

Memorandum to the City of Markham Committee of Adjustment

September 24, 2018

File: B/08/18, A/101/18 and A/102/18
Address: 11 Ovida Boulevard, Markham
Applicant: Han Feng Pu
Agent: Gregory Design Group (Russ Gregory)
Hearing Date: Wednesday September 26, 2018

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

B/08/18

The applicant is requesting provisional consent to:

- a) sever and convey a parcel of land with an approximate lot frontage of 69.1ft (21.05m) and area of 6,372.5ft² (592.02m²) (Part 2);
- b) retain a parcel of land with approximate lot frontage of 59.4ft (18.1m) and area of 6,382.5ft² (592.95m²) (Part 1).

The purpose of this application is to create two residential lots.

A/101/18 (Part 1 - RETAINED)

The applicant is requesting relief from the requirements of By-law 1229, as amended, to permit:

- a) **Table 11.1:**
a minimum lot frontage of 59.4ft (18.1m), whereas the By-law requires a minimum lot frontage of 60ft (18.3m);
- b) **Table 11.1:**
a minimum lot area of 6,382.5ft² (592.95m²), whereas the By-law requires a minimum lot area of 6,600ft² (613.2m²);
- c) **Infill By-law 99-90, Section 1.2 (vi):**
a maximum floor area ratio of 49.90%, whereas the By-law permits a maximum floor area ratio of 45%;

as they relate to a proposed residential dwelling.

A/102/18 (Part 2 - CONVEYED)

The applicant is requesting relief from the requirements of By-law 1229, as amended, to permit:

- a) **Table 11.1:**
a minimum lot area of 6,372.5ft² (592.02m²), whereas the By-law requires a minimum lot area of 6,600ft² (613.2m²);
- b) **Infill By-law 99-90, Section 1.2 (vi):**
a maximum floor area ratio of 49.99%, whereas the By-law permits a maximum floor area ratio of 45%;

as they relate to a proposed residential dwelling.

BACKGROUND

Property Description

The 12,749.20 ft² (1,184.44 m²) subject property is located south of Highway 7 East, west of Markham Road. It is a corner lot at the south-east corner of Ovida Boulevard and Erlane Avenue. The property is located within an established residential neighbourhood characterized by large lots comprising of older detached dwellings. The street character (dwelling size, lot pattern, setbacks) has remained consistent. There is an existing two-storey detached 4,282 ft² (397.81 m²) dwelling on the subject property, which according to assessment records was constructed in 1989. Mature vegetation exists across the front and rear of the property and is a predominant characteristic of the neighbourhood.

Previous Severance Application

The subject property (11 Ovida Boulevard) was a part of a severance that was heard at the Committee of Adjustment on July 22, 1987. Previously known as 15 Ovida Boulevard (now 11 and 15 Ovida Boulevard), the applicant requested consent to convey two parcels of land for residential purposes with a lot frontage of 20.42 m (66.99 ft) and area of 6,646.28 ft² (617.46 m²) for the conveyed parcel and a lot frontage of 25.84 m (84.77 ft) and area of 8,431.37 ft² (783.3 m²) for the retained parcel. The application was denied by the Committee of Adjustment. The applicant appealed the decision to the OMB and was denied their request to convey two parcels of land. The conveyance of one parcel was subsequently approved with a lot frontage of approximately 27.5 m (90.22 ft) and area of approximately 9,027.69 ft² (838.7 m²) for the conveyed parcel and a lot frontage of approximately 39.15 m (128.44 ft) and lot area of approximately 12,754.91 ft² (1,184.97 m²) for the retained parcel. The lot areas and frontages created through the severance are larger than what is currently proposed at 11 Ovida Boulevard.

Proposal

The applicant proposes to sever the existing residential lot into two (2) parcels. The retained parcel (Part 1) will have a lot area of 6,382.5ft² (592.95m²) and lot frontage of 59.4 ft (18.1m), neither of which complies with the minimum By-law requirements of 6,600ft² (613.2m²) for lot area and 60ft (18.3m) for lot frontage. The applicant is applying for minor variances to allow a reduced lot area and lot frontage. The applicant is also applying for an additional minor variance to increase the maximum floor area ratio to 49.90 percent from 45 percent, for a new detached dwelling.

The conveyed parcel (Part 2) will have a lot area of 6,372.5ft² (592.02m²) and a lot frontage of 69.1 ft (21.05 m). The lot frontage complies with the minimum By-law requirement of 60ft (18.3 m) but the proposed lot area does not. The applicant is requesting minor variances for the proposed lot area of 6,372.5ft² (592.02m²), which does not meet the minimum By-law requirement of 6,600ft² (613.2 m²). The applicant is also applying for an additional minor variance to increase the maximum floor area ratio to 49.99 percent from 45 percent, for a new detached dwelling.

