

Memorandum to the City of Markham Committee of Adjustment
September 5, 2024

File: B/005/22, A/077/23, A/079/23
Address: 10729 Victoria Square Boulevard, Markham
Applicant: Archizoning Design Inc. (Lei Zhang)
Hearing Date: Wednesday, September 11, 2024

The following comments are provided on behalf of the West Team:

Consent Application B/005/22

Pursuant to the provisions of Section 53 of the Planning Act, R.S.O. 1990, c.P.13, as amended, and Ontario Regulation No. 197/96, the Applicant is requesting provisional consent to:

- a) sever and convey a parcel of land with an approximate lot frontage of 23.38 m (76.70 ft.) and an approximate lot area of 1,109.0 m² (11,937.18 ft²) (Part 2);
- b) retain a parcel of land with an approximate lot frontage of 23.39 m (76.73 ft.) and an approximate lot area of 1,094.8 m² (11,785 ft²) (Part 1).

The purpose of this application is to facilitate the creation of one new residential lot. This application is being heard concurrently with minor variance applications A/077/23 and A/079/23, as detailed below.

Minor Variance Application A/077/23 (Severed Lot – Part 2)

The Applicant is requesting relief from the requirements of the “Single Family Rural Residential (RRH) Zone” under By-law 83-73, as amended, and By-law 2024-19, to permit:

By-law 2024-19

a) By-law 2024-19, Section 1.7:

the provisions of Section 1.7 to be repealed five years after the effective date of the passing of the By-law, whereas the provisions of Section 1.7 are repealed three years after the effective date of passing of By-law 2024-19.

By-law 83-73

a) By-law 83-73, Section 8.2(a):

a minimum lot frontage of 76.70 ft. (23.38 m), whereas the By-law requires a minimum lot frontage of 100 ft. (30.48 m);

b) By-law 83-73, Section 8.2(b):

a minimum lot area of 11,937.18 ft² (1,109.0 m²), whereas the By-law requires lot area of 22,000 ft² (2,043.87 m²).

Minor Variance Application A/079/23 (Retained Lot – Part 1)

The Applicant is requesting relief from the requirements of the “Single Family Rural Residential (RRH) Zone” under By-law 83-73, as amended, and By-law 2024-19, to permit:

By-law 2024-19

a) By-law 2024-19, Section 1.7:

the provisions of Section 1.7 to be repealed five years after the effective date of the passing of the By-law, whereas the provisions of Section 1.7 are repealed three years after the effective date of passing of By-law 2024-19.

By-law 83-73

a) By-law 83-73, Section 8.2(a):

a minimum lot frontage of 76.73 ft. (23.39 m), whereas the By-law requires a minimum lot frontage of 100.0 ft. (30.48 m);

b) By-law 83-73, Section 8.2(b):

a minimum lot area of 11,785 ft² (1,094.8 m²), whereas the By-law requires a minimum lot area of 22,000 ft² (2,043.87 m²);

c) By-law 83-73, Section 8.2(c):

a minimum rear yard setback of 15.0 ft. (4.57 m), whereas the By-law requires a minimum rear yard setback of 25.0 ft. (7.62 m).

BACKGROUND

Application History

The Committee of Adjustment deferred this application sine die at their meeting on July 12, 2023, at the request of the applicant and Staff. The application was deferred to ensure that any approval of these applications are timed appropriately with the installation of municipal services along Victoria Square Boulevard.

Property Description

The approximately 0.22 ha (0.54 ac) subject property is located on the east side of Victoria Square Boulevard, south of Elgin Mills Road East (refer to Appendix 'A' – Aerial Photo). There is an existing single detached dwelling located on the subject property constructed circa 1870. This property is designated under Part IV of the Ontario Heritage Act (refer to By-law No. 2023-135). The subject property is located within the historic village of Victoria Square. An official plan and zoning by-law amendment was recently approved by Council on the abutting lands to the north (3009 Elgin Mills Road East and 10731 - 10745 Victoria Square Boulevard) to facilitate the development of a four-storey residential building and the retention and restoration of the heritage dwelling.

Proposal

The Owner is proposing to sever the existing subject property into two parcels (refer to Appendix 'B' – Draft Reference Plan). The proposed retained lot (Part 1) will provide a lot area of 1,094.8 m² (11,785 ft²) and a lot frontage of 23.39 m (76.73 ft.). The proposed severed lot (Part 2) will provide a lot area of 1,109.0 m² (11,937.18 ft²) and a lot frontage of 23.38 m (76.70 ft.).

The Owner is proposing to retain the existing dwelling on the retained lot (Part 1) and construct a new attached garage. In addition, the Owner is proposing to construct a two-storey detached dwelling on the severed property (Part 2) (refer to Appendices 'C' and 'D' for the Architectural Plans).

Official Plan and Zoning

Official Plan 2014 (partially approved on November 24, 2017, and updated on April 9, 2018)

The Official Plan designates the subject property "Residential Low Rise", which provides for low-rise housing forms including single detached dwellings. Section 8.2.3.5 of the 2014 Official Plan outlines development criteria for the "Residential Low Rise" designation with respect to height,

massing, and setbacks. The intent of this criteria is to ensure that the development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street. In considering applications for development approval in a “Residential Low Rise” area, which includes minor variances, infill development is required to meet the general intent of these development criteria. Regard shall also be had for retention of existing trees and vegetation, the width of proposed garages and driveway, and the overall orientation and sizing of new lots within a residential neighbourhood.

Area and site-specific policies contained in section 9.5.9 also apply to the subject property as it is located within the historic village of Victoria Square. The land use objective of this area is to protect and preserve the integrity of the area by ensuring that all new development is compatible with permitted uses, building forms and scale, historic features, and residential character of the former hamlet. Planning Staff have had regard for the requirements of the infill development criteria and the area and site-specific policies in the preparation of the comments provided below.

