Memorandum to the City of Markham Committee of Adjustment

August 1st, 2019

File:

A/76/19

Address:

28 Carolwood Cres, Markham

Applicant:

Nanthakumaran & Shanthi Balasingham

Agent:

Krishanthini Ganesh

Hearing Date:

Wednesday August 07, 2019

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

The applicant is requesting relief from the following requirements of the Rural Residential Estate (RRE) zone of By-law 304-87, as amended, as it relates to a proposed two-storey detached dwelling on the subject property (28 Carolwood Crescent), to permit:

a) Amending By-law 2008-21, Section 1.1.1:

A sum width of not less than 6.01 m (19.72 ft) for both side yards, whereas the By-law permits a sum width of not less than 9 m (29.17 ft).

BACKGROUND

Property Description

The 0.40 ha (1 acre) subject property is located on the south side of Carolwood Crescent, which is east of Markham Road, north of 14th Avenue and south of Highway 407. There is an existing two-storey detached 365.02 m² (3,929 ft²) dwelling on the property, which according to assessment records was constructed in 1975. Mature vegetation exists throughout the property. The subject property is located within an established neighbourhood comprised of large estate lots, which are developed with one and two-storey single detached dwellings.

Proposal

The applicant is proposing to construct a new two-storey detached 781.17 m² (8,408.42 ft²) dwelling on the subject property as shown in Appendix A.

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 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, including 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 304-87

The subject property is zoned 'Rural Residential Estate' (RRE) under By-law 304-87, as amended, which permits a single detached dwelling. The RRE zone requires minimum side yard setbacks of 3.0 m (9.84 ft), in which the sum total of both side yards shall not be less than 9.0 m (29.53 ft). The applicant is proposing a dwelling with a west side yard setback of 3.0 m (9.84 ft)

and an east side yard setback of 3.01 m (9.87 ft). Accordingly, the applicant has submitted a variance requesting that the sum total of both side yards be not less than 6.01 m (19.72 ft).

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, "it is not possible to comply with the provisions due to the irregular lot (pie shaped lot) that narrows from the rear. The floor plan and square footage of the proposed dwelling will not allow for a change in exterior dimensions. As well as the dwelling cannot be moved forward since the proposed parking, and driveway lane".

Zoning Preliminary Review (ZPR) Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has <u>not</u> been conducted. However, the applicant has received zoning comments from the Building Standards department through the building permit application review process 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; and
- d) The general intent and purpose of the Official Plan must be maintained.

Reduced Side Yard Setback

As noted, the applicant proposes a dwelling with an east side yard setback of 3.01 m (9.87 ft) and a west side yard setback of 3.00 m (9.84 ft). This complies with the minimum required side yard setback of 3.0 m (9.84 ft), but does not comply with the sum total width requirement of 9.0 m (29.53 m) for both side yards. The sum total width requirement for side yards was approved by Council in 2008 through amending by-law 2008-21, with the intent of ensuring that new construction on existing lots are compatible with and respectful of existing homes in Rural Residential Estate zones. The effect of the by-law is to provide more spacing between dwellings within estate areas, which are characterized by large lots and ample greenspace and vegetation.

As shown in the site plan in Appendix A, the subject property is reverse pie-shaped which narrows from the front and rear yard. As a result the proposed east side yard of 3.01 m (9.87 ft) is measured to the southeast corner of the proposed dwelling only, and the east side yard widens to 5.89 m (19.32 ft) at the front. The total sum of both side yards for the proposed dwelling ranges between 6.01 m (19.72 ft) to 8.89 m (29.17 ft), which does not comply with the by-law even in consideration of the irregular shaped lot. According to City of Markham records, no existing or infill homes along Carolwood Crescent have been approved for a side yard setback reduction to this scale. Staff are of the opinion that that the requested variance does not meet the intent of the zoning by-law, and will result in a dwelling that is not desirable for the site or surrounding context.

PUBLIC INPUT SUMMARY

No written submissions were received as of August 1st, 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 does not meet 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.

