

Memorandum to the City of Markham Committee of Adjustment

June 15, 2022

File: A/202/21
Address: 9 Rouge River Circle – Markham, ON
Applicant: Enosakhare Omoruyi
Agent: Gregory Design Group (Shane Gregory)
Hearing Date: June 22, 2022

The following comments are provided on behalf of the East District team. The applicant is requesting relief from the following “Single Family Rural Residential – (RR1) Zone” and “Open Space – (O1) Zone” requirements under By-law 194-82, as amended, as they relate to a proposed single detached dwelling. The variances requested are to permit:

a) By-law 28-97, Section 6.2.4.6:

a maximum driveway width of 6.70 m (21.98 ft), whereas the By-law permits a maximum driveway width of 6.10 m (20.01 ft) where a garage door opening, used for motor vehicle access, faces an interior side lot line;

b) By-law 194-82, Section 8.2 d):

a maximum height of 11.80 m (38.71 ft), whereas the By-law permits a maximum height of 10.50 m (34.45 ft); and

c) By-law 194-82, Section 10.1 & 10.2:

construction of a single detached dwelling within the “Open Space – (O1) Zone”, whereas the By-law does not permit the use and prohibits construction within the “Open Space – (O1) Zone”.

PROPERTY DESCRIPTION

The 4,057.33 m² (43,674.17 ft²) subject property is located on the south side of Rouge River Circle, west of 9th Line. There is an existing one-storey detached dwelling on the property, with mature vegetation throughout. The rear yard of the subject property directly abuts open space. The majority of the property is regulated by the Toronto and Region Conservation Authority (the “TRCA”), as it is partially within the flood plain and valley corridor associated with the Rouge River Watershed.

The property is located on the west side of 9th Line, within an established residential neighbourhood comprised of a mix of one and two-storey detached dwellings. The size of the lot frontages and areas of the existing lots of record located along Rouge River Circle, Ridgevale Drive, and 9th Line (south of 14th Avenue) are substantially larger than those residential lots located on the east side of 9th Line (see Appendix “C”). Mature vegetation is a predominant characteristic of the surrounding area.

PROPOSAL

The applicant is proposing to demolish the existing one-storey dwelling, and construct a new two-storey detached dwelling with a four car garage that faces the east side lot line with a 6.70 m (21.98 ft) driveway width. The proposed dwelling would have a height of 11.80 m (38.71 ft). The applicant also seeks permission to site the dwelling partially within the Open Space zone.

OFFICIAL PLAN AND ZONING

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

The subject property is designated “Residential Low Rise” and “Greenway”. The “Residential Low Rise” designation provides for low rise housing forms including single detached dwellings. Infill development is required to meet the general intent and purpose of the Official Plan with respect to height, massing, and setbacks to ensure that the development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties, and properties along the street, while accommodating a diversity of building styles. Regard shall also be had for the retention of existing trees and vegetation, as well as the proposed width of garages and driveways.

The “Greenway” designation is intended to protect valleylands, stream corridors, sensitive groundwater features, landforms, woodlands, wetlands, and agricultural lands, while supporting agricultural activities, protection of wildlife habitat, passive recreation uses, natural heritage enhancement opportunities, and nature appreciation.

Zoning By-Law 194-82, as amended

The subject property is split zoned “Single Family Rural Residential – (RR1) Zone” and “Open Space – (O1) Zone” under By-law 194-82, as amended. While the RR1 Zone permits one single detached dwelling per lot, the O1 Zone permits the following uses:

Section 10.1 of By-law 194-82

- Golf course;
- Public or private parks, but no buildings associated with that park use;
- Athletic fields;
- Public conservation projects; and,

Section 12.4 of By-law 194-82

- (...) existing dwellings and accessory buildings within the O1 Zone, may be used, altered, enlarged or replaced subject to the requirements of the RR1 Zone, provided that such buildings or structures are located above the level of the Regional Storm Floodline as defined in Ontario Regulation 170/80, as amended.

The O1 Zone prohibits the construction of any building or structure, except for buildings and structures accessory to a permitted use and for buildings or structures which may be constructed by the Conservation Authority, and relating to a Conservation Project. The O1 Zone boundaries shall be deemed to follow the top of bank of river valley systems under the jurisdiction of the Conservation Authority.

