

The Corporation of the Township of Southgate
By-law Number 2020-095

Being a by-law to authorize the execution of a Site Plan Control Agreement

Whereas Section 41 of the Planning Act, RSO 1990, Chapter P.13 as amended authorizes municipalities to designate areas of Site Plan Control, and to subsequently enter into agreements with respect to the conditions of development or redevelopment of lands in areas of Site Plan Control; and

Whereas all of the lands within the Township are designated as a Site Plan Control Area pursuant to the provisions of Section 41 of the Planning Act and By-law 2007-47; and

Whereas the Council of the Township of Southgate deems it expedient to enter into a Site Plan Agreement with the owner,

Now therefore be it resolved that the Council of the Corporation of the Township of Southgate enacts as follows:

1. **That** a Site Plan Agreement between Levi M. Frey, Edna B. Frey, Joshua Frey and the Township of Southgate for the development of the lands described as Con 6, PT lot 9 Egremont, Township of Southgate is authorized. Such agreement being attached hereto as Schedule "A" and which forms a part of this by-law;
2. **That** the Mayor and Clerk are authorized to sign the Site Plan Agreement on behalf of the Council of the Corporation of the Township of Southgate in substantially the form as that set out in Schedule A;
3. **That** the Clerk is authorized and directed to cause notice of the Site Plan Agreement to be registered on the title to the said lands forthwith after it has been signed by all parties; and
4. **That** this By-law shall come into full force and effect upon the final passing hereof.

Read a first and second time this 2nd day of September 2020.

Read a third time and finally passed this 2nd day of September 2020.

Mayor – John Woodbury

Clerk- Lindsey Green

THE CORPORATION OF
THE TOWNSHIP OF SOUTHGATE

SITE PLAN AGREEMENT

THIS AGREEMENT made in triplicate this_____ day of_____, 2020

Between: Levi M Frey, Edna B Frey and Joshua Frey
(hereinafter called the "OWNERS" OF THE FIRST PART)

- and -

THE CORPORATION OF THE TOWNSHIP OF SOUTHGATE
(hereinafter called the "TOWNSHIP" OF THE SECOND PART)

WHEREAS the OWNERS represents that they are the owners of these lands and premises in the Township of Southgate in the County of Grey, being more particularly described in s Schedule "A"

AND WHEREAS the OWNERS have applied to the TOWNSHIP to permit development on the OWNER'S lands;

AND WHEREAS the Encumbrancer(s) (if any) hold registered security interests in the lands and all Encumbrancers of the lands are included as parties to this Agreement

AND WHEREAS the OWNERS have agreed with the TOWNSHIP to furnish and perform the works, material, matters and things required to be done, furnished and performed in the manner hereinafter described in connection with the proposed use of the subject lands;

AND WHEREAS the said lands have been designated by the Council of the TOWNSHIP as being within a site plan control area as provided by Section 41 of the Planning Act, R.S.O. 1990, as amended;

NOW THEREFORE witnesseth that in consideration of other good and valuable consideration and the sum of one -----(\$1.00)-----DOLLAR of lawful money of Canada now paid by the TOWNSHIP to the OWNER, the receipt whereof is hereby acknowledged, the OWNERS and the TOWNSHIP covenant, declare and agree as follows:

SECTION 1 - LANDS TO BE BOUND

1. The lands to be bound by the terms and conditions of this Agreement (sometimes referred to as "the subject lands"), are located in the geographic Township of Proton, in the TOWNSHIP OF SOUTHGATE, and are more particularly described in Schedule "A".

SECTION II - COMPONENTS OF THE AGREEMENT

1. The text and the following Schedules, which are annexed hereto, constitute the components of this Agreement.

Schedule "A" - Legal Description of the Lands being developed.

Schedule "B" - Site Plan(s)

SECTION III - REGISTRATION OF AGREEMENT

1. This Agreement shall be registered on title to the said lands as provided for by Section 41(10) of the Planning Act, R.S.O., 1990, as amended, at the expense of the OWNERS;
2. The OWNERS agree that all documents required herein shall be submitted in a form suitable to the TOWNSHIP and suitable for registration, as required;
3. The PARTIES agree that this Agreement must be registered against the OWNERS' lands within thirty (30) days of the execution thereof by both parties.

