

# Memorandum to the City of Markham Committee of Adjustment

May 31, 2021

**File:** A/059/21  
**Address:** 133 Royal Orchard Blvd, Thornhill  
**Applicant:** Walker, Nott, Dragicevic Associates (Kevin McKrow)  
**Hearing Date:** Wednesday, June 09, 2021

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

The applicant is requesting relief from the following requirements of the Second Density Single Family Residential (R2A) zone under By-law 2150, as amended:

**a) By-law 2150, Section 6.1:**

To permit a building height of 27.17 ft (8.28 m), whereas the By-law allows a maximum building height of 25 ft (7.62 m);

as it relates to proposed detached dwelling.

## **BACKGROUND**

### **Property Description**

The 1,211 m<sup>2</sup> (13,035 ft<sup>2</sup>) subject property is located on the south side of Royal Orchard Boulevard, west of Bayview Avenue and north of John Street. There is an existing single detached dwelling on the property, which according to assessment records, was constructed in 1969.

The property is located within an established residential neighbourhood comprised of a mix of one and two-storey detached dwellings. Mature vegetation exists across the property.

### **Proposal**

The applicant is proposing to demolish the existing one storey detached dwelling and construct a new 482 m<sup>2</sup> (5,188 ft<sup>2</sup>) two storey single detached dwelling.

### **Official Plan and Zoning**

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

The subject property is designated "Residential – Low Rise", which provides for low rise housing forms including single detached dwellings. Section 8.2.3.5 of the 2014 Official Plan outlines development criteria for the 'Residential – Low Rise' designation with respect to height, massing and setbacks. This criteria is established 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 retention of existing trees and vegetation, the width of proposed garages and driveways and, the overall orientation and sizing of new lots within a residential neighbourhood.

### Zoning By-Law 2150

The subject property is zoned Second Density Single Family Residential (R2A) under By-law 2150, as amended, which permits single detached dwellings. The proposed development does not comply with the By-law requirements with respect to the maximum building height.

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

The owner has completed a Zoning Preliminary Review (ZPR) on April 12, 2021, 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.

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

The applicant is requesting relief to permit a maximum building height of 8.28 m (27.17 ft), whereas the By-law permits a maximum building height of 7.62 m (25 ft). This represents an increase of 0.66 m (2.17 ft).

Staff are of the opinion the proposed building height is minor in nature and have no concerns with the requested variance.

## **EXTERNAL AGENCIES**

### **TRCA Comments**

The subject property is located within Toronto Region and Conservation Authority (TRCA)'s Regulated Area. TRCA provided comments on May 18, 2021, indicating that they have no concerns with the proposed variance application subject to the conditions outlined in their letter (Appendix C).

## **PUBLIC INPUT SUMMARY**

As of June 1, 2021, the City has received one letter expressing support for the proposal. It is noted that additional information may be received after the writing of this 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 "A" for conditions to be attached to any approval of this application.

PREPARED BY:



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Hailey Miller, Planner I, West District

REVIEWED BY:



Stephen Kitagawa, Acting Development Manager, West District

**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/059/21**

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 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;
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 Director of Operations 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;
4. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site in accordance with the City's Streetscape Manual, including street trees, in accordance with the City's Streetscape Manual (2009) as amended, and inspected by City Staff to the satisfaction of the Tree Preservation Technician or Director of Operations;
5. That tree replacements be provided and/or tree replacement fees be paid to the City if required in accordance with the Tree Assessment and Preservation Plan, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Tree Preservation Technician or Director of Operations;
6. That the applicant satisfies the requirements of the *TRCA*, financial or otherwise, as indicated in their letter to the Secretary-Treasurer attached as Appendix C to this Staff Report, to the satisfaction of the *TRCA*, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the *TRCA*.

CONDITIONS PREPARED BY:

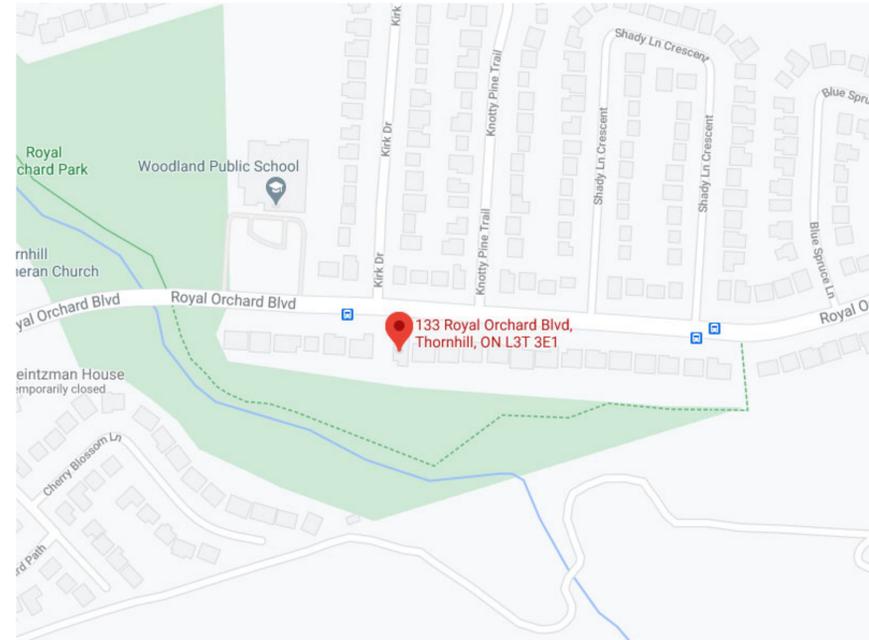


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Hailey Miller, Planner I, West District

**PROJECT DESCRIPTION**

**PROJECT NAME:** 133 ROYAL ORCHARD  
**PROJECT #:** 1917  
**PROJECT PHASE:** ISSUED FOR MINOR VARIANCE APPLICATION  
**PROJECT ADDRESS:** 133 ROYAL ORCHARD BLVD, THORNHILL, ON  
**PROJECT LOCATION SITE PLAN:**



**superkul**

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**NOT FOR CONSTRUCTION**

**PROJECT TEAM**

**ARCHITECT //**  
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**MECHANICAL ENGINEER //**  
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**CIVIL ENGINEER //**  
 ISW SURVEYORS  
 637 NORRIS COURT  
 KINGSTON, ON K7P 2R9  
 T 613.966.9898

**DRAWING LIST**

SHEET NAME	SHEET NO.	REVISION
Cover Sheet	A_000	Issued for Minor Variance Application
Site Plan and Zoning Summary	A_001	Issued for Minor Variance Application
Lower Level Plan	A_002	Issued for Minor Variance Application
Ground Level Plan	A_003	Issued for Minor Variance Application
Upper Level Plan	A_004	Issued for Minor Variance Application
Roof Plan	A_005	Issued for Minor Variance Application
Exterior Elevations_North	A_006	Issued for Minor Variance Application
Exterior Elevations_East	A_007	Issued for Minor Variance Application
Exterior Elevations_South	A_008	Issued for Minor Variance Application
Exterior Elevations_West	A_009	Issued for Minor Variance Application

1 2021 04 21 Issued for Minor Variance Application

No.	Date	Issue/Revision

133 ROYAL ORCHARD BLVD

Title: **Cover Sheet**

Project No. 1917 Scale 12" = 1'-0"

Drawing No.

