Memorandum to the City of Markham Committee of Adjustment

August 29, 2022

File: A/117/22

Address: 4250 19th Avenue, Markham

Applicant: Gaetano Carvelli

Agent: Joseph N. Campitelli Architect Inc. (Joseph Campitelli)

Hearing Date: Wednesday September 7, 2022

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

The applicant is requesting relief from the following requirements of the "Rural Residential Four (RR4) Zone" of By-law 304-87, as amended, to permit:

a) Section 7.5(b)(iii):

An east side yard setback of 1.1 m (3.3 ft) for detached accessory building and 3.0 m (9.8 ft) for the main building of detached dwelling whereas the By-law requires a minimum side yard setback of 6.0m (19.6 ft) is required

b) Section 7.5(b)(iii):

A rear yard setback of 4.9 m (16.0 ft) for detached accessory building whereas the By-law requires a minimum rear yard setback of 7.5 m (24.6 ft) is required

c) Section 6.2.4.2(b)(i) By-law 28-97:

A maximum driveway width of 15.2 m (49.9 ft) whereas the By-law requires maximum of 12.2 m (40.0 ft) is permitted

PROPERTY DESCRIPTION

The $4,044.5~\text{m}^2$ ($43,535~\text{ft}^2$) subject property is located on the north side of 19^{th} Avenue, and west of Kennedy Road. The property is located within an established rural residential neighbourhood comprised of a mix of one and two-storey detached dwellings on large lots. Some mature vegetation exists across the property.

There is an existing single detached dwelling with accessory buildings on the property, which, according to assessment records, was constructed in 1971 and an additional accessory building constructed in 1988.

The subject property is partially within the Toronto Region and Conservation Authority (TRCA)'s Regulated Area as the southwest portion of the site is within the TRCA Floodline 2022

PROPOSAL

The applicant is proposing to demolish the existing dwelling, and construct a two-storey detached dwelling with a gross floor area of 497.87 m² (5,359 ft²) The proposal also includes the demolition of the existing shed on the westerly portion of the property, and a partial demolition of an existing shed located at the rear of the property.

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 as "Hamlet" and "Greenway", which provides for low density housing forms including single detached dwellings and contains policies to protect and maintain the historic and rural residential character of these communities. The area of the property designated "Greenway" does not permit development as it forms part of the provinces Greenbelt.

Zoning By-Law 304-87

The subject property is zoned "Rural Residential Four (RR4) Zone" and "Open Space One (O1) Zone" under By-law 304-87, as amended, which permits one single detached dwelling per lot. The proposed development does not comply with the minimum side yard setback and rear yard setback requirements.

Parking Standards By-law 28-97

The proposed development also does not comply with the Parking By-law requirement with respect to the maximum permitted driveway width.

ZONING PRELIMINARY REVIEW (ZPR) UNDERTAKEN

The owner has completed a Zoning Preliminary Review (ZPR) on August 15, 2022 to confirm the variances required for the proposed development.

COMMENTS

The *Planning Act, R.S.O 1990, c. P.13, as amended*, states that four tests must be met in order for a variance to be granted by the Committee of Adjustment (the "Committee"):

- a) The variance must be minor in nature:
- b) The variance must be desirable, in the opinion of the Committee, 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.

Reduced Side Yard Setback Variance

The applicant is requesting a minimum east side yard setback of 3.0 m (9.8 ft) for the two-storey detached dwelling, and a minimum east side yard setback of 1.1 m (3.3 ft) for the accessory building (existing rear shed) whereas a minimum side yard setback of 6.0 m (19.6 ft) is required.

The reduced side yard setback variance is being requested due to the fact that the southwest portion of the subject property being zoned "Open Space One (O1) Zone" which requires the dwelling to be located further northeast and presents a hardship for the property. The requirement to locate the dwelling further north also reduced the space that could be allocated for the backyard. Staff are of the opinion that the requested variance to the east side yard will have minimal impact to the surrounding properties and is generally consistent with the orientation and footprint of dwellings in the area.

Reduction in Rear Yard Setback

The applicant is requesting relief to permit a minimum rear yard setback of 4.9 m (16.0 ft), whereas the By-law requires a minimum rear yard setback of 7.5 m (24.6 ft). This represents a reduction of approximately 2.6 m (8.5 ft.).

The variance is entirely attributed to the existing accessory building (shed). The applicant is proposing to demolish portions of the existing shed which results in an increased rear yard setback from its current state. The proposed rear yard setback from the main dwelling provides a setback of 20.1 m (65.9 ft.) and is generally consistent with the established rear yard setbacks of the dwellings on the same street.

Increased Maximum Driveway Width Variance

The applicant is requesting a maximum driveway width of 15.2 m (49.9 ft), whereas a maximum driveway width of 12.2 m (40.0 ft) is permitted, which is the equivalent of the garage door width plus 2.0 metres, provided that a minimum 40% soft landscaping is provided in the front yard. This is an increase of 2.0 m (6.6 ft).

Based on the plans submitted with the application, the variance is required due to the existing asphalt vehicle turnaround space to the west of the existing driveway. The proposed widening would apply to the section of the driveway that is well inset from the street. Staff further note that the proposed widening would not require the removal of existing trees and the private driveway will be tapered down to the width of the existing driveway well in advance of the property line. Staff are of the opinion that the requested variance is minor in nature, maintains the general intent of the By-law and would not have significant visual impact from the street.

Tree Protection and Compensation

Staff recommend that should the Committee see merit in the application that conditions in relation to Tree Protection and Compensation are adopted to ensure that the applicant installs the appropriate tree protection barriers, and provides compensation to the City, if required. Staff also note that property owners are required to apply for and obtain a tree permit from the City for any proposed injury to, or removal of any trees that have a diameter at breast height of 20.0 cm (7.87 in) or more. Additional mitigation measures may be determined through these processes to ensure the protection of certain trees is achieved.

EXTERNAL AGENCIES

TRCA Comments

The area of the subject property zoned O1 is located within TRCA's Regulated Area.

TRCA provided comments on August 19, 2022 (Appendix "B"), indicating that the proposed development will be located outside of the required 10.0 m buffer from the limits of the TRCA Floodline, and they have no concerns subject to the applicant obtaining a permit with the TRCA and satisfying conditions outlined in their letter.

