

Memorandum to the City of Markham Committee of Adjustment

October 17, 2023

File: A/148/23
Address: 58 Bendamere Cres, Markham
Applicant: Markham Drafting & Design (Dongshan Cui)
Owner: Meimei Yu
Hearing Date: Wednesday, November 29, 2023

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

The applicant is requesting relief from the following requirements of By-law 153-80, as amended, as it relates to a proposed second storey rear deck with stairs, to permit:

a) By-law 142-95, Section 2.1 (a)(iii):

a deck to be located above the ground floor, whereas the By-law requires a deck to be at or below the level of the ground floor; and

b) By-law 142-95, Section 2.3 (a):

steps to be located off the second floor, whereas the By-law does not permit steps to be at an elevation higher than the ground floor.

BACKGROUND

Property Description

The 360.56 m² (3881.04 ft²) subject property is located on the west side of Bendamere Crescent, south of Sixteenth Avenue, and east of Cairns Drive. The property is located within an established residential neighbourhood comprised of two-storey detached and link dwellings. Mature vegetation exists across the property.

There is an existing two-storey link home on the property, which according to assessment records was constructed in 1986. Mature vegetation exists on the property including one large mature tree in the front yard.

Proposal

The applicant is proposing to construct an approximately 6.12 m² (65.88 ft²) second story deck off of the master bedroom, with a staircase that leads down to the existing fenced-in backyard.

Official Plan and Zoning

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

Section 8.2.3.5 of the 2014 Official Plan outlines development criteria for the “Residential Low Rise” designation to ensure infill development respects and reflects the existing pattern and character of the surrounding neighbourhood. These criteria include policies with respect to height, massing, setbacks, and protection of existing vegetation.

Zoning By-Law By-law 153-80 as amended

The subject property is zoned RSD3 under By-law 153-80, as amended, which permits residential low rise.

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 addition of the second story rear deck and stairs.

Zoning Preliminary Review (ZPR) Not Undertaken

The owner 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.

The proposed development does not meet the general intent and purpose of the Zoning By-law. By-law 142-95 was specifically written in a manner that explicitly prohibits decks and staircases located above the ground floor. The proposed development is not minor in nature as the second story deck and staircase will negatively impact adjacent neighbors due to the height difference. Staff note that the subject property does not feature a walk-out basement, nor a slope in the lot grading, which further discounts the rationale for the addition of a second story deck. The proposed development directly contradicts the Official Plan where Residential Low Rise neighborhoods are to experience minimal change in the future. A second story deck does not respect the physical character of the established neighborhood, rendering it undesirable.

Staff are not in support of the proposed above ground deck and stairs, and are of the opinion that the requested variances will result in an addition that does not meet the four tests for Minor Variance under the Planning Act.

PUBLIC INPUT SUMMARY

No written submissions were received as of **November 14, 2023**. 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 does not meet the four tests of the Planning Act and recommend the application be denied. Staff recommend that the Committee consider public input in reaching a decision.

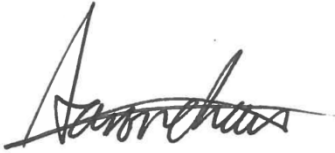
The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the zoning by-law, and how they satisfy the tests of the Planning Act required for the granting of minor variances.

APPENDICIES

Appendix "A" – Aerial Photo

Appendix "B" – Plans

PREPARED BY:



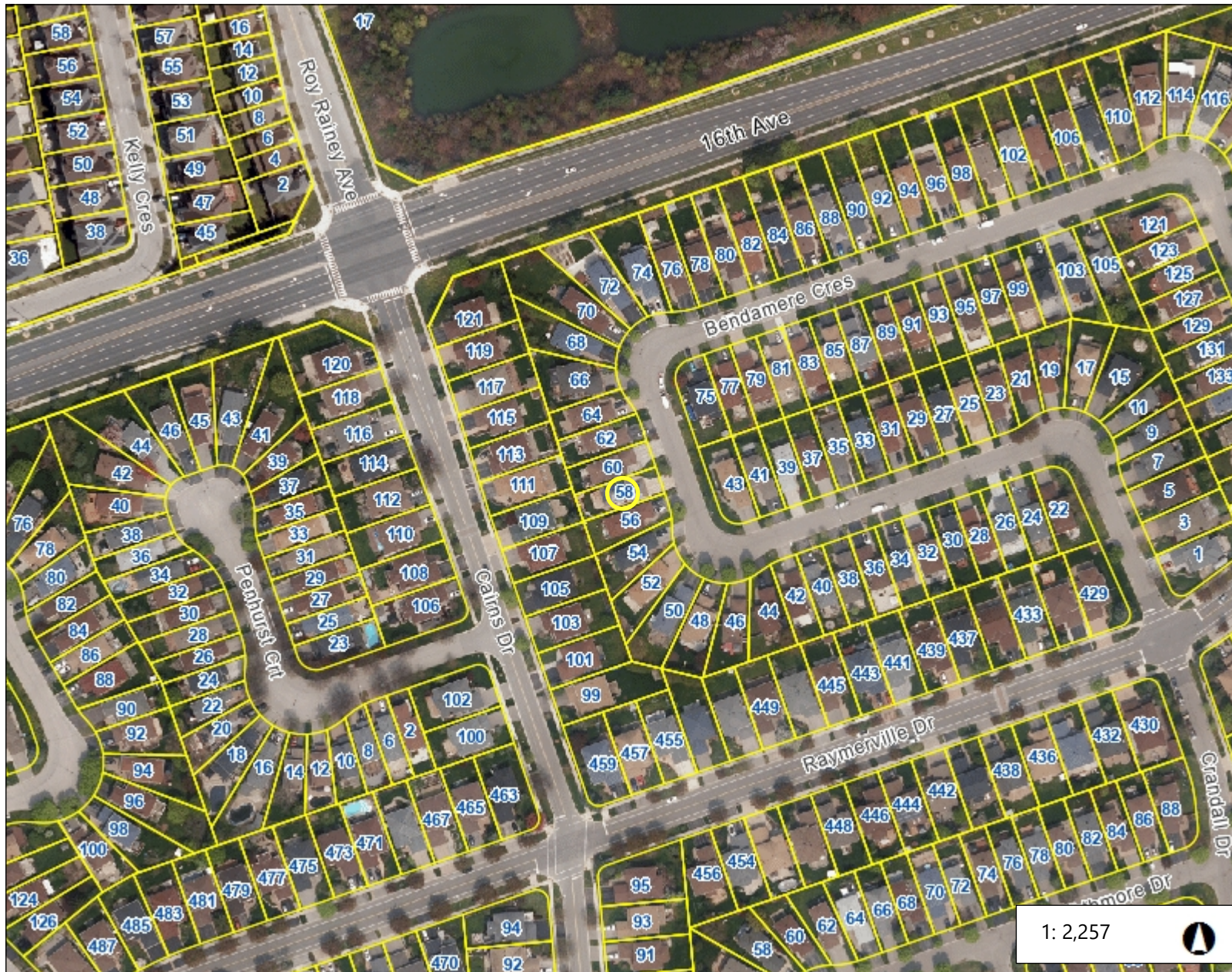
Aaron Chau, Planner I, East District

REVIEWED BY:



Stacia Muradali, Development Manager, East District

File Path: Amanda\File\ 23 135891 \Documents\District Team Comments Memo



Legend

- Subject Lands - 58 Bendamere Crescent

1: 2,257



Notes




114.7 0 57.33 114.7 Meters

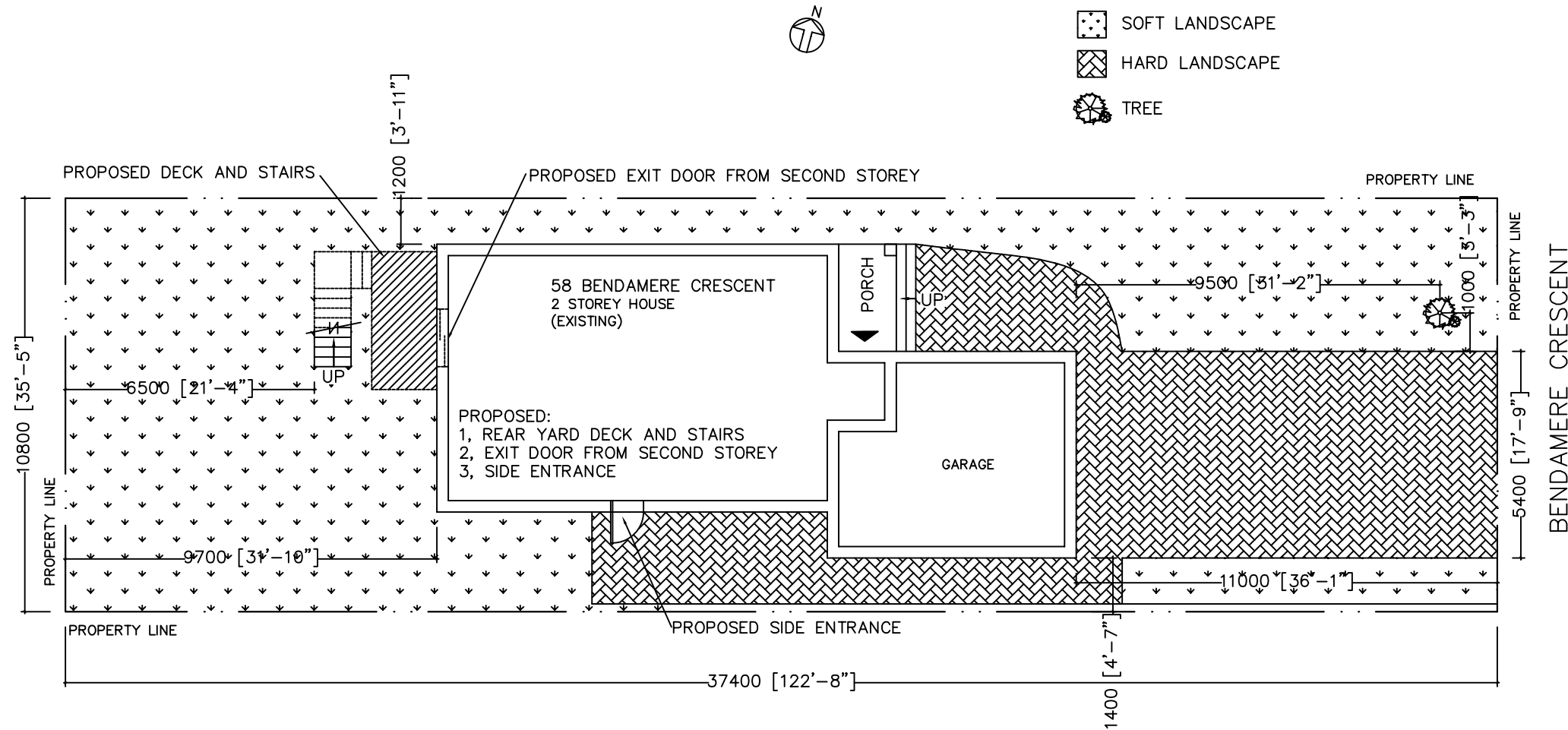
Appendix B

File: 23.135891.000.00.MNV

Date: 11/23/23
MM/DD/YY

LEGEND:

-  SOFT LANDSCAPE
-  HARD LANDSCAPE
-  TREE



SITE PLAN

THE UNDERSIGNED HAS REVIEWED AND TAKES RESPONSIBILITY FOR THIS DESIGN.

NAME: DONGSHAN CUI

BCIN: 114688 

Markham Drafting & Design

BCIN: 115455

Aug 5, 2023

No.	Revision/Issue	Date
1	ISSUED FOR BUILDING PERMIT	Jun 21, 23

Firm Name and Address
Markham Drafting & Design
 67 Maria Road, Markham
 Ontario L6E 0N9
 Tel.: (647)381-5561

Project Name and Address
 REAR YARD DECK AND
 SIDE ENTRANCE
 58 BENDAMERE CRES
 MARKHAM, ONTARIO

Drawing Title	
SITE PLAN	
Scale	Date
1:150	Jun 21, 2023
Drawing Number	
A101	

Appendix B

File: 23.135891.000.00.MNV

Date: 11/23/23
MM/DD/YY

DOOR & WINDOW SCHEDULE

Ⓣ	60"x80"	1	EXTERIOR SLIDING DOOR GLASS AREA: 2.5 sqm
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WOOD LINTEL SCHEDULE

