

**CORPORATION OF THE TOWN OF AMHERSTBURG  
BY-LAW NO. 2014-52**

**By-law to authorize the execution of a Development Agreement  
between 1710690 Ontario Inc. and the Council of  
The Corporation of the Town of Amherstburg  
265 Concession 3 N, Amherstburg**

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**WHEREAS** under Section 8 of the Municipal Act 2001, S.O., 2001, c. 25, as amended, a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

**AND WHEREAS** under Section 9. (1) (a) and (b) of the Municipal Act 2001, S.O., 2001, c. 25, as amended, Section 8 shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate and to enhance their ability to respond to municipal issues;

**AND WHEREAS** By-law 2011-15 provided for the execution of a Development Agreement for a temporary construction staging area on the subject property to facilitate the establishment of solar energy facilities to be developed on adjacent lands;

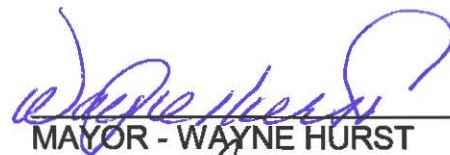
**AND WHEREAS** 1710690 Ontario Inc. has proposed the re-development of the property being 265 Concession 3N;

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

**NOW THEREFORE** the Council of the Corporation of the Town of Amherstburg enacts as follows:

1. THAT the Mayor and Clerk be hereby authorized to enter into a Development Agreement between 1710690 Ontario Inc. and the Corporation of the Town of Amherstburg for the development of 265 Concession 3 North for purposes of a parking lot for contractor's equipment, said agreement affixed hereto;
2. THAT all other provisions and regulations of By-law 2011-15 shall be repealed and replaced by By-law 2014-52.
3. THAT this By-law shall come into force and take effect at such time of the execution and registration of the new development agreement, at which time the previous By-law that pertains to these lands shall be finally repealed.

Read a first, second and third time and finally passed this 23<sup>rd</sup> day of June, 2014.

  
MAYOR - WAYNE HURST

  
DEPUTY CLERK - PAULA PARKER

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

**Properties**

*PIN* 01543 - 0173 -LT  
*Description* PT NW1/4 LT 2 CON 3 ANDERDON AS IN R1406153; AMHERSTBURG  
*Address* 265 CONCESSION 3 NORTH  
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

This document is not authorized under Power of Attorney by this party.

This document is being authorized by a municipal corporation REBECCA BELANGER, MCIP RPP, MANAGER OF PLANNING SERVICES.

**Party To(s)** *Capacity* *Share*

*Name* 1710690 ONTARIO INC.  
*Address for Service* 4955 Walker Rd.  
Windsor, ON.

This document is being authorized by a municipal corporation REBECCA BELANGER, MCIP RPP.

This document is not authorized under Power of Attorney by this party.

**Statements**

This notice is pursuant to Section 71 of the Land Titles Act.

This notice is for an indeterminate period

Schedule: See Schedules

**Signed By**

Thomas Robert Porter 500-251 Goyeau Street acting for Signed 2014 11 12  
Windsor Applicant(s)  
N9A 6V2  
Tel 519-258-0615  
Fax 5192586833

I have the authority to sign and register the document on behalf of the Applicant(s).

**Submitted By**

MOUSSEAU DELUCA MCPHERSON PRINCE 500-251 Goyeau Street 2014 11 12  
Windsor  
N9A 6V2  
Tel 519-258-0615  
Fax 5192586833

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

**Fees/Taxes/Payment**

Statutory Registration Fee	\$60.00
Total Paid	\$60.00

**File Number**

Party To Client File Number : 64826

**DEVELOPMENT AGREEMENT**

**THIS AGREEMENT** made in triplicate this 23rd day of June, 2014.

BETWEEN:

**1710690 ONTARIO INC.**  
Hereinafter called the "Owner"

OF THE FIRST PART;

– and –

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

OF THE SECOND PART;

Hereinafter collectively referred to as the "Parties"

