

Memorandum to the City of Markham Committee of Adjustment

January 29, 2020

File: A/155/19
Address: 130 Old Kennedy Road
Applicant: Neamsby Investments Inc.
Hearing Date: Wednesday February 5, 2020

The Central Team provides the following comments. The Applicant requests relief from the following requirements of By-law 177-96, as amended, as it relates to a proposed townhouse development.

Block 1 Specific:

- 1) **Amending By-law 2005-250, Section 7.283.2(c):**
a minimum exterior side yard of 0.92 m, whereas the By-law requires a minimum of 1.8 m;

Blocks 2, 3, and 4:

- 2) **Parent By-law 177-96, Section 5.1, Table B2(a):**
that the minimum lot frontage not apply;

Site-Wide:

- 3) **Amending By-law 2005-250, Sections 7.279 and 7.283:**
for the purpose of applying zone standards, the lands identified be deemed as one lot;
- 4) **Amending By-law 2005-250, Section 7.283.2(f):**
a minimum required landscaped open space of 16%, whereas the By-law requires a minimum of 25%;
- 5) **Parent By-law 177-96, Section 6.5:**
a maximum of 26 dwelling units, whereas the By-law permits no more than one dwelling unit on a lot;
- 6) **Parking By-law 28-97, Section 3.0, Table A(e)(1):**
to permit visitor parking on lands intended solely for the exclusive use of an individual residential unit in a development, whereas the By-law does not permit visitor parking on lands intended solely for the exclusive use of an individual residential unit in a development.

NOTE: Planning Staff recommend that Variance 6 be re-worded as follows:

- 6) **Parking By-law 28-97, Section 3.0:**
to permit 10 parking spaces to be shared between residential visitor and non-residential uses; whereas the By-law requires a minimum of 7 visitor parking spaces and a minimum of 10 non-residential (retail) parking spaces.

BACKGROUND

Property Description

The subject lands are located on the west side of Old Kennedy Road, north of Sunrise Drive, are municipally known as 130 Old Kennedy Road (the “subject lands”), and are vacant with approximately 37 m (123 ft) frontage along Old Kennedy Road and a lot area of approximately 6,627 m² (71,334 ft²).

Proposal

The proposed development is subject of a formal Site Plan Approval Application currently under review by Staff (File SC 17 160401) and consists of the following (the “proposed development”):

- a) 26 residential units consisting of the following:
 - i) Block 1: a three-storey live-work townhouse block comprising 5 units fronting Old Kennedy Road (with 2 parking spaces per unit)
 - ii) Blocks 2, 3, and 4: three-storey traditional townhouse blocks fronting Sunrise Drive (with 4 parking spaces per unit)
- b) a north-south private (condominium) road separating the live-work townhouse units and the traditional townhouse units
- c) an east-west private (condominium) road which provides access to Blocks 2, 3 and 4.
- d) 10 ten visitor parking spaces

Official Plan and Zoning

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

The 2014 Official Plan designates the subject lands “Mixed Use Mid Rise” (front portion of the site along Old Kennedy Road) and “Residential Mid Rise” (remainder of the site). Both designations permit the proposed development.

Section 9.15.3.3 of the Official Plan states that until an updated Secondary Plan is approved for the Milliken Centre lands, the provisions of the Official Plan (Revised 1987), as amended, shall apply to the subject lands.

Main Street Milliken Secondary Plan (OPA 144)

The subject lands are further designated “Community Amenity – Main Street” (front portion of the site along Old Kennedy Road) and “Community Amenity Area – Mixed Use” (remainder of the site). The “Community Amenity – Main Street” designation permits mixed use buildings with a range of small to moderate scale retail, personal service, restaurant and business uses. Residential uses are not permitted on the ground floor of buildings facing Old Kennedy Road. In response to this Secondary Plan policy, the Applicant proposes live-work units along Old Kennedy Road. The “Community Amenity Area – Mixed Use” designation permits single use and mixed use buildings, including medium and high-density residential development, such as the proposed townhouses.

Zoning By-Law 177-96

The subject lands are zoned "Community Amenity Two *283 (Hold)" [CA2*283(H)] and "Community Amenity One *279(Hold)" [CA1*279(H)] by By-law 177-96, as amended.

Applicant's Stated Reasons for Not Complying with Zoning

According to the information provided by the Applicant, the reasons for not complying with Zoning are as follows:

"The development is not able to comply with the provisions of the by-law due to the design and architecture we are proposing on this block. The City of Markham would like to keep the existing pavement width along Sunrise Blvd and provide the Multi-Use Pathway (MUP) that they are requesting for this community. The outcome meant that the front yards of Blocks 2, 3 & 4 became smaller thereby reducing the amount of landscaped space we could provide. However, as part of this development we will be providing a 9 m walkway to connect to the northern community which will include trees and benches for the community. Furthermore, we have provided the homeowners with a double car garage and enough width to fit a total of 4 cars, thereby reducing the demand for the visitor parking and allowing the visitor parking spaces for the development to be free to support the retail businesses. Furthermore, additional parking will be available along Sunrise Blvd and Old Kennedy Road."

