

Memorandum to the City of Markham Committee of Adjustment

August 27, 2024

File: A/086/24
Address: 15 Wales Avenue, Markham
Agent: In Roads Consultants
Hearing Date: Wednesday, September 25, 2024

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

The Owner is requesting relief from the following Residential (R1) zone requirement of By-law 1229, as amended, as it relates to a detached dwelling under construction, to permit:

- a) **By-law 1229, as amended by By-law 99-90, Section 1.2 (vi):** a maximum floor area ratio of 59.41 percent, whereas the by-law permits a maximum of 45 percent.

BACKGROUND

Property Description

The 799.9 m² 'Subject Lands' are located on the east side of Wales Avenue, which is east of Main Street Markham North and south of Gleason Avenue. A new detached dwelling is under construction on the Subject Lands, which at the time this report was prepared, the dwelling has been fully framed with a roof and windows installed. Tree protection fencing has been erected, and the Subject Lands are secured with construction fencing.

The Subject Lands are in an established residential neighbourhood comprised primarily of detached dwellings. The surrounding area is undergoing a transition with newer dwellings being developed as infill developments. The Metrolinx, Stouffville GO rail corridor is located east of the Subject Lands. Appendix 'A' shows the Subject Lands and Surrounding Context.

2019 Committee of Adjustment Approval

On November 27, 2019, the Committee of Adjustment (the "Committee") approved variance application A/06/18, permitting:

- An increased Building depth of 20.6 m, whereas the By-law permitted a maximum of 16.8 m; and
- An increased Floor Area Ratio of 50%, whereas the By-law permitted a maximum of 45%.

Prior to approval, the previous variance application was heard by the Committee and deferred on seven occasions for the Owner to modify the proposal by addressing staff, public and Committee concerns. This resulted in the elimination of requested side yard setback and encroachment variances and reducing the requested depth and floor area ratio variances. The approved floor area ratio variance was achieved by having a substantial amount of 'open to below space' on the second floor, as shown in the floor plans submitted in 2019 and attached as Appendix 'B'.

Proposal

The Owner is now proposing to expand the usable interior space by adding a bedroom, hallway and laundry room in areas of the second floor previously shown as open space. Since the Proposed Development adds interior floor space, the total Gross Floor Area

increases, requiring a variance to further increase the floor area ratio to 59.41%. Staff note that this does not expand the proposed building footprint, coverage or alter setbacks. The Proposed Development is shown in Appendix 'C'.

Official Plan and Zoning

Markham 2014 Official Plan

The Official Plan designates the subject property "Residential Low Rise", which provides for low rise housing forms including single detached dwellings.

Zoning By-Law 1229 and Residential Infill By-law 1229, as amended.

The Subject Lands are zoned Residential (R1) under By-law 1229, as amended, which permits detached dwellings. It is also subject to Residential Infill Zoning By-law 99-90, which intends 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 the gross floor area ratio. As noted, a variance was approved in 2019 to permit increased building depth, which is still consistent with the Proposed Development.

Zoning Preliminary Review (ZPR) Undertaken

The owner has completed a Zoning Preliminary Review (ZPR) on June 17, 2024, to confirm the variance required for the proposed development.

COMMENTS

Section 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended provides criteria for the Committee of Adjustment to "authorize such minor variance from the provisions of the by-law, in respect of the land, building or structure or the use thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, if in the opinion of the Committee the general intent and purpose of the by-law and of the official plan, if any, are maintained."

Increase in Maximum Floor Area Ratio

The Owner is requesting a floor area ratio of 59.41 percent, whereas the By-law permits a maximum floor area ratio of 45 percent. Approval of this variance will permit a dwelling with a GFA of 419.7 m² (4,517.6 ft²), compared to a maximum GFA of 317.9 m² (3,422.25 ft²) permitted by the By-law or 353.5 m² (3,805 ft²) permitted by the 2019 variance approval. An increase of approximately 102 m² or 66.2 m², respectively.

The intent of the maximum Floor Area Ratio (FAR) requirement is to minimize the scale and mass of a dwelling by regulating interior square footage as a percentage of the defined net lot area. However, FAR is not a definitive measure of the total mass of a dwelling, as interior space not comprising floor area is excluded. As noted, the 2019 variance approval permits a floor area ratio of 50%, which, included a substantial amount of open space on the 2nd storey (Refer to Appendix 'B'). The Owner, is now proposing to utilize this area as additional floor space, resulting in the increasing of the total interior square footage and FAR. Staff opine that the proposed FAR does not satisfy the intent of the Zoning By-law. Notwithstanding, staff acknowledge that the increased interior floor space will not change the building footprint or scale of the dwelling under construction on the Subject Lands, which remains consistent with the development previously approved by the Committee. Consequently, the expansion of interior floor space in the dwelling will have no additional

impact on the streetscape or abutting properties. The Owner should be aware that future development on the property, including the construction accessory structures such as sheds, pool houses, porch or patio enclosures, may result in further increases to the proposed FAR and/or Lot Coverage necessitating future variances to be evaluated at that time. Any approval should be subject to the recommended conditions in Appendix 'D'.

EXTERNAL AGENCIES

Region of York

The Region of York has reviewed the application and has advised there is no comment.

Metrolinx

The Subject Lands are 'in direct exposure' of the Metrolinx Uxbridge Subdivision which carries GO Train service between Stouffville and Toronto. Metrolinx provided comments on August 30, 2024 (Appendix – E) which did not identify any comments specific to the variance requests. Metrolinx however, has recommended conditions requiring entering into an *Infill Adjacent Agreement* with Metrolinx, granting an environmental easement (which they note has been registered on December 14, 2022), and include warning clauses into any development agreements, Purchase Offers, Sale or Lease agreements advising that the Subject Lands are within Metrolinx's rail corridor. This requested condition is recommended in Appendix 'E'

TREE PROTECTION

The City's tree Preservation Technician has provided no comments on the application and has noted that existing tree preservation has been erected in accordance with ongoing construction on the Subject Lands.

PUBLIC INPUT SUMMARY

No written submissions were received as of September 12, 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 a proposed FAR of 59.41% does not meet the intent of the Zoning By-law. However, it is acknowledged that the Proposed Development to expand interior floor space in the dwelling under construction will not result in any additional adverse impact to abutting properties or the streetscape if this variance is approved.

