

Memorandum to the City of Markham Committee of Adjustment

April 23, 2019

File: A/24/19
Address: 4 Sunflower Crt, Thornhill
Applicant: Gary Weiss
Agent: (none)
Hearing Date: Wednesday May 8 , 2019

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

The applicant is requesting relief from the following requirements of By-law 1767, SR2 as amended:

- a) **Section 12(iv)(a):**
a minimum front yard setback of 29 feet (8.84 metres), whereas the By-law requires that the front yard of a dwelling be erected between two existing building shall comply with the corresponding yards of the two existing buildings 39.2 feet (11.94 metres);
- b) **Section 9(i):**
a maximum unenclosed/unexcavated roofed porch encroachment of 197 inches (16.37 feet), whereas the By-law permits a maximum encroachment of 18 inches (1.5 feet) into the required front yard;
- c) **Section 14(i)(e):**
a minimum rear yard setback of 43 feet 3 inches, whereas the By-law requires a minimum rear yard setback of 50 feet;
- d) **Amending By-law 100-90, Section 1.2(iii):**
a maximum building depth of 18.69 metres, whereas the By-law permits a maximum building depth of 16.8 metres;
- e) **Amending By-law 100-90, Section 1.2(i):**
a maximum building height of 9.31 metres, whereas the By-law permits a maximum building height of 8.0 metres for a flat roof;
- f) **Section 2(vi) & Section 12(viii)(a):**
a 2nd dwelling unit/basement apartment, whereas the By-law permits no more than one single detached dwelling on each registered lot;

as they relate to a proposed single detached dwelling.

BACKGROUND

Property Description

The 1,740.76 m² (18,737.38 ft²) subject property is located on Sunflower Court, a cul-de-sac north of Steeles Avenue and east of Bayview Avenue. The property is located within an established residential neighbourhood comprised primarily of two-storey detached dwellings. There is an existing two-storey detached 313.08 m² (3,370 ft²) dwelling on the property. Mature vegetation exists across the front and rear of the property and is a predominant characteristic of the neighbourhood.

Proposal

The applicant is proposing to demolish the existing home and construct a 364.95 m² (3,928 ft²) two-storey detached dwelling (Appendix 'B'). The proposed dwelling contains a three-car garage, a rear yard deck and a secondary suite in the basement of the proposed dwelling. The proposed secondary suite will have direct and separate access provided by a door at the rear of the property. A tree in the rear yard will be removed as a result of the development, several trees across the property will be retained.

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 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. In considering applications for development approval in a 'Residential Low Rise' area, which includes variances, infill development is required to meet the general intent of Section 8.2.3.5 of the 2014 Official Plan with respect to height, massing and setbacks 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. 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. 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: The building type in which the secondary suite is contained;

- a) The percentage of the floor area of the building type devoted to the secondary suite;
- b) The number of dwelling units permitted on the same lot
- c) The size of the secondary suite;
- d) The applicable parking standards; and
- e) The external appearance of the main dwelling

As part of the City initiated zoning by-law consolidation project, Council recently considered the issue of second suites within the City. On May 29th, 2018, Council voted not to permit second suites as of right in any single detached, semi-detached, or townhouse dwelling.

Zoning By-Law 1767

The subject property is zoned SR2 'Single Detached Residential' under By-law 1767 as amended, which permits single detached dwellings. The proposal does not comply with the By-law with respect to the maximum unenclosed/unexcavated roofed porch encroachment, second dwelling unit/basement apartment, minimum front yard setback and, minimum rear yard setback.

Residential Infill Zoning By-Law 100-90

The subject property is also subject to the Residential Infill Zoning By-law 100-90. 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 building height and building depth.

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

According to the information provided by the Applicant the stated reason for not complying is: "*the proposed architectural design consistent with approved neighbourhood redevelopment projects cannot be achieved within the current zoning limitations*".

