

Encroachment Agreement - Basement Walkout Appeal – 196 Borden Street

Date: February 6, 2023

To: Toronto and East York Community Council

From: Director, Permits and Enforcement, Transportation Services

Wards: Ward 11, University-Rosedale

SUMMARY

This staff report is about a matter that Community Council has delegated authority from City Council to make a final decision.

Transportation Services has reviewed an application to construct an encroachment within the public right of way at 196 Borden Street. The encroachment consists of a basement walkout within the municipal boulevard of the Borden Street frontage of the property.

The purpose of this report is to request authority to enter into an encroachment agreement with the property owner of 196 Borden Street to permit the construction and ongoing maintenance of the basement walkout within the City's right of way on Borden Street.

RECOMMENDATIONS

The Director, Permits and Enforcement, Transportation Services recommends that:

1. Toronto and East York Community Council authorize the City to enter into an encroachment agreement (the "Agreement") with the owner of 196 Borden Street (the "Owner") for the purpose of permitting the owner to construct and maintain a basement walkout fronting 196 Borden Street subject, but not limited to, the following conditions:
 - a. The property owner shall, at their own expense, enter into an encroachment agreement with the City of Toronto on terms and conditions satisfactory to the General Manager, Transportation Services, including the following:
 1. The property owner shall assume all liability and damages related to the encroachments and release and indemnify the City with respect to any claims in relation thereto;
 2. The property owner must retain valid property insurance for the duration of the encroachment installation on the right of way in an amount and with coverages satisfactory to the General Manager, Transportation Services;

3. The property owner shall agree that the City and/or utility companies may remove the encroachments at any time in order to install or maintain services within the affected public right of way with no obligation to replace them;
4. The property owner shall remove the encroachments if required by the General Manager, Transportation Services, at any time and restore the street to the satisfaction of the General Manager, Transportation Services;
5. The basement walkout is to have a minimum setback of 0.5 metres from the sidewalk and hydro pole; and
6. Obtain clearances and/or sign-offs from all affected utilities and satisfy all conditions imposed by any utilities that may be affected by the installation and maintenance of the basement walkout.

2. Toronto and East York Community Council authorize the General Manager Transportation Services, to negotiate, enter into and execute the encroachment agreement with the owner of 196 Borden Street as described in recommendation 1.

FINANCIAL IMPACT

There is no financial impact resulting from the adoption of the recommendations in this report, as the property owner will be responsible for all associated costs of constructing and maintaining the encroachment.

DECISION HISTORY

City Council, at its meeting on July 23, 2018, adopted Item MM44.67 "196 Borden Street - Liquor Licence Application - Think.IT Licence 173819 - by Councillor Joe Cressy, seconded by Councillor Gord Perks" which recommended that City Council direct the City Clerk to advise the Registrar of the Alcohol and Gaming Commission of Ontario that the issuance of a liquor licence for 196 Borden Street operating under the name Think.IT (the "Premises") is not in the public interest having regard to the needs and wishes of the residents, and that the Registrar should issue either a Proposal to Review or a Proposal to Refuse the liquor licence application.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.MM44.67>

COMMENTS

The owner of 196 Borden Street submitted an application seeking permission to construct a basement walkout in the City right of way fronting the property on Borden Street. Drawings of the proposed basement walkout are shown in Attachments 1-4, and photos of the site are shown in Attachment 5.

The proposed basement walkout ranges from a depth of 3.81 metres below grade, including footings, to a height of 1.22 metres above grade with steel railings, fronting the subject property on Borden Street.

Under Code Chapter 743, the General Manager of Transportation Services does not have authority to enter into encroachment agreements for basement walkouts with a

depth greater than 1.20 metres, or with railings higher than 0.90 metres, measured from the surface of the adjoining boulevard. As the proposed depth of the basement walkout exceeds maximum allowable depth and proposed railings exceed the maximum allowable height, Community Council approval is required. An encroachment agreement between the City and the property owner will set out the property owner's responsibilities for the maintenance, repair and operation of the basement walkout.

As there may be impacts to existing utility infrastructure, it will be the property owner's responsibility to undergo a public utility review and obtain clearances from the affected utility agencies including satisfying their requirements prior to issuance of a construction permit authorizing work within the public right of way.

