## Memorandum to the City of Markham Committee of Adjustment

November 1, 2019

File:

A/95/19

Address:

168 Old Kennedy Rd

Agent:

**KLM Planning Partners Inc. (Billy Tung)** 

**Hearing Date:** 

Wednesday November 13, 2019

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

The Applicant is requesting relief from the requirements of By-law 177-96, as amended, as it relates to a proposed stacked townhouse development. A sketch depicting the location of the requested variances on the proposed site plan has been prepared by the Applicant and is attached as Appendix "B".

## 1) Amending By-law 2009-105, Section 7.369.3(b):

a minimum required yard from the south lot line of 8.5 metres, whereas the bylaw requires 11.45 metres;

## 2) Amending By-law 2009-105, Section 7.369.3(b):

a minimum required yard from the south lot line within 30 metres of the easterly lot line (Old Kennedy Road) of 1.50 metres, whereas the by-law requires 9 metres;

## 3) Amending By-law 2009-105, Section 7.369.4(a)(i):

a maximum of sixty-four (64) dwelling units within 87 metres of the easterly lot line (Old Kennedy Road), whereas the maximum is twenty-eight (28) dwelling units;

## 4) Amending By-law 2009-105, Section 7.369.4(a)(ii):

dwelling units within the ground floor of buildings beyond 30 metres of the easterly lot line (Old Kennedy Road), whereas dwelling units are not permitted within the ground floor of any building within 87 metres of easterly lot line (Old Kennedy Road);

#### 5) Amending By-law 2009-105, Section 7.369.5(d):

a minimum of 7 parking spaces for non-residential uses, whereas the minimum number of parking spaces for non-residential uses within 87 metres of the easterly lot line (Old Kennedy Road) is 37 parking spaces;

## 6) Parent By-law 177-96, Section 6.9.1(b):

zero (0) loading spaces; whereas the by-law requires one loading space for a combination of non-residential uses with a net floor area of between 300 and 1,860 square metres;

### 7) Parking By-law 28-97, Section 6.1.4:

tandem parking spaces, whereas the by-law only permits tandem parking spaces on lots with buildings containing no more than four (4) Dwelling Units, and Condominium Townhouse Dwellings with parking provided at grade and accessed via private road;

## 8) Amending By-law 2009-105, Section 7.369.3(f):

For buildings beyond 30 metres of the easterly lot line (Old Kennedy Road), mechanical penthouses containing no living space shall not be considered a storey, whereas a mechanical penthouse containing a floor and a ceiling are considered a storey.

#### **BACKGROUND**

### **Property Description**

The subject lands are situated on the west side of Old Kenney Road, south of Aldergrove Drive and are municipally known as 168 Old Kennedy Road. The subject lands are vacant and have approximately 53 metres of frontage along Old Kennedy Road with an area of approximately 0.59 ha (1.46 ac).

#### Subject lands were intended to be developed with a mixed-use building

The subject lands once formed a contiguous development parcel with the lands immediately to the west, which have been developed with stacked townhouses and a public park internal to the site. At the time of approval (2009), the subject lands were envisioned to be developed with a three-storey, mixed-use building consisting of 28 residential units with grade related retail/commercial units fronting Old Kennedy Road (the "original proposed development"). The subject lands were subsequently sold to the current property owner who proposes to develop the subject lands with a stacked townhouse built form, as described below.

#### **Proposal**

The proposed development is the subject of a formal Site Plan Approval application currently under review by City staff (File SC 18 172987) and consists of the following (referred as the "proposed development"):

- a) a total of 64 residential units consisting of the following:
  - i) 16 stacked townhouse units including eight live/work at-grade units having a "work" space fronting Old Kennedy Road
  - ii) 48 stacked and back-to-back townhouse dwelling units internal to the site
- b) a proposed north-south private (condominium) road separating the live-work stacked townhouses and the back-to-back stacked townhouses
- c) one level of underground parking consisting of 125 spaces
- d) 23 surface visitor parking spaces

#### Official Plan and Zoning

Official Plan 2014 (partially approved on November 24, 2017, and further updated on April 9, 2018)

The 2014 Official Plan designates the subject lands "Mixed Use Mid Rise" (front portion of the site along Old Kennedy Road) and "Residential Mid Rise" (remainder of the site). Both designations permit the proposed stacked townhouses.

Section 9.15.3.3 of the 2014 Official Plan states that until an updated Secondary Plan is approved for the Milliken Centre lands, the provisions of the Official Plan (Revised 1987), as amended, and Main Street Milliken Secondary (OPA 144), as amended, shall apply to the lands.

#### Main Street Milliken Secondary Plan (OPA 144)

The subject lands are further designated "Community Amenity-Main Street" (front portion along Old Kennedy Road) and "Urban Residential Medium Density" (remainder of the site) in the Main Street Milliken Secondary Plan. The "Community Amenity-Main Street" designation permits mixed-use buildings with a range of small to moderate scale retail, personal services and business uses, but not residential uses on the ground floor of buildings facing Old Kennedy Road. The "Urban Residential Medium Density" designation permits the proposed development.

#### Zoning By-Law 177-96, as amended

The subject lands are zoned "Community Amenity One\*369" (CA1\*369) by By-law 177-96, as amended, which permits multiple-unit residential buildings and a range of commercial uses. When the subject lands were zoned in 2009 for the original proposed development, the site-specific Zoning By-law Amendment (referred to as "Amending By-law 2009-105") was tailored to accommodate it. The proposed variances result from the current proposed development.

#### **Applicant's Stated Reason for Not Complying with Zoning**

According to the information provided by the Applicant, the reason for not complying with Zoning is "the site-specific by-law was drafted considering a different development proposal – minor variances are required to reflect the updated development scheme, which has been revised with consideration for proposed developments in the context."

#### Zoning Preliminary Review (ZPR) Not Undertaken

The Applicant has confirmed that a Zoning Preliminary Review (ZPR) has <u>not</u> been conducted. However, the Applicant has received comments from the City's Building Department through their Site Plan Approval circulation process and met with City Staff to confirm the variances required to facilitate the proposed development.

