

The Corporation of the Township of Douro-Dummer

By-law Number 2021-75

**Being a By-law to authorize the execution of an Amending Site Plan
Agreement
With Wildfire Golf Club
and The Corporation of the Township of Douro-Dummer
(Roll No. 1522-020-005-78000)**

Whereas The Corporation of the Township of Douro-Dummer deems it expedient and necessary to enter into an Amending Agreement with Wildfire Golf Course;

Now Therefore the Council for The Corporation of the Township of Douro-Dummer enacts as follows:

1. **That** The Corporation of the Township of Douro-Dummer enter into an Agreement with Wildfire Golf Course.; of property in Part Lots 30 and 31, Concession 7, Part Lot 30, Concession 6, and Part of the road allowance between Concessions 6 and 7, geographic Township of Dummer, closed by by-law 28-1989 which by-law is registered as Instrument 536069, Township of Douro-Dummer, geographic Township of Dummer, County of Peterborough,, which shall be attached to this by-law as Appendix 'A' and forming part of this by-law; under the terms and conditions contained therein.
2. **That** the Mayor and the proper officers of the Township be hereby authorized to execute such Site Plan Agreement and affix the Corporate Seal thereto.

Passed in Open Council this 21st day of December, 2021.

Mayor, J. Murray Jones

Acting Clerk, Martina Chait-Hartwig

SITE PLAN
THIRD AMENDING AGREEMENT

THIS AGREEMENT made this _____ day of December, A.D. 2021.

BETWEEN:

Wildfire Golf Club
Hereinafter called the "**OWNER**"

OF THE FIRST PART

AND

**THE CORPORATION OF THE TOWNSHIP OF
DOURO-DUMMER**
Hereinafter called the "**MUNICIPALITY**"

OF THE SECOND PART

AND

Stonehouse Golf Management Inc.
Hereinafter called the "**ENCUMBRANCERS**"

OF THE THIRD PART

WHEREAS the Owner has represented to the Municipality that the lands described in Schedule "A" attached hereto are owned by it as stated in the Certificate of Ownership attached to this Agreement as Schedule "B", and further warrants that all municipal taxes levied against the lands have been paid and will be paid as the same falls due;

AND WHEREAS the Owner and the Municipality entered into a Site Plan Agreement dated 8th day of April, 2002, registered on April 17, 2002 as Instrument No. 687072, as Amended by Agreement dated the 14th day of March 2003, registered on April 9th, 2003 as Instrument No. 695759 and further amended by Agreement dated 14th day of April 2005, registered on 5th day of July 2005, Instrument No. 718954;

AND WHEREAS the Owner would like to construct a golf cart storage building located on the property subject to the Site Plan Agreement;

AND WHEREAS the parties desire to enter into a Site Plan Third Amending Agreement in regard to certain on-site features of the development of the said property and the provision of services thereto;

NOW, THEREFORE, THIS AGREEMENT WITNESSETH that the parties hereto for themselves, their heirs, executors, administrators, successors and assigns, do covenant and agree as follows:

In this Agreement:

(a) "Municipal Engineer" means the Engineer for the time being of the Corporation of the Township of Douro-Dummer;

(b) "Owner" includes a mortgagee in possession, a tenant in possession pursuant to a leasehold interest, and an encumbrancer in possession, and may mean more than one Owner as specified in the Certificate of Ownership;

(c) "services" or "facilities" includes sewers, grading, drainage work, roads, curbs, sodding, landscaping, sidewalks, walkways, fencing, signs and other works required to be provided pursuant to this Agreement;

(d) where the context permits, words importing the singular number or the masculine or neuter gender also include more persons, parties or things of the same kind than one, and females as well as males.

