

DECISION AND ORDER

Decision Issue Date Wednesday, August 11, 2021

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

Appellant(s): JONATHAN BRADSHAW

Applicant(s): KBK ARCHITECTS INC

Property Address/Description: 108 ENDERBY RD

Committee of Adjustment File

Number(s): 20 152408 STE 19 MV
 (A0460/20TEY)

TLAB Case File Number(s): 20 230016 S45 19 TLAB

Hearing date: Wednesday May 12th, 2021

DECISION DELIVERED BY C. Kilby

REGISTERED PARTIES AND PARTICIPANTS

Applicant	KBK ARCHITECTS INC
Appellant	JONATHAN BRADSHAW
Party	ANNIE CHAMPAGNE
Party's Legal Rep	MARTIN MAZIERSKI
Participant	ROBYN HUETHER
Expert Witness	STEVEN QI

INTRODUCTION AND BACKGROUND

This is an appeal to the Toronto Local Appeal Body (**TLAB**) in respect of a proposal for a rear and front addition to the property known as 108 Enderby Road (**Subject Property**). The City of Toronto (**City**) Committee of Adjustment (**COA**), Toronto and East York Panel approved the proposal with conditions in a decision mailed on December 16, 2020. The Appellant Jonathan Bradshaw, along with Participant Robyn Huether, opposed the proposal.

On May 11, 2021 the TLAB was informed that Mr. Bradshaw, Ms. Huether, and Annie Champagne, owner of the Subject Property, had reached a settlement. Minutes of Settlement were filed on May 11, 2021 (**Minutes of Settlement**), and revised plans and an up-to-date Zoning Notice reflecting the terms of the settlement were presented at the virtual Hearing on May 12, 2021.

Present at the Hearing were Mr. Bradshaw, Ms. Huether, Ms. Champagne, Ms. Champagne's counsel Mr. Mazierski, and Expert Witness Steven Qi. The City did not participate in this Appeal and there were no other Parties or Participants in attendance.

MATTERS IN ISSUE

The variances sought in this Application have been modified since the COA hearing to correct certain errors and to reflect the terms of the settlement. Notably, the Parties have agreed to a revised proposal in which the proposed building length has been reduced from 19.07m to 18.77m. There is also agreement to three conditions applicable to the approval of the settlement.

The Subject Property is zoned R(d0.6) which permits a maximum building height of 10m. The applicable zoning by-law is City-wide Zoning By-law No. 569-2013 (**Zoning Bylaw**). The nine variances for which approval is sought from the TLAB are as follows:

Zoning Bylaw Provision	Requirement	Proposed Variance
150.10.40.1(2)	A secondary suite is permitted if no alterations are made to the front main wall or roof facing a street.	The proposed additions alter the main wall and roof facing a street.
10.10.40.40.(1)(A)	The permitted maximum floor space index is 0.6 times the area of the lot: 155.48 square metres.	The proposed floor space index is 1.047 times the area of the lot: 271.44 square metres.

10.10.40.70.(1)	The required minimum front yard setback is 7.01 metres.	The proposed front yard setback is 4.78 metres.
10.10.40.70.(3)(A)(i)	The required minimum side yard setback for a detached house is 0.9 metres.	The proposed side yard setback is 0.47 metres on the south side.
10.10.40.70.(4)(A)	The required minimum side yard setback for a detached house is 0.45 metres.	The proposed side yard setback is 0 metres on the north for the main house.
10.5.40.60.(3)(A)(iii)	Exterior stairs providing pedestrian access to a building or structure may encroach into a required building setback if the stairs are no closer to a lot line than 0.6 metres.	The proposed stairs at the rear of the main house are 0 metres from the north lot line.
10.5.40.60.(7)	Roof eaves may project a maximum of 0.9 metres provided that they are no closer than 0.30 metres to a lot line.	The proposed eaves on the main house are 0m from the north and south lot lines.
10.5.50.10.(3)(A)	A lot with a residential building, other than an apartment building, must have a minimum of 50 percent of the rear yard for soft landscaping: 38.67 square metres, if the lot frontage is greater than 6.0 metres.	The proposed rear yard landscaping area is 20.47 percent; 15.83 square metres as per statistics provided.
10.5.50.10.(1)(D)	On a lot with a detached house, semi-detached house, duplex, triplex, fourplex or townhouse, a minimum of 75 percent of the front yard must be soft landscaping; 27.75 square metres.	The proposed front yard soft landscaping area as per statistics provided is 21.91 square metres (59%).

JURISDICTION

Provincial Policy – S. 3

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)

In considering the applications for variances from the Zoning By-laws, the TLAB 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

I qualified Mr. Qi to provide expert evidence in the area of land use planning. Mr. Qi's Expert Witness Statements are contained in Exhibits 1-3 in the TLAB case file. Mr. Qi presented a thorough analysis of the variances sought, explaining the basis for his opinion that the variances, individually and cumulatively, meet the four tests set out in section 45(1) of the Act. Mr. Qi reviewed the relevant policy in detail and opined that the proposal is consistent with the PPS and conforms to the Growth Plan. Mr. Qi's evidence at the Hearing was uncontested as a result of the settlement. Accordingly I will not review the evidence in detail aside from select points emphasized during the Hearing.

Mr. Qi described the proposal as improving housing options in the neighbourhood by renovating existing units to make them larger and more functional. He cited the City's initiatives to improve housing options in support of his position that the proposal represents development that is desirable for the appropriate use of the Subject Property.

With respect to the variance for floor space index (**FSI**), Mr. Qi noted that the Subject Property is located on a smaller lot than most of the neighbouring lots on the same side of Enderby Road (See Exhibit 3). He indicated that the additional massing resulting from the proposed development would largely be at the rear of the building. In addition, he noted that the enclosure of the front porch, which is an existing structure, impacts the FSI on a technical basis only. His opinion was that there would not be a significant change to the physical character of the Subject Property or the streetscape of Enderby Road resulting from the proposal. He also explained that the FSI variance had been decreased by the reduced building length agreed to in the settlement.

In terms of soft landscaping, Mr. Qi highlighted the municipal boulevard at the front of the property, which augments the soft landscaping and green space at the front of the Subject Property. He also noted that the proposed percentage of soft landscaping in the rear yard is now higher than what was before the COA as a result of the

settlement. At the Hearing, Ms. Champagne indicated that she would like to add more soft landscaping to the front yard, and is exploring options for doing so. I reiterated that the proposed plans appended to the Minutes of Settlement were what was before the TLAB and there should be no variation from them.

Mr. Qi presented an in-depth basis for his opinion that the proposal maintains the general intent and purpose of the Official Plan and the Zoning Bylaw. Of particular importance to his analysis were the variety of building types and appearances in his neighbourhood study area, the presence of buildings with large FSIs on the same street, and the fact that the majority of the variances sought in this Application reflect or continue existing conditions of the Subject Property, such as reduced setbacks at the front and sides and reduced landscaping at the rear of the Subject Property.

Mr. Qi opined that the two conditions imposed by the COA should be imposed by the TLAB if the proposal is approved, in addition to the condition set out in the Minutes of Settlement.

ANALYSIS, FINDINGS, REASONS

All signatories to the Minutes of Settlement appeared at the Hearing and raised no objection to Mr. Qi's characterization of the settlement terms or of the proposal as modified by the settlement. I am satisfied that the variances as set out in the revised Zoning Notice (Exhibit 5) and canvassed in evidence by Mr. Qi at the Hearing, together with the proposed conditions, meet the four tests set out in section 45(1) of the Act. I am also satisfied that the variances are consistent with the PPS and conform to the Growth Plan. Therefore, I find that the settlement can be approved.

Section 45(18.1) of the Act states that on an appeal, the TLAB may make a decision on an application which has been amended from the original application that was before the COA if, before issuing its decision and order, written notice is given to persons and public bodies entitled to receive notice subject to the exceptions in s. 45(18.1.1). The Tribunal is not required to give notice if in its opinion the amendments or modifications to the original application are deemed minor and improvements. In this case, I find that the modifications arising from the settlement, such as the reduced length of the rear addition and the revision to the below grade steps, are minor and no further notice is warranted or required.

DECISION AND ORDER

The decision of the COA is set aside; the Application as modified by the Minutes of Settlement is approved and the variances in Schedule A, attached, are granted subject to the following conditions:

1. The approved building must be constructed substantially in accordance with the Drawings by KBK Architects Inc. dated May 5, 2021 and numbered A0.1, A3.1, A3.2,

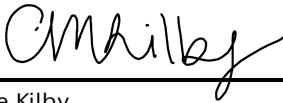
Decision of Toronto Local Appeal Body Panel Member: C. Kilby
TLAB Case File Number: 20 230016 S45 19 TLAB

A3.3, A3.4, A3.5, A3.6, A3.7, A3.8, A3.9 in Schedule A of the Minutes of Settlement, reproduced as Schedule B to this Decision and Order;

2. The approved front yard setback shall apply to the front one storey enclosed porch addition only; and

3. The rear yard parking pad shall be constructed with permeable pavers, to the satisfaction of Toronto Building Inspection Services, Toronto and East York District.

If there are any issues implementing this Decision, the TLAB may be spoken to.

