

Staff Report – Development Agreement Application for 228 Main Street	
Prepared by:	Chrystal Fuller of Brighter Community Planning
Subject:	Development Agreement Application for 228 Main Street (PID 55539670)
Date:	October 10, 2023
Purpose:	For Council to consider entering into a development agreement to permit the development of approximately eighty units at 228 Main Street
Recommendation:	Council give first read to the draft development agreement attached.
Draft Motion	That Council give first reading and forward to a public hearing the attached draft development agreement to permit a seventy-two unit grouped dwelling development at 228 Main Street.

Part 1: Background

The Town received an application for multi-residential development of the site on April 30, 2021. The Town’s Planning Advisory Committee (PAC) considered the application on August 3, 2021, and the recommend that Council approve the development subject to a series of conditions. A copy of the staff report and PAC recommendation is included as Attachment 1.

Following the PAC recommendation, the applicant provided new drawings in April 2022. The subsequent submissions were reviewed by the Traffic Authority, Public Works, the Fire Department, the Town Engineer, and Town Planners. Due to the size of the project, and consistent with recently adopted procedure, a Public Information Meeting was held on June 7, 2022, to gather public input on the proposal. The notes from the PIM are Attachment 2.

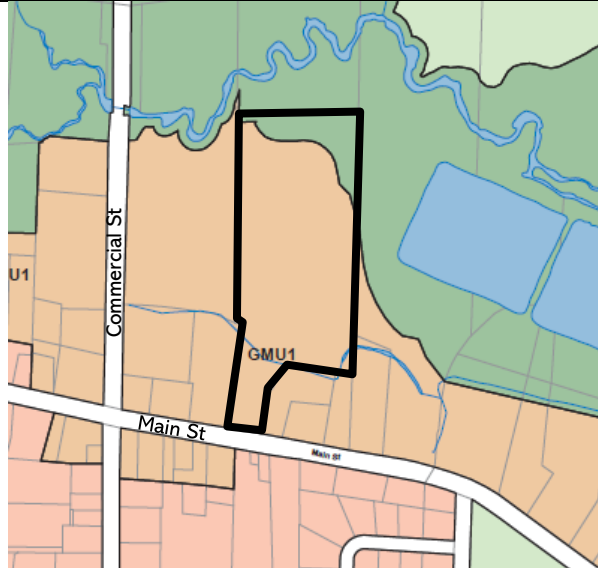
On August 9, 2022, Council received a planning report with updates regarding the proposal. At that meeting, Council made the following motion, “Council defer First Reading and direct staff to get additional information from the developer regarding onsite stormwater management.”

Since this date, the Town Engineer and Town Planner have been working with the Developer to address issues related to infrastructure and stormwater. As a result of these extensive discussions, the site plan has changed to address stormwater issues. On August 21, 2023, the Town’s Engineer issued a memo outlining his review. This memo is included as Attachment 3 to this report.

Although the configuration of the site plan is different then what was previously reviewed by Council in August of last year, the number of units is essentially the same. Council’s direction in August was to see additional information on stormwater. The review of this application uses 2021 policy review and the original policy analysis completed by the Town’s planning staff in 2021 along with some supplemental analysis in the attached policy table.

The Development Agreement was drafted in response to the applicant’s proposal and subsequent submissions and is guided by the Town’s land use policies and regulations, community planning principles, and the servicing requirements of the site. The draft Development Agreement is included as Attachment 4.

1.1: Project Summary

Property Owner(s)	Town of Berwick
Civic Address	228 Main Street
Current Designation	Gateway Mixed Use and Conservation Designation
Current Zoning	Gateway Mixed Use (GMU1) and Conservation (OS2)
Subject Property	
Subject Property Area	Four hectares (9.88 acres)
Existing Land Use	Vacant
Adjacent Land Use	West – Legion, Fire Hall, Dental Clinic South – Low Density Residential Development East – Residential, Sewage Treatment Plant, Conservation North – Cornwallis River

1.2: Location

The Subject Property is located at 228 Main Street and is owned by the Town of Berwick but is subject to a purchase and sale agreement with Kent Field Estates. This neighbourhood has a diverse mix of land uses including low density residential, institutional, and commercial. The property has frontage along Main Street which provides the only access to the site. The Cornwallis River is located north of the site and lands abutting the Cornwallis River are designated for conservation. The proposal is to develop only on the lands designated as Gateway Mixed Use. No development is proposed for lands designated as Conservation.

1.3: Proposal

The applicant is seeking a Development Agreement to permit approximately eighty dwelling units on the site. The proposed site plan (Attachment 4) includes nine apartment buildings with eight units in each building, 109 surface parking spaces, landscaped amenity areas, and pedestrian walkways. The proposed buildings are two-storeys in height and each of the buildings contains eight dwelling units accessed from a common hallway and internal staircase.

The original site design submitted in 2021 proposed three building clusters with each cluster oriented around a common outdoor amenity space. The revised site plan submitted in August of 2023 contains eight buildings connected by a central driveway and connecting concrete pathways between buildings that connect to the street.

The applicant amended the site plan to better address stormwater and the required stormwater infrastructure. The site plan includes:

- Four stormwater management ponds.
- A series of swales and ditches to manage stormwater.
- Connections to an offsite drainage ditch to drain water toward the river.
- Areas of lawn and soft landscaping to help manage stormwater flows. The drainage ditches and landscaped areas covers approximately 74% of the site.
- No development within the Conservation zone.

The site plan identifies three large amenity areas for the use of residents. The site plan also identifies where existing vegetation will be retained or required. Vegetation helps reduce impacts on neighbours, caused by light, noise or other visual impacts. The applicant will provide private balconies for each of the units.

The development will be accessed from Main Street by a two-way drive aisle separated with a landscaped median. An internal one-way driveway loop provides access to surface parking areas. The applicant is currently proposing 109 parking stalls which exceeds the Land Use bylaw requirement of 1.5 stalls per unit.



Part 3: Policy Analysis

When considering Development Agreement applications, the policies of the Municipal Planning Strategy (MPS) guide decision making. The majority of the property is designated Gateway Mixed Use Conservation on the Future Land Use Map while the forested area to the north near the Cornwallis River is designated as Conservation lands.

The initial staff report to PAC included policy analysis comparing the development proposal with the policies of the Municipal Planning Strategy (Attachment 1). The report also recommended that the applicant provide additional information prior to Council’s consideration to include details related to potable water, municipal servicing, outdoor lighting, landscaping, and sediment and erosion control. With the exception of drinking water approvals, this information has since been provided.

The site plan has been updated. Attached to this report is a brief policy analysis to supplement the original PAC report. Since the original PAC report, the Town has undertaken a desktop water study which concluded the additional development of up to five hundred new units may occur without further study.

Additionally, sewer studies are underway, and development may continue to occur. Capital projects will address any required improvement to wastewater.

Part 4: Public Input

As noted above, the Town held a public information meeting on June 7, 2022, to get public feedback on this application.

The purpose of a PIM is to identify issues of concern to the public so that these concerns, if possible, can be addressed through the approval process or within the development agreement itself. Due to changes in the way planning applications are processed by the Town since PAC originally considered the Staff report, Planning staff in the Spring of 2022 recommended that a development of this size and scale would warrant input from the public before Council considered First Reading. This would allow a draft development agreement to address issues of concern, subject to the policies of the Municipal Government Act and the Town’s Municipal Planning Strategy. The PIM was held on June 7, 2022.

Approximately fifty people attended the meeting and several people called or emailed prior to the meeting to discuss the proposal. Overall, it was acknowledged that the proposal would help to address the current housing shortage by providing much needed new rental housing units. However, there were a number of concerns identified, with the main one related to flooding and storm water management. The following chart provides a summary of the issues from the PIM, staff comments and if (or how) the draft DA responds to the issue.

Concern raised by the public	Staff Comments	Addressed within the DA
The development will cause additional flooding. More analysis and study are required to understand how this development will impact neighbours.	The 2021 staff report states that Public Works and the Town Engineer found the stormwater water plans acceptable. Wetland delineation has occurred	The revised site plan includes significant revisions to address stormwater management, which has been reviewed and approved by the Town Engineer.

Concern raised by the public	Staff Comments	Addressed within the DA
The smell from the STP needs to be addressed and concern was expressed about the smell from the STP on human health. The STP may need to be expanded in the future and the Town should keep the lands.	The Town continues to address STP issues but no short-term solution for the odour is imminent.	No ability to address the smell from the STP within the DA. Issues relating to the future expansion of the STP, and the sale of the lands is outside the scope and consideration of this planning report.
Traffic Impacts – concerns about road safety and capacity	Traffic Authority did not request a traffic impact statement. The Traffic Authority may reconsider the need for a TIS. The Town is planning to complete a Transportation Study in 2024 that would include looking at traffic impacts.	Off site traffic upgrades are not requested.
Does the school have enough capacity to accommodate these units?	According to the 2018 School Assessment report, Berwick School had a school utilization rate of 63% or 271 students in 2017. In 2022, they had a school population of ~290 students. According to the School Assessment report, the school population was projected to decrease is 221 by 2027. Berwick School feeds into West Kings District High School, which had a school utilization rate of 61% in 2017 (1147 students).	N/A
Ground water impacts. How will this development impact the ground water supply of Berwick, and wells of the neighbours.	Last assessment of the groundwater was in 2004, which indicated that Berwick has high quality/quantity groundwater supply. No hydrological study was completed for this development.	The DA requires water withdrawal permits, if required under legislation, to be provided before a development permit can be issued.
What is the impact of the proposed development on the RCMP services?	No Impact	N/A

Part 5: Development Agreement Summary

The application for the development of seventy-two multi-residential dwellings at 228 Main Street has been reviewed by staff for consistency with the policies of the Municipal Planning Strategy. While the proposed building design is not consistent with the design criteria of the Gateway lands, these policies are focused on improving the public streetscape through high quality building design and street improvements. The proposed buildings are setback quite far on the site and will not be very visible from the street so they will have minimal impact on the aesthetic of the streetscape. The Development Agreement does include the requirements for landscaping along the Main Street frontage to soften the street edge and provide an attractive entrance to the proposed development.

The draft Development Agreement is attached for review and includes the following provisions:

- Permits seventy-two residential units within nine buildings.
- Parking requirements
- Maximum height of thirty-five feet to a maximum of two stories.
- The construction of stormwater infrastructure as approved by the Municipal Engineer
- The submission of a master landscaping plan that provides adequate buffering from residential development.
- Phasing of the development that requires open space areas be constructed at certain points in the development process.
- Parking spaces at a one stall per unit and 1.25 stalls for 3-bedroom units.

Part 6: Recommendation

On August 3, 2021, PAC provided the following recommendation to Council.

“The developer is to be advised of all seven additional requirements. Once plans have been modified to sufficiently address these requirements, the application can go before Council.”

The addition requirements were:

Additional Requirements	Status	Staff Comments
Nova Scotia Department of Environment approval of the proposed sanitary sewer system;	Not received	Recommend that this be included in DA as a requirement before Development Permit (DP) is issued.
Confirmation from NSE that the proposed domestic water supply conforms with regulatory requirements for a Public Water Supply;	Not received	Recommend that this be included in DA as a requirement before DP is issued.
The provision of a Construction Management and Erosion and Sedimentation Control Plans acceptable to the Town Engineer prepared by a qualified person;	Not received	Recommend that this be included in DA as a requirement before DP is issued.

Additional Requirements	Status	Staff Comments
The provision of a separate driveway access consistent with one-way internal circulation pattern or the construction of a median within a single driveway to a depth of 75 feet north of Main Street;	Developer agrees to build	This is a requirement of the DA.
The provision of an internal walkway enabling pedestrian transit through the development from the north (Phase 4) area to Main Street and connection with the existing Main Street sidewalk;	Developer agrees to build	This is a requirement of the DA.
The provision of overhead lighting along the driveway/internal vehicle circulation route;	No completed	The draft DA will require lighting.
Landscaping at Main Street, which could include signage and be integrated into a median (if provided as an alternative to separated driveway access).	Completed	A detailed landscaping plan will be required before a DP is issued.

6.1: Options

Council has the following options regarding this application.

1. Give First Reading to the Draft DA and forward the application on to a Public Hearing.
2. Defer First Reading and direct staff to make changes to the Draft DA. Any significant amendments will need to be discussed with the Developer before First Reading is considered.
3. Reject the Application. This option, the applicant would have the right to appeal Council's decision to the Utility and Review Board.

6.2: Planning Staff Recommendation

Given PAC's previous recommendation to proceed with the draft DA, and Council's direction regarding stormwater, Planning Staff prepared the attached development agreement for Council's review and consideration for First Reading.

Draft Motion

That Council give first reading and forward to a public hearing the attached draft development agreement to permit a seventy-two unit grouped dwelling development at 228 Main Street.

It shall be the intention of Council that within the Gateway Mixed Use (GMU1) Zone all development, except single unit residential uses, shall be considered by Development Agreement and in addition to criteria contained in Policy IM7, consideration shall be given to the following:	
(a) The proposed development is generally consistent with the design and development principles identified in the Northern Gateway Strategy (2009);	Generally compliant.
(b) Those provisions are made, where appropriate and possible, for the integration of access to public open space, recreation and amenity space into the proposed site plan.	One site open space is identified, along with pathways and trails on site.
(c) That the proposed structure is generally compatible with existing dwellings on adjacent properties.	The buildings are compatible in terms of height and massing.
(d) That the design of the proposed structure and site reflects and is consistent with adjacent existing dwellings with respect to	
(1) Building Mass	The buildings are no more than 2 stories.
(2) Relationship to and setback from the street line	The buildings will have no relationship to the streets given the configuration of the lot and the length of the driveways.
(3) Roof line heights and orientations	No issues
(4) Building Height	Maximum height is permitted in the base zoning.
(5) Placement and Proportions of window and door openings along the primary façade;	No façade is street facing.
(6) Location of on-site parking	Parking is distributed throughout the site.
(7) Landscaping and landscaping treatment	Landscaping plan is adequate and designed to reduce stormwater flow and maintain permeable surfaces.
(e) That the site plan promotes the integration of the structure and use within the streetscape and pedestrian realm by means of locating primary parking areas in the rear of proposed structures and the provision of landscape features between the proposed building and street line	The property has minimal frontage and is not oriented toward the street.
In considering amendments to the Land Use By-law and/or the entering into a Development Agreement, in addition to the criteria set out in various policies of this Strategy, Council shall consider:	
(a) That the proposal is in conformance with the intents of this Strategy and with the requirements of all other Town By-laws and	Proposal is generally consistent with the Municipal Planning Strategy

regulations:	
(b) That the proposal is not premature or inappropriate by reasons of:	
(1) The financial capability of the Town to absorb any costs relating to the development	No known impact. Infrastructure installation is at the cost of the developer.
(2) The adequacy of sewer and ground water to support the proposed density of development;	The property can connect to municipal sewer and storm water is managed a designed storm water catchment system.
(3) The adequacy and proximity of school, recreation, and other community facilities;	No concerns
(4) The adequacy of road networks adjacent to, or leading to the development;	No concerns
(5) The potential for the contamination of watercourses or the creation of erosion or sedimentation	A sedimentation and erosion control plan will be required during construction activities. Compliance with provincial regulations is required.
(6) The potential for damage to or destruction of historical buildings and site;	N/A
(c) That controls are contained in a Land Use By-law or a Development Agreement so as to reduce conflict between the development and any other adjacent or nearby land use by reason of:	
(1) Type of use;	Up to 72 residential units
(2) Emissions including air and water pollutants and noise	No controls required
(3) Height, bulk and lot coverage of proposed building	Included in the DA site plan
(4) Traffic generation, access to and egress from the site, and parking;	No issues
(5) Open storage	Not permitted
(6) signs	Regulated by LUB
(7) similar matters of planning concern;	Regulated by LUB
(d) The suitability and development costs of the proposed site in terms of steepness of grades, soil and geological conditions, marshes, swamps, or bogs and proximity of highway ramps, railway rights-of-way and other nuisance factors;	Development is located near the Cornwallis River. Wetland delineation occurred and there is some wetland which will be altered, pending the applicant receiving a wetland alteration permit from NSECC.
(e) That provision is made for buffering, landscaping, screening and access control to reduce potential incompatibility with adjacent land uses and traffic;	Landscaping as proposed on site plan
(f) That the development is located so as not obstruct any natural drainage channels or watercourses	Wetland delineation occurred and there is some wetland which will be altered, pending the applicant receiving a wetland alteration permit from NSECC.

