

The Corporation of the Town of Essex

By-Law Number 1941

Being a By-Law to enter into a Site Plan Control Agreement between:

The Corporation of the Town of Essex and

Magnolia Ranch INC.

Whereas pursuant to Section 41 of the Planning Act, R.S.O. 1990 and Amendments thereto, Magnolia Ranch INC. is desirous of constructing a micro-brewery at the property municipally known as 178 County Road 50 East and legally described as PART LOT 64, CONCESSION 1 OR FRONT, COLCHESTER AS IN R1264806, and as such is required to enter into a Site Plan Control Agreement with the Town of Essex;

And Whereas the subject lands are designated as a site plan control area pursuant to Section 41 of the Planning Act, R.S.O. 1990 and Amendments thereto;

And Whereas pursuant to Section 41 of the Planning Act, R.S.O. 1990 and Amendments thereto, municipalities may enter into such agreements;

Now therefore be it resolved that the Council of the Town of Essex enacts as follows:

That the Mayor and Clerk be directed to affix their signatures, on behalf of the Corporation of the Town of Essex, to Schedule 1 attached hereto and forming part of this Bylaw, for the purpose of executing the Site Plan Control Agreement.

Read a first, a second and a third time and finally passed on August 24, 2020.

Mayor

Clerk

Schedule 1

The Corporation of the Town of Essex

Site Plan Control Agreement

This agreement made in triplicate, on August 24, 2020

Between:

Magnolia Ranch Inc.

hereinafter called

The Owner of the First Part

And

The Corporation of the Town of Essex

hereinafter called

The Corporation of the Second Part

Whereas an application has been made by the Owner for approval of a development within the limits of the Town of Essex which lands are more particularly described as PART LOT 64, CONCESSION 1 OR FRONT, COLCHESTER AS IN R1264806;

And Whereas the proposed development is in accordance with the Official Plan of the Corporation as amended from time to time;

And Whereas the Corporation has enacted by-laws being by-laws designating the said lands as a site plan control area, pursuant to Section 41(2) of the Planning Act, R.S.O. 1990, as amended;

And Whereas where site plan control is in effect, Section 41 of the Planning Act, R.S.O. 1990, as amended requires the approval of plans and drawings by the Corporation prior to development and the Corporation may require the Owner to enter into an agreement respecting certain prescribed matters;

And Whereas the Owner wishes to undertake a development on the lands, municipal address 178 County Road 50 East, in accordance with the site plan, prepared by Architectural Design Associates INC, on file with the Corporation;

Now Therefore This Agreement Witnesseth that in consideration of the aforesaid mentioned premises and in consideration of the sum of Five Dollars (\$5.00) now paid by the Owner to the Corporation (the receipt of which is hereby expressly acknowledged), the parties hereto covenant and agree one with the other as follows:

1. The Owner hereby agrees to construct, provide, install and maintain for the life of the proposed development, to the satisfaction of and at no expense to the Corporation, all buildings, structures, landscaping, fencing, light standards, walkways, vehicular and bicycle parking and access areas, garbage disposal facilities, grading and provision for storm, surface and waste water, and other facilities in accordance with the approved site plan prepared by Architectural Design Associates INC and on file with the Corporation, and in accordance with all the applicable provisions of the Corporation's Zoning By-law and such other relevant by-laws, as amended, and to the satisfaction of the Corporation;

Landscaping

2. The Owner hereby agrees to install all such landscaping identified and in accordance with the site plan on file with the Corporation, to the satisfaction of the Corporation. The Owner agrees that all landscaped areas shall be maintained in good practice exclusively for landscaping purposes save and except for permitted signage and such other facilities permitted or required by the Town or utility provider;

Parking and Access Areas

3. The Owner hereby agrees to construct and install all entrances, driveways, curbing, including pavement markings, and identification and directional signs in accordance with the approved site plan on file with the Corporation and in a manner satisfactory to the Corporation. The Owner further agrees to maintain all parking and driveway areas to the satisfaction of the Corporation;
4. The Owner hereby agrees to provide off-street parking spaces in accordance with the Town's Comprehensive Zoning By-law Number 1037 in the locations depicted in the site plan on file with the Corporation.

Lighting

5. All lighting erected on light standards shall be directed inward and downward within the property and shielded so as to reduce, as much as technically possible, direct light penetration beyond the property lines. The Owner hereby agrees to orient, shield, install and maintain all other outside lighting in such a manner so as to direct all outside lighting away from abutting municipal road allowances and all other properties. The Owner further agrees to use only full cut-off fixtures for any and all new outside lighting purposes;

Signs

6. The Owner hereby agrees to obtain approval from the County of Essex and the Town's Chief Building Official before installing any ground signage on the Subject Lands, to ensure that the signs are in accordance with the County's Best Management Practice Manual and the municipal sign bylaw.

