

DECISION AND ORDER

Decision Issue Date Monday, March 23, 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): JEREMY VIDAL

Applicant: VICTOR HIPOLITO

Property Address/Description: 387 GLENHOLME AVE

Committee of Adjustment Case File: 19 179886 STE 12 MV (A0702/19TEY)

TLAB Case File Number: 19 233603 S45 12 TLAB

Hearing date: Friday, February 07, 2020

DECISION DELIVERED BY S. GOPIKRISHNA

APPEARANCES

NAME	ROLE	REPRESENTATIVE
VICTOR HIPOLITO	APPLICANT	
TJ CIECURA	EXPERT WITNESS	
JEREMY VIDAL	APPELLANT/OWNER	RUSSELL D CHEESEMAN

INTRODUCTION AND BACKGROUND

Jeremy Vidal is the owner of 387 Glenholme Ave, located in Ward 12 (St. Paul's), of the City of Toronto (City). He applied to the Committee of Adjustment (COA), to construct a new three-storey duplex at the Subject Site, with rear first, second, and third storey decks.

The COA heard the application on September 26, 2019, and refused it in its entirety. The Appellant appealed the Decision to the Toronto Local Appeal body (TLAB) on October 8, 2019, which scheduled a Hearing on February 6, 2020.

MATTERS IN ISSUE

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

1. Chapter 10.80.40.40.(1)(A), By-law 569-2013

The maximum permitted floor space index of a detached dwelling is 0.8 times the area of the lot (334.3 m²).

The three-storey detached duplex will have a floor space index of 0.84 times the area of the lot (351.31 m²).

2. Chapter 10.80.40.70.(3), By-law 569-2013

The minimum required side yard setback of a duplex is 1.8 m.

The three-storey detached duplex will be located 0.76 m from the south side lot line.

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').

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

At the Hearing held on February 7, 2020, the Appellant, Mr. Vidal, was represented by Mr. Russell Cheeseman, a lawyer, and Mr. T.J.Cieciura, a land use planner. There were no other Parties, nor Participants involved in this Hearing.

Mr. Cieciura was sworn in, and recognized as an Expert Witness in the area of land use planning. He said that the neighbourhood chosen by him was bounded by Rogers Road on the south, Dufferin Street on the west, east of Vaughan Road, and south of Eglinton Avenue. He added that the Neighbourhood chosen by him, approximately overlapped with "Oakwood Village". The Subject Property is currently occupied by a single detached, two storey residential dwelling, with a garage at the rear of the property. The proposal is to construct a new three storey duplex with rear first, second, and third storey decks, with parking space, at the rear of the property.

Speaking to the property itself, Mr. Cieciura added that the subject lot is a regular rectangular shape, with a 10.07m frontage and 41.47m in depth, and that the total lot area of the lot is 417.88 square metre.

Describing the community surrounding the Subject Property, Mr. Cieciura said that Glenholme Avenue runs north and south, from Vaughan Road to St. Clair Avenue W., and that the Subject Property is located on Glenholme Avenue between Hanson Road and Jesmond Avenue. The residential buildings in this neighbourhood are predominantly single detached houses, which co-exist with semi-detached dwellings, duplexes and triplexes. The buildings mostly appear to be one or two storeys in height. He added that a defining characteristic of the neighbourhood is that many dwellings have rear detached garages, mostly accessed from laneways, and driveways down the side of the dwelling or side streets.

The Subject Property is in the "Neighbourhoods" designation of the Official Plan, and is currently zoned "R2" under the former City of Toronto Zoning Bylaw 1-83, as amended by 3623-97. The Subject Property is zoned as "RM(f12.0; u2; d0.8)(x.252)" Residential under Citywide Zoning By-law 569- 2013, which permits a floor area 0.8 times the lot area.

Mr. Cieciura discussed how the proposal is consistent with the higher level Provincial Policies, beginning with Provincial Policy Statement (2014). He said that the proposal is consistent with the pattern of development in the neighbourhood, makes efficient use of land, and thereby contributes to the vitality and regeneration of the community, making it compatible with the PPS (2014). He then discussed how the proposal is consistent with Growth Plan for the Greater Golden Horseshoe, 2019, because it is within a settlement area, which specifically achieves the stated goal of better use of land, and infrastructure for directing growth.

Mr. Cieciura then spoke to how the proposal maintained the general purpose, and intent of the Official Plan (OP). He spoke to the relevance of Policies 2.3.1, 3.1.2, 3.4, and 4.1.5 of the Official Plan. He said Policy 2.3.1.1 of the OP holds neighbourhoods to be physically stable areas, where development will be consistent with, respect and reinforce the existing physical character of buildings, streetscapes and open space patterns. He said that duplexes are an existing dwelling type within this neighbourhood, and that the proposed dwelling respects, and reinforces the existing physical character of buildings, and streetscapes in this area.

He then discussed how Policy 3.1.2.1 deals with new development and its relationship to the existing context, and said that the proposed development will be located, and organized to fit with its existing and/or planned context. The proposed duplex is of a compatible height, size and massing, as other dwellings in the neighbourhood, and fits within its existing and planned context. He asserted that the dwelling will not have a significant impact on the overall scale of the built form on the lot, and does not adversely impact abutting properties, thereby satisfying Policies 3.1.2.3 (a) and (b). He pointed out there are no height related variance requests in this proposal, and concluded that Sections (c)- (f) of Policy 3.1.2.1 are not relevant.

While discussing Policy 3.4 of the OP, Mr. Cieciura stated that while there are currently no trees on the property, the owner was prepared to utilize the place provided in the rear to "include a landscape strip, resulting in a typical rear yard condition".

Mr. Caesura then discussed the criteria listed in Section 4.1.5, and demonstrated how the proposal complied with the listed criteria. According to him, Criterion (a) does not apply, because no change is proposed to the street, shape or size of the lot. He opined that the other criteria listed, from (b) to (e) are satisfied, because the height, massing, scale, dwelling type, prevailing setbacks of buildings, and setbacks of the proposed duplex, are all compatible with the abutting properties.

