Memorandum to the City of Markham Committee of Adjustment April 24, 2024

File:	A/018/24
Address:	5A Lunar Crescent, Markham
Agent:	Z Square Group (Mengdi Zhen)
Hearing Date:	Wednesday, May 1, 2024

The following comments are provided on behalf of the Central District Team. The Applicant is requesting relief from the "Third Density Single Family Residential, Exception Two (R3*2)" zone requirements of By-law 221-81, as amended, as it relates to a proposed three-storey detached dwelling. The variances requested are to permit:

a) Deck By-law 142-95, Section 2.3 (a):

a deck platform located above the ground floor, whereas the By-law requires a deck to be located at or below the ground floor; and

b) Amending By-law 2012-13, Section 7.2.2 (viii):

a residential dwelling with a maximum of three-storeys, whereas the Bylaw permits a maximum of two-storeys for a residential dwelling;

BACKGROUND

Property Description

The 806.60 m² (8,682.17 ft²) Subject Lands are located on the south side of Lunar Crescent, and generally east of Woodbine Avenue and north of Highway 7 (refer to Appendix "A" – Aerial Photo). The lands were part of a severance application by way of consent (City File: B/008/22). The Subject Lands are located within an established residential neighbourhood comprised of one and two-storey detached dwellings. The surrounding area is undergoing a transition with newer dwellings being developed as infill developments.

There is an existing one-storey detached dwelling on the Subject Lands which, according to assessment records, was constructed in 1955. Mature vegetation exists on the property including two mature trees located in the rear and a mix of vegetation and mature trees along the western side yard.

Proposal

The Applicant is proposing to construct a new three-storey detached dwelling with a gross floor area of 532.95 m² (5,736.63 ft²), as shown in Appendix "B".

Official Plan and Zoning

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

The Subject Lands are designated "Residential Low Rise", which permits low rise housing forms including single detached dwellings. Section 8.2.3.5 of the Official Plan outlines development criteria for the "Residential Low Rise" designation with

respect to height, massing and setbacks. This criteria is established 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 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. Planning Staff have had regard for the requirements of the infill development criteria in the preparation of the comments provided below.

Zoning By-Law 221-81, as amended by By-law 2012-13

The Subject Lands are zoned "Third Density Single Family Residential, Exception Two (R3*2)" under By-law 221-81, as amended, which permits a single detached dwelling per lot. Exception Two relates to Amending By-law 2012-13 (the "Amending By-law"), which further amends By-law 221-81. The Amending By-law was enacted by the City of Markham subsequent to an order issued by the Ontario Municipal Board (the "OMB") on August 8, 2012. The Amending By-law introduced development standards, including, but not limited to, minimum lot frontage and area requirements, minimum setbacks, maximum height and storeys, maximum dwelling depth and maximum garage projection so that redevelopment can proceed subject to updated standards.

The proposed development does not comply with the Amending By-law requirements with respect to the maximum number of storeys.

Deck By-law 142-95

The Proposed Development also does not comply with the requirements of the City-Wide Deck By-law 142-95, as amended (the "Deck By-law"), with respect to having a deck located above the ground floor.

Zoning Preliminary Review (ZPR) Undertaken

The Agent has completed a Zoning Preliminary Review (ZPR) on December 6, 2023 to confirm the variances required for the proposed development.

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.

Deck Platform Location

The Agent is requesting relief from the By-law to permit a deck platform to be located above the ground floor, whereas the By-law requires a deck to be located at or below the ground floor.

As prescribed in the Deck By-law 142-95, the Ground Floor means:

the lowest floor of a building above the established grade, and shall not include a basement or cellar.

The lowest level of the proposed development (the garage level) is located above-grade resulting in a deck that is located at an elevation higher than the *Ground Floor* of the main dwelling. Staff note that the intent of the By-law is to prevent second storey decks and staircases that could potentially negatively impact adjacent neighbours.

Staff is of the opinion that the garage level can be considered as an above-grade basement with the deck located on the main floor. The proposed deck, measures 8' x 26.5' (2.44m x 8.08m) for a total of 19.69m² (212 sq. ft) and standing at approximately 9'-8" (2.95 m) above established grade. Staff are of the opinion that the proposed deck meets the four tests, due to its moderate size and elevation. Staff have no objections to the requested variance, subject to the implementation of the conditions listed in Appendix C, which will ensure the deck's integration into the existing landscape while minimizing impact on the surrounding community.

Increase in Maximum Number of Storeys

The Agent is requesting relief from the By-law to permit a third storey for the proposed development, whereas the By-law permits a maximum number of two storeys within a single vertical plane. The term *Storey* is defined in the Amending By-law as follows:

"the portion of a dwelling, other than a cellar or an unfinished attic, located between the surface of any floor and the surface of the floor or roof above, and shall include a basement."

As previously noted, the lowest level of the proposed development is located above-grade, resulting in an above-grade basement which is considered an additional storey.

