

Memorandum to the City of Markham Committee of Adjustment

July 15, 2024

File: A/063/24
Address: 7190 - 7200 Markham Rd
Applicant: 2404099 Ontario Limited
Agent: KLM Planning Partners Inc. (Marshall Smith)
Hearing Date: Wednesday, July 24, 2024

The following comments are provided on behalf of the East Team. The applicant is requesting relief from the following requirements of By-laws 2024-19 & 177-96, as amended:

By-law 2024-19

a) By-law 2024-19 a) Section 1.7.4:

That the requirements of this By-law do not apply to prevent the erection or use of a building or structure for which an application for site plan approval under Section 41 of the Planning Act or a heritage permit in accordance with the Heritage Act, was filed and accepted by the City on or prior to July 11th, 2024; whereas the by-law requires the site plan application to have been filed and accepted prior to the effective date of this By-law provided the application conforms to the relevant By-law listed in Section 1.5 before the effective date of this By-law.

By-law 2022-114

a) Amending By-law 2022-114, Section 7.606.2(n):

a minimum of 1.1 parking spaces per dwelling unit, whereas the by-law requires a minimum of 1.25 parking spaces per dwelling unit;

b) Amending By-law 2022-114, Section 7.606.2(i):

a maximum of 308 dwelling units on a lot, whereas the by-law permits a maximum of 269 dwelling units on a lot; as it relates to proposed townhouse development.

This application is related to approved Zoning By-law Amendment (ZA 2017 109850) and Site Plan (SC 2017 109850) applications.

BACKGROUND

Property Description

The 1.56 ha (3.86 ac) subject property is located at the southwest corner of Markham Road and Denison Street. Surrounding uses include a gas station to the north, low-rise residential dwellings to the west and east, and a medical office to the south. The subject property was previously occupied by a commercial plaza which contained various uses including retail stores, restaurants, and a department store.

In September 2020, the Local Planning Appeal Tribunal (now known as Ontario Land Tribunal) approved Zoning By-law Amendment application ZA 17 109850 to permit the development of 269 back-to-back stacked townhouses (including 8 dual-purpose units with at-grade non-residential uses) on the subject property (refer to Appendix "B" – Amending By-law 2022-114). The proposal includes a total of 418 parking spaces (401 underground and 17- at-grade), of which 34 are reserved for the at-grade non-residential uses.

In August 2023, the City approved Site Plan application SC 17 109850 for the proposed development (refer to Appendix “C” – Site Plan). The subject property is currently under construction for the underground parking garage.

Proposal

Additional Units and Parking Reduction

Since obtaining approval of the proposed development, the applicant identified an opportunity to provide additional units through modifying the interior layout of Blocks 6-8. In the original design, the lower units would occupy the ground floor and basement with a sunken patio, while the upper units would occupy the second and third floors (plus a rooftop terrace). The applicant is proposing to split each lower unit into two independent units, with one in the basement and one on the ground floor (refer to Appendix “D” – Floor Plans). The upper units on the second and third floor will remain as approved. The proposed changes will create 39 additional dwelling units, resulting in a total of 308 dwelling units within the proposed development. No changes are being proposed to the exterior layout. The applicant is requesting relief to increase the maximum number of units from 269 to 308; and reduce the minimum parking rate from 1.25 spaces/unit to 1.1 spaces/unit.

Exemption from By-law 2024-19

The subject property was included within the boundary of the City’s new Comprehensive Zoning By-law 2024-19, which does not permit the proposed development. By-law 2024-19 is not yet in force as it is currently under appeal. The applicant is requesting a variance to exempt the subject property from the requirements in By-law 2024-19 so that the current in-force by-law will continue to apply.

More Homes Built Faster Act, 2022 (Bill 23)

On November 28, 2022, the Province received Royal Assent for Bill 23, which aims to support the provincial goal of building 1.5 million homes in 10 years. Through Bill 23, the Province assigned the City a target of 44,000 units over 10 years (4,400 units annually). On March 22, 2023, Council approved a Housing Pledge committing to the housing target mandated by the Province.

Official Plan and Zoning

Official Plan 2014 (partially approved on November 24/17, and updated on April 9/18)

The Official Plan designates the subject property ‘Mixed Use Mid-Rise’ which provides for a variety of retail and residential uses, including stacked townhouses. The designation allows building heights between 3 and 8 storeys and a maximum floor space index (FSI) of 2.0. The policy intent is to provide for mid-rise intensification opportunities along arterial roads while providing an appropriate transition in height to low rise residential areas and allowing larger sites to redevelop with a mix of residential and non-residential development. The proposed development conforms to the policies of the Official Plan.

