



**City of Kingston  
Committee of Adjustment  
Meeting Number 04-2020  
Addendum  
Monday April 20, 2020  
5:30 p.m., Electronic Meeting Format**

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**New Business**

- n) **Application for: Minor Variance & Consent**  
**File Numbers: D10-013-2020 & D13-011-2020**  
**Address: 28 Maitland Street**  
**Owners: James & Helen Mathers**  
**Applicant: Youko Leclerc-Desjardins**

Report COA-20-032

The consent of the Committee of Adjustment is requested to substitute pages 469 – 480 of the agenda with pages 1-38 as attached to the addendum.



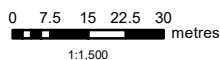
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Planning Services  
a department of  
Community  
Services

COMITTEE OF ADJUSTMENT  
**Key Map**

File Number: D10-013-2020  
Address: 28 Maitland Street



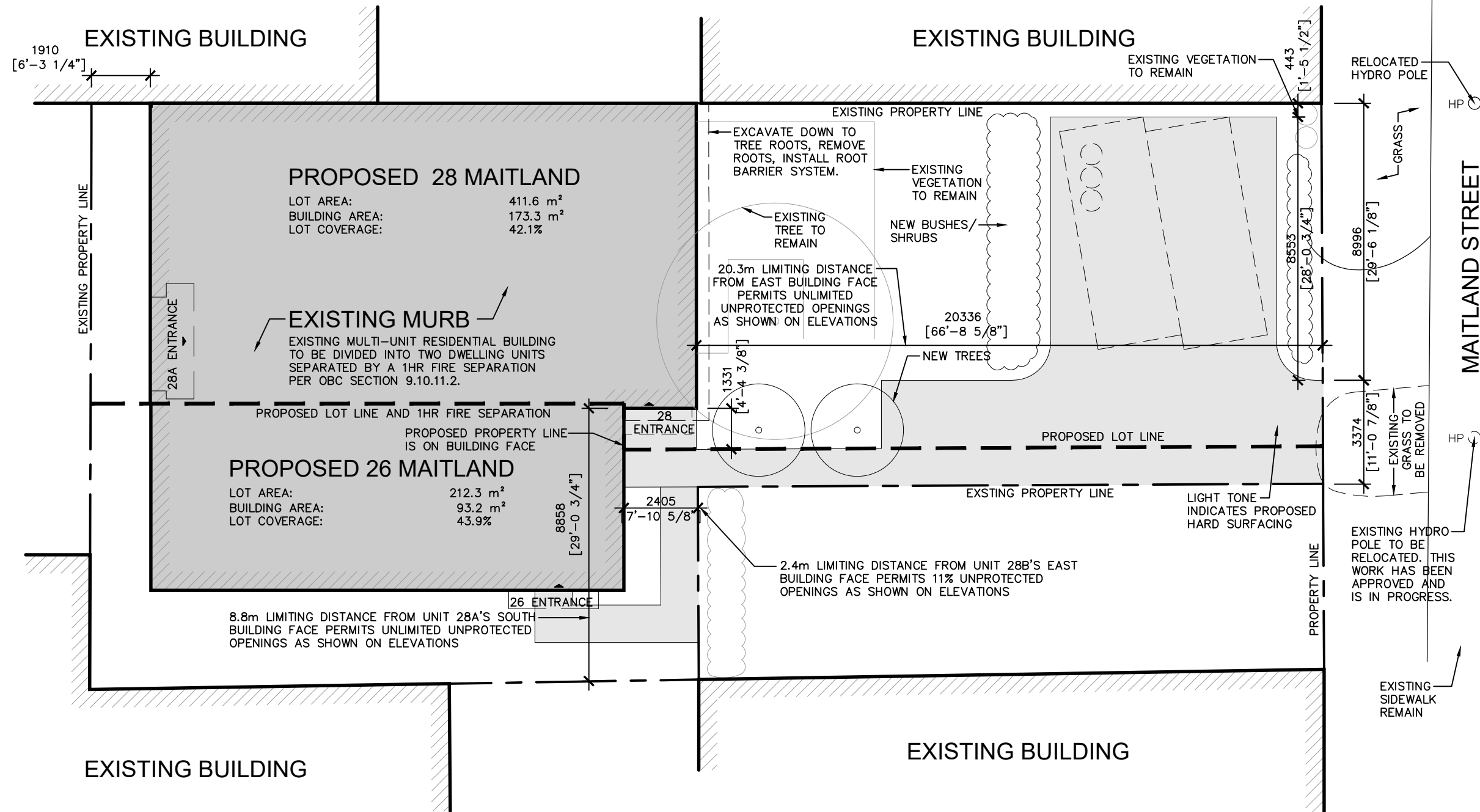
DATE: 2020-03-09  
PREPARED BY: rrochefort

Subject Lands Retained Lands Severed Lands





**PRELIMINARY**  
NOT FOR CONSTRUCTION



EXISTING BUILDING

EXISTING BUILDING

**PROPOSED 28 MAITLAND**

LOT AREA: 411.6 m<sup>2</sup>  
BUILDING AREA: 173.3 m<sup>2</sup>  
LOT COVERAGE: 42.1%

**EXISTING MURB**

EXISTING MULTI-UNIT RESIDENTIAL BUILDING TO BE DIVIDED INTO TWO DWELLING UNITS SEPARATED BY A 1HR FIRE SEPARATION PER OBC SECTION 9.10.11.2.

