



## **Committee of Adjustment Agenda**

**Meeting Number 2018-07  
Monday, June 25, 2018 at 5:30 p.m.  
Second Floor Board Room, 1211 John Counter Boulevard**

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Please provide regrets to Tim Fisher, Secretary/Treasurer at [tfisher@cityofkingston.ca](mailto:tfisher@cityofkingston.ca) and the Planning Division at [planningdevelopment@cityofkingston.ca](mailto:planningdevelopment@cityofkingston.ca) or 613-546-4291 extension 3180.

### **Committee Composition**

Christine Cannon  
Kailin Che  
Stephen Foster  
Blaine Fudge  
Mark Gladysz  
Craig Leroux  
Julie Scanlon

- 1. Meeting to Order**
- 2. Approval of Agenda**
- 3. Disclosure of Pecuniary Interest**
- 4. Delegations**
- 5. Request for Deferral**

#### **463 Earl Street – D13-028-2018**

The purpose and effect of the proposed minor variance is to reduce the minimum side yard setback along the eastern property line, the minimum aggregate side yard and the minimum rear yard depth requirements and increase the maximum percentage of lot coverage requirement in the 'A' zone in Zoning By-Law Number 8499.

- 6. Returning Deferred Items**

7. New Business

- a. **Subject: Application for Minor Variance**  
**Address: 1712 Bath Road**  
**File Number: D13-020-2018**

Report COA-18-033 of the Commissioner of Community Services is attached.

Schedule Pages 1-89

The purpose and effect of the minor variance application **D13-020-2018** is to reduce the minimum setback from a residential use or zone that permits a residential use from the regulated 50 metres to the proposed 0 metres; and to reduce the rear yard setback from the regulated 7.6 metres to the proposed 3 metres, in order to construct a multi-unit commercial plaza consisting of a one-storey commercial building and two stand-alone restaurants each restaurant is proposed to include a drive-through facility.

- b. **Subject: Application for Minor Variance**  
**Address: 45 Traymoor Street**  
**File Number: D13-021-2018**

Report COA-18-034 of the Commissioner of Community Services is attached.

Schedule Pages 90-108

The purpose and effect of minor variance application **D13-021-2018** is to reduce the interior side yard and rear yard setback for a detached garage from the regulated 1.2 metres to the proposed 0.6 metres to facilitate the construction of a new detached garage; the existing garage is proposed to be demolished and replaced with the new garage.

- c. **Subject: Application for Minor Variance**  
**Address: 616 Gardiners Road, Unit 19**  
**File Number: D13-024-2018**

Report COA-18-37 of the Commissioner of Community Services is attached.

Schedule Pages 109-132

The purpose and effect of minor variance application **D13-024-2018** is to increase the maximum floor area that can be devoted to the sale, display, and storage of food or food products from 278.8 square metres to 929.1 square metres. The proposed variance is being requested for a new tenant (Giant Tiger) who is looking to lease Unit 19, a 2,162 square metre unit in an existing commercial building, and have 929.1 square metres of floor area devoted to food sales.

- d. **Subject: Application for Minor Variance**  
**Address: 1501 Clover Street**  
**File Number: D13-025-2018**

Report COA-18-038 of the Commissioner of Community Services is attached.

Schedule Pages 133-148

The purpose and effect of minor variance application **D13-025-2018** is to reduce the required exterior side yard setback from 20 feet to 4 feet to accommodate a new 77 square foot shed that will be used to hold pool equipment.

- e. Subject: Application for Minor Variance**  
**Address: 3 Karlee Court**  
**File Number: D13-026-2018**

Report COA-18-039 of the Commissioner of Community Services is attached.

Schedule Pages 149-174

The purpose and effect of minor variance application **D13-026-2018** is to reduce the exterior side yard setback on a corner lot for an existing vacant lot of record from the regulated 7.5 metres to the proposed 6 metres to facilitate the construction of a semi-detached dwelling. The lot is the last to be developed on Karlee Court.

- f. Subject: Application for Minor Variance**  
**Address: 81 King Street**  
**File Number: D13-027-2018**

Report COA-18-040 of the Commissioner of Community Services is attached.

Schedule Pages 175-202

The purpose and effect of minor variance application **D13-027-2018** is to allow minor additions and exterior alterations to the existing heritage building and to construct a pool at the rear yard of the property. The applicant is also proposing to convert the existing legal non-conforming multi-dwelling unit building into a single-detached dwelling.

- g. Subject: Application for Minor Variance**  
**Address: 145 Pauline Tom Avenue**  
**File Number: D13-029-2018**

Report COA-18-042 of the Commissioner of Community Services is attached.

Schedule Pages 203-229

The purpose and effect of minor variance application **D13-029-2018** is to amend Section 5(11)(c) of the zoning by-law to not have the setbacks apply to the zoning lines but to the lot lines for a lot with multiple zones to allow for the construction of a single-detached dwelling on the property. The property is dual-zoned, with the boundary between the R11-1 and R12 zones passing through the lot.

**8. Motions**

**9. Notices of Motion**

**10. Other Business**

- a. Delegated Authority applications in progress

**11. Correspondence**

**12. Confirmation of Minutes**

**That** the Minutes of Committee of Adjustment Meeting Number 2018-06, held May 28, 2018 be approved.

**13. Date of Next Meeting**

The next meeting of the Committee of Adjustment is scheduled for Monday, July 23, 2018.

**14. Adjournment**





**City of Kingston  
Report to Committee of Adjustment  
Report Number COA-18-033**

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**To:** Chair and Members of Committee of Adjustment  
**From:** James Bar, Senior Planner  
**Date of Meeting:** June 25, 2018  
**Application for:** Minor Variance  
**File Number:** D13-020-2018  
**Address:** 1712 Bath Road  
**Owner/Applicant:** 2562181 Ontario Ltd.

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**Executive Summary:**

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variances for the property located at 1712 Bath Road (Exhibit A). The property is located on the northwest corner of Bath Road and Days Road. The applicant is proposing to construct a multi-unit commercial plaza consisting of a one-storey commercial building and two stand-alone restaurants. Each restaurant is proposed to include a drive-through facility. In order to accommodate the proposed development, the application requests variances to two zone provisions in the General Commercial C2 Zone:

1. Reduce the minimum setback for a drive-through facility from a residential use or zone that permits a residential use from the regulated 50 metres to the proposed 0 metres; and
2. Reduce the rear yard setback from the regulated 7.6 metres to the proposed 3 metres.

The requested minor variances are consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The requested minor variances are desirable for the appropriate development or use of the land, building or structure and are minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval.

**Recommendation:**

It is recommended that minor variance application, File Number D13-020-2018, for the property located at 1712 Bath Road to reduce the minimum setback for a drive-through facility from a

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residential use or zone that permits a residential use from the regulated 50 metres to the proposed 0 metres, and reduce the rear yard setback from the regulated 7.6 metres to the proposed three (3) metres, be approved.

**Variance Number 1: Drive-through service facility setback from a residential use or zone that permits a residential use**

By-Law Number 76-26: 5.2.A.ii  
Requirement: 50 metres  
Proposed: 0 metres  
Variance Requested: 50 metres

**Variance Number 2: Rear Yard Setback**

By-Law Number 76-26: 19.2.g  
Requirement: 7.6 metres  
Proposed: 3 metres  
Variance Requested: 4.6 metres

**Approval of the foregoing variance shall be subject to the following conditions:**

**1. Limitation**

That the approved variance applies only to 1712 Bath Road as shown on drawings received on 4/23/2018.

**2. No Adverse Impacts**

The owner/applicant shall demonstrate to the satisfaction of the City that there are no adverse impacts on neighbouring properties as a result of any modifications to on-site grading or drainage.

**3. Building Permit Application Requirements**

The owner/applicant shall provide to the Building Division a copy of the decision of the Committee of Adjustment, together with a copy of the approved drawings, when they make an application for a Building Permit.

The drawings submitted with the Building Permit application must, in the opinion of the City, conform to the general intent and description of the approved drawing(s), including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. It must be noted that additional planning approvals may be required should further zoning deficiencies be identified through the Building Permit application process.

**4. Standard Archaeological Condition**

In the event that deeply buried or previously undiscovered archaeological deposits are discovered in the course of development or site alteration, all work must immediately cease and the site must be secured. The Cultural Program Branch of the Ministry of Tourism,

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Culture and Sport (416-314-7132) and the City of Kingston's Planning Division (613-546-4291, extension 3180) must be immediately contacted.

In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Registrar of Cemeteries Regulation Section of the Ontario Ministry of Consumer Business Services (416-326-8404), the Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132), and the City of Kingston's Planning Division (613-546-4291, extension 3180) must be immediately contacted.

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**Authorizing Signatures:**



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**James Bar, Senior Planner**

**In Consultation with the following Management of the Community Services Group:**

Paige Agnew, Director, Planning, Building & Licensing Services

Lanie Hurdle, Commissioner, Community Services

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**Options/Discussion:**

On April 23, 2018, a minor variance application was submitted by the applicant's agent 2562181 Ontario Ltd., on behalf of the owner, 2562181 Ontario Ltd., with respect to the property located at 1712 Bath Road. As depicted on the Concept Plan (Exhibit C) the applicant is seeking to construct a one-storey, multi-unit commercial building, and two one-storey stand-alone restaurants with drive-through facilities.

A Planning Letter was submitted with the application (Exhibit B). The variances requested seek permission to reduce the minimum setback for a drive-through facility from a residential use or zone that permits a residential use from the regulated 50 metres to the proposed 0 metres, and reduce the rear yard setback from the regulated 7.6 metres to the proposed 3 metres.

The applicants originally applied for a 0 metre rear yard setback. A site visit by staff identified a grade change between the subject lands and 1724 Bath Road. Staff, upon review of the requested 0 metre rear yard setback are of the opinion that a 3 metre rear yard setback for buildings and structures is more appropriate to allow for a transition in the grades of the property, or the use of interventions such as a retaining wall. The 3 metre rear yard setback is consistent with the front yard setback of the C2 Zone (19.2.d.). The setback to the property line for drive-through facilities (2A) and parking (5.16.c.) are not proposed to be altered and are subject to their respective zone provisions within Zoning By-Law Number 76-26.

Staff communicated with the applicant prior to the finalizing of the report. The applicant and their agent have not expressed objection to the increase in rear yard setback provided that it only applies to buildings and structures and not parking or drive-through facilities.

In support of the application, the applicant has submitted the following:

- Planning Letter (Exhibit B);
- Concept Plan (Exhibit C);
- Survey;
- Environmental Noise Impact Study (Exhibit D); and
- Stage 1 Archaeological Assessment (Exhibit E).

All submission materials are available online through the Development and Services Hub (DASH) at the following link, [DASH](#), using "Look-up a Specific Address". If there are multiple addresses, search one address at a time, or submission materials may also be found by searching the file number.

**Site Characteristics**

The subject property is located at 1712 Bath Road, at the northwest corner of Bath Road and Days Road. According to the applicant's Planning Letter, the subject lands have been vacant for approximately 10 years and were previously developed with a gas station and restaurant with a drive-through.

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The subject property is designated Arterial Commercial in the Official Plan (Exhibit F) and zoned the General Commercial (C2) Zone in Zoning By-Law Number 76-26 (Exhibit G). The property abuts commercial plazas to the north, east, south, and west. The adjacent commercial properties are also zoned the General Commercial (C2) Zone (Exhibit H). An apartment complex is located to the southwest of the property and is zoned the Residential Type 4 (R4) Zone.

The lands have frontage onto an Arterial Road (Bath Road) and a Local Road (Days Road) as classified on Schedule 4 – Transportation, of the Kingston Official Plan. Arterial Roads are designed to serve high volumes of intra-urban traffic at medium speeds. Local Roads serve low volumes of traffic at low speeds.

### Application

The review of an application for minor variance(s) is not a simple mathematical calculation, but rather a detailed assessment of whether the variance(s) requested, both separately and together, meet the four tests of a minor variance outlined in Subsection 45(1) of the *Planning Act*. The following provides this review:

#### 1) The general intent and purpose of the Official Plan are maintained

The subject property is designated Arterial Commercial in the City of Kingston Official Plan which is a special purpose designation that permits uses that include a range of services that cater to the traveling public, uses that require large sites, or which require outdoor display such as vehicle sales lots or vehicle rental premises, hospitality uses, and automotive uses such as gas bars (3.4.E.1). Large floor-plate retail uses intended for a Regional Commercial designation are not included.

In considering whether the proposed variances are desirable, the Committee of Adjustment will give regard to the nine requirements included in Section 9.5.19 of the Official Plan. The following provides these nine requirements and an assessment of how the proposal is consistent with each.

- a. The proposed development meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of the Official Plan.

The proposed application meets the intent of Section 2 of the Official Plan and the strategic direction to focus growth within the Urban Boundary. The construction of the commercial plaza revitalizes a site that has been vacant for approximately 10 years. The built form and function is consistent with the development in the area and is compatible with the existing character of the area.

- b. The proposed development will be compatible with surrounding uses, buildings or structures and development standards associated with adjacent properties, and if necessary, incorporate means of alleviating adverse effects on abutting land uses as recommended in Section 2.7 of this Plan.

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Section 2.7.1 requires development to demonstrate that the resultant form, function, and use of land are compatible with surrounding land uses. Land use compatibility matters and mitigation measures may be used to achieve development and land use compatibility. Section 3.4.E.6 – Criteria for proposed development, of the Official Plan outlines additional requirements for any new Arterial Commercial development:

- a. Locate on an Arterial Road;
- b. Locate on a site that offers good ingress and egress characteristics with the ability to allow clear vehicular access points that do not negatively impact Arterial Roads;
- c. Limit traffic infiltration on Local Roads in the surrounding area;
- d. Be compatible with existing and proposed adjacent development and transportation networks;
- e. Provide shared driveway access between adjacent sites, where feasible;
- f. Provide landscaped buffering between parking areas and the sidewalk;
- g. Define outdoor display areas with enhanced landscaping or architectural edge treatments;
- h. Enclose any storage areas for goods and materials within buildings;
- i. Meet the Site Plan Control requirements of Section 3.4.18 to the satisfaction of the City; and
- j. Prepare any studies that the City determines are needed to support the proposal as required by Section 9.12 of this Plan.

The subject lands are located on a corner lot with the intersection of Bath Road and Days Road being a signalized intersection. The number of entrances and their location(s) will be reviewed through a detailed Traffic Impact Study (TIS) that will be required at the time of Site Plan Control. Days Road north of Bath Road, while classed as a Local Road in the Official Plan serves only commercial lands. It is anticipated that additional traffic wouldn't negatively impact the commercial area.

The increase in the rear yard setback from the originally proposed 0 metres to 3 metres provides greater compatibility between the subject lands and the adjacent lot located at 1724 Bath Road. The increased setback provides more space for transition in built form along the frontage of Bath Road where there is a grade change between the two properties. The submitted Concept Plan (Exhibit C) displays that the current building and structures are located 7.6 metres from the rear lot line.

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The City has an interest in the form and location of drive-through facilities to ensure that such uses will be appropriate for any particular site. Section 3.4.G.7 more specifically outlines that new drive-through facilities shall be located and designed to:

- a. Ensure the safe, efficient, and comfortable movement of pedestrians and cyclists;
- b. Achieve a streetscape with buildings and storefronts oriented to the street; and
- c. Achieve a comfortable, active, and visually stimulating walking environment.

The location of the drive-through facility at the southeast corner of the subject lot is not anticipated to have any adverse effects on the abutting land uses as per the Environmental Noise Study. The existing residential buildings to the south are located outside of the required 50 metre setback from the proposed drive-through facility and there are no residential uses on the abutting commercial properties.

Matters such as access between adjacent commercial sites, landscaping, buffering, screening, outdoor storage, lighting, and other items to be address at the time of Site Plan Control will be discussed in greater detail through pre-application. The applicant is proposing to orient the buildings towards Bath Road to animate the Arterial Road streetscape.

- c. The ability of the site to function in an appropriate manner in terms of access, parking or any other matter and means of improving such function.

It is not anticipated that the proposed reductions in rear yard setback and separation distance between drive-through facilities and zones that permit residential will negatively impact the sites ability to function. Functional details regarding the number of vehicular entrances, parking, stacking for the proposed drive-through facilities. Pedestrian access will be reviewed in a TIS and Site Plan Control.

- d. The conformity of the proposal to any applicable urban design policies endorsed by Council, particularly if the site includes or could impact a built heritage resource or is within a Heritage District.

The subject lands at 1712 Bath Road are not designated or listed under Part IV or V of the *Ontario Heritage Act*, and are not adjacent to a listed or designated built heritage resource.

The design of the streetscape for both Bath Road and Days Road with regards to the Urban Design policies of Section 8 and the Drive-through Facilities of Section 3.4.G.7 of the Official Plan will be reviewed through the Site Plan Control application. It is expected that the Bath Road and Days Road frontages will receive a high level of landscape treatment.

As per section 2.A of Zoning By-Law Number 76-26, a 3 metre wide planting strip must be provided between a drive-through facility and a zone that permits residential uses. Each of the adjacent General Commercial C2 Zones permits residential uses. This



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provision is not proposed to be amended as part of this application and a landscape plan prepared by a Landscape Architect will be required at the time of Site Plan Control.

- e. If the site is designated under the *Ontario Heritage Act*, the application shall be reviewed by Heritage Kingston for approval. If the property is adjacent to a designated property under the *Ontario Heritage Act* or shown as a Heritage Area feature, or is affected by the protected views shown on Schedule 9 of this Plan, then a Heritage Impact Statement may be required to assist staff to determine if the resulting development is desirable.

The site is not a listed or designated built heritage resource, nor is it adjacent to a designated or listed built heritage resource. The lands are not affected by the protected views as shown on Schedule 9 of the Official Plan.

- f. The resulting development has adequate municipal water and sewage services within the Urban Boundary, or is capable of providing individual on-site water and sewage services outside the Urban Boundary.

The site is within an area where both municipal water and wastewater services are available. Utilities Kingston has no concerns with the variance application; servicing to be reviewed at Site Plan Control.

- g. Whether the application and the cumulative impact of the proposed variances would be more appropriately addressed by a zoning amendment to the applicable zoning by-law.

The proposed commercial and restaurant with drive-through facilities is permitted by the C2 Zone. The impact of the proposal and the requested variances are minor, and are therefore not subject to a zoning by-law amendment application process.

- h. The Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application for a Minor Variance including any reasonable requirements, recommendations of City departments, or the submission of studies as listed in Section 9.12 of this Plan that may be required to properly evaluate the application.

Multiple conditions of approval are recommended through this report.

- i. The degree to which such approval may set an undesirable precedent for the immediate area.

It is not anticipated that an undesirable precedent will be set through the approval of the requested variances.

The Arterial Commercial designation aims to minimize impacts on abutting properties and those within the surrounding neighbourhood, by ensuring land use compatibility, providing appropriate separation distances, ensuring the functionality of the site, and integrating design considerations as per the Urban Design policies of Section 8 of the Official Plan.

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The proposed commercial use and drive-through facilities at 1712 Bath Road are permitted uses within the Official Plan designation (3.4.B.1). It is the opinion of staff that the proposed location of the drive-through facility is compatible with the surrounding uses, based on the site-specific conditions and the existing land uses on the surrounding properties within 50 metres of the proposed drive-through facility.

## 2) The general intent and purpose of the zoning by-law are maintained

The subject property is zoned General Commercial (C2) Zone in the City of Kingston Zoning By-Law Number 76-26, entitled "Township of Kingston Restricted Area By-Law", as amended. The C2 Zone permits a variety of commercial uses and accessory residential uses. The permitted commercial uses include a restaurant, takeout restaurant, bank, merchandise service shop, veterinary clinic, and other such uses.

The applicant is seeking relief from the setback for a drive-through facility from a residential use and a reduction in the rear yard setback. The requested relief is as follows:

### **Variance Number 1: Drive-through service facility setback from a residential use or zone that permits a residential use**

By-Law Number: 76-26 5.2.A.ii

Requirement: 50 metres

Proposed: 0 metres

Variance Requested: 50 metres

### **Variance Number 2: Rear yard setback**

By-Law Number: 76-26 19.2.g

Requirement: 7.6 metres

Proposed: 3 metres

Variance Requested: 4.6 metres

A drive-through facility is subject to Section 5(2A)(ii) of the zoning by-law. The intent of Section 5(2A)(ii) is to ensure sufficient separation of the noise created by drive-through facilities, including stacking lanes, speaker systems and microphone systems from nearby residential uses. The provision requires a 50 metre separation from a residential use or zone that permits a residential use.

The subject property and the properties to the north (520 Days Road), east (1690 Bath Road), south (1705 Bath Road), and west (1724-1730 Bath Rod) are zoned 'C2'; an accessory dwelling unit is permitted in the upper portion of a non-residential building. Therefore, the requested minor variance seeks relief to permit a drive-through facility 0.0 metre from a zone that permits a residential use. The proposed drive-through facility is not anticipated to adversely affect the existing commercial use or any future development on the subject or abutting site.

The proposed drive-through facilities are technically considered to abut a Residential Type 4 (R4) Zone since the Zoning By-law delineates zone boundaries to the middle of the

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street), however the nearest existing residential building is located approximately 59 metres from the subject lands property boundary (Exhibit I).

An Environmental Noise Impact Study was conducted by Pinchin Environmental in support of the proposed development (Exhibit D). The assessment has been completed as per provincial Ministry of Environment and Climate Change (MOECC) NPC-300 guidelines which form the basis of the City requirements.

The study examined the potential noise impacts of three main areas: potential noise impacts of the environment on the development (traffic, nearby stationary noise sources); potential noise impacts of the development upon itself; and of the development on the adjacent land uses with a specific focus on adjacent existing and potential residential uses.

The report concludes that the anticipated noise impact from the proposed commercial plaza's drive-through facilities and rooftop mechanical equipment at all existing noise sensitive receptors is expected to be within acceptable sound limits as defined by MOECC.

The intent of Section 19.2.f is to provide adequate separation from adjacent land uses. Commercial uses situated along an Arterial Road typically back onto residential uses. The subject lands are a corner lot, with Days Road being the frontage instead of Bath Road and the western lot line being the rear yard setback.

The adjacent lot (1730 and 1724 Bath Road) is a commercial development that has an interior side yard setback of 3 metres from the subject lands. There is a grade change between 1712 Bath Road and the adjacent 1724 Bath Road. The reduction to 3 metres is to provide separation and transition in grades between the adjacent development and the new development.

No additional zone provisions are proposed to be altered as part of this application.

**3) The variance is minor in nature**

The variance is considered minor as the proposed reduction in the rear yard setback and setback for a drive-through facility from a residential use or zone that permits a residential use does not adversely impact the functionality of the subject property.

There are no residential dwelling units associated with any existing adjacent commercial development, nor with the proposed development on the subject property. It is anticipated that the proposed development of a drive-through facility will not have any adverse impacts on the adjacent residential property as demonstrated through the Environmental Noise Impact Study. It is anticipated that there will be no adverse impacts on the adjacent commercial property given the proposed rear yard reduction as it is consistent and compatible with the existing development.

**4) The variance is desirable for the appropriate development or use of the land, building or structure**

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The requested variances are considered to be appropriate and desirable for the development of the site. The Arterial Commercial designation and General Commercial (C2) Zone permit the development of commercial uses and restaurants with drive-through facilities, of which several already exist along this immediate section of Bath Road. The reduction in the rear yard setback allows for a maximization of available land for a commercial plaza, while maintaining compatibility with the adjacent commercial properties.

The reduction in the setback for the drive-through facility adjacent to a zone that permits a residential use is supported through the Environmental Noise Impact Study which examined the estimated increased levels of noise pollution from the drive-through facilities. The property boundary of the subject lands is located greater than 50 metres from existing residential development.

### Archaeological Assessment

Heritage Planning staff identified the site as having composite archaeological potential on the City's Archaeological Master Plan. A Stage 1 Archaeological Assessment was conducted by Abacus Archaeological Services in order to determine if the site possessed any archaeological potential (Exhibit E). Due to the relatively modern development of the site, including construction of previous structures resulting in extensive and deep land alterations, it was concluded that any archaeological potential on the property would have been disturbed and removed. The site has been recommended to be cleared of archaeological potential.

### Provincial Policy Statement

In addition to the four tests of a minor variance detailed above, Subsection 3(5) of the *Planning Act* requires that a decision in respect of the exercise of any authority that affects a planning matter shall be consistent with the Provincial Policy Statement (the PPS). The PPS provides policy direction on matters of provincial interest related to land use planning and development which are complemented by local policies addressing local interests. The application being considered is site specific to accommodate a specific proposal and does not involve any major policy considerations and as such, the proposal conforms to and is consistent with the PPS.

### Technical Review: Circulated Departments and Agencies

- |   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> Building Division | <input checked="" type="checkbox"/> Engineering Department | <input checked="" type="checkbox"/> Heritage (Planning Division) |
| <input type="checkbox"/> Finance                      | <input checked="" type="checkbox"/> Utilities Kingston     | <input type="checkbox"/> Real Estate & Environmental Initiatives |
| <input checked="" type="checkbox"/> Fire & Rescue     | <input checked="" type="checkbox"/> Kingston Hydro         | <input checked="" type="checkbox"/> City's Environment Division  |
| <input checked="" type="checkbox"/> Solid Waste       | <input checked="" type="checkbox"/> Parks Development      | <input checked="" type="checkbox"/> Canadian National Railways   |
| <input checked="" type="checkbox"/> Housing           | <input type="checkbox"/> District Councillor               | <input type="checkbox"/> Ministry of Transportation              |
| <input type="checkbox"/> KEDCO                        | <input type="checkbox"/> Municipal Drainage                | <input type="checkbox"/> Parks of the St. Lawrence               |
| <input checked="" type="checkbox"/> CRCA              | <input type="checkbox"/> KFL&A Health Unit                 | <input type="checkbox"/> Trans Northern Pipelines                |
| <input type="checkbox"/> Parks Canada                 | <input type="checkbox"/> Eastern Ontario Power             | <input type="checkbox"/> CFB Kingston                            |
| <input type="checkbox"/> Hydro One                    | <input type="checkbox"/> Enbridge Pipelines                | <input type="checkbox"/> TransCanada Pipelines                   |
| <input type="checkbox"/> Kingston Airport             |  |  |

### Technical Comments

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This application was circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude this application from moving forward. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

**Licensing and Enforcement:** All business clients proposing to operate at this location should be advised that a business license may be required if the business type falls under current Licensing By-Law Number 2006-213. Requests for temporary signage for businesses operating at this location should be vetted through the Licensing office for required permits.

**Utilities Kingston** - No issues or concerns with this application.

**Forestry** - No concerns with minor variance. Landscape and Tree inventory/Preservation plan at Site Plan Control.

**Building** - Impost and development fees apply. Building construction must meet spatial requirements of the Ontario Building Code. A full review will be done once a building permit application is received. Signage will require a separate permit, and will be reviewed for size and location of signs once a permit application is received.

**Heritage Planning** - The subject property has been cleared for archaeology. There are no concerns from a built heritage perspective.

**Engineering** - Engineering has reviewed the proposal and has no objections. The road widening identified will be required at the time of future planning application.

### **Public Comments**

At the time this report was finalized, no public comments were received on the application. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

### **Previous or Concurrent Applications**

There are no concurrent or relevant historic planning applications on the subject property.

### **Conclusion**

The requested variances maintain the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variances are minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and the application is being recommended for approval, subject to the proposed conditions.

Approval of this application will permit the owners the ability to redevelop the vacant commercial site with a commercial plaza that contains restaurants with drive-through facilities. The proposed

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development would not set an undesirable precedent for the immediate area or for future developments in the Arterial Commercial designation or the General Commercial (C2) Zone.

**Existing Policy/By-Law:**

The proposed application 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**

Provincial Policy Statement, 2014

**Municipal**

City of Kingston Official Plan  
Zoning By-Law Number 76-26

**Notice Provisions:**

A Committee of Adjustment Meeting is going to be held respecting this application on June 25, 2018. Pursuant to the requirements of the *Planning Act*, a notice of Statutory Public Meeting was provided by advertisement in the form of signs posted on the subject site 10 days in advance of the meeting. In addition, notices were sent by mail to a total number of 12 property owners (according to the latest Assessment Roll) within 60 metres of the subject property (Exhibit J Public Notification Map) and a courtesy notice was placed in The Kingston Whig-Standard.

Once a decision has been rendered by the Committee of Adjustment, a Notice of Decision will be circulated in accordance with the provisions of the *Planning Act*.

**Accessibility Considerations:**

Not applicable

**Financial Considerations:**

Not applicable

**Contacts:**

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

Laura MacCormick, Deputy Director, Planning Division 613-546-4291 extension 3223

Marnie Venditti, Manager, Development Approvals 613-546-4291 extension 3256

James Bar, Senior Planner 613-546-4921 extension 3213

**June 25, 2018**

**Page 15 of 15**

**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 in this report.

**Exhibits Attached:**

- Exhibit A Key Map
- Exhibit B Planning Letter
- Exhibit C Concept Plan
- Exhibit D Environmental Noise Impact Study
- Exhibit E Stage 1 Archaeological Assessment
- Exhibit F Official Plan
- Exhibit G Zoning By-Law Number 76-26
- Exhibit H Neighbourhood Context Map
- Exhibit I Residential Separation Distance
- Exhibit J Public Notice Notification Map
- Exhibit K Site Photos





# PLANNING LETTER

## 1712 BATH ROAD

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April 23, 2018

**Ms. Sonya Bolton, MCIP, RPP**

Senior Planner  
Planning, Building & Licensing Services  
City of Kingston

Via Email: [sbolton@cityofkingston.ca](mailto:sbolton@cityofkingston.ca)

**RE: 1712 Bath Road  
Application for Minor Variance**

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Dear Ms. Bolton,

Fotenn Consultants Inc. has been retained by 2562181 Ontario Ltd., the owner of 1712 Bath Road, to provide a professional planning opinion in relation to an application for minor variance. The owner intends to develop the subject property with commercial uses to be situated within one multi-unit one-storey commercial building and two stand-alone restaurants. Each restaurant is proposed to include a drive through facility and the owner may seek to include a drive-through facility in the multi-unit building.

The subject property is located in the west end of Kingston, at the northwest corner of the intersection of Days Road and Bath Road. The site is designated Arterial Commercial on Schedule 3A Land Use of the City of Kingston's Official Plan. The subject site is zoned General Commercial Zone (C2) in the Kingston Township Zoning By-law 76-26. The proposed commercial use and built form are permitted within the current Official Plan land use designation as well as the C2 zone.

An application for minor variance is required to reduce the minimum setback for a drive-through facility from a residential use or a zone that permits a residential use from 50 metres to 0 metres, and to allow a reduction in the minimum rear yard setback from 7.6 metres to 3.0 metres.

In support of the requested variance, the following have been submitted, including:

- / Conceptual Site Plan;
- / Noise Impact Study, prepared by Pinchin Environmental;
- / Stage 1 Archaeological Assessment, prepared by Abacus Archaeological Services;
- / Application form as completed in the City's online Development and Services Hub (DASH);
- / Application fee;
- / This Planning Letter.



Figure 1: Subject Site + Context (Source: City of Kingston K-Maps)

### Site Description + Community Context

The subject property is a corner lot with a frontage of 85.8 metres on Bath Road and 45.7 metres on Days Road, and a total area of approximately 5,825 square metres. The site is currently vacant and is almost completely paved. Based on a review of historical aerial photos, the site has been vacant for approximately ten years but had previously been occupied by a gas station and a restaurant with a drive-through (McDonald's).

The surrounding lands are generally commercial in nature, particularly east and west along Bath Road and north on Days Road. Bath Road is an arterial road which is primarily intended for commercial uses in this area of Kingston. Adjacent, to the west of the site, is a commercial property (the West Town Centre) which includes a mix of uses such as studios, office space, a restaurant, retail, among other related uses. To the east, across Days Road, is a commercial building that includes a bicycle sales and service shop and a studio. Further east are additional commercial uses, including restaurants with drive-through facilities. Immediately to the north is a pool sales and service establishment, north of which is the Atrium Mall which includes a children's activity centre and various retail, service and office uses. Directly south of the subject site, across from Bath Road, is a gas station and convenience store. At the southeast corner of the intersection, the property includes several small multi-unit commercial buildings with a variety of retail, service and restaurant uses. South and west, at 1731-1733 Bath Road, is a residential complex with several three-storey walk-up apartment buildings. This residential use is screened from Bath Road by a vegetated buffer.

### Proposed Development

Conceptually, the applicant is seeking to construct a one-storey, multi-unit commercial building and two one-storey, stand-alone restaurants. Each restaurant will include a drive-through facility and a drive-through facility may be developed with the multi-unit building as well. The multi-unit building is intended to be in the northern portion of the site, oriented to Bath Road. The restaurants are proposed to be at the southeast and southwest corners of the property. Both restaurants would be oriented towards Bath Road, with the southeast restaurant

also facing onto Days Road. The drive-through facilities would be accessed from, and exit into, the site's internal driving aisles in a configuration intended to efficiently utilize the site area.

The site currently includes numerous entrances onto both Bath Road and Days Road. The proposed development would reduce the number of road entrances to one each from Bath Road and Days road. The subject site is capable of accommodating approximately 85 parking spaces and two loading spaces, as shown on the concept plan. Parking areas will be provided central to the site, along the western property line, along the northern property line east of the multi-unit building, and wrapping around the west, south and east sides of the multi-unit building.

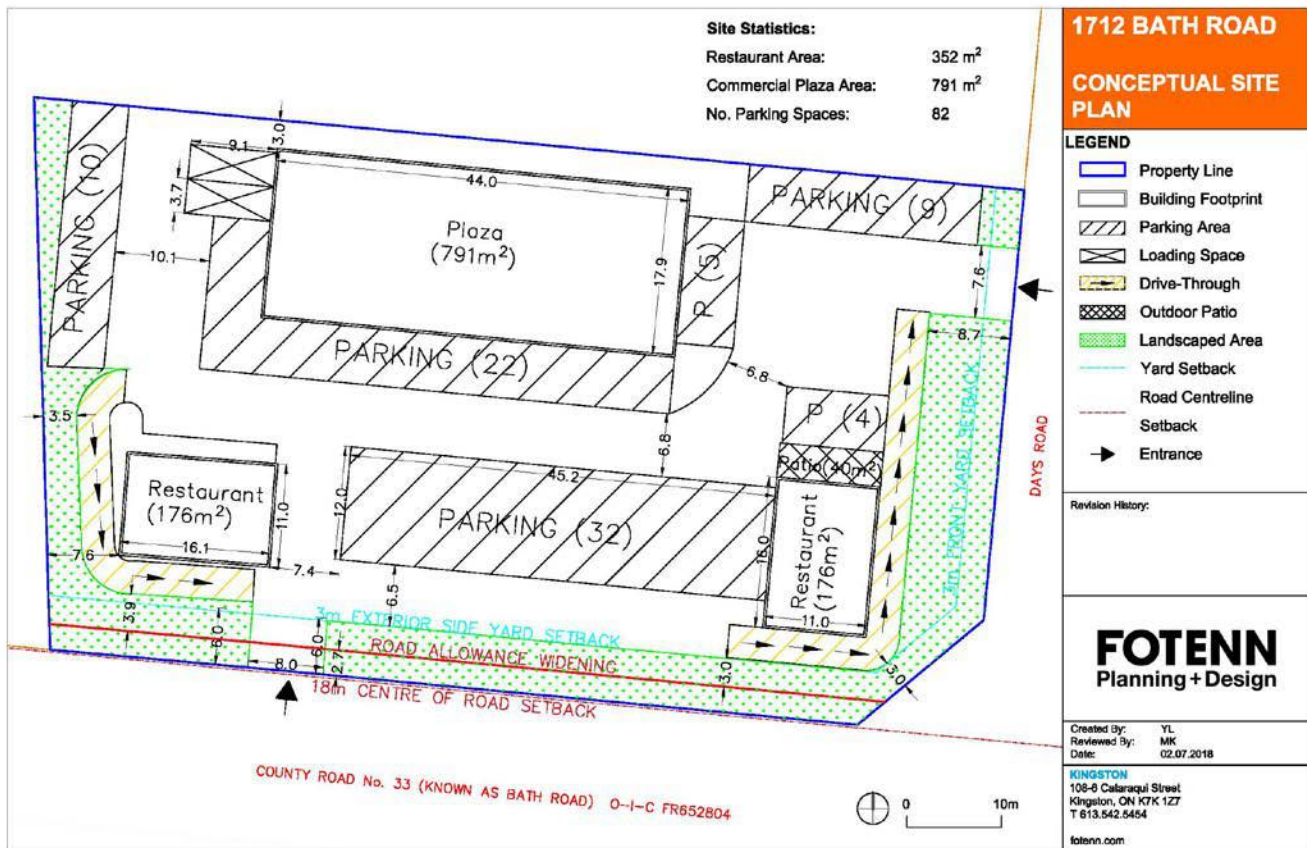


Figure 3: Concept Plan (Source: Fotenn Consultants Inc.)

**Description of Requested Variances**

The proposed development meets most requirements of the zoning by-law but requires relief from two provisions. The proposed variances are discussed below:

**General Provisions**

- 1) Section 5(2A)(ii)  
*No drive-through facility shall be constructed or established within 50m of a residential use or zone that permits a residential use.*

The subject site is zoned C2 and is abutting on other C2-zoned properties to the north and west. The C2 zone permits an accessory residential use in the upper floor(s) of a commercial building. Although the C2 zone permits a residential use, a drive-through facility must be setback a minimum of 50 metres away from the zone boundary. The result of this provision is that it is not possible to develop a drive-through facility on a property zoned C2 due

to the setback requirement. As the owner is proposing drive-through service facilities on the site, relief from this provision is required.

### **General Commercial Zone (C2)**

- 2) *Section 19(2)(f)*  
*Rear Yard Depth (min): 7.6 metres*

Relief is requested to reduce the rear yard depth to zero (0.0) metres. As a corner lot, the front lot line is defined as the shorter lot line abutting a street and the rear lot line is defined as the lot line farthest from and opposite to the front lot line. Since the Days Road frontage is shorter than the Bath Road frontage, the Days Road lot line is technically considered the front lot line, even though Bath Road as an arterial road is a higher order of street than Days Road, which is a local street north of Bath Road. With the Days Road frontage being considered the front lot line, the western property line is therefore the rear lot line, with a 7.6-metre setback. The owner intends to orient the buildings toward Bath Road, which will result in the “rear” lot line functioning as an interior side lot line. The required setback for an interior side yard in the C2 zone is zero metres where it abuts a commercial zone. The western lot line abuts a property zoned C2. It is therefore proposed to apply the same interior side yard standard to this western lot line despite the technicality of it being considered a rear lot line.

## **Supporting Studies**

### **Noise Impact Study**

Pinchin Environmental conducted an Environmental Noise Impact Study for the proposed development. This study assessed the feasibility of developing the site as proposed in accordance with applicable Ministry of the Environment and Climate Change noise guidelines, particularly with respect to potential impacts of the environment (e.g. traffic, nearby stationary noise sources, etc.) on the development, of the development on the environment, and of the development on itself. As the proposed development is commercial in nature, it is not considered a sensitive use and therefore impacts of the environment and development on itself are not anticipated to be sources of concern. Should an office use be proposed within one of the commercial buildings on the subject site, noise impacts on this use would be mitigated by standard construction materials for commercial buildings (e.g. standard commercial thermal double pane glazing).

The noise study also assessed potential impacts to the existing residential use south and west of the site at 1731-1733 Bath Road and on a single residential apartment on the adjacent property to the west, as permitted in the current zoning applicable to that property. Pinchin concluded that noise impacts to residential uses in the vicinity of the site due to the drive-through facility and/or any mechanical noise sources on the proposed development can be made to meet MOECC noise requirements. Specific recommendations are included in the study which will be implemented through the future site plan control application to ensure that no adverse impacts due to noise are caused by the proposed development.

### **Stage 1 Archaeological Assessment**

Abacus Archaeological Services conducted a Stage 1 Archaeological Assessment to determine if the site possesses any archaeological potential. Due to the relatively modern development of the site, including construction of previous structures resulting in extensive and deep land alterations, the archaeological licensee concluded that any archaeological potential on the property would have been disturbed and removed. The licensee also concluded that there is no archival basis to assume that the property contains deeply buried deposits. The site was therefore recommended to be cleared of archaeological potential.



### Planning Justification for Minor Variance

It is our professional planning opinion that the proposed variance meets the four tests of a minor variance as described in Section 45(1) the *Planning Act*, as follows:

#### Test 1: Is the general intent and purpose of the Official Plan maintained?

The subject site is designated Arterial Commercial on Schedule 3A – Land Use of the City of Kingston Official Plan. The Arterial Commercial policies of the Official Plan are provided in Section 3.4.E. The Arterial Commercial designation is intended to permit a limited range of goods and services serving the travelling public or large sites on major roads to display specialized goods in an outdoor setting. This designation also permits limited convenience commercial goods and services, with size and type of use being regulated in the zoning by-law. Any new development must demonstrate compatibility with existing and proposed developments and transportation networks. The proposed multi-unit commercial building, standalone restaurants and drive-through facilities are permitted within this land use designation.

Direction with respect to the purpose and intent of yard setbacks is provided in Section 2.7.4.a of the Official Plan. This policy notes that ensuring the provision of adequate yard setbacks and requirements is a mitigation measure that can be employed to achieve land use compatibility.

Section 3.4.G.7 recognizes the unique characteristics of drive-through facilities and describes policies intended to ensure compatibility with the streetscape and vehicle circulation. Generally, these policies require that drive-through facilities remain safe for pedestrians and cyclists, ensure that buildings and storefronts remain oriented to the street, and maintain a comfortable and visually-stimulating walking environment.

Section 9.5.19 provides additional criteria for minor variance applications. The following policies are particularly relevant to the proposed development:

- a. *the proposed development meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of this Plan;*
- b. *the proposed development will be compatible with surrounding uses, buildings or structures and development standards associated with adjacent properties, and if necessary, incorporate means of alleviating adverse effects on abutting land uses as recommended in Section 2.7 of this Plan;*
- c. *the ability of the site to function in an appropriate manner in terms of access, parking for vehicles and bicycles or any other matter and means of improving such function including considerations for universal accessibility;*
- d. *the conformity of the proposal to any applicable urban design policies endorsed by Council, particularly if the site includes or could impact a built heritage resource or is within a Heritage District;*
- e. *if the site is designated under the Ontario Heritage Act, the application shall be reviewed by Heritage Kingston for approval. If the property is adjacent to a designated property under the Ontario Heritage Act or shown as a Heritage Area feature, or is affected by the protected views shown on Schedule 9 of this Plan, then a heritage impact statement may be required to assist staff to determine if the resulting development is desirable;*
- f. *the resulting development has adequate municipal water and sewage services within the Urban Boundary, or is capable of providing individual on-site water and sewage services outside the Urban Boundary;*
- g. *whether the application and the cumulative impact of the proposed variances would be more appropriately addressed by a zoning amendment to the applicable zoning by-law;*
- h. *the Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application for a minor variance including any reasonable requirements, recommendations of City departments, or the submission of studies as listed in Section 9.12 of this Plan that may be required to properly evaluate the application; and,*
- i. *the degree to which such approval may set an undesirable precedent for the immediate area.*

Drive-through

The proposed variance to reduce the drive-through facility setback from a residential zone or a zone that permits a residential use from 50 metres to zero metres is consistent with the policy direction in the Official plan in that:

- / This variance is required for a drive-through facility on the site. The proposed use is well-suited to meeting the needs of the travelling public in accordance with the Arterial Commercial designation (3.4.E.4);
- / The proposed development will be subject to Site Plan Control, which will ensure that storefronts are oriented to the street, that pedestrians and cyclists are not negatively impacted by providing entrances and exits to the drive-through directly from and to the municipal road allowance, and by ensuring that a degree of landscaped screening is provided to maintain a comfortable walking environment (3.4.G.7);
- / The intent of the 50-metre setback from a residential use is to ensure land use compatibility as discussed in Section 2 of the Official Plan. The proposed reduction is necessary as the subject site permits a residential use and it would otherwise not be possible to permit a drive-through facility on-site. Reducing the required setback will not negatively impact the site's land use compatibility as drive-through facilities are suitable for commercial properties. The nearest residential property is located more than 40 metres away, on the south side of Bath Road. With Bath Road being an arterial road, any noise impacts from the proposed drive-through facility are likely to be overwhelmed by the traffic noise. A noise study was completed which assessed potential noise impacts from the proposed drive-through facility on nearby uses, including the residential use south of Bath Road. The noise study includes recommendations which will be implemented through the future site plan control application to ensure that no negative impacts result due to any noise generated by the proposed drive-through facilities (9.5.19.a);
- / The proposed development will not incur adverse effects as a result of this variance. The purpose of the 50-metre setback provision is to mitigate potential noise impacts from the speaker(s) that are integral to the function of the drive-through facility. The subject site is on an arterial road with high traffic volumes, which will likely be a more significant source of noise for nearby residential uses. A noise study was completed which assessed potential noise impacts from the proposed drive-through facility on nearby uses, including the residential use south of Bath Road. The noise study includes recommendations which will be implemented through the future site plan control application to ensure that no negative impacts result due to any noise generated by the proposed drive-through facilities. The proposed and adjacent commercial uses are not considered sensitive uses, therefore the primary consideration is for the residential use at 1731-1733 Bath Road and for a potential single residential unit on the upper floor of the adjacent commercial property to the west (9.5.19.b);
- / The variance will not impair the ability of the proposed development to function in a manner appropriate for pedestrians and cyclists, to meet the City's urban design guidelines, nor will it impact on any heritage considerations as confirmed through the Stage 1 Archaeological Assessment. It is also noted that drive-through facilities provide a convenient and accessible option for persons with limited mobility, and therefore can contribute to the improvement of universal accessibility (9.5.19.c, d, e);
- / As part of any future Site Plan Control applications, it will be necessary to demonstrate detailed servicing and stormwater management controls for the site, which will not be directly affected by the proposed variance (9.5.19.f);
- / The application includes two variances, the impacts of which are minor and can be appropriately accommodated through a minor variance application (9.5.19.g);
- / The Committee of Adjustment will have the opportunity to attach conditions as it deems necessary (9.5.19.h);
- / There are drive-through facilities already located on commercial properties fronting onto Bath Road, east of the subject site. Reducing the required setback between a drive-through facility and a residential zone or a zone that permits a residential use will not set an undesirable precedent (9.5.19.i).

Minimum Rear Yard Depth

The subject site is within a commercial zone which recognizes that land use compatibility with adjacent and similarly-zoned properties can be achieved with little to no setback. Specifically, the zone permits a setback of zero metres for an interior side yard when adjacent to commercial uses. The western property line is technically a rear lot line but is proposed to function as an interior side lot line due to orienting the proposed development to

Bath Road instead of Days Road. Reducing the rear yard setback from 7.6 metres to zero metres will better reflect the functionality of the site and will maintain land use compatibility with adjacent commercial uses. Otherwise the variance will conform to Section 9.5.19 in that:

- / The reduced rear yard will not incur adverse effects in terms of compatibility with the adjacent commercial land use to the west as it would provide a yard setback which is appropriate for the associated commercial land uses (9.5.19.a, b);
- / The reduced rear yard setback will not impair the functionality of the site for pedestrians or cyclists, or impair the site's ability to meet the City's urban design guidelines, it will not impact heritage or servicing (9.5.19.c, d, e, f);
- / Reduction of the rear yard setback will not significantly impact adjacent land uses and is therefore appropriate to be permitted through a minor variance (9.5.19.g);
- / The Committee of Adjustment will have the opportunity to attach conditions as it deems necessary (9.5.19.h);
- / The current zone permits a zero-metre setback for interior side yards where a use abuts on adjacent commercial uses. The western property line of the site will function as an interior side lot line but is technically a rear lot line since the site is a corner lot. The proposed variance is generally technical in nature and unique to corner lots such as this site. For these reasons, permitting the variance will not set a precedent in the immediate area (9.5.19.i).

**It is our professional opinion that the proposed development maintains the general intent and purpose of the Official Plan.**

#### **Test 2: Is the general intent and purpose of the Zoning By-law maintained?**

The subject site is zoned General Commercial Zone (C2) in the Township of Kingston Zoning By-law 76-26. This zone is intended to accommodate a wide array of commercial uses including restaurants, shopping centres, offices, retail stores. The proposed multi-unit commercial building and standalone restaurants are permitted in the C2 zone.



Figure 2: Zoning Context (Source: City of Kingston, K-Maps)

The following table assesses the proposed development against the requirements of the C2 zone:

Provision	Requirement	Proposed	Amendment Required?
<b>C2 Zone</b>			
Min. Lot Area	5,000 square feet (464.5 square metres)	5,825 square metres	No
Min. Lot Frontage	20 feet (6.1m)	45.7m (Days Road)	No
Min. Front Yard Depth	10 feet (3.0m)	3.0m	No
Min. Exterior Side Yard	10 feet (3.0m)	5.7m	No
Min. Interior Side Yard Width	Where the interior side lot line abuts another lot in a Commercial Zone, no interior side yard shall be required	3.0m	No
Min. Rear Yard Depth	25 feet (7.6m)	0 metres	Yes
Min. Landscaped Open Space	10%	16.7%	No
Max. Lot Coverage	50%	<50%	No
Max. Gross Leasable Area	2000 square metres	<2000 square metres	No
Max. Height of Building	35 feet (10.6m)	<10.6m	No
Max. Dwelling Units Per Lot	1 only	N/A	No
Open Storage	No open storage of goods or materials shall be permitted.	N/A	No
<b>General Provisions</b>			
(2A) Drive-Through Service Facility	(ii) No drive-through service facility shall be constructed or established within 50m of a residential use or zone that permits a residential use.  (iii) A minimum 3m wide planting strip shall be provided along the lot line between the property containing the drive-through service facility and a residential use or zone that permits a residential use.	Setback to be reduced to 0m as the C2 zone permits a residential use (accessory dwelling unit)  A minimum 3m wide planting strip will be provided.	Yes
(12) Loading Space Regulations	(a) 1 loading space: 30 ft (9.1m) x 12 ft (3.7m) x 14 ft (4.0m)	9.1m x 3.7m x 4.0m	No
	Min. number of Loading Spaces: 1 space, with 1 space for waiting vehicles	1 space + 1 space for waiting vehicles	No



Provision	Requirement	Proposed	Amendment Required?
	(c) Interior side yard or rear yard, no closer than 60 feet (18.2 metres) to any street line.	Rear yard, >18.2m from street lines	No
	(d) Access: Access to loading spaces shall be at least 12 feet (3.7m) wide for 1-way operation, or 20 feet wide (9.1m) for 2-way operation,	9.1m	No
(16) Parking Area Regulations	Restaurant: 10.0 parking spaces per 100 sq. m. of GLA, min. 20 spaces = <b>40 spaces</b> (GLA < 400 sq. m.)  Retail Store, Merchandise Shop or Personal Service Shop: 5.25 parking spaces per 100 sq. m. of GLA = <b>42 spaces</b>  <b>Total = 82 spaces</b>	82 spaces	No
(a) Accessible Parking	4% = <b>3 spaces</b>	3 spaces	No
(d) Min. Aisle Width	6.5m	6.5m	No

The conceptual site plan demonstrates that the subject property can be developed as proposed within the requirements of the current zoning, with the exception of the two reliefs identified.

#### Drive-Through 50m Setback

The intent of the 50-metre setback for a drive-through facility from a residential use or a zone which permits a residential use is to protect the residential uses in the area from noise caused by the drive-through speaker(s). As the General Commercial Zone (C2) applicable to the subject site permits an accessory residential use, it triggers this setback requirement. The residential zone applicable to 1731-1733 Bath Road also triggers this setback requirement as the residential zone boundary for that site is located in the centre of Bath Road, rather than at the property line for the residential use, and the setback requirement is to be taken from the residential zone rather than the residential property line.

#### Rear Yard Depth

The intent of the rear yard depth is to provide adequate separation and privacy between the rear wall of a commercial use and a rear property line. The subject property is a corner lot with a shorter frontage on Days Road, which therefore requires that the western lot line, which abuts on a commercially-zoned property, be considered the rear lot line for zoning purposes. The proposed use also fronts onto, and is accessed from, Bath Road however the zoning by-law considers the Bath Road property line to be an exterior side lot line, despite that the proposed development will primarily be developed to face the arterial road (Bath Road). This arrangement will result in the western property line functioning as an interior side lot line. The required setback in the C2 zone for an interior side lot line which abuts on a commercial zone, is zero metres. A reduction in the rear yard setback from 7.6 metres to zero metres is therefore consistent with the intent of the zoning by-law for an interior side yard abutting a commercial zone, in the C2 zone.

**It is our professional opinion that the proposed development maintains the general intent and purpose of the zoning by-law.**

**Test 3: Is the variance minor?**

The determination of whether an application is minor is not a mathematical consideration. The test of whether the requested variance is minor in nature is assessed in terms of the potential adverse impacts occurring as a result of allowing the variance.

Drive-Through 50m Setback

The purpose of the separation distance between a drive-through facility and a residential zone or a zone that permits a residential use is to mitigate against potential noise impacts caused by the speaker(s) of the drive-through facility. The requested variance is intended to allow a drive-through facility to be located on the site since the setback requirement otherwise prohibits the establishment of a drive-through on-site. A noise impact study was completed which assessed potential noise impacts from the proposed drive-through facility on nearby uses, including the residential use south of Bath Road. The noise study includes recommendations which will be implemented through the future site plan control application to ensure that no negative impacts result due to any noise generated by the proposed drive-through facilities.

Rear Yard Depth

The proposed variance seeks a reduction in the rear yard setback from 7.6 metres to zero metres. The yard abutting the western property is technically considered the rear yard under the zoning by-law. However, since the property is a corner lot, the rear yard functions as an interior side yard when the site is oriented towards Bath Road. In addition, the western property line abuts a commercial use and is technically a rear lot line. Under the C2 zoning provisions, a minimum setback requirement for an interior side yard abutting a commercial use is zero metres. A reduction to zero metres is minor in nature as it will have negligible impacts on the adjacent commercial property. Further, a three-metre wide landscaped strip will be required for any drive-through facilities.

**Test 4: Is the variance desirable for the appropriate development of the lands in question?**

Drive-Through 50m Setback

A drive-through facility is permitted as an accessory or main use to a business that provides or dispenses products or services through an attendant or window or automated machine to patrons in motorized vehicles. A drive-through facility is an appropriate use for a commercial property intended to serve the travelling public. Allowing a reduction in the setback or separation distance between a drive-through facility and a residential zone or a zone that permits a residential use is necessary to allow a drive-through facility to be constructed on the subject site. The proposed variance is therefore desirable for the appropriate development of a drive-through on the subject site, subject to detailed technical review of the drive-through(s) during the Site Plan Control process.

Rear Yard Depth

The request to reduce the rear yard setback to be equivalent to an interior side yard setback is proposed as a logical approach to recognize the intended configuration of the subject site, as shown on the enclosed concept plan. Allowing a zero-metre setback between commercial properties recognizes that commercial uses are generally compatible with one another. The adjacent property to the west, for example, will be permitted a zero-metre setback from the subject site as the property line separating these sites is an interior side lot line for that property. The reduced yard setback will allow a more efficient configuration of the site which is compatible with the adjacent commercial property and is therefore appropriate for the subject site.

**Conclusion**

The minor variance application is desirable and appropriate for the commercial development of the subject site as presented in the enclosed concept plan for the following reasons:

- / The variances maintain the general intent and purpose of the Official Plan in that they are necessary to allow the development of the permitted uses to proceed and in that they will not negatively impact the compatibility of the subject site with adjacent uses;
- / The variances maintain the general intent and purpose of the Zoning By-law in that they will allow the development of a drive-through facility on the site and provide for an appropriate yard setback which is compatible with the adjacent commercial uses;
- / The variances are minor in nature as they are not anticipated to incur adverse effects, particularly given that a Site Plan Control application will be required prior to future development, which will include a detailed noise study that will recommend if any mitigation is required; and
- / The proposed development of the site is appropriate and the variances are desirable and necessary to advance the development as proposed.

It is our opinion that the proposed minor variances are appropriate for the proposed uses and represent good planning. Should you have any questions or require any additional information, please do not hesitate to contact the undersigned at 613.542.5454 x 224 or [leclerc@fotenn.com](mailto:leclerc@fotenn.com).

Respectfully,



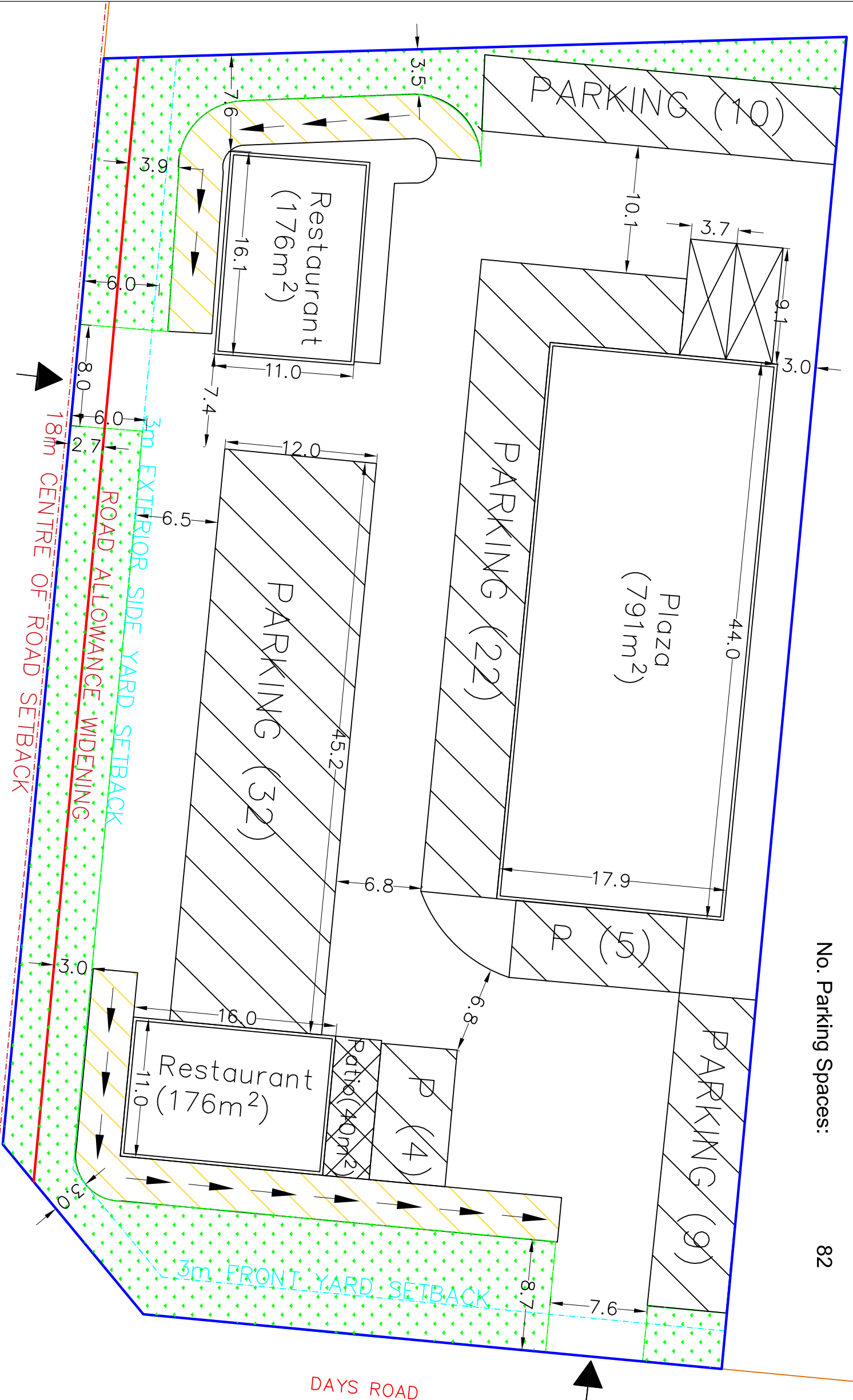
Mike Keene, MCIP, RPP  
Associate Director, Planning + Development  
Fotenn Consultants Inc.



Youko Leclerc-Desjardins, MCIP, RPP  
Planner  
Fotenn Consultants Inc.

**Site Statistics:**

Restaurant Area:	352 m <sup>2</sup>
Commercial Plaza Area:	791 m <sup>2</sup>
No. Parking Spaces:	82



**1712 BATH ROAD**  
**CONCEPTUAL SITE PLAN**

**LEGEND**

- Property Line
- Building Footprint
- Parking Area
- Loading Space
- Drive-Through
- Outdoor Patio
- Landscaped Area
- Yard Setback
- Road Centreline
- Setback
- Entrance

Revision History:

Created By:	YL
Reviewed By:	MK
Date:	02.07.2018

**FOTENN**  
 Planning + Design

**KINGSTON**  
 108-6 Cataragui Street  
 Kingston, ON K7K 1Z7  
 T 613.542.5454  
 fotenn.com



FINAL

# Environmental Noise Impact Study

Commercial Plaza Redevelopment  
1712 Bath Road, Kingston Ontario

Prepared for:

**2562181 Ontario Ltd.**  
11 Radley Street  
Woodbridge, ON, L4L 8J7

Attn: Sarabjit Mehat

March 16, 2018

Pinchin File: 215924



**Environmental Noise Impact Study**  
1712 Bath Road, Kingston Ontario  
2562181 Ontario Ltd.

**Exhibit D**  
March 16, 2018  
Pinchin File: 215924  
FINAL

**Issued to:** 2562181 Ontario Ltd.  
**Contact:** Sarabjit Mehat

**Issued on:** March 16, 2018  
**Pinchin File:** 215924  
**Issuing Office:** 2470 Milltower Court, Mississauga, ON L5N 7W5

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Author:

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[vgambino@pinchin.com](mailto:vgambino@pinchin.com)

Reviewer:

---

Aidan Maher, P. Eng.  
**Project Engineer**  
**905-363-1287**  
[amaher@pinchin.com](mailto:amaher@pinchin.com)



## EXECUTIVE SUMMARY

Pinchin Ltd. (Pinchin) was retained by 2562181 Ontario Ltd. (the Client) as represented by Sarabjit Mehat to prepare an Environmental Noise Impact study report for the proposed development (Commercial Plaza Redevelopment) located at 1712 Bath Road, Kingston Ontario. An aerial photograph and preliminary design drawing for the existing plaza are included in Appendix A.

The purpose of this Environmental Noise Impact Study is to satisfy the City of Kingston's site-plan-control submission requirements and to process a minor variance.

The nearest residential property of concern is the Brock-King Condominium complex at 1731-1733 Bath Road located 70 m to the southwest of proposed commercial plaza across Bath Road. This noise impact study has considered the potential noise impact of the proposed project on this receptor as the primary impact issue and other noise impact issues; namely the impact of the environment on the project, is not considered to be significant. The study has also considered the possibility of a single residential apartment dwelling abutting the subject commercial plaza.

Specifically, this study provides an assessment of the anticipated site noise impacts from the 2 drive through restaurants at the proposed commercial plaza on the neighbouring Brock-King Condominium. The potential noise sources may include HVAC units, kitchen ventilators, cooling equipment; roof or grade level exhaust fans, standby power, site drive-through traffic, intercom as well as other potential sources of noise. Hours of operation for the drive-thru restaurants are anticipated to be 24/7. Although noise impacts are expected to be within acceptable limits as per provincial Ministry of Environment and Climate Change (MOECC) NPC-300 guidelines, recommendations have been made for specifications of future on-site equipment in terms of selection of quiet equipment.



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## 1.0 INTRODUCTION

Pinchin Ltd. (Pinchin) was retained by 2562181 Ontario Ltd. (the Client) as represented by Sarabjit Mehat to prepare an Environmental Noise Impact study for the proposed development (Commercial Plaza Redevelopment) located at 1712 Bath Road, Kingston Ontario. An aerial photograph and preliminary design drawing for the proposed commercial plaza are included in Appendix A (see Figure 1 and Figure 2).

The purpose of this Environmental Noise Impact Study is to satisfy the City of Kingston's site-plan-control submission requirements and to process a minor variance. The nearest residential property of concern is the Brock-King Condominium complex at 1731-1733 Bath Road located 70 m to the southwest of proposed commercial plaza across Bath Road. This study provides an assessment of the anticipated site noise impacts of the proposed commercial plaza on the nearest residential building. The study has also considered the possibility of a single commercial residential dwelling abutting the subject commercial plaza.

