

Memorandum to the City of Markham Committee of Adjustment
September 30, 2022

File: A/121/22
Address: 176 Krieghoff Avenue, Markham
Applicant: Battaglia Architect Inc. (Joseph Battaglia)
Agent: Battaglia Architect Inc. (Joseph Battaglia)
Hearing Date: Wednesday October 5, 2022

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

The Applicant is requesting relief from the “Fourth Density Single Family Residential (R4)” zone requirements under By-law 11-72, as amended, as it relates to a proposed two-storey detached dwelling. The variances requested are to permit:

- a) **Section 6.1:**
a minimum side yard setback of 5 feet (1.52 metres), whereas the By-law requires a minimum side yard setback of 6 feet (1.83 metres) for a 2 storey building;
- b) **Section 6.1:**
a maximum lot coverage of 34.4 percent, whereas the By-law permits a maximum lot coverage of 33.3 percent; and
- c) **Section 6.1:**
a maximum building height of 25 feet 8 inches (7.86 metres), whereas the By-law permits a maximum building height of 25 feet (7.62 metres).

BACKGROUND

Property Description

The 783.84 m² (8,737.15 ft²) subject lands are located on the north side of Krieghoff Avenue, generally located west of Main Street Unionville and northeast of Fred Varley Drive (refer to Appendix “A” – Aerial Photo). The subject lands are located within an established residential neighbourhood comprised primarily of a mix of one and two-storey detached dwellings.

There is an existing two-storey detached dwelling on the subject lands, which according to assessment records was constructed in 1966. The subject lands contains mature vegetation and large mature trees in the front yard.

Proposal

The Applicant is proposing to construct a new 487.49 m² (5,157.41 ft²) two-storey detached dwelling (refer to Appendix “B” – Plans).

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 lands “Residential Low Rise”, which permits low rise housing forms including single detached dwellings. Section 8.2.3.5 of the Official Plan outlines infill development criteria for the “Residential Low Rise” designation with respect to height, massing, and setbacks. This criteria is established to ensure that infill development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street, while accommodating a diversity of building styles. In considering applications for development approval in a “Residential Low Rise” area, which includes variances, development is required to meet the general intent of the above noted development criteria. Regard shall also be had for the retention and enhancement of existing trees and vegetation. Planning staff have had regard for the requirements of the infill development criteria in the preparation of the comments provided below.

Zoning By-Law 11-72

The subject lands are zoned “Fourth Density Single Family Residential (R4)” under By-law 11-72, as amended, which permits a single detached dwelling. The Applicant has confirmed that the proposed dwelling is a single detached dwelling and will not contain an additional dwelling unit (secondary suite).

The proposed dwelling does not comply with the by-law requirements as it relates to minimum side yard setback, maximum lot coverage and maximum building height.

Varley Village Infill Area

The subject lands are within an area of the City where larger dwellings are replacing the existing build stock. In response to concerns within this redevelopment trend, a number of residents asked that Markham consider an infill housing by-law for the Varley Village neighbourhood. The Unionville Sub-Committee (a Committee of Council), undertook a review of this issue with community consultation, and ultimately recommend that no action be taken to implement an infill by-law at that time. This position was endorsed by Development Services Committee on June 19, 2012. As such, the existing by-law standards continue to apply.

Notwithstanding that an infill by-law was not enacted, the Committee should be aware of Council’s and the community’s concerns with regard to variances and maintaining the current standards of the Zoning By-law. Consequently, the Committee should consider public input before making a decision.

Zoning Preliminary Review (ZPR) Undertaken

The Applicant completed a Zoning Preliminary Review (ZPR) to confirm the initial variances required for the originally submitted proposed development. However,

in response to comments received during the processing of this application, the Applicant submitted revised drawings and eliminated one of the originally submitted variances (refer to the Tree Protection and Compensation subsection of this report for additional details).

The Applicant submitted a new ZPR for the revised drawings, however the ZPR report has not been finalized as of the writing of this report, and the Applicant has requested that the application move forward. Consequently, it is the Owner's responsibility to ensure that the application has accurately identified all the variances to the Zoning By-law required for the proposed development. If the variance request in this application contains errors, or if the need for additional variances is identified during the Building Permit review process, further variance application(s) may be required to address the non-compliance.

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.

