

**Memorandum to the City of Markham Committee of Adjustment**  
May 16, 2024

**File:** A/034/24  
**Address:** 8199 Yonge Street, Markham (Thornhill)  
**Applicant:** Harper Dell & Associates Inc. (Nicholas Dell)  
**Hearing Date:** Wednesday, June 5, 2024

On January 31, 2024, City of Markham Council enacted Comprehensive Zoning By-law 2024-19. As By-law 2024-19 is currently under appeal with the Ontario Land Tribunal (OLT), any Applications under Section 45 of The *Planning Act* that do not benefit from the transition clauses under Section 1.7 of By-law 2024-19 must comply with By-law 2024-19 and any previous By-laws in effect.

The following comments are provided on behalf of the West District Team. The Owner is requesting relief from the following “Highway Commercial General (HC1)” zone requirements of By-law 2150 and “Mixed Use – Future Development (MU-FD) zone requirements of By-law 2024-19, as amended, to permit:

**a) By-law 2024-19, Section 5.1 c):**

117 parking spaces whereas the by-law requires a minimum of 126 parking spaces;

The requested variance relates to parking requirements related to a change of use for a proposed restaurant.

**BACKGROUND**

**Property Description**

The 5,552 m<sup>2</sup> (59,761 ft<sup>2</sup>) Subject Lands are located on the south side of Kirk Drive, east of Yonge Street, and north of Bay Thorn Drive (refer to Appendix “A” – Aerial Photo). The Subject Lands are located within an established mixed-use neighbourhood comprised of retail, commercial, institutional, residential and open space.

The Subject Lands contain a mixed-use building with a gross floor area of 1,351 m<sup>2</sup> (14,550 ft<sup>2</sup>) that is occupied by retail and office uses.

**Proposal**

The Owner is requesting relief from the By-law to allow for a reduced amount of parking (117 parking spaces). The variance will facilitate a change of use within the retail plaza, with respect to Unit 100 which was previously Personal Service Use and has changed to Restaurant. No changes are being proposed to the exterior of the building, as shown in Appendix “B”.

**Official Plan and Zoning**

Official Plan 2014 (partially approved on November 24/17, and updated on April 9/18)

The Official Plan designates the subject property “Mixed Use Mid Rise”. This designation is located primarily along arterial and major collector roads and are characterized for a mix of uses, including residential, retail, restaurant and service uses that contribute to the creation of *complete* communities. Planning Staff have had regard for the requirements of the Official Plan in the preparation of the comments provided below.

**Zoning By-Law 2150 & 2024-19, as amended**

The Subject Lands are zoned “Highway Commercial General (HC1)” zone requirements of By-law 2150 and “Mixed Use – Future Development (MU-FD) zone requirements of By-law 2024-19, as amended. The proposed change of use does not comply with the parking requirement in by-law 2024-19, but is compliant with the parking requirements under By-law 2150, as amended.

**Applicant’s Stated Reason(s) for Not Complying with Zoning**

According to the information provided by the applicant, the reason for not complying with Zoning is, *the Variance proposal is for a 9 parking space deficit triggered by a Change of Use within Unit 100 to a Restaurant.*

**Zoning Preliminary Review (ZPR) Not Undertaken**

The Applicant has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. However, the Applicant has received comments from the building department through their permit process to confirm the variances required for the proposed development.

**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.

**Parking Reduction**

The site currently provides a total of 117 parking spaces. The change of use within the retail plaza (Unit 100) requires an increase in parking spaces to 126. This will result in a deficiency of nine parking spaces.

Transportation Engineering Staff are satisfied with the submitted material and have no objection to the proposed parking deficiency.

Staff are of the opinion that the proposed parking variance meets the intent of the City's By-law, and have no objections to the approval of the proposed parking reduction.

**PUBLIC INPUT SUMMARY**

No written submissions were received as of May 21, 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 requested variance 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 "C" for conditions to be attached to any approval of this application.