Zoning By-Laws 177-96 and 2024-19

The subject property is zoned ‘Community Amenity One * 606 (CA1*606)’ under By-law 177-96, as amended, which permits stacked townhouses. The proposal to add 39 units to the approved stacked townhouse development does not comply with the zoning by-law requirement with respect to the maximum number of units, and parking for multiple dwellings.

The City's new Comprehensive Zoning By-law 2024-19 zones the subject property 'Mixed Use Future Development (MU-FD)', which permits uses that legally existed on the date of the passing of the by-law and various non-residential uses including retail store, medical office, commercial school, and financial institution. The proposed stacked townhouses are not permitted.

Zoning Preliminary Review (ZPR) Not Undertaken

A Zoning Preliminary Review (ZPR) has not been conducted. It is the owner's responsibility to ensure that the application has accurately identified all the variances to the Zoning By-law required for the proposed development. If the variance request in this application contains errors, or if the need for additional variances is identified during the Building Permit review process, further variance application(s) may be required to address the non-compliance.

COMMENTS

The Planning Act states that four tests must be met in order for a variance to be granted by the Committee of Adjustment:

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee of Adjustment, for the appropriate development or use of land, building or structure;
- c) The general intent and purpose of the Zoning By-law must be maintained;
- d) The general intent and purpose of the Official Plan must be maintained.

Increase the Maximum Number of Units

The applicant is requesting relief to permit 308 dwelling units, whereas the by-law permits a maximum of 269 dwelling units. This represents an increase of 39 dwelling units. The additional units vary in size ranging between approximately 41.8 m² (450 ft²) and 51.8 m² (550 ft²).

Each lower unit originally had a sunken patio in the basement as private amenity area. The modified basement units will retain the sunken patio as originally approved. The modified ground floor units, however, will not have any private amenity space which is not ideal, however, these residents will have access to the proposed shared private amenity area for the overall development and surrounding parks. No changes are being proposed to the exterior layout of the development. The elevation design will generally remain the same, except for minor modifications to the balconies and front doors. The applicant will be required to pay outstanding fees for the additional units in accordance with the City's Fee By-law 211-83, as amended, through an amendment to the Site Plan agreement, as a condition of approval. Additional parkland dedication will not be required as it was previously calculated using the land area.

Parking Reduction

The applicant is requesting relief to permit a parking rate of 1.1 spaces/unit for multiple dwellings (stacked townhouses), whereas the by-law requires a minimum of 1.25 spaces/unit. Transportation staff are satisfied with the findings in the Parking Justification Study submitted and support the requested parking reduction provided the applicant

execute an agreement with the City to secure the required Transportation Demand Management measures including:

- a) Provision of a minimum of 308 long-term bicycle parking and 40 short-term bicycle parking spaces;
 - b) Provision of a minimum of 1 bicycle repair station;
 - c) Coordination and reservation of a venue/meeting room to host at least two (2) information sessions for residents of the development and assist York Region/York Region Transit to promote and deliver transportation information packages as well as pre-loaded presto cards to new residents;
 - d) Provision of one (1) presto card pre-loaded with the minimum amount of \$200 to each residential unit;
 - e) Distribution and collection of residential travel surveys to residents: one (1) at the time of closing/at occupancy and one (1) at 2 years after occupancy;
 - f) Parking utilization survey 2 years after occupancy;
 - g) Implementation of a minimum of one (1) information display board;
- and 8. Unbundling of Parking spaces for the unsold Phase 2 units

Exemption from By-law 2024-19

The City included the subject property within the boundary of the By-law 2024-19 which instead should have been exempted. Amending By-law 2022-14 was approved prior to the enactment of By-law 2024-19 and hence should be grandfathered. Otherwise, the applicant will be required to re-apply for a zoning by-law amendment to permit the proposed development when By-law 2022-14 becomes in full effect and in force which is not necessary in Staff's opinion. Addressing the non-compliance matters are appropriate through the Committee of Adjustment.

PUBLIC INPUT SUMMARY

No written submissions were received as of July 17, 2024. It is noted that additional information may be received after the writing of the report, and the Secretary-Treasurer will provide information on this at the meeting.

CONCLUSION

Planning Staff have reviewed the application with respect to Section 45(1) of The Planning Act, R.S.O. 1990, c. P.13, as amended. Staff recommend that the Committee consider public input in reaching a decision.

The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the zoning by-law, and how they satisfy the tests of the Planning Act required for the granting of minor variances.

