

The applicant(s) hereby applies to the Land Registrar.

Properties

PIN 00025 - 0135 LT

Description RDAL BTN TWP OF BAYHAM & TWP OF DEREHAM TO THE CENTER LINE; RDAL
BTN TWP OF MIDDLETON & TWP OF DEREHAM BTN COUNTY RD 38 & RDAL BTN
LT 14 & 15; SWOXFORD/TILLSONBURG

Address TILLSONBURG

PIN 00035 - 0114 LT

Description PT LT 3-4 CON 5 NTR MIDDLETON PARTS 6 & 9, 41R940; S/T 380961, MD273157;
TILLSONBURG

Address TILLSONBURG

Consideration

Consideration \$2.00

Applicant(s)

The notice is based on or affects a valid and existing estate, right, interest or equity in land

Name THE CORPORATION OF THE TOWN OF TILLSONBURG

Address for Service 10 Lisgar Avenue, Tillsonburg, Ontario,
N4G 5A5

This document is not authorized under Power of Attorney by this party.

This document is being authorized by a municipal corporation Jonathon Graham, Director of Operations & Development and Tanya Daniels, Director of Corporate Services/Clerk.

Party To(s) Capacity Share

Name E. & E. MCLAUGHLIN LTD.
Address for Service 500 HWY # 3, P.O. Box 428, Tillsonburg, Ontario, N4G 4H8

A person or persons with authority to bind the corporation has/have consented to the registration of this document.

This document is not authorized under Power of Attorney by this party.

Statements

This notice is pursuant to Section 71 of the Land Titles Act.

This notice is for an indeterminate period

Schedule: See Schedules

Signed By

Lisa Ann Leitch 140 Fullarton Street, Suite 1800 acting for Signed 2024 07 09
London Applicant(s)
N6A 5P2

Tel 519-672-5666

Fax 519-672-2674

I have the authority to sign and register the document on behalf of the Applicant(s).

Submitted By

MCKENZIE LAKE LAWYERS LLP 140 Fullarton Street, Suite 1800 2024 07 09
London
N6A 5P2

Tel 519-672-5666

Fax 519-672-2674

Fees/Taxes/Payment

Statutory Registration Fee \$69.95

Total Paid \$69.95

The applicant(s) hereby applies to the Land Registrar.

File Number

Applicant Client File Number : 91208

Party To Client File Number : 91208

THIS ENCROACHMENT AGREEMENT made this 11 day of June, 2024.

BETWEEN:

THE CORPORATION OF THE TOWN OF TILLSONBURG

(hereinafter referred to as the "Town")

OF THE FIRST PART

- and -

E&E McLaughlin Ltd.

(hereinafter referred to as the "Encroaching Party")

OF THE SECOND PART

WHEREAS the Encroaching Party proposes to encroach on Lands owned by the Town described as RDAL BTN TWP OF BAYHAM & TWP OF DEREHAM TO THE CENTER LINE; RDAL BTN TWP OF MIDDLETON & TWP OF DEREHAM BTN COUNTY RD 38 & RDAL BTN LT 14 & 15; SWOXFORD/TILLSONBURG; Property Identification Number 000250135 in the Town of Tillsonburg, County of Oxford, ("Town Lands"), as indicated on and described in the drawings attached hereto as **Schedule "A"** (the "Encroachment");

AND WHEREAS the Encroaching Party represent that they are the owners tors of the adjoining lands described as PT LT 3-4 CON 5 NTR MIDDLETON PARTS 6 & 9, 41R940; S/T 380961, MD273157; TILLSONBURG; Property Identification Number 000350114 in the Town of Tillsonburg, County of Oxford ("Encroaching Party Lands");

AND WHEREAS the purpose of the Encroachment is to use and maintain a constructed gravel entrance off of Newell Road that will be strictly for for employee access and that a controlled access will be put in place on the existing gate, either by padlock, key card or code.No heavy trucks will be permitted to use this entrance/exit.

