

CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW 1999-30

Being a By-law to authorize the execution of an Amending Agreement. (Fox Glen Subdivision)

WHEREAS Council for the Corporation of the Township of Anderdon (now the Town of Amherstburg) authorized the entering into of a Subdivision Agreement dated the 10th day of May 1995 between 944775 Ontario Limited and The Corporation of the Township of Anderdon, which Subdivision Agreement was registered on May 19, 1995 as Instrument No. LT 183835;

AND WHEREAS the aforementioned Subdivision Agreement was amended by By-law 1998-60 of the Corporation of the Town of Amherstburg and registered on October 26, 1998 as Instrument No. LT0238605;

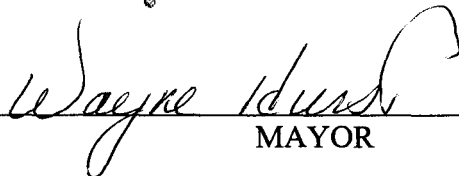
AND WHEREAS it is deemed expedient and in the best interests of all parties that a further Amending Agreement be entered into between 944775 Ontario Limited and the Corporation of the Town of Amherstburg in order to provide for certain amendments to the said Subdivision Agreement dated May 10, 1995 as they apply to the lands owned by 944775 Ontario Limited.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF

THE TOWN OF AMHERSTBURG HEREBY ENACTS AS FOLLOWS:

1. That the Corporation of the Town of Amherstburg enter into an Amending Agreement with 944775 Ontario Limited in the form hereto annexed, and the Mayor and Clerk be and they are hereby authorized and directed to sign the original and copies thereof, affix the corporate seal thereto, deliver copies thereof to 944775 Ontario Limited after execution has been completed, and arrange for the registration of the said Amending Agreement against the title to the lands more particularly set out therein.
2. That this By-law shall come into force and take effect on the date of final passage thereof.

FINALLY PASSED this 28th Day of June, 1999.


MAYOR


CLERK

1st Reading: June 28, 1999

2nd Reading: June 28, 1999

3rd Reading: June 28, 1999

AMENDING AGREEMENT

THIS AGREEMENT made in duplicate the day and year below written.

BETWEEN:

**THE CORPORATION OF THE TOWN OF AMHERSTBURG
(FORMERLY THE CORPORATION OF THE
TOWNSHIP OF ANDERDON)**

hereinafter called the "Corporation"

OF THE FIRST PART;

- and -

944775 ONTARIO LIMITED

hereinafter called the "Owner"

OF THE SECOND PART;

WHEREAS the Owner and the Corporation entered into a Subdivision Agreement dated May 10, 1995 between 944775 Ontario Limited and the Corporation of the Township of Anderdon, now the Corporation of the Town of Amherstburg, which Subdivision Agreement was registered in the Registry Office for the Land Titles Division of Essex (No. 12) on May 19, 1995 as Instrument No. LT183835 with respect to the servicing of the residential subdivision known as the Fox Glen Estates Subdivision;

AND WHEREAS the said Subdivision Agreement was amended by an Amending Agreement between the parties dated September 25, 1995, which Amending Agreement was registered on the 3rd day of October, 1995 as Instrument No. LT189242;

AND WHEREAS the said Subdivision Agreement was further amended by an Amending Agreement between the parties dated March 11, 1996, which Amending Agreement was registered on the 4th day of April, 1996 as Instrument No. LT195307;

AND WHEREAS the said Subdivision Agreement was further amended by an Amending Agreement between the parties dated October 6, 1998, which Amending Agreement was registered on the 26th day of October, 1998 as Instrument No. LT0238605;

AND WHEREAS the lands comprising the development are more particularly described in Schedule "A" attached hereto;

AND WHEREAS the Corporation and the Owner have agreed to amend the Subdivision Agreement in order to implement certain changes in the method of sewage treatment for the Fox Glen Estates Subdivision.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises as aforesaid and in consideration of the sum of One Dollar (\$1.00) now paid by the Owner to the Corporation, the receipt whereof is hereby expressly acknowledged, the parties hereto covenant and agree one with the other as follows:

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1. The Amending Agreement registered as Instrument No. LT0238605 against the lands described in Schedule "A" attached hereto is hereby amended by deleting paragraph 5.1.2 on page 2 in its entirety and substituting therefor the following:

"5.1.2.