Please refer to Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Carlson Tsang, Senior Planner, East District

REVIEWED BY:



Stacia Muradali, Development Manager, East District

File Path: Amanda\File\ 24 178712 \Documents\District Team Comments Memo

Appendices

Appendix A: Conditions of Approval

Appendix B: Amending By-law 2022-114

Appendix C: Site Plan

Appendix D: Floor Plans

APPENDIX "A"

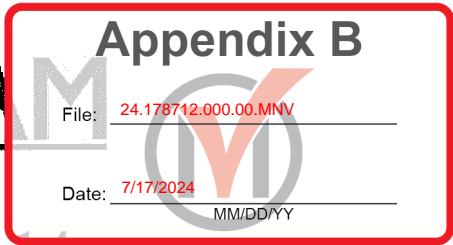
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/063/24

1. The variances apply only to the proposed development as long as it remains;
2. That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as 'Appendix C' and 'Appendix D' to this Staff Report, and that the Secretary-Treasurer receive written confirmation from the Supervisor of the Committee of Adjustment or designate that this condition has been fulfilled to their satisfaction;
3. That the owner shall enter into an agreement with the City to secure the Transportation Demand Management measures required for the proposed development to the satisfaction of the Director of Engineering or designate, including but not limited to:
 - a. Provision of a minimum of 308 long-term bicycle parking and 40 short-term bicycle parking spaces;
 - b. Provision of a minimum of 1 bicycle repair station;
 - c. Coordination and reservation of a venue/meeting room to host at least two (2) information sessions for residents of the development and assist York Region/York Region Transit to promote and deliver transportation information packages as well as pre-loaded presto cards to new residents;
 - d. Provision of one (1) presto card pre-loaded with the minimum amount of \$200 to each residential unit;
 - e. Distribution and collection of residential travel surveys to residents: one (1) at the time of closing/at occupancy and one (1) at 2 years after occupancy;
 - f. Parking utilization survey 2 years after occupancy;
 - g. Implementation of a minimum of one (1) information display board;
 - and 8. Unbundling of Parking spaces for the unsold Phase 2 units
4. That the owner shall pay the outstanding fees for the additional units associated with Site Plan Application SC 2017 109850, in accordance with City's Fee By-law 211-83, as amended, through amending the Site Plan Agreement, to the satisfaction of the Director of Planning and Urban Design, or designate.

CONDITIONS PREPARED BY:



Carlson Tsang, Senior Planner, East District



BY-LAW 2022-114

A By-law to amend By-law 90-81, as amended
(to delete lands from the designated areas of By-laws 90-81)
and to amend By-law 177-96, as amended
(to incorporate lands into the designated area of By-law 177-96)

The Council of the Corporation of the City of Markham hereby enacts as follows:

1. That By-law 90-81, as amended, is hereby amended by deleting the lands shown on Schedule 'A' attached hereto, from the designated area of By-law 90-81, as amended.

2. By-law 177-96, as amended, is hereby further amended as follows:
 1. By adding the lands outline on Schedule 'A' attached to this By-law to the designated area of By-law 177-96, as amended.

 2. By rezoning the lands outlined on Schedule 'A' attached hereto as follows:

From: **Special Commerical One (SC1) Zone**

To: **Community Amenity One*606 (CA1*606) Zone**

 3. By adding the following subsections to Section 7 – EXCEPTIONS


Exception 7.606	2404099 Ontario Limited 7190-7200 Markham Road	Parent Zone CA1
File No. ZA 17 109850		Amending By-law 2022- 114
Notwithstanding any other provisions of this By-law as amended, the following provisions shall apply to the land denoted by the symbol *606 on the schedules to this By-law. All other provisions, unless specifically modified/amended by this section, continue to apply to the lands subject to this section.		
7.606.1 Additional Permitted Uses		
The following additional uses are permitted:		
a)	<i>Restaurants, Take-Out</i>	
7.606.2 Special Zone Standards		
The following specific Zone Standards shall apply:		
a)	Notwithstanding any further division or partition of any of the lands subject to this Section, all lands zone CA1*606 shall be deemed to be one <i>lot</i> for the purpose of this By-law.	
b)	Markham Road shall be deemed to be the <i>front lot line</i>	
c)	Non-residential uses are only permitted on the <i>first storey</i> of a <i>building</i> located in units that are within 70 metres of Denison Street (<i>north lot line</i>), and 110 metres of Markham Road (<i>east lot line</i>), with direct access to and facing a <i>public street</i> and shall have a minimum vertical distance of 4.5 metres between the floor and the ceiling above, non-inclusive of dropped bulkheads and mezzanines or lofts, and shall be considered a single storey.	
d)	Minimum required <i>yard</i> : i) <i>Front yard</i> – 1.6 m ii) <i>Exterior side yard</i> – 1.5 m iii) <i>Interior side yard</i> – 5.5 m iv) <i>Rear yard</i> – 1.5 m	
e)	Minimum required setback from a daylighting triangle – 1.3 m	
f)	Maximum <i>height</i> of a <i>building</i> containing <i>multiple dwellings</i> – 16.5 m	
g)	Minimum setback for an underground <i>parking garage</i> to any <i>lot line</i> – 0.5 m	
h)	Maximum <i>Floor Space Index (FSI)</i> – 2.0	

