

**Memorandum to the City of Markham Committee of Adjustment**  
July 17, 2018

**File:** A/77/18  
**Address:** 84 Highland Park Boulevard, Thornhill  
**Applicant:** Majid Panah  
**Hearing Date:** Wednesday July 25, 2018

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

The applicant is requesting relief from the following requirements of By-law 2237, R4, as amended:

- a) **Infill By-law 101-90; Section 1.2(i):**  
a maximum building height of 9.40 metres; whereas, the bylaw permits a maximum building height of 8.6 metres;
- b) **Infill By-law 101-90; Section 1.2 (vii):**  
a maximum net floor area ratio of 54.9 percent (3,642 sq. ft.); whereas, the by-law permits a maximum net floor area ratio of 50 percent (3,313 sq. ft.);
- c) **Sections 4.1 and 5.1 (a):**  
a second dwelling unit (basement apartment), whereas the By-law permits no more than one single detached dwelling on a lot;

as they relate to a proposed residential dwelling.

**BACKGROUND**

**Property Description**

The subject property is located on the north side of Highland Park Boulevard, east of Yonge Street and north of Steeles Avenue East. The surrounding neighbourhood consists of a mixture of one- and two-storey dwellings, and mature vegetation throughout. The neighbourhood is undergoing a transition through new infill development replacing much of the original housing stock that was built in the 1950s.

The subject property has a 945 sq. ft (87.8 sq. m) one-storey dwelling built circa 1950 and mature vegetation throughout, including a large tree in the front yard and several large trees in the rear. Vehicular access is via a paved driveway from Highland Park Boulevard.

**Proposal**

The applicant proposes to demolish the existing dwelling and construct a 338.5 sq. m (3,643.6 sq. ft) two-storey detached dwelling with attached two-car garage. A secondary dwelling unit is proposed in the basement of the dwelling and this use also forms part of the application. The proposed secondary suite would have direct and separate access provided by a door on the west side of the dwelling.

A mature tree is proposed to be removed from the rear yard in order to facilitate the development. In order to evaluate impacts to trees on site, Urban Design staff recommend that the applicant prepare a tree assessment and preservation plan and this is a recommended condition of approval.

## **Provincial Policies**

### Strong Communities through Affordable Housing Act - Province of Ontario

In 2011, the Strong Communities through Affordable Housing Act amended various section 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 structure; and
- 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, as partially approved on November 24, 2017 and further updated on April 9, 2018

The Official Plan 2014 designates the subject property 'Residential – Low Rise,' which provides for low-rise housing forms including single detached dwellings.

The definition of "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 recently considered the issue of second suites within the City. On May 29<sup>th</sup>, 2018, Council voted not to permit second suites as of right in any single detached, semi-detached, or townhouse dwelling.

### Thornhill Secondary Plan

The subject property is designated Low Density Housing in the Thornhill Secondary Plan, which provides for single detached dwellings. The Thornhill Secondary Plan specifies that when applications for severance and minor variance are made "the applicant shall be expected to demonstrate compatibility with the existing character of the adjacent area with

respect to natural vegetation, and development standards, such as lot frontages and area, coverage and density, building setbacks and height.”

#### Zoning By-Law

The subject property is zoned R4 – Single Detached dwelling under By-law 2237, as amended, which permits single detached dwellings but does not permit secondary suites. The proposed building height of 9.4 m (30.8 ft) exceeds the By-law maximum of 8.6 m (28.2 ft). The proposed net floor area ratio of 54.9 percent exceeds the By-law maximum of 50 percent.

#### Residential Infill Zoning By-law

The subject property is also subject to the Residential Infill Zoning By-law 101-90. 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 net floor area ratio, building height and building depth. The proposed development does not comply with the building height and net floor area ratio requirements of the Infill By-law.

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

The applicant's stated reasons for not complying with the zoning are as follows: “new build.”

#### **Zoning Preliminary Review Undertaken**

The owner has completed a Zoning Preliminary Review 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.

#### Building Height

The applicant is requesting relief to permit a maximum building height of 9.4 m (30.8 ft), whereas the bylaw permits a maximum building height of 8.6 m (28.2 ft). This represents an increase of 0.8 m (2.6 ft), or 9.3 percent, when compared to the permitted building height.

The proposed building height is consistent with development trends in the neighbourhood. Since 2014, six nearby houses on the north side of Highland Park Boulevard were granted minor variances for building heights ranging from 9 m (29.5 ft) to 9.3 m (30.5 ft).

The proposed dwelling complies with the required setbacks and is consistent with neighbouring properties in that regard. There is approximately 4.6 m (15.1 ft) from the proposed dwelling to the adjacent dwelling to the east. Staff are of the opinion that the proposed building height is compatible with the surrounding area.

### Net Floor Area Ratio

The applicant is requesting relief to permit a maximum net floor area ratio of 54.9 percent (3,642 sq. ft.), whereas the by-law permits a maximum net floor area ratio of 50 percent (3,313 sq. ft.). This represents an increase of 329 sq. ft (30.6 sq. m), or 9.9 percent, when compared to the permitted net floor area ratio.