Based on this evidence, and examples of other COA decisions from the neighbourhood, Mr. Cieciura concluded that the proposal was consistent with the intention of the Official Plan.

Mr. Cieciura then discussed how the proposal was consistent with the general intent and purpose of the Zoning By-Law.

Discussing the variance respecting the Floor Space Index (FSI), Mr. Cieciura said that the zoning restriction on a maximum FSI is to prevent the construction of huge buildings, inappropriate for size of the plot. He added that the performance standard for FSI, in conjunction with the setbacks, helps maintain appropriate amenity area on the lot, while providing space for storm water infiltration, and open space. He emphasized how deep the lot is at 41.47m in depth, and concluded that the new dwelling would have adequate rear yard amenity area, and sufficient space for storm water infiltration, and added that his conclusion about the adequacy of space was buttressed by the lack of requests for rear yard, and front yard setback variances associated with the proposal. Mr. Cieciura said that the increase of 0.04 x the lot area, between what is requested, and what is of right, results in an increase of 17.01sq m (183 sq. ft.) in area, greater than what is permitted. He said that the 17.01 sq. m will be distributed between the three floors, and asserted that this addition would have little to no impact on the massing of the dwelling.

Mr. Cieciura then discussed the variance respecting the Minimum Side Yard Setback. He said that the current driveway located along the Northern Property Line is 2.90m in width, which allows vehicle access to the rear of the property, and that the North Side Yard Setback is 1.1m greater than the minimum requirement of 1.8m. The intent and purpose of the Side Yard Setback requirement is to provide access to the rear, as well as space for storm water infiltration. He pointed out that the existing dwelling has a setback of 0.42m, and if approved, the proposed setback will be 0.76m, which improves space for access and maintenance. Based on this, Mr. Cieciura concluded that the proposed dwelling will improve the southern side yard setback condition, from what currently exists on the property.

Based on this discussion, he concluded that the requested variances respected the intent and purpose of the Zoning By-Law.

Mr. Cieciura then discussed how the proposal was desirable for the appropriate development of the land. He said that the proposal complied with the test of appropriate development through a more "efficient" use of the land, which he linked to three different factors- namely the development's being consistent with the existing character of the neighbourhood, the lack of adverse impact on the abutting neighbours, and no reduction in greenery, vegetation, or soft landscaping.

Lastly, Mr. Cieciura discussed how the proposal was consistent with the test of being minor in nature. He said that the demonstrable lack of adverse impact on neighbouring properties, coupled with the "very modest quantum of variance", meant that the resulting

impact would be no different than what would be achieved if the proposal complied with the By-Laws, and concluded that the proposal met the test of being minor.

Based on this evidence, Mr. Cieciura concluded that the proposal satisfied all the four tests, and recommended that it be approved. When asked about any recommended conditions to be imposed if the proposal were approved, both Mr. Cieciura and Mr. Cheeseman, stated that they had no objections to standard conditions being imposed. I stated that the standard conditions, to be imposed on the proposal, if it were approved, are:

- The proposal will be built in substantial conformity with the submitted Plans and Elevations, prepared by Ambient Designs Ltd., Design and Building Consultants, 1115 College Street, Toronto, ON M6H 1B5, dated June 24, 2019.
- 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

Mr. Cheeseman reiterated his agreement with the conditions. I thanked Mr. Cieciura, and Mr. Cheeseman for the presentation, and reserved my Decision.

ANALYSIS, FINDINGS, REASONS

I find that proposal respecting 387 Glenholme Ave., is a straightforward case- the requested variances respecting FSI, and the sideyard setback are not out of the ordinary, there is no opposition from the neighbours, and the Appellants provided relevant and comprehensive evidence at the Hearing.

While the questions raised by the proposal do not rise to provincial significance, I agree with Mr. Cieciura that the proposal is compliant with the PPS (2014) and Growth Plan (2019), by virtue of its making efficient use of the available land, and being consistent with what exists in the community.

The proposal is consistent with Policies 2.3.1, 3.1.2, and 4.1.5 of the OP, by virtue it is consistent with the ongoing evolution of the community, compatibility with what already exists in the immediate community, and lack of creation of any new, hitherto not experienced impacts on the streetscape. I conclude that the proposal is consistent with the OP.

I find that the proposal is consistent with the intention, and purpose of the Zoning By-Law 569-2013, because the proposal's demonstrated ability to fulfill the requisite performance standards- the house to be built at the Subject Site will not result in overdevelopment of the Site, and will improve the southern side yard setback condition, from what currently exists on the property.

The proposal satisfies the test of appropriate development, because of its demonstrable efficient use of land, lack of impact on the neighbours, and the streetscape. Lastly, the proposal satisfies the test of minor because there are no demonstrable adverse impacts on the neighbouring properties.

Given that the proposal satisfies the higher level Provincial Policies, and the four statutory tests under Section 45.1 of the Planning Act, I allow the Appeal respecting 387 Glenholme, and set aside the earlier decision made by the COA.

The standard conditions, which require the Appellant to construct in substantial conformity with the submitted Plans and Elevations, and a requirement that the Appellant provide payment, in lieu of planting of one street tree on the City road allowance, abutting each of the sites involved in the application, are imposed on the proposal.

DECISION AND ORDER

1. The Appeal respecting 387 Glenholme Ave is allowed, and the decision of the Committee of Adjustment dated September 26, 2019, is set aside.
2. The following variances are approved:

1. Chapter 10.80.40.40.(1)(A), By-law 569-2013

The maximum permitted floor space index of a detached dwelling is 0.8 times the area of the lot (334.3 m²).

The three-storey detached duplex will have a floor space index of 0.84 times the area of the lot (351.31 m²).

2. Chapter 10.80.40.70.(3), By-law 569-2013

The minimum required side yard setback of a duplex is 1.8 m.