#### **COMMENTS**

#### **Requested Variances**

The proposed variances include relief to site-specific development standards pertaining to the following:

- a) minimum required yards
- b) dwelling unit provisions

- c) parking and loading
- d) mechanical penthouse height

## a) <u>Minimum Required Yards</u>

Variances 1 and 2 pertains to the stacked back-to-back townhouses and to the live/work units fronting Old Kennedy Road respectively. The proposed reduction of the minimum required yard from the south lot line from 11.45 metres to 8.5 metres provides adequate building separation distance to the proposed townhouses on adjacent lands to the south and accommodates sufficient space for landscape, a pedestrian walkway, unit entrances and private amenity spaces. The proposed reduced minimum yard setback from the south lot line within 30 metres of the easterly lot line from 9 metres to 1.50 metres provides adequate separation distance from the southernmost live-work unit on the subject lands and the northernmost live-work unit on the lands to the south and assists in creating a continuous and pedestrian-oriented building frontage along Old Kennedy Road.

#### b) Dwelling Unit Provisions

Variances 3 and 4 pertain to the number of dwelling units and permission for ground related dwelling units. Amending By-law 2009-105 facilitated the original proposed development. The Applicant's revised proposed development maintains both the Secondary Plan and Zoning By-law intent of non-residential uses on the ground floor via the live-work at-grade units fronting Old Kennedy Road. The requested variances facilitate a non-residential ground level interface with Old Kennedy Road, while accommodating additional dwelling units internal to the subject lands.

#### c) Parking and Loading

Variances 5, 6 and 7 pertain to non-residential parking, provisions for no loading spaces and permissions for tandem parking spaces. The proposed non-residential parking supply takes into consideration the limited floor area dedicated to the "work" component of the live-work units (53 m² of net floor area per unit for a total of 424 m²), considers the nature of live-work arrangements where small office, retail or personal service uses would generally be operated by the residential occupant, and makes efficient use of share parking with residential visitor parking. The Applicant proposes a total of 23 surface visitor parking space to be shared between residential visitors and non-residential visitors (16 required residential visitor parking spaces and 7 non-residential visitor parking spaces), as supported by a Parking Justification Memo that has been reviewed by the City's Transportation Planning Staff.

Amending By-law 2009-105 identifies only a minimum number of required parking spaces, not a specified parking ratio. Therefore, staff recommend a condition of approval to include a parking ratio of 1.25 parking spaces per dwelling unit and 0.25 visitor parking spaces per unit. To mitigate future parking problems on the subject lands, staff further recommend an additional condition of approval that prohibits restaurants and childcare centres, which have higher parking demands, as uses on the subject lands (refer to Appendix "A").

The general provisions of Parent By-law 177-96, as amended, requires one loading space for the proposed development. Staff opines that the proposed eight live/work at-grade units are limited in size and will service small office, personal service and retail uses that would not carry substantial inventory resulting in the need for a dedicated loading space.

The Applicant's proposal to permit ten tandem parking spaces within the underground parking garage (which exceed the required parking supply for the proposed development), would permit some of the dwelling units to have two parking spaces and would assist in ensuring potential parking needs are accommodated on site.

## d) <u>Mechanical Penthouse Height</u>

The proposed back-to-back stacked townhouse blocks include accesses to private rooftop amenity areas via enclosed roof top mechanical penthouses that are stepped back from the street line. The lowest level of each townhouse block is partially below grade, which resembles a walk-up basement condition. Staff have no objections to the proposed variance to exclude mechanical penthouses containing a floor and a ceiling from building height, as the built form would visually be three-and-a-half storeys from the street level.

#### The Four Tests

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

The proposed variances are minor in nature and represent minimal deviations from Amending By-law 2009-105. Staff opines that the variances are desirable and facilitate a proposed development that respects its surrounding context by providing a similar built form and massing to those existing and proposed on adjacent lands to the south and west. Staff further opines that the proposed variances meet the intent of both the Zoning By-law and the Official Plan, as the uses are permitted and the objective of providing for grade-related non-residential uses along Old Kennedy Road is maintained.

#### **PUBLIC INPUT SUMMARY**

No written submissions were received as of November 1, 2019. 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.

Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:

Sabrina Bordone, Senior Planner, Central District

REVIEWED BY:

Stephen Lue, Development Manager, Central District

File Path: Amanda\File\ 19 135210 \Documents\District Team Comments Memo

## **Appendices:**

Appendix "A": Conditions of Approval

Appendix "B": Minor Variance Sketch (168 Old Kennedy Road)

Appendix "C": Plans

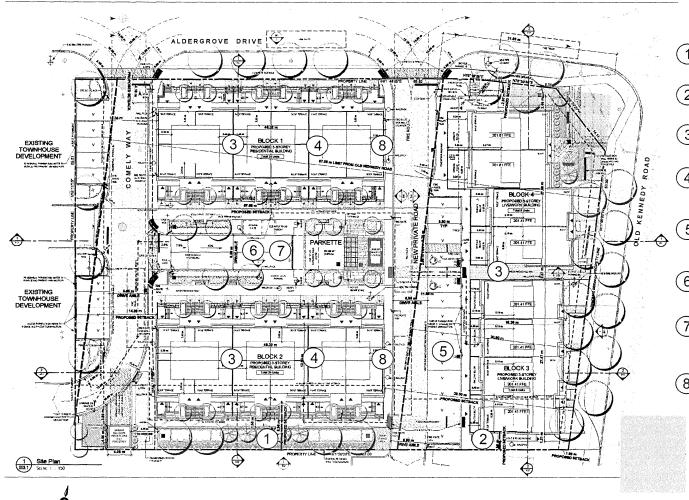
# APPENDIX "A" CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/95/19

- 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 plans attached as Appendix "C" to this Staff Report and received by the City of Markham on September 19, 2019 and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled.
- 3. That notwithstanding Section 7.369.5 b) and c) of Amending By-law 2009-105 (Parent By-law 177-96, as amended), parking for multiple dwellings within 95 metres of the easterly lot line shall be provided at a rate of 1.25 parking spaces per dwelling unit and 0.25 visitor parking spaces per unit.
- 4. That notwithstanding Section 7.369.1 g) and m) of Amending By-law 2009-105 (Parent By-law 177-96, as amended), Child Care Centre and Restaurants uses shall not be permitted.

