

Memorandum to the City of Markham Committee of Adjustment

July 21, 2020

File: A/066/20
Address: 30 Neeland Rd Markham
Applicant: Wenjuan Chen
Agent: Henry Wen
Hearing Date: Wednesday, July 29, 2020

The following comments are provided on behalf of the Central Team. The applicant requests relief from the following requirements of the “Fourth Density – Semi-Detached Residential (RSD4)” Zone in By-law 90-81, as amended, to permit:

a) Section 5.2.1:

a Second Dwelling Unit; whereas the by-law permits no more than one (1) semi-detached dwelling on one (1) lot;

b) Section 5.2.6:

an opening for a door to be located 0.58 m from the interior side lot line; whereas the by-law requires a minimum of 1.2 m. as it relates to a proposed basement apartment.

BACKGROUND

Property Description

The subject property has an area of 412 m² and is occupied by an existing linked semi-detached residential dwelling unit with a Gross Floor Area (GFA) of 284.4 m². The subject property is located on the east side of Brimley Road, north of Denison Street (see Appendix “B”) and is municipally known as 30 Neeland Road. The neighbourhood is made up of similar residential dwellings.

Proposal

The applicant is requesting relief from By-law 90-81, as amended, to permit a secondary suite in the basement of the existing dwelling. The proposed secondary suite would have direct and separate access provided by an existing door on the south side of the building. The applicant requires relief from the by-law to allow the existing door to be located 0.58 m from the interior side lot line.

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

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

The subject property is designated “Residential Low Rise”, which provides for low rise housing forms including single detached dwellings. Section 8.2.3.5 of the 2014 Official Plan outlines development criteria for the “Residential Low Rise” designation with respect to height, massing and setbacks. This criteria is established to ensure that the development is appropriate for the site and generally consistent with the zoning requirements for adjacent properties and properties along the same street. In considering applications for development approval in a “Residential Low Rise” area, which includes variances, infill development is required to meet the general intent of these development criteria. Regard shall also be had for retention of existing trees and vegetation, the width of proposed garages and driveways, and the overall orientation and sizing of new lots within a residential neighbourhood.

The 2014 Official Plan (Section 4.1.2.6) contains policies to support further diversification of the housing stock and rental housing tenure by permitting secondary suites within existing and new permitted 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.

As previously mentioned, the City’s Official Plan designates the subject property “Residential Low Rise”, which provides for low rise housing forms including single detached dwellings, and secondary suites in accordance with Section 8.13.8. A “Secondary Suite” in the 2014 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 8.13.8 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.”

Zoning By-Law 90-81

The subject property is zoned “Fourth Density – Semi-Detached Residential (RSD4)” under By-law 90-81, which permits semi-detached and linked dwellings. The proposed development does not comply with the zoning by-law with respect to the inclusion of a secondary suite or the location of a door from the interior lot line.

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, *“to utilize high-value property lot as supported by the Official Plan and Growth Plan Policy – existing side door is Grandfather old situation and has no impacts to the neighbour”*.

Zoning Preliminary Review (ZPR) Undertaken

The owner completed a Zoning Preliminary Review (ZPR) on January 29, 2020 to confirm the variances required for the proposed development. If the variances requested in this application contain errors, or if the need for additional variances are 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 Suite

The City's Fire and Emergency Services Department has reviewed the associated plans (see Appendix "C"), and has no objections. Notwithstanding, the applicant will be required to register the secondary suite with the Fire Department prior to the occupancy of the unit. Should this application be approved, the applicant will be required to obtain a Building Permit, which will ensure that the proposed secondary suite is in compliance with the Ontario Building Code ("OBC"), and Fire Code regulations.

Door Opening

The applicant is requesting a door opening located 0.58 m from the interior side lot line, whereas the by-law requires that a door opening be located a minimum distance of 1.2 m. This represents a decreased distance of 0.62 m from the interior lot line. The associated drawings (see Appendix "C"), indicate that the door is existing and swings inwards. Given that no drainage or grading changes are proposed, and that the existing door opening location will accommodate separate access to the proposed secondary dwelling unit, Staff support the variance. Furthermore, the Applicant will be required to submit a Building Permit application, where the entrance will be evaluated to ensure compliance with the OBC.

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 as 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 and therefore have no objections.

EXTERNAL AGENCIES

This application has been circulated to various departments and external agencies and their comments have been addressed.

PUBLIC INPUT SUMMARY

No written submissions were received as of July 21, 2020. 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 "A" for conditions to be attached to any approval of this application.

