



City of
Peterborough

COMMITTEE OF ADJUSTMENT

HEARING DATE: March 3, 2009

Staff Comments Regarding Files: A5/09, B2/08, A6/09, A7/09 and A8/09

A5/09 – 227 & 301 Carnegie Avenue - Triple T Holdings Limited.

The applicant is constructing condominium complexes in two locations on the east side of Carnegie Avenue. Within each complex there are units located adjacent to Carnegie Avenue where the developer would like to construct larger platform decks that were originally conceived by the plan that was advanced for the zoning and site plan approval. Considering the zoning regulations, a variance is requested to increase the maximum distance that a platform deck may project into a building setback from the street line from 1.5 metres (5 ft) to 3.65 metres (12 ft) for 3 units located within the residential complex at 227 Carnegie Avenue and 6 units located within the complex at 301 Carnegie Avenue. The deck associated with these properties would be located approximately 5.74 metres (18.8 ft) from the Carnegie Avenue street line.

Staff reviewed the basis upon which the zoning and site plan were approved which included a Traffic Noise Feasibility Study for Carnegie Avenue and Water Street Peterborough, Ontario prepared by HGC Engineering May 30/07. The Study concluded that the predicted daytime sound levels will exceed the Ministry of Environment's limits in relation to the outdoor living areas associated with the units that are the subject of this application. The Study recommended physical noise mitigation measures including a sound attenuation barrier atop an elevated berm and that a warning clause be registered on the title of each condominium unit. The Site Plan therefore required the elevated berm and acoustical barrier fencing be established and maintained in relation to the units. Staff reviewed the proposal with the author of the Study and MOE and it was agreed that it was expected that the noise level would exceed the MOE' acceptable noise criteria and there would not be a significant increase in the volume of noise as a result of extending the deck 2.15 metres (7 ft) toward the noise attenuation barrier.

Staff visited the site and considered the circumstances including the noise study and the mitigation measures required by the site plan agreement and would concur with the consultant being of the opinion that the impact of the variance would be minor.

Staff would not object to the Committee granting the variance provided that the Owner agrees that all Agreements of Purchase and Sale, Occupancy Agreements or Leases regarding units 1,2,3,4, 18, 19 and 20 of Phase I and Units 29, 61,62,63, 64, 65, 66 and 67 of Phase II shall contain the following warning clause:

"Purchasers/tenants are advised that despite the inclusion of noise control features in the development and within the dwelling units, the sound levels due to increasing road traffic may occasionally interfere with some of the activities of the dwelling unit's occupants, as the sound levels exceed the Ministry of the Environment's noise criteria".

B2/09 – 220 Bennett Street - Edward & Catherine Kingdon

Referring to the Plan attached as Exhibit A, the owner of the subject property would like to convey a triangular portion of the subject property to the owner of the adjacent property known municipally as 216 Bennett Street to align the north east side lot line with the established boundary of the property based on its use and development. Besides increasing the conformity of the location of the garden shed established on the adjacent property, the conveyance would improve the practical configuration of lot line defining the two properties.

Staff would recommend that the Committee grant the consent as described subject to the provision of a survey to the satisfaction of the City Planner and provided that Section 50 (5) of the *Planning Act* applies to any subsequent transaction involving the parcel of land being conveyed.

A06/09 – 260 Aylmer Street North - Christa & Keith Payne

The C.6 Commercial District zoning of the subject property requires that residential use of any building be located on the second storey or higher. The owner of the property is proposing to construct an addition to the rear of the building to accommodate residential units that would be on the main level of the building and not exclusively on the second storey or higher as required by the zoning district.

The C.6 Commercial District zoning is typically applied to properties located within the central area of the City. The intent of the regulation is to ensure a continuous street front commercial use is not disrupted by residential use on the street front main level of the building. Staff noted that the property is on the fringe of the central business district and similar to other properties it has not realized its commercial potential. Referring to the photo below, the building established on the property is an older dwelling that is entirely used for residential purposes. The residential use of the main floor of the dwelling is recognized as legal, non-conforming.