AND WHEREAS this Encroachment Agreement shall be registered against the Town Lands and the Encroaching Party Lands and the Town is entitled to enforce the provisions thereof against the Encroaching Party;

NOW, THEREFORE this Agreement witnesseth that in consideration of the permission granted by the Town to the Encroaching Party to encroach, the sum of TWO (\$2.00) DOLLARS of lawful money of Canada now paid by the Encroaching Party to the Town, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree and covenant as follows:

1. The Town and the Encroaching Party agree that the above recitals are true.
2. The Town hereby grants permission to the Encroaching Party, at the sole risk and expense of the Encroaching Party, to encroach upon a portion of the Town Lands. The Encroachment authorized by the Town is as shown on the drawings attached hereto as Schedule "A". The Town and Encroaching Party acknowledge and agree that the Encroachment shall be permitted on the Town Lands subject to the terms and conditions contained herein.
3. Subject to earlier termination and other conditions as provided in this Agreement, this Agreement shall be effective on the date it is signed by both parties and shall continue for a period of 20 years (the "Term"). Upon the expiration of the Term, the Encroachment shall be immediately removed and the Encroaching Party shall restore the Town Lands to the condition the Town Lands were in prior to the date of the Encroachment Agreement or as directed by the Town, acting reasonably, at the Encroaching Party's sole expense.
4. The Encroaching Party acknowledges that no representation has been made by the Town of any authority to grant privilege to use and maintain the Encroachment and such use and maintenance by the Encroaching Party, its successors, permitted assigns, employees and invitees shall at all times be at the Encroaching Party's risk.
5. The Encroaching Party shall not acquire title by possession, prescription or otherwise to the Town Lands and the Encroaching Party expressly acknowledges and agrees that the Town's property on which the Encroachment is located is owned by the Town.
6. No alterations or improvements shall be made to the Encroachment, at any time, including,

- without limitation, the construction, installation, erection of any building or structure, removal of trees, grade changes or the installation of any materials without the prior and express written consent of the Town, save and except those works and installations required to maintain the Encroachment in a sound, neat and safe condition. Any alteration or improvements to which the Town has consented shall be performed and completed to the satisfaction of the Town, acting reasonably, at the sole risk and expense of the Encroaching Party. The Encroaching Party agrees that any alterations or improvements made to the Encroachment without the consent of the Town shall be immediately removed at the Encroaching Party's sole risk and expense.
7. If the Encroachment is proposed to be moved, altered or changed in any manner during the Term of this Agreement and the Encroachment is to remain on the Town Lands after such movement, alteration or change, the Encroaching Party shall apply to the Town for a new Encroachment Agreement.
 8. The Encroaching Party agrees that if the Encroachment is moved, altered or changed in any manner during the Term of this Agreement, without the express written consent of the Town, the Town shall have the right to immediately terminate this Agreement and upon termination of the Agreement the Encroachment shall be immediately removed by the Encroaching Party at the Encroaching Party's sole risk and expense and the Encroaching Party shall repair and make good all damage and disturbance that may be caused to the Town Lands or the Town's infrastructure, to the satisfaction of the Town, acting reasonably, at the sole expense of the Encroaching Party.
 9. All Town approved work shall be carried out by the Encroaching Party in a proper and professional manner so as to do as little damage or disturbance to the Town Lands or the Town's infrastructure as possible. The Encroaching Party shall repair and make good all damage and disturbance that may be caused to the Town Lands or the Town's infrastructure, to the satisfaction of the Town, acting reasonably, at the sole expense of the Encroaching Party.
 10. The Encroachment shall be maintained in all respects in a state of good repair by the Encroaching Party, including keeping the Encroachment in a sound, neat, safe and clean condition to the satisfaction of the Town. If the Encroachment is not kept in a state of good repair, upon ten (10) business days written notice to the Encroaching Party (or such shorter time as may be required in the case of an emergency or other urgent matters or as otherwise provided herein), the Town shall have the right to do any work necessary to fulfil this condition and all costs incurred by the Town shall be recovered from the Encroaching Party.
 11. If at any time the Town decides to renew or repair the surface of the Town Lands upon which the Encroachment is located, the Encroaching Party, upon written notice, shall carry out such renewal or repairs to the surface of the Town Lands. If the notice is not complied with within ten (10) business days from the date that the notice is sent or such other time as may be mutually agreed to by the Town and the Encroaching Party, the Town may renew or repair the Town Lands at the expense of the Encroaching Party.
 12. The Encroaching Party shall not obstruct, hinder or interfere with the free access to the Encroachment by any person acting on behalf of the Town, including an employee, officer or agent of the Town.
 13. If the Encroaching Party defaults on any term, covenant, provision, requirement, or obligation of this Agreement and if such default continues for ten (10) business days after the Encroaching Party receives notice of such default by the Town (or such shorter time as may be required in the cases of an emergency situation being one which the Town reasonably considers to pose an imminent risk to the safety of any persons or property or other urgent matters or as otherwise provided for herein) , the Town shall have the right to undertake the completion of such work as the Town deems reasonably necessary at the expense of the Encroaching Party and the Town may terminate this Agreement. Any waiver by the Town of any breach by the Encroaching Party or any provision of this Agreement shall be without prejudice to the exercise by the Town of all or any of its rights or remedies in respect of any continuance or repetition of such breach.
 14. In the event that the Town is required to carry out any works in respect to services located in or abutting the Town Lands, the Encroachment represents a danger to the safety of the public using the Town Lands, encroaches on the rights of others to use the Town Lands, or detrimentally interferes with future improvements, the Encroaching Party and Town acknowledge that the Town shall have the right to terminate this Agreement. Such termination shall be by written notice to the Encroaching Party, except in the case of emergency. In the case of emergency, the Encroachment Agreement may be terminated

