

DECISION AND ORDER

Decision Issue Date Thursday, March 19, 2020

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): HAYES COLLIN STEINBERG

Applicant: CLIMANS GREEN LIANG ARCHITECTS INC

Property Address/Description: 65 TILSON RD

Committee of Adjustment Case File: 19 113330 NNY 15 MV (A0085/19NY)

TLAB Case File Number: 19 141090 S45 15 TLAB

Hearing date: Tuesday, March 10, 2020

DECISION DELIVERED BY S. TALUKDER

REGISTERED PARTIES AND PARTICIPANTS

| | |
|------------------------|------------------------------------|
| Appellant | Hayes Collin Steinberg |
| Appellant's Legal Rep. | David Bronskill |
| Applicant | Climans Green Liang Architects Inc |
| Party | John Nelson Plumpton |
| Participant | William Mackenzie Thoms |
| Participant | Arlene Gould |
| Participant | John Burkhard Hippler |
| Expert Witness | Tae Ryuck |
| Primary Owner | Jennifer Gould |

INTRODUCTION

1. The Applicant, owner of the property at 65 Tilson Road (Subject Property), appeals the Committee of Adjustment's (COA) decision that denied the approval of variances with respect to the Subject Property.
2. A decision was previously issued by the Toronto Local Appeal Body (TLAB) for this matter, which was subject to a Request for Review under TLAB Rule 31. TLAB issued an Order on November 18, 2019 granting the Request for Review. A *de novo* hearing was ordered. I presided over the new hearing on March 10, 2020.
3. My decision is based entirely on the evidence provided at the hearing on March 10, 2020, which includes oral testimony and documents tendered as evidence at the hearing.
4. The Applicant was the only party at the hearing. The participants who filed participant statements did not attend the hearing.
5. I informed those present at the hearing that prior to the hearing, I attended the site of the Subject Property and the surrounding neighbourhood to familiarize myself with the neighbourhood.

MATTERS IN ISSUE

6. At issue is whether the TLAB should approve the following variances:

1. Chapter 10.20.40.40.(1), By-law No. 569-2013

The maximum permitted floor space index is 0.60 times the lot area.

The proposed floor space index is 0.77 times the lot area.

2. Chapter 10.20.40.70.(1)(B), By-law No. 569-2013

The minimum required front yard setback is 4.97m.

The proposed front yard setback is 4.36m.

7. The Applicant proposed the following condition to be attached to approval of the variances:

The proposed dwelling shall be constructed substantially in accordance with the Site Plans and Elevations prepared by Climans Green Liang Architects Inc. dated February 24, 2020, attached to this decision as Schedule 1, but except for any internal layouts in the site plans.

JURISDICTION

Provincial Policy – S. 3

8. A decision of the 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).

Variance – S. 45(1)

9. 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 (OP);
 - 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, ANALYSIS, FINDINGS, AND REASONS

10. The Applicant called Tae Ryuck, a Registered Professional Planner, who was accepted by the TLAB as qualified to provide expert opinion evidence in the area of land use planning. Mr. Ryuck was the only witness called at the hearing. Mr. Ryuck supported the application for approval of the variances because in his opinion, the variances satisfied the four tests.
11. Mr. Ryuck confirmed that a building permit for the Subject Property was issued that allowed the construction of a building in accordance to the "approved" plans in Schedule 1. He also confirmed that the approved FSI for the building on the Subject Property is 0.69x the lot area. This approval of FSI was based on Chapter 10.10.40.40(2) of By-Law 539-2013, which allows the FSI to be extended to 0.69 because the building on the Subject Property did not have any prior addition for at least 5 years and the proposed rear addition is not closer to the side lot line than the existing side main wall of the building.
12. Mr. Ryuck testified that the variances for FSI and front yard setback are due to the following proposed additions to the already approved building as highlighted in red in Schedule 1:
 - a. The filling in of the window well from the basement to the second storey: the building wall surrounding the window well will be closed up to provide additional space instead of a window well and this increase in floor area will be internal to the building.
 - b. The bay window at the front of the second storey extended by two feet to allow for more space in the upstairs bedroom.

13. I have accepted Mr. Ryuck's study area to be an appropriate neighbourhood for the Subject Property. Mr. Ryuck testified that his neighbourhood study area is bounded by Hillsdale Avenue East (north), Cheston Road (east), Millwood Road (south) and Mt. Pleasant Road (west). He stated that was the area that a resident would experience in their day-to-day lives. He noted that Mt. Pleasant Road is an appropriate boundary as the street has retail stores that the residents can use.
14. In response to my question as to whether Tilson Road can be considered a village (as described by some participants in their participant witness statements), Mr. Ryuck informed me that Tilson Road is not designated to be a special district under the zoning by-laws. He noted that the houses on Tilson Road are not special and the design and other planning attributes associated with these properties can be found in other streets in the study area.
15. Mr. Ryuck described his study area to include both detached and semi-detached dwellings and with lots of varied sizes and patterns. There is narrow separation between the buildings that has resulted in a tight physical character of the neighbourhood. This neighbourhood has experienced changes in the form of re-development and additions. He reviewed his photographs of the neighbourhood to show that the front façade and the roof lines of the houses are different, giving rise to an eclectic neighbourhood with different architectural designs. He also noted that semi-detached homes do not necessarily mirror in their architectural design or construction in this neighbourhood. For example, the semi-detached dwellings on 21 and 23 Cheston Road, 28 and 30 Hadley Road, and 597 and 599 Millwood Road are each different from its attached counterpart dwelling.
16. Mr. Ryuck testified that the architectural design of the building on the Subject Property is not at issue before the TLAB, as there is already a building permit that allows for the building to be built with a modern design. The zoning by-law does not restrict design. The main consideration with respect to the façade of the house is the bump out of the bay window by an extra 2 ft. This bay window is aligned with the bay window of the other attached semi-detached dwelling. He also noted that the building does not require any variances for depth, side-yard setbacks, rear yard setbacks or building height. In addition, the building maintains the existing roofline at the front and has a lower roof for the rear addition to the building.
17. Mr. Ryuck opined that the proposed additions to the building satisfy the general intent and purpose of the OP (OP 4.1.5) and the Zoning By-Laws. He noted that his Area Context Map of the study area shows that many properties in this area have FSI of 0.7x the lot area and higher. I note that these properties are spread throughout the area including Tilson Road. Mr. Ryuck testified that the as-of-right building envelope that complies with all zoning parameters such as building depth, height and yard setbacks, would have an FSI of 0.76x the lot area. An increase of FSI does not necessarily mean that there is an overdevelopment of the area. In this case, the FSI increase is reflected in the extension of the bay window and the filling in of the window well. This extension will be consistent with the streetscape. The filling of the window well will be internal and not noticeable to the public. The front yard setback variance is related to the window extension

as well. The setback requested is an improvement of what is existing as the front porch, which has a setback at 3m, and will be removed. The resulting building is compatible with those in the neighbourhood. This satisfies the general intent and purpose of the Zoning By-Law, which is to ensure that the proposed built form is compatible within the neighbourhood and without any unacceptable impacts.

