

CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2004-63

Being a By-law regarding a Highway Encroachment.

WHEREAS Windsor Mold Inc., carrying on business under the trade name and style of "Precision Plastics", has applied to the Town of Amherstburg for permission to continue an encroachment of a concrete pad and plastic pellet storage silo upon and in the unimproved southerly portion of William Street;

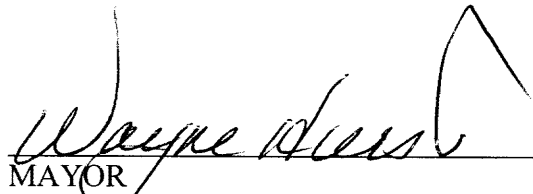
AND WHEREAS the encroachment occupies and projects approximately fifteen (15) feet into the William Street right-of-way and the length of the encroachment required is approximately One Hundred and Eight (108) feet and contains a portion of the Licensee's chain link fence and plastic pellet storage system and is used in conjunction with the adjoining lands and premises municipally known as 95 Victoria Street North and is more particularly described in Schedule "B" to the agreement;

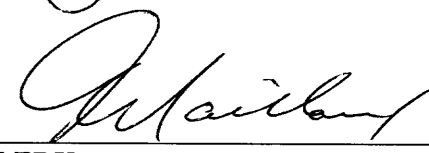
AND WHEREAS Council deems it expedient to authorize and permit the continuation and upgrade of same as per the agreement attached hereto.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF
THE TOWN OF AMHERSTBURG HEREBY ENACTS AS FOLLOWS:**

1. That the owners of the Precision Plastics' property be authorized and permitted to encroach upon William Street as described and in accordance with the attached agreement.
2. That the Mayor and Clerk be and they are hereby authorized to sign the subject agreement and affix the Corporate seal thereto.
3. This By-law shall come into force and effect on the date of the final passing thereof.

Read a first, second and third time and finally passed this **26** day of **July**, **2004**.


MAYOR


CLERK

1st Reading: July 26, 2004

2nd Reading: July 26, 2004

3rd Reading: July 26, 2004

Properties

PIN 01544 - 1656 LT *Estate/Qualifier* Fee Simple Lt Conversion Qualified
Description LT 11 PL 1588 AMHERSTBURG; LT 12 PL 1588 AMHERSTBURG; LT 13 PL 1588 AMHERSTBURG; LT 14 PL 1588 AMHERSTBURG; LT 15 PL 1588 AMHERSTBURG; PT PARKLT 3 PL 590 ANDERDON; PT PARKLT 4 PL 590 ANDERDON PTS 1 TO 4 12R10566; PT PARKLT 1 PL 590 ANDERDON; PT PARKLT 17 PL 590 ANDERDON; PT PARKLT 18 PL 590 ANDERDON AS IN R1059680; AMHERSTBURG
Address AMHERSTBURG

Consideration

Consideration \$0.00

Applicant(s)

The notice is based on or affects a valid and existing estate, right, interest or equity in land

Name THE CORPORATION OF THE TOWN OF AMHERSTBURG
Address for Service 271 Sandwich St. S.
Amherstburg, Ontario

I, DAVID MAILLOUX, CLERK, have the authority to bind the corporation.
This document is not authorized under Power of Attorney by this party.

Party To(s)

Capacity

Share

Name WINDSOR MOLD INC.
Address for Service 444 Hanna St.
Windsor, Ontario

I, KEITH HENRY, PRES., have the authority to bind the corporation
This document is not authorized under Power of Attorney by this party.

Statements

This notice is for an indeterminate period
Schedule: See Schedules

Signed By

Armando Felice Antonio DeLuca 500-251 Goyeau Street acting for Applicant(s) Signed 2005 01 20
Windsor N9A 6V2
Tel 519-258-0615
Fax 5192586833

Submitted By

MOUSSEAU DELUCA 500-251 Goyeau Street 2005 01 20
MCPHERSON PRINCE Windsor N9A 6V2
Tel 519-258-0615
Fax 5192586833

Fees/Taxes/Payment

Statutory Registration Fee \$60.00
Total Paid \$60.00

File Number

Applicant Client File Number : 22882

THIS AGREEMENT made in triplicate this 16th day of SEPTEMBER 2004.

BETWEEN:

THE CORPORATION OF THE TOWN OF AMHERSTBURG
Hereinafter called the **CORPORATION**

of the FIRST PART;

and

WINDSOR MOLD INC., carrying on business under
the trade name and style of "Precision Plastics"
Hereinafter called the **LICENSEE**

of the SECOND PART.