The proposed development does not comply with the By-law requirements with respect to the maximum height, and prohibition for the construction of a detached dwelling within the O1 Zone.

Parking Standards By-law 28-97 (the “Parking By-law”)

The property is subject to the Parking By-law, and the proposed development does not comply with the Parking By-law requirement with respect to the maximum width of a primary driveway facing an interior side lot line.

ZONING PRELIMINARY REVIEW (ZPR) UNDERTAKEN

The owner has completed a ZPR on December 15, 2021 to confirm the variances required for the proposed development.

COMMENTS

The *Planning Act, R.S.O. 1990, c. P.13, as amended*, 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.

Increase in Maximum Driveway Width

The applicant is requesting that the driveway has a maximum width of 6.70 m (21.98 ft), whereas the By-law permits a maximum width of 6.10 m (20.01 ft) for a primary driveway where a garage faces an interior side lot line. This is an increase of 0.60 m (1.97 ft).

In the opinion of staff, permitting the widening of the driveway would have less of an impact as it is a large lot with sufficient space in the front yard to accommodate soft landscaping areas. Staff acknowledge that holistically, the size of the lots and areas of the front yards of the existing lots of record located within this residential subdivision, are substantially greater than the existing lot frontages of those residential lots east of 9th Line (Appendix "C").

In considering that all existing lots of record within this subdivision generally share the common characteristic of having larger lot frontages and front yard areas, and therefore, can accommodate greater landscaping areas in the front yard, staff are of the opinion that the requested variance would represent a modest increase from the By-law requirement, if approved. Staff have no objections to the requested variance.

Increase in Maximum Building Height

The applicant is requesting a maximum building height of 11.80 m (38.71 ft), whereas the By-law permits a maximum building height of 10.50 m (34.45 ft). This is an increase of 1.30 m (4.27 ft).

The By-law calculates building height using the vertical distance on a building or structure between established grade and the mean level between eaves and ridge of a pitched roof. The proposed dwelling is designed with massing principles, which includes three main rooflines that vary in height, two of which are at the peak level. The dwelling has an approximate height of 11.76 m (38.58 ft) along the west side of the dwelling, reduced to approximately 10.97 m (36.0 ft) along the east side. Both side lot lines are well screened by mature trees and vegetation. Staff are of the opinion that the requested variance is unlikely to result in adverse impacts to the neighbouring properties, and consider the requested variance to be minor in nature, and maintain the general intent and purpose of the Official Plan.

Construction in O1 Zone

The applicant is requesting permission to construct a portion of the new single detached dwelling within the “Open Space – (O1) Zone”, whereas the By-law does not permit the use and prohibits construction within the “Open Space – (O1) Zone”.

As stated earlier in this memorandum, Section 12.4 of the By-law states that:

“(...) existing dwellings and accessory buildings within the O1 Zone, may be used, altered, enlarged or replaced subject to the requirements of the RR1 Zone, provided that such buildings or structures are located above the level of the Regional Storm Floodline as defined in Ontario Regulation 170/80, as amended.”

However, the variance is required to construct a portion of the new dwelling within the O1 Zone, as Section 4.3.1 (a) of the By-law also states that:

“No lands shall be used, and no building or structure shall be erected, altered, enlarged or used except in conformity with the provision of the By-law, unless such use existed before the date of the By-law and provided it continues to be used for such purpose and also provided that such use was not contrary to any existing By-law in force on the date of passing of this By-law.”

Staff acknowledge that the majority of the existing dwelling is currently located within the O1 Zone, and that the applicant would be permitted to construct a second-storey within the limits of the current building footprint, provided the use is continued. The applicant is proposing to construct the southern half of the dwelling within the O1 Zone, partially located within the footprint of the existing dwelling. The rear (south) building wall of the dwelling would generally align with that of the current dwelling; and within the O1 Zone, a small portion of the new dwelling would be located outside of the current housing footprint.

The TRCA has advised that it is generally satisfied that the application is at a stage where outstanding requirements can be addressed by way of a future Conservation Permit process (see below comments), and staff are satisfied that the applicant has demonstrated that any impacts to the floodplain or natural environment would be minimized. Staff encourage the applicant to provide for additional native tree and shrub plantings along the existing forest edge, which may be achieved through a future Conservation Permit process.