The applicant has provided conceptual plans, which at any time can change and may not be the actual homes which are built on the proposed new parcels of land if the severance is approved. The conceptual plans show homes larger than what is permitted by the zoning by-law on each of the proposed lots.

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. In considering applications for development approval in a 'Residential Low Rise' area, which includes severances, infill development is required to meet

the general intent of Section 8.2.3.5 of the 2014 Official Plan. Specifically the section requires that:

- Proposed new lot(s) have lot area(s) and lot frontage(s) consistent with the size of existing lots on both sides of the street;
- That proposed new building(s) 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
- 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.

Zoning By-Law 1229

The property is zoned R1 'Residential' by By-law 1229, as amended. The R1 Zone provisions under By-law 1229, as amended, requires a minimum lot area of 6600 ft² (613.16 m²) and a minimum lot frontage of 60 ft. (18.3 m). Both retained (Part 1) and conveyed (Part 2) parcels do not comply with the minimum lot area and the retained lot (Part 1) does not comply with the minimum lot frontage.

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 developments on both retained (Part 1) and conveyed (Part 2) lots do not comply with the by-law with respect to maximum floor area ratio.

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

A/101/18 and A/102/18

According to the information provided by the applicant, the reason for not complying with the applicable zoning by-law provisions is, "*...for the creation of new lots and construction of new houses*".

Zoning Preliminary Review Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. 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 any 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.

The Proposed Severance Is Not in Keeping With the Character of the Street

Lot Areas

Ovida Boulevard and Erlane Avenue are characterized by properties on large lots with large frontages. Lot areas range from approximately 9,490.21 ft² (881.67 m²) to 15,804 ft² (1,468.24 m²), with the majority of the properties having lot areas of approximately 10,871.54 ft² (1010 m²). Along Erlane Avenue lot areas range from approximately 7,739.25 ft² (719 m²) to 21,678.51 (2,014 m²). The properties along Erlane Avenue generally have larger lot areas than properties on Ovida Boulevard (See Figure 1). The conveyed and retained lots will have the smallest lot areas in the immediate vicinity along Ovida and Erlane Avenue.

Figure 1: Approximate Lot Areas in the Immediate Vicinity*

Ovida Boulevard (between Highway 7 East & Riverview Road)	9,490.21 ft ² (881.67 m ²) – 15,804 ft ² (1,468.24 m ²)
Erlane Avenue (between Ovida Boulevard and Milnes Lane)	7,739.25 ft ² (719 m ²) – 21,678.51 (2014 m ²)

*Data from City of Markham - Geo-Logic

Lot Frontage

The existing lot pattern along Ovida Boulevard generally consists of properties with lot frontages ranging between 60 ft. (18.3 m) to 98 ft. (30 m). The properties along Erlane Avenue generally have larger frontages than those along Ovida Boulevard (See Figure 2). There is one (1) other property on Ovida Boulevard which has a lot frontage of approximately 60 ft (18.3m) however, all of the other frontages are larger. The frontage of the retained parcel will be the smallest on Ovida Boulevard. The proposed lot frontage is also significantly smaller than those along Erlane Avenue.

Figure 2: Approximate Lot Frontages in the Immediate Vicinity*

Ovida Boulevard (between Highway 7 East & Riverview Road)	60 ft. (18.3 m) – 98 ft. (30 m)
Erlane Avenue (between Ovida Boulevard & Milnes Lane)	78 ft. (27 m) – 98 ft. (30 m)

*Data from City of Markham - Geo-Logic

It should be noted that there is sufficient frontage (128.45 ft./39.15 m) to accommodate adjusting the proposed severance line so that the proposed lot frontages for both the retained and conveyed lots will comply with the zoning by-law.

The Proposed Severance Will Create Adverse Impacts on the Street

The proposed configuration of the retained (Part 1) lot will deviate significantly from the established lotting pattern along Erlane Avenue and impact surrounding properties. There are consistent and generous front yard setbacks provided along both sides of Erlane Avenue that results in a harmonious streetscape. The existing house at 11 Ovida Boulevard is oriented towards Ovida however, because Erlane is the shorter of the two street lot lines, it is considered the frontage under the Zoning By-law. Therefore, a minimum required front yard setback of 25 feet must be provided on Erlane Avenue which, maintains consistent setbacks on the street. The proposed severance will result in a lot re-configuration where Ovida Boulevard becomes the shorter of the two street lot lines and therefore Erlane Avenue becomes the exterior side yard for the new proposed home under the Zoning By-law. Due to this reconfiguration, a setback of 4ft (one-storey portion) and 6ft (two-storey portion) will be required on Erlane Avenue. This is a

significant deviation from the current setbacks provided on Erlane Avenue, which are a minimum of 25 feet. As a result, a house built on the new corner lot would be located much closer to the Erlane Avenue frontage and would appear to “project” into the established building line on Erlane Avenue at a very prominent location – the intersection of Erlane Avenue and Ovida Boulevard.