Zoning Preliminary Review Undertaken

The applicant has completed a Zoning Preliminary Review (ZPR) to confirm the initial variances required for the proposed development. The applicant submitted revised drawings on March 27, 2019. The applicant has not conducted a Zoning Preliminary Review for the revised drawings. Consequently it is 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, 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.

Reduction in Front Yard Setback

The applicant is requesting relief to permit a minimum front yard setback of 29 ft (8.84 m), whereas the By-law requires a minimum front yard setback of 39.2 ft (11.94 m). This represents a reduction of approximately 10.2 ft (3.11 m) or, approximately 26 percent. The variance is attributable to the position of the proposed dwelling relative to the front lot line. While the proposed front yard setback will result in a dwelling closer to the lot line, the requested variance applies to a portion of the proposed dwelling. The proposed dwelling is located on a curved street and will be generally consistent with the front yard setback pattern on the street. Given this, Staff are of the opinion that the request for minimum front yard setback is appropriate for the development.

Increase in Maximum Roofed Porch Encroachment

The applicant is requesting a maximum unenclosed/unexcavated roofed porch encroachment of 197 in ft (4.99 m) into the front yard, whereas the By-law permits a maximum unenclosed/unexcavated roofed porch encroachment of 18 in (0.46 m). This represents a difference of approximately 178.34 in (4.53 m).

Reduction in Rear Yard Setback

The applicant is requesting relief to permit a minimum rear yard setback of 43.25 ft (13.18 m), whereas the By-law requires a minimum rear yard setback of 50 ft (15.24 m). This represents a reduction of approximately 6.75 ft (2.06 m) or, approximately 14 percent.

The variance will not result in a significant reduction in the rear yard amenity space. Existing vegetation across the rear of the property will provide screening between properties. Given the configuration of the proposed development, and the spacing between properties, staff are of the opinion that the requested rear yard setback will not generate adverse impacts.

Increase in Maximum Building Depth

The applicant is requesting relief to permit a maximum building depth of 18.69 m (61.32 ft), whereas the By-law permits a maximum building depth of 16.8 m (55.12 ft). This represents an increase of approximately 1.89 m (6.2 ft) or, approximately 11 percent.

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. Given the configuration of the lot, building depth is measured on an angle through the proposed building.

The variance includes a front covered porch, which adds approximately 2.41 m (7.92 ft) to the overall depth of the building. The main component of the building, excluding the porch, has a depth of 16.28 m (53.42 ft) which complies with the by-law requirement.

Increase in Maximum Building Height

The applicant is requesting relief to permit a maximum building height of 9.31 m (30.55 ft), whereas the By-law permits a maximum building height of 8.0 m (26.25 ft). This represents an increase of 1.31 m (4.26 ft) or, approximately 16 percent.

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 0.88 m (2.89 ft) above the crown of road.

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

As of April 23, 2019 the City received 3 letters expressing concerns over the proposed secondary suite, the proposed building height, the proposed building depth and, the proposed reduction in the front yard setback, the impact to the environment, and, that the proposal will set a precedent. 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 variances 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.

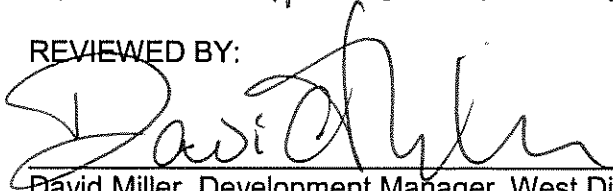
Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Aqsa Malik, Planner, Zoning and Special Projects

REVIEWED BY:



David Miller, Development Manager, West District

File Path: Amanda\File\ 19 114895 \Documents\District Team Comments Memo

APPENDIX "A"

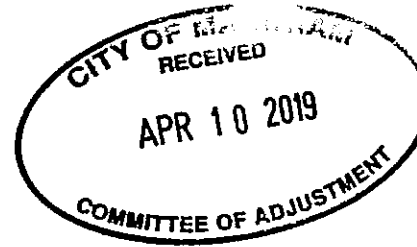
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/24/19

