



The Corporation of the Town of Milton

Report To:	Council
From:	Barbara Koopmans, Commissioner, Development Services
Date:	October 25, 2021
Report No:	DS-084-21
Subject:	Authorization for Submission of a Minor Variance Application on lands municipally known as 360 Oak Street, Milton

Recommendation: THAT Report DS-084-21 entitled “Authorization for Submission of a Minor Variance Application on lands municipally known as 360 Oak Street dated October 25, 2021 be received;

AND THAT in accordance with the provisions of subsections 45(1.4) of the *Planning Act*; *R.S.O. 1990, c.P. 13*, as amended, the Owner shall through this Resolution, be permitted to apply to the Committee of Adjustment for a variance from the provisions of Zoning By-law 081-2020, before the second anniversary of the day on which the by-law was approved by Council.

EXECUTIVE SUMMARY

- On October 19, 2020, as recommended through the Mature Neighbourhoods Character Area Study, Milton Council enacted Town-initiated Official Plan Amendment 60 and Zoning By-law 081-2020.
- The amendments introduced new policies and standards that apply to low-density residential development in the Downtown Character Area to ensure that new development is sympathetic to the existing neighbourhood.
- The focus of this report is on the *Planning Act* change that prohibits applying for a minor variance for two years following the passing of a zoning by-law amendment, unless permitted by Council resolution.
- The intent of the prohibition is to prevent changes to newly approved policies and zoning provisions, but the effect may hinder legitimate applications that do not negatively affect the general intent and purpose of the new provisions.
- This report recommends that the owner of 360 Oak Street be permitted to apply to the Committee of Adjustment, as the proposal is considered minor in nature and maintains the intent of the Mature Neighbourhood Character Area amendments.

REPORT

Background

On December 3, 2015, the Province of Ontario enacted Bill 73 “Smart Growth for Our Communities Act, 2015” which amended the *Planning Act* and *Development Charges Act*, 1997. Several changes to the *Planning Act* came into force on July 1, 2016. One of the changes to the *Planning Act* is the introduction of a two year moratorium (or “freeze”) on three types of amendments, subject to Council’s discretion to provide relief from the prohibition:

1. Amendments to a new Official Plan;
2. Amendments to a new comprehensive Zoning By-law; and
3. Minor variance from a by-law that has already been amended for the land, building or structure.

The focus of this report is on the *Planning Act* change that prohibits applying for a minor variance from a by-law for two years following the passing of a zoning by-law amendment, unless permitted by Council resolution, as detailed below.

Section 45 (1.3)

Subject to subsection (1.4), no person shall apply for a minor variance from the provision of the by-law in respect of the land, building or structure before the second anniversary of the day on which the by-law was amended. 2015, c.26,s.

The only exception to this rule is where Council has declared by resolution, pursuant to Section 45(1.4) of the *Planning Act* that an application can proceed. Section 45(1.4) of the *Planning Act* allows Council to exempt by resolution a specific application, class of applications, or application generally from the two year moratorium.

Section 45(1.4)

Subsection (1.3) does not apply in respect of an application if the council has declared by resolution that such an application is permitted, which resolution may be made in respect of a specific application, class of application or in respect of such applications generally. 2015, c.26, s. 29(2)

Discussion

The Owner of 360 Oak Street has indicated their desire to submit a Minor Variance Application to seek relief from the interior side yard setback provision of the Residential Low Density 1 (RLD1) Zone (i.e. to allow an interior side yard setback of 1.2 metres, whereas the by-law allows a minimum of 1.8 metres) to facilitate the rebuild of a new single-detached dwelling.

Discussion

It should be noted that staff did process and approve a Site Plan Application for 360 Oak Street in July 2021 to facilitate the construction of this single-detached dwelling. As part of the Site Plan review, Staff confirmed that the proposal maintained a 1.8 metres setback from the interior side yard. After the Site Plan was finalized, the Owner informed Staff that the building foundation was poured larger than approved which has resulted in the need for the minor variance request to recognize the deficient interior side yard.

Town staff reviewed the revised drawings and can confirm that the porch projection is aligned with the proposed garage face and there is no negative impact to the streetscape. It should also be noted that the side yard setback reduction only impacts the 1 storey portion of the garage. The extent of the first floor behind the garage and the entire second floor maintains the 2.98 metre setback as the projections and columns remain the same.

Since the enactment of Bill 73, the Development Services Department has implemented an approach that assumes no Minor Variance Applications are permitted before the second anniversary of the day on which the by-law was amended, unless Council has declared by resolution that such an application is permitted.

In this instance, staff recommends that Council authorize the Owner to apply to the Committee of Adjustment for variances from the provisions of Zoning By-law 081-2020 for the following reasons:

- As part of the site plan application process, Town staff worked with the applicant to ensure that the proposed single-detached dwelling is compatible with and sympathetic to the existing built form in the neighbourhood in terms of height, massing, setback, scale and architectural design;
- Further, a Heritage Impact Assessment (HIA) was completed as part of the site plan application process and the applicant did move forward with using a number of the HIA design recommendations;
- The proposed new dwelling is respectful of and consistent with the character of the surrounding neighbourhood. The porch, window layout, façade materials and the garage setback from the main dwelling face represent a positive contribution to preserving neighbourhood character.

Any Minor Variance Application submitted for the subject lands would go through the standard review process, which involves an evaluation by staff of the appropriateness of the Minor Variance Application, through the lens of the four tests set out by Section 45(1) of the *Planning Act*, and a decision of the Committee of Adjustment.



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Financial Impact

There are no financial implications associated with this report.

