

Memorandum to the City of Markham Committee of Adjustment

September 8, 2020

File: A/043/20
Address: 106 Sophia Road – Markham, ON
Applicant: Chamkaur Singh & Sukhvinder Singh
Agent: Cantam Group Ltd.
Hearing Date: Wednesday September 16, 2020

The following comments are provided on behalf of the East Team. The applicant is requesting relief from the following “Fourth Density Semi-Detached Residential (RSD4)” zone requirements under By-law 90-81, as amended, to permit:

a) Section 5.2.1:

a Second Dwelling Unit, whereas the By-law permits no more than one Semi-Detached Dwelling on a lot; and

b) Section 5.2.6:

a door that faces the interior side lot line to be located 0.61 m (2.0 ft) from the interior south side lot line, whereas the By-law requires 1.20 m (3.94 ft).

BACKGROUND

Property Description

The 310.87 m² (3,346.15 ft²) subject property is located on the west side of Sophia Road, north of Golden Avenue, east of Middlefield Road, and south of Highglen Avenue. A semi-detached dwelling exists on the subject property. This dwelling visually appears to be detached; however, it is linked underground to the adjacent dwelling at the foundation wall, and is therefore considered a semi-detached dwelling by definition in the Zoning By-law. The property is located within an established residential neighbourhood primarily comprised of a mix of two-storey single detached, semi-detached, and townhouse dwellings.

Proposal

The applicant is requesting permission to legalize a secondary suite in the basement of the existing semi-detached dwelling, as shown in the plans attached in Appendix “B”. The secondary suite has direct and separate access provided by an existing door on the south side of the dwelling, which is setback approximately 0.61 m (2.0 ft) from the interior side lot line. The door opens internally to the building. The proposal also includes a new egress window at the north side of the dwelling as shown on Drawing A5 (Appendix “B”).

Provincial Policies

More Homes, More Choice Act, 2019

The *More Homes, More Choice Act, 2019*, S.O. 2019, c. 9 – (Bill 108), received Royal Assent on June 6, 2019 and portions were proclaimed on September 3, 2019. The proclaimed portions of Bill 108 amended the *Planning Act* to require Official Plans to contain policies providing for two residential units in detached, semi-detached and row houses, as well as permitting a residential unit in ancillary structures to a detached house, semi-detached house, or rowhouse. Under this legislation, “second suites” are now

referred to as “additional residential units”, and the terms are used synonymously in this memorandum.

Provincial Policy Statement, 2020

Section 1.4.3 of the *Provincial Policy Statement, 2020*, requires planning authorities to provide for an appropriate range and mix of housing options and densities to meet the affordable housing needs of current and future residents. Amongst other means, this can be achieved by permitting and facilitating residential intensification, including additional residential units, and redevelopment by accommodating a significant supply and range of housing options through intensification and redevelopment while taking into account existing building stock.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (Growth Plan, 2019)

Section 2.1.4 (c) of the *Growth Plan, 2019* requires municipalities to provide a diverse range and mix of housing option including second units to support complete communities.

Official Plan and Zoning

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

The City’s Official Plan designates the subject property “Residential Low Rise”, which provides for low rise housing forms including semi-detached dwellings. The Official Plan also contains criteria for the establishment of secondary suites in Section 8.13.8 which states:

“That in considering an application to amend the Zoning By-law to permit the establishment of a secondary suite where provided for in this Plan, Council shall be satisfied that an appropriate set of development standards are provided for in the Zoning By-law including:

- a) the building type in which the secondary suite is contained;*
- b) the percentage of the floor area of the building type devoted to the secondary suite;*
- c) the number of dwelling units permitted on the same lot;*
- d) the size of the secondary suite;*
- e) the applicable parking standards; and*
- f) the external appearance of the main dwelling.”*

A “Secondary Suite” in the Official Plan is defined as:

“...a second residential unit in a detached house, semi-detached house or rowhouse that consists of one or more rooms designed, occupied or intended for use, including occupancy, by one or more persons as an independent and separate residence in which a facility for cooking, sleeping facilities and sanitary facilities are provided for the exclusive use of such person or persons.”

Section 4.1.2.6 of the Official Plan contains policies to support further diversification of the housing stock and rental housing tenure by permitting secondary suites within existing and new permitted single detached, semi-detached and rowhouse dwellings in accordance with Section 3.5.22 of the Regional Official Plan and subject to appropriate zoning, development criteria, and standards.

Zoning By-Law 90-81, as amended

The subject property is zoned “Fourth Density Semi-Detached Residential (RSD4)” under By-law 90-81, as amended, which permits either one semi-detached dwelling per lot, or one single detached dwelling per lot in accordance with the “Residential Ninth Density (R9)” zone standards. Consequently, the applicant has submitted a variance to request that an existing secondary suite be permitted within the basement of the dwelling on the subject property.

The second variance relates to Amending By-law 2016-123 which was passed on November 1, 2016, to require doors accessing a side yard maintain a minimum interior side yard setback of 1.20 m (3.94 ft). The existing location of the door opening does not comply with the By-law requirement as it relates to the above noted provision.

Zoning Preliminary Review (ZPR) Undertaken

The applicant has completed a ZPR on March 10, 2020 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 (“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 Suites

Fire and Emergency Services Department have no objections provided the secondary suite is registered with the City and complies with Building and Fire Codes. Should this application be approved, the applicant will be required to obtain a building permit which ensures the secondary suite will be in compliance with Building Code and Fire Code regulations, and will be required to register their second suite with the Fire Department prior to the occupancy of the unit.

The City of Markham is committed to promoting affordable and shared housing opportunities. Secondary suites help the City increase the availability of affordable housing forms and provide support to achieve its affordable housing target required by the Province. Staff supports the application for the legalization of the secondary dwelling unit as it meets the general intent of the criteria under Section 8.13.8 of the 2014 Official Plan. However, staff have concerns with the proposed door location that is subject to variance b), as discussed in the comments below.

Door Location

As previously stated, Amending By-law 2016-123 requires doors accessing an interior side yard to maintain a minimum setback of 1.20 m (3.94 ft), whereas the applicant is requesting a variance to permit a side door with a setback of 0.61 m (2.0 ft) from the interior side lot line. This variance relates to an existing door with a decrease of 0.59 m (1.94 ft) to the required setback from the south lot line.

