

**THE CORPORATION OF THE TOWN OF AMHERSTBURG  
BY-LAW NO. 2018-46**

**By-law to authorize the execution of a Development Agreement  
between Fox Glen Golf Course Co-operative Inc. and  
the Corporation of the Town of Amherstburg  
7525 Howard Avenue, Amherstburg**

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**WHEREAS** under Section 8 of the Municipal Act 2001, S.O., 2001, c. 25, as amended, a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

**AND WHEREAS** under Section 9. (1) (a) and (b) of the Municipal Act 2001, S.O., 2001, c. 25, as amended, Section 8 shall be interpreted broadly so as to confer broad authority on municipalities to enable them to govern their affairs as they consider appropriate and to enhance their ability to respond to municipal issues;

**AND WHEREAS** the Corporation of the Town of Amherstburg and the Owner have agreed to the site plan and elevations in the Development Agreement;

**AND WHEREAS** the Corporation of the Town of Amherstburg and owners of said property have agreed to the terms and conditions of a Development Agreement in the form annexed hereto;

**NOW THEREFORE** the Corporation of the Town of Amherstburg enacts as follows:

1. THAT By-law 2016-03 is hereby repealed;
2. THAT the Mayor and Clerk be hereby authorized to enter into a Development Agreement between Fox Glen Golf Course Co-operative Inc. and the Corporation of the Town of Amherstburg for the re-development of 7525 Howard Avenue for golf course facilities, said agreement affixed hereto;
3. THAT this By-law shall come into force and take effect immediately upon the final passing thereof at which time all by-laws that are inconsistent with the provisions of this by-law and the same are hereby amended insofar as it is necessary to give effect to the provisions of this by-law.

Read a first, second and third time and finally passed this 11<sup>th</sup> day of June, 2018.

  
\_\_\_\_\_  
MAYOR – ALDO DICARLO

  
\_\_\_\_\_  
CLERK – PAULA PARKER

## DEVELOPMENT AGREEMENT

**THIS AGREEMENT** made in quadruplicate this 11<sup>th</sup> day of June, 2018.

**BETWEEN:**            **FOX GLEN GOLF COURSE CO-OPERATIVE INC.**  
(Hereinafter collectively called "**Owner**")

OF THE FIRST PART;

- and -

**THE CORPORATION OF THE TOWN OF AMHERSTBURG**  
(Hereinafter called the "**Corporation**")

OF THE SECOND PART;

Hereinafter collectively referred to as the "**Parties**"

**WHEREAS** the lands affected by this Agreement are described in Schedule "A" attached hereto, and are hereinafter referred to as the "**Lands**";

**AND WHEREAS** Fox Glen Golf Course Co-Operative Inc. warrants it is the registered owner of the Lands outlined in Schedule "A";

**AND WHEREAS**, in this Agreement the "**Owner**" includes an individual, an association, a partnership or corporation and, wherever the singular is used therein, it shall be construed as including the plural;

**AND WHEREAS** the Official Plan in effect in Amherstburg designated parts of the area covered by the Official Plan, including the Lands, as a Site Plan Control area;

**AND WHEREAS** the Owner intends to develop the Lands for the purpose of a restaurant and banquet facility extension, a covered porch, proposed kitchen and freezer additions, new covered patio, new deck addition and new roof addition to golf cart parking area in accordance with the Site Plan attached hereto as Schedule "B", and hereinafter referred to as the "Site Plan";

**AND WHEREAS** the Corporation as a condition of redevelopment of the Lands requires the Owner to enter into a Development Agreement;

**WHEREAS** the lands affected by this Agreement are described in Schedule "A" attached hereto, and are hereinafter referred to as the "said lands";

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the premises, along with the sum of FIVE (\$5.00) DOLLARS of lawful money of Canada, now paid by each of the Parties hereto to each of the other parties hereto, the receipt and sufficiency of which are hereby acknowledged, the Owner hereby covenants and agrees with the Corporation as follows:

1. The following Schedules attached hereto, are hereby made a part of this Agreement as fully and to all intents and purposes as though recited in full herein:
2. Schedule "A" hereto describes the Lands.
3. Schedule "B" (the "**Site Plan**") hereto shows:
  - (a) The location of the buildings to be renovated on the subject lands;
  - (b) The location of the building additions on the subject lands;
  - (c) Landscaped areas, curbs and fencing on the subject lands.
4. Schedule "C" Elevations

