

The Corporation of the Town of Essex

By-Law Number 1867

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

**The Corporation of the Town of Essex and
Covey Investments incorporated**

Covey Investments Incorporated is desirous of creating a warehouse facility located on lands on the south side of South Talbot Road, west of Reed Street 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 December 2nd, 2019.

Mayor

Clerk

Schedule 1

The Corporation of the Town of Essex

Site Plan Control Agreement

This agreement made in triplicate, on December 2nd, 2019

Between:

Covey Investments Incorporated

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 of Lot 285, Concessions South Talbot Road, comprising Parts 20, 24, 37 and 38, Plan 12R-21870, on the south and east sides of South Talbot Road, in the Town of Essex, County of Essex, Ontario

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 subject lands, in accordance with the site plan, prepared by Barrinetti Construction Limited, dated August 15, 2019;

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 site plan 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;
2. 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 Town's Clerk and Town Planner 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 as shown on the site plan;
3. The Owner agrees to design and illustrate a truck manoeuvring plan showing truck turning movements from South Talbot Road and onto "Reed Street" to the satisfaction of the Ontario Ministry of Transportation (MTO) and the Town of Essex;
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 on the site plan. 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 prepare a landscaping and planting plan, which may include a phasing plan and a storm water management pond, to the satisfaction of the Corporation. All such landscaping must be installed in accordance with the said landscaping and planting plan and to the satisfaction of the Corporation in accordance with the plan. 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;
6. The Owner hereby agrees to complete an engineering analysis, prepared by a professional engineer registered by the Association of Professional Engineers of Ontario, to determine the effect of increased runoff due to the development of the site and to identify storm water management measures as necessary to control any increases in flows in downstream watercourses, up to and including the 1:100 year design storm. The storm water management plan shall be completed to the satisfaction of the

Corporation of the Town of Essex, the Essex Region Conservation Authority and shall adhere to MTO's guideline manual, "MTO Stormwater Management Requirements for Land Development Proposals", to the satisfaction of MTO;

7. The Owner agrees to complete the photo metric lighting plan and illumination plan to ensure that the Highway Number 3 corridor is not affected by glare. 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;
8. The Owner hereby agrees that in advance of obtaining a building permit for the building addition, a security deposit in the amount of \$5,000 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 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;
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 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;

13. 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;
14. The Owner agrees to commence and complete construction of the building addition, parking, landscaping and all other facilities required under this agreement and zoning by-law within three (3) 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;
15. The Owner hereby agrees to obtain approval from the Town's Chief Building Official before installing any signage on the Subject Lands. As part of his approval, the Chief Building Official, in consultation with the Town Planner, will review the size, location, type and design of any signage proposed, to ensure that the signs are in accordance with the approved site plan, landscape plan and signage plans and or with the municipal sign bylaw. It is acknowledged that a sign permit may be required from the Corridor Management Office of the Ministry of Transportation of Ontario (MTO) and that the Town may not issue a sign permit(s) until such time as a permit or formal clearance from MTO is received;
16. 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;
17. 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;
18. 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;
19. 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;

20. 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;
21. 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;
22. 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;
23. 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;
24. 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.

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: _____

**I have the authority to sign on behalf of Covey
Investments Incorporated**