

BY-LAW NUMBER 18-16

OF

THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW

A By-law to authorize the entering into a Memorandum of Understanding Alliance Heritage Village Subdivision between Alliance Heritage Village Inc. and The Corporation of the Township of Clearview for 187 Mary Street, Creemore.

WHEREAS Alliance Heritage Village Inc. has applied to the Township for subdivision approval for 187 Mary Street, Creemore;

AND WHEREAS the municipality is authorized to enter into such agreements pursuant to Section 51(26) of the Planning Act R.S.O., 1990, c.P.13 as amended;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW HEREBY ENACTS AS FOLLOWS:

1. The Mayor and Clerk are hereby authorized and directed to execute a Memorandum of Understanding Alliance Heritage Village Subdivision with Alliance Heritage Village Inc., in the form attached hereto as Schedule "A" and Schedule "A" forms part of this By-law.
2. This By-law shall come into force and take effect on the date of its passing.

By-law Number 18-06 read a first, second and third time and finally passed this 12th day of February, 2018.

Chris Vanderkruys, MAYOR

Pamela Fettes, DIRECTOR OF LEGISLATIVE SERVICES/CLERK

TOWNSHIP OF CLEARVIEW
MEMORANDUM OF UNDERSTANDING
ALLIANCE HERITAGE VILLAGE SUBDIVISION

THIS MOU is dated and effective as of January 26, 2018.

B E T W E E N:

ALLIANCE HERITAGE VILLAGE INC.
(hereinafter referred to as the “**Owner**”)

and

THE CORPORATION OF THE TOWNSHIP OF CLEARVIEW
(hereinafter referred to as the “**Township**”)

RECITALS:

- A.** The Owner intends to develop the Lands located in the former Village of Creemore, now Township of Clearview, pursuant to the Approval for the registration of a Plan of Subdivision which Lands are more particularly described in Schedule “A” to this MOU;
- B.** The Owner wishes to proceed with the registration of the Plan of Subdivision which will allow the Owner develop the Lands in accordance with the requirements of the Approval in various phases;
- C.** The Township is prepared to allow the Owner to proceed with the development of the Plan of Subdivision in phases subject the Owner executing and registering the Township’s form of Subdivision Agreement for the subdivision and development of the Lands including provisions specifically related to development in phases;
- D.** The Owner has prepared and submitted to the Township an updated Phasing Plan setting out the initial phasing for development of the Plan of Subdivision a copy of which is appended as Schedule “B” to this MOU;
- E.** The Township has agreed to allow the Owner to proceed, in accordance with the Approval, with the development of the Plan of Subdivision pursuant to the Phasing Plan commencing with Phase 1A and that development of future phases will proceed subject to the Owner entering into Subdivision Amending Agreement with the Township for registration on title to each subsequent phase as a condition of approval to proceed with that phase;

- F. The Owner and the Township have entered into this MOU to set out their mutual understanding concerning the Approval to proceed with the development of the Plan of Subdivision in phases and to ensure clarity in terms of their expectations including the expectations of (“CARA”) related the overall development of the Lands pursuant to the Approval.

THE PARTIES TO THIS MOU ACKNOWLEDGE AND CONFIRM THEIR MUTUAL UNDERSTANDING as follows:

**Article 1
DEFINITIONS**

- (a) **“Approval”** means the approval given by The Corporation of the Township of Clearview in File SD-2004-004 as amended and approved by the Ontario Municipal Board in File PL06091 for the subdivision and development of the Lands including all conditions as updated and approved.
- (b) **“Approval Authority”** means the authority having the jurisdiction to grant approval for the registration and development of a plan of subdivision pursuant to the *Planning Act*.
- (c) **“CARA”** means the Creemore Area Residents Association.
- (d) **“Plan of Subdivision”** means the proposed plan of subdivision including all phases for which the Approval has been granted.
- (e) **“Phase”** means a phase as delineated on the Phasing Plan.
- (f) **“Phasing Plan”** means the phasing plan prepared by Weston Consultants appended as Schedule “B”
- (g) **“Planning Act”** means the *Planning Act*, R.S.O. c. P.13, as amended.
- (h) **“Subdivision Agreement”** means the standard form of Consolidated Development and Subdivision Agreement to be prepared by the Township to entered into with the Owner and registered on title to the Lands to implement the Approval.
- (i) **“Subdivision Amending Agreement”** means an agreement to amend the terms of the Subdivision Agreement entered into between the Owner and the Township consistent with the Approval to implement the conditions and requirements applicable to the development of each phase.

