

Memorandum to the City of Markham Committee of Adjustment

September 26, 2022

File: A/057/22
Address: 29 Havelock Gate, Markham ON
Applicant: Excel Engineering (Krishna Shah)
Agent: Excel Engineering (Krishna Shah)
Hearing Date: Wednesday, October 5, 2022

The following comments are provided on behalf of the East Team. The applicant is requesting relief from the following requirements of “Ninth Density – Single Family Residential (R9)” under By-law 90-81, as amended, as it relates to a proposed secondary dwelling unit in the basement. The variances requested are to permit:

a) Section 5.2.1:

a second dwelling unit, whereas the By-law permits no more than one single detached dwelling on one lot; and

b) Section 4.6 (a):

an uncovered platform/steps (basement walk-out) to encroach 0.57 metres into the required interior side yard, whereas the By-law permits no more than a 0.45 metre encroachment into the required interior side yard.

BACKGROUND

Property Description

The 408.60 m² (4,398.13 ft²) subject property is located on the north side of Havelock Gate, south of 14th Avenue and east of Markham Road. The property is located within an established residential neighbourhood comprised of two-storey detached dwellings. The property is developed with a two-storey detached dwelling with an integral garage.

Proposal

The applicant is requesting permission for an accessory dwelling unit to be located in the basement of the existing dwelling. The proposed secondary suite would have direct and separate access provided by a proposed below grade entrance on the east side of the dwelling.

Provincial Policies

More Homes, More Choice Act, 2019

The *More Homes, More Choice Act, 2019*, S.O. 2019, c. 9 – (Bill 108), received Royal Assent on June 6, 2019 and portions were proclaimed on September 3, 2019. The proclaimed portions of Bill 108 amended the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to require Official Plans to contain policies providing for two residential units in detached, semi-detached and rowhouse (townhouse) dwellings, as well as permitting a residential unit in ancillary structures to a detached, semi-detached, or rowhouse dwelling. Under this legislation, “second suites” or “secondary suites” are now referred to as “additional residential units”, and the terms are used synonymously in this memorandum.

Provincial Policy Statement, 2020

Section 1.4.3 of the *Provincial Policy Statement, 2020*, requires planning authorities to provide for an appropriate range and mix of housing options and densities to meet the affordable housing needs of current and future residents. Amongst other means, this can be achieved by permitting and facilitating residential intensification, including additional residential units, and redevelopment by accommodating a significant supply and range of housing options through intensification and redevelopment while taking into account existing building stock.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (Growth Plan, 2019)

Section 2.1.4 (c) of the *Growth Plan, 2019* requires municipalities to provide a diverse range and mix of housing options including second units to support complete communities.

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 “Residential Low Rise”, which provides for low rise housing forms including single detached dwellings. The Official Plan also contains criteria for the establishment of secondary suites in Section 8.13.8 which states: *“That in considering an application to amend the Zoning By-law to permit the establishment of a secondary suite where provided for in this Plan, Council shall be satisfied that an appropriate set of development standards are provided for in the Zoning By-law including:*

- a) the building type in which the secondary suite is contained;*
- b) the percentage of the floor area of the building type devoted to the secondary suite;*
- c) the number of dwelling units permitted on the same lot;*
- d) the size of the secondary suite;*
- e) the applicable parking standards; and,*
- f) the external appearance of the main dwelling.”*

A “Secondary Suite” in the Official Plan is defined as:

“...a second residential unit in a detached house, semi-detached house or rowhouse that consists of one or more rooms designed, occupied or intended for use, including occupancy, by one or more persons as an independent and separate residence in which a facility for cooking, sleeping facilities and sanitary facilities are provided for the exclusive use of such person or persons.”

Section 4.1.2.6 of the Official Plan contains policies to support further diversification of the housing stock and rental housing tenure by permitting secondary suites within existing and new single detached, semi-detached and rowhouse dwellings in accordance with Section 3.5.22 of the Regional Official Plan and subject to appropriate zoning, development criteria, and standards.

Zoning By-Law 90-81

The subject property is zoned “Ninth Density – Single Family Residential (R9)” under By-law 90-81, as amended, which permits one single detached dwelling per lot.

Zoning Preliminary Review (ZPR) Undertaken

The owner has completed a Zoning Preliminary Review (ZPR) on June 24, 2022 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, and
- d) The general intent and purpose of the Official Plan must be maintained.

Secondary Suites

Fire and Emergency Services Department has no objections provided the secondary suite is registered with the City and complies with Building and Fire Codes. Should this application be approved, the applicant will be required to obtain a building permit which ensures the secondary suite will be in compliance with Building Code and Fire Code regulations, and will be required to register their second suite with the Fire Department prior to the occupancy of the unit.

The City of Markham is committed to promoting affordable and shared housing opportunities. Secondary suites help the City increase the availability of affordable housing forms and provide support to achieve its affordable housing target required by the Province. Planning staff are of the opinion that the application meets the criteria under Section 8.13.8 of the 2014 Official Plan for the establishment of a secondary suite and therefore have no objections.

Increase in Uncovered Platform/Steps Encroachment

The applicant is requesting an uncovered steps encroachment of 0.57 m (1.87 ft) into the required interior side yard whereas the By-law permits no more than a 0.45 metre encroachment into the required interior side yard.

The variance applies to a below grade entrance on the east side of the dwelling which provides direct access to the proposed secondary dwelling unit. Staff are of the opinion that the requested variance is minor in nature and considered an appropriate use of land.