The proposed net floor area ratio is consistent with development trends in the neighbourhood. Since 2014, five nearby houses on the north side of Highland Park Boulevard were granted minor variances for net floor area ratios ranging from 52 to 54 percent.

Net floor area ratio is a measure of the interior square footage of the dwelling as a percentage of the net lot area. It is not a definitive measure of the mass of the dwelling, since it does not include "open to below" areas that may exist within the dwelling (e.g. two-storey foyers, atriums and/or stairs). In addition to the space associated with the stairs, there is an approximately 1.4 sq. m (15.1 sq. ft) open to below area on the second floor above the foyer that is excluded from the gross floor area calculation under the by-law.

### Secondary Suite

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 July 17, 2018, one written submission has been received from a local resident. The letter states opposition to the proposed variance to permit a secondary suite, citing concerns of increased traffic and parking, short-term rentals, noise and precedent. Staff note that the Committee of Adjustment is not bound by precedent.

Additional information may be received after the writing of the report; the Secretary-Treasurer will provide information on this at the meeting.

### **CONCLUSION**

Staff are of the opinion that the variances satisfy the four tests of the Planning Act and have no objection to their approval. The proposed secondary suite supports the City's goal of promoting affordable and shared housing opportunities and is consistent with the general policies of the 2014 Official Plan, including the provision of a mix of housing alternatives and affordable housing opportunities. It is recommended 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:



Greg Hayes, Committee of Adjustment Technician, Zoning and Special Projects

REVIEWED BY:



David Miller, Development Manager, West District

## **APPENDIX "A"**

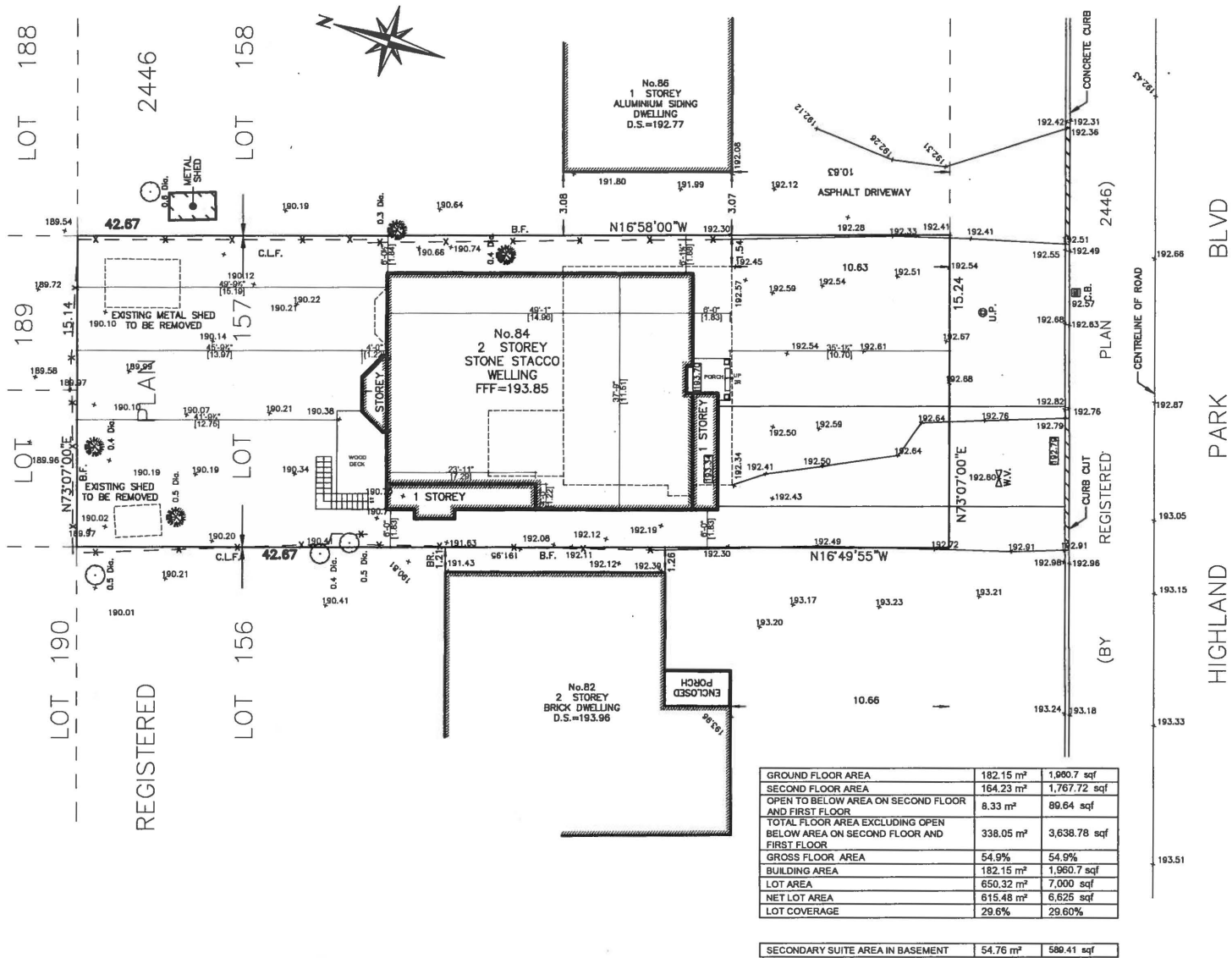
### **CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/77/18**

