The Corporation of the Town of South Bruce Peninsula

By-Law Number 64-2013

Being a By-Law to Authorize the
Mayor and Clerk to Sign a Site Plan
Control Agreement with Hilda Van
Den Daele (Golden Spurs Trading
Ltd.), Beth Milne and Emily Leonard

Whereas Section 8 of the Municipal Act, 2001, Chapter 25, as amended, provides that Section 8 shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality’s ability to respond to municipal issues;

And whereas Section 9 of the Municipal Act, 2001, Chapter 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

And whereas a site plan control agreement has been negotiated with Hilda Van Den Daele (Golden Spurs Trading Ltd.), Beth Milne and Emily Leonard for the placement of a food trailer at 316 Main Street in Sauble Beach.

Now therefore the Council of the Corporation of the Town of South Bruce Peninsula enacts as follows:

1) That the Mayor and Clerk are hereby authorized to sign the site plan control agreement with Hilda Van Den Daele (Golden Spurs Trading Ltd.), Beth Milne and Emily Leonard.

2) That a copy of the site plan control agreement as referred to herein shall be attached hereto and form part of this by-law.

Read a first and second time this 2nd day of July, 2013.

Mayor

Clerk

Read a third time and finally passed this 2nd day of July, 2013.

Mayor

Clerk
This Site Plan Control Agreement made this 2nd day of July, 2013.

Between

Hilda Van Den Daele (Golden Spurs Trading Ltd.),
(the “Owner”)

And

Beth Milne, and
Emily Leonard
(the “Business Owner”)

And

The Corporation of the Town of South Bruce Peninsula,
(the “Town”)

Whereas the Owner is the owner of the lands described on Schedule “A” attached hereto (the “lands”);

And whereas the Business Owner is the owner of a non-mobile food trailer;

And whereas Section 41 of the Planning Act, RSO 1990 provides for site plan control;

And whereas By-Law 127-2008 provides the parameters for site plan control and site plan control agreements;

And whereas the Business Owner has submitted a site plan to the Town relating to the proposed non-mobile food trailer to be placed at 316 Main Street, Sauble Beach Ontario;

And whereas the Town has approved the site plan and drawings submitted by the Business Owner subject to the entering into of this Agreement;

And whereas in accordance with Section 41(10) of the Planning Act, RSO 1990 this Agreement will be registered against the lands to which it applies.

In consideration of the premises and other good and valuable consideration, the receipt and sufficiency whereof the parties irrevocably acknowledge, the parties agree as follows:

1. The Owner and Business Owner agree to place and maintain non-mobile food trailer in substantial conformity with the site plan and drawings described in Schedule “B” to this Agreement.
2. The Owner and Business Owner hereby agree to the special conditions as set forth in Schedule “D” attached hereto and forming part of this Agreement.

3. The Owner and/or Business Owner hereby agree and will expediently cause to be paid to the Town, any and all fees, deposits or other such consideration as is deemed necessary by the Town for the fulfillment of this Agreement. Said fees, deposits or other consideration are set forth in Schedule “C” attached hereto and forming part of this Agreement.

4. The Owner hereby agrees that this Agreement, together with any schedules thereto, will be registered upon title to the Lands. The covenants, agreements, conditions and undertakings herein contained on the part of the Owner shall run with the Lands and shall be binding upon it, its successors and assigns as owners and occupiers from time to time and this covenant shall be to the benefit of the Municipality and its lands and highways appurtenant and adjacent to the Lands. The Owner further covenants and agrees to pay to the Municipality the cost of registration of this Agreement, as well as any further costs incurred by the Municipality as a result of the registration of any other documents pertaining to this Agreement.

5. The Owner and Business Owner acknowledges that the Municipality, in addition to any other remedy it may have at law, shall also be entitled to enforce this Agreement in accordance with s. 446 of the Municipal Act, 2001.

6. Nothing in this Agreement shall relieve the Owner and Business Owner from compliance with all applicable municipal by-laws, laws, regulations, notices or other policies or laws and/or regulations established by any other governmental body that may have jurisdiction over the Lands.

7. Every provision of this Agreement by which the Owner and Business Owner is obligated in any way shall be deemed to include the words “at the expense of the Owner and/or Business Owner” unless the context otherwise requires, including the payment of any and all applicable taxes.