Zoning Preliminary Review ("ZPR") Not Undertaken

The Applicant confirmed that a ZPR has not been conducted. However, the Applicant received comments from the City's Building Department through File SC 17 160401 that confirmed the variances required to facilitate the proposed development.

COMMENTS

Block Specific Variances

Variances 1 and 2

Variance 1 pertains to Block 1 and applies to a pinchpoint along Old Kennedy Road where the exterior side yard setback is reduced to 0.92 m as a result of the Block 1 configuration. Staff have no objection to Variance 1 as the block orientation creates a continuous and pedestrian-oriented building frontage along Old Kennedy Road.

Variance 2 applies to Blocks 2, 3, and 4 and requests that the minimum lot frontage shall not apply. Aligned with Variance 3, described below, the Applicant requests the subject lands be deemed as one lot for the purposes of applying zone standards. In this case, the frontage would be taken from Old Kennedy Road, which complies with the Zoning By-law requirement.

Site-Wide Variances

Variances 3, 4, 5, and 6

Variance 3 seeks permission for the subject lands be deemed one lot, which would facilitate the seamless application of the site-specific zone standards for the proposed development.

Variance 4 pertains to the required landscaped open space area provided on the subject lands. The Applicant cites the City's desire for a multi-use path ("MUP") along the north side of Sunrise Drive as the reason for this variance request, which effectively reduces the front yards of the townhouse units in Blocks 2, 3, and 4. Staff concur with this justification.

Variance 5 results from Variance 3, whereby if the subject lands are deemed one lot, then only one dwelling unit is permitted. The requested variance seeks to increase the number of dwellings units to 26. Staff support the proposed built form and density and have no objection to this variance.

Variance 6 pertains to the 10 shared visitor parking spaces between residential visitors and non-residential visitors, i.e. the "work" components of the live-work townhouse units. Staff have no objection to this variance as each unit in Blocks 2, 3, and 4 will have four on-site parking spaces that would accommodate residential visitor parking. Furthermore, Staff support Variance 6 as the offset parking demand between residential visitor and non-residential visitor spaces would make efficient use of the parking supply on the subject lands. To mitigate future potential parking problems, Staff further recommends an additional condition of approval that prohibits restaurants and restaurants, take out, which have higher parking demands, as uses on the subject lands (see Appendix "A").

The Four Tests

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.

The proposed variances are minor in nature and facilitate a proposed development that respects its surrounding context by providing a similar built form and massing to those existing and proposed on adjacent lands. Staff further opines that the proposed variances meet the intent of both the Zoning By-law and Official Plan, as the uses are permitted and the objective of providing for grade-related non-residential uses along Old Kennedy Road is maintained.

PUBLIC INPUT SUMMARY

No written submissions were received as of January 29, 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.

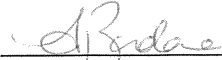
CONCLUSION

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* and have no objections. 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.

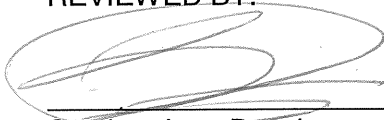
Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Sabrina Bordone, Senior Planner, Central District

REVIEWED BY:



Stephen Lue, Development Manager, Central District

File Path: Amanda\File\ 19 142158 \Documents\District Team Comments Memo

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/155/19

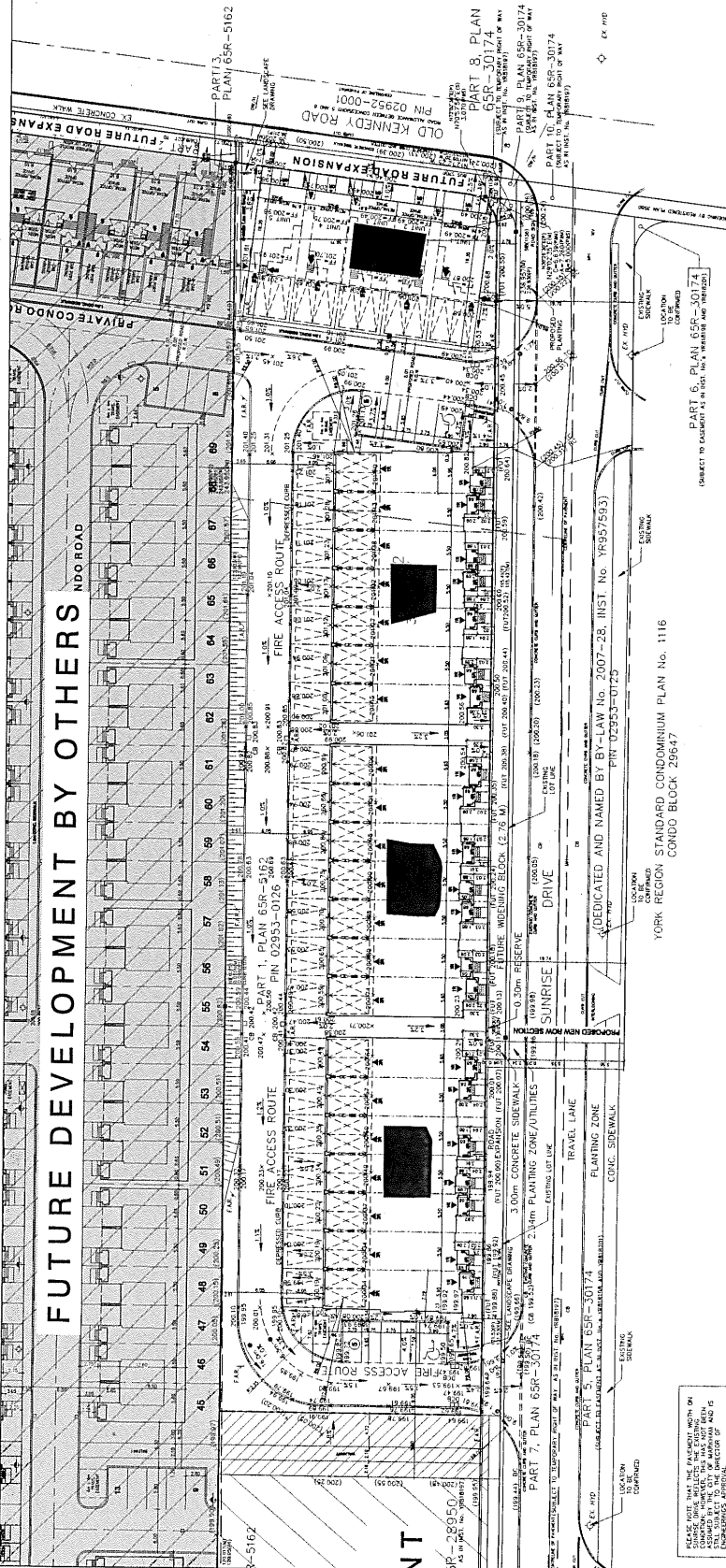
1. The variances apply only to the proposed development as long as it remains.
2. That the variances apply only to the subject development, in substantial conformity with the plans attached as Appendix "B" to this Staff Report and received by the City of Markham on December 17, 2019, and that the Secretary-Treasurer 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. That notwithstanding Section 7.283.1 q) and r) of Amending By-law 2005-250 (Parent By-law 177-96, as amended), restaurants and take-out restaurants shall not be permitted.

CONDITIONS PREPARED BY:



Sabrina Bordone, Senior Planner, Central District

FUTURE DEVELOPMENT BY OTHERS



SITE STATISTICS

[illegible][illegible]

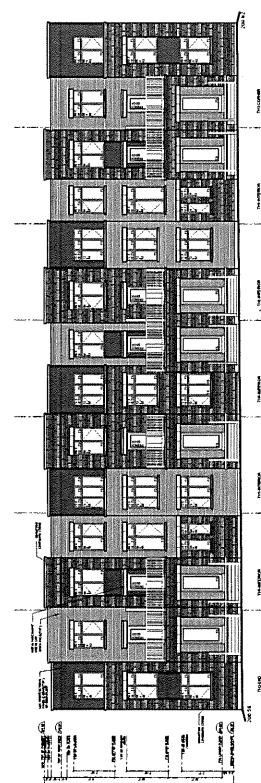
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FLOOR 1	FLOOR AREA =	842.00 sqm (9,101 sqft)	FLOOR 2	FLOOR AREA =	744.00 sqm (8,038 sqft)	FLOOR 3	FLOOR AREA =	724.00 sqm (7,800 sqft)	FLOOR 4	FLOOR AREA =	714.00 sqm (7,676 sqft)	FLOOR 5	FLOOR AREA =	714.00 sqm (7,676 sqft)	
