



TOWN OF COLLINGWOOD

COUNCIL AGENDA PLANNING AND DEVELOPMENT

June 21, 2010

"Inspire confidence, wonder and a sense of possibility – deliver today's services and realize tomorrow's promise."

A meeting of Municipal Council with regard to planning and development matters will be held Monday, June 21, 2010 in the Council Chambers, Town Hall, Collingwood commencing at **5:00pm**.

ORDER OF BUSINESS

1. CALL OF COUNCIL TO ORDER

2. ADOPTION OF AGENDA

- **RECOMMENDING THAT** the content of the Council – Planning and Development Agenda for June 21, 2010 be adopted as presented.

3. DECLARATIONS OF PECUNIARY INTEREST AND/OR RECEIPT OF GIFT (over \$200)

4. DEPUTATIONS

- **West Mountain Road Secondary Plan**, David Slade & Andrew Pascuzzo, DC Planning Consultants (on behalf of Huntingwood Developments)

5. DEVELOPMENT COMMITTEE MINUTES/REPORTS

6. STAFF REPORTS

P2010-12 Mountain Road West Corridor (p.3)

RECOMMENDING THAT Council continue to support development within the built boundary in accordance with Provincial and upper tier planning policy and refrain from approval of ad hoc development within the Mountain Road West Corridor Secondary Plan Area.

B2010-01 Delegated Authority – Conditional Building Permit (p.12)

RECOMMENDING THAT Council enact and pass a by-law to delegate the chief building official the authority to issue conditional building permits and impose any necessary conditions or restrictions on the permit.

- **THAT By-law No. 2010-066** Being a by-law to delegate authority under section 8(3.1) of the Building Code Act to the chief building official, be enacted and passed this 21st day of June, 2010. (p.30)

7. MOTIONS

- **THAT** this Council proceeds in Camera in order to address a matter pertaining to:
 - ☑ security of the property of the municipality or local board;
 - ☑ a proposed or pending acquisition or disposition of land by the municipality or local board;

Items for Discussion:

a) *Old Library Site*

8. BY-LAWS

9. ***NOTICE OF MOTIONS***
10. ***OLD or DEFERRED BUSINESS***
11. ***OTHER BUSINESS***
12. ***ADJOURNMENT***



STAFF REPORT

| | |
|---------------|---|
| REPORT #: | P2010-12 |
| DATE: | June 21 st , 2010 |
| SUBMITTED TO: | Mayor & Members of Council |
| SUBMITTED BY: | Nancy Farrer – Acting Director of Planning Services |
| SUBJECT: | Mountain Road West Corridor |

1. RECOMMENDATION:

THAT Council continue to support development within the built boundary in accordance with Provincial and upper tier planning policy and refrain from approval of ad hoc development within the Mountain Road West Corridor Secondary Plan Area.

2. SUMMARY AND BACKGROUND:

Background

On March 22nd, 2010 Council approved the following motion:

THAT Council direct staff to undertake a comprehensive report on the process, timeline, potential environmental and infrastructure constraints, permanent / seasonal population analysis and approvals required to remove any proposed development from the Mountain Road West Corridor Secondary Plan Area.

This Staff Report has been prepared to respond to Council's request for information and Planning Service's staff have also put forward a recommendation for Council's consideration.

Policy and Strategic Framework

Planning Services staff have reviewed Provincial and municipal documents which provide considerable direction regarding expanding development into a new area of the community.

Matters of Provincial Interest

Section 2 of the *Planning Act* requires that regard be given to matters of provincial interest. Matters of provincial interest which are relevant to this discussion include:

- (a) the protection of ecological systems, including natural areas, features and functions;
- (f) the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;

- (p) the appropriate location of growth and development; and
- (q) the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians.

The general principles established in the Planning Act promote development in a manner that is efficient and sustainable, while at the same time encouraging protection of the natural environment.

Provincial Policy Statement (2005)

Section 3(5) of the *Planning Act* states that any planning decision rendered must be consistent with the PPS. The most relevant sections of the Provincial Policy Statement include:

1.1.1 “Healthy. Liveable and safe communities are sustained by:

- promoting efficient development and land use patterns
- promoting cost-effective development standards to minimize land consumption and servicing costs

1.1.3.2 Land use patterns within settlement areas shall be based on:

- densities and a mix of land uses which efficiently use land and resources
- are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for unjustified and/or uneconomical expansion

1.1.3.3 Planning authorities shall identify and promote opportunities for intensification and redevelopment

1.1.3.4 Appropriate development standards should be promoted which facilitate intensification, redevelopment and compact form

1.1.3.6 Planning authorities shall establish and implement phasing policies to ensure specific targets for intensification and redevelopment are achieved prior to, or concurrent with, new development

1.1.3.7 New development taking place in designated growth areas should occur adjacent to the existing built-up area and shall have a compact form, mix of uses and densities that allow for the efficient use of land, infrastructure and public service facilities.

1.1.3.8 Planning authorities shall establish and implement phasing policies to ensure the orderly progression of development within designated growth areas and the timely provision of infrastructure and public service facilities required to meet current and projected needs.”

Planning Services staff believe that the very clear direction provided by the Provincial Policy Statement is that municipalities should be looking within their existing serviced and built –up area and making the best use of that area prior to re-designating rural lands, and extending services and other infrastructure.