Staff also note that the proposed development consists of a building height of 9.78 metres (32.09 feet), which complies with the maximum building height requirements of 9.80 metres (32.15 feet) and is calculated from the established grade to the midpoint of the roof, as set out in the Amending By-law. Given that the proposed development complies with the height requirements and that one of

the proposed storeys is an above-ground basement, Staff are the opinion that the proposed variance request is minor in nature and have no concerns with the request.

PUBLIC INPUT SUMMARY

As of April 24, 2024, the City received no letters of opposition. 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 are of the opinion that variances requested meets the four tests of the *Planning Act*. Staff recommend that the Committee consider any public input in reaching a decision and should satisfy themselves as to whether the variance meets the four tests of the *Planning Act*.

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 "C" for conditions to be attached to any approval of this application.

PREPARED BY:

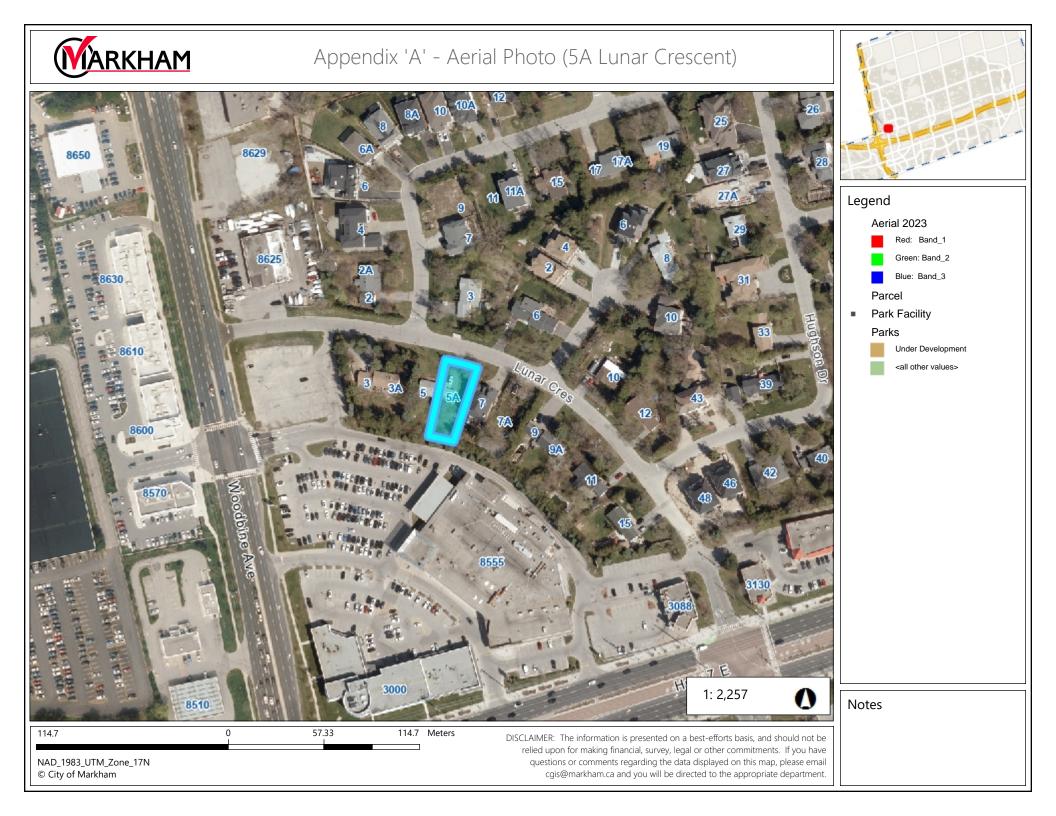
Mohannad

Hussnain Mohammad, Planner 1, Development Facilitation Office

REVIEWED BY:

Melissa Leung, MCIP, RPP, Senior Planner, Central District

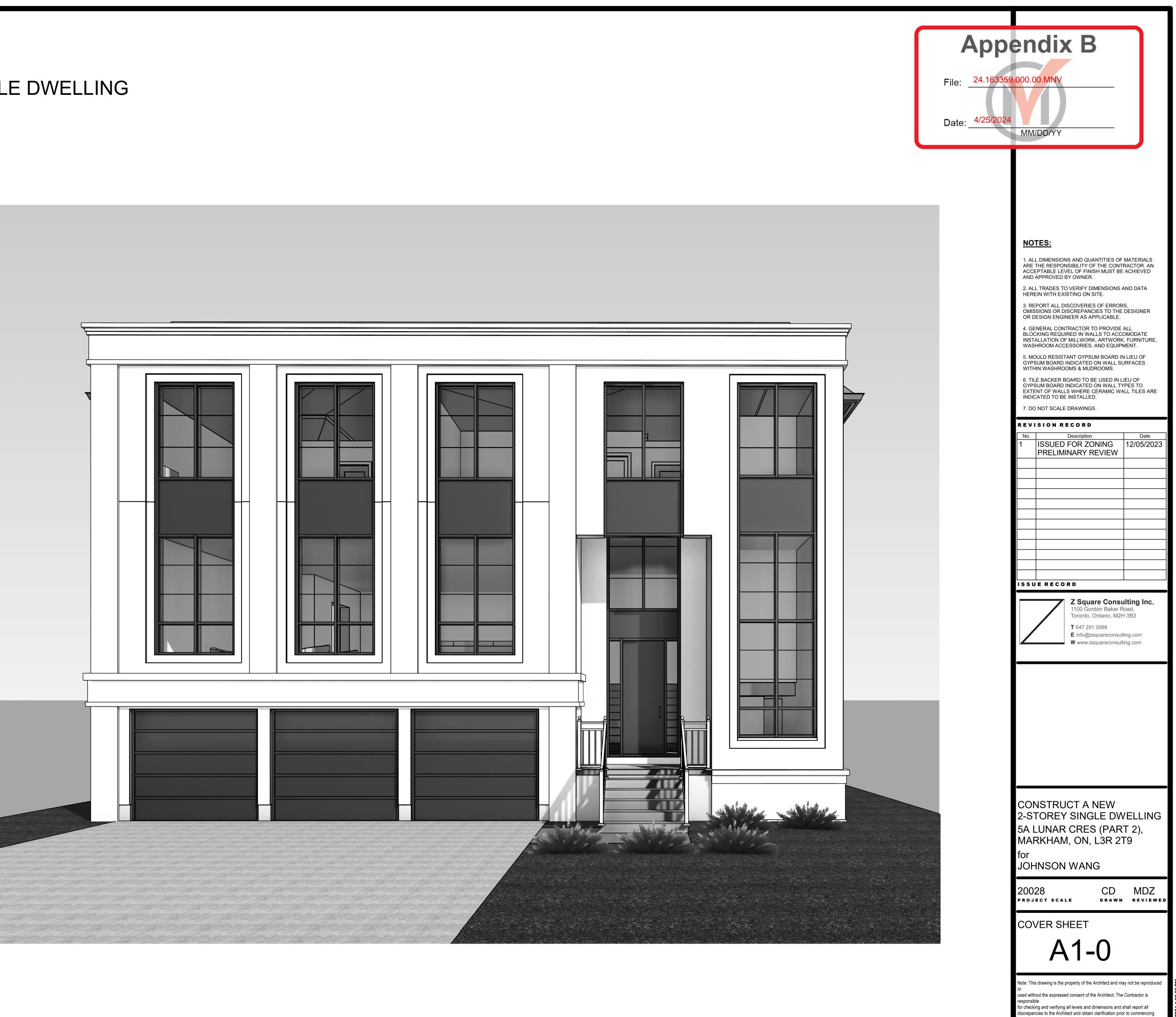
APPENDICES Appendix "A" – Aerial Photo Appendix "B" – Plans Appendix "C" – Conditions

