

# Memorandum to the City of Markham Committee of Adjustment

February 21, 2024

**File:** A/011/24  
**Address:** 31 Elm Lea Street, Markham  
**Applicant:** Tai Architect Inc (Ken Tai)  
**Owner:** Murtaza Ahmad  
**Hearing Date:** Wednesday March 6, 2024

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

The applicant is requesting relief from the following Residential One (R1) requirements of By-law 1229, as amended, as they relate to a proposed second-storey and rear addition to an existing one-storey detached residential dwelling, to permit:

- a) **By-law 1229, Amending By-law 99-90, Section 1.2(i):**  
a height of 10.35 metres, whereas the by-law permits a maximum height of 9.8 metres
- b) **By-law 1229, Amending By-law 99-90, Section 1.2(vi):**  
a maximum floor area ratio of 49.83 percent, whereas the by-law permits a maximum floor area ratio of 45 percent
- c) **By-law 1229, Section Table: 11.1:**  
a side yard setback of 4 feet, whereas the by-law requires a minimum of 6 feet for the two-storey portion

## BACKGROUND

### Property Description

The 613.16 m<sup>2</sup> (6,600 ft<sup>2</sup>) subject property is located on the south side of Elm Lea Street, west of Ninth Line and north of Highway 7 East. The property is located within an established residential neighbourhood comprised of a mix of one and two-storey detached dwellings. The surrounding area is undergoing a transition with newer dwellings being developed as infill developments.

There is an existing single storey detached dwelling on the property, which according to assessment records was constructed in 1975. Mature vegetation exists on the property including three large mature trees in the backyard.

### Proposal

The applicant is proposing to construct a 121.58 m<sup>2</sup> (1,308.67 ft<sup>2</sup>) second story addition to the existing single storey home. The proposal also includes an 18.39 m<sup>2</sup> (198 ft<sup>2</sup>) rear deck and a 15.12 m<sup>2</sup> (162.75 ft<sup>2</sup>) covered rear patio.

## **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”, which 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. The purpose of this development criteria is 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 the 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 in the preparation of the comments provided below.

### Zoning By-Law 1229

The subject property is zoned R1 under By-law 1229, as amended, which permits residential single detached dwellings. The proposed development does not comply with the minimum interior side yard setback requirement for the 2<sup>nd</sup> storey addition, which is permitted to be 4 ft on the first storey 6 ft on the 2<sup>nd</sup> storey.

### 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 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 and maximum net floor area ratio.

### **Zoning Preliminary Review (ZPR) Undertaken**

The applicant submitted an incomplete Zoning Preliminary Review which confirms some of variances required for the proposed development. 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 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.

### **Increase in Maximum Floor Area Ratio**

The applicant is requesting a floor area ratio of 49.83 percent, whereas the By-law permits a maximum floor area ratio of 45 percent. The variance will facilitate the construction of a 121.58 m<sup>2</sup> (1,308.67 ft<sup>2</sup>) second storey addition to the existing 183.96 m<sup>2</sup> (1,980.10 ft<sup>2</sup>) single storey detached dwelling. This will result in a floor area of 305.54 m<sup>2</sup> (3,288.77 ft<sup>2</sup>), whereas the By-law permits a dwelling with a maximum floor area of 275.92 m<sup>2</sup> (2,970 ft<sup>2</sup>). This is an increase of approximately 29.62 m<sup>2</sup> (318.83 ft<sup>2</sup>).

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.

The building layout meets most other zoning provisions (such as building depth and lot coverage) that establish the prescribed building envelope, which ensures the proposed dwelling will be in keeping with the intended scale of residential infill developments for the neighbourhood. The proposed gross floor area is also consistent with the recent infill development trend, including several nearby infill homes that have obtained variance approval for similar increase in floor area ratio ranging between 49.83 percent and 51.9 percent. Considering that the footprint of the building has not changed, and that the proposed gross floor area is consistent with the recent infill development trend, Staff are of the opinion that the requested variance is appropriate and that the increased floor area will not negatively impact the character of the neighborhood.

### **Increase in Maximum Building Height**

The applicant is requesting a maximum building height of 10.35 m (33.96 ft), whereas the By-law permits a maximum building height of 9.8 m (32.15 ft). This is an increase of 0.55 m (1.80 ft) to accommodate the second storey addition. The requested variance is consistent with newer infill homes in the area and staff have no objection to approval of this variance.

### **Reduced Side Yard Setback**

The applicant is requesting a minimum side yard setback of 4 ft (1.22 m) for the two-storey portion of the dwelling, whereas the by-law requires a minimum side yard setback of 6 ft (1.83 m) for the two-storey portion of the dwelling.

The requested variance only applies to the two-storey portion of the building which is an addition above the existing dwelling. The existing ground floor is setback 4 feet, and complies with the minimum side yard setback requirement in the by-law. Staff do not anticipate any adverse impacts to the abutting properties from this requested variance and are of the opinion that it meets the four tests under the Planning Act.

## **PUBLIC INPUT SUMMARY**

No written submissions were received as of February 22, 2024. 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**

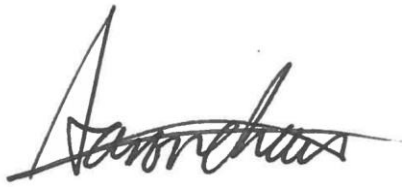
Planning Staff have reviewed the application with respect to Section 45(1) of The Planning Act, R.S.O. 1990, c. P.13, as amended, and are of the opinion that the variance request

meets the four tests of the Planning Act and have no 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 refer to Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:

A handwritten signature in black ink, appearing to read "Aaron Chau". The signature is fluid and cursive, with a large initial "A".

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Aaron Chau, Planner I, East District

REVIEWED BY:

A handwritten signature in black ink, appearing to read "Stephen Corr". The signature is cursive and includes a large initial "S".

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Stephen Corr, Senior Planner East District

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/011/24**

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 received by the City of Markham on March 13, 2023, and that the Secretary-Treasurer receive written confirmation from the Supervisor of the Committee of Adjustment or designate that this condition has been fulfilled to their 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;

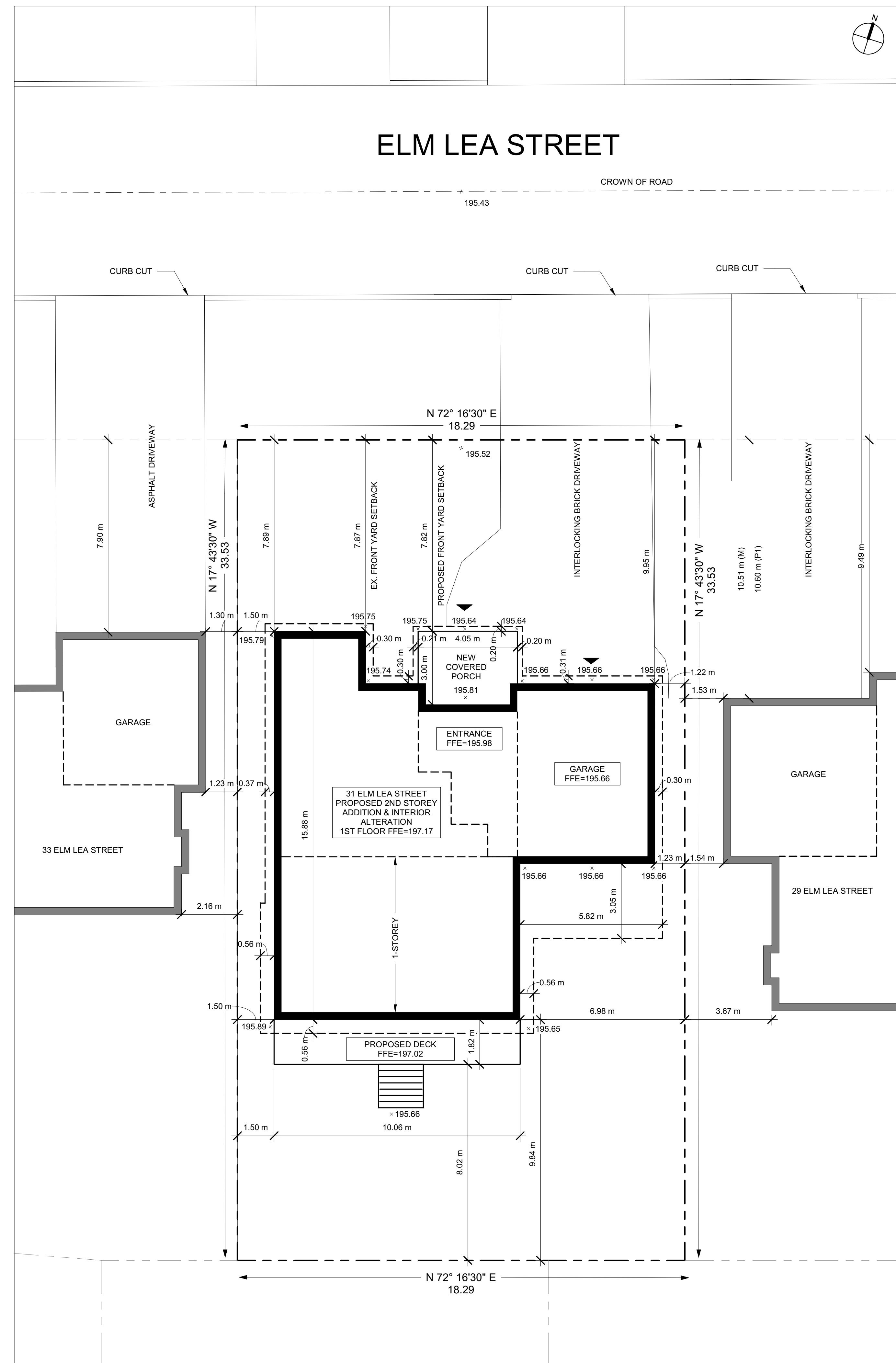
CONDITIONS PREPARED BY:

A handwritten signature in black ink, appearing to read 'Aaron Chau', written over a horizontal line.

