

Memorandum to the City of Markham Committee of Adjustment

December 2, 2022

File: A/189/22
Address: 1271 Denison Street, Units 62 and 63
Applicant: The Remington Group (Joseph Pavia)
Agent: The Remington Group (Joseph Pavia)
Hearing Date: Wednesday December 7, 2022

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

The Applicant is requesting relief from the “Select Industrial and Limited Commercial (40%) [M.C.(40%)]” zone requirements under By-law 108-81, as amended, as it relates to two units within an existing industrial building. The variances requested are to permit:

- a) **Section 8.19:**
a Commercial School as an additional permitted use, whereas the By-law does not permit a Commercial School; and
- b) **Section 8.19:**
a Recreational Establishment as an additional permitted use, whereas the By-law does not permit a Recreational Establishment.

BACKGROUND

Property Description

The 4.4 ha (10.9 ac) Subject Lands are located on the southwest corner of Denison Street and Birchmount Road within the Risebrough Business Park (the “Subject Lands”) (refer to Appendix “A” – Aerial Photo). The business park contains a variety of industrial and professional office uses. Similar office-industrial buildings are situated to the east, west, and north of the Subject Lands. Residential dwellings are located to the south of the Subject Lands.

Proposal

The Applicant is proposing a golf simulation studio and music / singing recording studio wholly within Units 62 and 63 (the “Proposed Development”) (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 “Business Park Employment”, which are areas planned and developed for prestige industrial and office development, frequently in larger scale buildings that are generally single storey, single use or multiple unit buildings. This designation permits a wide range of uses including Sports & Fitness Recreation Uses as an ancillary use, subject to the criteria of Section 8.5.2.2 g. This criteria specifies that ancillary uses are to be located only on the ground floor of the building and that the combined gross floor area devoted to all ancillary uses, and to all accessory uses is limited to a maximum of 15 percent of the total gross floor area of the building.

Section 8.5.2.3 d, also identifies that Commercial Schools are included as a discretionary use within this designation, subject to a review of a site-specific development application for zoning approval, in accordance with Sections 8.5.1.2 and 8.5.1.3. In considering applications for discretionary land use, criteria includes, but is not limited to, conformity of the proposed built form and scale with the planned function and policies of the land use designation, appropriateness of the site for the proposed use from a traffic impact perspective, and compatibility of the proposed use.

Zoning By-Law 108-81, as amended

The Subject Lands are zoned “Select Industrial and Limited Commercial (40%) [M.C.(40%)]” under By-law 108-81, as amended, which permits a range of industrial uses including a commercial school. Although a commercial school is identified as a permitted use within the Parent M.C (40%) zone category, a site-specific Zoning By-law Amendment was passed on November 22, 1983 (“Amending By-law 315-83”), which amended the list of permitted uses to include those uses permitted in the “Select Industrial (M)” zone”, professional and business offices, banks and financial institutions and removed a number of uses including the commercial school permission. Recreational Establishments are not a permitted use in the M.C (40%) zone nor is the use identified in Amending By-law 315-83.

The Proposed Development does not comply with the by-law requirements with respect to use.

Zoning Preliminary Review (ZPR) Undertaken

The Applicant completed a Zoning Preliminary Review (File ZPR 22.253201) on September 6, 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.

Commercial School and Recreational Establishment Uses

The Applicant is requesting to add the additional uses of a Commercial School and a Recreation Establishment.

The Applicant has indicated that the proposed business will provide professional lessons for golfers and vocalists. The private golf instruction will use virtual golf simulators and the singing lessons will use professional music studios. These uses are classified as a Commercial School within the Zoning By-law.

The Applicant has also indicated that the proposed business may be open to the public periodically to offer virtual golf and singing without instructors for leisure purposes. These uses are classified as a Recreation Establishment.

Staff note that the proposed uses are located wholly within the ground floor and are limited to two units (Units 62 and 63) within the existing multi-tenanted industrial building.

