

DECISION AND ORDER

Decision Issue Date Wednesday, July 24, 2019

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

Appellant(s): ARCICA INC

Applicant: ARCICA INC

Property Address/Description: 106 MUNRO BLVD

Committee of Adjustment Case File Number: 18 221023 NNY 25 MV

TLAB Case File Number: **18 248044 S45 25 TLAB**

Hearing date: Wednesday, May 01, 2019

DECISION DELIVERED BY SHAHEYNOOR TALUKDER

APPEARANCES

Name	Role
Wenshan Huang	Owner
Zhengrong Zhang	Primary Owner
Arcica Inc.	Appellant
Jonathan Benczkowski	Expert Witness
Esther Keri	Participant

INTRODUCTION

1. This is an appeal by the owners, Wenshan Huang and Zhengrong Zhang, of the property located at 106 Munro Blvd (subject property). The owners appealed the Committee of Adjustment (COA)'s decision, which partially approved and partially

refused applications for variances for the construction of a new detached dwelling on the Property.

2. The only party to the Toronto Local Appeal Body (TLAB) proceeding was the Applicant owners, who were represented by counsel, Ms. Amber Stewart, on the hearing day.
3. The participant, Esther Keri, did not attend the hearing even though she had filed a participant statement with the TLAB. Ms. Keri is the owner of the adjacent property at 108 Munroe Blvd, which is east to the subject property.
4. At the hearing, I informed those in attendance that I had visited the site of the subject property and walked around the neighbourhood to familiarize myself with the neighbourhood.

MATTERS IN ISSUE

5. The Applicant proposes to build a new detached dwelling, which requires the following variances (as stated in the COA decision):

1. Chapter 10.20.40.70, By-Law 569-2013

The minimum required side yard setback is 1.8m.
The proposed west side yard setback is 1.5m.

2. Chapter 10.20.40.70, By-Law 569-2013

The minimum required side yard setback is 1.8m.
The proposed east side yard setback is 1.5m.

3. Chapter 10.20.40.20, By-Law 569-2013

The maximum permitted building length is 17.0m.
The proposed building length is 17.98m.

4. Chapter 10.20.40.10, By-Law 569-2013

The maximum permitted side wall height is 7.5m.
The proposed east and west side wall heights are 7.8m.

5. Chapter 10.20.40.10, By-Law 569-2013

The maximum permitted height of the pedestrian entrance through the front main wall is 1.2m.
The proposed height of the pedestrian entrance through the front main wall is 1.62m.

6. Chapter 10.5.80.40.(3), By-Law 569-2013

Vehicle access to a parking space on a corner lot must be from a flanking street that is not a major street.

The proposed vehicle access to a parking space is from the street on which the lot fronts.

7. Section 12.7, By-Law 7625

The maximum permitted building height is 8.8m.

The proposed building height is 9.1m.

6. The COA approved all variances except Variances 2 and 3.
7. At the hearing, Ms. Stewart provided a list of revised variances, which is attached to this decision as Attachment 1. The only difference between the requested variances at the COA and the revised list is Variance 5. The proposed height of the pedestrian entrance through the front main wall is decreased from 1.62m to 1.38m.
8. Ms. Stewart also proposed the following conditions for the approval of the variances, which are attached to this decision as Attachment 2:
 - a. The proposed dwelling shall be constructed substantially in accordance with the Site Plan and Elevations prepared by Arcica Inc. dated August 30, 2018 (Attachment 3).
 - b. The owner shall satisfy the requirements of the Parks and Recreation, Urban Forestry Division:
 1. Submission of a complete application for a permit to injure or destroy a City-owned tree(s). A Contractor's Agreement to Perform Work on City-owned Trees will be required prior to the removal/injure of the subject tree(s). Form located at www.toronto.ca/trees/pdfs/contractor_services_agreement_information.pdf.
 2. Submission of a tree protection guarantee security deposit to guarantee the protection of City-owned trees according to the Tree Protection Policy and Specifications for Construction Near Trees or as otherwise approved by Urban Forestry. Accepted methods of payment include debit or card, certified cheque or money order payable to the Treasurer of the City of Toronto, or Letter of Credit.
 3. Submission of a complete application for permit to injure or remove privately owned trees.

- c. The owner shall satisfy the requirements of the Transportation Services Department:
 1. The access on Birchwood Avenue must be removed and restored to soft landscaping.
 2. The owner must apply for a Construction Access Permit from Transportation Services Right-of-Way Management for the required access approval and curb repairs.
9. The conditions in sub-paragraph 8(c) are conditions requested by the Transportation Services Department in their memorandum dated October 2, 2018.

JURISDICTION

Provincial Policy – S. 3

10. 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 of the Greater Golden Horseshoe for the subject area ('Growth Plan').

Minor Variance – S. 45(1)

11. 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

12. The Applicants called Jonathan Benczkowski, a Registered Professional Planner, who I accepted as qualified to give professional land use planning opinion

evidence. Mr. Benczkowski provided the sole source of viva voce evidence. There was no contrary evidence presented.

