

## Report to London Advisory Committee on Heritage

**To:** Chair and Members  
London Advisory Committee on Heritage  
**From:** Gregg Barrett, Director, Planning and Development  
**Subject:** Heritage Alteration Permit Application at 228-230 Dundas Street, Downtown Heritage Conservation District by 8999872 Canada Ltd.  
**Date:** Wednesday August 11, 2021

## Recommendation

That, on the recommendation of the Director, Planning and Development, with the advice of the Heritage Planner, the application under Section 42 of the *Ontario Heritage Act* seeking approval for alterations to the heritage designated property located at 228-230 Dundas Street, in the Downtown Heritage Conservation District, **BE APPROVED** with the following terms and conditions:

- a) The development is consistent with the submitted plans as shown in the drawings included with the Heritage Alteration Permit application;
- b) Work is completed on the exterior of the addition by end of year 2021; and,
- c) The Heritage Alteration Permit be displayed in a location visible from the street until the work is completed.

## Executive Summary

The building at 228-230 Dundas Street contributes to the heritage character of the Downtown Heritage Conservation District. This Heritage Alteration Permit seeks retroactive approval for the construction of a rear addition that includes three affordable housing units and links the front and rear buildings on the property at grade. As the alterations commenced prior to obtaining Heritage Alteration Permit approval, this heritage alteration permit application has met the terms and conditions for referral requiring consultation with the London Advisory Committee on Heritage. Provided that the plans submitted with the Heritage Alteration Permit application are followed and work is completed on the exterior of the addition by end of year 2021, the proposed addition should be permitted retroactively with terms and conditions.

## Linkage to the Corporate Strategic Plan

This recommendation supports the following 2019-2023 Strategic Plan areas of focus:

- Strengthening Our Community:
  - Continuing to conserve London's heritage properties and archaeological resources.

## Analysis

### 1.0 Background Information

#### 1.1 Previous Reports Related to this Matter

April 23, 2021 — Notice of Public Hearing Under Section 45(1) of The Planning Act, R.S.O 1990. London Committee of Adjustment Submission No. A.009/21.

May 20, 2021 — London Committee of Adjustment – Notice of Decision Submission No. A.009/21.

May 20, 2021 — Report to London Committee of Adjustment – 228-230 Dundas Street, PPM (A.009/21).

## 1.2 Property Location

The property at 228-230 Dundas Street is located on the north side of Dundas Street between Clarence and Wellington Streets [Appendix A]. Staff undertook a site visit of the property on July 29, 2021.

## 1.3 Cultural Heritage Status

The property at 228-230 Dundas Street is located within the Downtown Heritage Conservation District, designated pursuant to Part V of the *Ontario Heritage Act* by By-law No. L.S.P.-3419-124. The heritage designating by-law was registered on the title of the properties within its boundaries on October 10, 2013.

## 1.4 Description

The property at 228-230 Dundas Street is a flag-shaped parcel fronting Dundas Street and backing onto a commercial surface parking lot. The building on the property facing the parking lot (at the rear) appears to be originally detached, is four-storeys and currently has a residential use. The building on the property facing Dundas Street is a four-storey building, built in 1910, and is attributed to Moore, Henry & Munro architects. Significant existing façade details include prominent bay windows which strongly articulate the facade, a tin cornice which includes the original company name of Ontario Furniture Co., and ornamented brackets and dentil moulding exhibiting a high degree of depth [Appendix B]. New storefront and façade improvements were undertaken in 2016 and 2018. The building is currently vacant but is intended to accommodate affordable housing units with the main floor restaurant.

## 2.0 Discussion and Considerations

### 2.1 Legislative and Policy Framework

Cultural heritage resources are to be conserved and impacts assessed as per the fundamental policies in the *Provincial Policy Statement (2020)*, the *Ontario Heritage Act*, *The London Plan* and the *Official Plan (1989 as amended)*.

#### 2.1.1 Provincial Policy Statement

Heritage conservation is a matter of provincial interest (Section 2.d, *Planning Act*). The *Provincial Policy Statement (PPS-2020)* promotes the wise use and management of cultural heritage resources and directs that “significant built heritage resources and significant cultural heritage landscapes shall be conserved.” (Section 2.6.1)

‘Significant’ is defined in the *PPS-2020* as, “resources that have been determined to have cultural heritage value or interest.” Further, “processes and criteria for determining cultural heritage value or interest are established by the Province under the authority of the *Ontario Heritage Act*.” (p51)

Additionally, ‘conserved’ means, “the identification, protection, management and use of built heritage resources, cultural heritage landscapes and archaeological resources in a manner that ensures their cultural heritage value or interest is retained under the *Ontario Heritage Act*. To ‘conserve’ may be achieved by the implementation of recommendations set out in a conservation plan, archaeological assessment, and/or heritage impact assessment. [...] Mitigative measures and/or alternative development approaches can be included in these plans and assessments.” (pp41-42)

#### 2.1.2 Ontario Heritage Act – Heritage Alteration Permit

The *Ontario Heritage Act* enables municipalities to protect properties of cultural heritage value or interest. Properties of cultural heritage value can be protected individually, pursuant to Section 29 of the *Ontario Heritage Act*, or where groups of properties have cultural heritage value together, pursuant to Section 41 of the *Ontario Heritage Act* as a Heritage Conservation District (HCD). Designations pursuant to the *Ontario Heritage Act* are based on real property, not just buildings.