Transportation Services has reviewed the application and determined the proposed basement walkout fronting 196 Borden Street will not have a negative impact on the public right of way. Therefore, Transportation Services recommends the City enter into an encroachment agreement with the property owner to permit the proposed basement walkout to encroach within the City's right of way.

The Ward Councillor has been advised of the recommendations in this report.

CONTACT

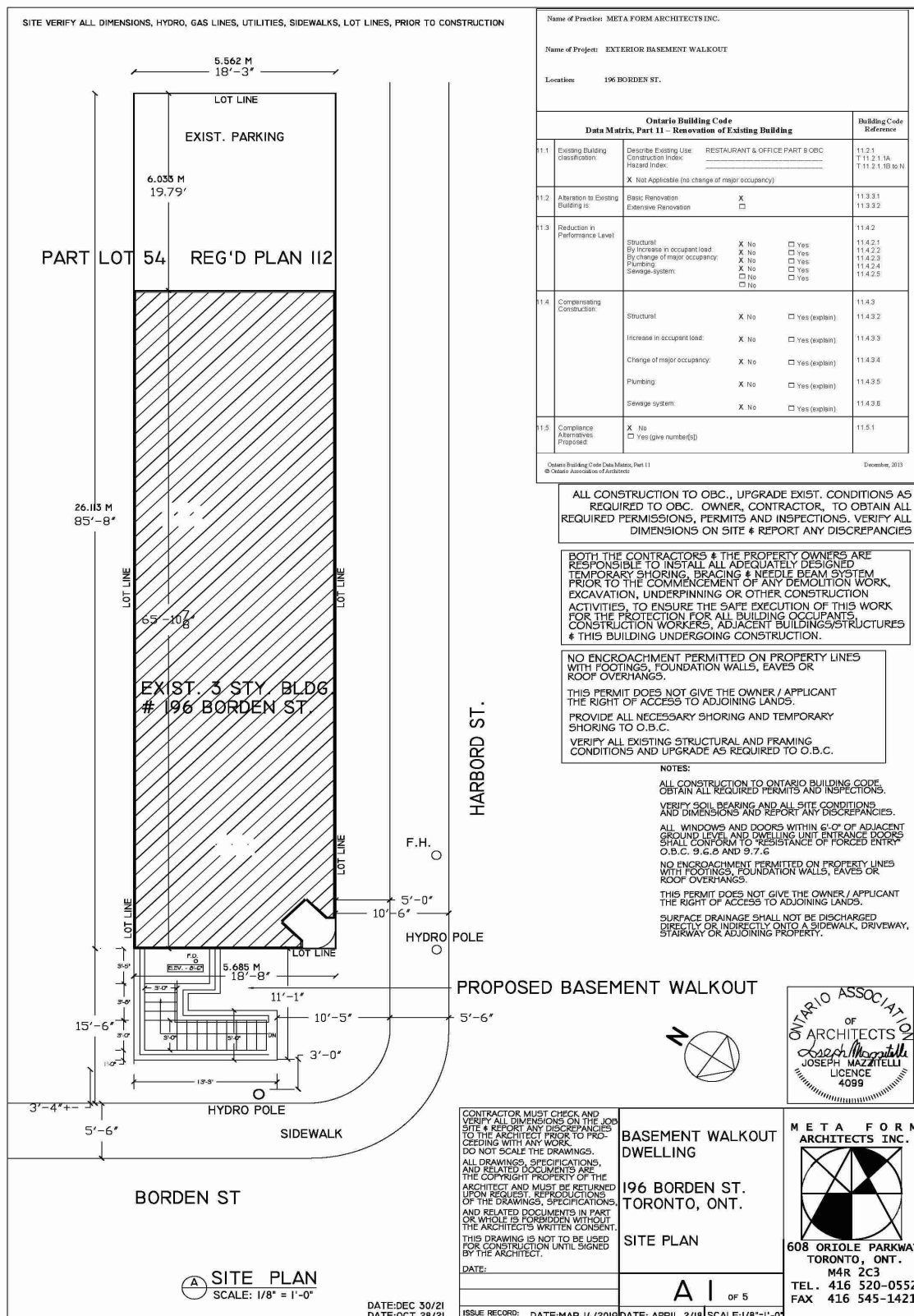
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SIGNATURE