5. The Owner shall be responsible for consulting with and obtaining any necessary approvals from Essex Power regarding any matters that relate to services for the Development Lands to be provided by Essex Power. In addition, the Owner shall be responsible for any costs associated with the reconstruction, relocation or changes to the hydro system resulting from this development.
6. The Owner shall be responsible for consulting with and obtaining any necessary approvals from Union Gas and Bell Canada regarding any matters that relate to services to be provided by Union Gas and Bell Canada. In addition, the Owner shall be responsible for any costs associated with the reconstruction, relocation or changes to these services resulting from this development.
7. If any proposed upgrades to the existing utilities within the municipal right-of-way are required, the Owner must provide copies of the plans on any utility work to the Corporation.
8. The Owner shall be responsible for consulting with and obtaining any necessary approval or permits from the Ministry of the Environment and Climate Change, the County of Essex and/or the Essex Region Conservation Authority (E.R.C.A.).
9. All of the exterior walls of the building shall be as per elevation drawings as shown on Schedules "C" hereto. All of the exterior walls of the building shall be faced with vinyl siding, brick or similar finished material.
10. All parking or loading areas and lanes and driveways shall be paved with concrete, asphalt or other material capable of permitting accessibility under all climatic conditions, as shown on Schedule "B" and together with crushed stone or gravel, having a combined depth of at least 15.2 cm and with provisions for drainage facilities.
11. The Owner shall maintain a minimum of parking spaces, as designated on Schedules "B".
12. All walkways on the said lands, where so designated on Schedule "B", shall be constructed of concrete, asphalt or other material capable of permitting accessibility under all climatic conditions by the Owner to the satisfaction of the Corporation. To ensure that this development is accessible to persons with disabilities, the Owner acknowledges that all sidewalks, walkways and islands within this development shall be constructed in such a manner as to safely accommodate persons with special mobility needs. All sidewalk replacement must be 1.5m wide (minimum) as per the Accessibility for Ontarians with Disabilities Act (AODA) even if the current width is 1.2m.
13. If any curbs, sidewalks, boulevards or highway surfaces of the Corporation are damaged during the development by the Owner, such damage shall be repaired or replaced by the Owner.
14. Snow removal from the parking or loading areas and lanes, driveways and walkways shall be the responsibility of the Owner.
15. Stormwater Management/Drainage Issues

The Owner agrees that prior to final approval:

- (a) the stormwater management analysis and site servicing plan shall be finalized to the satisfaction and approval of the Corporation, and the ERCA;
- (b) install the stormwater management measures as approved by the Corporation and the ERCA as part of the development of the Lands, which measures shall then be carried out to the satisfaction of the Corporation and ERCA;

- (c) obtain the necessary permits and/or clearances from all governmental authorities having jurisdiction prior to construction activities and/or site alterations commencing of the Lands;
16. Any garbage or refuse that is stored outside shall be stored in a non-combustible container and maintained so that the garbage or refuse does not blow or fall out of the container.
17. Any and all lighting shall be installed and maintained in accordance with the standards set out in the Town's Development Manual, and, so as to not, in the opinion of the Corporation, interfere with the use or enjoyment of adjacent properties or with the safe flow of traffic on abutting or adjacent streets.
18. The Owner shall landscape and maintain the ground cover acceptable to the Corporation those lands so indicated on Schedule "B". The Owner agrees that the site will be inspected on an annual basis and any deficiencies will require immediate correction in accordance with the approved site plan.
19. The Town will monitor any increased noise resulting from the approval of the elevations and site plan as proposed by this development. The developer shall comply with all provisions of the Town's Noise By-law 2001-43, as amended from time to time. The Town reserves the right to engage the developer to make improvements and modifications to the satisfaction of the Town necessary to relieve noise emissions which are found to be in contravention of MOECC Noise Guidelines and/or the Town's Noise By-law, when measured from the subject lands to neighbouring sensitive land uses. The Town may impose reasonable timelines for the rectification of excessive noise emissions before the remedies contained elsewhere in this Agreement are sought. The Town will work with the developer in the spirit of cooperation to achieve a positive result.
20. The Owner agrees that any Municipal property, including without limiting the generality of the foregoing, curbs, gutters, pavements, sidewalks, or landscaped areas on the public highway and any property belonging to a third party, which are damaged during construction or otherwise, shall be restored to the satisfaction of the Town. The Owner shall keep the subject lands in a state of good repair (including the cutting of weeds) and upon written notice from the Town shall correct deficiencies in the state of repair within ten (10) days thereof.
21. The Owner agrees that the site will be inspected on an annual basis and any deficiencies will require immediate correction in accordance with the approved site plan.
22. All driveways for emergency vehicles shall:
- (1) Be connected with a public thoroughfare;
  - (2) Be designed and constructed to support expected loads imposed by firefighting equipment;
  - (3) Be surfaced with concrete, asphalt or other material capable of permitting accessibility under all climatic conditions;
  - (4) Have a clear width of 3 metres at all times;
  - (5) Be located not less than 3 metres and not more than 15.2 metres measured horizontally and at right angles from the face of the building;
  - (6) Have an overhead clearance not less than 4.5 metres;
  - (7) Have a change in gradient of not more than 1 in 12.5 over a minimum distance of 15.2 metres; and
  - (8) Have approved signs displayed to indicate the emergency route.
23. If the Ontario Building Code requires that an architect or professional engineer or both shall be responsible for the field review of any new building or extension provided for in this Agreement, the Owner shall not occupy or use or permit to be occupied or used any said new building or extension until after an architect or professional engineer has given to the Corporation a letter addressed to the

Corporation and signed by him certifying that all services on or in the said lands, required for this development or redevelopment, newly installed by the Owner in connection with this development or redevelopment and not contained within a building, have been installed and completed in a manner satisfactory to the architect or professional engineer.

