

Memorandum to the City of Markham Committee of Adjustment

July 13, 2021

File: A/042/21
Address: 8 Middleton Court, Markham
Applicant: Rui Yan Situ
Agent: Rui Yan Situ
Hearing Date: Wednesday July 21, 2021

The following comments are provided on behalf of the Central Team:

The applicant is requesting relief from the following requirements of By-law 250-77, R8 as amended:

a) Section 6.1:

to permit an accessory dwelling unit, whereas the By-law permits no more than one dwelling unit on a lot.

BACKGROUND

Property Description

The approximately 527 m² (5,672.6 ft²) subject property is located on the west side of Middleton Court, which is east of Warden Avenue and north of Steeles Avenue East (see Appendix “A” – Aerial Photo). The property is located within an established residential neighbourhood comprised of a mix of one and two-storey detached dwellings.

There is an existing 274.15 m² (2,950.92 ft²) two-storey detached dwelling on the property, which according to assessment records was constructed in 1978. Mature vegetation exists on the property including one large mature tree in the front yard.

Proposal

The applicant is requesting permission to legalize an existing secondary suite (accessory dwelling unit) in the basement of the detached dwelling (see Appendix “B” – Plans) that was built without a permit. The secondary suite has a direct and separate access via a walkout within the attached garage and provided by an existing door the south side of the dwelling. No changes are being proposed to the exterior of the dwelling or the property.

The applicant had initially applied for a minor variance under Section 5.2.6 to By-law 90-81, relating to a door that faces the interior side lot line to be located 0.61 m (2 ft.) from the interior side lot line, whereas the by-law requires minimum of 1.2 m (3.94 ft.). The applicant was notified by planning staff that the subject property falls under By-law 250-77 (see Appendix “C” – Zoning Map) and that a

setback of 2.66 m (8.73 ft.) is already provided and meets the By-law requirements. As such, the side yard setback variance has been removed.

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* to require Official Plans to contain policies providing for two residential units in detached, semi-detached and row houses, as well as permitting a residential unit in ancillary structures to a detached house, semi-detached house or rowhouse. Under this legislation, “second suites” are now referred to as “additional residential units”, and the terms are used synonymously in this memorandum.

Provincial Policy Statement, 2020

Section 1.4.3 of the *Provincial Policy Statement, 2020*, 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, 2019 (Growth Plan, 2019)

Section 2.1.4 (c) of the Growth Plan, 2019 requires municipalities to provide a diverse range and mix of housing option including second units to support complete communities.

Official Plan and Zoning

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

The City’s Official Plan designates the subject property “Residential Low Rise”, which provides for low rise housing forms including single 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 250-77

The subject property is zoned “Residential Eight” (R8) under By-law 250-77, as amended, which permits no more than one single family detached dwelling or semi-detached dwelling on one lot.

Parking Standards By-law 28-97

The subject property is subject to the City of Markham Parking Standards By-law 28-97. The City’s Parking Standards By-law requires two parking spaces to be provided for the principal dwelling unit, plus one additional space for an accessory dwelling unit or secondary suite. The proposed use increases the parking requirement for the site to a total of three parking spaces.

Zoning Preliminary Review (ZPR) Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. It is the owner’s responsibility to ensure that the application has accurately identified all the variances to the Zoning By-law required for the proposed development. If the variance request in this application contains errors, or if the need for additional variances is identified during the Building Permit review process, further variance application(s) may be required to address the non-compliance.

COMMENTS

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

- a) The variance must be minor in nature;

- b) The variance must be desirable, in the opinion of the Committee of Adjustment, 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 Suites

The City of Markham's Fire and Emergency Services Department have no objections provided the secondary suite complies with Building and Fire Codes. Should this application be approved, the applicant will be required to obtain a building permit that ensures the secondary suite will be in compliance with Building and Fire Code regulations, and that the applicant registers their secondary suite with the Fire and Emergency Services Department prior to occupancy of the unit.