Special Provisions

7. The Owner hereby agrees to make application for Building permit to the satisfaction of the Corporation for the existing bed and breakfast dwelling and all proposed tents. The Owner hereby acknowledges that all tents over 20 square metres must be issued a Building permit on an event by event basis and comply with the fire retardant restrictions list in the Ontario Building Code (OBC);
8. The Owner hereby agrees to make application for a Change of Use Permit as prescribed under the Ontario Building Code (OBC) for the existing barn structures proposed to be converted to a micro-brewery, and provide Ontario Professional Engineered stamped drawings with data matrix in order to allow for human habitation for employees and/or the public to the satisfaction of the Corporation;
9. The Owner hereby agrees to service all temporary washroom facilities with running hot and cold water supply and obtain approval of all temporary washroom facilities from the Windsor Essex County Health Unit (WECHU);
10. The Owner hereby agrees to submit drawings of a proper fire route and submit a fire plan to the satisfaction of the Corporation;
11. The Owner hereby agrees to remove or repair the dilapidated barn located at the rear of the subject property and obtain all necessary approvals for such action from the Corporation.

General Provisions

12. The Corporation hereby agrees to return the balance of the security deposit received on July 27, 2020 to the Owner within 30 days of being notified by the Town's Chief Building Official that all required works as set out in this agreement have been completed and any deficiencies corrected to the satisfaction of the Corporation and are in compliance with any applicable federal, provincial or municipal statute, by-law or regulation;
13. The Owner agrees to pay all outstanding Realty Taxes to the Corporation in advance of any building permit being issued for the proposed development;
14. The Owner hereby agrees to remove at no expense to the Corporation all snow from all driveways, parking and access areas and to remove and dispose of all refuse from the Subject Lands;
15. The Owner shall keep municipal and county roads adjacent to the Subject Lands free from dirt and debris caused by the construction on the Subject Lands;
16. The Owner shall, at its entire expense, restore any curbs, gutters, pavements, sidewalks, drains or landscaped areas on municipal and county roads which are damaged during construction and construct any new curbs, gutters, pavements, sidewalks, drains and landscaped areas on the municipal and county roads abutting the Subject Lands, all to the satisfaction of the Corporation;

17. The Owner hereby agrees to notify all local, provincial or federal authorities having jurisdiction as to their proposed program of work and shall obtain all necessary permits and/or approvals which may be required from any authority having jurisdiction;
18. The Owner agrees to commence and complete construction of all buildings, structures and facilities required under this agreement and zoning by-law within one (1) year of the date of execution of this agreement, all to the satisfaction of the Town, unless otherwise dictated by this agreement, or this agreement may, at the option of the Corporation, be deemed to be null and void;
19. The Owner hereby agrees to pay to the Corporation the applicable development charges, in accordance with the Town's Development Charges Bylaw, as may be amended from time to time, in advance of any building permit being issued by the Corporation;
20. The Owner hereby agrees to pay all costs incurred by the Corporation with respect to this Agreement, and without limiting the generality of the foregoing, shall include legal, planning, engineering and administrative costs;
21. The Owner acknowledges and agrees that pursuant to subsection (11) of Section 41 of the Planning Act, R.S.O. 1990, as amended, Section 325 of the Municipal Act applies to all requirements of this agreement. If the Owner neglects to undertake any matter or thing required to be done by this agreement and such default continues, in addition to other remedies available to it, the Corporation may direct that such matter or thing shall be done at the expense of the Owner and the Corporation may recover the expense incurred in doing it and the Owner hereby authorizes the Corporation to enter upon the said land and do such matter or thing;
22. This agreement may be amended at any time with the consent of the Corporation and the registered Owner of the said lands at the time of such amendment;
23. If any term, covenant or condition of this agreement shall, to any extent, be declared invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each term, covenant or condition of this agreement shall be valid and be enforced to the fullest extent permitted by law;
24. The Owner hereby agrees to the registration of the within agreement in the Land Registry Office for the County of Essex (No. 12) by the Corporation's solicitor and at the entire expense of the Owner;
25. This Agreement is not assignable by the Owner (or any person claiming through or under the Owner) unless the assignee thereof shall first in writing covenant and agree with the Corporation to assume the burdens and obligations imposed upon the Owner under this Agreement and to undertake with the Corporation to observe and perform the obligations herein imposed upon the Owner;
26. This agreement shall inure to the benefit of the Corporation and shall be binding upon the Owners and their respective heirs, executors, administrators, successors and authorized agents.

27. The Corporation shall not be required to issue a building permit for the said development until all the preconstruction provisions of this Agreement have been complied with.

In Witnesseth Whereof, the said parties hereunto affixed their signatures and corporate seals attested to by the hands of their proper officers, duly authorized in that behalf.

Signed, sealed and delivered in the presence of:

The Corporation of the Town Of Essex

Per: _____

Mayor

Per: _____

Clerk

Per: _____

Shane Gregory Jeffrey

Per: _____

Reno Vespa

Per: _____

Gloria Patricia Cavenago

**I have the authority to sign on behalf of Magnolia
Ranch INC**