

Committee Report

To:	Warden Milne and Members of Grey County Council
Committee Date:	September 14, 2023
Subject / Report No:	Cottages of Lora Bay / PDR-CW-43-23
Title:	Cottages of Lora Bay Draft Plan Extension 42-CDM-2006-11
Prepared by:	Scott Taylor
Reviewed by:	Randy Scherzer
Lower Tier(s) Affected:	Town of The Blue Mountains
Status:	

Recommendation

1. That report PDR-CW-43-23 be received; and
2. That in consideration of the application for extension of the lapsing date for the approval of draft plan of condominium 42-CDM-2006-11 on lands described as Part of Lot 39, Concession 12 being Part of Lots 1 & 3, Registrar's Compiled Plan 1032, (geographic Township of Collingwood) in the Town of The Blue Mountains, the County of Grey Committee of the Whole hereby:
 - a. revises the conditions for the approval for the draft plan of condominium as set out in the draft Notice of Decision attached to PDR-CW-43-23; and
 - b. extends the lapsing date to September 30, 2025.

Executive Summary

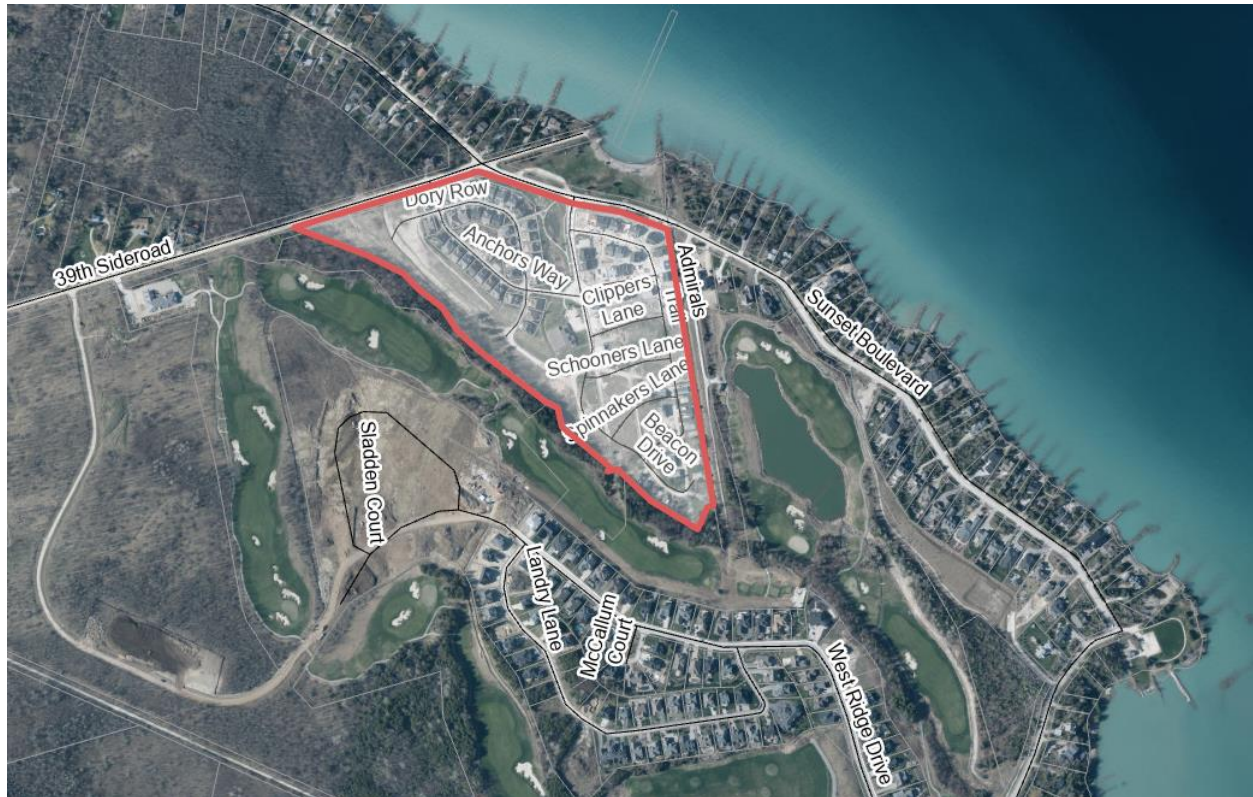
This report considers an extension and proposed revisions to draft plan conditions for draft plan of condominium 42-CDM-2006-11 known as Cottages of Lora Bay (formerly known as Keepers Cove). There are no proposed changes to the draft plan of condominium or the form of the development. Cottages of Lora Bay have asked for an extension to their current draft approval. Town of The Blue Mountains Council has supported a two-year draft plan extension. County staff are recommending that the draft plan of condominium be extended, subject to some revised conditions of draft plan approval that were recommended by the Town of The Blue Mountains.

