

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: September 23, 2025

CASE NO(S): OLT-24-000026

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

Applicant and Appellant: Tyrolean Village Resorts 2021 Limited
Subject: Application to amend the Zoning By-law –
Failure of Approval Authority to make a decision
Description: To permit the creation of 12 lots with commercial
lodges and a future development block
Reference Number: P3084
Property Address: 138 Kandahar Lane
Municipality/UT: The Blue Mountains/County of Grey
OLT Case No.: OLT-24-000026
OLT Case Name: Tyrolean Village Resorts 2021 Limited 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: Tyrolean Village Resorts 2021 Limited
Subject: Proposed Plan of Subdivision – Failure of
Approval Authority to make a decision
Description: To permit the creation of 12 lots with commercial
lodges and a future development block
Reference Number: P3085 (Lower-tier); 42T-2021-07 (County)
Property Address: 138 Kandahar Lane
Municipality/UT: The Blue Mountains/County of Grey
OLT Case No.: OLT-24-000027
OLT Lead Case No.: OLT-24-000026
OLT Case Name: Tyrolean Village Resorts 2021 Limited v. The
Blue Mountains (Town)

Heard: June 9 – 12, 2025 by Video Hearing, June 29,
2025 Closing Submissions

APPEARANCES:

<u>Parties</u>	<u>Counsel</u>
Tyrolean Village Resorts 2021 Limited	S. Turney J. Kabuli
Town of The Blue Mountains	D. Baker
County of Grey	E. Treslan

DECISION DELIVERED BY P. TOMILIN AND ORDER OF THE TRIBUNAL[Link To Order](#)

[1] The matter before the Tribunal is the Appeal filed by Tyrolean Village Resorts 2021 Limited (“Appellant” / “TVR”) arising from the failure of the Town of The Blue Mountains (“Town”) to make a decision on applications to amend a Zoning By-law (“ZBA”) and a Draft Plan of Subdivision (“DPS”) Applications (“Applications”), pursuant to section 34(11) & 51(34) of the *Planning Act* (“Act”) for the property located at 138 Kandahar Lane (“subject lands / site”).

[2] The Appellant is seeking to permit the creation of 12 lots with commercial lodges and a future development block.

[3] The subject lands are located north of Arlberg Crescent, west of Kandahar Lane and south of Tyrolean Lane and are 3.2 hectares (“ha”) (7.89 acres) in size, and are currently designated ‘Recreational Resort Area’ in the County of Grey (“County”) Official Plan (“COP”) and ‘Resort Commercial’ in the Town Official Plan (“TOP”).

[4] The site has a 218 metres (“m”) frontage along Tyrolean Lane, 193 m on Kandahar Lane and over 230 m of frontage on Arlberg Crescent. It is currently occupied by a gravel parking lot and recreational amenities, consisting of volleyball courts, baseball diamonds and soccer fields.

[5] To the immediate north of the subject lands, there are Short Term Accommodation (“STA”) and residential dwellings. Further to the north are the McPherson, Eden Oak and Parkbridge development lands, Highway 26 and eventually Georgian Bay.

[6] To the west are vacant development lands. Further west are STAs and the slopes/trails of Blue Mountain Resort.

[7] To the east of the site are STAs.

[8] To the south are STAs, Grey Road 19 and the Village at Blue.

[9] There were no Status Requests for this Hearing.

PRELIMINARY MATTER

[10] At the onset of the Hearing, Mr. Treslan stated that the County’s general policies would not preclude this development. The County takes no position on this Hearing, other than if, after the Hearing, the Tribunal makes a decision on draft conditions, the County will consent to the approval authority to clear those conditions, so it doesn’t have to come back before the Tribunal.

DEVELOPMENT PROPOSAL

[11] The Appellant’s DPS consists of 12 lots, each occupied by an approximately 120 square metre (“m²”) footprint, 450 m² total, and a 2.5 storey commercial lodge with (8) eight bedrooms.

[12] Eleven lots will have 17.25 m of frontage, with 17.5 m frontage for the remaining lot, and all lots will have access from Tyrolean Lane. On the western boundary of the property, the Appellant is proposing to dedicate a 3 m wide strip of land for a public trail and a 0.3 m reserve along Kandahar Lane and Arlberg Crescent. A 2.27 ha future development block would remain.

[13] The ZBA will rezone the site from the Development (D) Zone and C4-157 Zone to the Resort Commercial Exception (C3-X-h) Zone, Open Space (OS) Zone and the Development (D) Zone.

LEGISLATIVE FRAMEWORK

[14] In making a decision on ZBA and DPS Appeals, the Tribunal must have regard to the matters of provincial interest set out in s. 2 of the *Act* and must be consistent with the Provincial Planning Statement 2024 (“PPS”). In addition, the proposed Applications must conform with the COP and TOP. The proposed DPS must have regard for the criteria set out in the s. 51(24) of the *Act*.

HEARING

[15] Three expert witnesses appeared on behalf of the Appellant:

1. Andrew Pascuzzo – Land Use Planner;
2. Alexander Fleming – Professional Engineer (traffic); and
3. Natalya Garrod – Land Use Planner.

[16] In addition, Denise Martinek, the President of TVR, provided factual testimony.

[17] The sole witness for the Town was Adam Farr – Land Use Planner.

[18] It was brought to the attention of the Tribunal that the Appellant was trying to address the issues raised by Mr. Farr and was hoping to reach an agreement with the Town.

[19] Mr. Martinek testified that TVR was a family business that was established 50 years ago. In 2007 he became the President after having been intimately involved in the business and operations for over 25 years.

[20] TVR was the principal developer of the lands in the Tyrolean Village Area and has constructed over 75 commercial accommodation buildings in the area, including lodges to the north, south and east of the subject lands and has continued to do so. In the past six years, TVR has built seven of 7- and 8-bedroom commercial accommodation buildings in the Tyrolean Village. In addition, they currently have Site Plan Approval from the Town for 21 7- and 8-bedroom commercial accommodation buildings on other lands within the area including seven completed and an additional 12 to be constructed on the lands on the south side of Arlberg Crescent and immediately south of the site.

[21] Mr. Martinek explained that TVR has always followed the licensing regime of the Town when it comes to STA and intends to do so for the proposed development.

Testimony of Mr. Farr

[22] Mr. Farr proffered that the Appellant is seeking to develop the site in order to construct Commercial Accommodation Lodges ("CAL"). No such use is currently defined in the TOP or Zoning By-law. Further, in his professional opinion, an Official Plan Amendment ("OPA") is required, and no such application was submitted.

[23] Mr. Farr provided that according to an addendum to the Planning Justification Report from November 2021, the proposed use will be residential and will allow unrestricted occupancy ranging from temporary to permanent.

[24] He stated that the Appellant has provided a revised ZBA which includes a revised definition of the proposed use for consideration by the Tribunal as follows:

1. *“A commercial accommodation lodge means a detached building with no more than 8 bedrooms and 1 kitchen, as well as shared amenities, that operates or offers a place of temporary residence, lodging or occupancy.*
2. *A commercial accommodation lodge shall not be the permanent residence of a person, either alone or jointly with others, where the person ordinarily resides, makes their home, and conducts their daily affairs, including, without limitation, paying bills and receiving documentation.*
3. *A commercial accommodation lodge shall not mean or include a single detached dwelling, boarding or lodging house, motel, hotel, bed and breakfast establishment, short term accommodation, tourist cabin or cottage, hospital, commercial resort unit, village commercial resort unit or similar commercial or institutional use.”*

[25] Mr. Farr stated that the proposed development does not conform with the COP or TOP, as the proposed use of a commercial accommodation lodge, by its proposed definition, permits both STA and residential uses in a designation that does not permit either use.

[26] He opined that an OPA and additional modifications to the proposed ZBA would be required to support the requested ZBA and DPS. The proposed use, based on the proposed definition of commercial accommodation lodge, would either permit a STA if the “place of temporary residence” as set out in the proposed definition was for less than 30 days or a residential use if the “place of temporary residence” was for more than 30 days. Neither of which is permitted under the Resort Commercial Area designation.

[27] He added that the Town has undertaken an extensive exercise to determine where particular forms of lodging are to be located, as well as STA uses. In his opinion, the proposed residential use, is not commercial in nature; it does not deliver built form and site design with appropriate consideration for integration into the surrounding area and is inconsistent with the tourist related economic benefits sought from Resort Commercial designated lands.

[28] Mr. Farr provided that the effect of the proposed zoning regulations is to permit the creation of more lots through smaller frontages, less buffering and a design to apply standards sourced from STA and single detached dwelling uses where such uses are not permitted. The provisions are not suitable to the proposed use and do not lend themselves to effective implementation or enforcement. The existing concentration of STA on surrounding lands are subject to required licensing and other provisions of the Town's regulatory framework, the proposed commercial accommodation lodge definition which appears to permit STA that would not be subject to the existing licencing regime intended to regulate STA.

[29] In Mr. Farr's opinion, the development proposal does not have adequate regard for ss. 2 f), h) and r) of the *Act*. Additionally, he is of the opinion that the proposed DPS does not have appropriate regard to the ss. 51(24) of the *Act*.

[30] He stated that the ZBA seeks to permit STA or a residential land use; neither of which uses are permitted by the TOP. The function of the proposed commercial accommodation lodge land use has not been adequately defined or integrated with existing policies and regulations intended to regulate temporary lodging.

[31] It is Mr. Farr's opinion that an OPA is required to permit the proposed commercial accommodation lodge use as defined in the ZBA.

