



The City of Saint John

Date: May 11, 2023
To: Planning Advisory Committee
From: Growth & Community Services
Meeting: May 16, 2023

SUBJECT

Applicant: HaiPeng Luo
Landowner: HaiPeng Luo and CaiHong Yang
Location: 33 Birch Grove Terrace
PID: 55230767
Plan Designation: Stable Residential
Existing Zoning: One-Unit Residential (R1)
Proposed Zoning: Low-Rise Residential (RL)
Application Type: Rezoning
Jurisdiction: The *Community Planning Act* authorizes the Planning Advisory Committee to give its views to Common Council concerning proposed amendments to the Zoning By-law. Common Council will consider the Committee's recommendation at a public hearing on **Monday, June 12, 2023**.

EXECUTIVE SUMMARY

The applicant is applying to rezone the site at 33 Birch Grove Terrace from One-Unit Residential (R1) to Low-Rise Residential (RL) to facilitate the legalization of a third unit in the existing building. The owners of the property are seeking to legalize the third dwelling unit that was created by a previous property owner, which would bring the units into compliance with the Zoning By-law. Approval of the application is recommended.

RECOMMENDATION

1. That Common Council rezone a portion of a parcel of land having an area of approximately 1,036 square metres, located at 33 Birch Grove Terrace, also identified as PID Number 55230767, from **One-Unit Residential (R1)** to **Low-Rise Residential (RL)**.
2. That Common Council, pursuant to the provisions of Section 59 of the *Community Planning Act*, impose the following conditions on the parcel of land having an area of approximately 1,036 square metres, located at 33 Birch Grove Terrace, also identified as PID Number 55230767:
 - a. The use of the site is limited to a maximum of 4 units.

DECISION HISTORY

On December 11, 1984, the Planning Advisory Committee approved a variance for the setbacks of an addition to create an indoor pool. It should be noted that the building addition associated with this variance is the location of the non-compliant third dwelling unit.

ANALYSIS

Proposal

The applicant is proposing to rezone the subject site to Low-Rise Residential (RL) to legalize an existing third dwelling unit. The rezoning would bring the property into compliance with the Zoning By-law. The building consists of a 3-bedroom unit on the main floor, a 2-bedroom unit in the basement and a 2-bedroom unit in the former pool house. Each unit has access from the exterior of the building and is provided with a parking space as per the requirements in the Zoning By-law. The property owner is submitting the application to legalize the third unit which was constructed by a previous property owner.

Site and Neighbourhood

The subject site is located in Millidgeville which is located within the northern portion of the City. The immediate residential neighbourhood has a mixture of low to medium density zoning which supports a variety of housing types including single-detached dwellings, semi-detached and duplexes, townhouses and apartment buildings. In the immediate area of the subject site residential uses in the forms of single and semi-detached homes, as well as larger townhouse dwellings comprise the area along Tudor Lane and Birch Grove Terrace. The area north of the site is largely single-detached dwellings but the area south of the site is a mixture of single detached dwellings and multi-unit residential buildings.

The broader surrounding area, including Millidge Avenue and University Avenue, is characterized by having a mixture of land uses that supports a diverse range of housing typologies with varying densities, commercial uses, educational facilities, and recreational uses. This is represented through the diverse types of zoning found in the general vicinity including residential zones of various densities; One-Unit Residential (R1), Two-Unit Residential (R2), Low-Rise Residential (RL), and Mid-Rise Residential (RM). The nearby commercial node contains General Commercial (CG) and Local Commercial (CL) designations. Other community and governmental uses such as Utility Services (US), Neighbourhood Community Facility (CFN)

and Major Community Facility (CFM) also are present in the wider neighbourhood and include the University of New Brunswick Saint John campus, the Saint John Regional Hospital and the Shannex Seniors Residential complex.

The subject site is accessible by a variety of transportation options. The area is served by Route 25, with transit stops located within 500 metres of the subject site. Route 25 is a north-south route which provides connections between Millidgeville and the Uptown and is considered a main transit route to the University. In addition, the site is accessible by different modes of active transportation. While there are no dedicated bike lanes on Birch Grove Terrace or the northern portion of Millidge Avenue, bike lanes do run north and south along Millidge Avenue near University Avenue, which is connected to a broader network of bike lanes throughout the City. Although Birch Grove Terrace does not include sidewalks, pedestrian movement is facilitated by sidewalks on the south side of Tudor Lane and on both the east and west sides of Millidge Avenue.

Municipal Plan and Rezoning

Municipal Plan

The site is designated as Stable Residential in the Municipal Plan. An analysis of the proposal with respect to the relevant policies of the Municipal Plan is provided in Attachment 2. The proposal conforms to the policies established within the Municipal Plan.

While a density target is not provided for Stable Residential areas, housing of almost every form and density may be found. Development proposals located within existing neighbourhoods should take into account the existing neighbourhood context and should reinforce the predominant community character and make a positive contribution to the existing neighbourhood. The proposed development is located within an existing building and will not require any exterior alterations to support the legalization of the third dwelling unit.

The proposed development is compatible with the vision established within the Municipal Plan, as the proposed development:

- Provides densification in an area with existing municipal services.
- Is compatible with surrounding land uses given the variety of existing building typologies and dwelling types found within the area, including other properties zoned for higher density.

The proposal represents an opportunity to support additional density in a suburban context while retaining the community character, as the proposed development utilizes an existing building and no changes to the exterior of the building are required. The legalization of this development would also ensure the preservation of 2- and 3-bedroom dwelling units which are a housing typology needed within the City. From the analysis of the proposed development for alignment with the Municipal Plan Policies (Attachment 2), staff are of the opinion that the proposed development achieves the intent of the Municipal Plan based on the proposed use in the development.

