

Memorandum to the City of Markham Committee of Adjustment

January 26, 2023

File: A/225/22
Address: 4 Soho Crescent, Markham
Applicant: Simon Chung
Agent: Gregory Design Group (Shane Gregory)
Hearing Date: Wednesday, February 1, 2023

The following comments are provided on behalf of the Central District team.

The Applicant is requesting relief from the following “Eighth Density – Single Detached Residential (R8)” zone requirements under By-law 134-79, as amended, as it relates to a proposed rear walk-up (uncovered) stair for a secondary suite (basement apartment). The variance requested is to permit:

a) Section 5.7 (b):

a maximum rear yard encroachment of 3.85 metres (12.63 feet) for the purposes of a walk-up staircase (uncovered), whereas the By-law permits a maximum rear yard encroachment of 1.5 metres (4.92 feet).

BACKGROUND

Property Description

The 547 m² (5,888 ft²) Subject Lands are located on the west side of Soho Crescent, north of Manhattan Drive and east of Saratoga Road (refer to Appendix “A” – Aerial Photo). The Subject Lands are located within an established residential neighbourhood comprised primarily of two-storey detached dwellings.

There is an existing 132 m² (1,425 ft²) two-storey detached dwelling on the Subject Lands which was constructed in 1989, according to assessment records. Mature vegetation exists on the property including one large mature tree in the front yard.

Proposal

The Applicant is proposing to construct a rear yard walk-up staircase (uncovered) to provide direct and separate access to the secondary suite in the basement of the existing dwelling (refer to Appendix “B” – Plans).

Official Plan and Zoning

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

The Subject Lands are designated “Residential Low Rise”, which permits low-rise housing forms including single detached dwellings. Section 8.2.3.5 of the Official Plan outlines infill development criteria for the “Residential Low Rise” designation with respect to height, massing, and setbacks. This criteria is established to ensure that infill development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street, while accommodating a diversity of building styles. In considering applications for development approval in a “Residential Low Rise” area, which includes variances, development is required to meet the general intent of the above noted development criteria. In addition, regard shall be had for the retention of existing trees and vegetation.

Planning staff have had regard for the requirements of the development criteria in the preparation of the comments provided below.

Zoning By-Law 134-79

The Subject Lands are zoned “Eighth Density – Single-Detached Residential (R8)” under By-law 134-79, as amended, which permits single detached dwellings. The proposed development does not comply with the By-law with respect to the maximum rear yard encroachment.

Zoning Preliminary Review (ZPR) Not Undertaken

The Applicant 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 (the “Committee”):

- 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; and
- d) The general intent and purpose of the Official Plan must be maintained.

Increase in Maximum Permitted Rear Yard Encroachment

The Applicant is requesting relief to permit an uncovered and unenclosed walk-up staircase that would encroach a maximum of 3.85 metres (12.63 feet) into the rear yard, whereas the By-law permits a maximum encroachment of 1.5 metres (4.92 feet) for uncovered platforms. This represents an increased projection of 2.3 metres (7.54 feet).

The walk-up staircase is located in the rear yard and is below grade. Staff are of the opinion that the proposed rear yard encroachment to accommodate the uncovered and unenclosed walk-up staircases is minor and have no concern with the requested variance.

PUBLIC INPUT SUMMARY

No written submissions were received as of January 26, 2023. 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.

APPENDICES

Appendix "A" – Aerial Photo

Appendix "B" – Plans

Appendix "C" – A/225/22 Conditions of Approval

PREPARED BY:

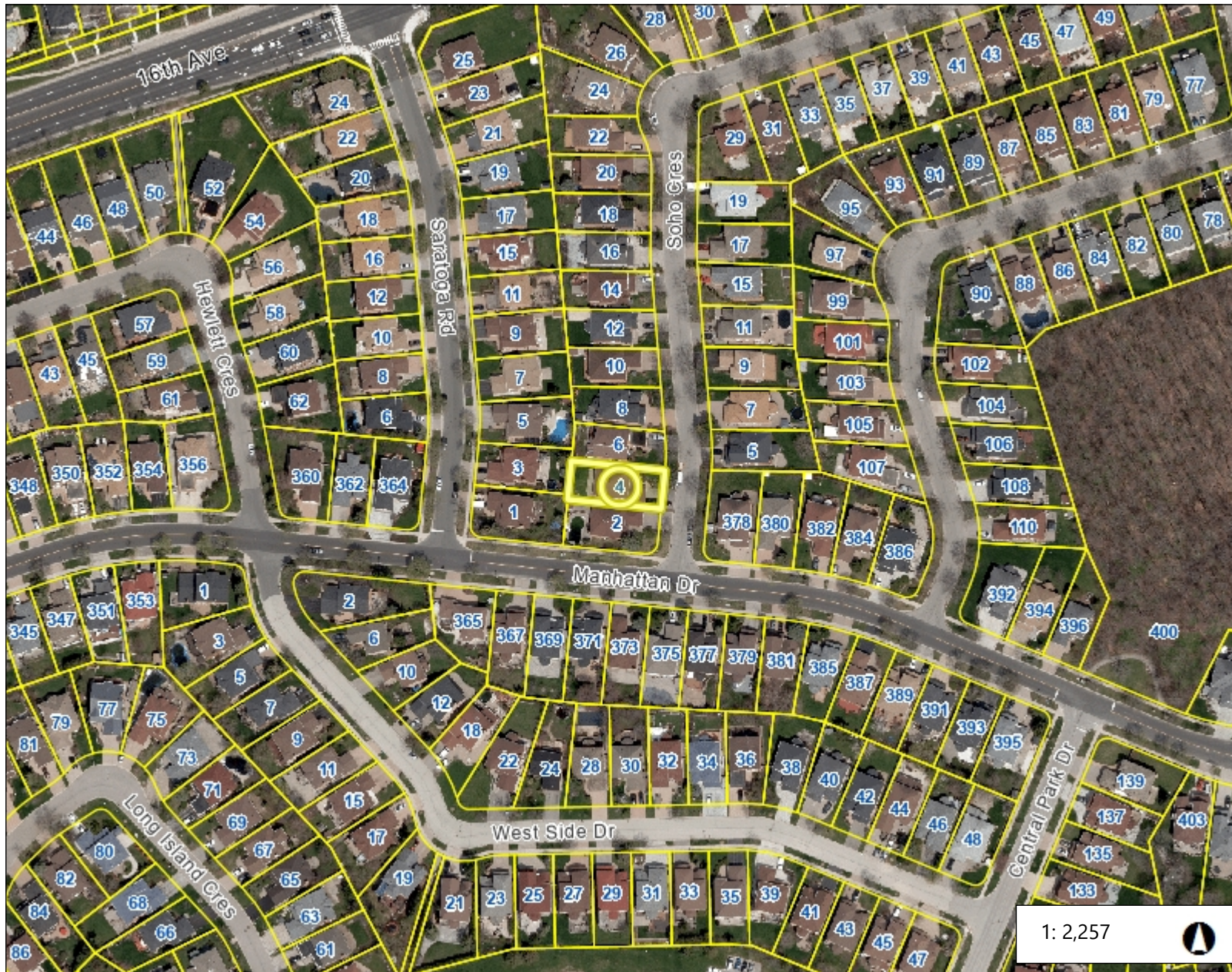


Hussnain Mohammad, Development Technician, Zoning and Special Projects

REVIEWED BY:



Deanna Schlosser, MCIP RPP, Senior Planner, Central District



Legend

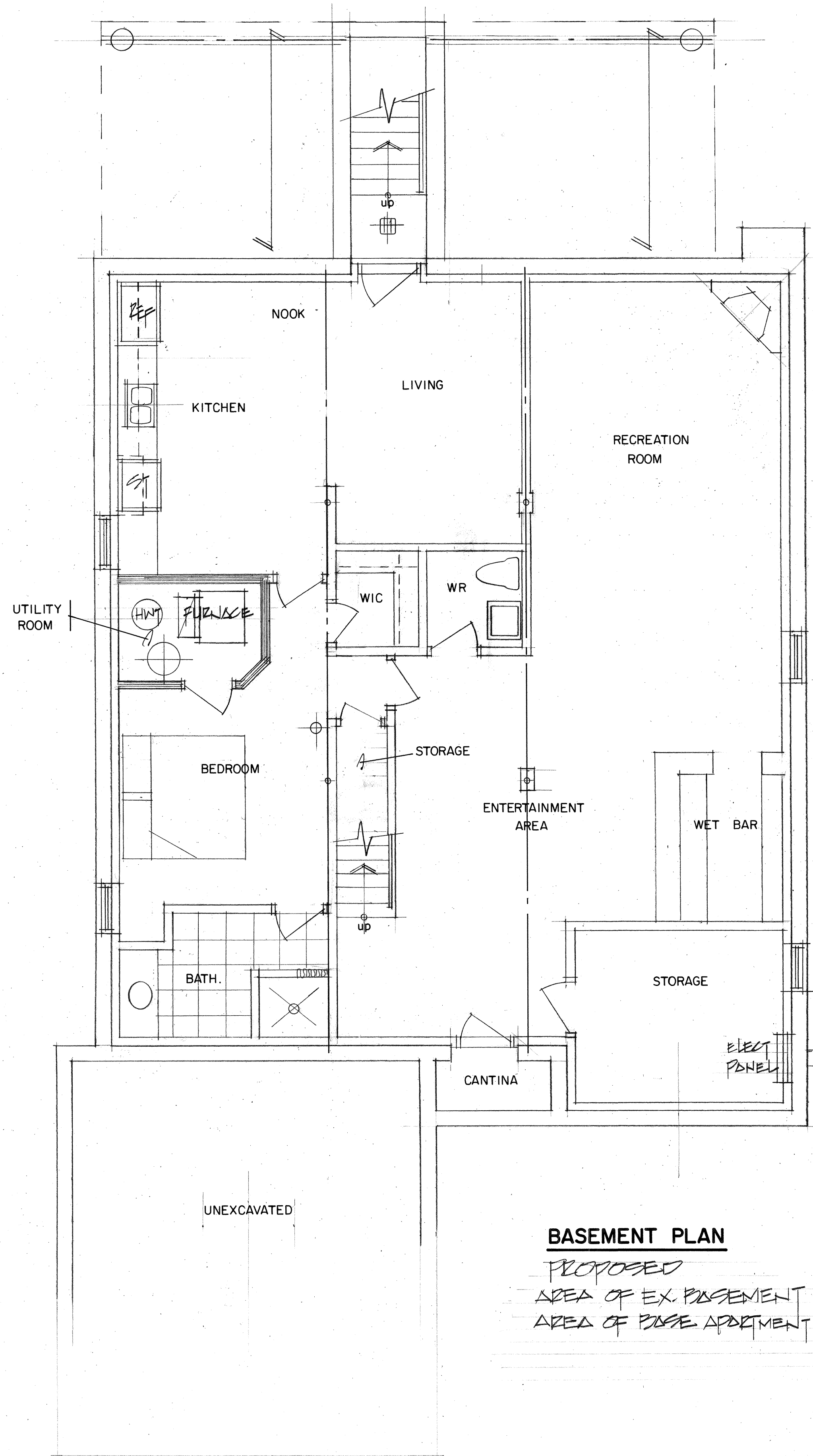
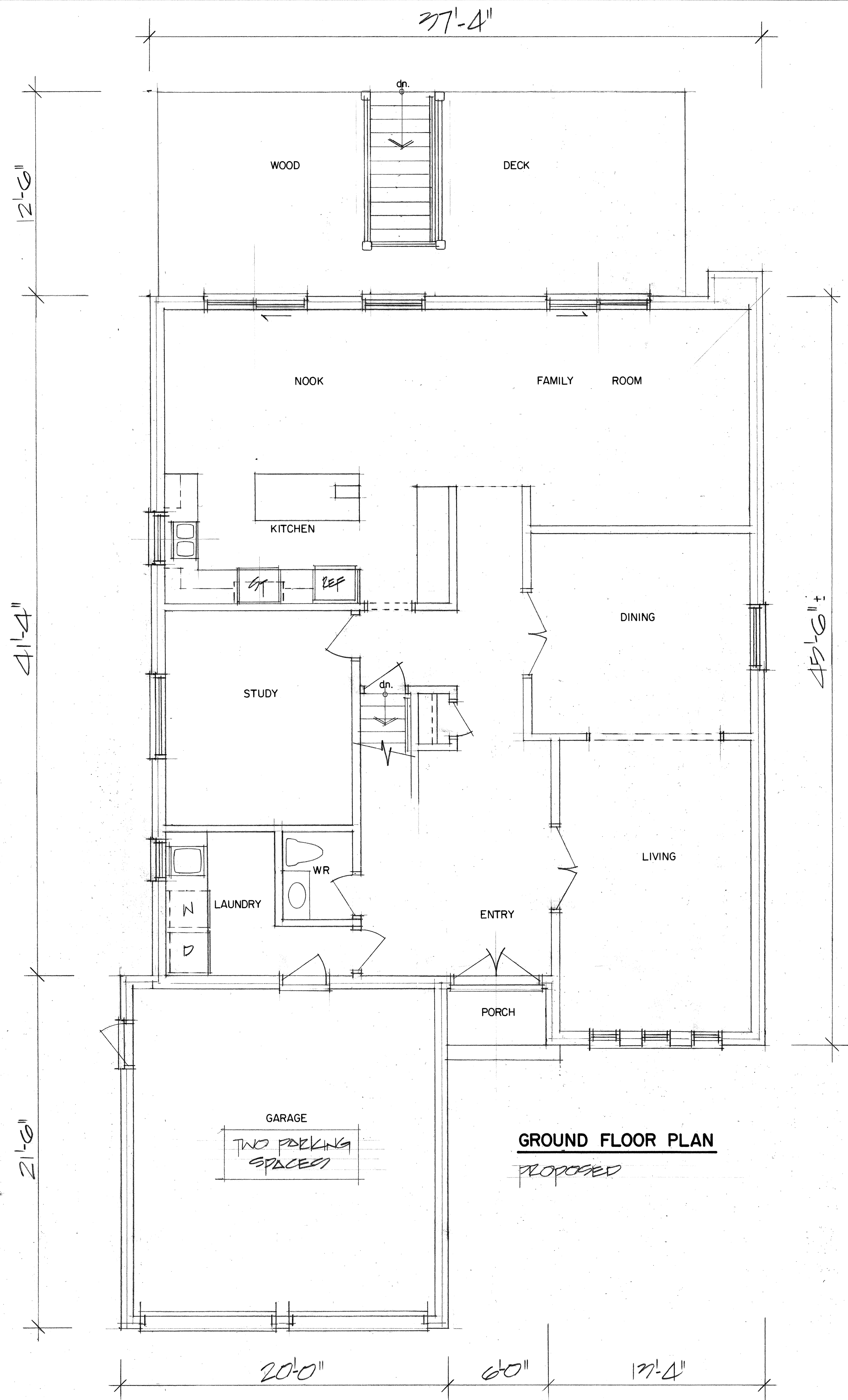
Subject Lands

