

DECISION AND ORDER

Decision Issue Date: Tuesday, June 2, 2020

PROCEEDING COMMENCED UNDER Section 53, subsection 53(19), and Section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): YURI KHOLODOV

Applicant: FRANCO ROMANO

Property Address/Description: 76 POPLAR PLAINS CRES

Committee of Adjustment Case File: 18 117320 STE 22 CO, 18 117330 STE 22 MV, 18 117331 STE 22 MV

TLAB Case File Number: 18 200993 S53 22 TLAB, 18 200994 S45 22 TLAB, 18 200995 S45 22 TLAB

DECISION DELIVERED BY: Stanley Makuch

INTRODUCTION

The hearing of this matter concluded with the Parties present having reached a settlement which was supported by evidence at the Hearing. The Parties then agreed that the terms of the settlement needed to be formally written out and signed by Parties and Participants not in attendance. The formal terms were to be filed with the Toronto Local Appeal Body (TLAB) so a final decision can be issued. No date was set for that filing as it was uncertain as to the length of time required to obtain all Parties and Participants signatures to the settlement.

BACKGROUND

After approximately six months had passed and no minutes were filed, I issued a decision on October 24, 2019 which provided that the unless a Motion was filed respecting the Minutes of Settlement on or before November 8, 2019, the appeal would

be dismissed. On November 12, 2019 a Notice of Motion was filed which stated in part the following:

2. This matter has been the subject of a lengthy and involved process, which has included two mediation dates (one formal and one informal), and extensive revisions to the application and negotiation arising out of those revisions. The detailed chronology is set out in Mr. Romano's Affidavit and it will not be repeated in this Notice of Motion.

3. The culmination of this process is the result of a settlement that has been agreed to by all parties and participants who expressed a continued interest in the process (the parties to the mediation). The greater neighbourhood and the local Councillor have also been kept updated with respect to the ongoing settlement discussions.

4. The final set of plans and variances confirmed by the zoning examiner have now been circulated and approved by all parties.

5. As a result, we are requesting the TLAB to approve the final settlement based on the documents submitted. Approval of the settlement is in the public interest (sic) and demonstrates the extensive and collaborative efforts of all parties in reaching a consensus-based settlement.

6. In accordance with the TLAB's jurisdiction, and based on the evidence provided in Mr. Romano's Affidavit and Witness Statement previously filed, we respectfully request that the TLAB approve the application as revised, subject to conditions identified as appropriate.

7. A separate list of variances and conditions is attached hereto for the TLAB's use and consideration.

The Motion sought no relief from the limitation period set out in the Order of October 24, 2019 but rather simply sought approval of the settlement and provided evidence respecting the settlement after the date specified in my Order. On May 15, 2020, the solicitor for the appellant requested information as to the status of the Motion.

MATTERS IN ISSUE

The issue is whether the settlement should be approved given that it was filed late, on November 12, 2019, and no relief for late filing was requested. There is no issue on the merits of the approval as an affidavit of Mr. Romano, a professional planner, supporting the approval was filed and was unchallenged.

JURISDICTION

TLAB has jurisdiction to approve a settlement and allow the appeal based on it. It also has jurisdiction to grant relief for a late filing. The TLAB Rules of Practice and Procedure provide me with authority to grant relief from the deadline that I set.

2.11 The TLAB may grant all necessary exceptions to these Rules, or grant other relief as it considers appropriate, to enable it to effectively and completely adjudicate matters before it in a just, expeditious and cost-effective manner.

EVIDENCE

Evidence of the settlement signed by all relevant parties has been submitted and evidence that the application for consent and minor variances set out in Appendix 1 should be granted is found in the affidavit of Mr. Romano filed on November 12, 2019. There is no evidence or basis for me to conclude that the filing of the Motion and Affidavit on November 12, 2020, rather than November 8, 2019, would prejudice any party or participant since all relevant parties and participants agree to the settlement filed.

ANALYSIS, FINDINGS, REASONS

Given that there is no reason for me to deny the Motion because it is out of time, and given that the affidavit of Mr. Romano provides sufficient evidence to support the approval of the consent and variances set out in Appendix 1, the variances and consent should be approved.

DECISION AND ORDER

The settlement is approved as are the consent and variances in Appendix 1, subject to the consent and minor variance conditions set out in Appendix 1.

APPENDIX 1

Include the variances and conditions with final plans filed by A. Stewart on November 12, 2019

X 

S. Makuch
Panel Chair, Toronto Local Appeal

**76(2) Poplar Plains Crescent – List of Variances
Part 1 – West Lot**

1. Chapter 800 (420) Definitions, By-law 438-86

Lot: means a single parcel or tract of land that may be conveyed in compliance with the provisions of the Planning Act.

The proposed lots require severance consent from the Committee of Adjustment prior to the issuance of a building permit.

2. Chapter 900.3.10 (1247), By-law and 12(2) 66, By-law 438-86

No person shall, within the areas described in the following subparagraphs, erect or use a building of the type or nature described therein on a lot having a lesser area than that prescribed for the respective classes of buildings set out therein: In this case, Minimum Lot Size required is 460 m².

The proposed lot size is 407.1 m².

3. Chapter 10.20.40.10.(2), By-law 569-2013

The permitted maximum height of all front exterior main walls is 7.5 m.

More than 60% of the total width exceeds 7.5 m. The proposed height to the highest point is 9.96 m.

The permitted maximum height of all rear exterior main walls is 7.5 m.

More than 60% of the total width exceeds 7.5 m. The proposed height to the highest point is 9.96 m.

The permitted maximum height of all side exterior main walls facing a side lot line is 7.5 m.

The proposed height of the side exterior main walls facing a side lot line is 7.7 m.

4. Chapter 10.20.40.30.(1), By-law 569-2013

The permitted maximum building depth for a detached house is 19.0 m.

The proposed building depth is 19.9 metres.

5. Chapter 10.20.40.40.(1) (A), By-law 569-2013

The permitted maximum floor space index is 0.35 times the area of the lot: (142.5 sq/m).

The proposed floor space index of the building is equal to 0.726 times the area of the lot (295.5 m²).

6. Chapter 10.20.40.70(3)(C), By-law 569-2013

The required minimum side yard setback is 1.2 m where the required minimum lot frontage is 12.0 m to less than 15.0 m.

The proposed easterly side yard setback is 0.78 m.

7. Chapter 10.10.20.10.(1), By-law 569-2013

The proposed use, (Stacked Parking Space), is not permitted in the Residential Zone.

The dwelling contains a Stacked Parking Space.

76(1) Poplar Plains Crescent – List of Variances
Part 2 – East Lot

1. Chapter 900.3.10 (1247), By-law and 12(2) 66, By-law 438-86

No person shall, within the areas described in the following subparagraphs, erect or use a building of the type or nature described therein on a lot having a lesser area than that prescribed for the respective classes of buildings set out therein: In this case, Minimum Lot Size required is 460 m².

The proposed lot size is 404.2 m².

2. Chapter 800 (420) Lot Definitions, By-law 438-86

'Lot' means a single parcel or tract of land that may be conveyed in compliance with the provisions of the Planning Act.

The proposed lots require severance consent from the Committee of Adjustment prior to the issuance of a building permit.

