

THE MUNICIPALITY OF LAMBTON SHORES

Report PL 46-2021

Council Meeting Date: December 21, 2021

TO: Mayor Weber and Members of Council
FROM: Will Nywening, Senior Planner
RE: ZBA Application ZO-14/2021
Concession B, Plan 7, Part Lots 23 and 27
8375 and 8381 Defore Drive

RECOMMENDATION:

THAT Report PL 46-2021, relating to a Zoning By-Law Amendment Application, submitted by Kim and Dan MacLachlan, be received;

THAT Zoning By-Law Amendment Application ZO-14/2021, submitted by Kim and Dan MacLachlan, requesting an amendment to Zoning By-Law 1 of 2003 to rezone 8375 Defore Drive to a residential zone, portions of 8381 Defore Drive to a residential zone allowing an oversized accessory building, and the agricultural portions of 8381 Defore Drive to prohibit a dwelling, be approved;

THAT By-Law 102 of 2021 be approved; and

THAT Staff be directed to prepare a severance agreement that requires: (1) the conveyance of a road allowance for a cul-de-sac with a 18m radius and including the municipal water line and (2) the physical extension of the road and provision of a cul-de-sac to the same standard of construction as the existing Defore Drive.

SUMMARY

Firstly, this report relates to the Zoning Amendment Application submitted by Kim and Dan MacLachlan affecting the lot known as 8375 and the two parcels collectively known as 8381 Defore Drive, all adjacent to the north side of the Ausable Cut. The subject lands are all currently zoned "Agriculture-2.1 (A2-1)" and the applicant seeks to amend Zoning By-Law 1 of 2003 by changing the zone designation on:

- 8375 Defore Drive: to a residential zone;
- Portions of the two properties known as 8381 Defore Drive that are occupied by an existing residential use: to a site-specific residential zone that recognizes an existing oversized accessory building; and

- The balance of the two properties (farmland) known as 8381 Defore Drive to: a site-specific agricultural zone that prohibits a dwelling.

In this respect, the applicant has been granted consent to realign the lot lines of the two properties collectively known as 8381 Defore Drive so as to separate the residential from the agricultural portion of that lands, and the proposed rezoning of 8381 Defore Drive is a condition of consent. In addition to the rezoning required by the Committee, the applicants also request that the existing, adjacent parcel known as 8375 also be recognized with a residential zone designation.

Secondly, this report seeks direction from Council respecting conditions of the aforesaid consent that were imposed by the Committee. The conditions require that the applicants convey a road widening and construct an extension of Defore Drive to create access.

BACKGROUND

The Committee of Adjustment granted consent applications B21/2021 and B-22/2021 on October 27, 2021. The effect of this is to realign two existing farm parcels to create a 1.0 hectare lot containing the existing house and detached garage and a 22.5 hectare vacant farm parcel.

Staff produced Report COA 43-2021 for the Committee of Adjustment, respecting the severance. The report is attached to this report for Council's reference. It provides diagrams and addresses relevant Official Plan and Zoning designations, access, servicing, and other planning considerations and policies. It provides history related to the previous severance of 8375 Defore Drive and the current situation whereby several lots lack of frontage on a public street. Committee approved the consent subject to the conditions recommended in the report, including the following conditions of note:

6. *That the applicants convey a road allowance to Municipal standards to the satisfaction of the Municipality for the extension of Defore Drive and the provision of lot frontage to the resultant parcels;*
7. *That the applicants enter into an agreement with and to the satisfaction of the Municipality respecting matters relevant to the severance, including the dedication of public highways and the construction of a cul-de-sac;*
8. *That the applicant apply for and obtain a rezoning to change the zoning on the severed parcels to residential with special allowance for accessory building size and also to prohibit a dwelling on the resultant farm parcel;*

DISCUSSION

Rezoning: Condition 8 of the Committee of Adjustment's conditions of consent requires that the provisionally approved 1.0 hectare residential lot be rezoned to a residential zone. It also requires that it be a site-specific zone recognizing an existing 2460 square feet detached garage, whereas a 1000 square feet maximum otherwise applies in residential