While the zoning does permit mixed residential and commercial use of the property, Staff must be mindful of the intent of the regulation restricting the residential use of the streetfront main level of the building. Considering the provincial growth plan directives to foster compact growth and intensification as well as the Master Plan objectives to foster residential development in the down town, Staff would not object to the Committee granting relief to permit

residential development on other than the second storey or higher on any portion of a building on the property setback greater than 14 metres from the street front. This would allow the proposed new residential development to the rear of the property while at the same time, permit the non-conforming residential use established in the front portion of the main level to continue until it has voluntarily been discontinued following which it would have to be commercial to conform to the by-law.

A07/09 – 2497 Marsdale Drive - Robert Gray

A variance is requested to reduce the minimum building setback from the centre line of Marsdale Drive from 19 metres (62.3 ft) to 17.8 metres (58.39 ft) to allow the proposed construction of the 2.7 metre (9 ft) wide by 1.8 metre (6 ft) deep addition to the front of the dwelling as illustrated on Exhibit C. The proposed addition would provide interior space for a vestibule and clothes closet at the front entrance to the building.

The intention of the street setback regulations of the by-law is to maintain a reasonably uniform building line setback from the activities associated with a collector street. Staff considered the size and design of the dwelling and the alternative rear entrance to the building in relation to how the property functions.

Considering the space between buildings along Marsdale Drive, the sightlines and orientation of dwellings in relation to the bend in Marsdale Drive and that the proposed addition would project only 1.2 metres more than the setback would allow, Staff would offer the opinion that the impact of the proposed addition would be minor and would improve the functionality of the dwelling.

Subject to concerns raised by neighbouring property owners, Staff would not object to the Committee granting the variance as described.

A8/09 – 2505 Pioneer Road - Trent University

The applicant is proposing to construct a 180 square meter (1,937 sq ft) building on lands owned by Trent University to be used as teaching facility. The proposed building is described as "off grid" and will be designed not be connected to municipal sewer and water services. The proposed location of the building is on the property Municipally known as 2505 Pioneer Road where no municipal sewer or water services exist.

Relief is being requested from Section 6.4 of the zoning by-law that requires that "public water distribution and wastewater collection facilities are available to the lot" before any building can be erected on the property or used.

The building is to function as an Outdoor Education Centre. The intention of the development is to showcase a building design that would be self contained and sustainable. In place of public water and waste water collection facilities, the building is to have a system by which rain water is to be collected and used in conjunction with a septic system. A composting toilet system is also to be installed.

Considering the proposed building to be a teaching and education facility located on lands zoned for such a purpose, Staff would not object to the Committee granting the variance provided that both the public water and wastewater collection facilities are designed and installed to the satisfaction of the Peterborough County City Health Unit, the Ministry of Environment and the requirements of the Ontario Building Code.

It is recommended that the variance be approved subject to the provision of a letter from the Peterborough County City Health Unit confirming their approval of the water and waste systems as appropriate for use as a public building prior to issuance of a Building Permit.

