

**The Corporation of the Municipality of West Grey**

**By-law Number 41 - 2017**

**Being** a By-law to authorize the Mayor and CAO/Deputy Clerk to enter into a Site Plan Control Agreement between the Municipality of West Grey and Christopher and Diane Kennedy

**Whereas** the Council of the Municipality of West Grey deems it necessary and in the public interest to enter into a Site Plan Control Agreement with Christopher and Diane Kennedy, being the owner of lands described as Part of Lot 6, Concession 1 EGR, Geographic township of Glenelg, Municipality of West Grey, County of Grey;

**And whereas** the Council of the Municipality of West Grey passed By-law Number 31-2017, being a by-law to establish a Site Plan Control Area pursuant to Section 41 of the Planning Act, R.S.O. 1990, Chapter P.13, as amended, on the aforementioned subject property;

**And whereas** the Council of the Township of Glenelg entered into a Site Plan Control Agreement with the previous owner of the aforementioned subject property, and now the Municipality of West Grey Council deems it necessary to rescind said previous Site Plan Control Agreement and enter into a new Site Plan Control Agreement with the current owner of the subject property;

**Now Therefore the Council of the Municipality of West Grey enacts as follows:**

1. That the Mayor and CAO/Deputy Clerk of the Municipality of West Grey are hereby authorized to sign a Site Plan Agreement with Christopher and Diane Kennedy, a copy of which is attached hereto as Schedule "A", and is hereby declared to form part of this by-law.
2. THAT this by-law shall come into force and take effect on the date of its final passing.

\*\*\*\*\*

Read a first and second time this 17<sup>th</sup> day of April, 2017.

Read a third time and finally passed this 17<sup>th</sup> day of April, 2017.

\_\_\_\_\_  
(Signed)  
Kevin Eccles, Mayor

\_\_\_\_\_  
(Signed)  
Larry C. Adams, CAO/Deputy Clerk

**Schedule "A" to By-law Number 41 - 2017**

**Municipality of**



**Site Plan Agreement**  
**Christopher and Diane Kennedy**

## **Site Plan Agreement**

**This Agreement** made this 17<sup>th</sup> day of April, 2017.

**Between**                    **Christopher and Diane Kennedy**

hereinafter called the OWNER of the FIRST PART

**And**                         **The Corporation of the Municipality of West Grey**

hereinafter called the MUNICIPALITY of the SECOND PART

**And**                         **Northern Credit Union Limited**

Hereinafter called the MORTGAGEE of the THIRD PART

**Whereas** the Owner is the registered owner of the lands described in Schedule A attached hereto (hereinafter referred to as the "lands");

**And whereas** Section 41 of the Planning Act, R.S.O. 1990, 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** by virtue of By-law Number 31-2017 of the Municipality of West Grey, the lands described in Schedule A attached hereto are subject to Site Plan Control and authorizes the Municipality to enter into this Agreement as a condition of development or redevelopment;

**And whereas** the Owner wishes to conduct public and private auctions on the lands.

**Now Therefore, this agreement witnesseth that** in consideration of the sum of ONE DOLLAR (\$1.00) of lawful money of Canada and other valuable consideration now paid by the Municipality to the Owner (the receipt of which is hereby acknowledged), the Owner hereby covenants and agrees with the Municipality of West Grey as follows:

1.     **Recitals**

The Parties acknowledge that the recitals are accurate.

2.     **Definitions**

- a) The term "works" where it appears in this Agreement refers to any manner or thing required to be provided, constructed or maintained by the owner pursuant to this Agreement.
- b) Reference to "Site Plans", "Site Plan Agreement" or any derivative of these terms contemplates reference to Section 41 of the Planning Act, R.S.O. 1990, and amendments thereto and furthermore

contemplates all those enumerated matters over which site development control relates.

### 3. **Schedules**

All Schedules attached hereto, or if not attached hereto but referred to in this Agreement, form part of this Agreement and are binding on the Owner. The Schedules include:

- a) Legal Description of the lands; and
- b) Site Plan conducted and prepared by Cuesta Planning Consultants Inc. dated March 24, 2017, available for inspection at the Clerk's office during regular office hours.

