

THE CORPORATION OF THE TOWN OF ESSEX

BY-LAW # 260

BEING A BY-LAW TO ENTER INTO A SITE PLAN CONTROL AGREEMENT BETWEEN

THE CORPORATION OF THE TOWN OF ESSEX

AND

1147010 ONTARIO INC.

WHEREAS pursuant to Section 41 of the Planning Act, R.S.O. 1990 and Amendments thereto, 1147010 is desirous of constructing a commercial building and as such requires a site plan agreement;

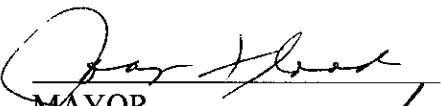
AND WHEREAS pursuant to Section 41 of the Planning Act, R.S.O. 1990 and Amendments thereto, municipalities may enter into such agreements;

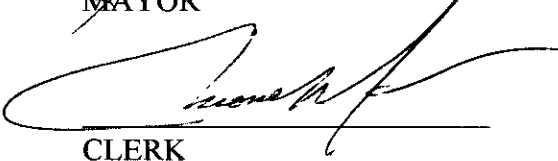
NOW THEREFORE BE IT RESOLVED THAT THE COUNCIL OF THE TOWN OF ESSEX ENACTS AS FOLLOWS:

1. 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 By-law, for the purpose of executing the site plan agreement;
2. That By-law No 169, passed by Council on March 6, 2000, is hereby repealed.

READ A FIRST AND SECOND TIME THIS 18TH DAY OF DECEMBER, 2000

READ A THIRD TIME AND FINALLY PASSED THIS 18TH DAY OF DECEMBER, 2000


MAYOR


CLERK

Additional Property Identifier(s) and/or Other Information

REGISTRY DIVISION OF ESSEX (12)
PART OF LOT 284
CONCESSION NORTH OF TALBOT ROAD
GEOGRAPHIC TOWNSHIP OF MAIDSTONE
NOW IN THE TOWN OF ESSEX
COUNTY OF ESSEX
PROVINCE OF ONTARIO

PART of PIN 01422-0074

AREA: 0.596 acre

PREMISING that the Northeastern limit of Talbot Road as shown on Plan 12R-1980, has a bearing of North 42 degrees 10 minutes 30 seconds West as shown on said Plan and relating all bearings herein thereto;

COMMENCING at the point where the Northeastern limit of Talbot Road intersects with the Northern limit of Maidstone Avenue;

THENCE North 42 degrees 10 minutes 30 seconds West along the Northeastern limit of Talbot Road, a distance of 92.0 feet;

THENCE North 47 degrees 49 minutes 30 seconds East, a distance of 225.00 feet to where said limit intersects with the the Southwestern limit of Part 2 as shown on Plan 12R-8288;

THENCE South 42 degrees 10 minutes 30 seconds East, a distance of 50.00 feet along the Southwestern of Part 2 Plan 12R-8288;

THENCE South 47 degrees 49 minutes 30 seconds West, a distance of 12.48 feet along the Northwestern limit of Part 2 Plan 12R-8288;

THENCE South 4 degrees 57 minutes 00 seconds West, a distance of 71.66 feet along the Western limit of Part 2 Plan 12R-8288;

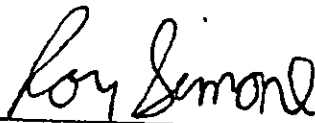
THENCE South 42 degrees 10 minutes 13 seconds East, a distance of 10.29 feet along the Southwestern limit of Part 2 Plan 12R-8288;

THENCE North 87 degrees 42 minutes 30 seconds West, a distance of 7.55 feet;

THENCE South 4 degrees 57 minutes 00 seconds West, a distance of 100.87 feet to where said limit intersects with the Northern limit of Maidstone Avenue;

THENCE North 87 degrees 17 minutes 55 seconds West, a distance of 113.89 feet along the Northern limit of Maidstone Avenue to the POINT OF COMMENCEMENT.

