

Memorandum to the City of Markham Committee of Adjustment

December 31, 2019

File: A/153/19
Address: 15 Almira Avenue, Markham
Applicant: Imperium Engineering Inc.
Agent: (none)
Hearing Date: Wednesday February 05, 2020

The East Team provides comments below.

The Applicant requests relief from the following Residential Two Exception 5 (R2*5) zone requirements of By-law 177-96, as amended, as they relate to a proposed accessory dwelling unit in the basement of an existing single detached dwelling on the subject property:

a) Section 7.5.3 (c):

one (1) accessory basement dwelling unit, whereas the By-law does not permit the accessory dwelling unit to be located within the main building on the lot;

b) Parking By-law 28-97 as amended, Section 3.0, Table A (G):

Zero (0) additional parking spaces for the accessory basement dwelling unit, whereas the By-law requires one (1) additional parking spaces per accessory dwelling unit;

BACKGROUND

Property Description

The 275.8 m² (2968.68 ft²) subject property is located on the South side of Almira Road, South of 16th Avenue and East of 9th Line, and is within an established residential neighbourhood comprised of townhouses, semi-detached and single-detached dwellings. There is an existing two-storey single detached dwelling on the subject property that was constructed in 2000, according to assessment records. The property is lane based in which vehicle access and parking is provided via a rear lane to a one-storey, detached garage that can accommodate two cars. Also an existing side entrance is located on the west side of the dwelling which will provide access to the proposed basement apartment unit.

Proposal

The applicant requests a variance to permit a proposed accessory dwelling unit in the basement of the existing single detached dwelling, as shown in Appendix A. The proposal includes new egress window at the rear and left side of the building. No other changes are proposed to the dwelling's exterior or the subject property.

Provincial Policies

Strong Communities through Affordable Housing Act - Province of Ontario

In 2011, the Strong Communities through Affordable Housing Act amended various sections of the *Planning Act* to facilitate the creation of second units by:

- requiring municipalities to establish Official Plan policies and Zoning By-law provisions allowing secondary units in detached, semi-detached and row houses, as well as in ancillary structures

- providing authority for the Minister of Municipal Affairs and Housing to make regulations authorizing the use of, and prescribing standards for, second units.

Under the *Strong Communities through Affordable Housing Act*, 'Second Units' also known as secondary suites are defined as "self-contained residential units with kitchen and bathroom facilities within dwellings or within structures accessory to dwellings."

Official Plan and Zoning

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

The 2014 Official Plan designates the subject property "Residential – Low Rise", which provides for low rise housing forms including single-detached dwellings. The definition of a "Secondary Suite" in the 2014 Official Plan is "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 8.13.8 states that it is the policy of Council that in considering an application to amend the zoning by-law to permit the establishment of a secondary suite where provided for in the 2014 Official Plan, Council shall be satisfied an appropriate set of development standards are provided 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

The proposed secondary suite is a permitted use in the 2014 Official Plan.

Zoning By-Law 177-96

The subject property is zoned Residential Two Exception 5 (R2*5) under By-law 177-96, as amended, which permits single detached dwellings and other forms of low rise housing. Exception 5 provides area specific development standards which include provisions for detached private garages, and minimum setbacks to parking pads. This section also permits one accessory unit, providing it is accessory to a single detached or semi-detached dwelling on the same lot, and is not within the main building. The applicant is therefore proposing variance to permit an accessory unit in the basement of the main building.

As part of the City initiated zoning by-law consolidation project, Council recently considered the issue of second suites within the City. On May 29th, 2018, Council voted not to permit second suites as of right in any single detached, semi-detached, or townhouse dwelling. The proposed secondary suite is not a permitted use and therefore does not comply with the by-law.

Parking Standards By-law 28-97

Parking Standards By-law 28-97, as amended, requires two parking spaces for the single detached dwelling, which are provided in the detached garage located on the rear lane. An additional space is also required for an accessory unit, however there is

insufficient space on the subject property to provide a parking pad. Consequently the applicant is requesting a variance to not require parking for the accessory unit.