PREPARED BY:



Luis Juárez, Planner II, Central District

REVIEWED BY:



Dimitri Pagratis, Senior Planner, Central District

List of Appendices:

Appendix "A": Conditions of Approval (A/066/20)

Appendix "B": Zoning & Context Map

Appendix "C": Plans

APPENDIX "A"

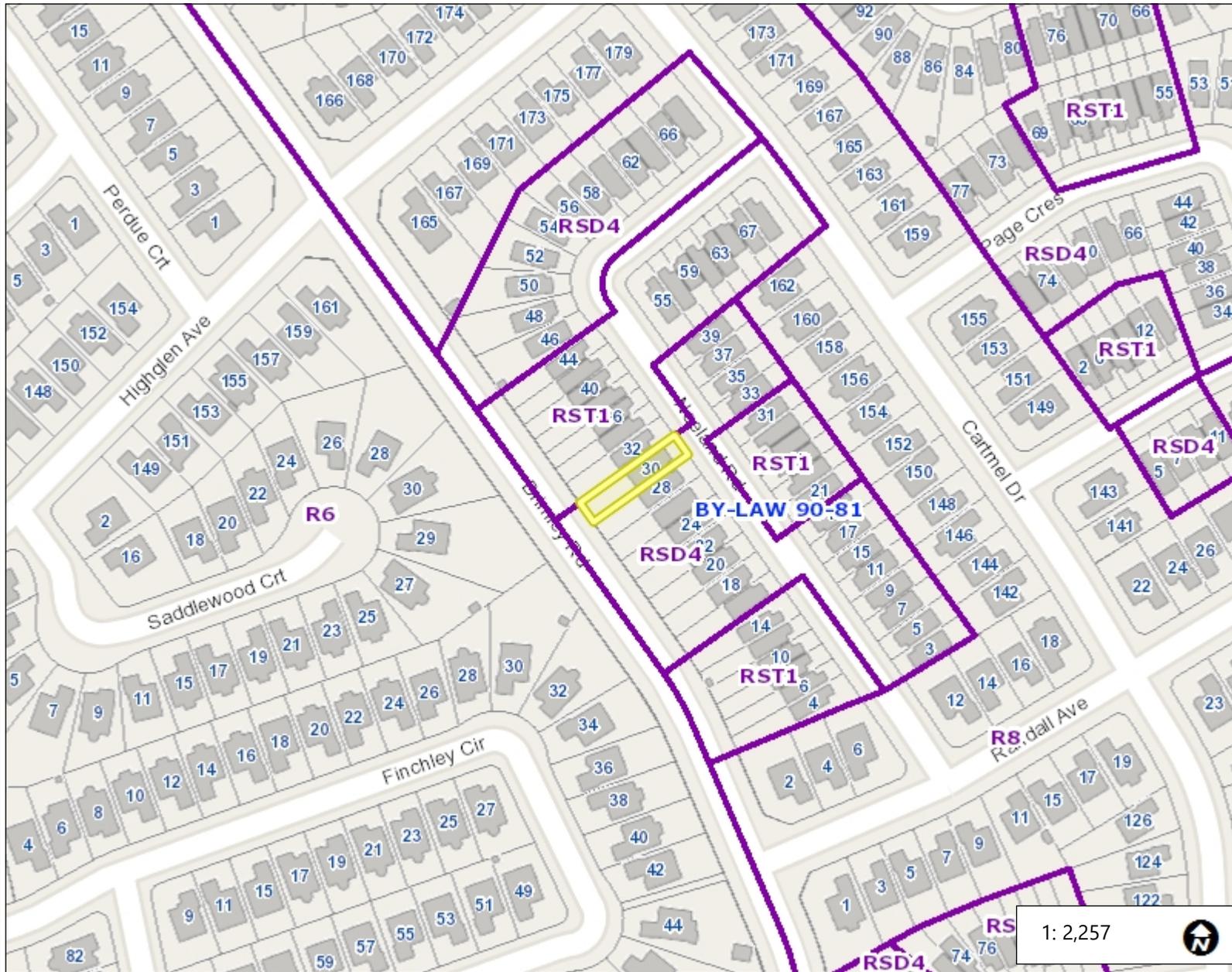
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/066/20

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 C' to this Staff Report and received by the City of Markham on December 12, 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:



Luis Juarez, Planner II, Central District



Legend

- Parent By-laws
- Zoning Designations
- LANDMARKS_6000
- SLRN_6000
- PARKS_6000
- Building Footprints
- Ponds
- Creeks
- Rivers
- Parcel (MPAC)
- Park Facilities
- Parks
 - <all other values>
 - Under Development