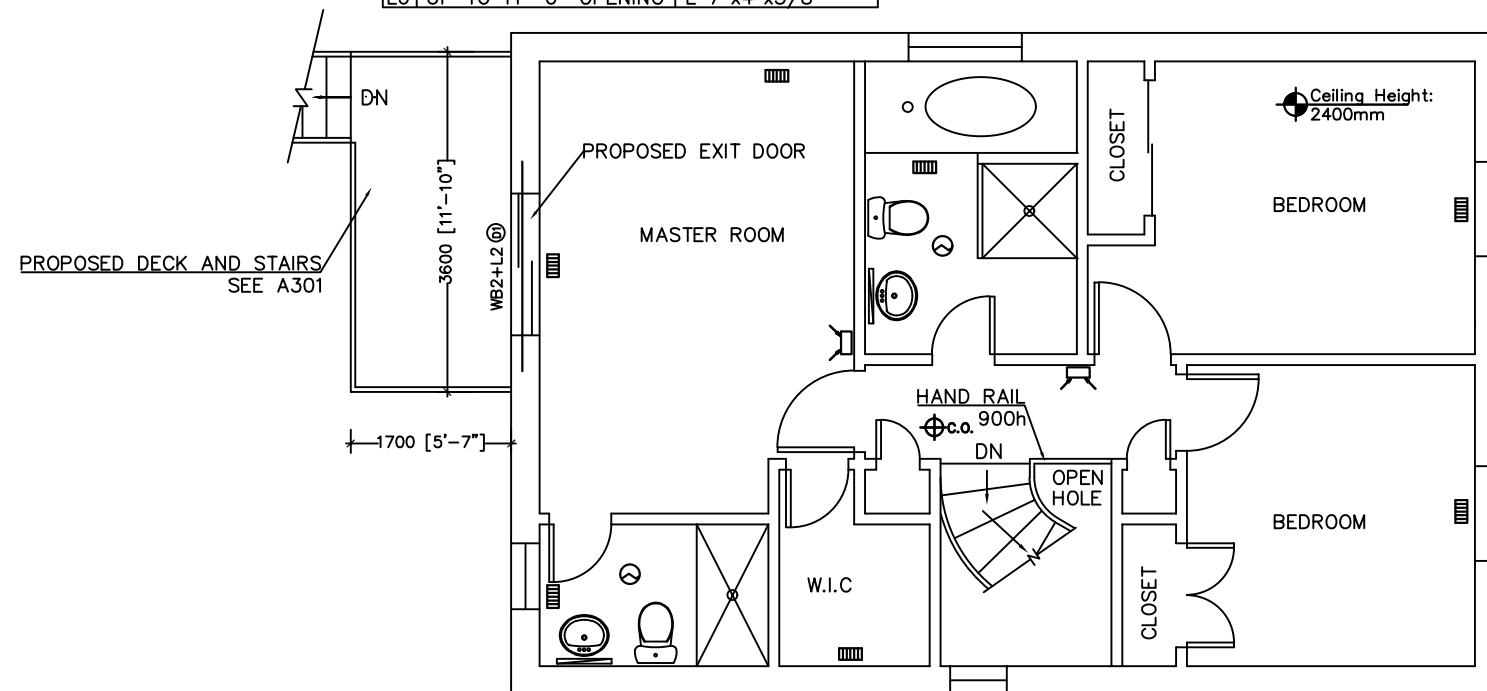
WB1	UP TO 3'-6" OPENING	L 3-2"x6"
WB2	UP TO 5'-6" OPENING	L 3-2"x8"
WB3	UP TO 6'-6" OPENING	L 3-2"x10"
WB4	UP TO 7'-6" OPENING	L 3-2"x12"

STEEL LINTEL SCHEDULE

L1	UP TO 4'-6" OPENING	L 3.5"x3.5"x5/16"
L2	UP TO 5'-6" OPENING	L 4"x3.5"x5/16"
L3	UP TO 6'-6" OPENING	L 5"x3.5"x5/16"
L4	UP TO 7'-6" OPENING	L 5"x3.5"x3/8"
L5	UP TO 9'-10" OPENING	L 6"x4"x3/8"
L6	UP TO 11'-0" OPENING	L 7"x4"x3/8"

LEGEND:

-  EXISTING FLOOR REGISTER
-  EXHAUST FAN
-  EXISTING HIGH WALL AIR RETURN
-  INTERCONNECTED C.O. DETECTOR ALARM



PROPOSED SECOND FLOOR PLAN

THE UNDERSIGNED HAS REVIEWED AND
TAKES RESPONSIBILITY FOR THIS DESIGN.

NAME: DONGSHAN CUI

BCIN: 114688

Markham Drafting & Design

BCIN: 115455

Aug 5, 2023

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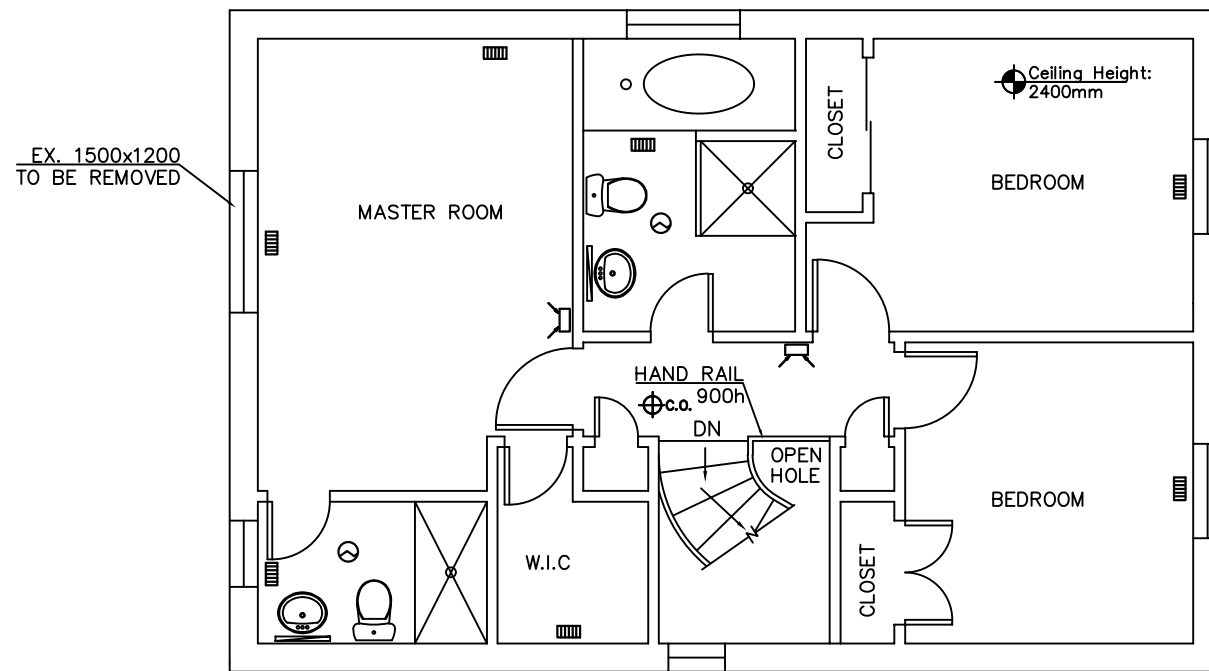
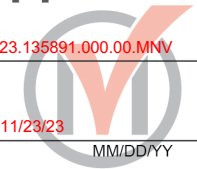
Drawing Title
PROPOSED SECOND FLOOR PLAN