Zoning

The Low-Rise Residential (RL) Zone accommodates a range of low-density residential uses ranging from a single-detached dwelling to a six-unit building. The RL zone is compatible with the surrounding development pattern and would bring the subject site into compliance with the Zoning By-law. The proposed three-unit development aligns with the regulations established for the RL zone within the City's Zoning By-law. This includes the provision of the required onsite parking spaces to support the three dwelling units.

Section 59 Conditions and The Affordable Housing Action Plan

Common practice in the City of Saint John has been to include a Section 59 condition that limits proposed rezonings to a maximum number of dwelling units. The unit number caps have always been tied to the specific proposal presented as part of the rezoning process and have been used to tie a rezoning to a very specific development proposal. This trend has resulted in an increased number of Section 59 amendment applications being submitted to allow increases to the unit count within existing developments and occasionally in advance of new construction projects. These increases are often minimal in nature and are typically the result of design changes to the size of proposed dwelling units as opposed to expansion of the existing or proposed building footprint. With the adoption of the City's Affordable Housing Action Plan, staff are looking at amending previous practices to "permit/encourage various innovative housing models to help expand the supply of housing".

While the applicant has proposed to rezone to Low-Rise Residential to accommodate the three existing units, staff undertook an assessment of the existing building and property to determine if there would be existing capacity for a possible unit increase in the future. The existing building has a large footprint and based on the standards of the RL zone, it would have the size capacity to contain six large dwelling units (units containing 3 or more bedrooms). Staff also assessed the existing site development, which contains parking for four vehicles. Based on the onsite parking, staff has determined that the property could theoretically accommodate four dwelling units. If increased to four units in the future, the site could still meet the Zoning By-Law standards for the RL zone with no changes to the exterior, including minimum floor space for each unit and onsite parking. If a proposal were to be brought forward to increase the unit count above the existing three-units, it would be subject to the standards established in the RL zoning, as well as meeting the requirements of the National Building Code of Canada. The recommendation of the unit cap of four dwellings will allow for flexibility in the future, while still ensuring alignment with the City's Zoning By-Law.

Building and Enforcement

The Building Inspections Service Area has been working with the applicant to ensure the property is in compliance with the National Building Code. The City's Building Inspections and Enforcement Team are supportive of the rezoning application to legalize the 3rd dwelling unit. Any work to be done to ensure the units meet the National Building Code will require a building permit. No other concerns were raised by the City's other service areas.

Conclusion

The proposed rezoning to legalize an existing three-unit residential development aligns with the policies established in the City's Municipal Plan and conforms to the City's Zoning By-law. The proposed rezoning will facilitate the continued use of the property as a low-density multi-unit building. Staff are recommending approval of the rezoning with a Section 59 amendment that would limit the number of units in the future to four.

ALTERNATIVES AND OTHER CONSIDERATIONS

No alternatives were considered.

ENGAGEMENT

In accordance with the Committee's Rules of Procedure, notification of the proposal was sent to landowners within 100 metres of the subject property on May 1, 2023. The public hearing notice will be posted on the City of Saint John website on or before May 18, 2023.

APPROVALS AND CONTACT

Manager	Commissioner
Jennifer Kirchner, RPP, MCIP	Jacqueline Hamilton, MCIP, RPP

Contact: Yeva Mattson
Telephone: (506) 721-8453
Email: yeva.mattson@saintjohn.ca
Application: 23-0044

APPENDIX

Map 1: **Aerial Photography**

Map 2: **Future Land Use**

Map 3: **Zoning**

Attachment 1: **Site Photography**

Attachment 2: **Municipal Plan Policy Review**

Submission 1: **Site Plan**

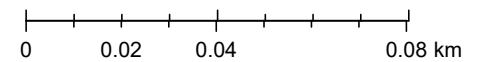
33 Birch Grove Terrace - Site Location



4/25/2023

1:2,257

- Property Parcels
- Subject Sit
- Civic Addresses



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community
GIS Viewer
(C) City of Saint John

33 Birch Grove Terrace - Future Land Use

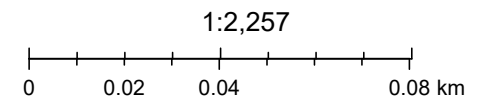


4/25/2023

- Property Parcels
- Subject Site
- Civic Addresses

Future Land Use

Stable Residential



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community
GIS Viewer
(C) City of Saint John

City of Saint John



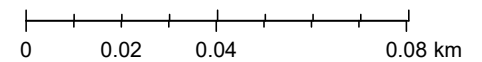
4/25/2023

Zoning

1:2,257

- Subject Site
- Civic Addresses
- Property Parcel

- One Unit Residential (R1)
- Two Unit Residential (R2)
- Mid-Rise Residential (RM)
- Future Development (FD)



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

GIS Viewer
(C) City of Saint John

ATTACHMENT 1: SITE PHOTOGRAPHY



Subject Site from Birch Grove Terrace



Rear of Subject Site from Backyard (1st unit on top floor, 2nd unit on lower floor, 3rd unit right bottom corner)



Rear of Subject Site from rear Parking Stall (looking at 3rd unit)



Subject Site looking at 4 parking stalls (2 above, 2 on lower level)



Birch grove Terrace looking West



Birch grove Terrace looking East (road dead ends in bulb)