##### 2.1.2.1 Heritage Alteration Permit

Section 42 of the *Ontario Heritage Act* requires that a property owner not alter, or permit the alteration of, the property without obtaining Heritage Alteration Permit approval. The *Ontario Heritage Act* enables Municipal Council to give the applicant of a Heritage Alteration Permit:

- a) The permit applied for;
- b) Notice that the council is refusing the application for the permit; or,
- c) The permit applied for, with terms and conditions attached. (Section 42(4), *Ontario Heritage Act*)

Municipal Council must make a decision on the heritage alteration permit application within 90 days or the request is deemed permitted (Section 42(4), *Ontario Heritage Act*).

### **2.1.2.2 Contravention of the Ontario Heritage Act**

Pursuant to Section 69(1) of the *Ontario Heritage Act*, failure to comply with any order, direction, or other requirement made under the *Ontario Heritage Act* or contravention of the *Ontario Heritage Act* or its regulations, can result in the laying of charges and fines up to \$50,000 for an individual and \$250,000 for a corporation.

With amendments to the *Ontario Heritage Act* in Bill 108 being proclaimed in force and effect as of July 1, 2021, the maximum fine for the demolition or removal of a building, structure, or heritage attribute in contravention of Section 42 of the *Ontario Heritage Act* has been increased to \$1,000,000.

### **2.1.3 The London Plan**

The policies of *The London Plan* support the conservation, maintenance, retention, and protection of London's cultural heritage resources. The Cultural Heritage chapter of *The London Plan* recognizes that cultural heritage resources define the City's unique identity and contribute to its continuing prosperity. *The London Plan* states that, "the quality and diversity of these resources are important in distinguishing London from other cities and make London a place that is more attractive for people to visit, live or invest in." Importantly, "our heritage resources are assets that cannot be easily replicated, and they provide a unique living environment and quality of life." Further, "by conserving them for future generations, and incorporating, adapting, and managing them, London's cultural heritage resources define London's legacy and its future." (552\_)

The cultural heritage policies of *The London Plan* are to:

1. Promote, celebrate, and raise awareness and appreciation of London's cultural heritage resources.
2. Conserve London's cultural heritage resources so they can be passed onto our future generations.
3. Ensure that new development and public works are undertaken to enhance and be sensitive to our cultural heritage resources.

Generally, the policies of *The London Plan* support the conservation and retention of significant cultural heritage resources." (554\_)

To ensure the conservation of significant cultural heritage resources, including properties located within a Heritage Conservation District, Policy 594 of *The London Plan* provides the following direction:

- "1. The character of the district shall be maintained by encouraging the retention of existing structures and landscapes that contribute to the character of the district.
- 2. The design of new development, either as infilling, redevelopment, or as additions to existing buildings, should complement the prevailing character of the area.
- 3. Regard shall be had at all times to the guidelines and intent of the heritage conservation district plan."

Finally, Policy 596 states that: "[a] property owner may apply to alter a property within a heritage conservation district. The City may, pursuant to the *Ontario Heritage Act*, issue a permit to alter the structure. In consultation with the London Advisory Committee on Heritage, the City may delegate approvals for such permits to an authority."

### **2.1.4 Downtown Heritage Conservation District Plan**

The Downtown is recognized for its cultural heritage value through its designation as a Heritage Conservation District. Physical goals of the designation of the Downtown as a Heritage Conservation District include:

- Encouraging rehabilitation and restoration of heritage buildings that are sensitive and respectful of their historical significance; and,

- Encouraging alterations to heritage resources that are complimentary to the district character and streetscape (Section 3.2.1, *Downtown Heritage Conservation District Plan*).

Context and compatibility are important principles of the *Downtown Heritage Conservation District Plan*. A building is intimately connected to its site and to the neighbouring landscape and buildings. An individual building is perceived as part of a grouping that requires its neighbours to illustrate the original design intent. When buildings need to change there is a supportive setting that should be maintained (Section 3.1, *Downtown HCD Plan*).