1: 2,257



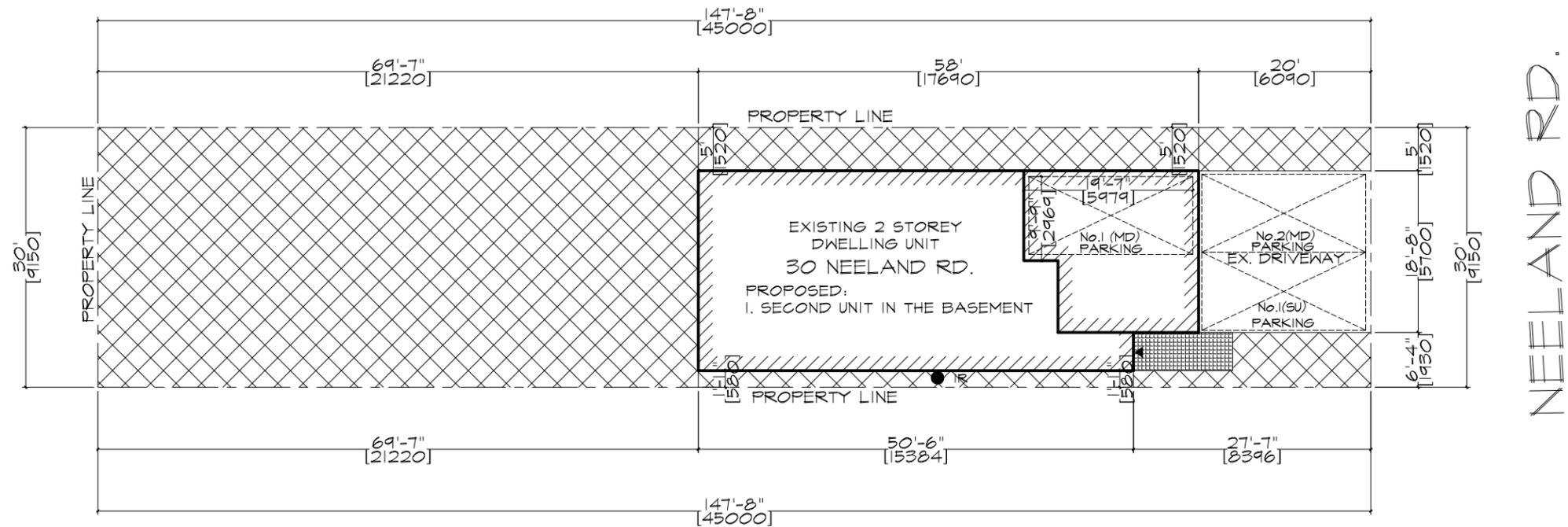
114.7 0 57.33 114.7 Meters

NAD_1983_UTM_Zone_17N
© Latitude Geographics Group Ltd.

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes



SITE PLAN 1:200

DESCRIPTION	FLOOR AREA	TOTAL	SETBACKS	
GROUND FLOOR	85.9M ²	284.4M ²	FRONT YARD	6.09M
SECOND FLOOR	108.5M ²		REAR YARD	21.22M
BASEMENT	90.0M ²		INTERIOR SIDE (NORTH)	1.52M
SECOND UNIT	66.3M ²	23.3%	INTERIOR SIDE (SOUTH)	0.58M

LEGEND

- PARKING SPACE : 2750X5800
- SOFT LANDSCAPE DOWN PIPE
- ENTRANCE OF MAIN DWELLING UNIT
- ENTRANCE OF SECOND DWELLING UNIT
- WALK WAY (WIDTH:1200mm)