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

**AND WHEREAS** 1710690 Ontario Inc. warrants that they are the registered owner of the "Lands";

**AND WHEREAS** in this Agreement the "Owner" includes an individual, an association, a partnership or corporation and, wherever the singular is used therein, it shall be construed as including the plural, and for greater certainty, shall be deemed to mean 1710690 Ontario Inc.;

**AND WHEREAS** the Official Plan in effect in the Town of Amherstburg designated parts of the area covered by the Official Plan, including the Lands, as a Site Plan Control area;

**AND WHEREAS** it is intended to develop or redevelop a portion of the said Development Lands for a parking lot for contractor's equipment all 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 Development Lands requires the Owner to enter into a Development Agreement;

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the goods and valuable consideration and the sum of FIVE DOLLARS (\$5.00) of lawful money of Canada, now paid by each of the Parties hereto to the other parties hereto, (the receipt of which are 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:
2. Schedule "A" hereto describes the Lands.
3. Schedule "B" (the "Site Plan") hereto shows:
  - a) Layout of the parking area on the Lands

- b) Location of fence and gated entrance
  - c) Location of proposed berms
  - d) Drainage details
4. The Owner shall be responsible for consulting with and obtaining any necessary approvals from Hydro One, Union Gas Limited and Bell Canada Limited regarding any matters that relate to services provided to the Lands by Hydro One, Union Gas Limited and Bell Canada Limited.
  5. The Owner shall be responsible for consulting with and obtaining any necessary approvals for the proposed development of the Lands, as outlined on the Site Plan, from the provincial Ministry of the Environment, Essex Region Conservation Authority (ERCA), and the Engineering Department of the County of Essex (the "County"), as well as from any other governmental authority having jurisdiction with respect to the proposed development of the Lands.
  6. The Owner shall ensure that trucks and equipment leaving the Lands are not laden with dirt, mud or debris. The Owner shall keep the surface of the roadway adjacent to the Lands clean of any debris, and upon notice from the Corporation, the Owner shall immediately clean the debris off the roadway. Failure of the Owner to respond will result in the Corporation arranging for the cleaning and invoicing the Owner, the Corporation having the right to recover any expense relating to same in the same manner as municipal taxes relating to the Lands.
  7. It is acknowledged that the proposed development of the Lands requires measures to deal with stormwater management, and accordingly, the Owner shall:
    - (a) undertake a site grading plan and a stormwater management analysis to the satisfaction of the Corporation and ERCA.
    - (b) install stormwater management measures as approved by the Corporation and the ERCA as part of the development of the Lands, which measures shall then be carried out to the satisfaction of the Corporation and ERCA;
    - (c) The Owner shall obtain the necessary permits and/or clearances from all governmental authorities having jurisdiction prior to construction activities and/or site alterations commencing of the Lands;
    - (d) The Owner shall conduct regular inspections once every two weeks, as well as after each sizable storm event (25mm of rainfall and/or continuous rainfall events) of all sediment and erosion control measures recommended in the approved stormwater management plan, and shall provide a report to the Corporation and to ERCA during and after the construction of improvements for the facilities on the Lands.
  8. The Owner shall install and maintain a system for the disposal of storm and surface water in accordance with the required stormwater management report so that no such water will flow along the surface from the Lands onto any adjoining lands. All storm and surface water disposal systems shall be to the satisfaction of the Corporation's Engineer and ERCA.
  9. The Owner shall be responsible for consulting with and obtaining any necessary approval from the Corporation regarding a private septic system, if required.