Aaron Chau, Planner I, East District



1 KEY PLAN  
12" = 1'-0"



2 SITE PLAN  
1:100

SITE STATISTIC			
	LOT AREA:	6,600 sq.ft.	(613.16 m <sup>2</sup> )
ZONING DEVELOPMENT STANDARDS	PERMITTED	EXISTING	Proposed
Minimum Lot Frontage	60'-0"	18.29 m [60'-0"]	18.29 m [60'-0"]
Minimum Lot Area	6,600 sq.ft.	613.16 m <sup>2</sup> [6,600 sq.ft.]	613.16 m <sup>2</sup> [6,600 sq.ft.]
Minimum Front Yard Setback	25'-0"	7.87 m [25'-10"]	7.82 m [25'-8"]
Minimum Side Yard Setback			
One Storey (EAST)	4'-0"	1.22 m [4'-0"]	1.22 m [4'-0"]
Two Storey (EAST)	6'-0"	-	1.83 m [6'-0"]
One Storey (WEST)	4'-0"	1.50 m [4'-10"]	1.50 m [4'-10"]
Two Storey (WEST)	6'-0"	-	1.50 m [4'-10"]
Minimum Rear Yard Setback	25'-0"	9.84 m [32'-4 1/2"]	9.84 m [32'-4 1/2"]
Maximum Building Height	9.80 m	5.20 m [17'-1"]	10.35 m [33'-11 1/2"]
Maximum Building Depth	16.80 m	16.67 m [54'-8 1/2"]	15.87 m [52'-1"]
Maximum Lot Coverage	35.00%	32.92%	34.78%
	2,310 sq.ft.	201.63 m <sup>2</sup> [2172.54 sq.ft.]	213.23 m <sup>2</sup> [2295.23 sq.ft.]
<b>PERMITTED MAX FLOOR AREA RATIO = NET LOT AREA x 45.0% = (6,600 SQ.FT + (6,600 - 6,600 SQ.FT)/2) x 45.0% = 2,970 SQ.FT</b>			
<b>NET LOT AREA</b>	<b>6600 sq.ft. [613.16 m<sup>2</sup>]</b>		
<b>BUILDING AREAS</b>			
1st Floor & Garage G.F.A.	1980.10 sq.ft. [183.96 m <sup>2</sup> ]		
2nd Floor G.F.A.	1308.67 sq.ft. [121.58 m <sup>2</sup> ]		
<b>TOTAL G.F.A.</b>	<b>3288.77 sq.ft. [305.54 m<sup>2</sup>]</b>		
<b>PROPOSED FLOOR AREA RATIO:</b>	<b>49.83 % [3288.77 sq.ft.] [305.54m<sup>2</sup>]</b>		

No.	Description	Date	By

NEW 2-STORY ADDITION & INTERIOR ALTERATION:  
**31 ELM LEA STREET**  
31 ELM LEA STREET, MARKHAM, ON.

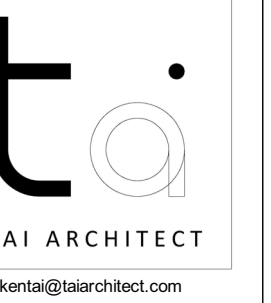


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**ZONING REVIEW**

CONTRACTOR SHALL CHECK DIMENSIONS  
Drawn by **JP, WF**  
Date **2023-06-12**  
Scale **As indicated**  
Project Number **22015**  
DRAWING NAME  
**SITE PLAN & STATISTICS**  
SHEET NUMBER  
**A0.1**

NEW 2-STORY ADDITION & INTERIOR ALTERATION:  
**31 ELM LEA STREET**  
31 ELM LEA STREET, MARKHAM, ON.