PROJECT ADDRESS:
30 NEELAND RD.,
MARKHAM

PROJECT NUMBER: 20102
DRAWING SHEET: SITE PLAN

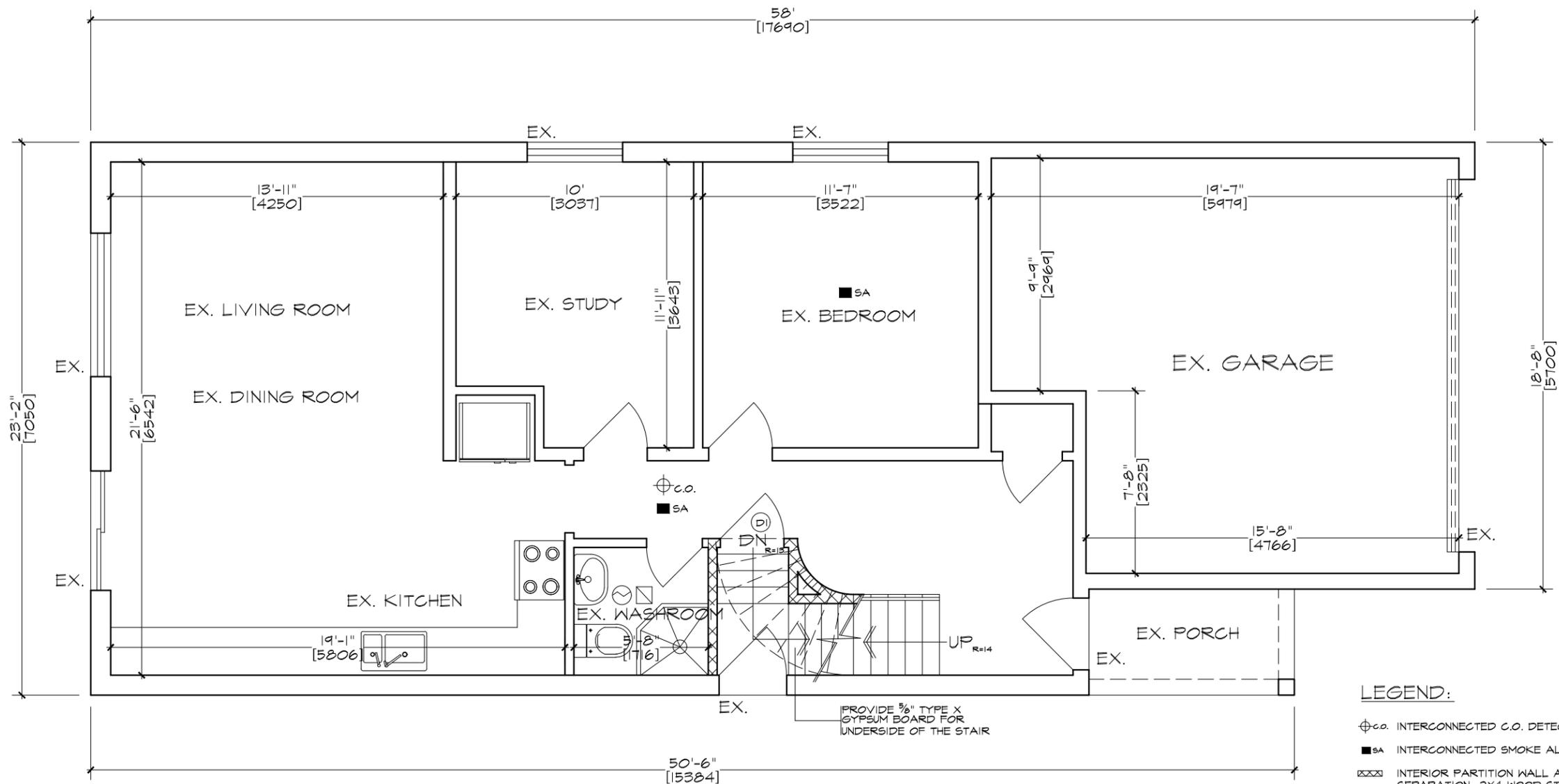
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DATE: DECEMBER 12, 2019

DRAWN BY:

CHECKED BY:

PAGE NO.
A001



GROUND FLOOR PLAN

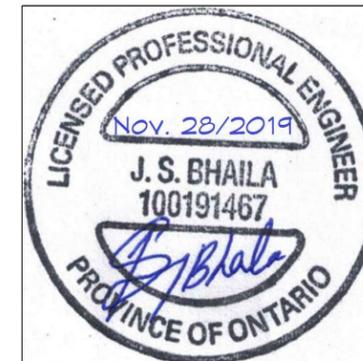
SCALE: 3/16" = 1'-0"