1. The obligations imposed pursuant to this Agreement affect the land described in Schedule "A" hereto and any restrictive covenants expressed herein run with the land and bind successors in title to the said property as well as the successors and assigns of the Owner.
2. The encumbrancer, if any, agrees to satisfy all of the obligations imposed pursuant to this document if it should enter into possession of the said lands.
3. The following schedules are attached to and form part of this Agreement and no building, structure, or other facility shall be erected, altered, or placed on the said lands except in accordance with the attached Schedules and Plans:

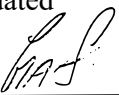
- Schedule 1: Site Plan prepared by FAD Architects, dated November 2020
- Schedule 2: Grading Plan prepared by Philips Engineering, dated November 2004, Reviewed April 26, 2005
- Schedule 3: Stormwater Management Report prepared by Engage Engineering Ltd. dated April 16, 2021 and revised September 17, 2021
- Schedule 4: Building Drawings Schedules G1, R1, R2, S1 through to S5 and Certificate of Design and Manufacturing Conformance prepared by Steelway Building Systems, stamped January 26, 2021
- Schedule 5: Building Elevations prepared by FAD Architects, dated November 2020
- Schedule 6: On Grade Foundation Design prepared by James Federico & Associates, stamped February 3, 2021
- Schedule 7: Project Notes prepared by James Federico & Associates, stamped February 3, 2021

The Owner and the Municipality agree that, notwithstanding the calculations and dimensions shown on Schedule 1, that after the proposed Cart Storage Facility is built, the total maximum floor area of maintenance and cart storage facilities will not exceed 1258m².



Initials

The Owner and the Municipality agree that, as per the recommendation from D.M. Wills dated October 13, 2021, a turf reinforcement mat should be used instead of rip-rap as erosion protection for the overflow weir in the stormwater facility. This is to prevent seepage through the rip-rap prior to reaching the 100-year ponding elevation.



Initials

The Owner further agrees to provide the Municipality with any and all plans, information, sketches, surveys or reports as may be requested by the Municipality during the term of this agreement.

4. It is hereby understood and agreed that if construction is not commenced within one-year (1) from the date of this agreement, that the Municipality, at its option, may declare the plans in this agreement null and void and require the submission of new plans.
5. The Owner shall perform all the work and provide all the materials necessary for the construction of the addition as outlined in the Schedules and Site Plan which are attached and noted as Schedules '1' through '7', both inclusive, to this Agreement. Such work shall be fully completed no later than November 31, 2022 (known as "the completion date").
6. The Owner shall prevent damage being caused to existing public highways, other public works, or municipal property in the course of the development of the said lands and shall restore such property to the condition it was in prior to the commencement of development.

7. The Owner shall keep all municipal taxes into good standing as at the date of the execution of this agreement and shall keep all municipal taxes levied against the lands and premises described in Schedule "A" in good standing thereafter.

8. The Owner shall, during excavation and construction on the site, maintain and keep the site in a satisfactory condition, and without limiting the generality of the foregoing, shall:

- a) prevent any damage to abutting properties from erosion, runoff, surface water drainage or other nuisance; and
- b) keep all construction materials, bags, dust or other debris on the site and clean abutting properties immediately if this obligation is not performed.

9. In the event of the sale of the said lands the Owner will obtain the Purchaser's covenant, in writing, to assume full and complete responsibility for the performance of the Owner's continuing obligations under this Agreement including the payment of municipal taxes as the same fall due.

10. The Owner shall bear all costs and expenses incurred by the Municipality in retaining consultants to provide advice and assistance to the staff of the Municipality in reviewing, considering and analyzing any aspect of the application for approval of development of the land described in Schedule "A" hereto annexed, whether such costs and expenses were incurred prior to execution of this agreement or subsequent to such execution. Without limiting the generality of the foregoing, the Owner specifically acknowledges that the Municipality shall require written confirmation from its consultants that the work illustrated in the schedules referenced in paragraph 3 of this agreement has been inspected when advised that the same has been completed by the Owner and has been found to be in compliance with the approved schedules. The cost of such inspection shall be borne by the Owner and may be deducted from any security held by the Municipality to ensure performance of the Owner's obligations. Upon receiving the aforesaid written confirmation from its consultants, the Municipality covenants and agrees to surrender to the Owner any remaining security which it might hold. The Municipality may require the Owner to deposit with the Municipality financial security in a form satisfactory to the Municipality, sufficient to meet such anticipated costs and expenses. In the event that the Owner fails to deposit such security within 10 days of written demand by the Municipality, the Municipality may discontinue all procedures relating to the development of the lands and may cause the Owner to delay commencement of or cease further work on the project until such time as the requirements of the section have been satisfied. Without limiting the generality of the foregoing, upon execution of the agreement, the Owner shall deposit ~~\$500.00~~ ^{5000.00} with the Municipal Clerk as security towards the cost incurred by the Municipality as outlined above. The Owner shall maintain the security deposit at the sum of \$5000.00 at all times until the Municipality confirms that the Owner has satisfied all requirements of the agreement herein.