Staff note that the City's Parking Standards By-law requires two parking spaces to be provided for the principal dwelling unit, plus one additional space for an accessory dwelling unit or secondary suite. Although a legal parking space has been removed within the existing two-car garage to accommodate the interior basement walkout, the submitted plans indicate that three parking spaces can be accommodated with two parking spaces on the driveway and one space within the existing garage.

The City of Markham is committed to promoting affordable and shared housing opportunities. Secondary suites help the City increase the supply of different housing forms and provide support to achieve its affordable housing target required by the Province. Planning staff are of the opinion that the application meets the criteria under Section 8.13.8 of the Official Plan for the establishment of a secondary suite and therefore, have no objections.

PUBLIC INPUT SUMMARY

No written submissions were received as of July 13, 2021. It is noted that additional information may be received after the writing of the 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*, R.S.O. 1990, c. P.13, as amended, and are of the opinion that the variance request meets the four tests of the Planning Act and have no objection. Staff recommend that the Committee consider public input in reaching a decision.

The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the zoning by-law, and how they satisfy the tests of the Planning Act required for the granting of minor variances.

Please see Appendix "D" for conditions to be attached to any approval of this application.

PREPARED BY:



Melissa Leung, Planner I, Central District

REVIEWED BY:



Dimitri Pagratis, Senior Planner, Central District

APPENDICES

- Appendix "A" – Aerial Photo
- Appendix "B" – Plans
- Appendix "C" – Zoning Map
- Appendix "D" - Conditions

APPENDIX “D”

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/042/21

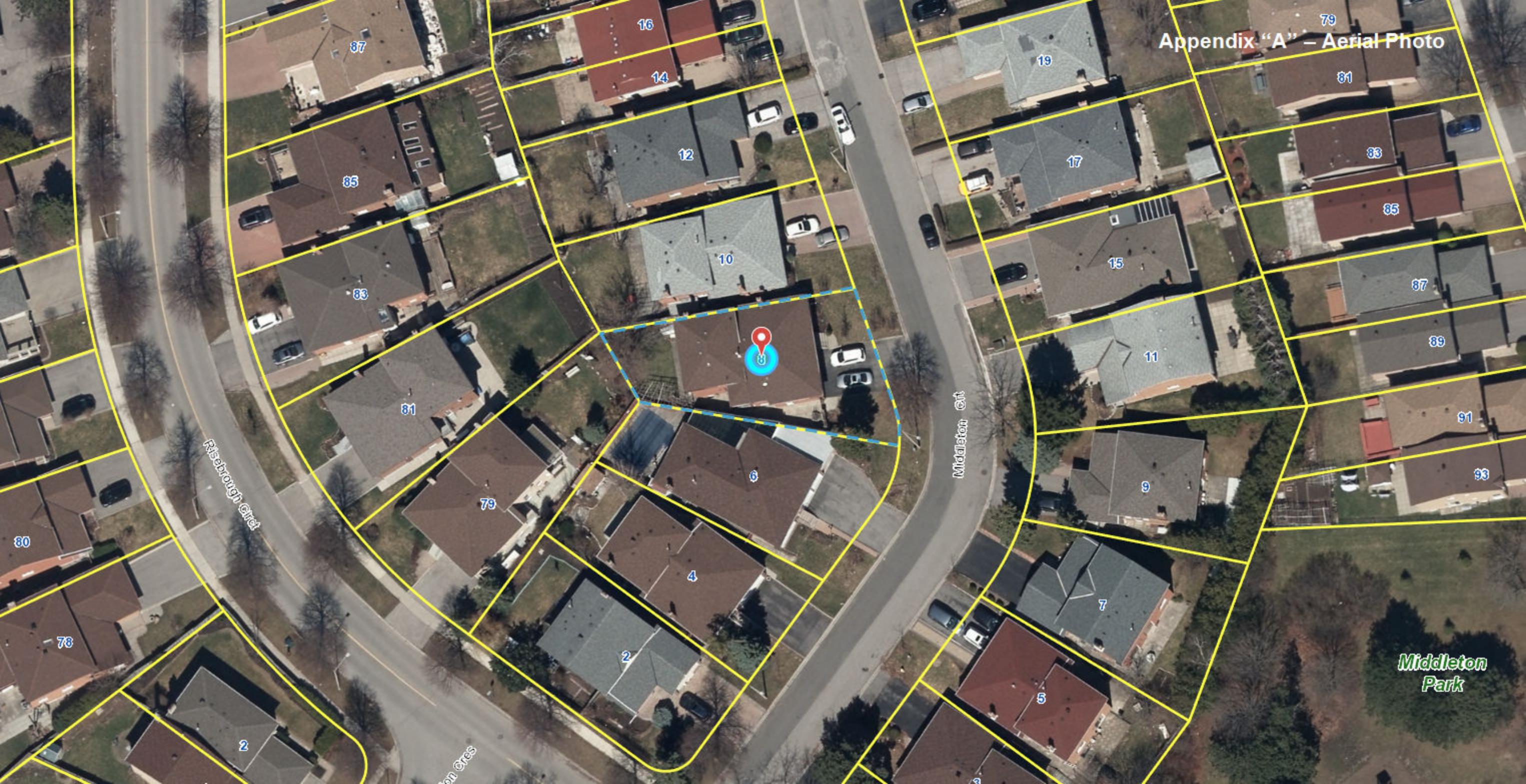
1. The variances apply only to the proposed development as long as it remains.
2. That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as ‘Appendix B’ to this Staff Report and stamped by the City of Markham on July 13, 2021, and that the Secretary-Treasurer 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:



Melissa Leung, Planner I, Central District

Appendix "A" - Aerial Photo



Risebrough Ct

Middleton Ct

Middleton Park

37

16
14

19

79

81

85

12

17

83

83

10

15

85

81

10

11

87

79

6

9

89

80

4

91

78

2

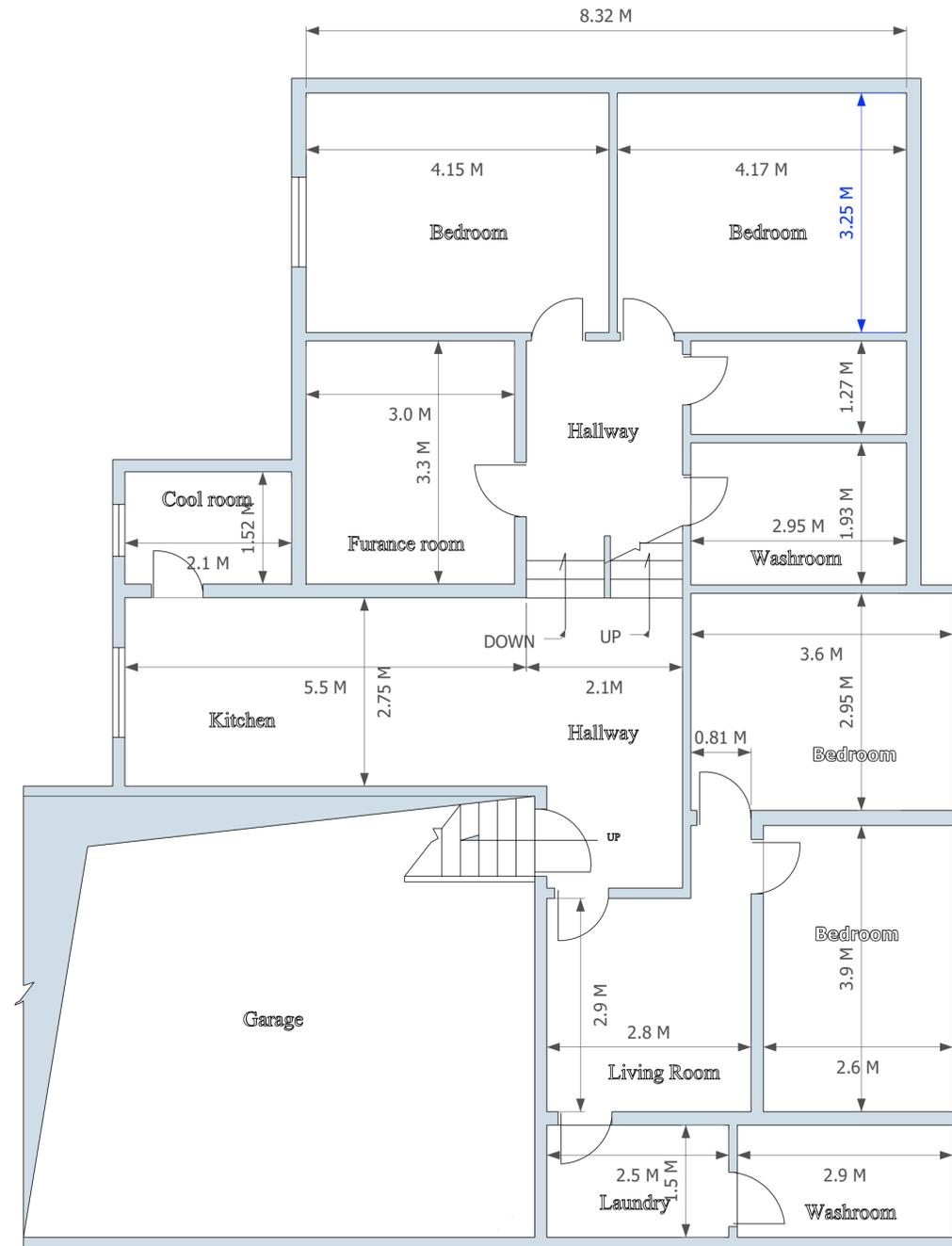
7

93

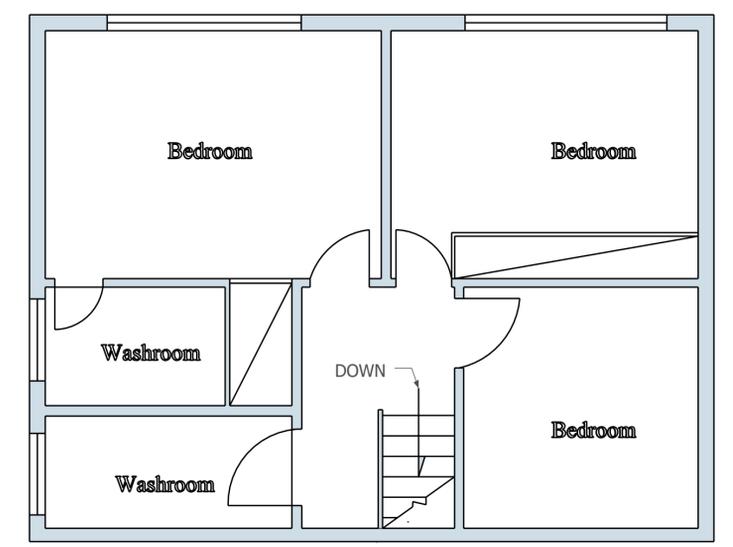
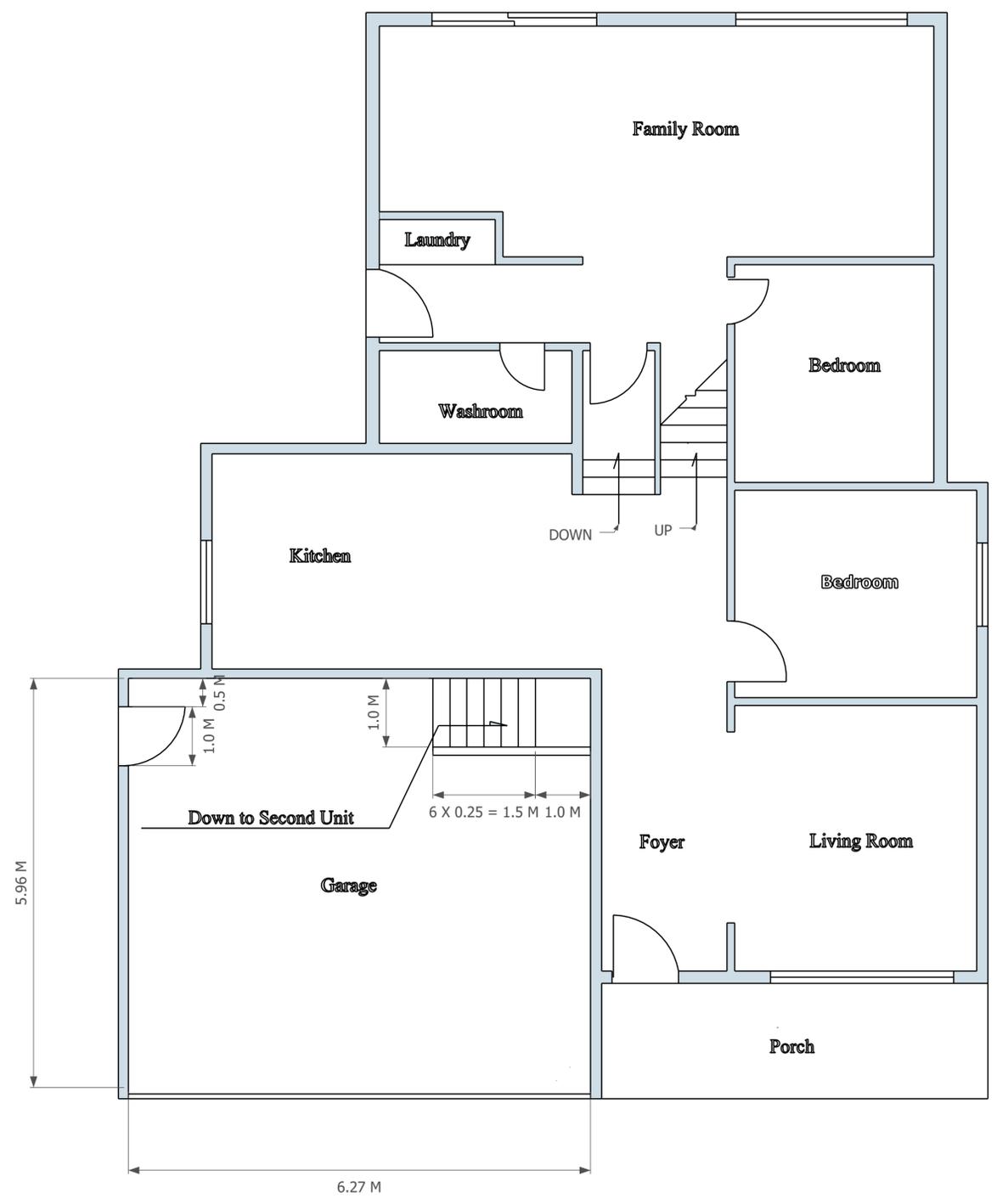
2