The Applicant has indicated that the proposed gross floor area of uses would be 7.9 percent of the total gross floor area of the entirety of the building, which is less than the maximum of 15 percent as set-out in the Official Plan.

Staff also note that no parking variances were identified by the ZPR. The Applicant indicated that there is sufficient excess parking available to accommodate the parking requirements for the Proposed Development, and that based on the existing tenants and their uses, 340 parking spaces are currently required leaving a surplus of 104 parking spaces.

PUBLIC INPUT SUMMARY

No written submissions were received as of December 2, 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 recommend that the

Committee satisfy themselves that the four tests of the *Planning Act* have been met. 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.

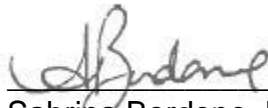
Please refer to Appendix "C" for conditions to be attached to any approval of this application.

PREPARED BY:



Deanna Schlosser, MCIP RPP, Senior Planner, Central District

REVIEWED BY:



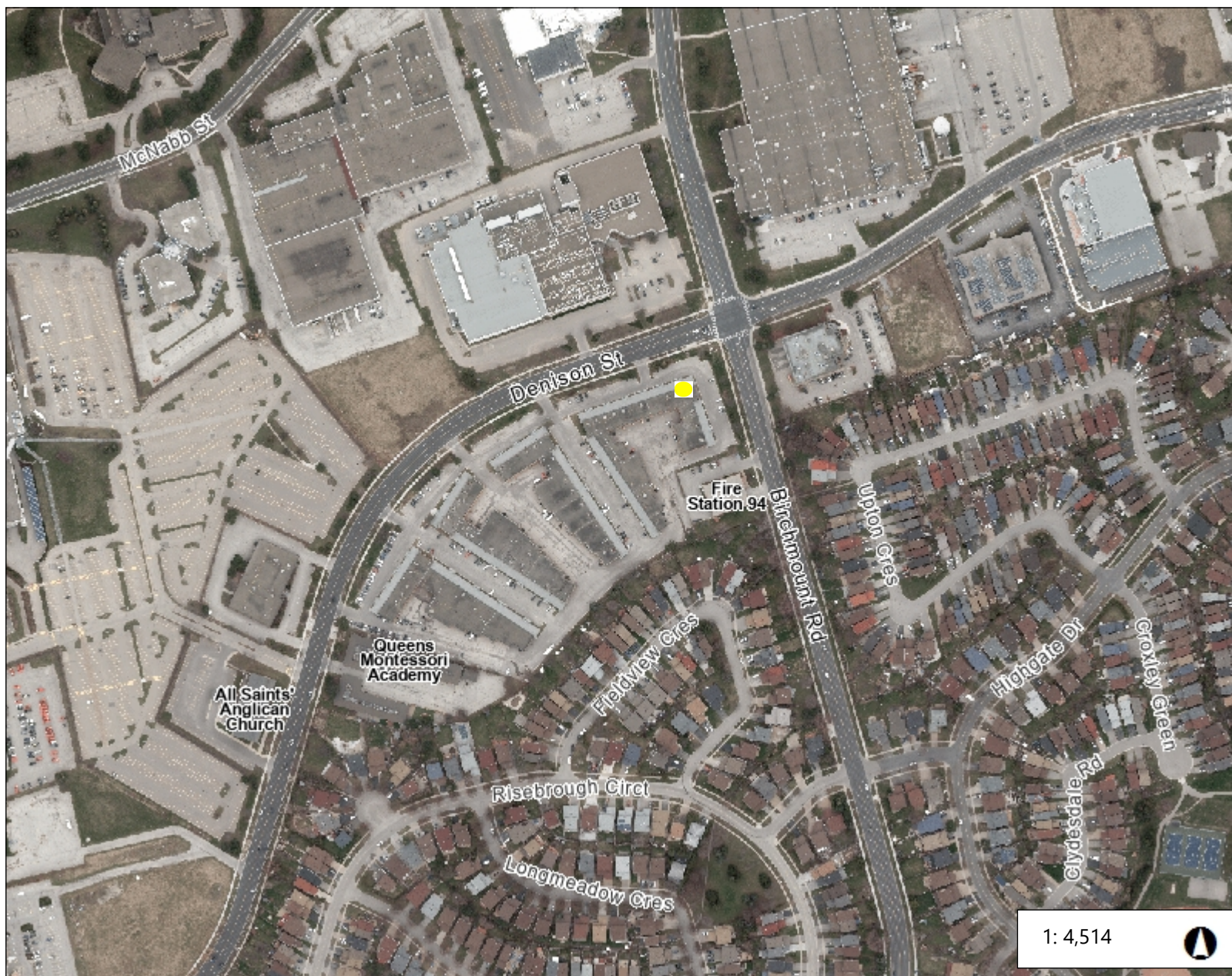
Sabrina Bordone, MCIP RPP, Development Manager, Central District