Zoning By-Law 83-73

The subject property is zoned “Single Family Rural Residential (RRH)” under By-law 83-73, as amended, which permits single detached dwellings.

Comprehensive By-law 2024-19

On January 31, 2024, City of Markham Council enacted Comprehensive Zoning By-law 2024-19. As per the transition clauses within Section 1.7 of By-law 2024-19, an application accepted prior to the passing of By-law 2024-19 on January 31st, 2024 shall continue to be subject to the applicable By-law in force on the day before the effective date of this By-law. As the subject applications were submitted in 2022, the provisions of By-law 2024-19 shall not apply to this application.

Zoning Preliminary Review (ZPR) Undertaken

The Owner completed a Zoning Preliminary Review (ZPR) on March 12, 2021 which confirmed the required variances.

COMMENTS

Victoria Square Boulevard Improvements

The City has initiated a Municipal Class Environmental Assessment to undertake improvements to Victoria Square Boulevard, from the Woodbine Bypass to Woodbine Avenue. This will include continuous sidewalks, cycling facilities, and roadway infrastructure. In addition, municipal services will be extended along Victoria Square Boulevard, allowing the subject property to connect to municipal services. Phase 1 of this project is estimated to begin in spring of 2025. The property Owner has made arrangements with the City to pay their proportionate share of the cost to extend the municipal services.

Heritage Markham

The subject property, which contains the Macey-Perkins-Hagerman House, is designated under Part IV of the Ontario Heritage Act. On April 12, 2023, the applications for Consent and Minor Variance were considered at the Heritage Markham Committee. Heritage Staff and the Heritage Markham Committee had no objection from a heritage perspective to the requested Consent and Minor Variance applications, subject to the conditions outlined in Appendix ‘C’.

Consent Application B/005/22

The Owner is proposing one new residential lot to be created through provisional consent. Both the retained lot and the severed lot will not comply with the minimum lot frontage and lot area

requirements. The retained lot (Part 1) will have a lot area of 1,094.8 m² (11,785 ft²) and a lot frontage of 23.39 m (76.73 ft.). The severed lot (Part 2) will have a lot area of 1,109.0 m² (11,937.18 ft²) and a lot frontage of 23.38 m (76.70 ft.).

The surrounding neighbourhood includes properties with a variety of lot sizes and lot frontages. In many instances, especially along Victoria Square Boulevard, existing lot areas and frontages are smaller than what is being proposed. Given the existing surrounding property fabric and that the lots will be adequately serviced in the near future, planning staff are of the opinion that the proposed severance is appropriate.

Minor Variance Applications A/077/23 and A/079/23

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

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

Reduced Minimum Lot Area and Lot Frontage Variances

As discussed above, the surrounding neighbourhood includes properties with a variety of lot sizes, frontages, and configurations, including lots smaller than what is being proposed. Planning Staff are of the opinion that the proposed lot frontage and lot area are appropriate and generally consistent with the surrounding area.

Reduced Minimum Rear Yard Setback Variance (Retained Lot – Part 1)

The Owner is requesting relief to permit a minimum rear yard setback of 15.0 ft. (4.57 m) for the retained lot, whereas the By-law requires a minimum rear yard setback of 25.0 ft. (7.62 m). This represents a reduction of approximately 10.0 ft. (3.05 m). The variance is attributable to the proposed garage addition which occupies a portion of the rear yard. Staff are of the opinion the proposed rear yard setback variance will not adversely impact the character of the neighbourhood as there remains ample open space on the lot and it will not be visible from the public realm. Staff therefore have no objection to the requested variance.

Comprehensive Zoning By-law 2024-19

On January 31, 2024, City of Markham Council enacted Comprehensive Zoning By-law 2024-19. Section 1.7 of By-law 2024-19 includes transition clauses for certain applications that were submitted on or prior to the date of passing of By-law 2024-19. As the subject applications were submitted in 2022, the requirements of By-law 2024-19 do not apply provided the applications are completed within three years of the effective date of By-law 2024-19. The proposed variance is seeking to extend the applicability of Section 1.7 which will allow an additional two years for the Owner to meet all requirements, including conditions of approval, prior to the repeal of Section 1.7. For this reason, Staff opine the requested variance is appropriate and have no concerns.

PUBLIC INPUT SUMMARY

Two written submissions indicating they will attend the meeting have been received as of September 5, 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 consent to sever application with regard for Section 51 (24) and 53 of the *Planning Act* and the minor variance applications with respect to Section 45(1) of the *Planning Act* and recommend approval.

Staff recommend that the Committee consider public input in reaching a decision. The onus is ultimately on the application to demonstrate why they should be granted relief from the requirements of the Zoning By-law, and how they satisfy the requirements for the granting of severances and minor variances.

Please refer to Appendices 'E', 'F', and 'G' for conditions to be attached to any approval of this application.