18. Mr. Ryuck stated that the proposed additions reflect a modest intensification of a building which is being re-developed. The two storey dwelling is a modest building that retains the roofline and bay window features to be compatible with what is in the neighbourhood. It is a desirable development on the Subject Property. He further noted that there are no additional or new adverse impacts with respect to the increased FSI and the front yard setback. The front yard setback is an improvement of the existing condition as the front porch will be removed. Further, the FSI increase due to the filling of the window well will be a change internal to the house and there will be no negative impact resulting from this proposed modification. As such, the tests for both desirability of the development and where the proposal is of a minor nature, are satisfied.
19. After the hearing and after reviewing the amended site plans in detail, I note that the proposed FSI is 0.753x the lot area. I requested clarification from the Applicant's counsel about the discrepancy in the FSI of 0.753 and 0.77. The Applicant's counsel clarified that the original plans resulted in an FSI of 0.77 while the amended plans resulted in an FSI of 0.753.
20. I note that there are no policy concerns with respect to the PPS and the Growth Plan.
21. I have accepted and adopted Mr. Ryuck's testimony in its entirety for variances for FSI of 0.753 and a front yard setback is 4.36m. I am satisfied the two variances individually and cumulatively satisfy the four tests and therefore approved.

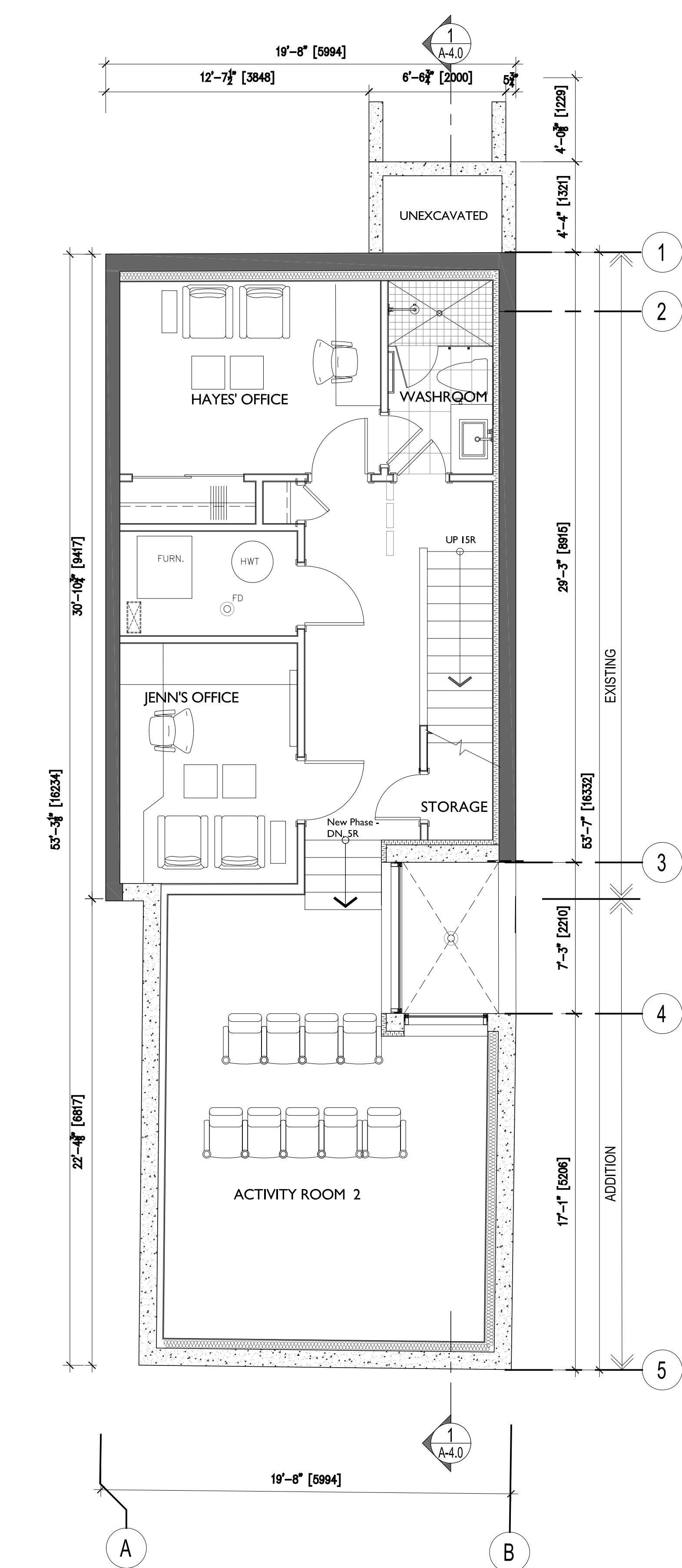
DECISION AND ORDER

1. The COA decision is overturned and the appeal allowed, with amendment as follows: an FSI of 0.753x the lot area and a front yard setback of 4.36m are approved.
2. The variances requested are approved and are subject to the following condition:

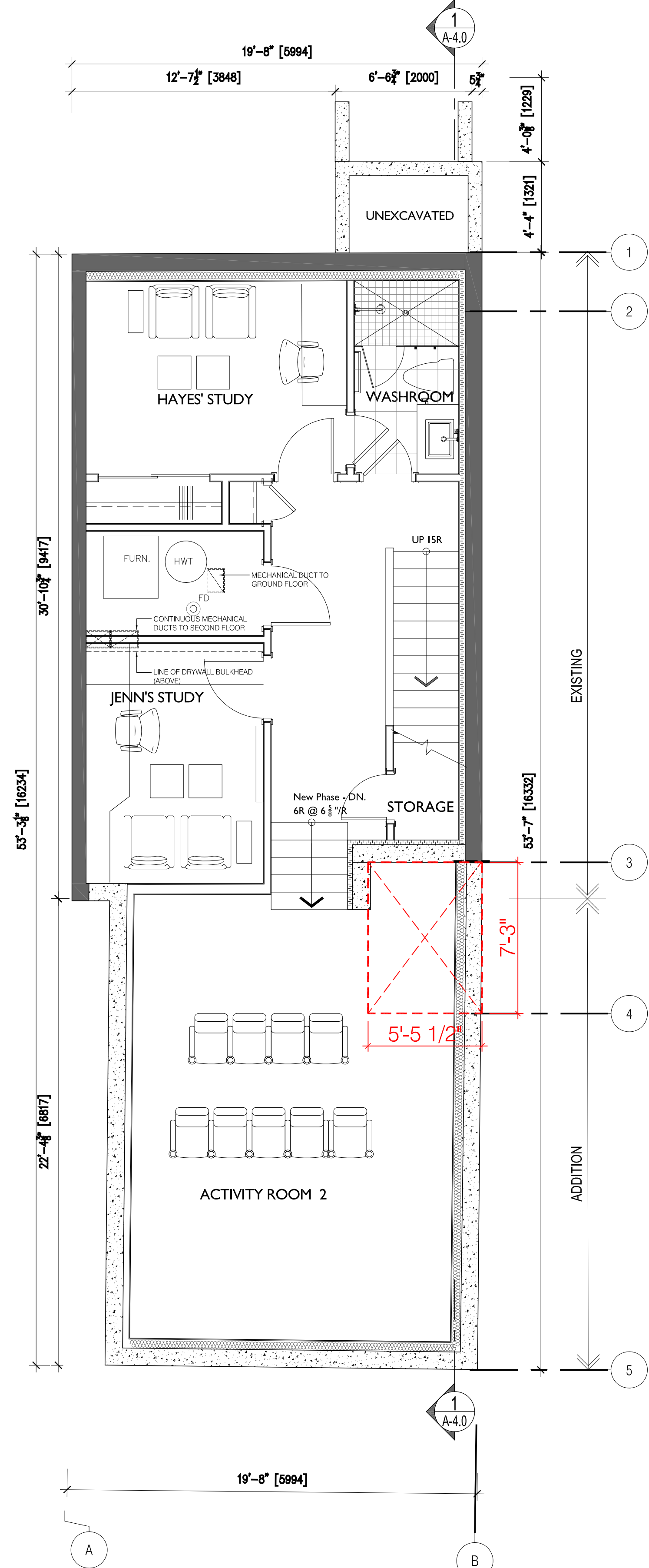
The proposed dwelling shall be constructed substantially in accordance with the Site Plans and Elevations prepared by Climans Green Liang Architects Inc. dated February 24, 2020, attached to this decision as Schedule 1, but except for any internal layouts in the site plans.

X 

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

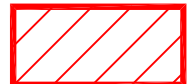


APPROVED PERMIT BASEMENT FLOOR PLAN



PROPOSED BASEMENT FLOOR PLAN

LEGEND



PROPOSED ADDITIONAL BUILDING AREA



PROPOSED AREA SUBTRACTED FROM WINDOW WELL

FLOOR SPACE INDEX

APPROVED PERMIT FSI: 0.690

PROPOSED FSI: 0.753

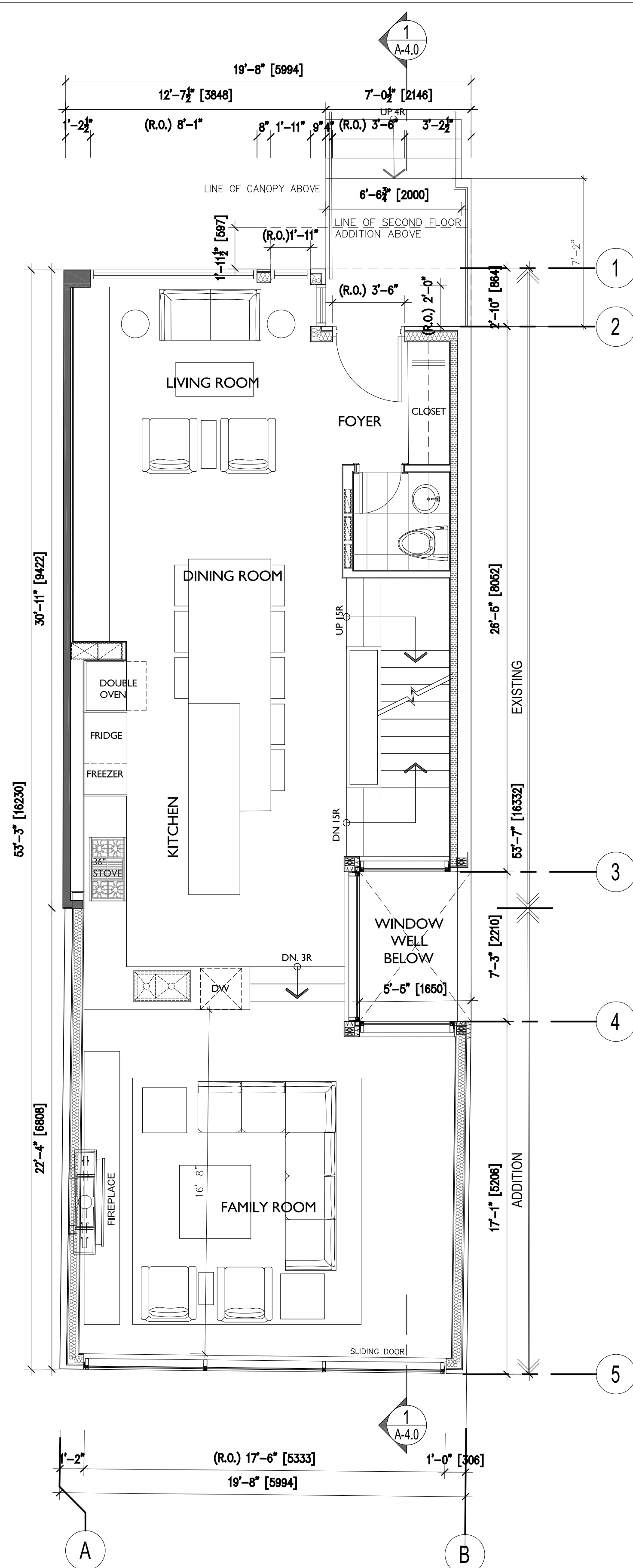
BASEMENT FLOOR PLAN COMPARISON

SCALE: 1/4"=1'-0"