It is noted that transportation noise impact as well as potential stationary noise source impact on the proposed commercial plaza is not typically a significant noise concern, as a commercial plaza is generally not considered to be noise sensitive receptor. Therefore, road traffic noise impact on the proposed plaza is expected to be negligible and the same can be said of any potential impacts from nearby stationary noise sources. In addition, there are no off-site stationary noise sources that are of potential significance to the project and there are no major sources of vibration in the nearby area and a vibration study was not necessary.

The proposed commercial plaza has therefore been considered as a stationary noise source and has been assessed on the basis of its potential noise impact at the nearest existing residential off-site receptors such as the Brock-King Condominiums. The study has also considered the possibility of a residential apartment dwelling abutting the subject commercial plaza. The potential noise sources associated with the proposed plaza may include HVAC units, cooling equipment; roof or grade level exhaust fans, site drive-through traffic, intercom as well as other potential sources of noise. Hours of operation for the drive-thru restaurants are anticipated to be 24/7.

This assessment has been completed as per provincial Ministry of Environment and Climate Change (MOECC) NPC-300 guidelines [1] which forms the basis of the City requirements. Recommendations have been provided for future on-site equipment in terms of meeting specific sound power level (PWL) requirements.



## 2.0 NOISE CRITERIA

The applicable guidelines for this project are those outlined in the MOECC publication NPC-300 [1]. The most relevant criteria for this project deals with the potential noise impact of the plaza on the nearest residences and it is described in the following:

### 2.1 Noise Criteria for Stationary Sources

For stationary noise sources (i.e. rooftop HVACs and exhausts, etc.), the applicable MOECC noise criteria at a point of reception (POR) are dictated by Publication NPC-300 for Class 1 Areas. The POR for this purpose include the existing Brock-King Condominium that is located directly to the southwest to the property of the proposed development across Bath Road. The study has also considered the possibility of a future single residential apartment dwelling abutting the subject commercial plaza. The subject study area is considered to be Class 1. These guidelines state that the one-hour sound exposures (Leq, 1 hour) from stationary noise sources in Class 1 areas shall not exceed:

- the higher of 50 dBA or background noise between 0700h and 1900h;
- the higher of 50 dBA or background noise between 1900h and 2300h; and
- the higher of 45 dBA or background noise between 2300h and 0700h.

### 2.2 Potential Noise Impact of the Environment on the Project

It has been established that transportation noise impact is of minimal concern. It should also be stated that should the proposed commercial plaza include provision for professional service (doctor, legal, engineering, accounting, etc.) type office space, then the MOECC requirements outlined in NPC 300 shall apply. Pinchin considers a daytime indoor sound-level limit of 50 dBA as defined by MOECC NPC-300 to be suitable for any potential proposed office spaces within this project. With this in mind, standard commercial thermal double pane that meets building code (i.e. 6-13-6mm glazing) will suffice for this project. In general, building code and best practices requirements shall be followed to ensure minimal potential noise impacts.

## 3.0 NOISE IMPACT ASSESSMENT

This noise impact assessment methodology in this project considers the potential impact of the proposed commercial plaza development on the existing environment (residences) to be the main concern.

### 3.1 The Impact of the Proposed Commercial Development on the Existing Residences

The 1712 Bath Road project will introduce the following stationary noise sources in association with the new development:



- Drive through for a restaurant on the southwest corner;
- Drive through for a restaurant on the southeast corner; and
- Rooftop mechanical for each business. The potential noise sources may include HVAC units, cooling equipment; roof or grade level exhaust fans, and other potential sources of noise (i.e. standby power).

It is noteworthy, from NPC-300 [1, p.20], “The following are examples of sources, activities, equipment or facilities that are not considered as stationary sources ... parking lots for private passenger vehicles at offices or commercial facilities such as retail stores, plazas or shopping malls, or employee parking lots at industries and commuter parking lots.” As such, noise due to traffic in the future parking lot has not been considered as a stationary noise source as defined by MOECC.

Pinchin has referenced sound measurement data of a similar facility in Mississauga, and this information is included within Appendix B for a typical drive through restaurant under worst case peak periods for two intercoms was determined to be 83 dBA sound power (PWL). The predicted noise level from the future drive through intercom at the two restaurants at 1712 Bath Road is expected to be in the range of 36-40 dBA at the nearest points of reception at the Brock-King Condominiums and also at a potential future residential apartment dwelling (single unit) abutting the subject commercial plaza.

The plans for proposed mechanical equipment are still under development, but it is expected that each restaurant will have two 5-6 ton rooftop units as well as provisions for kitchen exhaust. In order to meet the applicable MOECC NPC 300 sound level limit requirements at the nearest receptors and as defined in this project, it has been determined that any proposed mechanical equipment noise sources shall be below an effective sound power level (PWL) of 84 dBA (daytime/evening hours of operation); and similarly, an 79 dBA (PWL) sound power level limit is required for any equipment that may will operate during nighttime hours. Future noise sources, excluding traffic movements in the parking lot, shall be examined on the basis of meeting the NPC 300 sound level limit requirements.

#### **4.0 RECOMMENDATIONS**

Based on our assessment of the current stage of design for this project, the potential noise impact of the proposed commercial plaza on the nearest existing or proposed residence has been assessed.

##### **4.1 Rooftop or Grade Level Equipment**

At the current stage of development, the details of the HVAC systems and/or standby power for the future commercial plaza are not yet finalized. In order to ensure that sound levels at the nearest existing or future residential points of reception that may result from noise from any mechanical equipment



associated with the proposed development are below the levels stated in NPC-300, we recommend the following:

- Any proposed mechanical equipment that runs during nighttime hours shall be selected on the basis of not exceeding a sound power (PWL) of 79 dBA and not having any readily identifiable tonal noise character.
- Similarly, any equipment that may run during daytime and evening hours shall meet and not exceed a sound power level requirement of 84 dBA and shall also be free of tonal noise characteristics.
- The total PWL of all such sources to be included as part of the proposed 1712 Bath Road commercial plaza project will need to be determined with reference to the number of sources, hours of operation, duty cycle and the type of equipment involved.
- An appropriate duty cycle, which can be determined and substantiated by acoustic modeling of the operation of HVAC equipment within the designated daytime/evening and/or nighttime hours, shall be established and applied accordingly to ensure compliance with the NPC 300 sound limits.
- As noted, any proposed equipment shall be free of any tonal noise character in order to avoid the application of a 5 dB (A) penalty.
- Where applicable, the selection of standby power equipment shall be based on ensuring minimal noise impact. A sound level requirement of 75 dBA at 7m or less is expected to be appropriate given the site specific conditions of this study area.
- In addition, any maintenance testing of any standby generator equipment shall be conducted during the daytime hours which are generally considered to be less sensitive than the evening or nighttime hours.
- Any alteration to the proposed intercom/drive through shall be reviewed to ensure that noise emissions under worst case conditions are less than an 83 dBA sound power (PWL).
- Further evaluation may be required, once detailed mechanical equipment plans are available, in order to establish specific requirements for noise controls so as to maintain compliance with the MOECC minimum exclusion sound limits as per NPC 300 for residential suites within the Brock-King Condominiums itself that are in proximity to building equipment.
- Any proposed building-equipment designs and associated noise-control measures shall be reviewed by the acoustical engineer. In particular, any changes to or finalizing of the site plan, including the selection of the mechanical equipment and the location of the



drive-through intercoms shall be reviewed and modelled by the Acoustical Engineer in order to confirm compliance with the applicable MOECC NPC-300 sound limits and prior to seeking any approvals.

## 5.0 CONCLUSIONS

This Environmental Noise Impact study has also considered the noise impact of the project on the environment. Based on Pinchin's assessment the noise impact from the proposed commercial plaza at all existing noise sensitive receptors is expected to be within acceptable sound limits as defined by MOECC with consideration given to the requirements described above.

## 6.0 REFERENCES

1. Ministry of the Environment Publication NPC-300, "Environmental Noise Guideline – Stationary and Transportation Sources-Approval and Planning," August 2013.
2. Ministry of the Environment's STAMSON/STEAM Computer Programme, (Version 5.04), 1989.

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Template: Master Report for Noise and Vibration Impact Feasibility Study, October 19, 2015

**APPENDIX A**  
**Aerial Photograph and Preliminary Design Drawing**





FIGURE 1 - Aerial Image Showing Project Site along with Surrounding Properties





**APPENDIX B**

**Measurement Data**

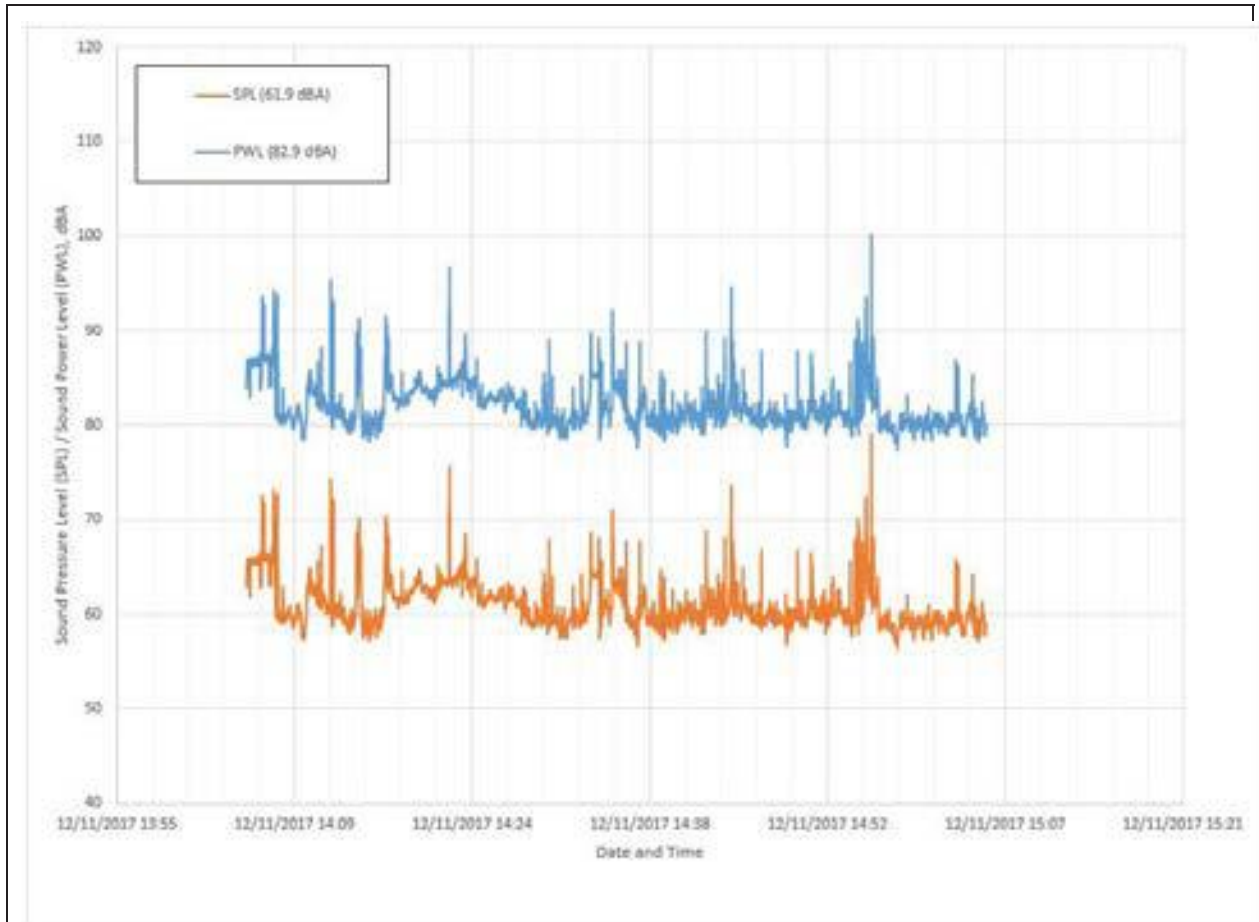


FIGURE 3- Noise Measurement at Typical Restaurant Drive Through with Two Intercoms (One at 5 m and a Second at 10 m Distance)

**Stage 1 Archaeological Assessment  
of 1712-1720 Bath Road,  
Parts 41, 40, 39, and 38, Registered Plan 665  
Part of Lot 9, Concession 1,  
Geographic Township of Kingston  
City of Kingston  
Frontenac County, Ontario  
Original Report**

**Approval  
Authority:** City of Kingston

**Licensee:** Michael Berry, PhD  
**Licence No:** P246  
**Prepared by:** Michael Berry, PhD  
**Stage 2 PIF#** P246-0353-2017  
**Date** 18-December-2017



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**Executive Summary**

In December of 2017 Abacus Archaeological Services was retained to undertake a Stage 1 archaeological assessment of 1712-1720 Bath Road, an approximately 6029 m<sup>2</sup> parcel of land located within Parts 41, 40, 39 and 38 of Registered Plan No. 665, part of Lot 9, Concession 2 of the Geographic Township of Kingston, City of Kingston (Map 5). The subject property is situated upon the north side of Bath Road located at the northwest corner of Bath Road and Days Road. The property is currently developed containing a flat gravel surface. The owner of the property plans to redevelop the land with the construction of two stand-alone restaurants, each with drive through and a small commercial plaza (see attached development plan). An archaeological assessment was a condition of pre-consultation applications for Zoning By-Law Amendment and Site Plan Control.

One registered archaeological site is found within one kilometre of the subject property which is located 800 m from of the shoreline of Lake Ontario. Primary development of the area began in the 1840s when James Baker and his family acquired Lot 9 from the wealthy Markland family. The 19<sup>th</sup> century use of the property was primarily agricultural. The latter 20th century use of the property has been for commercial use. The City of Kingston Archaeological Master Plan identifies the property as having potential for Euro-Canadian archaeological resources based upon its proximity to physiographic features of significance and location upon a historic transport route (Williamson et al., 2008: Figure 17).

The study area was visited by the licensee, Michael Berry, on December 7<sup>th</sup>, 2017. The modern development and subsequent use of the property and construction of related services has resulted in extensive and deep land alterations. This activity will have severely damaged the integrity of any archaeological resources resulting in the disturbance and removal of archaeological potential. There is no archival basis to assume that the property contains deeply buried deposits.

Based upon these results the licensee makes the following recommendations with regard to the study area (Map 15).

- The subject property has been assessed and determined to contain a low potential for significant archaeological resources. No further work is required within the study area. The property should be considered clear of archaeological concern.

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**Project Personnel**

Project Manager/Licence Holder	Michael Berry, PhD Licence No. P246
Field Director	Michael Berry
Historical Research/Report Writing	Michael Berry

## **1.0 Project Context**

### **1.1 Development Context:**

In December of 2017 Abacus Archaeological Services was retained to undertake a Stage 1 archaeological assessment of 1712-1720 Bath Road, an approximately 6029 m<sup>2</sup> parcel of land located within Parts 41, 40, 39 and 38 of Registered Plan No. 665, part of Lot 9, Concession 2 of the Geographic Township of Kingston, City of Kingston (Map 5). The subject property is situated upon the north side of Bath Road located at the northwest corner of Bath Road and Days Road. The property is currently developed containing a flat gravel surface. The owner of the property plans to redevelop the land with the construction of two stand-alone restaurants, each with drive through and a small commercial plaza (see attached development plan). An archaeological assessment was a condition of pre-consultation applications for Zoning By-Law Amendment and Site Plan Control. The City of Kingston is the approval authority for this application.

The study area was visited by the licensee, Michael Berry, on December 7<sup>th</sup>, 2017 at which time a property inspection took place. The property inspection included the entire property and its periphery via a systematic coverage which was walked by the licensee on a 10 m interval. Coverage was sufficient to identify the presence or absence of any features of archaeological potential and was performed during light and weather conditions which permitted good visibility of land features. All activities carried out during the Stage 1 assessment were completed in accordance with the terms of the *Ontario Heritage Act* and the Ministry of Tourism and Culture's (now Ministry of Tourism, Culture and Sport) 2011 *Standards and Guidelines for Consultant Archaeologists*.

This report was written and assembled by Michael Berry, PhD of Abacus Archaeological Services. Background research utilized Land Registry Records, local histories and relevant maps. Permission to access the subject property and to carry out the assessment was granted by the property owner. All images and documents generated during this project will be archived by the licensee until such time that a suitable repository is established.

## 1.2 Historical Context:

As result of the long history of occupation in the Kingston area there is a great wealth of information available in the form of primary archival documents such as military records and maps, as well as a number of publications. Key texts include *Royal Fort Frontenac* (Preston, 1958), *Kingston Before the War of 1812* (Preston, 1959) and more recently *Kingston Building on the Past* (Osborne and Swainson, 1988).

The period of European settlement in Kingston began in July of 1673 when the French Military established Fort Cataraqui, later renamed Fort Frontenac. The fort was located on the west bank of the mouth of the Cataraqui River. Fort Frontenac was established more as a trading post than a military stronghold but nonetheless was the first permanent European settlement in the region. The fort attracted a small native and trader settlement including several Iroquois longhouses around the exterior of the fort. The French retained control of Fort Frontenac until 1758 when the fort was captured by the British under the direction of Col. Bradstreet. Following the end of the American Revolution the British began settlement in earnest of the Kingston region via land grants to United Empire Loyalists who chose to build new lives in British North America. The settlement that would become the City of Kingston was established in 1783. Rapid expansion continued and by the outbreak of the War of 1812, Kingston had become a major military town, naval harbour and shipyard. Brief stints as the capital of the Province of Ontario in 1841 demonstrated the importance of the city. Institutions such as Queen's University, the Royal Military College, hospitals and penitentiaries were established in Kingston over the next century of occupation.

Parts of Kingston Township were surveyed by John Collins as early as 1783. The land was noted for the excellent quality of the soil. Systematic settlement of the township started around 1783-1784. The first land grants were made to Loyalists and disbanded troops following the end of the American Revolutionary War, with the first patents starting around 1796. Within the first quarter century of settlement, the value of land in Kingston Township rose from a few shillings per acre to as much as thirteen shillings and four pence (£0.13.4); if the land contained a house and barn it could command as much as two pounds and five shillings (£2.5.0) per acre (Smith, 1851:287).



### 1.3 Property and Structural History:

*Lot 9, Concession 1  
Geographic Township of Kingston  
City of Kingston*

The study area is located in land that originally was within the southwestern part of Lot 9, Concession 1, Geographic Township of Kingston (Map 3). The Crown divided the land into southern and northern halves upon patent. The North half was granted by the Crown to John Yourex on December 31, 1798 (Map 5) (OLR). The south half was granted to Thomas Burnett on December 9, 1803 (OLR). In 1810 Thomas Burnett took out a mortgage on the land from Thomas Markland. Thomas Markland U.EL. was a wealthy landowner in America prior to the Revolution and moved to Cataraqui in 1784 with the Loyalist forces. He received 24 lots in recognition of his loyalty to the Crown and would become a community leader and a principal businessman in the new Township. On September 12, 1825 John Burnett, the “heir at law” to Thomas Burnett, sold the southeastern 50 acres of the lot to Thomas Markland (OLR). In 1831 the southwestern 50 acres was sold by Burnett to Thomas Markland.

The property likely remained undeveloped during this period and was maintained as part of the large property holdings of the Markland family, passing to Thomas Markland’s son George Herchmer Markland upon his death in 1840. On November 1, 1842 the eastern third of the south half of the lot, consisting of  $33 \frac{1}{3}$  acres, was sold by George Herchmer Markland to Jane Baker (OLR). On August 7, 1847 the remaining  $66 \frac{2}{3}$  acres of the south half of the lot was sold to brothers James R. and John Baker (OLR). The Baker family would build a home and farm on the land and is noted in the 1860 map of the County with a structure in the area of the subject property (Map 6). It appears from the records that following the purchase of her land that Jane Baker, likely a sister to James Baker, married Thomas Burnett and built a home in the southeast corner of the lot next to the home of her family. The 1851 Census of Canada West identifies James R. Baker and his wife Eliza Jane Baker, daughters Mary Jane and Sarah Baker living in one portion of the Lot with Thomas and Jane Burnett and children Permilia, Orlando, Henry and Louisa Burnett living in the other part of the Lot (Ancestry.com, 2017a).

In 1854 and 1959 portions of Lot 9 were sold to the Grand Trunk Rail Road Company who constructed a rail line through the land from east to west. On February 9, 1865 the widow Jane Burnett sold 23 acres of her land to James R. Baker (OLR). It appears from the 1868 Ordnance Survey map of the area that Jane Burnett maintained her home and small acreage in the southeast corner of the lot between the concession road and the railway. The Baker family had a home in the southwest corner adjacent to the subject property and was farming the rest of the south half of Lot 9 (Map 7). This layout and landuse is reflected in the 1878 map of the Township (Map 8). The land remained in the same layout until April 18, 1881 when Jane Burnett sold her property to James Baker; Jane Burnett relocated to York (Toronto) where she lived until her death in 1892 (Ancestry.com, 2017b).

On October 13, 1883 James R. Baker signed an agreement for sale of the entire southern 100 acres of Lot 9 to Archibald Hackett (OLR). During the remaining part of the 19<sup>th</sup> century the property legally changed hands several times however each transaction appears to represent some form of inter-family deal based upon the low prices of sale. On March 8, 1887 Archibald Hackett sold the 100 acres to Sylvester Hackett et. al. for \$1. On April 12, 1890 Jeanette Hackett sold the 100 acres to James Baker for the cost of \$10 (OLR). In May of the same year the land was sold to William George for \$100; George sold the land for \$1 to Harriet Ann Compton in 1893. It is unclear how these transactions altered the land use during this period and into the 20<sup>th</sup> century.

No other transactions take place on the property until November 9, 1943 when William Wallace Sickler sold the southern half of the Lot to Frank Baker for \$8000 (OLR). On August 18, 1944 Frank Baker severed the home in the southwest corner of the Lot and sold the “50 ft. front” to Harry Brown (OLR). The Brown home and the former Burnett home are visible in 1953 aerial photography of the area (Map 10). The subject property remained widely undeveloped during up to this time with a garage structure located in the southwest corner.

On January 5, 1956 Registered Plan No. 665 was filed by Francis Xavier Baker which divided the southwest corner of Lot 9 into 41 lots (OLR). The “Justus Development” area was intended for commercial/industrial use. The subject property was purchased and developed for use as a gas station which was in place by the 1970s (Map 11). The western portion of the subject property was later divided from the gas station and a McDonalds restaurant was built (Map 12). The gas station and fast-food restaurant were abandoned after 2008 and prior to 2011 the tanks and gas station structure were excavated and torn down, as was the single storey with basement restaurant (Map 13). The property currently contains asphalt paved areas and gravel areas where previous structures and features have been mechanically used. A large storm sewer service line crosses the property through its centre from east to west and in the western portion it heads southward at a right angle towards Bath Road.

#### 1.4 Archaeology of the Region:

The Paleo-Indian Period in Eastern Ontario (here defined as the Trent Valley and eastwards) begins during the Belleville phase of Lake Iroquois (12,000 BP) when the land between the ice covered Algonquin Highlands and Lake Iroquois was exposed as far east as the Champlain Sea (Muller and Prest 1985). Later as the land rebounded from the weight of the glacier the shallows of Lake Iroquois became a fertile plain. Small bands of hunters likely moved into the area after a steppe environment had been established and they could hunt caribou and megafauna such as mastodons. As the climate moderated to the general conditions of the recent Holocene a boreal lifeway became established. This lifeway can be superficially described as alternating between spring/summer amalgamation of the regional people around locations for harvesting spawning fish; the fall/winter dispersal of the population into small family units, to winter in large hunting territories where moose hunting was important (Wright, 1972). Paleo-Indian sites are rare but not unknown in Eastern Ontario and are usually the random find of a spear point typical of the Late-Paleo Period.

The Archaic Period begins around 7000 BP in Eastern Ontario and is marked by the extinction of the megafauna and the switch to a way of life focused on fishing and the harvesting of wild foods such as hickory nuts. For the most part the Archaic way of life appears similar to the historic way of life of the Cree and Ojibwa of northern Ontario. In the spring, family groups coalesce into large encampments around rapids and waterfalls in order to catch spawning fish. In the late fall, family groups disperse across the landscape to individual hunting territories where they trap and hunt locally. The bulk of the goods made by natives were of biodegradable materials so the majority of the artifacts found on Archaic sites are of stone, though in good soil conditions bone tools and refuse bone can survive. On occasion tools or fragments of copper are also found. Copper appears on sites east of the Rouge River about 5000 BP, particularly along the Trent and Ottawa River systems. By the Late Archaic, cemeteries and burial goods, particularly copper and shell objects appear.

The beginning of the Woodland period is marked by the appearance of pottery on First Nation's sites. The Early Woodland people of Ontario were the first to use pottery in this province. In many other respects, people of the Early Woodland Period continued to live in much the same way as their predecessors of the Late Archaic. In Eastern Ontario this occurred around 3000 BP a time when the Meadowood Culture of Western New York State begins to occupy the province.

Shortly after 2300 BP the Middle Woodland Period begins with a steady increase in the population of Ontario. Long distance trade is evident from the appearance of exotic materials such as marine shell, mica and copper. Evidence from archaeological sites indicates that by the Middle Woodland Period the people of Ontario began to identify with specific regions of the province. For the first time this allows archaeologists to distinguish regional cultural traditions - sets of characteristics which are unique to a part of the province. Archaeologists have named these cultural traditions Laurel (northern

Ontario), Point Peninsula (eastern and south-central Ontario), Saugeen (southwestern Ontario) and Couture (extreme southwestern Ontario).

The range of sites and archaeological evidence collected thus far have provided a picture of the seasonal patterns of activity that Middle Woodland people used to exploit the wide variety of resources in their territories. The spring, summer and fall saw macrobands, larger groups of people congregating at lakeshore sites to fish, collect shellfish and hunt in the surrounding forests. The approaching close of the summer season resulted in an emphasis on collection and storage of hunted resources, due to the need to store up large quantities of food for the winter. By late fall and early winter, the community would split into microbands, small family hunting groups, each relocating to a smaller 'family' hunting area inland where they would stay until the process repeated and larger macrobands rejoined in the spring.

By the Late Woodland Period, c. 800 AD, a definitively Iroquoian people were occupying the north shore of Lake Ontario. The period is most clearly distinguished by the changes in pottery construction and decoration. By the beginning of the Late Woodland (ie. by A.D. 900) period the coil method with various stamped decorations (dentate, rocker, pseudo scallop shell) was abandoned in favour of the paddle and anvil method, with vessels decorated with 'cord-wrapped stick' decoration. Intensive horticulture is practiced in this period as maize (corn) was introduced sometime after 500 AD, providing a large reserve of corn. Beans, squash and sunflowers are also grown. Villages of longhouses with many hundreds of people begin to be seen particularly in Prince Edward County and on the sandy ridges along the north shore of Lake Ontario. The area appears to have been largely abandoned around 1550 AD (Ramsden 1982) likely due to conflict between the Iroquois of New York State and the Huron Confederacy.

In the Kingston region most archaeological sites are known from the north shore of Lake Ontario and the islands to the south, the mouth of the Cataraqui River, the Napanee River and Wilton Creek environs and the shore of the St. Lawrence east of Kingston along with the Thousand Islands. Many of the registered sites in this region around Kingston and up the Cataraqui/Rideau Waterway were first documented by avocational archaeologist Guy Blomely and subsequently registered by Hugh Daechsel (Daechsel, 1988, 1989).

It would appear that the majority of the sites in the area are located south of the Frontenac Axis. The Frontenac Axis is a continuation of the exposed granites of the Canadian Shield that runs southeast crossing the St. Lawrence River and thus forming the Thousand Islands before it enters Up State New York and rises as the Adirondack Mountains. Sites on the Frontenac Axis are generally restricted to the shores of the many lakes in this area and at portage points along the connecting rivers. This pattern may be due to a lack of archaeological survey work over most of the Frontenac Axis but given the terrain a settlement pattern focused on the waterways is not surprising.

1

Period	Group	Time Range	Comment
<b>Paleo-Indian</b>			
	Fluted Point Hi-Lo	11000 - 10400 BP 10400 - 9500 BP	big game hunters small nomadic groups
<b>Archaic</b>			
<b>Early</b>	Side Notched Corner Notched Bifurcate Base	10000 - 9700 BP 9700 - 8900 BP 8900 - 8000 BP	nomadic hunters and gatherers
<b>Middle</b>	Early Middle Archaic Laurentian	8000 - 5500 BP 5500 - 4000 BP	transition to territorial settlements
<b>Late</b>	Narrow Point Broad Point Small Point Glacial Kame	4500 - 3000 BP 4000 - 3500 BP 3500 - 3000 BP ca. 3000 BP	polished - ground stone tools, river - lakeshore orientation burial ceremonialism
<b>Woodland</b>			
<b>Early</b>	Meadowood Middlesex	2900 - 2400 BP 2400 - 2000 BP	introduction of pottery elaborate burials
<b>Middle</b>	Point Peninsula Sandbanks - Princess Point	2300 - 1300 BP 1500 - 1200 BP	long distance trade, burial mounds agriculture begins
<b>Late</b>	Pickering Middleport Huron - St. Lawrence Iroquois	1100 - 700 BP 670 - 600 BP 600 - 350 BP	transition to defended villages, horticulture large village sites tribal organization, warfare abandonment
<b>Historic</b>			
<b>Early</b>	Mississauga	300 - Present	southward migration into Iroquoian territory
<b>Late</b>	Euro-Canadian	225 - Present	European Settlement

<sup>1</sup> Table based upon material assembled by N. Adams.

## **2.0 Project Context: Archaeological Context**

### **2.1 Previous Archaeological Research near the Subject Property:**

No archaeological study has been previously performed within the study area or within 50 m of the subject property. Consultation with the Ministry of Culture's Archaeological Sites Database found that one registered sites is located within 1 kilometre of the subject property<sup>2</sup>.

Located 500 m northwest of the subject property is the Meadow Creek Site (BbGd-64). The site was found during 2014 Stage 2 assessment of a property at Development Drive and Truedell Road. The site was representative by a single sherd of pseudo scallop shell decorated Middle Woodland pottery. Subsequent Stage 3 assessment resulted in no further finds and the site was declared to have no further cultural heritage value or interest.

Within the City of Kingston there are at least 72 recorded sites (Williamson et al., 2008:69-70). These sites, mainly historic in nature, lie within the City of Kingston's downtown core. The intensity of the archaeological remains in the core of Kingston demonstrates the rich heritage of this urban area, increasing the archaeological potential of any study area within the greater region.

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<sup>2</sup> Ministry of Tourism, Culture and Sport Sites Registry.

## 2.2 Physiography of the Study Area:

The study area is located in the Napanee Limestone Plain Lowlands physiographic region. It is characterized by flat to undulating topography with shallow clay and loam soils covering the limestone bedrock. Much of the soil overburden was stripped away by glacial action (Chapman and Putnam, 1984:186). Common trees include elm, eastern cedar, dwarf juniper and creeping juniper (Gillespie et al., 1962:28). The general area of Kingston lies within the Huron-Ontario sub-region of the Great Lakes-St. Lawrence Forest Region. Examples of trees that exist in this region include sugar maple, beech, basswood, white and red ash, yellow birch, red maple, and red, white and bur oaks. Eastern hemlock, eastern white pine, and balsam fir are also found in the sub-region (Rowe, 1977:93).

The subject property is located within an area of shallow phase Napanee Clay (Nc-sh) surrounded by a larger band of Lansdowne Clay (Lac) soils (Map 14). The Napanee Clay (Nc-sh) soils are often associated with Lansdowne Clay (Lac) soils but are slightly better drained. A part of this region was covered by salt waters of the Champlain Sea and it is assumed that these clay sediments originated during the period of glacial inundation before isostatic rebound lifted the region. Both the Napanee Clay (Nc-sh) and the Lansdowne Clay (Lac) soils represent upper limits of the sediments laid down by the former glacial lake (Gillespie et al., 1962). The Napanee soils occupy the level and depressional areas eastward of Napanee along the lakeshore areas (Gillespie et al., 1962: 38). The shallow phase soils of this series consist of areas where clay deposits rest upon the limestone bedrock within 30 to 45 cm of the surface. These soils are primarily only suitable for hay and/or pasture.

The subject property is situated within 800 m of the shoreline of Lake Ontario, a primary water source. A creek/stream which is a tributary of the Little Cataraqui Creek is located within the northern limits of the subject property. The subject property is relatively flat in form within the central portion with significant slope and mounding along the southern and western parts of the property.

### 2.3 Archaeological Potential of the Study Area:

The archaeological potential of the study area is dictated by the proximity to features of historic significance and subsequent modern usage. Historical research has shown that the area in question was first developed in the 1840s as part of a larger farm property owned by the Baker family. The study area formed part of the Baker family property with their homesteads and farm buildings situated directly to the west of the subject property along the second concession road, modern day Bath Road. The subject property is located upon an early historical transport routes; modern Bath Road/Highway 33, an early lot roadway used during the earliest development of the township to link Kingston Township through the Village of Bath with Prince Edward County to the west (Map 5).

One registered archaeological site is found within 1 km of the study area. The City of Kingston Archaeological Master Plan identifies the property as having potential for archaeological resources based upon its location adjacent to an early transport route and to early historic homesteads (Williamson et al., 2008: Figure 16).

The historic use of the land appears to be agriculturally related. There is no archival basis to assume that the property contains deeply buried deposits and consisted of farm fields until the c. late 1950s development of the area. Despite the historical potential of the property the modern development and use of portions of the property has resulted in extensive and deep land alterations which have severely damaged the integrity of archaeological resources, resulting in the disturbance and removal of archaeological potential in those areas. Aerial photography suggests that the construction of the commercial structures and buried gas tanks within the property was accompanied by large scale mechanical disturbance and later removal of the built features. In addition to this modern disturbance the property features deeply buried services relating to the former structures. A large storm sewer service line crosses the property through its centre from east to west and in the western portion it heads southward at a right angle towards Bath Road.

The study area was visited by the licensee, Michael Berry, on December 7, 2017 at which time a property inspection took place. The property inspection included the entire property and its periphery via a systematic coverage which was walked by the licensee on a 10 m interval. Coverage was sufficient to identify the presence or absence of any features of archaeological potential. All the combined evidence discussed above results in the determination that the property has a low archaeological potential for significant archaeological remains (Map 15).



## 2.4 Inventory of Documentary Record Generated in the Field

### *Photographs*

<b>Photo #</b>	<b>Description</b>	<b>Direction</b>	<b>Date</b>
2460353D01	View of gravel and asphalt parking lot area	W	07-Dec-17
2460353D02	View of gravel and asphalt parking lot area	W	07-Dec-17
2460353D03	View of gravel and asphalt parking lot area	W	07-Dec-17
2460353D04	View of gravel and asphalt parking lot area	W	07-Dec-17
2460353D05	View of the McDonalds location	S	07-Dec-17
2460353D06	View of the McDonalds location	S	07-Dec-17
2460353D07	View of the McDonalds location	N	07-Dec-17
2460353D08	View of the McDonalds location	N	07-Dec-17
2460353D09	View of the storm sewer	S	07-Dec-17
2460353D10	View of the storm sewer	S	07-Dec-17
2460353D11	View of the storm sewer	E	07-Dec-17
2460353D12	View of the storm sewer	E	07-Dec-17
2460353D13	View of gravel lot area	N	07-Dec-17
2460353D14	View of gravel lot area	N	07-Dec-17
2460353D15	View of gravel lot area	N	07-Dec-17
2460353D16	View of gravel lot area	E	07-Dec-17
2460353D17	View of gravel lot area	E	07-Dec-17
2460353D18	View of gravel lot area	E	07-Dec-17
2460353D19	View of fill piles of asphalt and stone	E	07-Dec-17
2460353D20	View of fill piles of asphalt and stone	E	07-Dec-17
2460353D21	View of fill piles of asphalt and stone	E	07-Dec-17
2460353D22	View of fill piles of asphalt and stone	E	07-Dec-17

### 3.0 Analysis and Conclusions

In December of 2017 Abacus Archaeological Services was retained to undertake a Stage 1 archaeological assessment of 1712-1720 Bath Road, an approximately 6029 m<sup>2</sup> parcel of land located within Parts 41, 40, 39 and 38 of Registered Plan No. 665, part of Lot 9, Concession 2 of the Geographic Township of Kingston, City of Kingston (Map 5). The subject property is situated upon the north side of Bath Road located at the northwest corner of Bath Road and Days Road. The property is currently developed containing a flat gravel surface. The owner of the property plans to redevelop the land with the construction of two stand-alone restaurants, each with drive through and a small commercial plaza (see attached development plan). An archaeological assessment was a condition of pre-consultation applications for Zoning By-Law Amendment and Site Plan Control.

One registered archaeological site is found within one kilometre of the subject property which is located 800 m from of the shoreline of Lake Ontario. Primary development of the area began in the 1840s when James Baker and his family acquired Lot 9 from the wealthy Markland family. The 19<sup>th</sup> century use of the property was primarily agricultural. The latter 20<sup>th</sup> century use of the property has been for commercial use. The City of Kingston Archaeological Master Plan identifies the property as having potential for Euro-Canadian archaeological resources based upon its proximity to physiographic features of significance and location upon a historic transport route (Williamson et al., 2008: Figure 17).

The study area was visited by the licensee, Michael Berry, on December 7<sup>th</sup>, 2017. The modern development and subsequent use of the property and construction of related services has resulted in extensive and deep land alterations. This activity will have severely damaged the integrity of any archaeological resources resulting in the disturbance and removal of archaeological potential. There is no archival basis to assume that the property contains deeply buried deposits.

### 4.0 Recommendations

Based upon these results the licensee makes the following recommendations with regard to the study area (Map 15).

- The subject property has been assessed and determined to contain a low potential for significant archaeological resources. No further work is required within the study area. The property should be considered clear of archaeological concern.

## 5.0 Advice on Compliance with Legislation

This report is submitted to the Minister of Tourism and Culture as a condition of licensing in accordance with Part VI of the *Ontario Heritage Act*, R.S.O. 1990, c 0.18. The report is reviewed to ensure that it complies with the standards and guidelines that are issued by the Minister, and that the archaeological fieldwork and report recommendations ensure the conservation, protection and preservation of the cultural heritage of Ontario. When all matters relating to archaeological sites within the project area of a development proposal have been addressed to the satisfaction of the Ministry of Tourism and Culture, a letter will be issued by the ministry stating that there are no further concerns with regard to alterations to archaeological sites by the proposed development.

It is an offence under Sections 48 and 69 of the *Ontario Heritage Act* for any party other than a licensed archaeologist to make any alteration to a known archaeological site or to remove any artifact or other physical evidence of past human use or activity from the site, until such time as a licensed archaeologist has completed archaeological fieldwork on the site, submitted a report to the Minister stating that the site has no further cultural heritage value or interest, and the report has been filed in the Ontario Public Register of Archaeology Reports referred to in Section 65.1 of the *Ontario Heritage Act*.

Should previously undocumented archaeological resources be discovered, they may be a new archaeological site and therefore subject to Section 48 (1) of the *Ontario Heritage Act*. The proponent or person discovering the archaeological resources must cease alteration of the site immediately and engage a licensed consultant archaeologist to carry out archaeological fieldwork, in compliance with Section 48 (1) of the *Ontario Heritage Act*. d.

The *Cemeteries Act*, R.S.O. 1990 c. C.4 and the *Funeral, Burial and Cremation Services Act*, 2002, S.O. 2002, c.33 (when proclaimed in force) require that any person discovering human remains must notify the police or coroner and the Registrar of Cemeteries at the Ministry of Consumer Services.

## 6.0 Bibliography and Sources

### Image and Topographic Map References

1:250,000 Topographical Map - NTS 31/C 1975  
 1:25,000 Topographical Map - NTS 31/C2h, 1975  
 1:10,000 Ontario Base Map – OBM # 1018 3700 48950

1953 Provincial Series. 4411-32-208. Queen's University Library Air Photograph Collection.

1975 Provincial Special Series. A40031-53. Queen's University Library Air Photograph Collection.

### Archival Map References

- 1797 Plan of the Township of Kingston, County of Frontenac, signed by Alex R. Aitken, Deputy Surveyor, Midland District. Queen's University Library Map Collection.
- 1860 Map of the United Counties of Frontenac, Lennox and Addington, Canada West, from actual Surveys under the Direction of H. F. Walling. Putnam & Walling Publishers. Queen's University Library Map Collection. National Map Collection No. 11476.
- 1868 Plan of Kingston and its environs, Ontario. Surveyed in 1867-8 under the direction of H.S. Sitwell, and under the superintendence of W.F. Drummond Jervis. Queen's University Library Map Collection.
- 1878 Illustrated Historical Atlas of the Counties of Frontenac, Lennox and Addington, Ontario, Belleville. J.H. Meacham. Reprinted by Mika Silk Screening Limited. Queen's University Library Map Collection.

## Source References

- ANCESTRY.COM 2017a. 1851 Census of Canada East, Canada West, New Brunswick, and Nova Scotia for James R Baker  
[https://www.ancestry.ca/interactive/1061/e094-e002348226?pid=336252&backurl=https://search.ancestry.ca/cgi-bin/sse.dll?\\_phsrc=%3Dwcp69%26\\_phstart%3DsuccessSource%26usePUBJs%3Dtrue%26gss%3Dangs-c%26new%3D1%26rank%3D1%26msT%3D1%26gsfn%3DJames%2520R.%26gsfn\\_x%3D1%26gsln%3DBaker%26gsln\\_x%3D0%26msypn\\_\\_ftp%3DKingston%2520Township.%2520Ontario%26\\_83004003-n\\_xcl%3Df%26cpxt%3D1%26cp%3D3%26catbucket%3Drstp%26MSAV%3D1%26uidh%3Dug5%26pcat%3DCEN\\_1850%26h%3D336252%26recoff%3D9%252010%252011%26dbid%3D1061%26indiv%3D1%26ml\\_rpos%3D1&treeid=&personid=&hintid=&usePUB=true&\\_phsrc=wcp69&\\_phstart=successSource&usePUBJs=true](https://www.ancestry.ca/interactive/1061/e094-e002348226?pid=336252&backurl=https://search.ancestry.ca/cgi-bin/sse.dll?_phsrc=%3Dwcp69%26_phstart%3DsuccessSource%26usePUBJs%3Dtrue%26gss%3Dangs-c%26new%3D1%26rank%3D1%26msT%3D1%26gsfn%3DJames%2520R.%26gsfn_x%3D1%26gsln%3DBaker%26gsln_x%3D0%26msypn__ftp%3DKingston%2520Township.%2520Ontario%26_83004003-n_xcl%3Df%26cpxt%3D1%26cp%3D3%26catbucket%3Drstp%26MSAV%3D1%26uidh%3Dug5%26pcat%3DCEN_1850%26h%3D336252%26recoff%3D9%252010%252011%26dbid%3D1061%26indiv%3D1%26ml_rpos%3D1&treeid=&personid=&hintid=&usePUB=true&_phsrc=wcp69&_phstart=successSource&usePUBJs=true).
- ANCESTRY.COM 2017b. Ontario, Canada, Deaths and Deaths Overseas, 1869-1946 for Jane Burnett [https://www.ancestry.ca/interactive/8946/ONMS935\\_66-0569?pid=1790317&backurl=https://search.ancestry.ca/cgi-bin/sse.dll?gl%3Dallgs%26gss%3Dsfs28\\_ms\\_r\\_f-2\\_s%26new%3D1%26rank%3D1%26gsfn%3DJane%2520%26gsfn\\_x%3D1%26gsln%3DBurnett%26gsln\\_x%3D0%26msypn\\_\\_ftp%3DKingston%252C%2520Frontenac%252C%2520Ontario%252C%2520Canada%26msypn%3D1649519%26msypn\\_PInfo%3D8-%257C0%257C1652393%257C0%257C3243%257C0%257C5007%257C0%257C1654298%257C1649519%257C0%257C0%257C%26\\_83004003-n\\_xcl%3Dm%26cpxt%3D1%26cp%3D3%26catbucket%3Drstp%26MSAV%3D1%26uidh%3Dug5&usePUB=true](https://www.ancestry.ca/interactive/8946/ONMS935_66-0569?pid=1790317&backurl=https://search.ancestry.ca/cgi-bin/sse.dll?gl%3Dallgs%26gss%3Dsfs28_ms_r_f-2_s%26new%3D1%26rank%3D1%26gsfn%3DJane%2520%26gsfn_x%3D1%26gsln%3DBurnett%26gsln_x%3D0%26msypn__ftp%3DKingston%252C%2520Frontenac%252C%2520Ontario%252C%2520Canada%26msypn%3D1649519%26msypn_PInfo%3D8-%257C0%257C1652393%257C0%257C3243%257C0%257C5007%257C0%257C1654298%257C1649519%257C0%257C0%257C%26_83004003-n_xcl%3Dm%26cpxt%3D1%26cp%3D3%26catbucket%3Drstp%26MSAV%3D1%26uidh%3Dug5&usePUB=true).
- CHAPMAN, L. J. & PUTNAM, D. F. 1984. The Physiography of Southern Ontario. Ontario Geological Survey, Special Vol.2.
- DAECHSEL, H. 1988. Frontenac County: Conservation License Report 1987. License 87-21. Report prepared by the Cataraqui Archaeological Research Foundation. On file with the Ontario Ministry of Culture and Communications.
- DAECHSEL, H. 1989. Frontenac and Leeds-Grenville Conservation License Report 1988. Licence 88-19. Report prepared by the Cataraqui Archaeological Research Foundation. On file with the Ontario Ministry of Culture and Communications.
- GILLESPIE, J. E., WICKLUND, R. E. & MATHEWS, B. C. 1962. Soil Survey of Frontenac County. *Ontario Soil Survey*. Guelph: Ontario Department of Agriculture.
- OLR Ontario Land Records Abstract Index.

- OSBORNE, B. & SWAINSON, D. 1988. *Kingston Building on the Past*, Westport, Butternut Press Inc.
- PRESTON, R. 1958. *Royal Fort Frontenac*, Toronto, Champlain Society.
- PRESTON, R. 1959. *Kingston Before the War of 1812*, Toronto, University of Toronto Press, for the Champlain Society.
- ROWE, J. S. 1977. *Forest Regions of Canada*, Ottawa, Canadian Forestry Service and the Department of Fisheries and the Environment.
- SMITH, W. H. 1851. *Canada: Past, Present and Future, Being a Historical, Geographical, Geological and Statistical Account of Canada West (volume II)*, Toronto, Thomas Maclear.
- WILLIAMSON, R., BRAY, C., MACDONALD, M. & NARHI, B. 2008. City of Kingston Archaeological Master Plan - Technical Report. Kingston: Archaeological Services Inc.
- WRIGHT, J. V. 1972. *Ontario Prehistory: an eleven thousand-year archaeological outline*, Ottawa, Archaeological Survey of Canada, National Museum of Man.

Images



Image 1. A view west of the subject property.



Image 2. A view south of the subject property.





**Image 3. A view west of the subject property at the location of the former restaurant structure.**



**Image 4. A view of the storm sewer service line which crosses the property.**





**Image 5. A view north of the subject property.**



**Image 6. A view of the gravel and asphalt mounded in the southeastern corner of the property.**

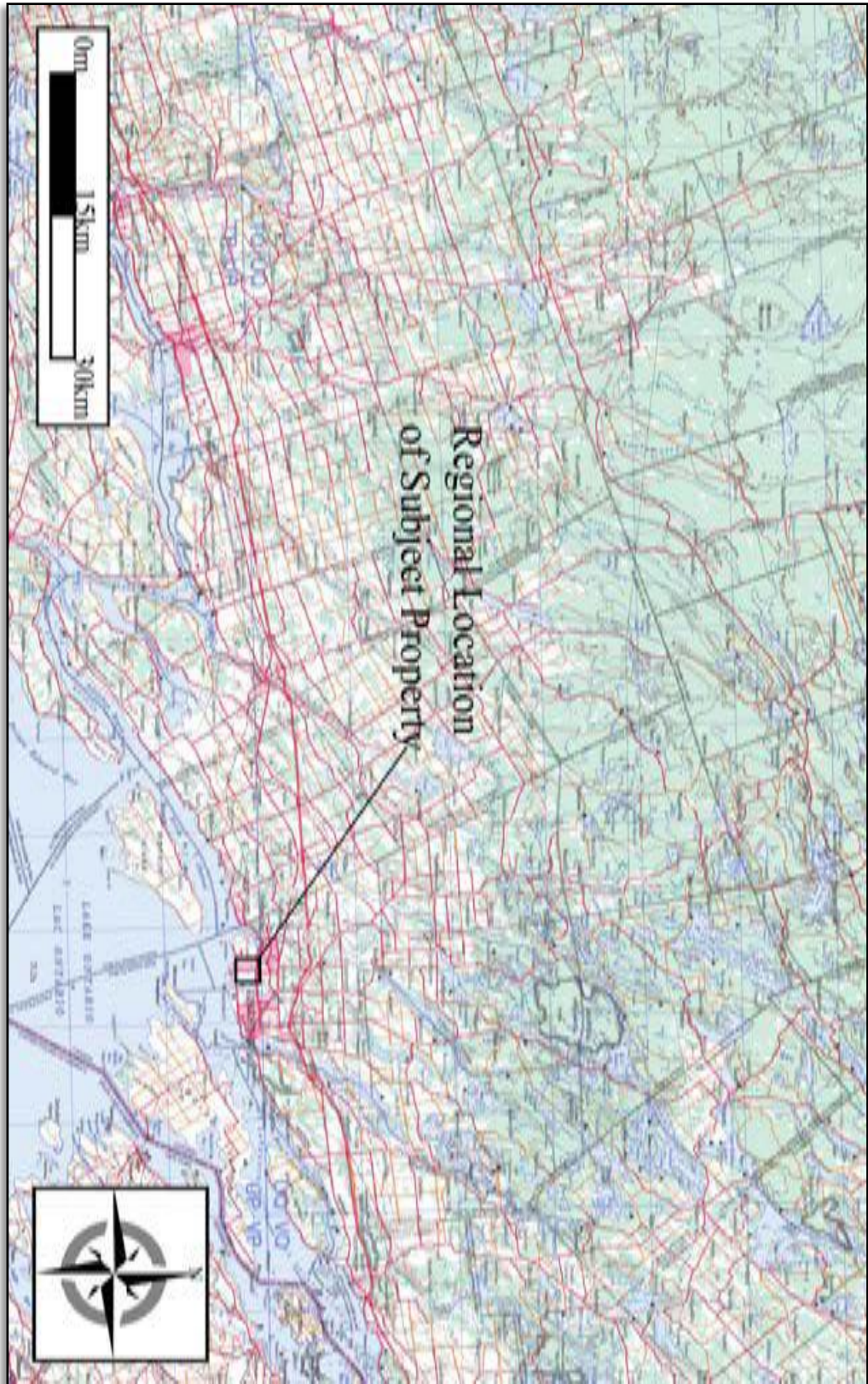


**Image 7. A view northeast of the subject property.**

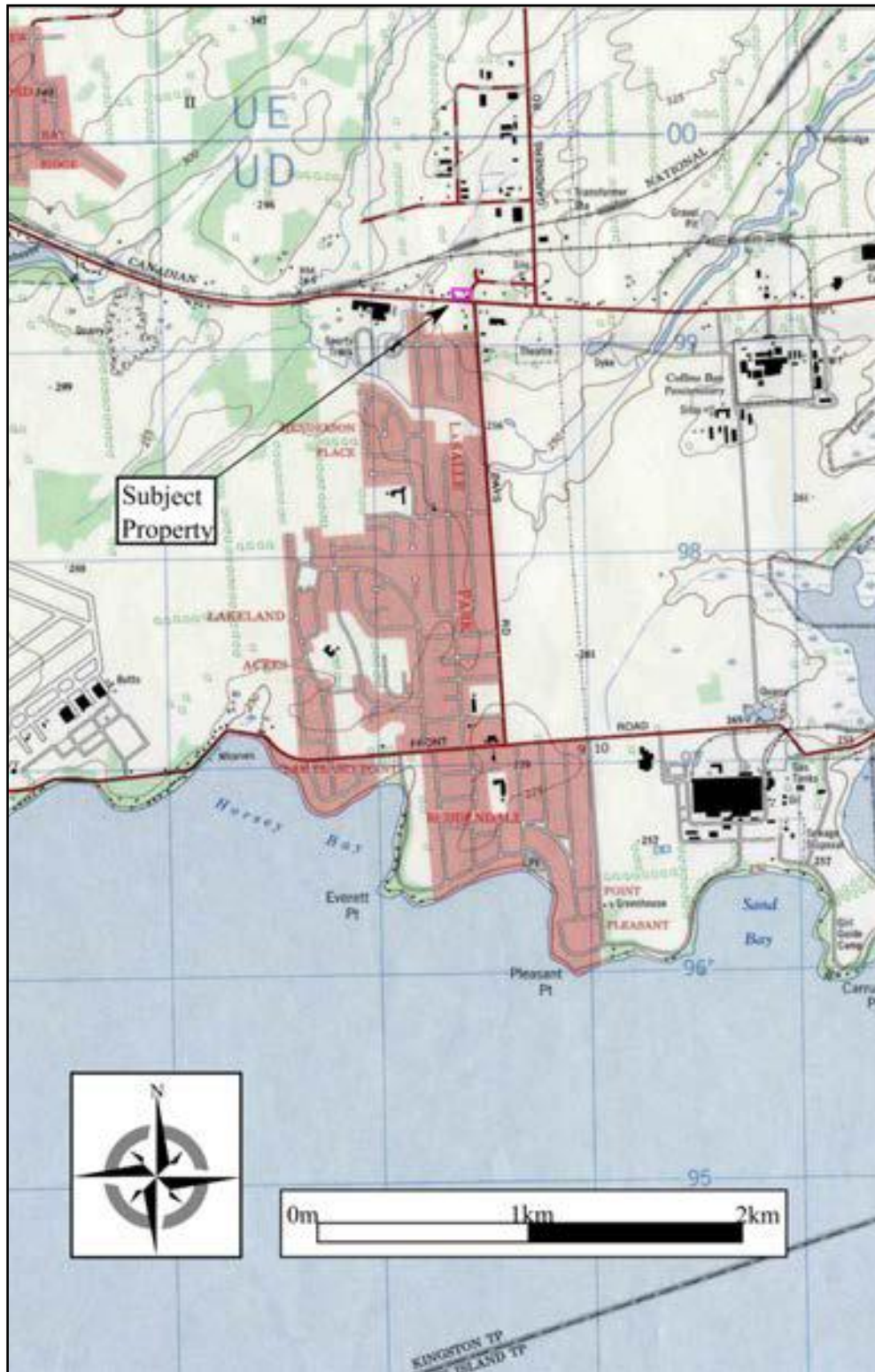


**Image 8. A view west of the subject property; note path of storm sewer marked in blue paint.**



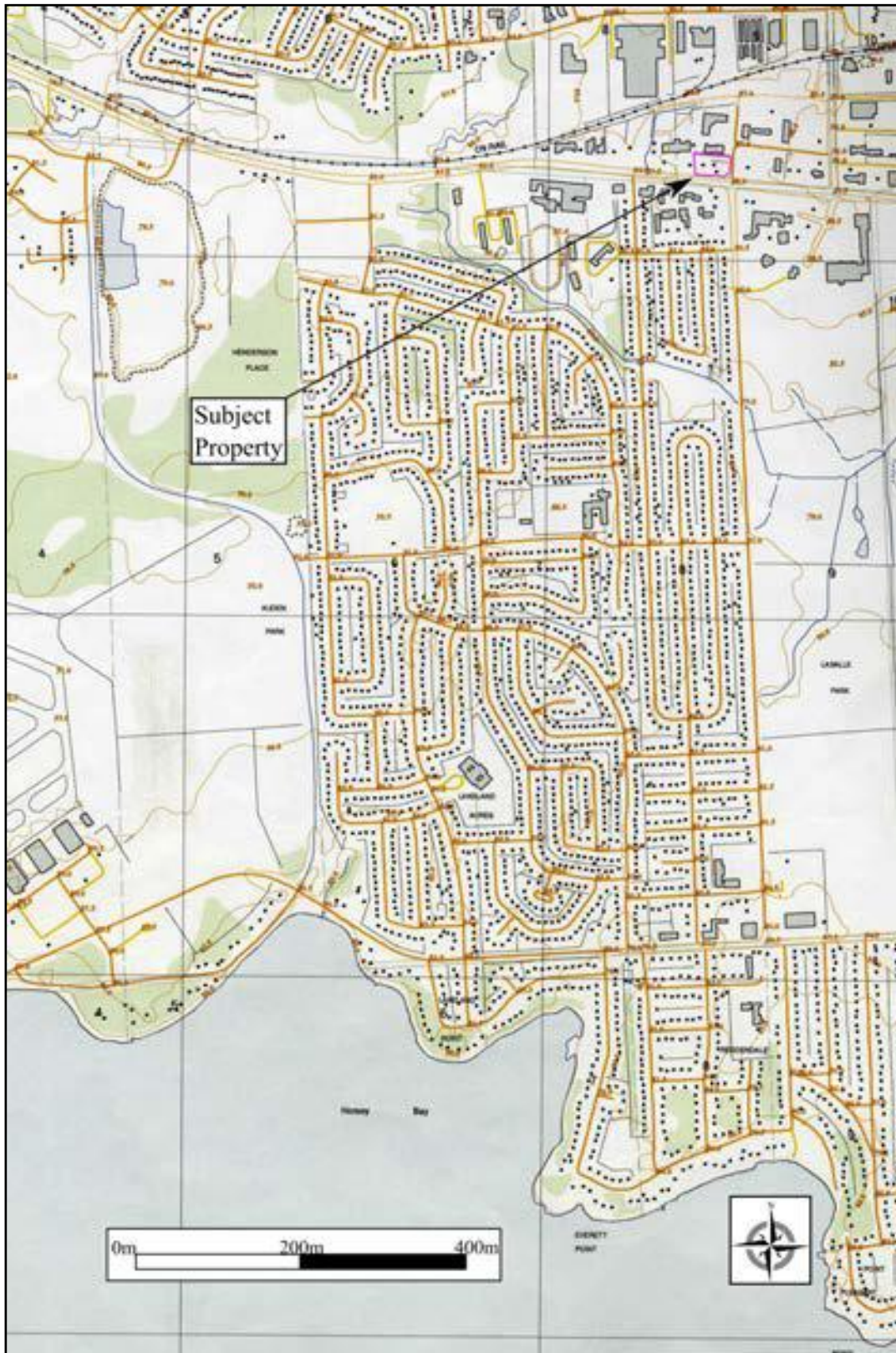


Map 1. The subject property location on 1:250 000 NTS plan (31 C).

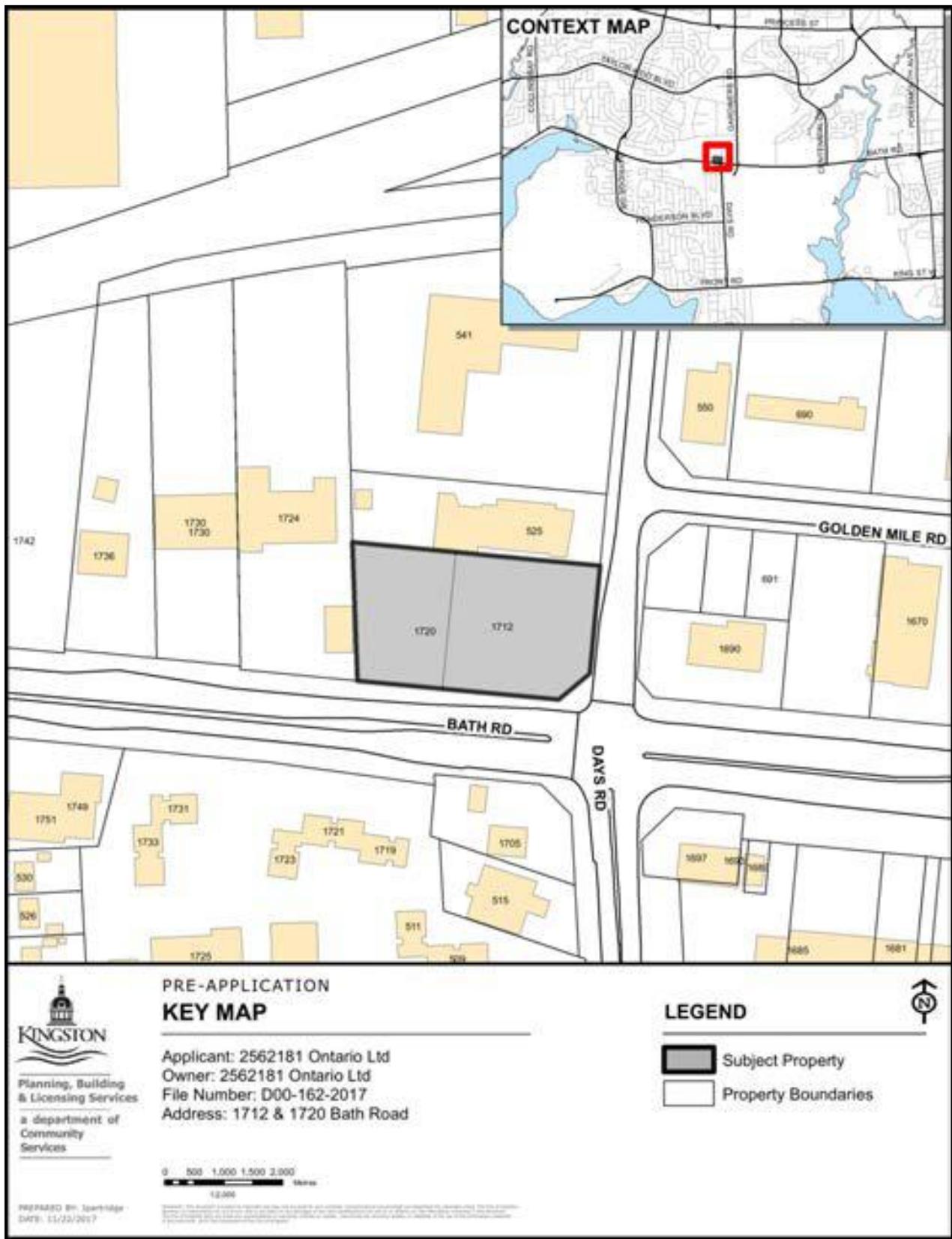


Map 2. The subject property location on 1:25 000 NTS plan (31C2h).



