

Memorandum to the City of Markham Committee of Adjustment

January 10, 2022

File: B/009/21
Address: 76 and 78 Fullerton Crescent – Markham, ON
Applicant: Reinhard Schaffhuber
Agent: Torkin Manes LLP (Noorin Manji)
Hearing Date: January 19, 2022

The following comments are provided on behalf of the Central District team. The Applicant requests provisional consent to:

- a) sever and convey a parcel of land being Parts 1 and 2, as shown on Reference Plan 66R-10522, having an approximate lot frontage of 6.89 m (22.61 ft); and
- b) retain a parcel of land being Parts 7 and 8, as shown on Reference Plan 66R-10825, having an approximate lot frontage of 7.20 m (23.62 ft).

The purpose of this Consent application (the “Application”) is to re-establish lots that were inadvertently merged on title. The Applicant proposes no changes to the existing lot dimensions, or the existing dwellings.

PROPERTY DESCRIPTION

The subject lands, municipally addressed 76 Fullerton Crescent (“76 Fullerton”) and 78 Fullerton Crescent (“78 Fullerton”), are located north of Steeles Avenue East, south of Riseborough Circle, and between Warden Avenue and Birchmount Road (collectively referred herein as the “Subject Lands”).

According to City records, separate semi-detached dwelling units constructed circa 1978 occupy the Subject Lands. While the respective dwellings appear to be single detached above grade, each unit is commonly linked below grade at the foundation to the unit on the adjacent properties, i.e. 74 Fullerton Crescent links with 76 Fullerton and 78 Fullerton links with 80 Fullerton Crescent. Therefore, the By-law defines these dwellings as semi-detached. The Subject Lands are located within an existing residential neighbourhood primarily comprised of one and two-storey dwellings.

PROPOSAL

Originally, the Subject Lands comprised of two lots under separate ownership from June 1978 up until April 2015. On April 17, 2015 the lots were inadvertently merged on title when they were put in common ownership. The Applicant now requests provisional consent to legally re-establish the original lot fabric. This will again permit the two existing dwellings to be separately conveyable. The Applicant has confirmed that no new development or construction is proposed on the Subject Lands.

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 semi-detached dwellings.

Zoning By-law 250-77, as amended

Zoning By-law 250-77 zones the Subject Lands "Third Density - Semi-detached Residential (RSD3)", which permits one semi-detached dwelling per lot, with a minimum lot frontage of 60.0 ft (18.29 m), and minimum lot area of 6,900.0 ft² (641.03 m²).

COMMENTS

A review of the Application shows the following proposed lot frontages:

- a) Conveyed parcel - 22.61 ft (6.89 m); and
- b) Retained parcel - 23.62 ft (7.20 m).

The Applicant has not completed a Zoning Preliminary Review ("ZPR") for the subject application. While Staff encourage all applicants to complete a ZPR to ensure zoning compliance, as no new development is proposed, staff request that the Applicant satisfy themselves as to whether this proposal complies with the applicable zone requirements.

CONCLUSION

Staff have had regard for the criteria in Section 51(24) of the *Planning Act, R.S.O. 1990, c. P.13, as amended*. Given that the Applicant seeks to re-establish the original lot fabric through provisional consent, staff recommend that the Applicant enter into a Development Agreement with the City (see Appendix "A"), and that this Committee considers the subsequent conditions of approval and public input in reaching a decision.

APPENDICES

Appendix "A" – Conditions of Approval

Appendix "B" – Plans

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



Stephen Lue, Acting Senior Development Manager

APPENDIX "A"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF B/009/21

1. Payment of all outstanding realty taxes and local improvements charges owing to date against both the subject and retained parcels, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled.
2. Submission to the Secretary-Treasurer of the required transfers to effect the severances applied for under File B/009/21, conveying the Subject Lands, and issuance by the Secretary-Treasurer of the certificate required under subsection 53(42) of the *Planning Act*.
3. Submission to the Secretary-Treasurer of a deposited reference plan showing the Subject Lands, which conforms substantially to the application as submitted.
4. The Owner shall enter into a Development Agreement with the City to the satisfaction of the City Solicitor, Director of Planning and Urban Design, Director of Operations, and/or the Director of Engineering, or their designates. The Development Agreement shall be registered on title to the Subject Lands in priority to all mortgages, charges, liens and other encumbrances. The Owner shall procure and cause to be executed and registered at its own cost and expense such discharges, postponements, and subordination agreements as may be required by the City in order to provide for the priority of registration for the Development Agreement on title to the Subject Lands. The Development Agreement shall specifically provide for matters including, but not limited to:
 - a) That the Owner agrees that until such time that the zoning is amended or varied, the only dwelling type permitted is one semi-detached dwelling unit on each of the retained and severed lots.
5. Fulfillment of the above conditions within one year of the date that notice of the decision was given under Section 50(17) or 50(24) of the *Planning Act*.