i)	A maximum of 269 <i>dwelling units</i> shall be permitted on a <i>lot</i> .
j)	<i>Porches</i> , stairs and/or landings used to access a <i>main building</i> are permitted to encroach into the <i>required front</i> , <i>exterior side</i> , and <i>rear yard</i> provided they are no closer than 0.3 metres from the <i>lot line</i> .
k)	Maximum square metres of all restaurant uses – 250 square metres
l)	Maximum square metres of <i>medical office</i> uses – 250 square metres
m)	<i>Home occupation</i> uses located in the area identified in c) above may occupy up to 50% of the <i>gross floor area</i> of a unit.
n)	Minimum number of <i>parking spaces</i> required: i) 1.25 spaces per <i>dwelling unit</i> ii) 0.15 spaces per <i>dwelling unit</i> for visitor parking iii) For all non-residential uses – 1 space per 30 square metres of <i>net floor area</i> .
o)	For the purpose of this zone, loading spaces are not required.


3. A contribution by the Owner to the City for the purposes of community benefits and public art, in accordance with Section 37 of the Planning Act, as amended, shall be required. Payments shall be collected in accordance with the terms of an agreement to secure for the Section 37 contribution. Nothing in this section shall prevent the issuance of a building permit as set out in Section 8 of the Building Code Act or its successors.

Read a first, second, and third time and passed on November 8, 2022.

Approved by the Local Planning Appeal Tribunal (LPAT)
For information only to facilitate the assignment of a by-law number



Kimberley Kitteringham
City Clerk



Frank Scarpitti
Mayor

7314 MARKHAM RD

DENISON STREET

MARKHAM ROAD

PARENT ZONING BY-LAW: 2016 (AS AMENDED)
CITY OF MARKHAM ZONING BY-LAW: 2016 (AS AMENDED)

SITE STATISTICS

Table with 4 columns: ITEM, UNIT, VALUE, DESCRIPTION. Includes categories like 1. SITE AREA, 2. NUMBER OF UNITS, 3. YARD SETBACKS, 4. GROSS FLOOR AREA & BUILDING AREA, 5. PARKING, and 6. BICYCLE PARKING.

Table with 4 columns: BUILDING TYPE, TYPE, REQUIRED, PROVIDED. Includes rows for Stacked Townhouse, Long Term, and Short Term parking.

Table with 4 columns: BUILDING TYPE, TYPE, REQUIRED, PROVIDED. Includes rows for Stacked Townhouse and Long Term parking.

Appendix C
File: 24.178712.000.00.MNV
Date: 7/17/2024
MM/DD/YY

APPLICATION NUMBER: SC 17 109850

APPLICATION NUMBER: ZA 17 109850

KEY MAP (N.T.S.)

FIRE ROUTE SIGN: A circular sign with a red border and a white arrow pointing right, with text 'VEHICLES WILL BE TAGGED AND/OR TOWED AWAY'.

FIRE ROUTE SIGN NOTES: Signs to be set at an angle or not used where to display, and not used where...

PARKING SIGN: A rectangular sign with a white background and a black bicycle icon, with text 'PARKING'.

BICYCLE STORAGE SIGN: A rectangular sign with a white background and a black bicycle icon, with text 'BICYCLE STORAGE'.