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 criteria of the Planning Act required for the granting of minor variances. Please see Appendix "D" for conditions to be attached to any approval of this application.

PREPARED BY:



Stephen Corr, Senior Planner, Planning and Urban Design Department

REVIEWED BY:



Stacia Muradali, Development Manager, East District

File Path: Amanda\File\ 24 185488 \Documents\District Team Comments Memo

Attachments:

Appendix A – 2023 Aerial Photo, Site and Surrounding Context

Appendix B – 2019 Variance Submission of Floor Plans

Appendix C – Proposed Development

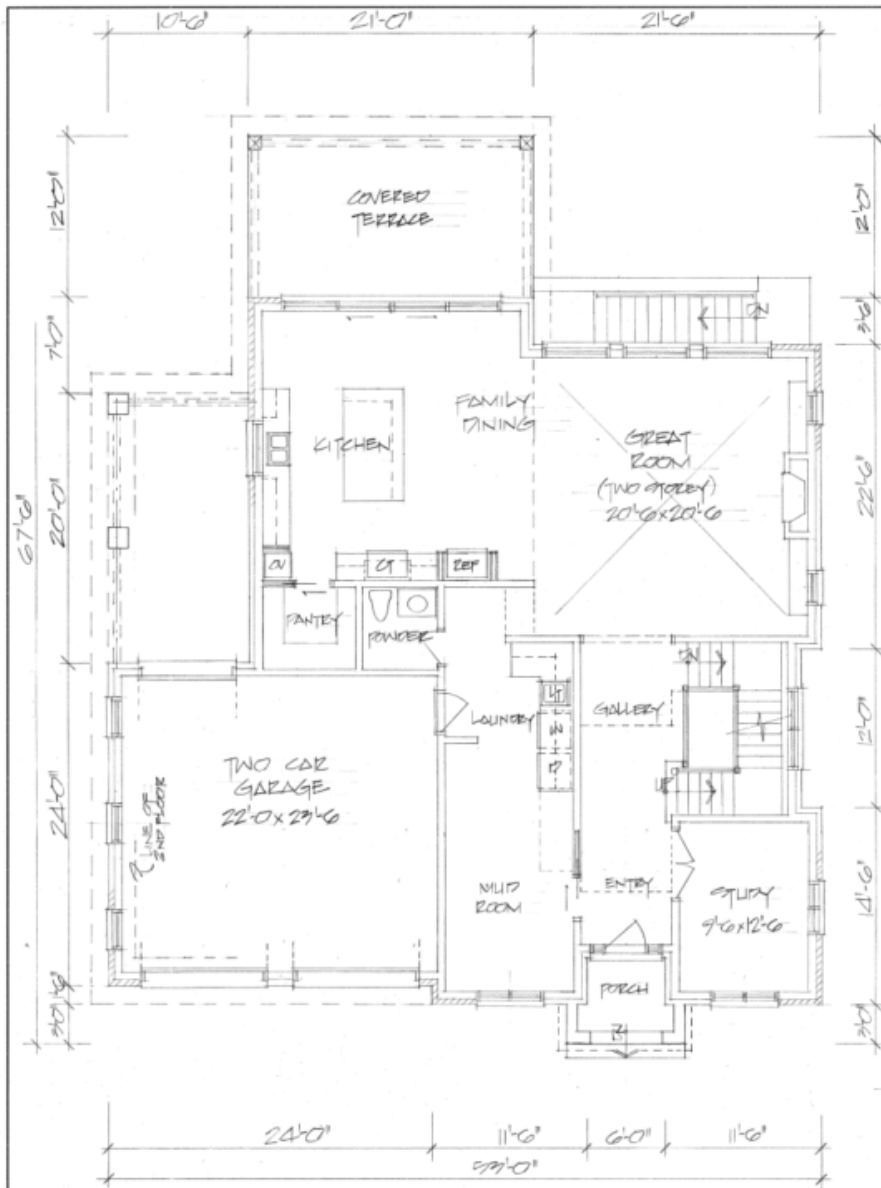
Appendix D – Recommended Conditions of Approval

Appendix E – Metrolinx Comments



Appendix 'A' - 2023 Aerial Photo, Site Location

Appendix 'B' - 2019 Variance Plans



GROUND FLOOR PLAN

GROUND FLOOR AREA = 17800 SQ FT
 NET FLOOR AREA = 29999 " "
 BUILDING AREA = 26889 " "