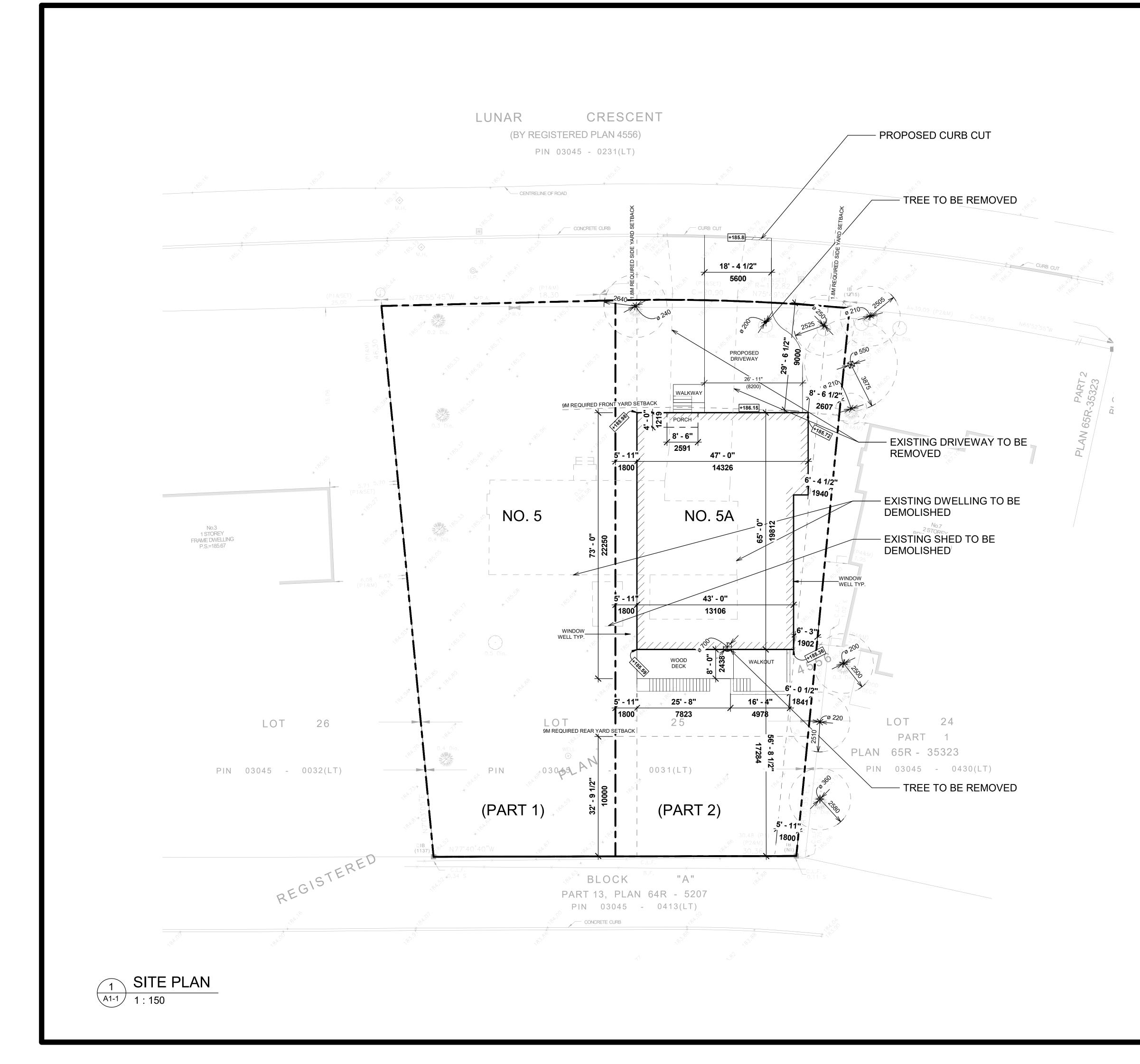


PROPOSED 2-STOREY SINGLE DWELLING

5A LUNAR CRES (PART 2), MARKHAM, ON L3R 2T9

ARCHITECTURAL DRAWINGS			
SHEET NO.	SHEET NAME		
A1-0	COVER SHEET		
A1-1	SITE PLAN		
A2-2	UPPER BASEMENT PLAN		
A2-3	GROUND FLOOR PLAN		
A2-4	SECOND FLOOR PLAN		
A2-5	ROOF PLAN		
A3-1	FRONT ELEVATION (NORTH)		
A3-4	SIDE ELEVATION (EAST)		
A3-2	REAR ELEVATION (SOUTH)		
A3-3	SIDE ELEVATION (WEST)		
A2-1	LOWER BASEMENT PLAN		





