

Memorandum to the City of Markham Committee of Adjustment

January 25, 2022

File: A/158/21
Address: 23 Ida Street – Markham, ON (Thornhill)
Applicant: Asif Karimov
Agent: Evans Planning Inc. (Qianqiao Zhu)
Hearing Date: February 2, 2022

The following comments are provided on behalf of the West District team. The applicant is requesting relief from the following “Second Density Single Family Residential – (R2)” zone requirements under By-law 2237, as amended, as they relate to a proposed detached dwelling. The variances requested are to permit:

a) By-law 101-90, Section 1.2 (iii):

a maximum number of three storeys, whereas the By-law permits a maximum number of two storeys; and

b) By-law 101-90, Section 1.2 (iv):

a maximum depth of 23.70 m (77.76 ft), whereas the By-law permits a maximum depth of 16.80 m (55.12 ft).

PROPERTY DESCRIPTION

The 7,998.20 m² (86,091.91 ft²) subject property is located on the south side of Ida Street, at the east end of the cul-de-sac, generally north of Clark Avenue, east of Henderson Avenue, and west of Bayview Avenue. An existing detached dwelling, accessory buildings and structures (sheds and a pavilion), and a pond are located on the property, with mature vegetation throughout. The property generally slopes down and towards the east. The existing dwelling is setback approximately 68.48 m (224.67 ft) from the easterly property line. Abutting the property to the east is the Don Valley Park.

The property is located within an established residential neighbourhood comprised of a mix of one and two-storey detached dwellings. There are various examples of infill housing within the surrounding area. Based on City mapping, the majority of the property is within the TRCA’s Regulated Area.

PROPOSAL

The applicant is proposing to demolish the existing dwelling, and construct a three-storey 695.0 m² (7,481.0 ft²) detached dwelling (excluding the garage), with a building depth of 23.70 m (77.76 ft). The applicant has confirmed that the current proposal will largely replace the footprint of the existing dwelling.

OFFICIAL PLAN AND ZONING

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

The subject property is designated “Residential Low Rise”, which provides for low rise housing forms including single detached dwellings. Section 8.2.3.5 of the Official Plan outlines infill development criteria for the “Residential Low Rise” designation with respect to height, massing, and setbacks. This criteria is established to ensure that infill development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street, while accommodating a diversity of building styles. In considering applications for development

approval in a “Residential Low Rise” area, which includes variances, development is required to meet the general intent of the above noted development criteria. In addition, regard shall be had for the retention of existing trees and vegetation.

Zoning By-Law 2237, as amended

The subject property is split zoned “Second Density Single Family Residential – (R2)” and “Open Space – “O1” under By-law 2237, as amended. The proposed dwelling is located entirely within the limits of the “Second Density Single Family Residential – (R2)” zone, which permits one single detached dwelling per lot.

Residential Infill Zoning By-law 101-90

The subject property is also subject to the Residential Infill Zoning By-law 101-90. The intent of this By-law is to ensure the built form of new residential construction will maintain the character of existing neighbourhoods. It specifies development standards for building depth, garage projection, garage width, floor area ratio, height, yard setbacks, and number of storeys. The proposed development does not comply with the Infill By-law requirements with respect to the maximum number of storeys, and maximum building depth.

Previous Minor Variance Approval (File: A/125/98)

In 1998, the Committee of Adjustment (the “Committee”) approved the following minor variance requested under Zoning By-law 2237, as amended, to permit:

- a maximum depth of 21.0 m (77.76 ft), whereas the By-law permits a maximum depth of 16.80 m (55.12 ft).

As previously noted, the applicant proposes to demolish the existing dwelling. Approval of this variance was conditional that the variance would apply to the subject addition for as long as it remains.

ZONING PRELIMINARY REVIEW (ZPR) UNDERTAKEN

The applicant completed a ZPR on November 10, 2021 that confirms the variances required for the proposed development.

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.

Increase in Maximum Number of Storeys

The applicant is proposing a dwelling with a maximum number of three-storeys, whereas the By-law permits a maximum number of two-storeys.

The variance to increase the number of storeys is being requested to address the fact that a portion of the basement of the new dwelling will be located above grade along the front wall, and will appear to be three-storeys in height along the eastern portion of the dwelling.

Staff note that this area of the property is largely buffered by existing trees and vegetation, and are of the opinion that the proposed development would generally be similar in scale to the existing dwelling and developments along the street. Staff note that the third storey will be accommodated within the maximum height permitted under the by-law. Staff are satisfied that the requested variance is an appropriate development of the property, is minor in nature, and appropriately maintains the general intent of the By-law.

Increase in Maximum Building Depth

The applicant is requesting a maximum building depth of 23.70 m (77.76 ft), whereas the By-law permits a maximum building depth of 16.80 m (55.12 ft). This is an increase of 6.90 m (22.64 ft) from the By-law requirement, and 2.70 m (8.86 ft) from the existing approved variance.

Building depth is measured based on the shortest distance between two lines, both parallel to the front lot line, one passing through the point on the dwelling which is the nearest and the other through the point on the dwelling which is the farthest from the front lot line. From front to back, the proposed dwelling measures approximately 21.0 m (68.90 ft); however, building depth is measured on an angle through the proposed building due to the configuration of the lot. While the applicant requests an increase of 6.90 m (22.64 ft) from the By-law requirement, it is noted that this as an increase of 2.70 m (8.86 ft) from the previously approved variance in 1998. Staff acknowledge that the subject property has a lot depth of approximately 82.19 m (269.65 ft), which is greater than many residential lots along the street and within the surrounding area (see Appendix "C"). Staff are of the opinion that the requested variance would not adversely impact adjacent lots.

Tree Protection and Compensation

Staff recommend that the tree related conditions be adopted to ensure that the applicant provides for the appropriate protection and compensation, if necessary. The applicant is required to apply for and obtain tree permits from the City for any proposed injury to, or removal of any trees that have a diameter at breast height (DBH) of 0.20 m (0.66 ft). Further mitigation may be required to ensure the appropriate protection of certain trees is achieved.

