

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

BY-LAW NO. 2019 - 49

Being a By-law to enter into a Temporary Use Agreement with Lorne Douglas Bolte and Larry Duane Eagles

WHEREAS the Planning Act, R.S.O. 1990, chapter P.13, Section 41 authorizes the execution and registration of site plan agreements to provide for additional regulation and control of development of lands that are the subject of applications for site plan approval;

AND WHEREAS an application and site development plans have been submitted for lands legally described as Pt Lt 26 Con 10 Croft Pt 1 42R3291; Magnetawan, District of Parry Sound being all the lands described in PIN 52087-0392 (LT) and Pt Lt 26 Con 10 Craft Pt 2 42R3291; Magnetawan, District of Parry Sound being all the lands described in PIN 52087-0393 (LT) and;

AND WHEREAS Council is satisfied that the proposed development of the lands is appropriate and in conformity with the Municipality's requirements;

NOW THEREFORE the Council of the Corporation of the Municipality of Magnetawan hereby enacts as follows:


1. That the Municipality of Magnetawan enter into a site plan agreement substantially in the form attached hereto as Schedule 1.
2. That the Mayor and the Clerk are hereby authorized to execute the Agreement and all documents in connection with the Agreement.
3. The Municipality's solicitor is hereby authorized to register the Agreement against the title of the lands to which it applies.

READ A FIRST, SECOND, AND THIRD TIME, passed, signed and the Seal of the Corporation affixed hereto, this 14th day of August, 2019

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN



Mayor



CAO/Clerk

**TEMPORARY USE AGREEMENT
SCHEDULE 1 to By-law 2019-49**

Made this 14th day of August, 2019

BETWEEN:

LARRY DUANE EAGLES and LORNE DOUGLAS BOLTE

hereinafter called the "Owner"
OF THE FIRST PART

-AND-

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

hereinafter called the "Municipality"
OF THE SECOND PART

WHEREAS the Municipality has passed the temporary use by-law 2019-38 to amend Zoning By-law 2001-29, as amended, pursuant to Sections 34 and 39 of the Planning Act, R.S.O. 1990, as amended, to temporarily re-zone the Owner's lands to authorize the temporary use of a Garden Suite located thereon;

AND WHEREAS pursuant to subsection 39.1(1) of the Planning Act, Council of the Municipality may require the Owners of the Garden Suite, or any other person to enter into an Agreement with the Municipality;

AND WHEREAS the Municipality deems it appropriate to require the aforementioned agreement;

NOW THEREFORE in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

1. DEFINITIONS

- 1.1 "Garden Suite" means a one unit detached residential structure containing bathroom and kitchen facilities that is ancillary to an existing detached dwelling and that is designed to be temporary and/or portable.
- 1.2 Subject Lands mean the lands described as Pt Lt 26 Con 10 Croft Pt 1 42R3291; Magnetawan, District of Parry Sound being all the lands described in PIN 52087-0392 (LT) and Pt Lt 26 Con 10 Craft Pt 2 42R3291; Magnetawan, District of Parry Sound being all the lands described in PIN 52087-0393 (LT).

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- 1.3 "Temporary Use By-law" means By-law 2019-38 passed by the Municipality pursuant to Sections 34 and 39 of the Planning Act to authorize the permitted temporary use upon the subject lands.

2. MAINTENANCE AND USE OF GARDEN SUITE

- 2.1 The Owner may construct, erect, install and permit occupancy of the Garden Suite on the subject lands from the date upon which the Municipality has executed this Agreement subject to the terms and conditions of this Agreement.
- 2.2 The Owner shall be responsible, at its sole cost, for the installation and maintenance of the Garden Suite and any private services (wells, sewage systems) upon the Subject Lands necessary to service the Garden Suite, all in accordance with the by-laws of the Municipality in effect from time to time, including but not limited to the Temporary Use By-law, and all applicable Federal and Provincial legislation (including without limitation obtaining all necessary building permits).
- 2.3 The Owner shall be permitted to locate and maintain the Garden Suite in the location set out in Schedule "A".

3. TERM OF AUTHORIZATION

- 3.1 Pursuant to the Temporary Use By-law and this Agreement the Garden Suite shall be permitted on the Subject Lands until no later than 5:00 p.m. on the 14th day of August, 2029 subject to section 3.3.
- 3.2 The Municipality shall have the right, in its sole discretion, to extend the time and date set out in section 3.1 by by-law in accordance with the provisions of subsection 39.1(4) of the *Planning Act*.
- 3.3 The Garden Suite shall be for exclusive habitation of one or both of the natural parents of Lorne Bolte, listed as Constance Laurie Tipling; and Glen Douglas Bolte and the authorization shall terminate immediately, if not used for habitation of one, or both of these individuals.
- 3.4 The authorization for the Garden Suite shall hereunder terminate immediately upon the repeal or expiry of the Temporary Use By-law or upon the removal of the Garden Suite from the subject lands.

