

Memorandum to the City of Markham Committee of Adjustment
November 11, 2024

File: A/092/24
Address: 17 Hamilton Hall Drive, Markham
Applicant: Saif Alam Khan & Ambreen Khan
Agent: Interbuild Engineering Inc.
Hearing Date: Wednesday, November 20, 2024

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

The applicant is requesting relief from the following requirements of the Residential (R1 Zone under By-law 1229, as amended, as they relate to a proposed addition to an existing detached dwelling, to permit:

- a) **By-law 1229, Section 1.2 (ii), Amending By-law 99-90:** a maximum of three storeys, whereas the by-law permits a maximum of two storeys;
- b) **By-law 1229, Section 1.2 (ii), Amending By-law 99-90:** a maximum floor area ratio of 68.89 percent, whereas the by-law permits a maximum floor area ratio of 45 percent;
- c) **By-law 1229, Table 11.1:** a minimum front yard setback of 21.47 feet, whereas the by-law requires a minimum front yard setback of 25 feet; and
- d) **By-law 1229, Amending By-law 142-95, Section 2.1 (b):** a deck to be permitted above the ground floor, whereas the by-law requires decks to be below the ground floor.

BACKGROUND

Property Description

The 719.16 m² Subject Lands are located on the south side of Hamilton Hall Drive and north side of Highway 7 East, west of Wooten Way North. The Subject Lands are developed with an existing two-storey detached dwelling. The property slopes to the south, resulting in a 'reverse-slope-driveway, where the attached garage is at the ground floor level of the dwelling. Due to the site grading, there is also a basement walk-out condition in the rear yard. The rear yard contains an in-ground swimming pool, with mature vegetation along the rear lot line abutting Highway 7 East.

The Subject Lands are in an established residential neighbourhood comprised of two-storey detached dwellings. The surrounding area is undergoing a transition with examples of new infill homes, and additions and renovations to existing homes.

Proposal

The applicant is proposing to construct an addition to the rear of the existing dwelling that will expand Gross Floor Area (GFA) of the basement ground level, second floor and add a new third floor. The addition will result in a total GFA of 458.93 m², inclusive of the basement ground level and garage. The 'Proposed Development' also includes the addition of a rear deck, a new covered porch, façade and landscape improvements. The Proposed Development' is shown in Appendix 'A'.

Official Plan and Zoning

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

The Official Plan designates the subject property "Residential Low Rise", which provides for low rise housing forms including detached dwellings.

Zoning Preliminary Review (ZPR) Undertaken

The owner submitted a completed a Zoning Preliminary Review (ZPR) in September of 2023, to confirm the variances required for the Proposed Development.

Zoning By-Law 1229, as amended

The Subject Lands are zoned R1 under By-law 1229, as amended, which permits detached dwellings. It is also subject to Residential Infill By-law Amendment 99-90, which intends to ensure the built form of new residential development will maintain the character of existing neighbourhoods. It specifies development standards for building depth, garage projection, garage width, net floor area ratio, height, yard setbacks and number of storeys. The proposed development does not comply with the By-law requirements, requiring the variances described above.

Zoning By-law 2024-19, as amended

The Subject Lands are zoned Residential - Established Neighbourhood Low Rise (RES-ENLR) under By-law 2024-19, as amended, which permits detached dwellings. By-law 2024-19, as amended, is the Comprehensive Zoning By-law (CZBL), approved by City Council on January 31, 2024. Section 1.7 of the CZBL provides transition policies allowing the former Zoning By-law to remain applicable for 'applications in process' prior to the CZBL coming into full force and effect for three years. A ZPR was submitted in September 2023, requiring the Owner to obtain variances to By-law 1229 only. If this variance application is approved, a building permit for the Proposed Development is required to be obtained by January 31, 2027.

COMMENTS

Section 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended provides criteria for the Committee of Adjustment to "authorize such minor variance from the provisions of the by-law, in respect of the land, building or structure or the use thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, if in the opinion of the Committee the general intent and purpose of the by-law and of the official plan, if any, are maintained."

Permission for Three Storeys, Increased Net Floor Area Ratio, and Deck above the Ground Floor

Infill By-law 99-90 defines a 'Cellar' as a "*portion of one detached dwelling, between two floor levels, located partly or entirely underground and which has more than one-half of its height from floor to underside of floor joists of the storey next above, below established grade*". Under the By-law, 'Cellars' are excluded from the GFA and are not a storey.

Since the Subject Lands slope southwards, the rear and side elevations of the lowest level are predominantly above established grade. Thus, it is considered the ground floor (instead of a cellar), resulting in a three-storey dwelling, and is included in the total GFA. The proposed deck accesses the 2nd floor, which is the main level comprising the kitchen and living room.

The applicant is requesting a Net Floor Area Ratio (NFAR) of 68.89% percent, whereas the By-law permits a maximum of 45% percent. This will enable an addition for a total GFA of 458.93 m², surpassing the By-law's limit of 299.77 m², being an increase of approximately 159.16 m². Notably, the additional GFA in this instance is the inclusion of ground level floor space, typically considered a cellar (or basement). Notwithstanding the inclusion of the ground level in the NFAR, this additional GFA is oriented towards the rear

yard and has no measurable impact to the proposed scale and building mass on the streetscape. This is evident in Appendix 'A' showing the Proposed Development which presents as a 1 ½ storey dwelling along Hamilton Hall Drive, particularly since the added third storey is entirely within the roofline. Considering the rear adjacency to Highway 7 there is no impact on the added GFA to any rear properties either. Consequently, staff have no objection to the NFAR and additional storey variances.

The proposed deck accessing the second floor is typical for dwellings having a ground level (or basement) walkout condition to provide access from the main floor. Staff have no objection to this variance but recommended a condition of approval that the deck variance only apply the deck on the second storey.

Reduction in Front Yard Setback

The applicant is requesting a minimum front yard setback of 21.47 ft (6.54 m), whereas the By-law requires a minimum front yard setback of 25 ft (7.62 m). This is a reduction of approximately 3.53 ft (1.08 m) and is entirely attributable to the proposed front covered porch. The main front wall of the building provides a front yard setback of 30.2 ft (9.2 m). Staff have no concern with this requested variance.

EXTERNAL AGENCIES

The Region of York and Alectra Utilities had no comments or conditions related to the Proposed Development and requested variances. Alectra Utilities provided general comments on overhead clearance requirements that were provided to the Applicant.

PUBLIC INPUT SUMMARY

No written submissions were received as of November 11, 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, and opine that the Planning Act criteria for approving variances have been satisfied. 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. Refer to Appendix "B" for conditions to be attached to any approval of this application.

