

Memorandum to the City of Markham Committee of Adjustment

November 11, 2020

File: A/106/20
Address: 41 Elm Street, Markham
Applicant: Patrick O’Hanlon
Agent: Gregory Design Group
Hearing Date: Wednesday November 18, 2020

The following comments are provided on behalf of the East Team. The applicant is requesting relief from the following Residential One zone requirements of By-law 1229, R1 as amended, as they relate to a proposed two-storey detached dwelling:

- a) **Infill By-law 99-90, Section 1.2(iii):**
a maximum building depth of 22.80 m (74.80 ft), whereas the by-law permits a maximum building depth of 16.80 m (55.12 ft)
- b) **Infill By-law 99-90, Section 1.2 (vi):**
a maximum floor area ratio of 52 percent, whereas the By-law permits a maximum floor area ratio of 45 percent;
- c) **Infill By-law 99-90, Section 1.2(i):**
A maximum building height of 10.21 m (33.50 ft.), whereas the By-law permits a maximum building height of 9.8 m (32.15 ft).

BACKGROUND

Property Description

The 1,560 m² (16,791.70 ft²) subject property is located on the east side of Elm Street, south of Parkway Avenue and East of Main Street Markham North. There is an existing one-storey 240 m² (2,583.34 ft²) detached dwelling on the property, which according to the applicant was constructed in the 1960s. Mature vegetation is found throughout the property with several trees located along the front (west), side (north) and rear of the property. The property also backs onto Carman Lewis Park.

The property is located within a residential neighbourhood comprised of one and two-storey detached dwellings. The surrounding context can be described as one that is in transition with several examples of newer infill homes that have been developed as larger two-storey dwellings with attached garages. This includes some examples of homes that have been approved for variances for increased floor area ratio, building depth and building height.

Related Applications

The subject property presently exists over two lots (Lot 17 and Lot 18) of Plan of Subdivision 4292. On July 16, 2020, Council enacted a Part Lot Control By-law on the subject property to establish a new property line and to facilitate a conveyance of a portion of 41 Elm Street to 37 Elm Street. A Deeming By-Law is required in order to merge the two lots that make up 41 Elm Street and enable the redevelopment of the lot.

A Deeming By-law application is applied for in order to allow for two or more lots on a registered plan of subdivision to merge. This is beneficial when separate lots are being used as one property. Merging the lots together would allow for development or redevelopment of a property. Deeming Bylaws require Council approval. Once the by-law is approved and registered, the lots

may be developed as one parcel of land. As per Section 50(4) of the Planning Act, in order to implement a Deeming By-law, the plan of subdivision must have been registered not less than 8 years prior to an application for a Deeming By-law. Plan 4292 was registered in 1953.

A Deeming By-law application has been submitted to the City of Markham however, has not yet been enacted by Council. As a condition of approval to this variance, the applicant will be required to enact the by-law, sign a corresponding waiver pay the applicable fees to the City for the cost of registering the Deeming By-law and, have the appeal period pass.

Proposal

The applicant is proposing to demolish the existing detached dwelling and construct a new two-storey 565.0 m² (6,081.61 ft²) detached dwelling with an attached three car garage. The proposed dwelling also includes a rear-covered terrace.

Official Plan and Zoning

Official Plan 2014 (partially approved on Nov 24/17, and further 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 2014 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, the width of proposed garages and driveways and the overall orientation and sizing of new lots within a residential neighbourhood.

Zoning By-Law 1229

The subject property is zoned Residential One (R1) under By-law 1229, as amended, which permits a single detached dwelling.

Residential Infill Zoning By-law 99-90

The subject property is also subject to the Residential Infill Zoning By-law 99-90. The intent of this By-law is to ensure the built form of new residential construction will maintain the general 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 infill By-law requirements with respect to maximum building height, maximum building depth and maximum floor area ratio.

Zoning Preliminary Review (ZPR) Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. It is the owner’s responsibility to ensure that the application has accurately identified all the variances to the Zoning By-law required for the proposed development. If the variance request in this application contains errors, or if the need for additional variances is identified during the Building Permit review process, further variance application(s) may be required to address the non-compliance.

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; and
- d) The general intent and purpose of the Official Plan must be maintained.

Increase in Maximum Building Height

The applicant is requesting relief to permit a maximum building height of 10.21 m (33.50 ft), whereas the By-law permits a maximum building height of 9.8 m (32.15 ft). This represents an increase of approximately 0.41 m (1.34 ft).

The By-law calculates building height using the vertical distance of building or structure measured between the level of the crown of the street and highest point of the roof surface. Staff are of the opinion that the requested variance is minor in nature and generally compatible with other infill developments on the street.

Increase in Maximum Building Depth

The applicant is requesting relief to permit a maximum building depth of 22.80 m (74.80 ft), whereas the By-law permits a maximum building depth of 16.80 m (55.12 ft). This represents an increase of approximately 6 m (19.7 ft).

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 nearest to the front lot line and the other through the point on the dwelling which is the farthest from the front lot line. The variance includes a rear covered terrace which adds approximately 1.68 m (5.5 ft) to the overall depth of the building. The main component of the building, excluding the rear-covered terrace, has a depth of 21.12 m (69.30 ft). The requested building depth applies largely to the main floor of the dwelling. Staff also note that the proposed dwelling complies with all other yard setbacks identified in the By-law.