The three-storey detached duplex will be located 0.76 m from the south side lot line.

3. No other variances are approved.
4. The following conditions are imposed on the approval
 - a) The proposal will be built in substantial conformity with the Plans and Elevations, submitted to the Committee of Adjustment, prepared by Ambient Designs Ltd., Design and Building Consultants, 1115 College Street, Toronto, ON, dated June 24, 2019.
 - b) 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

So orders the Toronto Local Appeal Body

X

A handwritten signature in black ink, appearing to read 'S. Gopikrishna', is written over a light gray rectangular background.

S. Gopikrishna
Panel Chair, Toronto Local Appeal Body

GLENHOLME AVENUE
(by Registered Plan 1785)
P.I.N. 10453-0265

JESMOND AVENUE

SURVEYOR'S REAL PROPERTY REPORT
PLAN OF

LOT 55
REGISTERED PLAN 1785

CITY OF TORONTO
(FORMERLY CITY OF YORK)

SCALE = 1 : 150

0 1 2 3 4 5 10 metres

NOTE

- 1) THIS PLAN MUST BE READ IN CONJUNCTION WITH SURVEY REPORT DATED JANUARY 18TH, 2019.
- 2) THIS PLAN AND REPORT WERE PREPARED FOR JEREMY VIDAL AND THE UNDERSIGNED ACCEPTS NO RESPONSIBILITY FOR USE BY OTHER PARTIES.

METRIC

DISTANCES SHOWN HEREON ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

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ELEVATION NOTE

ELEVATIONS SHOWN HEREON ARE GEODETIC AND IN METRES AND ARE RELATED TO CITY OF TORONTO BENCH MARK N° YT-265 HAVING A PUBLISHED ELEVATION OF 162.988 METRES (CGVD-1928: PRE-1978).

BEARING NOTE

BEARINGS ARE ASTRONOMIC AND ARE REFERRED TO THE EASTERLY LIMIT OF GLENHOLME AVENUE HAVING A BEARING OF N 16° 00' 00" W AS SHOWN ON REGISTERED PLAN 1785.

LEGEND

□	DENOTES	MONUMENT PLANTED
■	MONUMENT FOUND	
WIT	WITNESS	
IP	IRON PIPE	
IB	IRON BAR	
OU	ORIGIN UNKNOWN	
RP1	REGISTERED PLAN 1785	
RP2	REGISTERED PLAN 1677	
RP3	REGISTERED PLAN 1531	
RC	RABIDEAU & CZERWINSKI, O.L.S.	
RCR	PLAN OF SURVEY BY R. C. RABIDEAU O.L.S., DATED NOV. 20TH, 1984	
CR	PLAN OF SURVEY BY C. REUBEN O.L.S., DATED APRIL 16TH, 1947	
WSG	PLAN OF SURVEY BY W. S. GIBSON O.L.S., DATED MAY 3RD, 1960	
G	FIELD NOTES & PLAN OF SURVEY BY W. S. GIBSON, O.L.S., DATED APRIL 9TH, 1915	
SVN	PLAN OF SURVEY BY SPEIGHT & VAN NOSTRAND, O.L.S., DATED DEC. 2ND, 1920	
P.I.N.	PROPERTY IDENTIFIER NUMBER	
Prop'n	PROPORTIONAL DISTANCE	
O.H.U.C.	OVERHEAD UTILITY CABLES	
CB	CATCH BASIN	
WK	WATER KEY	
GV	GAS VALVE	
GM	GAS METER	
TC/BC	TOP/BOTTOM OF CURB	
DS	DOOR SILL ELEVATION	
Ø	DIAMETER	

SURVEYOR'S CERTIFICATE

I CERTIFY THAT :

1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM.
2. THE SURVEY WAS COMPLETED ON JANUARY 17TH, 2019.

JANUARY 18, 2019
DATE

PETER J. HOMER
Ontario Land Surveyor

ASSOCIATION OF ONTARIO
LAND SURVEYORS
PLAN SUBMISSION FORM
2063768



THIS PLAN IS NOT VALID
UNLESS IT IS AN EMBOSSED
ORIGINAL COPY
ISSUED BY THE SURVEYOR

In accordance with
Regulation 1026, Section 29(3)

LSG | LAND SURVEY GROUP
ONTARIO LAND SURVEYORS

777 THE QUEENSWAY, UNIT 1, TORONTO, ONTARIO, M8Z 1N4

Tel: 416-252-2511 416-467-8023 Fax: 416-252-1501 www.landsurveygroup.com

DRAWN : R. M. RILLERA CHECKED BY : PUH PLAN N° : LSG-4604

NOTE: PLAN UPDATED APRIL 30TH, 2019

NOTE :

SEE SURVEY BY O.L.S. FOR VERIFICATION.
SURVEY INFORMATION TAKEN FROM PLAN
SHOWING PLAN OF LOT 22
REGISTERED PLAN 1785
CITY OF TORONTO
(FORMERLY CITY OF YORK)