3. Chapter 10.20.20.10.(1), By-law 569-2013

The proposed use, (Stacked Parking Space), is not permitted in the Residential Zone.

The dwelling contains a Stacked Parking Space.

4. Chapter 10.20.40.10(2), By-law 569-2013

The permitted maximum height of all front, rear, and side exterior main walls is 7.5 m.

The proposed height of the front exterior main walls is 9.09 m at its highest point.

The proposed height of the rear exterior main walls is approximately 8.96 m.

The proposed height of the side exterior main walls facing a side lot line is 9.09 m at its highest point.

5. Chapter 10.20.40.40.(1) (A), By-law 569-2013

The permitted maximum floor space index is 0.35 times the area of the lot: (141.5 m²).

The proposed floor space index is 0.718 times the area of the lot: (290.3 m²).

6. Chapter 10.20.40.70.(3)(C), By-law 569-2013

The required minimum side yard setback is 1.2 m where the required minimum lot frontage is 12.0 m to less than 15.0 m.

The proposed westerly side yard setback is 0.78 m.

7. Chapter 10.20.40.50.(1) (B), By-law 569-2013

The permitted maximum area of each platform at or above the second storey of a detached house is 4.0 m².

The proposed area of the platform at the second storey is 9.2 m².

Conditions of Consent Approval (Standard TLAB Consent Conditions)

- (1) Confirmation of payment of outstanding taxes to the satisfaction of Revenue Services Division, Finance Department.
- (2) Municipal numbers for the subject lots indicated on the applicable Registered Plan of Survey shall be assigned to the satisfaction of Survey and Mapping Services, Technical Services.
- (3) Prior to the issuance of a building permit, the applicant shall satisfy all conditions concerning City owned trees, to the satisfaction of the Director, Parks, Forestry & Recreation, Urban Forestry Services.
- (4) Where no street trees exist, the owner shall provide payment in an amount to cover the cost of planting a street tree abutting each new lot created, to the satisfaction of the General Manager, Parks, Forestry and Recreation.
- (5) Two copies of the registered reference plan of survey integrated with the Ontario Coordinate System and listing the Parts and their respective areas, shall be filed with City Surveyor, Survey & Mapping, and Technical Services.
- (6) Three copies of the registered reference plan of survey satisfying the requirements of the City Surveyor, shall be filed with the Committee of Adjustment.
- (7) Within ONE YEAR of the date of the giving of this notice of decision, the applicant shall comply with the above-noted conditions and prepare for electronic submission to the Deputy Secretary-Treasurer, the Certificate of Official, Form 2 or 4, O. Reg. 197/96, referencing either subsection 50(3) or (5) or subsection 53(42) of the Planning Act, as it pertains to the conveyed land and/or consent transaction.

Conditions of Minor Variance Approval

- (1) Construction of the proposed dwellings shall be completed substantially in accordance with the following plans prepared by Guitberg Group Inc. and dated June 2019:
 - a. East Lot: Site Plan (A-1), South Elevation (A-6), North Elevation (A-7), East Elevation (A-8), and West Elevation (A-9)
 - b. West Lot: Site Plan (A-1), South Elevation (A-6), North Elevation (A-7), East Elevation (A-8), and West Elevation (A-9)
- (2) Submission of a complete application for a permit to injure and/or remove privately owned trees and to alter grade as per City of Toronto Municipal Code Chapter 658.

SITE PLAN

SCALE 1/16" = 1'

DERIVED FROM SKETCH
PREPARED FOR DESIGN PURPOSES
LOT 4, PARTS OF LOTS 3,5
REGISTERED PLAN M-379
CITY OF TORONTO

ERTL SURVEYORS
Ontario Land Surveyors
PROJECT : 15333

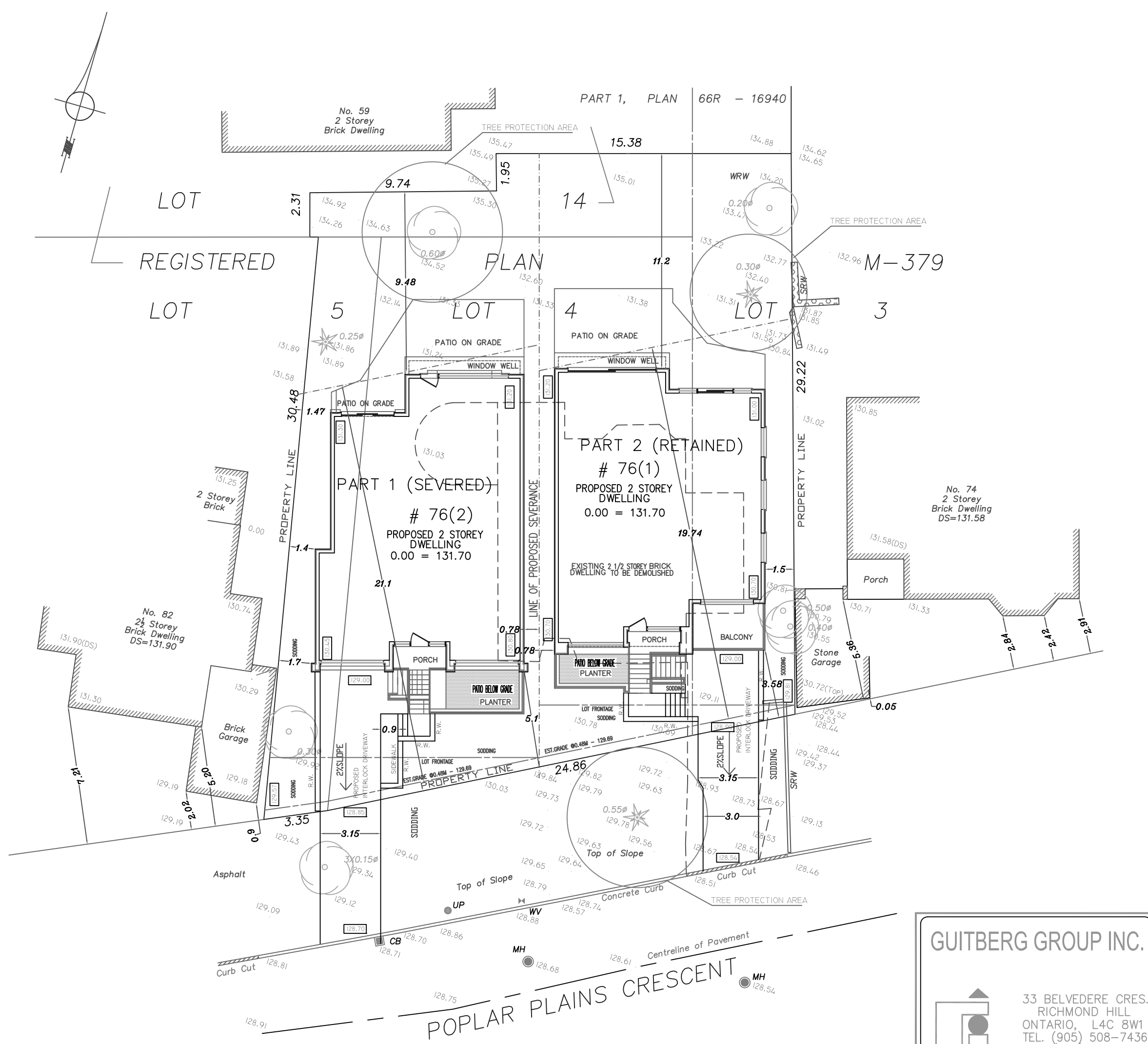
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ZONING DESIGNATION - RD,F10.5,D0.35,H19,X1429 (BY LAW 569 - 2013)			
LOT FRONTAGE	PROPOSED		ALLOWABLE
	METRIC	IMPERIAL	MIN.REQUIRED - 10.5M
SITE AREA	404.20M ²	4351.00 SQ.FT	MIN.REQUIRED - N/A
BUILDING AREA(GFA)			
BASEMENT	120.77 M ²	1300.0 SQFT	GARAGE EXCLUDED
GROUND FLOOR	143.53 M ²	1545.0 SQFT	
SECOND FLOOR	145.76 M ²	1569.0 SQFT	
TOTAL (G.F.A.)	289.29 M ²	3114.0 SQFT	
FIRST FLOOR HEIGHT	2.01 M	6'-8"	MAX.REQUIRED - 1.20M
BUILDING HEIGHT	10.00 M	32'-10"	FROM ESTABLISHED GRADE TO THE TOP OF ROOF
BUILDING LENGTH	14.90 M	48'-10"	REQUIRED - 17.0M (PLUS 2.0M 1-ST.EXTENSION)
BUILDING DEPTH	19.74 M	64'-9"	REQUIRED - 19.0M (PLUS 2.0M 1-ST.EXTENSION)
SETBACKS			
FRONT	3.58 M	11'-9"	REQUIRED 0.48M - AVERAGE SETBACK OF ADJACENT HOUSES
REAR	11.20 M	36'-9"	REQUIRED - 7.63M
SIDES	1.50 M ; 0.78 M	4'-11"; 2'-7"	MIN.REQUIRED - 0.90M
HEIGHT OF MAIN WALL	9.09 M	29'-10"	7.50 M
FSI	289.29 M ²	3114.0 SQFT (0.716)	MAX.REQUIRED - 0.35