10. The truck route for construction equipment shall use County Road 10 and Concession 3 North. The Owner shall adhere to load restrictions in effect for both County and municipal roads.
11. The Owner acknowledges that operations and activities on the Lands shall be limited from 7 a.m. to 7 p.m. from Monday to Saturday, and that delivery of contractor's equipment, etc. to the Lands shall also only occur between such times and on such days.
12. If any municipal services or roadway surfaces of the Corporation are damaged during the development, such damage shall be repaired or replaced by the Owner to the satisfaction of the Corporation. Failure of the Owner to repair or replace such damage will result in the Corporation arranging for the repair and/or replacement and invoicing the Owner which expense may also be recovered as municipal taxes with respect to the Lands.
13. The construction and/or alteration to the berm on the Site Plan shall be completed to the satisfaction of the Corporation prior to occupancy and use of the development on the Lands being permitted.
14. Snow removal from the parking or loading areas, driveways and walkways shall be the responsibility of the Owner.
15. All new accesses and/or improvement to existing accesses shall be in consultation with and in accordance with the requirements of the Corporation's Director of Engineering and Infrastructure and Drainage Superintendent and shall be installed at the expense of the Owner.
16. Any garbage or refuse that is stored outside shall be stored in a non-combustible container and maintained so that garbage or refuse does not blow or fall out of the container.
17. Any and all lighting shall be installed and maintained in accordance with the standards set out in the Town's Development Manual 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.
18. The Owner shall landscape and maintain in plants and ground cover acceptable to the Corporation those lands so indicated on Schedule "B". 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.
19. All driveways for emergency vehicles shall:
  - (a) be connected with a public thoroughfare;
  - (b) be designed and constructed to support expected loads imposed by firefighting equipment;
  - (c) have a clear width of 3 meters at all times;
  - (d) have an overhead clearance of not less than 4.5 meters;
  - (e) have a change in gradient of not more than 1 in 12.5 over a minimum distance of 15.2 meters;
  - (f) have approved signs displayed to indicate the emergency route; and
  - (g) be surfaced with concrete, asphalt, or other material capable of permitting accessibility under all climatic conditions.

20. 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 Lands, required for the development of the parking lot for contractor's equipment or re-development, newly installed by the Owner in connection with such development and not contained within a building, have been installed and completed in a manner satisfactory to the architect or professional engineer.
21. 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 and upon reasonable notice to the Owner enter on the Lands to inspect:
  - (a) the progress of development;
  - (b) the state of maintenance as provided for by this Agreement.
22. In the event of any servant, officer or agent of the Corporation determining upon inspection that the development of the parking lot for contractor's equipment is not proceeding in strict accordance with the plans and specifications filed with the Corporation, such servant, officer or agent shall forthwith place a notice requiring all work to be stopped upon the Lands and forward a copy by registered mail to the Owner at his last address shown by the revised assessment rolls, and the Owner shall forthwith correct the deficiency or deviation.
23. 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 shown from the revised assessment rolls, and the owner shall forthwith correct the deficiency or appeal to Council or the Corporation as hereinafter provided.
24. In the event that an Owner should disagree with the opinion of the servant, officer or agent of the Corporation as to the progress of the development or as to the state of maintenance, such Owner shall appear before Council of the Corporation, which after hearing the Owner, shall be permitted to express its position as to whether such progress or maintenance is satisfactory, following which Council of the Corporation shall make a decision, by resolution, as to whether to lift or sustain the prior decision of the Corporation's servant, officer or agent, which shall constitute a final determination of the matter.
25. In the event that the Owner should fail to obey a stop work order issued under Section 22 hereof, the Owner recognizes the right of the Corporation to apply to the Court for a restraining order.
26. In the event that the Owner should fail to correct a deviation or deficiency after notice is given pursuant to Section 22 or 23 or after notice of an opinion, which Council of the Corporation may by law direct or default of the matter or thing being done by the Owner, after two (2) week written notice given to the Owner by registered mail at the last address of the Owner pursuant to the revised assessment rolls of passage of such by-law, that such matter or thing being done by the Corporation at the expense of the Owner, which expense may be recovered by action or like manner as municipal taxes.