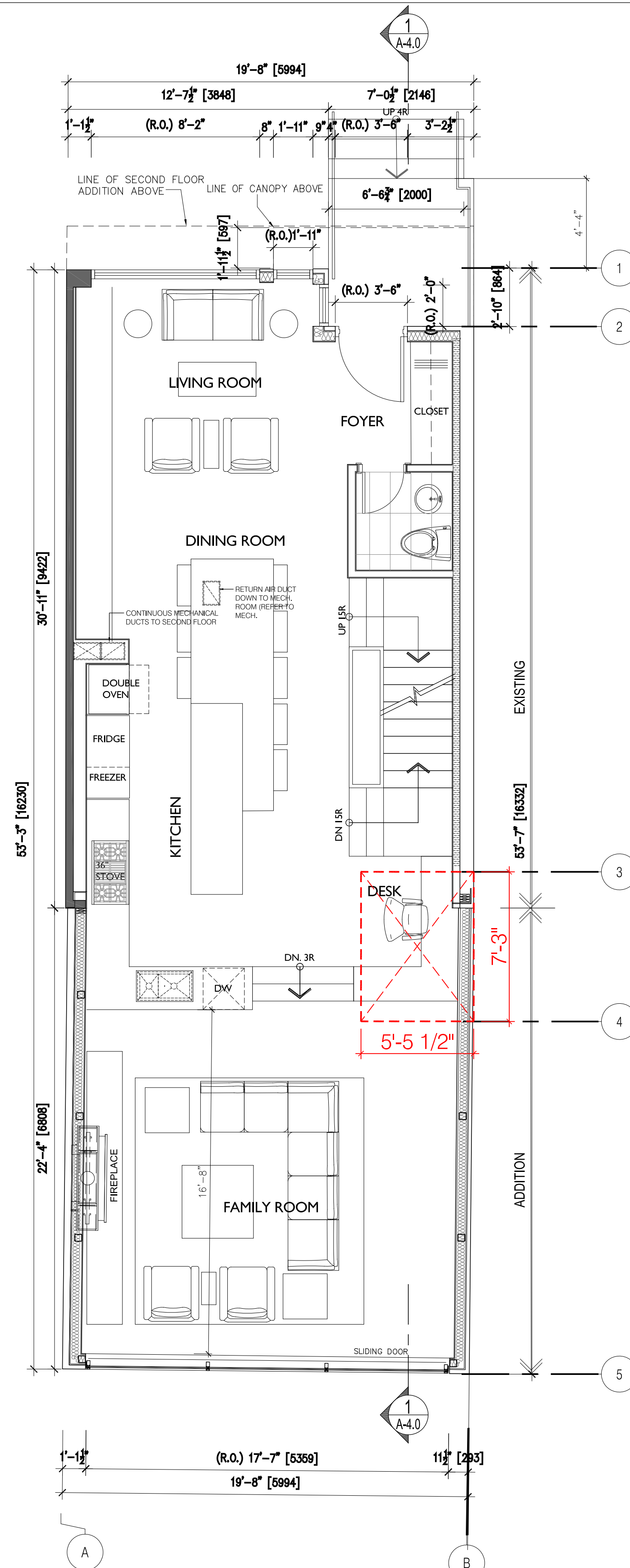
FEBRUARY 24, 2020

GOULD RESIDENCE

65 TILSON RD. TORONTO, ON.

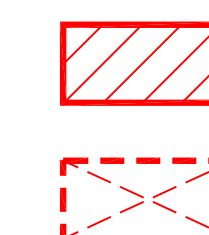


APPROVED PERMIT GROUND FLOOR PLAN



PROPOSED GROUND FLOOR PLAN

LEGEND



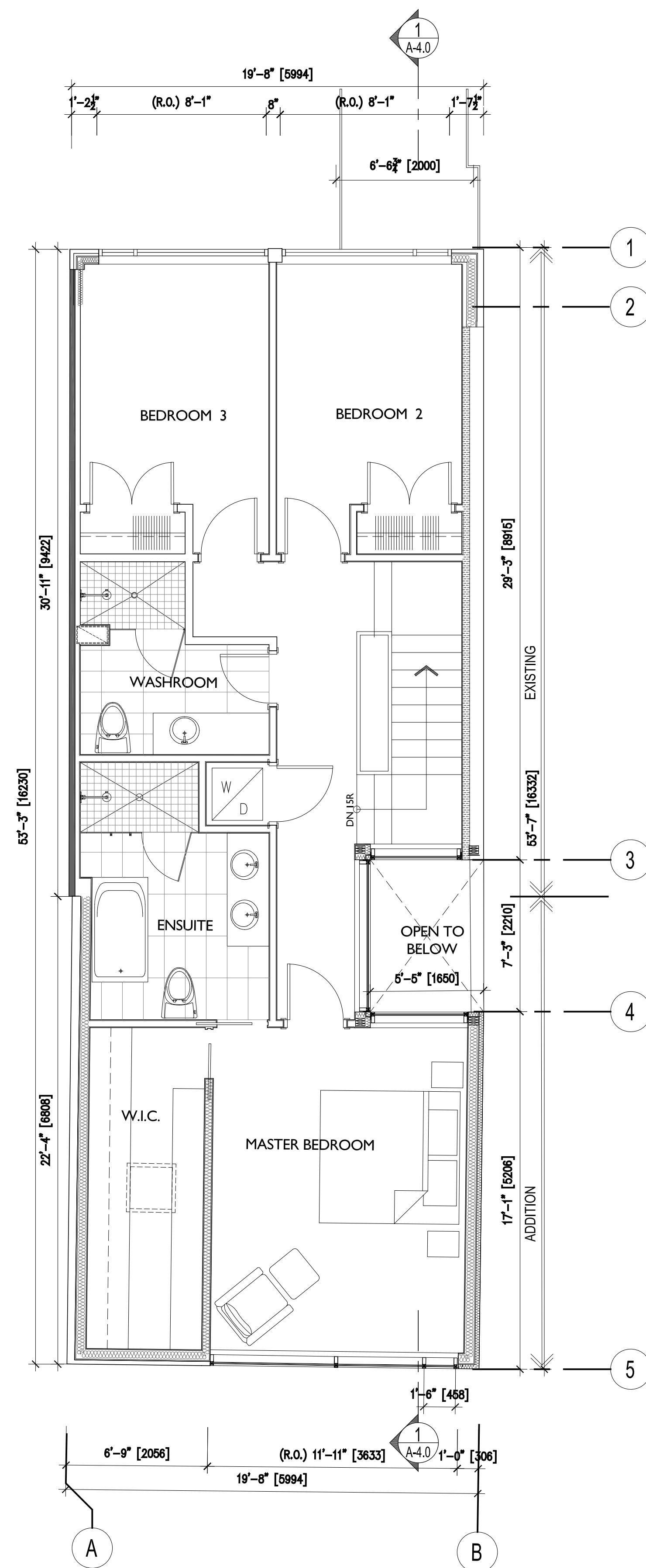
PROPOSED ADDITIONAL BUILDING AREA

PROPOSED AREA SUBTRACTED FROM WINDOW WELL

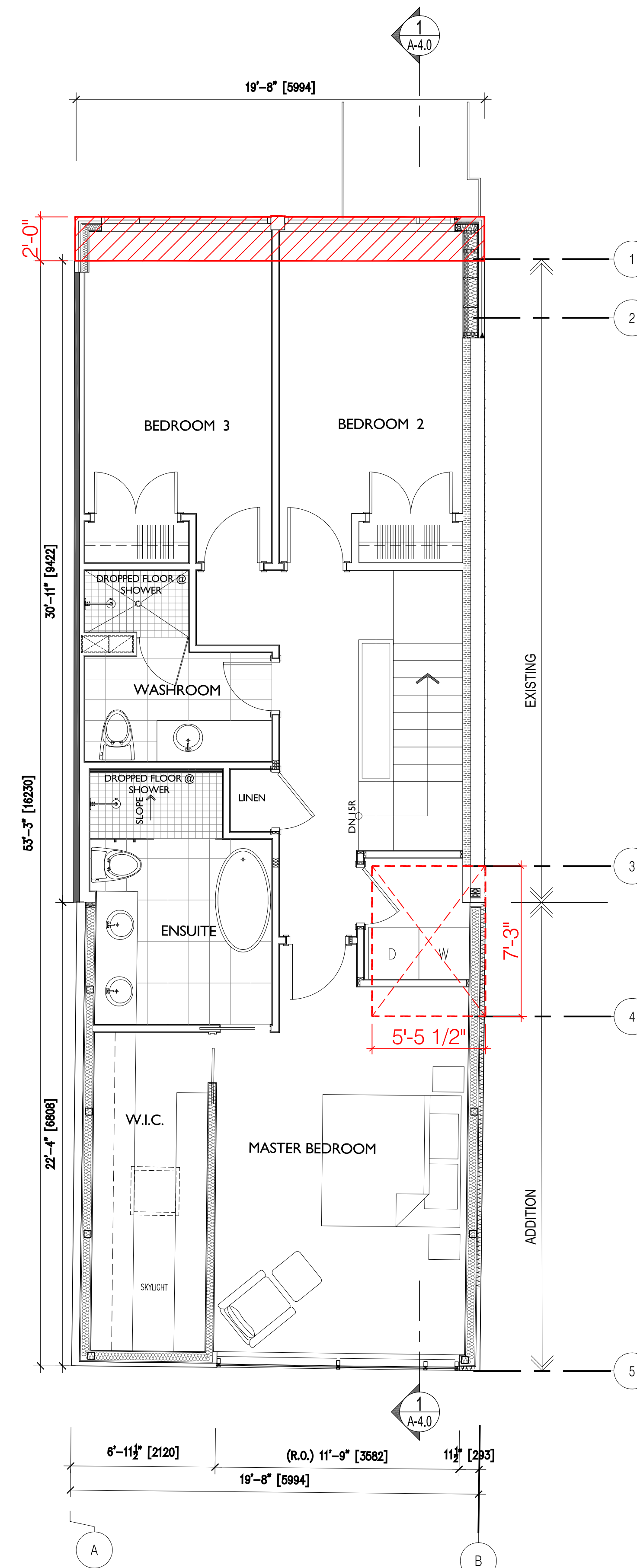
FLOOR SPACE INDEX

APPROVED PERMIT FSI: 0.690

PROPOSED FSI: 0.753

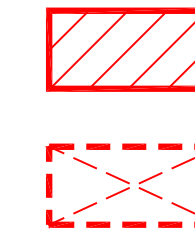


APPROVED PERMIT SECOND FLOOR PLAN



PROPOSED SECOND FLOOR PLAN

LEGEND



PROPOSED ADDITIONAL BUILDING AREA
PROPOSED AREA SUBTRACTED FROM WINDOW WELL

FLOOR SPACE INDEX

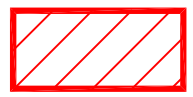
APPROVED PERMIT FSI: 0.690
PROPOSED FSI: 0.753

SECOND FLOOR PLAN COMPARISON

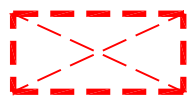
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FEBRUARY 24, 2020

GOULD RESIDENCE
65 TILSON RD. TORONTO, ON.