Applicant's Stated Reason(s) for Not Complying with Zoning

According to the information provided by the applicant, the reason for not complying with Zoning is, "No parking space on the driveway."

Zoning Preliminary Review (ZPR) Undertaken

The owner has completed a Zoning Preliminary Review (ZPR) on October 15th, 2019 to confirm the variances required for the proposed development.

COMMENTS

The *Planning Act* states that the following 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.

Proposed Secondary Suites

The City of Markham is committed to promoting affordable and shared housing opportunities. Secondary suites help the City increase the availability of affordable 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 2014 Official Plan for the establishment of a secondary suite. Staff also note that the zoning by-law permits one accessory unit on the subject property, providing it is not located within the main building. Staff have not objected to the requested variance to permit an accessory unit in the basement of the existing single detached dwelling.

Should this application be approved, the applicant will be required to obtain a building permit to ensure the secondary suite will be in compliance with Building Code and Fire Code regulations.

Reduced Parking Spaces

As noted, Parking Standards By-law 28-97 requires two parking spaces for the detached unit and an additional space for the accessory dwelling unit or secondary suite. The existing two-car garage currently provides two parking spaces to meet the requirements for the detached unit.

Based on the configuration of the subject property, including hydro transformer adjacent to the detached garage, there is insufficient space for a parking pad. Staff are of the opinion that the request to reduce parking to facilitate the proposed basement accessory unit will be of minimal impact to the site and surrounding properties. Any perceived parking issue may be considered "self-regulating", as the unit would only be of interest to a tenant that does not require a parking space, in the event that both parking spaces are required for use by the owner of the dwelling. Staff therefore do not have concerns with the requested variance to reduce parking for the accessory dwelling unit.

The applicant should be aware that no overnight parking is permitted on City of Markham public streets unless an overnight parking pass or exemption is obtained through the By-law and Licensing Department.

Prior to occupancy of the accessory dwelling unit, the home is required to be registered as a two-unit house with the City of Markham Fire & Emergency Services Department.

PUBLIC INPUT SUMMARY

As of January 27th, 2019, the City received one letter expressing concern over the proposed basement apartment without provision of an additional parking space. Any additional public input received after the writing of the report, will be provided by the Secretary-Treasurer at the Committee of Adjustment 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 requests meet 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 "B" for conditions to be attached to any approval of this application.

PREPARED BY:



Justin Mott, Planner, Zoning and Special Projects

REVIEWED BY:



Stephen Corr, Senior Planner, East District

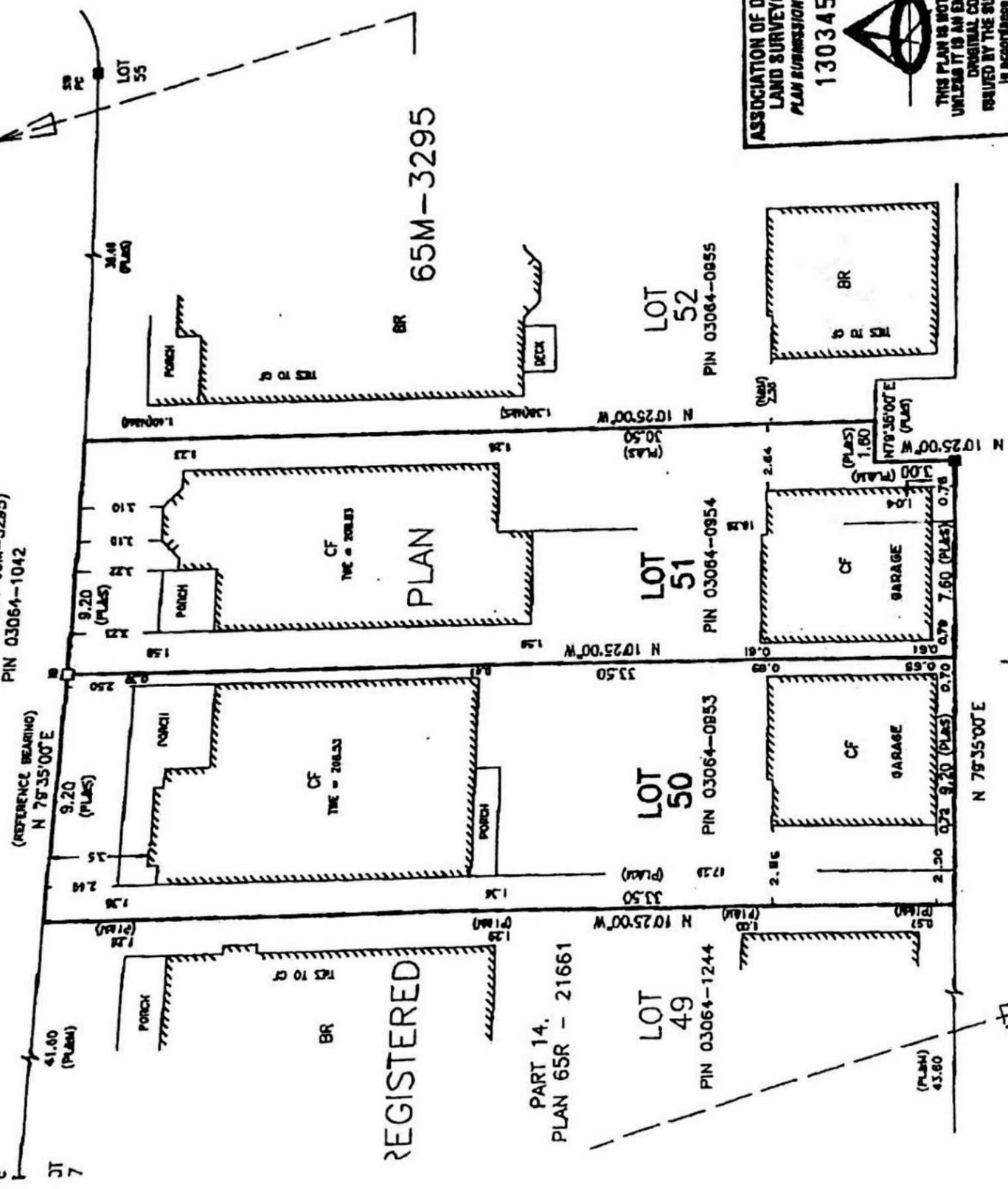
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PLAN OF
 REGISTERED PLAN 65M-3295
 TOWN OF MARKHAM
 REGIONAL MUNICIPALITY OF YORK
 SCALE 1:200
 SALNA CO. LTD., 2000

METRIC
 DISTANCES SHOWN ON THIS
 PLAN ARE IN METRES AND
 CAN BE CONVERTED TO
 FEET BY DIVIDING BY 0.3048



ALMIRA AVENUE
 (BY REGISTERED PLAN 65M-3295)
 PIN 03064-1042



REGISTERED

PART 14,
 PLAN 65R - 21661

LANE Y
 (BY REGISTERED PLAN 65M-3295)
 PIN 03064-1048

**ASSOCIATION OF ONTARIO
 LAND SURVEYORS
 PLAN SUBMISSION FORM
 1303453**

THIS PLAN IS NOT VALID
 UNLESS IT IS AN ENDOURED
 ORIGINAL COPY
 REVIEWED BY THE SURVEYOR
 IN ACCORDANCE WITH
 REGULATION 1028, SECTION 28(1).

REVISION OF NEW GARAGES	
LOT	DATE
50	SEPT. 26, 2000
51	SEPT. 26, 2000

P. SALNA COMPANY LIMITED
 (BY REGISTERED PLAN 65M-3295)
 PIN 03064-1048

PART 2) SURVEY REPORT
 REGISTERED EASEMENTS AND/OR RIGHT OF WAYS:
 NO EASEMENTS OR RIGHT OF WAYS ARE REGISTERED
 COMPLIANCE WITH MUNICIPAL ZONING BY-LAWS:
 THIS PLAN DOES NOT CERTIFY COMPLIANCE WITH ZONING
 BY-LAWS.

