

# **Memorandum to the City of Markham Committee of Adjustment**

January 6, 2020

**File:** A/149/19  
**Address:** 35 Karachi Dr, Unit 40 – Markham, ON  
**Applicant:** Innovative Health Holdings Inc.  
**Agent:** N/A  
**Hearing Date:** Wednesday January 22, 2020

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

The applicant is requesting relief from the “Major Commercial Zone Exception \*250\*251 (MJC\*250\*251)” requirements of By-law 177-96, as amended to recognize and maintain the previously approved variances by the Committee of Adjustment for the subject lands, as follows:

1. A lot frontage of 96m, whereas the by-law requires a minimum lot frontage of 150m;
2. A lot area of 2.1ha, whereas the by-law requires a minimum lot area of 5ha;
3. A parking area to encroach 4.5m into the minimum required landscaped open space area adjacent to Markham Road, whereas the by-law does not allow a parking area to encroach into the minimum required landscaped open space;
4. A minimum building height of 6.5m for buildings CRU C1, CRU C2, CRU C3, and CRU C4, whereas the by-law requires a minimum building height of 8m within 40m of Karachi Drive and Markham Road;
5. A minimum building height of 7.5m for buildings CRU C5, CRU C6, CRU C7, CRU C8, and CRU C9, whereas the by-law requires a minimum building height of 8m within 40m of New Delhi Drive and Markham Road;
6. A reduction in the required number of loading spaces to zero, whereas the by-law requires a total of nine loading spaces (one loading space per building); and
7. Parking ratios of 1 parking space per 28 sq m for Block 3 (south side) only, whereas the by-law requires 1 parking space per 18.5 sq m of leaseable floor area greater than 2500 sq m, as they relate to an existing Commercial Shopping Centre.

The Applicant is requesting these previously approved variances to amend the conditions of variance approval for the site which include files A/34/07, A15/09 and A/132/11. Specifically the applicant is requesting a revised condition to permit a total maximum Gross Leaseable Floor Area of at least 9.21% of all buildings on the site be devoted to medical offices and clinics, whereas previous conditions permit a maximum of 7%.

## **BACKGROUND**

### **Property Description**

The subject property is located north and west of New Delhi Drive, south of Karachi Drive, and east of Markham Road.

The subject property comprises a Commercial Shopping Centre containing nine multi-unit buildings which are municipally known as: 15, 25, 35, & 45 Karachi Drive; 20, 30, 40 & 50 New Delhi Drive; and 7393 Markham Road. The subject unit, Unit 40 is located within the building addressed 35 Karachi Drive, and has an approximate Gross Floor Area of 46.99m<sup>2</sup> (505.79 ft<sup>2</sup>).

The surrounding area consists of a mix of commercial, institutional, and residential uses along Markham Road including:

- An existing multi-unit shopping centre to the north;
- Vacant city owned lands to the east;
- Multi-storey residential apartments to the south; and
- Multi-unit commercial shopping centres and residential to the west, across Markham Road.

### **Official Plan and Zoning**

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

The 2014 Official Plan designates the subject property "Mixed Use Mid Rise", which provides for a mix of uses including residential, and commercial (retail, restaurant & office), institutional uses. The contemplated built form includes apartment buildings, multi-storey mixed use buildings, townhouse buildings, and back to back townhouse buildings.

### Zoning By-Law 177-96

The subject property is zoned, "Major Commercial Zone Exception \*250\*251 (MJC\*250\*251)" under By-law 177-96, as amended, which permits a range of commercial uses, including retail stores, restaurants, personal service shops, business offices, and medical offices, amongst other uses.

### Previously Approved Variance Decisions A/34/07, A/15/09 and A/133/11

At the time of subject sites initial development, the Committee of Adjustment granted variances to the minimum lot area and lot frontage; parking encroachments in required landscaped areas; maximum building heights; loading spaces; and reduced parking to facilitate the Commercial Shopping Centre (File A/34/07). Approval for the reduced parking was subject to conditions for a shared parking agreement with the shopping centre on the lands to the north, across Karachi Drive, which was developed concurrently, and conditional to limit the total leaseable floor area of restaurant uses, and medical office/clinic uses to 7% each.

Subsequent requests were made to change these conditions, with the Committee of Adjustment approving the same 2007 variances, but with revised conditions increasing the permitted amount of total leaseable restaurant area to 12.5% in 2009 (A/15/09) and to 20% in 2011 (A/132/11). Through approval of these subsequent applications, the condition to limit the total leaseable floor area of medical offices and clinics has remained at 7%.