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 plan(s) attached as 'Appendix B' to this Staff Report and dated April 10, 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 the Director of Planning and Urban Design or designate 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 Director of Planning and Urban Design or their designate.
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 Director of Planning and Urban Design or designate;
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



DRAWING LIST:

- VI-1 SURVEY
- ID-1.2 SITE PLAN - PURPOSED REVISED
- ID-1.3 GROUND FLOOR PLAN / SECOND FLOOR PLAN
- ID-1.4 ROOF PLAN / BASEMENT PLAN

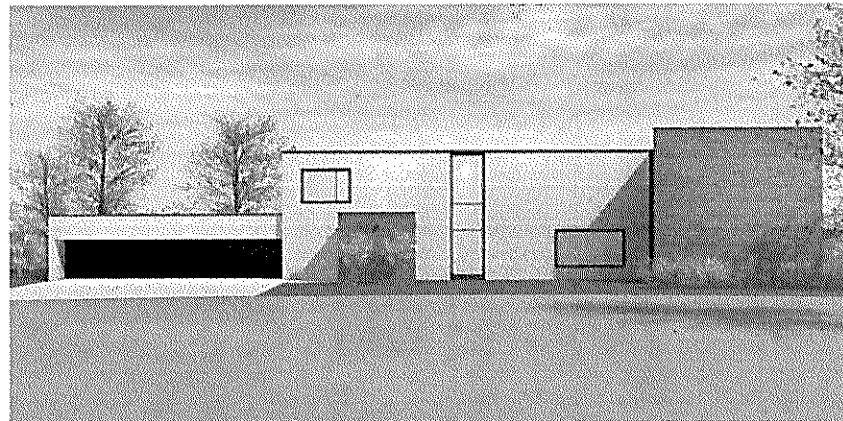
- ID-2.1 BUILDING FACADE ELEVATION (EAST) & BUILDING REAR ELEVATION (WEST)
- ID-2.2 BUILDING SIDE ELEVATION (NORTH) & BUILDING SIDE ELEVATION (SOUTH)
- ID-2.3 CONCEPT RENDERINGS