Reduction in Minimum Side Setback

The Applicant is requesting relief to permit a minimum side yard setback of 5 feet (1.52 metres), whereas the By-law requires a minimum side yard setback of 6 feet (1.83 metres) required for 2 storey building. This represents a 1 foot (0.30 metre) reduction to the permitted side yard setback. Staff are of the opinion that the proposed minimum side yard setback is minor and have no concern with the requested variance.

Increase in Maximum Lot Coverage

The Applicant is requesting relief for a maximum lot coverage of 34.4 percent, whereas the By-law permits a maximum floor area ratio of 33.3 percent. Staff are of the opinion that the proposed increase in lot coverage will not significantly add to the scale and massing of the dwelling and that the resultant dwelling is generally consistent with what the By-law permits. Therefore, Staff have no objections to the approval of the requested variance.

Increase in Maximum Building Height

The Applicant is requesting relief to permit a maximum building height of 25 feet 8 inches (7.86 metres), whereas the By-law permits a maximum building height of 25 feet (7.62 metres). This represents an increase of 8 inches (0.2 meters).

Staff are of the opinion that the proposed maximum building height is minor and have no concern with the requested variance.

Tree Protection and Compensation

As noted previously, the subject lands contain mature vegetation and large mature trees in the front yard. During the review of the application, the City's Tree Preservation Technician indicated concern that the variance request for a reduction in front yard setback would potentially injure the mature trees and hedgerows in the front yard and requested that the front yard setback for the proposed dwelling be changed to match the front yard setback of the existing dwelling.

The Applicant agreed to accommodate the change proposed by the Tree Preservation Technician and moved the proposed dwelling further back on the property, thus eliminating the need for a minor variance for front yard setback and decreasing the potential of injury to the mature trees and hedgerows in the front yard.

Staff recommend that the tree related conditions, as outlined in Appendix "C", be adopted by the Committee to ensure the Applicant installs the appropriate tree protection barriers and provides compensation to the City, if necessary. Staff note the Applicant is 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 (DBH) of 50.0 cm (19.68 in) or more on the subject property or neighbouring properties. Further mitigation through these processes may also be required to ensure the protection of certain trees is achieved.

PUBLIC INPUT SUMMARY

No written submissions were received as of September 30, 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 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 refer to Appendix "C" for conditions to be attached to any approval of this application.

PREPARED BY:



Deanna Schlosser, MCIP RPP, Senior Planner, Central District

REVIEWED BY:



