

Memorandum to the City of Markham Committee of Adjustment

May 10th, 2019

File: A/107/18
Address: 63 Peter Street, Markham
Applicant: 2602860 Ontario Inc.
Agent: Georgio Lolos Designs
Hearing Date: Wednesday May 29th, 2019

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

The applicant is requesting relief from the following requirements of the Residential One (R1) Zone in By-law 1229, as amended, as they relate to a proposed two-storey detached dwelling on the subject property (63 Peter Street).

- a) **Infill By-law 99-90, Section 1.2(vi):**
a net floor area ratio of 51.7 percent, whereas the By-law allows maximum net floor area ratio of 45percent;
- b) **Section 1.2(i):**
a maximum building height of 10.78 metres, whereas the By-law allows maximum building height of 9.8 metres;
- c) **Section 6.1:**
an accessory dwelling unit (basement apartment), whereas the By-law permits one detached dwelling on the lot.

The Committee of Adjustment deferred this application on May 8th, 2019, due concerns with the size of the proposed dwelling. A member of the Committee was of the opinion that the proposal did not meet the four Planning Act 'tests' for assessing minor variances and that the floor area ratio could be reduced.

Subsequent to the May 8th deferral, the applicant has elected not to revise their proposal. Staff provided comments on the application in a memo dated April 8th, attached as appendix 'A1'. It is staff's opinion that the proposal meets the intent of the Official Plan and Zoning By-law, and is an appropriate development and use of land for the site. Staff comments and recommended approval conditions outlined in the April 25th staff report remain applicable.

PREPARED BY:


Aqsa Malik, Planner, Zoning and Special Projects

REVIEWED BY:


Stephen Corr, Senior Planner, East District
File Path: Amanda\File\18 239636 \Documents\District Team Comments Memo

Appendices

Appendix A1 – Staff Report (April 25th, 2019)

Memorandum to the City of Markham Committee of Adjustment

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BACKGROUND

Property Description

The 808.13 m² (8,695.47 ft²) subject property is located on the east side of Peter Street, south of 16th Avenue and west of Main Street Markham North. The property is located within a residential neighbourhood comprised of a mix of one and two-storey detached dwellings. There are a number of homes along Peter Street that have been redeveloped as infill homes. Mature vegetation exists across the property. According to assessment records collected in 1999, there is an existing one-storey detached 145.06 m² (1,561.41 ft²) dwelling on the property.

Proposal

The applicant is proposing to demolish the existing home and construct a 366.53 m² (3,943.99 ft²) two-storey detached dwelling on the subject property, as shown in Appendix 'B'. The proposed dwelling includes an attached two-car garage and a secondary suite in the basement of the proposed dwelling. The proposed secondary suite will have direct and separate access from a door to the south interior side yard.

Provincial Policies

Strong Communities through Affordable Housing Act - Province of Ontario

In 2011, the Strong Communities through Affordable Housing Act amended various sections of the Ontario Planning Act to facilitate the creation of second units by:

- Requiring municipalities to establish Official Plan policies and Zoning By-law provisions allowing secondary units in detached, semi-detached and row houses, as well as in ancillary structures

- Providing authority for the Minister of Municipal Affairs and Housing to make regulations authorizing the use of, and prescribing standards for, second units.

Under the *Strong Communities through Affordable Housing Act*, 'Second Units' also known as secondary suites are defined as "self-contained residential units with kitchen and bathroom facilities within dwellings or within structures accessory to dwellings."

Official Plan and Zoning

Official Plan 2014 (partially approved on Nov 24/17, and further 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. In considering application for development approval in this designation, infill development shall respect and reflect the existing pattern and character of adjacent development by adhering to development criteria including;

- a) The proposed new building(s) shall have heights, massing and scale appropriate for the site and generally consistent with that permitted by the zoning for adjacent properties and properties on the same street;
- b) Front and rear yard setbacks for new buildings shall be consistent with the front and rear yards that exist on the same side of the street;
- c) The new building(s) shall have a complementary relationship with existing buildings, while accommodating a diversity of building styles, materials and colours; and
- d) Existing trees and vegetation shall be retained and enhanced through new street tree planting and additional on-site landscaping.