Respectfully submitted,




Richard Straka
Planner Policy & Research



R. Waldron, C.E.T., CBCO
Manager, Building Division

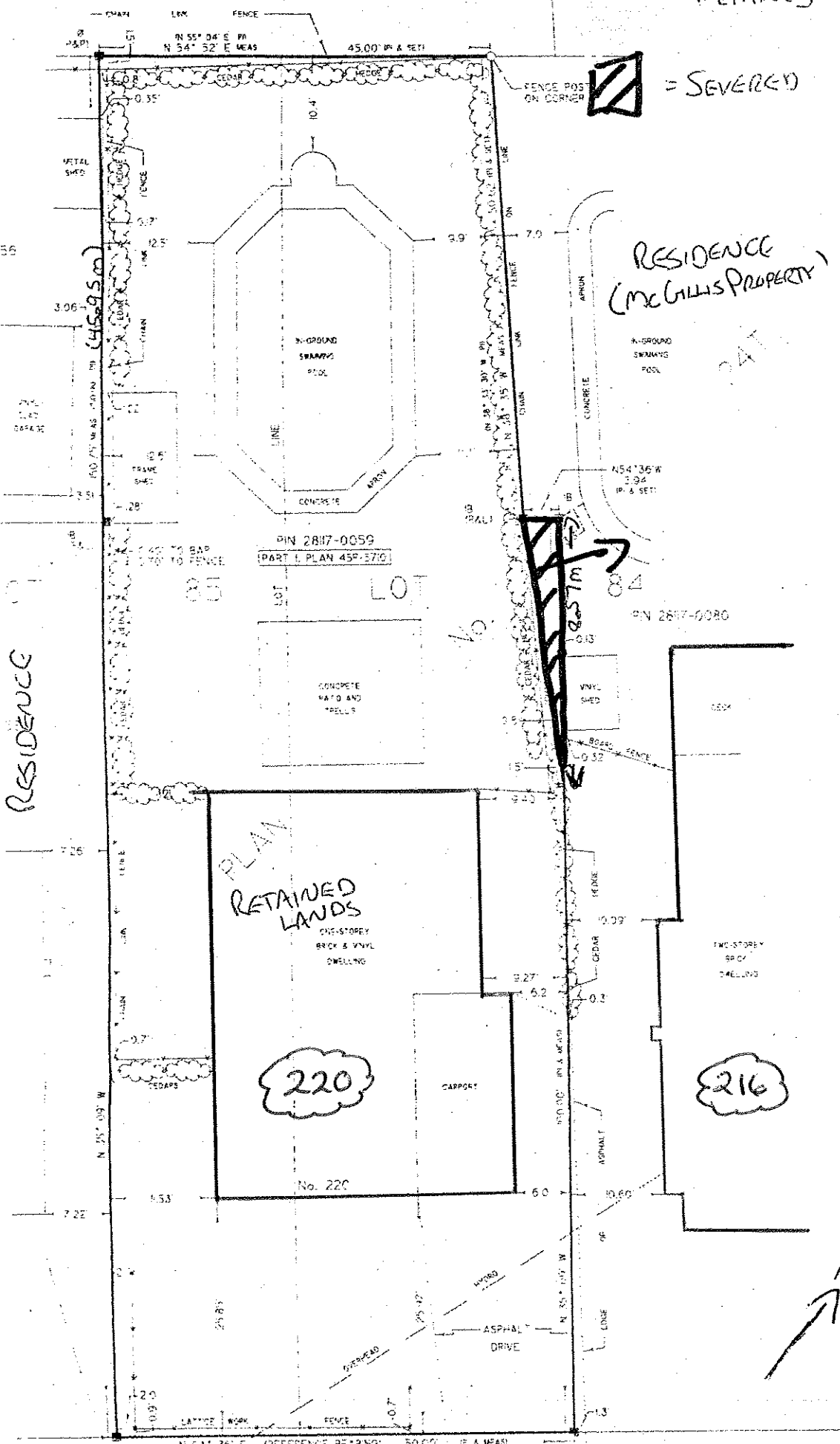
RETAINED

EXHIBIT A
SHEET 1 OF 1

 = SEVERED

RESIDENCE
(McGILLIS PROPERTY)