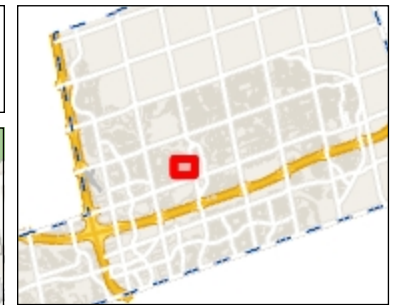
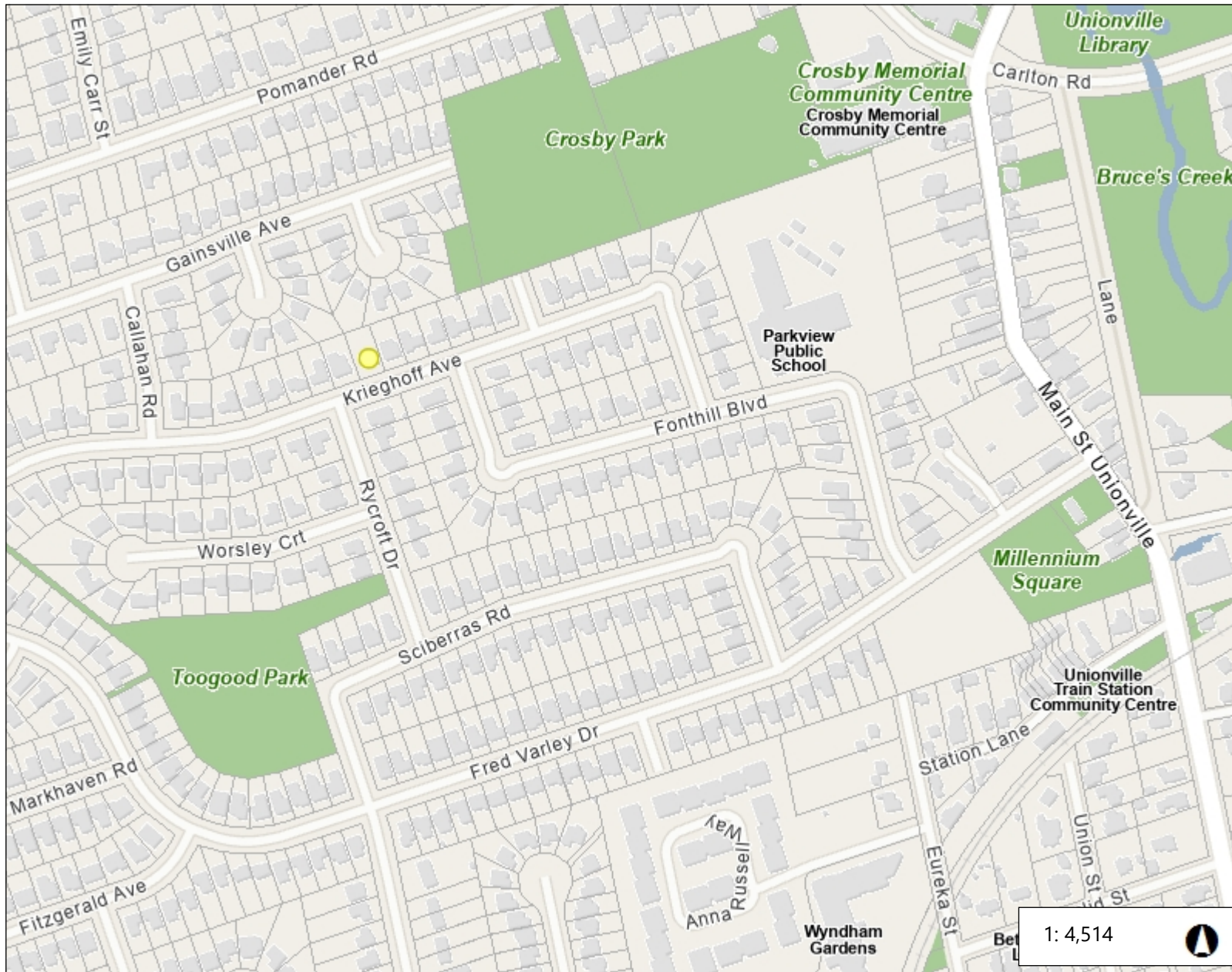
Sabrina Bordone, MCIP RPP, Development Manager, Central District

