

The Corporation of the Town of Essex

By-Law Number 2114

Being a by-law to impose rates, fees and charges pursuant to an Agreement between Essex Town Centre Ltd. and the Corporation of the Town of Essex and relating to the Provision of Municipal Capital Facilities

Whereas, pursuant to Subsections 110(1) and (3) of the Municipal Act, 2001 and as described in Sections 2 and 3 of Ontario Regulation 603/06, the Municipality did pass By-law 1937 on April 6, 2021 authoring the entering into of an Agreement (the "Agreement") for the provision of municipal capital facilities and the providing of financial assistance by way of lending money and charging interest by the municipality to Essex Town Centre LTD, such assistance being in respect of the provision of the Municipal Capital Facilities that are the subject of the Agreement;

And Whereas pursuant to Part XII of the Municipal Act, 2001, a municipality may impose charges for services provided or done by, or on behalf of it including a charge imposed for capital costs related to services on persons not receiving an immediate benefit from the services but who will receive a benefit at some later point in time.

And Whereas pursuant to the terms of the Agreement and Part XII of the Municipal Act, 2001, Council is now desirous of imposing a capital charge against that portion of the Benefiting Lands to be identified and secured prior to the first advance and as may be amended further from time to time in accordance with the terms of the Agreement (the "Secured Lands"), such capital charge to serve as security to recover 100 percent (100%) of the costs lent in respect of the Municipal Capital Facilities from the Owner which is to be fully satisfied by the Owner upon completion of construction of the Municipal Capital Facilities and the full repayment of the Facilities Loan Amount including accrued and payable interest all in accordance with the Agreement.

And Whereas, Section 391(1) of the Municipal Act, 2001 (the "Act") and amendments thereto, provides that a municipality may impose fees or charges on persons:

- a) for services or activities provided or done by or on behalf of it;
- b) for costs payable by it for services or activities provided or done by or on behalf of any other municipality or local board; and
- c) for the use of its property including property under its control.

And whereas, Section 398(1) of the Act provides that the fees and charges imposed by a municipality on a person constitute a debt of the person to the municipality;

And whereas, Section 398(2) of the Act provides that the Treasurer of a municipality may add fees and charges imposed by the municipality to the tax roll for a property in the municipality for which all of the owners are responsible for paying the fees and charges;

Now therefore, the Council of The Corporation of the Town of Essex hereby enacts as follows:

1. That pursuant to Part XII of the Municipal Act, 2001 (the “Act”) Council hereby imposes and establishes a capital charge against that portion of the Benefiting Lands and in such amount(s) further identified in Schedule “A’ to this Bylaw (the “Secured Lands”) and to be secured with registration against title to said Secured Lands prior to the first advance with such capital charge and Secured Lands as identified in Schedule “A’ to be amended as may be required from time to time in accordance with the terms of a certain Agreement for the provision of municipal capital facilities entered into between the Corporation of the Town of Essex and Essex Town Centre LTD such Agreement being authorized via By-law 1937 duly passed by Council on April 6, 2021 (the “Agreement”);
2. That the capital charge so imposed by this By-law constitutes a debt to the municipality that may be added to the tax roll and collected in the same manner as taxes pursuant to the provisions of Section 398 of the Act; and
3. That this By-Law shall come into full force and effect on the day of its final passing thereof;

Read a first, a second, and a third time and finally passed on January 17, 2022.

Mayor

Clerk

Schedule "A" to By-law 2114

Amount of Capital Charge: \$3,500,000.00 (as may be amended from time to time in accordance with the Agreement)

Secured Lands (as may be amended from time to time in accordance with the Agreement):

The Phases to be encumbered as Secured Lands pursuant to the Agreement are Phases 4, 6, 7, 8, 9, 10, 11 and 12. These consist of Blocks 5, 6, 13, 14, 15, 16, and Part of Block 4 designated as Part 1, Part of Block 10 designated as Part 2, and Part of Block 12 designated as Parts 3 and 4 on Reference Plan 12R-28870 attached hereto as Schedule A1, all on Plan 12M-545.