WHEREAS the Licensee is the registered owner of certain lands and premises in the Town of Amherstburg, County of Essex and Province of Ontario, more particularly described in Schedule "A" annexed hereto and forming part of this Agreement (the "Precision Lands");

AND WHEREAS the Licensee has applied to the Corporation for permission to continue the encroachment of a concrete pad and plastic pellet storage silo upon and in the unimproved Southerly portion of William Street in the Town of Amherstburg, which encroachment occupies and projects approximately fifteen (15) feet into the William Street right-of-way (the "Public Highway"), and the length of the encroachment is approximately One Hundred and Eight (108) feet and contains a portion of the Licensee's chain link fence and plastic pellet storage system (the "Encroachment") and is used in conjunction with the adjoining lands and premises municipally known as 95 Victoria Street North, in the said Town. The Encroachment is more particularly shown on the sketch in Schedule "B" annexed hereto and forming part of this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT:

1. The Corporation permits the Licensee to occupy and use the Public Highway for the purpose of the Encroachment for a maximum term not exceeding the lifetime of the encroaching structures.
2. The Licensee further covenants and agrees to pay to the Corporation a one-time encroachment fee of FIVE HUNDRED DOLLARS (\$500.00), not including GST, which fee is due and payable upon the execution of this Agreement. The Licensee shall

reimburse the Corporation for its reasonable legal fees in the preparation of this Agreement.

3. The Licensee shall be permitted to install two more plastic pellet silos and conveyor systems on the concrete pad within the Encroachment without any further requirement for notice to, or consent by, the Corporation pursuant to this Agreement; provided, however, that the Licensee shall be required to obtain all necessary licenses and permits required by law including, without limitation, a building permit pursuant to the Building Code Act (Ontario) in accordance with section 5 hereof.

4. The Licensee covenants and agrees to maintain the Encroachment in good repair at all times and to the satisfaction of the Corporation.

5. The Licensee covenants and agrees to obtain the necessary permits from all pertinent Departments of the Corporation prior to any work on the said parcel, and that Licensee shall comply with all federal, provincial and municipal legislation pertaining to the construction, maintenance, repair and existence of the Encroachment.

6. Upon destruction, removal or replacement of the Encroachment, or upon partial destruction or damage to the Encroachment from any cause including the voluntary act of the owner(s) thereof, to the extent of more than sixty percent (60%) of its assessed value, exclusive of its foundations, or upon breach by the Licensee of any of the provisions of this Agreement, correction of which breach shall not have been commenced by Licensee within thirty (30) days of demand or such sooner time noted in such demand if in the Corporation's opinion such breach may adversely affect public safety, the permission hereby granted shall, without any further action or notice and at the sole option of the Corporation, be terminated and at an end and the Corporation may require the Licensee to forthwith remove the Encroachment and reasonably restore the Public Highway to the satisfaction of the Corporation and upon failure so to do may itself do all things necessary for the removal of the Encroachment and for such purpose may enter upon the Precision Lands, and the reasonable expense of such removal, restoration and entry shall be paid by the Licensee forthwith upon demand.

7. The Licensee covenants and agrees to pay to the Corporation any additional property taxes or other rates and charges, if any, levied or imposed on or in respect of the portion of the Public Highway encroached upon by the Encroachment.

8. The Licensee covenants and agrees to pay for any additional costs or charges which the Corporation, and its respective successors and assigns, may reasonably incur in the future installation or relocation of their services or utility plants by reason of the Encroachment.

9. If, the Corporation determines, in the exercise of its absolute discretion, that vacant possession of the Public Highway is required by the Corporation, then the Corporation may give twelve (12) months' prior written notice to the Licensee to deliver vacant possession of the Public Highway to the Corporation and to remove therefrom all chattels, equipment, fixtures, parking areas, buildings and structures, as the case may be, installed or located therein or thereupon by the Licensee, and upon such notice having been given, the Licensee shall deliver such vacant possession to the Corporation by no later than the end of the notice period, provided that if the Licensee fails so to do, the Licensee shall pay to the Corporation or any such service provider any reasonable costs, expenses or damages incurred by the Corporation or any such service provider by reason of the Licensee's default.

10. If the Public Highway is required by the Corporation for its purposes, the Licensee shall remove the Encroachment and restore the Public Highway to the condition of the surrounding area at its own expense on twelve (12) months' prior written notice from the Corporation to do so; provided that if the Licensee fails to remove the Encroachment and restore as aforesaid, the Corporation may enter upon the Public Highway and remove the Encroachment and restore the Public Highway, and the reasonable expense of such removal and restoration shall be paid by the Licensee forthwith on demand.

11. If the Corporation at any time exercises its right to terminate this Agreement or to demand the removal of the Encroachment or to suspend or revoke the permission granted herein in accordance with the terms hereof, the Corporation shall not be liable to pay any compensation for any loss, costs or damages which may be incurred by the Licensee or any person claiming under the Licensee by reason of such termination, demand or revocation.