APPENDICES

Appendix "A" – Aerial Context Photo

Appendix "B" – Plans

Appendix "C" – A/189/22 Conditions of Approval



Legend

● Subject Lands

1: 4,514

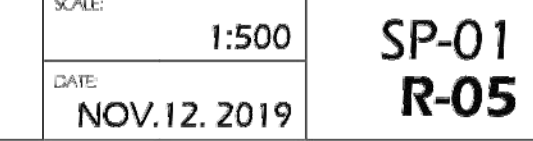


Notes

229.3 0 114.66 229.3 Meters

NAD_1983_UTM_Zone_17N
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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.



RECEIVED
09/01/22
22 253201 000 00 ZPR



GENERAL CONDITION:

GENERAL CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND SITE CONDITION ON SITE AND REPORT IMMEDIATELY ANY DISCREPANCIES TO TRAN DIEU & ASSOCIATES INC BEFORE PROCEEDING WITH THE WORK.

ALL DRAWINGS AND RELATED DOCUMENTS ARE THE PROPERTY OF
TRAN DIEU & ASSOCIATES INC. AND MUST BE RETURNED ON
REQUEST. REPRODUCTION OF DRAWINGS AND RELATED
DOCUMENTS IN PART OR WHOLE IS FORBIDDEN WITHOUT WRITTEN
PERMISSION FROM TRAN DIEU & ASSOCIATES INC.

ALL WORK SHALL BE PERFORMED IN ACCORDANCE TO O.B.C.
AND THE PERMIT DRAWINGS.


VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION

DO NOT SCALE DRAWINGS

THE UNDERSIGNED HAS REVIEWED AND TAKES RESPONSIBILITY FOR THIS DESIGN, AND HAS THE QUALIFICATIONS AND MEETS THE REQUIREMENTS SET OUT IN THE ONTARIO BUILDING CODE TO BE A DESIGNER.