The proposed new dwellings on the conveyed and retained lots would have impacts on the existing trees on the site and result in possible removal of mature vegetation from the property. This would impact the surrounding established neighbourhood.

The Proposed Severance Does Not Conform to the City's Official Plan

Sections 8.2.3.5 a) and 8.2.3.5 b) specifically state that proposed lot(s), frontage(s) and the resulting building(s) shall be appropriate with the site and generally consistent with the massing, scale and size of existing lots and buildings on both sides of the street on which the property is located. Based on the discussion above, Staff are of the opinion that the proposed severance and minor variances are not in keeping with the intent of the Official Plan. If approved the severance will result in lots and a building setback that are smaller than those on Ovida Boulevard and Erlane Avenue and therefore deviate from the existing character and lotting pattern of the area.

Increase in Maximum Floor Area Ratio on both Retained (A/101/18) and Conveyed (A/102/18) Parcels

For the retained lot (Part 1) the applicant is requesting relief to permit a floor area ratio of 49.90 percent, whereas the By-law permits a maximum floor area ratio of 45 percent. According to conceptual plans, the variance will facilitate the construction of a two-storey detached dwelling with a floor area of approximately 295.49 m² (3,180.71 ft²), whereas the By-law permits a dwelling with a maximum floor area of approximately 271.37 m² (2,921.06 ft²). This represents an increase of approximately 24.12 m² (259.65 ft²).

For the conveyed lot (Part 2) the applicant is requesting relief to permit a floor area ratio of 49.99 percent, whereas the By-law permits a maximum floor area ratio 45 percent. The variance will facilitate the construction of a two-storey detached dwelling with a floor area of approximately 300.69 m² (3,236.61 ft²), whereas the By-law permits a dwelling with a maximum floor area of a 271.16 m² (2,918.79 ft²). This represents an increase of approximately 29.53 m² (317.82 ft²).

Floor Area Ratio (FAR) 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).

Engineering Comments

The City's Engineering Department advises that both the retained and conveyed parcels must be provided with its own individual water and sewer services, if the proposed severance is approved. In conjunction with the building permit applications for each individual lot, the Owner will be required to submit a separate site servicing plan for review and approval by the City. At such time, the Owner will also be required to submit an application for the installation and decommissioning of service connections. The connections will be installed by the City at the Owner's expense to be secured through a Development Agreement.

Urban Design Comments

Subject to the review and approval of the tree assessment and preservation plan, tree placement and/or compensation are to be provided to the City, to the satisfaction of the Director of Planning and Urban Design or designate prior to site work, if the proposed severance is approved. All the

trees proposed to be retained must be protected by tree protection fencing in accordance with the requirements outlined in the City's Streetscape Manual (2009), as amended. In addition, the applicant will be required to satisfy Parkland Dedication through a contribution in the form of cash-in-lieu, calculated based on an acceptable land appraisal. All the above requirements will also be secured through a Development Agreement which is a condition of approval should the severance be approved.

Staff are of the opinion that the requested minor variances do not meet the intent of the Official Plan. They will have a negative impact on the existing neighbourhood as they will result in a deviation from the established lotting pattern along Erlane Avenue. Ovida Boulevard and Erlane Avenue are characterized by dwellings on larger lots with larger frontages. The proposal will result in a larger dwelling on a smaller lot. It is not desirable as it does not respect nor reflect the existing pattern and character of adjacent development. Further the proposed dwelling on the retained lot will have impacts on existing trees on the site and result in the possible removal of mature vegetation from the property which will impact the surrounding established neighbourhood.

PUBLIC INPUT SUMMARY

As of September 24 2018, the City received 11 letters against the proposal expressing concerns of the size of the proposed lots, the neighbourhood turning into a rental community, setting a precedent of other corner lots being severed, row houses lining the streets, the proposal not being in keeping with the neighbourhood or good for the neighbourhood, and referencing the decision made in 1987. 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 proposal within the context of the criteria in Sections 51 (24) and 45 (1) of the *Planning Act* and the Residential Infill Development Criteria in the City's Official Plan, and recommend that the proposed severance and minor variances be denied.

The onus is ultimately on the applicant to demonstrate why the proposed severance and minor variances should be granted.