**CONDITIONS PREPARED BY:** 

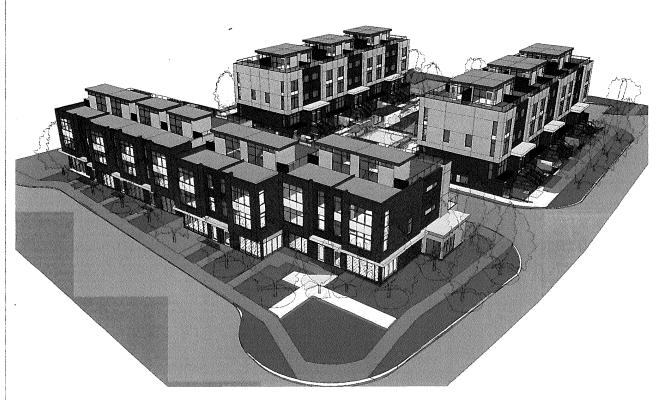
Sabrina Bordone, Senior Planner, Central District

# Minor Variance Sketch (168 Old Kennedy Road)



- To permit a minimum required yard from the south lot line of 8.50 metres, whereas the by-law requires 11.45.
- To permit a minimum required yard from the south lot line within 30 metres of the easterly lot line (Old Kennedy Road) of 1.50 metres, whereas the by-law requires 9 metres.
- To permit a maximum of sixty-four (64) dwelling units within 87 metres of the easterly lot line (Old Kennedy Road), whereas the maximum is twenty-eight (28).
- To permit dwelling units within the ground floor of buildings beyond 30 metres of the easterly lot line; whereas dwelling units are not permitted within the ground floor of any building within 87m of (Old Kennedy Road) the easterly lot line.
- To require a minimum of 7 parking spaces for non-residential uses; whereas the minimum number of parking spaces for non-residential uses within 87 metres of the easterly lot line (Old Kennedy Road) is 37 parking spaces.
- To permit 0 loading spaces; whereas the by-law requires one loading space for a combination of non-residential uses with a net floor area of between 300 and 1,860 square metres.
- To permit tandem parking spaces, whereas the by-law only permits tandem parking spaces on lots with buildings containing no more than four (4) Dwelling Units, and Condominium Townhouse Dwellings with parking provided at grade and accessed via private road.
  - For buildings beyond 30 metres of the easterly lot line, mechanical penthouses containing no living space shall not be considered a storey; whereas a mechanical penthouse containing a floor and a ceiling are considered a storey.





# **168 RESIDENCES**

LIVE/WORK TOWNHOUSE DEVELOPMENT
168 OLD KENNEDY ROAD, MARKHAM, ONTARIO

SITE PLAN APPROVAL RESUBMISSION



#### ARCHITECTURAL DRAWINGS

000	Cover	Sheet	

001 Project Statistics 001.1 Key Plan & OBC Matrix

002 Site Survey 002.1 Site Survey

002.2 Site Survey 002.3 Site Survey

003 Context Plan

003.1 Site Plan 003.2 Site Plan - Average Grade

003.2 Site Plan - A

003.3 Site Details 003.4 Site Details

003.5 Grade Calculation (OBC) - (Established Grade)

100 P1 Level Floor Plan

101 Basement Level Floor Plan

102 Level 1 Floor Plan

103 Level 2 Floor Plan

104 Level 3 Floor Plan105 Level 4 Floor Plan

201 - Stacked Townhouse Floor Plans

202 Stacked Townhouse Floor Plans

203 Stacked Townhouse Floor Plans

204 Live/Work Townhouse Floor Plans

205 Live/Work Townhouse Floor Plans

301 Street Elevations

302 Street Elevations

303 Park Elevations

304 Park Elevations

101 Sections

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501 Site Perspectives 502 Site Perspectives



