ROTHESAY

Subdivision Agreement

Land Titles Act, S.N.B. 1981, c.L-1.1, s.24

Parcel Identifiers of Parcels Burdened by Agreement 30146674 and 30145708

Owner of Land Parcels

MR Investments Inc.

16 Arthur Avenue Rothesay, NB E2E 6A7

(Hereinafter called the "Developer")

Agreement with

Rothesay

70 Hampton Road Rothesay, NB E2E 5L5

a body corporate under and by virtue of the Municipalities Act, RSNB 1973, Chapter M-22, located in the County of Kings and Province of New Brunswick

Jointly called the 'Parties'

Whereas the Developer is the registered owner of certain lands accessed from Kaitlyn Street and School Avenue (PIDs 30146674 and 30146708) which said lands are more particularly described in Schedule A hereto (hereinafter called the "Lands");

AND Whereas the Developer wishes to enter a subdivision agreement to allow for development of a 58 lot residential subdivision including new public roads: School Street (extension), Kaitlyn Street (extension), Gary Court, and Glenn Court identified as Glengarry Estates on the Lands as described in Schedule A.

NOW THEREFORE THIS AGREEMENT

ACKNOWLEDGES that in consideration of the mutual covenants and agreements herein set out, the Parties agree as follows:

- 1. The Developer agrees that the number of Lots situated on the Lands indicated on Schedule A shall not exceed fiftyeight (58) building lots.
- 2. The Developer agrees that the number of buildings situated on the Lands indicated on Schedule A shall not exceed fifty-eight (58) single-family dwellings.
- 3. The Developer agrees that only Kaitlyn Street shall be used for all construction machinery, heavy equipment and

- related construction vehicles during weekdays from September until June inclusive.
- 4. The Developer agrees to submit for approval by Rothesay, prior to commencing any work on the subdivision, the following plans, each in accordance with the minimum requirements, standards and specifications as prescribed in the Standard Specifications for Developers of Rothesay Subdivision By-law No. 4-10;
 - a) Plan of Subdivision prepared by a person registered to practice land surveying in the Province of New Brunswick;
 - b) a letter of engagement from the project engineer retained by the Developer to design the proposed works, along with engineering design drawings for all municipal services as specified herein.
- 5. The Developer agrees that Rothesay shall not issue a building permit to the Developer for work directly connected with the development of the Lands, nor shall the Developer be entitled to such a permit unless and until the Developer deposits with Rothesay an Irrevocable Letter of Credit from a Canadian Chartered Financial Institution or other security acceptable to Rothesay:
 - a) Valued at 50% of the estimated cost of construction to execute the work approved by the Engineer pursuant to this agreement; and
 - b) Containing a provision that on the expiration of a thirty-six (36) month term it be renewed and extended (with appropriate amendments to reduce the sum to an amount sufficient to recover the remaining work) from year to year until such time as Rothesay has accepted "final completion" of the work mentioned in this agreement, by resolution of Rothesay Council.
- 6. Rothesay and Developer agree that a maximum 20 percent reduction in the total number of building lots and the resulting applicable and necessary changes to Schedule B is non-substantive and generally in conformance with this Agreement.

Schedules

7. The Developer agrees, that except as otherwise provided for herein, the development, subdivision and use of the Lands shall comply with the requirements of the Rothesay Zoning By-law and Subdivision By-law, as may be amended from time to time.

Subdivision

8. The Developer agrees to develop the Lands in a manner, which, in the opinion of Rothesay's Development Officer, is generally in conformance with the following Schedules attached to this Agreement:

a. Schedule A Legal Description of Parcels (PID #s)

b. Schedule B Proposed Plan of Subdivision

c. Schedule C Proposed Phasing of Public

Infrastructure

Land for Public Purposes

9. The Parties agree that the 4897 square meter parcel located as indicated on Schedule B shall be vested to Rothesay as Land for Public Purposes (LPP).

