

# Memorandum to the City of Markham Committee of Adjustment

July 9, 2020

**File:** A/037/20  
**Address:** 12 Orchard St – Markham, ON  
**Applicant:** Brian Couperthwaite & Robin Couperthwaite  
**Agent:** Gregory Design Group  
**Hearing Date:** Tuesday July 21, 2020

The following comments are provided on behalf of the East Team. The applicant is requesting relief from the “Residential (R1)” zone requirements of By-law 1229, as amended, as they relate to a proposed single detached dwelling:

**a) Section 11.1:**

a maximum lot coverage of 35.10%, whereas the By-law permits a maximum lot coverage of 35%;

**b) Section 11.1:**

A minimum front yard setback of 7.0 m (22.97 ft), whereas the By-law permits a minimum front yard setback of 7.62 m (25.0 ft).

**c) Infill By-law 99-90, Section 1.2 (iii):**

a maximum building depth of 20.73 m (68.01 ft), whereas the By-law permits a maximum building depth of 16.80 m (55.12 ft); and

**d) Infill By-law 99-90, Section 1.2 (vi):**

a maximum floor area ratio of 51%, whereas the By-law permits a maximum floor area ratio of 45%.

## BACKGROUND

### Property Description

The 963.40 m<sup>2</sup> (10,369.95 ft<sup>2</sup>) subject property is located on the west side of Orchard Street, north of Parkway Avenue, east of Main Street Markham North, and south of Ramona Boulevard. The subject property has a lot frontage of 24.36 m (79.92 ft) and a lot depth of 39.53 m (129.69 ft). It is developed with an existing one-storey single detached dwelling with an accessory building located in the rear yard. Mature vegetation exists throughout the property, including ten trees located in the rear yard and three trees located in the front yard.

The property is located within an established residential neighbourhood comprised of a mix of one and two-storey detached dwellings. The area is undergoing a transition with newer dwellings being developed as infill developments. Lots within the neighbourhood and along the street vary in size and shape.

### Proposal

The applicant is proposing to demolish the existing one-storey dwelling and remove the accessory structure, to construct a new two-storey dwelling with an attached three car garage. It should be noted that the second storey of the proposed dwelling is internalized within the roof, and has the appearance of a one and half storey dwelling, commonly referred to as a “bungalow.” The proposed dwelling has a floor area of approximately 223.90 m<sup>2</sup> (2,410.0 ft<sup>2</sup>) and a second floor area of 95.23 m<sup>2</sup> (1,025.0 ft<sup>2</sup>) for a total gross floor area of 396.70 m<sup>2</sup> (4,270.0 ft<sup>2</sup>). The proposed development also includes front and

rear covered porches which add approximately 36.13 m<sup>2</sup> (388.90 ft<sup>2</sup>) to the total gross floor area.

### **Official Plan and Zoning**

Official Plan 2014 (partially approved on November 24/17, and updated on April 9/18)

The subject property is designated “Residential Low Rise”, which provides for low rise housing forms including single detached dwellings. Section 8.2.3.5 of the 2014 Official Plan outlines development criteria for the “Residential Low Rise” designation with respect to height, massing and setbacks. This criteria is established to ensure that the development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street. In considering applications for development approval in a “Residential Low Rise” area, which includes minor variances, infill development is required to meet the general intent of these development criteria. Regard shall also be had for retention of existing trees and vegetation, the width of proposed garages and driveways and the overall orientation and sizing of new lots within a residential neighbourhood.

### Zoning By-Law 1229

The subject property is zoned “Residential (R1)” under By-law 1229, as amended, which permits one single detached dwelling per lot. The proposed development does not comply with the By-law requirements with respect to the maximum lot coverage.

### Residential Infill Zoning By-law 99-90

The subject property is also subject to the Residential Infill Zoning By-law 99-90. The intent of this Infill By-law is to ensure the built form of new residential construction will maintain the character of existing neighbourhoods. It specifies development standards for building depth, garage projection, garage width, net floor area ratio, height, yard setbacks and number of storeys. The proposed development does not comply with the Infill By-law requirements with respect to the maximum building depth, and maximum floor area ratio.