27. In the event that the Owner wishes to change at any time any of the structures, facilities or site appurtenances described in the plans annexed or referred to in Section 3 hereof, or to otherwise amend this Agreement, it shall make an application to the Council of the Corporation for approval of such change or amendment and shall not proceed to implement such change or amendment until approval is given by such Council, or in default by the Ontario Municipal Board under the appeal procedure set out in Section 41(12) of the *Planning Act*, R.S.O. 1990.
28. This Agreement and the provisions thereof do not give the Owner or any other person acquiring any interest in the 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.
29. In the event that no construction on the Lands has commenced on or before the expiry of one (1) year from the date of registration of this Agreement, the Corporation may subsequently, at its option, on one month's written notice to the Owner, terminate this Agreement, whereupon the Owner acknowledges and agrees that it will not be able to undertake any development construction on the Lands (or any further development or construction) on the Lands.
30. 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 446 of the Municipal Act shall apply.
31. A financial guarantee (certified cheque or irrevocable letter of credit – self renewing without burden of proof) for FIFTY PERCENT (50%) of the value of on-site improvements of this development, exclusive of buildings and structures, is required to be paid and/or posted with the Corporation, in addition to further financial security in the amount of ONE HUNDRED PERCENT (100%) for all off-site works required as part of this development. The Owner's engineer is required to provide a certified estimate of the cost of the on-site and off-site work for consideration by the Town's Director of Engineering and Infrastructure for his/her approval, with any decision by the Town's Director of Engineering and Infrastructure in this regard to be final and binding upon the Owner. Once the Town has inspected and approved the construction of the on-site and off-site works, the Owner will be required to provide security for a ONE (1) year maintenance period in the amount of FIFTEEN PERCENT (15%) of the cost of on-site and off-site improvements.
32. 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 lands.
33. This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective heirs, executors, administrators, successors and permitted assigns.
34. This Agreement shall be governed by, and interpreted according to, the laws of the Province of Ontario and the laws of Canada applicable therein, and shall be treated in all respects as an Ontario Contract.
35. If any provision or part thereof of this Agreement be illegal or unenforceable, it or they shall be considered separate and severable from the Agreement, and the remaining provisions of the Agreement shall



remain in force and effect and shall be binding upon the Parties hereto as though the said provision or part thereof had never been including in this Agreement.

- 36. The division of this Agreement into Articles, sections and subsections are for convenience of reference only and shall not effect the construction or interpretation hereof.
- 37. This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument and shall be effective as of the date set out above.
- 38. Words importing the singular number include the plural and vice versa; words importing the masculine gender include the feminine and neutral genders.
- 39. Schedules and other documents attached or referred to in this Agreement are an integral part of this Agreement, and are hereby incorporated into this Agreement by reference.
- 40. The owner remains responsible to indemnify the Town in respect of any liabilities that may have arisen under this Agreement or any prior development agreement, and that the repeal and replacement of the prior agreement does not extinguish or waive any rights of the Corporation thereunder.
- 41. This Agreement constitutes the entire agreement among the Parties and except as herein stated and in the instruments and documents to be executed and delivered pursuant hereto, contains all of the representations and warranties of the respective Parties. There are no oral representations or warranties among the Parties of any kind. This Agreement may not be amended or modified in any respect except by written instrument signed by both Parties.


**IN WITNESS WHEREOF** the Owner and the Corporation (the latter under the hands and seals of its officers duly authorized in this regard), have executed this Agreement as of the date first above written.