**PROPOSED 26 MAITLAND**

LOT AREA: 212.3 m<sup>2</sup>  
BUILDING AREA: 93.2 m<sup>2</sup>  
LOT COVERAGE: 43.9%

EXISTING BUILDING

EXISTING BUILDING

**28 MAITLAND STREET**  
LOT AREA: 624 m<sup>2</sup>  
BUILDING AREA: 266 m<sup>2</sup>  
LOT COVERAGE: 42.6%

**Sza**  
Shoalts and Zaback Architects Ltd

Certificate of Practice Number: 2438  
4 Cataragui Street, Suite 206, Kingston, ON  
tel. 613 541 0776  
mail@szarch.com

Project  
Mathers Residence

Location  
28 Maitland Street

Drawing  
Proposed Site Plan

Client  
Mathers Family

Drawn by  
MM, AJ

Date  
21 January, 2020

File Name  
19107 - SP01b

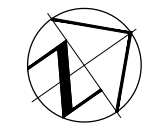
Client Project #  
19107

Revision #  
A010

Scale  
As Noted

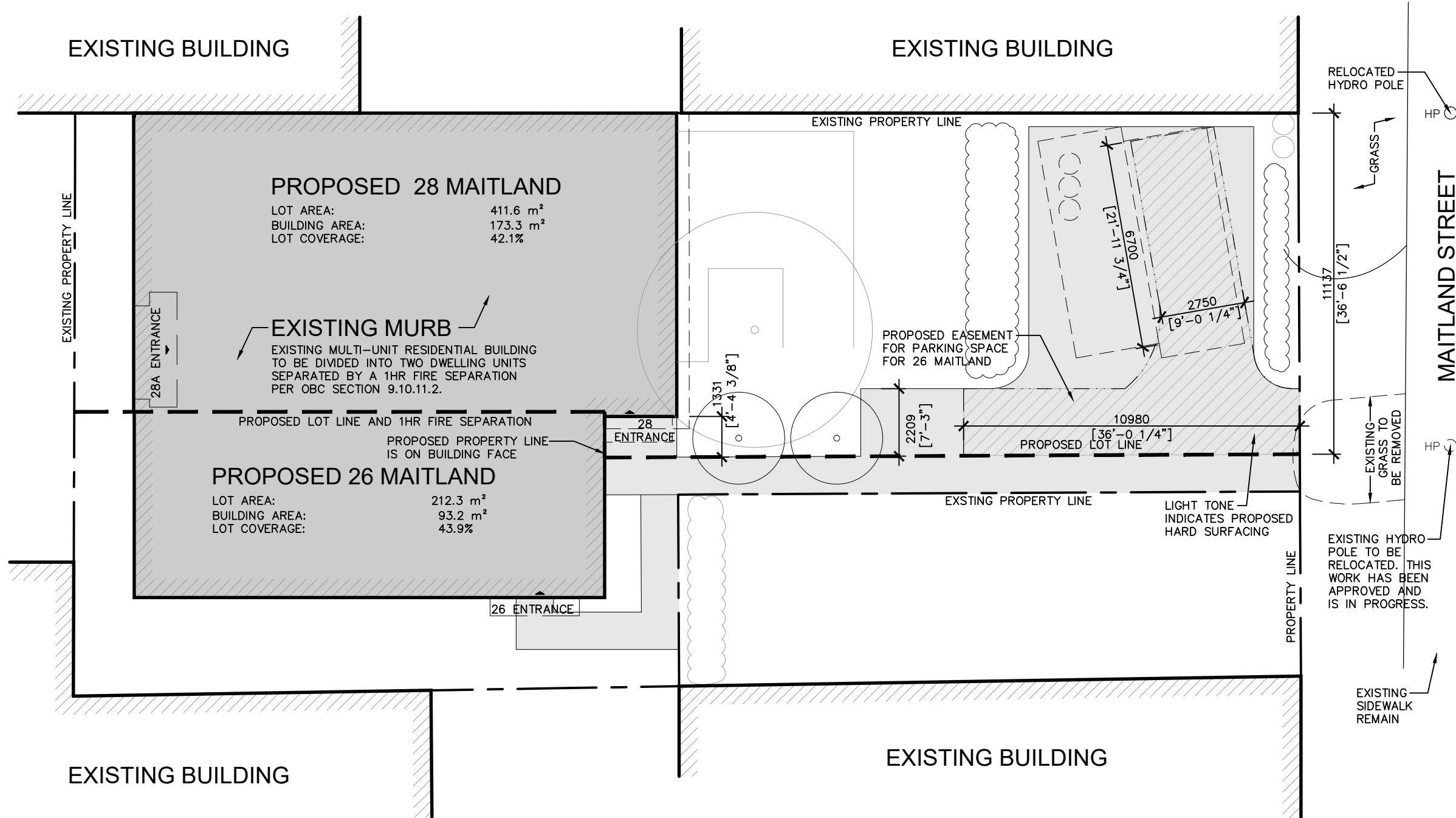
Drawing Number  
A010

1 Proposed Site Plan  
A010 1:150





**PRELIMINARY**  
NOT FOR CONSTRUCTION



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Drawn by	MM, AJ
Date	21 January, 2020
File Name	19107 - SP01b
Scale	As Noted
Client Project #	19107
Project #	19107
Revision #	
Drawing Number	<b>A013</b>