PREPARED BY:

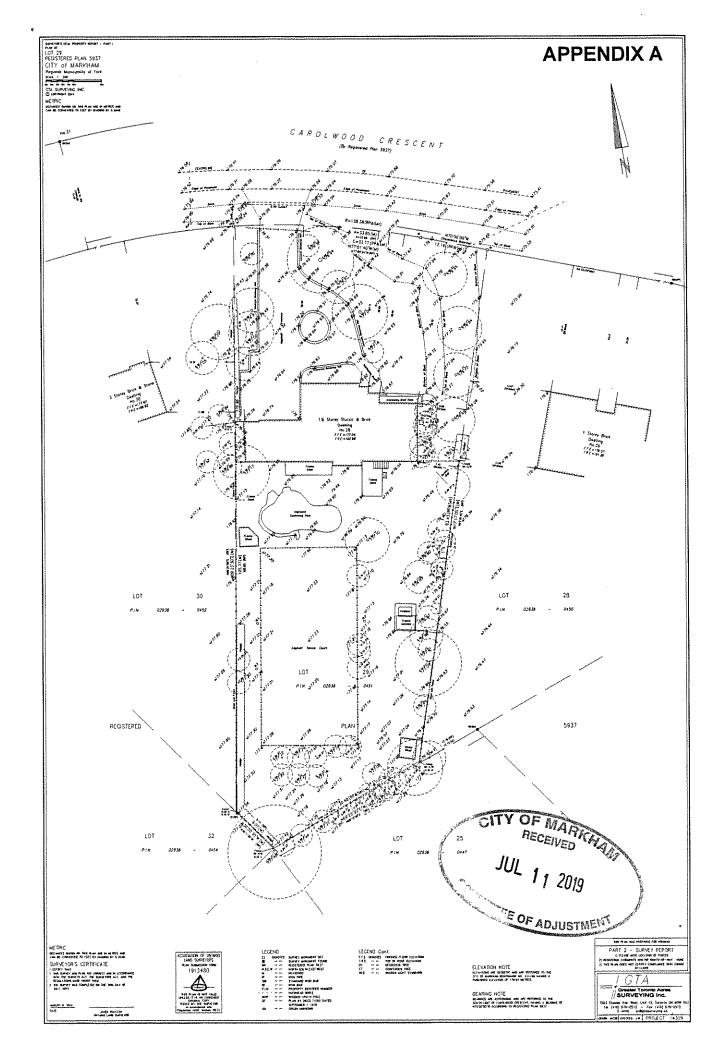
Aqsa Malik, Planner I, East District

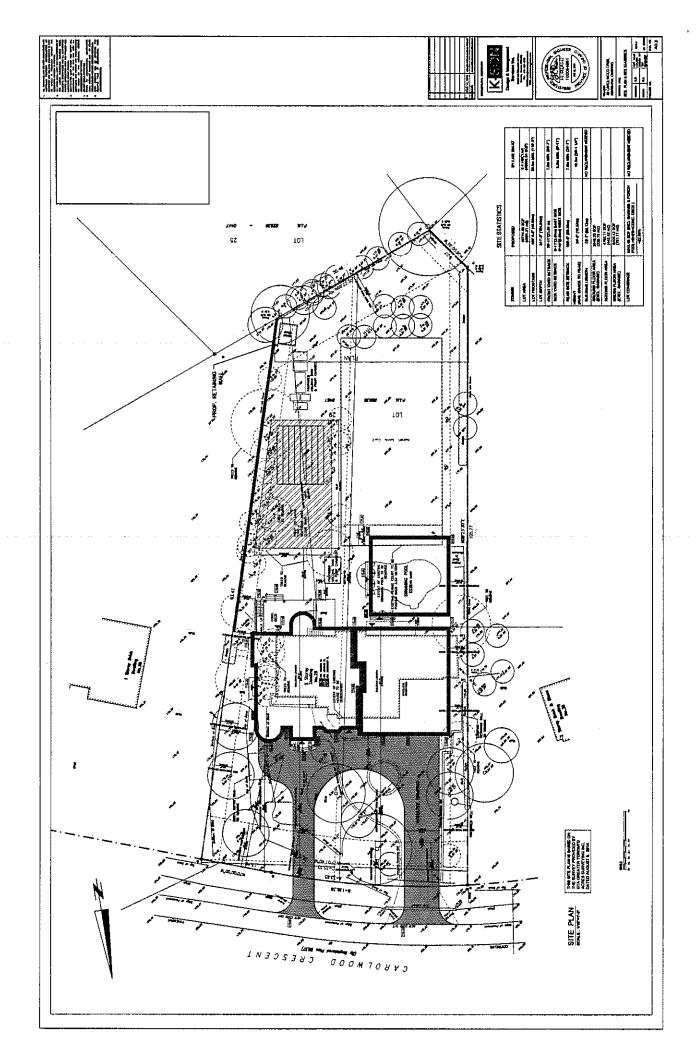