1: 2,257

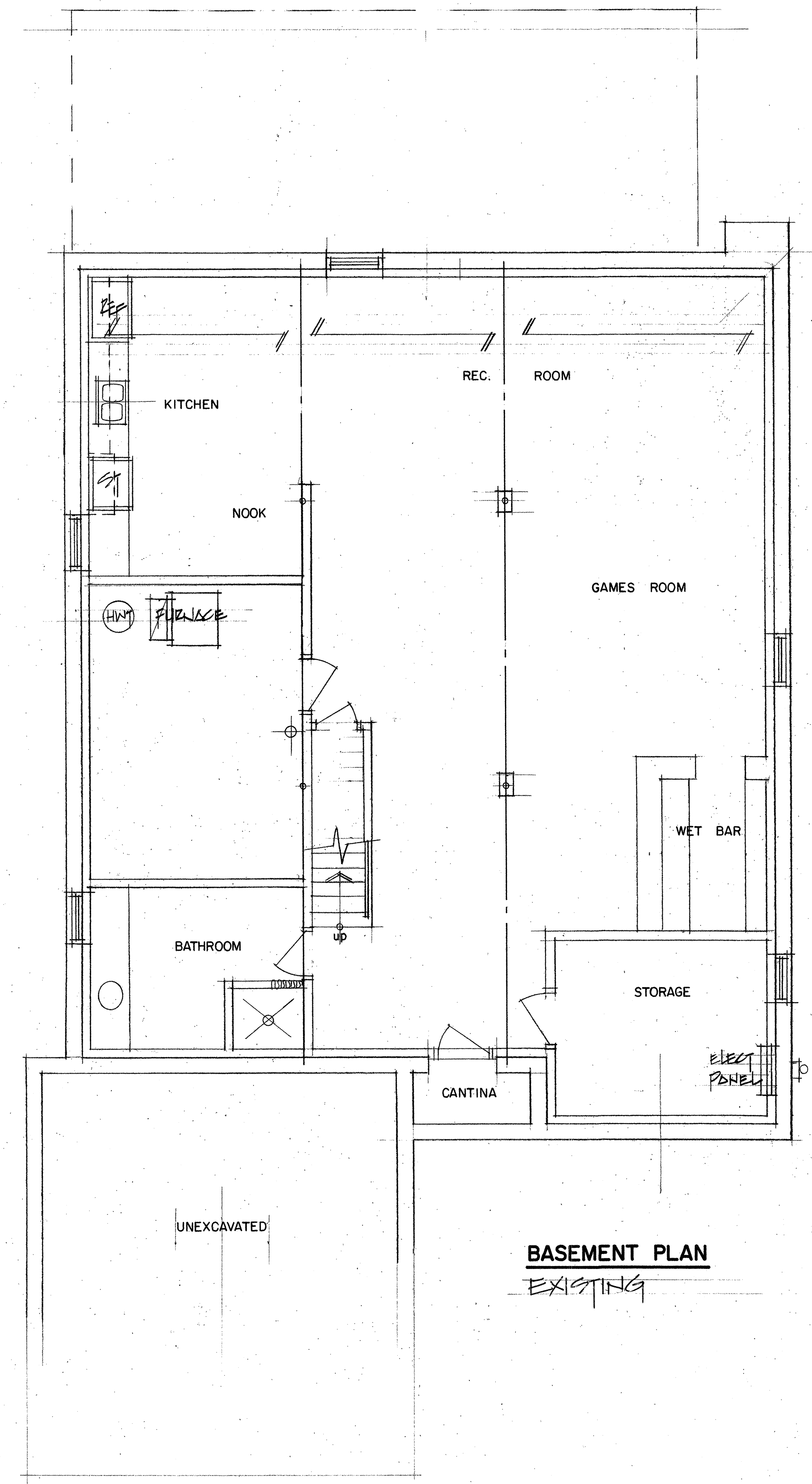
