

## Addendum to Report PDR-PCD-24-14

**To:** Chair Wright and Members of Planning and Community Development Committee  
**From:** Sarah Morrison, Intermediate Planner  
**Meeting Date:** September 15, 2015  
**Subject:** **Sleepy Hollow Developments West**  
**Status:** Recommendation adopted by Committee as presented per Resolution PCD114-15; Endorsed by County Council October 6, 2015 per Resolution CC138-15;

### Recommendation(s)

**WHEREAS the County has received plan of subdivision application 42T-2014-03 for lands described as Part of Lot 21, Concession 3, 144 Sleepy Hollow Road (geographic Township of Collingwood) Town of the Blue Mountains;**

**AND WHEREAS the application was appealed to the Ontario Municipal Board;**

**AND WHEREAS the Town staff, the applicant and County staff have worked together to prepare minutes of settlement, including draft plan conditions;**

**AND WHEREAS the minutes of settlement have been accepted by the Town of The Blue Mountains Committee of the Whole;**

**AND WHEREAS County staff recommend that the proposed minutes of settlement, including the draft plan conditions be supported, provided the Minutes of Settlement are adopted by the Town of the Blue Mountains Council;**

**NOW THEREFORE BE IT RESOLVED THAT Addendum to Report PDR-PCD-24-14 be received;**

**AND THAT in consideration of the draft plan of subdivision and the matters to have regard for under Subsection 51(24) of the Planning Act RSO 1990 as amended, the Grey County Planning and Community Development Committee hereby supports the recommended draft conditions and minutes of settlement, or with minor modifications thereto;**

**AND THAT authorization be given to the County solicitor to sign the Minutes of Settlement.**

## Background

The County received a plan of subdivision application from Sleepy Hollow Development Inc. to establish a plan of subdivision approval for 10 single detached lots, in Town of The Blue Mountains (geographic Township of Collingwood) in June 2014. This plan of subdivision would allow for an additional 10 lots and will extend the road Salzburg Place all the way through to Alexandra Way. This is related to the Sleepy Hollow East Development (42T-2014-01) application that was presented to Committee in May 2014 and subsequently endorsed by Council in January 2015.

The subject lands are located north of Sleepy Hollow Road and west of County Road 19 in the Town of The Blue Mountains. See Map 1 below for an aerial view of the subject property and surrounding area.

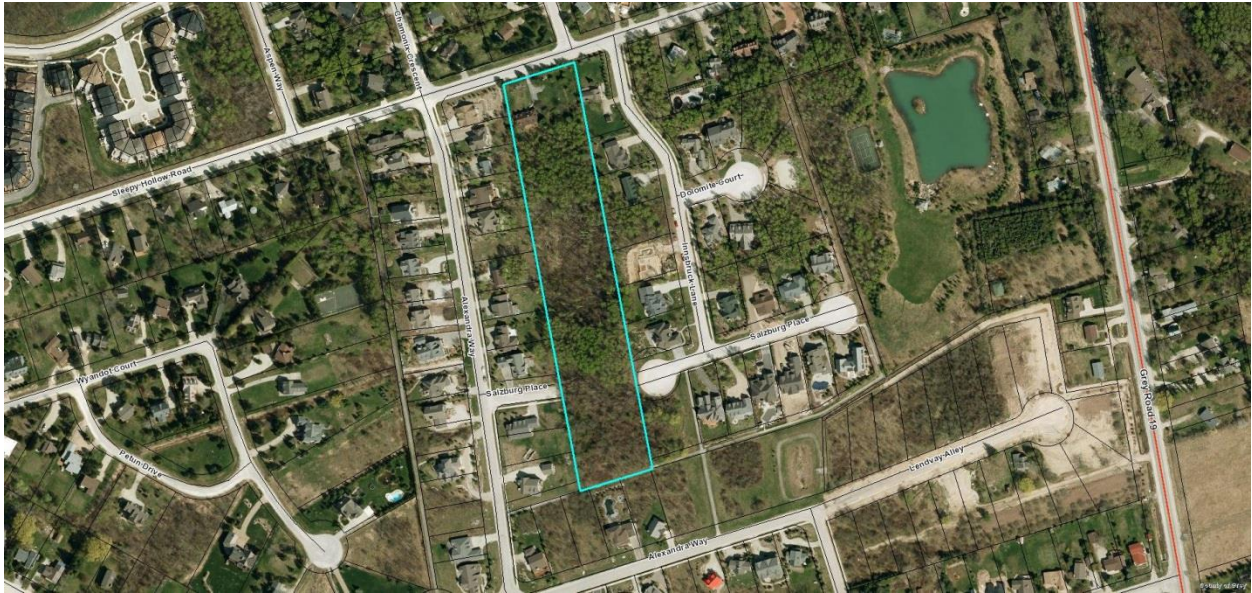
The majority of the lands surrounding the subject property have been developed for residential or resort purposes. The plan of subdivision is proposed to be serviced by municipal water and sewer.

In support of the proposed plan of subdivision the proponent submitted the following;

1. a Planning Justification Report,
2. a Stage 1-2 Archaeological Assessment,
3. A Draft Plan of Subdivision,
4. Functional Servicing and Stormwater Management Report, and
5. A Hydraulic Modelling report.

Copies of all background reports and plans can be found at the below link:

[Link to Background Materials](#)



*Map 1: Sleepy Hollow Developments Inc. West - Subject Lands*



*Map 2: Sleepy Hollow Developments Inc. West – Draft Plan of Subdivision*

On February 13, 2015, the County received an appeal from the applicant on the grounds that a decision had not yet been rendered by the County and it had been 180 days since the application was submitted. A corresponding zoning by-law amendment application has also been appealed with the Town.