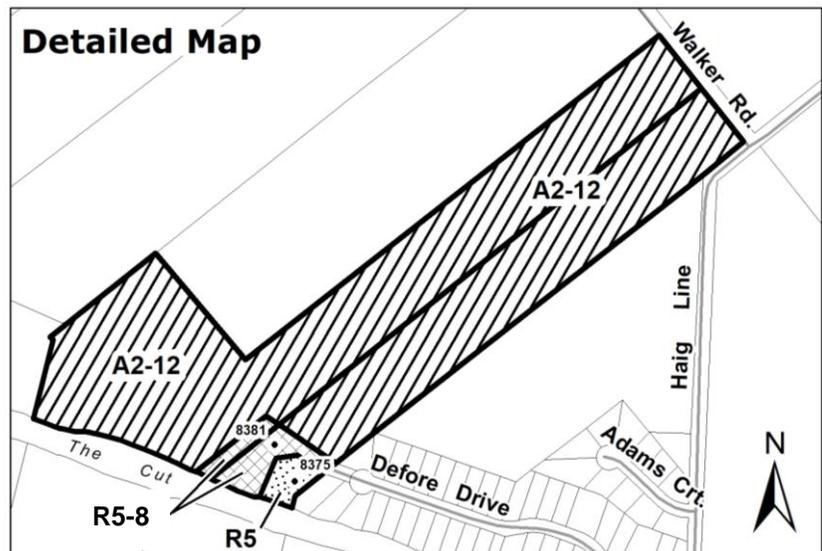
zones. Finally, it requires that a dwelling be prohibited on the retained farm, as per provincial and official plan policies for surplus farm dwelling severances.

In addition to what is required by the conditions of consent, the applicant has also requested (at Staff's suggestion) that their previously severed residential lot at 8375 Defore Drive also be rezoned to residential. In this way it will not be left as an A2-1 Zone "in the middle" of the R5 Zone.

For the reasons noted in the report to the Committee, it is Staff's opinion that the proposed zoning is appropriate in these circumstances. The same reasoning applies also to the rezoning of the previously severed lot known as 8375 Defore Drive. In Staff's opinion, the proposed zoning implements the conditions of an approved consent, conforms with the Official Plan, and represents good planning. The proposed accessory lot coverage is not something that would be permitted normally, but appropriate under the circumstances of an existing situation. Staff can support the application through approval of a zoning amendment as per the presented draft amending by-law. The ABCA has also provided written comments (attached) indicating no concerns with the proposed rezoning.

Draft Amending By-Law: Staff has drafted an amending by-law included in the by-laws section of Council's agenda. The R5 Zone applies to the adjacent Defore Drive residential area and is appropriate to use in this case. The draft amending by-law would:

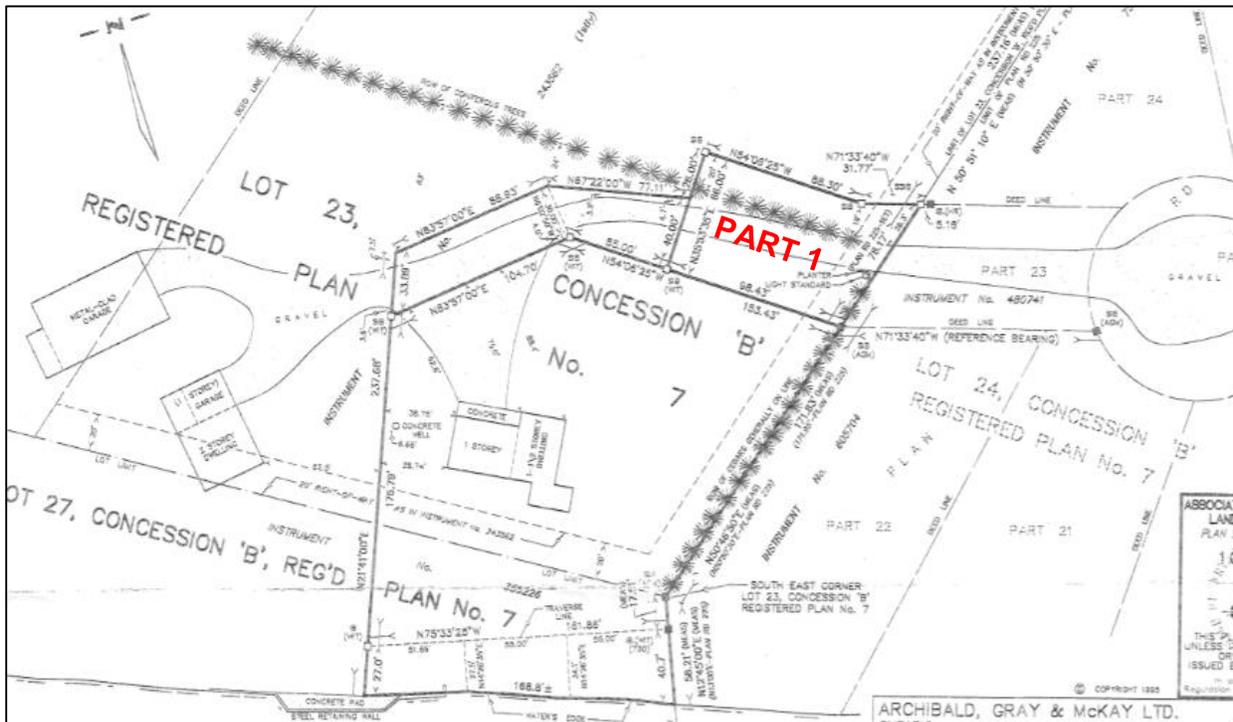
- Add text to Section 11.4, *Special Provisions of the R5 Zone*, establishing a new, site-specific R5-8 Zone permitting a detached accessory building lot coverage of 229m² (2460ft²);
- Change the proposed 1.0 ha residential lot to the new R5-8 Zone;
- Change the previously severed lot (8375 Defore Drive) to the standard R5 Zone;
- Add text to Section 6.4, *Special Provisions of the A2 Zone*, establishing a new, site-specific A2-12 Zone with all the same permitted uses and provisions as the current A2-1 Zone except that a dwelling is a prohibited use; and
- Change the resultant 22.5 ha farm to the new A2-12 Zone.