PREPARED BY:



Hailey Miller, Senior Planner, West District

REVIEWED BY:



Rick Cefaratti, MCIP, RPP, Senior Planner, West District

APPENDICES

- Appendix 'A' – Aerial Photo
- Appendix 'B' – Draft Reference Plan
- Appendix 'C' – Architectural Plans (Retained Lands - Part 1)
- Appendix 'D' – Architectural Plans (Severed Lands - Part 2)
- Appendix 'E' – Conditions of Any Approval - B/005/22
- Appendix 'F' – Conditions of Any Approval - A/077/23
- Appendix 'G' – Conditions of Any Approval - A/079/23

APPENDIX 'E'
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE B/005/22

1. Payment of all outstanding realty taxes and local improvements charges owing to date against both the subject and retained parcels, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled;
2. Submission to the Secretary-Treasurer of the required transfers to effect the severances applied for under Files B/005/22, in duplicate, conveying the subject lands, and issuance by the Secretary Treasurer of the certificate required under subsection 53(42) of the Planning Act;
3. Submission to the Secretary-Treasurer of a reference plan showing the subject lands, which conforms substantially to the application as submitted;
4. Payment of the required Conveyance Fee for the creation of residential lots per City of Markham Fee By-law 211-83, as amended.
5. The Owner shall enter into a Development Agreement with the City to the satisfaction of the City Solicitor, Director of Planning and Urban Design and the Director of Engineering, or their designates, which Development Agreement shall be registered on title to the lands in priority to all mortgages, charges, liens, and other encumbrances, and the Owner shall be procure and cause to be executed and registered at its own cost and expense such discharges, postponements, and subordination agreements as may be required by the City in order to provide for the priority of registration for the Development Agreement on title to the Lands. The Development Agreement shall specifically provide for matters include but not limited to:
 - a. Payment of all applicable fees in accordance with the City's Fee By-law;
 - b. Payment of Cash-in-lieu of Parkland Dedication in accordance with By-Law 195-90, as amended, upon execution of the development agreement;
 - c. Submission of an Appraisal report prepared by a member of the Appraisal Institute of Canada in accordance with the City's terms of reference respecting the proposed new lot, to be reviewed and approved by the City;
 - d. Notice that the lands are not connected to the City's water system, sewage system and/or drainage system (The "Municipal Services"), and that in order to connect to the Municipal Services, the Owner must submit an application to the City and pay for the connections to the Municipal Services, which shall be installed by the City;
 - e. Confirmation that the Owner of the retained parcel (10729 Victoria Square Boulevard) has paid their proportionate share of the municipal servicing upgrades for the retained and severed parcels (Part 1 and 2) or that arrangements have been made to the satisfaction of the Director of Engineering, or their designate.
6. Provide confirmation from an Ontario Land Surveyor that the severed and retained parcels, in their final configuration, meet all the requirements of the applicable Zoning By-law, including any development standards for building and structures on the subject lands, and that the Secretary-Treasurer receive written confirmation that this condition has been satisfied to the satisfaction of the Zoning Supervisor or designate;

7. Prior to final approval of the Consent, a Plumbing Permit from the Building Department shall be obtained for the removal of the existing septic system and the existing building's connection to municipal services. Confirmation shall be provided that the building is connected independently to municipal services wholly contained within the severed and retained parcel of land. The Secretary-Treasurer shall receive written confirmation that this condition has been fulfilled to the satisfaction of the Chief Building Official or designate;
8. That the applicant enter into a Heritage Easement Agreement with the City of Markham for the retained parcel (Part 1) to further protect the Macey-Perkins-Hagerman House;
9. That the applicant secures approval of a Major Heritage Permit for the design of any new dwelling on the conveyed lot to ensure compatibility with the heritage character of Victoria Square prior to finalization of the severance; and
10. Fulfillment of all of the above conditions within two years of the date that notice of the decision was given under Section 53(17) or 53(24) of the Planning Act, R.S.O. 1990, c.P.13, as amended.

CONDITIONS PREPARED BY:



Hailey Miller, Senior Planner, West District

APPENDIX 'F'
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/077/23 (Part 2)

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 plans attached as 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 his or her satisfaction.
3. Submission of a Tree Assessment and Preservation Plan, prepared by a Qualified Tree Expert in accordance with the City's Tree Assessment and Preservation Plan (TAPP) Requirements (2024) as amended, to be reviewed and approved by the City, and that the Secretary-Treasurer receive written confirmation from the Tree Preservation By-law Administrator that this condition has been fulfilled to his/her satisfaction, and that any detailed Siting, Lot Grading and Servicing Plan required as a condition of approval reflects the Tree Assessment and Preservation Plan.
4. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site, neighbouring properties, and street trees, in accordance with the City's Streetscape Manual (2009) as amended, and inspected by City Staff to the satisfaction of the Tree Preservation By-law Administrator.
5. If required as per Tree Preservation review, tree securities and/or tree fees be paid to the City and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Tree Preservation By-law Administrator.

CONDITIONS PREPARED BY:



Hailey Miller, Senior Planner, West District

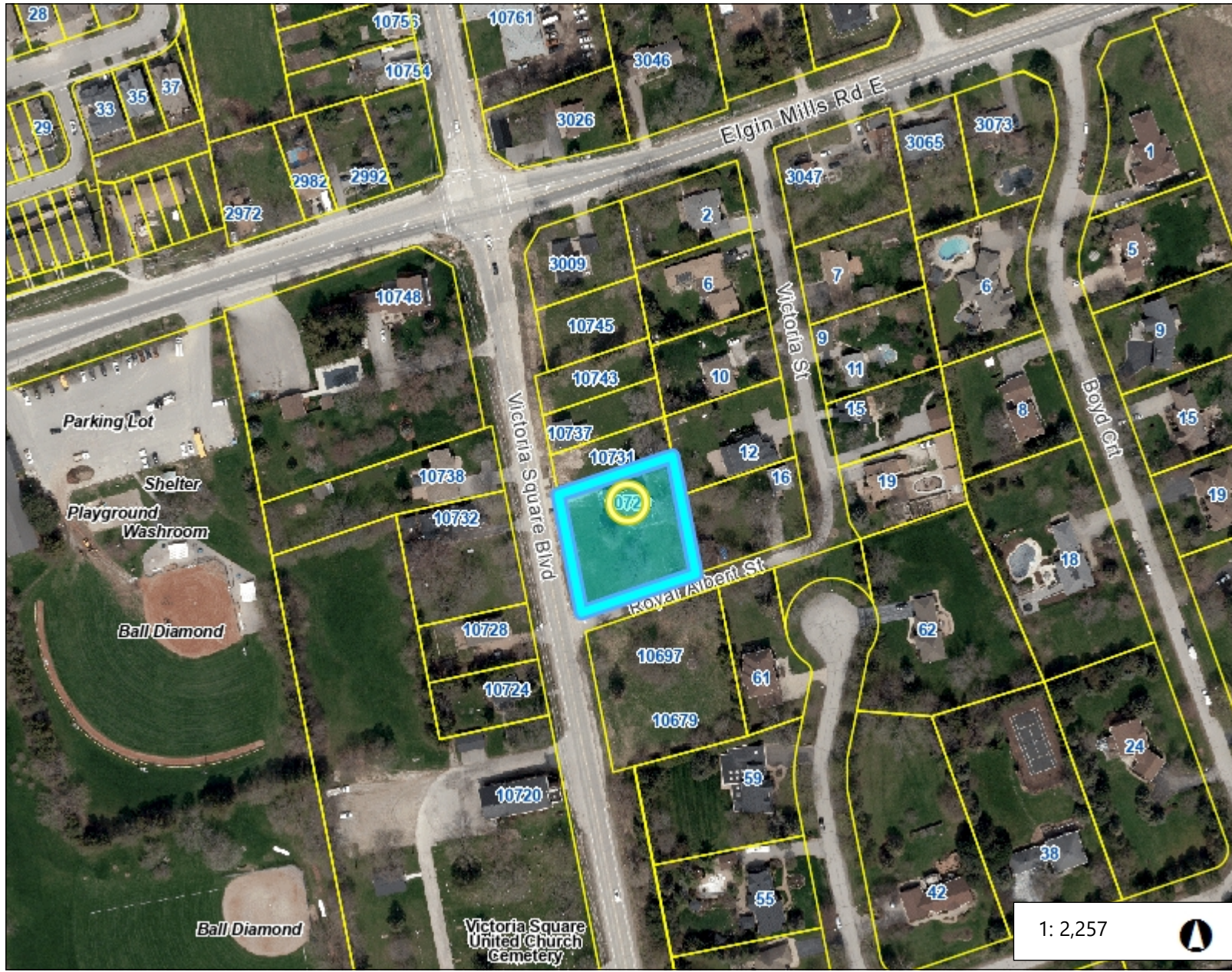
APPENDIX 'G'
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/079/23 (Part 1)

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 plans attached as Appendix 'E' to this Staff Report, and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction.
3. Submission of a Tree Assessment and Preservation Plan, prepared by a Qualified Tree Expert in accordance with the City's Tree Assessment and Preservation Plan (TAPP) Requirements (2024) as amended, to be reviewed and approved by the City, and that the Secretary-Treasurer receive written confirmation from the Tree Preservation By-law Administrator that this condition has been fulfilled to his/her satisfaction, and that any detailed Siting, Lot Grading and Servicing Plan required as a condition of approval reflects the Tree Assessment and Preservation Plan.
4. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site, neighbouring properties, and street trees, in accordance with the City's Streetscape Manual (2009) as amended, and inspected by City Staff to the satisfaction of the Tree Preservation By-law Administrator.
5. If required as per Tree Preservation review, tree securities and/or tree fees be paid to the City and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Tree Preservation By-law Administrator.

CONDITIONS PREPARED BY:



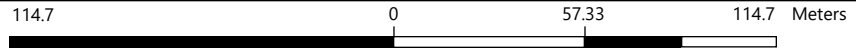
Hailey Miller, Senior Planner, West District



Legend

- Parcel Overlay
- Parcel
- Park Facility
- Parks
 - Under Development
 - <all other values>

1: 2,257



NAD_1983_UTM_Zone_17N
© City of Markham

DISCLAIMER: The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments. If you have questions or comments regarding the data displayed on this map, please email cgis@markham.ca and you will be directed to the appropriate department.

Notes

I REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE LAND TITLES ACT.

Plan 65R-
RECEIVED AND DEPOSITED :

Appendix B

DATE : File: 22.112625.000.00.CSNT 2021

Date: 9/10/2024

LAWRENCE O. ERTL
ONTARIO LAND SURVEYOR
MM/DD/YY REPRESENTATIVE FOR LAND SURVEYOR FOR THE LAND TITLES DIVISION OF THE YORK REGION REGISTRY OFFICE No.65

Metric DISTANCES AND COORDINATES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

Schedule

PART	LOT	REGISTERED PLAN	PIN	AREA (m ²)
1	LOT 25 AND PART OF LOT 26	4556	PART OF PIN 03053-0133	1094.8
2	LOT 27 AND PART OF LOT 26		ALL OF PIN 03053-0245 AND PART OF PIN 03053-0133	1109.0

PLAN OF SURVEY OF
LOTS 25, 26 AND 27
REGISTERED PLAN 184
CITY OF MARKHAM
REGIONAL OF MUNICIPALITY OF YORK

SCALE 1:200



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ertl surveyors 2021
Ontario Land Surveyors

