

Staff Report to Council

Title: Development Agreement
Exemption – 729 Bruce Road 23

Report Number: Development Services-2024-23

Director: Infrastructure &
Development

Manager: Development Services

Meeting Date:
Wednesday, August 14, 2024

Date to be considered by Council:
Wednesday, August 14, 2024

Recommendation:

That the Council of the Municipality of Kincardine rescind By-law No. 2010-103 being a By-law to Authorize the Signing of an Interim Development Agreement with Susan K. Pryde to exclude the property known as PT BLK 16PL 3M183, PT 3 3R9067; Municipality of Kincardine (729 Bruce Road 23) from the requirements of the Interim Agreement; and

That the Interim Development Agreement be removed from title on the property known as PT BLK 16PL 3M183, PT 3 3R9067; Municipality of Kincardine (729 Bruce Road 23); and

Further that Council authorize the Mayor and Clerk to execute all required documentation on behalf of the Municipality.

Executive Summary:

The parcel of land located at 729 Bruce Road 23 was severed off the lands known as Part Lots 49 and 50, Concession A, Block 16 RP 3M-183 in the geographic Township of Kincardine. Two (2) other parcels of land were also severed from the same parcel. As a condition of severance, the owner was required to enter into a registered Agreement with the Municipality, in consultation with the Conservation Authority, to address drainage, building location, and vegetation retention. The owner was not intending to develop the severed lots themselves, so an Interim Development Agreement was entered to satisfy the condition of severance. The Interim Agreement required a further development agreement be entered into, prior to development of the lands.

Strategic Priorities:

B.6-Protect and preserve our environment

Financial Considerations:

Legal costs associated with preparing the Undertaking and discharging the Interim Development Agreement from title will be paid by the property owner.

Policy:

Interim Development Agreement dated July 14, 2010

Context and Background Information:

The parcel of land located at 729 Bruce Road 23 was severed off the lands known as Part Lots 49 and 50, Concession A, Block 16 RP 3M-183 in the geographic Township of Kincardine. Two (2) other parcels of land were also severed from the same parcel in 2010. As a condition of severance, an Interim Development Agreement was entered into which required future owners to enter into a further Development Agreement for the severed lands and that the Agreement be registered on title.

The Interim Agreement was to satisfy both the Municipality and Saugeen Valley Conservation Authority (SVCA) for future development to address drainage, building location, and vegetation retention. However, Bill 23 removed the authority over natural heritage features from SVCA and that authority now lies with the County.

Drainage and building location will be address through the building permit application process.

An Arborist Report and Tree Retention Drawing has been provided and accepted by the County of Bruce Planning Department. The property owner has signed an Undertaking with the Municipality confirming they will follow the recommendations of the Arborist report and the tree retention plan.

Consultation Overview:

The original intent of the Interim Development Agreement with regards to Tree Retention was to have an Arborist Report and Tree Retention plan approved by the SVCA. However, Bill 23, removed the conservation authority's ability to comment on natural heritage features.

Therefore, staff consulted with Bruce County Planning, who now has commenting authority.

County Staff provided the following comment:

“Generally speaking, the provided tree retention plan and arborist report appear to be consistent with the natural heritage comments provided by the SVCA in 2009. We note the potential for any of the noted ash to be Black Ash given the moist conditions noted on site. Regulations protecting Black Ash under the Endangered Species Act, 2007 were passed in early 2024. Ash species should be appropriately identified and any tree clearing activities should ensure consistency with these regulations (O. Reg. 6/24 and O. Reg. 7/24).”

Staff consulted legal to determine if a further development agreement was necessary, as a single detached dwelling is exempt from site plan control. The Municipal Lawyer prepared an Undertaking for the property owner to sign to confirm they will develop the lot in accordance with the approved Arborist Report and Tree Retention Plan. It also required the owner to have any future purchaser of the lands to agree to the same undertaking.

Origin:

Owner request.

Implementation Considerations:

Grading, drainage, building, and septic location will all be addressed through the building permit application process. The Arborist Report and Tree Retention Plan have been approved and an Undertaking signed. Staff feel this addresses the requirements of the initial condition of severance and no further development agreement is required. The Interim Development Agreement needs to be removed from title before a building permit can be issued.

Risk Analysis:

By having the property owner sign an Undertaking confirming they will follow the Arborist Report and Tree Retention Plan the Municipality has mitigated the risks of not entering into a further development agreement.

Attachments: Interim Development Agreement – July 14, 2010
Tree Retention Concept Site Plan

Prepared by: Amberly Weber, Planning Coordinator

Submitted by: Dwayne McNab, Manager of Development Services/Chief Building Official