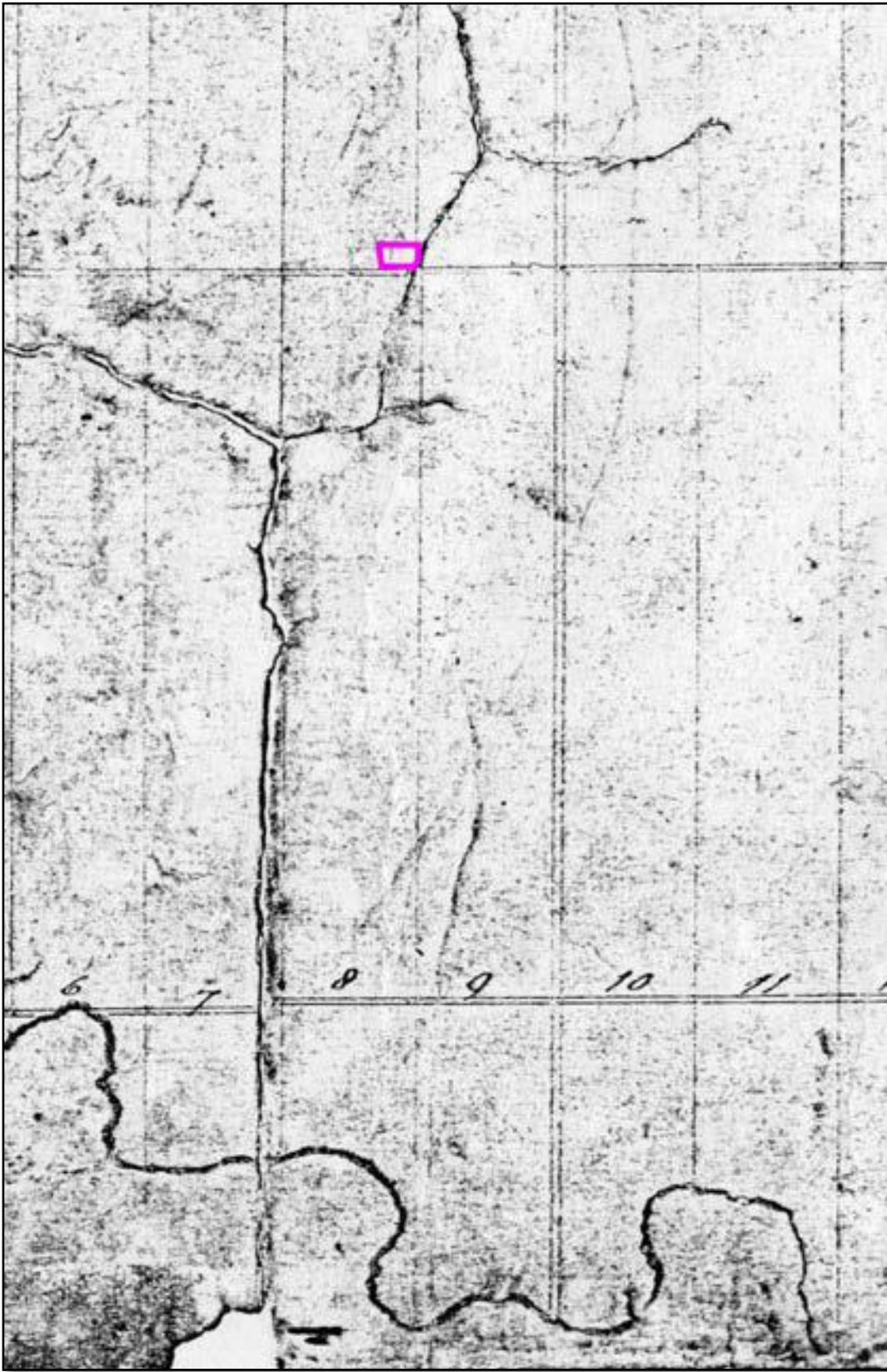


Map 3. The subject property location on 1:10 000 Ontario Base Map (OBM #1018 3700 48950).

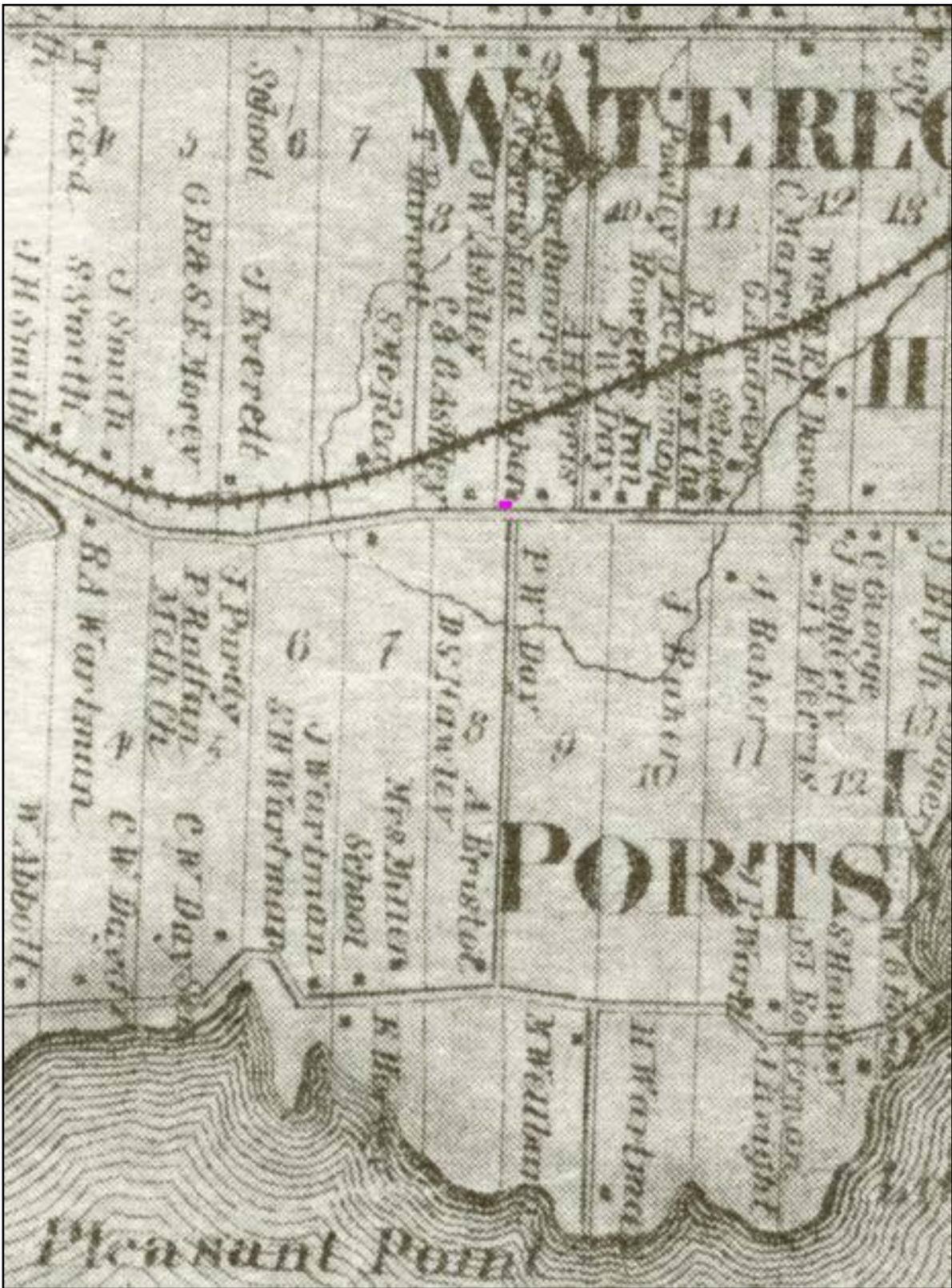


Map 4. The plan of the subject property with limits outlined in purple (City of Kingston Kmaps).



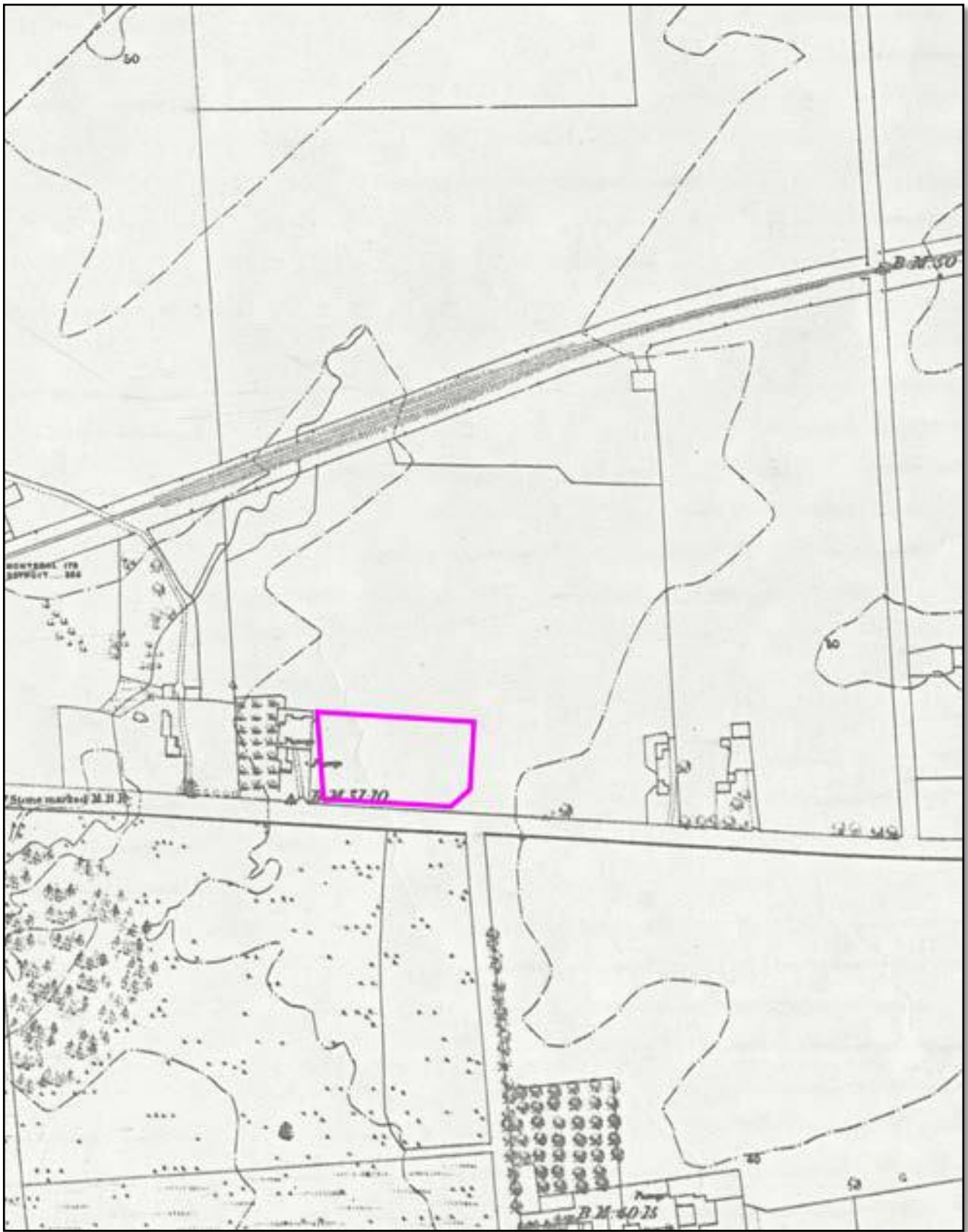


Map 5. A section from a 1797 map of Kingston Township with the subject property indicated.

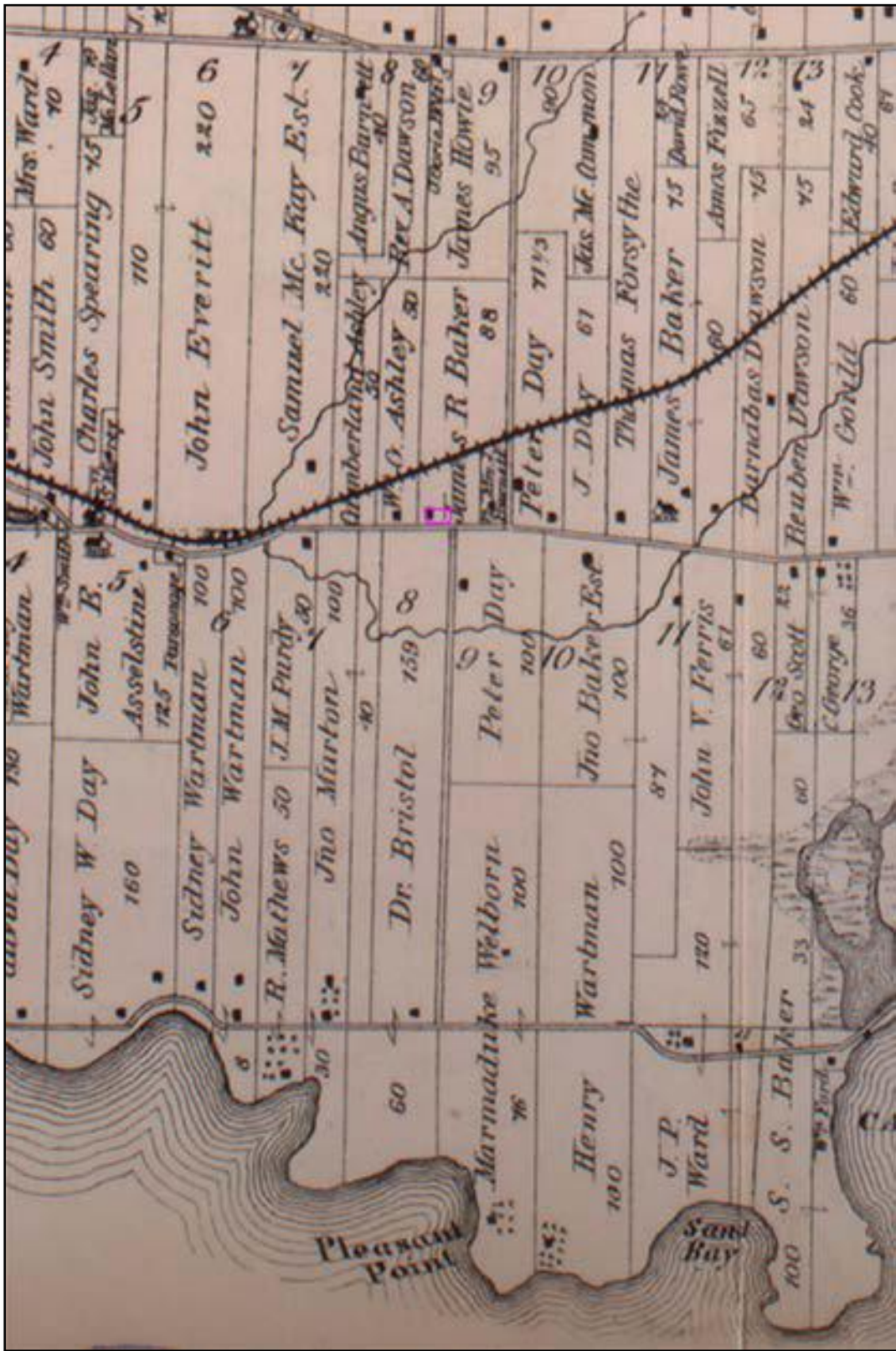


Map 6. A section from Walling's 1860 map of Frontenac County with the subject property outlined in purple.

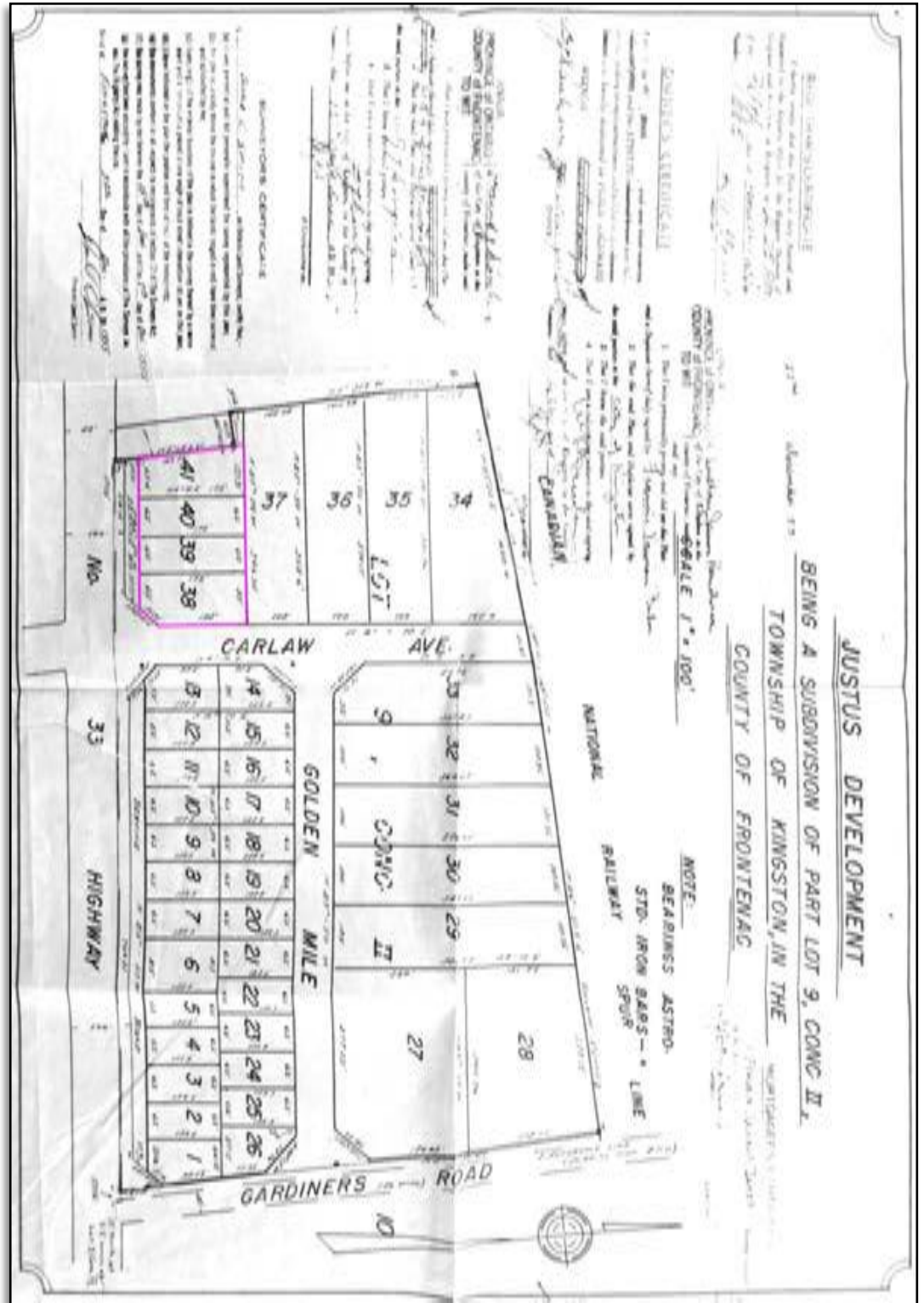




Map 7. A section from the 1868 Ordinance Survey Plan of Kingston with the subject property outlined in purple.



Map 8. A section from Meacham's 1878 map of Kingston Township with the subject property outlined in purple.



Map 9. Registered Plan No. 665 with the subject property outlined in purple (January 5, 1956).





Map 10. An aerial view of the subject property in 1953 (53-4411-32-208).



Map 11. An aerial view of the subject property in 1975 (A40031-53).

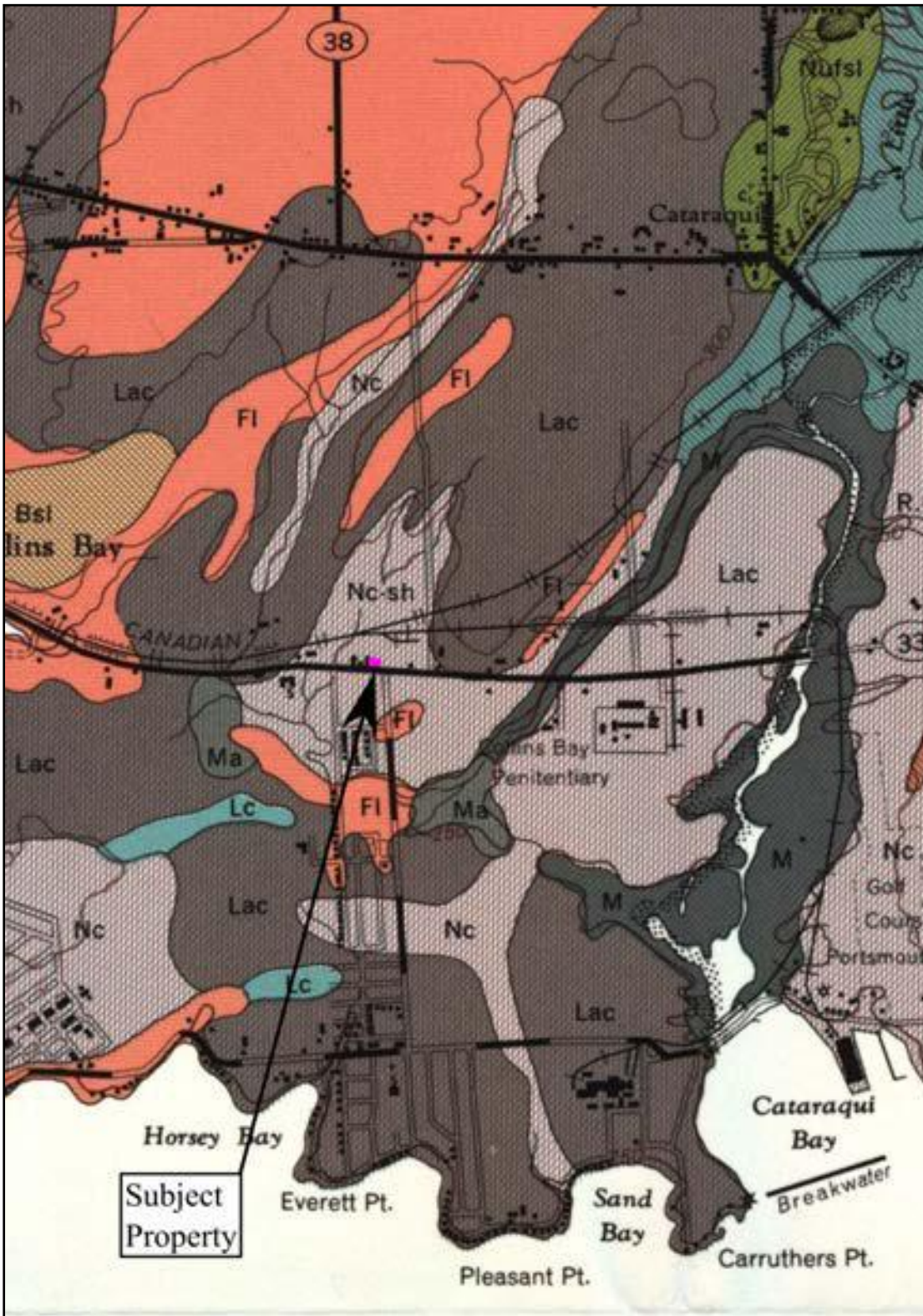


Map 12. An aerial view of the subject property in 2008 (City of Kingston Kmaps).



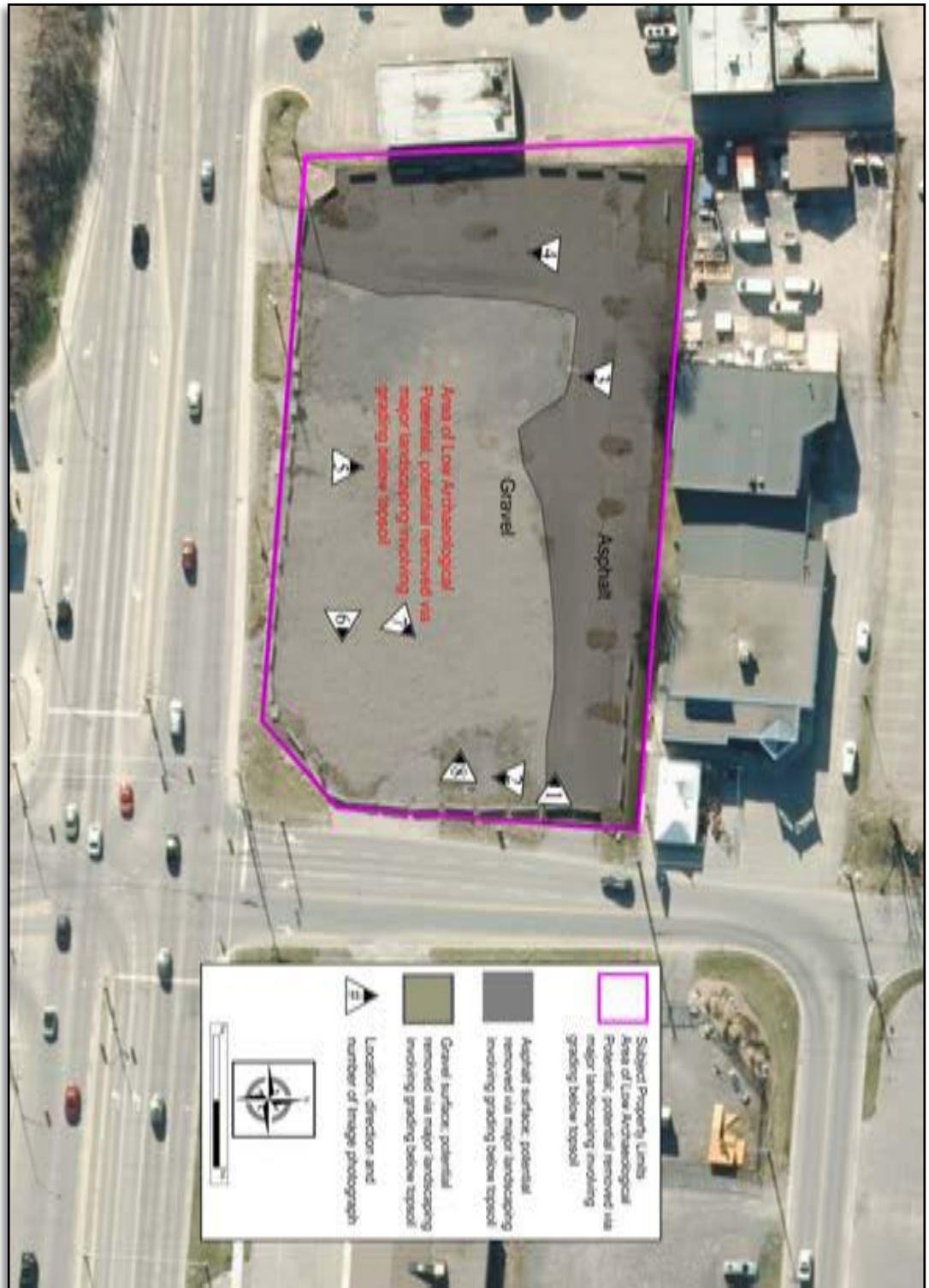


Map 13. An aerial view of the subject property in 2011 (City of Kingston Kmaps).



Map 14. A section of the soil survey plan of Frontenac County with the subject property outlined in purple (Gillespie et al., 1962).





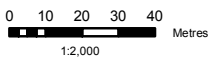
Map 15. A plan of the archaeological potential within the subject property.



Planning, Building & Licensing Services  
a department of  
Community Services

COMMITTEE OF ADJUSTMENT  
**OFFICIAL PLAN, Land Use**

Applicant: 2562181 ONTARIO LTD  
Owner: 2562181 ONTARIO LTD  
File Number: D13-020-2018  
Address: 1712 Bath Road



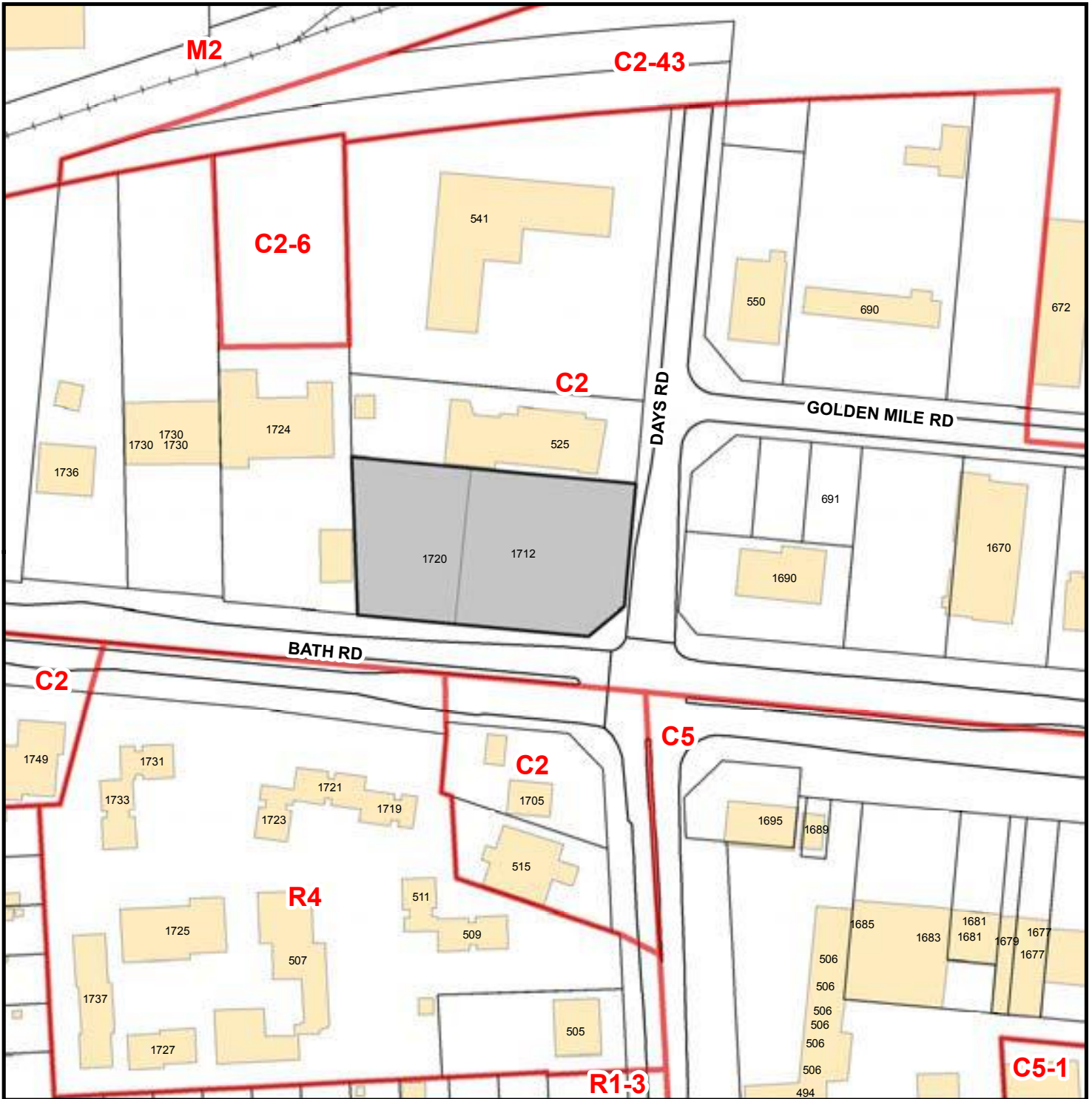
**LEGEND**

- Lands Subject to Minor Variance
- ARTERIAL COMMERCIAL
- DISTRICT COMMERCIAL
- ENVIRONMENTAL PROTECTION AREA
- GENERAL INDUSTRIAL
- RESIDENTIAL



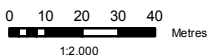
PREPARED BY: J.Partridge  
DATE: 5/28/2018

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COMMITTEE OF ADJUSTMENT  
**ZONING BY-LAW 76-26, Map 5**

Applicant: 2562181 ONTARIO LTD  
Owner: 2562181 ONTARIO LTD  
File Number: D13-020-2018  
Address: 1712 Bath Road



**LEGEND**

- Consolidated Zoning
- Lands Subject to Minor Variance
- Property Boundaries



PREPARED BY: J.Partridge  
DATE: 5/28/2018

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



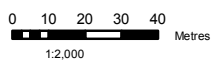
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Community  
Services

COMMITTEE OF ADJUSTMENT  
**NEIGHBOURHOOD CONTEXT (2015)**

Applicant: 2562181 ONTARIO LTD  
Owner: 2562181 ONTARIO LTD  
File Number: D13-020-2018  
Address: 1712 Bath Road

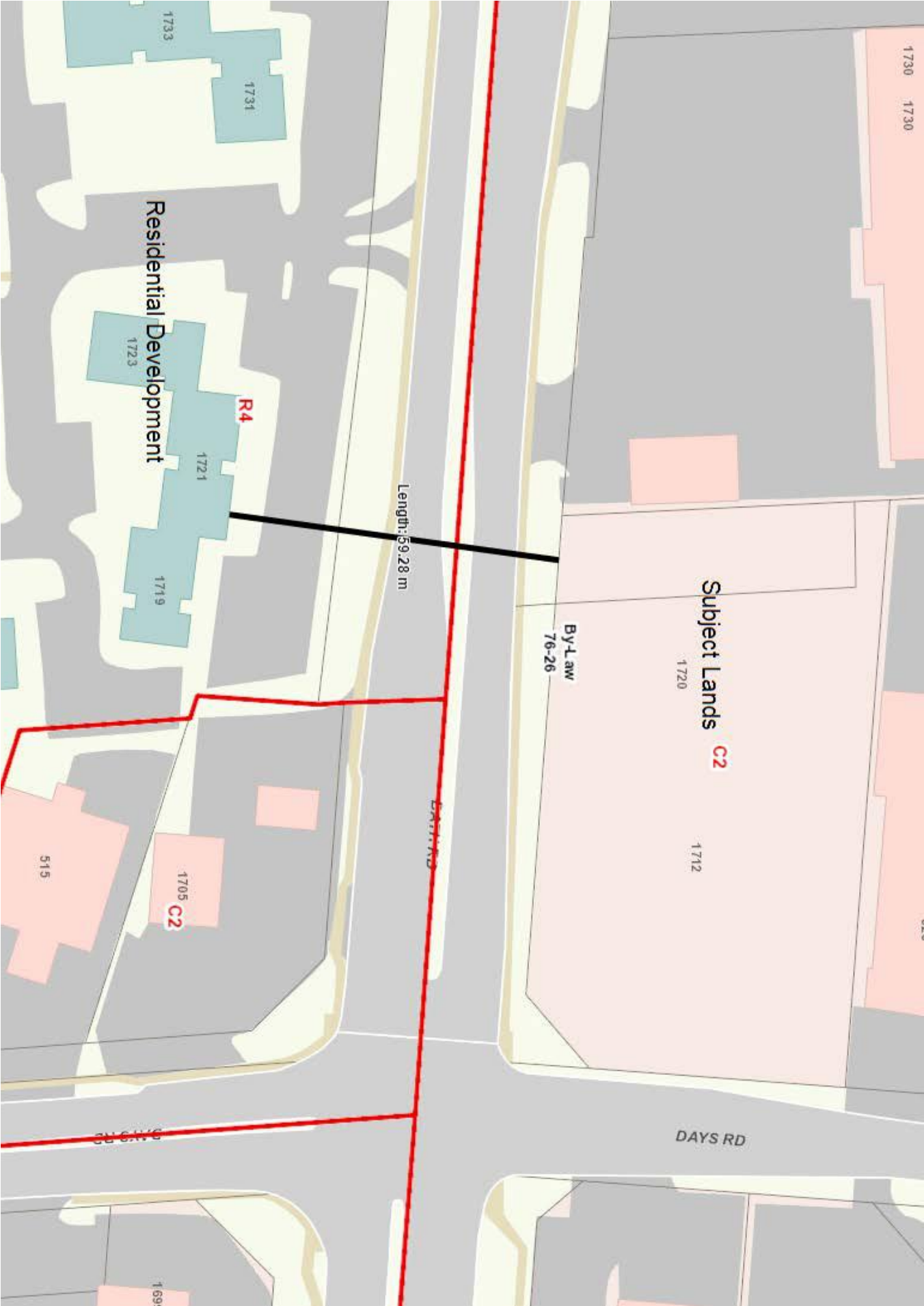
**LEGEND**

-  Lands Subject to Minor Variance
-  Property Boundaries

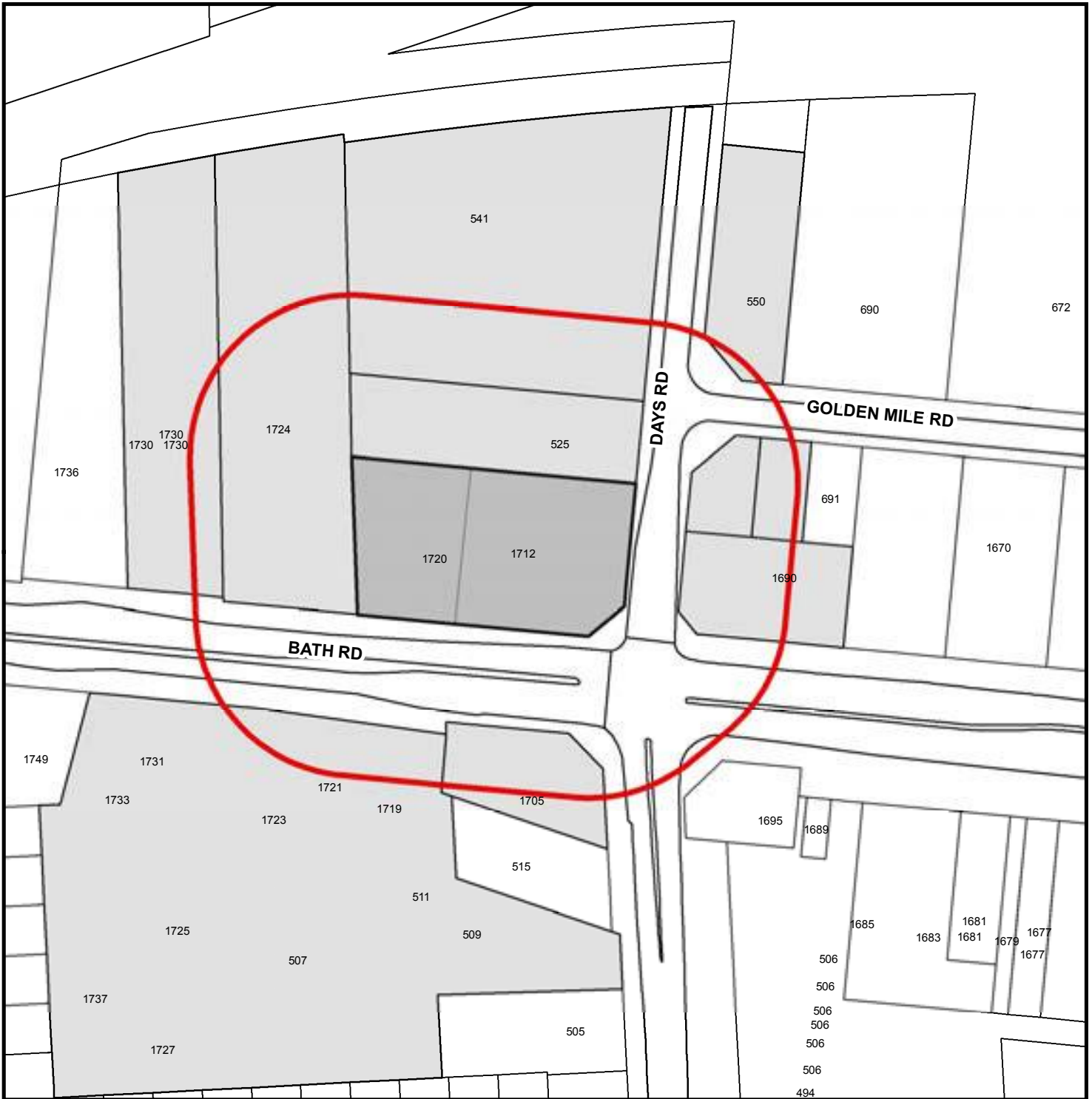


PREPARED BY: J.Partridge  
DATE: 5/28/2018

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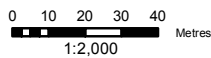




**Planning, Building & Licensing Services**  
 a department of  
**Community Services**

**COMMITTEE OF ADJUSTMENT  
 PUBLIC NOTICE NOTIFICATION MAP**

Applicant: 2562181 ONTARIO LTD  
 Owner: 2562181 ONTARIO LTD  
 File Number: D13-020-2018  
 Address: 1712 Bath Road



**LEGEND**

- Lands Subject to Minor Variance
- 60 m Public Notice Boundary
- Property Boundaries
- 12 Properties in Receipt of Notice



PREPARED BY: J.Partridge  
 DATE: 5/28/2018

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Rear Yard



**City of Kingston  
Report to Committee of Adjustment  
Report Number COA-18-034**

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**To:** Chair and Members of Committee of Adjustment  
**From:** James Bar, Senior Planner  
**Date of Meeting:** June 25, 2018  
**Application for:** Minor Variance  
**File Number:** D13-021-2018  
**Address:** 45 Traymoor Street  
**Owner:** James and Lori Everett  
**Applicant:** Barry Mackey

---

**Executive Summary:**

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variance for the property located at 45 Traymoor Street (Exhibit A). The property is currently developed with a one-storey single detached dwelling, detached garage, and in ground pool. The applicant is proposing to reduce the interior side yard and rear yard setback for a detached garage from the regulated 1.2 metres to the proposed 0.6 metres to facilitate the construction of a new detached garage. The existing garage is proposed to be demolished and replaced with the new garage.

The requested minor variance is consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 8499. The requested minor variance is desirable for the appropriate development or use of the land, building or structure and is minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval.

**Recommendation:**

It is recommended that minor variance application, File Number D13-021-2018, for the property located at 45 Traymoor Street to reduce the interior side yard and rear yard setback for an accessory structure, be approved.

June 25, 2018

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**Variance: Interior Side and Rear Yard Setback - Accessory Structure**

By-Law Number 8499: 5.17(b)(iii)(1)  
Requirement: 1.2 metres  
Proposed: 0.6 metres  
Variance Requested: 0.6 metres

**Approval of the foregoing variance shall be subject to the following conditions:****1. Limitation**

That the approved variance applies only to 45 Traymoor Street as shown on drawings received on 4/25/2018.

**2. No Adverse Impacts**

The owner/applicant shall demonstrate to the satisfaction of the City that there are no adverse impacts on neighbouring properties as a result of any modifications to on-site grading or drainage.

**3. Building Permit Application Requirements**

The owner/applicant shall provide to the Building Division a copy of the decision of the Committee of Adjustment, together with a copy of the approved drawings, when they make an application for a Building Permit.

The drawings submitted with the Building Permit application must, in the opinion of the City, conform to the general intent and description of the approved drawing(s), including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. It must be noted that additional planning approvals may be required should further zoning deficiencies be identified through the Building Permit application process.

**4. Standard Archaeological Condition**

In the event that deeply buried or previously undiscovered archaeological deposits are discovered in the course of development or site alteration, all work must immediately cease and the site must be secured. The Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132) and the City of Kingston's Planning Division (613-546-4291, extension 3180) must be immediately contacted.

In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Registrar of Cemeteries Regulation Section of the Ontario Ministry of Consumer Business Services (416-326-8404), the Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132), and the City of Kingston's Planning Division (613-546-4291, extension 3180) must be immediately contacted.

June 25, 2018

Page 3 of 11

**Authorizing Signatures:**



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**James Bar, Senior Planner**

**In Consultation with the following Management of the Community Services Group:**

Paige Agnew, Director, Planning, Building & Licensing Services

Lanie Hurdle, Commissioner, Community Services

June 25, 2018

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**Options/Discussion:**

On April 25, 2018, a minor variance application was submitted by Barry Mackey, on behalf of the owners, James and Lori Everett, with respect to the property located at 45 Traymoor Street (Exhibit A). The variance is requested to reduce the interior side yard and rear yard setback for a detached garage from the regulated 1.2 metres to the proposed 0.6 metres to facilitate the construction of a new detached garage. An existing garage is proposed to be demolished and replaced with the new garage. The existing garage is located 0.3 metres from the interior side yard and 0.6 metres from the rear yard. Exhibit B attached to this report shows the current (surveyed lines) and proposed (hand sketched lines) location of the garage.

There is an existing pool in the rear yard of the property. The pool equipment is currently located outside, adjacent to the garage. The pool equipment is proposed to be stored within the new garage.

In support of the application, the applicant has submitted the following:

- Survey Plot/Plan (Exhibit B)
- Pictures of the existing garage (Exhibit C)

All submission materials are available online through the Development and Services Hub (DASH) at the following link, [DASH](#), using "Look-up a Specific Address". If there are multiple addresses, search one address at a time, or submission materials may also be found by searching the file number.

**Site Characteristics**

The subject property is located at 45 Traymoor Street, on the east side of Traymoor Street between Union Street and Hill Street (Exhibit D). A one-storey single detached dwelling, garage, and in-ground pool exist on the subject lands. The pool equipment is currently located outside of the existing garage.

The subject property is designated Residential in the Official Plan (Exhibit E) and zoned One and Two-Family 'A' Zone in Zoning By-Law Number 8499 (Exhibit F). The property is adjacent to one and two-storey existing single detached dwellings to the north, east, south, and west.

**Application**

The review of an application for minor variance(s) is not a simple mathematical calculation, but rather a detailed assessment of whether the variance(s) requested, both separately and together, meet the four tests of a minor variance outlined in Subsection 45(1) of the *Planning Act*. The following provides this review:

**1) The general intent and purpose of the Official Plan are maintained**

The subject property is designated Residential in the City of Kingston Official Plan. The predominant use of land in the Residential designation is for various forms of housing

June 25, 2018

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(3.3.1), including low density residential uses such as single detached dwellings (3.3.A.2) and structures accessory to residential uses.

In considering whether the proposed variances are desirable, the Committee of Adjustment will give regard to the nine requirements included in Section 9.5.19 of the Official Plan. The following provides these nine requirements and an assessment of how the proposal is consistent with each.

- a. The proposed development meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of the Official Plan.

The proposed application meets the intent of Section 2 of the Official Plan and all other policies of the Official Plan. The garage is a permitted use accessory to a single-detached dwelling. A garage located in the rear yard of the property is consistent with the established built form of the area.

- b. The proposed development will be compatible with surrounding uses, buildings or structures and development standards associated with adjacent properties, and if necessary, incorporate means of alleviating adverse effects on abutting land uses as recommended in Section 2.7 of this Plan.

Development and/or land use change must demonstrate that the resultant form, function, and use of land are compatible with surrounding land uses (2.7.1). Land use compatibility matters and mitigation measures may be used to achieve development and land use compatibility.

There is an existing garage located on the subject lands located in the rear yard built 0.6 metres from the rear yard lot line and 0.3 metres from the interior side yard lot line. The new garage is proposed to have a slightly larger floor area and height than the existing garage, while still conforming to the maximum lot coverage (10%) and maximum height (4.6 metres) for an accessory structure.

The new garage, while not proposed to be built 1.2 metres from the interior lot line shared with the neighbour at 41 Traymoor Street, proposes to increase the interior side yard setback from the existing 0.3 metres to the proposed 0.6 metres while maintaining the rear yard setback at the existing 0.6 metres. The resultant built form is not anticipated to adversely impact the adjacent property at 41 Traymoor Street regarding shadowing, visual intrusion, or loss of privacy. Engineering has provided comments that roof drainage be directed away from neighbouring properties. The "No Adverse Impacts" condition addresses concerns raised from Engineering.

The rear yard neighbour at 172 Willingdon Avenue has their garage located in alignment with 45 Traymoor, resulting in a consistent and compatible location of accessory structures.

June 25, 2018

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- c. The ability of the site to function in an appropriate manner in terms of access, parking or any other matter and means of improving such function.

The new garage increases the interior side yard setback from 0.3 metres to 0.6 metres. The pool equipment is currently stored outside of the garage. The pool equipment is proposed to be relocated into the new larger garage.

- d. The conformity of the proposal to any applicable urban design policies endorsed by Council, particularly if the site includes or could impact a built heritage resource or is within a Heritage District.

The subject lands are not designated or listed under the *Ontario Heritage Act*, nor are they adjacent to a designated or listed property.

- e. If the site is designated under the *Ontario Heritage Act*, the application shall be reviewed by Heritage Kingston for approval. If the property is adjacent to a designated property under the *Ontario Heritage Act* or shown as a Heritage Area feature, or is affected by the protected views shown on Schedule 9 of this Plan, then a Heritage Impact Statement may be required to assist staff to determine if the resulting development is desirable.

The site is not a listed or designated built heritage resource, nor is it adjacent to a designated or listed built heritage resource. The lands are not affected by the protected views as shown on Schedule 9 of the Official Plan.

- f. The resulting development has adequate municipal water and sewage services within the Urban Boundary, or is capable of providing individual on-site water and sewage services outside the Urban Boundary.

The site is within an area where both municipal water and wastewater services are available. Utilities Kingston has no concerns with the variance application.

- g. Whether the application and the cumulative impact of the proposed variances would be more appropriately addressed by a zoning amendment to the applicable zoning by-law.

The impact of the proposal and the requested variances are minor, and are therefore not subject to a zoning by-law amendment application process.

- h. The Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application for a Minor Variance including any reasonable requirements, recommendations of City departments, or the submission of studies as listed in Section 9.12 of this Plan that may be required to properly evaluate the application.

Multiple conditions of approval are recommended through this report.

- i. The degree to which such approval may set an undesirable precedent for the immediate area.

June 25, 2018

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It is not anticipated that an undesirable precedent will be set through the approval of the requested variances.

The Residential designation aims to minimize impacts on abutting properties and those within the surrounding neighbourhood, by ensuring land use compatibility, providing appropriate separation distances, ensuring the functionality of the site, and integrating design considerations as per the Urban Design policies of Section 8 of the Official Plan.

The proposal meets the intent of the Official Plan, as the proposed new detached garage will not result in any negative impacts to adjacent properties or to the neighbourhood.

## 2) The general intent and purpose of the zoning by-law are maintained

The subject property is zoned the One and Two-Family 'A' Zone in the City of Kingston Zoning By-Law Number 8499, entitled "Restricted Area (Zoning) By-Law of the Corporation of the City of Kingston", as amended. The One and Two-Family 'A' Zone permits a single-detached dwelling and detached garage.

The proposal requires a variance to Section 5.17(b)(iii)(1) to reduce the interior side yard and rear yard setback for a detached garage from the regulated 1.2 metres to the proposed 0.6 metres to facilitate the construction of a new detached garage. An existing garage is proposed to be demolished and replaced with the new garage.

### **Variance Number: Interior Side and Rear Side Yard Setback – Accessory Structure**

By-Law Number: 8499	5.17(b)(iii)(1)
Requirement:	1.2 metres
Proposed:	0.6 metres
Variance Requested:	0.6 metres

The intent of the side and rear yard accessory structure setbacks is to provide adequate separation between detached structures and adjacent properties to mitigate any potential offsite impacts. The existing garage is currently located 0.3 metres from the interior side yard and 0.6 metres from the rear yard. The proposed variance maintains the rear yard setback at 0.6 metres while increasing the interior side yard setback.

The proposed new detached garage complies with the maximum height for accessory structures of 4.6 metres (5.17.b.i. of Zoning By-Law Number 8499).

The subject lands are approximately 341.88 square metres in size. The existing single storey single-detached dwelling measures 102.63 square metres in floor area (30% lot coverage) and the existing garage has a floor area of 19.79 square metres (5.7% lot coverage). This was measured and demonstrated on drawings submitted by the applicant's agent. The total lot existing lot coverage is 36%. In the A Zone, the primary dwelling is permitted to cover up to 33 1/3% of the lot, while accessory buildings cannot exceed 10% lot coverage.



June 25, 2018

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The new garage is proposed to be 33.88 square metres in size (9.9% lot coverage), which is 14.09 square metres larger than the existing garage. With the new larger garage, the total lot coverage is 40%, which is less than the combined 43 1/3% lot coverage permitted by the A Zone and Accessory Building provisions for the A Zone. There is approximately 35% landscaped open space inclusive of the garage expansion.

### 3) The variance is minor in nature

The variance is considered minor as the proposed reduction in the interior side yard and rear yard setback for an accessory structure does not adversely impact the functionality of the subject property or abutting lots. The pool equipment is proposed to be moved into the new garage, reducing the impact of the running noise of the pool equipment on neighbouring properties. The reduction does not represent an over-development of the site.

### 4) The variance is desirable for the appropriate development or use of the land, building or structure

The requested variance is considered to be an appropriate and desirable development and use of the land. The Residential designation and the One and Two-Family 'A' Zone permits the development of a single-detached dwelling and related accessory structures. In accordance with the accessory building provisions for the A Zone, garages are to be located in the rear yard. The relocation of the pool equipment to inside the new larger garage increases compatibility with adjacent properties through locating an ambient noise source within the structure, dampening the noise of the equipment when running.

### Provincial Policy Statement

In addition to the four tests of a minor variance detailed above, Subsection 3(5) of the *Planning Act* requires that a decision in respect of the exercise of any authority that affects a planning matter shall be consistent with the Provincial Policy Statement (the PPS). The PPS provides policy direction on matters of provincial interest related to land use planning and development which are complemented by local policies addressing local interests. The application being considered is site specific to accommodate a specific proposal and does not involve any major policy considerations and as such, the proposal conforms to and is consistent with the PPS.

### Technical Review: Circulated Departments and Agencies

- |   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> Building Division | <input checked="" type="checkbox"/> Engineering Department | <input checked="" type="checkbox"/> Heritage (Planning Division) |
| <input type="checkbox"/> Finance                      | <input checked="" type="checkbox"/> Utilities Kingston     | <input type="checkbox"/> Real Estate & Environmental Initiatives |
| <input checked="" type="checkbox"/> Fire & Rescue     | <input checked="" type="checkbox"/> Kingston Hydro         | <input checked="" type="checkbox"/> City's Environment Division  |
| <input type="checkbox"/> Solid Waste                  | <input checked="" type="checkbox"/> Parks Development      | <input type="checkbox"/> Canadian National Railways              |
| <input type="checkbox"/> Housing                      | <input type="checkbox"/> District Councillor               | <input type="checkbox"/> Ministry of Transportation              |
| <input type="checkbox"/> KEDCO                        | <input type="checkbox"/> Municipal Drainage                | <input type="checkbox"/> Parks of the St. Lawrence               |
| <input checked="" type="checkbox"/> CRCA              | <input type="checkbox"/> KFL&A Health Unit                 | <input type="checkbox"/> Trans Northern Pipelines                |
| <input type="checkbox"/> Parks Canada                 | <input type="checkbox"/> Eastern Ontario Power             | <input type="checkbox"/> CFB Kingston                            |
| <input type="checkbox"/> Hydro One                    | <input type="checkbox"/> Enbridge Pipelines                | <input type="checkbox"/> TransCanada Pipelines                   |

June 25, 2018

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- Building Division       Engineering Department       Heritage (Planning Division)  
 Kingston Airport

### Technical Comments

This application was circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude this application from moving forward. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

- **Building** - Building Permits will be required for the demolition of the existing detached garage and construction of the new detached garage.
- **Kingston Hydro** - Kingston Hydro has no concerns with the proposed minor variance.
- **Utilities Kingston** - Utilities Kingston has no issues or concerns with this application.
- **Engineering** - Engineering has reviewed the proposal and provides the following: perimeter eaves not to be directed towards neighbors. Grading not to affect neighboring properties.

### Public Comments

At the time this report was finalized, no public comments had been received. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

### Previous or Concurrent Applications

There are no concurrent or relevant historic planning applications on the subject property.

### Conclusion

The requested variance(s) maintain(s) the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 8499. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variance(s) are minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and the application is being recommended for approval, subject to the proposed conditions.

Approval of this application will reduce the interior side yard and rear yard setback for a detached garage from the regulated 1.2 metres to the proposed 0.6 metres to facilitate the construction of a new detached garage. An existing garage is proposed to be demolished and replaced with the new garage.

### Existing Policy/By-Law:

The proposed application 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:

June 25, 2018

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**Provincial**

Provincial Policy Statement, 2014

**Municipal**City of Kingston Official Plan  
Zoning By-Law Number 8499**Notice Provisions:**

A Committee of Adjustment Meeting is going to be held respecting this application on June 25, 2018. Pursuant to the requirements of the *Planning Act*, a notice of Statutory Public Meeting was provided by advertisement in the form of signs posted on the subject site 10 days in advance of the meeting. In addition, notices were sent by mail to a total number of 50 property owners (according to the latest Assessment Roll) within 60 metres of the subject property (Exhibit G) and a courtesy notice was placed in The Kingston Whig-Standard.

Once a decision has been rendered by the Committee of Adjustment, a Notice of Decision will be circulated in accordance with the provisions of the *Planning Act*.