PUBLIC INPUT SUMMARY

No written submissions were received as of September 26, 2022. 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 requests

meet 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:



Brashanthe Manoharan, Planner II, East District

REVIEWED BY:



Stacia Muradali, Development Manager, East District

APPENDIX "A"**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/057/22**

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 received by the City of Markham on May 2, 2022, 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. That the Owner register the home as a two-unit house with the City of Markham Fire & Emergency Services Department, and satisfy any and all conditions for registration, to the satisfaction of the Fire Chief; and
4. That the owner submit, if required by the Chief Building Official, a third-party report prepared by an architect or professional engineer licensed in the Province of Ontario, to assess compliance of existing construction with the provisions of the Ontario Building Code, and in particular relating to the change of use from a dwelling containing a single suite to a dwelling containing more than one suite.

CONDITIONS PREPARED BY:



Brashanthe Manoharan, Planner II, East District

APPENDIX “B”

PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/057/22

CURRENT ZONING INFORMATION:
Address: 29 HAVELOCK GATE
Property Roll Number: 1936030213041560000
Zoning Bylaw BY-LAW 90-81 as amended
Zoning Designation R9
Official Plan Designation Residential Low Rise

PROPOSED: Accessory Apartment in Basement

PARKING SPACES
AVAILABLE PARKING: 4 NOS
REQUIRED PARKING: 3 NOS (2 +1)

LOT FRONTAGE - 40 FT. (12.20 meters)
TOTAL FRONT YARD AREA - 842 SQ. FT.
PAVED AREAS - 493 SQ. FT. (58.6%)
GRASS - 349 SQ. FT. (41.4%)
MINIMUM FRONT YARD LANDSCAPING REQUIRED AS PER R
BY-LAW 28-97, SECTION 6.1.2.(a) AND 6.2.4.2.(b): 40%

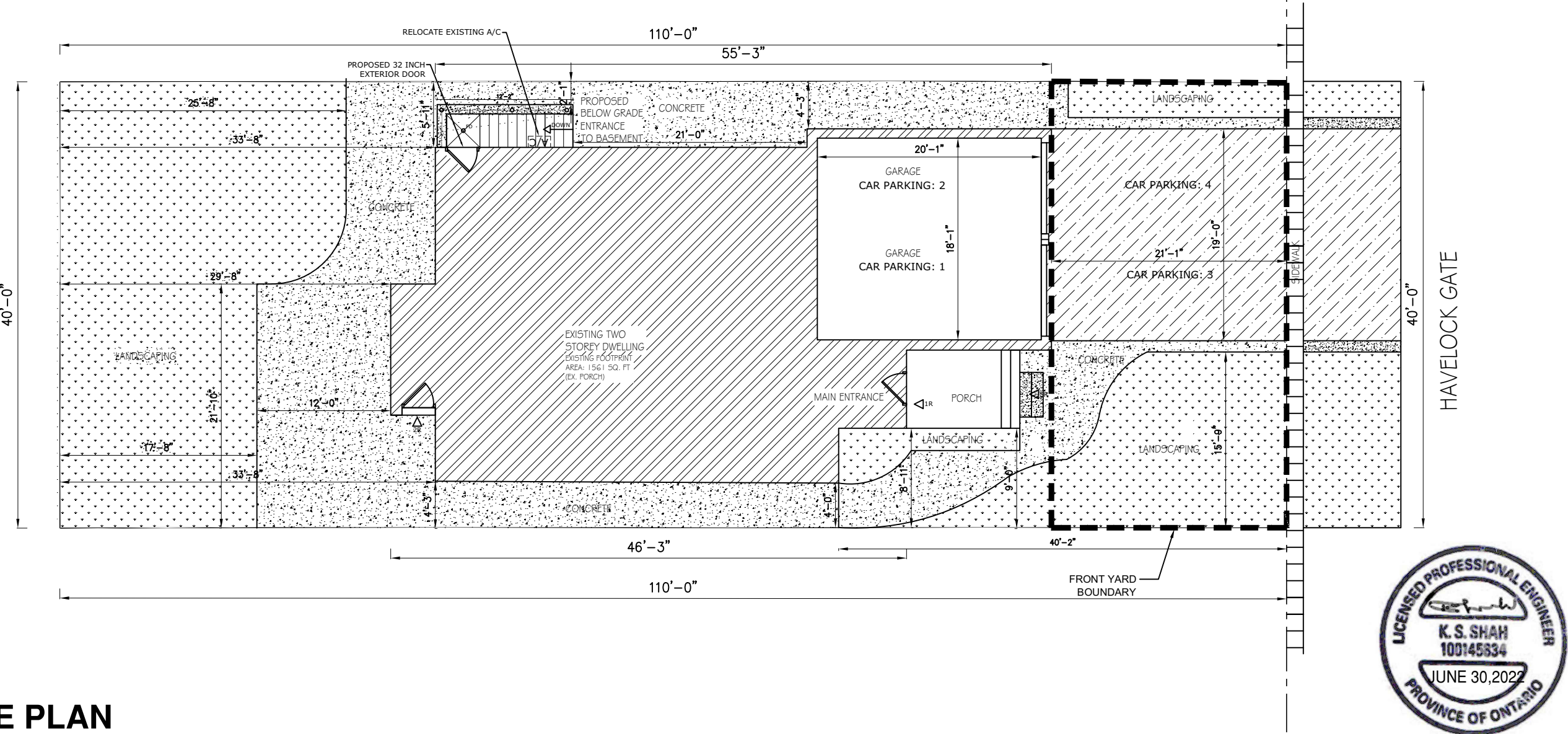
GENERAL NOTE:
The consultant is not responsible for the accuracy of the survey. Refer to the engineering drawings before proceeding to the work. Report any discrepancies between architectural/engineering drawings to the consultant. General contractor shall check and verify all dimensions and report all errors and omissions to the consultant. Construction must confirm to all applicable codes and requirements of authorities having jurisdiction.