[32] He proffered that the subject land and surrounding area does not currently have sanitary services, and it is unknown when those services will become available. The stormwater management requirements have not been addressed at this point.

[33] Mr. Farr opined that the proposed ZBA seeks permission for what is effectively a STA or residential uses within a new land use “commercial accommodation lodge” which has no occupancy duration limits. It removes the provisions of the base Commercial Resort (C3) Zone and replaces it with modified provisions of the Town’s Resort Residential (RR) Zone and other selectively adopted provisions applicable to a STA and/or single detached dwellings. He noted that the proposed ZBA includes provisions for parking supply and design that are specific to STA and a reduction in driveway width that is specific to single detached dwellings. Both uses are excluded from the proposed use definition.

[34] In Mr. Farr’s view, the proposed dedication of the trail block is insufficient to meet the Town 6.0 m wide walkway block standards, comprised of 3 m of travel surface and 3 m for drainage. The proposed walkway block is noted in the draft plan conditions as constituting parkland dedication. TOP policies do not allow the dedication of a walkway in order to address parkland requirements.

[35] Further, he stated that a dedication of daylight triangle lands at the northwest corner of Kandahar Lane and Tyrolean Lane is required. Dedication of a one foot reserve around Block 14 is required as the effect of the DPS would be to create a block in a registered plan of subdivision which could be divided by Part Lot Control.

[36] Mr. Farr said that the proposed ZBA would remove one of the few consolidated large lot landholdings from the available landholdings in the Town intended to support resort commercial development. Based on everything above, Mr. Farr is of the opinion that the proposed DPS is not in the public interest and should not be approved.

Testimony of Ms. Garrod

[37] Ms. Garrod explained that she was employed as a Land Use Planner by the Town from 2021 for about one year, and at that time, she had reviewed the proposed ZBA and DPS. Since Ms. Garrod left that position, she has not worked on this file, until she was retained by TVR in 2024.

[38] Ms. Garrod testified that when she was employed by the Town, the Senior Planner (now the Manager of Community Planning), the Manager of Planning, the Director of Planning and Development and herself, all of whom are Registered Professional Planners, were of the opinion that this application did not require an OPA.

[39] She proffered that since the original application was submitted, the Appellant has revised its original Applications as follows:

- 1) The inclusion of a definition of CAL that explicitly prohibits a CAL from being the permanent place of abode of a person or persons;
- 2) Prohibition of front yard parking;
- 3) Revision to the minimum lot frontage in response to Kandahar Lane road widening and 7.0 m x 7.0 m sight triangle conveyance at Tyrolean Lane and Kandahar Lane;
- 4) Repeal of By-law No. 2003-30 which permits, amongst other matters, a lodge on the subject property;
- 5) Inclusion of Holding 'H' Symbol which shall not be removed until the following have been completed:
 - Execution and Registration of a Subdivision Agreement;

- The lands are serviced with municipal sanitary and water services to the satisfaction of the Town;
 - Municipal water and sanitary sewage capacity have been confirmed as available to service the development to the satisfaction of the Town; and
 - Site Plan Approval and the Execution of a Site Plan Agreement, if applicable, for the Lot or Lots, in accordance with Section 41 of the *Act*.
- 6) 3.0 m road widening along Tyrolean Lane;
 - 7) 0.3 m reserve along Tyrolean Lane;
 - 8) 7.0 metre x 7.0 metre sight triangle at the southwest corner of Tyrolean Lane and Kandahar Lane;
 - 9) 3.0 metre road widening along Kandahar Lane;
 - 10) Revisions to the Draft Plan Conditions to address proposed road widenings and sight triangle; and
 - 11) Inclusion in the Draft Plan Conditions that the Subdivision Agreement to be entered into between the Town and the Owner may include a warning clause that the Town may amend its STA Licensing By-law to include licensing requirements for other commercial accommodation uses, including a CAL.

[40] Ms. Garrod provided that the OP Land Use Designation for the site is **Resort Commercial Area**. The intent of this designation is to identify lands for commercial resort accommodation uses. This land use designation permits commercial

accommodation uses including hotels, lodges or inns etc. The proposed use is a commercial accommodation lodge. She noted that the term “Lodge” is not defined within the implementing ZBL or TOP, however it is listed as a permitted use.

[41] Ms. Garrod opined that one of the benefits of TVR’s Proposal is that it provides a clear definition of a “commercial accommodation lodge”. In order to assess the Proposal against the Town’s policies, the proposed use must be appropriately defined. The definition should be congruent with the Town’s planning documents and good planning practice, including definitions utilized by other municipalities. In addition, the CAL use definition must be different from other terms defined in the ZBA and TOP. Existing similar uses with definitions include a commercial resort unit, hotel, motel, boarding or rooming house and STA.

[42] The definition uses are as follows:

- a) a boarding or rooming house is a dwelling in which lodging with or without meals is supplied for three or more persons other than a lessee, tenant, or owner of the dwelling;
- b) a commercial resort unit as a room or group of rooms in a building used or designed or intended to be used as a single, independent, and separate housekeeping establishment that has food prep and sanitary facilities that has a private entrance from a common hallway (inside or outside the building), which is part of a rental or lease management program that consists of a minimum of ten commercial resort units in one or more buildings, that is restricted to a max of 120 days per year, that was established to provide accommodation for gain or profit but does not include a residential dwelling unit, etc;
- c) a commercial resort unit complex is a building or group of buildings containing a minimum of ten commercial resort units that is part of a rental or lease management program;

- d) a hotel is an establishment that contains one building or two or more connected or adjacent buildings that throughout all or part of a calendar year, caters to needs of the public that throughout all or part of a calendar year, caters to the needs of the public by furnishing guests rooms for a fee, including all such establishments as defined from time to time by the Hotel Registration or Guests Act, but not including any other establishments defined or classified in this by-law. A hotel may or may not supply food, have an on-site management office, include permanent staff accommodation, include convention facilities, include one or more dining rooms, recreational facilities for use by guests, be licensed under the LLBO;
- e) a motel means an establishment that contains guest rooms with no private cooking facilities that are rented on a temporary basis to the travelling public with each room being accessed from the outside. A *motel* may include such *accessory uses* as a *restaurant*, meeting rooms, *swimming pool*, recreational facilities for the *use* of guests, but shall not include any *adult entertainment establishment*;
- f) a short-term accommodation means a *building* or *structure* or any part thereof that operates or offers a place of temporary residence, lodging or occupancy by way or concession, permit, lease, license, rental agreement or similar commercial arrangement for any period less than thirty (30) consecutive calendar days, throughout all or any part of a calendar year. *Short term accommodation uses* shall not mean or include a *motel*, *hotel*, bed and *breakfast establishment*, *tourist cabin* or *cottage*, *hospital*, *commercial resort unit*, village commercial resort unit or similar commercial or institutional *use*.

[43] The proposed definition of a CAL is distinct from the other land uses described above and defined as:

“A detached building with no more than 8 bedrooms and 1 kitchen, as well as shared amenities that operates or offers a place of temporary residence, lodging or occupation. It shall not be a permanent residence of a person alone or jointly with others. It shall not mean or include a single dwelling unit, motel, hotel, bed and breakfast establishment, short term accommodation, tourist cabin, cottage, hospital, commercial resort unit, village commercial resort unit or similar commercial or institutional use.”

[44] In Ms. Garrod’s opinion the proposed definition respects the policies of the OP land use designation by limiting the occupants from using it as a residential dwelling and maintaining commercial uses and containing elements similar to other municipalities, like Guelph or Carling.

[45] She stated that although the proposed definition of a CAL shares some likeness to the definition of STA, a distinguishing feature is that a commercial accommodation lodge is proposed on lands designated Resort Commercial and proposed to be located in a Resort Commercial C3 Zone.

[46] In her opinion the proposed definition ensures that it differs from other accommodations for travelers, maintains similarities to other municipalities, conforms to the OP land use permissions while also being tailored to suit the resort context in which it is proposed, and is appropriate and desirable for the development of the subject lands.

[47] Ms. Garrod concluded that, in her professional opinion, the proposed development is considered infill, located on underutilized lands that can be serviced with municipal infrastructure and that the proposed ZBA and DPS conform with the TOP.

Testimony of Mr. Fleming

[48] Mr. Fleming stated that he is a Partner at C.F. Crozier & Associates Inc. and the Vice President of the Transportation Department. His firm was retained by the TVR in

2021 to provide transportation engineering services with respect to the planning applications for the site.

[49] The firm prepared a Traffic Opinion Letter dated October 8, 2021, for the development application, consisting of an examination of vehicle trip generation and impacts, access spacing, an assessment of the proposed parking supply, and a review of active transportation opportunities in the area.

[50] An additional study was prepared by the authors of the original study to respond to Town review comments dated March 25, 2022. The study provided a sensitivity analysis to assess the impact of an additional 11 units not associated with the subject development application on the local area traffic operations and has determined that the proposed development continued to be supportable from a transportation perspective with the consideration of the 11 additional units.

[51] While Mr. Fleming was not the author of those studies, he testified that he was consulted by the authors and has been familiar with the project from its start. After reviewing both letters, he is in agreement with the methodologies used, the analyses undertaken, and the conclusions reached.

[52] At the Hearing, Mr. Fleming addressed issues raised by the Town regarding parking.

[53] He stated that the Town ZBL No. 2018-65 ("ZBL") provides requirements in Table 5.3 "Non-Residential Parking Requirements". The use "STA Building containing one unit" most closely describes the proposed commercial accommodation lodges and specifies a parking supply rate of 0.5 parking spaces per occupant or 1.0 parking spaces per guest room used for sleeping, whichever is greater.

