

# DECISION AND ORDER

**Decision Issue Date**      Tuesday, June 04, 2019

PROCEEDING COMMENCED UNDER section 53, subsection 53(19), section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): NELLA SACHAR

Applicant: SIR GROUP INC

Property Address/Description: 1023 KIPLING AVE

Committee of Adjustment Case File Number: 18 135668 WET 03 CO, 18 135635 WET 03 MV, 18 135663 WET 03 MV

**TLAB Case File Number: 18 266416 S53 03 TLAB, 18 266420 S45 03 TLAB, 18 266421 S45 03 TLAB**

**Hearing date:**      Monday, May 27, 2019

**DECISION DELIVERED BY DINO LOMBARDI**

## APPEARANCES

Name	Role	Representative
Sir Group Inc.	Applicant	
Nella Sachar	Appellant/Owner	Amber Stewart
Franco Romano	Expert Witness	

## INTRODUCTION

This is a matter on appeal from the Etobicoke York Panel of the City of Toronto (City) Committee of Toronto (COA) decision to dismiss the applications for the severance of 1023 Kipling Avenue (subject property) and the associated variances.

**Decision of Toronto Local Appeal Body Panel Member: D. LOMBARDI**  
**TLAB Case File Number: 18 266416 S53 03 TLAB, 18 266420 S45 03 TLAB,**  
**18 266421S45 03TLAB**

The Owner/Appellant, Ms. Nella Sachar, proposes to sever the subject property in order to create two undersized residential lots and to construct a new, two-storey residential dwelling with an integral garage on each of the newly created lots.

The subject property is located on the east side of Kipling Avenue, south of Burnamthorpe Road and north of the Six Points interchange at Bloor Street and Dundas Street West, in the former municipality of Etobicoke. There is currently a one-storey detached residential dwelling, situated centrally on the lot, which will be demolished.

The subject property is designated '*Neighbourhoods*' pursuant to the City Official Plan (OP). *Neighbourhoods* are considered stable areas where new development will respect and reinforce the existing physical character. It is zoned Second Density Residential (R2) pursuant to the former Etobicoke Zoning By-law 1992-25 (former By-law) to permit low-rise detached residential development and Residential Detached (RD) under the harmonized City Zoning By-law 569-2013 (new By-law). The applicable performance standards in both By-laws require a minimum lot frontage of 13.5m and a minimum lot area of 510m<sup>2</sup>.

## **BACKGROUND**

The Owner originally submitted applications to the COA in early 2018 regarding the subject property. A hearing was scheduled for July 18, 2018. On July 16, 2018, following an internal City circulation of those applications for review, the City's Planning staff provided comments to the Committee and recommended that the consent and minor variance applications be deferred to allow staff to conduct further analysis to determine the appropriateness of the proposal and to provide the owner an opportunity to further consult with City staff.

As a result, the COA rescheduled the hearing for November 22, 2018.

In the interim, the owner reduced the number of variances being sought and revised the site plan accordingly to reflect a modified proposal for the two proposed detached dwellings. In addition, the revised proposal was improved as a result of including the preparation of a Tree Protection Plan which addressed the impact of the development on the existing trees on the site. The modification also resulted in a proposal that attempted to mitigate the impact of the proposed development on the existing trees and in the formulation by the Applicant of tree protection measures to diminish tree injury during construction.

Prior to the November 22<sup>nd</sup> COA hearing, the Committee received comments from City Planning, Engineering and Urban Forestry staff related to the circulation of the consent and minor variance applications.

Planning staff, in their November 15, 2018 report, provided comments recommending that the applications be refused on the basis that the existing lot

**Decision of Toronto Local Appeal Body Panel Member: D. LOMBARDI**  
**TLAB Case File Number: 18 266416 S53 03 TLAB, 18 266420 S45 03 TLAB,**  
**18 266421S45 03TLAB**

maintains and reinforces the general physical character of the neighbourhood, where the majority of lots have frontages of 15.2m and greater.

Engineering staff had no objection to the applications, subject a land conveyance of 4.89m along the Kipling Avenue frontage of the subject property.

Urban Forestry staff raised concerns regarding the possible removal of one City-owned and one privately-owned tree on the site even though the site plan had been revised to indicate those trees would be protected. This issue is more fully addressed by the Appellant's land use planner in his testimony as recited later in this decision.

At its November 22, 2018 hearing, the COA refused the subject applications for consent and associated variances and the owner subsequently appealed the decision to the TLAB. The TLAB set aside two Hearing dates to hear the matter – May 27 and May 28, 2019.

### *The Proposal*

The proposal before the TLAB is to sever the subject property into two lots and construct a new two-storey detached dwelling on each lot. As a result, a total of 14 variances were requested.

The current variances being requested by the Appellant can be summarized as follows:

- Building length (proposed is 18.92m – maximum permitted is 17m);
- Lot coverage – Part 1 - 39.15%, and Part 2 - 39.12% (maximum permitted is 33%);
- Gross Floor Area (GFA) – Part 1 – 252.4m<sup>2</sup> (150m<sup>2</sup> plus 29.87% of the lot; 0.74X, and Part 2 – 253.92m<sup>2</sup> (150m<sup>2</sup> plus 30.29% of lot area; 0.74X (maximum permitted is 171.4m<sup>2</sup> and 171.5m<sup>2</sup>, respectively (150m<sup>2</sup> plus 25% of lot area; 0.50X);
- Side yard setbacks of 0.91m and 0.93m for both parts, with an aggregate of 1.85m (minimum is 0.93m with an aggregate of 2.1m); and
- Soffit height of 6.86m (maximum permitted is 6.5m in height).

Through the application process, the City had identified the need for a 4.89m road widening to accommodate the future widening of Kipling Avenue. This road widening is reflected in the consent and variance request, resulting in the following lot dimensions:

- Lot frontage of 8.77m (Zoning compliance is a minimum of 13.5m)
- Lot Area:
  - Part 1 – 342.82m<sup>2</sup>; and
  - Part 2 – 343.07m<sup>2</sup> (Zoning compliance is 510m<sup>2</sup>).

As noted above, the proposal has been revised to its current form as shown in Exhibit 1 and attached as **Attachment 1** to this decision. The Appellant's previous requests for height, first floor height, main wall height and front yard landscaping have been removed. Further, the current applications include reductions in the magnitude of variances for GFA/FSI, aggregate side yard setback, building length and soffit height.

## **MATTERS IN ISSUE**

As there are no Parties or Participants in opposition to the appeal there are no issues in dispute, although Planning staff's second report to the COA recommended against approval of the consent and variances on general grounds. Those grounds were that: the proposed severance did not meet the general intent and purpose of the OP or Zoning By-laws; the proposed severance was not reflective of the existing physical character of the neighbourhood; the current lot configuration was reflective of the neighbourhood's character; and, the proposal could risk a change in that character.

Urban Forestry staff also raised a concern with the possible requirement of the removal of two healthy, mature trees as a result of the proposed development.

## **JURISDICTION**

### **Provincial Policy – S. 3**

A decision of the Toronto Local Appeal Body (TLAB) must be consistent with the 2014 Provincial Policy Statement (PPS) and conform to the Growth Plan for the Greater Golden Horseshoe for the subject area (Growth Plan).

### **Consent – S. 53**

TLAB must be satisfied that a plan of subdivision is not necessary for the orderly development of the municipality pursuant to s. 53(1) of the Act and that the application for consent to sever meets the criteria set out in s. 51(24) of the Act. These criteria require that " regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2 of the Planning Act;
- (b) whether the proposed subdivision is premature or in the public interest;
- (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;

- (d) the suitability of the land for the purposes for which it is to be subdivided;
- (d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;
- (e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;
- (f) the dimensions and shapes of the proposed lots;
- (g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;
- (h) conservation of natural resources and flood control;
- (i) the adequacy of utilities and municipal services;
- (j) the adequacy of school sites;
- (k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;
- (l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and
- (m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the City of Toronto Act, 2006. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2).

### **Minor Variance – S. 45(1)**

In considering the applications for variances from the Zoning By-laws, the TLAB Panel must be satisfied that the applications meet all of the four tests under s. 45(1) of the Act. The tests are whether the variances:

- maintain the general intent and purpose of the Official Plan;
- maintain the general intent and purpose of the Zoning By-laws;
- are desirable for the appropriate development or use of the land; and
- are minor.

## **EVIDENCE**

Ms. Amber Stewart, Amber Stewart Law, the Appellant's counsel, called Mr. Franco Romano to provide expert land use planning evidence in support of the consent and minor variances being requested.

As a precursor to Mr. Romano's testimony, Ms. Stewart highlighted his Expert Witness Statement (Exhibit 2) containing the Acknowledgement of Expert's Duty (Form 6) and his Curriculum Vitae.

I qualified Mr. Romano as a professional land use planner capable of providing expert opinion evidence in the area of land use planning. He advised that he had not been involved with the COA applications but was subsequently retained by the owner on January 2, 2019.

In his Witness Statement and evidence (Exhibit 3 – Applicant's Document Disclosure Book), Mr. Romano highlighted a 'Location Map' (Exhibit 2, p. 11) and briefly described the proposal, outlining the particulars of the site and its context within the neighbourhood.