SECOND FLOOR PLAN	= 435.45 sqm (4,657 sqft)	SECOND FLOOR PLAN	= 482.52 sqm (5,204 sqft)	SECOND FLOOR PLAN	= 482.52 sqm (5,204 sqft)	SECOND FLOOR PLAN	= 482.52 sqm (5,204 sqft)	SECOND FLOOR PLAN	= 482.52 sqm (5,204 sqft)	SECOND FLOOR PLAN	= 482.52 sqm (5,204 sqft)	SECOND FLOOR PLAN	= 482.52 sqm (5,204 sqft)	SECOND FLOOR PLAN	= 482.52 sqm (5,204 sqft)
THIRD FLOOR PLAN	= 435.05 sqm (4,657 sqft)	THIRD FLOOR PLAN	= 482.52 sqm (5,204 sqft)	THIRD FLOOR PLAN	= 482.52 sqm (5,204 sqft)	THIRD FLOOR PLAN	= 482.52 sqm (5,204 sqft)	THIRD FLOOR PLAN	= 482.52 sqm (5,204 sqft)	THIRD FLOOR PLAN	= 482.52 sqm (5,204 sqft)	THIRD FLOOR PLAN	= 482.52 sqm (5,204 sqft)	THIRD FLOOR PLAN	= 482.52 sqm (5,204 sqft)
ROOF	= 0.50 sqm (5.38 sqft)	TOTAL	= 0.50 sqm (5.38 sqft)	TOTAL	= 0.50 sqm (5.38 sqft)	TOTAL	= 0.50 sqm (5.38 sqft)	TOTAL	= 0.50 sqm (5.38 sqft)	TOTAL	= 0.50 sqm (5.38 sqft)	TOTAL	= 0.50 sqm (5.38 sqft)	TOTAL	= 0.50 sqm (5.38 sqft)
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Technical drawing of a door assembly, likely a fire door, showing various components labeled with callouts:

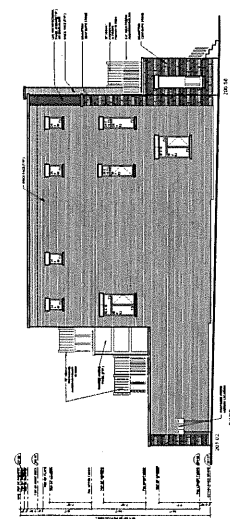
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- CALL 100-027 (Top right)
- CALL 100-028 (Middle left)
- CALL 100-029 (Middle right)
- CALL 100-030 (Bottom right)

ZONING PLAN

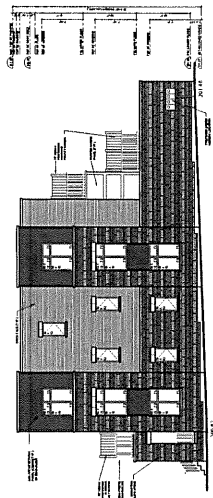
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Project No. 2017-22		



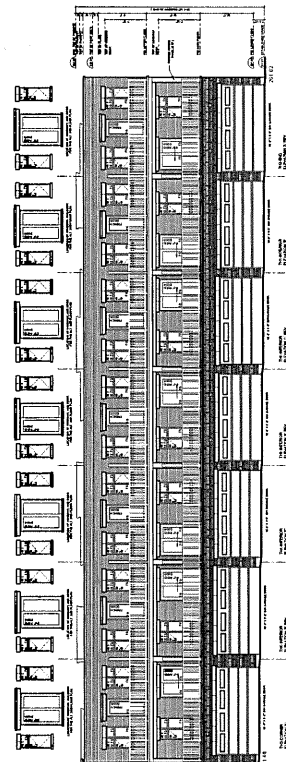
BLOCK 2 TOWNHOUSE FRONT ELEVATION



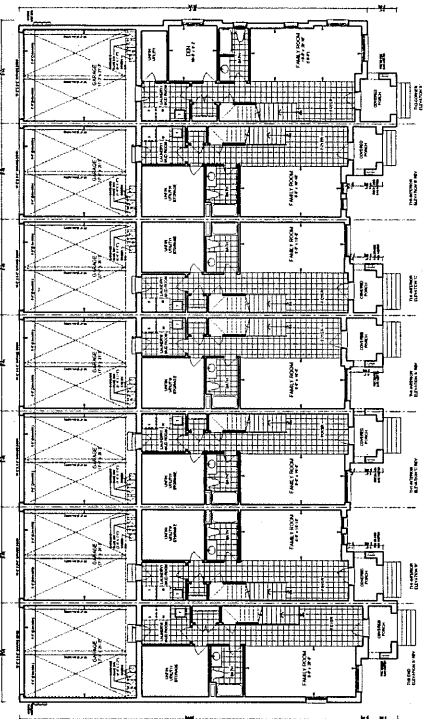
BLOCK 2 TOWNHOUSE LEFT ELEVATION



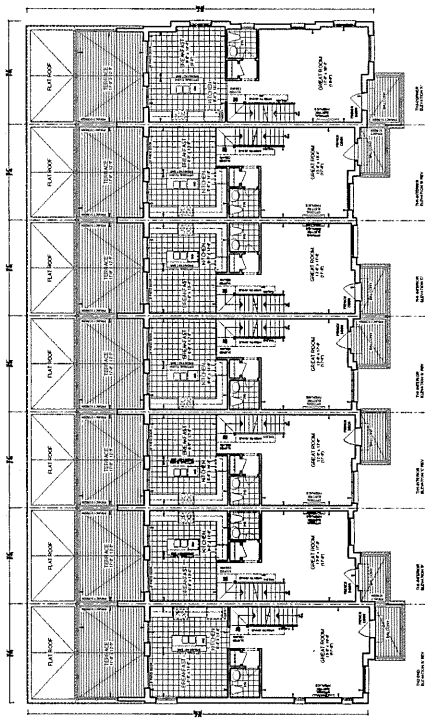
BLOCK 2 TOWNHOUSE RIGHT ELEVATION



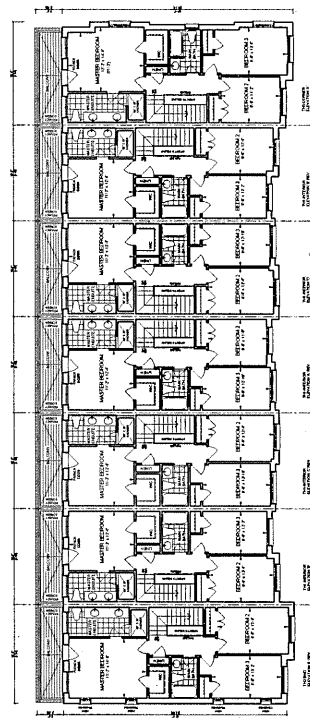
BLOCK 2 TOWNHOUSE REAR ELEVATION



BLOCK 2 TOWNHOUSE GROUND FLOOR PLAN



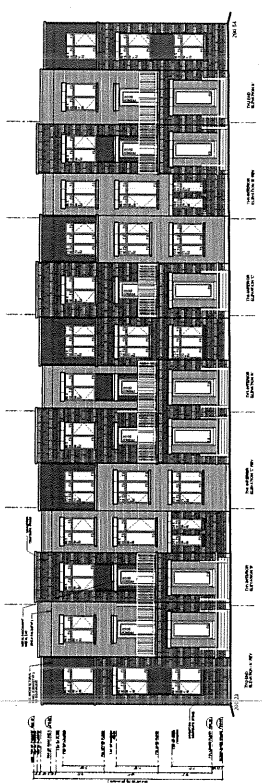
BLOCK 2 TOWNHOUSE SECOND FLOOR PLAN



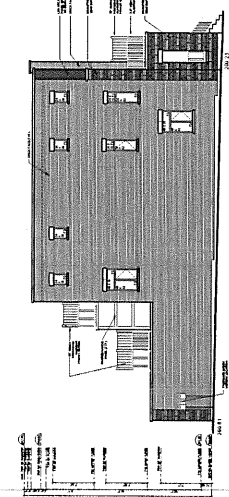
BLOCK 2 TOWNHOUSE THIRD FLOOR PLAN

City File No.		SC 17 160401	
City		REMINGTON HOMES	
Project Name		3 STOREY TOWNHOUSE CONDOMINIUM & LIVE/WORK TOWN DEVELOPMENT	
Client		CITY OF MARRHAM 130 OLD KENNEDY ROAD	
Block 2 Plans & Elevations		BLOCK 2 PLANS & ELEVATIONS	
Drawn by		SA	SA
Checked by		SA	SA
Date		JUNE 13, 2017	
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Project No.		2017-22	
Revision No.		2	