Planning staff have had regard for the requirements of the infill development criteria in the preparation of the comments provided below.

The definition of a "Secondary Suite" in the 2014 Official Plan is "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 8.13.8 states that it is the policy of Council that in considering an application to amend the zoning by-law to permit the establishment of a secondary suite where provided for in the 2014 Official Plan, that 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.

As part of the City initiated zoning by-law consolidation project, Council considered the appropriateness of allowing second suites as of right in the City's Zoning By-law. However, on May 29th, 2018, Council resolved not to permit second suites as of right in any zone category that permits single detached, semi-detached, or townhouse dwellings. Consequently, property owners have been submitting variance applications to permit second suites on a site specific basis.

Zoning By-Law 1229

The subject property is zoned 'Residential' (R1) under By-law 1229, as amended, which permits a single detached dwelling. The proposed development does not comply with the By-law requirements with respect to the permission for a secondary suite.

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 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 maximum net floor area ratio and maximum building height.

Applicant's Stated Reason(s) for Not Complying with Zoning

According to the information provided by the applicant, the reason for not complying with Zoning is, *"proposed client's wish requirements for dwelling development"*.

Zoning Preliminary Review (ZPR) Undertaken

The applicant completed a Zoning Preliminary Review (ZPR) on March 29, 2019 to confirm the variances required for the proposed development. The applicant revised their drawings to comply with three of the six variances indicated on the ZPR. The applicant submitted revised drawings on April 2nd, 2019 but has not conducted a second Zoning Preliminary Review for the revised drawings. It is ultimately 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, revisions to the proposal or further variance application(s) may be required to address any non-compliance.

Planning Staff have identified that the revised plans show the proposed front yard setback of 24.93 ft (7.60 m) does not comply with the minimum by-law requirement of 25 ft (7.62 m). This is attributable to converting the imperial by-law requirement to metric on the plans. The applicant is aware of this, and will be required to adjust their plans at the building permit stage to comply with front yard setback requirement in the by-law.

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 Floor Area Ratio

The applicant is requesting relief to permit a floor area ratio of 51.7%, whereas the By-law permits a maximum floor area ratio of 45%. The variance will facilitate the construction of a two-storey detached dwelling with a floor area of 366.53 m² (3,943.99 ft²), whereas the By-law permits a dwelling with a maximum floor area of 319.72 m² (3,441.43 ft²). This represents an increase of approximately 46.81 m² (503.86 ft²).

Floor Area Ratio is a measure of the interior space of the dwelling, expressed as a percentage of the net lot area. Notwithstanding the proposed increase in floor area ratio, staff note that the proposed dwelling will substantially be within the permitted building envelope required by other applicable development standards, and the dwelling will:

- Provide side yard setbacks of 6ft (1.83 m) for both the ground floor and second storey;
- Provide a rear yard setback of approximately 53.4 ft (16.27 m), compared to the minimum required 25 ft (7.62 m) rear yard setback;
- Have a lot coverage of approximately 25.13%, compared to the maximum permitted lot coverage of 35%; and
- Be within the maximum permitted building depth of 16.8 m (55.12).

Given this, Staff are of the opinion that the proposed dwelling will be in keeping with the intended scale of residential infill developments for the neighbourhood and, that the request for floor area ratio meets the intent of the infill by-law.

Increase in Maximum Building Height

The applicant is requesting relief to permit a maximum building height of 10.78 m (35.37 ft), whereas the By-law permits a maximum building height of 9.8 m (32.12 ft). This represents an increase of approximately 0.98 m (3.22 ft).

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. It should be noted that the proposed grade of the front of the house is approximately 1.14m (3.74 ft) above the crown of road and that the height variance is in part attributable to this.