### **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 *“for the construction of a new 1-½ storey bungalow.”*

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

The applicant has confirmed that a ZPR has not been conducted. It is the applicant’s responsibility to ensure that the application has accurately identified all of the variances to the Zoning By-law required for the proposed development. If the variances requested 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.

**Increase in Maximum Lot Coverage**

The applicant is requesting a maximum lot coverage of 35.10%, whereas the By-law permits a maximum lot coverage of 35%. Staff are of the opinion that the proposed increase is negligible, and do not object to the variance.

**Reduction in Minimum Front Yard Setback**

The applicant is requesting a minimum front yard setback of 7.0 m (22.97 ft), whereas the By-law permits a minimum front yard setback of 7.62 m (25.0 ft).

Following review of the tree preservation plan, staff requested the applicant to preserve and protect the existing trees in the rear yard. In response, the applicant sited the proposed dwelling eastwards (closer to Orchard Street) to provide for a larger rear yard and better protection of an existing Norway Maple (shown as Tree 9 in the Tree Preservation and Planting Plan in Appendix "C"). Siting the dwelling closer to Orchard Street resulted in this front yard setback variance request. Staff are of the opinion that the requested variance is appropriate for the development of the lot and do not object to its approval.

**Increase in Maximum Building Depth**

The applicant is requesting a maximum building depth of 20.73 m (68.01 ft), whereas the By-law permits a maximum building depth of 16.80 m (55.12 ft). This is an increase of 3.93 m (12.89 ft).

Building depth is measured based on the shortest distance between two lines, both parallel to the front lot line, one passing through the point on the dwelling which is the nearest and the other through the point on the dwelling which is the farthest from the front lot line. The variance includes a front and rear covered porch which adds approximately 5.94 m (19.49 ft) to the overall building depth of approximately 13.71 m (45.0 ft) at the south side of the dwelling. The north side of the dwelling has a building depth of approximately 17.22 m (56.50 ft). The main component of the building, excluding the rear covered porch, has a depth of approximately 18.44 m (60.50 ft), which is 1.64 m (5.38 ft) greater than the By-law requirement.

Staff are of the opinion that the bulk and main component of the proposed dwelling are generally oriented towards the centre of the subject property, and will not result in any adverse impacts to neighbouring properties. Staff do not object to the requested variance.

**Increase in Maximum Floor Area Ratio**

The applicant is requesting relief to permit a maximum floor area ratio of 51%, whereas the By-law permits a maximum floor area ratio of 45%. The variance will facilitate the construction of a dwelling with a gross floor area of 396.70 m<sup>2</sup> (4,270.0 ft<sup>2</sup>), whereas the By-law permits a dwelling with a maximum floor area of 354.73 m<sup>2</sup> (3,818.24 ft<sup>2</sup>). This is an increase of 41.97 m<sup>2</sup> (451.76 ft<sup>2</sup>).

Floor area ratio is a measure of the interior square footage of the dwelling as a percentage of the net lot area however; it is not a definitive measure of the mass of the dwelling. While variances are not precedent setting and are evaluated on their own individual merits and unique site characteristics, staff do also consider other developments in an area to assist in the evaluation of the character of an area. In the opinion of staff, the proposed gross

floor area is similar to other recent infill developments, and is in keeping with the intended scale and character of the neighbourhood. Staff have no objections to this variance.

### **Tree Preservation**

In addition to preserving the existing Norway Maple described above, the applicant is also proposing to plant three new trees in the rear yard of the property, while a total of four trees are proposed to be removed. This includes the removal of two trees in the rear yard and two in the front yard. Staff recommend that the tree preservation, protection and compensation conditions of approval provided in Appendix "A" be adopted by Committee in the event of any approval decision of this variance application.

### **Metrolinx Requirements**

Metrolinx provided comments on this application on April 6, 2020 (Appendix "D"), requesting the applicant enter into an agreement with Metrolinx to address the implementation of mitigation measures as the property is located within 300.0 m (984.25 ft) of the rail corridor right-of-way. This is included as a condition in Appendix "B" and staff recommend it be adopted by the Committee of Adjustment in any approval decision.

