



**City of Kingston
Report to Planning Committee
Report Number PC-16-075**

To: Chair and Members of Planning Committee
From: Lanie Hurdle, Commissioner, Community Services
Resource Staff: Paige Agnew, Director, Planning, Building & Licensing Services
Date of Meeting: August 4, 2016
Subject: Public Meeting & Comprehensive Report
File Number: D14-020-2016
Address: 113 Raglan Road
Application Type: Zoning By-Law Amendment
Owner: David Richardson and [REDACTED]
Applicant: David Richardson

Executive Summary:

The following is a Public Meeting and comprehensive report recommending approval to the Planning Committee regarding an application for zoning by-law amendment submitted by David Richardson, co-owner of the property with [REDACTED], with respect to the subject site located at 113 Raglan Road.

The requested amendment to the zoning by-law is required to establish a second residential unit (also known as a “secondary suite”) in the basement of the existing semi-detached dwelling. In order to accommodate the proposal, the applicant is requesting relief from the zoning by-law for a reduction in parking from two spaces to one. There is not currently a conforming parking space on the property; however, the applicant proposes that one space can be accommodated in the rear yard, accessed by a right-of-way to Markland Street. Permission for habitable space in the cellar is also required to facilitate the proposal, as well as relief from the minimum lot size. No new additions or enlargement of the existing dwelling is proposed to accommodate the proposal.

A Public Meeting with respect to this application is being held concurrently with the regular Public Meeting and recommendation to the Planning Committee.

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The application conforms to and is consistent with the applicable policies in the Provincial Policy Statement and complies with the general intent of the City of Kingston Official Plan. The establishment of a secondary suite within the existing semi-detached dwelling will not change the built form of the neighbourhood and will add to the unit mix in the area. There are no concerns by external agencies or internal department with respect to the zoning by-law amendment application.

Recommendation:

That the following recommendation be approved and forwarded to Council on August 9, 2016 for consideration:

That it be recommended to Council that the application for zoning by-law amendment (File Number D14-020-2016) submitted by David Richardson, for the lands municipally known as 113 Raglan Road, be approved; and

That By-Law Number 8499 of The Corporation of the City of Kingston, entitled “Restricted Area (Zoning) By-Law of the Corporation of the City of Kingston”, as amended, be further amended, as per Exhibit A (Draft By-Law and Schedule A to amend Zoning By-Law Number 8499) to Report Number PC-16-075; and

That Council determines that in accordance with Section 34(17) of the *Planning Act*, no further notice is required prior to the passage of the by-law; and

That the amending by-law be presented to Council for all three readings.

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Authorizing Signatures:

ORIGINAL SIGNED BY COMMISSIONER

Lanie Hurdle, Commissioner, Community Services

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

Gerard Hunt, Chief Administrative Officer

Consultation with the following Members of the Corporate Management Team:

Denis Leger, Commissioner, Corporate & Emergency Services Not required

Jim Keech, President and CEO, Utilities Kingston Not required

Desiree Kennedy, Chief Financial Officer & City Treasurer Not required

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Options/Discussion:**Public Meeting & Comprehensive Report**

The Planning Division is recommending the Public Meeting and comprehensive report are heard concurrently based on the following:

- The proposal is consistent with the Provincial Policy Statement (2014) and the City of Kingston Official Plan;
- The proposal is considered minor in nature;
- The proposal will be contained within the existing structure; and
- Combining the Public Meeting and the comprehensive report facilitates the streamlining of the development approval process, thereby decreasing application processing time.

Anyone who attends the Planning Committee Public Meeting may present an oral submission, and/or provide a written submission on the proposed application. Also, any person may make written submissions at any time before City Council makes a decision on the application.

If a person or public body does not make an oral submission at a Public Meeting, or does not make a written submission before the application has been approved by City Council, the person or public body is not entitled to appeal the decision to the Ontario Municipal Board and may not be added as a party to the hearing of an appeal before the Ontario Municipal Board unless, in the opinion of the Board, there are reasonable grounds to add the person or public body as a party.

The Planning Committee will consider this comprehensive report and recommendation from the Planning Division, respecting the subject application following the Public Meeting. The Committee will then make its recommendation to City Council. The decision of City Council will be final unless appealed.

All persons who made oral or written submissions, or have requested notification in writing, will be given written notice of the future meeting(s) of the Planning Committee at which the subject application will be considered. Anyone wishing to be notified of Council's decision on the subject application must submit a written request to:

Amy Didrikson, Intermediate Planner
The Corporation of the City of Kingston
Planning, Building & Licensing Services
216 Ontario Street
Kingston, ON K7L 2Z3
613-546-4291 extension 3288
adidrikson@cityofkingston.ca

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Background and Decision Date

The subject property is municipally known as 113 Raglan Road and contains a semi-detached residential dwelling.

In accordance with By-Law Number 2007-43, this application was subject to a pre-application meeting held on March 22, 2016, with the Planning Division and various other departments and agencies. A formal submission was made by the applicant on May 10, 2016 and on June 3, 2016 this application was deemed complete in accordance with the *Planning Act*.

In accordance with Section 34(11) of the *Planning Act*, this application is subject to a decision by Council on or before October 1, 2016 which is 120 days after it was deemed complete. In the absence of a decision by Council in this timeframe, the applicant may exercise their right to appeal to the Ontario Municipal Board (OMB).

Application and Submission

The subject property is designated 'Residential' in the Official Plan and is zoned One-Family and Two-Family Dwelling 'A' Zone in Zoning By-Law Number 8499. The two-bedroom semi-detached dwelling currently consists of a single dwelling unit that occupies the first and second floor of the structure. A one-bedroom, secondary suite is proposed in the walk-out basement. The existing front entrance provides access to the two-bedroom dwelling unit while a rear entrance is provided for the proposed secondary suite which is accessed by a 1.2 metre walkway located along the west side of the home. Space for parking is available in the rear of the property, which can be accessed by a right-of-way that connects the property to Markland Street. No new additions or enlargement of the existing dwelling are proposed to accommodate the proposal.

In support of the application, the applicant submitted a Planning Justification Report, a Conceptual Site Plan (Exhibit G), a survey (Exhibit H) and floor plans. All submission materials are available online at www.cityofkingston.ca/dash using 'Look-Up a Specific Address' and searching 113 Raglan Road.

Site Characteristics

The subject property is approximately 200 square metres in area and is located on the north side of Raglan Road, west of Montreal Street and east of Patrick Street in the Inner Harbour neighbourhood (Kingston Neighbourhood Profiles 2011). The Inner Harbour neighbourhood contains a total of 3,685 dwelling units which are predominantly mid-rise apartments (43.7%) and single-detached housing (19.1%). McBurney Park, Friendship Park, and Artillery Park recreation complex, schools and various places of worship are also located in the neighbourhood.

The property is surrounded predominantly by other residential uses, with McBurney Park directly south of the subject property (Exhibit E). The site is located north of Princess Street, a short distance from a number of commercial and cultural establishments, as well as Queen's University. The site is well-served by Kingston Transit.

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Provincial Policy Statement

The Provincial Policy Statement (PPS) (2014) provides policy direction on matters of provincial interest related to land use planning and development, which are intended to be complemented by local policies addressing local interests.

The proposed secondary suite in the existing building is a form of residential intensification, defined in the PPS, within a settlement area which represents efficient development. This type of development helps to sustain the financial well-being of the municipality over the long term by promoting the efficient use of land and promoting cost-effective development that uses existing municipal services (Sections 1.1.1.a; 1.1.1.d - e and Section 1.1.3.2.a)1. – 1.1.3.2.a)5.).

The proposed secondary suite represents the intensification of an existing structure to meet current needs (Section 1.1.3.1; 1.1.3.2.b; 1.1.3.3). Raglan Road is in close proximity to transit, employment and schools. These factors all contribute to promoting active transportation and alternative modes of transportation (Section 1.6.7.4).

The proposal is consistent with direction in section 1.4.3.b.2 of the PPS which indicates Planning authorities shall provide for an appropriate range and mix of housing types and densities to meet projected requirements of current and future residents by facilitating all forms of residential intensification, including second units.

Official Plan Discussion

In February 2013, City Council approved Official Plan and zoning by-law amendments to permit secondary suites as-of-right (i.e. no Planning approvals required) within a pilot project area where conditions were determined to exist that would support their development. The Official Plan Amendment also supported the development of secondary suites outside of the pilot project area through site-specific amendments to the zoning by-law. The property located at 113 Raglan Road is outside of the pilot project area.

The subject property is designated as 'Residential' in the City of Kingston Official Plan (Exhibit C). The predominant use within the 'Residential' designation is residential dwellings, including detached, semi-detached or duplex dwellings, townhouses and apartments. In addition to the various forms of housing, community facilities such as schools and places of worship are also permitted. Small-scale, convenience commercial uses which support residential neighbourhoods and are compatible with the residential setting may also be permitted in the designation.

