

Memorandum to the City of Markham Committee of Adjustment

June 15, 2022

File: A/048/22
Address: 11 Fairty Drive – Markham, ON
Applicant: NIA Architects Inc. (Nadeem Irfan)
Hearing Date: June 22, 2022

The following comments are provided on behalf of the East District team. The applicant is requesting relief from the following “Eighth Density Single Residential – (R8)” zone requirements under By-law 90-81, as amended, as they relate to a proposed accessory dwelling unit (secondary suite):

a) By-law 90-81, Section 5.2.1:

a second dwelling unit, whereas the By-law permits no more than one single detached dwelling unit on one lot; and

b) By-law 90-81, Section 6.2.1(b):

a side yard setback of 0.30 m (0.98 ft), whereas the By-law requires 1.20 m (3.94 ft) for a one storey portion.

PROPERTY DESCRIPTION

The subject property is located on the south side of Fairty Drive, east of Norman Ross Drive, north of Elson Street, and west of Marydale Avenue. The property is located within a residential neighbourhood predominantly comprised of a mix of two-storey detached and semi-detached dwellings, nearby schools, parks, and commercial uses located along Markham Road.

PROPOSAL

The applicant is requesting permission for a secondary suite to be located in the basement of the existing dwelling, which would have direct and separate access provided by a new door and walk-up stairs at the east side of the dwelling.

Zoning By-Law 90-81 as amended

The subject property is zoned “Eighth Density Single Residential – (R8)” under By-law 90-81, as amended, which permits one single detached dwelling per lot. The proposed development does not comply with the By-law requirements with respect to the maximum number of dwelling units permitted on a lot, and the minimum interior side yard setback.

COMMENTS

The *Planning Act, R.S.O. 1990, c. P.13, as amended*, states that four tests must be met in order for a variance to be granted by the Committee of Adjustment (the “Committee”):

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee, 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.

Secondary Suite

Staff are satisfied that the proposed development meets the criteria under [Section 8.13.8](#) of the Official Plan for the establishment of a secondary suite, and support its approval in accordance with the requirements under Section 16(3) of the *Planning Act, R.S.O. 1990, c. P.13, as amended*.

Reduced Side Yard Setback (one-storey portion)

The applicant is requesting a minimum side yard setback of 0.30 m (0.98 ft) for the one-storey portion, whereas the By-law requires a minimum side yard setback of 1.20 m (3.94 ft) for a one-storey portion.

The requested variance would apply to a one-storey covered and unenclosed stairwell along the east side to access the additional dwelling unit. Engineering staff have reviewed the application and have not identified any concerns with respect to drainage. Staff have considered that there is an existing side yard setback of at least 1.20 m (3.94 ft) along the west side, which would provide for sufficient access to the rear yard by occupants or visitors. Staff are of the opinion that the requested variance is minor in nature, and maintains the general intent and purpose of the By-law.

ZONING PRELIMINARY REVIEW (ZPR) UNDERTAKEN

The owner has completed a ZPR on March 29, 2022 to confirm the variances required for the proposed development.

PUBLIC INPUT SUMMARY

No written submissions were received as of June 15, 2022. Additional information may be received after the writing of this 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*, and are of the opinion that the requested variances meet the four tests. Staff recommend that the Committee consider public input, and the subsequent conditions in reaching a decision. The onus is ultimately on the applicant to how they satisfy the tests of the *Planning Act* required for the granting of minor variances.

APPENDICES

Appendix "A" – Conditions of Approval

Appendix "B" – Plans

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



Stacia Muradali, Development Manager, East District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/048/22