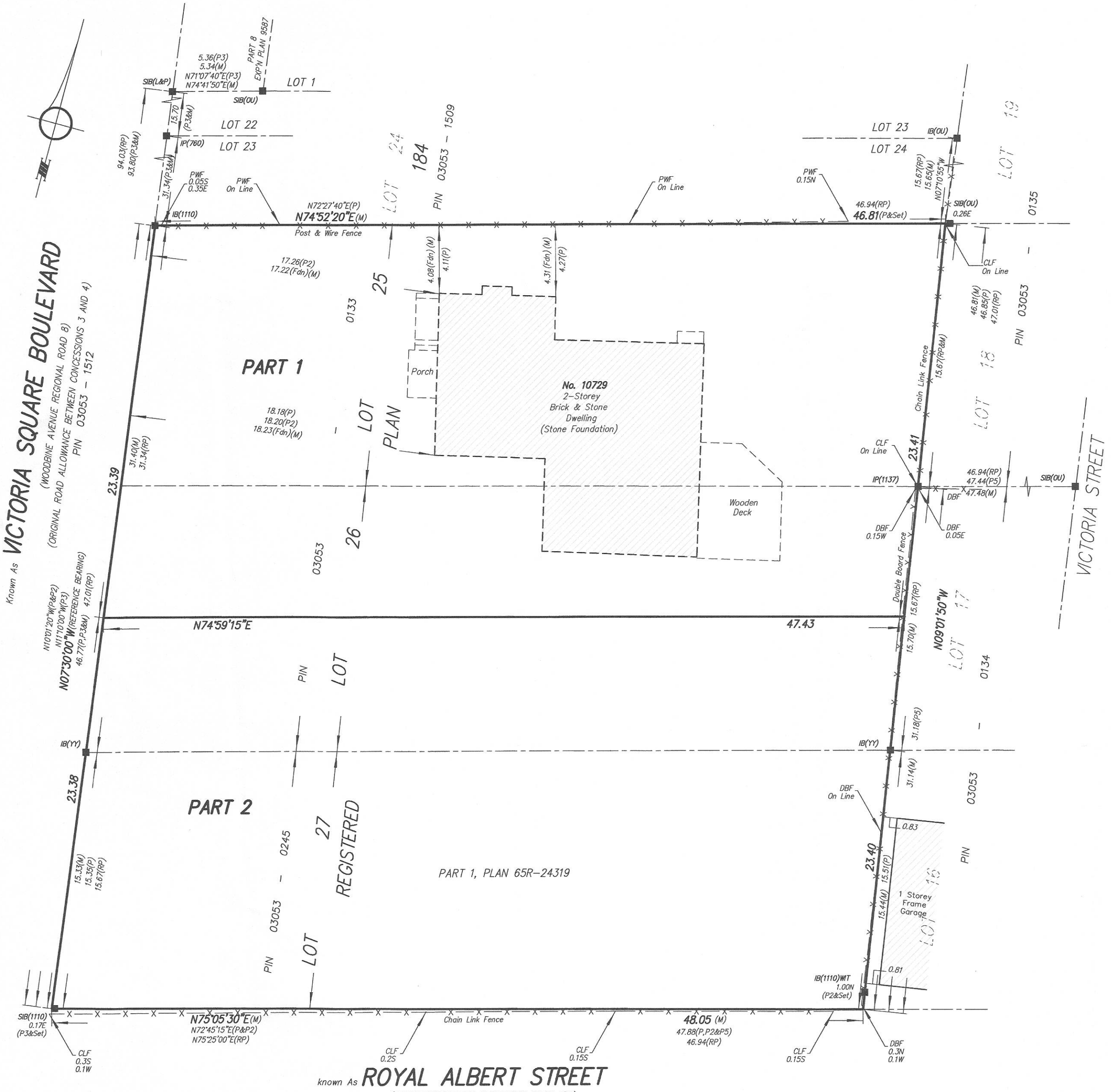
Metric

DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

Integration

Legend

- DENOTES SURVEY MONUMENT FOUND
- DENOTES SURVEY MONUMENT SET
- SIB DENOTES STANDARD IRON BAR
- IB DENOTES IRON BAR
- IP DENOTES IRON PIPE
- RP DENOTES REGISTERED PLAN 184
- P DENOTES PLAN BY R. D. TOMLINSON LTD., O.L.S. DATED JULY 21, 1997
- P2 DENOTES PLAN 65R-24319
- P3 DENOTES PLAN 65R-36218
- P4 DENOTES PLAN 64R-6443
- P5 DENOTES PLAN BY R. D. TOMLINSON LTD., O.L.S. DATED JULY 21, 1997
- 760 DENOTES K. H. McCONNELL, O.L.S.
- 1110 DENOTES R. D. TOMLINSON, O.L.S.
- 1137 DENOTES R. G. McKIBBON, O.L.S.
- L&P DENOTES LLOYD & PURCELL LTD., O.L.S.
- YY DENOTES YATES & YATES, O.L.S.
- OU DENOTES ORIGIN UNKNOWN
- WT DENOTES WITNESS
- FDN DENOTES FOUNDATION
- N,S,E,W DENOTES NORTH, SOUTH, EAST, WEST
- M DENOTES MEASURED
- DS DENOTES DOOR SILL
- CLF DENOTES CHAIN LINK FENCE
- DBF DENOTES DOUBLE BOARD FENCE
- PWF DENOTES POST & WIRE FENCE



