

Memorandum to the City of Markham Committee of Adjustment

November 2, 2021

File: A/131/21
Address: 6 Golden Fern Street – Markham, ON
Applicant: Manjeet Morsara
Agent: YEJ Studio and Consulting Inc. (Amr Robah)
Hearing Date: November 10, 2021

The following comments are provided on behalf of the East District team. The applicant is requesting relief from the following “Residential Two Exception *190*192 (R2*190*192)” zone requirement under By-law 177-96, as amended, to permit:

a) **By-law 177-96, Sec. 7.190.1(a)(ii):**

an accessory dwelling unit in basement, whereas the by-law permits an accessory dwelling unit only if it is located above a private garage.

BACKGROUND

Property Description

The subject property is located on the north side of Golden Fern Street, east of Cornell Rouge Boulevard, south of William Forster Road, and west of Donald Cousens Parkway. The property is currently developed with a detached dwelling, and attached two-car garage which is accessed by a rear lane. A paved area located on the subject property abuts the private garage to the west.

The property is located within the Cornell community, which is primarily a residential lane based community in which vehicular access and parking is provided via rear lanes and garages. There are examples of different accessory dwelling units in the form of coach houses, and basement apartments within the community. In close proximity to the property are transit options, parks, the Cornell Community Centre, educational and health institutions, and some commercial uses along Bur Oak Avenue.

Proposal

The applicant is proposing to locate an accessory dwelling unit in the basement of the detached dwelling, which would have direct and separate by way of the walk-up stairs located between the north side of the main building wall and the proposed parking pad. The applicant is also proposing to use the existing garage which can accommodate two parking spaces, and the paved area abutting the private garage as a third parking space.

Provincial Policies

More Homes, More Choice Act, 2019

The *More Homes, More Choice Act, 2019*, S.O. 2019, c. 9 – (Bill 108), received Royal Assent on June 6, 2019 and portions were proclaimed on September 3, 2019. The proclaimed portions of Bill 108 amended the *Planning Act*, R.S.O. 1990, c. P.13, as amended, to require Official Plans to contain policies providing for two residential units in detached, semi-detached and rowhouse (townhouse) dwellings, as well as permitting a residential unit in ancillary structures to a detached, semi-detached, or rowhouse dwelling. Under this legislation, “second suites” or “secondary suites” are now referred to

as “additional residential units”, and the terms are used synonymously in this memorandum.

Provincial Policy Statement, 2020 (PPS)

Section 1.4.3 of the *PPS*, requires planning authorities to provide for an appropriate range and mix of housing options and densities to meet the affordable housing needs of current and future residents. Amongst other means, this can be achieved by permitting and facilitating residential intensification, including additional residential units, and redevelopment by accommodating a significant supply and range of housing options through intensification and redevelopment while taking into account existing building stock.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020 (Growth Plan)

Sections 2.2.1.4 (c), and 2.2.6 a) i. of the *Growth Plan* requires municipalities to provide a diverse range and mix of housing options including additional residential units to support complete communities.

Official Plan and Zoning

Official Plan 2014 (partially approved on November 24/17, and updated on April 9/18)

The Official Plan designates the subject property “Residential Low Rise”, which provides for low rise housing forms including detached dwellings. The Official Plan also contains criteria for the establishment of secondary suites in Section 8.13.8 which states:

“That in considering an application to amend the Zoning By-law to permit the establishment of a secondary suite where provided for in this Plan, Council shall be satisfied that an appropriate set of development standards are provided for in the Zoning By-law including:

- a) the building type in which the secondary suite is contained;*
- b) the percentage of the floor area of the building type devoted to the secondary suite;*
- c) the number of dwelling units permitted on the same lot;*
- d) the size of the secondary suite;*
- e) the applicable parking standards; and,*
- f) the external appearance of the main dwelling.”*

A “Secondary Suite” in the Official Plan is defined as:

“...a second residential unit in a detached house, semi-detached house, or rowhouse that consists of one or more rooms designed, occupied or intended for use, including occupancy, by one or more persons as an independent and separate residence in which a facility for cooking, sleeping facilities and sanitary facilities are provided for the exclusive use of such person or persons.”

Section 4.1.2.6 of the Official Plan contains policies to support further diversification of the housing stock and rental housing tenure by permitting secondary suites within existing and new single detached, semi-detached, and rowhouse dwellings in accordance with Section 3.5.22 of the Regional Official Plan and subject to appropriate zoning, development criteria, and standards.