**Accessibility Considerations:**

Not applicable

**Financial Considerations:**

Not applicable

**Contacts:**

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

Laura MacCormick, Deputy Director, Planning Division 613-546-4291 extension 3223

Marnie Venditti, Manager, Development Approvals 613-546-4291 extension 3256

James Bar, Senior Planner 613-546-4291 extension 3213

**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 in this report.

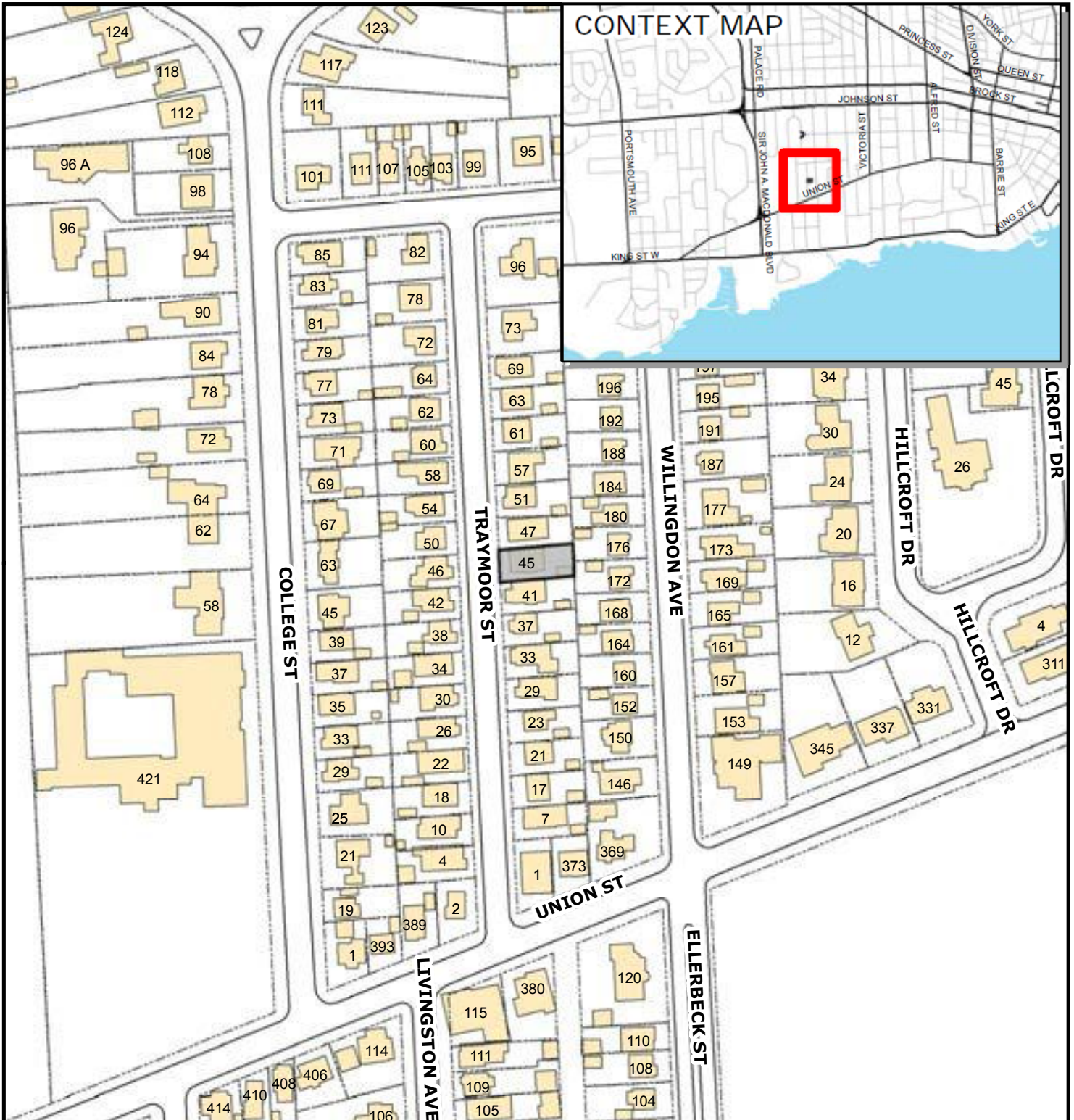
**Exhibits Attached:**

Exhibit A Key Map

**June 25, 2018**

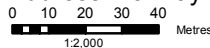
**Page 11 of 11**

- Exhibit B Survey
- Exhibit C Pictures of Existing Garage
- Exhibit D Neighbourhood Context Map 2015
- Exhibit E Official Plan Designation
- Exhibit F Existing Zoning By-Law Number 8499, Map 26
- Exhibit G Public Notice Notification Map




COMMITTEE OF ADJUSTMENT  
**KEY MAP**

Applicant: Barry Mackey  
 Owner: Lori and James Everett  
 File Number: D13-021-2018  
 Address: 45 Traymoor Street



**LEGEND**

 Lands Subject to Minor Variance



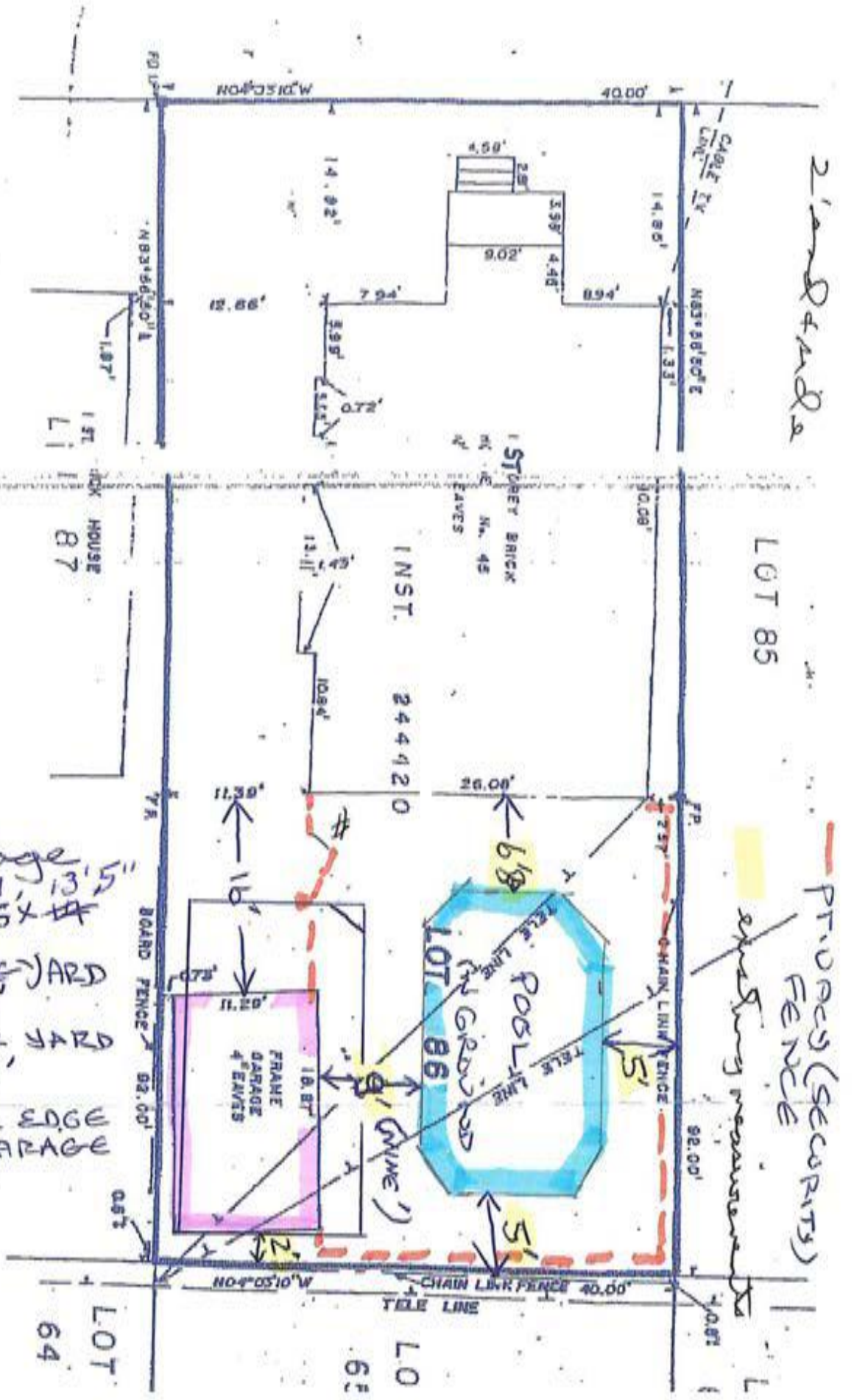
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& Licensing Services  
a department of  
Community  
Services

PREPARED BY: J. Partridge  
DATE: 5/28/2018

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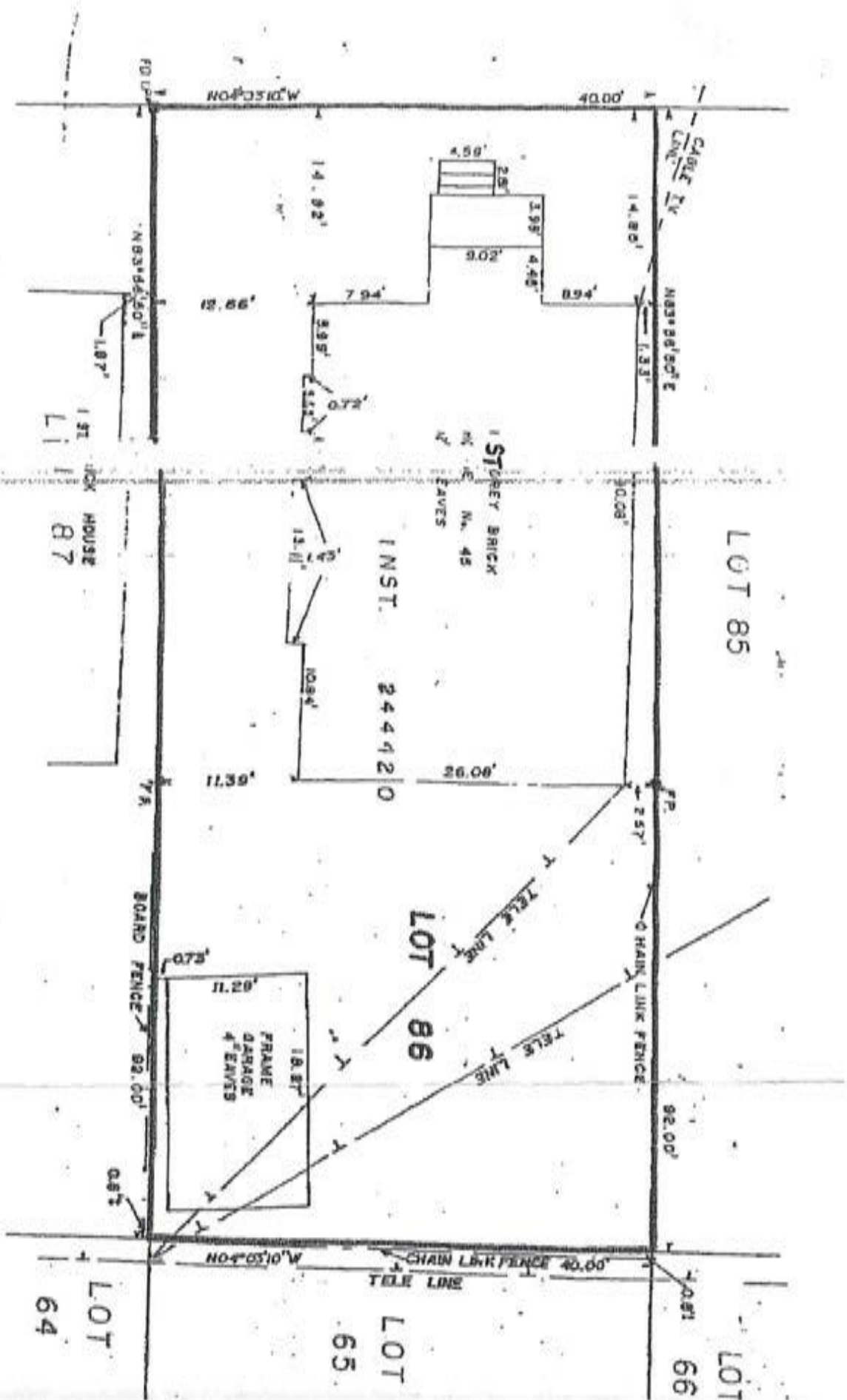


**LEGEND**  
 DEMONSTRATES SURVEY MEASUREMENT FOUND  
 DEMONSTRATES SURVEY MEASUREMENT FOUND  
 STATIONARY IRON BAIL



**NOTES CERTIFICATE**  
 THAT SURVEY REPRESENTED BY THIS PLAN WAS  
 DONE ON THE 15th DAY OF JULY 1986  
 Bill R.R.

**HUMPHRIES & BURGHAM LTD.**  
 ONTARIO LAND SURVEYORS  
 511 FURDT MILL AVENUE, KINISTON, ONTARIO  
 K7M 3N1 (613) 548-6949



**LEGEND**

1 DENOTES SURVEY MONUMENT FOUND  
 2 DENOTES SURVEY MONUMENT NOT FOUND  
 3 DENOTES SURVEY MONUMENT NOT FOUND  
 4 DENOTES SURVEY MONUMENT NOT FOUND  
 5 DENOTES SURVEY MONUMENT NOT FOUND

**NOTES CERTIFICATE**

1. THAT  
 2. SURVEY REPRESENTED BY THIS PLAN WAS  
 3. DONE ON THE 18<sup>TH</sup> DAY OF JULY 1986

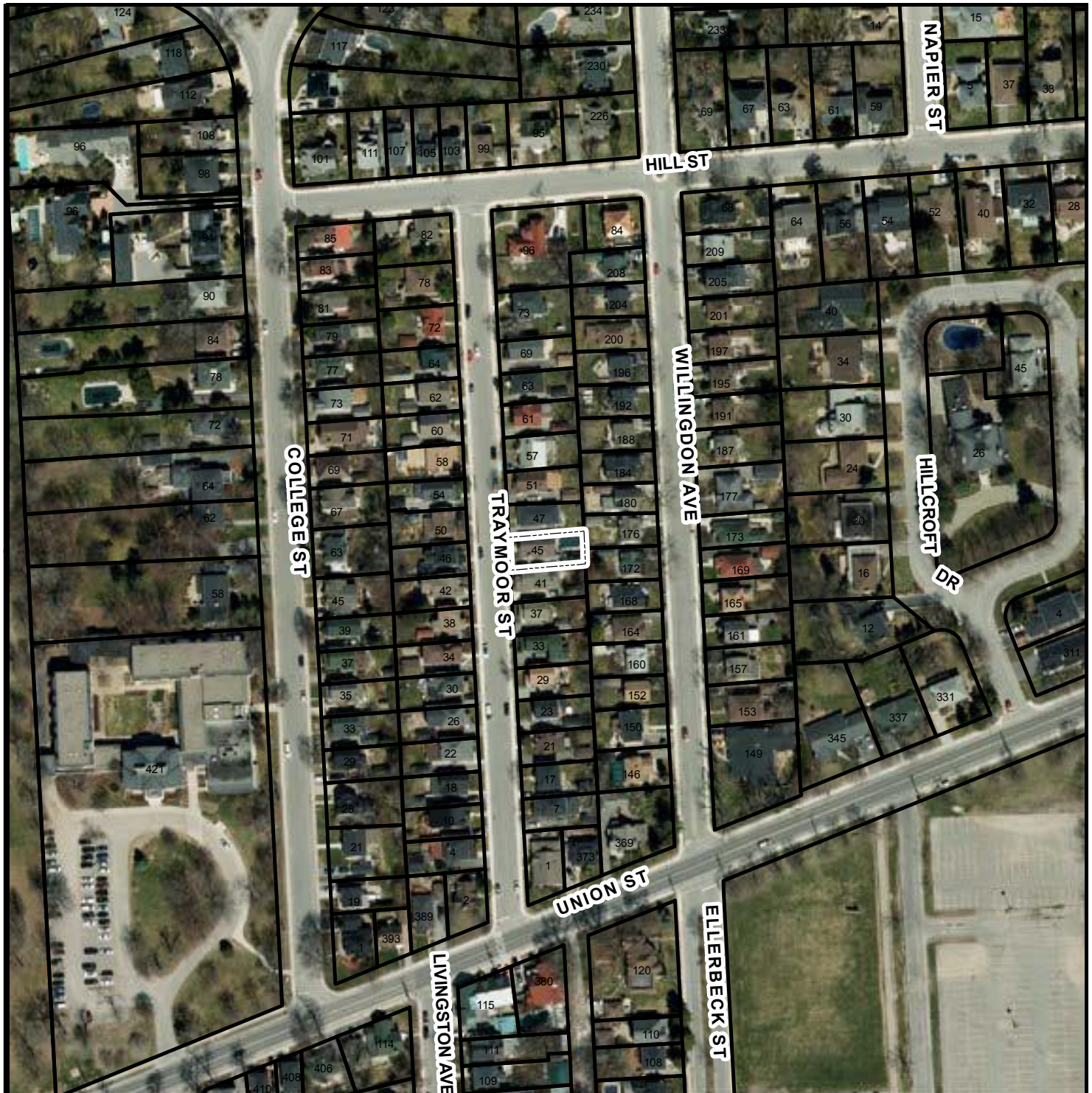
*Alan R. Brown*

**HUMPHRIES & BURGHAM LTD.**  
 ONTARIO LAND SURVEYORS  
 511 PURDY MILL ROAD, KINISHTON, ONTARIO  
 N7M 5M1  
 (613) 418-4549











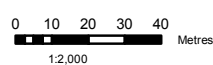
Planning, Building & Licensing Services  
a department of Community Services

COMMITTEE OF ADJUSTMENT  
**NEIGHBOURHOOD CONTEXT (2015)**

Applicant: Barry Mackey  
Owner: Lori and James Everett  
File Number: D13-021-2018  
Address: 45 Traymoor Street

**LEGEND**

-  Lands Subject to Minor Variance
-  Property Boundaries



PREPARED BY: J.Partridge  
DATE: 5/28/2018

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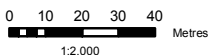




Planning, Building & Licensing Services  
a department of  
Community Services

COMMITTEE OF ADJUSTMENT  
**OFFICIAL PLAN, Land Use**

Applicant: Barry Mackey  
Owner: Lori and James Everett  
File Number: D13-021-2018  
Address: 45 Traymoor Street



**LEGEND**

- Lands Subject to Minor Variance
- INSTITUTIONAL
- RESIDENTIAL



PREPARED BY: J.Partridge  
DATE: 5/28/2018

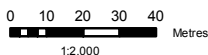
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COMMITTEE OF ADJUSTMENT  
**ZONING BY-LAW 8499, Map 26**

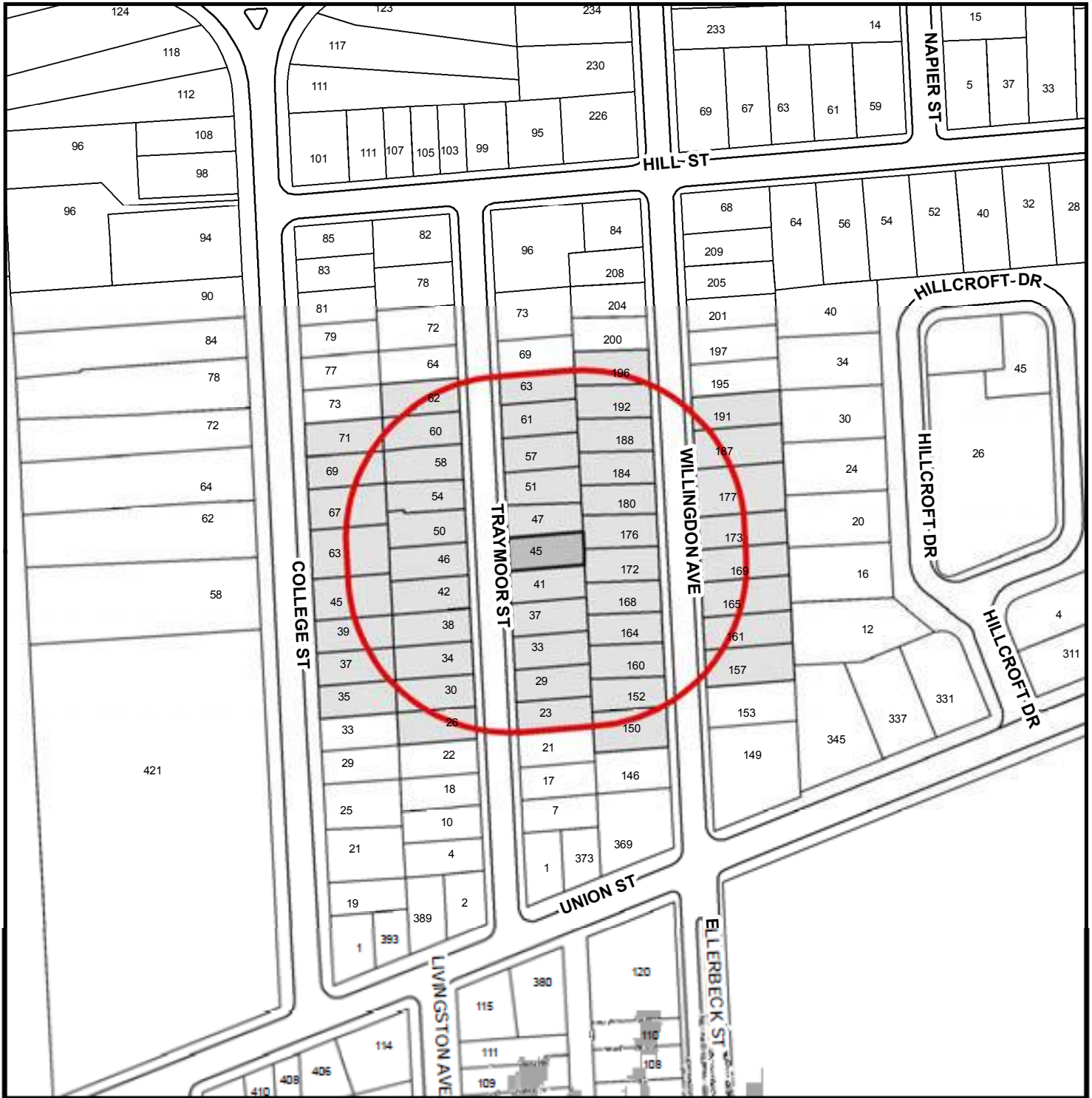
Applicant: Barry Mackey  
 Owner: Lori and James Everett  
 File Number: D13-021-2018  
 Address: 45 Traymoor Street



**LEGEND**

- Consolidated Zoning
- Lands Subject to Minor Variance
- Property Boundaries







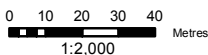


COMMITTEE OF ADJUSTMENT  
**PUBLIC NOTICE NOTIFICATION MAP**

Applicant: Barry Mackey  
 Owner: Lori and James Everett  
 File Number: D13-021-2018  
 Address: 45 Traymoor Street

**LEGEND**

-  Lands Subject to Minor Variance
-  60 m Public Notice Boundary
-  Property Boundaries
-  50 Properties in Receipt of Notice



Planning, Building  
 & Licensing Services  
 a department of  
 Community  
 Services

PREPARED BY: J.Partridge  
 DATE: 5/28/2018

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**City of Kingston  
Report to Committee of Adjustment  
Report Number COA-18-037**

---

**To:** Chair and Members of Committee of Adjustment  
**From:** James Bar, Senior Planner  
**Date of Meeting:** June 25, 2018  
**Application for:** Minor Variance  
**File Number:** D13-024-2018  
**Address:** 616 Gardiners Road - Unit 19  
**Owner:** RioTrin Properties Kingston  
**Applicant:** RioCan

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**Executive Summary:**

This report provides a recommendation to the Committee of Adjustment regarding an application for a minor variance for the property located at 616 Gardiners Road - Unit 19 (Exhibit A Key Map). The applicant is proposing to increase the maximum floor area that can be devoted to the sale, display, and storage of food or food products from 278.8 square metres to 929.1 square metres. The proposed variance is being requested for a new tenant (Giant Tiger) who is looking to lease Unit 19, a 2,162 square metre unit in an existing commercial building, and have 929.1 square metres of floor area devoted to food sales.

The requested minor variance is consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The requested minor variance is desirable for the appropriate development or use of the land, building or structure and is minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval.

**Recommendation:**

It is recommended that minor variance application, File Number D13-024-2018, for the property located at 616 Gardiners Road - Unit 19, to increase the maximum floor area that can be devoted to the sale, display, and storage of food or food products from 278.8 square metres to 929.1 square metres, be approved.

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**Variance: Maximum Floor Area – food or food products in a portion of a retail store**

By-Law Number 76-26: 22.3.i.ii.  
Requirement: Maximum 278.8 square metres (3,000 square feet)  
Proposed: Maximum 929.1 square metres (10,000 square feet)  
Variance Requested: 650.3 square metres (7,000 square feet)

**Approval of the foregoing variance shall be subject to the following conditions:****1. Limitation**

That the approved variance applies only to Unit 19 at 616 Gardiners Road as shown on drawings received on 5/7/2018.

**2. No Adverse Impacts**

The owner/applicant shall demonstrate to the satisfaction of the City that there are no adverse impacts on neighbouring properties as a result of any modifications to on-site grading or drainage.

**3. Building Permit Application Requirements**

The owner/applicant shall provide to the Building Division a copy of the decision of the Committee of Adjustment, together with a copy of the approved drawings, when they make an application for a Building Permit.

The drawings submitted with the Building Permit application must, in the opinion of the City, conform to the general intent and description of the approved drawing(s), including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. It must be noted that additional planning approvals may be required should further zoning deficiencies be identified through the Building Permit application process.

**4. Standard Archaeological Condition**

In the event that deeply buried or previously undiscovered archaeological deposits are discovered in the course of development or site alteration, all work must immediately cease and the site must be secured. The Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132) and the City of Kingston's Planning Division (613-546-4291, extension 3180) must be immediately contacted.

In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Registrar of Cemeteries Regulation Section of the Ontario Ministry of Consumer Business Services (416-326-8404), the Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132), and the City of Kingston's Planning Division (613-546-4291, extension 3180) must be immediately contacted.

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**Authorizing Signatures:**



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**James Bar, Senior Planner**

**In Consultation with the following Management of the Community Services Group:**

Paige Agnew, Director, Planning, Building & Licensing Services

Lanie Hurdle, Commissioner, Community Services



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**Options/Discussion:**

On May 7, 2018, a minor variance application was submitted by RioCan, on behalf of the owner, RioTrin Properties Kingston, with respect to the property located at 616 Gardiners Road. The variance is requested to increase the maximum floor area that can be devoted to the sale, display, and storage of food or food products from 278.8 square metres to 929.1 square metres. The proposed variance is being requested for a new tenant (Giant Tiger) who is looking to lease Unit 19, a 2,162 square metre unit, and have 929.1 square metres of that unit devoted to food sales. The applicant's agent has submitted a Planning Justification Letter in support of the application (Exhibit B).

In support of the application, the applicant has submitted the following:

- Planning Justification Letter (Exhibit B);
- Site Plan (Exhibit C); and
- Survey Plot/Plan.

All submission materials are available online through the Development and Services Hub (DASH) at the following link, [DASH](#), using "Look-up a Specific Address". If there are multiple addresses, search one address at a time, or submission materials may also be found by searching the file number.

**Site Characteristics**

The subject property is located at 616 Gardiners Road, on the east side of Gardiners Road between the hydro corridor and Taylor Kidd Boulevard (Exhibit D). The subject lands are the central parcel of three properties that comprise the RioCan Centre, a large regional commercial plaza. The proposed variance is for one unit (Unit #19) which is currently occupied by a Home Sense store.

The subject property is designated Regional Commercial in the Official Plan (Exhibit E) and zoned the Special General Shopping Centre Commercial Zone (C5-9) in Zoning By-Law Number 76-26 (Exhibit F). The property abuts a Residential designation to the east (new subdivision), an Arterial Commercial designation to the south and west (existing commercial uses), and a Regional Commercial designation to the north (additional RioCan Centre lands).

The subject lands gain access to Gardiners Road through four entrances including the signalized intersection of Gardiners Road and Progress Avenue/Entell Drive. Gardiners Road is classified as an Arterial Road on Schedule 4 – Transportation, of the Kingston Official Plan. Arterial Roads are developed to handle high volumes of intra-urban traffic at medium speeds.

**Application**

The review of an application for minor variance(s) is not a simple mathematical calculation, but rather a detailed assessment of whether the variance(s) requested, both separately and together, meet the four tests of a minor variance outlined in Subsection 45(1) of the *Planning Act*. The following provides this review:

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**1) The general intent and purpose of the Official Plan are maintained**

Kingston is a regional commercial centre providing a wide range of goods and services, offices, and attractions within the Urban Boundary (3.4). The subject property is designated Regional Commercial in the City of Kingston Official Plan. The intended purpose of the designation is to provide for commercial activity with a specialized format and a regional market draw in locations along collector or Arterial Roads (3.4.B). Permitted non-residential uses included a broad range of retail uses in a specialized format such as large floor plates for individual uses (3.4.B.1). Limited smaller uses that provide service to businesses and shoppers including restaurants and financial uses are also permitted (3.4.B.1).

In considering whether the proposed variance is desirable, the Committee of Adjustment will give regard to the nine requirements included in Section 9.5.19 of the Official Plan. The following provides these nine requirements and an assessment of how the proposal is consistent with each.

- a. The proposed development meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of the Official Plan.

The proposed application meets the intent of Section 2 of the Official Plan and the strategic direction to focus growth within the Urban Boundary. The increase in the maximum floor area permitted for the retail sale of food and food products introduces new commercial uses within the existing commercial development and within proximity to new residential development (adjacent future residential subdivision). The proposed variance allows for the continued use of an existing commercial development.

- b. The proposed development will be compatible with surrounding uses, buildings or structures and development standards associated with adjacent properties, and if necessary, incorporate means of alleviating adverse effects on abutting land uses as recommended in Section 2.7 of this Plan.

The requested variance is to permit an increased floor area for the display and sale of food and food products, which only relates to the internal functionality of one existing commercial unit. The variance will not result in any changes to the building footprint. The commercial use proposed by the new tenant (Giant Tiger) is predominantly commercial retail which is consistent and compatible with the surrounding uses.

- c. The ability of the site to function in an appropriate manner in terms of access, parking or any other matter and means of improving such function.

The unit shares 3089 parking spaces with the other commercial units within the RioCan Centre and complies with the parking requirements of the zoning by-law. The site has existing controlled accesses onto Gardiners Road and Taylor Kidd Boulevard. A loading bay exists at the rear of the building. No changes are proposed to the site or to the building as a result of this application.

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- d. The conformity of the proposal to any applicable urban design policies endorsed by Council, particularly if the site includes or could impact a built heritage resource or is within a Heritage District.

The subject lands are not designated or listed under the *Ontario Heritage Act*, nor are they adjacent to a designated or listed property. The site has an existing Site Plan Control agreement for the development of the lands. The proposed variance would not result in changes to the height, massing, or footprint of the existing unit other than minor aesthetic changes and signage.

- e. If the site is designated under the *Ontario Heritage Act*, the application shall be reviewed by Heritage Kingston for approval. If the property is adjacent to a designated property under the *Ontario Heritage Act* or shown as a Heritage Area feature, or is affected by the protected views shown on Schedule 9 of this Plan, then a Heritage Impact Statement may be required to assist staff to determine if the resulting development is desirable.

The site is not a listed or designated built heritage resource, nor is it adjacent to a designated or listed built heritage resource. The lands are not affected by the protected views as shown on Schedule 9 of the Official Plan.

- f. The resulting development has adequate municipal water and sewage services within the Urban Boundary, or is capable of providing individual on-site water and sewage services outside the Urban Boundary.

The site is within an area where both municipal water and wastewater services are available. Utilities Kingston has no concerns with the variance application.

- g. Whether the application and the cumulative impact of the proposed variances would be more appropriately addressed by a zoning amendment to the applicable zoning by-law.

The impact of the proposal and the requested variance is minor and tied specifically to one unit of the development based on the unique needs of an incoming retailer. The retailer proposing to enter the development supplies everything from clothing to kitchen supplies, home décor, camping accessories, outdoor recreation, tools, and hardware, which are general items that are not required to be purchased on a frequent basis. This type of retail is consistent with the intent of the Regional Commercial designation. The proposed food sales are proposed to complement the commercial retail and provide convenience for when users visit the store. The proposed total floor area maximum devoted to food sales within the unit is less than half of the total floor area, and does not undermine the regional commercial retail draw of the RioCan Centre (demonstrated in Exhibit C).

A second amendment of such nature or consideration for larger supermarket would be more appropriately addressed through a review of the Special General Shopping Centre Commercial Zone (C5-9) and conformity to the Regional Commercial designation.

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- h. The Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application for a Minor Variance including any reasonable requirements, recommendations of City departments, or the submission of studies as listed in Section 9.12 of this Plan that may be required to properly evaluate the application.

Multiple conditions of approval are recommended through this report.

- i. The degree to which such approval may set an undesirable precedent for the immediate area.

It is not anticipated that an undesirable precedent will be set through the approval of the requested variance. Future applications to increase the floor area devoted to the display and sale of food and food products will be evaluated through a more fulsome review of the Special General Shopping Centre Commercial Zone (C5-9). However, the Regional Commercial designation may not be appropriate for zoning that would permit grocery store uses in the District Commercial designation specifies food shopping as a permitted use.

The Regional Commercial designation aims to minimize impacts on abutting properties and those within the surrounding neighbourhood by ensuring land use compatibility, providing appropriate separation distances, ensuring the functionality of the site, and integrating design considerations as per the Urban Design policies of Section 8 of the Official Plan.

The proposal meets the intent of the Official Plan, as the proposed increase the maximum floor area that can be devoted to the sale, display, and storage of food or food products from 278.8 square metres to 929.1 square metres will not result in any negative impacts to adjacent properties or to the neighbourhood. The commercial retail uses of the incoming tenant (clothing to kitchen supplies, home décor, camping accessories, outdoor recreation, tools, and hardware, etc.) provide a local and regional draw for commercial retail items which is consistent with the Regional Commercial designation. The increase in floor area does not undermine the District Commercial destination as the variance does not permit the creation of a store devoted solely to the sale of food and food products.

## 2) The general intent and purpose of the zoning by-law are maintained

The subject property is zoned Special General Shopping Centre Commercial Zone (C5-9) in the City of Kingston Zoning By-Law Number 76-26, entitled "Township of Kingston Restricted Area By-Law", as amended. The Special General Shopping Centre Commercial Zone (C5-9) zone permits uses such as a bank, beverage room, home improvement store, restaurant, and a retail store. For a complete list of permitted uses, please review the Special General Shopping Centre Commercial Zone (C5-9).

The proposal requires a variance to Section 22.3.i.ii.a. to increase the maximum floor area that can be devoted to the sale, display, and storage of food or food products from 278.8

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square metres to 929.1 square metres to facilitate the commercial needs of an incoming tenant (Giant Tiger).

**Variance Number 1: Maximum Floor Area – food or food products in a portion of a retail store**

By-Law Number:	76-26	22.3.i.ii.
Requirement:		Maximum 278.8 square metres (3,000 square feet)
Proposed:		Maximum 929.1 square metres (10,000 square feet)
Variance Requested:		650.3 square metres (7,000 square feet)

The intent of the maximum floor area devoted to the sale of food or food products in a retail store is to maintain the majority function and use of the plaza as commercial retail. A review of previous applications for the site has found that there have been no previous applications to vary this provision.

The proposed variance would still result in the majority of the commercial unit to be used for commercial retail (1,233.68 square metres of the available 2,162.78 square metres). Furthermore, the variance would only apply to Unit 19 and would not have any broader application across the commercial retail plaza.

**3) The variance is minor in nature**

The variance is considered minor as the proposed increase in the floor area devoted to food or food products in a portion of a retail store maintains the retail use as the predominant use. There are no anticipated off-site impacts associated with the increase in floor area for food uses and the variance only applies to the one specific unit (Unit 19) that it is intended for.

**4) The variance is desirable for the appropriate development or use of the land, building or structure**

The requested variance is an appropriate and desirable use of the land. The subject lands are already developed as a large commercial retail plaza with a variety of stores to serve the regional market. The requested variance does not facilitate the development of a food store or supermarket, which is a more appropriate use for the District Commercial designation. The floor area proposed for the retail sale of food and food products is proposed at a maximum of 43% of the total floor area for the unit (Exhibit C). The variance will not allow the unit to be used solely for food and food products.

**Provincial Policy Statement**

In addition to the four tests of a minor variance detailed above, Subsection 3(5) of the *Planning Act* requires that a decision in respect of the exercise of any authority that affects a planning matter shall be consistent with the Provincial Policy Statement (the PPS). The PPS provides policy direction on matters of provincial interest related to land use planning and development which are complemented by local policies addressing local interests. The application being



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considered is site specific to accommodate a specific proposal and does not involve any major policy considerations and as such, the proposal conforms to and is consistent with the PPS.

#### Technical Review: Circulated Departments and Agencies

- |   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> Building Division | <input checked="" type="checkbox"/> Engineering Department | <input type="checkbox"/> Heritage (Planning Division)            |
| <input type="checkbox"/> Finance                      | <input checked="" type="checkbox"/> Utilities Kingston     | <input type="checkbox"/> Real Estate & Environmental Initiatives |
| <input checked="" type="checkbox"/> Fire & Rescue     | <input type="checkbox"/> Kingston Hydro                    | <input checked="" type="checkbox"/> City's Environment Division  |
| <input type="checkbox"/> Solid Waste                  | <input checked="" type="checkbox"/> Parks Development      | <input type="checkbox"/> Canadian National Railways              |
| <input type="checkbox"/> Housing                      | <input type="checkbox"/> District Councillor               | <input type="checkbox"/> Ministry of Transportation              |
| <input type="checkbox"/> KEDCO                        | <input type="checkbox"/> Municipal Drainage                | <input type="checkbox"/> Parks of the St. Lawrence               |
| <input checked="" type="checkbox"/> CRCA              | <input type="checkbox"/> KFL&A Health Unit                 | <input type="checkbox"/> Trans Northern Pipelines                |
| <input type="checkbox"/> Parks Canada                 | <input type="checkbox"/> Eastern Ontario Power             | <input type="checkbox"/> CFB Kingston                            |
| <input type="checkbox"/> Hydro One                    | <input type="checkbox"/> Enbridge Pipelines                | <input type="checkbox"/> TransCanada Pipelines                   |
| <input type="checkbox"/> Kingston Airport             |  |  |

#### Technical Comments

This application was circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude this application from moving forward. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

- **Utilities Kingston** – no issues or concerns with this application
- **Licensing and Enforcement** – Tobacco sales require that municipal businesses licencing approval through City Licencing Office
- **Fire** – No objection to the proposed change of use provided the applicant obtains a change of use building permit.

#### Public Comments

At the time this report was finalized, no public comments were received. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

#### Previous or Concurrent Applications

There are no concurrent or relevant historic planning applications on the subject property.

#### Conclusion

The requested variance(s) maintain(s) the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variance(s) is minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and the application is being recommended for approval, subject to the proposed conditions.

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Approval of this application will increase the maximum floor area that can be devoted to the sale, display, and storage of food or food products from 278.8 square metres to 929.1 square metres. The proposed variance is being requested for a new tenant (Giant Tiger) who is looking to lease a 2,162 square metre unit and have 929.1 square metres of that unit devoted to food sales.

**Existing Policy/By-Law:**

The proposed application 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**

Provincial Policy Statement, 2014

**Municipal**

City of Kingston Official Plan  
Zoning By-Law Number 76-26

**Notice Provisions:**

A Committee of Adjustment Meeting is going to be held respecting this application on June 25, 2018. Pursuant to the requirements of the *Planning Act*, a notice of Statutory Public Meeting was provided by advertisement in the form of signs posted on the subject site 10 days in advance of the meeting. In addition, notices were sent by mail to a total number of 14 property owners (according to the latest Assessment Roll) within 60 metres of the subject property (Exhibit G) and a courtesy notice was placed in The Kingston Whig-Standard.

Once a decision has been rendered by the Committee of Adjustment, a Notice of Decision will be circulated in accordance with the provisions of the *Planning Act*.

**Accessibility Considerations:**

Not applicable

**Financial Considerations:**

Not applicable

**Contacts:**

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

Laura MacCormick, Deputy Director, Planning Division 613-546-4291 extension 3223

Marnie Venditti, Manager, Development Approvals 613-546-4291 extension 3256

**June 25, 2018**

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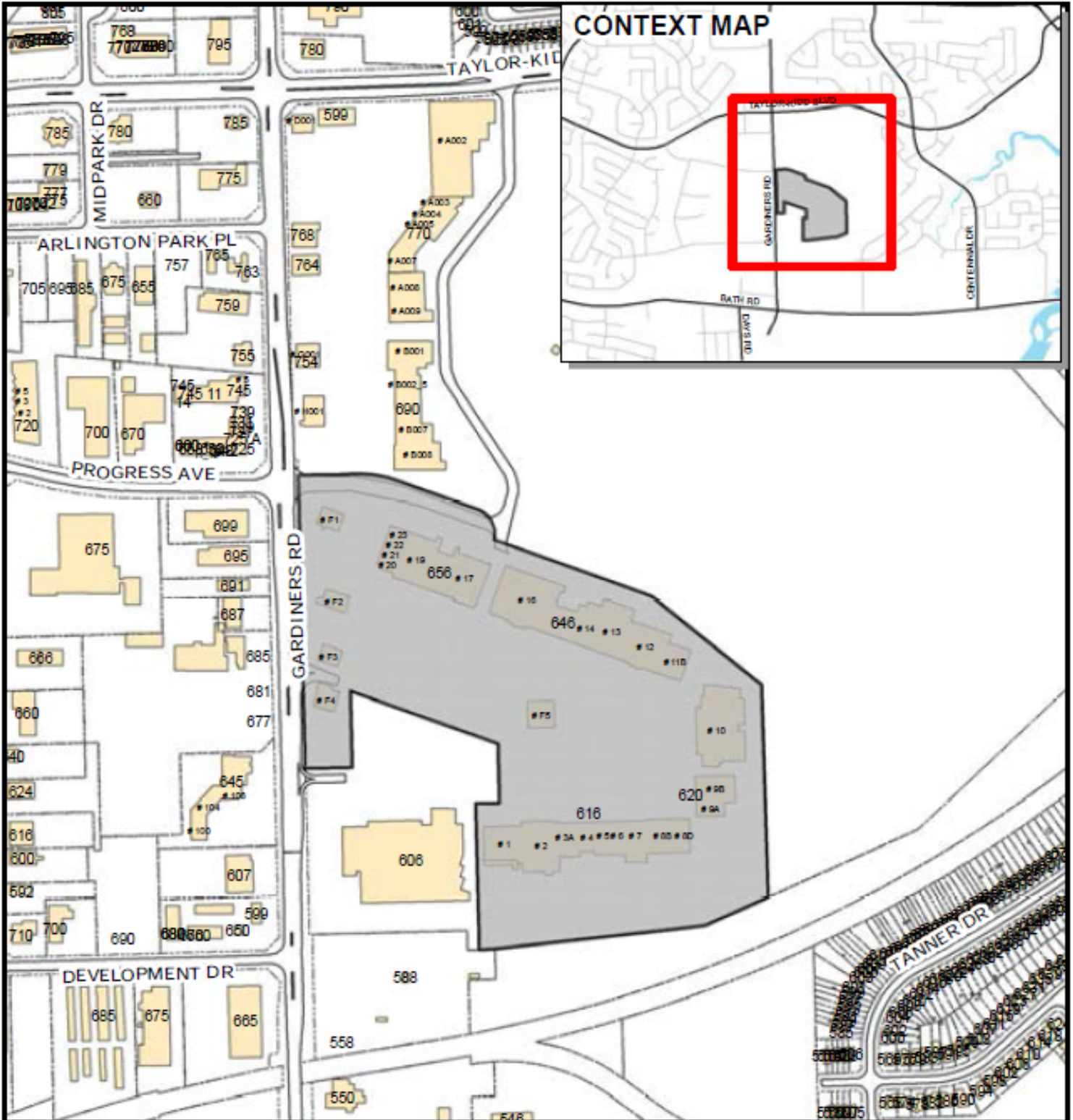
James Bar, Senior Planner, 613-546-4291 extension 3213

**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 in this report.

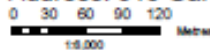
**Exhibits Attached:**

- Exhibit A Key Map
- Exhibit B Planning Justification Letter
- Exhibit C Site Plan
- Exhibit D Neighbourhood Context
- Exhibit E Official Plan Designation
- Exhibit F Existing Zoning By-Law Number 76-26, Map 5
- Exhibit G Public Notice Notification Map
- Exhibit H Site Photos




COMMITTEE OF ADJUSTMENT  
KEY MAP

Applicant: Stefan Wisniowski  
 Owner: RIOTRIN PROPERTIES (KINGSTON)  
 File Number: D13-024-2018  
 Address: 616 Gardiners Road



LEGEND

 Lands Subject to Minor Variance



Planning, Building  
& Licensing Services  
a department of  
Community  
Services

PREPARED BY: J. Partridge  
DATE: 5/28/2018

Disclaimer: This map is for informational purposes only and does not constitute any guarantee, representation or warranty by the City of Kingston. The City of Kingston is not responsible for any errors or omissions in this map. The City of Kingston is not responsible for any damages or losses resulting from the use of this map. The City of Kingston is not responsible for any damages or losses resulting from the use of this map.

# PLANNING JUSTIFICATION LETTER

## 616 GARDINERS ROAD, KINGSTON

May 7, 2018

**Ms. Kheir-Moghadam**  
Planner  
City of Kingston

Via DASH.

**RE: 616 Gardiners Road, Kingston**  
**Planning Justification Letter**  
**Minor Variance Application**

Dear Ms. Kheir-Moghadam,

Fotenn Consultants Inc. has been retained by Riotrin Properties (Kingston) – Riocan Management Inc., owner of 616 Gardiners Road, to prepare this planning justification letter in relation to an application for minor variance. The subject property is located in the west end of Kingston in the Gardiners/Meadowbrook neighbourhood. The site is on the east side of, and fronting on, Gardiners Road, between Taylor-Kidd Boulevard and Bath Road and is the central of three properties comprising the RioCan Centre. The site is designated Regional Commercial on Schedule 3-A Land Use of the City of Kingston's Official Plan and zoned Special General Shopping Centre Commercial Zone (C5-9) in the Township of Kingston Zoning By-law 76-26.

The purpose of the proposed minor variance is to allow an increase in the maximum area that can be devoted to the sale, display and storage of food or food products from 278.8 square metres (3,000 sq. ft.) to 929.1 square metres (10,000 sq. ft.). The proposed variance is required to allow a new tenant, Giant Tiger, to lease the space. The Giant Tiger store will be retail with a 10,000-square foot grocery area.

In support of the requested variance, the following have been submitted:

- / Conceptual Site Plan;
- / Application form as completed in the City's online Development and Services Hub (DASH);
- / Application fee;
- / This Planning Letter.

### Site Description + Community Context

The subject property is one of three properties which altogether comprise the 92,717 square metre (998,004 sq. ft.) RioCan Centre, a regional commercial shopping centre. The shopping centre fronts onto Gardiners Road to the west and Taylor-Kidd Boulevard to the north. This application pertains specifically to Unit 19, which occupies 2,162-square metres (23,280 sq. ft.) of one commercial building within the RioCan Centre.

The surrounding lands are generally occupied by commercial uses to the north, west and south, and future development including both residential and commercial uses to the east. The variety and nature of commercial uses along Gardiners Road varies, ranging from retail, personal service and restaurants to automobile-oriented businesses. Immediately to the east of the site is the master planned West Village Subdivision at 700 Gardiners Road, which is undergoing final plan of subdivision approval in phases. Further east there is an existing low density residential neighbourhood called Waterloo Village.

**KINGSTON**  
6 Cataraqi Street, Suite 108  
Kingston, ON K7K 1Z7  
T 613.542.5454

fotenn.com





Figure 1: Subject Site + Context (Source: City of Kingston K-Maps)

## Development Proposal

The applicant intends to lease the 2,162 square-metres (23,280 sq. ft.) commercial space in Unit 19 to Giant Tiger. The retail unit is accessible by vehicular via access points off Gardiners Road and a private driveway known as Entell Road. The subject unit, previously occupied by Home Sense, shares access to the combined total of 3,089 parking spaces provided within the shopping centre. Giant Tiger will require 929.1 square metres (10,000 sq. ft.) of the unit for the sale, display and storage of food or food products, which will require no changes to the building footprint.



Figure 2: Concept Plan of Unit 19 (Source: RioCan Management Inc.).

## Description of Requested Variance

The subject property is subject to the Special General Shopping Centre Zone (C5-9) in Zoning By-law 76-26. The proposed development meets all but one of the requirements of the zoning by-law. Specifically, the proposal requires relief from the following provision described in section 22(3)(i)(ii) of the zoning by-law requires relief:

### C5-9

#### Section 22(3)(i)(ii)

- (a) *RETAIL STORE* means a building or part of a building, where a single user occupies a minimum gross leasable area of 5,000 sq. feet, and shall not exceed a maximum gross leasable area of 80,000 sq. feet, and where the principal use is the sale at retail of goods, wares, merchandise, substances, articles or

*things, but does not include a DEPARTMENT STORE, supermarket or any other establishment otherwise defined or specifically names elsewhere in Zoning By-law 76-26.*

*Notwithstanding the foregoing, the aforesaid minimum gross leasable area shall not apply to Retail Stores devoted primarily to selling, displaying or storing food, food products, tobacco, periodicals, household products and merchandise ancillary or accessory thereto. The maximum gross leasable area of any retail store other than a supermarket devoted primarily to selling food, food products, tobacco, periodicals, household products and merchandise ancillary or accessory thereto shall be 3,000 sq. ft. The portion of any other Retail Store other than a supermarket devoted to the sale, display and storage of food or food products shall not exceed a gross leasable area of 3,000 sq. ft.*

The proposal to allow a 929.1 square metre (10,000 sq. ft.) gross leasable area of Unit 19 to be dedicated to the sale, display, and storage of food or food products exceeds the maximum permitted area of 278.8 square metres (3,000 sq. ft.).

### Planning Justification for Minor Variance

It is our professional planning opinion that the proposed variance meets the four tests of a minor variance as described in Section 45(1) of the *Planning Act*, as well as Section 9.5.18 of the Official Plan, as follows:

#### **Test 1: Is the general intent and purpose of the Official Plan maintained?**

The subject property is designated Business District on Schedule 2 City Structure and Regional Commercial on Schedule 3-A Land Use of the City of Kingston's Official Plan. Section 2.2.6 states that Business Districts are primarily intended as areas for employment, and include regional commercial uses. Policy direction for Regional Commercial lands is provided in Section 3.4.B, and states that this designation is intended to provide retail and service facilities of a scale and range that draws residents of the City and surrounding region. Permitted uses include a broad range of retail uses and services within an enclosed shopping centre or large floor plate individual uses on an integrated site. The Regional Commercial designation is intended to complement the Central Business District and not undermine the function of District Commercial designations.

In addition to the strategic direction and land use policy direction in Sections 2 and 3, the Official Plan describes a series of additional tests which must be addressed through minor variance applications, as follows:

- a. the proposed development meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of this Plan;*
- b. the proposed development will be compatible with surrounding uses, buildings or structures and development standards associated with adjacent properties, and if necessary, incorporate means of alleviating adverse effects on abutting land uses as recommended in Section 2.7 of this Plan;*
- c. the ability of the site to function in an appropriate manner in terms of access, parking for vehicles and bicycles or any other matter and means of improving such function including considerations for universal accessibility;*
- d. the conformity of the proposal to any applicable urban design policies endorsed by Council, particularly if the site includes or could impact a built heritage resource or is within a Heritage District;*
- e. if the site is designated under the Ontario Heritage Act, the application shall be reviewed by Heritage Kingston for approval. If the property is adjacent to a designated property under the Ontario Heritage Act or shown as a Heritage Area feature, or is affected by the protected views shown on Schedule 9 of this Plan, then a heritage impact statement may be required to assist staff to determine if the resulting development is desirable;*

- f. the resulting development has adequate municipal water and sewage services within the Urban Boundary, or is capable of providing individual on-site water and sewage services outside the Urban Boundary;*
- g. whether the application and the cumulative impact of the proposed variances would be more appropriately addressed by a zoning amendment to the applicable zoning by-law;*
- h. the Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application for a minor variance including any reasonable requirements, recommendations of City departments, or the submission of studies as listed in Section 9.12 of this Plan that may be required to properly evaluate the application; and,*
- i. the degree to which such approval may set an undesirable precedent for the immediate area.*

The proposed variance increases the maximum area that can be devoted to a use which is permitted in conformity with the strategic direction of the Business District designation, which is to create employment opportunities. The sale, display and storage of food is a use which is compatible as it is already permitted in the zoning by-law. The variance will have no impact on the site's ability to meet parking and access requirements, nor will it require any changes to the building footprint or exterior of the building, other than minor cosmetic changes to align with the needs of the tenant. The proposed variance will have no impact to the functionality of the site, with heritage considerations, or with the serviceability of the RioCan Centre. Only one provision of the zoning by-law is requested to be varied for the purpose of this application, which is sufficiently minor to be subject to a minor variance application than a zoning by-law amendment application. The proposed variance is also not anticipated to set an undesirable precedent as any future application of a similar nature in the immediate area would be assessed on its individual merits.

The sale, display and storage of food or food products is a retail use which is permitted in the Regional Commercial designation. The proposed variance would maintain the general intent and purpose of the Official Plan in providing retail which serves the regional population with a wide variety of goods and services. By increasing the maximum permitted area which can be devoted to the sale, display and storage of food or food products, without removing the maximum requirement entirely, the variance simply broadens the variety of goods and services available to shoppers at the RioCan Centre.

**It is our professional opinion that the requested variance maintains the general intent and purpose of the Official Plan.**

#### **Test 2: Is the general intent and purpose of the Zoning By-law maintained?**

The property is zoned Special General Shopping Centre Commercial Zone (C5-9) in Zoning By-law 76-26. The C5-9 zone permits a wide variety of commercial and retail uses, including the sale, display and storage of food and food products. The site-specific limitation of 278.8 square metres (3,000 sq. ft.) is a legacy of the 1990s when this area of Gardiners Road was undergoing significant development and change. There was concern at the time that allowing large format, stand-alone food retailers at the RioCan Centre would undermine other locations that were considered more suitable to this type of commercial use. With the evolution and maturation of the commercial uses along Gardiners Road, as well as the establishment of stand-alone grocery stores and food retailers in Kingston's west end in appropriately-designated areas, the intent of this provision has generally been satisfied.

The current zoning permits the proposed use but applies a limitation to the maximum area. This indicates that uses related to the sale, display and storage of food or food products are acceptable in this location in principle. The requested variance would maintain the intent of the zoning by-law by continuing to permit and limit this use.

**It is our professional opinion that the requested variance maintains the general intent and purpose of the Zoning By-law.**



**Test 3: Is the variance minor?**

The determination of whether an application is minor is not a mathematical consideration. The test of whether the requested variance is minor is assessed in terms of the potential negative impacts or adverse effects occurring as a result of allowing the variance. Increasing the maximum permitted floor area to be dedicated to the sale, display and storage of food or food products, while continuing to require a maximum area, is not anticipated to cause adverse effects or impair the viability of stand-alone food-related retailers and supermarkets in other locations.

**It is our professional opinion that the requested variance is minor as it would not incur adverse effects.**

**Test 4: Is the variance desirable for the appropriate development of the lands in question?**

The sale, display and storage of food or food products is permitted on the subject site but is limited by the zoning by-law so as to prevent large format, stand-alone grocery stores or food retailers from establishing within the RioCan Centre at the expense of developing such uses in other locations designated for such uses. The proposed variance will also allow the owner to fill a vacant unit within the scope of uses currently permitted on the site.

**It is our professional opinion that the requested variance is desirable for the appropriate development of the subject lands.**

**Conclusion**

The minor variance application is desirable and appropriate for the continued use of the existing commercial site as presented in the enclosed concept plan for the following reasons:

- / The requested variance maintains the general intent and purpose of the Official Plan in that it is a permitted use and allowing the variance will not incur adverse effects;
- / The variance maintains the general intent and purpose of the zoning by-law in that it provides a limited increase in the permitted use which continues to support the intent of limiting standalone food retail uses and supermarkets at the RioCan Centre;
- / The variance is minor as the limited increase in permitted gross leasable floor area dedicated to the sale, display and storage of food or food products is not anticipated to cause adverse effects;
- / The requested variance is desirable for the appropriate development of the lands in question as it will facilitate the use of a currently vacant commercial space at the RioCan Centre with a use which is already permitted on the site.

It is our opinion that the minor variance is appropriate for the subject site and represents good planning. Should you have any questions or require any additional information, please do not hesitate to contact the undersigned at 613.542.5454.

Respectfully,

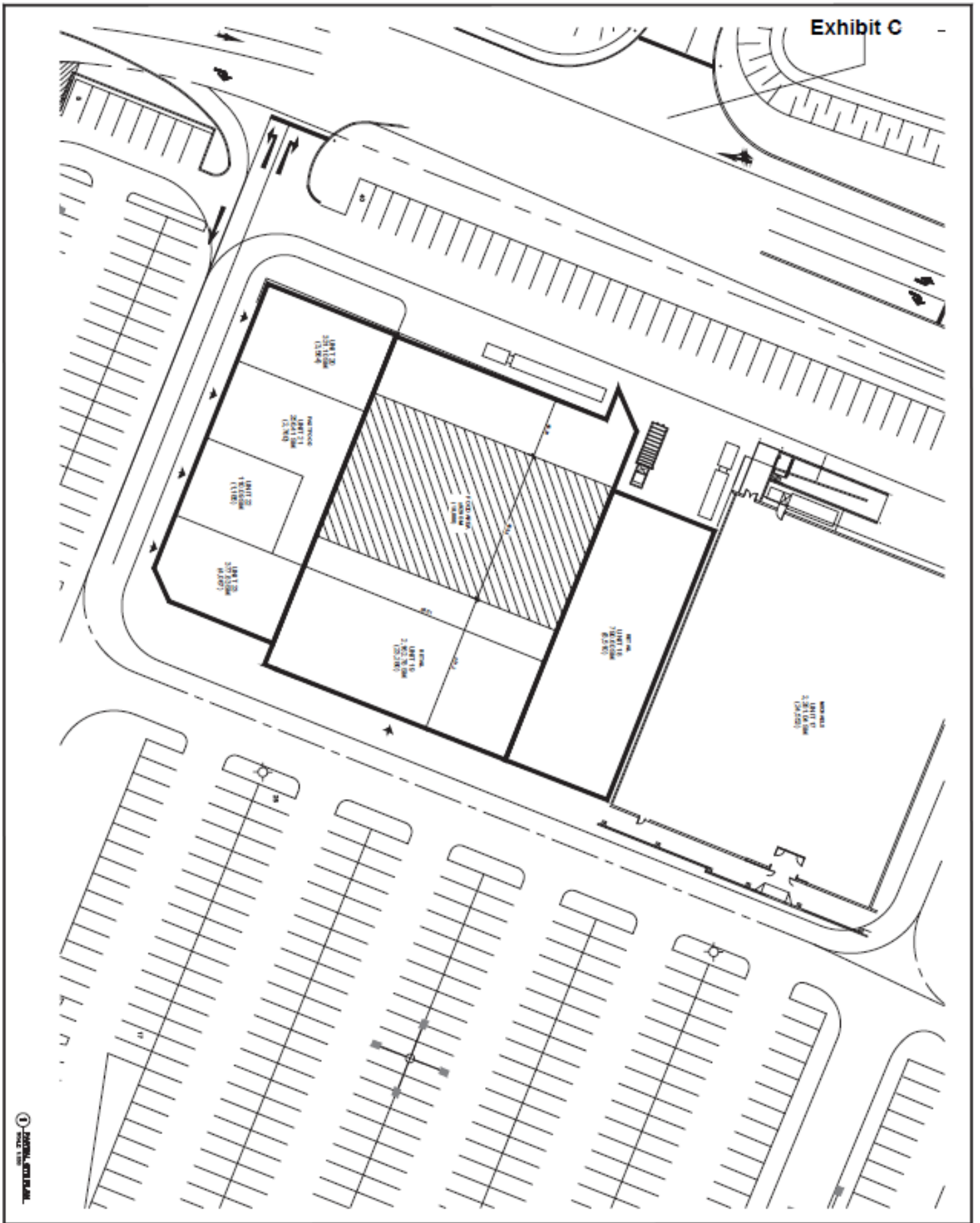


Mike Keene, MCIP, RPP  
Associate Director, Planning + Development  
Fotenn Consultants Inc.



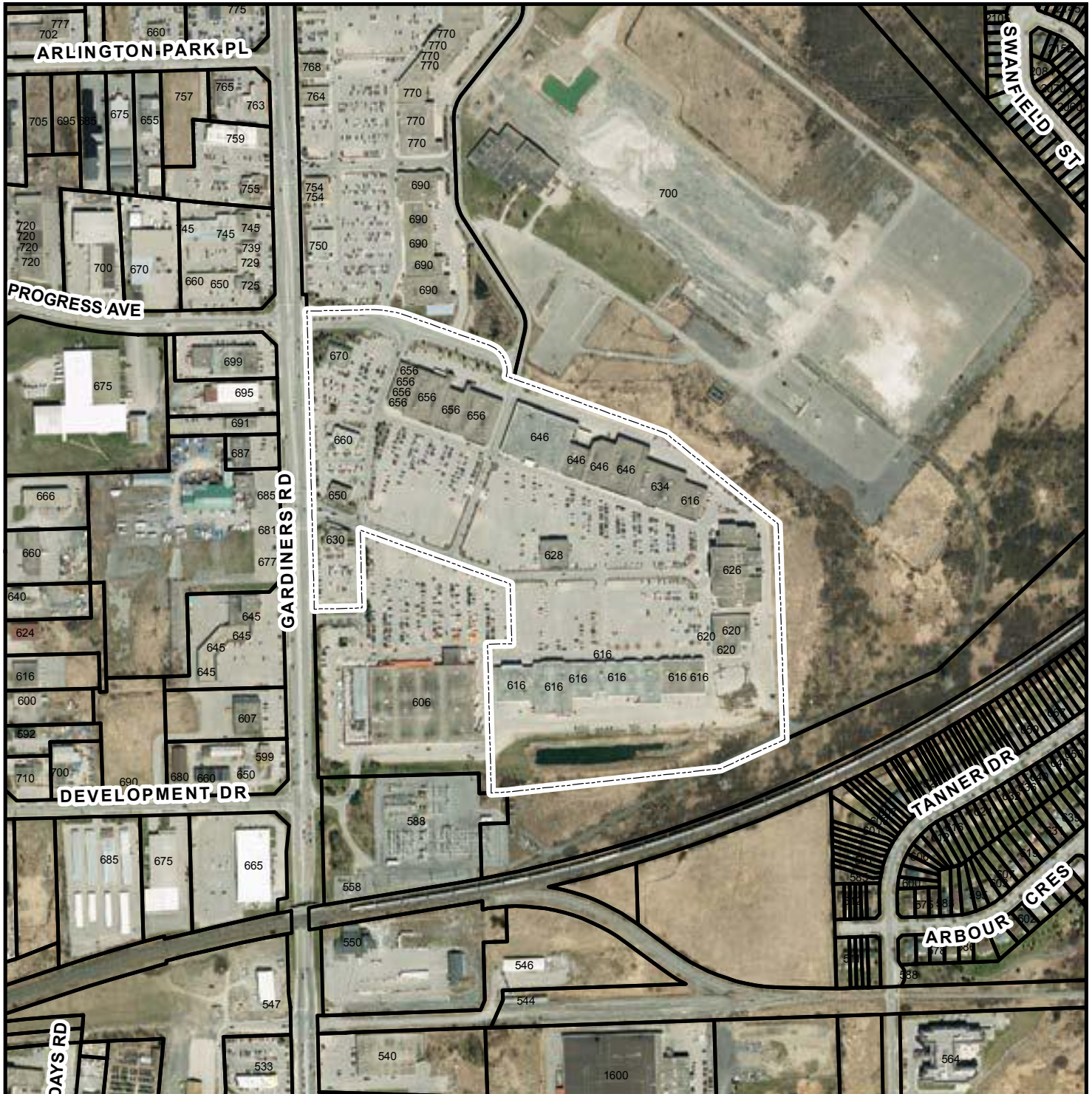
Youko Leclerc-Desjardins, MCIP, RPP  
Planner  
Fotenn Consultants Inc.





<p>DATE: 07/25/18          SHEET NO: 1          TOTAL SHEETS: 1  <b>SP2</b></p>	<p>PROJ: 18010001          CLIENT: [unreadable]          PROJECT: [unreadable]          SHEET: 1 OF 1</p>				<p>Committee of Adjustment Meeting Number 07 June 25, 2018</p> <p style="text-align: right;">127</p>
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



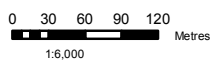
**Planning, Building & Licensing Services**  
a department of  
**Community Services**

COMMITTEE OF ADJUSTMENT  
**NEIGHBOURHOOD CONTEXT (2015)**

Applicant: Stefan Wisniowski  
Owner: RIOTRIN PROPERTIES (KINGSTON)  
File Number: D13-024-2018  
Address: 616 Gardiners Road

**LEGEND**

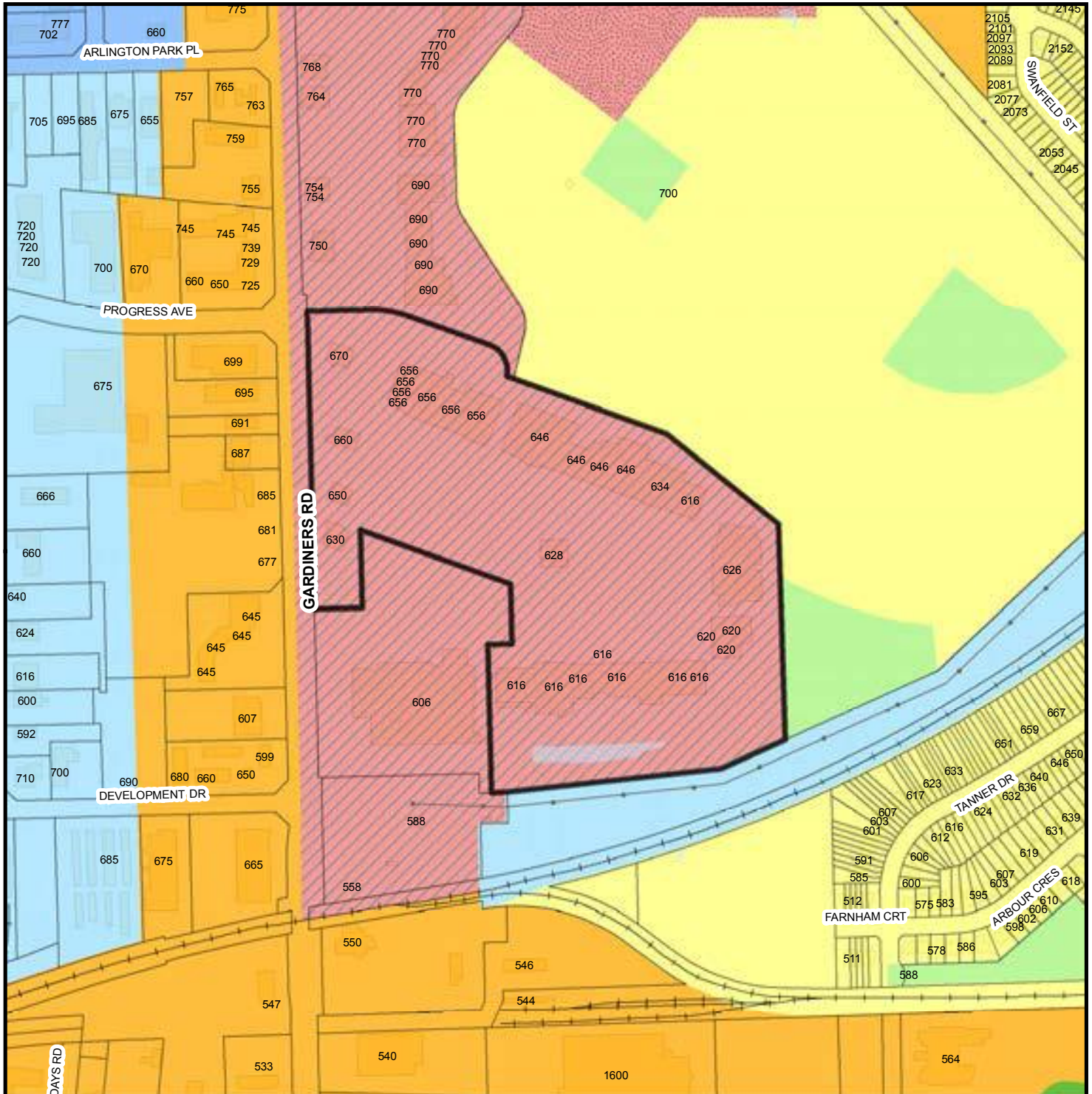
-  Lands Subject to Minor Variance
-  Property Boundaries



PREPARED BY: J. Partridge  
DATE: 5/28/2018

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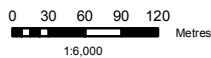




Planning, Building & Licensing Services  
a department of  
Community Services

COMMITTEE OF ADJUSTMENT  
**OFFICIAL PLAN, Land Use**

Applicant: Stefan Wisniowski  
Owner: RIOTRIN PROPERTIES (KINGSTON)  
File Number: D13-024-2018  
Address: 616 Gardiners Road



**LEGEND**

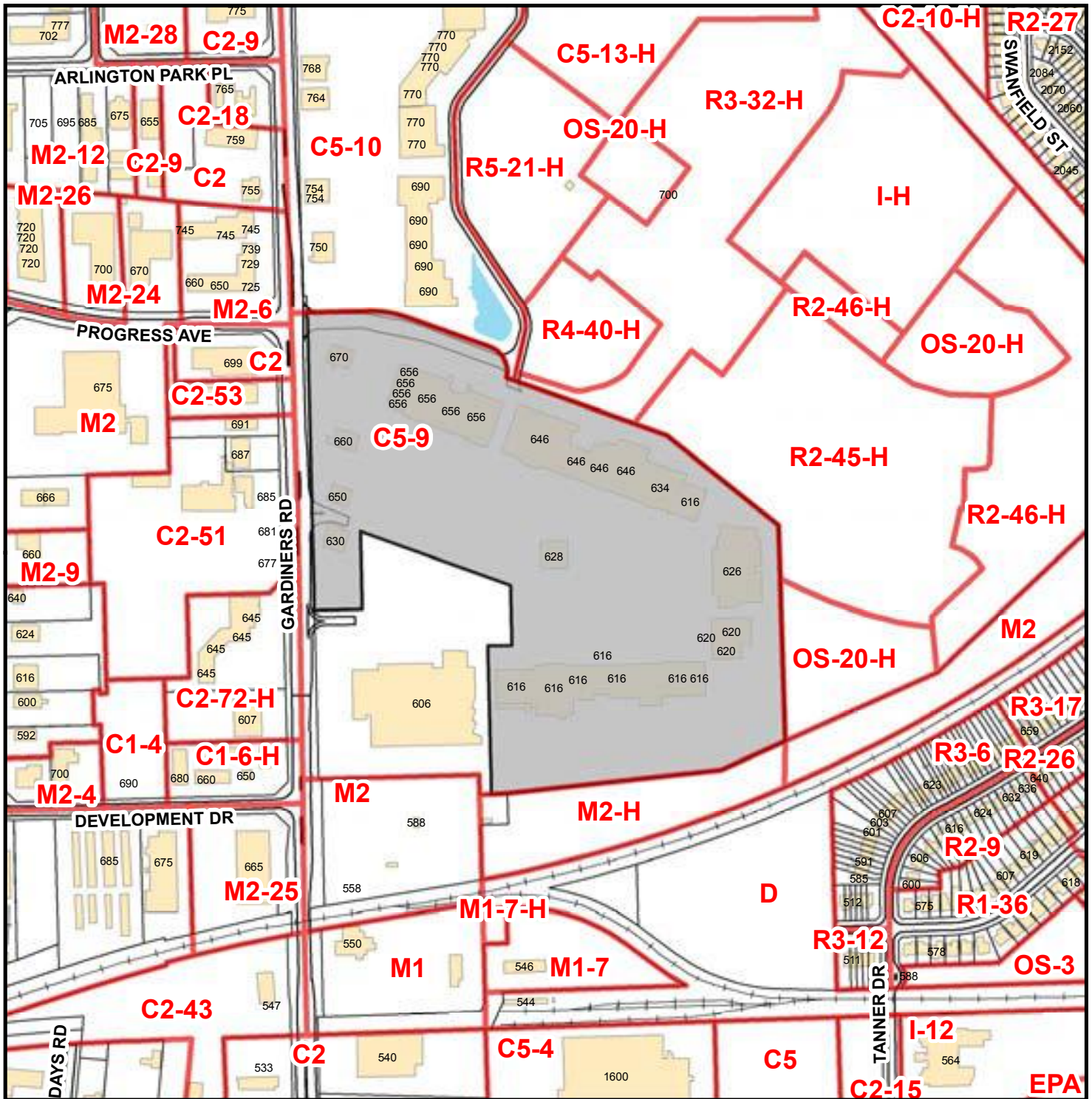
- Lands Subject to Minor Variance
- ARTERIAL COMMERCIAL
- BUSINESS PARK INDUSTRIAL
- DISTRICT COMMERCIAL
- ENVIRONMENTAL PROTECTION AREA
- GENERAL INDUSTRIAL
- OPEN SPACE
- REGIONAL COMMERCIAL
- RESIDENTIAL



PREPARED BY: J.Partridge  
DATE: 5/28/2018

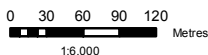
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


COMMITTEE OF ADJUSTMENT  
**ZONING BY-LAW 76-26, Map 5**

Applicant: Stefan Wisniowski  
 Owner: RIOTRIN PROPERTIES (KINGSTON)  
 File Number: D13-024-2018  
 Address: 616 Gardiners Road



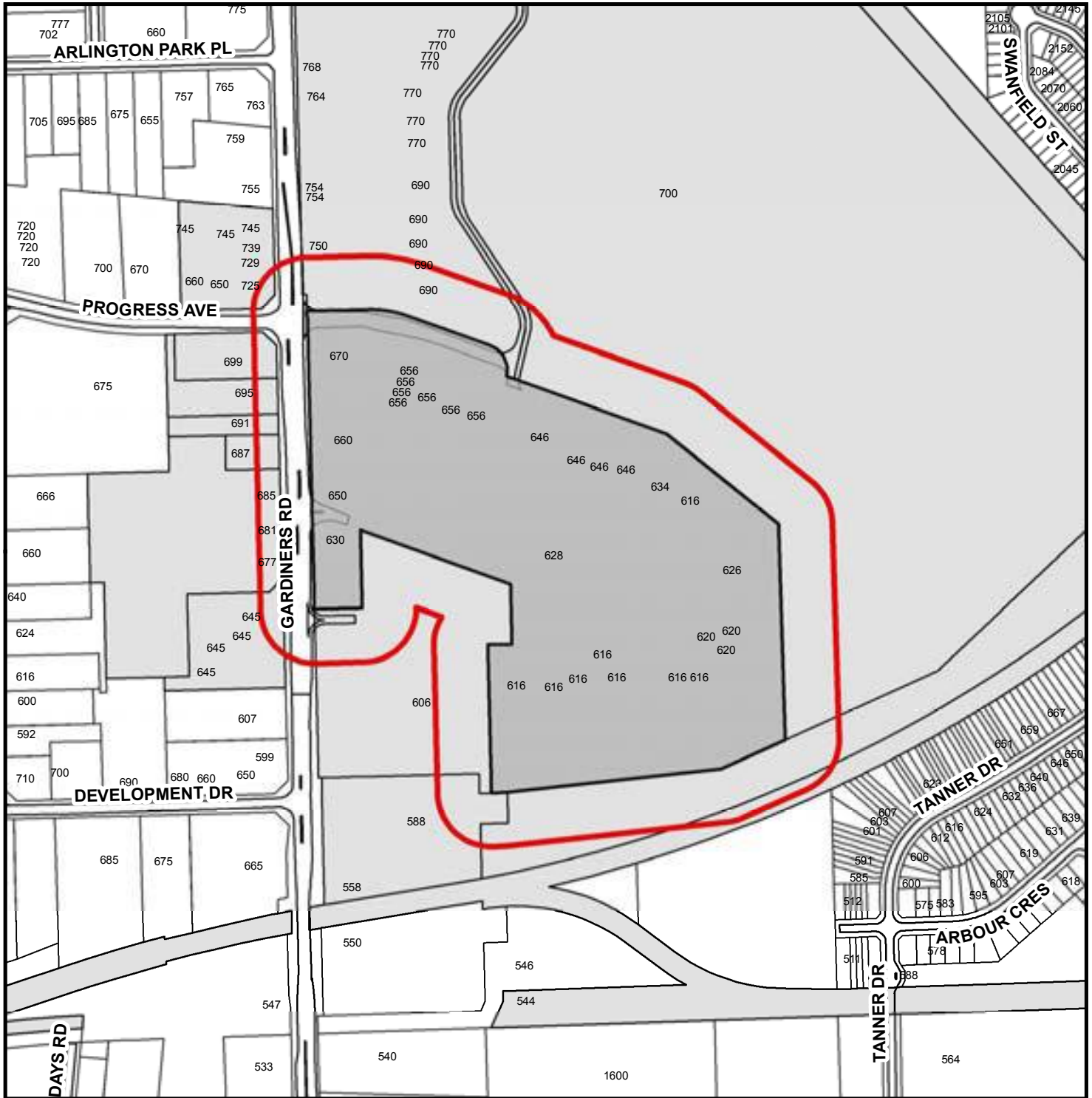
**LEGEND**

-  Consolidated Zoning
-  Lands Subject to Minor Variance
-  Property Boundaries



PREPARED BY: J. Partridge  
 DATE: 5/28/2018





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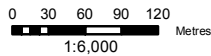


COMMITTEE OF ADJUSTMENT  
**PUBLIC NOTICE NOTIFICATION MAP**

Applicant: Stefan Wisniowski  
 Owner: RIOTRIN PROPERTIES (KINGSTON)  
 File Number: D13-024-2018  
 Address: 616 Gardiners Road

**LEGEND**

-  Lands Subject to Minor Variance
-  60 m Public Notice Boundary
-  Property Boundaries
-  14 Properties in Receipt of Notice



Planning, Building  
 & Licensing Services  
 a department of  
 Community  
 Services

PREPARED BY: J.Partridge  
 DATE: 5/28/2018

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**City of Kingston  
Report to Committee of Adjustment  
Report Number COA-18-038**

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**To:** Chair and Members of Committee of Adjustment  
**From:** Lindsay Sthamann, Intermediate Planner  
**Date of Meeting:** June 25, 2018  
**Application for:** Minor Variance  
**File Number:** D13-025-2018  
**Address:** 1501 Clover Street  
**Owner:** Bellefield Custom Homes LTD  
**Applicant:** Amelia Domingo

---

**Executive Summary:**

This report provides a recommendation to the Committee of Adjustment regarding an application for a minor variance for the property located at 1501 Clover Street. The applicant is proposing to reduce the required exterior side yard setback from 20 feet to 4 feet to accommodate a new 77 square foot shed that will be used to hold pool equipment.