CONDITONS PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX "B"
PLANS TO BE ATTACHED TO ANY APPROVAL OF B/009/21

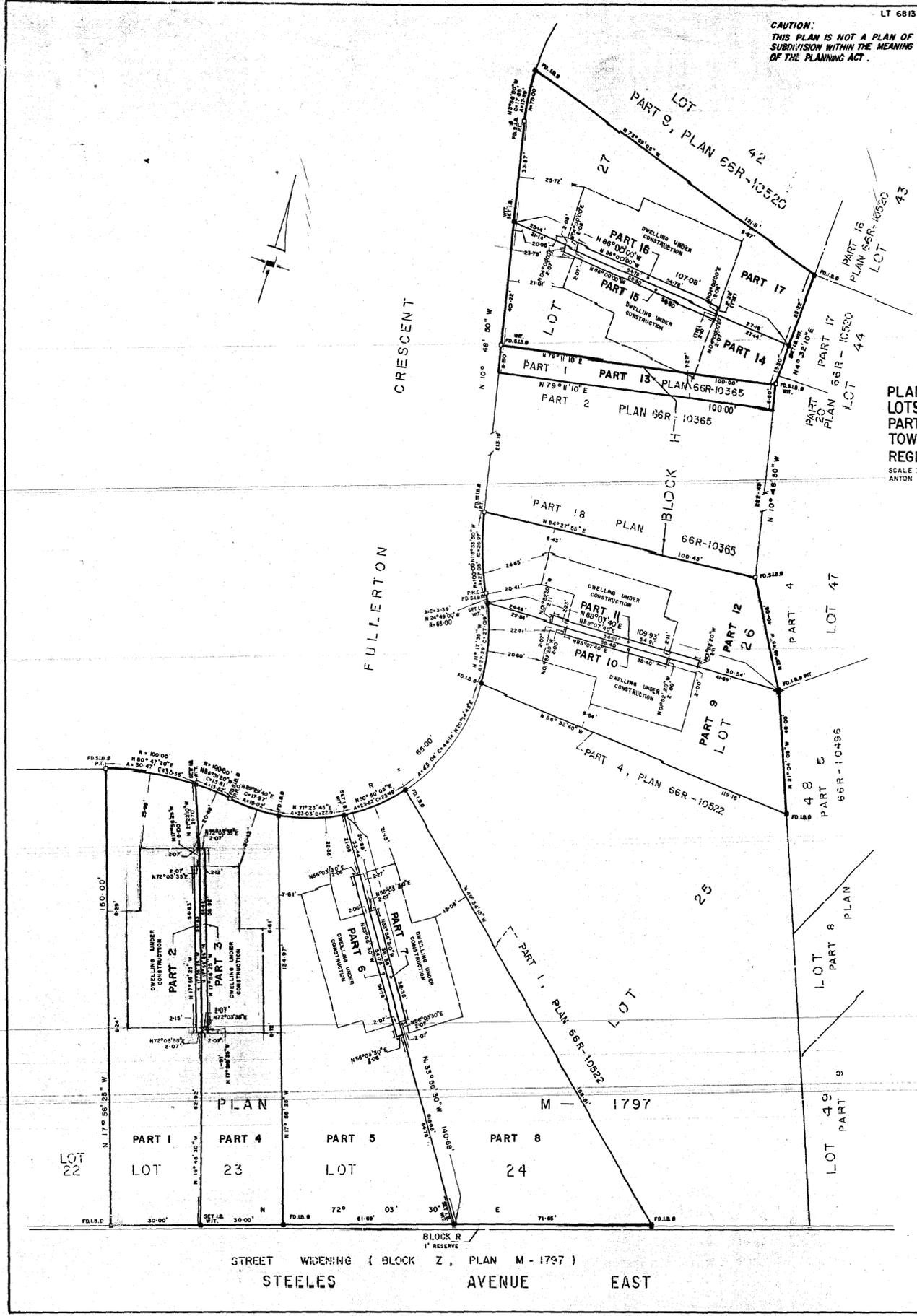
CAUTION:
 THIS PLAN IS NOT A PLAN OF
 SUBDIVISION WITHIN THE MEANING
 OF THE PLANNING ACT.