Zoning By-Law 177-96

The subject property is zoned “Residential Two Exception *190*192 (R2*190*192)” under By-law 177-96, as amended, which permits various low rise housing forms including detached dwellings. Exception *190 also permits one accessory dwelling unit on a lot where a detached dwelling exists, provided that:

- it is accessory to a semi-detached dwelling unit on the same lot;
- it is located above a private garage in either the main building or an accessory building on the same lot, excepting that stairways providing access to the accessory dwelling unit may extend down to grade; and
- the required parking space is independently accessible from the parking spaces for the main dwelling unit on the lot.

The proposed accessory dwelling unit therefore does not comply with the By-law requirement with respect to its proposed location.

Zoning Preliminary Review (ZPR) Not Undertaken

The applicant has confirmed that a (ZPR) was not undertaken. However, the applicant received comments from the zoning staff through their building permit application to confirm the variance required for the proposed development.

COMMENTS

The *Planning Act* states that four tests must be met in order for a variance to be granted by the Committee of Adjustment (“the Committee”):

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee, for the appropriate development or use of land, building or structure;
- c) The general intent and purpose of the Zoning By-law must be maintained;
- d) The general intent and purpose of the Official Plan must be maintained.

Secondary Suite

With exception to the location of the secondary suite, the proposed development meets the criteria noted under Exception *190 as the secondary suite is:

- accessory to a single detached dwelling unit on the same lot; and
- the subject property can accommodate a parking pad (one parking space) that is considered to be independently accessible from the two parking spaces for the main dwelling unit.

While the zoning by-law specifically permits one accessory unit above a private garage, the requested variance would provide an opportunity to include additional housing on the subject property. As previously noted, the *More Homes, More Choice Act* requires Official Plans to contain policies to provide for two residential units within a semi-detached dwelling, as well as permitting a residential unit in structures that are ancillary to the primary dwelling unit. The Regional Municipality of York completed an Office Consolidation of their Official Plan in January 2019, and Section 3.5.22 states that:

“local municipalities are required to adopt official plan policies that authorize secondary suites as follows:

- *the use of two residential units in a house if no ancillary building or structure contains a residential unit; and*
- *the use of a residential unit in a building or structure ancillary to a house if the house contains a single residential unit.”*

Staff are satisfied that the proposed development meets the Provincial direction under the *More Homes, More Choice Act*, and policy direction of the Regional Official Plan, both of which succeed that of the City’s Official Plan 2014, and the current By-law 177-96 in effect. Section 27(1) of the *Planning Act* also states that,

“Council of a lower-tier municipality shall amend every official plan and by-law passed under Section 34, or a predecessor of it, to conform with a plan that comes into effect as the official plan of the upper-tier municipality.”

The City of Markham is committed to promoting affordable and shared housing opportunities. Secondary suites help the City increase the availability and supply of different housing forms that can provide support to achieve its affordable housing target required by the Province. Planning staff are of the opinion that the proposed development is appropriate for the lot as it meets the criteria under Section 8.13.8 of the Official Plan, is consistent with the *PPS*, and conforms to the *Growth Plan* with respect to the establishment of a secondary suite. Accordingly, staff have no objections to its approval.

Fire Department Comments

Fire and Emergency Services Department has no objections provided the secondary suite is registered with the City and complies with Building and Fire Codes. Should this application be approved, the applicant will be required to obtain a building permit which ensures the secondary suite will be in compliance with Building Code and Fire Code regulations, and will be required to register their second suite with the Fire Department prior to the occupancy of the unit.

PUBLIC INPUT SUMMARY

No written submissions were received as of the writing of this report (November 2, 2021). It is noted that additional information may be received after the writing of this report, and the Secretary-Treasurer will provide information on this at the meeting.

CONCLUSION

Planning staff have reviewed the application with respect to Section 45(1) of the *Planning Act*, and are of the opinion that the proposed secondary suite:

- is an appropriate development of the lot which can provide for two dwelling units within the main building; and
- can accommodate appropriate access to the basement apartment from the laneway and street.

Staff recommend that the Committee consider public input and the conditions of approval attached as Appendix “A” in reaching a decision. The onus is ultimately on the applicant

to demonstrate how they satisfy the tests of the *Planning Act* required for the granting of minor variances.

