

**Site Plan Agreement  
Willowbrook Nurseries Inc.  
976 Canboro Road**

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THIS AGREEMENT made on the 17<sup>th</sup> day of June, 2019.

BETWEEN:

**Willowbrook Nurseries Inc.**

Hereinafter called the "Owner"

OF THE FIRST PART

- and -

**THE CORPORATION OF THE TOWN OF PELHAM**

Hereinafter called the "Town"

OF THE SECOND PART

**WHEREAS** the Owner represents and warrants that it is the owner of the lands in the Town of Pelham described in Schedule 'A' attached hereto (the "Lands");

**AND WHEREAS** the Owner has assumed and agreed to be bound by the terms and conditions of the Site Plan Agreement;

**AND WHEREAS** the Owner is looking forward to develop the parcel with a permanent farm help house and residential use in accordance with Schedule 'B-C' attached hereto, being a Site Plan filed in the Town's offices;

**AND WHEREAS** the Town has agreed to permit the said construction subject to certain terms and conditions;

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the sum of One Dollar (\$1.00) now paid by the Owner to the Town (the receipt whereof is hereby acknowledged), the Parties hereto mutually covenant and agree as follows:

**1. Definitions**

In this Agreement:

- (a) **Chief Building Official** shall mean the Chief Building Official of the Corporation of the Town of Pelham.
- (b) **Clerk** shall mean the Clerk of the Corporation of the Town of Pelham.
- (c) **Council** shall mean the Council of the Corporation of the Town of Pelham.
- (d) **Director of Community Planning & Development** shall mean the Director of Community Planning & Development of the Corporation of the Town of Pelham.
- (e) **Director of Corporate Services** shall mean the Director of Corporate Services of the Corporation of the Town of Pelham.
- (f) **Director of Public Works** shall mean the Director of Public Works of the

Corporation of the Town of Pelham.

- (g) **Facilities and Works** shall mean and includes those facilities and works which are shown on or referred to in any one or more of the plans, drawings and schedules to this Agreement.
- (h) **Lands** shall mean the lands described in Schedule 'A' attached hereto.
- (i) **Professional Engineer** shall mean a Professional Engineer registered in good standing with the Association of Professional Engineers.
- (j) **Surveyor** shall mean an Ontario Land Surveyor registered in good standing with the Association of Ontario Land Surveyors.

## **2. General Provisions**

- (a) The Owner shall develop and maintain the Lands only in accordance with the terms and conditions contained herein and any other applicable by-law of the Town.
- (b) The Owner shall ensure the proposed conversion of the existing barn shall only be developed and used for a permanent farm help house that accommodates full-time farm labour, as per Schedule 'B-C'.
- (c) Unless the context otherwise requires, where the Owner is obligated by this Agreement or the approved plans to make any payments or install, construct, or carry out any services or action, the provisions therefore contained herein shall be deemed to include the words, "at the sole expense of the Owner".
- (d) The Owner shall perform any and all construction and installation of works on the Lands and any off-site works in accordance with the terms and conditions contained herein and as shown on Schedule 'B-C' attached hereto and forming part of this Agreement to the reasonable satisfaction of the Town.
- (e) The Owner shall not perform any construction or installation on the Lands except in accordance with the terms and conditions contained herein and shown on said Schedule 'B-C' attached hereto and forming part of this Agreement and to the reasonable satisfaction of the Town.
- (f) The Owner shall maintain and keep in good repair driveways and access servicing the buildings located on the lands.
- (g) The Owner shall ensure that adequate dust control, mud tracking and debris control measures are carried out during the site's development.
- (h) During construction, the Owner shall ensure all construction related vehicles that are not carrying out the works are parked on the subject lands and are not parked within the municipal road allowance.
- (i) All delivery / construction trucks taking materials from the subject lands included within this Agreement shall be adequately covered and not unreasonably loaded so as to scatter refuse, rubbish, dust or debris on neighbouring properties or public roadways.