10/13/19 REVISED

SITE PLAN

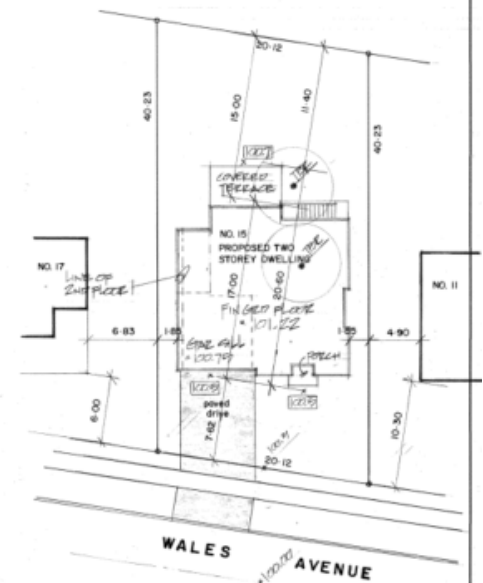
SCALE - 1:200

SITE INFORMATION & DATA

AREA OF LOT = 2000.9 M²
 AREA OF BUILDINGS = 272.9 M²
 COVERAGE = 13.64%

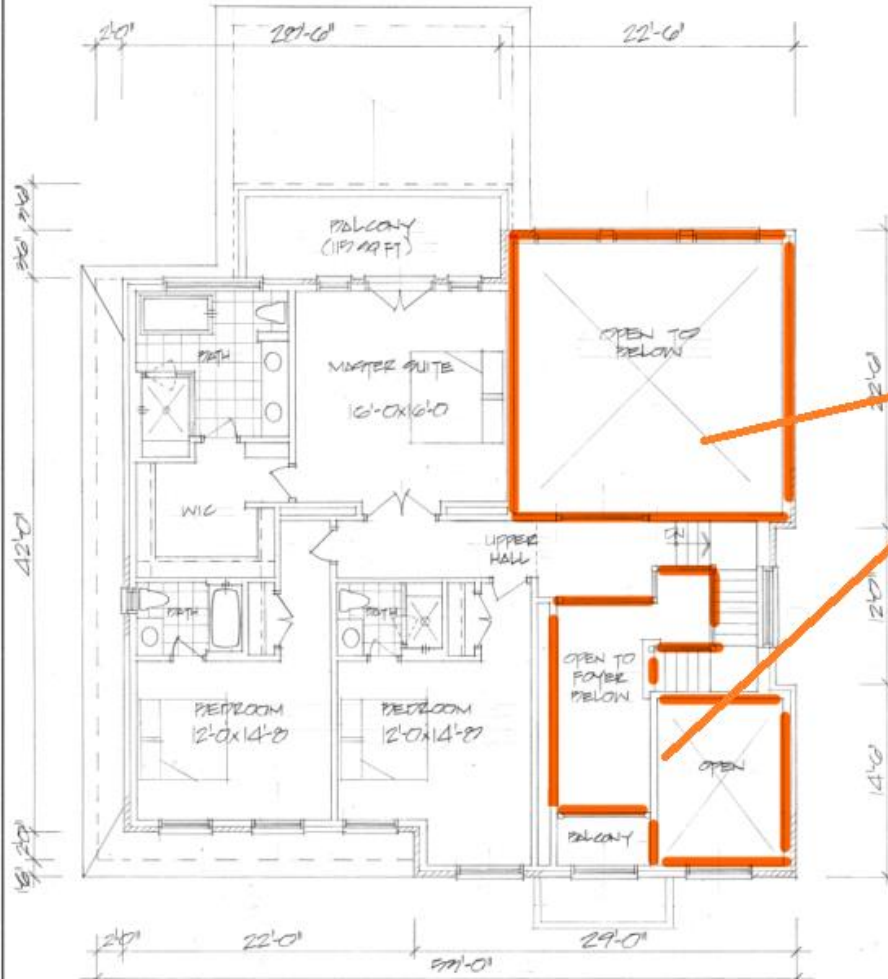
NET FLOOR AREA CALCULATION

$GFA + 0.75(GFA - GFA) \times 0.47$
 = 707.0 x 0.47 = 332.2
 ALLOWABLE NFA = 332.2 M² (16.61%)
 PROPOSED NFA = 272.9 M² (13.64%)



| | | | |
|--|--|---------------------|------------------------|
| PROJECT NEW HOUSE DESIGN 157 WALES AVE CITY OF MARKHAM | DATE 10/14/19 | SCALE 1/8"=1'-0" | PROJECT NO. 2166-19 |
| THE GREGORY DESIGN GROUP 16 CHURCH STREET MARKHAM, ONTARIO, L3P 2L6 (416) 720-6667 russ@gregorydesigngroup.net | GENERAL NOTES 1. ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SPECIFIED. 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED. 3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE SPECIFIED. 4. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE SPECIFIED. 5. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE SPECIFIED. | DRAWING NO. 1 | |

Appendix B - 2019 Variance Plans



SECOND FLOOR PLAN
 SECOND FLOOR AREA = 2990 SQFT
 OPEN SPACE = 000 " "
 NET FLOOR AREA = 1490 " "