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**ZONING REVIEW**

CONTRACTOR SHALL CHECK DIMENSIONS

Drawn by **KT, JP**

Date **2023-06-12**

Scale **As indicated**

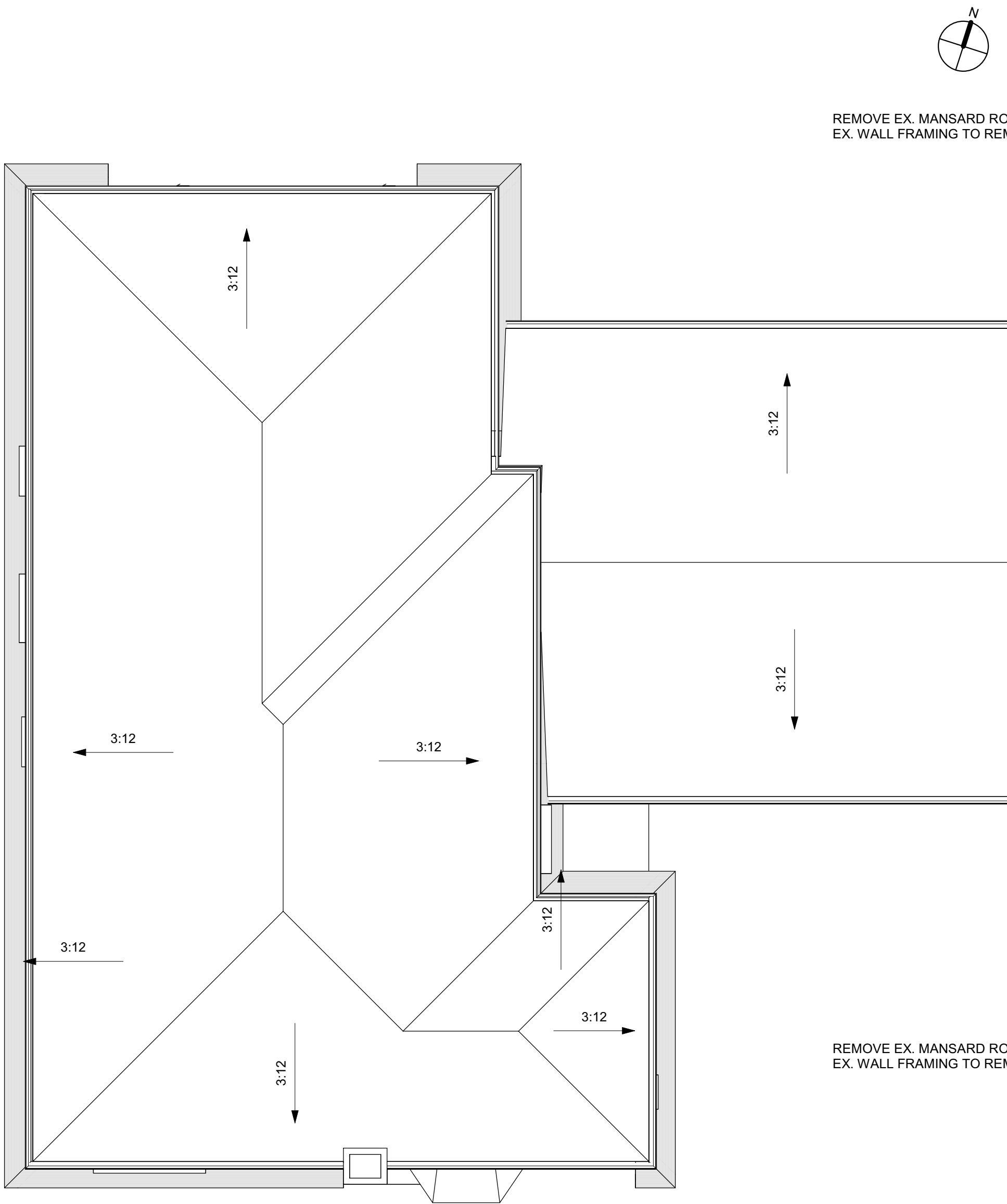
Project Number **22015**

DRAWING NAME

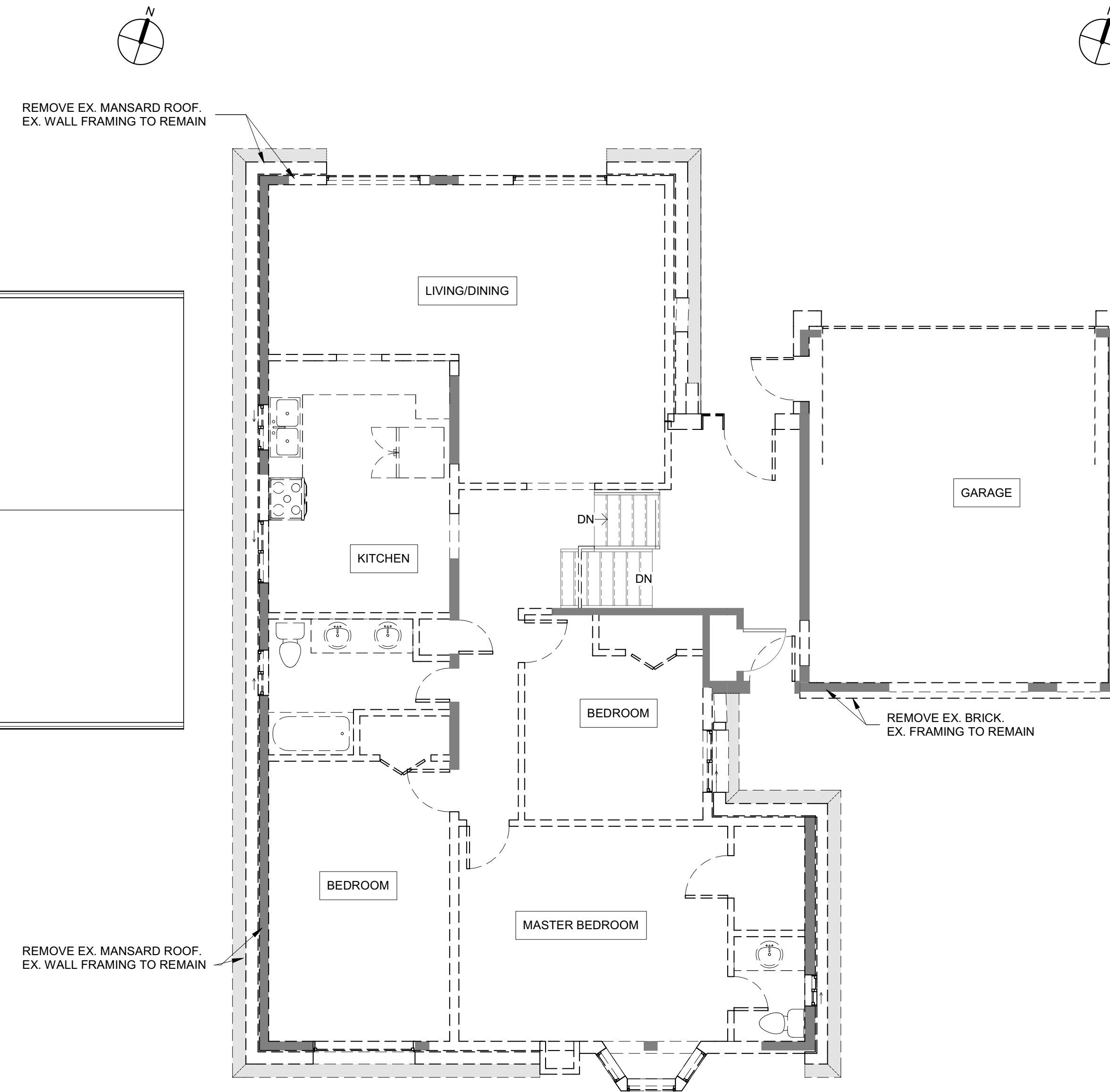
**EXISTING FLOOR PLANS**

SHEET NUMBER

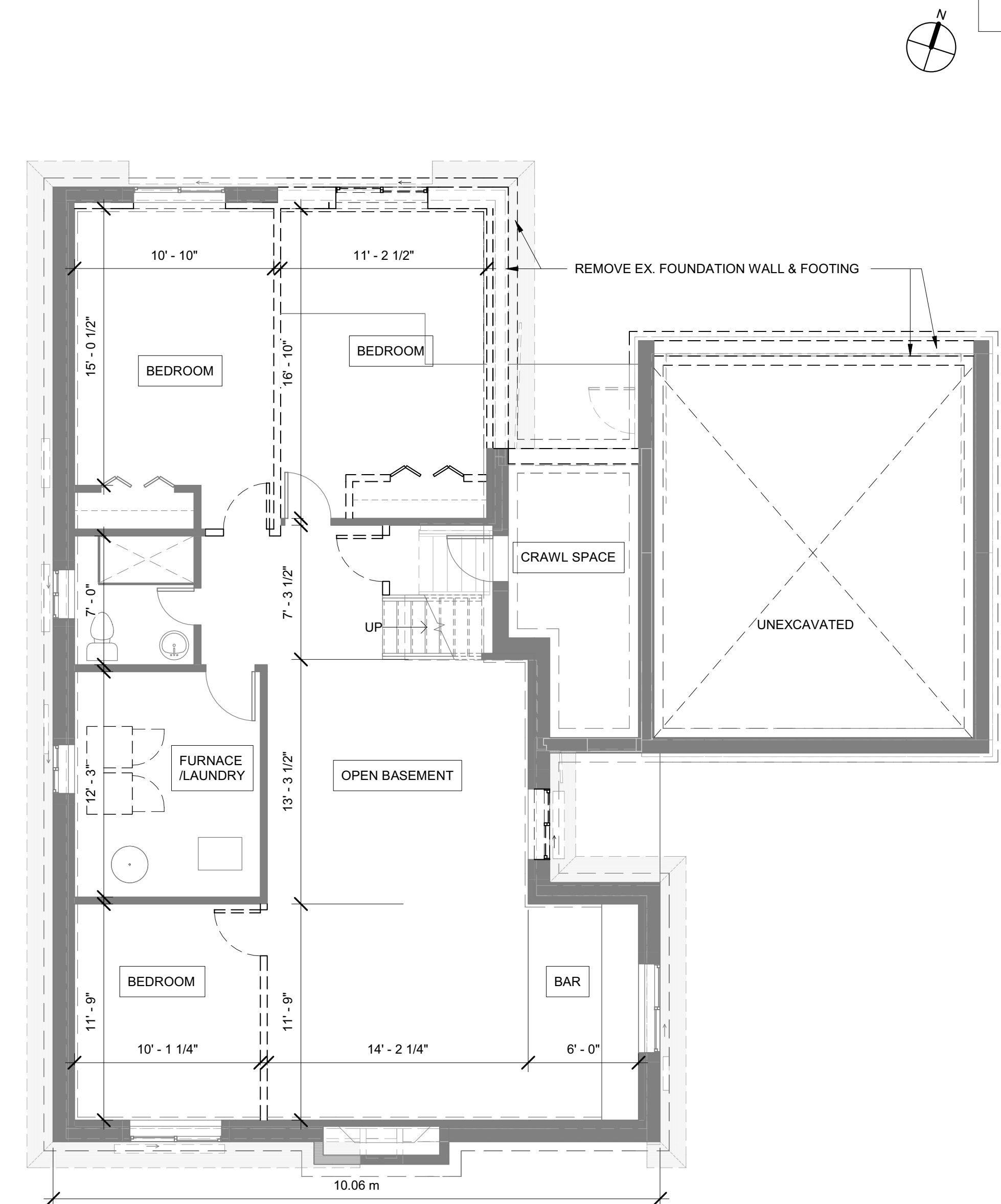
**A1.0**



3 EXISTING ROOF PLAN  
3/16" = 1'-0"



2 EXISTING 1ST FLOOR PLAN  
3/16" = 1'-0"

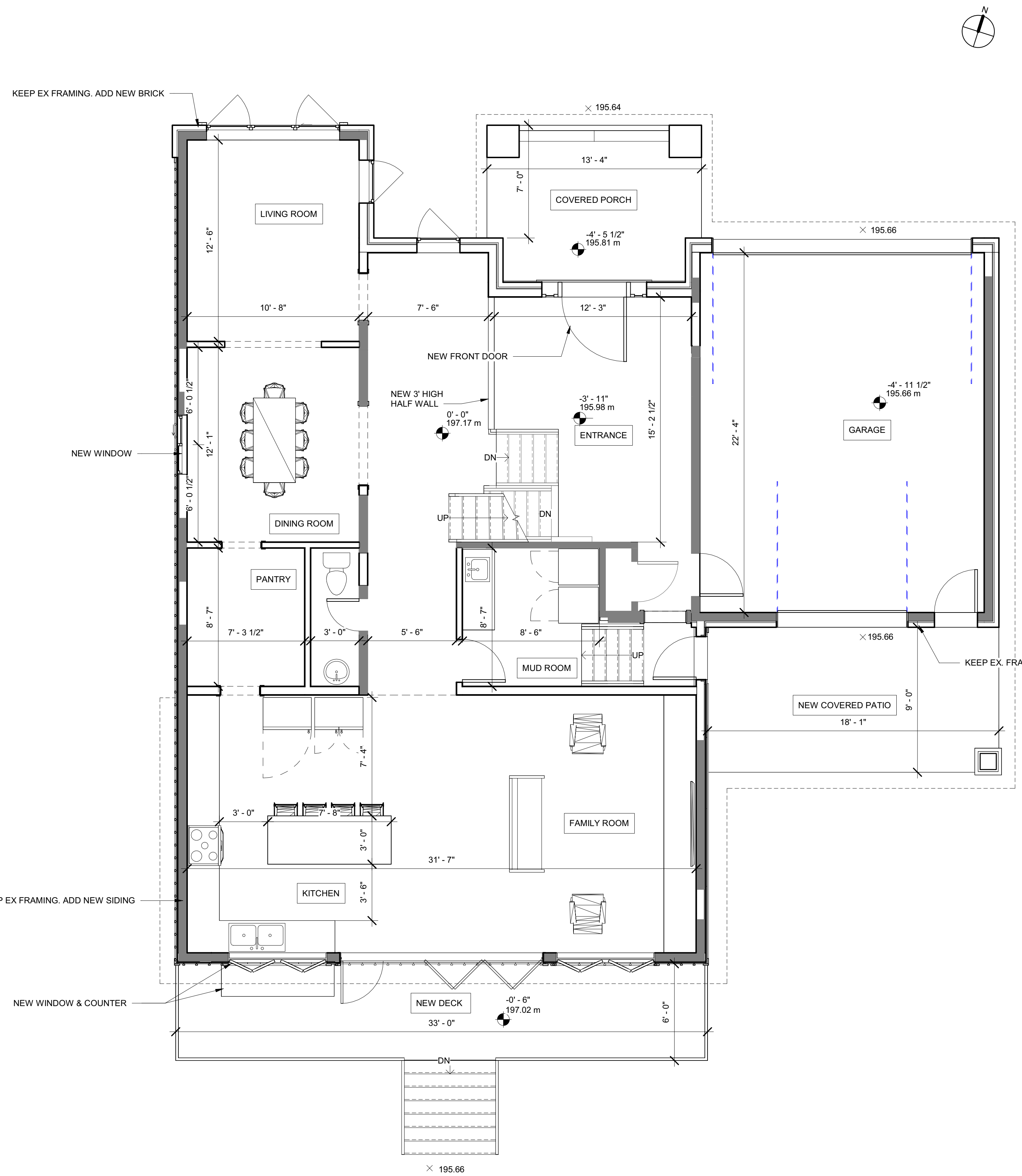