A public meeting was held for the zoning by-law amendment and the plan of subdivision applications on September 8, 2014 by the Town of The Blue Mountains. A link to the minutes from that meeting has been provided below (the minutes to this particular public meeting begin on page 9 of the below-linked PDF).

### [Public Meeting Minutes](#)

The County's practice is to wait for the Municipality to submit conditions of approval to move forward with our review. At the time of appeal, staff had not received these documents from the Town. It is County staff's understanding that there were outstanding issues at the Town, that were required to be addressed prior to the submission being supported by Town Council and subsequently submitted to the County for approval.

County staff, Town Staff and the applicant have reached a draft Minutes of Settlement that includes a schedule that contains draft conditions. All parties are satisfied that concerns and requirements are met and are prepared to recommend that the documents are formalized and signed. At the time of composition of this report Town Council have accepted the draft Minutes of Settlement and intend to request execution of the Minutes by the Mayor and Clerk on the September 9, 2015 Council Session.

### *Public and Agency Comments Received*

As part of the planning application process, the following members of the public submitted written comments or made verbal submissions at the public meeting;

- Andrew & Karen Barrett
- Pat & Mark Fair Cloth
- Diana Paeglis
- Allan T. White
- Greg Patterson
- D. Evans
- Lynn McDougall
- Valda & Ivars Vitols
- Betty DelBianco & Paul Hentschel
- Mariann Coward
- Rolston Miller
- Janet & Brian Bone
- David Castell

- Rod & Jan Bennett
- Diana Donnelly
- Michele McCarthy
- Elain Casavant & Roy Firth

A general summary of the comments received is as follows;

- concerns regarding walkways and consistency with neighbouring subdivisions,
- no walking trails
- number of lots versus parkland allocation, not consistent
- Size of lots
- ground water, is there an environmental concern?
- Aesthetics of Stormwater Management
- Increased traffic flows and noise
- Does not conform to Town Official Plan, including open space requirement
- Loss of green space and natural habitat
- Loss of privacy and security
- Loss of property value
- Market saturation
- Increase of demand on infrastructure and services
- Innusbruck Lane becoming a through street
- Loss of recreational opportunities
- Reduction/degradation of water pressure
- Increased traffic on Alexandra Way
- Density is too high
- The creation of a “wind tunnel” effect
- Drainage
- Environmental Impact

As part of the planning application process comments were also received by the following groups, agencies, and public bodies.

#### Grey Sauble Conservation Authority (GSCA)

GSCA has submitted a letter on March 9, 2015 with some recommended draft conditions. These recommendations have been incorporated into the recommended draft approval conditions as attached to the Minutes of Settlement.

#### Niagara Escarpment Commission (NEC)

NEC has submitted a letter on August 6, 2015 with some recommended draft conditions. These recommendations have been incorporated into the recommended draft approval conditions as attached to the Minutes of Settlement.



## Town of The Blue Mountains

On August 24, 2015, Town of The Blue Mountains Council supported a recommendation for Minutes of Settlement, which included a series of draft approval conditions on the plan of subdivision. These conditions are to be endorsed by Town Council on September 9, 2015. These Minutes of Settlement can be found below under the attachments section.

### *Planning Policy Analysis*

Planning decisions in Ontario must have regard for matters of Provincial Interest under the *Planning Act*, be consistent with the Provincial Policy Statement (PPS) 2014, and conform to the goals and objectives of any official plans governing the lands. In this case the County of Grey Official Plan and the Town of The Blue Mountains Official Plan are applicable to the subject lands.

### ***The Planning Act***

Section 1.1 of the *Planning Act* outlines the purposes of the Act. The purposes of the Act promote sustainable economic development in a healthy natural environment within a land use planning system, led by provincial policy and matters of provincial interest. Section 2 of the *Planning Act* outlines matters of Provincial Interest, which decision makers must be consistent with when carrying out their responsibilities under the Act. The most relevant matters of provincial interest to this application are: (a) the protection of ecological systems, including natural areas, features and functions; (f) the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems, (h) the orderly development of safe and healthy communities, (j) the adequate provision of housing, including affordable housing, and (p) the appropriate location of growth and development.

- (a) There have been no identified natural heritage features on-site. Both at the pre-submission consultation stage, and at the development application review process stage, it was determined that an Environmental Impact Study (EIS) was not warranted for this development. A tree preservation and landscape plan is being recommended as a condition of draft approval to the satisfaction of the GSCA, NEC and the Town of The Blue Mountains.
- (f) The subject development will be serviced by municipal water and municipal sewer services, and it has been determined that there is sufficient reserve capacity to service this development.
- (h) The proposed plan of subdivision is designated as 'Recreational Resort Area' within the County Official Plan. The Recreational Resort Area is recognized within the County Plan as being an area where growth can be contemplated.



Within Section 2.5.2 of the County Plan, it notes that the Recreational Resort Area designation, *“in addition to the designated Settlement Areas, will generally be the focus of growth within the County.”*

- (j) It is unlikely that any of the housing being proposed would fall within the affordable range, based on the lot sizes. It is conceivable that the proposed single detached dwellings could accommodate secondary suites or apartments which could offer affordable rental housing; however based on the current zoning of the property, a further zoning by-law amendment would be required to facilitate any further secondary units.
- (p) The subject lands are located in a designated settlement area and have been designated for residential growth. In very close proximity to the subject lands is public greenspace and the plan itself intends to dedicate a block at the south to connect to an existing trail system. The location of this proposed development would appear to be appropriate and represent an orderly infill opportunity.