13. Mr. Benczkowski testified that the proposed minor variances are consistent with the PPS and the Growth Plan, and satisfy the four tests for approval of variances. His testimony and his witness statement to support his conclusion are summarized below.
14. Mr. Benczkowski described the current dwelling on the subject property as a one and half storey building, where the back of the house is split into two levels. The subject property is a corner lot, located on the south-east corner of Munro Boulevard and Birchwood Avenue.
15. Mr. Benczkowski defined his study area to be bounded by Gordon Road to the north, Munro Boulevard to the south, Old Yonge Street to the west, the cul-de-sac at the end of Munro Boulevard and Owen Boulevard to the west. He chose this study area because it generally reflects what a resident of the area would experience in their day-to-day lives, such as walking the streets and having their children attend Owen Public School. The subject property is in an area designated as a Neighbourhood in the OP.
16. Mr. Benczkowski testified that the study area has a mix of built forms, dwelling types and architectural styles. The neighbourhood contains detached dwellings exclusively, which are bungalows and new two storey dwellings. As a result of significant reinvestment in the neighbourhood, many of the traditional bungalows have been replaced with two storey detached dwellings. This has led to the predominant built form being two storey buildings and few existing original bungalows.
17. The proposed dwelling on the subject property will be a two storey building, similar to the predominant building type in the study area. The driveway way will be relocated on Munro Blvd and will lead to a two-car garage. The proposed dwelling will have a deck, which will be located the furthest possible distance from the neighbouring lot (108 Munroe Blvd) and near Birchwood Avenue, to avoid any privacy overlook into the neighbouring lots. After it is built, the proposed dwelling will be similar to the predominant buildings in the neighbourhood and would fit harmoniously in the neighborhood as required under OP policy no. 3.1.2 and policy no. 4.1.5(c).
18. The side yard setback on the east of 1.5m is an existing condition. The requested variances for side yard setback on both the east and west side (variances 1 and 2) are consistent with past approvals, which were around 1.2m–1.5m for side yard setbacks. Mr. Benczkowski believes that there is appropriate separation between the adjacent dwelling and that this type of separation is found throughout the neighbourhood.

19. With respect to variance 3, Mr. Benczkowski stated the proposed dwelling will be approximately 5m longer than the current dwelling, which is a negligible increase that would not be detrimental to the neighbours. In addition, the backyard setback is maintained and there is no request for variance related to lot coverage. Any shadowing resulting from the increased length will be negligent when taking into consideration that the neighbour on the eastern adjacent lot has approximately 18.5m of amenity space in the backyard.
20. Mr. Benczkowski testified that the requested variance for side wall height (variance 4), is not for the overall height of the dwelling but for the main side wall height. The variance is required for two windows on the second floor on the west side, which are designed to be above the maximum height of 7.5m. The remaining wall height of the side walls are at 7.5m. Similarly, the cut out for both windows on the east side resulted in the requirement for a variance for the increase in the side wall height. The remainder of the wall height is within the zoning by-law requirement. With respect to the variance for building height (variance 7), the visible height increase is 7 inches from established grade, which is minor.
21. Mr. Benczkowski further testified that requested variance 5 is 0.12m more than what is permitted, which is equivalent to one extra step. This request is minor in nature and has no detrimental effect to the neighbours.
22. Mr. Benczkowski stated that the objective of the zoning requirement for variance 6 is to ensure the safe line of sight for the public and vehicle drivers on corner properties. The garage will be 25 ft from the curbed portion of the sidewalk excluding the city boulevard, allowing enough space for both pedestrian and a driver to ensure line of sight. It is the norm for corner lots to have the driveway entrance from the flanking street. Only one corner lot in the study area had a driveway off the flanking street.

ANALYSIS, FINDINGS, REASONS

23. In my view, the proposed variances are consistent with the policy direction in the PPS and policies of the Growth Plan, as these policies promote intensification within built up areas.
24. I have accepted Mr. Benczkowski's testimony, which does not need to be repeated for analysis and which was not contradicted at the hearing. Based on this evidence, I conclude that the variances individually and cumulatively have met the four tests.

DECISION AND ORDER

25. The applications for variances as listed in Attachment 1 are approved and are subject to the conditions set out in Attachment 2, which includes a condition with respect to the site plans attached to this decision as Attachment 3.

X 

Shaheynoor Talukder
Panel Chair, Toronto Local Appeal Body
Signed by: Shaheynoor Talukder

ATTACHMENT 1

Revised List of Variances – 106 MUNRO BOULEVARD

PURPOSE OF THE APPLICATION:

To construct a new detached dwelling.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

1. Chapter 10.20.40.70, By-Law 569-2013

The minimum required side yard setback is 1.8m.

The proposed west side yard setback is 1.5m.