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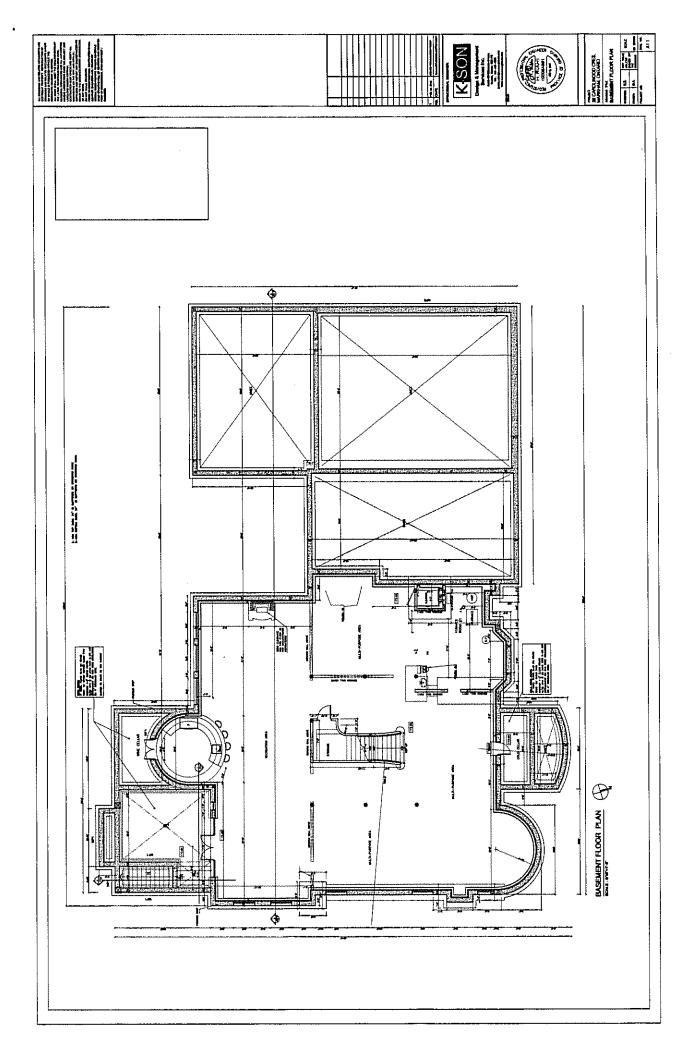
Stephen Corr, Senior Planner, East District