PREPARED BY:



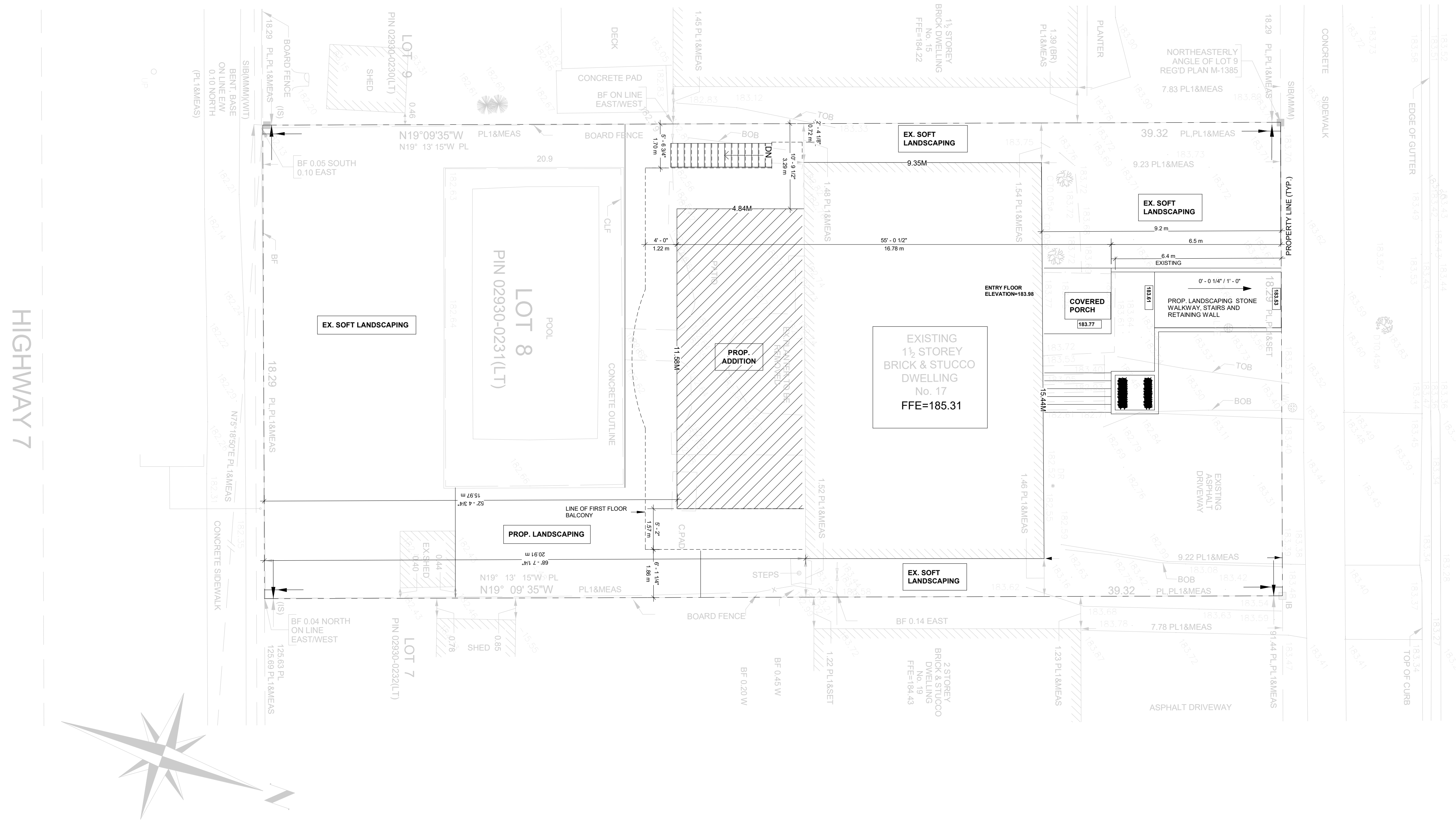
Stephen Corr, Senior Planner, Planning and Urban Design Department

REVIEWED BY:



Stacia Muradali, Development Manager, East District

Appendix 'A' - Proposed Development Plans



HIGHWAY 7

HAMILTON HALL DRIVE
 (BY REGISTERED PLAN M-1385)
 PIN 02930-0387(LT)

PROJECT DESCRIPTION:
 -BASEMENT ADDITION
 -FIRST FLOOR ADDITION WITH A BALCONY/DECK
 -LOFT ADDITION
 -INTERIOR ALTERATION
 -NEW ROOF

PROJECT STATISTICS:
 17 HAMILTON HALL DR, MARKHAM - R1 RESIDENTIAL (RES-ENLR)

LOT COVERAGE:	
-LOT AREA:	719.16 M ²
-PROPOSED LOT COVERAGE (INCL. GROUND FLOOR AND FRONT PORCH- MAXIMUM PERMITTED LOT COVERAGE 30% OF LOT AREA= 215.75 M ²)	28.77% - 206.97 M ²
NET LOT AREA CALCULATION:	
-NET LOT AREA: 613.16 M ² +1/2 (719.16 M ² - 613.16 M ²)=	666.16 M ²
FLOOR AREA RATIO INCL. BASEMENT: (PERMITTED 45%)	68.89%
FLOOR AREA RATIO NOT INCL. BASEMENT & GARAGE: (PERMITTED 45%)	41.28%

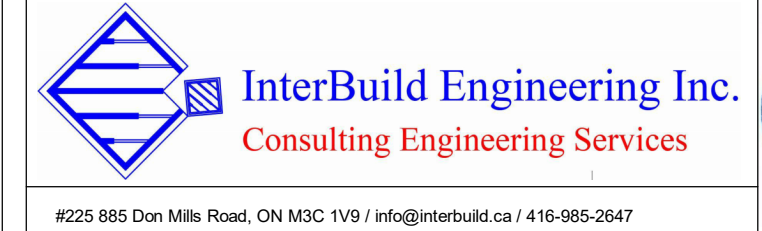
GROSS FLOOR AREA:	
-BASEMENT (INCLUDING GARAGE):	183.91 M ²
-GROUND FLOOR:	196.02 M ²
-LOFT:	79 M ²
-TOTAL GFA:	458.93 M ²
-TOTAL GFA NOT INCLUDING BASEMENT & GARAGE:	275.02 M ²
FRONT PORCH:	
-PROPOSED COVERED PORCH:	6.58 M ²
BALCONY ADDITION:	
-PROPOSED GROUND FLOOR BALCONY:	36.21 M ²
-PROPOSED LOFT BALCONY:	9.26 M ²

LANDSCAPING CALCULATION	
FRONT YARD:	
-FRONT YARD AREA:	161.92 M ²
-EX DRIVEWAY:	50.86 M ²
-WALKWAYS:	27.78 M ²
-TOTAL LANDSCAPED AREA:	111.24 M ²
-SOFT LANDSCAPED AREA:	75% - 83.46 M ²
REAR YARD:	
-REAR YARD AREA:	291.98 M ²
-TOTAL LANDSCAPED AREA:	291.98 M ²
-SOFT LANDSCAPED AREA(INCL. POOL):	65.7% - 191.84M ²