Increase in Maximum Floor Area Ratio

The applicant is requesting relief to permit a floor area ratio of 52 percent, whereas the By-law permits a maximum floor area ratio of 45 percent. The variance will facilitate the construction of a two-storey detached dwelling with a floor area of 565 m² (6,081.61 ft²), whereas the By-law permits a dwelling with a maximum floor area of 489 m² (5,263.55 ft²). This represents an increase of approximately 76 m² (818.10 ft²).

Floor Area Ratio is a measure of the interior square footage of the dwelling as a percentage of the net lot area however; it is not a definitive measure of the mass of the dwelling. While the proposed gross floor area is larger than what is permitted by the by-law, the applicant has designed the proposed dwelling with a smaller second storey, thereby reducing the built form of the second storey and massing on the street. The proposed floor area ratio is also comparable to several other nearby homes that have obtained variance approvals for similar increases to the floor area ratio.

PUBLIC INPUT SUMMARY

No written submissions were received as of November 11, 2020. 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 the variance request meets the four tests of the Planning Act. 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.

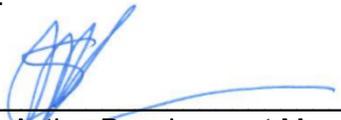
Please see Appendix “A” for conditions to be attached to any approval of this application.

PREPARED BY:



Aqsa Malik, Planner, Zoning and Special Projects

REVIEWED BY:



Stacia Muradali, Acting Development Manager, East District
File Path: Amanda\File\20 130640 \Documents\District Team Comments Memo

APPENDIX "A"

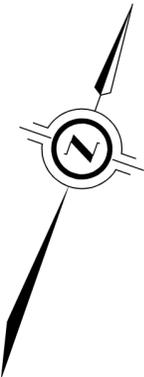
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/106/20

1. That the corresponding Deeming By-law (2020 107378 DEEM) be enacted, waiver signed, applicable fees paid to the City for the cost of registering the Deeming By-law and, appeal period pass, to the satisfaction of the City Solicitor or their designate;
2. The variances apply only to the proposed development as long as it remains; and
3. That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as 'Appendix B' to this Staff Report received by the City of Markham, 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.

CONDITIONS PREPARED BY:



Aqsa Malik, Planner, East District



SCHEDULE			
PART	LOT	PLAN	ALL OF PIN
1	LOT 17 AND PART OF LOT 18	REGISTERED PLAN 4292	02928-0004 (LT)
2	PART OF LOT 17		

I REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE LAND TITLES ACT.