Respectfully submitted,

Barbara Koopmans, MPA, MCIP, RPP, CMO
Commissioner, Development Services

For questions, please contact: Taylor Wellings, MCIP, RPP Phone: Ext. 2311
Development Planner

Attachments

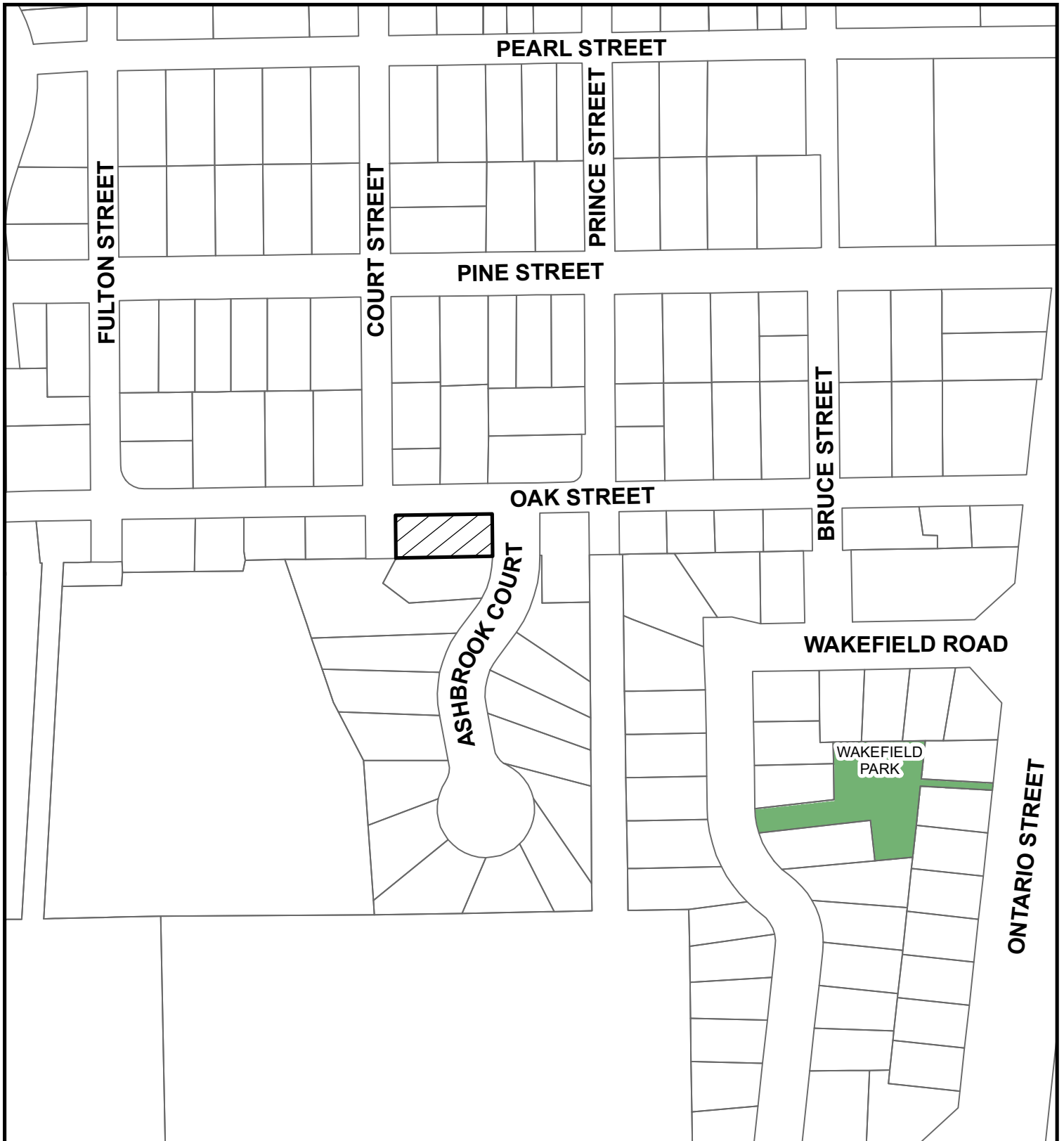
Figure 1 Location Map
Figure 2 Proposed Drawings & Elevations

CAO Approval
Andrew M. Siltala
Chief Administrative Officer

Recognition of Traditional Lands

The Town of Milton resides on the Treaty Lands and Territory of the Mississaugas of the Credit First Nation. We also recognize the traditional territory of the HuronWendat and Haudenosaunee people. The Town of Milton shares this land and the responsibility for the water, food and resources. We stand as allies with the First Nations as stewards of these lands.