APPENDICES

Appendix "A" – Aerial Context Photo

Appendix "B" – Plans

Appendix "C" – A/121/22 Conditions of Approval



Legend

- Subject Lands - 176 Krieghoff Ave

1: 4,514

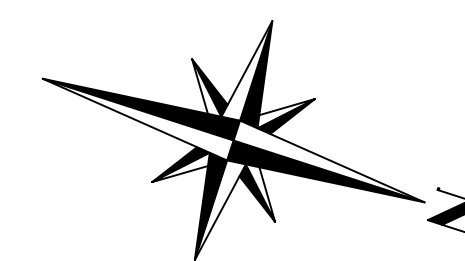


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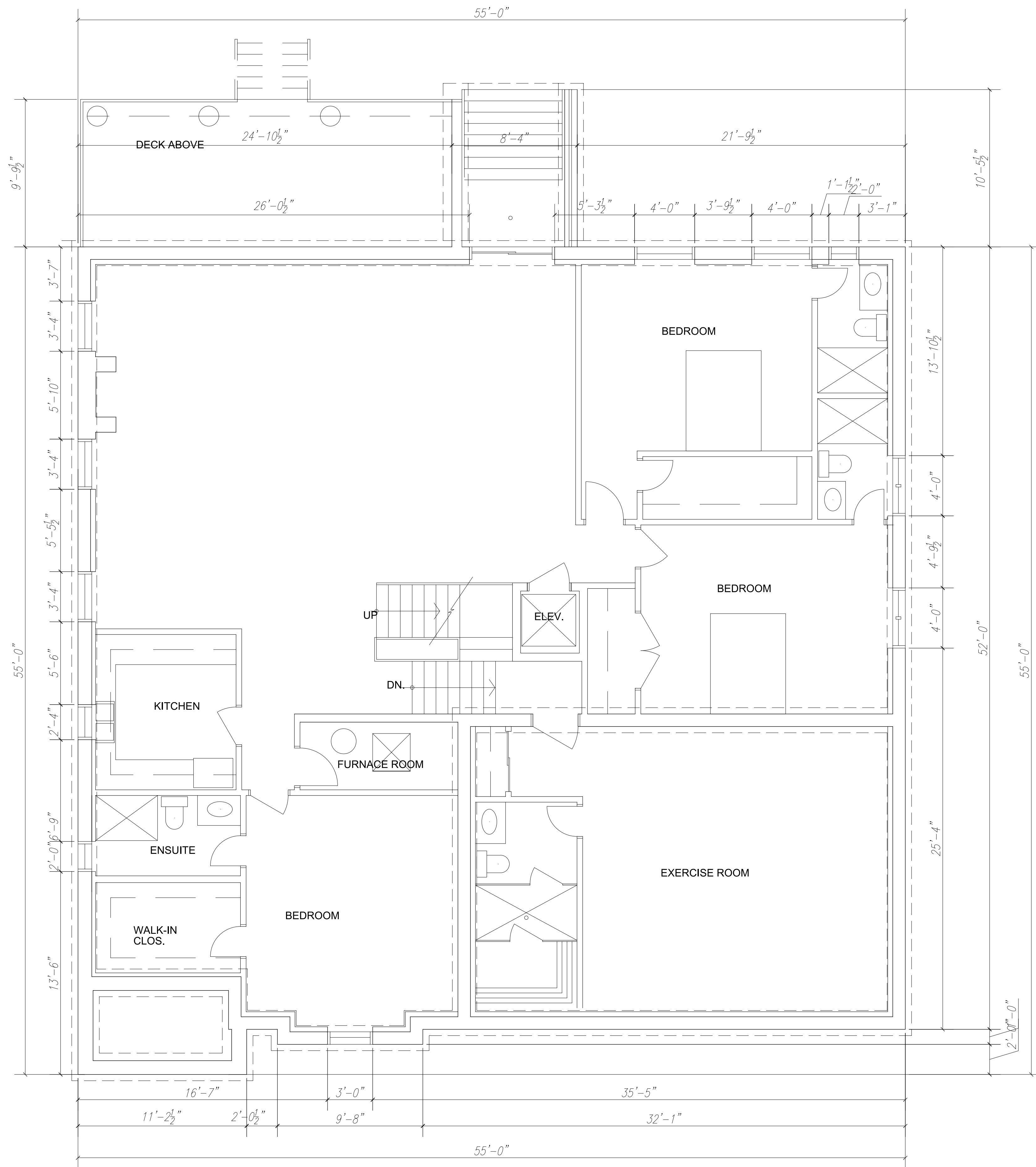
DISCLAIMER: The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments. If you have questions or comments regarding the data displayed on this map, please email cgis@markham.ca and you will be directed to the appropriate department.

Notes



<u>SITE STATISTICS:</u>		<u>COVERAGE WITHOUT DECK:</u> 34.49 %		<u>SET BACKS</u>	
LOT AREA:	783.84 m ² (8437.15 sq.ft.)	<u>COVERAGE WITHOUT PORCH AND DECK:</u> 33.79 %			
GARAGE:	53.38 m ² (596.11 sq.ft.)	<u>FIRST FLOOR AREA:</u> 208.82 m ² (2247.69 sq.ft.)		Side set back	Side set back
PORCH:	5.47 m ² (58.92 sq.ft.)	<u>SECOND FLOOR AREA:</u> 269.67 m ² (2902.72 sq.ft.)		WEST 2.28 M	NORTH 1.34 M
DECK:	23.24 m ² (250.13 sq.ft.)	<u>TOTAL AREA:</u> 487.49 m ² (5157.41 sq.ft.)		EAST 1.53 M	SOUTH 8.51 M
TOTAL LOT COVERAGE:	292.91 m ² (3159.85 sq.ft.)	<u>FLOOR AREA TO LOT AREA RATIO:</u> 0.61		TOTAL FRONT YARD AREA: 184.38 sq.m.(1984.69 sq.ft.)	
(INCLUDING FOOTPRINT, GARAGE, PORCH AND DECK)	37.45%			DRIVEWAY AREA 56.47 sq.m.(607.82 sq.ft.)	

