The Corporation of the Town of South Bruce Peninsula

By-Law Number 41-2017

Being a By-Law to Authorize the Mayor and Clerk to Sign a Site Plan Control Agreement with Bruce Peninsula Association for Community Living for Pt Park Lt D PI Wiarton as in R366488

Whereas Section 8 of the Municipal Act, 2001, Chapter 25, as amended, provides that Section 8 shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality’s ability to respond to municipal issues;

And whereas Section 9 of the Municipal Act, 2001, Chapter 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

And whereas Section 41 of the Planning Act, RSO 1990, Chapter P13 makes provision for site plan control;

And whereas a site plan control agreement has been negotiated with Bruce Peninsula Association for Community Living for property known as Pt Park Lt D PI Wiarton as in R366488; South Bruce Peninsula as described in PIN 33142-0170 (LT).

Now therefore the Council of the Corporation of the Town of South Bruce Peninsula enacts as follows:

1) That the Mayor and Clerk are hereby authorized to sign the site plan control agreement with Bruce Peninsula Association for Community Living.

2) That such changes as are considered to be minor in nature or which do not materially change the development will be permitted to be made to the site plan control agreement without amendment to this by-law.

3) That the site plan control agreement as referred to herein shall be attached hereto and form part of this by-law.

Read a first and second time this 2nd day of May, 2017.

[Signatures]

Mayor

Clerk
Read a third time and finally passed this 2nd day of May, 2017.

[Signature]
Mayor

[Signature]
Clerk
This agreement made this 2nd day of May, 2017

Between

Bruce Peninsula Association for Community Living
(the “Owner”)

And

The Corporation of the Town of South Bruce Peninsula
(the “Town”)

Whereas the Owner is the Owner of the lands described on Schedule “A” attached hereto (the “lands”);

And whereas the Town has passed By-Law 77-2016 (an amendment to the Comprehensive Zoning By-Law for the Town of South Bruce Peninsula) on the 6th day of September, 2016 to permit a medium density multiple family residential special use;

And whereas By-Law 77-2016 designates the lands as being subject to Site Plan Control pursuant to Section 41 of the Planning Act of Ontario;

And whereas the Owner has submitted a Site Plan to the Town relating to the proposed work to construct a four plex group home;

And whereas the Town has approved the Site Plan and drawings submitted by the Owner subject to the entering into of this Agreement;

And whereas Subsection 41(10) of the Planning Act permits the registration of this Agreement against the lands to which it applies.

In consideration of the premises and other good and valuable consideration, the receipt and sufficiency whereof the parties irrevocably acknowledge, the parties agree as follows:

1. The Owner agrees to construct and maintain the four plex group home in substantial conformity with the Site Plan and drawings described in Schedule “B” to this Agreement.

2. The Owner agrees to comply with any and all provisions of any Building Permit issued by the Town to the Owner with respect to the construction of a four plex group home in accordance with the Site Plan Agreement.

3. The Owner agrees to comply with any and all provisions including permits, fees
and charges as they pertain to the attachment and maintenance of connection to the municipal water and sewer services with respect to the property and lands as described in Schedule “A” to this Agreement.

The Owner agrees to comply with any and all provisions including the payment of fees under any Development Charges By-Law which is in force throughout the duration of this Agreement.

4. The Owner hereby agrees to the special conditions as set forth in Schedule “C” attached hereto and forming part of this Agreement.

5. The Owner hereby agrees and will expeditiously cause to be paid to the Town, any and all fees, deposits or other such consideration as is deemed necessary by the Town for the fulfillment of this Agreement. Said fees, deposits or other consideration is set forth in Schedule “D” attached hereto and forming part of this Agreement.

6. The Owner hereby agrees that this Agreement, together with any schedules thereto, will be registered upon title to the Lands. The covenants, agreements, conditions and undertakings herein contained on the part of the Owner shall run with the Lands and shall be binding upon it, its successors and assigns as owners and occupiers from time to time and this covenant shall be to the benefit of the Town and its lands and highways appurtenant and adjacent to the Lands. The Owner further covenants and agrees to pay to the Town the cost of registration of this Agreement, as well as any further costs incurred by the Town as a result of the registration of any other documents pertaining to this Agreement.

7. The Owner acknowledges that the Town, in addition to any other remedy it may have at law, shall also be entitled to enforce this Agreement in accordance with Section 446 of the Municipal Act, 2001.

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

9. Every provision of this Agreement by which the Owner 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 payment of any and all applicable taxes.

10. References herein 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.

Site Plan Control Agreement 4-2016
Bruce Peninsula Association for Community Living
May 2, 2017
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11. The Owner and the Town agree that all covenants and conditions 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.

12. The failure of the Town at any time to require performance by the Owner of any obligation under this Agreement shall in no way affect its right thereafter to enforce such obligation, nor shall the waiver by the Town of the performance of any obligation hereunder be taken or be held to be a waiver of the performance of the same or any other obligation hereunder at any later time. The Town shall specifically retain its rights at law to enforce this Agreement.