FIGURE 1 LOCATION MAP



Council Meeting Date:
October 25, 2021

Scale: 1: 1,300

Files: TBD

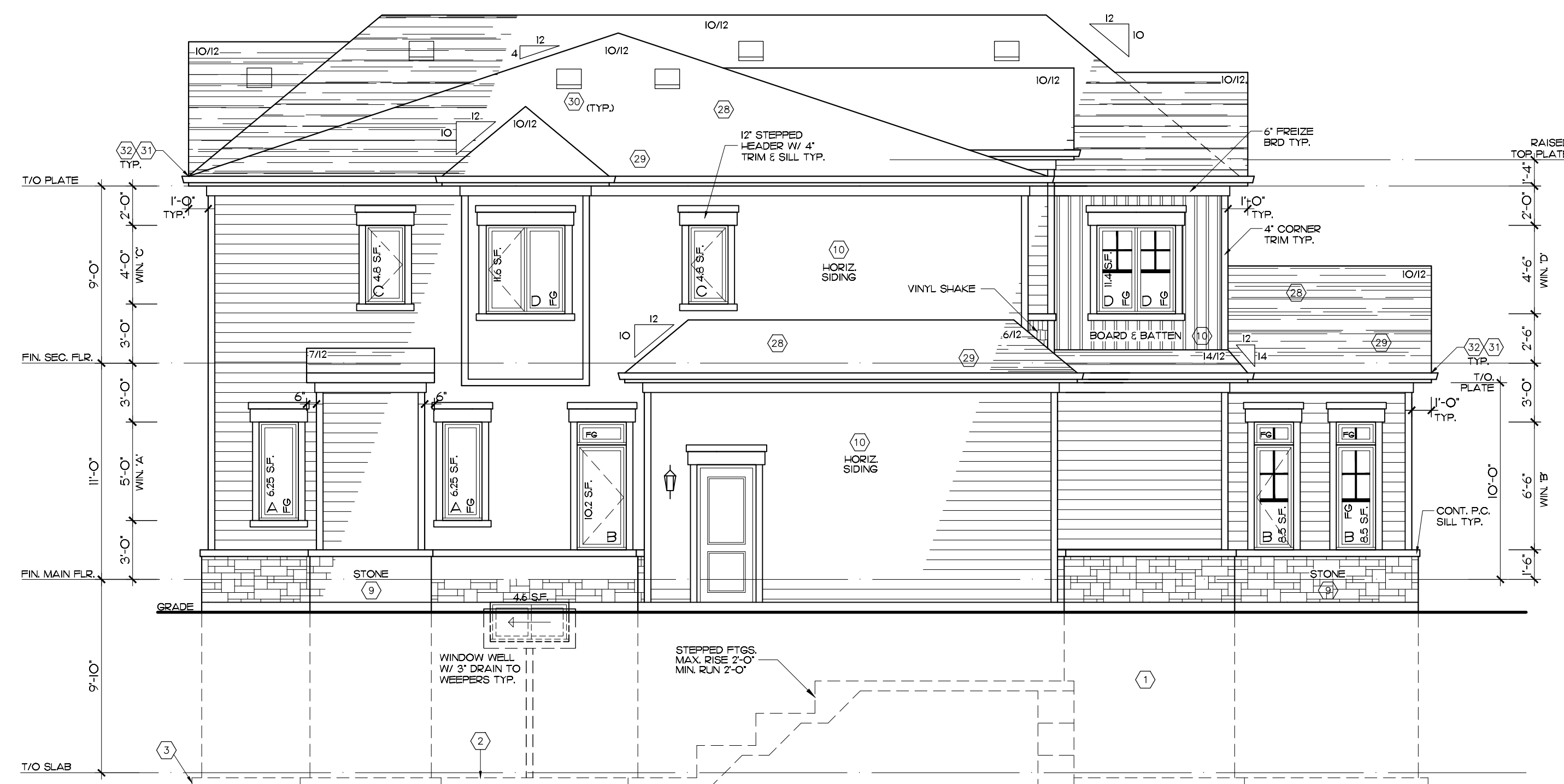
Development Services Department



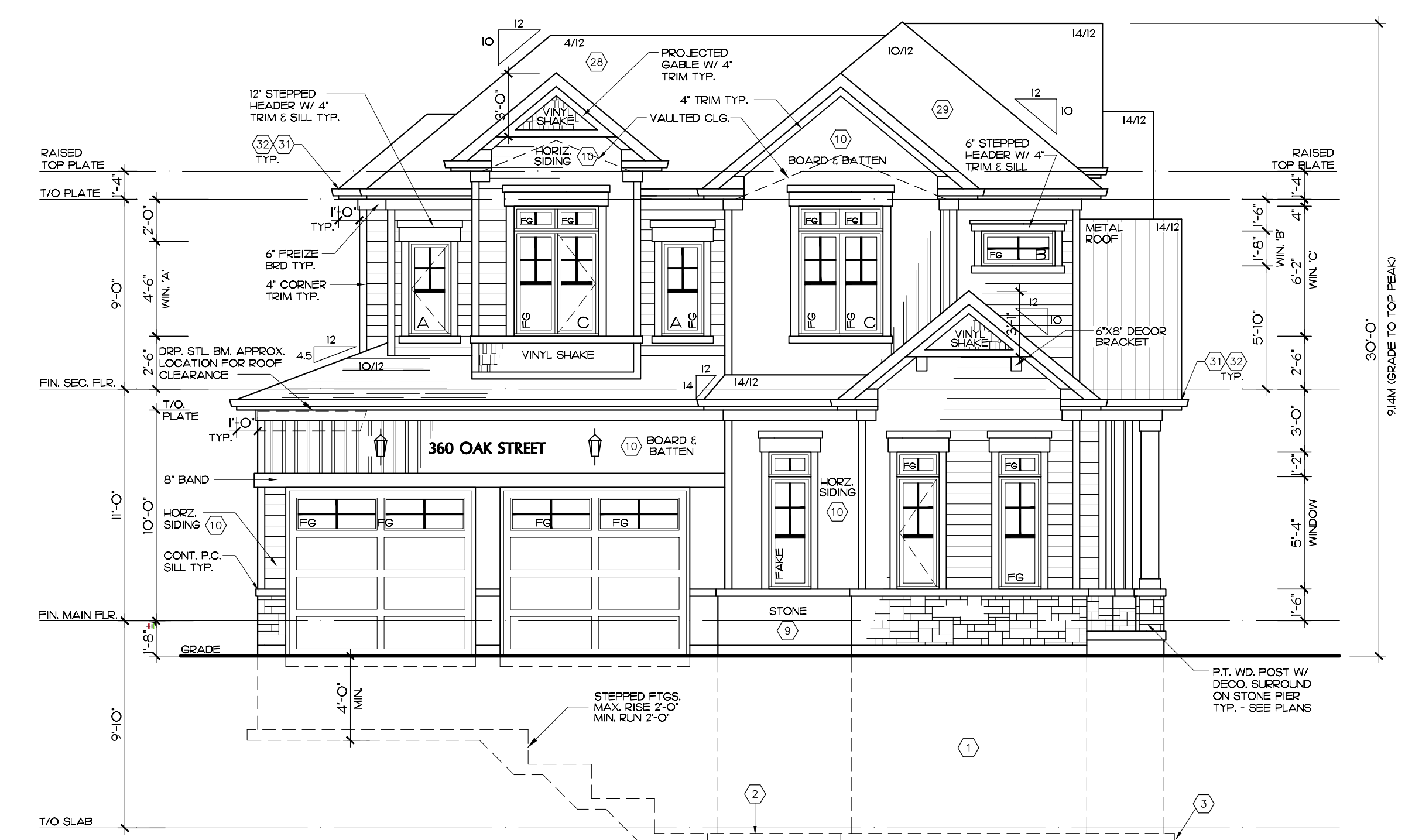
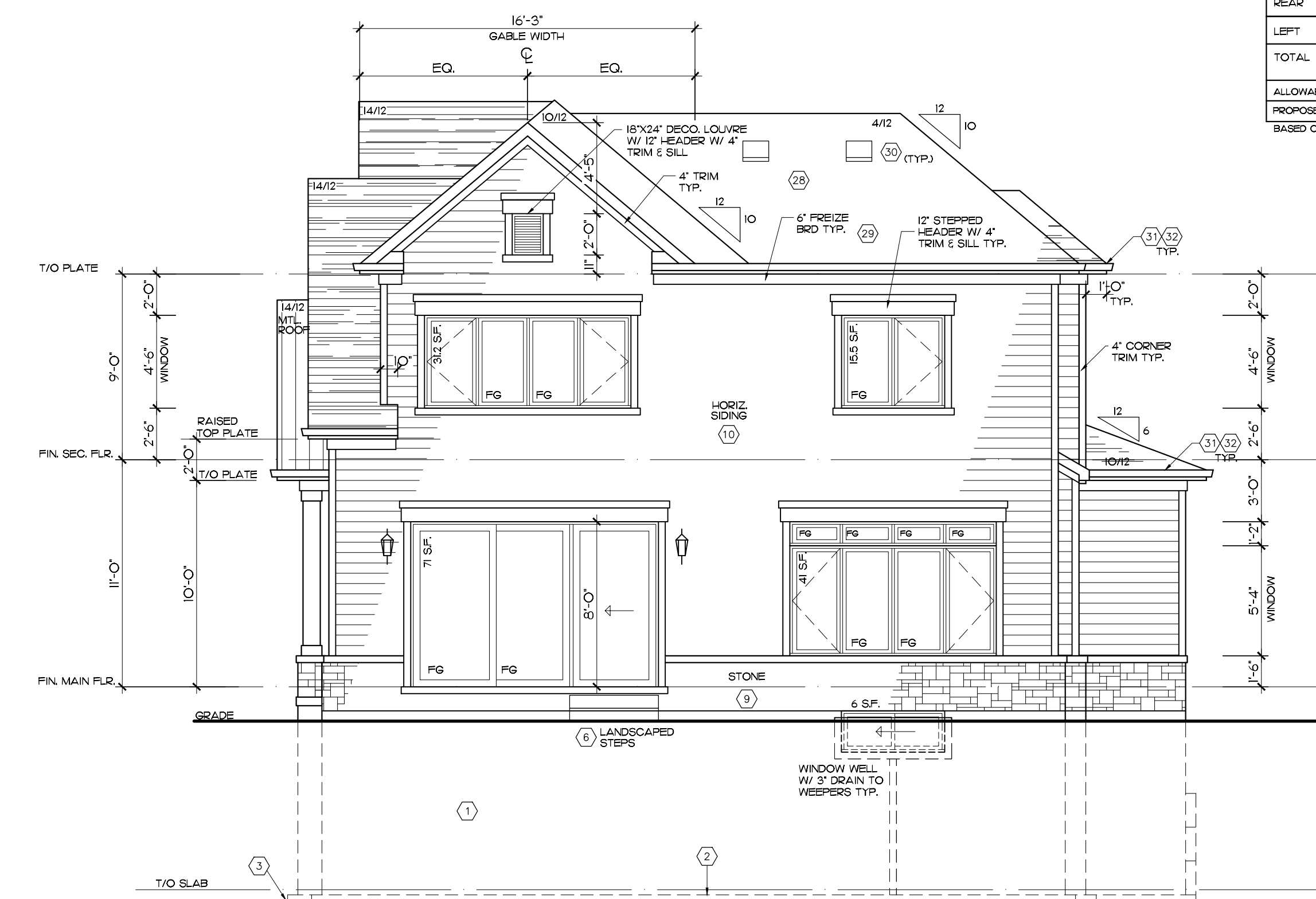
Subject Property