8. References herein to any statute or any provision thereof include such statute or provision thereof as amended, revised, re-enacted and/or consolidated from time to time and any successor statute thereto.

9. The Owner, Business Owner and the Municipality agree that all covenants and conditions contained in this Agreement shall be severable, and that should any covenant or condition in this Agreement be declared invalid or unenforceable by a court of competent jurisdiction, the remaining covenants and conditions and the remainder of the Agreement shall remain valid and not terminate thereby.
10. The failure of the Municipality at any time to require performance by the Owner and Business Owner of any obligation under this Agreement shall in no way affect its right thereafter to enforce such obligation, nor shall the waiver by the Municipality of the performance of any obligation hereunder be taken or be held to be a waiver of the performance of the same or any other obligation hereunder at any later time. The Municipality shall specifically retain its rights at law to enforce this Agreement.

11. The parties covenant and agree with each other not to call into question or challenge, directly or indirectly, in any proceeding or action in court, or before any administrative tribunal, the party’s right to enter into and enforce this Agreement. The law of contract applies to this Agreement and the parties are entitled to all remedies arising from it, notwithstanding any provision in s. 41 of the Planning Act interpreted to the contrary. The parties agree that adequate consideration has flowed from each party to the other and that they are not severable. This provision may be pleaded by either party in any action or proceeding as an estoppel of any denial of such right.

12. This Agreement shall be binding on all successors, assigns or heirs.

13. This Agreement shall be interpreted under and be governed by the laws of the Province of Ontario.

In witness whereof the Owner and Business Owner have executed this Agreement, and the Town has executed this Agreement by its officers duly authorized in that behalf.

The Corporation of the Town of South Bruce Peninsula

Per:

[Signature]

John Close, Mayor

[Signature]

Angela Cathrae, Clerk

We have the authority to bind the Corporation.
Witness
Hilda Van Den Daele
(Golden Spurs Trading Ltd.)

The Business Owner
Per:

Witness
Beth Milne

Witness
Emily Leonard
SCHEDULE "A"

to the Site Plan Control Agreement dated the 2nd day of July, 2013 between Hilda Van Den Daele (Golden Spurs Trading Ltd.), Beth Milne and Emily Leonard and The Corporation of the Town of South Bruce Peninsula

Legal Description

Lt 11-12, 30 PI 435; Pt Lt 10 PI 435 as in R407359, South Bruce Peninsula, County of Bruce and as described in PIN 33162-0154
SCHEDULE “B”

to the Site Plan Control Agreement dated the 2nd day of July, 2013 between Hilda Van Den Daele (Golden Spurs Trading Ltd.), Beth Milne and Emily Leonard and The Corporation of the Town of South Bruce Peninsula

Drawings are available for viewing in paper format at the Town of South Bruce Peninsula office during regular business hours:

1. Site Plan
   Dated: June 7, 2013
   Prepared by: Ron Davidson

2. Rendering of Non-Mobile Food Trailer
   Date: June 4, 2013
   Prepared by: Beth Milne
SCHEDULE “C”

to the Site Plan Control Agreement dated the 2nd day of July, 2013 between Hilda Van Den Daele (Golden Spurs Trading Ltd.), Beth Milne and Emily Leonard and The Corporation of the Town of South Bruce Peninsula

1. Site Plan Control Application Fee $500.00
2. Legal Fees (Including Applicable Taxes) Actual Costs
   - Shall include but not be limited to the registration of the Site Plan Control Agreement on title and title search
3. Landscaping/Site Deposit $1000.00
   - to be held by the Town for a period of one (1) year after substantial completion of the project as described herein
4. Annual Fee $300.00
   - to be paid to the Town on an annual basis, no later than June 18 of each calendar year for as long as this agreement is in force and effect

Type of Securities

The Town of South Bruce Peninsula requests that the security be given to the Town in the form of a cheque which will be held by the Town until such time as the securities may be released. No interest will be paid to the Owner or Business Owner for any securities or funds held by the Town.