Background and Discussion

The County has received a draft plan extension request to extend the draft plan of condominium approval for file 42-CDM-2006-11, known as Cottages of Lora Bay. There are no proposed

changes to the draft plan of condominium or the form of the development. The subject lands are described as Part of Lot 39, Concession 12 being Part of Lots 1 & 3, Registrar's Compiled Plan 1032, (geographic Township of Collingwood) in the Town of The Blue Mountains (see Map 1 – Subject Lands).

Map 1 – Airphoto of the Subject Lands



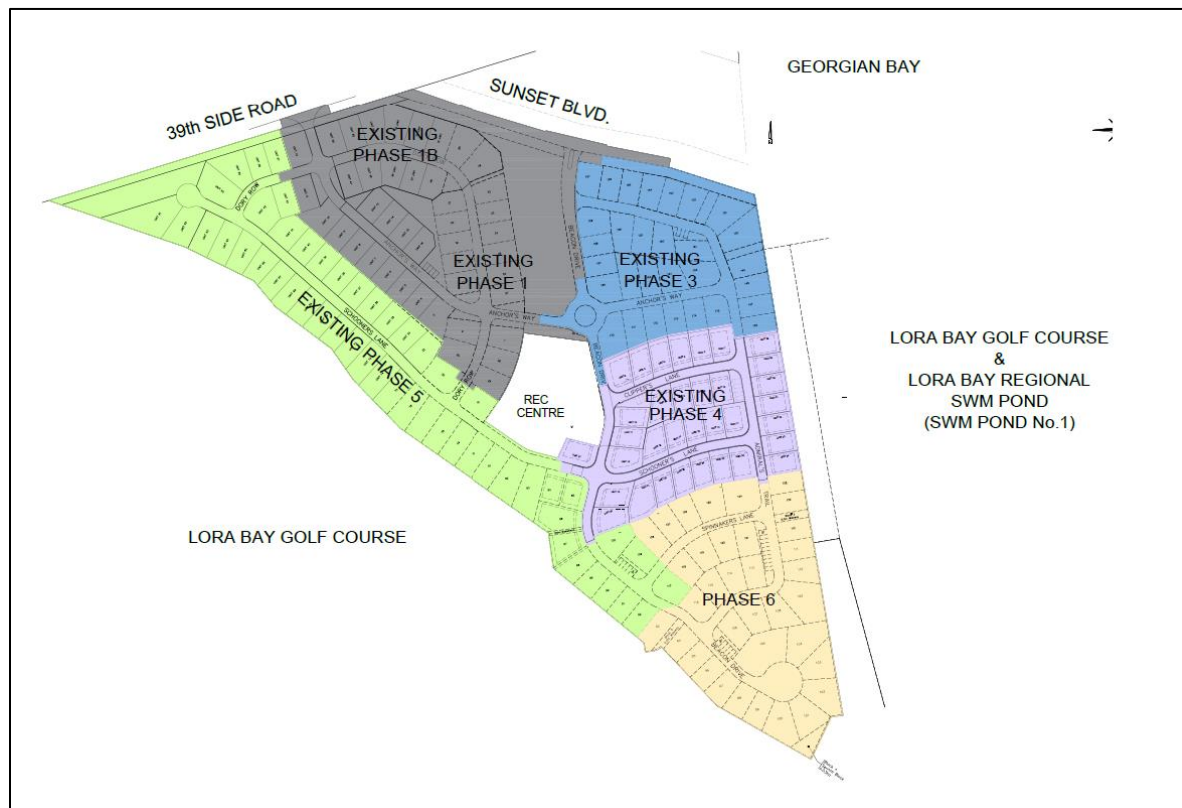
Draft approval was originally granted in 2006, with revisions later in 2006, 2008, 2017, and 2021. Map 2 below shows the most recent draft approved plan from 2017, while Map 3 shows the proposed phasing. Phases 1 – 5 of the proposed development are already registered, and either completely or partially constructed. Phases 6, shown in beige on Map 3, could lapse if this draft approval is not extended.