- (j) Should deeply buried archaeological remains / resources be found on the property during construction activities, the Heritage Operations Unit of the Ontario Ministry of Tourism, Culture & Sport and the Owner's archaeology consultant shall be notified immediately. In the event that human remains are encountered during construction, the Owner shall immediately notify the Police or coroner, the Registrar of Cemeteries of the Ministry of Small Business and Consumer Services, the Ministry of Tourism, Culture & Sport and the Owner's archaeology consultant.
- (k) The Owner grants to the Town, its servants, agents, and assigns permission to enter upon the Lands for the purpose of inspection of any Facilities and Works referred to in this Agreement and for the purpose of the completion of any Facilities and Works in accordance with this Clause and this Agreement.
- (l) The Owner will, at all times, indemnify and save harmless the Town from all loss, costs, damages and injuries which the Town may suffer or be put to for or by reason of the construction, maintenance, or existence of any Facilities and Works done by the Owner, its contractors, servants or agents on the Lands or which the Town may suffer or be put to for or by reason of the completion by the Town of any of the required Facilities and Works in accordance with this clause and this Agreement.
- (m) The Owner shall not call into question directly or indirectly in any proceeding whatsoever in law or in equity or before any administrative tribunal the right of the Town to enter into this Agreement and to enforce each and every term, covenant, and condition herein contained and this Agreement may be pleaded as an estoppel against the Owner in any such proceeding.
- (n) In the event that a Mortgagee(s) exercises any rights as to sale, possession or foreclosure or takes any other steps to enforce its security against the subject lands, then such Mortgagee(s) agrees on behalf of itself, its heirs, executors, administrators, successors and assigns not to deal with the lands as a development or part thereof unless and until a new Agreement in the same form, mutatis mutandis, as this Agreement has been entered into with the Town.
- (o) Any lands required to be conveyed by the Owner in accordance with the provisions hereof shall be in a neat and tidy condition, free of all debris and trash, and the Owner shall complete all services for the lands in accordance with the terms of this Agreement.
- (p) Notwithstanding the provisions of this Agreement, the Owner shall be subject to all of the Town's By-laws and all Provincial and Federal government statutes and / or regulations and amendments thereto affecting the site's development and installation of municipal services.

### **3. Sanitary Sewer System**

- (a) Domestic waste water from the existing and proposed building(s) shall be discharged into a private sanitary sewer system approved by the Region of Niagara at the time of building permit approval.

**4. Water Supply**

- (a) The Owner shall, at its own expense, provide and maintain an internal private water supply necessary to serve the lands.
- (b) The Owner shall comply with the provisions of the *Ontario Water Resources Act and Safe Drinking Water Act* and amendments thereto and all regulations thereunder, on all internal water supply services, which said Act and regulations shall be enforced by the Town.

**5. Storm Sewer System**

- (a) The Owner shall ensure all storm water runoff is maintained on-site and does not negatively impact adjacent property.

**6. Roads & Access**

- (a) The Owner shall utilize the existing driveway for access to the new farm help house and all other existing buildings.

**7. Default**

Upon breach by the Owner of any covenant, term, condition or requirement of this Agreement, or upon the Owner becoming insolvent or making any assignment for the benefit of creditors, the Town, at its option, may declare the Owner to be in default. Notice of such default shall be given by the Town, and if the Owner shall not remedy such default within such time as provided in the notice, the Town may declare the Owner to be in final default under this Agreement. Upon notice of default having been given, the Town may require all work by the Owner, its servants, agents, independent contractors and sub-contractors to cease (other than any work necessary to remedy such default) until such default shall have been remedied, and in the event of final default, may require all work as aforesaid, to cease. Upon final default of the Owner, the Town may, at its option, adopt or pursue any or all of the following remedies, but shall not be bound to do so:

- i. Enter upon the subject Lands by its servants, agents and contractors and complete any work, service, repair or maintenance wholly or in part required herein to be done by the Owner, and collect the cost thereof from the Owner and/or enforce any security available to it;
- ii. Make any payment which ought to have been made by the Owner to the Town, for any purpose, and apply the same in payment or part payment for any work which the Town may undertake;
- iii. Retain any sum of money heretofore paid by the Owner to the Town, for any purpose, and apply the same in payment or part payment for any work which the Town may undertake;
- iv. Bring action to compel specific performance of all or any part of this Agreement for damages; and
- v. Exercise any other remedy granted to the Town under the terms of this

Agreement or available to the Town in law.

**8. Covenants**

The Owner covenants for itself, its successors and assigns and the Owners from time to time of the said Lands and the burden of the covenants contained in this Agreement shall be deemed to be negative and shall run with and be binding upon the Lands to and for the Town, its successors and assigns.

**9. Obligation**

This Agreement and the provisions hereof do not give to the Owner or any person acquiring any interest in the said Lands (each hereinafter in this paragraph called "such person") or any other person any rights against the Town with respect to the failure of any such person to perform or fully perform any obligation under this Agreement, or the failure of the Town to force any such person to perform or fully perform any obligation under this Agreement or any negligence of any such person in the performance of the said obligation.

**10. Building Permit**

Notwithstanding any of the provisions of this Agreement, the Owner, its successors and assigns, shall be subject to all of the by-laws, as amended, of the Town at the time of the issuance of a Building Permit required pursuant to the terms of the Agreement or at the time of the execution of this Agreement, whichever is applicable.