APPENDICES

Appendix "A" – Conditions of Approval

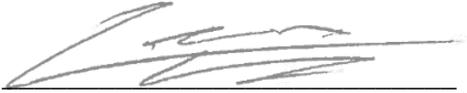
Appendix "B" – Plans

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



Carlson Tsang, Acting Development Manager, East District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/131/21

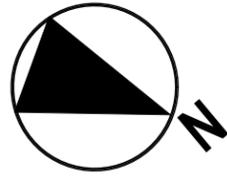
1. That the variance applies only to the proposed development for as long as it remains.
2. That the variance applies only to the proposed development, in substantial conformity with the plans attached as Appendix "B" to this Staff Report, and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction.
3. That the owner submit, if required by the Chief Building Official, a third-party report prepared by an architect or professional engineer licensed in the Province of Ontario, to assess compliance of existing construction with the provisions of the Ontario Building Code, and in particular relating to the change of use from a dwelling containing a single suite to a dwelling containing more than one suite.

CONDITIONS PREPARED BY:

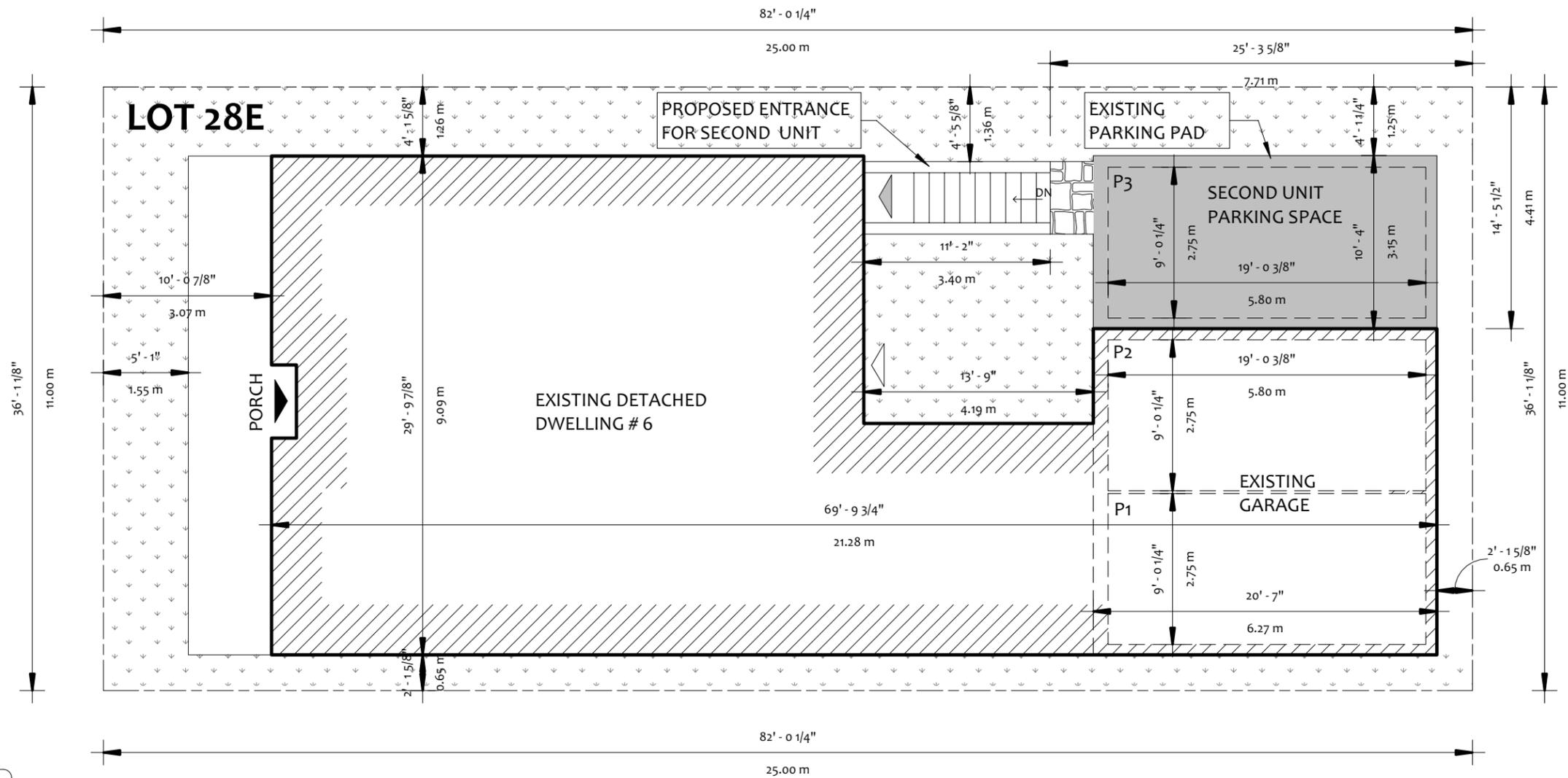


Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX "B"
PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/131/21



