Memorandum to the City of Markham Committee of Adjustment October 13, 2022

File:	A/146/22
Address:	339 Main Street North, Markham Village
Applicant:	Gregory Design Group (Shane Gregory)
Agent:	Gregory Design Group (Shane Gregory)
Hearing Date:	Wedneday, November 23, 2022

The following comments are provided on behalf of the Heritage Section staff for the property municipally-known as 339 Main Street North (the "subject property"):

The applicant is requesting relief from the following requirements of By-law 1229, as amended, to permit:

a) Section 11.3 (a)(i):

a maximum building height (accessory building) of 21'-3", whereas the By-law permits a maximum building height of 12'-0" to the midpoint;

b) Section 6.1:

a secondary dwelling unit, whereas the By-law does permits only one dwelling unit per lot; and

c) Section 3.2:

a dwelling unit within an accessory building, whereas the By-law does not permit an accessory building to be used for human habitation.

as it relates to a proposed two-storey garage with loft.

BACKGROUND

Property Description

The approximately 920m² (9903ft²) subject property is designated under Part V of the <u>Ontario Heritage Act</u> as a constituent property of the Markham Village Heritage Conservation District (the "MVHCD"), and contains a one-and-a-half storey detached dwelling with rear yard garage that were both constructed in 1948 as per MPAC records.

The subject property is located on the east side of Main Street North between Deer Park Lane to the north, and Pilkey's Lane to the south. Adjacent built form and land use consists of a mixture of low-rise residential and commercial uses along Main Street North, and lowrise residential uses on the neighbouring side streets (e.g. Wales Avenue).

The subject property is bound by a privately-owned laneway running adjacent to its northern lot line. This laneway provides pedestrian access from Main Street North to a townhouse complex along Wales Avenue. The townhouse complex dates from 1973, as per MPAC records, and is located outside the boundaries of the MVHCD.

A development application has been submitted for the property located immediately to the north of the privately-owned laneway (municipally-known as 347 Main Street North). The City has received concurrent Official Plan and Zoning By-law amendment applications to remove and replace the existing car dealership with fifteen townhouses (PLAN 19 123553 & PLAN 21 140439). At the time of writing, development permissions have not been granted for the property.

<u>Proposal</u>

The applicant is proposing to remove and replace the existing detached garage in the rear yard with a new accessory building containing a secondary dwelling unit above a two-car garage. Vehicular access to the proposed garage will be achieved via the existing driveway from Main Street North. No changes are being proposed to the exterior of the existing dwelling (refer to Appendix D for conceptual drawings).

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.

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

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, Zoning and Markham Village Heritage Conservation District Plan

Official Plan 2014 (partially approved on November 24/17, and updated on April 9/18) The Official Plan (OP) designates the subject property "Residential Low Rise", which provides for low rise housing forms including single detached dwellings. The OP 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 OP 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 OP 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.

Section 8.2.3.1 and 8.2.2.3 of the OP provides the following policy direction relevant to the proposal:

"… to respect the physical character of established neighbourhoods including heritage conservation districts; and

"to provide for the following building types on lands designated 'Residential Low Rise': "coach house located above a garage on a laneway"

As defined in the OP, a coach house *"means a second residential unit located above a private garage in either the main building or an accessory building on the same lot".*

Further direction is provided in the following Area and Site Specific Policy that encompasses the MVHCD (refer to Section 9.13.4.1):

"build upon the diverse characteristics of the Markham Village Heritage Centre including: a variety of residential housing forms, tenures and densities"

Zoning By-Law 1229

The subject property is zoned R1 under By-law 1229, as amended, which does not permit secondary dwelling units.

MVHCD Plan

Section 4.2.2 ("Residential: Setback & Siting") of the MVHCD Plan provides the following direction relevant to the proposal:

 New buildings and their site features such as garages, fences, etc. should correspond and complement buildings on adjacent properties unless the adjacent structures are non-conforming; • Site features such as garages, parking, etc. should be inconspicuous and preferably separate from the "public face" of the building. Historically such items were located in the service areas such as rear and side yards.