PUBLIC INPUT SUMMARY

No written submissions were received as of August 29, 2022. 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.

APPENDICES

Appendix "A" – Conditions of Approval Appendix "B" – TRCA Comment Letter Appendix "C" – Plans

PREPARED BY:

Jennifer Kim, Senior Planner, West District

REVIEWED BY:

Rick Cefaratti, MCIP, RPP, Senior Planner II, West District

APPENDIX "A" CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/117/22

- 1. That the variances apply only to the proposed development for as long as it remains.
- That the variances apply only to the proposed development, in substantial
 conformity with the plans attached as Appendix "B" to this Staff Report, and that
 the Secretary-Treasurer receive written confirmation that this condition has been
 fulfilled to the satisfaction of the Director of Planning and Urban Design, or their
 designate.
- 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 Director of Planning and Urban Design, or their designate, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design, or their designate.
- 4. That tree replacements be provided and/or tree replacement fees be paid to the Director of Planning and Urban Design, or their designate, 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 Director of Planning and Urban Design, or their designate.
- 5. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site, including street trees, in accordance with the City's Streetscape Manual (2009), as amended, and inspected by the Tree Preservation Technician, or their designate, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design, or their designate.
- 6. That the applicant satisfies the requirements of the TRCA, financial or otherwise, as indicated in their letter and correspondence attached as Appendix B to this Staff Report, to the satisfaction of the TRCA and that the Secretary-Treasurer receive written confirmation that the applicant has obtained a permit from the TRCA prior to the issuance of a Building Permit

CONDITIONS PREPARED BY:

Jennifer Kim, Senior Planner, West District

APPENDIX "B" TRCA COMMENT LETTER

From: <u>Joshua Lacaria</u>
To: <u>Kim, Jennifer</u>

Subject: A/117/22 - CFN 66440.09 - 4250 19th Avenue, Markham

Date: Friday, August 19, 2022 10:00:18 AM

Attachments: <u>image001.png</u>

Dear Jennifer,

Thank you for the opportunity to review the Minor Variance Application received by Toronto and Region Conservation Authority (TRCA) on July 20, 2022. The purpose of this letter is to provide our comments for Minor Variance A/117/22 at 4250 19th Avenue in the City of Markham.

Understanding of the Proposal:

It is our understanding that the purpose of the Minor Variance Application is to request the following variances:

- To permit a reduced east yard setback of 1.1 metres for a detached accessory building and 3.0 metres for the main building (detached dwelling), whereas a minimum side yard setback of 6.0 metres is required.
- 2. To permit a rear yard setback of 4.9 metres for a detached accessory building, whereas a minimum rear yard setback of 7.5 metres is required.
- 3. To permit a maximum driveway width of 15.2 metres, whereas a maximum of 6.1 metres is permitted.

Policies and Regulations:

Greenbelt Plan

This property is entirely within the Protected Countryside designation of the Greenbelt Plan. The Greenbelt Plan is a provincial policy document and all *Planning Act* applications within the Greenbelt Plan area are required to conform to this Plan.

TRCA Regulation and Policy:

The subject property is partially located within a TRCA Regulated Area of the Rouge River Watershed as it is within 15 metres of a floodplain on the southwest of the subject property. In accordance with Ontario Regulation 166/06 (Development, Interference with Wetlands and Alterations to Shoreline and Watercourse Regulation), a permit is required from the TRCA prior to any new development taking place within this regulated area. In addition, the TRCA's Living City Policies (LCP) sets out development guidelines for properties affected by flood hazards. One of the overall objectives of the LCP is to prevent new development from occurring within areas that may introduce risk to life and property associated with natural hazards.

'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
- III. 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,
- IV. site grading, the temporary or permanent placing, dumping or removal of any material originating on the site or elsewhere.

TRCA has an overall interest in the proposal and development. TRCA staff were engaged by the owner and agent regarding the proposed development at 4250 19th Avenue and potential requirements for a permit application. TRCA agrees with the location of the Regional flood plain elevation and associated 10 metres required setback as delineated on the site plan. It is our understanding that the only building/structure within TRCA's Regulated Area is the proposed septic system. We are of the opinion that the proposed works are sufficiently setback from the Regional flood plain elevation and exceed the 10 metres required setback. It also appears that the proposed development within TRCA's Regulated Area will not impact any existing natural features. Accordingly, we have **no objection** for the proposed variances.

If additional approvals beyond this Minor Variance is required for this property, please circulate the details to TRCA for review.

Application Review Fee

As per TRCA's role as a commenting agency for *Planning Act* application circulated by member municipalities to assess whether a proposed development may be impacted by TRCA, the applicant is advised that the TRCA has implemented a fee schedule for our planning application review services. The submitted application is subject to a review fee in the amount of \$110 (2021 TRCA Planning Fee Schedule – Screening Letter). This fee can be submitted via Checkfront Online Payment System. I have not copied the Agent/Owner to provide the City of Markham the opportunity to review. Please forward this letter to the Agent/Owner upon completion of review.

Recommendation

In light of the above, TRCA staff have **no objection** to Minor Variance Application A/117/22 subject to the following conditions:

- 1. That the outstanding planning Screening Letter fee (\$110) be remitted to TRCA.
- 2. The applicant successfully obtains a permit pursuant to Ontario Regulation 166/06 from TRCA for the proposed works.

I trust these comments are of assistance. Should you have further questions do not hesitate to contact me.

