

THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS



REPORT

TO: Mayor & Members of Council
FROM: Stefan Szczerbak, Planner
DATE: October 20, 2009
RE: SITE PLAN AGREEMENT APPLICATION: D 08/09 LOB
Applicant: 2193926 Ontario Incorporated (The Bush Company)
Agent: Corey Reeves
Part Lot 8, Concession 8, Franklin Ward
Roll No. 010-011-08103
Civic Address: 25748 Highway No. 35

RECOMMENDATION:

That Council give three readings to By-law 09-134 to authorize the Mayor and Clerk to execute the site plan agreement between the Corporation of the Township of Lake of Bays and 2193926 Ontario Inc. (The Bush Company) upon advice from the Planner that the site plan agreement is satisfactory to the Township of Lake of Bays.

AND FURTHER that By-law 09-134 authorize the Mayor and Clerk to release the existing site plan agreement between the Corporation of the Township of Lake of Bays and Robert W. Clark for Part of Lot 8, Concession 8, in Franklin Ward now in the Township of Lake of Bays (Roll No. 010-011-08103) and registered on December 6, 1993 as Instrument No. 273044.

ORIGIN:

The applicant recently purchased this property and re-opened the restaurant/bar as The Bush Company. The applicant wishes to construct a covered patio and recognize a recently constructed open patio joined to the existing building. As the lands are currently located within the "Community General Commercial (C1)" zone, a site plan agreement is necessary. As all commercial properties require Site Plan approval prior to the issuance of a building permit, this application has been submitted to reflect the proposed development while maintaining the existing site plan sketch.

BACKGROUND:

Previous Files:	<ul style="list-style-type: none">• A 46/92 LOB• Z 19/92 LOB – (Bylaw 93-19) Site Plan agreement (Instrument No. 273044) – To permit the restaurant.
Natural Constraints:	<ul style="list-style-type: none">• Secondary Aggregate deposit on whole of lands• Locally Significant Wetland (southeasterly portion of the property)
LOB Official Plan:	Community "Commercial" sub-designation

District Official Plan:	Community Designation
LOB By-law 04-181:	<ul style="list-style-type: none">• “Commercial General Commercial (C1)” Zone and• “Environmental Protection (EP)” Zone

Site Characteristics:

The topography of the site is relatively flat with sandy soils. The site is occupied by “The Bush Company Bar and Grill”. An open patio exists next to the main entrance and the remainder of the property surrounding this building contains parking and a septic system.

The frontage along the property contains some existing mature pine trees and a business sign. The identified wetland area remains in a natural state.

Surrounding Uses:

The adjacent lands to the north comprise of a recreational vehicle – sales and servicing use (Lakeland Motor Sports) while further north the lot is currently vacant. To the south the lands are vacant and form part of the Oxtongue River system. The areas across Highway # 35 to the west contain some low density residential lots. To the east the lands contain an inactive pit.

ANALYSIS:

Natural Constraints

A review of Schedule E1 of the Township Official Plan identifies this area as a secondary aggregate deposit. Given the fact that this proposal involves an existing commercial establishment, the extraction of this deposit in this location is unlikely.

Schedule C1 of the Township Official Plan also identifies a small portion of these lands as a locally significant wetland. As this proposal does not include any development within or adjacent to this feature, further study related to potential impacts to this feature or its function is not necessary.

Proposal

The subject lands are included within an existing “Community General Commercial (C1)” Zone and an existing site plan agreement was registered against the title of the lands on December 6th, 1993 as Instrument No. 273044. The applicant would like to maintain the general contents of this existing site plan including the schedule however, staff would suggest releasing this existing agreement and updating the agreement to reflect existing site plan requirements.

With respect to the overall direction of the Township’s Official Plan, Section F.13 and F.5 of the Township Official Plan policy encourage the expansion and redevelopment of the business sector and existing tourist commercial facilities.

