

Memorandum to the City of Markham Committee of Adjustment
February 15, 2024

File: A/184/23
Address: 10197 Victoria Square Boulevard, Markham
Applicant: Humphries Planning Group Inc. (Puneh Jamshidi)
Hearing Date: Wednesday, February 21, 2024

The following comments are provided on behalf of the West Team:

The applicant is requesting relief from the following requirements of the Rural Residential One (RR1) Zone, in By-law 304-87, as amended, to permit:

- a) **By-law 304-87, Section 7.1:**
an accessory building (garden home) to be located in the front yard; whereas, the By-law does not permit an accessory building (garden home) in the front yard;
- b) **By-law 304-87, Section 7.5 (b)(i):**
a south side yard setback of 1.6 metres for the single-detached dwelling; whereas, the By-law requires a minimum side yard setback of 3 metres;
- c) **By-law 304-87, Section 7.5 (b)(i):**
a north side yard setback 2.02 metres for the accessory building (garden home); whereas, the By-law requires a minimum side yard setback of 3 metres;
- d) **By-law 304-87, Section 7.5 (b)(i):**
a 3.6 metre front yard setback for the accessory building (garden home); whereas, the By-law requires a minimum front yard setback of 7.5 metres;

as it relates to a proposed two-storey detached dwelling and a proposed one-storey accessory building (garden home) in the front yard.

BACKGROUND

Property Description

The 4,171.69 m² (44,903.7 ft²) subject property is located on the east side of Victoria Square Boulevard, north of Major Mackenzie Drive East and east of Woodbine Avenue. There is an existing one storey single-detached dwelling on the subject property, which according to assessment records was constructed in 1998.

The subject property is partially located within the TRCA's Regulated Area as the rear portion of the site contains a Regulatory Flood plain and erosion hazard associated with the Rouge River watershed.

Proposal

The applicant is proposing to demolish the existing single-detached dwelling and construct a new two storey 342.05 m² (3,682 ft²) detached dwelling and a one-storey accessory building (garden home) in the front yard.

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, R.S.O. 1990, c. P.13, as amended*, to require Official Plans to contain policies providing for two residential units in detached, semi-detached and rowhouse (townhouse) dwellings, as well as permitting a residential unit in ancillary structures to a detached, semi-detached, or rowhouse dwelling. Under this legislation, “second suites” or “secondary 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 options 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 Subject Lands are designated “Residential Low Rise” and “Greenway” in the 2014 Official Plan. The “Residential Low Rise” designation permits low rise housing forms including single detached dwellings. Section 8.2.3.5 of the Official Plan outlines development criteria for the “Residential Low Rise” designation with respect to height, massing and setbacks. These criteria are 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. Planning staff have had regard for the requirements of the infill development criteria.

The “Greenway” designation applies to the east portion of the subject lands and is intended to protect natural heritage and hydrologic features. The Greenway System also protects cultural heritage resources associated with valley lands and watercourse corridors. This designation permits the proposed single-detached dwelling.

Zoning By-law 304-87

The Subject Lands are zoned Rural Residential One (RR1) under By-law 304-87, as amended which permits the proposed uses. The proposed development does not comply with the By-law with respect to location of the accessory building (garden home), side yard setback, and front yard setback.

Zoning Preliminary Review (ZPR) Undertaken

The Owner has completed a Zoning Preliminary Review (ZPR) on July 12, 2023 to confirm the variances required for the proposed development.

Tree Preservation

The applicant will be required to submit a Tree Inventory and Preservation Plan as part of their Residential Infill Grading and Servicing application. Staff recommend that any approval of the application include the tree protection and compensation conditions attached in Appendix A.

Natural Heritage Review

The application was deferred at the December 7, 2023 Committee of Adjustment Meeting to provide the applicant time to submit additional information requested by the City's Natural Heritage Staff. The requested additional information has since been provided, and Natural Heritage Staff have no further comments or concerns.

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

Accessory Building Located in the Front Yard Variance

The applicant is proposing an accessory building (garden home) to be located in the front yard, whereas the By-law does not permit an accessory building to be located in the front yard. A large portion of the subject property is located in the TRCA's Regulated Area which contain a flood plain and erosion hazard. Due to the natural heritage features located on the subject property, the accessory building cannot be located in the rear yard. Consequently, the applicant is proposing to locate the accessory building in the front yard.

Staff are of the opinion that the proposed accessory building will not have a significant impact on neighbouring properties.

Reduced Side Yard Setback Variances

The applicant is requesting a south side yard setback of 1.6 metres for the single-detached dwelling, whereas, the By-law requires a minimum side yard setback of 3 metres. The applicant is also requesting a north side yard setback of 2.02 metres for the accessory building (garden home), whereas, the By-law requires a minimum side yard setback of 3 metres.

Engineering staff have reviewed the application and have no concern with the variances respecting drainage. Planning Staff are of the opinion the proposed side yard setbacks are minor in nature and are appropriate for the lot.

Reduction in Front Yard Setback

The applicant is requesting a reduced front yard setback of 3.6 metres to the accessory building (garden home), whereas, the By-law requires a minimum front yard setback of 7.5 metres. Due to the natural heritage features located on the subject lands, the proposed accessory building (garden home) cannot be moved further back on the property. Staff further note that the subject property is surrounded by properties with a mix of lot sizes, building types, and front yard setbacks.

Staff are of the opinion the front yard setback variance will not adversely impact the character of the neighbourhood.

EXTERNAL AGENCIES

Toronto and Region Conservation Authority (TRCA)

The subject lands are located within TRCA's Regulated Area and contain a Regulatory (Storm) flood plain and erosion hazard (meander belt) associated with a tributary of the Rouge River watershed. TRCA provided comments on November 28, 2023, indicating that they have no concerns subject to the conditions outlined in their letter (Appendix C).

PUBLIC INPUT SUMMARY

As of February 15, 2023, the City has received two letters expressing concerns with the requested variances and the potential impact for traffic congestion, excessive noise, grading and flooding concerns, and impacts to mature trees. 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 requested variances meet the four tests of the Planning Act and have no objection. 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:



Hailey Miller, Planner II, Planning and Urban Design Department

REVIEWED BY:



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

File Path: Amanda\File\ 23 143031 \Documents\District Team Comments Memo

**APPENDIX “A”
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/184/23**

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 plan(s) 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 City, and that the Secretary-Treasurer receive written confirmation from Tree Preservation Technician or Manager of By-law Enforcement & Regulatory Services Division that this condition has been fulfilled to his/her satisfaction, and that any detailed Siting, Lot Grading and Servicing Plan required as a condition of approval reflects the Tree Assessment and Preservation Plan;
4. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site in accordance with the City's Streetscape Manual, including street trees, in accordance with the City's Streetscape Manual (2009) as amended, and inspected by City Staff to the satisfaction of the Tree Preservation Technician or Manager of By-law Enforcement & Regulatory Services Division;
5. That tree replacements be provided and/or tree replacement fees be paid to the City 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 Tree Preservation Technician or Manager of By-law Enforcement & Regulatory Services Division;
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 “C” to this Staff Report, to the satisfaction of the TRCA, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the TRCA.