The requested minor variance is consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The requested minor variance is desirable for the appropriate development or use of the land, building or structure and is minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval.

**Recommendation:**

It is recommended that minor variance application, File Number D13-025-2018, for the property located at 1501 Clover Street to construct a shed with a reduced exterior side yard setback, be approved.

**Variance Number 1: Exterior side yard setback to Accessory Building**

By-Law Number 76-26: 5.1(e)(iii)  
Requirement: 20 feet  
Proposed: 4 feet

June 25, 2018

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Variance Requested: 16 feet

**Approval of the foregoing variance shall be subject to the following conditions:****1. Limitation**

That the approved variance applies only to the proposed shed as shown on drawings received on 5/11/2018.

**2. No Adverse Impacts**

The owner/applicant shall demonstrate to the satisfaction of the City that there are no adverse impacts on neighbouring properties as a result of any modifications to on-site grading or drainage.

**3. Building Permit Application Requirements**

The owner/applicant shall provide to the Building Division a copy of the decision of the Committee of Adjustment, together with a copy of the approved drawings, when they make an application for a Building Permit.

The drawings submitted with the Building Permit application must, in the opinion of the City, conform to the general intent and description of the approved drawing(s), including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. It must be noted that additional planning approvals may be required should further zoning deficiencies be identified through the Building Permit application process.

**4. Standard Archaeological Condition**

In the event that deeply buried or previously undiscovered archaeological deposits are discovered in the course of development or site alteration, all work must immediately cease and the site must be secured. The Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132) and the City of Kingston's Planning Division (613-546-4291, extension 3180) must be immediately contacted.

In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Registrar of Cemeteries Regulation Section of the Ontario Ministry of Consumer Business Services (416-326-8404), the Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132), and the City of Kingston's Planning Division (613-546-4291, extension 3180) must be immediately contacted.

June 25, 2018

Page 3 of 9

**Authorizing Signatures:**



---

**Lindsay Sthamann, Intermediate Planner**

**In Consultation with the following Management of the Community Services Group:**

Paige Agnew, Director, Planning, Building & Licensing Services

Lanie Hurdle, Commissioner, Community Services

June 25, 2018

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**Options/Discussion:**

On May 11, 2018, a minor variance application was submitted by Amelia Domingo, with respect to the property located at 1501 Clover Street. The variance is requested to reduce the required exterior side yard setback from 20 feet to 4 feet to accommodate a new shed that will be used to hold pool equipment and provide additional storage space.

In support of the application, the applicant has submitted the following:

- Site Plan (Exhibit F)

All submission materials are available online through the Development and Services Hub (DASH) at the following link, [DASH](#), using "Look-up a Specific Address". If there are multiple addresses, search one address at a time, or submission materials may also be found by searching the file number.

**Site Characteristics**

The subject property is located on the south side of Clover Street. The property is approximately 5414 square feet and is a corner lot with approximately 51 feet of frontage on Clover Street and 100 feet of frontage on Rosanna Avenue.

The subject property is designated LDR – Low Density Residential in the Official Plan (Exhibit C) and zoned R2-32 in Zoning By-Law Number 76-26 (Exhibit D). The property abuts other residential parcels zoned R2-32.

**Application**

The review of an application for minor variance(s) is not a simple mathematical calculation, but rather a detailed assessment of whether the variance(s) requested, both separately and together, meet the four tests of a minor variance outlined in Subsection 45(1) of the *Planning Act*. The following provides this review:

**1) The general intent and purpose of the Official Plan are maintained**

The subject property is designated Residential in the City of Kingston Official Plan. The predominant use of land in the Residential designation is for various forms of housing (3.3.1), including low density residential uses such as single-detached dwellings (3.3.A.2) and structures accessory to residential uses.

In considering whether the proposed variance is desirable, the Committee of Adjustment will give regard to the nine requirements included in Section 9.5.19 of the Official Plan. The following provides these nine requirements and an assessment of how the proposal is consistent with each.

- a. The proposed development meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of the Official Plan.



June 25, 2018

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The proposal meets the intent of Section 2 of the Official Plan as the lot will continue to provide the functional needs for the residential use and there will not be any negative impacts on abutting residential properties.

- b. The proposed development will be compatible with surrounding uses, buildings or structures and development standards associated with adjacent properties, and if necessary, incorporate means of alleviating adverse effects on abutting land uses as recommended in Section 2.7 of this Plan.

The proposed shed is compatible with the residential area and will not have any negative impacts on the abutting residential uses.

- c. The ability of the site to function in an appropriate manner in terms of access, parking or any other matter and means of improving such function.

The site will continue to function in an appropriate manner as road access is maintained.

- d. The conformity of the proposal to any applicable urban design policies endorsed by Council, particularly if the site includes or could impact a built heritage resource or is within a Heritage District.

The proposal conforms to the applicable urban design policies as outlined in section 8 of the Official Plan. The proposed shed will be located behind a 6 foot wooden privacy fence and is not anticipated to negatively impact the streetscape.

- e. If the site is designated under the *Ontario Heritage Act*, the application shall be reviewed by Heritage Kingston for approval. If the property is adjacent to a designated property under the *Ontario Heritage Act* or shown as a Heritage Area feature, or is affected by the protected views shown on Schedule 9 of this Plan, then a Heritage Impact Statement may be required to assist staff to determine if the resulting development is desirable.

The subject lands are not designated under the *Ontario Heritage Act*. The standard archaeological clause has been included as a condition in case the discovery of deeply buried or previously undiscovered archaeological deposits or human remains.

- f. The resulting development has adequate municipal water and sewage services within the Urban Boundary, or is capable of providing individual on-site water and sewage services outside the Urban Boundary.

The site is developed with private onsite sewage and municipal water. The proposed shed will not alter demands on the services.

- g. Whether the application and the cumulative impact of the proposed variances would be more appropriately addressed by a zoning amendment to the applicable zoning by-law.

The application and the cumulative impact of the proposal does not warrant a zoning by-law amendment.

June 25, 2018

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- h. The Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application for a Minor Variance including any reasonable requirements, recommendations of City departments, or the submission of studies as listed in Section 9.12 of this Plan that may be required to properly evaluate the application.

Multiple conditions of approval are recommended through this report.

- i. The degree to which such approval may set an undesirable precedent for the immediate area.

The approval of the requested variance will not set precedent for the immediate area because each minor variance is reviewed on its own merits.

The low density residential designation aims to minimize impacts on abutting properties and those within the surrounding neighbourhood, by ensuring land use compatibility, providing appropriate separation distances, ensuring the functionality of the site, and integrating design considerations as per the Urban Design policies of Section 8 of the Official Plan.

The proposal meets the intent of the Official Plan, as the proposed shed will not result in any negative impacts to adjacent properties or to the neighbourhood.

**2) The general intent and purpose of the zoning by-law are maintained**

The subject property is zoned R2-32 in the City of Kingston Zoning By-Law Number 76-26, entitled "Township of Kingston Restricted Area By-Law", as amended. The R2-36 zone permits a shed as a detached accessory use.

The proposal requires a variance to Section 5.1(e)(iii)

**Variance Number 1:**

By-Law Number:	76-26	5.1(e)(iii)
Requirement:		20 foot exterior side yard setback
Proposed:		4 foot exterior side yard setback
Variance Requested:		16 feet

**3) The variance is minor in nature**

The variance is considered minor as no impacts on adjacent properties are expected. The shed will be approximately 8 to 9 feet tall once it's built which is compliant with the provisions of the zoning by-law which allows for a maximum height of 15 feet for an accessory building. In addition a wooden privacy fence will be constructed to ensure the property is in compliance with the pool by-law. The fence will screen the view of the shed from the road and minimize the visual impact. The road allowance also provides an additional buffer between the shed and Rosanna Avenue. When this road allowance is taken into account the shed will be located approximately 22 feet from the street line.

June 25, 2018

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The required 20 foot setback is not well suited to the R2-32 zone as the principal home is allowed to be constructed just 10 feet from the exterior side property line. A reduction to a 4 foot setback would treat this exterior side yard the same way as an interior side yard or rear yard, which only requires a 4 foot setback for accessory structures.

The proposed shed will be used to house the mechanical equipment for the swimming pool as well as general storage. The overall access and functionality of the property as a whole will not change. Sufficient setback will be provided to access and maintain the shed. The development maintains clear site access, parking and security and is not anticipated to negatively affect the streetscape.

**4) The variance is desirable for the appropriate development or use of the land, building or structure**

The requested variance is considered to be an appropriate and desirable development of the use of the land. The Residential designation and the 'R2-32' Zone permit the development of a single-detached dwelling and related accessory structures. The placement of the pool equipment inside the new shed increases compatibility with adjacent properties through locating an ambient noise source within the structure, dampening the noise of the equipment when running.

**Provincial Policy Statement**

In addition to the four tests of a minor variance detailed above, Subsection 3(5) of the *Planning Act* requires that a decision in respect of the exercise of any authority that affects a planning matter shall be consistent with the Provincial Policy Statement (the PPS). The PPS provides policy direction on matters of provincial interest related to land use planning and development which are complemented by local policies addressing local interests. The application being considered is site specific to accommodate a specific proposal and does not involve any major policy considerations and as such, the proposal conforms to and is consistent with the PPS.

**Technical Review: Circulated Departments and Agencies**

- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> Building Division | <input checked="" type="checkbox"/> Engineering Department | <input checked="" type="checkbox"/> Heritage (Planning Division)            |
| <input type="checkbox"/> Finance                      | <input checked="" type="checkbox"/> Utilities Kingston     | <input checked="" type="checkbox"/> Real Estate & Environmental Initiatives |
| <input checked="" type="checkbox"/> Fire & Rescue     | <input type="checkbox"/> Kingston Hydro                    | <input type="checkbox"/> City's Environment Division                        |
| <input type="checkbox"/> Solid Waste                  | <input type="checkbox"/> Parks Development                 | <input type="checkbox"/> Canadian National Railways                         |
| <input type="checkbox"/> Housing                      | <input type="checkbox"/> District Councillor               | <input type="checkbox"/> Ministry of Transportation                         |
| <input type="checkbox"/> KEDCO                        | <input type="checkbox"/> Municipal Drainage                | <input type="checkbox"/> Parks of the St. Lawrence                          |
| <input type="checkbox"/> CRCA                         | <input type="checkbox"/> KFL&A Health Unit                 | <input type="checkbox"/> Trans Northern Pipelines                           |
| <input type="checkbox"/> Parks Canada                 | <input type="checkbox"/> Eastern Ontario Power             | <input type="checkbox"/> CFB Kingston                                       |
| <input type="checkbox"/> Hydro One                    | <input type="checkbox"/> Enbridge Pipelines                | <input type="checkbox"/> TransCanada Pipelines                              |
| <input type="checkbox"/> Kingston Airport             |  |   |

June 25, 2018

Page 8 of 9

**Technical Comments**

This application was circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude this application from moving forward. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

**Public Comments**

At the time this report was finalized, no public comments were received. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

**Previous or Concurrent Applications**

There are no concurrent or relevant historic planning applications on the subject property.

**Conclusion**

The requested variance(s) maintain(s) the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variance is minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and the application is being recommended for approval, subject to the proposed conditions.

Approval of this application will allow the applicant to construct a 77 square foot shed with a reduced exterior side yard setback.

**Existing Policy/By-Law:**

The proposed application 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**

Provincial Policy Statement, 2014

**Municipal**

City of Kingston Official Plan  
Zoning By-Law Number 76-26

**Notice Provisions:**

A Committee of Adjustment Meeting is going to be held respecting this application on June 25, 2018. Pursuant to the requirements of the *Planning Act*, a notice of Statutory Public Meeting was provided by advertisement in the form of signs posted on the subject site 10 days in advance of the meeting. In addition, notices were sent by mail to a total number of 39 property owners (according to the latest Assessment Roll) within 60 metres of the subject property and a courtesy notice was placed in The Kingston Whig-Standard.

June 25, 2018

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Once a decision has been rendered by the Committee of Adjustment, a Notice of Decision will be circulated in accordance with the provisions of the *Planning Act*.

**Accessibility Considerations:**

Not applicable

**Financial Considerations:**

Not applicable

**Contacts:**

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

Laura MacCormick, Deputy Director, Planning Division 613-546-4291 extension 3223

Marnie Venditti, Manager, Development Approvals 613-546-4291 extension 3256

Lindsay Sthamann, Intermediate Planner, 613-546-4291 extension 3185

**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 in this report.

**Exhibits Attached:**

Exhibit A Key Map

Exhibit B Public Notice Notification Map

Exhibit C Existing Official Plan Map

Exhibit D Existing Zoning By-Law Number 76-26, Map 2

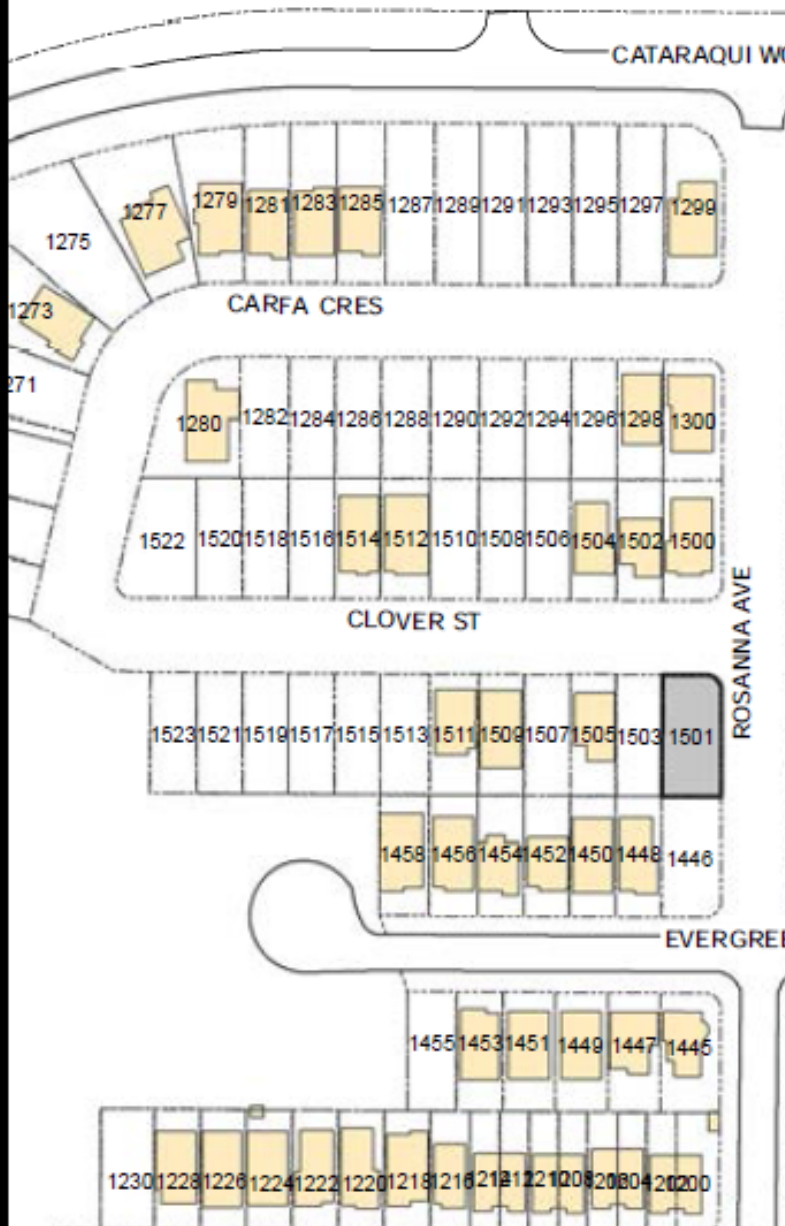
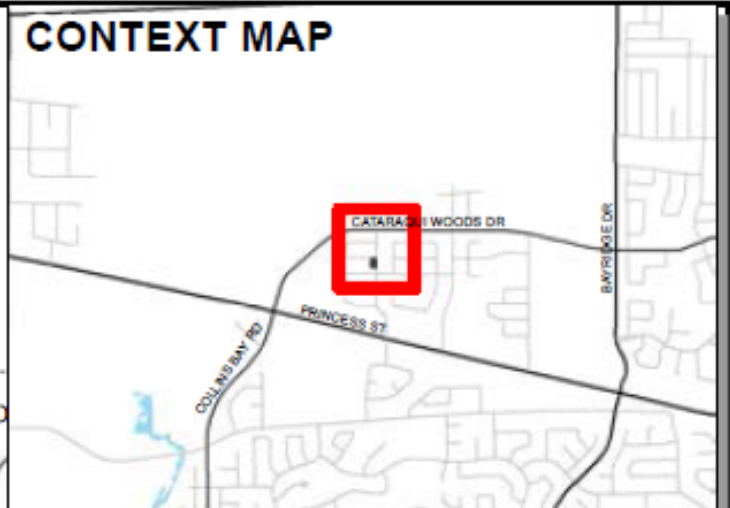
Exhibit E Neighbourhood Context Map

Exhibit F Site Plan

Exhibit G Site Photos

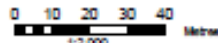


CONTEXT MAP



COMMITTEE OF ADJUSTMENT  
KEY MAP

Applicant: Amelia Domingo  
Owner: BELLEFIELD CUSTOM HOMES LTD  
File Number: D13-025-2018  
Address: 1501 Clover St

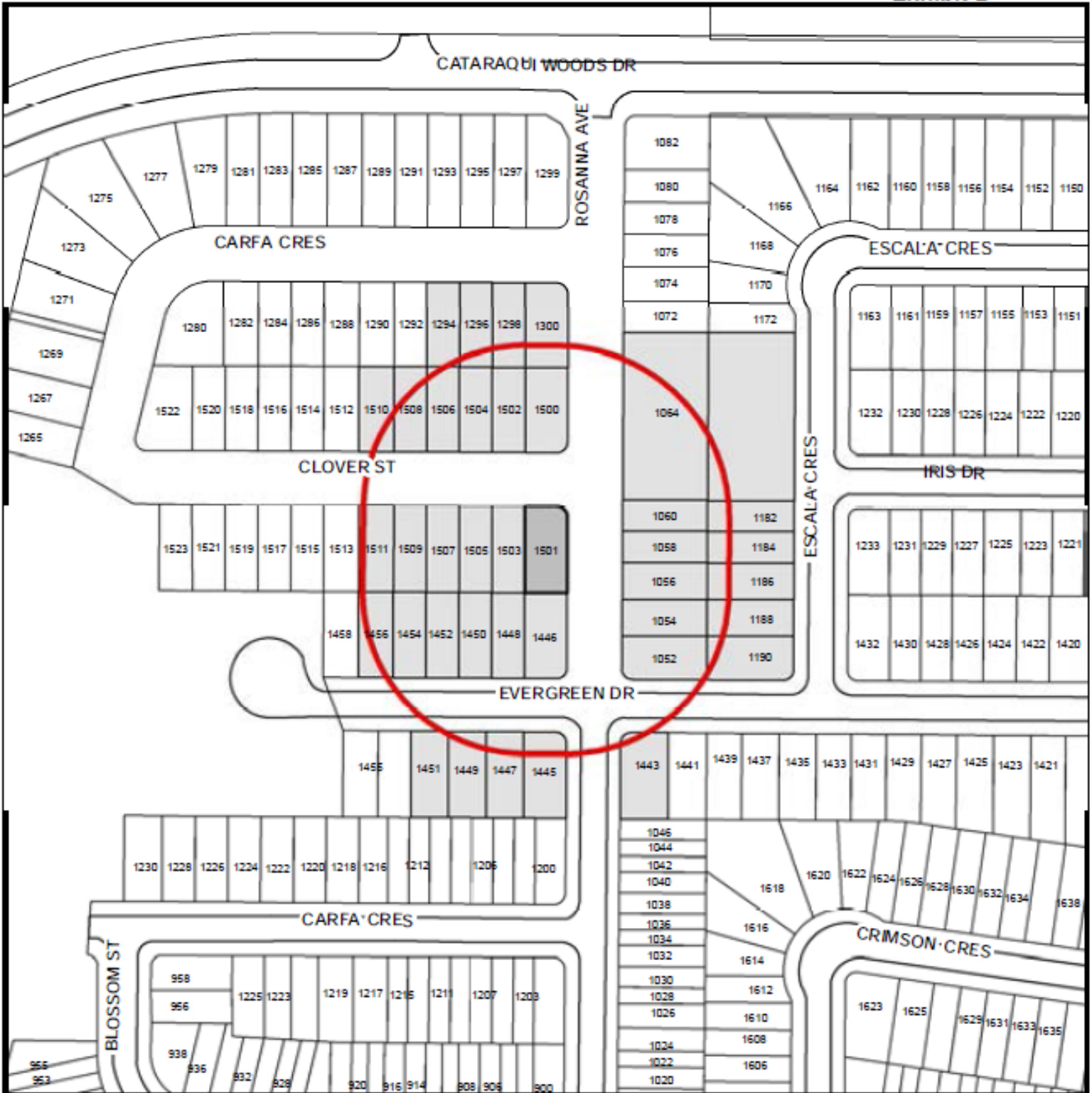


LEGEND

Lands Subject to Minor Variance



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Community Services







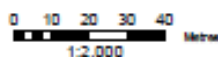
Planning, Building & Licensing Services  
 a department of  
 Community Services

**COMMITTEE OF ADJUSTMENT  
 PUBLIC NOTICE NOTIFICATION MAP**

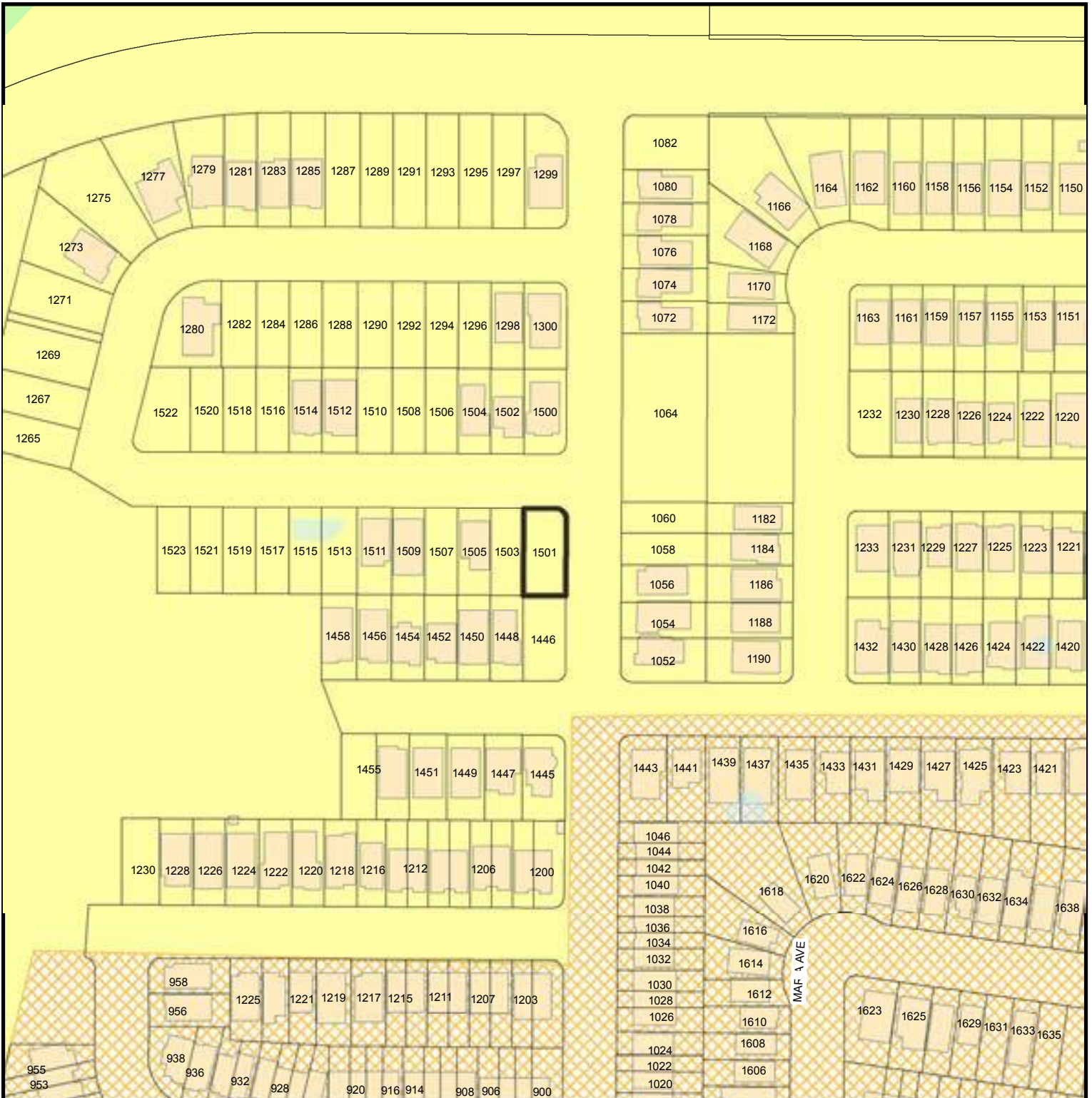
Applicant: Amelia Domingo  
 Owner: Bellefield Custom Homes  
 File Number: D13-025-2018  
 Address: 1501 Clover Street

**LEGEND**

-  Lands Subject to Minor Variance
-  60 m Public Notice Boundary
-  Property Boundaries
-  39 Properties in Receipt of Notice



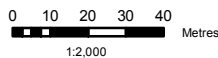




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COMMITTEE OF ADJUSTMENT  
**OFFICIAL PLAN, Land Use**

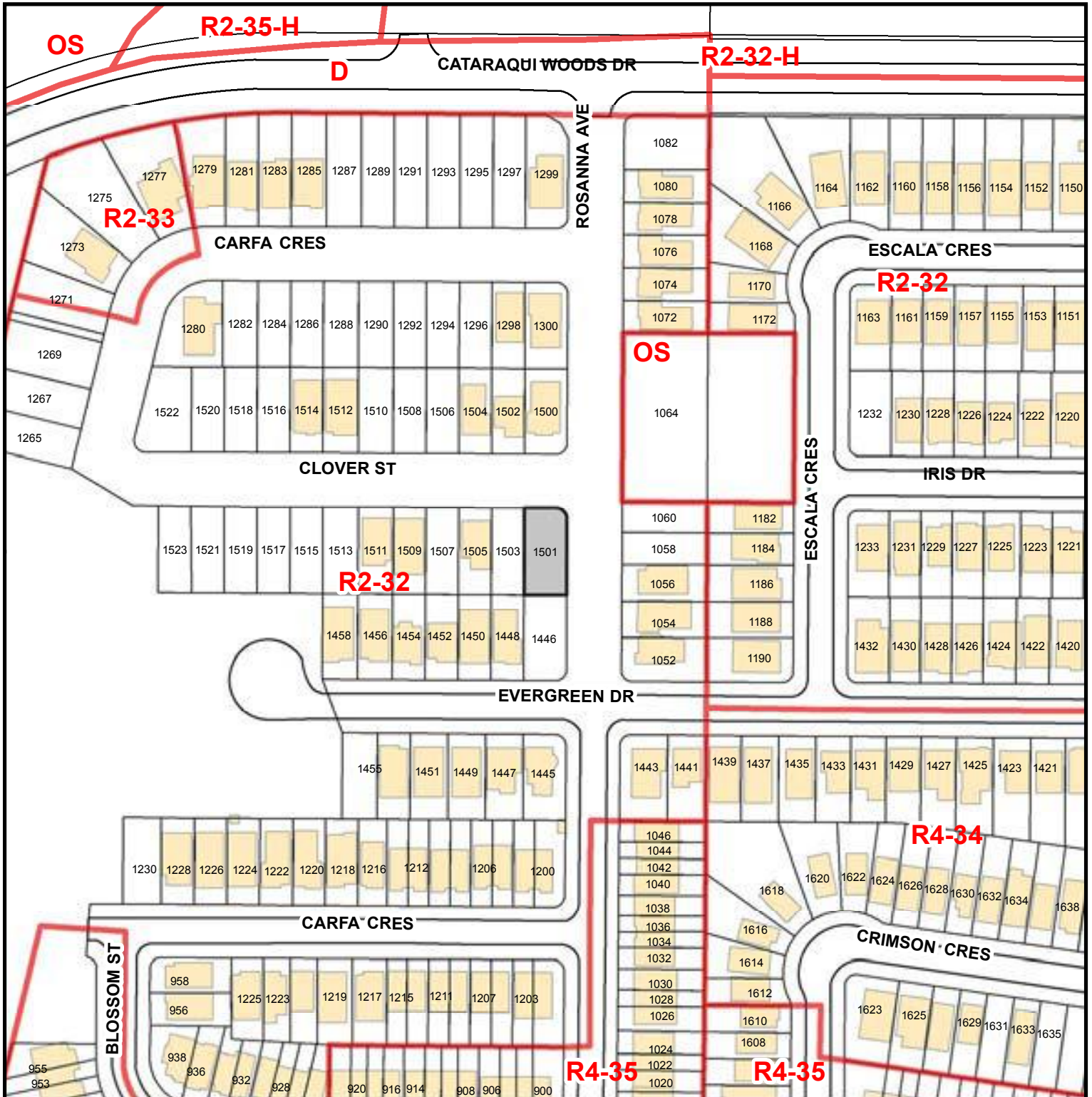
Applicant: Amelia Domingo  
Owner: BELLEFIELD CUSTOM HOMES LTD  
File Number: D13-025-2018  
Address: 1501 Clover St



**LEGEND**

- Lands Subject to Minor Variance
- LOW DENSITY RESIDENTIAL
- MEDIUM DENSITY RESIDENTIAL
- OPEN SPACE



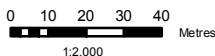


COMMITTEE OF ADJUSTMENT  
**ZONING BY-LAW 76-26, Map 2**

Applicant: Amelia Domingo  
 Owner: BELLEFIELD CUSTOM HOMES LTD  
 File Number: D13-025-2018  
 Address: 1501 Clover St

**LEGEND**

- Consolidated Zoning
- Lands Subject to Minor Variance
- Property Boundaries









Planning, Building & Licensing Services  
 a department of  
 Community Services


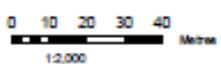
COMMITTEE OF ADJUSTMENT  
 NEIGHBOURHOOD CONTEXT (2015)

Applicant: Amelia Domingo  
 Owner: BELLEFIELD CUSTOM HOMES LTD  
 File Number: D13-025-2018  
 Address: 1501 Clover St

LEGEND

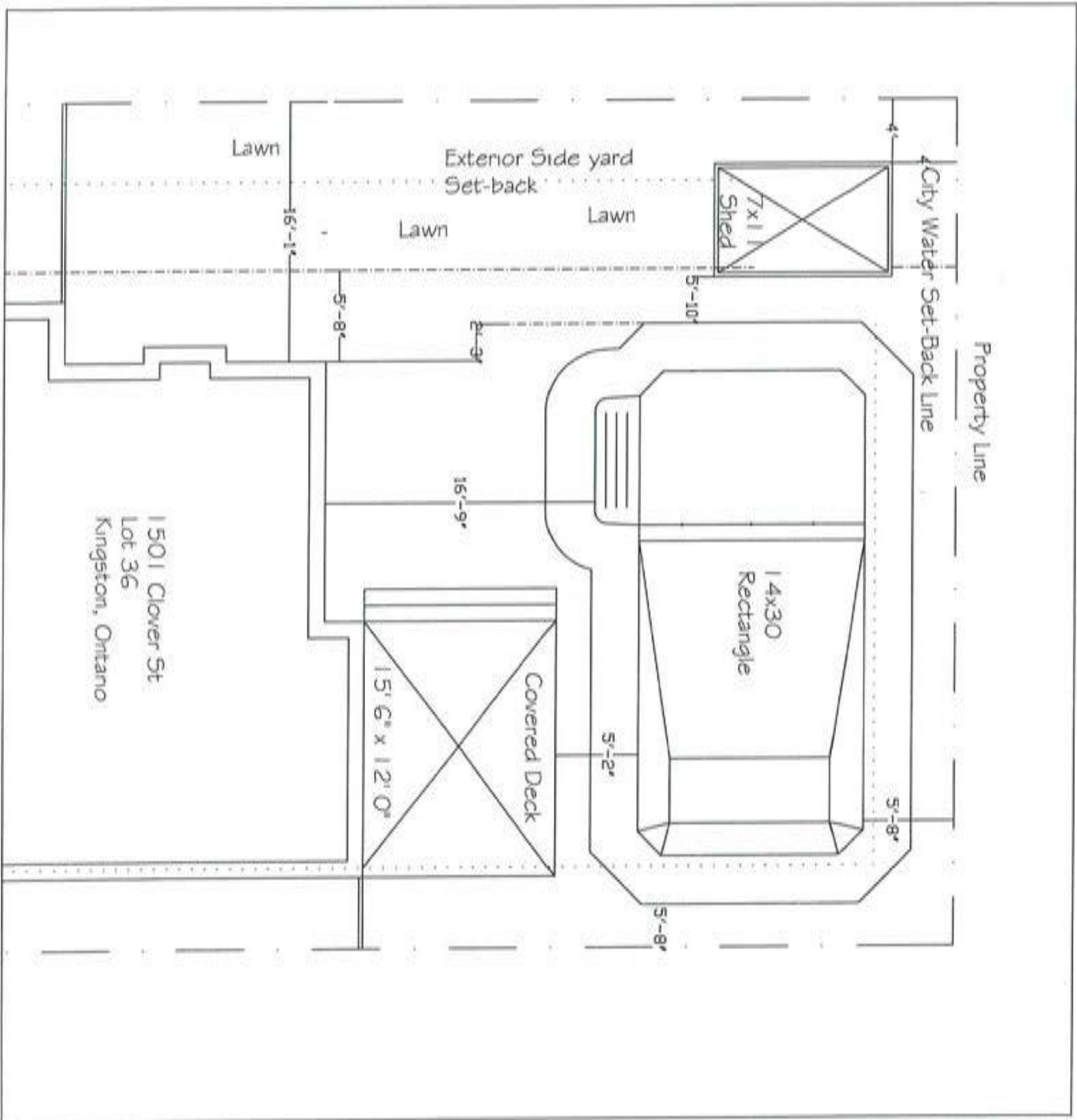
 Lands Subject to Minor Variance

 Property Boundaries

PREPARED BY: J.Partridge  
 DATE: 5/25/2018









**City of Kingston  
Report to Committee of Adjustment  
Report Number COA-18-039**

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**To:** Chair and Members of Committee of Adjustment  
**From:** James Bar, Senior Planner  
**Date of Meeting:** June 25, 2018  
**Application for:** Minor Variance  
**File Number:** D13-026-2018  
**Address:** 3 Karlee Court  
**Owner:** Pedro Martins  
**Applicant:** Pedro Martins and Carlos Marques

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**Executive Summary:**

This report provides a recommendation to the Committee of Adjustment regarding an application for a minor variance for the property located at 3 Karlee Court (Exhibit A). The applicant is proposing to reduce the exterior side yard setback on a corner lot for an existing vacant lot of record from the regulated 7.5 metres to the proposed 6 metres to facilitate the construction of a semi-detached dwelling. The lot is the last to be developed on Karlee Court.

The requested minor variance is consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 8499. The requested minor variance is desirable for the appropriate development or use of the land, building or structure and is minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval.

**Recommendation:**

It is recommended that minor variance application, File Number D13-026-2018, for the property located at 3 Karlee Court to reduce the exterior side yard setback for a corner lot from the regulated 7.5 metres to the proposed 6 metres, be approved.

June 25, 2018

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**Variance Number 1: Corner lot - minimum side yard abutting a street (exterior side yard)**

By-Law Number 8499: A5.356.c.vi.  
Requirement: 7.5 metres  
Proposed: 6 metres  
Variance Requested: 1.5 metres

**Approval of the foregoing variance shall be subject to the following conditions:****1. Limitation**

That the approved variance applies only to 3 Karlee Court as shown on drawings received on 5/13/2018.

**2. No Adverse Impacts**

The owner/applicant shall demonstrate to the satisfaction of the City that there are no adverse impacts on neighbouring properties as a result of any modifications to on-site grading or drainage.

**3. Building Permit Application Requirements**

The owner/applicant shall provide to the Building Division a copy of the decision of the Committee of Adjustment, together with a copy of the approved drawings, when they make an application for a Building Permit.

The drawings submitted with the Building Permit application must, in the opinion of the City, conform to the general intent and description of the approved drawing(s), including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. It must be noted that additional planning approvals may be required should further zoning deficiencies be identified through the Building Permit application process.

**4. Standard Archaeological Condition**

In the event that deeply buried or previously undiscovered archaeological deposits are discovered in the course of development or site alteration, all work must immediately cease and the site must be secured. The Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132) and the City of Kingston's Planning Division (613-546-4291, extension 3180) must be immediately contacted.

In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Registrar of Cemeteries Regulation Section of the Ontario Ministry of Consumer Business Services (416-326-8404), the Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132), and the City of Kingston's Planning Division (613-546-4291, extension 3180) must be immediately contacted.

June 25, 2018

Page 3 of 12

**5. Site Triangle**

The applicants shall demonstrate to the satisfaction of the City Engineering Department that the proposed driveway is located outside of the sight triangle of Karlee Court and Guthrie Drive. The sight triangle is measured nine (9) metres along the long side and four (4) metres on the short side for both street frontages.



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**Authorizing Signatures:**



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**James Bar, Senior Planner**

**In Consultation with the following Management of the Community Services Group:**

Paige Agnew, Director, Planning, Building & Licensing Services

Lanie Hurdle, Commissioner, Community Services

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**Options/Discussion:**

On May 13, 2018, a minor variance application was submitted by Pedro Martins and Carlos Marques, on behalf of the owner, Pedro Martins, with respect to the property located at 3 Karlee Court (Exhibit A). The variance is requested to reduce the corner lot setback for an existing lot of record from the regulated 7.5 metres on the exterior side yard to the proposed 6 metres to facilitate the construction of a semi-detached dwelling (Exhibit B).

In support of the application, the applicant has submitted the following:

- Site Plan (Exhibit B);
- Floor Plans (Exhibit C);
- Elevations (Exhibit D); and
- Survey.

All submission materials are available online through the Development and Services Hub (DASH) at the following link, [DASH](#), using “Look-up a Specific Address”. If there are multiple addresses, search one address at a time, or submission materials may also be found by searching the file number.

**Site Characteristics**

The subject property is located at 3 Karlee Court, at the north corner of Karlee Court and Guthrie Drive. The lands are bordered by single-detached and semi-detached residential uses to the east, south, and west; Snider Park borders the property to the north (Exhibit E). This is the last vacant parcel of land to develop on Karlee Court, which has developed exclusively with semi-detached dwellings (Exhibit F).

The subject property is designated Residential in the Official Plan (Exhibit G) and zoned as a site specific One and Two-Family A5.356 Zone in Zoning By-Law Number 8499 (Exhibit H). Both Karlee Court and Guthrie Drive are classified as Local Roads on Schedule 4 – Transportation, of the Kingston Official Plan. Local Roads serve low volumes of traffic at low speeds.

Guthrie Drive does not run square with the lot, creating a non-typical building envelope. The particular angle of the roadway reduces the available building envelope towards the rear of the property as demonstrated on Exhibit B.

**Application**

The review of an application for minor variance(s) is not a simple mathematical calculation, but rather a detailed assessment of whether the variance(s) requested, both separately and together, meet the four tests of a minor variance outlined in Subsection 45(1) of the *Planning Act*. The following provides this review:

June 25, 2018

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**1) The general intent and purpose of the Official Plan are maintained**

The subject property is designated Residential in the City of Kingston Official Plan. The predominant use of land in the Residential designation is for various forms of housing (3.3.1), including low density residential uses such as semi-detached dwellings (3.3.A.2).

In considering whether the proposed variances are desirable, the Committee of Adjustment will give regard to the nine requirements included in Section 9.5.19 of the Official Plan. The following provides these nine requirements and an assessment of how the proposal is consistent with each.

- a. The proposed development meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of the Official Plan.

The proposed application meets the intent of Section 2 of the Official Plan and the strategic direction to focus growth within the Urban Boundary. The unit type is consistent with the low-density residential uses and the more intensive unit type works to increase the density of units per net hectare through intensification. The use is permitted by the zone and is compatible with adjacent development in terms of the proposed built form. The reduction in the corner lot – exterior side yard setback does not conflict with the policies of the Official Plan.

- b. The proposed development will be compatible with surrounding uses, buildings or structures and development standards associated with adjacent properties, and if necessary, incorporate means of alleviating adverse effects on abutting land uses as recommended in Section 2.7 of this Plan.

Development and/or land use change must demonstrate that the resultant form, function, and use of land are compatible with surrounding land uses (2.7.1). Land use compatibility matters and mitigation measures may be used to achieve development and land use compatibility.

The proposed development is a consistent built form, scale/style, and unit type with the neighbouring semi-detached and single-detached dwellings (Exhibit F). The reduced exterior side yard setback does not result in a loss of privacy due to intrusive overlook or encroaching onto a more sensitive land use. The reduction in the setback does not create a visual intrusion into the streetscape along Guthrie Drive and will assist in the development of the vacant site and create a more complete streetwall. There are no anticipated off-site impacts on the adjacent park facility as the eight (8) metre rear yard setback is maintained.

- c. The ability of the site to function in an appropriate manner in terms of access, parking or any other matter and means of improving such function.

A semi-detached dwelling was previously anticipated for the subject lands. As a wider dwelling may shift the location of the driveway, as a condition of approval, Engineering is

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requesting that the applicants demonstrate that a proposed driveway for the semi-detached dwelling will be outside of the sight triangle for Karlee Court and Guthrie Drive.

- d. The conformity of the proposal to any applicable urban design policies endorsed by Council, particularly if the site includes or could impact a built heritage resource or is within a Heritage District.

The subject lands are not designated or listed under the *Ontario Heritage Act*, nor are they adjacent to a designated or listed property. This property and those immediately adjacent are zoned the site specific A5.356 Zone. The site specific A5.356 Zone contains provisions related to the location of the garage and the front wall of the building in order to prevent garages from protruding out past the façade of the dwelling. The reduction in the corner lot setback is consistent with the existing front yard setback (6 metres).

- e. If the site is designated under the *Ontario Heritage Act*, the application shall be reviewed by Heritage Kingston for approval. If the property is adjacent to a designated property under the *Ontario Heritage Act* or shown as a Heritage Area feature, or is affected by the protected views shown on Schedule 9 of this Plan, then a Heritage Impact Statement may be required to assist staff to determine if the resulting development is desirable.

The site is not a listed or designated built heritage recourse, nor is it adjacent to a designated or listed built heritage resource. The lands are not affected by the protected views as shown on Schedule 9 of the Official Plan.

- f. The resulting development has adequate municipal water and sewage services within the Urban Boundary, or is capable of providing individual on-site water and sewage services outside the Urban Boundary.

The site is within an area where both municipal water and wastewater services are available. Utilities Kingston has no concerns with the variance application.

- g. Whether the application and the cumulative impact of the proposed variances would be more appropriately addressed by a zoning amendment to the applicable zoning by-law.

The impact of the proposal and the requested variance is minor, and is therefore not subject to a zoning by-law amendment application process.

- h. The Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application for a Minor Variance including any reasonable requirements, recommendations of City departments, or the submission of studies as listed in Section 9.12 of this Plan that may be required to properly evaluate the application.

Multiple conditions of approval are recommended through this report.

- i. The degree to which such approval may set an undesirable precedent for the immediate area.

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It is not anticipated that an undesirable precedent may be set through the approval of the requested variances.

The Residential designation aims to minimize impacts on abutting properties and those within the surrounding neighbourhood, by ensuring land use compatibility, providing appropriate separation distances, ensuring the functionality of the site, and integrating design considerations as per the Urban Design policies of Section 8 of the Official Plan.

The proposal meets the intent of the Official Plan, as the proposed semi-detached dwelling will not result in any negative impacts to adjacent properties or to the neighbourhood.

## 2) The general intent and purpose of the zoning by-law are maintained

The subject property is zoned the One and Two-Family A5.356 Zone in the City of Kingston Zoning By-Law Number 8499, entitled "Restricted Area (Zoning) By-Law of the Corporation of the City of Kingston", as amended. The A5.356 Zone permits one and two-family dwellings including a semi-detached dwelling. The Site Specific A5.356 Zone was passed on May 2, 2006.

The proposal requires a variance to Section A5.356 (c)vi) to reduce the corner lot setback for an existing lot of record from the regulated 7.5 metres on the exterior side yard to the proposed 6 metres to facilitate the construction of a semi-detached dwelling.

### Variance Number 1: Corner Lot Setback – Exterior Side Yard

By-Law Number: 8499	A5.356.(c)vi)
Requirement:	7.5 metres
Proposed:	6 metres
Variance Requested:	1.5 metres

The intent of the exterior side yard setback is to provide greater separation between a dwelling unit and a traveled roadway for privacy and noise separation. Guthrie Street does not run square with the lot creating a non-typical building envelope. The particular angle of the roadway reduces the available building envelope towards the rear of the property (Exhibit B - Site Plan).

The boulevard on Guthrie Drive (classed as a Local Road) is approximately 5.5 metres in width. Together with the proposed 6 metre exterior side yard setback, the dwelling will be located approximately 11.5 metres from the travelled roadway (Exhibit I – Setback Visualization).

The intent of the zoning by-law is maintained as there adequate separation between the roadway and the dwelling unit. The 6 metre setback is consistent with the existing front yard setback of 6 metres. No other provisions of Zoning By-Law Number 8499 or the One and Two-Family A5.356 Zone are proposed to be varied as part of this application.



June 25, 2018

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**3) The variance is minor in nature**

The variance is considered minor as the proposed reduction in the corner lot setback – exterior side yard setback for the permitted use of a semi-detached dwelling does not adversely impact the functionality of the subject property or adjacent properties. There are no anticipated offsite impacts. The proposed setback reduction would not result in the over-development of the site.

**4) The variance is desirable for the appropriate development or use of the land, building or structure**

The requested variance is considered to be an appropriate and desirable development for the property. The Residential designation and the One and Two-Family A5.356 Zone permit the development of the two family (semi-detached) dwelling unit. This type of development is predominating in the area.

The proposed reduction in the corner lot setback – exterior side yard setback will facilitate the construction of slightly larger units and slightly larger garage spaces. The development will fill in a gap in the built form in the area and is compatible with the surrounding built form.

**Provincial Policy Statement**

In addition to the four tests of a minor variance detailed above, Subsection 3(5) of the *Planning Act* requires that a decision in respect of the exercise of any authority that affects a planning matter shall be consistent with the Provincial Policy Statement (the PPS). The PPS provides policy direction on matters of provincial interest related to land use planning and development which are complemented by local policies addressing local interests. The application being considered is site specific to accommodate a specific proposal and does not involve any major policy considerations and as such, the proposal conforms to and is consistent with the PPS.

**Technical Review: Circulated Departments and Agencies**

- |   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> Building Division | <input checked="" type="checkbox"/> Engineering Department | <input type="checkbox"/> Heritage (Planning Division)            |
| <input type="checkbox"/> Finance                      | <input checked="" type="checkbox"/> Utilities Kingston     | <input type="checkbox"/> Real Estate & Environmental Initiatives |
| <input checked="" type="checkbox"/> Fire & Rescue     | <input checked="" type="checkbox"/> Kingston Hydro         | <input checked="" type="checkbox"/> City's Environment Division  |
| <input type="checkbox"/> Solid Waste                  | <input checked="" type="checkbox"/> Parks Development      | <input type="checkbox"/> Canadian National Railways              |
| <input type="checkbox"/> Housing                      | <input type="checkbox"/> District Councillor               | <input type="checkbox"/> Ministry of Transportation              |
| <input type="checkbox"/> KEDCO                        | <input type="checkbox"/> Municipal Drainage                | <input type="checkbox"/> Parks of the St. Lawrence               |
| <input checked="" type="checkbox"/> CRCA              | <input type="checkbox"/> KFL&A Health Unit                 | <input type="checkbox"/> Trans Northern Pipelines                |
| <input type="checkbox"/> Parks Canada                 | <input type="checkbox"/> Eastern Ontario Power             | <input type="checkbox"/> CFB Kingston                            |
| <input type="checkbox"/> Hydro One                    | <input type="checkbox"/> Enbridge Pipelines                | <input type="checkbox"/> TransCanada Pipelines                   |
| <input type="checkbox"/> Kingston Airport             |  |  |

**Technical Comments**

This application was circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude this

June 25, 2018

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application from moving forward. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

- **Utilities Kingston** – No issues or concerns with the proposed minor variance.
- **Kingston Hydro** - Kingston Hydro has no concerns with the proposed minor variance. The applicant will need to submit a service request for connection to the secondary distribution system. Service request can be completed online or may be downloaded, completed and submitted to a services advisor at Utilities Kingston.
- **Building** - Building Permits will be required for any structure greater than 108 square feet. Development and Impost fees may be required. Construction fencing must be provided to enclose the area where a building is under construction, alteration, demolition, incomplete or abandoned as well as any site in close proximity to spaces where the public may congregate. Fencing will be reviewed with your building permit application to ensure conformance with By-Law Number 2005-99 1. - All spatial requirements under the OBC are to be met for the Buildings.
- **Engineering** - Engineering has reviewed the proposed reduction in exterior side yard setback and has no objections. A driveway was not identified on the plans provided. The driveway location should be outside of a sight triangle which should be demonstrated as a condition of approval.

### Public Comments

At the time this report was finalized, no public comments had been received. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

### Previous or Concurrent Applications

There are no concurrent or relevant historic planning applications on the subject property.

### Conclusion

The requested variance maintains the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 8499. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variance is minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and the application is being recommended for approval, subject to the proposed conditions.

Approval of this application will facilitate the development of a semi-detached dwelling on an existing lot of record.

June 25, 2018

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**Existing Policy/By-Law:**

The proposed application 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**

Provincial Policy Statement, 2014

**Municipal**

City of Kingston Official Plan  
Zoning By-Law Number 8499

**Notice Provisions:**

A Committee of Adjustment Meeting is going to be held respecting this application on June 25, 2018. Pursuant to the requirements of the *Planning Act*, a notice of Statutory Public Meeting was provided by advertisement in the form of signs posted on the subject site 10 days in advance of the meeting. In addition, notices were sent by mail to a total number of 42 property owners (according to the latest Assessment Roll) within 60 metres of the subject property (Exhibit J) and a courtesy notice was placed in The Kingston Whig-Standard.

Once a decision has been rendered by the Committee of Adjustment, a Notice of Decision will be circulated in accordance with the provisions of the *Planning Act*.

**Accessibility Considerations:**

Not applicable

**Financial Considerations:**

Not applicable

**Contacts:**

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

Laura MacCormick, Deputy Director, Planning Division 613-546-4291 extension 3223

Marnie Venditti, Manager, Development Approvals 613-546-4291 extension 3256

James Bar, Senior Planner 613-546-4291 extension 3213

June 25, 2018

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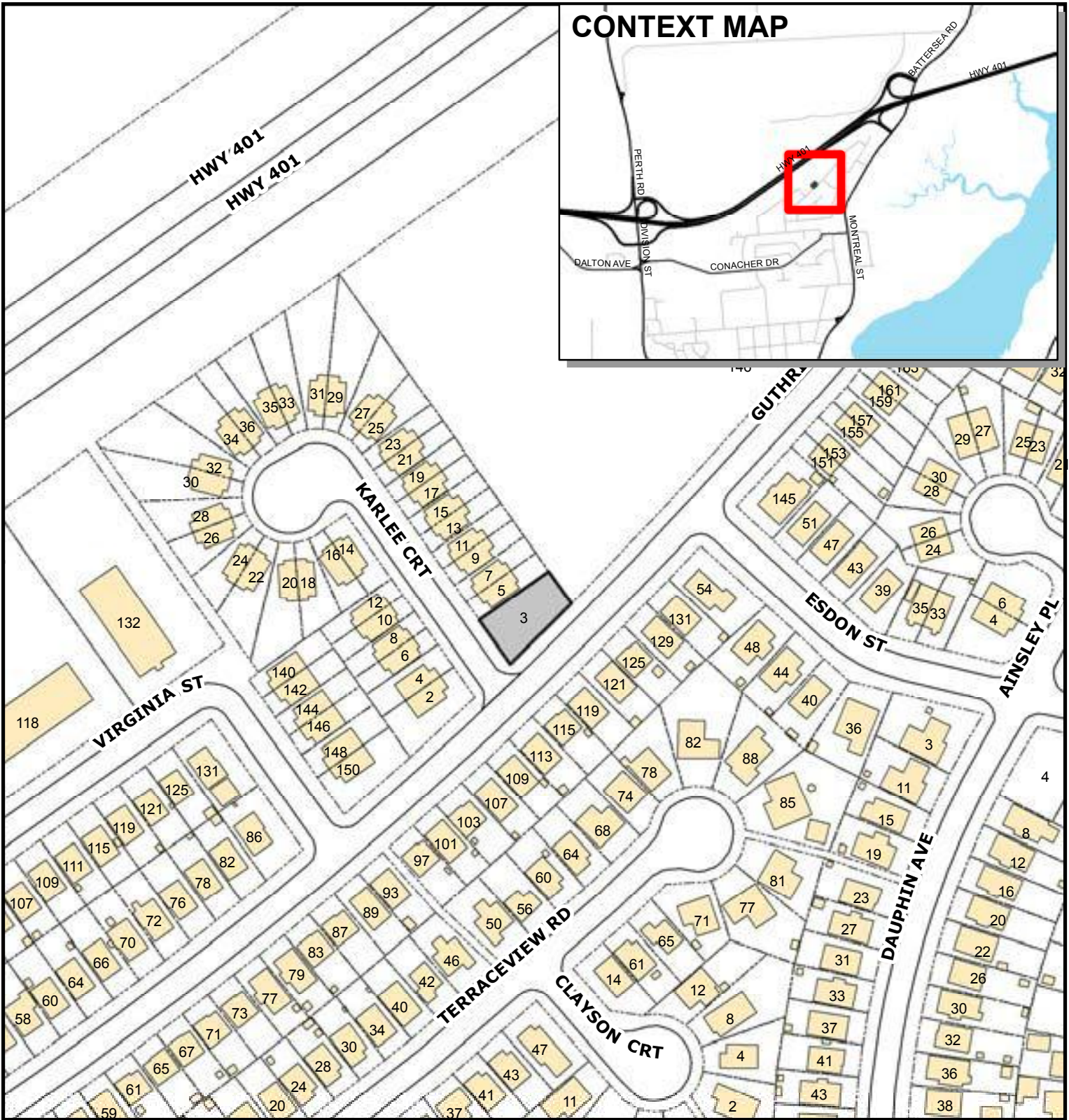
**Other City of Kingston Staff Consulted:**

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 in this report.