He noted that the property is located on the east side of Kipling Avenue which he described as a major arterial road with surface bus transit. The area is well served by local, regional and rapid transit service and the subject property is near the Kipling subway station

At this juncture, I advised that I had visited the subject property and the surrounding neighbourhood and had familiarized myself with all the pre-filed materials.

Mr. Romano highlighted a neighbourhood Study Area (Exhibit 2, p. 24) which he noted was primarily focused on the Kipling Avenue corridor, running from Dundas/Bloor to Burnhamthorpe Road. He submitted that this major road exposure, and the form of development activity occurring on Kipling Avenue, including consent/severances, had resulted in the properties that were, in his opinion, distinguishable from the residential properties situated within the interior of this neighbourhood. He further opined that this distinction is informed by policies in the OP.

He described the neighbourhood's physical characteristics as consisting of detached residential dwellings ranging in height up to two storeys, a road network of major arterial and local roads, and lot sizes that are modest to large with lot configurations that are rectangular, square and irregularly shaped.

He described the neighbourhood as being stable, but experiencing reinvestment and regeneration in the form of new lots and construction which he suggested had resulted in dwellings that are typically larger – in size, footprint, mass and/or scale – occupying more space on each lot and built to continue the varied, compact built form characteristics representative of the area.

**Decision of Toronto Local Appeal Body Panel Member: D. LOMBARDI**  
**TLAB Case File Number: 18 266416 S53 03 TLAB, 18 266420 S45 03 TLAB,**  
**18 266421S45 03TLAB**

He illustrated this neighbourhood character and architectural typology through a series of photo cells (Exhibit 2, p. 24) of properties on Kipling Avenue, and highlighted redevelopment activity through recent COA variance decisions outlined in his Decision Summary Table (Exhibit 2, p. 28).

He noted that, in total, there are 91 lots in his study area, with lot frontages ranging widely from a low of 7.62m to a high of 30.48m. Additionally, his lot study analysis yielded the following statistical data:

- 17.6% of the lots have a smaller frontage than 13.5m (minimum frontage required by the By-laws);
- 21% are smaller than 15m;
- 6.6% are equal to or smaller than the current frontage of the subject property; and
- 7.6% are equal to or larger than the existing frontage of the subject property (17.65m).

With respect to lot area, the lots within the study area range in size from 296.6m<sup>2</sup> to 1393.7m<sup>2</sup>. Some 14% of the lots are smaller in area than the minimum lot area requirement of 510m<sup>2</sup>, while 16.3% are smaller than 555m<sup>2</sup>. He submitted that 8% of the lots are equal to or smaller than the proposed lot area (after including the conveyed road widening).

Addressing other neighbourhood characteristics, he submitted that: dwelling lengths and depths within the study area are varied, resulting in an undulating front and rear wall alignment pattern along the street; roof styles are also varied and include flat, uniform, and hybrid; and the prevailing patterns of side yard setbacks are tight to wide, with rear yard setbacks modest to deep, in excess of the zoning requirements.

He also noted that GFA/FSI's range from 0.1 to 0.95 times the area of the lot, an 'extreme' range that illustrates the diverse densities found along Kipling Avenue. He further noted that 9.3% of the lots have a GFA/FSI in excess of the zoning regulated maximum of 0.5 but, more importantly, that all (100%) of the most recent variance approvals exceed 0.5 times the area of the lot, ranging between 0.69 to 0.95.

Highlighted his Decision Summary Table, he submitted that recent decisions suggest that the City had no concerns with variances for lot frontage and area that are less than those being sought by the Appellant. He identified properties proximate to the subject site - 1030 Kipling Avenue (TLAB approval – 2018), 978 Kipling Avenue (COA approval – 2017), and 982 Kipling Avenue (COA approval – 2014) – that were recently approved for lot frontages and areas of 7.62m and 311.12m<sup>2</sup>, respectively.

Overall, he submitted that his evidence demonstrates that development activity along Kipling Avenue continues to reinforce the neighbourhood's physical character in a complementary and compatible manner.

At this point, Mr. Romano briefly reviewed City staff comments received by the COA in processing the subject applications, addressing Planning comments first. He suggested that although Staff's comments in their November 15, 2018 report recommended refusal of the applications, he emphasized that their planning analysis did not distinguish Kipling Avenue from the broader neighbourhood. He opined that lot sizes on Kipling are more varied than what is generally found within the interior neighbourhood and he suggested that including those more conventionally sized lots skewed the City's analysis and flawed its conclusions.

He also noted that Kipling Avenue has seen the bulk of redevelopment in the form of new lots and dwellings that, in many cases, Planning staff did not oppose and in fact supported (e.g., 978 Kipling Avenue).

Engineering Staff noted no objections to the applications subject to the road widening conveyance and standard requirements that have been incorporated into conditions of approval (Exhibit 1).

With respect to Urban Forestry's concerns regarding the potential loss of two trees, he noted that the site plan was revised and corrected to show these two trees to be protected. He also noted that the City-owned tree would likely be impacted in the future by the City's road widening of Kipling Avenue given that it will be located closer to the current municipal curb after the 4.89m land conveyance is secured.

#### *Policy and Regulatory Context*

In addressing the statutory tests, Mr. Romano was of the opinion that the proposal properly implements the policy thrust and direction provided for in provincial policy. The proposal supports optimization of the use of land and infrastructure, encouragement of compact form, and redevelopment and intensification.

He found applicable policy direction in the Official Plan, especially applicable to the *Neighbourhoods* designation, which recognizes that change will occur over time and that such changes should respect and reinforce the existing physical character of the neighbourhood. He opined that the policies do not require replication of existing physical character but, rather, that new development should fit the general physical patterns.

Referring to Sections 2.3.1, 3.2.1 and 4.1.5 in the Official Plan, he opined that the proposed lot frontage, lot depth and lot area fit in well with those found in the neighbourhood and that the proposed building siting, size, height, scale and massing is appropriately proportioned to each proposed lot and compatible with the area. He opined that the proposal also properly addresses Sections 4.1.6 and 4.1.7 which differentiate major streets from the interior of the neighbourhood.

He reinforced the proposition that a key objective of the Official Plan is to ensure that new development respects and reinforces the general physical patterns in



neighbourhoods. In this regard, he concluded that the OP recognizes that neighbourhoods can have more than one prevailing physical character.

Mr. Romano opined that the variances also meet the general intent and purpose of the Zoning By-laws, as they will facilitate a dwelling that is compatible with the built form found in the area. He submitted that the proposal represents an appropriate, reasonable and compatible development for the neighbourhood.

The requested variances will facilitate for each new lot, lot sizes and area that will fit well with the mixed undersized, smaller and larger lot fabric that is well represented along Kipling Avenue, and a GFA that is compatible, well represented elsewhere within the subject property's physical context, and negligibly larger than the permit coverage.

The variances for side yard setbacks, building length and soffit height will, in his view, result in reasonably sized dwellings with appropriate standards, interface and functional design that are desirable and compatible with recent development trends along Kipling Avenue. Additionally, he reiterated that the proposal will secure a public benefit in the form of the road widening conveyance.

In addressing the last statutory test, whether the variances are minor, he opined that the proposal creates no unacceptable adverse impacts such as shadowing, privacy or overlook. He submitted that the minor variance Decision Summary Table highlighted in Exhibit 2 of his evidentiary materials illustrates that the proposed variances are in keeping with the numeric range of approvals within the area and fit in well with those found along Kipling Avenue.

Mr. Romano continued his testimony by addressing Part 1, Section 2 of the *Planning Act* and the consent criteria of Section 51(24) of the *Act*. He opined that there were no substantive implications on matters identified in numerous subsections of Section 2, while Subsections 2d), f), g) i), k) and l) of the proposal are appropriately addressed and the proposal satisfies each. With respect to Subsection 2k) specifically, he reaffirmed that the City's request for a 4.89m land conveyance can be readily accommodated and will not impede the proper development of the subject property.

Finally, he opined with respect to the consent application, that a plan of subdivision is not required and submitted that the dimensions of the proposed lots are in keeping with those of other lots in adjacent plans of subdivision.

In summary, he submitted that the subject property's physical and planning instrument context support the proposal, and the consent and variances will result in a lot size and site development that is reflective of the neighbourhood's physical context in a manner that respects and reinforces that context with no unacceptable adverse impact. He submitted that the applications should be approved subject to the conditions proposed.

## **ANALYSIS, FINDINGS, REASONS**

Counsel for the Appellant provided a recent 2018 TLAB decision for *1030 Kipling Avenue* (TLAB Case File No: 17 249645 S53 05, 17 249647 and 17 249649 S45 05) for guidance, of which I am appreciative. That appeal had similar aspects to the subject appeal before the TLAB in that the property is proximate to the subject property, the owner was seeking consent and associated variances similar but slightly greater than the subject applications, and the applications were uncontested.

Ms. Stewart specifically highlighted the last paragraph on Page 6 of the Decision where TLAB Member Makuch wrote:

“Two lots of identical width, in close proximity to the subject property, 978 and 982 Kipling Ave., were similarly divided and developed. Moreover, Planning staff did not oppose either of those applications and, indeed, supported the severance of #978; Planning staff reported that it could see no reason to distinguish the 3 properties. Mr. Manett also pointed out that the properties were on an arterial road on the periphery of the neighbourhood, close to Bloor subway and were served by a bus route and thus were suitable for intensification.”