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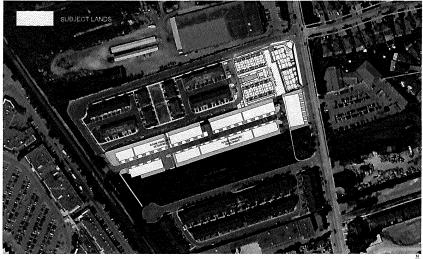
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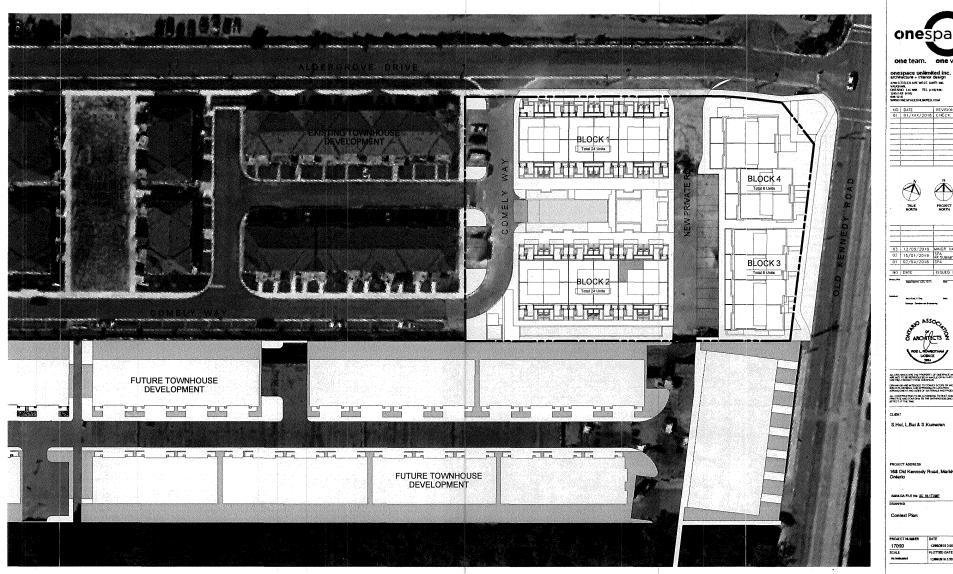
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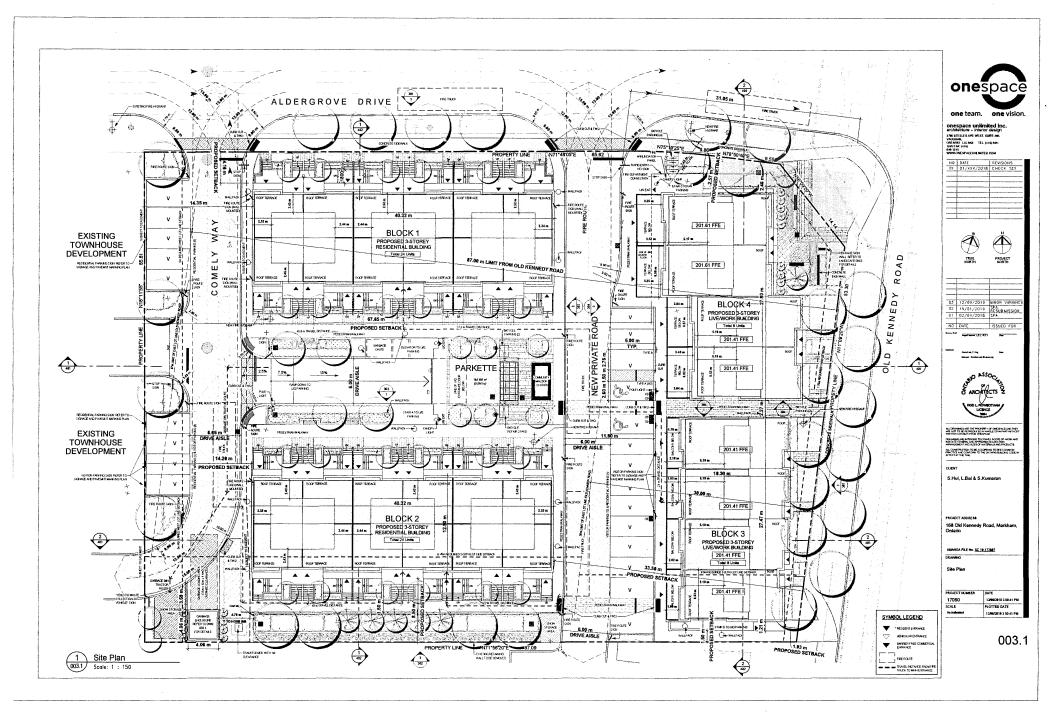
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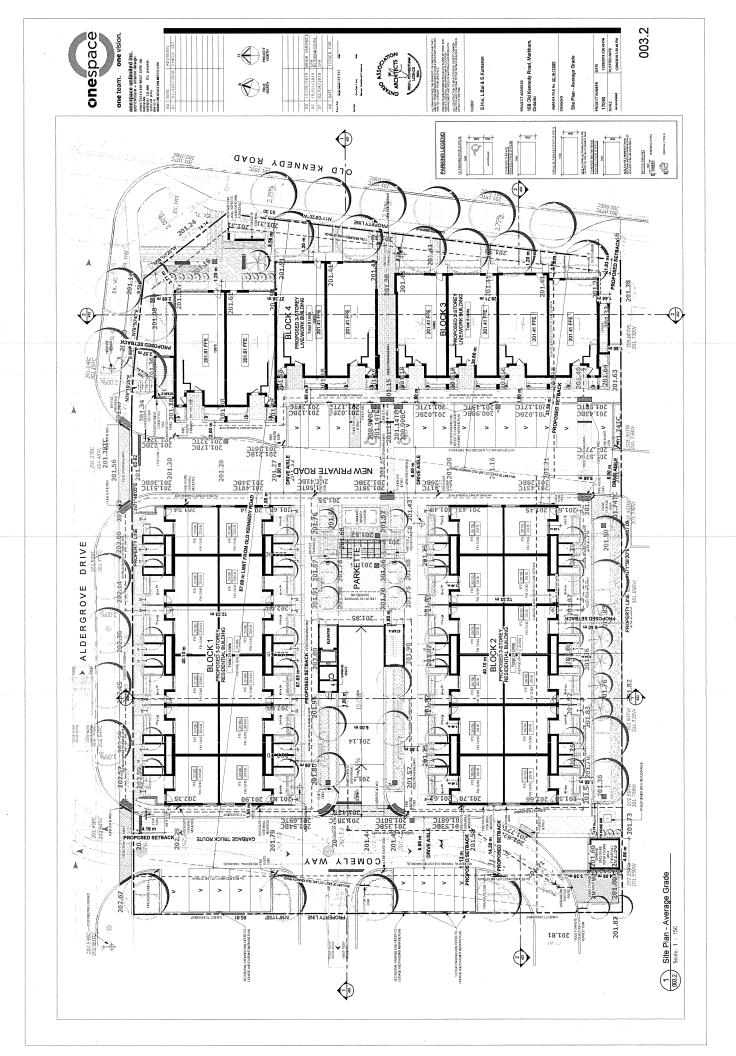