SITE STATISTICS (5A L ZONING	LUNAR)	By-Law No.		٩p	en	di	хB	
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LOT COVERAGE	PROPOSED MAX.	33.23%	BASEMEN 7263-166	4/25/2024				
GFA	PROPOSED	532.954 SQ.M.	BASEMEN Dates MAIN: 264.056 SQ.M. SEC: 268.056 SQ.M.			/DD/YY		
BUILDING HEIGHT	PERMITTED PROPOSED	9.80M MAX 9.775M		_				
SETBACKS: FRONT (NORTH)	PERMITTED PROPOSED	9.00M MIN 9.00M						
SETBACKS: SIDE (WEST)	PERMITTED PROPOSED	1.80M MIN 1.80M						
SETBACKS: SIDE (EAST)	PERMITTED PROPOSED	1.80M MIN 1.90M						
SETBACKS: REAR YARD (SOUTH)	PERMITTED PROPOSED	10.00M MIN 17.28M						
MAX DEPTH	PERMITTED PROPOSED	19.90M W/ 2.1M REAR 19.81M	EXTENSION MAX					
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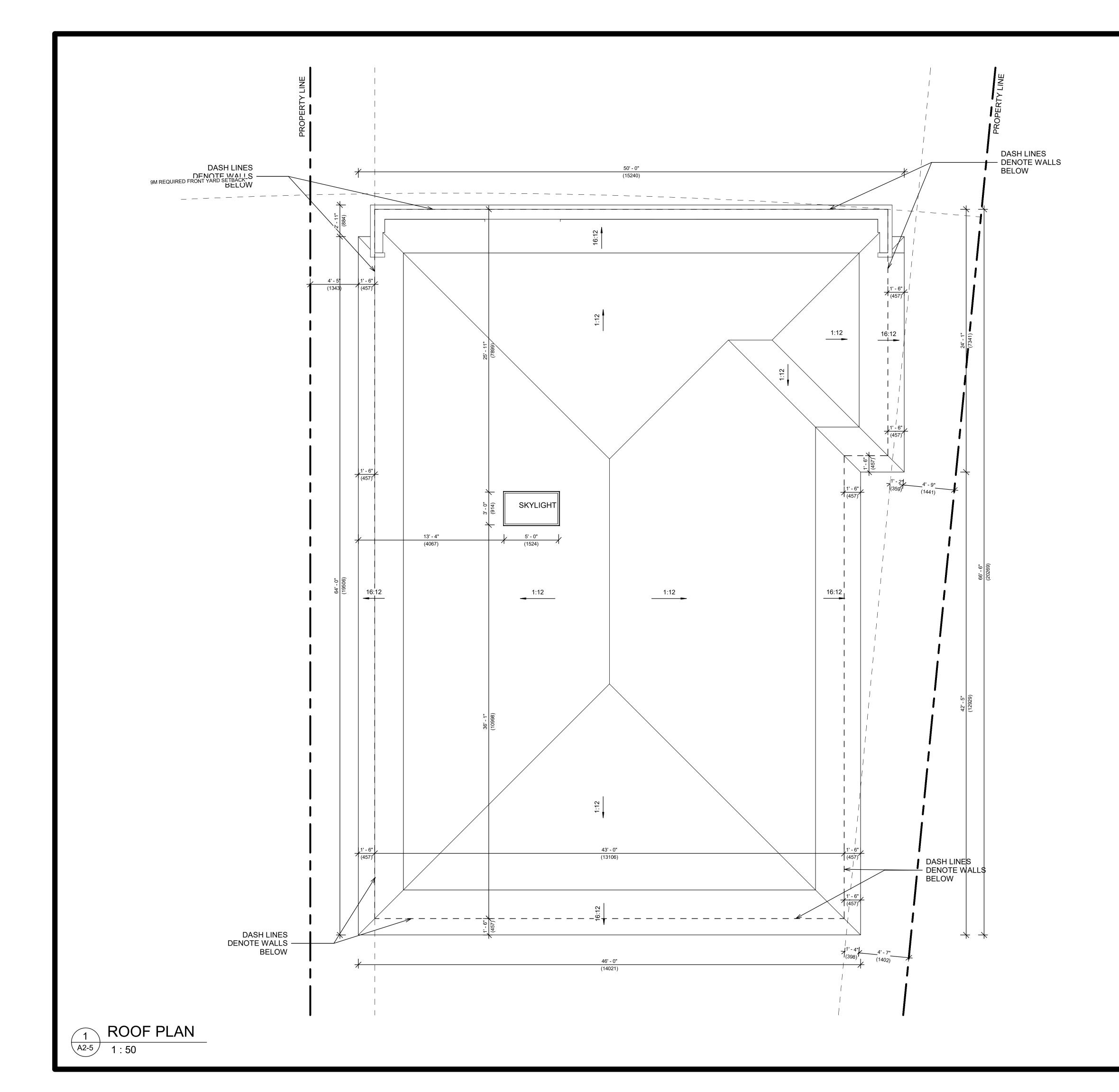
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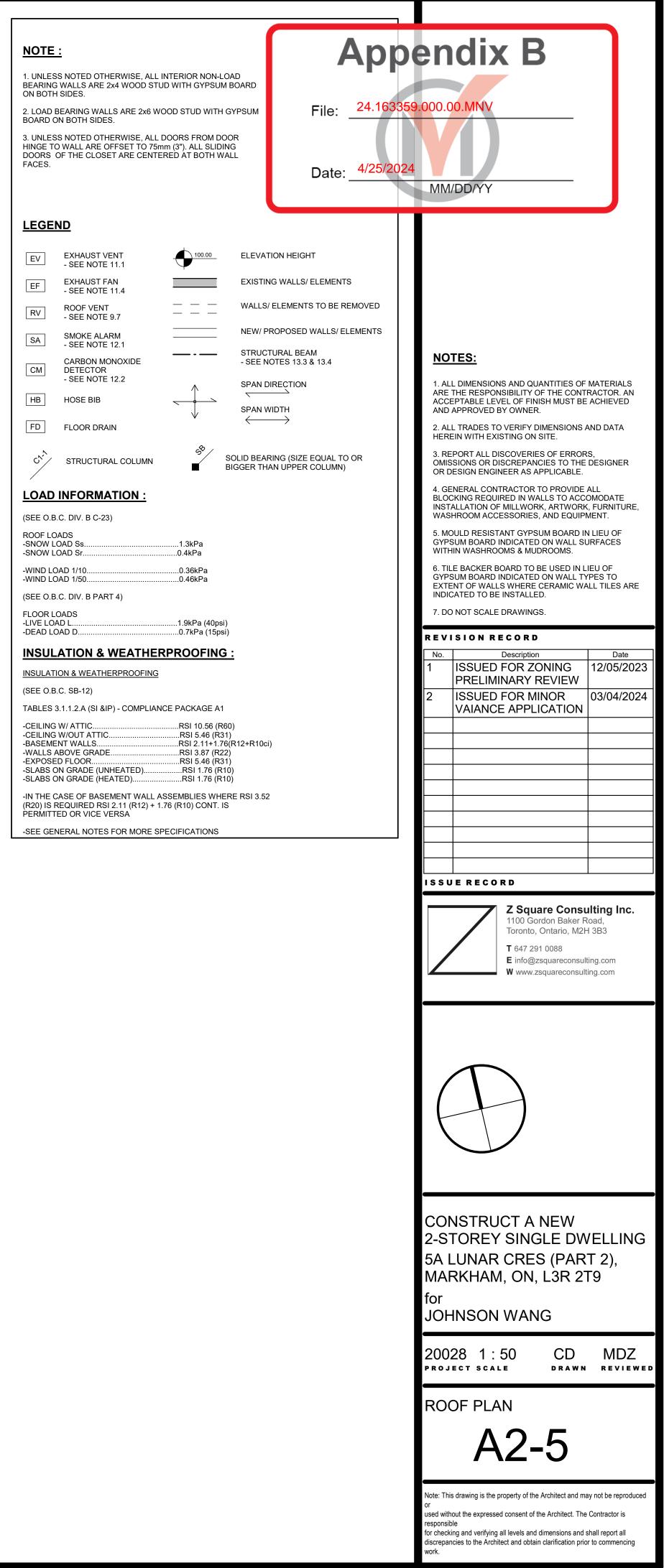
SITE PLAN