[54] Each unit will supply eight parking spaces at the rear of the building in a tandem parking arrangement. Each unit in the proposed development will consist of eight bedrooms and will accommodate 16 people. Both methods of calculation yield a

requirement of eight parking spaces. Thus, the proposed parking supply is in keeping with the requirements of the ZBL and will provide adequate parking.

[55] Mr. Fleming explained that tandem parking spaces are often used to maximize parking efficiency in areas with limited space. Mr. Fleming confirmed that throughout his career, he has found tandem parking to be a more readily used design solution to increase parking supplies.

[56] Mr. Fleming opined that because the units will be rented to a single person, a related group of people or an entity, meaning that all who stay at the unit will be part of a single group and can easily coordinate amongst themselves should the need arise to move the first vehicle in one of the tandem parking spaces. Based on that, he finds that it is appropriate to have all the parking spaces in a tandem format.

[57] This arrangement is recognized in the Town ZBL s. 4.32 “Short Term Accommodation Uses”, subsection h.i) and states:

“Tandem Parking shall be permitted for parking spaces permitted on a private driveway for single detached buildings and multiple unit buildings.”

[58] He said that although the proposed development is for CALs within a commercial zone, the consideration for STA uses noted above is relevant to the subject property when assessing parking and transportation. The dimensions of the tandem parking spaces are in keeping with that specified in the ZBL.

[59] In conclusion, Mr. Fleming stated that, in his opinion, the proposed development has adequate parking; that the proposed parking design, including tandem parking, is appropriate to ensure an adequate parking supply at the proposed development. It is his opinion that the proposed tandem parking spaces comply with the relevant requirements of the Town's Comprehensive ZBL. The parking design, including parking space dimensions and aisle widths, is functional and appropriate and is supported by precedents from local area planning approvals.

[60] The Tribunal noted that the Town did not call any transportation expert evidence to contradict the evidence of Mr. Fleming.

Testimony of Mr. Pascuzzo

[61] Mr. Pascuzzo stated that the subject property is located in an area designated Resort Commercial by the TOP. A site-specific ZBA is required to support the approval of the proposed DPS to rezone the property from the Development (D) and C4-157 to the Resort Commercial Exception (C3-X-h) Zone, Open Space (OS) Zone and the Development (D) Zone.

[62] Mr. Pascuzzo proffered that the proposed development has regard for the matters of provincial interest, as set out in s. 2 of the *Act*, specifically in section 2 (f), (h) and (r), because it will provide for high quality, safe, accessible, attractive and vibrant public spaces, utilize adequate provision and efficient use of services, encourage a sense of place, promote built form that is well designed and is consistent with the orderly development of safe and healthy communities.

[63] Mr. Pascuzzo is of the opinion that the proposed DPS has appropriate regard to the criteria and matters required to be considered pursuant to ss. 51(24) of the *Act*, because it will have regard for matters of provincial interest, and it will not be premature, because the Proposed Development will be subject to a hold (H) provision to ensure that development occurs after servicing has been constructed. Additionally, it will conform to the OP, will be in the public interest, it can be adequately serviced, the land

is suitable for the purposes for which it is to be subdivided and the dimensions and shapes of the proposed lots are appropriate.

[64] He stated that the proposed development conforms to s. 3.8 of the COP, as it includes a trail and additional undeveloped open space. The proposed lodges serve the public interest by providing a place for travelers to lodge while enjoying the nearby community recreational amenities, similar to restaurants, grocery stores and others. The proposed accommodates existing un-serviced areas with development potential, does not propose expanding the Recreational Resort Settlement Area into Agricultural Areas, nor does it propose single detached dwellings. The TOP permits lodges. In addition, the County during a review process have not indicated that the proposal does not conform to COP.

[65] The inclusion of the Holding H Symbol will ensure that the development will only occur when the required infrastructure is in place.

[66] Mr. Pascuzzo expanded on the proposal, stating that it is commercial in nature and located on lands designated Resort Commercial in an area that is predominately used for commercial purposes that are not within a residential neighbourhood. Additionally, the development will provide appropriate intensification, enhance the existing area with new, attractive lodges that will be consistent with the built form and commercial uses of the surrounding area. It will provide for a north-south trail linkage on the westerly portion of the lands which will connect Tyrolean Lane, Arlberg Crescent and ultimately The Village at Blue as well as road widenings to facilitate pedestrian ways should the Town decide to provide these.

[67] The proposal will provide for enhanced tourism opportunities and the recreational use of the site by providing CALs for the tourists seeking hiking, skiing, tennis, golf, dining and entertainment, and will support the existing and future tourism and recreational uses of land and facilities within the Town.

[68] The proposed ZBA will provide for lot frontages, lot areas, setbacks, building height and coverage consistent with the regulations associated with the surrounding lands.

[69] In regard to STA, Mr. Pascuzzo is of the opinion that policies of B2.5 are not applicable to the development proposal because the proposed use is a lodge, which is permitted in the Resort Commercial Area designation.

[70] Mr. Pascuzzo provided that the development proposal is an infill development representing the "hole in the donut" with the surrounding lands being STA exception lands. According to Policy 3.9 of the TOP, a lodge is a commercial resort accommodation use which is permitted in the Resort Commercial Area and is specifically identified as a permitted use.

[71] On the issue of does the proposed development intend to permit STA uses, Mr. Pascuzzo explained that the STA uses are set out in the Town's planning documents as dwellings in *residentially designated and zoned areas* that are utilized for short term rental purposes. STA are not commercial buildings in a commercially designated area. Thus, the proposed development is not an "STA" as that term is understood by the Town's ZBL and OP.

[72] The proposed use is not a commercial use being proposed in a residential designation, rather it is a commercial use (lodge) being proposed in a commercial designation. The proposed CALs will be operated in a manner similar to an STA and the TVR is willing to have its operations bound by any applicable regulations or licensing requirements passed by the Town in respect of STA uses, if the Town wishes to extend those policies to the proposed CALs.

[73] In Mr. Pascuzzo's professional planning opinion, the proposed use is not an STA, and permitting CALs on the commercially designated lands is appropriate and represents good planning. In doing so, it will not be contrary to Town Council's position that they wish to restrict new STA uses to the Town's Exception Area.

[74] In response to the witness statement of Mr. Farr, Mr. Pascuzzo proffered that the proposed ZBA has been modified to the following:

- To reduce the minimum lot frontage from 17.5 m to 17.25 m in order to increase the public trail width to 3.0 m;
- The maximum occupant load of a commercial accommodation lodge shall be 16 persons with a maximum occupancy of 2 persons per bedroom;
- The occupancy and/or use of the CAL shall be licensed, rented, or by a similar commercial arrangement, to a single person or single entity; and
- The occupancy of a commercial accommodation lodge by any person for one or more periods of time shall not cumulatively exceed a total of 120 days per year or a maximum of 120 continuous days.

[75] Mr. Pascuzzo disagreed with Mr. Farr's view on the need for an OPA based on the proposed use, either being a STA use or a residential use or the duration of stay. Mr. Pascuzzo has provided that other commercial accommodation uses such as a motel and hotel, commercial resort unit, and village commercial resort unit that provide accommodations for less than 30 days are not considered STAs. The same commercial establishments can provide for occupancy of more than 30 days and are not considered residential uses. In addition, up to 20% of the village commercial resort units within the Village at Blue are permitted to have occupancies of greater than 120 days.

[76] Mr. Pascuzzo proffered that the subject property is designated 'Resort Commercial' on Schedule A-1 of the TOP. Permitted uses in the Resort Commercial designation includes "lodges". The proposed use of the site is for CALs. CAL has been defined for the purposes of the subject property within the draft and modified ZBL. The

proposed use is being proposed in a commercial designation where lodges are permitted.

[77] To Mr. Farr's statement that "the applications seek to create an entire new category of use to usurp the existing regulatory framework", Mr. Pascuzzo opined that:

- a) The proposed use is permitted in the Resort Commercial designation;
- b) The proposed use is permitted in at least 2 exceptions within the Town's ZBL; and
- c) TVR is a long-term commercial accommodation use operator who strongly supports the Town's Business Licensing Program, specifically STAs. TVR is not opposed to the Town's licensing of commercial accommodation uses and would not oppose a licensing regime consistent with the Town's current licensing regime being extended to the proposed use.

[78] Regarding management of use, Mr. Pascuzzo provide that a site plan approval will be required for each lodge and will address issues related to garbage, lighting, landscaping, parking, fencing, buffering, etc. A site plan agreement will be required for each property occupied by a lodge, and it can address how the proposed buildings and use will be managed. Licensing of the proposed commercial accommodation lodges can be implemented by the Town by way of its current Business Licensing By-law Review, if it is necessary.

[79] In conclusion, Mr. Pascuzzo stated that, in his professional opinion, the proposed ZBA and SPA should be approved.

ANALYSIS AND FINDINGS

[80] In making its decision, the Tribunal has the whole picture on how the proposed development will affect the Town. From the evidence presented to the Tribunal it is

clear that the Town will not provide the service infrastructure, unless some development occurs on the subject property. On the other hand, no development will begin, unless the Town will provide the sewer infrastructure.

[81] Throughout the Hearing, it was demonstrated to the Tribunal that TVR was trying to achieve a resolution with the Town that would be satisfactory to both Parties.

[82] Overall, the Tribunal prefers the evidence of Mr. Pascuzzo and Ms. Garrod. It was presented in their evidence that lodges are a permitted use in the Resort Commercial designation, are appropriate and conform with the OP. The Tribunal finds that CAL use is similar to uses of other commercial establishments, such as hotels, motels and other tourist accommodations and is not a place of permanent residence.