PREPARED BY : LAND SURVEY GROUP
PETER J. HOMER

DATED: JANUARY 18TH 2019

LEGEND

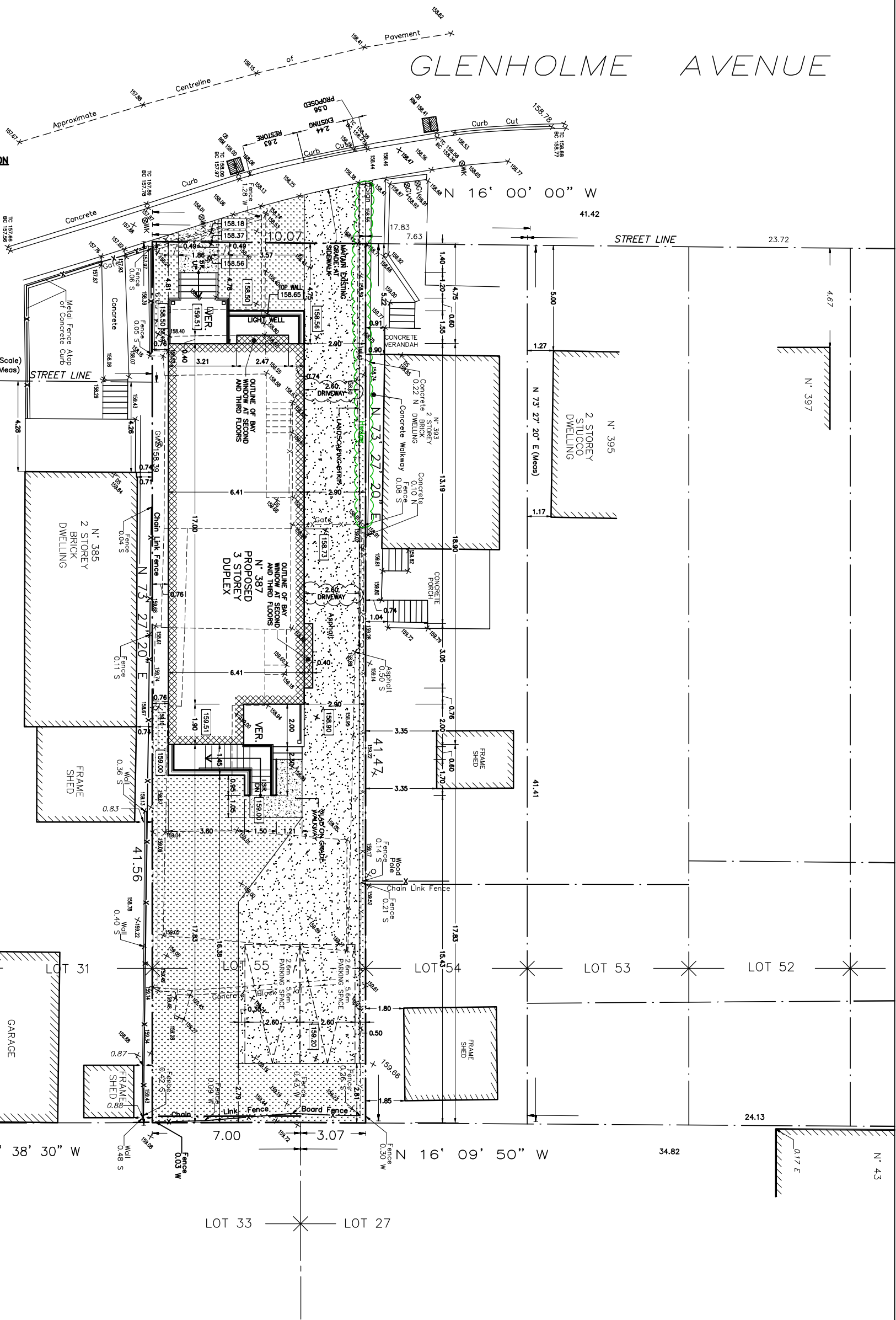
- 000.00 = EXISTING ELEVATION
[000.00] = PROPOSED ELEVATION
--- INDICATES SLOPE DIRECTION
[TPZ] INDICATES TREE PROTECTION ZONE
○ EXISTING TREES
● NEW TREES
DS_ DOWNSPOUTS

ESTABLISHED GRADE ELEVATIONS CALCULATION

AT 4.74M $-(158.75 + 158.18)/2 = 158.46$

[EG. 0.00] INDICATES EXISTING GRADE ELEVATION,
TAKEN @ 0.01M INTO ADJACENT PROPERTY TO
CALCULATE ESTABLISHED GRADE ELEVATION.

THE APPLICANT SHALL OBTAIN THE NECESSARY
AUTHORIZATIONS AND PERMITS FROM THE
CITY'S RIGHT-OF-WAYMANAGEMENT UNIT BEFORE
EXCAVATING WITHIN OR ENCROACHING INTO MUNICIPAL
ROAD ALLOWANCE. THE APPLICANT SHALL ALSO SUBMIT A
MUNICIPAL ROAD DAMAGE DEPOSIT
PRIOR TO OBTAINING A BUILDING PERMIT.



1	ISSUED FOR CofA	JUN. 24 '19
PROJECT NO.	A19105	SCALE: 1:200M
DWG. NAME:	SITE PLAN	
SHEET NO.	SK1	

BCIN: 29659

AMBIENT DESIGNS LTD.
DESIGN & BUILDING CONSULTANTS

1115 COLLEGE STREET TORONTO, ONTARIO M6H 1B5
T: (416)537-8531 E: ambient@ambientdesigns.ca

PROJECT NAME

387 GLENHOLME AVENUE
CITY OF TORONTO

DRAWN BY: M.R.

DATED: JUN. 17, 2019

SITE STATISTICS

LOCATION/ PART NO.	LOT AREA	1st Floor Area	2nd Floor Area	3rd Floor Area	Total G.F.A.	(%)	Max. Density 0.80	Lot Frontage	Max. Lot Coverage N/A		
#387/ LOT 55	417.88 M²	115.64	117.83 M²	117.83 M²	351.30 M²	84.07	334.30 M²	10.07M			
	4498.17 FT²	1244.78	1268.35 FT²	1268.35 FT²	3781.49 FT²		3598.54 FT²				

ZONED AS : RM (f12.0; u2; d0.8) (X252) BY–LAW 569–2013

ZONED AS : R2; BY–LAW 1–83 AND 3623–97

REQUIRED FRONT YARD
SETBACK4.75 M

PROVIDED FRONT YARD
SETBACK4.75 M

REQUIRED SIDE YARD
SETBACK1.20 M (BY–LAW 569–2013)