1.2 Schedules

The following Schedules referred to in this Agreement shall be deemed to form part hereof:

Schedule "A"	Legal Description of the Lands
Schedule "B"	Phasing Plan
Schedule "C"	Block Phasing Plan

1.3 Purpose of MOU

It is acknowledged that the purpose of this MOU is to set out a framework by which the Owner and the Township have agreed to proceed with the development of the Lands as a Plan of Subdivision in phases.

1.4

It is further acknowledged by the Owner that the approval of the Township allowing the Owner to proceed in phases shall not, in any way, fetter the discretion of Council for the Township to exercise its discretion in the consideration of any revisions that would materially alter the proposed development of subsequent phases to the extent that they would be inconsistent with the existing Approval granted for the Plan of Subdivision and that any future revisions would be subject to normal review and approval processes pursuant to the *Planning Act*.

Article 2 REGISTRATION AND DEVELOPMENT OF PLAN OF SUBDIVISION IN PHASES

2.1 Registration of Subdivision

The Owner will proceed to register the Plan of Subdivision on the Lands setting out the Lots and Blocks within Phase 1a fronting on Mary Street as shown on the Phasing Plan appended as Schedule "B" to this MOU and concurrently creating Blocks for future registration of Phases 1b, 2, 3 and 4 as shown on the Block Phasing Plan appended as Schedule "C" in accordance with the terms of the Subdivision Agreement and any Subdivision Amending Agreement required for each subsequent phase as it is approved to proceed for registration and development.

2.2 Development of Phases

The Owner will proceed with the development of Phase 1A in accordance with the terms of the Subdivision Agreement to be prepared for execution and registration concurrent with the Plan of Subdivision for the Lands and acknowledges that the Subdivision Agreement shall be registered and serve as the master Subdivision Agreement governing the subdivision and development of all of the Lands including each phase. The Subdivision Agreement will contain provisions specifically related to the development of Phase 1a including security requirements. Subsequent phases shall be developed in accordance with the terms of the Subdivision Agreement as updated and amended by any required Subdivision Amending Agreement including security adjustments and top ups where necessary.

2.3 Effect of Phasing Plan

The Owner and the Township acknowledge and confirm that it is their intent to work cooperatively to facilitate the registration and development of the Plan of Subdivision in phases accordance with the Approval given for the subdivision and development of the Lands and that any material deviations from the terms and conditions of the Approval may require additional review and approval by the Approval Authority in accordance with accepted planning processes as required by the *Planning Act*. The Phasing Plan appended to this MOU is intended to serve as a guideline for the proposed registration and development of the Plan of Subdivision in phases to assist the Owner in achieving its goal of developing a mixed density residential development project with and contributing to the community of Creemore.

2.4 Commitment to CARA

The Owner has entered into this MOU with the Township with the intent that it will be provided to the members of CARA for information purposes and to demonstrate the intent and commitment on the part of the Owner and the Township to adhere to the intent of the Approval given for the development and registration of the Plan of Subdivision throughout each phase in accordance Phasing Plan subject to any revisions that may be approved from time to time by the Approval Authority.

Article 3 GENERAL

3.1 Force Majeure

In the event that either party shall be delayed or hindered in or prevented from the performance of any act required by such party under this MOU by reason of acts of God, unavailability of materials, failure of power, prohibitive

governmental laws or regulations, riots, insurrections, the act or failure to act of the other party, adverse weather conditions preventing the performance of work, war or other reason beyond such party's control, then the time for performance of such act shall be extended for a period equivalent to the period of such delay. Lack of adequate funds or financial inability to perform shall not be deemed to be a cause beyond the control of such party.

3.2 Agreements

Nothing in this MOU shall prevent the parties from entering into agreements to implement the Approval given with respect to development of the Lands pursuant to the *Planning Act*.

3.3 Further documents

The Township and the Developer agree to execute such further documents and cause the doing of such acts and cause the execution of such further documents as are within their power as the Township or the Developer to reasonably request be done or executed, in order to give full effect to the provisions of this Agreement.