X 

Christine Kilby
Panel Chair, Toronto Local Appeal Body

SCHEDULE A

Zoning Bylaw Provision	Requirement	Approved Variance
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SCHEDULE B - DRAWINGS

TORONTO, ON



KBK ARCHITECTS INC
T: 800-203-7010
INFO@KBKARCHITECTS.CA

1. PROPOSED ADDITION TO DWELLING - APPROVED MINOR
VARIANCE APPLICATION No.20 152408 STE 19 MV

GENERAL NOTES

1. CONTRACTOR MUST VISIT SITE TO FAMILIARIZE WITH EXISTING CONDITIONS BEFORE QUOTING FOR THE JOB.
2. VERIFY ALL EXISTING MEMBER SIZES, ELEVATIONS, AND DIMENSIONS ON SITE PRIOR TO COMMENCING ANY WORKS.
3. REPORT ANY DISCREPANCIES TO ENGINEER IMMEDIATELY FOR ADVICE.
4. CONTRACTOR TO SUBMIT DETAILED SHOP DRAWINGS PRIOR TO FABRICATION.
5. REFER TO NOTES AND SCHEDULES FOR SPECIFICATIONS & GENERAL NOTES.
6. DIMENSIONS MARKED ON STRUCTURAL DRAWINGS ARE FOR DESIGN ONLY. CONTRACTOR IS REQUIRED TO FOLLOW MEASURE ALL DIMENSIONS, LEVELS & CONDITIONS ON SITE.

DISCREPANCY BETWEEN STRUCTURAL & ON SITE CONDITIONS MUST BE BROUGHT TO THE ATTENTION OF ENGINEER & OWNER PRIOR TO COMMENCING ANY CONSTRUCTION AND FABRICATION.

7. THESE NOTES AND ALL NOTES ARE PART OF THE WHOLE APPLICATION.

CONTRACTOR(S) MUST GO THROUGH NOTES AND TREAT ALL DRAWINGS AS PART OF ONE APPLICATION.

8. PRIOR TO THE REMOVAL OF ANY INTERIOR WALLS, VERIFY THE CONSTRUCTION AND SUPPORT REQUIREMENTS OF THE CEILING JOISTS OR BOTTOM CHORDS OF ROOF TRUSSES (ABOVE). IF CEILING JOISTS BEAR ON INTERIOR WALLS, METHOD AND DESIGN OF SUPPORT FOR THE CEILING AREA TO BE PROVIDED TO INSPECTOR ON SITE FOR APPROVAL.

- ① DWELLING LENGTH REDUCED
- ② BELOW GRADE STEPS REVISED
- ③ MINOR INTERIOR PARTITION CHANGES

Lot Coverage	sqm
Lot Area	259.14
Dwelling Footprint	122.72
Existing Garage	37.64
Total	160.36
Percentage	61.88%

① DWELLING
LENGTH
REDUCED

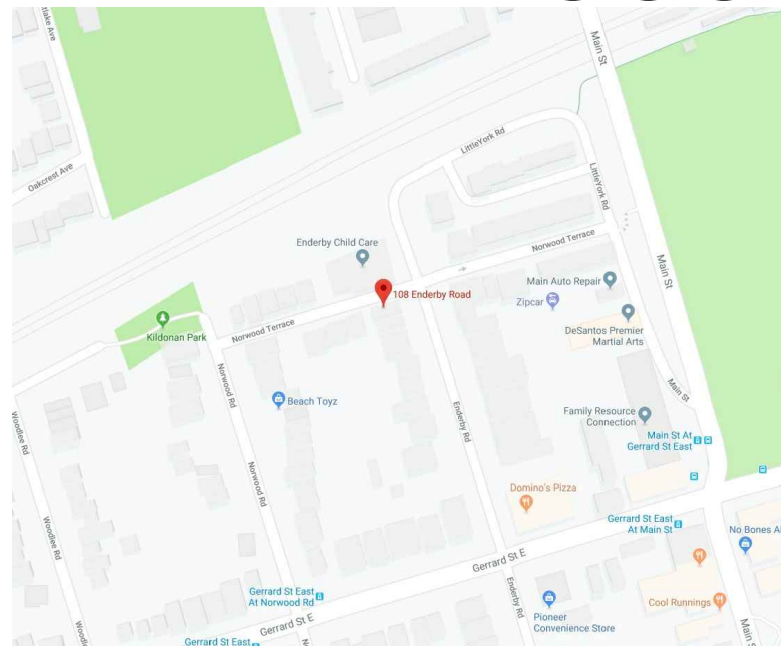
Proposed	sqm	sqft
Lot Area	259.14	2,789.36
	Existing	
	sqm	sqft
First Floor Area	100.57	1,082.53
Second Floor Area	83.69	900.83
Loft Area	0.00	0.00
Basement	64.56	694.92
GFA	184.26	1,983.36
FSI	71.10%	sqm
Coverage	53.33%	138.21

Front Landscaped Area		
	Area (sq.m)	Percentage
Front Yard Area	37.00	100%
Driveway	0	0.00%
Landscaped Area	37.00	100.00%
Steps & Walkway	15.09	40.78%
Soft Landscape	21.91	59.22%

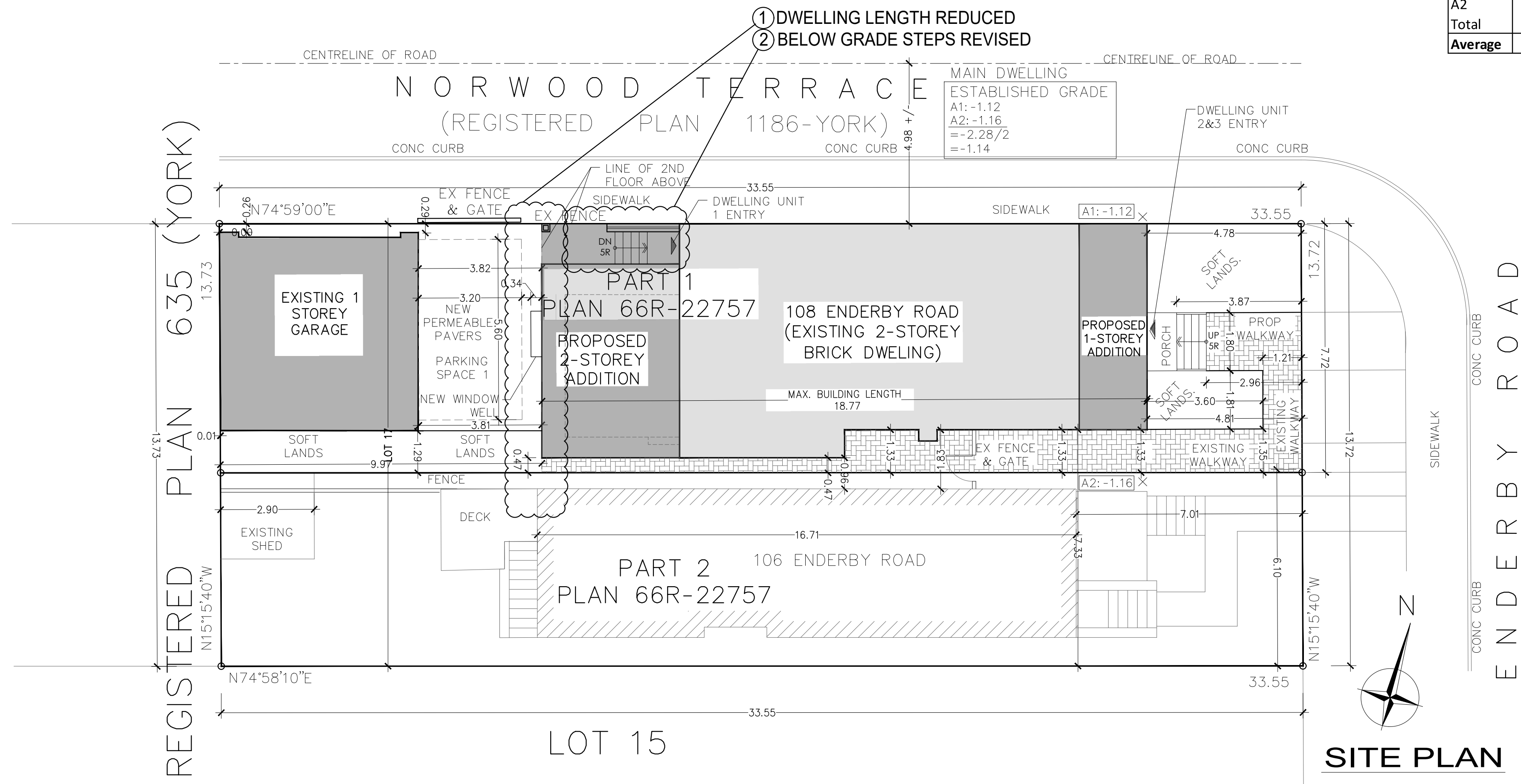
Rear Landscaped Area		
	Area (sq.m)	Percentage
Rear Yard Area	77.34	100%
Ex Garage	37.03	47.88%
Parking Pad	24.48	31.65%
Soft Landscape	15.83	20.47%

Zoning Information	Allowed	Provided
Zoned R		
Max Height	10m	8.95m
Max FSI	60%	104.75%
Max Building Length	17m	18.77m
Setbacks		
Front Yard	7.01m	4.78m
Rear Yard	7.5m	9.97m
Side Yard	0.9m	0.47m
Min. Front Yard Land.	75%	59.22%
Min. Rear Yard Land.	50%	20.47%

Established Grade	
A1	-1.12
A2	-1.16
Total	-2.28
Average	-1.14



KEY MAP - NTS



DESIGNER'S STAMP

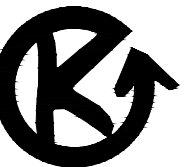
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TO BE REPRODUCED IN WHOLE OR IN
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CONTRACTOR TO CHECK AND VERIFY
ALL DIMENSIONS BEFORE COMMENCING
WORK AND TO REPORT ANY
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KBK ARCHITECTS

ALL CONSTRUCTION TO BE ACCORDING
TO BEST COMMON PRACTICE AND
CONFORM TO THE ONTARIO BUILDING
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NO.	ISSUED FOR	DATE
4	ISSUED FOR TLAB	21/02/10
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6	ISSUED FOR TLAB	21/03/21
7	ISSUED FOR TLAB	21/03/29
8	ISSUED FOR TLAB DRAFT	21/03/31
9	ISSUED FOR TLAB	21/05/05



ARCHITECTS + ENGINEERS

KBK ARCHITECTS INC.