DOOR & WINDOW SCHEDULE

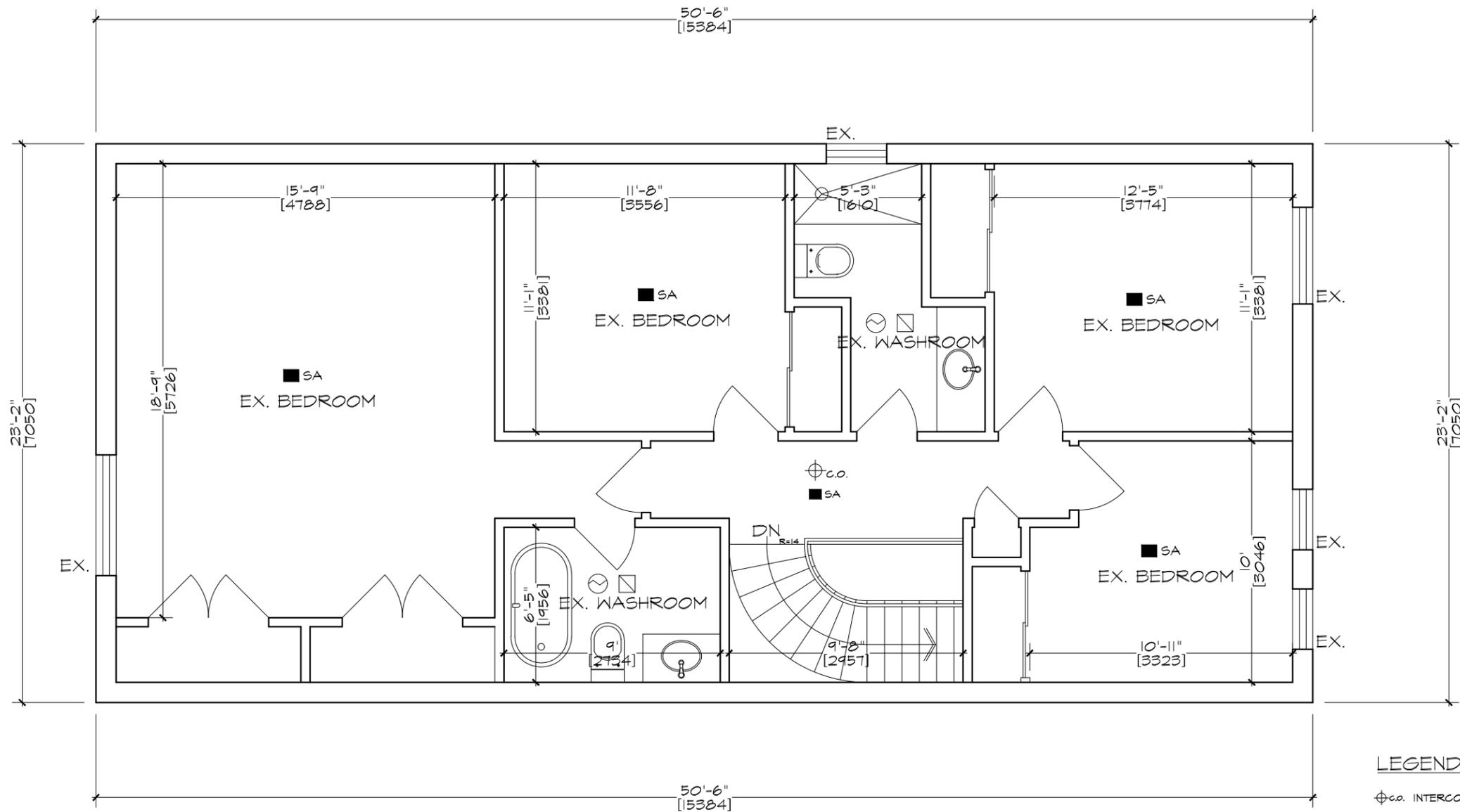
No.	SIZE	DESCRIPTION
(D1)	32" X 80"	FIRE DOOR (20 MIN) WITH SELF CLOSER

LEGEND:

- ⊕ c.o. INTERCONNECTED C.O. DETECTOR ALARM
 - SA INTERCONNECTED SMOKE ALARM
 - ▨ INTERIOR PARTITION WALL AS 30 MINUTES FIRE SEPARATION .2X4 WOOD STUDS @16" o.c. COVERED BY 1/2" REGULAR GYPSUM BOARD ON BOTH SIDE W/ SOUND INSULATION IN THE CAVITY AS 50 STC
 - ▭ EXISTING INTERIOR PARTITION: 2X4 OR 2X6 WOOD STUDS @16" o.c. COVERED BY 1/2" REGULAR GYPSUM BOARD ON BOTH SIDE
 - ▩ NEW INTERIOR PARTITION 2X4 WOOD STUDS @16" o.c. COVERED BY 1/2" REGULAR GYPSUM BOARD ON BOTH SIDE
 - ☒ EXISTING VENT SUPPLY FOR HEATING
 - ⊙ EXHAUST VENT, MIN. 50 CFM
 - ⌋ LOWER WALL AIR RETURN
 - ⌋ HIGH WALL AIR RETURN
- KEEP EX. 1/2" REGULAR GYPSUM BOARD CEILING
NO CHANGE FOR HVAC & PLUMBING



PROJECT ADDRESS:	30 NEELAND RD., MARKHAM
PROJECT NUMBER:	20102
DRAWING SHEET:	GROUND FLOOR PLAN
SCALE:	3/16" = 1'-0"
DATE:	DECEMBER 07, 2019
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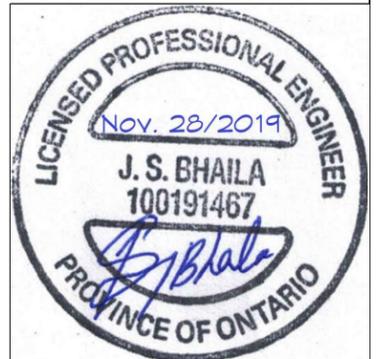


