



“MIDLAND SITE PLAN BY-LAW”

THE CORPORATION OF THE TOWN OF MIDLAND

BY-LAW 2013-13

as Amended by By-laws 2013-64, 2016-20, 2017-20, and 2018-47

A By-law to establish a Site Plan Control Area and to repeal By-law 2005-8

WHEREAS Section 41 of the *Planning Act*, R.S.O. 1990, as amended, permits the Council of a municipality where there is an Official Plan in effect, to designate by By-law, the whole or any part of the area covered by the Official Plan as a Site Plan Control Area;

AND WHEREAS Council deems it desirable to designate all of the lands located within the geographic limits of the Town of Midland, as identified herein, as a Site Plan Control Area.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MIDLAND HEREBY ENACTS AS FOLLOWS:

1. For the purposes of this By-law:
 - a) “Council” means the Council of the Corporation of the Town of Midland.
 - b) “Town” means The Corporation of the Town of Midland.
 - c) “Development” means:
 - i) the construction, erection or placing of one or more buildings or structures on land; or,
 - ii) 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,
 - iii) the laying out and establishment of a commercial parking lot, or of sites for the location of three or more trailers as defined in clause of paragraph 101 of Section 210 of the *Municipal Act* R.S.O.1990, c.M.45 or of sites for the location of three or more mobile homes as defined in clause 46(1) of the *Planning Act*, or,
 - iv) the laying out and establishment of commercial outdoor recreational facilities including golf courses, driving ranges, sports fields and the like.
 - d) “Gross Floor Area” means the aggregate of the areas of each floor above grade, except in the case of an apartment building where part of a basement is used for habitable purposes, in which case such area shall constitute part of the gross floor area, measured between the exterior faces of exterior walls of the building or structures at the level of each floor.
 - (e) "Owner" means any owner of land as identified in the records of the proper

Land Registry Office or Land Titles Office and includes a purchaser under a valid Agreement of Purchase and Sale, and the authorized agent of any such purchaser or owner of land.

- (f) "Redevelopment" means the removal of buildings or structures from land and the construction or erection of other buildings or structures thereon and "Redevelop" has a corresponding meaning.
 - (g) "Site Plan" means those plans and/or drawings as contemplated by subsection 41(4) of the *Planning Act*, R.S.O. 1990, c.P.13., as amended.
 - (h) "Minor Application" shall mean any change to a site not involving the erection of a new building or building addition that is not exempt from obtaining site plan approval pursuant to clause 6 of this By-law.
2. That the provisions of this By-law shall apply to specific lands located within the geographic limits of the Corporation of the Town of Midland and as identified by land use categories of the Town of Midland Zoning By-law 2004-90, as amended, as set out in Section 4 of this By-law.
 3. Those lands identified in Section 4 of this By-law are hereby designated as a Site Plan Control Area, pursuant to Section 41 as enacted by the *Planning Act*, R.S.O. 1990.
 4. That the provisions of this By-law shall apply to development in the following zones as established in By-law 2004-90, as amended, of the Town, passed under Section 34 of the *Planning Act*, R.S.O. 1990, as listed hereunder:
 - a) RESIDENTIAL TOWNHOUSE ZONE – RT
 - b) RESIDENTIAL APARTMENT ZONE – RA
 - c) RESIDENTIAL MOBILE HOME ZONE – RM
 - d) RESIDENTIAL OFFICE ZONE – RO
 - e) DOWNTOWN CORE COMMERCIAL ZONE - DC-F2
 - f) HIGHWAY COMMERCIAL ZONE – HC
 - g) NEIGHBOURHOOD COMMERCIAL ZONE – NC
 - h) MARINE COMMERCIAL ZONE – MC
 - i) INDUSTRIAL ZONE - M1
 - j) INDUSTRIAL ZONE - M2
 - k) INSTITUTIONAL ZONE – I
 - l) OPEN SPACE ZONE – OS
 - m) RURAL ZONE – RU (Permitted commercial/industrial/institutional uses only)
 - n) ENVIRONMENTAL PROTECTION ZONE – EP
 5. That no person shall undertake any development in the areas identified in Section 4 hereof and designated as a Site Plan Control Area by Section 3 unless and until the Council of the Corporation of the Town of Midland, or the Ontario Municipal Board on appeal, has approved the plans and/or drawings for such development in accordance with Section 41 of the *Planning Act*.