**MINUTES OF THE PUBLIC INFORMATION MEETING FOR KENT FIELDS
ESTATES
June 7, 2022**

Chrystal Fuller introduced the proposed Development Agreement. Dale Whynot of **Kent Field Estates** spoke to the development indicating he was part of this 45-year-old company with residential buildings currently in Berwick and looking forward to developing further here.

Ms. Fuller asked for questions regarding the development.

1. Scott Yetman, 225 Main Street
 - Concerned about flood issues, flooded basements of neighboring properties
 - Concerned about the sewer smell for incoming residents renting at the development
 - Sewer pond expansion – where will it expand if there is a development on the lands?
 - Would like the Town to contact Public Health to inquire if the sewer smell would have impact on a person's health
 - What is the basic flood elevation?
2. George Russell, Main Street
 - Concerned about flooding, fire siren noise and stormwater issues
3. Kelly Branton, 231 Main Street
 - Concerns regarding traffic, needs more analysis (could there be a secondary road beside the fire hall?)
 - Lack of foot paths, better connections for active transportation
4. Elizabeth Walker, Main Street
 - Concerns regarding sewer, machinery and gees noise, flooding
 - Insurance may be higher
 - Extraordinary amount of fill will be needed
5. Angela Christie
 - Concerns regarding flooding (flood elevation needs to be reviewed)
 - Sewer smell is terrible
 - Construction garbage will be blowing around
 - Major flood plane
 - Speeding/traffic concerns

6. Gwen Murray
 - Often times she can smell sewer over residential sink drains
7. Jonathan Visca, Main Street
 - Has concerns regarding traffic
 - Feels water table needs a re-assessment
 - Currently has basement flooding with down pours of rain
8. Resident (*unsure of name)
 - Will there be additional RCMP with an increase in population with these developments?
9. Melvin Hart, Autumn Drive
 - Concerned regarding the impact on the community with more population (can the school handle more students?)
 - Traffic concerns
10. Pat Jodrie, Daniel Drive
 - Will many trees be taken down?
11. George Russell, Main Street
 - Concerns about stone foundations at neighboring properties with flooding
 - Feels this is the wrong location for a residential development

The Public Information Meeting for the two developments of 3264285 NS LTD and Kent Field Estates closed at 8:20pm.

***Attendance for Public Information Meeting
Kent Field Estates Development Agreement
June 07, 2022***

Total Number of Attendees: 53

Councillors in Attendance:

Mayor Don Clarke
Deputy Mayor Mike Trinacty
Councillor Ty Walsh
Councillor Rod Reeves
Councillor Adam Lutz
Councillor Chris Goddard

Planning Advisory Committee Attendees:

Council members – Rod Reeves (Chair), Adam Lutz, Ty Walsh
Kelly Braton
Joan Laveck

TOWN OF BERWICK
Engineering
Memorandum



To:	Chrystal Fuller, LPP, MCIP; Brighter Community Planning & Consulting	From:	Tim Bouter, P. Eng; Town Engineer
CC:	Jen Boyd, CAO; Town of Berwick		
Subject:	Review Comments Development Agreement PID 55539670 Kent Field Estates	Date:	August 21, 2023

The purpose of this memo is to provide you with engineering comments related to the detailed design drawings for the referenced development agreement. I am in receipt of the following documents for this application:

1. Site Plan; Plan No. 2020-293 Site Plan (Sheet 1 of 8); prepared by Eric Morse, P. Eng.; dated August 3, 2023.
2. General Servicing Plan; Plan No. 2020-293 GSP (Sheet 2 of 8); prepared by Eric Morse, P. Eng.; dated August 3, 2023.
3. Profile; Plan No. 2020-293 Profile (Sheet 3 of 8); prepared by Eric Morse, P. Eng.; dated August 3, 2023.
4. Grading Plan; Plan No. 2020-293 Grading (Sheet 4 of 8); prepared by Eric Morse, P. Eng.; dated August 3, 2023.
5. Details; Plan No. 2020-293 Details (Sheet 5 of 8); prepared by Eric Morse, P. Eng.; dated August 3, 2023.
6. Erosion and Sedimentation Control Plan; Plan No. 2020-293 E&SC Plan (Sheet 6 of 8); prepared by Eric Morse, P. Eng.; dated August 3, 2023.
7. Pre Development Drainage Plan; Plan No. 2020-293 Pre Dev (Sheet 7 of 8); prepared by Eric Morse, P. Eng.; dated August 3, 2023.
8. Post Development Drainage Plan; Plan No. 2020-293 Post Dev (Sheet 8 of 8); prepared by Eric Morse, P. Eng.; dated August 3, 2023.
9. Email Correspondence Regarding Drainage Plan; sent by Eric Morse, P. Eng.; dated May 16, 2023.

Engineering Review Comments:

My comments following a review of the documents noted above are as follows:

1. Driveway:

- a. The private driveway complies with the Town's requirements and meets the minimum width of 6.0m for access route design in the National Building Code. The layout of the driveway and parking areas to be approved by the Berwick & District Volunteer Fire Department.
- b. The 2.5m wide median at the entrance must not impede the existing sidewalk. **Engineer to update drawings.**
- c. Power and communications infrastructure (including utility poles and light posts if applicable) to be approved by the Berwick Electric Commission. Easements will likely be required for these utilities.

2. Water:

- a. Individual wells must comply with the NSE Water Well Construction Guide.

3. Sanitary Sewer:

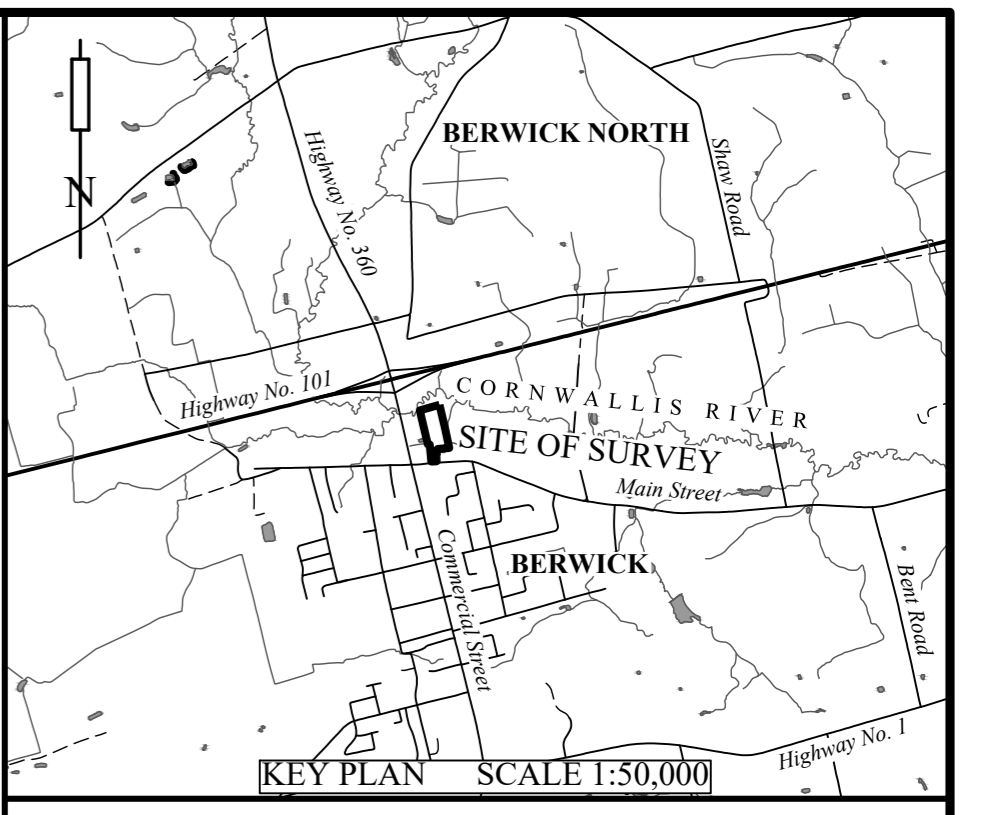
- a. The sanitary sewer collection system will be privately owned and maintained by the developer.
- b. The connection into the existing Town of Berwick manhole on Main Street complies with the Town's requirements for sanitary sewer.
- c. Approval from NSE for the private sanitary sewer collection system will be required at time of permitting.

4. Drainage and Erosion Controls:

- a. The culvert at Station 0+083 must be upsized to 1,200mm. **Engineer to update drawings.**
- b. The drainage plan complies with the Town's requirements for storm water management and the Provincial requirement for post development flow rates to be equal or less than existing conditions (net zero requirement).
- c. All drainage infrastructure will be privately owned and maintained by the developer.
- d. Following construction, the Town will require certification from the Engineer that the drainage works have been constructed in accordance with the plan.
- e. Any future negative impacts on neighboring properties resulting from inadequate implementation of the drainage plan or deviations to the

drainage plan would be dealt with as a private civil matter between property owners.

- f. Silt fencing and check dams must be installed during construction according to the Erosion and Sedimentation Control Plan to prevent material from washing into water courses.
- g. Wetland Alteration Permit for a small area in Wetland 1 (southwest corner of the property) to allow for the culvert extension and a portion of the roadway/sidewalk will be required at time of permitting.
- h. **This engineering drainage review is limited to an analysis of pre and post development flow rates for rainfall events on the development property (PID 55539670), and does not include an analysis of recommended development elevations in relation to current and future flooding impacts of the Cornwallis River or other overland flooding.** My understanding is that the development elevations have been set to match those of the Berwick Fire Hall and Wheaton's retail store, as recommended in a previous study.



REVISIONS

NO.	DESCRIPTION
1.	ISSUED FOR DEVELOPMENT AGREEMENT - AUGUST 9, 2023

NOTES:

- ALL SANITARY SEWER WORKS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE STANDARD SPECIFICATION FOR MUNICIPAL SERVICES 2023
- ALL STORM WATER DRAINAGE WORKS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE STANDARD SPECIFICATION FOR MUNICIPAL SERVICES 2023
- CONTRACTOR TO VERIFY LOCATION OF ALL EXISTING UNDERGROUND SERVICES PRIOR TO CONSTRUCTION (CHECK WITH TOWN OF BERWICK)
- POTABLE WATER TO BE SUPPLIED BY DRILLED WELLS. EACH BUILDING WILL HAVE ITS OWN DRILLED WELL.

CONTROL TABLE
MTM ZONE 5, NAD 83(CSRS) (2010.0 V7)

POINT	NORTHING	EASTING	DESCRIPTION
ACS 250041	4971825.192	25447205.338	SMARTNET (PUBLISHED)

LEGEND

BEGINNING OF VERTICAL CURVE	BVC
END OF VERTICAL CURVE	EVC
POINT OF VERTICAL INTERSECTION	PVI
FINISHED GRADE	FG
CALCULATED	C
POINT OF CURVATURE	PC
POINT OF COMPOUND CURVATURE	PCC
CHORD	CH
MANHOLE (SANITARY)	MHS
MANHOLE (STORM)	MHST
CATCH BASIN	CB
FIRE HYDRANT	FH
WATER VALVE	WV
CALCULATED POINT	CP
UTILITY POLE	UP
RIGHT OF WAY	ROW
NOT TO SCALE	NTS
ANCHOR	ANCH
OVERHEAD WIRES	OHW
ELEVATION (EXISTING)	-7.83
ELEVATION (PROPOSED)	+7.75
PROPERTY LINE	PL
EDGE OF ASPHALT / SHOULDER	EOA / EOS
NEW OVERHEAD LIGHT	NOL

GENERAL SERVICING PLAN

FOR PROPOSED
MULTI UNIT DEVELOPMENT
FOR KENT FIELD ESTATES
ON LANDS OF
TOWN OF BERWICK
MAIN STREET
BERWICK
KINGS COUNTY, NS