24. The Corporation through its servants, officers and agents including its building inspector, plumbing inspector, fire chief, public works head and municipal engineer may from time to time and at any time enter on the Lands to inspect:
  - (1) The progress of development;
  - (2) The state of maintenance as provided for in this Agreement.
25. In the event of any servant, officer or agent of the Corporation determining upon inspection that the development is not proceeding in strict accord with the plans and specifications filed with the Corporation, such servant, officer or agent shall forthwith place a notice requiring all work to be stopped upon the Lands, and shall forward a copy by registered mail to the Owner at his last address as shown by the revised assessment rolls, and the Owner shall forthwith correct the deficiency or deviation or appeal to Council of the Corporation as hereinafter provided.
26. In the event of any servant, officer or agent of the Corporation upon inspection being of the opinion that the state of maintenance is not satisfactory, such servant, officer or agent shall forthwith forward notice of such opinion to the Owner by registered mail at his last address as shown from the revised assessment rolls, and the Owner shall forthwith correct the deficiency or appeal to Council of the Corporation as hereinafter provided.
27. In the event that an Owner should disagree with the opinion of the servant, officer or agent of the Corporation as to the progress of the development or as to the state of maintenance, such Owner shall appear before Council of the Corporation, which after hearing the Owner, shall be permitted to express its position as to whether such progress or maintenance is satisfactory, following which Council of the Corporation shall make a decision, by resolution, as to whether to lift or sustain the prior decision of the Corporation's servant, officer or agent, which shall constitute a final determination of the matter.
28. In the event that an Owner should fail to obey a stop work order issued under Section 26 hereof, in addition to any other remedy, the Owner recognizes the right of the Corporation to apply to the Court for an Order granting injunctive relief, both interlocutory and permanent. The Owner acknowledges and admits that its failure to obey a stop work order constitutes irreparable harm to the Corporation and that the balance of convenience favours granting such injunctive relief without further proof thereof by the Corporation. The Owner shall be liable to the Corporation for all costs in relation to obtaining such an Order, including all legal costs. The costs shall be deemed to be municipal taxes and to be recoverable in accordance with Section 37 of this Agreement.
29. In the event that an Owner should fail to correct a deviation or deficiency after notice pursuant to Sections 26 or 27 or after notice of an opinion, which Council of the Corporation determines is correct under Section 28, the Council of the Corporation may by law direct or default of the matter or thing being done by the Owner, after two (2) weeks notice to it by registered mail at the last shown address of the Owner pursuant to the revised assessment rolls of passage of such by-law, that such matter or thing be done by the Corporation at the expense of the Owner, which expense may be recovered by action or like manner as municipal taxes and to be recoverable in accordance with Section 36 of this Agreement.
30. In the event of an Owner wishing to change at any time any of the buildings, structures or facilities described in the plans annexed or referred to in Section 3 hereof, it shall make application to Council of the Corporation for approval and

shall not proceed with such change until approval is given by such Council, or in default by the Ontario Municipal Board, under the procedure set out in Section 41 of the Planning Act, R.S.O. 1990 herebefore referred to.

31. This Agreement and the provisions thereof do not give to the Owner or any person acquiring any interest in the said lands any rights against the Corporation with respect to the failure of the Owner to perform or fully perform any of its obligations under this Agreement or any negligence of the Owner in its performance of the said obligations or any act or omission of the Corporation under this Agreement.
32. In the event that no construction on the Lands has commenced on or before the expiry of one (1) year from the date of registration of this Agreement, the Corporation may subsequently, at its option, on one month's written notice to the Owner, terminate this Agreement, whereupon the Owner acknowledges that agrees that it will not be able to undertake any development construction on the Lands (or any further development or construction) on the Lands.
33. All facilities and matters required by this Agreement shall be provided and maintained by the Owner at its sole risk and expense to the satisfaction of the Corporation and in accordance with the standards determined by the Corporation and in default thereof and without limiting other remedies available to the Corporation, the provisions of Section 446 of the Municipal Act shall apply.
34. A financial guarantee (certified cheque or irrevocable letter of credit – self renewing without burden of proof) for FIFTY PERCENT (50%) of the value of on-site improvements of this development, exclusive of buildings and structures, is required to be paid and/or posted with the Corporation, in addition to further financial security in the amount of ONE HUNDRED PERCENT (100%) for all off-site works required as part of this development.

The Owner's engineer is required to provide a certified estimate of the cost of the on-site and off-site work for consideration by the Town's Director of Engineering and Infrastructure for his/her approval, with any decision by the Town's Director of Engineering and Infrastructure in this regard to be final and binding upon the Owner. Once the Town has inspected and approved the construction of the on-site and off-site works, the Owner will be required to provide security for a ONE (1) year maintenance period in the amount of FIFTEEN PERCENT (15%) of the cost of on-site and off-site improvements.