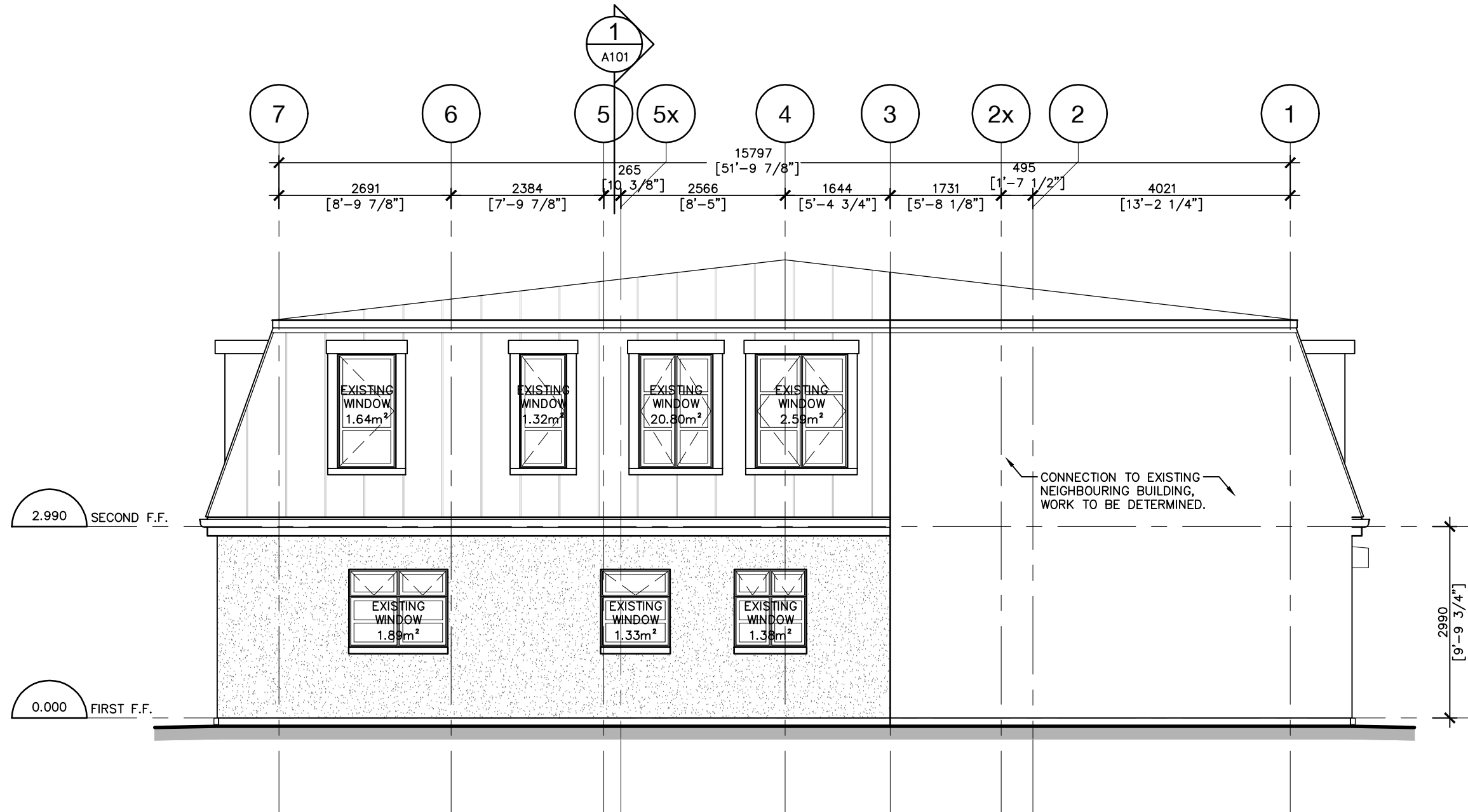
Project	Mathers Residence
Location	28 Maitland Street
Drawing	Proposed Site Plan: 26 Maitland Easements
Client	Mathers Family

1  
A013  
Proposed Site Plan  
26 Maitland Easements  
1:150



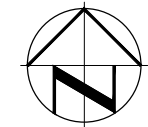


**PRELIMINARY**  
NOT FOR CONSTRUCTION



NOTE: ALL EXISTING OPENINGS ARE UNCHANGED.

1 North Elevation  
A200 1:75



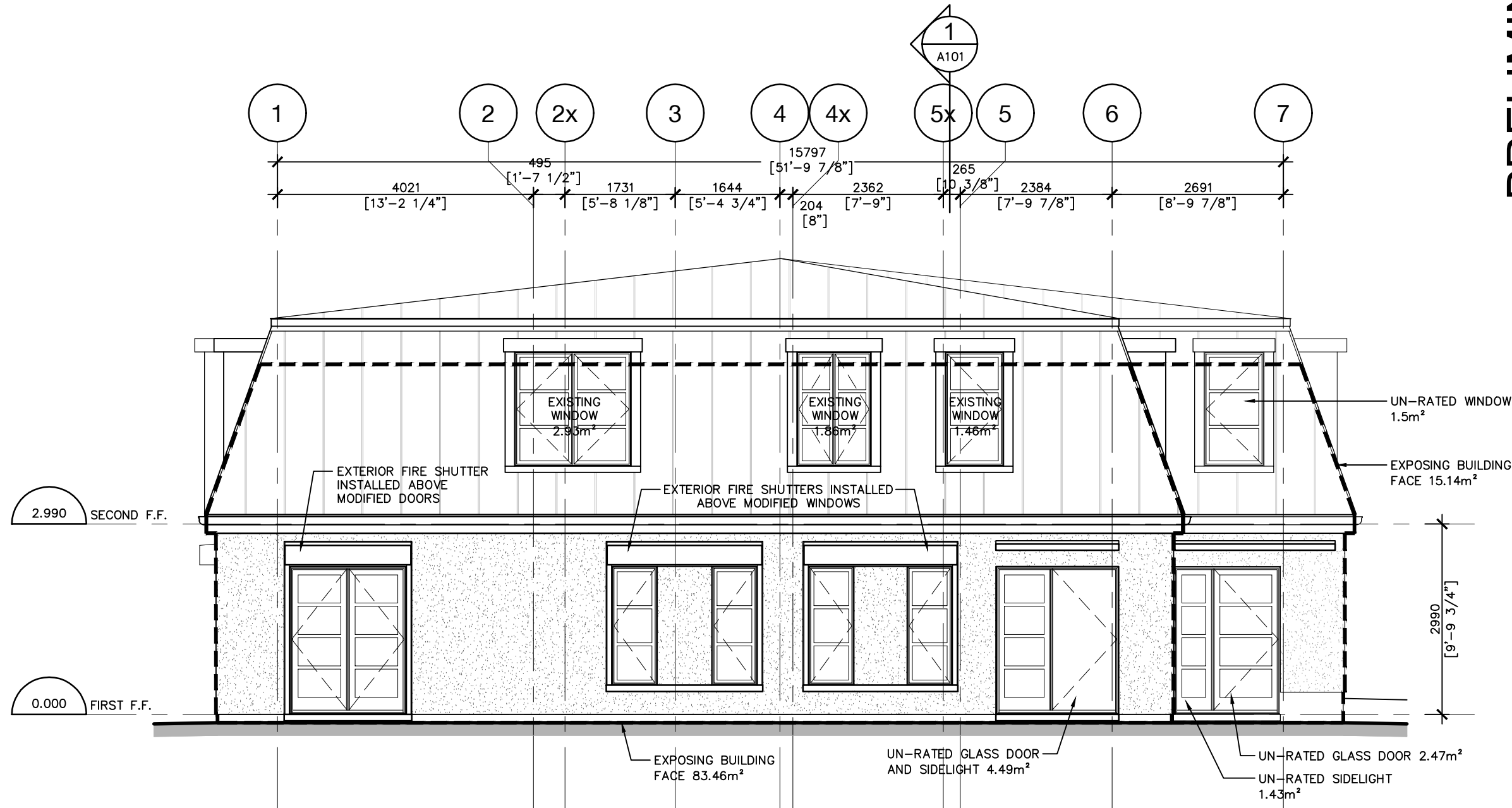
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Drawn by: MM, AJ Date: 21 January, 2020  
 File Name: 19107 - EL01a Scale: As Noted  
 Client Project #: Drawing Number: A200