Scale	Date
1:80	Jun 21, 2023
Drawing Number	
A203	





Appendix B

File: 23.135891.000.00.MNV

Date: 11/23/23
MM/DD/YY



LEGEND:

-  EXISTING FLOOR REGISTER
-  EXHAUST FAN
-  EXISTING HIGH WALL AIR RETURN
-  INTERCONNECTED C.O. DETECTOR ALARM

EXISTING SECOND FLOOR PLAN

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 SIDE ENTRANCE
 58 BENDAMERE CRES
 MARKHAM, ONTARIO

Drawing Title
 EXISTING SECOND FLOOR PLAN

Scale 1:80	Date Jun 21, 2023
Drawing Number A202	

THE UNDERSIGNED HAS REVIEWED AND
 TAKES RESPONSIBILITY FOR THIS DESIGN.

NAME: DONGSHAN CUI
 BCIN: 114688 *DC*
 Markham Drafting & Design
 BCIN: 115455

Aug 5, 2023

Appendix B

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MM/DD/YY

LEGEND:

- ▣ EXISTING FLOOR REGISTER
- ⊙ EXHAUST FAN
- ⌞ EXISTING HIGH WALL AIR RETURN
- ⊕c.o. INTERCONNECTED C.O. DETECTOR ALARM



DOOR & WINDOW SCHEDULE

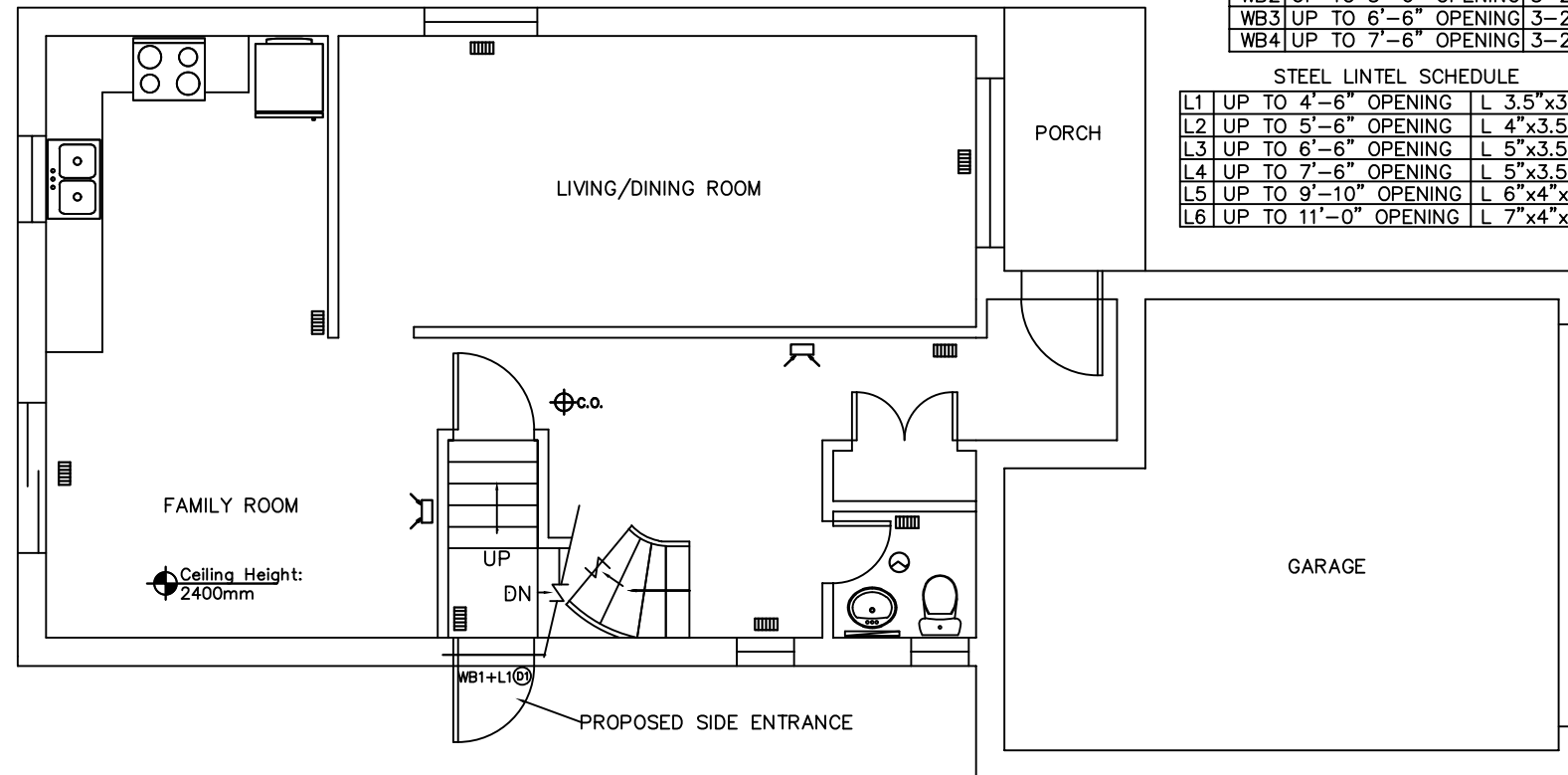
⊕	32"x80"	1	EXTERIOR DOOR WITH A DOORVIEWER
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WOOD LINTEL SCHEDULE

WB1	UP TO 3'-6" OPENING	3-2"x6"
WB2	UP TO 5'-6" OPENING	3-2"x8"
WB3	UP TO 6'-6" OPENING	3-2"x10"
WB4	UP TO 7'-6" OPENING	3-2"x12"

STEEL LINTEL SCHEDULE

L1	UP TO 4'-6" OPENING	L 3.5"x3.5"x5/16"
L2	UP TO 5'-6" OPENING	L 4"x3.5"x5/16"
L3	UP TO 6'-6" OPENING	L 5"x3.5"x5/16"
L4	UP TO 7'-6" OPENING	L 5"x3.5"x3/8"
L5	UP TO 9'-10" OPENING	L 6"x4"x3/8"
L6	UP TO 11'-0" OPENING	L 7"x4"x3/8"



GROUND FLOOR PLAN

1	ISSUED FOR BUILDING PERMIT	Jun21,23
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Firm Name and Address
Markham Drafting & Design
 67 Maria Road, Markham
 Ontario L6E 0N9
 Tel.: (647)381-5561

Project Name and Address
 REAR YARD DECK AND
 SIDE ENTRANCE
 58 BENDAMERE CRES
 MARKHAM, ONTARIO

Drawing Title GROUND FLOOR PLAN	
Scale 1:80	Date Jun 21, 2023
Drawing Number A201	

THE UNDERSIGNED HAS REVIEWED AND TAKES RESPONSIBILITY FOR THIS DESIGN.