13. The parties covenant and agree with each other not to call into question or challenge, directly or indirectly, in any proceeding or action in court, or before any administrative tribunal, the party’s right to enter into and enforce this Agreement. The law of contract applies to this Agreement and the parties are entitled to all remedies arising from it, notwithstanding any provision in s. 41 of the Planning Act interpreted to the contrary. The parties agree that adequate consideration has flowed from each party to the other and that they are not severable. This provision may be pleaded by either party in any action or proceeding as an estoppel of any denial of such right.

14. This Agreement shall be binding on all successors, assigns or heirs.

15. This Agreement shall be interpreted under and be governed by the laws of the Province of Ontario.

16. The parties hereto hereby agree that such changes as may be required to the Agreement, Site Plan or any documentation thereto may be made without the requirement to return for Council approval provided that the changes are minor in nature and do not constitute a substantial material change from that originally approved by Council.

The parties hereto must agree with the changes to the Agreement and said agreement will be in writing and signed by the parties hereto.

In witness whereof the Owner and the Town have executed this Agreement; the Town has executed this Agreement by its officers duly authorized in that behalf.
The Corporation of the Town of South Bruce Peninsula
Per:

Janice Jackson, Mayor

Angela Cathrae, Clerk

We have the authority to bind the Corporation.

The Owner
Bruce Peninsula Association for Community Living
Per:

Witness
Bruce Peninsula Association for Community Living

Witness
Bruce Peninsula Association for Community Living
Schedule “A”

to the Site Plan Control Agreement dated the 2nd day of May, 2017 between Bruce Peninsula Association for Community Living and The Corporation of the Town of South Bruce Peninsula

Legal Description

Pt Park Lt D PL Wiarton as in R366488; South Bruce Peninsula as described in PIN 33142-0170 (LT)

Municipally known as 339 Mary Street, Wiarton

Roll Number 41-02-580-002-01200
Schedule “B”

to the Site Plan Control Agreement dated the 2nd day of May, 2017 between Bruce Peninsula Association for Community Living and The Corporation of the Town of South Bruce Peninsula

Drawings are available for viewing in paper format at the Town of South Bruce Peninsula office during regular business hours:

1. Site Plan and Grading Drawing  
   Dated: April 10, 2017  
   Prepared By: WMI & Associates Limited

2. Elevations  
   Dated: April 7, 2017  
   Prepared By: Ron Martin
Schedule “C”

to the Site Plan Control Agreement dated the 2nd day of May, 2017 between Bruce Peninsula Association for Community Living and The Corporation of the Town of South Bruce Peninsula

Fees

1. Site Plan Control Application Fee $500.00
2. Legal Fees (Including Applicable Taxes) Actual Costs
   - Shall include but not be limited to the registration of the Site Plan Control Agreement on title

Securities

3. Landscaping Deposit $200.00
   - to be held by the Town for a period of one (1) year after substantial completion of the project as described herein

4. Road/Servicing Deposit $5000.00
   - to be held by the Town for a period of one (1) year after Substantial completion of the project as described herein

Type of Securities

The Town of South Bruce Peninsula requests that the security be given to the Town in the form of a certified cheque or letter of credit which will be held by the Town until such time as the securities may be released. No interest will be paid to the Owner for any securities or funds held by the Town.

Release of Securities

The Town shall release all securities to the Owner one year after the substantial completion of the project. Substantial completion shall be achieved once the requirements under the Building Code Act have been met with regard to final occupancy of the dwelling unit and all provisions with regard to the Site Plan Control Agreement and approved drawings have been completed to the satisfaction of the Town. The Owner must make application in writing to the Town to request substantial completion and must also make application in writing to the Town for the release of the securities. Failure to comply with any provision herein may result in the loss of securities. The Town reserves the right to use any securities to complete any works it deems necessary with regard to the Site Plan Control Agreement.
Schedule “D”

to the Site Plan Control Agreement dated the 2nd day of May, 2017 between Bruce Peninsula Association for Community Living and The Corporation of the Town of South Bruce Peninsula

Special Conditions

1. The property will be serviced by one (1) water meter.

2. When completing any external (road/servicing) works, the Owner will at his sole expense return any disturbed areas to a condition equal to or better than prior to disturbance.

3. Vegetation and plantings on the property will at minimum include trees as shown on the Site Plan and Grading Drawing. Wherever possible, it is recommended that the Owner use native plants or maintain plants or vegetation which existed on the property prior to the development of said lands.

4. A retaining wall as shown on the Site Plan and Grading Drawing will be installed and maintained to a standard as when initially installed.

5. The Owner shall save harmless the Town from any damage which may occur as a result of blasting, digging or in any way disturbing the soil, bedrock, surface or subsurface of the lands as described in Schedule A attached hereto. The Owner shall assume sole responsibility and cost for any infrastructure or any other thing which is disturbed or in any way damaged or altered as a result of site preparation or construction on the lands described herein.

All conditions and special conditions shall be at the sole expense of the Owner.