The visible streetscape is the primary focus of a Heritage Conservation District, and policies and guidelines provide direction on what is deemed acceptable with regards to alterations, additions, and new construction. Heritage Alteration Permits (HAP) are generally required for major alterations and additions that are visible from the street or other public spaces such as laneways and parks (Section 1.3, *Downtown HCD Plan*).

This HAP application is for a relatively minor alteration – essentially infill construction at the rear of 228-230 Dundas Street – which is not visible from Dundas Street; but is minimally visible from a rear parking lot and Queens Avenue. Key policies and guidelines most pertinent to this application include the following (*Downtown HCD Plan*):

- “Make New Replacements Distinguishable - The construction eras and historical progression should be self-evident. Although new work should be sympathetic to the original and match or mimic as appropriate, it should not attempt to appear as if built as part of the original.” (Section 3.1)
- “The Downtown is a vibrant environment and is anticipated to continue to develop and grow throughout London’s future. However, the remaining physical evidence of the city’s historical beginnings is something that this HCD intends to preserve and compliment.” Guidelines are to help ensure that new construction respects the history that will surround it in material, massing, and other aesthetic choices. (Section 6.1.4)
- “Where new buildings will abut existing structures at the building line, it is encouraged that the new structures exactly match the adjacent building height or provide a clearly visible and readily apparent offset in height so as to maintain the visual integrity of the existing structure.” (Section 6.1.4.2)
- “Conserve the heritage value and character-defining elements when creating any new additions to an historic place or any related new construction. Make the new work physically and visually compatible with, subordinate to and distinguishable from the historic place.” (Section 6.1.5)

## **2.2 Heritage Alteration Permit Application (HAP21-059-L)**

The building at 228-330 Dundas Street is currently vacant but is intended to accommodate 33 affordable housing units provided by the London Housing Development Corporation (HDC), for a total of 34 residential units, with the main floor of the front portion of the building intended for a restaurant. The addition is required to facilitate three additional affordable housing units [Appendix C].

The addition is 3-stories in height, positioned between the front and rear buildings on the property, and connected to both buildings at grade (1<sup>st</sup> floor). The footprint of the addition is approximately 6.1m x 10.7m (20’ x 35’) with a gross area of 143.3m<sup>2</sup> (1,542 sf<sup>2</sup>); it includes a roof patio deck. The addition is clad in James Hardie Board Fibre Cement Siding w/metal strapping and includes aluminum windows (most being fixed).

Heritage staff became aware of the addition through the circulation of a Minor Variance (MV) application which was received on April 23, 2021. The MV application was circulated to division staff and heritage staff noted that Heritage Alteration Permit approval had not been received. The MV was granted on May 20, 2021, with conditions - one being that Heritage Alteration Permit approval be required.

228-230 Dundas Street is located within the Downtown Heritage Conservation District, and Heritage Alteration Permit approval (HAP) is required for new development,

additions and alterations pursuant to Section 42(1) of the *Ontario Heritage Act*. As the alterations commenced prior to obtaining HAP approval, consultation with the London Advisory Committee on Heritage (LACH) and a decision by Municipal Council is required for this Heritage Alteration Permit application. Per Section 42(4) of the *Ontario Heritage Act*, the 90-day timeline for this heritage alteration permit application will expire on September 14, 2021.

### **3.0 Financial Impact/Considerations**

None.

### **4.0 Key Issues and Considerations**

This Heritage Alteration Permit application for a rear addition, is consistent with the policies of the 2020 *Provincial Policy Statement* and *The London Plan*. Further, the application complies with the principles, goals, policies and guidelines of the *Downtown Heritage Conservation District Plan*. The *Downtown HCD Plan* recognizes that additions and new development can be introduced into the District without impacting the existing character of the built heritage resources. This addition is located at the rear of the building and does not impact the Dundas Street streetscape. The addition is 3-storeys and has a comparatively small footprint; it functions primarily as a linking structure and does not dominate the existing buildings on the property. Any views to the proposed addition from the rear parking lot and Queens Avenue are minimal. The proposed exterior material for the addition is a fibre cement siding panel (i.e. James Hardie Board) in a compatible colour palette to the existing building materials. Finally, although the addition is sympathetically executed, the differentiation in massing, material and texture assures that is clearly distinguishable from the existing buildings on the property.

## **Conclusion**

The heritage attributes of the buildings on the property and adjacent properties at 228-230 Dundas Street will be conserved as the proposed addition massing is relatively small and it is minimally visible, being located at the rear of the existing building. The addition will not dominate the view from the parking lot and is compatible in its use of materials while remaining distinguishable. Provided that the plans submitted with the Heritage Alteration Permit application are followed, the retroactive and proposed alterations should be permitted with terms and conditions.