**Exhibits Attached:**

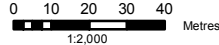
- Exhibit A Key Map
- Exhibit B Site Plan
- Exhibit C Floor Plans
- Exhibit D Elevations
- Exhibit E Neighbourhood Context Map 2015
- Exhibit F Site Photos
- Exhibit G Official Plan
- Exhibit H Existing Zoning By-Law Number 8499, Map 4
- Exhibit I Setback Visualization
- Exhibit J Public Notice Notification Map

**CONTEXT MAP**




COMMITTEE OF ADJUSTMENT  
**KEY MAP**

Applicant: Pedro Martins  
 Owner: Pedro Martins  
 File Number: D13-026-2018  
 Address: 3 Karlee Court



**LEGEND**

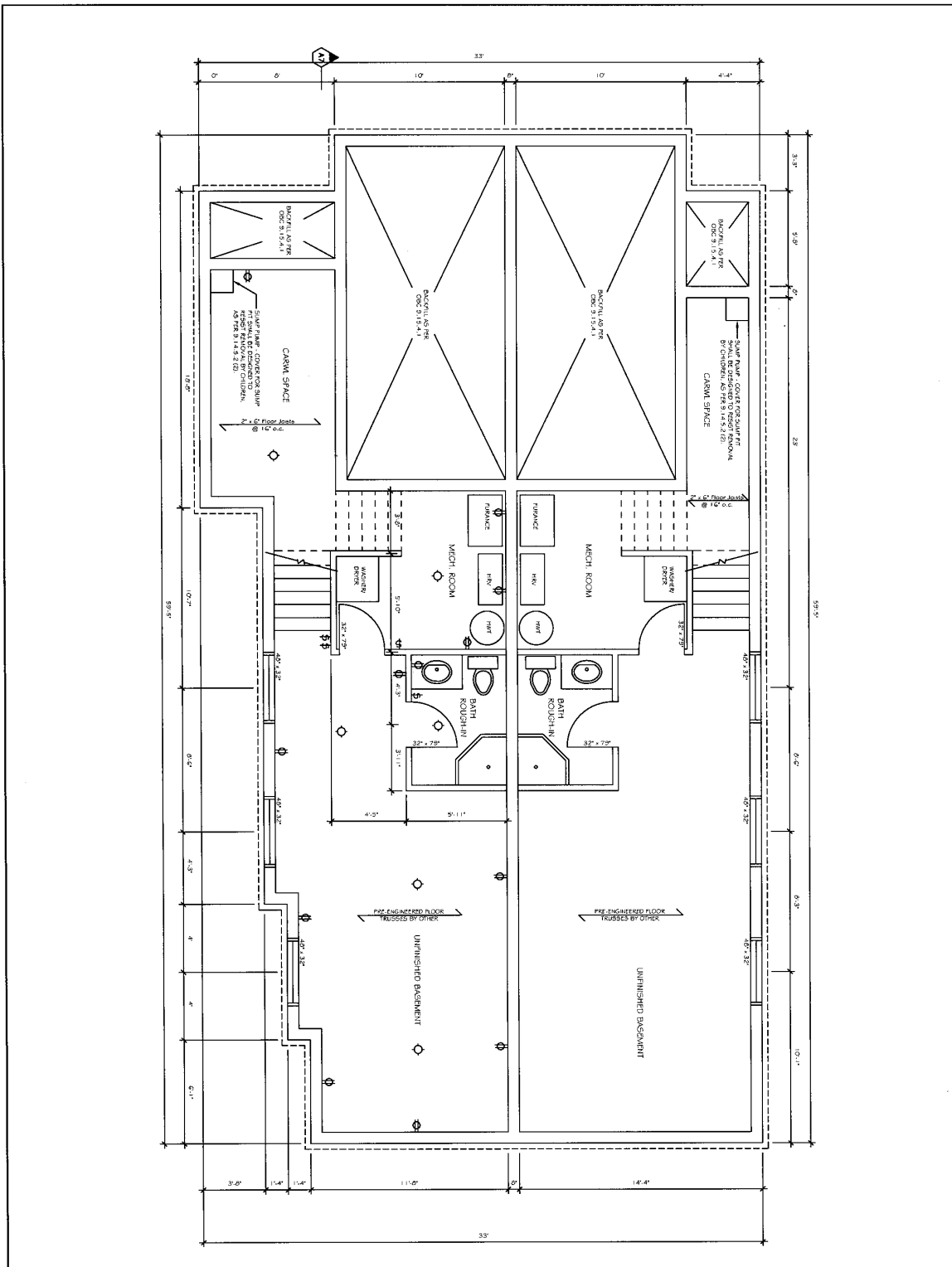
 Lands Subject to Minor Variance



Planning, Building  
& Licensing Services  
 a department of  
 Community  
 Services







**Imperial**  
1100 SHEPPARD AVENUE EAST, SUITE 100, SCARBOROUGH, ONTARIO M1B 3Y9  
 TEL: (416) 291-1111 FAX: (416) 291-1112  
 WWW.IMPERIALCAD.COM

1) THESE PLANS FORM THE BASIS FOR PERMIT AND CONSTRUCTION. ANY CHANGES TO THE PLANS SHALL BE MADE BY THE ARCHITECT. THE ARCHITECT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. THE ARCHITECT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. THE ARCHITECT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. THE ARCHITECT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.

**Project Name & Address**  
 Martins Residence  
 1 Karlee Court  
 Kingston, Ontario

**Client**  
 Karlee Court  
 1 Karlee Court  
 Kingston, Ontario

**Drawing Title**  
 BASEMENT AND FOUNDATION PLAN

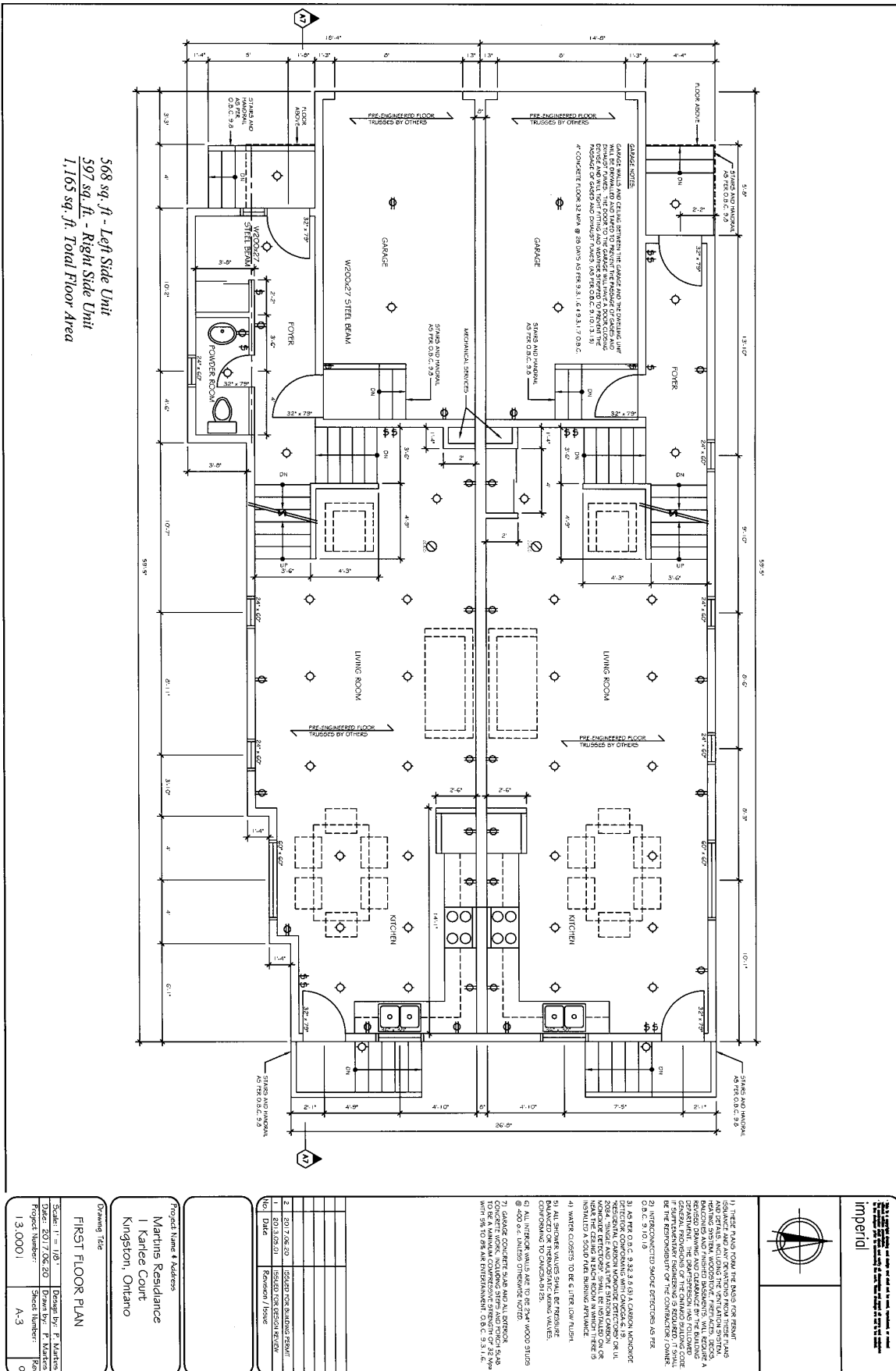
**Scale**  
 1/8" = 1'-0"

**Date**  
 2017.06.20

**Drawn By**  
 F. Martins

**Project Number**  
 13.0001

**Sheet Number**  
 A-2



568 sq. ft. - Left Side Unit  
 597 sq. ft. - Right Side Unit  
 1,165 sq. ft. Total Floor Area

**Project Name & Address**  
 Martins Residence  
 1 Kettle Court  
 Kingston, Ontario

**Drawing Title**  
 FIRST FLOOR PLAN

Scale: 1/8" = 1'-0"  
 Date: 2017.06.20  
 Project Number: 13.0001  
 Sheet Number: A-3

Rev	Date	Description
1	2017.06.20	ISSUED FOR SUBMISSION
2	2017.06.20	ISSUED FOR SUBMISSION
3	2017.06.20	ISSUED FOR SUBMISSION

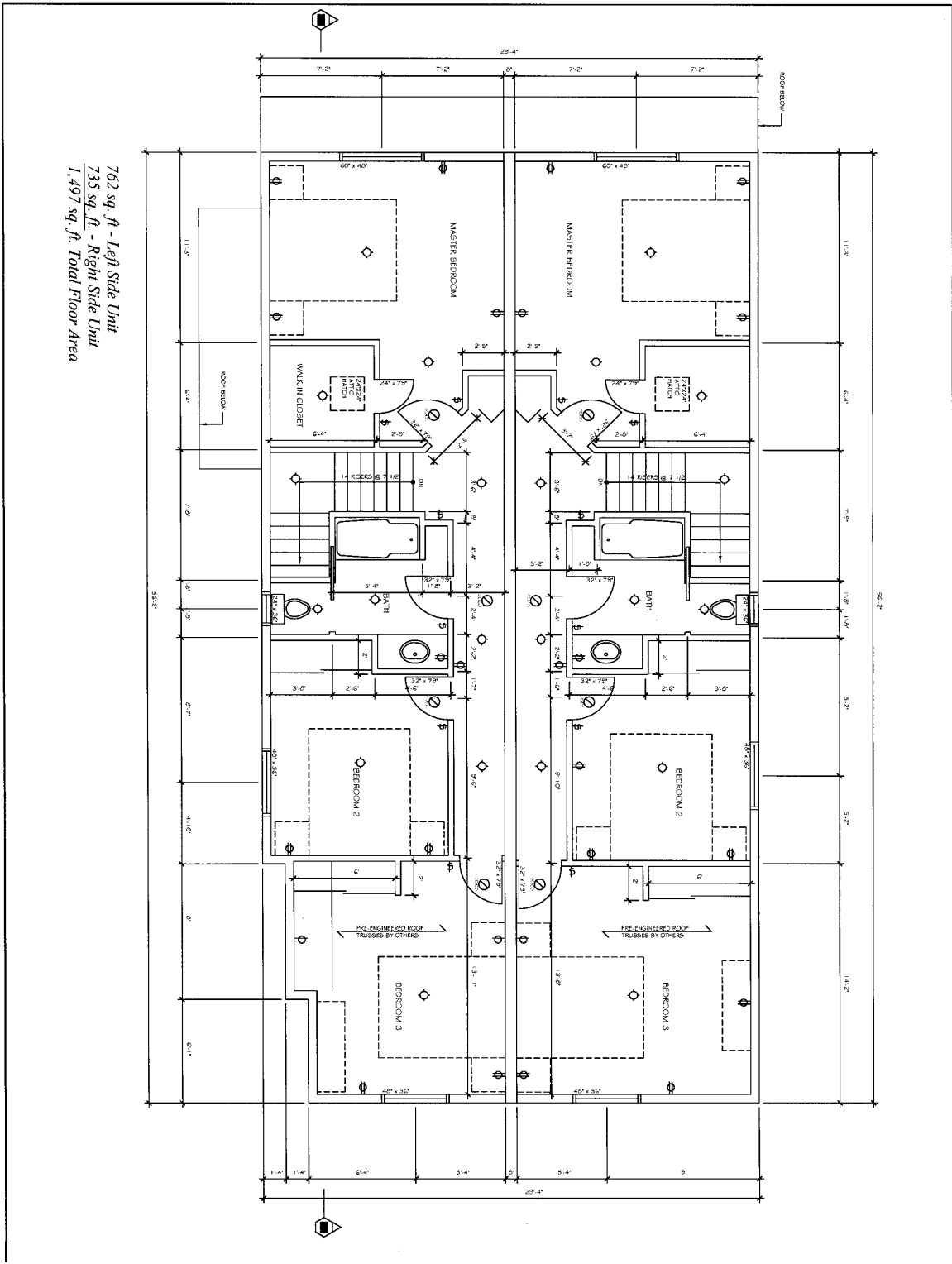
**Notes:**

- 1) THESE PLANS SHOW THE BASIS FOR PERMIT SUBMITTAL AND ANY DEVIATIONS FROM THESE PLANS SHALL BE SHOWN ON THE PERMIT APPLICATION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITY. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITY.
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- 4) THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITY.
- 5) THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITY.
- 6) ALL INTERIOR WALLS ARE TO BE 2x4 WOOD STUDS ON 16" O.C. WITH 1/2" GYPSUM BOARD ON BOTH SIDES.
- 7) ALL INTERIOR WALLS ARE TO BE 2x4 WOOD STUDS ON 16" O.C. WITH 1/2" GYPSUM BOARD ON BOTH SIDES.
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- 10) ALL INTERIOR WALLS ARE TO BE 2x4 WOOD STUDS ON 16" O.C. WITH 1/2" GYPSUM BOARD ON BOTH SIDES.
- 11) ALL INTERIOR WALLS ARE TO BE 2x4 WOOD STUDS ON 16" O.C. WITH 1/2" GYPSUM BOARD ON BOTH SIDES.
- 12) ALL INTERIOR WALLS ARE TO BE 2x4 WOOD STUDS ON 16" O.C. WITH 1/2" GYPSUM BOARD ON BOTH SIDES.
- 13) ALL INTERIOR WALLS ARE TO BE 2x4 WOOD STUDS ON 16" O.C. WITH 1/2" GYPSUM BOARD ON BOTH SIDES.
- 14) ALL INTERIOR WALLS ARE TO BE 2x4 WOOD STUDS ON 16" O.C. WITH 1/2" GYPSUM BOARD ON BOTH SIDES.
- 15) ALL INTERIOR WALLS ARE TO BE 2x4 WOOD STUDS ON 16" O.C. WITH 1/2" GYPSUM BOARD ON BOTH SIDES.

**Imperial**

Architectural Firm

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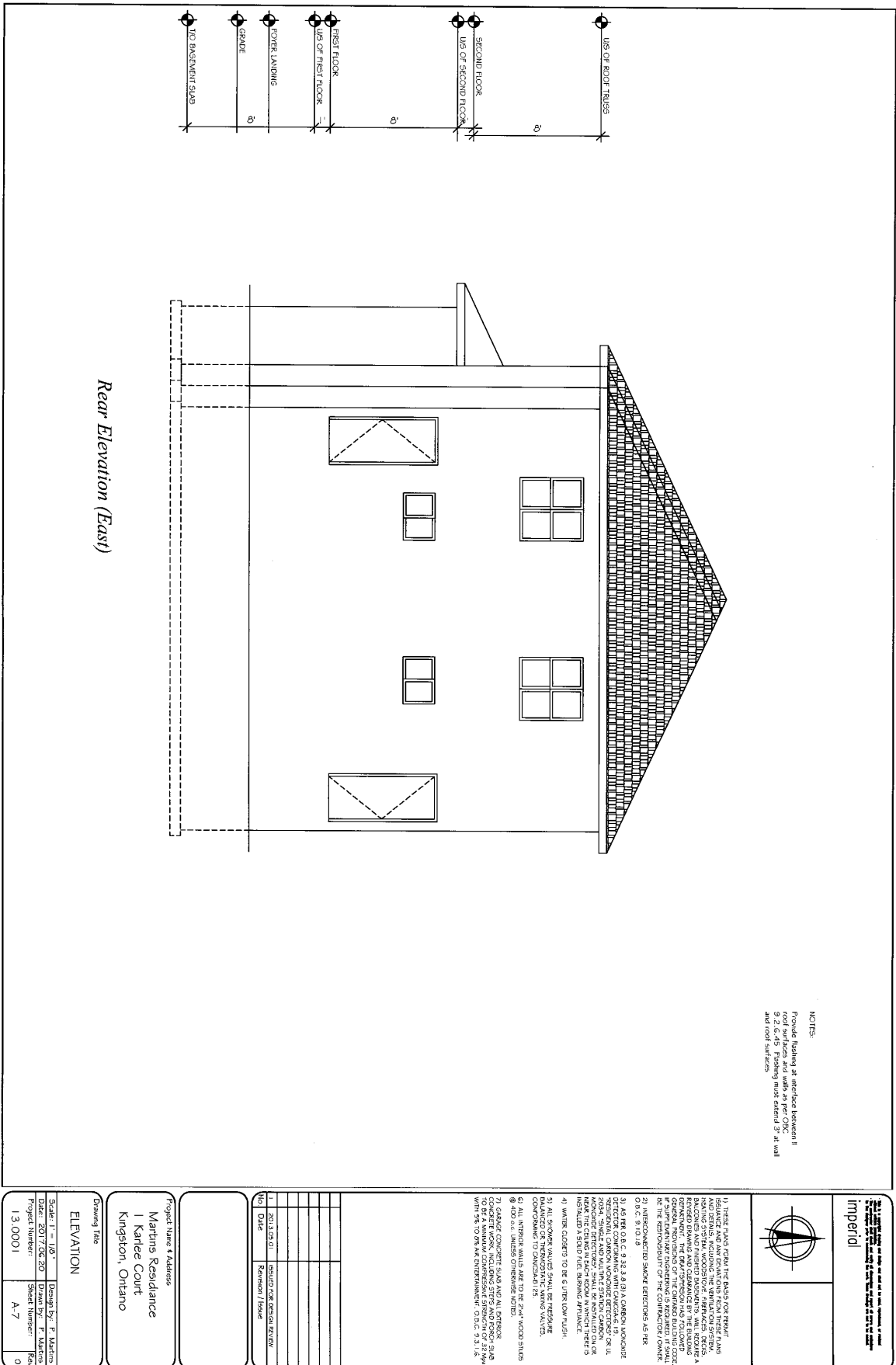
762 sq. ft. - Left Side Unit  
 735 sq. ft. - Right Side Unit  
 1,497 sq. ft. Total Floor Area

 Imperical <small>Architectural &amp; Engineering Inc.</small>	<p>1) THESE PLANS FORM THE BASIS FOR TREAT AND ADJUSTMENT AND ARE NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT.</p> <p>2) THE ARCHITECT HAS CONDUCTED VISUAL GENERAL VERIFICATION OF THE EXISTING CONDITIONS AND HAS NOT CONDUCTED A DETAILED SURVEY OF THE EXISTING CONDITIONS. THE ARCHITECT IS NOT RESPONSIBLE FOR ANY DISCREPANCIES BETWEEN THE EXISTING CONDITIONS AND THE INFORMATION PROVIDED BY THE CLIENT.</p> <p>3) THE ARCHITECT HAS CONDUCTED VISUAL GENERAL VERIFICATION OF THE EXISTING CONDITIONS AND HAS NOT CONDUCTED A DETAILED SURVEY OF THE EXISTING CONDITIONS. THE ARCHITECT IS NOT RESPONSIBLE FOR ANY DISCREPANCIES BETWEEN THE EXISTING CONDITIONS AND THE INFORMATION PROVIDED BY THE CLIENT.</p> <p>4) ALL SHOWER VALVES SHALL BE PRESSURIZED BALANCED OR THERMOSTATIC MIXING VALVES.</p> <p>5) ALL SHOWER VALVES SHALL BE PRESSURIZED BALANCED OR THERMOSTATIC MIXING VALVES.</p> <p>6) ALL SHOWER VALVES SHALL BE PRESSURIZED BALANCED OR THERMOSTATIC MIXING VALVES.</p> <p>7) GABRIEL CONCRETE SHALL BE USED FOR ALL CONCRETE WORK, INCLUDING STAIRS AND TYPICAL 5/8" WIRE MESH TO 90° W/ 16" SPACING.</p>	<p>1) 2017.06.20</p> <p>2) 2017.06.20</p> <p>3) 2017.06.20</p> <p>4) 2017.06.20</p> <p>5) 2017.06.20</p> <p>6) 2017.06.20</p> <p>7) 2017.06.20</p> <p>8) 2017.06.20</p> <p>9) 2017.06.20</p> <p>10) 2017.06.20</p>	<p>Project Name &amp; Address                  Martins Residence                  1 Karlee Court                  Kingston, Ontario</p> <p>Drawing Title                  SECOND FLOOR PLAN</p> <p>Scale: 1" = 1/8"</p> <p>Date: 2017/06/20</p> <p>Project Number: 13.0001</p> <p>Sheet Number: A-4</p> <p>Rev: 0</p>
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NOTES:  
 Provide flashing at junction between all roof sections and walls as per OBC 9.2.6.415. Flashing must extend 3" of wall and roof surfaces.



- 1) THESE PLANS FORM THE BASIS FOR PERMIT AND APPROVALS INCLUDING THE PERMITS AND INSURANCE POLICY. CONTRACTOR SHALL BE RESPONSIBLE FOR PROVIDING SUFFICIENT PROTECTION TO EXISTING UTILITIES AND STRUCTURES TO REMAIN. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.
- 2) INTERCONNECTED SHUNT DETECTORS AS PER O.B.C. 9.10.1.8
- 3) AS PER O.B.C. 9.3.8.3.9 (A) CORKER NON-CORKER DETECTOR COMPLIANT WITH CANADIAN UL 268A-1 SINGLE AND MULTIPLE STATION CARBON MONOXIDE DETECTOR SHALL BE INSTALLED IN EACH ROOM INSTALLED A SOLID FIDC. BURNING APPLIANCE
- 4) WATER COBERTS TO BE 6" UP/LOW FLUSH
- 5) ALL SHOWER VALVES SHALL BE PRESSURE BALANCED OR THERMOSTATIC MIXING VALVES
- 6) ALL UTILITY RISERS ARE TO BE SHUT HOOD STOPS @ 400 o.c. UNLESS OTHERWISE NOTED
- 7) GABARD CONCRETE SLAB AND ALL EXTERIOR CONCRETE WORK, INCLUDING STEPS AND PORCH SLAB WITH 5% TO 8% AIR ENTRAINMENT @ O.B.C. 9.3.1.6.4

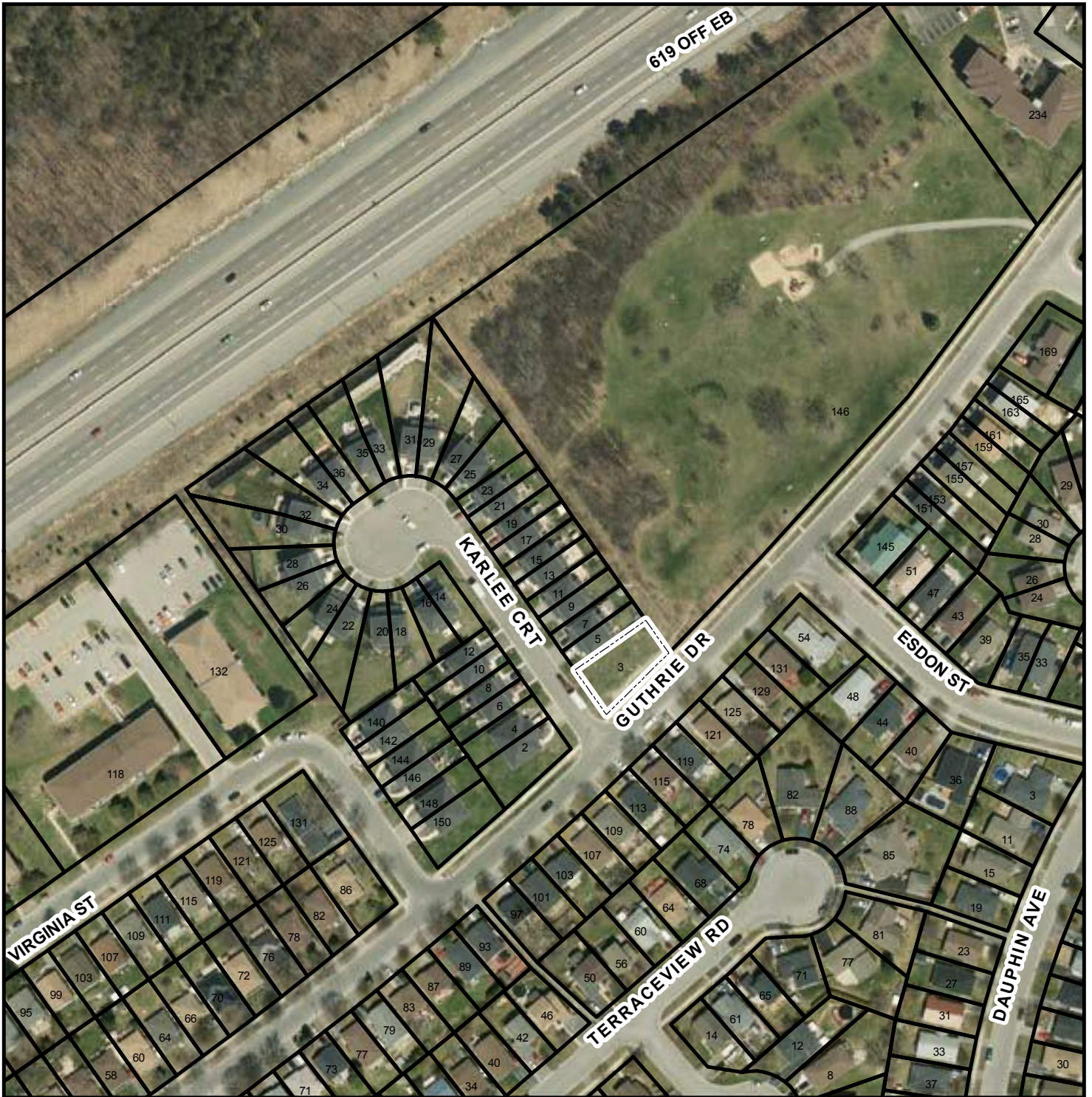
NO.	DATE	REVISION
1	2017.06.20	ISSUED FOR PERMIT REVIEW
2		
3		
4		
5		

Project Name & Address  
 Martins Residence  
 1 Karlee Court  
 Kingston, Ontario

Drawing Title  
 ELEVATION

Scale: 1" = 1/8"  
 Date: 2017.06.20  
 Project Number: 13.0001

Design By: F. Martins  
 Drawn By: F. Martins  
 Sheet Number: A-7  
 Rev: 0





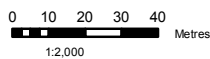
**Planning, Building  
& Licensing Services**  
a department of  
**Community  
Services**

**COMMITTEE OF ADJUSTMENT  
NEIGHBOURHOOD CONTEXT (2015)**

Applicant: Pedro Martins  
Owner: Pedro Martins  
File Number: D13-026-2018  
Address: 3 Karlee Court

**LEGEND**

-  Lands Subject to Minor Variance
-  Property Boundaries

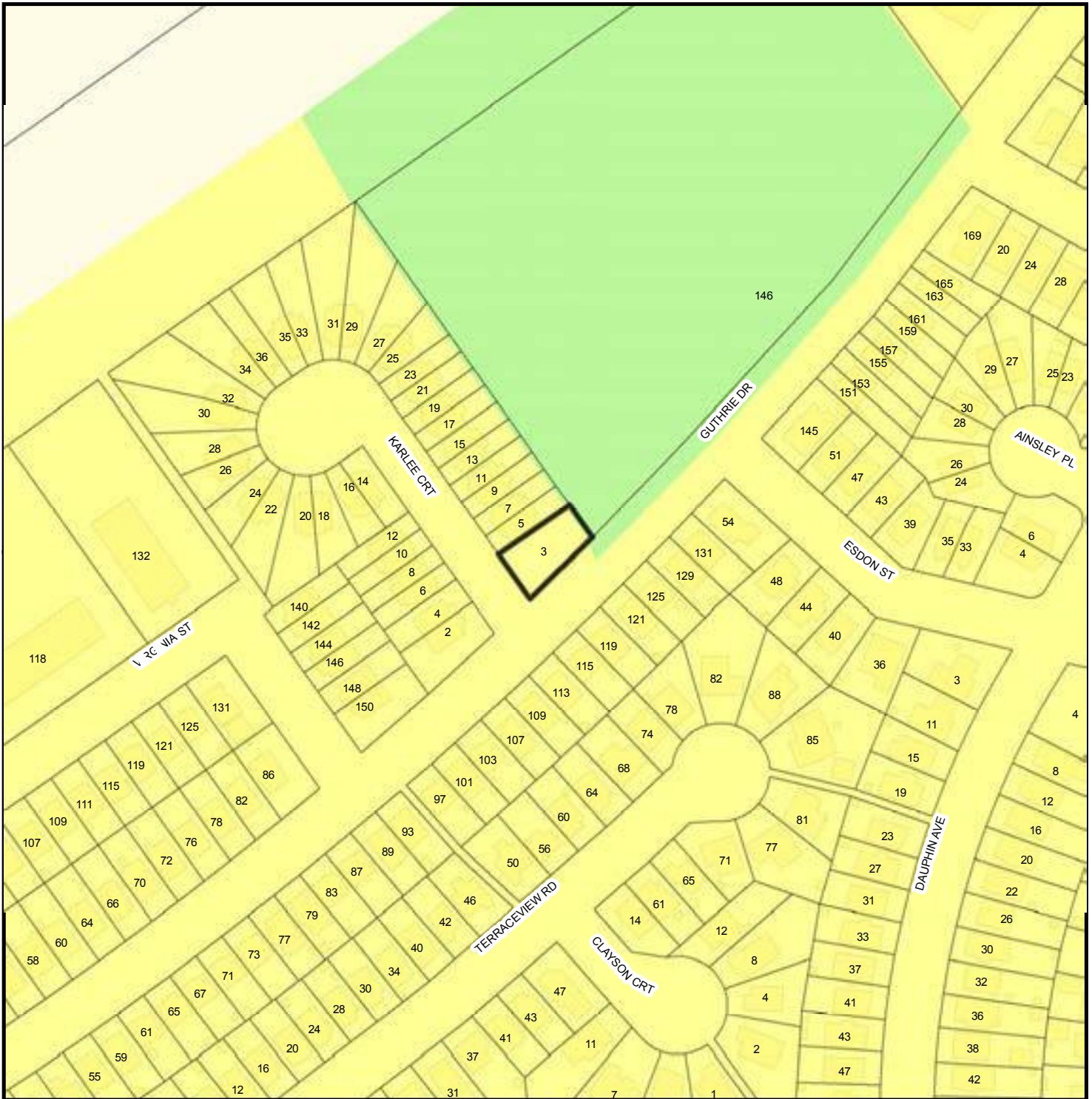


PREPARED BY: J.Partridge  
DATE: 5/30/2018

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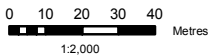








Planning, Building & Licensing Services  
a department of  
Community Services

COMMITTEE OF ADJUSTMENT  
**OFFICIAL PLAN, Land Use**

Applicant: Pedro Martins  
Owner: Pedro Martins  
File Number: D13-026-2018  
Address: 3 Karlee Court



**LEGEND**

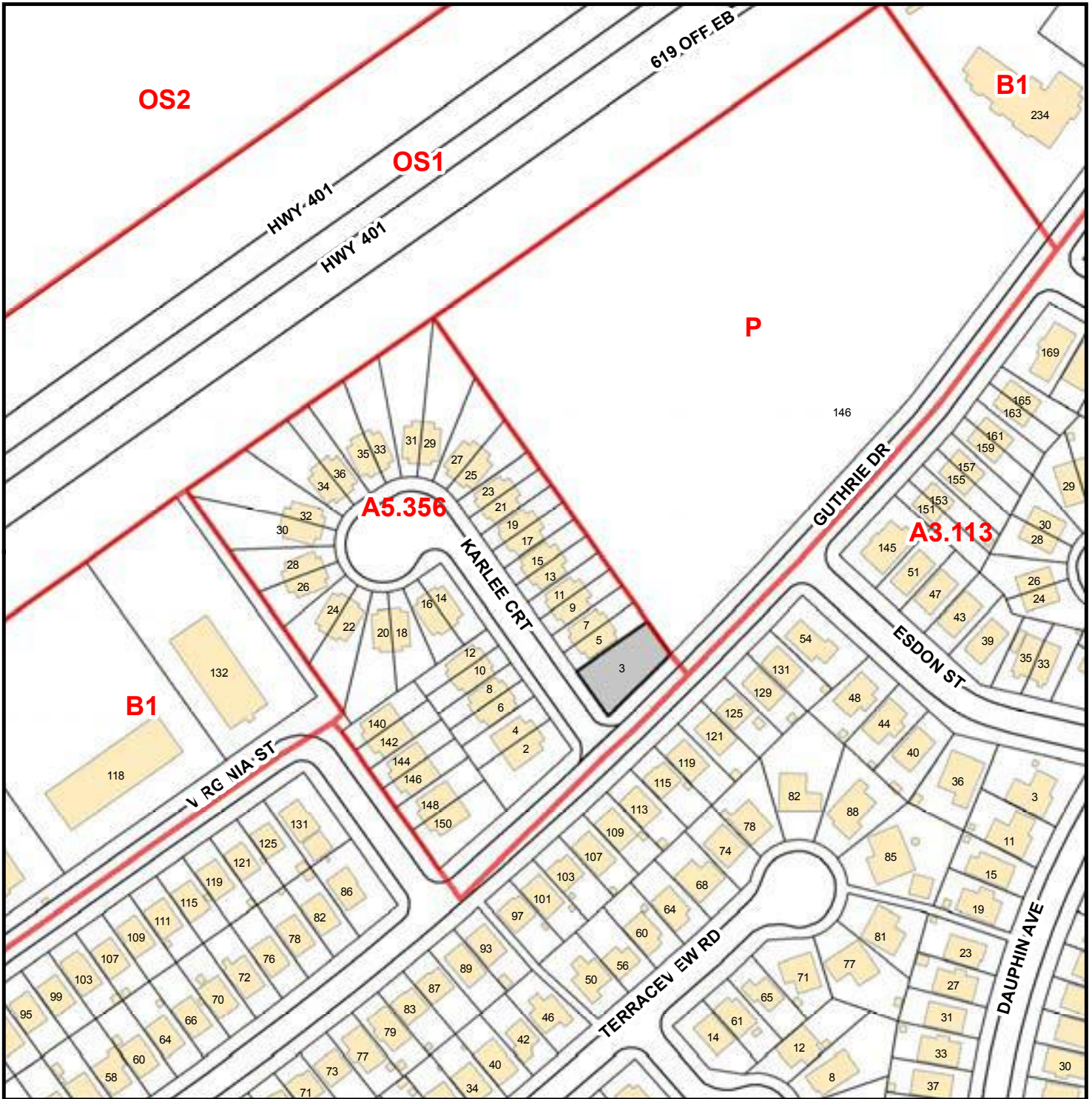
-  Lands Subject to Minor Variance
-  OPEN SPACE
-  RESIDENTIAL
-  RURAL



PREPARED BY: J.Partridge  
DATE: 5/29/2018

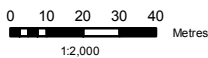
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COMMITTEE OF ADJUSTMENT  
**ZONING BY-LAW 8499, Map 4**

Applicant: Pedro Martins  
 Owner: Pedro Martins  
 File Number: D13-026-2018  
 Address: 3 Karlee Court



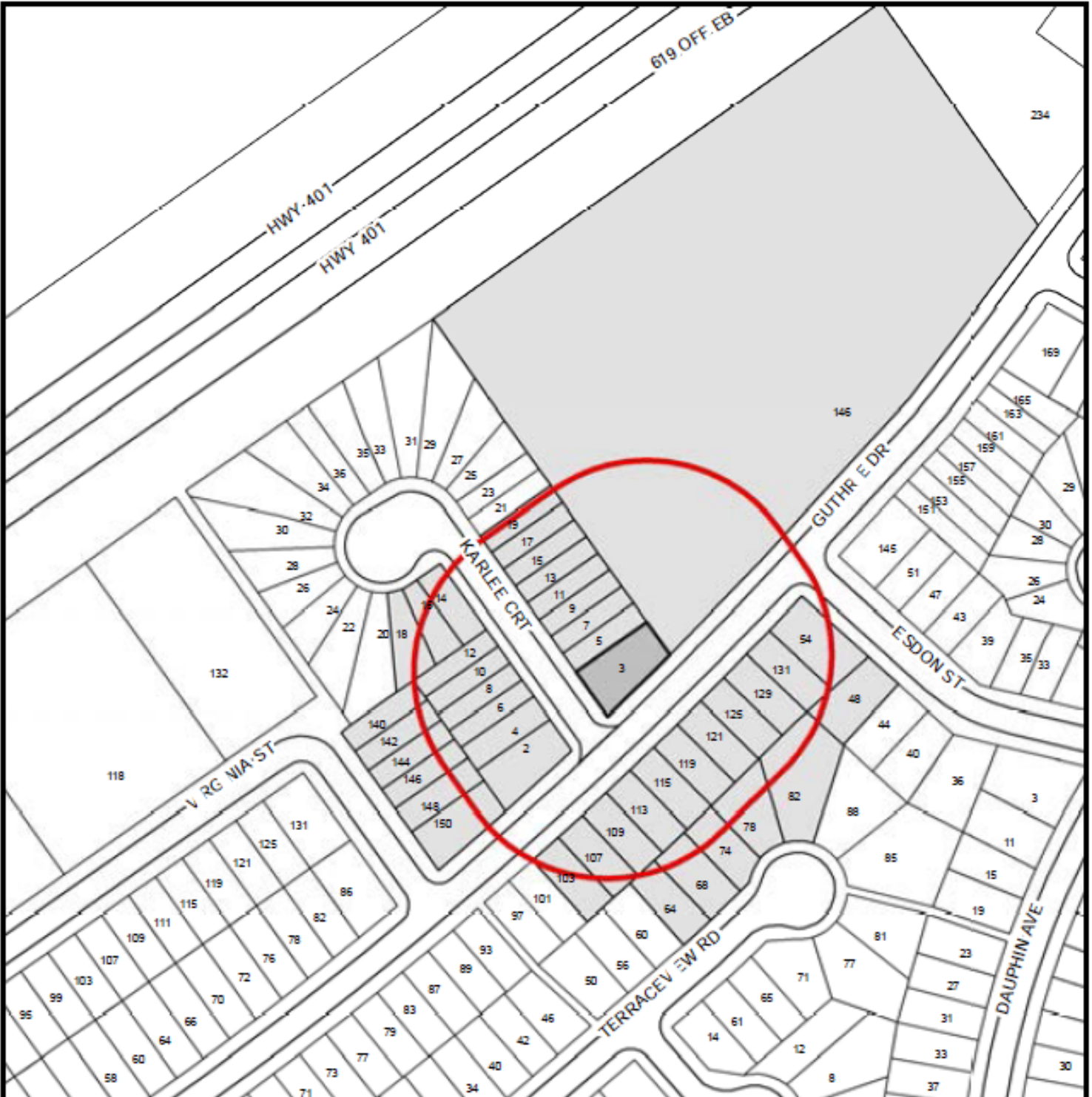
**LEGEND**

- Consolidated Zoning
- Lands Subject to Minor Variance
- Property Boundaries











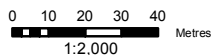


COMMITTEE OF ADJUSTMENT  
**PUBLIC NOTICE NOTIFICATION MAP**

Applicant: Pedro Martins  
 Owner: Pedro Martins  
 File Number: D13-026-2018  
 Address: 3 Karlee Court

**LEGEND**

-  Lands Subject to Minor Variance
-  60 m Public Notice Boundary
-  Property Boundaries
-  42 Properties in Receipt of Notice



Planning, Building  
 & Licensing Services  
 a department of  
 Community  
 Services

PREPARED BY: J.Partridge  
 DATE: 5/29/2018

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**City of Kingston  
Report to Committee of Adjustment  
Report Number COA-18-040**

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**To:** Chair and Members of Committee of Adjustment  
**From:** Sajid Sifat, Intermediate Planner  
**Date of Meeting:** June 25, 2018  
**Application for:** Minor Variance  
**File Number:** D13-027-2018  
**Address:** 81 King Street East  
**Owner:** Mark and Julie Derbyshire  
**Applicant:** Rogers and Trainor

---

**Executive Summary:**

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variances for the property located at 81 King Street East. The applicant has requested relief from several provisions of the “A” One and Two-Family Dwelling Zone in Zoning By-Law Number 8499 to allow additions and exterior alterations to the existing heritage building and to construct a pool at the rear of the property. This proposal also includes the conversion of the existing legal non-conforming multi-dwelling unit building into a single-detached dwelling.

The requested minor variances are consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 8499. The requested minor variances are desirable for the appropriate development or use of the land, building or structure and are minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval.

**Recommendation:**

It is recommended that minor variance application, File Number D13-027-2018, for the property located at 81 King Street East to be approved.

June 25, 2018

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**Variance Number 1:**

By-Law Number 8499: 5.8(c): Maximum porch projection into front yard  
Requirement: 3.5 metres  
Proposed: 1.44 metres  
Variance Requested: 2.06 metres

**Variance Number 2:**

By-Law Number 8499: 5.19(a)(ii): Minimum rear setback for swimming pool  
Requirement: 1.5 metres  
Proposed: 0.25 metres  
Variance Requested: 1.25 metres

**Variance Number 3:**

By-Law Number 8499: 6.3(b)(iii): Minimum required front setback  
Requirement: 4.5 metres  
Proposed: 2.25 metres  
Variance Requested: 2.25 metres

**Variance Number 4:**

By-Law Number 8499: 6.3(f)(ii)(1): Maximum building height to ridge line of roof  
Requirement: 10.7 metres  
Proposed: 12.78 metres  
Variance Requested: 2.08 metres

**Variance Number 5:**

By-Law Number 8499: 6.3(f)(ii)(2): Maximum permitted height of exterior wall  
Requirement: 7.0 metres  
Proposed: 8.0 metres  
Variance Requested: 1.0 metre

**Variance Number 6:**

By-Law Number 8499: 6.3(f)(ii)(4)(a): Maximum building height – dormer setback from front wall of the subject building  
Requirement: 0.4 metres  
Proposed: 0.0 metres  
Variance Requested: 0.4 metres

**Variance Number 7:**

By-Law Number 8499: 6.3(g)(ii): Maximum permitted building depth  
Requirement: 30.35 metres  
Proposed: 36.49 metres  
Variance Requested: 6.14 metres



June 25, 2018

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**Approval of the foregoing variance shall be subject to the following conditions:****1. Limitation**

That the approved variance applies only to variances to the proposed pool, front porch, addition (along Maitland Street and along the rear of the building) as shown on drawings received on 6/29/2018.

**2. No Adverse Impacts**

The owner/applicant shall demonstrate to the satisfaction of the City that there are no adverse impacts on neighbouring properties as a result of any modifications to on-site grading or drainage.

**3. Building Permit Application Requirements**

The owner/applicant shall provide to the Building Division a copy of the decision of the Committee of Adjustment, together with a copy of the approved drawings, when they make an application for a Building Permit.

The drawings submitted with the Building Permit application must, in the opinion of the City, conform to the general intent and description of the approved drawing(s), including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. It must be noted that additional planning approvals may be required should further zoning deficiencies be identified through the Building Permit application process.

**4. Standard Archaeological Condition**

In the event that deeply buried or previously undiscovered archaeological deposits are discovered in the course of development or site alteration, all work must immediately cease and the site must be secured. The Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132) and the City of Kingston's Planning Division (613-546-4291, extension 3180) must be immediately contacted.

In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Registrar of Cemeteries Regulation Section of the Ontario Ministry of Consumer Business Services (416-326-8404), the Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132), and the City of Kingston's Planning Division (613-546-4291, extension 3180) must be immediately contacted.

June 25, 2018

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**Authorizing Signatures:**



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**Sajid Sifat, Intermediate Planner**

**In Consultation with the following Management of the Community Services Group:**

Paige Agnew, Director, Planning, Building & Licensing Services

Lanie Hurdle, Commissioner, Community Services

June 25, 2018

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**Options/Discussion:**

On May 14, 2018, a minor variance application was submitted by Rogers and Trainor, on behalf of the owners, Mark and Julie Derbyshire, with respect to the property located at 81 King Street East. The subject property contains a 3-storey residential building with an attached garage that is a designated heritage building under Part IV and Part V of the *Ontario Heritage Act*. The existing building is used as a multi-unit residential building with 8 dwelling units, which is considered to be an existing legal non-conforming use. The applicant has proposed to convert the existing building back into a single-detached dwelling, which will bring the existing non-conforming use into compliance with the use permissions in the zoning by-law. The existing building height, the existing building depth on the Maitland Street frontage and the existing front yard setback along Maitland Street do not comply with the provisions of Zoning By-Law Number 8499.

The proposal includes the construction of a new corner verandah, a renovated and enlarged attached garage, demolition and construction of a new addition connecting the garage to the home, the demolition of a single storey addition and the construction of a new 2 ½ storey addition on the Maitland Street frontage (west elevation), the demolition of a single storey addition and third floor dormer and the construction of a new 2 ½ storey addition on the rear wall (south elevation). The proposal also includes the construction of a new pool in the rear yard of the home. Details of the proposed construction are shown on Exhibit D and Exhibit F. A wooden board fence is also proposed to be installed on top of the existing stone wall along the south property line to provide screening and privacy for the rear yard of the subject property. There are additional setback requirements from the proposed pool to the proposed fence as per the City of Kingston Fence By-Law Number 2003-405 which this proposal doesn't meet. However, since this is not a requirement of the zoning by-law, this matter has not been discussed in this report. The applicant has been advised that variances would be required from the Fence By-Law Number 2003-405 through the Appeals Committee to acquire approval in order to construct the pool as close to the fence as proposed. The existing footprint of the building is identified with dashed lines whereas the solid black outline shows the proposed additions as notes on the Exhibit D.

An application for alteration and demolition under Section 42 of the *Ontario Heritage Act* (File Number P18-040-2018) has been submitted concurrently with the application for minor variances, which was considered at the June 20, 2018 meeting of Heritage Kingston (Report Number HK-18-038) and will require approval of Council. Variances are requested to allow the verandah, the additions on the west and south elevations and the 3.6 metre x 8.5 metre pool. Other than the variance for the proposed pool, all variances required are in relation to the heritage design of the building. All other construction will be proceeding under the as-of-right permissions in the zoning by-law.

In support of the application, the applicant has submitted the following:

- Proposed Site Plan (Exhibit D);
- Proposed Building Elevations;
- Cover Letter; and

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- Survey.

All submission materials are available online through the Development and Services Hub (DASH) at the following link, [DASH](#), using “Look-up a Specific Address”. If there are multiple addresses, search one address at a time, or submission materials may also be found by searching the file number.

### Site Characteristics

The subject property is located at the southeast corner of the intersection of King Street East and Maitland Street across from City Park.

The subject property is designated ‘Residential’ in the Official Plan and zoned site specific ‘One and Two-Family Dwelling zone - A.166’ in Zoning By-Law Number 8499. The property abuts a three-storey single family dwelling to the east and the Kingston Yacht Club to the south. The subject property is predominantly surrounded by low-rise residential buildings that are designated under Part V of the *Ontario Heritage Act* as part of the general heritage character area.

### Application

The review of an application for minor variance(s) is not a simple mathematical calculation, but rather a detailed assessment of whether the variance(s) requested, both separately and together, meet the four tests of a minor variance outlined in Subsection 45(1) of the *Planning Act*. The following provides this review:

#### 1) The general intent and purpose of the Official Plan are maintained

The subject property is designated ‘Residential’ in the City of Kingston Official Plan.

This proposal conforms to the Official Plan policies in Section 9.5.19, the variances proposed are desirable for the appropriate development of the building. The proposed development is considered compatible with the surroundings and will not have any adverse effects. The site will function in an appropriate manner in terms of access and parking as intended by this policy. The proposed single detached dwelling meets and exceeds the parking requirement for single detached dwellings in the zoning by-law. The subject building is a designated heritage building under Part IV and Part V of the *Ontario Heritage Act*. A Heritage Impact Statement was required as part of the review of a Heritage Permit Application which informed the heritage design of the proposed building. The Heritage Permit will be reviewed by Heritage Kingston on June 20<sup>th</sup>, 2018. A recommendation will be forwarded to council who will make the decision on the permit.

The ‘Residential’ designation aims to minimize impacts on abutting properties and those within the surrounding neighbourhood, by ensuring land use compatibility, providing appropriate separation distances, ensuring the functionality of the site, and integrating design considerations as per the Urban Design policies of Section 8 of the Official Plan.

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The proposal meets the intent of the Official Plan, as the proposed building additions and construction of the pool are compatible to the adjacent property and will not result in any negative impacts to adjacent properties or to the neighbourhood.

## 2) The general intent and purpose of the zoning by-law are maintained

The subject property is zoned site specific 'One and Two-Family Dwelling zone – A.166' in the City of Kingston Zoning By-Law Number 8499, entitled "Restricted Area (Zoning) By-Law of the Corporation of the City of Kingston", as amended (Exhibit I). The A.166 zone permits a Single Family Dwelling as a listed use.

The proposal requires a variance to the following provisions:

### Variance Number 1:

By-Law Number 8499: 5.8(c): Maximum porch projection into front yard along Maitland Street  
 Requirement: 3.5 metres  
 Proposed: 1.44 metres  
 Variance Requested: 2.06 metres

### Variance Number 2:

By-Law Number 8499: 5.19(a)(ii): Minimum rear setback for swimming pool  
 Requirement: 1.5 metres  
 Proposed: 0.25 metres  
 Variance Requested: 1.25 metres

### Variance Number 3:

By-Law Number 8499: 6.3(b)(iii): Minimum required front setback along Maitland Street  
 Requirement: 4.5 metres  
 Proposed: 2.25 metres  
 Variance Requested: 2.25 metres

### Variance Number 4:

By-Law Number 8499: 6.3(f)(ii)(1): Maximum building height to ridge line of roof  
 Requirement: 10.7 metres  
 Proposed: 12.78 metres  
 Variance Requested: 2.08 metres

### Variance Number 5:

By-Law Number 8499: 6.3(f)(ii)(2): Maximum permitted height of exterior wall  
 Requirement: 7.0 metres  
 Proposed: 8.0 metres  
 Variance Requested: 1.0 metre

### Variance Number 6:



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By-Law Number 8499: 6.3(f)(ii)(4)(a): Maximum building height – dormer setback from front wall of the subject building  
 Requirement: 0.40 metres  
 Proposed: 0.0 metres  
 Variance Requested: 0.4 metres

**Variance Number 7:**

By-Law Number 8499: 6.3(g)(ii): Maximum permitted building depth  
 Requirement: 30.35 metres  
 Proposed: 36.49 metres  
 Variance Requested: 6.14 metres

The proposed verandah (Variance Number 2) is a covered one-storey structure that is proposed to be 1.4 metres from the front property line along Maitland Street at the closest point. Based on the rounded edge of the porch along Maitland Street, only the point closest to the front property line measures a setback of 1.4 metres, the majority of the structure will be built in-line with the setback of the Maitland Street façade. The existing building isn't constructed parallel to Maitland Street but rather on an angle to the street and property line, only a small portion of the proposed porch will be at setback 1.4 metres from the property line. An approximately 3.5 metre wide boulevard is located between the property line and the edge of the sidewalk, which in effect will provide the perception of 4.9 metre setback from the street. Hence, the proposed single storey covered verandah addition will not have any negative impact on any abutting properties.

The variance associated to the front yard setback (Variance Number 3) is required to facilitate the Maitland Street addition. The A zone requires a minimum required front yard setback of 4.5 metres from the Maitland Street property line. With the proposed addition, a setback of 2.25 metres is proposed. This variance will not have any negative impact since the existing front yard setback along Maitland Street is 3.5 metres. Therefore, the actual decrease in front yard setback will be 1.25 metres. Also, the proposed setback of 2.25 metres is measured to the face of the bay window (since bay windows are excluded as structures that can project into a required yard) and not measured to the actual wall of the building. The bay window covers a portion of the façade facing Maitland Street and not the entire west façade. This variance will not impact the street wall along Maitland Street as the only other building on Maitland Street is situated more than 30 metres away from the subject building and located at a zero lot line. The proposed wrought iron fence along the property line, the existing landscaped garden and the existing approximately 3.5 metre wide boulevard will ensure there is no negative impact on the streetscape.

The proposed swimming pool requires a variance (Variance Number 2) to locate the pool 0.25 metres from the property line whereas the Zoning By-Law Number 8499 requires pools to be located 1.5 metres from the lot line. Swimming pools are considered as amenity space and landscaped open space which is consistent with how the rear yard of the subject property is proposed to be used. The location of the proposed in-ground pool that measures 8.5 metres X 3.6 metres is consistent with the intended use of a backyard. The subject property is constrained with a very tight backyard due to the location of the

June 25, 2018

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principal building on the property being setback significantly from the King Street frontage. The requirement of the 1.5 metre setback to lot lines in Zoning By-Law Number 8499 is intended to mitigate the impact from location of pools onto adjacent residential properties. In this case, however, the adjacent property to the south is the Kingston Yacht Club, and the parking lot of the Yacht Club is located directly adjacent to the property line closest to the pool. An existing stone wall divides the two properties and a privacy fence will also be installed on top of the wall to mitigate any impact from the pool onto the parking lot. The wall and the solid wooden fence included will provide a 2.3 metre high privacy screening (Exhibit E – Privacy Fence Detail) looking inward. The wooden fence will be installed on top of the existing stone wall to screen along the entire south property line. All pool equipment will be located in the basement of the principal building.

Variances Number 4 to 6 are required to allow the proposed additions along the Maitland Street (Exhibit F – Proposed Building Elevation-West) and south façade (Exhibit F – Proposed Building Elevation-South) to be consistent with the height and design of the existing building. The existing building is 12.78 metres high from grade to peak of roof and the exterior wall height for the existing building is 8.0 metres. The variances in building height to the peak of roof, height of exterior wall, and the setback of the proposed dormer from the face of the building are all required because the existing building does not comply with the zone provisions. The building existed prior to the enactment of Zoning By-Law Number 8499 and therefore, any additions and alterations proposed to maintain the existing height and design of the building require relief from Zoning By-Law Number 8499. These variances are considered minor and will not have any negative impact onto adjacent properties or the public street.

Variance Number 6 pertains to the calculation of building depth of the subject building in consideration of the proposed additions. Section 6.3(g)(ii) requires building depth to be calculated as the average depth of the two adjacent buildings on the same block on opposite sides of the subject building. Building depth in this case is calculated as the distance between the front wall to the rear wall of the subject building, where the front wall is the wall fronting onto Maitland Street. The existing building on the subject property has a building depth of 35.72 metres which does not comply with the average building depth of the two adjacent buildings which is 30.35 metres. The actual increase based on the proposed changes is 0.77 metres. However, the variance based on the front setback of the existing adjacent buildings compared to the proposed front setback along Maitland Street is 6.14 metres. This variance is considered minor as the majority of the 6.14 metre relief required is to recognize the non-compliant building depth of the existing building. The additional 0.77 metre of building depth along Maitland Street will not have any negative impact.

### **3) The variances are minor in nature**

The variance is considered minor as the proposed alterations to the existing building and the proposed pool will have no negative impact on to the surrounding properties or onto the abutting public streets. The requested variances other than the variance associated

June 25, 2018

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with the proposed pool, are required to construct the proposed additions/alterations while maintaining the height and heritage design of the existing building.

The variance for the proposed pool is considered minor in nature since the pool is located in the backyard and will have no impacts on abutting properties. The in-ground pool will be screened using a 2.3 metre high solid wooden fence located on an existing stone wall underneath. The adjacent use to the south is a parking lot, which further mitigates any impact from the proposed pool variance.

**4) The variance is desirable for the appropriate development or use of the land, building or structure**

The proposed variances are desirable because the proposed alterations allow the improvement and long-term maintenance of a designated heritage building which meets policy objectives of the City of Kingston Official Plan. As part of this proposal, the subject building is being converted from a multi-unit residential building to a single detached dwelling which is a permitted use in the A zone.

The variances are desirable for the appropriate development of the building since most the variances are required for alterations resulting from considerations of heritage design that are consistent with and appropriate to the character of the existing building.

The pool, located at the rear of the property, is proposed to allow better use and enjoyment of the property as a single-detached dwelling. The property is constrained with a very small rear yard. The setback variance for the proposed pool is required to deal with an existing constraint. There will be no impact on the adjacent property to the south through the setback reduction from the proposed pool. A fence is proposed to be installed on top of the existing stone wall to mitigate any impact from privacy, noise, safety, etc. The subject property backs on to the parking lot for the Kingston Yacht Club to the south. Based on the parking lot use, any impact from the reduced setback for the pool is not considered significant. The proposed development will also be complemented by enhanced landscaping all around and a wrought iron fence along both public street frontages to help enhance the streetscape.

**Provincial Policy Statement**

In addition to the four tests of a minor variance detailed above, Subsection 3(5) of the *Planning Act* requires that a decision in respect of the exercise of any authority that affects a planning matter shall be consistent with the Provincial Policy Statement (the PPS). The PPS provides policy direction on matters of provincial interest related to land use planning and development which are complemented by local policies addressing local interests. Section - 2.6.1 of the PPS requires that significant built heritage resources and significant cultural heritage landscapes shall be conserved. The variances listed above in this report will allow the subject building which is a designated heritage building under Part IV and Part V of the *Ontario Heritage Act* to be preserved and maintained. Hence, this proposal is consistent with the PPS.

June 25, 2018

Page 11 of 13

**Technical Review: Circulated Departments and Agencies**

- |   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> Building Division | <input checked="" type="checkbox"/> Engineering Department | <input checked="" type="checkbox"/> Heritage (Planning Division) |
| <input type="checkbox"/> Finance                      | <input checked="" type="checkbox"/> Utilities Kingston     | <input type="checkbox"/> Real Estate & Environmental Initiatives |
| <input checked="" type="checkbox"/> Fire & Rescue     | <input checked="" type="checkbox"/> Kingston Hydro         | <input checked="" type="checkbox"/> City's Environment Division  |
| <input type="checkbox"/> Solid Waste                  | <input checked="" type="checkbox"/> Parks Development      | <input type="checkbox"/> Canadian National Railways              |
| <input type="checkbox"/> Housing                      | <input type="checkbox"/> District Councillor               | <input type="checkbox"/> Ministry of Transportation              |
| <input type="checkbox"/> KEDCO                        | <input type="checkbox"/> Municipal Drainage                | <input type="checkbox"/> Parks of the St. Lawrence               |
| <input type="checkbox"/> CRCA                         | <input type="checkbox"/> KFL&A Health Unit                 | <input type="checkbox"/> Trans Northern Pipelines                |
| <input type="checkbox"/> Parks Canada                 | <input type="checkbox"/> Eastern Ontario Power             | <input type="checkbox"/> CFB Kingston                            |
| <input type="checkbox"/> Hydro One                    | <input type="checkbox"/> Enbridge Pipelines                | <input type="checkbox"/> TransCanada Pipelines                   |
| <input type="checkbox"/> Kingston Airport             |  |  |

**Technical Comments**

This application was circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude this application from moving forward. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

**Public Comments**

At the time this report was finalized, no public correspondence was received. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

**Previous or Concurrent Applications**

There are no concurrent or relevant historic planning applications on the subject property.

**Conclusion**

The requested variance(s) maintain the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 8499. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variance(s) are minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and the application is being recommended for approval, subject to the proposed conditions.

Approval of this application will allow a designated heritage building to be maintained and restored as a single-detached dwelling. The exterior treatments in addition to the improved landscaping will enhance the streetscape.

**Existing Policy/By-Law:**

The proposed application 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:

June 25, 2018

Page 12 of 13

**Provincial**

Provincial Policy Statement, 2014

**Municipal**City of Kingston Official Plan  
Zoning By-Law Number 8499**Notice Provisions:**

A Committee of Adjustment Meeting is going to be held respecting this application on June 25, 2018. Pursuant to the requirements of the *Planning Act*, a notice of Statutory Public Meeting was provided by advertisement in the form of signs posted on the subject site 10 days in advance of the meeting. In addition, notices were sent by mail to a total number of 21 property owners (according to the latest Assessment Roll) within 60 metres of the subject property and a courtesy notice was placed in The Kingston Whig-Standard.

Once a decision has been rendered by the Committee of Adjustment, a Notice of Decision will be circulated in accordance with the provisions of the *Planning Act*.