**A\_000**

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**NOT FOR CONSTRUCTION**

A-002 Area Schedule (Gross Building)		
Name	Area SF	Area m2
00 Lower Level	1489 SF	138 m <sup>2</sup>
01 Garage	572 SF	53 m <sup>2</sup>
01 Ground Level	1838 SF	171 m <sup>2</sup>
02 Upper Level	1289 SF	120 m <sup>2</sup>
<b>Total Area</b>	<b>5188 SF</b>	<b>482 m<sup>2</sup></b>

1 2021 04 21 Issued for Minor Variance Application

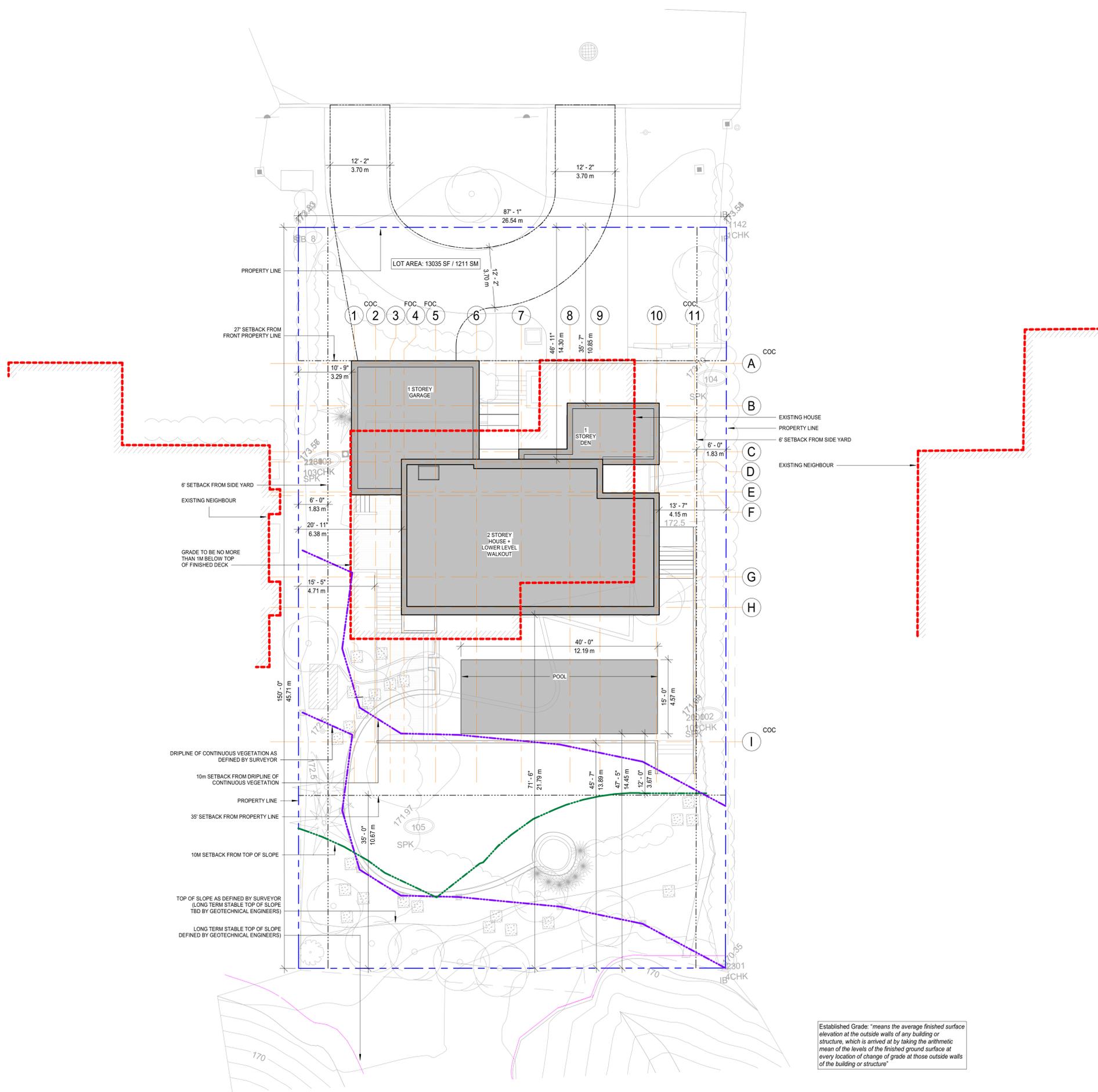
No.	Date	Issue/Revision
		1

133 ROYAL ORCHARD BLVD

Title:  
**Site Plan and Zoning Summary**

Project No. 1917 Scale 1" = 10'-0"  
 Drawing No.

**A\_001**



Established Grade: "means the average finished surface elevation at the outside walls of any building or structure, which is arrived at by taking the arithmetic mean of the levels of the finished ground surface at every location of change of grade at those outside walls of the building or structure"

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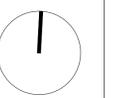
**BASEMENT PLAN NOTES:**

1. FOC = EXTERIOR FACE OF CONCRETE
2. COR = CENTRE LINE OF RIDGE BEAM
3. ALL FLOORS F1 U.N.O. FINISH PER SCHEDULE
4. ALL INTERIOR PARTITIONS P1 U.N.O.
5. EXTERIOR WALLS DIMD TO INTERIOR FACE OF CONC U.N.O.
6. INTERIOR PARTITIONS DIMD TO FACE OF STUD U.N.O.