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for checking and verifying all levels and dimensions and shall report all discrepancies to the Architect and obtain clarification prior to commencing



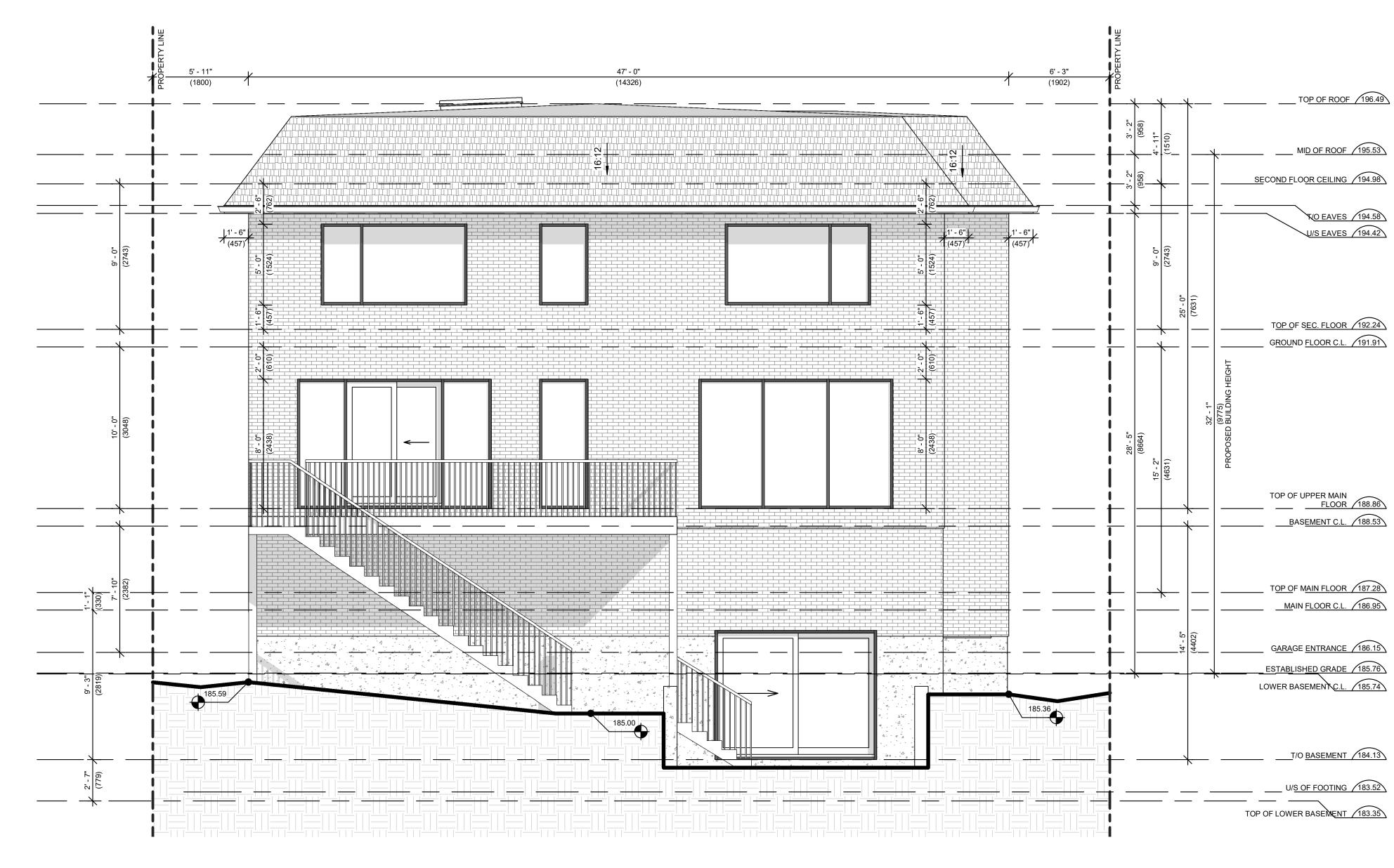


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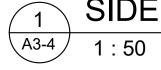