Ms. Stewart noted that all three properties, No.'s 1030, 978 and 982 Kipling Avenue, were properties highlighted by Mr. Romano in his Decision Summary Table and analysis, and are situated proximate to the subject property, located either directly across from the subject property or in the next block south.

I find that on the uncontroverted evidence, I agree with Mr. Romano that the consent and minor variances will result in a lot size and site development that is reflective of the neighbourhood's physical context in a manner that respects and reinforces that context with no unacceptable adverse impacts. The TLAB had a concern that the property was being over developed given that the proposed lot frontage and area were almost half that required by the By-laws. However, given that the road widening reduced the lot size and was a public benefit, and that the single-family character of the neighbourhood is being maintained, these concerns have been assuaged.

The Official Plan recognizes that different patterns can be found within, and contribute to, the character of a neighbourhood. I concur with Mr. Romano that the proposal respects and reinforces the physical characteristics of the Kipling Avenue component of the neighbourhood which is distinguishable from the interior of the broader neighbourhood. I agree that there is a policy basis to potentially distinguish the properties along Kipling from the interior and that there can be different land use context permissions for properties along major streets and edges of neighbourhoods.

Mr. Romano's numeric analysis of the lots in the study area suggests that the subject property is in the minority in the sense that it is one of the largest lots, and the dimensions of the lots being proposed would create lots that are in the smaller category

in terms of frontage and area. From a numeric perspective, I agree with Mr. Romano that the proposed lots will fit the physical character of the neighbourhood context and be consistent and compatible with what exists on Kipling Avenue today, independent of or despite the descriptor.

I agree with Mr. Romano that there is no expressed policy direction at this location in the OP that prefers larger lots to smaller lots. In the case of the subject proposal, the lots being created represent a more modest form of intensification that is contemplated for consideration along the 'edge' of this residential neighbourhood reflective of the policy support in the OP to the extent that it is permitted. What is permitted in the OP are development proposals that respect and reinforce the existing physical character of a neighbourhood which, in turn, necessitates an analysis of the lot sizes and the built form. I agree that what we see along Kipling Avenue is a variety of lot size and built form.

I also agree that the policies in the OP speak to concerns with respect to precedent and the destabilization of neighbourhoods. I find in this circumstance that this type of development along the edge will not create an adverse precedent for development along Kipling Avenue or within the interior, low rise residential areas.

Mr. Romano's evidence clearly showed that there have been examples of regeneration and redevelopment along Kipling Avenue in the study area (i.e., 1030, 978, 982 Kipling Avenue, etc.). The result has been the creation of lots with smaller frontage and area dimensions than being proposed and two-storey built form dwellings with living space above an integral garage.

Moreover, the fact that the examples of newly created lots noted above received similar approvals to what is being proposed and that Planning staff did not oppose them and, indeed, supported one of them, gives credence to the opinion of Mr. Romano. I agree with his submission that the proposed lots are larger than those recently approved along Kipling Avenue and that the two dwellings to be constructed on each are similar in form to what exists along the street.

I place significant weight on the fact that there have been no concerns expressed by the neighbours filed with the TLAB regarding these applications and that no other parties or participants participated in this hearing.

With respect to the issue raised by Urban Forestry regarding the possible removal of one City-owned and one privately-owned tree as a result of the proposed development, the TLAB recognizes and appreciates the importance of maintaining and enriching the City's tree canopy.

What the evidence has demonstrated is that the site plan has been revised to maintain the trees in question and that from a planning policy perspective the impact of the proposal on the tree canopy, if any, will be negligible. In any event, the Appellant would be required to apply to the City for a permit to injure a tree under the Municipal

**Decision of Toronto Local Appeal Body Panel Member: D. LOMBARDI**  
**TLAB Case File Number: 18 266416 S53 03 TLAB, 18 266420 S45 03 TLAB,**  
**18 266421S45 03TLAB**

Act and Urban Forestry retains absolute discretion to refuse any permits. I am satisfied in these circumstances to accept that there is no issue of Official Plan non-conformity on environmental considerations.

With respect to the road widening, I agree with Mr. Romano that there is a public benefit attached to this conveyance being derived from the approval and that, notionally, the character of Kipling Avenue is gradually going to change as a result of its widening and the consents already granted.

In light of the foregoing, having considered the decision of the COA, the applicable statutory tests and the evidence presented, and considering the applications are uncontested, I find that the consent and associated minor variances, as listed below, together with the conditions, meet the criteria set out in Section 45(1) of the *Planning Act*. They are appropriate and desirable, minor in nature and in keeping with the intent and purpose of the City Official Plan and Zoning By-laws.

In addition, I am satisfied that the applications are supportive of and consistent with provincial policy and represent good land use planning, for the reasons reviewed.

## **DECISION AND ORDER**

I authorize the following variances and approve the consent requested. The earlier decision of the COA is set aside.

### ***Requested Variances***

#### **1023 Kipling Avenue (Part 1) – List of Variances**

**1. Section 10.20.30.20.(1)(A), By-law 569-2013**

The minimum required lot frontage is 13.5 m.  
The lot will have a frontage of 8.77 m.

**2. Section 10.20.30.10.(1)(A), By-law 569-2013**

The minimum required lot area is 510 m<sup>2</sup>.  
The lot will have an area of 342.82 m<sup>2</sup>.

**3. Section 10.20.30.40.(1)(A), By-law 569-2013**

The maximum permitted coverage is 33% of the lot area (113.13 m<sup>2</sup>).  
The new dwelling will cover 39.15% of the lot area (134.20 m<sup>2</sup>).

**4. Section 900.3.10.(37)(C), By-law 569-2013**

The maximum permitted gross floor area, including an attached or detached garage, is 150 m<sup>2</sup> plus 25% of the lot area, provided that the maximum floor space index does not otherwise exceed 0.5.

**Decision of Toronto Local Appeal Body Panel Member: D. LOMBARDI**  
**TLAB Case File Number: 18 266416 S53 03 TLAB, 18 266420 S45 03 TLAB,**  
**18 266421S45 03TLAB**

The new dwelling, including the attached garage, will have a gross floor area equal to 150 m<sup>2</sup> plus 29.87% of the lot area (102.40 m<sup>2</sup>) and will have a floor space index of 0.74 (253.92 m<sup>2</sup>).

**5. Section 900.3.10.(37)(D)(i), By-law 569-2013**

The minimum required side yard setback is 0.9 m with a total aggregate side yard setback of 2.1m.

The new dwelling will have a total aggregate side yard setback of 1.85 m.

**6. Section 10.20.40.20.(1), By-law 569-2013**

The maximum permitted dwelling length is 17 m.

The new dwelling will have a length of 18.92 m.

**7. Section 1.(a)(2), By-law 1992-25**

The maximum permitted soffit height is 6.5 m.

The new dwelling will have a soffit height of 6.86 m.

**1023 Kipling Avenue (Part 2) – List of Variances**

**1. Section 10.20.30.20.(1)(A), By-law 569-2013**

The minimum required lot frontage is 13.5 m.

The lot will have a frontage of 8.77 m.

**2. Section 10.20.30.10.(1)(A), By-law 569-2013**

The minimum required lot area is 510 m<sup>2</sup>.

The lot will have an area of 343.07 m<sup>2</sup>.

**3. Section 10.20.30.40.(1)(A), By-law 569-2013**

The maximum permitted coverage is 33% of the lot area (113.21 m<sup>2</sup>).

The new dwelling will cover 39.12% of the lot area (134.20 m<sup>2</sup>).

**4. Section 900.3.10.(37)(C), By-law 569-2013**

The maximum permitted gross floor area, including an attached or detached garage, is 150 m<sup>2</sup> plus 25% of the lot area, provided that the maximum floor space index does not otherwise exceed 0.5.

The new dwelling, including the attached garage, will have a gross floor area equal to 150 m<sup>2</sup> plus 30.29% of the lot area (103.92 m<sup>2</sup>) and will have a floor space index of 0.74 (252.4 m<sup>2</sup>).

**5. Section 900.3.10.(37)(D)(i), By-law 569-2013**

The minimum required side yard setback is 0.9 m with a total aggregate side yard setback of 2.1m.

The new dwelling will have a total aggregate side yard setback of 1.85 m.

**6. Section 10.20.40.20.(1), By-law 569-2013**

The maximum permitted dwelling length is 17 m.

The new dwelling will have a length of 18.92 m.

**7. Section 1.(a)(2), By-law 1992-25**

The maximum permitted soffit height is 6.5 m.

The new dwelling will have a soffit height of 6.86 m.

**CONDITIONS OF MINOR VARIANCE APPROVAL**

1. The dwellings shall be constructed substantially in accordance with the Site Plan and Elevations prepared by SIR Design Studio and dated November 2018, attached as Attachment 1. Any other variance(s) that appear on these plans but are not listed in the written decision are NOT authorized.

2. Prior to the issuance of a building permit, the applicant shall satisfy all conditions concerning City owned trees, to the satisfaction of the Director, Parks, Forestry & Recreation, Urban Forestry Services.