forthwith by the Town.

15. The Town and Encroaching Party may terminate this Agreement on sixty (60) days written notice for any reason whatsoever.
16. The Town shall be entitled to terminate this Agreement:
 - a) Forthwith upon failure of the Encroaching Party to operate in accordance with all applicable laws and in accordance with the terms of this Agreement, provided the Encroaching Party has not, within ten (10) business days of receiving written notice from the Town, rectified any such non-compliance; or
 - b) Upon ten (10) business days' written notice in the event the Town requires all or any portion of the Town Lands that are subject to the Encroachment as granted under this Agreement for municipal purpose(s) and it is not reasonably practical for the Encroaching Party to continue using the Town Lands concurrently with said municipal purpose(s).
17. In the event this Agreement is terminated, the Encroaching Party shall remove the Encroachment on the date of termination. If the Encroaching Party fails to remove the Encroachment on the date of termination, the Town shall provide the Encroaching Party written notice requiring the Encroaching Party to remove the Encroachment within ten (10) business days. If the Encroaching Party fails to remove the Encroachment within the ten (10) business day period, the Town shall have the right to remove the Encroachment and repair and make good all damage and disturbance that may be caused by the Encroachment to the Town Lands or the Town's infrastructure at the expense of the Encroaching Party. In the case of emergency, the Town shall have the right to remove the Encroachment forthwith on the date of termination of the Agreement at the expense of the Encroaching Party.
18. Upon the removal of the Encroachment from Town Lands, the Encroaching Party shall restore the Town Lands to the condition the Town Lands were in prior to the date of the Encroachment Agreement or as directed by the Town, acting reasonably, at the Encroaching Party's sole expense. In the event such restoration is not completed as required herein, the Town may complete such restoration work at the expense of the Encroaching Party.
19. The Encroaching Party agrees to ensure that the Encroachment complies with all applicable laws, including relevant federal, provincial, municipal laws, rules, regulations and by-laws, subject to the terms and conditions of this Agreement.
20. The Encroaching Party, at its expense, shall arrange for, obtain and maintain insurance to the satisfaction of the Town, prior to signing this agreement and prior to any works being carried out by or on behalf of the Encroaching Party on the Town Lands and continuing for the Term of this Agreement with an insurance company licensed to conduct business in the Province of Ontario, in accordance with the following:
 - a) Comprehensive General Liability insurance subject to limits of not less than five million dollars (\$5,000,000) per occurrence for personal injury, including death, and damage to property, including loss of use thereof and such policy or policies shall name the Town as an additional insured.
 - b) Such insurance policy or policies shall include
 - i. a provision of cross liability and severability of interest clause; and
 - ii. a provision that requires the insurance company to provide the Town with thirty (30) business days' notice of termination or cancellation of such policy or policies.
 - c) This insurance shall apply as primary & non-contributory with respect to any other insurance that may be available to the Town of Tillsonburg.
 - d) The insurance policy or policies shall be in full force and effect for the Term of this Agreement.
 - e) The issuance of such policy or policies of insurance shall not be construed as relieving the Encroaching Party from responsibility for other or larger claims, if any, for which it may be held responsible.
 - f) A Certificate of Insurance evidencing the insurance coverage required shall be provided by the Encroaching Party to the Town prior to the Town signing the