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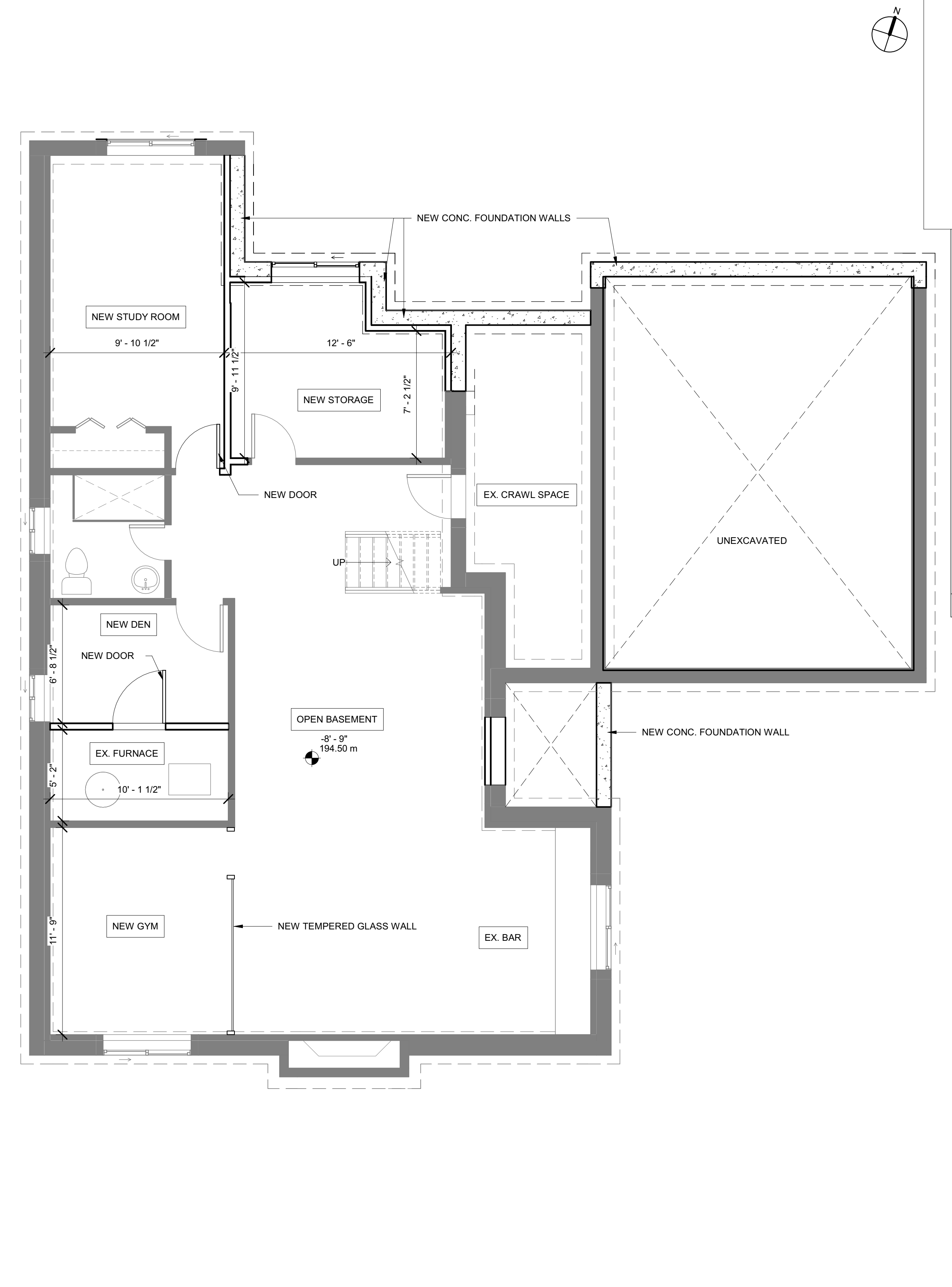
**LEGEND:**

	EX. WALL TO REMAIN
	TO BE DEMOLISHED

No.	Description	Date	By



1 NEW 1ST FLOOR PLAN  
1/4" = 1'-0"



2 NEW BASEMENT FLOOR PLAN  
1/4" = 1'-0"

No.	Description	Date	By

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NEW 2-STORY ADDITION & INTERIOR ALTERATION:  
**31 ELM LEA STREET**  
 31 ELM LEA STREET, MARKHAM, ON.



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**ZONING REVIEW**

CONTRACTOR SHALL CHECK DIMENSIONS

Drawn by JP

Date 2023-06-12

Scale 1/4" = 1'-0"