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 A' to this Staff Report and dated June 20, 2018, 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. That the Owner submits a Tree Assessment and Preservation Plan prepared by a qualified arborist in accordance with the City's Streetscape Manual (2009), as amended from time to time to the satisfaction of the Director of Planning and Urban Design, or their designate.
4. That subject to the review and approval of a Tree Assessment and Preservation Plan, tree protection fencing is erected in accordance with the City's Streetscape Manual (2009), as amended from time to time and inspected to the satisfaction of the Director of Planning and Urban Design, or their designate.
5. That subject to the review and approval of a Tree Assessment and Preservation Plan, tree replacements are provided and/or tree replacement fees are paid to the City, if required by the Director of Planning and Urban Design, or their 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.

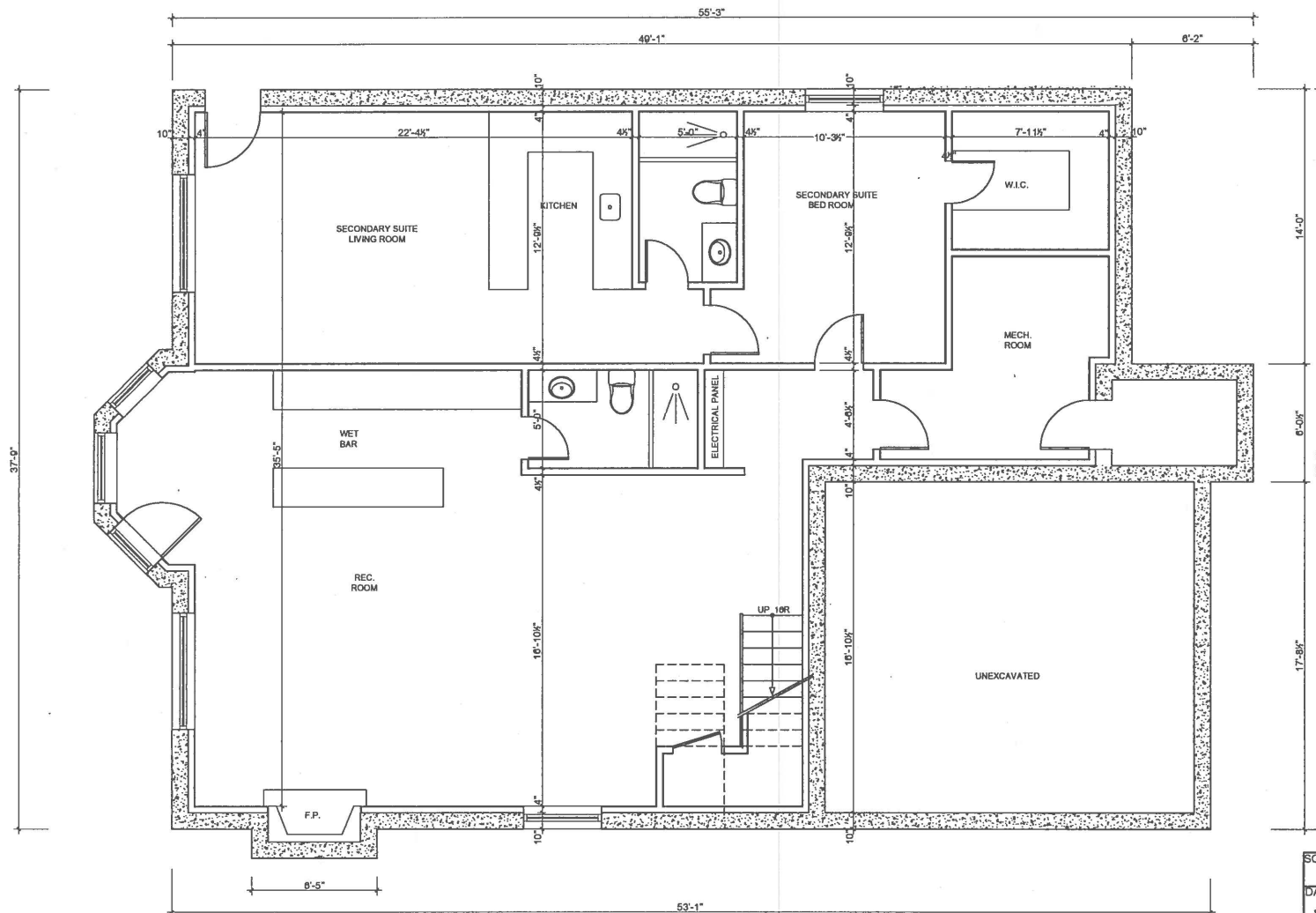
CONDITIONS PREPARED BY:



Greg Mayes, Committee of Adjustment Technician, Zoning and Special Projects

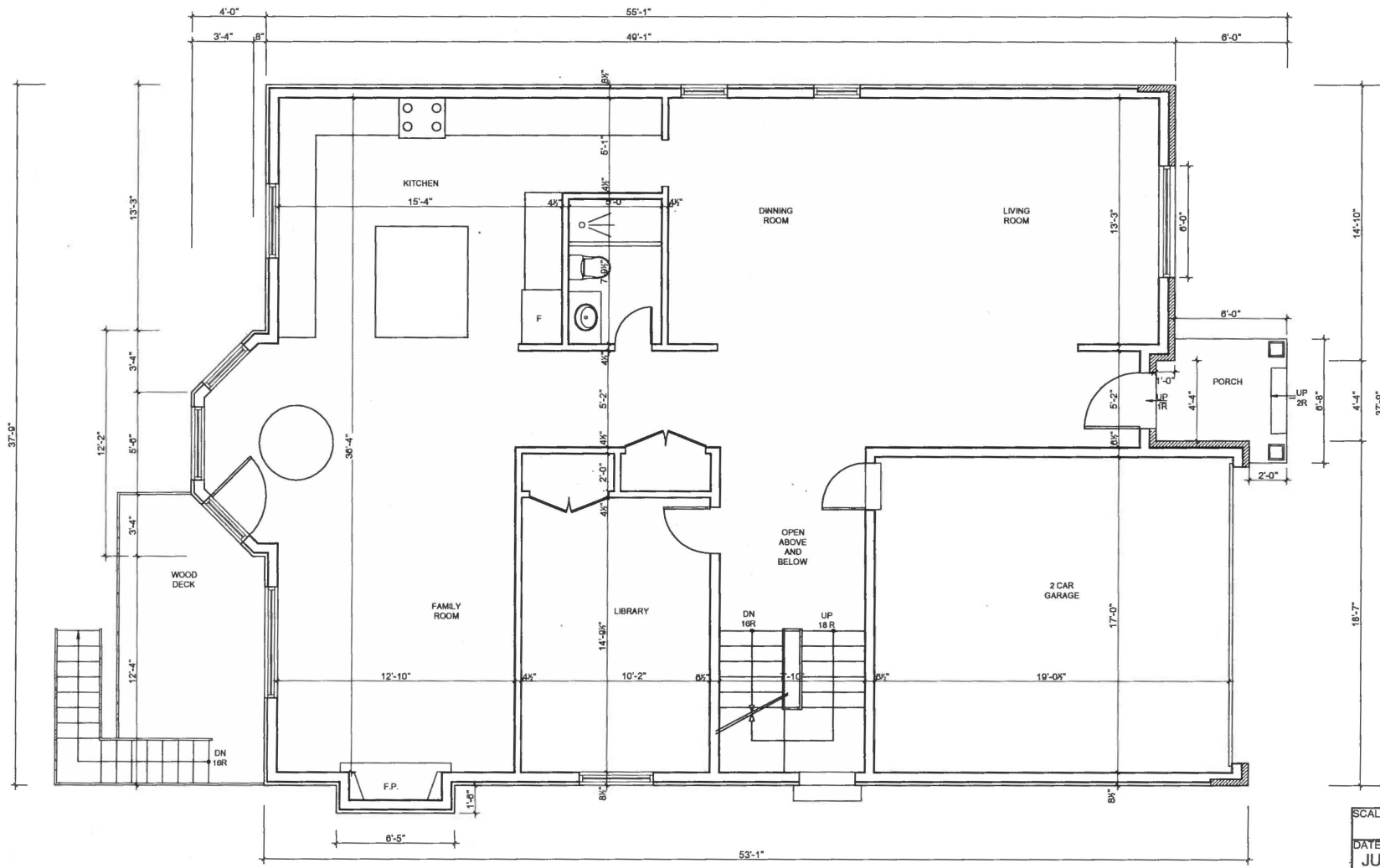


SCALE:	
1/16" = 1'-0"	
DATE	DWG. NO.
JUNE 20, 2018	1 OF 9
DWG. TITLE:	
SITE PLAN	
JOB TITLE:	
84 HIGHLAND PARK BLVD	



**NOTES**  
 1. VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION.  
 2. DO NOT SCALE DRAWINGS.  
 3. REPORT ALL DISCOVERIES OF ERRORS, OMISSIONS OR DISCREPANCIES TO THE DESIGNER