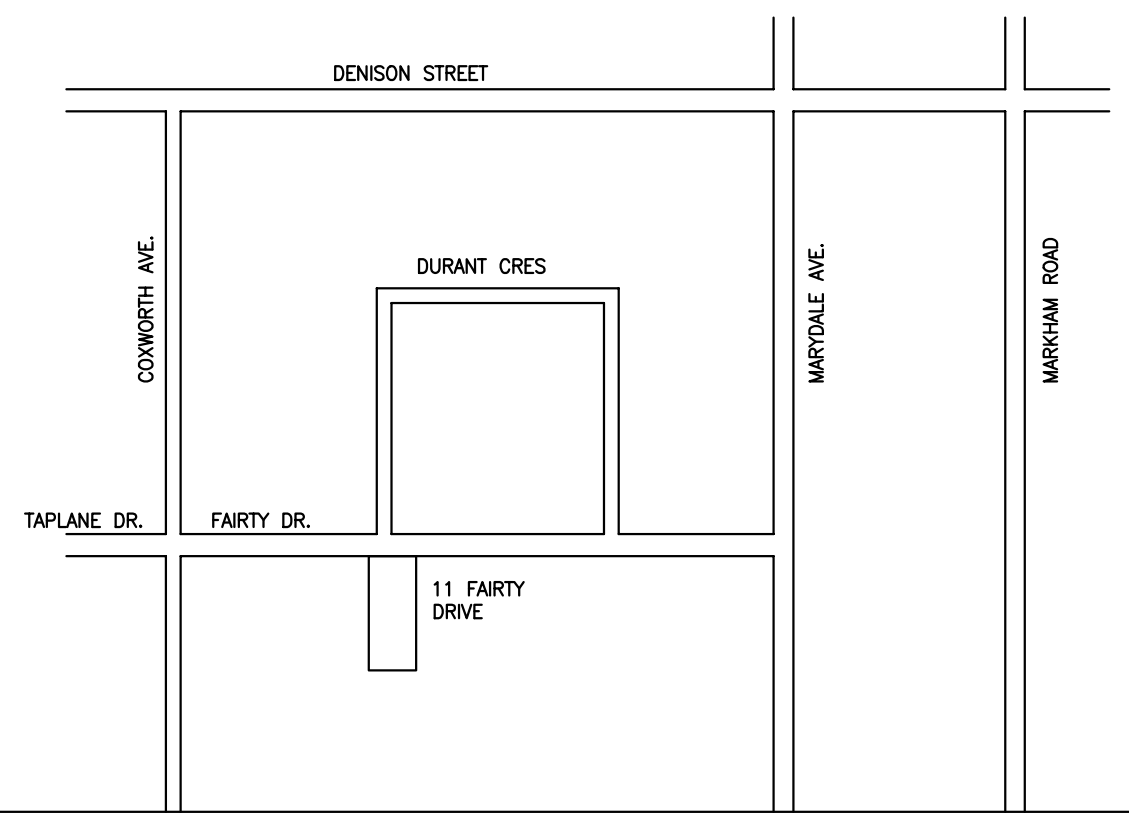
1. That the variances apply only to the proposed development for as long as it remains.
2. That the variances apply only to the proposed development, in substantial conformity with the plans attached as Appendix "B" to this Staff Report, and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design, or their designate that this condition has been fulfilled to their satisfaction.
3. That the owner submit, if required by the Chief Building Official, a third-party report prepared by an architect or professional engineer licensed in the Province of Ontario, to assess compliance of existing construction with the provisions of the Ontario Building Code, and in particular relating to the change of use from a dwelling containing a single suite to a dwelling containing more than one suite.
4. That on either the east or west side of the dwelling, a minimum side yard setback of 1.20 m (3.94 ft) from the curb of Fairty Drive to the rear yard of 11 Fairty Drive be maintained and left unobstructed at all times.