Growth Plan for the Greater Golden Horseshoe

The Growth Plan for the Greater Golden Horseshoe plans and manages growth to support a strong economy and to build complete communities, while emphasizing intensification and

efficient use of existing services. The *Planning Act* requires that decisions made by Council are in conformity with the Growth Plan. Some of the relevant policies are listed below:

2.2.2. Population and employment growth will be accommodated by:

- Directing a significant portion of growth to the built-up areas on the community
- Focusing intensification in intensification areas
- Building compact transit-supportive communities in designated greenfields
- Encouraging cities and towns to develop as complete communities with a diverse mix of land uses, a range and mix of employment and housing types, high quality public open space and easy access to stores and services.

2.2.3 By the year 2015 and for each year thereafter, a minimum of 40% (intensification target) of all residential development occurring annually within each upper and single tier municipality will be within the built-up area.

- All municipalities will develop and implement through their official plans and other supporting documents, a strategy and policies to phase in and achieve intensification and the intensification target.

2.2.7 New development taking place in designated Greenfield areas will be planned designated, zoned and designed in a manner that:

- Contributes to creating complete communities
- Creates street configurations, densities and an urban form that support walking, cycling, and the early integration and sustained viability of transit services

Complete communities are defined as areas which:

“Meet people’s needs for daily living throughout an entire lifetime by providing convenient access to an appropriate mix of jobs, local services, a full range of housing, and community infrastructure including affordable housing, schools, recreation and open space for their residents. Convenient access to public transportation and options for safe, non-motorized travel is also provided.”

Collingwood is fortunate as there are a number of opportunities for intensification within our built boundary where the lands are currently fully serviced. In order to facilitate Collingwood achieving its intensification target, development on lands within the built boundary should be encouraged prior to Council considering either greenfield applications (vacant lands designated Residential) or the re-designation of Rural lands, which require the extension of services.

County of Simcoe Official Plan

Schedule 5.1 entitled Land Use Designations of the County of Simcoe Official Plan, as amended, identifies the Town of Collingwood as a Settlement. The County of Simcoe Official Plan contains policies encouraging development to occur in areas designated as Settlement. Planning Services staff have focused their review on the policies included in the 2008 Official Plan as the planning policy environment has evolved considerably since the adoption of the

1997 County Official Plan. There are a number of policies in the 2008 adopted County of Simcoe Official Plan which are relevant to this issue including:

“3.1.1 Development in settlements shall be guided by targets that result in development densities which are appropriate to achievement of compact communities that are transit supportive and facilitate pedestrian and cycling opportunities.

3.2 Population targets – A land budget will be prepared in 2009. This information will be used by local municipalities at the time of preparation of their up-dated official plans. “

In Collingwood’s case there is not the population capacity available to add more residential development without considering either down designating or phasing development of other properties.

“3.2.4... any revisions to the forecast, including the local municipalities allocations will require an amendment to this Plan and will only be considered as part of a five year comprehensive review.”

This number has yet to be set. Planning Services recognizes that every municipality in Simcoe County would like a higher population allocation. That is unlikely to occur. What is realistic for Collingwood is that our number may increase slightly, but as a municipality we should be very cautious as to how any spare allocation is assigned to land owners.

“3.2.11 Applications for re-designation of lands within settlement areas for urban types of uses from Rural, Agricultural or Greenlands designations will be reviewed in the context of the land budget and population/employment allocations for the local municipality and the County overall.”

These lands are currently designated Rural in the Town’s Official Plan and would therefore be subject to this policy. On an interesting note, this policy as currently drafted doesn’t appear to consider re-designation of lands from Commercial to Residential.

“3.5.2 To develop a compact urban form that promotes the efficient use of land and provision of water, sewer, transportation, and other services”

In Collingwood’s case this policy encourages the “filling in” of existing vacant and under-utilized lands prior to extensions into previously un-developed areas.

“3.5.3 To develop mixed use settlements as strong and vibrant central places and to create healthy settlements and communities that are sustainable.

3.5.4 To promote development forms and patterns which minimize land consumption and servicing costs.”

This policy also encourages making the best use of the existing built up areas prior to extending services.

“3.5.7 Settlement areas shall be the focus of growth and their vitality and regeneration shall be promoted. Primary and secondary settlement areas shall be developed as complete communities with residential, commercial, industrial, institutional, and recreational land uses.

3.5.11 Within settlements, local municipal official plans should direct that development on Greenfield sites occur contiguous to or abutting the existing built boundary except where physical barriers or significant natural heritage features and functions intervene.”

Much of the land in the Secondary Plan Areas would not qualify as Greenfield lands as the definition for Greenfield lands is “lands within settlements designated in an official plan for growth over its planning period but which have not yet been fully developed.” Collingwood does have a number of properties which are designated for development which would satisfy this definition. The policies are directing municipalities to look at currently designated properties, before converting lands to a Residential category.

Town of Collingwood Official Plan

The Town’s Official Plan came into effect (aside from site-specific appeals) in May 2004. Section 8.10.2 of the Plan outlines the policies which affect the Mountain Road West Corridor. The Plan recognizes that the lands within the Corridor are subject to a number of development constraints including a lack of full municipal services, increasing traffic volumes, waste disposal assessment areas and environmental limitations. The policies also recognize the importance of doing comprehensive planning for this area and the need to consider creating linkages with the resort recreational development to the west. The intent of the Plan is that development be limited to that permitted by the Section entitled Relaxed Servicing Criteria and that already designated, zoned or otherwise approved. The intent of the policies to ensure that limited, appropriate growth occurs in accordance with good planning principles until such time as the Secondary Plan issues and considerations are addressed.

