# Memorandum to the City of Markham Committee of Adjustment March 1, 2021

File: A/84/16

Address: 7543 Kennedy Road, Markham

Applicant: Kirumpakaran Ehamparam (2101125 Ontario Ltd.)
Agent: Blackthorn Development Corp. (Maurizio Rogato)

Hearing Date: Wednesday, March 10, 2021

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

The applicant is requesting relief from the following requirements of By-law 90-81, as amended, to permit:

### a) Amending By-law 2007-69, Section 7.50.3 (b)(i):

a maximum of two (2) Medical Clinics, whereas the By-law only permits a maximum of one (1);

### b) Amending By-law 2007-69, Section 7.50.3 (b)(ii):

a maximum Net Floor Area of 286.80 m<sup>2</sup>, whereas the By-law permits a maximum of 270 m<sup>2</sup>:

### c) Amending By-law 2007-69, Section 7.50.2 (e):

a maximum Gross Floor Area of 590.90 m<sup>2</sup>, whereas the By-law permits a maximum of 430 m<sup>2</sup>:

### d) Amending By-law 2007-69, Section 7.50.3 (iv):

a minimum landscape strip of 1.029 m along the south lot line, whereas the By-law requires a minimum of 1.4 m;

### e) Parking By-law 28-97, Section 3.0, Table B:

a minimum of 12 parking spaces, whereas the By-law requires a minimum of 14 parking spaces;

as they relate to a proposed medical clinic facility.

### **BACKGROUND**

### **Property Description**

The 0.3 acre (0.12 hectare) subject property is located on the east side of Kennedy Road, south of Highglen Avenue. There is an existing one-storey building on the property that is vacant. No significant vegetation or natural features exist on the site.

Surrounding land uses include single detached dwellings to the north fronting onto Highglen Avenue and to the east fronting onto Doulton Court. Abutting to the south is a commercial/office building followed by three properties, which are also used for commercial purposes. To the west, across Kennedy Road, is the

Milliken Mills High School and Community Centre (see Appendix A – Aerial Photo).

### **Proposal**

The applicant has applied for variances to facilitate the development of a new two-storey, 590.90 m² (6,360.39 ft²), medical clinic facility with a pharmacy on the ground floor and two medical clinics on the second floor (see Appendix B – Architectural Plans). A total of 12 surface parking spaces (including one accessible space) are provided on-site, located at the rear of the proposed building. Vehicular access is proposed from Kennedy Road and is to be restricted to right-in, right-out movements.

### **History**

In 2007, site-specific Official Plan and Zoning By-Law Amendments were approved for the subject property to facilitate the development of a two-storey medical clinic. Since that time, the applicant has been working with Regional and City staff to resolve technical site plan matters relating to vehicular turning movements, parking supply, pedestrian accessibility, servicing, etc.

The Committee of Adjustment initially deferred this application at the July 20, 2016 meeting to allow the applicant to revise the application and accurately identify the variances requested. The application was brought back to the Committee of Adjustment on August 10, 2016 and subsequently deferred pending the submission of a parking study. On February 21, 2018, the Committee of Adjustment recommended deferral of the application once again, in order for the proposal to undergo further review under the Site Plan Approval process (File No. SC 05 021528). Upon additional review, variance b), to permit a maximum Net Floor Area of 286.80 m², has since been added. Further details are provided in the comment section below.

### Official Plan and Zoning

Official Plan 1987, as amended by Official Plan Amendment No.160 (OPA 160) The subject property is designated "Urban Residential", in the 1987 Official Plan. Site-specific Official Plan Amendment No.160 (OPA 160) was passed in 2007 to permit a medical clinic facility accommodating medical offices and a pharmacy not exceeding two storeys in height.

Official Plan 2014 (partially approved on November 24, 2017, and further updated on April 9, 2018)

The subject property is designated "Residential – Low Rise", in the 2014 Official Plan, which provides for low rise housing forms such as detached and semi-dwellings. Notwithstanding, Section 11.1.3 of the 2014 Official Plan recognizes that legally existing development and land uses shall be deemed to conform as they exist at the time the 2014 Official Plan is approved.

### Zoning By-Law 90-81 and Amending By-law 2007-69

The subject property is zoned "Third Density – Single Detached Residential (R3)" under By-law 90-81, as amended. Site-specific Zoning By-law Amendment 2007-69 was passed in 2007 to permit a 2-storey medical clinic and a pharmacy. The By-law also established a number of site-specific development standards based on the proposal at the time, including minimum landscape strip requirements, maximum gross floor area, maximum number of medical clinics, etc.

### Parking Standards By-law 28-97

The proposed medical offices also does not comply with the standards of the City's Parking By-law 28-97, as amended, with respect to the minimum required number of parking spaces. Further details of the parking requirement is provided in the comment section below.

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

The owner has confirmed that a Zoning Preliminary Review (ZPR) has <u>not</u> been conducted. However the applicant has received comments from the Zoning Department through their Site Plan Control application 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:

- 1) The variance must be minor in nature;
- The variance must be desirable, in the opinion of the Committee of Adjustment, for the appropriate development or use of land, building or structure;
- 3) The general intent and purpose of the Zoning By-law must be maintained;
- 4) The general intent and purpose of the Official Plan must be maintained.

### Second Medical Clinic and Increase in Net Floor Area (NFA)

The applicant is requesting relief to permit a second medical clinic, whereas the By-law only permits one medical clinic. The applicant is also requesting to permit a Net Floor Area (NFA) of 286.80 m<sup>2</sup> (3,087.09 ft<sup>2</sup>), whereas the 2007 site-specific zoning by-law amendment only permits one medical clinic with a maximum NFA of 270 m<sup>2</sup> (2,906.26 ft<sup>2</sup>).