TRCA Comments

The subject property is located within the TRCA's Regulated Area, as it is within erosion and flood hazards associated with a valley corridor of the East Don River. TRCA provided comments on December 9, 2021 (Appendix "D"), indicating that TRCA's Living City Policies would permit a replacement dwelling that is the same size and footprint as the existing dwelling. Although the TRCA will require some clarification and revisions before a permit is issued, it is confirmed that the footprint and size of the proposed replacement dwelling satisfies their requirements. The TRCA has no objections to the requested variances, and expects that the applicant, through the TRCA's Permit application process, will also address the comments provided on the TRCA Concept Development Application in their letter dated September 14, 2021. Conditions of approval recommended by staff are provided in Appendix "A", which includes that the applicant satisfies the requirements of the TRCA.

PUBLIC INPUT SUMMARY

No written submissions were received as of January 25, 2022. It is noted that 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*. While the TRCA has requested additional clarification and revisions prior to permit issuance, the TRCA has no objections to the variances requested. Staff are satisfied that the requested variances meet the four tests, and recommend that the Committee consider public input, and the subsequent conditions of approval in reaching a decision. The onus is ultimately on the applicant to demonstrate how they satisfy the tests of the *Planning Act* required for the granting of minor variances.

APPENDICES

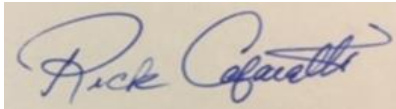
- Appendix "A" – Conditions of Approval
- Appendix "B" – Plans
- Appendix "C" – Lot Depths: Surrounding Area
- Appendix "D" – TRCA Comments: December 9, 2021

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



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

APPENDIX “A”

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/158/21

1. 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 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 arborist in accordance with the City’s Streetscape Manual (2009), as amended, to be reviewed and approved by the Director of Planning and Urban Design, or their designate, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design, or their designate.
4. That tree replacements be provided and/or tree replacement fees be paid to the Director of Planning and Urban Design, or their designate, if required, in accordance with the Tree Assessment and Preservation Plan, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design, or their designate.
5. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site, including street trees, in accordance with the City’s Streetscape Manual (2009), as amended, and inspected by the Tree Preservation Technician, or their designate, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design, or their designate.
6. That the applicant satisfies the requirements of the TRCA, financial or otherwise, as indicated in their letter to the Secretary-Treasurer attached as Appendix “D” to this Staff Report, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of TRCA.

CONDITIONS PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX "B"
PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/158/21