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PROJECT ADDRESS

108 ENDERBY ROAD,
TORONTO, ON

DRAWING
SITE PLAN

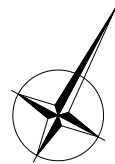
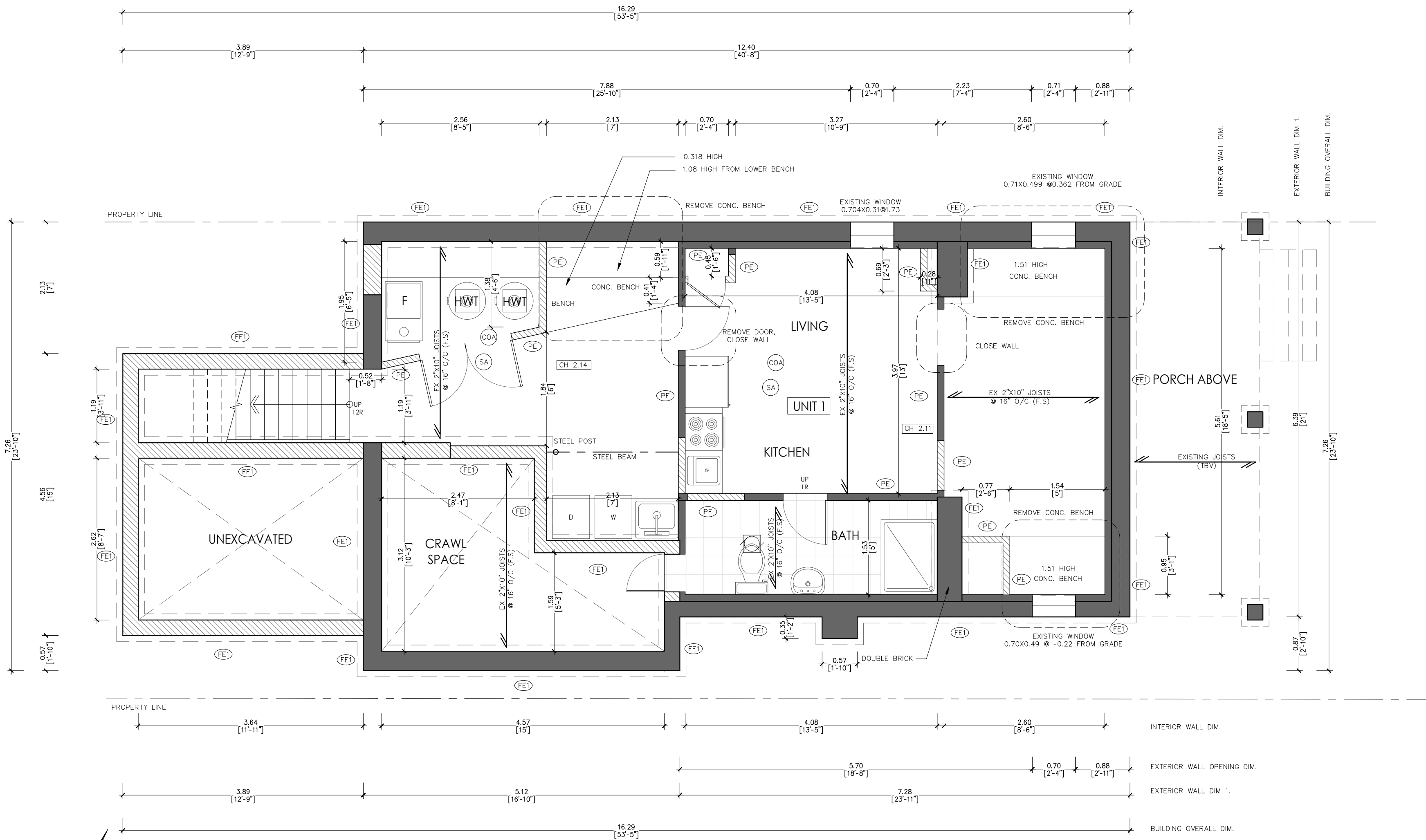
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PLOTTED DATE
MAY 05, 2021

SCALE @17"X22"

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KYLE KHADRA

A0.1



EXISTING BASEMENT FLOOR PLAN

AREA = 64.56 SQM

DESIGNER'S STAMP

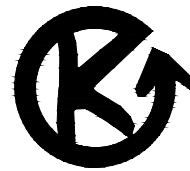
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ALL CONSTRUCTION TO BE ACCORDING TO BEST COMMON PRACTICE AND CONFORM TO THE ONTARIO BUILDING CODE.

NO.	ISSUED FOR	DATE
4	ISSUED FOR TLAB	21/02/16
5	ISSUED FOR ZR RESUB	21/03/24
6	ISSUED FOR TLAB	21/03/26
7	ISSUED FOR TLAB	21/03/29
8	ISSUED FOR TLAB DRAFT	21/03/31
9	ISSUED FOR TLAB	21/05/05



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PROJECT ADDRESS

108 ENDERBY ROAD,
TORONTO, ON

DRAWING
EXISTING BASEMENT
FLOOR PLAN

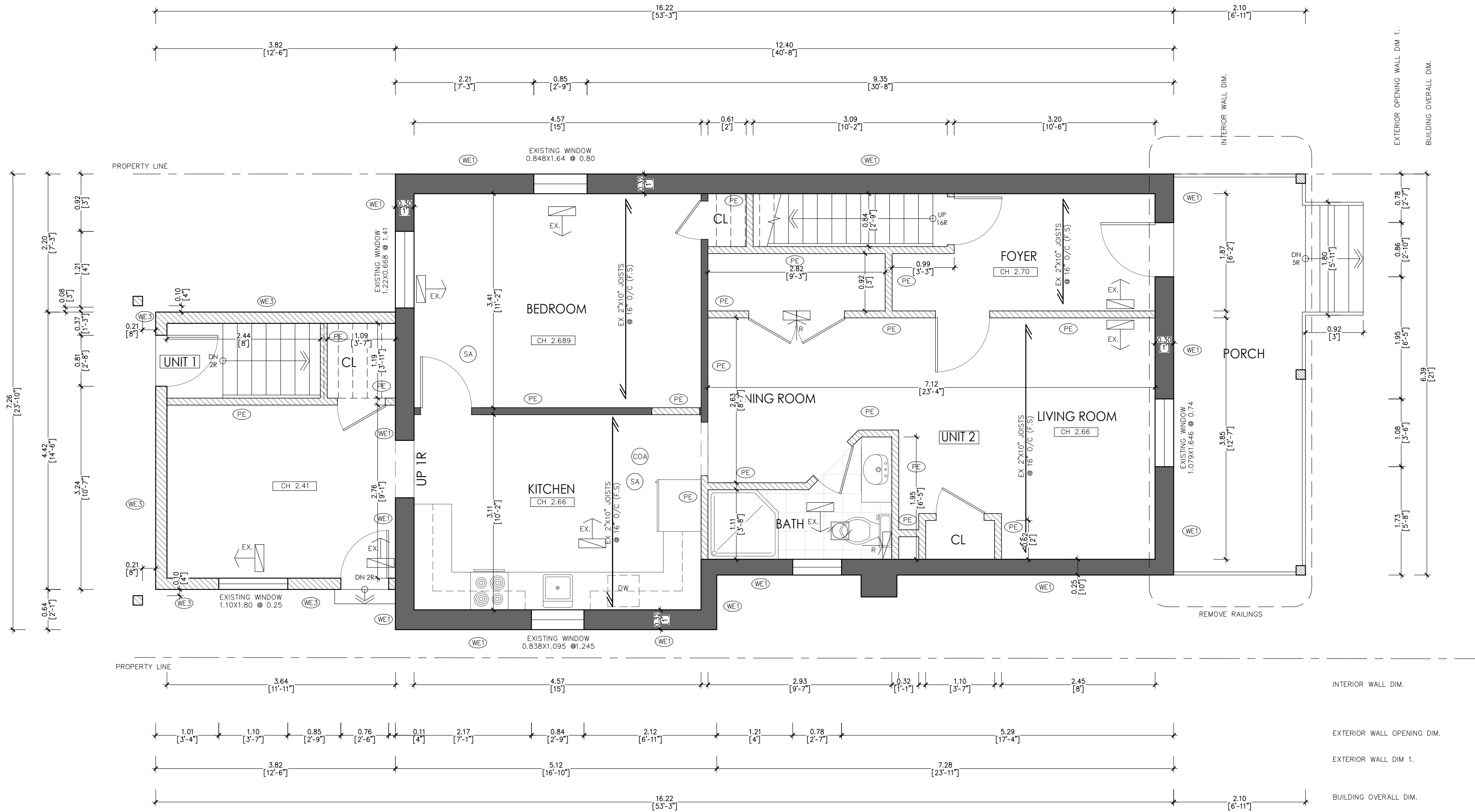
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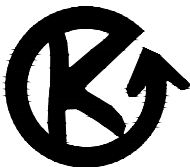
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9	ISSUED FOR TLAB	21/05/05



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PROJECT ADDRESS
108 ENDERBY ROAD,
TORONTO, ON

