

THE CORPORATION OF THE TOWNSHIP OF MALAHIDE

BY-LAW NO. 22-30

**BEING A BY-LAW TO DESIGNATE A SITE PLAN CONTROL AREA
PURSUANT TO SECTION 41 OF THE PLANNING ACT, R.S.O. 1990**

AND REPEALS SITE PLAN CONTROL BY-LAW NO. 05-13

WHEREAS pursuant to the provisions of Section 41 of the Planning Act, By-laws may be passed by Councils of municipalities to designate the whole or any part of a municipality as a site plan control area where an Official Plan is in effect;

AND WHEREAS in the Official Plan of the Township of Malahide, the whole of the Township of Malahide (the "Township") is described as a site plan control area;

AND WHEREAS the Council of the Township deems it desirable to designate a Site Plan Control Area;

AND WHEREAS Section 41(13) of the Planning Act authorizes the Council of a municipality to delegate to an appointed officer of the municipality any of Council's power of authority under Section 41.

NOW, THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF MALAHIDE HEREBY ENACTS AS FOLLOWS:

1. Designation of Site Plan Control Areas

All lands within the boundaries of the Corporation of the Township of Malahide are hereby designated as a site plan control area pursuant to Section 41(2) of The Planning Act, R.S.O. 1990, c. P. 13, as amended.

2. Definitions

- a. "Council" shall mean the Council of the Corporation of the Township of Malahide.
- b. "Development" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot or of sites for the location of three or more trailers as defined in subsection 164 (4) of the *Municipal Act, 2001*, or for the establishment of a commercial wind farm, or of sites for the location of three or more mobile homes as defined in subsection 46 (1) of the Planning Act or of sites for the construction, erection or location of three or more land lease community homes as defined in subsection 46 (1) of the Planning Act.
- c. "Owner" means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the property Land Registry or Land Titles Office and includes a corporate owner or partnership
- d. "Planning Act" means the Planning Act, R.S.O. 1990, c. P. 13, as amended.
- e. "Usability" means a change in the use of a property which would:
 - result in a change in the amount of noise, lighting, odour and/or vibration which is generated on the property;
 - alter the ingress/egress of the property;
 - alter the traffic flow on or around the subject property, including the installation of a drive-through;
 - alter the parking requirements;
 - alter the hours of operation.
- f. Other definitions are as identified in the Township's Zoning By-law currently in effect.

3. Approval of Plans or Drawings

No person shall undertake any development in an area designated under Section 1 herein unless Council, or where a referral has been made under Section 8 herein, the Ontario Land Tribunal (OLT), has approved one or both of the following submission requirements:

- (a) Plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith and of all facilities and works required under Section (4)(a), including facilities designed to have regard for accessibility for persons with disabilities.
- (b) Drawings showing plan, elevation and cross-section views for each building to be erected, except a building to be used for residential purposes containing twenty-five or more dwelling units, which drawings are sufficient to display:
 - (i) the massing and conceptual design of the proposed building;
 - (ii) the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access;
 - (iii) the provision of interior walkways, stairs, elevators and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings;
 - (iv) matters relating to exterior design, including without limitation the character, scale, appearance and design features of buildings, and their sustainable design;
 - (v) the sustainable design elements on any adjoining highway under a municipality's jurisdiction, including without limitation trees, shrubs, hedges, plantings or other ground cover, permeable paving materials, street furniture, curb ramps, waste and recycling containers and bicycle parking facilities; and
 - (vi) facilities designed to have regard for accessibility for persons with disabilities.

4. Conditions to Approval of Plans and Drawings

As a condition to the approval of the plans and drawings referred to in Section 3 herein, the Township may require the Owner of the land to:

- (a) provide to the satisfaction of and at no expense to the Township any or all of the following:
 - (i) Widening of highways that abut on the land;
 - (ii) Subject to The Public Transportation and Highway Improvement Act and/or the Township of Malahide Development Standards Policy and/or Site Plan Design Guidelines, facilities to provide access to and from the land such as access ramps and curbing and traffic direction signs;
 - (iii) Off-street vehicular loading and parking facilities, either covered or uncovered, access driveways, including driveways for emergency vehicles, and the surfacing of such areas and driveways;
 - (iv) Walkways, including the surfacing thereof, and all other means of pedestrian access (e.g. stairs, ramps);
 - (v) Facilities for the lighting, including floodlighting, of the land or of any buildings or structures thereon;
 - (vi) Walls, fences, hedges, trees, shrubs or other groundcover and plantings;
 - (vii) Vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material;
 - (viii) Easements conveyed to the Township for the construction, maintenance or improvement of watercourses, ditches, land drainage works and sanitary sewerage facilities and other public utilities of the local board thereof on the land; and
 - (ix) Grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon;
- (b) Maintain to the satisfaction of the Township and at the sole risk of the Owner any or all of the facilities or works mentioned in paragraphs ii through ix (inclusive) of Section 4(a) herein, including the removal of snow from access ramps and driveways, parking and loading areas and walkways;
- (c) Enter into one or more agreements with the Township dealing with any or all of the facilities, works or matters mentioned in Section 4(a) or with the provision and approval of the plans and drawings referred to in Section 3 herein;
- (d) Enter into one or more agreements with the Township ensuring that development

