

Attachment 3, DS-2022-42
Consent Agreement
Condition of Consent B-01-22
6780 Holden Road
Consent Agreement

CONSENT AGREEMENT

Between:

The Corporation of the Town of Tecumseh

-and-

Raffaele Meo and Gina Meo

PREPARED BY:

WOLF HOOKER PROFESSIONAL CORPORATION
Barristers & Solicitors
72 Talbot Street North, Suite 100
Essex, Ontario
N8M 1A2

CONSENT AGREEMENT

THIS AGREEMENT made effective in triplicate this _____ day of September, 2022.

B E T W E E N:

THE CORPORATION OF THE TOWN OF TECUMSEH,
hereinafter called the "**Municipality**" or "**Town**"
OF THE FIRST PART

-and-

RAFFAELE MEO and GINA MEO
hereinafter called the "**Owner**"
OF THE SECOND PART

HEREINAFTER collectively referred to as the "**Parties**"

RECITALS

WHEREAS the Owners, own certain lands situated within the corporate limits of the Town, said lands being more particularly described in Schedule "A" hereto (the "Lands");

AND WHEREAS the Committee of Adjustment for the Town under file no. B-01-22 has given conditional consent to sever the lands described in Schedule "B" hereto (herein "the Severed Lot") from the Lands in accordance with Section 53 of The Planning Act, R.S.O. 1990, c.P13 and amendments thereto;

AND WHEREAS as a condition of consent the Committee of Adjustment for the Town has required as condition numbered 7. in its decision that the Owner, prior to the severance being finalized, install a new access culvert and driveway across the open municipal drain (Meo Drain) in accordance with section 78 of the Drainage Act, RSO 1990, as amended, submit a Request for Improvements Form to the Town for the required new access culvert, and otherwise bear responsibility for all costs related thereto.

AND WHEREAS delays beyond the control of the Owner and otherwise arising by reason of the procedures required under the Drainage Act leave the Owner unable to complete all work within the two year time frame permitted under the Planning Act.

AND WHEREAS the Owner wishes to enter into this agreement as a Consent Agreement in accordance with Section 53(12) and 51(26) of the Planning Act, R.S.O. 1990, c.P13 and amendments thereto as an alternate means of fulfilling the condition and otherwise acknowledging the obligations remain outstanding to be fulfilled in the manner set forth below.

WITNESSETH that in consideration of these presents, and other good and valuable consideration, the Parties hereto mutually covenant, promise and agree as follows:

ARTICLE I

INSTALLATION OF ACCESS CULVERT

1.1 ACCESS CULVERT and DRIVEWAY

The Owner agrees that before any building permit is obtained respecting any building or other structure is built upon the retained lot described in Schedule "C" hereto (herein "the

Retained Lot”), the Owner shall:

- a) submit a Request for Improvements Form to the Town for the required new access culvert;
- b) install a new access culvert and driveway across the open municipal drain (Branch of the South Talbot & Holden Outlet Drain) abutting Holden Road in accordance with section 78 of the Drainage Act, RSO 1990, as amended;
- c) comply with and adhere to the recommendations, conclusions, assessments and findings of any report issued by the Drainage Engineer appointed under the Drainage Act to facilitate item 1.1 b); and
- d) otherwise pay and bear responsibility for all costs related to items a), b), and c).

1.2 COSTS OF THIS AGREEMENT

The Owner shall pay the costs incurred by the Town in having its legal counsel prepare and following execution attend to the registration of this agreement over title to the Retained Lot prior to the creation of the lot and its transfer to the intended recipient who shall remain bound by the terms of this agreement for its compliance as if a party hereto and as a successor and assign within the meaning of section 3.6 below.

The Owner shall advise future owners of the pending assessment of costs under the Drainage Act for the work contemplated in section 1.1 above to be levied against the lot, the exact amount of which is yet to be determined.

1.3 NO RELEASE

The Owner acknowledges and agrees that the issuance of a final Consent does not release the Owner from their obligations to this Consent Agreement.

ARTICLE 2

REGISTRATION AND CONSENTS

2.1 REGISTRATION AND ENFORCEMENT

Pursuant to Section 51(26) of the said Planning Act, R.S.O. 1990, c.P.13 and amendments thereto, this Agreement shall be registered against the Lands to which it applies, as a first charge, at the Owner's expense, and the Town is entitled to enforce the provisions hereof against the Owners, who shall be jointly and severally liable for the Owners' covenants and obligations outlined herein, and, subject to the provisions of The Registry Act, R.S.O. 1990, c.R.20 and amendments thereto, and the Land Titles Act, R.S.O. 1990, c.L.5 and amendments thereto, against any and all subsequent owners of the Lands.

2.2 CONSENT

The Owners hereby consent to the registration of this Agreement on the title of the Lands, said registration (as well as the preparation of this Agreement) to be at the Owners' expense.