PROVIDED SIDE YARD
SETBACK

NORTH2.90 M

SOUTH0.76 M

REQUIRED REAR YARD
SETBACK25% of lot depth but not less than 7.5M

PROVIDED REAR YARD
SETBACK17.83

FRONT YARD LANDSCAPING STATISTICS	
Front yard area	48.02 M²
Required landscaping (50%)	24.01 M²
Provided landscaping (52.6%)	25.28 M²
Required soft landscaping (75%)	18.01 M²
Provided soft landscaping (79.7%)	19.13 M²
Built up / Paved areas	
Verandah	6.11 M²
Part Driveway	12.31 M²
Stairs/Walkway	4.93 M²
Light well retaining wall	1.22 M²
Light well interior space	4.32 M²

REAR YARD LANDSCAPING STATISTICS		
REAR YARD AREA	179.57	M²
REQUIRED MIN. SOFT LANDSCAPING (50%)	89.79	M²
BUILT UP AREAS @ REAR	87.97	M²
PROVIDED SOFT LANDSCAPING (51.01%)	91.60	M²
BUILT UP AREA @ REAR		
PART DRIVEWAY(INCLUDES PARKING AREA)	73.87	M²
BASEMENT ENTRANCE	8.64	M²
STEPS	0.82	M²
SLAB ON GRADE WALKWAY	4.64	M²
		M²
TOTAL	87.97	M²

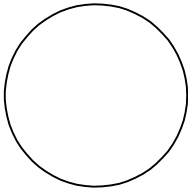
1	ISSUED FOR CofA	JUN. 24 '19
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PROJECT NAME

387 GLENHOLME AVENUE
CITY OF TORONTO

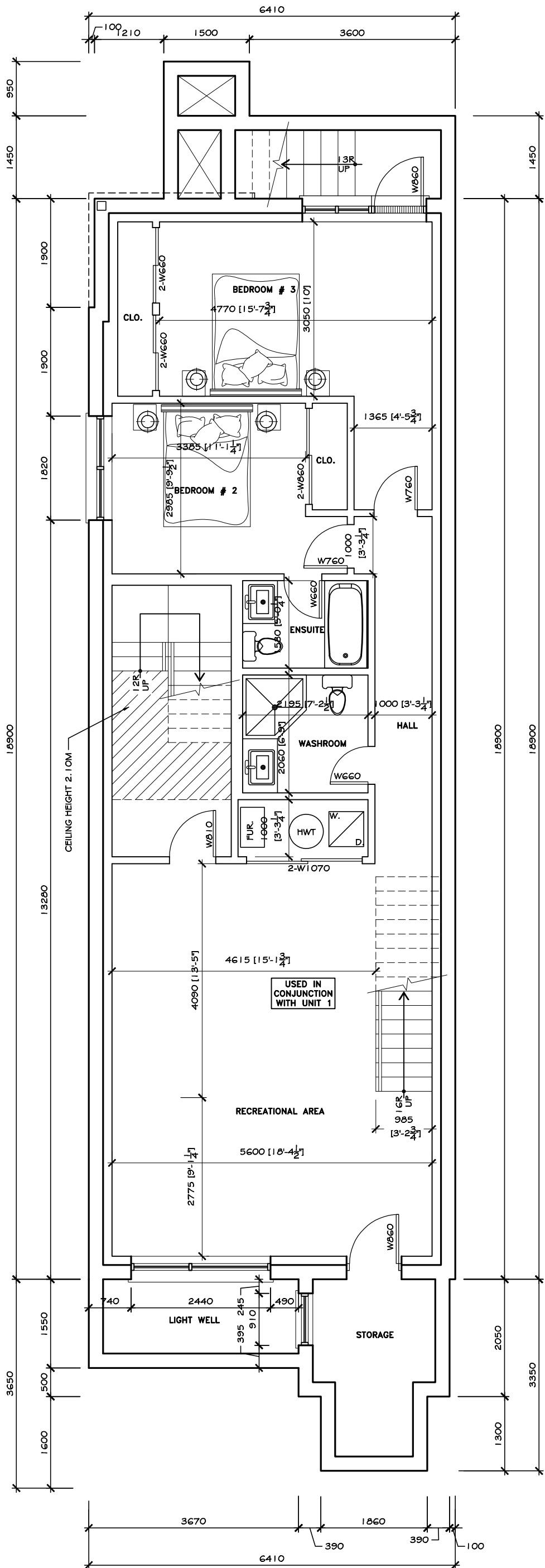
DRAWN BY: M.R.

DATED: JUN. 17, 2019

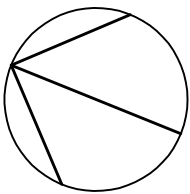
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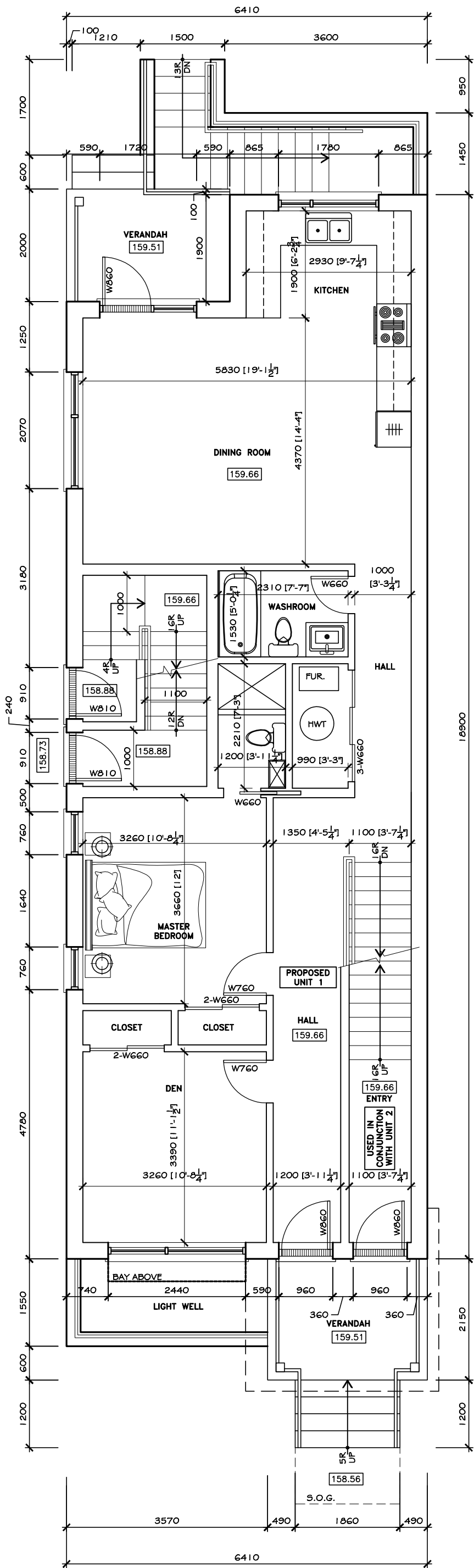
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SHEET NO. **SK2**