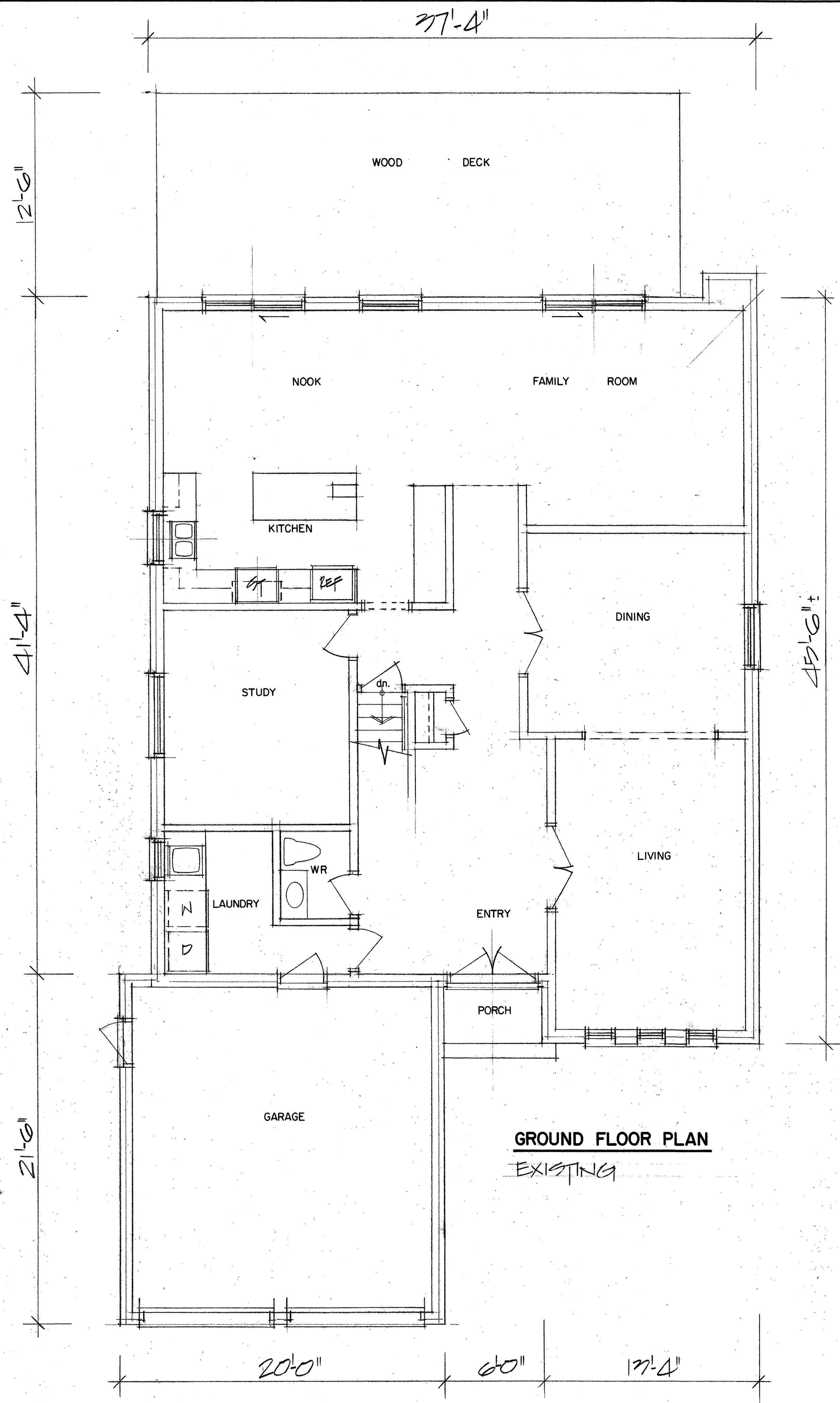