CONDITIONS PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

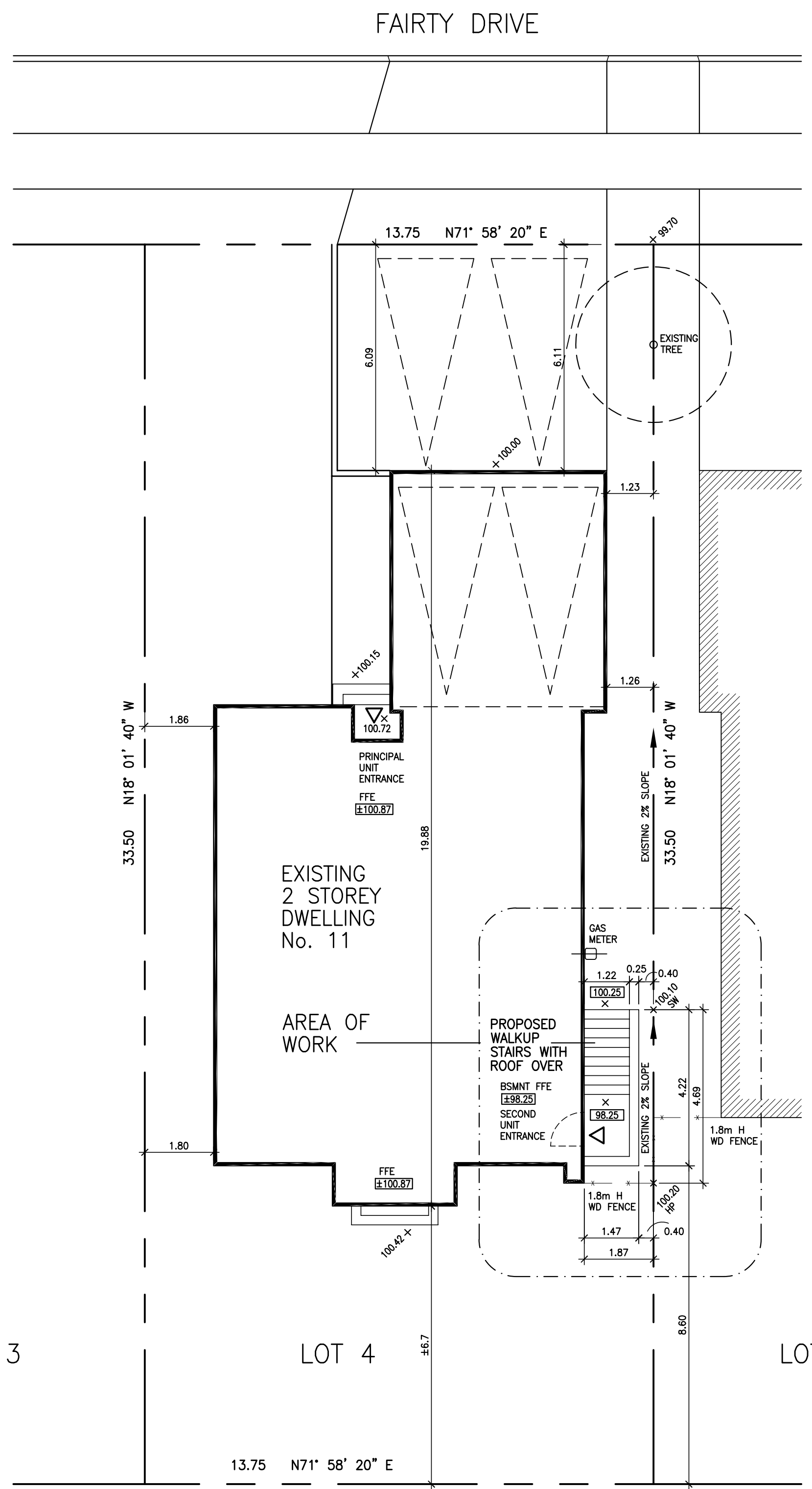
APPENDIX "B"
PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/048/22



LOCATION PLAN

BUILDING LOCATION SURVEY OF
LOT 4, PLAN 65M-2599
TOWN OF MARKHAM
REGIONAL MUNICIPALITY OF YORK

LOT AREA	460.62 sq.m.
LOT COVERAGE (EXISTING)	165.00 sq.m. (35.82 %)
LOT COVERAGE (PROPOSED)	0 sq.m.
GROSS FLOOR AREA (EXISTING)	241.1 sq.m.
GROSS FLOOR AREA (PROPOSED)	0 sq.m.



EXISTING
2 STOREY
DWELLING
No. 15

CITY TO	ZONING REVIEW ISSUED	MARCH 1/22 DATE
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THIS DRAWING SHALL NOT BE USED FOR CONSTRUCTION PURPOSES UNTIL SIGNED BY THE ARCHITECT.