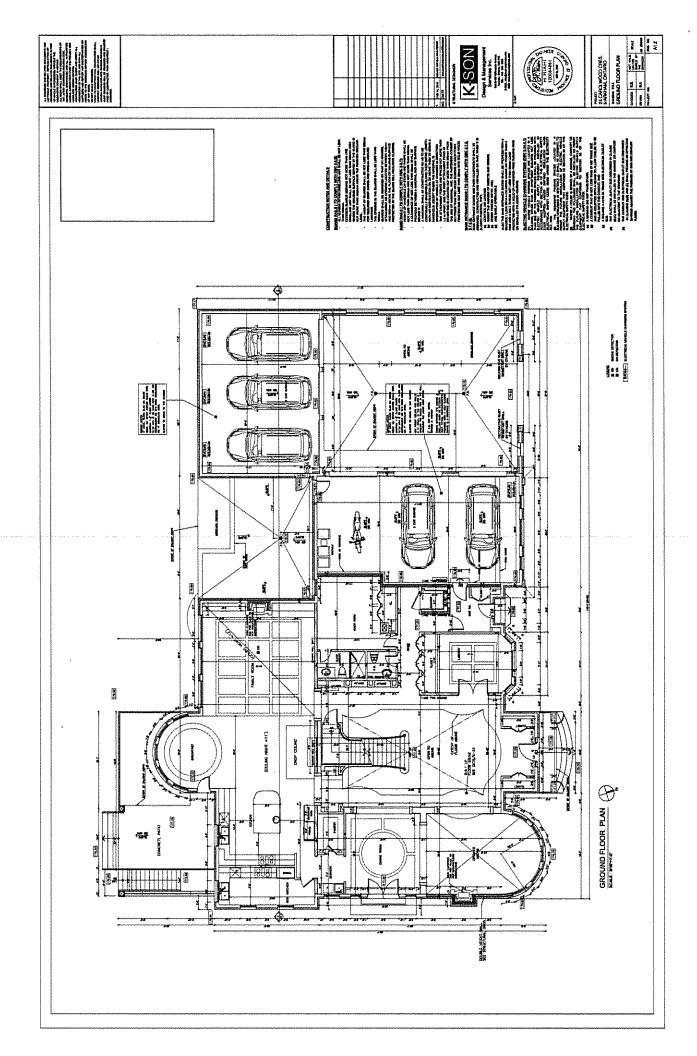
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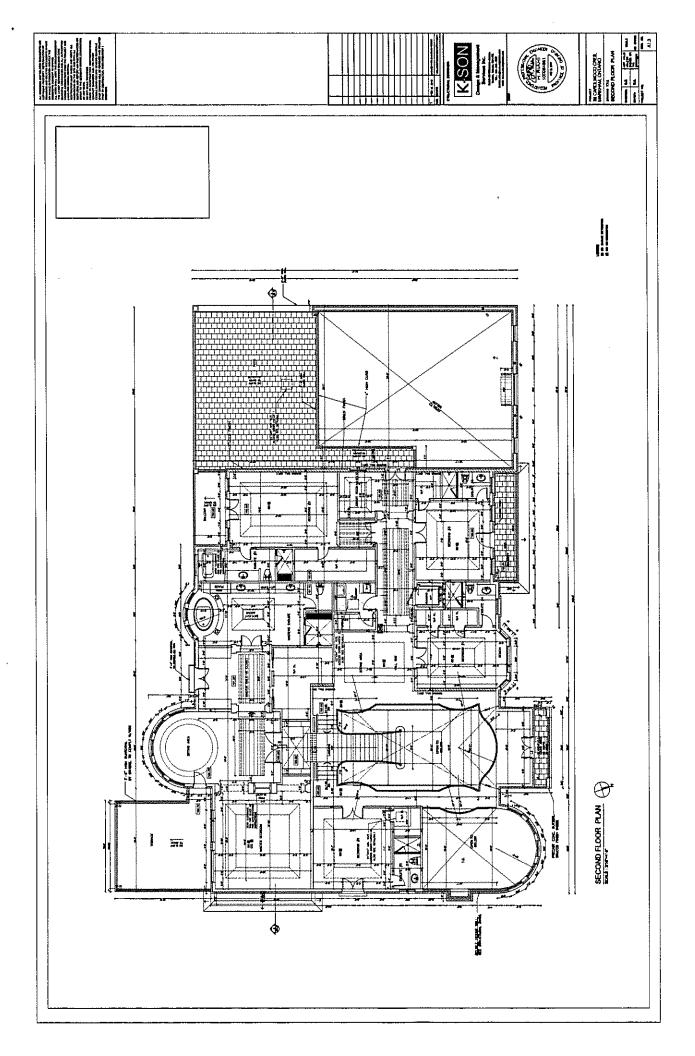