The subject plan of subdivision application, with the attached conditions of draft approval, would have regard for matters of Provincial Interest under *The Planning Act*.

## **Provincial Policy Statement**

A key goal of the PPS is directing new growth to serviced settlement areas, and promoting the vitality of such settlement areas through re-development, infill and intensification. The proposed development would represent an infill opportunity for residential growth within a settlement area.

Section 1.1.3.1 of the PPS discusses settlement area and states, that they shall be the focus of growth and development. The proposed development is within a designated settlement area.

Section 1.6.6.1 of the PPS outlines the servicing hierarchy to be utilized in the Province of Ontario. At the top of the hierarchy are municipal water and sewer services. The proposed development will be serviced by municipal water and sewer services.

Section 2.1 of the PPS speaks to the long-term protection of significant natural heritage features. As noted above there were no such features identified on-site.

Section 2.6 of the PPS speaks to the protection of cultural and archaeological resources within the Province. A Stage 1-2 Archaeological Assessment was completed on this property, and there were no further archaeological assessments recommended for this site.

Section 3.1 of the PPS directs development away from areas of natural hazard. There have been no natural hazards identified on-site.

It can be concluded that the proposed plan of subdivision application, with the attached conditions of draft approval, is consistent with the PPS.

## **County of Grey Official Plan**

The proposed plan of subdivision is designated as 'Recreational Resort Area' within the County Official Plan. The Recreational Resort Area is recognized within the County Plan as being an area where growth can be contemplated. Within Section 2.5.2 of the County Plan, it notes that the Recreational Resort Area designation, "*in addition to the designated Settlement Areas, will generally be the focus of growth within the County.*"

Many of the policies in the County Plan mimic those discussed above in the review of the *Planning Act* and the PPS. A further in-depth review of those same policies in the County Plan will not be provided below.

Section 6.12.1(a)(xi) speaks to the provision of usable parkland and green space. The Town of The Blue Mountains is recommending that the owner pay 5% cash-in-lieu of parkland.

Section 6.12.1(b)(c) and (d) of the Plan speak to the provision of a range of housing, including affordable housing, and employment opportunities. As noted above, the proposed lots will not be built at a density to provide for affordable housing, unless it is accommodated through secondary suites, which as noted above would require a zoning by-law amendment. There are currently no employment lands being considered as part of this development.

The proposed minutes of settlement, conforms to the goals and objectives of the County of Grey Official Plan.

## **Financial / Staffing / Legal / Information Technology**

### **Considerations**

The application is under appeal and there will be associated legal fees. At this point all parties have agreed to a draft Minutes of Settlement (as presented in this report) and staff are recommending support of the documents and it is not anticipated that a full OMB hearing will be necessary.

## Link to Strategic Goals / Priorities

Action 2.10, under Goal 2 of the County's Strategic Plan, requires the continued management of growth and the application of sound land use planning principles. Permitting new residential growth on lands which are designated for growth can be considered sound land use planning, subject to the conditions of draft approval as recorded in the minutes of settlement.

## Attachments

**OMB CASE FILE NOS: PL150116**

**PL150139**

### **ONTARIO MUNICIPAL BOARD**

Bradley McMullen has appealed to the Ontario Municipal Board under subsection 51(34) of the Planning Act, R.S.O. 1990, c.P.12, as amended, from the failure of the County of Grey to make a decision respecting a proposed Draft Plan of Subdivision on lands known as 144 Sleepy Hollow Road in the Town of The Blue Mountains.

Bradley McMullen has appealed to the Ontario Municipal Board under subsection 34(11) of the Planning Act, R.S.O. 1990, c.P.13, as amended, from the failure of the Town of the Blue Mountains to make a decision respecting a proposed Zoning Bylaw Amendment on lands known as 144 Sleepy Hollow Road in the Town of The Blue Mountains

### **MINUTES OF SETTLEMENT**

**Dated August \_\_\_\_\_, 2015**

**BETWEEN:**

**The Corporation of the  
County of Grey  
(herein called the "County")**

**And**

**The Corporation of the  
Town of The Blue Mountains  
(herein called the "Town")**

**And**

**Bradley McMullen**  
**(herein called “McMullen”)**

**WHEREAS** McMullen has appealed its applications to amend the Town's Zoning Bylaw and appealed its applications for approval of a Plan of Subdivision

**AND WHEREAS** McMullen's land is designated Recreation Residential RR within the Town's Official Plan which identifies an area that can proceed with development;

**AND WHEREAS** the Town's Official Plan indicates that 2.06 hectares are designated "Recreational Residential". The RR designation permits development from 2.5 units per hectare up to 5 units per hectare. This development proposed 10 units on 2.06 ha so 4.9 units/ha. This development can proceed in compliance with the "Recreational Residential" designation without an amendment to the Official Plan.

**AND WHEREAS** the Town's Zoning Bylaw indicates that the subject lands are zoned "Development (D)".

**AND WHEREAS** the Parties hereto have an interest in this matter and wish to set out in Minutes of Settlement the manner in which the Appeals can be resolved and their respective interests satisfied.