DRAWING
EXISTING FIRST FLOOR
PLAN

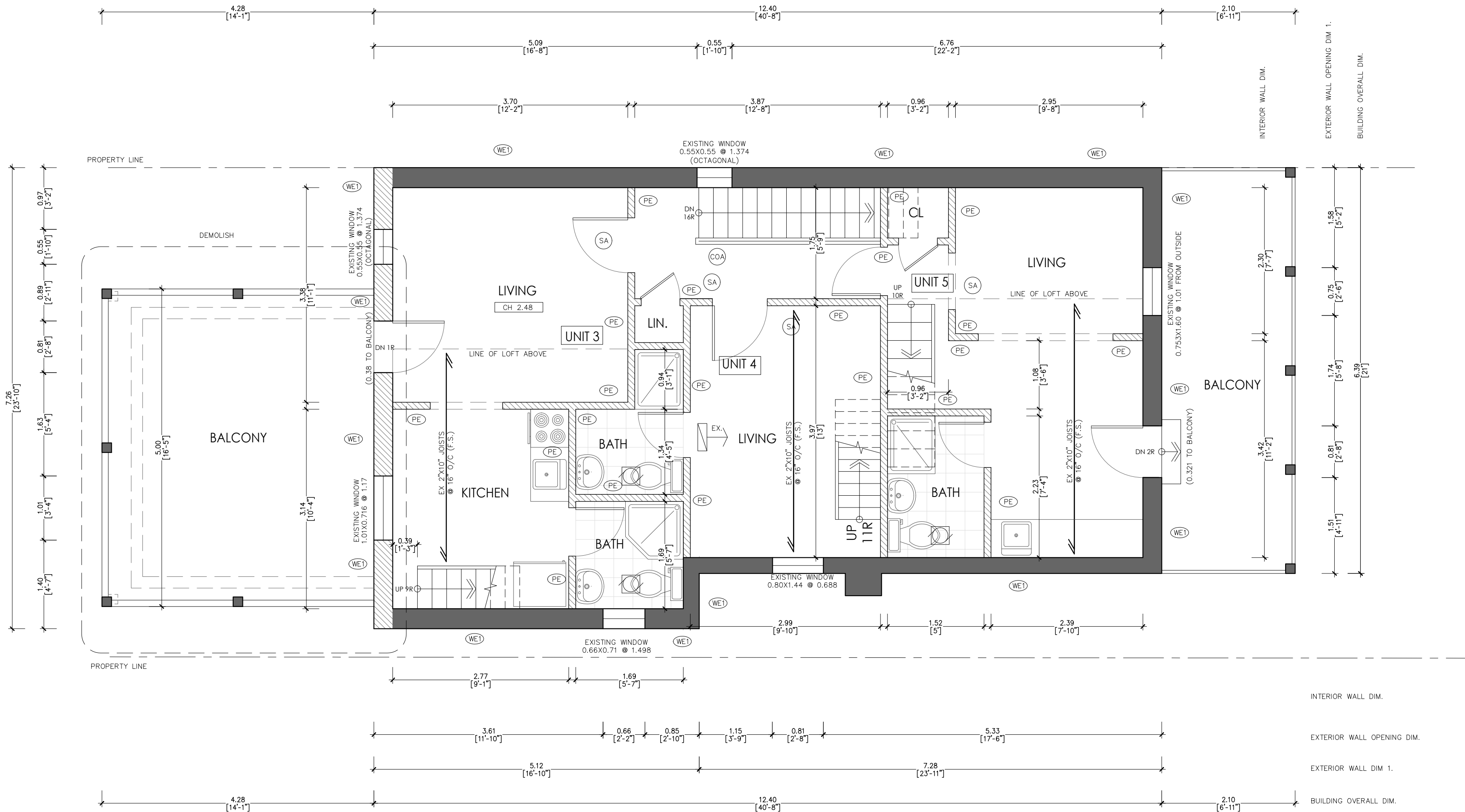
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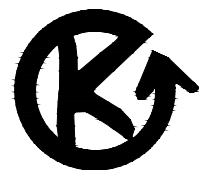
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PROJECT ADDRESS

108 ENDERBY ROAD,
TORONTO, ON

DRAWING
EXISTING SECOND
FLOOR PLAN

DRAWN TIN/ASM	MNGR. JL	PROJECT NO. MIDD-01
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PLOTTED DATE
MAY 05, 2021

SCALE @17"x22"
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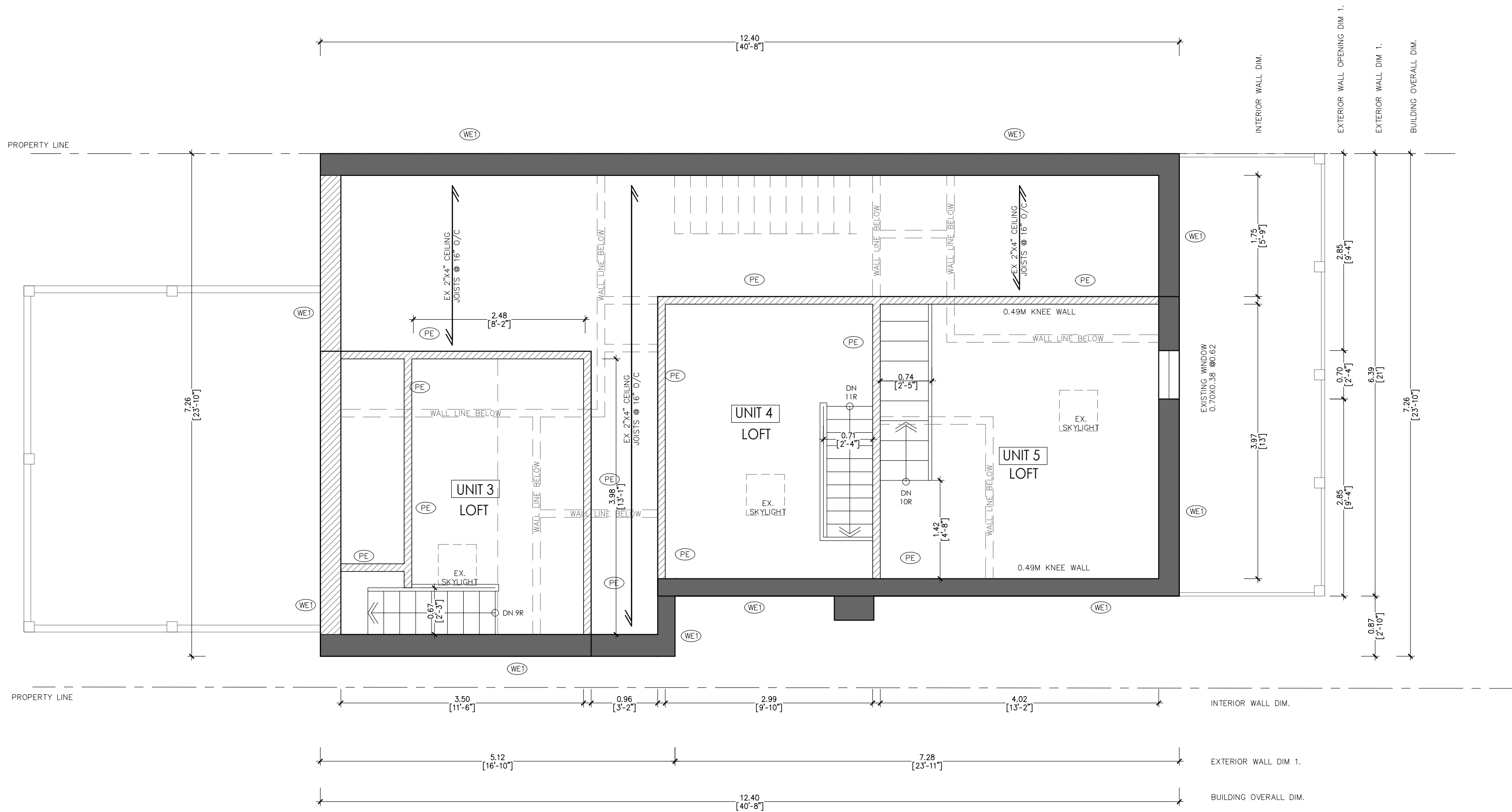
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KYLE KHADRA

DRAWING NO
A2.3



EXISTING SECOND FLOOR PLAN

AREA = 83.69 SQM



 **EXISTING LOFT PLAN**
AREA = 44.26 SQM

DESIGNER'S STAMP

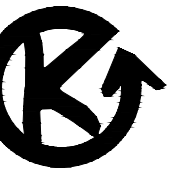
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108 ENDERBY ROAD,
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DRAWING
**EXISTING LOFT FLOOR
PLAN**