SEPTEMBER 15, 1999



ROY A. SIMONE, O.L.S. for
Verhaegen•Stubberfield•Hartley•Brewer•Bezaire Inc.
Ontario Land Surveyors

4-17694.X01
E-ESSEX-NTR-284
RAS/fc

THE CORPORATION OF THE TOWN OF ESSEX
SITE PLAN CONTROL AGREEMENT

THIS AGREEMENT made in triplicate, this 16th day of November, 2000

BETWEEN:

1147010 ONTARIO 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 on Schedule "A" (the subject lands);

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 described in Schedule "A" in accordance with the Site Plan prepared by the Hanna, Ghobrial and Spencer Ltd, Consulting Engineers, dated February 2, 2000 described as Schedule "B"

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 where of 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, parking and access areas, garbage disposal facilities, grading and provision for storm, surface and waste water, and other facilities in accordance with Schedule "B", and in accordance with all the applicable provisions of the Corporation's Zoning By-law, as amended, and to the satisfaction of the town's public works superintendent.
2. The Owner hereby agrees to construct and install all entrances, driveways, curbing and directional signs, including pavement markings, to the satisfaction of the Corporation and the County of Essex. The Owner further agrees that the driveway at Talbot Road shall be restricted to one exit lane for right turns only from the subject land and one entrance lane into the subject land for north-bound Talbot Road North traffic only and such vehicular traffic movements shall be properly directed through signage, pavement markings and an island, all to be constructed in accordance with Schedule "B" and to the satisfaction of the Corporation and the County of Essex. The Owner further agrees to pave all parking and driveway areas, install six inch concrete curbing and subsurface drainage works designed and constructed to the satisfaction of the town's public works superintendent and to ensure that all catch basins are graded so that no storm water runs onto municipal property. The Owner agrees to complete these works within one (1) year from the date of the issuance of a building permit.
3. The Owner hereby agrees to provide a minimum of twenty-nine (29) off-street parking spaces in accordance with the Town's Comprehensive Zoning By-law Number 2010, as amended, in the locations as depicted on Schedule "B". The Owner further agrees to delineate all parking spaces by pavement markings and to provide parking bumpers to the satisfaction of the Corporation, as shown on Schedule "B"
4. The Owner hereby agrees to level, grade, sod and maintain to the satisfaction of the Corporation all of landscaped open space areas in the locations depicted on Schedule "B". All such landscaping must be installed to the satisfaction of the Corporation within one (1) year from the date of the issuance of a building permit for the proposed commercial building.
5. The Owner hereby agrees to install and maintain a 6 foot high wooden privacy fence along the westerly, northerly and easterly lot lines of the subject property, to the satisfaction of the Corporation, in the locations as depicted on Schedule "B". This fence must be installed to the satisfaction of the Corporation within one (1) year from the date of the issuance of a building permit for the proposed commercial building. The Owner hereby agrees to maintain the fence for the life of this development.
6. The Owner agrees to submit elevation drawings of the proposed commercial building to the Corporation and to receive approval of same in advance of any building permit being issued by the Corporation.
7. The Owner hereby agrees to submit plans to and obtain the approval of the Corporation for any off-site works to be undertaken in conjunction with the development of the subject lands.
8. The Owner hereby agrees that in advance of obtaining a building permit for the proposed commercial building a security deposit in the amount of \$2,000 shall be provided to the Corporation to ensure that the works as set out in this agreement are complied with. The Owner agrees to deliver the required security to the Corporation, either as an irrevocable letter of credit (in a form satisfactory to the Corporation's solicitor) or as cash to be kept in an interest bearing account by the Corporation. The Corporation hereby agrees to return the security deposit to the Owner within 30 days of being notified by the town's public works superintendent and 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.
9. The Owner agrees to pay all outstanding Realty Taxes to the Corporation in advance of any building permit being issued for the proposed commercial building.
10. 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.
11. The Owner shall keep the municipal roads adjacent to the Subject Lands free from dirt and debris caused by the construction on the Subject Lands.
12. The Owner shall, at his entire expense, restore any curbs, gutters, pavements, sidewalks, drains or landscaped areas on the municipal roads which are damaged during construction on the Subject Lands to the satisfaction of the Corporation.