## **Proposal**

The Applicant is proposing to operate a denture office in the subject unit which is considered a medical office under the Zoning By-law. As noted, the By-law permits medical offices, however the previous Committee of Adjustment variance approval condition limits the total amount of medical offices and clinics to 7% of the total Gross Leaseable Floor Area of all buildings on the site.

Based on the existing occupancy of the subject lands, the proposed denture clinic will increase the total amount of medical offices to 9.21%, and the Applicant has therefore submitted a variance application to change previous conditions of approval.

## **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 because, "*Condition 3 of A/132/11 permits a maximum of 7%*".

## **Zoning Preliminary Review (ZPR) Undertaken**

The owner has completed a ZPR on December 11, 2019 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;
- d) The general intent and purpose of the Official Plan must be maintained.

Staff have no concerns with the proposed request to change conditions to permit additional medical office uses on the subject property. While the applicant requests that the condition to limit such uses be increased from 7% to at least 9.21%, staff are of the opinion that the parking provided onsite is adequate to accommodate medical office uses within the shopping centre. In that regard, the conditions in Appendix "A", do not include a condition to limit medical offices, but do carry forward previous conditions to limit the total amount of restaurant space on the subject property.

## **PUBLIC INPUT SUMMARY**

No written submissions were received as of January 6, 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.

## **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, subject to the conditions in Appendix "A". 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.

**APPENDICES**

Appendix "A" – Conditions List

Appendix "B" – Plans

PREPARED BY:

A handwritten signature in black ink, appearing to read 'Aleks', 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\ 19 141151 \Documents\District Team Comments Memo



**APPENDIX "A"**

**CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/149/19**

1. That the variances apply only to the subject development as long as it remains.
2. That the total maximum Gross Leaseable Floor Area devoted to restaurant uses be 20% of the total Gross Leaseable Floor Area of all buildings on the site.

CONDITIONS PREPARED BY:

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

Aleks Todorovski, Planner, Zoning and Special Projects

**APPENDIX “B”**

**PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/149/19**

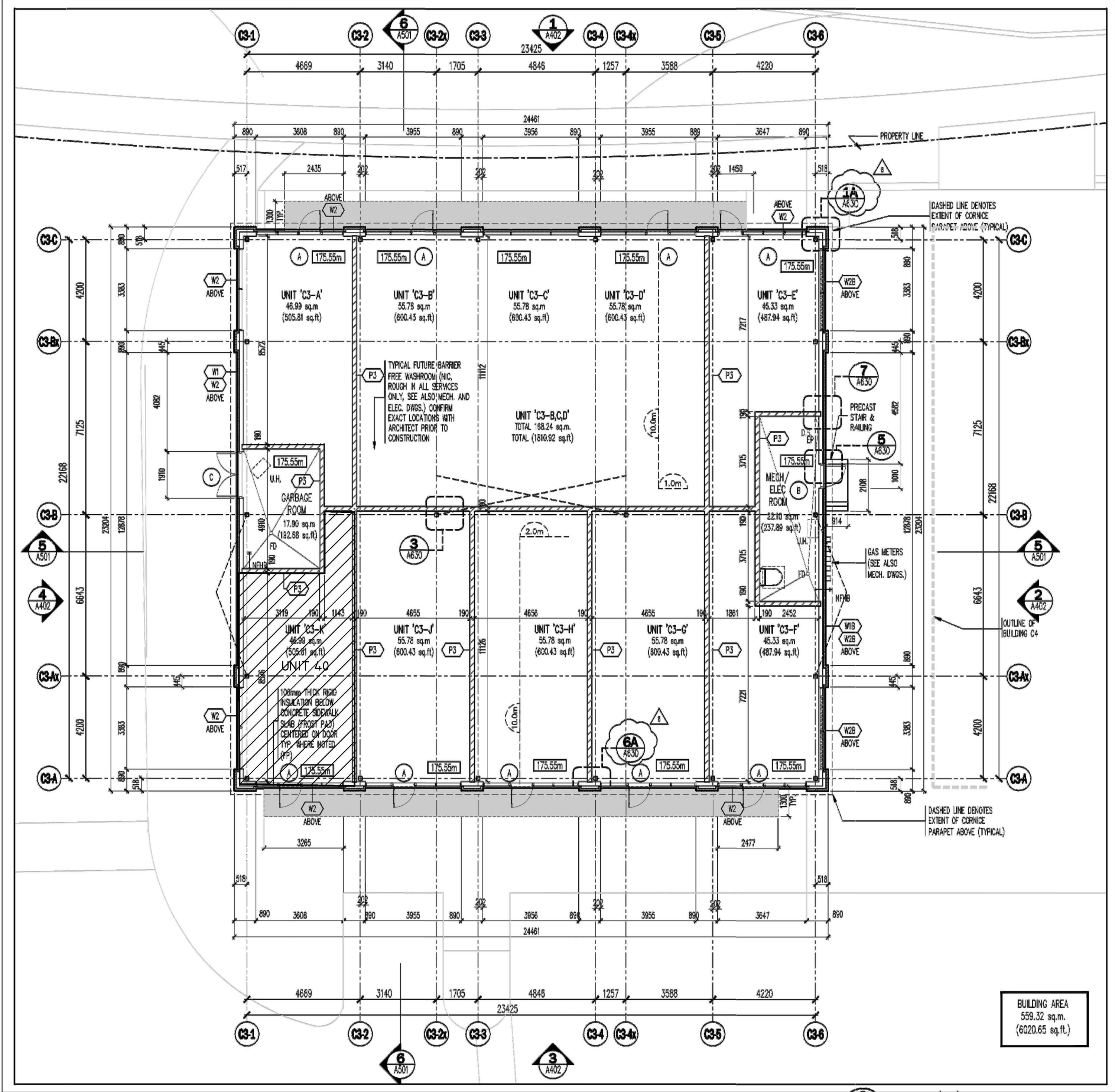












GENERAL CONDITION:

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.