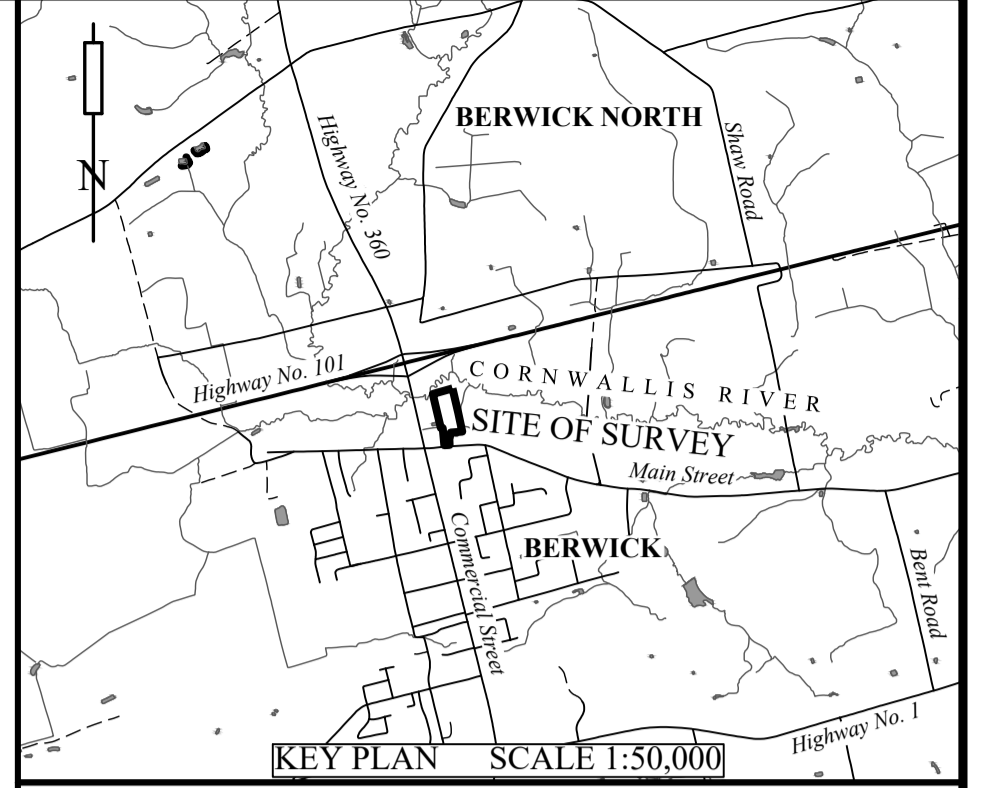
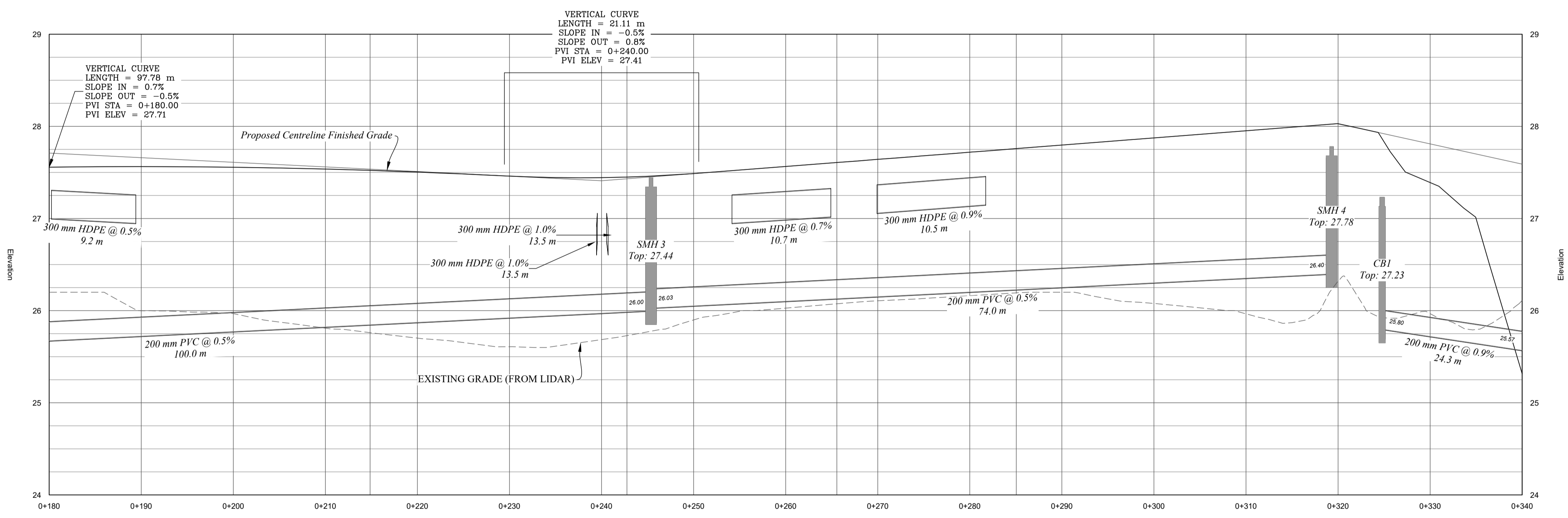
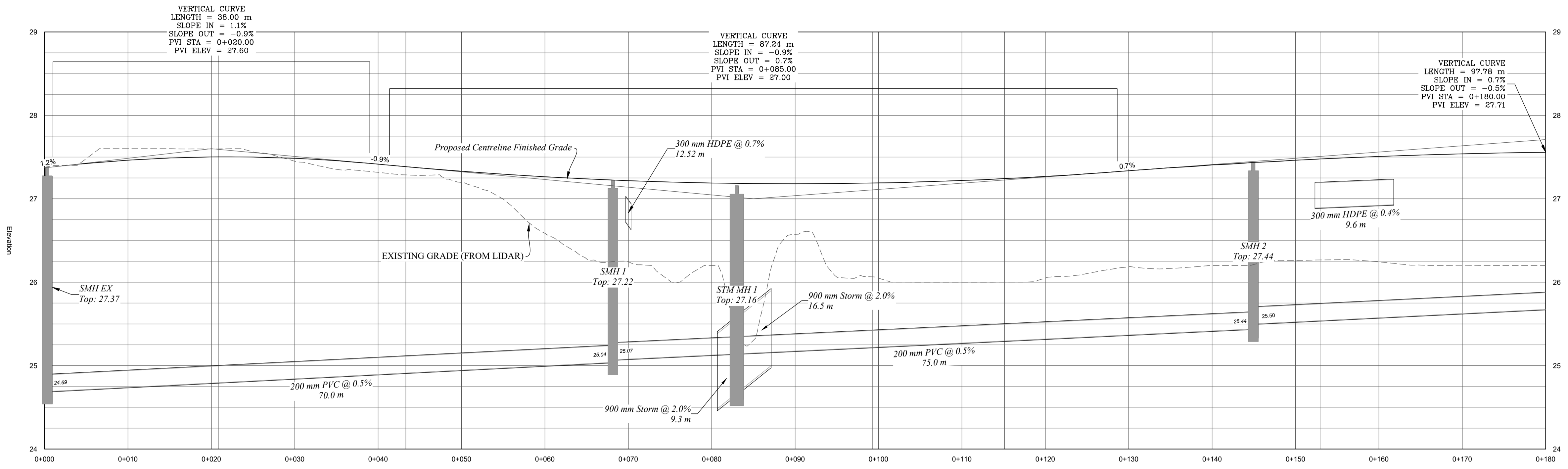
HORIZONTAL SCALE 1:500
DESIGNED BY ERIC J. MORSE, P.ENG.

DeWOLFE & MORSE SURVEYING LIMITED

P.O. BOX 520 MIDDLETON
ANNAPOLIS COUNTY, N.S.
B0S - 1P0
Email: info@demosl.ca

DRAFTED ON AUGUST 3, 2023

PLAN No: 2020-293 GSP SHEET 2 of 8



REVISIONS

1. ISSUED FOR DEVELOPMENT AGREEMENT - AUGUST 9, 2023

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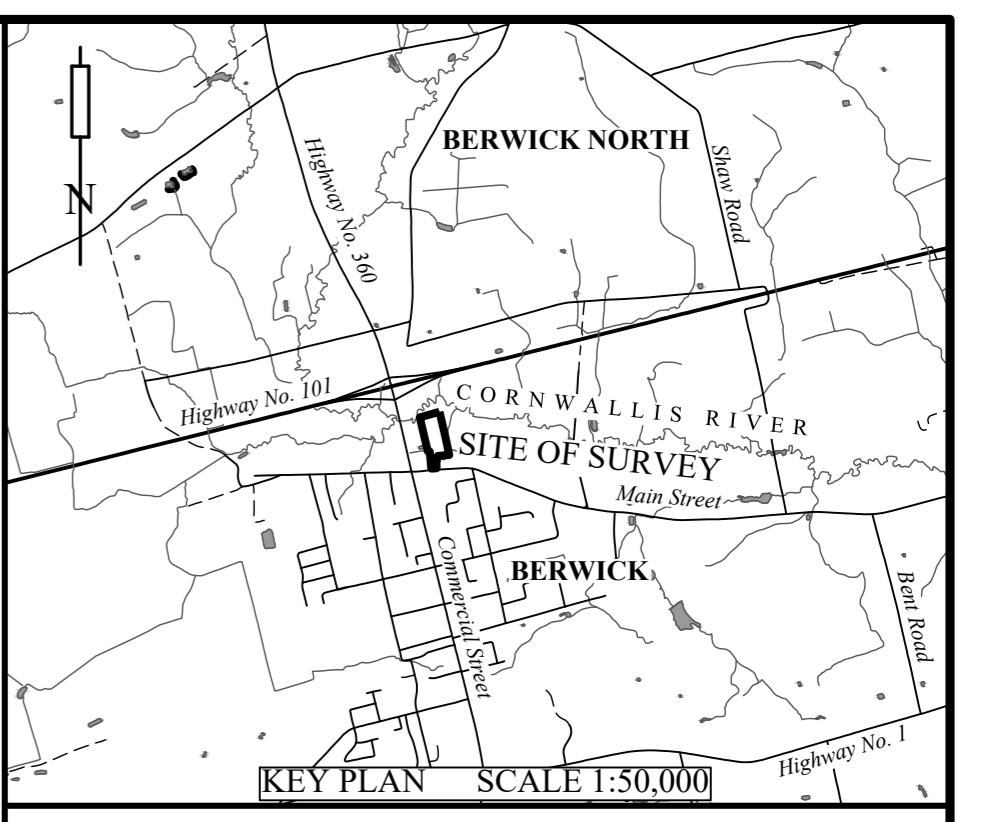
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CHORD	CH
MANHOLE (SANITARY)	MHS
MANHOLE (STORM)	MHST
CATCH BASIN	CB
FIRE HYDRANT	FH
WATER VALVE	WV
CALCULATED POINT	CP
UTILITY POLE	UP
RIGHT OF WAY	ROW
NOT TO SCALE	— —
ANCHOR	— —
OVERHEAD WIRES	OHW
ELEVATION (EXISTING)	+ 7.63
ELEVATION (PROPOSED)	+ [7.75]
PROPERTY LINE	— —
EDGE OF ASPHALT / SHOULDER	EOA / EOS
NEW OVERHEAD LIGHT	— —

PROFILE
 FOR PROPOSED
MULTI UNIT DEVELOPMENT
 FOR KENT FIELD ESTATES
 ON LANDS OF
TOWN OF BERWICK
 MAIN STREET
 BERWICK
 KINGS COUNTY, NS

10 0 10 20
 SCALE 1:300

HORIZONTAL SCALE 1:300
 VERTICAL SCALE 1:30
 DESIGNED BY ERIC J. MORSE, P.ENG.

DeWOLFE & MORSE SURVEYING LIMITED
 P.O. BOX 520 MIDDLETON
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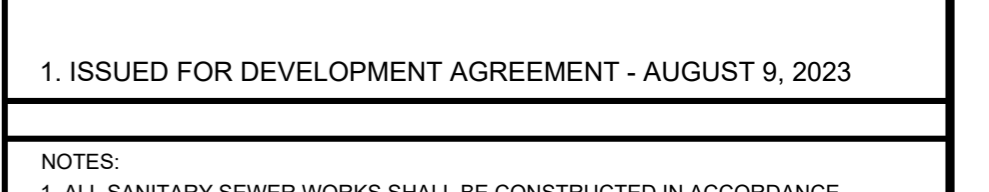
LEGEND

BEGINNING OF VERTICAL CURVE	BVC
END OF VERTICAL CURVE	EVC
POINT OF VERTICAL INTERSECTION	PVI
FINISHED GRADE	FG
CALCULATED	C
POINT OF CURVATURE	PC
POINT OF COMPOUND CURVATURE	PCC
CHORD	CH
MANHOLE (SANITARY)	MHS
MANHOLE (STORM)	MHST
CATCH BASIN	CB
FIRE HYDRANT	FH
WATER VALVE	WV
CALCULATED POINT	CP
UTILITY POLE	UP
RIGHT OF WAY	ROW
NOT TO SCALE	NTS
ANCHOR	ANCH
OVERHEAD WIRES	OHW
ELEVATION (EXISTING)	-7.63
ELEVATION (PROPOSED)	+7.75
PROPERTY LINE	PL
EDGE OF ASPHALT / SHOULDER	EOA / EOS
NEW OVERHEAD LIGHT	OL

GRADING PLAN

FOR PROPOSED
MULTI UNIT DEVELOPMENT
FOR KENT FIELD ESTATES
ON LOTS OF
TOWN OF BERWICK

MAIN STREET
BERWICK
KINGS COUNTY, NS



HORIZONTAL SCALE 1:500
DESIGNED BY ERIC J. MORSE, P.ENG.

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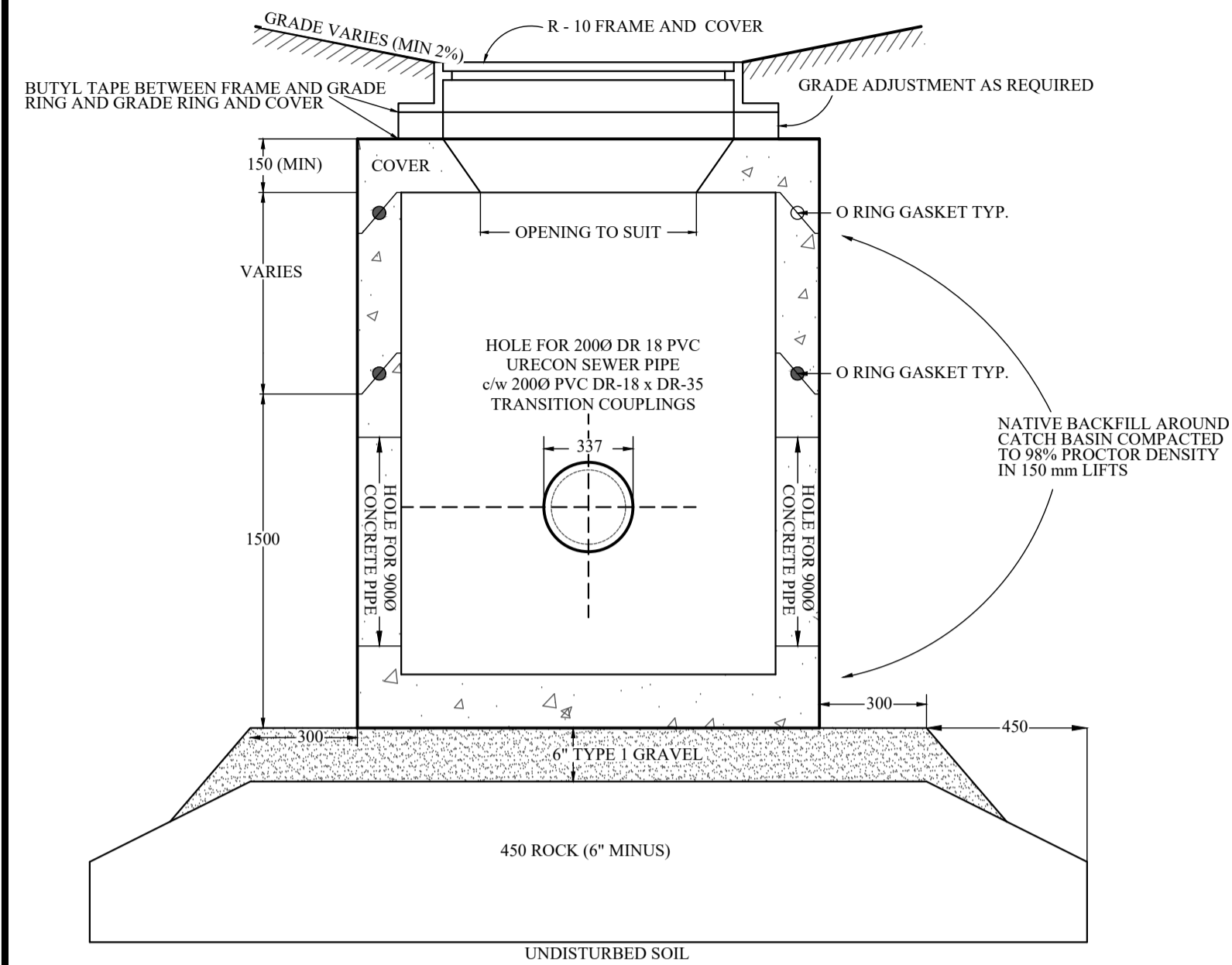
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PLAN No: 2020-293 GRADING