Open to Below Areas, excluded from FAR

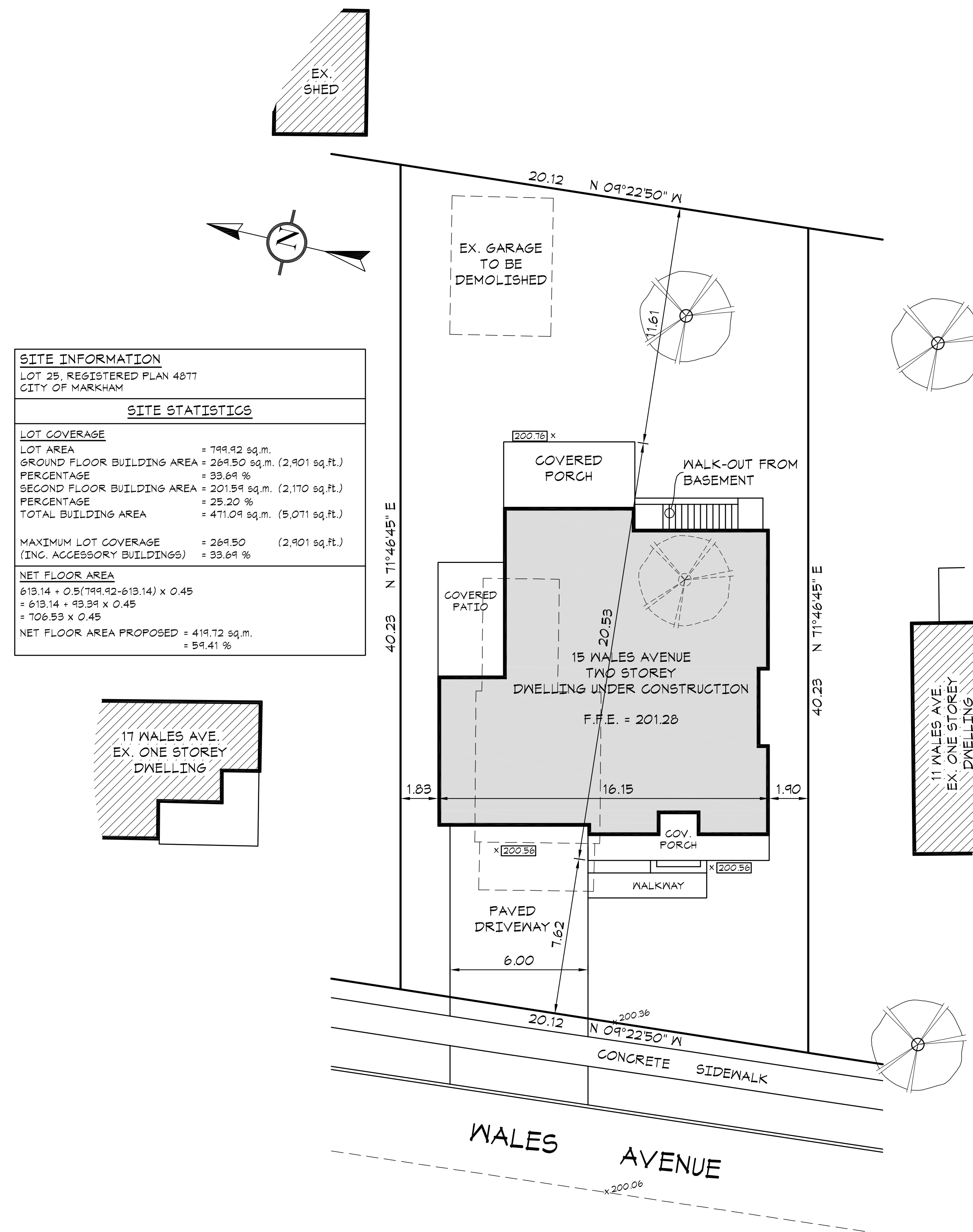


FRONT ELEVATION - WEST

10/19/19 - DENG REVISED

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|---|--|---|
| PROJECT NEW HOUSE DESIGN 17 WALES AVE CITY OF MARKHAM | <small>GENERAL NOTES</small> 1. ALL WORK SHALL BE IN ACCORDANCE WITH THE CITY OF MARKHAM ZONING BY-LAW AND THE MARKHAM ACT. 2. THE DESIGNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF MARKHAM. 3. THE DESIGNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF MARKHAM. 4. THE DESIGNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE CITY OF MARKHAM. | DRAWN R. GREGORY DATE SCALE 1/8" = 1'-0" PROJECT NO. 2000-19 DRAWING NO. 2 |
| THE GREGORY DESIGN GROUP 16 CHURCH STREET MARKHAM, ONTARIO, L3P 2L6 (416) 720-4667 russ@gregorydesigngroup.net | | |

Appendix C - Proposed Development



| SITE INFORMATION | |
|---|-----------------------------------|
| LOT 25, REGISTERED PLAN 4877 CITY OF MARKHAM | |
| SITE STATISTICS | |
| LOT COVERAGE | = 799.92 sq.m. |
| GROUND FLOOR BUILDING AREA | = 269.50 sq.m. (2,901 sq.ft.) |
| PERCENTAGE | = 33.69 % |
| SECOND FLOOR BUILDING AREA | = 201.59 sq.m. (2,170 sq.ft.) |
| PERCENTAGE | = 25.20 % |
| TOTAL BUILDING AREA | = 471.09 sq.m. (5,071 sq.ft.) |
| MAXIMUM LOT COVERAGE (INC. ACCESSORY BUILDINGS) | = 269.50 (2,901 sq.ft.) = 33.69 % |
| NET FLOOR AREA | |
| 613.14 + 0.5(799.92-613.14) x 0.45 | |
| = 613.14 + 93.39 x 0.45 | |
| = 706.53 x 0.45 | |
| NET FLOOR AREA PROPOSED | = 419.72 sq.m. = 59.41 % |

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 TO BE OBTAINED PRIOR TO COMMENCING CONSTRUCTION.

| REVISIONS AND DATA | DATE |
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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 is registered, in the appropriate classes/categories.

Individual B.C.I.N. - 25825
Firm B.C.I.N. - 30506

Russ Gregory
NAME SIGNATURE

PROJECT TITLE

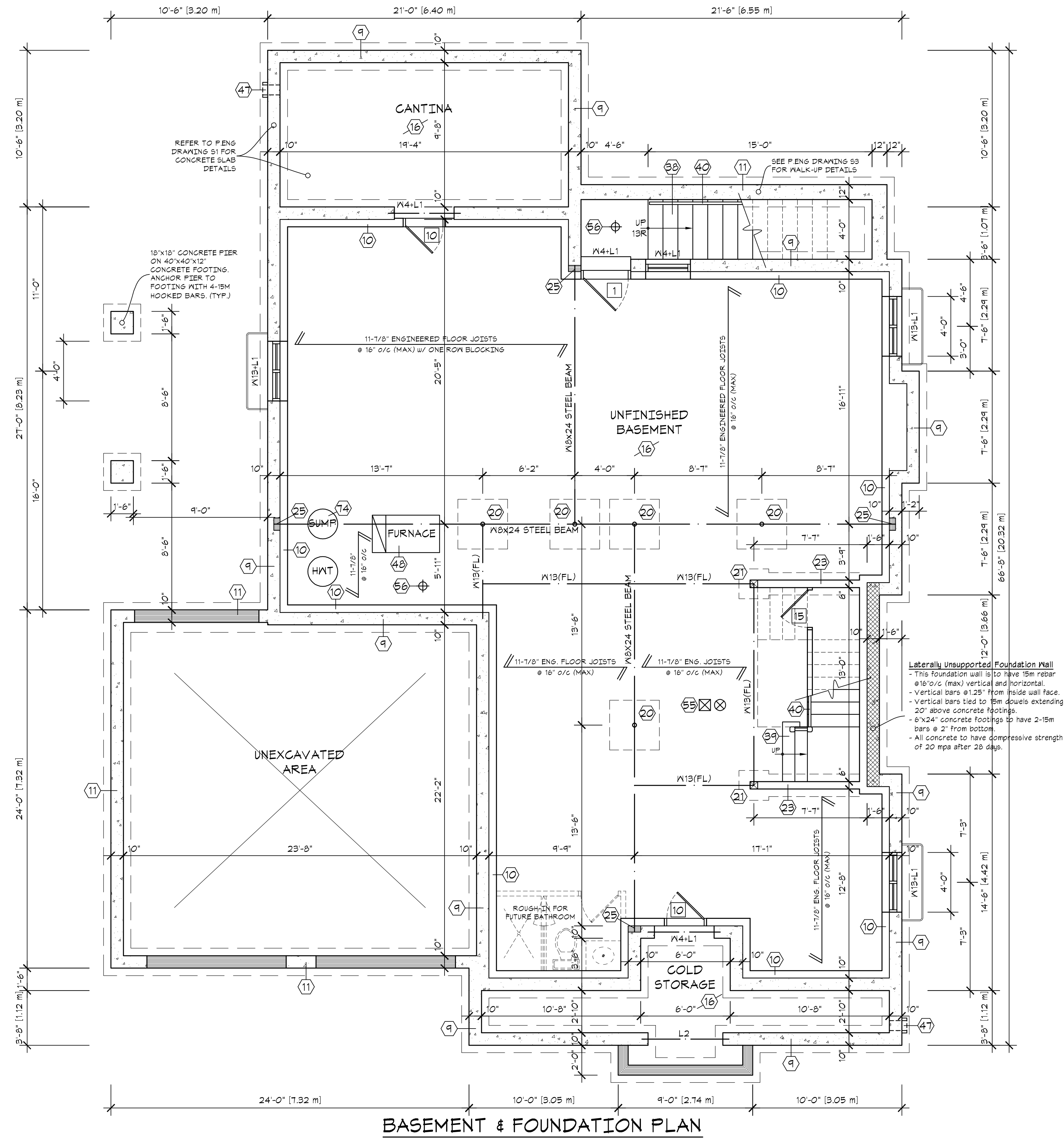
**HOUSE 2166
15 WALES AVENUE
CITY OF MARKHAM**