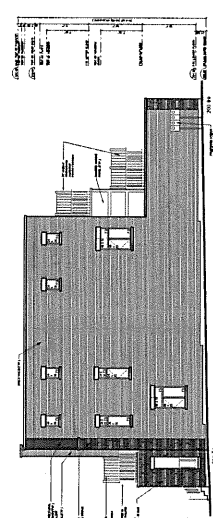




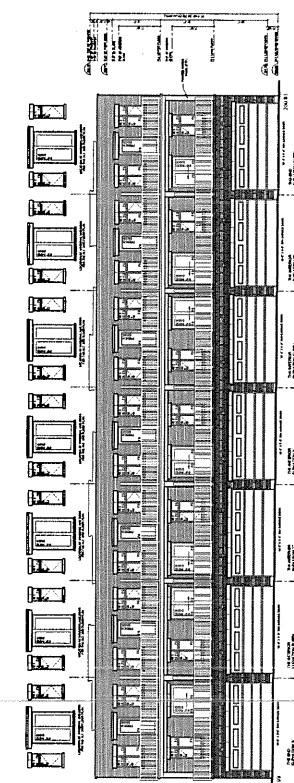
BLOCK 3 TOWNHOUSE FRONT ELEVATION



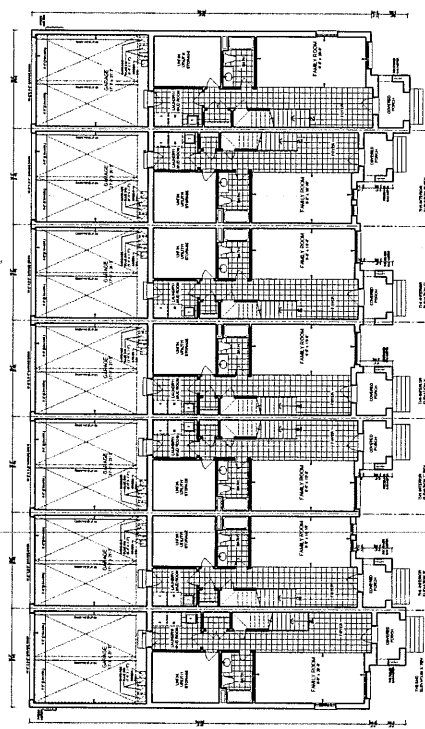
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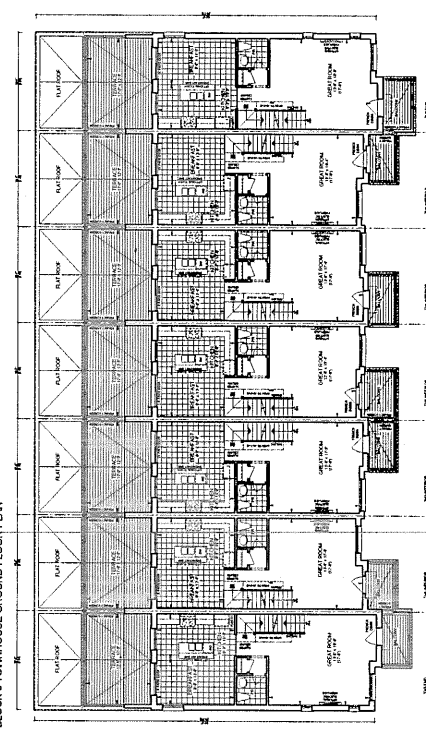
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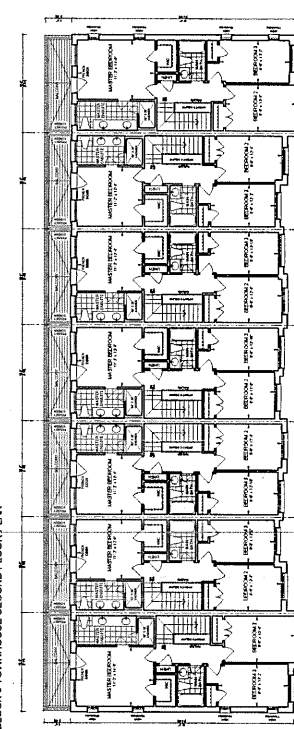
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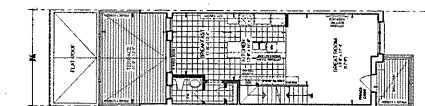
BLOCK 3 TOWNHOUSE GROUND FLOOR PLAN