SHEET 4 of 8

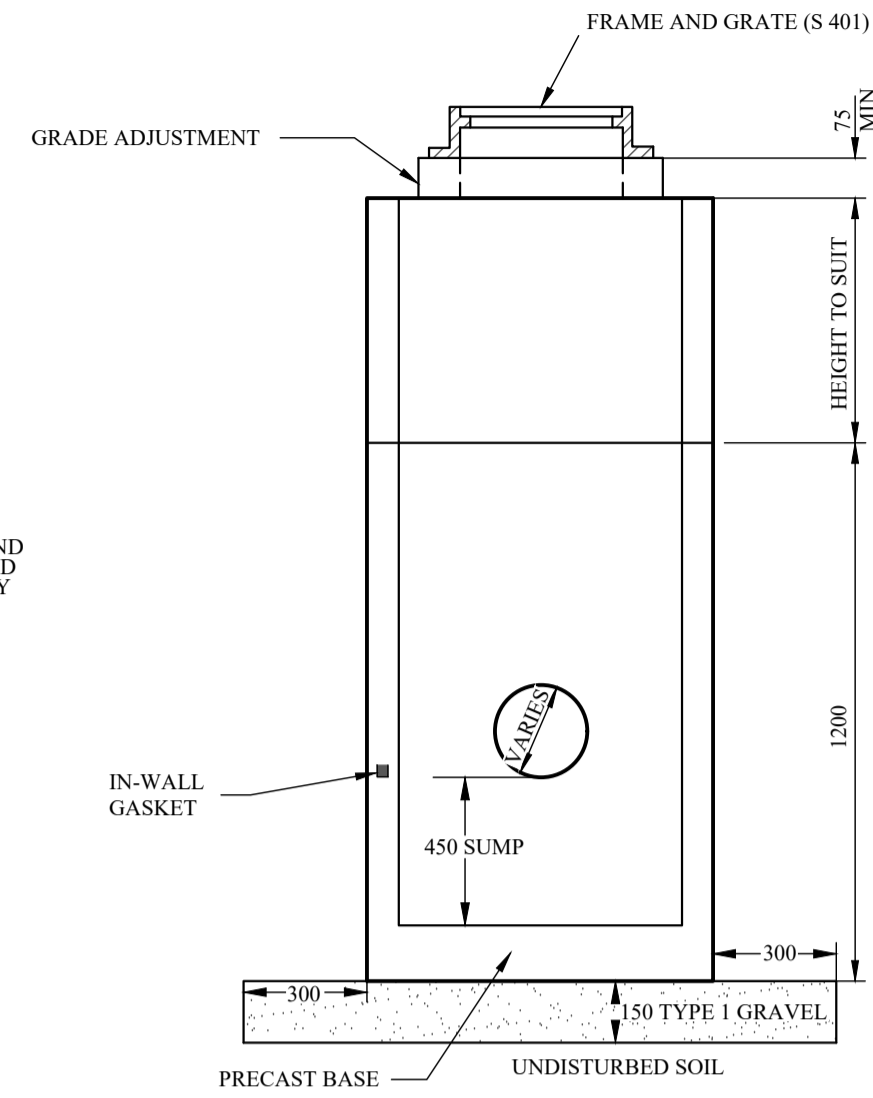
1500 mm DIA. PRECAST MANHOLE

NOT TO SCALE



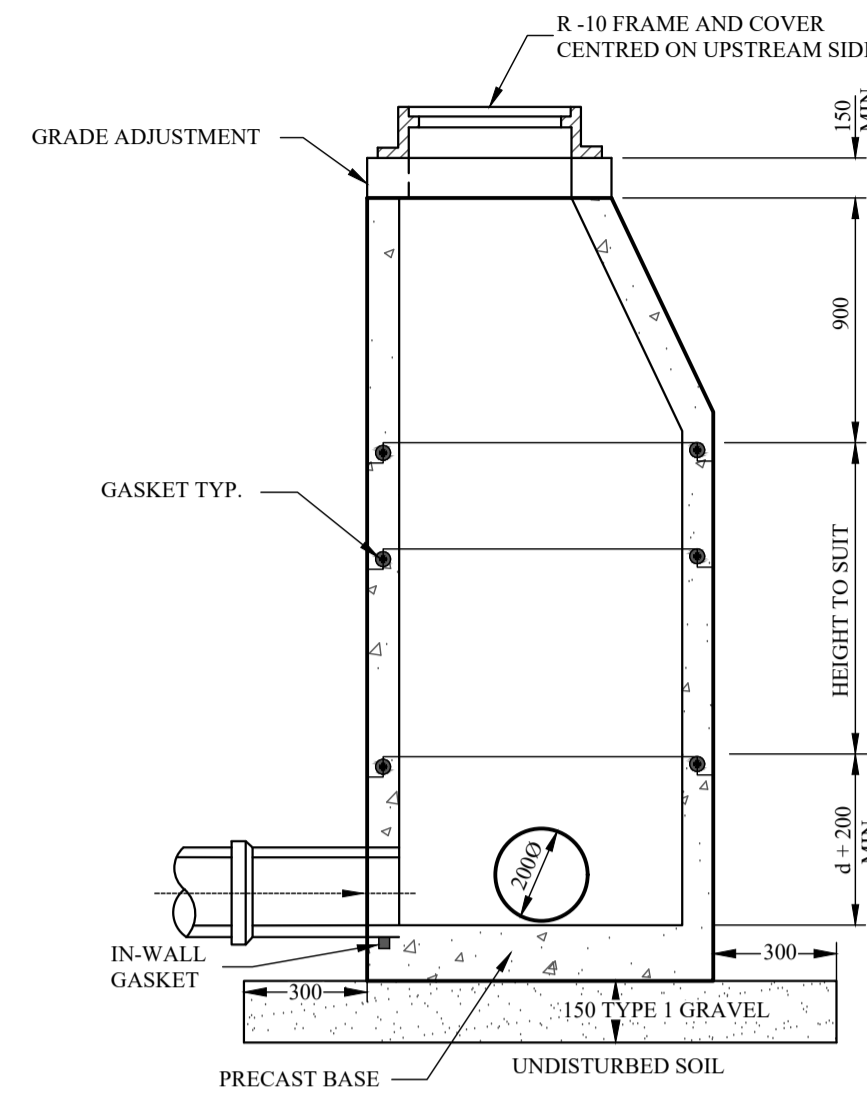
600 mm X 600 mm PRECAST CATCHPIT

NOT TO SCALE



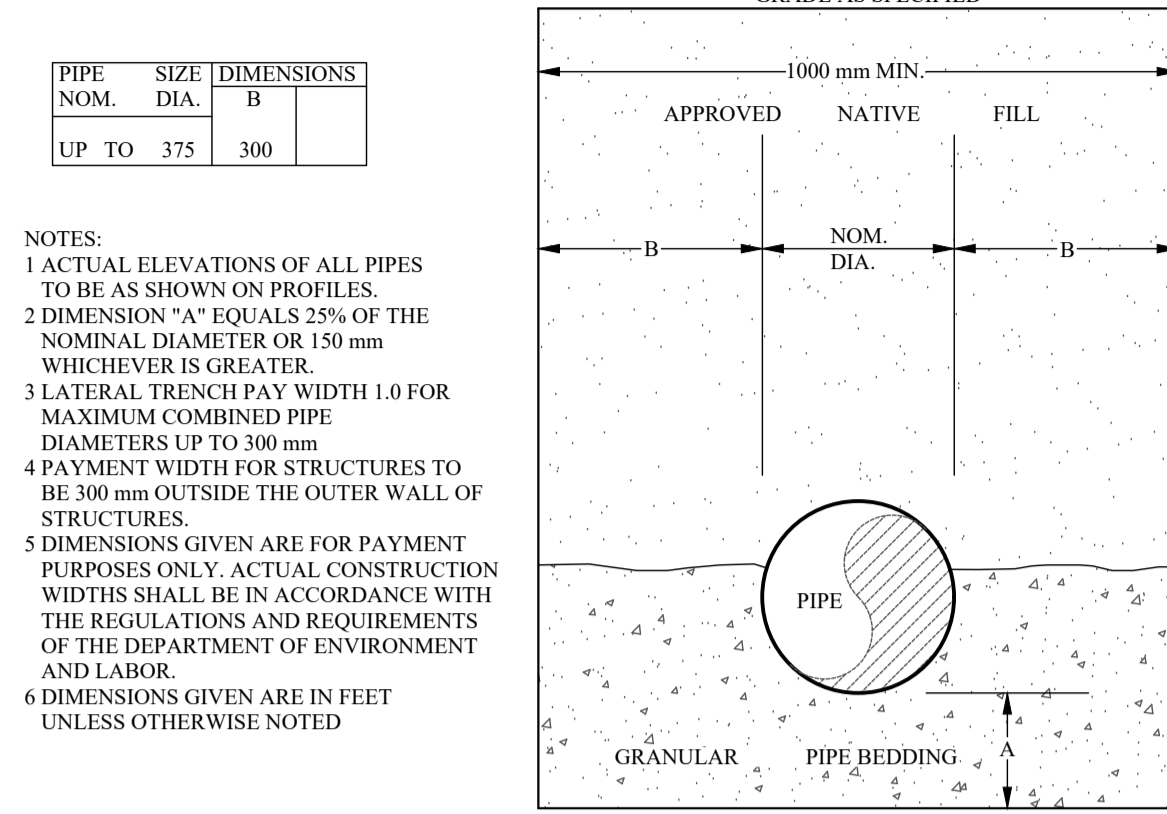
1050 mm DIA. PRECAST MANHOLE (SANITARY)

NOT TO SCALE

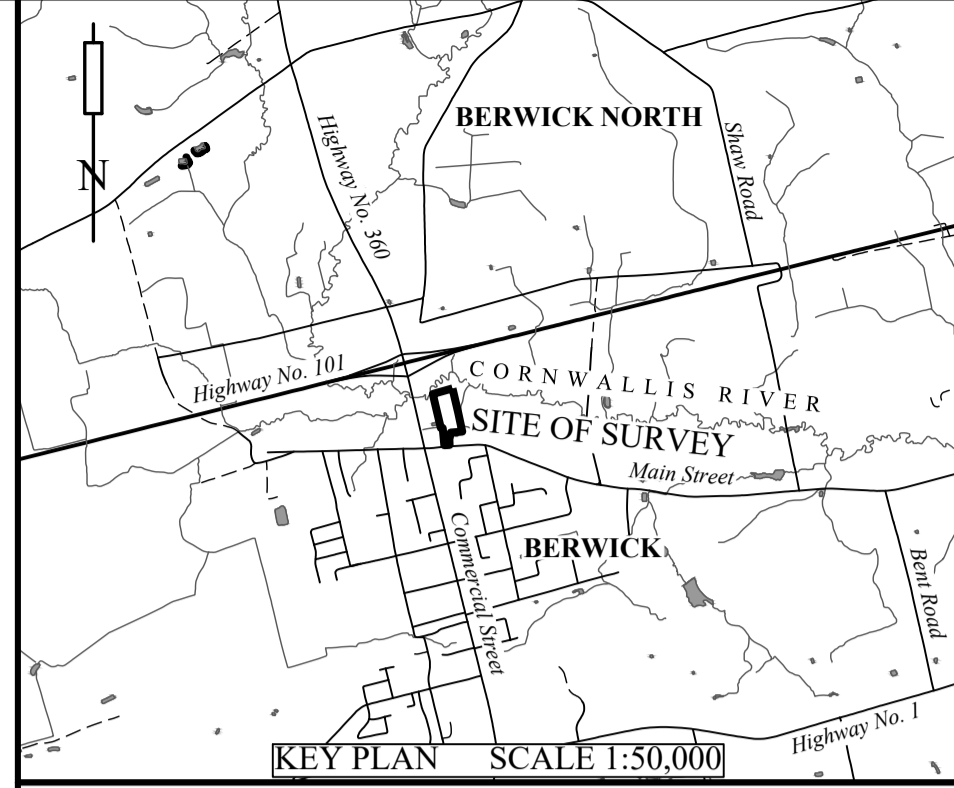


TYPICAL SINGLE PIPE TRENCH

NOT TO SCALE



- NOTES:
- ACTUAL ELEVATIONS OF ALL PIPES TO BE AS SHOWN ON PROFILES.
 - DIMENSION "A" EQUALS 25% OF THE NOMINAL DIAMETER OR 150 mm WHICHEVER IS GREATER.
 - LATERAL TRENCH PAY WIDTH 1.0 FOR MAXIMUM COMBINED PIPE DIAMETERS UP TO 300 mm
 - PAYMENT WIDTH FOR STRUCTURES TO BE 300 mm OUTSIDE THE OUTER WALL OF STRUCTURES.
 - DIMENSIONS GIVEN ARE FOR PAYMENT PURPOSES ONLY. ACTUAL CONSTRUCTION WIDTHS SHALL BE IN ACCORDANCE WITH THE REGULATIONS AND REQUIREMENTS OF THE DEPARTMENT OF ENVIRONMENT AND LABOR.
 - DIMENSIONS GIVEN ARE IN FEET UNLESS OTHERWISE NOTED



REVISIONS

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WATER VALVE	WV
CALCULATED POINT	CP
UTILITY POLE	UP
RIGHT OF WAY	ROW
NOT TO SCALE	1
ANCHOR	OHW
OVERHEAD WIRES	OHW
ELEVATION (EXISTING)	+ 7.63
ELEVATION (PROPOSED)	+ 7.75
PROPERTY LINE	EOA / EOS
EDGE OF ASPHALT / SHOULDER	EOA / EOS
NEW OVERHEAD LIGHT	

DETAILS
FOR PROPOSED
MULTI UNIT DEVELOPMENT
FOR KENT FIELD ESTATES
ON LANDS OF
TOWN OF BERWICK
MAIN STREET
BERWICK
KINGS COUNTY, NS

DETAIL SCALES AS NOTED
DESIGNED BY ERIC J. MORSE, P. ENG.

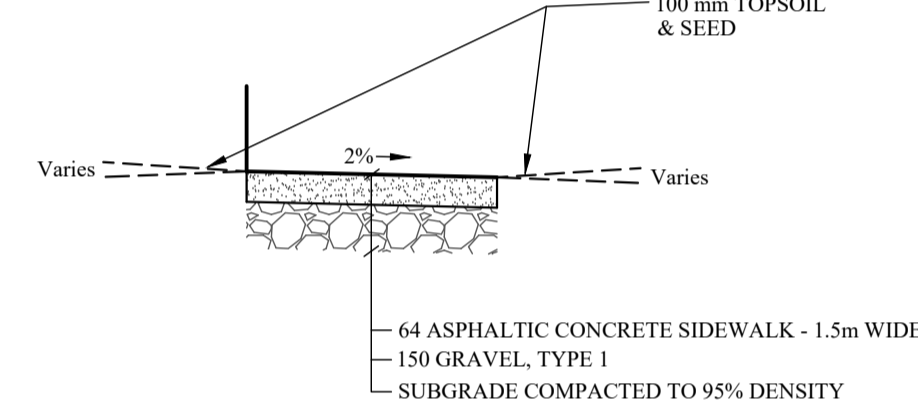
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ANNAPOLIS COUNTY, N.S.
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Email: info@demosl.ca

ENVIRONMENTAL PROTECTION NOTES:

- CLEAN EXISTING STREETS, AS DIRECTED, TO REMOVE ANY MUD THAT MAY BE TRACKED OFF-SITE BY THE CONSTRUCTION EQUIPMENT.
- SILT FENCE TO BE INSTALLED ALONG THE PROPERTY BOUNDARIES AS REQUIRED, AS PER THE DETAILS SHOWN BEFORE GRUBBING OR PLACING OF FILL.
- INSTALL ADDITIONAL PROTECTION BERMS, SILT FENCES, CUTOFF DITCHES, ETC., AS REQUIRED BY SITE CONDITIONS TO PREVENT SEDIMENT FROM ENTERING PONDS OR RIVER.
- MAINTAIN A STOCK PILE OF APPROPRIATE EROSION AND ENVIRONMENTAL PROTECTION MATERIALS ON SITE AT ALL TIMES. THESE SHALL INCLUDE AS A MINIMUM:
1. 200 LINEAL FEET OF SILT-FENCE
2. 20 BALES OF HAY OR STRAW.
3. A STOCK PILE OF 9 CUBIC METRES OF WOOD CHIPS.
4. A STOCK PILE OF 18 CUBIC METRES OF TYPE 1 GRAVEL.
- MAINTAIN EROSION AND SEDIMENT CONTROL MEASURES FROM THE TIME OF INSTALLATION UNTIL AFTER ALL AREAS DRAINING TOWARDS THEM HAVE BEEN TOTALLY STABILIZED.
- STABILIZE SLOPES AND CRITICAL AREAS BY SODDING, OR AS SHOWN ON THE LANDSCAPING DETAILS.
- ANY DISTURBED AREAS WHICH MAY BE REWORKED SHALL BE STABILIZED USING WOOD CHIPS OR OTHER APPROVED METHODS WITHIN TWO WEEKS OF THE DISTURBANCE OR BEFORE A FORECAST OF A SIGNIFICANT RAINFALL EVENT. MAINTAIN IN PLACE UNTIL PLACEMENT OF PERMANENT STABILIZATION OR LANDSCAPING.
- REMOVE SILT ACCUMULATIONS AT SILT FENCES AND OTHER PROTECTION DEVICES BY CAREFUL HAND EXCAVATION. DISPOSE OF ACCUMULATED SILT BY REMOVING FROM SITE OR PLACING AND BURYING IT IN FILL AREAS.
- DEWATERING OF EXCAVATIONS SHALL BE DIRECTED THROUGH GRAVEL BERMS.
- DO NOT PUMP, OR DRAIN WATER CONTAINING SUSPENDED MATERIALS INTO PONDS OR RIVER.
- COVER SOIL STOCKPILES WITH PLASTIC SHEETS OR APPROVED EQUAL WHEN SO DIRECTED.
- PRIOR TO CARRYING OUT WORK, CHECK THE LONG RANGE WEATHER FORECAST TO ENSURE THAT THERE IS ADEQUATE TIME BEFORE FORECAST HEAVY RAIN STORMS TO STABILIZE THE WORK.
- DO NOT PERMIT DISCOLOURED WATER TO ENTER PONDS OR RIVER. INSPECT SEDIMENT AND EROSION CONTROL MEASURES ON A REGULAR BASIS AND MAINTAIN AS NECESSARY.
- HAVE PERSONNEL ON CALL TO PROVIDE EMERGENCY REPAIRS TO SEDIMENT AND EROSION CONTROL MEASURES AT ALL TIMES.