Zoning Preliminary Review (ZPR) Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has <u>not</u> been conducted. 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;
- d) The general intent and purpose of the Official Plan must be maintained.

Secondary Dwelling Unit

The City of Markham is committed to promoting affordable and shared housing opportunities. Secondary dwelling units help the City increase the availability of affordable housing forms and provide support to achieve its affordable housing target required by the Province.

The proposed second residential unit in the proposed accessory building/garage does not strictly conform to the OP definition of a 'Secondary Suite', since it is not located within a detached, semi-detached, or rowhouse dwellings. The proposed secondary suite more closely meets the OP's definition under "Residential Low Rise" of a coach house, which is a "second residential unit located above a private garage in either the main building or an accessory building on the same lot, on a laneway", although the proposed accessory building is not located on a lane.

Despite the proposed secondary dwelling unit not precisely meeting either Official Plan definition, the intent of the Plan is clearly to provide for secondary dwelling units on single residential lots, where appropriate. As such, City staff are of the opinion that the application meets the criteria under Sections 8.2.2.3, 8.13.8 and 9.13.4.1 of the 2014 Official Plan for the establishment of a secondary dwelling unit and therefore have no objections.

Fire and Emergency Services

Fire and Emergency Services Department has no objections provided that:

 A dedicated and unobstructed 1.2m concrete or asphalt walkway is installed leading from Main Street North to the principal entrance of the accessory building; and 2) An automatic sprinkler system is installed in a manner that protects all areas of the accessory building.

Should this application be approved, the applicant will also 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 the secondary dwelling unit with the Fire Department prior to the occupancy of the unit.

Increase in Maximum Building Height

The applicant is requesting relief to permit a maximum building height of 6.48 m (21.3 ft), whereas the By-law permits a maximum building height of 3.66 m (12 ft). This represents an increase of 2.82 m (9.25 ft). Note that the By-law calculates building height using the vertical distance of building or structure measured between the level of the crown of the street and highest point of the roof surface.

Heritage Section staff have no objection to the proposed variance as the accessory building will be subordinate in scale to the heritage dwelling, and will have limited visibility from the public realm. As such, the scale and siting of the proposed accessory building conforms to direction in the MVHCD Plan. Removal of the existing accessory building is also not of concern from a heritage perspective given its limited cultural heritage value.

To address concerns regarding privacy and overlook, Urban Design staff have recommended an increased setback (minimum 3.0m) between the proposed accessory building and the eastern property line to accommodate the installation of vegetative screening and a privacy fence adjacent to the neighbouring townhouse complex. As part of a future Site Plan Control review process, Urban Design staff will also work with the applicant on window configuration on the north and rear (east) elevations of the coach house to ensure adequate daylighting while providing privacy for neighbouring properties.

ADVISORY BODIES

Heritage Markham Committee

Heritage Markham reviewed the application at its meeting on September 14, 2022 and had no objection from a heritage perspective to the requested variances (refer to Appendix C for the meeting extract).

PUBLIC INPUT SUMMARY

No written submissions were received as of October 13, 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, if applicable, 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 "B" for conditions to be attached to any approval of this application.

PREPARED BY:



Evan Manning, Planner, Senior Heritage Planner

REVIEWED BY:

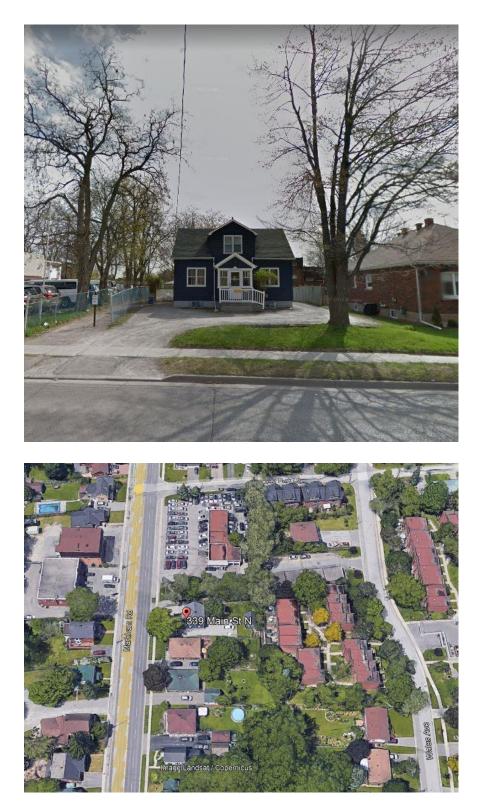
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Regan Hutcheson, Development Manager, Heritage District