NO MONUMENTS ARE BY
 MARKHAM MUNICIPALITY LTD.-O.L.S.
 OTHERWISE SHOWN

REPORT WAS PREPARED FOR
 HUNTER HOMES (CORNWELL) INC.
 THE UNDERSIGNED ACCEPTS NO
 LIABILITY FOR USE BY
 OTHER PARTIES.

- AND LEGEND**
- YES SURVEY MONUMENT PLANTED
 - YES SURVEY MONUMENT FOUND
 - YES STANDARD IRON BAR
 - YES IRON BAR
 - YES WITNESS
 - YES ORIGIN UNKNOWN
 - YES P.SALNA COMPANY LTD., O.L.S.
 - YES SET
 - YES MEASURED
 - YES NOTES BY P.SALNA CO.LTD., O.L.S.
 - YES POINT OF CURVATURE
 - YES POINT OF REVERSE CURVATURE
 - YES CONCRETE FOUNDATION WALLS
 - YES TOP OF WALL ELEVATION
 - YES GARAGE SILL ELEVATION
 - YES REGISTERED PLAN 65M-3295
 - YES 1 STOREY BRICK DWELLING
 - YES FOUND TEMPORARY WITNESS MONUMENTS
 - YES SALNA CO.LTD., O.L.S.
 - YES PLAN 65R-21661

NO PERSON MAY COPY, REPRODUCE, DISTRIBUTE OR ALTER THIS PLAN IN
 WHOLE OR IN PART WITHOUT THE WRITTEN PERMISSION OF P. SALNA O.L.S.

SURVEYOR'S CERTIFICATE

- I CERTIFY THAT:
- THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE
 WITH THE SURVEYS ACT. THE SURVEYORS ACT AND THE LAND
 TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
 - THE SURVEY WAS COMPLETED ON THE
 13th DAY OF JULY, 2000

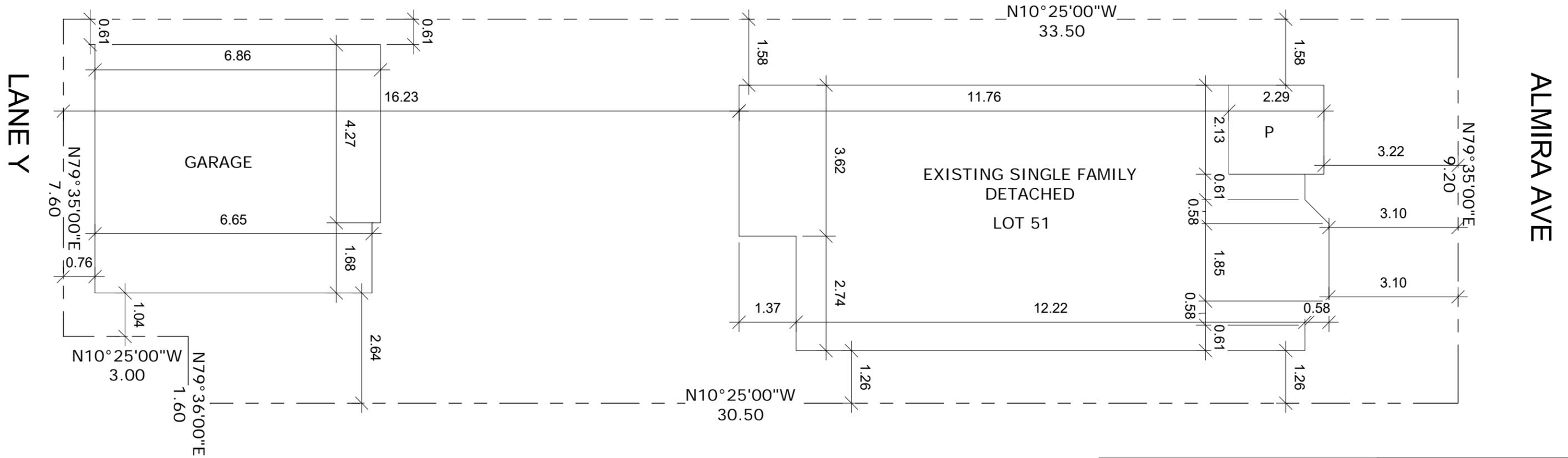
JULY 18, 2000
 FUZAIL A. SIDDIQI
 ONTARIO LAND SURVEYOR