Site Development

- 10. The Developer agrees to develop the Lands in a manner, which, in the opinion of Rothesay's Development Officer, is generally in conformance with Schedule B.
- 11. The Developer agrees not to commence clearing of trees, excavation of topsoil or blasting activities in association with the construction of the subdivision until Rothesay's Development Officer and Engineer have provided approval of the engineering design and the laying out of new public streets.
- 12. The Developer agrees that all building lots developed and maintained by the successive lot owner(s) their successors and assigns shall as conform as follows:
 - a) provide illumination of the primary driveway entrance to the public street right of way;
 - b) be supplied from the lot owner's electrical system;
 - automatically switch on when there is insufficient daylight;
 - d) be located not closer than 1.5 meters to the paved driveway edge and not closer than 2 meters to the public street right of way boundary;
 - e) be maintained to ensure continuous operation during nighttime hours; and
 - f) luminaries shall be certified outdoor lighting fixtures that minimize glare while reducing light trespass and sky glow and fully shielded to minimize the amount of blue light in the nighttime environment.

Municipal Streets

- 13. The Developer shall carry out, subject to inspection and approval by Rothesay representatives, and pay for the entire actual cost of the following:
 - a) surveying and staking of lots and streets;
 - b) rough grading of streets to profiles approved by Rothesay;
 - fine grading of streets to profiles approved by Rothesay;
 - d) hard surfacing of the streets as shown on the plan to Rothesay specifications; sub-grade standards, compaction and finish as approved by Rothesay's Engineer, in writing, before final hard surfacing may be installed;
 - e) constructing the proposed roads as shown on the plan of subdivision by completing the clearing, grubbing, grading and aggregate subbase of the Kaitlyn Street extension through the Kaitlyn intersection as the first phase of the development;
 - f) the installation of sidewalks to Rothesay standards on Kaitlyn Street and School Avenue;
 - g) supply and maintain for a period of two (2) years the topsoil, sod, landscaping and the planting of street trees calculated as no more than one tree for each 10 meters measured along the linear center line of the public street right of way, planted on alternating street side location(s) approved by Rothesay and where such street trees are as follows:
 - i. not smaller than one hundred millimeters (100 mm) in diameter measured at a point being 2 meters above the root ball such trees species as approved by Rothesay.
 - ii. inspected by Rothesay 12 months from time of planting and again then at 24 months. The Developer shall replace trees identified for replacement during warranty inspections.
 - h) Engineering design and inspection of those works referred to in clauses b), c) d) and e) of this section.
- 14. The Developer agrees to provide, upon completion of Part 14, signed documentation and progress reports from a practicing Professional Engineer, licensed in New Brunswick ensuring that applicable codes and standards have been met and that the work was completed utilizing

- such materials as in accordance with the terms of this Agreement and approved specifications.
- 15. The Developer agrees to provide as-built drawings that delineate all public infrastructure to be submitted to Rothesay in compliance with the minimum standards and requirements specified in Rothesay's Digital Data Submission Standards for Infrastructure and Construction Drawings.
- 16. Rothesay reserves the right to assign public street names, notwithstanding that names may not correspond with those shown on Schedule B.
- 17. The Developer agrees that all items, materials, pipes, fittings, and other such infrastructure following acceptance of delivery on site by the Developer shall remain the full responsibility of the Developer against their accidental breakage or vandalism until Rothesay accepts the completed works.
- 18. The Developer agrees that it will not occupy any dwelling and no occupancy permit will be issued by Rothesay for any such dwelling until such time as the street, which provides the normal access, to each dwelling, has been constructed to Rothesay standards beyond the point which shall be used as the normal entrance of the driveway to service such dwelling.
- 19. The Developer agrees to restore all disturbed or damaged areas of the public street and right of way to the satisfaction of Rothesay's Engineer following installation of the required municipal services.

Storm Water

- 20. The Developer and Rothesay agree to work together in collaboration to develop stormwater management solutions for pre-existing offsite stormwater issues as determined by the Developer's Engineer and Rothesay's Engineer.
- 21. The Developer agrees to accept responsibility for all costs associated with the construction of a storm water system including curbs, pipes, fittings, precast sections for manholes and catch basins capable of removing surface water, to a predetermined location designated by the Developer's Engineer and accepted by Rothesay's Engineer.
- 22. The Developer agrees to submit for approval by Rothesay, prior to commencing any work on the storm water system such plans, as required by Rothesay, that shall conform with the design schematics and construction standards of