The applicant submitted a Planning Justification Letter outlining how the criteria for extensions of draft approval in section 9.13.1 of the County Official Plan are addressed. A link to that analysis is in the Attachments section of this report.

Map 2 – Draft Approved Plan of Condominium (Courtesy Georgian Planning Solutions)



Map 3 – Proposed Phasing Plan (Courtesy Crozier's Consulting Engineers)



A one-year draft plan extension to this draft approval was granted on November 12, 2021. This extension revised the draft plan conditions and extended the draft approval date to December 12, 2022. A further draft plan extension was granted on December 9, 2022, extending the draft approval to September 30, 2023. This 2022 draft plan approval extension was supported by both the Town and the County.

Town of The Blue Mountains have supported the current request for a draft plan extension through their August 15, 2023 Committee of the Whole and subsequent August 28, 2023 Council meeting. A link to the Town staff report supporting this draft plan extension, which also recommended revised draft plan conditions, is linked to in the Attachments section of this report.

Normally the extension of a draft approval is a staff delegated authority, where there is support from the municipality where the lands are located. However, in this case because the draft plan extension is accompanied by revised draft plan conditions, approval from the County Committee of the Whole is required. County staff do not have delegated authority to revise conditions of draft plan approval.

Public and Agency Comments Received

Public Comments

Normally as part of a draft plan extension process comments are not solicited by the public. In this case, several comments were received from the public including deputations to Town of

The Blue Mountains Committee of the Whole. A summary of the comments received, was provided in Town staff report PDS.23.083, linked to in the Attachments section of this report.

Several of the past public comments on this file related more directly to earlier phases of this development, which are now registered and either under construction or fully constructed. As a result, many of these earlier comments are no longer relevant to the current draft plan extension.

There are some concerns regarding phase 6, which are specific to residents concerns that they will be relocated as a result of this development. In response to these concerns, the applicant and Town staff have responded as follows:

Applicant: *“Owner never told them they could not stay. Owner has always been of the position that they have right to stay per terms of lease. Not an issue as Phase 6 is not developing at this time.*

The future of Phase 6 depended in part upon the outcome of discussions and negotiations with the existing park model residents, none of whom were ever told they had to leave. The circumstances for the existing residents are as unique and complex as they have been for every other resident in Keeper’s Cove. Any perceived lack of transparency was due to maintaining the privacy of these residents as discussions and negotiations proceeded.”

Town Staff: *“The extension request allows additional time to negotiate with existing residents of the model homes. Future development agreement will not be executed with residents remaining in model homes.*

Extension request does not impact residency in model homes.

Importantly, in adding conditions they can only be applied to impact future development agreements. Concerns expressed in relation to approvals given in previous phases cannot be revisited through the Draft Plan extension process.”

Agency Comments

Typically, as part of a draft plan extension request agency comments are not solicited.

Town of The Blue Mountains

In Town staff report dated August 15, 2023, Town Planning staff supported the proposed draft plan extension, with some recommended revised conditions of draft plan approval. County staff concur with the additional recommended draft plan conditions and have attached them to this staff report.

Analysis of Planning Issues

County staff have not undertaken a fulsome review of the *Planning Act*, Provincial Policy Statement (PPS), County Official Plan, or Town Official Plan policies. This review was undertaken at the time of the original planning applications, as well as the past redline revisions. Furthermore, County staff concur with the policy analysis undertaken by Town staff in their report.

County staff would note that the developer has not applied to change their planning approvals. The developer is simply looking to extend their current approval to build out the development in accordance with their existing approvals, including the draft plan of condominium and the existing zoning provisions. Town staff, through their recommended revised conditions of draft plan approval, have provided conditions that clarify the drainage, stormwater management, and vegetation management plan requirements for this draft plan of condominium.

Section 9.13.1 of the County Plan contains criteria that must be considered prior to extending draft plan approval. The developer's planner has provided justification on how these criteria have been met. This justification is consistent with what County staff have accepted in the past, when supporting other draft plan extensions.