Secondary Suites

Engineering staff confirmed that the existing sanitary sewer system has adequate capacity to accommodate the secondary suite and the Fire and Emergency Services Department has no objections provided the secondary suite is registered with the City and complies with Building and Fire Codes. Should this application be approved, the applicant will be required to obtain a building permit which ensures the secondary suite will be in compliance with Building Code and Fire Code regulations.

The City of Markham is committed to promoting affordable and shared housing opportunities. Secondary suites help the City increase the availability of affordable housing forms and provide support to achieve its affordable housing target required by the Province. Planning staff are of the opinion that the application meets the criteria under Section 8.13.8 of the 2014 Official Plan for the establishment of a secondary suite and therefore have no objections.

PUBLIC INPUT SUMMARY

No written submissions were received as of April 25th, 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. 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:



Aqsa Malik, Planner, Zoning and Special Projects

REVIEWED BY:




Stephen Carr, Senior Planner, East District
File Path: Amanda\18 239636 \Documents\District Team Comments Memo

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/107/18

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 received by the City of Markham on *April 2, 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 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;
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;
6. That the owner submit, if required by the Chief Building Official, a third-party report prepared by an architect or professional engineer licensed in the Province of Ontario, to assess compliance of existing construction with the provisions of the Ontario Building Code, and in particular relating to the change of use from a dwelling containing a single suite to a dwelling containing more than one suite;
7. That the Owner register the home as a two-unit house with the City of Markham Fire & Emergency Services Department, and satisfy any and all conditions for registration, to the satisfaction of the Fire Chief.

CONDITIONS PREPARED BY:


Aqsa Malik, Planner, Zoning and Special Projects

PETER STREET
(BY REGISTERED PLAN 3805)
PM 0000-0000



SITE PLAN PART I PLAN OF LOT 11
REGISTERED PLAN 3805
TOWN OF MARKHAM

ALL SITE PLAN INFORMATION IS TAKEN
FROM PLAN OF SURVEY AS PREPARED
BY VLADIMIR DOSEN SURVEYING
ENTRUSTED LAND SURVEYORS
AND MAPS FILE #122
DATED: NOV 12, 2011

SITE INFORMATION	
LOT AREA	64,754.41 SQFT (1,979.24M ²)
LOT COVERAGE	
PROPOSED DWELLING	1,289.88 SQFT (120.24M ²) / 479.29
GROSS FLOOR AREA (GFA)	
PROPOSED FIRST FLOOR	1,289.88 SQFT (120.24M ²)
PROPOSED SECOND FLOOR	1,789.76 SQFT (165.15M ²)
TOTAL	3,079.64 SQFT (285.39M ²)

TOTAL FRONT YARD	1,073.82M ² (11,500)
60% SIDE AREA (MINIMUM)	1,289.88M ² (13,900)
60% REAR AREA (MINIMUM)	1,289.88M ² (13,900)
60% DRIVEWAY AREA (MIN)	1,000.00M ² (10,760)

COMMITTEE OF ADJUSTMENT
CITY OF MARKHAM
RECEIVED
APR 02 2019

REVISIONS	
NO.	DATE
1	2019-04-02
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CONSULTING DESIGN BY:
Georgio Lolas Design Inc.
A Division of Lolas Inc.

Distinctive & Innovative Designs
123-123 BAYVIEW AVE. 1ST FLOOR
SCARBOROUGH, ONTARIO
M1V 4Y7
TEL: (416) 291-1234
FAX: (416) 291-1234
WWW.DISTINCTIVEDESIGNS.COM