Regards,

Joshua Lacaria

Planner I - York East Review Area Development Planning and Permits | Development and Engineering Services Toronto and Region Conservation Authority (TRCA)

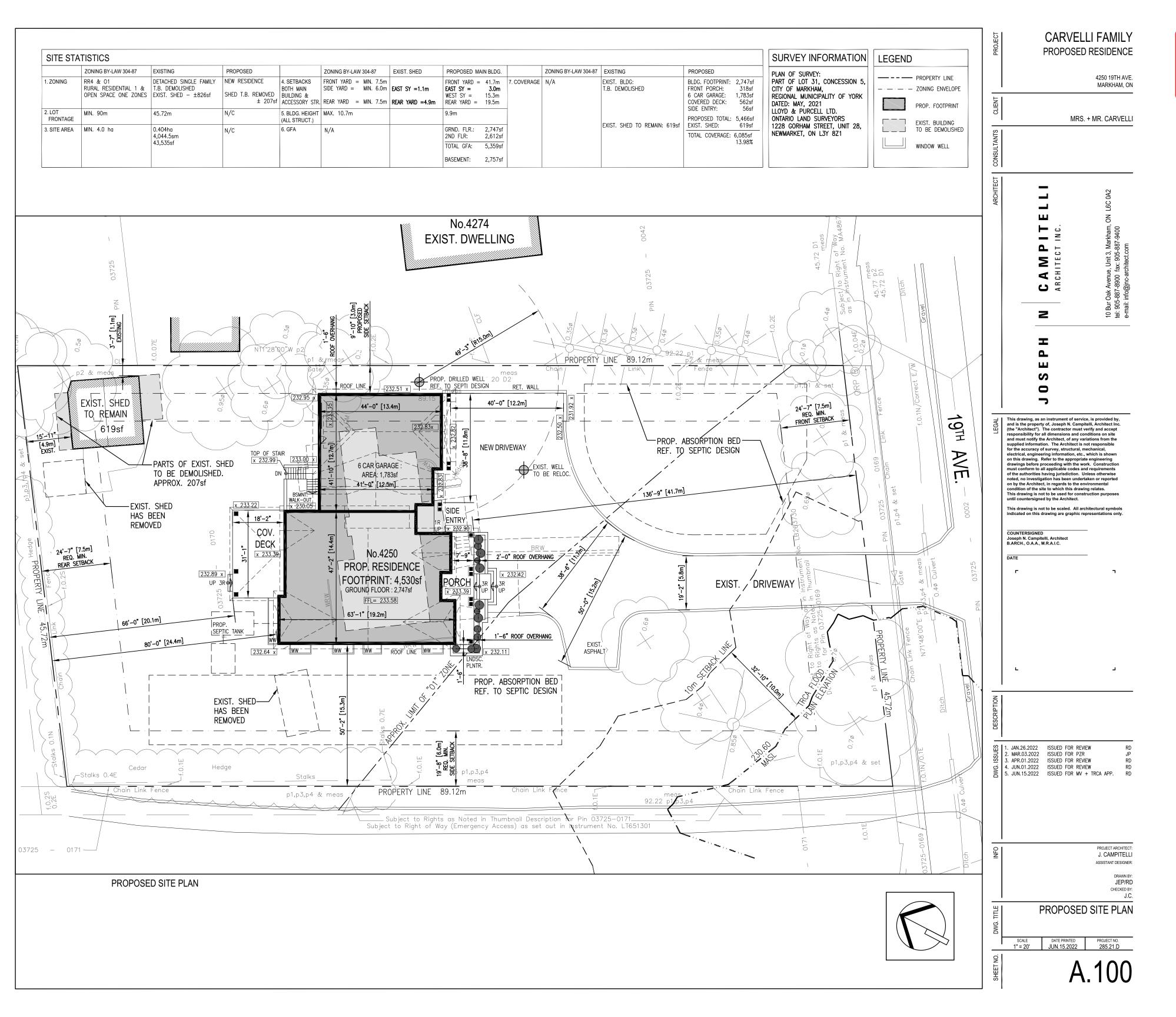
T: (437) 880 2347

E: joshua.lacaria@trca.ca

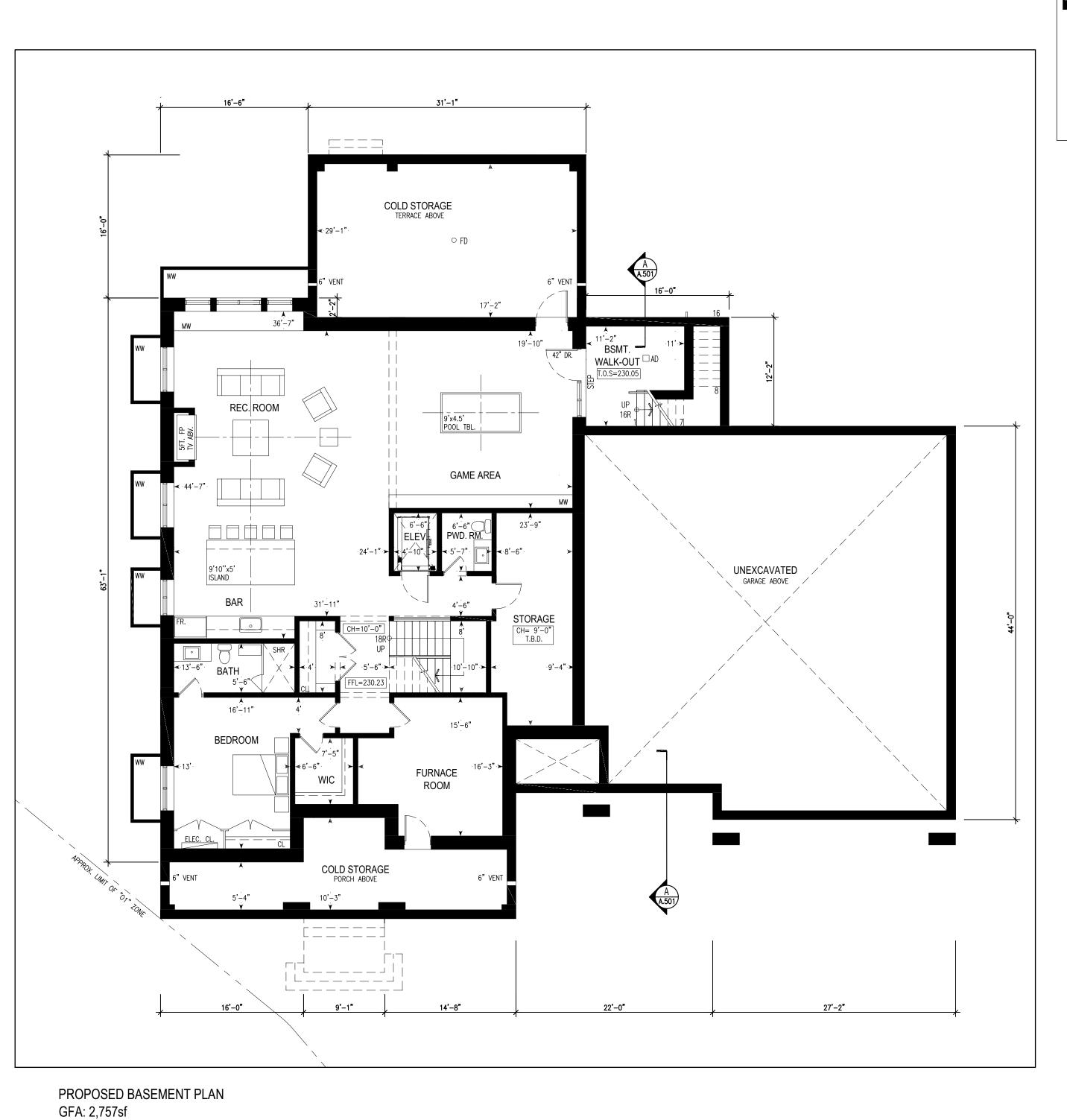
A: 101 Exchange Avenue, Vaughan, ON, L4K 5R6 | trca.ca