LOWER LEVEL AREA = 1489 S.F. / 138 m<sup>2</sup>

1 2021 04 21 Issued for Minor Variance Application

No.	Date	Issue/Revision



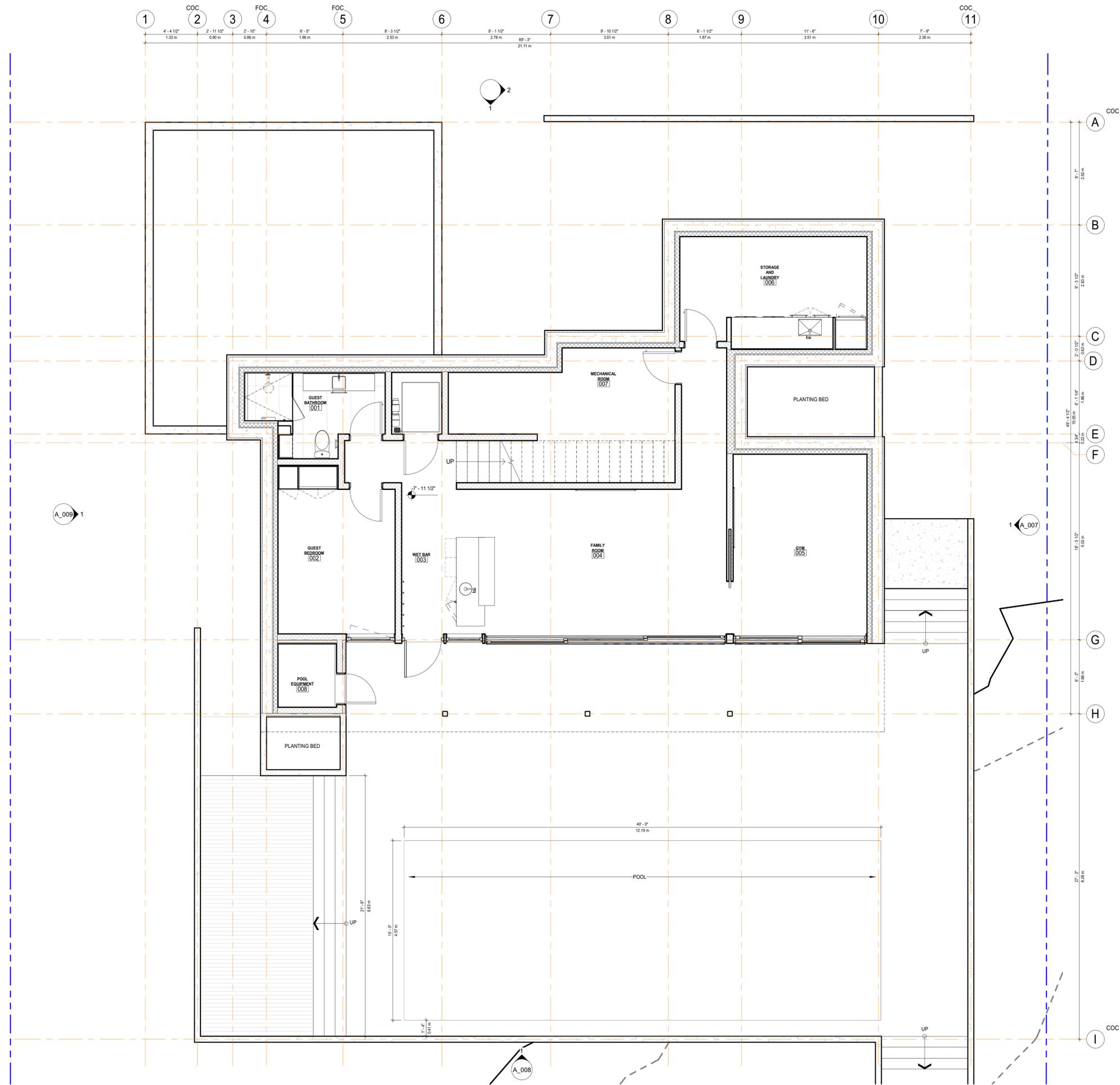
133 ROYAL ORCHARD BLVD

Title:  
**Lower Level Plan**

Project No. 1917 Scale As indicated

Drawing No.

**A\_002**



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**NOT FOR CONSTRUCTION**

**GROUND FLOOR PLAN NOTES:**

1. FOS = EXTERIOR FACE OF SHEATHING
2. COR = CENTRE LINE OF RIDGE BEAM
3. ALL FLOORS F3 FINISH PER SCHEDULE
4. ALL INTERIOR PARTITIONS P1 U.N.O.
5. EXTERIOR WALLS DIMD TO INTERIOR FACE OF STUD U.N.O.
6. INTERIOR PARTITIONS DIMD TO FACE OF STUD U.N.O.

GROUND LEVEL AREA = 1838 S.F. / 170.76 m<sup>2</sup>  
 GARAGE S.F. = 572 S.F. / 53.14 m<sup>2</sup>