(a) The Owner agrees to complete at its own cost and in a good and workmanlike manner, all municipal services respecting a sanitary sewer collection and treatment system, and without limiting the generality of the foregoing shall include the installation of mainline sanitary sewers together with manholes and other appurtenances on all streets in the development, and private drain connections from the sanitary sewer to the front property line of each lot, all in accordance with the approved Engineering Drawings as prepared by Hanna, Ghobrial and Spencer Limited and as approved by the Ministry of the Environment ("MOE").

(b) The Owner shall construct a force main from the Fox Glen Estates Subdivision along County Road 10 to the McGregor Lagoon on County Rd. 11 at its entire expense and in accordance with the approved Engineering Drawings as aforesaid. The Corporation shall provide support for the Owner's application for Certificate of Approval for the said force main.

(c) The Owner further agrees to provide the Corporation with a Letter of Credit in an amount equal to the per-lot cost of the improvements for 54 lots required to create additional capacity at the McGregor Lagoon, said amount to be in the approximate sum of \$92,000.00.

(d) The Owner shall immediately apply for and obtain approval from the Ministry of the Environment to construct an experimental wetland, also known as a Communal Sewage Treatment System consisting of a subsurface flow Root Zone Bed System meeting MOE standards, on the McGregor Lagoon property situate on County Road 11, with a capacity sufficient to accommodate 60 single family homes. It is understood and agreed between the parties that the Owner shall obtain MOE approval sufficient to MOE standards prior to construction of the said experimental wetland system.

(e) It is understood and agreed between the parties that in the event that the test period for the said experimental wetland system proves to be successful, the Corporation shall accept the wetland system, as the sewage treatment facility for the Fox Glen Estates Subdivision at no cost to the Corporation, and shall then return the Letter of Credit as aforesaid to the Owner.

Provided, however, in the event that the said test proves to be unsuccessful, the wetland system shall be abandoned and terminated at the Owner's entire expense, and the Corporation shall call in and cash the Letter of Credit as aforesaid, and the said amount shall be transferred to the Corporation's Development Charges Account in order to off-set the cost of the creation of the additional capacity in the McGregor Lagoon necessitated by the 54 residential lots within the said Fox Glen Estates Subdivision.

(f) The aforesaid Sanitary Collection and Treatment System shall be constructed to the entire satisfaction of the Corporation.

(g) So as to ensure the performance by the Owner of the terms and provisions of this Amending Agreement, the Owner shall deposit with the Corporation security in the form prescribed in Article 9.1 of the Subdivision Agreement registered as Instrument No. LT183835. The value of the Bond shall be in accordance with the Engineer's Estimate.

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(h) The parties covenant to and with each other that they will, respectively, upon the reasonable request of the other, execute such further and other documents as may be required in order to effect the intent of this Amending Agreement, and this Amending Agreement shall be registered against the title to the lands of the Owner in the Land Registry Office for the Land Titles Division of Essex No. 12 at the expense of the Owner."

2. In all other respects all other terms and conditions of the Subdivision Agreement registered as Instrument No. LT183835 on May 19, 1995, as amended by the Amending Agreement registered October 3, 1995 as Instrument Number LT189242, and as further amended by the Amending Agreement registered April 4, 1996 as Instrument No. LT195307, and as further amended by the Amending Agreement registered October 26, 1998 as Instrument No. LT0238605, be and the same are hereby confirmed.

3. The within Amending Agreement shall enure for the benefit of and be binding upon the parties hereto, and their respective successors and assigns.