4. DEFAULT AND REMOVAL

- 4.1 In the event of default by the Owner or any occupant of the Garden Suite under the terms of this Agreement or the Temporary Use By-law, the Municipality may give written notice of such default to the Owner. The Owner shall correct the default within 10 days of the receipt of such notice, failing which the Municipality may, in writing, Order the Owner to remove

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the Garden Suite from the Subject Lands. Such Order shall specify the date upon which the Garden Suite shall be removed by the Owner.

- 4.2 The Owner shall remove the Garden Suite from the subject lands on or before the earlier of:
- 4.2.1 the date prescribed in an Order under section 4.1;
 - 4.2.2 the date specified in section 3.1.
- 4.3 The removal of the Garden Suite shall include:
- 4.3.1 the disconnection of electrical services (under authority of a permit from the Electrical Safety Authority if required); and
 - 4.3.2 the disconnection of drinking water supply services and the sanitary sewage disposal services (which shall require issuance of a building permit as applicable).
- 4.4 In the event that the Owner fails to remove the Garden Suite from the subject Lands in accordance with the provisions of an Order issued under section 4.1 or in accordance with section 4.2, the Municipality may enter upon the Subject Lands to remove the Garden Suite, and all costs incurred by the Municipality in connection therewith shall be recoverable from the Owner or then then registered owner of the subject lands on demand (together with interest thereon at the rate of 15% per annum, commencing from the date of demand). In default of payment, the costs incurred by the Municipality, together with interest, may be recovered from the Owner in accordance with the provisions of Section 446 of the *Municipal Act, 2001*.
- 4.5 The Owner acknowledges and agrees that any default under this agreement including a failure to remove the Garden Suite when required hereunder constitutes a violation of the Municipality's Comprehensive Zoning By-law and the Temporary Use By-law.

5 EXPENSES OF THE MUNICIPALITY

- 5.1 Every provision of this Agreement by which the Owner is obligated in any way shall be deemed to include the words "at the expense of the Owner" as the case may be, unless the context otherwise requires.
- 5.2 The Owner shall be responsible for and shall pay to the Municipality on demand all costs incurred by the Municipality in connection with the preparation and enforcement of this Agreement and the Temporary Use By-law.
- 5.3 The Owner shall before the execution of this Agreement by the Municipality, file with the Municipality a deposit in the amount of \$2,500.00, which may be applied by the Municipality in reduction of the costs incurred as set out above.
- 5.4 All costs and expenses for which demand for payment has been made by the Municipality shall bear interest at the rate of 15% per annum, commencing 30 days after demand for payment is made.

Handwritten initials and signatures in blue ink, including "P/S" and "SD".

6 NOTICE

6.1 All Notices to be given hereunder may be given by letter addressed to:

Owner:

Lorne Douglas Bolte & Larry Duane Eagles
12 25th & 26th Sideroad, Dunchurch, ON P0A 1G0

Municipality:

The Corporation of the Municipality of Magnetawan
4304 Highway 520, P.O. Box 70, Magnetawan, ON P0A 1P0

or such other address as the parties may respectively from time to time designate in writing, and any such Notice shall be deemed to have been given to and received by the addressee three (3) days after the mailing thereof, postage prepaid and registered.

The Municipality may provide a copy of this agreement, the Temporary Use By-law and any Notice or Order issued hereunder to the occupant(s) of the Garden Suite addressed to:

Constance Laurie Tipling
Glen Douglas Bolte

7. SEVERABILITY, ASSIGNMENT, ESTOPPEL

7.1 Any provision of this Agreement which is found to be invalid or unenforceable under the laws of the Province of Ontario by a court of competent jurisdiction, to the extent such provision is invalid or unenforceable, shall be deemed severable and shall not affect any other provision of this Agreement.

7.2 This Agreement, and the rights and obligations arising under it, may not be assigned by the Owners without the prior written consent of the Municipality.

7.3 The Owner will not call into question directly or indirectly in any proceeding in law or in equity or before any administration or other tribunal, the right of the other parties to enter into this Agreement and to enforce every term, covenant and condition of it. The law of contract applies to this Agreement and the parties are entitled to all remedies arising from it. This provision may be pleaded by the parties in any action or proceeding as an estoppel of any denial of such right.

8. INDEMNIFICATION FROM LIABILITY AND RELEASE

8.1 The Owner covenants and agrees with the Municipality, on behalf of itself, their, its permitted successors and assigns, to indemnify and save harmless the Municipality, its servants and agents from and against any and all actions, suits, claims and demands whatsoever which may arise either directly or indirectly in connection with this Agreement.

8.2 The Owner further covenant and agree to release and forever discharge the Municipality from and against all claims, demands, causes of actions, of every nature and type whatsoever that may arise as a result of any action taken by the Municipality under the terms of this Agreement.

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LD
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This AGREEMENT SHALL enure to the benefit of and be binding upon the parties hereto and their permitted assigns.

