

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2004-72

A by-law authorizing the signing of a Development Agreement.

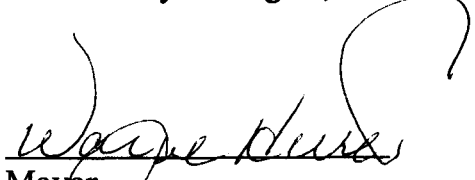
WHEREAS Tito DeLuca has proposed the development of property being Part Lot 44 and 45, Plan 2 for purposes of a retail store.

AND WHEREAS the Council of the Town of Amherstburg and owners of the said property have agreed to the terms and conditions of a Development Agreement in the form annexed hereto;

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

1. That the Mayor and Clerk be and they are hereby authorized to execute the original and copies of a Development Agreement in the form annexed hereto and affix the Corporate Seal thereto.
2. This By-law shall come into force and effect on the date of final passage hereof.

Read a first, second and third and finally passed this 30th day of August, 2004.



Mayor



Clerk

Certified to be a true copy of By-law
No. 2004-72 passed by the Amherstburg
Municipal Council on August 30, 2004.

The applicant(s) hereby applies to the Land Registrar.

Properties

PIN 70552 - 0180 LT Estate/Qualifier Fee Simple Lt Conversion Qualified
Description PT LT 44-45 PL 2 AMHERSTBURG AS IN R1130567; AMHERSTBURG
Address 00219 DELHOUSIE STREET
 AMHERSTBURG

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
 N9V 2Z3

I, LORY BRATT, PLANING COORDINATOR, 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 DELUCA, TITO
Address for Service 219 Dalhousie St.
 Amherstburg, Ontario

Statements

This notice is for an indeterminate period

Schedule: See Schedules

Signed By

Armando Felice Antonio DeLuca	500-251 Goyeau Street Windsor N9A 6V2	acting for Applicant(s)	Signed	2004 10 19
Tel	519-258-0615			
Fax	5192586833			
Armando Felice Antonio DeLuca	500-251 Goyeau Street Windsor N9A 6V2	acting for Party To(s)	Signed	2004 10 19
Tel	519-258-0615			
Fax	5192586833			

Submitted By

MOUSSEAU DELUCA MCPHERSON PRINCE	500-251 Goyeau Street Windsor N9A 6V2			2004 10 19
Tel	519-258-0615			
Fax	5192586833			

Fees/Taxes/Payment

<i>Statutory Registration Fee</i>	\$60.00
<i>Total Paid</i>	\$60.00

File Number

Applicant Client File Number : 22845

DEVELOPMENT AGREEMENT

Registered _____, 2004.

THIS AGREEMENT made in triplicate this 30th day of August, 2004.

BETWEEN: Tito DeLuca

hereinafter called the "OWNER"
OF THE FIRST PART

-and-

THE CORPORATION OF THE TOWN OF
AMHERSTBURG

hereinafter called the "CORPORATION"
OF THE SECOND PART

WHEREAS the lands affected by this Agreement are described in Schedule "A" attached hereto, and are hereinafter referred to as the "said lands";

AND WHEREAS the Owner warrants it is the registered owner of the said lands;

AND WHEREAS, in this Agreement the "Owner" includes an individual, an associated, a partnership or corporation and, wherever the singular is used therein, it shall be construed as including the plural;

AND WHEREAS the Official Plan in effect in Amherstburg designated parts of the area covered by the Official Plan as a Site Plan Control area;

AND WHEREAS the Owner intends to develop or redevelop the said lands for a retail store in accordance with the Site Plan attached hereto as schedule "B", and hereinafter referred to as the "Site Plan";

AND WHEREAS the Corporation as a condition of development or redevelopment of the said lands requires the Owner to enter into a Development Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of other goods and valuable consideration and the sum of FIVE (\$5.00) DOLLARS of lawful money of Canada, now paid by each of the parties hereto to each of the other parties hereto, (the receipt of which is hereby acknowledged), the Owner hereby covenants and agrees with the Corporation as follows:

1. The following Schedules, which are identified by the signatures of the parties to this Agreement, and which are attached hereto, are hereby made a part of this Agreement as fully and to all intents and purposes as though recited in full herein:

- SCHEDULE "A" – Legal description of the said lands
- SCHEDULE "B" – Site Plan
- SCHEDULE "C" – Landscaping Proposal