Project Number 22015

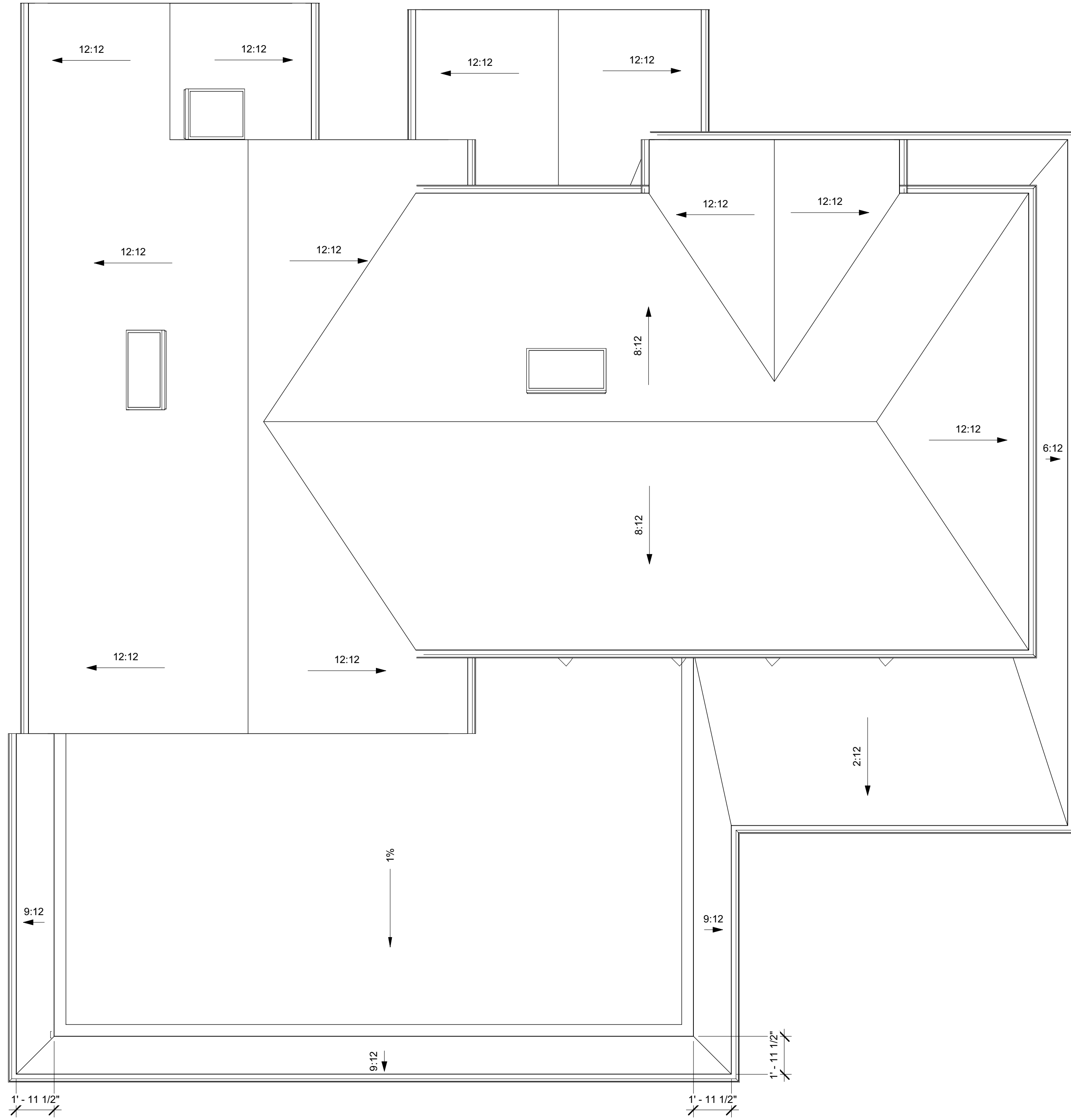
DRAWING NAME

**NEW 2ND & ROOF FLOOR PLAN**

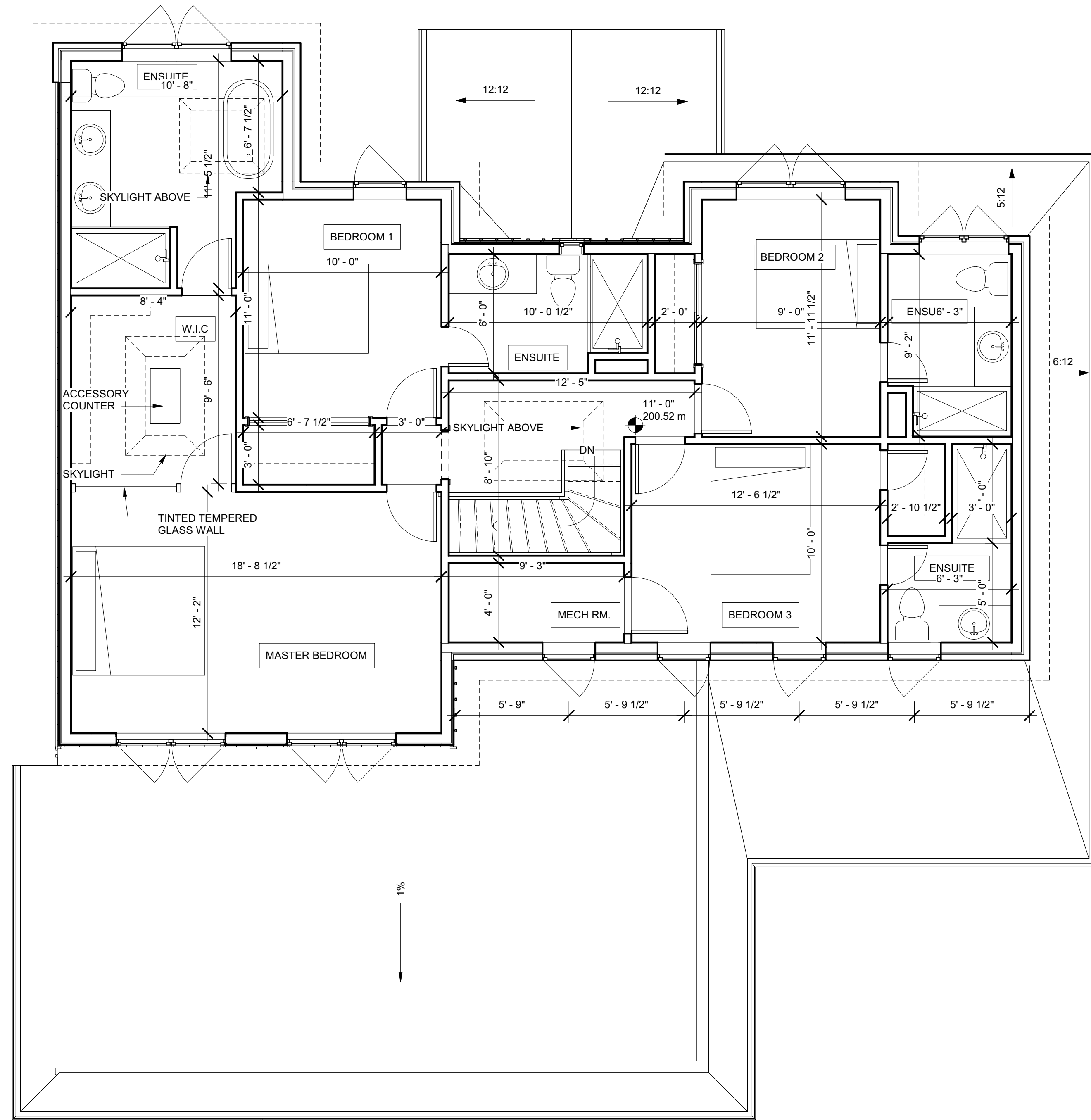
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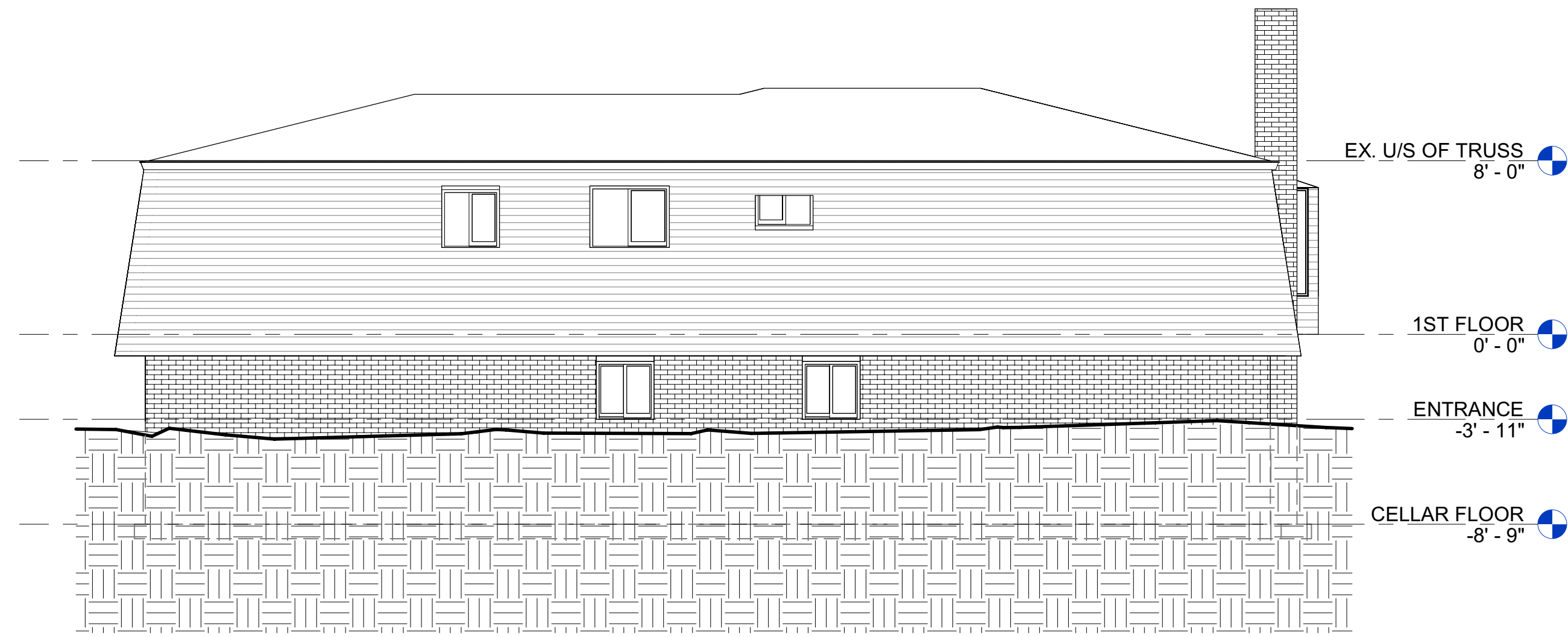
No.	Description	Date	By