QUALIFICATION INFORMATION

REQUIRED UNLESS DESIGN IS EXEMPT UNDER 3.2.4.1 OF DIVISION C OF THE BUILDING CODE

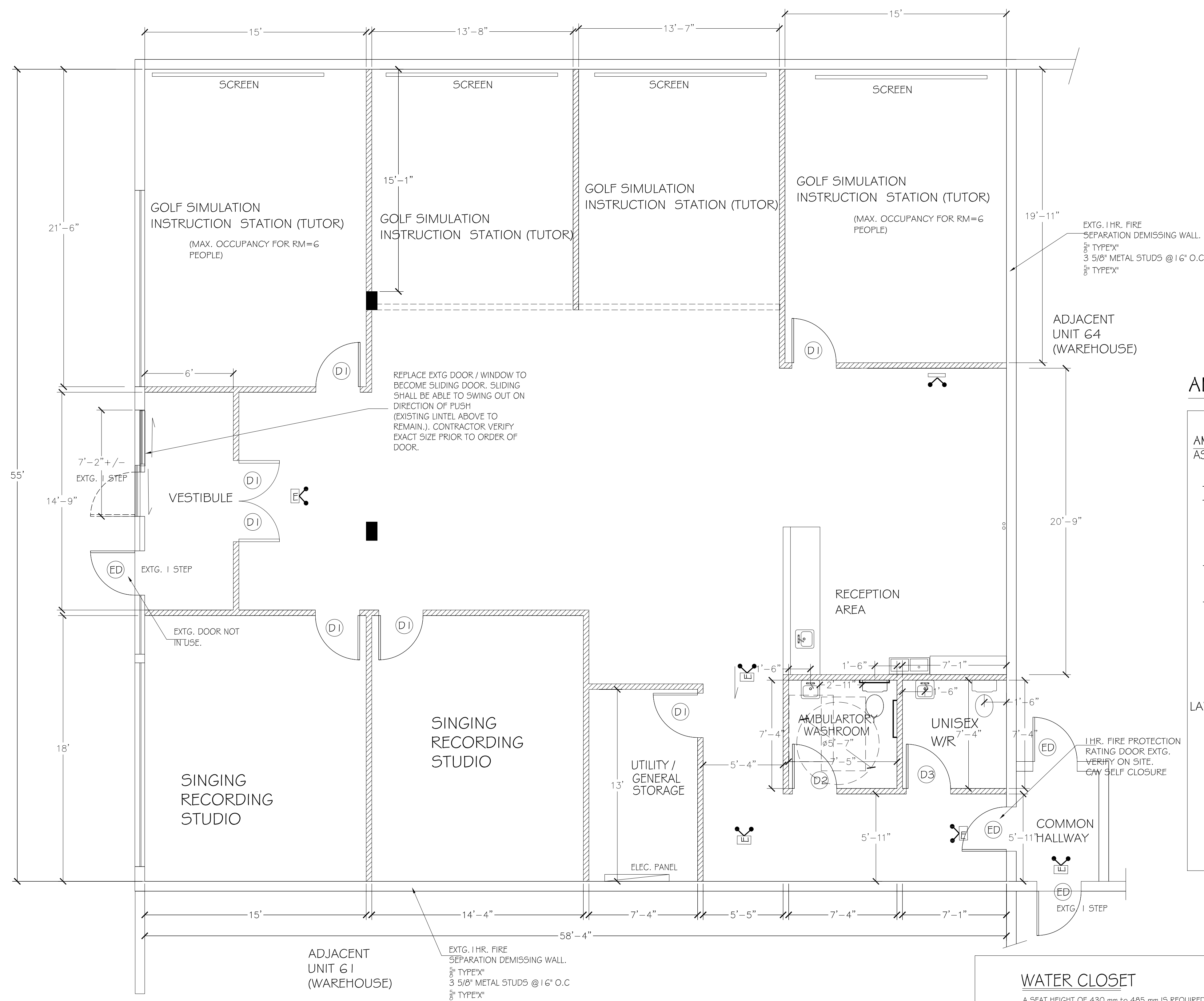
| | | |
|------------------|---|-------|
| LUONG QUANG TRAN |  | 20848 |
| NAME | SIGNATURE | BCIN |

REGISTRATION INFORMATION

REQUIRED UNLESS DESIGN IS EXEMPT UNDER 3.2.4.1 OF DIVISION C OF THE BUILDING CODE

| | |
|-----------------------------|-------|
| TRAN DIEU & ASSOCIATES INC. | 27068 |
| FIRM NAME | BCIN |

| | | |
|---|------------|---|
| STATUS: | | ISSUED: |
| FOR PERMIT APPLICATION | | |
|  | | |
|  | | <u>TRAN DIEU & ASSOCIATES INC.</u> 3030 MIDLAND AVE., UNIT 6-7, SCARBOROUGH, ONTARIO M1S 5A6, TEL: (416) 298-6370 FAX: (416) 298-6903 |
| PROJECT: PROPOSED GOLF SIMULATION STUDIO 1271 DENISON STREET, UNIT 62-63 MARKHAM | | |
| DRAWN BY: C.T. | | |
| CHECKED BY: C.T. | | |
| SCALE: 1/4" = 1'-0" | | DATE: |
| PROJECT: | TITLE: A I | |
| | | REC'D |