12. The Licensee covenants and agrees to defend, indemnify and save harmless the Corporation from and against all reasonable loss, costs or damages which it may suffer

or be put to and from and against all claims or actions which may be made or brought against the Corporation by reason of the Encroachment, its construction, existence, repair or maintenance or resulting therefrom in any way whatsoever, unless such loss, costs, damages, claims or actions arise due to the negligence or wilful wrongful act of the Corporation, or the Corporation's officers, agents or employees. The Corporation covenants and agrees to notify the Licensee immediately of all said claims, demands or actions and to cooperate fully with the Licensee in the investigation and defence thereof.

13. The Licensee covenants and agrees to provide and maintain public liability and property damage insurance in a form (containing endorsements naming the Corporation as an additional named insured and providing a cross-liability/separation of insured clause) in the amount of at least TWO MILLION DOLLARS (\$2,000,000.00) and satisfactory in form and content (including policy limit) to the Corporation's Director, Audit & Consulting Services, and proof of the said insurance policy shall be filed with the Clerk of the Corporation. Licensee acknowledges and agrees that the Corporation shall be entitled to require that such policy limit amount be reasonably increased from time to time during the term hereof to take into account inflationary pressures and relevant judicial awards.

14. The Licensee releases the Corporation from any and all liabilities, suits, claims and demands (whether for property damage or for personal injury or death and whether founded in tort, contract or quasi-contract) which at any time might be asserted by the Licensee arising out of the existence of the Encroachment in the Public Highway or out of any act or omission of the Corporation, unless the liability, suit, claim or demand arises due to the negligence or wilful wrongful act of the Corporation or the Corporation's officers, agents or employees.

15. If the Licensee agrees to sell the Precision Lands, the Licensee shall give notice to the Corporation of such sale at least ten (10) days prior to the completion thereof.

16. All notices, demands and requests which may be or are required to be given by the Corporation to the Licensee or by the Licensee to the Corporation under the provisions of this Agreement shall be in writing and may be mailed or delivered and shall be addressed in the case of the Licensee to the Licensee care of:

President
Precision Plastic Division
Windsor Mold Inc.
444 Hanna St.
Windsor, Ontario N8X 2N4

and in the case of the Corporation, to:

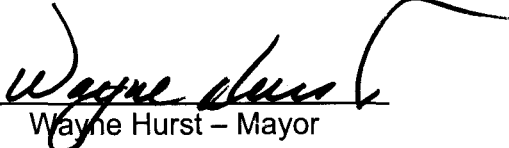
Clerk
Town of Amherstburg
271 Sandwich St. S., Box 159
Amherstburg, Ontario N9V 2Z3

or to such other address as either party may from time to time designate by written notice to the other.

17. This Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns, it being acknowledged that in the event of the Licensee selling, conveying, transferring or entering into an Agreement for sale or of transfer of any title to or interest in part or all of the Precision Lands to a purchaser or transferee not approved of in writing by the Corporation, then the Corporation may demand the removal of the Encroachment or revoke the permission granted for the Encroachment upon reasonable prior written notice, and may enter upon the Public Highway in whole or in part and may remove the Encroachment and restore the Public Highway, and the reasonable expense of such removal and restoration shall be paid by the Licensee forthwith on demand, and the Corporation shall not be liable to pay any compensation for any loss, costs or damages which may be incurred by the Licensee or by any other person by reason of such termination, demand, revocation, entry, removal, or restoration. The Corporation may not unreasonably withhold said approval, but may it be made subject to commercially reasonable conditions including a condition that such purchaser or transferee enter into an assumption agreement with the Corporation.; provided however, that notwithstanding the foregoing, the permission to encroach and this Agreement shall be assignable as security to a bona fide mortgagee or chargee of the Precision Lands, without prior consent of the Corporation.

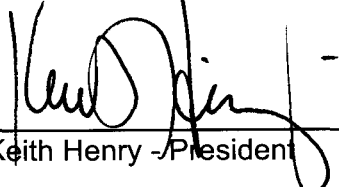
THE PARTIES HERETO have executed and delivered this Agreement as of the day and year first above written, as attested by the hand of their duly authorized officers in that behalf.

THE CORPORATION OF THE TOWN OF AMHERSTBURG

Per: 
Wayne Hurst – Mayor

Per: 
David Mailloux – Clerk

WINDSOR MOLD INC.

Per: 
Keith Henry - President

SCHEDULE A

WINDSOR MOLD INC.