ABBREV. LEGEND

BM	BEAM
C	CASEMENT
CL	CENTER LINE
CLG	CEILING
CLW	COMPLETE WITH
DIA	DIAMETER
DP	DEEP
DW	DISHWASHER
EL./ELEV.	ELEVATION
EX.	EXISTING
ELEC.	ELECTRICAL
FDTN	FOUNDATION
FR	FRIDGE
INCL.	INCLUDING
O/C	ON CENTER LINE
OPT.	OPTIONAL
OWSJ	OPEN WEB STEEL JOIST
P.A	POST ABOVE
PT	POT LIGHT
P.TR.	PRESSURE TREATED
PROP.	PROPOSED
R	RAILING
REQ.	REQUIRED
SB	STANDARD BOARD
SHR	SHOWER
STL	STEEL
T & G	TONGUE & GROOVE
TYP.	TYPICAL
VER.	VERIFIED
WB	WOOD BEAM
WD	WOOD

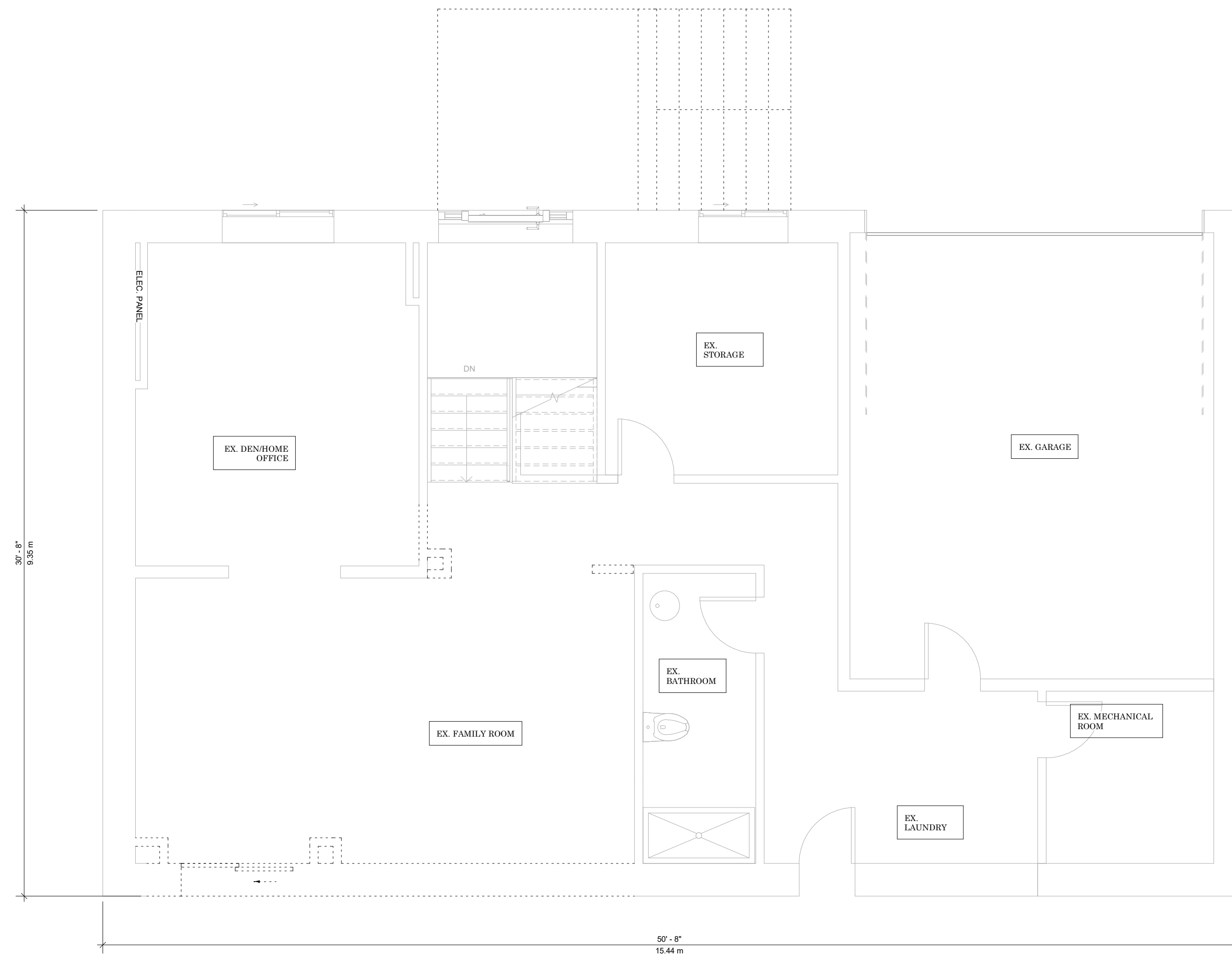
Project Address : 17 HAMILTON HALL DR, Markham, ON L3P 2P1