Appendix B

File: 22.114869.000.00.MNV

Date: 09/29/22

MM/DD/YY



SITE PLAN
SCALE: 3/32" = 1' 0"

ALL DIMENSION ARE IN FEET-INCHES



				XX
DATE:	NO.	DESCRIPTION	BY	
REVISIONS:				
PROJECT: CHANGE OF USE BASEMENT APARTMENT				
29 HAVELOCK GATE MARKHAM, ON				
CLIENT: SURESH KUMAR				
29 HAVELOCK GATE MARKHAM, ON				
CONSULTANT: EXCEL ENGINEERING INC.				
4000 Steeles Avenue West, UNIT 202 WOODBIDGE, ON L3R 4C3 CELL: 647-270-5656 KRISHNA@EXCELENG.CA				
DRAWING TITLE: SITE PLAN				
DESIGN: KS	SCALE: AS SHOWN	DRAWING NO: A 1.0		
DRAWN: DBP	DATE: JUNE 2022			
CHECKED: KS	PROJECT NO: 2292			

NOTE: EVERYTHING SHOWN ON THIS DRAWING IS EXISTING.

Appendix B

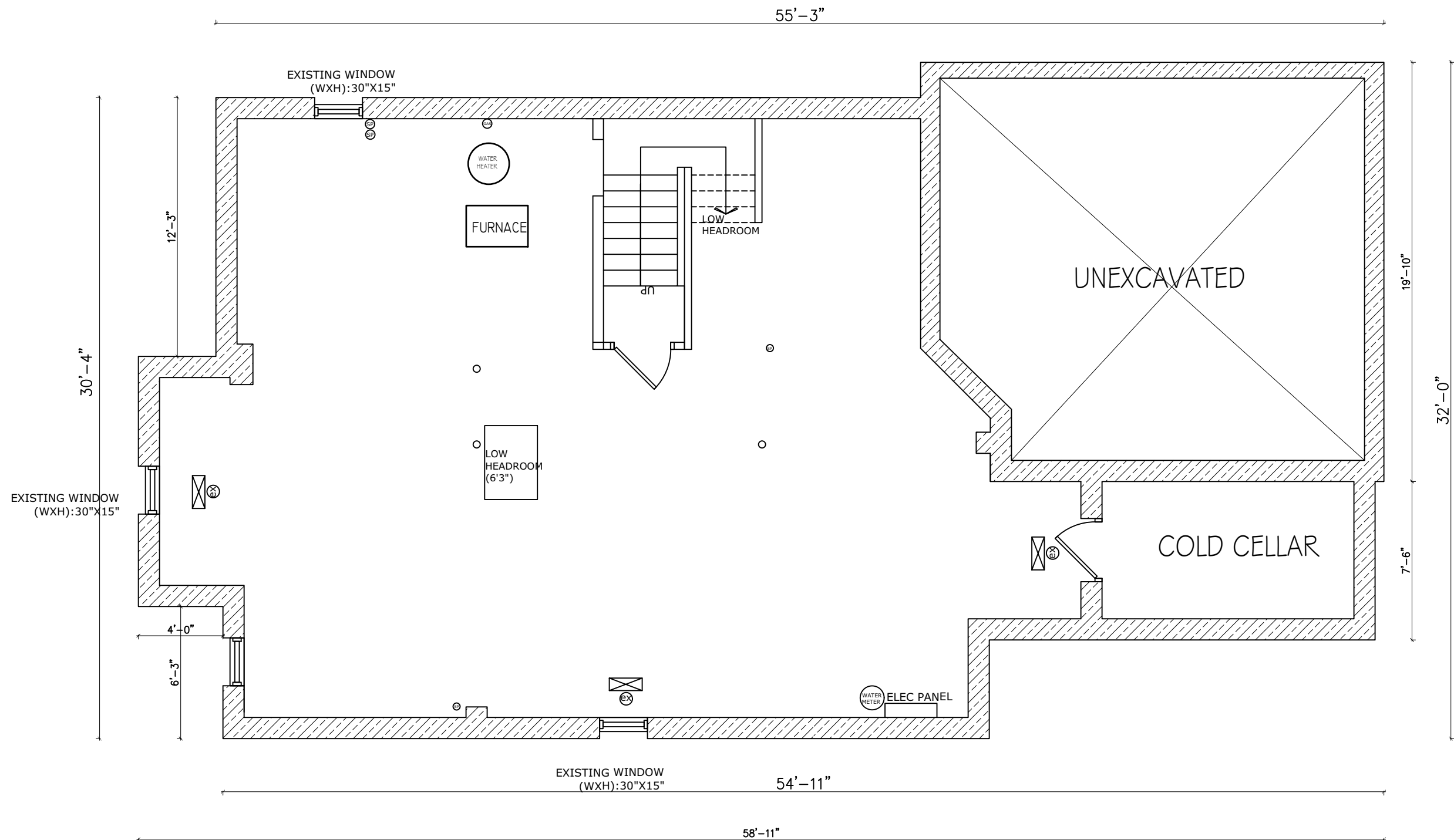
File:

22.114869.000.00.MNV

Date:

09/29/22

MM/DD/YY



- NOTE:
- REFER TO DWG A2.0 FOR GENERAL NOTES AS WELL AS WALL, CEILING AND DOOR REFERENCES
 - REFER TO DWG A2.0 FOR HVAC & ELECTRICAL DETAILS