The intent of the required setback is to ensure that a side door would not swing onto an adjacent property, and to ensure that occupants will not trespass onto an adjacent

property when accessing the dwelling. Staff are of the opinion that the requested variance does not meet the general intent of the By-law, as the 0.61 m (2.0 ft) setback does not provide for an adequate width to access the side entrance.

Staff note that the existing door swings internal to the dwelling, which the applicant has indicated would be maintained. Should this variance be approved, the applicant will need to demonstrate compliance with the Ontario Building Code (OBC) to obtain a building permit for both the secondary suite and side entrance. If the Committee resolves to deny this variance, the applicant will be required to remove the existing side entrance and provide access to the secondary suite elsewhere on the property, in compliance with the By-law and all other applicable codes.

PUBLIC INPUT SUMMARY

The City of Markham received one written submission on August 24, 2020 in support of the development, citing no objections to the requested variances (Appendix "C"). The letter was received from the neighbouring property owners at 104 Sophia Road who share the interior property line where the door subject to the variance request exists. Staff note that the owners of 104 Sophia Road also own the subject property, 106 Sophia Road.

Should additional information be received after the writing of the report, 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 the requested variance to permit a secondary suite conforms with Provincial policies, and the City's Official Plan policy. Consequently, staff have no objection to approval of the secondary suite subject to the conditions provided in Appendix "A". Staff are of the opinion that the requested variance to permit a 0.61 m (2.0 ft) setback for the side entrance does not maintain the intent of the By-law. Should the side entrance variance be denied, the applicant will be required to provide access to the secondary suite elsewhere on the subject property and in compliance with the By-law and all other applicable codes.

The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the By-law, and how they satisfy the tests of the *Planning Act* required for the granting of minor variances.

Please see Appendix "A" for conditions to be attached to any approval of this application.

APPENDICES

Appendix "A" – Conditions of Approval

Appendix "B" – Plans

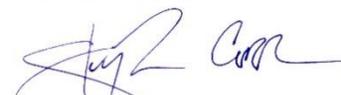
Appendix "C" – Letter of Support

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



Stephen Corr, Senior Planner, East District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/043/20

1. The variances apply only to the proposed development as long as it remains.
2. That an outwards swinging door located along the south building line not be permitted.
3. That the variances apply only to the subject development, in substantial conformity with the batch stamped 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.
4. 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.

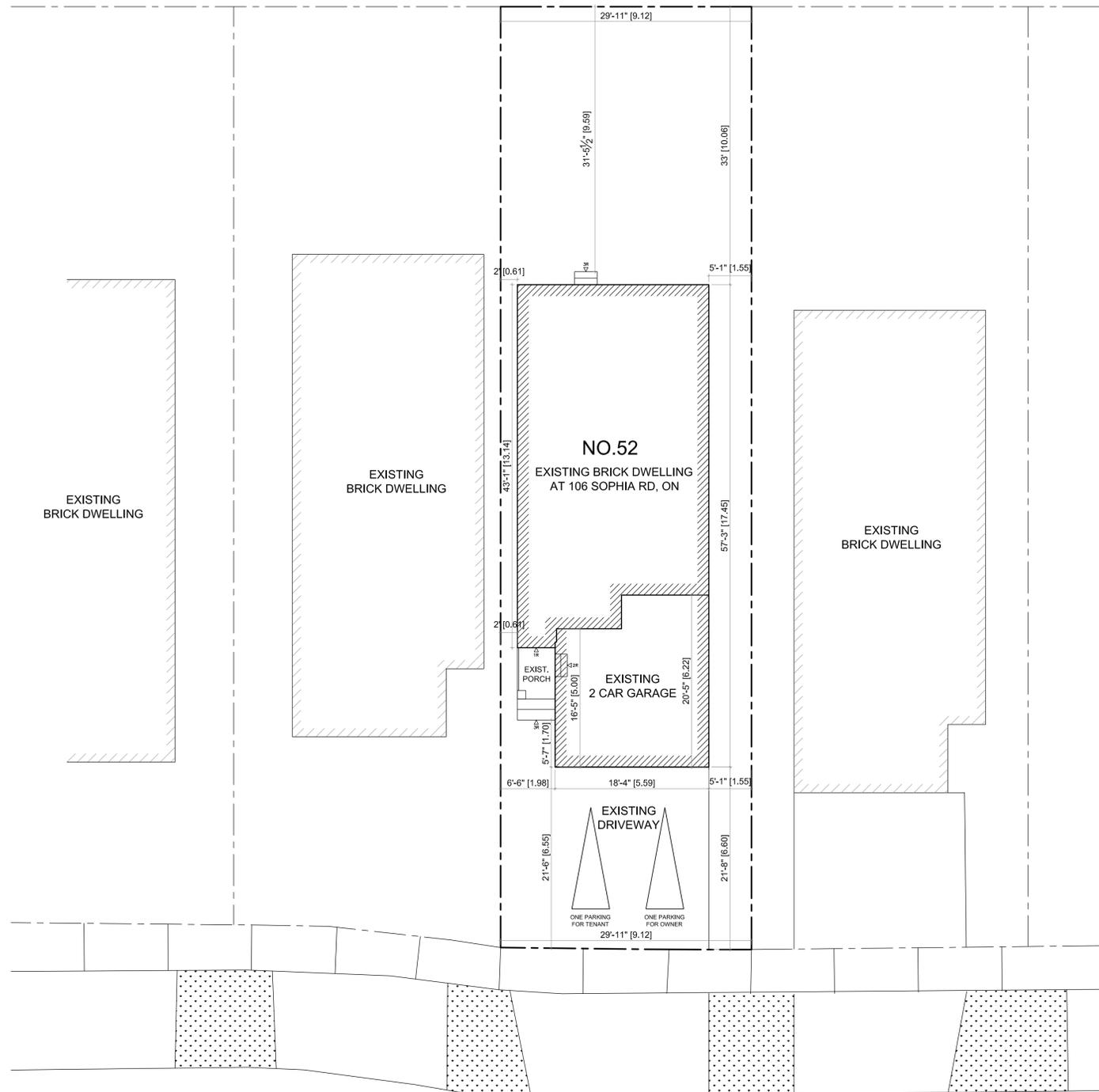
CONDITIONS PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX "B"
PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/043/20

MIDDLEFIELD ROAD



SOPHIA ROAD

* CONTRACTOR TO CHECK EXISTING FOOTING SIZES AND BEARING CAPACITY PRIOR TO STARTING WORK

CONTRACTOR TO BE RESPONSIBLE FOR VERIFYING ALL EXISTING CONDITIONS. THE CONTRACTOR SHALL ADVISE THE ENGINEER OF ANY DISCREPANCIES PROIR TO PROCEEDING WITH CONSTRUCTION.