**Accessibility Considerations:**

Not applicable

**Financial Considerations:**

Not applicable

**Contacts:**

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

Laura MacCormick, Deputy Director, Planning Division 613-546-4291 extension 3223

Marnie Venditti, Manager, Development Approvals 613-546-4291 extension 3256

Sajid Sifat, Intermediate Planner 613-546-4291 extension 3126

**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 in this report.

**Exhibits Attached:**

Exhibit A Key Map



**June 25, 2018**

**Page 13 of 13**

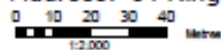
- Exhibit B Public Notice Notification Map
- Exhibit C Neighbourhood Context Map
- Exhibit D Site Plan
- Exhibit E Privacy Fence Detail
- Exhibit F Proposed Building Elevations
- Exhibit G Survey
- Exhibit H Site Photos
- Exhibit I Existing Zoning By-Law Number 8499, Map 31



Planning, Building  
& Licensing Services  
a department of  
Community  
Services

### COMMITTEE OF ADJUSTMENT KEY MAP

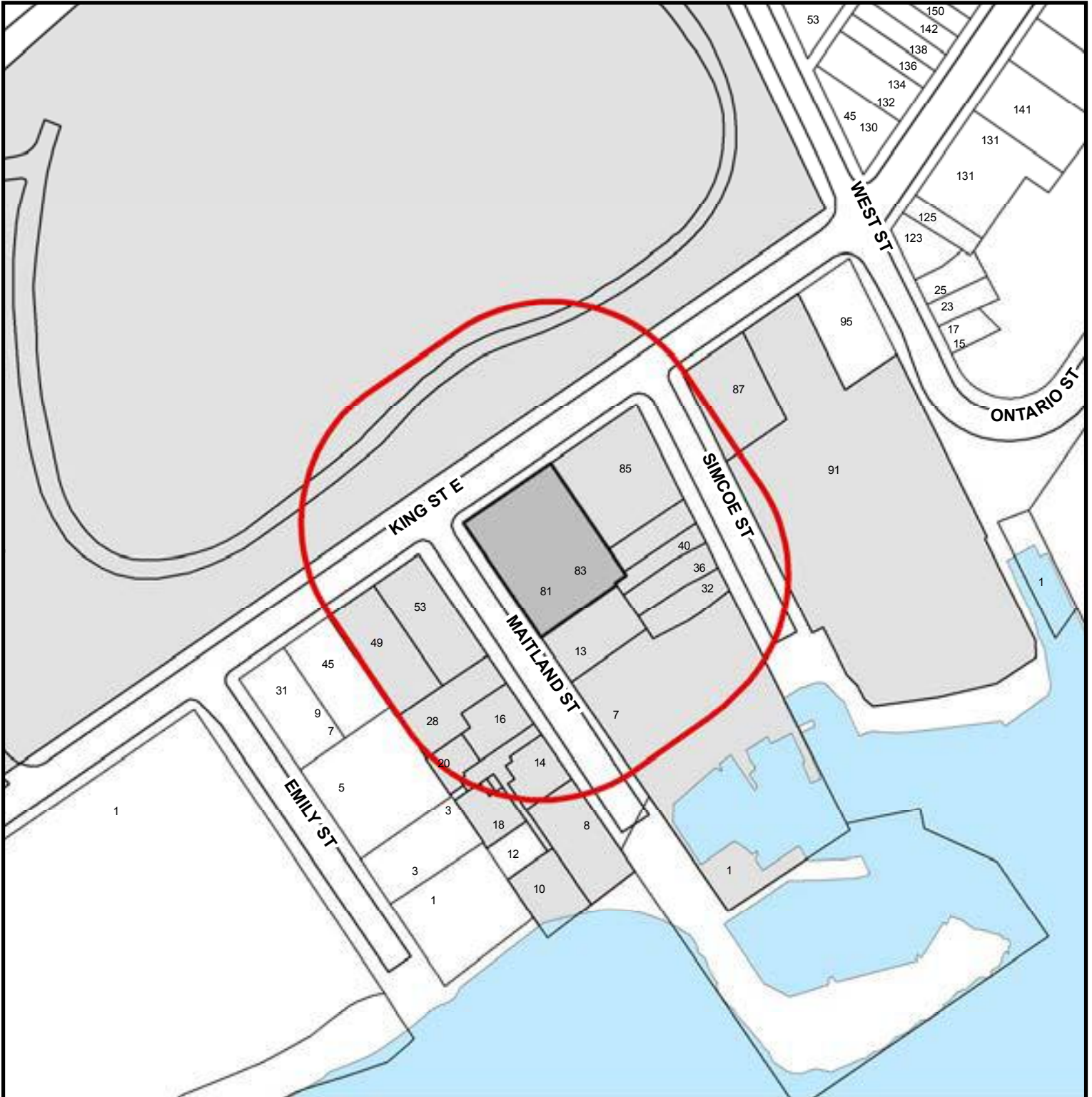
Applicant: Rogers and Trainor  
Owner: Mark & Julie Derbyshire  
File Number: D13-027-2018  
Address: 81 King Street East



### LEGEND

Lands Subject to Minor Variance

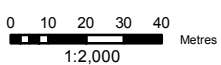




**Planning, Building & Licensing Services**  
 a department of  
**Community Services**

**COMMITTEE OF ADJUSTMENT  
 PUBLIC NOTICE NOTIFICATION MAP**

Applicant: Rogers and Trainor  
 Owner: Mark & Julie Derbyshire  
 File Number: D13-027-2018  
 Address: 81 King Street East



**LEGEND**

- Lands Subject to Minor Variance
- 60 m Public Notice Boundary
- Property Boundaries
- 21 Properties in Receipt of Notice









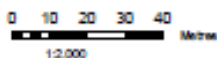
Planning, Building & Licensing Services  
 a department of  
 Community Services

COMMITTEE OF ADJUSTMENT  
 NEIGHBOURHOOD CONTEXT (2015)

Applicant: Rogers and Trainor  
 Owner: Mark & Julie Derbyshire  
 File Number: D13-027-2018  
 Address: 81 King Street East

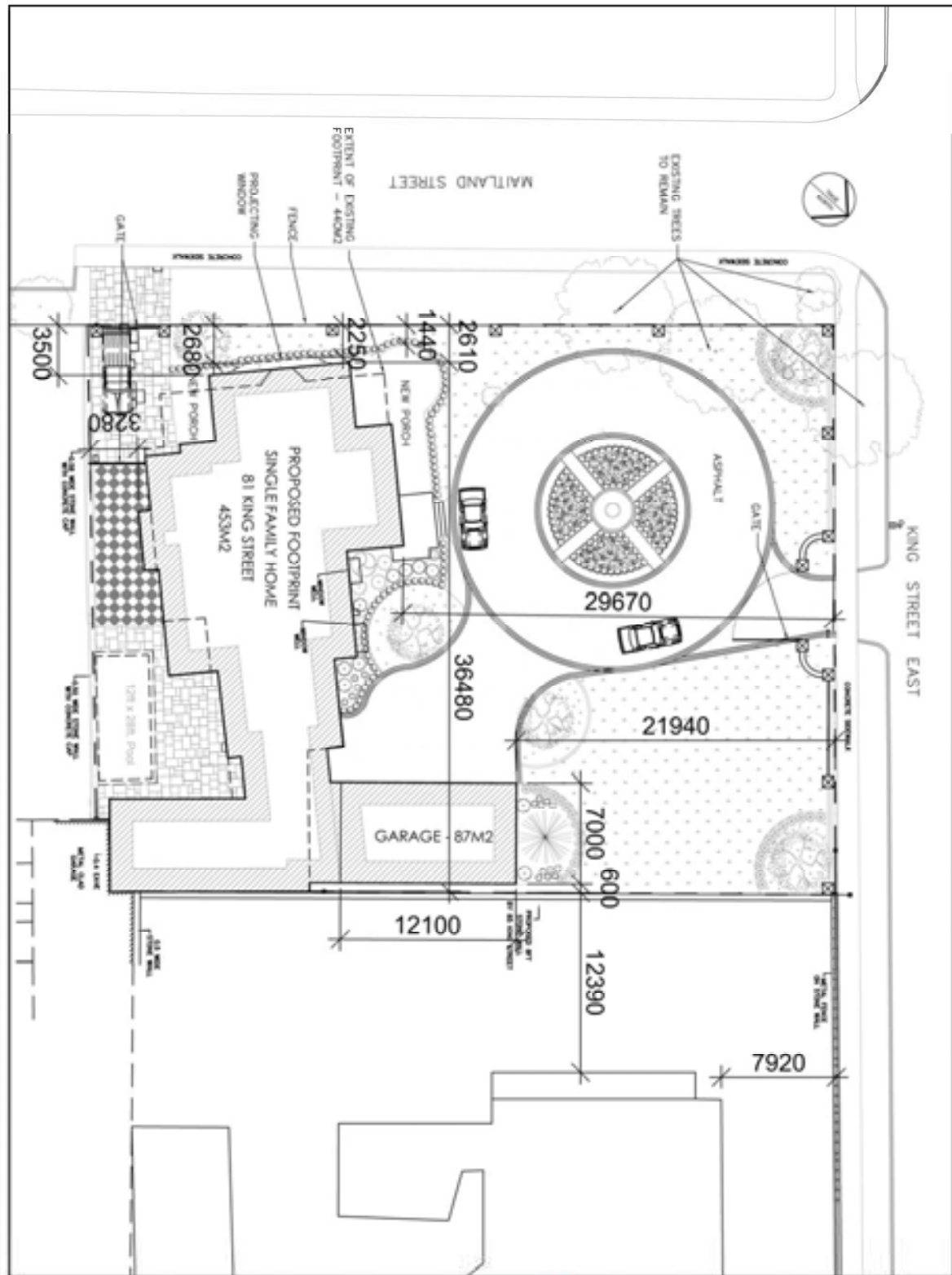
LEGEND

-  Lands Subject to Minor Variance
-  Property Boundaries



PREPARED BY: J.Partridge  
 DATE: 6/1/2018

**Committee of Adjustment Meeting Number 07 June 25, 2018**



OWNER ACKNOWLEDGEMENT

I HEREBY ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND THE PROVISIONS OF THE ACT AND THE REGULATIONS AND THAT I AM AWARE OF THE CONSEQUENCES OF MY DECISIONS IN THIS MATTER. I AM NOT PROVIDING ANY GUARANTEE OF ACCURACY FOR THE INFORMATION PROVIDED IN THIS PLAN. I AM PROVIDING THIS INFORMATION FOR INFORMATIONAL PURPOSES ONLY. I AM NOT PROVIDING ANY GUARANTEE OF ACCURACY FOR THE INFORMATION PROVIDED IN THIS PLAN. I AM PROVIDING THIS INFORMATION FOR INFORMATIONAL PURPOSES ONLY.

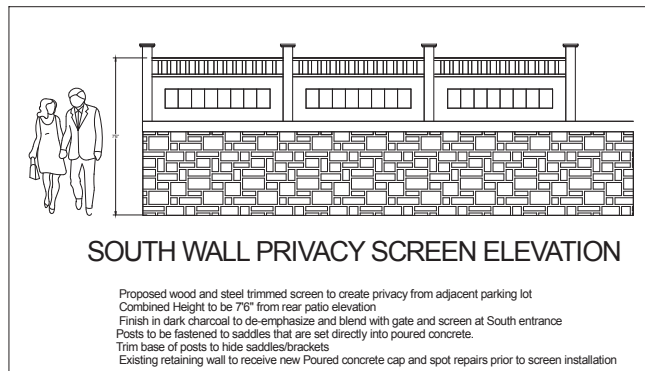
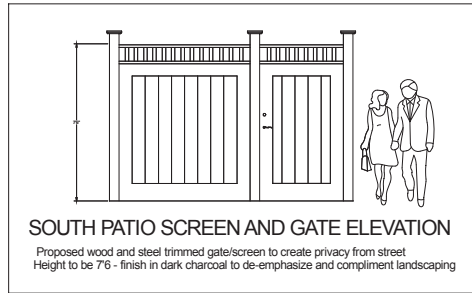
REV.	DATE	DESCRIPTION
1		
2		
3		



**Alexander Wilson**  
 Architect Inc.  
 1000 Bay Street  
 Toronto, ON M5G 1A1  
 T: 416-593-2244  
 F: 416-593-9411



81 KING ST EAST  
 81 KING ST EAST  
 PROPOSED SITE PLAN  
 SP02





SCALE: NTS	Notes: Concept drawing only. Not for construction purposes		81 King st. E WOOD FENCE/GATE DETAILS PLAN		<b>D.2</b>
DRAWN: P.W.					
DESIGN: P.W.					
DATE: May 25, 2018					
		613-384-4477			

DO NOT SCALE DRAWINGS  
 CHECK AND VERIFY ALL DIMENSIONS BEFORE  
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 DRAWINGS NOT TO BE USED FOR CONSTRUCTION  
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 CONFORMANCE WITH THE ONTARIO BUILDING CODE.

Revisions and Issues

REV	DATE	DESCRIPTION
1		
2		



**Alexander Wilson  
 Architect Inc**  
 Admiralty Place  
 103-20 Gore Street  
 Kingston, ON K7L 2L1  
 T: 613-545-3744  
 F: 613-545-1411

Stamp

Project

**81 KING ST EAST**

81 KING ST EAST  
 KINGSTON, ON

Drawing

**PROPOSED NORTH ELEVATION**

Drawn By: MW      Checked By: JD

Scale:      Date: MAY 10

Project No. 1802      Revision: 1

Drawing No. **A311**



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Revisions and Issues

REV	DATE	DESCRIPTION
1		
2		

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 Architect Inc**  
 Admiralty Place  
 103-20 Gore Street  
 Kingston, ON K7L 2L1  
 T: 613-545-3744  
 F: 613-545-1411

Stamp

Project  
**81 KING ST EAST**

81 KING ST EAST  
 KINGSTON, ON

Drawing

**PROPOSED WEST ELEVATION**

Drawn By	JD	Checked By	
Scale	1/8" = 1'-0"	Date	MAY 10
Project No.	1802	Revision	1
Drawing No.	A312		



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Revisions and Issues

REV	DATE	DESCRIPTION
1		
2		



**Alexander Wilson  
 Architect Inc**  
 Admiralty Place  
 103-20 Gore Street  
 Kingston, ON K7L 2L1  
 T: 613-545-3744  
 F: 613-545-1411

Stamp

Project

**81 KING ST EAST**

81 KING ST EAST  
 KINGSTON, ON

Drawing

**PROPOSED SOUTH ELEVATION**

Drawn By: MW Checked By:

Scale: 1/8"=1'-0" Date: MAY 10

Project No.: 1802 Revision: 1

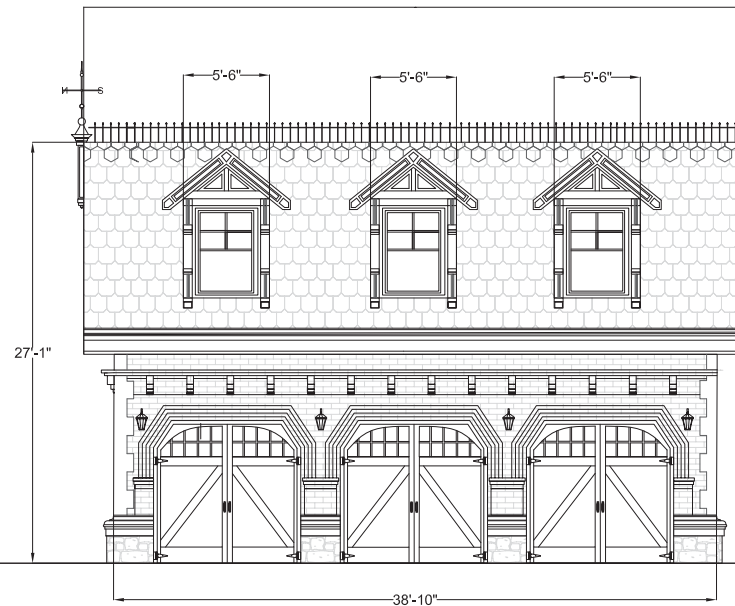
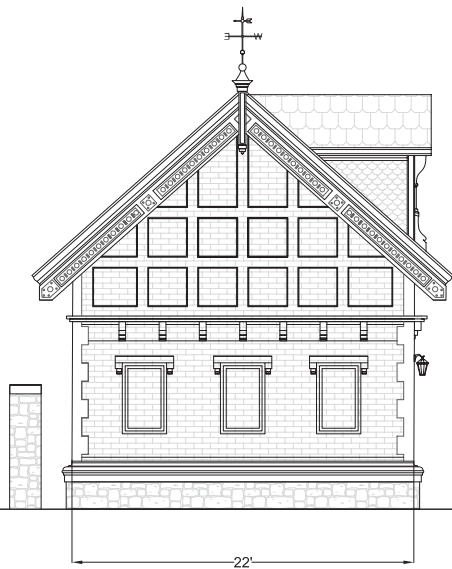
Drawing No.: **A313**



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Revisions and Issues

REV	DATE	DESCRIPTION
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2		



**Alexander Wilson  
 Architect Inc**  
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 103-20 Gore Street  
 Kingston, ON K7L 2L1  
 T: 613-545-3744  
 F: 613-545-1411

Stamp

Project

**81 KING ST EAST**

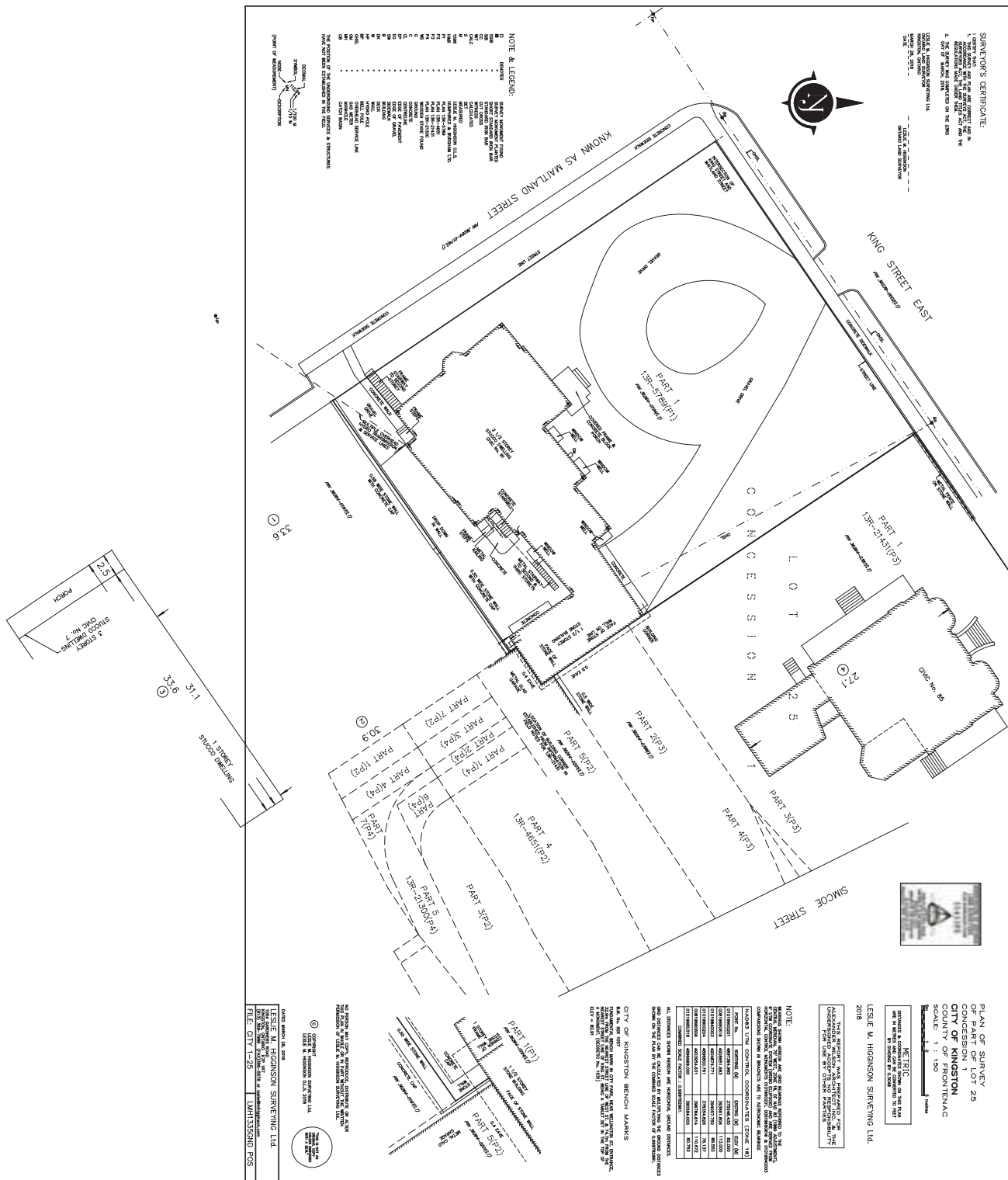
81 KING ST EAST  
 KINGSTON, ON

Drawing

**PROPOSED GARAGE  
 ELEVATIONS**

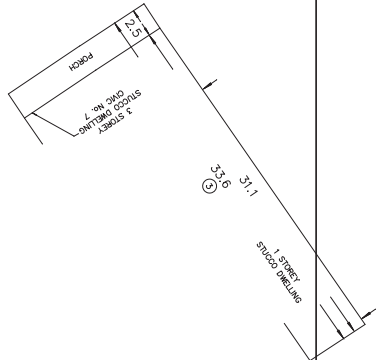
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Scale	1/8" = 1'-0"	Date	MAY 11
Project No.	1802	Revision	1
Drawing No.	<b>A315</b>		





SURVEYOR'S CERTIFICATE:  
 I, CHRISTOPHER H. CHAMBERS, SURVEYOR, HAVE BEEN AND I AM REGISTERED AS A PROFESSIONAL SURVEYOR IN THE PROVINCE OF ONTARIO UNDER THE SURVEY ACT, CHAPTER S.5, R.S.O. 1990, AS AMENDED.  
 I HEREBY CERTIFY THAT THIS SURVEY HAS BEEN COMPLETED ON THE 28th DAY OF JULY 2018.  
 CHRISTOPHER H. CHAMBERS  
 SURVEYOR  
 3085 W. LESLIE STREET  
 RICHMOND HILL, ONTARIO, CANADA L4B 3M2  
 TEL: (905) 709-2345  
 FAX: (905) 709-2346  
 EMAIL: CHRIS@CHAMBERS-SURVEYORS.COM

NOTE & LEGEND:  
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 2. ALL DIMENSIONS ARE TO BE VERIFIED IN THE FIELD.  
 3. ALL DIMENSIONS ARE TO BE VERIFIED IN THE FIELD.  
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 20. ALL DIMENSIONS ARE TO BE VERIFIED IN THE FIELD.



PLAN OF SURVEY  
 OF PART OF LOT 25  
 CONFESSION 1  
 CITY OF KINGSTON  
 COUNTY OF KINGSTON  
 SCALE: 1 : 150  
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2018 Edition  
 LESLIE M. HIGSON SURVEYING LTD.  
 615 BROADVIEW AVENUE  
 RICHMOND HILL, ONTARIO L4B 3M2  
 PHONE: (905) 709-2345  
 FAX: (905) 709-2346  
 EMAIL: LESLIE@HIGSONSURVEYING.COM

NOTE:

PARCEL ID	AREA (m²)	PERCENTAGE (%)	DATE
101	2224.433	15.250	2018
102	1440.453	10.000	2018
103	2963.243	20.700	2018
104	2298.448	16.130	2018
105	1802.232	12.700	2018
106	2215.000	15.500	2018
107	2098.000	14.900	2018
108	3002.000	21.100	2018
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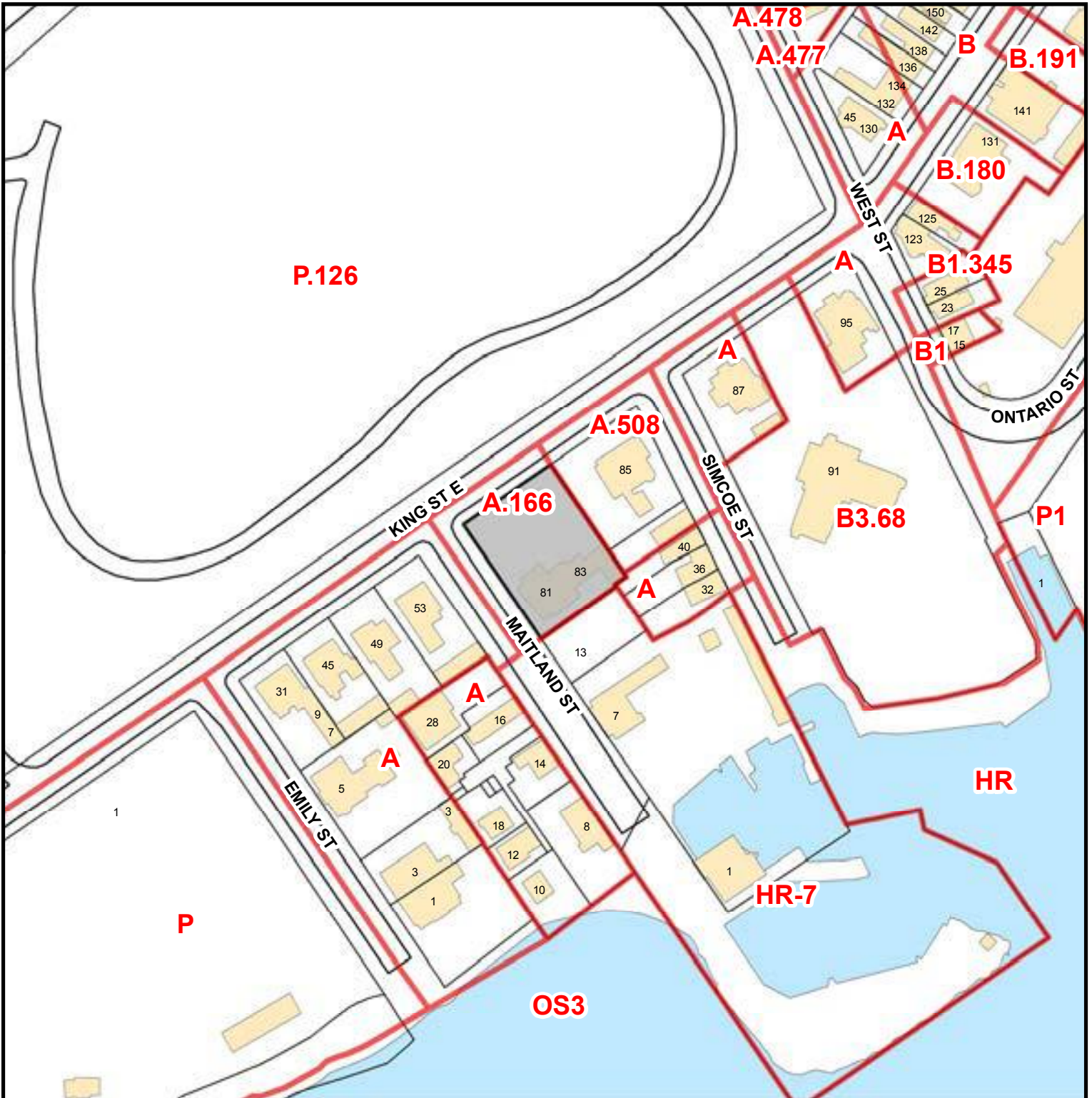






Google





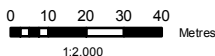
Planning, Building & Licensing Services  
a department of Community Services

COMMITTEE OF ADJUSTMENT  
**ZONING BY-LAW 8499, Map 31**

Applicant: Rogers and Trainor  
Owner: Mark & Julie Derbyshire  
File Number: D13-027-2018  
Address: 81 King Street East

**LEGEND**

- Consolidated Zoning
- Lands Subject to Minor Variance
- Property Boundaries





**City of Kingston  
Report to Committee of Adjustment  
Report Number COA-18-042**

---

**To:** Chair and Members of Committee of Adjustment  
**From:** Tim Fisher, Planner  
**Date of Meeting:** June 25, 2018  
**Application for:** Minor Variance  
**File Number:** D13-029-2018  
**Address:** 145 Pauline Tom Avenue  
**Owner:** James Selkirk Custom Homes Ltd.  
**Applicant:** James Selkirk

---

**Executive Summary:**

This report provides a recommendation to the Committee of Adjustment regarding an application for a minor variance for the property located at 145 Pauline Tom Avenue. The purpose and effect of the application is to amend Section 5(11)(c) of the zoning by-law to not have the setbacks apply to the zoning lines but to the lot lines for a lot with multiple zones to allow for the construction of a single-detached dwelling on the property. The property is dual-zoned, with the boundary between the R11-1 and R12 zones passing through the lot.

The requested minor variance is consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 32-74. The requested minor variance is desirable for the appropriate development or use of the land, building or structure and is minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval.

**Recommendation:**

It is recommended that minor variance application, File Number D13-029-2018, for the property located at 145 Pauline Tom Avenue to amend Section 5(11)(c) of the zoning by-law to not have the setbacks apply to the zoning lines but to the lot lines for a lot with multiple zone, be approved.

June 25, 2018

Page 2 of 9

**Variance:**

By-Law Number 32-74: Section 5(11)(c) More than One Zone on a Lot  
Requirement: Where a lot is divided into more than one zone, each such portion of the lot shall, for the purpose of this by-law, be considered a separate lot and shall be used in accordance with the applicable zone provision.

Proposed: Where a lot is divided into more than one zone, the zone provisions shall be applied to the lot boundary and not to the zone boundary.

**Approval of the foregoing variance shall be subject to the following conditions:**

**1. Limitation**

That the approved variance applies only to subject lot and its residential development as per the approved plans attached to the notice of decision.

**2. No Adverse Impacts**

The owner/applicant shall demonstrate to the satisfaction of the City that there are no adverse impacts on neighbouring properties as a result of any modifications to on-site grading or drainage.

June 25, 2018

Page 3 of 9

**Authorizing Signatures:**



---

**Tim Fisher, Planner**

**In Consultation with the following Management of the Community Services Group:**

Paige Agnew, Director, Planning, Building & Licensing Services

Lanie Hurdle, Commissioner, Community Services

June 25, 2018

Page 4 of 9

**Options/Discussion:**

On May 23, 2018, a minor variance application was submitted by James Selkirk, on behalf of the owner, James Selkirk Custom Homes Ltd., with respect to the property located at 145 Pauline Tom Avenue. The variance is requested to amend Section 5(11)(c) of the zoning by-law to not have the setbacks apply to the zoning lines but to the lot lines for a lot with multiple zones to allow for the construction of a single-detached dwelling. The property is dual-zoned, with the boundary between the R11-1 and R12 zones passing through the lot.

In support of the application, the applicant has submitted the following:

- Site Plan (Exhibit C);
- Survey (Exhibit D);
- Elevations and Floor Plans (Exhibit E); and
- Planning Justification (Exhibit F).

All submission materials are available online through the Development and Services Hub (DASH) at the following link, [DASH](#), using “Look-up a Specific Address”. If there are multiple addresses, search one address at a time, or submission materials may also be found by searching the file number.

**Site Characteristics**

The 301.4 square metre parcel of undeveloped land is located along the north side of Pauline Tom Avenue and is described as Part of Block 47 on Plan 13M-100; Part of Reginald Bart Drive and Blocks 141, 142 and 159 and Part of Lot 10 on Plan 13M85; and RP 13R20942 Parts 13 to 17 on 13R-20942.

The subject property is designated Low Density Residential and within the Site Specific Policy Area Number RC-1-2 (Baxter Farm Subdivision) in the Official Plan and zoned R11-1 and R12 in Zoning By-Law Number 32-74. The property abuts single detached dwellings.

**Application**

The review of an application for a minor variance is not a simple mathematical calculation, but rather a detailed assessment of whether the variance(s) requested, both separately and together, meet the four tests of a minor variance outlined in Subsection 45(1) of the *Planning Act*. The following provides this review:

**1) The general intent and purpose of the Official Plan are maintained**

The subject property is designated Low Density Residential in the City of Kingston Official Plan. The property is also within the Site Specific Policy Area Number RC-1-2 (Baxter Farm Subdivision) in the Official Plan.

The requested relief is necessary to permit the construction of the proposed single detached dwelling, a use which is permitted within the Low Density Residential designation for this site as well as the site-specific policy RC-1-2. The Official Plan provides additional



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guidance for determining the desirability of a minor variance. Section 9.5.19 of the Official Plan states that when considering whether a variance is desirable for the appropriate development or use of the land, building or structure.

The proposed variance maintains the intent of Section 2 of the Official Plan in that it constitutes an appropriate use for a neighbourhood consisting of similar single detached dwellings in the residential subdivision. In terms of accessibility, the subdivision and residential lots have been designed to be accessible for vehicles and by other means of transportation. Adequate municipal services are available for the site, located within the urban boundary, as determined by a previous detailed servicing review undertaken during Final Plan of Subdivision and the previous application to lift Part Lot Control.

The proposed minor variance application would not be more appropriately addressed by a zoning by-law amendment as that process is significantly more onerous and unnecessary to achieve the desired result of constructing a single-detached dwelling on the property, particularly given that the property is within a site-specific zone applying to the Greenwood Park West subdivision. Further, the site has been previously approved by City Council through the approval of the Draft Plan of Subdivision and zoning by-law amendment as well as the subsequent Part Lot Lift which enabled the creation of the lot. It is clear that the intent of Council is to develop this lot with a single detached dwelling, as proposed. The need for a relief from the zoning by-law arises from a technicality of the zoning by-law. This proposal will not set a negative precedent as Council has already indicated its intent to permit the development of this property as proposed.

The proposal meets the intent of the Official Plan, as the proposed single-detached dwelling will not result in any negative impacts to adjacent properties or to the neighbourhood.

## **2) The general intent and purpose of the zoning by-law are maintained**

The subject property is dual-zoned Special Residential Type 11 (R11-1) and Residential Type 12 (R12) in the Zoning By-Law Number 32-74. Each zone permits a single-detached dwelling subject to the zone provisions.

Section 5(11)(c) of the zoning by-law states that where a lot is divided into more than one zone, each such portion of the lot shall, for the purpose of this by-law, be considered a separate lot and shall be used in accordance with the applicable zone provisions of this by-law, but this provision shall not be construed to permit more than one dwelling house on the whole lot.

The location of the proposed single-detached dwelling will be entirely within the R11-1 zone however it will not comply with the rear yard setback requirement based on the provisions of Section 5(11)(c). Relief could be sought from the rear yard setback provision however development accessory to the dwelling such as pools, sheds or decks would not comply due to the above provision. Therefore a variance is requested from Section

June 25, 2018

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5(11)(c) as it will provide flexibility to future land owners for accessory uses and enjoyment of their rear yard.

**Variance:**

By-Law Number 32-74:  
Requirement:

Section 5(11)(c) More than One Zone on a Lot  
Where a lot is divided into more than one zone, each such portion of the lot shall, for the purpose of this by-law, be considered a separate lot and shall be used in accordance with the applicable zone provision.

**Proposed:**

Where a lot is divided into more than one zone, the zone provisions shall be applied to the lot boundary and not to the zone boundary.

Relief from Section 5(11)(c) would enable the development on the subject site to treat the property lines as the lot boundaries for zoning purposes, as would normally be the case, regardless of the location of the zone boundary. In this scenario, the proposed development meets all the requirements of the R11-1 zone as the rear yard measured to the property line is 10.2 metres and the by-law requires 7.5 metres. The proposed variance maintains the intent of the zoning by-law in that the section is not intended to limit development on lots within multiple zones, but rather is intended to prevent the construction of more than one dwelling house on individual lots within multiple zones. Relief from this provision will not result in more than one dwelling house on the lot, and thus the intent of the general provision is maintained. The variance will also enable the proposed dwelling to be built as intended, in compliance with all of the provisions and intent of the R11-1 zone.

**3) The variance is minor in nature**

The proposed variance is minor as the requested variance would be limited to the subject property, limiting the scope of any impacts to the subject property. There will be no negative impacts resulting from the proposed variance as the proposed single-detached dwelling will comply with the provisions of the R11-1 zone as measured from the lot lines. The variance will enable the site to be developed consistent with other single-detached dwellings within the Greenwood Park West subdivision.

**4) The variance is desirable for the appropriate development or use of the land, building or structure**

The variance is desirable for the appropriate development of the lands. The requested variance is necessary to permit the construction of the single-detached dwelling consistent with the surrounding subdivision. Relief from Section 5(11)(c) will enable the proposed dwelling to be built as intended by Council in the approved plan of subdivision. Additionally, this relief will allow any future changes to the site to be undertaken as though the site were located entirely within one zone, enabling the site to operate as intended.

June 25, 2018

Page 7 of 9

**Provincial Policy Statement**

In addition to the four tests of a minor variance detailed above, Subsection 3(5) of the *Planning Act* requires that a decision in respect of the exercise of any authority that affects a planning matter shall be consistent with the Provincial Policy Statement (the PPS). The PPS provides policy direction on matters of provincial interest related to land use planning and development which are complemented by local policies addressing local interests. The application being considered is site specific to accommodate a specific proposal and does not involve any major policy considerations and as such, the proposal conforms to and is consistent with the PPS.

**Technical Review: Circulated Departments and Agencies**

- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> Building Division | <input checked="" type="checkbox"/> Engineering Department | <input checked="" type="checkbox"/> Heritage (Planning Division)            |
| <input checked="" type="checkbox"/> Finance           | <input checked="" type="checkbox"/> Utilities Kingston     | <input checked="" type="checkbox"/> Real Estate & Environmental Initiatives |
| <input checked="" type="checkbox"/> Fire & Rescue     | <input checked="" type="checkbox"/> Kingston Hydro         | <input type="checkbox"/> City's Environment Division                        |
| <input type="checkbox"/> Solid Waste                  | <input type="checkbox"/> Parks Development                 | <input type="checkbox"/> Canadian National Railways                         |
| <input type="checkbox"/> Housing                      | <input checked="" type="checkbox"/> District Councillor    | <input type="checkbox"/> Ministry of Transportation                         |
| <input type="checkbox"/> KEDCO                        | <input type="checkbox"/> Municipal Drainage                | <input type="checkbox"/> Parks of the St. Lawrence                          |
| <input type="checkbox"/> CRCA                         | <input type="checkbox"/> KFL&A Health Unit                 | <input type="checkbox"/> Trans Northern Pipelines                           |
| <input type="checkbox"/> Parks Canada                 | <input type="checkbox"/> Eastern Ontario Power             | <input type="checkbox"/> CFB Kingston                                       |
| <input type="checkbox"/> Hydro One                    | <input type="checkbox"/> Enbridge Pipelines                | <input type="checkbox"/> TransCanada Pipelines                              |
| <input type="checkbox"/> Kingston Airport             |  |   |

**Technical Comments**

This application was circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude this application from moving forward. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

**Public Comments**

At the time this report was finalized, there were no written public comments or concerns received. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

**Previous or Concurrent Applications**

Part Lot Control – D27-014-2016

The subject property was one of several properties created by way of an application to lift Part Lot Control along the north side of Pauline Tom Avenue, which allowed Pauline Tom Avenue to be reconfigured to its present state. In addition to a prior reconfiguration, the subject property was the result of a land swap between the developers of the Greenwood Park West and Baxter North subdivisions. It is due to the reconfiguration of the lot that the zone boundary between the R11-1 and R12 zones now crosses a portion of the property.

June 25, 2018

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**Conclusion**

The requested variance maintains the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 32-74. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variance is minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and the application is being recommended for approval, subject to the proposed conditions.

Approval of this application will result in a single-detached dwelling to be built as intended by Council in the approved plan of subdivision and will enable any future changes to the site to be undertaken as though the site were located entirely within one zone, enabling the site to operate as intended.

**Existing Policy/By-Law:**

The proposed application 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**

Provincial Policy Statement, 2014

**Municipal**

City of Kingston Official Plan  
Zoning By-Law Number 32-74

**Notice Provisions:**

A Committee of Adjustment Meeting is going to be held respecting this application on June 25, 2018. Pursuant to the requirements of the *Planning Act*, a notice of Statutory Public Meeting was provided by advertisement in the form of signs posted on the subject site 10 days in advance of the meeting. In addition, notices were sent by mail to a total number of 32 property owners (according to the latest Assessment Roll) within 60 metres of the subject property and a courtesy notice was placed in The Kingston Whig-Standard.

Once a decision has been rendered by the Committee of Adjustment, a Notice of Decision will be circulated in accordance with the provisions of the *Planning Act*.

**Accessibility Considerations:**

Not applicable

**Financial Considerations:**

Not applicable

June 25, 2018

Page 9 of 9

**Contacts:**

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

Laura MacCormick, Deputy Director, Planning Division 613-546-4291 extension 3223

Marnie Venditti, Manager, Development Approvals 613-546-4291 extension 3256

Tim Fisher, Planner 613-546-4291 extension 3215

**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 in this report.

**Exhibits Attached:**

Exhibit A Key Map

Exhibit B Public Notice Notification Map

Exhibit C Site Plan

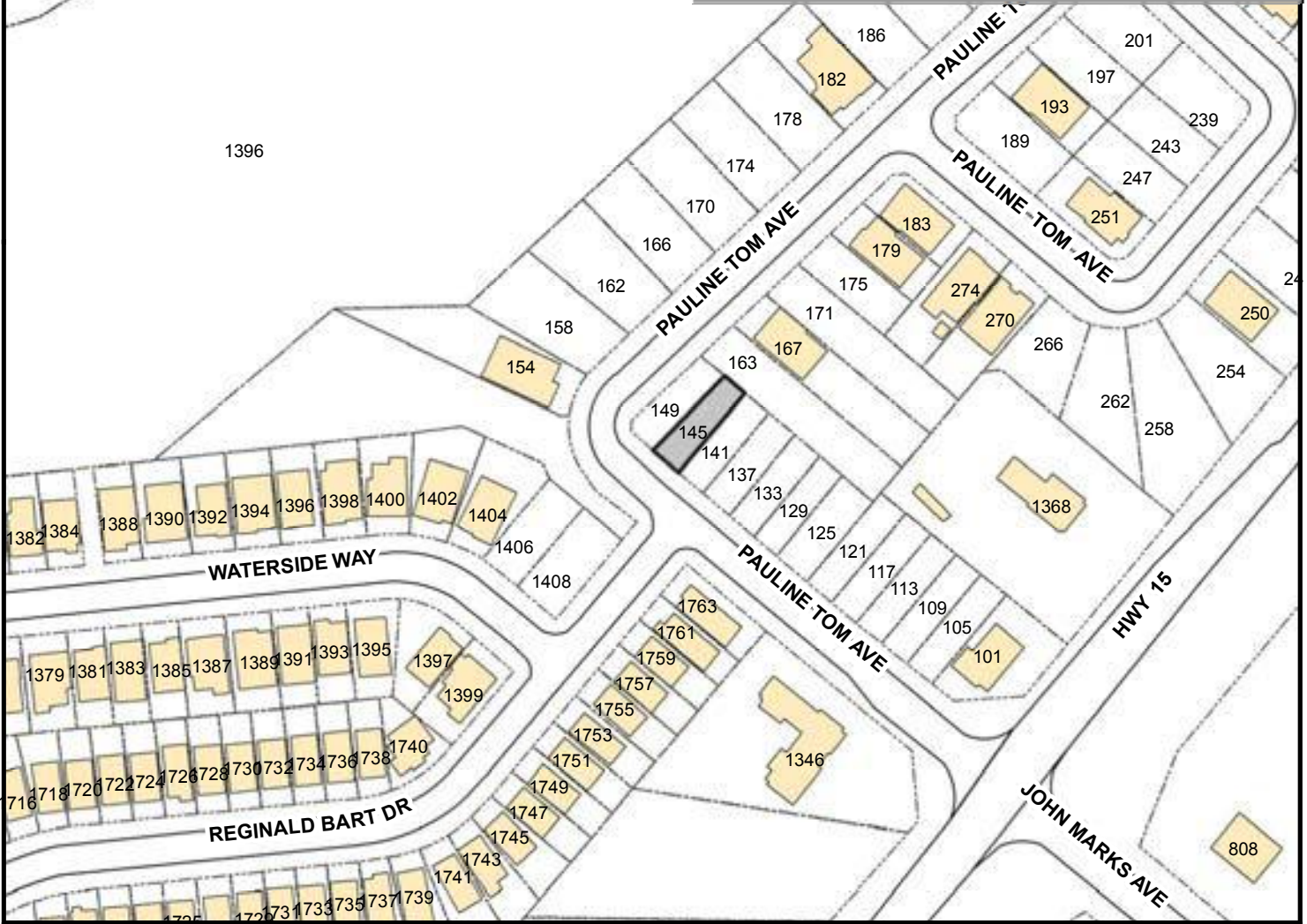
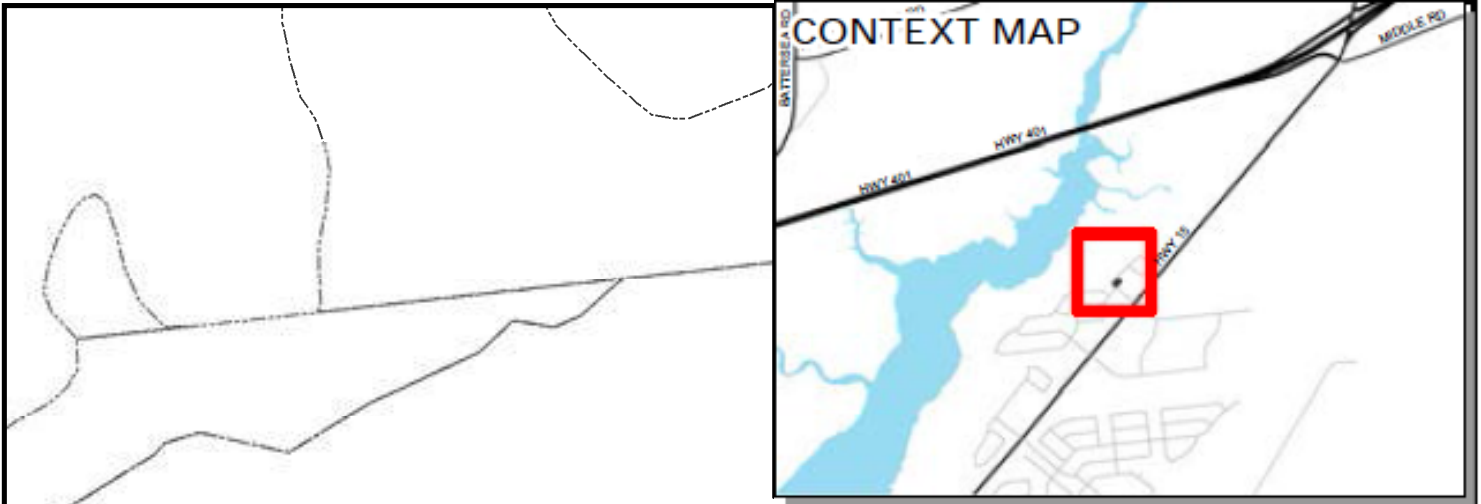
Exhibit D Survey

Exhibit E Elevations and Floor Plans

Exhibit F Planning Justification

Exhibit G Existing Zoning By-Law Number 32-74, Map 4

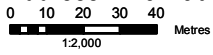




Planning, Building & Licensing Services  
a department of  
Community Services

**COMMITTEE OF ADJUSTMENT  
KEY MAP**

Applicant: James Selkirk  
Owner: JAMES SELKIRK CUSTOM HOMES LTD  
File Number: D13-029-2018  
Address: 145 Pauline Tom Ave



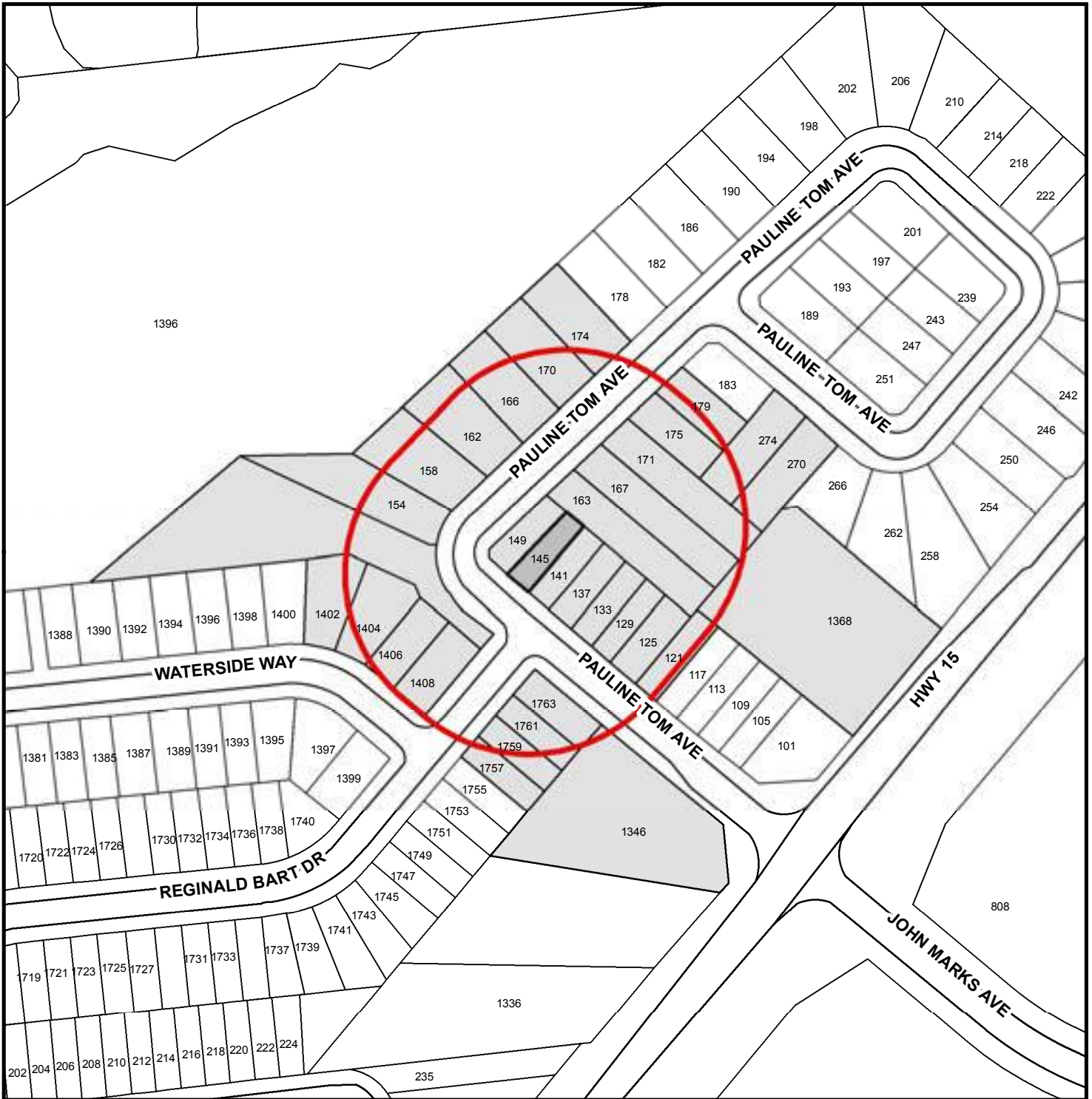
**LEGEND**

Lands Subject to Minor Variance



PREPARED BY: J. Partridge  
DATE: 6/1/2018

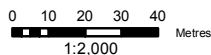
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



Planning, Building & Licensing Services  
a department of Community Services

COMMITTEE OF ADJUSTMENT  
**PUBLIC NOTICE NOTIFICATION MAP**

Applicant: James Selkirk  
Owner: JAMES SELKIRK CUSTOM HOMES LTD  
File Number: D13-029-2018  
Address: 145 Pauline Tom Ave



**LEGEND**

-  Lands Subject to Minor Variance
-  60 m Public Notice Boundary
-  Property Boundaries
-  32 Properties in Receipt of Notice



PREPARED BY: J.Partridge  
DATE: 6/1/2018

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# BUILDING PERMIT APPLICATION PLOT PLAN

APPLICANT NAME: <b>SELKIRK LIFESTYLE HOMES</b>	PHONE #: <b>(613) 545-9396</b>	PROPERTY ADDRESS: <b>145 PAULINE TOM AVENUE</b>
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**LEGEND:**

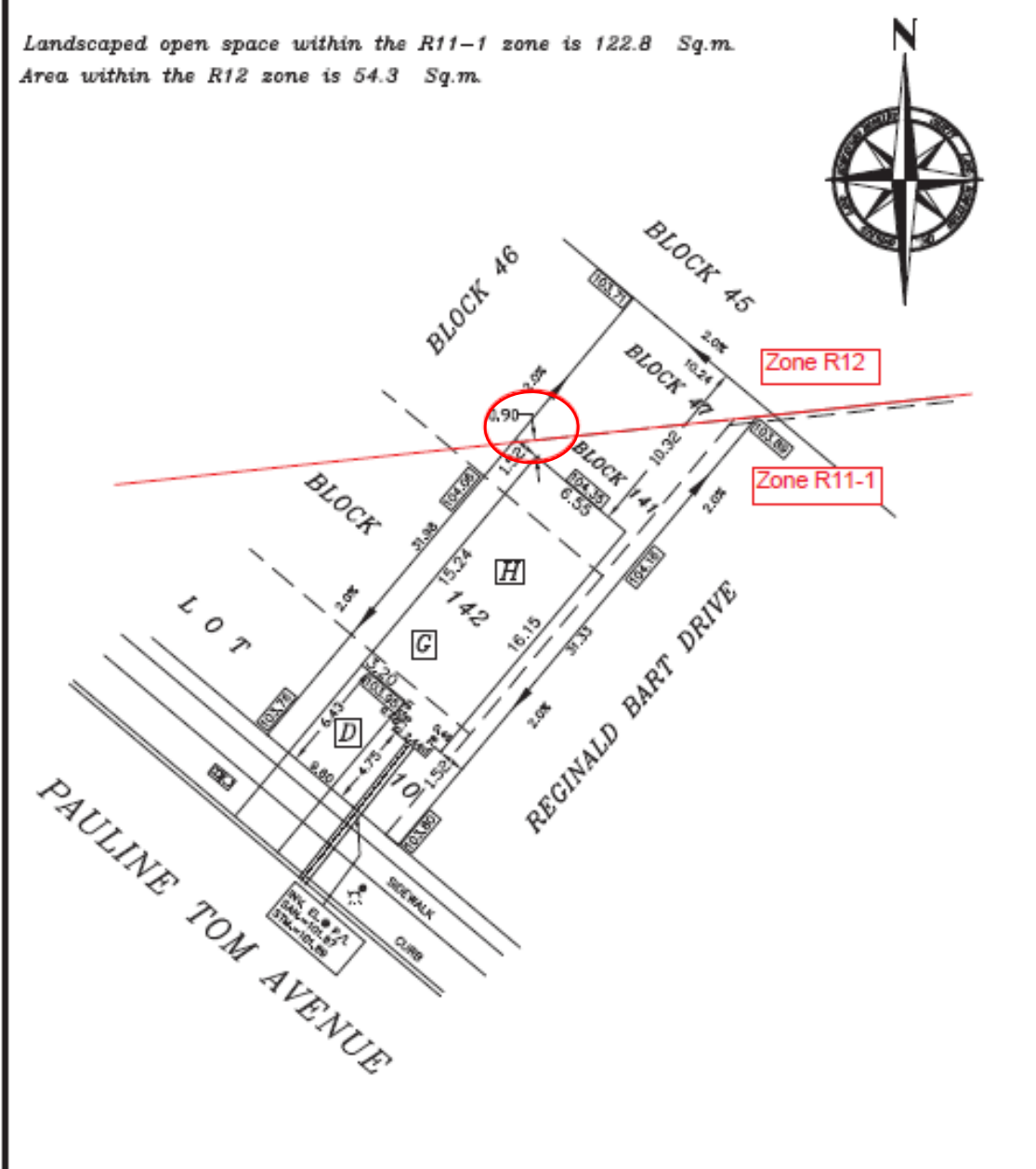
<ul style="list-style-type: none"> <li>◁ 3R ENTRANCE LOCATION &amp; # OF RISERS TO GRADE</li> <li>☐ COMMUNITY MAIL BOX</li> <li>☐ HYDRO TRANSFORMER</li> <li>☐ BELL PEDESTAL</li> <li>☐ CABLE PEDESTAL</li> <li>☐ LIGHT STANDARD</li> <li>☐ HYDRANT</li> <li>○ TRAFFIC SIGN</li> <li>☐ STREET SIGN</li> <li>-E- EASEMENT LINE</li> <li>→ OVERHEAD HYDRO LINE</li> <li>☐ HOUSE</li> <li>☐ GARAGE</li> <li>☐ DRIVEWAY</li> </ul>	<ul style="list-style-type: none"> <li>— WATER SERVICE</li> <li>— SANITARY SERVICE</li> <li>— STORM SERVICE</li> <li>☐ CATCH BASIN</li> <li>○ MHO MANHOLE</li> <li>— SIDEWALK</li> <li>— CURB</li> <li>☐ PROPOSED ELEVATION</li> <li>302.2 EXISTING ELEVATION</li> <li>☐ PROPOSED ELEVATION TO BE PROVIDED BY APPLICANT</li> <li>→ DRAINAGE DIRECTION</li> <li>... DRAINAGE SWALE</li> <li>☐ FUSE PEDESTAL</li> <li>— WATERMAIN VALVE</li> </ul>
--	--

DRIVEWAY INFORMATION:  
 WIDTH: 3.2 m. BELOW GRADE: Y \_\_\_ N \_\_\_ X \_\_\_  
 SLOPE (MAX. 10%): 2.3% SURFACE MATERIAL: GRAVEL (NEW CONSTRUCTION)

**DETAILS:**

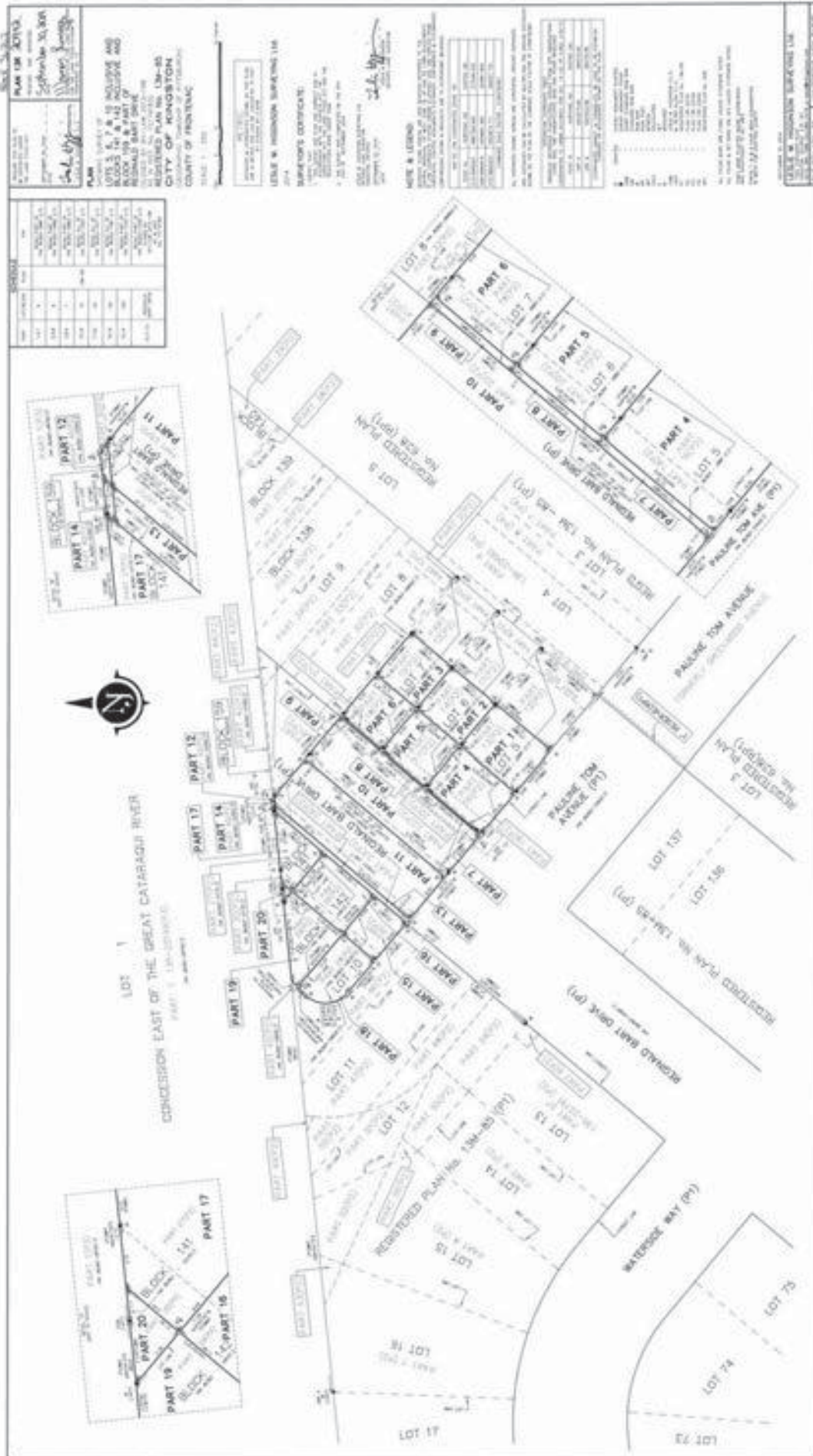
LOT No. 10  
 BLOCK No. 141, 142, 159 PLAN 13M-85  
 PART No. 13, 14, 15 REFERENCE PLAN No. 13R-20942  
 TOP FOUNDATION ELEVATION: 104.70  
 BOTTOM FOOTING ELEVATION: 102.11  
 ELEVATION AT GRADE: 103.95 FOUNDATION CUT: 0.75  
 ZONE: R11-1  
 LOT AREA: 302.4 SQ. Metres  
 BUILDING FOOTPRINT AREA: 104.8 SQ. Metres  
 COVERAGE %: PROPOSED: 34.7%  
 PERMITTED: N/A

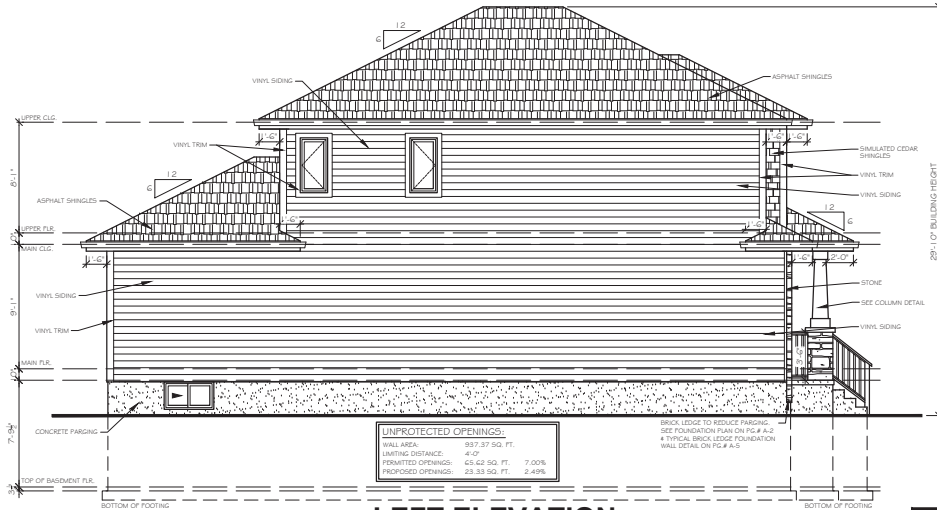
SCALE: 1:300 DATE: MARCH 21, 2018



REVIEWED BY	DATE	APPROVED	REJECTED (REASONS AS NOTED)	LOT GRADING SECURITY REQUIRED: YES <input type="checkbox"/> NO <input type="checkbox"/>	AMOUNT REQUIRED
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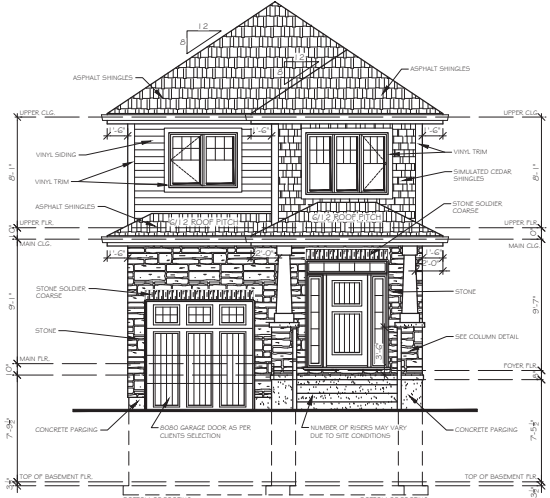


**LEFT ELEVATION**

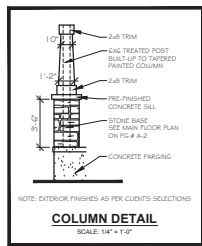
**UNPROTECTED OPENINGS:**

WALL AREA:	837.87 SQ. FT.
LIMITING DISTANCE:	4'-0"
PERMITTED OPENINGS:	62.62 SQ. FT. 7.00%
PROPOSED OPENINGS:	23.33 SQ. FT. 2.49%

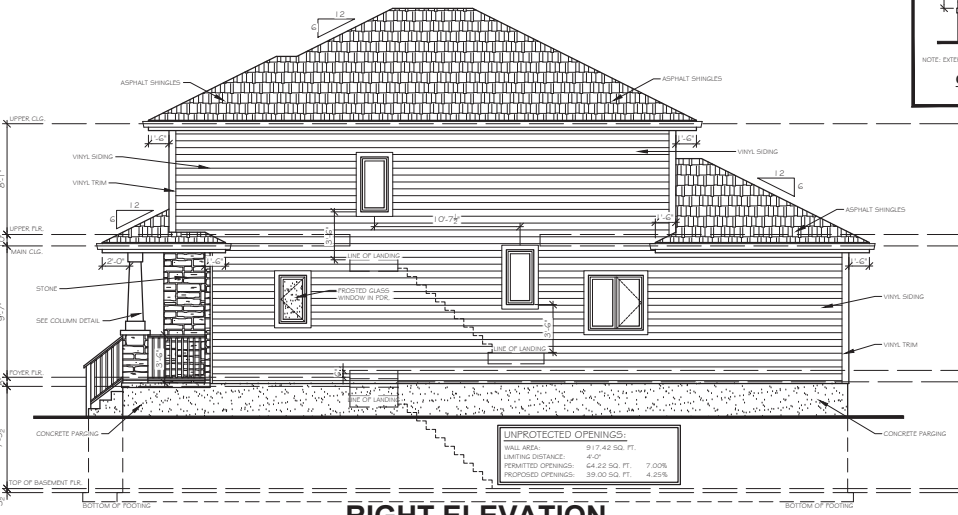
**NOTE:**  
 CONFIRM WITH BUILDER THAT ALL WINDOWS ON MAIN FLOOR (UNLESS NOTED) TO BE INSTALLED AT TYPICAL 9'-10 3/4" TO TOP OF WINDOW HEADER IS 25% BELOW 9'-1" CEILING. STANDARD HEEL TRUSSES ON PORCH & GARAGE ROOF



**FRONT ELEVATION**



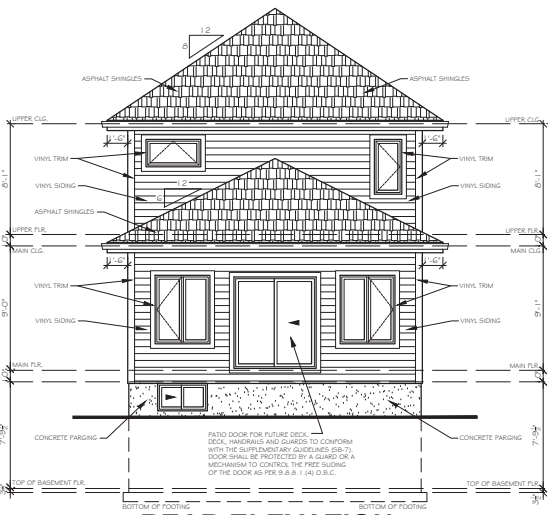
**COLUMN DETAIL**  
 SCALE 1/4" = 1'-0"



**RIGHT ELEVATION**

**UNPROTECTED OPENINGS:**

WALL AREA:	917.42 SQ. FT.
LIMITING DISTANCE:	4'-0"
PERMITTED OPENINGS:	64.22 SQ. FT. 7.00%
PROPOSED OPENINGS:	39.00 SQ. FT. 4.25%



**REAR ELEVATION**



**FOR BUILDING PERMIT SUBMISSION & ISSUANCE**  
 ALL DRAWINGS SUBMITTED FOR PERMIT INSURANCE MUST INCLUDE THE FOLLOWING:

- A RED INK STAMP INDICATING DESIGNER B.C.I.N. & FIRM B.C.N.
- A RED INK STAMP WITH AN ORIGINAL SIGNATURE IN BLUE INK.
- SCHEDULE L DESIGNER FORM WITH AN ORIGINAL SIGNATURE IN BLUE INK.