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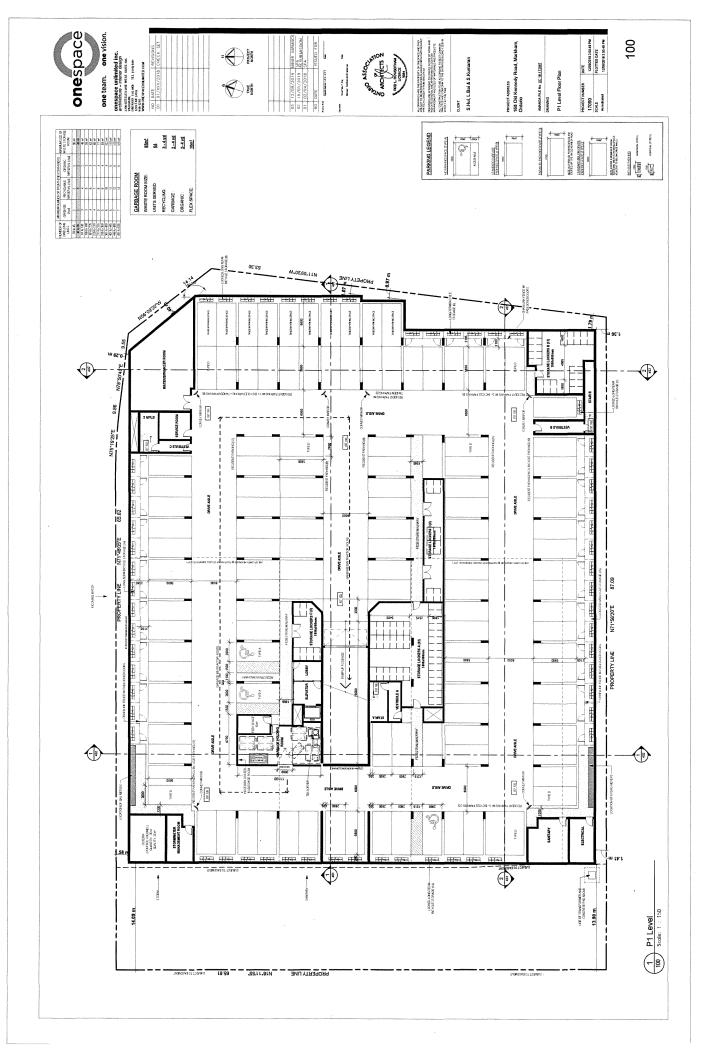
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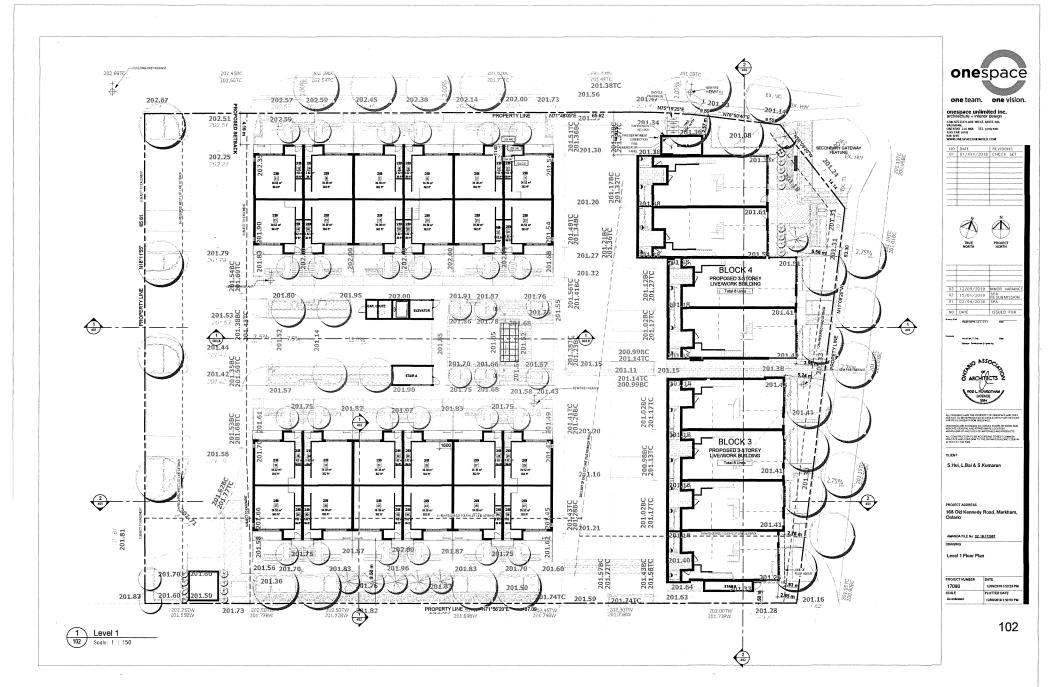
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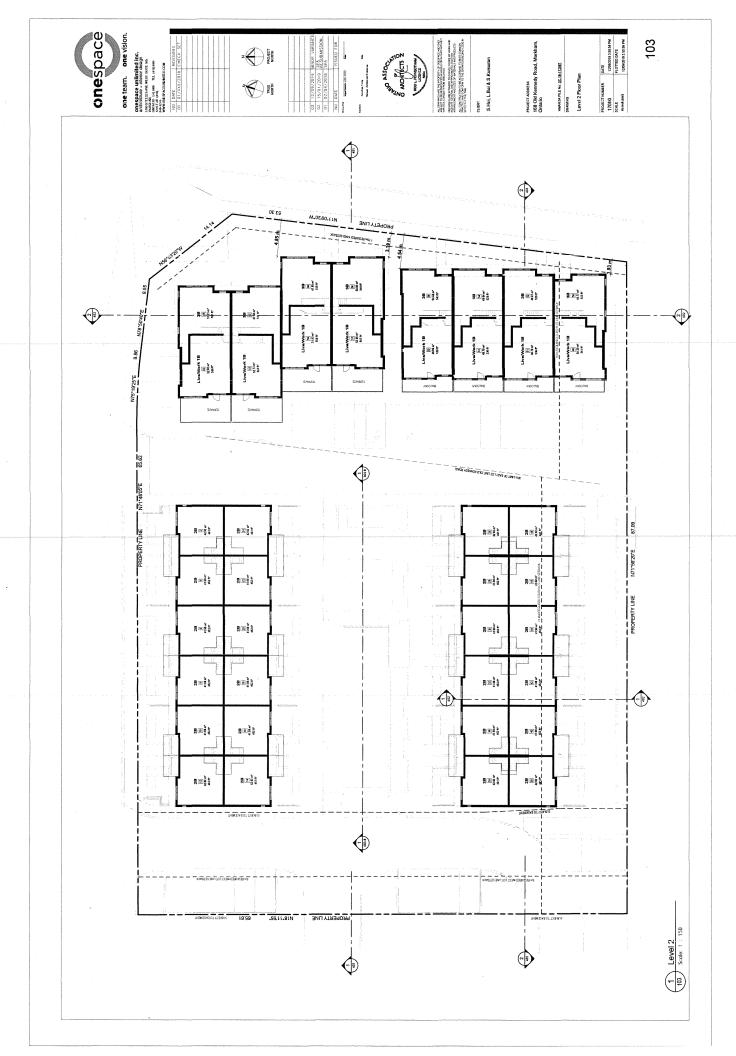
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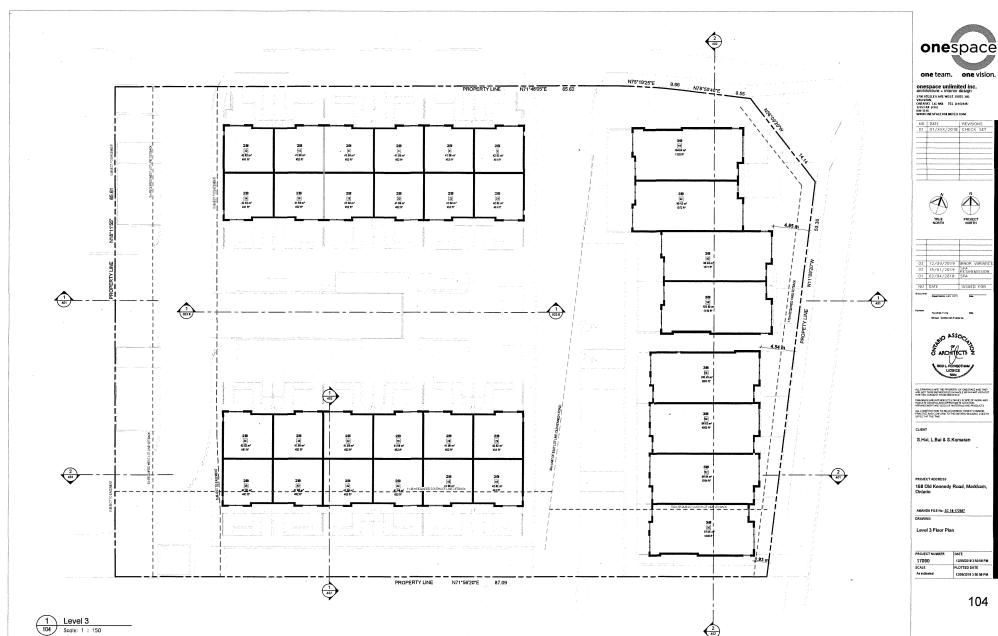