According to the Zoning Department's interpretation of the By-law, a pharmacy that operates independently from the medical clinic will not be included in the medical clinic NFA calculation, whereas a pharmacy that operates in conjunction to the medical clinic will be included in the calculation. This is noteworthy as the proposed total combined NFA of the second floor medical clinics is 226.90m<sup>2</sup>.

The applicant has confirmed that the ground floor pharmacy will operate in conjunction to the two medical clinics located on the second floor and that the NFA of the proposed pharmacy is to be included in the total NFA calculation for the medical clinics. Given that both medical clinics would comply with the NFA requirements if the pharmacy were to operate independently, Staff are of the opinion that the variance request is minor in nature.

### Increase in Gross Floor Area (GFA)

The applicant is requesting relief to permit a maximum Gross Floor Area (GFA) of 590.90 m<sup>2</sup> (6,360.39 ft<sup>2</sup>), whereas the By-law permits a maximum GFA of 430 m<sup>2</sup> (4,628.48 ft<sup>2</sup>).

The proposed building layout meets the required setbacks that establish the prescribed building envelope, which ensures the proposed building will be in keeping with the scale of developments along Kennedy Road. Staff also note that the proposed building footprint remains consistent with the plans reviewed as part of the 2007 site-specific Official Plan and Zoning By-law Amendment applications. As such, Staff have no objections to the requested variance.

### **Landscape Strip Reduction**

The applicant is requesting relief to permit a minimum landscape strip of 1.029 m (3.38 ft) along the south lot line, whereas the By-law requires a minimum of 1.4 m (4.59 ft). The variance will facilitate vehicular turning movements in and out of the property. As the turning templates were applied to the proposal during the site plan review process, which identified the need for additional space for vehicular ingress and egress, Staff have no objections to the requested variance request.

### **Parking Reduction**

The applicant has submitted a parking justification study in support of the variance request to permit a minimum of 12 parking spaces, whereas 14 parking spaces are required. The study concludes that:

"Based on proxy site parking demand surveys conducted at two similar developments within Markham, a peak parking demand rate of 4.06 spaces per 100 m<sup>2</sup> of NFA (was observed), which results in a parking requirement of 12 spaces for the proposed development. As such, the proposed parking provisions will be sufficient to meet future demand for the proposed development."

Staff note that although the NFA has increased from 283 m<sup>2</sup> to 286.80 m<sup>2</sup> since the submission of the parking justification study, the study's conclusions remain valid. Transportation Engineering staff are satisfied with the submitted parking justification study and have no objections to the approval of the proposed parking reduction.

### **PUBLIC INPUT SUMMARY**

No written submissions were received as of March 5, 2021. 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 see Appendix "C" for conditions to be attached to any approval of this application.

Prepared By:

Melissa Leung, Planner, Central District

Reviewed By:

Sabrina Bordone, Senior Planner, Central District

File Path: Amanda\File\ 16 122818 \Documents\District Team Comments Memo

### **APPENDICES:**

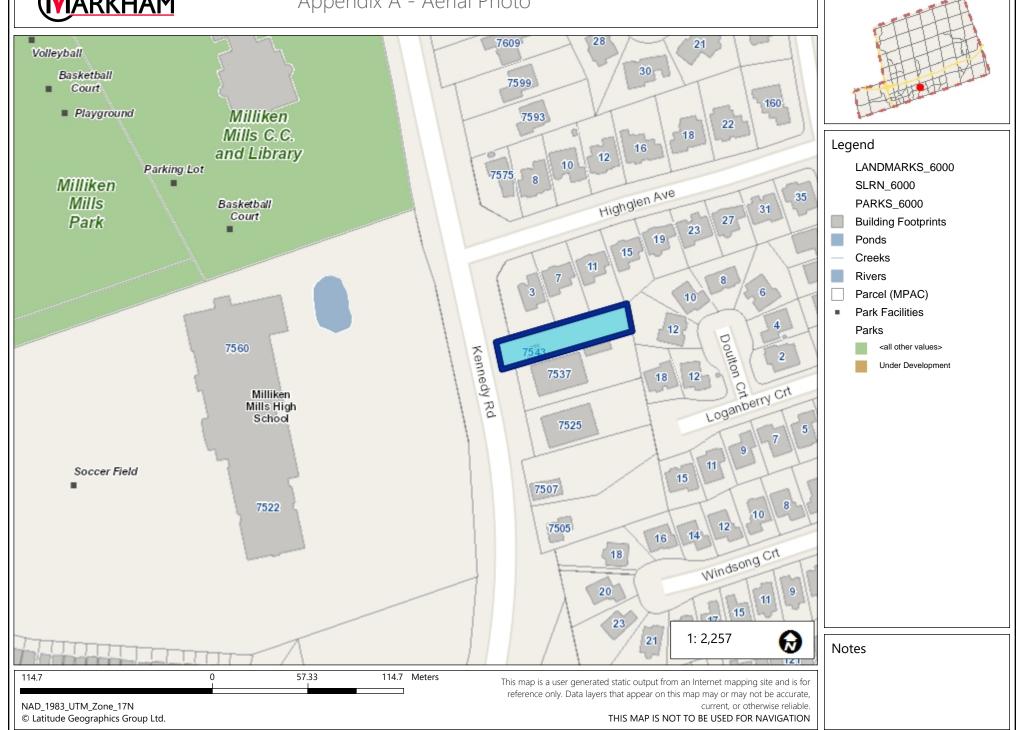
Appendix A – Aerial Photo

Appendix B – Architectural plans

Appendix C - Conditions



### Appendix A - Aerial Photo



# **APPENDIX B - Architectural plans**

# PROPOSED COMMERCIAL BUILDING Kennedy Medical Building

7543 KENNEDY ROAD, MARKHAM, ONTARIO



A 100 S	ERIES	
A000	COVER PAGE	N.T.S
A101	SITE PLAN & SITE STATISTICS	1:12
A 200 S	ERIES	
A201	BASEMENT FLOOR PLAN	1:75
A 300 S	ERIES	
A301	GROUND FLOOR PLAN	1:75
A302	2ND FLOOR PLAN	1:75
A 400 S	ERIES	
A401	BUILDING ELEVATIONS (EAST-WEST)	1:75
A402	BUILDING ELEVATIONS (NORTH-SOUTH)	1:75
A403	NORTH-SOUTH SITE ELEVATION	1:12
A 500 S	ERIES	
A501	NORTH-SOUTH BUILDING SECTION	1:50
TOTAL SHEETS		9
TOTAL	SHEETS	9