Road Extension: Respecting conditions 6 and 7 of the Committee of Adjustment's conditions of consent, 8381 and 8375 Defore Drive and a third parcel (8393 Defore Drive) lack legal frontage on a public road allowance. The gain access to Defore Drive across a Municipally-owned parcel that is not actually a road allowance. 8375 Defore Drive actually

also crosses private lands (a portion of 8381 Defore Drive) for access. Also, a portion of the Municipal waterline is located on private lands (8381 Defore Drive).

The conditions of consent require that a legal road allowance be conveyed and a road be physically constructed within it to provide frontage and legal access to all lots, including the retained farm parcel. The applicants are willing to convey land to establish a road allowance, but ask that it only be 66 feet wide (Part 1 on RP25R7081 in the image below). They also ask that no physical road improvements be required, but that the parcels continue to access Defore Drive via the existing private driveways located within the proposed new road allowance. Their request is included as Attachment 2.



The applicant's proposal to make no physical alterations to the existing road surface and driveways would not fulfill the Committee's condition that requires entering into an agreement for "construction of a cul-de-sac". Staff also does not support such an approach. Further, the proposed 66 feet wide conveyance is not sufficient to provide a cul-de-sac with reasonable radius and boulevard, which is required for emergency services, garbage collection, snow ploughs, servicing, and other reasons.

The image below shows the ideal cul-de-sac: the Municipality's "type A" standard – a 21.0m radius composed of a 15.0m radius paved surface and 6.0m boulevards. Staff can however support the "type B" standard of an off-set cul-de-sac – an 18.0m radius composed of a 13.0m radius paved surface and 5.0m boulevard. The road allowance however must encompass the existing waterline (blue in image). The road should be constructed to the same standard as Defore Drive: appropriate base, tar and chip or asphalt surface, no curbs, grading-controlled run-off.

The Defore Drive road allowance currently ends in a cul-de-sac bulb, the far edge of which is the point from which the applicants would be responsible for extending the physical road. Staff recommends that the applicants not be required to remove the existing cul-de-sac. The physical road surface of the existing cul-de-sac may remain in place until such time as Defore Drive requires reconstruction or resurfacing, at which time the Municipality may decide to reduce the road surface to the standard road width there. The legal property of the existing cul-de-sac bulb may remain part of the road allowance indefinitely unless an abutting property owners seeks to acquire the extra road allowance, at which time the Municipality would consider such a request under its disposition of lands policy. The parcel of land owned by the municipality between the existing and new cul-de-sac bulbs will need to be dedicated as a public highway by registered by-law.



Staff will work with the applicants to prepare an agreement based on Council's direction for approval at a future Council meeting.

ALTERNATIVES TO CONSIDER

None at this time.