### **PUBLIC INPUT SUMMARY**

No written submissions were received as of July 9, 2020. 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.

### **APPLICATION PROCESSING**

This application was initially scheduled to be heard on April 22, 2020; however, this hearing date was scheduled prior to the Province of Ontario's decision to suspend *Planning Act* timelines for the consideration of a consent and minor variance application, as well as any appeal of an application to the Local Planning Appeal Tribunal (LPAT).

On June 12, 2020, the Province announced that the emergency regulations relating to *Planning Act* applications will end on June 22, 2020. After June 22, 2020, the procedural requirements (e.g. sending of notices, hearing of applications, eligibility for appeals to LPAT, etc.) of *Planning Act* applications shall proceed as they did prior to the declaration of the emergency. Revisions to the initial memorandum include an update on matters relating to application processing.

### **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 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.

**APPENDICES**

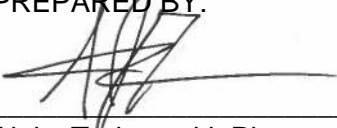
Appendix "A" – Conditions of Approval

Appendix "B" – Plans

Appendix "C" – Tree Preservation Plan

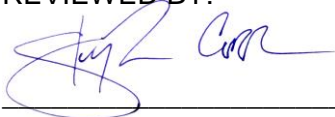
Appendix "D" – Comments

PREPARED BY:

A handwritten signature in black ink, appearing to read 'Aleks Todorovski', written over a horizontal line.

Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:

A handwritten signature in blue ink, appearing to read 'Stephen Corr', written over a horizontal line.

Stephen Corr, Senior Planner, East District

File Path: Amanda\File\ 20 110211 \Documents\District Team Comments Memo

## **APPENDIX "A"**

### **CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/037/20**

1. That the variances apply only to the proposed development as long as it remains.
2. That the covered porches remain open and unenclosed.
3. That the variances apply only to the subject development, in substantial conformity with the revised site plan dated June 29, 2020, and building plans dated February 5, 2020 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.
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 the 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 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.
6. 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.
7. That the applicant satisfies the requirements of the Metrolinx, as indicated in their letter dated June 4, 2020, attached as Appendix "D" to this Staff Report, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of Metrolinx.

CONDITIONS PREPARED BY:



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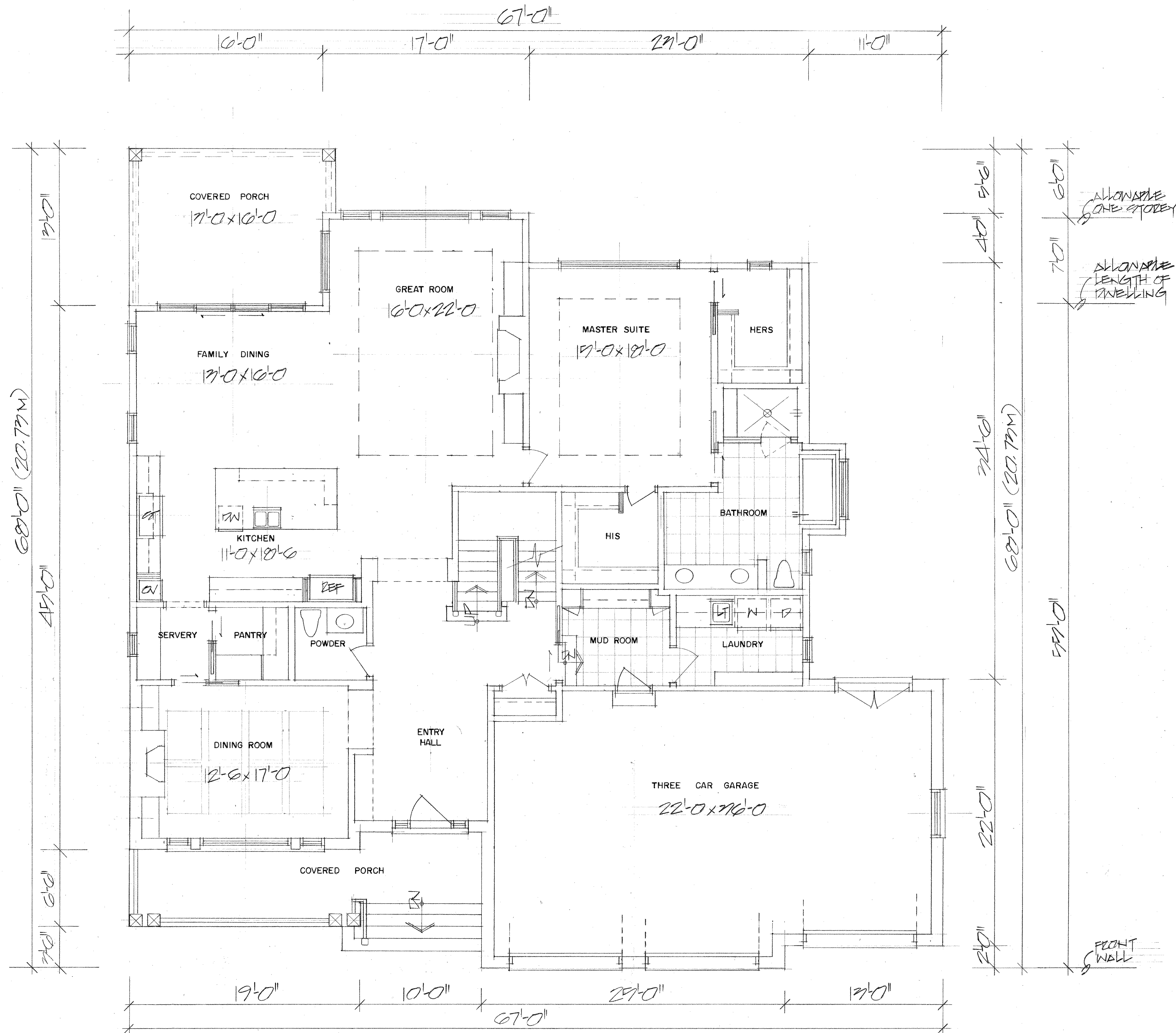
Aleks Todorovski, Planner, Zoning and Special Projects