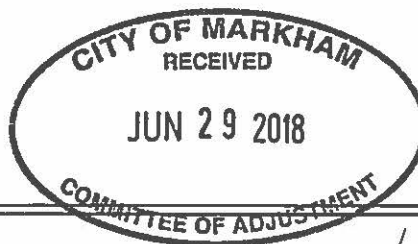
Please see Appendix "A" for conditions to be attached to any approval of this application, should the Committee decide to approve the proposed severance and minor variances.

PREPARED BY:

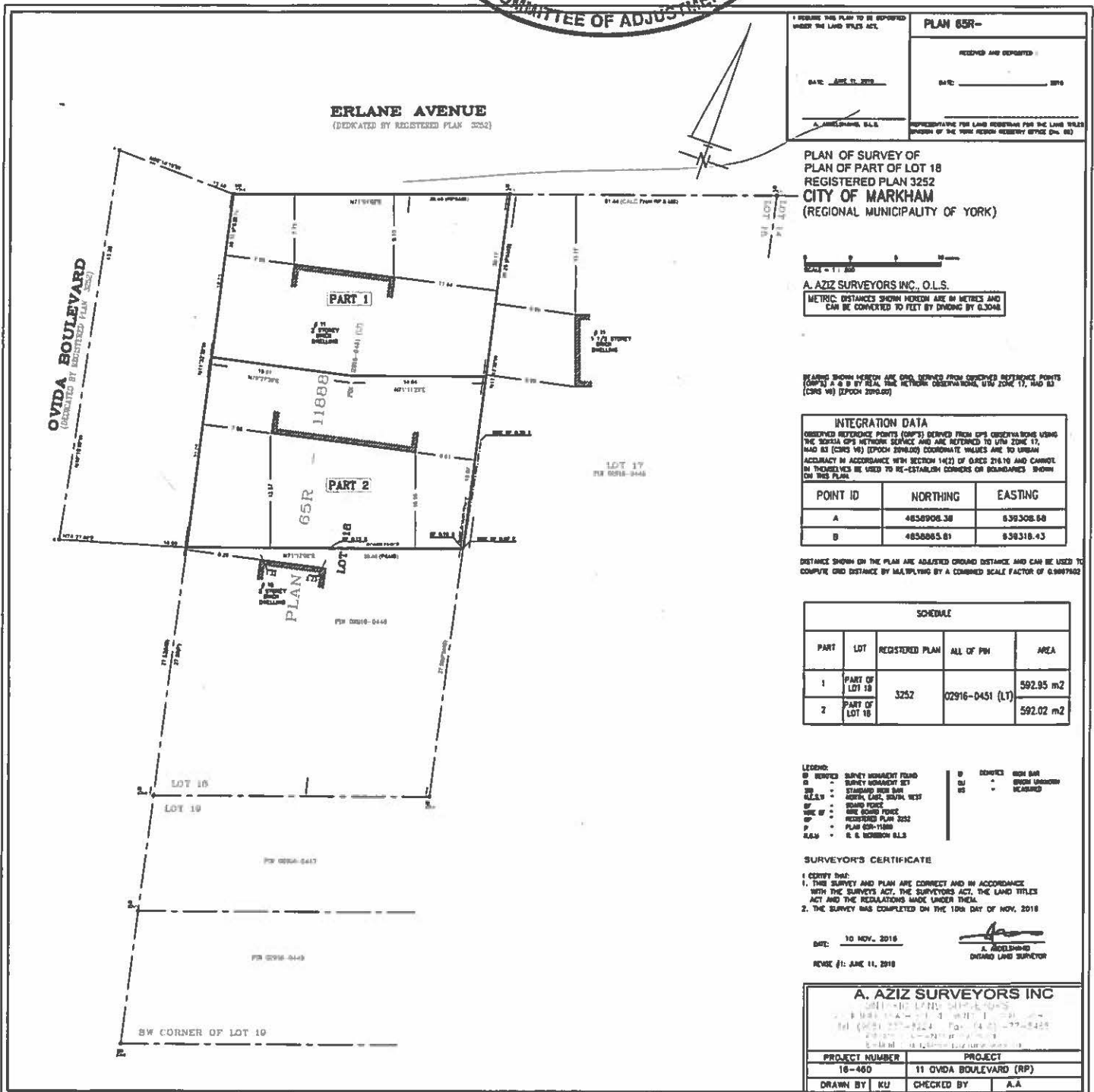