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Heritage Planner

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**Recommended by:** Gregg Barrett, AICP  
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August 4, 2021  
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### **Appendices**

Appendix A Maps  
Appendix B Images  
Appendix E Architectural Drawings

## Sources

Biographical Dictionary of Architects in Canada (1800-1950). Retrieved from <http://dictionaryofarchitectsincanada.org/node/1885>

City of London. (2013, June) *Downtown London heritage conservation district plan*. London, ON: Author.

City of London. (2020, December 8). *Register of cultural heritage resources*. London, ON: Author.

Corporation of the City of London. n.d. Property files: 228-230 Dundas Street.

Corporation of the City of London. (2021, May 28, consolidated). *The London plan*. London, ON: Author.

Ontario Heritage Act, (2021, July 1, c. 4, Sched. 6, s. 74). Retrieved from e-Laws website <https://www.ontario.ca/laws/statute/90o18>

Ministry of Municipal Affairs and Housing. (2020). *Provincial policy statement, 2020*. Ontario: Queen's Printer for Ontario.

**Appendix A – Subject Property**

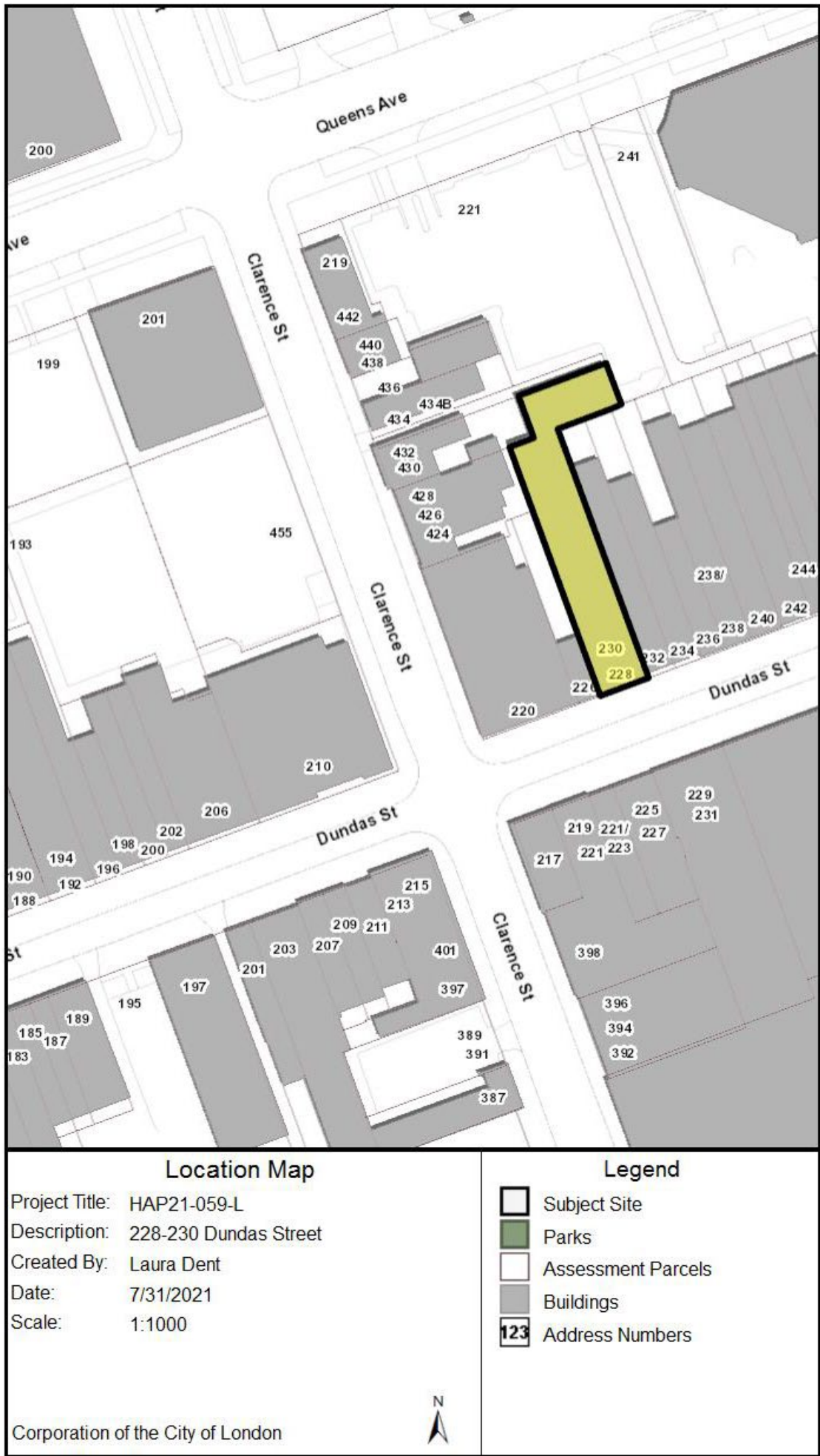


Figure 1: Location Map identifying the property at 228-230 Dundas Street

**Appendix B – Images**



Image 1: View of Dundas Street façade (July 29, 2021)