ALL EXISTING GRADES TO BE REMAIN.

NO CHANGE IN EXISTING FOOT PRINT AREA.



SITE PLAN
 SCALE : 1/8"=1'

NO.	REVISIONS	DATE
1.	ISSUED FOR BUILDING PERMIT	02 / 07 / 2020

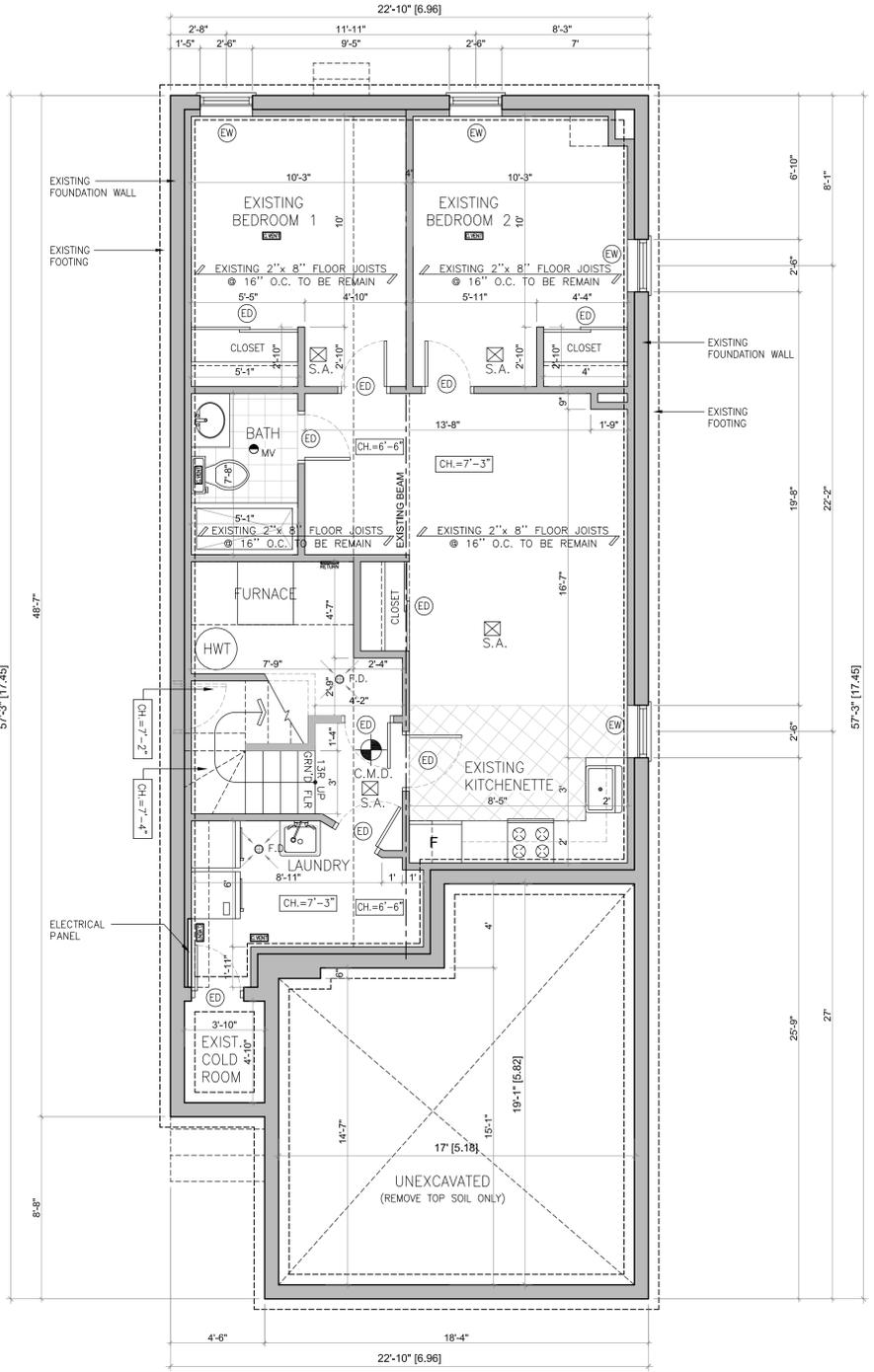
CONTRACTORS MUST CHECK AND VERIFY ALL DIMENSIONS AND CONDITIONS ON THE PROJECT AND MUST REPORT ANY DISCREPANCIES TO THE DESIGNER BEFORE PROCEEDING WITH CONSTRUCTION.
 THIS DRAWING MUST NOT BE USED FOR CONSTRUCTION PURPOSE UNTIL SEALED AND SIGNED BY THE ARCHITECT.
 DO NOT SCALE DRAWINGS.

CANTAM
Group Ltd.
 PLANNING & BUILDING CONSULTANTS
 850 TAPSCOTT RD, UNIT # 51, TORONTO ON M1X 1N4
 TEL: 416-335-3353 * FAX: 416-335-7967 * CELL: 416-854-2485