The Owner shall provide the Town with a *Record of Site Condition (RSC)* to be filed with the Ministry of the Environment, Conservation and Parks, prior to building permit issuance.

The Owner shall pay applicable Regional development charges at the time a building permit is issued for the dwelling shown on Schedule 'B'.

**11. Plans**

The Owner agrees that all plans shall be drawn by a Qualified Designer or by a Professional Engineer and all surveys by an Ontario Land Surveyor, as required, subject to the reasonable satisfaction of the Town.

**12. Notices**

Any notice, demand, acceptance or request provided for in this Agreement shall be in writing and shall be deemed to be sufficiently given if personally delivered or sent by registered mail (postage prepaid) as follows:

To the Town at:	Clerk Town of Pelham P.O. Box 400 20 Pelham Town Square Fonthill, ON L0S 1E0
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To the Owner at:	Willowbrook Nurseries Inc.
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935 Victoria Avenue  
Fenwick, ON L0S 1C0

or as such other address as the party to whom such notice is to be given shall have last notified the party giving the notice in the manner provided in this Section 12. Any notice delivered to the party to whom it is addressed in this Section 12 shall be deemed to have been given and received on the day it is so delivered at such address. Any notice mailed as aforesaid shall be deemed to have been given and received on the fifth day next following the date of its mailing.

**13. Schedules**

The originals of the plans set out in Schedule 'B' and 'C' are available at the offices of the Town at the address set out in Section 12.

**14. Binding Effect**

This Agreement shall be binding upon the parties hereto and their heirs, executors, administrators, successors, and assigns.

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement as of the date and year first above written.

**WITNESS**

**WILLOWBROOK NURSERIES INC.**

\_\_\_\_\_  
(printed name)

\_\_\_\_\_  
(printed name)

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(date)

**THE CORPORATION OF THE TOWN OF  
PELHAM**

\_\_\_\_\_  
Mayor: Marvin Junkin

\_\_\_\_\_  
Clerk: Nancy J. Bozzato

## **SCHEDULE 'A'**

### **LEGAL DESCRIPTION**

Concession 10, Part of Lot 19 Pelham as in BB82034, Except Part 1 on 59R-11357;  
Pelham

PIN:	64029-0339 (LT)
Municipal:	976 Canboro Road
Roll Number:	2732 010 016 15700



CANBORO ROAD



PROPERTY LINE - 225.0 m

PROPERTY LINE - 503.5 m

UNOPENED ROAD ALLOWANCE

Grassed Area

Existing Trees (typical all)

Existing Trees (typical all)

25.7 m

EXISTING SHED #1

EXISTING SHED #2

EXISTING SHED #3

Existing Field

Existing Gravel Driveway

existing cistern

EXISTING 1-STY HOUSE

existing septic tank

existing & proposed septic & pump tanks (refer to Septic Design)

existing well

EXISTING 2-STY BARN BUILDING TO BECOME PROPOSED HELP HOUSE

Existing Concrete Pad

EXISTING SEPTIC BED (refer to Septic Design)

PROPOSED SEPTIC BED (refer to Septic Design)

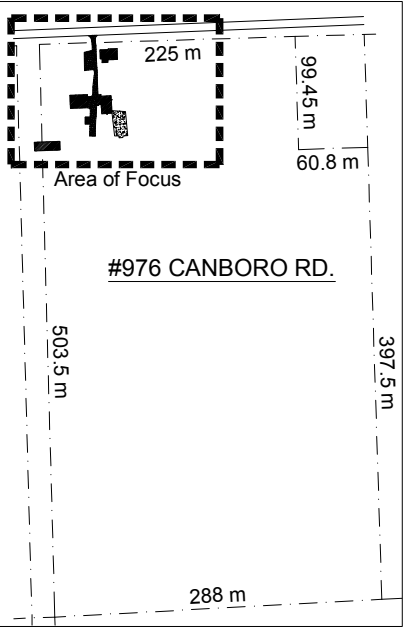
Grassed Area

Grassed Area

Existing Trees (typical all)

SITE COVERAGE

	FOOTPRINT
LOT SIZE	13.75933 ha.
Existing House	149.0 m <sup>2</sup>
Existing Shed #1	176.5 m <sup>2</sup>
Existing Shed #2	25.5 m <sup>2</sup>
Existing Shed #3	119.5 m <sup>2</sup>
Proposed Help House	174.5 m <sup>2</sup>
TOTAL COVERAGE	645.0 m <sup>2</sup> (0.47%)



LOT KEY PLAN (N.T.S.)