11. The Owner further warrants that this Agreement is in registerable form, or will be brought into registerable form, and shall be registered on title at the Owner's expense, and that actual notice of the existence and terms of this Agreement have been provided to any party who has executed, or will execute an offer or option to purchase the said lands. Concurrently with the execution of this Agreement, the Owner shall provide the Municipality with adequate security as outlined herein and all instruments necessary to implement the conveyance of lands, easements, or other interests to the Municipality as well as give priority of registration to this Agreement.

12. The Owner shall deposit with the Municipal Clerk an irrevocable letter of credit in satisfactory form in favour of the Municipality from any Chartered Bank in Canada, for the amount set out in Schedule "C". It shall be on such terms that the Bank shall pay to the Municipality such sums as may be requested from time to time to the maximum limit of the credit without recourse. The letter of credit shall continue to run until the completion date and may be extended at the option of the Municipality if the said services or facilities on the site have not been completed or provided. The letter of credit shall be in such a form that it cannot be revoked unless authorized by the Municipal Clerk and cannot be transferred to any other party. The Owner shall further pay the levies referred to in Schedule "C" annexed hereto upon execution of this agreement.

13. The Owner acknowledges that this agreement shall not in any way relieve it of responsibility for the payment of fees, levies or other charges imposed by the Municipality or by other levels of government.

14. In the event the Owner fails to install or maintain the facilities covered by this Agreement, or fails to proceed expeditiously, or fails to install the services in accordance with the specifications and requirements of this Agreement, then, upon the Municipal Engineer, or his designate, giving seven (7)

days' written notice by prepaid registered mail to the Owner, the Municipality, through its employees, agents, or contractors may, without further notice, enter upon the lands and proceed to supply all materials and to do all the necessary inspections and works in connection with the facilities including the repair or reconstruction of faulty work and the replacement of materials which are not in accordance with plans or specifications and to charge the cost thereof, together with the cost of engineering, and any other reasonable expenses incurred by the Municipality, against the Owner. Such entry and work shall not be deemed as acceptance or assumption of said facilities nor an assumption by the Municipality of any liability. It is expressly agreed that the Owner or any person in possession shall not question the cost incurred by the Municipality for labour, materials and all other costs incidental to do the said work and this provision shall be deemed to operate as an effective estoppel in judicial proceedings if such costs are challenged or placed in question. The Owner agrees to permit the Municipal Engineer, or its agents, to enter on the lands at any time to inspect the work. The Municipality may perform any of the required services and collect the cost for the enforcement of this Agreement, as well as for the provision or installation of the requisite services for the said lands, from the security filed by the Owner or may collect the same in the same manner as municipal taxes.

15. The Owner further agrees that entry and performance of works or procedures by the Municipality as herein provided shall not constitute a trespass and the Municipality shall not be responsible for any damages caused in the performance of such work except such damages as may be directly caused by the negligence of the agents, contractors, servants or workmen of the Municipality.

16. The Owner shall indemnify and save the Municipality harmless from any and all actions, claims or demands made or brought against the Municipality by any person or persons for damages arising out of the negligent act, or omissions, or breaches of the Owners, its agents, servants, workmen, and sub-contractors, and assigns in respect of its obligations under this Agreement. It is expressly acknowledged that the Municipality does not warrant the quality of work performed on behalf of the Owner.