I REQUIRE THIS PLAN TO BE
 DEPOSITED UNDER THE LAND
 TITLES ACT.
 DATE: FEBRUARY 25, 1979
 A.K.K.
 ANTON KIKAS - O.L.S.

PLAN 66R-10825
 RECEIVED AND DEPOSITED
 DATE: 8 MARCH 1979
 A-753060
 B. Johnson
 LAND REGISTRAR FOR THE LAND
 TITLES DIVISION OF TORONTO
 AND YORK SOUTH. (19-66)
 APPROVED MARCH 7, 1979
 ASST. EXAMINER OF SURVEYS

PARTS 1 TO 4, INCL. ALL OF PARCEL 23 - 1982 M-1797.
 PARTS 5 TO 8, INCL. ALL OF PARCEL 24 - 1982 M-1797.
 PARTS 9 TO 12, INCL. ALL OF PARCEL 26 - 1982 M-1797.
 PARTS 13 TO 17, INCL. ALL OF PARCEL 27 - 1982 M-1797.
 PART 18, PART OF PARCEL H - 8, SEC. M-1797.

PLAN OF SURVEY OF
 LOTS 23, 24, 26, 27 AND
 PART OF BLOCK H, PLAN M-1797
 TOWN OF MARKHAM
 REGIONAL MUNICIPALITY OF YORK
 SCALE: 1" = 20'
 ANTON KIKAS - O.L.S. 1979.



SURVEYOR'S CERTIFICATE

I CERTIFY THAT:
 1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE
 WITH THE SURVEY ACT AND THE LAND TITLES ACT AND THE
 REGULATIONS MADE THEREUNDER;
 2. THE SURVEY WAS COMPLETED ON THE 20th DAY OF
 FEBRUARY, 1979