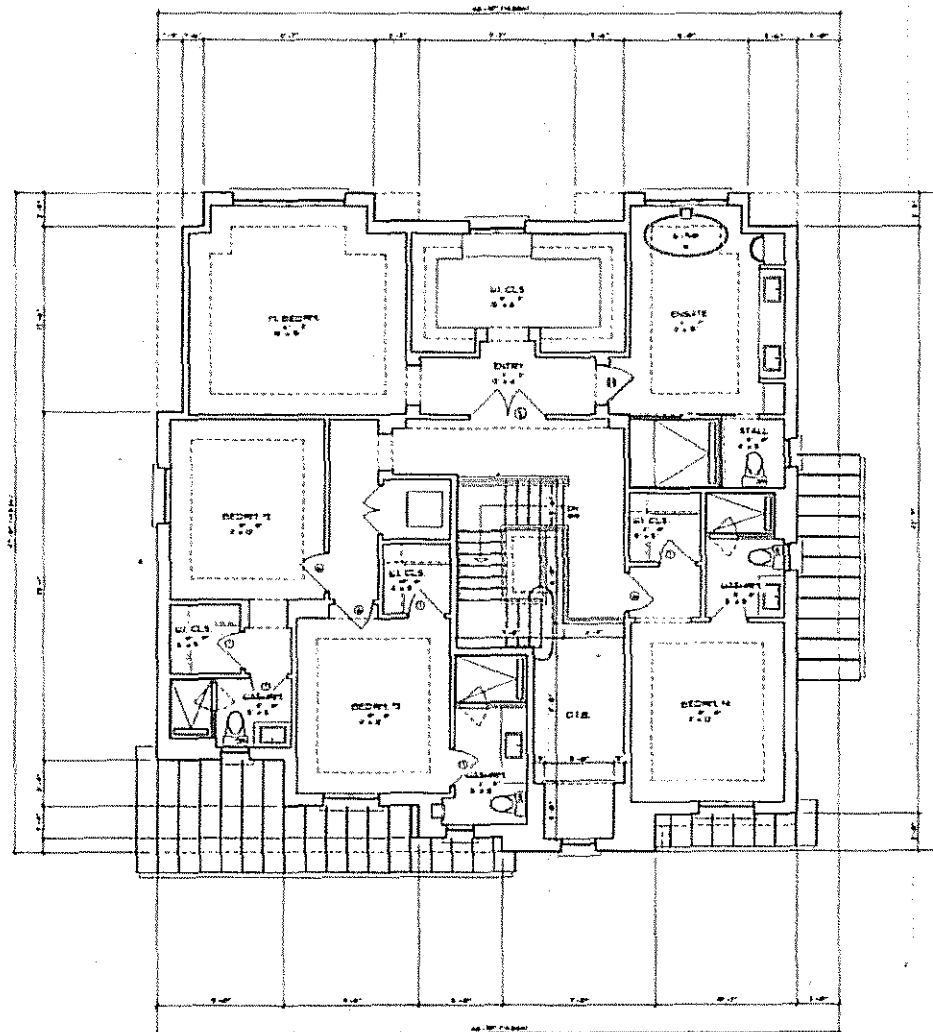
BATTAGLIA ARCHITECT INC.
2000 KENNEDY RD. 1ST FLOOR
SCARBOROUGH, ONTARIO
M1T 3X5
TEL: (416) 291-1234
FAX: (416) 291-1234
WWW.BATTAGLIAARCHITECT.COM

PROPOSED 1 FLOOR DWELLING FOR
2400 BAYVIEW RD. R/C
2400 BAYVIEW RD. R/C
2400 BAYVIEW RD. R/C

SITE PLAN

DESIGNED BY	DATE	SCALE
D. POWERS	04/02/19	1/8" = 1'-0"
CHECKED BY	DATE	SCALE
M. L. L.	04/02/19	1/8" = 1'-0"

APPENDIX B -



REVISIONS		
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7	REVISION 7.00	01/01/00
8	REVISION 8.00	01/01/00
9	REVISION 9.00	01/01/00
10	REVISION 10.00	01/01/00

FOR THE RECORD, THE ARCHITECT HAS REVIEWED THE CONSTRUCTION DOCUMENTS AND HAS FOUND THEM TO BE IN ACCORDANCE WITH THE CITY OF CHICAGO DEPARTMENT OF PLANNING AND DEVELOPMENT REQUIREMENTS.