project: 14-75 R

date: aug. 25,2020

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These Contract Documents are the property of the architect. The architect bears no responsibility for the interpretation of these documents by the Contractor. Upon written application the architect will provide written/graphic clarification or supplementary information regarding the intent of the Contract Documents. The architect will review Shop Drawings submitted by the Contractor for design conformance only.

Drawings are not to be scaled for construction. Contractor to verify all existing conditions and dimensions required to perform the work and report any discrepancies with the Contract Documents to the architect before

Positions of exposed or finished mechanical or electrical devices, fittings, and fixtures are indicated on architectural drawings. The locations shown on the architectural drawings govern over the Mechanical and Electrical drawings. Those items not clearly located will be located as directed by the architect.

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The Designer of these plans and specifications gives no warranty or representation to any party about the constructability of the represented by them. all contractors or subcontractors must satisfy themselves when bidding and at all times that they can properly construct the work represented by these

City File number: SC 05 021528

13 re-issued for site plan approval 08-25-20 12 re-issued for site plan approval 04-28-20 11 re-issued for site plan approval 04-10-20 10 re-issued for site plan approval 11-29-19 ∘ 9 re-issued for site plan approval 8 re-issued for site plan approval 7 re-issued for site plan approval 6 issued for minor variance 5 re-issued for site plan approval 07-07-16 4 issued for site plan approval 3 issued for consultant coordination 04-16-15 2 issued for client review (opt 2) 03-18-15 1 issued for client review

architectural team:



m - d - yr.

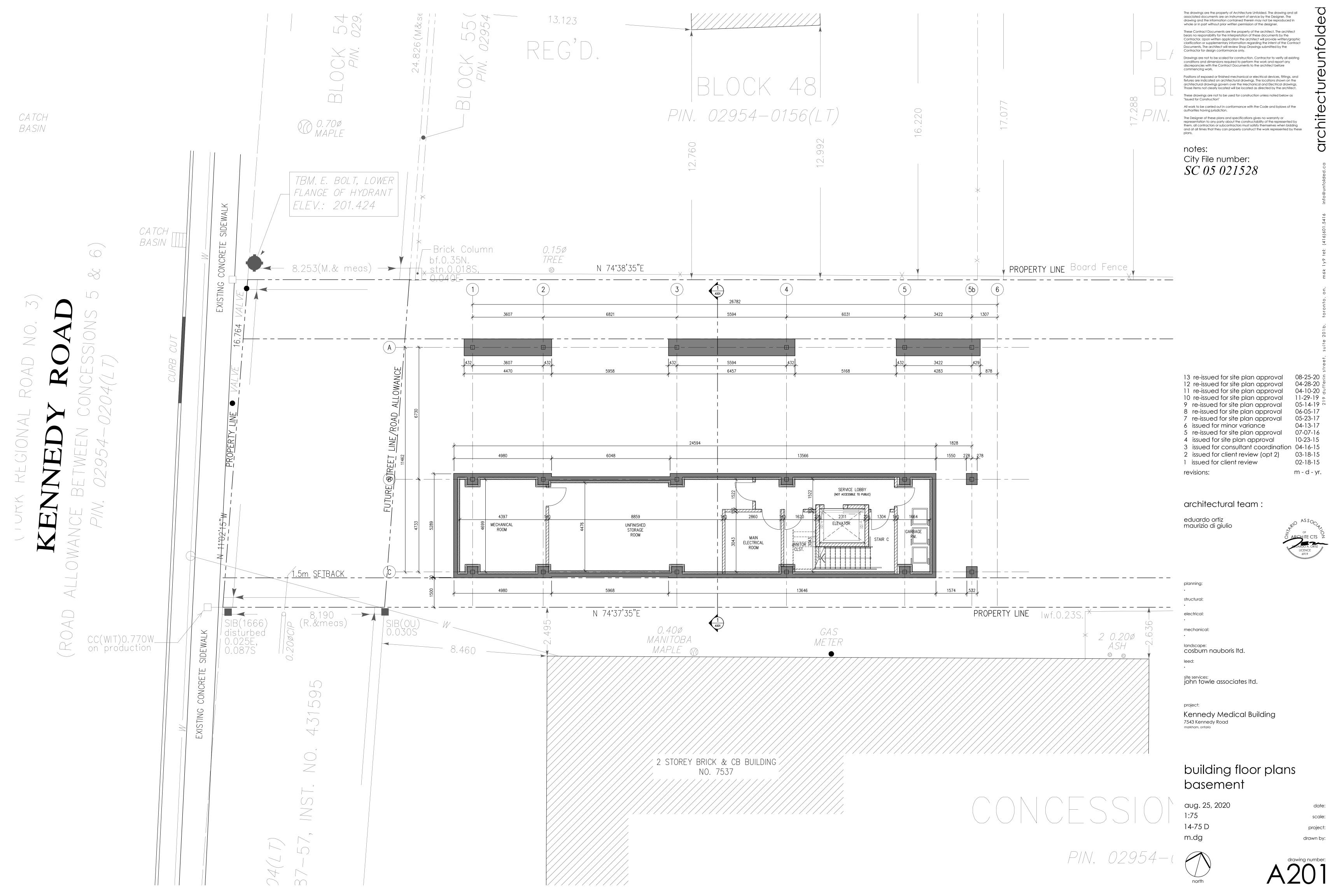
site services: john towle associates Itd.