Section 2.2 of the Official Plan states that the City is divided into broad, structural elements which are intended to remain stable for the duration of the Plan. The subject property is within a Housing District. Housing Districts are generally planned to remain stable, but it is stated that they will continue to mature and adapt as the City evolves (Section 2.2.5). Re-investment and upgrading are encouraged through minor infilling and development that is compatible and integrates with the prevailing built form found in the neighbourhood.

The Official Plan identifies that it is the intent of the City to increase urban residential density and that residential intensification targets are to be achieved through larger scale development; the expansion or conversion of existing buildings; the redevelopment of vacant, underutilized, or brownfield sites; and infill developments (Section 2.4.5). Intensification is defined in the Official

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Plan as “the development of a property, site or area at a higher density than currently exists through; (a) redevelopment, including the reuse of brownfield sites; (b) the development of vacant and/or underutilized lots within previously developed areas; (c) infill development; and (d) the expansion or conversion of existing buildings”.

A Second Residential Unit is defined within the Official Plan as “a legally existing residential unit, which is ancillary to a principal residential unit, contained in the same building, and includes a separate, clearly defined, safe access, kitchen, washroom and living space”. The Official Plan provides guidance and criteria with respect to assessing the appropriateness and ability to accommodate new second residential units (secondary suites). The following policies of Section 3.3.9 and 3.3.11 have been reviewed to assess whether the proposal meets these criteria.

Section 3.3.9 of the Official Plan includes policies regarding the conversion of an existing residential unit into two or more residential units. The following ten requirements are required to be met to the satisfaction of the City:

Alterations to exterior building design must be consistent with existing design, style and materials.

- Response: No changes are proposed to the exterior of the building.

Each residential unit must comprise a self-contained unit with clearly defined and safe access, and have its own kitchen, bathroom, and at least one common living area.

- Response: The secondary suite is proposed to contain one bedroom, a kitchen, bathroom and one common living area. Access is proposed along the west side of the existing home, down stairs to the rear entrance to the walk-out basement secondary suite.

The maximum number of residential units in each dwelling, and the maximum number of bedrooms in each residential unit, may be limited in the zoning by-law.

- Response: One dwelling unit and one secondary suite will be permitted, as part of the site-specific zoning.

Each residential unit must provide adequate parking with unobstructed access on the property in accordance with the provisions of the zoning by-law respecting the number, size and location of spaces.

- Response: One parking space is proposed in the rear yard of the subject property in accordance with the by-law. As the existing parking space at the front of the property does not conform to the by-law, and is located in the municipal right-of-way, relief is required to reduce the minimum required parking spaces from two spaces to one for the existing dwelling unit and the proposed secondary suite.

The size of any addition may be limited through the zoning standards that address the maximum length of a building, maximum size of an addition, extent of attic conversions, or other matters as deemed appropriate by the City.

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- Response: The existing zoning requirements will remain with respect to any future enlargement of the building. No additions or enlargements are proposed as part of the subject application.

The amenity area must be large enough to be useful to residents of all residential units.

- Response: In addition to interior amenity space in the form of living rooms for each dwelling unit, there is approximately 30 square metres in the rear yard which will be available to the residents as amenity space, which is deemed acceptable.

The privacy of adjoining residential properties will be assured by means of adequate screening, and any proposed addition will minimize impacts on overview or shadowing of adjacent residences.

- Response: No additions are proposed. However, the existing zoning requirements will remain with respect to any future enlargement of the building.

Cash-in-lieu of parkland may be taken by the City for new residential units created in accordance with the provisions of the parkland conveyance by-law.

- Response: This proposal is exempted from parkland conveyance or cash-in-lieu under Section 8 c) of the Parkland By-Law Number 2013-107.

Provision of adequate full municipal services; except in the case of a second residential unit, where the provision of adequate municipal services or individual on-site water and sewage services must be met.

- Response: Full municipal services are available to the property.

Any other issues that the City requires must be satisfied to ensure that the proposed conversion will provide a safe, healthy and convenient living environment for all residents over the long term.

- Response: No issues of safety, health or convenience were raised through the technical review process. Building has identified that fire separations will be required as well as a new guard and handrails provided for the exterior stairs, which will be addressed at the building permit stage.

In summary, the proposal meets the above ten criteria.

Section 3.3.11 of the Official Plan states that Second Residential units shall be permitted subject to the following twelve criteria:

The criteria for conversion in Section 3.3.9 of the Official Plan shall apply to second residential units.

- Response: Compliance with Section 3.3.9 was discussed above.

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Second residential units must be in accordance with the Ontario Building Code with respect to health, safety, energy efficiency, water use, and other requirements, and shall obtain building permits as required.

- Response: The installation of the second residential unit if approved will require a Building Permit and is subject to meeting the requirements of the Ontario Building Code.

The zoning by-law shall identify locations where second residential units are permitted. The locations in which second residential units are permitted may be revised from time to time through an amendment to the zoning by-law.

- Response: The applicant has filed this zoning by-law amendment application to satisfy this requirement.

Zoning by-law provisions shall be established and all second residential units shall be in accordance with the zoning by-law. Zoning provisions for second residential units may include, but are not limited to:

- Housing types;
 - Parking and yard requirements;
 - Restrictions on lot coverage;
 - Landscaped open space or amenity area;
 - Minimum and maximum floor areas; and
 - Location and configuration to ensure adequate parking and to ensure that sight lines are not impacted.
- Response: The draft by-law amendment implements these provisions where necessary. The subject property does not have a conforming parking space, as the area currently employed for parking is predominantly within the municipal right-of-way. The applicant proposes to provide one parking space in the rear of the property, accessed by a right-of-way to Markland Street. Relief is required to permit one parking space for the primary dwelling unit and the secondary suite.

Second residential units shall not be limited by density control requirements.

- Response: This is an application for a second residential unit, and therefore density has not been reviewed.

Second dwelling units shall be a prohibited use on a residential dwelling lot containing a garden suite, boarding house or lodging house.

- Response: The existing house does not contain any of these uses.

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Adequate servicing shall be available to accommodate the second residential unit, including, but not limited to water, waste water and electricity. The City may require a supporting study prior to issuance of a building permit or in support of a development application, if deemed necessary.

- Response: Utilities Kingston has indicated no objection to the proposal.

Second residential units shall have no negative impact on stormwater management and site drainage. The City may require a site grading plan to ensure conformity to this criterion.

- Response: There will be no exterior changes to the building that will affect lot grading or drainage.

Second residential units shall not be permitted in a residential dwelling unit situated within a floodplain.

- Response: The property is not located in a floodplain.

Second residential units may be permitted on properties outside of the areas identified in implementing zoning by-laws and associated schedules through site-specific zoning by-law amendments and the following criteria:

- Adequate water, wastewater and drainage services are available for the second residential unit;
- Property is in close proximity to public transit services;
- That the development conforms to all applicable regulations of the zoning by-law and relevant policies and legislation;
- Existing parking requirements are maintained, and second residential unit parking requirements are met; and
- Adequate open space and/or amenity areas are available for all residents.
- Response: Utilities Kingston has indicated no objections to the proposal from a water or sanitary perspective. The subject property is well-served by transit. Kingston Transit Route 1 is located 160 metres from the property, and a number of transit routes converge on Division Street, which is walking distance from the subject property. Relief from the minimum required number of parking spaces is requested as part of the subject application. Amenity space will be provided in the front and rear yards.

In accordance with Section 9 of the Official Plan, a second residential unit shall be permitted in a legal non-complying building provided the unit does not increase the degree of non-compliance; it may be permitted subject to the approval of a minor variance or zoning by-law amendment.

- Response: The existing building does not comply with certain provisions of the 'A' Zone, including the minimum lot area, and minimum side yard requirements, in

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addition to the non-conforming parking space at the front of the property. The subject application will not increase the degree of non-compliance, as the proposal does not require enlargements of the existing dwelling and a conforming parking space can be accommodated at the rear of the dwelling for the secondary suite.

Second residential units shall not be permitted on lots with legal non-conforming uses unless approved through a zoning by-law amendment.

- Response: There are no legal non-conforming uses on the property.

In summary, the proposal meets the above twelve criteria.

The proposed zoning by-law amendment complies with the general intent of the City of Kingston Official Plan; therefore, an Official Plan amendment is not required.

Zoning By-Law Discussion

The property is located in a One-Family and Two-Family Dwelling Zone 'A' in Zoning By-Law Number 8499, as amended (Exhibit D). The uses permitted in the 'A' Zone include one-family dwellings, two-family dwellings, and conversions of one-family dwelling to two-family dwellings, libraries, art galleries and museums, public or private day schools, community halls, churches, church halls, institutions or homes for the temporary shelter and protection of children, community homes, Providence Manor and Rideaucrest Home, and accessory buildings to any use permitted in 'A' Zones.

By-Law Number 8499 does not contain permissions for "secondary suites" which are supported in the Official Plan, outside of areas with established permissions, subject to a zoning by-law amendment. The applicant is proposing to amend the zoning by-law to permit a secondary suite within the existing dwelling. The existing dwelling unit has a floor area of approximately 102 square metres with two (2) bedrooms. The secondary unit proposed in the cellar would have a floor area of approximately 56.3 square metres with one (1) bedroom, a living room, a kitchen and a bathroom, occupying approximately 35.6% of the total gross floor area. Access to the existing dwelling unit would remain from the front of the dwelling, with access to the proposed secondary suite unit from a 1.2 metre walking path along the west side of the dwelling leading to a door at the rear of the walk-out basement.