EXISTING BASEMENT PLAN

SCALE: 3/16" = 1' 0"

GENERAL NOTE:

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			XX
DATE:	NO.	DESCRIPTION	BY
REVISIONS:			

PROJECT:

CHANGE OF USE BASEMENT APARTMENT

29 HAVELOCK GATE
MARKHAM, ON

CLIENT:

SURESH KUMAR

29 HAVELOCK GATE
MARKHAM, ON

CONSULTANT:

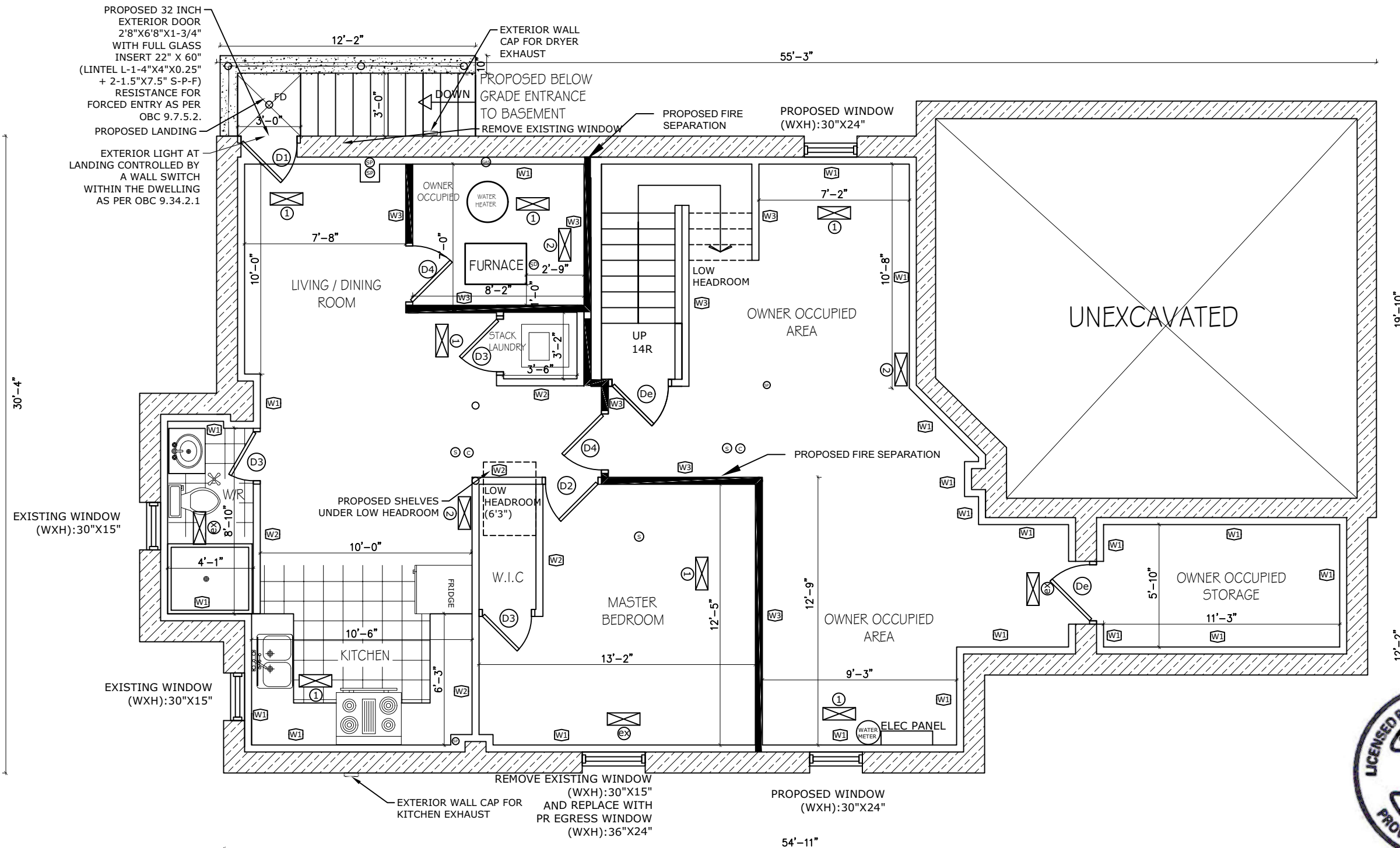
EXCEL ENGINEERING INC.

4000 Steeles Avenue West, UNIT 202
WOODBIDGE, ON L3R 4C3
CELL:647-270-5656
KRISHNA@EXCELENG.CA

DRAWING TITLE:		
EXISTING BASEMENT PLAN		
DESIGN:	SCALE:	DRAWING NO:
KS	AS SHOWN	
DRAWN:	DATE:	
DBP	JUNE 2022	A 3.0
CHECKED:	PROJECT NO:	
KS	2292	

Appendix B

File: 22.114869.000.00.MNV

Date: 09/29/22
MM/DD/YY

NOTES:

1. BASEMENT FLOOR AREA: 980 SQ. FT.
2. REFER TO DWG A2.0 FOR GENERAL NOTES AS WELL AS WALL, CEILING AND DOOR REFERENCES
3. REFER TO DWG A2.0 FOR HVAC & ELECTRICAL DETAILS

GENERAL NOTE:

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PROPOSED BASEMENT PLAN

SCALE: $\frac{3}{16}$ " = 1' 0"

	OBC Size Requirement (Part 11)	Provided (sq. ft)	OBC Window Requirement (Part 11)	Min. area (sq. ft)	Provided (sq. ft)
Dwelling Area					
Master Bedroom	95 ft ² with closet	163	2.5%	4.1	4.8
				pr. window (36" x 24")	
Kitchen	40 ft ² - 1 Bedroom	90		none	
Living and Dining	153 ft ² - 1 Bedroom	182	5%	9.1	9.2
				pr. glass door ("22x 60")	
					9.2

ALL DIMENSION ARE IN FEET-INCHES

REVISIONS:

PROJECT:

CHANGE OF USE
BASEMENT APARTMENT29 HAVELOCK GATE
MARKHAM, ON

CLIENT:

SURESH KUMAR

29 HAVELOCK GATE
MARKHAM, ON

CONSULTANT:

EXCEL ENGINEERING INC.