CONTRACT DESIGN BY:

Georgio Lufos Design Inc.
 1111 North Dearborn Street
 Chicago, IL 60610
 TEL: (312) 462-1111
 FAX: (312) 462-1112
 WWW: www.georgiolufos.com

BATTAGLIA ARCHITECT INC.
 1111 North Dearborn Street
 Chicago, IL 60610
 TEL: (312) 462-1111
 FAX: (312) 462-1112
 WWW: www.battagliaarchitect.com

SECOND FLOOR PLAN

DESIGNED BY	DATE	SCALE
GEORGIO LUFOS	01/01/00	1/8" = 1'-0"



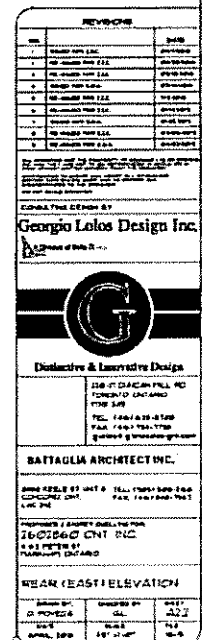
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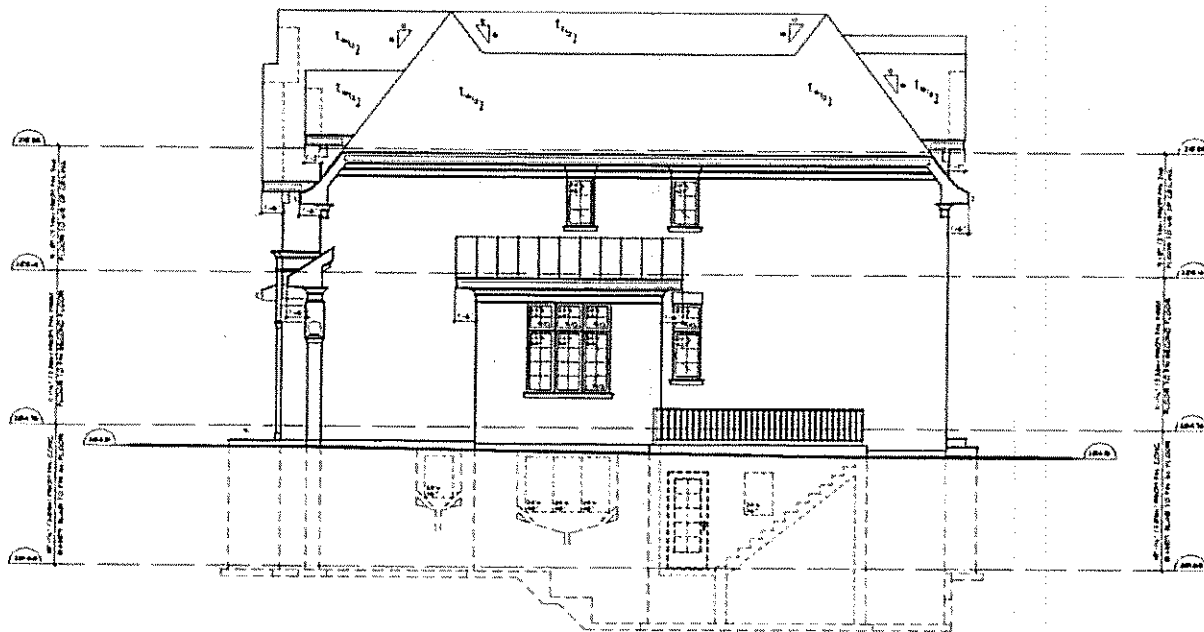
GEORGIO LOLOS DESIGN INC.
 18075 BAYVIEW BLVD. SUITE 100
 BAYVIEW, ONTARIO M2H 3B2
 TEL: (416) 491-8700
 FAX: (416) 491-8701
 WWW.GEORGIOLOLOS.COM

BATTAGLIA ARCHITECT INC.
 18075 BAYVIEW BLVD. SUITE 100
 BAYVIEW, ONTARIO M2H 3B2
 TEL: (416) 491-8700
 FAX: (416) 491-8701
 WWW.BATTAGLIAARCHITECT.COM