The applicant is proposing to establish a secondary suite, not a second dwelling unit subject to conversion provisions in By-Law Number 8499. Secondary suites may have a floor area of up to 40% of the total gross floor area of the entire residential structure and in no circumstances may it exceed 90 square metres in size. As the proposed basement unit is approximately 56.3 square metres in area and accounts for approximately 35.6% of the total gross floor area, the additional dwelling unit is considered secondary to the principle dwelling unit located on the ground floor and second floor.

A site-specific One-Family Dwelling and Two-Family Dwelling Zone 'A' is required to permit the secondary suite. The proposed secondary suite in the basement also requires relief to permit habitable space in a "cellar", requires relief from the minimum parking requirement from two (2) to one (1) parking space, and relief from the minimum lot area for a dwelling unit.

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The proposed use of a cellar for habitable space is not permitted according to provision 5.2.b of Zoning By-Law Number 8499. A “cellar” is defined in Zoning By-Law Number 8499 as “that portion of a building between two floor levels which has less than 50% of its height from finished floor to finished ceiling, above the average adjacent exterior finished grade”. While grade changes substantively alongside the existing dwelling, and the existing semi-detached dwelling has a “walk-out” basement, less than 50% of the existing basement of the single family dwelling appears to be located below the average adjacent exterior grade. As such, relief from this provision is required through this application.

Recent by-laws have been passed within the City of Kingston which removed the restriction of prohibiting habitable space within cellars in Zoning By-Law Numbers 76-26, 32-74 and 97-102. These zoning by-laws apply to the former Kingston and Pittsburgh Township areas. This restriction was removed as part of the process to permit secondary suites within dwellings in certain areas of the City. The provision which prohibits habitable space in a cellar was not removed from Zoning By-Law Number 8499 or Zoning By-Law Number 96-259. Therefore, any proposal to permit habitation within a cellar in the areas covered by these zoning by-laws is subject to a site-specific zoning amendment application. An exemption to the provision in the by-law restricting habitation in a cellar is integrated into the proposed zoning by-law amendment.

The *Ontario Building Code* does not have restrictions against dwelling units or habitation in lower level units, which would be defined as a “cellar” in Zoning By-Law Number 8499. Instead, *Ontario Building Code* requirements indicate that such areas may be used for habitation so long as they provide adequate living space and satisfy health and safety measures (i.e. requirements for fire safety, access/egress and windows).

The Building Division has confirmed that should this application be approved, a building permit application would be required for the second residential unit. The Building Division and Fire and Rescue have no concerns with the application at this stage; however, further comments will be provided through the building permit process.

The existing lot area does not conform to the minimum lot area for a dwelling unit according to section 6(3) of the by-law, and as a result a site-specific amendment is integrated into the site-specific zoning to permit a dwelling unit and a second residential unit on the 200 square metre lot. The intent of the minimum lot area requirements are to ensure there is adequate amenity area for residents. As illustrated on the Conceptual Site Plan (Exhibit G), there is front and rear yard open space and rear patio space available for residents on the subject property, in addition to interior amenity area (i.e. living rooms). As such, the lot area is appropriate.

In terms of parking, the by-law requires one parking space per dwelling unit, and criteria established elsewhere in the City for secondary suites (i.e. By-Law Number 76-26) require that one parking space be provided per secondary suite. The property does not currently have a conforming parking space. It has been communicated to the applicant that the area at the front of the property which is paved is predominantly within the municipal right-of-way and cannot be used for parking and is subject to by-law enforcement. The applicant proposes that one parking space be accommodated within the rear yard of the property. As a result, a reduction to the minimum required number of parking spaces, from two (2) required spaces to one (1), is required to permit the proposal. The establishment of the rear parking space is required to be

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implemented to fulfill this amended parking requirement, or the property may be subject to by-law enforcement.

The conceptual site plan provided (Exhibit G) illustrates the space available for a parking space in the rear yard, accessed through the right-of-way. The proposal conforms with the by-law requirements in that no more than 30 square metres of rear yard may be used as uncovered parking area (Section 5.3B (cc)). Design standards for parking spaces set out through the by-law are met, provided that the parking facilities are suitably surfaced and parking areas are suitably marked in accordance with Section 5.3B (h) of the by-law.

The right-of-way legal instrument established for 113 Raglan Road over the westerly 10 feet of the property at 42 Markland Avenue does not set out any limitations or restrictions on the use and could be used as a driveway, according to a review by City Legal Services. The right-of-way is shown as Parts 1 and 2 on the attached Survey Plan 13R-5822 (Exhibit I).

The intensification of the subject property through the addition of a one bedroom second residential unit is modest, and staff concludes that, with the proposal to provide a conforming parking space in the rear, the provision of on-site parking for the proposal is appropriate. The subject property is well served by transit and is located within a neighbourhood in proximity to the downtown core where active transportation is encouraged. As described in the Planning Justification submitted with the proposal, the closest bus stop is approximately 160 metres east of the property on Montreal Street. In addition, a number of transit routes merge along Division Street, which is approximately 550 metres from the subject property.

The property owners to the rear have expressed concern with the use of the right-of-way through their property, which has not been used in recent years and is presently landscaped. Responses to these concerns are provided below. The proposed use of the right-of-way for access is legally established, and provides access to a rear parking space which would be in conformity with section 5.3 of the by-law, with the appropriate surfacing (i.e. gravel).

The proposal is limited to interior alterations and minor exterior alterations, such as the addition of north facing windows at the basement level and upgrades to the guards on the stairs leading to the rear entrance to the second residential unit, and as such, will not change the built form of the neighbourhood and is consistent with the character of the existing residential area.

Other Applications

There are no other current or previous planning applications on the subject property.

In accordance with By-Law Number 2010-217, Site Plan Control is not required for the proposed development.

Technical Analysis

This application has been circulated to external agencies and internal departments for review and comment.

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The Building Division identified potential concerns with natural light requirements as part of their preliminary technical review. The applicant has indicated that these concerns will be addressed through the addition of windows at the basement walk-out level, facing north.

Engineering and Public Works advised through the technical analysis that parking on the municipal boulevard and/or sidewalks is prohibited in accordance with the Streets By-Law Number 2004-190 and on-street parking is subject to restrictions included in Parking By-Law Number 2010-128.

Fire and Rescue have no concerns with the application at this stage; however, further comments will be provided through the building permit process.

Utilities Kingston advised that if the proposal results in the need to upgrade existing services or to install new services, all associated costs are the responsibility of the applicant.

Public Comments

The following is a summary of the comments received to date from the adjacent neighbour on Markland Street. Comments have been paraphrased and are grouped by general theme. Written correspondence received is included in Exhibit K.

Comment: Concern with the use of the right-of-way for a driveway, as this area is presently used for parking at 42 Markland Street. A gate and landscaping have been established over the area subject to the right-of-way.

- Response: Staff have confirmed with City Legal Services that the right-of-way established over the westerly 10 feet of the subject property allows for the passage of a vehicle, and should not be obstructed. As such, although the area has not been used for a driveway in recent years, it may be used for this purpose. The proposed parking space at 113 Raglan Road would need to be located entirely outside of the right-of-way to conform with the zoning by-law, as illustrated in the Conceptual Site Plan, submitted with the application.

Comment: Concern with the loss of enjoyment of the rear yard at 42 Markland Street as a result of the right-of-way being employed for access.

- Response: The adverse effects contemplated as part of the subject application relate to the establishment of the second residential unit. The applicant is able to use the right-of-way and park in their rear yard as-of-right.

Comment: Concern with a loss of property value as a result of the proposal.

- Response: Zoning by-law amendment applications are reviewed within the context of land use planning. This assessment does not consider potential impacts on property value.

Comment: Concern with the zoning by-law conformity of a residential unit which does not front on a street.

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- Response: The subject property fronts onto Raglan Road, and the proposed entrance to the unit from the rear of the property complies with the zoning by-law. A 1.2 metre pedestrian pathway leads from the front of the semi-detached dwelling to the rear of the property, which complies with the criteria established for second residential units in by-laws elsewhere in the City (i.e. By-Law Number 76-26). Provided that the rear yard parking space is designed in accordance with section 5.3B (h) of the by-law (including suitable surfacing and demarcation of the parking space), the parking proposed in the rear yard conforms with the requirements of the by-law.

Conclusion

In conclusion, staff recommends approval of the application for this zoning by-law amendment for the property located at 113 Raglan Road.

The application conforms to and is consistent with the applicable policies in the Provincial Policy Statement and complies with the general intent of the City of Kingston Official Plan. The establishment of a secondary suite within the existing semi-detached dwelling will not change the built form of the neighbourhood and will add to the unit mix in the area.