**THE GREGORY
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|----------------|--------------|
| SCALE | DATE |
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| PROJECT NUMBER | SHEET NUMBER |
| 2166-19 | SP-1 |
| DRAWN BY | |
| S.Gregory | |
| CHECKED BY | |
| R.G. | |

Appendix C - Proposed Development



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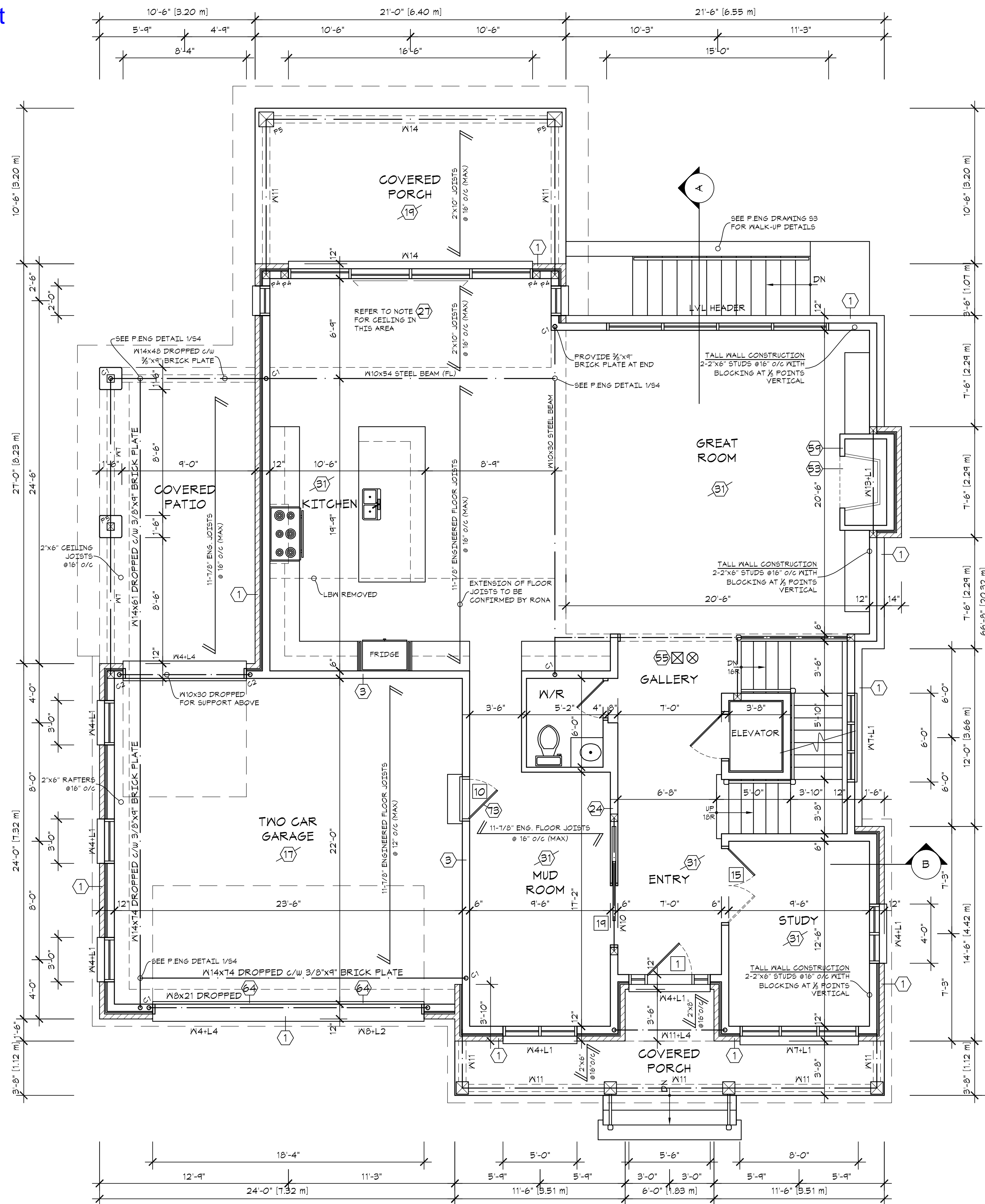
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| PROJECT NUMBER 2166-19 | SHEET NUMBER A-1 |
| DRAWN BY S.Gregory | CHECKED BY R.G. |

Appendix C - Proposed Development



GROUND FLOOR PLAN

FLOOR AREA = 1,775 sq.ft.
 GARAGE AREA = 573 sq.ft.
 TOTAL N.F.A. = 2,348 sq.ft. (218.13 sq.m.)
 BUILDING AREA = 2,901 sq.ft. (269.50 sq.m.)