PROPOSED FLOOR PLAN

OCCUPANCY LOAD= 20 PEOPLE

THE UNDERSIGNED HAS REVIEWED AND TAKES RESPONSIBILITY FOR THIS DESIGN, AND HAS THE QUALIFICATIONS AND MEETS THE REQUIREMENTS SET OUT IN THE ONTARIO BUILDING CODE TO BE A DESIGNER.

QUALIFICATION INFORMATION
REQUIRED UNLESS DESIGN IS EXEMPT UNDER 9.2.4.1 OF DIVISION C OF THE BUILDING CODE

LUONG QUANG TRAN 20848
NAME SIGNATURE BCIN

REGISTRATION INFORMATION
REQUIRED UNLESS DESIGN IS EXEMPT UNDER 9.2.4.1 OF DIVISION C OF THE BUILDING CODE

TRAN DIEU & ASSOCIATES INC. 27068
FIRM NAME BCIN

AMBULATORY WASHROOM REQUIREMENTS (SPECS)

AMBULATORY WATER CLOSET STALL
AS SPECIFIED IN 3.8.3.8(10)

- MIN. DEPTH 1500 MM
- MIN. WIDTH TO BE 940 MM
- BE CABLE OF BEING LATCHED FROM THE INSIDE WITH A MECHANISM THAT IS OPERABLE USING A CLOSED FIST,
- WHEN DOOR OPEN OF AT LEAST 810MM C/W SELF CLOSURE.
- WATER CLOSET CONFORMANCE TO 3.8.3.9
- LOCATED AT NOT LESS THAN 430MM AND NOT MORE THAN 485MM ABOVE FINISH FLOOR.
- BE EQUIPPED WITH HAND-OPERATED FLSUH CONTROLS THAT ARE EASILY ACCESSIBLE TO A WHEELCHAIR USER OR BE AUTOMATICALLY OPERABLE.

LAVATORIES FOR AMBULATORY AS SPECIFIED IN 3.8.11(5)

- BE EQUIPPED WITH FAUCETS THAT HAVE LEVER TYPE HANDLES WITHOUT SPRING LOADING OR AUTOMATICALLY OPERATE.
- HAVE SOAP DISPENSER THAT IS LOCATE TO PERSON IN WHEELCHAIRS,
- LOCATED SO THAT THE DISPENSING HEIGHT IS NOT MORE THAN 1200MM ABOVE FIN. FLOOR.
- HAVE A TOWEL DISPENSER OR OTHER HAND DRYING EQUIPMENT TAHT IS. LOCATE SO THAT THE DISPENSING HEIGHT IS NOT MORE THAN 1200MM ABOVE FIN. FLOOR. AND LOCATED NOT MORE THAN 610MM , MEASURED HORIZONTALLY FORM THE EDGE OF THE LAVATORY

WATER CLOSET

A SEAT HEIGHT OF 430 mm to 485 mm IS REQUIRED. FLUSHING CONTROLS MUST BE EASILY ACCESSIBLE TO A WHEELCHAIR USER OR BE AUTOMATICALLY OPERABLE. A BACK SUPPORT IS REQUIRED WHERE THERE IS NO SEAT LID OR TANK. SEATS MUST NOT BE SPRING-ACTIVATED

ACCESSORIES

3.8.3.12.(1)(G)