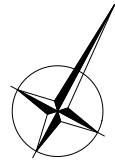
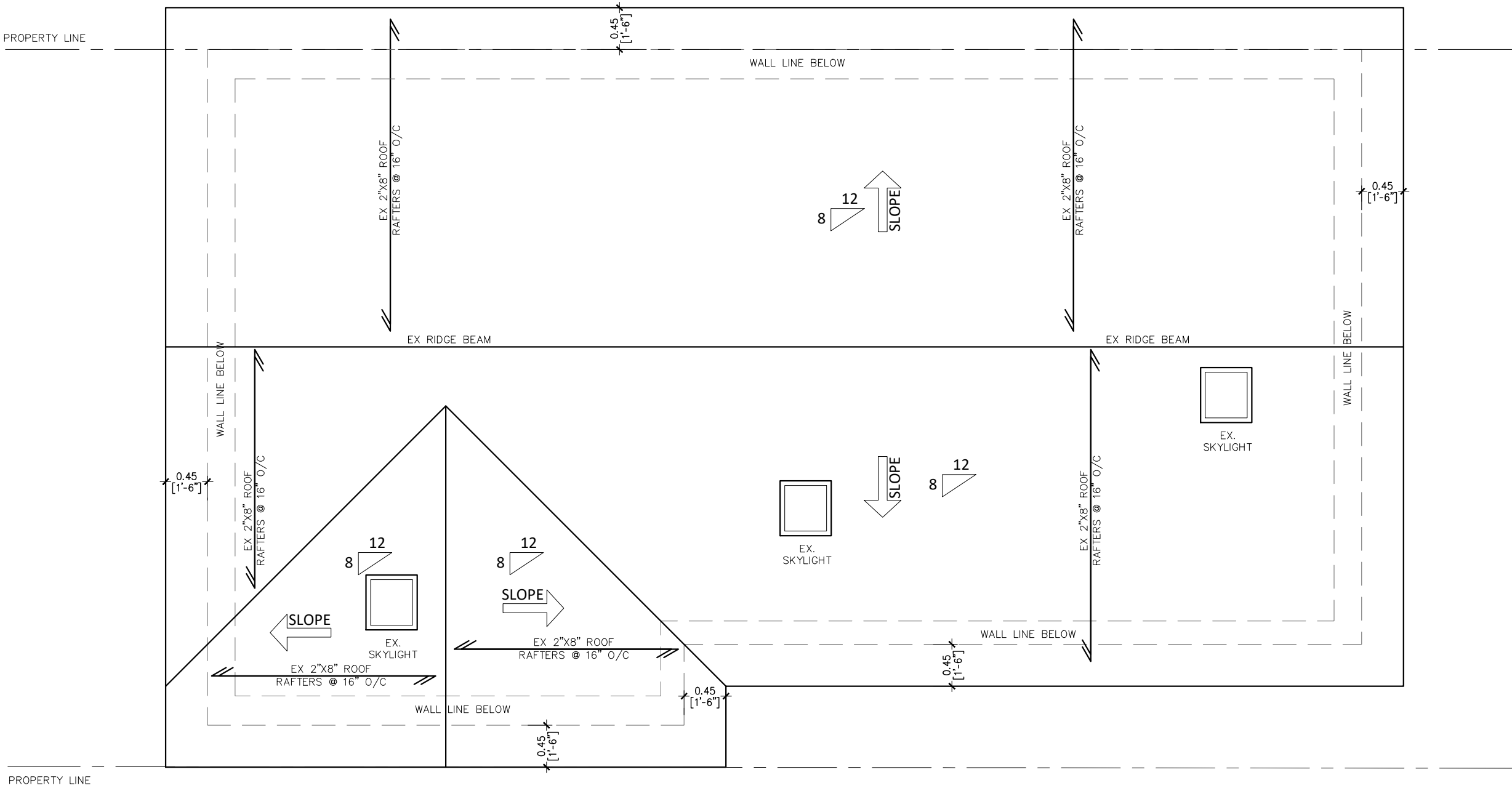
DRAWN: TIN/ASM
MNGR: JL
PROJECT NO.: MIDD-01

PLOTTED DATE: MAY 05, 2021

SCALE: @17"x22"
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CHECKED: KYLE KHADRA

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EXISTING ROOF PLAN

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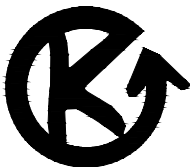
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108 ENDERBY ROAD,
TORONTO, ON

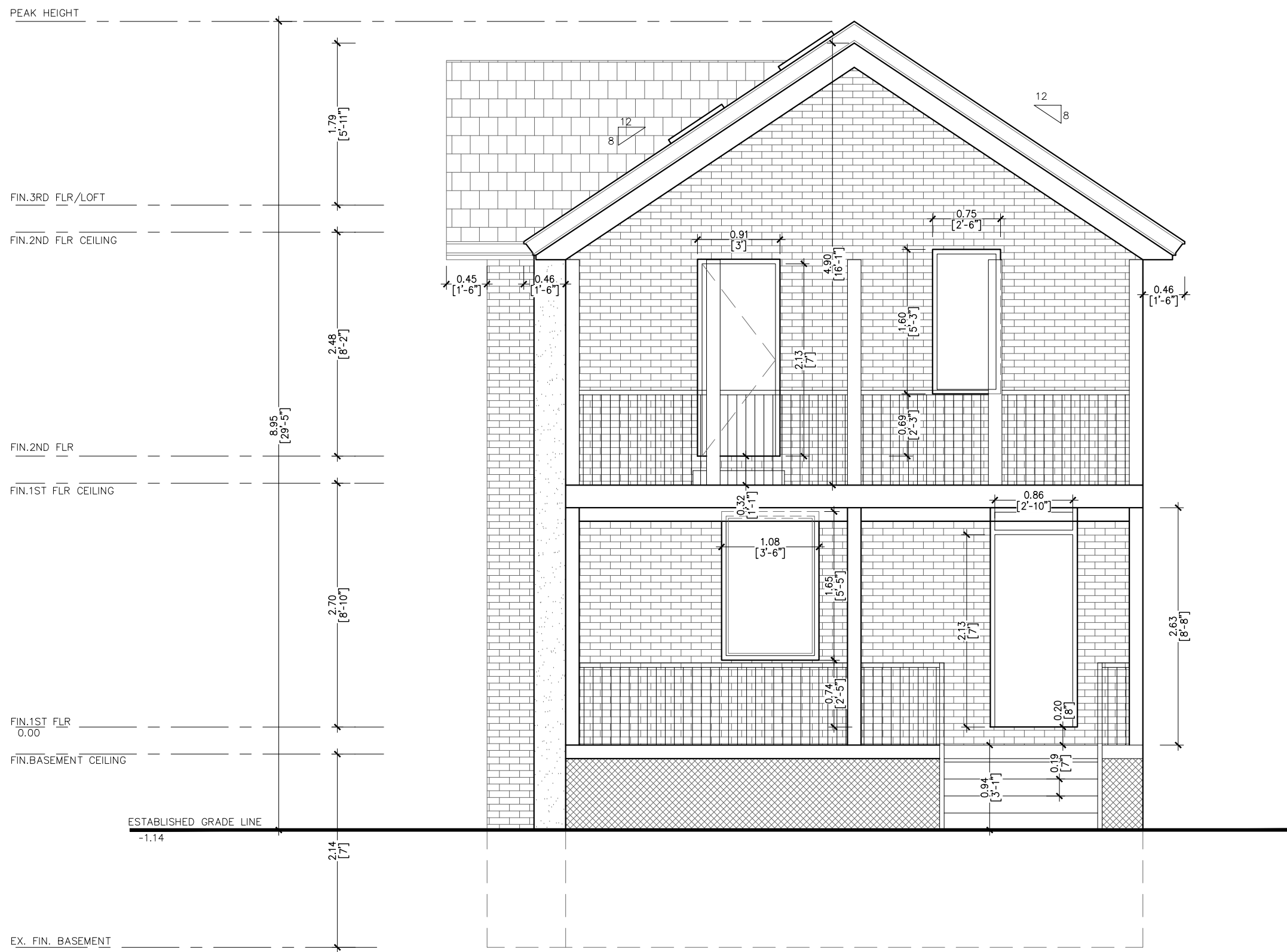
DRAWING
EXISTING ROOF PLAN

DRAWN TIN/ASM	MNGR. JL	PROJECT NO. MIDD-01
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PLOTTED DATE MAY 05, 2021	DRAWING NO
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SCALE @17"x22" 1 : 50	A2.5
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CHECKED KYLE KHADRA



EXISTING FRONT ELEVATION
EAST

DESIGNER'S STAMP

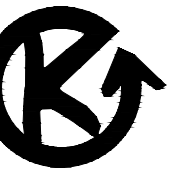
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4	ISSUED FOR TLAB	21/02/16
5	ISSUED FOR ZR RESUB	21/03/24
6	ISSUED FOR TLAB	21/03/26
7	ISSUED FOR TLAB	21/03/29
8	ISSUED FOR TLAB DRAFT	21/03/31
9	ISSUED FOR TLAB	21/05/05



ARCHITECTS + ENGINEERS

KBK ARCHITECTS INC.

T: 800-203-7010
INFO@KBKARCHITECTS.CA

PROJECT ADDRESS

108 ENDERBY ROAD,
TORONTO, ON

DRAWING
EXISTING FRONT
ELEVATION (EAST)

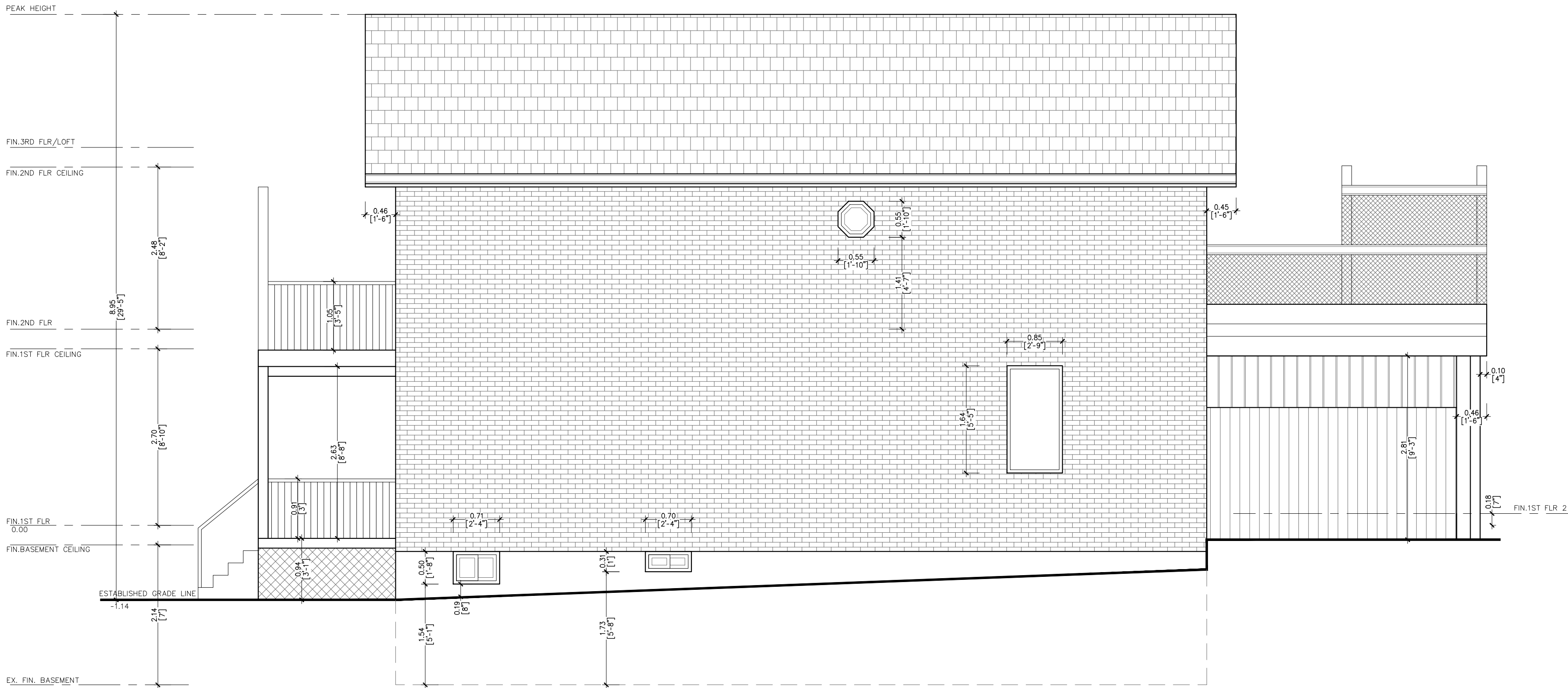
DRAWN TIN/ASM	MNGR. JL	PROJECT NO. MIDD-01
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PLOTTED DATE
MAY 05, 2021