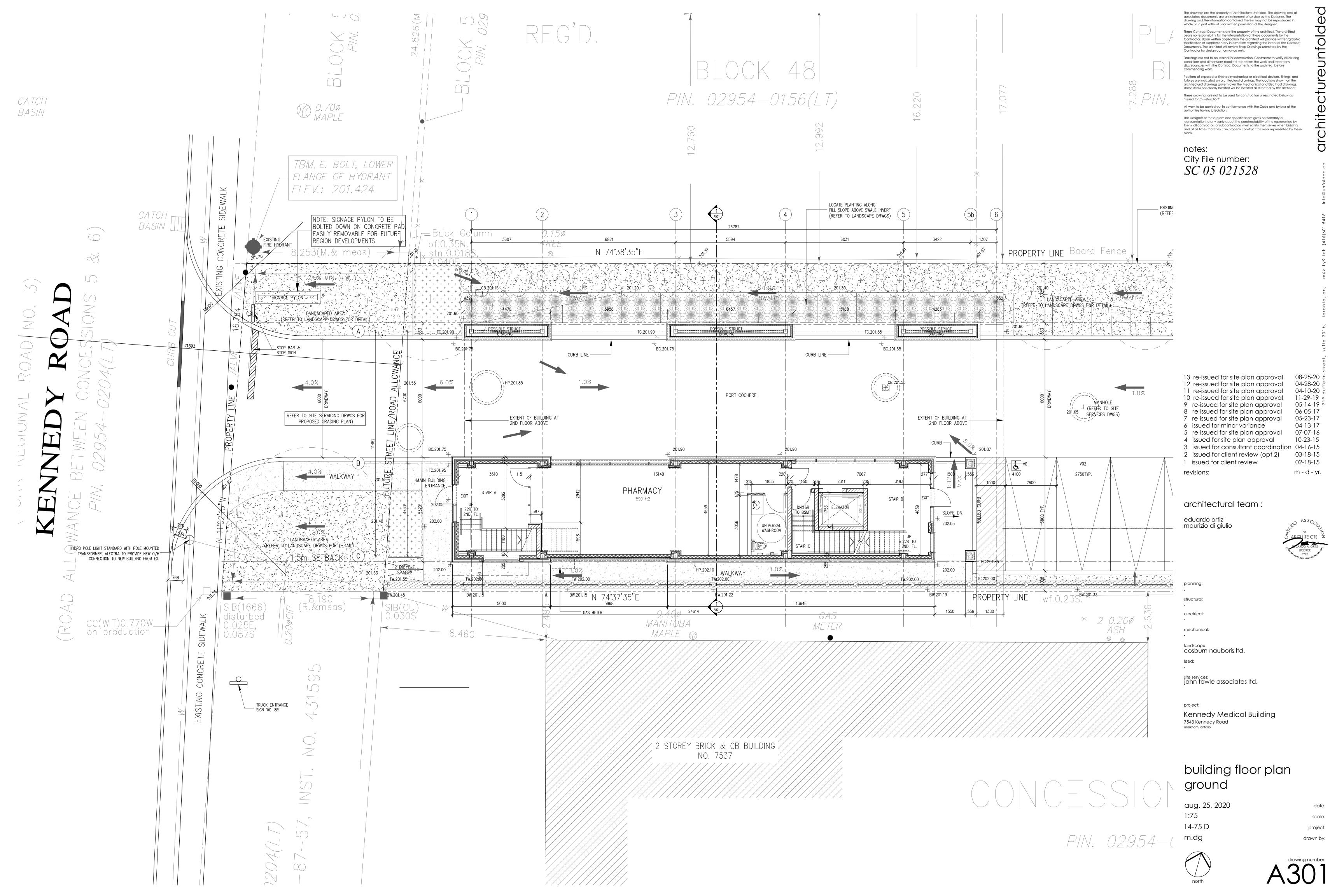
Kennedy Medical Building 7543 Kennedy Road

