

The Corporation of the Township of Southgate
By-law Number 2024-046

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 2021-111; 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 Minerva Sherk and the Township of Southgate for the development of 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 Lot 14, Concession 9 PROTON; S/T PR15900; Township of Southgate. 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 30th day of April 2024.

Read a third time and finally passed this 30th day of April 2024.

Mayor – Brian Milne

Clerk- Lindsey Green

**THE CORPORATION OF
THE TOWNSHIP OF SOUTHGATE
SITE PLAN AGREEMENT**

THIS AGREEMENT made in this day of April 2024.

Between: Sherk, Minerva
(hereinafter called the "Owner" OF THE FIRST PART)

- and -

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

WHEREAS the Owners represent to be the registered owner of those lands and premises in the Township of Southgate in the County of Grey, more particularly described in Schedule "A", and has applied for site plan approval for the said lands;

AND WHEREAS the Owners provided site plans and drawings for approval for the development as described in Schedule "B";

AND WHEREAS the Township has enacted a Site Plan Control Area By-law pursuant to the Planning Act RSO 1990, as amended;

AND WHEREAS pursuant to the Planning Act RSO 1990, as amended the Township appointed an officer to approve such plans and drawings submitted for site plan approval and said office may also establish conditions on site plan approval;

AND WHEREAS the authorized Township officer issued site plan approval of the plans and drawings described in Schedule "B" subject to, among other matters, a site plan agreement being executed with the municipality and registered against the lands described in Schedule "B";

AND WHEREAS the Owners agree to complete all 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, including any special provisions or conditions, if applicable, as outlined in Schedule "C";

AND WHEREAS the covenants in this Agreement are binding upon the Owner and when registered on title are binding upon all successors in title;

NOW THEREFORE WITNESSETH THAT in consideration of the approval of the plans by the Township officer for the development of the subject and the sum of ONE (\$1.00) DOLLAR of lawful money of Canada receipt whereof of which is hereby acknowledged, the Owner hereby agrees with the Township as follows:

SECTION I - LANDS TO BE BOUND

1. The lands bound by the terms and conditions of this Agreement (sometimes referred to as "the subject lands"), are located in 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" – Description of the Site Plan(s) and Drawing(s) approved by the delegated Township Officer bearing the signature of the said Officer on file in municipal office.

Schedule "C" – Special Provisions (if applicable)

SECTION III - REGISTRATION OF AGREEMENT

1. This Agreement shall be registered on title to the lands described in Schedule "A" as provided for by the Planning Act, R.S.O., 1990, as amended, at the expense of the Owners, and upon registration the Owner shall provide a registered copy of same to the Township;
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, and upon registration on title shall be binding upon all successors in title to the Owner.

SECTION IV - BUILDING PERMITS

1. The Owner acknowledges and agrees the Township Chief Building Official, or any other authorized officer, shall not issue any building permits or other approvals to carry out the development until this Agreement has been registered on title to the subject lands;
2. The Owner acknowledges and agrees that if the Owner fails to apply for a building permit(s) to implement this Agreement within twelve (12) months from the date of execution of this agreement the Township, at its sole discretion has the right to terminate the said Agreement and require the Owner to re-apply for approval of the development described herein.

SECTION V – PROVISIONS

1. GENERAL

The Owner agrees and acknowledges this agreement applies specifically to the development as described in Schedule "B" on the lands described in Schedule "A", and subject to the terms of this agreement and any Special Provisions listed in Schedule "C".

2. PERFORMANCE OF WORK

The Owner further covenants and agree to develop the subject lands in accordance with the approved plans and drawing and other terms of this agreement, and that no work will be performed on the subject lands except in conformity to all provisions of this Agreement.

3. OWNERS EXPENSE

The Owner agrees to carry out on the lands all required 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 approved plans and drawings described in Schedule "B" to this agreement:

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 approved plans and drawings in Schedule "B".

3. ON FILE IN TOWNSHIP OFFICE

Without limiting the generality of the foregoing, all of the specifications and requirements are contained in the approved plans and drawings described in Schedule "B" shall be adhered to and satisfied by the Owner to the satisfaction of Township. The version of drawings applicable to the development shall contain the signature of the staff member appointed to approved site plans, and are on file at Southgate's Municipal Office.

4. COMPLAINTS

The Owner agrees to respond promptly to any requests from the Township Chief Building Official, By-law Enforcement Officer, or similar representative of the Township to correct any deficiency or concern resulting from a complaint or inspection of the Township.

5. **GRADING AND DRAINAGE**

The Owner agrees that any storm drainage works, or system approved for the subject lands shall be designed, constructed, and maintained to the satisfaction of Township at the sole expense of the Owner, and shall obtain any approvals and abide by conditions from any other agency responsible for authorizing the said work.

6. **ROADWAY ACCESS**

The Owner agrees and acknowledges to install and maintain any and all approved driveway entrances to the subject lands as stipulated by this agreement and shall obtain any approvals and abide by conditions of approval of any driveway access to the satisfaction of the applicable road authority including the Township, County or Province as the case may be.

7. **FIRE SUPPRESSION**

The Owner agrees to install and maintain all necessary servicing and equipment on the subject lands for fire fighting and fire suppression at the sole expense of the Owner to the satisfaction of the Township Fire Department.