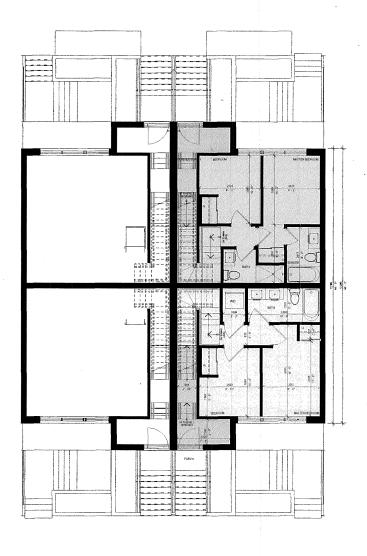




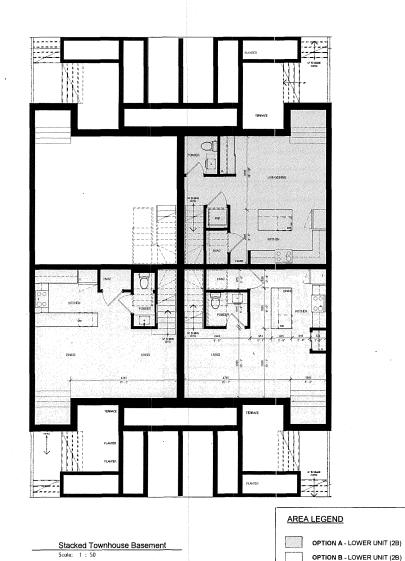




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Stacked Townhouse Level 1
Scale: 1:50



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S.Hei, L.Bai & S.Kumanan

PROJECT ADDRESS 168 Old Kennedy Road, Markham Ontario

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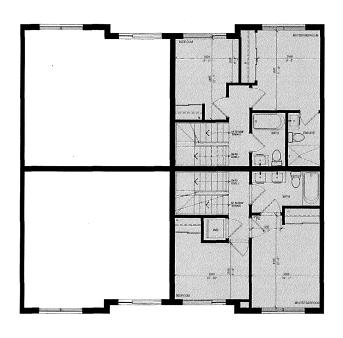
OPTION C - LOWER UNIT (2B)

OPTION A - UPPER UNIT (2B)

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Stacked Townhouse Floor Plan

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 Stacked Townhouse Level 3
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OPTION A - LOWER UNIT (2B)
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OPTION B - UPPER UNIT (2B)

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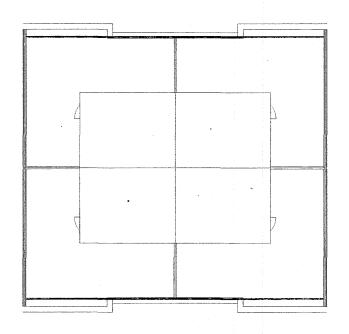
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Stacked Townhouse Floor Plane