Project # 19107 Revision #

Project: Mathers Residence  
 Location: 28 Maitland Street  
 Drawing: Building Elevations: North Elevation  
 Client: Mathers Family

**PRELIMINARY**  
NOT FOR CONSTRUCTION



NOTE: EXISTING UN-RATED WINDOWS WITHOUT FIRE SHUTTERS AND NEW UN-RATED DOOR AND SIDELIGHT ACCOUNT FOR 12.9% OF EXPOSING BUILDING FACE AREA. PER OBC TABLE 9.10.15.4. 12.9% UNPROTECTED OPENINGS ARE PERMITTED WITH A LIMITING DISTANCE OF 2.9m.

NOTE: UN-RATED DOOR AND WINDOWS ACCOUNT FOR 35.7% OF EXPOSING BUILDING FACE AREA. PER OBC TABLE 9.10.15.4. UNLIMITED UNPROTECTED OPENINGS ARE PERMITTED WITH A LIMITING DISTANCE OF 8.8m.

1 South Elevation  
A201 1:75

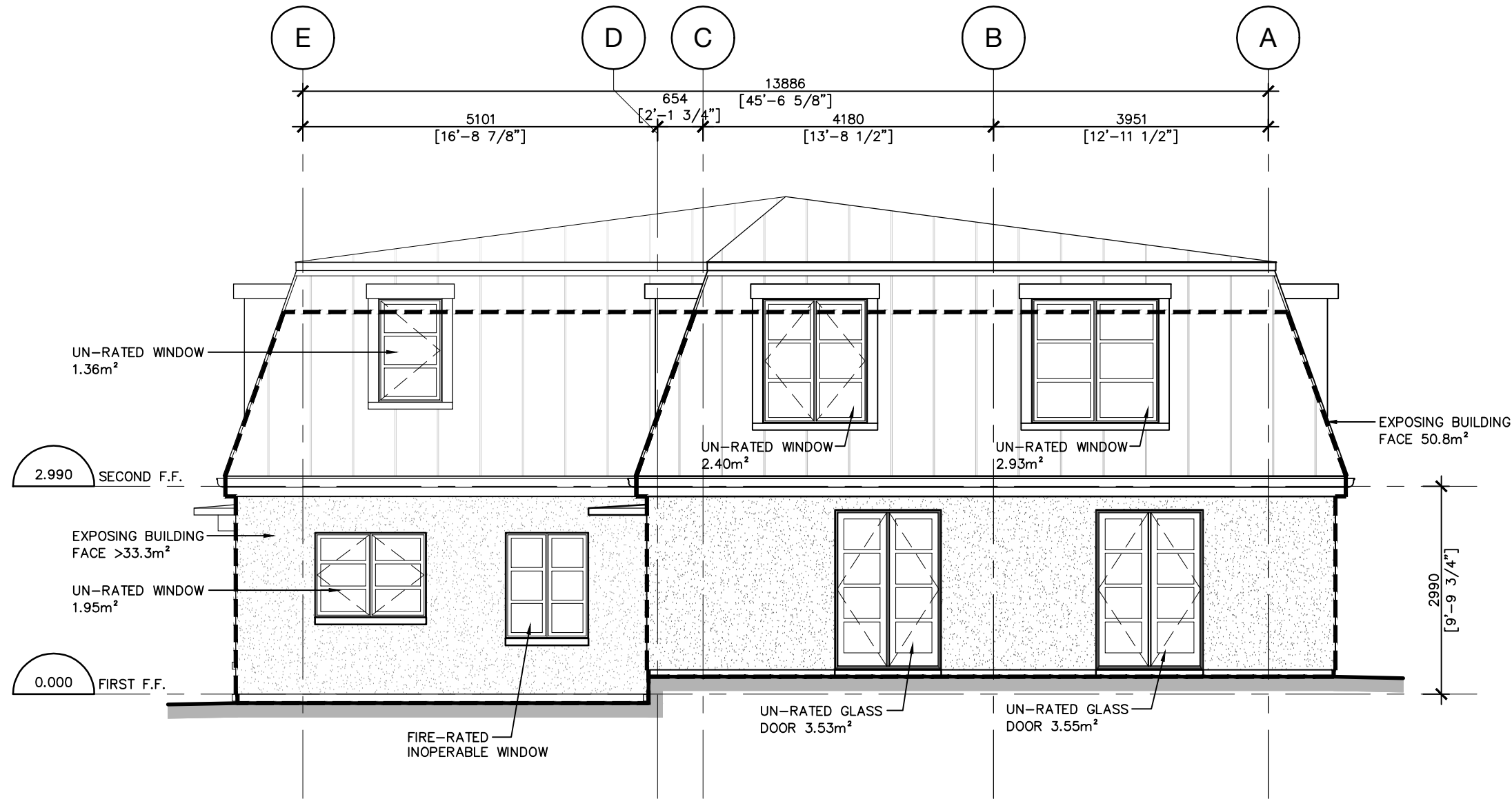
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Drawn by: MM, AJ  
Date: 21 January, 2020  
Scale: As Noted  
File Name: 19107 - EL01a  
Client Project #: 19107

Project #: 19107  
Revision #: A201  
Drawing Number

Project: Mathers Residence  
Location: 28 Maitland Street  
Drawing: Building Elevations: South Elevation  
Client: Mathers Family

**PRELIMINARY**  
NOT FOR CONSTRUCTION



NOTE: UN-RATED WINDOWS ACCOUNT FOR 9.9% OF EXPOSING BUILDING FACE AREA. PER OBC TABLE 9.10.15.4. 11% UNPROTECTED OPENINGS ARE PERMITTED WITH A LIMITING DISTANCE OF 2.4m.