			<div>BATTAGLIA ARCHITECT INC.</div> <div>1050 McNicoll Ave, unit 14 Scarborough, ON M1W 2L8 TEL:(416)491-2946 battaglia.arch@gmail.com</div>	PROJECT:	176 KRIEGHOFF AVE. MARKHAM, ON.	<div><div>DESIGN BUILD</div></div> <div>1050 McNicoll Avenue, Unt14, Scarborough, On. M1W 2L8 T: 416-492-1777 info@qhrccanada.com www.qhrccanada.com</div>	<div><div>ONTARIO ASSOCIATION OF ARCHITECTS</div><div>JOSEPH D. BATTAGLIA LICENCE 5924</div></div>	DATE:	SEPT 21, 2022		
NO.		DATE			DWG.:			SITE PLAN SITE STATISTICS	SCALE:	3/16" = 1'- 00"	
The contractor shall check and verify all dimensions and report all errors and omissions to the architect before proceeding with the work. This drawing is the property of the architect and must be returned on completion of the work. Do not scale drawings.									DRAWN BY:	T.M.R	
								PROJECT NO.	DRAWING NO.		
								17-07P	A1		



BASEMENT PLAN

NO.	DATE
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PROJECT:
**176 KRIEGHOFF AVE.
 MARKHAM, ON.**

DWG.:
BASEMENT PLAN



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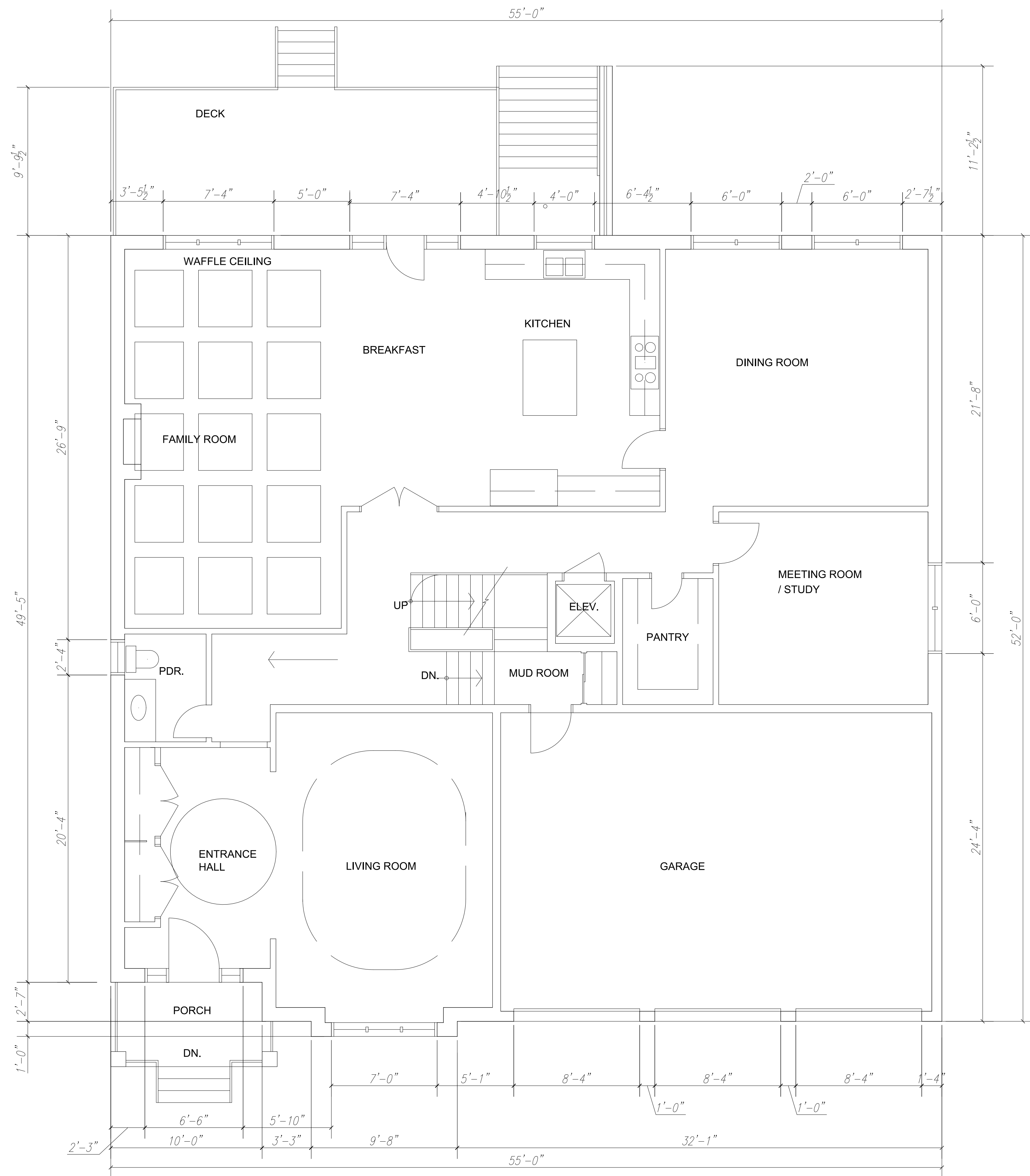
JOSEPH D. BATTAGLIA
 LICENCE 5924