FRONT (WEST) ELEVATION

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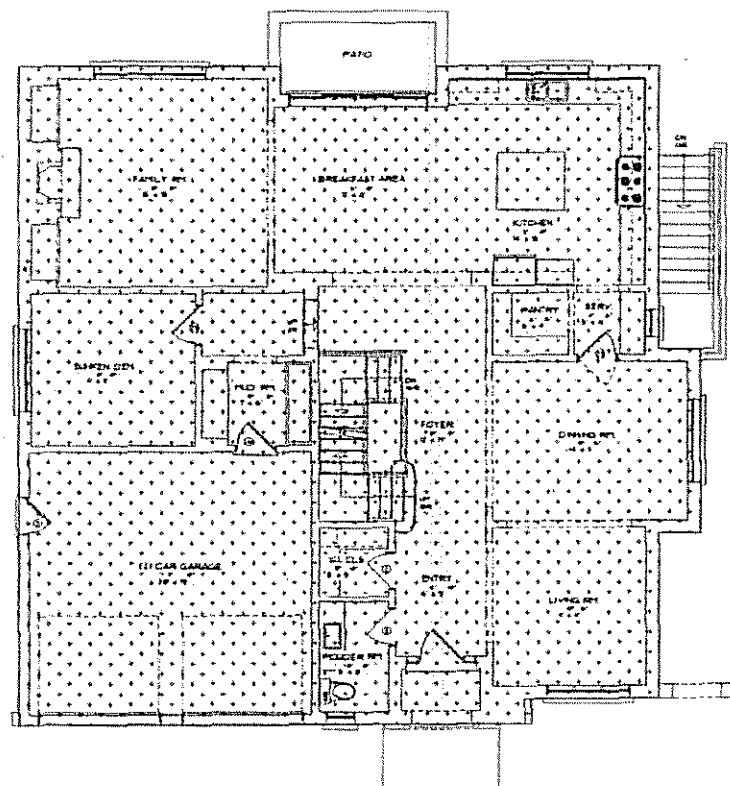
PREPARED BY: [Name]
 CHECKED BY: [Name]
 DATE: [Date]

Georgio Lolos Design Inc.
 1600 [Address]
 [City, State, Zip]

BATTAGLIA ARCHITECT INC.
 1600 [Address]
 [City, State, Zip]

RIGHT (SOUTH) ELEVATION
 SCALE: 1/4" = 1'-0"
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LOT COVERAGE CALCULATIONS
 LOT AREA • 8695.47 SQFT.
 DWELLING • 2155.58 SQFT. #25.13%



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CONSULTING DESIGNER
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DESIGNED BY: J. BATTAGLIA
 DRAWN BY: J. BATTAGLIA
 CHECKED BY: J. BATTAGLIA
 DATE: 10/1/00

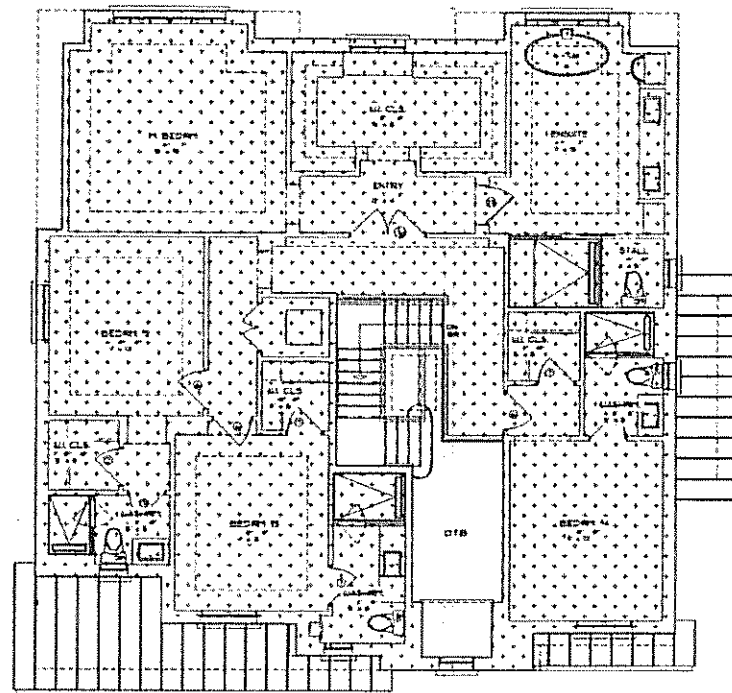
LOT COVERAGE CALCULATIONS
 LOT AREA: 8695.47 SQFT.
 DWELLING: 2155.58 SQFT. #25.13%