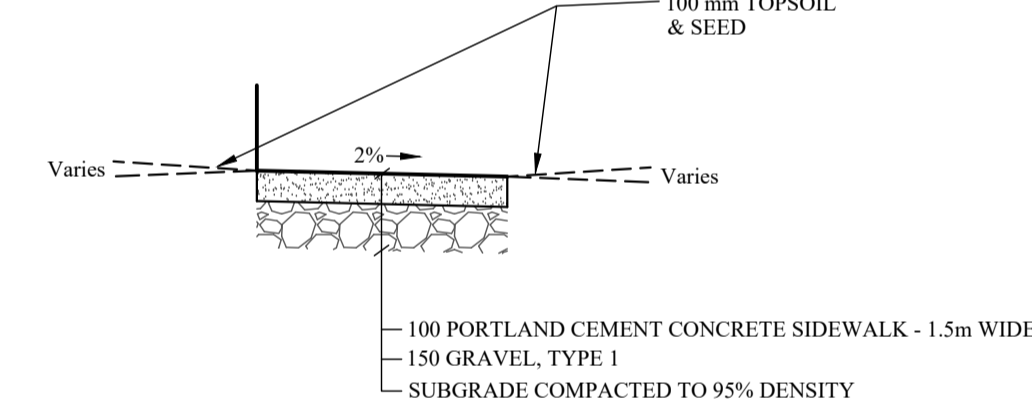
ASPHALT WALKWAY CROSS SECTION

NOT TO SCALE



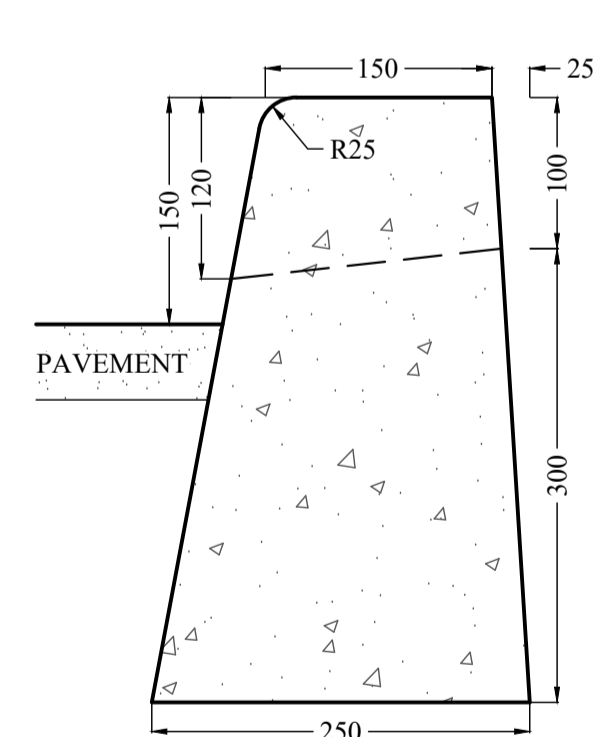
CONCRETE WALKWAY CROSS SECTION

NOT TO SCALE



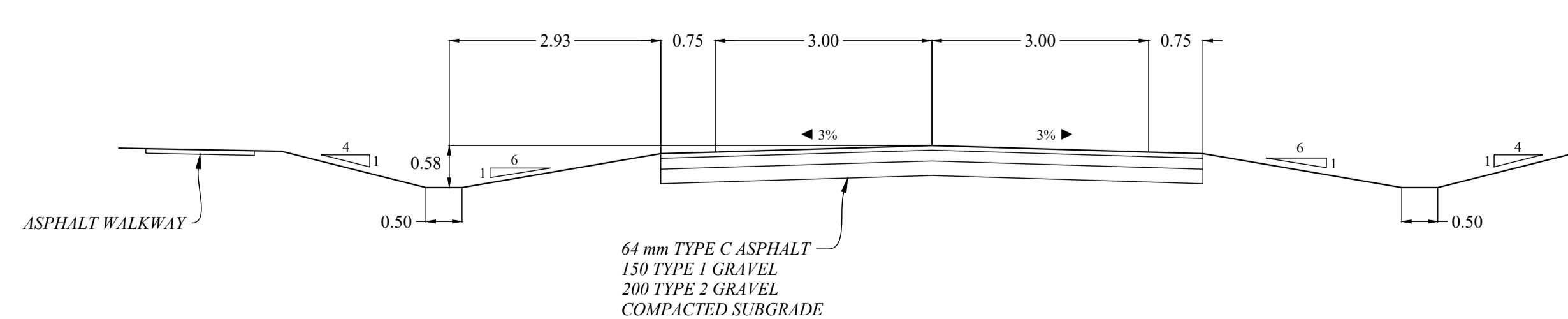
HIGH BACK CURB

NOT TO SCALE



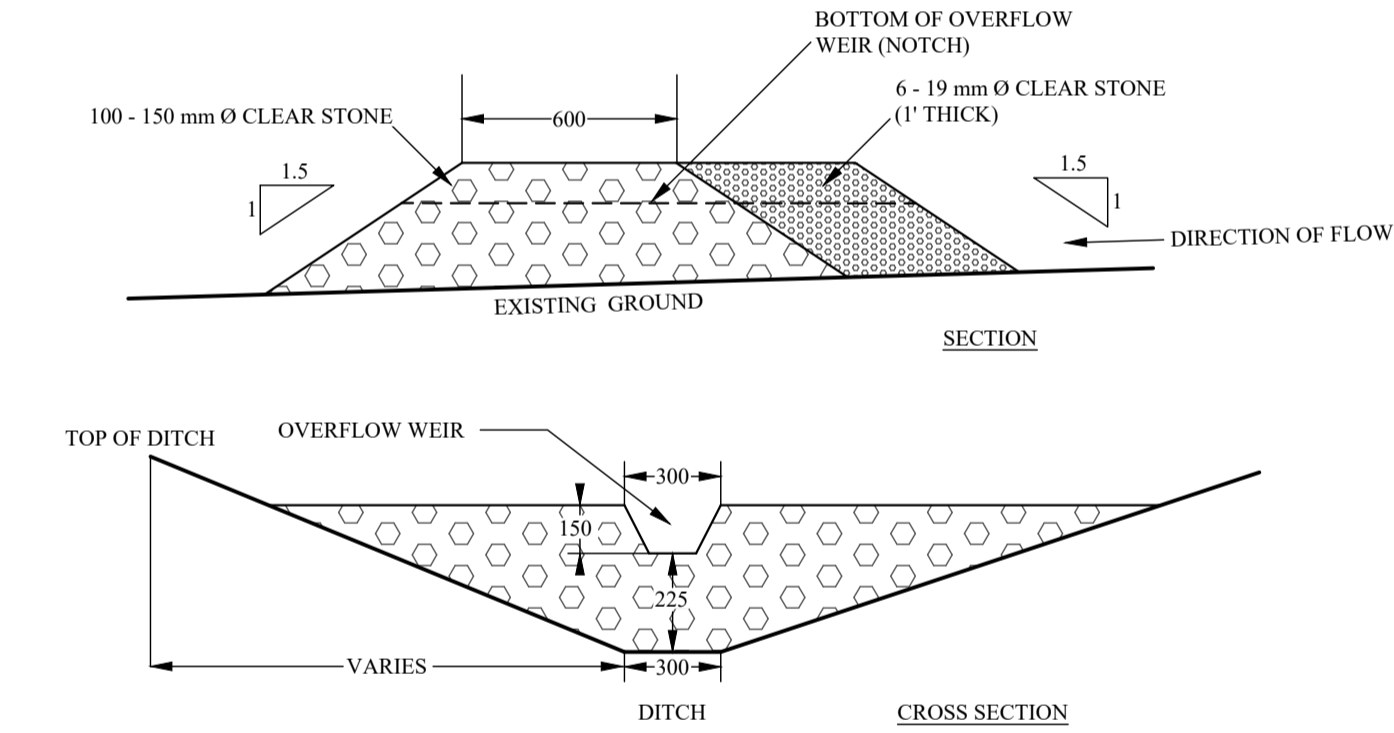
TYPICAL ROAD CROSS SECTION

NOT TO SCALE



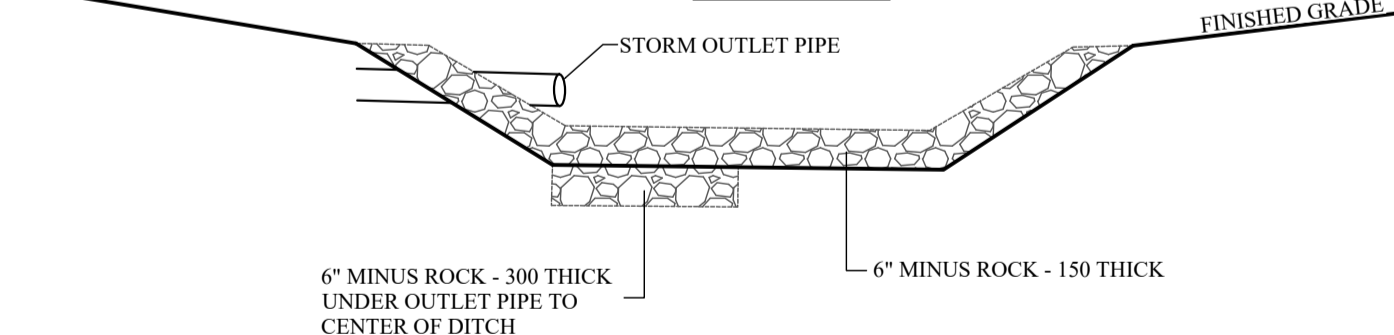
FLOW CHECK DAM

NOT TO SCALE



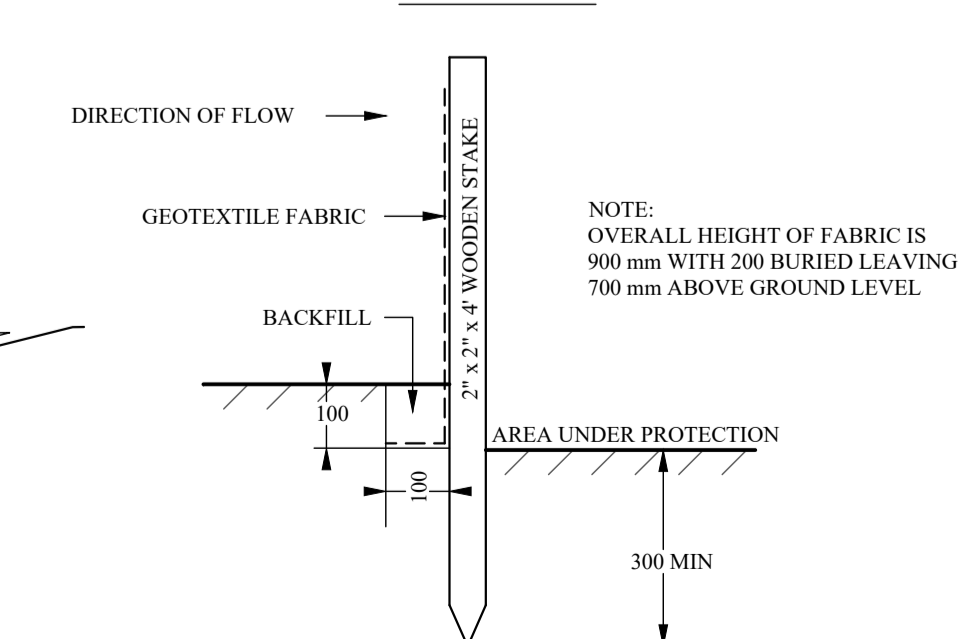
ROCK LINED DITCH CROSS SECTION

NOT TO SCALE

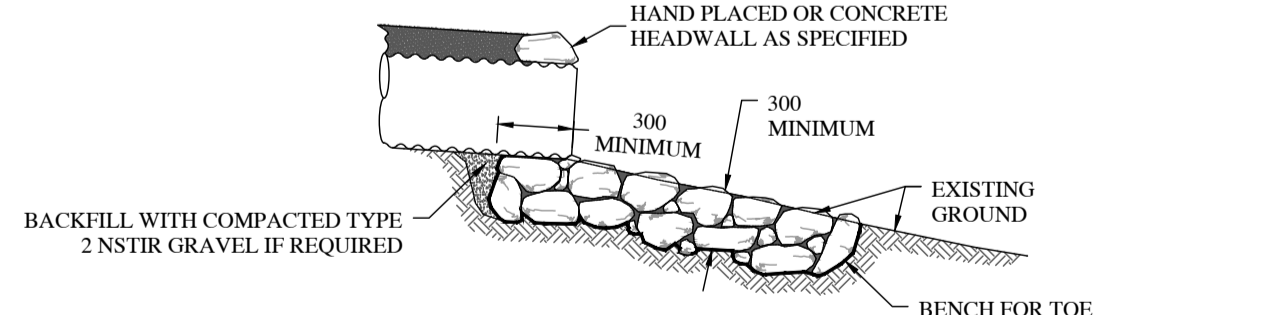
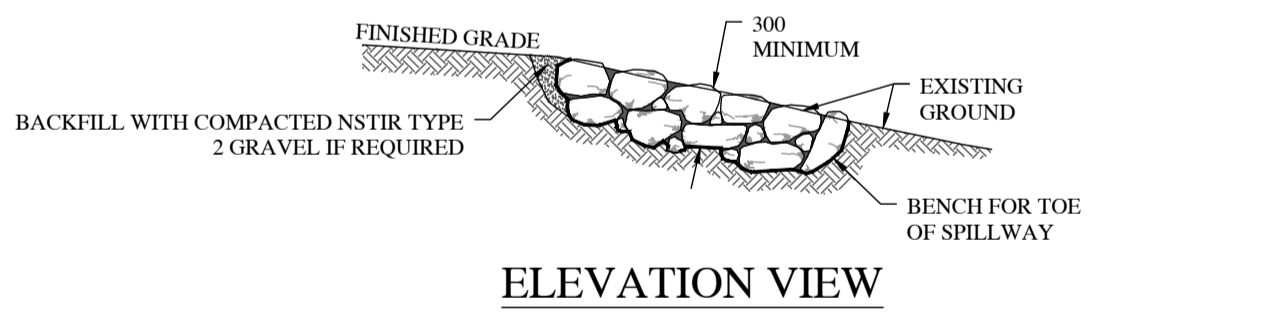
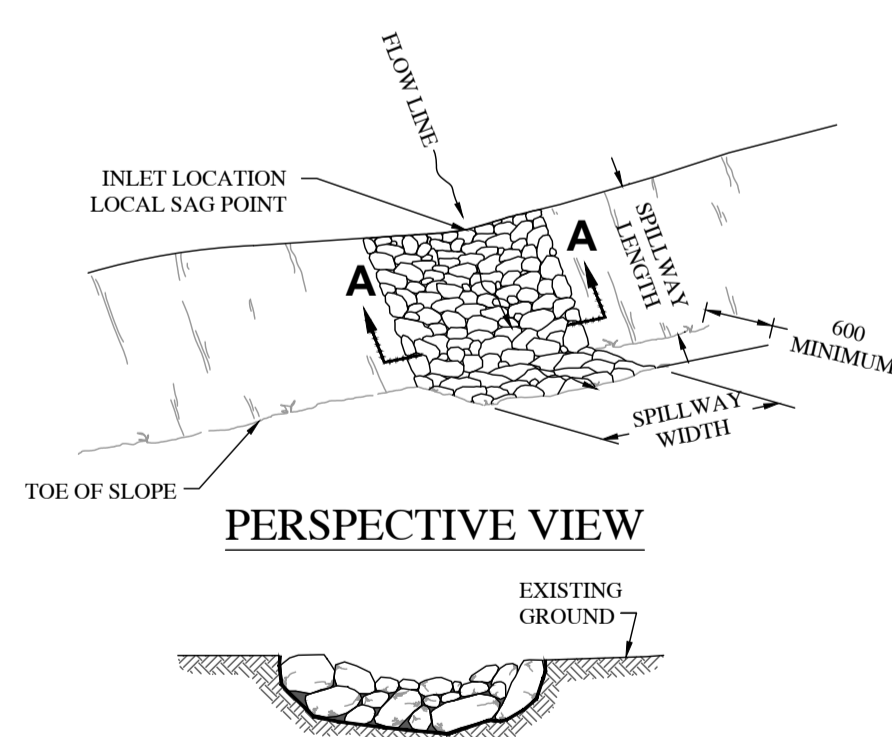


SILT FENCE DETAIL

NOT TO SCALE



SECTION A-A

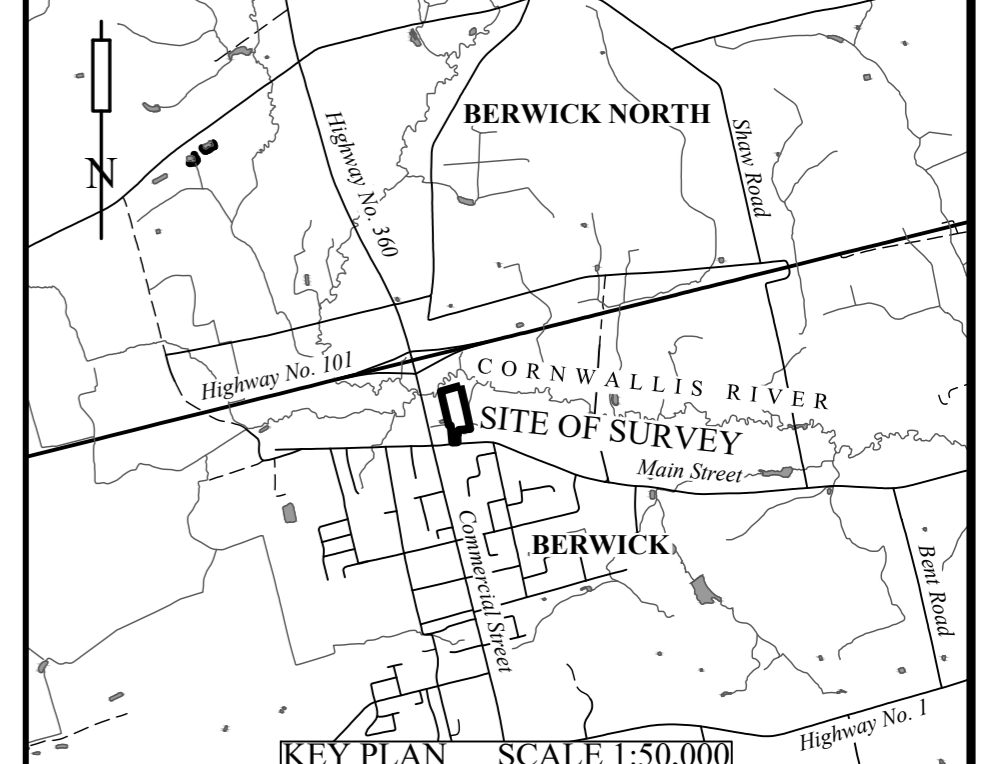


ROCK SPILLWAY FOR CULVERT OUTLET

- NOTES:
- COMPACT BACKFILL IN 150mm LIFTS UNTIL NO VISUAL DISPLACEMENT.
 - UNLESS OTHERWISE SPECIFIED WHEN ROCK SPILLWAY IS REQUIRED DIMENSION SHALL BE 1000mm WIDE X 300mm DEEP X 1500mm LONG. THE AREA SHALL BE SUBEXCAVATED 300mm PRIOR TO PLACEMENT OF THE SPILLWAY SO THE FINISHED SURFACE OF THE RIPRAP WILL BE AT THE SAME ELEVATION AS THE ADJACENT FINISHED GRADE.
 - UNLESS OTHERWISE SPECIFIED SPILLWAY ROCK SHALL BE NS STANDARD SPECIFICATION FOR MUNICIPAL SERVICES CLASS 1 RIPRAP (70% between 200-450mm).

PID 55242606
TOWN OF BERWICK

LOT "2020-1"
PID 55539670
TOWN OF BERWICK



KEY PLAN SCALE 1:50,000

REVISIONS

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PROPERTY LINE	PL