3.4 Execution in counterpart and Facsimile or Electronic Transmission

The parties agree that this MOU may be executed in counterparts, each of which when executed shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. Any party shall be entitled to execute a copy of this MOU and deliver such executed copy to the other by facsimile transmission or electronic transmission which delivery shall bind such party in the same fashion as if such copy was an original and such party shall be deemed to undertake the delivery of an originally signed copy of this MOU to the other parties within five (5) Business Days of execution.

3.5 Entire Agreement

This MOU, the schedules referred to herein constitute the entire understanding between the parties hereto and supersede all prior representations, reports, recommendations, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, with respect to the subject matter of this MOU. None of the parties hereto shall be bound by or charged with any oral or written representations, reports, recommendations, warranties, statements, promises, information, arrangements or understandings not specifically set forth in this MOU. There is no collateral agreement, condition or term applicable thereto, other than as expressed or referred to herein in writing.

3.6 Severability

If any provision of this MOU is determined by a Court of competent jurisdiction to be illegal or beyond the power, jurisdiction, or capacity of any party bound hereby, such provision shall be severed from this MOU and the remainder of this MOU shall continue in full force and effect and in such case the parties agree to negotiate in good faith to amend this MOU in order to implement the intentions as set out herein. The parties agree that they shall not question the legality of any portion of this MOU, nor question the legality of any obligation created hereunder. The parties, their successors and assigns are and shall be estopped from contending otherwise in any proceeding before a Court of competent jurisdiction or any administrative tribunal.

3.7 No Development Rights Conferred

The execution of this MOU by the Owner and the Township does not confer upon the Owner any subdivision and development approval rights not otherwise existing. Nor does the execution of this MOU by the Owner fetter in any way the Township's exercise of its jurisdiction pursuant to the *Planning Act* or any other legislation with respect to any application and, without limiting the generality of the foregoing, including an application for an official plan amendment, zoning bylaw amendment, subdivision approval, or development approval.

3.8 Amendments

The parties hereto may only amend this MOU by further agreement in writing executed by all parties hereto.

3.9 Notices

Any notices to be given under the terms of this Agreement shall be in writing and shall be given to the applicable party by regular mail, facsimile transmission or email at the address, facsimile number or email address as follows:

To the Developer: Alliance Heritage Village Inc.
6048 Highway 9, Unit 7
Schomberg, ON L0G 1T0

Fax: (905) 761-7201
Email: atroop@alliancehomes.ca

To the Township: The Corporation of the Township of Clearview
217 Gideon Street
Stayner, ON L0M 1S0
Attention: Township Clerk

Fax: 705-428-0288
Email: pfettes@clearview.ca

provided that, where mailed, it shall be deemed to be received on the fifth Business Day following the date of mailing, and where delivery is by facsimile or e-mail after 5 p.m. EST, on the next Business Day.

3.10 Successors and assigns

This MOU shall, to the extent that it is enforceable by law, be enforceable by and against the parties, their heirs, executors, administrators, successors and assigns.

3.11 Governing law

This MOU shall be construed and enforced in accordance with the laws of the Province of Ontario and the laws of Canada applicable thereto.

3.12 Recitals

The parties hereby acknowledge that the Recitals to this Agreement are true and correct and form part of this MOU.

3.13 Singular and plural

Words importing the singular include the plural and vice versa.

3.14 Articles and section numbers

The captions and headings contained herein are for reference only and in no way affect this Agreement or its interpretation.

IN WITNESS WHEREOF the parties hereto have hereunto executed this MOU and have hereunto set their hands and seals as of the day, month and year first above written.

ALLIANCE HERITAGE VILLAGE INC.

Per: _____

Name: Alex Troop

Title: President

Per: _____

Name:

Title:

I/we have the authority to bind the Corporation.

**THE CORPORATION OF THE TOWNSHIP
OF CLEARVIEW**

Per: _____

Name: Christopher Vanderkruys

Title: Mayor

Per: _____

Name: Pamela Fettes

Title: Clerk

We have the authority to bind the Township

SCHEDULE "A"
LEGAL DESCRIPTION OF LANDS

FIRSTLY:

PIN 58220-0565 (LT)

**Pt Lots 8 and 9, Concession 4, Nottawasaga, being Part 1 on Plan 51R-38291,
Township of Clearview, County of Simcoe**

SECONDLY:

PIN 58220-0566 (LT)

**Pt Lots 9, Concession 4, Nottawasaga, being Part 2 on Plan 51R-38291,
Township of Clearview, County of Simcoe**