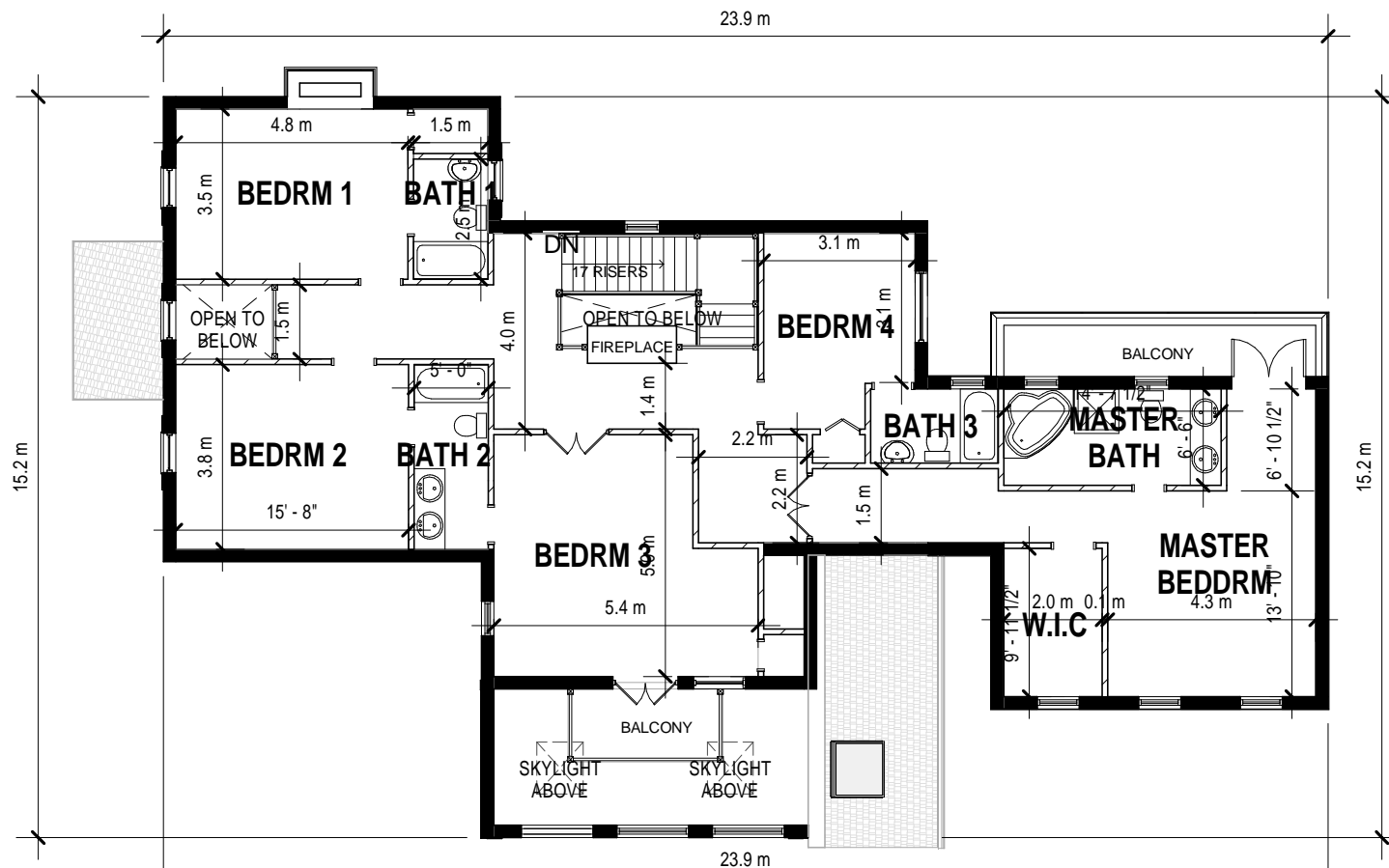
Surveyor's Certificate

I CERTIFY THAT :
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
2. THE SURVEY WAS COMPLETED ON THE 23rd, DAY OF NOVEMBER 2017

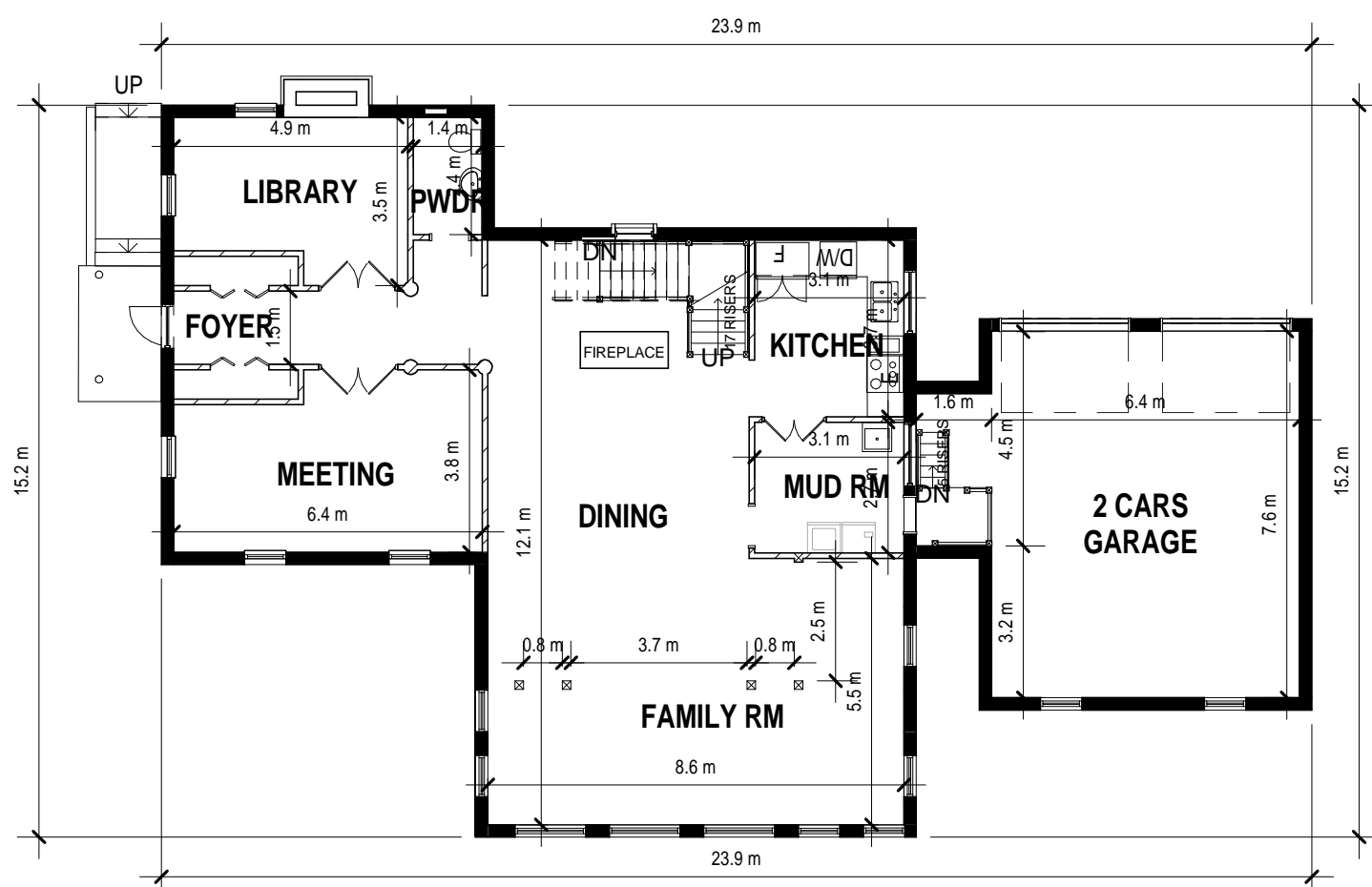
Date _____ Lawrence O. Ertl
Ontario Land Surveyor