### 4. **Site Plan Works and Requirements**

- a) The Owner agrees that no development on the lands will occur other than that shown on the Site Plan referred to in 3 a) above;
- b) The Owner agrees to obtain written letters from the Municipality of West Grey Fire Chief and the Municipality of West Grey Chief Building Official stating that the condition of the existing building on the lands is satisfactory to hold an auction, prior to the first auction occurring, and to make any necessary improvements to the building in order to obtain such letters.
- c) The Owner agrees to hold auctions on no more than five occasions per year, with each occasion being a one or two day event and occurring only on Fridays and/or Saturdays;
- d) The Owner agrees that all auctions will be held within the existing building;
- e) The Owner agrees that all auctions will involve predominantly the sale of heavy equipment and machinery;
- f) The Owner agrees that all machinery and heavy equipment brought onto the site for sale shall only be stored outside for a period of time not exceeding seven days prior to the beginning of each event and seven days following the same event. Machinery or equipment shall be stored within the existing building during other times;
- g) The Owner agrees not to store any other goods or materials outside on the site, except as permitted in 4 h) below;
- h) The Owner agrees that a maximum of two shipping containers may be stored on site, in accordance with the applicable provisions contained in the Municipality of West Grey Zoning By-law. Said shipping containers shall be screened from public view;
- i) The Owner agrees to keep all exterior lighting turned off except during the time when outdoor storage is permitted as per 4 f) above. This notwithstanding, exterior lighting may automatically turn on for a short period of time when triggered by motion detectors;
- j) The Owner agrees to provide portable toilets and hand-washing facilities during all events held on the lands;

- k) The Owner agrees to install a new entrance to Sideroad 6 in the location shown on the Site Plan, with the necessary approvals from the Municipality of West Grey; and, agrees to close the existing entrance to the satisfaction of the Municipality of West Grey.
- l) The Owner agrees to make every effort to have customers attending the event park their vehicles on the subject lands and not on the Provincial Highway, Sideroad 6 or other private property.

**5. Amendments**

The Owner agrees that no development, redevelopment or works shall be undertaken other than in conformity with this Agreement. Any change in operations or requirements, or any development, redevelopment or works not expressly provided for under this Agreement shall require amendment to this Agreement and/or a new Agreement between the Owner and the Municipality. The Municipality may, upon application by the Owner, summarily grant minor modifications to the requirements of this Agreement provided that they are made in writing by the Municipality. The determination of what constitutes a minor modification is in the exclusive discretion of the Municipality.

**6. Expenses**

Upon application to the Municipality for the preparation of this Agreement, the Owner shall deposit with the Municipality the sum of Two Thousand Dollars (\$2,000.00). The Owner agrees to pay the Municipality the cost of the Municipality's Planner, Lawyer and Engineer for all costs involved in the processing of the Development Agreement, for checking of Plans and specifications, and for supervision and inspection on behalf of the Municipality. As accounts are received from the Municipality's Planner, Lawyer and Engineer, they will be paid by the Municipality and then submitted to the Owner for reimbursement, so that the \$2,000.00 initial deposit will again be built up to enable the Municipality to pay the next accounts as they are received.

**7. Agreement to be Complied With**

It is understood and agreed that the issuance of a building permit by the Municipality, and any other works undertaken by the Owner, shall be contingent upon compliance with this Agreement in addition to all other relevant Municipal by-laws, and Provincial or Federal statutes and regulations. It is further understood and agreed that all development or works shall be restricted to those uses permitted under the Municipality's Zoning by-law.