17. Unless otherwise stipulated in this Agreement minor alterations or changes to the plan may be requested by the Owner. For the purposes of this provision a minor amendment is deemed to be:

(a) A modification to a specific provision of the Agreement which will not conflict with the general intent and purpose of the Site Plan Agreement.

Such requests shall be made to the Municipal Clerk who may authorize the change, in writing. A building permit may be required to implement the proposed alteration.

18. In the event that the Owner shall hereafter propose to alter or amend a previously approved Site Plan elevation drawing or landscape drawing, the Owner shall, if directed by the Municipality so do so, provide written notice of such proposed alteration or amendment to all Owners of land which abut the lands described in Schedule "A" hereto annexed, to such extent, in such form and in such manner as the Municipality may from time to time specify, and the Owner shall file with the Municipality such evidence as the Municipality may require as to the giving of such notice. The Municipality shall thereupon either process the application for approval of the proposed alteration or amendment or require that the Owner give to such abutting Owner such further and/or other notice and information as the Municipality may specify, prior to the processing of the application.

19. Any notice required to be given pursuant to the terms hereof shall be in writing and sent by prepaid registered mail, or personally delivered, to the other party at the following address:

800 Erskine Ave, Peterborough, ON K9J 5T9
 (a) Notice to the Owner shall be addressed to Glenn Stonehouse c/o Stonehouse Golf Management Inc. ~~44 Apex Road, Toronto, ON M6A 2V2~~ or via email to stonehouse@stonehousegroupinc.com, and such shall be deemed to be effective notice.

(b) Notice to the Municipality shall be addressed to Martina Chait-Hartwig, Acting Clerk, 894 South Street, PO Box 92, Warsaw, Ontario, K0L 3A0 or via email to martinac@dourodummer.on.ca, and such shall be deemed to be effective notice.

The Owner shall advise the Municipality of any changes of address and subsequent purchasers shall advise the Clerk, in writing, of any changes for service of Notices pursuant to this Agreement. Any such notice that is mailed shall be deemed to be received by the addressee on the fifth day after it is mailed.

20. Notwithstanding any provision hereof relating to notice, the Municipality may, in case of emergency as determined by the Municipal Engineer, perform such work as the said Engineer may consider necessary without notice and all other provisions hereof shall apply *mutatis mutandis*.

21. The Owner further warrants that this Agreement is in registerable form, or will be brought into registerable form, at the Owner's expense, and that actual notice of the existence and terms of this Agreement have been provided to any party who has executed, or will execute an offer or option to purchase the said lands. Concurrently with the execution of this Agreement, the Owner shall provide the Municipality with adequate security as outlined herein and all instruments necessary to implement the conveyance of lands, easements, or other interests to the Municipality.

22. Notwithstanding anything in this agreement to the contrary, in the event that the Owner is delayed in the performance of any of the Owner's obligations pursuant to this agreement for any reason which the Municipality recognizes as being beyond the control of the Owner, the Owner shall be permitted such extension of time as the Municipality may, in writing, grant for the performance of such obligations.

23. The Municipality may elect to enforce any or all of the enforcement provisions of this agreement in such order or succession as the Municipality may see fit and exercise of any one or more of such provisions shall not preclude exercise of any other of such provisions until such time as complete compliance with this agreement by the Owner has taken place.

24. The Owner shall provide adequate security to the Site during the course of construction. If the structure or building has not been completed by the 31st day of November, 2022, then the Municipality may take appropriate steps to secure the Site and to assess any costs incurred thereby against the Owner. In order to provide adequate security to the Site during the course of construction, the Owner acknowledges that the Municipality may construct an appropriate barrier or fence around the perimeter of the subject lands and assess all costs against the Owner.

25. The Owner hereby acknowledges that he has understood the provisions of this agreement and is familiar with the plans referred to this agreement. The Owner agrees that the requirements of this agreement and the plans shall be brought to the attention of its agents and contractors who are constructing this development. The Owner acknowledges that it is aware of the requirements of the Site Plan Control By-laws of the Municipality and that a penalty for breach of the Site Plan Control By-laws, in the event the plans are not complied with, may result in a charge under Section 67 of the Planning Act, R.S.O. 1990, Chapter P13, as amended.

