

**THE CORPORATION OF THE TOWN OF AMHERSTBURG  
BY-LAW NO. 2015-117**

**By-law to authorize the execution of a Development Agreement  
between Lumed Management Inc. and  
the Corporation of the Town of Amherstburg  
140 Simcoe Street, 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** the Corporation of the Town of Amherstburg and owners of said property have agreed to the terms and conditions of a Development Agreement in the form annexed hereto;

**NOW THEREFORE** 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 Lumed Management Inc. and the Corporation of the Town of Amherstburg for the redevelopment of 140 Simcoe Street for a carwash, said agreement affixed hereto;
2. THAT this By-law shall come into force and take effect immediately upon the final passing thereof at which time all by-laws that are inconsistent with the provisions of this by-law and the same are hereby amended insofar as it is necessary to give effect to the provisions of this by-law.

Read a first, second and third time and finally passed this 26<sup>th</sup> day of October, 2015.

  
\_\_\_\_\_  
MAYOR – ALDO DICARLO

  
\_\_\_\_\_  
CLERK – PAULA PARKER

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

**Properties**

*PIN* 70555 - 0146 LT  
*Description* PT LT 31 W/S APSLEY ST PL 1 AMHERSTBURG PT 2 12R8598; AMHERSTBURG  
*Address* 140 SIMCOE STREET  
AMHERSTBURG

*PIN* 70555 - 0144 LT  
*Description* PT LT 30 W/S APSLEY ST PL 1 AMHERSTBURG PTS 1 & 2 12R1716; S/T R1077555;  
AMHERSTBURG  
*Address* 302 SANDWICH STREET SOUTH  
AMHERSTBURG

*PIN* 70555 - 0145 LT  
*Description* PT LT 31 W/S APSLEY ST PL 1 AMHERSTBURG AS IN R1196134; AMHERSTBURG  
*Address* 306 SANDWICH STREET SOUTH  
AMHERSTBURG

**Consideration**

*Consideration* \$ 1.00

**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*

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 for the Corporation of the Town of Amherstburg..

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

*Name* LUMED MANAGEMENT INC.  
*Address for Service* c/o Luigi DiPierdomenico  
285 Sandwich Street South  
Amherstburg, Ontario  
N9V 2A7

This document is being authorized by a municipal corporation REBECCA BELANGER, MCIP, RPP, Manager of Planning Services for the Corporation of the Town of Amherstburg..

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 2016 08 17  
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).

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

**Submitted By**

MOUSSEAU DELUCA MCPHERSON PRINCE      500-251 Goyeau Street      2016 08 17  
Windsor  
N9A 6V2

Tel      519-258-0615  
Fax      5192586833

**Fees/Taxes/Payment**

*Statutory Registration Fee*      \$62.85

*Total Paid*      \$62.85

## DEVELOPMENT AGREEMENT

**THIS AGREEMENT** made in quadruplicate this 26<sup>th</sup> day of October, 2015.

**BETWEEN: LUMED MANAGEMENT INC.**

(Hereinafter collectively called "**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** the Owner warrants it is 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 WHEREAS** the Official Plan in effect in Amherstburg designated parts of the area covered by the Official Plan, including the Lands, as a Site Plan Control area;

**AND WHEREAS** the Owner intends to develop the Lands for the purpose of a restaurant, 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 of the Lands requires the Owner to enter into a Development Agreement;

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the premises, along with 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 and sufficiency 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-1):
  - (a) The location of the building to be renovated on the subject lands;
  - (b) The location of the building addition on the subject lands;
  - (c) Landscaped areas, curbs and fencing on the subject lands.
4. Schedule "C" Elevations (A-2).

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. All walkways on the said lands, where so designated on Schedule "B", shall be constructed of concrete, asphalt or other like material capable of permitting accessibility under all climatic conditions by the Owner to the satisfaction of the Corporation.
7. All of the exterior walls of the building shall be as per elevation drawings as shown on Schedules "C" hereto. All of the exterior walls of the building shall be faced with decorative stone, stucco, prefinished aluminum or similar finished material.
8. All parking or loading areas and lanes and driveways shall be paved with asphalt or a concrete portland cement or other like material capable of permitting accessibility under all climatic conditions, as shown on Schedule "B" and together with crushed stone, slag, gravel, crushed brick, tile, cinders or like materials, having a combined depth of at least 15.2 cm. and with provisions for drainage facilities.
9. 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.
10. Snow removal from the parking or loading areas and lanes, driveways and walkways shall be the responsibility of the Owner.
11. The Owner shall install and maintain a system for the disposal of storm and surface water as indicated on Schedule "B" to the satisfaction of the Corporation, so that no such water will flow along the surface from the said lands onto any adjoining lands.
12. 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.
13. Any and all lighting shall be installed and maintained in accordance with the standards set out in the Town's Development Manual, and, 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.
14. A solid wood fence, stained or treated and maintained, with a minimum of 1.83 metres high, shall be constructed and maintained along the limits of the property as shown on Schedule "B".
15. The Owner agrees to install signage indicating that there shall be no queuing out onto Sandwich Street South.
16. 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.
17. All driveways for emergency vehicles shall:
  - (1) Be connected with a public thoroughfare;
  - (2) Be designed and constructed to support expected loads imposed by firefighting equipment;
  - (3) Be surfaced with concrete, asphalt or other material capable of permitting accessibility under all climatic conditions;
  - (4) Have a clear width of 3 metres at all times;