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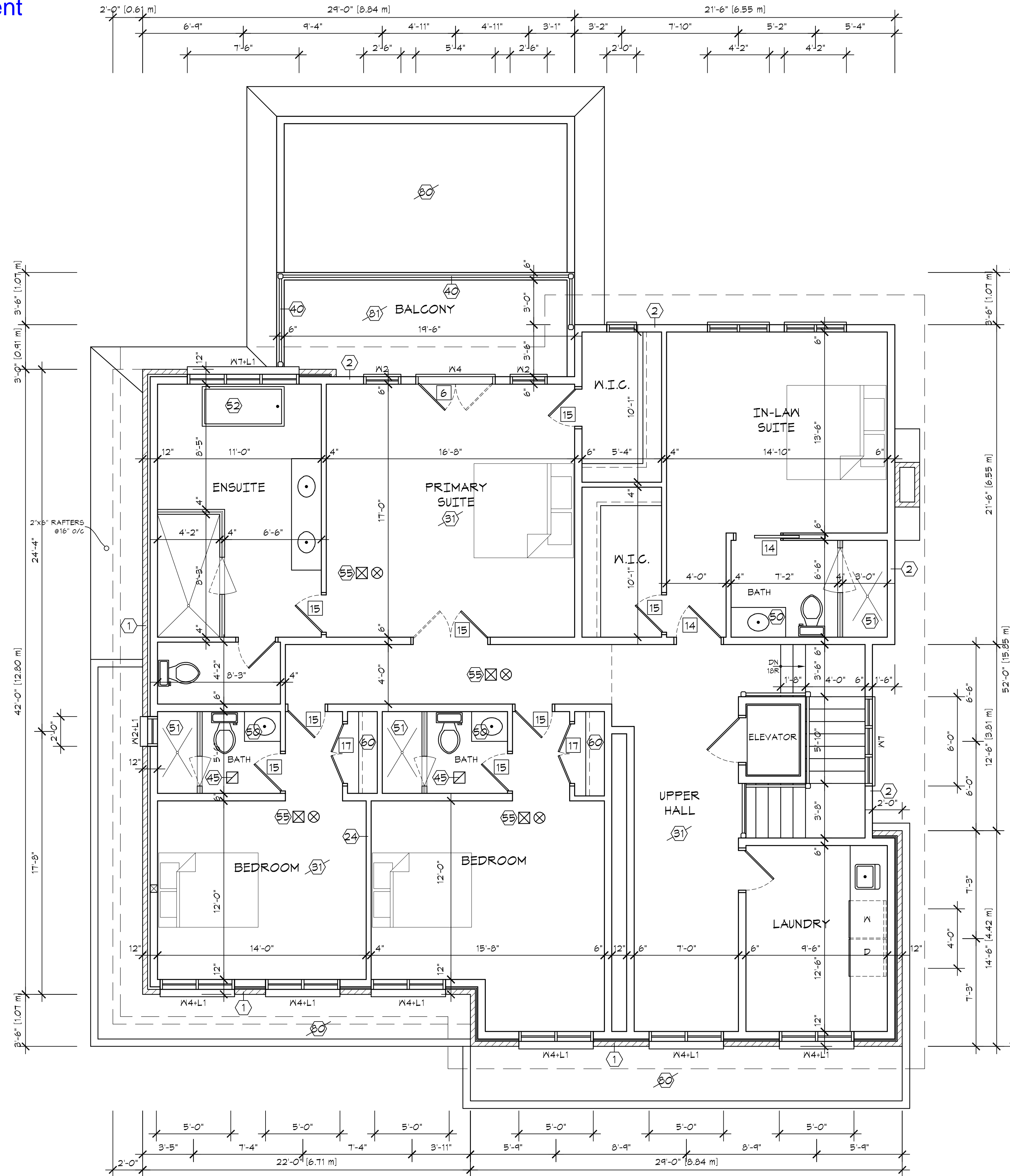
Russ Gregory
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| SCALE 1/4"=1'-0" | DATE 05/23/24 |
| PROJECT NUMBER 2166-19 | SHEET NUMBER A-2 |
| DRAWN BY S.Gregory | CHECKED BY R.G. |

Appendix C - Proposed Development



SECOND FLOOR PLAN

FLOOR AREA = 2,265 sq.ft.
 OPEN SPACE = 95 sq.ft.
 TOTAL N.F.A. = 2,170 sq.ft. (201.59 sq.m.)

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| SCALE 1/4"=1'-0" | DATE 05/23/24 |
| PROJECT NUMBER 2166-19 | SHEET NUMBER A-3 |
| DRAWN BY S.Gregory | CHECKED BY R.G. |