2. Chapter 10.20.40.70, By-Law 569-2013

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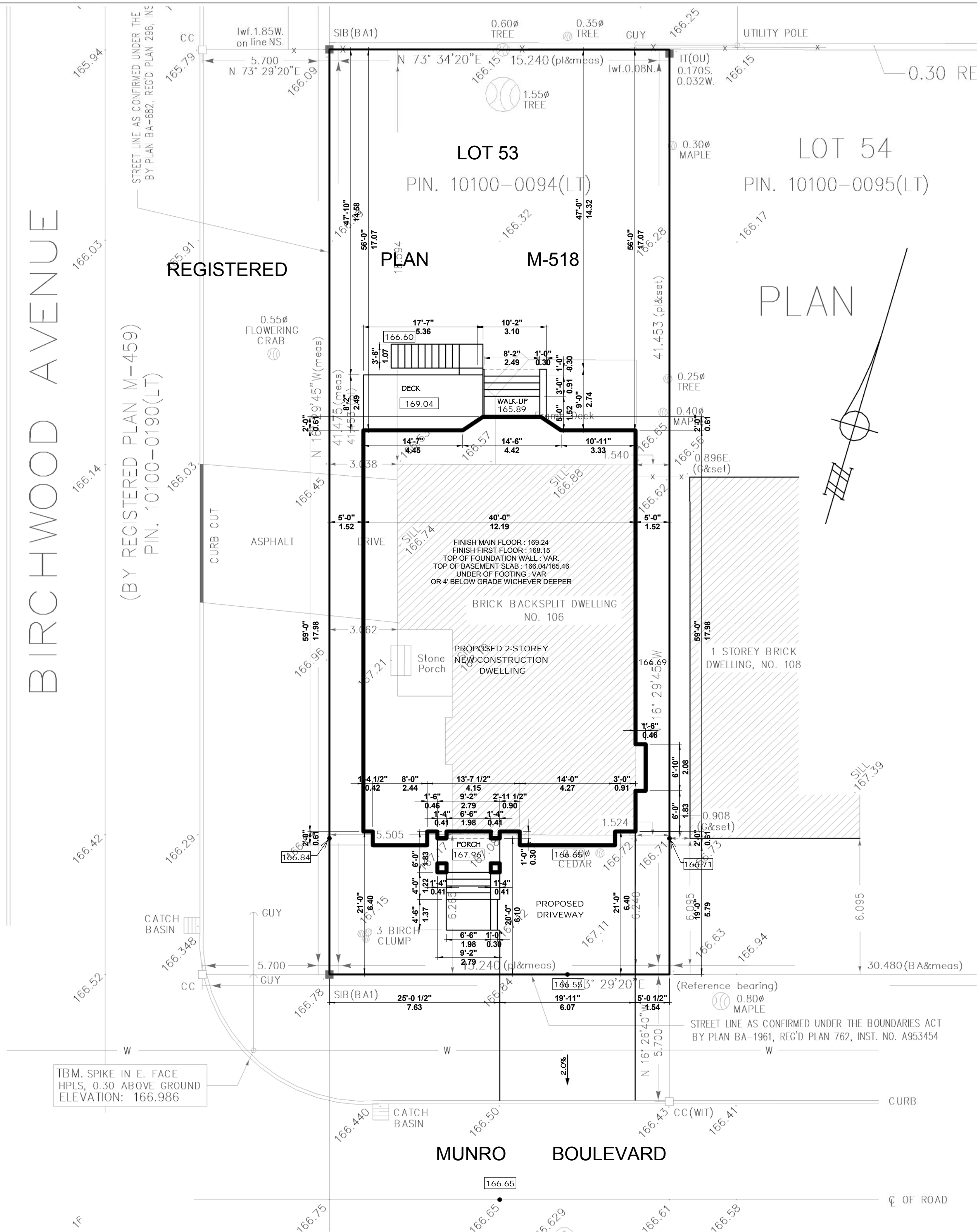
The maximum permitted building height is 8.8m.

The proposed building height is 9.1m.

ATTACHMENT 2

106 Munro Blvd. – Conditions of Approval

1. The proposed dwelling shall be constructed substantially in accordance with the Site Plan and Elevations prepared by Arcica Inc. dated August 30, 2018, which are attached to this decision as Attachment 3.
2. The owner shall satisfy the requirements of the Parks and Recreation, Urban Forestry Division:
 - a. Submission of a complete application for a permit to injure or destroy a City-owned tree(s). A Contractor's Agreement to Perform Work on City-owned Trees will be required prior to the removal/injure of the subject tree(s). Form located at www.toronto.ca/trees/pdfs/contractor_services_agreement_information.pdf.
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 - a. The access on Birchwood Avenue must be removed and restored to soft landscaping.
 - b. The owner must apply for a Construction Access Permit from Transportation Services Right-of-Way Management for the required access approval and curb repairs.



Zoning Data Matrix	
R3 & RD (f18, a690)	Proposed
Lot #	53
Plan #	M-518
Lot Area	6801.83 s.f. - 631.91 m ²
Front Yard Area	1041.49 s.f. - 96.75 m ²
Driveway Area	418.51 s.f. - 38.88 m ²
Porch and Walkway Area	116.25 s.f. - 10.79 m ²
Landscape Open Space Area	622.90 s.f. - 57.87 m ² (59.8%)
Soft Landscaping Area	506.76 s.f. - 47.08 m ² (81.3%)
Building Area(Coverage)	2369.17 s.f. - 220.10 m ² (34.83%)
Main Floor Area	2427.01 s.f. - 225.47 m ²
Second Floor Area	2369.17 s.f. - 220.10 m ²
Gross Floor Area	4796.18 s.f. - 445.57 m ²

notes:

Designed by:

ALI SHAKERI

T: 416 821 3960 F: 416 2508900

ARCICA INC.