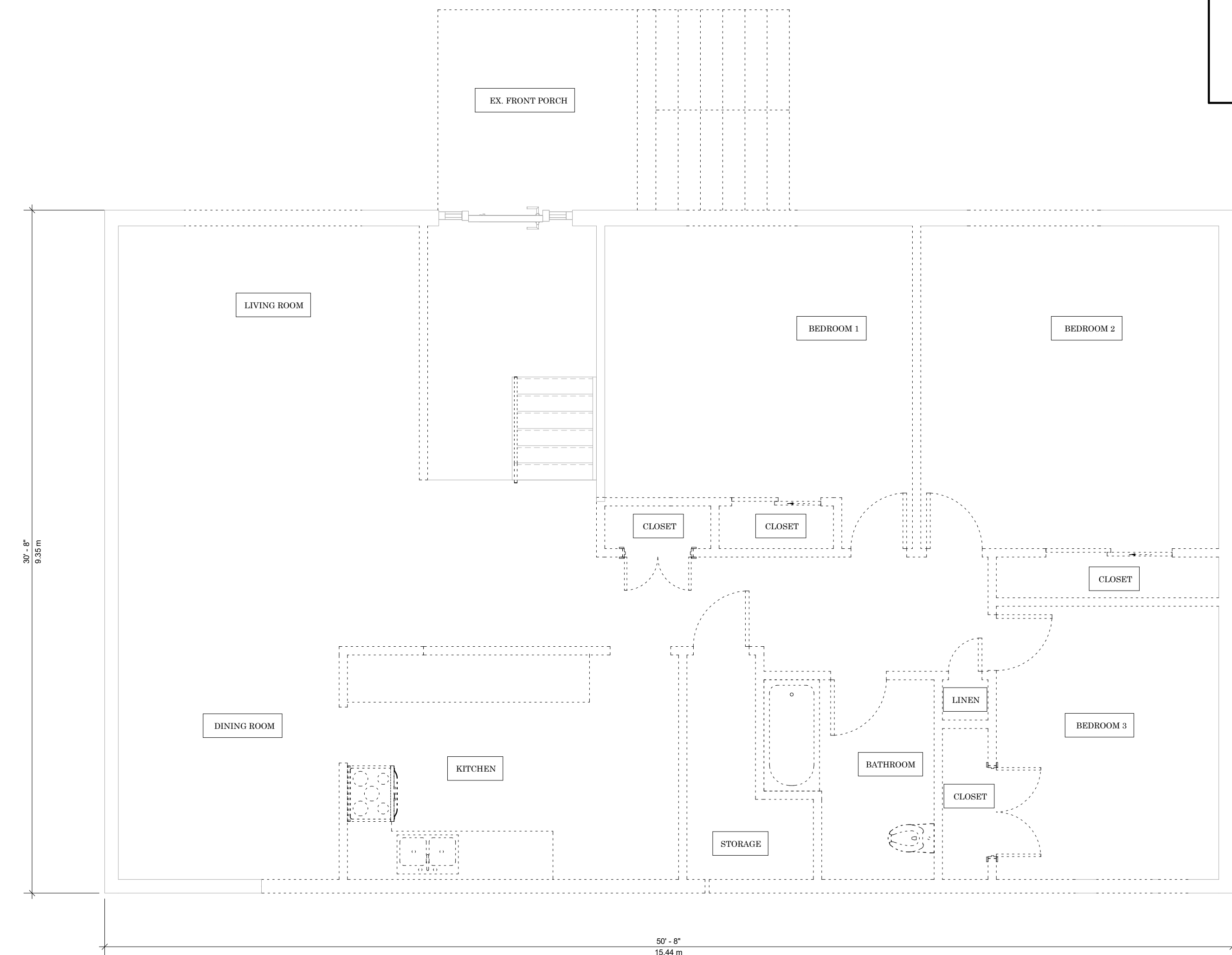
No.	Description	Date

SITE PLAN	
Project number	
Date	August 1, 2023
Drawn by	Sara Maleki
Checked by	Amir Eghtesadi
A1.1	
Scale 1/8" = 1'-0"	

Appendix 'A' - Proposed Development Plans



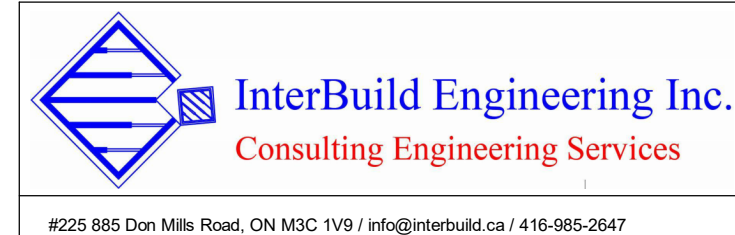
1 Basement Existing
A2.1 1/4" = 1'-0"



2 First Floor Existing
A2.1 1/4" = 1'-0"

NOTE	
1	DEMOLISHED ITEMS
2	EXISTING ITEMS

Project Address : 17 HAMILTON HALL DR, Markham,
ON L3P 2P1



#225 885 Don Mills Road, ON M3C 1V9 / info@interbuild.ca / 416-985-2647

No.	Description	Date

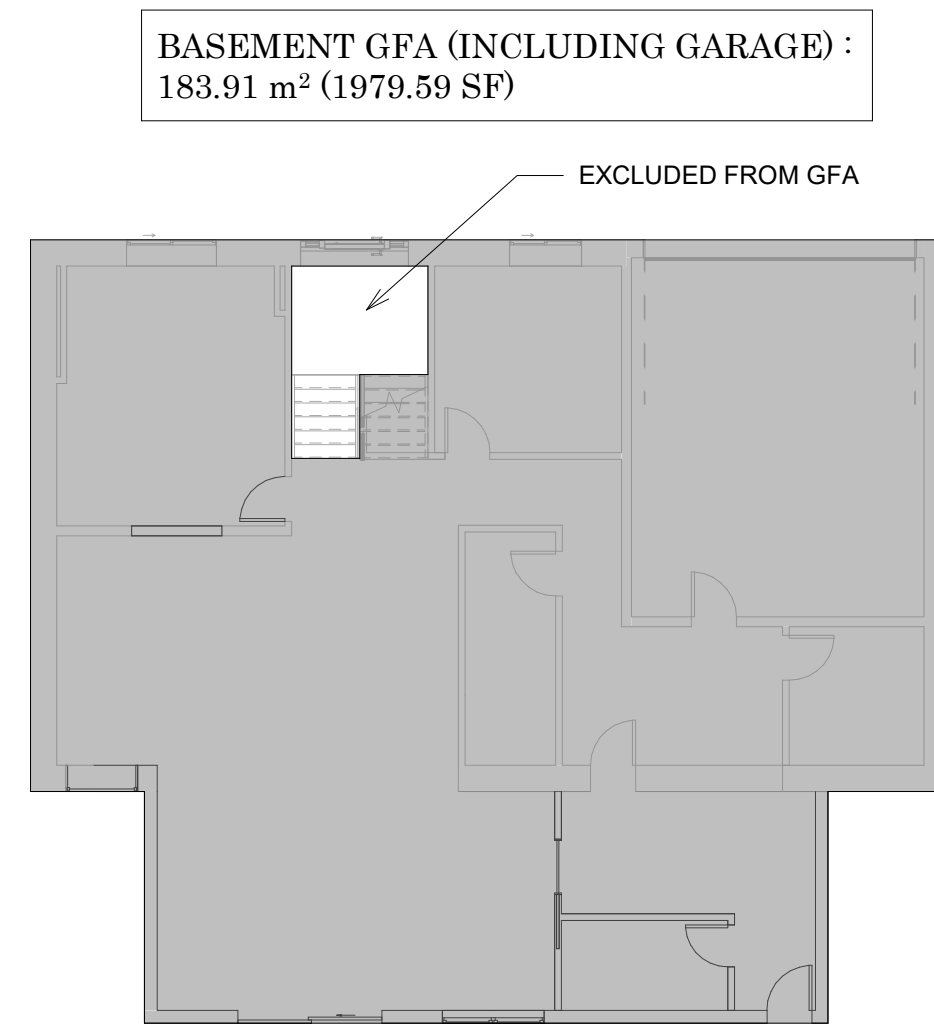
BASEMENT & FIRST FLOOR EX. & DEMO

Project number .
Date August 1, 2023
Drawn by Sara Maleki
Checked by Amir Eghtesadi