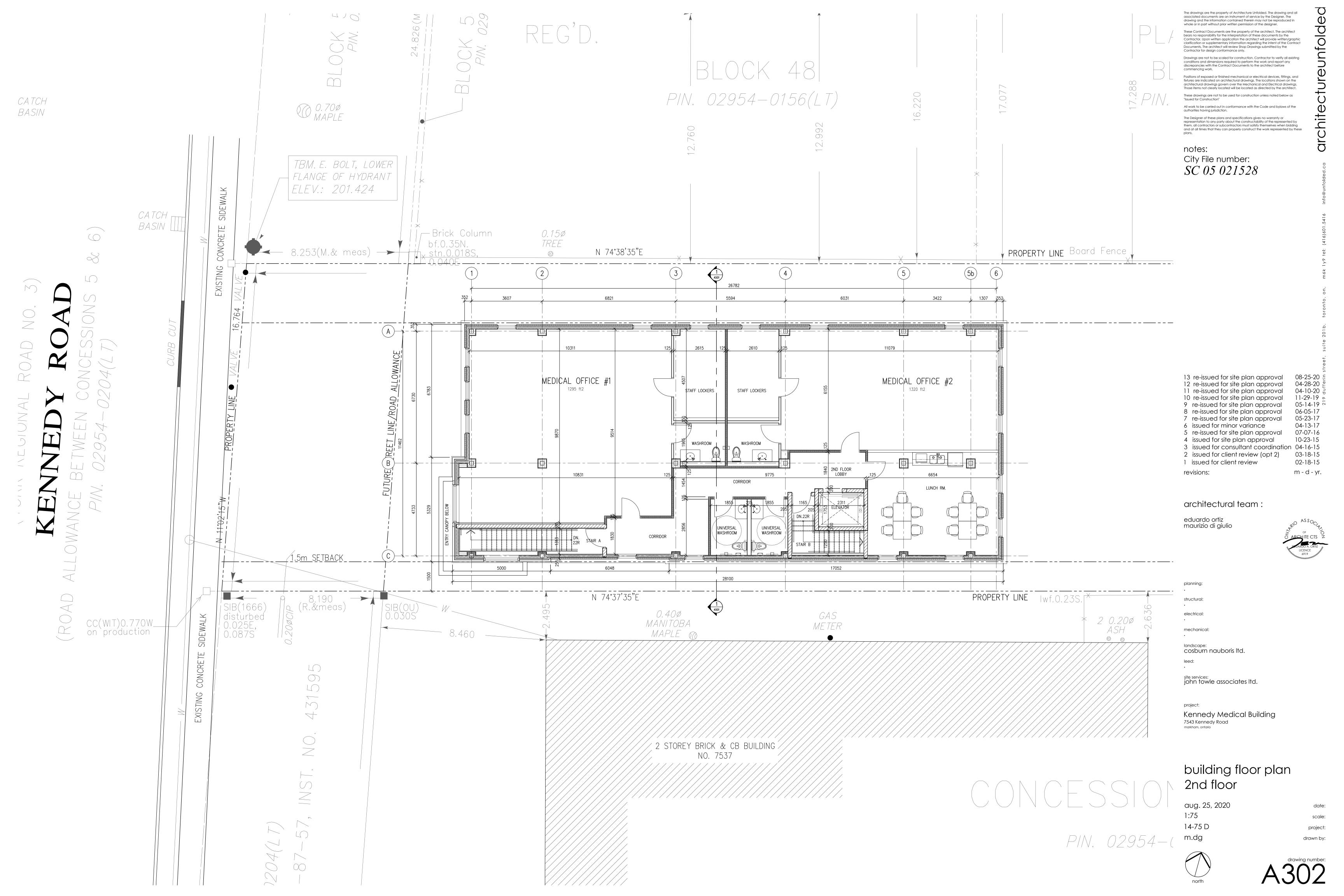
site plan, context map &

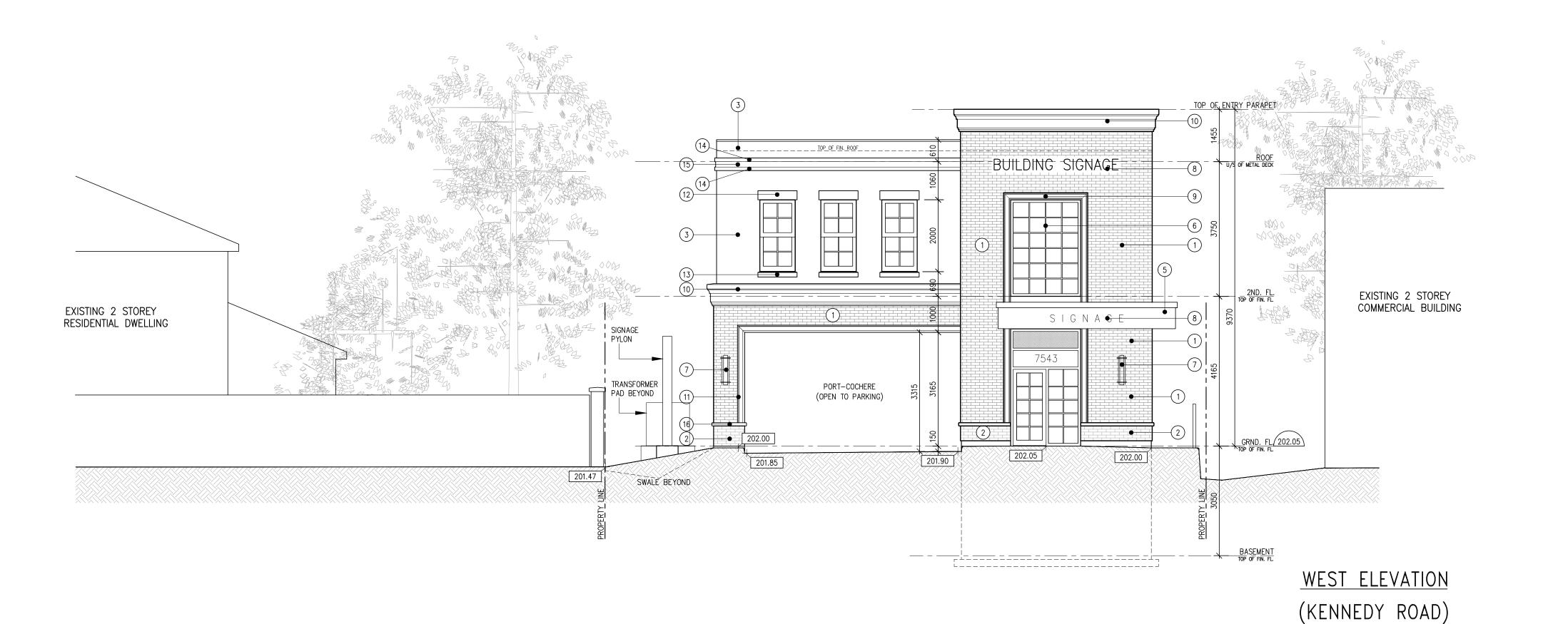
aug. 25, 2020













### **BIRD FRIENDLY BUILDING CHECKLIST**

Applicant to include checklist on Elevation Drawing(s) at first site plan submission. Drawing(s) to be stamped and signed by an OAA

MANDATORY PRIMARY TREATMENTS FOR ALL

DEVELOPMENTS At Grade Condition (check to confirm the below is applied)