CONDITIONS PREPARED BY:



Hailey Miller, Planner II, Planning and Urban Design Department

Appendix B

File: 23.143031.000.00.MNV

Date: 02/16/24
MM/DD/YY

RESIDENCE

10197 Victoria Square Blvd
Markham, ON



No.	Revision	Date	By
1	Preliminary Design	2021-10-04	TM
2	Preliminary Design	2021-11-17	TM
3	TRCA Application	2022-08-11	EW
5	TRCA Revision 01	2023-05-12	EW

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Sunrise Group Residence

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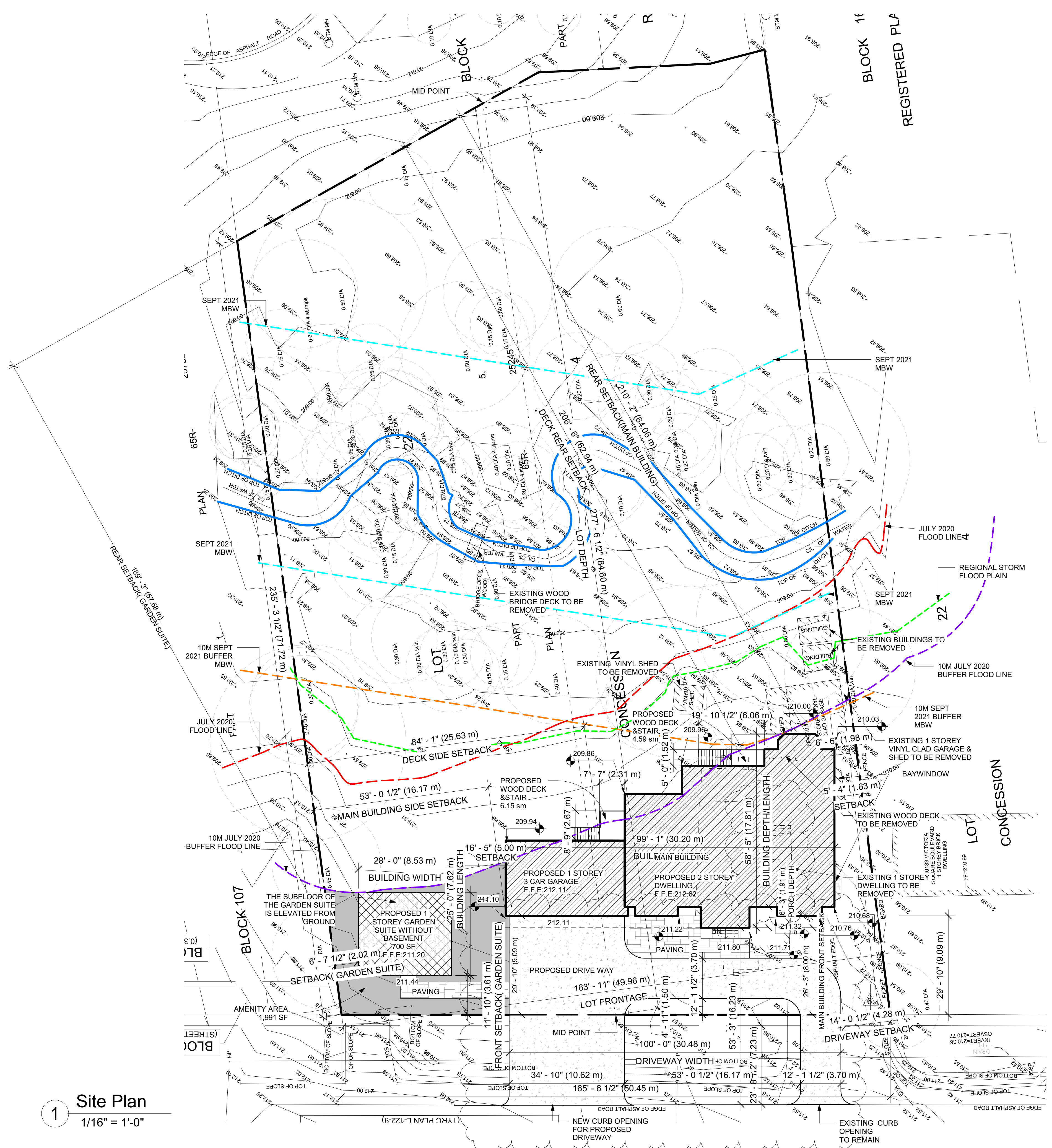
Project number T2021047

Drawn Scale

Checked Date

COVER SHEET

Drawing No. A000



SITE STATISTICS (Markham BY-LAW 304-87 as amended) (Main Building)

ZONING	RR1	LOT NO.	PART OF LOT 22
PLAN NO.	65M-3763	LOT AREA	44,903.70 SF (4,171.69SM)
LOT FRONTAGE	163'-11" (49.96 M)	LOT DEPTH	277'-6 1/2" (84.60 M)

DESCRIPTION	EXISTING	PROPOSED	REQUIRED	SECTION
MIN. LOT FRONTAGE	163'-11" (49.96 M)	163'-11" (49.96 M)	45 M	7.5 (a) (i)
MIN. LOT AREA	44,903.70 SF (4,171.69SM)	44,903.70 SF (4,171.69SM)	4,000 SM	
MAX. BUILDING HEIGHT		10.70 M	10.70 M	7.5 (c)
BUILDING LENGTH		17.81 M		
BUILDING WIDTH		30.20 M		
NO. OF STORIES	1	2		
DRIVEWAY WIDTH		30.48 M*	14.54 M	6.2.4.2; 6.2.4.5 (Bylaw 28-97)
FRONT YARD SOFT LANDSCAPING		171.64 SM 42.46%	40%	
BUILDING AREA		3,682 SF (342.05 SM)		
GROSS FLOOR AREA (EXCL. GARAGE)		5,585 SF (518.73 SM)		GARAGE AREA: 75.71 SM
LOT COVERAGE		3,682 SF (342.05 SM) 8.20%		
TOTAL LOT COVERAGE		4,382 SF (407.09 SM) 9.76%		

SETBACK	EXISTING	PROPOSED	REQUIRED	SECTION
FRONT (WEST)		8.0 M	7.5 M	
SIDE (NORTH)		16.17 M	3 M	7.5 (b) (i)
SIDE (SOUTH)		1.63 M*	3 M	
REAR (EAST)		64.06 M	7.5 M	

SITE STATISTICS (Markham BY-LAW 304-87 as amended) (Garden Suite)

ZONING	RR1	LOT NO.	PART OF LOT 22
PLAN NO.	65M-3763	LOT AREA	44,903.70 SF (4,171.69SM)
LOT FRONTAGE	163'-11" (49.96 M)	LOT DEPTH	277'-6 1/2" (84.60 M)