SECTION IV - BUILDING PERMITS

1. The OWNERS agree to not request the Chief Building Official to issue any further building permits to carry out the development until this Agreement has been registered on title to the lands described in Schedule "A" attached hereto and a registered copy of same has been provided to the Township.
2. It is agreed that if the OWNERS fail to apply for any building permit or permits to implement this Agreement within 12 months from the date upon which such building permit would be available, then the TOWNSHIP, at its option has the right to terminate the said Agreement and require that a new Site Plan Agreement be submitted for approval and execution.

SECTION V - PROVISIONS

1. **THIS AGREEMENT** applies to works related to the entire subject lands and includes the exterior of existing buildings, new structures, drainage and servicing and entrance as required. Agricultural and residential uses are not applicable to Site Plan Agreement in accordance with section 41 of the Planning Act and By-law 2007-47.
2. **The OWNERS** further covenant and agree to develop the subject lands in accordance with the Site Plan being Schedule "B" attached hereto, and that no work will be performed on the subject lands except in conformity to all provisions of this Agreement.
3. **THE OWNERS** agree to carry out on the lands at the work, and to construct, install and maintain at its expense all of the services, works and facilities stipulated, described by words and numbers, and shown in and upon the following Plans, that is:

(i) Submitted Site Plan Drawings;

which Plan is hereinafter called "the Site Plan". Notwithstanding the generality of the foregoing the requirements under this agreement include all of the notes and printed text contained in and on the Plans making up the Site Plan.

4. *Further Description of Work and Location of Site Plan.* Without limiting the generality of the foregoing, all of the specifications and said requirements contained in the said Site Plan, which is on file at Southgate's Municipal Office, shall be adhered to and satisfied by the Owner to the satisfaction of Southgate.
5. *Exterior Fascia.* In order to mitigate possible noise impacts of the facility, the owner agrees that the Chief Building Official or By-law Enforcement Officer, may require, if complaints are received, that all doors and windows remain closed during operating hours. The windows facing the road shall remain closed and the shop shall be constructed in accordance with the drawings provided in this agreement.

6. *Storm Drainage -- General.* Notwithstanding the foregoing, the Owner agrees that the storm drainage system on and for the lands shall be designed and constructed to the satisfaction of Southgate at the expense of the Owner.

7. *Entrance.* The entrance to the property is from Southgate Road 04. If the road is paved it is the owners responsibility to pave the apron between the edge of pavement and the property line. Depending on Truck Traffic a Commercial Entrance may be required at the discretion of the Township.

8. *Fire Suppression.* The owner agrees to install all necessary servicing and equipment on the property for fire fighting and fire suppression including if required a water reservoir, at the owners expense.

9. *Servicing.* The owner is responsible for ensuring that a private well and sewage disposal system are in good working order to accommodate the shop and its employees.

10. *Landscaped Buffering.* The owner agrees to install a landscaped screening buffer where outdoor storage areas are exercised, installed or used, in accordance with the Township of Southgate Zoning By-law. This buffer must be maintained for the purposes of providing a visual barrier.

11. *Outside Storage.* Outside storage may only be located in the areas identified on the Site Plan. Stacking in the outside storage area is limited to a maximum height of 3m and in no case will it be higher than the eaves of the workshop. Currently there are no outside storage areas indicated on the plan.

12. *Dust Control Measures.* The owner agrees to provide for dust control measures such as calcium and water, to mitigate impacts as required by the Township of Southgate. These measures will be required for those areas of the site not asphalted or seeded with grass.

13. *Lighting.* All exterior lighting must be dark sky compliant. It must be pointed downward and remain internal to the site in accordance with the Township of Southgate Standards.

14. *Hours of Operation.* The owner agrees that the small scale industrial shop shall operate from 7:00 am to 7:00 pm Monday to Friday and 7:00 am till 12:00 pm on Saturday. The operation shall remain closed on Sundays and Statutory Holidays.