BLOCK 3 TOWNHOUSE SECOND FLOOR PLAN



BLOCK 3 TOWNHOUSE THIRD FLOOR PLAN



BLOCK 3 TOWNHOUSE FOURTH FLOOR PLAN

16	RE-DESIGNED AS FOR CITY COUNCILS	APR 17	SA
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18	RE-DESIGNED AS FOR CITY COUNCILS	MAY 20	SA
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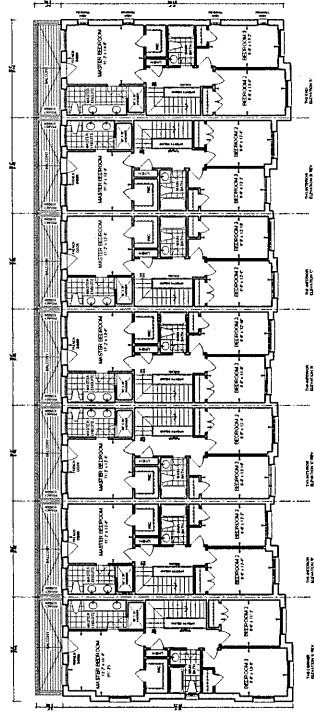
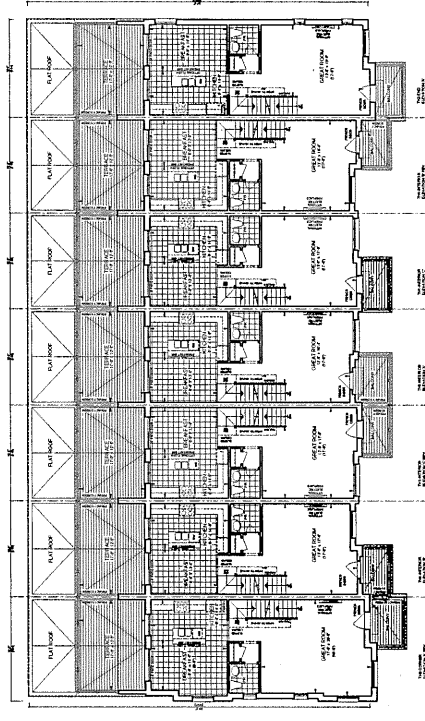
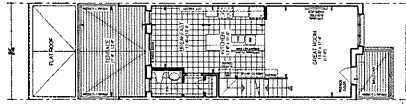
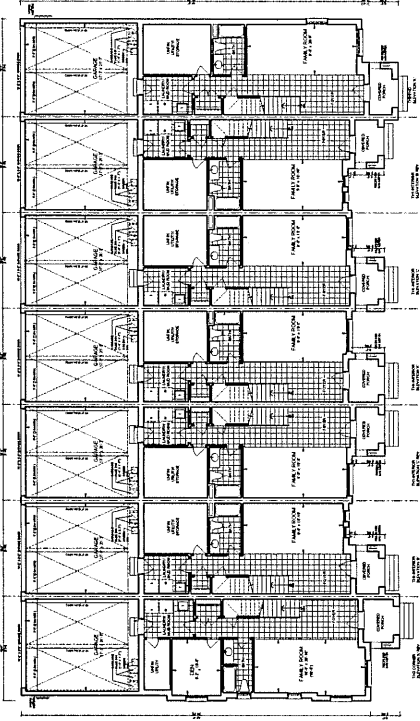
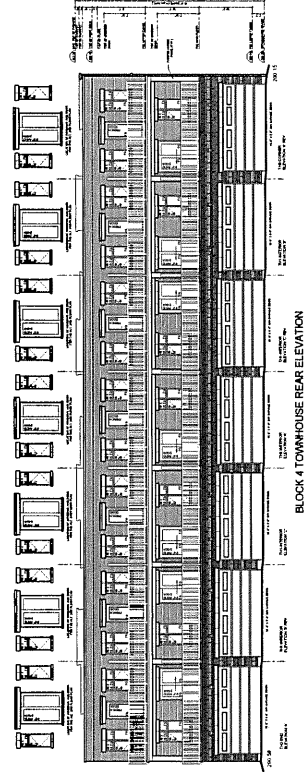
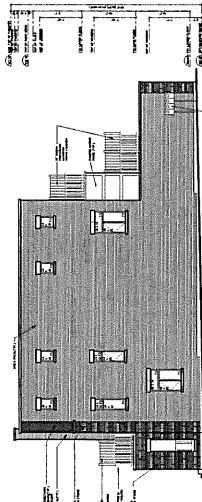
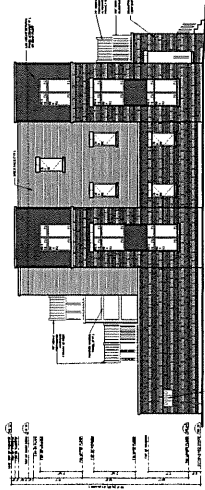
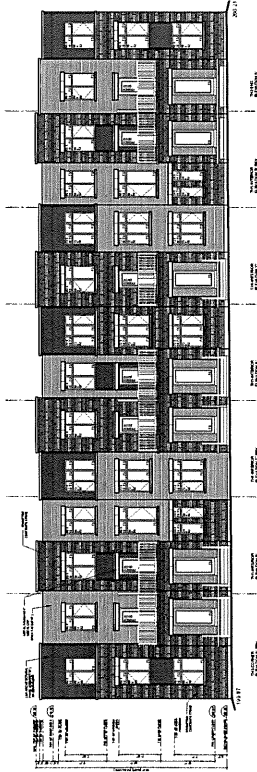
SC 17 160401

S&C ARCHITECTS INC.
1141 BAYVIEW AVE. SUITE 101
SCARBOROUGH, ONTARIO M1S 1B3

Client: REMINGTON HOMES
Project: 3 STOREY TOWNHOUSE CONDOMINIUM
& LIVE/WORK TOWN DEVELOPMENT
CITY OF MARKHAM
130 QUEENSWAY ROAD

BLOCK 3 PLANS
& ELEVATIONS

Drawn by: SA
Checked by: SA
Date: JUNE 13, 2017
Scale: 0'-3/32" = 1'-0"
Project No: 2017-22
Sheet No: 3

[illegible]