GOLDEN FERN ST.



Appendix B

File: 21.136914.000.00.MNV

Date: 11/04/21

MM/DD/YY

1.0 SITE PLAN
A-01 1/8" = 1'-0"

FLOOR / UNIT AREA	AREA	
	SQFT	SQM
BASEMENT (UNIT 2)	1187.51	110.32
BASEMENT (UNIT 1)	22	2.04
FIRST FLOOR (UNIT 1)	1046.47	97.22
SECOND FLOOR (UNIT 1)	1074.03	99.78
TOTAL BUILDING AREA	3330.01	309.37

- MAIN ENTRANCE
- SECONDARY ENTRANCE
- BASEMENT ENTRANCE

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BASEMENT SECOND UNIT

6 GOLDEN FERN ST.
MARKHAM, ON L6B
0V3

THE UNDERSIGNED HAS REVIEW AND TAKES RESPONSIBILITY FOR THE DESIGN, AND HAS THE QUALIFICATIONS AND MEETS THE REQUIREMENTS SET OUT IN THE ONTARIO BUILDING CODE TO BE A DESIGNER.

QUALIFICATION INFORMATION
REQUIRED UNLESS DESIGN IS EXEMPT UNDER 3.2.5.1 OF DIVISION "C" OF O.B.C.

NAME: AMR ROBAH
BCIN: 42582

A REGISTERED DESIGNER

AMR ROBAH

BCIN 42582

PROVINCE OF ONTARIO

CLIENT REVIEW	2021.05.21
REVISION	2021.05.31
ISSUED FOR PERMIT	2021.06.09

SITE PLAN		A-01
Drawn by	H.R.	
Project number	21 RE500-105	
Date	2021.05.21	Scale As indicated

STRUCTURAL COLUMNS & BEAMS TO HAVE FRR EQUAL TO FRR OF FLOOR ASSEMBLY

ALL SMOKE ALARMS TO BE INTERCONNECTED WITHIN EACH UNIT AND WITH THE DETECTORS.

ALL PLUMBING MUST CONFORM TO O.REG. 332/12, DIV. B PART 7 OF THE OBC.

PROVISION SHALL BE MADE FOR RETURN AIR BY LEAVING GAPS BENEATH DOORS, LOUVRED DOORS.

ENSURE A DUCT TYPE SMOKE ALARM IS INSTALLED IN MECHANICAL ROOM.

PIPING, TUBING, DUCTS, CHIMNEYS, WIRING, CONDUIT, ELECTRICAL OUTLET BOXES & OTHER SIMILAR EQUIPMENT THAT PENETRATE A FIRE SEPERATION SHALL BE TIGHTLY FITTED OF FIRE STOPPED TO MAINTAIN INTEGRITY OF THE FIRE SEPERATION.