Attachment 2: Municipal Plan Policy Review

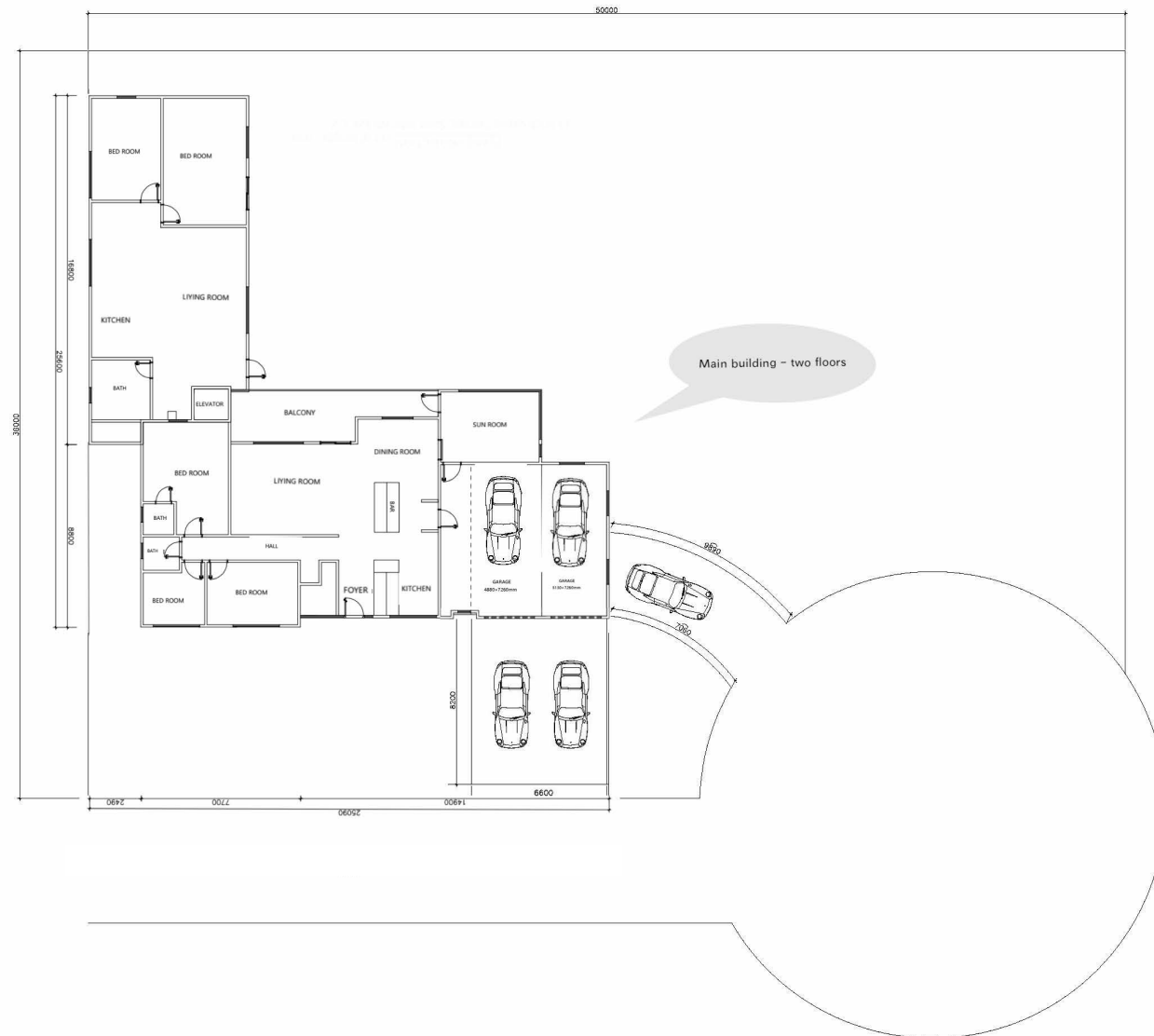
Municipal Plan Policy	Birch Grove Terrace Assessment
<p>Policy LU-86 Within the Stable Residential designation, housing of almost every form and density may be found and both the existing neighbourhood context and compatibility with the Municipal Plan goals will determine suitability of new proposals. Other compatible uses that may be found in the Stable Residential designation include convenience stores, home occupations, parks, and community facilities which are permitted in the designation without amendment to the Municipal Plan.</p>	<p>This proposal aligns with the goal of higher density and intensification in the Municipal Plan. This proposal would introduce a gentle density increase and ensure the maintenance of existing 2 and 3-unit dwellings. This proposal would also conform with the existing neighbourhood context, as the proposed development is located within an existing residential structure.</p>
<p>Policy LU-87 Intend that the areas designated Stable Residential will evolve over time from a land use and built-form perspective but that new and redeveloped land uses are to reinforce the predominant community character and make a positive contribution to the neighbourhood.</p>	<p>This development will not require any changes to the exterior of the building, which will ensure the design of the building is compatible with the character of the area.</p>
<p>Policy LU-88 Ensure that significant new development and redevelopment in areas designated Stable Residential shall generally be permitted only through a rezoning process where compliance is demonstrated with the following requirements:</p> <ul style="list-style-type: none"> a. The proposed land use is desirable and contributes positively to the neighbourhood; b. The proposal is compatible with surrounding land uses; c. The development is in a location where all necessary water and wastewater services, parks and recreation services, schools, public transit and other community facilities and protective services can readily and adequately be provided; d. Site design features that address such matters as safe access, buffering and landscaping, site grading and stormwater management are incorporated; e. A high quality exterior building design is provided that is consistent with the Urban Design Principles in the Municipal Plan. 	<ul style="list-style-type: none"> a. The proposed land use would legalize an existing 3rd dwelling unit within an existing residential building. b. The proposed rezoning and legalization of an existing 3-unit residential building is sensitive to the established neighbourhood and aligns with the variety of established residential uses in the area. c. The property is serviced by existing infrastructure and government services. d. The development will be contained within the existing footprint of the building, with no changes to the existing landscaping or accesses being proposed. e. The development will not require changes to the exterior of the building.