SCALE @17"x22"
1 : 50

CHECKED
KYLE KHADRA

DRAWING NO
A2.6



EXISTING NORTH SIDE ELEVATION

DESIGNER'S STAMP

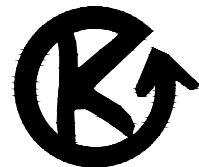
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9	ISSUED FOR TLAB	21/05/05



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PROJECT ADDRESS

108 ENDERBY ROAD,
TORONTO, ON

DRAWING
EXISTING NORTH SIDE
ELEVATION

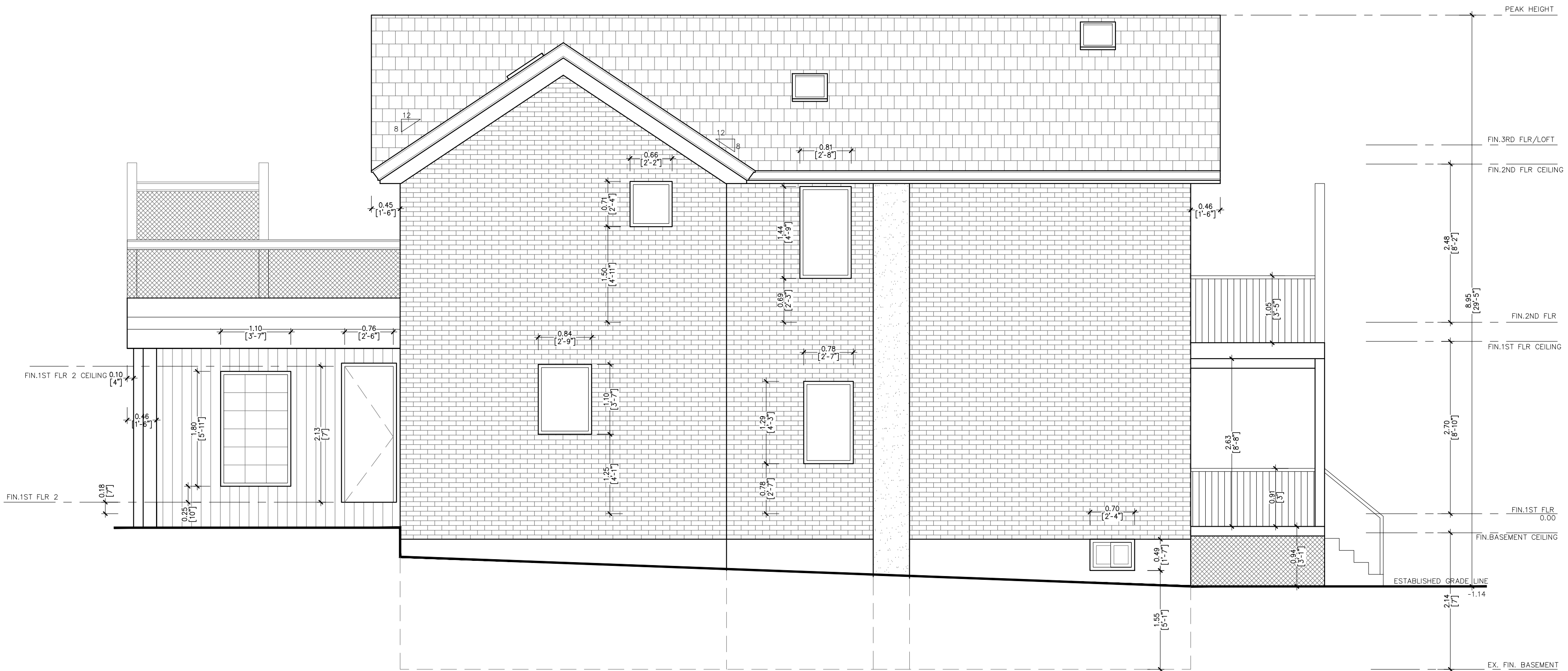
DRAWN TIN/ASM MNGR. J.L. PROJECT NO. MIDD-01

PLOTTED DATE MAY 05, 2021

SCALE @17"x22" 1 : 50

CHECKED KYLE KHADRA

DRAWING NO
A2.7



EXISTING SOUTH SIDE ELEVATION

DESIGNER'S STAMP

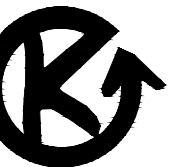
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9 ISSUED FOR TLAB	21/05/05



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PROJECT ADDRESS

108 ENDERBY ROAD,
TORONTO, ON

DRAWING
EXISTING SOUTH SIDE
ELEVATION

DRAWN TIN/ASM	MNGR. JL	PROJECT NO. MIDD-01
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PLOTTED DATE
MAY 05, 2021

SCALE @17"x22"
1 : 50

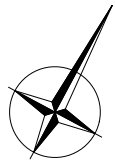
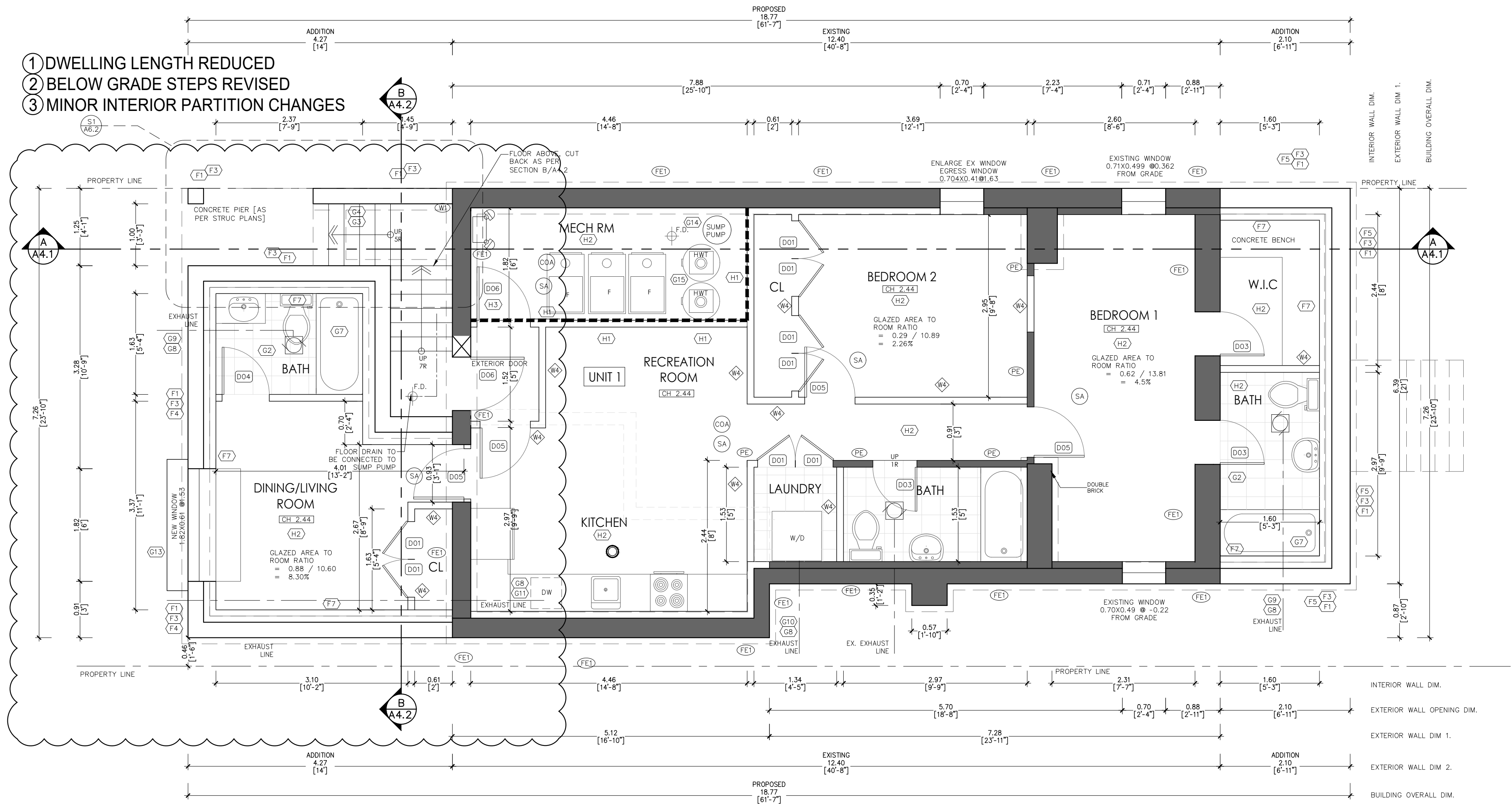
CHECKED
KYLE KHADRA

