



Planning and Development

595 9th Avenue East, Owen Sound ON N4K 3E3
519-372-0219 / 1-800-567-GREY / Fax 519-376-7970

November 18, 2021

Ms. Krystin Rennie
Georgian Planning Solutions
17 Brock Crescent
Collingwood, ON, L9Y 4A4
Sent Via Email

**Re: County file no.: 42-CDM-2006-11 – Cottages of Lora Bay (Keepers Cove)
Part of Lot 39, Concession 12, Part of Lots 1 & 3, Plan 1032,
(Geographic Township of Collingwood), Town of The Blue Mountains**


Dear Ms. Rennie:

Pursuant to Subsection 51(45) of the Planning Act R.S.O. 1990, as amended, the above noted draft plan of condominium is hereby amended. Please see the attached Notice of Decision for further information regarding this decision.

The revised conditions that must be fulfilled prior to final approval are also attached.

The approval of this draft plan will lapse on **December 12th, 2022**. The approval may be extended pursuant to Subsection 51(33) of the Act, but no extension can be granted once the approval has lapsed.

Yours truly,



Randy Scherzer, MCIP, RPP
Deputy CAO
519-372-0219 extension 1237
randy.scherzer@grey.ca
www.grey.ca

Encl.

c.c. Town of The Blue Mountains (by email only)
Ministry of Municipal Affairs and Housing (by email only)

Grey Sauble Conservation Authority (by email only)
Reid's Heritage Homes (by email only)
Elizabeth Ardiel (by email only)
Tim Blevins (by email only)
David Brandon (by email only)
Drew Brims (by email only)
Elizabeth Brims (by email only)
Judy and Dan Brown (by email only)
Bev Campbell (by email only)
Eric and Denise Carre (by email only)
Shauna Cottrell (by email only)
David Downer (by email only)
Glen Downey (by email only)
John Drewry (by email only)
Stewart Elkins (by email only)
Peter Evans (by email only)
Mike Gibson (by email only)
Vickey Gibson (by email only)
Chris Gray (by email only)
Mark Greenwald (by email only)
Joan Grenier (by email only)
Barb Heerschap (by email only)
Bruce Houghton (by email only)
Sandra Hunsberger (by email only)
Doug Lindsay (by email only)
Lyn Logan (by email only)
Elizabeth MacKinnon (by email only)
Blair Macnaughton (by email only)
Katherine Matheson (by email only)
Philip and Susan Mayner (by email only)
Domenic Meffe (by email only)
Jocelyn Murray (by email only)
Sue and Ed Novotny (by email only)
Richard Ottewell (by email only)
Diane Parkin (by email only)
S. Blair Patrick (by email only)
Murray Pearson (by email only)
Shirley Phillips (by email only)
Shirley Roberts (by email only)
Grant Russell (by email only)
Ken Schneider (by email only)
Brad Thomson (by email only)
Jim Torrance (by email only)
Brenda VanWieringen (by email only)
Roy Wilson (by email only)

NOTICE OF DECISION

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

Draft Plan Approval was originally given by the County to Plan of Condominium 42-CDM-2006-11 on October 12, 2006 with revisions on November 16, 2006, May 15, 2008 and August 24, 2017. Phases 1 – 4 of the development have been final approved and registered. Revised Draft Plan Approval for further phases is hereby given by the County of Grey for the application regarding the above noted lands. A copy of the Decision is attached.

PUBLIC AND AGENCY COMMENTS RECEIVED ON THE FILE

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

WHEN AND HOW TO FILE A NOTICE OF APPEAL

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

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

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

RIGHT OF APPLICANT OR PUBLIC BODY TO APPEAL CONDITIONS

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

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

WHO CAN FILE A NOTICE OF APPEAL

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

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

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

Municipality: Town of The Blue Mountains

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

Date of Decision: November 12, 2021

Last Date of Appeal: December 8, 2021

Date of Notice: November 18, 2021

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

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

HOW TO RECEIVE NOTICE OF CHANGED CONDITIONS

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

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

RELATED APPLICATIONS

None

GETTING ADDITIONAL INFORMATION

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

ADDRESS FOR NOTICE OF APPEAL

**County of Grey
595-9th Avenue East**

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OWEN SOUND, Ontario N4K 3E3
Attention: Mr. Randy Scherzer, MCIP RPP
Deputy CAO