David J. Twaddle, CET
Director, Permits and Enforcement, Transportation Services

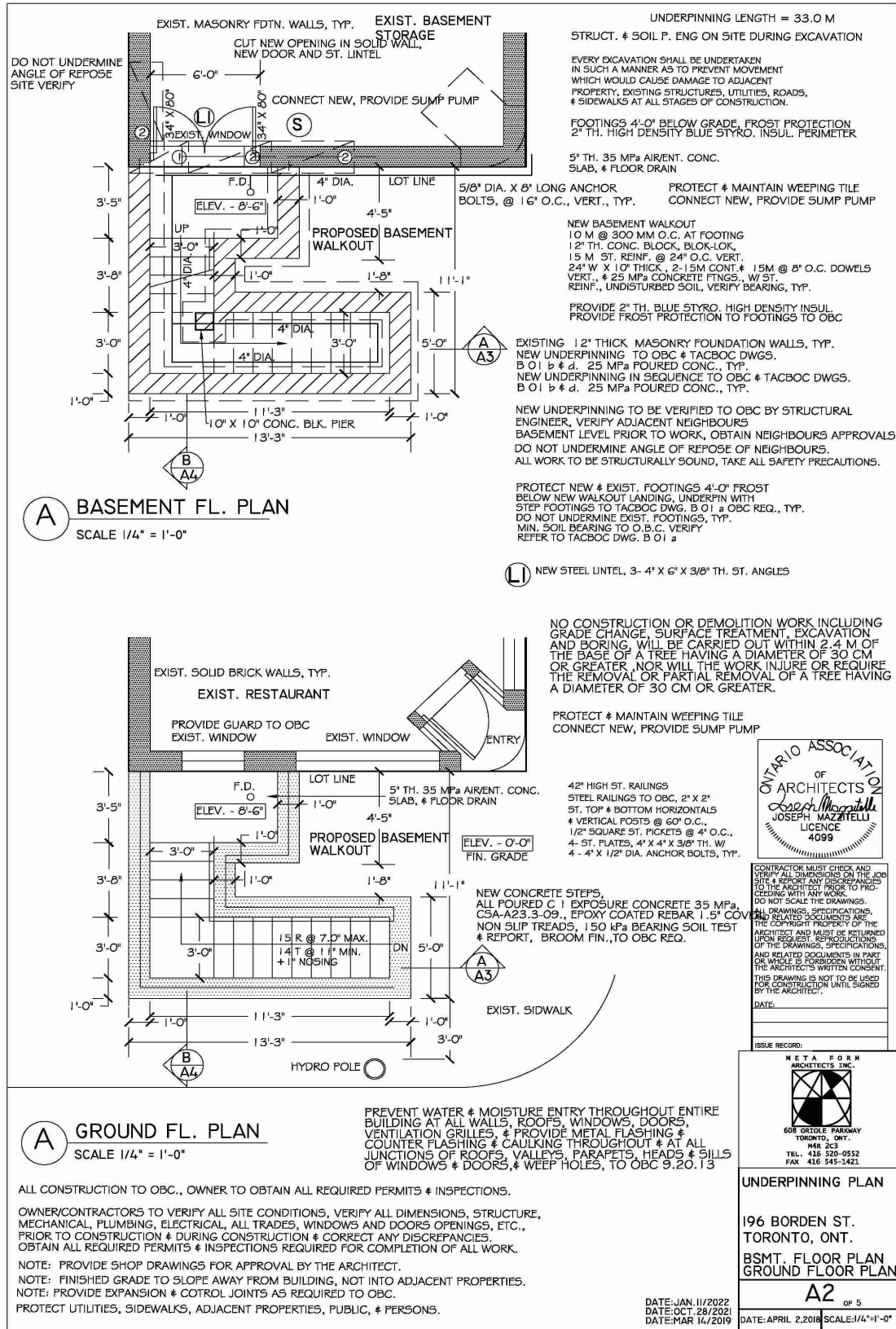
ATTACHMENTS

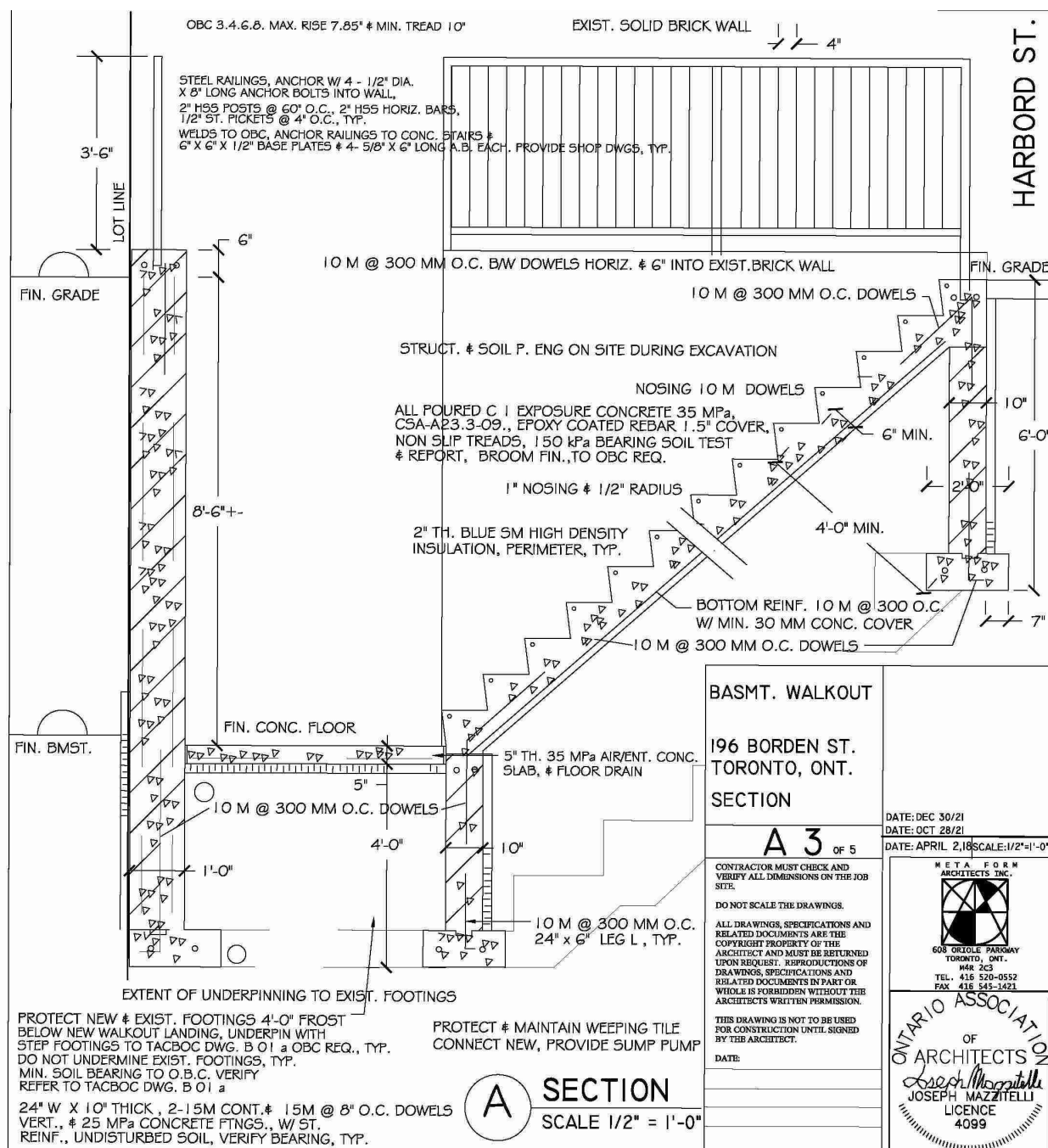
Attachment 1: Site Plan Drawing No. A1, dated December 30, 2021
Attachment 2: Ground Floor Plan Drawing No. A5, dated December 30, 2021
Attachment 3: Basement Entrance Plan No. A2, dated December 30, 2021
Attachment 4: Section Drawing No. A3, dated December 30, 2021
Attachment 5: Photos of 196 Borden Street Boulevard



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Attachment 3: Basement Entrance Plan No. A2, dated January 11, 2022





Attachment 5: Photos of 196 Borden Street Boulevard