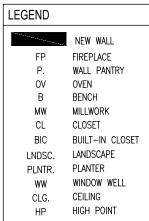


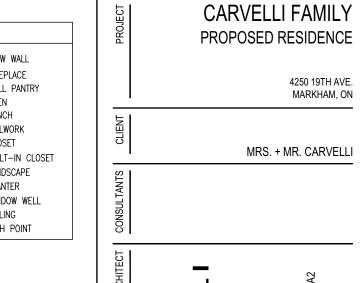
APPENDIX "C" PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/117/22









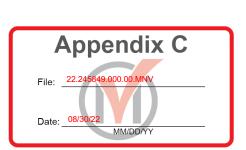


C A M P I T
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10 Bur Oak A tel: 905-887∹ e-mail: info@



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6. A. JUN.01.2022 ISSUED FOR REVIEW RD
5. JUN.15.2022 ISSUED FOR MV + TRCA APP. RD

PROJECT ARCHITECT:
J. CAMPITELLI

ASSISTANT DESIGNER:

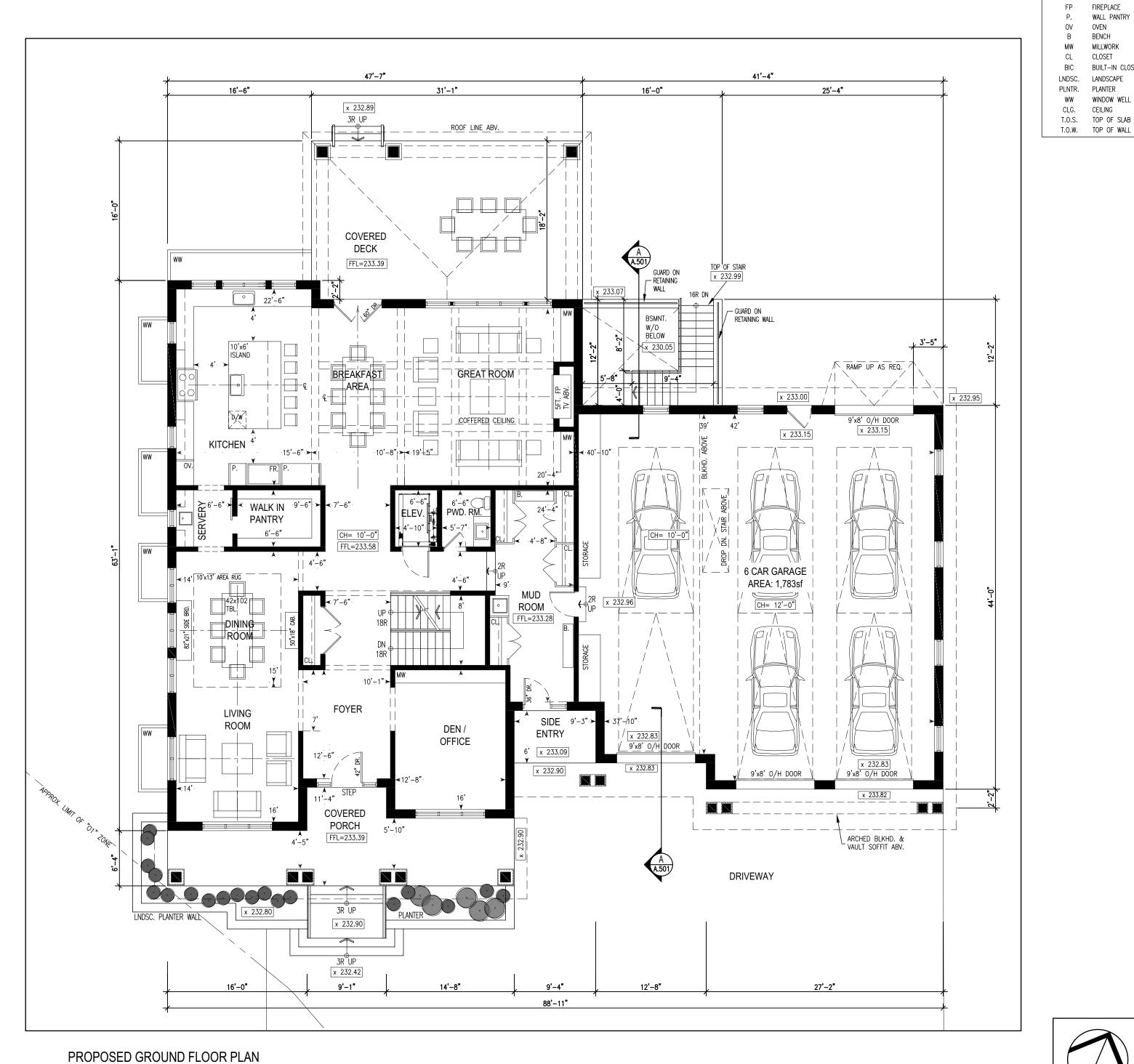
PROPOSED

BASEMENT PLAN

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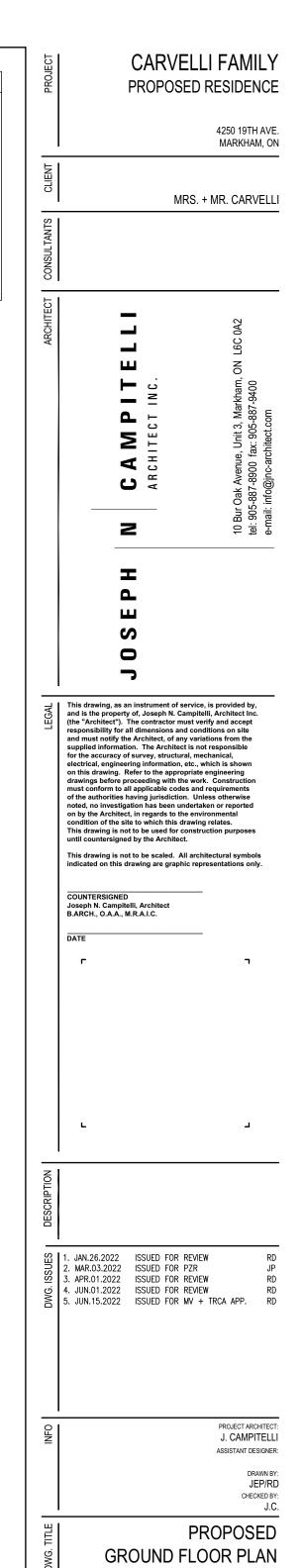