[83] The Tribunal finds that the proposed development will have a positive impact on the Town by providing employment and tourism opportunities. If the Town decides to license CAL, the development proposal would contribute to the Town's budget through licensing fees and taxes.

[84] The Tribunal accepts and relies on the parking analysis provided by Mr. Fleming. To alleviate potential encroachment on to the adjacent parking lots, the Tribunal recommends implementing blanket easements for pedestrian access, vehicular access and parking.

[85] The Tribunal finds that a 3.0 m wide dedication of land for the public trail is appropriate. The Tribunal does not agree with the Town that it will be hard to construct or maintain a trail of the proposed width, as many Municipalities maintain sidewalks less than 3.0 m wide throughout the year.

[86] The Tribunal is satisfied that the proposed development has regard for the matters of provincial interest set out in s. 2 of the *Act* and finds it to be consistent with the PPS. Additionally, the development proposal conforms with the COP and TOP. The proposed DPS has regard for the criteria set out in the s. 51(24) of the *Act*.

ORDER

[87] **THE TRIBUNAL ORDERS THAT** the appeals are allowed, and By-law no. 2018-65 is hereby amended as set out in Attachment 1 to this Order. The Tribunal authorizes the municipal clerk of the Town of The Blue Mountains to assign a number to this by-law for record keeping purposes.

[88] **THE TRIBUNAL ORDERS THAT** the appeals are allowed, in part, and the draft plan shown on the plan prepared by Pascuzzo Planning Inc. dated May 2025 comprising DWG: 1007-20-DP4, as set out in Attachment 2, is approved subject to the fulfillment of the conditions set out in Schedule A to this Order;

[89] **AND THE TRIBUNAL ORDERS THAT** pursuant to subsection 51(56.1) of the *Planning Act*, the Town of The Blue Mountains shall have the authority to clear the conditions of draft plan approval and to administer final approval of the plan of subdivision for the purposes of subsection 51(58) of the *Act*. In the event that there are any difficulties implementing any of the conditions of draft plan approval, or if any changes are required to be made to the draft plan, the Tribunal may be spoken to.

“P. Tomilin”

P. TOMILIN
MEMBER

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

Attachment 1

1705

The Corporation of the Town of The Blue Mountains

By-Law Number 202, – ___

Being a By-law to amend Zoning By-law No. 2018-65, as amended, which may be cited as The Blue Mountains Zoning By-law, and a By-law to repeal The Blue Mountains By-law No. 2003-30

Whereas Council of the Town of The Blue Mountains deems it in the public interest to pass a By-law to amend By-law No. 2018-65 pertaining to 138 Kandahar Lane, legally described as Part of Lot 19, Concession 2, The Blue Mountains (formerly the Township of Collingwood), and more particularly described as Part 2, Reference Plan No. 16R2119;

And Whereas Council of the Town of The Blue Mountains deems it necessary to pass a By-law to repeal By-law No. 2003-30, being a by-law to permit "a lodge with a maximum gross floor area of 500 square metres including 3 commercial resort units, office area, meeting room, and storage area" and a "cabana" with a maximum gross floor area of 100 square metres pertaining to 138 Kandahar Lane, legally described as Part of Lot 19, Concession 2, The Blue Mountains (formerly the Township of Collingwood), and more particularly described as Part 2, Reference Plan No. 16R2119;

And Whereas pursuant to the provisions of Section 34 and Section 36 of the *Planning Act*, R.S.O. 1990, c. P.13, a Zoning By-law may be amended by the council of a municipality;

Now Therefore Council of the Town of The Blue Mountains hereby enacts as follows:

1. Schedule 'A' to By-law No. 2018-65, as amended, is hereby amended by changing the zoning symbol(s) for the lands legally described as Part of Lot 19, Concession 2, The Blue Mountains (formerly the Township of Collingwood), and more particularly described as Part 2, Reference Plan No. 16R2119, from the Development D Zone to the Resort Commercial C3-XX-h Zone, the Open Space OS Zone and the Development D Zone, as shown on the attached Schedule 'A-1'.
2. Table 9.1 of Section 9 entitled Exceptions of By-law No. 2018-65, as amended, is hereby amended by adding the following Exception:

Exception Number	Zone	Special Provisions
XX	C3-XX-h	<ol style="list-style-type: none"> 1. These lands may only be used for <i>commercial accommodation lodge</i> purposes. 2. Notwithstanding Table 5.4 "Non-Residential Parking Requirements", the minimum number of parking spaces for a <i>commercial accommodation lodge</i> shall be 0.5 parking spaces per occupant or 1.0 parking space per guest room used for sleeping, whichever is greater. 3. Notwithstanding the definition of <i>parking space</i>, <i>tandem parking</i> is permitted. 4. Parking in the <i>front yard</i> is prohibited. 5. Notwithstanding Sections 5.1.6, 5.1.7 and 5.1.8, the minimum access ramp, driveway and aisle width shall be 4.0 metres and granular <i>parking spaces</i>, <i>parking areas</i> and <i>driveways</i> are permitted. 6. Notwithstanding the requirements of Table 7.2 "Commercial and Employment Zone Standards" for

		<p>the Resort Commercial C3 Zone, the following provisions shall apply:</p> <table border="0"> <tr> <td>Minimum Lot Area (m2):</td> <td>550</td> </tr> <tr> <td>Minimum Lot Frontage (m):</td> <td>17.25</td> </tr> <tr> <td>Minimum Front Yard (m):</td> <td>7.5</td> </tr> <tr> <td>Minimum Exterior Side Yard (m):</td> <td>2.5</td> </tr> <tr> <td>Minimum Interior Side Yard (m):</td> <td>2.0</td> </tr> <tr> <td>Minimum Rear Yard (m):</td> <td>9.0</td> </tr> <tr> <td>Maximum Height (m):</td> <td>9.5</td> </tr> <tr> <td>Maximum Lot Coverage (%):</td> <td>30</td> </tr> </table> <p>The maximum occupant load of a <i>commercial accommodation lodge</i> shall be 16 persons with a maximum occupancy of 2 persons per bedroom.</p> <p>A <i>commercial accommodation lodge</i> means a detached <i>building</i> with no more than 8 bedrooms and 1 kitchen, as well as shared amenities, that operates or offers a place of temporary residence, lodging or occupancy for persons that is licensed, rented or by a similar commercial arrangement to a single person or single entity. Occupancy of a <i>commercial accommodation lodge</i> by any person for one or more periods of time shall not cumulatively exceed a total of 120 days per year or a maximum of 120 continuous days.</p> <p>A <i>commercial accommodation lodge</i> shall not be the permanent residence of a person, either alone or jointly with others, where the person ordinarily resides, makes their home, and conducts their daily affairs, including, without limitation, paying bills and receiving documentation.</p> <p>A <i>commercial accommodation lodge</i> shall not mean or include a <i>single detached dwelling, boarding or lodging house, motel, hotel, bed and breakfast establishment, short term accommodation, tourist cabin or cottage, hospital, commercial resort unit, village commercial resort unit</i> or similar commercial or institutional use.</p> <p>The holding '-h' symbol shall not be removed until the following have been completed:</p> <ol style="list-style-type: none"> a) Execution and Registration of a Subdivision Agreement; b) The lands are serviced with municipal sanitary and water services to the satisfaction of the Town of The Blue Mountains; c) Municipal water and sanitary sewage capacity have been confirmed as available to service the development to the satisfaction of the Town of The Blue Mountains; and, d) Site Plan Approval and the Execution of a Site Plan Agreement, if applicable, for the Lot or Lots, in accordance with Section 41 of the <i>Planning Act</i>. 	Minimum Lot Area (m2):	550	Minimum Lot Frontage (m):	17.25	Minimum Front Yard (m):	7.5	Minimum Exterior Side Yard (m):	2.5	Minimum Interior Side Yard (m):	2.0	Minimum Rear Yard (m):	9.0	Maximum Height (m):	9.5	Maximum Lot Coverage (%):	30
Minimum Lot Area (m2):	550																	
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Minimum Interior Side Yard (m):	2.0																	
Minimum Rear Yard (m):	9.0																	
Maximum Height (m):	9.5																	
Maximum Lot Coverage (%):	30																	

3. By-law No. 2003-30 is repealed upon this by-law coming into full force and effect.

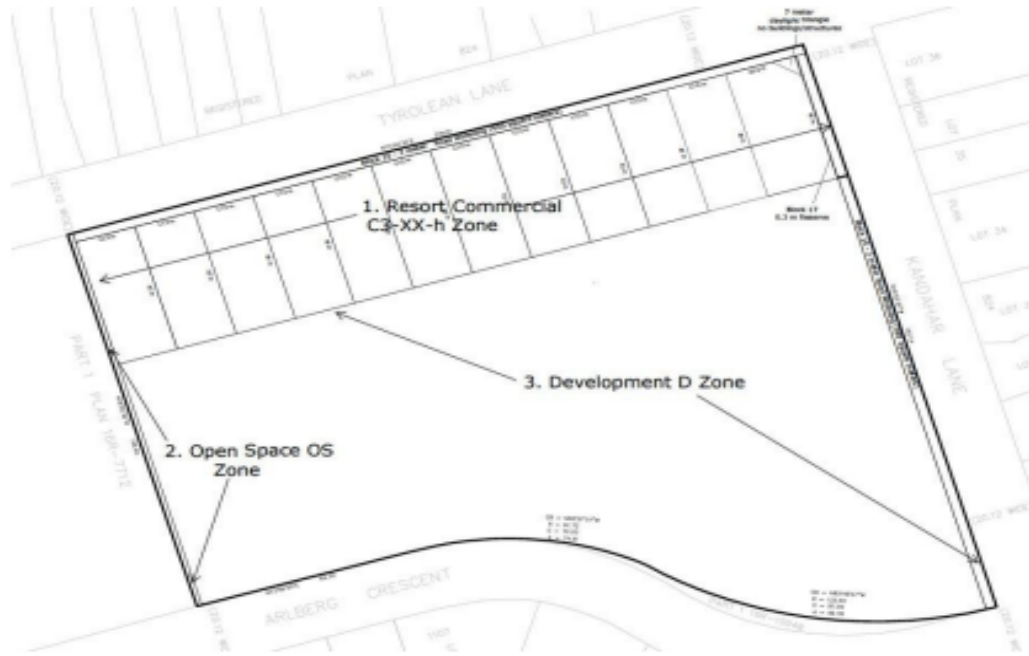
4. Schedule 'A' attached hereto forms part of this By-law.