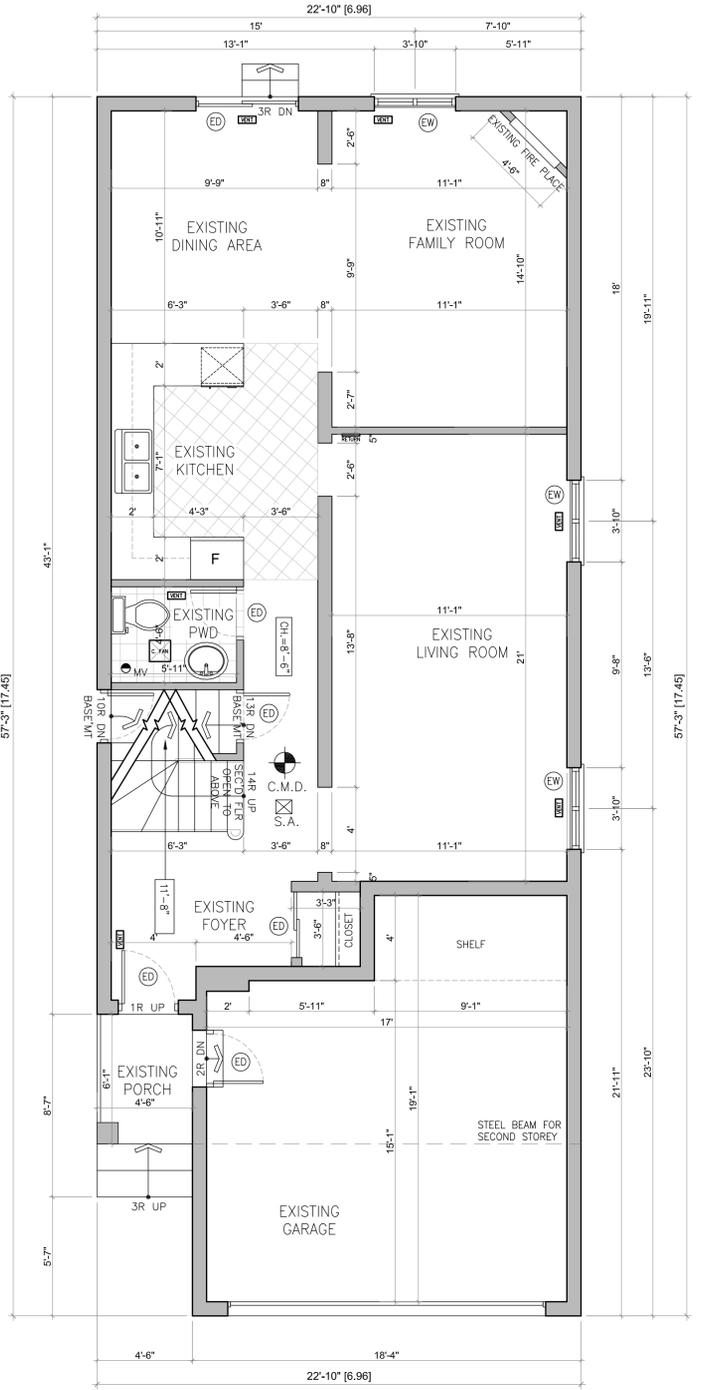
PROJECT :
 PROPOSED FINISH BASEMENT APARTMENT
 AT 106 SOPHIA ROAD, MARKHAM
 ON, CANADA

DRAWING:
SITE PLAN

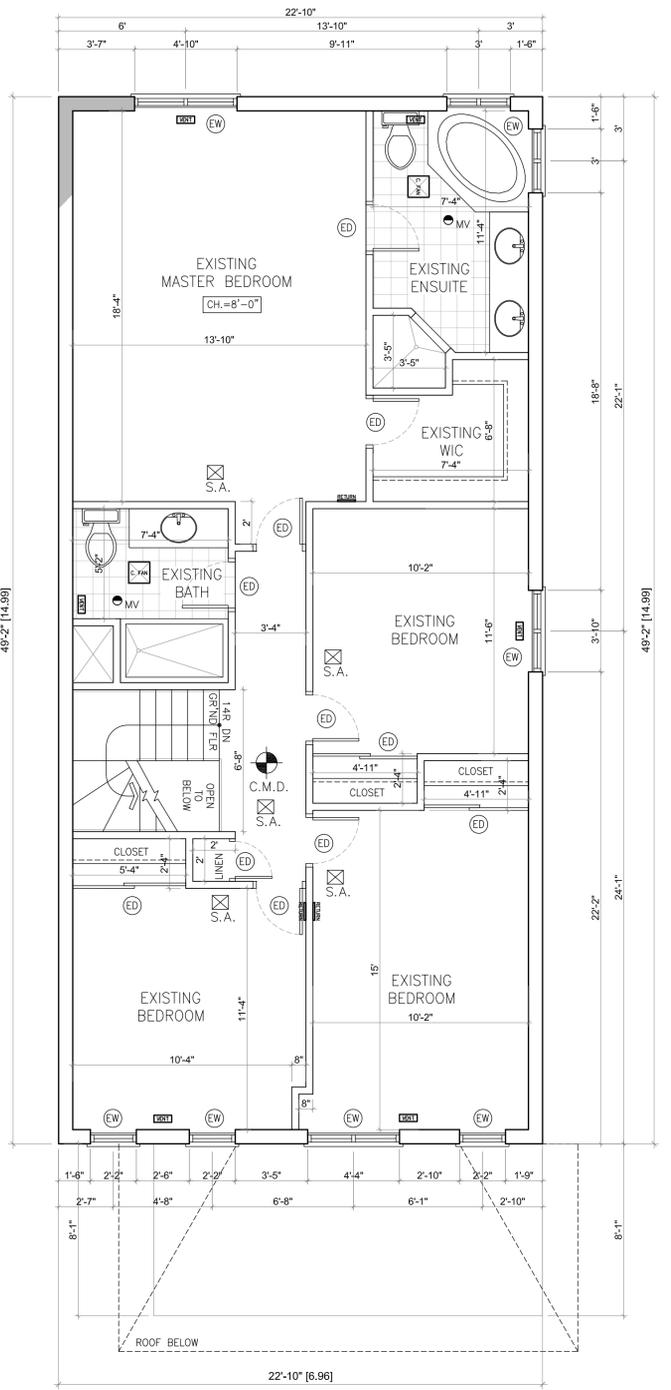
DATE: 09 / 01 / 2020
 SCALE: AS NOTED
 DRN: MJ CKD: YASO
 DRAWING NO. **A1**



EXISTING BASEMENT FLOOR PLAN
 SCALE : 1/4"=1'



EXISTING GROUND FLOOR PLAN
 SCALE : 1/4"=1'



EXISTING SECOND FLOOR PLAN
 SCALE : 1/4"=1'

