only and does not include the adjacent parcel of land owned by the Town. A revised draft plan of subdivision has been enclosed along with this correspondence showing the area to which the Official Plan and Zoning By-law amendment application appeals relate and depicting the revised lotting pattern and street layout for which my client will be seeking approval at the Board. To be clear, my client's applications for Official Plan and Zoning By-law amendment are not being appealed with respect to the 4 hectare (10 acre) parcel that is owned by the Town.

Enclosed along with this correspondence are two completed Ontario Municipal Board Appellant Forms A1 with respect to the applications for Official Plan and Zoning By-law amendment along with two cheques in the amount of \$300 payable to the Minister of Finance representing the Board's filing fee. As noted above, a separate appeal of the application for Draft Plan of Subdivision has been filed with the County. Given that the Applications deal with the same proposed development I ask that the appeals of all three Applications be consolidated and heard together.



I trust this is satisfactory, however should you require anything further please do not hesitate to contact the undersigned.

Yours truly,
LOOPSTRA NIXON LLP



Per: Quinto M. Annibale

Encl: Revised Draft Plan of Subdivision
OMB Appellant Forms
Firm Cheques