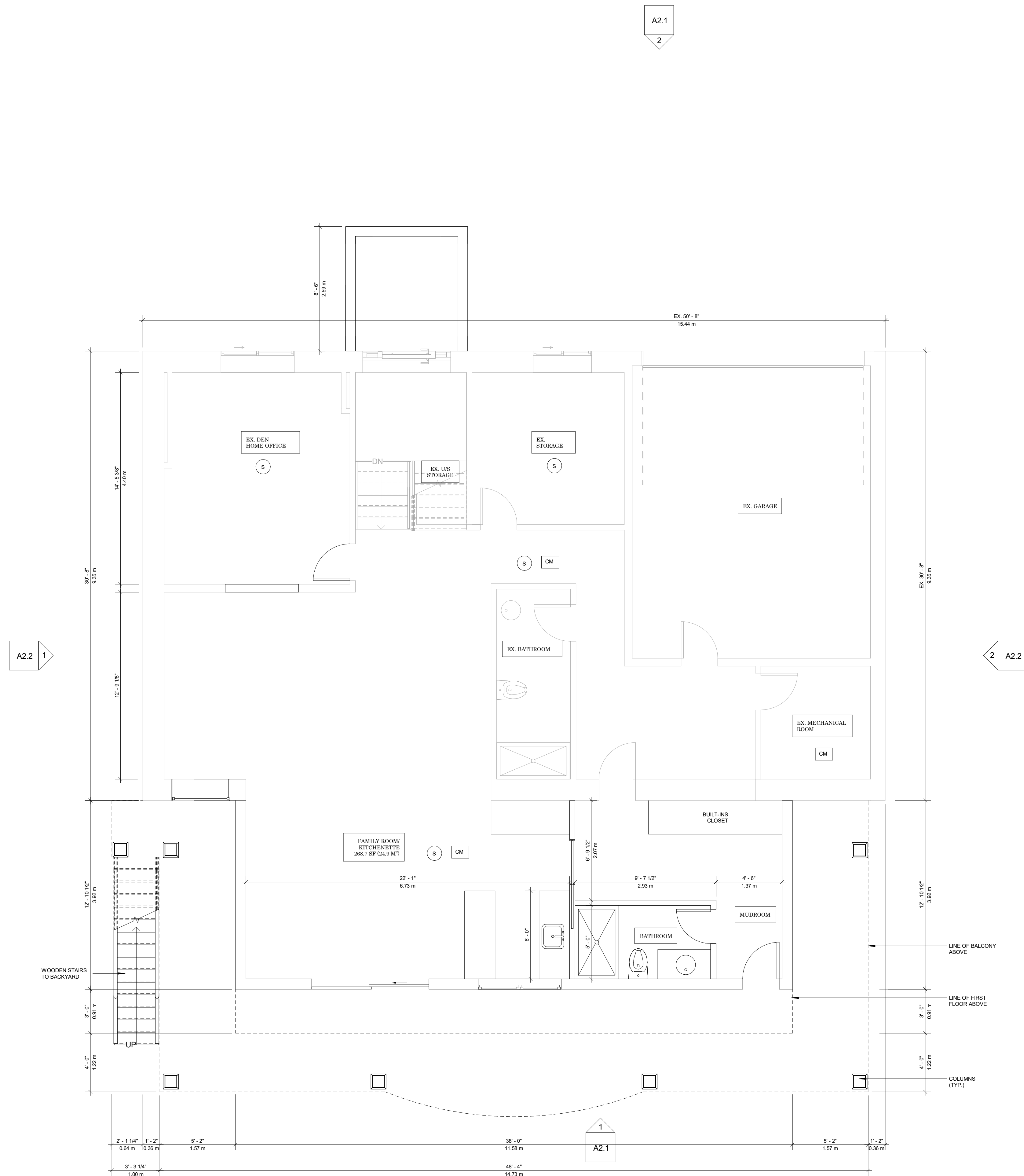
A1.2

Scale 1/4" = 1'-0"

Appendix 'A' - Proposed Development Plans

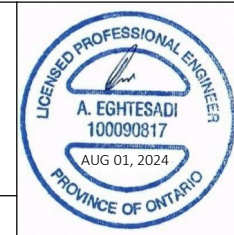
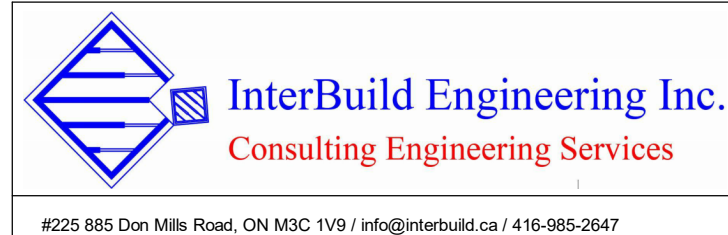