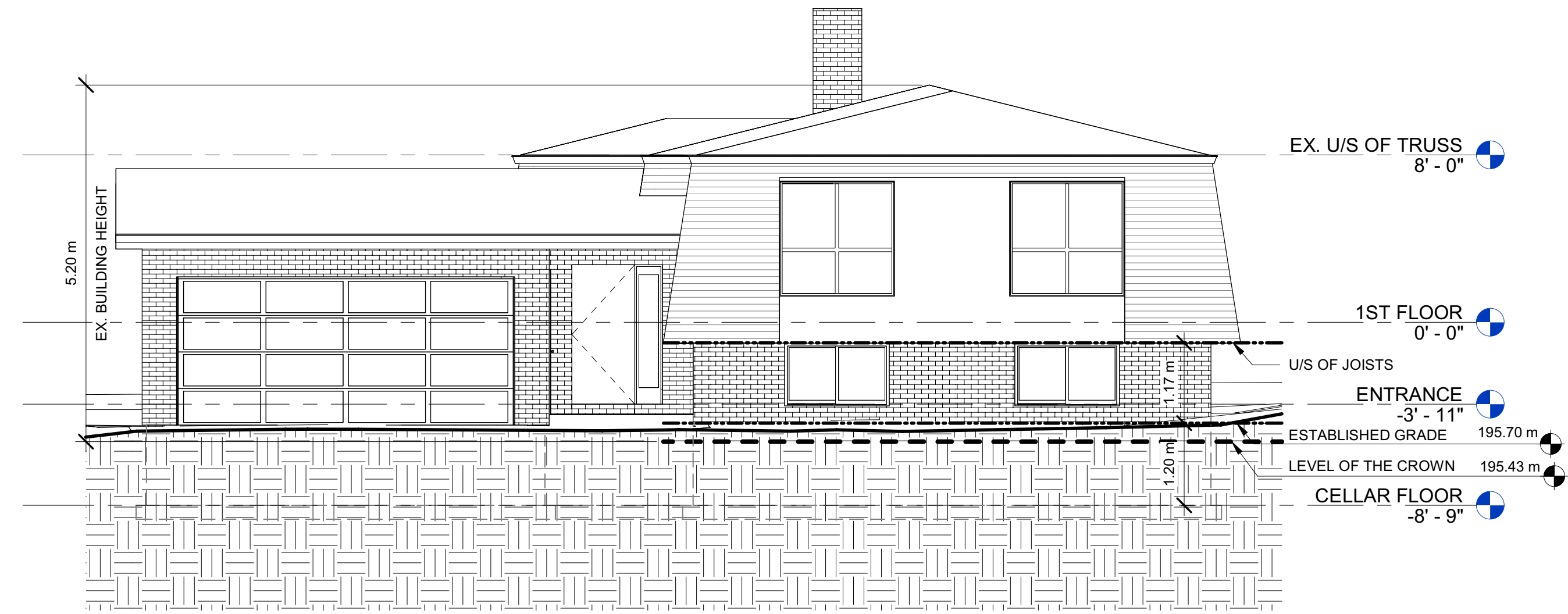
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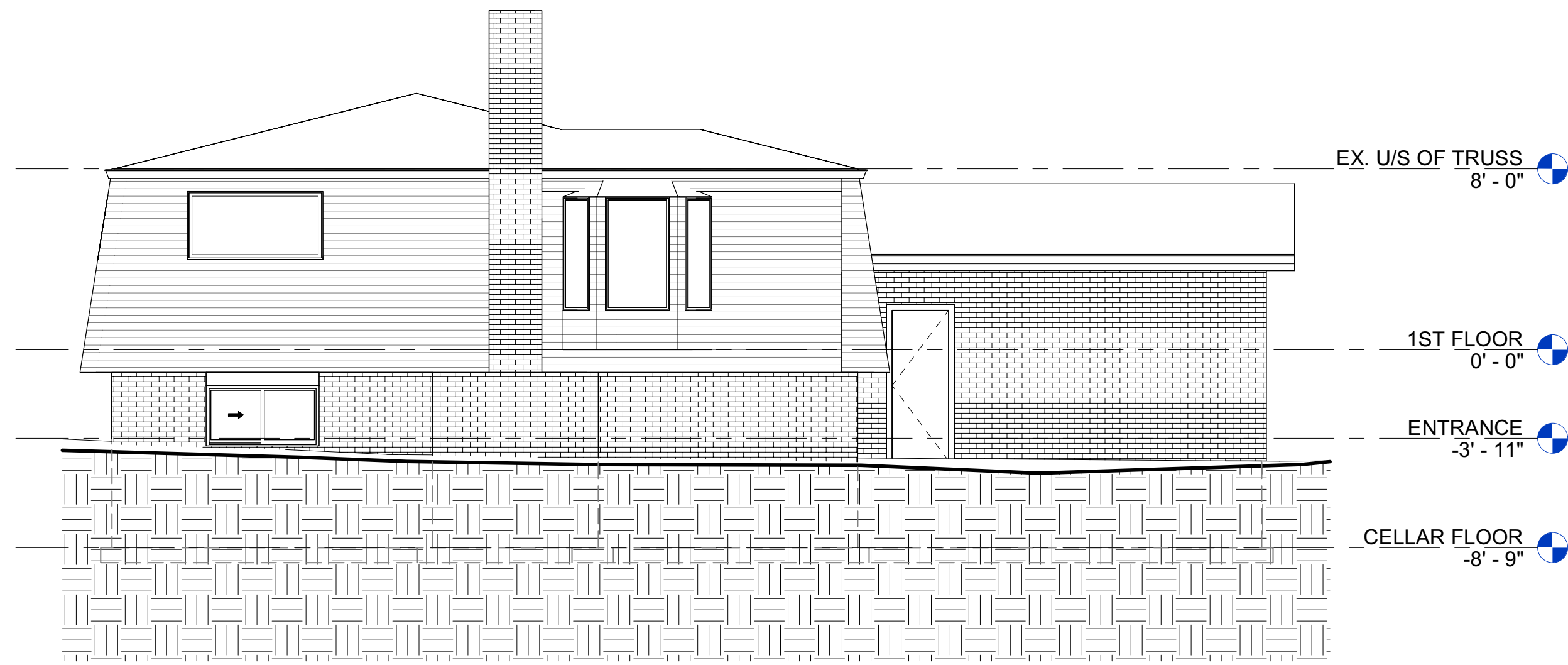
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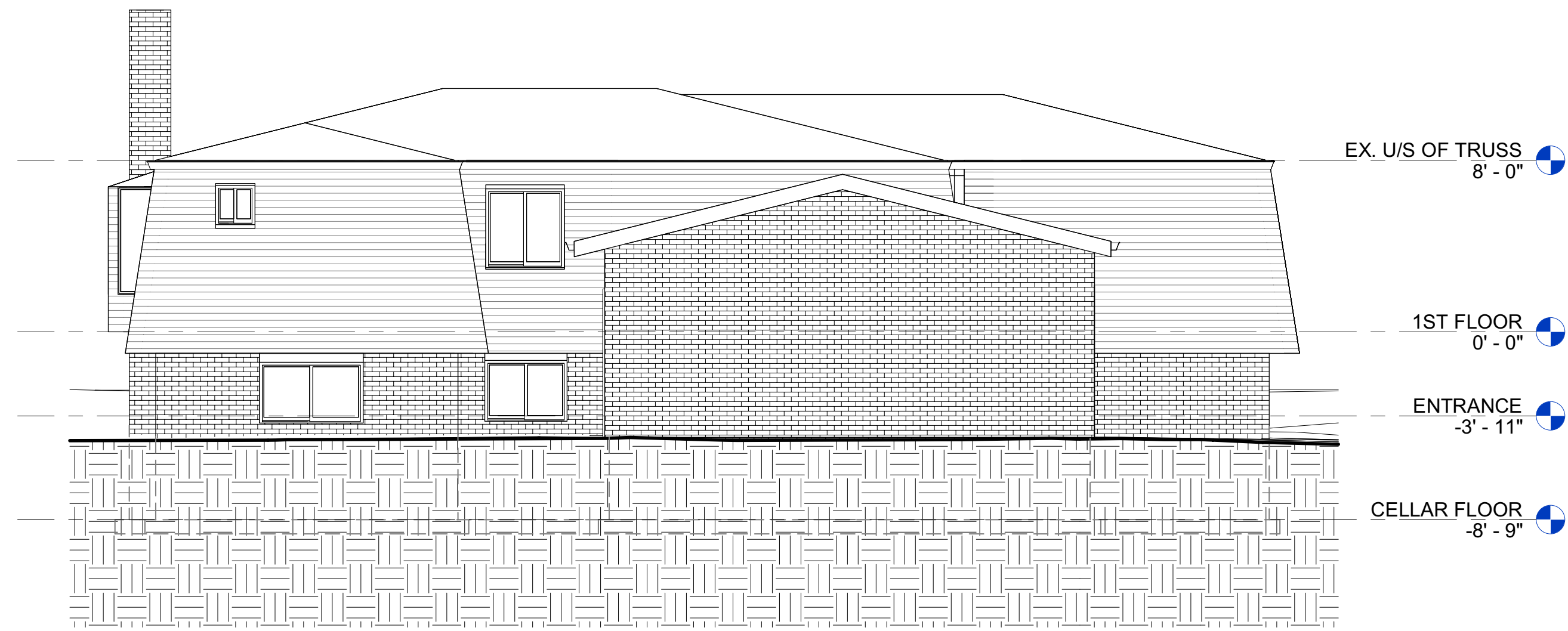
② EXISTING WEST ELEVATION  
3/16" = 1'-0"



① EXISTING NORTH ELEVATION (FRONT)  
3/16" = 1'-0"



③ EXISTING SOUTH ELEVATION  
3/16" = 1'-0"



④ EXISTING EAST ELEVATION  
3/16" = 1'-0"

No.	Description	Date	By

NEW 2-STORY ADDITION & INTERIOR ALTERATION:  
**31 ELM LEA STREET**  
31 ELM LEA STREET, MARKHAM, ON.