35. This Agreement shall be registered against the land to which it applies, at the expense of the Owner, and the Corporation shall be entitled, subject to the provisions of the Registry Act and the Land Titles Act, to enforce its provisions against the Owner named herein and any and all subsequent owners of the lands.
36. This Agreement shall ensure to the benefit of and be binding upon the Parties hereto and their respective heirs, executors, administrators, successors and permitted assigns.
37. This Agreement shall be governed by, and interpreted according to, the laws of the Province of Ontario and the laws of Canada applicable therein, and shall be treated in all respects as an Ontario Contract.
38. If any provision or part thereof of this Agreement be illegal or unenforceable, it or they shall be considered separate and severable from the Agreement, and the remaining provisions of the Agreement shall remain in force and effect and shall be binding upon the Parties hereto as though the said provision or part thereof had never been including in this Agreement; provided that the severance of the provision or part does not fundamentally impair the rights of the Corporation in which case the Corporation may declare, without the consent of the Owner, this

Agreement void, and all development and construction shall cease pending the execution of a new Agreement by the parties.

39. The division of this Agreement into Articles, sections and subsections and the insertion of headings are for convenience of reference only and shall not effect the construction or interpretation hereof.
40. This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument and shall be effective as of the date set out above.
41. Words importing the singular number include the plural and vice versa; words importing the masculine gender include the feminine and neutral genders.
42. Schedules and other documents attached or referred to in this Agreement are an integral part of this Agreement, and are hereby incorporated into this Agreement by reference.
43. This Agreement constitutes the entire agreement among the Parties and except as herein stated and in the instruments and documents to be executed and delivered pursuant hereto, contains all of the representations and warranties of the respective Parties. There are no oral representations or warranties among the Parties of any kind. This Agreement may not be amended or modified in any respect except by written instrument signed by both Parties.

**IN WITNESS WHEREOF** the Owner and the Corporation (the latter under the hands and seals of its officers duly authorized in this regard), have executed this Agreement as of the date first above written.


**OWNER: FOX GLEN GOLF COURSE  
CO-OPERATIVE INC.**

Per   
Larry Salve

*I have authority to bind the Corporation*

**THE CORPORATION OF THE  
TOWN OF AMHERSTBURG**

Per   
Aldo DiCarlo, Mayor

Per   
Paula Parker, Clerk

*We have authority to bind the Corporation*

Authorized and approved by By-law No. 2018-46  
enacted the 11<sup>th</sup> day of June, 2018.

**SCHEDULE "A"**

**DESCRIPTION OF THE LANDS**

Part of Lot 7 and Part of Lot 8, Concession 7,  
Town of Amherstburg,  
County of Essex  
and Province of Ontario



**Properties**

*PIN* 01551 - 0755 LT  
*Description* PCL 7-1 SEC ANDERDON-7; PT LTS 7, 8 CON 7 PTS 1 TO 7 12R659 EXCEPT PTS1 TO 3 12R10620, S/T AN12454, AN12517; AMHERSTBURG  
*Address* AMHERSTBURG

**Consideration**

*Consideration* \$1.00

**Applicant(s)**

The notice is based on or affects a valid and existing estate, right, interest or equity in land

*Name* THE CORPORATION OF THE TOWN OF AMHERSTBURG  
*Address for Service* 271 Sandwich Street South  
 Amherstburg,  
 Ontario  
 N9V 2A5

This document is not authorized under Power of Attorney by this party.

This document is being authorized by a municipal corporation REBECCA BELANGER, MCIP, RPP, Manager of Planning Services for the Corporation of the Town of Amherstburg..

**Party To(s)***Capacity**Share*

*Name* FOX GLEN GOLF COURSE  
*Address for Service* 7525 Howard Avenue, RR1  
 McGregor, Ontario  
 N0R 1J0

This document is being authorized by a municipal corporation REBECCA BELANGER, MCIP, RPP, Manager of Planning Services for the Corporation of the Town of Amherstburg..

This document is not authorized under Power of Attorney by this party.

**Statements**

This notice is pursuant to Section 71 of the Land Titles Act.

This notice is for an indeterminate period

Schedule: See Schedules

**Signed By**

Thomas Robert Porter 500-251 Goyeau Street acting for Signed 2018 07 05  
 Windsor Applicant(s)  
 N9A 6V2

Tel 519-258-0615

Fax 519-258-6833

I have the authority to sign and register the document on behalf of the Applicant(s).