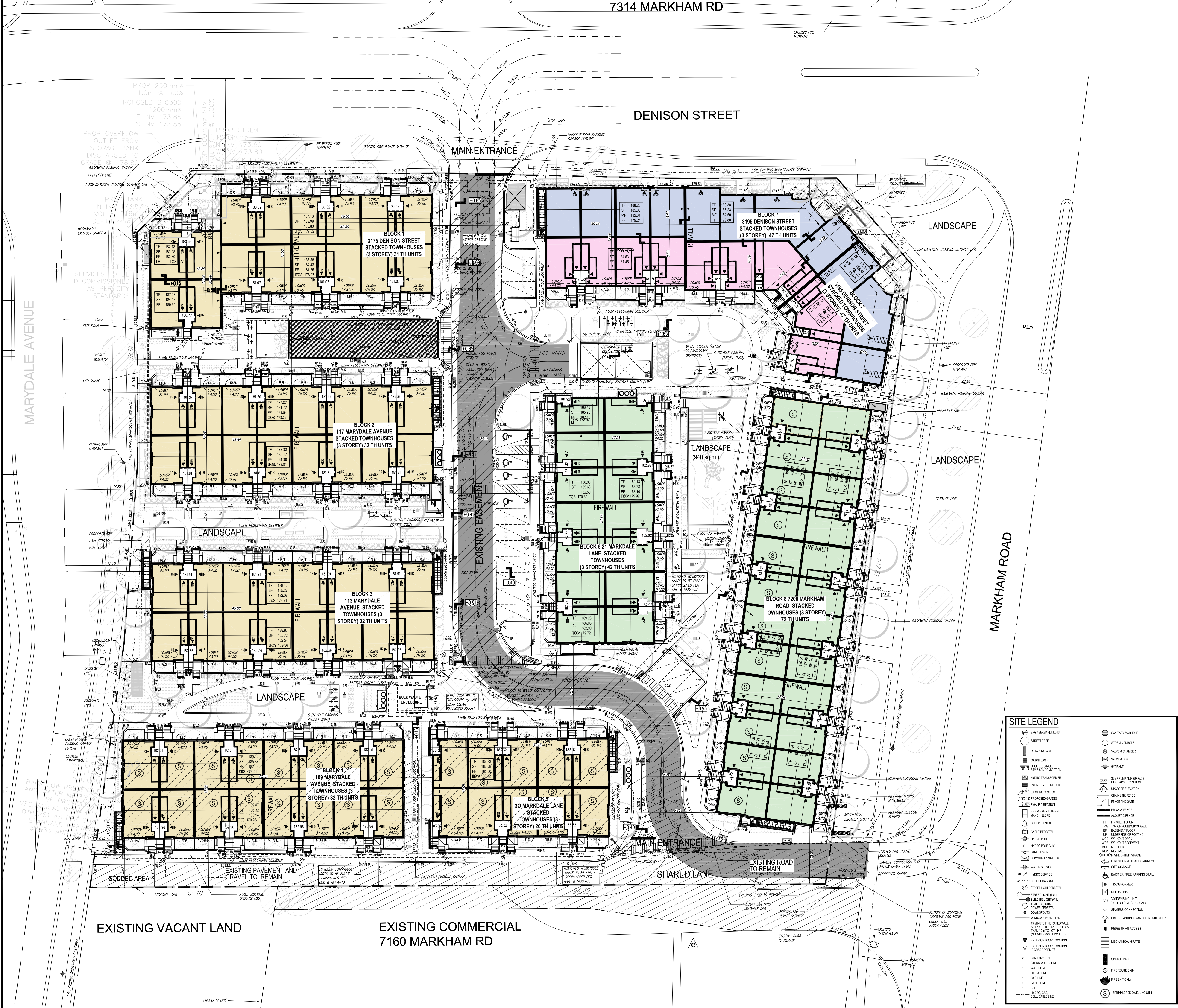
SITE LEGEND: A list of symbols for various site features like Street Tree, Retaining Wall, Catch Basin, Double Valve, Micro Transformer, Radiated Motor, Existing Grades, Proposed Grades, Drainage, Pedestal, Cable Pedestal, Hydro Pole, Hydro Pole Guy, Street Sign, Community Mailbox, Water Service, Micro Service, Sheet Drainage, Street Light Pedestal, Street Light (All), Bell Signal, Pedestrian, Donor Posts, Window Permitted, 45 Minute Fire Rated Wall, Exterior Door Location, Sanitary Manhole, Storm Manhole, Valve & Chamber, Valve & Box, Hydrant, Sanitary Manhole, Storm Manhole, Valve & Chamber, Valve & Box, Hydrant, Sanitary Manhole, Storm Manhole, Valve & Chamber, Valve & Box, Hydrant, Sanitary Manhole, Storm Manhole, Valve & Chamber, Valve & Box, Hydrant.

REVISIONS table with columns: No., Description, Date, By, Scale. Includes a NORTH arrow and a STAMP.