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IN WITNESS WHEREOF the parties hereto have executed and set their hands and seals on This Agreement:

By the Owner on the 21 day of August, 2019.

Larry Duane Eagles P.O.A.
Larry Duane Eagles

Lorne Douglas Bolte
Lorne Douglas Bolte

By the Municipality on the 21 day of August, 2019.

THE CORPORATION OF THE
MUNICIPALITY OF MAGNETAWAN

per: Sam Dunnett
Sam Dunnett, Mayor

Per: Kerstin Vroom
Kerstin Vroom, CAO/Clerk

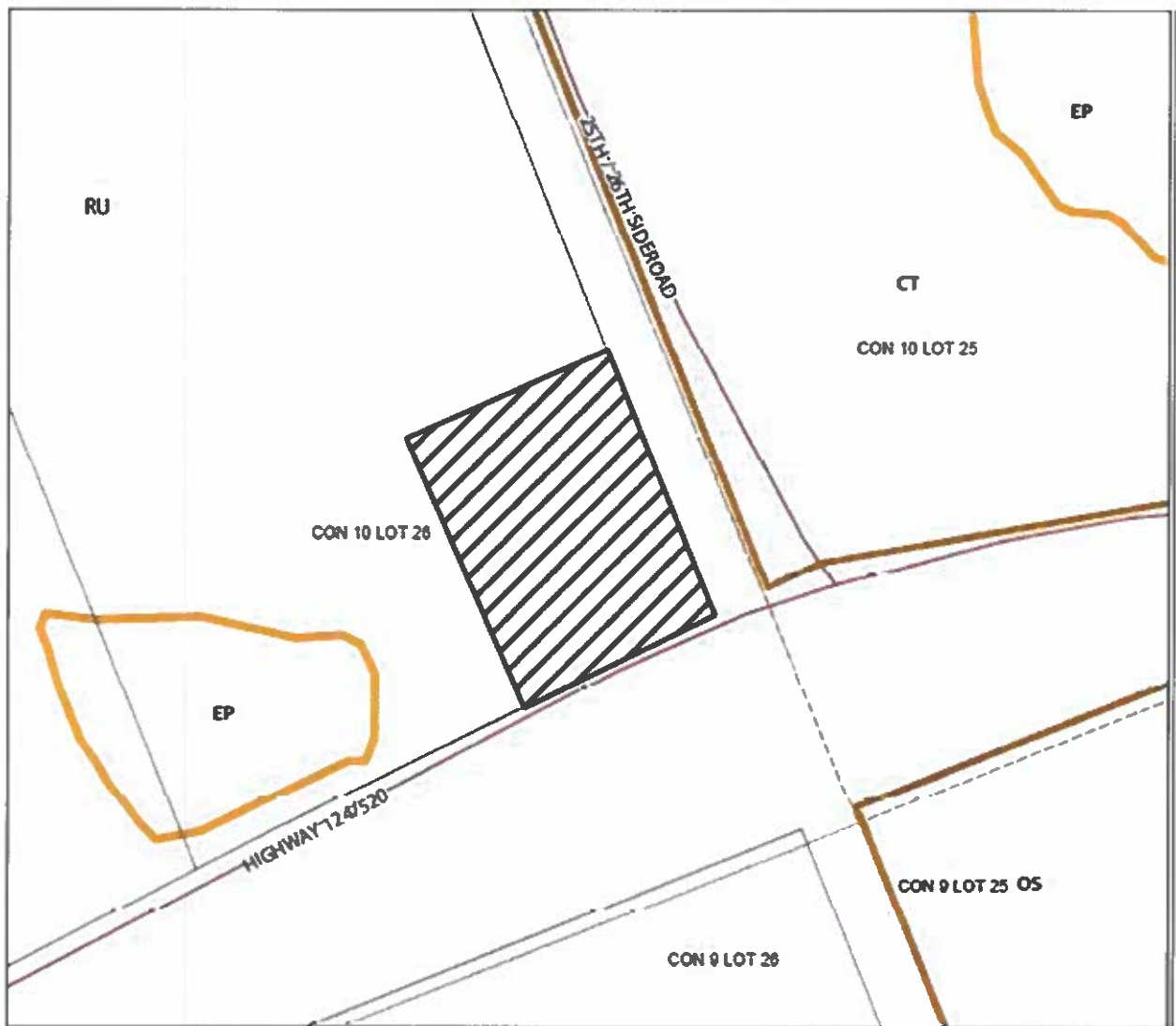
We have the authority to bind the Corporation.

Handwritten initials and marks:
SD
KV
SD

SCHEDULE "A"

THIS IS SCHEDULE "A" TO THE TEMPORARY USE AGREEMENT BETWEEN THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN AND LARRY DUANE EAGLES AND LORNE DOUGLAS BOLTE

LOCATION PLAN



Handwritten signatures and initials:
LB
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