**Submitted By**

MOUSSEAU DELUCA MCPHERSON PRINCE 500-251 Goyeau Street 2018 07 05  
 Windsor  
 N9A 6V2

Tel 519-258-0615

Fax 519-258-6833

**Fees/Taxes/Payment**

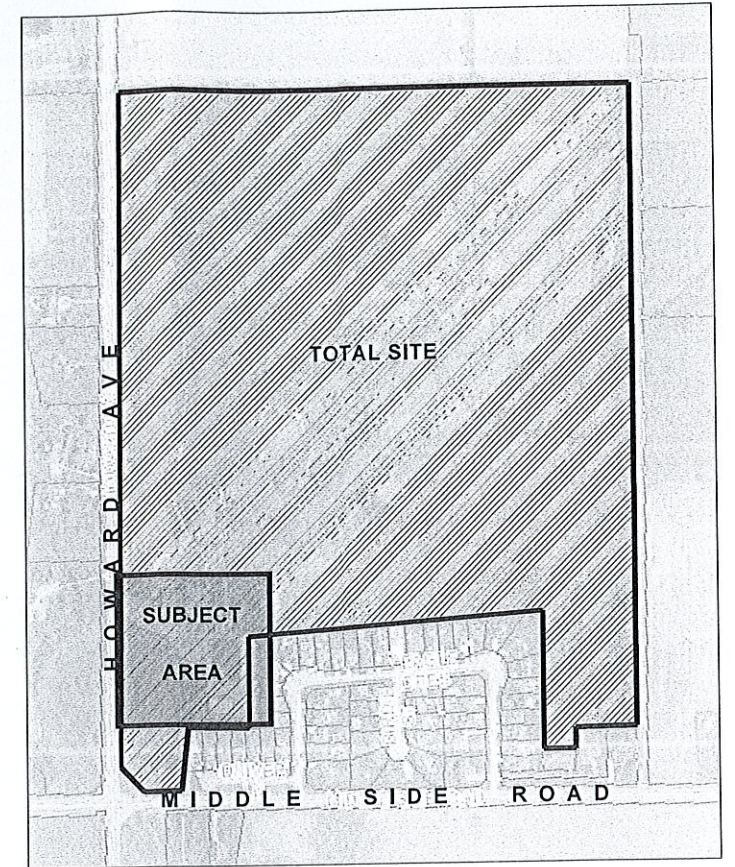
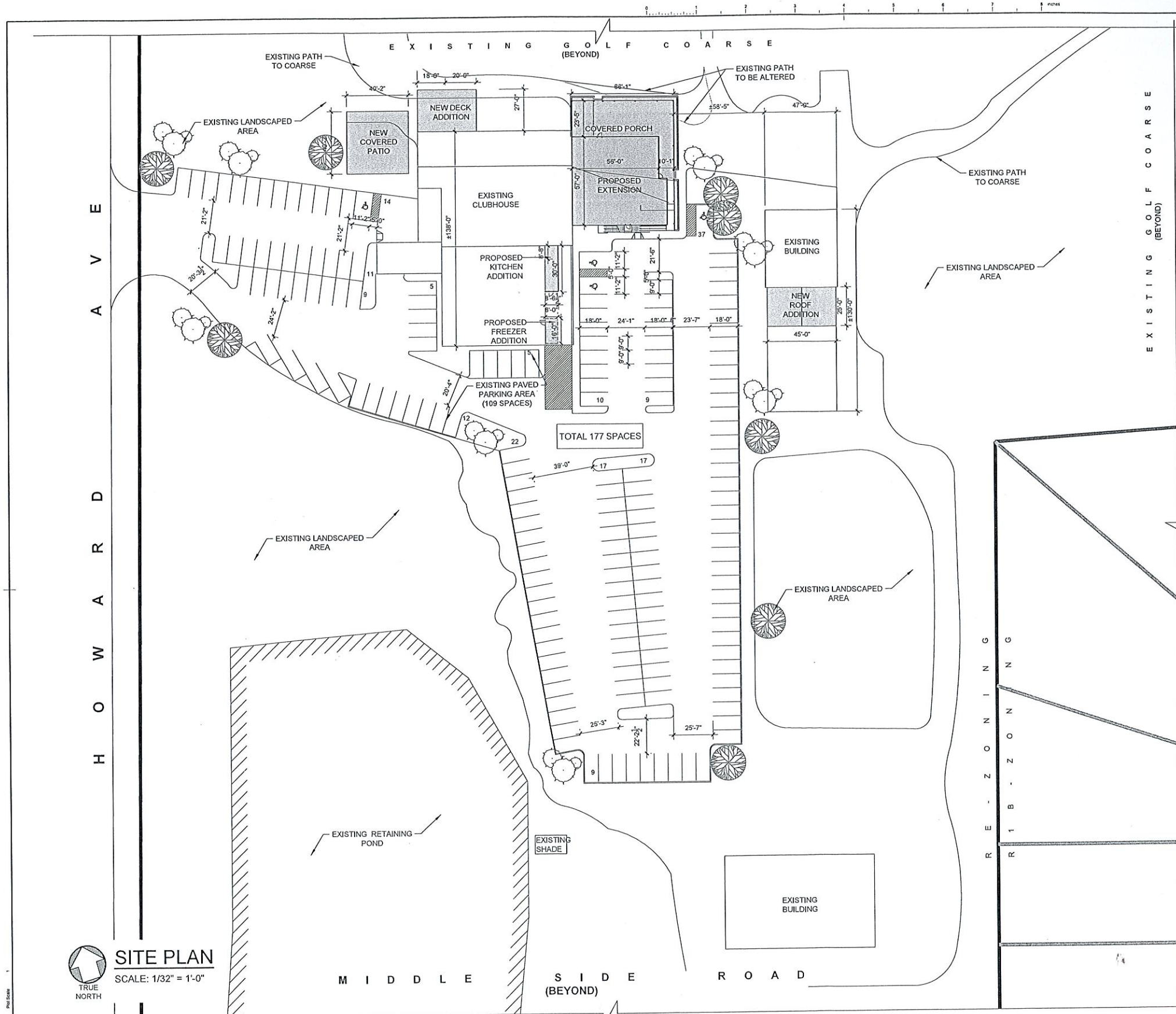
*Statutory Registration Fee* \$63.65  
*Total Paid* \$63.65