DESCRIPTION	EXISTING	PROPOSED	REQUIRED	SECTION
MIN. LOT FRONTAGE	163'-11" (49.96 M)	163'-11" (49.96 M)	45 M	7.5 (a) (i)
MIN. LOT AREA	44,903.70 SF (4,171.69SM)	44,903.70 SF (4,171.69SM)	4,000 SM	
MAX. BUILDING HEIGHT		4.27 M	10.70 M	7.5 (c)
BUILDING LENGTH		7.62 M		
BUILDING WIDTH		8.53 M		
NO. OF STORIES	1	1		
DRIVEWAY WIDTH		N/A		
BUILDING AREA		700 SF (65.03 SM)		
GROSS FLOOR AREA (EXCL. GARAGE)		700 SF (65.03 SM)		
LOT COVERAGE		700 SF (65.03 SM) 1.56%		
TOTAL LOT COVERAGE		4,393 SF (408.11 SM) 9.78%		

SETBACK	EXISTING	PROPOSED	REQUIRED	SECTION
FRONT (WEST)		3.61 M*	7.5 M	
SIDE (NORTH)		2.02 M*	3 M	7.5 (b) (i)
SIDE (SOUTH) TO MAIN BUILDING		5.0 M	3 M	
REAR (EAST)		57.68 M	7.5 M	

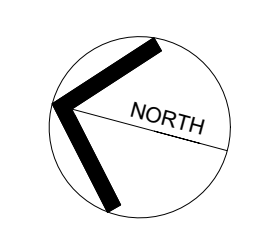
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1	TRCA Application	2022-08-11	EW
2	TRCA Revision 01	2023-05-12	EW
3	ZPR Application	2023-06-01	EW
4	ZPR Revision 01	2023-08-18	EW
5	TRCA Revision 02	2023-09-01	EW
6	ZPR Revision 02	2023-09-27	EW

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Sunrise Group
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Project number T2021047

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SITE PLAN &
 STATISTICS

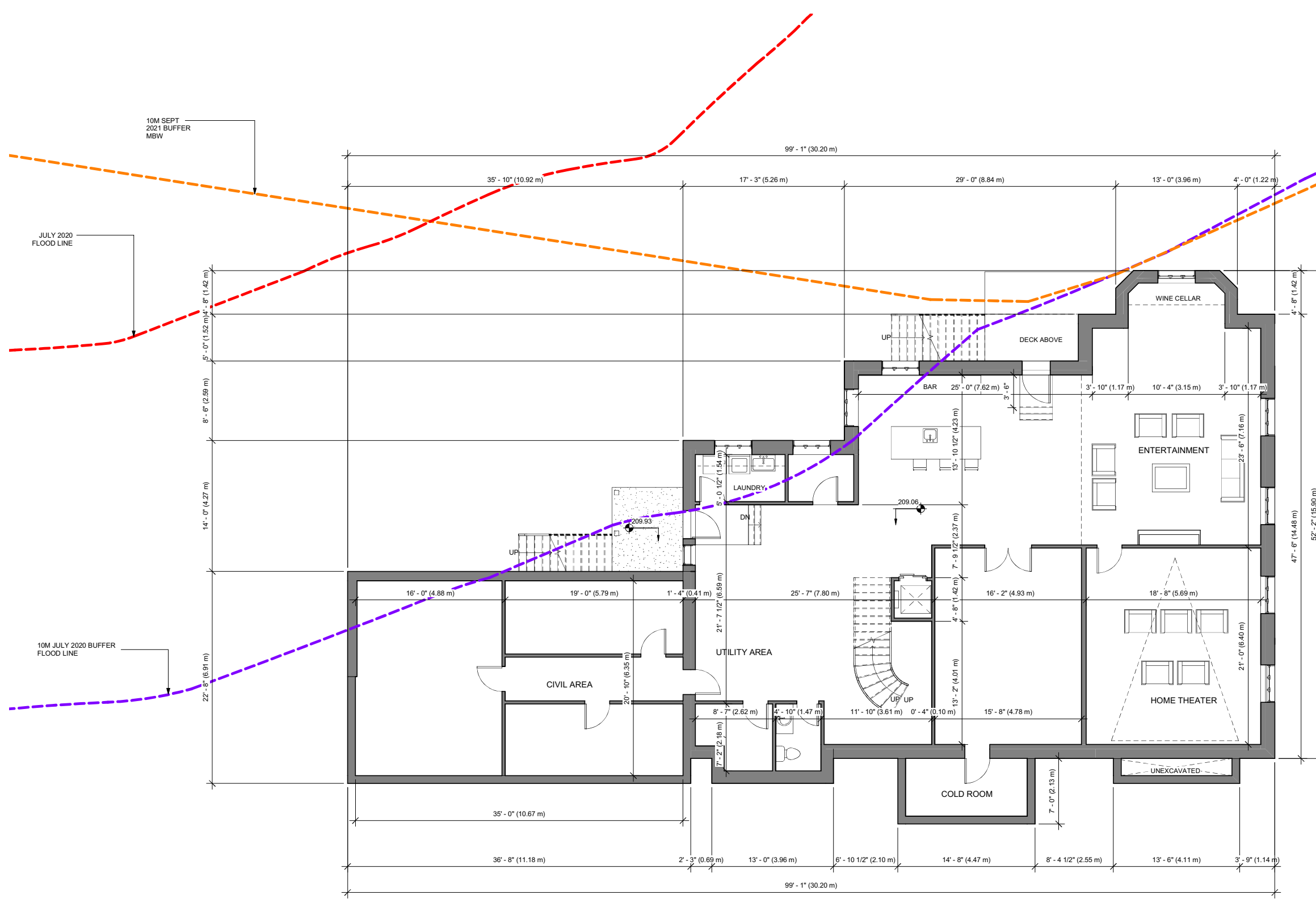
Drawing No. A001

1 Site Plan
 1/16" = 1'-0"

Appendix B

File: 23.143031.000.00.MNV

Date: 02/16/24
MM/DD/YY



No.	Revision	Date	By
1	Preliminary Design	2021-10-04	TM
2	Preliminary Design	2021-11-17	TM
3	TRCA Application	2022-08-11	EW
4	Client Review	2023-03-23	EW
5	TRCA Revision 01	2023-05-12	EW