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PROJECT
PROPOSED SECOND SUITE & INTERIOR ALTERATION TO EXISTING 2 STOREY RESIDENCE
11 FAIRTY DRIVE, MARKHAM

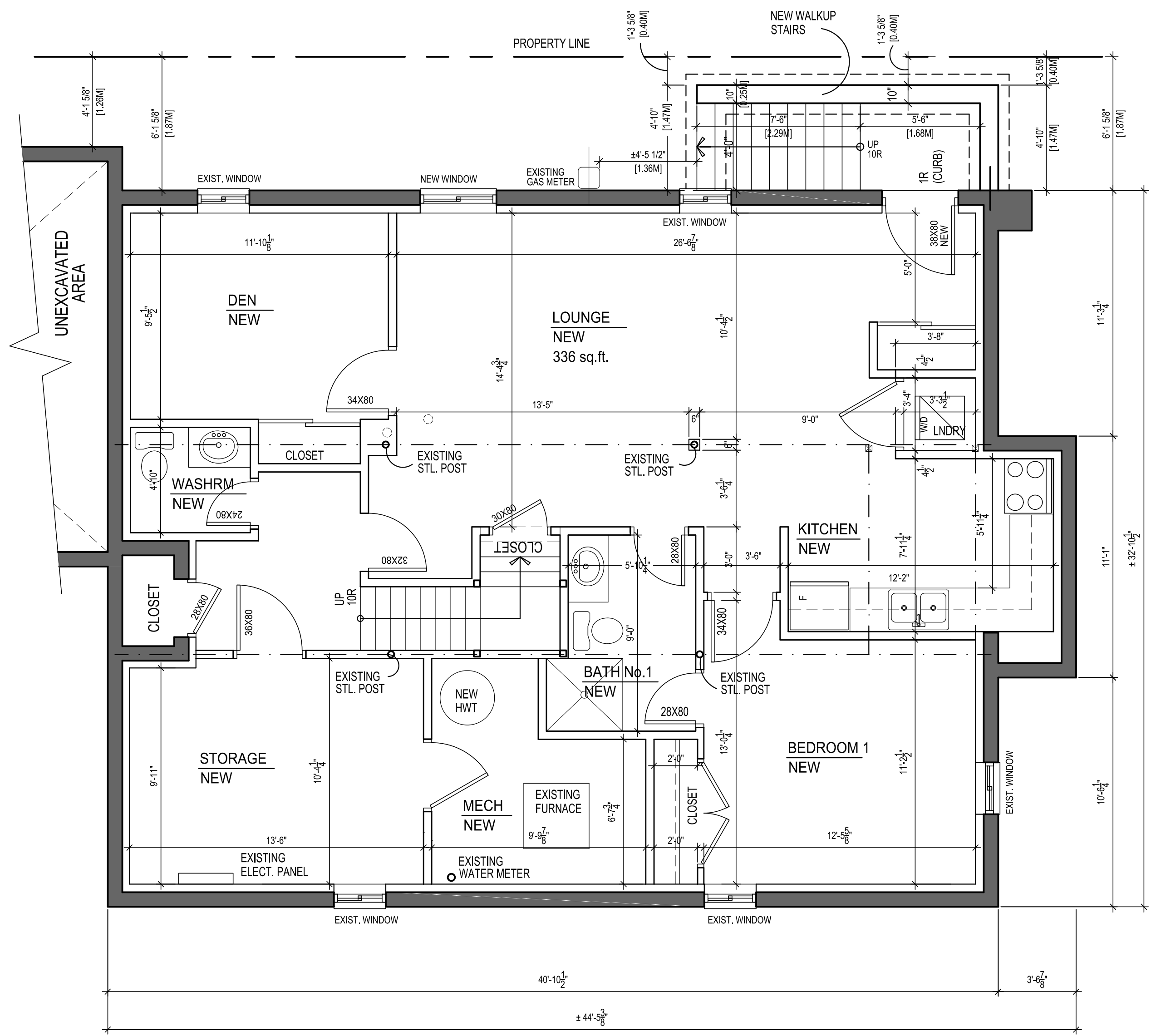
DRAWING SITE PLAN	
DRAWN N.I.	PROJECT NO 2021-59
PLOTTED MARCH 24, 2022	DRAWING NO
SCALE 1:100	A1.1
CHECKED	