Section G.54 of the Township's Official Plan permits a range of commercial uses which include dining and entertainment facilities within a designated community (G.55).

As this proposal is minor in nature, it is important to update the existing site plan and also to review the revised parking facilities to ensure adequate parking is still available.

Upon review of the supporting information, it is noted that Section G.22 provides the general policy direction for adequate off-street parking. Upon review of the parking requirements within the Comprehensive Zoning By-law, Section 4.42 of Comprehensive Zoning By-law 04-181 only requires parking for the proposed expansions to be provided. This proposal does not change the seating capacity of this restaurant and as such, staff are satisfied with the amount of parking spaces available specifically due to the location of the patio and proposed covered porch.

In view of the foregoing, staff are satisfied that the subject site plan generally addresses those matters (i.e. building locations, adequate parking facilities, appropriate landscaping, etc.) identified in Section 41 of the Planning Act. Therefore, as the proposal generally conforms to the intent and purpose of the Official Plans and Comprehensive Zoning By-law, staff have no concerns with the approval of this application.

Respectfully submitted by:



Stefan Szczerbak, M.Sc., RPP, MCIP
Planner

**CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS
BY-LAW 09-134**

BEING A BY-LAW TO AUTHORIZE THE MAYOR AND CLERK TO SIGN DOCUMENTS WITH RESPECT TO SECTION 41 AGREEMENTS BETWEEN 2193926 ONTARIO INC. (THE BUSH COMPANY), ROBERT W. CLARK AND THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS.

WHEREAS the Council of the Corporation of the Township of Lake of Bays deem it necessary to enter into a Agreement under Section 41 of the Planning Act, R.S.O., 1990 c. P.13, as amended with 2193926 Ontario inc. (The Bush Company); and

WHEREAS the Council of the Corporation of the Township of Lake of Bays wishes to release itself from Agreement under Section 41 of the Planning Act, R.S.O., 1990 c. P.13, as amended with the predecessor in title, namely Robert W. Clark, and which was registered on December 6, 1993 as Instrument No. 273044 (file **D 01/00 LOB**) at the Land Registry Office in Bracebridge; and

WHEREAS the property subject to these Agreements is described as follows:

Part of Lot 8, Concession 8, geographic Township of Franklin, now in the Township of Lake of Bays, in the District Municipality of Muskoka, designated as Part 1 on Plan 35R-15202

NOW THEREFORE the Council of the Corporation of the Township of Lake of Bays hereby authorizes the Mayor and Clerk to sign such documents, relative to the above noted Agreements.

READ a FIRST and SECOND time this 27th day of October, 2009.

Mayor

Deputy Clerk

READ a THIRD time and finally passed this 27th day of October, 2009.

Mayor

Deputy Clerk

Applicant: 2193926 Ontario Inc. (The Bush Company)
File No. D 08/09 LOB
Roll No. 010-011-08103
25748 Highway No. 35

the Township, at its option, may require the Owner to enter into a further Agreement amending the Agreement, and providing for further plans, drawings, and conditions as set out in Section 41 of the Planning Act. No further development shall take place until such Amending Agreement has been registered against the Lands in the manner described in Section III of this Agreement.