NOTE: UN-RATED DOORS AND WINDOWS ACCOUNT FOR 24.4% OF EXPOSING BUILDING FACE AREA. PER OBC TABLE 9.10.15.4. UNLIMITED UNPROTECTED OPENINGS ARE PERMITTED WITH A LIMITING DISTANCE OF 20.3m.

1 East Elevation  
A202 1:75

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Drawn by: MM, AJ  
Date: 21 January, 2020

File Name: 19107 - EL01a  
Scale: As Noted

Client Project #

Project # 19107  
Revision #

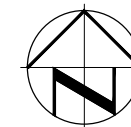
Drawing Number  
**A202**

Project  
17 December, 2019

Location  
28 Maitland Street

Drawing  
Building Elevations: East Elevation

Client  
Mathers Family

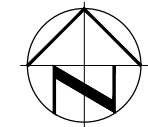


**PRELIMINARY**  
NOT FOR CONSTRUCTION



NOTE: ALL EXISTING OPENINGS ARE UNCHANGED.  
ALL NEW OPENINGS TO BE FIRE-RATED.

1 West Elevation  
A203 1:75



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Drawn by: MM, AJ  
Date: 21 January, 2020  
File Name: 19107 - EL01a  
Scale: As Noted  
Client Project #: 19107

Project # 19107  
Revision #  
Drawing Number **A203**

Project: Mathers Residence  
Location: 28 Maitland Street  
Drawing: Building Elevations: West Elevation  
Client: Mathers Family

# 28 MAITLAND STREET

## CONSENT TO SEVER + MINOR VARIANCE

February 28, 2020

**Ms. Annemarie Eusebio**  
 Planning, Building & Licensing Services  
 City of Kingston

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

**RE: 28 Maitland Street**  
**Application for Consent to Sever + Minor Variance**

Dear Ms. Eusebio,

Fotenn Planning + Design has been retained by Anne and James Mathers to submit applications for minor variance and consent to sever one lot from the subject property located at 28 Maitland Street. The proposed consent will result in a total of two lots (one severed + one retained).

A pre-application report was issued by City of Kingston staff dated February 3, 2020 which identified the application requirements. Further, discussion with City of Kingston staff after the pre-application report resulted in revision to the submission requirements. Accordingly, the following are submitted in support of the applications:

- / Conceptual Site Plan and Easement Plans, Prepared by SZA Shoalts and Zaback Architects Ltd, dated January 21, 2020;
- / Application forms as completed in the Development and Services Hub (DASH);
- / This planning letter.

For the reasons outlined below, it is our opinion that the proposed minor variance application meets the four tests as outline in Section 45 (1) of the Planning Act and maintains the general intent and purpose of the Official Plan and Zoning By-law, is minor in nature and is desirable for the appropriate development of the lands. Further, the requested consent application has proper regard for the criteria found in Section 51 (24) of the Planning Act as well as conforms to the City of Kingston Official Plan, particularly as it relates to Section 9.6.13 which identifies criteria for consent approval. Overall, it is our professional opinion that the requested consent and minor variances are appropriate for the subject property in question and represent good land use planning.

### Site Description + Surrounding Context

The subject property is located on the west side of Maitland Street, south of King Street East in the City's urban area. The lot has an area of approximately 0.062 ha (623.9m<sup>2</sup>) with approximately 12.2m of frontage onto Maitland Street. The property is currently developed with a two storey multi-unit residential building and has driveway access onto Maitland Street with parking along the northern property line.

The subject property is located within the Old Sydenham Heritage Conservation District as per Part V of the Ontario Heritage Act which recognizes the special character of the collection of older buildings in the district. It is understood that permits, including heritage permits, will be required before the proposed site alterations can take place.

The subject property is located in a unique residential enclave in the City which is located between the waterfront (including the Kingston Yacht Club) and City Park. To the east of the subject property is a residential neighbourhood characterized by a mix of densities and built forms and beyond is the Kingston downtown commercial area. To the west is the Kingston General Hospital and Queen's University beyond.

The subject site is well-suited to all standard modes of transportation. There is a multi-use pathway on the north side of King Street and a sidewalk on the south side of the road. Also, the waterfront pathway is located in proximity to the subject property. King Street is also served by Kingston Transit Route 3.