WALL LEGEND

	EXISTING WALL
	NEW 5/8" TYPE 'X' DRYWALL ON EXISTING 2"x4"/2"x6" @ 16" O.C. 5/8" TYPE 'X' FIRE RATED DRYWALL, MIN. 45MIN. FIRE RATING & MIN. STC 50.
	5/8" TYPE 'X' FIRE RATED DRYWALL NEW 2"x4" STUDS @ 16" O.C. 3" ROCKWOL SAFE N SOUND INSULATION 5/8" TYPE 'X' FIRE RATED DRYWALL MIN. 45MIN. FIRE RATING & MIN. STC OF 50
	WALL TO BE DEMOLISHED

1.	ISSUED FOR BUILDING PERMIT	02 / 07 / 2020
NO.	REVISIONS	DATE

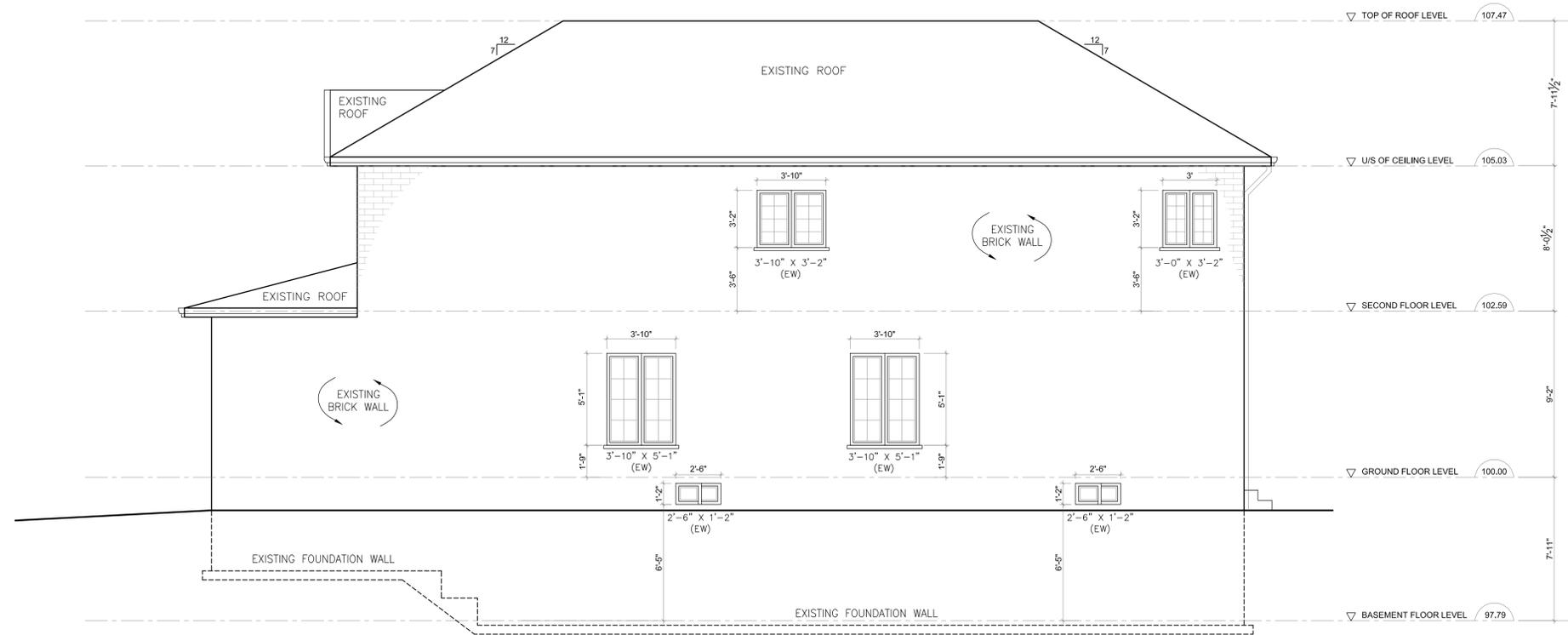
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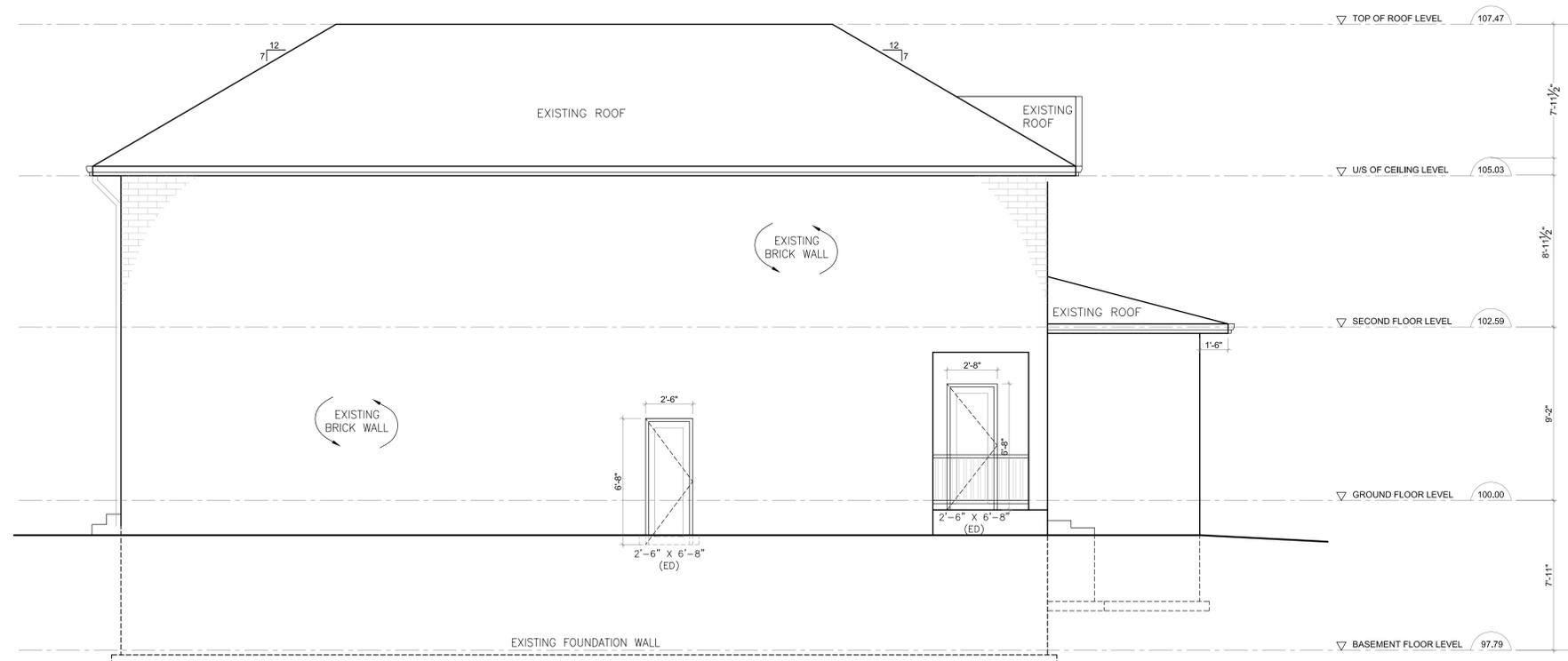
PROJECT :
**PROPOSED FINISH BASEMENT APARTMENT
 AT 106 SOPHIA ROAD, MARKHAM
 ON, CANADA**