**NOW THEREFORE** in consideration of the sum of Two (\$2.00) Dollars paid by each of the parties to the other, the receipt and adequacy of which is hereby acknowledged and the resolution of all matters relating to the Appeals, the Parties covenant and agree as follows:

1. The Parties agree that the recitals herein are true and accurate and form part of these Minutes of Settlement.
2. In these Minutes of Settlement, including the recitals, "Parties" means The County, The Town, and McMullen.
3. The attached Schedules "A", "B", and "C" form an integral part of these Minutes of Settlement and are binding upon the Parties.
4. The Zoning By-law shall be amended in the form found in Schedule "A" to these Minutes.
5. The Draft Plan of Subdivision prepared by D.C. Slade Consultants Inc. dated October 21, 2014 (Drawing 808-14-DP6) and the Draft Plan Conditions are found in Schedule "B" and "C" to these Minutes of Settlement. The Draft Plan of Subdivision and their Conditions are satisfactory to all parties.
6. The Parties agree to jointly recommend to the OMB: (i) approval of these Minutes of Settlement; (ii) an order directing that the final approval of the plan of subdivision for the purposes of subsection 51(58) of the Planning Act is to be given by the Corporation of the County of Grey; and (iii) dismissal of the Appeal of McMullen.
7. No Party will seek costs in these proceedings.

8. The Planner for McMullen has provided a planning opinion (in affidavit form) to the OMB confirming these Minutes of Settlement are in conformity with the relevant planning documents, consistent with the Provincial Policy Statement and good planning principles. Planning Staff for the Town and the County have endorsed the affidavit. The same will also be provided orally if so requested by the OMB.
9. Subject to compliance with all provisions of these Minutes of Settlement, the Parties request the OMB to approve these Minutes of Settlement, and to dismiss the Appeal of McMullen and approve the Draft Plan of Subdivision and Conditions as set out in Schedule "C".
10. These Minutes of Settlement may be signed in counterparts.

These minutes of Settlement shall ensure to the benefit of and be binding upon the Parties and their respective successors and assigns.

IN WITNESS WHEREOF the Parties have executed these Minutes of Settlement by the County, the Town and McMullen by the hands of their respective officers duly authorized in that behalf.

**The Corporation of the County of Grey**

Per: \_\_\_\_\_  
(I have the authority to bind the Corporation)

**The Corporation of the  
Town of The Blue Mountains**

Per: \_\_\_\_\_  
John McKean– Mayor

\_\_\_\_\_  
Corrina Giles - Clerk  
(I/we have the authority to bind the Corporation)

**Bradley McMullen**

Per: \_\_\_\_\_

## SCHEDULE "A"

### ZONING BYLAW AMENDMENT



**THE CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS**

**BY-LAW NO. 2015 - \_\_\_\_\_**

Being a By-law to amend Zoning By-law No. 83-40  
which may be cited as "The Township of Collingwood Zoning By-law".

WHEREAS the Ontario Municipal Board deems it necessary in the public interest to pass a by-law to amend By-law No. 83-40;

AND WHEREAS pursuant to the provisions of Section 34 and 36 of the Planning Act, R.S.O. 1990, c. P.13, the By-law may be amended by the Ontario Municipal Board;

NOW THEREFORE, THE ONTARIO MUNICIPAL BOARD ENACTS AS FOLLOWS:

1. Map 20 to Schedule 'A' of the Township of Collingwood Zoning By-law 83-40 as amended, is hereby further amended by rezoning the subject lands from the Development 'D' Zone to the Residential 'R3-262-h' Zone, Residential 'R3-263-h' Zone, Residential 'R3-h' Zone and Public Open Space 'OS1' Zone for those lands lying and being in the Town of The Blue Mountains, comprised of CON 3 PT LOT 21 RP 16R1109 PART 1 TO 2 ROW as indicated on the attached key map Schedule 'A1'.
2. Section 32 to the Township of Collingwood Zoning By-law 83-40 as amended is hereby further amended by adding the following exceptions:  
  
"262 The minimum westerly side yard setback shall be 6.0 metres from the westerly side lot line of Lots 3, 6, 7 and 9. No buildings or structures shall be permitted within the westerly side yard.  
  
263 The minimum easterly side yard setback shall be 6.0 metres from the easterly side lot line of Lots 2, 4, 5 and 8. No buildings or structures shall be permitted within the easterly side yard."
3. In accordance with the provisions of Section 36 of the Planning Act, R.S.O. 1990, c. P. 13, as amended, the Holding '-h' symbol shall not be removed from the whole or part of the lands until such time as the following has been completed:
  - i) Registration of a Plan of Subdivision; and
  - ii) The execution of a Subdivision Agreement.Until such time as the Holding '-h' symbol is removed the lands shall only be used for those uses that existed as of the date of passing of this By-law.
4. Notwithstanding the requirements of Section 3 above, a maximum of one (1) model home may be constructed prior to the removal of the Holding '-h' Symbol provided that the owner enters into a Model Home Agreement to the satisfaction of the Town of The Blue Mountains.
5. Notwithstanding the requirements of Section 3 above, accessory uses, buildings or structures may be permitted on Lot 1 of Draft Plan 42T-2014-03 prior to the removal of the Holding '-h' Symbol provided that the accessory uses, buildings or structures can conform to all other sections of the By-law. For the purposes of this Section, all lot lines shall be deemed to be those lot lines described as Lot 1 of Draft Plan 42T-2014-03.
6. Schedule 'A1' is hereby declared to form part of this By-law.