SECTION V - PROVISIONS

- 1) The Owner covenants and agrees to develop the Lands in accordance with Schedule "B", this Agreement and all applicable permits. The Owner acknowledges and agrees that Schedule "B" shows the location of all existing and proposed buildings and structures. Except for minor deviations necessitated by soil conditions, topography, preservation of mature standing trees, or deviations for structural orientation, no building or structure shall be constructed or located on the subject lands except in accordance with Schedule "B". Minor changes may be made to Schedule "B" with the consent of the Township without amending this agreement.
- 2) The Owner further agrees to preserve and maintain the mature, healthy trees and vegetation as shown on Schedule "B" and agrees not to disturb the slope leading to the wetland located on the southeasterly portion of the property.
- 3) The owner agrees that access to the site will be from the existing entrance onto Highway No. 35 and any modifications to this entrance will require permissions from the authority having jurisdiction.
- 4) The Owner undertakes, covenants and agrees to provide on-site parking and loading areas and driveway(s) as required in Sections 4.39 to 4.51 of Township Zoning By-law 04-181, or the applicable by-law in place at the time.
- 5) The Owner undertakes, covenants and agrees to ensure that all parking areas are treated in such a manner so as to prevent the escape or movement of dust on or off the property, and to ensure the continuance of the treatment as required by the Township or by good housekeeping practices for the life of the development.
- 6) The Owner undertakes, covenants and agrees to provide for the removal of snow from the driveways and parking areas at the sole risk and expense of the Owner and to the satisfaction of the Township. Snow shall only be stored on the subject lands, and not on any adjacent lands or roads.
- 7) The Owner undertakes, covenants and agrees that all garbage and waste will not be permitted to be stored outside of any building. The collection and disposal of all garbage and other waste materials is at the sole risk and expense of the Owner and to the satisfaction of the Township.
- 8) The Owner undertakes, covenants and agrees that external lighting on the subject lands and buildings will be designed according to Section 4.27 of Township Zoning By-law 04-181, or the applicable by-law in place at the time, which requires that sensitive lighting practices be used that do not interfere with the view of the night sky or spill onto surrounding properties.
- 9) The Owner further agrees that the Township shall be notified of any proposed change of use, including the nature of retail or servicing, to allow this Agreement to be re-evaluated. At that time, an amendment to this Agreement or further Agreement, as applicable under the provisions of the Planning Act, may be required by the Township.

SECTION VI - BINDING PARTIES, ALTERATION, AMENDMENT, EFFECT, NOTICE, PENALTY

- 1) This Agreement may only be amended in accordance with Section V(1) or, where determined necessary by the Township, it may be varied by a written document of equal formality duly executed by the Parties hereto and registered against the title to the Lands.

- 2) This Agreement shall enure to the benefit of and be binding upon the respective successors and assigns of each of the Parties hereto.
- 3) This Agreement shall come into effect on the date of execution by the Township.
- 4) 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.
- 5) 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 address:

To the OWNER:

Mr. Corey Reeves
c/o 2193926 Ontario Incorporated
25748 Highway No. 35
Dwight, ON
POA 1H0

To the TOWNSHIP:

Clerk, Township of Lake of Bays
1012 Dwight Beach Road
Dwight, Ontario
POA 1H0

IN WITNESS WHEREOF the Owner has hereunto set his hand and seal, and the Township has hereunto affixed its corporate seals attested to by the hands of its duly authorized officers in that behalf.

2193926 ONTARIO INCORPORATED

I, _____ (Print), have the
authority to bind the Corporation

**THE CORPORATION OF THE
TOWNSHIP OF LAKE OF BAYS**

JANET PEAKE, MAYOR

MICHELLE PERCIVAL, CLERK

We have the authority to bind the Corporation.

SCHEDULE "A"**Legal Description of the Lands**

Part of Lot 8, Concession 8, Township of Franklin, now in the Township of Lake of Bays, in the District Municipality of Muskoka, designated as Part 1 on Plan 35R-15202.

SCHEDULE "B"

The Approved Site Plan Drawing
for Site Plan Agreement File **D 08/09 LOB**
(The Bush Company Bar/Restaurant)

SKETCHES AVAILABLE FOR VIEWING AT THE FOLLOWING LOCATION:

Township of Lake of Bays
1012 Dwight Beach Road
Dwight, Ontario
P0A 1H0

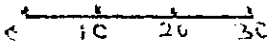
Phone No.: 705-635-2272
Fax No. 705-635-2132