Agreement and thereafter promptly on the insurance renewal date.

- g) The insurance premium for the insurance required herein shall be prepaid for a period of not less than one (1) year.
 - h) Both parties agree to immediately notify the other party of any occurrence, incident, or event which may reasonably be expected to expose either party to liability of any kind in relation to the Encroachment.
21. In the event the Encroaching Party fails to provide a certificate of insurance when required or upon request by the Town, pay premiums or otherwise keep such policies of insurance in force, the Town may pay premiums or take out such additional policies as it considers necessary and all sums paid for this purpose shall be at the expense of the Encroaching Party.
 22. The Encroaching Party agrees to defend, indemnify and save harmless the Town, its Councillors, directors, officers, employees, agents, consultants, contractors, assigns and any others for whom the Town is at law responsible from and against any and all claims, demands, losses, expenses, costs, including but not limited to legal costs on a substantial indemnity basis, damages, actions, suits, judgments, or proceedings, or any other obligations or liabilities which at any time or from time to time may be asserted against, imposed upon or incurred by the Town as a consequence of or in connection with the maintenance, alteration, use or any other matter or thing, directly or indirectly, relating to the Encroachment. The Encroaching Party waives, as against the Town, all claims of whatever nature, where such loss, damage, expense, liability or claim arises directly or indirectly out of or is attributable to the Encroachment or the exercise by the Encroaching Party or others of the rights and privileges permitted by this Agreement.
 23. The Encroaching Party grants to the Town full power and authority to settle any actions, suits, claims and demands on such terms as the Town may deem advisable and hereby covenants and agrees with the Town on demand all moneys paid by the Town in pursuance of such settlement and also such sum as shall represent the reasonable costs of the Town or its lawyers in defending or settling any such actions, suits, claims or demands and this Agreement shall not be alleged as a defence by the Encroaching Party in any action by any person of actual damage suffered by reason of the Encroachment permitted by this Agreement.
 24. The Encroaching Party waives any claim against the Town for damages to the Encroachment resulting from the Town's activities on, under, upon or within the Town Lands.
 25. If the Town is compelled or elects to incur any expense in connection with the removal of part or all of the Encroachment any reasonable costs so incurred by the Town, together with all interest thereon and any damages incurred shall be payable by the Encroaching Party to the Town.
 26. Every provision of this Agreement which requires the Encroaching Party to be responsible for the expense and/or costs or make payments to the Town shall be deemed to require the Town to provide the Encroaching Party with an invoice describing the costs and/or expenses and all said costs and/or expenses shall be paid by the Encroaching Party forthwith. Upon failure by the Encroaching Party to make said payment(s) forthwith, the Town shall have the right to recover the expense by any legal means necessary including the addition of the cost to the tax roll and to collect such expenses in like manner as municipal taxes.
 27. This Agreement shall be governed by and construed and interpreted in accordance with the Laws of the Province of Ontario and the Laws of Canada. The parties hereby irrevocably attorn to the exclusive jurisdiction of the courts of Ontario with respect to any matter arising under or related to this Agreement.
 28. This Agreement shall be read with such changes of gender and number as the context requires and all shall be construed to be several as well as joint.
 29. Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof.
 30. This Agreement and its Schedules constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements,