326 SHEPPARD AVENUE EAST,
M2N 3B4
TORONTO, ONTARIO, CANADA

revisions:

AUG 30, 2018 -issued for COA

1. ALL WORK SHALL BE CARRIED OUT IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THE LATEST REVISION OF THE ONTARIO BUILDING CODE.
2. VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION.
3. DO NOT SCALE DRAWINGS.
4. ALL DIMENSIONS AND INFORMATION SHALL BE CHECKED AND VERIFIED ON THE JOB AND ANY VARIANCES OR DISCREPANCIES MUST BE REPORTED TO F&A ASSOCIATES BY PHONE AND SUBSEQUENT WRITTEN CONFIRMATION PRIOR TO COMMENCEMENT OF THE WORK.
5. USE ONLY LATEST REVISED DRAWINGS OF THOSE THAT ARE MARKED "ISSUED FOR CONSTRUCTION".
6. ALL STRUCTURAL DESIGN MUST BE REVIEWED AND APPROVED BY CERTIFIED STRUCTURAL ENGINEER PRIOR TO CONSTRUCTION.

project:	
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106 MUNRO BOULEVARD

drawing:

SITE PLAN

scale:	
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$$3/32" = 1'-0"$$

page:

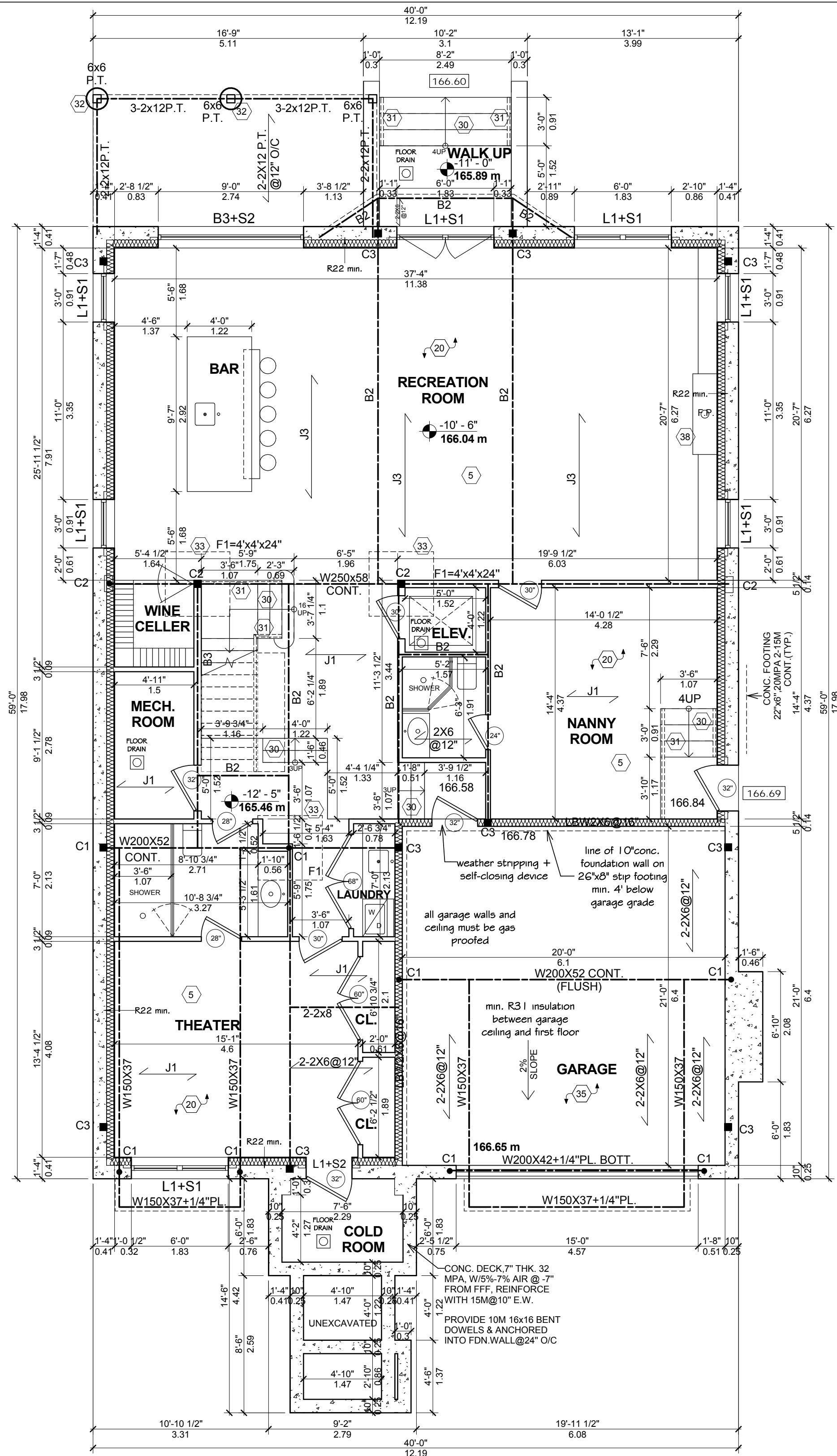
A 01

THIS UNDERSIGNED HAS REVIEWED &
TAKES RESPONSIBILITY FOR THIS
DESIGN, & HAS THE QUALIFICATIONS &
MEETS THE REQUIREMENTS SET OUT
IN THE O.B.C. TO BE A DESIGNER

Ali Shakeri
BCIN#24574
F&A Associates Ltd.
BCIN#30998

Ar. 862

NOTE:
ALL INTERIOR WALL
DIMENSIONS SHOW
FACE OF STUDS



notes:

STRUCTURAL MEMBERS:
J1: LPI 20 Plus 117/8" @ 16" o/c
J2: LPI 42 Plus 117/8" @ 16" o/c
J3: LPI 42 Plus 117/8" @ 12" o/c
B1: 1-LVL 117/8X13/4 2.OE TYP.
B2: 2-LVL 117/8X13/4 2.OE TYP.
B3: 3-LVL 117/8X13/4 2.OE TYP.
B4: 4-LVL 117/8X13/4 2.OE TYP.
C1: HSS 102X8
+5X5X1/2" PL. TOP
+6X10X1/2" PL. BOT.
+21/2" A.B.
C3: 3-2x6
C4: 4-2x6
L1: 3-2x10
L2: 3-2x12
S1: L 31/2 x 31/2 x 5/16
S2: L 5 x 31/2 x 3/8
WP1: 6"X12"X1/2" STEEL PLATE
WITH 2 HOOKS