proceeds in accordance with the plans and drawings approved under Section 3 herein.

5. Drainage

In accordance with the provisions of Section 41(7)(a)(9) of the Planning Act, or applicable provision(s) as amended, the following requirements shall apply to all plans and drawings approved under Section 3 herein:

- (a) The Township supports the development principle that post-development flows from a property/site should not exceed pre-development flows;
 - (i) The drainage provisions proposed by the Owner shall be designed/prepared by an engineer. It is also a requirement that the site plan be accompanied by a certification statement signed by the Engineer, Ontario Land Surveyor, or drainage professional, including registration seal, indicating that the drainage provisions as proposed are appropriate and that they will not result in any adverse impact on any abutting property or roadway.
- (b) Where the direction of drainage flow on a property is towards a public roadway or road right-of-way, the site plan proposal shall be forwarded to the appropriate public road authority for review and comment (i.e. Township of Malahide Public Works Department, County of Elgin, Ministry of Transportation, and/or, public road authority having jurisdiction upon a boundary road). The comments and concerns of the public road authority must be satisfactorily addressed in the site plan proposal.
- (c) Where the drainage outlet for a property subject to a site plan proposal is to a municipal drain, the site plan proposal may be forwarded to the Township's Drainage Superintendent for review and comment. The comments and concerns of the Township's Drainage Superintendent, where applicable, must be satisfactorily addressed.
- (d) In the event that it is necessary for the Township to obtain third party review and/or input of the drainage details and specifics, any direct costs incurred by the Township for such review/input shall be the responsibility of the Owner and shall be paid by the Owner.

6. Security

Where required under an agreement referred to in Section 4(c) herein, the owner shall provide security to protect the Township in respect of its liability for holdback and costs under subsection 17(4) of the Construction Lien Act R.S.O. 1990 as amended, Chapter C.30, and to assure satisfactory provision and maintenance of the facilities and works to be provided in conjunction with the building or structure and the facilities, works and matters mentioned in subsection 41(7) of the Planning Act in accordance with the plans and drawings approved pursuant to the Planning Act and this By-law.

7. Delegation of Site Plan Approval

The powers and authority given to Council under Section 41 of the Planning Act are hereby delegated to the Chief Administrative Officer (CAO) for the Township, or designate. The CAO may, at her/his sole discretion, forward for approval to Council any Site Plan Application deemed necessary for further corporate review. To give effect to a site plan approval under this Section, the CAO and Clerk are hereby authorized to sign any agreement as required, and referenced in Section 4 herein, to implement conditions of such approval.

8. Registration of Agreements

After the required application fee is paid to the Township, any agreement entered into under Section 3 herein may be registered against the land to which it applies and the Township is entitled to enforce the provisions thereof against the Owner and, subject to the provisions of The Registry Act and The Land Titles Act, any and all subsequent Owners of the land.

9. Appeal to the Ontario Land Tribunal (OLT)

The owner of the subject property or the Township may make a motion for directions to have the OLT determine a dispute about whether a matter referred to in Section 3 herein is subject to site plan control.

Where the Township fails to approve the plans or drawings referred to in Section 3 herein within thirty days after they are submitted to the Township for approval or where the Owner of the land is not satisfied with any of the requirements made by the Township under Section 4 herein or with any part thereof, including the terms of any agreement required, the Owner of the land may require the plans or drawings or the unsatisfactory requirements or parts thereof or the agreement, as the case may be, to be referred to the OLT by written notice to the Secretary of the OLT and to the Clerk of the Township, and the OLT shall then hear and determine the matter

at issue and settle and determine the details of the plans or drawings and approve the same and settle and determine the requirements, including the provisions of any agreement required, and the decision of the OLT is final.