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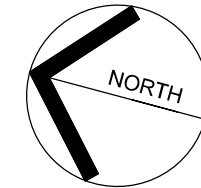
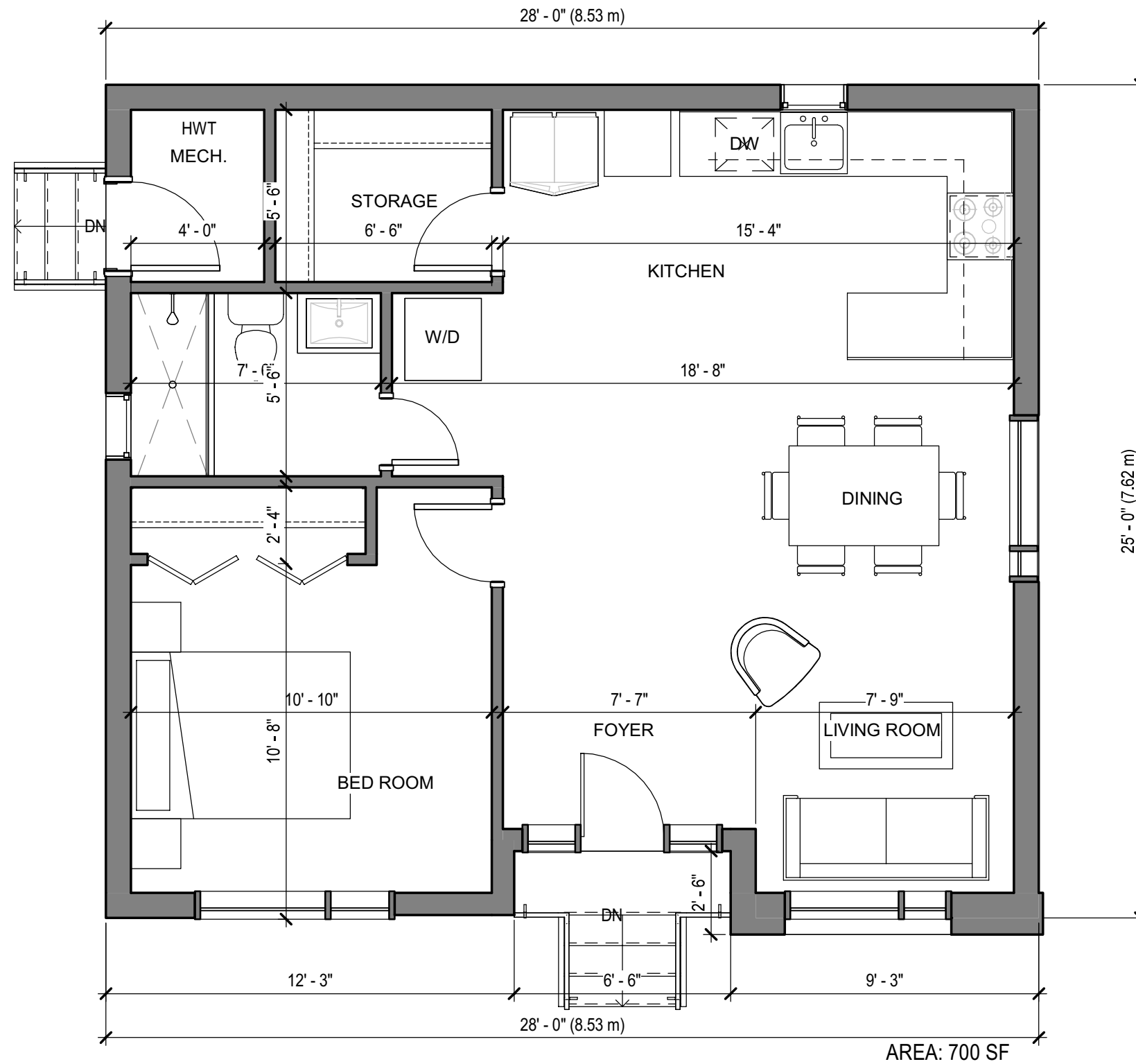
BASEMENT FLOOR PLAN

Drawing No. A101

Appendix B

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No.	Revision	Date	By
1	TRCA Application	2023-05-12	EW

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GARDEN SUITE
10197 Victoria Square Blvd
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Project number: 2021047
Scale: 1/4" = 1'-0"