SECOND FLOOR PLAN

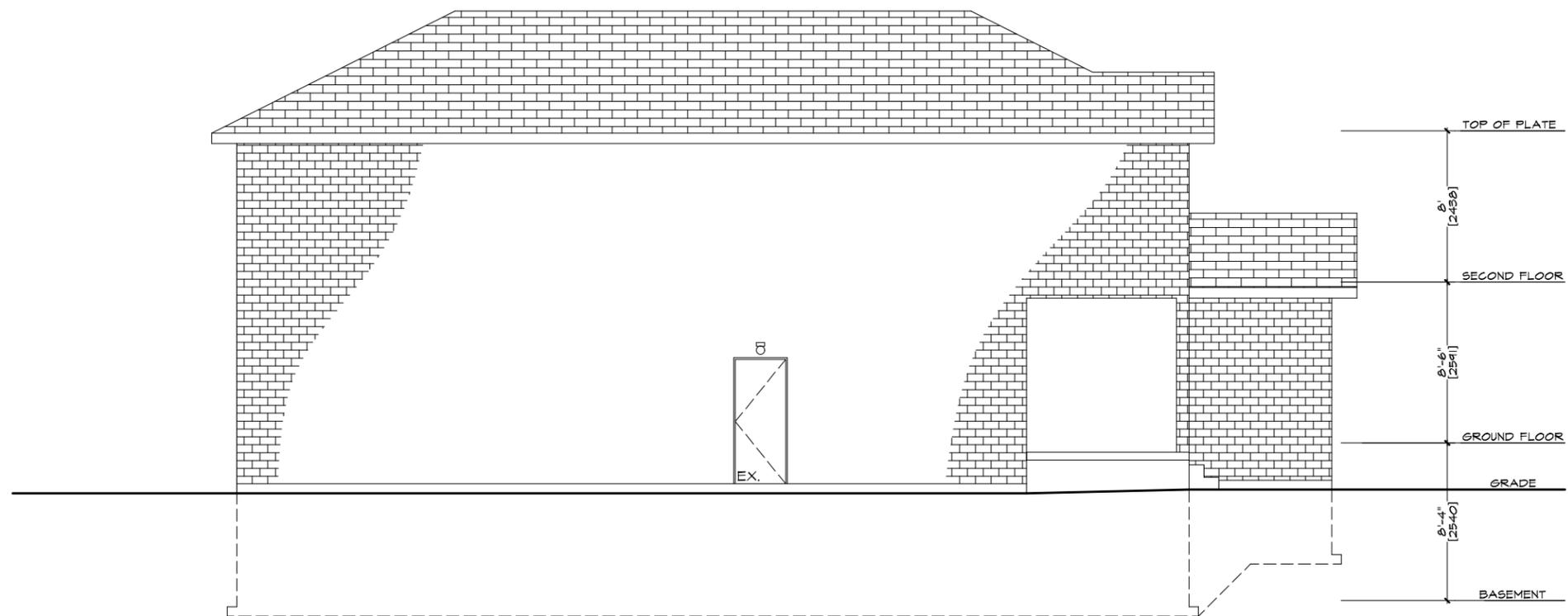
SCALE: 3/16" = 1'-0"

LEGEND:

- ⊕c.o. INTERCONNECTED C.O. DETECTOR ALARM
- SA INTERCONNECTED SMOKE ALARM
- ▤ INTERIOR PARTITION WALL AS 30 MINUTES FIRE SEPARATION : 2X4 WOOD STUDS @16" o.c. COVERED BY 1/2" REGULAR GYPSUM BOARD ON BOTH SIDE W/ SOUND INSULATION IN THE CAVITY AS 50 STC
- ▭ EXISTING INTERIOR PARTITION: 2X4 OR 2X6 WOOD STUDS @16" o.c. COVERED BY 1/2" REGULAR GYPSUM BOARD ON BOTH SIDE
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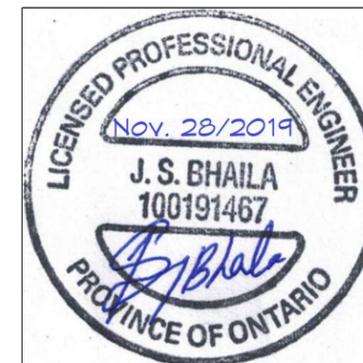


PROJECT ADDRESS:	30 NEELAND RD., MARKHAM
PROJECT NUMBER:	20102
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SCALE:	3/16" = 1'-0"
DATE:	DECEMBER 07, 2019
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SOUTH ELEVATION

SCALE: 1/8" = 1'-0"



PROJECT ADDRESS:
30 NEELAND RD.,
MARKHAM

PROJECT NUMBER: 20102

DRAWING SHEET:
SOUTH ELEVATION

SCALE: 1/8" = 1'-0"