**CONDITIONS OF CONSENT APPROVAL**

1. The applicant must prepare all documents and convey to the City, at nominal cost a 4.89 metre wide widening along the Kipling Avenue property frontage in order to satisfy the requirement of a 36-metre wide future right-of-way road allowance for the frontage of Kipling Avenue, in fee simple, such lands to be free and clear of all physical and title encumbrances, with the exception of utility poles and subject to a right-of-way for access in favour of the Grantor until such time as said lands have been dedicated as a public highway, all to the satisfaction of the Executive Director, Engineering and Construction Services and the City Solicitor;

2. The applicant shall submit a revised draft Reference Plan of Survey to the Executive Director of Engineering and Construction Services, for review and approval, prior to depositing it in the Land Registry Office. The plan shall:

- a. be drawn in metric units and integrated to the 1983 North American Datum (Canadian Spatial Reference System) and the 3 degree Modified Transverse Mercator Projection;
- b. delineate by separate PARTS the lands to be conveyed to the City, the remainder of the site, and any appurtenant rights-of-way and easements; and,

**Decision of Toronto Local Appeal Body Panel Member: D. LOMBARDI**  
**TLAB Case File Number: 18 266416 S53 03 TLAB, 18 266420 S45 03 TLAB,**  
**18 266421S45 03TLAB**

c. show the co-ordinate values of the main corners of the subject lands in a schedule on the face of the plan.

The applicant is financially responsible for all costs associated with preparing and registering the reference plans. We advise the applicant to contact Mr. John House, Supervisor of Property Records, at (416) 392-8338 to obtain an exact description of the required conveyance(s).

**3.** The applicant is required to obtain written approval from City's Parks, Recreation, and Forestry Division related to the proposed vehicular accesses that are located adjacent to the existing tree protection zone within the Kipling Avenue municipal boulevard.

**4.** The applicant shall submit revised site plan with the following revisions and notations to the satisfaction of the Engineering and Construction Services and Transportation Services, at no cost to the City;

**a.** Illustrate the existing and proposed grades along the boundary limit and within the propose site;

**b.** Revise site plan to illustrate a positive slope of minimum 2% to 4% that will be maintained on each of the proposed driveways, as measured between the proposed garage door entrance to the curb line of Kipling Avenue;

**c.** Illustrate details of the Kipling Avenue municipal boulevard, including the future Kipling right-of-way limit, the driveway depressed curb cuts, the municipal boulevard sidewalk, a utility pole, and trees along the frontage of the site;

**d.** Illustrate the extension of the proposed new driveways and associated depressed curb cuts to the curb line of Kipling Avenue. The applicant must ensure a minimum of 1.0m clearance from the existing utility pole that will be provided with the new driveway on Part 2 (Lot B);

**e.** Illustrate the new driveway within the Kipling Avenue municipal boulevard with a positive slope of 2% to 4 % that will be maintained on the proposed Parts 1 and 2;

**f.** Identify a minimum 3.2m wide by 5.0m long internal garage parking space that must be provided within the integral garage for each of the proposed detached dwellings on Parts 1 and 2;

**g.** Add the following notations to the Site Plan:

i. "The applicant is required to restore any redundant section of existing

**Decision of Toronto Local Appeal Body Panel Member: D. LOMBARDI**  
**TLAB Case File Number: 18 266416 S53 03 TLAB, 18 266420 S45 03 TLAB,**  
**18 266421S45 03TLAB**

driveway that is being closed with sod and a poured raised concrete curb within the municipal boulevard according to City of Toronto Design Standard;

ii. "The proposed new driveways shall be constructed to the applicable City of Toronto Design Standards at no cost to the municipality";

iii. "The applicant shall also submit a Municipal Road Damage Deposit (MRDD) prior to obtaining a Building Permit." The applicant is advised to contact Ms. Joanne Vecchiarelli of our Right-of Way Management Section at (416) 338-1045 regarding municipal road damage deposit requirements; and,

iv. "The applicant shall obtain the necessary authorizations and permits from the City's Right-of-Way Management Section of the Transportation Services before excavating within or encroaching into the municipal road allowance";

**5.** The owner shall submit a complete application for a permit to injure or remove a City owned tree(s), as per City of Toronto Municipal Code Chapter 813, Trees Article II Trees on City Streets.

**6.** The owner shall submit a complete application for a permit to injure or remove a privately-owned tree(s), as per City of Toronto Municipal Code Chapter 813, Trees Article III Private Tree Protection.

**7.** Where there is no existing street tree, the owner shall provide payment in lieu of planting of one street tree on the City road allowance abutting each of the sites involved in the application. The current cash-in-lieu payment is \$583/tree.

**8.** Confirmation of payment of outstanding taxes to the satisfaction of Revenue Services Division, Finance Department.

**9.** Municipal numbers for the subject lots indicated on the applicable Registered Plan of Survey shall be assigned to the satisfaction of Survey and Mapping Services, Technical Services.

**10.** Two copies of the registered reference plan of survey integrated with the Ontario Coordinate System and listing the Parts and their respective areas, shall be filed with City Surveyor, Survey & Mapping, and Technical Services.

**11.** Three copies of the registered reference plan of survey satisfying the requirements of the City Surveyor, shall be filed with the Committee of Adjustment.

**12.** Within ONE YEAR of the date of the giving of this notice of decision, the applicant shall comply with the above-noted conditions and prepare for electronic submission to



**Decision of Toronto Local Appeal Body Panel Member: D. LOMBARDI**  
**TLAB Case File Number: 18 266416 S53 03 TLAB, 18 266420 S45 03 TLAB,**  
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the Deputy Secretary-Treasurer, the Certificate of Official, Form 2 or 4, O. Reg. 197/96, referencing either subsection 50(3) or (5) or subsection 53(42) of the Planning Act, as it pertains to the conveyed land and/or consent transaction.

Attachments

X 

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Dino Lombardi  
Panel Chair, Toronto Local Appeal Body

Attachment 1

RECEIVED

By Toronto Local Appeal Body at 12:41 pm, Jan 22, 2019



1 FRONT PERSPECTIVE

SITE PLANNING DATE:

RD + 569 -2013	BY LAW DATA:		PROPOSED DATA:	
MIN. LOT AREA	510m <sup>2</sup>	5489.59sqft	342.82m <sup>2</sup>	3690.08sqft
MIN. LOT FRONTAGE	13.5m	44.3ft	8.77m	28.8ft
LOT COVERAGE	168.3m <sup>2</sup>	1811.6sqft	134.2m <sup>2</sup>	1445sqft
MAX. COVERAGE (%)	33%		39.12%	
GROSS FLOOR AREA	192.8m <sup>2</sup>	2075.2sqft	206m <sup>2</sup>	2217sqft.
MAX. FLOOR INDEX	0.5		0.6	
FRONT YARD SET BACK	6.5m	21.3ft	6.1m	19.8ft
SIDE YARD SET BACK	0.9m	2.95ft	0.9m	2.95ft
SIDE YARD SETBACK	0.9m	2.95ft	0.9m	2.95ft
BUILDING DEPTH	19m	62.3ft	18.9m	62.5ft
REAR YARD SETBACK	11m	36.1ft	14.14m	46.5ft
AVERAGE GRADE	as per survey		as per survey	
BUILDING HEIGHT	9.5m	31ft	8.4m	27.55ft
SOFFIT HEIGHT	6.5m	21.3ft	6.5m	21.3ft