LEGEND



PROPOSED ADDITIONAL BUILDING AREA

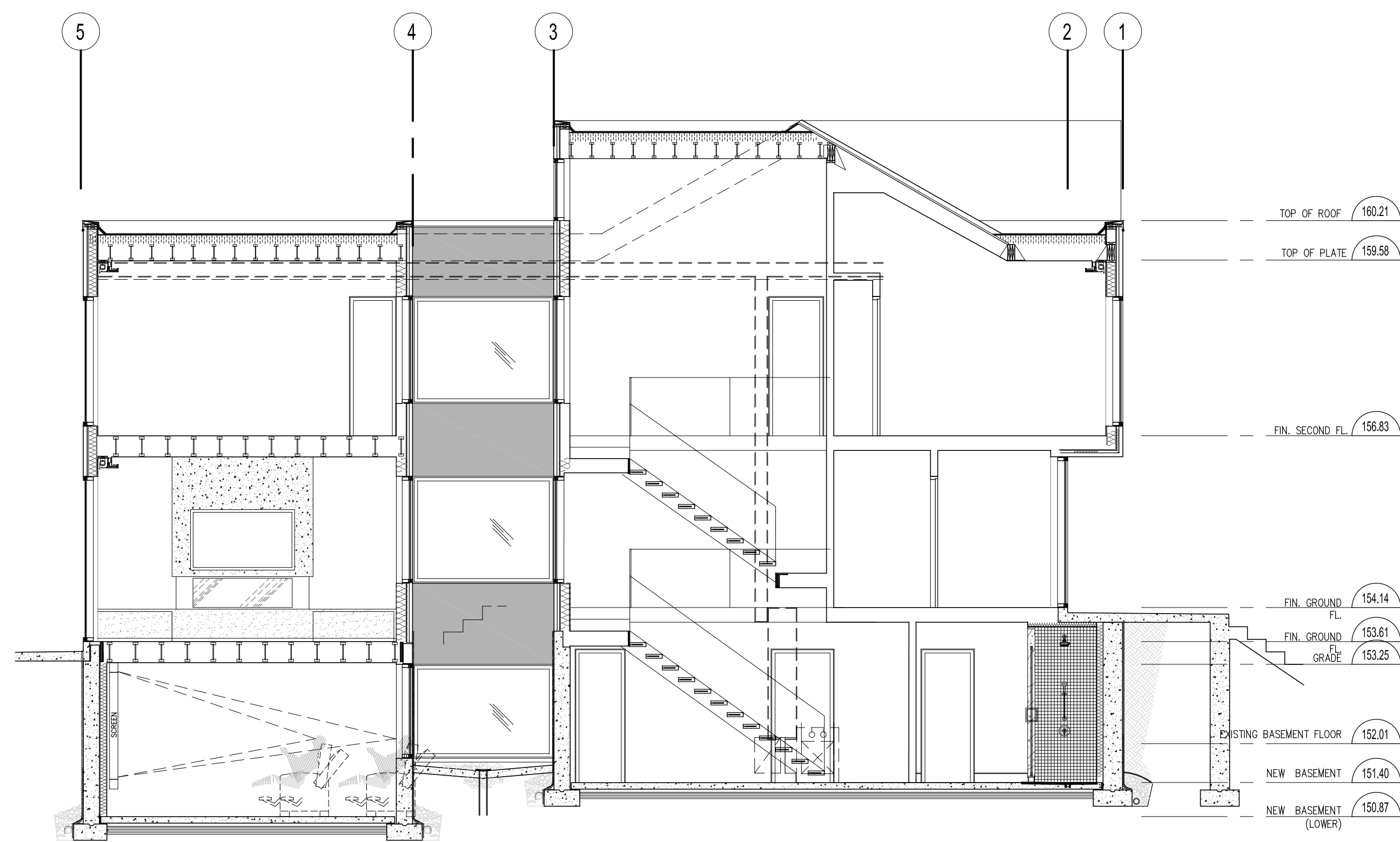


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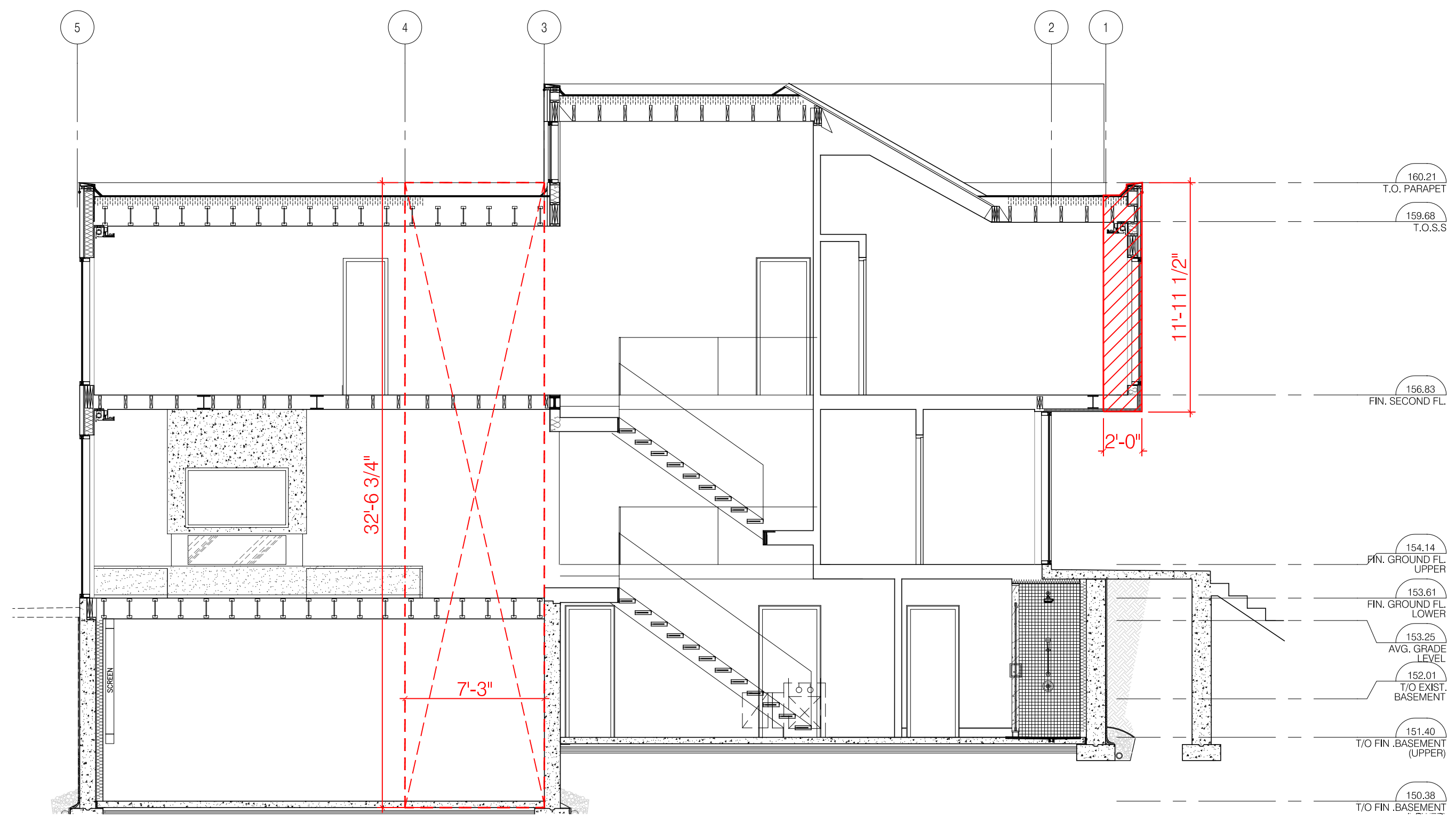
FLOOR SPACE INDEX