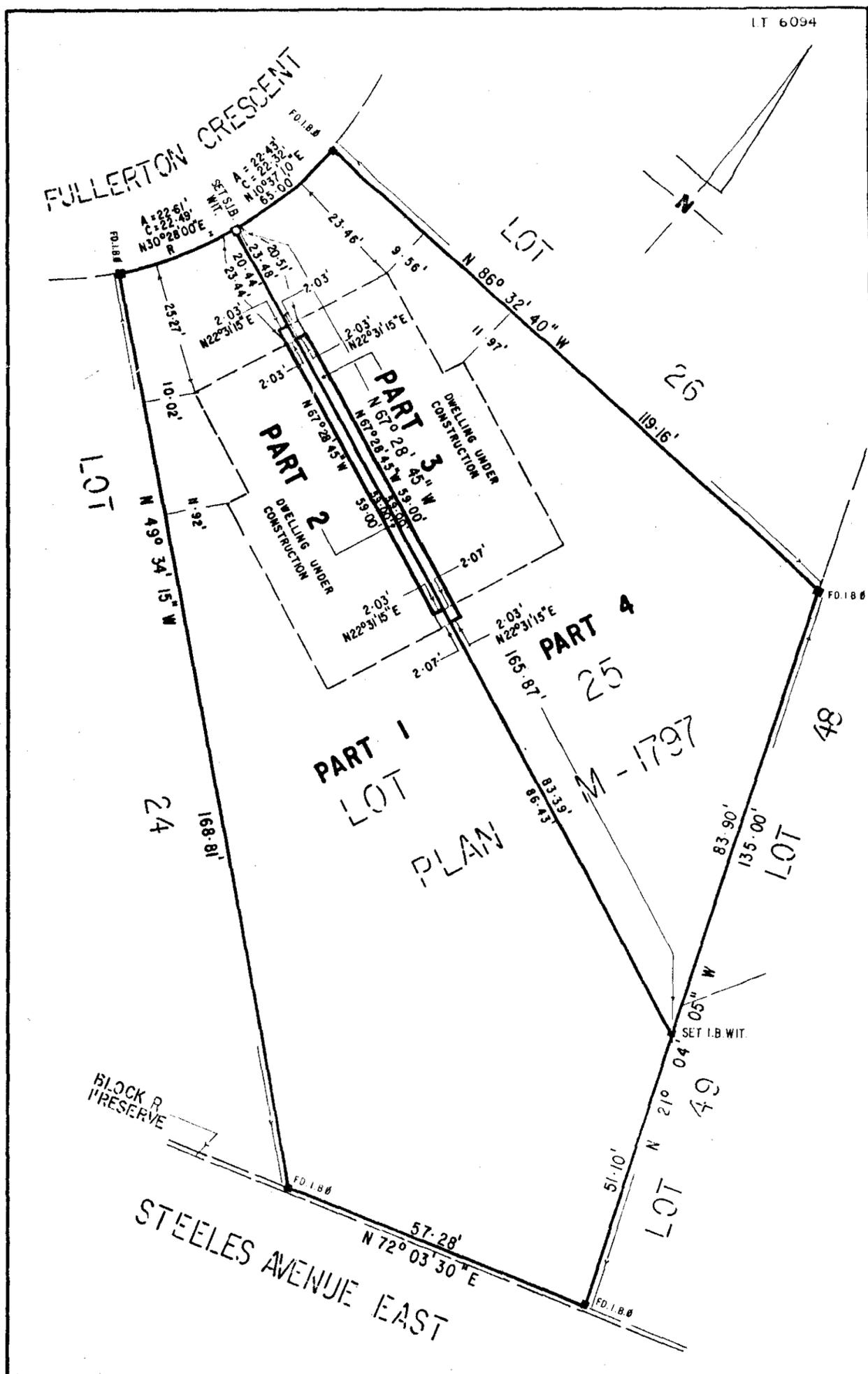
DATE: FEB. 22, 1979
 A.K.K.
 ANTON KIKAS - ONTARIO LAND SURVEYOR

NOTES

THE N10°48'50"W OF THE EASTERLY LIMIT OF FULLERTON
 CRESCENT PLAN M-1797 ASSUMED TO BE ASTRONOMIC GOVERNS
 ALL BEARINGS HEREON.
 □ S.I.B. DENOTES STANDARD IRON BAR 1" DIA. x 48" LONG
 ■ I.B. DENOTES IRON BAR 5/8" SQ x 24" LONG
 ● I.B. DENOTES IRON BAR 5/8" DIA x 24" LONG
 FD. DENOTES FOUND
 WIT DENOTES WITNESS
 ALL FOUND BARS ARE IDENTIFIED BY NO. 922, UNLESS SHOWN OTHERWISE.
 TIES ARE TAKEN TO CONCRETE FOUNDATION.

66R 10825

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



LT 6094

I REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE LAND TITLES ACT
 DATE: Sept. 28, 1978
 A. Kikas
 ANTON KIKAS
 ONTARIO LAND SURVEYOR

PLAN 66R - 10522
 RECEIVED AND DEPOSITED
 DATE: 10 Oct, 1978
A-722292
 J. Walsh A.S.A.
 LAND REGISTRAR FOR THE LAND TITLES DIVISION OF TORONTO AND YORK SOUTH (NO. 66)
 APPROVED October 5, 1978
 I. R. Woods
 ASS'T. EXAMINER OF SURVEYS
 PARTS 1 TO 4 :- ALL OF PARCEL 25-1, SECTION M-1797

Appendix B
 File: 21.129779.000.00.CSNT
 Date: 01/14/22
 MM/DD/YY

66R 10522

PLAN OF SURVEY OF LOT 25, PLAN M - 1797 TOWN OF MARKHAM REGIONAL MUNICIPALITY OF YORK
 SCALE 1" = 20'
 ANTON KIKAS O.L.S.
 1978

SURVEYOR'S CERTIFICATE
 I HEREBY CERTIFY
 1. THAT THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEY ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE THEREUNDER.
 2. THAT I WAS PRESENT AT AND DID PERSONALLY SUPERVISE THE SURVEY REPRESENTED BY THIS PLAN
 3. THAT THIS PLAN CONTAINS A TRUE COPY OF THE FIELD NOTES OF SURVEY
 4. THAT THE SURVEY WAS COMPLETED ON THE 20 DAY OF Sept 1978
 DATE Sept. 26 1978
 A. Kikas
 ANTON KIKAS, ONTARIO LAND SURVEYOR

NOTES
 THE N 49° 34' 15" W OF THE SOUTHWESTERLY LIMIT OF LOT 25, PLAN M-1797, ASSUMED TO BE ASTRONOMIC, GOVERNS ALL BEARINGS HEREON.
 □ S.I.B DENOTES STANDARD IRON BAR 1" SQUARE x 48" LONG
 ■ I.B DENOTES IRON BAR 5/8" SQUARE x 24" LONG
 ■ I.BØ DENOTES IRON BAR 5/8" ROUND x 24" LONG
 F.D. DENOTES FOUND
 TIES ARE TAKEN TO CONCRETE FOUNDATION
 WIT. DENOTES WITNESS.

Anton Kikas Limited
 CONSULTING ENGINEERS
 ONTARIO LAND SURVEYORS - PLANNERS
 2028 AVENUE RD. TORONTO M5M 4A4 Tel. 489-1991