Policy I-2

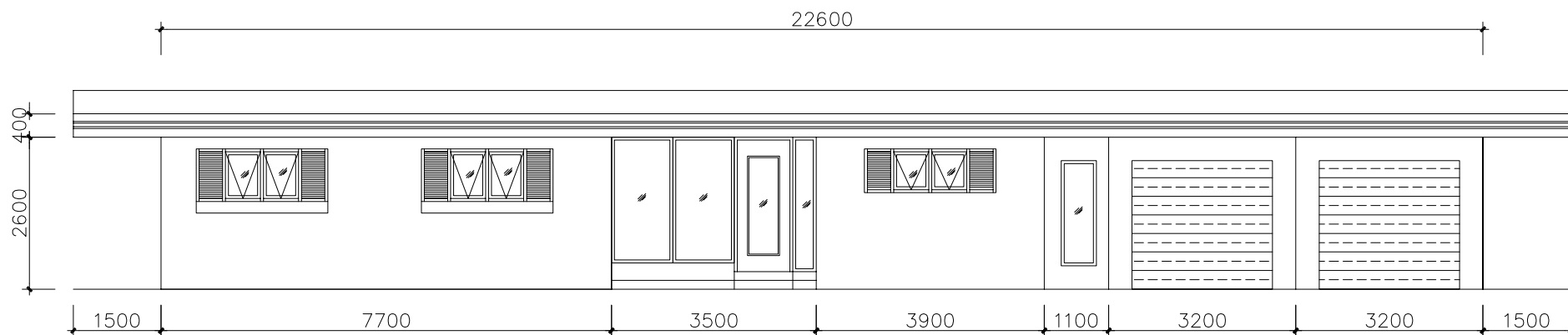
In considering amendments to the Zoning Bylaw or the imposition of terms and conditions, in addition to all other criteria set out in the various policies of the Municipal Plan, have regard for the following:

- a. The proposal is in conformity with the goals, policies and intent of the Municipal Plan and the requirements of all City bylaws;
- b. The proposal is not premature or inappropriate by reason of:
 - i. Financial inability of the City to absorb costs related to development and ensure efficient delivery of services, as determined through Policy I-7 and I-8;
 - ii. The adequacy of central wastewater or water services and storm drainage measures;
 - iii. Adequacy or proximity of school, recreation, or other community facilities;
 - iv. Adequacy of road networks leading to or adjacent to the development; and
 - v. Potential for negative impacts to designated heritage buildings or areas.
- c. Appropriate controls are placed on any proposed development where necessary to reduce any conflict with adjacent land uses by reason of:
 - i. Type of use;
 - ii. Height, bulk or appearance and lot coverage of any proposed building;
 - iii. Traffic generation, vehicular, pedestrian, bicycle or transit access to and from the site;
 - iv. Parking;
 - v. Open storage;
 - vi. Signs; and
 - vii. Any other relevant matter of urban planning.
- d. The proposed site is suitable in terms of steepness of grade, soil and geological conditions, locations of watercourses, wetlands, and susceptibility of flooding as well as any other relevant environmental consideration;

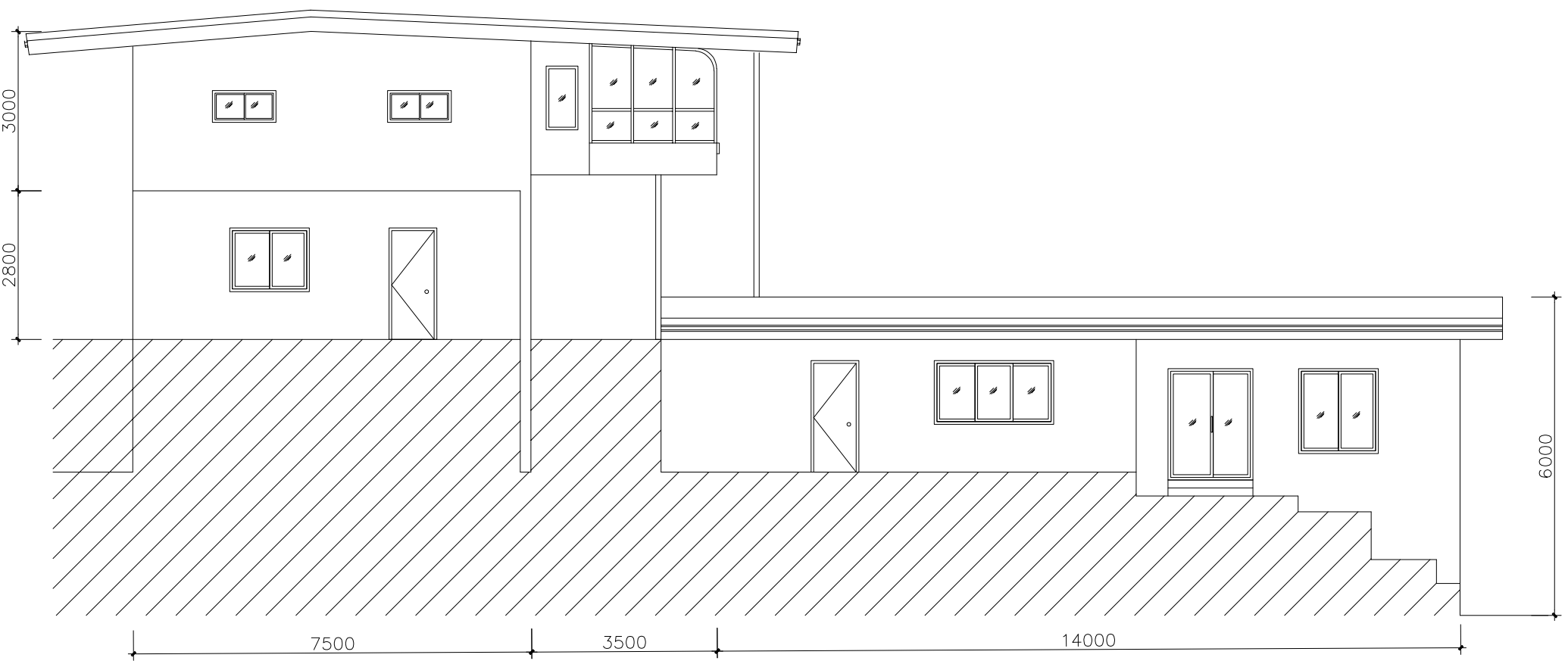
- a. This proposal aligns with residential land use policies as established in the City's Municipal Plan, and conforms to all relevant zoning standards.
- b. The proposal is located on an existing lot in an established residential neighbourhood. The development will utilize existing infrastructure and will not have a negative impact on service provision.
- c. There are no proposed changes to the exterior of the site. The design and scale of the existing building will be retained.
- d. There are no proposed alterations to the property as part of this proposed development.