Release of Securities

The Town shall release the landscaping/site security to the Owner or Business Owner one year after the substantial completion of the project. Substantial completion shall be achieved once all requirements under all legislation have been met with regard to opening the food trailer and all provisions with regard to the site plan control agreement and approved drawings have been completed to the satisfaction of the Town. The Owner or Business Owner must make application in writing to the Town to request substantial completion and must also make application in writing to the Town for the release of the securities. Failure to comply with any provision herein may result in the loss of securities. The Town reserves the right to use any securities to complete any works it deems necessary with regard to the site plan control agreement.
to the Site Plan Control Agreement dated the 2nd day of July, 2013 between Hilda Van Den Daele (Golden Spurs Trading Ltd.), Beth Milne and Emily Leonard and The Corporation of the Town of South Bruce Peninsula

**Special Conditions**

1. It shall be understood that the reference to the non-mobile food trailer, food trailer, refreshment vehicle or other name shall mean the 1947 Double Decker Leyland bus, 14 feet in height, 7 feet in width and 31 feet in length. The bus has been converted into a commercial kitchen. It is said to contain an engine which does not work. The wheels will not be removed from the bus.

**Technical Safety Standards Authority (TSSA)**

2. Must meet all requirements of the TSSA Fuels Safety Program (FS-056-06) or other legislation as may be relevant and must provide to the Town on an annual basis, the inspection/compliance certificate or notification received by TSSA to indicate that the food trailer is in compliance with TSSA standards.

**Public Health**

3. The food trailer shall be maintained, together with all utensils and equipment therein in a clean and sanitary condition to the satisfaction of Public Health.

4. When and as often as requested by the Public Health to do so, procure and produce to Public Health a certificate of an approved qualified physician, certifying the good health of any person employed in or occupying the said premise or vehicle, including certification that such physician has carried out a physical examination of such persons and had submitted to Public Health such laboratory specimens as Public Health may direct for the purpose of determining that such persons are free from infection or communicable disease and after such a request from Public Health, no person in respect of whom such request has been made shall be employed in, be in or occupy the said premises or vehicle without a certificate from Public Health that all requirements have been met.

5. The Business Owner will ensure that all inspections of the premises are conducted in accordance with Public Health requirements. A certificate or notification from Public Health that the food trailer meets public health standards and is fit for operation as a food trailer will be furnished to the Town prior to the opening for business of the food trailer and annually or whenever Public Health conducts inspections.

6. The food trailer will be connected to the private well, located on the premises. All
connections will be in accordance with Public Health and Ministry of Environment regulations.

7. Grease and/or other waste will be managed in accordance with Public Health regulations.

8. A holding tank for grey water will be kept in accordance with all applicable standards. The Business Owner will provide to the Town appropriate documentation indicating that the holding tank meets regulations and is adequate for its intended use.

Washroom Facilities

9. Washroom facilities must be provided on the property for patrons of the food trailer.

10. The washrooms must be open for patron use during the hours of operation of the food trailer. The food trailer must not be in operation at any time without the provision of patron washrooms.

11. The required number of washrooms must be in accordance with Building Code requirements. The Business Owner will confer with the Town Building Department regarding the required number of washrooms.

Parking

12. It is understood that there will be no provision for on-site parking.

13. The Town will not provide any special or reserved parking areas on the street.

14. All applicable parking fees will be required to be paid by patrons of the food trailer. There will be no waiving of fees by the Town.

Landscaping and Security

15. Garbage will be kept in a contained area and will be managed so as to minimize the scavenging of animals.

16. The food trailer will maintain the appropriate setback requirements, as submitted on the site plan and in keeping with the Town Zoning By-Law.

17. Any on premise lighting will be dark sky compliant and will not face or interfere with traffic.

18. Wherever possible, the food trailer and landscaping will comply with the Town Community Improvement Plan. The Business Owner may contact the Town Economic Development Officer for details.
19. As the wheels of the food trailer will not be removed, the Business Owner will secure the food trailer with blocks or otherwise anchored in order to ensure that the food trailer does not move and cannot become mobile.

20. The hydro service will be ESA approved. All hydro service will be provided in a safe manner and will not run across the top of the ground unless it is safely secured, does not present a trip and fall hazard and is ESA approved.

Transferrable

21. This agreement may be transferred with the written permission from all parties hereto.

Compliance with all conditions shall be at the sole expense of the Owner and or Business Owner.