And Further that this By-law shall come into force and take effect upon the enactment thereof.

Town of The Blue Mountains

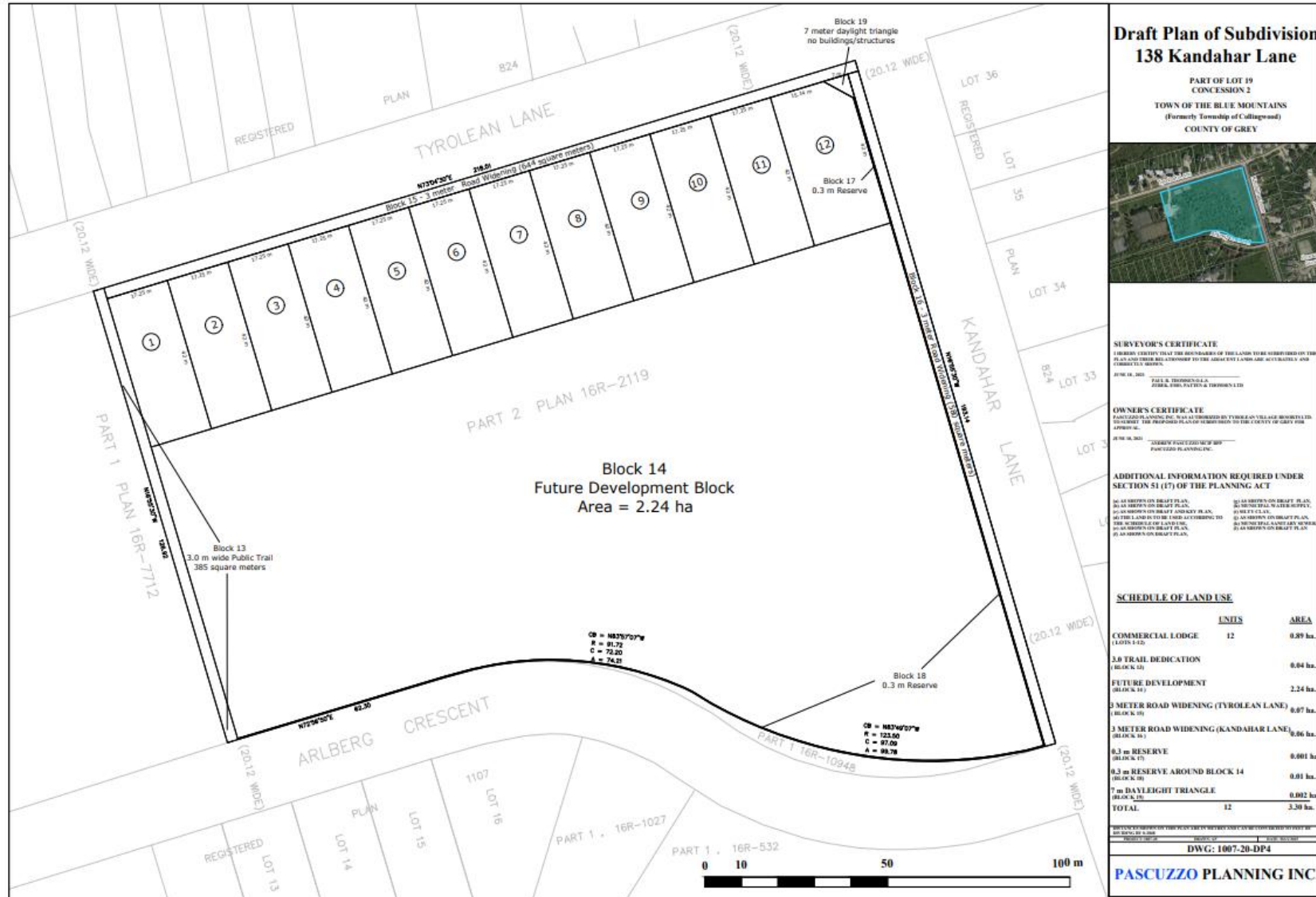
Schedule 'A' to By-law No. 202-___

1. Area to be rezoned from the Development D Zone to the Resort Commercial C3-XX-h Zone
2. Area to be rezoned from the Development D Zone to the Open Space OS Zone
3. Area to remain in the Development D Zone



Attachment 2

1708



Draft Plan of Subdivision 138 Kandahar Lane

PART OF LOT 19
CONCESSION 2
TOWN OF THE BLUE MOUNTAINS
(Formerly Township of Collingwood)
COUNTY OF GREY



SURVEYOR'S CERTIFICATE
I HEREBY CERTIFY THAT THE BOUNDARIES OF THE LANDS HERE SHOWN ON THIS PLAN AND THEREunto REFERRED TO BY THE ADJACENT LOTS ARE ACCURATE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

OWNER'S CERTIFICATE
I HEREBY CERTIFY THAT THE BOUNDARIES OF THE LANDS HERE SHOWN ON THIS PLAN AND THEREunto REFERRED TO BY THE ADJACENT LOTS ARE ACCURATE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

ADDITIONAL INFORMATION REQUIRED UNDER SECTION 51 (17) OF THE PLANNING ACT

- (a) AS SHOWN ON DRAFT PLAN.
- (b) AS SHOWN ON DRAFT PLAN.
- (c) AS SHOWN ON DRAFT PLAN.
- (d) AS SHOWN ON DRAFT PLAN.
- (e) AS SHOWN ON DRAFT PLAN.
- (f) AS SHOWN ON DRAFT PLAN.
- (g) AS SHOWN ON DRAFT PLAN.
- (h) AS SHOWN ON DRAFT PLAN.
- (i) AS SHOWN ON DRAFT PLAN.
- (j) AS SHOWN ON DRAFT PLAN.
- (k) AS SHOWN ON DRAFT PLAN.
- (l) AS SHOWN ON DRAFT PLAN.
- (m) AS SHOWN ON DRAFT PLAN.
- (n) AS SHOWN ON DRAFT PLAN.
- (o) AS SHOWN ON DRAFT PLAN.
- (p) AS SHOWN ON DRAFT PLAN.
- (q) AS SHOWN ON DRAFT PLAN.
- (r) AS SHOWN ON DRAFT PLAN.
- (s) AS SHOWN ON DRAFT PLAN.
- (t) AS SHOWN ON DRAFT PLAN.
- (u) AS SHOWN ON DRAFT PLAN.
- (v) AS SHOWN ON DRAFT PLAN.
- (w) AS SHOWN ON DRAFT PLAN.
- (x) AS SHOWN ON DRAFT PLAN.
- (y) AS SHOWN ON DRAFT PLAN.
- (z) AS SHOWN ON DRAFT PLAN.

SCHEDULE OF LAND USE

	UNITS	AREA
COMMERCIAL LODGE (LOTS 1-12)	12	0.89 ha.
3.0 TRAIL DEDICATION (BLOCK 13)		0.04 ha.
FUTURE DEVELOPMENT (BLOCK 14)		2.24 ha.
3 METER ROAD WIDENING (TYROLEAN LANE) (BLOCK 15)		0.87 ha.
3 METER ROAD WIDENING (KANDAHAR LANE) (BLOCK 16)		0.06 ha.
0.3 m RESERVE (BLOCK 17)		0.001 ha.
0.3 m RESERVE AROUND BLOCK 14 (BLOCK 18)		0.01 ha.
7 m DAYLEIGHT TRIANGLE (BLOCK 19)		0.002 ha.
TOTAL	12	3.20 ha.

DATE OF APPROVAL BY THE GREY COUNCIL: 10/07/2014
 DWG: 1007-20-DP4
PASCUZZO PLANNING INC.

Schedule A
Schedule "A"

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Town of The Blue Mountains
Proposed 138 Kandahar Draft Plan Conditions

CONDITIONS OF DRAFT PLAN OF SUBDIVISION

Part of Lot 19, Concession 2, The Blue Mountains (formerly the Township of Collingwood), and more particularly described as Part 2, Reference Plan No. 16R2119 also known as 138 Kandahar Lane in the Town of The Blue Mountains, County of Grey

This draft plan shall lapse on Month/Date/Year. If final approval is not given to this plan within five (5) years of the draft approval date, and no extensions have been granted, draft approval shall lapse under Subsection 51(32) of the Planning Act, RSO 1990, as amended. If the owner wishes to request an extension to draft approval, a written explanation together with the applicable application fee and a resolution/letter of support from the local municipality must be submitted to the County of Grey, prior to the lapsing date. Please note that an updated review of the Plan and revisions to the conditions of approval may be necessary if an extension is to be granted.