1 2021 04 21 Issued for Minor Variance Application

No.	Date	Issue/Revision



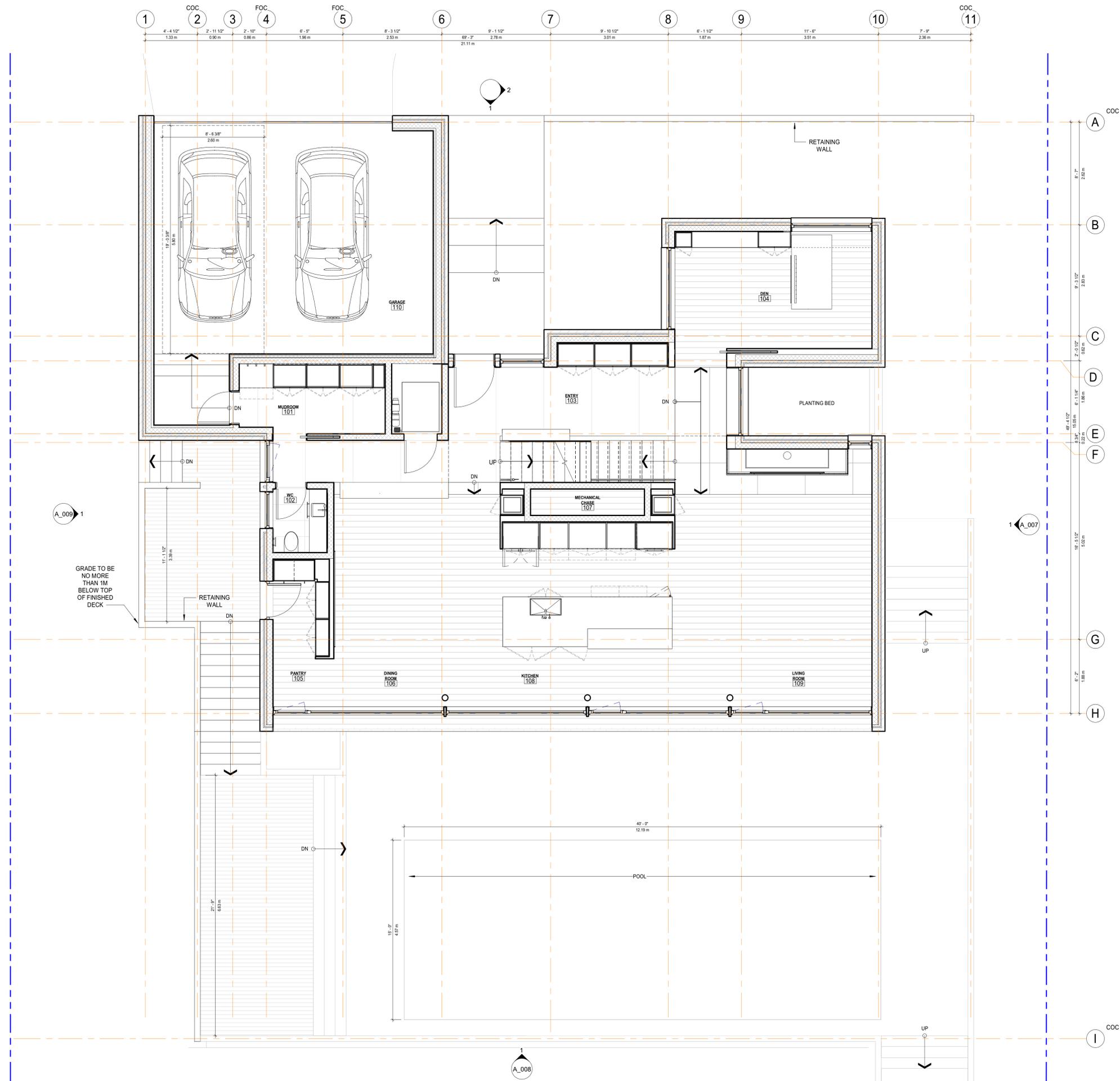
133 ROYAL ORCHARD BLVD

Title:  
**Ground Level Plan**

Project No. 1917 Scale As indicated

Drawing No.

**A\_003**



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**NOT FOR CONSTRUCTION**

**SECOND FLOOR PLAN NOTES:**

1. FOS = EXTERIOR FACE OF SHEATHING
2. COR = CENTRE LINE OF RIDGE BEAM
3. ALL FLOORS F4, FINISH PER SCHEDULE
4. ALL INTERIOR PARTITIONS P1 U.N.O.
5. EXTERIOR WALLS DIMD TO INTERIOR FACE OF STUD U.N.O.
6. INTERIOR PARTITIONS DIMD TO FACE OF STUD U.N.O.

UPPER LEVEL AREA = 1289 S.F. / 119.75 m<sup>2</sup>

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No.	Date	Issue/Revision



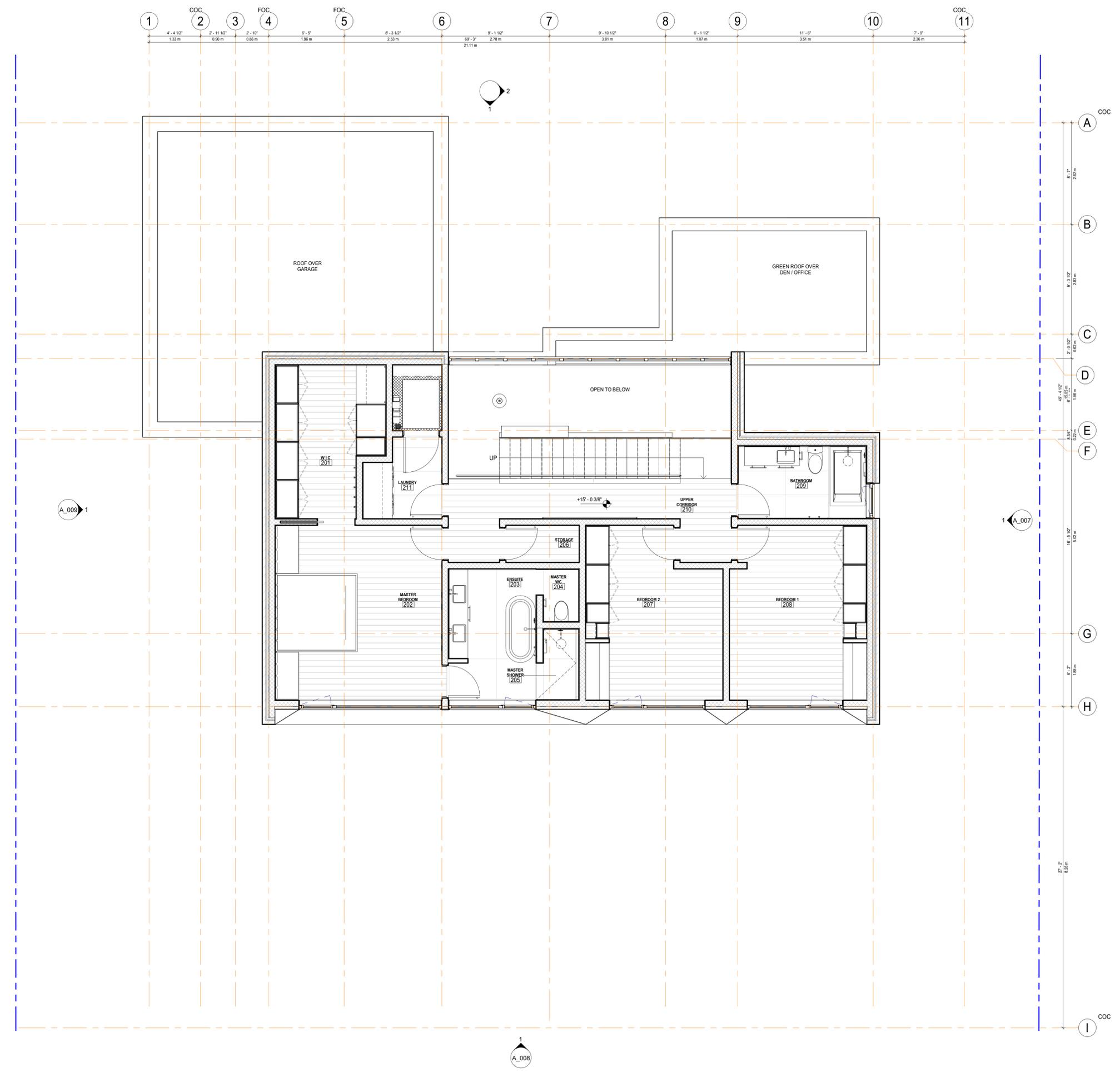
133 ROYAL ORCHARD BLVD

Title: Upper Level Plan

Project No. 1917 Scale As indicated

Drawing No.