NAME: DONGSHAN CUI

BCIN: 114688 *DC*

Markham Drafting & Design

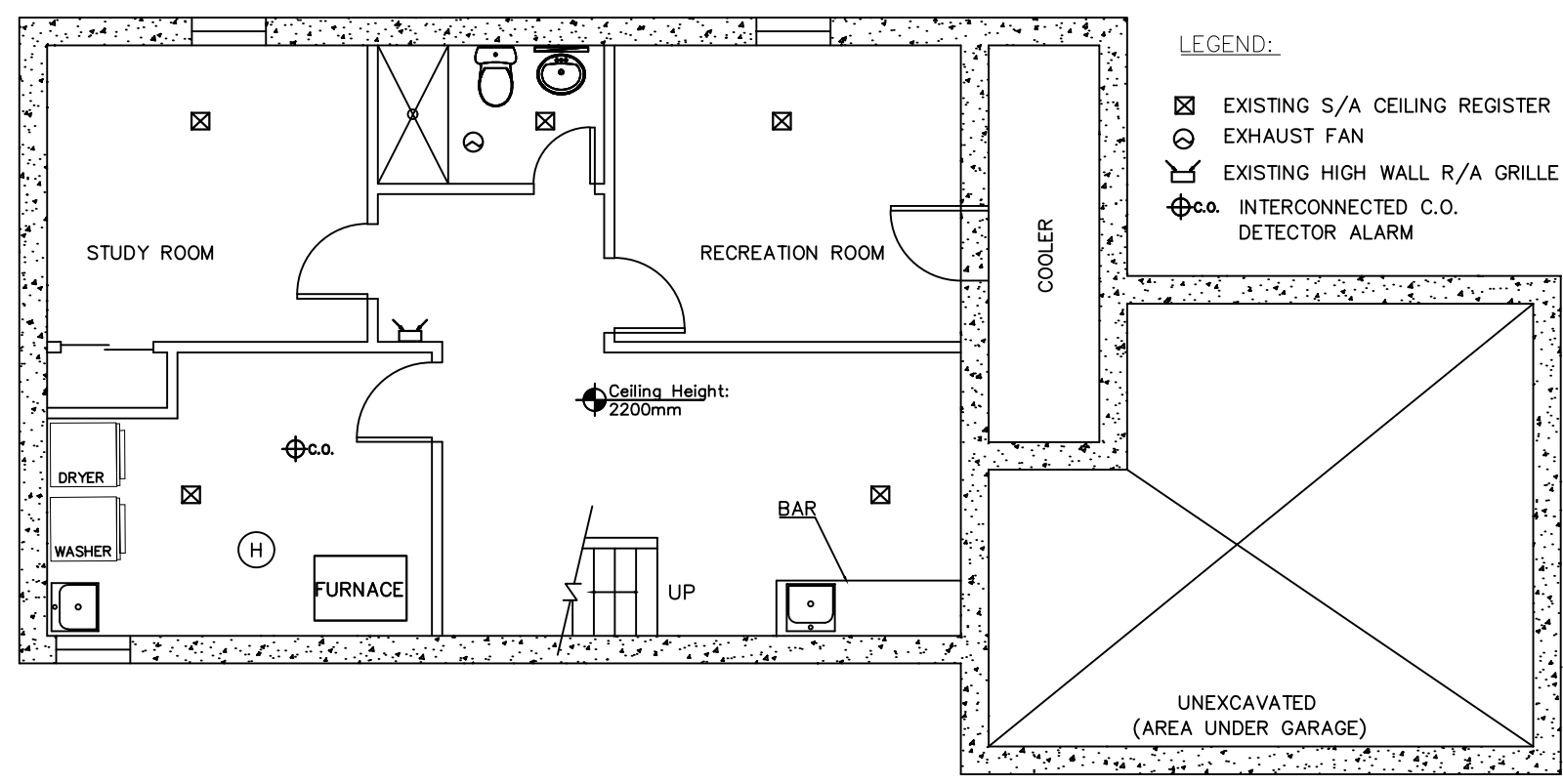
BCIN: 115455

Aug 5, 2023

Appendix B

File: 23.135891.000.00.MNV

Date: 11/23/23
MM/DD/YY



LEGEND:

- ☒ EXISTING S/A CEILING REGISTER TO REMAIN
- ⊙ EXHAUST FAN
- ⌞ EXISTING HIGH WALL R/A GRILLE TO REMAIN
- ⊕c.o. INTERCONNECTED C.O. DETECTOR ALARM

BASEMENT FLOOR PLAN

THE UNDERSIGNED HAS REVIEWED AND TAKES RESPONSIBILITY FOR THIS DESIGN.
NAME: DONGSHAN CUI
BCIN: 114688 *DC*
Markham Drafting & Design
BCIN: 115455

Aug 5, 2023

No.	Revision/Issue	Date
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Firm Name and Address

Markham Drafting & Design
67 Maria Road, Markham
Ontario L6E 0N9
Tel.: (647)381-5561