DATE _____

NAVID NAJJARBASHI
ONTARIO LAND SURVEYOR

Appendix B

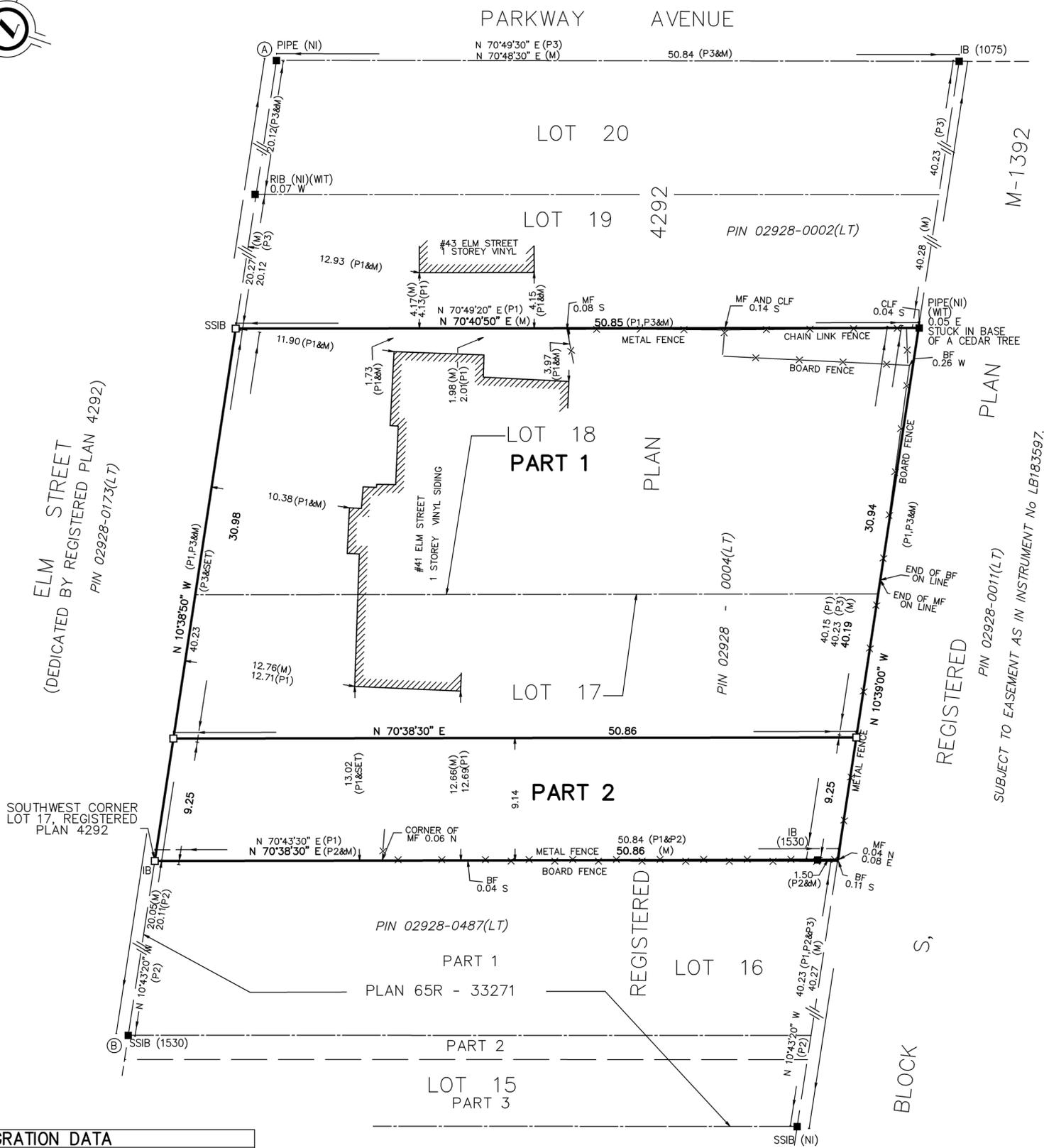
File: 20130640.000.00.MKV

RECEIVED AND DEPOSITED

Date: 11/11/2011

MM/DD/YYYY

REPRESENTATIVE FOR THE LAND REGISTRAR FOR THE LAND TITLES DIVISION OF YORK REGION (No 65)



PLAN OF SURVEY OF
LOTS 17 AND 18
REGISTERED PLAN 4292
CITY OF MARKHAM
REGIONAL MUNICIPALITY OF YORK

SCALE 1 : 250

J.D. BARNES LIMITED

METRIC DISTANCES AND COORDINATES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

NOTES

BEARINGS ARE UTM GRID, DERIVED FROM OBSERVED REFERENCE POINTS A AND B, BY REAL TIME NETWORK (RTN) OBSERVATIONS, UTM ZONE 17, NAD83 (CSRS) (2010.0).

DISTANCES ARE GROUND AND CAN BE CONVERTED TO GRID BY MULTIPLYING BY THE COMBINED SCALE FACTOR OF 0.99984.

FOR BEARING COMPARISONS, A ROTATION OF 1°47'30" COUNTER-CLOCKWISE WAS APPLIED TO BEARINGS ON PLAN P1 AND P3.

FOR BEARING COMPARISONS, A ROTATION OF 0°05'50" COUNTER-CLOCKWISE WAS APPLIED TO BEARINGS ON PLAN P2.

LEGEND

■	DENOTES	SURVEY MONUMENT FOUND
□	DENOTES	SURVEY MONUMENT SET
SIB	DENOTES	STANDARD IRON BAR
SSIB	DENOTES	SHORT STANDARD IRON BAR
IB	DENOTES	IRON BAR
RIB	DENOTES	ROUND IRON BAR
WT	DENOTES	WITNESS
M	DENOTES	MEASURED
JDB	DENOTES	J.D. BARNES LIMITED
1075	DENOTES	PAUL TRESS HOLDING O.L.S.
1530	DENOTES	E. W. BOWYER INC., O.L.S.
P1	DENOTES	SURVEYOR'S REAL PROPERTY REPORT BY R.G.McKIBBON LIMITED, O.L.S DATED AUGUST 27, 1999.
P2	DENOTES	PLAN 65R-33271
P3	DENOTES	REGISTERED PLAN 4292
NI	DENOTES	NOT IDENTIFIABLE
BF	DENOTES	BOARD FENCE
CLF	DENOTES	CHAIN LINK FENCE
MF	DENOTES	METAL FENCE

ALL SET SSIB AND PB MONUMENTS WERE USED DUE TO LACK OF OVERBURDEN AND/OR PROXIMITY OF UNDERGROUND UTILITIES IN ACCORDANCE WITH SECTION 11 (4) OF O.REG. 525/91.

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:

- THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
- THE SURVEY WAS COMPLETED ON 2011 .

DATE _____

PRELIMINARY

NAVID NAJJARBASHI
ONTARIO LAND SURVEYOR

INTEGRATION DATA

OBSERVED REFERENCE POINTS (ORPs): UTM ZONE 17, NAD83 (CSRS) (2010.0).
COORDINATES TO URBAN ACCURACY PER SECTION 14 (2) OF O.REG 216/10.

POINT ID	EASTING	NORTHING
ORP (A)	640 094.11	4 860 295.68
ORP (B)	640 112.71	4 860 196.75

COORDINATES CANNOT, IN THEMSELVES, BE USED TO RE-ESTABLISH CORNERS OR BOUNDARIES SHOWN ON THIS PLAN.