Drawn: _____ Scale: _____

Checked: _____ Date: _____ Issue Date: _____

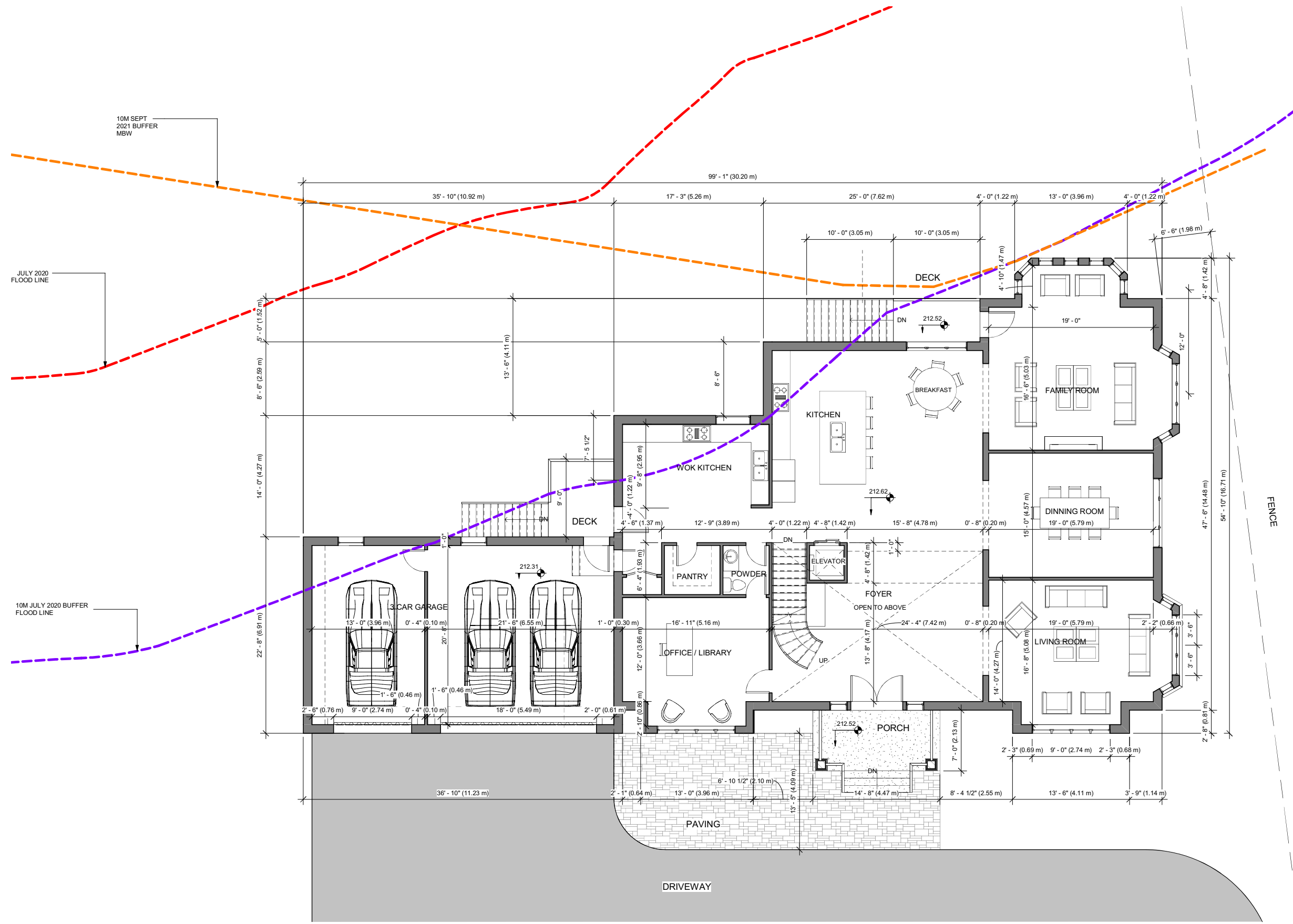
GROUND FLOOR PLAN

Drawing No. **A100**

Appendix B

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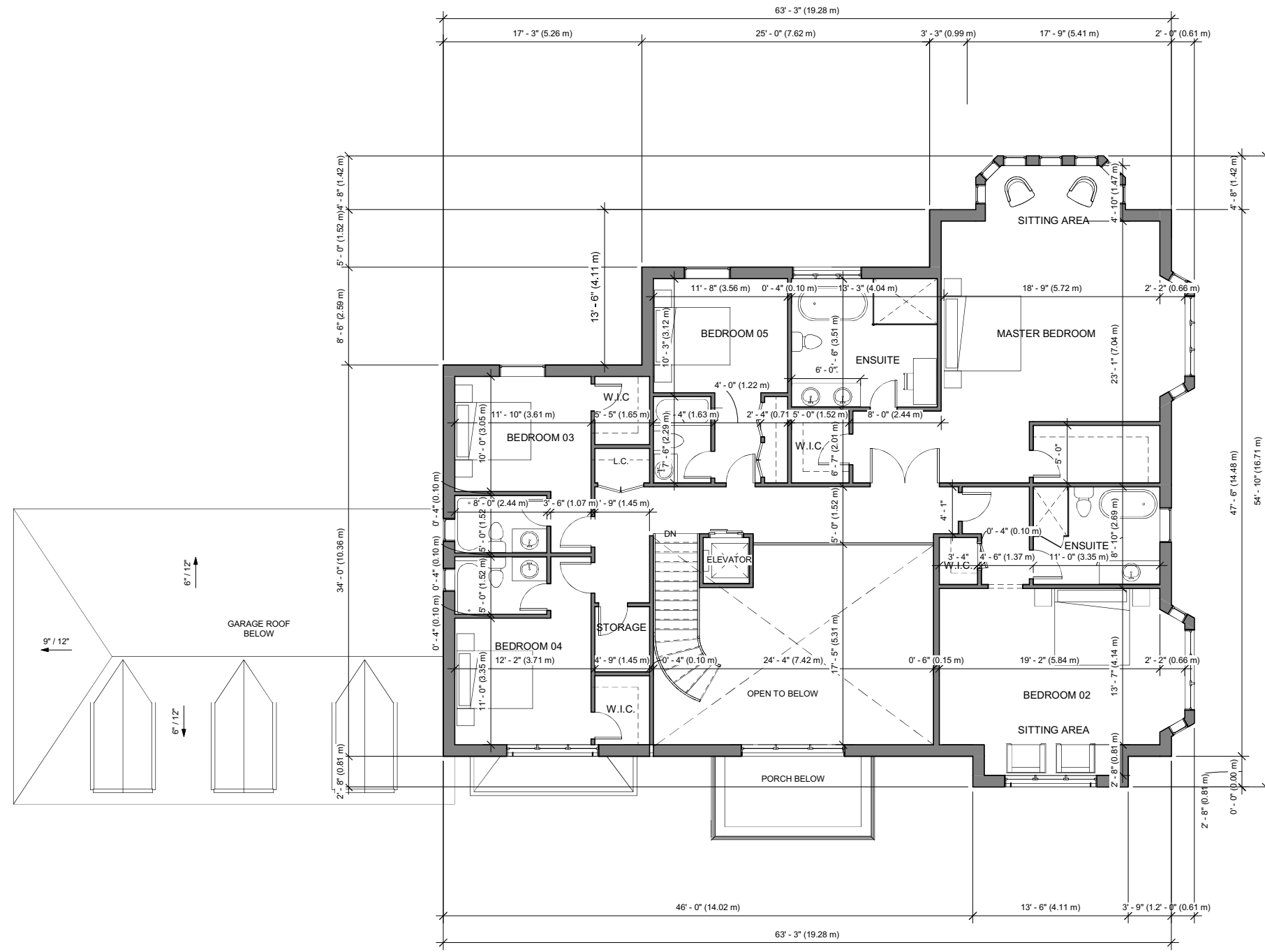
GROUND FLOOR PLAN

Drawing No. A102

Appendix B

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SECOND FLOOR PLAN

Drawing No. **A103**



No.	Revision	Date	By
1	Preliminary Design	2021-10-04	TM
2	Preliminary Design	2021-11-17	TM
3	TRCA Application	2022-08-11	EW
5	TRCA Revision 01	2023-05-12	EW
6	ZPR Application	2023-06-01	EW
7	ZPR Revision 01	2023-08-18	EW

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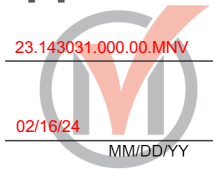
WEST ELEVATION (FRONT)