DO NOT SCALE THE DRAWING. ALL DIMENSIONS AND SPACING SHALL BE AS SHOWN ON DRAWING UNLESS OTHERWISE NOTED. ALL DIMENSIONS SHALL BE TO FACE UNLESS OTHERWISE NOTED. ALL DIMENSIONS SHALL BE TO FACE UNLESS OTHERWISE NOTED. ALL DIMENSIONS SHALL BE TO FACE UNLESS OTHERWISE NOTED.

#	DRAWING DESCRIPTION	DATE
1	ISSUED FOR PERMIT / TRUCK	03/20/18
2		
3		
4		

**PROJECT:**  
 THE MACKENZIE  
 145 PAULINE TOWN AVE.  
 KINGSTON, ONTARIO

**DRAWING TITLE:**  
 ELEVATIONS

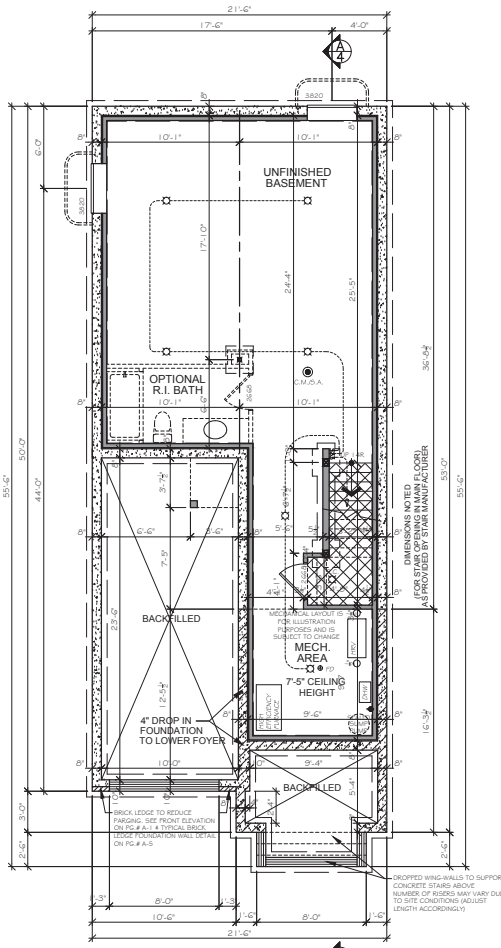
**SCALE:** 1/4" = 1'-0"  
**DATE:** MARCH 20, 2018  
**DRAWN BY:** NP/BC  
**CHECKED BY:** NP/BC/HLG  
**DRAWING REF#:** ND2688

**LOT NUMBER:**

**DRAWING NO.:**  
 A-1 OF 5

SEE PAGE A-5 FOR GENERAL NOTES, STANDARD CONSTRUCTION DETAILS, AND TABLE OF THICKNESS & BACKFILL HEIGHTS FOR FOUNDATION WALLS.



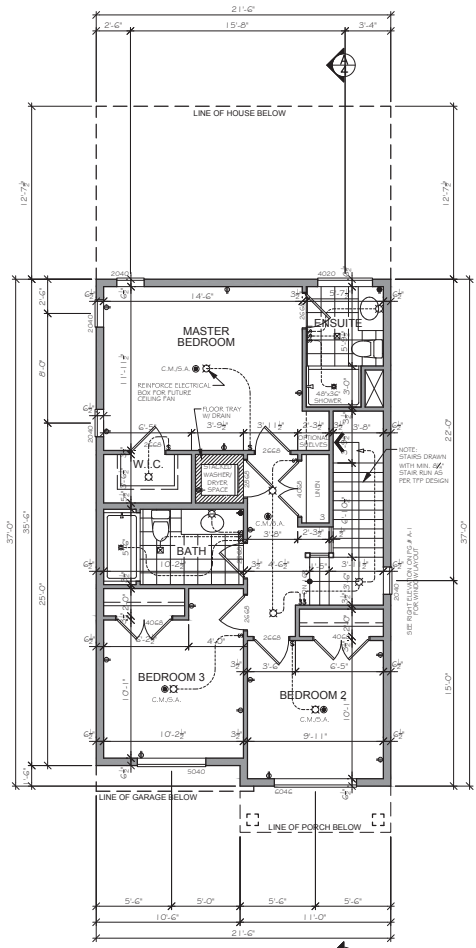
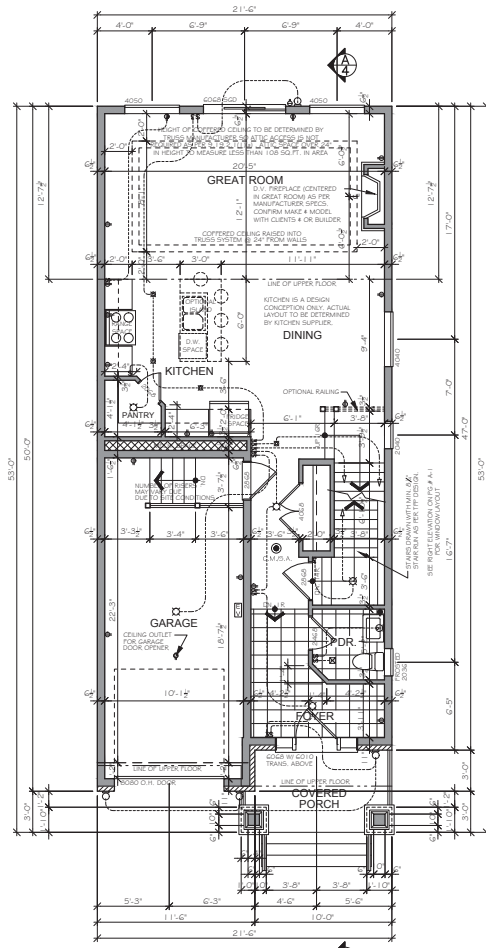


NOTE:  
ALL STEEL BEAMS AND COLLARS ARE DIMENSIONED TO CENTER

NOTE:  
CONFIRM WITH BUILDER THAT ALL WINDOWS ON MAIN FLOOR ( UNLESS NOTED ) TO BE INSTALLED AT TYPICAL 4'-10 1/2" TO TOP OF WINDOW. HEADER IS 25X" BELOW 9'-1" CEILING. STANDARD HEEL TRUSSES ON PORCH & GARAGE ROOF

ELECTRICAL NOTE:  
• GENERAL LOCATIONS OF ELECTRICAL RECEPTACLES, SWITCHES, AND LIGHTS WITH CLIENTS AND BUILDER  
MECHANICAL NOTE:  
• MECHANICAL WALLS ARE TO BE FRAMED ONLY IF REQUIRED. CONFIRM WITH BUILDER ON SITE

NOTE:  
ALL WINDOW & DOOR SIZES ARE IN FEET.  
EXAMPLE:  
5'-6" X 4'-6"  
EXTERIOR WINDOWS AND DOORS AS PER WINDOW MANUFACTURER'S STANDARD SIZES.  
SEE KOSOL STUDY OPENING SIZES PROVIDED BY WINDOW SUPPLIER.



**ELECTRICAL SCHEDULE**

SWITCHES:  
• 3 WAY SWITCH  
• 3 WAY SWITCH

LIGHTS:  
• LIGHT  
• POT LIGHT  
• CEILING WALL SCENE  
• PENDANT/HANGING LIGHT  
• BATH BAR  
• TRACK LIGHT  
• FLUORESCENT

RECEPTACLES:  
• DUPLEX  
• SWITCH  
• GROUND FAULT  
• WATERPROOF  
• 220  
• CEILING  
• FLOOR  
• ELECTRIC VEHICLE CHARGING ROUGH-IN

MISCELLANEOUS:  
• PHONE JACK  
• TV CABLE  
• CROWN MOULDING / Scribe  
• CEILING FAN  
• CEILING FAN/LIGHT  
• EXHAUST FAN  
• VACUUM INTAKE  
• EXTERIOR HOSE BIB  
• EXTERIOR GAS LINE



**FOR BUILDING PERMIT SUBMISSION & ISSUANCE**  
ALL DRAWINGS SUBMITTED FOR PERMIT AND ANCE MUST INCLUDE THE FOLLOWING:  
• A RED INK STAMP INDICATING DESIGNER BORN IN A FIRM INC.  
• A RED INK STAMP WITH AN ORIGINAL SIGNATURE IN BLUE INK.  
• SCHEDULE 1 - DESIGNER FORM WITH AN ORIGINAL SIGNATURE IN BLUE INK.

DO NOT SCALE THE PERMITS. ALL DIMENSIONS AND DISTANCES MUST BE MEASURED AS SHOWN ON THE DRAWING. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF ALL DIMENSIONS AND DISTANCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF ALL DIMENSIONS AND DISTANCES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF ALL DIMENSIONS AND DISTANCES.

#	DRAWING DESCRIPTION	DATE
1	DESIGNED FOR PERMIT / TRACER	03/20/18
2		
3		
4		
5		

PROJECT:  
**THE MACKENZIE**  
145 PAULINE TOWN AVE.  
KINGSTON, ONTARIO

DRAWING TITLE:  
**FLOOR PLANS**

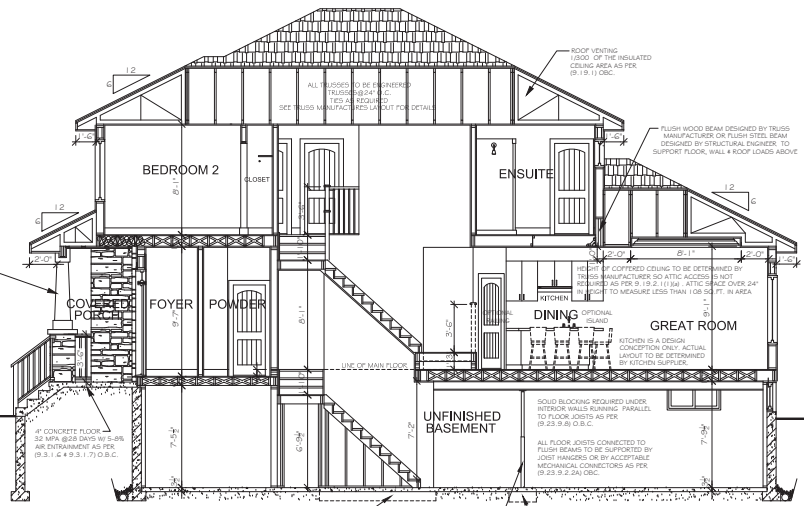
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DATE: MARCH 20, 2018  
DRAWN BY: NP/BC  
CHECKED BY: NP/BC/HLG  
DRAWING REF#: ND2688

LOT NUMBER:

DRAWING NO.:  
**A-2**  
OF  
**5**

SEE PAGE A-5 FOR GENERAL NOTES, STANDARD CONSTRUCTION DETAILS, AND TABLE OF THICKNESS & BACKFILL HEIGHTS FOR FOUNDATION WALLS.





GLAZED WALL TOP ALLOW PROTRUSION OF 4" SPHERE NOR CONTAIN HORIZONTAL MEMBERS ON INSIDE FACE BETWEEN 4" AND 42" FROM JOCK SURFACE HEIGHT OF GLAZERS AS PER 9.8.2.1 (3) B.C. HANDRAILS AND GUARDS TO CONFORM WITH THE SUPPLEMENTARY GUIDELINES (98-7)

SEE COLUMN DETAIL ON PG # A-1

FLOOR SPACE ABOVE FOYER TO HAVE A 1/4" RADIUS BANNER MIN. 3/8" FIBERGLASS INSULATION WITH 1/2" OSB WALL & POLYURETHANE SPRAY FOAM INSULATION AS PER MANUFACTURER'S SPEC. WITH 1/2" OSB WALL & TYPED OR PLYWOOD.

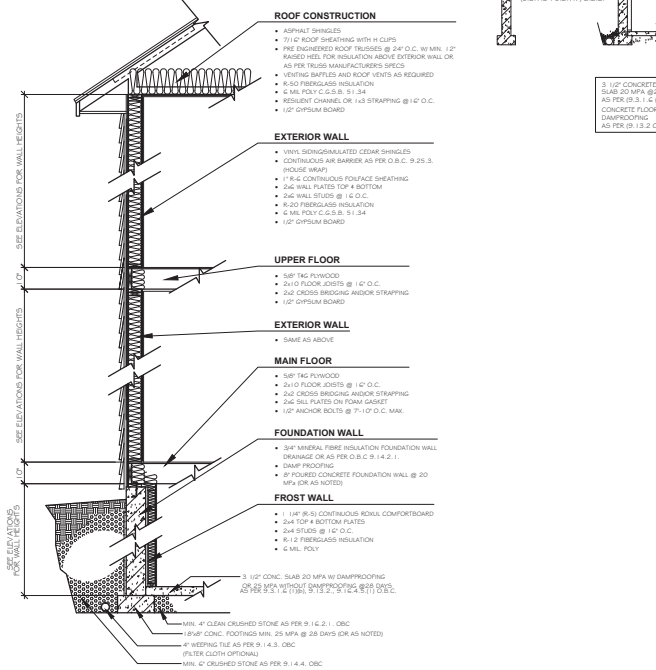
ALL WINDOWS ON MAIN FLOOR (UNLESS NOTED) TO BE INSTALLED AT TYPICAL C. 10" TO TOP OF WINDOW HEADS IS 25" BELOW 9'-11" CEILING

RATIO DOOR FOR FUTURE OCC. DOOR, HANDRAILS AND GUARDS TO CONFORM WITH THE SUPPLEMENTARY GUIDELINES (98-7). DOOR SHALL BE PROTECTED BY A GUARD OR A MECHANISM TO CONTROL THE FREE SLIDING OF THE DOOR AS PER 9.8.8.1 (4) B.C.

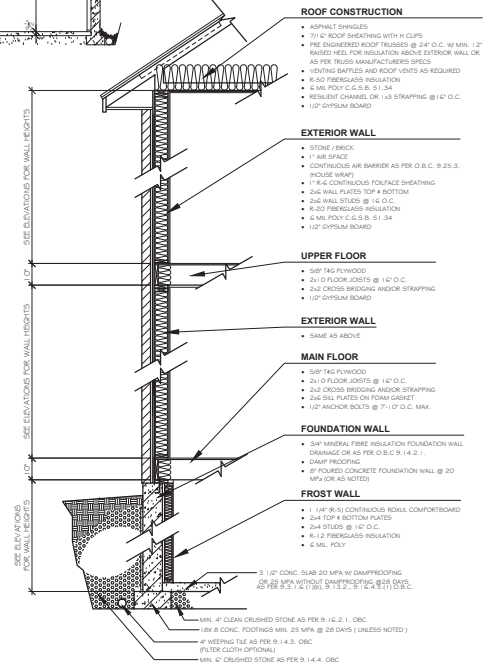
IF STIPPED FOOTINGS ARE USED THE RISE IS NOT TO EXCEED 25% AND THE DISTANCE BETWEEN ROSSERS SHALL NOT BE LESS THAN 25" THE FOOTING DEPTH IS TO BE 4" MIN. BELOW GRADE.

### SECTION A

ENERGY EFFICIENCY DESIGN SUMMARY	
<b>COMPLIANCE OPTION:</b> SB-12 PREScriptive TABLE S.1.2.2 (1P) COMPLIANCE PACKAGE 'A'	
<b>PROJECT DESIGN CONDITIONS:</b> CLIMATIC ZONE 1 - HEATING EQUIPMENT EFFICIENCY = 92% AFUE - GROSS WALL AREA = 2766 SQ. FT. (266.1m <sup>2</sup> ) - GROSS WINDOW AREA = 280 SQ. FT. (26.0m <sup>2</sup> ) - WINDOWS = 10.2%	
<b>BUILDING SPECIFICATIONS:</b> <b>THERMAL INSULATION:</b> - CEILING WITH ATTIC SPACE = R-50 - CEILING WITHOUT ATTIC SPACE = R-31 - EXPOSED FLOOR = R-35 - WALLS ABOVE GRADE = R-19 + 5 ci - BASEMENT WALLS = R-12 + 5 ci - EDGE OF SLAB = 2" @ BELOW GRADE = R-10	
<b>WINDOWS &amp; DOORS:</b> - WINDOWS: SLIDING GLASS DOORS, U-VALUE = 0.28 Btu/(h · ft <sup>2</sup> · F), Energy Rating = 25 - SKYLIGHTS, U-VALUE = 0.49 Btu/(h · ft <sup>2</sup> · F)	
<b>MECHANICAL:</b> - SPACE HEATING EQUIPMENT = 94% AFUE - HRV EFFICIENCY SRE = 70% - DHW HEATER EF = 0.8 - DWHR (CSA B55-1 (min. 42% efficiency)) 1 UNIT # SHOWERS 2	



TYPICAL EXT. WALL SECTION VINYL SIDING / SIMULATED CEDAR SHINGLES  
SCALE: N.T.S.



TYPICAL EXT. WALL SECTION BRICK / STONE  
SCALE: N.T.S.



**FOR BUILDING PERMIT SUBMISSION & ISSUANCE**  
ALL DRAWINGS SUBMITTED FOR PERMIT INSURANCE MUST INCLUDE THE FOLLOWING:  
• A RED INK STAMP INDICATING DESIGNER B.Y.N. IS ORIGINAL SIGNATURE IN BLUE INK.  
• SCHEDULE 1 - DESIGNER FORM WITH AN ORIGINAL SIGNATURE IN BLUE INK.

#	DRAWING DESCRIPTION	DATE
1	1. COVER FOR PERMIT / TENDER	03/20/22
2		
3		
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5		

PROJECT: THE MACKENZIE 145 PAULINE TOWN AVE. KINGSTON, ONTARIO

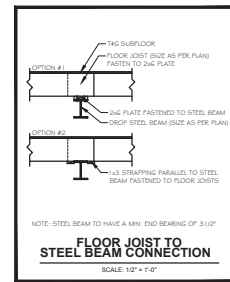
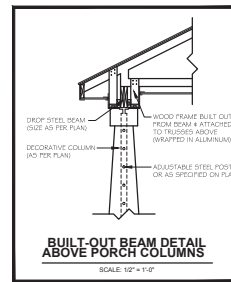
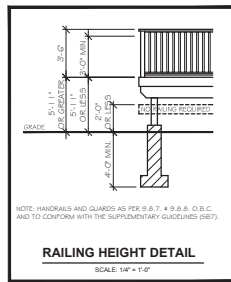
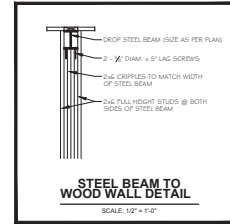
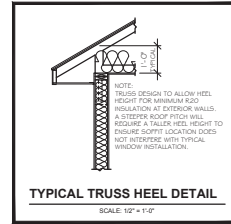
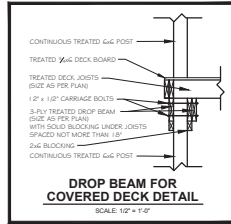
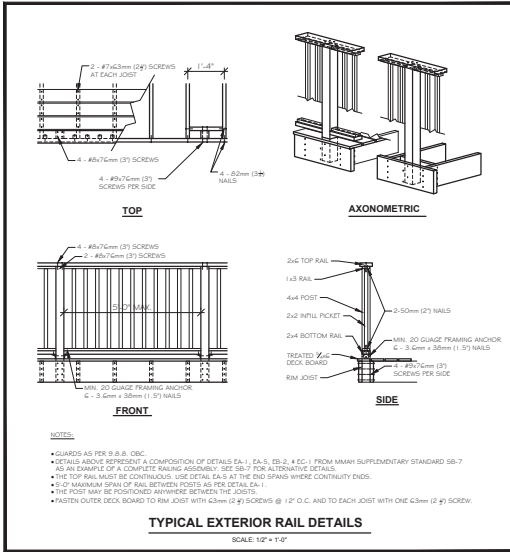
DRAWING TITLE: SECTION A WALL SECTIONS

SCALE: 1/4"=1'-0"  
DATE: MARCH 20, 2018  
DRAWN BY: NP/BC  
CHECKED BY: NP/BC/HGL  
DRAWING REF#: ND2688

LOT NUMBER:

DRAWING NO. A-4 OF 5

SEE PAGE A-5 FOR GENERAL NOTES, STANDARD CONSTRUCTION DETAILS, AND TABLE OF THICKNESS & BACKFILL HEIGHTS FOR FOUNDATION WALLS.



**GENERAL NOTES:**

THESE PLANS FORM THE BASIS FOR PERMIT ISSUANCE AND ANY DEVIATIONS FROM THESE PLANS AND DETAILS INCLUDING THE VENTILATION SYSTEM HEATING SYSTEM, WOODSTOVE, FIREPLACES, DECKS, BALCONIES AND FINISHED BASEMENTS WILL REQUIRE A REVISED DRAWING AND CLEARANCE BY THE BUILDING DEPARTMENT.

DRAFTSPERSON HAS FOLLOWED GENERAL PROVISIONS OF THE ONTARIO BUILDING CODE (O.B.C.) IF SUPPLEMENTARY ENGINEERING IS REQUIRED, IT SHALL BE THE RESPONSIBILITY OF CONTRACTOR / OWNER.

ALL DIMENSIONS AND SPECIFICATIONS MUST BE REVIEWED BY CONTRACTOR / OWNER PRIOR TO CONSTRUCTION. ANY ERRORS OR OMISSIONS MUST BE SENT TO NU DIMENSION DESIGN AND DRAFTING FOR AMENDMENTS.

ALL CONSTRUCTION AND BUILDING PRACTICES TO COMPLY WITH THE 2012 ONTARIO BUILDING CODE.

ANY STRUCTURAL ELEMENTS ON PLANS REQUIRING ENGINEERING TO BE STAMPED DOCUMENTATION OF ENGINEERING FOR SUBMISSION TO BUILDING DEPARTMENT.

ALL VENTILATION, HEATING, PLUMBING & ELECTRICAL INSTALLATION MUST BE COMPLETED BY A CONTRACTOR WITH A VALID CERTIFICATE OF QUALIFICATION IN ONTARIO.

THE FOOTING DEPTH IS TO BE 4" MIN. BELOW GRADE.

IF STEPPED FOOTINGS ARE USED THE RISE IS NOT TO EXCEED 2:1 SLOPE AND THE DISTANCE BETWEEN RISERS SHALL NOT BE LESS THAN 2:1 SLOPE.

WIDTH AND HEIGHT OF STAIRS AS PER 9.8.2.1 & 9.8.2.2 O.B.C. RISE AND RUN OF STAIRS AS PER 9.8.4.1 O.B.C.

HANDRAILS AND GUARDS AS PER 9.9.7 & 9.9.8 O.B.C. AND TO CONFORM WITH THE SUPPLEMENTARY GUIDELINES (SB7).

HANDRAILS REQUIRED ON ONE SIDE OF INTERIOR AND EXTERIOR STAIRS HAVING MORE THAN THREE RISERS SERVING A SINGLE DWELLING UNIT AS PER 9.8.7 O.B.C.

GUARDRAIL NOT TO ALLOW PASSAGE OF 4" SPHERE NOR CONTAIN HORIZONTAL MEMBERS ON INSIDE FACE BETWEEN 45° AND 90° FROM DECK SURFACE.

GUARDRAIL ALLOWED TO BE 3/8" HIGH ONLY WHERE THE DECK IS MORE THAN 5'-11" FROM FINISHED GRADE AS PER 9.8.8.3 O.B.C.

STUO HEIGHT TO CONFORM TO THE REQUIREMENTS OF TABLE 9.23.1 O.B.C. & TABLE 9.23.2 O.B.C.

WALL STUDS OVER 16'-4" (5.8m) IN LENGTH TO BE ENGINEERED.

UNTREATED BEAMS AND SUPPORTS AT EXTERIOR LOCATIONS TO BE CLADDED FOR PROTECTION FROM THE ELEMENTS.

WHERE A ROOF INTERSECTS A WALL:  
FLASHING SHALL BE INSTALLED SO THAT IT EXTENDS 2" MIN. UP THE WALL AND BEHIND THE BUILDING PAPER AND 3" MIN. HORIZONTALLY AS PER 9.26.4.3.2 O.B.C.  
ALONG THE SLOPE OF THE ROOF THE FLASHING SHALL BE STEPPED WITH A 4" MIN. HEAD LAP AS PER 9.26.4.3.3 O.B.C.

ROOF VENTING 1/30th OF THE INSULATED CEILING AREA AS PER 9.11.1 O.B.C.

EAVE PROTECTION SHALL EXTEND FROM ROOF EDGE A MINIMUM 2'-11" AS PER 9.26.5.1(1) O.B.C.

MASONRY VENEERS TIES AND SPACING REQUIRED AS PER 9.20.8.5 O.B.C. WITH VERTICAL SPACING AT 16" AND MAXIMUM HORIZONTAL SPACING AT 3'-12" OR 45 PER TABLE 9.20.9.5 O.B.C.

MASONRY VENEER WEEPING HOLES SHALL BE SPACED NOT MORE THAN 2'-6" APART AS PER 9.20.9.5.2 O.B.C.

BASEMENT WINDOWS NOT TO EXCEED 3'-11" IN WIDTH OR A LATERALLY SUPPORTED FOUNDATION WALL AS PER 9.15.4.3 O.B.C.

OPENINGS IN FOUNDATION WALLS TO BE ENGINEERED IF BASEMENT WINDOWS EXCEED 3'-11" IN WIDTH OR THE TOTAL WIDTH OF THE OPENING CONSTITUTES MORE THAN 25% OF THE FOUNDATION WALL.

IF WINDOW WELLS ARE REQUIRED THEY MUST DRAIN TO FOOTING LEVEL.

WINDOW WELL DEPTH TO BE 24" FROM WALL WINDOW WELL WIDTH TO BE 48" OR AS PER WIDTH OF WINDOW.

BASEMENT WALLS OVER 80% GRADE TO BE INSULATED WITH AN R-VALUE THE SAME AS THE REMAINDER OF THE DWELLING INCLUDING THE REAR WALL AT THE WALKOUT.

ANCHOR BOLTS TO ANCHOR FIRST FLOOR SLAB PLATE TO TOP OF FOUNDATION WALL TO BE NOT LESS THAN 1/2" DIA. ANCHORS 8x8 @ 8'-0" O.C. MAX.

CONCRETE FOR SLUMP PITS SHALL BE DESIGNED TO RESIST REMOVAL BY CHILDREN AND SEALED TO MAINTAIN CONTINUITY OF THE AIR BARRIER SYSTEM AS PER 9.14.2 O.B.C.

200 AMP SERVICE & CAR CHARGING ROUGH-IN TO BE PROVIDED AS PER SECTION 3.1.21 O.B.C. ALL ELECTRICAL DETAILS AS PER SECTION 9.34 O.B.C.

ALL CARBON MONOXIDE / SMOKE ALARMS TO BE EQUIPPED WITH VISUAL SIGNALING COMPONENT AS PER 9.19.3(3) O.B.C.

WHERE MORE THAN ONE CARBON MONOXIDE / SMOKE ALARM IS REQUIRED IN A DWELLING UNIT THE ALARMS SHALL BE WIRED SO THAT THE ACTIVATION OF ONE ALARM WILL CAUSE ALL ALARMS WITHIN THE DWELLING UNIT TO SOUND AS PER 9.19.3 O.B.C.

CARBON MONOXIDE / SMOKE ALARMS TO BE INSTALLED ON EACH STORY (INCLUDING BASEMENT) AND IN EACH SLEEPING ROOM AS PER SECTION 9.19.3 O.B.C.

DOMESTIC HOT WATER SUPPLIED TO PLUMBING FIXTURES SHALL NOT EXCEED 40 DEGREES CELSIUS AND BE PROTECTED BY A THERMOSTATIC MIXING VALVE. WATER SUPPLY TO LAVATORY AND KITCHEN FIXTURES TO BE MAX. 8.5 LPM. SHOWER FLOWERS TO BE MAX. 7.6 LPM AND BE PRESSURE BALANCED.

A DRAIN WATER HEAT RECOVERY UNIT SHALL BE INSTALLED IN EACH DWELLING UNIT TO RECOVER DRAIN WATER FROM ALL SHOWERS OR AT LEAST TWO SHOWERS WHERE THERE ARE MORE THAN TWO SHOWERS IN A DWELLING UNIT AS PER 9.8.12 ARTICLE 9.11.3 O.B.C.

ALL WATER CLOSETS TO BE LOW FUSH (MAX. 4.8 L).

PROVIDE SOLID BLOCKING IN BATHROOMS FOR FUTURE INSTALLATION OF GRAB BARS.

WALL AND FLOOR TILE INSTALLATION AS PER 9.25.2, 9.26.10 & 9.30.6 O.B.C.

WHEN FLOOR DRAINS ARE REQUIRED, THE FLOOR SURFACE SHALL SLOPE TOWARDS FLOOR DRAIN SO THAT NO WATER CAN ACCUMULATE AS PER 9.16.3.3 O.B.C.

ALL FLOOR DRAINS TO BE INSTALLED WITH A TRAP SEAL PRIMER.

**NOTE: NOT ALL TYPICAL DETAILS SHOWN WILL APPLY TO THIS PARTICULAR LOT**

**Selkirk Lifestyle Homes**

FOR BUILDING PERMIT SUBMISSION & ISSUANCE

ALL DRAWINGS SUBMITTED FOR PERMIT INKLINE MUST INCLUDE THE FOLLOWING:

- A RED INK STAMP INDICATING DESIGNER B.C.I.N. A PROFESSIONAL ENGINEER
- A RED INK SIGNATURE WITH AN ORIGINAL SIGNATURE IN BLUE INK.

DO NOT SCALE THE DRAWING. ALL DIMENSIONS AND SPECIFICATIONS MUST BE REVIEWED BY CONTRACTOR / OWNER PRIOR TO CONSTRUCTION. ANY ERRORS OR OMISSIONS MUST BE SENT TO NU DIMENSION DESIGN AND DRAFTING FOR AMENDMENTS.

#	DRAWING DESCRIPTION	DATE
1	1. COVERED FOR PERMIT / TENDER	COS/2012
2		
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PROJECT: THE MACKENZIE 145 PAULINE TON AVE. KINGSTON, ONTARIO

DRAWING TITLE: GENERAL NOTES STANDARD DETAILS

SCALE: 1/4" = 1'-0"

DATE: MARCH 20, 2018

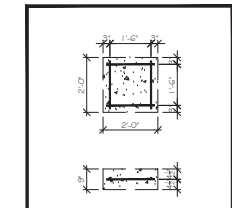
DRAWN BY: NP/BC

CHECKED BY: NP/BC/CHG

DRAWING REF: ND2688

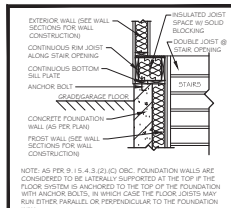
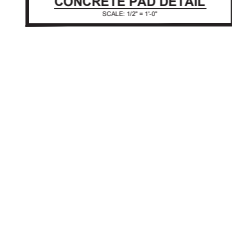
LOT NUMBER:

DRAWING NO. **A-5** OF 5

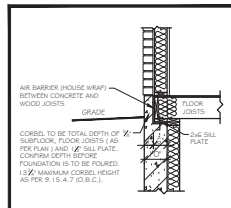


**NOTE:** CONCRETE PAD SIZE & REBAR PATTERN IN CONJUNCTION WITH USP ADJUSTABLE SUPPORT COLUMNS (12" UP STAIRS) ARE SHOWN USING 25MM CONCRETE AND A MINIMUM 50% BEARING CAPACITY 1500psi.

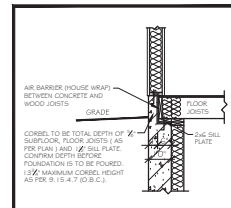
CONCRETE PAD SIZE & REBAR PATTERN MAY REQUIRE ADJUSTMENTS BASED ON SITE CONDITIONS AND USP FOOTING SPECIFICATIONS.



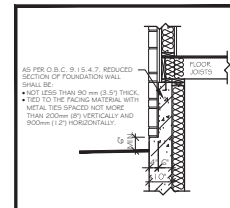
**NOTE:** AS PER 9.15.4.3(3) O.B.C. FOUNDATION WALLS ARE CONSIDERED TO BE LATERALLY SUPPORTED AT THE TOP IF THE FLOOR SYSTEM IS ANCHORED TO THE TOP OF THE FOUNDATION WITH ANCHOR BOLTS, IN WHICH CASE THE FLOOR JOISTS MAY RUN EITHER PARALLEL OR PERPENDICULAR TO THE FOUNDATION WALL.



**NOTE:** CORBEL TO BE TOTAL DEPTH OF 1/4" SUBFLOOR, FLOOR JOISTS (AS PER PLAN) AND 1/2" SILL PLATE. CORNER DEPTH BEFORE FOUNDATION IS TO BE FOURD. 1 3/8" MINIMUM CORBEL HEIGHT AS PER 9.15.4.7 O.B.C.



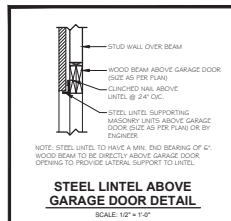
**NOTE:** CORBEL TO BE TOTAL DEPTH OF 1/4" SUBFLOOR, FLOOR JOISTS (AS PER PLAN) AND 1/2" SILL PLATE. CORNER DEPTH BEFORE FOUNDATION IS TO BE FOURD. 1 3/8" MINIMUM CORBEL HEIGHT AS PER 9.15.4.7 O.B.C.



**NOTE:** AS PER O.B.C. 9.15.4.7. REDUCED SECTION OF FOUNDATION WALL SHALL BE NOT MORE THAN 30" x 16" (7'6" x 41") THICK. NOT TO BE MORE THAN 30" x 16" (7'6" x 41") THICK. NOT TO BE MORE THAN 30" x 16" (7'6" x 41") THICK. NOT TO BE MORE THAN 30" x 16" (7'6" x 41") THICK. NOT TO BE MORE THAN 30" x 16" (7'6" x 41") THICK.

**TABLE OF THICKNESS & BACKFILL HEIGHT FOR FOUNDATION WALLS**

TYPE OF FOUNDATION	MINIMUM WALL THICKNESS (MM/IN)	MAXIMUM HEIGHT OF FINISH GROUND ABOVE BASEMENT FLOOR OR CRAWL SPACE/ GROUND COVER, M (FT-IN)			
		HEIGHT OF FOUNDATION WALL LATERALLY UNSUPPORTED AT THE TOP	HEIGHT OF FOUNDATION WALL LATERALLY SUPPORTED AT THE TOP	HEIGHT OF FOUNDATION WALL LATERALLY SUPPORTED AT THE TOP	HEIGHT OF FOUNDATION WALL LATERALLY SUPPORTED AT THE TOP
SOLID CONCRETE 20 MPA (2900 PSI) MIN. STRENGTH	150 (5 7/8")	0.80 (2-7 7/8")	1.80 (5'-11")	1.60 (5'-3")	1.60 (5'-3")
	200 (7 7/8")	1.20 (3'-11")	2.20 (7'-3")	2.30 (7'-7")	2.30 (7'-7")
	250 (9 7/8")	1.40 (4'-7")	2.30 (7'-7")	2.60 (8'-6")	2.85 (9'-4")
	300 (11 3/4")	1.50 (4'-11")	2.30 (7'-7")	2.60 (8'-6")	2.85 (9'-4")



**NOTE:** STEEL LINTEL TO HAVE A MIN. END BEARING OF 4" WOOD BEAM TO BE DIRECTLY ABOVE GARAGE DOOR OPENING TO PROVIDE LATERAL SUPPORT TO LINTEL.

# PLANNING JUSTIFICATION

## 145 PAULINE TOM AVENUE

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May 25, 2018

**Mr. Tim Fisher**

Secretary/Treasurer, Committee of Adjustment  
Planning, Building & Licensing Services  
City of Kingston

Via Email: [tfisher@cityofkingston.ca](mailto:tfisher@cityofkingston.ca)

**RE: 145 Pauline Tom Avenue  
Planning Justification Letter  
Minor Variance Application**

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Dear Mr. Fisher,

Fotenn Consultants Inc. has been retained by the owner of 145 Pauline Tom Avenue, James Selkirk Custom Homes, to prepare a planning justification letter in relation to an application for minor variance to address a dual-zoning matter affecting the subject property. This letter assesses and describes two possibilities for the minor variance application to allow the owner to construct a two-storey, single-detached dwelling on the subject site. The site has an approximate frontage of 9.6 meters on the north side of Pauline Tom Avenue, a depth of approximately 32 meters, and an area of approximately 302.4 square meters.

The subject site is located east of the Great Cataraqui River and west of Kingston Road 15, west of the intersection of Pauline Tom Avenue and John Marks Avenue. The property is designated Low Density Residential and is located within the Site-Specific Policy Area Number RC-1-2 – Baxter Farm Subdivision on Schedule RC-1 of the City of Kingston Official Plan. The majority of the property is zoned Special Residential Type 11 (R11-1) and a small corner is zoned Residential Type 12 (R12) in the Township of Pittsburgh Zoning By-law 32-74.

Given that the site is located within more than one zone (i.e. “dual-zoned”), section 5(11)(c) of the zoning by-law applies. This General Provision states that the portion of the lot within each zone shall be considered to be a separate lot for zoning purposes. The effect of this provision is that the zone boundary serves as the rear lot line for the portion of the lot zoned R11-1, where the proposed building is located, resulting in a reduced rear yard depth. The provisions for the lot as a whole comply with the R11-1 zone requirements, however the minimum rear yard depth requirement of the R11-1 zone does not meet the requirements of the zoning by-law if measured from the zone boundary.

In our opinion, there are two approaches in which a minor variance can achieve the desired result of allowing the proposed single-detached dwelling to be constructed. Option 1 is to vary the requirement of 5(11)(c) as it applies to the subject site. Option 2 is to seek relief from the R11-1 zone for the minimum rear yard setback requirement at the subject site.

In support of the requested variance, the following are submitted:

- / Application Fee;
- / Application form as completed in the City’s online Development and Services Hub (DASH);
- / Conceptual Site Plan;
- / Survey;
- / This Planning Justification Letter.

### Site Context

The subject site is located in the east end of the City in the Greenwood Park West subdivision, which is bounded to the north by the Baxter North subdivision, to the west by the Cataraqui River, to the south by the River’s Edge



subdivision, and to the east by Kingston Road 15. East of Kingston Road 15 is the St. Lawrence Business Park. The Greenwood Park West and Baxter North residential subdivisions consist primarily of single-detached dwellings and linked dwellings.

The subject property was one of several properties created by way of an application to lift Part Lot control along the north side of Pauline Tom Avenue, which allowed Pauline Tom Avenue to be reconfigured to its present state. In addition to a prior reconfiguration, the subject property was the result of a land swap between the developers of the Greenwood Park West and Baxter North subdivisions. It is due to the reconfiguration of the lot that the zone boundary between the R11-1 and R12 zones now crosses a portion of the property.

**Proposed Development**

The applicant proposes to construct a two-storey, single-detached dwelling on a lot which has an area of 302.4 square meters and a frontage of 9.6 meters on Pauline Tom Avenue. Parking will be provided in an attached garage, accessed via a driveway from Pauline Tom Avenue. The dwelling will be approximately 9.1 meters in height, with 1.5-metre side yard setbacks on both sides and a rear yard setback of 10.3 metres from the lot line. The rear yard setback, as measured from the zone boundary of the R11-1 and R12 zones, is 0.9 metres.

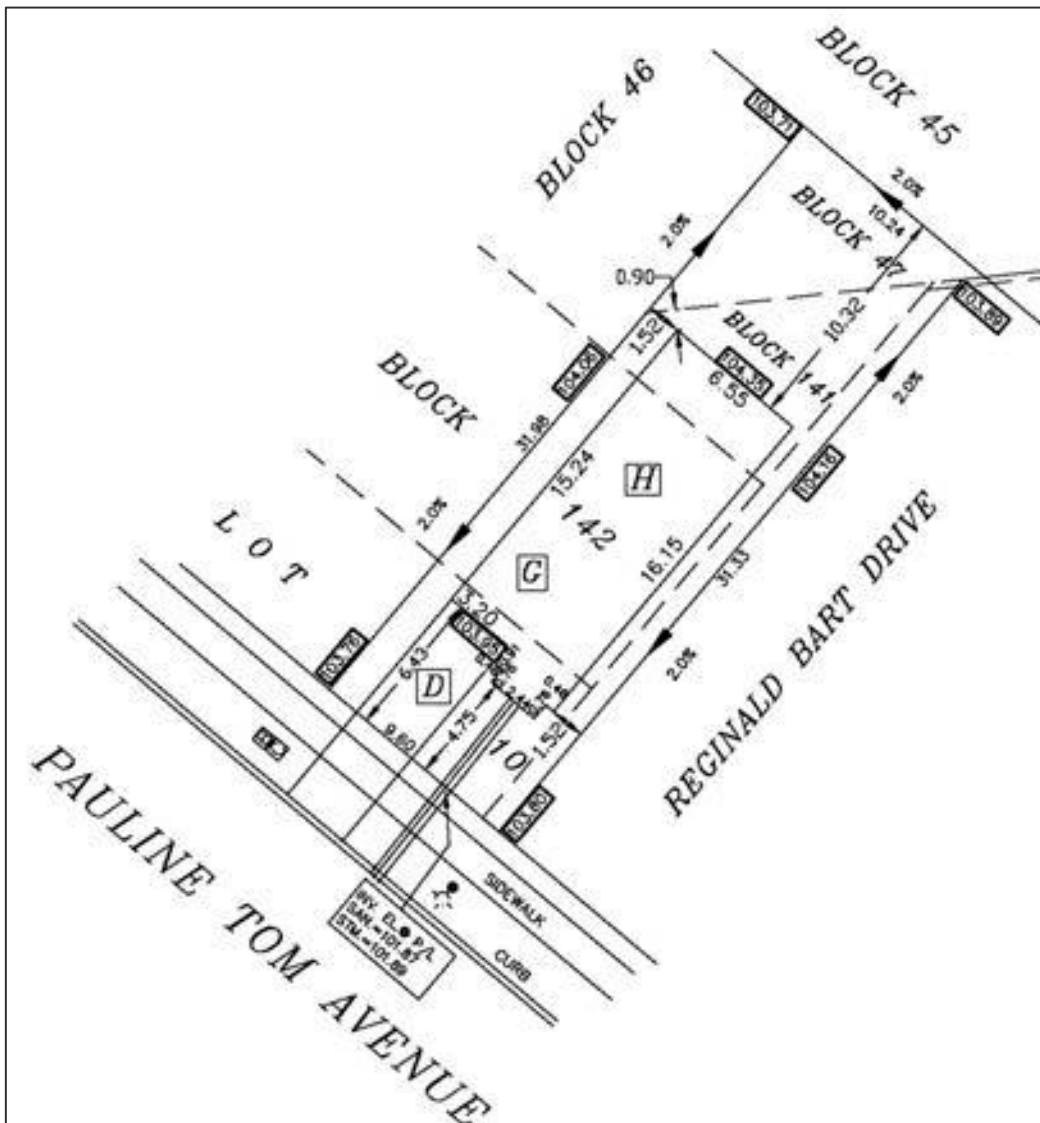


Figure 1: Conceptual Site Plan (source: Hopkins Chitty Land Surveyors)

### Option #1 – Relief from section 5(11)(c)

The first option to permit the construction of the proposed single-detached dwelling is to seek relief from the provisions of Section 5(11)(c) of the zoning by-law. The variance would state simply: “*Notwithstanding the provisions of Section 5 of this by-law to the contrary, the zone boundary shall not be treated as a lot line for zoning purposes.*”

The variance would no longer require that the zone boundary act as the lot line for the purposes of assessing the zone requirements and would apply the R11-1 zone provisions to the lot. The assessment of the proposed variance is undertaken following the same tests for a minor variance as described in Section 45(2) of the *Planning Act* and in section 9.5.18 of the Official Plan, as follows:

*Test #1: Is the general intent and purpose of the Official Plan maintained?*

*Test #2: Is the general intent and purpose of the Zoning By-law maintained?*

*Test #3: Is the variance minor?*

*Test #4: Is the variance desirable for the appropriate development or use of the lands in question?*

#### **Test #1: Is the general intent and purpose of the Official Plan maintained?**

The proposed relief is necessary to permit the construction of the proposed single-detached dwelling, a use which is permitted within the Low Density Residential designation for this site as well as the site-specific policy RC-1-2. The Official Plan provides additional guidance for determining the desirability of a minor variance. Section 9.5.19 of the Official Plan states that when considering whether a variance is desirable for the appropriate development or use of the land, building or structure, the Committee of Adjustment will have regard for, but will not necessarily be limited to, the following:

- a. *The proposed development meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of this Plan;*
- b. *The proposed development will be compatible with surrounding uses, buildings or structures and development standards associated with adjacent properties, and if necessary, incorporate means of alleviating adverse effects on abutting land uses as recommended in Section 2.7 of this Plan;*
- c. *The ability of the site to function in an appropriate manner in terms of access, parking for vehicles and bicycles or any other matter and means of improving such function including considerations for universal accessibility;*
- d. *The conformity of the proposal to any applicable urban design policies endorsed by Council, particularly if the site includes or could impact a built heritage resource or is within a Heritage District;*
- e. *If the site is designated under the Ontario Heritage Act, the application shall be reviewed by Heritage Kingston for approval. If the property is adjacent to a designated property under the Ontario Heritage Act or shown as a Heritage Area feature, or is affected by the protected views shown on Schedule 9 of this Plan, then a heritage impact statement may be required to assist staff to determine if the resulting development is desirable;*
- f. *The resulting development has adequate municipal water and sewage services within the Urban Boundary, or is capable of providing individual on-site water and sewage services outside the Urban Boundary;*
- g. *Whether the application and the cumulative impact of the proposed variances would be more appropriately addressed by a zoning amendment to the applicable zoning by-law;*
- h. *The Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application for a minor variance including any reasonable requirements, recommendations of City departments, or the submission of studies as listed in Section 9.12 of this Plan that may be required to properly evaluate the application; and,*
- i. *The degree to which such approval may set an undesirable precedent for the immediate area.*

The proposed variance maintains the intent of Section 2 of the Official Plan in that it constitutes an appropriate use for a neighbourhood consisting of similar single-detached dwellings. In terms of accessibility, the site has been designed in such a manner as to be accessible for vehicles and by other means of transportation. The design of the development is consistent with that of the surrounding neighbourhood and will have no impact on any cultural heritage resources. Adequate municipal services are available for the site, located within the urban

boundary, as determined by previous detailed servicing review undertaken during final plan of subdivision and the previous application to lift Part Lot control.

The proposed minor variance application would not be more appropriately addressed by a zoning by-law amendment as that process is significantly more onerous and unnecessary to achieve the desired result of constructing a single-detached dwelling on the property, particularly given that the property is within a site-specific zone applying to the Greenwood Park West subdivision. Further, the site has been previously approved by City Council through the approval of the draft plan of subdivision and zoning by-law amendment as well as the subsequent Part Lot Lift which enabled the creation of the lot. It is clear that the intent of Council is to develop this lot with a single-detached dwelling, as proposed. The need for a relief from the zoning by-law arises from a technicality of the zoning by-law. This proposal will not set a negative precedent as Council has already indicated its intent to permit the development of this property as proposed.

**Test #2: Is the general intent and purpose of the Zoning By-law maintained?**

The proposed development is dual-zoned Special Residential Type 11 (R11-1) and Residential Type 12 (R12) in the City of Kingston Zoning By-law 32-74. Where there is more than one zone on a lot, Section 5(11)(c) of the zoning by-law states:

- Where a lot is divided into more than one zone, each such portion of the lot shall, for the purpose of this By-law, be considered a separate lot and shall be used in accordance with the applicable zone provisions of this By-law, but this provision shall not be construed to permit more than one dwelling house on the whole lot.*

As the proposed single detached dwelling will be located entirely within the R11-1 zone, the provisions of the R12 zone do not apply. Given the requirements of Section 5(11)(c), the single detached dwelling must therefore meet the provisions of the R11-1 zone while treating the zone boundary as the rear lot line. As a result, the proposed development does not meet the provisions of the R11-1 zone with regards to the minimum rear yard setback. The required and proposed performance standards of the proposed single-detached dwelling, as per the requirements of the R11-1 zone, may be seen in Table 1, below:

Special Residential Type 11 (R11-1) as per requirements of section 5.11.c			
Provision	Requirement	Proposed	Relief Required?
Lot Area (minimum)	N/A	N/A	No
Lot Coverage (maximum)	N/A	N/A	No
Lot Frontage (minimum)	9.6 m	9.6 m	No
Front Yard Depth	Minimum = 3 m Maximum = 6 m	4.75 m	No
Interior Side Yard Width (minimum)	0.6 m on one side and 1.2 m on the other side, except where a side lot line abuts a 0.3 metre reserve, the minimum interior side yard width shall be 3 meters	1.52 m (both sides)	No
Rear Yard Depth (minimum)	7.5 m	0.9 m <i>*10.2 m (to property line)</i>	Yes <i>*No</i>
Landscaped Open Space (minimum)	30%	40% <i>*58% (of entire property)</i>	No <i>*No</i>
Height of Building (maximum)	10.5 m	9.1 m	No
Dwelling Houses per Lot	1	1	No

Table 1: Required and proposed performance standards for 145 Pauline Tom Ave (entries in *italics* indicate the effect of assessing the by-law requirement from lot lines rather than the zone boundary)

Relief from Section 5(11)(c) would enable the development on the subject site to treat the property lines as the lot boundaries for zoning purposes, as would normally be the case, regardless of the location of the zone boundary. In this scenario, the proposed development meets all the requirements of the R11-1 zone as the rear yard measured to the property line is 10.2 metres and the by-law requires 7.5 metres. The proposed variance maintains the intent of the zoning by-law in that the section is not intended to limit development on lots within multiple zones, but rather is intended to prevent the construction of more than one dwelling house on individual lots within multiple zones. Relief from this provision will not result in more than one dwelling house on the lot, and thus the intent of the general provision is maintained. The variance will also enable the proposed dwelling to be built as intended, in compliance with all of the provisions and intent of the R11-1 zone.

**Test #3: Is the variance minor?**

The assessment of whether a proposed variance is minor is not a mathematical calculation. Rather, this test is intended to assess the degree of any impacts resulting from the proposed variance. The requested variance would be limited to the subject site, limiting the scope of any impacts to the subject property. There will be no negative impacts resulting from the proposed variance as the proposed single-detached dwelling will comply with the provisions of the R11-1 zone as measured from the lot lines. The variance will enable the site to function properly and in a similar fashion to other single detached dwellings within the Greenwood Park West subdivision. The proposed variance is therefore minor.

**Test #4: Is the variance desirable for the appropriate development or use of the lands in question?**

The requested variance is necessary to permit the construction of the single-detached dwelling in a manner which is consistent with the surrounding subdivision. Relief from Section 5(11)(c) will enable the proposed dwelling to be built as intended by Council in the approved plan of subdivision. Additionally, this relief will enable any future changes to the site to be undertaken as though the site were located entirely within one zone, enabling the site to operate as intended. The variance is therefore desirable for the appropriate development of the lands in question.

**It is our professional planning opinion that the required relief from the provisions of Section 5(11)(c) of the zoning by-law to permit the construction of the two-storey, single-detached dwelling represents good planning.**

**Option #2 – Relief from minimum rear yard requirement**

The second option to permit the construction of the proposed single-detached dwelling is to seek relief from the minimum rear yard setback provision of the R11-1 zone. The proposed variance would reduce the rear yard setback to 0.9 metres to reflect the distance between the proposed dwelling and the zone boundary. The assessment of this proposed variance is undertaken utilizing the same tests for a minor variance as described in Section 45(2) of the *Planning Act* and in section 9.5.18 of the Official Plan, as follows:

*Test #1: Is the general intent and purpose of the Official Plan maintained?*

*Test #2: Is the general intent and purpose of the Zoning By-law maintained?*

*Test #3: Is the variance minor?*

*Test #4: Is the variance desirable for the appropriate development or use of the lands in question?*

**Test #1: Is the general intent and purpose of the Official Plan maintained?**

The proposed relief is necessary to permit the construction of the proposed single-detached dwelling, a use which is permitted within the Low Density Residential designation for this site as well as the site-specific policy RC-1-2. The Official Plan provides guidance for determining the desirability of a minor variance. Section 9.5.19 of the Official Plan states that when considering whether a variance is desirable for the appropriate development or use of the land, building or structure, the Committee of Adjustment will have regard for, but will not necessarily be limited to, the following:

- a. *The proposed development meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of this Plan;*

- b. *The proposed development will be compatible with surrounding uses, buildings or structures and development standards associated with adjacent properties, and if necessary, incorporate means of alleviating adverse effects on abutting land uses as recommended in Section 2.7 of this Plan;*
- c. *The ability of the site to function in an appropriate manner in terms of access, parking for vehicles and bicycles or any other matter and means of improving such function including considerations for universal accessibility;*
- d. *The conformity of the proposal to any applicable urban design policies endorsed by Council, particularly if the site includes or could impact a built heritage resource or is within a Heritage District;*
- e. *If the site is designated under the Ontario Heritage Act, the application shall be reviewed by Heritage Kingston for approval. If the property is adjacent to a designated property under the Ontario Heritage Act or shown as a Heritage Area feature, or is affected by the protected views shown on Schedule 9 of this Plan, then a heritage impact statement may be required to assist staff to determine if the resulting development is desirable;*
- f. *The resulting development has adequate municipal water and sewage services within the Urban Boundary, or is capable of providing individual on-site water and sewage services outside the Urban Boundary;*
- g. *Whether the application and the cumulative impact of the proposed variances would be more appropriately addressed by a zoning amendment to the applicable zoning by-law;*
- h. *The Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application for a minor variance including any reasonable requirements, recommendations of City departments, or the submission of studies as listed in Section 9.12 of this Plan that may be required to properly evaluate the application; and,*
- i. *The degree to which such approval may set an undesirable precedent for the immediate area*

The proposed variance meets the intent of Section 2 of the Official Plan in that it will allow the development of the subject property in a manner consistent with the surrounding neighbourhood. In terms of accessibility, the site has been designed to be accessible for vehicles and pedestrians. The design of the proposed dwelling is consistent with the design of the surrounding neighbourhood and will have no impact on cultural heritage resources. Adequate municipal services are available for the site, located within the urban boundary.

The proposed minor variance would not be more appropriately addressed by a zoning by-law amendment as the only relief required is technical in nature. The rear yard setback as measured to the property line meets the requirement the zone, however due to a technicality of the zoning by-law, the rear yard as measured to the zone boundary does not meet the requirement. This technical distinction will not affect the functionality of the site. Further, the site has been previously approved by City Council through a draft plan of subdivision and zoning by-law amendment and subsequent Part Lot Lift which enabled the creation of the lot. It is clear that the intent of Council is to allow the development of this lot with a single-detached dwelling, as proposed. The need for variances is derived from a technicality of the zoning by-law. This proposal will not set a negative precedent as Council has already indicated that the intent is to develop the property as proposed.

**Test #2: Is the general intent and purpose of the Zoning By-law maintained?**

The proposed development is dual-zoned Special Residential Type 11 (R11-1) and Residential Type 12 (R12) in the City of Kingston Zoning By-law 32-74. Where there is more than one zone on a lot, Section 5(11)(c) of the zoning by-law states:

- Where a lot is divided into more than one zone, each such portion of the lot shall, for the purpose of this By-law, be considered a separate lot and shall be used in accordance with the applicable zone provisions of this By-law, but this provision shall not be construed to permit more than one dwelling house on the whole lot.*

As the proposed single detached dwelling will be located entirely within the R11-1 zone, the provisions of the R12 zone do not apply. Given the requirements of the general provision cited above, the single detached dwelling must therefore meet the provisions of the R11-1 zone while treating the zone boundary as the rear lot line. As a result, the proposed development does not meet the minimum rear yard setback requirement of the R11-1 zone. As such, this minor variance application seeks to gain relief from the required minimum rear yard depth. As indicated in Table 1, above, the proposal complies with all other requirements of the R11-1 zone.



Relief from the minimum rear yard depth requirement of the R11-1 zone would enable the proposed single-detached dwelling to be constructed as intended. Providing relief from this provision maintains the intent of the zoning by-law in that the subdivision and subsequent Part Lot Lift approved by Council indicate the intent to develop the site as proposed. Relief from the rear yard depth provision will enable the single-detached dwelling to be built as originally intended and as approved by Council. Functionally, the lot will operate in the same way as it would if it were entirely contained within the R11-1 zone, therefore maintaining the intent of the zoning by-law.

**Test #3: Is the variance minor?**

The assessment of whether a proposed variance is minor is not a mathematical calculation. Rather, this test is intended to assess the degree of any impacts resulting from the proposed variance. The requested relief from the rear yard depth will have no impact on adjacent properties as the rear yard setback as measured to the lot line will continue to comply with the R11-1 requirement. The requested variance will enable the proposed dwelling to be constructed and to function as though the subject property were entirely contained with the R11-1 zone. The proposed variance will incur no impacts which will negatively impact the subject property or surrounding properties. The proposed variance is therefore minor.

**Test #4: Is the variance desirable for the appropriate development or use of the lands in question?**

The requested variance is necessary to permit the construction of the single-detached dwelling in a manner which is consistent with the remainder of the Greenwood Park West subdivision. Relief from the rear yard depth provision of the R11-1 zone will enable the proposed dwelling to be built as approved and intended by Council. The variance is therefore desirable for the appropriate development of the lands in question.

**It is our professional planning opinion that the required relief from the minimum rear yard depth and of the R11-1 zone in the zoning by-law to permit the construction of the two-storey single-detached dwelling represents good planning.**

**Recommendation – Option #1**

Based on the above analysis, it is our recommendation that Option #1 be approved. While both options will achieve the same end result in allowing the dwelling to be constructed, option #1 will also enable any future alterations to the site to be undertaken in a logical manner within the constraints of the property as assessed from the property lines rather than from the zone boundary. For example, any future decks or yard encroachments would not be restricted by the zone boundary. As a result, it is our opinion that, while both options meet the immediate needs for the construction of the proposed single-detached dwelling, option #1 is more desirable for the appropriate development of the lands in question as it considers both the short and long-term requirements of the site.

**Conclusion**

This minor variance application presents two options to address the technical requirement relating to the performance standards of the rear yard setback of the proposed single-detached dwelling. The subject property is dual-zoned R11-1 and R12. Section 5(11)(c) of the zoning by-law requires that each portion of the lot within each zone be considered to be a separate lot for zoning purposes. From a zoning perspective, this requires any development on the property to treat the zone boundary line as though it were a lot line. The proposed single-detached dwelling therefore requires relief from the zoning by-law in order to be developed as intended. Both proposed options for variances to address the issue maintain the intent and purpose of both the Official Plan and zoning by-law, are minor in nature, and are desirable for the appropriate development of the lands in question.

Option #1 proposes to seek relief from the provisions of section 5(11)(c) of the zoning by-law. This would enable the site to operate as intended, treating the property lines as the lot lines for zoning purposes.

Option #2 proposes to seek reliefs from the minimum rear yard depth provision of the R11-1 zone. This would enable the proposed single-detached dwelling to be built as intended, although any future alterations to the site would still be required to treat the boundary of the R11-1 and R12 zones as the lot line for zoning purposes.

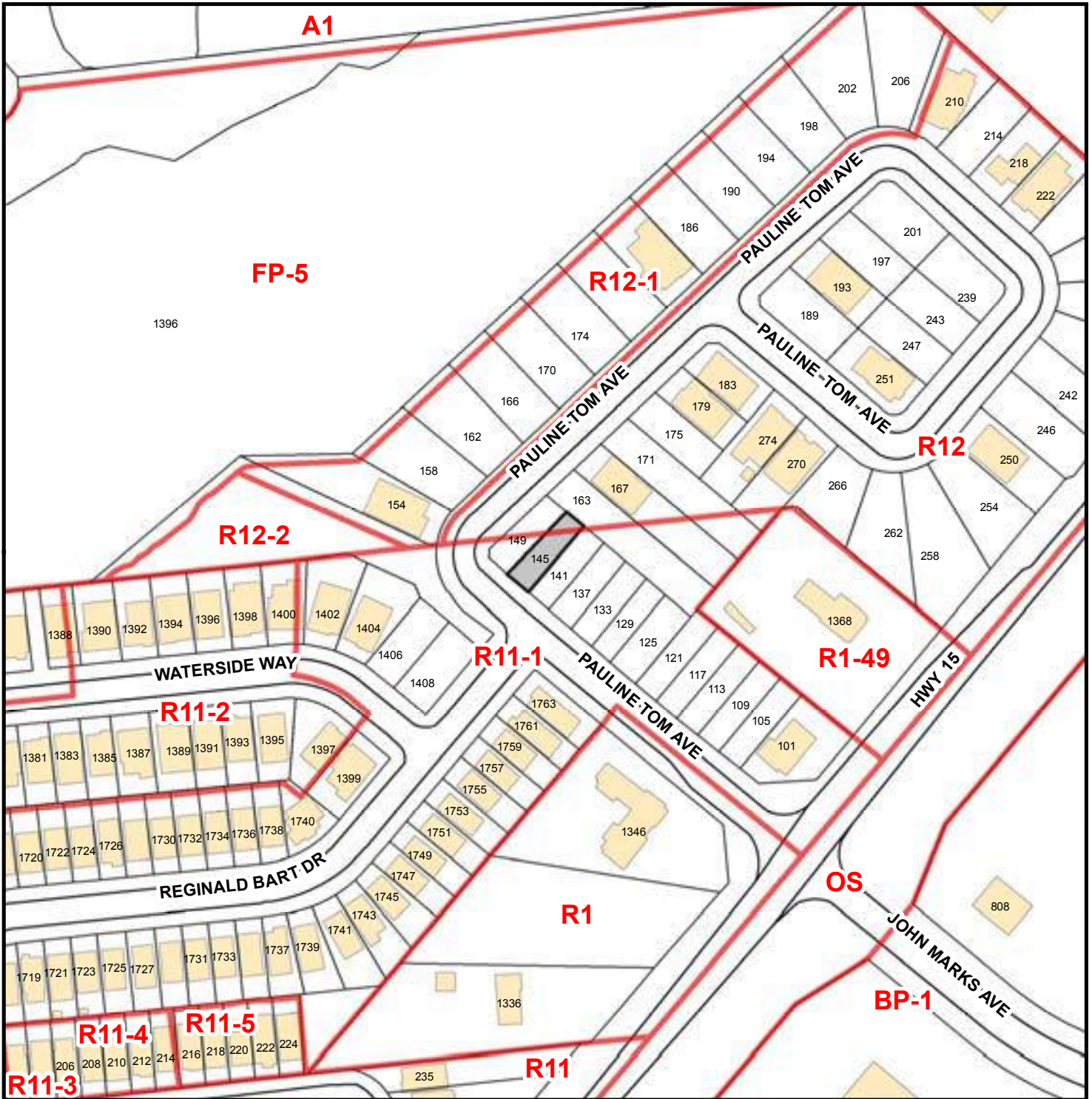
It is our recommendation that option #1 be approved as the more suitable variance for the subject property as it would enable the site to functionally operate as whole for zoning purposes, as intended. This would address both the immediate and long-term requirements of the site, as well as meet the needs of any future owners who may wish to make changes to the site.

It is our opinion that the proposed minor variance application is appropriate and represents good planning. Should you have any questions or require any additional information, please do not hesitate to contact the undersigned at 613.542.5454 x 224 or [leclerc@fotenn.com](mailto:leclerc@fotenn.com).

Respectfully submitted,






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Planner  
Fotenn Consultants Inc.

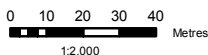


COMMITTEE OF ADJUSTMENT  
**ZONING BY-LAW 32-74, Map 4**

Applicant: James Selkirk  
 Owner: JAMES SELKIRK CUSTOM HOMES LTD  
 File Number: D13-029-2018  
 Address: 145 Pauline Tom Ave

**LEGEND**

-  Consolidated Zoning
-  Lands Subject to Minor Variance
-  Property Boundaries



PREPARED BY: J.Partridge  
 DATE: 6/1/2018

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