ISSUED: ZPR R1- 10TH APRIL 2019

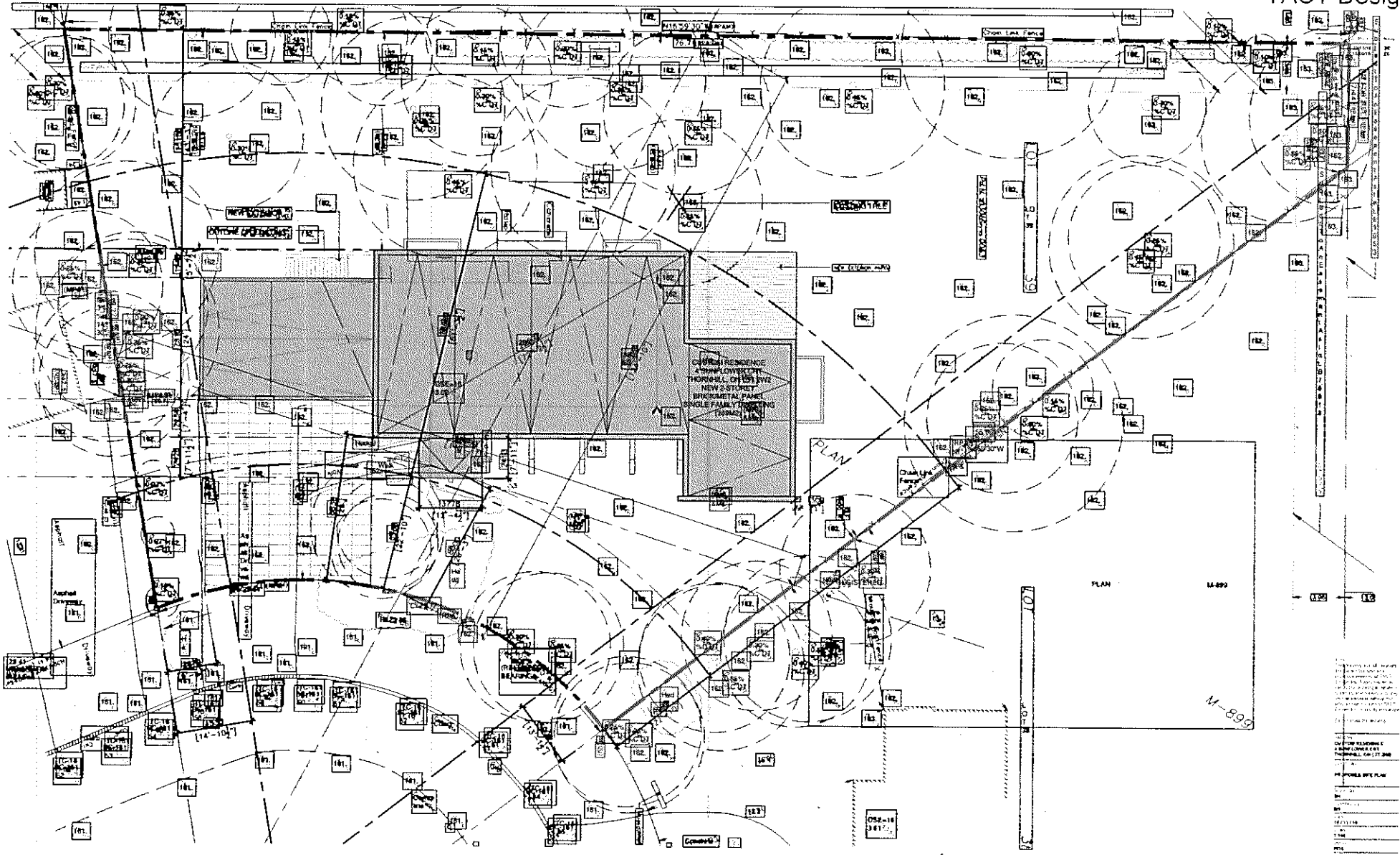
PREVIOUS ISSUES:

ZPR - 3RD DECEMBER 2018

PRIVATE RESIDENCE.
4 SUNFLOWER CRT THORNHILL, ON L3T 2W2



PRIVATE RESIDENCE - 4 SUNFLOWER
ZPR SET R1



1. This drawing is a site plan showing the location of the residence and the surrounding area. It is intended for use as a reference for the investigation and is not to be used for any other purpose.

2. The drawing is based on the information provided by the witness and the investigator. It is not intended to be a precise map and should be used in conjunction with other evidence.

3. The drawing is a site plan showing the location of the residence and the surrounding area. It is intended for use as a reference for the investigation and is not to be used for any other purpose.