APPENDIX "A" LOCATION AND IMAGES OF THE SUBJECT PROPERTY



Property map showing the location of the subject property [outlined in yellow] (Source: City of Markham)



The west (primary) elevation of 339 Main Street North [above] and an aerial image of the subject property [below] (Source: Google)

APPENDIX "B" CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/146/22

- 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 batch stamped plans 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. That the owner implement and maintain all of the works required in accordance with the conditions of this variance;
- 4. 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;
- 5. 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;
- Submission of detailed drawings showing compliance with the fire safety measures as described in this report, and to the satisfaction of the Fire Chief or designate;
- 7. That the set back of the proposed accessory building from the eastern property line be increased to a minimum of 3.0 metres, vegetative screening be introduced, and that any other mitigation measures required to ensure adequate privacy for neighbouring properties be detailed during the Site Plan Control review process to the satisfaction of the Senior Manager of Urban Design;
- 8. Submission of a detailed Siting, Lot Grading and Servicing Plan designed and stamped by a Professional Engineer/Ontario Land Surveyor/Landscape Architect satisfactory to the Director of Engineering, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Engineering or designate.

CONDITIONS PREPARED BY:

Evan Manning, Planner, Senior Heritage Planner

HERITAGE MARKHAM EXTRACT

Date: September 14, 2022

To: R. Hutcheson, Manager of Heritage Planning E. Manning, Senior Heritage Planner

EXTRACT CONTAINING ITEM # 6.1 OF THE NINTH HERITAGE MARKHAM COMMITTEE MEETING HELD ON September 14, 2022

6.1 COMMITTEE OF ADJUSTMENT

VARIANCE PROPOSED COACH

HOUSE 339 MAIN STREET NORTH, MARKHAM VILLAGE (16.11)

File Number: A/146/22

Evan Manning, addressed the Committee and provided information in relation to the request to remove the garage and keep the driveway in its current location and permit the construction of a coach house at this property. He advised that staff is in support of this proposal and will work with the applicant to reduce the amount of paving in the front yard.

Mr. Russ Gregory, expressed concerns with the Committee's comments in relation to the driveway orientation.

The Committee requested further clarification on the orientation of the driveway and inquired about the existing tree locations.

Moved by David Wilson Seconded by Councillor

Keith Irish

Recommendations:

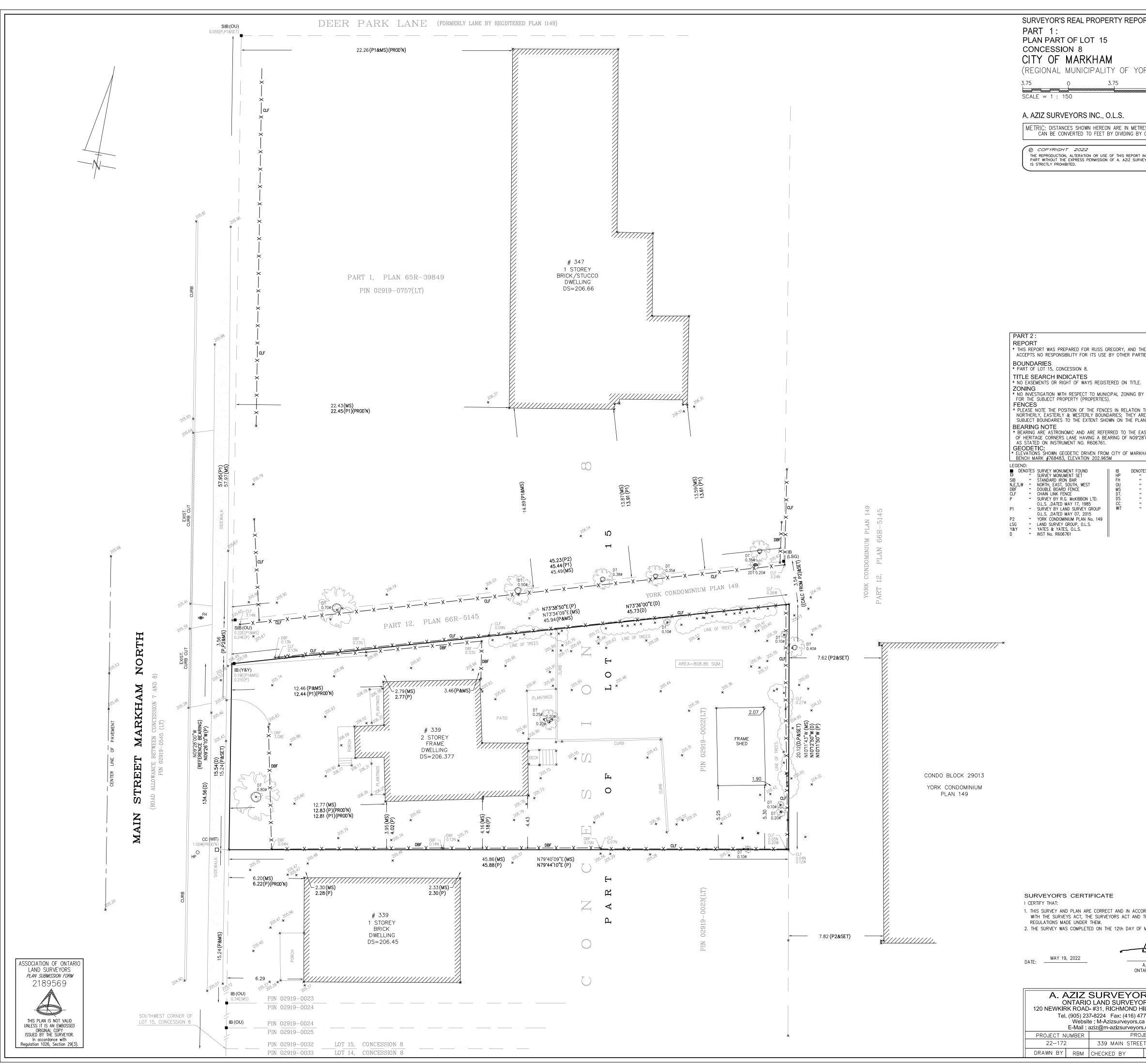
THAT Heritage Markham has no objection from a heritage perspective to the demolition of the existing detached garage at 339 Main Street North;

THAT Heritage Markham has no objection from a heritage perspective to the requested variances to permit the proposed *coach house*;

AND THAT review of the forthcoming Site Plan Control application, and any other development application required to approve the proposed development, be delegated to Heritage Section staff to ensure conformance to the MVHCD Plan.