IN WITNESS WHEREOF the parties hereto have executed the within Agreement this 28th day of June, 1999.

THE CORPORATION OF THE TOWN OF AMHERSTBURG

Per: Wayne Hurst
Wayne Hurst, Mayor

Per: David Mailloux
David Mailloux, Clerk

We have authority to bind the corporation

944775 ONTARIO LIMITED

Per: Michael Dunn
Michael Dunn, President

Per: Joseph Sbrocca
Joseph Sbrocca, Secretary

We have authority to bind the corporation

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SCHEDULE "A"

Lots 1 to 9, both inclusive, Lots 12 to 17, both inclusive,
Lots 18, 19, 20, Lots 22 to 33, both inclusive, and Block 35,
Registered Plan 12M-358,
Town of Amherstburg (formerly Township of Anderdon),
County of Essex and Province of Ontario.

FOR OFFICE USE ONLY

LT0252115

CERTIFICATE OF RECEIPT

REGISTRATION

'99 JUL 23 PM 2 55

LAND REGISTRY REGISTRAR

New Property Identifiers

Additional: See Schedule

Executions

Additional: See Schedule

(1) Registry Land Titles (2) Page 1 of 56 pages

(3) Property Identifier(s) Block 01542 Property 0127 Additional: See Schedule

(4) Nature of Document
Application to Register Notice of Amending Agreement (Section 71 of the Land Titles Act)

(5) Consideration
-----N/A----- Dollars \$

(6) Description
Lots 1 to 9, both inclusive, Lots 12 to 17, both inclusive, Lots 18, 19, 20, Lots 22 to 33, both inclusive, and Block 35, Registered Plan 12M-358, Town of Amherstburg (formerly Township of Anderdon), County of Essex and Province of Ontario

(7) This Document Contains: (a) Redescription New Easement Plan/Sketch (b) Schedule for: Description Additional Parties Other

(8) This Document provides as follows:
The Corporation of the Town of Amherstburg has an unregistered estate, right, interest or equity in the above land of which 944775 Ontario Limited is the registered owner and hereby applies to have Notice of Amending Agreement, dated the 28th day of June, 1999, made between The Corporation of the Town of Amherstburg and 944775 Ontario Limited entered on the Parcel Register.
The evidence in support of this application consists of an executed copy of the said Amending Agreement.
Pursuant to an Order under the Municipal Act, R.S.O. 1990, C. M.45, Sub. 25.2(4), on January 1, 1998, the Town of Amherstburg, the Township of Anderdon and the Township of Malden are amalgamated as a town under the name of "The Corporation of the Town of Amherstburg".
 Continued on Schedule

(9) This Document relates to instrument number(s)
LT183835 LT189242 LT195307 LT0238605

(10) Party(ies) (Set out Status or Interest)
 Name(s) Signature(s) Date of Signature
E CORPORATION OF THE TOWN OF AMHERSTBURG (FORMERLY THE CORPORATION OF THE TOWNSHIP OF ANDERDON) (Applicant), by its solicitor, ARMANDO DELUCA, Q.C.
 1999 07 16

(11) Address for Service
271 Sandwich St. South, P.O. Box 159, Amherstburg, Ontario N9V 2Y9

(12) Party(ies) (Set out Status or Interest)
 Name(s) Signature(s) Date of Signature
944775 ONTARIO LIMITED
 (Owner)

(13) Address for Service
485 Little Baseline Rd., R. R. #1, Tecumseh, Ontario N8N 2L9

Municipal Address of Property (15) Document Prepared by:
Vacant Land ARMANDO F. DELUCA, Q.C. MOUSSEAU, DELUCA 800-176 University Ave. West Windsor, Ontario N9A 5P3

Fees and Tax	
Registration Fee	50.00
Total	50.00

Mousseau (5)

SCHEDULE

01542-0096

01542-0097

01542-0098

01542-0113

01542-0128

01542-0129