DEVELOPMENT DATA (76 (2))			
ZONING DESIGNATION - RD,F10.5,D0.35,H19,X1429 (BY LAW 569 - 2013)			
LOT FRONTAGE	PROPOSED		ALLOWABLE
	METRIC	IMPERIAL	MIN.REQUIRED - 10.5M
SITE AREA	407.10 M ²	4382.00 SQ.FT	MIN.REQUIRED - N/A
BUILDING AREA(GFA)			
BASEMENT	126.80 M ²	1365.0 SQFT	GARAGE EXCLUDED
GROUND FLOOR	148.45 M ²	1598.0 SQFT	
SECOND FLOOR	148.45 M ²	1598.0 SQFT	
TOTAL (G.F.A.)	296.90 M ²	3196.0 SQFT	
FIRST FLOOR HEIGHT	2.01 M	6'-8"	TWO FLOORS FSI - 78.16%
BUILDING HEIGHT	10.00 M	32'-10"	MAX.REQUIRED - 1.20M
BUILDING LENGTH	15.40 M	50'-6"	FROM ESTABLISHED GRADE TO THE TOP OF ROOF
BUILDING DEPTH	21.10 M	69'-2"	REQUIRED - 17.0M (PLUS 2.0M 1-ST.EXTENSION)
SETBACKS			
FRONT	5.10 M	16'-9"	REQUIRED 0.48M - AVERAGE SETBACK OF ADJACENT HOUSES
REAR	9.48 M	31'-2"	REQUIRED - 7.85M
SIDES	1.40 M ; 0.78 M	4'-8"; 2'-7"	MIN.REQUIRED - 0.90M
HEIGHT OF MAIN WALL	7.85 M	25'-9"	7.50 M
FSI	296.90 M ²	3196.0 SQFT (0.729)	MAX.REQUIRED - 0.35

CITY OF TORONTO

Metric

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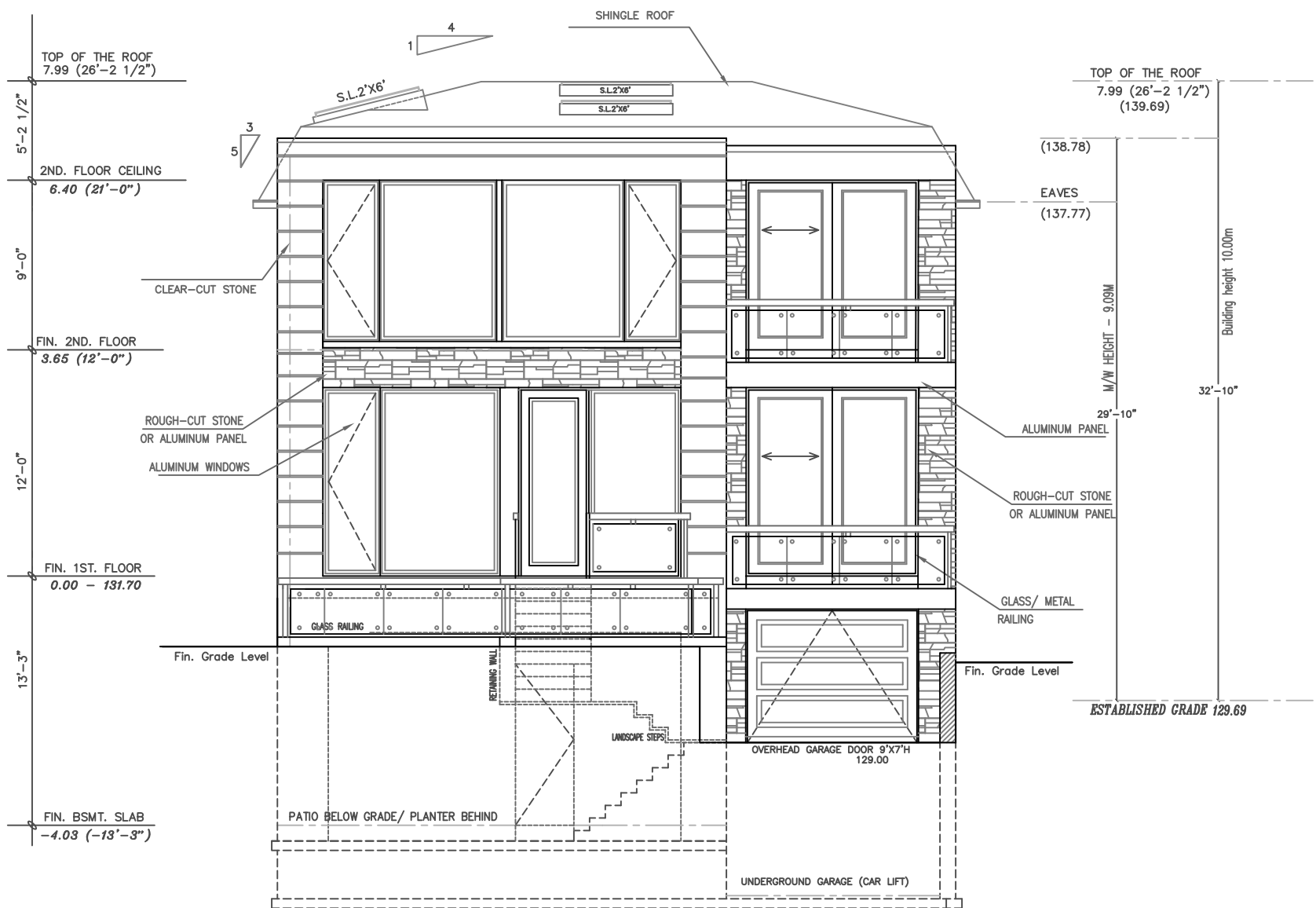
GUITBERG GROUP INC.