Aqsa Malik, Planner, Zoning and Special Projects

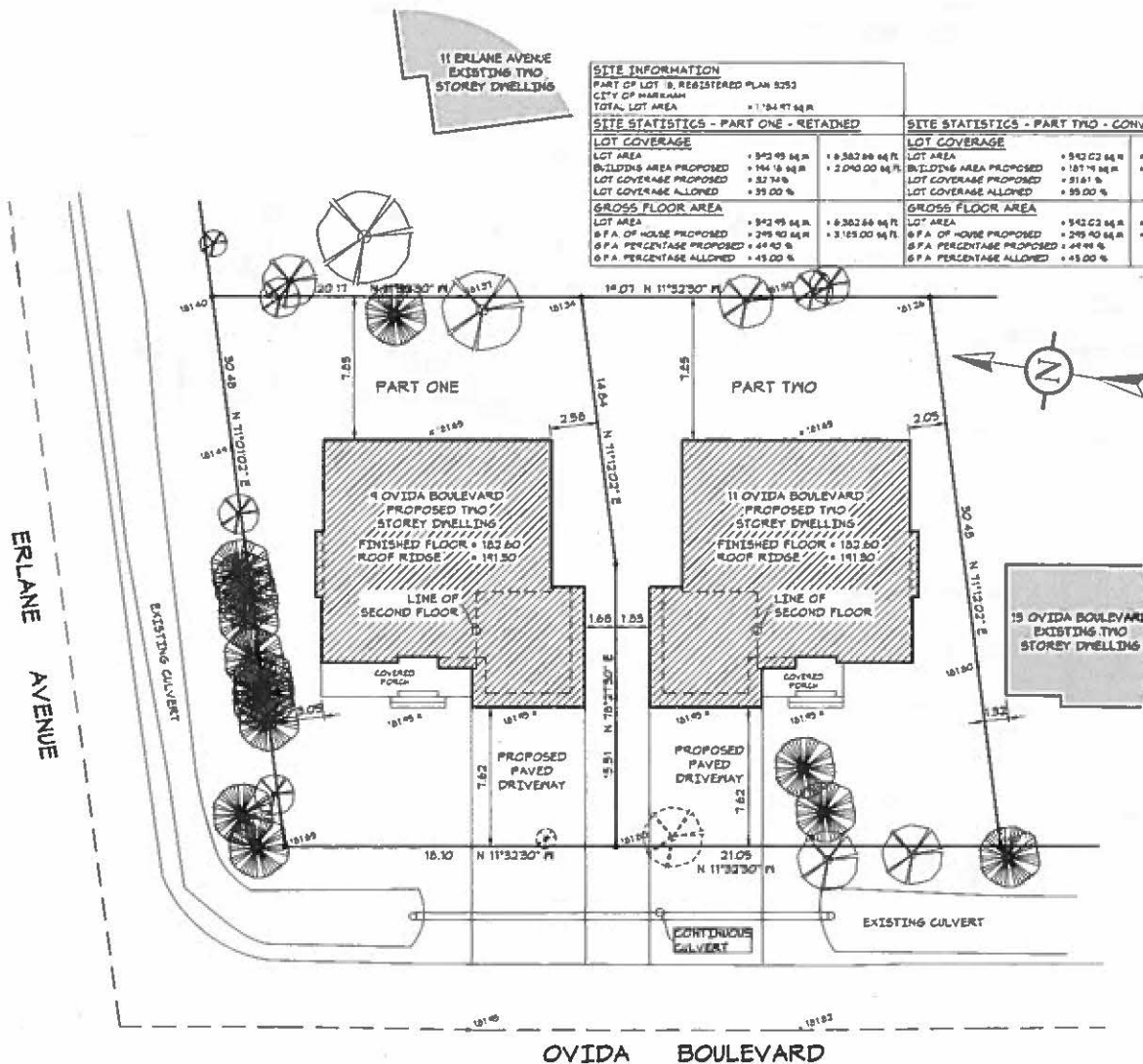
REVIEWED BY:

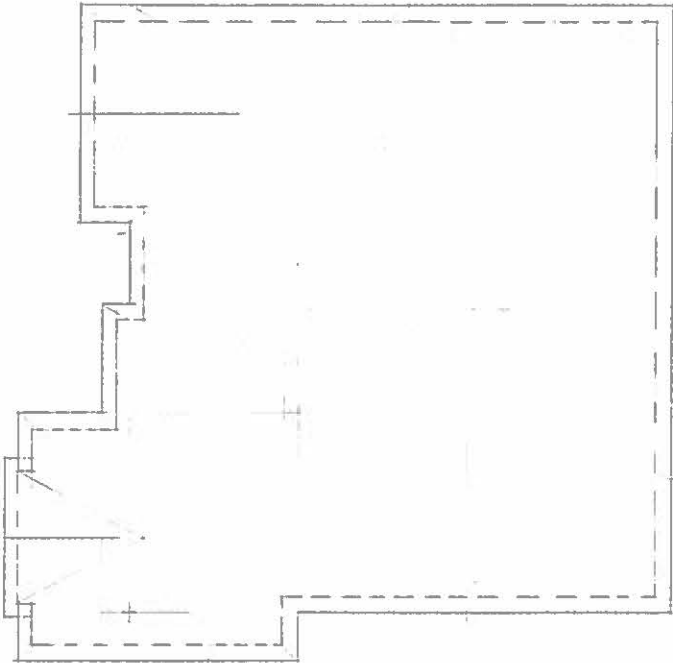

Stacia Muradali, Senior Planner, East District
File Path: Amanda\File\18 238429\Documents\District Team Comments Memo