**A\_004**



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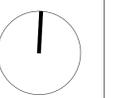
**NOT FOR CONSTRUCTION**

**ROOF PLAN NOTES:**

1. FOS = FACE OF SHEATHING
2. COR = CENTRE RIDGE/BEAM
3. DENOTES ELEVATION ABOVE TOP OF ROOF RAFTERS

1 2021 04 21 Issued for Minor Variance Application

No.	Date	Issue/Revision



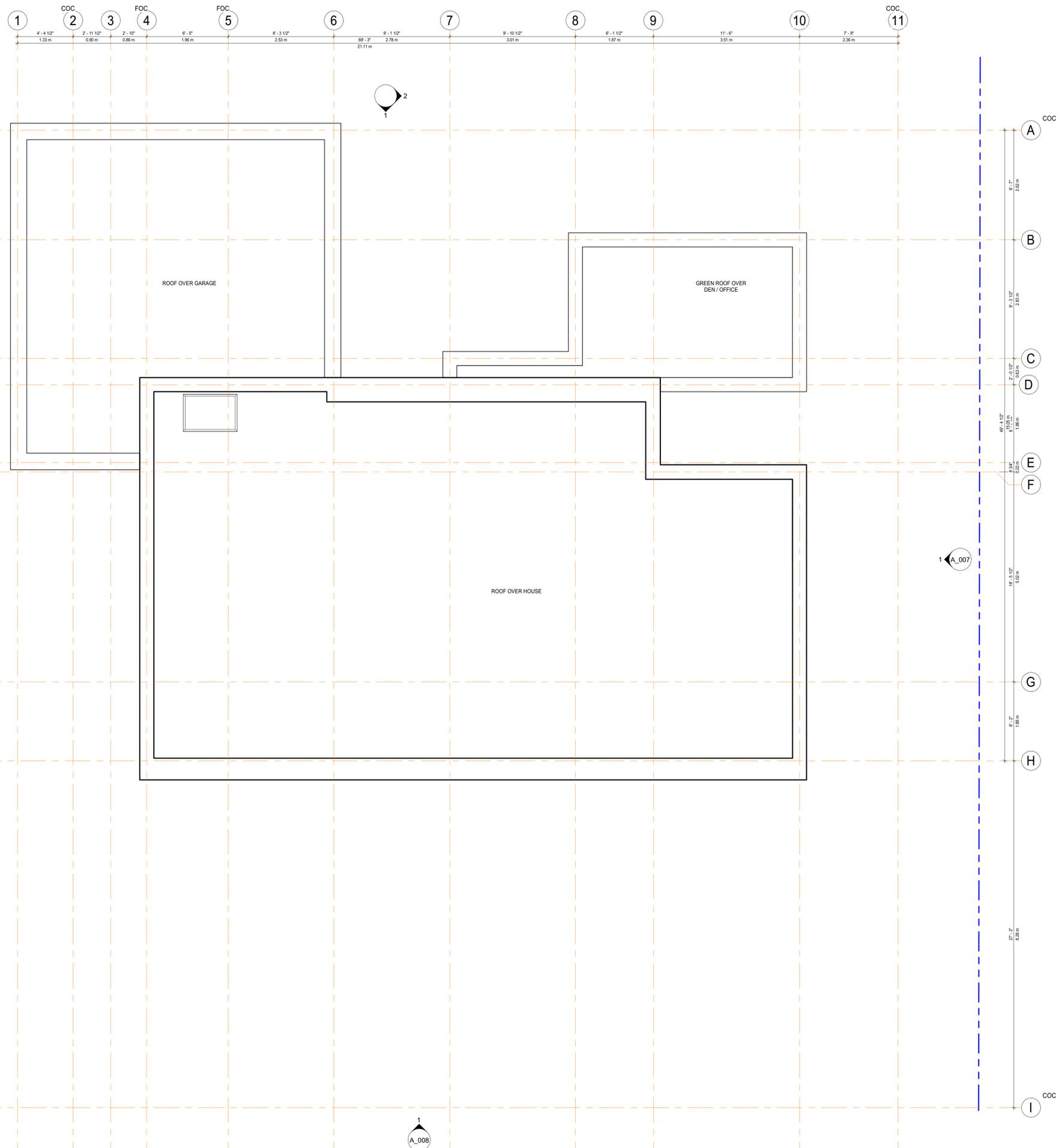
133 ROYAL ORCHARD BLVD

Title: **Roof Plan**

Project No. 1917 Scale As indicated

Drawing No.

**A\_005**



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**Material Key:**

1	CONCRETE
2	BRICK
3	GLAZING
4	WOOD
5	ROOFING
6	LANDSCAPE WALL
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1 2021 04 21 Issued for Minor Variance Application