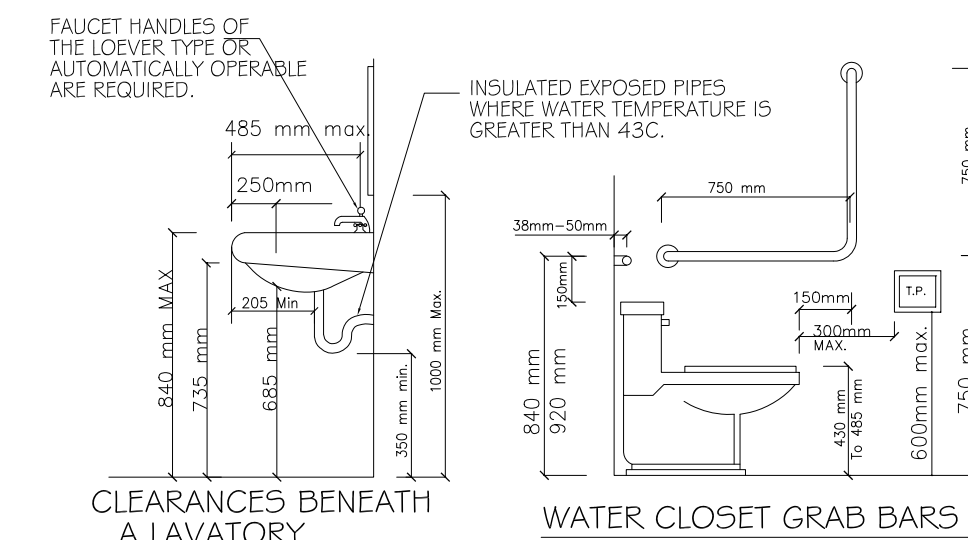
HAVE A COAT HOOK THAT CONFORMS TO CLAUSE 3.8.3.8.(1)(E) AND A SHELF THAT IS LOCATED NOT MORE THAN 1100 MM ABOVE THE FINISH FLOOR AND PROJECTS NOT MORE THAN 100MM FROM THE WALL.

3.8.3.12.(1)(K)

HANDICAP WASHROOM LIGHT SHALL HAVE LIGHTING CONTROLLED BY motion sensor.

grab bar requirement size.

- minimum 35 mm diameter
- maximum 40 mm diameter
- with a slip resistant surface
- installed to resist a load of minimum 1.3 kn (300 lbs) applied vertically or horizontally.



WASHROOM DETAIL

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ALL WORK SHALL BE PERFORMED IN ACCORDANCE TO O.B.C. AND THE PERMIT DRAWINGS.

VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION

DO NOT SCALE DRAWINGS

LEGEND

- EXIT SIGN C/W EMERGENCY LIGHT (30 MIN.BACK UP BATTERY)
- EMERGENCY LIGHT (30 MIN.BACK UP BATTERY)

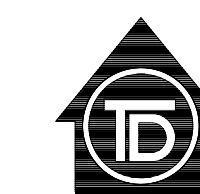
PROPOSED NEW PARTITION WALL 2X4 METAL STUD @ 16" O/C COVERED BY 1/2" DRYWALL BOTH SIDES (10' HIGH)

- EXISTING DOOR
- NEW DOOR 38"x84" METAL DOOR C/W LEVEL HANDLE
- NEW WASHROOM DOOR 38"x84" C/W LEVEL HANDLE
- NEW WASHROOM DOOR 32"x84"

STATUS:

FOR PERMIT APPLICATION

ISSUED:



TRAN DIEU & ASSOCIATES INC.
3030 MIDLAND AVE., UNIT 6-7, SCARBOROUGH, ONTARIO
M1S 5A8, TEL: (416) 298-6370 FAX: (416) 298-6903

PROJECT:

PROPOSED GOLF SIMULATION STUDIO
1271 DENISON STREET, UNIT 62-63
MARKHAM

DRAWN BY: C.T.

CHECKED BY: C.T.