4000 Steeles Avenue West, UNIT 202
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KRISHNA@EXCELENG.CA

DRAWING TITLE:

PROPOSED
BASEMENT PLANDESIGN:
KSSCALE:
AS SHOWN

DRAWING NO:

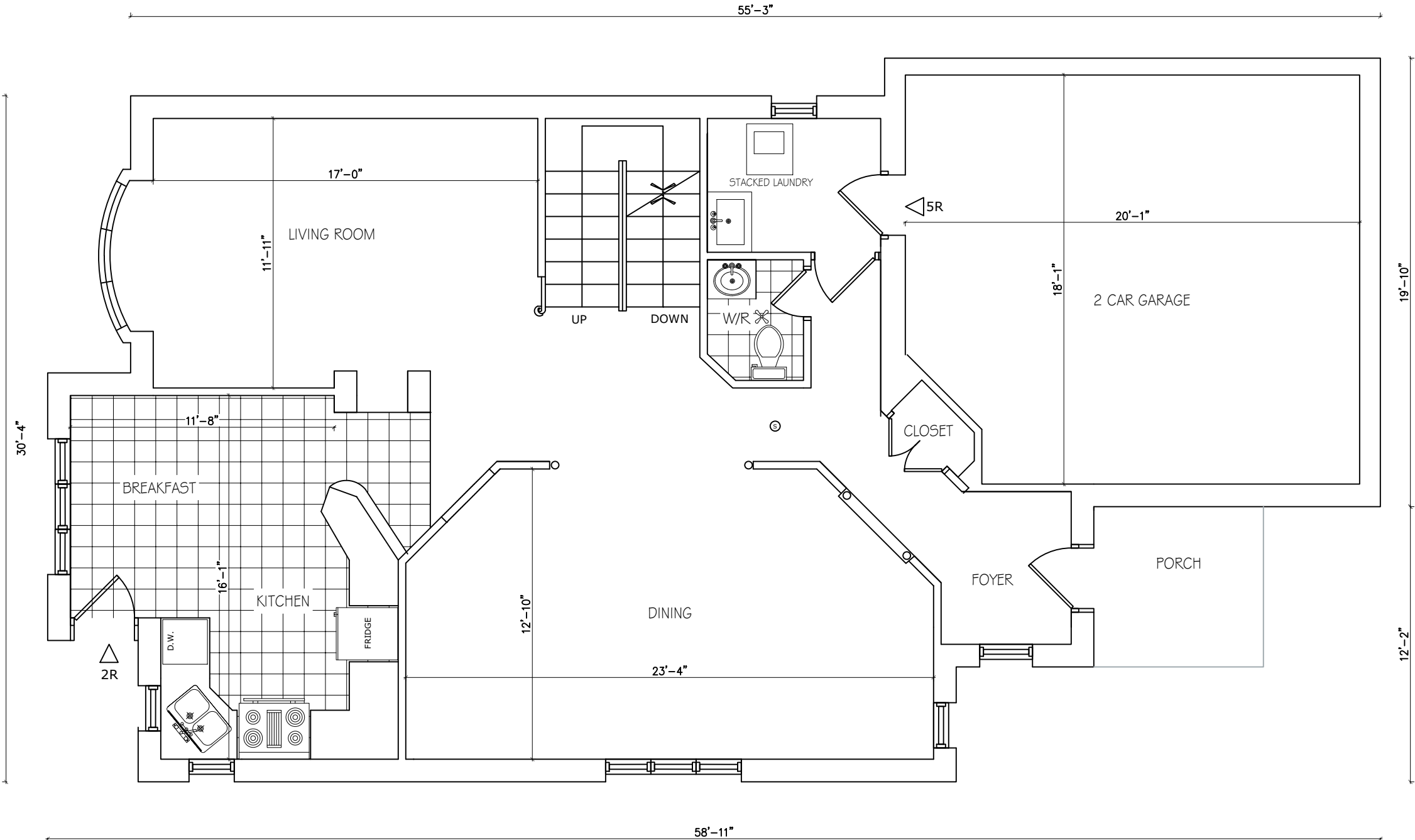
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DBPDATE:
JUNE 2022CHECKED:
KSPROJECT NO
2292

A 4.0

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- NOTE:
- GROUND FLOOR AREA (INCLUDING GARAGE): 1400 SQ. FT.
 - REFER TO DWG A2.0 FOR GENERAL NOTES AS WELL AS WALL, CEILING AND DOOR REFERENCES
 - REFER TO DWG A2.0 FOR HVAC & ELECTRICAL DETAILS

FIRST FLOOR PLAN

SCALE: 3/16" = 1' 0"

ALL DIMENSION ARE IN FEET-INCHES

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PROJECT:
**CHANGE OF USE
BASEMENT APARTMENT**