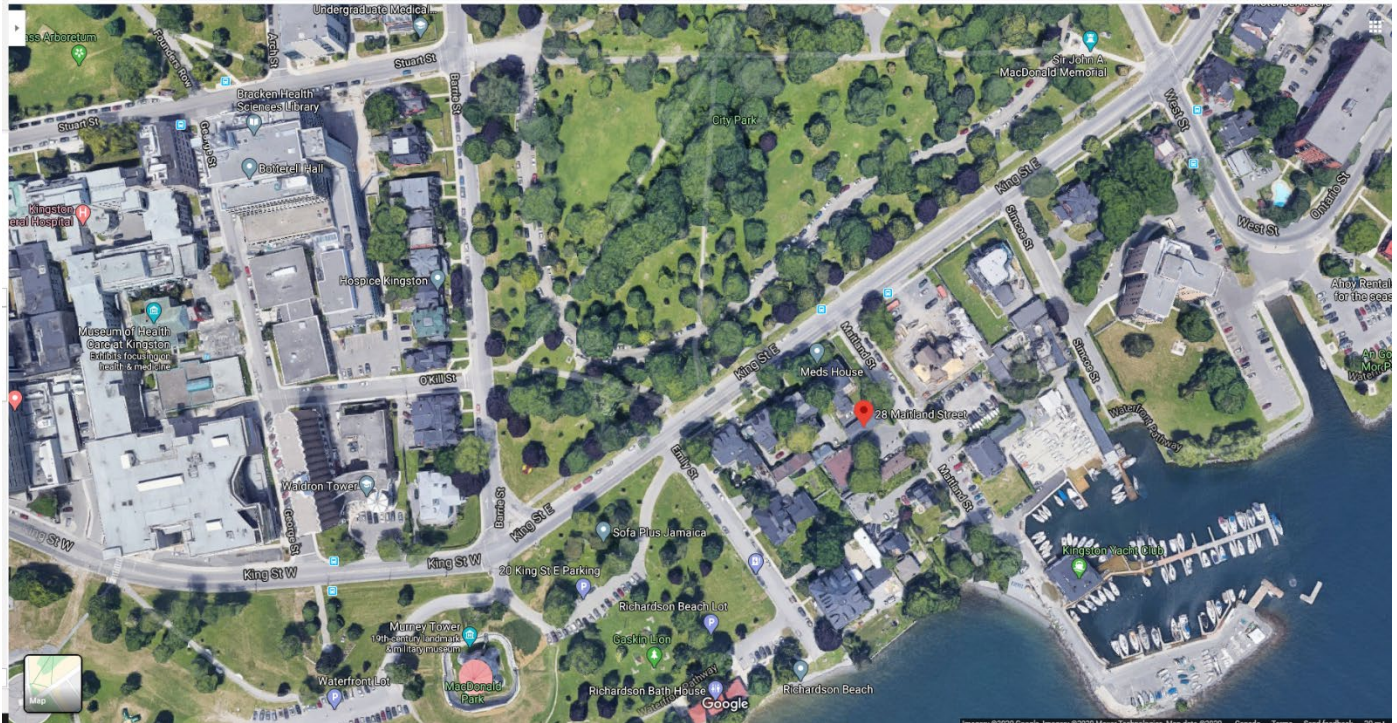


Figure 1: Context Map – Surrounding Area (Source: K-Maps)



Figure 2: Context Map – Immediate Area (Source: Google Maps)

The following uses are immediately adjacent to the subject site:

- / **North:** Residential
- / **East:** Residential
- / **South:** Residential
- / **West:** Residential

### Proposed Development

The proposed severance is to create one additional lot with the property line passing through the existing building along a common party wall, resulting in a semi-detached built form. The existing building on the property will be retained and interior renovations will create the two units. The retained lot, proposed 28 Maitland Street, will have approximately 11m (36ft) of frontage onto Maitland Street and an area of approximately 411 m<sup>2</sup>. It is the intension of the owners to reside in the retained lot. The severed lot, proposed 26 Maitland Street, will have approximately 1.2 metres (4 feet) of frontage onto Maitland Street and an area of approximately 212m<sup>2</sup>. The retained lot will contain two vehicle parking spaces, one of which is meant to serve 26 Maitland Street. The severance plan, refer to Figure 3, demonstrates the proposed property lines as well as the easements that are required to facilitate the proposed development. The proposed severance line is shown in red on Figure 3 below.

The following easements are required to facilitate the creation of the new lot:

- / Easement in favour of proposed 28 Maitland over proposed 26 Maitland for access. This easement will provide access to the front entrance of 28 Maitland, rear access to 28 Maitland, and vehicular access on the shared driveway. The proposed easement is highlighted orange in Figure 3 below.
- / Easement in favour of proposed 26 Maitland over proposed 28 Maitland will serve to provide vehicular access from Maitland Street as well as provide the required parking space for proposed 26 Maitland. The proposed easement is highlighted as blue in Figure 3 below.





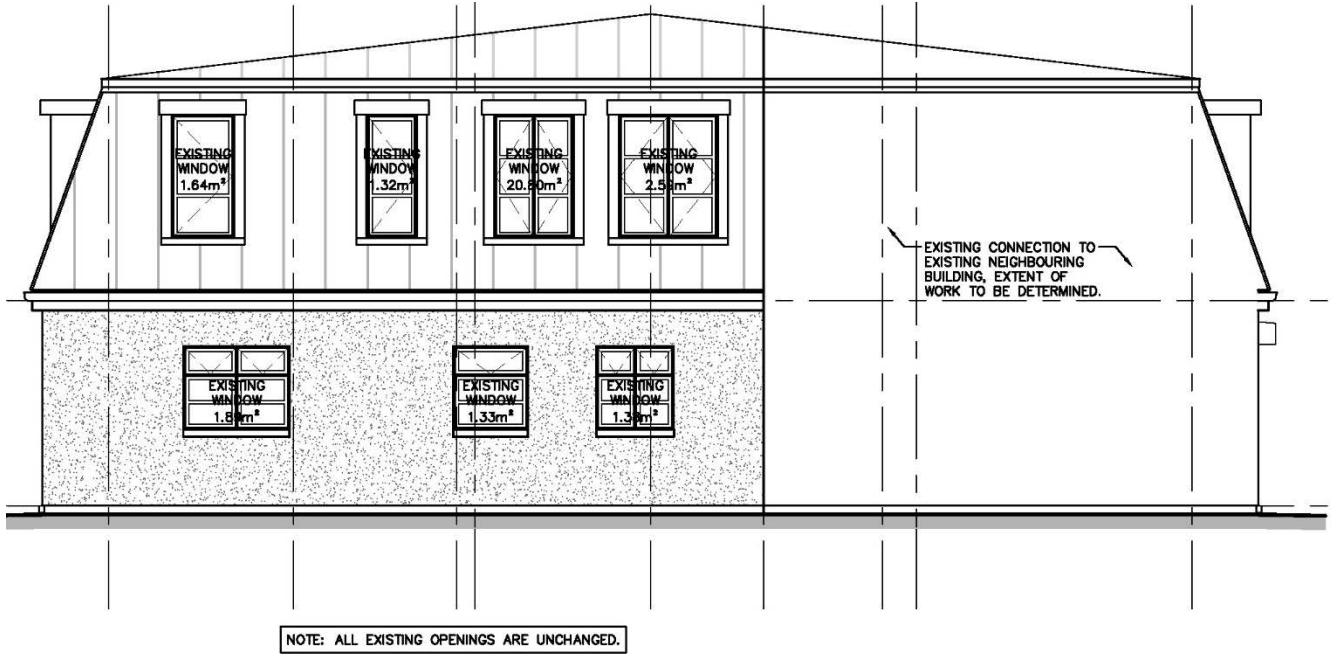


Figure 4: North Elevation (source: Shoalts and Zaback Architects Ltd.)