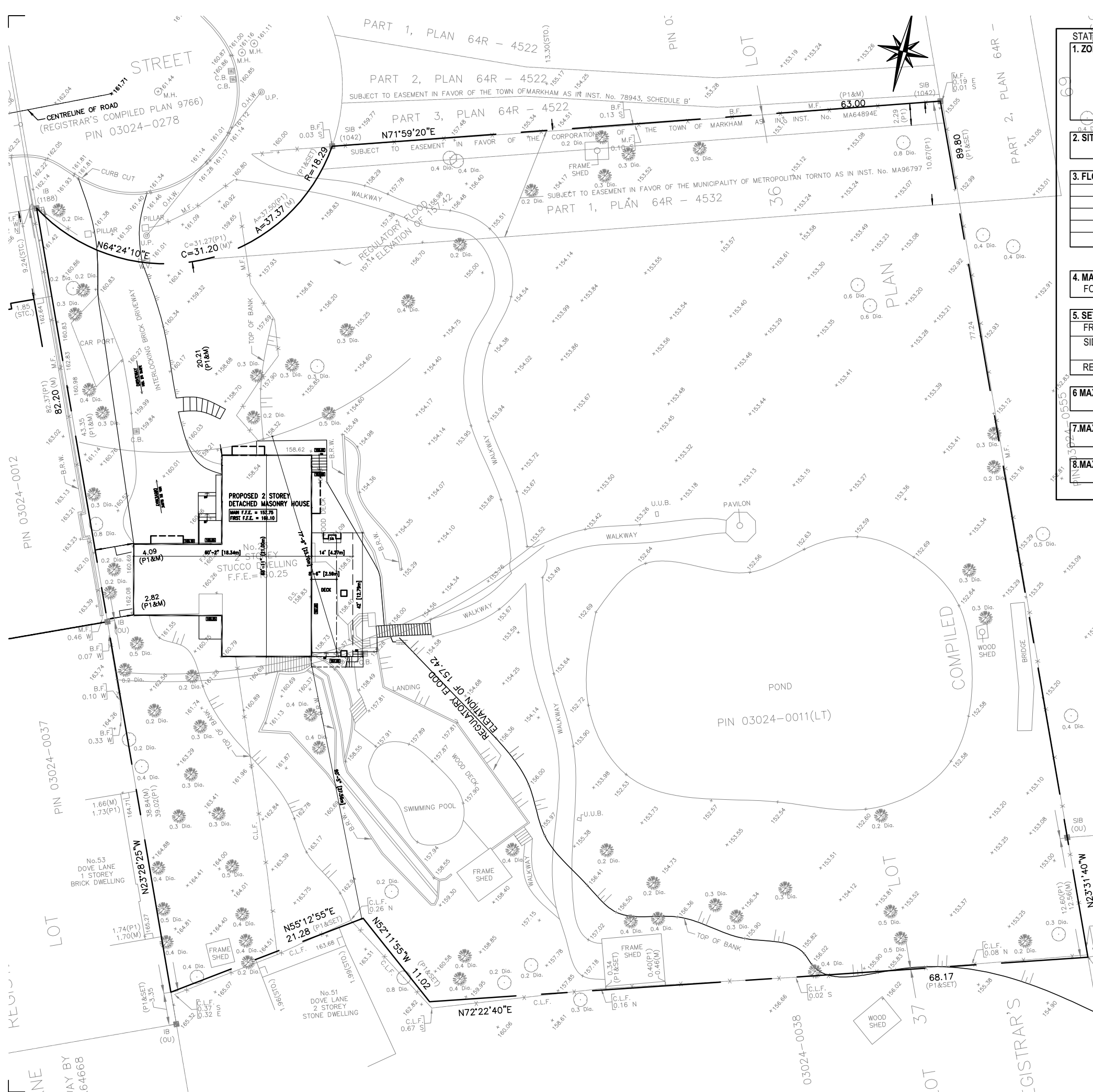
Appendix B

File: 21.141368.000.00.MNV

Date: 01/28/22

MM/DD/YY

for city stamping



STATISTICS JULY 22, 2021

1. ZONING DESIGNATION			
23 IDA STREET PART 1 PLAN OF LOT 36 REGISTERED PLAN 9766 CITY OF MARKHAM REGIONAL MUNICIPALITY OF YORK			
2. SITE AREA		m2	ft2
		7998.2	86095
3. FLOOR AREA (G.F.A.)		m2	ft2
GROUND FLOOR		205	2209
MAIN FLOOR		225	2419
2ND FLOOR		265	2853
GARAGE		84.8	913
TOTAL		695	7481
4. MAX. COVERAGE		BY-LAW	PROPOSED
FOOTPRINT (m2)		33 1/3%	3.3%
		2663	260
5. SETBACKS		m	ft
FRONT YARD		8.2	27
SIDE YARD		1.8	5.9
REAR YARD		1.8	5.9
		9.1	30
		27.6	90.6
6. MAX. FLOOR SPACE RATIO		50%	0.12
			695 m2
7. MAX. DEPTH		m	ft
		16.8	55
		21.00	68.9
8. MAX. HEIGHT (SLOPE ROOF)		m	ft
		9.8	32.2
		7.52	24.7



JIN ARCHITECT INC.
85 MILLCREEK CRECENT
THORNHILL, ON L4J 6N2
t: 416-540-8288
carol@jinarchitect.com
www.jinarchitect.com



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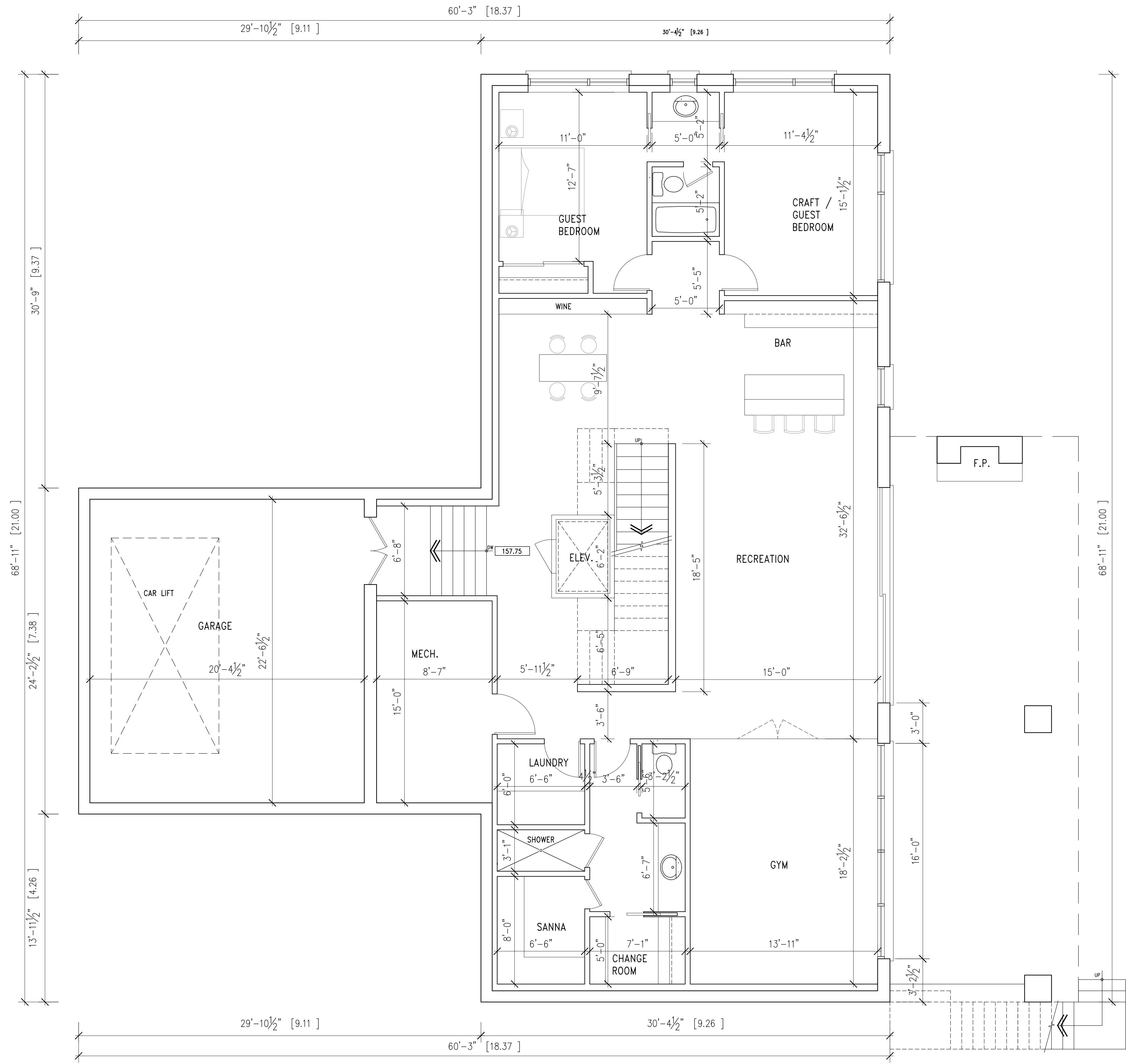
Date