BEARING NOTE:
 BEARINGS ARE ASTROMONOMIC AND ARE
 REFERRED TO THE SOUTHERLY LIMIT OF
 ALMIRA AVENUE AS SHOWN ON REGISTERED
 PLAN 65M-3295 HAVING A BEARING OF
 N79°35'00"E

P.SALNA CO.LTD.
ONTARIO LAND SURVEYORS
 10225 YONGE STREET, RICHMOND HILL, ONT.
 L4C 3B2
 PHONE:(905)884-3988 FAX:(905)737-7516

DRAWN BY: MAP
 CHECKED BY: SRI
 CAD FILE: 03064-1048
 FILE: 09-35

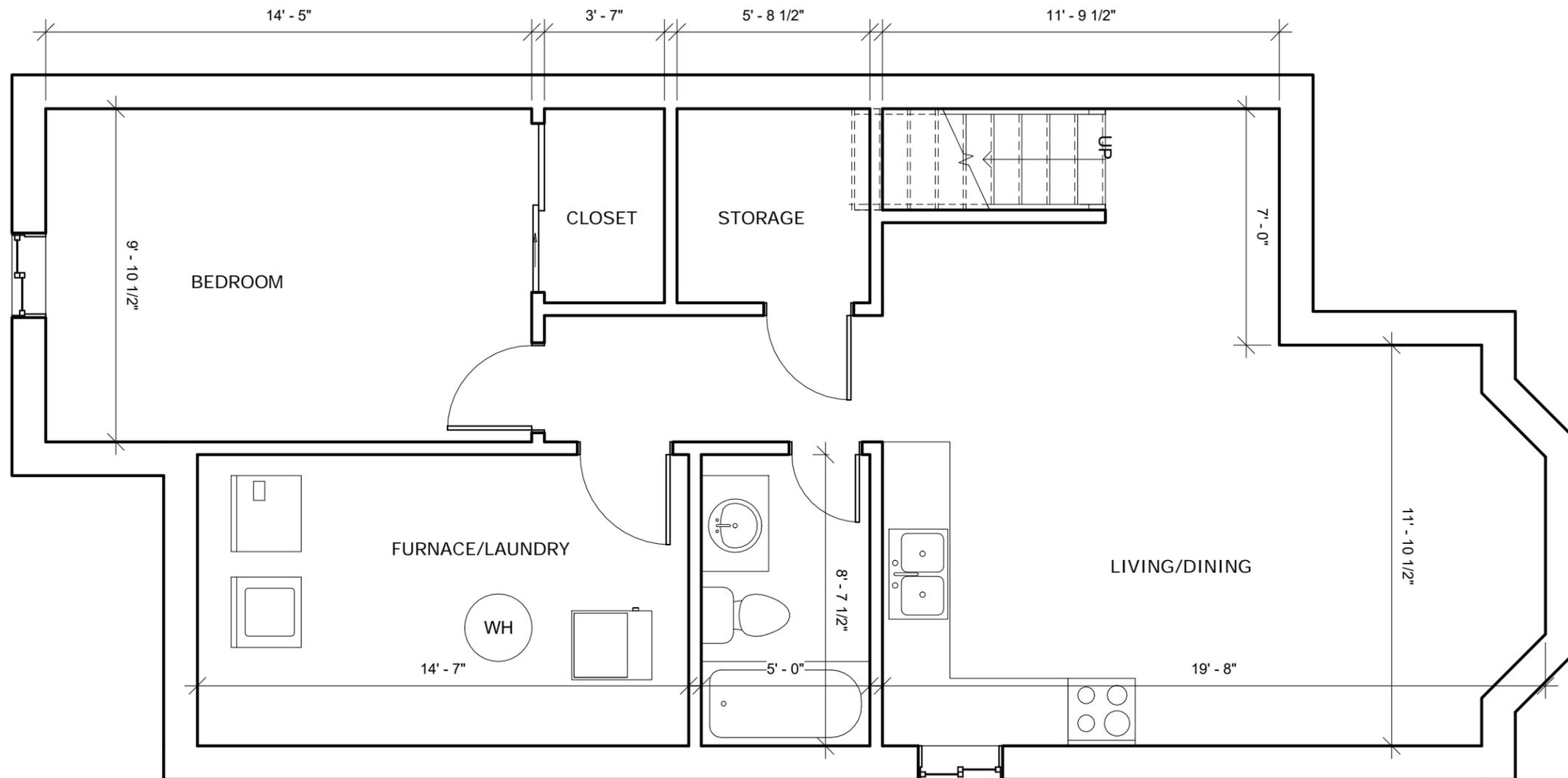
Appendix "A"
December 13th 2019



<p>The undersigned has reviewed and takes responsibility for this design, and has the qualifications and meets the requirements set out in the Ontario Building Code to be a Designer.</p>	PROJECT TWO UNIT DWELLING	
	ADDRESS 15 ALMIRA AVENUE, MARKHAM	
<p>QUALIFICATION INFORMATION Required unless design is exempt under 3.2.5.1 of the building code</p>	DWG TITLE SITE PLAN	
<p> BCIN: 101904</p>	<p>JAURA DESIGN STUDIO BCIN: 108652</p>	SCALE 1/8" = 1'-0"
<p>REGISTRATION INFORMATION Required unless design is exempt under 3.2.5.1 of the building code</p>	PROJECT NO 190101	DRAWING NO A2

December 13th 2019

Appendix "A"



The undersigned has reviewed and takes responsibility for this 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 the building code

BCIN: 101904

JAURA

DESIGN STUDIO

BCIN: 108652

REGISTRATION INFORMATION
Required unless design is exempt under 3.2.5.1 of the building code