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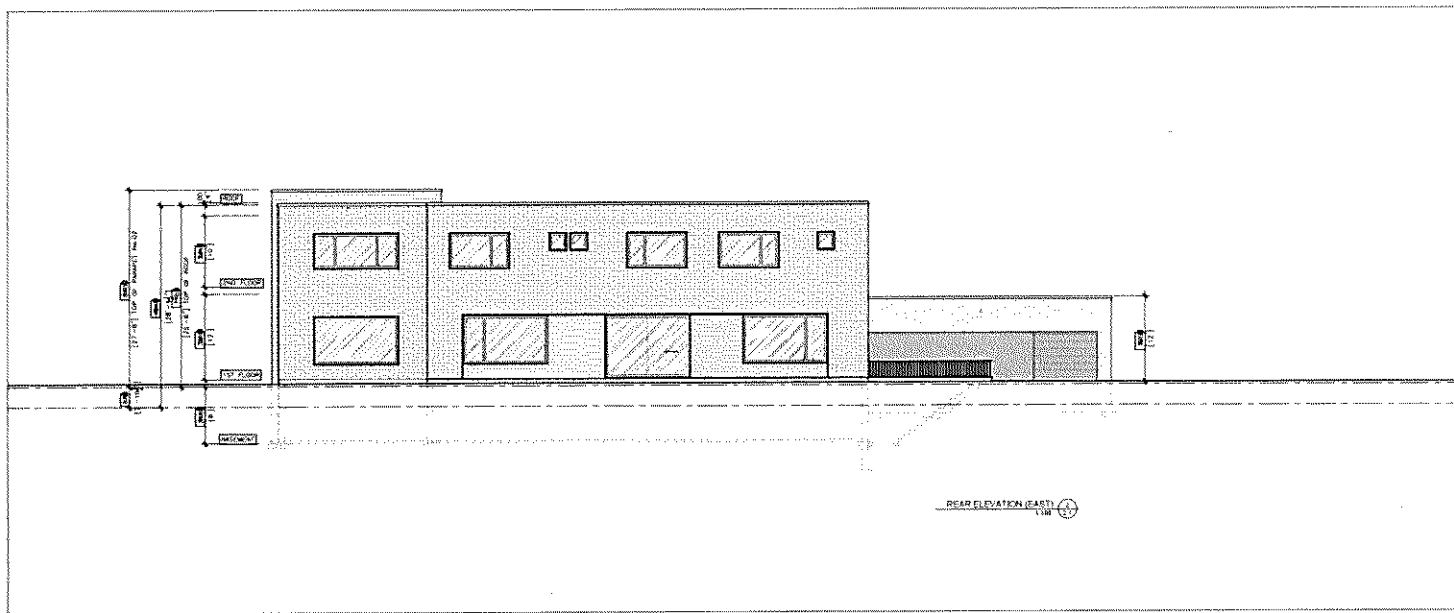
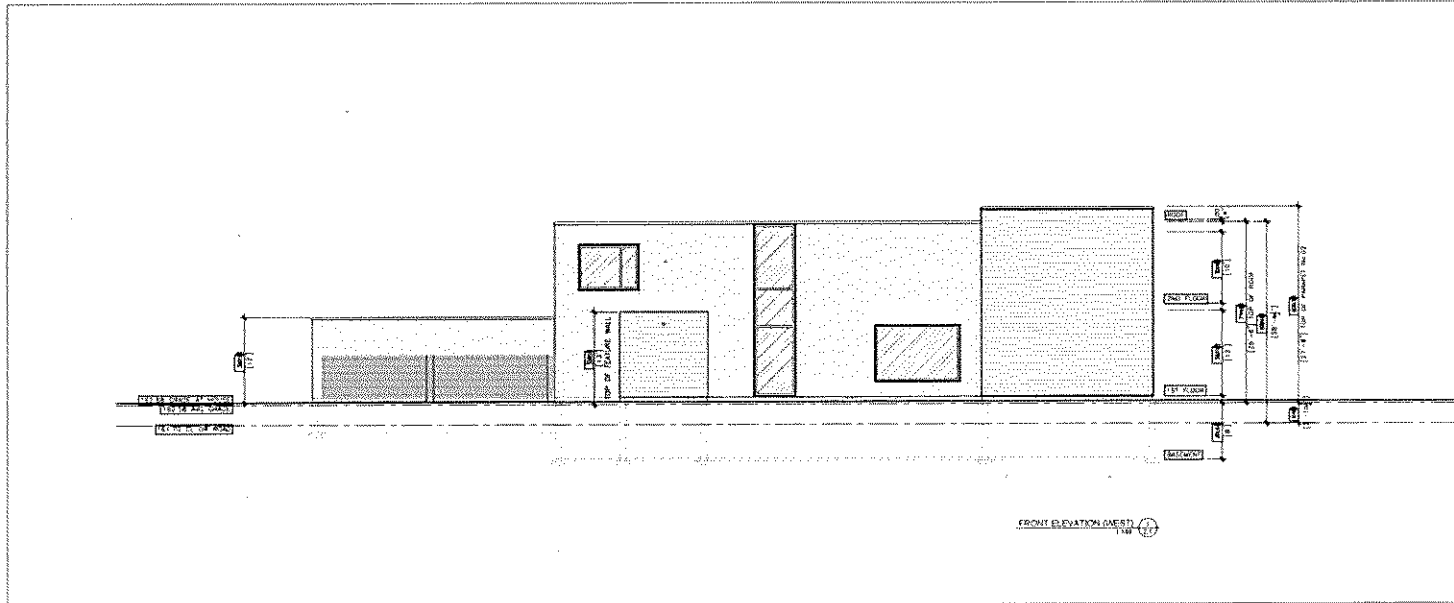
7. The drawing is a site plan showing the location of the residence and the surrounding area. It is intended for use as a reference for the investigation and is not to be used for any other purpose.