Image 2: View of rear portion of building facing parking lot (July 29, 2021)





Image 3: View of addition linking front and rear building portions on the property (July 29, 2021)



Image 4: View of rear portion of existing building facing parking lot and new addition, seen with unfinished cladding (July 29, 2021)

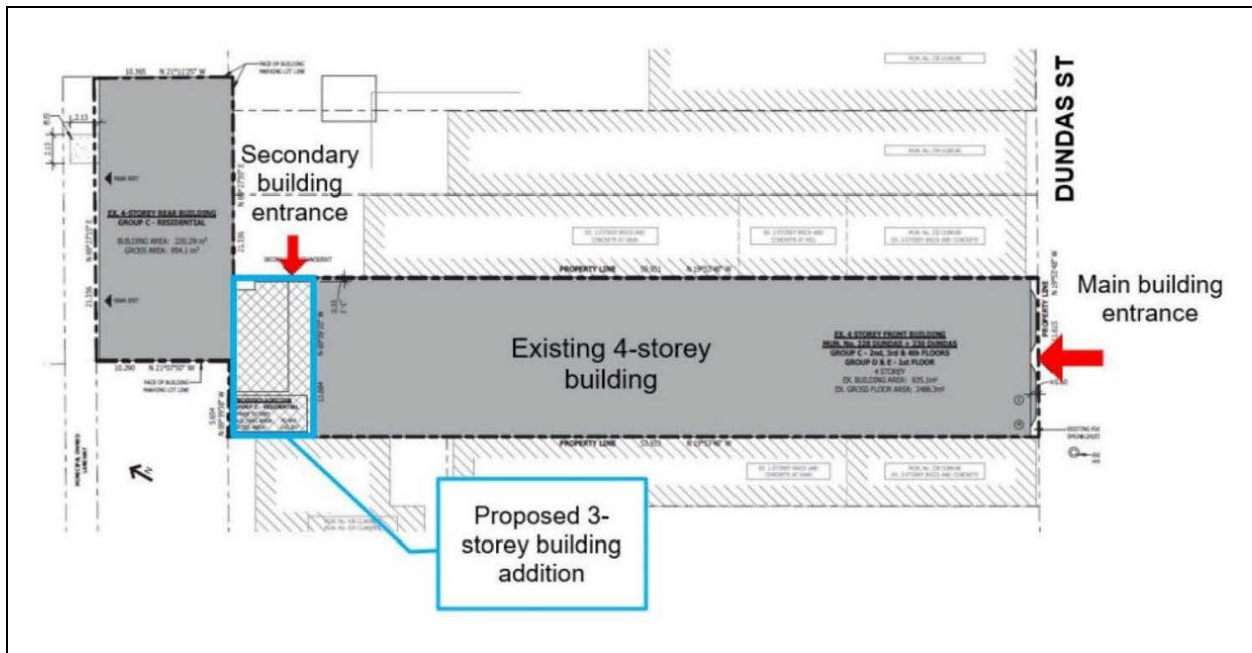


Image 5: View of north facing elevation of unfinished portion of addition (July 29, 2021)