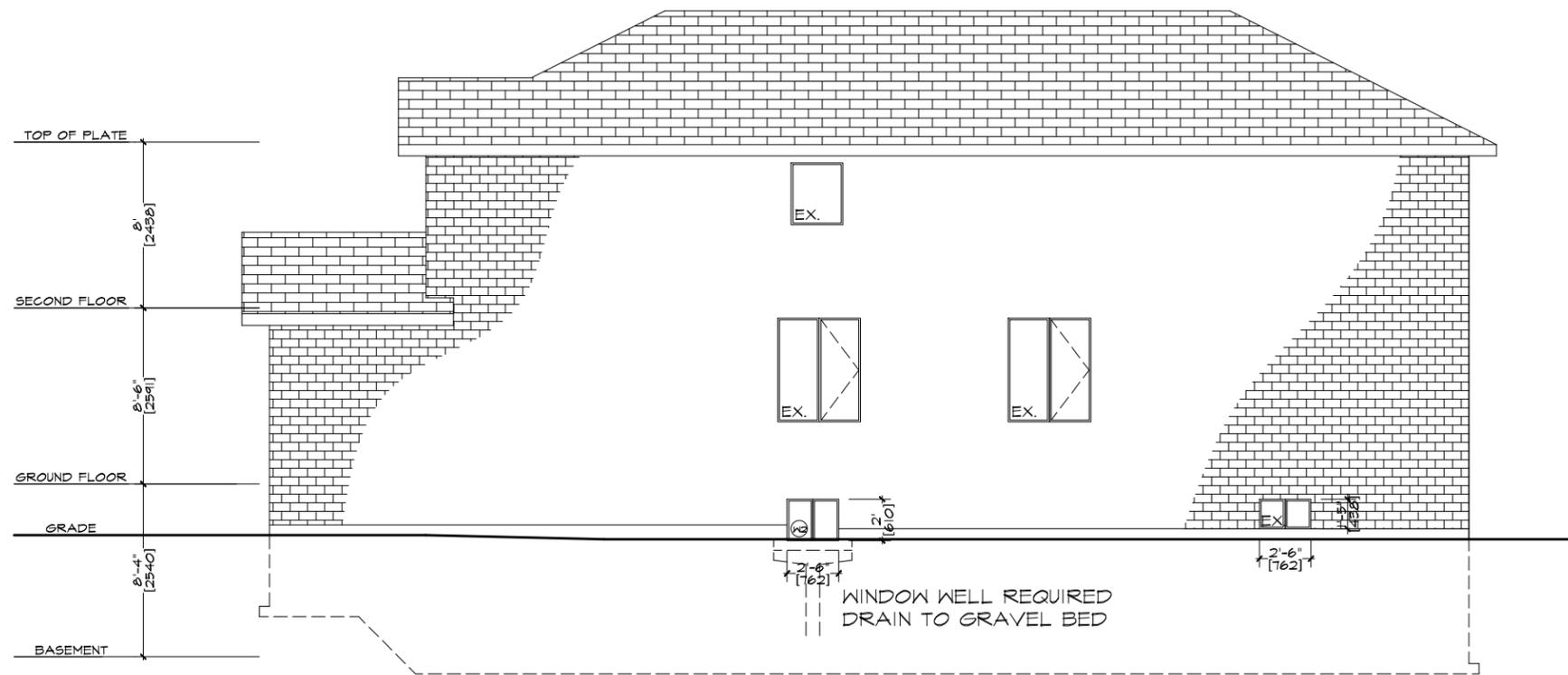
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NORTH ELEVATION

SCALE: 1/8" = 1'-0"



PROJECT ADDRESS:

PROJECT NUMBER: 20102

DRAWING SHEET: NORTH ELEVATION

SCALE: 1/8" = 1'-0"

DATE: OCTOBER 30, 2019

DRAWN BY:

CHECKED BY:

PAGE NO.

A006

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

I REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE LAND TITLES ACT.