DRAWING: **EXISTING BASEMENT FLOOR PLAN
 EXISTING GROUND FLOOR PLAN
 EXISTING SECOND FLOOR PLAN**

DATE: 09 / 01 / 2020
 SCALE: AS NOTED
 DRN: MJ CKD: YASO
 DRAWING NO. **A2**



EXISTING RIGHT SIDE ELEVATION
 SCALE : 1/4"=1'



EXISTING LEFT SIDE ELEVATION
 SCALE : 1/4"=1'

NO.	REVISIONS	DATE
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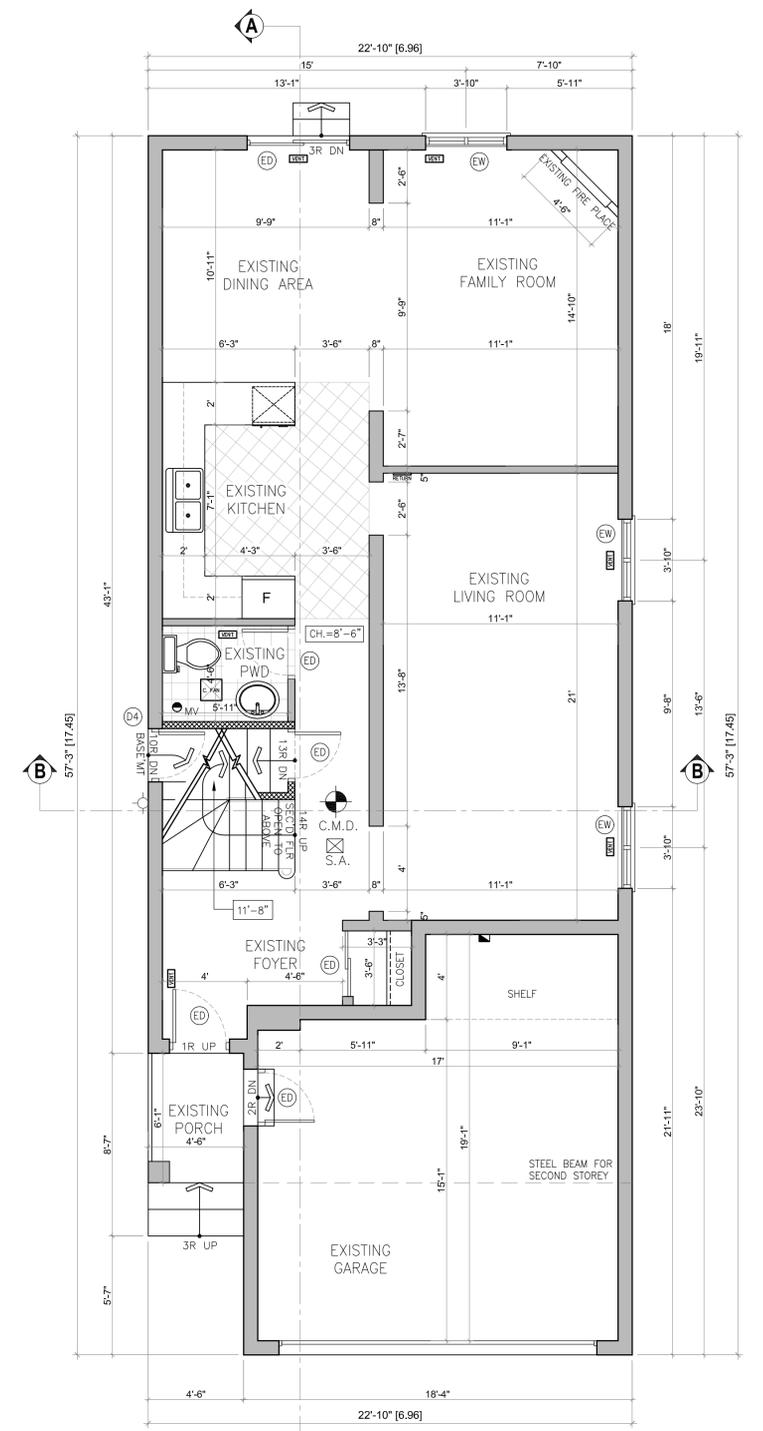
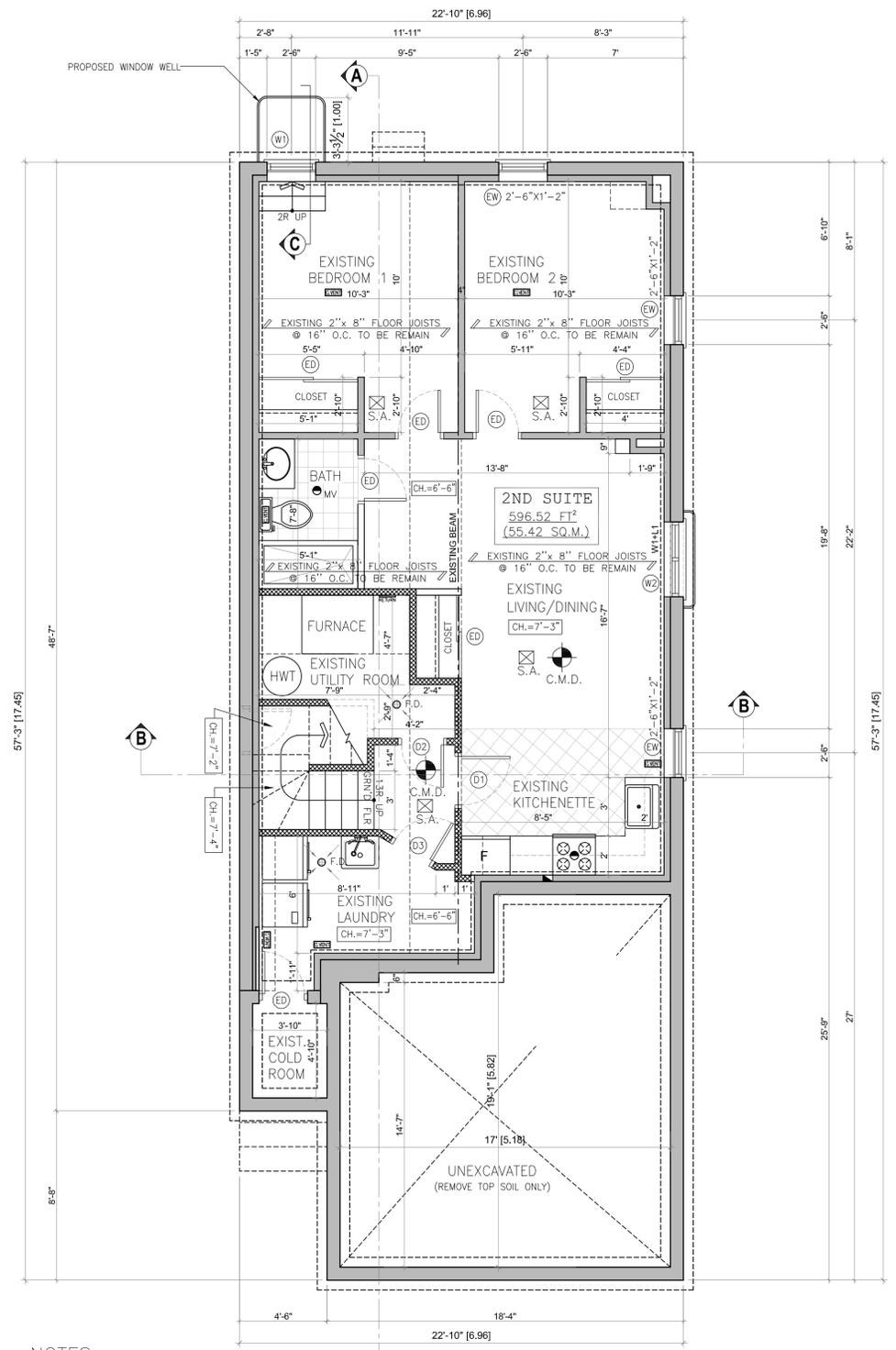
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PROJECT :
**PROPOSED FINISH BASEMENT APARTMENT
 AT 106 SOPHIA ROAD, MARKHAM
 ON, CANADA**