6. Notwithstanding Section 5 above, the following types of Development may be undertaken without the approvals referred to in Section 7 of this By-law:
- (a) Buildings or structures used for agricultural or farming operations.
 - (b) Accessory buildings or structures not exceeding a total gross floor area of 50 square metres provided that the number of required parking spaces is not increased by more than 10% relative to the amount of parking currently provided on the lands.
 - (c) Tents, marquees and similar temporary structures to be erected for a temporary period not exceeding four (4) weeks.
 - (d) Buildings or structures, and additions or alterations to buildings and structures, used for the purpose of enclosing mechanical equipment, staircases, passageways, entrances, porches, verandahs and similar structures.
 - (e) Addition or alteration to an existing building or structure provided that:
 - (i) the improvement or modification is contained wholly within the existing building or structure that does not include a change of use;
 - (ii) the expansion of an existing building or structure is less than ten percent (10%) in Gross Floor Area. Only one (1) expansion of less than 10% shall be permitted under this provision in any five (5) year period;
 - (ii) the number of required parking spaces is not increased by more than 10% relative to the amount of parking currently provided on the lands; and
 - (iii) the total area of open space on a lot which is used exclusively for landscaping is not decreased by more than 10%.
 - (f) Buildings or structures destroyed or damaged by fire, explosion or flood or other similar cause, provided that:
 - (i) the reconstructed building or structure is used for the same purpose as the former building or structure;
 - (ii) the gross floor area and height of the reconstructed building or structure generally does not exceed those of the former building or structure; and
 - (iii) the reconstructed building or structure is not located closer to any lot line than the former building or structure.
 - (g) Industrial equipment, machinery or storage tanks necessary for the operation of the industrial use:
 - (i) that are not located closer than 6.0 metres to any lot line; and

- (ii) that are located a minimum of 15.0 metres from any lot line of any lot zoned or used for residential purposes; and
 - (iii) where the height does not exceed 9.0 metres.
- 7. No person shall undertake any development on land designated as a Site Plan Control Area described in Section 4, unless the Town or, where a referral has been made, the Ontario Municipal Board, has approved one or both as the Town may determine, of the following:
 - 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 8 to the By-law, 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 which 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, but only to the extent that it is a matter of exterior design, if an official plan and a by-law passed under the *Planning Act* that both contain provisions relating to such matters are in effect in the municipality;
 - 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, if an official plan and a by-law passed under subsection (2) that both contain provisions relating to such matters are in effect in the municipality; and
 - vi) facilities designed to have regard for accessibility for persons with disabilities.
- 8. As a condition to the approval of the plans referred to in Section 7, the Town may require the owner of the lands to:

- a) Provide to the satisfaction of and at no expense to the Town any of all of the following:
 - i) Widening of highways that abut on land designated for widening.
 - ii) Subject to the *Public Transportation and Highway Improvement Act*, facilities to provide access to and from the land such as access ramps and curbs 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 and walkway ramps including the surfacing thereof, and all other means of pedestrian access.
 - v) Facilities designed to have regard for accessibility for persons with disabilities.
 - vi) Facilities for the lighting including floodlighting of the land or any building or structures thereon.
 - vii) Walls, fences, hedges, trees, shrubs or other groundcover of facilities for the landscaping of the lands or the protection of adjoining lands.
 - viii) Vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material.
 - ix) Easements conveyed to the Town for the construction, maintenance or improvement of watercourses, ditches, land drainage works and sanitary sewage facilities and other public utilities of the Corporation or local board thereof on the land.
 - x) Grading or alteration in elevation or contour of the land and provision for disposal of storm, surface and waste water from the land and from buildings or structures thereon.
- b) Maintain to the satisfaction of the Town and at the sole risk and expense of the owner any or all of the facilities or works mentioned in Sections (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix) and (x) of Section 8 a), including the removal of snow from access ramps and driveways, parking and loading areas, and walkways.
- c) Where an agreement is a condition of approval, enter into one or more agreements with the Town which will deal with and ensure:
 - i) provision of all the facilities, works or matters referred to in Section 8 a) including the provision of financial securities in respect of the facilities

and works;