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JEP/RD
CHECKED BY:
J.C.



GFA: 2,747sf / GARAGE: 1,783sf





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LEGEND

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NEW WALL

FIREPLACE

MILLWORK

LANDSCAPE

CEILING

WINDOW WELL

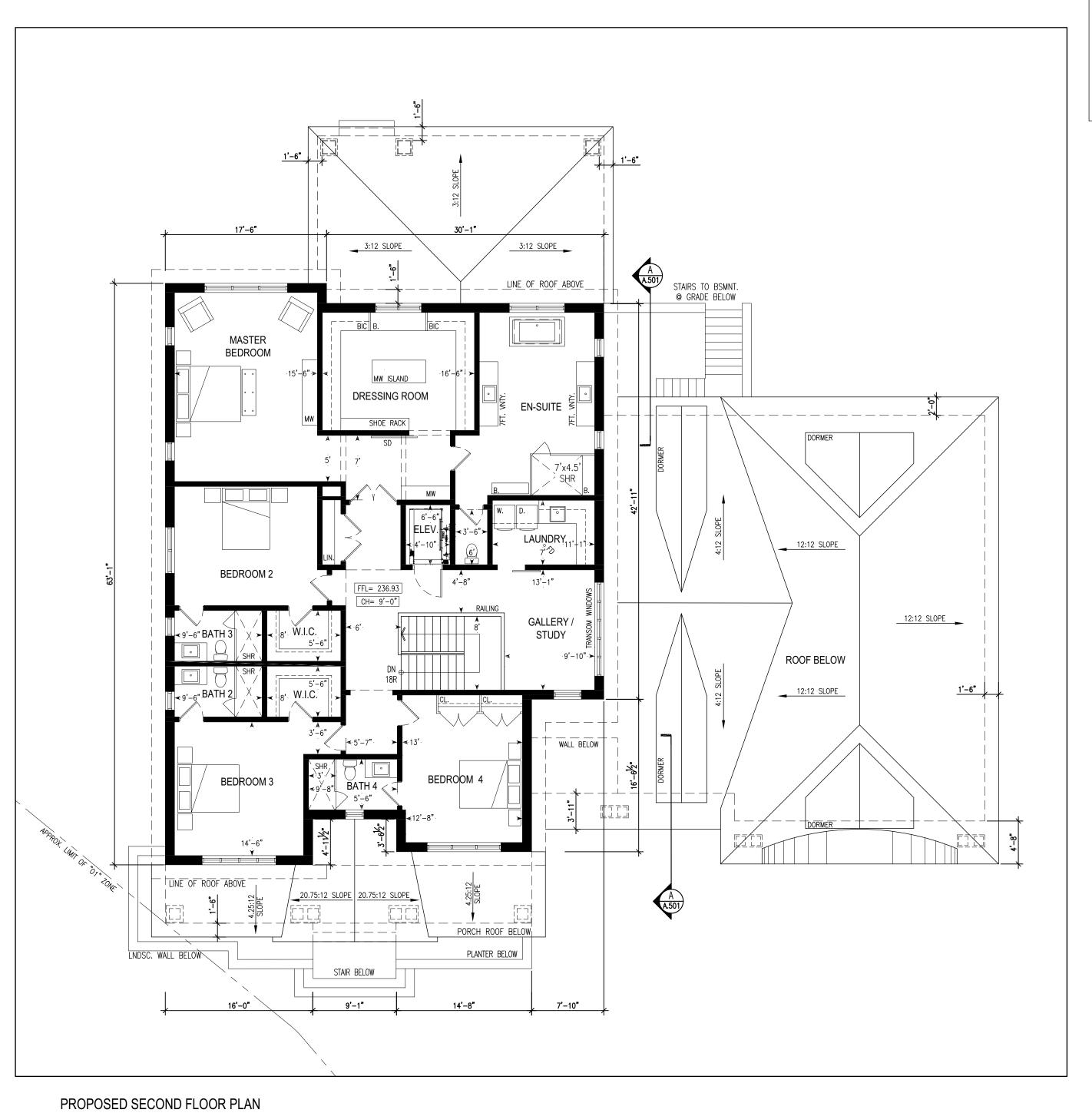
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BUILT-IN CLOSET

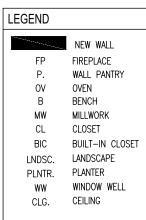
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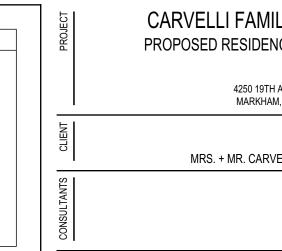
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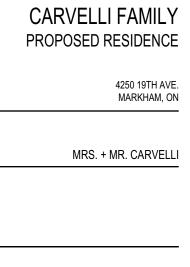
WALL PANTRY