The amount of development permitted under the Relaxed Servicing Criteria is limited to one single-detached dwelling or one non-residential building or structure provided that the adequacy of the proposed method of water supply and sanitary sewage disposal is demonstrated to the satisfaction of the Town of Collingwood. Minor infilling is permitted provided that the total number of units created is not in excess of two building lots. These policies were put in place to ensure that the vacant un-developed areas of the community are not unnecessarily divided up in a manner that would make the urban expansion which is likely to occur in the long term more difficult. These policies also build on section 3.5.2.3 (Municipal Services – Objectives) of the Official Plan which encourages:

“progressive, staged development from existing built-up areas in order to minimize the need for major servicing extensions.”

The guidelines and criteria for the Secondary Plan are outlined in Section 11.5 of the Official Plan. The Secondary Plan is to establish a preferred land use pattern, road network, serving approach and method of stormwater management, as well as a policy framework which minimizes the potential impact of development on Silver Creek. An objective of the secondary plan process is to encourage the movement of people between the area’s resorts and the key destinations within Collingwood such as downtown. As identified in the planning policy for the area, the issues to be addressed include:

1. the secondary plan area’s future land use relationship with the resort areas to the west (i.e. Intrawest/Osler Bluff). It is expected that this will include a detailed review of *regional growth trends* particularly as they relate to permanent and recreational population projections and future residential, commercial and recreational land needs,

2. *preferred forms of housing* in the context of projected residential demand,(eg. higher vs. lower density/upper end vs. affordable housing),
3. the *preferred form/magnitude of development* in relation to the municipality's broad objective to maintain the Town's small-town atmosphere,
4. methods of *forging permanent economic linkages* between the resort areas to the west and the Town. Planning mechanisms (land use/transportation) for encouraging the organized movement of people back and forth between key business areas, such as the Intrawest village and Collingwood's downtown, will be a key facet of this analysis,
5. the *transportation needs/demands* of the secondary plan area with a focus on regional transportation requirements (e.g. need for/location of a municipal by-pass), design requirements/preferences in relation to Mountain Road, active transportation opportunities and the establishment of an internal system of arterial/collector roads to service new development. Planning conclusions regarding the land use/economic opportunities potentially afforded by improvements to Mountain Road and/or by the possible creation of one or more primary intersections within the secondary plan area (e.g. new municipal by-pass with Mountain Road), will be based in part from the transportation study's conclusions,
6. the *environmental/recreational needs and opportunities* of the area in the context of ensuring the preservation of Silver Creek, Black Ash Creek and Category 1 - Natural Heritage Resource Area (*Woodland/Valleyland /Provincially significant wetland*) in general. Functional and scenic trail and view corridor opportunities, and the desirability of maintaining a generous apportionment of *Greenland* will comprise part of this study phase,
7. the *stormwater management* requirements of the area, which will comprise an important technical component of the broader environmental works and will identify stormwater constraints and the parameters for future development, and
8. the optimum method of providing municipal *water and sewer* services to the areas, ideally within the context of the area's regional municipal relationships and opportunities.

The secondary plan analysis is to consider very carefully how this area which is an interface between Collingwood (including downtown) and Blue Mountain will function in the future and how both people and goods will be encouraged to move freely between these two. Clearly the current Official Plan anticipates that the policies put in place in the Secondary Plan Area will not necessarily be a continuation of the same type of development as has occurred in the past.

As outlined in this report, a substantial amount of planning and engineering analysis would need to be completed before an Official Plan Amendment could be adopted which would remove proposed properties from the Secondary Plan area. A deliberate and comprehensive approach to this work is in the interests of both existing property owners and the municipality as it will support efficient and cost-effective development. The background studies required to support the Secondary Plan have yet to be initiated and the 2010 budget does not contemplate any of this work. The planning studies being undertaken this year will provide Council with recommendations as to how to optimize development on lands within the built boundary and the complete community area. These studies are in keeping with the direction established in the provincial and upper tier planning documents.

As Council appreciates, an Official Plan Amendment adopted by Council must be approved by the County of Simcoe. The County of Simcoe planning approval authority is also required to make decisions that are consistent with the Provincial Policy Statement and in conformity with the Growth Plan.

Population

County of Simcoe and Town planning staff have reviewed the population numbers assigned to the Town of Collingwood in the County Official Plan and by the Simcoe Visioning document and neither one could be considered to have sufficient flexibility to provide any encouragement that this is the right time for the Town to embark on the preparation of a Secondary Plan. Collingwood clearly has sufficient land designated to accommodate its current population allocation.

There have been discussions that none of the population numbers put forward by either the County or the Province recognize that a percentage of the Collingwood population is seasonal in nature and may live in our community a few days a week, or a few days a year. So far there has been no interest in trying to ensure that the units which are currently seasonal remain that way over the planning period. This would involve putting controls in place which would likely be difficult and cumbersome to administer. Without there being general agreement that the municipality may ensure that dwellings are used on a seasonal basis the strategy has been to consider a unit as a unit. Currently there is no way to track changes in occupancy patterns or prevent a property owner from changing the amount of time that they use their residence – either up or down. Further when all the units are occupied the municipality has to provide services to all. On Christmas week all of the roads have to be ploughed and the electricity and water has to work.