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

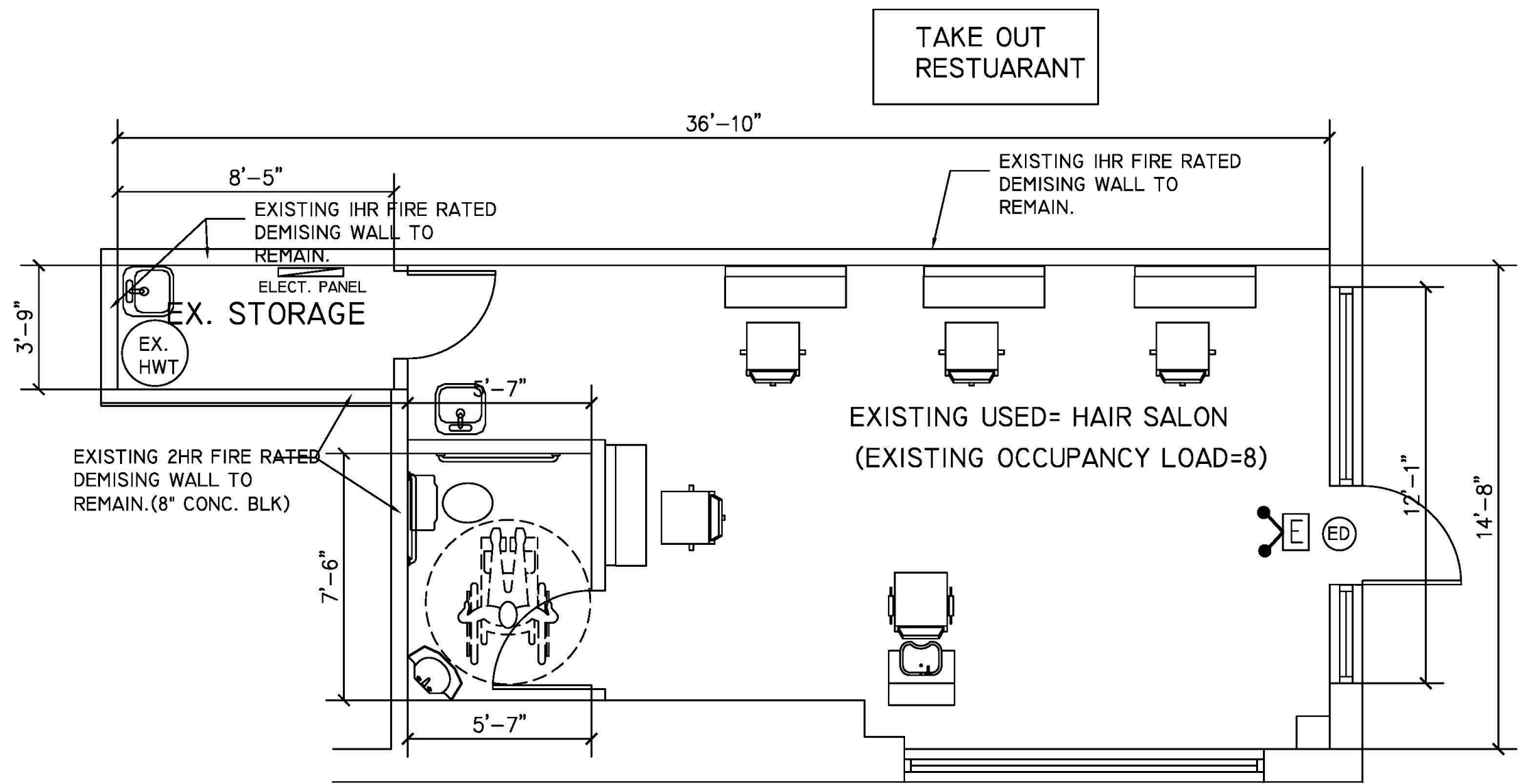


TRAN DIEU & ASSOCIATES INC.  
50 WEYBRIGHT CRT., UNIT 4, SCARBOROUGH, ONTARIO  
M1S 5A8, TEL: (416) 298-6370 FAX: (416) 298-6903

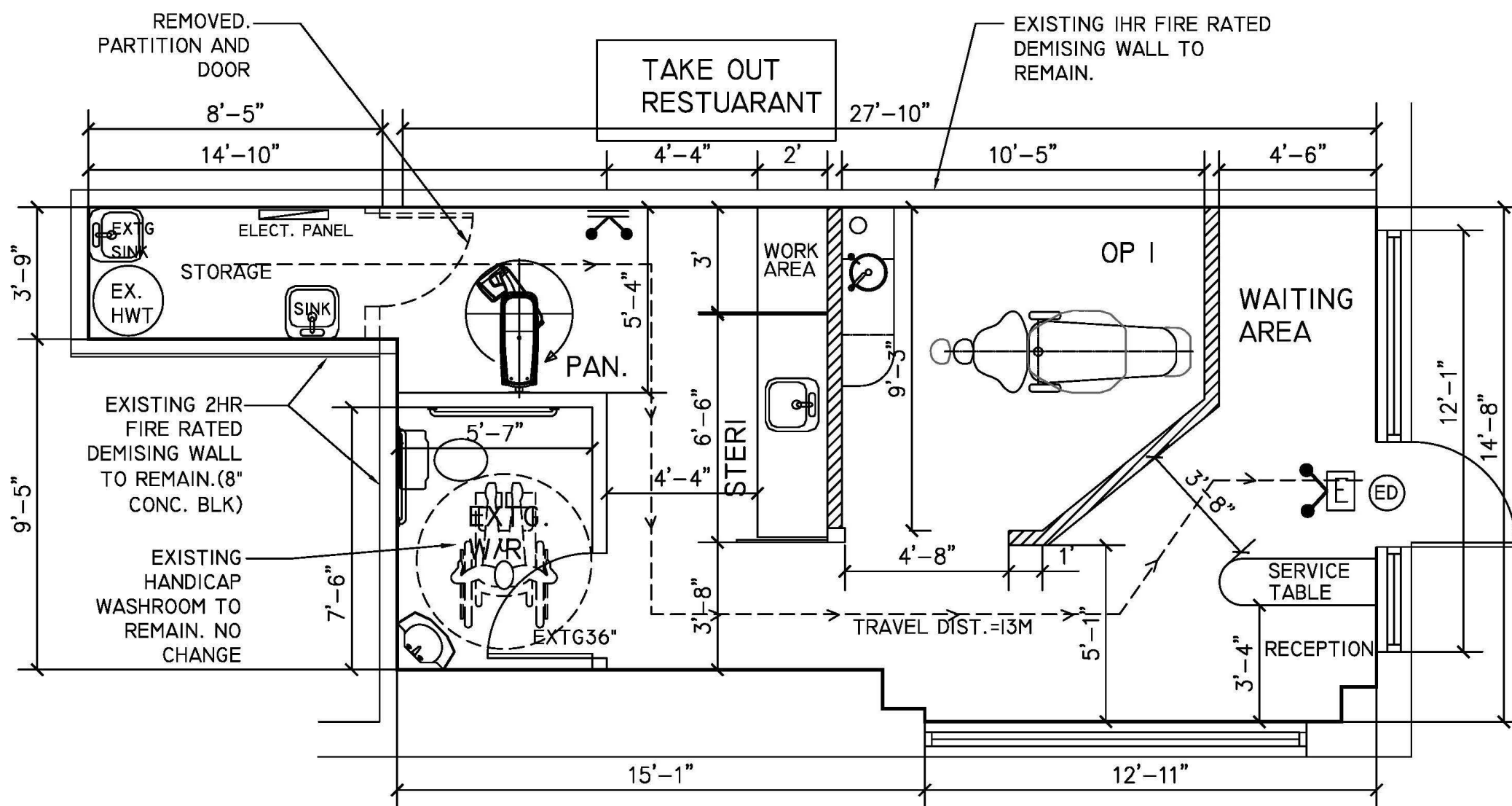
PROJECT:  
**DENTAL OFFICE**  
35 KARACHI DRIVE, UNIT 40