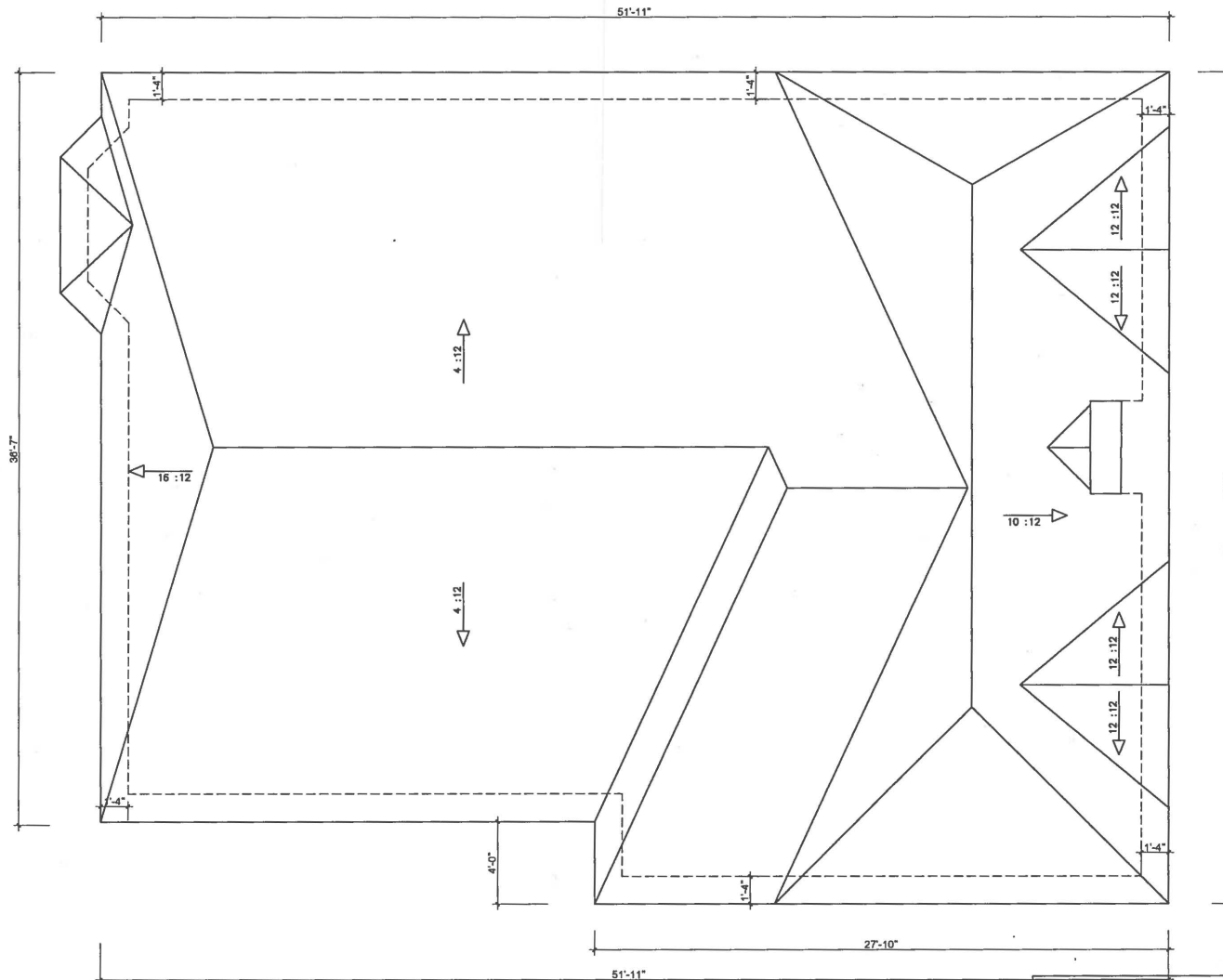
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DATE	JUNE 20, 2018	DWG. NO. 2 OF 9
DWG. TITLE:	BASEMENT	
JOB TITLE:	84 HIGHLAND PARK BLVD	



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SCALE: 3/16" = 1'-0"	
DATE: JUNE 20, 2018	DWG. NO. 3 OF 9
DWG. TITLE: GROUND FLOOR	
JOB TITLE: 84 HIGHLAND PARK BLVD	

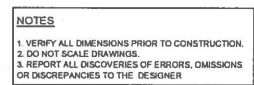




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SCALE : 3/16" = 1'-0"	
DATE JUNE 20, 2018	DWG. NO. 5 OF 9
DWG. TITLE : <b>ROOF PLAN</b>	
JOB TITLE : 84 HIGHLAND PARK BLVD	





SCALE : 3/16" = 1'-0"		
DATE JUNE 20, 2018	DWG. NO. 6 OF 9	
DWG. TITLE : <b>FRONT ELEVATION</b>		
JOB TITLE : 84 HIGHLAND PARK BLVD		

