Staff Report

Planning & Development Services - Planning

Report To: Committee of the Whole
Meeting Date: October 2, 2017
Report Number: PDS.17.90
Subject: Eden Oak – Trailshead
Ontario Municipal Board Decision Received
Prepared by: Shawn Postma, Senior Policy Planner

A. Recommendations

THAT Council receive Staff Report PDS.17.90, entitled "Eden Oak – Trailshead, Ontario Municipal Board Decision Received"; for information purposes.

B. Overview

the purpose of this report is to provide Council with an update on the Eden Oak – Trailshead Ontario Municipal Board case.

C. Background

The Ontario Municipal Board (OMB) held a hearing on April 3, 2017 to deal with the non-decision of the Town and the County for a proposed 194 unit development known as Eden Oak – Trailshead. The hearing considered Minutes of Settlement between the Town, County and Developer on the proposed Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision. The hearing considered planning evidence provided by Andrew Pascuzzo, Land Use Planner, transportation evidence provided by Alex Fleming, and participant evidence from a number of area residents.

The primary issues that the OMB was asked to decide on were the density of development and traffic, roads, intersection and Highway 26 concerns

The OMB carefully considered all of the evidence and submissions provided by the parties and participants and is satisfied that the Official Plan Amendment, Zoning By-law Amendment, Plan of Subdivision and Conditions of Draft Plan Approval are appropriate for the lands.

The OMB orders that the appeal is allowed in part. The Official Plan Amendment, Zoning By-law Amendment, Plan of Subdivision and Conditions of Draft Plan Approval are approved in principle. Final approval is being withheld until an appropriate Section 37 (Bonusing) Agreement is executed between the Town and the Developer.

The OMB further orders that the new Town of The Blue Mountains Official Plan be updated to replace wording in Section B3.7.6.7 as follows:

B3.7.6.7 Schedule A-4 - Part Lots 20 and 21, Concession 2 - Eden Oak

1. A maximum of 194 units consisting of villa, townhouse and semidetached dwellings are permitted on these lands.

2. The development of these lands shall be completed substantially in accordance with the filed Minutes of Settlement and Zoning By-law approved by the Ontario Municipal Board [Case No. PL160268].

The Town and Developer are now required to execute the Section 37 (Bonusing) agreement and upon completion, the OMB will be in a position to issue its final order. It has been agreed through Minutes of Settlement that upon OMB approval, Eden Oak – Trailshead will also withdraw their appeal on the new Town of The Blue Mountains Official Plan.

D. The Blue Mountains Strategic Plan

Goal #3: Support healthy lifestyles

E. Environmental Impacts

Nil

F. Financial Impact

Nil

G. In consultation with

Nil

H. Attached

1. Ontario Municipal Board Decision PL160268 September 6, 2017

Respectfully Submitted,

Shawn Postma, MCIP RPP
Senior Policy Planner

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Michael Benner, MCIP RPP
Director of Planning and Development Services

For more information, please contact:
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Attachment #1
PDS.17.90

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario

ISSUE DATE: September 06, 2017 **CASE NO(S).:** PL160268

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Eden Oak (Trailshead) Inc.
Subject:	Request to amend the Official Plan - Failure of the Town of The Blue Mountains to adopt the requested amendment
Existing Designation:	Residential/Recreation Area designation B3.7.6.17.
Proposed Designated:	Site specific to be determined
Purpose:	To permit a subdivision of semi-detached and townhouses and low rise multiple units and to increase the permissible unit yield.
Property Address/Description:	Pt Lots 158&173, Plan 529, Part 2, RP16R-1974, Etc
Municipality:	Town of The Blue Mountains
Approval Authority File No.:	P1908
OMB Case No.:	PL160268
OMB File No.:	PL160268
OMB Case Name:	Eden Oak (Trailshead) Inc. v. The Blue Mountains (Town)

PROCEEDING COMMENCED UNDER subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Eden Oak (Trailshead) Inc.
Subject:	Proposed Plan of Subdivision - Failure of the Town of The Blue Mountains to make a decision
Purpose:	To permit a subdivision of semi-detached and townhouses and low rise multiple units and to increase the permissible unit yield.
Property Address/Description:	Pt Lots 158&173, Plan 529, Part 2, RP16R-1974, Etc
Municipality:	Town of The Blue Mountains
Municipality File No.:	42T-2012-01