33 BELVEDERE CRES.
RICHMOND HILL,
ONTARIO, L4C 8W1
TEL. (905) 508-7436
FAX. (905) 508-7453

PRIVATE RESIDENCE
76 (1,2) POPLAR PLAINS CRESCENT
CITY OF TORONTO , ONTARIO

SITE PLAN

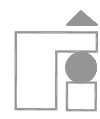
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SCALE 1/16" = 1'	DATE JUNE '19
PROJECT NUMBER R-25/01/19	A - 1



SOUTH ELEVATION

SCALE 1/8" = 1'- 0"

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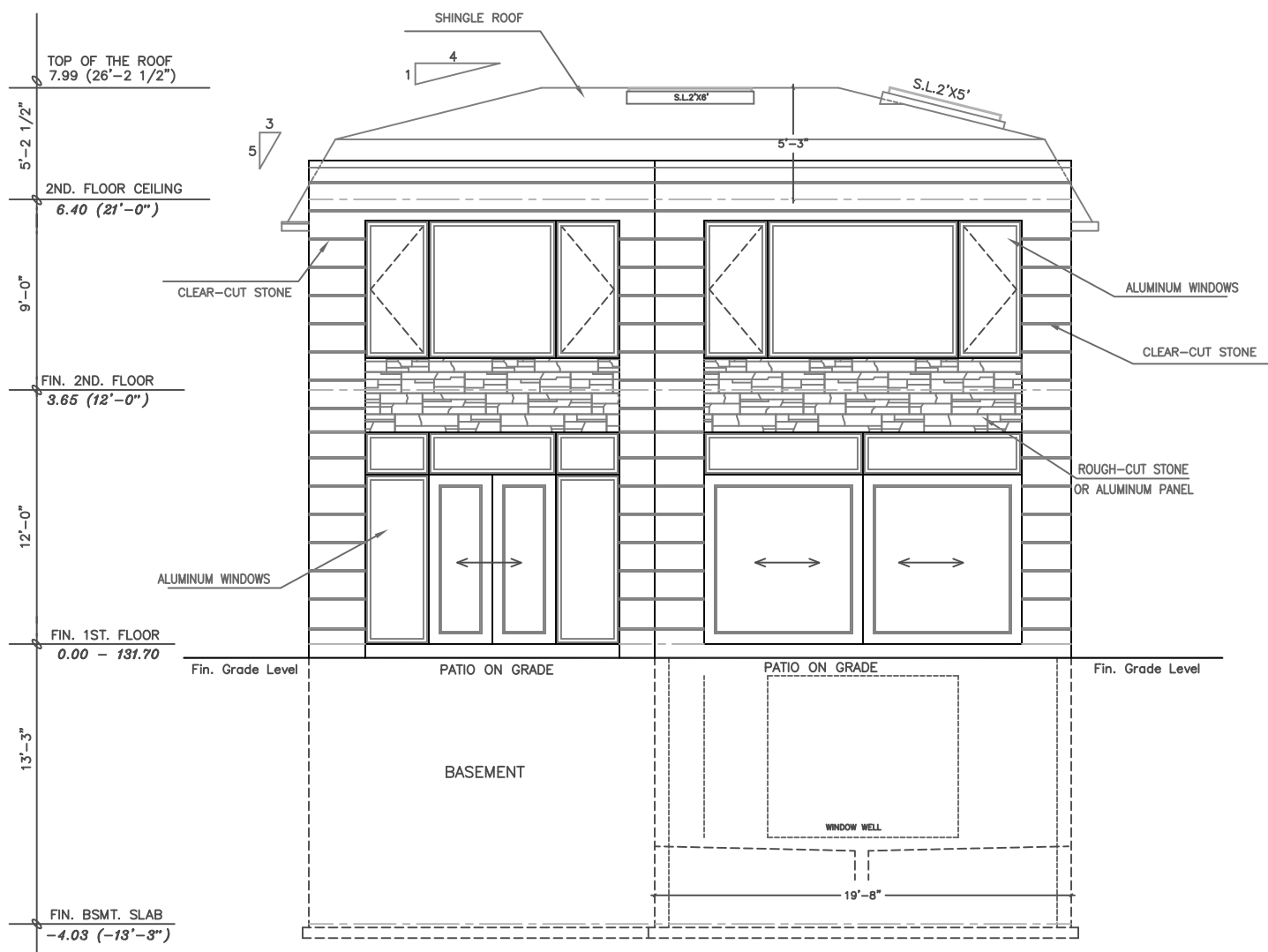
PRIVATE RESIDENCE
AT # 76 (1) POPLAR PLAINS CRESCENT
CITY OF TORONTO , ONTARIO