PREPARED BY:



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Hussnain Mohammad, Planner 1, Development Facilitation Office

REVIEWED BY:

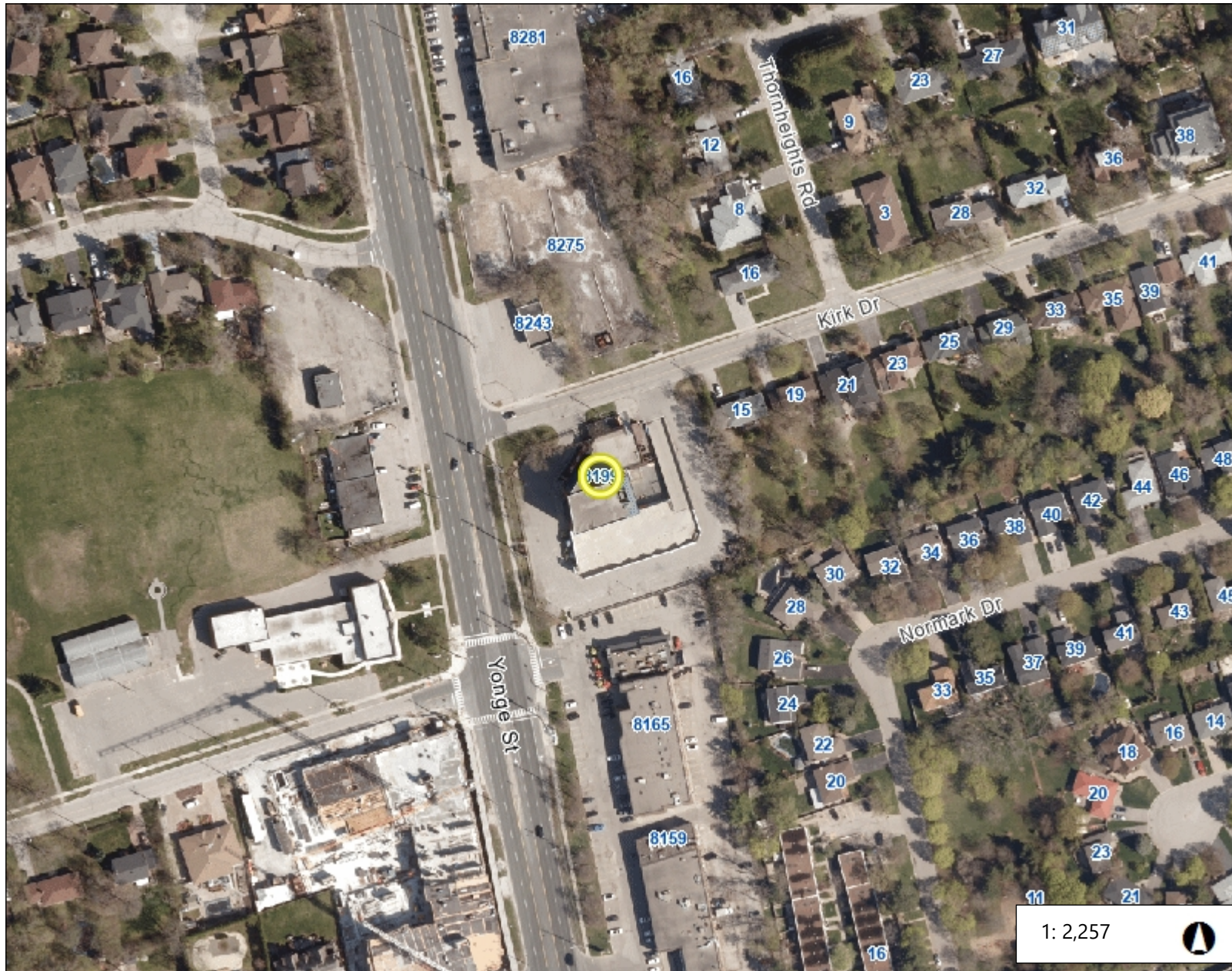


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Rick Cefaratti, MCIP RPP, Senior Planner, West District