Servicing Issues

In preliminary discussions with Engineering Services staff have determined that the servicing for the Mountain Road West Corridor Secondary Plan Area should not be done in a piecemeal fashion. There is a much greater likelihood of this occurring if parcels of land are permitted to be removed from the overall study area.

Fire Department Comments

The Fire Department would not be supportive of opening up additional areas in the Town's west end until a second fire station is constructed. The Department is concerned that their response times to the far ends of the community will not be adequate.

Summary

Planning Services staff would recommend that at this time Council should refrain from approval of ad hoc development within the Mountain Road West Corridor Secondary Plan Area and continue to support development within the built boundary in accordance with Provincial and upper tier planning policy.

3. SUSTAINABILITY CONSIDERATIONS:

Sustainability Check List:

1. Is this item currently identified in the SCP or Strategic Plan? Yes No

2. Does it fulfill the sustainability mission/vision of the Town of Collingwood? Yes No

3. Is regulatory compliance mandatory? Yes No If yes, proceed to #1 next section.

4. Negative impacts on any of the four (4) sustainability pillars (economic, social, environmental, cultural)? Regulatory compliance is mandatory, sustainability pillars not assessed.

Social Yes No Explain:

Cultural Yes No Explain:

Environmental Yes No Explain:

Economic Yes No Explain:

5. Is funding available from external source(s)? Or is funding committed from internal source(s)? Yes No If yes, proceed to next section # 1.

- Regulatory compliance is mandatory, funding not assessed.

6. Does it advance other initiatives? Yes No

- Regulatory compliance is mandatory, initiatives not assessed.

Total Score:

1. Regulatory compliance is mandatory or funding is available (If so, action will automatically receive 6 points): 6

2. Positive impacts on sustainability pillars (up to 4 points):

3. Action advances other initiatives (1 point):

Total Score: 6

4. CONCLUSIONS:

For actions that score 4 points, or higher it is recommended that they proceed.

Action to proceed

Action not to proceed at this time

5. DISCUSSION:

- Planning Services staff would recommend that the Department's priorities should continue to be development within the built boundary in accordance with Provincial and upper tier planning policy. The initial findings of the residential study will be presented to Council next month.
- Planning Services staff would not recommend that the Mountain Road West Corridor Secondary Plan be undertaken at this time. This recommendation should be re-examined if Collingwood's population allocation is increased substantially.

6. DEPARTMENT HEAD REVIEW:

- This Staff Report was forwarded to Department Heads on Tuesday June 8th, and June 15th, 2010 for comment and it was recommended that this report proceed to Council for consideration and direction.

7. EFFECT ON TOWN FINANCES:

- Current Year: None
- Future Years: The need for the Secondary Plan should reviewed during the next term of Council as the Plan will provide assistance to the municipality in long term capital budget planning, development charges studies and developer vs. municipal responsibilities.

8. DISPOSITION:

- The CAO and Planning Services will be responsible for the development of the Mountain Road West Corridor Secondary Plan work program and subsequent reports back to Council. The proposed recommendation will implement the policies of the Town of Collingwood Official Plan as amended.

9. APPENDICES:

- None
- Attached

Respectfully submitted,

for 

Nancy Farrer, MCIP, RPP
Acting Director of Planning Services

Prepared by:
Nancy Farrer, MCIP, RPP
Acting Director



STAFF REPORT

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| REPORT #: | B2010 – 01 |
| DATE: | June 21, 2010 |
| SUBMITTED TO: | Mayor, Deputy Mayor and Council |
| SUBMITTED BY: | Ron Martin, Deputy Chief Building Official |
| SUBJECT: | Delegated Authority – Conditional Building Permit |

1. RECOMMENDATION:

THAT Council enact and pass a by-law to delegate the chief building official the authority to issue conditional building permits and impose any necessary conditions or restrictions on the permit.

2. SUMMARY AND BACKGROUND:

The Building Code Act permits municipalities to delegate authority for issuance of conditional building permits. This allows the applicant to commence construction on mutually agreed upon phases of the project, while the planning and construction details are finalized.

The *Building Code Act, 1992*, provides, pursuant to Section 8.3:

Conditional permit

(3) Even though all requirements have not been met to obtain a permit under subsection (2), the chief building official may issue a conditional permit for any stage of construction if,

- (a) compliance with by-laws passed under sections 34 and 38 of the *Planning Act* and with such other applicable law as may be set out in the [building code](#) has been achieved in respect of the proposed building or construction;
- (b) the chief building official is of the opinion that unreasonable delays in the construction would occur if a conditional permit is not granted; and
- (c) the applicant and such other person as the chief building official determines agree in writing with the municipality, upper-tier municipality, board of health, planning board, conservation authority or the Crown in right of Ontario to,
 - (i) assume all risk in commencing the construction,

- (ii) obtain all necessary approvals in the time set out in the agreement or, if none, as soon as practicable,
- (iii) file plans and specifications of the complete building in the time set out in the agreement,
- (iv) at the applicant's own expense, remove the building and restore the site in the manner specified in the agreement if approvals are not obtained or plans filed in the time set out in the agreement, and
- (v) comply with such other conditions as the chief building official considers necessary, including the provision of security for compliance.