114.7 0 57.33 114.7 Meters

Notes



PROJECT: BASEMENT APARTMENT BASEMENT WALK - UP 4 SOHO CRES. CITY OF MARKHAM THE GREGORY DESIGN GROUP 16 CHURCH STREET MARKHAM, ONTARIO, L3P 2L6 (416) 720-4667 russ@gregorydesigngroup.net	<small>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 registered, in the appropriate classes/categories.</small> INDIVIDUAL B.C.I.N. - 25805 FIRM B.C.I.N. - 30508 Russ Gregory NAME SIGNATURE	DRAWN: R. GREGORY
		DATE: 10/23/22
		SCALE: 1/4"=1'-0"
	<small>All construction is to conform to section 10" of the Ontario Building Code (most 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. These drawings are the property of the Gregory Design Group and/or its clients only. Building permits should be obtained prior to commencing construction.</small>	PROJECT NO.: 2407-22
		DRAWING NO.: A-1



PROJECT: BASEMENT APARTMENT BASEMENT WALK - UP 4 SOHO CRES. CITY OF MARKHAM THE GREGORY DESIGN GROUP 16 CHURCH STREET MARKHAM, ONTARIO, L3P 2L6 (416) 720-4667 russ@gregorydesigngroup.net	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 registered, in the appropriate classes/categories. INDIVIDUAL B.C.I.N. - 25825 FIRM B.C.I.N. - 20206 Russ Gregory NAME SIGNATURE	DRAWN: R. GREGORY DATE: 10/13/22 SCALE: 1/4"=1'-0"
	GENERAL NOTES: All construction is to conform to section "0" 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. These drawings are the property of the Gregory Design Group and/or its clients only. Building permits should be obtained prior to commencing construction.	PROJECT NO.: 2407-22 DRAWING NO.: A-2

Received April 3, 2001 Donna Ramsey

Appendix B

File: 22.263748.000.00.MNV

Date: 01/27/23
MM/DD/YY

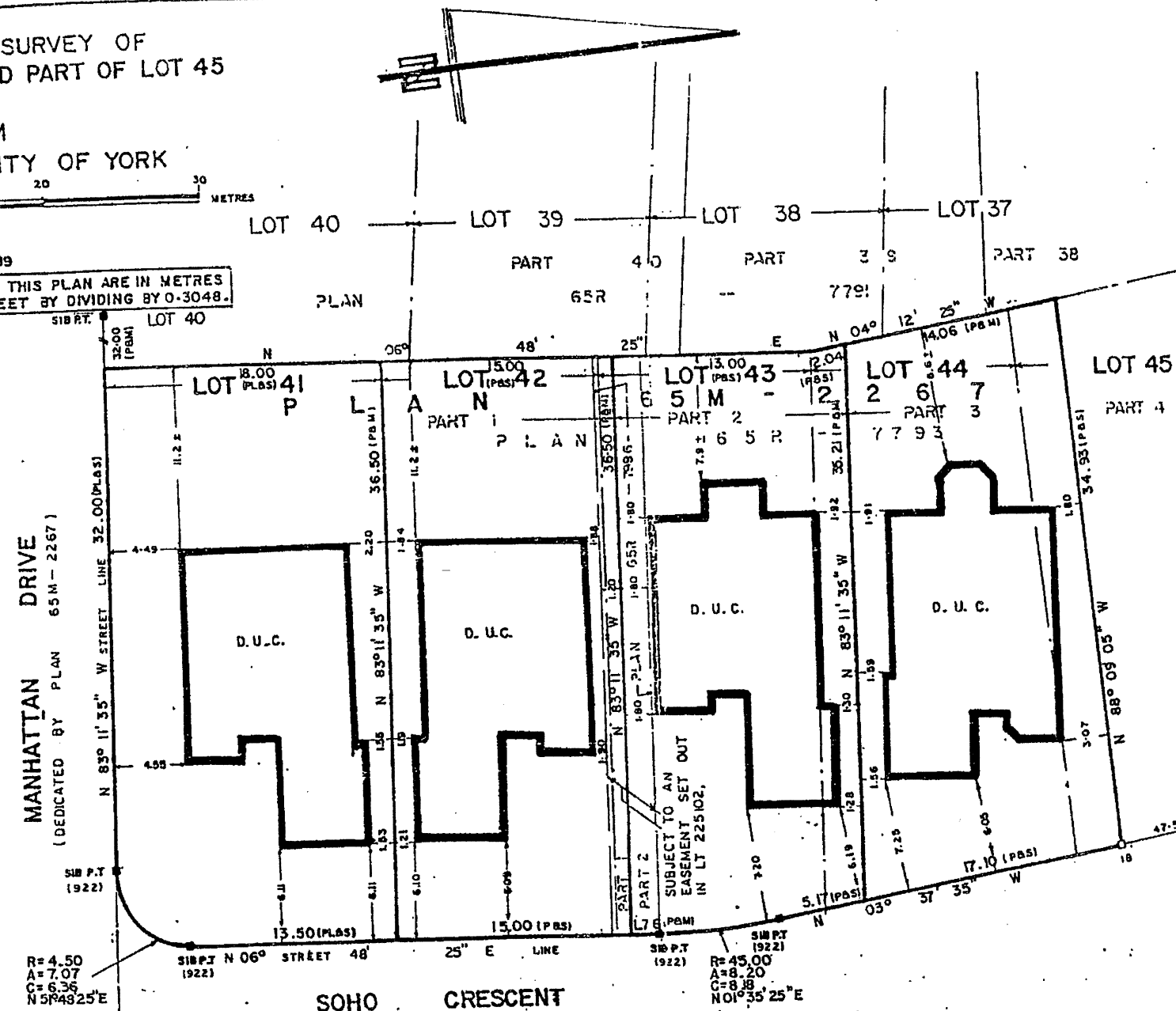
BUILDING LOCATION SURVEY OF
LOTS 41, 42, 43, 44 AND PART OF LOT 45
PLAN 65M-2267
TOWN OF MARKHAM
REGIONAL MUNICIPALITY OF YORK