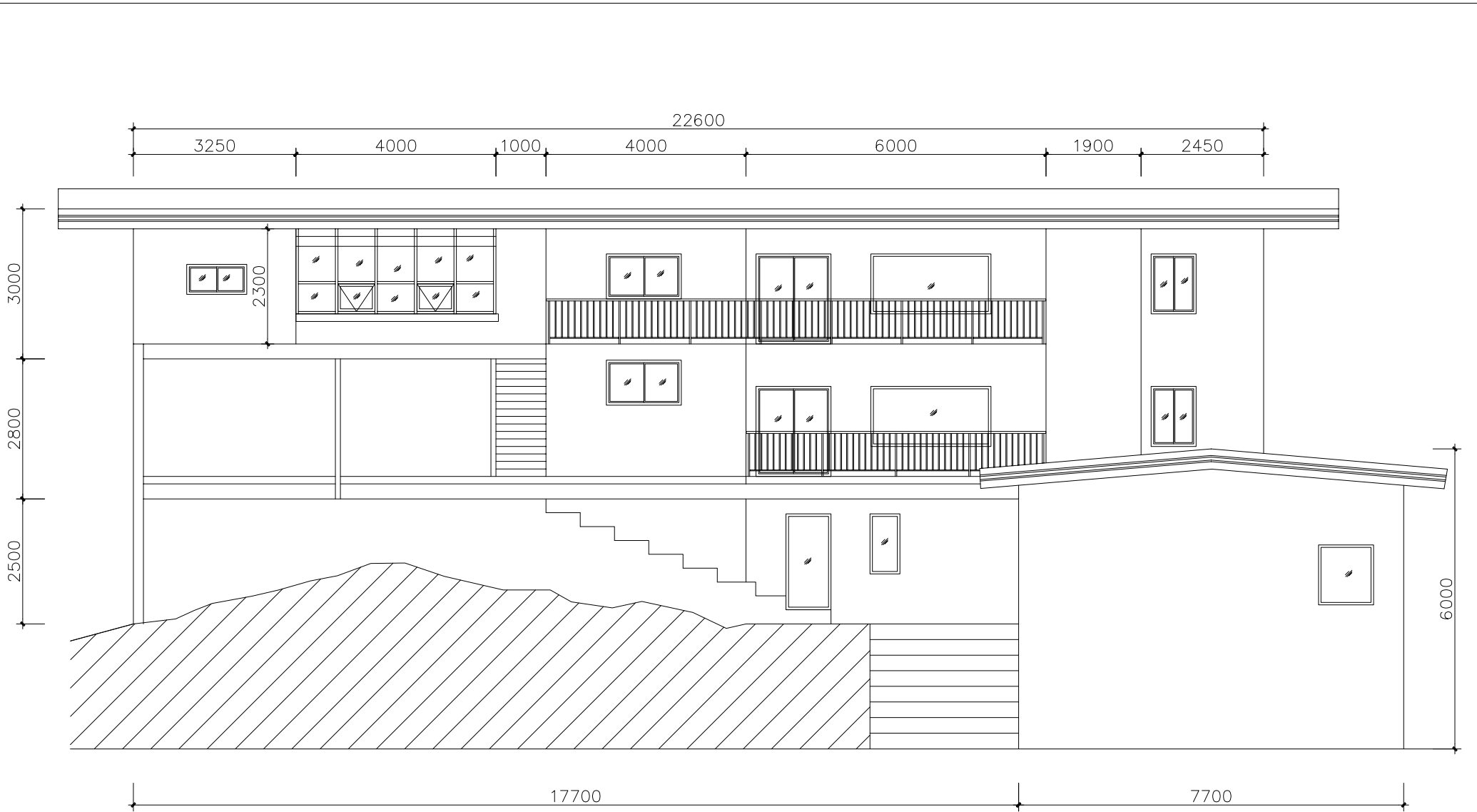
Site Plan — Ground floor unit of length: mm
33 Brich Grove Terrace, Saint John, NB E2K 2J2