SOUTH ELEVATION

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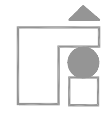
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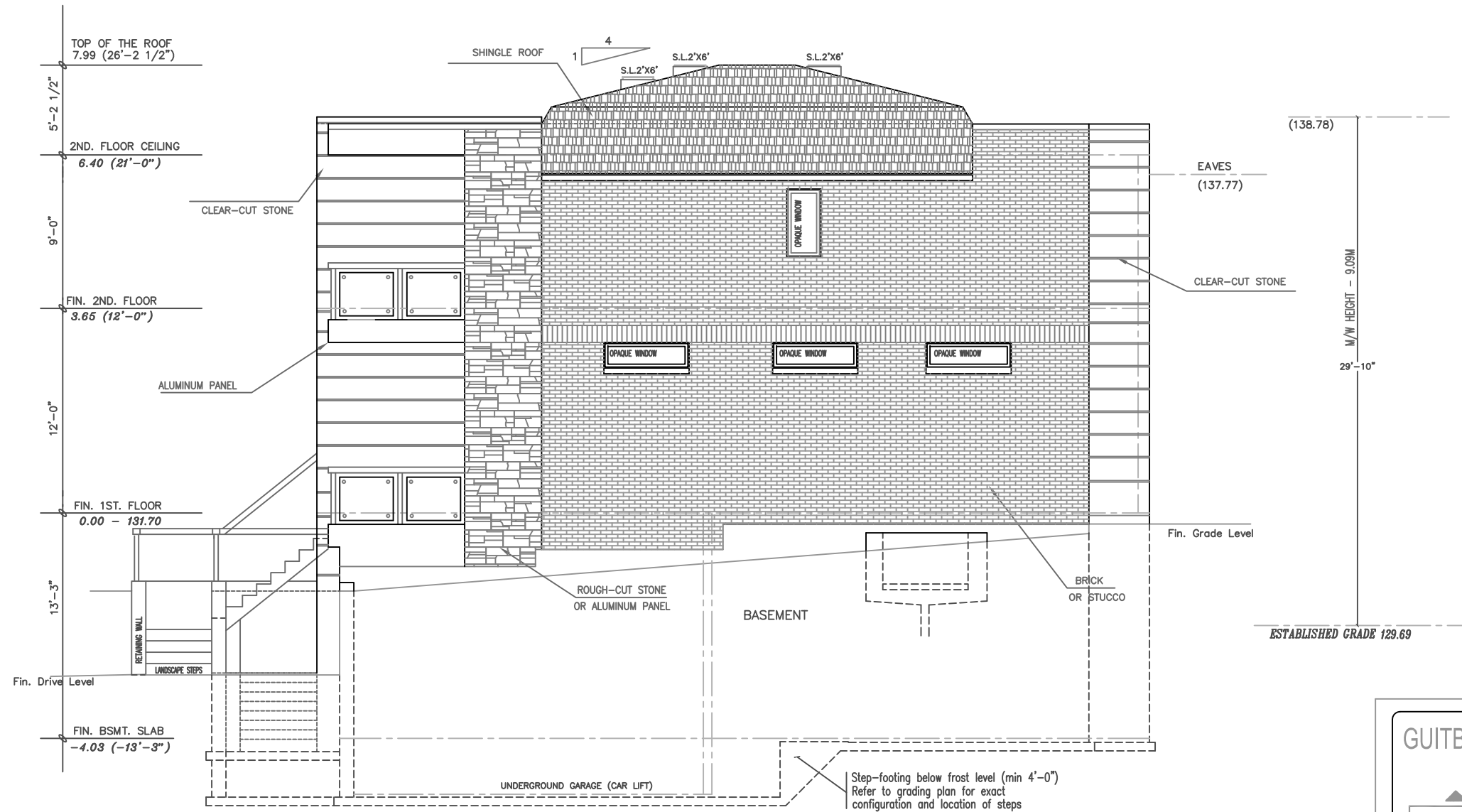
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NORTH ELEVATION

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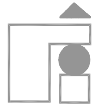
GUITBERG GROUP INC.	
	33 BELVEDERE CRES. RICHMOND HILL ONTARIO, L4C 8W1 TEL. (905) 508-7436 FAX. (905) 508-7453
PRIVATE RESIDENCE AT # 76 (1) POPLAR PLAINS CRESCENT CITY OF TORONTO , ONTARIO	
NORTH ELEVATION	
DRAWN BY J.M. SCALE 1/8" = 1'- 0"	CHECKED V.G. DATE JUNE '19
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EAST ELEVATION

SCALE 1/8" = 1'- 0"

GUITBERG GROUP INC.



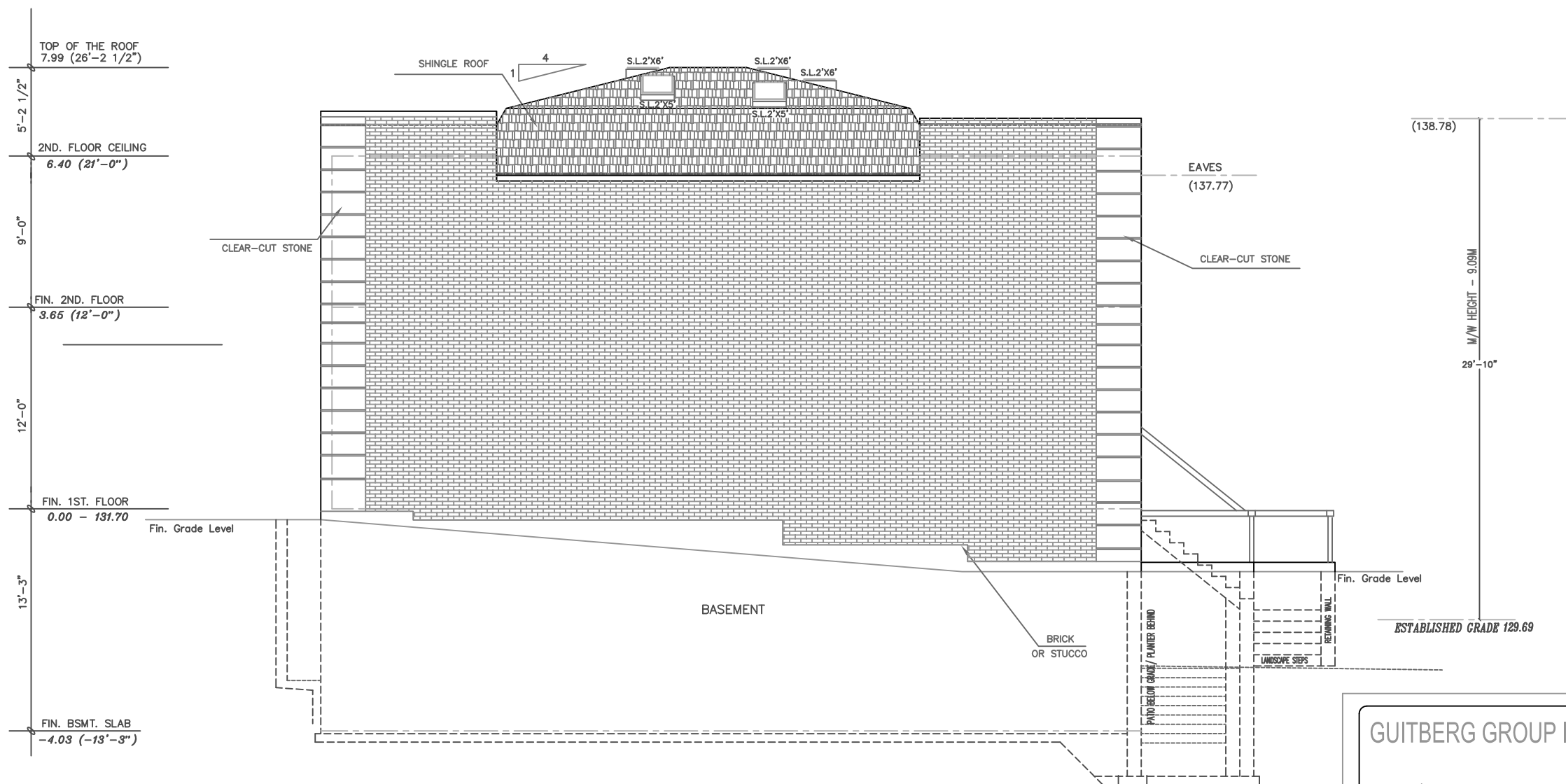
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PRIVATE RESIDENCE
 AT # 76 (1) POPLAR PLAINS CRESCENT
 CITY OF TORONTO , ONTARIO

EAST ELEVATION

DRAWN BY	J.M.	CHECKED	V.G.
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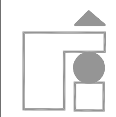
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WEST ELEVATION

SCALE 1/8" = 1'- 0"