Conditions

1. **Area of Approval**

That the Owner agrees that this approval applies to the draft plan of subdivision on the property legally described as Part of Lot 19, Concession 2, The Blue Mountains (formerly the Township of Collingwood), and more particularly described as Part 2, Reference Plan No. 16R2119 also known as 138 Kandahar Lane in the Town of The Blue Mountains, County of Grey subject to revisions as set out in Conditions 2, 3 and 4 below of drawing 1008-20-DP3 prepared by Pascuzzo Planning Inc. last revised February 2024, on drawing 1008-20-DP3 and signed and dated by the Surveyor and the Owner showing the following:

Lots 1-12 (consisting of detached buildings); and
5 Blocks

- Block 13 (3.0 m land dedication to the Town for a public trail)
- Block 14 (future development)
- Blocks 15 and 16 (road widenings)
- Block 17 (0.3 m foot reserve)
- Block 18 (0.3 m reserve around Block 14)
- Block 19 (daylight triangle)

2. **Add 0.3m Reserve Around Block 14**

That the Owner agrees that the draft plan shall be revised to grant a 0.3 m reserve as Block 18 around the perimeter of Block 14 to the satisfaction of the Town.

3. **Add Daylight Triangle Block**

That the Owner agrees that the draft plan shall be revised to identify the

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Town of The Blue Mountains
Proposed 138 Kandahar Draft Plan Conditions

Daylight Triangle as Block 19 to the satisfaction of the Town.

4. **Revise Trail Block 13**
That the Owner agrees that the Draft Plan shall be revised to provide a revision of the proposed Block 13 to a 3.0m wide trail block to the satisfaction of the Town.
5. **Draft Plan Revisions**
That the Owner agrees to revise the Draft Plan in accordance with revisions set out in conditions 2, 3 and 4 and as otherwise necessitated by these conditions of draft plan approval to the satisfaction of the Town.
6. **Required dating, sign off and certification of the plan of subdivision**
That the Owner agrees that prior to the commencement of review of any submission after draft plan approval they will date and sign the draft plan of subdivision and have the draft plan signed, dated and certified by a licensed surveyor.
7. **Requirement to Enter into Subdivision Agreement**
That the Owner agrees, prior to final approval, to enter into and execute a Subdivision Agreement in accordance with these Draft Plan Conditions, to be registered on title, to satisfy all requirements, financial, servicing and otherwise, of the Town of The Blue Mountains including, but not limited to, landscaping and the installation of municipal services, and other requirements of the Town of The Blue Mountains ("the Town") and the County of Grey ("the County"), as well as any statutory requirements of other government authorities, including the payment of all applicable Town and County development charges in accordance with the applicable Development Charges By-law.
8. **Headings**
That the Owner agrees that the headings inserted in these draft plan conditions are inserted for convenience only and shall not be used as a means of interpreting these draft plan conditions.
9. **Agreement and Approval Requirements**
That the Owner shall enter into development and other necessary agreements or obtain necessary approvals, satisfactory to the Town or any other appropriate authority before any development or site alteration within the plan including but not limited to filling, grading, removing trees and/or topsoil, installing any works, or constructing any buildings or structures. These Agreements may deal with matters including but not limited to the following:
 - i. Engineering works which include but are not limited to:
 - a) Municipal water, sanitary sewer services;
 - b) Professional services including preparation of reports, plans, inspections,

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Town of The Blue Mountains
Proposed 138 Kandahar Draft Plan Conditions

- certifications and approval;
 - c) Drainage, stormwater management;
 - d) Storm sewers and infiltration galleries;

 - ii. Securities, cash contributions, development charges;
 - iii. Emergency services;
 - iv. Land dedications and easements, reserves;

 - v. Grading and sodding;
 - vi. Fencing & Landscaping;
 - vii. Trails/walkways;
 - viii. Fire Break Plan, if required;
 - ix. Construction Implementation and/or Mitigation Measures;
 - x. Warning clauses, signed entry features and safety hoarding;
 - xi. Public notification, signage and minimum notice periods.
 - xii. Tree retention, protection, compensation, enhancement plantings, the details of which may indicated in correspondence from appropriate commenting agencies and/or departments.; and
- That the Owner agrees that they shall be required to gain site plan approval for development of each lot in accordance with the provisions of the Planning Act.

10. **Requirement to Complete Reports Studies etc.**
That the Owner agrees that where a condition of approval requires the preparation of a report, study, or plan, the Owner shall:
- a) Carry out, or cause to be carried out, the study, report or plan, at the Owners' expense, prior to the registration of the Plan, except in those circumstances that may be specifically authorized by the approving agency(s).
 - b) Carry out, or cause to be carried out, the recommendation(s) or work(s) prescribed in the approved study, report, or plan, prior to the registration of the plan, except in those circumstances that may be specifically authorized by the approving agency(s).
 - c) Prior to the registration of the Plan, except in those circumstances that may be specifically authorized by the approving agency(s), pay for any peer review of any required reports and drawings by an appropriate third party professional, to the satisfaction of the Town.
11. **Standard of Works and Requirement to Enter Agreements as Required by Town and County**
That the Owner shall agree in the Subdivision Agreement that the works required by the Town, the County, other government authorities and utility providers for the development and servicing of the lands shall be designed and installed in accordance with the Town's Engineering Standards, and Provincial & Federal Guidelines & Standards.

Town of The Blue Mountains
Proposed 138 Kandahar Draft Plan Conditions

12. **Zoning**

That the Owner agrees that prior to final approval by the County, appropriate zoning is in effect for this proposed development that conforms to the County of Grey Official Plan and the Town of The Blue Mountains Official Plan.

13. **Acknowledgement of Holding Provisions Changes to Zoning By-law and Draft Plan Conditions and Requirement for Site Plan Agreement**

The Owner agrees that:

- this Draft Approval applies to all lands described under Section 1 to these conditions;
- the Owner shall not request the removal of the Holding (H) Provision until such time that Holding provisions of the Zone have been fulfilled in their entirety including but not limited to:
 - the Town has confirmed that municipal water and sanitary capacity are available and have been allocated,
 - a Subdivision Agreement is executed and registered against the subject lands
 - Site Plan Approval has been issued and an agreement executed and registered against the subject lands
 -

In the event any of the Holding provisions cannot be met without requiring changes to the Zoning By-law and/or Draft Plan of Subdivision and Conditions of Approval, the Owner agrees to file the necessary Planning Act applications subject to municipal and agency requirements at their expense and gain required approvals.

14. **Niagara Escarpment Plan**

The Owner agrees that, prior to the fulfillment of any conditions, confirmation be provided from the Niagara Escarpment Commission that the subject zoning, any draft plan of subdivision and any development on these lands does not conflict with the Niagara Escarpment Plan to the satisfaction of the Town and County.

15. **Comprehensive Servicing Analysis/Availability and Allocation of Services**

That the Owner agrees that prior to entering into a pre-servicing or subdivision agreement a Comprehensive Servicing Analysis and Site Servicing Plan will be prepared and submitted to show how the Owner

Town of The Blue Mountains
Proposed 138 Kandahar Draft Plan Conditions

intends the development to be fully serviced with municipal sewer and water from the Town's system to the satisfaction of the Town.

16. **Availability and allocation of services**
That the Owner agrees that prior to final approval and registration of the Plan, the Owner shall gain from the Town confirmation that there is sufficient water and sanitary treatment and conveyance capacity available and that is has been allocated to for this development to service the entire plan of subdivision, based on actual usage, as determined by the Towns monitoring of water flows and sanitary sewer flows to the satisfaction of the Town.
17. **Draft Plan Approval does not constitute servicing allocation**
That the Owner agrees that the subject Draft Plan Approval does not constitute a commitment by the Town to provide servicing access to the Town's water or wastewater treatment plants or allocation of associated built capacity; and further that, prior to execution of a Pre-servicing and/or Subdivision Agreement with the Town, sufficient water and sanitary sewer treatment and conveyance capacity shall be confirmed as available and be allocated by the Town.
18. **Subdivision Agreement Installations and Connections to Water/Wastewater Infrastructure**
That the Owner agrees that in the Subdivision Agreement they shall provide for all necessary installations and connections to any existing municipal storm drainage, sanitary sewer collection and water servicing systems to service the proposed development, to the satisfaction of the Town.
19. **Restriction on site works pending entering into an Agreement with the Town**
That the Owner shall not commence any work on the Lands, including filling, grading, removing trees, removing topsoil, installing any works, or constructing any buildings or structures until it has entered into a Subdivision Agreement, Pre-Servicing Agreement and/or other Agreement with the Town, in a form satisfactory to the Town.
20. **Lot Frontage Area and Site Specific Information**
That the Owner agrees, prior to final approval, to provide lot frontage, area, and site specific information as necessary to ensure that all lots and Blocks conform to the Zoning By-law.
21. **Engineering studies**
That the Owner agrees that prior to the initiation of any site grading or servicing and prior to the entering any Pre-servicing and/or Subdivision Agreement , the Owner shall submit the following information and/or

Town of The Blue Mountains
Proposed 138 Kandahar Draft Plan Conditions

information as otherwise required for the approval and to the satisfaction of the Town Development Engineering Department including such materials as :

a) A detailed engineering and drainage report which describes the stormwater drainage system for the proposed development on the Lands. The report shall include:

- i. How the stormwater management design is consistent with or aligns with the Town's Master Drainage Plan.
- ii. Plans illustrating how the drainage system will tie into the drainage of surrounding properties.
- iii. The stormwater management techniques required to accommodate the 5 year storm event.
- iv. The stormwater management techniques required to accommodate the 100 year storm event.
- v. How external flows will be accommodated and the design capacity of the receiving system.
- vi. Location and description of all outlets and other facilities which may require permits.
- vii. Proposed methods for controlling or minimizing erosion and siltation on-site and/or in downstream areas during and after construction.
- viii. Requirement for on-site stormwater management pond addressing quality and quantity if required;

The Owner agrees that their consultant shall contact the Town Development Engineering Division prior to preparing the above Report to clarify the specific requirements of this development.

b) Overall grading plans for the Lands.

c) The Owner shall agree in the Subdivision Agreement, in wording acceptable to the Town:

- i. To carry out, or cause to be carried out, all the works referred to in sub-condition (a) above.
- ii. To obtain the necessary permits from the Grey Sauble Conservation Authority, if applicable.
- iii. Prior to the initiation of any grading or construction on the site, to erect any silt fence as referred to in sub-condition (a)(vi) above;

c) Functional Servicing Report in accordance with an approved terms of reference and completed to the satisfaction of the Town

And, further that the Owner agrees that in the event on-site stormwater management is required that the Owner will file the necessary Zoning amendments and/or Draft Plan revisions.