4 ARCHITECTURE INC logo and contact information: 8966 Woodbine Avenue, Suite 100, Markham, ON L3R 0J7.

JD DEVELOPMENTS - 216088 MARKHAM ROAD, MARKHAM, ONTARIO

CITY OF MARKHAM 7190 & 7200 MARKHAM RD
SITE PLAN
REV. 2024.07.09
Scale: 1:300
A0.1





GROSS FLOOR AREA @ PARKADE

ROOM DESCRIPTION	GFA	FRI
EXIT STAIRS	1737 sqm	0.011
GARAGE ROOMS	15158 sqm	0.089
STORAGE ROOMS	727.38 sqm	0.041
MECH/ELEC ROOMS	96.18 sqm	0.006
STORMWATER TANK	78.84 sqm	0.005
TOTAL	12272.8 sqm	0.073
UNDERGROUND PARKING AREA	1400.00 sqm	

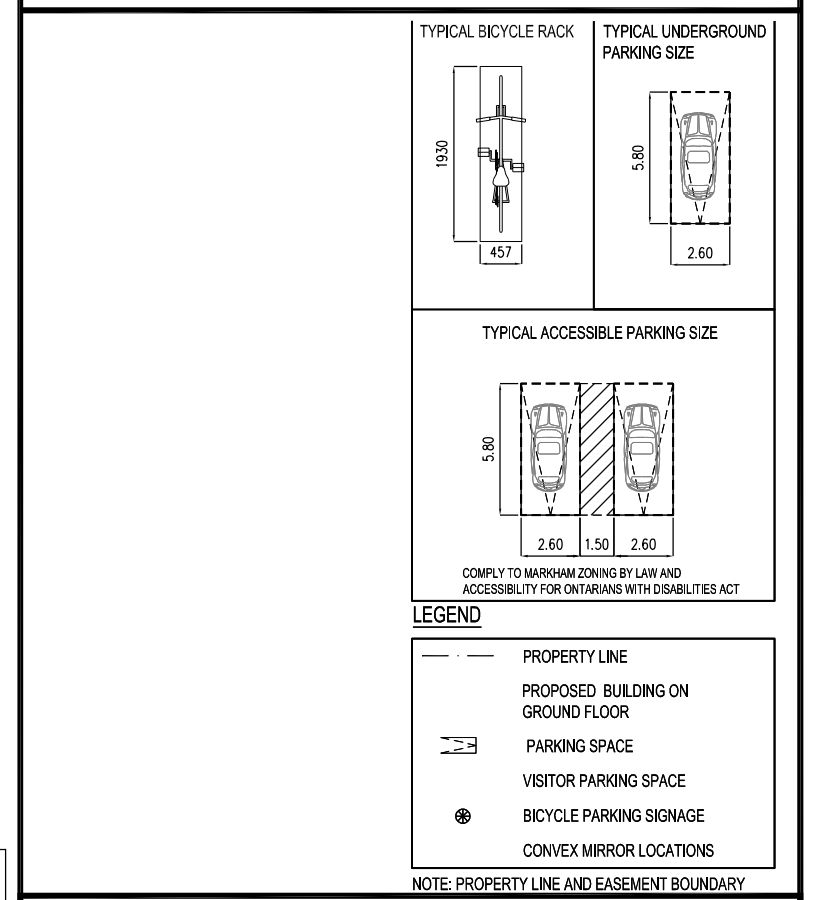
OBC MATRIX - PARKADE

Project Name: 4 Architecture Inc.
 Address: 8966 Woodbine Ave., Suite 300, Markham, Ontario L3R 0J7
 Project Location: 7190-7200 MARKHAM RD., MARKHAM, ONTARIO