J.D. BARNES
LIMITED
SURVEYING
MAPPING
GIS

LAND INFORMATION SPECIALISTS
140 RENFREW DRIVE, SUITE 100, MARKHAM, ON L3R 6B3
T: (905) 477-3600 F: (905) 477-3882 www.jdbarnes.com

DRAWN BY: NN	CHECKED BY: NN	REFERENCE NO.: 18-21-170-00-E
FILE: G:\18-21-170\00\Drawing\18-21-170-00-F.dgn		DATED: 04/18/2018
		PLOTTED: 4/25/2019

SITE PLAN

SCALE - 1:200

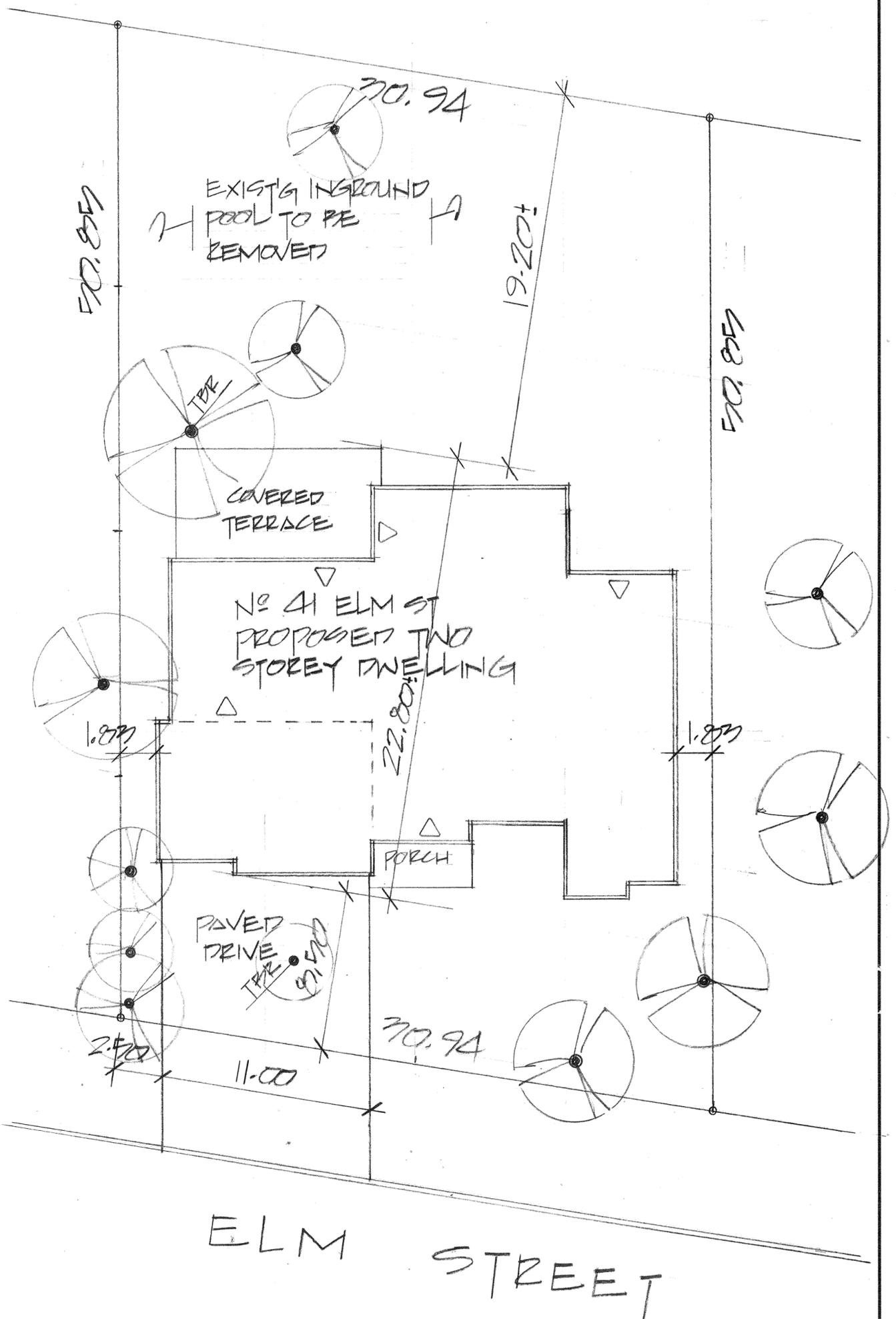
LOT AREA = 1960 M²
 BUILDING AREA = 927.9 M²
 COVERAGE = 37.8 %