DRAWING: **EXISTING RIGHT SIDE ELEVATION
 EXISTING LEFT SIDE ELEVATION**

DATE: 09 / 01 / 2020
 SCALE: AS NOTED
 DRN: MJ CKD: YASO
 DRAWING NO. **A4**



NOTES:

- * NO CHANGE IN FOOTPRINT AREA & EXISTING GRADE TO BE RETAIN
- * CONTRACTOR TO CHECK EXISTING FOOTING SIZES AND BEARING CAPACITY PRIOR TO STARTING WORK
- * ALL EXISTING STAIRS TO BE REMAIN

PROPOSED BASEMENT FLOOR PLAN
 SCALE : 1/4"=1'

PROPOSED GROUND FLOOR PLAN
 SCALE : 1/4"=1'

WALL LEGEND	
	EXISTING WALL
	NEW 5/8" TYPE 'X' DRYWALL ON EXISTING 2"x4"/2"x6" @ 16" O.C. 5/8" TYPE 'X' FIRE RATED DRYWALL
	5/8" TYPE 'X' FIRE RATED DRYWALL NEW 2"x4"/2"x6" STUDS @ 16" O.C. 3" ROXUL SAFE N SOUND INSULATION 5/8" TYPE 'X' FIRE RATED DRYWALL