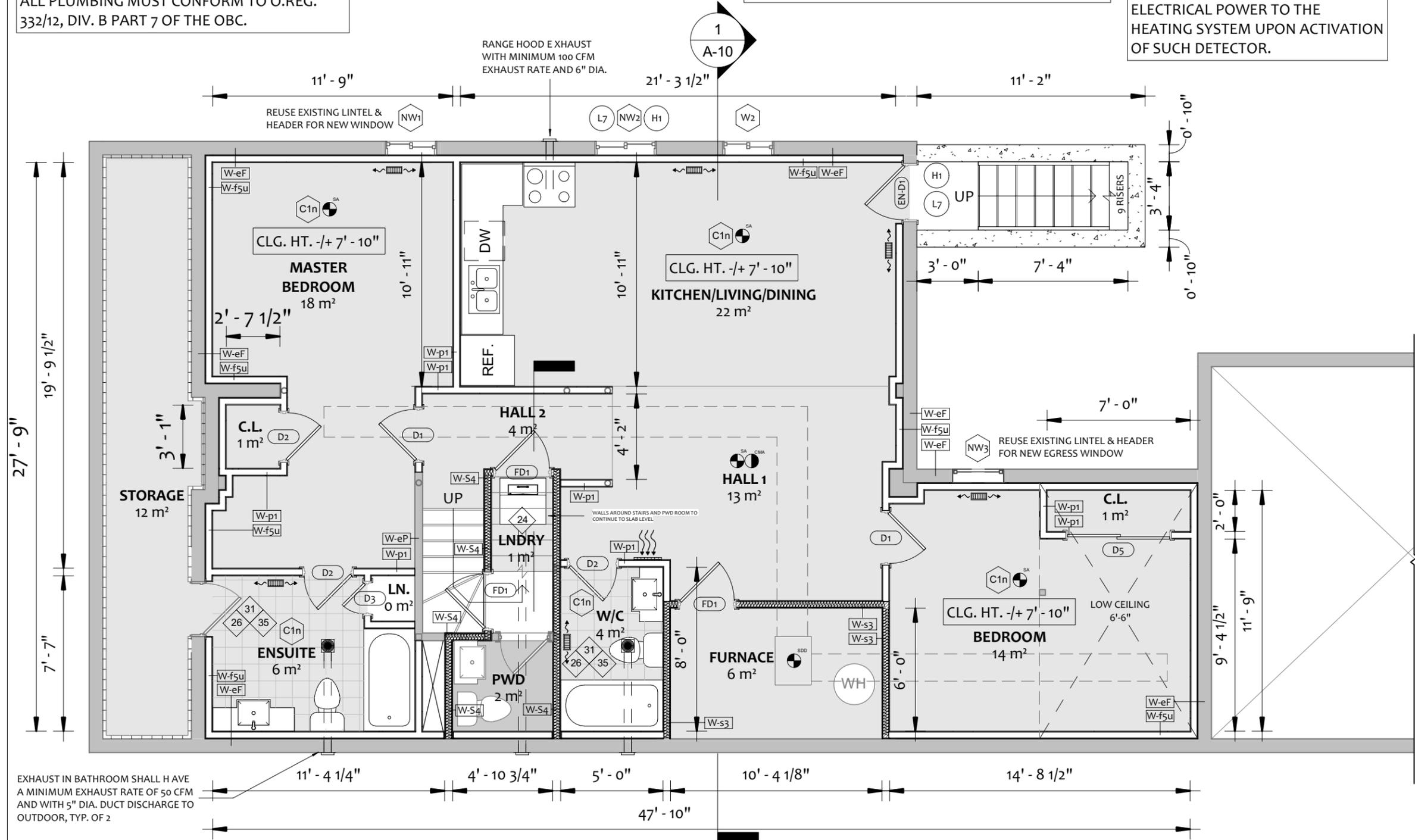
NOTE: AS PER OBC_2020_6.2.4.7
DUCT TYPE SMOKE DETECTOR SHALL BE PROVIDED IN SUPPLY OR RETURN AIR DUCT SYSTEM SERVING THE ENTIRE HOUSE WHICH WOULD TURN OFF THE FUEL SUPPLY AND ELECTRICAL POWER TO THE HEATING SYSTEM UPON ACTIVATION OF SUCH DETECTOR.

Appendix B

File: 21.136914.000.00.MNV

Date: 11/04/21

MM/DD/YY



EXHAUST IN BATHROOM SHALL HAVE A MINIMUM EXHAUST RATE OF 50 CFM AND WITH 5" DIA. DUCT DISCHARGE TO OUTDOOR, TYP. OF 2

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NAME: AMR ROBAH BCIN: 42582



CLIENT REVIEW	2021.05.21
REVISION	2021.05.31
ISSUED FOR PERMIT	2021.06.09

PROP. BASEMENT		A-05
Drawn by	H.R.	
Project number	21 RE500-105	
Date	2021.05.21	Scale 3/16" = 1'-0"

ALL PLUMBING MUST CONFORM TO O.REG. 332/12, DIV. B PART 7 OF THE OBC.