RESIDENCE

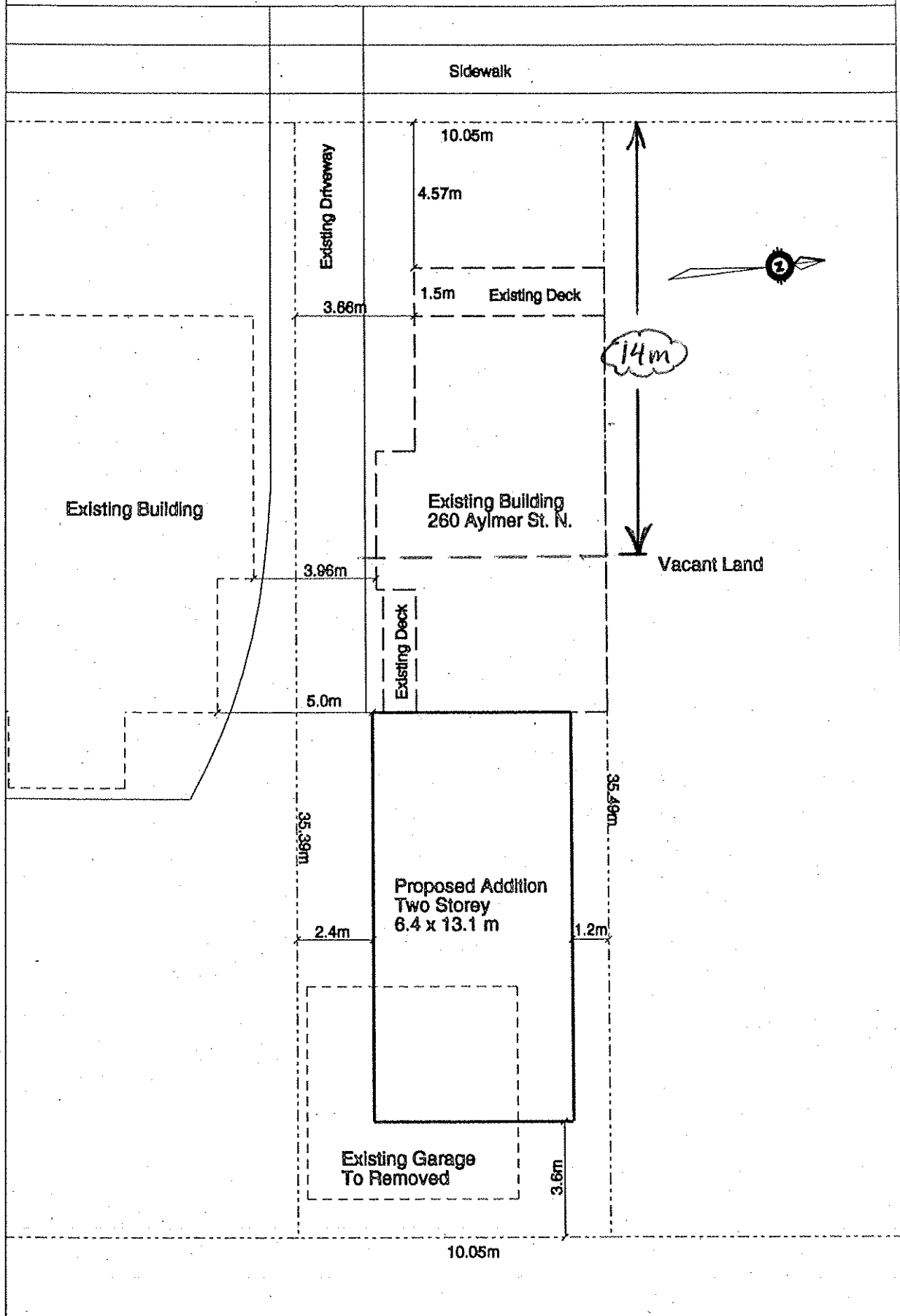


SURVEY

PROPERTY TAX
 TAX SURVEY
 RECORDS AND
 RECORDS AT
 THE SURVEY
 913
 BEARING TO THE
 BOUNDARY

BENNETT STREET

Aylmer Street North
20 m ROW



PLAN