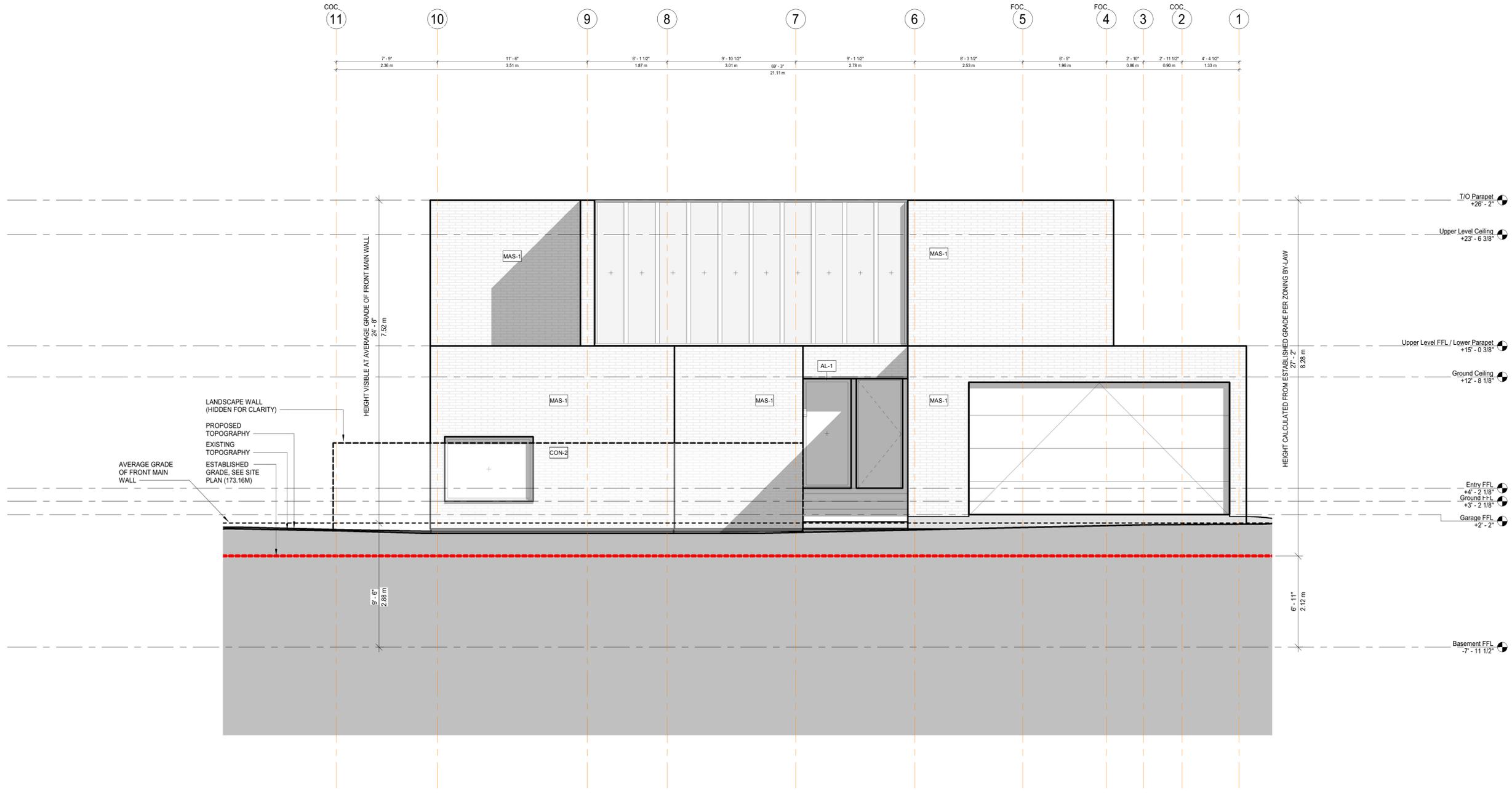
No.	Date	Issue/Revision

133 ROYAL ORCHARD BLVD

Title:  
**Exterior Elevations\_North**

Project No. 1917 Scale As indicated  
 Drawing No.

**A\_006**



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**Material Key:**

1	CONCRETE
2	BRICK
3	GLAZING
4	WOOD
5	ROOFING
6	LANDSCAPE
7	ASPHALT
8	PAVEMENT
9	GRASS
10	GRAVEL
11	SOIL
12	ROCK
13	WATER
14	VEGETATION
15	SCREENING
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1 2021 04 21 Issued for Minor Variance Application

No.	Date	Issue/Revision

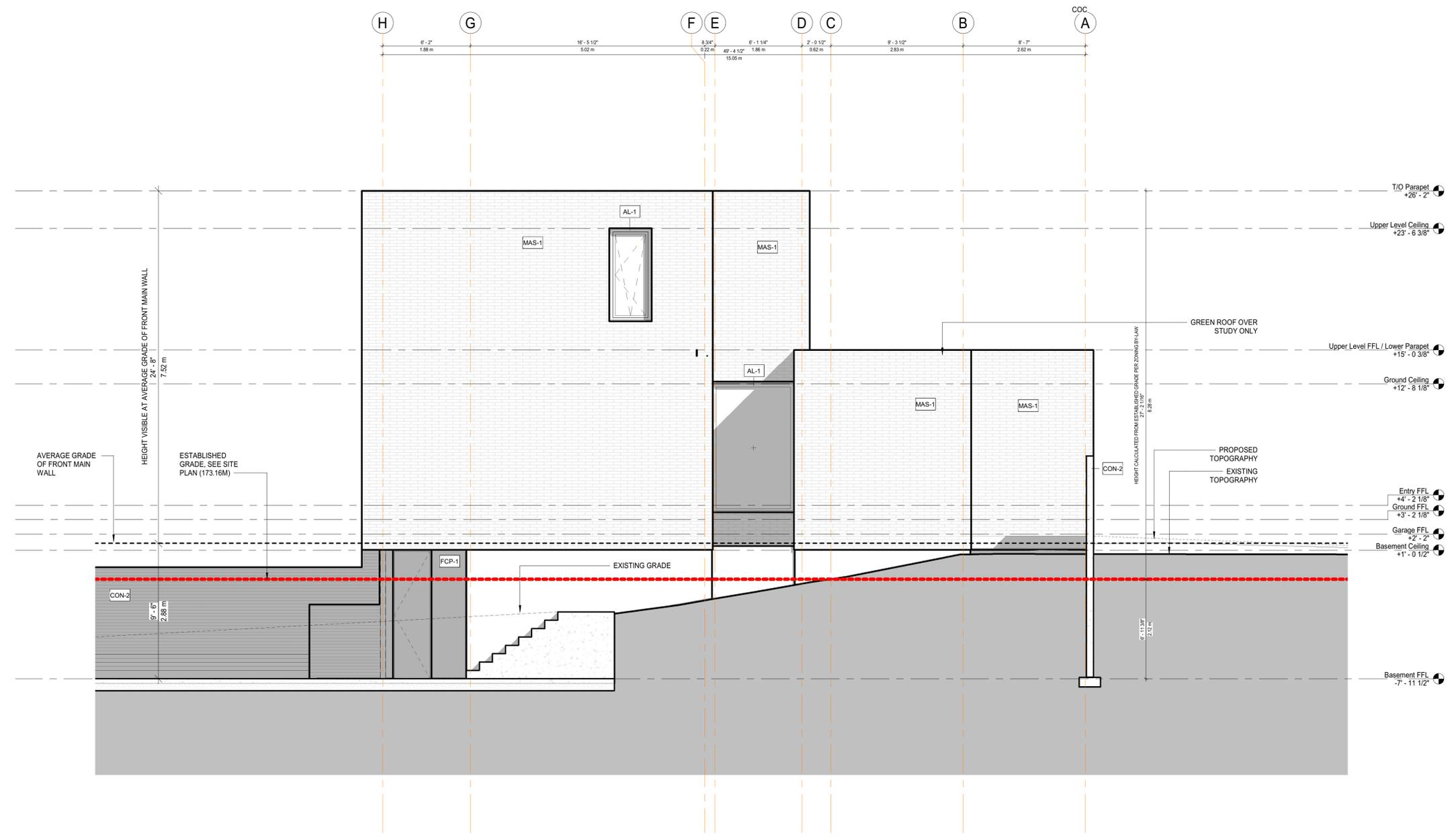
133 ROYAL ORCHARD BLVD

Title:  
Exterior Elevations\_East

Project No. 1917 Scale As indicated

Drawing No.

**A\_007**



2021-04-29 6:21:54 PM C:\Users\Alexandra\Documents\1917\_Chung & Pham House\_Central\_detached\_AlexandraDWHW4.rvt

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NOT FOR CONSTRUCTION

**Material Key:**

1	ALUMINUM WINDOW FRAMES
2	ALUMINUM WINDOW GLAZING
3	ALUMINUM WINDOW SILL
4	ALUMINUM WINDOW HEAD
5	ALUMINUM WINDOW CASE
6	ALUMINUM WINDOW TRACK
7	ALUMINUM WINDOW STOP
8	ALUMINUM WINDOW GASKET
9	ALUMINUM WINDOW FINISH
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90	ALUMINUM WINDOW GLAZING
91	ALUMINUM WINDOW FRAMES
92	ALUMINUM WINDOW GLAZING
93	ALUMINUM WINDOW SILL
94	ALUMINUM WINDOW HEAD
95	ALUMINUM WINDOW CASE
96	ALUMINUM WINDOW TRACK
97	ALUMINUM WINDOW STOP
98	ALUMINUM WINDOW GASKET
99	ALUMINUM WINDOW FINISH
100	ALUMINUM WINDOW GLAZING

1 2021 04 21 Issued for Minor Variance Application

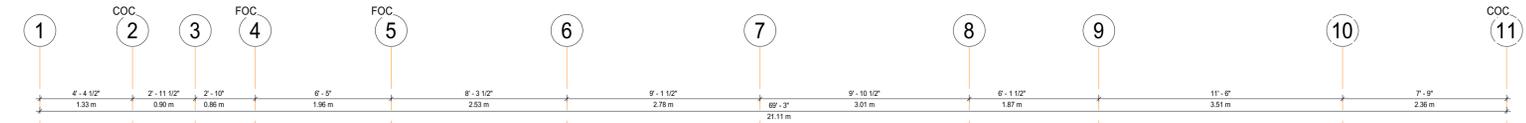
No.	Date	Issue/Revision

133 ROYAL ORCHARD BLVD

Title: Exterior Elevations\_South

Project No. 1917 Scale As indicated  
Drawing No.