EXTERNAL AGENCIES

TRCA Comments and Tree Preservation

The applicant has worked with the TRCA and City staff to address the TRCA’s initial comments provided on February 15, 2022, requesting further information and documentation from the applicant, and on February 28, 2022 outlining criteria for development.

On April 25, 2022, the applicant submitted revised plans showing a septic design split between the front and rear yard, and on May 31, 2022, the TRCA provided revised comments indicating general satisfaction with the proposed development and septic design following receipt of new documentation submitted by the applicant. However, the TRCA notes that further review will be required to ensure that all works avoid the treed

area north, west, and south of the septic system, and that the location of the flood line follows the correct elevation. The TRCA is satisfied that these requirements can be fulfilled through a conservation permit process.

To ensure the works will avoid the treed areas noted above, staff recommend that the Committee adopt the associated conditions in any event of approval.

Staff note that property owners are required to apply for and obtain a tree permit from the City for any proposed injury to, or removal of any trees with a diameter at breast height (DBH) of 0.20 m (0.66 ft), or more. Following any approval of this minor variance application, further mitigation may be required to ensure sufficient tree protection zone(s) are provided to maintain the appropriate protection of certain trees.

PUBLIC INPUT SUMMARY

No written submissions were received as of June 15, 2022. 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 requested variances relating to an increase in maximum building height and maximum driveway width meets the four tests. Staff consider the proposed location of the new dwelling to be generally consistent with the footprint of the existing dwelling, which is currently located within the O1 Zone; yet note that the construction of new dwellings is prohibited in this zone. Should the Committee see merit in approving this application; staff offer the subsequent conditions of approval. Staff recommend that the Committee consider public input, and satisfy themselves that the four tests are met. 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.