Project Name and Address

REAR YARD DECK AND
SIDE ENTRANCE
58 BENDAMERE CRES
MARKHAM, ONTARIO

Drawing Title

BASEMENT FLOOR PLAN

Scale	Date
1:80	Jun 21, 2023

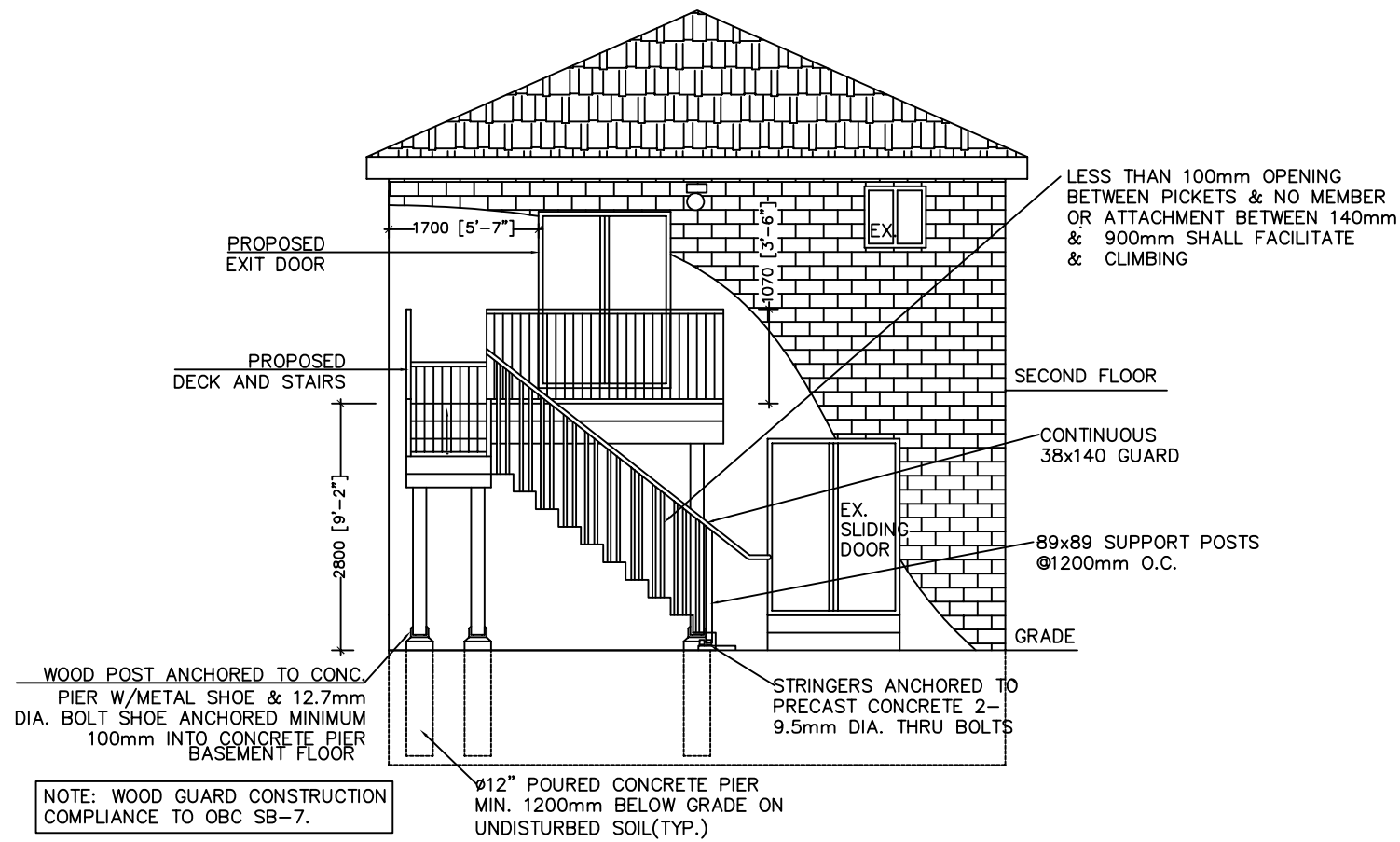
Drawing Number

A204

Appendix B

File: 23.135891.000.00.MNV

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MM/DD/YY



WEST ELEVATION

1	ISSUED FOR BUILDING PERMIT	Jun21,23
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Markham Drafting & Design
 67 Maria Road, Markham
 Ontario L6E 0N9
 Tel.: (647)381-5561

Project Name and Address
 REAR YARD DECK AND
 SIDE ENTRANCE
 58 BENDAMERE CRES
 MARKHAM, ONTARIO

Drawing Title WEST ELEVATION	
Scale 1:80	Date Jun 21, 2023
Drawing Number A401	

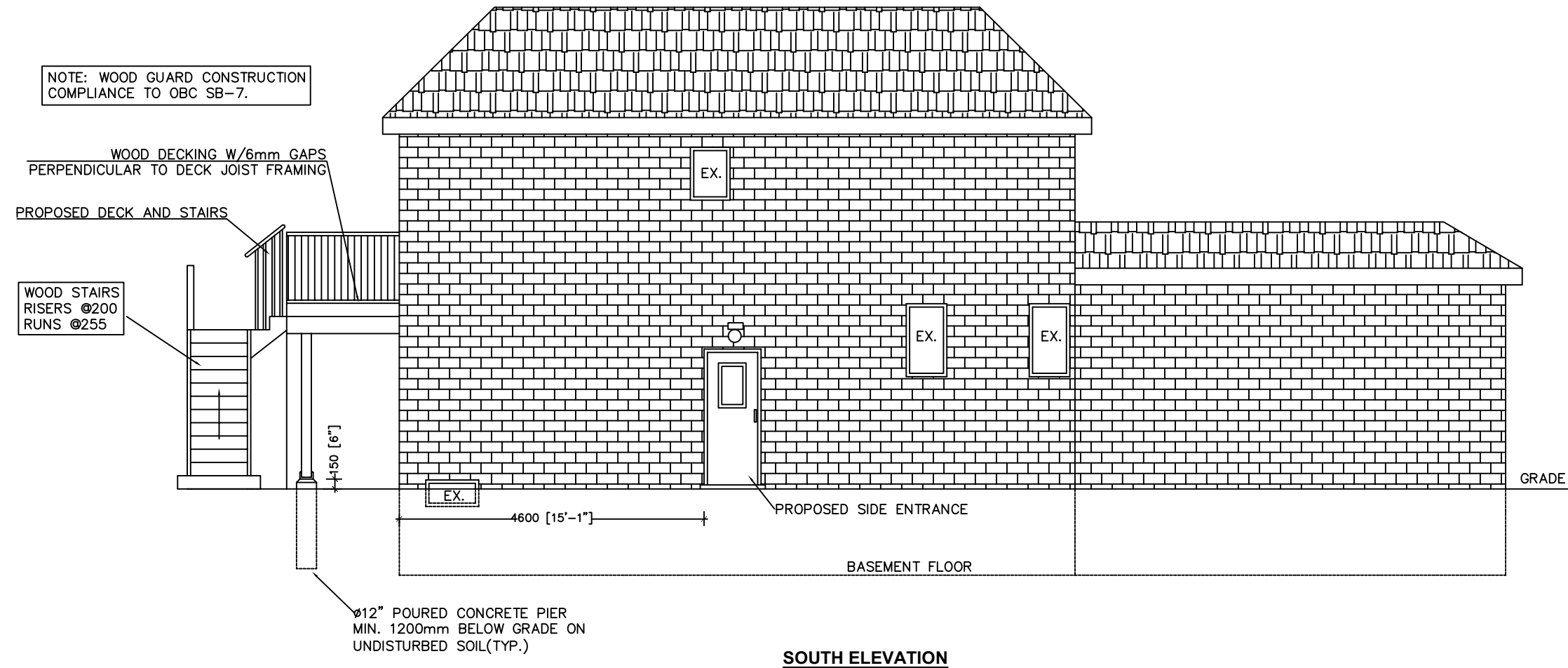
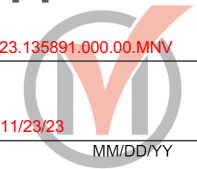
THE UNDERSIGNED HAS REVIEWED AND
 TAKES RESPONSIBILITY FOR THIS DESIGN.
 NAME: DONGSHAN CUI
 BCIN: 114688 DC
 Markham Drafting & Design
 BCIN: 115455