**APPENDICES**

- Appendix "A" – Aerial Context Photo
- Appendix "B" – Plans
- Appendix "C" – A/034/24 Conditions of Approval



**Legend**

**Aerial 2023**

- Red: Band\_1
- Green: Band\_2
- Blue: Band\_3

**Parcel**

- Park Facility

**Parks**

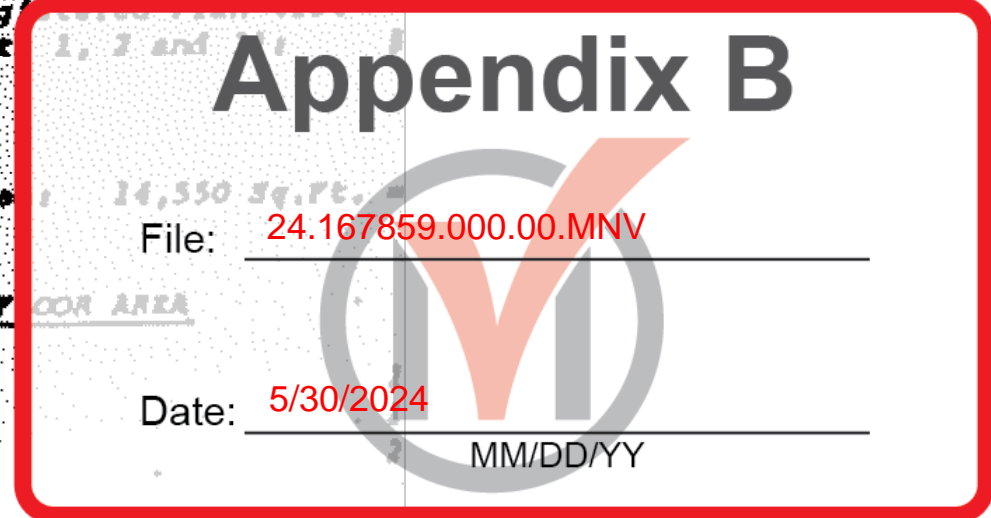
- Under Development
- <all other values>

1: 2,257

114.7                      0                      57.33                      114.7 Meters