ertl surveyors
Ontario Land Surveyors
www.es-ols.com
1234 REID STREET, UNIT 10, RICHMOND HILL, L4B 1C1
TELEPHONE (905) 731-7834 FAX (905) 731-7852 EMAIL info@es-ols.com
DRAWING : 17493-R-PLAN.DWG PROJECT : 17493
CALC. BY AL, DRAWN BY REZA, CHECKED BY XX

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RETAINED LOT - SECOND FLOOR (2116 SQFT)



RETAINED LOT - GROUND FLOOR (1929 SQFT)



Appendix C

File: 22.112625.000.00.CSNT

Date: 9/10/2024

MM/DD/YY

RETAINED LOT			
AREA CALCULATIONS			
BASEMENT	1923	SQ.FT	
GROUND FLOOR	1929	SQ.FT	
SECOND FLOOR	2116	SQ.FT	
GFA	4045	SQ.FT	375.7 SQ.M
LOT COVERAGE	2953	SQ.FT	274.3 SQ.M

FLOORS ELEVATION- RETAINED LOT

10729 Victoria Square BLVD, Markham, ON

CONCEPTUAL HOUSE PREPARED BY: *Zhangkei*

ARCHIZONING DESIGN INC.

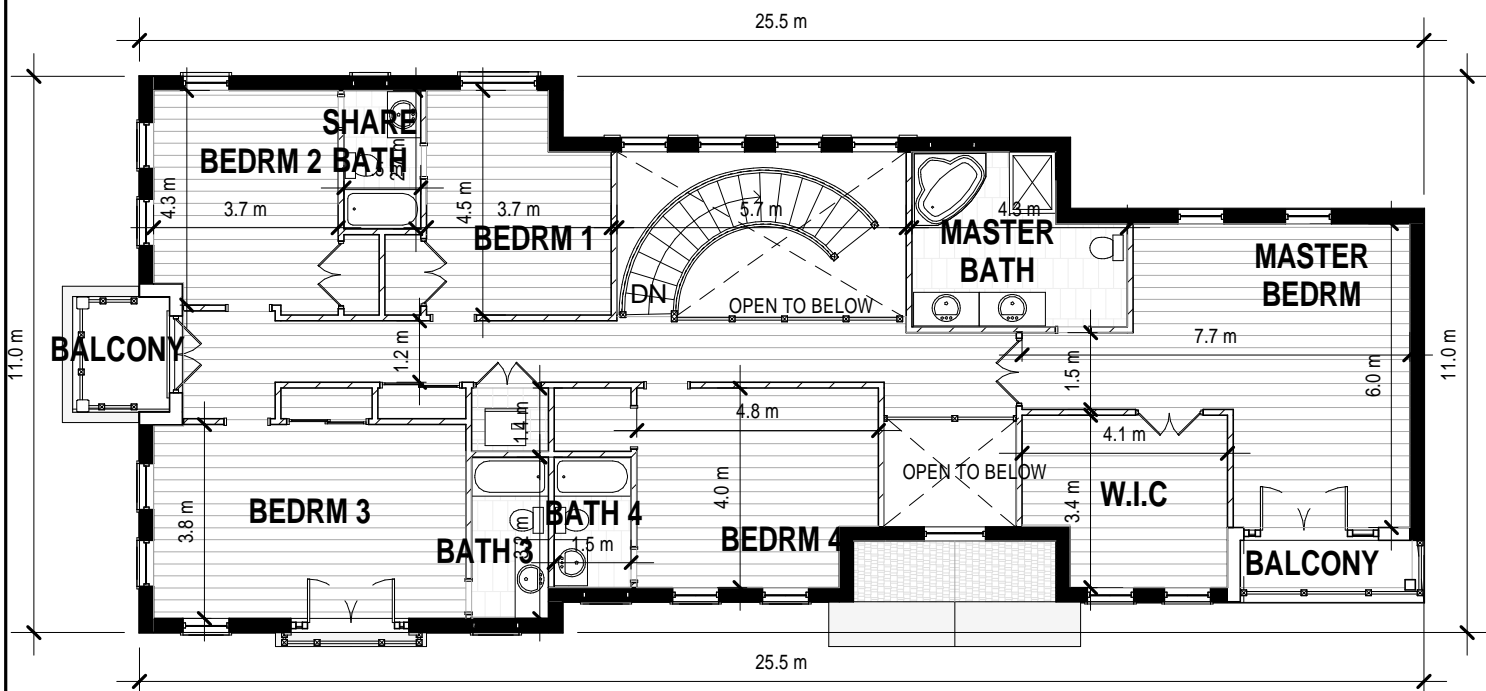
333 DENISON ST, UNIT 18, MARKHAM, ON, L3R 2Z4
Tel: 416 8996299 Fax: 905 6042548