DATE: **SEPT 21, 2022**

SCALE: **1/4" = 1'- 00"**

DRAWN BY: **T.M.R**

PROJECT NO. 17-07P	DRAWING NO. A2
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GROUND FLOOR PLAN

NO.	DATE
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PROJECT:


**176 KRIEGHOFF AVE.
MARKHAM, ON.**

DWG.:

GROUND FLOOR PLAN



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JOSEPH D. BATTAGLIA
LICENCE 5924

DATE:

SEPT 21, 2022

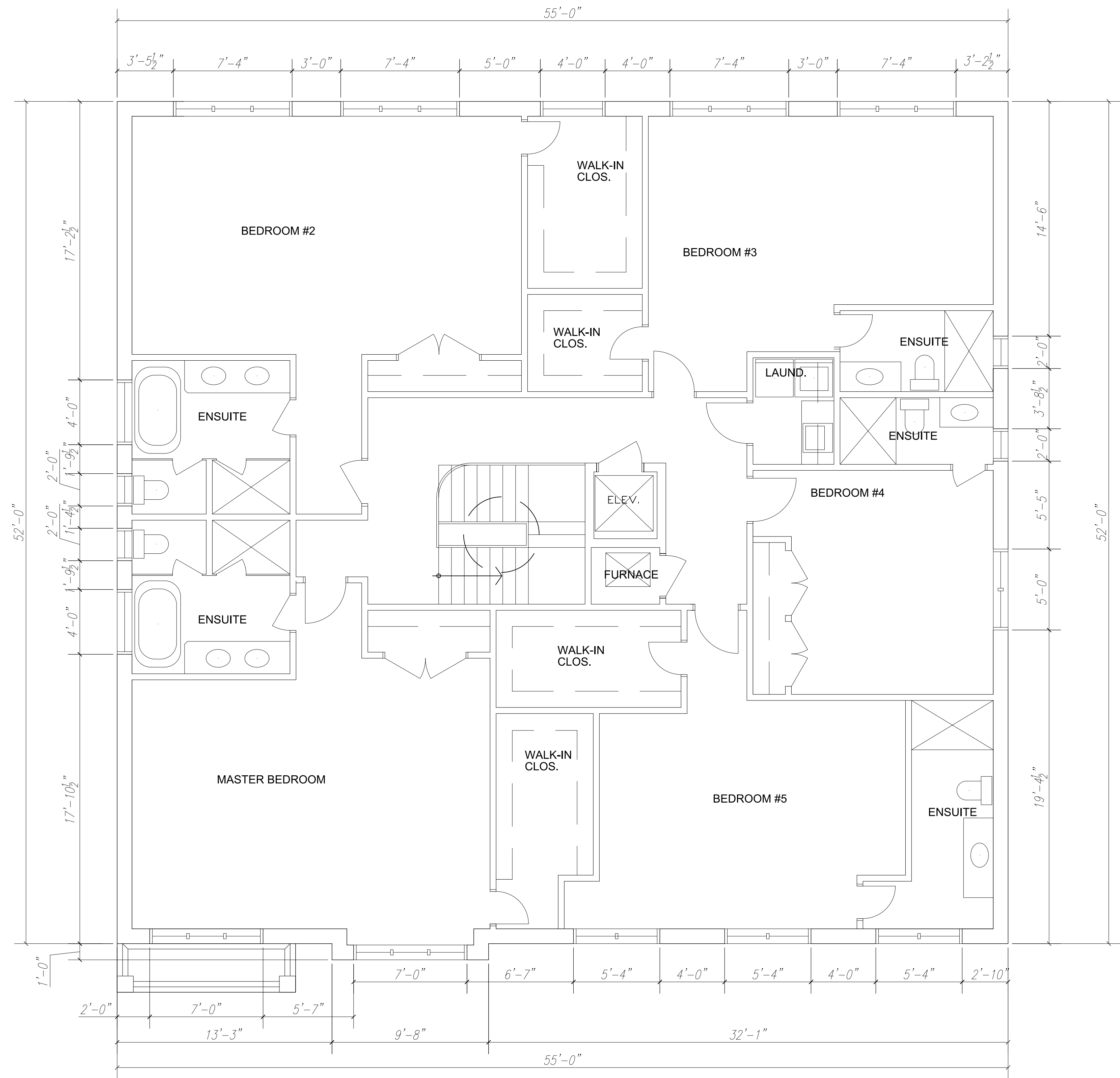
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DRAWN BY:

T.M.R

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17-07P	A3


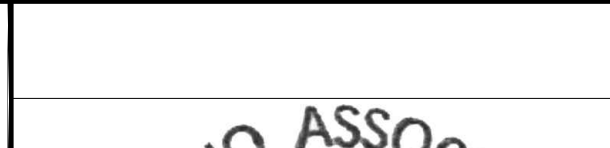


SECOND FLOOR PLAN



NO.		DATE
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PROJECT:		
<div>176 KRIEGHOFF AVE.</div> <div>MARKHAM, ON.</div>		
DWG.:		
SECOND FLOOR PLAN		
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DATE:		
SEPT 21, 2022		
SCALE:		
1/4" = 1'- 00"		
DRAWN BY:		
T.M.R		
PROJECT NO.		DRAWING NO.
17-07P		A4



FRONT (SOUTH) ELEVATION



			<div>BATTAGLIA ARCHITECT INC.</div> <div>1050 McNicoll Ave, unit 14 Scarborough, ON M1W 2L8 TEL:(416)491-2946 battaglia.arch@gmail.com</div>	PROJECT:	176 KRIEGHOFF AVE. MARKHAM, ON.	<div><div>DESIGN BUILD</div></div> <div>1050 McNicoll Avenue, Unit 14, Scarborough, On. M1W 2L8 T: 416-492-1777 info@qhrccanada.com www.qhrccanada.com</div>	<div></div>	DATE: SEPT 21, 2022			
NO.		DATE			DWG.:			FRONT (SOUTH) ELEVATION	SCALE: 3/8" = 1'- 00"	DRAWN BY: T.M.R	
The contractor shall check and verify all dimensions and report all errors and omissions to the architect before proceeding with the work. This drawing is the property of the architect and must be returned on completion of the work. Do not scale drawings.									PROJECT NO. 17-07P	DRAWING NO. A6	



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NO.		DATE			DWG.:			REAR (NORTH) ELEVATION	SCALE: 3/8" = 1'- 00"	DRAWN BY: T.M.R	
The contractor shall check and verify all dimensions and report all errors and omissions to the architect before proceeding with the work. This drawing is the property of the architect and must be returned on completion of the work. Do not scale drawings.									PROJECT NO. 17-07P	DRAWING NO. A9	





LEFT (WEST) ELEVATION

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NO.		DATE			SCALE: 3/8" = 1'- 00"				
The contractor shall check and verify all dimensions and report all errors and omissions to the architect before proceeding with the work. This drawing is the property of the architect and must be returned on completion of the work. Do not scale drawings.				DWG.:	LEFT (WEST) ELEVATION			DRAWN BY: T.M.R	
								PROJECT NO. 17-07P	DRAWING NO. A7



RIGHT (EAST) ELEVATION

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NO.		DATE			DWG.:			RIGHT (EAST) ELEVATION	SCALE: 3/8" = 1'- 00"	DRAWN BY: T.M.R	
The contractor shall check and verify all dimensions and report all errors and omissions to the architect before proceeding with the work. This drawing is the property of the architect and must be returned on completion of the work. Do not scale drawings.										PROJECT NO.	DRAWING NO.
										17-07P	A8

Appendix “C” – A/121/22 Conditions of Approval

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/121/22

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 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; and
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.

CONDITIONS PREPARED BY:



Deanna Schlosser, MCIP RPP, Senior Planner, Central District