PRECISION PLASTICS LANDS
95 VICTORIA STREET NORTH, AMHERSTBURG

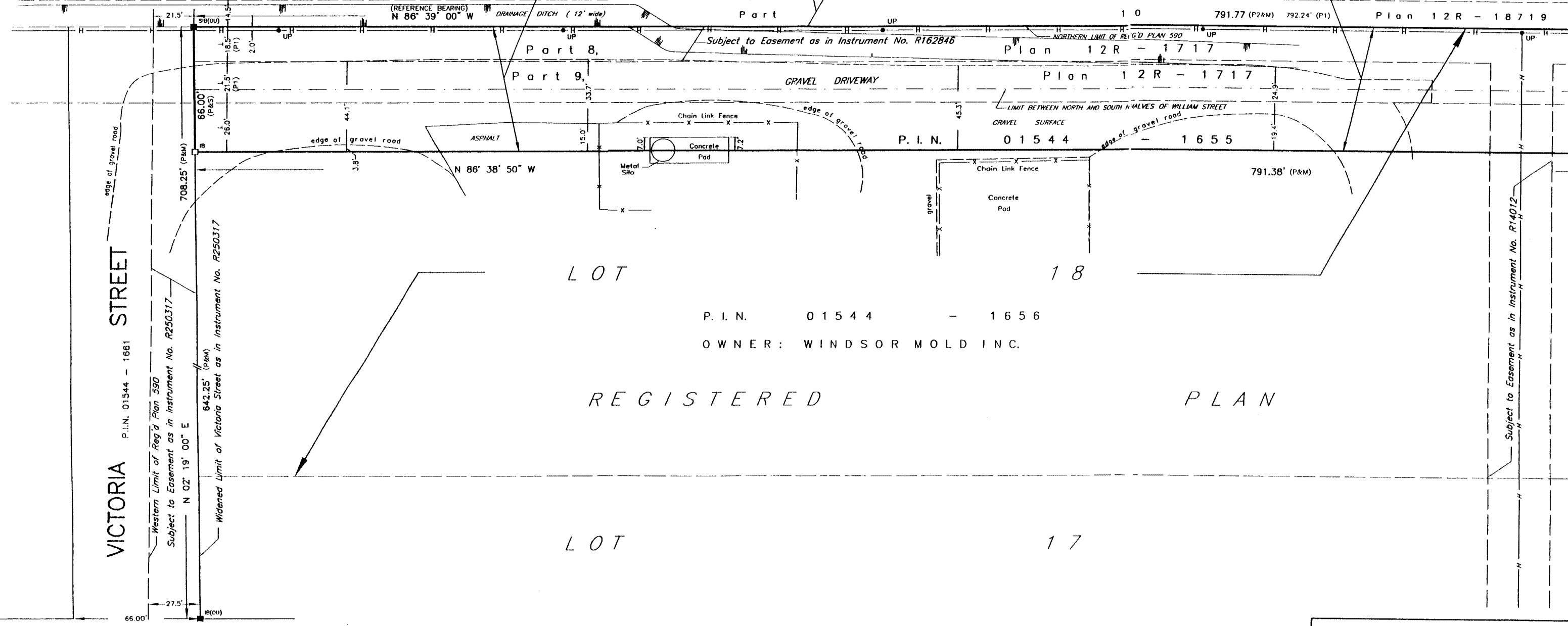
PIN 01544 - 1656

LT 11 PL 1588 AMHERSTBURG; LT 12 PL 1588 AMHERSTBURG; LT 13 PL 1588 AMHERSTBURG; LT 14 PL 1588 AMHERSTBURG; LT 15 PL 1588 AMHERSTBURG; PT PARKLT 3 PL 590 ANDERDON; PT PARKLT 4 PL 590 ANDERDON PTS 1 TO 4 12R10566; PT PARKLT 1 PL 590 ANDERDON; PT PARKLT 17 PL 590 ANDERDON; PT PARKLT 18 PL 590 ANDERDON AS IN R1059680; AMHERSTBURG

Part 11, Plan 12R - 18719
LOT 3, CONCESSION 1

P.I.N. 01544 - 1673
OWNER: GUINNESS UDV CANADA I.N.C.

WILLIAM STREET
OWNER: THE CORPORATION OF THE TOWN OF AMHERSTBURG
(Created by The Corporation of the Town of Amherstburg By-Law No. 990, Reg'd as Inst. No. R261366)



VICTORIA STREET
P.I.N. 01544 - 1661

LOT 18

P. I. N. 01544 - 1656
OWNER: WINDSOR MOLD INC.

REGISTERED

PLAN

LOT 17

ST. ARNAUD STREET

"IMPERIAL" DISTANCES SHOWN ON THIS PLAN ARE IN FEET
BE CONVERTED TO METRES BY MULTIPLYING BY