NO.	DATE	REVISION
3	NOV 16 2021	ISSUED FOR C OF A
2	JULY 22 2021	ISSUED FOR CONCEPT DEVEL BY TRCA
1	APR 22 2021	ISSUED FOR PRE-CON BY TRCA
NO.	DATE	ISSUED FOR

PRIVATE RESIDENCE
23 IDA STREET
MARKHAM, ON

BUILDING PERMIT NO.	
SITEPLAN & STATISTICS	
SCALE	1:400
DRAWN	VJ
CHECKED	CJ
DATE	APR 2021
PROJECT NO.	2104
SHEET NO.	A101

for city stamping



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NO.	DATE	REVISION
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1	APR 22 2021	ISSUED FOR PRE-CON BY TRCA
NO.	DATE	ISSUED FOR

PRIVATE RESIDENCE
 23 IDA STREET
 MARKHAM, ON

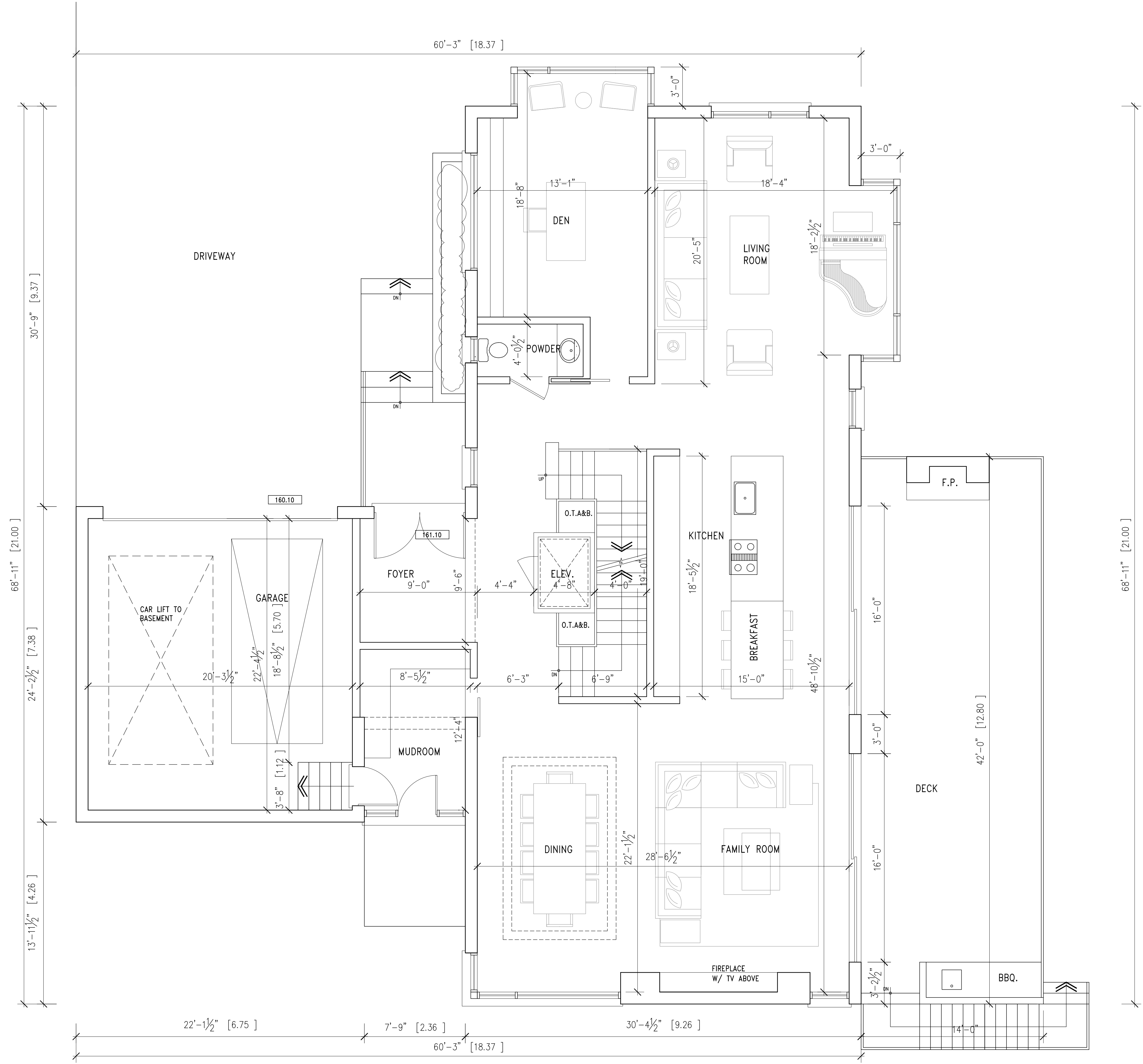
BUILDING PERMIT NO. _____

SHEET TITLE
GROUND FLOOR

SCALE 1'-0"=1/4"
 DRAWN VJ
 CHECKED CJ
 DATE APR 2021

PROJECT NO. 2104 SHEET NO. A301 OF _____

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1	APR 22 2021	ISSUED FOR PRE-CON BY TRCA
NO.	DATE	ISSUED FOR

PRIVATE RESIDENCE
 23 IDA STREET
 MARKHAM, ON

BUILDING PERMIT NO.