15. *MOE Certificates of Approval (if required).* The Owner shall not commence any work on the lands or cause any work to be commenced on the said public highway until any Certificate of Approval required under the *Environmental Protection Act* and or the regulations made under it has been duly applied for by the Owner and a copy of the application has been filed with Southgate Township.

16. *Postponement and Subordination of Encumbrances.* The Owner covenants and agrees, at its own expense, to obtain and register such documentation from its mortgagees or those holding encumbrances as may be deemed necessary by Southgate to postpone and subordinate their interest in the lands to the interest of Southgate to the extent that this Agreement shall take effect and have priority as if it have been executed and registered prior to the execution and registration of any such mortgages or encumbrances.

17. *Southgate's Professional Fees and Disbursements.* The Owner shall reimburse Southgate for all of its engineering and legal expenses (professional fees and disbursements) in connection with the development and implementation of this Agreement.

18. *Waiver.* The failure of Southgate at any time to require performance by the Owner of any obligation under this Agreement shall in no way affect its right thereafter to enforce such obligation, nor shall the waiver by Southgate of the performance of any obligation hereunder be taken or be held to be a waiver of the performance of the same or any other obligation hereunder at any later time. Southgate shall specifically retain its rights at law to enforce this Agreement.

19. *No Challenge to the Agreement.* The parties covenant and agree with each other not to call into question or challenge, directly or indirectly, in any proceeding or action in court, or before any administrative tribunal, the parties' right to enter into and force this Agreement. The law of contract applies to this Agreement and the parties are entitled to all remedies arising from it, notwithstanding any provisions in Section 41 of the Planning Act interpreted to the contrary. The parties agree that adequate consideration has flowed from each party to the other and that they are not severable. This provision may be pleaded by either party in any action or proceeding as an estoppel of any denial of such right.

20. *Enforcement.* The Owner acknowledges that Southgate, in addition to any other remedy it may have at law, may also be entitled to enforce this Agreement in accordance with Section 446 of the *Municipal Act, 2001* as amended.

21. *Mediation.* Without affecting Southgate's statutory right under subsection 41(11) of the said *Planning Act* to, at its complete discretion, invoke the provisions of Section 446 of the *Municipal Act, 2001* as amended regarding any applicable requirement herein in which case this paragraph shall be inoperative and inapplicable, in the event that a dispute relating to this Agreement or its implementation arises that cannot be resolved by negotiation between the parties, the parties agree to use the services of a mediator to attempt to resolve their differences and failing agreement on the procedure to be followed, it shall be conducted in accordance with the rules of procedure for the conduct of mediations of the ADR Institute of Ontario Inc. or its successor body.

22. *Registration.* The Owner consents to the registration of this Agreement or Notice of this Agreement by Southgate on the title to the lands.

23. *Enurement Clause.* The covenants, agreements, stipulations, declarations and provisions contained herein shall run with the lands and shall be binding upon the Owner and its successors and assigns and the benefit thereof shall enure to Southgate and its successors and assigns.

SECTION VI - BINDING PARTIES, ALTERATION, AMENDMENT, EFFECT, NOTICE, PENALTY

1. This Agreement may only be amended or varied by a written document of equal formality herewith duly executed by the parties hereto and registered against the title to the subject lands.

2. The OWNER further agrees to complete the items detailed on Schedule "B" within three (3) years of the date of registration of this Agreement.

3. Following completion of the works, the OWNER shall maintain to the satisfaction of the TOWNSHIP, and at the sole expense of the OWNER, all the facilities or works described in Schedule "B".

4. This Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of each of the PARTIES hereto.

5. The Agreement shall come into effect on the date of execution by the TOWNSHIP.

6. The OWNER acknowledges that this Agreement is entered into under the provisions of Section 41(7)(c) of the Planning Act, R.S.O., 1990, as amended.