10. Exemptions to Approval of Plans/Drawings

The following defined class or classes of development may be undertaken without the approval of plans and drawings otherwise required under Section 3 herein:

- a) All residential buildings and structures containing no more than two separate dwelling units (exclusive of additional residential units permitted by policies approved under Section 16 (3) of the Planning Act);
- b) All buildings and structures normally accessory to residential buildings and structures as noted in clause (a) above;
- c) All buildings and structures used for agricultural purposes (i.e. barns, silos, equipment storage sheds, and manure storage facilities), save and except any greenhouse(s) (or other type of building/structure used for the growing of flowers, fruits, vegetables, plants, shrubs, trees, cannabis indoors) greater than 500 m² (5,382 ft²). For the purposes of this exemption, "agricultural purposes" does not include commercial wind farm operations, cannabis production and processing facilities, on-farm diversified commercial, industrial, and tourism-related uses, or agricultural-commercial or industrial operations such as grain drying operations, farm equipment sales and service, farm supply sales and agricultural storage, service or supply establishments.
- d) All licensed mineral aggregate resource operations;
- e) All temporary buildings and structures, including temporary buildings and structures, incidental to and necessary for construction work being carried on. This exemption is only for said buildings and structures which are necessary for the construction work in progress which has neither been finished nor abandoned;
- f) The placement of a portable classroom on a school site of a district school board if the school site was in existence on January 1, 2007;
 - i. Notwithstanding Section 10. f), no more than two (2) portable classroom units will be permitted to be established on one school site without the approval of plans and drawings referred to in Section 3 herein.

and,

- g) Any addition to an existing building provided such addition does not increase gross floor area of the building to which the addition is proposed by more than 25%, and which in the opinion of the Chief Building Official, does not materially affect an existing Site Plan registered against that property.

Notwithstanding the above exemptions, where safety and/or land-use compatibility matters are to be addressed as part of any development, Site Plan approval may be required as a condition of a Committee of Adjustment decision; through approval of a Zoning By-law Amendment, or as otherwise required by an approval under the Planning Act.

11. Lapsing of Approval

An approval under Section 41 of the Planning Act lapses:

- a) Where a building permit is required for the development:
 - (i) At the expiration of one year from the date of approval if, within the one-year period, no building permit is issued for the development;
 - (ii) And a building permit is issued for the development but the owner has not started construction within one year of date of issuance of the building permit or the construction of the development has not been completed within two years of the date of issuance of the building permit; or,
 - (iii) Upon the revocation at any time of any building permit issued for the development;
- and,
- b) Where no building permit is required for the development but the owner has not started construction within one year of date of site plan approval or the construction of the development has not been completed within two years of the date of site plan approval.
- c) The lapse of an approval is effective upon written notice revoking the approval by Council to the owner or, where an agreement has been registered, upon the registration of a notice that the approval is revoked and the agreement is terminated.

Other Applicable Laws

This By-law does not supersede the laws of Canada, the laws of the Province of Ontario, nor any other laws of the Township. In the event of a conflict between this By-law and the aforesaid laws, the aforesaid laws shall apply.

- (iii) Upon the revocation at any time of any building permit issued for the development; and,
- b) Where no building permit is required for the development but the owner has not started construction within one year of date of site plan approval or the construction of the development has not been completed within two years of the date of site plan approval.
- c) The lapse of an approval is effective upon written notice revoking the approval by Council to the owner or, where an agreement has been registered, upon the registration of a notice that the approval is revoked and the agreement is terminated.

Other Applicable Laws

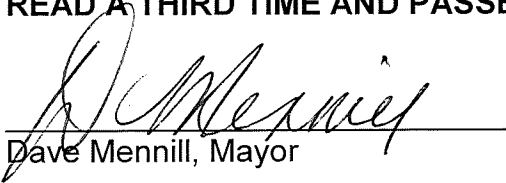
This By-law does not supersede the laws of Canada, the laws of the Province of Ontario, nor any other laws of the Township. In the event of a conflict between this By-law and the aforesaid laws, the aforesaid laws shall apply.

Enactment

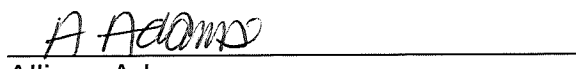
This By-law shall come into effect upon the date of passing by the Council of the Corporation of the Township of Malahide and hereby repeals the previous Site Plan Control By-law (No. 05-13).

READ A FIRST AND SECOND TIME THIS 5TH DAY OF MAY, 2022.

READ A THIRD TIME AND PASSED THIS 5TH DAY OF MAY, 2022.



Dave Mennill, Mayor



Allison Adams,
Manager of Legislative Services / Clerk