3. SUSTAINABILITY CONSIDERATIONS:

Sustainability Check List:

1. Is this item currently identified in the SCP or Strategic Plan? Yes No
 - *Creating new mechanisms and refined approaches to improve the internal functionings.*

2. Does it fulfill the sustainability mission/vision of the Town of Collingwood? Yes No
 - *Building and enhancing partnerships in support of community objectives.*

3. Is regulatory compliance mandatory? Yes No If yes, proceed to #1 next section.
 - *The Building Code Act, 1992 prescribes the process for the issuance of conditional building permits, and imposing conditions and restrictions if delegated.*

4. Negative impacts on any of the four (4) sustainability pillars (economic, social, environmental, cultural)?

| | | | |
|---------------|------------------------------|--|----------|
| Social | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | Explain: |
| Cultural | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | Explain: |
| Environmental | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | Explain: |
| Economic | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | Explain: |

5. Is funding available from external source(s)? Or is funding committed from internal source(s)? n/a

6. Does it advance other initiatives? Yes No

Total Score:

1. Regulatory compliance is mandatory or funding is available (If so, action will automatically receive 6 points): 4
2. Positive impacts on sustainability pillars (up to 4 points): 0
3. Action advances other initiatives (1 point): 0

Total Score: 4

4. CONCLUSIONS:

For actions that score 4 points, or higher it is recommended that they proceed.

Action to proceed

5. DISCUSSION:

A conditional building permit agreement can include pre-conditions, security hold backs, owner's covenants, restoration and right of entry conditions, undertaking property liens, municipal indemnification and may include other applicable conditions or restrictions as requested by the Chief Building Official.

Attached as Appendix A, is the template conditional building permit agreement that has been provided and prepared by our Municipal Solicitor John Mascarin, Aird & Berlis LLB.

A conditional building permit provides the municipality with a mechanism to work with applicants to allow for certain building activities to continue in a controlled manner while required conditions are in the process of being met. This situation may arise for reasons which may include; when the applicant has not finalized construction details of following phases, if grants have been approved for time sensitive projects this allows the Town to work with the applicant to meet deadlines for funding, architectural details are not specified, etc. When a conditional building permit is issued, the CBO will retain an appropriate hold back/security/letter of credit to ensure any works are able to be remediated to an appropriate status. Furthermore, the CBO withholds the right to refuse to issue a conditional permit even if delegated authority has been granted.

6. DEPARTMENT HEAD REVIEW:

- No concerns were raised by Department Heads.

7. EFFECT ON TOWN FINANCES:

- No significant costs associated with conditional building permit approval.

8. DISPOSITION:

- Building Services will monitor the delegated authority and include details of conditional building permits issued in its regular progress reports.

9. APPENDICES:

- A.1 Conditional Building Permit Agreement - Template
- A.2 By-law 2010 – XX – Delegating authority to CBO for the issuance of conditional building permits.

SIGNATURE

Ron Martin
Deputy Chief Building Official, Town of Collingwood

CONDITIONAL BUILDING PERMIT AGREEMENT

THIS AGREEMENT dated the ____ day of June, 2010.

B E T W E E N:

[NAME OF OWNER]

(hereinafter called the "Owner")

- and -

THE CORPORATION OF THE TOWN OF COLLINGWOOD

(hereinafter called the "Town")

WHEREAS the Owner is the registered owner of the lands located on lands municipally know as _____, Collingwood as more particularly set out in Schedule "A" (the "Lands");

AND WHEREAS construction on the Lands will require the issuance of a building permit under subsection 8(2) of the *Building Code Act, 1992*;

AND WHEREAS the Owner has requested a conditional building permit from the Town pursuant to subsection 8(3) of the *Building Code Act, 1992*, prior to meeting all requirements set out therein to obtain a building permit;

AND WHEREAS the construction affected by this Agreement is the construction listed in Schedule "C" and proposed in Building Permit Application _____, filed with the Town, which includes all required plans, specifications and documentation representing the complete building prerequisites to the issuance of the full building permit;

AND WHEREAS on the basis of the representations of the Owner and materials filed by the Owner respecting the proposed construction, the Chief Building Official is satisfied that:

- (i) compliance with by-laws enacted under sections 34 and 38 of the *Planning Act* and with such other applicable law as may be set out in the Building Code has been achieved in respect of the proposed construction except as identified in Schedule "C";

- (ii) meeting such other requirements would unreasonably delay the proposed construction;
- (iii) restoration of the site is feasible in the event that all the necessary approvals are not ultimately obtained by the Owner;
- (iv) compliance with the applicable laws set out in Sentence 1.3.1.5.(1) of Division C of the Building Code has been achieved.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the granting of a conditional building permit and the term and conditions contained herein, the Owner hereby covenants, promises and agrees with the Town as follows:

1. DEFINITIONS

In this Agreement, the following terms shall have the following meanings:

- (a) "Act" means the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended;
- (b) "Agreement" means this conditional building permit agreement pursuant to the authority of subsection 8(3) of the Act;
- (c) "building" has the same meaning as in the Act, as it is amended from time to time;
- (d) "Building Code" means the regulations made under section 34 of the Act, as amended;
- (e) "Chief Building Official" means the Chief Building Official appointed by the Town of Collingwood under section 3 of the Act;
- (f) "Conditional Permit" means a conditional building permit issued pursuant to subsection 8(3) of the Act and in accordance with this Agreement;
- (g) "Confidential Information" means information which has been identified by the Town as information which should be treated as confidential in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended;
- (h) "construct" has the same meaning as in the Act;
- (i) "Construction" means the construction affected by this Agreement, as is more particularly set out in Schedule "C";
- (j) "Lands" means the real property more particularly set out in Schedule "A" to this Agreement;
- (k) "Owner" means _____;

- (l) "Party" means either the Owner or the Town and "Parties" means both of them;
- (m) "restore" means to return lands to the condition they were in at the time of the permit application and includes the removal of all construction, the replacement of all vegetative matter, the stabilization of slopes and the restoration of drainage patterns and "restoration" has a corresponding meaning;
- (n) "Security" means to either cash or an irrevocable letter of credit as more fully set out in Section 3 of this Agreement which shall constitute financial security to secure the Owner's obligations under this Agreement;
- (o) "Town" means The Corporation of the Town of Collingwood.

2. PRE-CONDITIONS TO ISSUANCE OF CONDITIONAL PERMIT

The Owner covenants and agrees to do the following prior to the issuance of a Conditional Permit:

- (a) file all plans, specifications and documentation required under the Act, the Building Code, or any other applicable law as determined by the Chief Building Official;
- (b) obtain conditional site plan approval from the Town;
- (c) provide satisfactory evidence that compliance with the requirements of all applicable law identified in Sentence 1.3.1.5.(1) of Division C of the Building Code have been satisfied;
- (d) provide evidence that all development charges, payments-in-lieu of parkland dedications, building permit fees and all other applicable levies, rates and charges have been paid to the satisfaction of the Chief Building Official;
- (e) complete Schedule "C"; and
- (f) provide to the Chief Building Official such financial security as may be required to secure the Owner's obligations under this Agreement.

3. SECURITY

The Owner covenants and agrees:

- (a) to deliver cash or an irrevocable letter of credit in the form set out in Schedule "D" (the "Security") in the amount of \$ _____,00 in order to secure its obligations under this Agreement and that the letter of credit shall be for term of this Agreement and shall provide for automatic renewal at the end of said term;
- (b) that the Security may be drawn upon in full or in part by the Town, in the sole discretion of the Chief Building Official, if:

- (i) it is necessary to rectify the workmanship and materials used,
- (ii) it is necessary for the removal of the Construction and the restoration of the Lands as contemplated by this Agreement, or
- (iii) any other matters associated with the proper construction, maintenance and use of the Lands as contemplated by this Agreement,

and if the Town so draws upon the Security that the Town shall maintain records and accounts of the costs of the work undertaken by the Town pursuant to this Agreement and that such records and accounts, together with all supporting invoices, shall be available for inspection during all regular business hours by the Owner or its appointees duly authorized in writing;

- (c) that the Town shall be entitled to draw upon the Security in full and that the Owner forfeits the Security if:
 - (i) any construction or other work has proceeded which, in the opinion of the Chief Building Official, is beyond the Construction which is authorized by the Conditional Permit as specified in Schedule "C", or
 - (ii) the Conditional Permit is revoked by the Chief Building Official because it was issued on mistaken, false or incorrect information, or
 - (iii) any construction or other work authorized by the Conditional Permit has been commenced but, in the opinion of the Chief Building Official, the construction or work has slowed down or has been abandoned so that it is necessary to restore the Lands to a condition satisfactory to the Chief Building Official, or
 - (iv) the timeframes in Schedule "B" have not been complied with;
- (d) that, if the Town receives notice of a financial institution's intention not to renew the Security, the Town may, unless satisfactory alternative financial security is provided prior to non-renewal of the Security, draw upon the Security up to the full amount then existing, notwithstanding that the workmanship and materials used and requirements and conditions of this Agreement may be in compliance at such time; and further that the Town may hold such amounts until the Owner deposits with the Town replacement financial security, without paying any interest to the Owner on the amounts drawn, and the Town may use such amount to remedy or rectify any portion of the workmanship and materials as required or to guarantee the satisfactory compliance with any other terms and conditions contemplated under this Agreement;
- (d) that the Town shall not be liable or obligated to pay interest on any amounts if cash is deposited as Security or if the Security is drawn upon by the Town;
- (e) that any forfeiture of the Security by the Owner or any drawing upon the Security by the Town shall not preclude any other action which may be taken by the Town under the Act nor limit the indemnification required by the Owner as set out in Section 8 of this Agreement.

4. RELEASE/RETURN OF SECURITY

The Owner shall be entitled to a return of the Security by the Town upon the issuance of the final building permit for the proposed development and shall be entitled to a release of any monies drawn upon on the Security but not expended to remedy or rectify the construction, maintenance or use of the Lands or to guarantee the satisfactory compliance with any other terms and conditions set out in this Agreement unless any such moneys have been drawn upon by the expiry date of the Security and have been designated by the Town to be used to pay for work which by such date has been either contracted for or commenced to remedy or rectify the construction, maintenance or use of the Lands in order to ensure that the lands comply with the requirements, terms, conditions and intentions of this Agreement in which case the monies shall not be returned but shall be used to pay for such work.