- Rothesay, unless otherwise acceptable to Rothesay's Engineer.
- 23. The Developer agrees that all roof leaders, down spouts, and other storm water drains from all proposed dwellings shall not be directed or otherwise connected or discharged to Rothesay's sanitary collection system.
- 24. The Developer agrees that the storm water drainage from all dwellings shall not be discharged:
 - a) directly onto the ground surface within one meter of a proposed dwelling;
 - b) within 1.5 m of an adjacent property boundary;
 - c) to a location where discharged water has the potential to adversely impact the stability of a side yard or rear yard slope or a portion of the property where there exists a risk of instability or slope failure; or
 - d) to a location or in such a manner that the discharge water causes or has the potential to cause nuisance, hazard or damage to adjacent dwellings or structures.
- 25. The Developer agrees to provide to Rothesay's Engineer written certification of a Professional Engineer, licensed to practice in New Brunswick that the storm water system has been satisfactorily completed and constructed in accordance with Rothesay specifications.

Water Supply

- 26. The Developer agrees to connect to Rothesay's existing water system utilizing methods of connection and at a location as determined by Rothesay's Engineer.
- 27. Rothesay agrees to supply potable water for the purposes and for those purposes only for a maximum of fifty-eight (58) unit in attached residential dwellings and for minor and accessory purposes incidental thereto and for no other purposes whatsoever.
- 28. The Developer agrees extending the water system from the current termination on Kaitlyn Street to the Lands shall be at the cost of the Developer.
- 29. The Developer agrees to pay Rothesay a connection fee for each residential unit connected to the Rothesay water system calculated in the manner set out by By-law as amended from time to time, to be paid to Rothesay on issuance of each building permit.

- 30. The Developer agrees that Rothesay does not guarantee an uninterrupted supply or a sufficient or uniform water pressure or a defined quality of water. Rothesay shall not be liable to the Developer or to any person, firm or corporation for any damage or injury caused by the interruption of the supply of water, the lack of uniform pressure thereof or the quality of water.
- 31. The Developer agrees that all connections to Rothesay water mains shall be approved and inspected by Rothesay's Engineer or their representative prior to backfilling and that the operation of water system valves is the sole responsibility of Rothesay.
- 32. The Developer agrees to comply with Rothesay's Water By-law and furthermore that a separate water meter shall be installed, at their expense, for each residential connection made to Rothesay's water system.
- 33. The Developer agrees that Rothesay may terminate the Developer's connection to Rothesay water system in the event that Rothesay determines that the Developer is drawing water for an unauthorized purpose or for any other use that Rothesay deems in its absolute discretion.
- 34. The Developer agrees to provide, prior to the occupation of any buildings or portions thereof, written certification of a Professional Engineer, licensed to practice in New Brunswick that the connection of service laterals and the connection to the existing Rothesay water system has been satisfactorily completed and constructed in accordance with Rothesay specifications.

Sanitary Sewer

- 35. The Developer agrees to connect to the existing sanitary sewer system at a location identified by Rothesay's Engineer and utilizing methods of connection approved by Rothesay's Engineer.
- 36. The Developer agrees to pay Rothesay a connection fee for each residential unit connected to the Rothesay sewer system calculated in the manner set out by By-law as amended from time to time, to be paid to Rothesay on issuance of each building permit.
- 37. The Developer agrees to carry out subject to inspection and approval by Rothesay representatives, and pay for the entire actual costs of the Engineering design, supply, installation, inspection and construction of all service laterals necessary to connect to the existing sanitary sewer system inclusive of all pipes, laterals, fittings, and precast concrete units.

- 38. The Developer agrees to submit for approval by Rothesay, prior to commencing any work to connect to the sanitary sewer system, any plans required by Rothesay, with each such plan meeting the requirements as described in Rothesay specifications for such development.
- 39. The Developer agrees that all connections to Rothesay sanitary sewer system shall be supervised by the Developer's engineer and inspected by Rothesay's Engineer or such other person as is designated by Rothesay prior to backfilling and shall occur at the sole expense of the Developer.