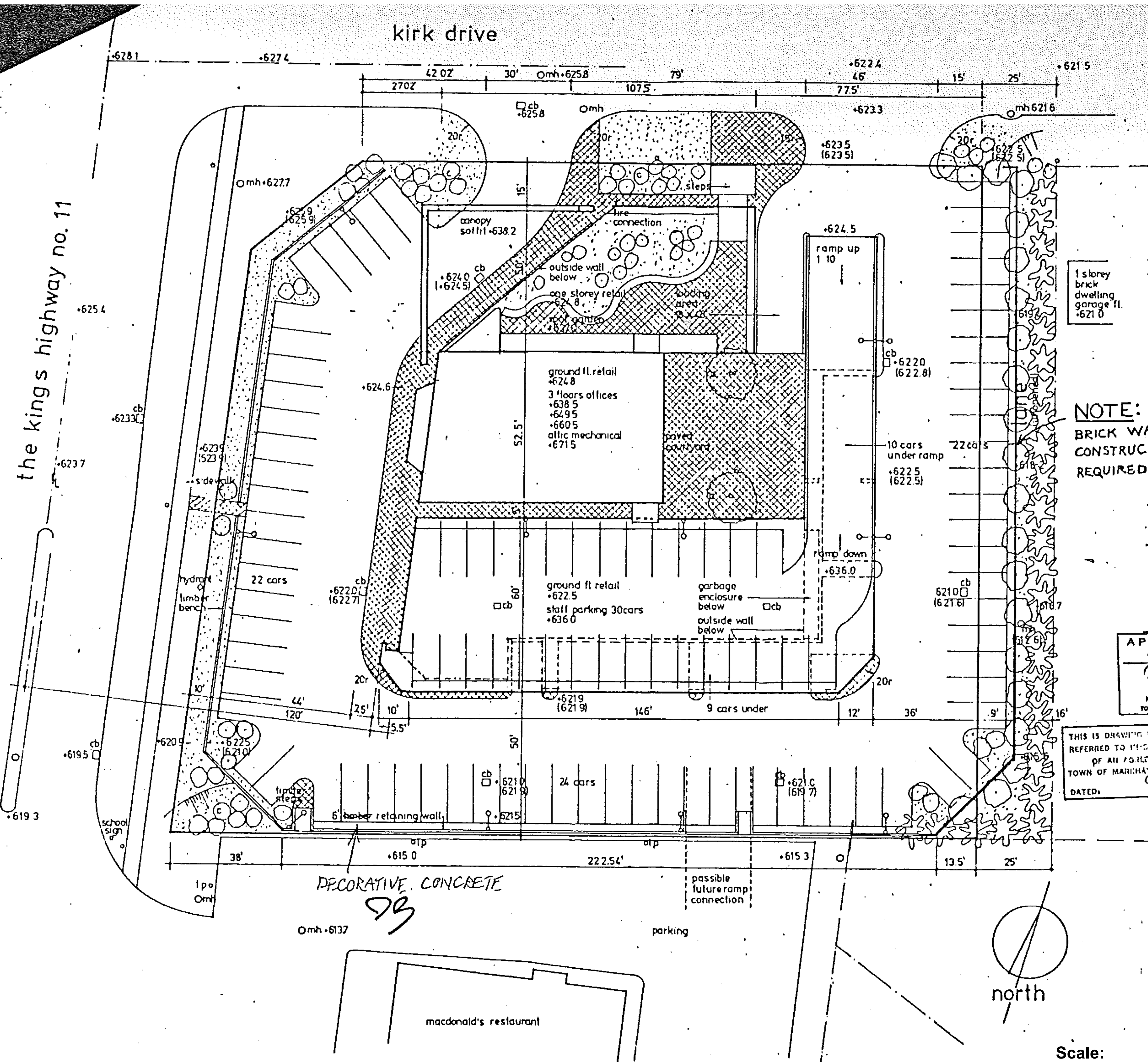
Notes



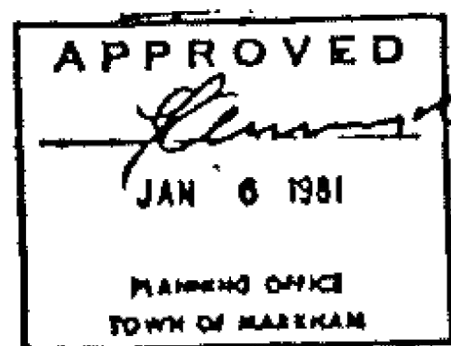


**INFORMATION TABLE**

- SITE AREA** (Reg Lot 1, 2 and 3)  
Ground Floor Area: 14,550 Sq. Ft.  
File: 24.167859.000.00.MNV
- LOT COVERED**  
Ground Floor Area: 14,550 Sq. Ft.
- BUILDING GROSS FLOOR AREA**  
Retail: Offices  
Total:
- FLOOR AREA RATIO**  
Gross Floor Area x 100 = 2,800.0  
Lot Area = 59,74
- LANDSCAPING & WALKWAYS**  
On Grade: 13,000 Sq. Ft. = 21.76% of Site Area  
Roof Garden: 4,054 Sq. Ft. = 6.79% of Site Area  
Total: 17,054 Sq. Ft. = 28.55% of Site Area
- PARKING & DRIVEWAYS**  
On Grade: 32,196 Sq. Ft. = 53.91% of Site Area  
Ramp, Roof  
Parking: 10,731 Sq. Ft. = 17.64% of Site Area  
Total: 42,927 Sq. Ft. = 71.55% of Site Area
- PARKING SPACES REQUIRED**  
Retail: 14,000 Sq. Ft. @ 1 Car/300 Sq. Ft. = 70  
Offices: 14,000 Sq. Ft. @ 1 Car/300 Sq. Ft. = 47  
Total Cars: 117  
  