APPENDIX B



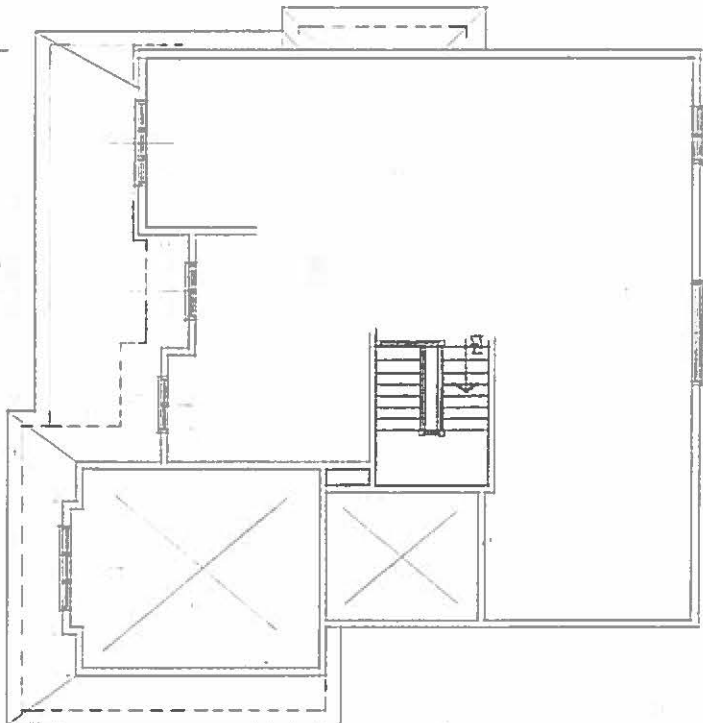




40'0"

6'5"

ROOF PLAN



41'0"

17'0"

8'0"

9'0"

2'0"

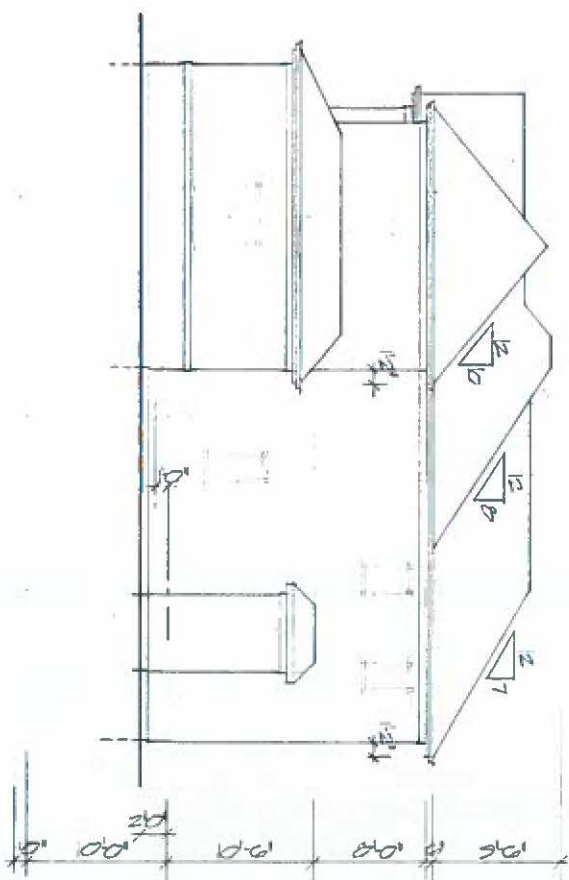
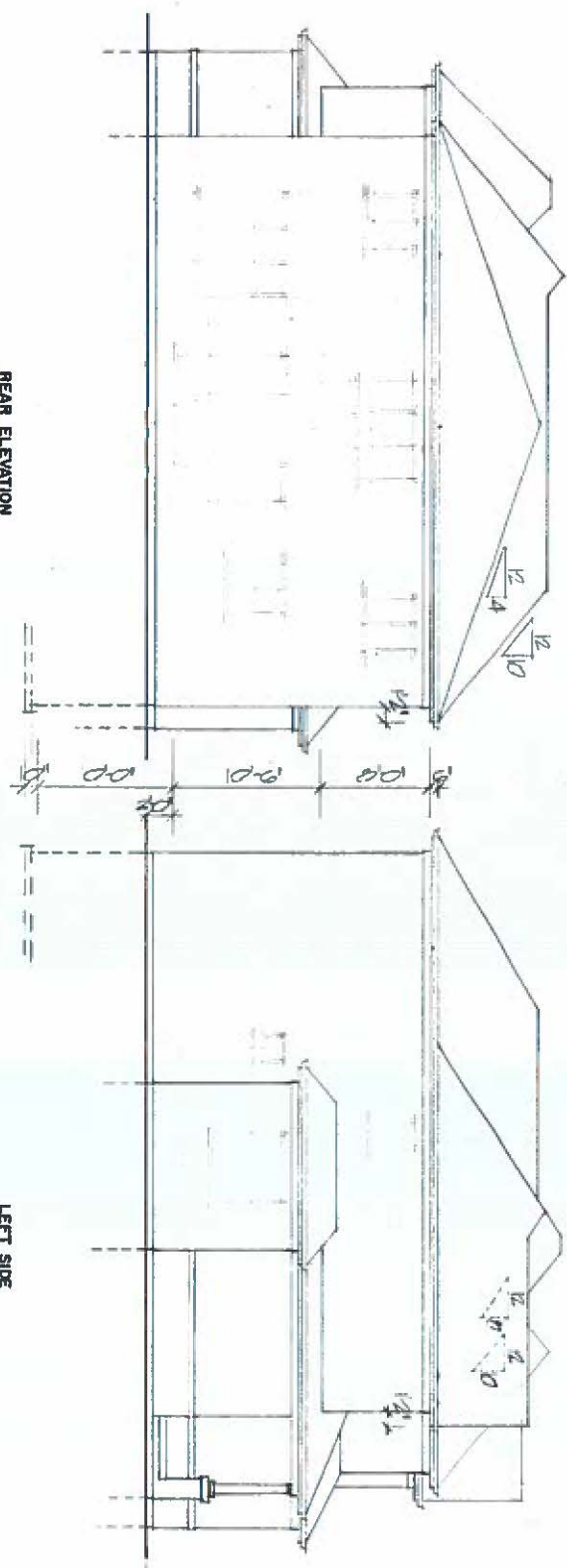
SECOND FLOOR PLAN