Existing Policy/By-Law:

The proposed amendment was reviewed against the policies of the Province of Ontario and City of Kingston to ensure that the changes would be consistent with the Province's and the City's vision of development. The following documents were assessed:

Provincial

Planning Act

Provincial Policy Statement, 2014

Municipal

City of Kingston Official Plan

Zoning By-Law Number 8499

Notice Provisions:

A Public Meeting is being held concurrent with the comprehensive report submission with respect to this application on August 4, 2016. Pursuant to the requirements of the *Planning Act*, a notice of the statutory Public Meeting was provided by advertisement in the form of a sign posted on the subject site 20 days in advance of the Public Meeting. A "Notice of Public Meeting" regarding this application was also sent by mail to all property owners within 120 metres of the subject property. There were 141 properties notified by mail. In addition, a courtesy notice was published in *The Kingston Whig-Standard*.

Anyone who attends the Planning Committee Public Meeting may present an oral submission, and/or provide a written submission on the proposed amendment. Also, any person may make written submissions at any time before City Council makes a decision on the application. If a person or public body does not make oral submissions at a Public Meeting or make written

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submissions to the City of Kingston before the application is approved, the person or public body is not entitled to appeal the decision of the City of Kingston to the Ontario Municipal Board. If a person or public body does not make oral submissions at a Public Meeting or make written submissions to the City of Kingston before the by-laws are passed, the person or public body may not be added as a party to the hearing of an appeal before the Ontario Municipal Board unless, in the opinion of the Board, there are reasonable grounds to do so.

If the application is approved, a Notice of Passing will be circulated in accordance with the provisions of the *Planning Act*.

At the time of the writing of this report, two pieces of correspondence from the neighbouring property owner at 42 Markland Street has been received and has been addressed in this report. Any correspondence received after the publishing of this report will be included as an addendum to the Planning Committee Agenda.

Accessibility Considerations:

Not applicable

Financial Considerations:

Not applicable

Contacts:

Paige Agnew, Director, Planning, Building & Licensing Services 613-546-4291 extension 3252

Stacey Forfar, Manager, Development Approvals 613-546-4291 extension 3253

Amy Didrikson, Intermediate Planner 613-546-4291 extension 3288

Other City of Kingston Staff Consulted:

The application was circulated to the relevant internal departments and external agencies for review and comment. The responses to the technical circulation have been addressed in the technical review and included within this comprehensive report.

Exhibits Attached:

Exhibit A Draft By-Law and Schedule A to amend Zoning By-Law Number 8499

Exhibit B Key Map

Exhibit C Official Plan, Land Use

Exhibit D Zoning By-Law Number 8499, Map 18

Exhibit E Neighbourhood Context (2015)

August 4, 2016

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Exhibit F Public Notice Notification Map

Exhibit G Conceptual Site Plan

Exhibit H 113 Raglan Road Survey

Exhibit I Right of Way Survey

Exhibit J Site Photographs

Exhibit K Public Comments

By-Law Number 2016-XX

A By-Law to Amend By-Law Number 8499, “Restricted Area (Zoning) By-Law of the Corporation of the City of Kingston” (Zone Change from A to A.505, 113 Raglan Road)

Passed: [Meeting Date]

Whereas by Order of the Minister of Municipal Affairs and Housing, The Corporation of the Township of Kingston, The Corporation of the Township of Pittsburgh and The Corporation of the City of Kingston were amalgamated on January 1, 1998 to form The Corporation of the City of Kingston as the successor municipal Corporation and pursuant to the Minister’s Order, any by-laws of the former municipality passed under the *Planning Act* continue as the by-laws covering the area of the former municipality now forming part of the new City; and

Whereas the Council of The Corporation of the City of Kingston deems it advisable to amend By-Law Number 8499, as amended, of the former City of Kingston;

Therefore be it resolved that the Council of the Corporation of the City of Kingston hereby enacts as follows:

- 1. By-Law Number 8499 of The Corporation of the City of Kingston, entitled “Restricted Area (Zoning) By-Law of The Corporation of the City of Kingston”, as amended, is hereby further amended as follows:
 - 1.1. Map 18 of Schedule “A”, as amended, is hereby further amended by changing the zone symbol of the subject site from A to A.505, as shown on Schedule “A” attached to and forming part of By-Law Number 2016-____.
 - 1.2. By **Adding** the following section 505 in Part VIII – Exceptions To Various Zone Classifications as follows:

“505. 113 Raglan Road

Notwithstanding the provisions of Section 5 and Section 6 hereof to the contrary, the lands designated ‘A.505’ on Schedule ‘A’ hereto, the following regulations shall apply:

- (a) Definitions:
 - (i) “Secondary Residential Unit” means a legally existing separate residential dwelling unit, which is ancillary to a principal dwelling unit, contained in the same building, and

includes a separate, clearly defined, safe access, kitchen, washroom and living space.

(b) Additional Permitted Uses:

A Second Residential Unit

(d) The use of a cellar for habitation is permitted.

(e) Minimum Lot Area: 200 square metres

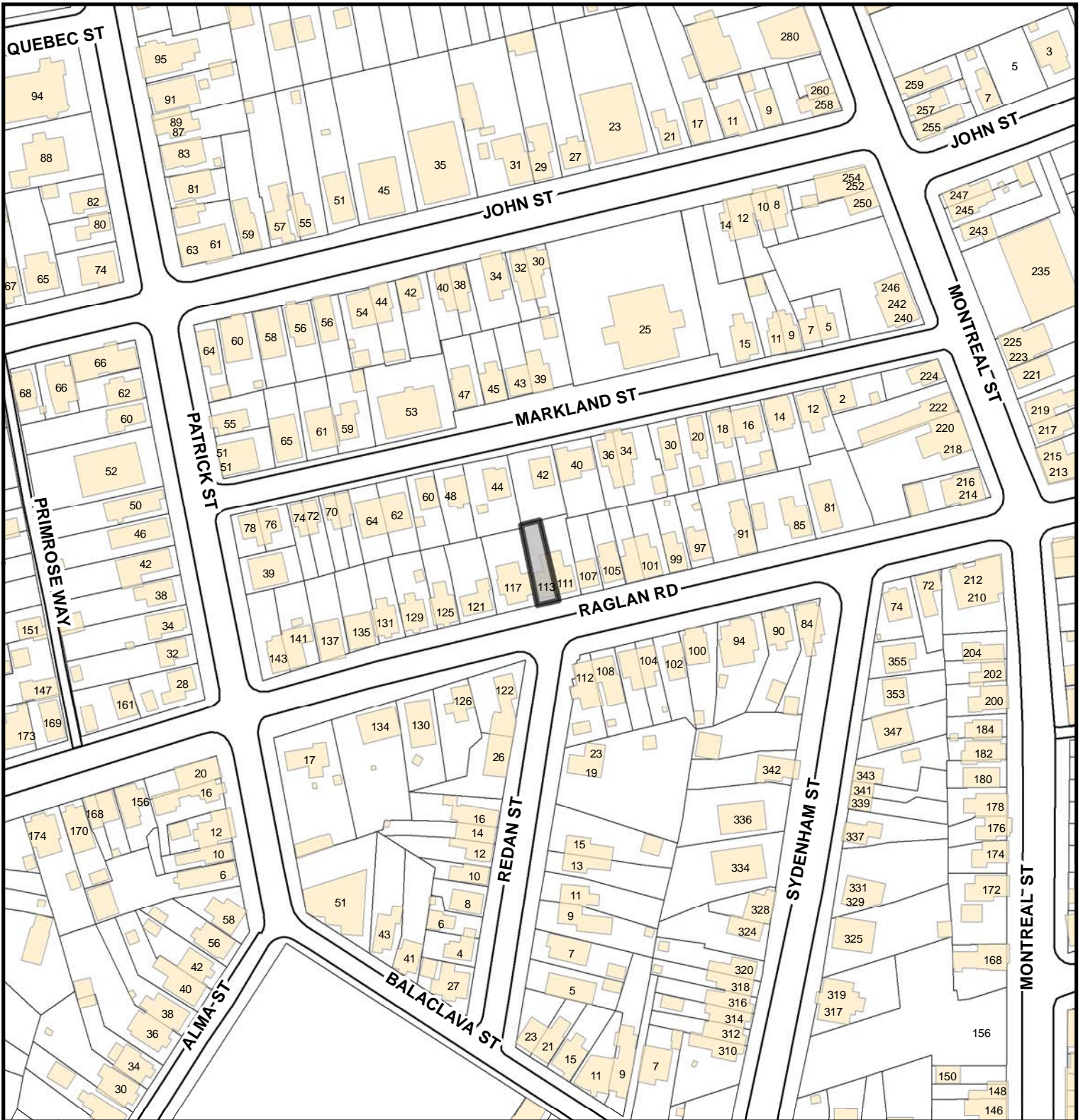
(f) Minimum Number of Parking Spaces: 1 parking space

2. This by-law shall come into force and take effect on the day it is passed subject to and in accordance with the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13 as amended from time to time.