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PRIVATE RESIDENCE
AT # 76 (1) POPLAR PLAINS CRESCENT
CITY OF TORONTO , ONTARIO

WEST ELEVATION

DRAWN BY	J.M.	CHECKED	V.G.
SCALE	1/8" = 1'- 0"	DATE	JUNE '19

PROJECT NUMBER
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DERIVED FROM SKETCH
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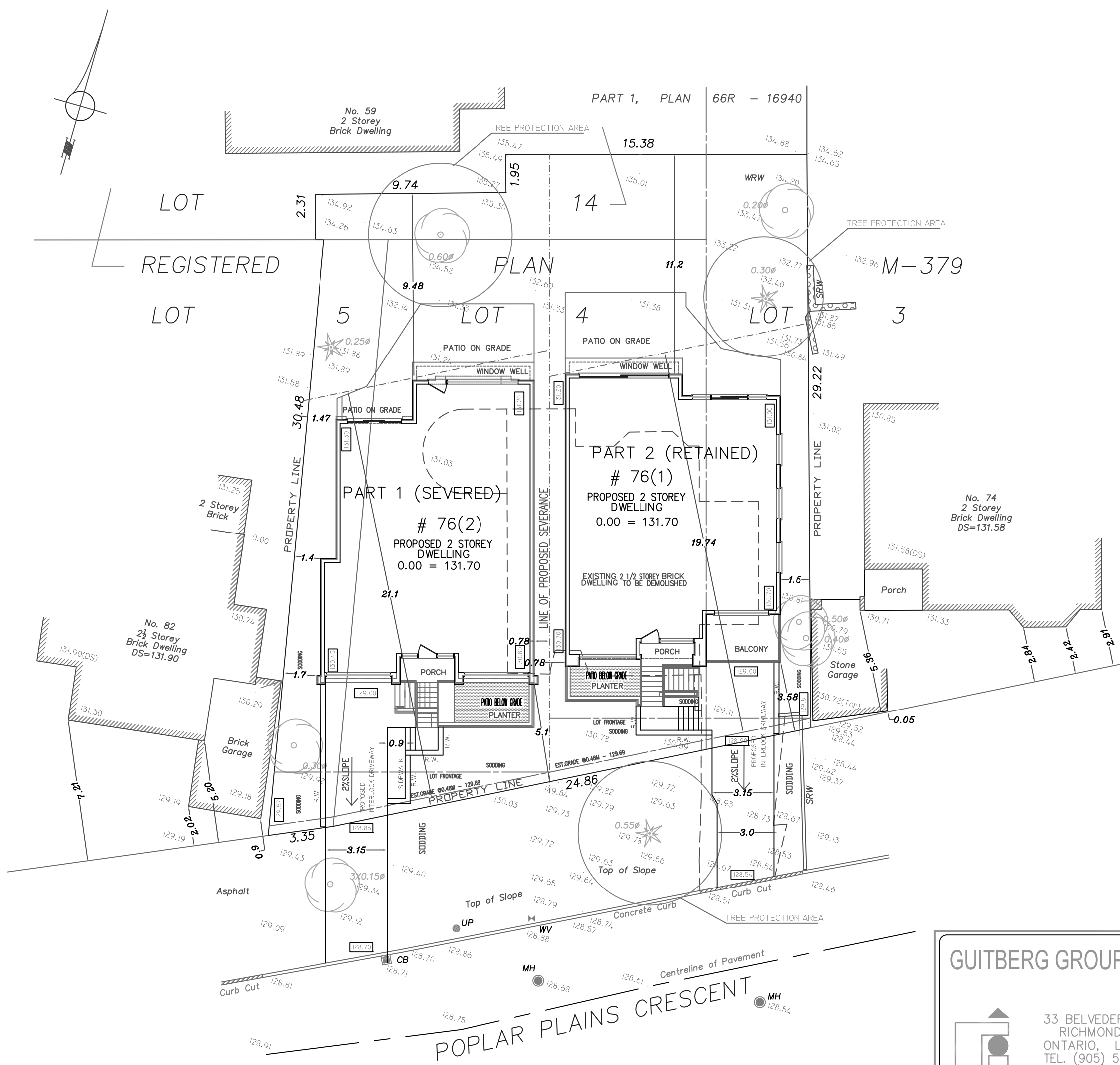
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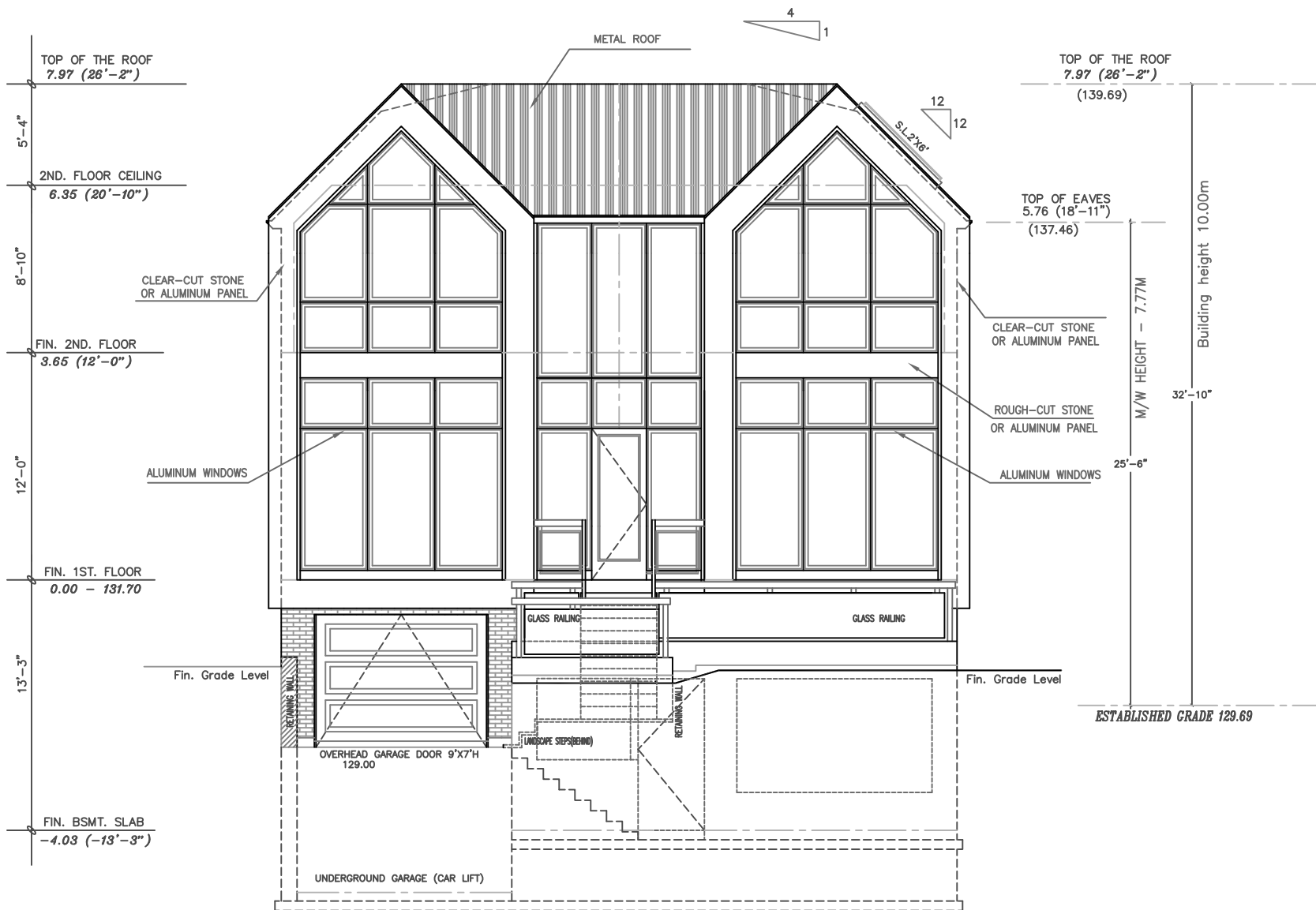