1.	ISSUED FOR BUILDING PERMIT	02 / 07 / 2020
NO.	REVISIONS	DATE

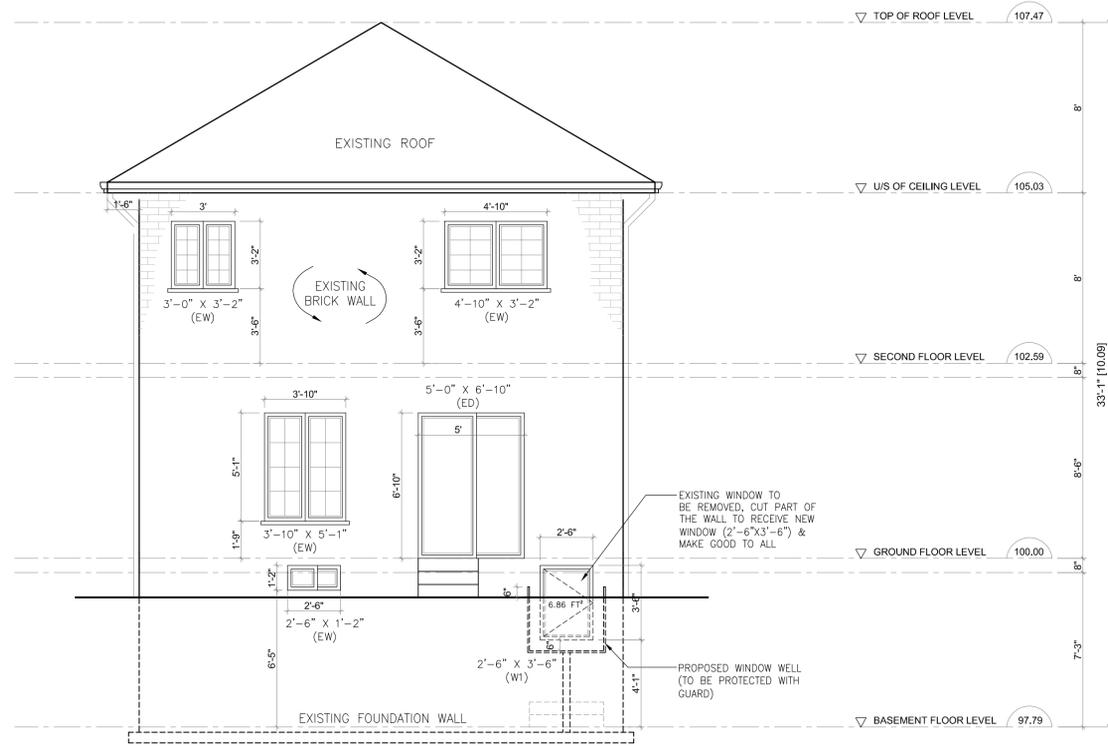
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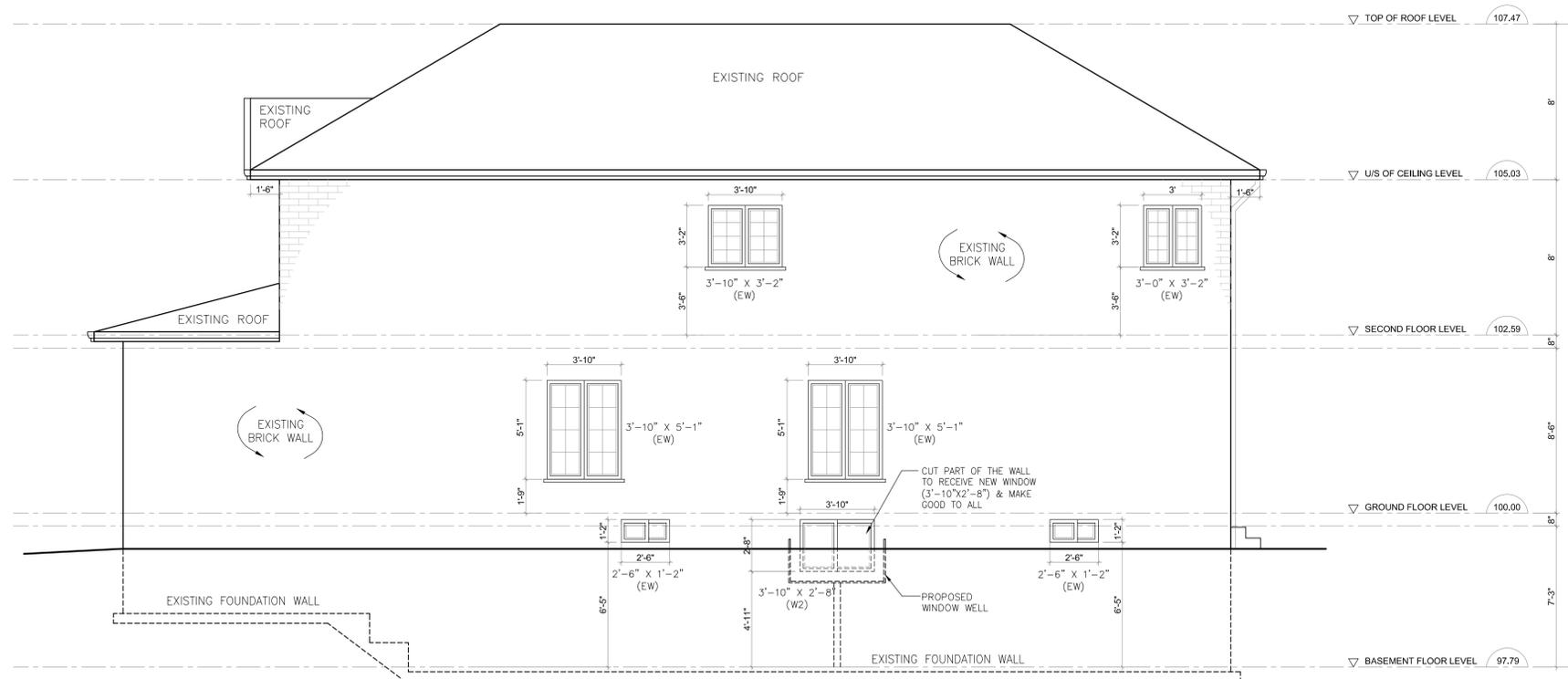
PROJECT :
**PROPOSED FINISH BASEMENT APARTMENT
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 ON, CANADA**

DRAWING: **PROPOSED BASEMENT FLOOR PLAN
 PROPOSED GROUND FLOOR PLAN**

DATE: 09 / 01 / 2020
 SCALE: AS NOTED
 DRN: MJ CKD: YASO
 DRAWING NO. **A5**



PROPOSED REAR ELEVATION
 SCALE : 1/4"=1'



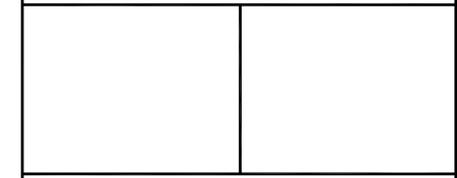
PROPOSED RIGHT SIDE ELEVATION
 SCALE : 1/4"=1'

NOTES:

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PROJECT :
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DRAWING: **PROPOSED REAR ELEVATION
 PROPOSED RIGHT SIDE ELEVATION**

DATE: 09 / 01 / 2020	A6
SCALE: AS NOTED	
DRN: MJ CKD: YASO	

APPENDIX "C"
LETTER OF SUPPORT

Supportive Letter – 106 Sophia Rd.

August 23rd 2020

To whom it may concern,

I/we Chamkaur Singh and Sukhwinder Kaur who reside at 104 Sophia Road Markham, ON L3S3Y6 have no objections to the minor variance request to keep the existing side door location 0.61m from property line when bylaw requires 1.2m for 106, Sophia Rd.

CHAM KAUR SINGH SUKHWINDER KAUR

Chamkaur Singh Sukhwinder Kaur 24 AUG 2020

Name

Signature

Date