Given all Three Readings and Passed: [Meeting Date]

John Bolognone
City Clerk

Bryan Paterson
Mayor




Planning, Building & Licensing Services
 a department of
 Community Services

SCHEDULE 'A' TO BY-LAW NUMBER

Applicant: David Richardson
 Owner: David Richardson & [REDACTED]
 File Number: D14-020-2016
 Address: 113 Raglan Road

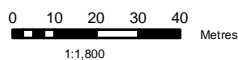
LEGEND

Reference By-Law 8499, Map 18

 Rezoned from A to A.505

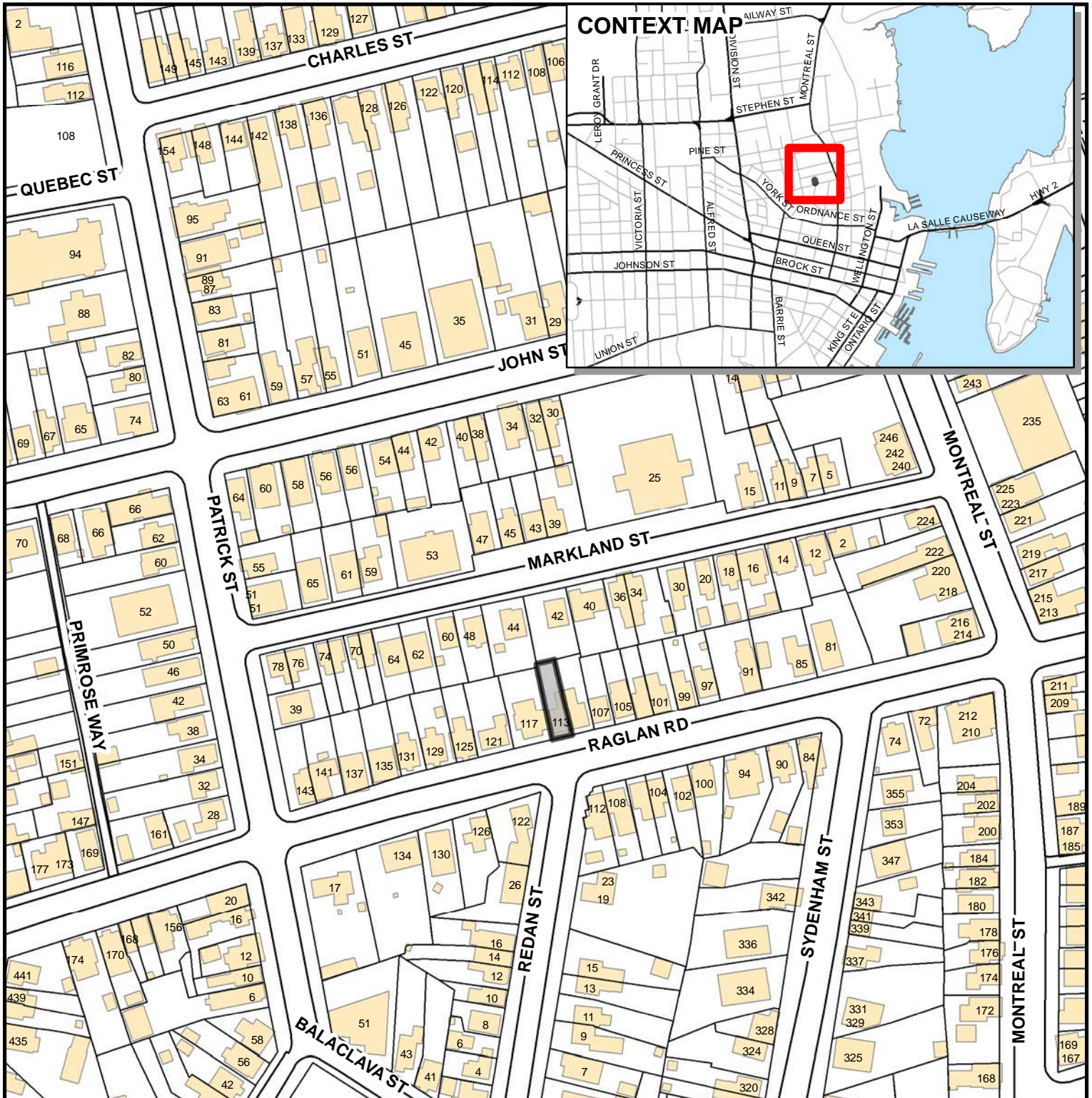
Certificate of Authentication

This is Schedule 'A' to By-Law Number _____,
 passed this _____ day of _____ 2016.



Mayor

Clerk





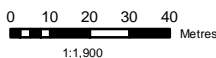
Planning, Building & Licensing Services
a department of
Community Services

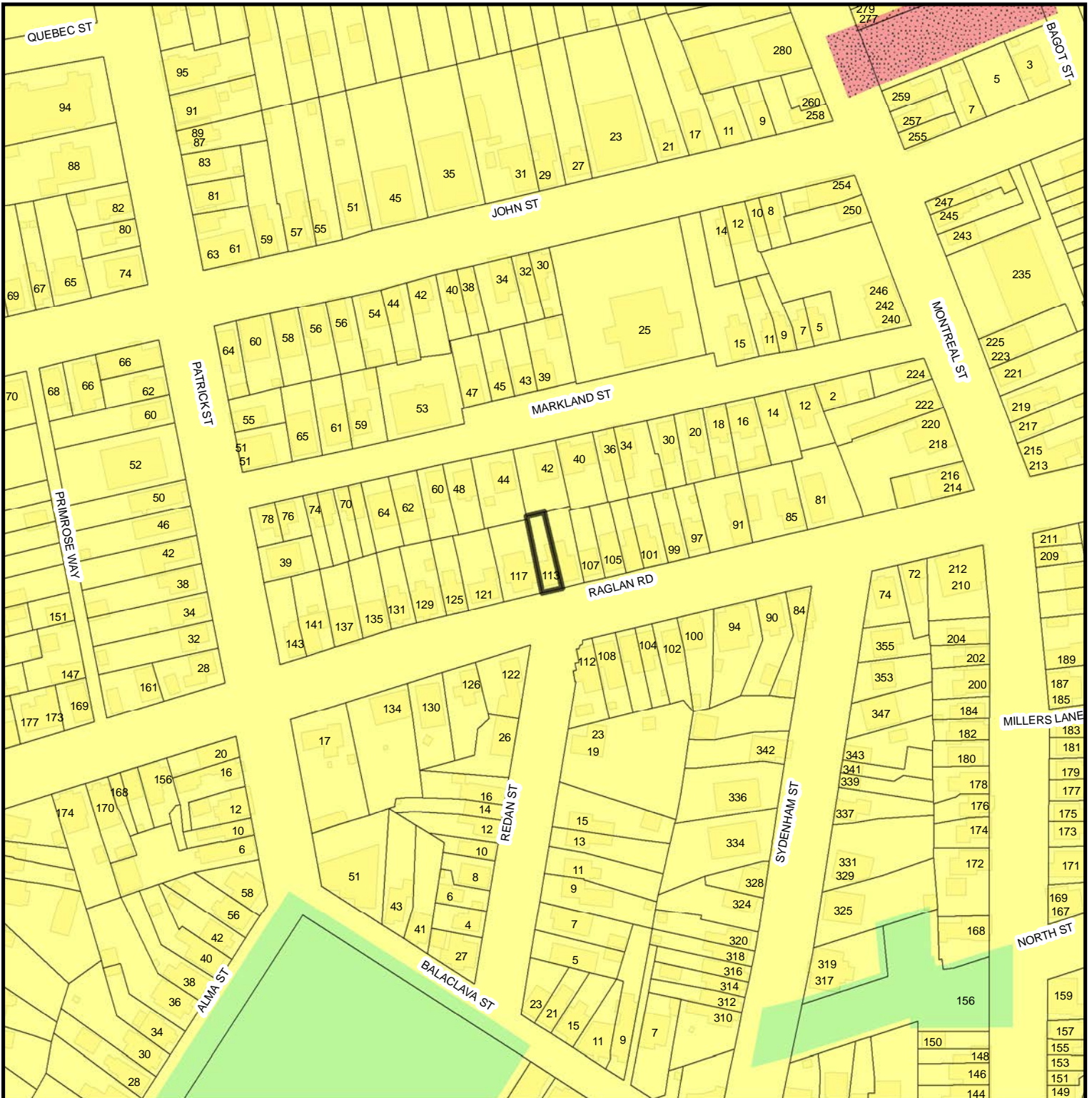
PLANNING COMMITTEE
KEY MAP

Applicant: David Richardson
Owner: David Richardson & [REDACTED]
File Number: D14-020-2016
Address: 113 Raglan Road