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PRIVATE RESIDENCE
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CITY OF TORONTO, ONTARIO

SITE PLAN

DRAWN BY	CHECKED
SCALE 1/16" = 1'	DATE JUNE 19
PROJECT NUMBER R-25/01/19	A - 1



SOUTH ELEVATION

SCALE 1/8" = 1'- 0"

GUITBERG GROUP INC.



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PRIVATE RESIDENCE
AT # 76 (2) POPLAR PLAINS CRESCENT
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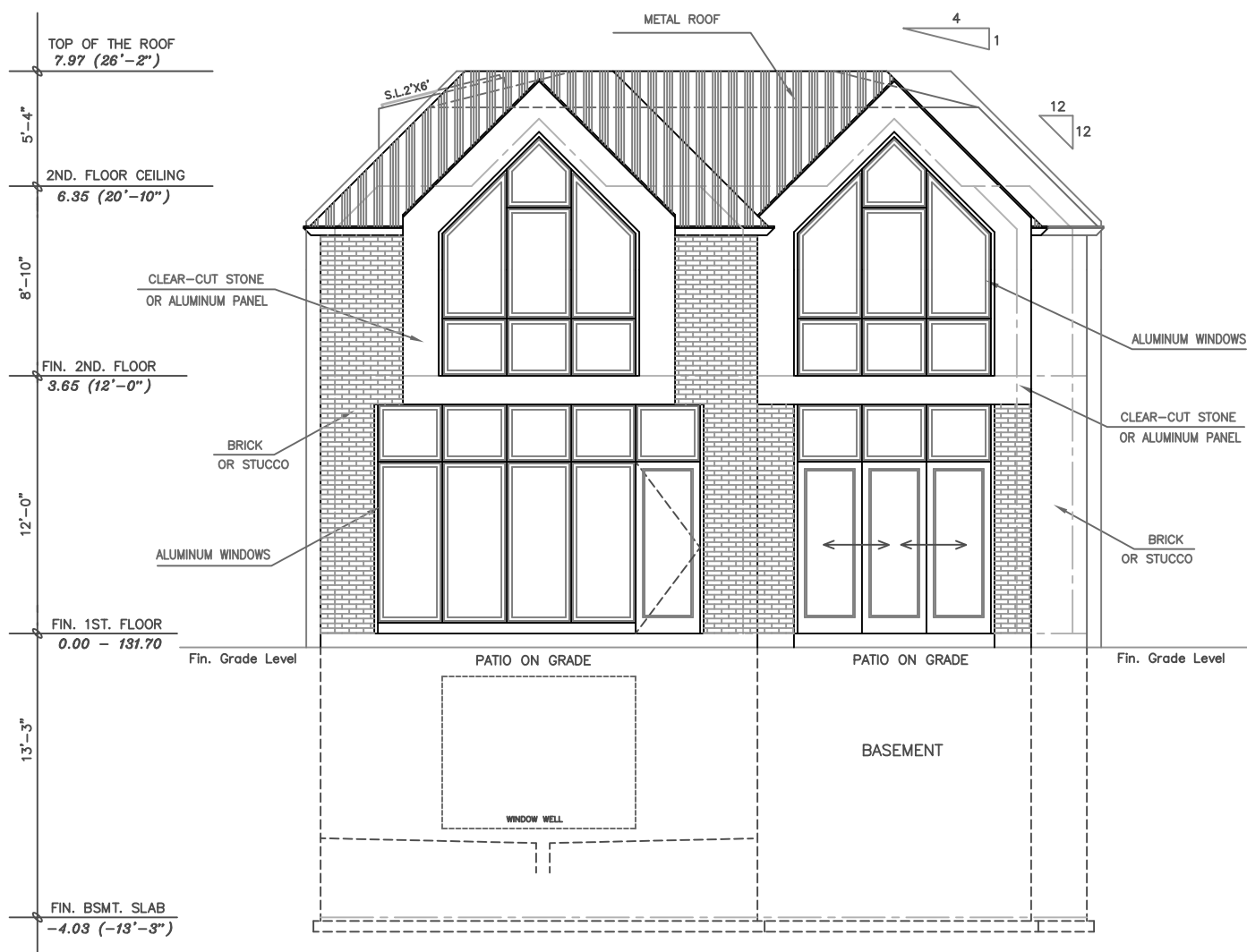
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SCALE 1/8" = 1'- 0" DATE JUNE '19

PROJECT NUMBER
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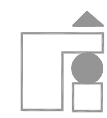
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NORTH ELEVATION

SCALE 1/8" = 1'- 0"

GUITBERG GROUP INC.