2 Basement GFA Calculation
A2.1 3/32" = 1'-0"



NOTE	
2	EXISTING ITEMS
3	PROPOSED ITEMS

Project Address : 17 HAMILTON HALL DR, Markham,
ON L3P 2P1



No.	Description	Date

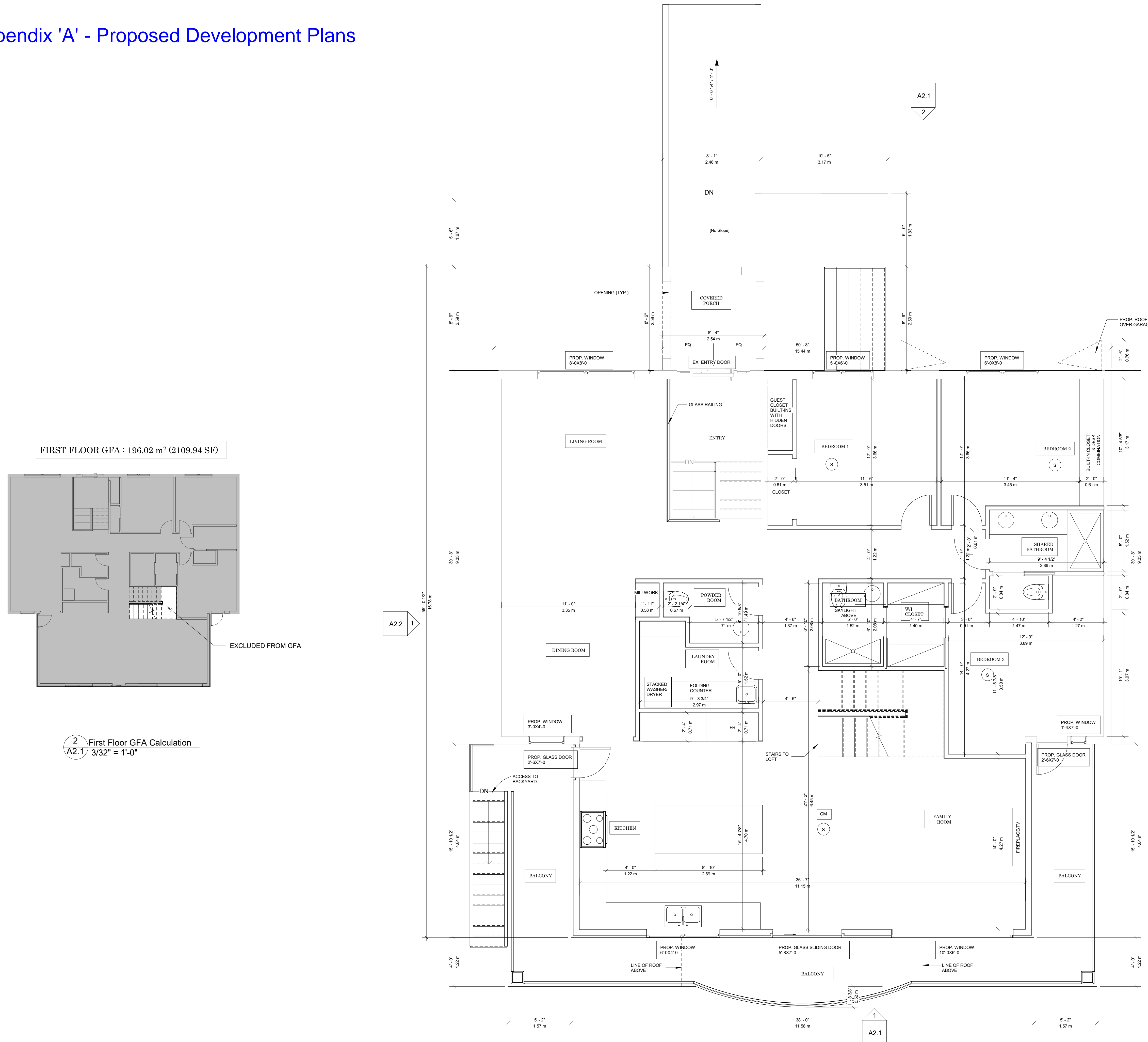
BASEMENT PROPOSED

Project number .
Date August 1, 2023
Drawn by Sara Maleki
Checked by Amir Eghtesadi

A1.3

Scale As indicated

Appendix 'A' - Proposed Development Plans



FIRST FLOOR GFA : 196.02 m² (2109.94 SF)

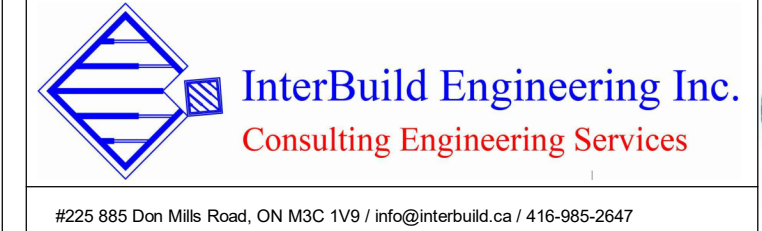


EXCLUDED FROM GFA

2 First Floor GFA Calculation
A2.1 3/32" = 1'-0"

NOTE	
2	EXISTING ITEMS
3	PROPOSED ITEMS

Project Address : 17 HAMILTON HALL DR, Markham, ON L3P 2P1



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No.	Description	Date

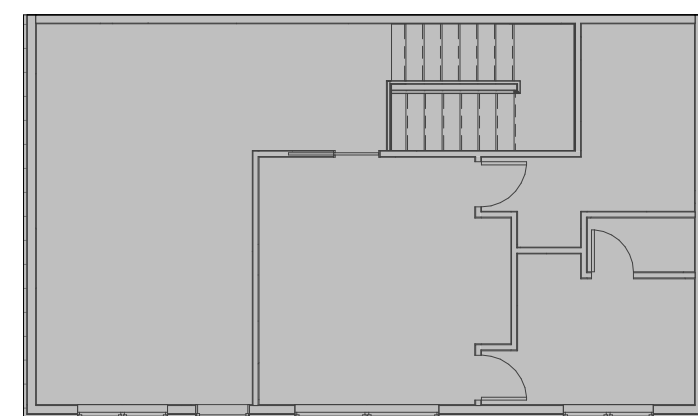
FIRST FLOOR PROPOSED

Project number .
Date August 1, 2023
Drawn by Sara Maleki
Checked by Amir Eghtesadi

A1.4
Scale As indicated

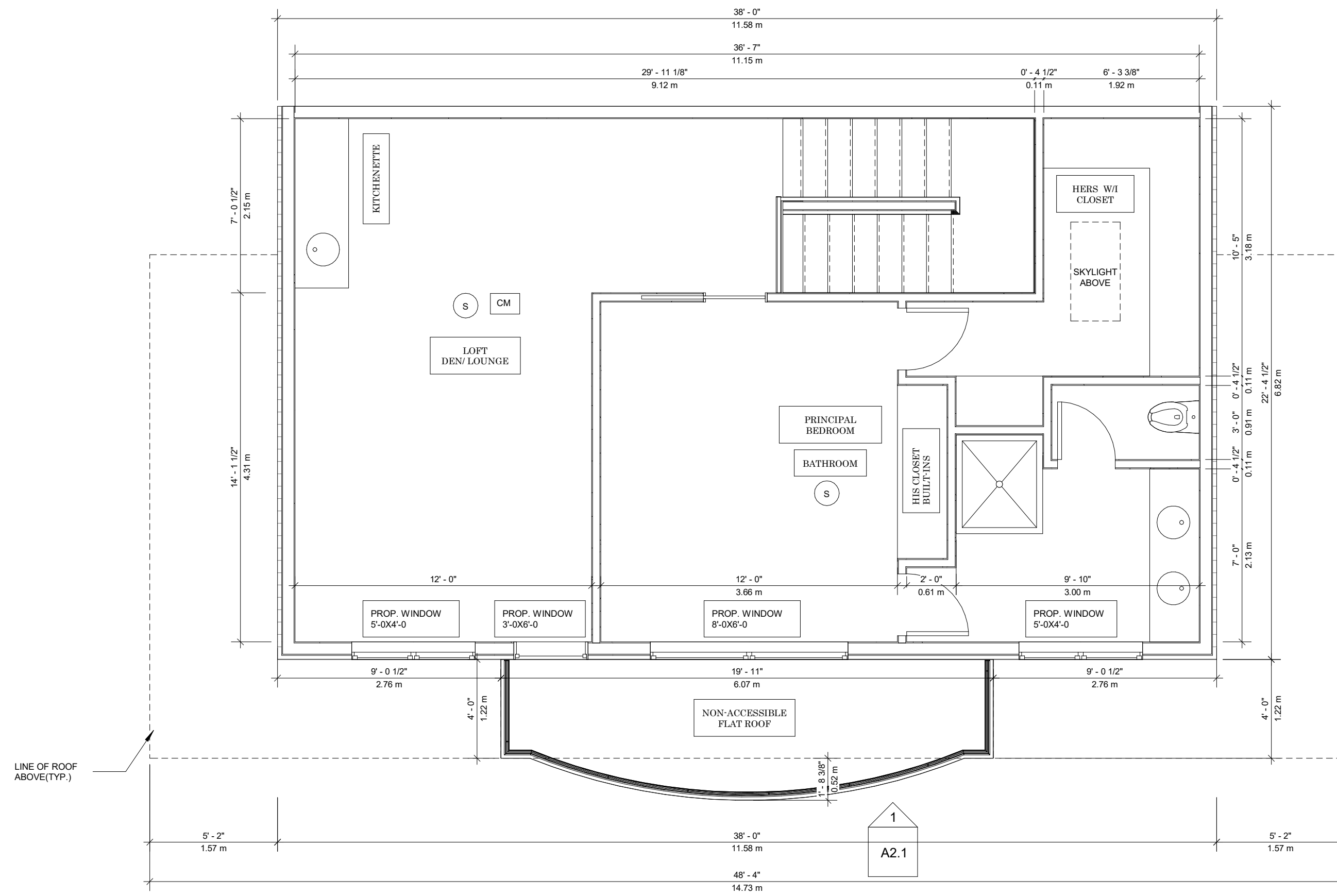
Appendix 'A' - Proposed Development Plans