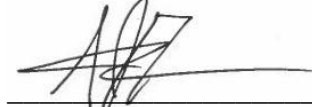
APPENDICES

Appendix "A" – Conditions of Approval

Appendix "B" – Plans

Appendix "C" – Aerial Map: Parcel Fabric

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



Stacia Muradali, Development Manager, East District

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/202/21

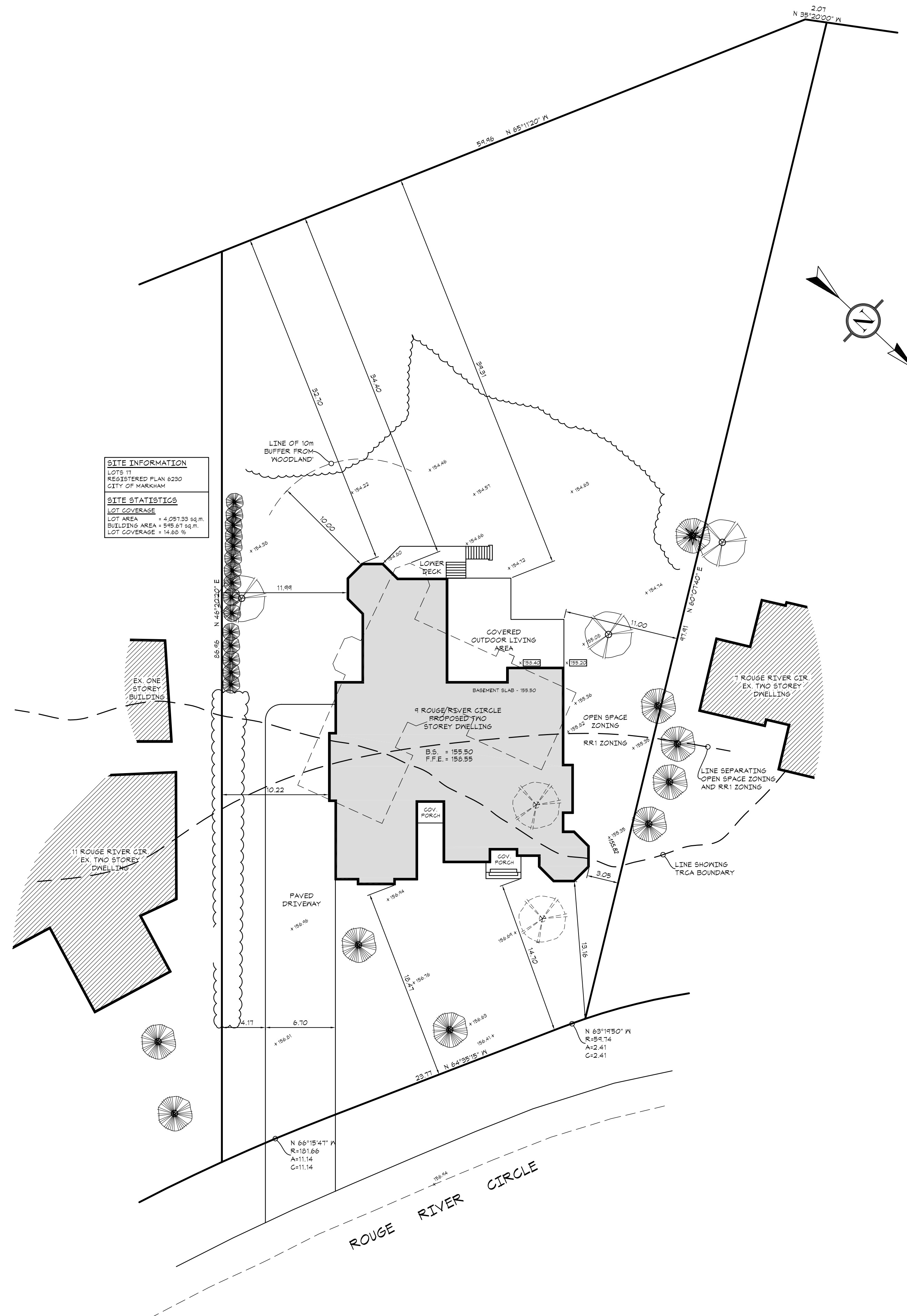
1. The variances apply only to the proposed development for as long as it remains.
2. That the variances apply only to the proposed development, in substantial conformity with the plans attached as Appendix "B" to this Staff Report, and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his or her satisfaction.
3. Submission of a Tree Assessment and Preservation Plan, prepared by a qualified arborist in accordance with the City's Streetscape Manual (2009), as amended, to be reviewed and approved by the Director of Planning and Urban Design, or their designate, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design, or their designate.
4. That tree replacements be provided and/or tree replacement fees be paid to the Director of Planning and Urban Design, or their designate, if required, in accordance with the Tree Assessment and Preservation Plan, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design, or their designate.
5. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site, including street trees, in accordance with the City's Streetscape Manual (2009), as amended, and inspected by the Tree Preservation Technician, or their designate, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design, or their designate.
6. That the applicant obtains a Conservation Permit from the TRCA, and satisfies the requirements of the TRCA as indicated in their e-mail dated May 31, 2022, and that the Secretary-Treasurer, receives written confirmation that this condition has been fulfilled to the satisfaction of the TRCA.

CONDITIONS PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX "B"
PLANS TO BE ATTACHED TO ANY APPROVAL OF FILE A/202/21



SITE INFORMATION
 LOTS 11
 REGISTERED PLAN 8230
 CITY OF MARKHAM

SITE STATISTICS
 LOT COVERAGE
 LOT AREA = 4,097.33 sq.m.
 BUILDING AREA = 545.61 sq.m.
 LOT COVERAGE = 14.80 %

GENERAL NOTES:

ALL CONSTRUCTION IS TO CONFORM TO SECTION "4" OF THE ONTARIO BUILDING CODE (LATEST EDITION).

CONTRACTOR SHALL CHECK AND VERIFY ALL NOTES AND DIMENSIONS.

DO NOT SCALE DRAWINGS.

OWNER / CONTRACTOR / DESIGNER IS RESPONSIBLE TO RE-CLAIM AND DESTROY ALL PREVIOUS AND UN-REVISED COPIES OF THIS DRAWING.

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BUILDING PERMITS TO BE OBTAINED PRIOR TO COMMENCING CONSTRUCTION.

REVISIONS AND DATA	DATE

I review and take responsibility for the design work on behalf of a firm registered under subsection 3.2.4 of Division C, of the Building Code. I am qualified, and the firm is registered, in the appropriate classes/categories.