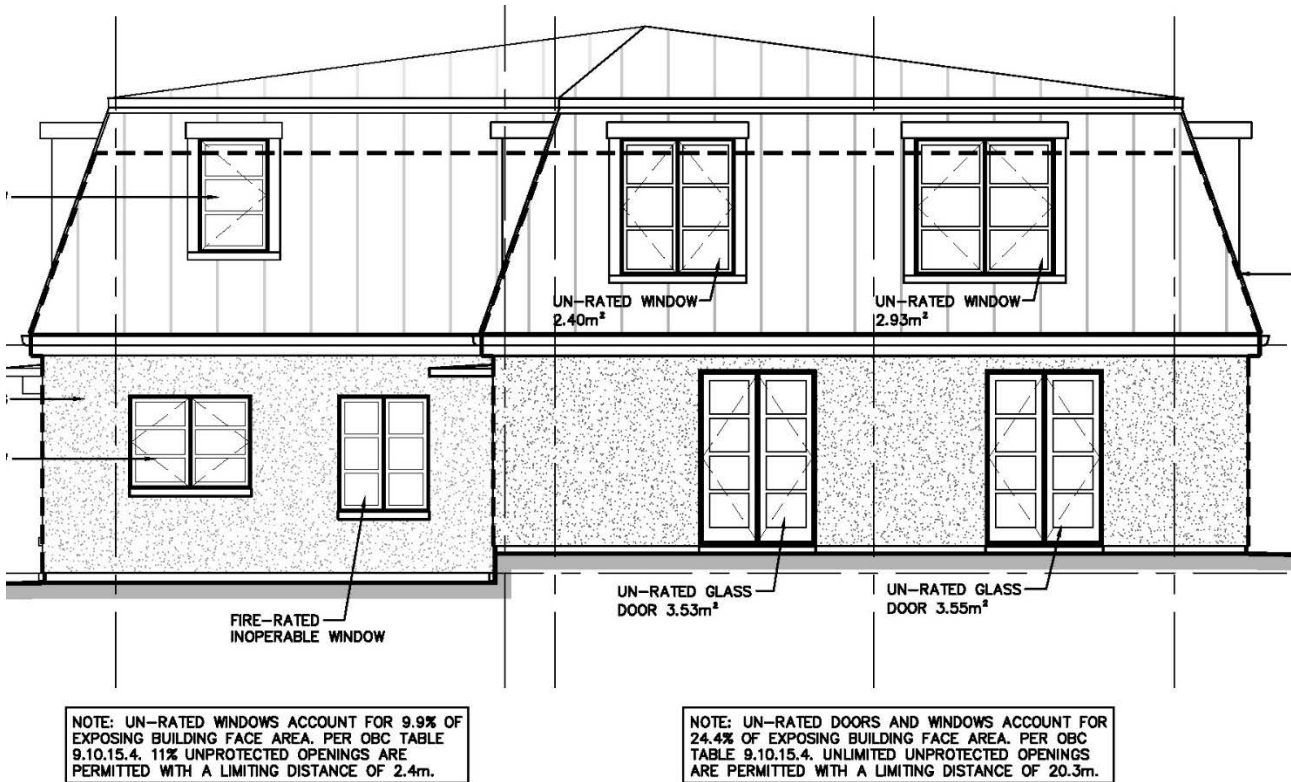


Figure 5: East Elevation (source: Shoalts and Zaback Architects Ltd.)

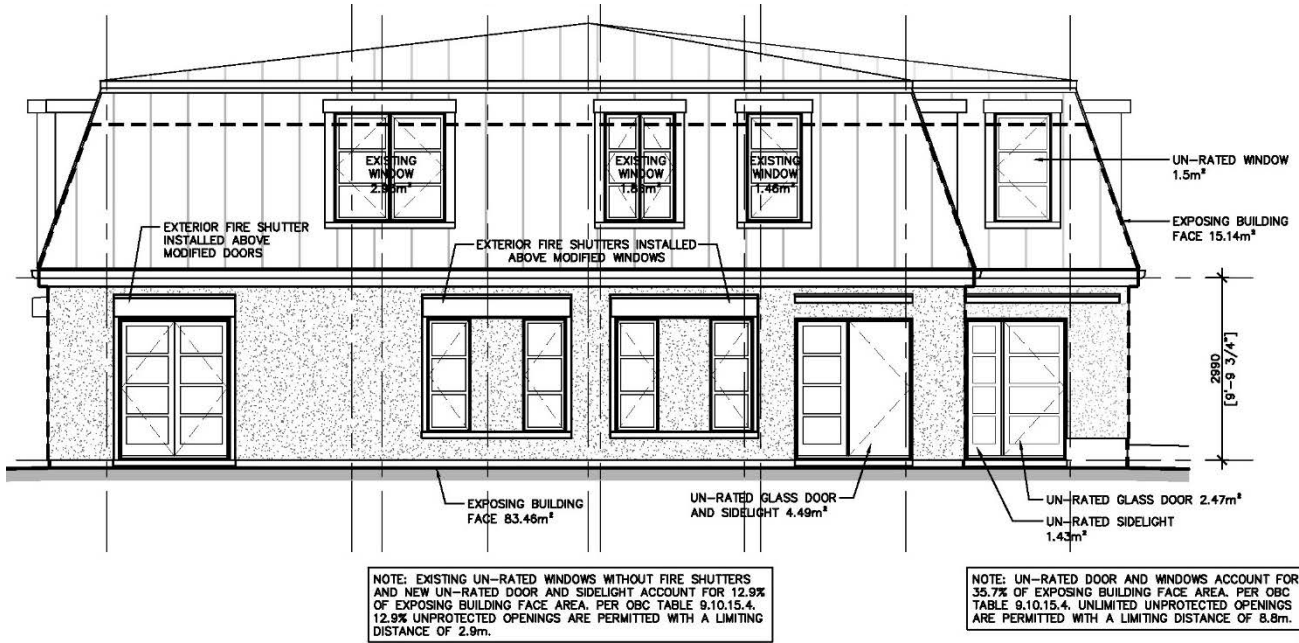


Figure 6: South Elevation (source: Shoalts and Zaback Architects Ltd.)



Figure 7: West Elevation (source: Shoalts and Zaback Architects Ltd.)