22. Operation and Maintenance Manuals

That the Owner agrees that prior to final approval by the Town, Operation and Maintenance Manuals for any non-standard infrastructure shall be provided to the satisfaction of the Town.

Town of The Blue Mountains
Proposed 138 Kandahar Draft Plan Conditions

23. **Geotechnical**
That the Owner agrees that prior to the initiation of any site grading or servicing and prior to registration of the plan, submit for the approval of the Town Development Engineering Division a detailed soils investigation of the site prepared by a qualified geotechnical engineer and that a copy of this report shall also be submitted to the Town's Chief Building Official.
24. **Ontario Building Code and Engineering Standards** That the Subdivision Agreement shall contain specific clauses related to the required Ontario Building Code / Engineering Standards, as applicable, of the Town and County of Grey including but not limited to the following:
- i. The appropriate horizontal and vertical alignments of all roads, including their intersection geometrics, and underground services;
 - ii. That suitable construction traffic routes are identified to the satisfaction of the Town and County of Grey; and,
25. **Breeding bird season clearing restrictions**
That the Owner agrees that the Subdivision Agreement require that prior to the initiation of any site grading or servicing and prior to the registration of this plan that any required clearing occurs outside of the Breeding Bird season of April 15 to July 30.
26. **Easements**
That the Owner shall dedicate all required easements and/or Blocks for drainage, servicing, or utility purposes to the appropriate authority and be in place prior to entering a pre-servicing or subdivision agreement to the satisfaction of the Town.
27. **Public Land Conveyance**
That the Owner shall agree in the Subdivision Agreement that all road allowances, daylight triangles and road widenings required and included within this Plan of Subdivision shall be dedicated as public highways on the Plan for final approval and shall be deeded to the Town free and clear of encumbrances, to the satisfaction of the Town.
28. **Public Land Conveyance – Trail Block**
That the Owner agrees that Block 13 shall be dedicated as revised to a 3.0 m width to the Town at the expense of the Owner for a public trail free and clear of any encumbrances and that the lands be in a completed condition and/or required securities be provided in accordance with trails standards to the satisfaction of the Town.

Town of The Blue Mountains
Proposed 138 Kandahar Draft Plan Conditions

29. **Parkland**
The conveyance of Block 13 at 3.0 metres in width to the Town shall satisfy the Town's parkland conveyance requirements.

30. **0.3 m Reserves**
That the Owner agrees in the Subdivision Agreement between the Owner and the Town to 0.3 metre reserves, being Blocks 17 & 18.

31. **Construction and Phasing Plan**
That the Owner agrees to provide prior to entering a pre-servicing and/or subdivision agreement a construction and phasing plan demonstrating the timing of construction of the development from start to finish to the satisfaction of the Town, the laydown and construction staging areas and gain any required approvals and that security for the removal of stockpile of any materials be provided to address site management in the event that construction does not take place in one stage and that the site be maintained and managed in accordance with Town standards and to the Town's satisfaction in terms of orderliness, cleanliness, public safety, access etc.

32. **Temporary Construction Access**
That the Owner agrees that a suitable temporary construction access road be provided to manage development construction activity to the satisfaction of the Town and that all required approvals be applied for from the Town and gained. This temporary access is subject to required permit approval and is to be located and constructed to the satisfaction of the Town. The Subdivision Agreement will provide for the timing of the closure and decommissioning of this temporary road access.

33. **Temporary Works**
That the Owner agrees to construct all works, which must be considered temporary to facilitate the development of the subject property. These works may include, but are not limited to; emergency access, temporary cul-de-sacs, erosion protection, tree protection and stormwater facilities.

34. **Sediment, Erosion and Mud Tracking**
That the Owner agrees to have prepared by their Engineer and have implemented by their contractor an Erosion and Sediment Control Plan if required by the Town. This plan will address items such as, but not limited to, mud tracking prevention, temporary storm water management (Quantity and Quality), sediment control, erosion prevention, regular inspection and documentation by the Engineer, immediate repairs to deficiencies, tree preservation, temporary perimeter construction fencing and shall address all phases and

Town of The Blue Mountains
Proposed 138 Kandahar Draft Plan Conditions

stages of construction. It is the Town's expectation that the engineer shall,

at a minimum, provide weekly inspection of the implemented design and, as required, recommend modification to the plan to suit the site condition and time of year. The monitoring by the Owner's Engineer shall continue through the home building stage of construction and shall only terminate once the site has been stabilized to the Town's satisfaction. All deficiencies noted during any inspection shall be recorded and rectified within two calendar days and be available and provided to the Town on request within 24 hours and that such performance measures are available for review within 24 hours on request by the Town. That the Owner further agrees to stabilize all disturbed soil within 30 days of being disturbed, control all noxious weeds and maintain ground cover, to the satisfaction of Town. Through the condominium agreement and/or site alteration permit the Owner shall provide sufficient securities to the satisfaction of the Town to ensure the maintenance of this plan including the required regular inspection by the Engineer.

35. **Site Inspection**

That the Owner agrees that the Owner's engineer shall, at a minimum, provide bi-weekly inspection of the implemented design and, as required, recommend modification to the plan to suit the site condition and time of year. The monitoring by the Engineer shall continue through the home building stage of construction and shall only terminate once the site has been stabilized to the Town's satisfaction. All deficiencies noted during any inspection shall be recorded and rectified within two calendar days.

36. **Topsoil**

That the Owner agrees that their engineer shall submit a plan calculating the total amount of topsoil required for site restoration including all road, allowance, open space, storm water management blocks and lots plus 10% and shall identify stockpile location within the site complete with appropriate erosion and sediment control to satisfaction of the Town. It is the Town's expectation that all surplus debris and topsoil shall be removed from the site prior to the commencement of building construction.

Town of The Blue Mountains
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37. **Timing of Completion of Works**
That the Owner agrees that time is of the essence in the completion of site works as set out in the construction schedule and that failing completion of on or off site works in a timely manner as determined by the Town, securities may be drawn by the Town to complete or secure those works including but not limited to providing contractor payment from the project securities and that any amounts drawn from project securities for such implementation are to be replaced within 30 days.
38. **Construction of Grading Drainage and Servicing**
That the Owner agrees to have, prepared and submitted, designed and constructed all grading, drainage and servicing to the satisfaction of Town.
39. **Construction of Rough Grading**
That the Owner agrees to construct all rough grading and associated works, as deemed necessary by the Town and/or as indicated on the engineering drawings, prior to the issuance of any Building Permits.
40. **Securities**
That the Owner agrees that through the Subdivision Agreement and/or site alteration permit the Owner shall provide sufficient securities to the satisfaction of the Town Administration to ensure the maintenance of this plan including the required regular inspection by the Engineer.
41. **Composite Utility Plan**
N/A
42. **Confirmation re: Utilities**
That the Owner agrees that prior to final approval, the Owner shall provide written confirmation to the Town that satisfactory arrangements, financial and otherwise, have been made with necessary utility companies for any facilities serving this draft plan of subdivision.
43. **Utilities Underground**
The Owner shall agree in the Subdivision Agreement to locate all utilities (telephone lines, local power, other cable services) underground and is encouraged to provide fibre optic cable or enhanced telecommunication technologies.
44. **Bell Canada**
The Owner agrees to convey any easement(s) as deemed necessary by Bell Canada to service this new development. The Owner further agrees and acknowledges to convey such easements at no cost to Bell Canada.

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45. **Bell Canada**
The Owner agrees that should any conflict arise with existing Bell Canada facilities where a current and valid easement exists within the subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost.
46. **Enbridge Gas**
The Owner shall provide to Enbridge Gas (operating as Union Gas) the necessary easements and/or agreements required by Union for the provision of gas services in a form satisfactory to Enbridge Gas.
47. **Canada Post Mail Delivery Methods**
That the Subdivision Agreement include a requirement that arrangements be made with Canada Post and the Town's Development Engineering Department for the provision of suitable mail delivery methods which may include the installation of Canada Post Community Mailbox and that the location be included on the appropriate servicing plans.
48. **Canada Post Community Mailbox**
That should a Community Mailbox be required, that the Subdivision Agreement contain further clauses requiring that the Developer install an appropriately sized sidewalk section (concrete pad) per Canada Post specifications, to place the mailbox on, plus any required walkway access and/or curb depressions for wheelchair access and the provision of a temporary Community Mailbox location until curbs, sidewalks and final grading have been completed, and that as per Delivery Planning Standards Manual for Builders and Developers (August 2023) be consulted for additional specifications.
49. **Easements re: Utilities and Canada Post**
That the Owner shall grant all necessary easements and/or blocks and/or enter into agreement for drainage, utility and servicing purposes, including CRTC- licensed telephone and broadcasting distribution, as may be required, to the appropriate agency or public authority.
50. **Landscape Plan**
That the Owner agrees to provide Lot specific landscape plans to the satisfaction of the Town in consultation with the Niagara Escarpment Commission prior to the Town's granting of Site Plan Approval. The landscape plans shall address buffering and appropriate streetscape elements in accordance with the Town's Community Design Guidelines and policies of the Town's Official Plan.
51. **Native Plant Species**
That the Owner agrees to use native plant species for all landscaping.