PROJECT **TWO UNIT DWELLING**

ADDRESS **15 ALMIRA AVENUE,
MARKHAM**

DWG TITLE **AS-BUILT BASEMENT**

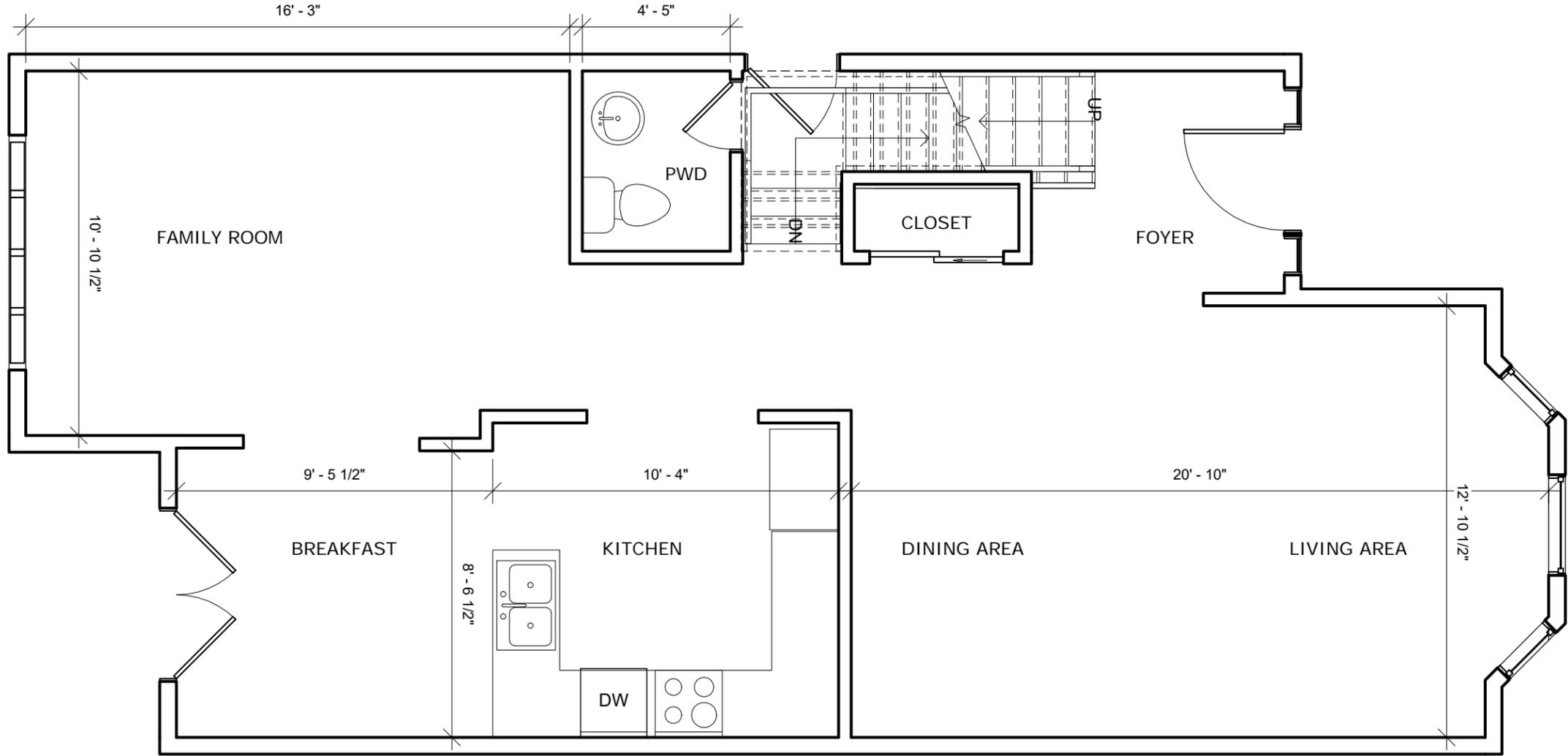
SCALE **1/4" = 1'-0"**

PROJECT NO **190101**

A3

DRAWING NO

Appendix "A"
 December 13th 2019



The undersigned has reviewed and takes responsibility for this 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 the building code

BCIN: 101904

JAURA

DESIGN STUDIO

BCIN: 108652

REGISTRATION INFORMATION
 Required unless design is exempt under 3.2.5.1 of the building code