SIR DESIGNSTUDIO

PART 1  
1023A KIPLING

PROJECT INFORMATION

Project number 005

Date NOV 2018

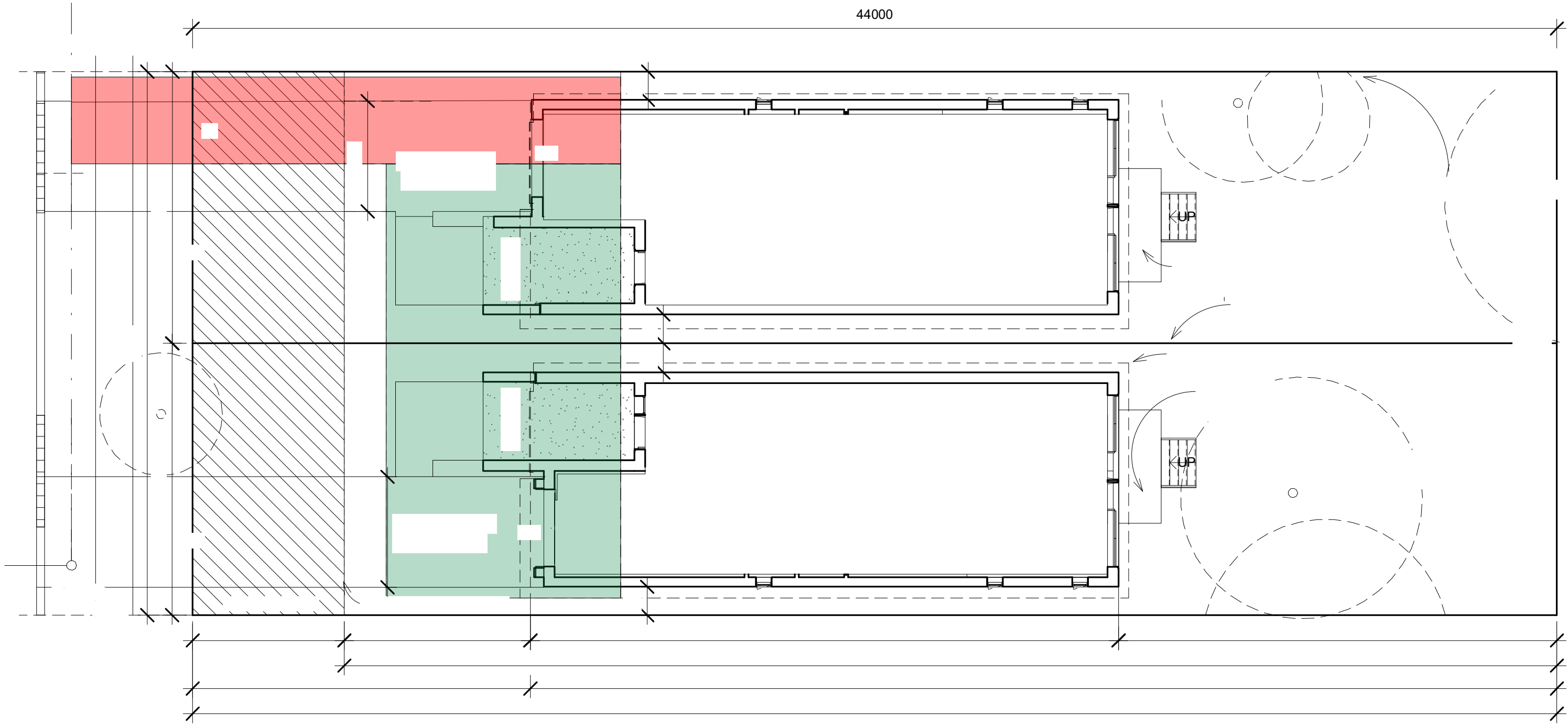
Drawn by MI

Checked by Checker

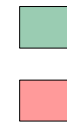
A101

Scale

www.sirgroup.ca



① LOT PLAN  
1 : 128

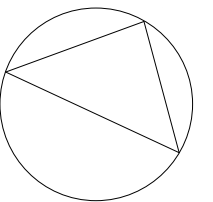


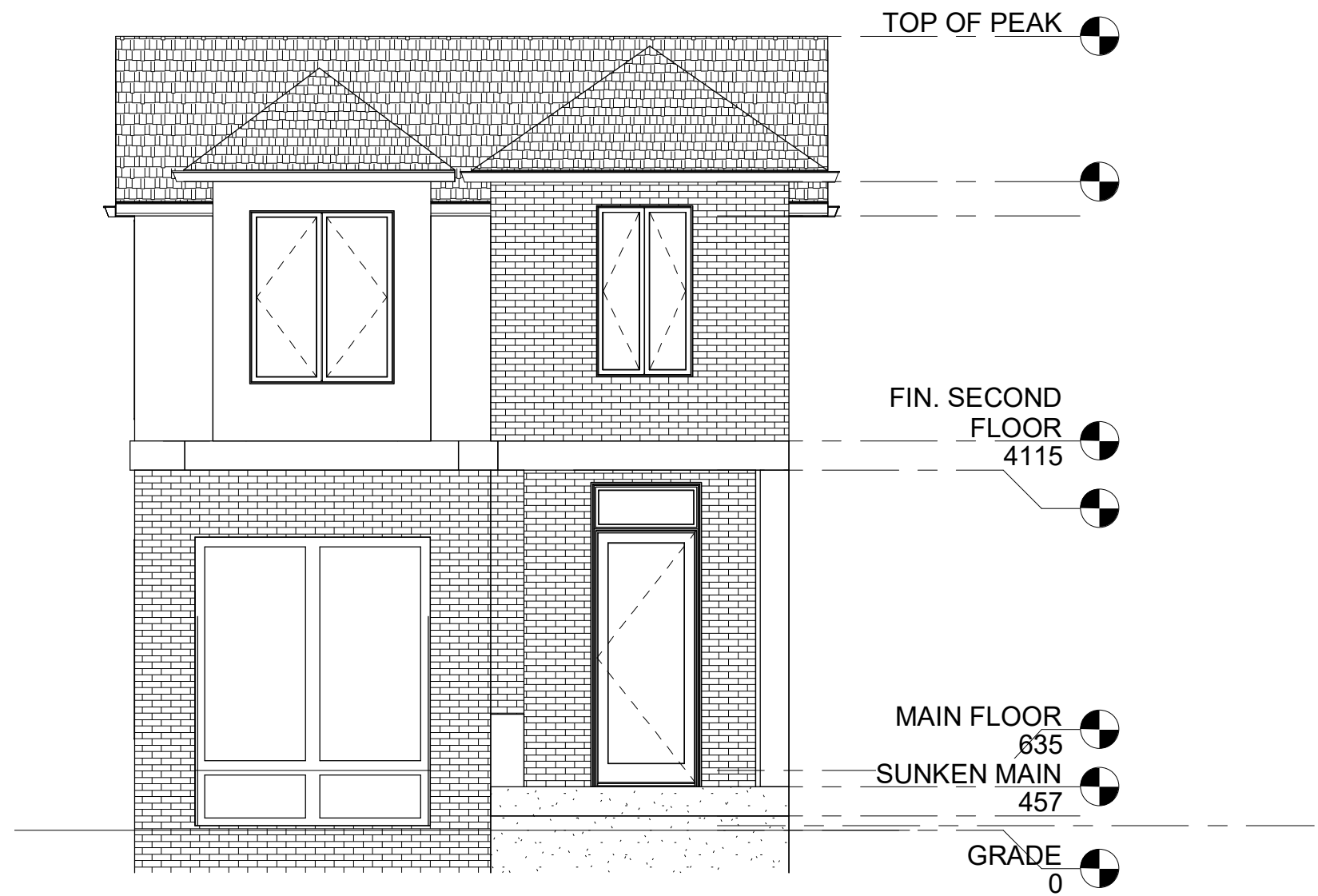
SIR DESIGNSTUDIO

PART 1  