**APPENDIX “B”**

**PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/037/20**







GROUND FLOOR AREA = 2410 SQ. FT.  
 NET FLOOR AREA = 7745  
 BUILDING FLOOR AREA = 7677

# **SITE PLAN**

SCALE - 1:200

## **SITE INFORMATION & DATA**

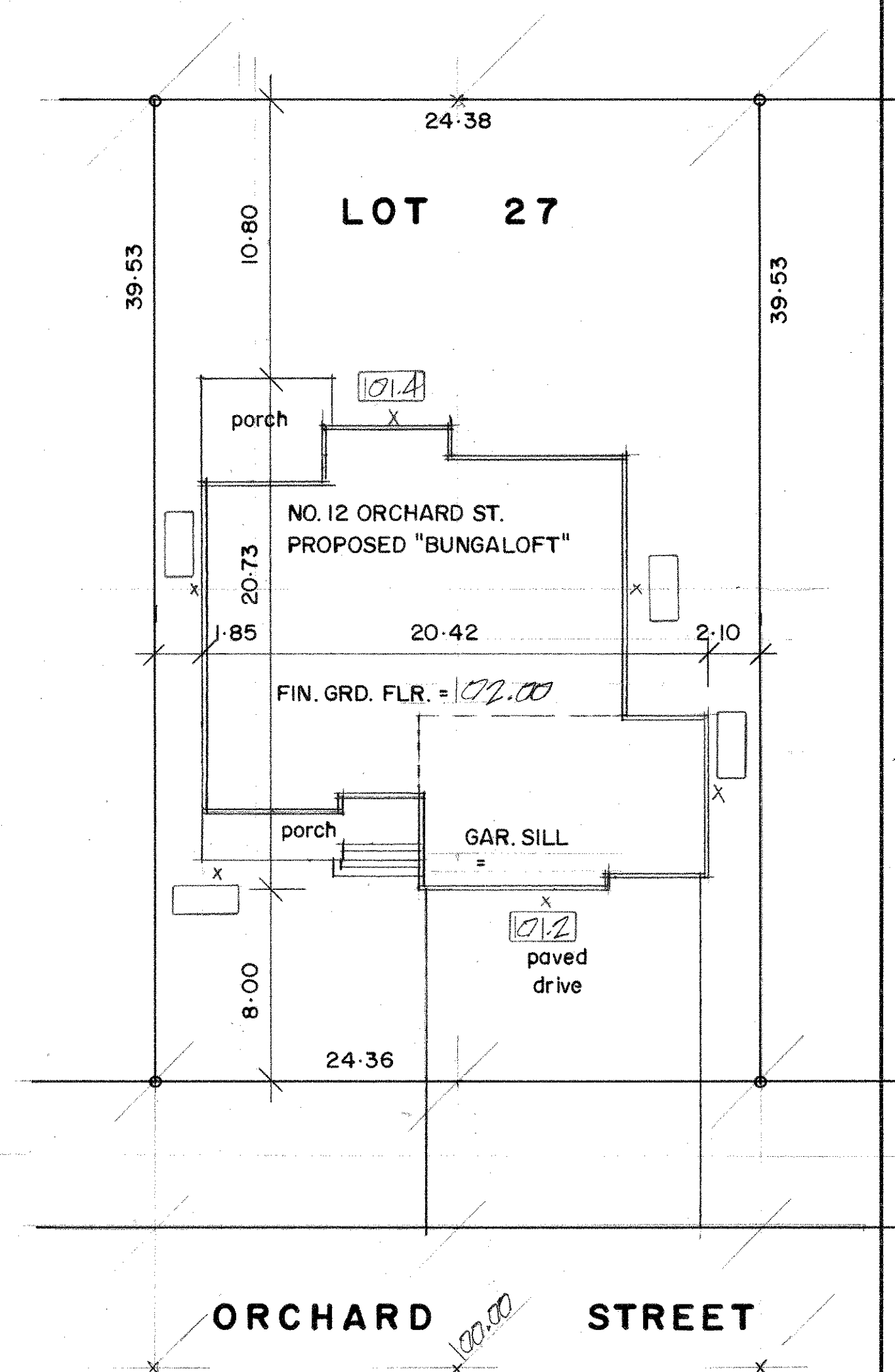
AREA OF LOT = 967.4 M<sup>2</sup>  
 AREA OF BUILDING =  
 COVERAGE =

## **NET FLOOR AREA CALCULATION**

$67.14 + 0.91(967.4 - 67.14) \times 0.45$   
 $= 788.7 \times 0.45 = 354.7$

ALLOWABLE NFA = 354.7 M<sup>2</sup> (45%)  
 $= 3818$  SQ. FT.

PROPOSED NFA = 396.7 M<sup>2</sup> (40.7%)  
 $= 4270$  SQ. FT.



PROJECT:  
**THE COUPERTHWAIT**  
**RESIDENCE**  
**12 ORCHARD ST.**  
**CITY OF MARKHAM**

**THE GREGORY DESIGN GROUP**

16 CHURCH STREET  
 MARKHAM, ONTARIO, L3P 2L6  
 (416) 720-4667  
 russ@gregorydesigngroup.net

DRAWN:  
 R. GREGORY  
 DATE:  
 2/7/20  
 SCALE:  
 1/4"=1'-0"

GENERAL NOTES:  
 All construction is to conform to section "10" of the Ontario Building Code (latest edition).  
 Contractor shall check and verify all notes and dimensions.  
 Do not scale drawings.  
 Owner/contractor designer is responsible to re-claim and destroy all previous and un-revised copies of this drawing.  
 These drawings are the property of the Gregory Design Group and are to be used only for the project specified.  
 Building permits should be obtained prior to commencing construction.