DRAWN BY: C.T.  
CHECKED BY: C.T.  
SCALE: 1/4" = 1'-0" DATE:  
PROJECT: TITLE: **A0-B**





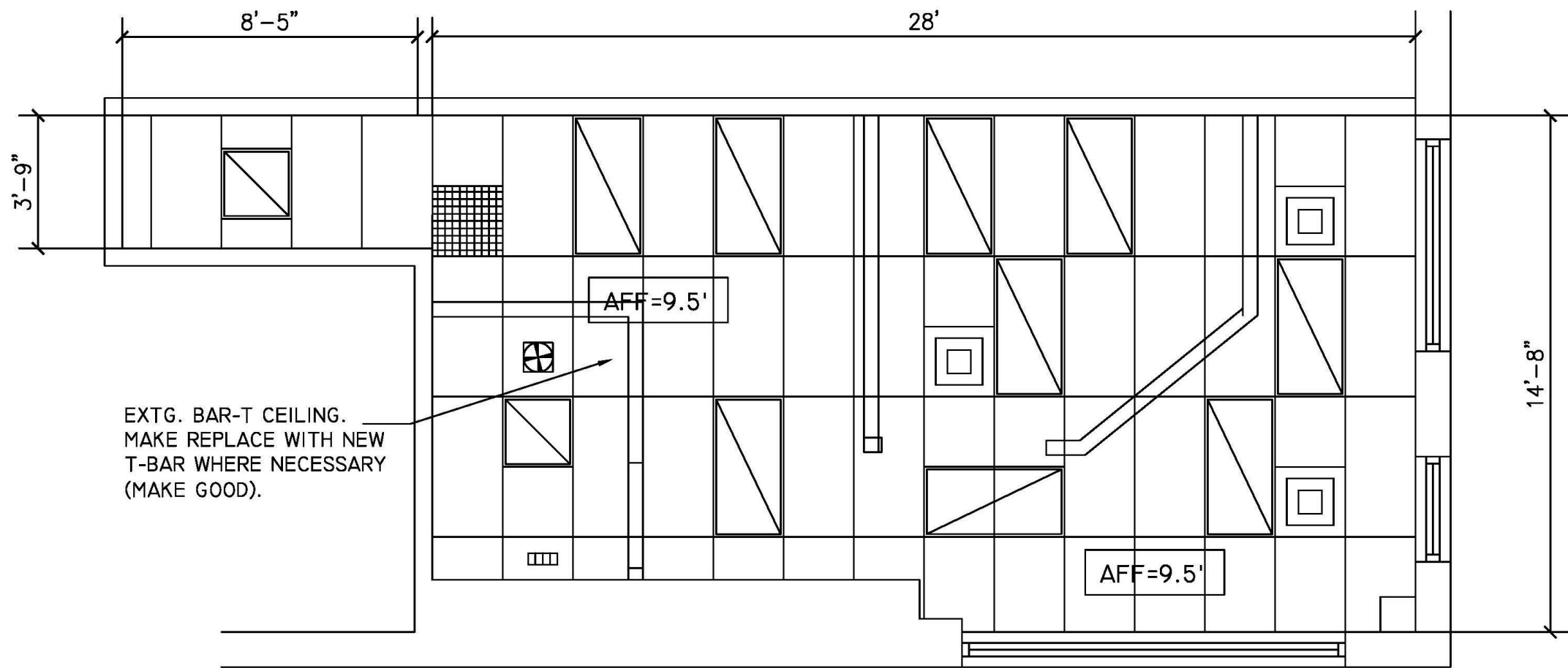
EXISTING FLOOR PLAN



PROPOSED FLOOR PLAN  
(OCCUPANCY LOAD=8)