8. The drawing is based on the information provided by the witness and the investigator. It is not intended to be a precise map and should be used in conjunction with other evidence.

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10. The drawing is based on the information provided by the witness and the investigator. It is not intended to be a precise map and should be used in conjunction with other evidence.

Revised	By	Date
01	12/15/14	25
02	12/22/14	25
03	1/26/15	25



FOR ALL INFORMATION CONTACT TACT DESIGN, INC. AT 1-800-451-1234 OR WWW.TACTDESIGN.COM

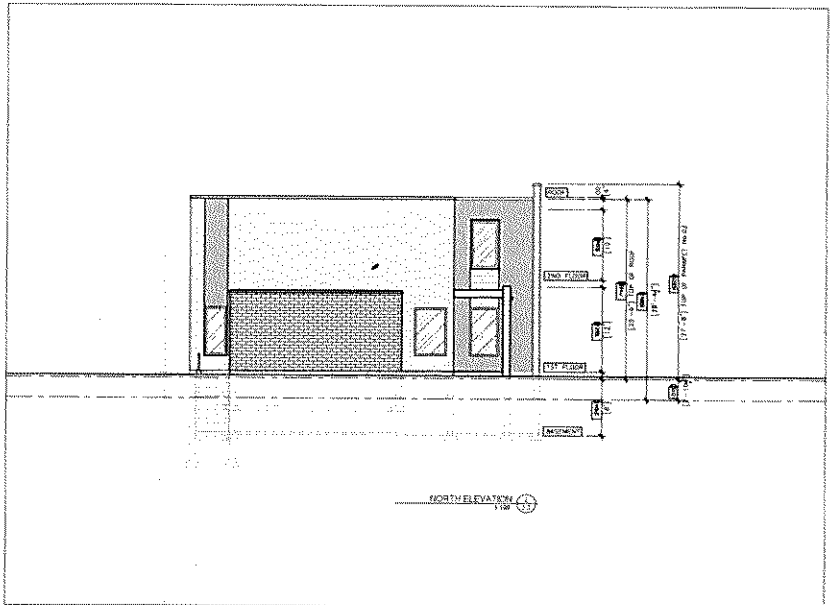
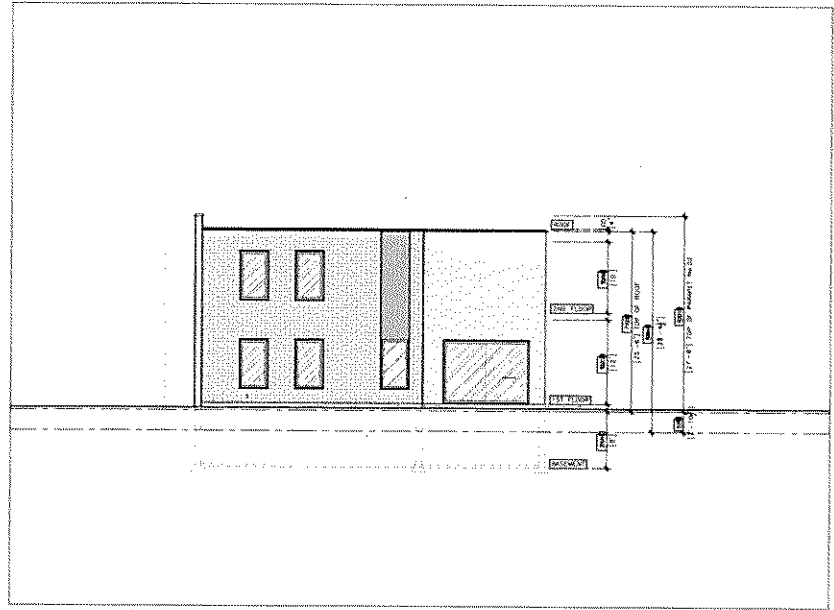
CUSTOM RESIDENCE
4 BUNKERS E.P.T.
TACONNET, CA LIST 2ND