OMB Case No.:	PL160268
OMB File No.:	PL160270

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Eden Oak (Trailshead) Inc.
Subject:	Application to amend Zoning By-law No. 83-40 - Refusal or neglect of the Town of The Blue Mountains to make a decision
Existing Zoning:	R3 Zone and R3-h, OS1 and H Zones
Proposed Zoning:	*R4 and R7 Zones and R4-h, R6-h, R7-h, OS1, OS2 and H Zones*
Purpose:	To permit a subdivision of semi-detached and townhouses and low rise multiple units and to increase the permissible unit yield.
Property Address/Description:	Pt Lots 158&173, Plan 529, Part 2, RP16R-1974, Etc
Municipality:	Town of The Blue Mountains
Municipality File No.:	P2278
OMB Case No.:	PL160268
OMB File No.:	PL160269

Heard: April 3, 2017 in Thornbury, Ontario

APPEARANCES:

Parties	**Counsel**
Eden Oak (Trailshead) Inc.	G. Borean
Town of The Blue Mountains	L. Longo
County of Grey	E. Treslan
Chaseco Holdings Inc. and Martin Chasson	M. McDermid
MacPherson Builders (Blue Mountains) Ltd.	B. Ruddick*

DECISION DELIVERED BY C. CONTI AND ORDER OF THE BOARD

INTRODUCTION

[1] This is the decision for an appeal by Eden Oak (Trailshead) Inc. (“Appellant”) regarding the failure of the Town of Blue Mountains (“Town”) to render a decision on applications for an Official Plan Amendment (“OPA”), Zoning By-law Amendment (“ZBA”) and proposed plan of subdivision for a property at part Lots 158 and 173, Plan 529, Part 2 RP 16R-1974, and Part 1 RP 16R-4636 and Part 2, Lot 174, Plan 529, Plan 16R-8571, Town of The Blue Mountains. The Appellant proposes to construct 194 residential units on the subject property consisting of 112 villa units, 46 townhouses and 36 semi-detached units.

[2] This appeal had been subject to a number of pre-hearing conferences through which party and participant status was granted and a Procedural Order for the hearing was issued. In addition to the appearances noted above Elton Mathews and Lucy Richmond, participants in the appeal also attended the hearing. Brian Withers, another participant did not attend but was represented by Larry McLachlin.

[3] The subject property consists of two parcels located south of the Georgian Bay shoreline and south of Hwy. 26. The smaller parcel measures 0.2428 hectares (“ha.”) in size and is located north of Lakeshore Road and south of Hwy. 26. The larger parcel is 17.332 ha. and it is located on the south side of Lakeshore Road to the south of the smaller parcel. The property is located in the Craigleith area of the Town and it is surrounded by areas of existing and proposed residential development. The recreational ski area of Blue Mountain is located to the south.

[4] Access to the proposed development is intended to be provided from Lakeshore Road. The proposal will contain three new public streets and makes provision for a future road connection in the southeast area of the subject property. There is potential for provision of further access to the property through a road connection in the northwest area of the proposal. The Georgian Trail, which provides a major east-west

trail connection between Collingwood and Meaford runs adjacent to Hwy. 26 and abuts the smaller northern parcel of the subject property.

[5] At the beginning of the hearing the Board was informed that the parties had reached a settlement. The parties filed Minutes of Settlement between the Town and the Appellant which includes copies of the final OPA, ZBA, plan of subdivision and conditions of draft plan approval (Exhibit 1). All parties expressed agreement with the Terms of the Minutes of Settlement. The hearing proceeded to hear evidence related to the settlement and the evidence provided by the participants.

ISSUE

[6] The main issue in this appeal is whether the proposed extent and form of development meets the requirements of the *Planning Act* ("Act"), is consistent with the Provincial Policy Statement ("PPS"), conforms to the Niagara Escarpment Plan, the County of Grey ("County") Official Plan and the Town Official Plan. Specific issues focused primarily on the proposed density of development of the lands, the extent of development proposed in the area, and potential traffic issues particularly associated with Hwy. 26.

EVIDENCE

[7] The Board heard evidence in support of the settlement from Andrew Pascuzzo, a planner with D. C. Slade Consultants Inc. Mr. Pascuzzo is a Registered Professional Planner who has approximately ten years of experience. He was qualified by the Board as an expert in land use planning.