13. The Owner hereby agrees to orient, shield, install and maintain all outside lighting in such a manner as to direct all outside lighting away from abutting municipal road allowances and residential properties, and further to locate the free-standing light standards in accordance with Schedule "B"

14. 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.

15. Notwithstanding anything contained in this Agreement, the Corporation may, at its option and at the expense of the Owner, employ those consultants necessary for the purpose of examining and inspecting all plans and specifications, submitted by the Owner, and inspection of the construction of the works and for the purpose of completing a final inspection of the installation of all services required under this agreement.

16. The Owner hereby agrees to indemnify the Corporation from any and all liens whatsoever under the Construction Lien Act, 1983, as amended. The Owner further agrees to, upon execution of this agreement, deliver to the Corporation in a form satisfactory to the Corporation's solicitor a letter of credit or a labour and materials payment bond in the amount of fifteen percent (15%) of the value of the construction of any works carried out on municipal property, to secure the Corporation for any obligation it may have under the Construction Lien Act, 1983, as amended. In the event a lien is filed against the said works, the Corporation shall pay into court any and all holdback as required by law, and may deduct its costs and expenses from the balance of the monies, if any, secured under the letter of credit or bond. Any monies remaining shall be paid to the Owner subject to any obligation the Corporation may have under the Construction Lien Act, 1983, as amended.

17. The Owner hereby agrees that the Corporation shall not be required to issue a building permit for the subject lands until it receives the letter of credit or bond referred to in paragraph 16, and the Corporation shall not be required to release this letter of credit or bond until the Owner has filed a maintenance bond or other security in accordance with paragraph 18

18. The Corporation shall return the letter of credit to the Owner upon completion and final inspection of the works required under this agreement, provided that the Owner first deposits with the Corporation a maintenance bond in a form satisfactory to the Corporation's solicitor, in the sum of 100 percent of the value of the contract, to guarantee that the municipal services required to be provided under this agreement will be maintained to the satisfaction of the Corporation. The maintenance bond shall be returned to the Owner at the end of one (1) year after the date of its delivery to the Corporation, provided the Owner has maintained the work to the satisfaction of the Corporation.

19. The Owner agrees to commence construction of the required building, parking and access driveways, landscaping and all other facilities required under this agreement within one (1) year of the date of execution of this agreement, or this agreement may, at the option of the Corporation, be deemed to be null and void.

20. The Owner hereby agrees to obtain approval from the Corporation before installing any signage (including any free-standing advertising signs) on the subject lands. As part of its approval, the Corporation will review the size, location, type and design of any signage proposed, in accordance with the municipal sign by-law.

21. The Owner hereby agrees to pay to the Corporation the required development charge, in accordance with the town's development charges by-law, as may be required from time to time, in advance of any building permit being issued by the Corporation.

22. 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.

23. 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.

24. 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.

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

26. 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

27. The Owner hereby agrees to register the within agreement in the Land Registry Office for the County of Essex (No. 12), and shall furnish evidence of such registration to the Clerk of the Corporation prior to any building permits being issued.