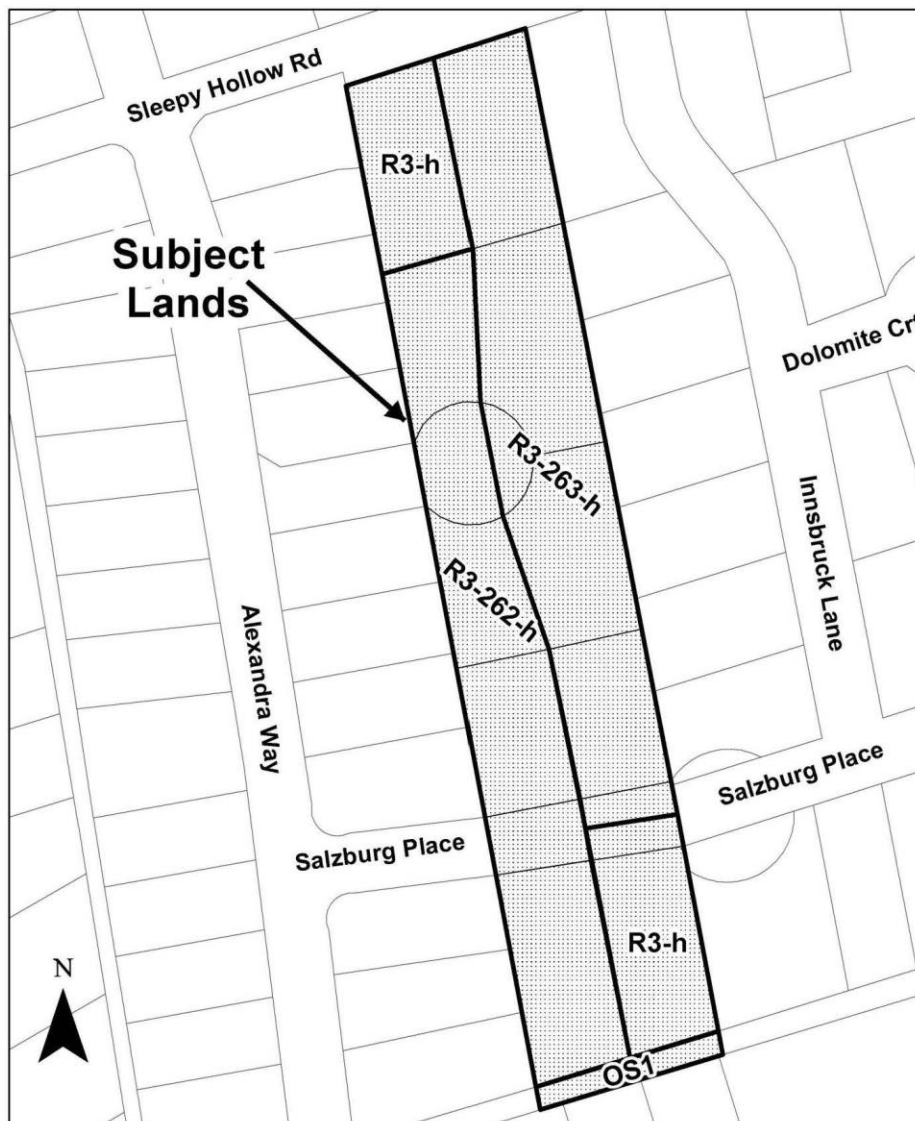
APPROVED BY THE ONTARIO MUNICIPAL BOARD. ORDER: \_\_\_\_\_

# Town of The Blue Mountains

## Key Map Schedule 'A1'

By-law No. \_\_\_\_\_

 AREA AFFECTED BY THIS AMENDMENT



SCHEDULE "B"

DRAFT PLAN OF SUBDIVISION





SCHEDULE "C"  
DRAFT PLAN CONDITIONS

## **Conditions for Draft Plan of Subdivision 42T-2014-03**

### **Sleepy Hollow West (McMullen)**

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 42T-2014-03 on Part of Lot 21, Concession 3, geographic Township of Collingwood, in the Town of the Blue Mountains, County of Grey, Drawing 808-14-DP6 prepared by D.C. Slade Consultants Inc. and dated October 21, 2014. Showing a total of ten (10) residential lots, two (2) internal road allowances, one (1) block for a walkway.
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, Grey Sauble Conservation Authority, Niagara Escarpment Commission 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. Prior to registration, the Zoning By-law to permit the development of these lands in accordance with the Draft Plan of Subdivision including the use of the holding 'h' provision under the Planning Act shall be approved under Section 34 and 36 of the Planning Act
4. The new municipal road located at Block 52 Plan 1118 and Block 11 to Draft Plan 42T-2014-03 shall be named to the satisfaction of the Town in accordance with the Town's Street Naming Policy.

#### **Servicing, Grading and Road Requirements**

5. Prior to the initiation of any site grading or servicing and prior to the registration of the plan, the Owner shall submit for the approval of the Town Engineering and Public Works Department and the Grey Sauble Conservation Authority the following:
  - 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;
- ii. The stormwater management techniques required to accommodate the 5 year storm event;
- iii. The stormwater management techniques required to accommodate the 100 year storm event;
- iv. How external flows will be accommodated and the design capacity of the receiving system;
- v. Location and description of all outlets and other facilities which may require permits; and
- vi. 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 Engineering and Public Works Department and the Grey Sauble Conservation Authority 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 and the Grey Sauble Conservation Authority:
  - i. To carry out, or cause to be carried out, all the works referred to in condition 5(a) above
  - ii. To obtain the necessary permits from the Grey Sauble Conservation Authority
  - iii. Prior to the initiation of any grading or construction on the site, to erect any silt fence as referred to in condition 5(a)(vi) above.
- 6. Prior to the registration of the Plan, arrangements shall be made to the satisfaction of the Town for any relocation of utilities required by the development of the subject lands, to be undertaken at the developer's expense.
- 7. Stormwater overland flow routes shall be kept within roads or approved walkways only, to the satisfaction of the Town Engineering and Public Works Department and the Grey Sauble Conservation Authority.
- 8. Prior to the initiation of any site grading or servicing and prior to registration of the plan, submit for the approval of the Town Engineering and Public Works Department and Grey Sauble Conservation Authority 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.
- 9. Prior to the initiation of any site grading or servicing and prior to the registration of this plan, submit to the Town:
  - a. A Phase 1 Environmental Site Assessment