DRAWING NO
A2.8



DRAWING NO
A2.9

- ① DWELLING LENGTH REDUCED
② BELOW GRADE STEPS REVISED
③ MINOR INTERIOR PARTITION CHANGES



PROPOSED BASEMENT FLOOR PLAN

AREA = 94.57 SQM

BASEMENT TO BE
UNDERPINNED TO
8'-0" CEILING HEIGHT

DESIGNER'S STAMP

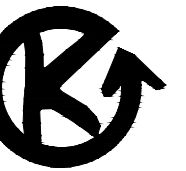
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9	ISSUED FOR TLAB	21/05/05



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PROJECT ADDRESS

108 ENDERBY ROAD,
TORONTO, ON

DRAWING
PROPOSED BASEMENT
FLOOR PLAN

DRAWN
TIN/ASM

PLOTTED DATE
MAY 05, 2021

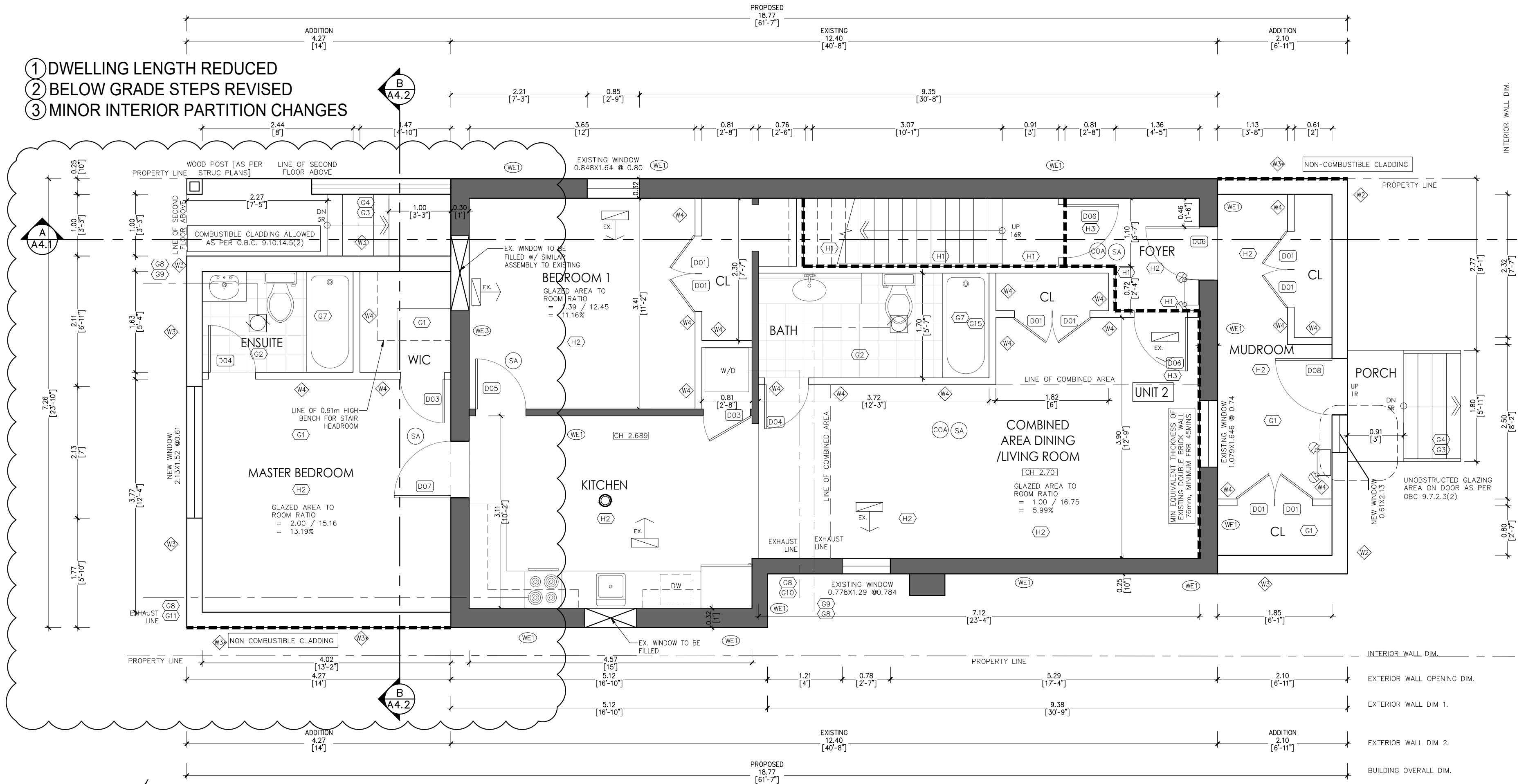
SCALE
1 : 50

CHECKED
KYLE KHADRA

PROJECT NO.
MDD-01

DRAWING NO.
A3.1

- ① DWELLING LENGTH REDUCED
② BELOW GRADE STEPS REVISED
③ MINOR INTERIOR PARTITION CHANGES



PROPOSED FIRST FLOOR PLAN

AREA = 122.72 SQM

DESIGNER'S STAMP

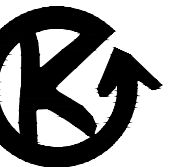
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9	ISSUED FOR TLAB	21/05/05



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PROJECT ADDRESS

108 ENDERBY ROAD,
TORONTO, ON

DRAWING
PROPOSED FIRST FLOOR
PLAN

DRAWN
TIN/ASM

PLOTTED DATE
MAY 05, 2021

SCALE
1 : 50

CHECKED
KYLE KHADRA

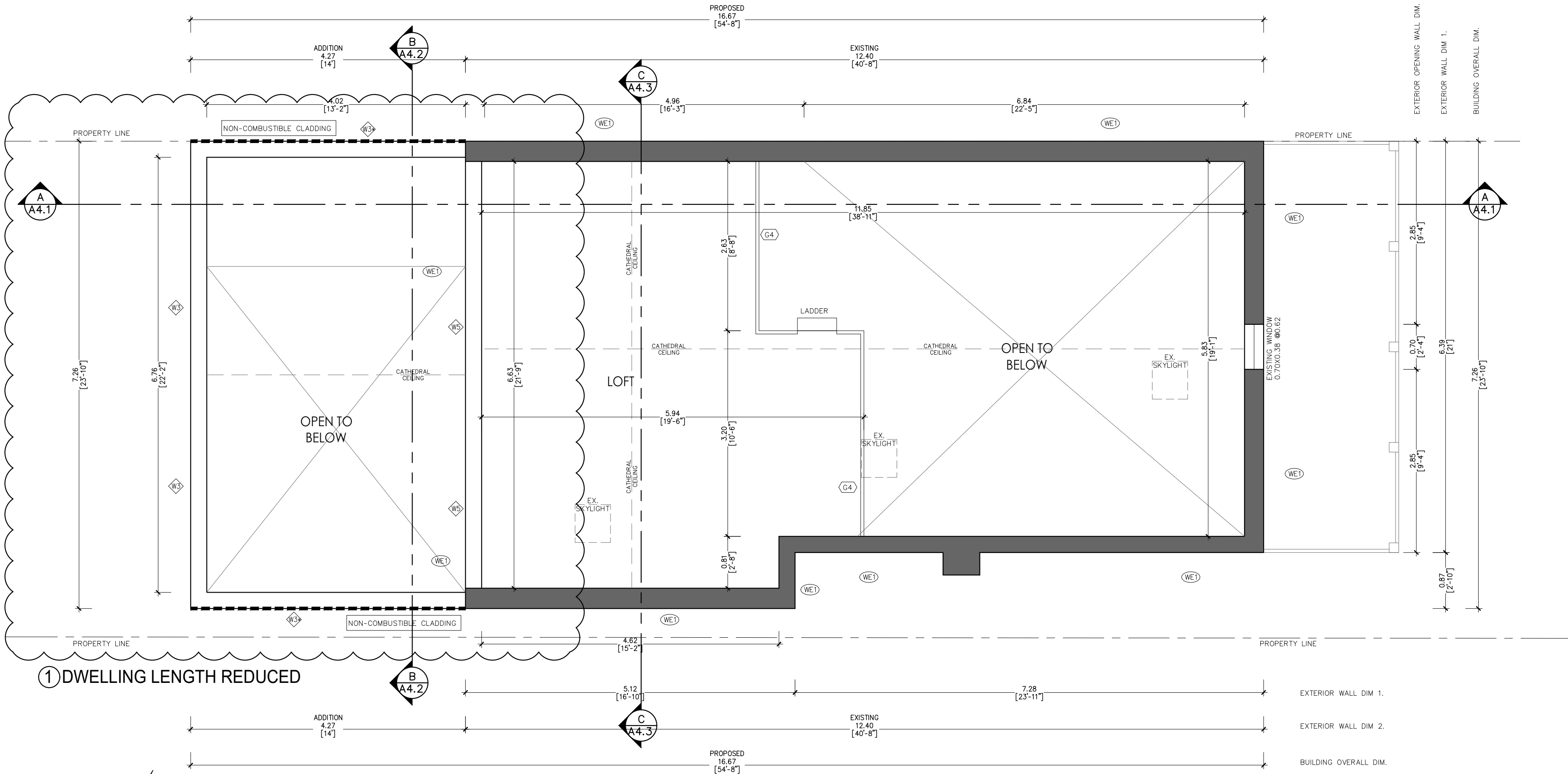
PROJECT NO.
MIDD-01

DRAWING NO.