LOT 89

PARCEL 89-1
 SECTION 45M-138

LOT 90

PARCEL 90-1
 SECTION 45M-138

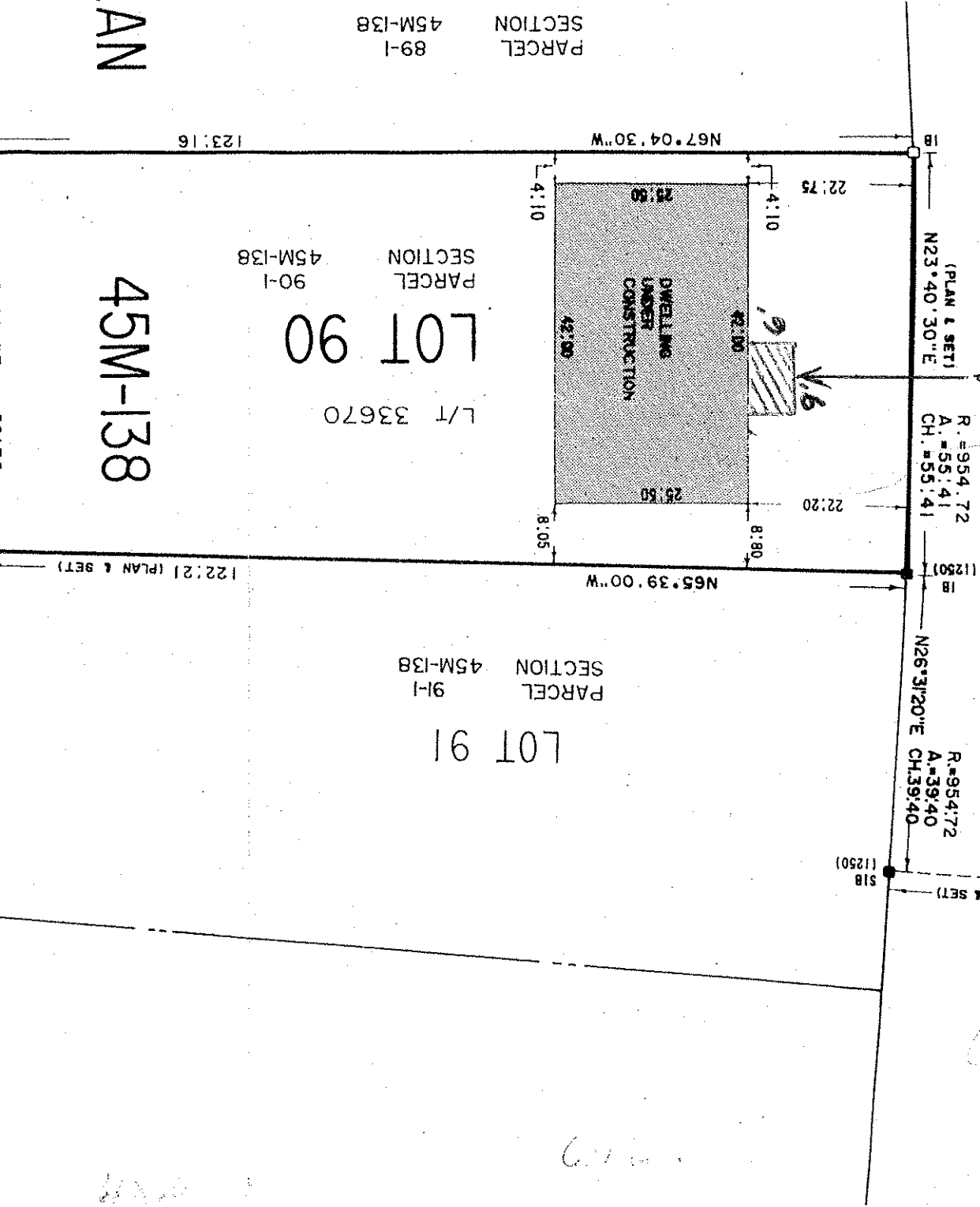
L/T 33670

45M-138

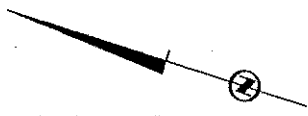
MARSDALE DRIVE

(PLAN 45M-138)