Appendix B File: 24.163359.000.00.MN Date: 4/25/2024 MM/DD/YY <u>NOTES:</u> 1. ALL DIMENSIONS AND QUANTITIES OF MATERIALS ARE THE RESPONSIBILITY OF THE CONTRACTOR. AN ACCEPTABLE LEVEL OF FINISH MUST BE ACHIEVED AND APPROVED BY OWNER. 2. ALL TRADES TO VERIFY DIMENSIONS AND DATA HEREIN WITH EXISTING ON SITE. 3. REPORT ALL DISCOVERIES OF ERRORS, OMISSIONS OR DISCREPANCIES TO THE DESIGNER OR DESIGN ENGINEER AS APPLICABLE. 4. GENERAL CONTRACTOR TO PROVIDE ALL BLOCKING REQUIRED IN WALLS TO ACCOMODATE INSTALLATION OF MILLWORK, ARTWORK, FURNITURE, WASHROOM ACCESSORIES, AND EQUIPMENT. 5. MOULD RESISTANT GYPSUM BOARD IN LIEU OF GYPSUM BOARD INDICATED ON WALL SURFACES WITHIN WASHROOMS & MUDROOMS. 6. TILE BACKER BOARD TO BE USED IN LIEU OF GYPSUM BOARD INDICATED ON WALL TYPES TO EXTENT OF WALLS WHERE CERAMIC WALL TILES ARE INDICATED TO BE INSTALLED. 7. DO NOT SCALE DRAWINGS. REVISION RECORD Description Date No. ISSUED FOR ZONING 12/05/2023 PRELIMINARY REVIEW ISSUED FOR MINOR 03/04/2024 VAIANCE APPLICATION ISSUE RECORD **Z Square Consulting Inc.** 1100 Gordon Baker Road, Toronto, Ontario, M2H 3B3 **T** 647 291 0088 E info@zsquareconsulting.com W www.zsquareconsulting.com CONSTRUCT A NEW 2-STOREY SINGLE DWELLING 5A LUNAR CRES (PART 2), MARKHAM, ON, L3R 2T9 for JOHNSON WANG CD MDZ drawn reviewed 20028 1:50 project scale REAR ELEVATION (SOUTH) A3-2 Note: This drawing is the property of the Architect and may not be reproduced sed without the expressed consent of the Architect. The Contractor is esponsible for checking and verifying all levels and dimensions and shall report all discrepancies to the Architect and obtain clarification prior to commencing