LEGEND

-  Subject Property
-  Property Boundaries

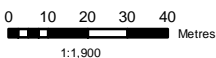








Planning, Building & Licensing Services
a department of
Community Services

PLANNING COMMITTEE
OFFICIAL PLAN, Land Use

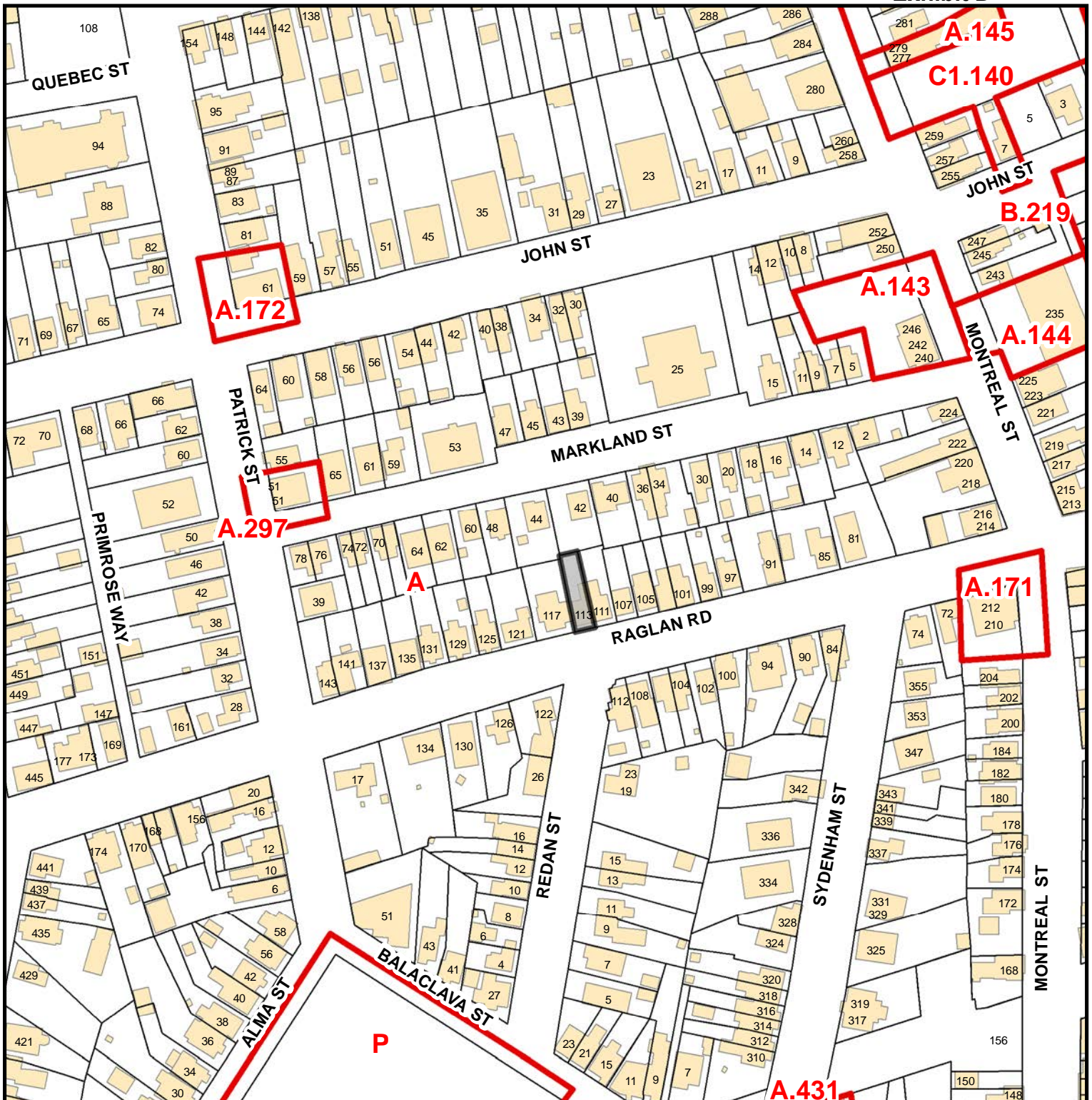
Applicant: David Richardson
Owner: David Richardson & [REDACTED]
File Number: D14-020-2016
Address: 113 Raglan Road



LEGEND

-  Subject Property
-  Residential
-  District Commercial
-  Open Space








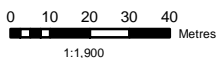
Planning, Building & Licensing Services
a department of Community Services

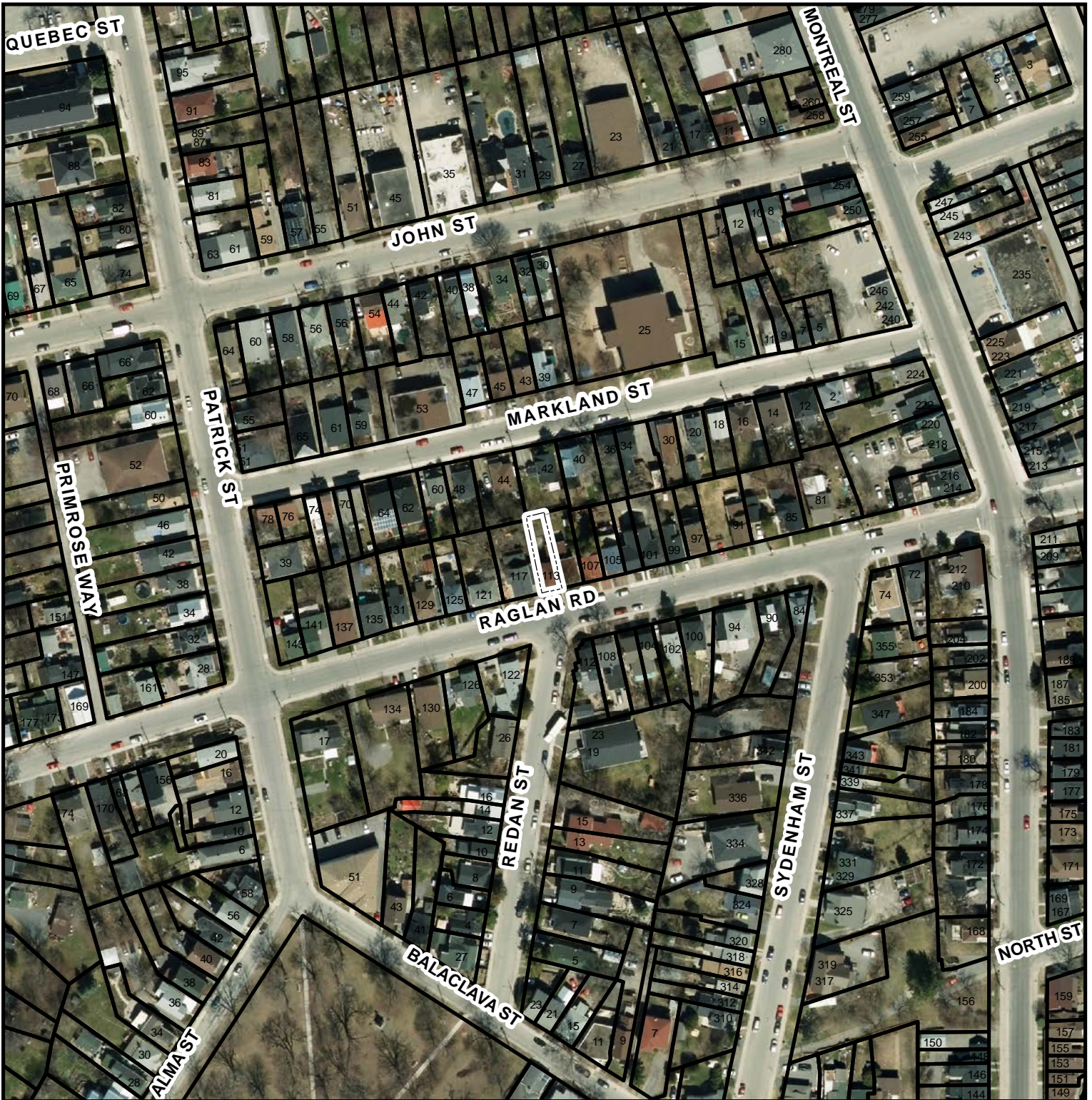
PLANNING COMMITTEE
ZONING BY-LAW 8499, Map 18

Applicant: David Richardson
Owner: David Richardson & [REDACTED]
File Number: D14-020-2016
Address: 113 Raglan Road

LEGEND

-  Subject Property
-  Consolidated Zoning
-  Property Boundaries







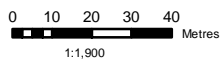
Planning, Building & Licensing Services
a department of Community Services

PLANNING COMMITTEE
NEIGHBOURHOOD CONTEXT (2015)

Applicant: David Richardson
Owner: David Richardson & [REDACTED]
File Number: D14-020-2016
Address: 113 Raglan Road

LEGEND

-  Subject Property
-  Property Boundaries









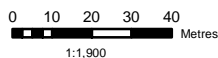
Planning, Building & Licensing Services
a department of
Community Services

PLANNING COMMITTEE
PUBLIC NOTICE NOTIFICATION MAP

Applicant: David Richardson
Owner: David Richardson & [REDACTED]
File Number: D14-020-2016
Address: 113 Raglan Road

LEGEND

-  Subject Property
-  120m Public Notice Boundary
-  Property Boundaries
-  141 Properties in Receipt of Notice