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EROSION AND SEDIMENTATION CONTROL PLAN
FOR PROPOSED
MULTI UNIT DEVELOPMENT
FOR KENT FIELD ESTATES
ON LOTS OF
TOWN OF BERWICK

MAIN STREET
BERWICK
KINGS COUNTY, NS



HORIZONTAL SCALE 1:500
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DRAFTED ON AUGUST 3, 2023
PLAN No: 2020-293 E&S PLAN

SHEET 6 of 8



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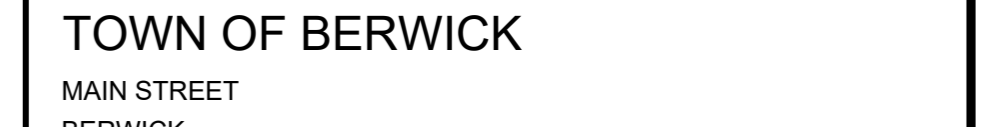
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EROSION AND SEDIMENTATION CONTROL PLAN
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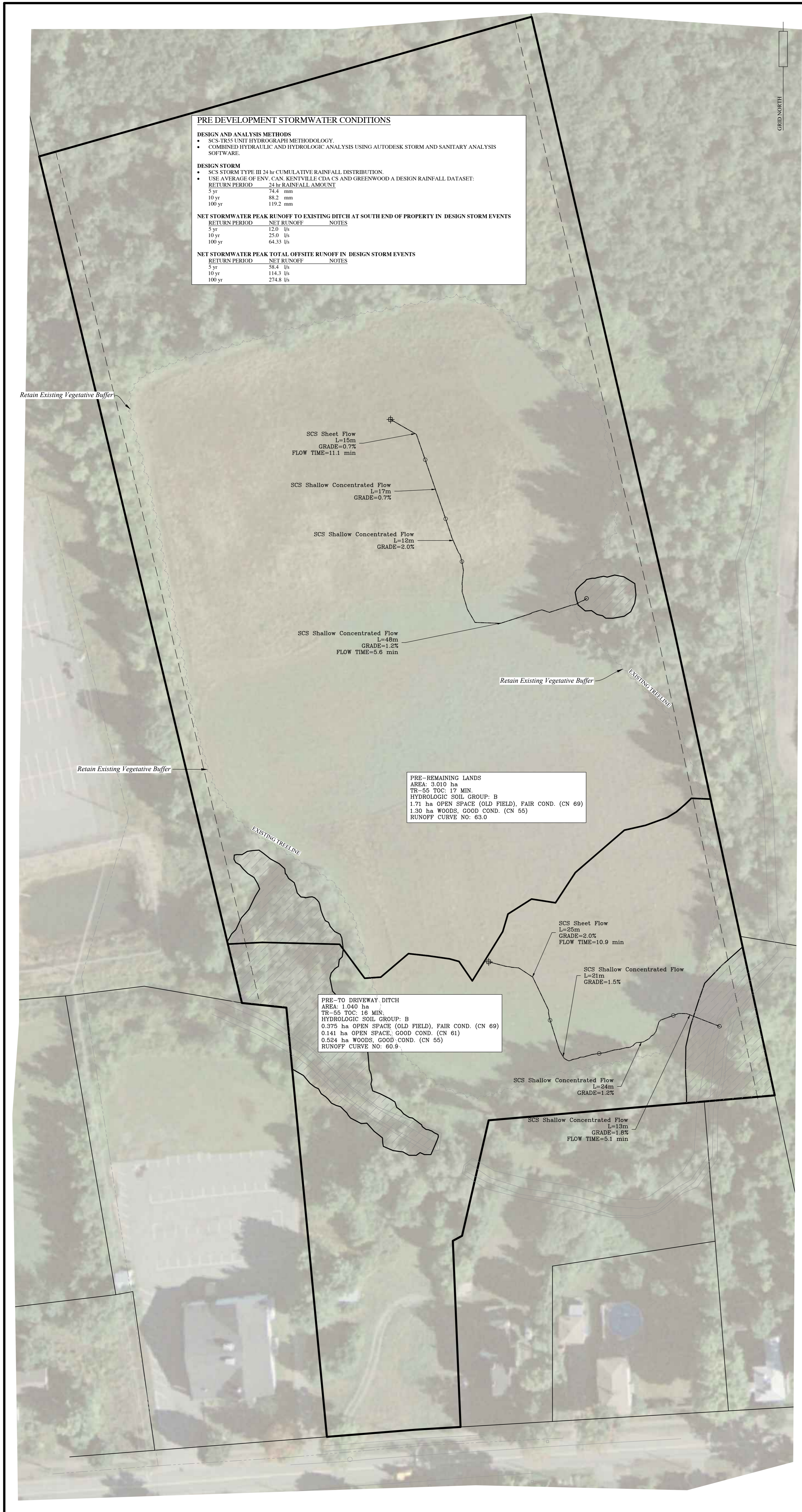
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SHEET 6 of 8



PRE DEVELOPMENT STORMWATER CONDITIONS

DESIGN AND ANALYSIS METHODS

- SCS-TR55 UNIT HYDROGRAPH METHODOLOGY.
- COMBINED HYDRAULIC AND HYDROLOGIC ANALYSIS USING AUTODESK STORM AND SANITARY ANALYSIS SOFTWARE.

DESIGN STORM

- SCS STORM TYPE III 24 hr CUMULATIVE RAINFALL DISTRIBUTION.
- USE AVERAGE OF ENV. CAN. KENTVILLE CDA'S AND GREENWOOD A DESIGN RAINFALL DATASET:

RETURN PERIOD	24 hr RAINFALL AMOUNT
5 yr	74.4 mm
10 yr	88.2 mm
100 yr	119.2 mm

NET STORMWATER PEAK RUNOFF TO EXISTING DITCH AT SOUTH END OF PROPERTY IN DESIGN STORM EVENTS

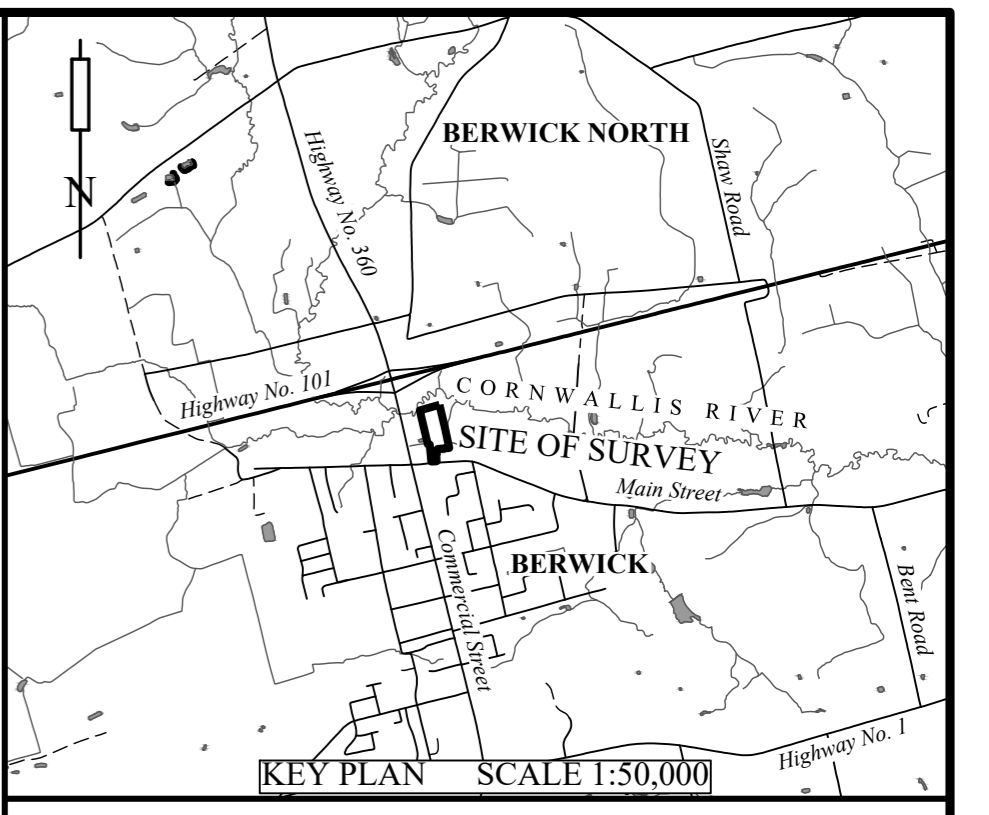
RETURN PERIOD	NET RUNOFF	NOTES
5 yr	12.0 l/s	
10 yr	25.0 l/s	
100 yr	64.33 l/s	