Appendix D

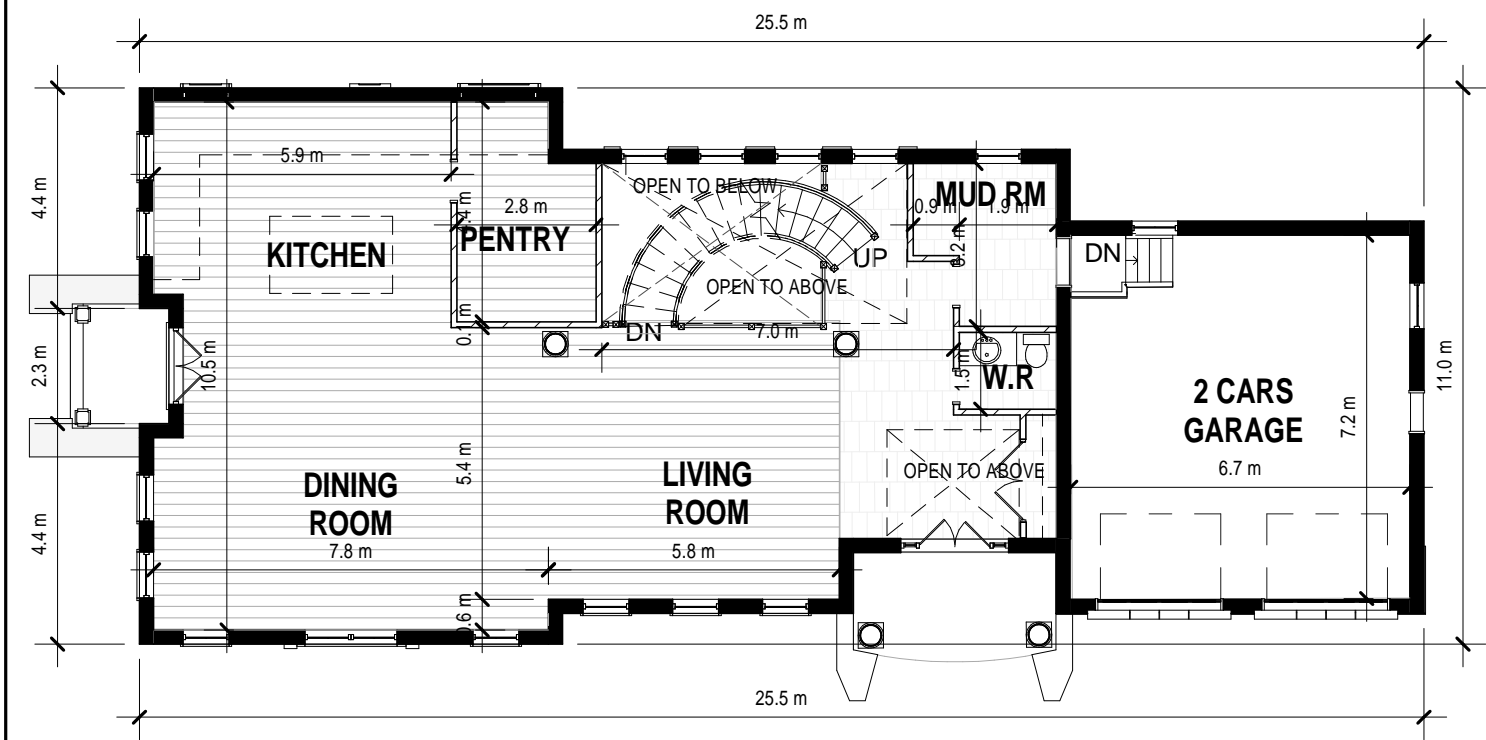
File: 22.112625.000.00.CSNT

Date: 9/10/2024

MM/DD/YY



SEVERED LOT - SECOND FLOOR (2184 SQFT)



SEVERED LOT - GROUND FLOOR (1749 SQFT)



LOT ELEVATION - SEVERED LOT

SEVERED LOT			
AREA CALCULATIONS			
BASEMENT	2063	SQ.FT	
GROUND FLOOR	1749	SQ.FT	
SECOND FLOOR	2184	SQ.FT	
GFA	3933	SQ.FT	365.3 SQ.M
LOT COVERAGE	2607	SQ.FT	242.1 SQ.M

FLOORS ELEVATION- SEVERED LOT

10729 Victoria Square BLVD, Markham, ON

CONCEPTUAL HOUSE PREPARED BY: *Zhangkei*

ARCHIZONING DESIGN INC.

333 DENISION ST, UNIT 18, MARKHAM, ON, L3R 2Z4
Tel: 416 8996299 Fax: 905 6042548

PROJECT NO. 1906

DATE 08/04/22

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