Individual B.C.I.N. - 25025
 Firm B.C.I.N. - 30506

Russ Gregory
 NAME SIGNATURE

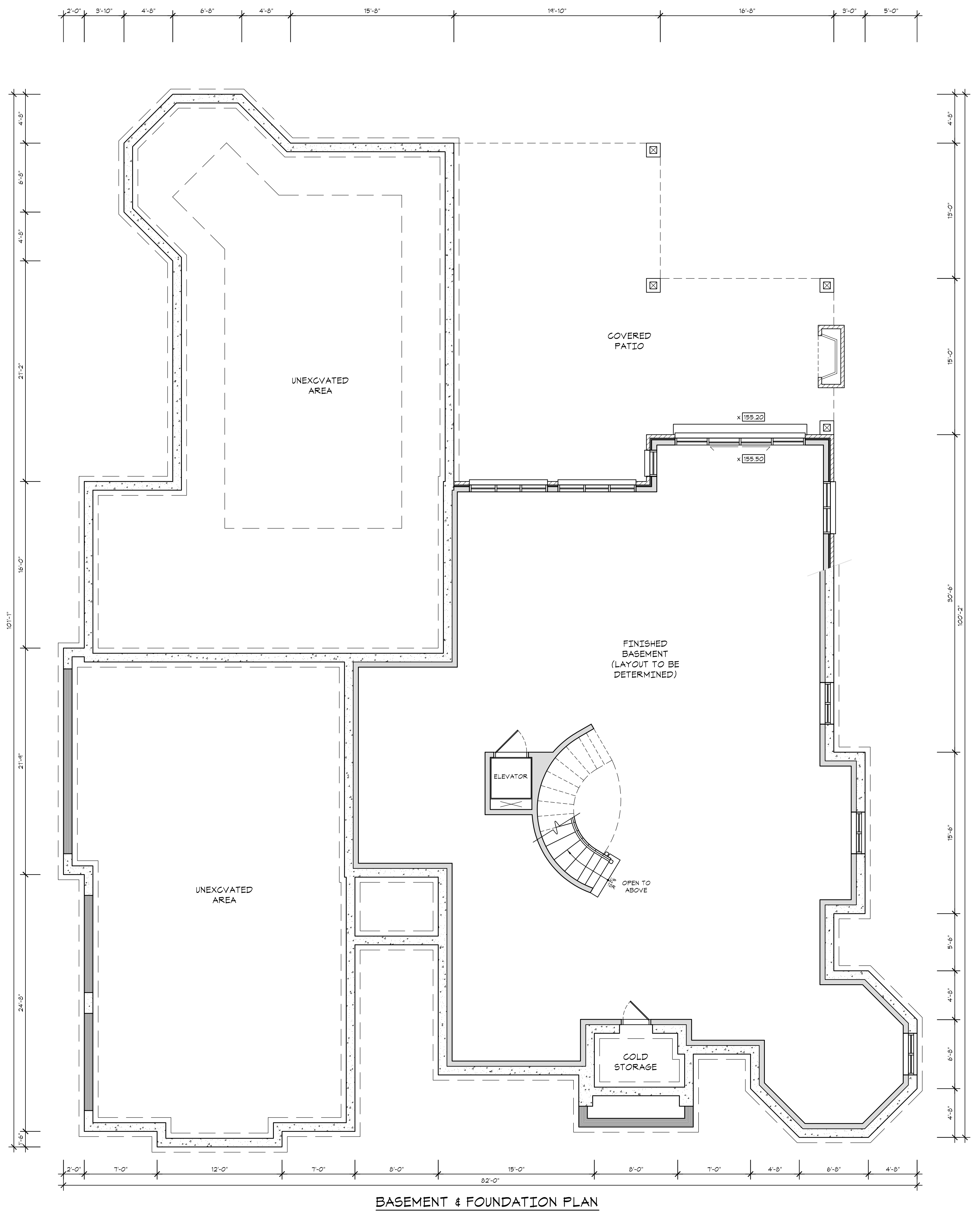
PROJECT TITLE

PROPOSED HOUSE DESIGN
9 ROUGE RIVE CIRCLE
CITY OF MARKHAM

THE GREGORY DESIGN GROUP

16 CHURCH STREET
 MARKHAM, ONTARIO L3P 2L6
 416-520-0978
 shane@gregorydesigngroup.net

SCALE 1:250	DATE 06/03/22
PROJECT NUMBER 2317-21	SHEET NUMBER SP-1
DRAWN BY S.Gregory	CHECKED BY R.G.