29 HAVELOCK GATE
MARKHAM, ON

CLIENT:
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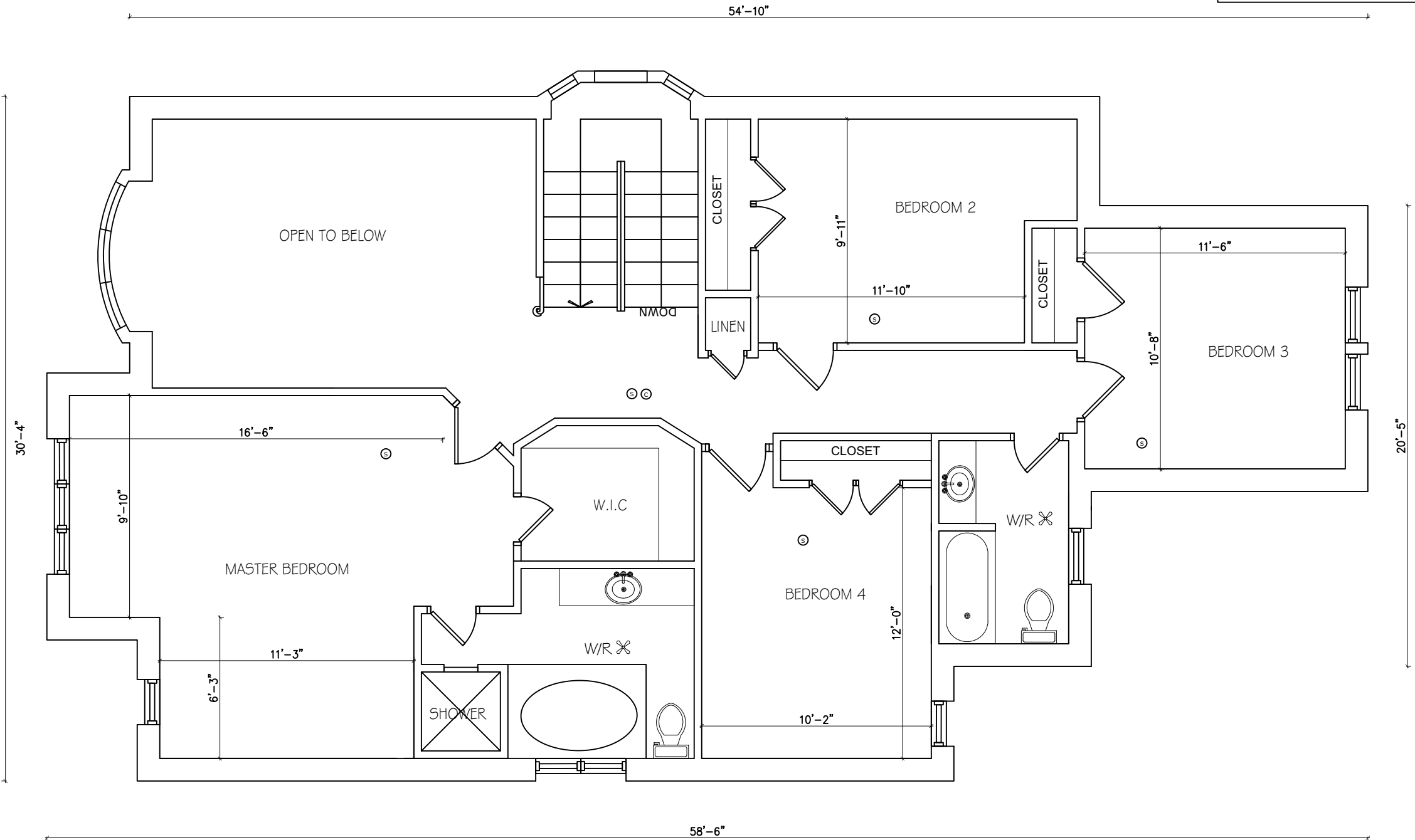
DRAWING TITLE:
FIRST FLOOR PLAN

DESIGN: KS	SCALE: AS SHOWN	DRAWING NO: A 5.0
DRAWN: DBP	DATE: JUNE 2022	
CHECKED: KS	PROJECT NO: 2292	

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- NOTE:
1. SECOND FLOOR AREA: 1080 SQ. FT.
 2. REFER TO DWG A2.0 FOR GENERAL NOTES AS WELL AS WALL, CEILING AND DOOR REFERENCES
 3. REFER TO DWG A2.0 FOR HVAC & ELECTRICAL DETAILS

SECOND FLOOR PLAN

SCALE: 3/16" = 1' 0"



ALL DIMENSION ARE IN FEET-INCHES

			XX
DATE:	NO.	DESCRIPTION	BY

REVISIONS:

PROJECT:
**CHANGE OF USE
BASEMENT APARTMENT**

29 HAVELOCK GATE
MARKHAM, ON

CLIENT:
SURESH KUMAR

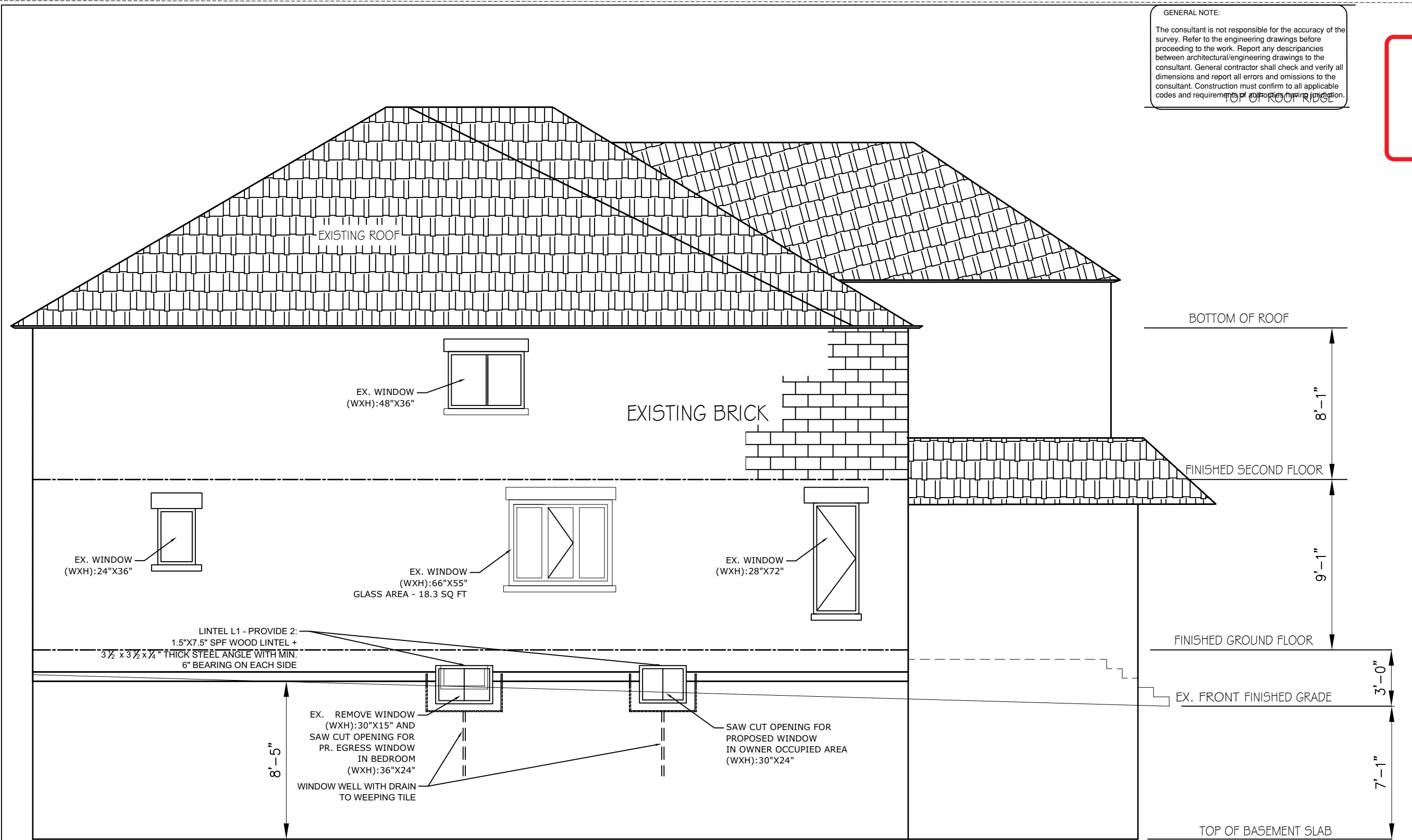
29 HAVELOCK GATE
MARKHAM, ON

CONSULTANT:
EXCEL ENGINEERING INC.

4000 Steeles Avenue West, UNIT 202
WOODBIDGE, ON L3R 4C3
CELL :647-270-5656
KRISHNA@EXCELENG.CA

DRAWING TITLE:
SECOND FLOOR PLAN

DESIGN: KS	SCALE: AS SHOWN	DRAWING NO: A 6.0
DRAWN: DBP	DATE: JUNE 2022	
CHECKED: KS	PROJECT NO 2292	



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UNPROTECTED OPENINGS :
ALLOWABLE : 7.0% (LIMITING DISTANCE: 4 FT)
PROVIDED : 6.5%
WALL AREA : 826 SQ.FT..
UNPROTECTED OPENINGS : 54.19 SQ.FT.(Glass Area)

LEFT ELEVATION

SCALE: 3/16" = 1' 0"



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PROJECT:
CHANGE OF USE
BASEMENT APARTMENT

29 Havelock Gate
Markham, ON

CLIENT:
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29 Havelock Gate
Markham, ON

CONSULTANT:
EXCEL ENGINEERING INC.