- SM INTERCONNECTED SMOKE ALARM
PROVIDE ON EACH FLOOR & ALL BEDROOMS
INTERCONNECTED W/ VISUAL SIGNALS
- CD CARBON MONOXIDE DETECTOR
- SUPPLY AIR OUTLET
- RETURN AIR OUTLET
- LIGHTING
- DT DUCT TYPE
- SMOKE DETECTOR



LEGEND AND NOTES

- 1 1/2 HR FIRE RATED PARTITION (FURNACE ROOM)
(AS PER OBC PART 11 COMPLIANCE ALTERNATIVE C150)
1/2" GYPSUM BOARD ON BOTH SIDES OF EXISTING WOOD STUDS FRAMING
3-1/2" FIBERGLASS BATT INSULATION BETWEEN STUDS
FOR 1/2 HR FIRE RATING SIMILAR TO OBC SB-3 'W1c'
- 2 1/2 HR FIRE RATED PARTITION BETWEEN SUITES
(AS PER OBC PART 11 COMPLIANCE ALTERNATIVE C149)
1/2" GYPSUM BOARD ON BOTH SIDES OF EXISTING WOOD STUDS FRAMING
3-1/2" FIBERGLASS BATT INSULATION BETWEEN STUDS
FOR 1/2 HR FIRE RATING SIMILAR TO OBC SB-3 'W1c'
- 3 20 MIN. FIRE RATED DOOR
REMOVE EXISTING DOOR & FRAME.
INSTALL NEW 20 MIN. FIRE RATED SOLID CORE WOOD DOOR & FRAME WITH C/W SELF CLOSURE
- 4 FIRE RATED CEILING
EXISTING PLYWOOD SUB-FLOOR
EXISTING WD JOISTS SPACED AT 16" O.C.
NO ABSORPTIVE MATERIAL IN CAVITY.
METAL RESILIENT CHANNELS @ 24" O.C.
15.9mm TYP-X GYPSUM BORAD
- 5 EXISTING FURNACE
EXISTING FURNACE MAY SERVE BOTH UNITS PROVIDED A SMOKE DETECTOR IS INSTALLED ON SUPPLY OR RETURN AIR DUCT SYSTEM WHICH WOULD TURN OFF THE FUEL SUPPLY AND ELECTRICAL POWER TO THE HEATING SYSTEM UPON ACTIVATION OF SUCH DETECTOR.
- 6 WASHROOM FAN
WASHROOM TO BE MECHANICALLY VENTED TO PROVIDE AT LEAST 1AIR CHANGE PER HOUR
- 7 DRYER & STOVE TOP FAN
DRYER & COOKTOP TO BE VENTED DIRECTLY TO OUTSIDE THROUGH WALL
- 8 FIRE PROTECTION
1/2" GYPSUM BOARD CLADDING AROUND STEEL POST



BASEMENT FLOOR PLAN

SCALE: 1/4" = 1'-0"