- b. A Phase 2 Environmental Site Assessment if required as a result of the Phase 1 Environmental Site Assessment
  - c. 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
  - d. A copy of a Record of Site Condition and confirmation of the filing of the Record of Site Condition in the Environmental Site Registry.
10. Prior to the initiation of any site grading or servicing, the Owner shall provide a report identifying all existing water wells and private sewage disposal systems on the lands. The applicant shall provide verification to the satisfaction of the Town that all wells and septic systems identified have been decommissioned in accordance with all applicable laws and regulations
11. The horizontal and vertical alignments of all roads and underground services including their intersection geometrics shall be designed to the Town of The Blue Mountains Engineering Standards. In this regard, minor revisions to the road pattern and intersection alignments may be required
12. Prior to the approval of any engineering drawings, arrangements shall be made to the satisfaction of the Town for a suitable construction traffic route.
13. 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.

### **Landscape, Fencing and Streetscape Requirements**

14. Prior to the registration of the Plan, the Owner shall complete a Landscape Analysis and Landscape Plan to the satisfaction of the Town and the Niagara Escarpment Commission.
15. That wording shall be included in the Subdivision Agreement that shall ensure that the Owner save and/or remove any trees and vegetation on the subject lands as required by the Landscape Analysis / Landscape Plan to the satisfaction of the Town and the Niagara Escarpment Commission.

### **Park and Open Space Requirements**

16. The Owner shall install and dedicate as open space lands to the Town, a walkway connection south of Lots 9 and 10 of Draft Plan 42T-2014-03.
17. The Owner shall pay cash-in-lieu for 5% parkland dedication in accordance with the Planning Act.
18. The Owner shall pay cash-in-lieu for 37.8% open space as required under Section 6.5.2 of the local Official Plan.
19. The Owner shall pay cash-in-lieu for shoreline dedication in accordance with the increased density requirements of Section 6.5.3 of the local Official Plan.

20. The Owner shall pay cash-in-lieu for additional recreational lands and/or facilities in accordance with the increased density requirements of Section 6.5.3 of the local Official Plan.

### **Miscellaneous Requirements**

21. The Owner shall agree to: an increased side yard setback of 6.0 metres from the westerly side lot line of Lots 3, 6, 7 and 9. No buildings or structures shall be permitted within the westerly side yard; and an increased side yard setback of 6.0 metres from the easterly side lot line of Lots 2, 4, 5 and 8. No buildings or structures shall be permitted within the easterly side yard.
22. The Owner shall grant all necessary easements and/or blocks for drainage, utility and servicing purposes, as may be required, to the appropriate agency or public authority.
23. The Owner shall make satisfactory arrangements with Canada Post and the Town's Engineering and Public Works department, for the installation of Canada Post Community Mailboxes and shall indicate these locations on the appropriate servicing plans. The applicant shall further provide the following for the Community Mailboxes if required:
- a. An appropriately sized sidewalk section (concrete pad), per Canada Post standards, to place the mailbox on, plus any required walkway access and/or curb depressions for wheelchair access.
  - b. A suitable temporary Community Mailbox location which may be utilized by Canada Post until the curbs, sidewalks and final grading have been completed at the permanent Community Mailbox Site locations to enable Canada Post to provide mail service to new residences as soon as homes are occupied.
24. The Owner shall obtain a letter from the Ministry of Tourism, Culture and Sport that the Archaeological Assessment has been entered in the Ontario Public Register of Archaeological Reports.
25. That the owner, submit to the County of Grey and the Town with a computer disk containing a digitised copy of the Final Plan in a format acceptable to the County of Grey and the Town of The Blue Mountains.
26. That prior to final approval the County is advised in writing by the Niagara Escarpment Commission how Conditions 14 and 15 have been satisfied.
27. That prior to final approval the County is advised in writing by the Grey Sauble Conservation Authority how Conditions 2, 5, 7, 8, 9, 10, 14 and 15 have been satisfied.
28. That prior to final approval the County is advised in writing by the Town of The Blue Mountains how Conditions 2 to 27 have been satisfied.

29. If final approval is not given to this plan within three 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 from the local municipality must be received by the County of Grey Director of Planning, 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.

## 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.
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  
P.O. Box 310, 32 Mill Street  
Thornbury, ON, N0H 2P0

Grey Sauble Conservation Authority  
237897 Inglis Falls Road, Rural Route #4  
Owen Sound, ON, N4K 5N6

The Niagara Escarpment Commission  
99 King Street East, P.O. Box 308  
Thornbury, ON N0H 2P0

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.

- 5. 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 and Climate Change under the Ontario Water Resources Act, RSO 1990, as amended.
- 6. All measurements in subdivision final plans must be presented in metric units.
- 7. The final plan approved by the County 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.