**1710690 ONTARIO INC.**

Per:   
Loris Collavino, President

I have the authority to bind the Corporation

**THE CORPORATION OF THE TOWN OF AMHERSBURG**

Per:   
Wayne Hurst, Mayor

Per:   
Paula Parker, Deputy Clerk

We have the authority to bind the Corporation

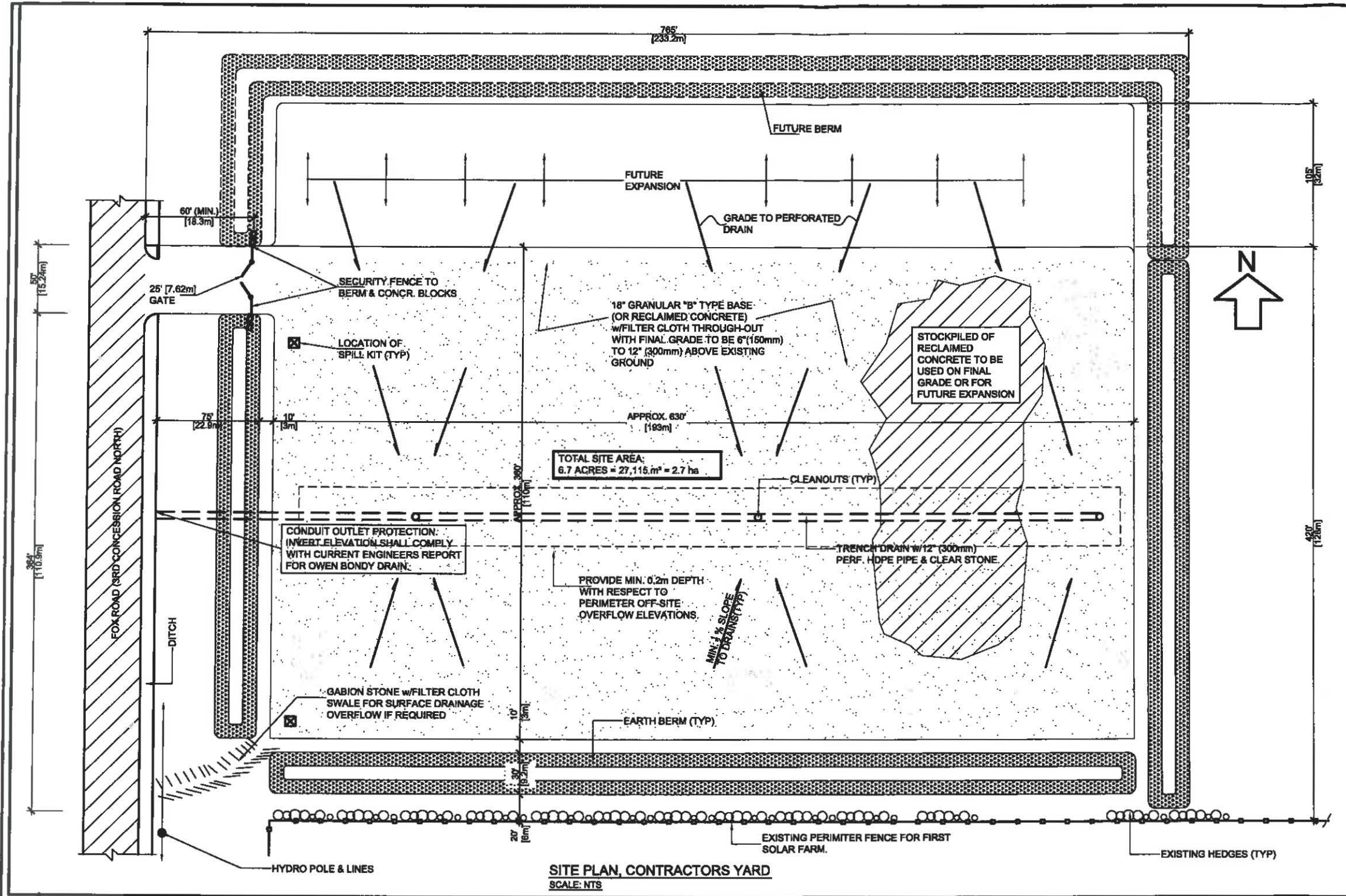
Authorized and approved by By-law No. 2014-52 enacted the 23<sup>rd</sup> day of June, 2014.

**SCHEDULE "A"**

**Legal Description of the Lands**

**PIN 01543-0173 (LT)**

PT NW1/4 LT 2 CON 3 ANDERDON AS IN R1406153, TOWN OF  
AMHERSTBURG, COUNTY OF ESSEX.