**File Number**

*Applicant Client File Number :* 65808

<b>File Number</b>
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Party To Client File Number : 65808

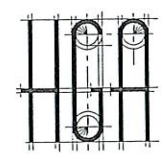


**KEY PLAN**  
N.T.S.  
TRUE NORTH

**SITE PLAN**  
SCALE: 1/32" = 1'-0"  
TRUE NORTH

SCHEDULE "B" TO BY-LAW 2018-46  
 FOX GLEN GOLF COURSE CO-OPERATIVE INC.  
 Larry Sauve  
 TOWN OF AMHERSTBURG  
 Mayor- Aldo DiCarlo  
 Clerk- Paula Parker

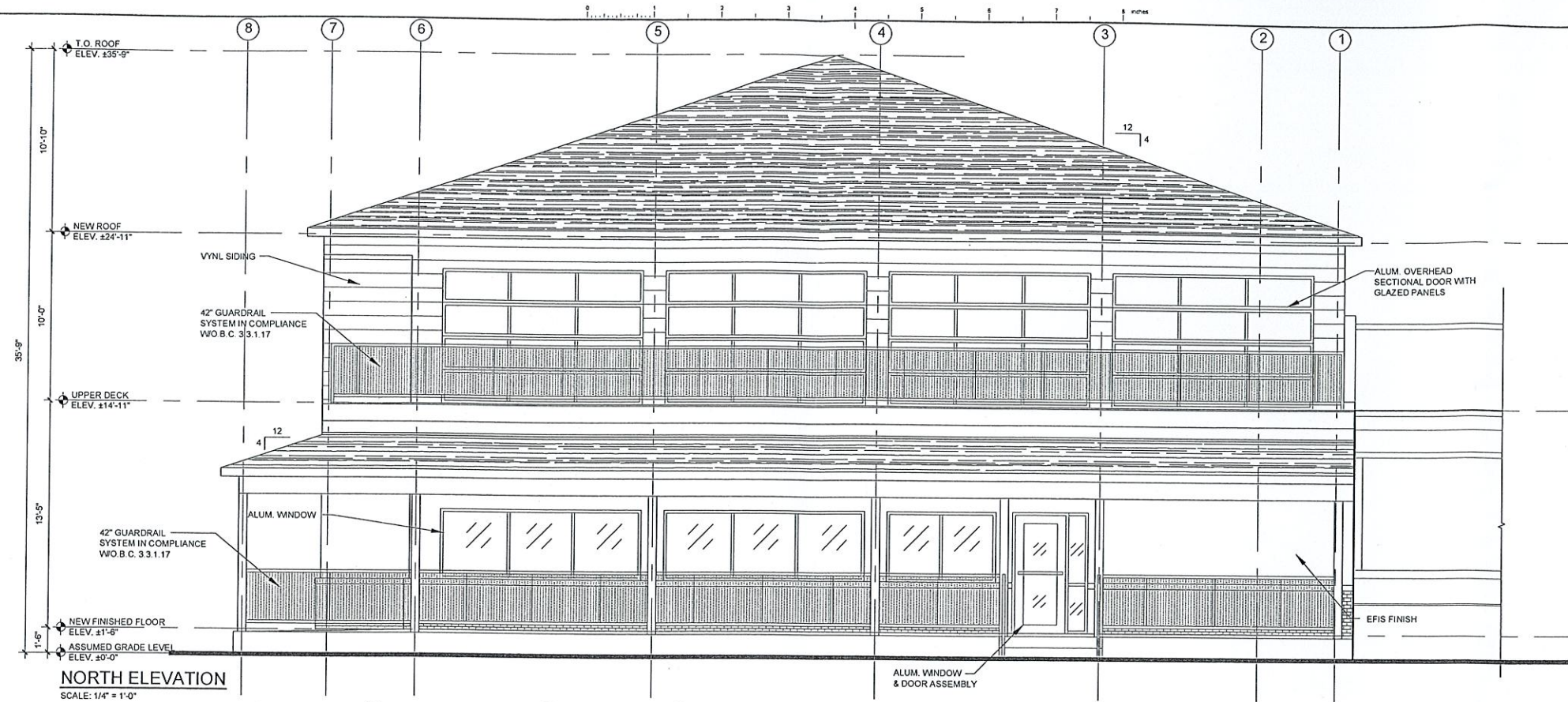
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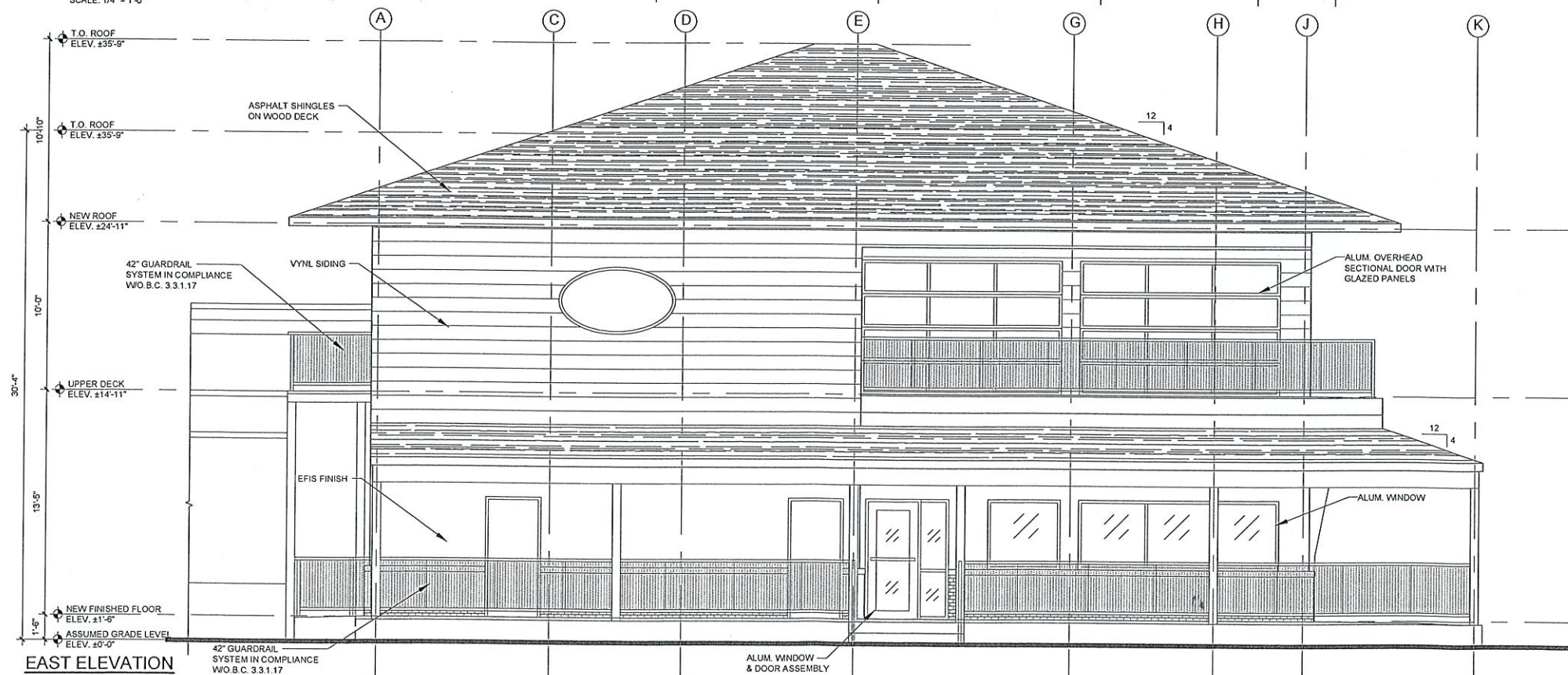
**HANNA GHOBRIAL AND ASSOCIATES LTD.**  
 engineering  
 architecture  
 3100 Temple Drive  
 Windsor, ON N9W 5J6  
 (519) 944-3090 FAX: 5936