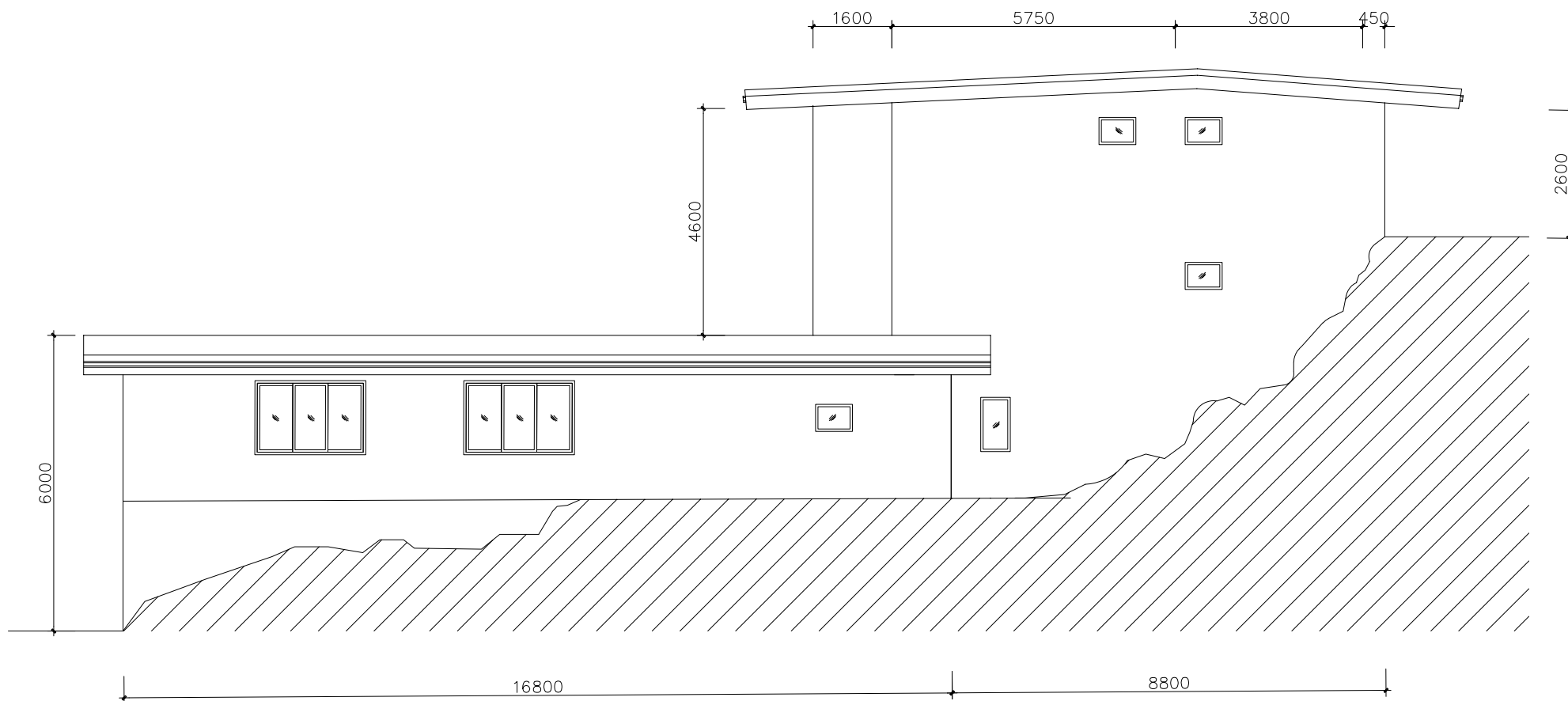
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33 Brich Grove Terrace, Saint John, NB E2K 2J2