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Stacked Townhouse Roof Plan

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Stacked Townhouse Level 4

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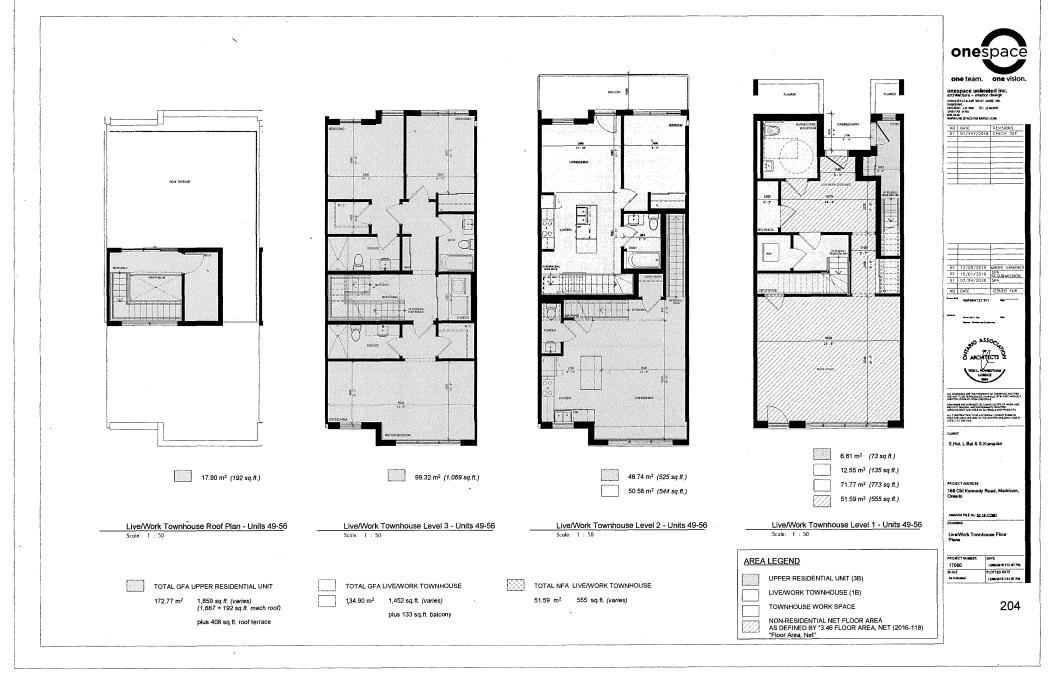
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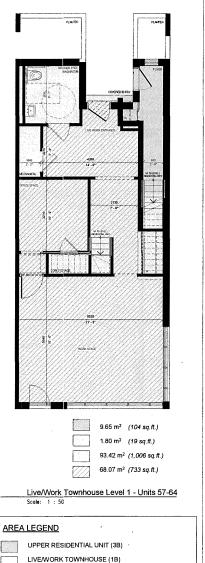
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TOWNHOUSE WORK SPACE