SHEET TITLE
MAIN FLOOR

SCALE 1'-0"=1/4"

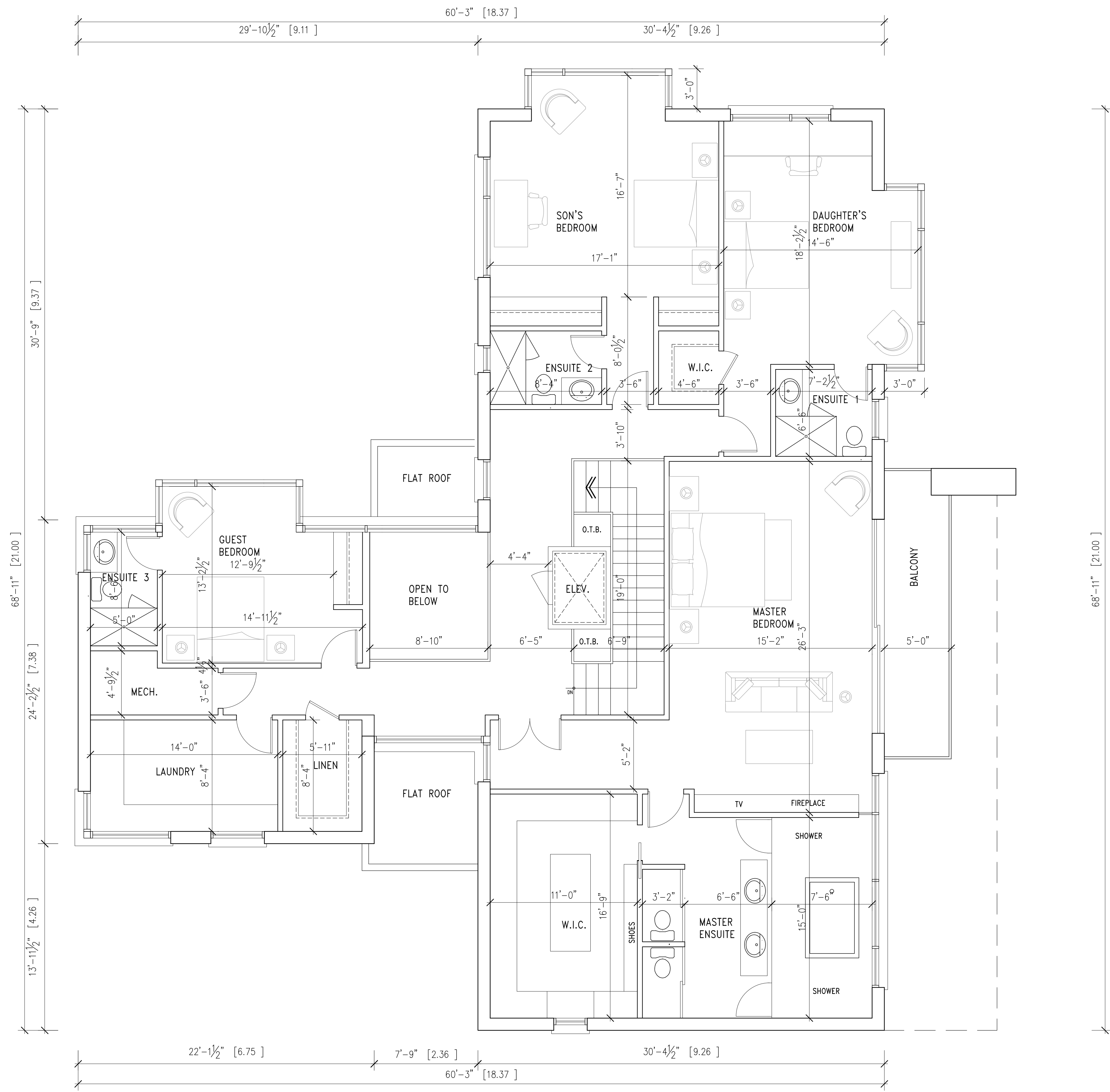
DRAWN VJ

CHECKED CJ

DATE APR 2021

PROJECT NO. 2104 SHEET NO. A302 OF

for city stamping



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1	APR 22 2021	ISSUED FOR PRE-CON BY TRCA
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PRIVATE RESIDENCE
 23 IDA STREET
 MARKHAM, ON