1023A KIPLING

SITE PLAN

A102





① WEST - FRONT  
1 : 64

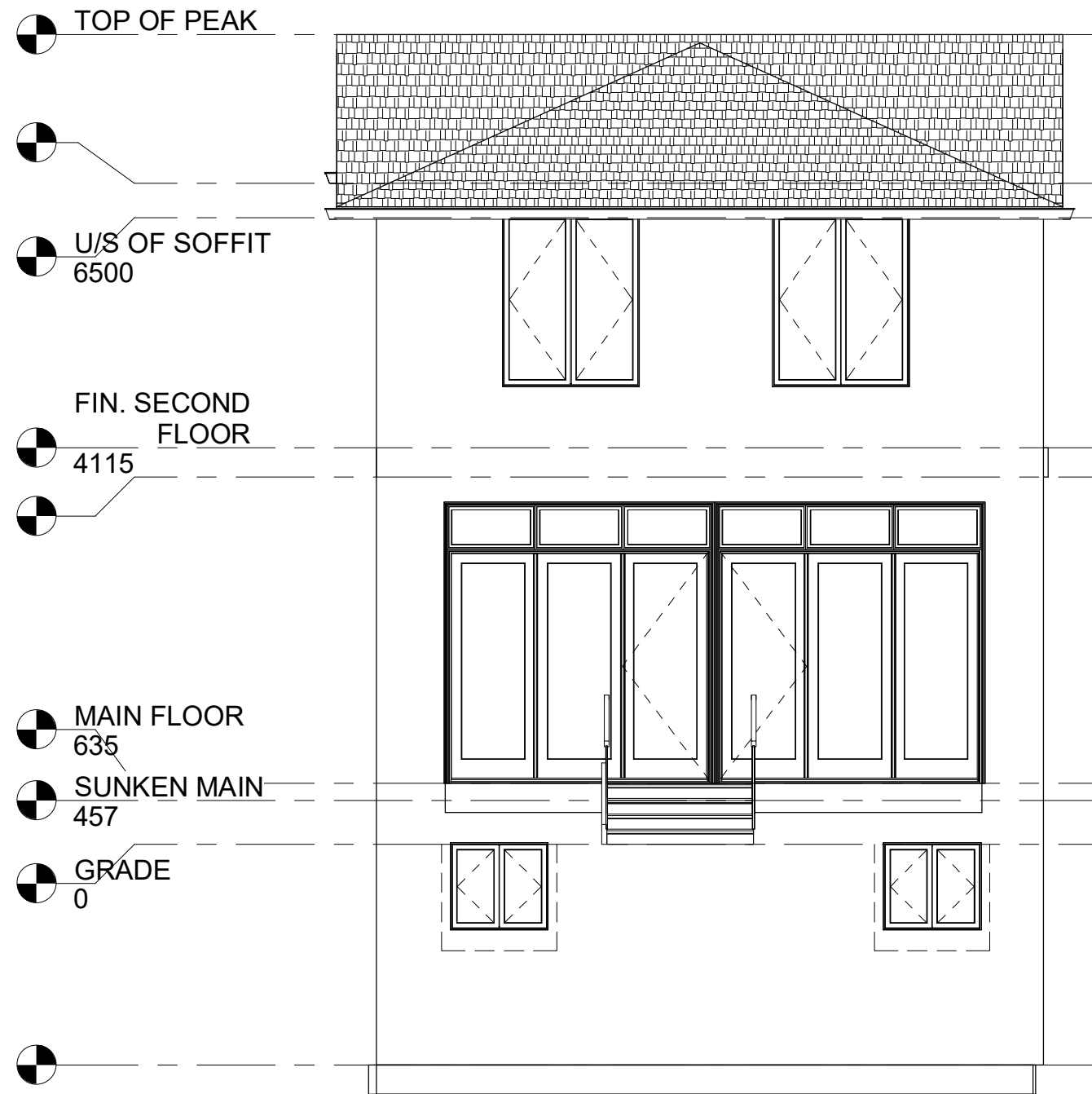
SIR | DESIGNSTUDIO

PART 1

1023A KIPLING

FRONT ELEVATION

A106



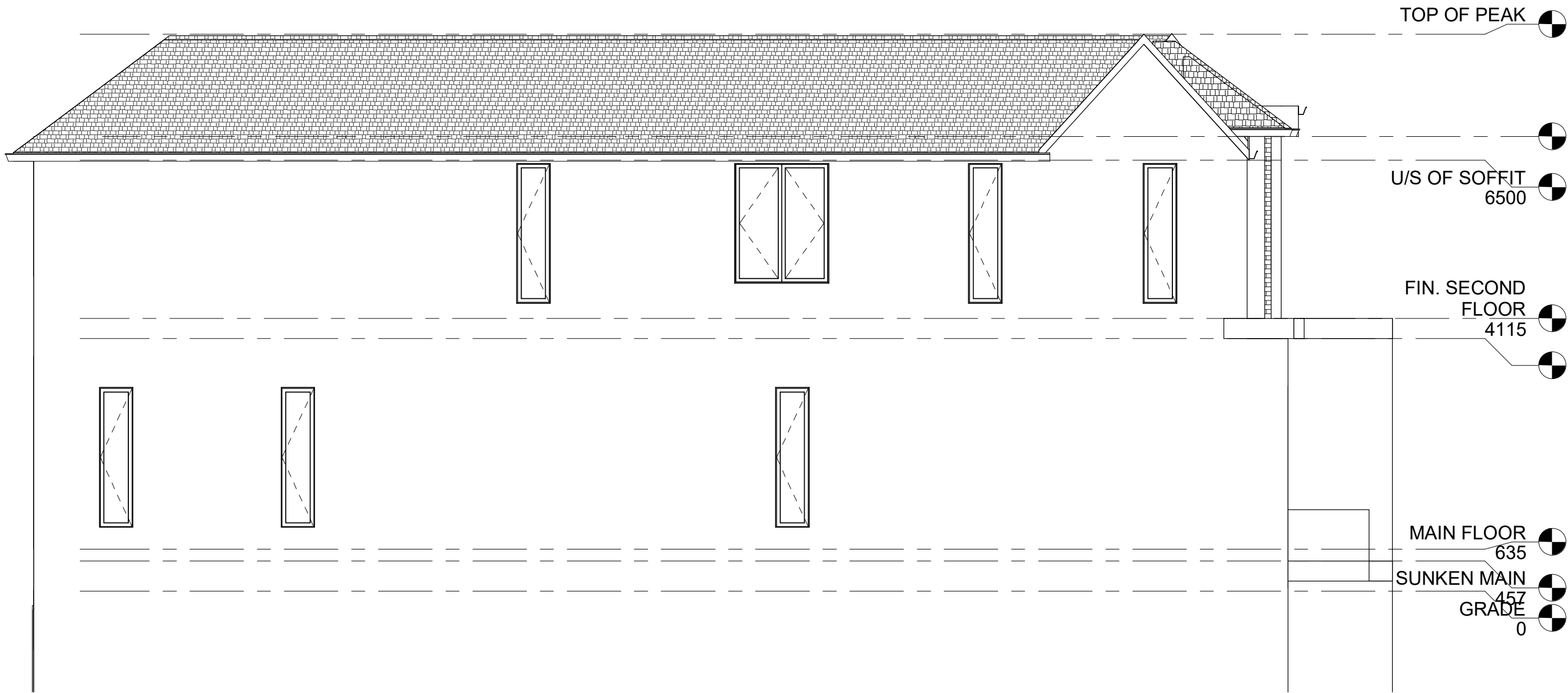
SIR | DESIGNSTUDIO

PART 1

1023A KIPLING

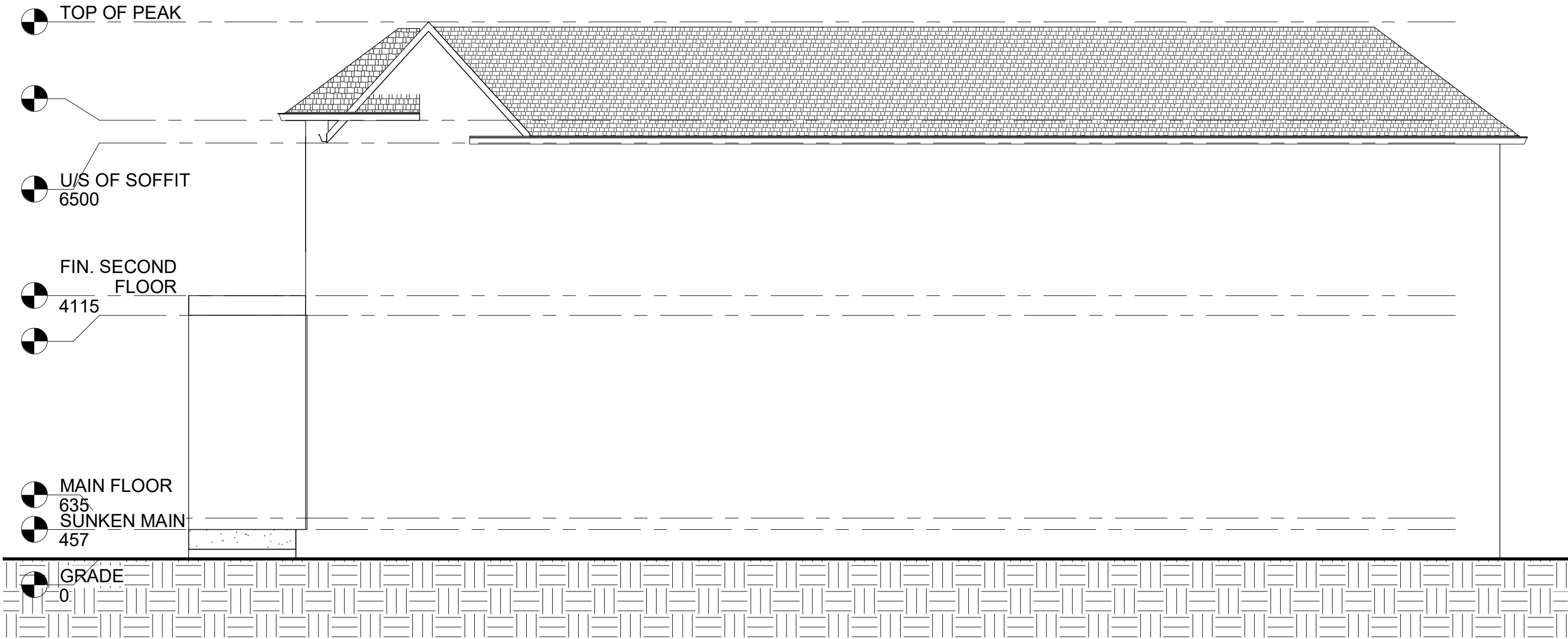
REAR ELEVATION

A107



1 NORTH - SIDE  
1 : 64

SIR   DESIGNSTUDIO	PART 1	NORTH ELEVATION	