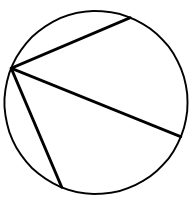


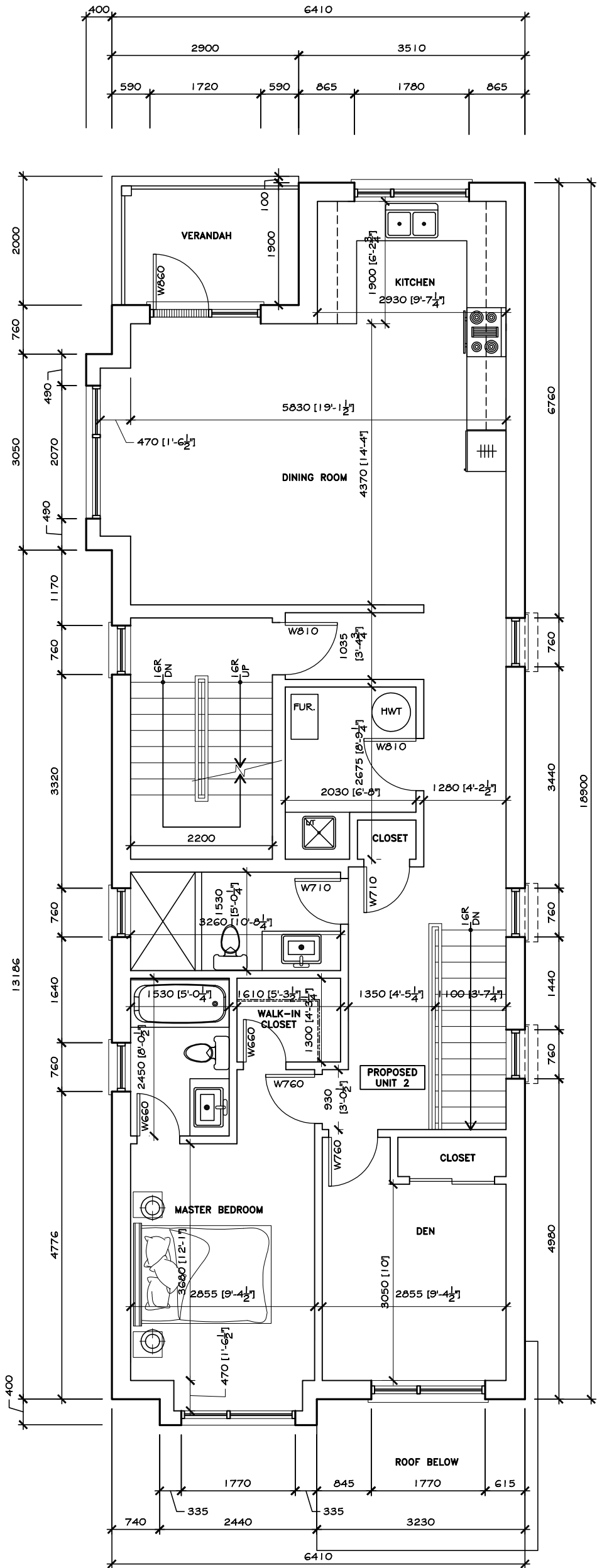
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PROJECT NO.	A19105	SCALE: 1:75M
DWG. NAME:	BASEMENT FL. PLAN	
SHEET NO.	SK3	