Copyright 2021: Town of Milton, Teranet Inc.

FIGURE 2



WALL	WALL AREA S.F.	AREA OF OPENINGS S.F.
FRONT	783 S.F.	99 S.F.
RIGHT	1255 S.F.	225.9 S.F.
REAR	772 S.F.	238.5 S.F.
LEFT	1243 S.F.	122.25 S.F.
TOTAL	4053 S.F. (375.52 M ²)	665.65 S.F. (63.69 M ²)
ALLOWABLE SB-12 PRESCRIPTIVE WINDOW 221		
PROPOSED SB-12 PRESCRIPTIVE WINDOW 16.9%		
BASED ON HIGHEST WINDOW CALCULATIONS		



PART 1 - PLAN OF SURVEY OF
LOT 5
REGISTERED PLAN No. 41
TOWN OF MILTON
REGIONAL MUNICIPALITY OF HALTON

METRIC NOTE

ALL DISTANCES AND COORDINATES SHOWN HEREON ARE IN METRES & CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

UTILITY NOTE:

ALL BURIED SERVICES HAVE NOT BEEN SHOWN. ALL SERVICES INCLUDING, BUT NOT LIMITED TO, NATURAL GAS, CABLE, BELL, HYDRO, STORM AND SANITARY SEWERS MUST BE LOCATED BY THE RESPECTIVE UTILITY COMPANY PRIOR TO CONSTRUCTION OR EXCAVATION OF ANY KIND.

ELEVATION NOTE:

ALL ELEVATIONS SHOWN HEREON ARE GEODETIC AND ARE RELATED TO THE TOWN OF MILTON BENCH MARK No. 92-013 HAVING AN ELEVATION OF 195.723 METRES.

LEGEND

■ DENOTES SURVEY MONUMENT FOUND
SIB DENOTES STANDARD IRON BAR
SSIB DENOTES SHORT STANDARD IRON BAR
IB DENOTES IRON BAR
IP DENOTES IRON PIPE
NI DENOTES NO IDENTIFICATION
950 DENOTES CUNNINGHAM McCONNELL LIMITED
PIN DENOTES PROPERTY IDENTIFIER NUMBER
P1 DENOTES REGISTERED PLAN No. 392
P2 DENOTES PLAN BY F.G. CUNNINGHAM
O.L.S. DATED JUNE 20, 1969
P4 DENOTES HALTON CONDOMINIUM PLAN NO. 56
DENOTES PLAN BY F.G. CUNNINGHAM
O.L.S. DATED MAY 13, 1968
P5 DENOTES PLAN BY THIS OFFICE
DATED MARCH 20, 2019
AGL DENOTES ABOVE GROUND LEVEL
(B) DENOTES BURIED 0.3 BELOW GROUND LEVEL
TOS DENOTES TIE TO SIDING
NTS DENOTES NOT TO SCALE
ORP DENOTES OBSERVED REFERENCE POINTS
AC DENOTES AIR CONDITIONER
CB DENOTES CATCH BASIN
CCG DENOTES CONCRETE CURB & GUTTER
CCUT DENOTES CURB CUT
GM DENOTES GAS METER
GFE DENOTES GARAGE FLOOR ELEVATION
CLF DENOTES CHAIN LINE
CSW DENOTES CONCRETE SIDEWALK
DSE DENOTES DOOR SILL ELEVATION
FP DENOTES FENCE POST
HM DENOTES HYDRO METER
LS DENOTES LIGHT STANDARD
MH DENOTES MANHOLE
UP DENOTES UTILITY POLE
WKCY DENOTES WATER KEY
SAN DENOTES SANITARY
STRW DENOTES STONE RETAINING WALL