SCHEDULE "B" TO BY-LAW 2014-52

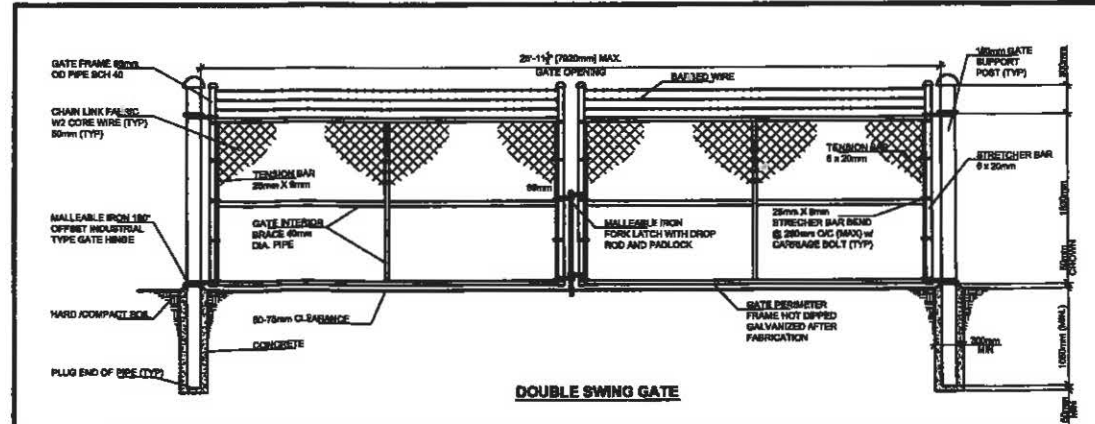
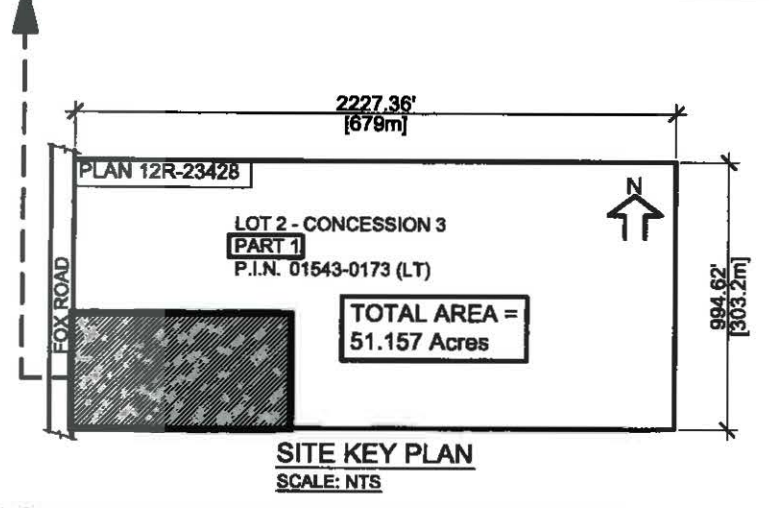
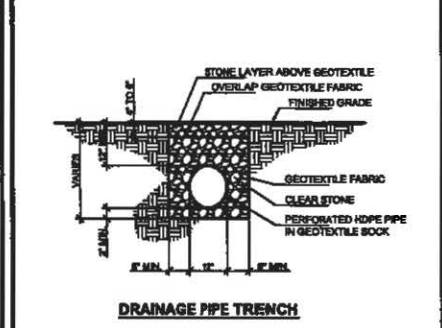
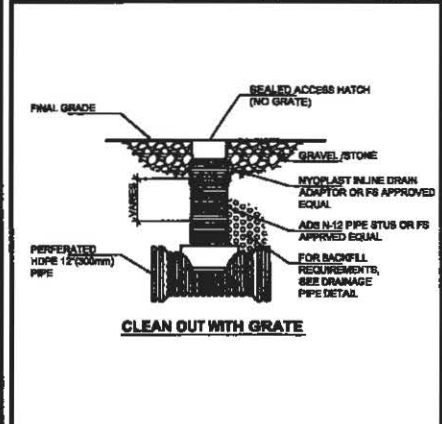
1710690 ONTARIO INC.

LORIS COLLAVIO, PRESIDENT

TOWN OF AMHERSTBURG

MAYOR WAYNE HURST

DEPUTY CLERK GAULA PARKER



REV	DATE	REVISION DESCRIPTION
4	JUNE 19, 2014	DRAWING REVISION

1710690 ONTARIO INC.  
CONTRACTORS YARD  
OF APPROX. 6.7 ACRES

ADDRESS:  
1710690 ONTARIO INC.  
285 CONCESSION 3 NORTH  
AMHERSTBURG, ONTARIO N8V 2Y8

DRAWING TITLE: **SITE PLAN, CONTRACTORS YARD** SHEET: **A1**