7. Any notice required to be given pursuant to the terms hereto shall be in writing and mailed or delivered to the other at the following address:

To the OWNER: Levi M Frey, Edna B Frey and Joshua Frey
043873 Southgate Road 04
Mount Forest, ON. N0G 2L0

To the TOWNSHIP: Clerk
Township of Southgate
185667 Grey Rd 9,
Dundalk, ON.
N0C 1B0

IN WITNESS WHEREOF the corporate parties have executed this Agreement by affixing thereto their corporate seals, as attested by the hand of their proper signing officers duly authorized in that behalf.

AND IN WITNESS WHEREOF the natural parties hereto have hereunto set their hands and seals. Signing authorized by by-law 2020-095.

SIGNED, SEALED AND
DELIVERED

in the presence of:

Witness

Witness

) {OWNERS' NAMES}

)

)

)

)

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)

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) Per: _____

)

)

)

) Per: _____

)

) Date: _____

)

)

)

**THE CORPORATION OF THE
TOWNSHIP OF SOUTHGATE**

)

)

) Per: _____

)

John Woodbury, Mayor

)

)

) Per: _____

)

Lindsey Green, Clerk

)

) Date: _____

)

) We have authority to bind the corporation

Schedule "A"

THE LAND

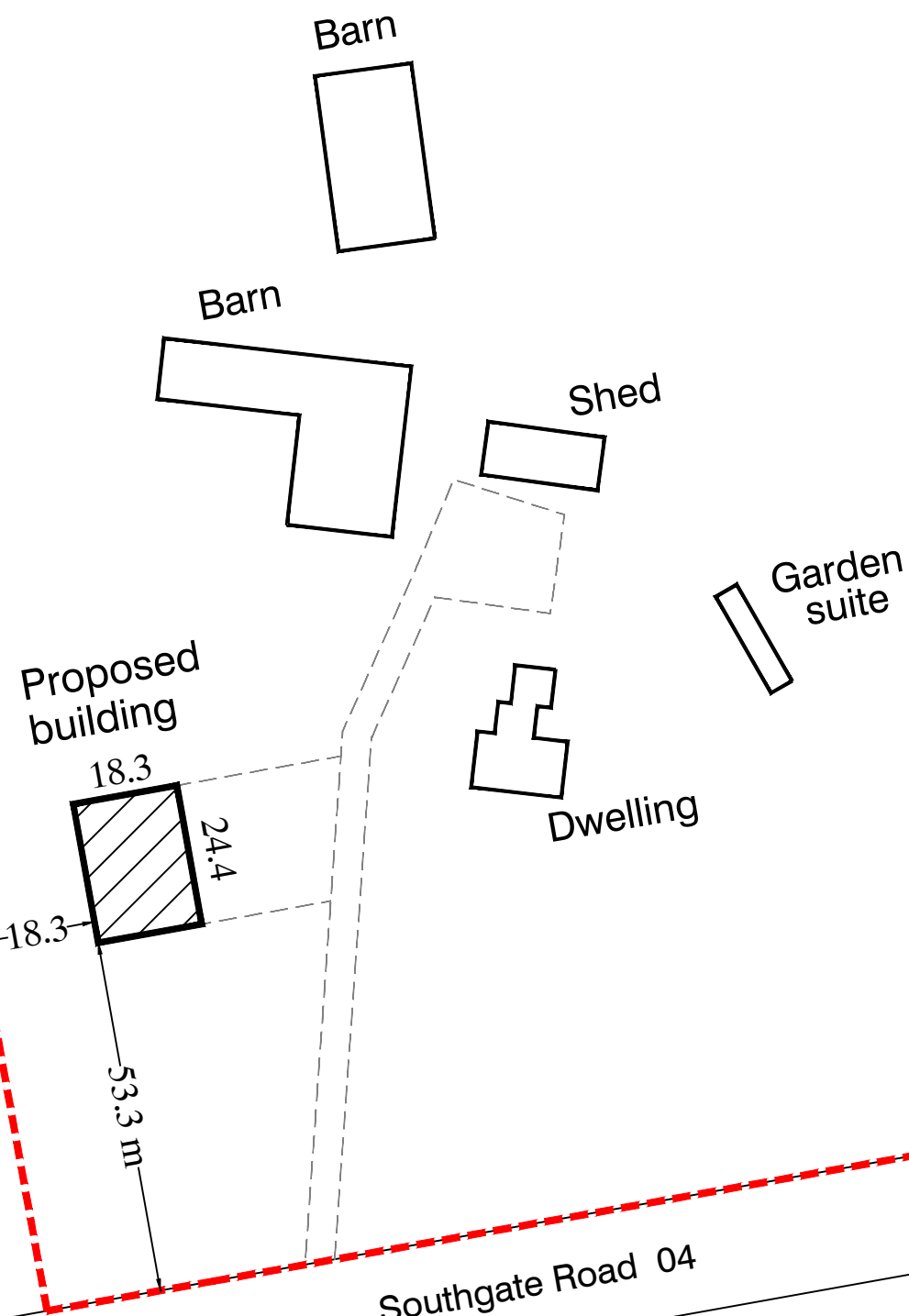
All and singular that certain parcel or tract of land and premises situate, lying and being in the Township of Southgate, in the County of Grey and Province of Ontario, and being composed of:

**Con 6, Part lot 9, Geographic Township of Egremont,
Township of Southgate , alternately described as
043873 Southgate Road 04**

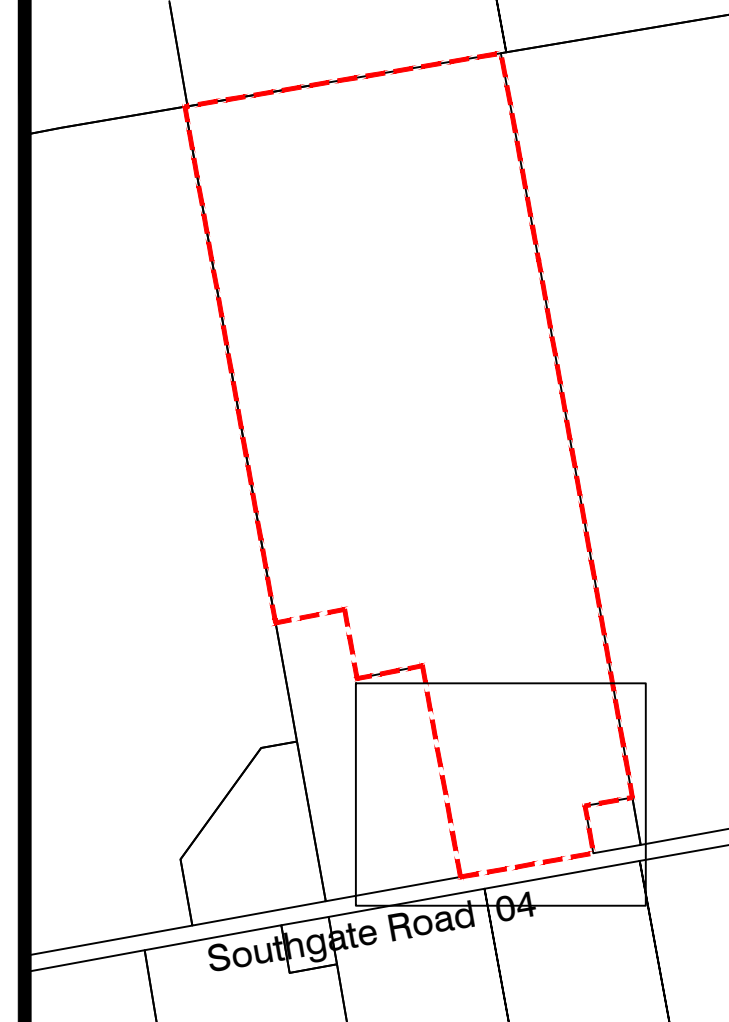
Schedule "B"

SITE PLANS

Drawing #1. Dated September 2nd, 2020 and signed by the planner



KEY PLAN



SITE PLAN

043853 and 048873
Southgate Road 04
Township of Southgate

Date Prepared: July 3, 2020
Scale 1:1200

RD **RON DAVIDSON**
LAND USE PLANNING CONSULTANT INC
OWEN SOUND, ONTARIO



Drawing #1 Dated September 2, 2020