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KRISHNA@EXCELENG.CA

DRAWING TITLE:
LEFT ELEVATION

DESIGN: KS	SCALE: AS SHOWN	DRAWING NO: A 7.0
DRAWN: DBP	DATE: JUNE 2022	
CHECKED: KS	PROJECT NO 2292	

TOP OF ROOF RIDGE

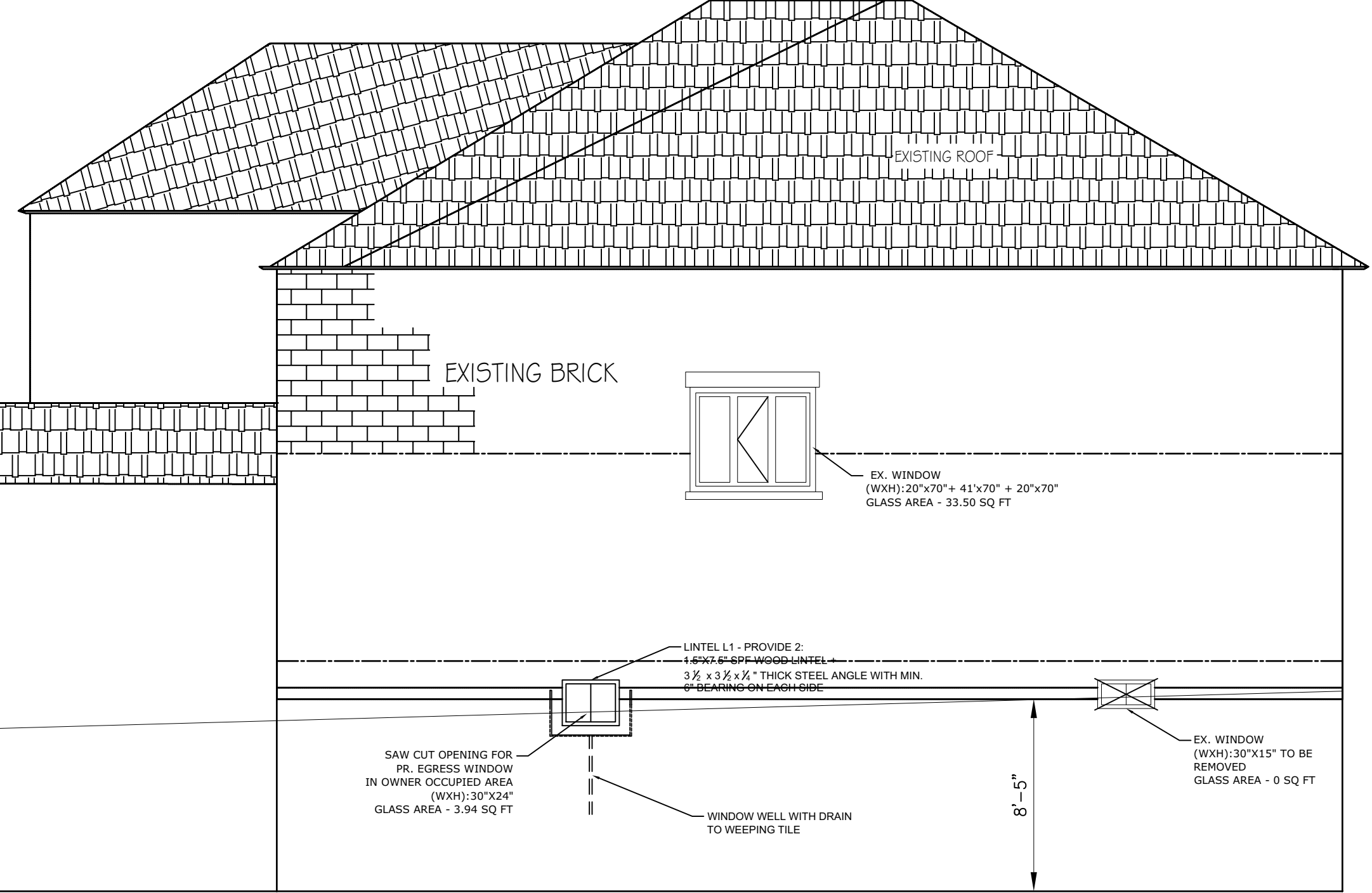
BOTTOM OF ROOF

FINISHED SECOND FLOOR

FINISHED GROUND FLOOR

EX. FRONT FINISHED GRADE

TOP OF BASEMENT SLAB



UNPROTECTED OPENINGS :
ALLOWABLE : 7.0% (LIMITING DISTANCE: 4 FT)
PROVIDED : 3.7%
WALL AREA : 1022 SQ.FT..
UNPROTECTED OPENINGS : 37.44 SQ.FT.(Glass Area)

RIGHT ELEVATION

SCALE: 3/16" = 1' 0"

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REVISIONS:

PROJECT:
**CHANGE OF USE
BASEMENT APARTMENT**

29 Havelock Gate
Markham, ON

CLIENT:
SURESH KUMAR

29 Havelock Gate
Markham, ON

CONSULTANT:
EXCEL ENGINEERING INC.

4000 Steeles Ave West
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KRISHNA@EXCELENG.CA

DRAWING TITLE:
RIGHT ELEVATION

DESIGN: KS	SCALE: AS SHOWN	DRAWING NO: A 8.0
DRAWN: DBP	DATE: JUNE 2022	
CHECKED: KS	PROJECT NO 2292	



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2.114869.000.00.MNV
9/29/22
MM/DD/YY

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NEW GUARD 42" HIGH. MAX 4" BETWEEN
PICKET CONFORMING TO 2006 OBC 4.1.5.15
OR 9.8.8.2 LOADING REQUIREMENT



STEP FOOTING DETAIL

Diagram illustrating the wall section layout for Example 1. The wall is 12'-0" wide and 4'-0" high. It is divided into three equal vertical panels, each 4'-0" wide and 4'-0" high. The panels are labeled A, B, and C from left to right. The hatching pattern for each panel is as follows:

- Panel A: Diagonal hatching (top-left to bottom-right).
- Panel B: Cross-hatching.
- Panel C: Diagonal hatching (bottom-left to top-right).

WALK-OUT SECTION-A

GENERAL NOTE:

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UNDERPINNING SECTION

ALL DIMENSION ARE IN FEET - INCHES



			XX
DATE:	NO.	DESCRIPTION	BY
REVISIONS:			

REVISIONS:

4000 Steeles Avenue West, UNIT 202
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905-850-7556
KRISHNA@EXCELENG.CA

OWNER:
SURESH KUMAR

29 HAVELOCK GATE
MARKHAM, ON

DRAWING TITLE:

WALKOUT DETAIL

PROJECT NO 2292	DRAWING NO:
DATE: JUNE 2022	A9.0
SCALE: AS SHOWN	