# A\_008



GRADE TO BE NO MORE THAN 1M BELOW TOP OF FINISHED DECK

AVERAGE GRADE OF FRONT MAIN WALL

EXISTING TOPOGRAPHY

ESTABLISHED GRADE SEE SITE PLAN (173.16M)

Copyright reserved. This design and drawings are the exclusive property of superkul inc. (the Architect) and cannot be used for any purpose without the written consent of the Architect. This drawing is not to be used for construction until issued for that purpose by the Architect.

Prior to commencement of the Work the Contractor shall verify all drawing dimensions, datums, and levels with the Contract Documents and with the conditions on site; ascertain any discrepancies between the site and the Contract Documents, and bring these items to the attention of the Architect for clarification.

**NOT FOR CONSTRUCTION**

**Material Key:**

1	CONCRETE
2	BRICK
3	GLAZING
4	WOOD
5	ROOFING
6	LANDSCAPE
7	PAVING
8	SCREENING
9	SCREENING
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1 2021 04 21 Issued for Minor Variance Application

No.	Date	Issue/Revision

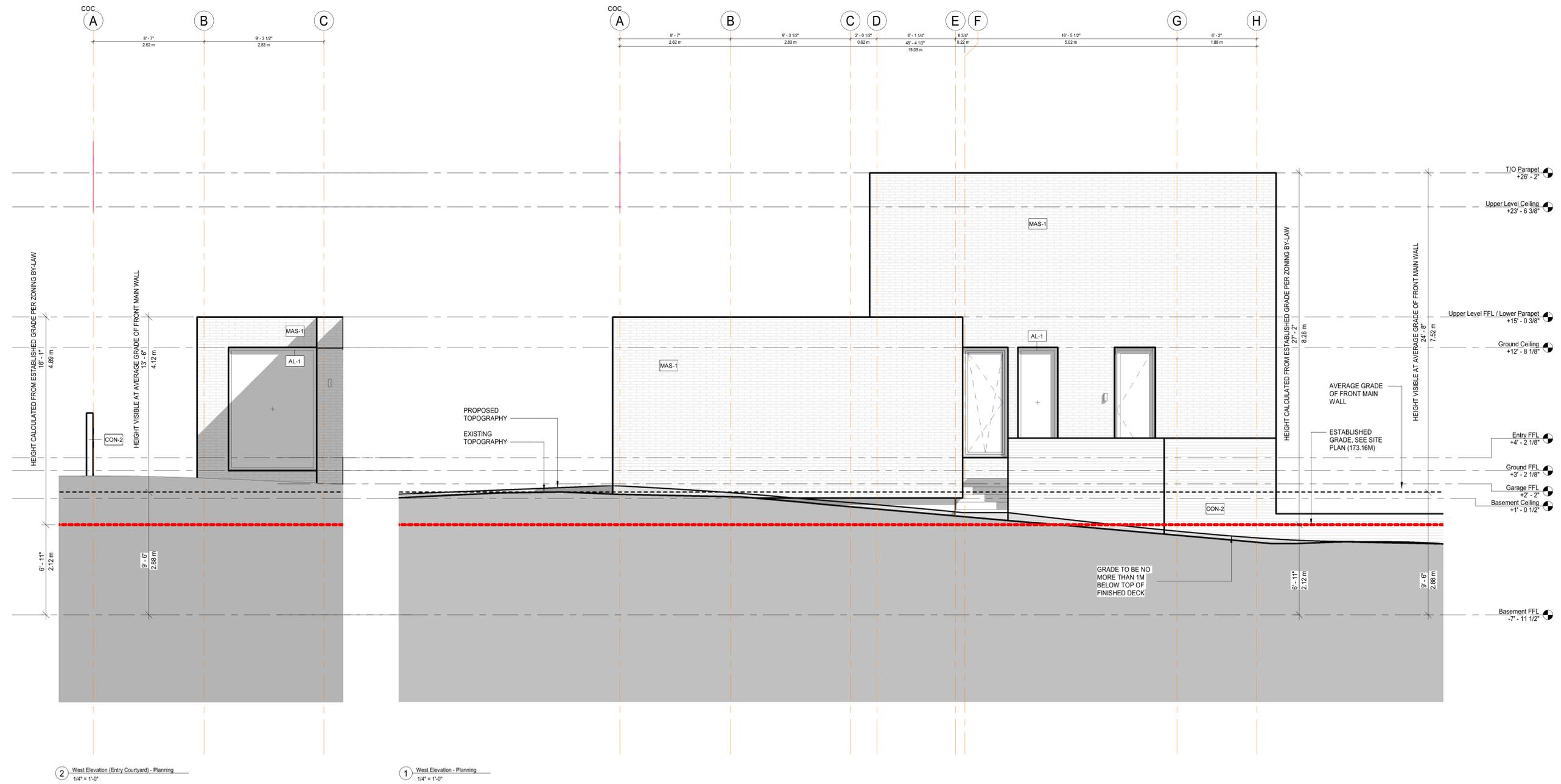
133 ROYAL ORCHARD BLVD

Title:  
Exterior Elevations\_West

Project No. 1917 Scale As indicated

Drawing No.

**A\_009**



2 West Elevation (Entry Courtyard) - Planning  
1/4" = 1'-0"

1 West Elevation - Planning  
1/4" = 1'-0"

May 18, 2021

CFN 64187.08  
X-Ref: CFN 62516.09

**Uploaded to E-Plan**

Justin Leung  
Secretary-Treasurer – Committee of Adjustment  
City of Markham  
101 Town Centre Blvd  
Markham ON L3R 9W3

Dear Mr. Leung:

**Re: Minor Variance Application A/059/21**  
**133 Royal Orchard Boulevard**  
**Owner: Jonathan Chung**  
**Agent: Kevin McKrow – Walker, Nott, Dragicevic Associates**

This letter acknowledges receipt of the above noted Minor Variance Application in the City of Markham, circulated to Toronto and Region Conservation Authority (TRCA) on May 4, 2021. TRCA staff have reviewed the above noted application, and as per the “Living City Policies for Planning and Development within the Watersheds of the TRCA” (LCP), provides the following comments as part of TRCA’s commenting role under the *Planning Act*; the Authority’s delegated responsibility of representing the provincial interest on natural hazards encompassed by Section 3.1 of the *Provincial Policy Statement, 2020*; TRCA’s Regulatory Authority under Ontario Regulation 166/06, *Development, Interference with Wetlands and Alterations to Shorelines and Watercourses*; and, our Memorandum of Understanding (MOU) with the Region of York where we advise our municipal partners on matters related to Provincial Policies relevant to TRCA’s jurisdiction. A list of the documents received and reviewed can be found in Appendix ‘A’ of this letter.