Local Government Services Easements

40. The Developer agrees to secure and grant to Rothesay, its successors and assigns, unencumbered easements crossing the Lands of the Developer in the form customarily used by Rothesay, providing for the full, free and uninterrupted right, liberty, privilege and easement to install, construct, reconstruct, repair, clean, maintain, inspect and use as part of the municipal services of Rothesay and as appurtenant thereto, and for all times hereafter, including sewers, water system mains, storm water collection infrastructure and other municipal services of such kind, size, type and number as Rothesay may from time to time determine necessary.

Retaining Walls

- 41. The Developer agrees that dry-stacked segmental concrete (masonry block) gravity walls shall be the preferred method of retaining wall construction for the purpose of erosion control or slope stability on the Lands and furthermore that the use of metal wire basket cages filled with rock (gabions) is not an acceptable method of retaining wall construction.
- 42. The Developer agrees to obtain from Rothesay a Building Permit for any retaining wall, as required on the Lands, in excess of 2 meters in height and that such retaining walls will be designed by a Professional Engineer, licensed to practice in New Brunswick.

Indemnification

43. The Developer does hereby indemnify and save harmless Rothesay from all manner of claims or actions by third parties arising out of the work performed hereunder, and the Developer shall file with Rothesay prior to the commencement of any work hereunder a certificate of insurance naming Rothesay as co-insured evidencing a policy of comprehensive general liability coverage on "an occurrence basis" and containing a cross- liability clause

which policy has a limit of not less than Two Million Dollars (\$2,000,000.00). The aforesaid certificate must provide that the coverage shall stay in force and not be amended, canceled or allowed to lapse within thirty (30) days prior to notice in writing being given to Rothesay. The aforesaid insurance coverage must remain in full force and effect during the period available to the Developer pursuant to this agreement to complete the work set out as described in this Agreement.

Notice

44. Any notice or advice which is to be given under this Agreement shall be deemed to have been satisfactorily given to the Developer if delivered personally or by prepaid mail addressed to MR INVESTMENTS INC., 16 ARTHUR AVENUE, ROTHESAY, N.B., E2E 6A7 and to Rothesay if delivered personally or by prepaid mail addressed to ROTHESAY, 70 HAMPTON ROAD, ROTHESAY, NEW BRUNSWICK, E2E 5L5. In the event of notice by prepaid mail, the notice will be deemed to have been received four (4) days following its posting.

By-laws

45. The Developer agrees to be bound by and to act in accordance with the By-laws of Rothesay as amended from time to time and such other laws and regulations that apply or may apply in future to the site and to activities carried out thereon.

Termination

- 46. Rothesay reserves the right and the Developer agrees that Rothesay has the right to terminate this Agreement without compensation to the Developer if the specific proposal has not been completed on or before xxx 2029 being a date 5 years (60 months) from the date of Council's decision to enter into this Agreement; accordingly the Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Rothesay Zoning Bylaw.
- 47. Notwithstanding Part 46, the Parties agree that development shall be deemed to be complete if within a period of not less than three (3) months prior to 11 January 2029 the construction of the public street and municipal service infrastructure has been completed and that such construction is deemed by Rothesay's Engineer as acceptable.
- 48. The Developer agrees that should Rothesay terminate this Agreement Rothesay may call the Letter of Credit

described herein and apply the proceeds to the cost of completing the work or portions thereof as outlined in the agreement. If there are amounts remaining after the completion of the work in accordance with this agreement, the remainder of the proceeds shall be returned to the Institution issuing the Letter of Credit. If the proceeds of the Letter of Credit are insufficient to compensate Rothesay for the costs of completing the work mentioned in this agreement, the Developer shall promptly on receipt of an invoice pay to Rothesay the full amount owing as required to complete the work.

Security

- 49. The Developer expressly agrees and understands that notwithstanding any provision of Rothesay's Building Bylaws or any statutory by-law or regulatory provision to the contrary, the Building Inspector shall not issue a building permit to the Developer for work directly connected with the development of the Lands, nor shall the Developer be entitled to such a permit unless and until the Developer deposits with Rothesay an Irrevocable Letter of Credit from a Canadian Chartered Financial Institution or other security acceptable to Rothesay:
 - a) Valued at 50% of the cost of construction to execute the work approved by the Engineer pursuant to this agreement; and
 - b) Containing a provision that upon the expiration of a thirty-six (36) month term it be renewed and extended (with appropriate amendments to reduce the sum to an amount sufficient to recover the remaining work) from year to year until such time as Rothesay has accepted "final completion" of the work mentioned in this agreement, by resolution of Rothesay Council.