Staff are satisfied that the development, including the revised conditions of draft approval;

- has regard for matters of provincial interest under the *Planning Act*,
- is consistent with the PPS,
- conforms to the County Official Plan, and
- conforms to the Town Official Plan.

Should the Committee of the Whole defer making a decision on September 14, 2023, staff would note that a decision would need to be rendered at the September 28, 2023 meeting (as there are no further Committee of the Whole meetings scheduled prior to the lapse date), otherwise the draft approval would lapse. In this case a 'non-decision' by the County would have the same effect as the refusal of the extension request. Staff have identified legal risks and concerns that may arise if this draft plan extension is not granted. Staff are recommending support for the proposed extension including revised draft plan conditions and see no planning rationale for why this draft approval should not be extended.

If a decision is not made on the application for extension of the lapsing date by September 30, 2023, the existing approval will fully lapse, and the applicant would need to commence a new approval process with respect to the lands in phase 6.

Legal and Legislated Requirements

The extension request has been processed in accordance with the *Planning Act* and the requirements of the County Official Plan.

Financial and Resource Implications

The County has collected the requisite fee for this proposed extension and there are no additional financial or resource implications linked to this file.

Relevant Consultation

- ☒ Internal: Planning, Legal Services
- ☒ External: Town of The Blue Mountains, public

Appendices and Attachments

[PDR-CW-26-21 Cottages of Lora Bay Draft Plan Extension](#)

[Town of The Blue Mountains Staff Report PDS.23.083](#)

[Planning Justification Letter for Extension of Draft Plan Approval](#)

Draft Notice of Decision (revised conditions of draft approval) – attached

NOTICE OF DECISION

On Application for Revision to Approval of Draft Plan of Condominium under Subsection 51(45) of the Planning Act

Draft Plan Approval was originally given by the County to Plan of Condominium 42-CDM-2006-11 on October 12, 2006 with revisions on November 16, 2006, May 15, 2008, August 24, 2017, and November 12, 2021. Phases 1 – 5 of the development have been final approved and registered. Revised Draft Plan Approval for further phases is hereby given by the County of Grey for the application regarding the above noted lands. A copy of the Decision is attached.

PUBLIC AND AGENCY COMMENTS RECEIVED ON THE FILE

All written and oral submissions received on the application were considered; the effect of which helped to make an informed recommendation and decision.

WHEN AND HOW TO FILE A NOTICE OF APPEAL

Notice to appeal the decision to the Ontario Land Tribunal must be filed with the County of Grey no later than 20 days from the date of this notice, as shown above.

The notice of appeal should be sent to the attention of the Director of Planning and Development of the County, at the address shown below and it must,

1. set out the reasons for the appeal,
2. be accompanied by the fee prescribed under the Ontario Land Tribunal Act, and
3. Include the completed appeal form from the OLT's website.

RIGHT OF APPLICANT OR PUBLIC BODY TO APPEAL CONDITIONS

The following may, at any time before the approval of the final plan of condominium, appeal any of the conditions imposed by the approval authority to the Tribunal by filing a notice of appeal with the approval authority:

1. the applicant;
2. any public body that, before the approval authority made its decision, made oral submissions at a public meeting or written submissions to the approval authority;
3. the Minister; or
4. the municipality in which the subject land is located.

WHO CAN FILE A NOTICE OF APPEAL

Only individuals, corporations or public bodies may appeal decisions in respect of a proposed plan of condominium to the Ontario Land Tribunal. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group on its behalf.

No person* or public body shall be added as a party to the hearing of an appeal regarding any changed conditions imposed by the approval authority, unless the person or public body, before the approval authority made its decision, made oral submissions at a public meeting or written submissions to the approval authority, or made a written request to be notified of the changes to the conditions or, in the Ontario Land Tribunal's opinion, there are reasonable grounds to add the person or public body as a party.

*Notwithstanding the above, only a 'person' listed in subsection 51(48.3) of the Planning Act may initiate an appeal of a decision of the County of Grey to the Ontario Land Tribunal (OLT) as it relates to the proposed plan of condominium. Below is the prescribed list of 'persons' eligible to appeal a decision of the County of Grey related to the proposed plan of condominium as per subsection 51(48.3) of the Planning Act. These are recent changes that have been made to the Planning Act by the province. A link to the revised Planning Act can be found here – <https://www.ontario.ca/laws/statute/90p13>. For more information about these recent changes, please visit the OLT website or contact OLT – <https://olt.gov.on.ca/about-olt/>.