✱ DENOTES DECIDUOUS TREE

○ DENOTES CONIFEROUS TREE

← DENOTES ANCHOR WIRE
— DENOTES FENCE

--- SILTATION FENCING

--- TREE HOARDING

--- OVERHEAD WIRE

--- TOP OF BANK

--- BURIED WATER SERVICE

--- BURIED SANITARY SERVICE

X (00.00) DENOTES PROPOSED ELEVATION

X 00.00 EXISTING GRADES BEING ALTERED

← R.W.L. DENOTES RAIN WATER LEADERS
DIRECTION & SPLASH PADS

→ ENTRY POINTS INTO BUILDING

→ DIRECTION OF SURFACE FLOW

F.F. FINISHED MAIN FLOOR

F.F.D.S. DROPPED OR SUNKEN FLOOR

T.F.W. TOP OF FOUNDATION WALL

F.B.S. FINISHED BASEMENT SLAB

U.S.F. UNDERSIDE OF FOOTING

U.S.F.G. UNDERSIDE OF FOOTING GARAGE

U.S.F.T. UNDERSIDE OF FTG. TRENCHED
FOR WALKOUTS, LOOKOUTS

TOWN OF MILTON NOTES:

- PRIOR TO THE COMMENCEMENT OF ANY WORKS ON THE SITE, SNOW FENCE IS INSTALLED ON THE PERIMETER OF THE PROPERTY AND AT LOCATIONS AS DETERMINED BY THE MANAGER, DEVELOPMENT ENGINEERING, AND THAT THE SNOW FENCE SHALL REMAIN IN PLACE UNTIL SUCH TIME AS OTHERWISE DIRECTED BY THE MANAGER, DEVELOPMENT ENGINEERING.
- SILT CONTROLS ARE TO BE IN PLACE PRIOR TO THE START OF SITE WORKS, AND BE MAINTAINED FOR THE DURATION OF CONSTRUCTION.
- PRIOR TO COMMENCEMENT OF ANY WORKS WITHIN THE MUNICIPAL ROAD ALLOWANCE, THE OWNER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE ENGINEERING SERVICES DEPARTMENT, TOWN OF MILTON, FOR THE PURPOSES OF VEHICULAR ACCESS TO THE PROPERTY, (ENTRANCE PERMIT), AND FOR SERVING EXCAVATIONS WITHIN THE MUNICIPAL ROAD ALLOWANCE, (ROAD OCCUPANCY PERMIT).
- SILT FENCE IS REQUIRED TO BE INSTALLED AROUND ALL DISTURBED AREAS AS PER OPSD 219.110
- ALL FILL SHALL BE COMPACTED TO 95% STANDARD PROCTOR DENSITY AND COMPACTION TESTING SHALL BE UNDERTAKEN TO THE SATISFACTION OF THE DIRECTOR, DEVELOPMENT ENGINEERING
- ALL DISTURBED AREAS WITHIN THE MUNICIPAL ROAD ALLOWANCE ARE TO BE REINSTATED TO TOWN ROW STANDARDS MANUAL
- ALL DISTURBED AREAS WITHIN THE MUNICIPAL ROAD ALLOWANCE ARE TO BE REINSTATED TO EXISTING CONDITIONS OR BETTER.

REGIONAL APPROVAL :

REGION DESIGN OF WATER &/OR WASTEWATER SERVICES APPROVAL SUBJECT TO DETAIL CONSTRUCTION CONFORMING TO HALTON REGION STANDARDS & SPECIFICATIONS & LOCATION APPROVAL FROM AREA MUNICIPALITY.

SIGNED : _____ DATED : _____

INFRASTRUCTURE PLANNING & POLICY

THE APPROVAL OF THE WATER SYSTEM ON PRIVATE PROPERTY IS THE RESPONSIBILITY OF THE LOCAL MUNICIPALITY, REGARDLESS, THE APPLICANT MUST ENSURE THAT THE REGION OF HALTON'S STANDARDS AND SPECIFICATIONS ARE MET, (THE WATER AND WASTEWATER LINEAR DESIGN MANUAL MAY BE OBTAINED ON HALTON.CA OR BY CALLING 311) ALL WATER QUALITY TESTS MUST BE COMPLETED TO THE REGION OF HALTON'S SATISFACTION BEFORE THE WATER SUPPLY CAN BE TURNED ON.

GENERAL NOTES :

IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY THAT THE LOCAL BENCHMARKS HAVE NOT BEEN ALTERED OR DISTURBED AND THAT THE RELATIVE ELEVATIONS AND DESCRIPTIONS AGREE WITH THE INFORMATION SHOWN ON THIS PLAN.

IT SHALL BE RESPONSIBILITY OF THE BUILDERS TO HAVE ALL GRADES VERIFIED AND CHECKED BEFORE CONSTRUCTION BY AN APPROVED GRADING ENGINEER. THESE GRADES AND THE PLACEMENT OF STORMS AND SANITARY SERVICES OFF THE STREET ARE TO MEET THE REQUIREMENT OF THE MUNICIPALITY HAVING JURISDICTION.