SC 17 160401

S&C ARCHITECTS INC.
T: (416) 848-0991 F: (416) 860-6101
INFO@SCARCHITECTS.CA
60 RANDALL DRIVE SUITE 10

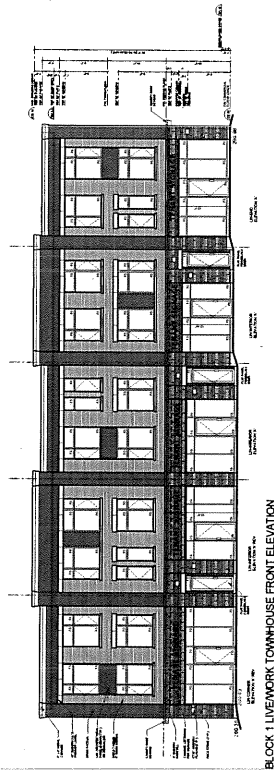
REMINGTON HOMES

**Project
Name** 3 STOREY TOWNHOUSE CONDOMINIUM
& LIVE /WORK TOWN DEVELOPMENT

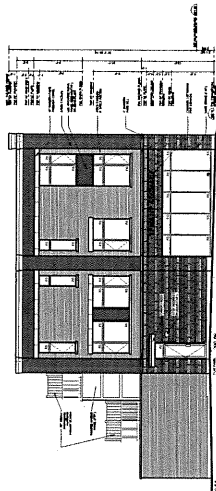
City of Markham
130 OLD KENNEDY ROAD

BLOCK 4 PLANS

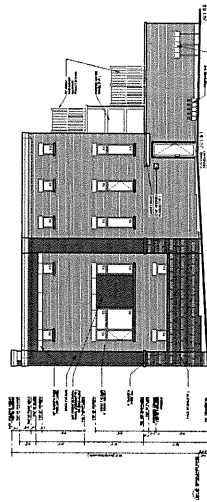
Drawn by: SA	Checked by: SA	Date: JUNE13, 2017
Scale 0'-3/32" : 1'-0"		Drawing No. 4
Project No. 2017-22		



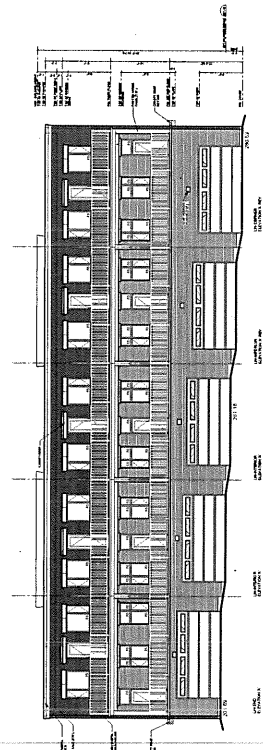
BLOCK 1 LIVE/WORK TOWNHOUSE FRONT ELEVATION



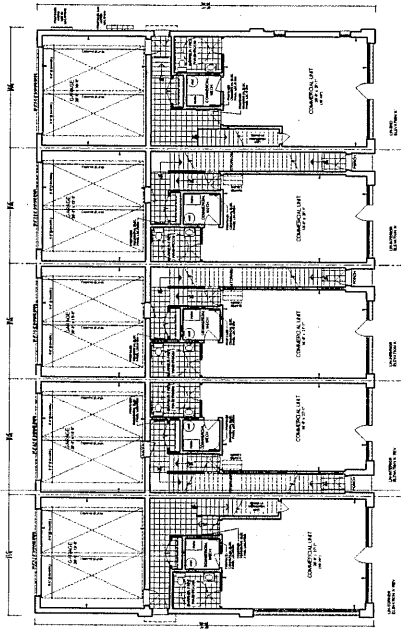
BLOCK 1 LIVE/WORK TOWNHOUSE LEFT SIDE ELEVATION



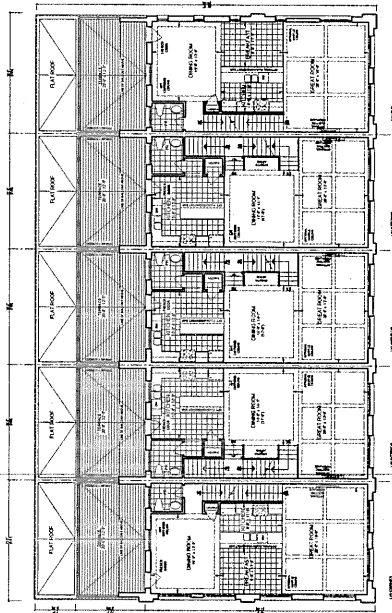
BLOCK 1 LIVE/WORK TOWNHOUSE RIGHT SIDE ELEVATION



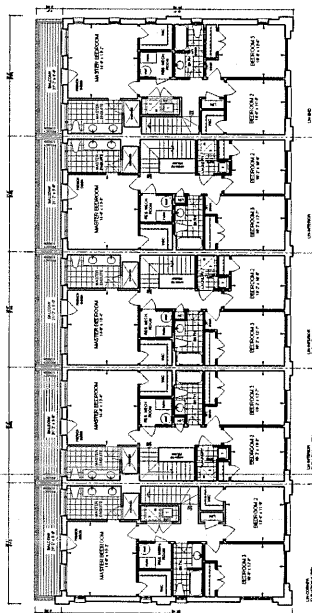
BLOCK 1 LIVE/WORK TOWNHOUSE REAR ELEVATION



BLOCK 1 LIVE/WORK GROUND FLOOR PLAN



BLOCK 1 LIVE/WORK SECOND FLOOR PLAN



BLOCK 1 LIVE/WORK THIRD FLOOR PLAN

SC 17 160401

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REVENUE HOMES

Project Name: 3 STOREY TOWNHOUSE CONDOMINIUM
& LIVE/WORK TOWN DEVELOPMENT
City of MARIETTA
190 OLD KENNEDY ROAD

Project Title: LIVE/WORK TOWNHOUSE
PLANS & ELEVATIONS

Drawn by: SA
Checked by: SA
Date: JUNE 13, 2017

Scale: 0'-3/32" = 1'-0"

Project No.: 2017-22

Sheet No.: 5