LOFT FLOOR GFA : 79 m² (850.34 SF)



2 Loft GFA Calculation
A2.1 3/32" = 1'-0"

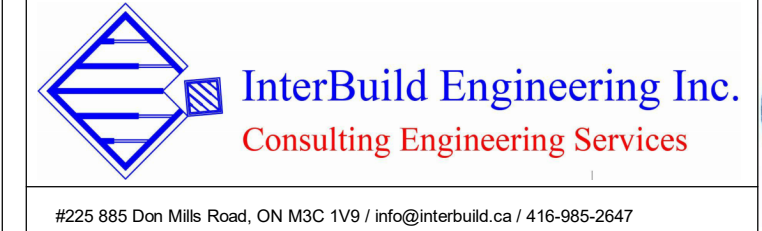
A2.2 1



A2.2 2

NOTE	
2	EXISTING ITEMS
3	PROPOSED ITEMS

Project Address : 17 HAMILTON HALL DR, Markham, ON L3P 2P1



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No.	Description	Date

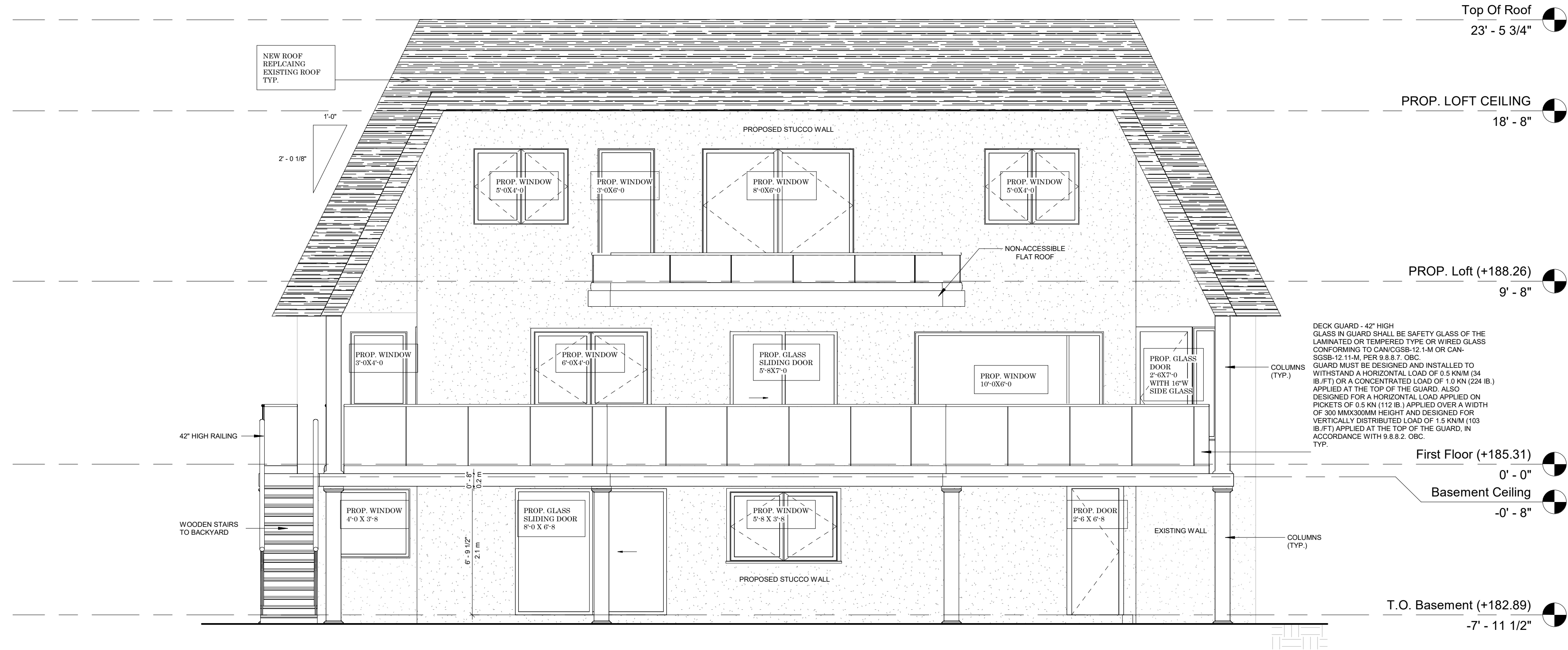
LOFT PROPOSED

Project number .
 Date August 1, 2023
 Drawn by Sara Maleki
 Checked by Amir Eghtesadi

A1.5

Scale As indicated

Appendix 'A' - Proposed Development Plans



2 Rear Elevation
A1.3 1/4" = 1'-0"



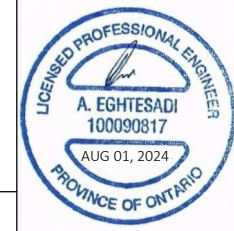
1 Front Elevation
A1.3 1/4" = 1'-0"