SECOND FLOOR AREA = 1740 SQ FT

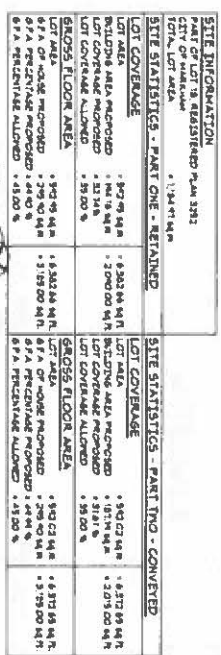
OPEN SPACE = 00 " "

NET FLOOR AREA = 1260 " "

PROJECT		DATE	
HOUSE 2048		DATE	
THE GREGORY DESIGN GROUP		SCALE	
50 MANTOSH DRIVE, SUITE 110		1/4" = 1'-0"	
MARIPOSA, ONTARIO, L2R 8T7		22/1/12	
OFFICE (905) 478-4787		SHEET NO.	
FAX (905) 478-4488		A-3	
mgs@gregorydesigngroup.net			

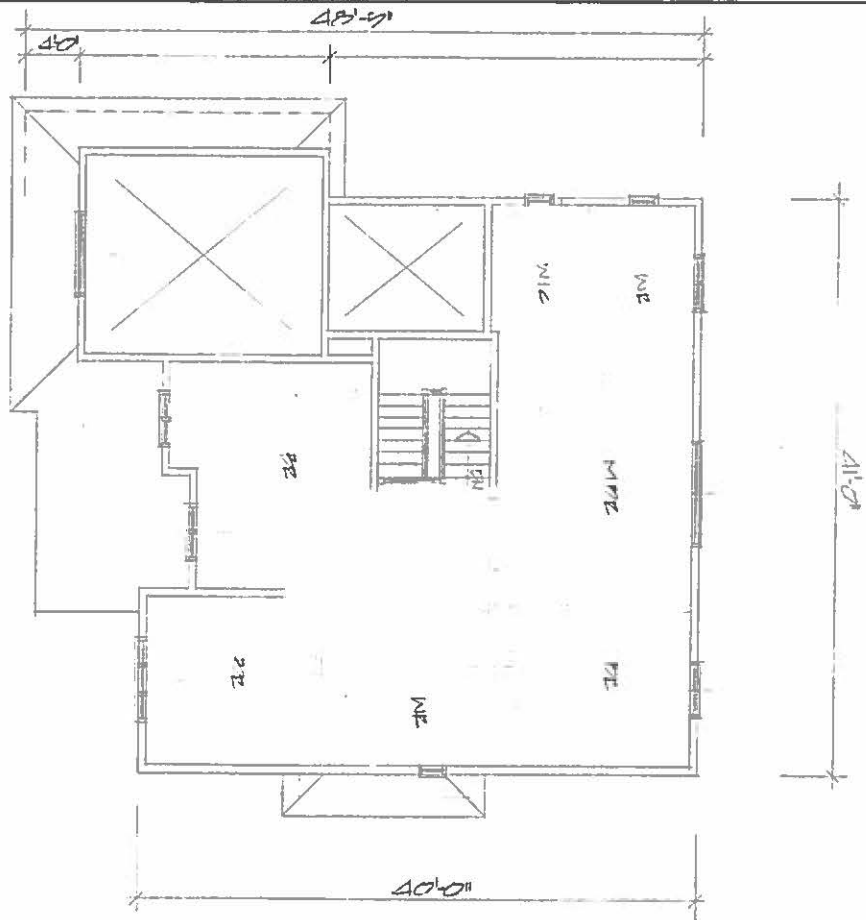


1000 1000	HOUSE 2048	1000 1000	1000 1000
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GENERAL NOTES:		<p>ALL CONSTRUCTION IS TO CONFORM TO SECTION 7 OF THE CHARTER BUILDING CODE (LATEST EDITION).</p> <p>CONTRACTOR SHALL CHECK AND VERIFY ALL NOTES AND DIVISIONS.</p> <p>DO NOT SCALE DIMENSIONS.</p> <p>OWNER / CONTRACTOR / DESIGNER IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND REVISED NOTES OF THIS DRAWING. THESE PERMITS ARE THE RESPONSIBILITY OF THE ARCHITECT, ENGINEER, OR THE OWNER'S DESIGN FIRM AND / OR ITS CLIENTS ONLY.</p> <p>NO OTHER PERMITS SHOULD BE OBTAINED WITHOUT THE CONSULTING CONTRACTOR'S CONSENT.</p>	
REVISIONS AND DATA		DATE	
<p>The following is a list of all revisions to this drawing. It is the responsibility of the contractor to ensure that all revisions are incorporated into the work. It is the responsibility of the contractor to ensure that all revisions are incorporated into the work. It is the responsibility of the contractor to ensure that all revisions are incorporated into the work.</p>			
DATE	REVISION	DATE	REVISION