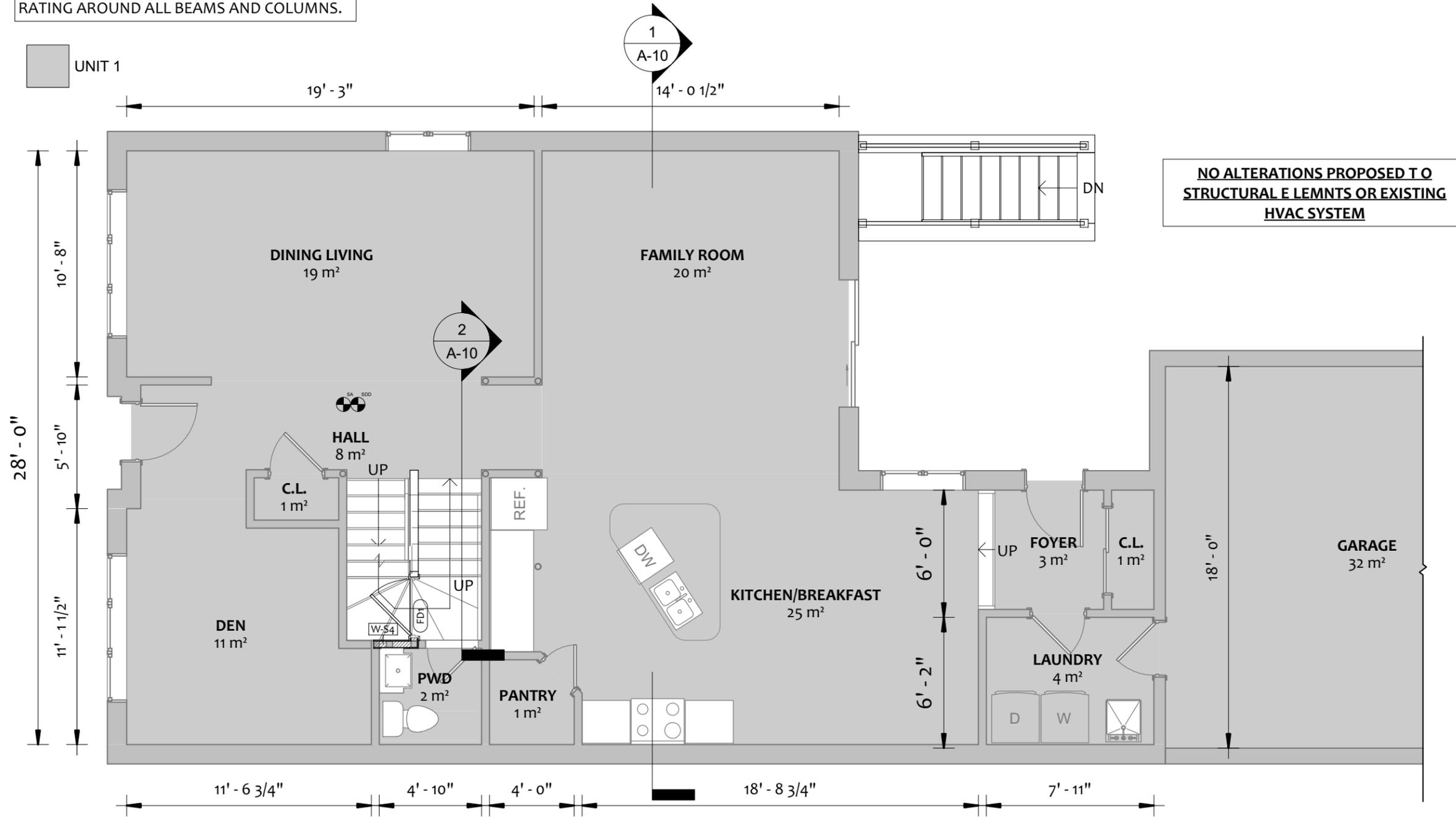
ALL SMOKE ALARMS TO BE INTERCONNECTED WITHIN EACH UNIT AND WITH THE DETECTORS.

ENSURE MINIMUM 30MIN FIRE RESISTANCE RATING AROUND ALL BEAMS AND COLUMNS.