NET FLOOR AREA CALCULATION

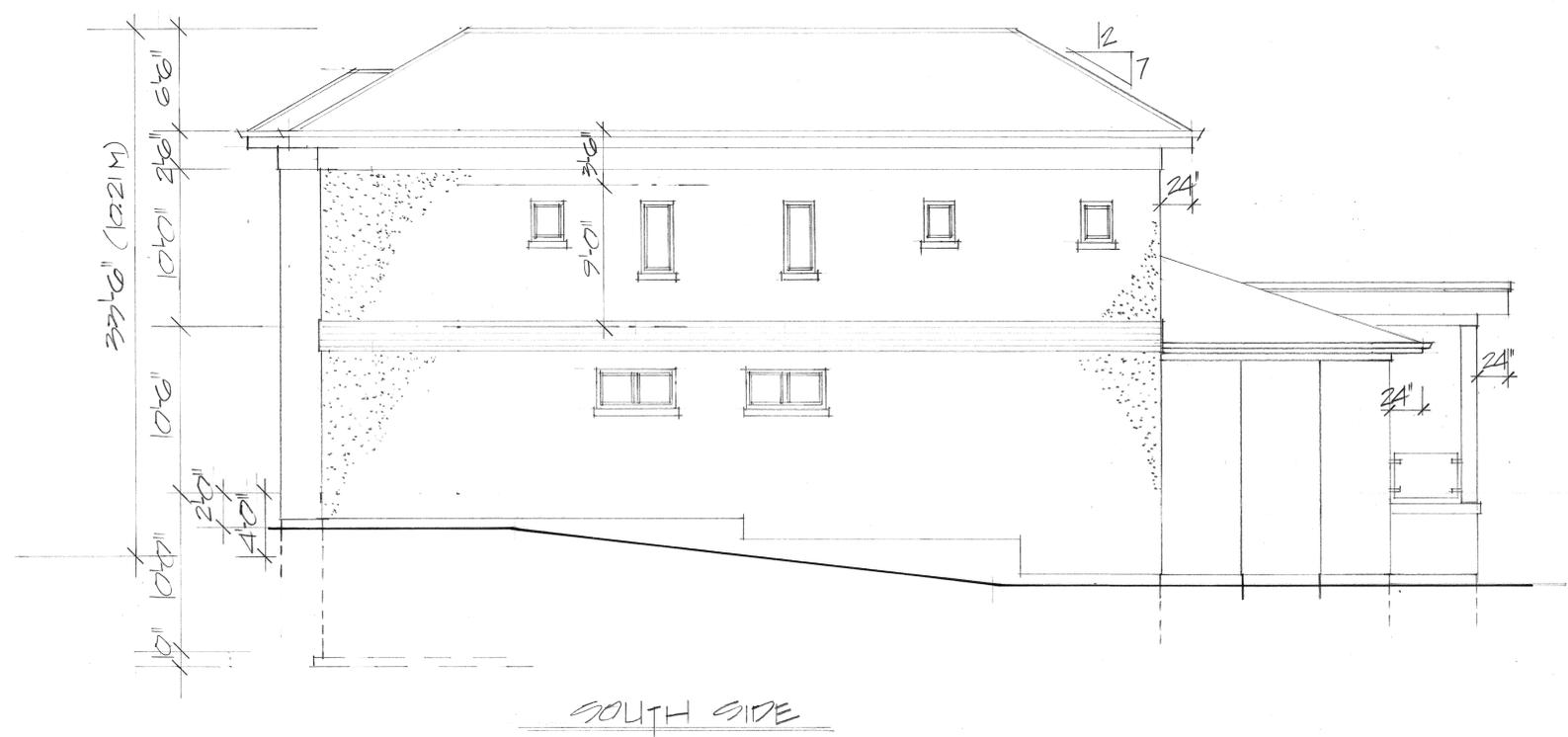
$$619.1 + 0.5(1960 - 619.14) \times 0.45$$

$$= 1096.6 \times 0.45 = 499.0$$

ALLOWABLE NFA = 499.0 M² (47%)
 PROPOSED NFA = 969.0 M² (92.0%)