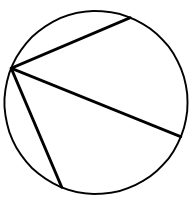


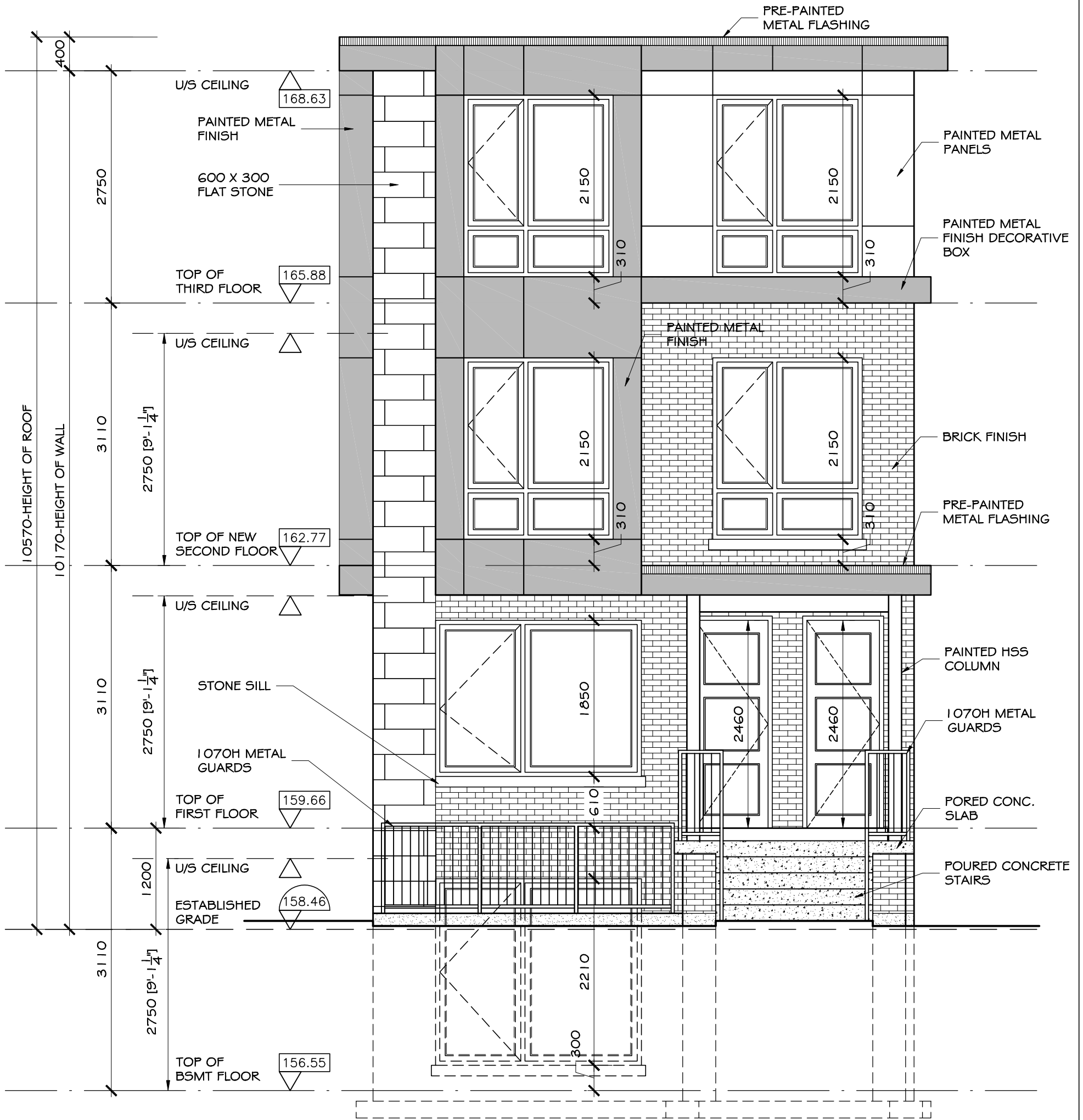
1	ISSUED FOR CofA	JUN. 24 '19
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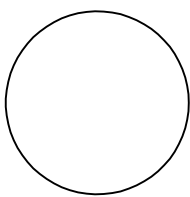


1	ISSUED FOR CofA	JUN. 24 '19
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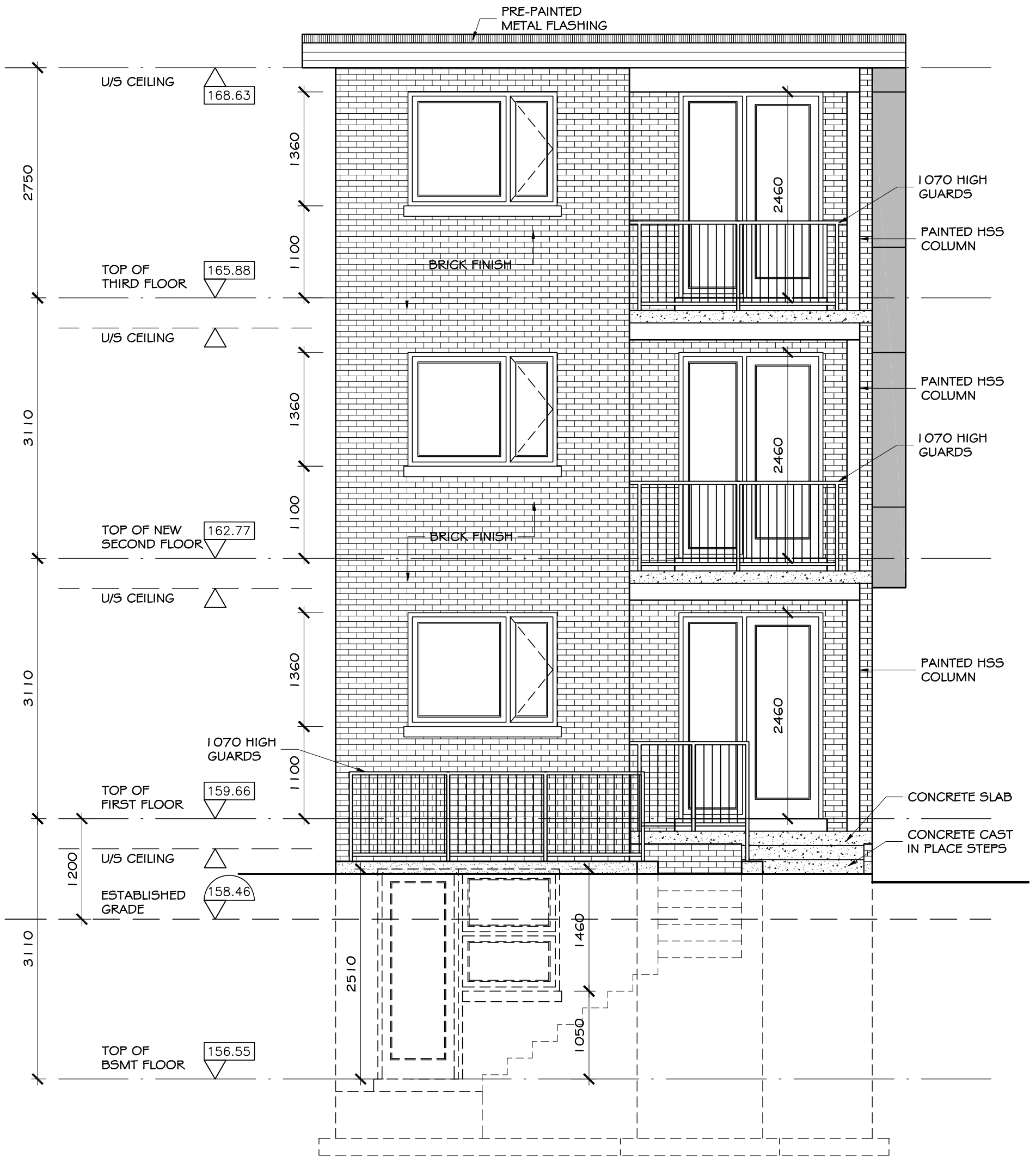
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PROJECT NO.	A19105	SCALE: 1:50 M
DWG. NAME:	WEST ELEVATION	
SHEET NO.	SK7	