Failure to Comply

- 50. The Developer agrees that after 60 days written notice by Rothesay regarding the failure of the Developer to observe or perform any covenant or condition of this Agreement, then in each such case:
 - a) Rothesay 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 defense based upon the allegation that damages would be an adequate remedy;

- b) Rothesay may enter onto the Lands 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 Lands or from the performance of the covenants or remedial action, shall be a first lien on the Lands and be shown on any tax certificate issued under the Assessment Act;
- c) Rothesay 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; and/or
- d) In addition to the above remedies, Rothesay reserves the right to pursue any other remediation under the Community Planning Act or Common Law in order to ensure compliance with this Agreement.

Entire Agreement

51. This Agreement contains the whole agreement between the parties hereto and supersedes any prior agreement as regards the lands outlined in the plan hereto annexed.

Severability

52. If any paragraph or part of this agreement is found to be beyond the powers of Rothesay Council to execute, such paragraph or part or item shall be deemed to be severable and all other paragraphs or parts of this agreement shall be deemed to be separate and independent therefrom and to be agreed as such.

Reasonableness

53. Both parties agree to act reasonably in connection with any matter, action, decision, comment or approval required or contemplated under this Agreement.

This Agreement shall be binding upon and endure to the benefit of the Parties hereto and their respective heirs, administrators, successors and assigns.

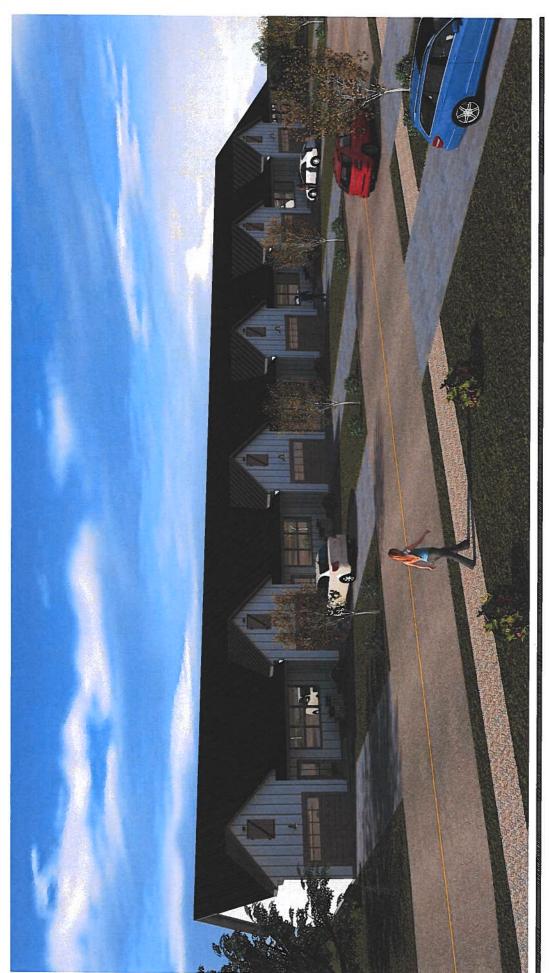
IN WITNESS HEREOF presents the day and year		ties have duly executed these ve written.
Date:	_, 2024	
		MR Investments Inc.
Witness		Stephen P. Maltby
Witness	_	
	_	Rothesay
Witness		Dr. Nancy E. Grant, Mayor
Witness		Mary Jane Banks, Clerk