Parking Provided  
On Grade: Visitor Parking: 87 cars  
Roof: Staff Parking: 30 cars  
Total: 117 cars
- BUILDING HEIGHT**  
Geodetic Elevation  
Cornice: 684.0 Ft.  
Fin. Grade: 624.8 Ft.  
Building Height: 58.2 Ft.
- LANEWAY**  
Parking Area: 1720 Sq. Ft.  
Landscaped Area: 4130 Sq. Ft.  
Total: 5850 Sq. Ft.



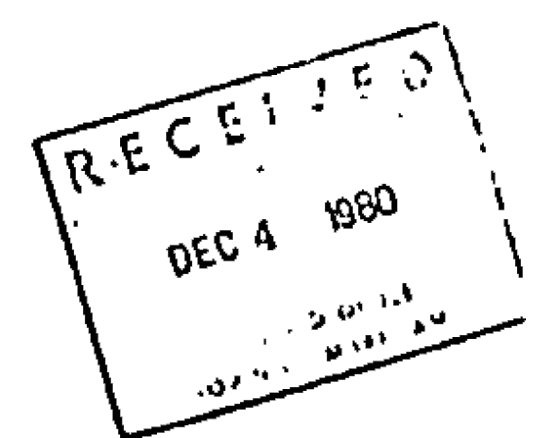
**NOTE: SIX FOOT BRICK WALL TO BE CONSTRUCTED IF REQUIRED**



THIS IS DRAWING NO. 1 REFERRED TO IN SECTION 3.1 OF AN AGREEMENT BETWEEN THE TOWN OF MARKHAM AND Wintergreen Construction Ltd. DATED:

yonge street at kirk drive, markham  
proposed commercial development for wintergreen construction ltd.

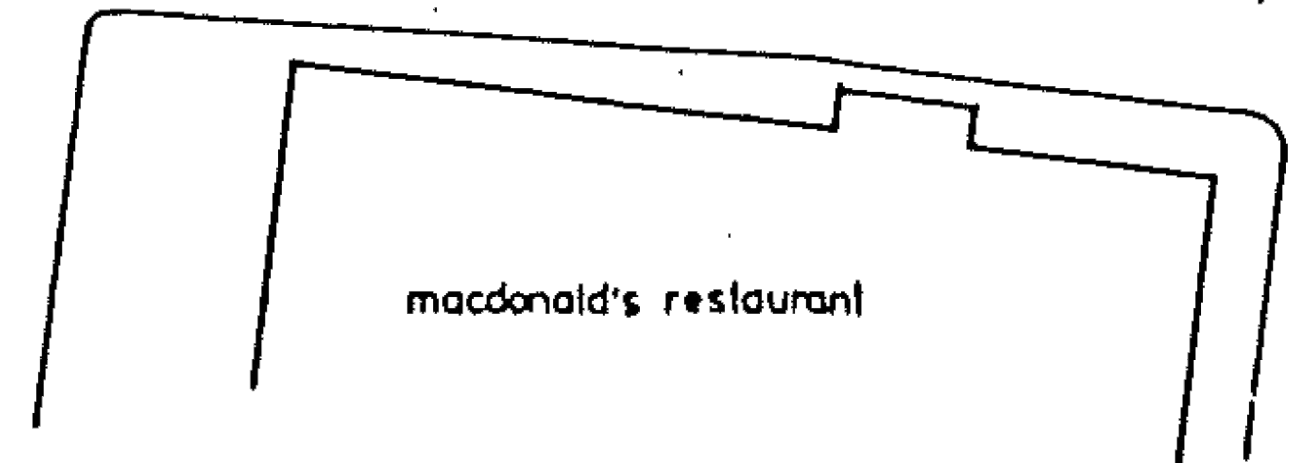
site plan  
scale 20' = 1 inch  
date 28/5/80  
drawn by CC  
revisions 29/9/80  
24/10/80