SCHEDULE "D"  
PLANNING OPINION  
AFFIDAVIT

PL150116

PL150139

## ONTARIO MUNICIPAL BOARD

Case Number: PL150116, PL150139  
File Number: PL150116, PL150139  
Municipality: The Town of The Blue Mountains  
County: The County of Grey

Property Location: 144 Sleepy Hollow Road, Town of the Blue Mountains  
Applicant(s): Bradley McMullen  
Appellant(s): Bradley McMullen

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**IN THE MATTER OF** an appeal to the Ontario Municipal Board by Bradley McMullen under subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P. 12, as amended, from the failure of the County of Grey to make a decision respecting a proposed Draft Plan of Subdivision on lands known as 144 Sleepy Hollow Road in the Town of The Blue Mountains.

**AND IN THE MATTER OF** an appeal to the Ontario Municipal Board by Bradley McMullen under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from the failure of the Town of The Blue Mountains to make a decision respecting a proposed Zoning Bylaw Amendment on lands known as 144 Sleepy Hollow Road in the Town of The Blue Mountains.

## AFFIDAVIT OF ANDREW PASCUZZO

(Sworn ●)

I, Andrew Pascuzzo, of the Town of Collingwood, MAKE OATH AND SAY:

1. I am a Planner at D.C. Slade Consultants Inc. I am a Registered Professional Planner and Member of the Canadian Institute of Planners in good standing. I have **8** years of experience in land use planning and significant experience in the Town of The Blue Mountains. My curriculum vitae is attached as **Exhibit A**. I have signed an Acknowledgment of Expert's Duty form, attached as **Exhibit B**.



2. I was retained by Bradley McMullen ("Owner" ) in **March 2014** to provide land use planning services with respect to the Owner's draft plan of subdivision application to the County of Grey (the "County") and zoning by-law amendment application to the Town of The Blue Mountains (the "Town") with respect to 144 Sleepy Hollow Road in the Town (the "Subject Lands"). I therefore have personal knowledge of the matters in this Affidavit. Where my knowledge is based on information and belief, I have specifically said so.

### ***Summary Opinion***

3. For the reasons set forth below, it is my opinion as a professional land use Planner that the proposed draft plan of subdivision (the "Proposed Draft Plan") and proposed zoning by-law amendment (the "Proposed By-law") as set out and discussed in this Affidavit for the purpose of reaching a settlement of the above-referenced appeals, represent good land use planning. The Proposed Draft Plan and Proposed By-law are consistent with the Owner's original applications, which were deemed to be good planning by Town planning staff. In addition, the Proposed Draft Plan and Proposed By-law include enlarged interior side-yard setbacks, in which accessory uses are prohibited, on those lots adjacent to existing development, to address neighbours' concerns about the proximity of the proposed development to existing structures, resulting in a loss of open space, privacy, and security.

### ***Background Facts***

4. The Subject Lands are approximately 2.06 hectares with 61.26 metres of frontage along Sleepy Hollow Road, 20 meters of frontage along Salzburg Place and 20

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meters of frontage along Salzburg Lane. The Subject Lands are currently occupied by one (1) single family residential home.

5. On June 6, 2014, on behalf of the Owner, I submitted concurrent applications to the Town for a draft plan of subdivision and a zoning bylaw amendment (the "Applications"). The draft plan of subdivision application sought the creation of ten (10) residential lots, a 20-meter municipal right-of-way connection between Salzburg Lane and Salzburg Place, as well as a municipal cul-de-sac. The zoning bylaw amendment application sought to rezone the Subject Lands from the Development (D) Zone to the Residential Third Density (R3) Zone, which is consistent with the zoning for the lands surrounding the Subject Lands.

6. In support of the Applications, I prepared and submitted a Planning Justification Report dated **June, 2014**. A copy of this report is attached hereto as **Exhibit C**.

7. As required under the *Planning Act*, a public meeting was held on September 8, 2014 (the "Public Meeting"). Prior to, during, and following the public meeting, neighbouring property owners expressed concern that the proposed development would result in new homes being built in close proximity to existing structures, resulting in a loss of open space, privacy, and security.

8. Town planning staff reviewed the Applications and prepared staff report PL.14.110 on the Applications dated November 10, 2014 ("First Staff Report"). A copy of which is attached hereto as **Exhibit D**.

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9. In the First Staff Report, Town planning staff were of the opinion that the Applications represented good planning and conformed to the Provincial Policy Statement, the County of Grey Official Plan, and the Town's Official Plan. Staff supported the Applications, recommended that Council enact a zoning bylaw amendment to rezone the subject lands from the Development D zone to the Residential R-3h zone, and support a recommendation to the County of Grey to grant Draft Plan Approval of Subdivision File 42T-2014-03, subject to draft plan conditions. Staff also recommended that Council accept a cash-in-lieu payment as an appropriate alternative to providing a minimum of 40% open space as required under section 6.5.1 and 6.5.2 of the Official Plan, enabling the Town to designate an alternative location as open space, which would be better-suited to recreational opportunities than the Subject Lands.

10. The recommendations of the First Staff Report were reviewed by the Town's Committee of the Whole at a meeting on November 10, 2014. Notwithstanding staff's recommendation to adopt a payment of cash-in-lieu of open space, the Committee directed planning staff to report back on options to include open space on the Subject Lands at a November 24, 2014 Council meeting. A copy of the November 10, 2014 meeting minutes is attached hereto as **Exhibit E**.

11. In anticipation of a Town Council meeting on November 24, 2014, Town staff reviewed the Open Space options for the Subject Lands and prepared staff report PL.14.119 dated November 24, 2014 ("Second Staff Report"), a copy of which is attached hereto as **Exhibit F**.