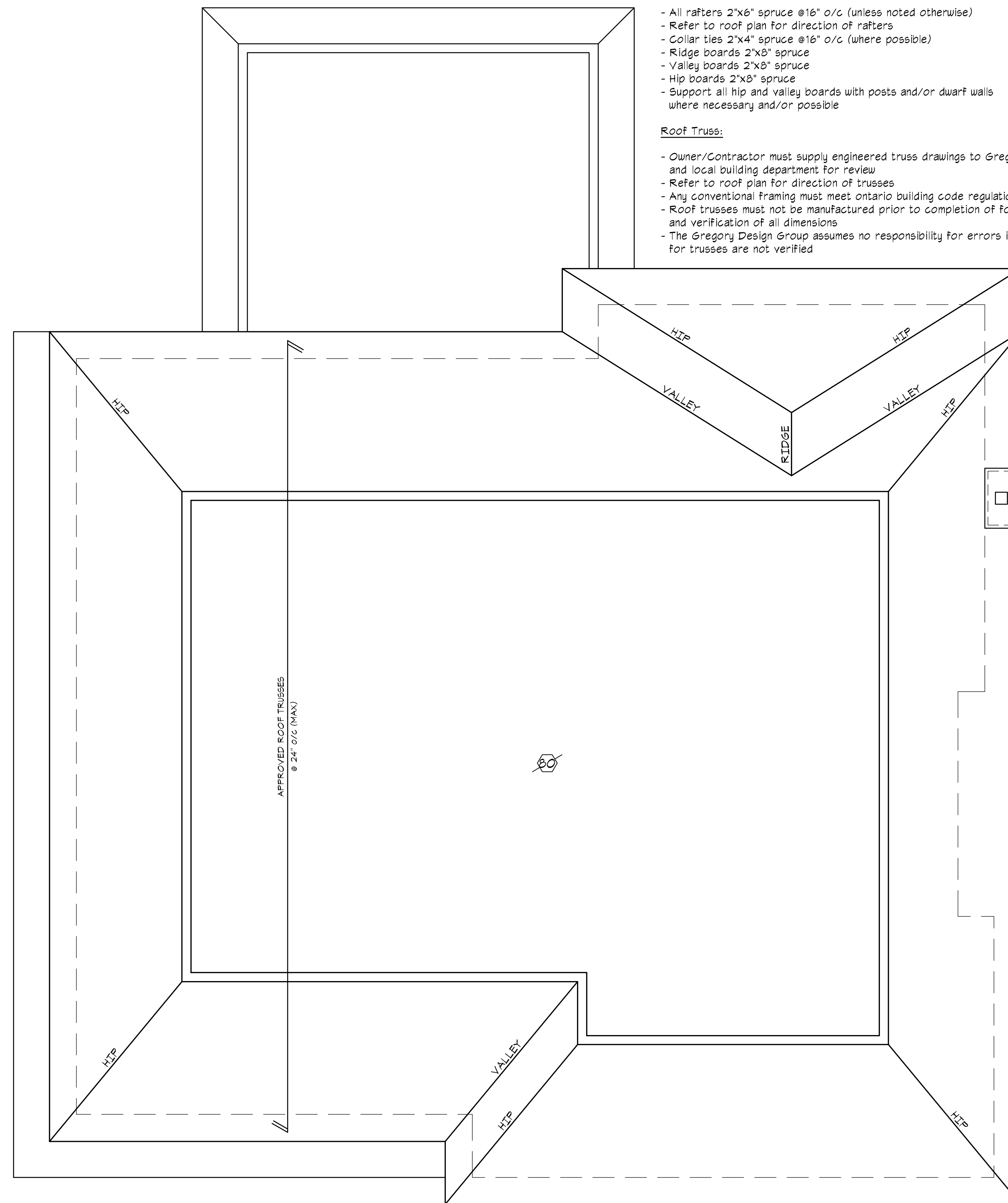
Appendix C - Proposed Development

Conventional Framing:

- All rafters 2"x6" spruce @16" o/c (unless noted otherwise)
- Refer to roof plan for direction of rafters
- Collar ties 2"x4" spruce @16" o/c (where possible)
- Ridge boards 2"x8" spruce
- Valley boards 2"x8" spruce
- Hip boards 2"x8" spruce
- Support all hip and valley boards with posts and/or dwarf walls where necessary and/or possible

Roof Truss:

- Owner/Contractor must supply engineered truss drawings to Gregory Design and local building department for review
- Refer to roof plan for direction of trusses
- Any conventional framing must meet Ontario building code regulations
- Roof trusses must not be manufactured prior to completion of foundation and verification of all dimensions
- The Gregory Design Group assumes no responsibility for errors if dimensions for trusses are not verified



ROOF PLAN

GENERAL NOTES:
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| SCALE 1/4"=1'-0" | DATE 05/23/24 |
| PROJECT NUMBER 2166-19 | SHEET NUMBER A-4 |
| DRAWN BY S.Gregory | A-4 |
| CHECKED BY R.G. | |

Appendix C - Proposed Development



FRONT ELEVATION



RIGHT SIDE ELEVATION

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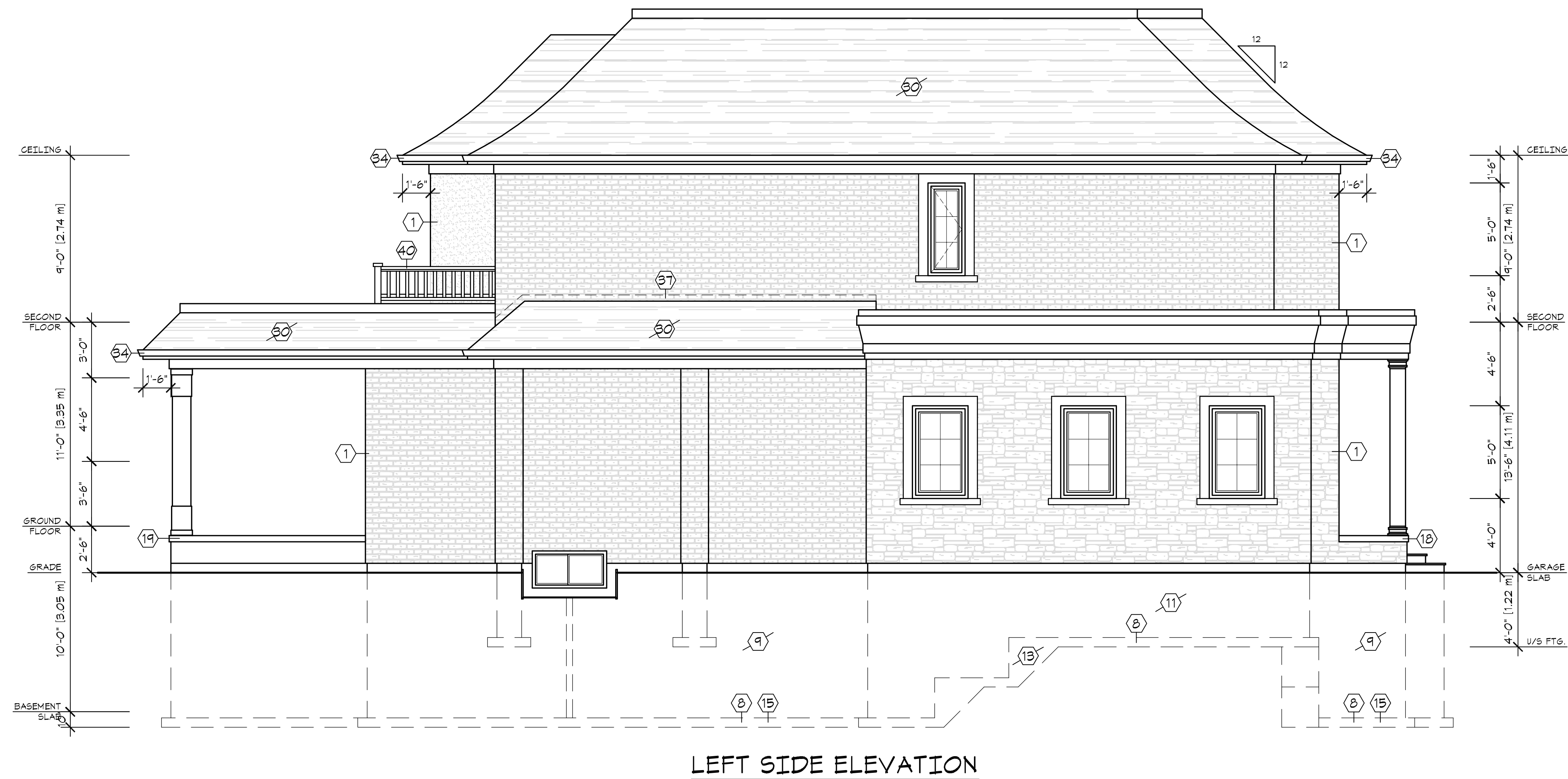
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| DRAWN BY S.Gregory | CHECKED BY R.G. |

Appendix C - Proposed Development



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| SCALE 1/4"=1'-0" | DATE 05/23/24 |
| PROJECT NUMBER 2166-19 | SHEET NUMBER A-6 |
| DRAWN BY S.Gregory | CHECKED BY R.G. |

APPENDIX "D"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/084/24

- a) The variances apply only to the proposed development as long as it remains;

- b) That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as 'Appendix C' to this Staff Report, 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;

- c) That the applicant satisfies the requirements of Metrolinx, financial or otherwise, as indicated in their letter to the Secretary-Treasurer attached as Appendix 'E' to this Staff Report, to the satisfaction of Metrolinx, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Metrolinx.