5. OWNER'S COVENANTS

The Owner covenants and agrees:

- (a) to comply with all conditions of site plan approval pursuant to section 41 of the *Planning Act* that are applicable to the lands including, but not limited to, site servicing, tree protection, fire protection and storm water management;
- (b) to comply with all governing law, including all by-laws of the Town which may pertain to the Lands from time to time;
- (c) to provide and maintain access for emergency vehicles and water supply to the satisfaction of the Town's Fire Department;
- (d) to stop any construction activities on the Lands and secure the Lands to the satisfaction of the Chief Building Official, if so requested by the Chief Building Official; and
- (e) to remove the Construction and restore the Lands if all necessary approvals have not been obtained by the date specified in Schedule "B" and to commence restoration within thirty (30) days of such date or as otherwise directed by the Chief Building Official and to carry out such restoration in a timely manner.

6. RESTORATION AND RIGHT OF ENTRY

The Owner covenants and agrees that if the Construction has not been removed or the Lands have not been restored as required pursuant to Subsection 5(e) that the Chief Building Official may cause the Construction to be removed and the Lands be restored to their original condition and, for this purpose, the Chief Building Official, an inspector and their agents may enter upon the Lands at any reasonable time without a warrant.

7. PRIORITY LIEN

The Owner covenants and agrees that the Town shall have a lien on the Lands for any amount spent by the Town with respect to the removal of the Construction or the restoration of the Lands pursuant to Section 6 and such amount shall have priority lien status in accordance with the *Municipal Act, 2001*.

8. INDEMNIFICATION

The Owner covenants and agrees to:

- (a) at all times hereafter, well and truly save, keep harmless and fully indemnify the Chief Building Official, the Town, its elected officials, officers, employees, contractors and agents and all of their successors and assigns, from and against, all actions, claims and demands whatsoever that may be brought against or made against any of the foregoing and against all loss, liability, judgments, claims, costs, demands or expenses which they may sustain, suffer or be put upon resulting from or arising out of the failure of the Owner, its officials, employees, agents and contractors or any of them, to exercise reasonable care, skill or diligence in the performance or rendering of any work or service required to be performed or rendered under this Agreement and the Conditional Permit;
- (b) pay on behalf of, or repay the Town for, all costs or expenses incurred by the Chief Building Official or the Town relating to the issuance of the Conditional Permit.

9. ACKNOWLEDGMENT

The Owner acknowledges, accepts and agrees that this Agreement is entered into by it and the Town as a condition of the issuance of the Conditional Permit.

10. REGISTRATION OF AGREEMENT

This Agreement may be registered against the Lands and the Town is entitled to enforce its provisions against the Owner and, subject to the *Registry Act* and the *Land Titles Act*, against any and all subsequent owners of the Lands. Should this agreement be registered against the lands, upon the issuance of a full building permit and completion of all of the Owner's obligations under this Agreement, the Town shall provide the registered owner of the Lands with a release of this Agreement in a form that may be registered against title.

11. NOTICE

Any notice required or permitted to be given by under this Agreement or the Act shall be mailed, delivered or sent by facsimile transmission to:

- (a)

Attention:
Fax:

- (b) The Corporation of the Town of Collingwood

Attention: Bill Plewes, Chief Building Official
Fax: (705)

or to such other mailing address, contact person or facsimile number as one Party has notified the other, in writing, and any such notice mailed, delivered or faxed shall be deemed good and sufficient notice under the terms of this Agreement.

12. FREEDOM OF INFORMATION

All information contained in this Agreement, including Confidential Information, is subject to the *Municipal Freedom of Information and Protection of Privacy Act* and may be subject to release pursuant to that Act, notwithstanding the request of those submitting it.

13. COMPLETE AGREEMENT

With the exception of any other power or authority given to the Chief Building Official under the Act, this Agreement, the permit application and the plans, specifications, documentation and approvals referred to constitute the complete and exclusive statement of the agreement between the parties, which supersedes all proposals, oral or written, and all other communications between the parties, relating to the subject matter of this Agreement.

14. OTHER GOVERNING OR APPLICABLE LAWS

Nothing in this Agreement shall relieve the Owner from compliance with all applicable municipal by-laws, laws and/or regulations or laws and/or regulations established by any other governmental body that may have jurisdiction over the Lands.

15. INTERPRETATION OF AGREEMENT

This Agreement shall be interpreted as follows:

- (a) the part numbers and headings, subheadings and section, subsection, clause and paragraph numbers are inserted for convenience of reference only and shall not affect the Construction or interpretation of this Agreement;
- (b) all changes in number and gender shall be construed as may be required by the context;

- (c) every provision of this Agreement by which the Owner or any other person executing this Agreement is obligated in any way shall be deemed to include the words "at the expense of the Owner" unless the context otherwise requires, including the registration of the Agreement on title;
- (d) all references to any statute or any provision thereof include such statute or provision thereof as amended, revised, re-enacted and/or consolidated from time to time and any successor statute thereto;
- (e) all obligations herein contained, although not expressed to be covenants, shall be deemed to be covenants;
- (f) whenever a statement or provision in this Agreement is followed by words denoting inclusion or example and then a list of or reference to specific items, such list or reference shall not be read so as to limit the generality of that statement or provision, even if words such as "without limiting the generality of the foregoing" do not precede such list or reference;
- (g) all covenants, conditions and terms contained in this Agreement shall be severable, and that should any covenant or condition in this Agreement be declared invalid or unenforceable by a court of competent jurisdiction, the remaining covenants and conditions and the remainder of the Agreement shall remain valid and not terminate thereby; and
- (h) all schedules attached to this Agreement form part of this Agreement.