[8] The Board also heard evidence in support of the settlement from Alex Fleming, Transportation Manager with C.F. Crozier & Associates. Mr. Fleming is a Professional Engineer and traffic specialist who has approximately 15 years of experience. He was qualified as an expert in traffic engineering.

[9] The Board heard concerns about the proposal through the evidence of Mr. Mathews and Ms. Richmond, participants in the appeal, and from Mr. McLachlin who was testifying on behalf of Mr. Withers, a participant who could not attend the proceeding.

[10] The Board heard that the County had approved a proposal for 77 residential lots on the subject property in 2007. The approval lapsed in 2011. A new plan was submitted in 2012 which proposed the development of 217 units on the subject property.

[11] The plan was further revised and the number of units was reduced to 194. The revised plan was considered by Town Council in February of 2015, but no decision was made. The revised plan was supported by Town and County planning staff.

[12] According to the evidence, the applications were submitted prior to the current County Official Plan being in effect. Under the old County Official Plan which is the relevant County plan for the proposal, the subject property was designated as Escarpment Recreation Area while the current Official Plan designates the property as Recreation Resort Area.

[13] The applications were submitted when the 2007 Town Official Plan was in force and prior to the adoption of the new Town Official Plan which came into effect in June 2016. The new Official Plan has been appealed by the Appellant with regard to the density permitted on the subject lands. The settlement is intended to resolve the appeal of the previous Town Official Plan which is the in-force plan that applies to the proposal and also the appeal of the new Official Plan through withdrawal of that appeal by the Appellant.

[14] The land use designations for the subject property in the Town Official Plan are Recreational Residential, Residential Infilling and Hazard Land. The area of hazard land is associated primarily with the cold water stream located in the western portion of the property.

[15] The smaller parcel is designated as Residential Infilling while the larger is designated as Recreational Residential. Both designations permit residential use of the lands, but an amendment is required to permit multi-unit residential uses in the area designated Residential Infilling.

[16] There are a number of features on the property which are intended to be protected as part of the development. An area of steep slopes identified as a portion of the Nipissing Ridge is located in the south western part of the property. There is also a significant archeological feature in this area known as the Plater Morton Archaeological site. Also, Mr. Pascuzzo indicated that butternut trees are present in Block 38 which will be protected with appropriate buffering. All of these areas are proposed to be included in Open Space blocks.

[17] In addition condition no. 25 of the Draft Plan Conditions requires the preparation of a Landscape Analysis and a Tree Preservation and Landscape Plan. These reports will encourage the protection of vegetation in open space blocks. The Tree Preservation Plan and Landscape Plan will address the protection of a Red Mulberry Tree in Blocks 1 and 2, which according to the evidence is provincially endangered, to the satisfaction of the Ministry of Natural Resources and Forestry.

[18] Mr. Pascuzzo indicated that the Town Official Plan requires that 40% of land within the Recreational Residential designation should be maintained as open space. He stated that this is accomplished through the proposal.

[19] The subject property is also within the jurisdiction of the Niagara Escarpment Plan under which it is designated Escarpment Recreational Area. The designation allows uses permitted in the Town's Official Plan. In addition, new development must avoid substantial impact on environmental features and must be designed and located in a way that preserves the natural, visual and cultural characteristics of the area.

[20] Mr. Pascuzzo's evidence was that the proposal that is before the Board meets the requirements of the above-noted plans. He indicated that a main issue for the

application was the proposed density. He stated that the Town Official Plan would permit a residential density of 2.5 units/ha. and would also permit residential bonusing. The density permitted in the Official Plan was considered to be too low.

[21] Mr. Pascuzzo indicated that the proposal was ahead of its time because it anticipated higher densities being appropriate for the lands. He stated that the new Official Plan would allow 156 units on the property. Through the settlement the OPA will amend the Official Plan to permit 194 units with the additional units being subject to bonusing requirements.

[22] Mr. Pascuzzo indicated that the policies of the County, Town and province encourage the clustering of residential units and that there is a trend toward smaller units. The proposal is in keeping with this direction.

[23] Mr. Pascuzzo stated that the proposed density was supported by Town and County planning staff. It was his opinion that the density may be lower than could be accommodated on the site, but it represents a compromise in recognition of concerns expressed by residents in the area. His opinion was that the density is appropriate.