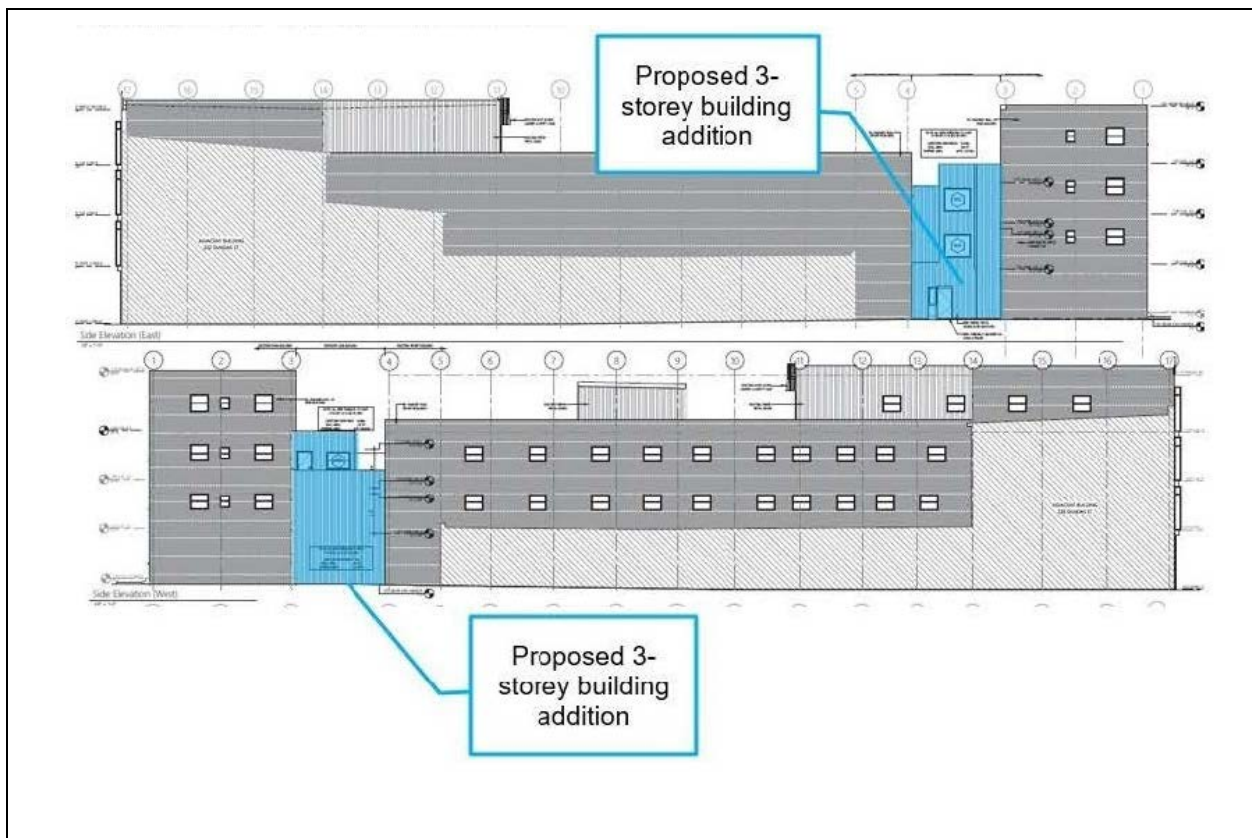


Image 6: Detailed view of cladding material (July 29, 2021)