GFA: 2,612sf







Appendix C

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10 Bur Oak Avenue, Unit 3, Markham, ON L6C 0A2 tel: 905-887-8900 fax: 905-887-9400 e-mail: info@inc-architect.com

LEGAL	This drawing, as an instrument of service, is provided by, and is the property of, Joseph N. Campitelli, Architect Inc. (the "Architect"). The contractor must verify and accept responsibility for all dimensions and conditions on site and must notify the Architect, of any variations from the supplied information. The Architect is not responsible for the accuracy of survey, structural, mechanical, electrical, engineering information, etc., which is shown on this drawing. Refer to the appropriate engineering drawings before proceeding with the work. Construction must conform to all applicable codes and requirements of the authorities having jurisdiction. Unless otherwise noted, no investigation has been undertaken or reported on by the Architect, in regards to the environmental condition of the site to which this drawing relates. This drawing is not to be used for construction purposes until countersigned by the Architect. This drawing is not to be scaled. All architectural symbols indicated on this drawing are graphic representations only.
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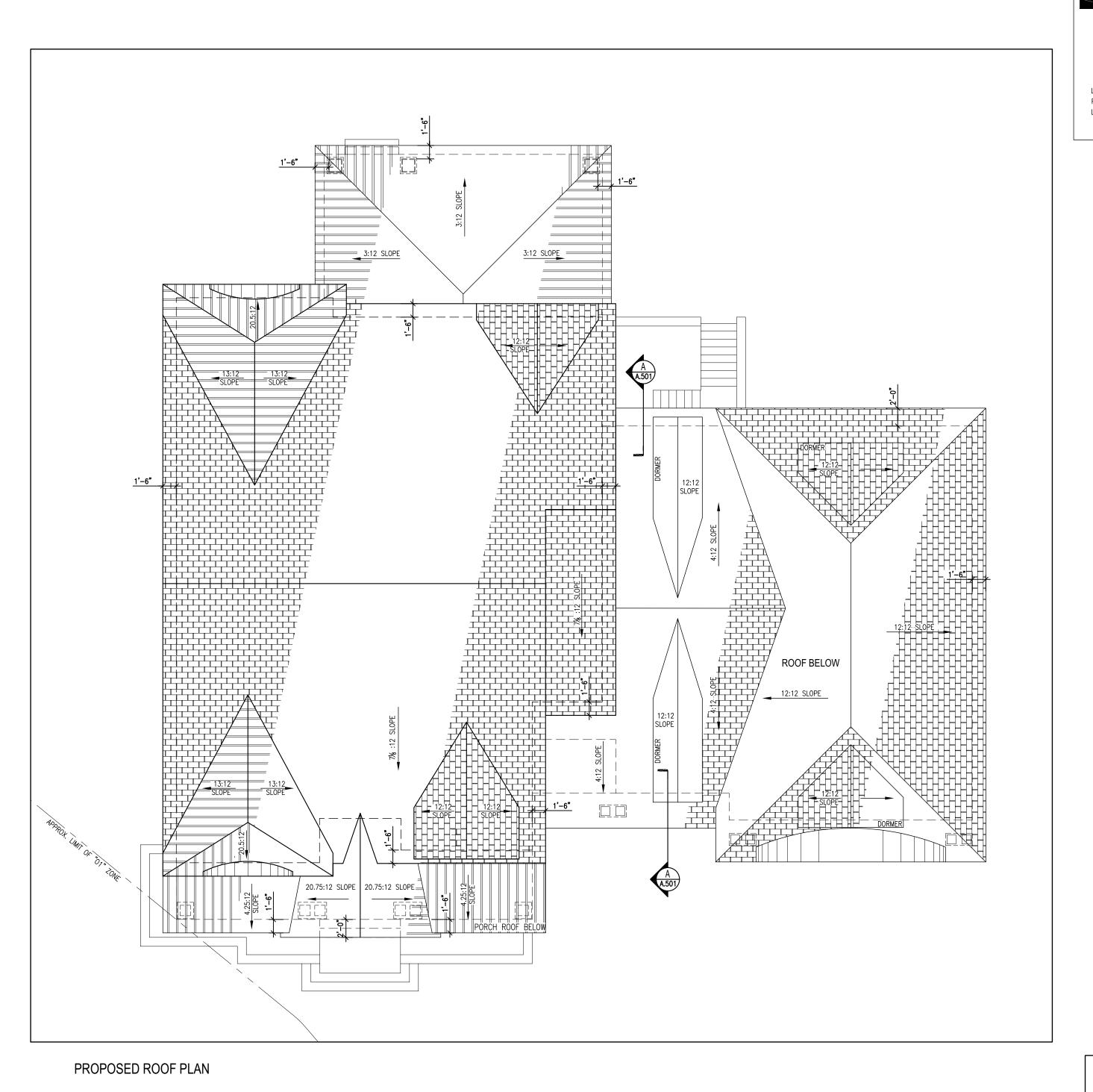
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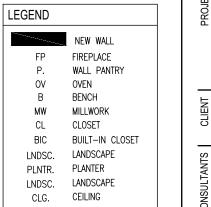
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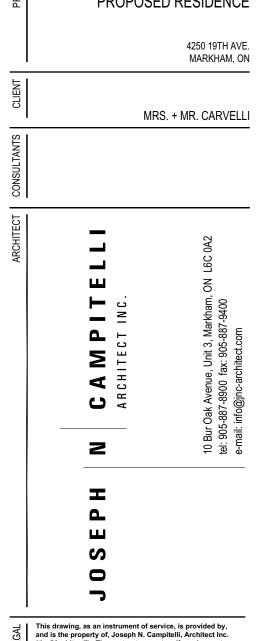
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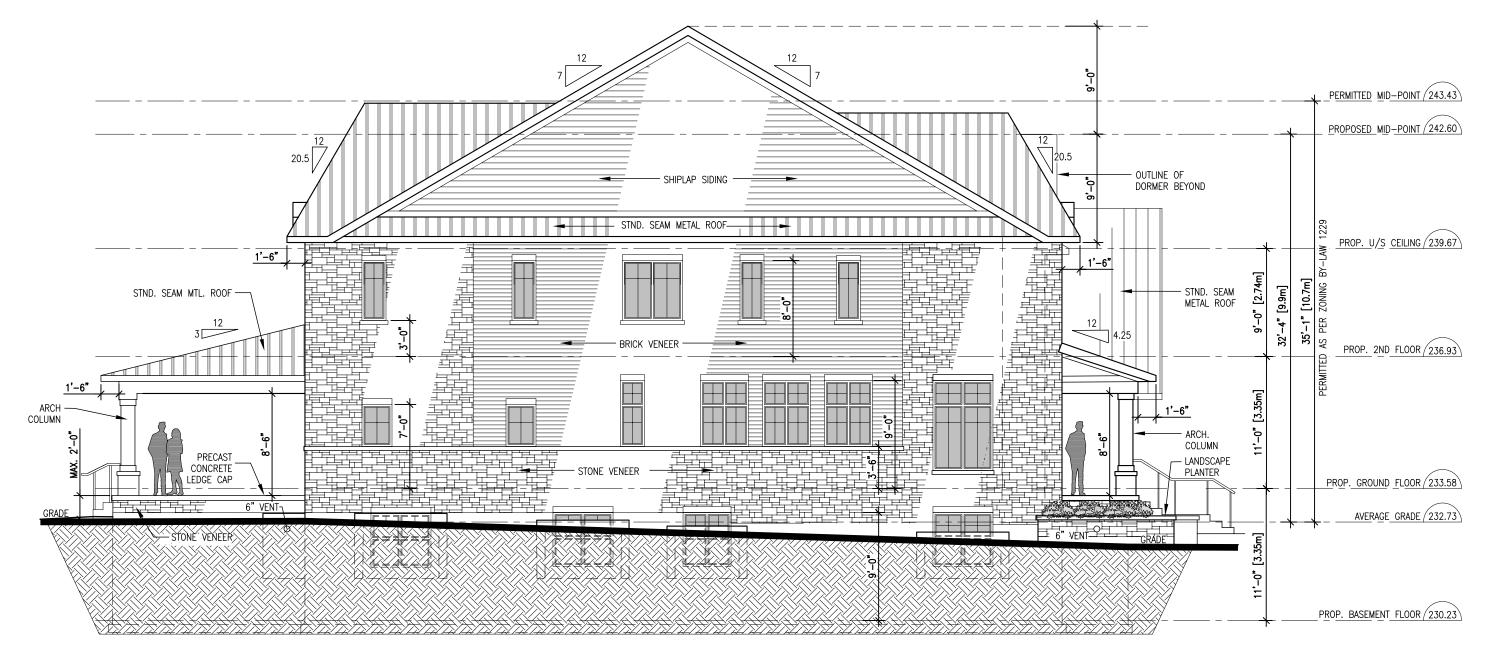
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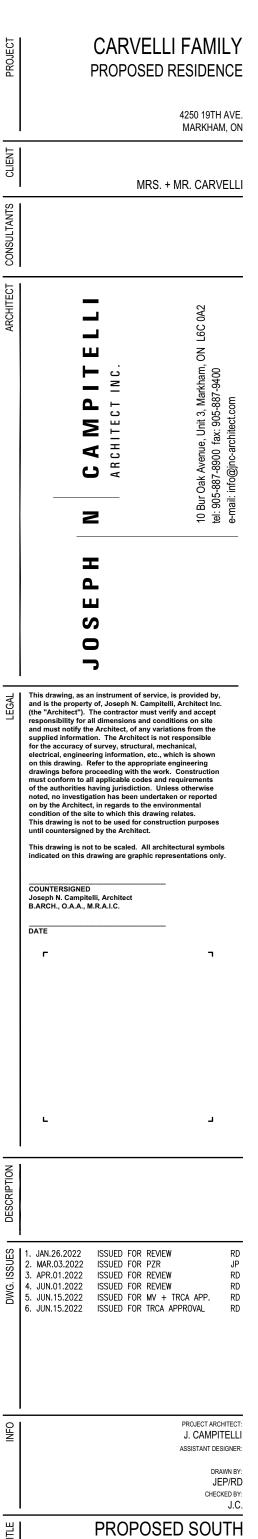
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PROPOSED WEST ELEVATION