The prescribed list of 'persons' eligible to initiate an appeal of a decision of the County on the proposed plan of condominium as per subsection 51(48.3) of the Planning Act is as follows:

1. A corporation operating an electric utility in the local municipality or planning area to which the plan of condominium would apply.
2. Ontario Power Generation Inc.
3. Hydro One Inc.
4. A company operating a natural gas utility in the local municipality or planning area to which the plan of condominium would apply.
5. A company operating an oil or natural gas pipeline in the local municipality or planning area to which the plan of condominium would apply.
6. A person required to prepare a risk and safety management plan in respect of an operation under Ontario Regulation 211/01 (Propane Storage and Handling) made under the Technical Standards and Safety Act, 2000, if any part of the distance established as the hazard distance applicable to the operation and referenced in the risk and safety management plan is within the area to which the plan of condominium would apply.
7. A company operating a railway line any part of which is located within 300 metres of any part of the area to which the plan of condominium would apply.
8. A company operating as a telecommunication infrastructure provider in the area to which the plan of condominium would apply.

HOW TO RECEIVE NOTICE OF CHANGED CONDITIONS

The conditions of an approval of draft plan of condominium may be changed at any time before the final approval is given.

You will be entitled to receive notice of any changes to the conditions of the approval of draft plan of condominium if you have made a written request to be notified of changes to the conditions.

RELATED APPLICATIONS

None

GETTING ADDITIONAL INFORMATION

Additional information about the application is available for public inspection during regular office hours in the Planning & Development Office at the address noted below or by calling 519-376-2205 or 1-800-567-GREY.

ADDRESS FOR NOTICE OF APPEAL

County of Grey

Owner: Blevins Development (Cove) Ltd. – 1382491 Ontario Ltd. File No.: 42-CDM-2006-11

Municipality: Town of The Blue Mountains

Location: Part of Lot 39, Concession 12 (geographic Township of Collingwood)

Date of Decision:

Date of Notice:

595-9th Avenue East

OWEN SOUND, Ontario N4K 3E3

Attention: Mr. Scott Taylor, MCIP, RPP

Director of Planning

Draft Plan Approval was originally given by the County to Plan of Condominium 42-CDM-2006-11 on October 12, 2006 with revisions on November 16, 2006, May 15, 2008, August 24, 2017, and November 12, 2021. Phases 1 – 5 of the development have been final approved and registered. Revised Draft Plan Approval for phase 6 is hereby given by the County of Grey for the application regarding the above noted lands. The County's conditions of draft approval are amended as follows:

No. Conditions

1. A new condition 28 is to be added as follows:
"That prior to execution of a Pre-Servicing Agreement or Subdivision Agreement, a detailed engineering and drainage report will be provided which describes the stormwater drainage system for the proposed development on the subject lands to the satisfaction of the Town. The Plan shall demonstrate how the drainage system will tie into the drainage of surrounding properties and how external drainage and site drainage is appropriately conveyed."
2. A new condition 29 is to be added as follows:
"That prior to final approval, the Owner prepares a Vegetation Assessment, Vegetation Management Plan and Landscaping Plan by a qualified consultant to the satisfaction of the Town of The Blue Mountains. The Vegetation Management 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, where feasible, during the development process;
 - ii. Special provisions to ensure that existing vegetation on the adjacent lands be protected during development and construction; and,
 - iii. That said plan be incorporated into the Subdivision Agreement with the Town."
3. A new condition 30 is to be added as follows:
"The Subdivision Agreement shall ensure that the Owner shall save and/or remove any trees and vegetation on the subject lands as required by the Vegetation Assessment / Vegetation Management Plan to the satisfaction of the Town of The Blue Mountains."
4. Existing condition 14, as shown below, is hereby deleted;
~~"That prior to final approval, the County is advised in writing by the Town of The Blue Mountains how conditions 2 to 27 inclusive, have been satisfied."~~
and replaced as follows:

"That prior to final approval, the County is advised in writing by the Town of The Blue mountains how conditions 2 to 30 inclusive, have been satisfied."
5. That all other conditions of draft approval given by the County of Grey on November 12, 2021, shall remain in effect.