PROJECT TWO UNIT DWELLING

ADDRESS 15 ALMIRA AVENUE,
 MARKHAM

DWG TITLE GROUND FLOOR

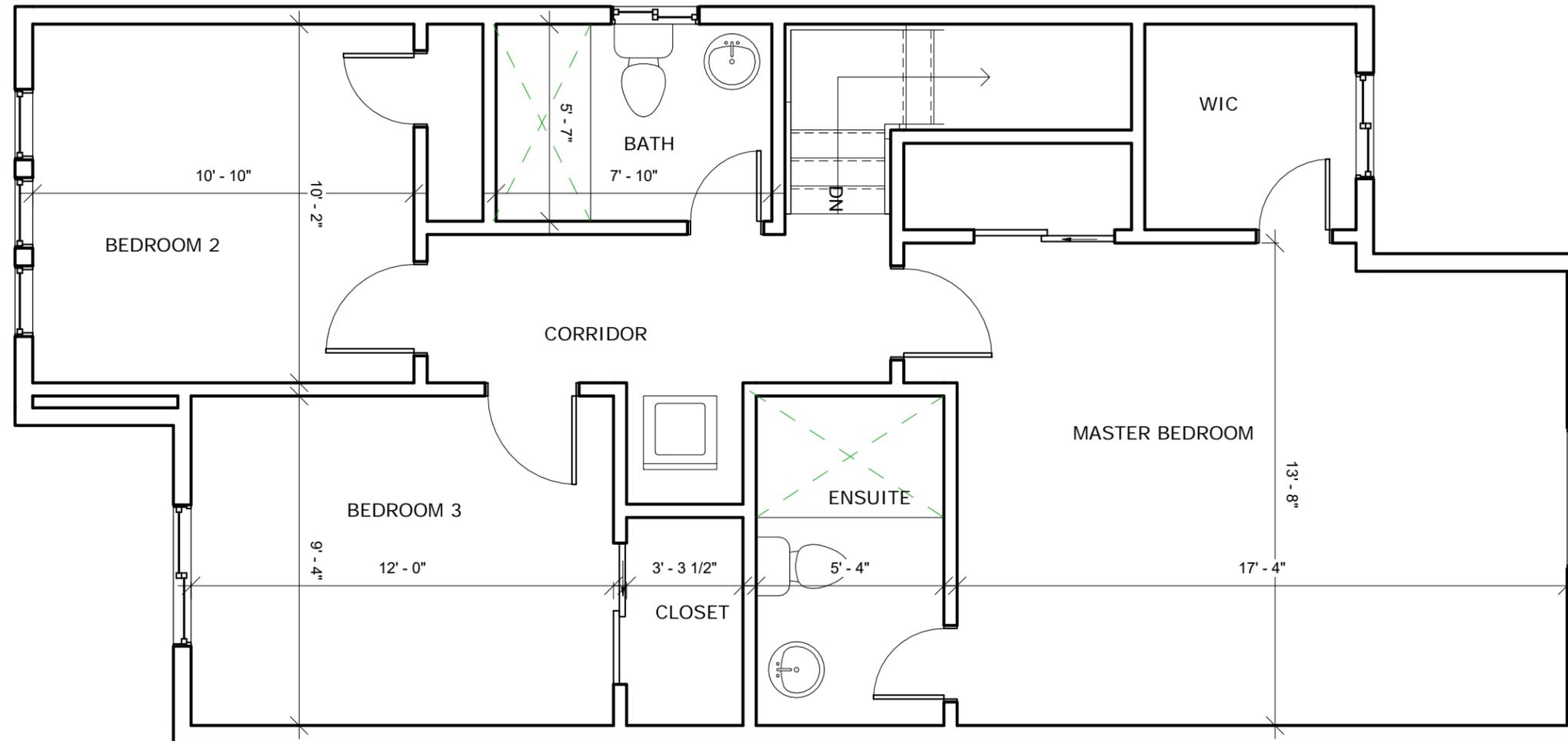
SCALE 1/4" = 1'-0"

PROJECT NO 190101

A4

DRAWING NO

Appendix "A"
December 13th 2019



The undersigned has reviewed and takes responsibility for this 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 the building code

BCIN: 101904

JAURA

DESIGN STUDIO

BCIN: 108652

REGISTRATION INFORMATION
Required unless design is exempt under 3.2.5.1 of the building code

PROJECT **TWO UNIT DWELLING**

ADDRESS **15 ALMIRA AVENUE,
MARKHAM**

DWG TITLE **SECOND FLOOR**

SCALE **1/4" = 1'-0"**

PROJECT NO **190101**

A5

DRAWING NO

APPENDIX "B"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/153/19

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 A' to this Staff Report and received by the City of Markham on December 13th, 2019, 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:

A handwritten signature in black ink that reads "Justin Mott". The signature is written in a cursive, flowing style.

Justin Mott, Planner, Zoning and Special Projects