CONDITIONS PREPARED BY:



Stephen Corr, Senior Planner, Planning and Urban Design Department



BY EMAIL ONLY

TO: Shawna Houser, Secretary-Treasurer, Committee of Adjustment, City of Markham

DATE: August 30, 2024

RE: Adjacent Development Review: A/086/24
15 Wales Ave, Markham, ON
Minor Variance

Dear Committee of Adjustment,

Metrolinx is in receipt of the Minor Variance application for 15 Wales Ave, Markham to facilitate internal additions to support the new two-storey dwelling currently under construction, as circulated on August 19, 2024, and to be heard by the Committee as early as Wednesday September 25, 2024. Metrolinx's comments on the subject application are noted below:

- The subject property is located in direct exposure of Metrolinx's Uxbridge Subdivision which carries Metrolinx's Stouffville GO Train service.

GO/HEAVY-RAIL - ADVISORY COMMENTS

- Metrolinx would like to note that additional drainage from the proposed development is not permitted onto Metrolinx-owned lands, without prior approval from Metrolinx and our Technical Advisor.
- The proposed development is adjacent to the Metrolinx Rail Corridor Right-of-Way and may be subject to a work permit and review. The Proponent can find more information on the submission requirements here: <https://www.metrolinx.com/en/about-us/doing-business-with-metrolinx/development-opportunities/construction-beside-go-corridors>.
- In addition to the technical review (by our Technical Advisor), it should be noted that various Metrolinx permits/approvals/agreements with associated fees may be required for implementation/construction. For example, this includes, but not limited to, private property when works are proposed within 30ft (~10m) of an active rail. This includes, but is not limited to, works involving, shoring, tiebacks and crane swing (i.e. crane, crane boom/crane swing) that fall within 30ft of the active rail.
- As such, these permits/approvals/agreements with their required fees and processing timelines in advance of proposed work, should be factored into your construction cost and schedule accordingly. More detail can be provided as the application and details progress.
- The Proponent may contact Farah.Faroque@metrolinx.com with questions and to preliminarily assess if work permits/flagging/additional approvals/agreements may be required for this proposal.

GO/HEAVY-RAIL - CONDITIONS OF APPROVAL

- As Per Metrolinx's Adjacent Development Guidelines, derailment protection in the form of a safety barrier (e.g. Crash wall, earthen berm, etc.) is required for residential uses immediately adjacent to the rail corridor. For infill development, safety barriers are often infeasible. In these instances, the Proponent will be required to enter into an Infill Adjacent Development Agreement with Metrolinx. The Proponent may contact Farah.Faroque@metrolinx.com with any questions and for a copy of the Infill Adjacent Development Agreement.
- (Resolved) As per section 3.9 of the Federation of Canadian Municipalities and Railway Association of Canada's Guidelines for New Development in Proximity to Railway Operations, the Owner shall grant Metrolinx an

environmental easement for operational emissions. The environmental easement provides clear notification to those who may acquire an interest in the subject property and reduces the potential for future land use conflicts. The environmental easement shall be registered on title of the subject property. A copy of the form of easement is included for the Owner's information. The applicant may contact Farah.Faroque@metrolinx.com with questions and to initiate the registration process. (It should be noted that the registration process can take up to 6 weeks).

- We note that the environmental easement has been registered prior, Receipted as YR3507732 on December 14, 2022.
- The Proponent shall provide confirmation to Metrolinx, that the following warning clause has been inserted into all Development Agreements, Offers to Purchase, and Agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the Railway Corridor:
 - **Warning:** Metrolinx and its assigns and successors in interest has or have a right-of-way within 300 metres from the subject land. There may be alterations to or expansions of the rail or other transit facilities on such right-of-way in the future including the possibility that Metrolinx or any railway entering into an agreement with Metrolinx to use the right-of-way or their assigns or successors as aforesaid may expand or alter their operations, which expansion or alteration may affect the environment of the occupants in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual lots, blocks or units.

Should you have any questions or concerns, please contact Farah.Faroque@metrolinx.com.

Best Regards,

Farah Faroque

Project Analyst, Third Party Project Review

Metrolinx | 10 Bay Street | Toronto | Ontario | M5J 2S3

T: (437) 900-2291

Form of Easement

WHEREAS the Transferor is the owner of those lands legally described in the Properties section of the Transfer Easement to which this Schedule is attached (the "**Easement Lands**").

IN CONSIDERATION OF the sum of TWO DOLLARS (\$2.00) and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Transferor, the Transferor transfers to the Transferee, and its successors and assigns, a permanent and perpetual non-exclusive easement or right and interest in the nature of a permanent and perpetual non-exclusive easement over, under, along and upon the whole of the Easement Lands and every part thereof for the purposes of discharging, emitting, releasing or venting thereon or otherwise affecting the Easement Lands at any time during the day or night (provided that doing so is not contrary to law applicable to Metrolinx) with noise, vibration and other sounds and emissions of every nature and kind whatsoever, including fumes, odours, dust, smoke, gaseous and particulate matter, electromagnetic interference and stray current but excluding spills, arising from or out of, or in connection with, any and all present and future railway or other transit facilities and operations upon the lands of the Transferee and including, without limitation, all such facilities and operations presently existing and all future renovations, additions, expansions and other changes to such facilities and all future expansions, extensions, increases, enlargement and other changes to such operations.

THIS Easement and all rights and obligations arising from the above easement shall extend to, be binding upon and enure to the benefit of the parties hereto and their respective officers, directors, shareholders, agents, employees, tenants, sub-tenants, customers, licensees and other operators, occupants and invitees and each of its or their respective heirs, executors, legal personal representatives, successors and assigns. The covenants and obligations of a party hereto, if such party comprises more than one person, shall be joint and several.

Easement in gross.