	PROJECT NAME
	387 GLENHOLME AVENUE
	CITY OF TORONTO
	DRAWN BY: M.R.
	DATED: JUN. 17, 2019

PROJECT NO.	A19105	SCALE:	1:75 M
DWG. NAME:	SOUTH ELEVATION		
SHEET NO.	SK8		

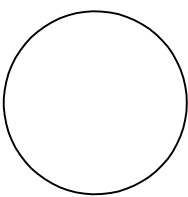


1 ISSUED FOR CofA JUN. 24 '19

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DESIGN & BUILDING CONSULTANTS

1115 COLLEGE STREET TORONTO, ONTARIO M6H 1B5
T: (416)537-8531 E: ambient@ambientdesigns.ca

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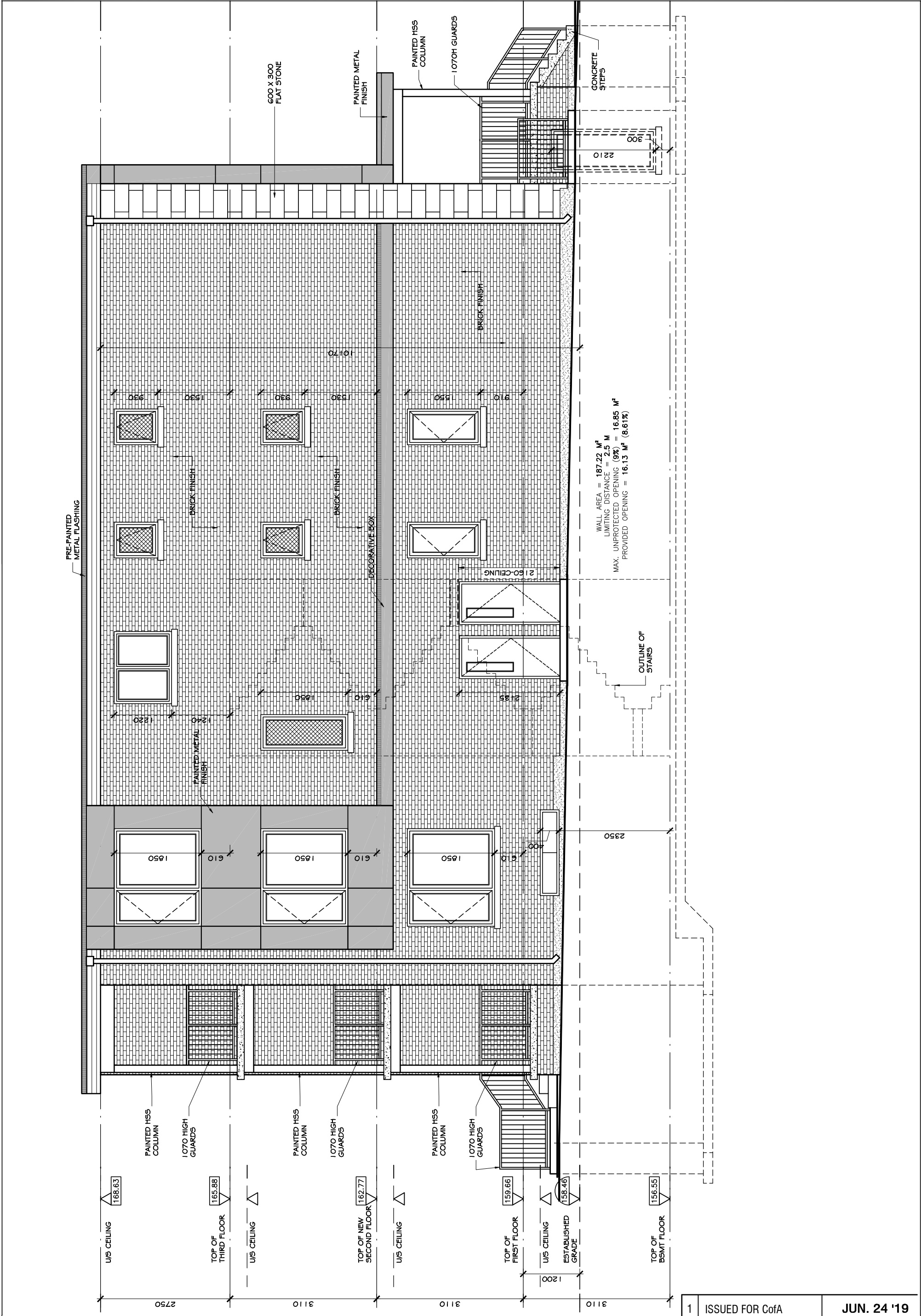
PROJECT NAME
**387 GLENHOLME AVENUE
CITY OF TORONTO**

DRAWN BY: M.R.

DATED: JUN. 17, 2019

PROJECT NO. **A19105** SCALE: 1:50 M
DWG. NAME: **EAST ELEVATION**

SHEET NO. **SK9**



1	ISSUED FOR CofA	JUN. 24 '19
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