26. This agreement shall be binding upon the parties, their successors or assigns, but shall not be assignable without the express written approval of the parties.

27. This agreement shall constitute the entire agreement between the parties and there is no representation, warranty, collateral agreement or condition affecting this agreement other than as expressed herein in writing.


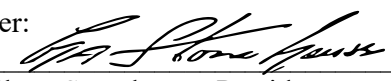
28. This agreement shall be construed in accordance with the laws of the Province of Ontario.

29. Should any provision of this agreement be found to be invalid by a Court of competent jurisdiction, that provision shall be severable from the remainder of this agreement and the remainder of this agreement shall remain in full force and effect.

30. This Site Plan Third Amending Agreement may be executed in counterpart and each counterpart shall be deemed to be an original and all counterparts taken together shall constitute one fully executed copy of the original Site Plan Agreement.

WITNESS the respective corporate seals of the respective corporate parties hereto, duly affixed under the hands of their respective signing officers, duly authorized in that behalf.

SIGNED, SEALED AND DELIVERED
in the presence of

) Club 
) Wildfire Golf ~~Course~~
) Per: 
) Glenn Stonehouse, President
) I have the authority to bind the Corporation.

THE CORPORATION OF THE
TOWNSHIP OF DOURO-DUMMER
Per:

J. Murray Jones, Mayor

Martina Chait-Hartwig, Acting Clerk
We have the authority to bind the Corporation.

SCHEDULE "A"**DESCRIPTION OF THE LAND**

Part Lots 30 and 31, Concession 7, Part Lot 30, Concession 6, and Part of the road allowance between Concessions 6 and 7, geographic Township of Dummer, closed by by-law 28-1989 which by-law is registered as Instrument 536069, Township of Douro-Dummer, geographic Township of Dummer, County of Peterborough, more particularly described as follows:

Firstly:

The whole of Lot 30, Concession 7;

Save and Accept the Following:

Parts 1, 2, 3, and 4, Plan 45R 1702

Parts 1 and 2, Plan 45R 2220;

Parts 1 and 2, Plan 2221;

Part 1, Plan 45R 4106;

Parts 5 and 6, Plan 45R 8276;

Parts 1, 2 and 3, Plan 45R 8287

Parts 4, 5, 6, Plan 45R 9351

Part 1, Plan 45R 9285

Part 1, Plan 45R 11746;

Part 2, Plan 45R 12119;

Subject to rights-of-way in favours of those entitled thereto over Part 1 Plan 45R 6230, and Part 1 Plan 45R 7995.

Secondly:

That part of Lot 30, Concession 6, designated as Part 3, Plan 45R 7838 and part of the road allowance between Concession 6 and 7, in the geographic Township of Dummer, closed by by-law number 28-1989, designated as Part 3, Plan 45R 7838 and Part 2, Plan 45R 7995.

By-law number 28-1989 is registered as Instrument Number 53609.

Subject to right-of-ways in favour of those entitled thereto over Part 2 Plan 45R 7995

Thirdly:

The whole of the west half of Lot 31, Concession 7, **Save and Except** Part 1, Plan 45R 12119;

Subject to right-of-way in favour of those entitled thereto over Part 2, Plan 45R 6230.

SCHEDULE "B"

Certificate of Ownership.

SOLICITOR'S CERTIFICATE

I, Candace Cooper, of the City of Toronto, a Solicitor duly authorized to practice law in the Province of Ontario, DO HEREBY PROVIDE AN OPINION that **Wildfire Golf Club** is the true Owner in fee simple of all lands included in the plan as described in Schedule "A" to this Agreement, in accordance with Instrument No. R683744 registered on October 30, 2001 and Instrument No. R688942 registered on June 25, 2002, both registered in the Land Registry Office for the Land Registry Division of Peterborough.