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**ZONING REVIEW**

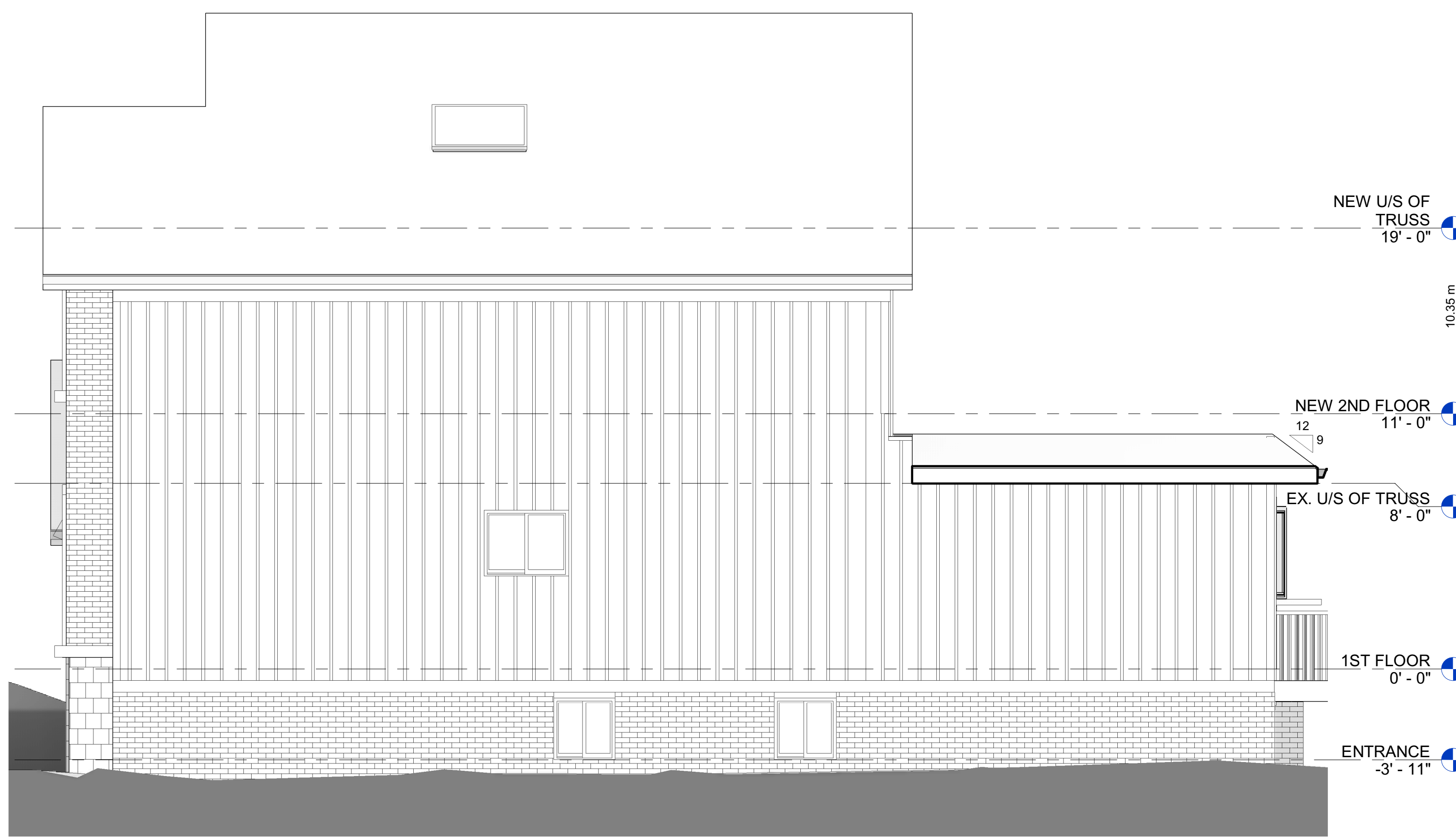
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Drawn by: **KT, JP**  
Date: **2023-06-12**  
Scale: **3/16" = 1'-0"**  
Project Number: **22015**

DRAWING NAME:  
**EXISTING ELEVATIONS**

SHEET NUMBER:  
**A2.0**

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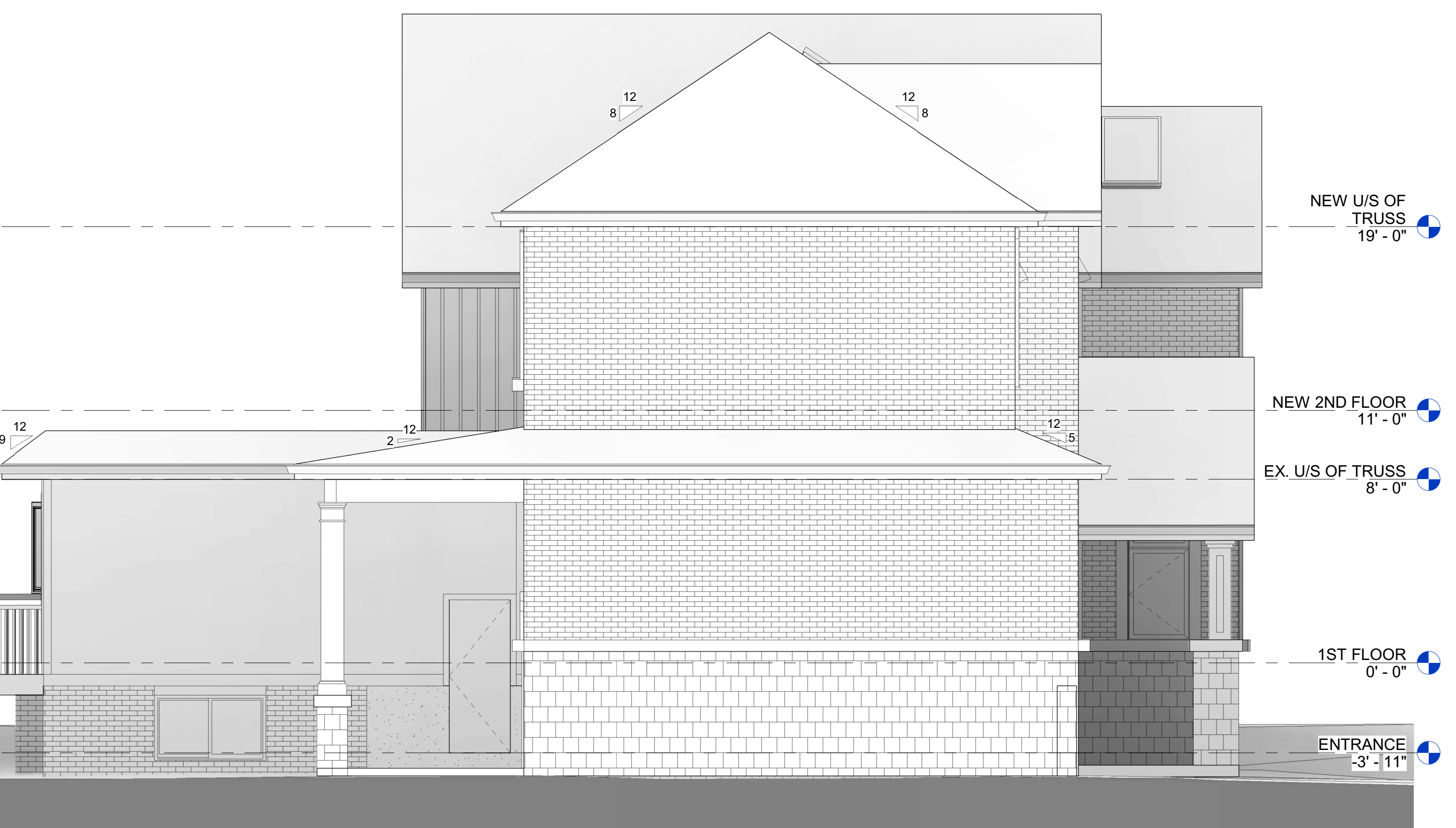
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1 NORTH ELEVATION (FRONT)  
1/4" = 1'-0"



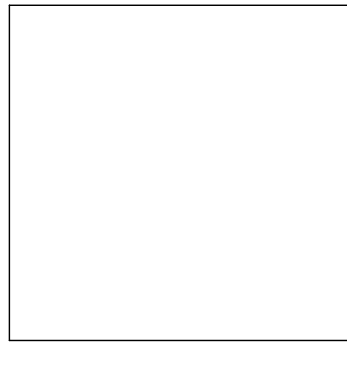
3 SOUTH ELEVATION  
1/4" = 1'-0"



4 EAST ELEVATION  
1/4" = 1'-0"

No.	Description	Date	By

NEW 2-STORY ADDITION & INTERIOR ALTERATION:  
**31 ELM LEA STREET**  
 31 ELM LEA STREET, MARKHAM, ON.