Drawing No. **A201**

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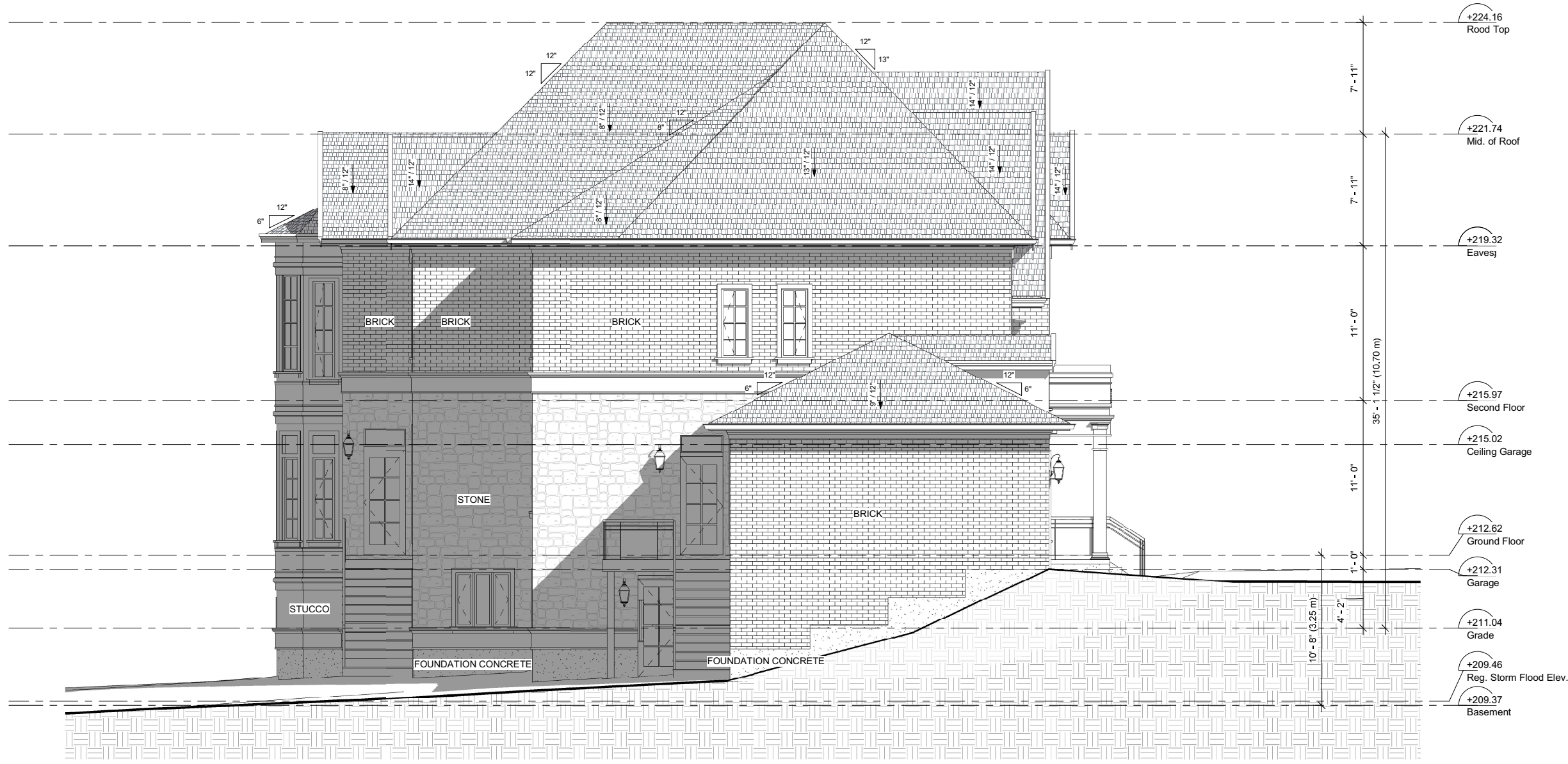
SOUTH ELEVATION

Drawing No. A202

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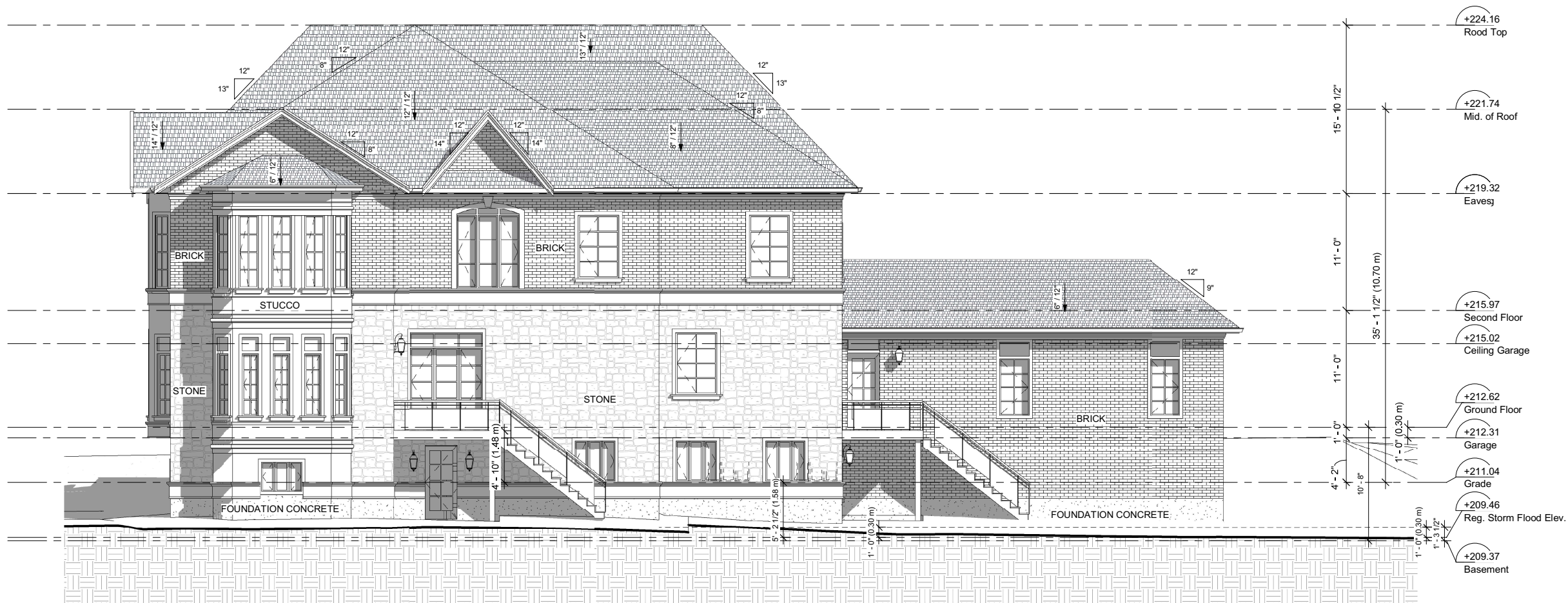
NORTH ELEVATION

Drawing No. A203

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5	TRCA Revision 01	2023-05-12	EW

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TAES Architects Inc.

98 Scarsdale Road
Toronto ON M3B 2R7
T: 416 800 3284
F: 416 800 3485

Sunrise Group Residence

10197 Victoria Square Blvd
Markham, Ontario

Project number T2021047

Drawn Scale 3/16" = 1'-0"

Checked Date

EAST ELEVATION (REAR)