[24] The Board heard that the OPA, ZBA and plan of subdivision were supported by Town Council in February of 2017. At that time the appeal was already before the Board. The parties filed a resolution of Town Council (Exhibit 14) which indicated Council's support for the proposal and gave direction to the Town Solicitor and staff to settle and deal with any revisions that are substantially in accordance with the planning instruments that were before Council.

[25] Through the evidence which included a report from County Planning Staff (Exhibit 16) and from the submissions of Mr. Treslan, the Board understands that the County is satisfied with the current proposal.

[26] Mr. Pascuzzo addressed the provisions of the Minutes of Settlement. He noted that in s. 1.0 the minutes include the bonusing provisions which require contributions to the Town as Shoreline Acquisition Payments and Recreation Facility Payments.

[27] Schedule A of the Minutes of Settlement contains the OPA that the parties are requesting the Board to approve. It amends the Official Plan to permit the proposed number of units and redesignates the small parcel from Residential Infilling to Recreational Residential.

[28] Schedule B of the Minutes of Settlement contains the ZBA that the parties are requesting the Board to approve. The ZBA includes provisions for a range of residential zones and the open space blocks which include the watercourse, the archeological site and the area of the Nipissing Ridge. The ZBA also includes holding provisions which are shown on all of the lands in residential zones. The ZBA states that the Holding symbol shall not be removed until there is an executed subdivision agreement, the plan of subdivision has been registered and a s. 37 agreement has been executed.

[29] The draft plan conditions and plan of subdivision are included in Schedule C of the Minutes of Settlement. The conditions require dedication of a number of the open space blocks to the Town. The development will be limited to 85 units until a second public road provides access to the site. In addition the development will be limited to 40 units until intersection improvements are undertaken on Hwy. 26.

[30] From the evidence the Board understands that an Environmental Assessment is progressing for the Hwy. 26 corridor in the area which includes the subject property and to which the Appellant must contribute.

[31] Mr. Pascuzzo noted the conditions which address issues raised by other parties. In particular condition no. 13 requires that connections to the Chaseco Holdings Inc. lands be provided prior to the occupancy of any residential unit. The Board heard that conditions no. 16 and no. 17 address concerns raised by MacPherson Builders (Blue

Mountains) Ltd. and will provide for a future road connection to those lands through the dedication of Block 39.

[32] It was Mr. Pascuzzo's uncontradicted expert planning opinion that the OPA, ZBA, Plan of Subdivision and draft plan conditions are consistent with the PPS, conform to the Niagara Escarpment Plan, the County Official Plan and the Town Official Plan and represent good planning.

[33] Mr. Fleming referred to a Traffic Impact Study ("TIS") for the area which he had undertaken submitted as Exhibit 3, Tab 1C. He indicated that the TIS examined turning movements at the intersection of Hwy. 26 and Lakeshore Road. Traffic projections included a growth factor provided by the Ministry of Transportation.

[34] The TIS considered traffic generated by the Appellant's proposal for 217 units and also considered traffic generated by the proposal for the Chaseco Holdings Inc. lands. The TIS looked at traffic volumes with and without the Appellant's proposal.

[35] The TIS determined that with traffic volumes generated by the proposal and the proposal for the Chaseco Holdings Inc. lands, the intersection of Hwy. 26 and Lakeshore Road would operate at level of service C. Mr. Fleming's opinion was that this would be an acceptable level of service.

[36] Mr. Fleming indicated that the Ministry of Transportation has reviewed the TIS and requires that improvements to the intersection through the construction of a left turn lane should be built after the 40th unit is constructed.

[37] The evidence provided by Mr. Mathews, Ms. Richmond, and Mr. McLachlin on behalf of Mr. Withers mainly raised concerns about the density of the proposal and traffic issues that would result from the proposal and other potential developments in the area.

[38] Mr. Mathews provided oral evidence and submitted a participant statement (Exhibit 6) and document book (Exhibit 7). Mr. Mathews' evidence was that he and other residents of the area have been raising concerns about traffic on Hwy. 26 and other roads in the vicinity for a number of years. He indicated that the area residents do not want the increased density.

[39] In Mr. Mathews' opinion the capacity of Hwy. 26 for traffic has already been exceeded. He indicated that stacking capacity would be limited at the intersection of Hwy. 26 and Lakeshore Road. He maintained that if property needs to be taken for the widening of Hwy 26 in order to construct the left turn lane from Hwy. 26 to Lakeshore Road, it should be taken from the south side of Hwy. 26 and not the north side.