RECOMMENDED ACTIONS

That Council:

- Receive Report PL 46-2021;
- Approve ZBA Application ZO-14/2021;
- Approve implementing By-Law 102 of 2021; and

- Direct that Staff develop a severance agreement requiring a full radius cul-de-sac and physical construction of a road.

FINANCIAL IMPACT

The applicant has paid the Municipality a \$1200 application fee.

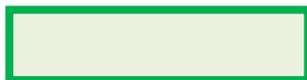
CONSULTATION

The applicants and Municipal Staff Nick Verhoeven (Engineering Specialist) and Steve McAuley (CAO) were consulted in the review of this application.

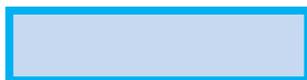
Attachment 1: Subject Lands



Portions of 8381 Defore Drive to be zoned to a site-specific Agricultural Zone prohibiting a dwelling.



Portions of 8381 Defore Drive to be zoned Residential and recognizing an “oversized” accessory building



8375 Defore Drive to be zoned Residential

Attachment 2: Correspondence re: Applicant's Request

Excerpt of November 11, 2021 email from Applicant to Municipality:

Dear Will and Jen,

Thank you for all your help with the changes to our properties. We are very pleased with the decisions at the Committee of Adjustment meeting on Oct 27, 2021.

We are also grateful for the opportunity to review the agreements regarding the legal road access and cul-de-sac of Defore Drive with the Lambton Shores council.

I think we both want the same thing; to properly fix the legal access to all properties, for now and in the future.

The current cul-de-sac does provide access to all the properties, and by leaving the cul-de-sac as it currently exists would save any trees from being removed.

We would like to present a solution to council by presenting the attached map, illustrating the following three scenarios:

- 1. Current situation*
- 2. Lambton Shores proposed changes*
- 3. MacLachlan suggested changes*

Please know that we will be respectful and co-operative regardless of what decision is made at council.

...Once again, I want to reiterate our thanks for all your assistance with this process.

Yours truly, Kim and Dan MacLachlan

Excerpt of November 19, 2021 Email from Planner to Applicant:

Thanks Kim...

So just to be clear what you are requesting: you propose to:

- convey Part 1 on the attached reference plan to the municipality so that it can become part of the road allowance.*
- Make no physical changes to the existing driveways and roadways – i.e. just have the existing driveways run through the newly conveyed road allowance.*

Is this correct? As you know, staff will be recommending a full radius cul-de-sac.

Will Nywening

Senior Planner

Excerpt of November 22, 2021 email from Applicant to Municipality:

Hi Will and everyone,

Will, I think you have it correct, this is what we are asking for.