JANSEN CONSULTING IS TO BE NOTIFIED PROMPTLY PROMPTLY OF ANY DISCREPANCIES AT LEAST 1 (ONE) WEEK BEFORE EXCAVATION COMMENCES IN ORDER THAT THE BUILDING CAN BE RESISTED FAILURE TO OBSERVE THESE CONDITIONS MAY REQUIRE

MAY REQUIRE EXPENSIVE REMEDIAL ACTION THAT WILL NOT BE THE RESPONSIBILITY OF OR COST TO JANSEN CONSULTING. FOUNDATIONS WALLS SHALL BE POURED TO A MINIMUM OF 6" ABOVE THE APPROVED GRADES.

FINISH GRADE LINES AS INDICATED ON THE HOUSE PROTOTYPE.

GARAGE FOOTINGS ARE TO BE EXTENDED TO ORIGINAL GROUND OR AS APPROVED BY SOILS ENGINEER.

SBM NOTES

- ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE MINIMUM STANDARDS & SPECIFICATIONS OF THE TOWN OF MILTON & THE 2012 ONTARIO BUILDING CODE
- SBM LTD. IS NOT RESPONSIBLE FOR THE INFORMATION (EXIST. TOPOGRAPHY, BENCHMARKS, PROPERTY BOUNDARY, ETC.) PROVIDED BY OTHERS
- SEALED FOR LOT GRADING DESIGN ONLY
- SBM PROJECT NUMBER SBM-20-2538

ENGINEER'S CERTIFICATE:

I HEREBY CERTIFY THAT THE PROPOSED GRADING AND APPURTENANT DRAINAGE WORKS COMPLY WITH SOUND ENGINEERING DESIGN AND THAT THE PROPOSED GRADING IS COMPATIBLE WITH EXISTING DRAINAGE PATTERNS ON & ACROSS THESE LANDS & THE ADJOINING LANDS OR APPLICABLE TOWN BY-LAWS