Designed by:

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project:

106 MUNRO BOULEVARD

drawing:

BASEMENT PLAN

scale:

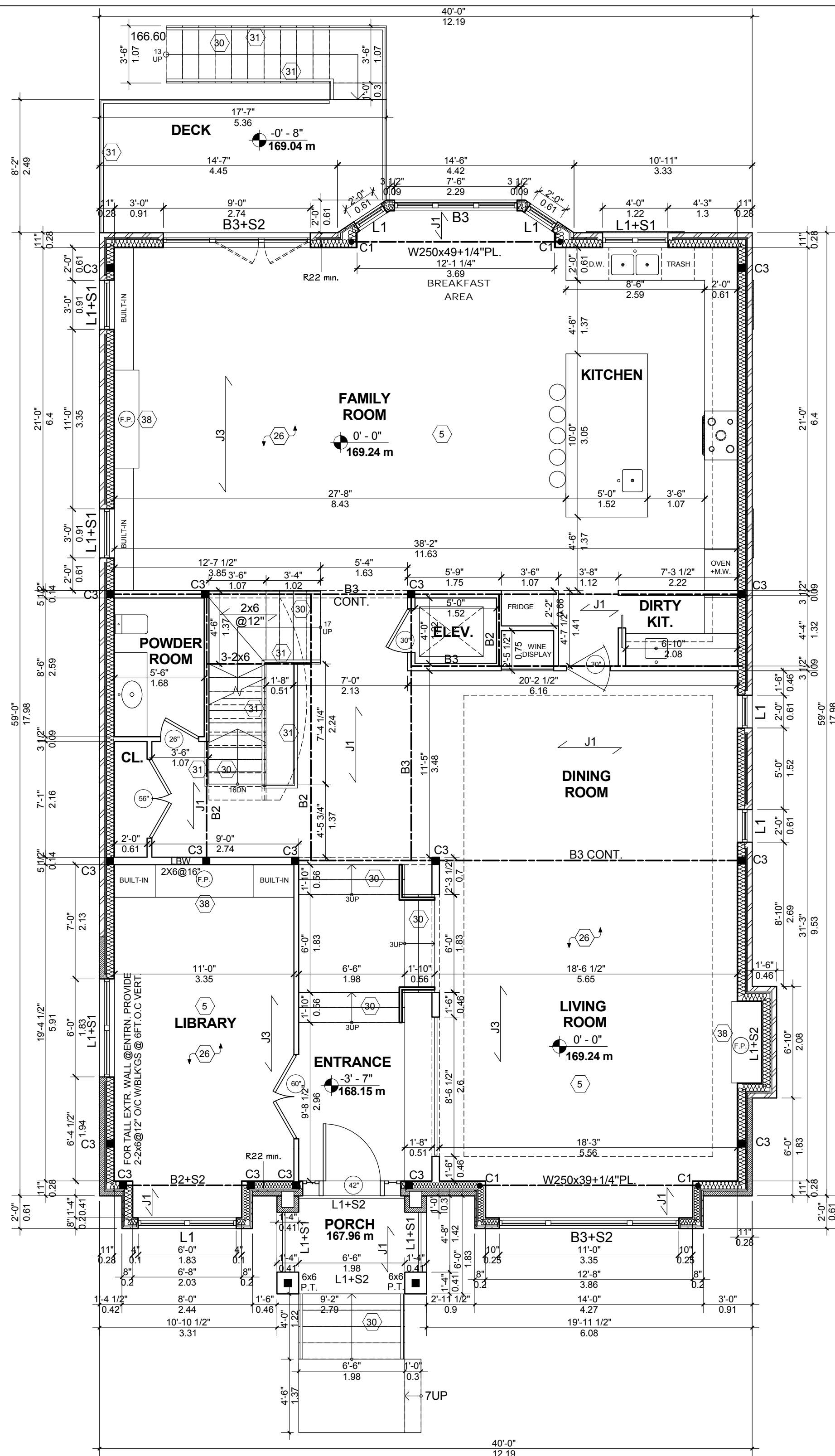
3/16" = 1'-0"

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project:
106 MUNRO BOULEVARD