8. **SERVICING**

The Owner is responsible for ensuring that all lateral water, sanitary and storm sewer connections to municipal services within a Township, County, or Provincial public right of way are designed installed in accordance with the requirements and standards of the Township, County or Province as the case may be. In the absence of a Township standard the Owner shall ensure that Ontario Specifications and Standards for Public Works (OPS) including OPS Drawings (OPSD) and OPS Specifications (OPSS), or any other relevant standard or code are met.

Where municipal services are not available, the Owner shall be responsible for ensuring private well and sewage disposal system on the subject lands is properly installed and maintained in good working order to accommodate the approved development, and that all requirements of the applicable approving agency are met including obtaining permits.

9. **LANDSCAPED BUFFERING**

The Owner agrees to install and maintain any landscaped buffering or screening where required in the approved plans and drawings in accordance with the requirements of the Township of Southgate Zoning By-law.

10. **OUTSIDE STORAGE**

The Owner agrees that no outside storage shall be permitted on the lands described in Schedule "A", except in accordance with the bylaws of the Township or specifically approved within the plans and drawings provided for in Schedule "B".

11. **PARKING AREA MAINTENANCE AND DUST CONTROL MEASURES**

The Owner agrees to install and maintain hard surface paved or concrete parking, curbing, driveways, sidewalks, and isles with adequate base material and with a surface free of cracks, unevenness and potholes to ensure safe pedestrian and vehicle travel and proper drainage.

Where gravel parking areas and driveways and such are permitted in the approved site plan, the owner shall provide and maintain dust control measures for those areas of the site not asphalted or seeded with grass to mitigate impacts on adjoining lands or environment as required by the Township.

12. **LIGHTING**

All exterior lighting must be provided in accordance with Township standards including but not limited to dark sky compliant and shall be installed directed so as to remain internal to the site and not create glare or otherwise disrupt adjacent lands, buildings, highway or roadway.

14. **MINISTRY OF ENVIRONMENT OR OTHER PROVINCIAL CERTIFICATES** The Owner shall not undertake or cause any work to commence on the subject lands

or on any public highway until any required Certificate of Approval, permit or other authorization required under the Environmental Protection Act or any other applicable Act, including regulations thereto, has been duly issued, and a copy of the approval filed with the Township.

PART VI - OTHER

15. 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 the Township to postpone and subordinate their interest in the lands to the interest of the Township 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.

16. TOWNSHIP PROFESSIONAL FEES AND DISBURSEMENTS

The Owner shall reimburse the Township for all of its engineering, planning and legal expenses (professional fees and disbursements) in connection with the development and implementation of this Agreement.

17. WAIVER

The failure of the Township 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 Township 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. The Township shall specifically retain its rights at law to enforce this Agreement.

18. 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 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.

19. ENFORCEMENT.

The Owner acknowledges that the Township has the right to access the subject lands to enforce any provision of this agreement acting reasonably.

In addition to any other remedy the Township may have at law, the Owner acknowledges the Township may also be entitled to enforce this Agreement in accordance with Section 446 of the Municipal Act, 2001 as amended, or any other applicable legislation.

20. MEDIATION.

Without affecting the Township'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.

21. REGISTRATION

The Owner consents to the registration of this Agreement or Notice of this Agreement by the Township on the title to the subject lands.

22. **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 the Township and its successors and assigns.

SECTION VII - 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 required works and facilities, the Owner shall maintain to the satisfaction of the Township, all the facilities or works described in Schedule "B" and any special provisions required in Schedule "C".
- 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, or any subsequent section, provision or legislation that may apply.
- 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 addresses:

Owners:	Sherk, Minerva	Township:	Clerk, Township of Southgate
	4475 Weimer Line RR#3		185667 Grey Rd 9, R.R. 1
	Wellesley ON N0B2T0		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.

SIGNED, SEALED AND
DELIVERED

OWNER
Sherk, Minerva

Witness:

Name:
Date: _____

Per: _____
Name:
Date: _____

**CORPORATION OF THE TOWNSHIP OF
SOUTHGATE**

Per: _____
Brian Milne, Mayor

Per: _____
Lindsey Green, Clerk

Date: _____

We have authority to bind the Corporation

Schedule "A"
Subject Lands

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:

**Concession 9, Lot 14 Geographic Township of Proton,
Township of Southgate alternatively described as
125517 Southgate Road 12**

Schedule "B"
Approved Site Plans

Drawing #1 SP 1-24, Paul Sherk, 125517 Southgate Road 12, dated 2023-08-29, Drawn by Solomon and signed by the Township's authorized officer or delegate.

Drawing #2 SP 1-24, Plans, Paul H. Sherk, 125517 Southgate Road 12, dated 2024-01-16, Drawn by Solomon and signed by the Township's authorized officer or delegate

Schedule "C"
SPECIAL PROVISIONS

1. This agreement applies to works outlined in Schedule "B" and includes the exterior of existing buildings, new structures, drainage, and entrance as may be required and permitted under Section 41 of the Planning Act.
2. To mitigate possible noise impacts of the facility described by the plans and drawings in Schedule "B", there shall be no exterior operable building openings, including but not limited to, exhaust fans, doors, windows and loading chutes, located on the building, and facing the public road. 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.
3. Buffering and screening of outside storage areas buffer must be maintained in accordance with plans and drawings in Schedule "B" and the Township's zoning bylaw as amended for the purposes of providing a visual barrier.
4. Outside storage may only be in the areas identified on the approved site plan referenced in Schedule "B".