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52. **Protective Measures re: Landscape Strip, Tree Retention and Enhancement Plantings**

That the Owner agrees that prior to final approval, to protective measures for all lots including landscape strip buffer plantings and tree retention for the purposes of ensuring that existing and/or enhancement buffer vegetation is retained to the satisfaction of the Town.

53. **Urban Design and Architectural Control Guidelines**
N/A

54. **Development Communications Plan**

That the Owner agrees that prior to execution of any Subdivision Agreement, the Owner shall submit a Development Communications Plan

for review and approval by the Town. The Development Communications Plan shall inform the Town and area residents of Significant Site activities and include:

- i. Installation of a Project Notification Sign, 1.2 m x 2.4 m minimum, to Town template, at each construction access to the Lands and visually obvious to the public, at least two (2) weeks before the construction start date, and maintained for full duration of construction.
- ii. Notification of the construction project to property owners as deemed appropriate in consultation with Development Engineering via hand/mail delivery.
- iii. Schedules of intended site activities updated routinely. (typically, weekly to bi-weekly).
- iv. A minimum of two (2) weeks notice following Town approval and prior to commencement of:

Significant site activities including such as site alteration works as tree clearing & grubbing, commencement of site servicing/grading, placement of asphalt, concrete curbs and sidewalk, and landscaping, and/or Off-site works on Town Owned Lands/Roads following receipt of a Municipal Land Use Permit (MLUP).

The Owner agrees in the Subdivision Agreement to organize and participate in monthly communication meetings with abutting residents as may be required by the Town. These communication meetings will provide updates related to on-site activities such as construction access, earth movements, foundation works, installation of asphalt and curbing, dust control and building construction.

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55. **Archaeology**

That prior to final approval and registration, the Owner shall obtain a letter from the Ministry of Heritage, Sport, Tourism and Culture Industries, that the Archaeological Assessment has been entered into the Ontario Public Register of Archaeological Reports.

56. **Archaeological Notification**

That the Owner agrees that should previously unknown or unassessed deeply buried archaeological resources be uncovered during development, such resources may be a new archaeological site and therefore subject to Section 48 (1) of the Ontario Heritage Act. The proponent or person discovering the archaeological resources must cease alteration of the site immediately and engage a licensed archaeologist to carry out archaeological fieldwork, in compliance with Section 48 (1) of the Ontario Heritage Act.

57. **Burial Sites**

That anyone working on the Lands who uncovers a burial site containing human remains shall cease fieldwork or construction activities and immediately report the discovery to the police or coroner in accordance with the Funeral, Burial and Cremation Services Act.

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58. Warning Clauses

That the Owner agrees to include the following warning clauses in the subdivision agreement and take action as described herein:

That the Owner is advised and agrees that permitted uses on the subject property excludes:

- Short term accommodations;
- Single detached dwellings;
- Boarding or lodging houses
- Motel
- Hotel
- Bed and Breakfast Establishment
- Tourist cabin or cottage,
- Hospital
- Commercial Resort Unit
- Village Commercial Resort Unit
- Similar Commercial or Institutional Use

And further that the Owner is advised and agrees that no occupant of the subject lands may receive mail, pay their bills, make the structure their home, conduct their daily affairs and, if so, the Owner is in violation of the Zoning By-law and subject to enforcement action.

And further that the Owner is advised and agrees that residential uses are not permitted on the subject property.

That the Owner is advised and agrees to save the Town harmless against any litigation resulting from violation of any Municipal By-laws resulting from the operation of the commercial accommodation lodge use and the provisions of the applicable site specific By-law on the subject properties.

That the Owner is advised and agrees that the property will be subject to enforcement of the By-laws of the Town including but not limited to:

- Comprehensive Zoning By-law 2018-65 as amended and its successors
- Business Licensing By-law 2021-70 as may be amended and its successors (if amended to include the requirement for licensing of commercial accommodation uses such as a commercial accommodation lodge).
- Property Standards By-law 2002-18 as amended and its successors
- Public Nuisance By-law 2004-23 as amended and its successors
- Parking By-law 2022-49 as may be amended and its successors
- And all other applicable By-laws.

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That the Owner is advised and agrees that construction activity within the subject lands may be ongoing until all lots have been developed and that the duration of construction is unknown and any construction is subject to the Development Communications Plan agreed to by the Developer and is subject to the applicable conditions of the associated Draft Plan Approval and any related agreement(s).

That the Owner is advised and agrees that servicing of the subject lands is dependent upon confirmation of availability and allocation of water and wastewater system treatment and conveyance capacity to the satisfaction of the Town and that until such time as that has been confirmed no development of the subject lands is permitted.

That the Owners is advised and agrees that on-lot retained, replanted and enhancement vegetation as set out in the Landscaping Plan is the subject of an agreement with the Town and therefore protected under the terms of the Tree Protection By- law, portions of the vegetative buffer are designated as a landscape strip under the Zoning By-law in which no development is permitted and trees are to be retained in a standard to the satisfaction of the Town in perpetuity.

That the Owner is advised and agrees that all on-lot buffer plantings must be retained and maintained in perpetuity in a healthy standard to the satisfaction of the Town and that, in the event of removal, or failure of the plantings it is the obligation solely of the Owner to replant and establish the plantings to an acceptable standard failing which, at its discretion, the Town may enter or retain a third party to enter the property to complete the required plantings to the required standard at the market rate and add the costs to the property taxes for the subject property.

That the Owner is advised and agrees that the preceding warnings be placed on title to ensure that future owners are aware of these warnings.

That the Owner agrees to place in all offers of purchase and sale the list of warnings provided in this section, gain sign off from each owner prior to execution of the sales agreement acknowledging that they have reviewed and understand these conditions and maintain these records for delivery within 24 hours on demand of the municipality.

59. Sales Office Posted Information

That the Owner shall agree in the Subdivision Agreement, prior to offering any of the lots for purchase, to place a 'Display Map' on the wall of the sales office in a place visible to the public, which indicates the approved location of all sidewalks, walkways, trails, community mailboxes, parks, schools, open space areas, environmental protection areas/tree preservation areas, watercourses, and surrounding land uses and a bulletin advising of the warning clauses. The Owner shall also agree to keep

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Accepted for Construction drawings in the sales office which show easements, hydrants, utilities, lighting, lot grading, landscaping, and noise attenuation measures, as applicable.

60. **Fulfillment and Clearance of Conditions**
That the Owner agrees that it is the Owners' responsibility to fulfill the conditions of draft approval and to ensure that the required clearance letters are forwarded to the appropriate clearance agencies and also to record this information in a conditions clearance matrix to the satisfaction of the County and Town demonstrating required clearances of these conditions prior to requesting final approval.
61. **Executed Agreement**
That the Owner provides a copy of the fully executed Subdivision Agreement between the Owner and the municipality shall be provided to the County of Grey.

NOTES TO DRAFT APPROVAL these do not form part of the draft plan conditions

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 or consultations are required from the following agencies, as well as the appropriate agency or authority providing utilities or services:

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

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Canada Post Corporation
300 Wellington Street
London, ON N6B 3P2

Niagara Escarpment Commission
1450 7th Avenue
Owen Sound, ON N4K 2Z1

4. With respect to any draft plan conditions requiring clearance or consultation with conservation authorities for any conditions relating to natural hazards, a clearance letter will be required prior to issuing final approval as this falls under the mandate of the conservation authorities. For any matters that are related to natural heritage, this falls under the mandate of the local municipality and the County. The local municipality and the County rely on the services of conservation authorities for natural heritage review and therefore the local municipality and the County will consult with the conservation authority to determine if they are satisfied that those conditions have been addressed. The conditions will clearly note which conditions require clearance from the conservation authority and which requires clearance from the local municipality/County in consultation with the conservation authority. In cases where the local municipality or the County (in consultation with the conservation authority) are not satisfied that conditions related to natural heritage matters have been addressed to their satisfaction then a peer review may be required at the expense of the Owner.
5. 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.

6. Inauguration or extension of a piped water supply, a sewage system or a storm drainage system is subject to the approval of the Ministry of the Environment, Conservation and Parks under the Ontario Water Resources Act, RSO 1990, as amended.
7. All measurements in subdivision final plans must be presented in metric units.

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8. The final plan approved by the County must be registered within thirty (30) days or the County may withdraw its approval under subsection 51(59) of the Planning Act RSO 1990, as amended.
9. This draft plan shall lapse on Month/Date/Year. If final approval is not given to this plan within five (5) years of the draft approval date, and no extensions have been granted, draft approval shall lapse under Subsection 51(32) of the Planning Act, RSO 1990, as amended. If the owner wishes to request an extension to draft approval, a written explanation together with the applicable application fee and a resolution/letter of support from the local municipality must be submitted to the County of Grey, prior to the lapsing date. Please note that an updated review of the Plan and revisions to the conditions of approval may be necessary if an extension is to be granted.