16. MODIFICATIONS TO THE AGREEMENT ONLY IN WRITING

The Parties agree that this Agreement may only be amended, changed, modified or revised by way of a written amendment executed in writing by both Parties or by a court order pursuant to Subsection 15(g).

17. NO ASSIGNMENT

The Owner shall not assign this Agreement or any interest herein without the prior written consent of the Town, and for the purposes of this Agreement, assignment shall include any transfer in the majority ownership or controlling interest in the Owner, whether through the sales of shares, direct acquisition of assets or otherwise.

18. POWERS OF CHIEF BUILDING OFFICIAL

Nothing in this Agreement shall, in any way, lessen the power of the Chief Building Official nor the obligations of the Owner or some other person constructing on behalf of the Owner, under the Act and the Building Code.

SCHEDULE "A"

LEGAL DESCRIPTION OF THE LANDS

[municipal address]

[legal description]

Town of Collingwood, County of Simcoe

SCHEDULE "B"

CONDITIONS OF APPROVAL AND COMPLETION DATES

1.

| APPROVALS OUTSTANDING | COMPLETION DATE |
|--|------------------------|
| Provide access to the site to the satisfaction of the Town | |
| [Insert] | |

2. Unreasonable delays in the constructions would occur if a conditional building permit was not issued because (state reason).

3. The impact on the proposal if a conditional building permit is not issued will be (set out impact).

SCHEDULE "C"

CONSTRUCTION AUTHORIZED UNDER THIS AGREEMENT

[list extend of work that is permitted under agreement]

SCHEDULE "D"
FORM OF LETTER OF CREDIT

Sample - Letter of Credit to be provided as security to the Town of Collingwood for the completion of all Works as approved in the Conditional Building Permit Agreement dated June __, 2010 between _____ and The Corporation of the Town of Collingwood.

NAME OF BANK
BRANCH OR DEPARTMENT
ADDRESS

DATE

LETTER OF CREDIT NO._____

TO: The Corporation of the Town of Collingwood

We hereby authorize you to draw on Bank Name and Address, for the account of our customer, up to an aggregate amount of _____00/100 Dollars () available on demand as follows:

Pursuant to the request of our Customer, we Bank Name hereby establish and give to you an irrevocable Standby Letter of Credit (the "credit") in your favour in the total amount of _____00/100 Dollars (____) which may be drawn on by you at any time and from time to time upon written demand for payment made upon us by you, which demand we shall honour without inquiring whether you have a right as between yourself and our Customer to make such demand and without recognizing any claim of our customer.

Provided, however, that you are to deliver to us at such time as written demand for payment is made upon us a certificate purported to be signed by an authorized officer of the Town of Collingwood, agreeing and/or confirming that monies drawn pursuant to this Credit No. _____ will be retained and used by you to meet any obligations in connection with the Agreement.

The amount of this Credit shall be reduced from time to time as advised by notice in writing given to this branch from time to time by you.

This credit will continue to the _____ day of _____, _____ and will expire at the Branch address at the close of banking business on that date.

It is condition of this Credit that it shall be deemed to be automatically extended for one year from the present or any future expiration date hereof, unless 30 days before any such date we notify you in writing by Registered Mail that we elect not to consider this Credit renewed for any such additional period. Upon receipt by you of such notice, you may draw by means of your demand accompanied by your written certification, that the amount will be retained and used by you to meet obligations incurred or to be incurred in connection with the Agreement.

Partial drawings are permitted.

Bank

SIGNED

SIGNED

[This wording cannot be altered and must be printed on official bank letterhead with original signatures.]

BY-LAW No. 2010-XXX
OF THE
CORPORATION OF THE TOWN OF COLLINGWOOD



BEING A BY-LAW TO DELEGATE AUTHORITY UNDER SECTION 8(3.1) OF THE
BUILDING CODE ACT TO THE CHIEF BUILDING OFFICIAL

WHEREAS section 8(3) of the *Building Code Act, 1992* S.O. 1992, c. 23 provides the chief building official with authority to issue a conditional permit for any stage of construction even though all requirements have not been met to obtain a permit under subsection 8(2);

AND WHEREAS section 8(3.1) of the *Building Code Act, 1992* S.O. 1992, c. 23 authorizes a council of a municipality to delegate to the chief building official the power to enter into agreements described in clause 8(3)(c) and may impose conditions or restrictions with respect to the delegation;

NOW THEREFORE COUNCIL OF THE CORPORATION OF THE TOWN OF COLLINGWOOD ENACTS AS FOLLOWS:

1. **THAT** Council hereby delegate authority to the Chief Building Official of the Town of Collingwood to enter into agreements with respect to the issuance of conditional building permits as prescribed under section 8 of the *Building Code Act, 1992*;
2. **THAT** this By-law shall come into full force and effect on the date of final passage hereof at which time all By-laws and/or resolutions that are inconsistent with the provisions of this By-law and the same are hereby repealed or rescinded insofar as it is necessary to give effect to the provisions of this By-law.

ENACTED AND PASSED this 21st day of June, 2010.

MAYOR

CLERK