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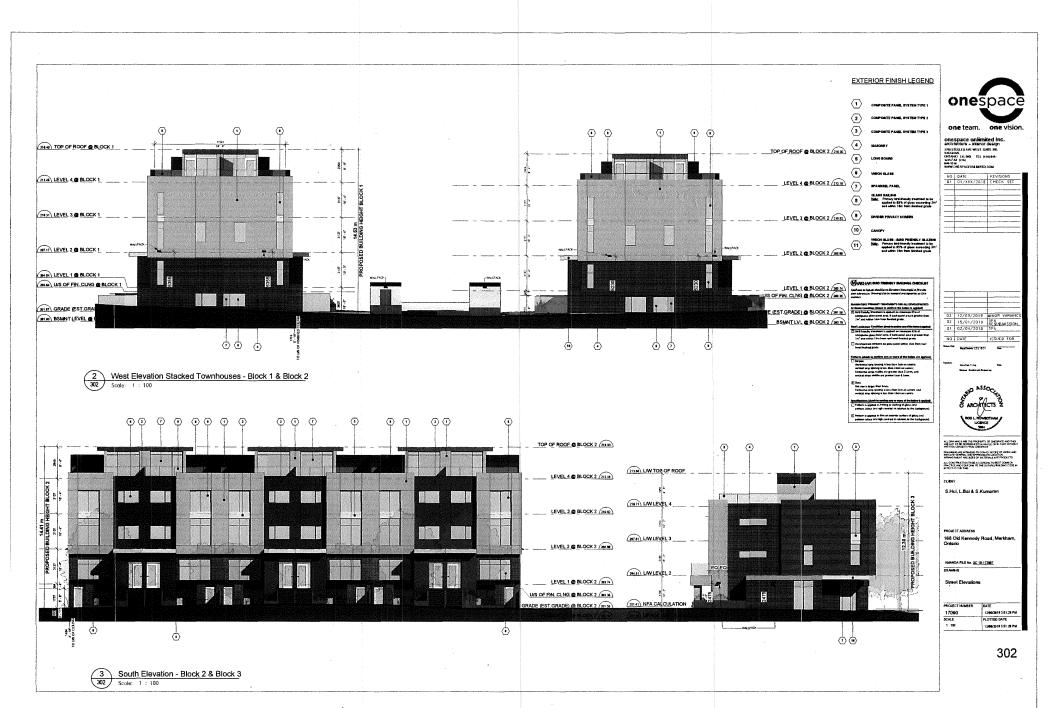
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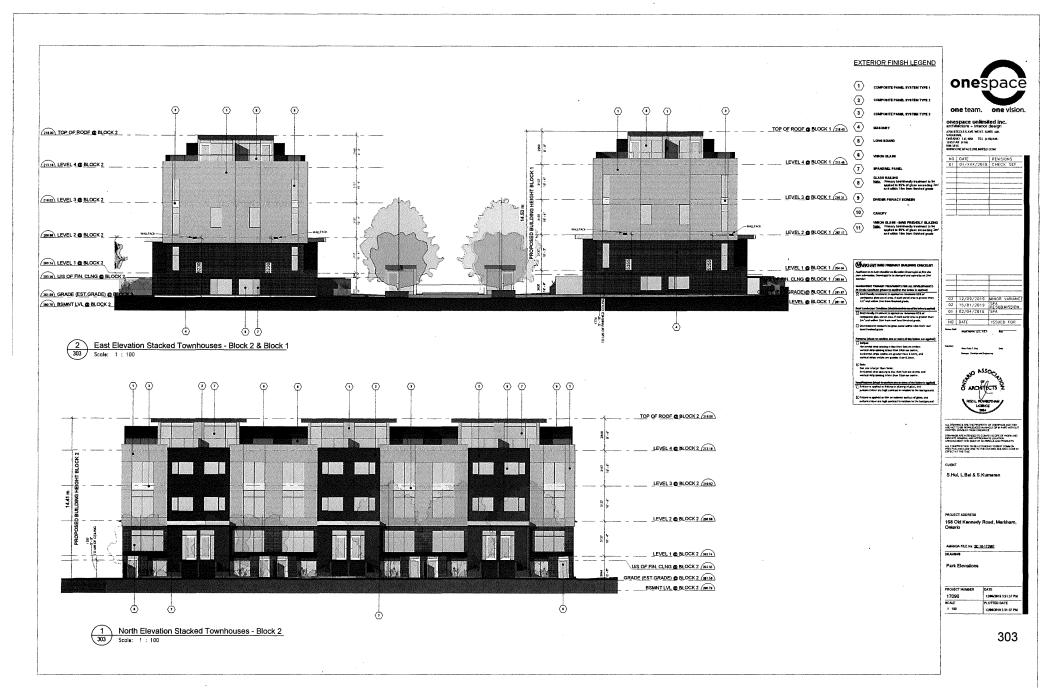
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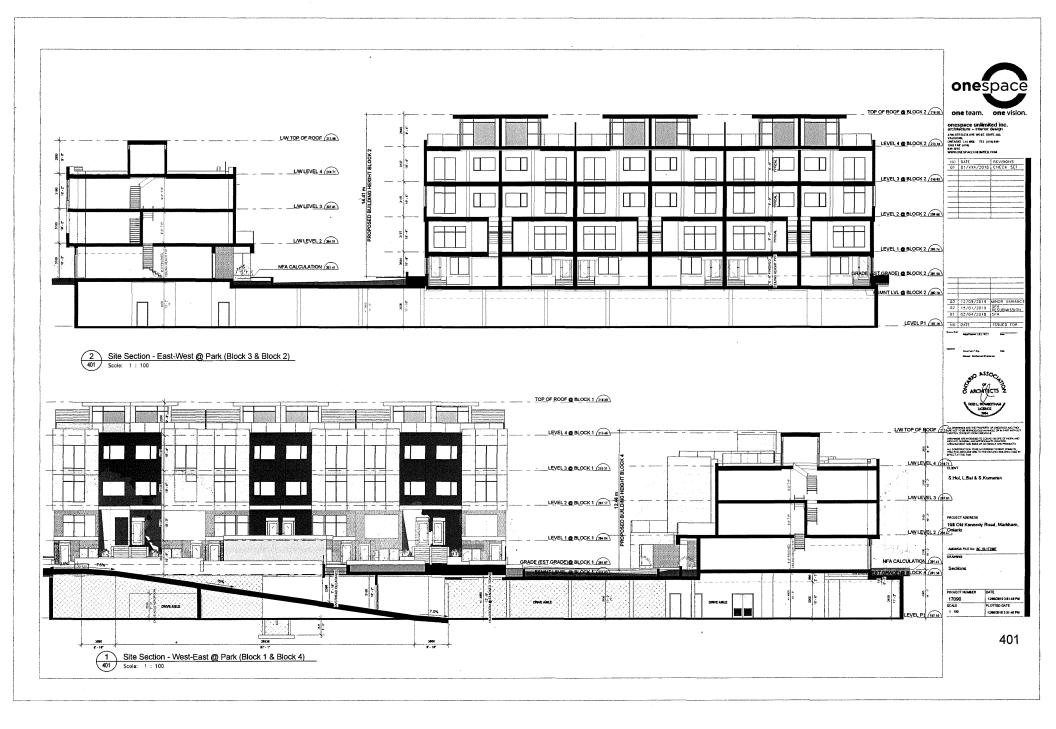
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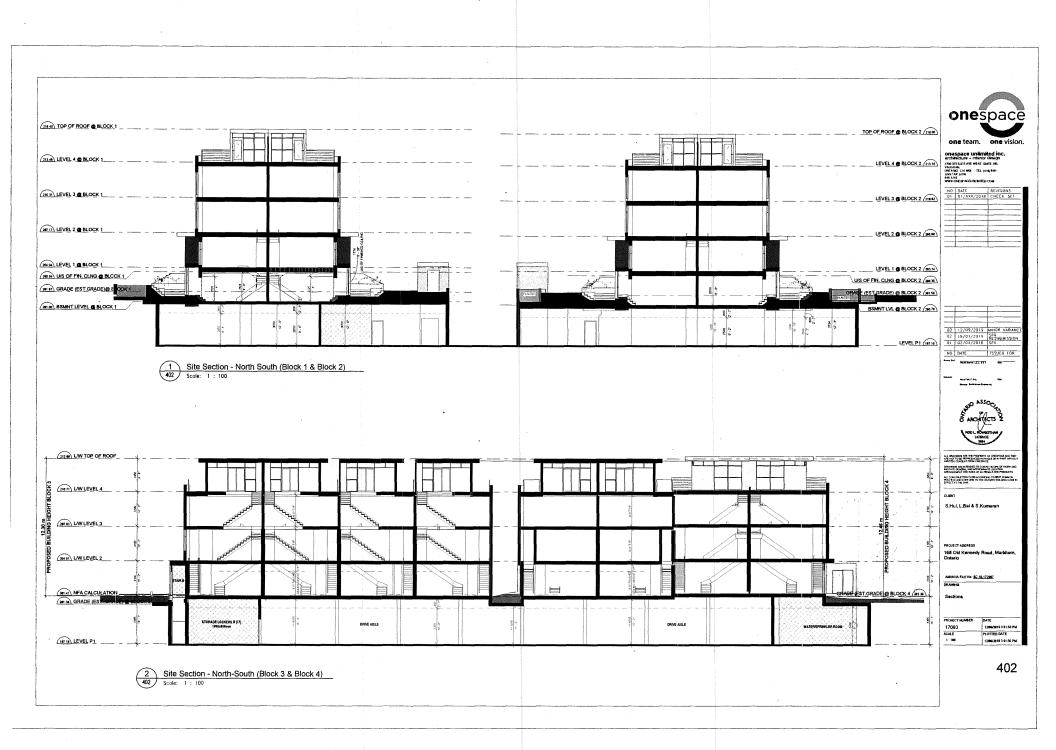














1 Exterior View 1 - from Secondary Gateway Feature
501 Scale:



2 Exterior View 2 - facing North-West Scale:



3 Exterior View 3 - facing North-West @ Private Road

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S.Hui, L.Bai & S.Kumaren

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Site Perspectives

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1 Exterior View 4 - facing North-East @ Block 2 & 3
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2 Exterior View 5 - facing South-East @ U/G Parking Ramp Entrance Scole:



3 Exterior View 6 - facing South-East @ Parkette
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