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12. As directed by the Committee of the Whole, the Second Staff Report included options to provide open space on the Subject Lands. However, the Second Staff Report maintained Town planning staff's opinion that the proposed draft plan of subdivision and zoning bylaw amendment represented good planning as well as the recommendations in the First Staff Report, including the recommendation that Council accept a cash-in-lieu payment as an appropriate alternative to providing a minimum of 40% open space.

13. At the November 24, 2014 Council meeting, Council did not follow staff's recommendation. Instead, the Council adopted a motion accepting a different option presented by staff, a cash-in-lieu payment of 24% and a 21% open space dedication that would include all Sleepy Hollow West lands south of Salzburg Place as required under Sections 6.5.1 and 6.5.2 of the Official Plan. A certified copy of the Motion is attached hereto as **Exhibit G**. Accordingly, consideration of a zoning by-law amendment was pulled from the agenda and was not considered by Council. A copy of the November 24, 2014 Council meeting minutes is attached hereto as **Exhibit H**.

14. On December 8, 2014, I spoke on behalf of the Owner, at a meeting of the Committee of the Whole to request reconsideration of Council's decision of November 24, 2014. A motion to reconsider was brought and seconded, but did not pass. A copy of the minutes of the December 8 meeting are attached hereto as **Exhibit I**.

15. To date, the Council of the County of Grey has not considered the application for a draft plan of subdivision for the Subject Lands. I am informed and believe that it is the County's practice to wait for a recommendation from the Town before considering a

draft plan of subdivision when a proposed development, such as this one, is located wholly within the Town.

16. On February 13, 2015, the Owner served appeals to the Ontario Municipal Board (the "Appeals") on the County and the Town, for failing to make decisions on the Applications within the statutory periods required by the *Planning Act*. A copy of the Appeals are attached hereto as **Exhibit J**.

17. Between March 2015 and July 2015, the Owner, the Town, and the County (collectively, the "Parties") entered into confidential settlement discussions. Following the confidential settlement discussions, the Parties agreed to a proposed settlement of the Appeals resulting in the Proposed By-law and the Proposed Draft Plan described herein. A copy of the Minutes of Settlement enclosing the Proposed By-law and Proposed Draft Plan is attached hereto as **Exhibit K**.

18. The amendment to the Zoning Bylaw proposes an increase in the typical R3 Zone interior side yard setbacks from 2 m up to 6 m on those lots which are adjacent to existing development, in which the construction of buildings or structures will be prohibited. The increased side yards will act as a buffer between the existing surrounding lots and the new development.

#### **Provincial Policy Statement**

19. The Provincial Policy Statement 2014 provides that new development taking place in designated growth areas should occur adjacent to the existing built up areas and shall have compact form, mix of uses and densities that allow for the efficient use of

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land, infrastructure and public service facilities. As the Proposed Draft Plan and Proposed By-law include new residential development in an area completely surrounded by existing similar residential development, it is my opinion that it is consistent with the Provincial Policy Statement 2014.

#### **County Official Plan**

20. The Subject Lands are designated 'Recreational Resort Area' within the County's Official Plan. The Recreational Resort Area designation recognizes those lands within the settlement areas of the County which have been developed with recreational amenities and residential development serviced with full municipal services.

21. As the proposed development is for a residential use, a permitted use in the Recreational Resort Area, it is my opinion that the Proposed Draft Plan and the implementing Proposed Bylaw conform to the County's Official Plan.

#### **Town Official Plan**

22. The Subject Lands are designated 'Recreational Residential' within the Town's Official Plan. The purpose of the Recreational Residential designation is to identify those lands whereon lower density residential uses and recreational uses may occur on full municipal services.

23. The permitted uses of the Recreational Residential designation include residential development primarily in single detached form.

24. Therefore, in my opinion, the Proposed Draft Plan and Proposed By-law provided therein conform to the Town's Official Plan.

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### **Zoning By-Law**

25. The Subject Lands are zoned Development 'D'. The intent of the Development 'D' Zone is for lands that are designated for future development. The Development 'D' Zone, only permits existing buildings and structures.

26. The purpose of the Proposed By-law is to permit ten residential single family lots. The Proposed By-law would ensure that the proposed development would be zoned consistently with surrounding, existing development.

### **Proposed Settlement**

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27. As indicated above, the Proposed By-law is the result of a proposed settlement between the Parties and represents an amendment to the applicable zoning By-law to recognize and implement an agreement reached between the Parties for the Subject Lands.

28. As a result of my involvement in the preparation, submission and representation of the Applications from its early stages, consideration of all policies in the Town's Official Plan and Zoning By-law, the County's Official Plan, the Provincial Policy Statement, and the Niagara Escarpment Plan; discussions with the Parties relative to this Appeals; and direct involvement in the settlement discussions with the Parties, it is my opinion as a professional land use planner that the Proposed Draft Plan and Proposed By-law as set out and discussed in this Affidavit for the purpose of reaching a settlement of the Appeals, represent good land use planning.



29. In my opinion, it is appropriate for the Board to endorse the Parties' settlement of the Appeals and to approve the Proposed Draft Plan and Proposed Draft Plan conditions and amend the Zoning By-law in accordance with the Proposed By-law.

30. I make this Affidavit in support of the settlement of the Appeals and for no improper purpose.

SWORN BEFORE ME at the City of  
....., in the Province of Ontario on  
.....



\_\_\_\_\_  
Commissioner for Taking Affidavits  
(or as may be)

\_\_\_\_\_  
**ANDREW PASCUZZO**

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Respectfully submitted by,

Sarah Morrison, Hons. BA, MCIP, RPP  
Intermediate Planner

Director Sign Off: *Randy Scherzer*