This is a detailed floor plan of a 13-car garage. The layout includes a large central area with a grid of parking spaces. Surrounding this central area are several rooms and utility spaces:

- Top Section:** A large **BREAKFAST AREA** (12' x 12') and a **KITCHEN** (14' x 8') are located at the top right. Above the breakfast area is a **PATIO**. To the left of the breakfast area is a **PORCH** (12' x 12').
- Right Section:** A **DINING RM** (14' x 14') and a **LIVING RM** (14' x 14') are located on the right side. A **SCREENED** area is also present near the dining room.
- Central Section:** A **HALL** (12' x 12') and a **POWDER RM** (12' x 12') are located in the center. A **STAIRS** area is also present.
- Left Section:** A **BEDRM** (12' x 12') and a **BATH** (12' x 12') are located on the left side. A **SCREENED** area is also present near the bedroom.
- Bottom Section:** A large **13 CAR GARAGE** (12' x 12') is located at the bottom left. A **SCREENED** area is also present near the garage.
- Other Features:** A **SCREENED** area is located near the top right. A **SCREENED** area is also present near the bottom right.

[illegible]

TOTAL SECOND FLOOR PLAN * 1983.61 SQFT
 LESS OPEN TO BELOW AREAS * 1832.6 SQFT.
 TOTAL SECOND FLOOR PLAN * 1799.15 SQFT.



REVISIONS		
NO.	DESCRIPTION	DATE
1	ISSUED FOR I.C.	10/10/00
2	FOR REVIEW ONLY	10/10/00
3	FOR REVIEW ONLY	10/10/00
4	FOR REVIEW ONLY	10/10/00
5	FOR REVIEW ONLY	10/10/00
6	FOR REVIEW ONLY	10/10/00
7	FOR REVIEW ONLY	10/10/00
8	FOR REVIEW ONLY	10/10/00
9	FOR REVIEW ONLY	10/10/00
10	FOR REVIEW ONLY	10/10/00
REVISIONS 1. ISSUED FOR I.C. 2. FOR REVIEW ONLY 3. FOR REVIEW ONLY 4. FOR REVIEW ONLY 5. FOR REVIEW ONLY 6. FOR REVIEW ONLY 7. FOR REVIEW ONLY 8. FOR REVIEW ONLY 9. FOR REVIEW ONLY 10. FOR REVIEW ONLY		
CONCEPT DESIGN BY Georgio Lelos Design Inc. 1000 Highway 7 East, Suite 100 Richmond Hill, Ontario L4B 1N2		
 Georgio Lelos Design Inc. Distinctive & Innovative Design 1000 Highway 7 East, Suite 100 Richmond Hill, Ontario L4B 1N2 TEL: (905) 882-1100 FAX: (905) 882-1100 WWW: www.georgiolelos.com		
BATTAGLIA ARCHITECT INC. 1000 Highway 7 East, Suite 100 Richmond Hill, Ontario L4B 1N2 TEL: (905) 882-1100 FAX: (905) 882-1100 WWW: www.battagliaarchitect.com		
PREPARED & CHECKED BY 7607560 ONT. INC. 1000 Highway 7 East, Suite 100 Richmond Hill, Ontario L4B 1N2		
2ND FLR GFA CALCULATIONS DRAWN BY: D. POVEDA CHECKED BY: G.L. DATE: 10/10/00 SCALE: 1/8" = 1'-0"		