**ZONING REVIEW**

CONTRACTOR SHALL CHECK DIMENSIONS  
 Drawn by: JP  
 Date: 2023-06-12  
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 Project Number: 22015

DRAWING NAME:  
**PROPOSED ELEVATIONS**  
 SHEET NUMBER:  
**A2.1**

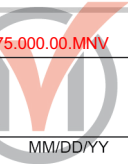
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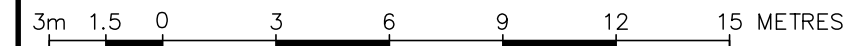
**SURVEYOR'S REAL PROPERTY REPORT**  
 PART 1 - PLAN OF SURVEY OF  
**LOT 76**  
**REGISTERED PLAN M-1488**  
**CITY OF MARKHAM**  
**REGIONAL MUNICIPALITY OF YORK**

File: 24190076.000.00.MNV

Date: 03/01/24



SCALE 1:200



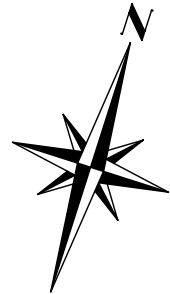
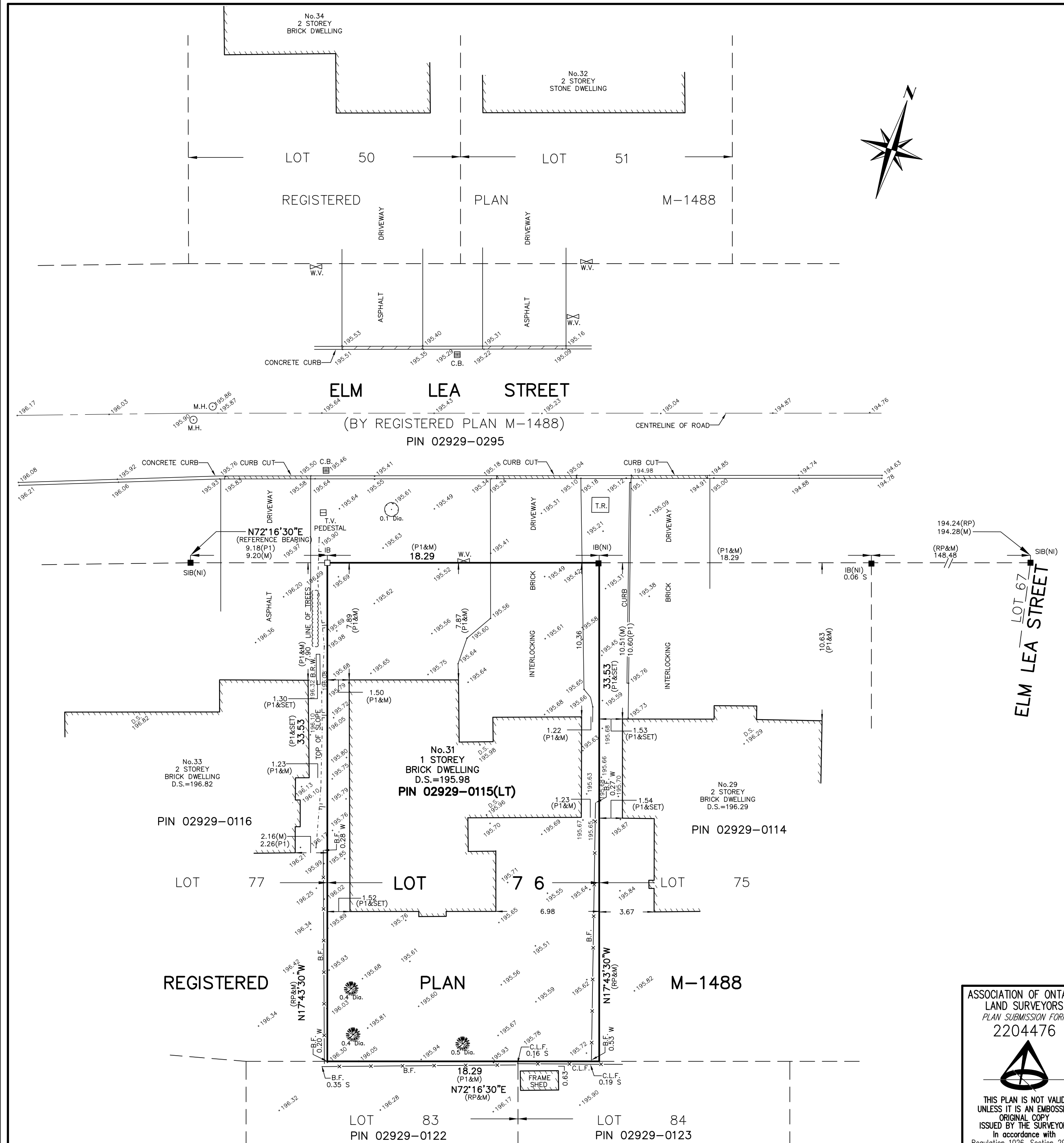
MANDARIN SURVEYORS LIMITED, O.L.S. ©

**METRIC**

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

**LEGEND**

- DENOTES MONUMENT SET
- DENOTES MONUMENT FOUND
- SIB DENOTES STANDARD IRON BAR
- IB DENOTES IRON BAR
- RP DENOTES REGISTERED PLAN M-1488
- P1 DENOTES PLAN OF SURVEY BY P. SALNA CO. LTD., O.L.S. DATED AUGUST 23, 1973
- PIN DENOTES PROPERTY IDENTIFIER NUMBER
- M DENOTES MEASURED
- D.S. DENOTES DOOR SILL
- N,S,E,W DENOTES NORTH, SOUTH, EAST, WEST
- B.F. DENOTES BOARD FENCE
- C.L.F. DENOTES CHAIN LINK FENCE
- T.R. DENOTES TRANSFORMER
- B.R.W. DENOTES BLOCK RETAINING WALL
- W.V. DENOTES WATER VALVE
- M.H. DENOTES MAN HOLE
- C.B. DENOTES CATCH BASIN
- ☀ DENOTES CONIFEROUS TREE
- ☀ DENOTES DECIDUOUS TREE



ALL TIES TO CONCRETE FOUNDATION, UNLESS NOTED OTHERWISE.  
 BEARINGS SHOWN HEREON ARE ASTRONOMIC AND ARE REFERRED TO THE SOUTHERLY LIMIT OF ELM LEA STREET AS SHOWN ON REGISTERED PLAN M-1488, HAVING A BEARING OF N72° 16' 30"E

**BENCHMARK NOTE**  
 ELEVATIONS SHOWN HEREON ARE GEODETIC AND ARE REFERRED TO CITY OF MARKHAM BENCHMARK No.092103025, HAVING AN ELEVATION OF 195.45M DATUM:1978 ADJ. LOCATED IN CONCRETE SIDEWALK AT THE SOUTH EAST CORNER OF CHURCH STREET AND WOOTTEN WAY NORTH, BEING 8.5M SOUTH OF THE OF THE CENTRELINE OF PAVEMENT OF WOTTEN WAY NORTH.

THIS REPORT WAS PREPARED FOR AHMAD, MURTAZA AND THE UNDERSIGNED ACCEPTS NO RESPONSIBILITY FOR ITS USE BY OTHER PARTIES.

- PART 2 (SURVEY REPORT)**
- REGISTERED EASEMENTS AND/OR RIGHT OF WAYS: EASEMENT INST. No.LB390939 SHOULD BE RELEASED.
  - ADDITIONAL COMMENTS:NOTE THE LOCATION OF THE FENCES AROUND THE SOUTHERLY, WESTERLY AND EASTERLY LIMITS OF THE SUBJECT PROPERTY.
  - THIS PLAN DOES NOT CERTIFY COMPLIANCE WITH ZONING BY-LAWS.

**SURVEYOR'S CERTIFICATE**

I CERTIFY THAT:

- THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM.
- THE SURVEY WAS COMPLETED ON THE 20th DAY OF DECEMBER, 2022

DATE: DECEMBER 23, 2022

Z. ZENG  
 ONTARIO LAND SURVEYOR

ASSOCIATION OF ONTARIO LAND SURVEYORS  
 PLAN SUBMISSION FORM  
 2204476

THIS PLAN IS NOT VALID UNLESS IT IS AN EMBOSSED ORIGINAL COPY ISSUED BY THE SURVEYOR. In accordance with Regulation 1026, Section 29(3).

**MANDARIN SURVEYORS LIMITED**  
 ONTARIO LAND SURVEYOR CANADA LANDS SURVEYOR  
 WWW.MANDARINSURVEYOR.COM  
 TORONTO, ONTARIO, M1S 1X7 E-MAIL: MANDARINSURVEYOR@GMAIL.COM  
 2400 MIDLAND AVENUE #121 PHONE: (647)430-1366 FAX: (647)799-4068  
 SURVEY BY: J.Z. CAD No: 22-583SRPR JOB No: 2022-583