	1023A KIPLING		A108



SIR DESIGNSTUDIO

PART 1

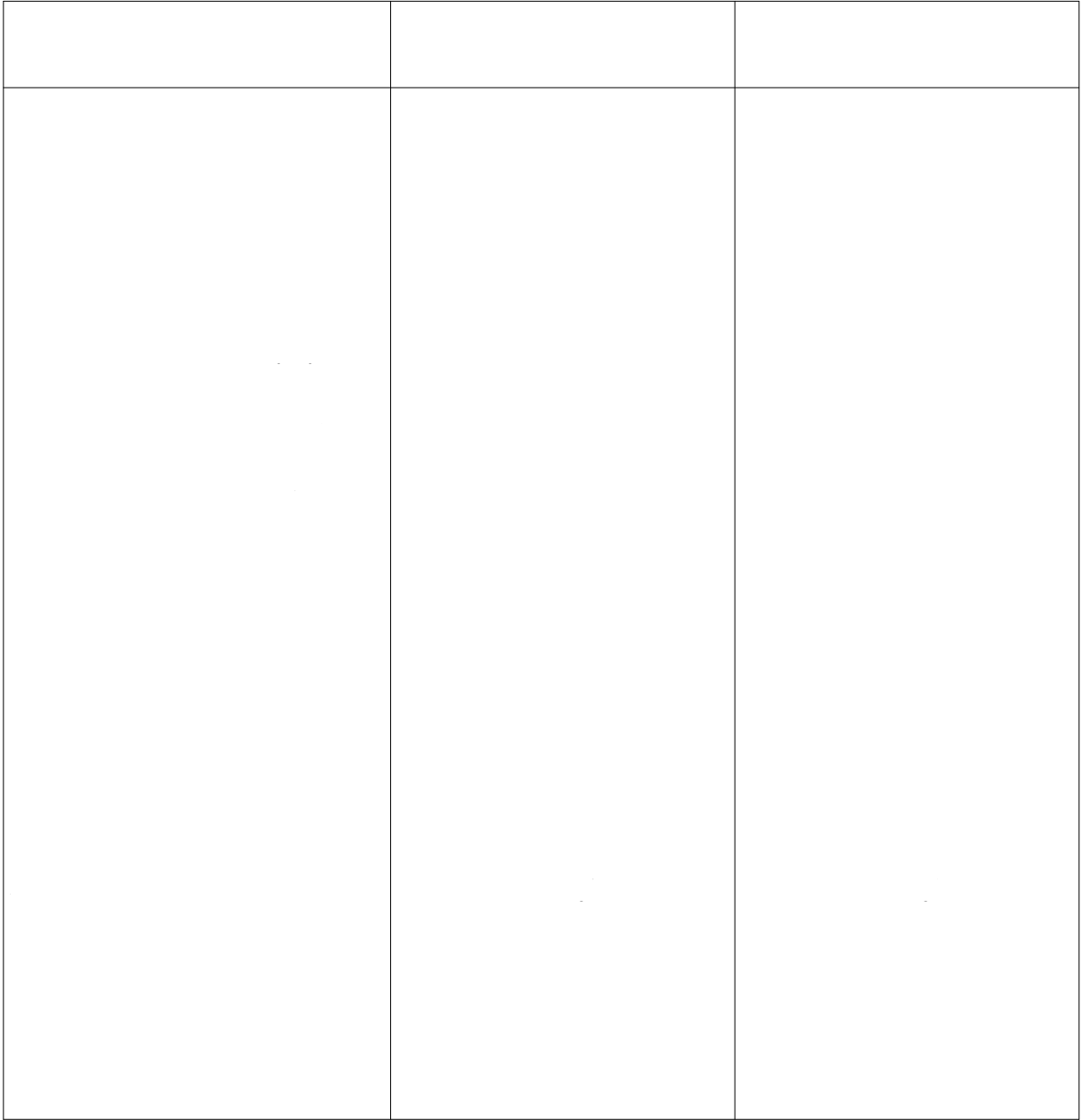
1023A KIPLING

SOUTH ELEVATION

A109

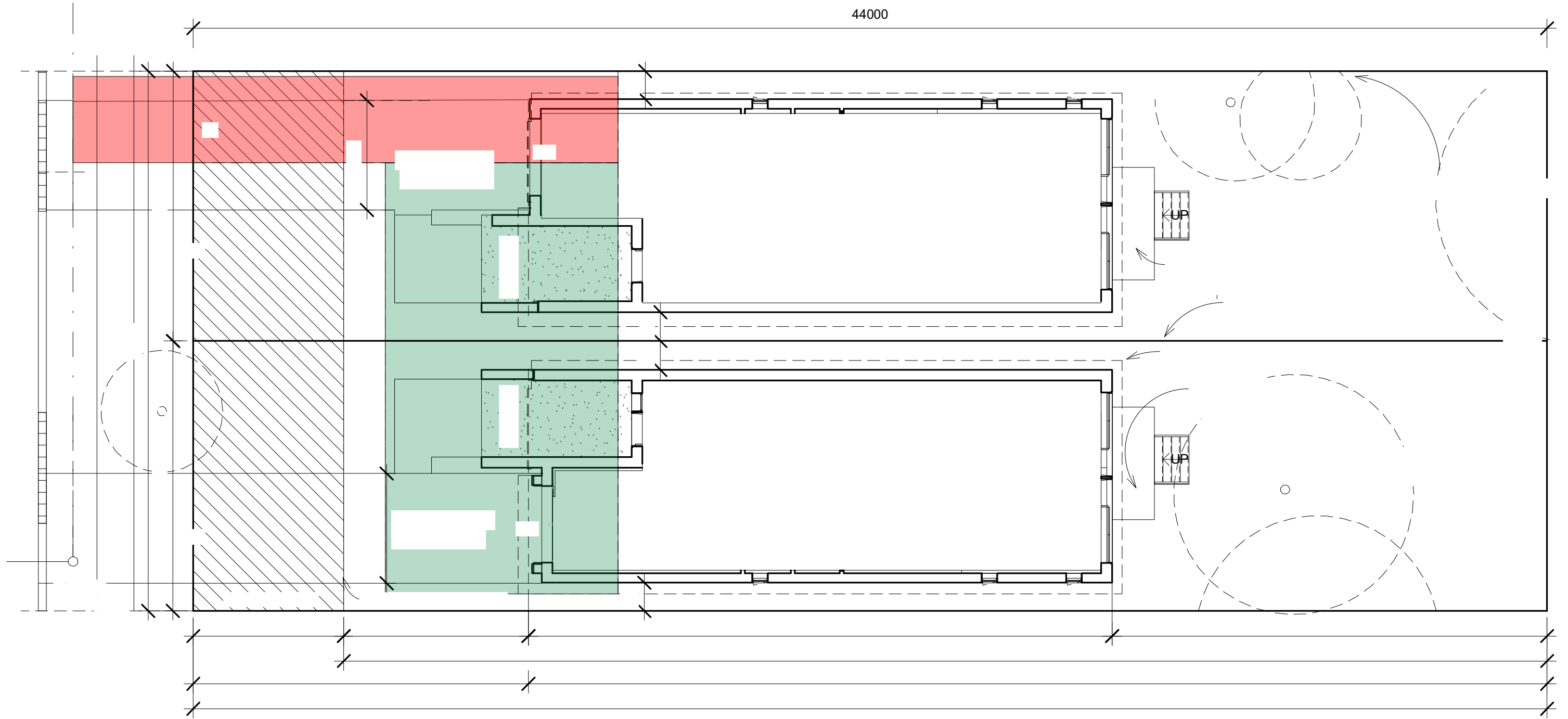


1 FRONT PERSPECTIVE

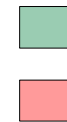


PROJECT INFORMATION	PART 2		1023B KIPLING
	Project number	A101	
	Date		
	Drawn by		
	Checked by		
SIR   DESIGNSTUDIO			