13R5822

PLAN MATERIAL
PLASTIC MATERIAL DILAR GAUGE 0.08 mm INK KOH 1-NOOR
BEARING NOTE
BEARINGS ARE ASTROMONIC AND ARE REFERRED TO THE WESTERN LIMIT OF MONTREAL STREET AS SHOWN ON PLAN D-81-828 HAVING A BEARING OF N21°56'52"W.
LEGEND
S.S.B. DENOTES STANDARD IRON BAR S.S.B. DENOTES SHORT STANDARD IRON BAR R.P. DENOTES ROCK POST. I.B. DENOTES IRON BAR. C.C. DENOTES CUT CROSS P.M. DENOTES PILING MONUMENT W.T. DENOTES WITNESS --- DENOTES FENCE

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

**PLAN OF SURVEY
OF
PART OF LOTS 16 AND 17
REGISTERED PLAN NUMBER C-29
CITY OF KINGSTON
COUNTY OF FRONTENAC**

N.B. CAMPBELL O.L.S. (1984)
SCALE 1" = 10'

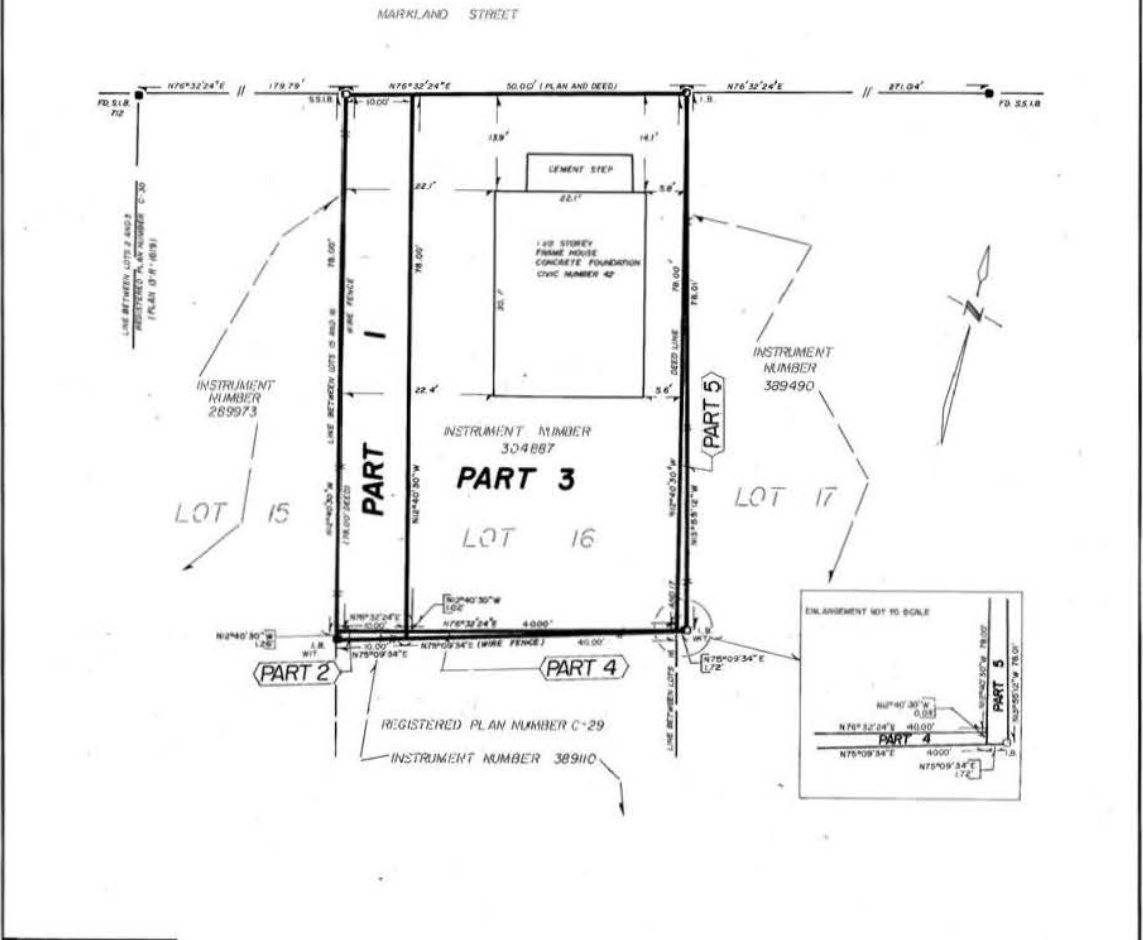
PLAN 13-R-5822
RECEIVED AND DEPOSITED
DATE Aug 8, 1984
N. B. Campbell
ONARIO LAND SURVEYOR FOR
FRONTENAC NUMBER 13

I REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE REGISTRY ACT.
DATE August 8, 1984

N. B. Campbell
ONARIO LAND SURVEYOR

SURVEYORS CERTIFICATE
I CERTIFY THAT:
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEY ACT AND THE REGISTRY ACT AND THE REGULATIONS MADE THEREUNDER.
2. THE SURVEY WAS COMPLETED ON THE 27th DAY OF AUGUST, 1984.
N. B. Campbell
ONARIO LAND SURVEYOR
ELONBURG, ONTARIO
DATE August 8, 1984.

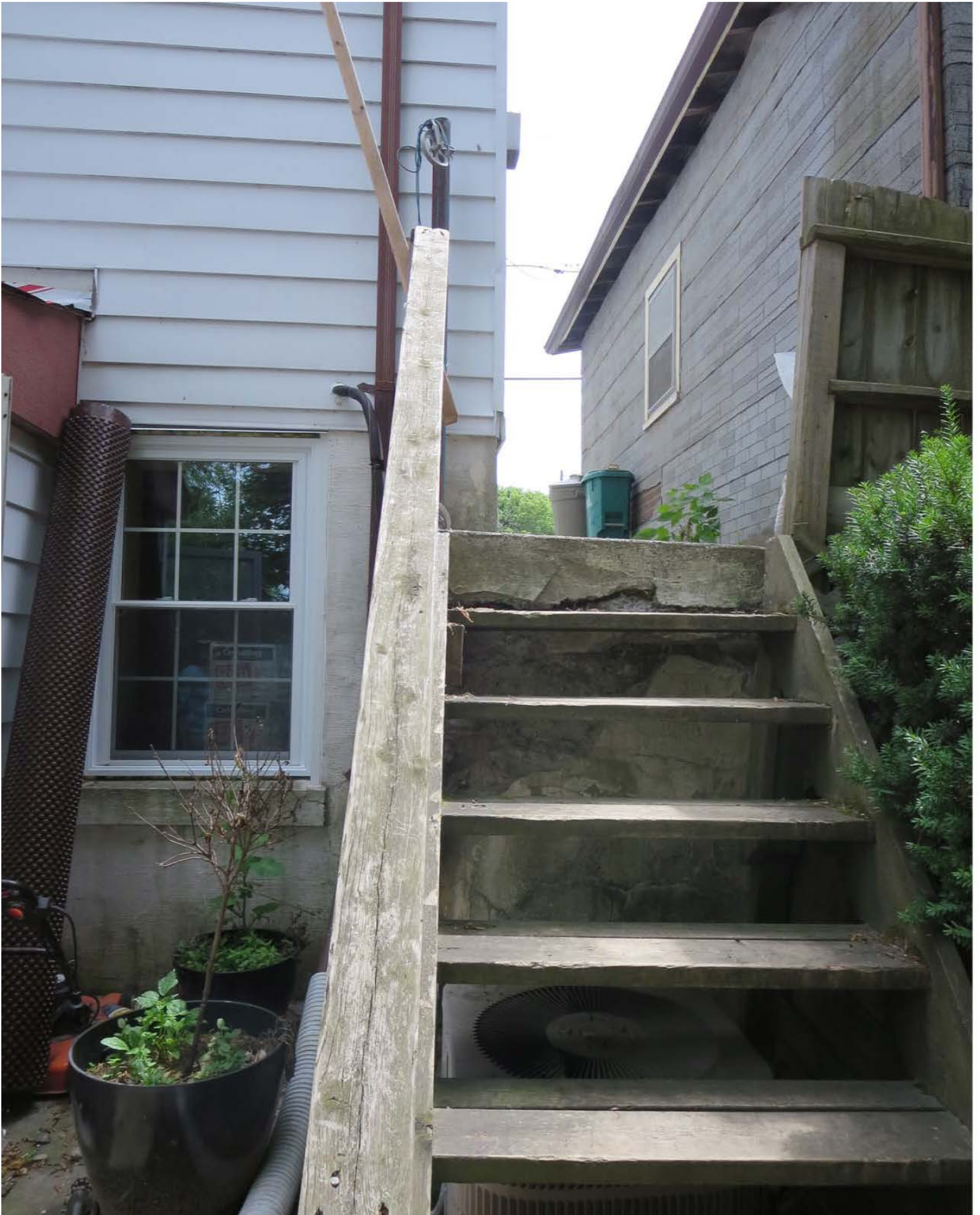
UNIT	LOT	REGISTERED PLAN NUMBER	INSTRUMENT NUMBER	AREA
1	16	C-29	304887	700 sq. Ft.
2	16	C-29	304910	1130 Ft. S.
3	16	C-29	304887	308 sq. Ft.
4	16	C-29	304910	28 sq. Ft.
5	17	C-29	304910	86 sq. Ft.