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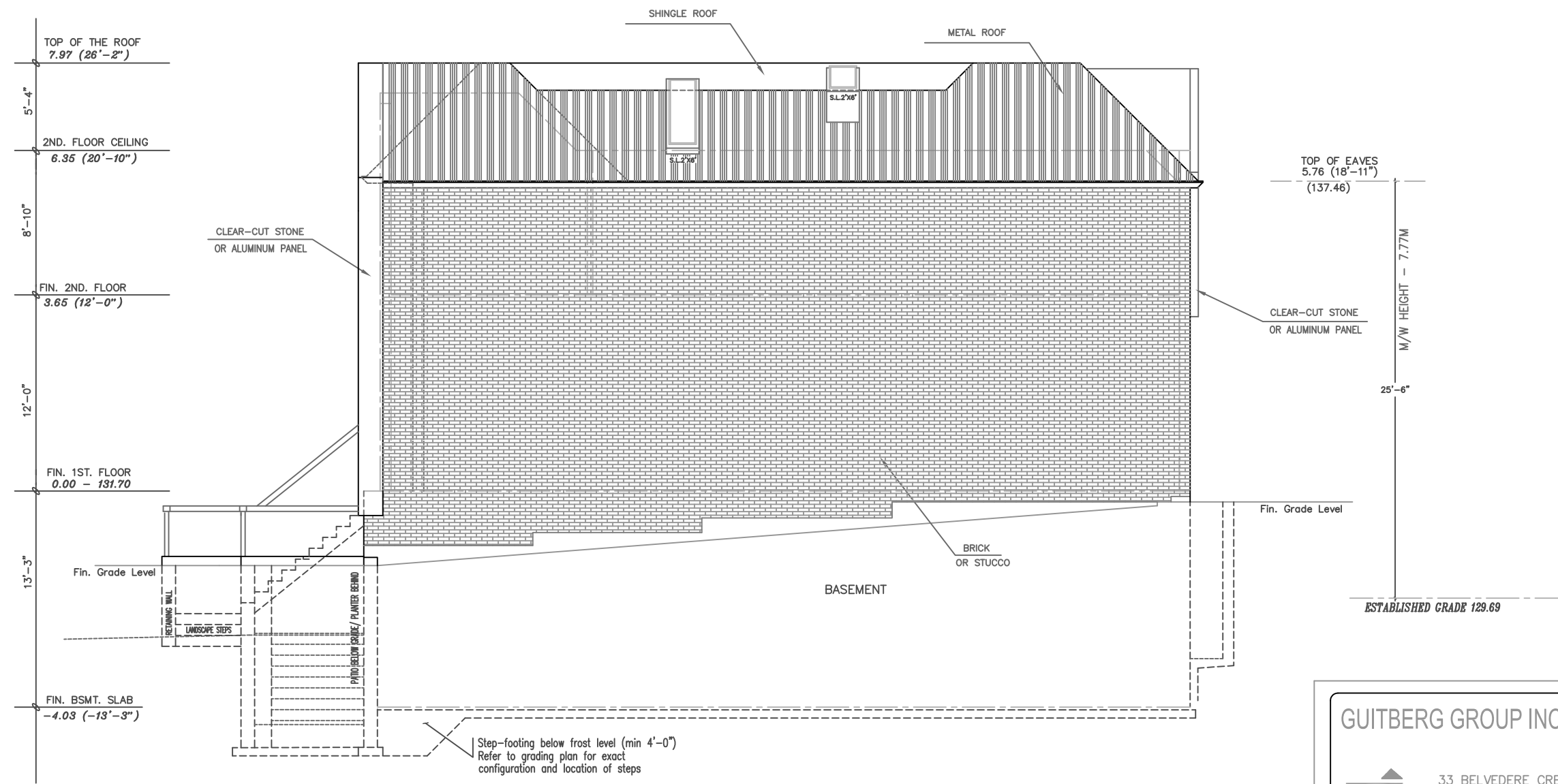
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NORTH ELEVATION

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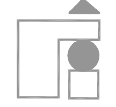
PROJECT NUMBER R-25/01/19 A-7



EAST ELEVATION

SCALE 1/8" = 1'- 0"

GUITBERG GROUP INC.



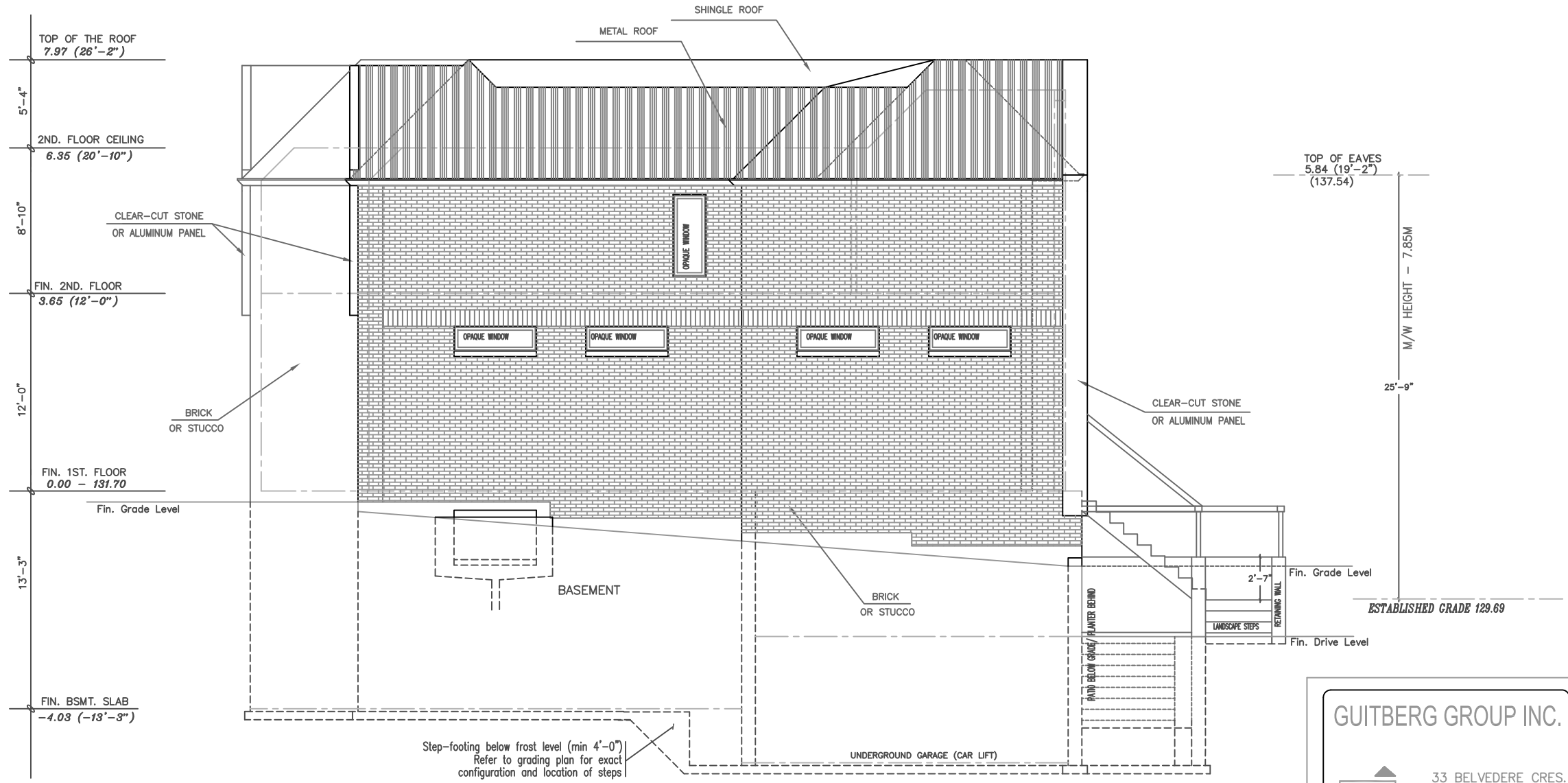
33 BELVEDERE CRES.
RICHMOND HILL
ONTARIO, L4C 8W1
TEL. (905) 508-7436
FAX. (905) 508-7453

PRIVATE RESIDENCE
AT # 76 (2) POPLAR PLAINS CRESCENT
CITY OF TORONTO , ONTARIO

EAST ELEVATION


DRAWN BY	J.M.	CHECKED	V.G.
SCALE	1/8" = 1'- 0"	DATE	JUNE '19

PROJECT NUMBER	R-25/01/19	A - 8
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WEST ELEVATION
SCALE 1/8" = 1'- 0"

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WEST ELEVATION

DRAWN BY	J.M.	CHECKED	V.G.
SCALE	1/8" = 1'- 0"	DATE	JUNE '19

PROJECT NUMBER	R-25/01/19		A -9
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