BASEMENT & FOUNDATION PLAN

GENERAL NOTES:
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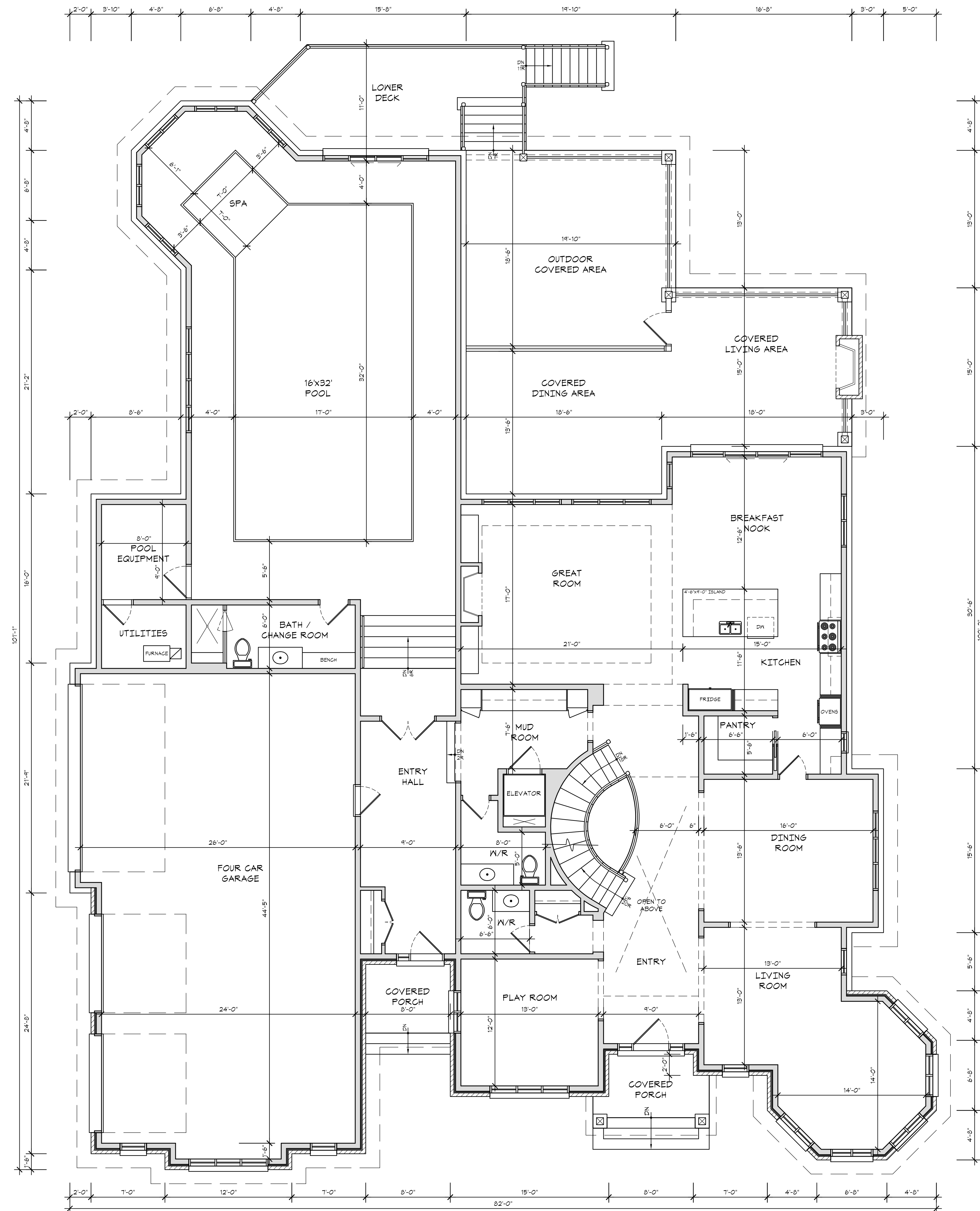
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SCALE 3/16"=1'-0"	DATE 11/08/21
PROJECT NUMBER 2317-21	SHEET NUMBER A-1
DRAWN BY S.Gregory	CHECKED BY R.G.