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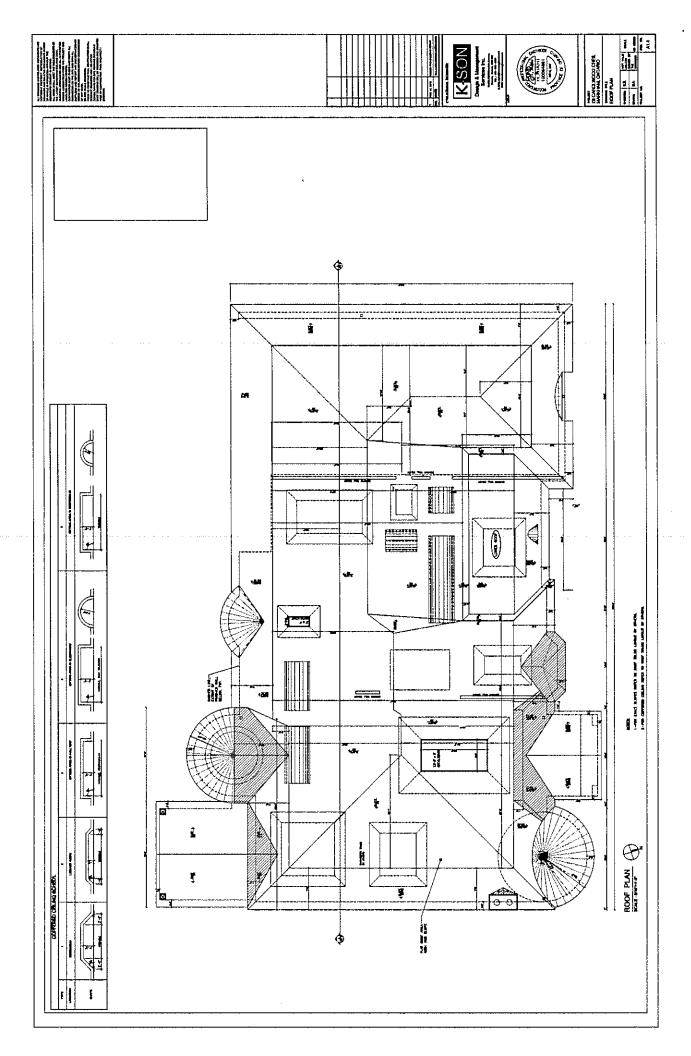