understandings, negotiations and discussions, whether written or oral. There are no conditions, covenants, agreements, representations, warranties or other provisions, expressed or implied, collateral, statutory or otherwise, relating to the Encroachment except as provided in this Agreement.

31. Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless executed in writing by the party to be bound. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, nor shall any waiver, even if similar in nature, unless otherwise expressly provided.
32. This Agreement is not transferable or assignable by the Encroaching Party to any third party without the prior written consent of the Town, which consent may be unreasonably withheld. Any attempt to transfer or assign any or all of the rights, duties or obligations of this Agreement by the Encroaching Party, without the prior written consent of the Town is void.
33. The Encroaching Party shall notify the Town in writing 30 business days in advance of any potential transfer or sale of their property or any part thereof, together with the name and address of the potential transferee or purchaser. For clarity, in the event that the Encroaching Party sells the property to which the Encroachment is appurtenant, the Encroaching Party shall instruct the purchaser of the said property to submit a new Encroachment Application to the Town for the Town's review and approval.
34. Any notice required to be given to the Town or the Encroaching Party under this Agreement shall be sufficiently given if delivered or mailed postage prepaid to the addresses below. Such notice shall be deemed to have been received on the date of its delivery or in the case of mailing, three (3) business days after it was delivered to the post office.
35. The Encroaching Party and the Town hereby agree that this Agreement shall be registered on title to the Town Lands and the Encroaching Party at the Encroaching Party's expense. The Encroaching Party and the Town shall take such further deeds, actions, and execute such further documents that may be necessary to effect such registration.
36. Execution of this Agreement shall be deemed to be authorization by all parties to legal counsel for the Town to register same in the appropriate Land Titles Office or Land Registry Office without further written authorization.
37. This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns. Neither party may assign all or any part of this Agreement without the written approval of the other party.
38. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.
39. This agreement is subject to Council approval.
40. The Encroaching Party agrees to pay the Encroachment Agreement fee as listed in the Rates and Fees Bylaw following Council approval and prior to signing the agreement.
41. The Encroaching Party acknowledges:
 - a) That it has had an adequate opportunity to read and consider this Encroachment Agreement and to obtain such legal and other advise as it considers advisable;
 - b) That it understands the Encroachment Agreement and the consequences of signing same; and
 - c) That it is signing the Encroachment Agreement voluntarily, without coercion and without reliance on any representation, expressed or implied by the Town.


<u>Town's Address</u>	<u>Encroaching Party Address</u>
Town Clerk 10 Lisgar Avenue Tillsonburg, Ontario N4G 5A5	E&E McLaughlin Ltd. 500 ON-3 Tillsonburg, Ontario N4G 4G8

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be duly executed as of the date first written above.

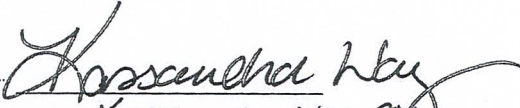
SIGNED, SEALED and DELIVERED)

in the presence of)

Witness)


Witness Gary Bruckler)

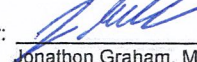
APPLICANT NAME

per: 
Cassandra Way COB

per: _____

I/We have authority to bind the Corporation.

THE CORPORATION OF
THE TOWN OF TILLSONBURG

per: 
Jonathon Graham, MPA, LET
Director of Operations & Development

per: 
Tanya Daniels
Director of Coporate Services / Clerk

I/We have authority to bind the Corporation.

SCHEDULE "A"
DRAWING OF THE ENCROACHMENT