#1

Scale: 1/16" = 1'-0"

carmen corneil/architect  
450 st. clair avenue east, toronto, ontario

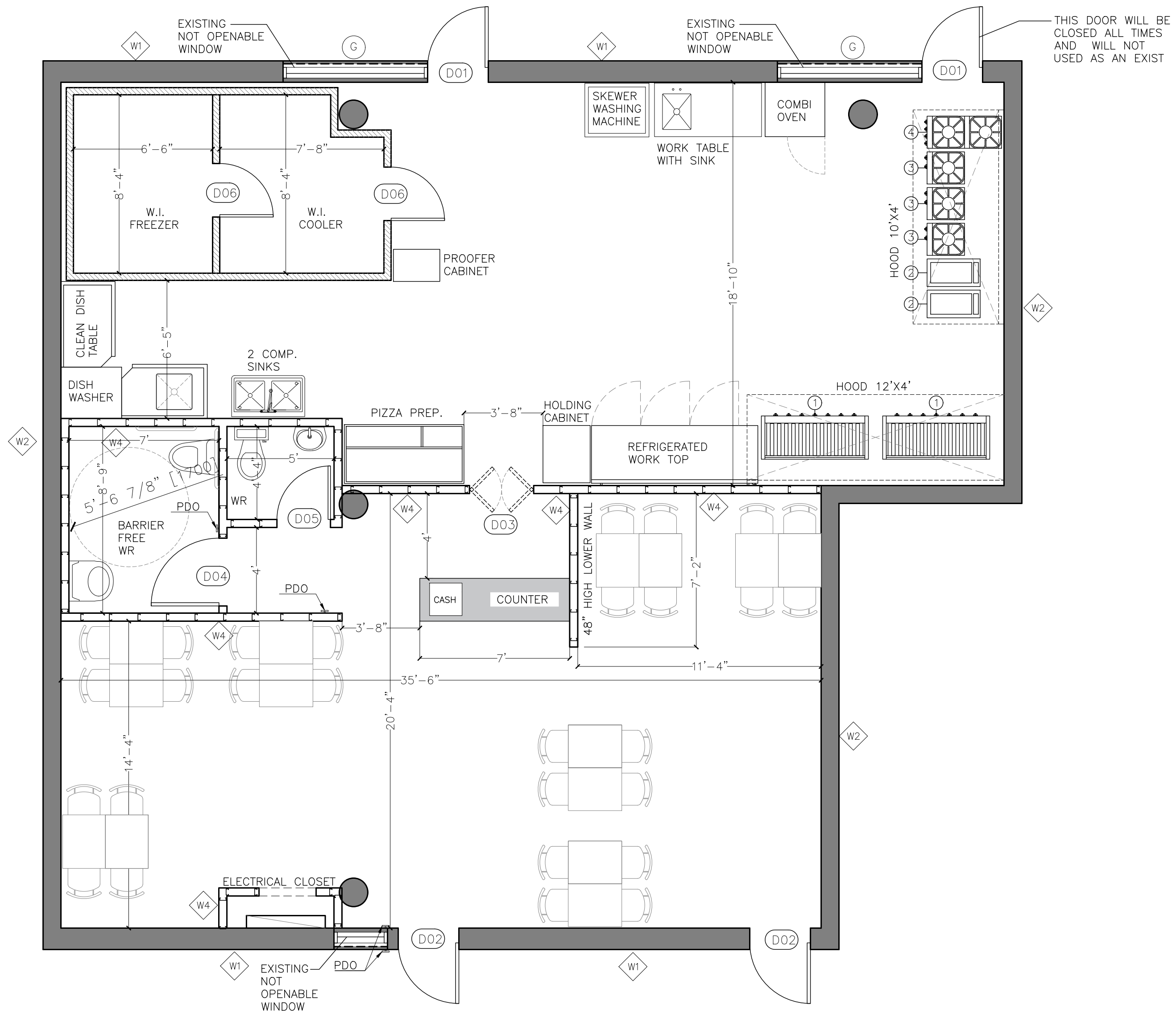




# Appendix B

File: 24.167859.000.00.MNV

Date: 5/30/2024  
MM/DD/YY



**WALL SCHEDULE:**

- W1 EXISTING EXTERIOR WALL TO REMAIN (NO CHANGE)
- W2 EXISTING DEMISING WALL TO REMAIN (NO CHANGE)
- W3 EXISTING INTERIOR WALL TO REMAIN (NO CHANGE)
- W4 NEW INTERIOR PARTITION FLOOR TO CEILING  
\*1/2" GYPSUM BOARD ON  
\*3-5/8" METAL STUDS SPACED 16" O.C. FROM  
\*1/2" GYPSUM BOARD  
\*VINYL BASE  
\*PAINT FINISH

**GLAZING SCHEDULE**

- G EXISTING GLAZING WINDOW TO REMAIN

**DOOR SCHEDULE**

- D01 EXISTING 2'-10" MAIN ENTRANCE DOOR TO REMAIN
- D02 EXISTING 2'-10" EMERGENCY EXIT DOOR TO REMAIN
- D03 NEW 3'-0" INTERIOR COMMERCIAL SWING DOOR  
USE SWING CLEAR HINGES TO MAINTAIN  