- (5) Be located not less than 3 metres and not more than 15.2 metres measured horizontally and at right angles from the face of the building;
  - (6) Have an overhead clearance not less than 4.5 metres;
  - (7) Have a change in gradient of not more than 1 in 12.5 over a minimum distance of 15.2 metres; and
  - (8) Have approved signs displayed to indicate the emergency route.
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 Lands 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 that the development is not proceeding in strict accord 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 shall 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 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.
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 a restraining order.
24. In the event that an Owner should fail to correct a deviation or deficiency after notice pursuant to Section 20 or 21 or after notice of an opinion, which Council of the Corporation determines is correct under Section 20, the 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 notices 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 to the Owner or any 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 if its performance of the said obligations.
27. 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 that agrees that it will not be able to undertake any development construction on the Lands (or any further development or construction) on the Lands.
28. 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.
29. A financial guarantee (being in the form of a certified cheque payable to the Corporation or irrevocable letter of credit address to the Corporation, being self-renewing without burden of proof in the case of the latter) for 50% of the value of on-site improvements on the Lands, exclusive of buildings and structures, shall be posted with the Corporation by the Owner, in addition to further financial security, in the same form as described above, in the amount of 100% for all off-site works required as part of this development. With respect to determining values herein, the Owner's engineer is required to provide a certified estimate of the cost of the on-site and off-site work for consideration and approval by the Corporation's Director of Engineering and Public Works. 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, again in the form described above, for a one year maintenance period in the amount of 15% of the cost of on-site and off-site improvements.
30. 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.
31. 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.
32. 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.


33. 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.
34. The division of this Agreement into Articles, sections and subsections and the insertion of headings are for convenience of reference only and shall not effect the construction or interpretation hereof.
35. 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.
36. Words importing the singular number include the plural and vice versa; words importing the masculine gender include the feminine and neutral genders.
37. 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.
38. 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.