| ONTARIO BUILDING CODE DATA MATRIX PART 11- |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | O.B.C. 2012 REFERENCE                                                           |
|--------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| 11.1                                       | EXISTING BUILDING CLASSIFICATION                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 11.2.1.                                                                         |
|                                            | <p>Describe existing building use:</p> <p>Existing classification: (Group E &amp; D)</p> <ul style="list-style-type: none"> <li>- GFA OF UNIT=41 SQ.METER+/-</li> <li>-EXISTING USE OF UNIT SUBJECT UNIT= HAIR SALON (PERSONAL SERVICE) GROUP D</li> <li>-EXISTING OCCUPANCY LOAD=8 PEOPLE</li> <li>-PROPOSED DENTAL OFFICES= GROUP D (GROUP"D" OCCUPANCY, NO CHANGE OF USED)</li> <li>- 1 STOREY BUILDING, NO BASEMENT, NON SPRINKLER.</li> <li>- NON COMBUSTIBLE CONSTRUCTION.</li> </ul> | T 11.2.1.1A<br>T 11.2.1.1B to N                                                 |
| 11.2                                       | ALTERATION TO EXISTING BUILDING IS:                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 11.3.3.1<br>11.3.3.2<br>11.4.2<br>11.4.2.1                                      |
|                                            | <p>BASIC RENOVATION:</p> <ul style="list-style-type: none"> <li>- NO CHANGE OF USED.</li> <li>- RENOVATION DOES NOT RESULT IN H.I.C=C.I</li> </ul> <p>EXTENSIVE RENOVATION:</p>                                                                                                                                                                                                                                                                                                             |                                                                                 |
| 11.3                                       | REDUCTION IN PERFORMANCE LEVEL:                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 11.4.2                                                                          |
|                                            | <p>STRUCTURAL:</p> <p>BY INCREASE IN OCCUPANT LOAD:</p> <p>BY CHANGE OF MAJOR OCCUPANCY:</p> <p>PLUMBING:</p> <p>SEWAGE-SYSTEM:</p>                                                                                                                                                                                                                                                                                                                                                         | <p>11.4.2.1</p> <p>11.4.2.2</p> <p>11.4.2.3</p> <p>11.4.2.4</p> <p>11.4.2.5</p> |
| 11.4                                       | COMPENSATING CONSTRUCTION:                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 11.4.3                                                                          |
|                                            | <p>STRUCTURAL:</p> <p>INCREASE IN OCCUPANT LOAD:</p> <p>CHANGE OF MAJOR OCCUPANCY:</p> <p>PLUMBING:</p> <p>SEWAGE-SYTEM:</p>                                                                                                                                                                                                                                                                                                                                                                | <p>11.4.3.2</p> <p>11.4.3.3</p> <p>11.4.3.4</p> <p>11.4.3.5</p> <p>11.4.3.6</p> |
| 11.5                                       | COMPLIANCE ALTERNATIVES PROPOSED:                                                                                                                                                                                                                                                                                                                                                                                                                                                           | 11.5.1                                                                          |
|                                            | EXPLANATION:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                 |

FINISHING:  
FINISHING MATERIALS ON WALLS  
AND CEILINGS MUST HAVE A  
FLAME-SPREAD RATING OF  
NOT MORE THAN 150



PROPOSED REFLECTED CEILING PLAN

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.

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LEGEND

- EXISTING WALL TO REMAIN
- PROPOSED NEW PARTITION WALL 2X4 METAL STUD @ 16" O/C COVERED BY 1/2" DRYWALL ON BOTH SIDES
- EXISTING DOOR TO REMAIN
- EXIT SIGN C/W EMERGENCY LIGHT (30 MIN. BATTERY BACK UP)
- EMERGENCY LIGHT (30 MIN. BATTERY BACK UP)
- EXTG EXHAUST FAN
- 4"X10" SUPPLY AIR DIFFUSER
- 2'X2' SUPPLY AIR DIFFUSER
- CEILING RETURN AIR GRILLE
- 2'x4' (OR 2'X2' OR 1'X4') RECESSED FLUORESCENT LIGHT
- 2'x4' T-BAR CEILING. (ACCOUSTIC TILE) @ 9'-6:"+/-

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DRAWN BY: C.T.  
CHECKED BY: C.T.  
SCALE: 1/4" = 1'-0" DATE:  
PROJECT: TITLE: AI