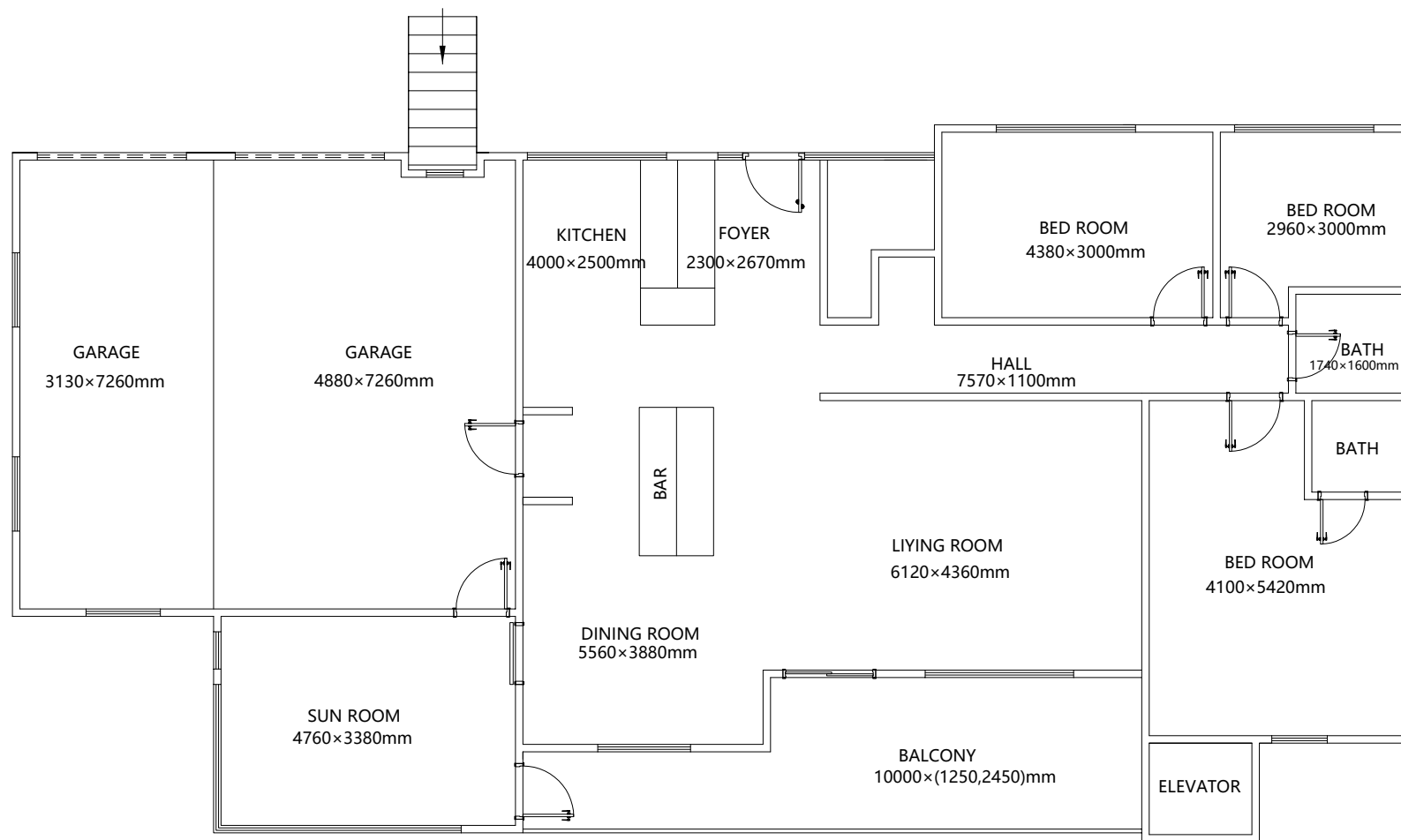
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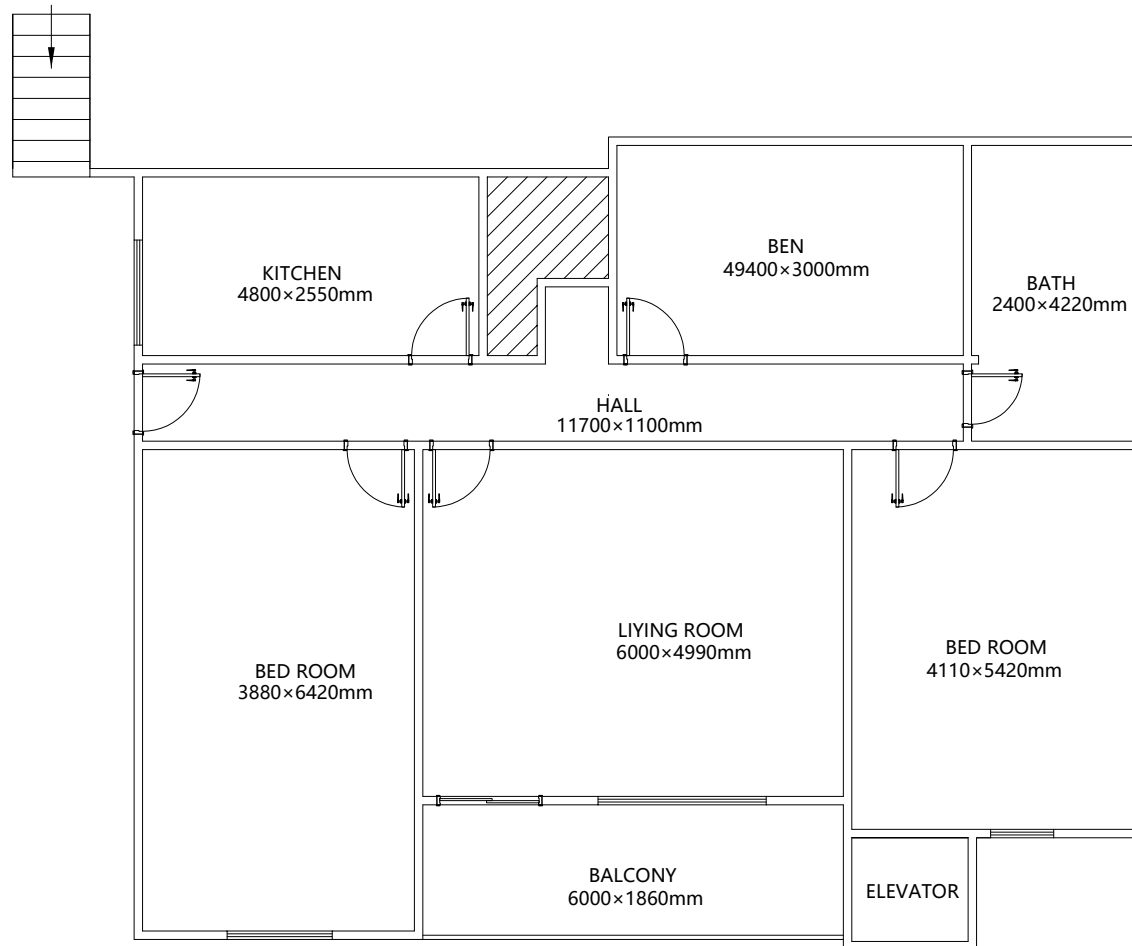
© FACADE unit of length: mm
33 Brich Grove Terrace, Saint John, NB E2K 2J2