NOTE	
1	EXISTING ITEMS
2	PROPOSED ITEMS

Project Address : 17 HAMILTON HALL DR, Markham,
ON L3P 2P1



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No.	Description	Date

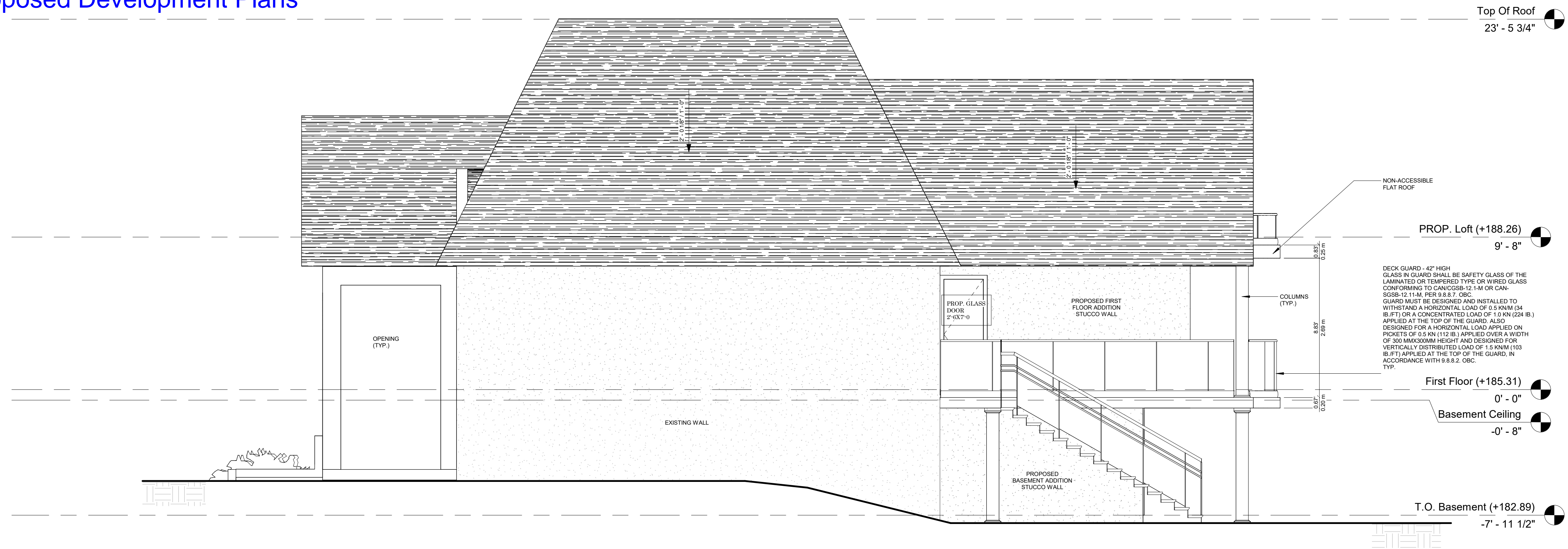
ELEVATIONS

Project number .
Date August 1, 2023
Drawn by Sara Maleki
Checked by Amir Eghtesadi

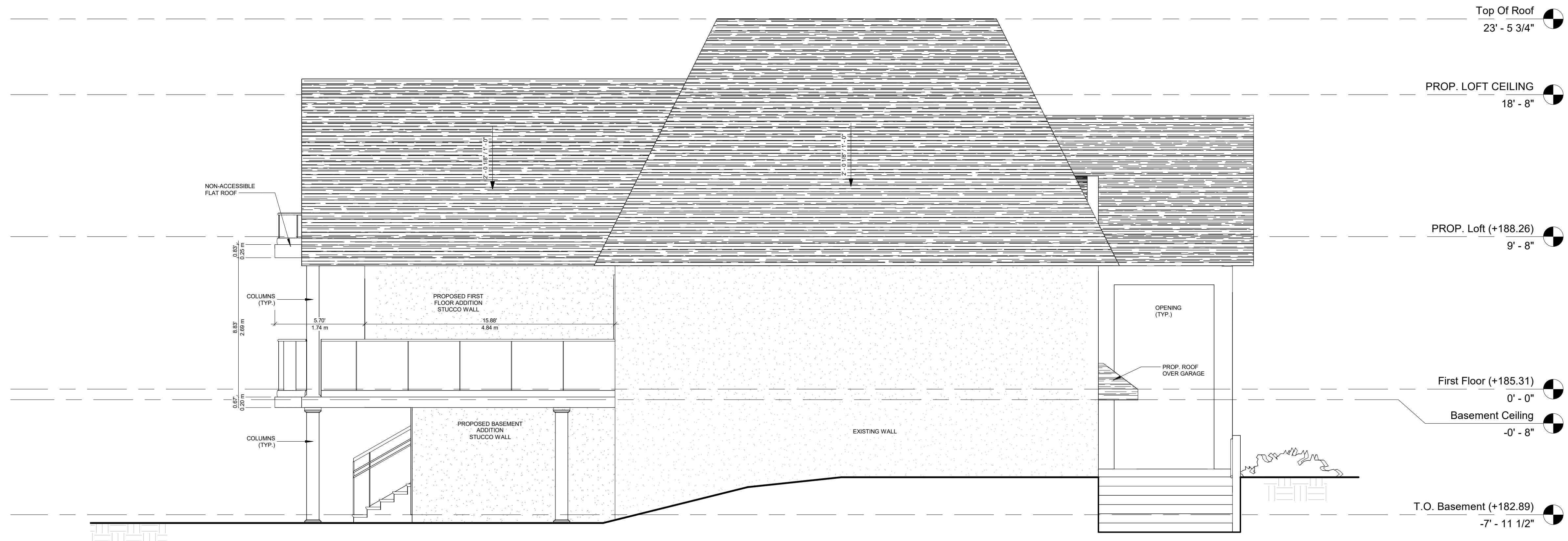
A2.1

Scale 1/4" = 1'-0"

Appendix 'A' - Proposed Development Plans



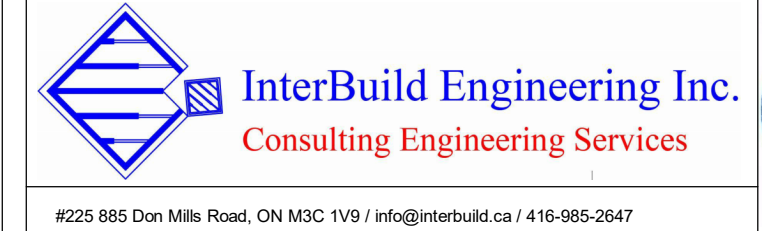
1 Side Elevation 1
A1.3 1/4" = 1'-0"



2 Side Elevation 2
A1.3 1/4" = 1'-0"

NOTE	
1	EXISTING ITEMS
2	PROPOSED ITEMS

Project Address : 17 HAMILTON HALL DR, Markham, ON L3P 2P1



No.	Description	Date

ELEVATIONS	
Project number	
Date	August 1, 2023
Drawn by	Sara Maleki
Checked by	Amir Eghtesadi

A2.2
Scale 1/4" = 1'-0"

APPENDIX “B”

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/092/24

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 A’ 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 deck variance only applies to a deck on the second storey (main level) of the dwelling as shown on the plans attached as Appendix ‘A’ to this staff report.
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:



Stephen Corr, Senior Planner, Planning and Urban Design Department