Schedule “A1” to By-law 2114

Reference Plan 12R-28870

CURVE SCHEDULE				
CURVE	RADIUS	ARC	CHORD	CHORD BEARING
C1	50.00'	19.76'	19.63'	N63°09'50"E
C2	50.00'	39.30'	38.30'	N40°54'10"W
C3	50.00'	56.49'	53.54'	N84°12'40"E
C4	50.00'	50.27'	48.18'	N80°38'40"E
C5	50.00'	6.22'	6.22'	N67°00'30"W

NOTES

BEARINGS ARE UTM GRID, DERIVED FROM OBSERVED REFERENCE POINTS A AND B, BY REAL TIME NETWORK (RTN) OBSERVATIONS, UTM ZONE 17, NAD83 (CSRS) (2010.0).

DISTANCES ARE GROUND AND CAN BE CONVERTED TO GRID BY MULTIPLYING BY THE COMBINED SCALE FACTOR OF 0.9998660.

FOR BEARING COMPARISONS, A ROTATION OF 1°15'30" CLOCKWISE WAS APPLIED TO BEARINGS ON PLAN 12M-545.

INTEGRATION DATA		
OBSERVED REFERENCE POINTS (ORP#): XTM ZONE XX, NAD83 (CSRS) (2010.0).		
COORDINATES TO URBAN ACCURACY PER SECTION 14 (2) OF O.REG. 216/10.		
POINT ID	EASTING	NORTHING
ORP (A)	1 141 567.06'	15 324 144.04'
ORP (B)	1 143 153.31'	15 324 584.30'
COORDINATES CANNOT, IN THEMSELVES, BE USED TO RE-ESTABLISH CORNERS OR BOUNDARIES SHOWN ON THIS PLAN.		

PARTS SCHEDULE				
PART	BLOCK	PLAN	P.I.N.	AREA
1	PART OF BLOCK 4	PLAN 12M-545	PART OF 75227-0227	1.785 Acres.
2	PART OF BLOCK 10		PART OF 75227-0233	1.298 Acres.
3	PART OF BLOCK 12		PART OF 75227-0235	3.760 Acres.
4				35.9 Sq. Ft.

PLAN OF SURVEY OF
PART OF BLOCKS 4, 10 & 12
PLAN 12M-545
TOWN OF ESSEX
COUNTY OF ESSEX

SCALE 1"=50'

40 20 0 30 60 90 120 150 FEET

THE INTENDED PLOT SIZE OF THIS PLAN IS 49" IN WIDTH BY 18" IN HEIGHT WHEN PLOTTED AT A SCALE OF 1"=50'

VERHAEGEN LAND SURVEYORS - A DIVISON OF JD BARNES LIMITED

IMPERIAL DISTANCES AND/OR COORDINATES SHOWN ON THIS PLAN ARE IN FEET AND CAN BE CONVERTED TO METRES BY MULTIPLYING BY 0.3048.

- LEGEND
- DENOTES SURVEY MONUMENT FOUND
 - DENOTES SURVEY MONUMENT SET
 - SIB DENOTES STANDARD IRON BAR
 - SSIB DENOTES SHORT STANDARD IRON BAR
 - IB DENOTES IRON BAR
 - PB DENOTES PLASTIC BAR
 - WT DENOTES WITNESS
 - MEAS DENOTES MEASURED
 - JDB DENOTES J.D. BARNES LIMITED, O.L.S.
 - 1201 DENOTES CLARKE SURVEYORS INC, O.L.S.
 - P DENOTES PLAN 12M-545

ALL SET SSIB AND PB MONUMENTS WERE USED DUE TO LACK OF OVERBURDEN AND/OR PROXIMITY OF UNDERGROUND UTILITIES IN ACCORDANCE WITH SECTION 11 (4) OF O.REG. 525/91.

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:

- THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
- THE SURVEY WAS COMPLETED ON DECEMBER 7th, 2021.

DECEMBER 7th, 2021
DATE

ALEC S. MANTHA
ONTARIO LAND SURVEYOR

THIS PLAN OF SURVEY RELATES TO AOLS PLAN SUBMISSION FORM NUMBER 2156753



VERHAEGEN
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