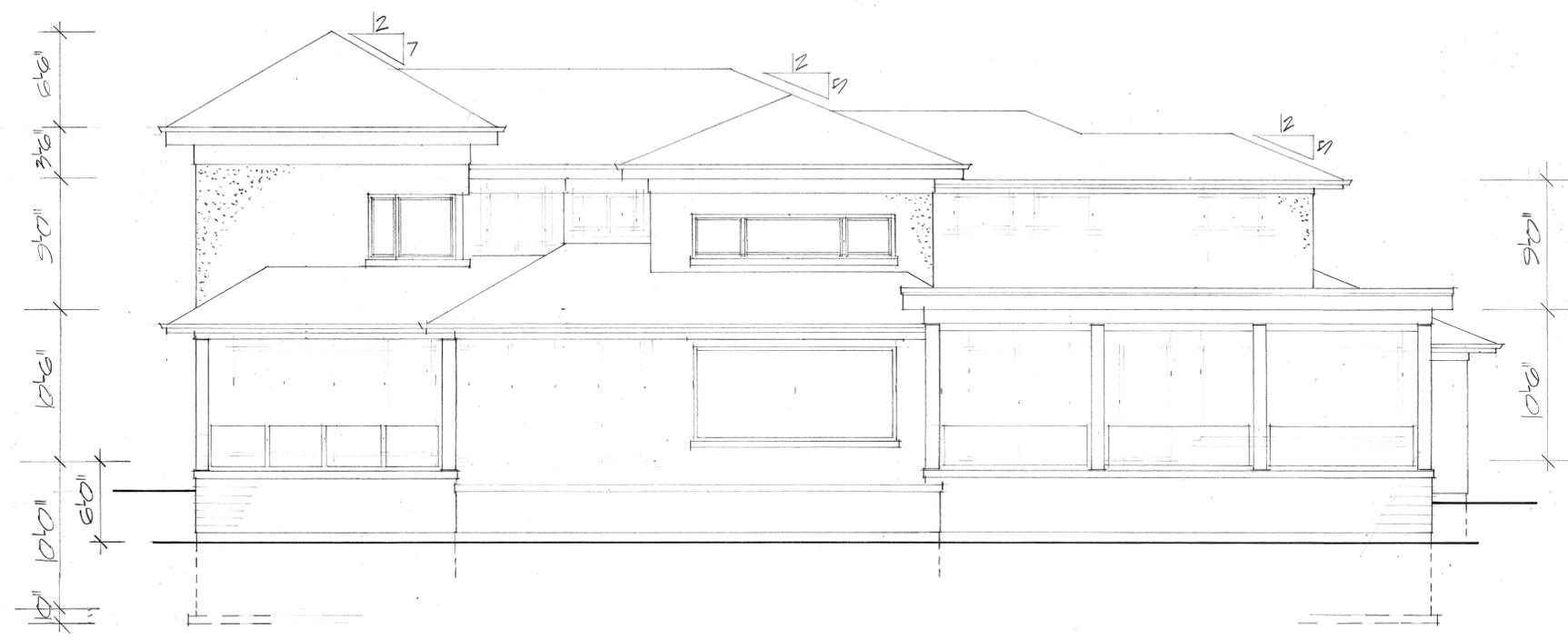
<p>PROJECT: THE O'HANLON RESIDENCE 41 ELM STREET CITY OF MARKHAM</p>	<p>I review and take responsibility for the design work on behalf of a firm registered under subsection 3.2.4 of Division C, of the Building Code. I am qualified, and the firm registered, in the appropriate classes/categories.</p> <p>INDIVIDUAL B.C.I.N. - 25825 FIRM B.C.I.N. - 30506</p> <p>Russ Gregory NAME SIGNATURE</p>	<p>DRAWN: R. GREGORY DATE: 10/20/20 SCALE: 1/4"=1'-0"</p>
<p>THE GREGORY DESIGN GROUP</p> <p>16 CHURCH STREET MARKHAM, ONTARIO, L3P 2L6 (416) 720-4667 russ@gregorydesigngroup.net</p>	<p>GENERAL NOTES: All construction is to conform to section "9" of the Ontario Building Code (latest edition). Contractor shall check and verify all notes and dimensions. Do not scale drawings. Owner/contractor/ designer is responsible to re-claim and destroy all previous and un-revised copies of this drawing. These drawings are the property of the Gregory Design Group and/or its clients only. Building permits should be obtained prior to commencing construction.</p>	<p>PROJECT NO.: 22/87.20 DRAWING NO.: SITE PLAN</p>



PROJECT: THE O'HANLON RESIDENCE	I review and take responsibility for the design work on behalf of a firm registered under subsection 3.2 of Division C, of the Building Code, I am qualified, and the firm registered, in the appropriate classification category. INDIVIDUAL B.C.I.N. - 29025 FIRM B.C.I.N. - 30506 Russ Gregory NAME SIGNATURE	DRAWN: R. GREGORY
		DATE: SCALE: 1/4"=1'-0"
THE GREGORY DESIGN GROUP 16 CHURCH STREET MARKHAM, ONTARIO, L3P 2L6 (416) 720-4667 russ@gregorydesigngroup.net	GENERAL NOTES: All construction is to conform to section "1" of the Ontario Building Code (latest edition). Contractor shall check and verify all notes and dimensions. Do not scale drawings. Owner/contractor/designer is responsible to re-claim and destroy all previous and un-revised copies of this drawing. These drawings are the property of the Gregory Design Group and/or its clients only. Building permits should be obtained prior to commencing construction.	PROJECT NO.: 22180-20 DRAWING NO.:

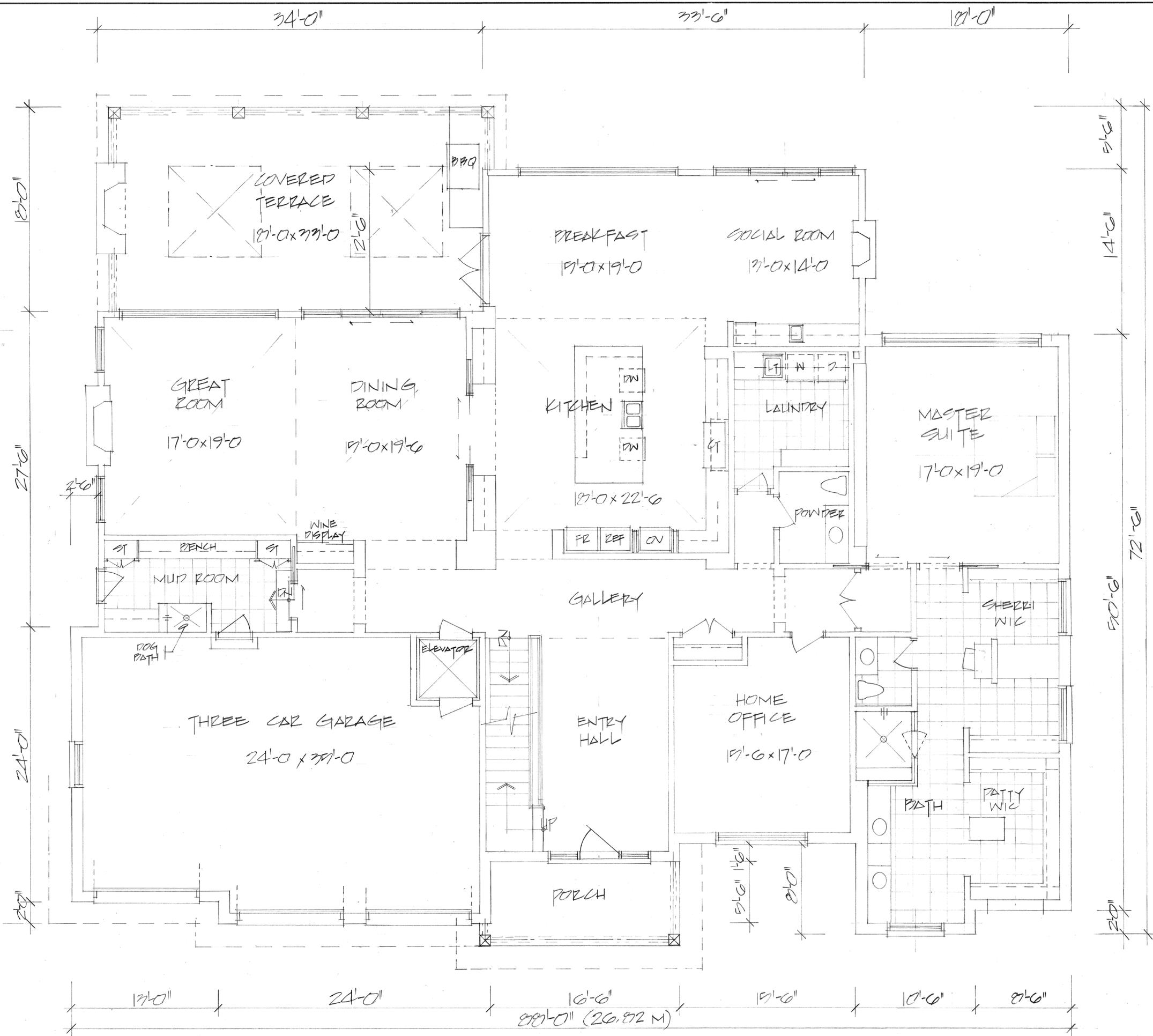


NORTH SIDE



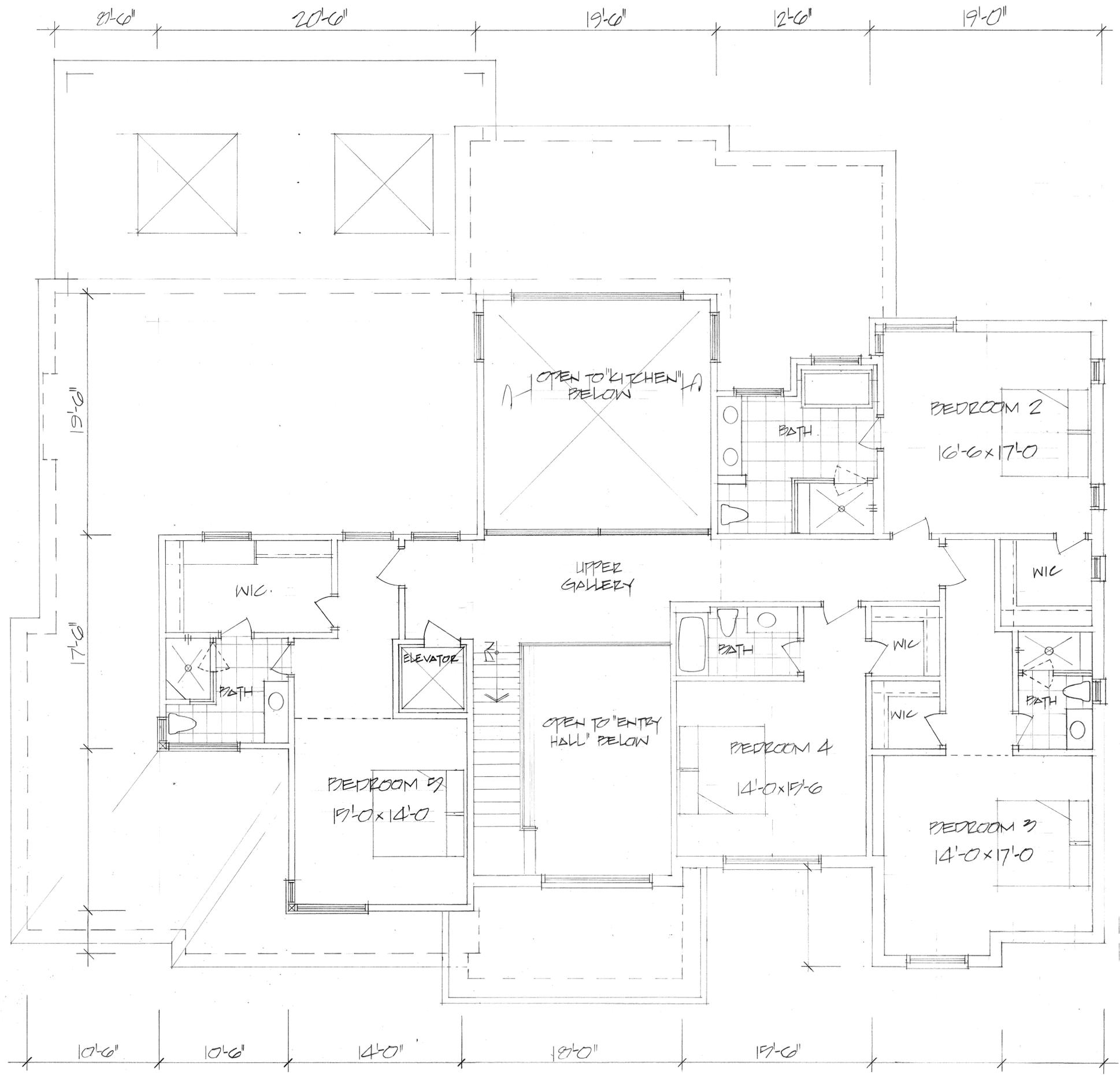
REAR ELEVATION - EAST

PROJECT: THE O'HANLON RESIDENCE 41 ELM ST. CITY OF MARKHAM	I review and take responsibility for the design work on behalf of a firm registered under subsection 2.2.4 of Division C, of the Building Code. I am qualified, and the firm registered, in the appropriate classification.	DRAWN: R. GREGORY DATE:
	INDIVIDUAL B.C.I.N. - 25625 FIRM B.C.I.N. - 30508 Russ Gregory NAME SIGNATURE	SCALE: 1/4"=1'-0"
THE GREGORY DESIGN GROUP 16 CHURCH STREET MARKHAM, ONTARIO, L3P 2L6 (416) 720-4667 russ@gregorydesigngroup.net	GENERAL NOTES: All construction is to conform to section "B" of the Ontario Building Code (latest edition). Contractor shall check and verify all notes and dimensions. Do not scale drawings. Owner/contractor designer is responsible to re-claim and destroy all previous and un-revised copies of this drawing. These drawings are the property of the Gregory Design Group and/or its clients only. Building permits should be obtained prior to commencing construction.	PROJECT NO.: 2218-20 DRAWING NO.: 4



GROUND FLOOR PLAN
 GROUND FLOOR AREA = 3882 SQ FT (358.73 M²)
 BUILDING AREA = 5715 " " (530.9 M²)

PROJECT: THE O'HANLON RESIDENCE 41 ELM ST CITY OF MARKHAM	I review and take responsibility for the design work on behalf of a firm registered under subsection 3.2.4 of Division C of the Building Code, I am qualified, and the firm registered, in the appropriate discipline(s). INDIVIDUAL B.C.I.N. - 29625 FIRM B.C.I.N. - 30608	DRAWN: R. GREGORY DATE: 11/21/20
	Russ Gregory NAME SIGNATURE	SCALE: 1/4"=1'-0"