BASEMENT AREA= 1383 SF (128.50 SM)
WORK AREA= 128.50 SM

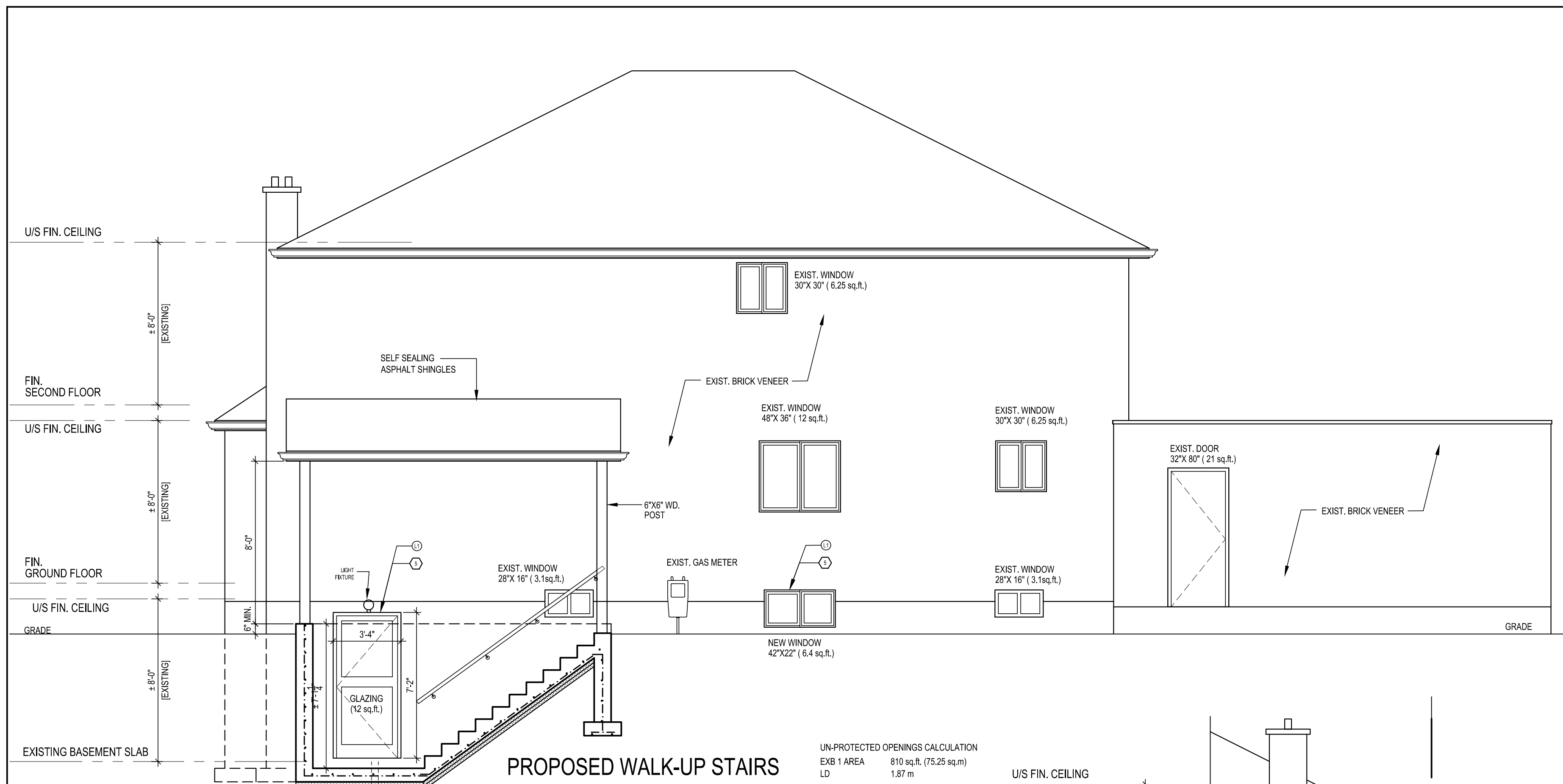
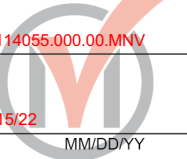
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11 FAIRTY DRIVE, MARKHAM

DRAWING BASEMENT FLOOR PLAN	
DRAWN N.I.	PROJECT NO 2021-59
PLOTTED MARCH 24, 2022	DRAWING NO
SCALE 1/4" = 1'-0"	A2.1
CHECKED	