[40] Mr. Mathews raised safety concerns about large trucks needing to back into a sewage pumping station on Lakeshore Road close to the intersection with Hwy. 26. He also questioned the adequacy of sight lines for turning onto Hwy. 26.

[41] Mr. Mathews expressed doubt that the 80 metre ("m") centerline turning radius which must be accommodated in the right of way for Lakeshore Road from lands in Blocks 1 and 2 of the proposal could be achieved.

[42] Ms. Richmond submitted a participant statement (Exhibit 8 A), visual evidence (Exhibit 8 B) and a summary of her background (Exhibit 8 C). Her evidence supported the concerns raised by Mr. Mathews.

[43] Ms. Richmond indicated that in addition to the road intersections there are a large number of driveway entrances onto Hwy 26 in this area. She also expressed concerns about the existing amount of traffic and the excessive speed of cars on Hwy 26. She discussed efforts to have speed limits reduced. She indicated that the situation has caused safety issues which will be aggravated by increased traffic resulting from new developments.

[44] Ms. Richmond expressed concern about changes to construction plans for Hwy 26. She contended that road shoulders that were intended to be partially paved were fully paved during construction. She maintained that this was a lack of compliance with the approved drawings.

[45] Ms. Richmond expressed concern about a report which recommended that a four to five lane highway should be constructed through Craigleith. She maintained that this would be very disruptive and other alternatives should be considered.

[46] Ms. Richmond questioned the quality of the evidence being provided with regard to the proposal noting that the title for an update to the TIS provided for the proposal referred to the “Blue Trails Retirement Community” (Exhibit 3, Tab 1D).

[47] Ms. Richmond raised issues about increased traffic generated from the proposal and other potential developments in the area. She maintained that there could be an additional 2000 units approved in the area.

[48] Mr. McLachlin addressed the concerns expressed in a statement from Mr. Withers (Exhibit 10). He noted that there is a concern for increased use of a beach access in the area without responsibility for upkeep. Also there is an access to the Georgian Trail from Timmons Street which is shared among 28 property owners including Mr. Wihters. Mr. Wihters was concerned about increased use of this area as a result of the development.

[49] Most of the concerns raised by the participants regarding traffic were addressed through the evidence of Mr. Fleming.

[50] Mr. Fleming indicated that detailed design for the intersection of Lakeshore Road and Hwy 26 including the left turn lane will be completed in conjunction with the Environmental Assessment which is being undertaken for this section of the Hwy 26 corridor. It was his expert opinion that the issues raised by the participants regarding traffic on Hwy 26, concerns for turning movements, speed and pedestrian movements

would be dealt with through the Environmental Assessment. He maintained that the Environmental Assessment is the appropriate venue for addressing those broader concerns and that the TIS has appropriately addressed potential traffic issues resulting from the Appellant's proposal.

[51] With regard to concerns for traffic generated by other potential future developments, Mr. Fleming indicated that the proposals other than that for the Chaseco Holdings Inc. lands were not at an advanced enough stage where they should be taken into account. He indicated that those developments must complete studies and consider improvements taking the Appellant's proposal into account. It is also noted that through the evidence it appears that the number of anticipated units in the area is closer to 1000 rather than 2000.

[52] Mr. Fleming addressed a concern raised by Mr. Mathews regarding sight lines in the vicinity of Lakeshore Road and Fraser Crescent. He determined that there is visibility for a distance of 800 m. which is more than adequate for turning movements in consideration of vehicles travelling on Hwy 26 at a speed of 100 kilometres per hour. He stated that visibility on the north side is restricted, but not on the south side. Therefore the traffic coming from the Appellant's proposal would not have restricted sight lines.

[53] With regard to the additional right of way requirements to provide the 80 m. turning radius, Mr. Fleming indicated this issue is dealt with through condition No. 26 of the Draft Plan conditions and he indicated that there is sufficient space to accommodate the turning radius.

[54] Mr. Fleming stated that movements of sanitation trucks into the sewage pumping station would not restrict traffic movements and he indicated that it should not be an issue.

[55] Mr. Fleming addressed a matter raised by Ms. Richmond regarding the reference to the Blue Trails Retirement Community in an update to the TIS in Exhibit 3, Tab 1D.

He stated that at the time the TIS was undertaken, that this was simply the working title for the Appellant's proposal. The updated traffic numbers reflect the reduced number of units in the proposal before the Board and they show a minor decrease in traffic generation.