☐ Bird friendly treatment is applied on minimum 85% of contiguous glass panel area, if each panel area is greater than 2m2and within 16m from finished grade. ☑ Development contains no glass greater than 2m2within 16m

from finished grade. Roof Landscape Condition (check to confirm one of the below is applied) ☐ Bird friendly treatment is applied on minimum 85% of

2m2and within 16m from roof level finished grade. Development contains no glass panel within 16m from roof level finished grade.

contiguous glass panel area, if each panel area is greater than

Treatment (check to confirm one of the below is applied) \* Refer to Guidelines for requirements

Stripes Dots ☐ Netting

☐ Frit and Etched Patterns

Specifications (check to confirm one of the below is applied) ☐ Pattern is applied as fritting or etching of glass; and pattern

colour are high contrast in relation to the background. Pattern is applied as film on exterior surface of glass; and pattern colour are high contrast in relation to the background

### **BIRD FRIENDLY LIGHTING CHECKLIST**

Applicant to include checklist on Electrical Engineering Drawing(s) at first landscape plan submission. Drawing(s) to be stamped and signed by a P.Eng. MANDATORY LIGHTING CRITERIA FOR ALL DEVELOPMENTS

(check to confirm below is applied) ☐ The use of exterior up lighting is eliminated.

☐ There is no exterior light spill outside of property line.

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Contractor for design conformance only. Drawings are not to be scaled for construction. Contractor to verify all existing

conditions and dimensions required to perform the work and report any discrepancies with the Contract Documents to the architect before Positions of exposed or finished mechanical or electrical devices, fittings, and

fixtures are indicated on architectural drawings. The locations shown on the architectural drawings govern over the Mechanical and Electrical drawings. Those items not clearly located will be located as directed by the architect. These drawings are not to be used for construction unless noted below as

All work to be carried out in conformance with the Code and bylaws of the

authorities having jurisdiction. The Designer of these plans and specifications gives no warranty or representation to any party about the constructability of the represented by them. all contractors or subcontractors must satisfy themselves when bidding and at all times that they can properly construct the work represented by these

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## architectural team:

eduardo ortiz maurizio di giulio



planning:

structural:

electrical: mechanical:

landscape: cosburn nauboris Itd.

site services: john towle associates Itd.

Kennedy Medical Building 7543 Kennedy Road markham, ontario

# building elevations east & west

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**BIRD FRIENDLY BUILDING CHECKLIST** 

Applicant to include checklist on Elevation Drawing(s) at first site

plan submission. Drawing(s) to be stamped and signed by an OAA

MANDATORY PRIMARY TREATMENTS FOR ALL

At Grade Condition (check to confirm the below is applied)

2m2and within 16m from finished grade.

☐ Bird friendly treatment is applied on minimum 85% of

contiguous glass panel area, if each panel area is greater than

☑ Development contains no glass greater than 2m2within 16m

Roof Landscape Condition (check to confirm one of the below is applied)

contiguous glass panel area, if each panel area is greater than

Development contains no glass panel within 16m from roof

☐ Bird friendly treatment is applied on minimum 85% of

2m2and within 16m from roof level finished grade.

Treatment (check to confirm one of the below is applied) \* Refer to Guidelines for requirements

DEVELOPMENTS

from finished grade.

level finished grade.

Stripes

Dots

SOUTH ELEVATION

(check to confirm below is applied)

☐ The use of exterior up lighting is eliminated.  $\boxtimes$  There is no exterior light spill outside of property line.

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architectural team:

eduardo ortiz maurizio di giulio

m - d - yr.

cosburn nauboris Itd.

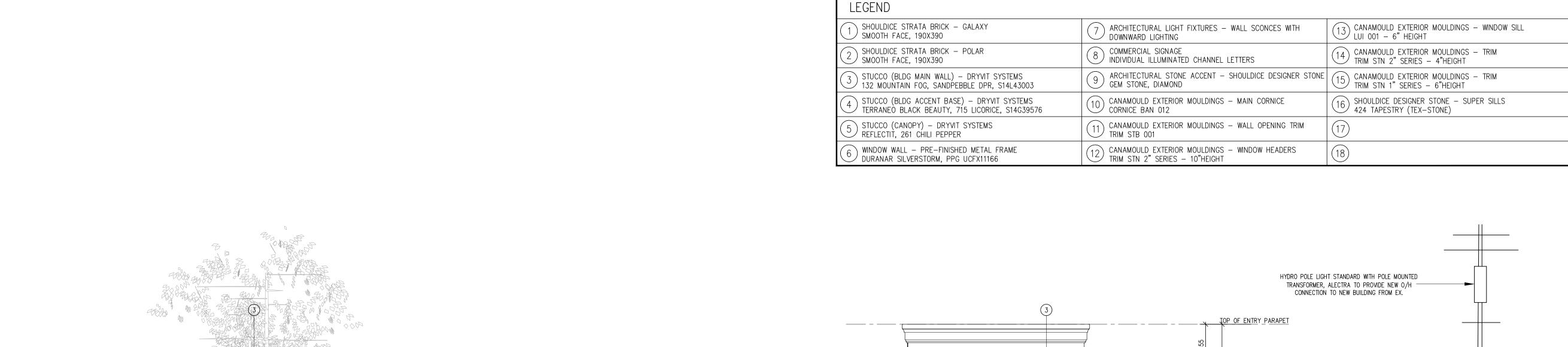
site services: john towle associates Itd.