ARTICLE 3

MISCELLANEOUS

3.1 COMMUNICATION

Subject to the express provisions of this Agreement, all communications provided for or

permitted hereunder shall be in writing, personally delivered to an officer of the addressee or sent by registered and receipted mail, charges prepaid, or by facsimile transmission or other means of recorded telecommunication, charges prepaid, to the applicable address set forth below or to such other address as either party hereto may from time to time designate to the other in such manner.

Communications sent to the Town shall be addressed to:
917 Lesperance Road, Tecumseh, Ontario N8N 1W9
Attention: Clerk's Office

Communications sent to the Owner shall be addressed to:
3872 St. Francis Crescent, Lasalle, ON N9H 0E8

Any communication so personally delivered shall be deemed to have been validly and effectively given on the date of such delivery. Communications so sent by registered and receipted mail shall be deemed to have been validly and effectively given on the Business Day next following the day on which it is received, as evidenced by the postal receipt. Communications so sent by facsimile transmission or other means of recorded telecommunication shall be deemed to have been validly and effectively given on the Business Day next following the day on which it is sent. Any party may from time to time change his or its address for service on written notice to the others.

3.2 TIME OF ESSENCE

Time shall be of the essence of this Agreement and of every part thereof.

3.3 WAIVER

No waiver by any part of a breach of any of the covenants, conditions and provisions herein contained shall be effective or binding upon such party unless the same shall be expressed in writing and any waiver so expressed shall not limit or affect such party's rights with respect to any other future breach.

3.4 FURTHER ASSURANCES

Each of the Parties covenants and agrees that he, his heirs, executors, administrators and assigns will sign such further agreements, assurances, waivers and documents, attend such meetings, enact such by-laws or pass such resolutions and exercise such votes and influence, do and perform or cause to be done and performed such further and other acts and things as may be necessary or desirable from time to time in order to give full effect to this Agreement and every part thereof.

3.5 HEADINGS

The headings of the Articles of this Agreement are inserted for convenience only and do not constitute part of this Agreement.

3.6 SUCCESSORS AND ASSIGNS

The covenants hereunder shall run with the land and this Agreement shall be binding upon and enure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

3.7 GENDER

All words and personal pronouns relating thereto shall be read and construed as the number and gender of the party or parties referred to in each case require and the verb shall be construed as agreeing with the required word and pronoun.

3.8 SEVERABILITY

If any covenant or provision contained herein is determined to be in whole or in part, invalid

or unenforceable by reason of any rule of law or public policy, such invalidity or unenforceability shall not affect the validity or enforceability of any other covenant or provision contained herein and, in the case of partial invalidity or unenforceability of a covenant or provision, such partial invalidity or unenforceability shall not affect the validity or enforceability of the remainder of such covenant or provision, and such invalid or unenforceable covenant or provision or portion thereof, as the case may be, shall be severable from the remainder of this Agreement.

3.3 ENTIRE AGREEMENT

This Agreement expresses the final agreement among the parties hereto with respect to all matters herein and no representations, inducements, promises or agreements or otherwise among the parties not embodied herein shall be of any force and effect. This Agreement shall not be altered, amended or qualified except by a memorandum in writing, signed by all the parties hereto, and any alteration, amendment or qualification thereof shall be null and void and shall not be binding upon any such party unless made and recorded as aforesaid.

3.10 EXECUTION IN COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which when so executed shall be deemed to be an original and all of which together shall constitute one and the same instrument.

3.11 JURISDICTION

This Agreement and all other agreements, security and documents to be delivered in connection with this agreement shall be governed by and construed in accordance with the applicable laws of the Province of Ontario and of Canada.

3.12 ASSIGNMENT

Subject to the terms of this agreement, this agreement is not assignable by the owner prior to completion of the works without the consent of the Town.

3.13 TRUE COPY

All of the parties hereto acknowledge having received a true copy of this document.

IN WITNESS WHEREOF the Parties hereto have hereunto set their hands and seals.

SIGNED, SEALED AND DELIVERED

in the presence of

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**THE CORPORATION OF THE
TOWN OF TECUMSEH**

Per: _____
Gary McNamara - MAYOR

Jennifer Alexander -Acting Clerk

Raffaele Meo

Gina Meo

SCHEDULE "A"

THE LANDS

PT W1/2 LT 2-3 CON 6 SANDWICH EAST AS IN R378203
EXCEPT PT 1, 12R7600; S/T SS9167; TECUMSEH

Being all of PIN 01398-0285

Known municipally as 6780 HOLDEN RD TECUMSEH

SCHEDULE "B"

THE SEVERED LOT

PT W1/2 LT 2-3 CON 6 SANDWICH EAST designated as Part 3,
Part 8, and Part 10 on Plan 12R-29030; S/T SS9167; TECUMSEH

Being part of PIN 01398-0285

SCHEDULE "C"

THE RETAINED LOT

PT W1/2 LT 2-3 CON 6 SANDWICH EAST designated as Part 1 on
Plan 12R-29030; TECUMSEH

Being part of PIN 01398-0285