5

Don Cres



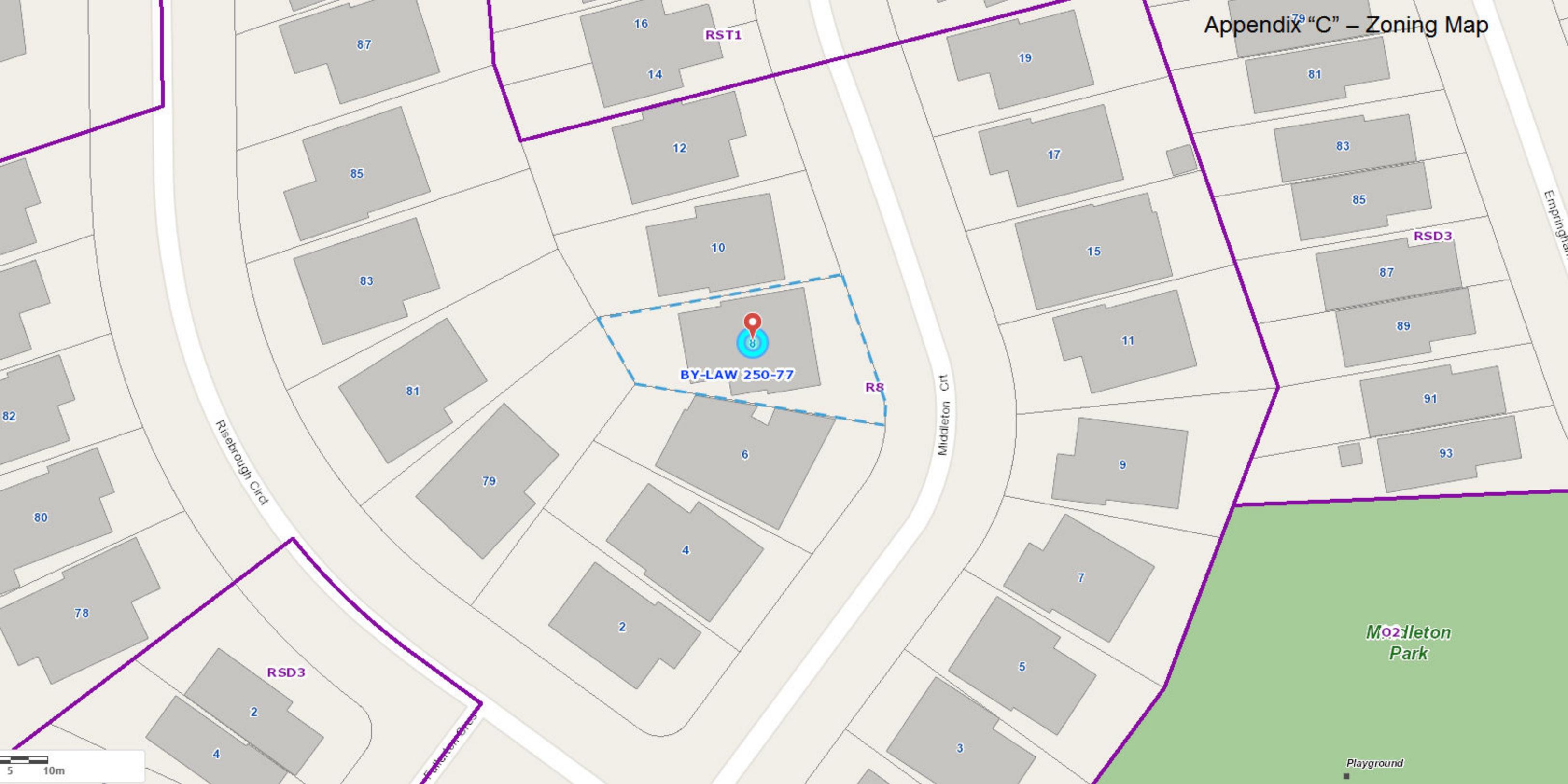
DRN BY	LOCATION	DWG No	NORTH ARROW
DATE	DESCRIPTION		
SCALE 3/16" = 1'-0"			
EXISTING BASEMENT FLOOR PLAN			



DRN BY	LOCATION	DWG No	NORTH ARROW
DATE	DESCRIPTION Main Floor Plan Second Floor Plan		
SCALE 3/16" = 1'-0"			



DRN BY	LOCATION	DWG No	NORTH ARROW
DATE	DESCRIPTION Site Plan		
SCALE 1:500			



Playground