GROUND FLOOR PLAN

FLOOR AREA = 4,188 sq.ft.
 BUILDING AREA = 6,412 sq.ft.
 (INC. GARAGE & COV. PORCHES)

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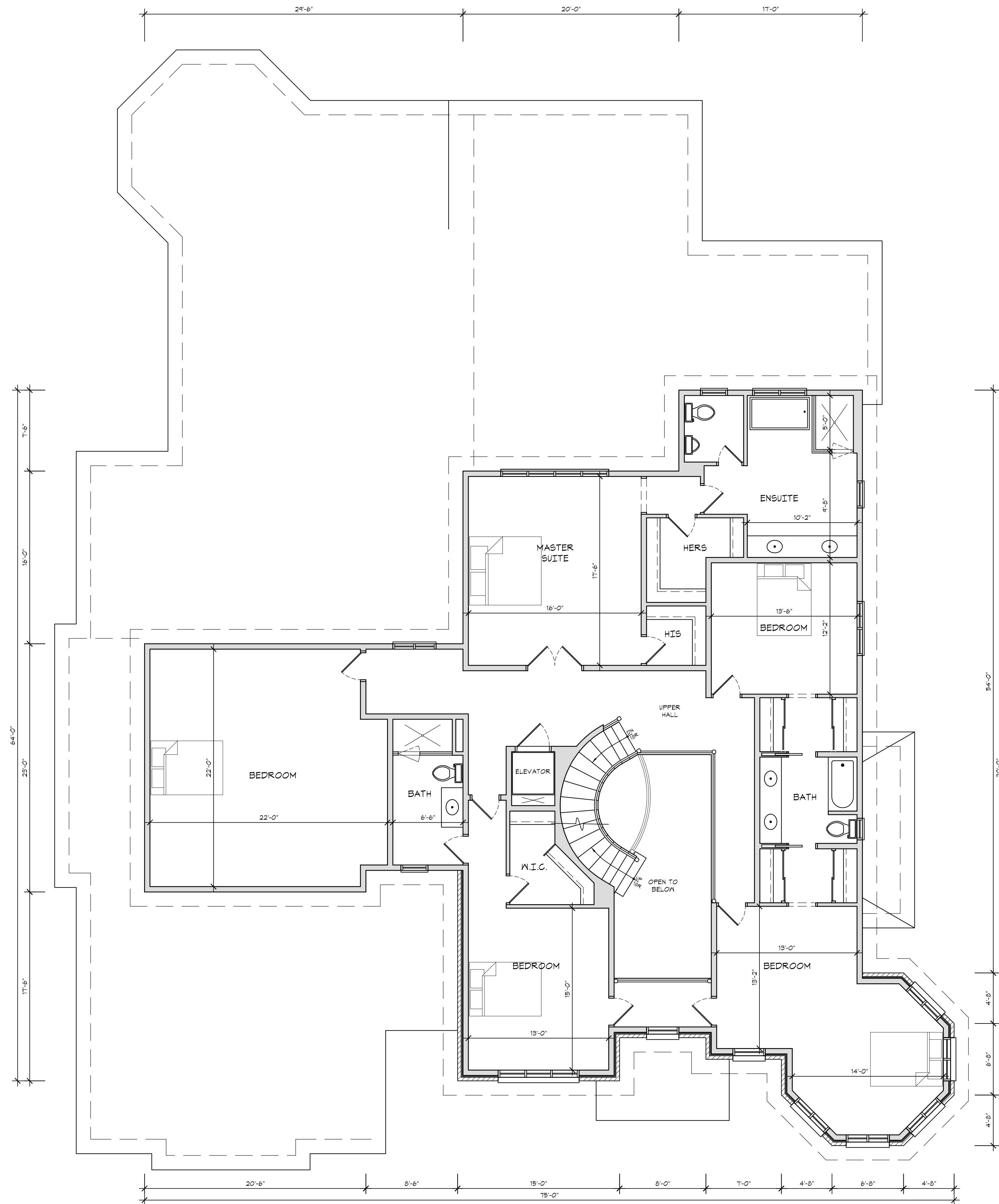
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CITY OF MARKHAM

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SCALE 3/16"=1'-0"	DATE 11/08/21
PROJECT NUMBER 2317-21	SHEET NUMBER A-2
DRAWN BY S.Gregory	CHECKED BY R.G.



SECOND FLOOR PLAN
 FLOOR AREA = 2,990 sq.ft.
 OPEN SPACE = 244 sq.ft.
 TOTAL FLOOR AREA = 2,746 sq.ft.