Aug 5, 2023

Appendix B

File: 23.135891.000.00.MNV

Date: 11/23/23
MM/DD/YY



1	ISSUED FOR BUILDING PERMIT	Jun21,23
No.	Revision/Issue	Date

Firm Name and Address
Markham Drafting & Design
 67 Maria Road, Markham
 Ontario L6E 0N9
 Tel.: (647)381-5561

Project Name and Address
 REAR YARD DECK AND
 SIDE ENTRANCE
 58 BENDAMERE CRES
 MARKHAM, ONTARIO

Drawing Title
 SOUTH ELEVATION
Scale 1:80 **Date** Jun 21, 2023
Drawing Number
 A402

THE UNDERSIGNED HAS REVIEWED AND
 TAKES RESPONSIBILITY FOR THIS DESIGN.
 NAME: DONGSHAN CUI
 BCIN: 114688 DC
 Markham Drafting & Design
 BCIN: 115455

Aug 5, 2023

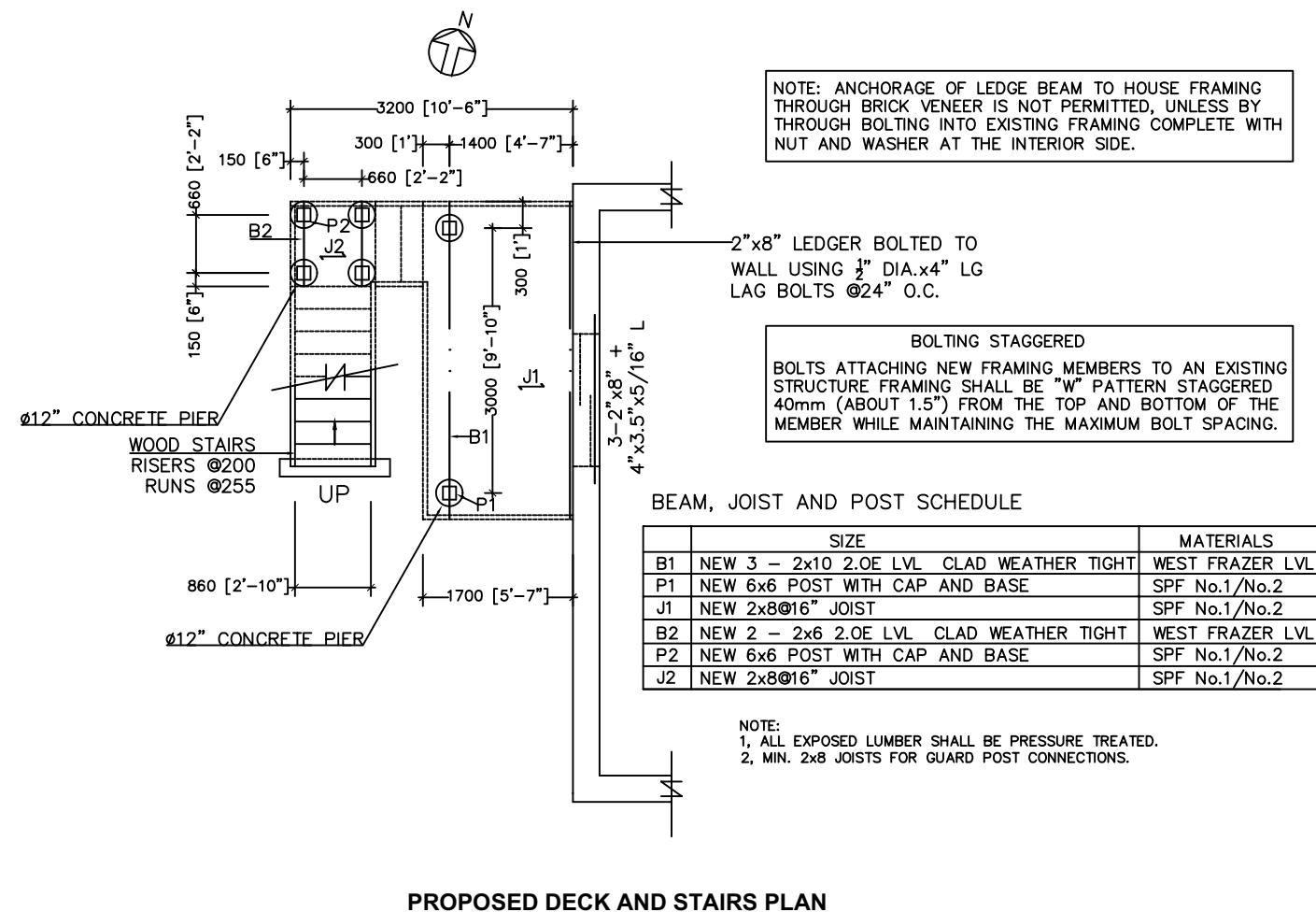
Appendix B

File: 23.135891.000.00.MNV

Date: 11/23/23
MM/DD/YY

NOTES

- 1, The Contractor is required to report the designer any existing site conditions that are inconsistent with the drawings for their review, re-design if necessary.
- 2, All wood studs, joists, rafters are SPF No.1/No.2.
- 3, All exterior wood should be pressure treated.
- 4, Concrete of piers: 25 Mpa, F2 type
- 5, These drawings are not for construction unless the building permit is issued.
- 6, Soil bearing capacity: min. 100 Kpa
- 7, Joists spanning more than 2100mm are to have bridging at least every 2100mm o.c..
- 8, A minimum live load of 1.9 kPa shall be applied in all locations.



PROPOSED DECK AND STAIRS PLAN

THE UNDERSIGNED HAS REVIEWED AND TAKES RESPONSIBILITY FOR THIS DESIGN.