202.27 HIGHEST POINT OF ROOF

201.05 MIDPOINT OF ROOF

200.25 FIN. CEILING

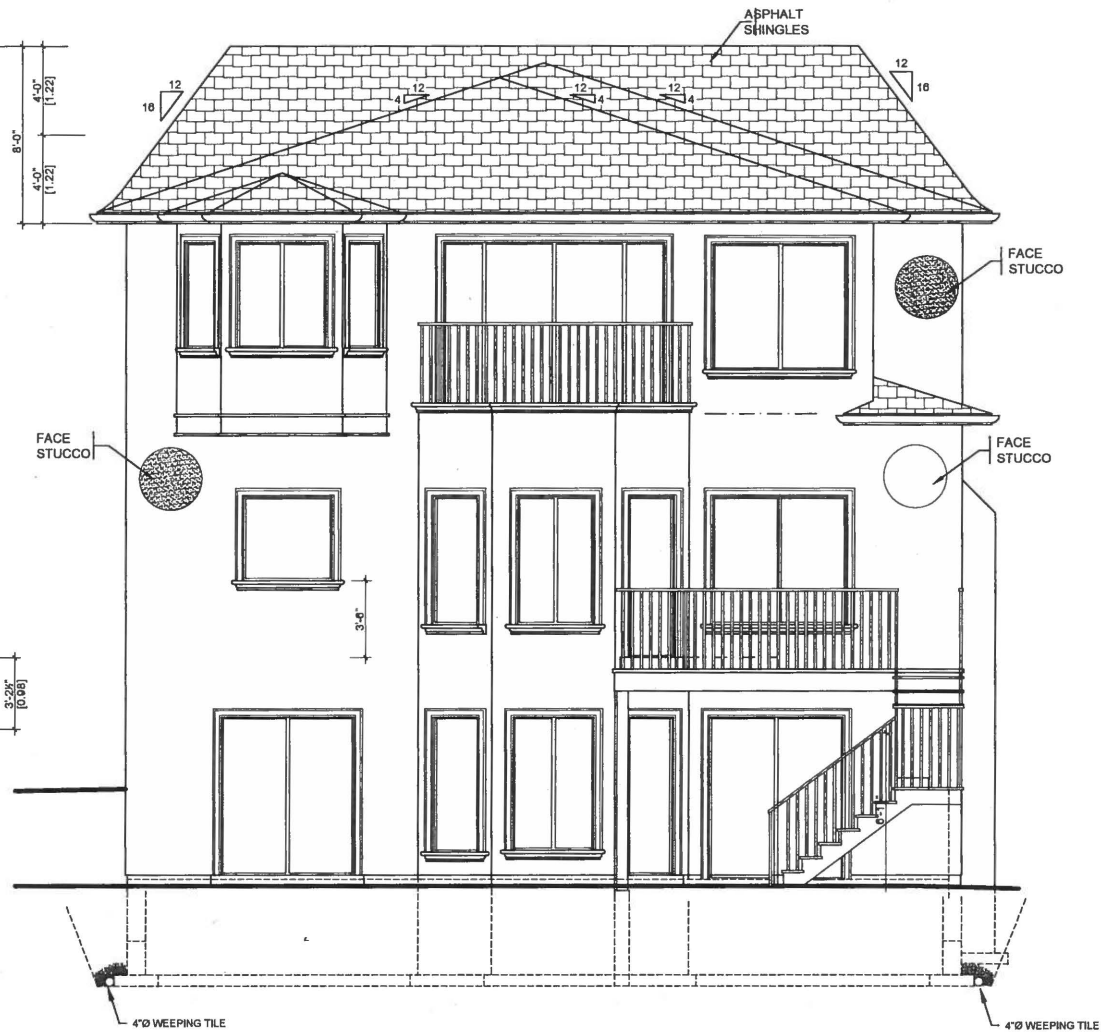
197.20 FIN. 2ND FLOOR

192.85 FIN. 1ST FLOOR

192.87 CENTER LINE OF ROAD  
AT MID-POINT OF LOT

190.80 BASEMENT SLAB

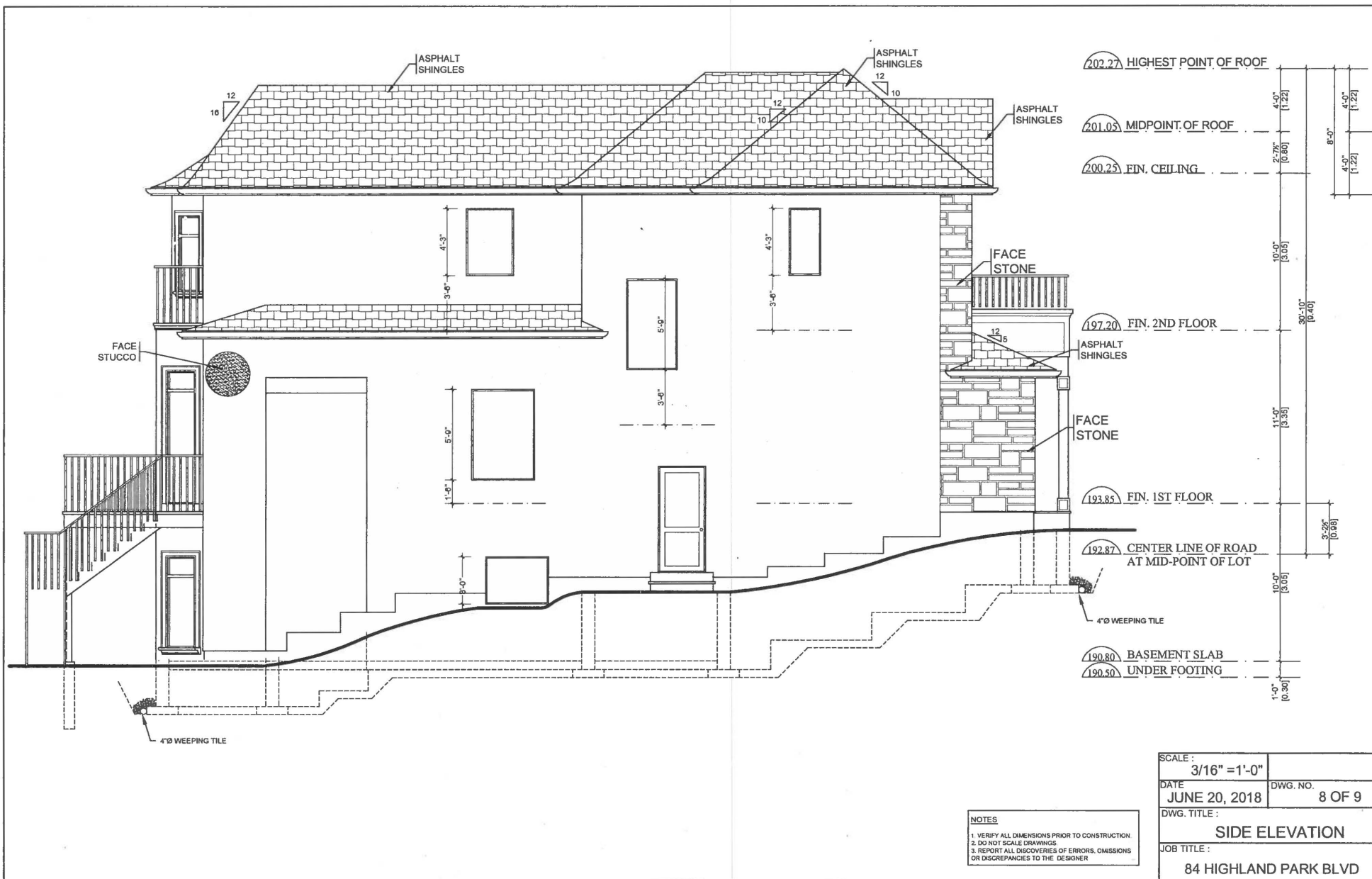
190.50 UNDER FOOTING



NOTES

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SCALE:	3/16" = 1'-0"	
DATE	JUNE 20, 2018	DWG. NO.
		7 OF 9
DWG. TITLE:	REAR ELEVATION	
JOB TITLE:	84 HIGHLAND PARK BLVD	



202.27 HIGHEST POINT OF ROOF

201.03 MIDPOINT OF ROOF

200.25 FIN. CEILING

197.20 FIN. 2ND FLOOR

193.85 FIN. 1ST FLOOR

192.87 CENTER LINE OF ROAD  
AT MID-POINT OF LOT

190.80 BASEMENT SLAB

190.50 UNDER FOOTING

ASPHALT  
SHINGLES

FACE  
STONE

FACE  
STONE

ASPHALT  
SHINGLES

FACE  
STUCCO

FACE  
STUCCO

4"Ø WEEPING TILE

4"Ø WEEPING TILE

NOTES  
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SCALE :  
3/16" = 1'-0"

DATE  
JUNE 20, 2018

DWG. NO.  
9 OF 9

DWG. TITLE :