APPROVED PERMIT FSI: 0.690

PROPOSED FSI: 0.753



APPROVED PERMIT BUILDING SECTION



PROPOSED BUILDING SECTION

BUILDING SECTION COMPARISON

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

FEBRUARY 24, 2020

GOULD RESIDENCE

65 TILSON RD. TORONTO, ON.

LEGEND



PROPOSED ADDITIONAL BUILDING AREA

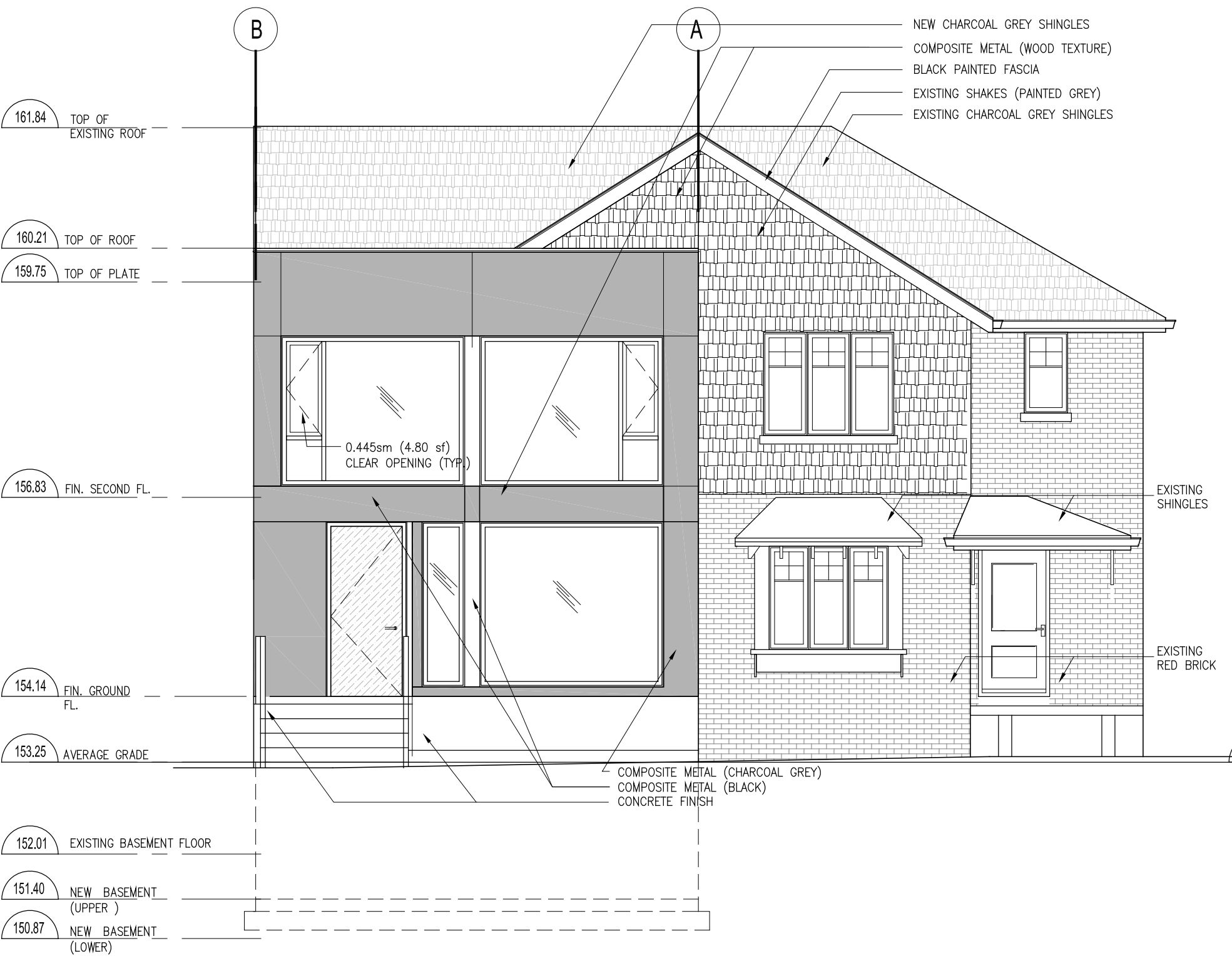


PROPOSED AREA SUBTRACTED FROM WINDOW WELL

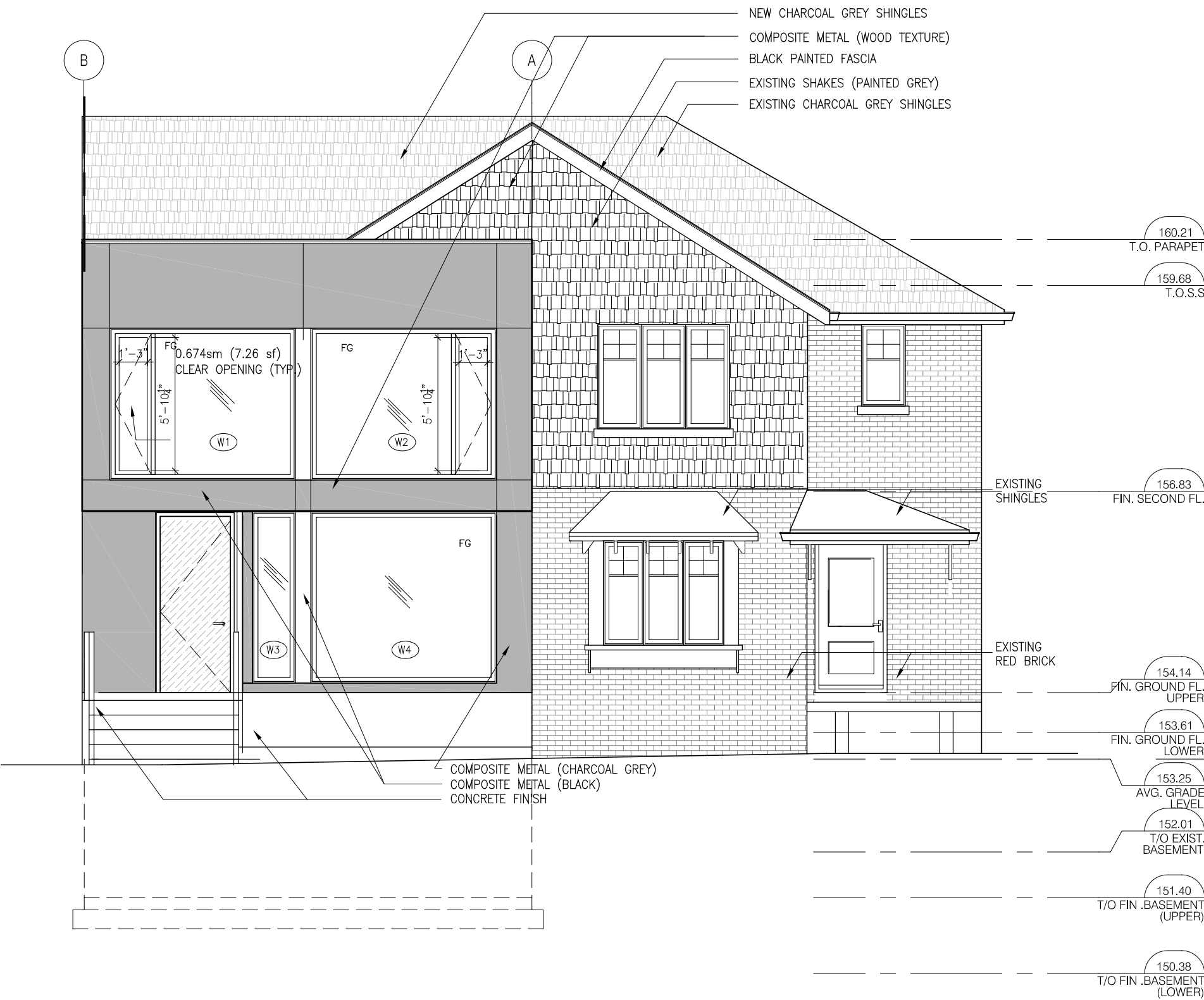