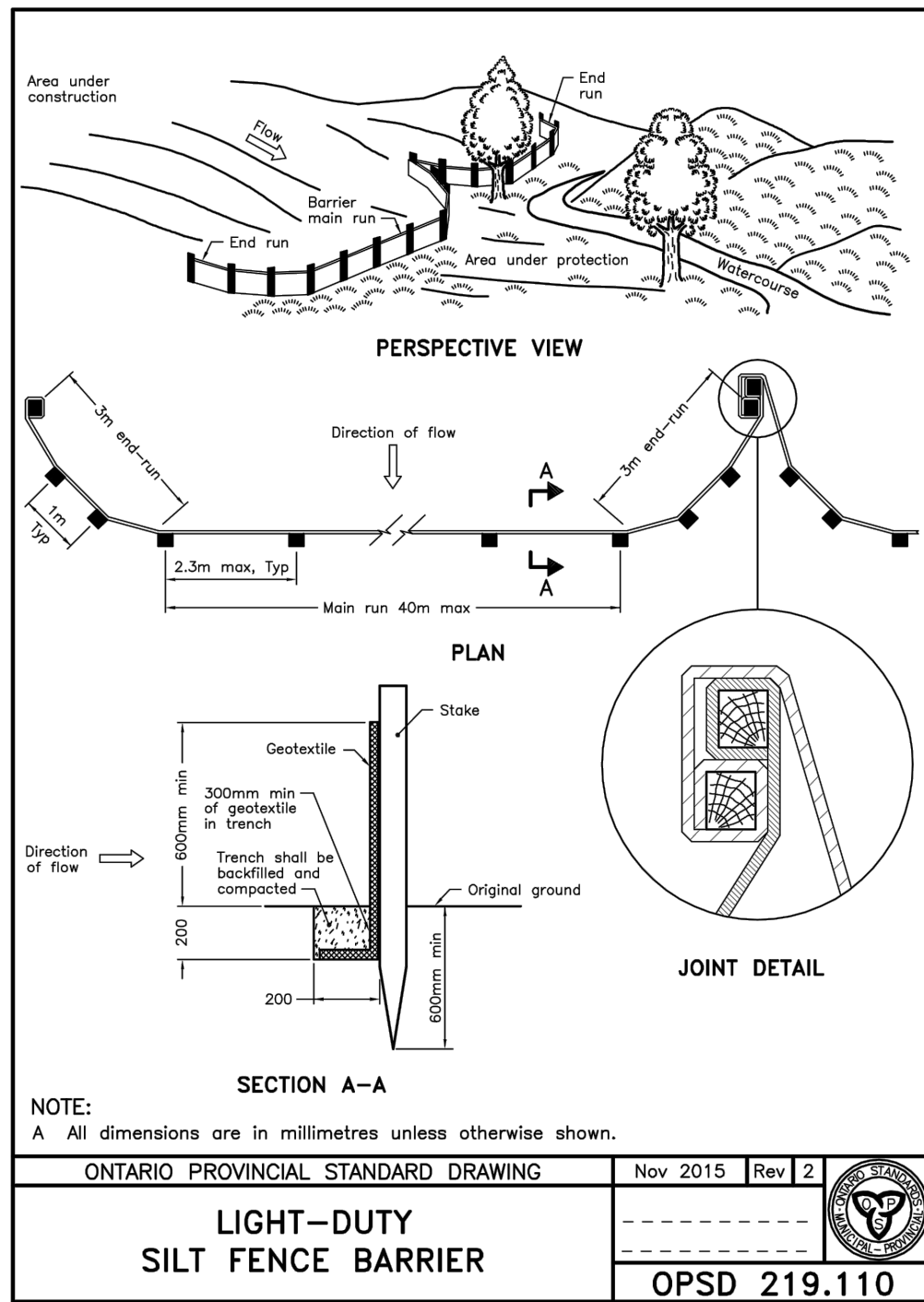
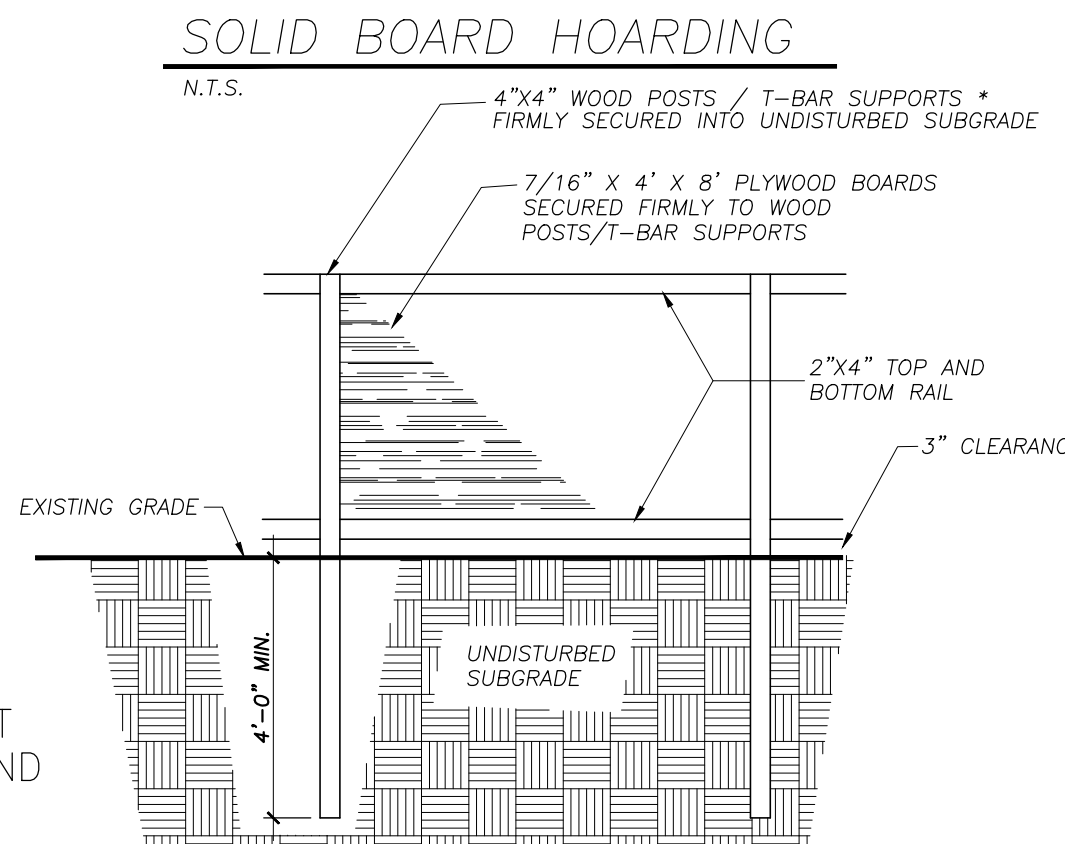
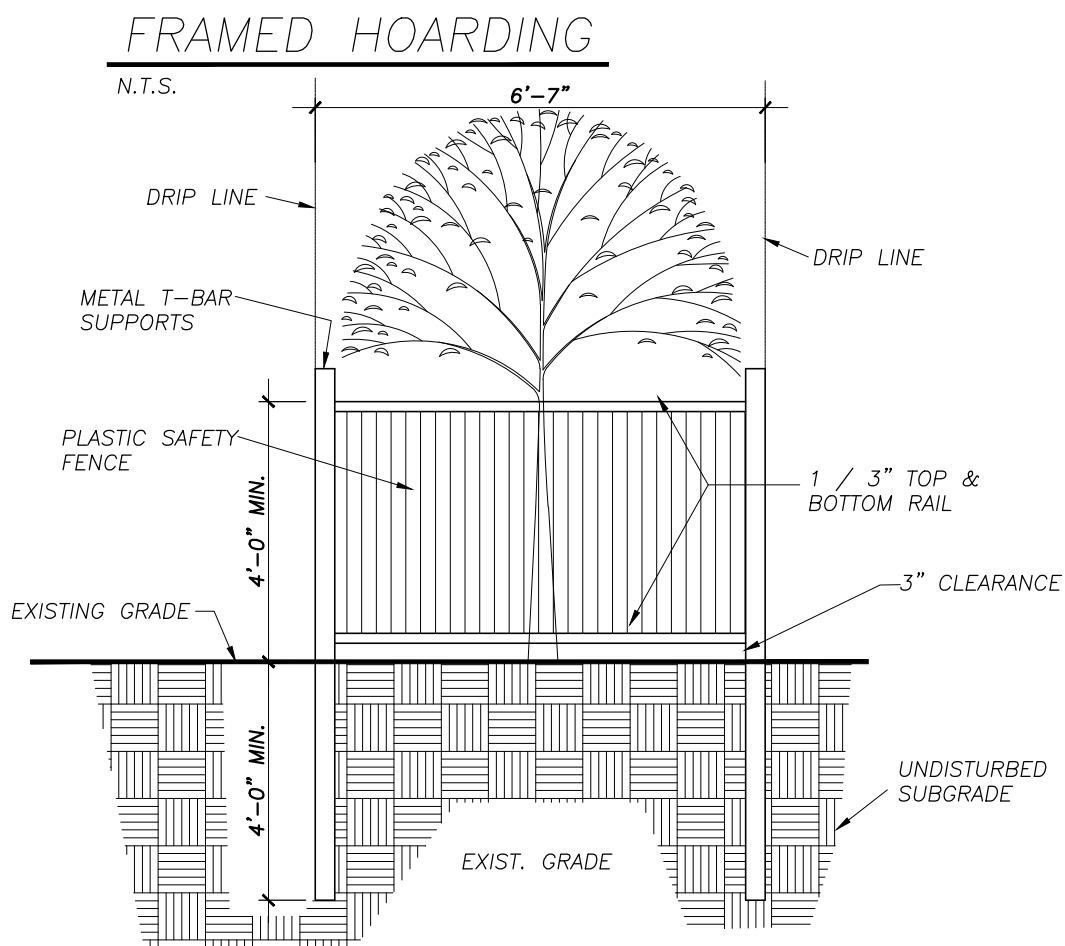
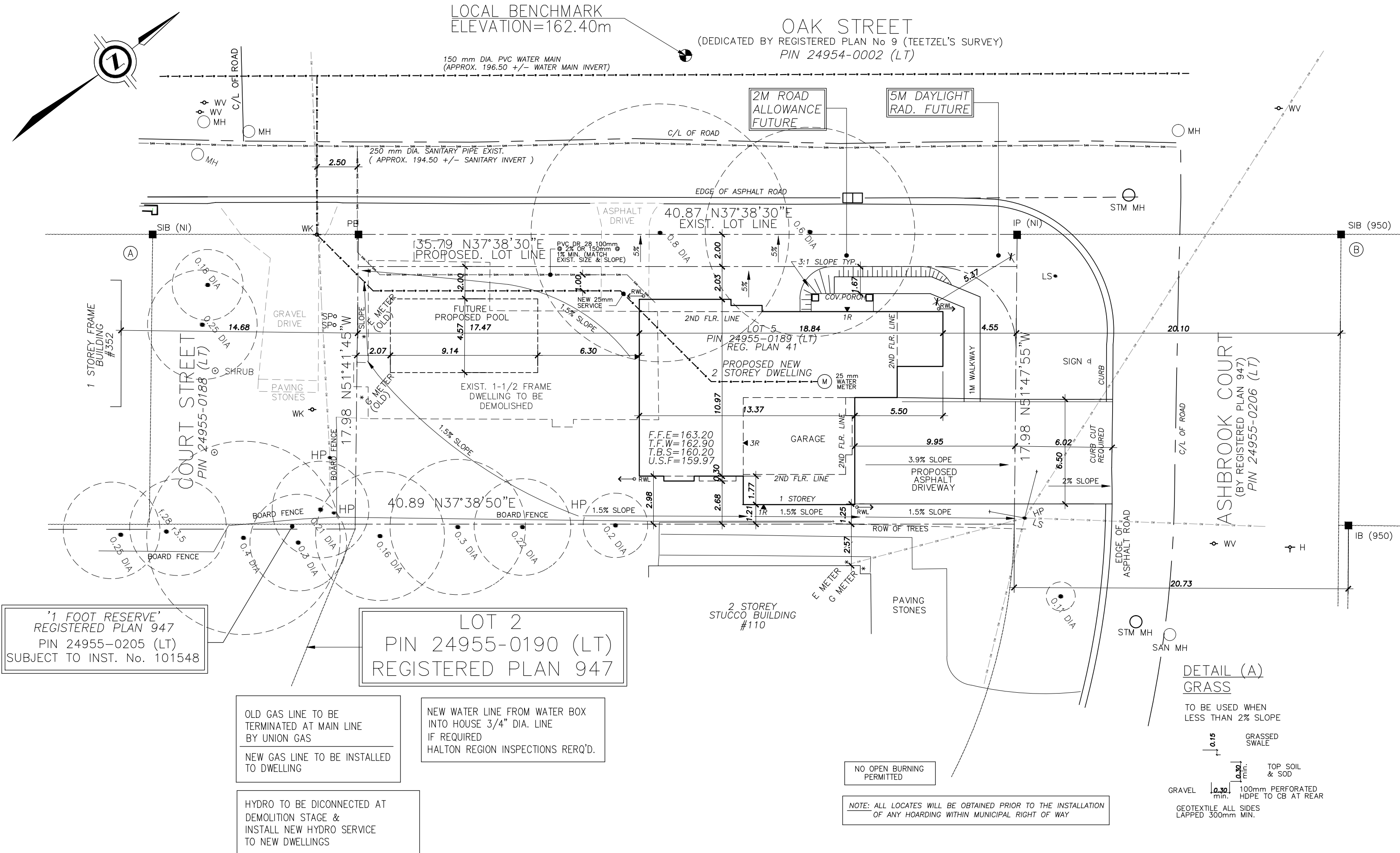
SBM GRADING NOTES