PLAN COMPLETED
ON AUGUST 8, 1984
AND FILED IN THE OFFICES OF
N. B. CAMPBELL
ONARIO LAND SURVEYOR
ELONBURG, ONTARIO
AS FILE NUMBER R-84-110











Didrikson, Amy

From: Janet MacRae [REDACTED]
Sent: Thursday, June 23, 2016 5:46 PM
To: Didrikson, Amy

Follow Up Flag: Follow up
Flag Status: Flagged

Amy Didrikson,

This letter concerns the application by David Richardson to amend the zoning by law to allow for a second dwelling in the basement of 113 Raglan Rd. (File # D14-020-2016) The application mentions access to a potential rear parking space for the new dwelling via a right of way which is located at [42 Markland St.](#) We are the owners of 42 Markland St. and as such would like to raise our concerns about the usage of the right of way.

I have attached photos in order that you can understand the situation in which we find ourselves. As it was when we purchased our home (and presumably has been for quite some time) there is a driveway on the West side of our house. This is where we park our car. There is a gate at the end of the driveway that leads into the yard. Beyond that gate is the gate to the property at [113 Raglan Rd.](#) Which has not been opened since 2009.



We want to be clear that we in no

way object to the existence of a second dwelling at [113 Raglan Rd.](#) Nor do we object to reasonable use of the existing right of way. We told Mr. Richardson when he purchased the property that if he needed to use it to access his backyard, we would accommodate him any time. We wanted to make sure he was aware of the existence of the right of way, in case it wasn't disclosed to him when he purchased the house. However, it is coming on 3 years now, and he has never once used the right of way. He has certainly had ample reason to given the amount of work he has done to his property. We will have lived here for 9 years in July, and it has only ever been used once. And that was by the previous owner in order to deliver a load of soil.

It's also worth mentioning that we have been more than accommodating to the owners of both 111 and [113 Raglan Rd.](#) as we allowed them to reroute their conjoined sewer lateral down the right of way instead of

the more expensive route to Raglan Rd. When we purchased our home, we were assured by the city that there was no sewer lateral running through our yard. This was proven not to be the case when the lateral broke and percolated up into the yard directly behind our house. The repair of their sewer lateral was a major construction project in our yard and driveway for the majority of the summer and early fall of 2009.

We do recognize the access the right of way grants. The original purpose of the right of way was presumably to give access to the rear of the house, possibly for coal delivery to the basement as there is only a stairway from the front. This kind of occasional use is acceptable. But to make the right of way a primary vehicular access for tenants is something completely different and would negatively impact us in many ways.

First, [113 Raglan Rd.](#) would gain parking spots, whereas we would lose ours. Not only would we have to find parking somewhere else, but how do we ever sell a home that has a lovely paved driveway upon which you can never park? And how is a lawn a suitable driveway? Who would be responsible for snow removal in the winter? Where would they put the snow??

Also, we currently have an enclosed yard with a gate. This keeps our two year old boy, and our dog safe from wandering out of the yard and encountering moving vehicles on the road. This would certainly no longer be the case as the backyard would now contain its own road. So, if we wanted our child and dog to be safe we would have to incur the cost of fencing off the right of way thereby decreasing the yard by 20%. Again our property value would take a huge hit, whereas 113 Raglan Rd. would see theirs increase.

We know that Mr. Richardson has been working hard to renovate the house and basement and as stated earlier we have no objection to the existence of a basement apartment. But if approval of the application carries with it the right to turn our backyard into a driveway and eliminate our driveway in the process then we wholeheartedly object. The improvement of his property is a good thing, but it appears that it would be at great cost to us and the enjoyment of our home.

We sincerely hope that our concerns are taken into consideration. If you have any questions or need any clarification please call [REDACTED]. We also plan to attend the public hearing and would like to be notified when there is a date set.
Thank you, Janet MacRae, and Alec Barken.

Didrikson,Amy

From: Janet MacRae [REDACTED]
Sent: Thursday, June 30, 2016 9:37 PM
To: Didrikson,Amy
Attachments: MacRae.docx; ATT00001.txt

Follow Up Flag: Follow up
Flag Status: Completed

Hello Amy,

I have attached a new revised letter concerning the zoning by-law amendment application for 113 Raglan Rd. It is basically the same as my initial letter, but contains some more information that I hope will be considered.

Thanks for your time, and we look forward to hearing from you regarding the public hearing.

- Janet MacRae and Alec Barken

This letter concerns the application by David Richardson to amend the zoning by law to allow for a second dwelling in the basement of 113 Raglan Rd. (File # D14-020-2016) The application mentions access to a potential rear parking space for the new dwelling via a right-of-way which is located at and over the property municipally known as 42 Markland Street. We are the owners of 42 Markland Street and have very serious concerns with respect to the proposed usage of the right-of-way as a primary means of access to the new proposed dwelling unit.

We have attached photos in order that you will appreciate and understand the situation in which we find ourselves. As it was when we purchased our home (and presumably has been for quite some time) there is a driveway on the west side of our home. This is where we park our car and have done so for the past 9 years. There is a gate at the end of the driveway that leads into the yard and beyond that gate is another leading to the property at 113 Raglan Rd. That second gate has not been opened since 2009.

We want to be clear that we in no way object to the existence of a second dwelling at 113 Raglan Road nor do we object to reasonable use of the existing right-of-way. We told Mr. Richardson when he purchased the property that if he needed to use our driveway to access his backyard, we would accommodate him any time. We wanted to make sure he was aware of the existence of the right-of-way, in case it wasn't disclosed to him when he purchased the house. However, it is now approaching 3 years since his purchase and he has never once used the right of way. He has certainly had ample reason to given the amount of work he has done to his property. As previously noted, we will have lived at 42 Markland Street for 9 years in July, and the right-of-way has only ever been used once and that was by the previous owner in order to deliver a load of soil.

It is also worth mentioning that we have been more than accommodating to the owners of both 111 and 113 Raglan Rd. as we allowed them to reroute their conjoined sewer lateral down through the right-of-way instead of the more expensive route to Raglan Rd. When we purchased our home, we were assured by the city that there was no sewer lateral running through our yard. This was subsequently proven to be incorrect when the sanitary sewer lateral serving 111 and 113 Raglan Rd. broke causing raw sewage to percolate up into our rear yard. The repair of that sewer lateral was a major construction project in our yards and driveway for the summer, autumn and early fall of 2009, although we derived no benefits from those works.

We do recognize the access that the right-of-way grants and intends to grant. Research conducted when we purchased our home indicated that the original purpose of the right of way was to provide access to the rear of 113 Raglan Rd. for coal delivery. There is only a stairway from the front of that building to the basement where the coal was needed. This is the type of occasional use that was intended and which we would find to be acceptable. However, an attempt to make the right-of-way a primary vehicular access for tenants is something completely different and would negatively impact us in many ways.

First, Mr. Richardson's proposal would see 113 Raglan Rd. gain parking spots, whereas we would lose ours. Not only would we have to find parking somewhere else, but how could we ever sell a home that has a lovely paved driveway upon which you can never park? And how is a lawn a suitable driveway? Who would be responsible for snow removal in the winter? Where would they put the snow??

Further, we currently have an enclosed yard with a gate. This keeps our two year old boy, and our dog safe from wandering out of the yard and encountering moving vehicles on the road. Mr. Richardson's proposal would drastically impact our lives as our backyard would now contain its own road. If we wanted our child and dog to remain to be safe, we would have to incur the cost of fencing off the right-of-way thereby decreasing the amenable space of the yard by approximately 20%. As well, our property value would take a huge hit, whereas 113 Raglan Rd. would see its value increase to the detriment of ours.

We know that Mr. Richardson has been working hard to renovate the house and basement and as stated earlier, we have no objection to the existence of a basement apartment. But if approval of the application carries with it the right to turn our backyard into a driveway and eliminate our driveway in the process, then we wholeheartedly object.

It is our understanding that the City's Zoning By-law prohibits residential units that do not front on a street with the intent being that there should never be a dwelling not fronting on a street in the rear of any other dwelling. With the greatest respect, this is what Mr. Richardson's proposal would create. The primary means of access to the new unit would not be directly from a street, but would be indirect over the right-of-way which we own. The new dwelling would not front on a street and would be located to the rear of our house.

The improvement of Mr. Richardson's property is a good thing, but it appears that it would be at great cost and inconvenience to us and the enjoyment of our home, as well as contrary to the intent of the City's zoning by-law.

We sincerely hope that our concerns are taken into consideration. If you have any questions or need any clarification please call [REDACTED]. We also plan to attend the public hearing and would like to be notified when there is a date set.

Thank you, Janet MacRae, and Alec Barken.