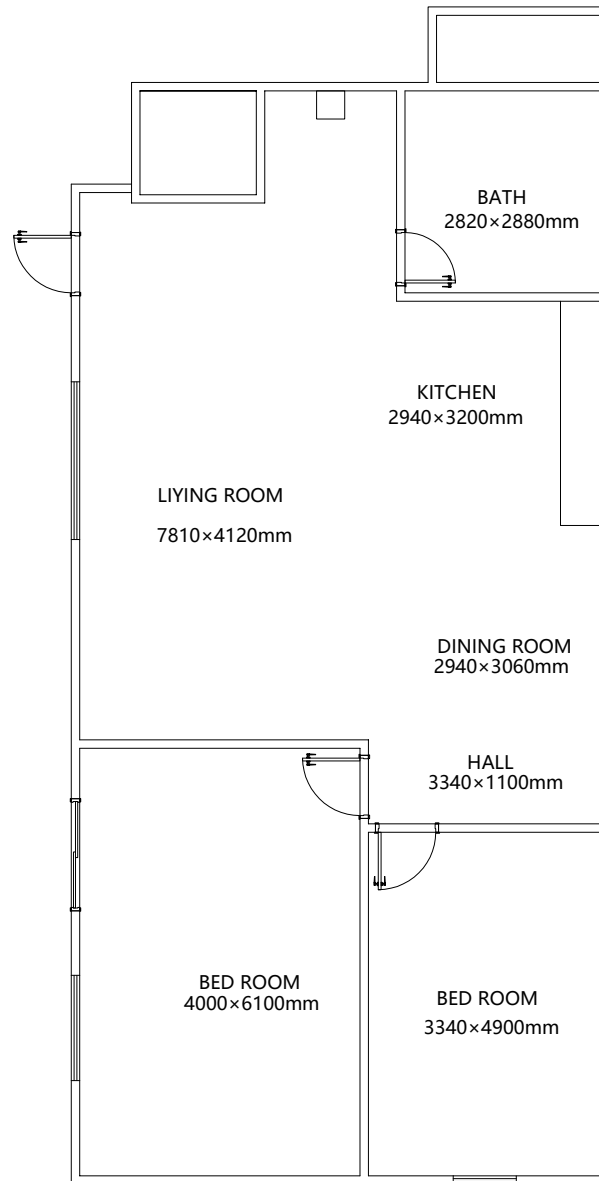
④ FACADE unit of length: mm
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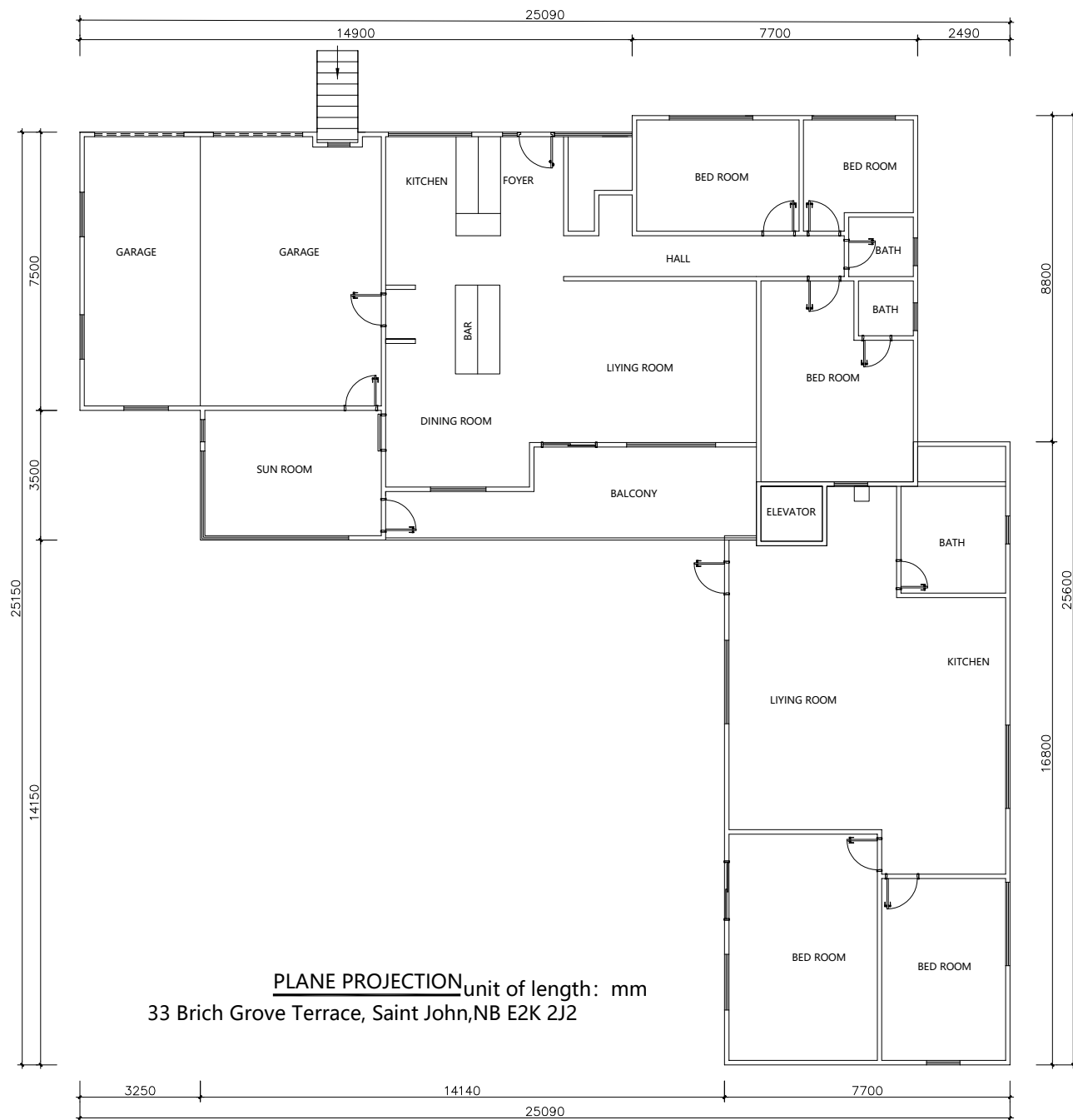
FLOOR 1 : 2044sq.ft, unit of length: mm
 33 Brich Grove Terrace, Saint John,NB E2K 2J2



FLOOR 2 : 1275sq.ft, unit of length: mm
33 Brich Grove Terrace, Saint John,NB E2K 2J2



FLOOR 3 : 1392sq.ft. unit of length: mm
33 Brich Grove Terrace, Saint John, NB E2K 2J2



PLANE PROJECTION unit of length: mm
33 Brich Grove Terrace, Saint John, NB E2K 2J2