Item	Data Matrix Part 3 / 9 or 10	OBC Reference	Notes
1 Project Description	Change of Use: <input type="checkbox"/> New Addition: <input type="checkbox"/> Part 11: <input type="checkbox"/> Part 3: <input checked="" type="checkbox"/> Part 9: <input type="checkbox"/> Part 10: <input type="checkbox"/>	11.1 - 11.4	
2 Major Occupancy	LOW HAZARD Group F, DIVISION 3	3.1.2.1(A)	
3 Building Area (m2)	Existing: N/A New: N/A/UNDERGROUND BUILDING WITH BASEMENT AREA 14,027.90 m2	1.4.1.2.1(A)	
4 Gross Area (m2)	Existing: N/A New: N/A/UNDERGROUND BUILDING WITH BASEMENT AREA 14,027.90 m2	1.4.1.2.1(A)	
5 No. of Storeys	Above Grade 0 (ZERO) Below Grade 1 (ONE)	1.4.1.2.1(A) & 1.4.1.2.1(B)	
6 Height of Building (m)	N/A	3.2.2.10 & 3.2.5	
7 No. of Streets/Fire Fighter Access Routes	None	3.2.2.81	
8 Building Classification	3.2.2.81 GROUP F, DIVISION 3, ONE STOREY, SPRINKLERED	3.2.2.81	
9 Sprinkler System Proposed	Entire building: <input checked="" type="checkbox"/> Selected compartment: <input type="checkbox"/> Selected floor area: <input type="checkbox"/> Basement only: <input type="checkbox"/> In lieu of roof rating: <input type="checkbox"/> Not required: <input type="checkbox"/>	3.2.2.81	
10 Standpipe required	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	3.2.9	
11 Fire Alarm required	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	3.2.4	
12 Water Service/Supply is Adequate	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	3.2.5.7	
13 High Building	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no	3.2.6	
14 Permitted Construction	Combustible: <input type="checkbox"/> Non-combustible: <input type="checkbox"/> Both permitted: <input type="checkbox"/> Actual Construction: <input checked="" type="checkbox"/> Combustible <input type="checkbox"/> Non-combustible <input type="checkbox"/> Both	3.2.2.81	
15 Mezzanine(s) Area m2	N/A	3.1.17	
16 Total Occupant Load based on	Occupancy: N/A Parking Garage Load (318) persons	3.1.17	
17 Barrier-Free Design	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	3.8.2.1.12(C)	
18 Neighbourhood Substances	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no	3.3.1.3, A & 3.3.1.9	
19 Required Fire Resistance Rating (FRR)	Horizontal Assemblies: <input type="checkbox"/> Not Required <input type="checkbox"/> Hours: N/A Roof (2.0 M FRR): <input type="checkbox"/> Not Required <input type="checkbox"/> Hours: N/A Mezzanine: <input type="checkbox"/> Not Required <input type="checkbox"/> Hours: N/A Floors (NOT REQUIRED): <input type="checkbox"/> Not Required <input type="checkbox"/> Hours: N/A Basement: <input type="checkbox"/> Not Required <input type="checkbox"/> Hours: N/A	Table 2.2.1.1.A & Table 2.2.1.1.B	
20 Spatial Separation-Construction of Exterior Walls	Group F, Division 3 (INDUSTRIAL)	3.2.3	
21 Plumbing Fixture Requirement	Occupancy: N/A	OBC Reference	
22 Other (describe)			

APPLICATION NUMBER:
SC 17 109850

APPLICATION NUMBER:
-



REVISIONS

NO.	DESCRIPTION	DATE
1	ISSUED FOR CLIENT REVIEW	2024.05.24
2	ISSUED FOR MINOR VARIANCE APPLICATION	2024.07.11

SUBMITTALS

NO.	DESCRIPTION	DATE
1	ISSUED FOR CLIENT REVIEW	2024.05.24
2	ISSUED FOR MINOR VARIANCE APPLICATION	2024.07.11

STAMP

DATE	2024.05.24
BY	WWW.A4ARCHITECTURE.COM

4 ARCHITECTURE INC.
 WWW.4ARCHITECTURE.CA
 8966 Woodbine Avenue, Suite 100, Markham, ON L3R 0J7
 T: (905) 470-7212 / F: (905) 737-7326 email: mail@4architecture.ca