PROJECT NO.:  
 DRAWING NO.:  
 1



**APPENDIX "C"**

**TREE PRESERVATION PLAN TO BE ATTACHED TO ANY APPROVAL OF FILE A/037/20**



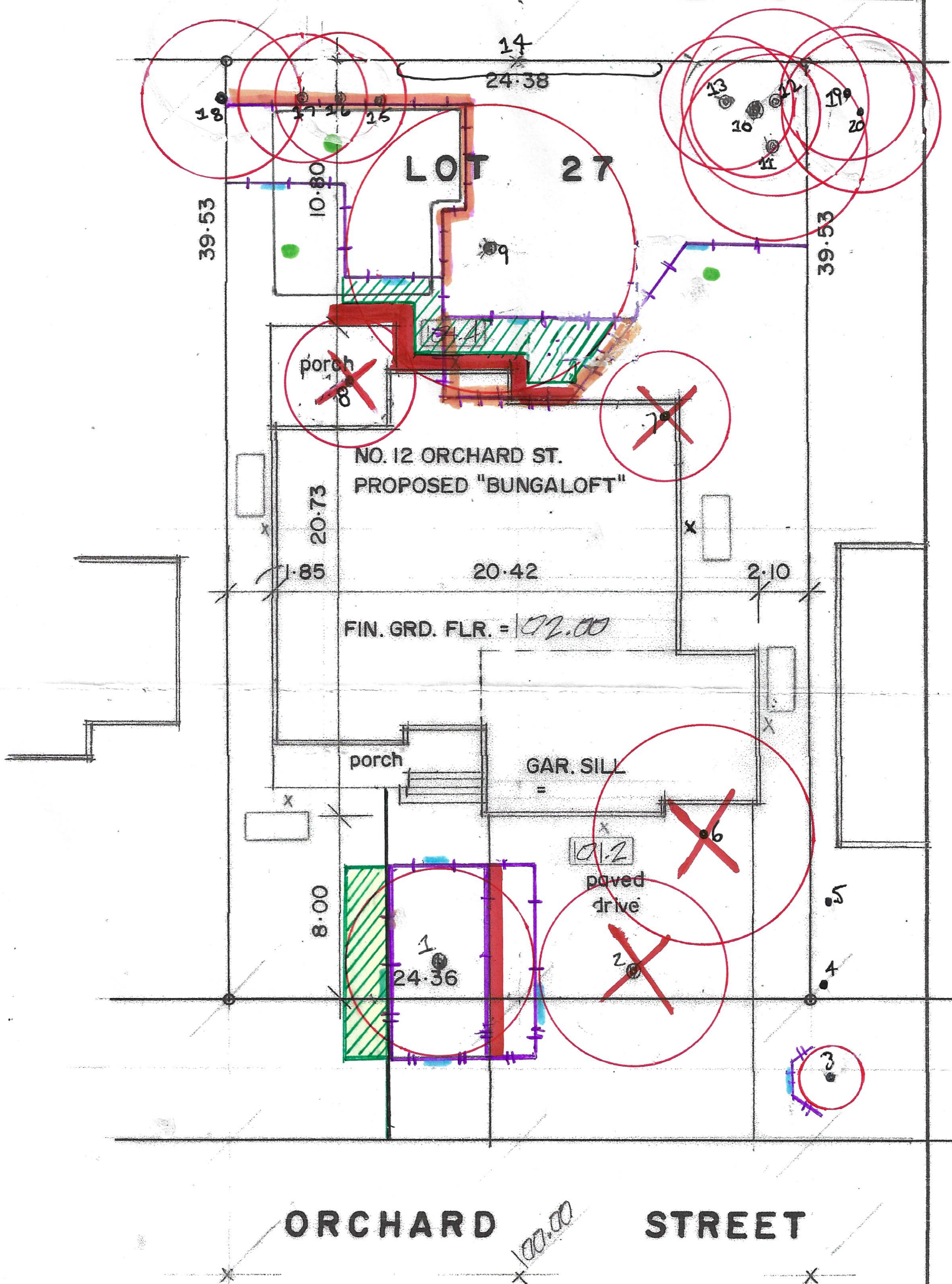
12  
OF  
9

**TREE PRESERVATION AND PLANTING PLAN – 12 Orchard Street, Markham**  
April 3, 2020

This Tree Preservation and Planting Plan is to be read in conjunction with the TAPP