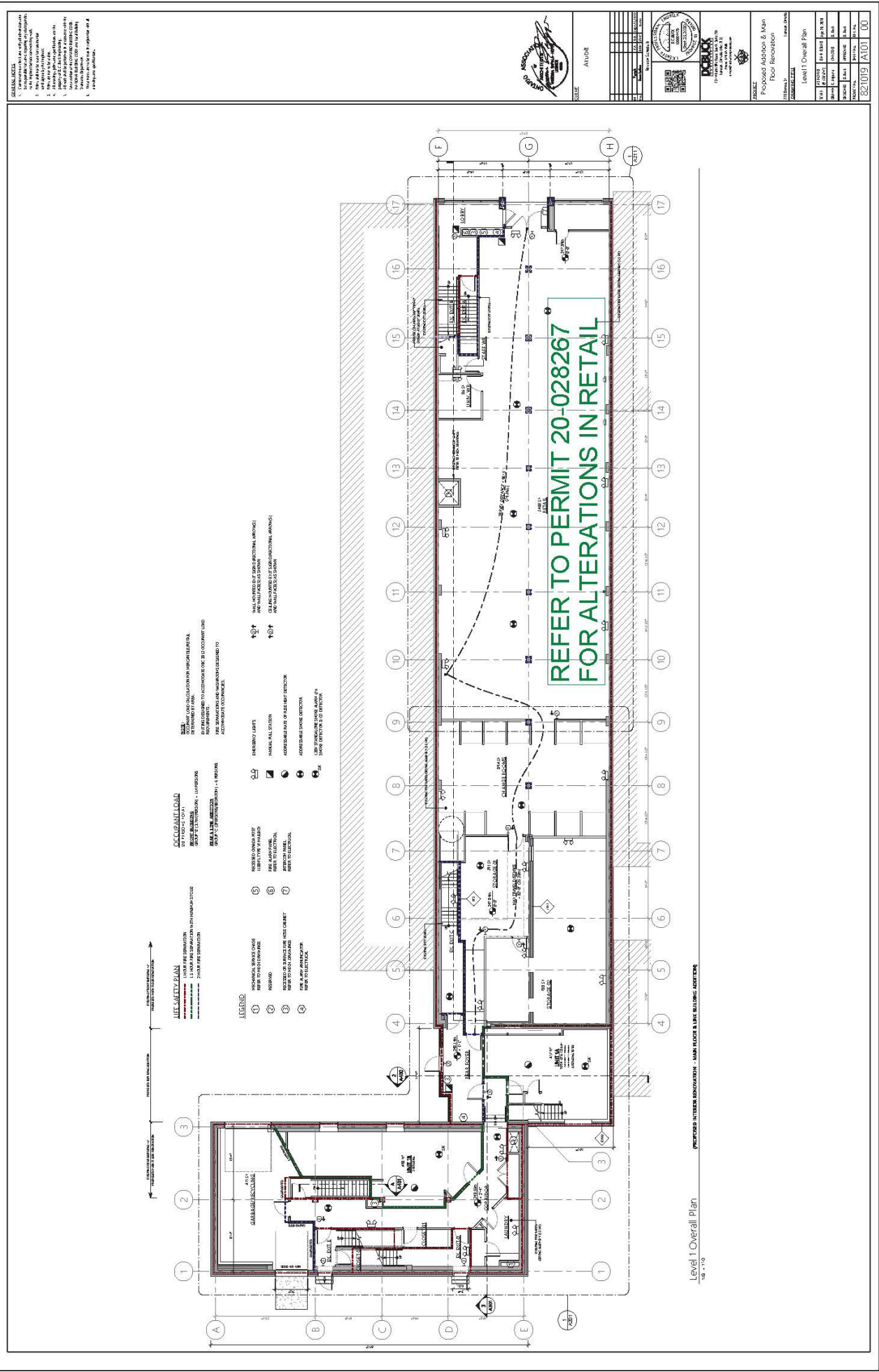
## Appendix C – Drawings



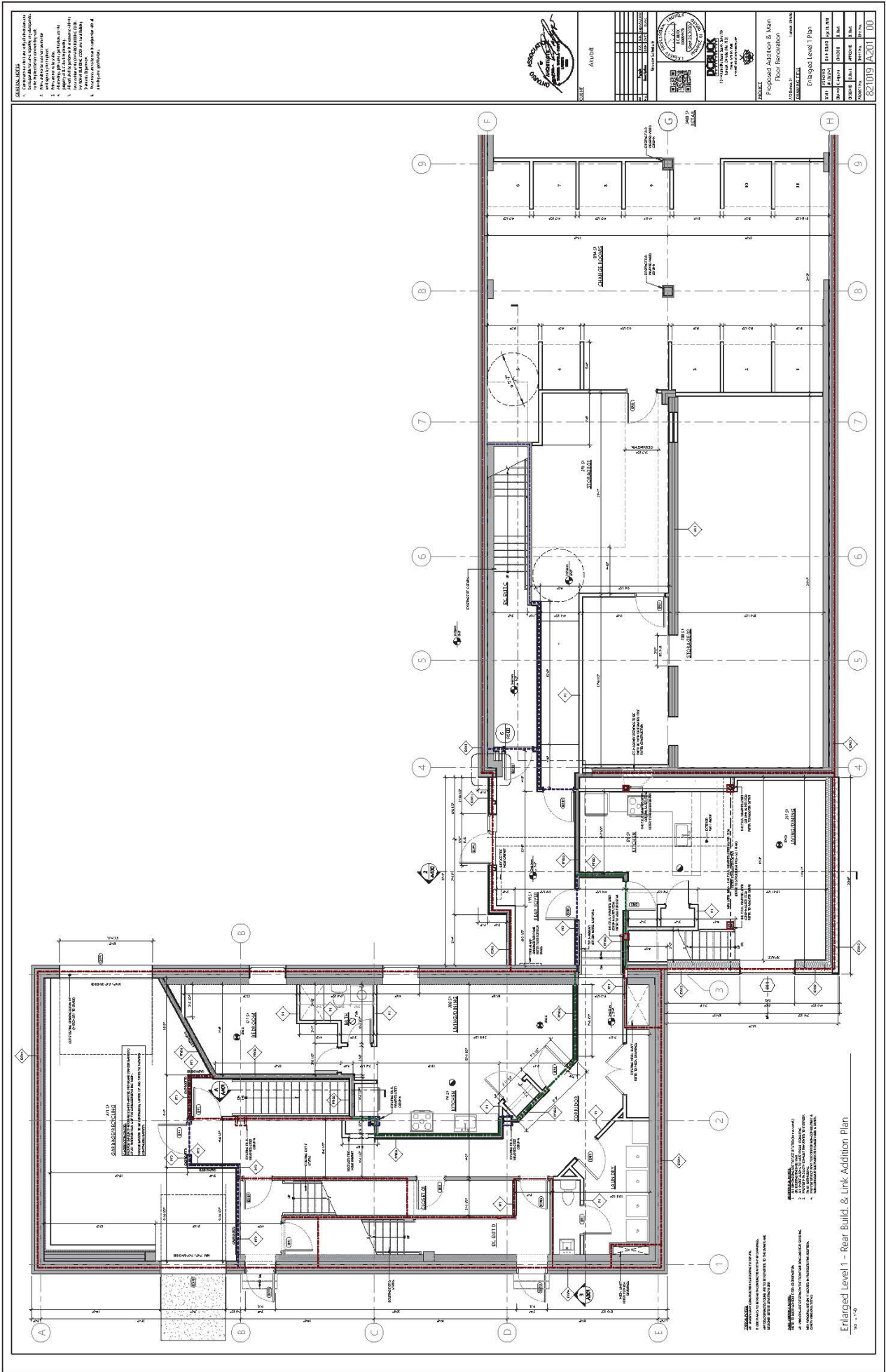
Conceptual Site Plan (from heritage alteration permit application (June 10, 2021))