JD DEVELOPMENTS - 216088
 MARKHAM ROAD, MARKHAM, ONTARIO

CITY OF MARKHAM 7190 & 7200 MARKHAM RD

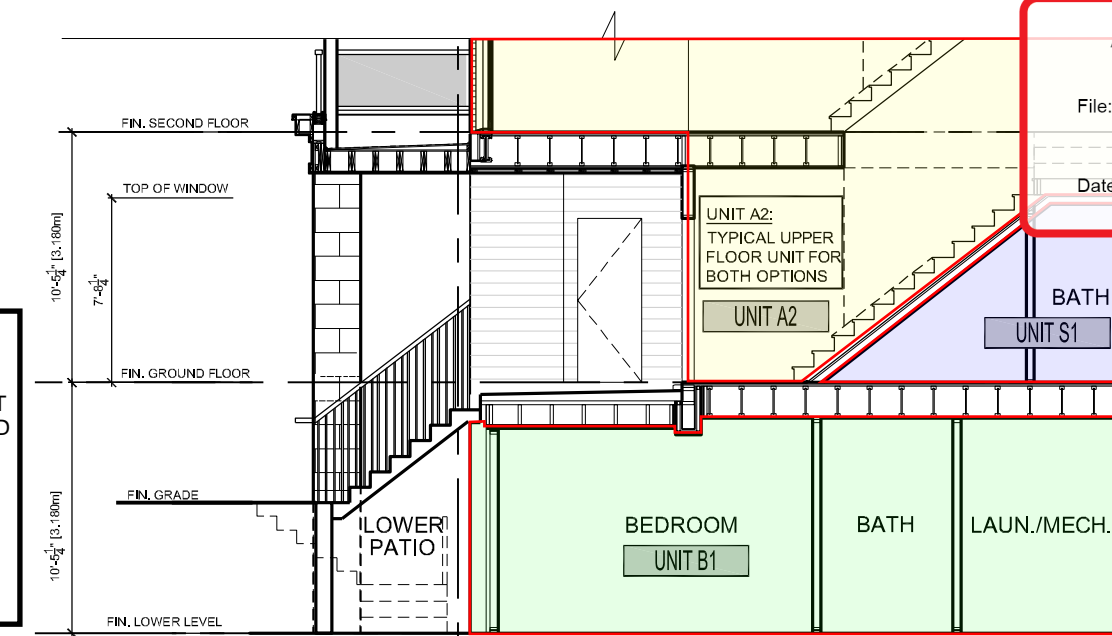
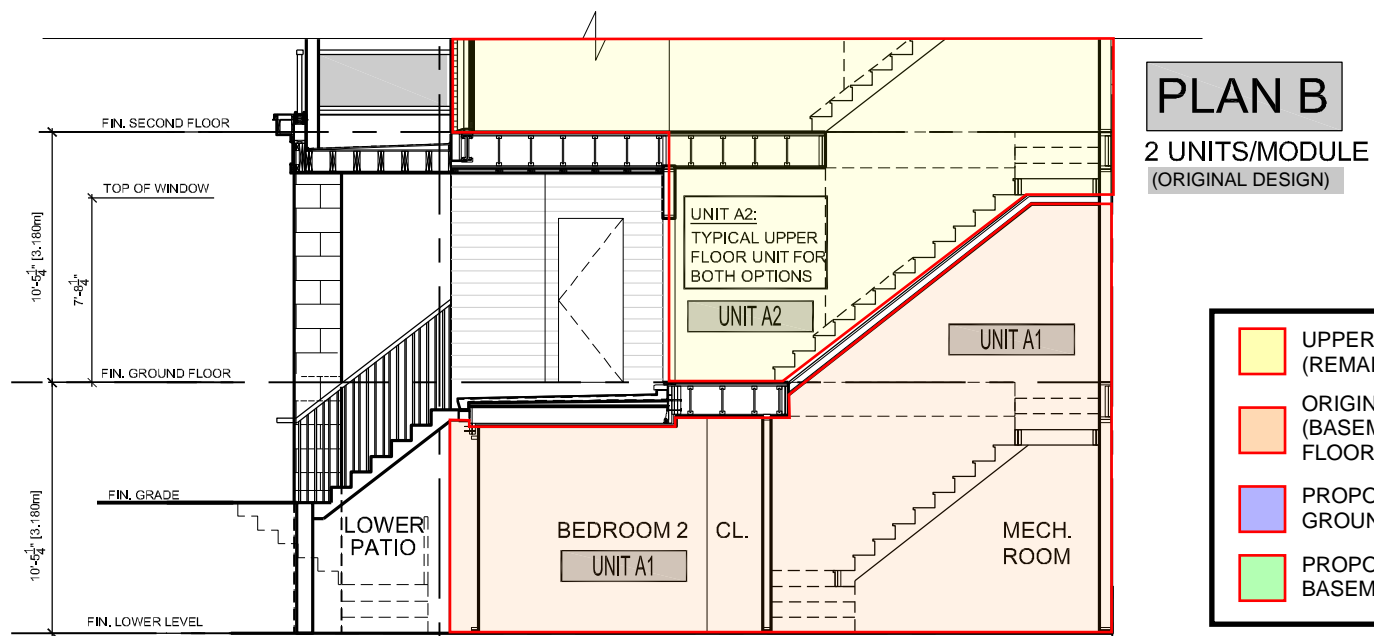
PARKADE PLAN

REV. 2024.07.11

Scale: 1:250
 Drawn By: AB
 Checked By: AS
 Project No: 216088DS-PARKADE

A0.2

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Appendix D

File: 24.178712.000.00.MNV

Date: 7/17/2024

MM/DD/YY

3 UNITS/MODULE

- UPPER UNITS (REMAIN THE SAME)
- ORIGINAL LOWER UNIT (BASEMENT & GROUND FLOOR)
- PROPOSED NEW GROUND FLOOR UNIT
- PROPOSED NEW BASEMENT UNIT

SECTION B
UNIT A1

SECTION A
UNITS B1-S1

← ORIGINAL DESIGN (1 UNIT) NEW DESIGN (2 UNITS) →