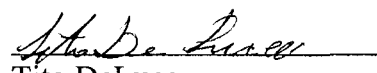
2. Schedule "A" hereto describes the lands affected by this Agreement.
3. Schedule "B" hereto shows:
 - (a) The location of all existing buildings and structures;
 - (b) The location and provision of off-street vehicular parking facilities for the residential use and access driveways;
 - (c) Walkways and all other means of pedestrian access;
4. Schedule "C" hereto shows:
 - (a) Landscaping plant list.
5. The Owner shall be responsible for consulting with and obtaining any necessary approvals from Essex Power Lines Corporation, Union Gas and Bell Canada regarding any matters that relate to services provided by Essex Power Lines Corporation, Union Gas and Bell Canada.
6. The Owner shall be responsible for consulting with and obtaining any necessary approval from the Ministry of the Environment and/or the Essex Region Conservation Authority.
7. The permitted commercial retail uses shall be restricted to the main floor of the existing building and shall not exceed 65 square metres of floor area.
8. The outside storage or display of merchandise or materials associated with commercial retail uses shall not be permitted.
9. The Owner shall maintain a maximum of two parking spaces, as designated on Schedule "B" for the residential use on the property.
10. All walkways on the said lands, where so designated on Schedule "B", shall be constructed of either concrete or interlocking paving stone by the Owner to the satisfaction of the Corporation.
11. If any curbs, sidewalks, boulevards or highway surfaces of the Corporation are damaged during the development by the Owner, such damage shall be repaired or replaced by the Owner.
12. Snow removal from the parking or loading areas and lanes, driveways and walkways shall be the responsibility of the Owner.
13. Any garbage or refuse that is stored outside shall be stored in a non-combustible container and maintained so that the garbage or refuse does not blow or fall out of the container.
14. Any and all lighting shall be installed and maintained so as to not, in the opinion of the Corporation, interfere with the use or enjoyment of adjacent properties or with the safe flow of traffic on abutting or adjacent streets.
15. The Owner shall landscape and maintain in plants and ground cover acceptable to the Corporation those lands so indicated on Schedule "B" and on Schedule "C". The Owner agrees that the site will be inspected on an annual basis and any deficiencies will require immediate correction in accordance with the approved site plan.

16. The existing white picket fence and existing privacy fence shall be maintained along the limit of the property as shown on Schedule "B".
17. Access to the commercial portion of the property shall be restricted to the Dalhousie Street side of the building.
18. If the Ontario Building Code requires that an architect or professional engineer or both shall be responsible for the field review of any new building or extension provided for in this Agreement, the Owner shall not occupy or use or permit to be occupied or used any said new building or extension until after an architect or professional engineer has given to the Corporation a letter addressed to the Corporation and signed by him certifying that all services on or in the said lands, required for this development or redevelopment, newly installed by the Owner in connection with this development or redevelopment and not contained within a building, have been installed and completed in a manner satisfactory to the architect or professional engineer.
19. The Corporation through its servants, officers and agents including its building inspector, plumbing inspector, fire chief, public works head and municipal engineer may from time to time and at any time enter on the premises of the Owner to inspect:
 - (1) The progress of development;
 - (2) The state of maintenance as provided for in this Agreement.
20. In the event of any servant, officer or agent of the Corporation determining upon inspection the development is not proceeding in strict accord with the plans and specifications filed, such servant, officer or agent shall forthwith place a notice requiring all work to be stopped upon the premises and forward a copy by registered mail to the Owner at his last address as shown by the revised assessment rolls, and the Owner shall forthwith correct the deficiency or deviation.
21. In the event of any servant, officer or agent of the Corporation upon inspection being of the opinion that the state of maintenance is not satisfactory, such servant, officer or agent shall forthwith forward notice of such opinion to the Owner by registered mail at his last address as shown from the revised assessment rolls, and the Owner shall forthwith correct the deficiency or appeal to Council of the Corporation as hereinafter provided.
22. In the event that an Owner should disagree with the opinion of the servant, officer or agent of the Corporation as to the state of maintenance, such Owner shall appear before Council of the Corporation, which after hearing the Owner, shall express its opinion as to whether the maintenance is satisfactory by resolution, which shall constitute a final determination of the matter.
23. In the event that an Owner should fail to obey a stop work order issued under Section 20 hereof, the Owner recognizes the right of the Corporation to apply to the Courts for restraining order.

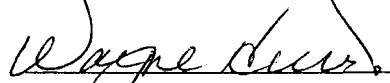
- 24. In the event that an Owner should fail to correct a deviation or deficiency after notice pursuant to Section 21 or after notice of an opinion, which Council of the Corporation determines is correct under Section 22, the Council of the Corporation may by law direct or default of the matter or thing being done by the Owner, after two (2) weeks notice to it by registered mail at the last shown address of the Owner pursuant to the revised assessment rolls of passage of such by-law, that such matter or thing be done by the Corporation at the expense of the Owner, which expense may be recovered by action or like manner as municipal taxes.
- 25. In the event of an Owner wishing to change at any time any of the buildings, structures or facilities described in the plans annexed or referred to in Section 3 hereof, it shall make application to Council of the Corporation for approval and shall not proceed with such change until approval is given by such Council, or in default by the Ontario Municipal Board, under the procedure set out in Section 41 of the Planning Act, R.S.O. 1990 herebefore referred to.
- 26. This Agreement and the provisions thereof do not give the Owner or any person acquiring any interest in the said lands any rights against the Corporation with respect to the failure of the Owner to perform or fully perform any of its obligations under this Agreement or any negligence of the Owner in its performance of the said obligations.
- 27. All facilities and matters required by this Agreement shall be provided and maintained by the Owner at its sole risk and expense to the satisfaction of the Corporation and in accordance with the standards determined by the Corporation and in default thereof and without limiting other remedies available to the Corporation, the provisions of Section 469 of the Municipal Act shall apply.
- 28. This Agreement shall be registered against the land to which it applies, at the expense of the Owner, and the Corporation shall be entitled, subject to the provisions of the Registry Act and the Land Titles Act, to enforce its provisions against the Owner named herein and any and all subsequent owners of the land.