NAME: DONGSHAN CUI

BCIN: 114688 *DC*

Markham Drafting & Design

BCIN: 115455

Aug 5, 2023

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Ontario L6E 0N9
Tel.: (647)381-5561

Project Name and Address
REAR YARD DECK AND
SIDE ENTRANCE
58 BENDAMERE CRES
MARKHAM, ONTARIO

Drawing Title	
PROPOSED DECK AND STAIRS PLAN	
Scale	Date
1:80	A301
Drawing Number	
A301	

TOPOGRAPHIC SURVEY OF
PART OF LOT 38
REGISTERED PLAN 65M-2312
CITY OF MARKHAM
(REGIONAL MUNICIPALITY OF YORK)

SCALE 1 : 200



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ONTARIO LAND SURVEYORS
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METRIC

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

BENCHMARK NOTE

ELEVATIONS SHOWN HEREON ARE GEODETIC AND ARE REFERRED
TO CITY OF MARKHAM BENCHMARK No. 770 HAVING AN ELEVATION OF 201.230 METRES.

LEGEND

GM	DENOTES	
CR	•••	CENTERLINE ROAD
DS	•••	DOOR SILL
RWB	•••	BRICK RETAINING WALL
HM	•••	HYDRO METER
LS	•••	LIGHT STANDARD
SWI	•••	PAVED INTERLOCKING
BF	•••	BOARD FENCE
CB	•••	CATCH BASIN
PIN	•••	PROPERTY IDENTIFIER NUMBER
Ø	•••	DIAMETER
293.05	•••	ELEVATION ON THE GROUND
⊙	•••	DECIDUOUS TREE

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:
THE FIELD OBSERVATIONS REPRESENTED ON THIS PLAN
WERE COMPLETED ON THE 31ST DAY OF AUGUST, 2023.

SEPTEMBER 22, 2023
DATE

ALEX MARTON
ONTARIO LAND SURVEYOR

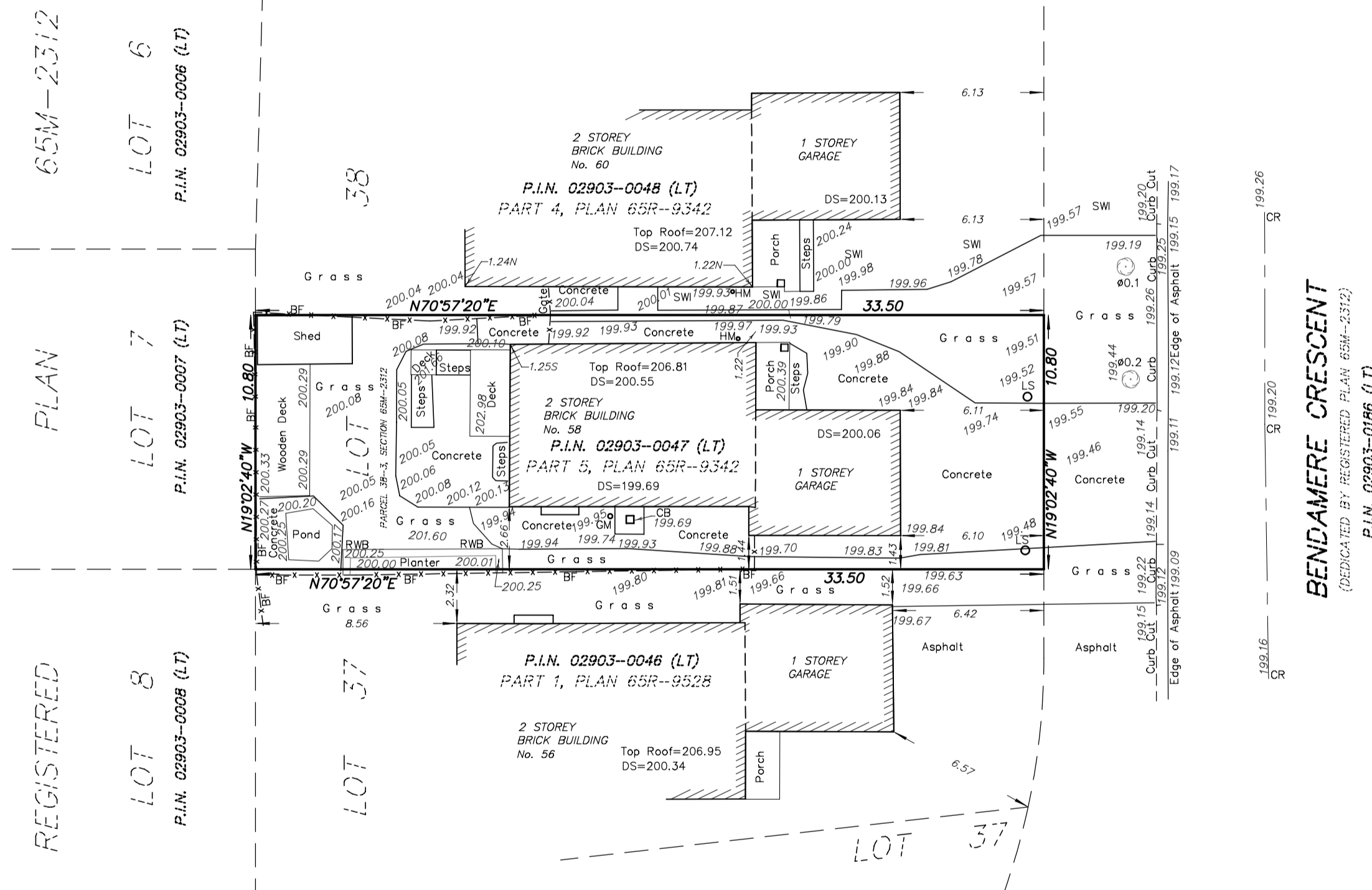


ALEX MARTON LIMITED
ONTARIO LAND SURVEYORS
160 APPLEWOOD CRESCENT, UNIT 8,
CONCORD, ONTARIO, L4K 4H2
PHONE: 905-879-8889 FAX: 905-879-0770
E-MAIL: alex@amsurveying.ca
WEBSITE: www.amsurveying.ca

PARTY CHIEF: H.Z.	FILE NAME: 2023-245.DWG
DRAWN : F.V.W.	PLOT SCALE: 1:200
CHECKED : A.M.	PROJECT No. 2023-245

CAUTION

THIS IS NOT A PLAN OF SURVEY AND SHALL NOT BE
USED FOR MORTGAGE OR TRANSACTION PURPOSES.



65M-2312

LOT 6

P.I.N. 02903-0006 (LT)

PLAN

LOT 7

P.I.N. 02903-0007 (LT)

REGISTERED

LOT 8

P.I.N. 02903-0008 (LT)

BENDAMERE CRESCENT
(DEDICATED BY REGISTERED PLAN 65M-2312)
P.I.N. 02903-0186 (LT)