NET STORMWATER PEAK TOTAL OFFSITE RUNOFF IN DESIGN STORM EVENTS

RETURN PERIOD	NET RUNOFF	NOTES
5 yr	58.4 l/s	
10 yr	114.3 l/s	
100 yr	274.8 l/s	

PRE-REMAINING LANDS
 AREA: 3.910 ha
 TR-55 TOC: 17 MIN.
 HYDROLOGIC SOIL GROUP: B
 1.71 ha OPEN SPACE (OLD FIELD), FAIR COND. (CN 69)
 1.30 ha WOODS, GOOD COND. (CN 55)
 RUNOFF CURVE NO. 63.0

PRE-TO DRIVEWAY DITCH
 AREA: 1.040 ha
 TR-55 TOC: 16 MIN.
 HYDROLOGIC SOIL GROUP: B
 0.375 ha OPEN SPACE (OLD FIELD), FAIR COND. (CN 69)
 0.141 ha OPEN SPACE, GOOD COND. (CN 61)
 0.524 ha WOODS, GOOD COND. (CN 55)
 RUNOFF CURVE NO. 60.9



REVISIONS

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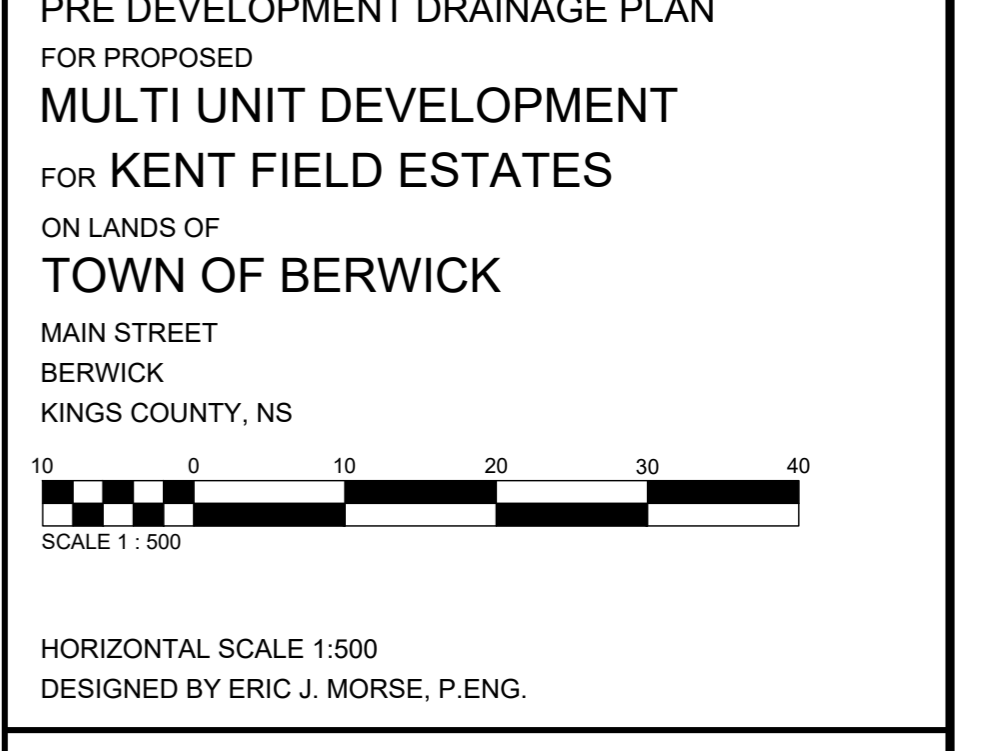
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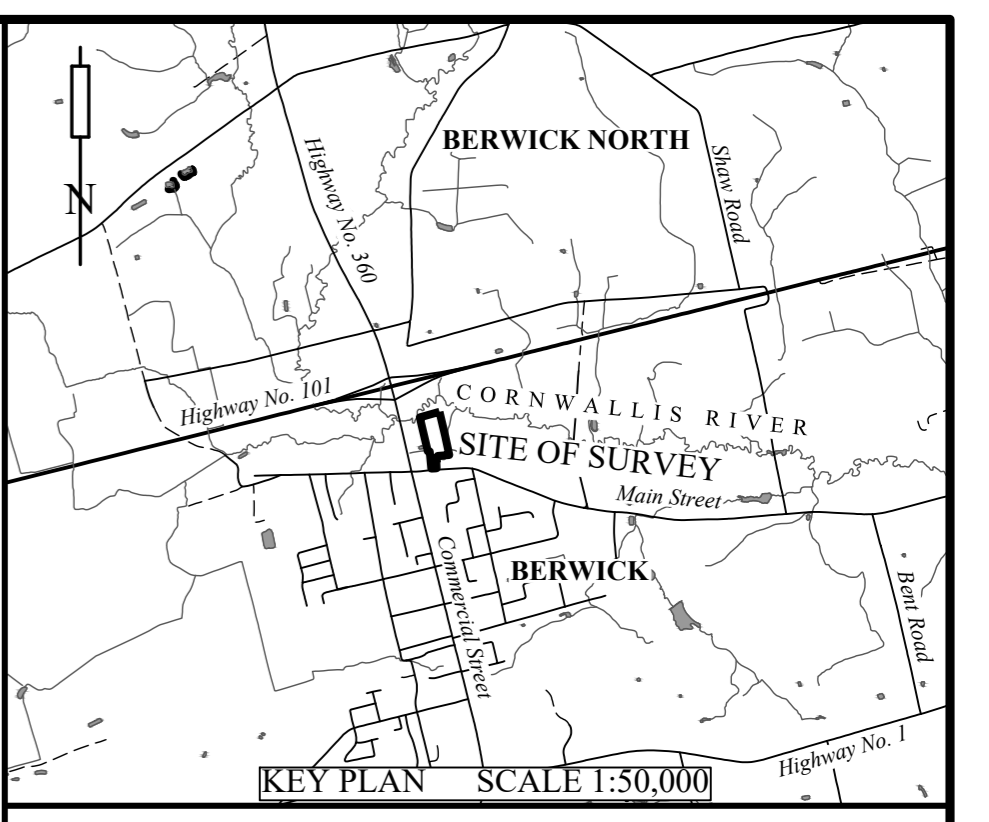
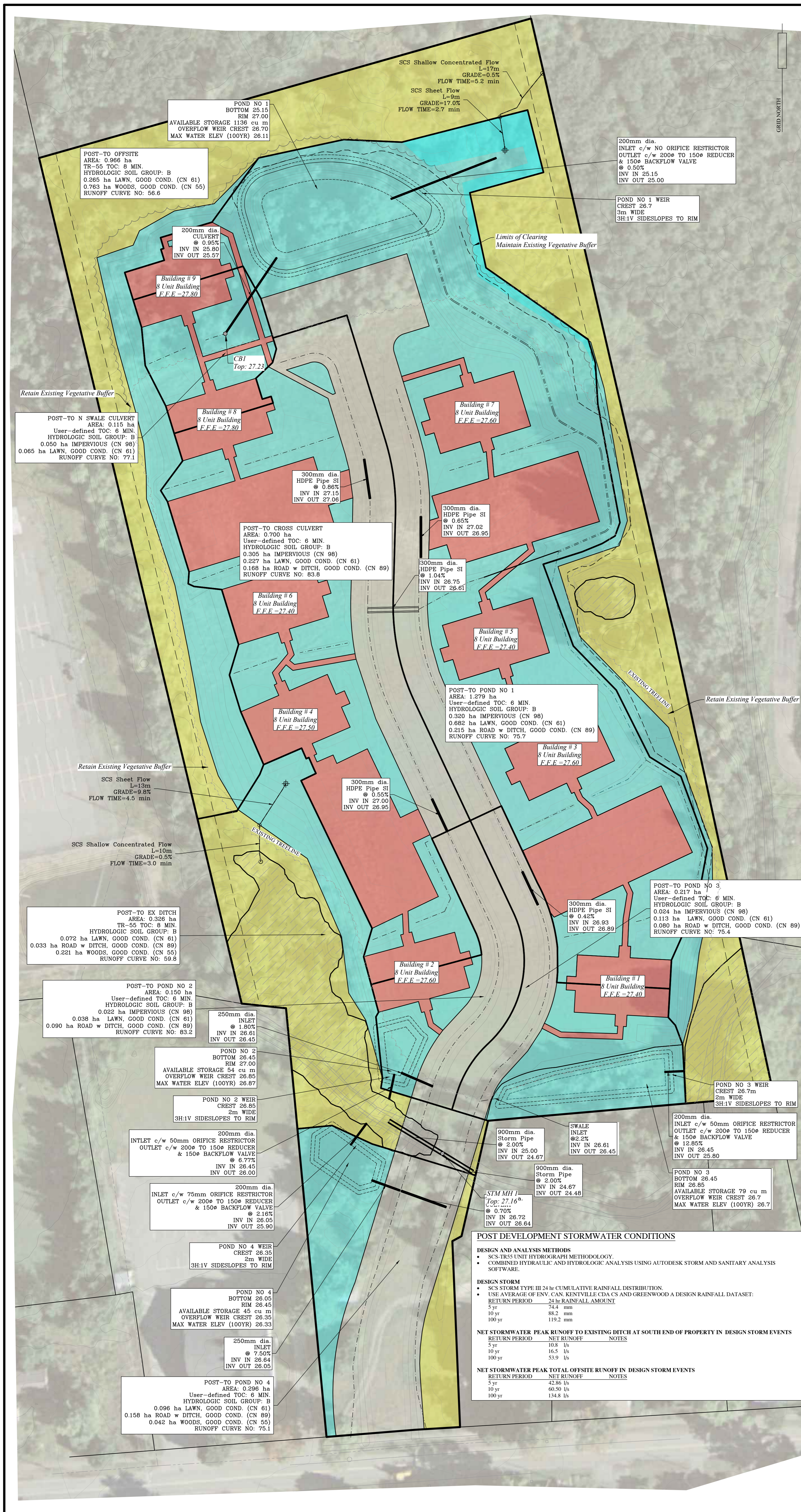
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PRE DEVELOPMENT DRAINAGE PLAN
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HORIZONTAL SCALE 1:500
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REVISIONS

NO.	DESCRIPTION
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POST DEVELOPMENT DRAINAGE PLAN

FOR PROPOSED

MULTI UNIT DEVELOPMENT

FOR KENT FIELD ESTATES

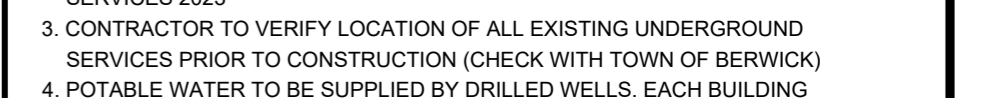
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10 yr	85.2 mm
100 yr	119.2 mm

NET STORMWATER PEAK RUNOFF TO EXISTING DITCH AT SOUTH END OF PROPERTY IN DESIGN STORM EVENTS

RETURN PERIOD	NET RUNOFF	NOTES
5 yr	10.8 l/s	
10 yr	16.5 l/s	
100 yr	53.9 l/s	

NET STORMWATER PEAK TOTAL OFFSITE RUNOFF IN DESIGN STORM EVENTS

RETURN PERIOD	NET RUNOFF	NOTES
5 yr	42.86 l/s	
10 yr	60.50 l/s	
100 yr	134.8 l/s	

DeWOLFE & MORSE SURVEYING LIMITED

P.O. BOX 520 MIDDLETON

ANNAPOLIS COUNTY, N.S.

BOS - 1P0

Email: info@demosl.ca

DRAFTED ON AUGUST 3, 2023

PLAN No: 2020-293 POST DEV

SHEET 8 of 8

This Development Agreement made this _____ day of _____, A.D.,2022

Between:

Kent Field Estates Ltd references body duly incorporated pursuant to the Companies Act of Nova Scotia and registered with the Nova Scotia Registry of Joint Stock Companies, with offices in Kentville Nova Scotia and hereinafter called the "Developer",

OF THE FIRST PART

-and-

Town of Berwick a duly incorporated municipal body incorporated under the laws of the Province of Nova Scotia, hereinafter called the "Town"

OF THE SECOND PART

WHEREAS the Developer is the owner of certain lands known in the Town of Berwick (PID 55539670) and more particularly described in the attached Schedule "A" and hereinafter called the "Property"; and

AND WHEREAS the Developer has submitted a detailed development proposal for 72 grouped residential dwellings with associated surface parking;

AND WHEREAS Policy GMU4 of the Town of Berwick Municipal Planning Strategy requires that grouped residential dwellings be considered and approved by Development Agreement;

AND WHEREAS the proposed development of the Property has been considered at a Public Hearing held on Insert Date of PH. and approved by a majority vote of the Town Council on [Click or tap to enter a date.](#) pursuant to requirements of the Municipal Government Act;

NOW THEREFORE in consideration of the various covenants and benefits hereinafter set out in this Agreement, the parties hereto agree as follows:

Part 1: General Requirements and Administration

1.1 Applicability of Agreement

1.1.1 The Developer agrees that the Property shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.

1.1.2 Variances to the requirements of the applicable Land Use By-law shall be permitted in accordance with the Municipal Government Act on the whole site as shown on Schedule B.

1.2 Applicability of Other By-laws, Statutes and Regulations

1.2.1 Nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Town applicable to the Property (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Provincial/Federal Government and the Developer or Lot Owner agree(s) to observe and comply with all such laws, by-laws and regulations, as may be amended from time to time, in connection with the development and use of the Property.

1.2.2 The Developer shall be responsible for securing all applicable approvals associated with the on-site and off-site servicing systems required to accommodate the development, including but not limited to sanitary sewer system, water supply system, stormwater sewer and drainage system, and utilities. Such approvals shall be obtained in accordance with all applicable by-laws, standards, policies, and regulations of the Town and other approval agencies. All costs associated with the supply and installation of all servicing systems and utilities shall be the responsibility of the Developer. All design drawings and information shall be certified by a Professional Engineer or appropriate professional as required by this Agreement or other approval agencies.

1.3 Conflict

1.3.1 Where the provisions of this Agreement conflict with those of any by-law of the Town applicable to the Property (other than the Land Use By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail;.

1.3.2 Where the written text of this Agreement conflicts with information provided in the Schedules attached to this Agreement, the written text of this Agreement shall prevail.

1.4 Costs, Expenses, Liabilities and Obligations

1.4.1 The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all Federal, Provincial and Municipal laws, by-laws, regulations and codes applicable to the Property.

1.5 Provisions Severable

1.5.1 The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

1.6 Property

1.6.1 The Developer hereby represents and warrants to the Town that the Developer is the owner of the Property and that all owners of the Property have entered into this Agreement.

Part 2: Definitions

2.1.1 All words used herein shall be defined as in the Land Use Bylaw and Subdivision Bylaw unless otherwise specifically defined herein. If not defined herein or in these Bylaws, the customary meaning shall apply.

2.2 When interpreting this agreement, the following words are defined as follows:

- a) *Interior drive isles* are travel pathways for vehicles interior to the Lot that provide access to vehicles to the onsite buildings or uses.
- b) *Land Use Bylaw* means the Town of Berwick Land Use By-law adopted by Council on October 9, 2012, as amended from time to time.
- c) *Master Drainage Plan* means a drainage plan prepared by a qualified engineer for the lot that illustrates the discharge to drains, ditches or streams of catchment runoff as a result of storm rainfall over the catchment.
- d) *Residential Grouped Dwellings* means two or more multiple unit dwellings buildings on the same lot.
- e) *Municipal Planning Strategy* means the Town of Berwick Municipal Planning Strategy adopted by Town Council on October 9, 2012, as amended from time to time.