drawing:
1st FLOOR PLAN

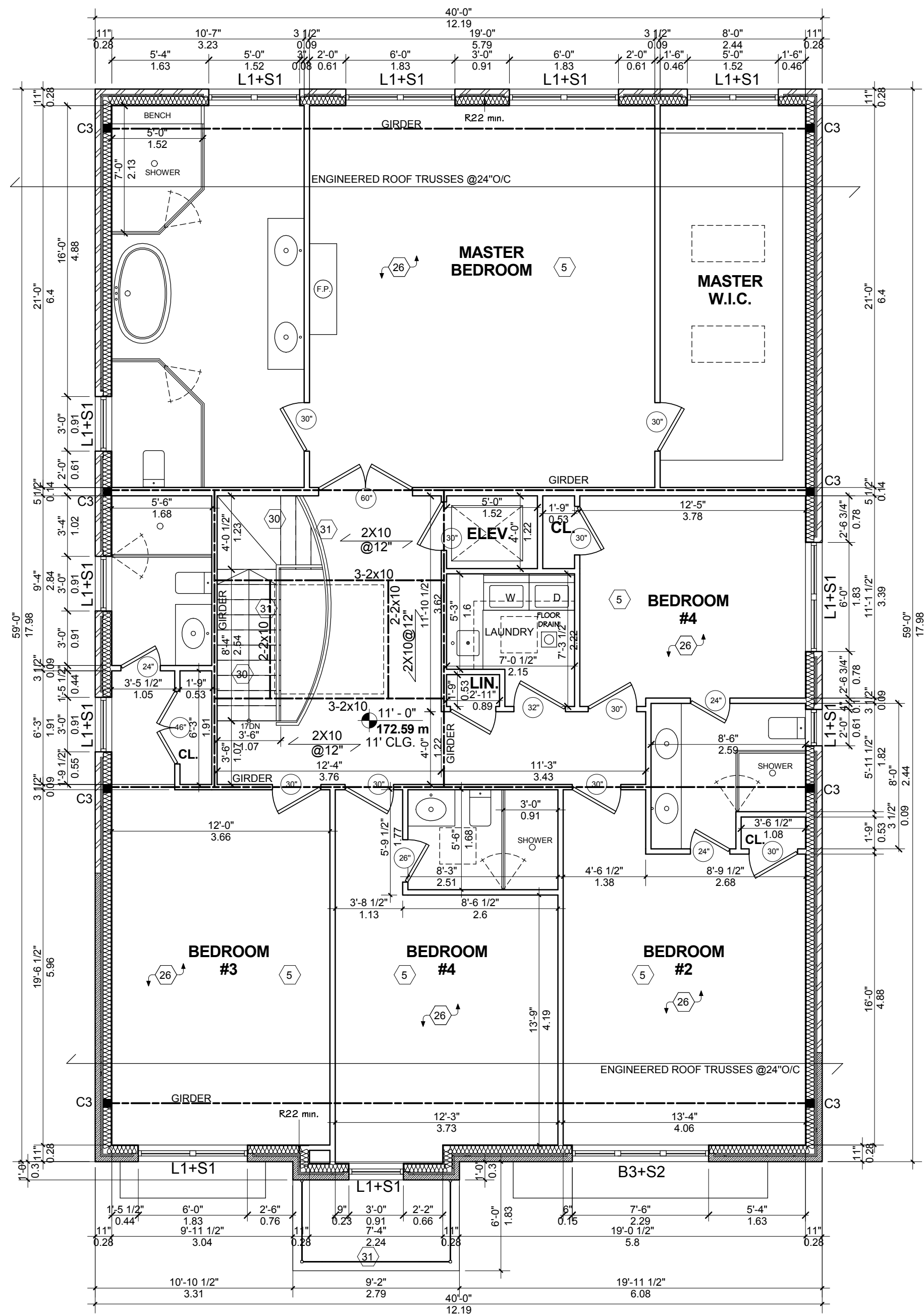
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Ali Shakeri
BCIN#24574
F&A Associates Ltd.
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notes:

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project:

106 MUNRO BOULEVARD

drawing:

2nd FLOOR PLAN

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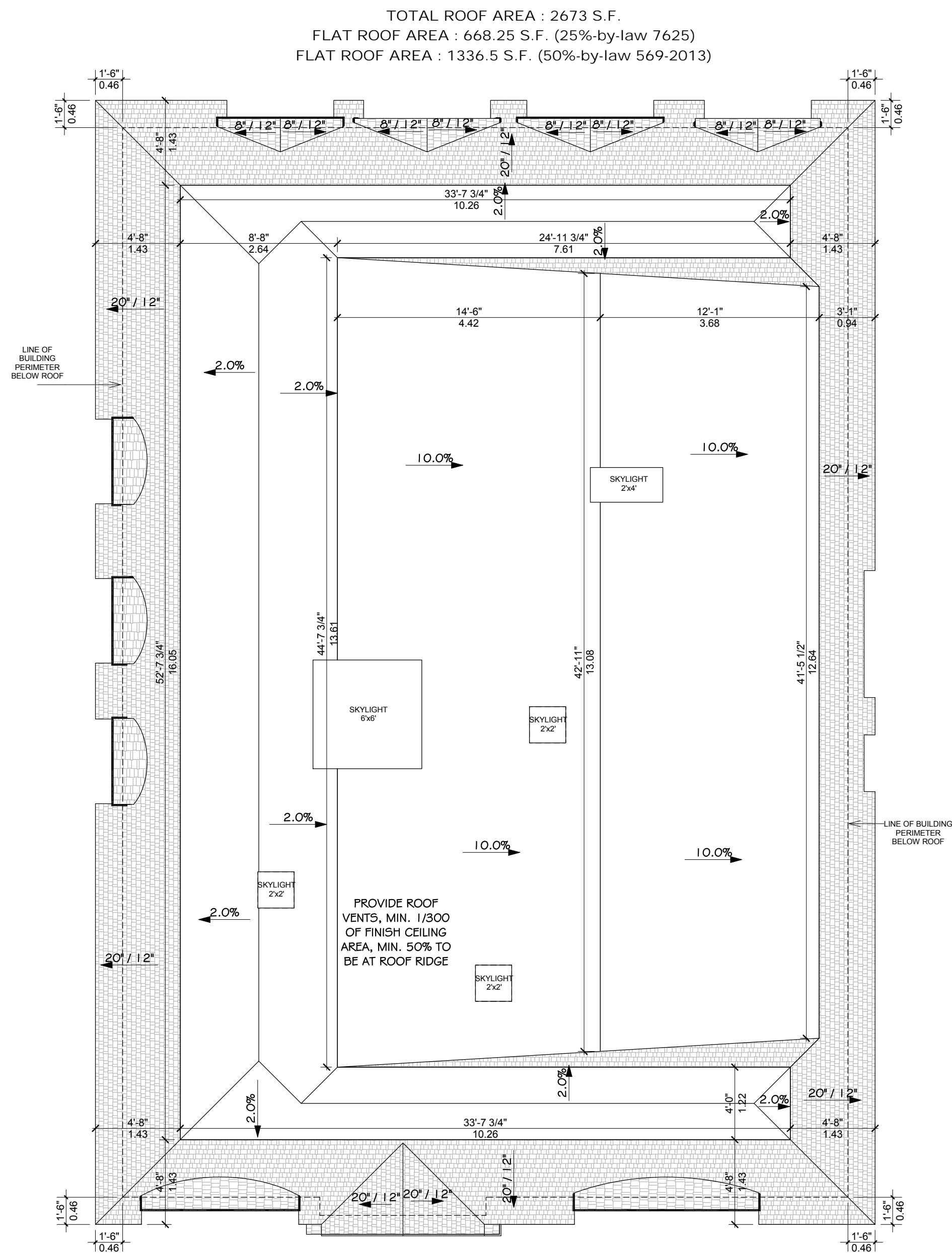
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project:
106 MUNRO BOULEVARD