Drawing No. A204

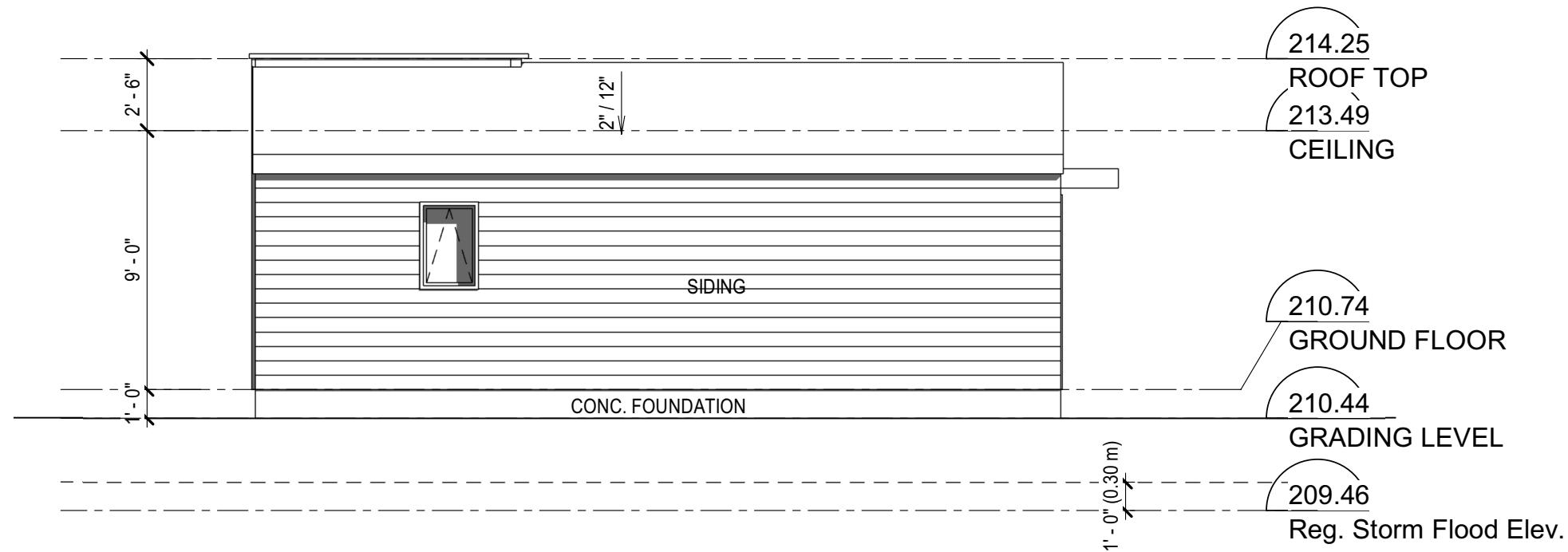
Appendix B

File: 23.143031.000.00.MNV

Date: 02/16/24
MM/DD/YY



1 WEST ELEVATION (FRONT)
A101a SCALE: 3/16" = 1'-0"



2 EAST ELEVATION (REAR)
A101a SCALE: 3/16" = 1'-0"

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No.	Revision	Date	By
1	TRCA Application	2023-05-12	EW
2	Revision 02	2024-01-23	EW

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GARDEN SUITE
10197 Victoria Square Blvd
Markham, Ontario

Project number: 2021047
Scale: 3/16" = 1'-0"