BUSH COMPANY BAR+ GRILL

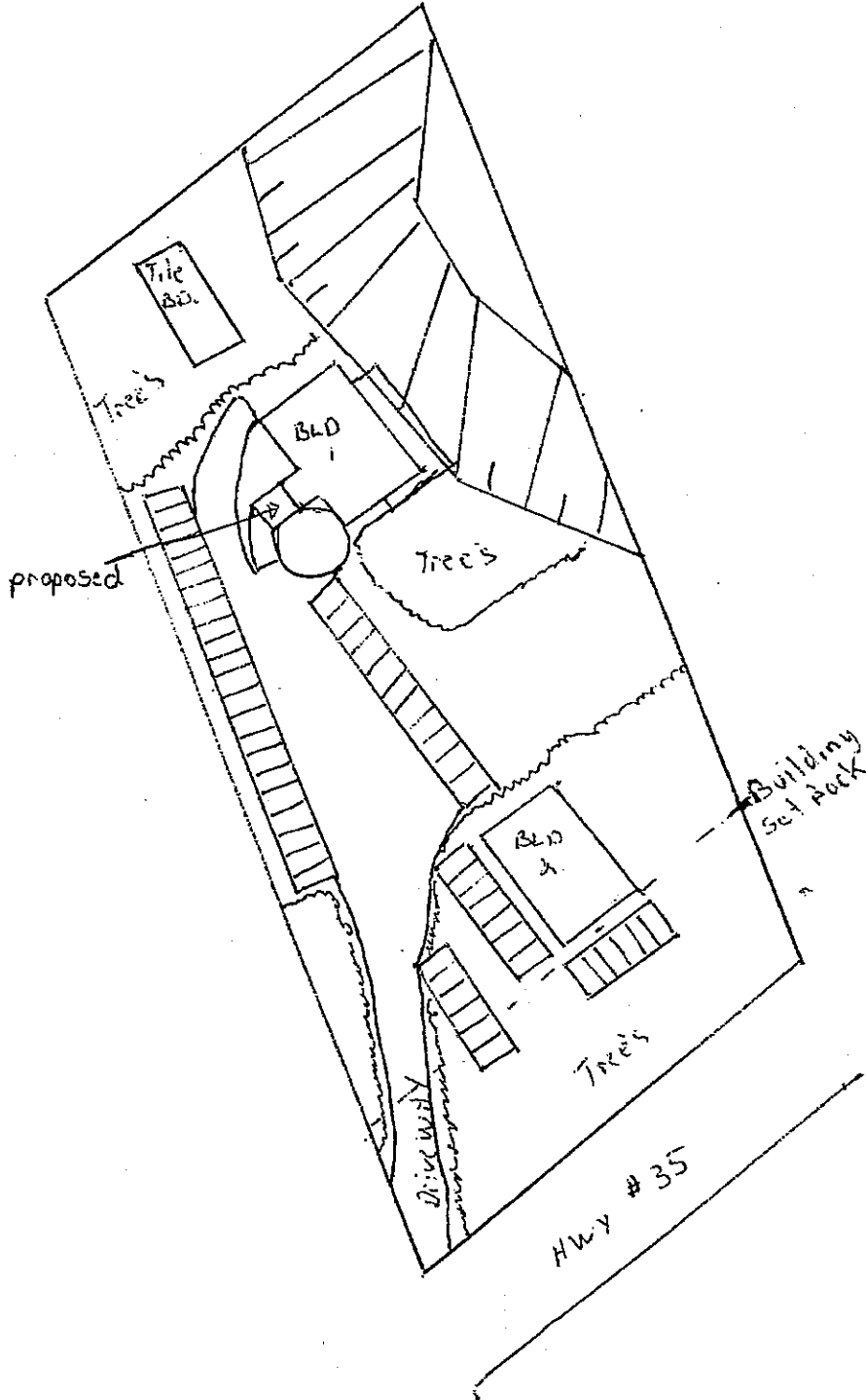
25740 Hwy 35

Dwight Ont

Site Plan.



1mm = 10m



Lot Area
8377 m²

Building Area
#1 - 397 sq/m
#2 - 397 m²

Lot Coverage
20%

Total Landscape
47%