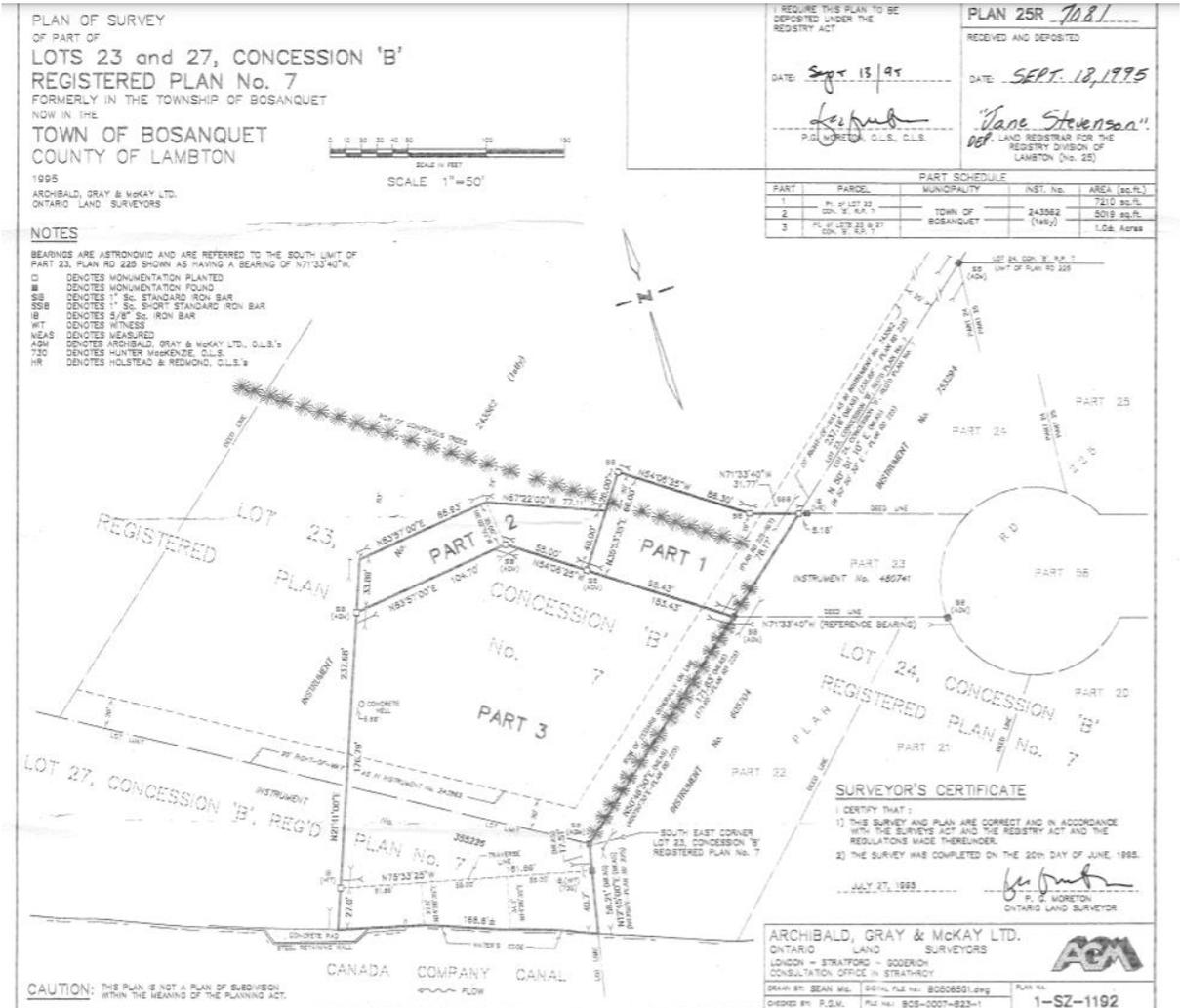
We would also like to agree to continue to maintain Part 1, the "new" road allowance on our laneway, for snow removal, up keep etc. We currently bring our garbage out to the property in front of Trothen's home, Part 23, the road allowance after the cul-de-sac and before our laneway. We realize the width of our laneway is too narrow for the garbage truck and snow plow.

...We will attend the Dec 21, 2021 Council meeting.

Even though I realize that staff is recommending a full radius cul-de-sac, we are extremely grateful that staff and Council are taking the time to listen to our alternative suggestion.

Thank you for all your help.

Yours truly, Kim and Dan



PART A

PLAN OF SURVEY
OF PART OF
LOTS 23 and 27, CONCESSION 'B'
REGISTERED PLAN No. 7
FORMERLY IN THE TOWNSHIP OF BOSANQUET
NOW IN THE
TOWN OF BOSANQUET
COUNTY OF LAMBTON