IN WITNESS WHEREOF the Owner executed this Agreement.

Owner: Tito DeLuca


Tito DeLuca

THE CORPORATION OF THE
TOWN OF AMHERSTBURG


Mayor Wayne Hurst

Authorized and approved by By-law
No. 2004-72 enacted the 30th day of
August 2004.


Clerk - David Mailloux

SCHEDULE "A"

The following is a description of the land to which this instrument applies:

Part Lot 44 and 45, Plan 2
Amherstburg as in R1130567
Town of Amherstburg
County of Essex

TITO DELUCA

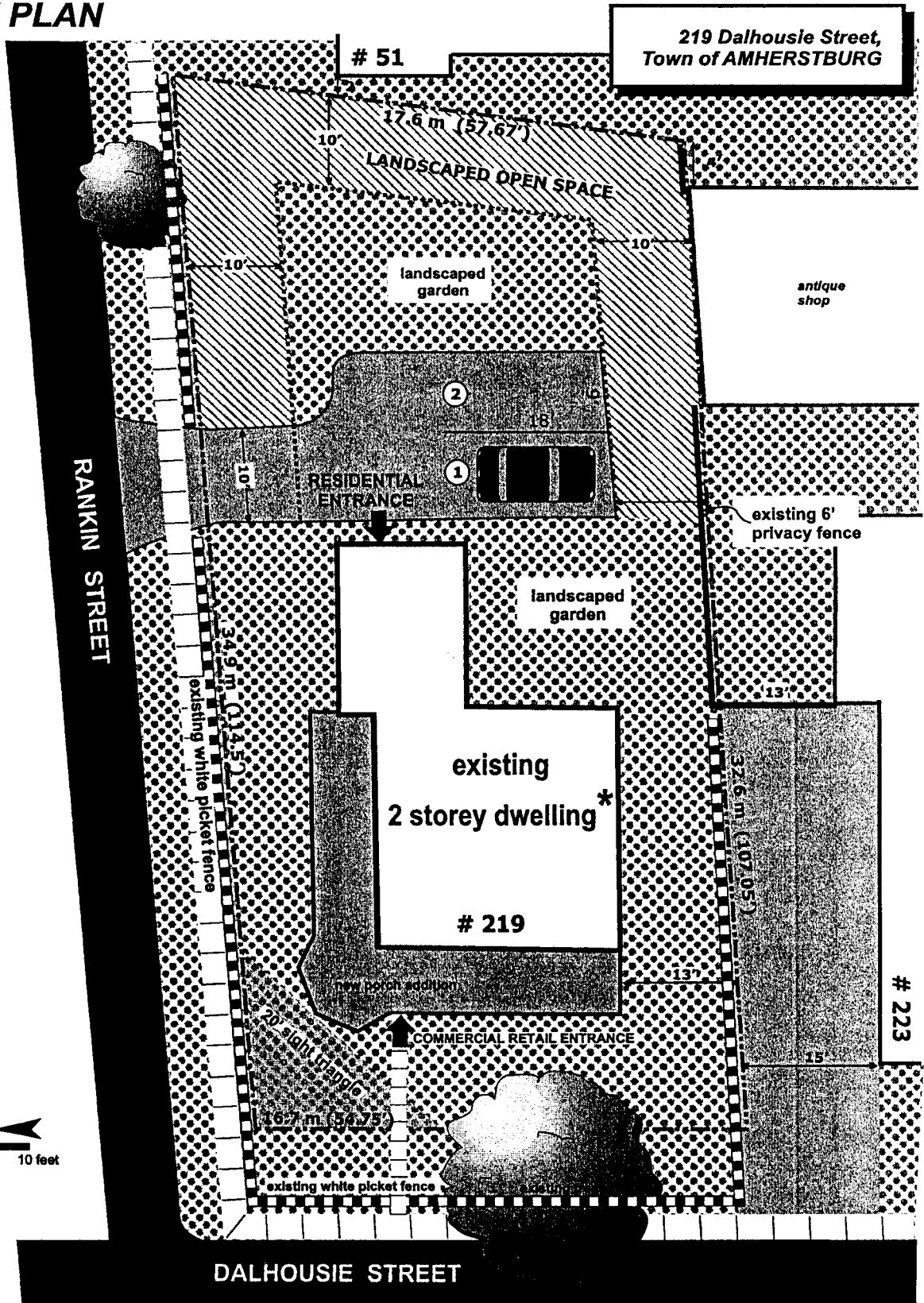
Tito De Luca
TITO DELUCA

TOWN OF AMHERSTBURG

Wagne De Luca
MAYOR

Clifford
CLERK

SITE PLAN



* COMMERCIAL RETAIL - MAIN FLOOR ONLY
- 65 m² MAXIMUM

NOTES: SIGN AFFIXED TO WALL
- 1 m² MAXIMUM