drawing:
ROOF PLAN

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3/16" = 1'-0"

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A 05

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F&A Associates Ltd.
BCIN#309998



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project:
106 MUNRO BOULEVARD

drawing:
MAIN ELEVATION (SOUTH)

scale:
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project: 106 MUNRO BOULEVARD

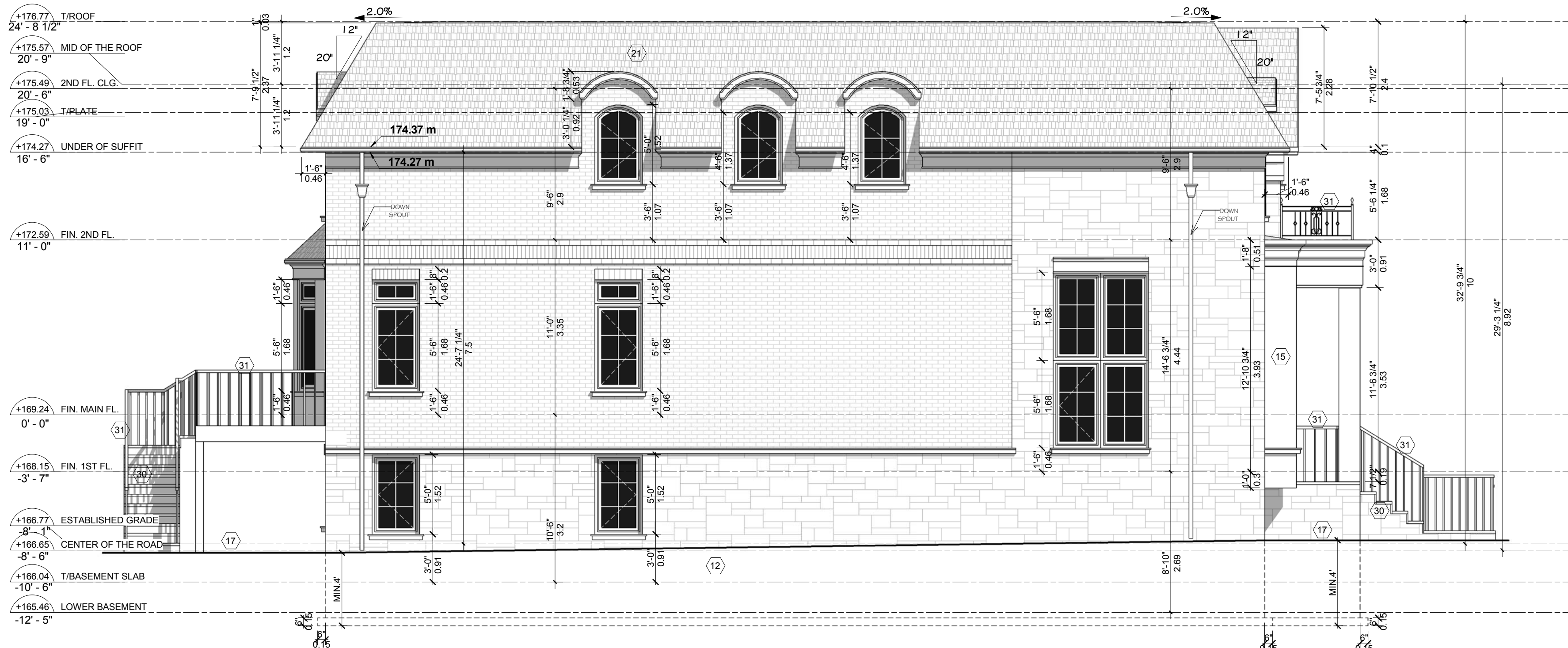
drawing: REAR ELEVATION (NORTH)

scale:	page:
1/4" = 1'-0"	A 07

THIS UNDERSIGNED HAS REVIEWED & TAKES RESPONSIBILITY FOR THIS DESIGN, & HAS THE QUALIFICATIONS & MEETS THE REQUIREMENTS SET OUT IN THE O.B.C. TO BE A DESIGNER

Ali Shakeri
BCIN#24574
F&A Associates Ltd.
BCIN#309998





notes:

Designed by:

ALI SHAKERI
T: 416 821 3960 F: 416 2508900

ARCICA INC.
326 SHEPPARD AVENUE EAST,
M2N 3B4
TORONTO, ONTARIO, CANADA

revisions:

AUG 30, 2018 -issued for COA

1 ALL WORK SHALL BE CARRIED OUT IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THE LATEST REVISION OF THE ONTARIO BUILDING CODE.