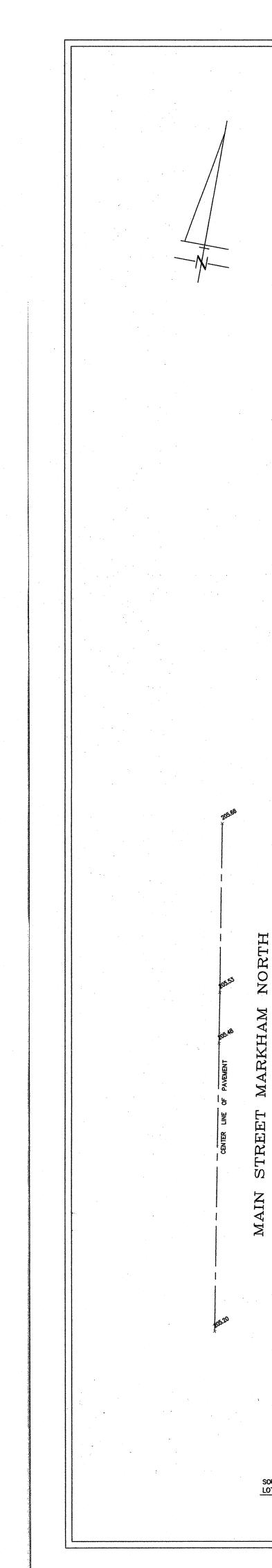
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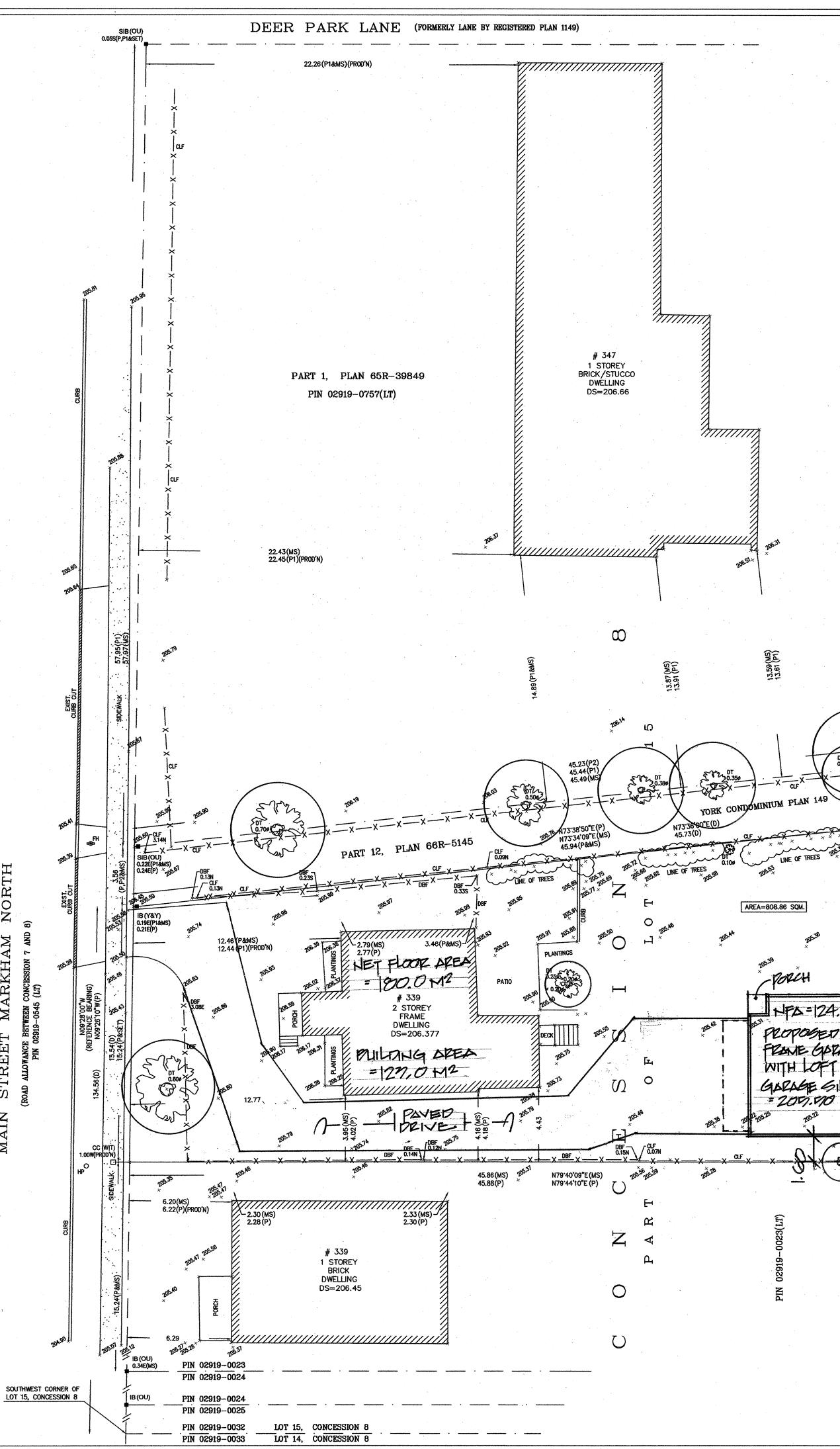
APPENDIX "D" CONCEPTUAL DRAWINGS