- ii) the continued maintenance referred to in subsection 8 b); and,
 - iii) the provision and approval of the plans and drawings referred to in Section 7.
- d) Any agreement entered into under Section 8 c) shall be registered against the land to which it applies and the Town is entitled to enforce the provisions of the agreement 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. Site Plan Approval shall expire one (1) year from the date of approval by Council unless, prior to the expiration of one (1) year, a building permit has been issued by the Town's Chief Building Official for the development described in the Site Plan Approval. Council may, upon the receipt of a written request from an Applicant who has been granted Site Plan Approval, grant one (1) extension of a Site Plan Approval for a period of up to one (1) year, provided such request for an extension is received prior to the expiry of the original approval.
 10. That prior to the submission of a site plan application, formal consultation with Town staff shall be required.
 11. The purpose of such formal consultation is to review the draft development proposal for the lands affected by the proposed application(s) and identify the need for and the scope of other information and materials considered necessary by the Town and other affected agencies, in addition to that required by the approved application forms, to allow a full consideration of the development application.
 12. That following the formal consultation meeting, the Town will provide persons intending to make application for site plan approval, a list of the other information and materials which are deemed necessary to allow full consideration of the development application.
 13. That in the absence of a consultation meeting, or where a meeting has occurred and an applicant has failed to submit all required other information and materials, the application shall be deemed incomplete.
 14. That notwithstanding the requirements of clause 13 of this By-law, in the course of the review process for a site plan control approval application which has been deemed a complete application, additional reports, studies and drawings not identified in a consultation meeting may be required to address specific issues and/or enable Council and its delegated authorities to make decisions.
 15. That the following powers and authority given to Council under Section 41 of the Planning Act are hereby delegated to the Director of Planning and Building Services:

- (a) The authority to approve Minor Applications for Site Plan Approval as defined in clause 1 above;
- (b) The authority to approve minor amendments to approved site plan control plans and agreements;
- (c) The authority to conduct consultation meetings prior to the submission of formal applications under the Planning Act;
- (d) Identify the other information and materials relevant and necessary to the processing of each application;
- (e) Deem an application complete and notify the applicant within 30 days, or deem an application incomplete and notify the applicant within 30 days for failing to provide the prescribed and other information and materials as required by this By-law; and,
- (f) For developing and implementing Site Plan Control Guidelines, Application Forms and procedures for the administration of Site Plan Applications.
- (g) The authority to approve all Applications for Site Plan Approval for the Midland Bay Landing development lands as identified on Schedule "A" attached here to, and the delegation of such authority shall be subject to the following conditions and requirements:
 - i) Site Plan Control Applications shall only be approved where they are in full compliance with the Council approved Master Concept Plan, the Council approved Design Guidelines, and the applicable Zoning;
 - ii) Site Plan Control Applications shall only be approved where they have been subject to the full planning review and approval process including the review and consideration by all relevant departments and agencies and considered at the Staff Technical Review Committee;
 - iii) Where the Site Plan Control Application includes any deviations from the approved Master Concept Plan and/or Design Guidelines, as determined at the sole discretion of the Director, the Application shall be referred to Planning and Development Committee and Council for full review and approval;
 - iv) Any deviations in the Application that do not comply or conform to the Town's Official Plan and/or Zoning By-law shall be subject to the appropriate applications for amendments and subject to the full public consultation process as required in accordance with the *Planning Act*.
- (h) The authority to approve all Applications for Architectural Control approval for the Midland Bay Landing development lands as identified on Schedule "A" attached here to and the delegation of such authority shall be subject to the

following conditions and requirements:

- i) Architectural Control Applications shall only be approved where they are in full compliance with the Council approved Master Concept Plan, the Council approved Design Guidelines, and the applicable Zoning;
 - ii) Architectural Control Applications shall only be approved where they have been subject to a planning review and approval process including the review and consideration by the Town Engineer and Chief Building Official.
- (i) The authority to approve all Applications for Site Plan Approval for 'The Seasons on Little Lake' development lands (Draft Plan No. 43T-95021) as identified on Schedule "B" attached here to, and the delegation of such authority shall be subject to the following conditions and requirements:
- i) Site Plan Control Applications shall only be approved where they are in full compliance with the Council approved Plan of Subdivision, Community Design Guidelines and the applicable Zoning;
 - ii) Site Plan Control Applications shall only be approved where they have been subject to the full planning review and approval process including the review and consideration by all relevant departments and agencies and considered at the Staff Technical Review Committee;
 - iii) Where the Site Plan Control Application includes any deviations from the approved Community Design Guidelines, as determined at the sole discretion of the Director, the Application shall be referred to the appropriate Committee of Council and Council for full review and approval;
 - iv) Any deviations in the Application that do not comply or conform to the Plan of Subdivision, Town's Official Plan and/or Zoning By-law shall be subject to the appropriate applications for amendments and subject to the full public consultation process as required in accordance with the *Planning Act*.
- (j) Council may by by-law withdraw a delegation of authority made by a council under this section and such withdrawal may be either in respect of one or more site plans specified in the by-law or any or all site plans in respect of which a final disposition was not made before the withdrawal.
16. Notwithstanding the provisions of Section 6(e) above, all development for non-warehouse uses on the south, west and north facades of the building known Municipally as 9220 and 9226 County Road 93 (being the former Mountainview Mall building) shall be deemed as having the effect of substantially increasing the usability thereof and shall be subject to Site Plan Control approval. A Site Plan Agreement Amendment Application(s) shall be required in for all development for non-warehouse uses on the south, west and north facades of the building

accordance with sections 5 and 7 and as required by Section 41 of the *Planning Act*, and without limiting the generality of the foregoing, as set out below:

- a) the provision of pedestrian accesses including pedestrian walkways;
 - b) massing and design of the new use including minimum glazing requirements;
 - c) provision of interior walkways to which members of the public have access to;
 - d) relationship of the building to exterior areas;
 - e) landscaping;
 - f) security lighting at the façade, walkways and parking lot;
 - g) facilities having regard for accessibility for persons with disabilities including the provision of barrier free parking spaces and walkways.
17. In the event that the Director of Planning and Building Services and an Applicant are unable to agree on the Site Plan requirements and/or the terms of the Site Plan Agreement for a Minor Application, then such Site Plan and/or Site Plan Agreement shall be submitted to Council for consideration of approval.
18. After approval of an application has been granted by Council or the Director of Planning and Building Services, the Mayor and Clerk are hereby authorized to sign and execute any site plan agreement and any documents which may be required to implement the conditions of approval. Prior to execution, all agreements shall be approved as to form by the Town Solicitor or designate.
19. Penalty
- (a) Every person who contravenes a provision of this By-law is guilty of an offence and on conviction is liable:
 - (i) On a first conviction to a fine of not more than \$25,000.00; and
 - (ii) On a subsequent conviction to a fine of not more than \$10,000.00 for each day or part thereof upon which the contravention has continued after the day on which he was first convicted.
 - (b) Where a corporation is convicted under Subsection 8(a) the maximum penalty that may be imposed is:
 - (i) On a first conviction to a fine of not more than \$50,000.00; and
 - (ii) On a subsequent conviction to a fine of not more than \$25,000.00 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted.
20. That this By-law may be cited as the "Midland Site Plan By-law".
21. That By-law 2005-8 is hereby repealed.
22. That this By-law shall come into full force and effect immediately upon final passage.

**BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS
19th DAY OF FEBRUARY, 2013.**

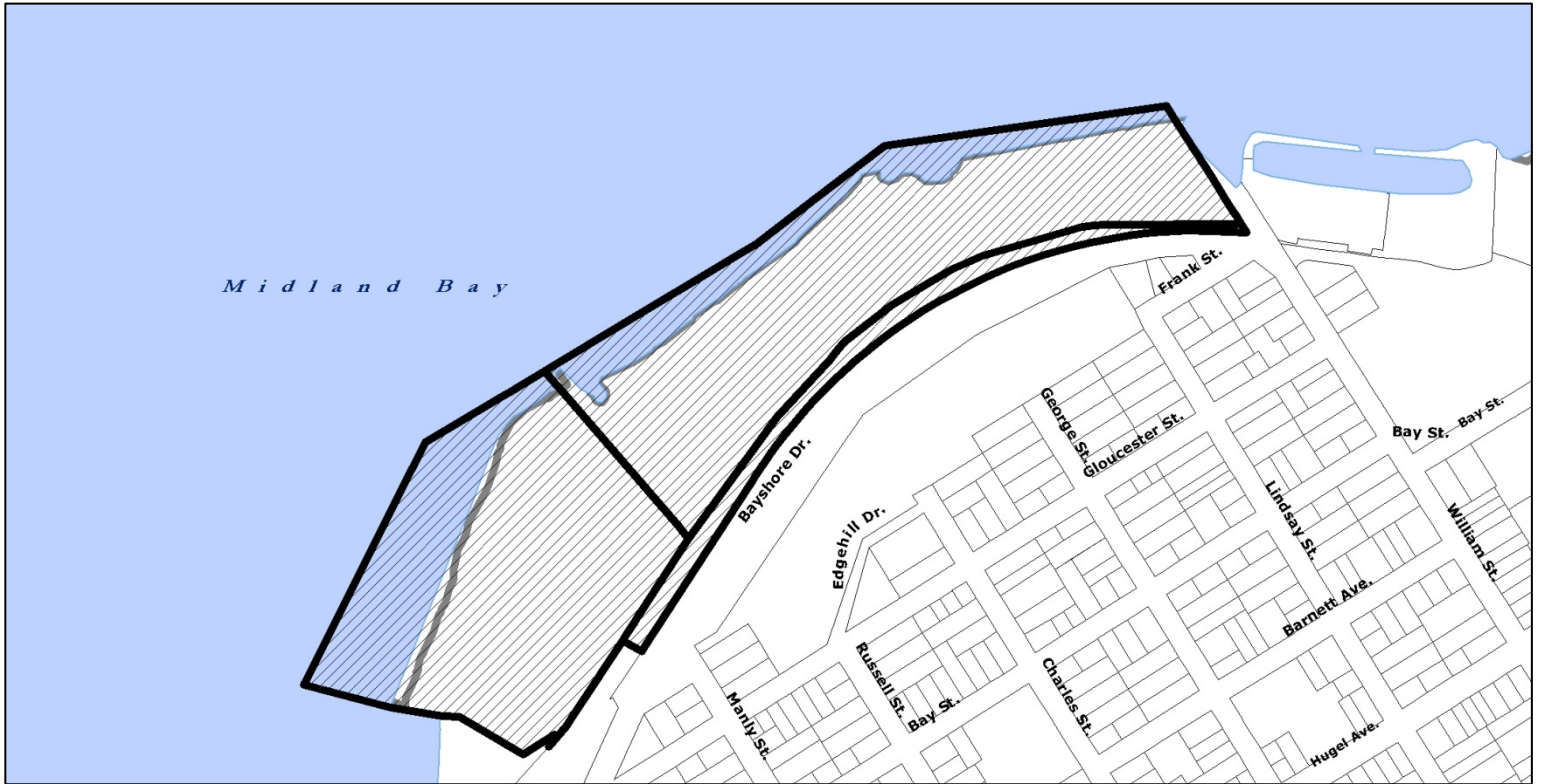
THE CORPORATION OF THE TOWN OF MIDLAND

MAYOR

CLERK

Schedule "A"
By-law 2013-13

Midland Bay Landing development lands subject to Section 15 (g) to (i)



Schedule "B"
By-law 2013-13