THE GREGORY DESIGN GROUP 16 CHURCH STREET MARKHAM, ONTARIO, L3P 2L6 (416) 720-4667 russ@gregorydesigngroup.net	GENERAL NOTES: All construction is to conform to section "B" of the Ontario Building Code (latest edition). Contractor shall check and verify all notes and dimensions. Do not scale drawings. Owner/contractor designer is responsible to re-claim and destroy all previous and un-revised copies of this drawing. These drawings are the property of the Gregory Design Group and/or its clients only. Building permits should be obtained prior to commencing construction.	PROJECT NO.: 2218-20 DRAWING NO.: 1



SECOND FLOOR PLAN
 SECOND FLOOR AREA = 2990 SQ FT (272.2 M²)
 OPEN SPACE = 6757 " " (62.7 M²)
 TOTAL (NET FLR AREA) = 22877 " " (209.47 M²)

PROJECT: THE CHANLON RESIDENCE 41 ELM ST CITY OF MARKHAM	I review and take responsibility for the design work on behalf of a firm registered under subsection 3.2.4 of Division C, of the Building Code, I am qualified, and the firm registered, in the appropriate classification.	DRAWN: R. GREGORY DATE:
	INDIVIDUAL B.C.I.N. - 25825 FIRM B.C.I.N. - 30508 Russ Gregory NAME SIGNATURE	SCALE: 1/4"=1'-0"
THE GREGORY DESIGN GROUP 16 CHURCH STREET MARKHAM, ONTARIO, L3P 2L6 (416) 720-4667 russ@gregorydesigngroup.net	GENERAL NOTES: All construction is to conform to section "10" of the Ontario Building Code (latest edition). Contractor shall check and verify all notes and dimensions. Do not scale drawings. Owner/contractor designer is responsible to re-claim and destroy all previous and un-revised copies of this drawing. These drawings are the property of the Gregory Design Group and/or its clients only. Building permits should be obtained prior to commencing construction.	PROJECT NO.: 2218-20 DRAWING NO.: 2