SCALE 1"=50'
1995
ARCHIBALD, GRAY & MCKAY LTD.
ONTARIO LAND SURVEYORS

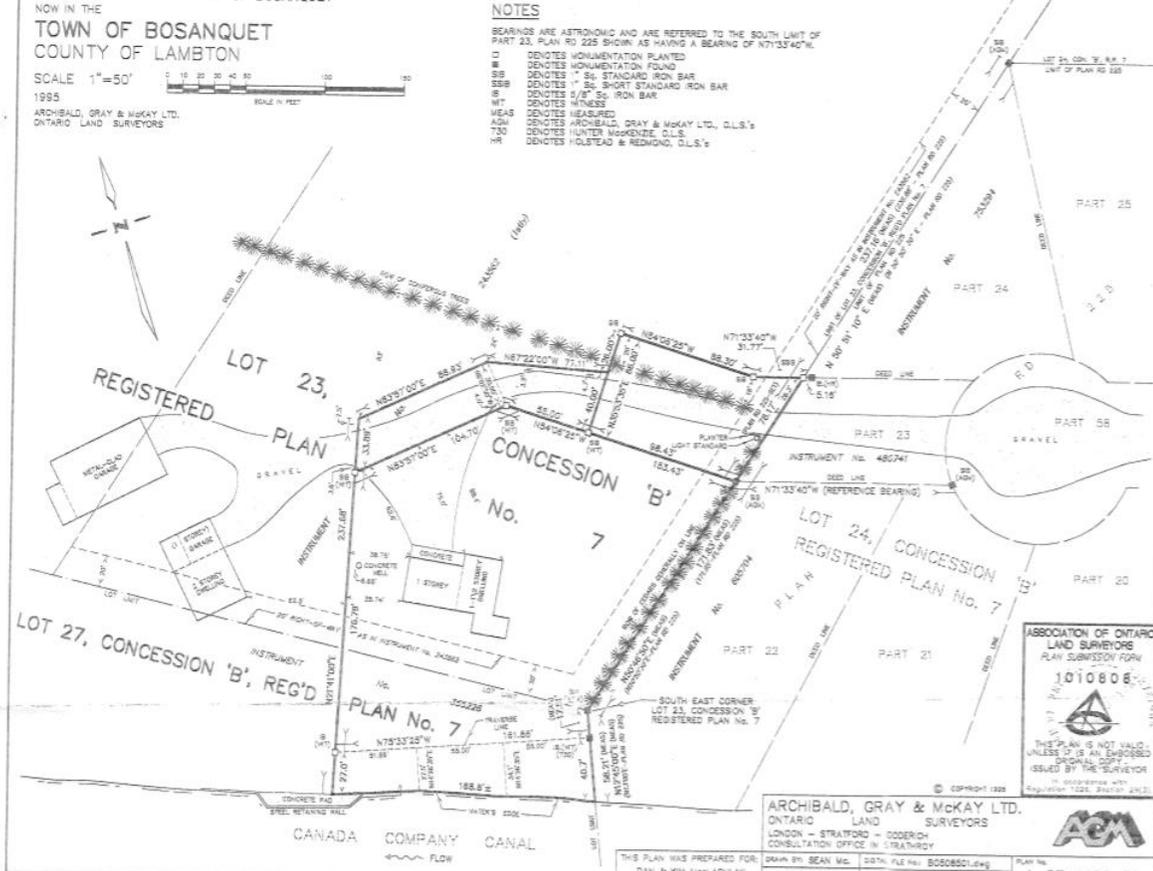


I CERTIFY THAT:
THE FIELD SURVEY REPRESENTED ON THIS PLAN WAS
COMPLETED ON THE 20th DAY OF JUNE, 1995.

JULY 27, 1995
[Signature]
ON. L.S. REG. NO. 1000
ON. L.S. SURVEYOR

PART B
THIS PLAN MUST BE READ IN CONJUNCTION WITH
SURVEY REPORT DATED JULY 17, 1995.

- NOTES**
- BEARINGS ARE ASTRONOMIC AND ARE REFERRED TO THE SOUTH LIMIT OF
PART 23, PLAN RD 225 SHOWN AS HAVING A BEARING OF N71°33'40"W.
- CD DENOTES CONCRETE CURB
 - IB DENOTES IRON BARS
 - ISB DENOTES 1" SS STANDARD IRON BAR
 - ISBP DENOTES 1/2" SS STANDARD IRON BAR
 - ISBS DENOTES 3/8" SS IRON BAR
 - WT DENOTES WITNESS
 - MS&S DENOTES MEASURED
 - AGM DENOTES ARCHIBALD, GRAY & MCKAY LTD., O.L.S.'s
 - HS DENOTES HUNTER HOGKENZE, O.L.S.
 - HR DENOTES HOLTHEAD & REDMOND, O.L.S.'s



ASSOCIATION OF ONTARIO
LAND SURVEYORS
PLAN SUBMISSION FORM
1010808
THIS PLAN IS NOT VALID
UNLESS IT IS AN ENCLOSED
ORIGINAL COPY
ISSUED BY THE SURVEYOR
IN ACCORDANCE WITH
REGULATION 122E, STATUTE 24(1)

ARCHIBALD, GRAY & MCKAY LTD.
ONTARIO LAND SURVEYORS
LONDON - STRATFORD - GODFRICH
CONSULTATION OFFICE IN STRATFORD

THIS PLAN WAS PREPARED FOR:
DAN & KIM McGLADHAN

DRAWN BY: SEAN MC DONALD
CHECKED BY: P.D.M.

DATE: 06/20/95
FILE NO.: BOS0801.dwg
REG. NO.: 808-0007-923-1

PLAN NO.:
1-SZ-1192-B