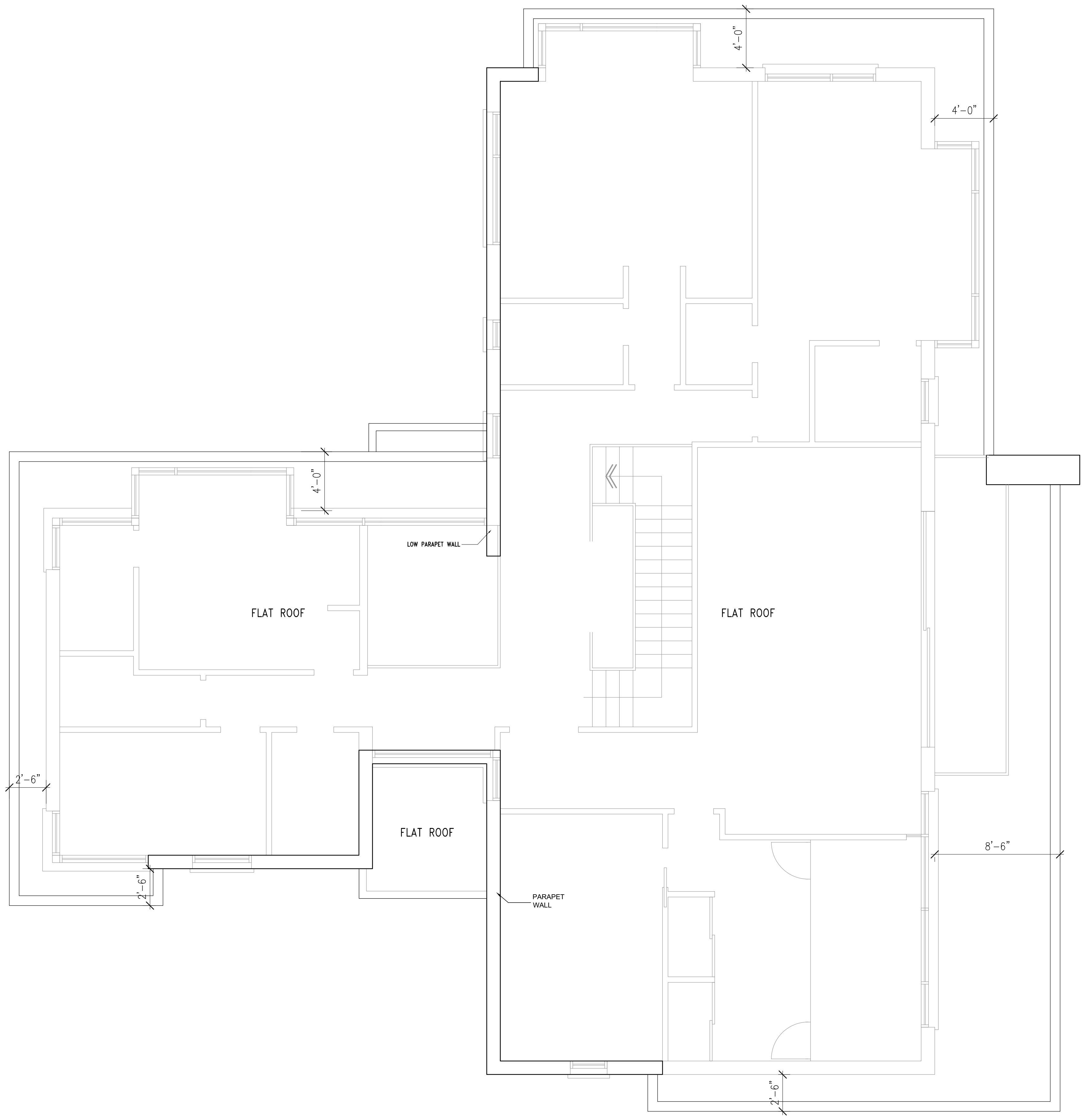
BUILDING PERMIT NO. _____

SHEET TITLE
2ND FLOOR PLAN

SCALE 1'-0"=1/4"
 DRAWN VJ
 CHECKED CJ
 DATE APR 2021

PROJECT NO. 2104 SHEET NO. A303 OF _____

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1	APR 22 2021	ISSUED FOR PRE-CON BY TRCA
NO.	DATE	ISSUED FOR

PRIVATE RESIDENCE
 23 IDA STREET
 MARKHAM, ON

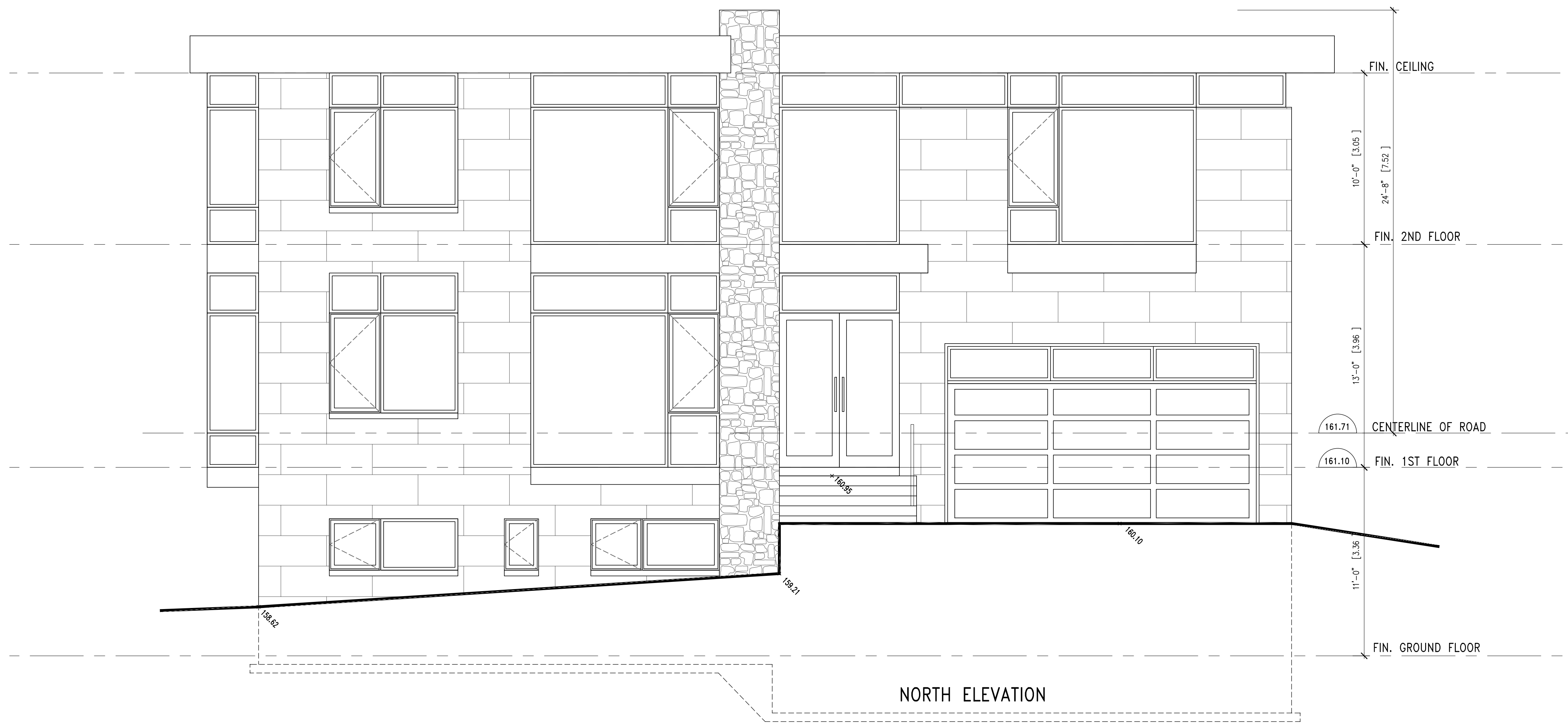
BUILDING PERMIT NO. _____

SHEET TITLE
ROOF PLAN

SCALE 1'-0"=1/4"
 DRAWN VJ
 CHECKED CJ
 DATE APR 2021

PROJECT NO. 2104 SHEET NO. A304 OF _____

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NORTH ELEVATION



EAST ELEVATION



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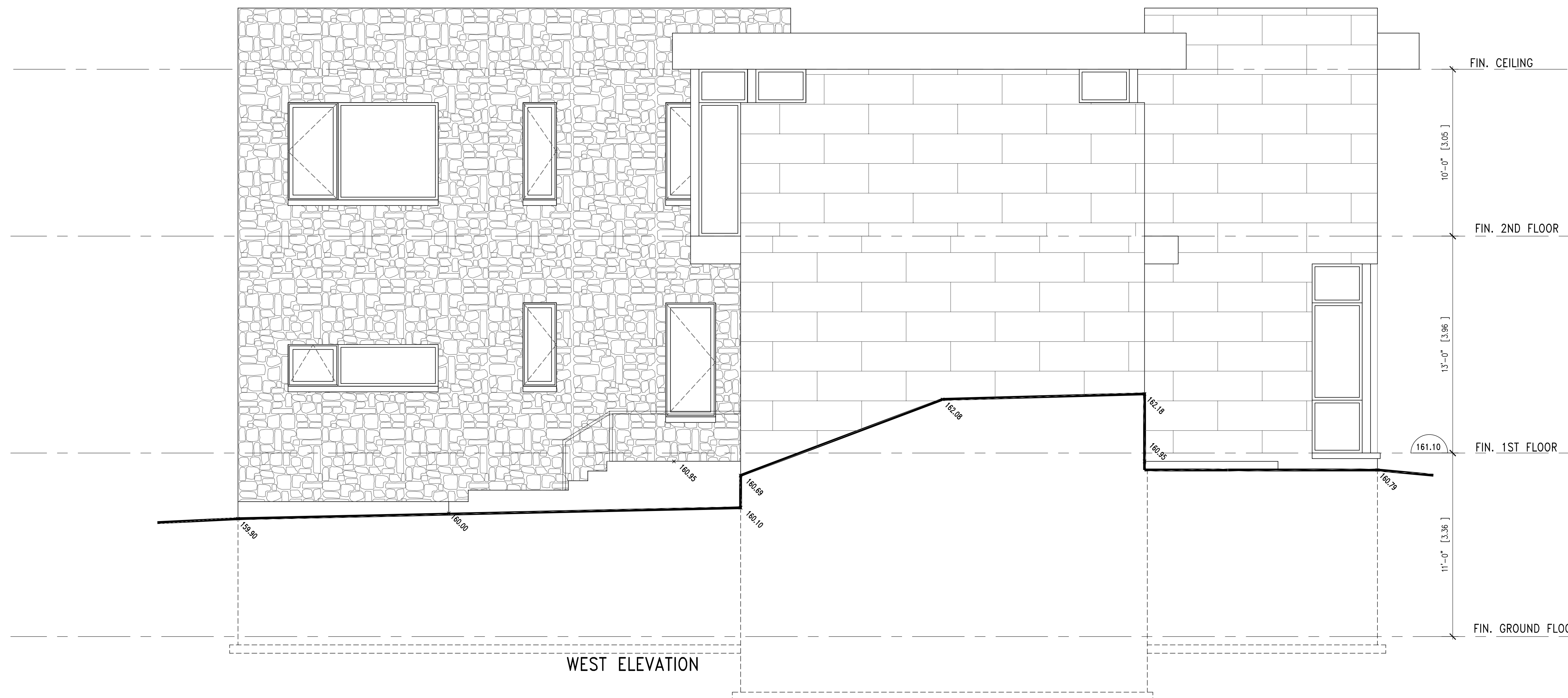
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NO.	DATE	ISSUED FOR

PRIVATE RESIDENCE	
23 IDA STREET MARKHAM, ON	
BUILDING PERMIT NO.	
SHEET TITLE	
NORTH & EAST ELEVATIONS	
SCALE	1'-0"=1/4"
DRAWN	VJ
CHECKED	CJ
DATE	APR 2021
PROJECT NO.	2104
SHEET NO.	A401
OF	

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85 MILLCREEK CRECENT
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NO.	DATE	ISSUED FOR

PRIVATE RESIDENCE	
23 IDA STREET MARKHAM, ON	
BUILDING PERMIT NO.	
SIDE ELEVATIONS	
SCALE	1'-0"=1/4"
DRAWN	VJ
CHECKED	CJ
DATE	APR 2021
PROJECT NO.	2104
SHEET NO.	A402
OF	

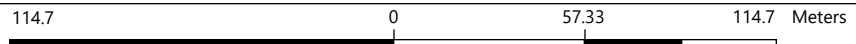
APPENDIX "C"
LOT DEPTHS: SURROUNDING AREA



Legend

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