- EXISTING DRAINAGE OF ADJUTING LANDS IS NOT TO BE DISTURBED
- BASEMENT OPENINGS TO BE MINIMUM 300mm ABOVE CENTRE LINE OF ROAD UNLESS OTHERWISE APPROVED BY THE TOWN OF MILTON
- GROUND ELEVATIONS AT BUILDINGS ADJUTING OVERLAND FLOW ROUTES ARE TO BE 225mm ABOVE OVERLAND FLOW ROUTE ELEVATIONS
- SUMP PUMP MUST DISCHARGE TO GRADE & BE DIRECTED TO REAR YARD
- A MINIMUM 150mm (6") FROM THE TOP OF FOUNDATION TO THE FINISHED GRADE OUTSIDE THE BUILDING MUST BE PROVIDED, TYP.
- THE FINISHED FLOOR ELEVATION, UNDERSIDE OF FOOTING ELEVATION, BASEMENT WINDOW SILL ELEVATION, ETC. ARE TO BE CONFIRMED BY THE CONTRACTOR IN CONSULTATION WITH THE BUILDING DESIGNER, BASED ON THE MIN. TOP OF FOUNDATION ELEVATION PROVIDED. ASSUMES 2.74m (9'-0") FOUNDATION WALL POURED HEIGHT, 0.076m (3") FLOOR SLAB ON GRADE & 0.15m (6") FOOTING DEPTH. CONTACT SBM ENGINEERING LTD. FOR CLARIFICATION, IF REQUIRED

BEFORE DIGGING, UNDERGROUND SERVICES SHOULD BE LOCATED ON SITE BY THE RESPECTIVE AGENCIES.

IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY THAT LOCAL BENCHMARKS HAVE NOT BEEN ALTERED OR DISTURBED AND THAT THE RELATIVE ELEVATIONS AGREE WITH THE INFORMATION SHOWN ON THIS PLAN.

METRIC DISTANCES AND/OR COORDINATES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.



ITEM	ZONING BY-LAW REQUIREMENTS	PROPOSED
A ZONING CATEGORY	RLD1	RLD1
B LOT AREA	734.94m2	734.94 m2
C LOT COVERAGE	25% (183.73M2)	24.99% (183.68m2)
D PERCENTAGE OF LANDSCAPE	30% MIN.	484.39 M2 @65.91%
E MAXIMUM BUILDING HEIGHT FROM GRADE	9.5 METERS ESTABLISHED GRADE TO UPPERMOST POINT OF ROOF	9.27 m
F SIDE YARD SETBACKS HOUSE	INTERIOR 1.8 M FLANKAGE 2.0 M	2.11 M 2.09 M
G FRONT SETBACK	4.0 M	4.25 M
H REAR SETBACK	7.5 M	17.22 M