11/15/2024	1	11/15/2024	1
<p>PROPOSED SEVERANCE 11 OVIDA BOULEVARD CITY OF MARKHAM</p>			
<p>PROPOSED TITLE</p>			
<p>50 MCNICOSH DRIVE, UNIT 140 MARKHAM, ONTARIO L3R 9T3 TEL: (905) 479-4767 FAX: (905) 479-4766 www.gordonbrown.ca</p>			
1,250		06/12/18	
PROPOSED: MARKHAM		SHEET: MARKHAM	
DRAWN BY: 3048-17		SP-1	
5,678,901		R.G.	

PROJECT HOUSE 2093	All drawings shall be prepared in accordance with the requirements of the City of Markham and the Ontario Building Code. The drawings shall be submitted to the City of Markham for review and approval.	OWNER RE GREGORY
II OVIDA BLVD. CITY OF MARKHAM	DATE 6/1/18	SCALE 1"=1'-0"
THE GREGORY DESIGN GROUP	GENERAL NOTES 1. All drawings shall be prepared in accordance with the requirements of the City of Markham and the Ontario Building Code.	PROJECT NO. 2093-18
50 MCINTOSH DRIVE, SUITE 140 MARKHAM, ONTARIO, L3R 9T3	DATE 6/1/18	DRAWING NO. A-2
OFFICE (905) 479-4973 FAX (905) 479-8498	REVISIONS 1. All drawings shall be prepared in accordance with the requirements of the City of Markham and the Ontario Building Code.	
www.thegregorydesigngroup.net		



SECOND FLOOR PLAN

SECOND FLOOR AREA = 240 SPT
 OPEN SPACE = 80
 TOTAL = 320

<p>PROJECT HOUSE 2093</p>	<p>DATE 2/7/97</p>	<p>DESIGNER J. GREGORY</p>	<p>THE GREGORY DESIGN GROUP 50 HARTSHORN DRIVE, SUITE 140 MARIPOSA, ONTARIO, L3R 8T3 OFFICE (905) 478-4187 FAX (905) 478-8493 info@gregorydesigngroup.net</p>	<p>SCALE A-3</p>
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