I FURTHER REPRESENT that such lands are free from all encumbrances save and except the following:

1. Instrument No. R201395 registered November 6, 1969, being an Order made by the Department of Municipal Affairs under the *Planning Act*;
2. Instrument No. R683744 registered October 30, 2001, being a Transfer reserving a life estate interest in favour of Robert Vernon Hamilton and Bonnie Lynn Hamilton, restricted solely to playing the game of golf and use of all club house facilities;
3. Instrument No. R683744Z registered October 30, 2001, being a Transfer setting out restrictive covenants registered against the lands providing that the lands shall be used for no purpose other than an 18 hole golf course, marina and dock facilities, attendant golf course club house with full restaurant facilities, and amenities (including but not limited to a practice facility, tennis courts, swimming pool and health space), and maintenance facilities;
4. Instrument No. R687072 registered April 17, 2002, being a Site Plan Agreement in favour of The Corporation of the Township of Douro-Dummer (the "**Site Plan Agreement**");
5. Instrument No. R691299 registered September 23, 2002, being a Charge in favour of Citicapital Limited (the "**First Charge**");
6. Instrument No. R691300 registered September 23, 2002, being a General Assignment of Rents in favour of Citicapital Limited (the "**First GAR**");
7. Instrument No. R695759 registered April 3, 2003, being a first Amendment to the Site Plan Agreement;
8. Instrument No. R711459 registered October 18, 2004, being a Charge in favour of Stonehouse Group Inc.;

9. Instrument No. R718954 registered July 5, 2005, being a second Amendment to the Site Plan Agreement;
10. Instrument No. R725042 registered January 30, 2006, being a Transfer of the First Charge from Citicapital Limited, as Chargee, to Textron Financial Canada Limited;
11. Instrument No. R725043 registered January 30, 2006, being an Assignment of the First GAR from Citicapital Limited, as Assignor, to Textron Financial Canada Limited;
12. Instrument No. PE62484 registered September 13, 2007, being a further Transfer of the First Charge from Textron Financial Canada Limited, as Chargee, to Stonehouse Group Inc.;
13. Instrument No. PE62485 registered September 13, 2007, being a further Assignment of the First GAR from Textron Financial Canada Limited, as Assignor, to Stonehouse Group Inc.;
14. Instrument No. PE63212 registered September 21, 2007, being a Transfer Easement in favour of Stonehouse Group Inc.;
15. Instrument No. PE68307 registered November 28, 2007, being a Notice Amending and Extending the First Charge, as assigned;
16. Instrument No. PE94628 registered December 23, 2008, being a further Transfer of the First Charge from Stonehouse Group Inc., as Chargee, to Stonehouse Golf Management Inc.; and
17. Instrument No. PE94629 registered December 23, 2008, being a further Assignment of the First GAR from Stonehouse Group Inc., as Applicant, to Stonehouse Golf Management Inc..

This certificate is given by me to the Municipality for the purpose of having the said Municipality act in reliance on it and approving and registering the said proposed third amendment to the Site Plan Agreement.

DATED at Toronto, this 7th day of December, 2021,

TO:

The Corporation of the Township of
Douro-Dummer
894 South Street, PO Box 92
Warsaw, ON K0L 3A0
Attention: Martina Chait-Hartwig,
Acting Clerk

Daoust Vukovich LLP
20 Queen Street West, Suite 3000,
Toronto, Ontario M5H 3R3
416-597-6888



AND TO:

LLF Lawyers LLP
Attention: Jim Baird
Township Solicitors
332 Aylmer Street North, PO Box 1146
Peterborough, ON K9J 7H4

Candace Cooper, Barrister and Solicitor

SCHEDULE "C"

The letter of credit deposited in favour of the Municipality shall be in the amount of \$5,000.00.

SCHEDULE "1"

SCHEDULE "2"

SCHEDULE "3"

SCHEDULE "4"

SCHEDULE "5"

SCHEDULE "6"

SCHEDULE "7"

Schedule 1 through 7 as identified in paragraph 3 of the Agreement herein are all on file at the municipal office and may be viewed upon request during normal business hours.