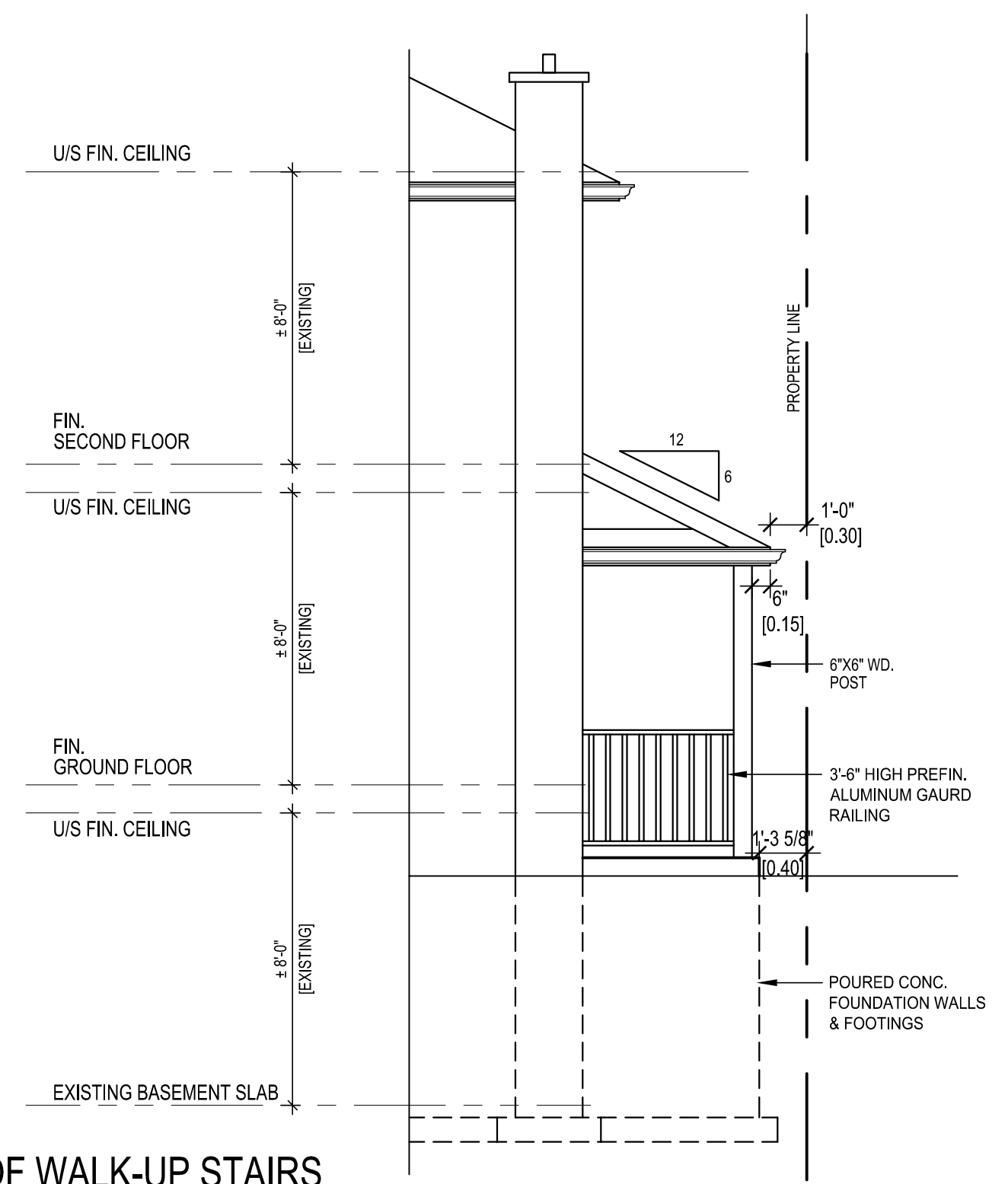
EAST ELEVATION

SCALE: 1/4"=1'-0"

UN-PROTECTED OPENINGS CALCULATION

EXB 1 AREA	810 sq.ft. (75.25 sq.m)
LD	1.87 m
PERMITTED OPENINGS	64.8 sq.ft. (8.0%)
OPENINGS PROVIDED	- sq.ft. (8.0%)

PROPOSED WALK-UP STAIRS



PROPOSED FRONT OF WALK-UP STAIRS

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 11 FAIRTY DRIVE, MARKHAM

DRAWING EAST ELEVATION	
DRAWN N.I.	PROJECT NO 2021-59
PLOTTED MARCH 24, 2022	DRAWING NO
SCALE 1/4" = 1'-0"	A3.1
CHECKED	