EAST - WEST
ELEVATIONS

DATE	12/15/14
BY	TACT
PROJECT	4 BUNKERS E.P.T.
SCALE	1/8" = 1'-0"
NO.	1812

TACT Design

Rev	Description	Date
01	ISSUED	20
02	REVISION	20
03	ISSUED	20

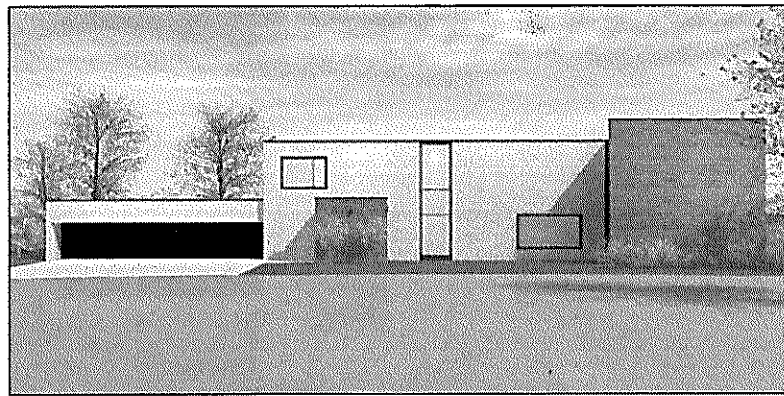
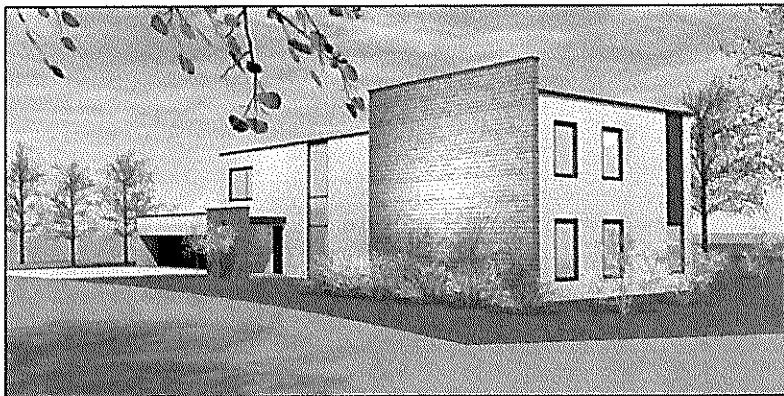