[56] Mr. Fleming referred to the issues on the issues list in the Procedural Order related to traffic. He indicated that all issues have been addressed and noted that conditions have been included in the Draft Plan conditions to deal with some of these matters.

[57] It was Mr. Fleming's expert opinion that the conditions of Draft Approval appropriately address traffic concerns and that the Appellant's proposal is supported from a transportation engineering perspective.

[58] It was Mr. Fleming's expert opinion that the Appellant's proposal will not create traffic issues and will not cause safety problems.

ANALYSIS AND FINDINGS

[59] The Board has carefully considered all of the evidence and submissions provided by the parties and the participants. The expert evidence supporting the settlement and supporting approval of the OPA, ZBA, plan of subdivision and conditions of draft plan approval included in Exhibit 1 is uncontradicted.

[60] The Board recognizes the concerns expressed by the participants for increased density and traffic issues along Hwy 26. However, it is clear that the Official Plan through its bonusing provisions and in particular the new Town Official Plan anticipate densities for the subject property similar to the proposal and well beyond the type of density the participants desire for the area.

[61] With regard to traffic issues, the TIS and the evidence of Mr. Fleming demonstrate that the intersection of Hwy 26 and Lakeshore Road will operate at an

acceptable level in conjunction with the required improvements that will be implemented at the stage they are required. Furthermore, the mechanism is in place through the Environmental Assessment for this section of the Hwy 26 corridor for consideration of the concerns the participants have raised about traffic and access in the area.

[62] In her evidence, Ms. Richmond noted the responsibility of the Board to protect the public interest. However, nothing has been raised in the evidence to demonstrate that there is a public interest that has not been addressed by the submissions of the parties and the planning instruments that form part of Exhibit 1.

[63] The PPS encourages the intensification of development and the new Town Official Plan calls for increased density on the property. The Town and County support the proposal. Through s. 2.1 of the Act the Board must have regard for the decisions of municipal council. Given this direction and the uncontradicted opinion evidence, the Board fails to see the public interest that would be served by agreeing with the concerns of the participants that there should be a less dense proposal for the lands. Furthermore, in view of the Environmental Assessment that is being undertaken for the relevant section of the Hwy 26 corridor, the Board fails to see the public interest that would be served by requiring an additional study or anticipating another process to deal with traffic and pedestrian movements in this area.

[64] Based upon the above considerations, the Board agrees with the expert evidence provided in support of the proposal and the planning instruments submitted in Exhibit 1. The Board finds that the OPA is appropriate and it is consistent with the PPS and conforms to the Niagara Escarpment Plan and the County Official Plan. The Board finds that the ZBA is consistent with the PPS, and conforms to the Niagara Escarpment Plan, the County Official Plan and Town Official Plan. The Board finds that the plan of subdivision has regard for all applicable matters under s. 51 (24) of the Act. Furthermore, the Board finds that the conditions of Draft Plan approval are reasonable under s. 51 (25) of the Act.

[65] In view of the above, the Board will allow the appeal in part and approve the above noted planning instruments.

[66] The parties requested that final approval be withheld until the Board received confirmation that an appropriate s. 37 agreement had been executed. The Board will issue its approval on that basis.

[67] Mr. Longo requested that the Board also amend the new Town Official Plan to recognize the development of the subject property. He stated that the new Official Plan is in force and effect except for two appeals one of which is the Appellants. He indicated that there had been a placeholder provision included in the new Official Plan for the subject property and he submitted wording in Exhibit 15 that he requested be inserted into the new Official Plan to recognize the development.

[68] While the appeal of the new Official Plan is not part of this proceeding, the Board has the authority to modify the new Official Plan as requested through s. 88 of the *Ontario Municipal Board Act*. The Board finds that this further relief as requested is appropriate and will direct the Town to replace the wording in s. B3.7.6.7 of the new Official Plan with the wording in Exhibit 15 when it issues it final order.

ORDER

[69] The Board orders that the appeal is allowed in part and the proposed Official Plan Amendment, Zoning By-law Amendment, and Conditions of Draft Plan Approval and Plan of Subdivision as set out in Exhibit 1, Schedule A, Schedule B, and Schedule C respectively are approved in principle. The Board's final approval will be withheld until it receives notice from the Town of The Blue Mountains that an appropriate section 37 agreement has been executed.

“C. Conti”

C. CONTI
VICE-CHAIR