SCHEDULE A



SCHEDULE B





GLENGARY ESTATES

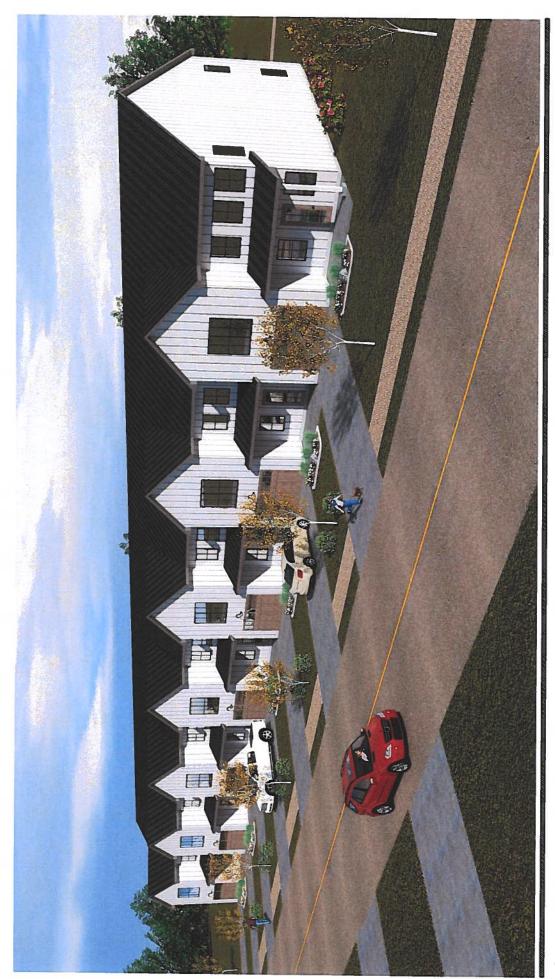
54 UNIT TOWNHOUSE DEV'T ROTHESAY, NB SEPTEMBER, 2023

CONCEPT VIEW

ONE LEVEL LIVING

MR INVESTMENTS ROTHESAY, NB

COMEAU MACKENZIE ARCHITECTURE



GLENGARY ESTATES

54 UNIT TOWNHOUSE DEV'T ROTHESAY, NB SEPTEMBER, 2023

EAMILY UNITS CONCEPT VIEW

MR INVESTMENTS ROTHESAY, NB





September 15, 2023

Planning & Development Services Attn: John Jarvie Rothesay 70 Hampton Road Rothesay, NB

Re: School Avenue – 'Glengary Estates' Proposed Development – Water and Sanitary Servicing, Proposed Streets, Storm Sewer, and Stormwater Management Commentary

Engineering by Houghton ("EBH") has been engaged by MR Investments Inc. to provide civil and land development engineering services for the proposed residential development on PIDs 30146708 and 30146674, the extension of School Avenue and Kaitlyn Street in Rothesay, NB. The proposed development is being unofficially named 'Glengary Estates'.

Glengary Estates is a proposed 54-unit townhouse-style development on approximately 29,500 square meters of land (546m² per unit) at the current termination of School Avenue and Kaitlyn Street. The development will consist of 8 townhouse blocks of 6 or 7 units each.

Water Servicing

The current residential subdivision, 'Rothesay Estates', consisting of Isaac Street, Paige Street, and Kaitlyn Street is serviced with municipal water via a 200mm watermain that crosses under the existing CN Rail right-of-way (R-O-W) from Longwood Drive to the east and terminates at the current end of Kaitlyn Drive.

The proposed Glengary Estates would extend this existing water main to service the proposed development with each proposed townhouse unit being serviced individually with a 25mm water service. No buildings within the development are proposed to require sprinkler systems and fire water will be supplied via municipal fire hydrants. Detailed analysis of the water demand for the proposed development and capacity of the existing system has not yet been analyzed, however preliminary discussions with Rothesay staff indicate that pressure and flow rates available in the municipal water system in this are not a concern at the present time.

Sanitary Sewer

An existing sanitary collector sewer runs parallel to and on the west side of the existing CN Rail R-O-W in the direction of the Town's wastewater treatment facility at Sagamore Point. Existing municipal sanitary sewer mains are also present on Kaitlyn Street and on School Avenue. The main on School Avenue bisects the subject property via a 10m wide sewer easement before connecting to the existing collector sewer at the CN R-O-W. The proposed development would connect to these existing mains via extension of the existing municipal sanitary sewer system, and each proposed townhouse unit would be serviced with a 100mm sanitary sewer lateral. Detailed analysis of the existing sanitary sewer network downstream of the development has not yet been completed, however given the diameter, slopes, and age of the existing downstream sewer system, and the projected peak flows from the development, it is not anticipated that

1942 Manawagonish Road, Saint John NB, E2M 5H5

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the additional flows will create a capacity issue for the existing system. Calculations will be completed during the detailed design phase to confirm this.