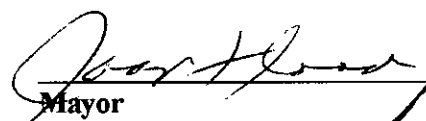
28. This Agreement is not assignable by the Owner (or any person claiming through or under the Owner) unless the assignee thereof shall first in writing covenant and agree with the Corporation to assume the burdens and obligations imposed upon the Owner under this Agreement and to undertake with the Corporation to observe and perform the obligations herein imposed upon the Owner

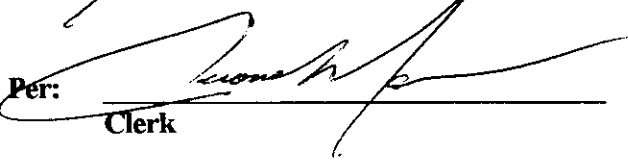
29. This agreement shall enure to the benefit of the Corporation and shall be binding upon the Owners and their respective heirs, executors, administrators, successors and authorized agents.

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.

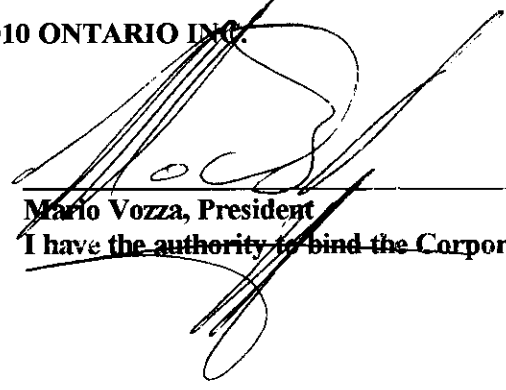
SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

THE CORPORATION OF THE TOWN OF ESSEX

Per: 
Mayor

Per: 
Clerk

1147010 ONTARIO INC.

Per: 
Mario Voza, President
I have the authority to bind the Corporation.

Additional Property Identifier(s) and/or Other Information

REGISTRY DIVISION OF ESSEX (12)
PART OF LOT 284
CONCESSION NORTH OF TALBOT ROAD
GEOGRAPHIC TOWNSHIP OF MAIDSTONE
NOW IN THE TOWN OF ESSEX
COUNTY OF ESSEX
PROVINCE OF ONTARIO

PART of PIN 01422-0074

AREA: 0.596 acre

PREMISING that the Northeastern limit of Talbot Road as shown on Plan 12R-1980, has a bearing of North 42 degrees 10 minutes 30 seconds West as shown on said Plan and relating all bearings herein thereto;

COMMENCING at the point where the Northeastern limit of Talbot Road intersects with the Northern limit of Maidstone Avenue;

THENCE North 42 degrees 10 minutes 30 seconds West along the Northeastern limit of Talbot Road, a distance of 92.0 feet;

THENCE North 47 degrees 49 minutes 30 seconds East, a distance of 225.00 feet to where said limit intersects with the the Southwestern limit of Part 2 as shown on Plan 12R-8288;

THENCE South 42 degrees 10 minutes 30 seconds East, a distance of 50.00 feet along the Southwestern of Part 2 Plan 12R-8288;

THENCE South 47 degrees 49 minutes 30 seconds West, a distance of 12.48 feet along the Northwestern limit of Part 2 Plan 12R-8288;

THENCE South 4 degrees 57 minutes 00 seconds West, a distance of 71.66 feet along the Western limit of Part 2 Plan 12R-8288;

THENCE South 42 degrees 10 minutes 13 seconds East, a distance of 10.29 feet along the Southwestern limit of Part 2 Plan 12R-8288;

THENCE North 87 degrees 42 minutes 30 seconds West, a distance of 7.55 feet;

THENCE South 4 degrees 57 minutes 00 seconds West, a distance of 100.87 feet to where said limit intersects with the Northern limit of Maidstone Avenue;

THENCE North 87 degrees 17 minutes 55 seconds West, a distance of 113.89 feet along the Northern limit of Maidstone Avenue to the POINT OF COMMENCEMENT.

SEPTEMBER 15, 1999

Roy Simone

ROY A. SIMONE, O.L.S. for
Verhaegen • Spibberfield • Hartley • Brewer • Bezaire Inc.
Ontario Land Surveyors

4-17694-X01
E-ESSEX-NTR-284
RAS/fo