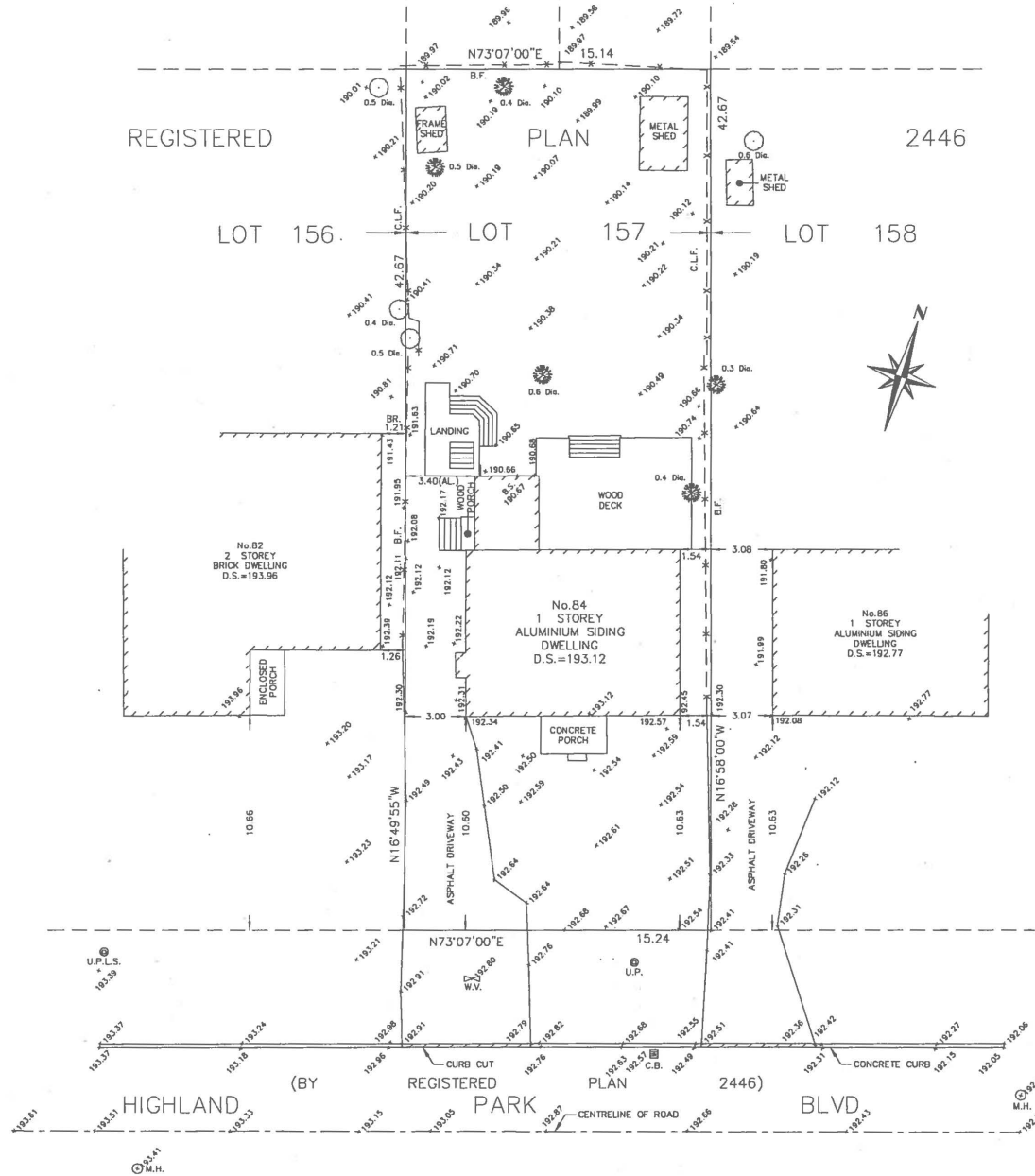
SIDE ELEVATION

JOB TITLE :

84 HIGHLAND PARK BLVD

REGISTERED  
LOT 190  
PLAN  
LOT 189  
2446  
LOT 188

REGISTERED  
LOT 156  
PLAN  
LOT 157  
2446  
LOT 158



TOPOGRAPHIC SURVEY OF  
LOT 157, REGISTERED PLAN 2446  
CITY OF MARKHAM  
REGIONAL MUNICIPALITY OF YORK

SCALE 1:200

10m 5 0 10 METRES

MANDARIN SURVEYORS LIMITED, O.L.S. ©

METRIC

DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE  
CONVERTED TO FEET BY DIVIDING BY 0.3048

LEGEND

- PIN DENOTES PROPERTY IDENTIFIER NUMBER
- D.S. DENOTES FINISHED SILL ELEVATION AT ENTRY
- N,S,E,W DENOTES NORTH, SOUTH, EAST, WEST
- B.F. DENOTES BOARD FENCE
- C.L.F. DENOTES CHAIN LINK FENCE
- AL. DENOTES TIE TAKEN FROM ALUMINUM
- B.S. DENOTES BASEMENT SLAB ELEVATION
- © U.P. DENOTES UTILITY POLE
- © U.P.L.S. DENOTES UTILITY POLE WITH LIGHT STANDARD
- W.V. DENOTES WATER VALVE
- M.H. DENOTES MAN HOLE
- C.B. DENOTES CATCH BASIN
- DENOTES CONIFEROUS TREE
- DENOTES DECIDUOUS TREE

BENCHMARK NOTE

ELEVATIONS SHOWN HEREON ARE GEODETIC AND ARE REFERRED TO THE  
CITY OF MARKHAM BENCHMARK No.092023047 HAVING AN ELEVATION  
OF 192.406 METRES. BRASS CAP SET IN CONCRETE CURB, 4.2 METRES  
SOUTH OF THE CENTRELINE OF WOODWARD AVENUE AND 38.0 METRES  
EAST OF THE CENTRELINE OF WILLOWDALE BLVD.

CERTIFICATE

THE FIELD OBSERVATIONS REPRESENTED ON THIS PLAN WERE  
COMPLETED ON THE 19th DAY OF SEPTEMBER, 2017

SEPTEMBER 22, 2017  
DATE

Z. ZENG  
ONTARIO LAND SURVEYOR

CAUTION

THIS IS NOT A PLAN OF SURVEY AND SHALL NOT BE USED FOR  
MORTGAGE OR TRANSACTION PURPOSES.

MANDARIN SURVEYORS LIMITED

ONTARIO LAND SURVEYOR CANADA LANDS SURVEYOR  
WWW.MANDARINSURVEYOR.COM

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SURVEY BY: S.Z.

CAD No: 17-330TP

JOB No: 2017-330