- Tree locations 1-
- Tree Protection Zones
- Tree Protection Fence Locations snow fencing — solid — temporary —
- Protection Fence Sign Locations
- Horizontal Protection Board Locations
- Hand Excavation Areas foundation edge
- Trees to be Removed
- Trees to be Planted

Thomson Watson Consulting Arborists Inc 4 Elmvale Blvd, Stouffville. L4A 2Y3



PROJECT:

**THE COUPERTHWAITE  
RESIDENCE  
12 ORCHARD ST.  
CITY OF MARKHAM**

**THE GREGORY DESIGN GROUP**

16 CHURCH STREET  
MARKHAM, ONTARIO, L3P 2L6  
(416) 720-4667

I review and take responsibility for the design work on behalf of a firm registered under subsection 3.2.4 of Division C, of the Building Code. I am qualified, and the firm registered, in the appropriate classes/categories.

INDIVIDUAL B.C.I.N. - 25825  
FIRM B.C.I.N. - 30506

Russ Gregory

NAME

SIGNATURE

DRAWN:

R. GREGORY

DATE:

2/17/20

SCALE:

1 = 200

GENERAL NOTES:

All construction is to conform to section "9" of the Ontario Building Code (latest edition).

Contractor shall check and verify all notes and dimensions.

Do not scale drawings.

Owner/contractor/ designer is responsible to re-claim and destroy all previous and un-revised copies of this drawing.

PROJECT NO.:

DRAWING NO.:



**APPENDIX “D”**

**COMMENTS TO BE ATTACHED TO ANY APPROVAL OF FILE A/037/20**

## Leung, Melissa

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**From:** Terri Cowan <Terri.Cowan@metrolinx.com>  
**Sent:** Monday, April 6, 2020 3:02 PM  
**To:** Leung, Melissa  
**Cc:** Brandon Gaffoor  
**Subject:** RE: A/037/20 - 12 Orchard Street - Minor Variance - Metrolinx Comments  
**Attachments:** Metrolinx Environmental Easement 2019 (2).pdf

**CAUTION: This email originated from a source outside the City of Markham. DO NOT CLICK on any links or attachments, or reply unless you recognize the sender and know the content is safe.**

Hello Melissa,

Further to the Variance Application dated March 9<sup>th</sup>, 2020 for 12 Orchard Street, Markham, I note the subject site is within 300 metres of Metrolinx's Uxbridge Subdivision which carries Stouffville GO Train service, I further note that the subject application is to accommodate a residential development. We have no objections to the proposed development and my comments below are regarding the forthcoming site plan application;

\*Prior to the issuance of Site Plan Approval, the Owner shall provide confirmation to Metrolinx that the following warning clause is inserted in all development agreements, offers to purchase and agreements of Purchase and Sale or Lease of each dwelling unit within 300 metres of the railway right-of-way:

**Warning:** Metrolinx, carrying on business as GO Transit, and its assigns and successors in interest has or have a right-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the rail facilities on such right-of-way in the future including the possibility that GO Transit or any railway entering into an agreement with GO Transit to use the right-of-way or their assigns or successors as aforesaid may expand their operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). Metrolinx will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid right-of-way.

\*Prior to the issuance of Site Plan Approval, the Owner shall grant Metrolinx an Environmental Easement for operational emissions, registered on title against the subject residential dwelling in favour of Metrolinx.  
I have attached our Environmental Easement language as a reference.

Thank you,

**Terri Cowan**

Third Party Projects Officer

Third Party Projects Review | Capital Projects Group

Metrolinx | 20 Bay Street, Suite 600 | Toronto, Ontario | M5J 2W3

T: 416-202-3903 C: 416-358-1595



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**From:** Leung, Melissa [mailto:MelissaLeung@markham.ca]

**Sent:** March-09-20 11:00 AM

**To:** Corr, Stephen; Todorovski, Aleks; Sultan, Syed; Wimmer, Elizabeth; Lanni, Joe; Councillor, Karen Rea - Markham; Saini, Harvinder

**Cc:** Lee, John; Goldsworthy, Mark; Development Services; Engineering Admin; rowcentre@bell.ca; Proximity;