A CLEAR WIDTH OF 860 mm
- D04 NEW 3'-2" INTERIOR COMMERCIAL DOOR
- D05 NEW 3'-0" INTERIOR COMMERCIAL DOOR
- D06 NEW 2'-6" INTERIOR COMMERCIAL DOOR

**LEGEND**

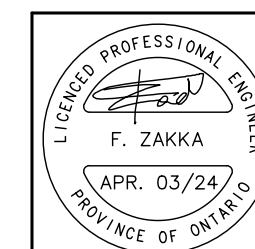
- EXISTING WALL TO REMAIN
- PROPOSED NEW PARTITION WALL
- COOLER/FREEZER WALL PANEL

**AREA CALCULATION**  
 MAIN FLOOR AREA = 1563 ft<sup>2</sup>  
 [145.2 m<sup>2</sup>]  
 OCCUPANT LOAD = 30

PDO - POWER DOOR OPERATOR

**KITCHEN APPLIANCES:**

- 1 60" CHARBROILER
- 2 16" FRYER
- 3 18" STOCK POT
- 4 18" 2 GAS BURNER



**FZ ENGINEERING INC.**  
 BUILDING ENGINEERS  
 EMAIL: FZENGEERINGINC@GMAIL.COM  
 4230 SHERWOODTOWNE BLVD.  
 MISSISSAUGA, ON, L4Z 2G6  
 TEL: (905) 564-7890  
 CEL: (647) 297-6234

PROJECT: SHAMSHIRI RESTAURANT  
 8199 Yonge St, Thornhill, ON L4J 1W5 (Unit 100)

DRAWING TITLE: MAIN LEVEL FLOOR PLAN

SCALE: 1/4"=1'-0"