**8. Accuracy of Plans and Other Matters**

All plans and diagrams attached to this Agreement as a Schedule or referred to in this Agreement, the Owner warrants are accurate as to all dimensions and other matters shown thereon. In the event that any material misrepresentation, whether accidental or otherwise is found to exist and which on reasonable grounds has prejudiced or compromised the Municipality's position, then the Owner shall be required, at its expense, to resolve all matters. Failing this, the Municipality may rectify the situation at the Owner's expense. For the

above reasons, the Owner acknowledges the importance of having reliable and accurate plans and that the Municipality is relying upon them and is entering into this Agreement on that basis.

## 9. **Notice**

Any notice required or permitted to be given pursuant to the provisions of this Agreement may be given personally or shall be mailed to each party at the address hereinafter set out. If mailed, by ordinary prepaid first class post, it shall be deemed to have been received on the fourth day after it is postmarked.

To the Owners at: Christopher and Diane Kennedy  
5654 Concession 9  
RR 1  
Stayner, ON  
L0M 1S0

To the Municipality at: Clerk  
Municipality of West Grey  
402813 Grey Rd 4  
RR #2  
Durham ON., N0G 1R0

## 10. **Enforceability of Agreement**

It is understood and agreed that the Owner shall not call into question, directly or indirectly, in any proceeding whatsoever, in law or in equity, or before any administrative tribunal, the right of the Municipality to enter into this Agreement and to enforce each and every term, covenant and condition herein contained, and this Agreement may be pleaded as an estoppel against the Owner by the Municipality in any such proceeding.

## 11. **Registration**

The Owner hereby agrees that this Agreement shall be registered on the title of the lands described in Schedule A attached hereto at the expense of the Owner and shall be binding on the heirs and assigns of the Owner. The Owner agrees to pay the Municipality's reasonable legal costs incurred by it in connection with the registration of this Agreement. Any minor modifications to this Agreement authorized under paragraph five (5) shall also be binding upon the lands and any and all persons associated therewith. It shall be the responsibility of anyone seeking particularization of minor modifications to determine same from the Municipality.

## 12. **Gender**

This Agreement shall be read with all changes in gender or number required by the context.

## 13. **Enurement**

This Agreement shall enure to the benefit of the parties hereto and their successors and assigns.

14. **Consent of Mortgagee**

The Mortgagee hereby consents to the registration of this Agreement and agrees that in the event that the Mortgagee exercises its rights and remedies against the Owner under the terms of its charge/mortgage registered against the lands, then the Mortgagee shall be bound by the terms of this Agreement, which shall also bind any subsequent purchaser of the lands.

**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.

|                       |                                     |
|-----------------------|-------------------------------------|
| SIGNED, SEALED AND )  | THE CORPORATION OF THE MUNICIPALITY |
| DELIVERED )           | OF WEST GREY                        |
| )                     |                                     |
| )                     |                                     |
| )                     |                                     |
| In the presence of: ) | Per: _____                          |
| )                     | Kevin Eccles, Mayor                 |
| )                     |                                     |
| )                     |                                     |
| )                     |                                     |
| )                     | Per: _____                          |
| )                     | Larry C. Adams, CAO/Deputy Clerk    |
| )                     |                                     |
| )                     |                                     |
| )                     | CHRISTOPHER AND DIANE KENNEDY       |
| )                     |                                     |
| )                     |                                     |
| )                     | Per: _____                          |
| )                     | Christopher Kennedy                 |
| )                     |                                     |
| )                     |                                     |
| )                     | Per: _____                          |
| )                     | Diane Kennedy                       |
| )                     |                                     |
| )                     |                                     |
| )                     | NORTHERN CREDIT UNION LIMITED       |
| )                     |                                     |
| )                     |                                     |
| )                     | Per: _____                          |
| )                     | Authorized Signing Officer          |

**Schedule "A"**

**Site Plan Agreement**

**Description of Lands**

**Being: PT LT 6 CON 1 DIVISION 3 EGR GLENELG PT 1 16R10009;  
MUNICIPALITY OF WEST GREY**

**PIN 37225-0167 (LT)**



## **Schedule "B"**

Site Plan – prepared by Cuesta Planning Consultants Inc., dated March 24, 2017.

(A copy of which is available for inspection at the Clerk's office during regular office hours)