Notes:
 1. All dimensions are in feet and inches.
 2. All dimensions are to the center of the window or door.
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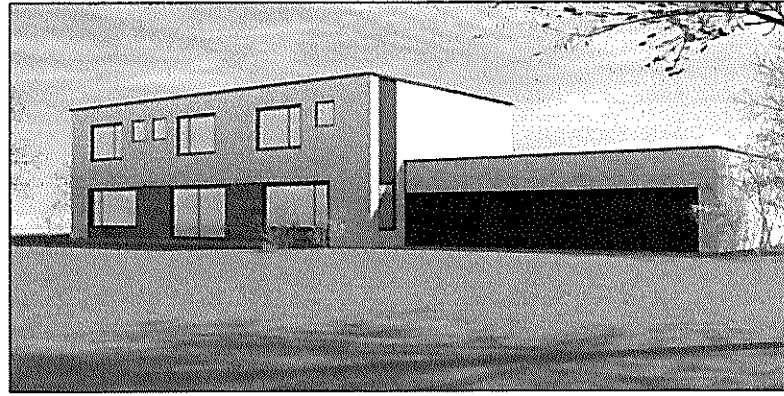
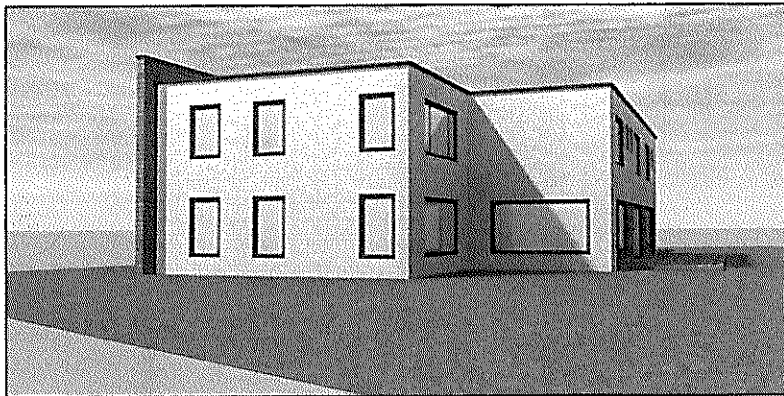
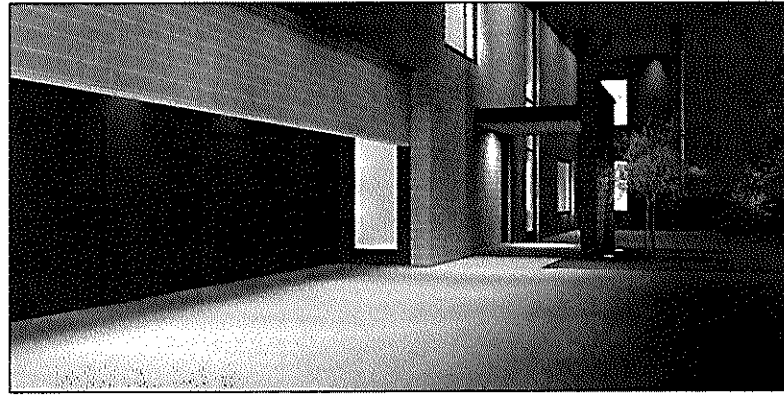
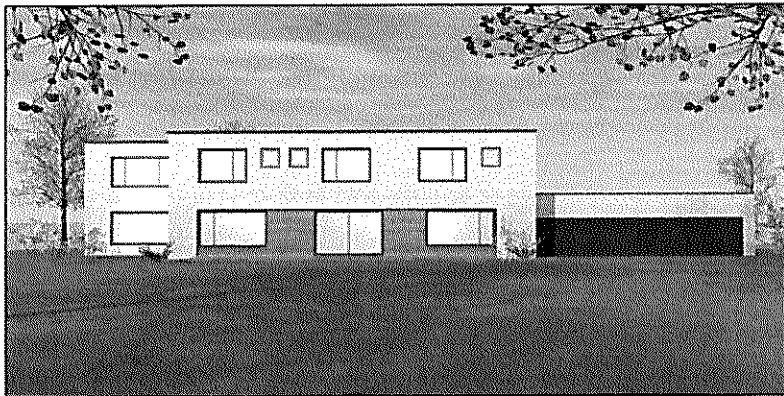
CUSTOM RESIDENCE
 4 BUNKER CREEK
 WILSONVILLE, OR 97150
 NORTH ELEVATION

DATE	20/01/20
BY	...
CHECKED	...
DESIGNED	...
SCALE	1/8" = 1'-0"
DATE	20/01/20

ID-2.2



Author: _____
 Date: _____
 Project: _____
 Location: _____



Client: _____
 Architect: _____
 Date: _____
 Project: _____

CHITON RESIDENCE
 10000 S. 100th St.
 TROY, MI 48065