Drawn: _____ Date: _____ Issue Date: _____

Checked: _____ Date: _____ Issue Date: _____

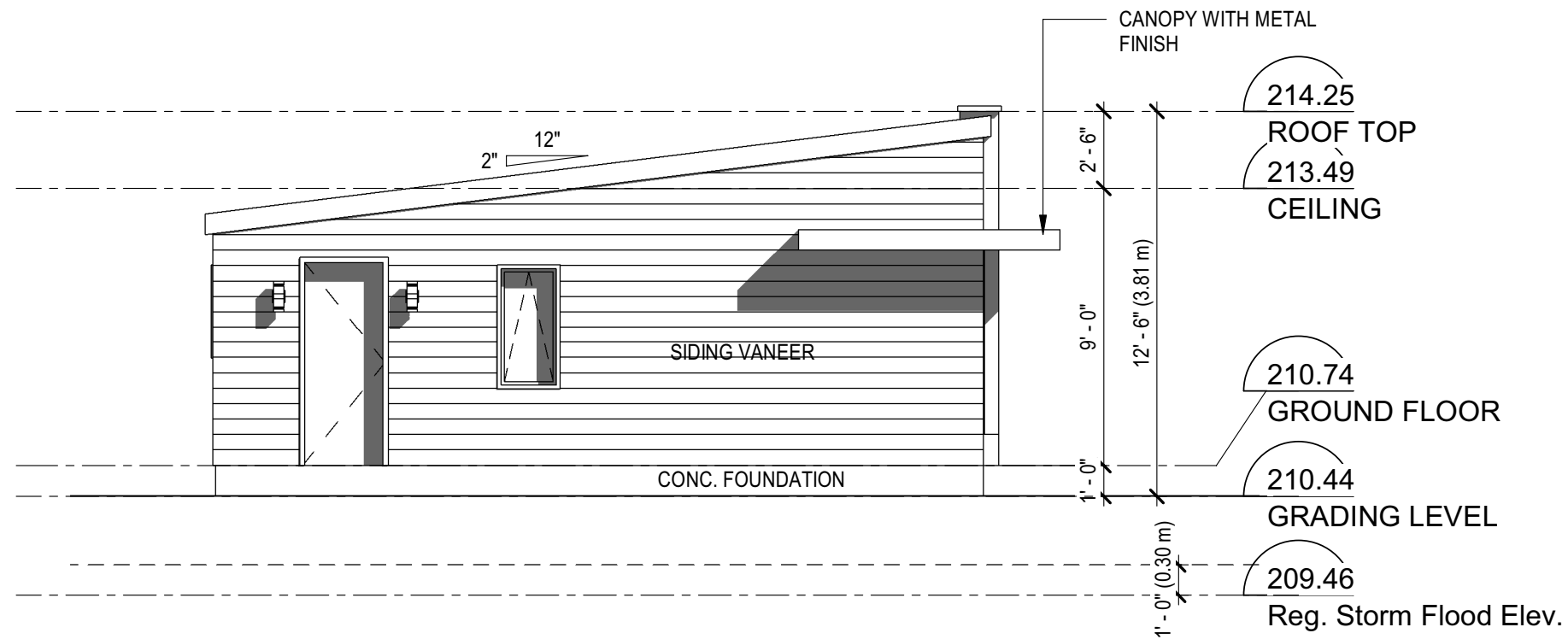
ELEVATIONS

Drawing No. **A101a**

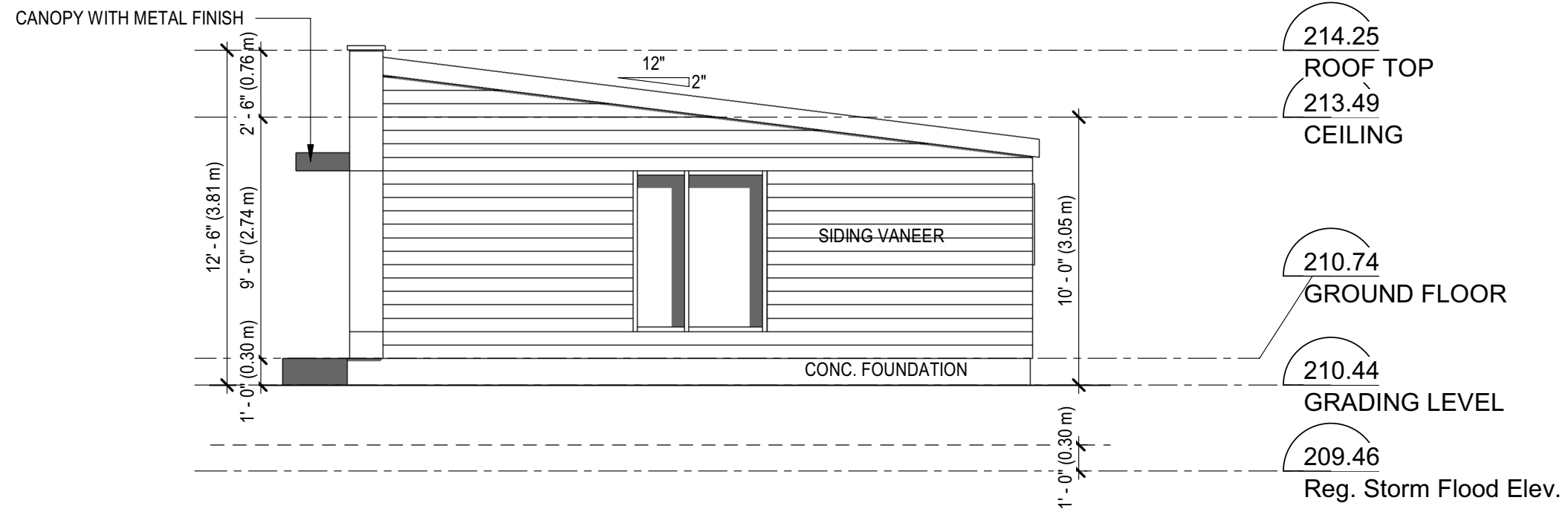
Appendix B

File: 23.143031.000.00.MNV

Date: 02/16/24
MM/DD/YY



1 SOUTH ELEVATION
A101b SCALE: 3/16" = 1'-0"



2 NORTH ELEVATION
A101b SCALE: 3/16" = 1'-0"

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No.	Revision	Date	By
1	TRCA Application	2023-05-12	EW
2	Revision 02	2024-01-23	EW

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GARDEN SUITE
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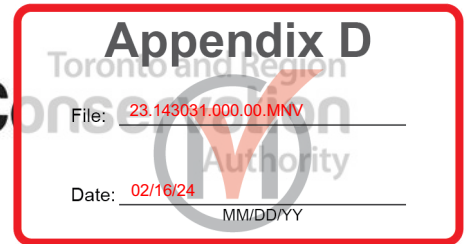
Project number 2021047
Scale 3/16" = 1'-0"

Drawn _____

Checked _____ Date _____ Issue Date _____

ELEVATIONS

Drawing No. A101b



November 28, 2023

CFN 68438.16
Ex Ref: 67942, 69471, 66380.02, 69471

Via E-Plan

Dear Hailey Miller,

**Re: Minor Variance Application – (Application A/184/23)
10197 Victoria Square Boulevard
Part Lot 22, Concession 4, Markham
(Woodbine Avenue and Elgin Mills Road East)
Applicant: Humphries Planning Group Inc. (Puneh Jamshidi)
Owner: Yongqin Li**

Toronto and Region Conservation Authority (TRCA) staff provide the following comments in response to the referenced Committee of Adjustment application, received by TRCA on November 14, 2023. We provide the following in accordance with TRCA’s commenting role under the Planning Act and regulatory role under the Conservation Authorities Act (CA Act). For additional information, please see [TRCA Role in the Plan Input and Review Process](#).

Purpose of the Application

TRCA staff understand that the purpose of this application is to request relief from the following requirements of By-law 2237, as amended, to facilitate the development of a proposed two-storey detached dwelling and a proposed one-storey accessory garden suite on the front yard:

- a) **By-law 304-87, Section 7.1:** an accessory garden suite dwelling in the front yard, whereas the by-law does not have a provision to permit an accessory building in the front yard;
- b) **By-law 304-87, Section 7.5:** a side yard setback of 1.6 metres (south) for the house and 2.02 metres (north) for the garden suite, whereas the by-law requires a minimum of 3 metres for the side yard setback; and
- c) **By-law 304-87, Section 7.5:** 3.6 metre front yard setback for the garden suite, whereas the by-law requires a minimum of 7.5 metres for the front yard setback.

Background and Preliminary Comments

TRCA had previously issued a permit (Permit No: C-230111) on February 14, 2023, to facilitate the demolition of the existing one-storey detached dwelling, detached garage, three sheds, and a watercourse crossing, in order to develop a two-storey detached dwelling with an attached garage, driveway and rear decks. Subsequently, TRCA received a permit application for a garden suit northwest of the subject property, which is currently under review.

During the review of the recently submitted permit application and current Minor Variance Application, TRCA staff noticed revisions to the original dwelling and associated amenities. These revisions are intended to accommodate the development of an additional deck, a larger driveway, and alterations to the proposed two-storey dwelling, reducing its size. As such, a revision to the above-noted approved permit is required. Please contact the undersigned to obtain the permit revision requirement checklist.

The proposed one-storey garden suite was not included in the approved permit drawings and is currently under review under a separate TRCA permit (Project Reference: 0782/23/MARK).

TRCA Permit Requirements

The subject land contains a Regulatory (Storm) Flood plain and erosion hazard (meander belt) associated with a tributary of the Rouge River watershed and its adjacent regulated allowance. Furthermore, the subject land contains an unevaluated wetland and is within its area of interference.

Due to the presence of natural hazards, the issuance of a TRCA permit pursuant to the Conservation Authorities Act is required prior to any development or site alteration within the regulated portion of the property.

Based on the review of materials circulated with this application, the proposed development is located within the regulated portions of the property. Thus, **a permit is required** from TRCA to facilitate the development associated with this application.

TRCA Plan Review Fee

By copy of this letter, the applicant is advised that TRCA have implemented a fee schedule for its planning application review services in accordance with applicable provincial regulations. This Minor Variance Application is subject to a fee of \$950 (Minor Variance – Residential - Standard). The applicant is responsible for fee payment within 60 days of the committee hearing date. Interest will be charged and accumulated beyond that time. Please contact the Planner noted below for an electronic invoice to facilitate payment.

Recommendations

Based on the comments provided, TRCA staff have **no objection** to the proposed variances as part of the Minor Variance Application A/184/23 subject to the **conditions** identified in Appendix A. However, the review of the submitted permit application and forthcoming permit revision application may result in the need for revisions to the proposed works on the site plan and grading plan and required variances.

Should you have any questions or comments, please contact the undersigned.

Regards,



Rameez Sadafal

Planner I – York East Review Team
Development Planning and Permits | Development and Engineering Services
Telephone: (437) 880-2163
Email: rameez.sadafal@trca.ca
/rs

Attached: Appendix A: TRCA Conditions of Approval

Appendix A: TRCA Conditions of Approval

#	TRCA Conditions
1	The applicant submits the TRCA plan review fee of \$950 within 60 days of the committee hearing date.
2	The applicant seeks and is issued a permit by TRCA pursuant to the <u>Conservation Authorities Act</u> to facilitate the development of the proposed garden suit.
3	The applicant seeks and is issued a permit revision by TRCA pursuant to the <u>Conservation Authorities Act</u> to accommodate revisions to Permit No: C-230111.