1: 2,257



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

APPENDIX "D"
TRCA COMMENTS: DECEMBER 9, 2021

December 9, 2021

CFN 64187.17
X-Ref: CFN 64127.14

Uploaded to E-Plan

Justin Leung
Secretary-Treasurer – Committee of Adjustment
City of Markham
101 Town Centre Blvd.
Markham ON L3R 9W3

Dear Mr. Leung:

Re: Minor Variance Application A/158/21
23 Ida Street
Owner: Asif Karimov
Agent: Evans Planning Inc.

This letter acknowledges receipt of the above noted Minor Variance Application in the City of Markham, circulated to Toronto and Region Conservation Authority (TRCA) on November 25, 2021. TRCA staff have reviewed the above noted application, and as per the “Living City Policies for Planning and Development within the Watersheds of the TRCA” (LCP), provides the following comments as part of TRCA’s commenting role under the *Planning Act*; the Authority’s delegated responsibility of representing the provincial interest on natural hazards encompassed by Section 3.1 of the *Provincial Policy Statement, 2020*; TRCA’s Regulatory Authority under Ontario Regulation 166/06, *Development, Interference with Wetlands and Alterations to Shorelines and Watercourses*; and, our Memorandum of Understanding (MOU) with the Region of York where we advise our municipal partners on matters related to Provincial Policies relevant to TRCA’s jurisdiction. A list of the documents received and reviewed can be found in Appendix ‘A’ of this letter.