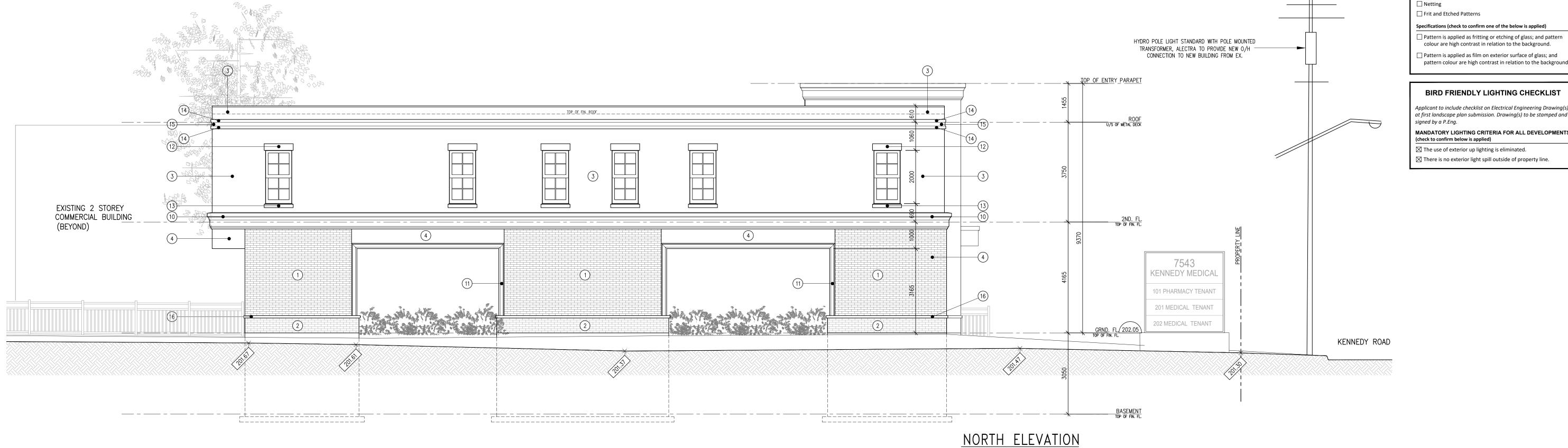
Kennedy Medical Building 7543 Kennedy Road markham, ontario

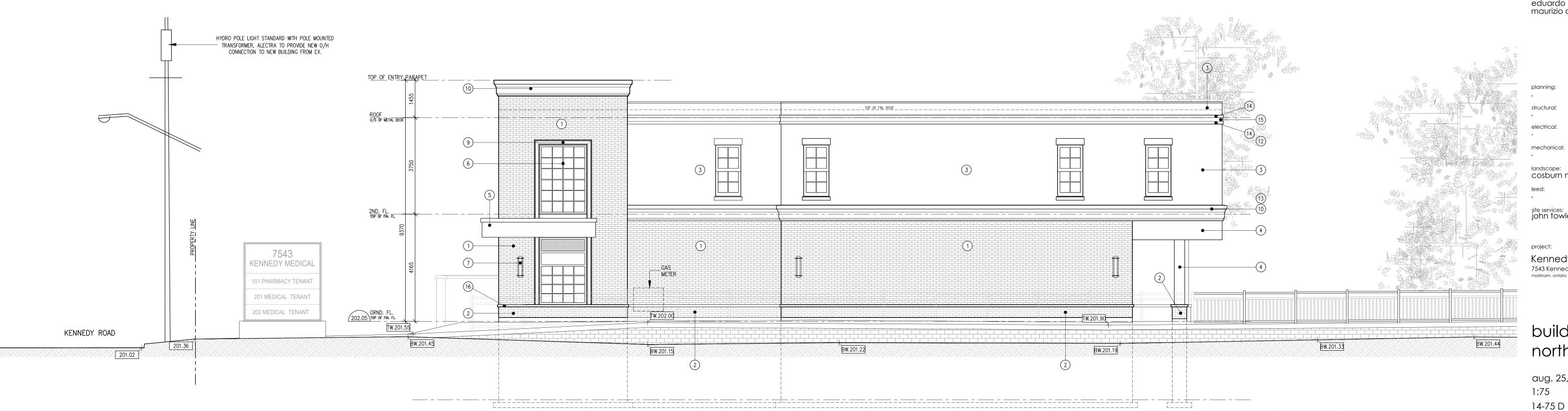
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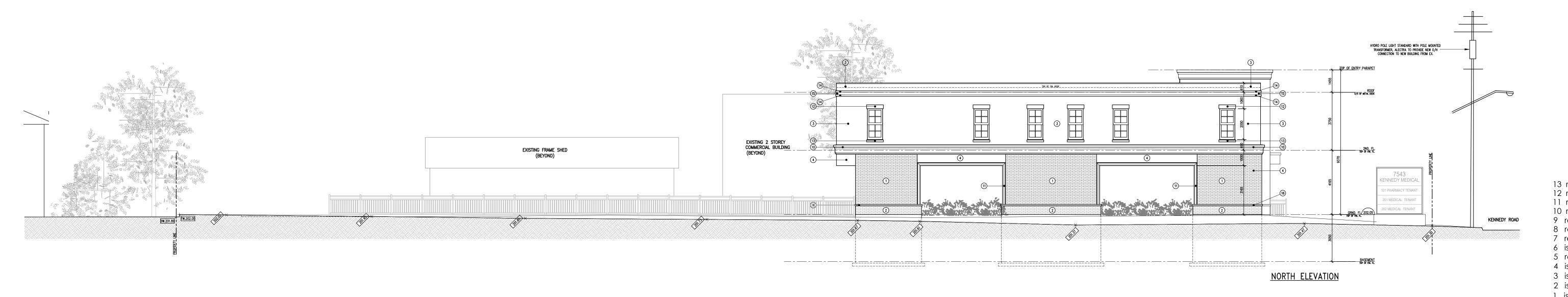
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City File number: SC~05~021528