PLAN 65R-9925

RECEIVED AND DEPOSITED

DATE: Nov. 5, 1986

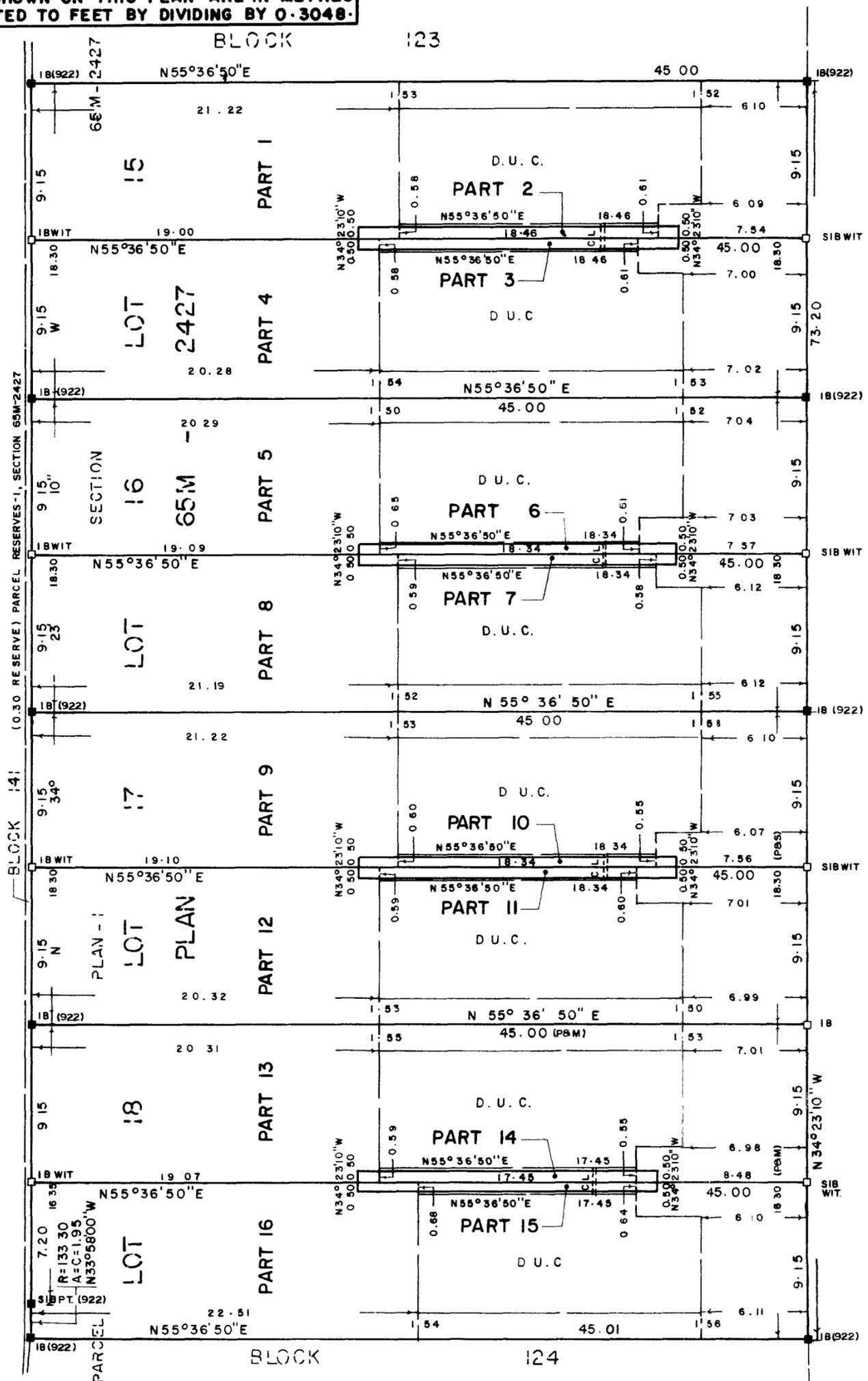
DATE: 20 NOV. 1986

W. J. Burg
W JOHN BURG, O L S

Dep. J. Salter
LAND REGISTRAR FOR THE LAND TITLES DIVISION OF YORK REGION (Nº 65)

PARTS I TO 16 BOTH INCL. PART OF PARCEL PLAN - I SEC. 65M-2427

BRIMLEY ROAD
(BY PLAN 65M-2427)
PARCEL STREETS - I, SECTION 65M-2427



NEELAND ROAD
(BY PLAN 65M-2427)
PARCEL STREETS - I, SECTION 65M-2427

PLAN OF SURVEY OF
LOTS 15, 16, 17 & 18, PLAN 65M-2427
TOWN OF MARKHAM
REGIONAL MUNICIPALITY OF YORK



ANTON KIKAS LIMITED
ONTARIO LAND SURVEYORS, 1986

CAUTION: THIS PLAN IS NOT A PLAN OF SUBDIVISION WITHIN THE MEANING OF THE PLANNING ACT.

NOTES:

BEARINGS ARE ASTRONOMIC AND ARE REFERRED TO THE SOUTH-WESTERLY LIMIT OF NEELAND ROAD AS SHOWN ON PLAN 65M-2427 HAVING A BEARING OF N 34° 23' 10\"W

- DENOTES SURVEY MONUMENT FOUND
- DENOTES SURVEY MONUMENT PLANTED
- S.I.B. DENOTES STANDARD IRON BAR
- I.B. DENOTES IRON BAR
- WIT DENOTES WITNESS
- D.U.C. DENOTES DWELLING UNDER CONSTRUCTION
- C.L. DENOTES CONCRETE LINK
- TIES ARE TAKEN TO CONCRETE FOUNDATION
- (922) DENOTES SCHAEFFER & REINTHALER, O L S
- (P&S) DENOTES PLAN 65M-2427 AND SET
- (P&M) DENOTES PLAN 65M-2427 AND MEASURED

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE THEREUNDER;
2. THE SURVEY WAS COMPLETED ON THE 31st DAY OF Oct., 1986

DATE: Nov. 5, 1986

W. J. Burg
W JOHN BURG
ONTARIO LAND SURVEYOR

AK Anton Kikas Limited
Consulting Engineers
Ontario Land Surveyors - Planners
2028 Avenue Road, Toronto M5M 4A4 Tel. 489-1991

DRAWN BY: L.V.
CHECKED BY: T.M.

JOB Nº
86-109-5