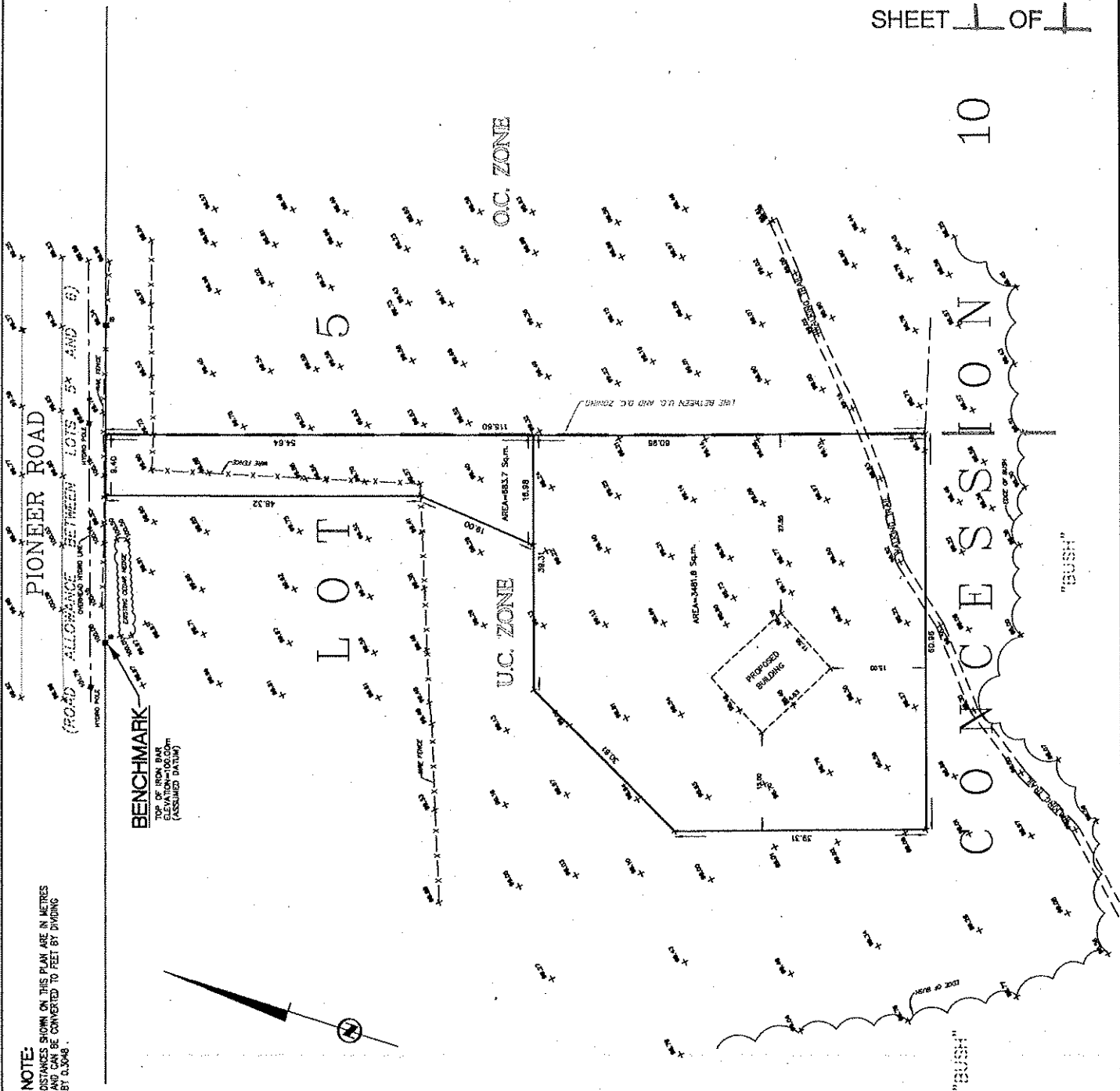
58.39



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



BENCHMARK
ROCK IN PLACE
ELEVATION 100.00m
(ASSUMED DATUM)



SITE PLAN OF
PART OF LOT 5, CONCESSION 10
FORMERLY TOWNSHIP OF DOURO, NOW IN
CITY OF PETERBOROUGH



ELLIOTT AND PARR (PETERBOROUGH) LTD.

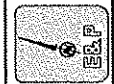
PETERBOROUGH, ONTARIO
24 FEBRUARY, 2009

SHAWN M. O'CONNOR
Ontario Land Surveyor

BENCH MARK:

ELEVATIONS DERIVED FROM TOP OF IS, AS SHOWN ON PLAN
HAVING AN ELEVATION OF 100.00m (ASSUMED DATUM)

EXHIBIT D
SHEET 1 OF 1



**ELLIOTT AND PARR
(PETERBOROUGH) LTD.**
ONTARIO LAND SURVEYORS
P.O. BOX 1116 211 SHERBOKE ST.
PETERBOROUGH ONTARIO
K9B 1Y4 (705) 745-1144

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