Conceptual East and West Elevations (from heritage alteration permit application, June 10, 2021)

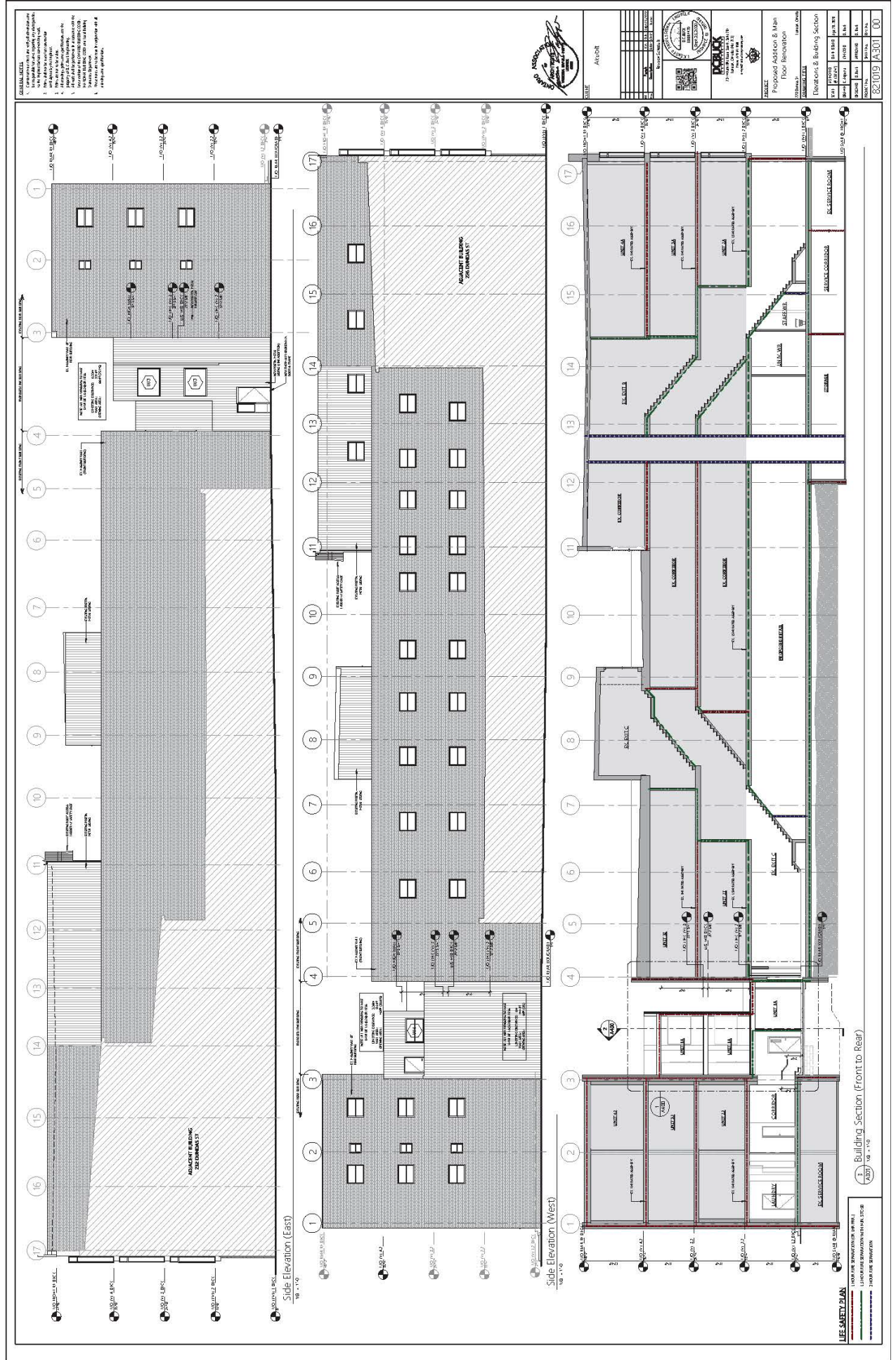


A101, Level 1 Overall Plan (Sept 25, 2020, signed)



A201, Enlarged Level 1 Plan (Sept 25, 2020, signed)





A301, Elevations and Building Sections (Sept 25, 2020, signed)