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SCALE 3/16"=1'-0"	DATE 11/08/21
PROJECT NUMBER 2317-21	SHEET NUMBER A-3
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FRONT ELEVATION



RIGHT SIDE ELEVATION

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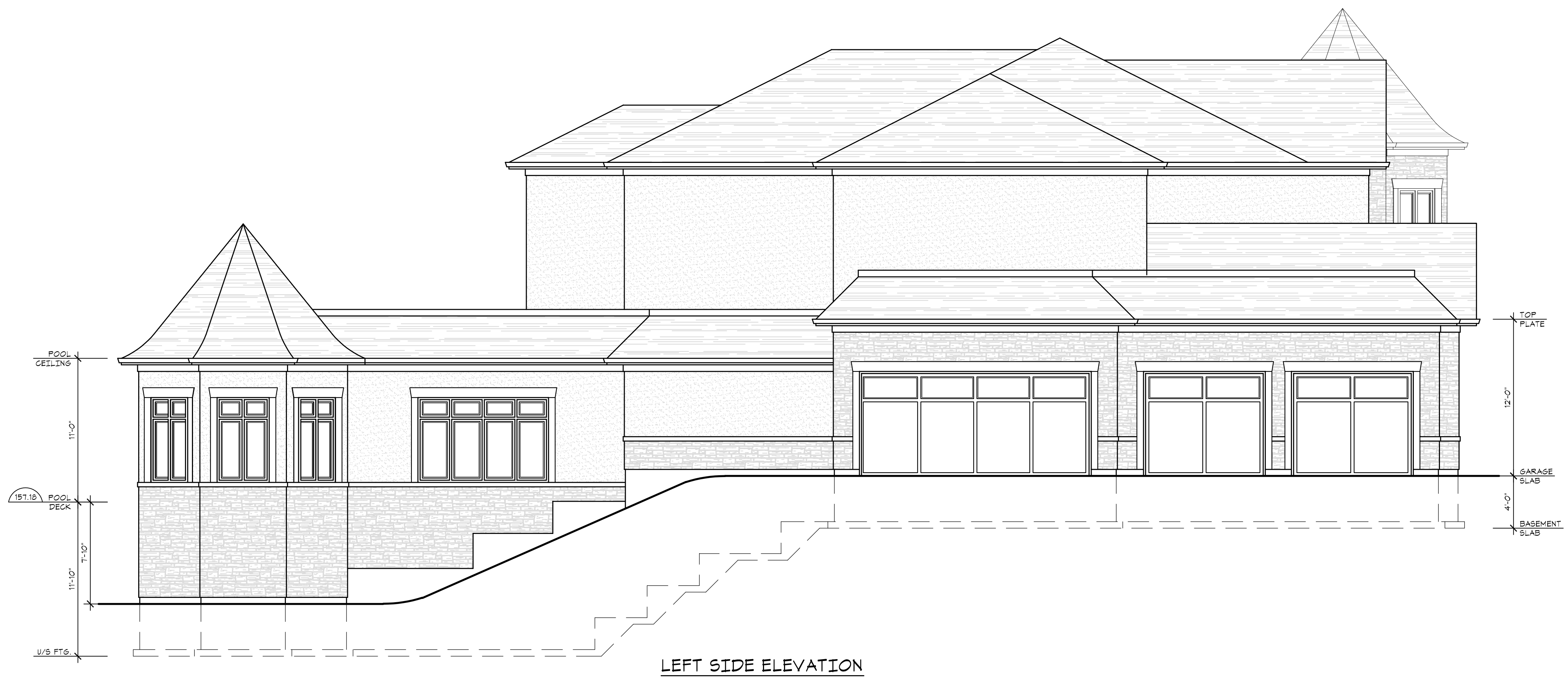
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SCALE 3/16"=1'-0"	DATE 12/06/21
PROJECT NUMBER 2317-21	SHEET NUMBER A-5
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REAR ELEVATION



LEFT SIDE ELEVATION

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DRAWN BY S.Gregory	CHECKED BY R.G.

APPENDIX "C"
AERIAL MAP: PARCEL FABRIC



Legend

- Parcel
- Parks
 - Under Development
 - <all other values>
- Ontario Road Network
- Ontario Water Body

1: 6,000



304.8 0 152.40 304.8 Meters

DISCLAIMER: The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments. If you have questions or comments regarding the data displayed on this map, please email cgis@markham.ca and you will be directed to the appropriate department.

Notes

Subject Property denoted by yellow circle