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No. Conditions

1. A new condition 19 is to be added as follows:
"The Owner acknowledges that this Draft Plan Approval provides water plant and sanitary sewer plant reservation. 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. Prior to execution of a Pre-Servicing Agreement and/or Condominium Agreement with the Town, sufficient water and sanitary sewer capacity shall be confirmed as available and allocated by the Town."
2. A new condition 20 is to be added as follows:
"That prior to final approval and registration of the Plan, the Town shall provide confirmation to the County that there is sufficient built water and sanitary capacity available and allocated to service the entire plan of condominium, based on actual usage, as determined by the Town's monitoring of water flows and sanitary sewer flows."
3. A new condition 21 is to be added as follows:
"That the Condominium Agreement shall detail and confirm the water and sanitary servicing capacity allocated to this plan of condominium."
4. A new condition 22 is to be added as follows:
"That the Owner shall install the necessary infrastructure for fibre optic network expansion, if available, within each future condominium phase."
5. A new condition 23 is to be added as follows:
"That the owner(s) agree in the Condominium Agreement to include in all Offers of Purchase and Sale a statement advising prospective purchasers that accommodation within a public school in the community is not guaranteed and students may be accommodated in temporary facilities; including but not limited to accommodation in a portable classroom, a "holding school", or in an alternate school within or outside of the community."
6. A new condition 24 is to be added as follows:
"That the owners(s) agree in the Condominium Agreement to include in all Offers of Purchase and Sale a statement advising prospective purchasers that if school buses are required within the Condominium in accordance with Board Transportation policies, as may be amended from time to time, school bus pick up points will generally be located

on the through street at a location as determined by the Student Transportation Service Consortium of Grey Bruce.”

7. A new condition 25 is to be added as follows:

“That prior to execution of any Condominium 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:
 - a. 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
 - b. Off-site works on Town Owned Lands/Roads following receipt of appropriate approvals.

Furthermore, the owners(s) agree in the Condominium Agreement to organize and participate in monthly communication meetings with representatives of the adjacent condominium corporations. 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 house construction.”

8. A new condition 26 is to be added as follows:

“That the Condominium Agreement shall detail matters related to representations and warranties and cross-default clauses to the satisfaction of the Town’s legal counsel.”

9. A new condition 27 is to be added as follows:

“The owners(s) agree in the Condominium Agreement, to the satisfaction of the Town, to undertake the design and installation of a landscaping buffer (living screen) in the rear yards of proposed Units 40 through 48 inclusive, Phase 5. The design of the landscaping buffer shall account for the final design and maintenance of required stormwater management works.”

10. Existing condition 14, as shown below, is hereby deleted;

~~“That prior to final approval, the County is advised in writing by the Town of The Blue Mountains how conditions 2 to 12 inclusive, have been satisfied.”~~

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

“That prior to final approval, the County is advised in writing by the Town of The Blue mountains how conditions 2 to 27 inclusive, have been satisfied.”

11. That all other conditions of draft approval given by the County of Grey on August 24, 2017, shall remain in effect.

Committee Report

To:	Warden Hicks and Members of Grey County Council
Committee Date:	November 12, 2021
Subject / Report No:	PDR-CW-26-21
Title:	Cottages of Lora Bay Draft Plan Extension
Prepared by:	Scott Taylor
Reviewed by:	Randy Scherzer
Lower Tier(s) Affected:	Town of The Blue Mountains
Status:	

Recommendation

1. That PDR-CW-26-21 be received; and
2. That in consideration of the application for extension of the lapsing date for the approval of draft plan of condominium 42-CDM-2006-11 on lands described as Part of Lot 39, Concession 12 being Part of Lots 1 & 3, Registrar's Compiled Plan 1032, (geographic Township of Collingwood) in the Town of The Blue Mountains, the County of Grey Committee of the Whole hereby:
 - a. revises the conditions for the approval for the draft plan of condominium as set out in the draft Notice of Decision attached to PDR-CW-26-21; and
 - b. extends the lapsing date to December 12, 2022.

Executive Summary

The report considers an extension and proposed revisions to draft plan conditions for draft plan of condominium 42-CDM-2006-11 known as Cottages of Lora Bay (formerly known as Keepers Cove). Cottages of Lora Bay have asked for a one-year extension to their current draft approval. Town of The Blue Mountains Council has not supported this draft plan extension. County staff are recommending that the draft plan of condominium be extended, subject to some revised conditions of draft plan approval that were recommended by Town of The Blue Mountains staff.

Background and Discussion

The County has received a draft plan extension request (for one year, to December 12, 2022) to extend the draft plan of condominium approval for file 42-CDM-2006-11, known as Cottages of Lora Bay. The subject lands are described as Part of Lot 39, Concession 12 being Part of Lots 1

& 3, Registrar's Compiled Plan 1032, (geographic Township of Collingwood) in the Town of The Blue Mountains (see Map 1 – Subject Lands).