DATE: JAN. 27, 2024

PROJECT No: 24003

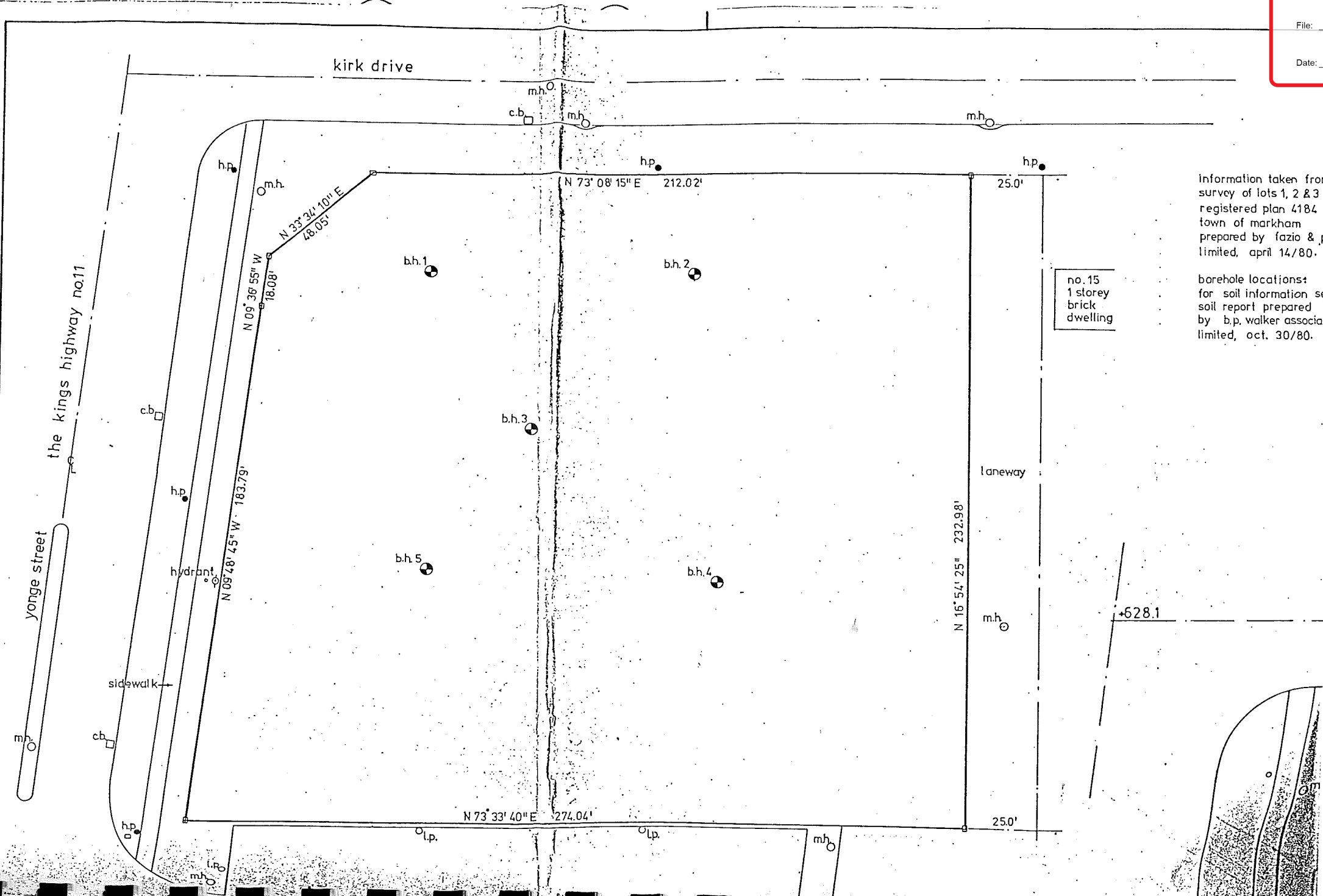
DRAWING No: A-3-R2

**Appendix B**

File: 24.167659.000.00.MNV

Date: 5/30/2024

MM/DD/YY



Information taken from survey of lots 1, 2 & 3 registered plan 4184 town of markham prepared by fazio & pa limited, april 14/80.

borehole locations: for soil information see soil report prepared by b.p. walker associate limited, oct. 30/80.

no. 15  
1 storey  
brick  
dwelling

SURVEY - 8199 YONGE ST.  
25' LANEWAY WAS PURCHASED FROM TOWN OF MARKHAM  
PRIOR TO CONSTRUCTION.

**APPENDIX “C” – A/034/24 Conditions of Approval**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/034/24**

1. The variances apply only to the proposed development as long as it remains; and
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.

CONDITIONS PREPARED BY:



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Hussnain Mohammad, Planner 1, Development Facilitation Office