**OWNER: LUMED MANAGEMENT INC.**

Per  Luigi DiPierdomenico

**THE CORPORATION OF THE TOWN OF AMHERSTBURG**

Per  Aldo DiCarlo, Mayor

Per  Paula Parker, Clerk

*We have authority to bind the Corporation*

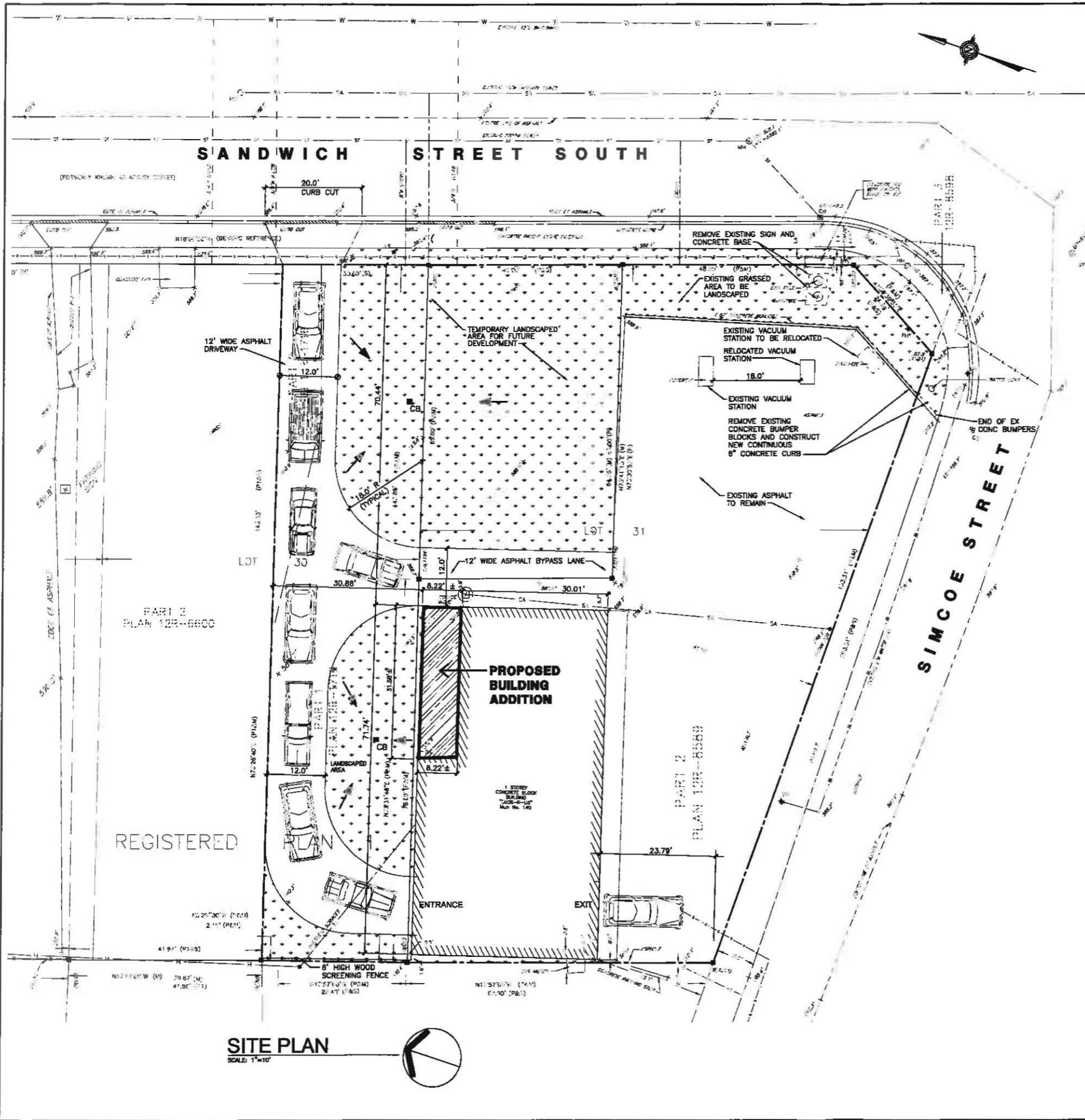
Authorized and approved by By-law  
No. 2015-117 enacted the 26<sup>th</sup> day of  
October, 2015.



**SCHEDULE "A"**

**DESCRIPTION OF THE LANDS**

Lot 31 and Part of Lot 30, Plan 1,  
Town of Amherstburg,  
County of Essex  
and Province of Ontario  
PINs 70555-0146, 70555-0145, 70555-0144



**SITE PLAN**  
SCALE: 1"=10'

SCHEDULE "B" TO BY-LAW 2015-117  
LUMED MANAGEMENT INC.

Luigi DiPierdomenico  
TOWN OF AMHERSTBURG  
Mayor Aldo DiCarlo  
Clerk Paula Parker

**LEGEND**  
—> INDICATES SURFACE DRAINAGE

**SITE STATISTICS**

LOT AREA	= 18,587.2 sq.ft. (1541.0m <sup>2</sup> )
PROPOSED BUILDING ADDITION	= 257.1 sq.ft. (23.9 m <sup>2</sup> )
EXISTING BUILDING AREA	= 2,485.7 sq.ft. (230.8m <sup>2</sup> )
TOTAL BUILDING AREA	= 2,742.7 sq.ft. (254.8m <sup>2</sup> )
PAVED AREA	= 8,528.6 sq.ft. (792.4m <sup>2</sup> )
LANDSCAPED AREA:	= 5,315.6 sq.ft. (493.8m <sup>2</sup> ) (28.0%)

**LEGAL DESCRIPTION**  
PART OF LOTS 30 & 31  
REGISTERED PLAN 1  
IN THE TOWN OF AMHERSTBURG  
COUNTY OF ESSEX, ONTARIO

**MEO & ASSOCIATES INC.**  
Architectural & Engineering Consultants  
1000 Highway 7  
Unit 10  
Amherstburg, Ontario  
N0B 1S0  
Tel: 519-251-8800  
Fax: 519-251-8801  
www.meo.ca

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APPROVED SITE PLAN	04-07-18
SITE PLAN CONTROL	09-30-15
ISSUED FOR:	DATE:

A	A. DETAIL NO.
B	B. LOCATION SHEET
C	C. DETAILED ON

CURT:

PROJECT:  
CAR WASH ADDITION  
40 SIMCOE STREET AMHERSTBURG, ONTARIO

DRAWING TITLE:  
**SITE PLAN**

DESIGNED BY:	MJP	DRAWN BY:	KZ/MJP
CHECKED BY:	MJP	SCALE:	AS NOTED
ACAO REFERENCE:	4682 At Site Plan Rev1	DATE:	SEPTEMBER 30, 2015
PROJECT NUMBER:	4682	SHEET NUMBER:	A-1 OF