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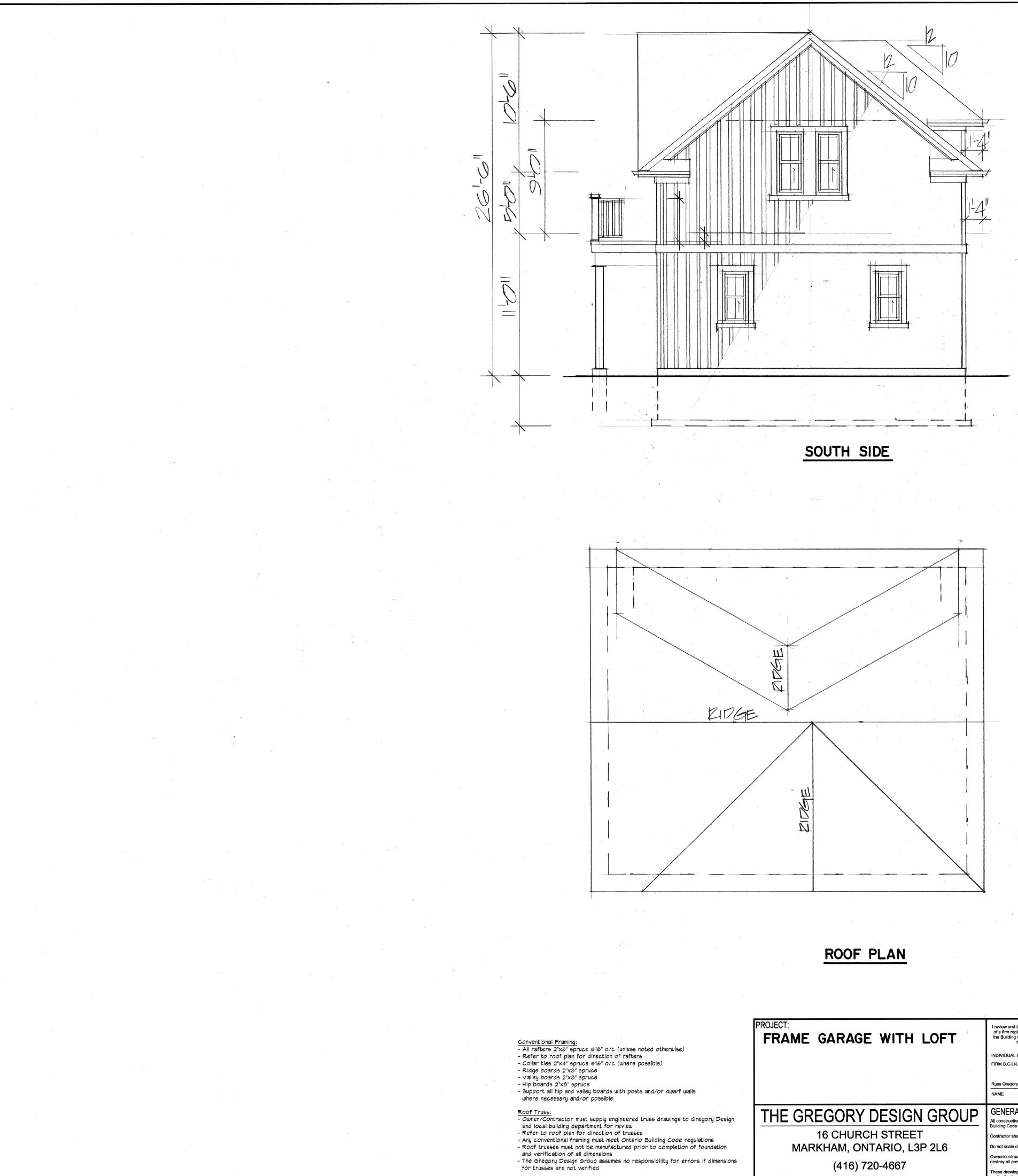
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	russ@gregorydesigngroup.net	Building permits should be obtained prior to commencing construction.	