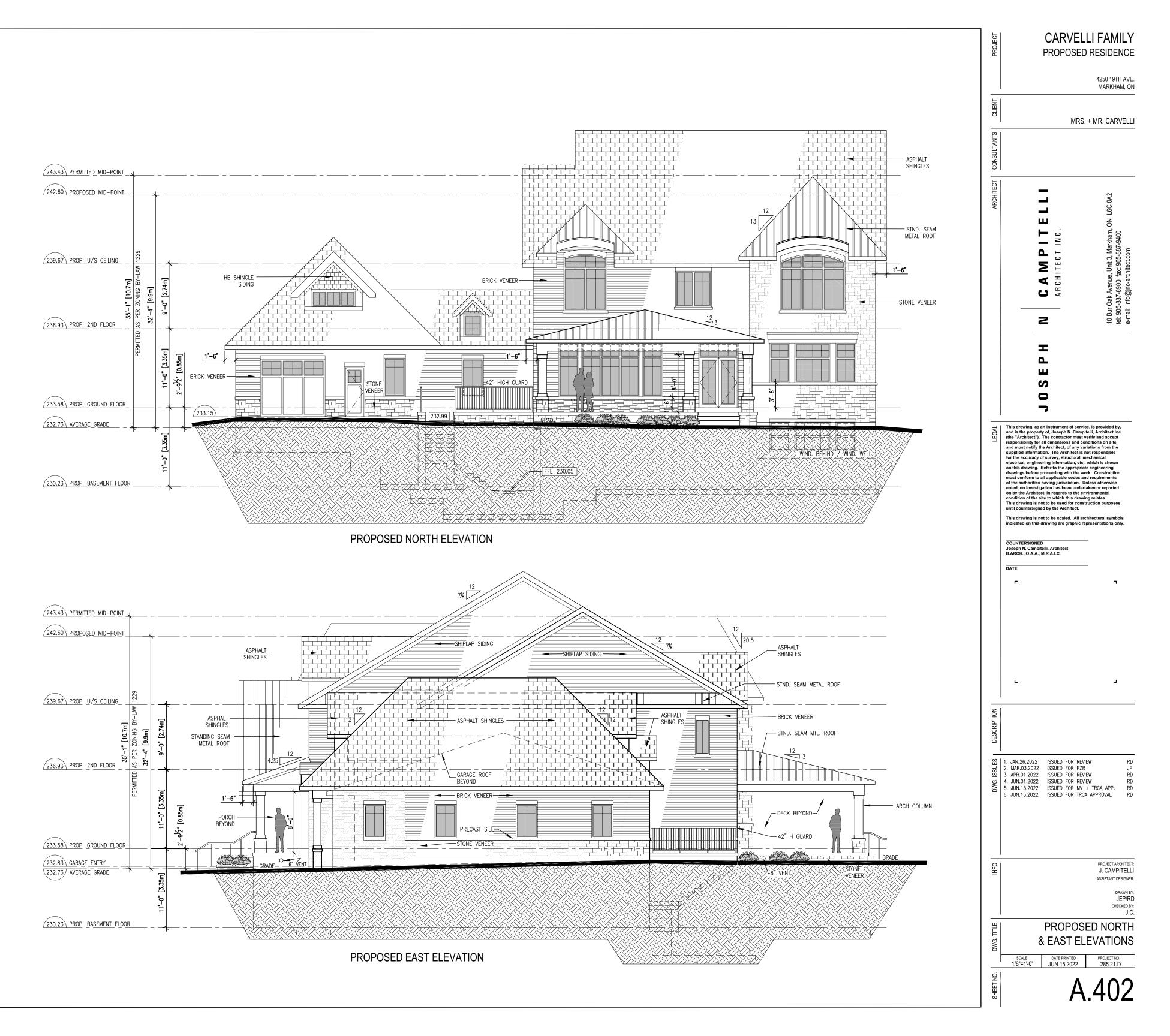
& WEST ELEVATIONS

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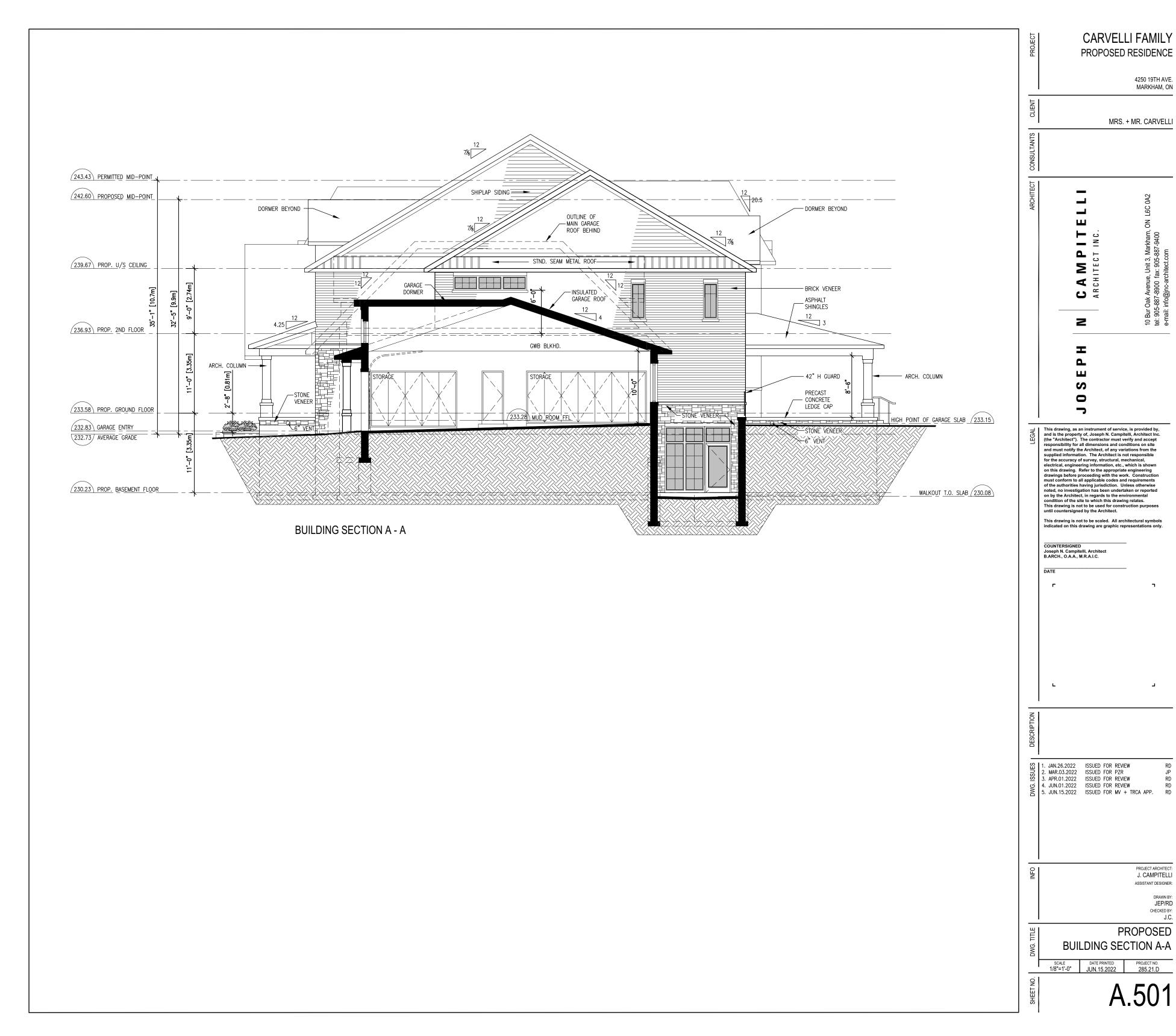
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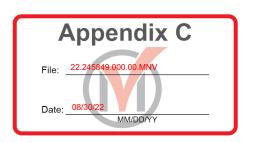
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4250 19TH AVE. MARKHAM, ON

10 Bur Oak / tel: 905-887-

PROJECT ARCHITECT:
J. CAMPITELLI ASSISTANT DESIGNER:

> JEP/RD CHECKED BY: J.C.