Appendix B

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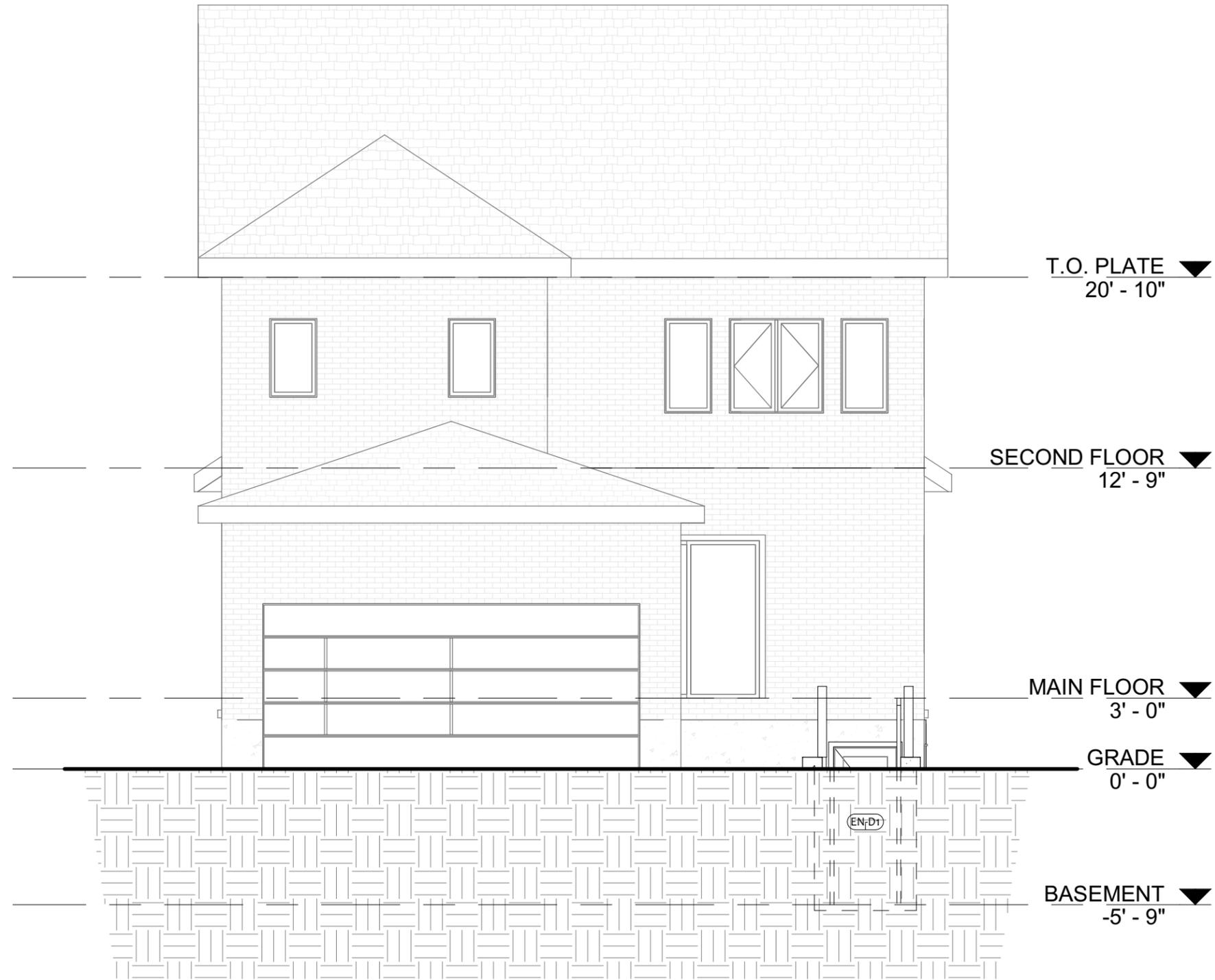


CLIENT REVIEW	2021.05.21
REVISION	2021.05.31
ISSUED FOR PERMIT	2021.06.09

PROP. MAIN FLOOR		A-06
Drawn by	H.R.	
Project number	21 RE500-105	
Date	2021.05.21	Scale 3/16" = 1'-0"

Appendix B

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 Date: 11/04/21
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 NAME: AMR ROBAH
 BCIN: 42582