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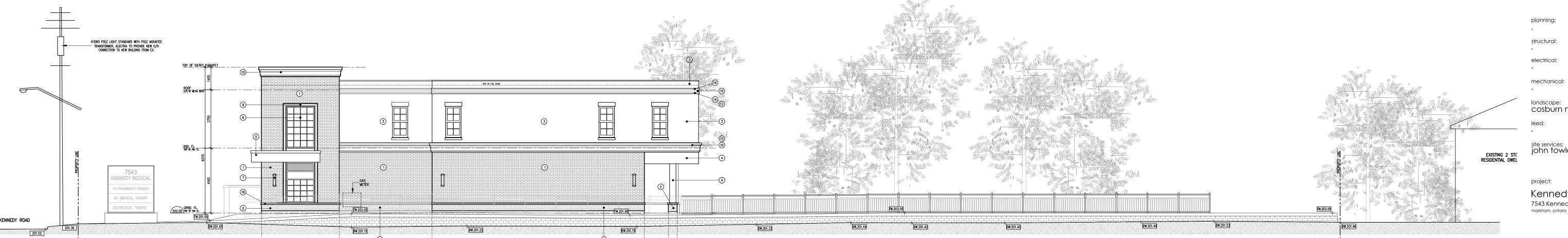
architectural team:

eduardo ortiz maurizio di giulio

revisions:



m - d - yr.



SOUTH ELEVATION

structural:

electrical:

landscape: cosburn nauboris Itd.

site services: john towle associates Itd.

Kennedy Medical Building 7543 Kennedy Road markham, ontario

# site elevations north & south

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revisions:

notes:

City File number: SC~05~021528



planning:

structural:

electrical:

mechanical:

landscape: cosburn nauboris Itd.

site services: john towle associates Itd.

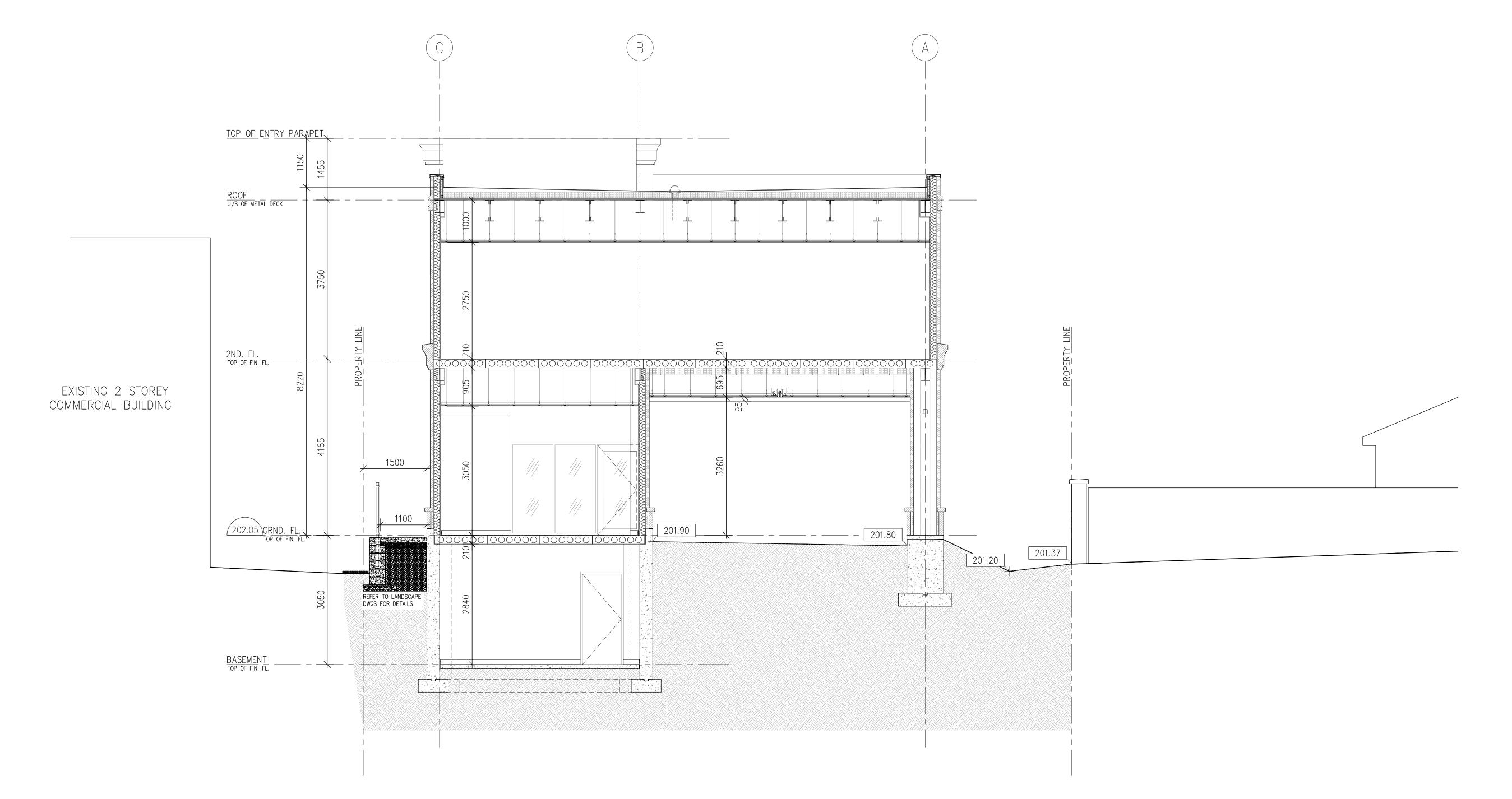
Kennedy Medical Building 7543 Kennedy Road markham, ontario

# building section north/south

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# APPENDIX "C" CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/84/16

- 1. The variances apply only to the proposed development as long as it remains;
- 2. That the variances apply on to the subject development, in substantial conformity with the plan(s) attached as 'Appendix B' to this Staff Report; or further revised by any site plan 'endorsed' or 'approved' drawings under File SC 05 021528.

Conditions Prepared By:

Melissa Leung, Planner, Central District