Map 1 – Airphoto of the Subject Lands



Draft approval was originally granted in 2006, with revisions later in 2006, 2008, and 2017. Map 2 below shows the most recent draft approved plan from 2017, while Map 3 shows the proposed phasing.

The Applicant has submitted a Planning Justification Letter outlining how the criteria for extensions of draft approval in section 9.13.1 of the County Official Plan have been met. A link to that analysis can be found in the Attachments section of this report.

Phases 1 – 4 of the proposed development are either already constructed or registered. Phases 5 and future phases (shown in green and beige on Map 3 respectively) could lapse if this draft approval is not extended. The agent for the developer has noted that 43 of the 56 units in phase 5 are already pre-sold.

Map 2 – 2017 Draft Plan of Condominium (Courtesy Georgian Planning Solutions)



Normally the extension of a draft approval is a staff delegated authority, where there is support from the municipality where the lands are located. In this case the draft plan extension was not supported by Town of The Blue Mountains Council. Town staff did prepare staff reports on this matter, which recommended some changes to the draft plan conditions for this development. The Town staff reports are linked to in the Attachments section of this report. County staff would generally concur with their findings. Although the extension of draft approval has been delegated to staff, where there is support from the member municipality, County staff do not have delegated authority to revise conditions of draft plan approval. As a result, County staff are bringing this matter forward to the County Committee of the Whole for two reasons;

1. Based on the fact that the extension was not supported by Town of The Blue Mountains Council, and
2. Based on the recommended changes to the draft plan conditions.

Public and Agency Comments Received

Public Comments

Normally as part of a draft plan extension process comments are not solicited by the public. In this case, several comments were received from the public including deputations to Town of The Blue Mountains Council, as well as a scheduled deputation to the County Committee of the Whole. A summary of the comments received is as follows:

- Concerns regarding the zoning provisions including;
 - Height – the dwellings with walkout basements in phase 5 are too high,
 - The zoning needs to be amended in terms of how height is measured,
 - Setbacks – the rear yard setbacks are not large enough,
- Concerns over land use compatibility,
- Questions about the planning process including concerns regarding a lack of consultation,
- Grading concerns for the future phases in relation to the existing homes,
- Concerns with how the grading has been communicated to residents since the initial approval,
- Drainage and flooding issues in the existing development including the functionality of storm sewers and catch basins,
- Questions about the accuracy of some of the materials presented,
- The need for more greenspace and buffers,
- The location and amount of visitor parking,
- Concerns about the construction of future phases including noise, vibration, and where contractors and trades can park,
- Concerns about the impact on property values to existing residents,
- Concerns about how the development was marketed and what was portrayed to existing homeowners,
- Concerns about the responses received from the developer, and
- The desire to work together collaboratively between residents and the developer using creative problem solving.

Agency Comments

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

Town of The Blue Mountains

In staff reports dated September 21st and October 4th, 2021, Town Planning staff supported the proposed one-year draft plan extension, with some recommended revised conditions of draft plan approval. Town Development Engineering staff also provided staff reports on this application on August 11th and September 21st, 2021. These staff reports are all linked to in the Attachments section of this report.

Analysis of Planning Issues

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

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

- a) reflects some of the neighbours' comments and concerns (e.g. the design and installation of a landscaping buffer (living screen) in the rear yards of proposed Units 40 through 48 inclusive), and
- b) modernizes the wording around local school capacities, servicing allocations, and utilities (e.g. install the necessary infrastructure for fibre optic network expansion, if available, within each future condominium phase).

Although there are recommended changes to the draft plan conditions, staff would note that the developer has not applied for changes to the Town's zoning by-law and no changes are being contemplated to the zoning at this time.

The Town's development engineering staff have provided their technical opinions on the grading and drainage matters, as well as the questions around the walkout basement home designs, and have noted the following:

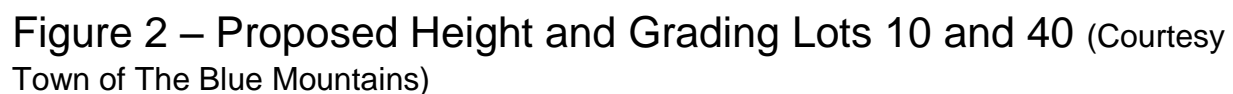
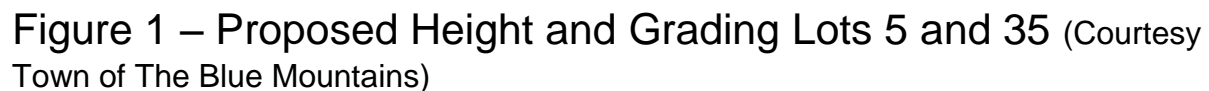
"In summary, the 2021 Proposed Design has the following benefits:

- *Has approximately twice the amount of stormwater capacity than the previous 2008 design*
- *Better protects Phase 1 from extreme weather events (i.e. those beyond the 1:100 Year storm)*
- *Lowers the height of the proposed retaining wall that has always been proposed at the south limit of the site, from a 2.7 metre maximum height to 2 metre maximum height*
- *Reduces the amount of fill that needs to be removed from the site (consistent with Ontario Regulation 406/19), and,*
- *Provides a better overall stormwater management solution through enhancing the overland flow capacity of Schooner's Lane.*

For additional visual understanding of the change in grading, comparisons of 2008 vs. 2021 house sections of both Lots 35 and 40 in Phase 5 are provided in Attachment 4 [included in the Town staff report linked to this report below].

Town Staff are aware of the desire of some existing residents to have Schooner's Lane (Phase 5) be constructed at the same elevation as Anchor's Way, thereby reducing or eliminating walkout units constructed on Schooner's Lane. To be clear, the 2008

Figures 1 and 2 below, from the Town staff reports, also show some comparisons of the height and grading in the proposed phase 5, as they would back onto existing homes on Anchors Way.



Date: November 12, 2021

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

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

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

Staff would further note that the majority of the comments received appear to be in relation to phase 5 of the development, including the proximity to homes built in phases 1 – 1B. County staff are of the understanding that the developer is getting close to clearing the conditions on phase 5 and may be able to proceed with registration of phase 5 even without the requested draft plan extension. The extension would still serve to extend the draft plan approval on future phases, whether it be for phase 5 or future phases.

Staff are further satisfied that the appropriate *Planning Act* approvals process has been followed in the previous approvals on this development.

Should the Committee of the Whole defer making a decision on November 12, 2021, staff would note that a decision would need to be rendered at the December 9, 2021 meeting (as there are no further Committee of the Whole meetings scheduled prior to the lapse date), otherwise the draft approval would lapse. In this case a 'non-decision' by the County would have the same effect as the refusal of the extension request. Staff have identified legal risks and concerns that may arise if this draft plan extension is not granted. Staff are recommending support for the proposed extension including revised draft plan conditions and see no planning rationale for why this draft approval should not be extended.

Legal and Legislated Requirements

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

If a decision is not made on the application for extension of the lapsing date by December 12, 2021, the existing approval will fully lapse and the applicant would need to commence a new approval process with respect to the lands in phases 5 and any future phases.

Financial and Resource Implications

The County has collected the requisite fee for this proposed extension. County staff are aware of the concerns from both Town Council and residents with respect to this file. Should the County's decision be challenged, additional resources may be needed to defend this position.

Relevant Consultation

☒ Internal: Planning, Legal Services

☒ External: Town of The Blue Mountains, public

Appendices and Attachments

[August 11, 2021, Development Engineering Staff Report PDS.21.095](#)

[September 21, 2021, Development Engineering Staff Report PDS.21.120](#)

[September 21, 2021, Planning Staff Report PDS.21.110](#)

[October 4, 2021, Planning Staff Report PDS.21.128](#)

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

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

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7. A company operating a railway line any part of which is located within 300 metres of any part of the area to which the plan of condominium would apply.
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RELATED APPLICATIONS

None

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Date of Decision:

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OWEN SOUND, Ontario N4K 3E3

Attention: Mr. Randy Scherzer, MCIP RPP

Deputy CAO

on the through street at a location as determined by the Student Transportation Service Consortium of Grey Bruce.”

7. A new condition 25 is to be added as follows:

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 - a. 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
 - b. Off-site works on Town Owned Lands/Roads following receipt of appropriate approvals.

Furthermore, the owners(s) agree in the Condominium Agreement to organize and participate in monthly communication meetings with representatives of the adjacent condominium corporations. 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 house construction.”

8. A new condition 26 is to be added as follows:

“That the Condominium Agreement shall detail matters related to representations and warranties and cross-default clauses to the satisfaction of the Town’s legal counsel.”

9. A new condition 27 is to be added as follows:

“The owners(s) agree in the Condominium Agreement, to the satisfaction of the Town, to undertake the design and installation of a landscaping buffer (living screen) in the rear yards of proposed Units 40 through 48 inclusive, Phase 5. The design of the landscaping buffer shall account for the final design and maintenance of required stormwater management works.”

10. Existing condition 14, as shown below, is hereby deleted;

~~“That prior to final approval, the County is advised in writing by the Town of The Blue Mountains how conditions 2 to 12 inclusive, have been satisfied.”~~

Date of Notice:

11. That all other conditions of draft approval given by the County of Grey on August 24, 2017, shall remain in effect.