CLIENT REVIEW	2021.05.21
REVISION	2021.05.31
ISSUED FOR PERMIT	2021.06.09

EAST ELEVATION

Drawn by	H.R
Project number	21 RE500-105
Date	2021.05.21

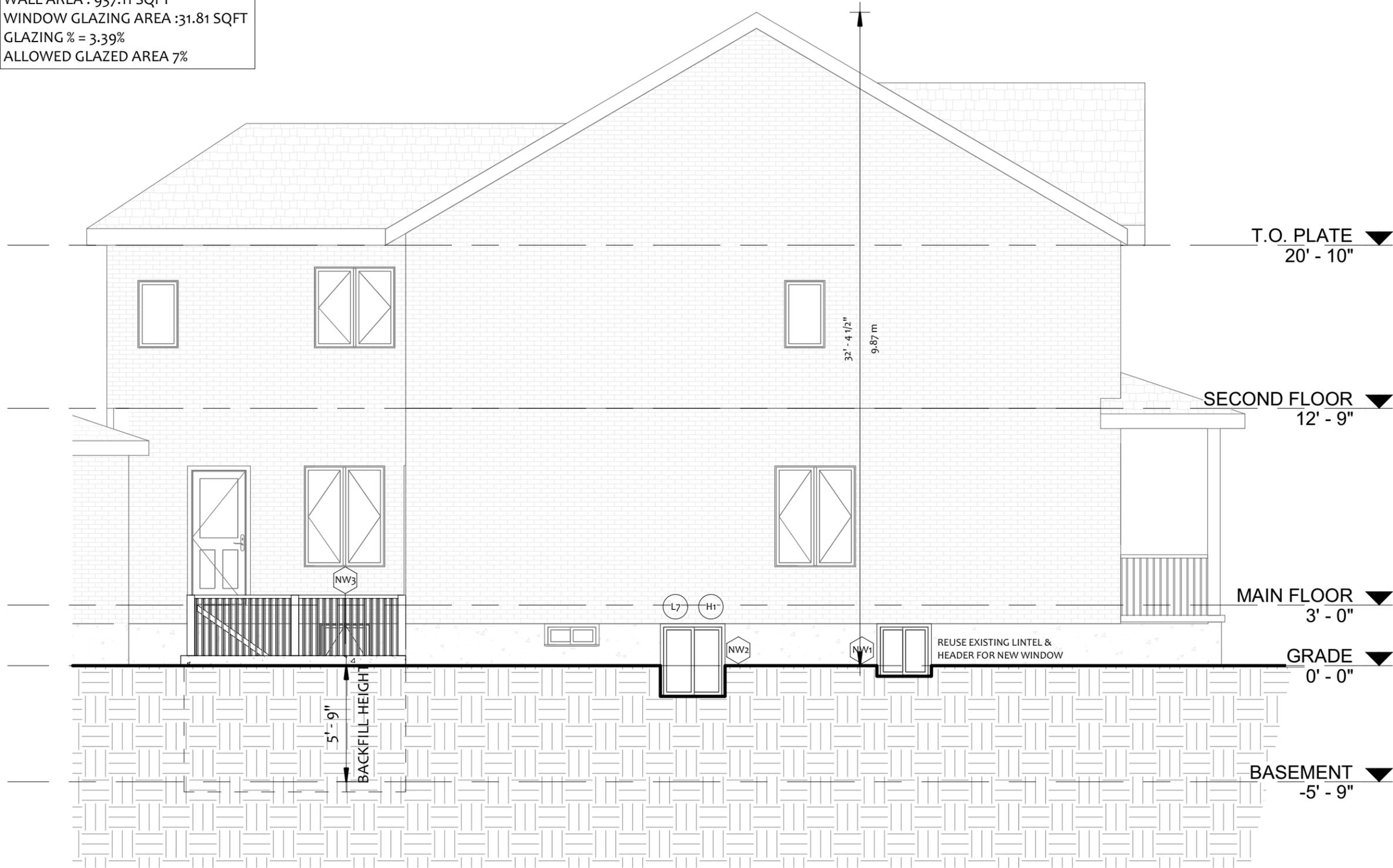
A-09
 Scale 3/16" = 1'-0"

LIMITING DISTANCE CALCULATIONS:
 SET BACK : 1.25m
 WALL AREA : 937.11 SQFT
 WINDOW GLAZING AREA :31.81 SQFT
 GLAZING % = 3.39%
 ALLOWED GLAZED AREA 7%

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 BCIN: 42582



CLIENT REVIEW	2021.05.21
REVISION	2021.05.31
ISSUED FOR PERMIT	2021.06.09

NORTH ELEVATION		A-08
Drawn by	H.R.	
Project number	21 RE500-105	
Date	2021.05.21	Scale 3/16" = 1'-0"