**Purpose of the Application**

It is our understanding that the purpose of the application is to request relief from By-law 2150, as amended, as it relates to a proposed detached dwelling:

- a) **By-law 2150, Sec. 6.1:** to permit building height of 27’-2”, whereas the by-law allows for a maximum height of 25’.

**Applicable Policies and Regulations**  
**Provincial Policy Statement (2020)**

The Provincial Policy Statement 2020 (PPS) provides policy direction on matters of provincial interest related to land use planning and development. According to subsections 3 (5) and (6) of the *Planning Act*, as amended, all planning decisions made by a municipality and all comments provided by the TRCA shall be consistent with the PPS.

Section 2.1 provides policies for the protection of natural features and areas. It is of note that

Section 2.1.8 of the PPS states that development and site alteration shall not be permitted on lands adjacent to certain natural features or areas unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.

Through a MOU between Conservation Ontario, the Ministry of Municipal Affairs and Housing, and the Ministry of Natural Resources and Forestry, the responsibility to uphold the natural hazards section of the PPS (Section 3.1) has been delegated to Conservation Authorities where the province is not involved. TRCA staff note that Section 3.1 of the PPS generally directs development and site alteration to locations outside of hazardous lands that would be impacted by flooding hazards and/or erosion hazards and prohibits development in areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, unless it has been demonstrated that the site has safe access. The PPS also directs planning authorities to consider the potential impacts of climate change that may increase the risk associated with natural hazards.

### **Ontario Regulation 166/06**

Based on the available information at this time, the rear (south) portion of the subject property is located within TRCA's Regulated Area under Ontario Regulation 166/06 as it is within and adjacent to a valley associated with the Don River Watershed. In accordance with Ontario Regulation 166/06 (Development, Interference with Wetlands and Alteration to Shorelines and Watercourses), a permit is required from the TRCA prior to any of the following works taking place within TRCA's Regulated Area:

- a) straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland;
- b) development, if in the opinion of the Authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land may be affected by the development.

'Development' is defined as:

- i) the construction, reconstruction, erection or placing of a building or structure of any kind,
- ii) any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure,
- iii) site grading, the temporary or permanent placing, dumping or removal of any material originating on the site or elsewhere.

### **TRCA's Living City Policies**

The Living City Policies for Planning and Development in the Watersheds of the Toronto and Region Conservation Authority (LCP) is a TRCA policy document that guides the implementation of TRCA's legislated and delegated roles and responsibilities in the planning and development approvals process. These policies describe a "Natural System" made up of water resources, natural features and areas, natural hazards, potential natural cover and/or buffers. The LCP recommends that development, infrastructure and site alteration not be permitted within the Natural System, and that these lands be conveyed into public ownership for their long-term protection and enhancement. It is these policies, along with those found in other provincial and municipal plans, documents and guidelines that guide TRCA's review of the subject applications.

### **Application-Specific Comments**

The proposed development has been reviewed through an associated TRCA Concept Development Application (CFN 62516.09) wherein the applicant sought preliminary comments regarding the proposed development. TRCA staff provided comments on two occasions (September 11, 2020 and February 10, 2021) primarily related to the limits of development, erosion and sediment controls, and the restoration and enhancement of the contiguous vegetation of the Natural System. As the applicant has generally satisfied TRCA's concerns relating to the

location of the proposed dwelling (outside of our Regulated Area), in-ground pool and hardscaping (partially in our Regulated Area), TRCA staff have no objections to this Minor Variance Application. We are currently reviewing a TRCA Permit Application for the works in our Regulated Area and any detailed comments we may have can be addressed through our permit process.

### **Review Fees**

Please be advised that the TRCA has implemented a fee schedule for our planning application review services. The fee for our review of Minor Variance Applications is typically \$580; however, a screening fee of \$105 (2018 TRCA Planning Fee Schedule – Screening Letter) has determined to be appropriate given the scope of our review.

Please note that TRCA's Administrative Fees for Planning and Permitting Services are presently under review. It is anticipated that new (2021-2022) fee schedules will be in place as of June 2021. For applications in which TRCA's fees have not been paid by this date, the applications will be subject to the new fees, effective the date of the approval of the new fees by TRCA's Board of Directors. TRCA's current fee top-up provisions, as outlined in our current fee schedules, will continue to apply.

An electronic invoice will be sent via email to the property owner for processing of fees through online payment.

### **Conclusion**

Based on our review of this submission, TRCA staff have no objections to this Minor Variance Application, subject to the following condition:

1. That the applicant remit TRCA's review fee of \$105 for the subject application.

The applicant is advised that a portion of the proposed development (in-ground pool and hardscaping) is located within TRCA's Regulated Area under Ontario Regulation 166/06 and requires a permit from our office prior to the commencement of the works. Staff acknowledge that a permit application has been submitted and is currently under review.

TRCA also requests notification of any decisions made by the City on this application and, if applicable, any appeals that may be made to the Local Planning Appeal Tribunal by any party in respect to this application.

We trust these comments are of assistance. Should you have any questions, please contact the undersigned.

Sincerely,

Dan Nguyen  
Planner I, Development Planning and Permits  
[dan.nguyen@trca.ca](mailto:dan.nguyen@trca.ca), 416-661-6600 ext. 5306

DN/mb

### **Appendix 'A': Materials Reviewed by TRCA**

- Survey, prepared by IBW Surveyors, dated September 30, 2020;
- Drawing A001, Site Plan and Zoning Summary, prepared by Superkul, dated April 21, 2021;
- Drawing A002, Lower Level Plan, prepared by Superkul, dated April 21, 2021;
- Drawing A003, Ground Level Plan, prepared by Superkul, dated April 21, 2021;
- Drawing A004, Upper Level Plan, prepared by Superkul, dated April 21, 2021;
- Drawing A005, Roof Plan, prepared by Superkul, dated April 21, 2021;
- Drawing A006, Exterior Elevations North, prepared by Superkul, dated April 21, 2021;
- Drawing A007, Exterior Elevations East, prepared by Superkul, dated April 21, 2021;
- Drawing A008, Exterior Elevations South, prepared by Superkul, dated April 21, 2021;
- Drawing A009, Exterior Elevations West, prepared by Superkul, dated April 21, 2021;
- Cover Letter, prepared by WND Associates, dated April 28, 2021.