SCALE: 1/4" = 1'-0"

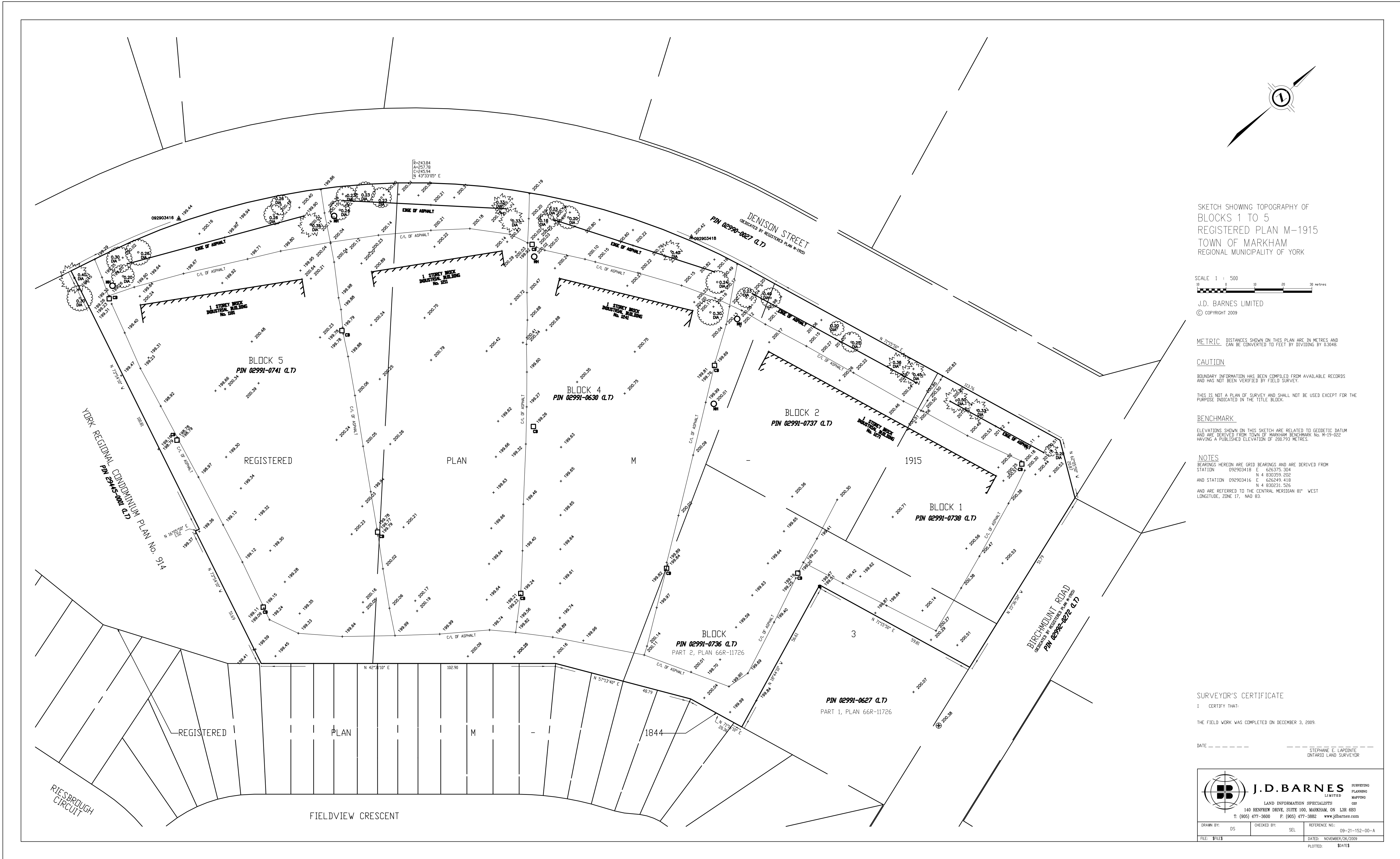
DATE:

PROJECT:

TITLE:

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RECEIVED
22-253201-000.00 ZPR



APPENDIX “C” - A/189/22 Conditions of Approval

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/189/22

1. The variances apply only to the proposed development as long as it remains; and
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.

CONDITIONS PREPARED BY:



Deanna Schlosser, MCIP RPP, Senior Planner, Central District