<u>Proposed Street Cross Section</u>

The proposed development will include the extension and creation of multiple municipal streets. The proposed street cross section will include an 8.0m wide asphalt driving surface (two 4.0m lanes), concrete curb, landscaped boulevard, and separate concrete sidewalk.

Storm Sewer

Stormwater run-off from the proposed streets and private property will be collected via catch basins connected to an underground storm sewer system that will flow generally west-to-east, ultimately discharging to the existing watercourse to the east (more on this below). The storm sewer system will be designed to convey the run-off from a 1-in-5 year design storm via the minor (piped) storm drainage system, and the major drainage system, including overland flow routes will be designed to convey the 1-in-100 year storm run-off.

Stormwater Quantity and Quality Management

The Salmon Creek watercourse traverses the eastern edge and lowest point of the Glengary Estates development area before crossing under the CN Rail R-O-W via a large diameter corrugated steel culvert. This natural feature will be a provide a beautiful natural asset to the development and measures to protect the watercourse will be taken through the detailed design process.

All existing buildings within the development are proposed to remain outside the 30m buffer zone of the GEONB mapped watercourse and stormwater management measures will be put in place to control the quantity and quality of run-off that enters the watercourse from the development area. The proposed development will include storm water quantity management infrastructure including a potential surface detention area, infiltration ditches and bio-swales. Storm water run-off from the development will be designed to pass through a series of 'green' treatment features including rain gardens, bio-swales, and other natural filtration assets to "treat" the run-off and remove contaminants and suspended solids prior to entering the watercourse downstream. The infrastructure design process will determine the details of these features.

If you have any questions or concerns about the information provided in this letter, please do not hesitate to contact the undersigned.