DRAWING TITLE:  
SITE PLAN

PROJECT TITLE:  
FARM HELP HOUSE  
(CHANGE-OF-USE)

**SHOALTS**  
ENGINEERING



FOR  
WILLOWBROOK NURSERIES  
976 CANBORO ROAD  
FENWICK, ONTARIO

P.O. BOX 218  
FENWICK, ON  
L0S 1C0  
905-892-2110

SCALE:

1 : 500

PAPER SIZE:

11" x 17"

DESIGNER:

R. M. SHOALTS

DRAWN BY:

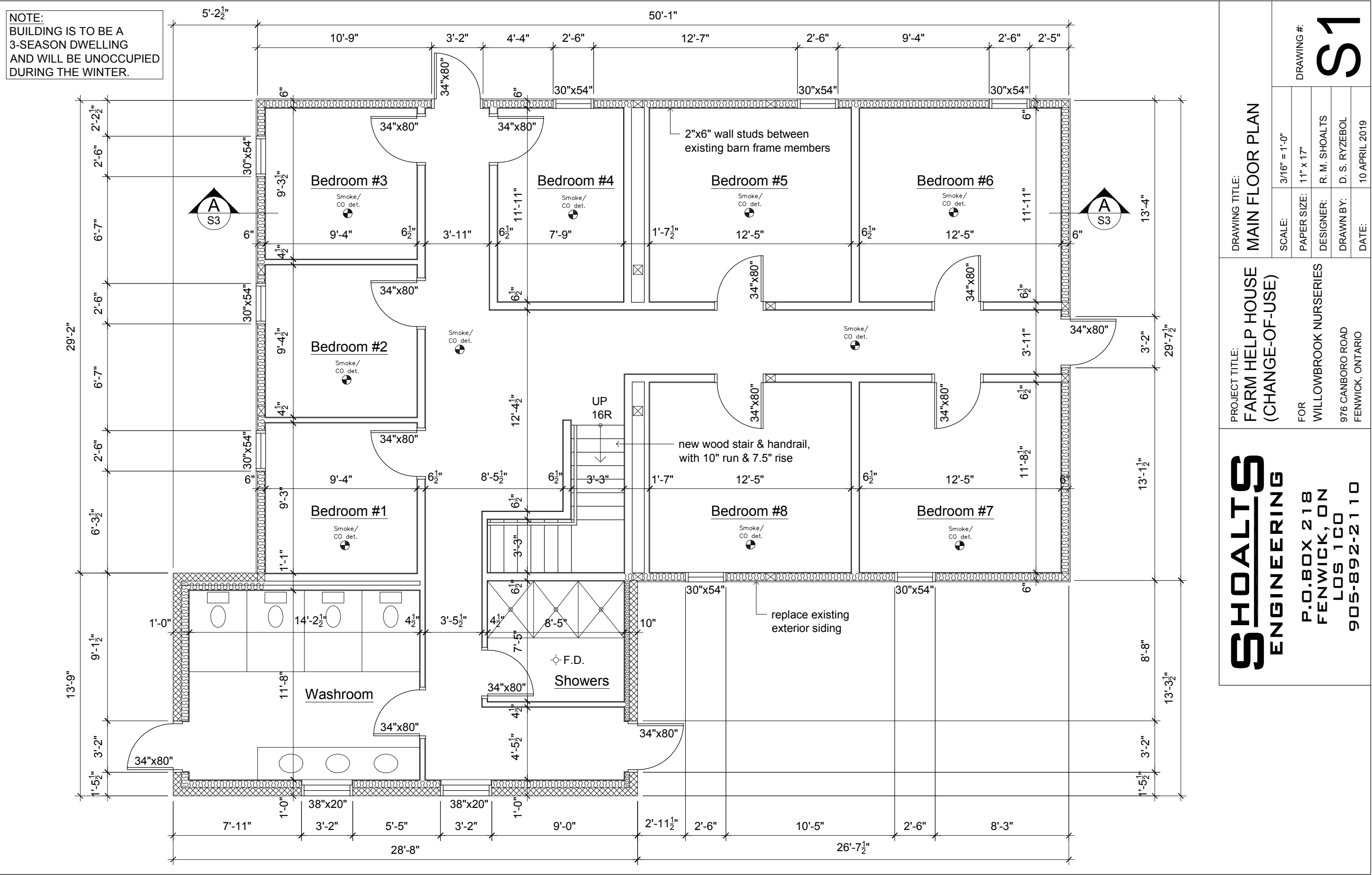
D. S. RYZEBOL

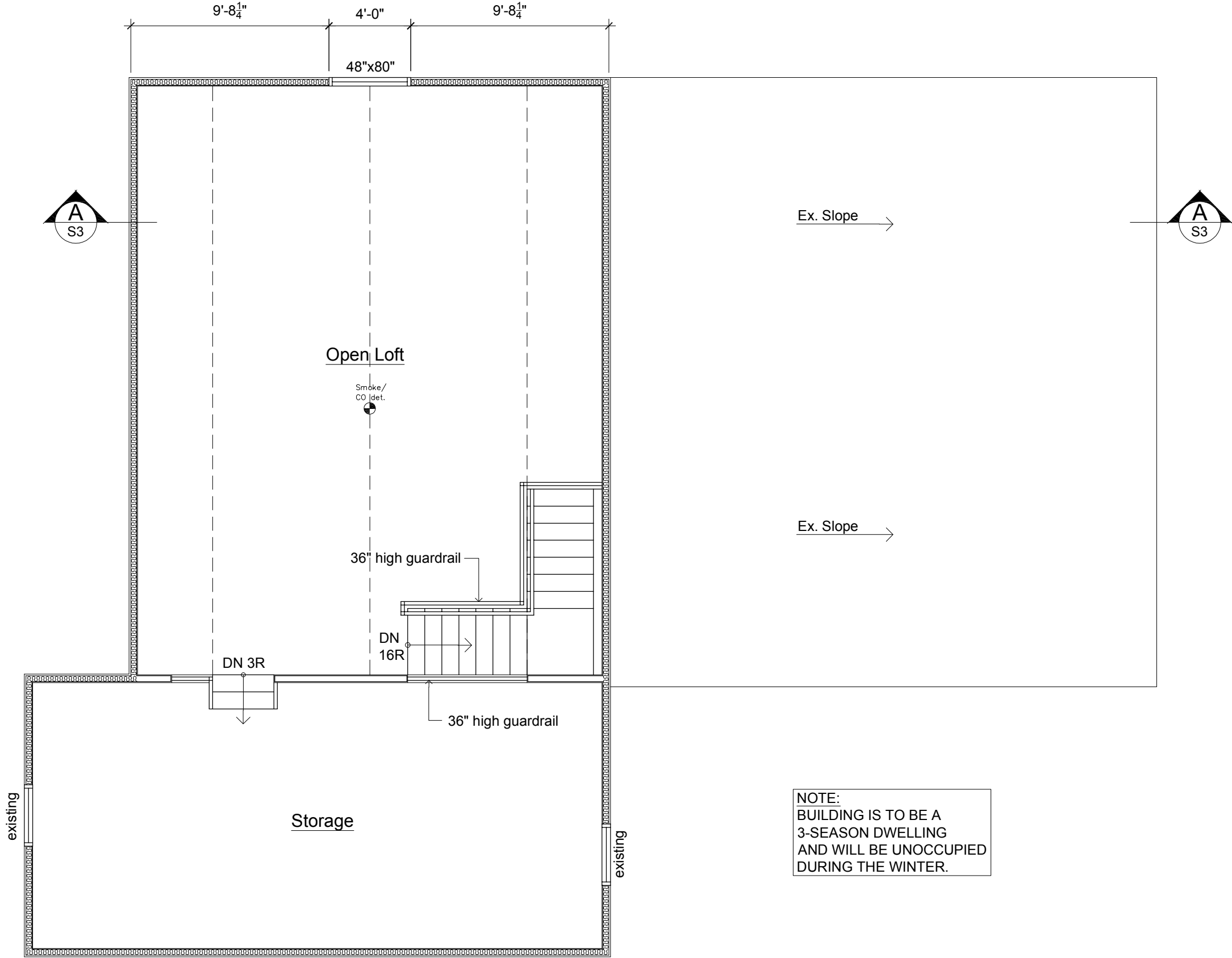
DATE:

8 MAY 2019

DRAWING #:

**SP1**





NOTE:  
BUILDING IS TO BE A  
3-SEASON DWELLING  
AND WILL BE UNOCCUPIED  
DURING THE WINTER.

PROJECT TITLE: FARM HELP HOUSE (CHANGE-OF-USE)  FOR WILLOWBROOK NURSERIES  976 CANBORO ROAD FENWICK, ONTARIO	DRAWING TITLE: LOFT FLOOR PLAN		DRAWING #: S2	
	SCALE:	3/16" = 1'-0"		
	PAPER SIZE:	11" x 17"		
	DESIGNER:	R. M. SHOALTS		
	DRAWN BY:	D. S. RYZEBOL		
		DATE:	10 APRIL 2019	

SHOALTS  
ENGINEERING

P.O.BOX 218  
FENWICK, ON  
L0S 1C0  
905-892-2110