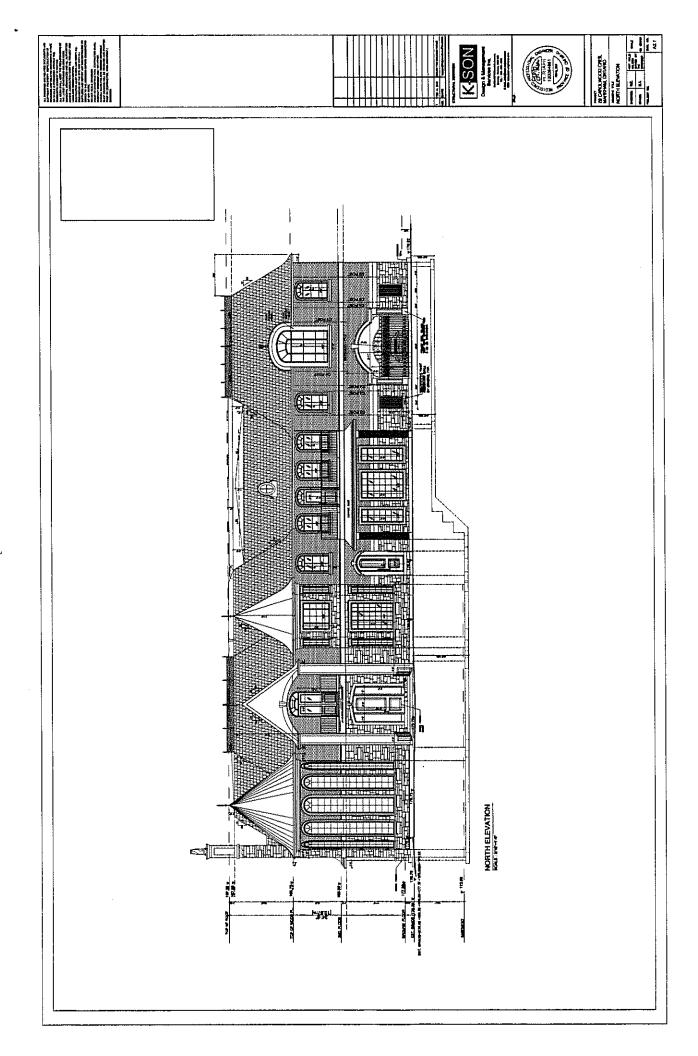


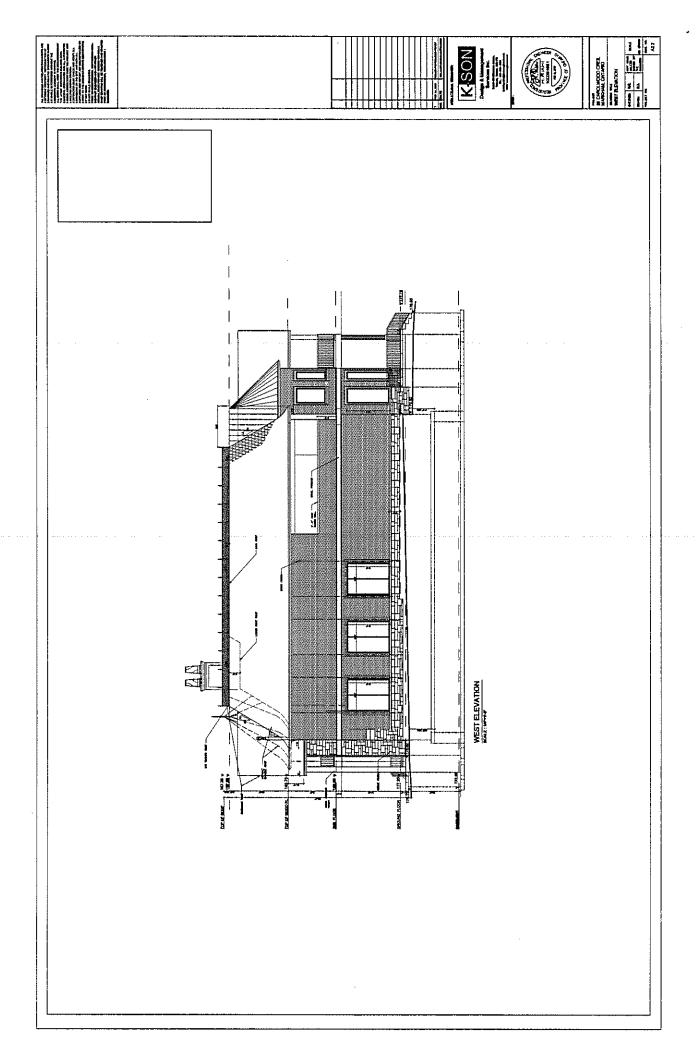


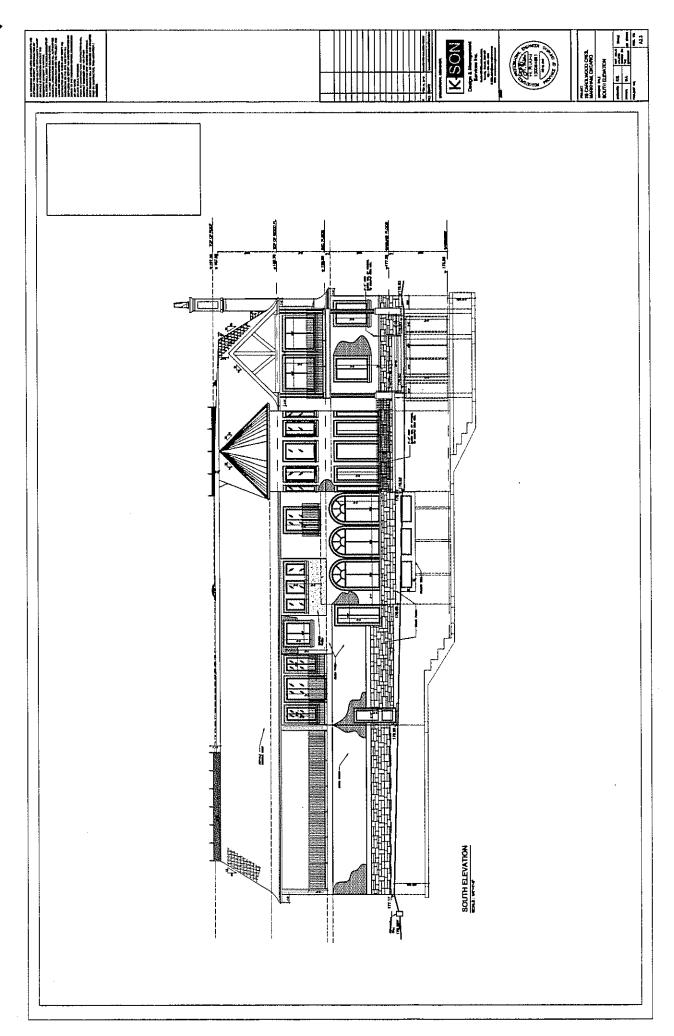












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