Part 3: Use of Property, Subdivision and Development Provisions

3.1 Schedules

3.1.1 The Developer shall develop the Property in a manner, which, in the opinion of the Development Officer, conforms with the following Schedules attached to this Agreement:

- a) Schedule A: Legal Description of the Property(s)
- b) Schedule B: Site Plan
- c) Schedule C: Insert if there is a Schedule C
- d) Schedule D: Insert if there is a Schedule D

3.2 Requirements Prior to approval

3.2.1 Prior to the issuance of any Development Permits, the Developer shall provide the following to the Development Officer, unless otherwise permitted by the Development Officer:

- a) Approval of the Municipal Engineer of all on site sewer infrastructure that will connect the Town's sewer system.
- b) If required, the necessary permits from Nova Scotia Environment and Climate Change regarding the provision of potable water to the Use.
- c) Approval of the landscaped median and driveway access from the Public Street to the Development.
- d) An access and drainage easement in a format acceptable to the Town as required by the site plan.
- e) A Master Drainage Plan for the entire site that demonstrates that the pre-construction stormwater run off will not exceed post development run-off. Any Development Permit applications for subsequent phases or buildings must include a drainage plan that demonstrates how the development permit application complies with the Master Drainage Pan.
- f) A Master Landscaping Plan that, in the opinion of the Development Offices, complies with the following requirements:
 - Shows the location of internal walkways that connects public street or the Interior Drive Isles to each residential dwelling, as generally shown on the Site Plan
 - Provide an area of exterior common space for the use of tenants
 - A vegetative buffer along the property line with any adjacent residential uses. The vegetative buffer shall include a mixed of trees at a minimum of 6 feet at planting and bushy shrubs. Trees shall be no more than 15 feet apart and include both deciduous and coniferous species. Landscaping must be complete within 6 months of issuance of a building permit.
 - Development Permit applications for subsequent phases or buildings must include a landscaping plan that demonstrates how the development permit application complies with the Master Landscaping Plan.

3.2.2 Notwithstanding any other provision of this Agreement, the Developer shall not occupy or use the Property for any of the uses permitted by this Agreement unless an Occupancy Permit has been issued by the Town. No Occupancy Permit shall be issued by the Town unless and until the Developer has complied with all applicable provisions of this Agreement and the Land Use By-law (except to the extent that the provisions of the Land Use By-law are varied by this Agreement) and with the terms and conditions of all permits, licenses, and approvals required to be obtained by the Developer pursuant to this Agreement.

3.3 General Description of Land Use

3.3.1 The uses of the Property permitted by this Agreement are the following and as generally shown on Schedule B:

- Grouped residential uses
- Accessory structures related to the residential use including accessory storage facilities for residents of the Development.

3.3.2 Site Requirements

- (a) The Development shall generally comply with the site plan in Schedule B.

- (b) Amenity Areas, as shown on the Schedule A, must be grassed and include shade trees (deciduous trees). Amenity areas must include fixed seating (benches). The Developer also shall install a Playground area before a Development Permit will be for the 40th unit.
- (c) The minimum separation distance between buildings shall be 29 feet
- (d) Drive isles shall be designed as to minimize hazards to pedestrians and cyclists. Drive isles must be a minimum of 20 feet for two way traffic and 10 feet for one way traffic.
- (e) Parking spaces are required at a rate of one (1) parking space for each dwelling unit under three (3) bedrooms. For units over three (3) bedrooms, 1.25 parking spaces shall be required.
- (f) Parking Area Standards listed in 5.26 of the LUB, as amended from time to time, apply except as otherwise stated in this Agreement.
- (g) Power and communications infrastructure must be approved by the Berwick Electrical Commission.
- (h) The sanitary sewer collection system will be privately owned and maintained by the Developer.
- (i) All drainage infrastructure will be privately owned and maintained by the developer.
- (j) Silt fencing and check dams must be installed during construction according the Erosion and Sedimentation Plan.
- (k) The Developer must secure all necessary permits for wetland alterations.

3.3.3 Phasing

- (a) The Development may be constructed in a phased approach.
- (b) Amenity areas shall be required as follows:
 - i. Each unit shall have a minimum of 1500 square feet of external amenity space/green space.
 - ii. Before a permit for each building shown on Schedule B, the Developer shall provide a site plan for the building showing the amenity space associated with that building.
 - iii. The Developer is required to pave the driveway no later than two years from date of the issuance of the first Development Permit for this Development.

3.3.4 Maintenance

The Developer shall be responsible to maintain the property in compliance with all Town By-laws and applicable Provincial regulations and to ensure that the property is maintained in a safe and clean condition.

All non-hard surfaced areas, such as walkways, drive isles, and building footprints, shall be grassed.

Part 4: Streets and Municipal Services

4.1 Off-Site Disturbance

- 4.1.1 Any disturbance to existing off-site infrastructure resulting from the development, including but not limited to, streets, sidewalks, curbs and gutters, street trees,

landscaped areas and utilities, shall be the responsibility of the Developer, and shall be reinstated, removed, replaced or relocated by the Developer as directed by the Development Officer, in consultation with the Town's Engineer or Director of Public Works.

- 4.1.2 Driveway Access from the Public Street to the Development shall be approved. Driveway Access shall include a landscaped medium beginning at the Public Street and continue for a minimum of 75 feet.

Part 5: Amendments

5.1 Non-Substantive Amendments

- 5.1.1 The following items are considered by both parties to be not substantive and may be amended by resolution of Council.
- a) The requirements of the Landscaping Plan
 - b) An increase in the total number of units by ten (10%)
 - c) Conversion of no more than two (2) of the residential units into a commercial use that serves the needs of residents of the Development. This includes, but is not limited to
 - Hairdressers
 - Personal service uses
 - Small scale commercial uses not exceeding 1000 square feet

5.2 Substantive Amendments

- 5.2.1 Amendments to any matters not identified under Section 5.1 shall be deemed substantive and may only be amended in accordance with the approval requirements of the Municipal Government Act and includes:
- a) Altering the size of an individual building
 - b) Reducing the amount of Amenity Space by more than five (5%)
 - c) Any other change not listed in 5.1.1

Part 6: Registration, Effect of Conveyances and Discharge

6.1 Registration

- 6.1.1 A copy of this Agreement and every amendment or discharge of this Agreement shall be recorded at the Registry of Deeds or Land Registry Office for the County of Kings, Nova Scotia and the Developer shall incur all costs in recording such documents.

6.2 Subsequent Owners

- 6.2.1 This Agreement shall be binding upon the parties hereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the Property which are the subject of this Agreement until this Agreement is discharged by Council.

6.2.2 Upon the transfer of title to any lot(s), the subsequent owner(s) thereof shall observe and perform the terms and conditions of this Agreement to the extent applicable to the lot(s).

6.3 Commencement of Development

6.3.1 In the event that development on the Property has not commenced within one year from the date of registration of this Agreement at the Registry of Deeds or Land Registry Office, as indicated herein, the Property shall conform with the provisions of the Land Use By-law.

6.3.2 For the purpose of this section, commencement of development shall mean issuance of a Building Permit.

6.3.3 For the purpose of this section, Council may consider granting an extension of the commencement of development time period through a resolution under Section 6.1, if the Town receives a written request from the Developer at least sixty (60) calendar days prior to the expiry of the commencement of development time period.

6.4 Completion of Development

6.4.1 Upon the completion of the whole development, Council may review this Agreement, in whole or in part, and may:

- a) retain the Agreement in its present form;
- b) negotiate a new Agreement; or
- c) discharge this Agreement.

6.4.2 For the purpose of this section, completion of development shall mean issuance of an Occupancy Permit.

6.4.3 The Development shall be within five years of the Commencement of Development.

6.5 Discharge of Agreement

6.5.1 If the Developer fails to complete the development after five years from the date of registration of this Agreement at the Registry of Deeds or Land Registration Office Council may review this Agreement, in whole or in part, and may:

- a) retain the Agreement in its present form;
- b) negotiate a new Agreement;
- c) discharge this Agreement; or
- d) Extend the Agreement for an additional two years.

Part 7: Enforcement and Rights and Remedies on Default

7.1 Enforcement

7.1.1 The Developer agrees that any officer appointed by the Town to enforce this Agreement shall be granted access onto the Property during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written

notification from an officer of the Town to inspect the interior of any building located on the Property, the Developer agrees to allow for such an inspection during any reasonable hour within seventy two hours of receiving such a request.

7.2 Failure to Comply

7.2.1 If the Developer fails to observe or perform any condition of this Agreement after the Town has given the Developer 30 days written notice of the failure or default, then in each such case:

- a) The Town shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defence based upon the allegation that damages would be an adequate remedy;
- b) The Town may enter onto the Property and perform any of the covenants contained in this Agreement or take such remedial action as is considered necessary to correct a breach of the Agreement, whereupon all reasonable expenses whether arising out of the entry onto the Property or from the performance of the covenants or remedial action, shall be a first lien on the Property and be shown on any tax certificate issued under the Assessment Act;
- c) The Town may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; or
- d) In addition to the above remedies, the Town reserves the right to pursue any other remedy under the Municipal Government Act or Common Law in order to ensure compliance with this Agreement.

Part 8: Expenses

8.1.1 In addition to the costs to be paid pursuant to section 6.1.1, any expenses incurred by the Town in exercising its rights under Section 12 shall be paid by the Developer to the Town. Such expenses may include, but are not limited to, costs incurred in returning property owned by the Town, or the Property to their original condition before the beginning of work on the development, costs incurred for entry on the Properties and performance of the Developer's obligations, and all solicitors' fees and disbursements incurred in terminating or discharging this Development Agreement. Such expenses shall be payable by the Developer to the Town as a debt and may be recovered from the Developer by direct suit. They shall form a charge upon the Properties. The Developer shall pay interest on any sum so expended by the Town at the same monthly rate charged by the Town for tax arrears on the outstanding balance from time to time. Such interest shall be treated as an expense

8.1.2 The Developer shall be liable for any damage caused to public or private property by Developer or any contractor or other individual doing work related to the development. The Developer shall indemnify the Town and save it harmless from any claim, cause of action, or liability in any way relating to the development. The Developer shall obtain

and maintain in force throughout the course of construction on the development, liability insurance coverage to ensure the responsibilities which the Developer is assuming in this section.

Part 9: Notice

Any notice to be given under this Development Agreement shall be made in writing and either served personally or forwarded by courier or by registered mail, postage prepaid,

if to the Town to:

Town of Berwick
236 Commercial Street
Berwick, NS
B0P 1E0
Attention: Chief Administrative Officer

And if to the Developer to:

Kent Field Estates Ltd
6 Neva Mae Place
Kentville, NS B4N 0G5
Attention: Terry Whynot

THIS AGREEMENT shall enure to the benefit of and be binding upon the parties hereto, their respective heirs, executors, administrators, agents, successors and assigns.

IN WITNESS WHEREOF, this Agreement was properly executed by the respective parties on the day and year first above written

SIGNED, SEALED AND DELIVERED

In the presence of:

Developer

Witness

Kent Field Estates

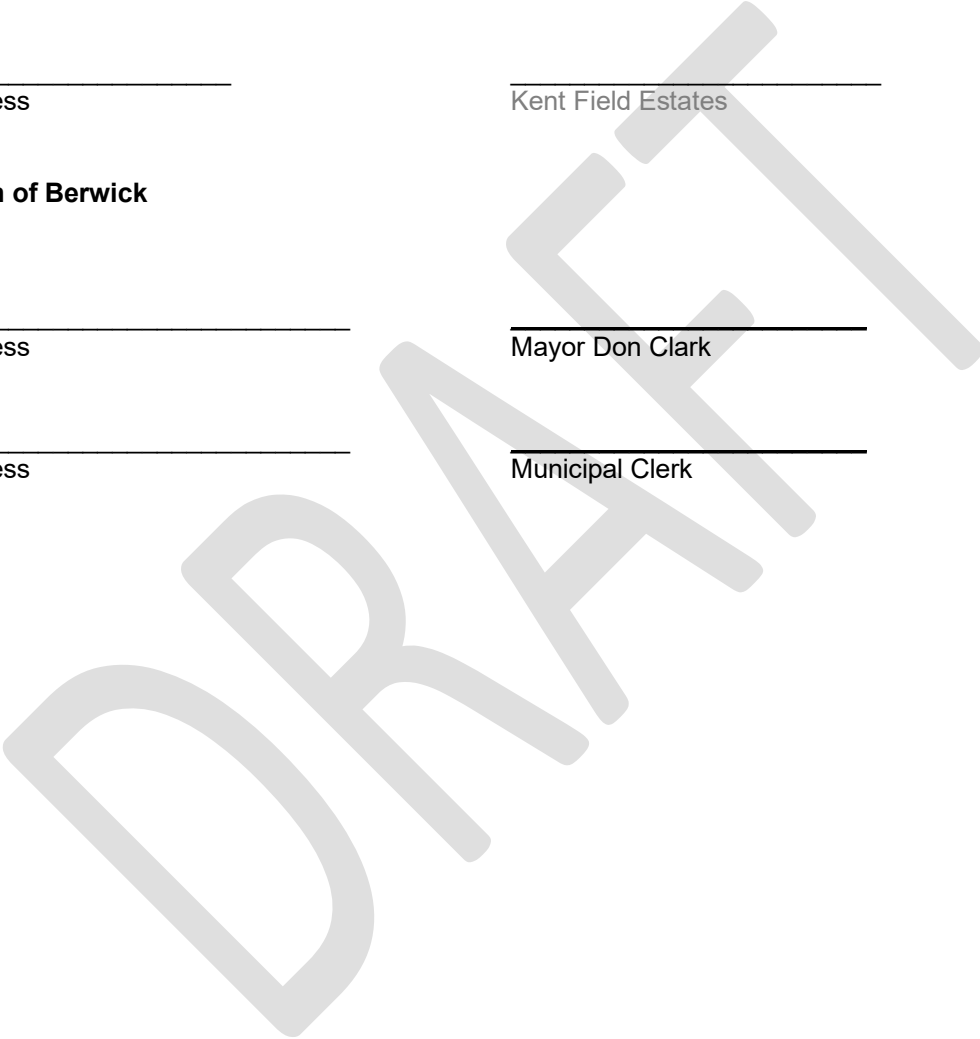
Town of Berwick

Witness

Mayor Don Clark

Witness

Municipal Clerk



Schedule "A", - Property Description

Registration County: KINGS COUNTY

Street/Place Name: MAIN STREET /BERWICK

Title of Plan: PLAN OF S/D PARCEL A & PARCEL B PARCEL A LAND OF TOWN OF BERWICK TO BE AN ADDITION TO LAND OF R ANTHONY LENTON PARCEL B LAND OF R ANTHONY LENTON TO BE AN ADDITION TO LAND OF TOWN OF BERWICK TO FORM LOT 2020-1 & LOT 2020-2 REMAINDER OF PID 55242606 LAND OF TOWN OF BERWICK TO BE CONSOLIDATED WITH PID 55481915 ADJACENT LAND OWNED BY TOWN OF BERWICK CIVIC 226 & CIVIC 228 MAIN ST BERWICK

Designation of Parcel on Plan: LOT 2020-1

Registration Number of Plan: 117975947

Registration Date of Plan: 2021-02-10 12:10:06

*** Municipal Government Act, Part IX Compliance ***

Compliance:

The parcel is created by a subdivision (details below) that has been filed under the Registry Act or registered under the Land Registration Act

Registration District: KINGS COUNTY

Registration Year: 2021

Plan or Document Number: 117975947

DRAFT