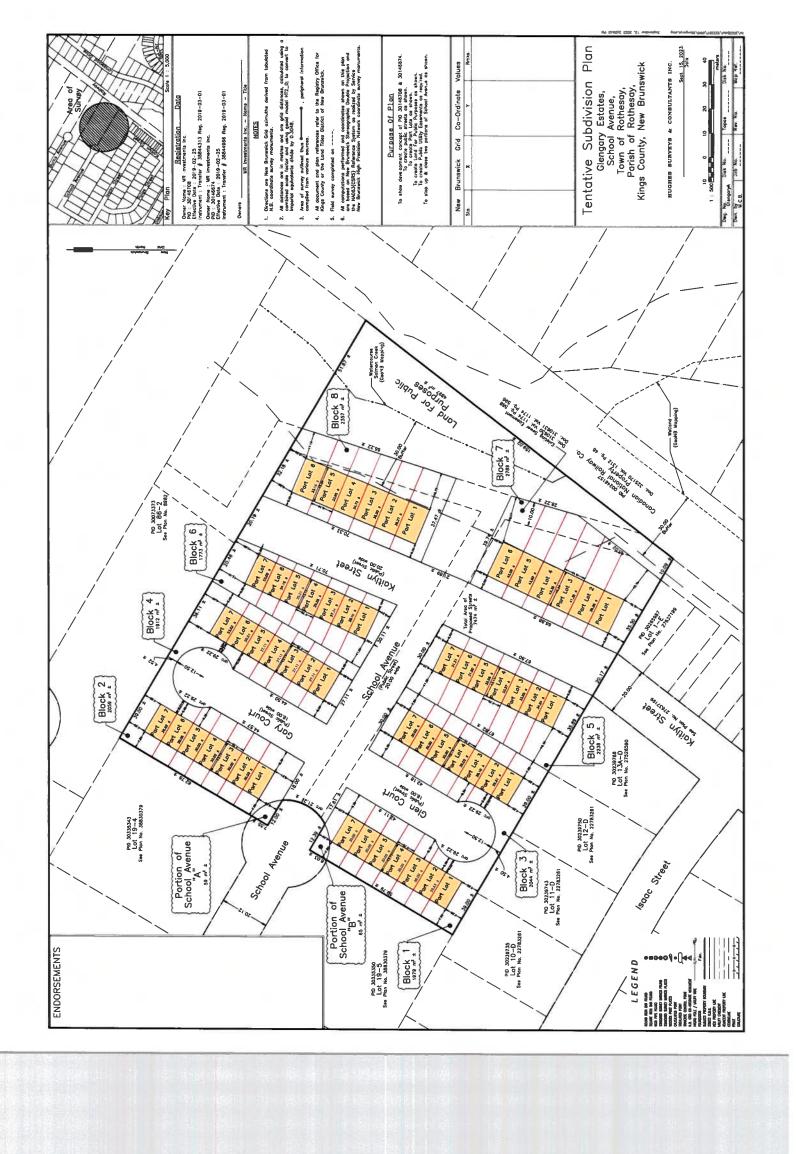
Best Regards,

Jacob Kilpatrick, P.Eng. Civil Engineering Lead Engineering By Houghton

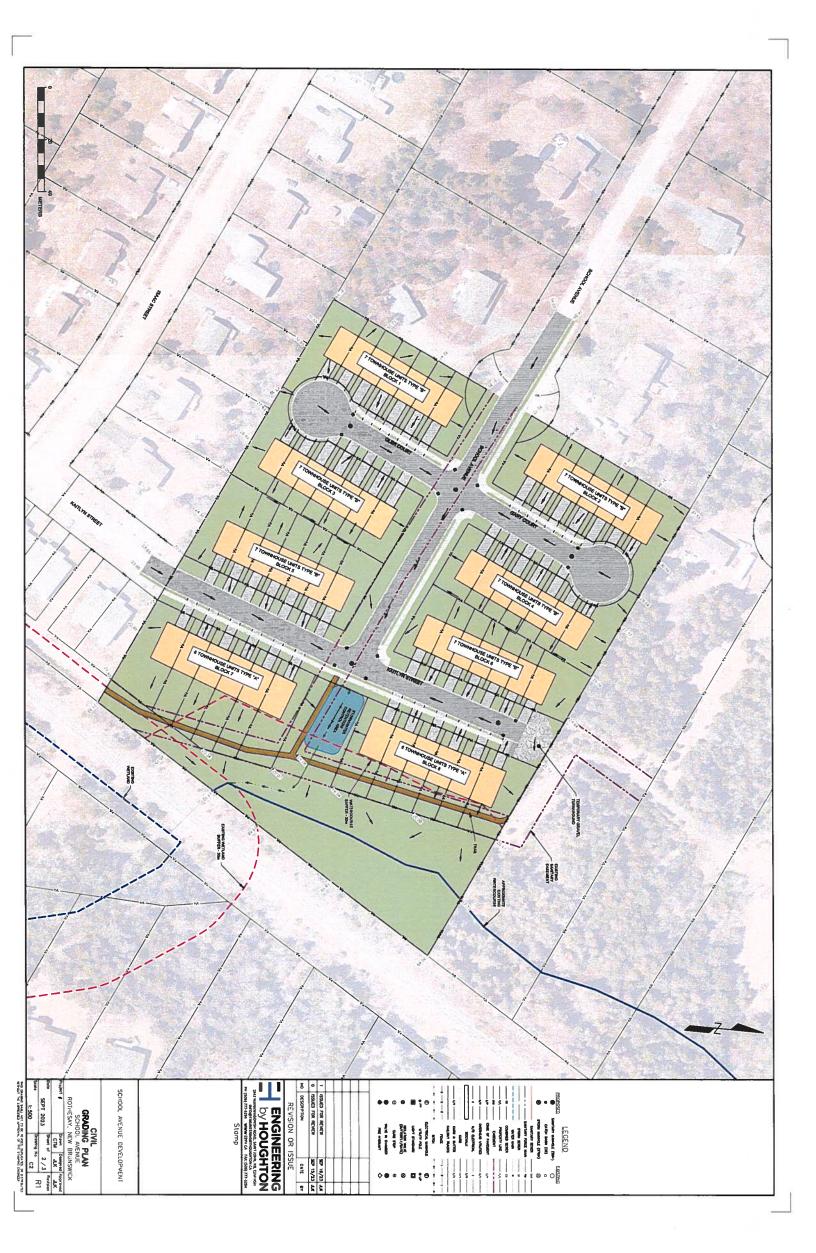
506-607-0709 jacob@ebyh.ca

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SCHEDULE C

(to be determined)