FLOOR SPACE INDEX

APPROVED PERMIT FSI: 0.690

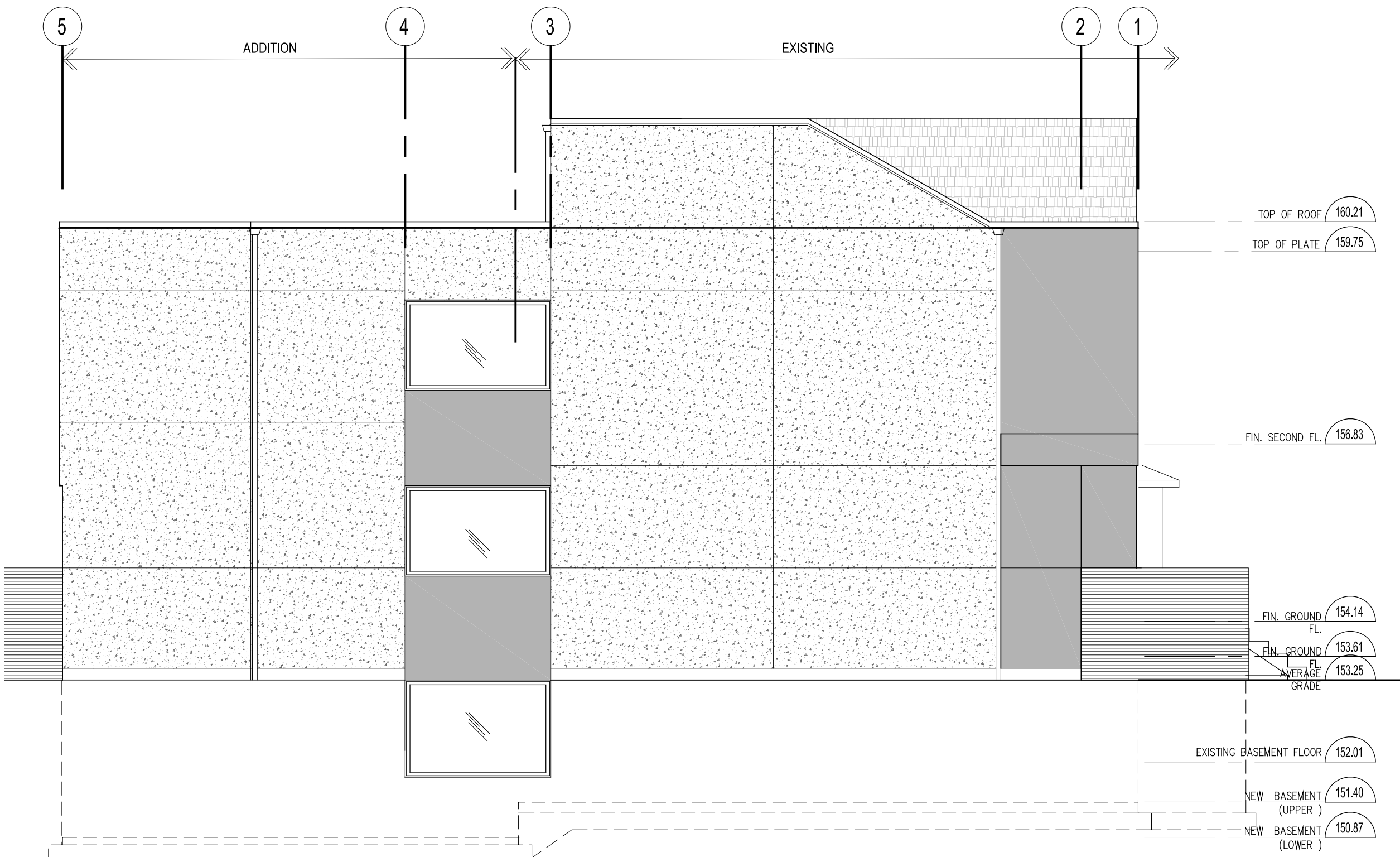
PROPOSED FSI: 0.753



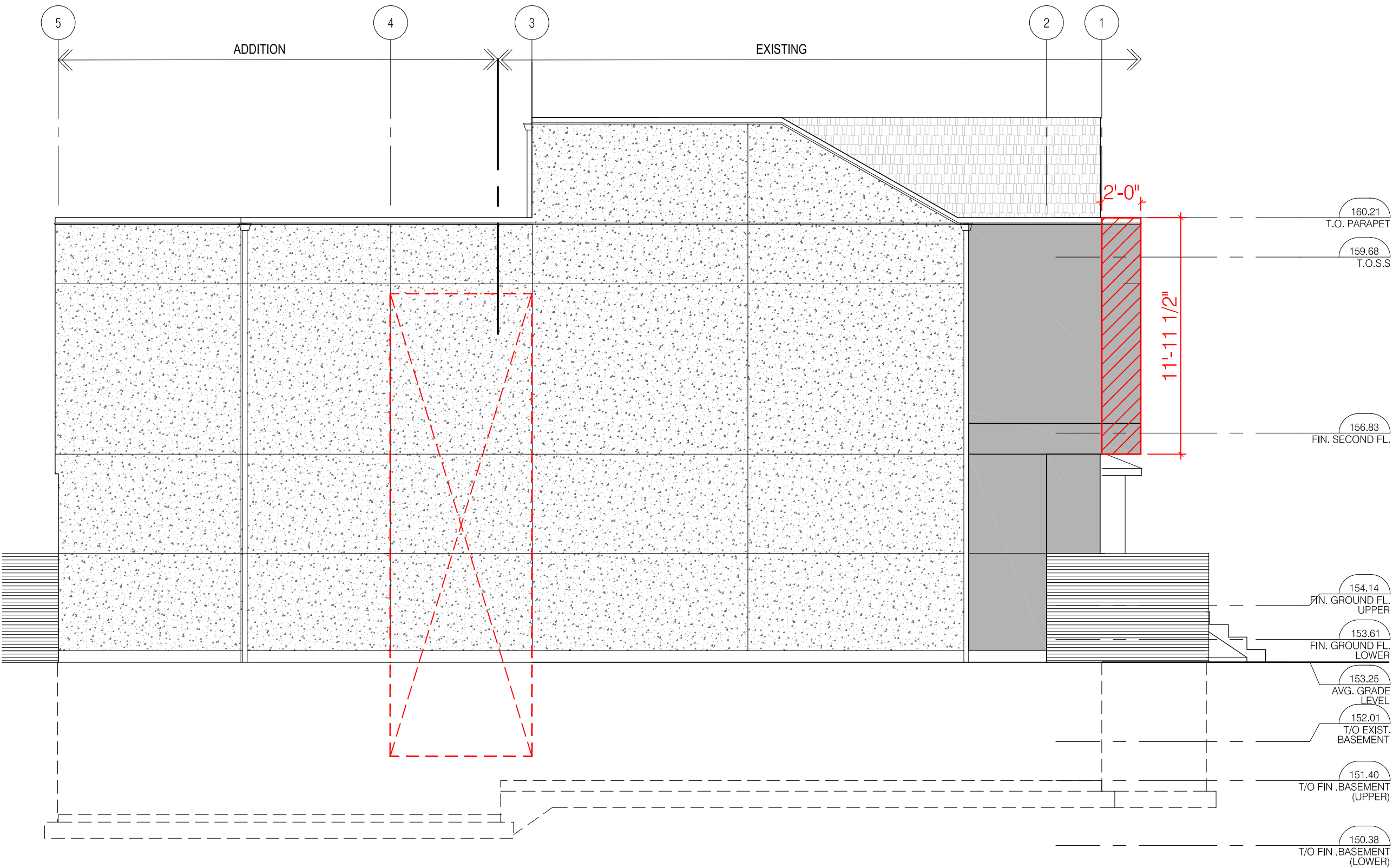
APPROVED PERMIT FRONT ELEVATION



PROPOSED FRONT ELEVATION



APPROVED PERMIT SIDE ELEVATION



PROPOSED SIDE ELEVATION



BUILDING ELEVATION COMPARISON

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

FEBRUARY 24, 2020

GOULD RESIDENCE

65 TILSON RD. TORONTO, ON.