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5	MAY. 15.2018	PERMIT	14		
4	FEB. 28.2018	SPA	13		
3	MARCH.27.17	SPA	12		
2	FEB.06.17	ERCA PERMIT	11		
1	JAN.25.17	ERCA PERMIT	10		
Rev.:	Date:	Issued For:	Rev.:	Date:	Issued For:

Date:	NOVEMBER-2016	Project:	EXTENSION TO FOX GLEN GOLF CLUB	Project No.:	16-0328
Scale:	AS SHOWN	Drawn By:	K.C.		
Checked By:	S.K.			Drawing No.:	A-001
			ARCHITECTURAL SITE PLAN		



**NORTH ELEVATION**  
SCALE: 1/4" = 1'-0"



**EAST ELEVATION**  
SCALE: 1/4" = 1'-0"

SCHEDULE "C" TO BY-LAW 2018-46  
FOX GLEN GOLF COURSE CO-OPERATIVE INC.

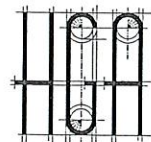
*Larry Sauve*  
Larry Sauve

TOWN OF AMHERSTBURG

*Ardo DiCarlo*  
Mayor- Ardo DiCarlo

*Paula Parker*  
Clerk- Paula Parker

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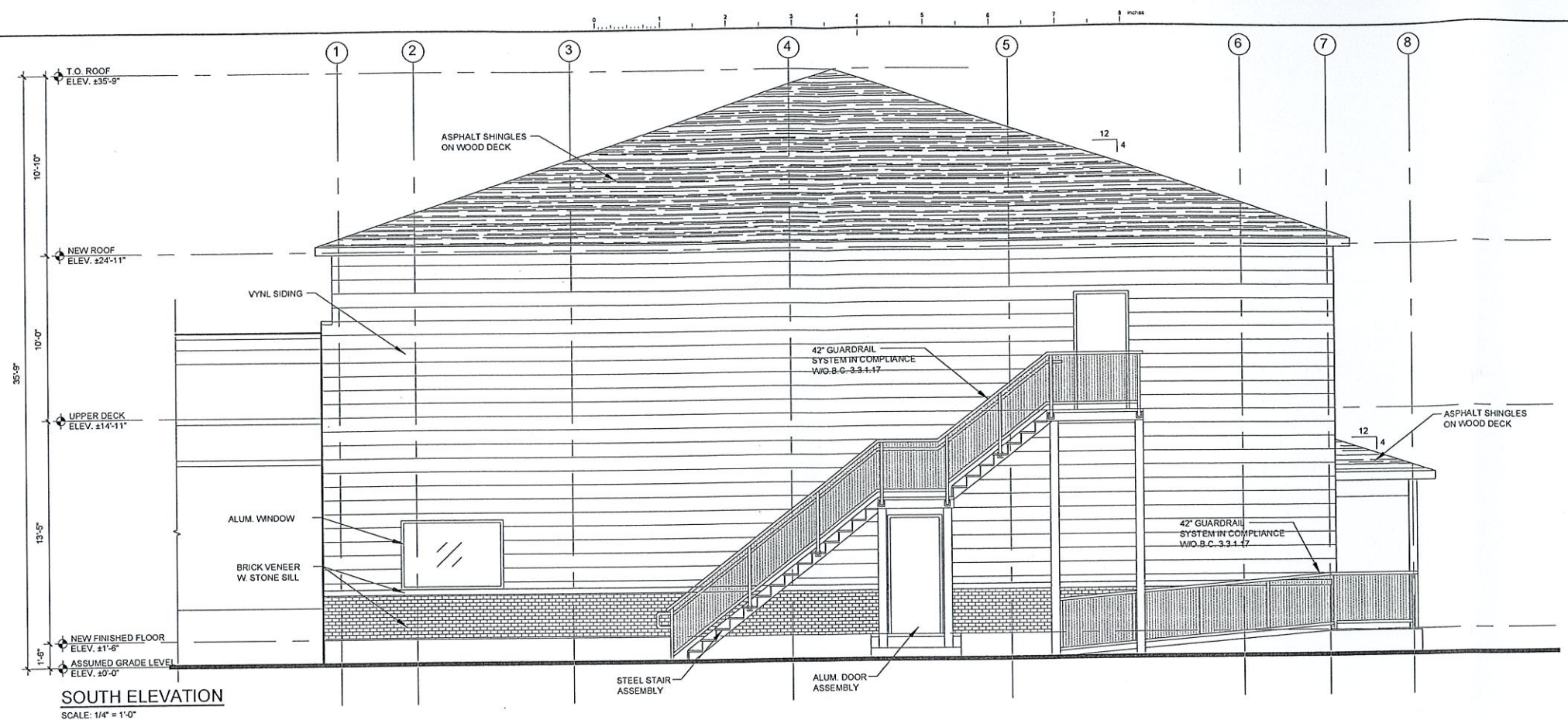


**HANNA, GHOBRIAL AND ASSOCIATES LTD.**  
architects  
architecture  
3100 Temple Drive  
Windsor, ON N9W 5J6  
(519) 944-3090 FAX-5638

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Rev.	Date	Issued For	Rev.

Date: NOVEMBER-2016  
Scale: AS SHOWN  
Drawn By: K.C.  
Checked By: S.K.

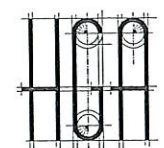
Project: EXTENSION TO FOX GLEN GOLF CLUB  
ELEVATIONS  
Project No.: 16-0328  
Drawing No.: A-401



**SOUTH ELEVATION**  
SCALE: 1/4" = 1'-0"

SCHEDULE "C" TO BY-LAW 2018-46 continued  
 FOX GLEN GOLF COURSE CO-OPERATIVE INC.  
 Larry Sauve  
 TOWN OF AMHERSTBURG  
 Mayor- Aldo DiCarlo  
 Clerk- Paula Parker

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**HANNA, GHOBRIAL AND ASSOCIATES LTD.**  
 engineering & architecture  
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Rev.:	Date:	Rev.:	Date:

Date: NOVEMBER-2018  
 Scale: AS SHOWN  
 Drawn By: K.C.  
 Checked By: S.K.

Project: EXTENSION TO FOX GLEN GOLF CLUB  
 ELEVATIONS

Project No.: 16-0328  
 Drawing No.: A-402