① LOT PLAN  
1 : 128

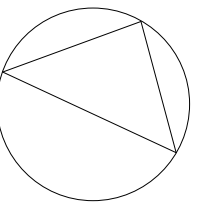


SIR DESIGNSTUDIO

PART 1  
1023A KIPLING

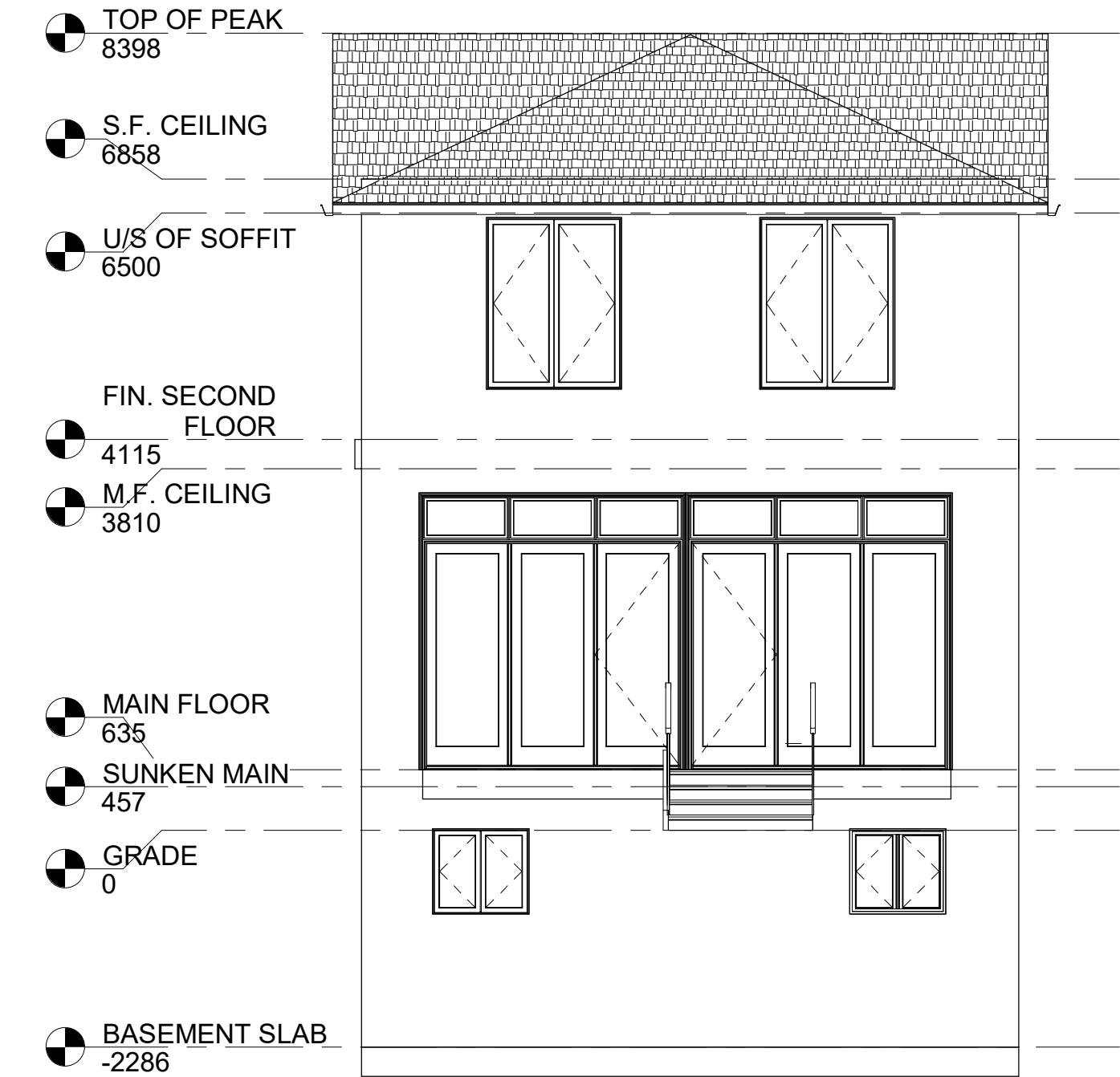
SITE PLAN

A102





① WEST - FRONT  
1 : 64



1 EAST - REAR  
1 : 64

REAR ELEVATION

A107

Project number

Date

Drawn by

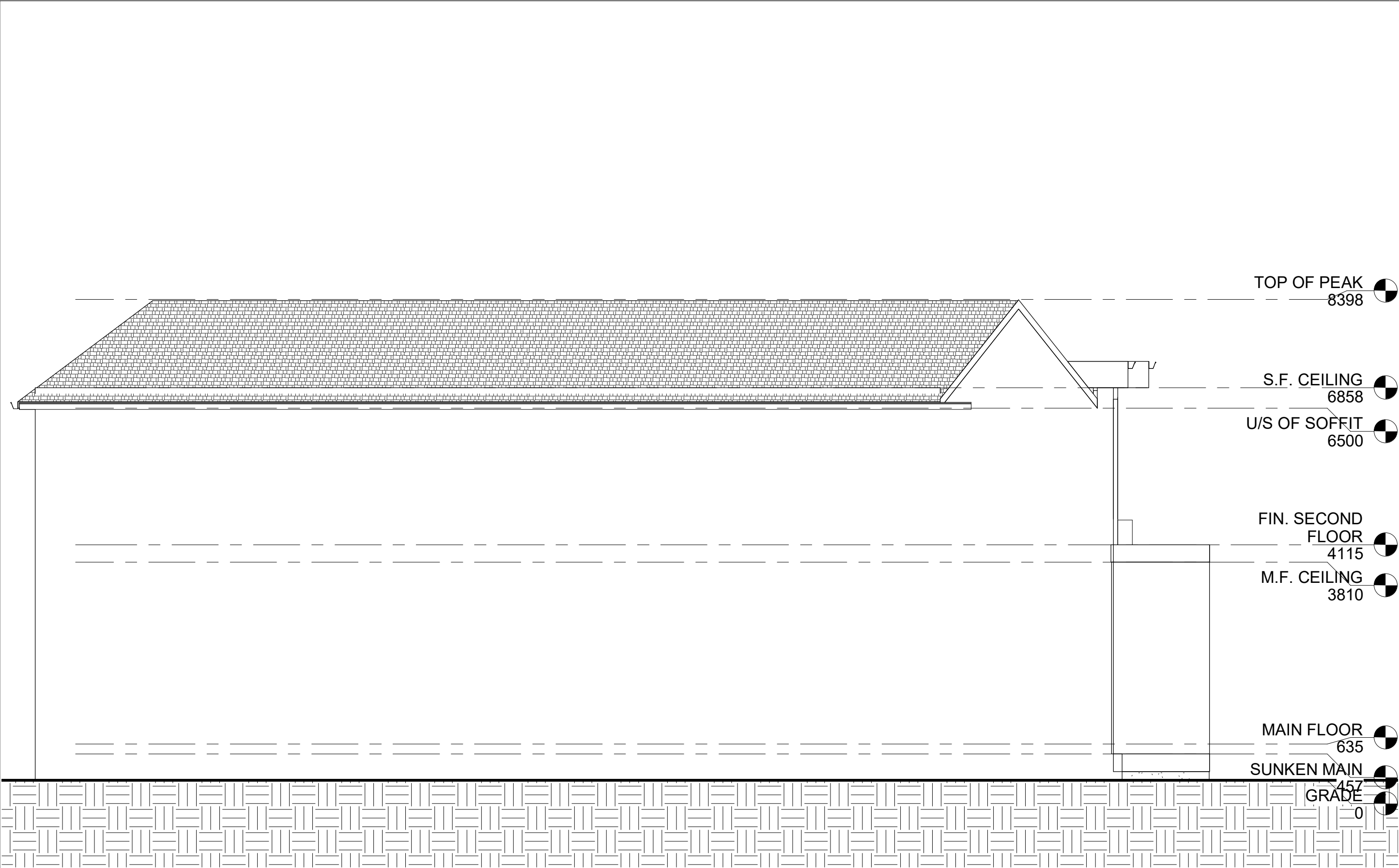
Checked by

Scale

PART 2

1023B KIPLING

SIR | DESIGNSTUDIO



1 NORTH - SIDE  
1 : 64

NORTH ELEVATION	A108			Scale
	Project number			
	Date			
	Drawn by			
Checked by				

PART 2	1023B KIPLING
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SIR   DESIGNSTUDIO
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TOP OF PEAK  
8398

S.F. CEILING  
6858

U/S OF SOFFIT  
6500

FIN. SECOND  
FLOOR  
4115

M.F. CEILING  
3810

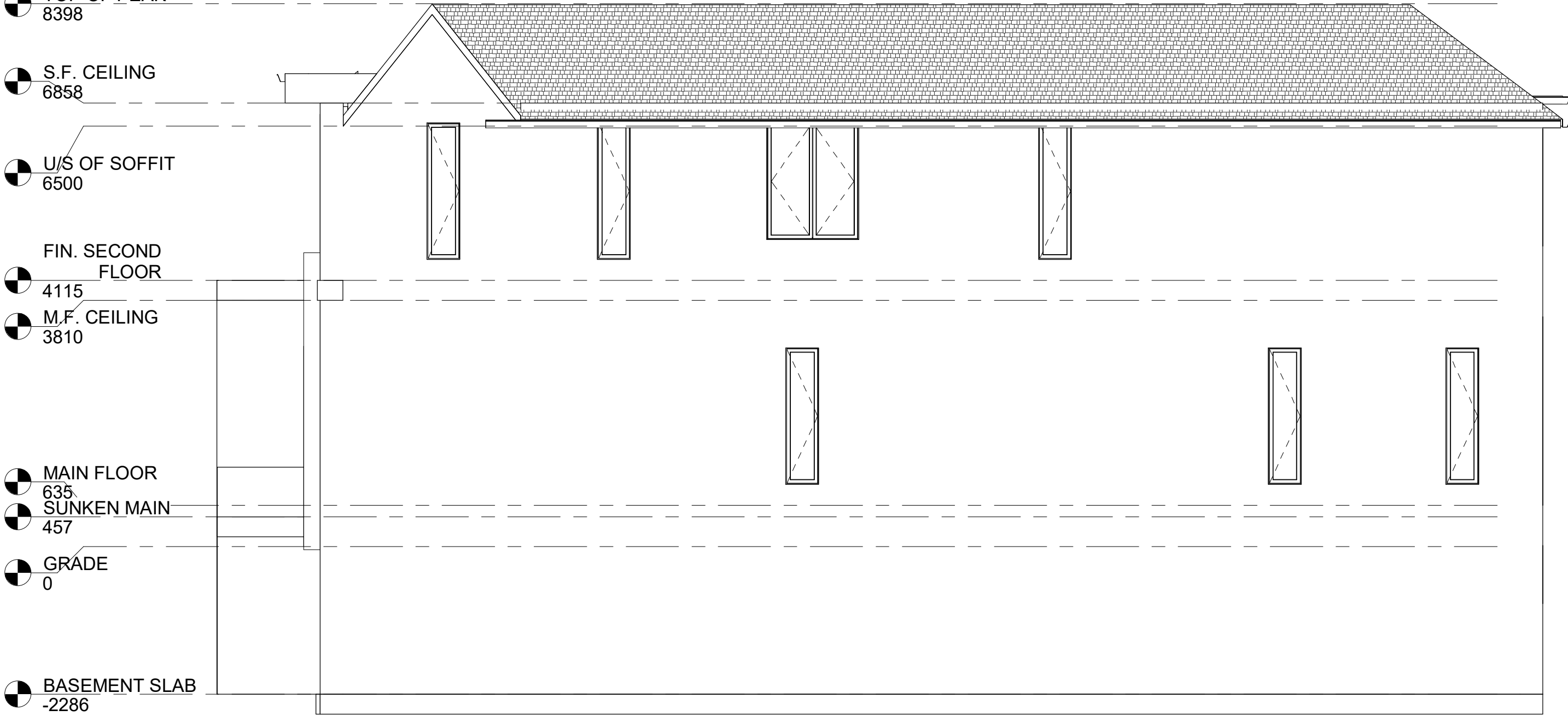
MAIN FLOOR  
635

SUNKEN MAIN  
457

GRADE  
0

BASEMENT SLAB  
-2286

1 SOUTH - SIDE  
1 : 64



SOUTH ELEVATION

A109

Project number

Date

Drawn by

Checked by

Scale

PART 2

1023B KIPLING

SIR | DESIGNSTUDIO