SCALE 1:300
ANTON KIKAS LIMITED
ONTARIO LAND SURVEYORS, 1989

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

NOTES:
BEARINGS ARE ASTRONOMIC AND ARE REFERRED TO THE WESTERLY LIMIT OF SOHO CRESCENT AS SHOWN ON PLAN 65R-7793 HAVING A BEARING OF N 03° 37' 35" W.
BUILDING TIES SHOWN HEREON ARE TO CONCRETE FOUNDATION UNLESS NOTED OTHERWISE.

LEGEND
 ■ DENOTES SURVEY MONUMENT FOUND
 □ DENOTES SURVEY MONUMENT PLANTED
 S.I.B. DENOTES STANDARD IRON BAR
 I.B. DENOTES IRON BAR
 D.U.C. DENOTES DWELLING UNDER CONSTRUCTION
 (P.B.S.) DENOTES PLAN 65R-7793 AND SET
 (P.M.) DENOTES PLAN 65R-7793 AND MEASURED
 (S.22) DENOTES SCHAEFFER & REINTHALER O.L.S.
 (P.L.S.) DENOTES PLAN 65M-2267 AND SET



R=4.50
A=7.07
C=6.36
N5°48'25\"/>

SOHO CRESCENT
(DEDICATED BY PLAN 65M-2267)

SURVEYOR'S CERTIFICATE
I CERTIFY THAT:
THE FIELD SURVEY REPRESENTED ON THIS PLAN WAS
COMPLETED ON THE 16th DAY OF Jan., 1989
Feb. 22, 1989
DATE
ANTON KIKAS
ONTARIO LAND SURVEYOR

AK Anton Kikas Limited
Consulting Engineers
Ontario Land Surveyors - Planners
158 Bridgeland Avenue Toronto M5A 1Z4 Tel. 787-0303

DRAWN BY: J.J.L.	JOB NO: 88-172-1
CHECKED BY: J.K.S.	

APPENDIX "C"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/225/22

1. The variance applies only to the proposed development as long as it remains;
2. That the variance applies only to the subject development, in substantial conformity with the plan(s) attached as Appendix "B" - Plans 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 prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site in accordance with the City's Streetscape Manual, including street trees, in accordance with the City's Streetscape Manual (2009) as amended, and inspected by City Staff to the satisfaction of the Tree Preservation Technician or Manager of By-law Enforcement & Regulatory Services Division.

CONDITIONS PREPARED BY:



Hussnain Mohammad, Development Technician, Zoning and Special Projects