2. VERIFY ALL DIMENSIONS PRIOR TO CONSTRUCTION.

3. DO NOT SCALE DRAWINGS.

4. ALL DIMENSIONS AND INFORMATION SHALL BE CHECKED AND VERIFIED ON THE JOB AND ANY VARIANCES OR DISCREPANCIES MUST BE REPORTED TO F&A ASSOCIATES BY PHONE AND SUBSEQUENT WRITTEN CONFIRMATION PRIOR TO COMMENCEMENT OF THE WORK.

5. USE ONLY LATEST REVISED DRAWINGS OF THOSE THAT ARE MARKED "ISSUED FOR CONSTRUCTION".

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project:

106 MUNRO BOULEVARD

drawing:

SIDE ELEVATION (WEST)

scale:

3/16" = 1'-0"

page:

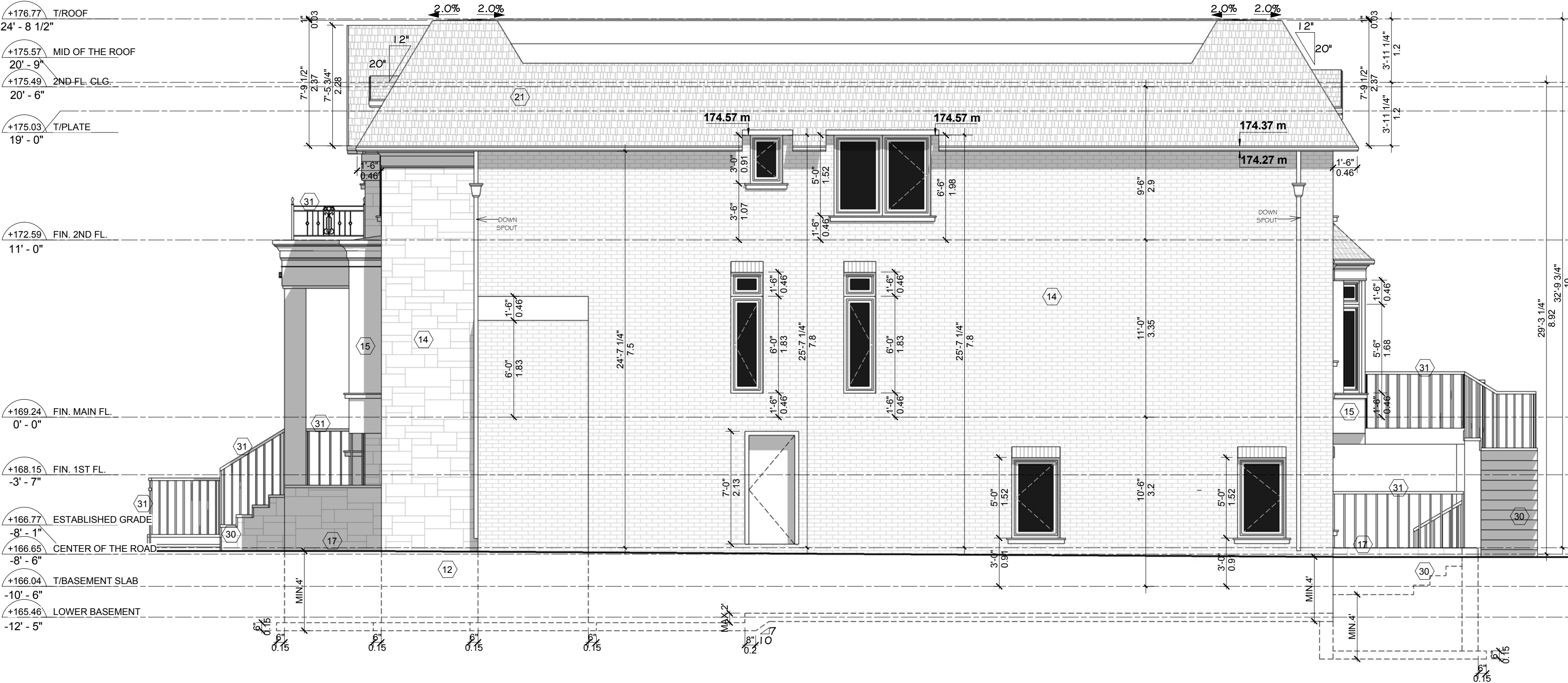
A 08

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Ali Shakeri
BCIN#24574
F&A Associates Ltd.
BCIN#30998

notes:

GLAZED AREAS:
1. AREA OF EXPOSED BUILDING FACE: 1521.27 SQ.FT.
2. PROPOSED GLAZED AREA: 94.03 SQ.FT. (6.18%)



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project: 106 MUNRO BOULEVARD

drawing: SIDE ELEVATION (EAST)

scale: 3/16" = 1'-0"
page: A 9

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