

The Corporation of the Town of Essex

By-Law Number 2065

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

The Corporation of the Town of Essex and

1954990 Ontario Inc.

Whereas pursuant to Section 41 of the Planning Act, R.S.O. 1990 and Amendments thereto, 1954990 Ontario Inc. is desirous of constructing an industrial facility to accommodate an equipment sales and rental agency on the lands legally described as Parts 28 and 29 on 12R21183, 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 September 21, 2021.

Mayor

Clerk

Schedule 1

The Corporation of the Town of Essex

Site Plan Control Agreement

This agreement made in triplicate, on September 21, 2021

Between:

1954990 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 as PT LTS 284 AND 285, CON STR DESIGNATED AS PTS 28 AND 29, PL 12R21183; ESSEX; S/T EASE AS IN CE79637 AND CE119430;

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 municipally known as 320 South Talbot Road in accordance with the site plan, prepared by Aleo Associates INC, dated and stamped on August 20, 2021, and 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 and site servicing drawings prepared by Aleo 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 Corporation's Comprehensive Zoning By-law Number 1037 in the locations depicted in the site plan on file with the Corporation. Once required parking spaces and manoeuvring aisles are paved with a hard surface, the Owner further agrees to delineate all required parking spaces by pavement markings to the satisfaction of the Corporation.
5. The Owner hereby agrees to provide two (2) barrier free parking space in the location identified in the site plan on file with the Corporation, to be identified by a restricted parking post mounted sign at the head of the parking space, and flanked by an access aisle of 1.5 metres in width;

Storm Water Management Facilities

6. The Owner hereby agrees to construct and maintain for the life of the development the stormwater management facilities identified on the site plan on file with the Corporation and in accordance with the Stormwater Management report and site servicing drawings prepared by Aleo Associates INC and dated August 20, 2021;

Lighting

7. 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

8. The Owner hereby agrees to obtain approvals and permits from the Ministry of Transportation (MTO) for the installation of any signs, including temporary development signs, visible from Highway 3 prior to installation;
9. The Owner hereby agrees to obtain approvals and permits from the **Corporation's** Building Division for the installation of any signs to ensure compliance with **Corporation's** Sign Bylaw, Bylaw1350, and any amendments thereto;

Special Provisions

10. The Owner hereby agrees to obtain approvals and permits from the Ministry of Transportation (MTO) prior to any grading, construction, or site alterations;
11. The Owner acknowledges that at the date of this agreement, South Talbot Road North is an existing construction zone, and hereby agrees to coordinate any site access and work the Highway 3 design team through the Corridor Management Office of the Ministry of Transportation (MTO);
12. The Owner acknowledged that there is no gas service along the front of the site and hereby agrees to obtain the necessary approvals from the Ministry of Transportation (MTO) and the Town of Essex for any application to Enbridge Gas to extend the gas main;
13. The Owner acknowledges that the lands fall within the regulated area of the 14th Concession East Drain Branch and Rush Drain and are thus subject to the Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation under the Conservation Authorities Act (Ontario Regulation No. 158/06). The Owner hereby agrees to obtain a permit and/or clearance from the Essex Region Conservation Authority (ERCA) prior to any construction or site alteration or other activities affected by Section 28 of the *Conservation Authorities Act*;
14. The Owner hereby agrees to contact the Essex Region Risk Management Official (RMO) for the ERCA, prior to the installation of any fuel storage on this site, to ensure that appropriate actions are taken to mitigate any potential drinking water threats;

General Provisions

15. The Corporation hereby agrees to return the balance of the security deposit received on June 4, 2021 to the Owner within 30 days of being notified by the Town's Manager of Capital Projects 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;
16. The Owner agrees to pay all outstanding Realty Taxes to the Corporation in advance of any building permit being issued for the proposed development;
17. 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;
18. 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;
19. The Owner shall keep the grass and/or weeds upon the Subject lands trimmed so as not to exceed twenty centimetres (8 inches) in height during the course of the construction period;
20. The Owner shall, at its entire expense, restore any curbs, gutters, pavements, sidewalks, drains or landscaped areas on the municipal roads which are damaged during construction and construct any new curbs, gutters, pavements, sidewalks, drains and landscaped areas on the municipal roads abutting the Subject Lands, all to the satisfaction of the Corporation;
21. 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;
22. The Owner agrees to commence and complete construction of the building, parking, landscaping and all other facilities required under this agreement and zoning by-law within two (2) years 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;
23. 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;
24. 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;
25. 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;

- 26. 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;
- 27. 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;
- 28. 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;**
- 29. 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;
- 30. 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.
- 31. 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: _____

Robert B. Troup, Jr.

I have the authority to sign on behalf of
1954990 Ontario Inc.