SCALE
@17"x22"

A3.2





PROPOSED LOFT PLAN

AREA = 34.03 SQM

DESIGNER'S STAMP

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9	ISSUED FOR TLAB	21/05/05



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PROJECT ADDRESS

108 ENDERBY ROAD,
TORONTO, ON

DRAWING
PROPOSED LOFT FLOOR
PLAN

DRAWN
TIN/ASM

MNGR.
JL

PROJECT NO.
MIDD-01

DRAWING NO.

1 : 50

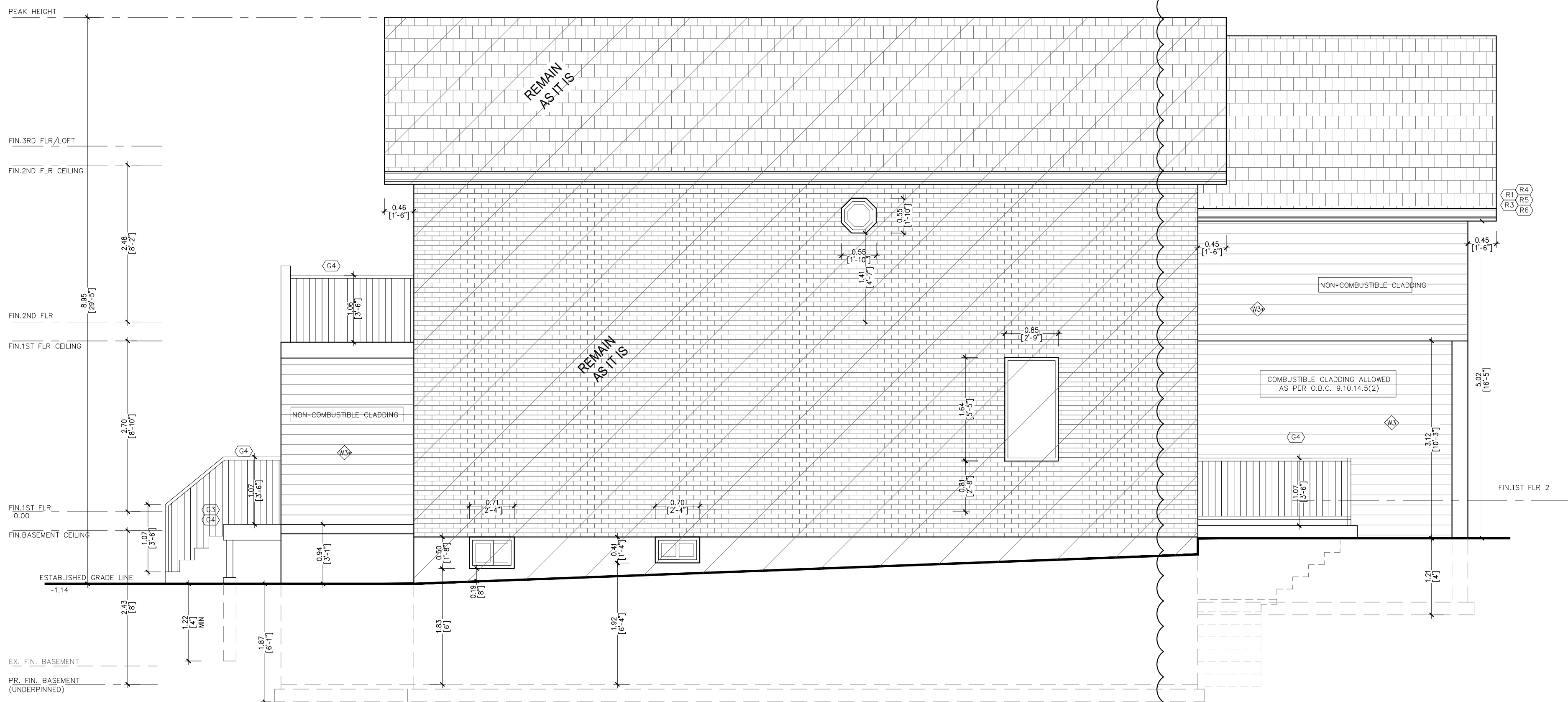
CHECKED
KYLE KHADRA

A3.4



CHECKED
KYLE KHADRA

① DWELLING LENGTH REDUCED
② BELOW GRADE STEPS REVISED



PROPOSED NORTH SIDE ELEVATION

DESIGNER'S STAMP

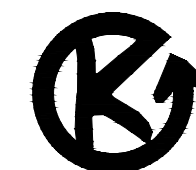
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9	ISSUED FOR TLAB	21/05/05



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PROJECT ADDRESS

108 ENDERBY ROAD,
TORONTO, ON

DRAWING
PROPOSED NORTH SIDE
ELEVATION

DRAWN TIN/ASM	MNGR. JL	PROJECT NO MIDD-01
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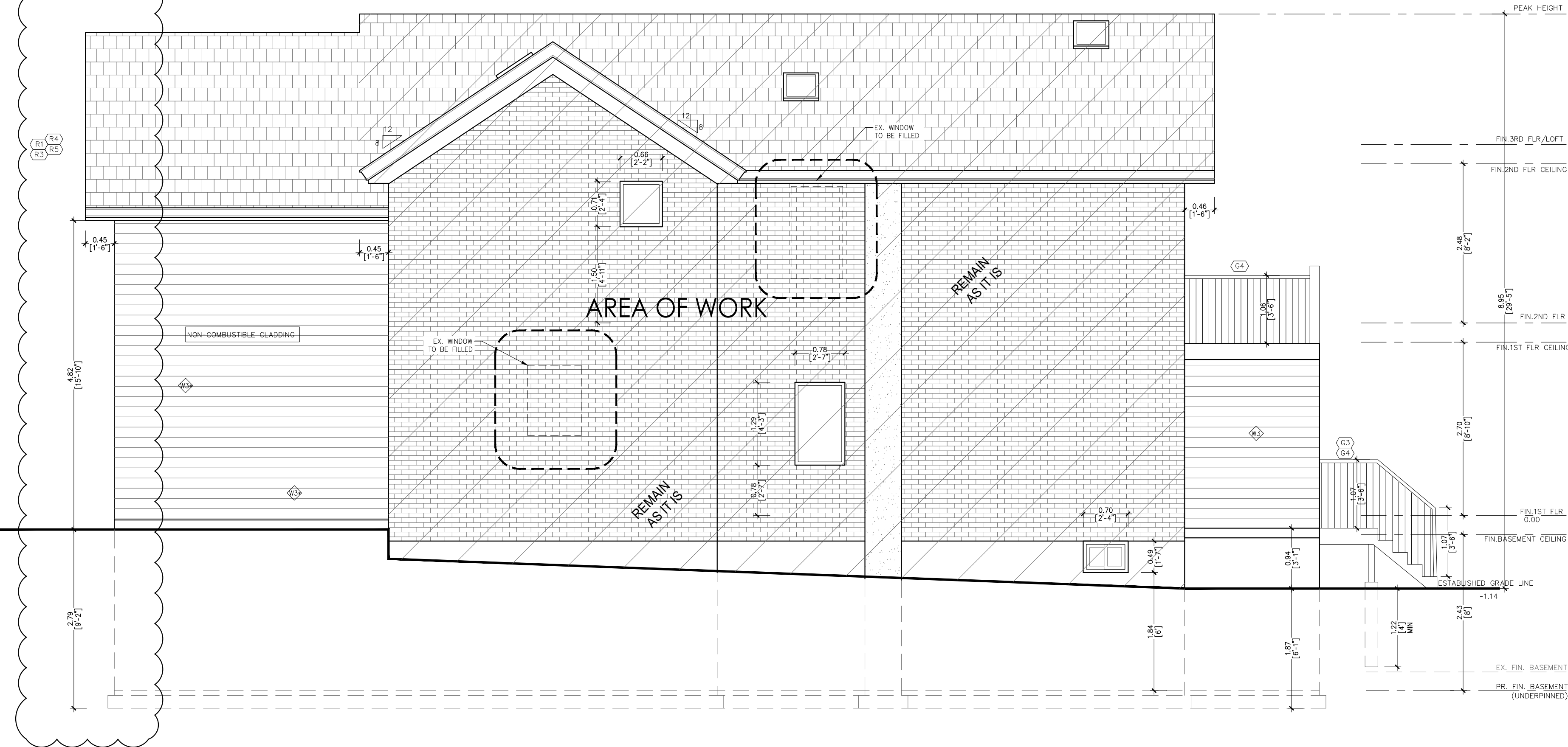
PLOTTED DATE
MAY 05, 2021

SCALE @17"X22"
1" = 50'

CHECKED
KYLE KHADRA

DRAWING NO
A3.7

① DWELLING LENGTH REDUCED



PROPOSED SIDE ELEVATION
SOUTH

DESIGNER'S STAMP

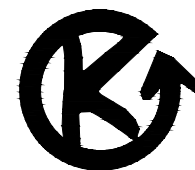
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PROJECT ADDRESS

108 ENDERBY ROAD,
TORONTO, ON

DRAWING
PROPOSED SOUTH SIDE
ELEVATION

DRAWN
TIN/ASM

PLOTTED DATE
MAY 05, 2021

SCALE @17"x22"

CHECKED
KYLE KHADRA

DRAWING NO
A3.8



DRAWING NO
A3.9