Purpose of the Application

It is our understanding that the purpose of the application is to request relief from By-law 1229, as amended, as it relates to a proposed, replacement single family detached dwelling:

- a) **By-law 101-90, Sec. 1.2(iii)**: to allow three storeys, whereas by-law permits a maximum of two storeys;
- b) **By-law 101-90, Sec 1.2 (iv)**: to allow maximum depth of 23.7 metres, whereas by-law permits a maximum depth of 16.8 metres.

Applicable Policies and Regulations
Provincial Policy Statement (2020)

The Provincial Policy Statement 2020 (PPS) provides policy direction on matters of provincial interest related to land use planning and development. According to subsections 3 (5) and (6) of the *Planning Act*, as amended, all planning decisions made by a municipality and all comments provided by the TRCA shall be consistent with the PPS.

Section 2.1 provides policies for the protection of natural features and areas. It is of note that

Section 2.1.8 of the PPS states that development and site alteration shall not be permitted on lands adjacent to certain natural features or areas unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.

Through a MOU between Conservation Ontario, the Ministry of Municipal Affairs and Housing, and the Ministry of Natural Resources and Forestry, the responsibility to uphold the natural hazards section of the PPS (Section 3.1) has been delegated to Conservation Authorities where the province is not involved. TRCA staff note that Section 3.1 of the PPS generally directs development and site alteration to locations outside of hazardous lands that would be impacted by flooding hazards and/or erosion hazards and prohibits development in areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, unless it has been demonstrated that the site has safe access. The PPS also directs planning authorities to consider the potential impacts of climate change that may increase the risk associated with natural hazards.

Ontario Regulation 166/06

Based on the available information at this time, the subject property is located entirely within TRCA's Regulated Area under Ontario Regulation 166/06 as it is within erosion and flood hazards associated with a valley corridor of the East Don River. In accordance with Ontario Regulation 166/06 (Development, Interference with Wetlands and Alteration to Shorelines and Watercourses), a permit is required from the TRCA prior to any of the following works taking place within TRCA's Regulated Area:

- a) straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland;
- b) development, if in the opinion of the Authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land may be affected by the development.

'Development' is defined as:

- i) the construction, reconstruction, erection or placing of a building or structure of any kind,
- ii) any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure,
- iii) site grading, the temporary or permanent placing, dumping or removal of any material originating on the site or elsewhere.

TRCA's Living City Policies

The Living City Policies for Planning and Development in the Watersheds of the Toronto and Region Conservation Authority (LCP) is a TRCA policy document that guides the implementation of TRCA's legislated and delegated roles and responsibilities in the planning and development approvals process. These policies describe a "Natural System" made up of water resources, natural features and areas, natural hazards, potential natural cover and/or buffers. The LCP recommends that development, infrastructure and site alteration not be permitted within the Natural System, and that these lands be conveyed into public ownership for their long-term protection and enhancement. It is these policies, along with those found in other provincial and municipal plans, documents and guidelines that guide TRCA's review of the subject applications.

Application-Specific Comments

The proposed development has been reviewed through an associated TRCA Concept Development Application (CFN 64127.14) wherein the applicant sought preliminary comments for a proposed replacement single family dwelling. As noted in our preliminary comments to the applicant (letter dated September 14, 2021) there does not appear to be an alternative location outside of the erosion hazard for the replacement dwelling. As such TRCA's Living City Policies will only permit a replacement dwelling that is the same size and footprint as the existing dwelling.

Furthermore, the replacement dwelling must be designed to be safe from erosion for the assumed life of 100 years and must be flood-proofed to TRCA's satisfaction.

The plans submitted as part of this Minor Variance Application are largely consistent with those reviewed by TRCA as part of the Concept Development Application and although some clarification and revisions are required before TRCA staff can support the issuance of a permit, the footprint and size of the proposed replacement dwelling satisfies our requirements. On this basis, we have no objection to the requested variances. Please note, it is our expectation that all remaining comments from our Concept Development Application comment letter dated September 14, 2021 will be addressed by the applicant through our Permit Application process.

Review Fees

As per TRCA's role as a commenting agency for *Planning Act* application circulated by member municipalities to assess whether a proposed development may be impacted by TRCA, the applicant is advised that the TRCA has implemented a fee schedule for our planning application review services. This application is subject to a \$610 review fee (2021 TRCA Planning Fee Schedule).

An electronic invoice will be sent via email to the property owner for processing of fees through online payment.

Conclusion

Based on our review of this submission, TRCA staff have no objections to this Minor Variance Application, subject to the following conditions:

1. That the applicant remit TRCA's review fee of \$610 for the subject application; and,
2. That the applicant obtains a permit from the TRCA under Ontario Regulation 166/06, as amended, for the proposed works.

TRCA also requests notification of any decisions made by the City on this application and, if applicable, any appeals that may be made to the Local Planning Appeal Tribunal by any party in respect to this application.

We trust these comments are of assistance. Should you have any questions, please contact the undersigned.

Sincerely,

Dan Nguyen
Planner I, Development Planning and Permits
dan.nguyen@trca.ca, 416-661-6600 ext. 5306

DN/mb

Appendix 'A': Materials Reviewed by TRCA

- Drawing No. A101 – Site Plan & Statistics, prepared by Jin Architects Inc., dated November 18, 2021;
- Drawing No. A301 – Ground Floor, prepared by Jin Architects Inc., dated October 12, 2021;
- Drawing No. A302 – Main Floor, prepared by Jin Architects Inc., dated October 12, 2021;
- Drawing No. A303 – 2nd Floor Plan, prepared by Jin Architects Inc., dated October 12, 2021;
- Drawing No. A304 – Roof Plan, prepared by Jin Architects Inc., dated October 12, 2021;
- Drawing No. A402 – Side Elevations, prepared by Jin Architects Inc., dated October 12, 2021;
- Survey, prepared by Mandarin Surveyors Limited, dated June 3, 2021;