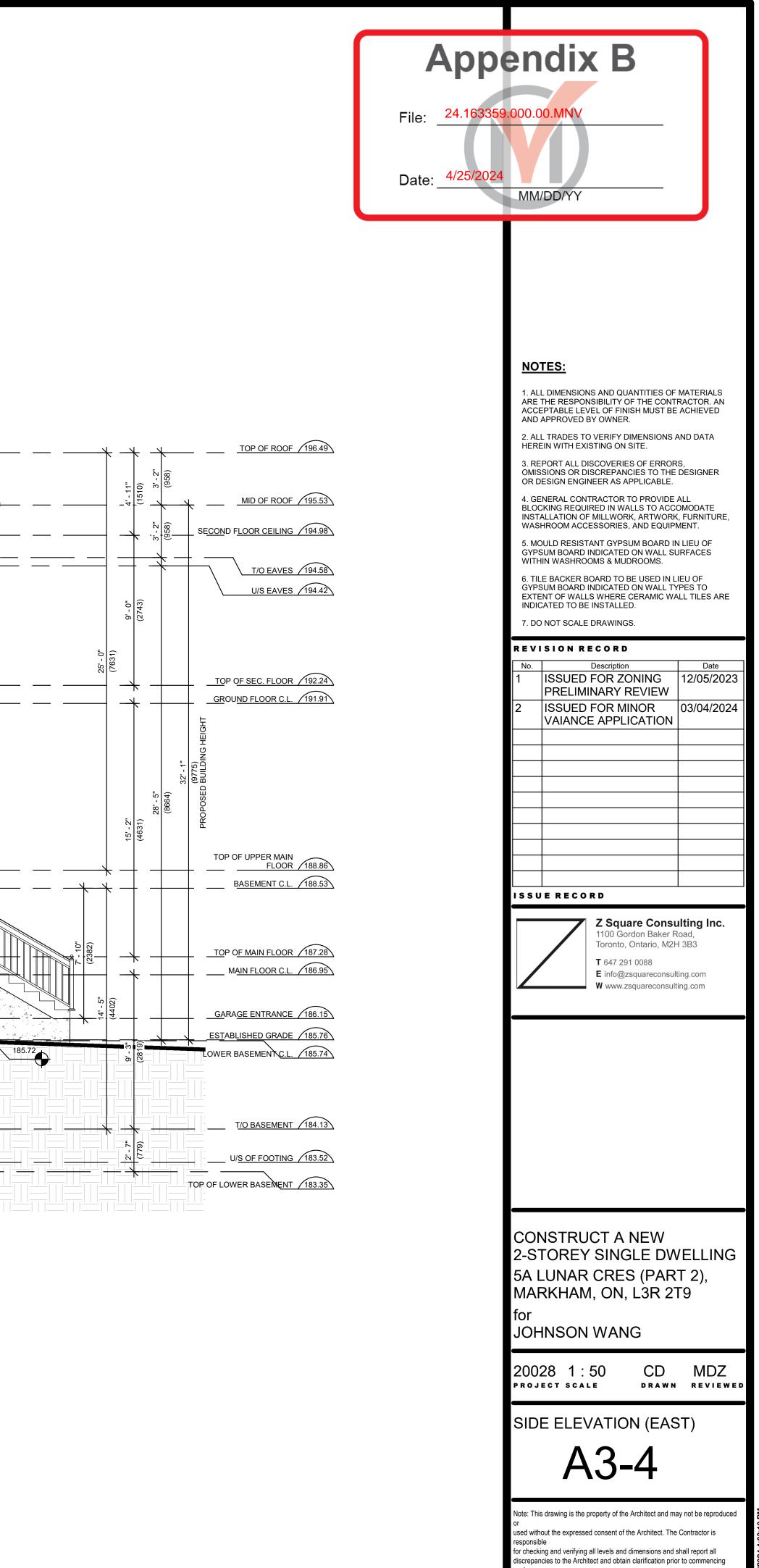



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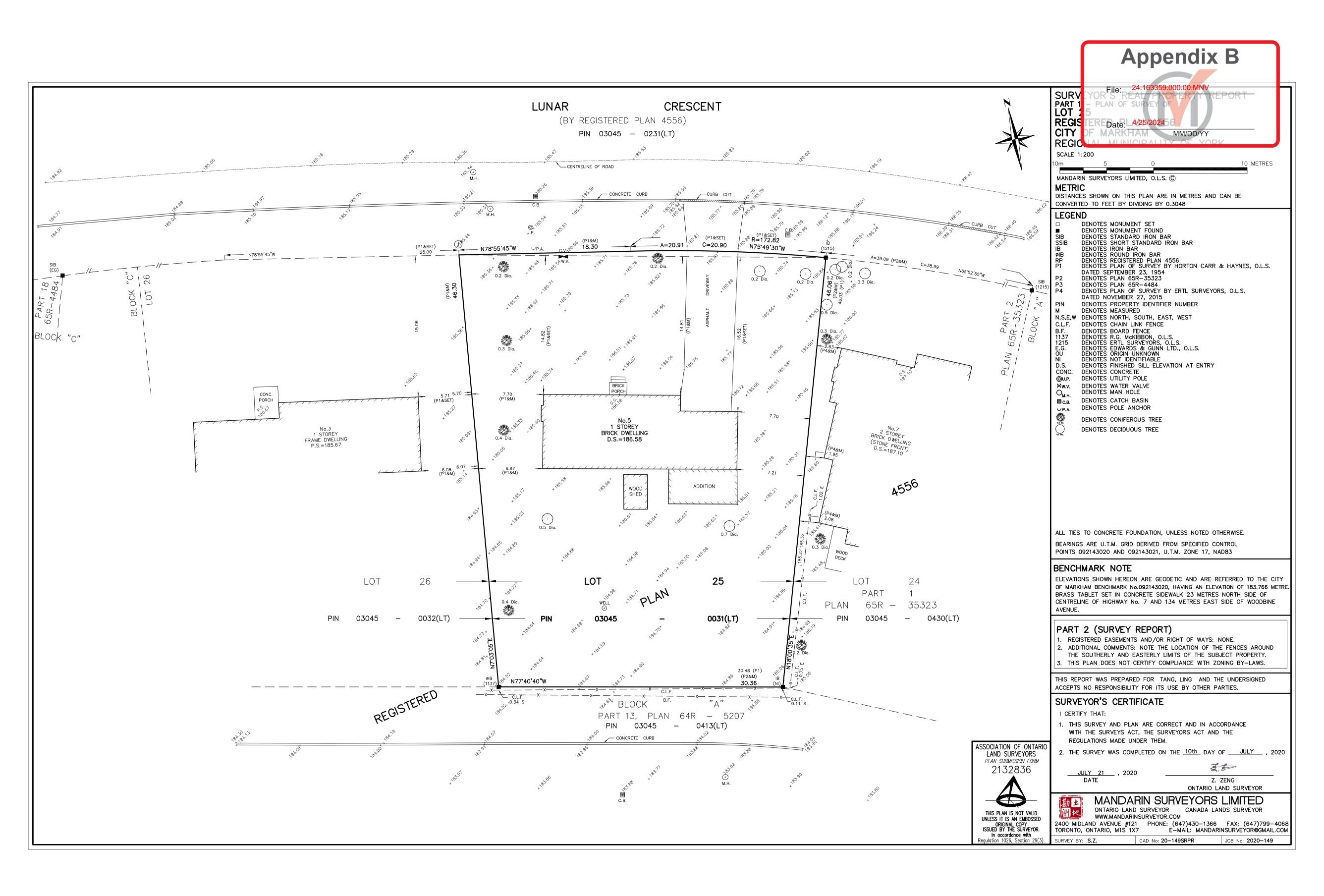




SIDE ELEVATION (EAST)







Appendix "C" – A/018/24 Conditions of Approval

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/018/24

- 1. The variances apply only to the proposed development as long as it remains; and
- 2. That the variances apply only to the proposed development, in substantial conformity with the plans attached as Appendix "B" 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 height of the deck platform be restricted to a maximum of 3.0 metres (9.84 feet)
- 4. That the area of the deck be restricted to a maximum of 20 square metres (215 square feet).

CONDITIONS PREPARED BY:

Mohannad

Hussnain Mohammad, Planner 1, Development Facilitation Office