## Supporting Studies

At the pre-application meeting, City of Kingston staff advised on the supporting studies that would be required in support of an application for consent. At this meeting, staff advised that the following would be required for a complete application:

- / Archaeological Assessment; and
- / Servicing Plan.

Through discussions with staff, it was determined that these two items can be provided as conditions of the consent at a later date.

## Policy + Regulatory Review

### Planning Act

In considering an application for land severance, the approving body must evaluate the merits of the proposal against Section 53 of the *Planning Act*, which further requires a review of Section 51 (24) of the *Planning Act*. The criteria relating to the proposed severances are below in *italics*.

*53 (1) An owner of land or the owner's agent duly authorized in writing may apply for a consent as defined in subsection 50 (1) and the council or the Minister, as the case may be, may, subject to this section, give a consent if satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality.*

The proposed severance conforms to the City of Kingston's Official Plan and it is our opinion that a plan of subdivision is not necessary for the proper and orderly development of the proposed severance.

*53 (12) A council or the Minister in determining whether a provisional consent is to be given shall have regard to the matters under subsection 51 (24) and has the same powers as the approval authority has under subsection 51 (25) with respect to the approval of a plan of subdivision and subsections 51 (26) and (27) and section 51.1 apply with necessary modifications to the granting of a provisional consent.*

Detailed criteria from section 51(24) is provided below.

*51 (24) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality to*

*a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;*

The proposed severance has regard for matters of provincial interest found in Section 2 in that they will not negatively impact natural, agricultural or cultural heritage resources and represent an orderly development on serviced lands with access to transit and public service facilities. The proposed severance will contribute to the range of housing in Kingston and through the interior repurposing of the existing built form will ensure that provincial interests related to heritage conservation are satisfied.

*b) whether the proposed subdivision is premature or in the public interest;*

The proposed severance is not premature as it efficiently utilizes available infrastructure and public service facilities and is in the public interest.

*c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;*

Conformity with the Official Plan is discussed below. The proposal conforms to the Official Plan.

*d) the suitability of the land for the purposes for which it is to be subdivided;*

The proposed severance represents a minor infill development which would create an additional lot in a neighbourhood characterized by a mixed built form and multiple dwelling units. The proposed severance will maintain the existing exterior façade of the building and only interior renovations will occur on the building. As such, the proposed severance is suitable for the land.

*e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;*

The subject parcel has frontage on an existing municipal road, Maitland Street. The reconfiguration of the existing driveway for the severed and retained lot will be reviewed by City's engineering department through the entrance permit process.

*f) the dimensions and shapes of the proposed lots;*

The severed and retained parcels require variances to the zoning by-law given the existing configuration of the property and the setting of the existing building. The proposed severed and retained lots will not alter the appearance building along the street and are compatible with the shape of lots in the surrounding area.

*g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;*

Easements will be required for the severed and retained lots to provide pedestrian and vehicle access for each lot. There are no known restrictions on adjoining lands.

*h) conservation of natural resources and flood control;*

An increased landscape area will be provided on proposed 28 Maitland Street and efforts will be made to preserve existing trees on the severed and retained lots, to the extent possible.

*i) the adequacy of utilities and municipal services;*

The subject site is located within an area of any known potential servicing constraints for sewer surcharging, as identified on Schedule 11-C Servicing Constraints in the City of Kingston's Official Plan. There are no anticipated constraints given that the existing building is currently connected to municipal services and little earth works are proposed as part of the application. Further details will be provided through the City's review of the servicing plan as a condition of the consent.

*j) the adequacy of school sites;*

The proposed severed lots are within an established neighbourhood and in proximity to local schools. The additional lot is not anticipated to have an impact on the capacity of local schools.

*k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;*

In accordance with the *Planning Act*, City staff have suggested a condition requiring cash-in-lieu of parkland.

*l) the extent to which the plan's design optimizes the available supply, means of supply, efficient use and conservation of energy; and,*

The proposed severance will create an additional lot while retaining the existing building. Interior renovations will be undertaken to the existing building to create a separate unit on the new lot. This will contribute to the efficient use of land and existing municipal services.

- m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designed under subsection 41 (2) of this Act or subsection 114 (2) of the City of Toronto Act, 2006. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4).*

The proposed severance is not subject to site plan control given that the proposal is to retain the existing building with interior modifications to occur to create two separate units.

**The proposed Consent has proper regard for the criteria found in section 51(24) of the Planning Act.**

**Provincial Policy Statement 2014**

The 2014 Provincial Policy Statement (PPS) provides high-level land use policy direction on matters of Provincial Interest as they relate to land use planning in Ontario municipalities. Decisions of municipal councils must be consistent with the PPS, which provides direction for issues such as the efficient use of land and infrastructure, the protection of natural and cultural heritage resources, maintaining a housing stock that appropriately addresses the demographic and economic diversity of households, and preserving natural resources for their future use. In relation to the proposed severance, the 2014 PPS includes the following considerations:

*Section 1.1.1 Healthy, livable and safe communities are sustained by:*

- a) Promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;*

The proposed severance will facilitate the creation of a new lot on an existing parcel currently serviced by the municipality. The existing building will be retained in situ and interior renovations will be undertaken to divide the existing building into two independent units.

- b) Accommodating an appropriate range and mix of residential (including second units, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, park and open space, and other uses to meet long-term needs;*

The subject application proposes to create a new lot while maintaining the existing building and relationship to the street. This will contribute to the City's housing supply in a manner that is compatible with the established character of the surrounding area.

- c) Avoiding development and land use patterns which may cause environmental or public health and safety concerns;*

The proposed severance is within the urban boundary and not on any natural or human-made hazard lands. The shared driveway will be further reviewed at the time that an entrance permit is applied for to ensure compliance with the City of Kingston's standards.

- e) Promoting cost effective development patterns and standards to minimize land consumption and servicing costs;*

The proposed severance represents a minor infill development which utilizes existing municipal services without the need for expansion. The subject property is located within the urban boundary, the area intended to support the majority of the City's growth and development. There will be no need to expand or extend current municipal services in order to service the subject site.

*Section 1.6.6.2 Municipal sewage services and municipal water services are the preferred form of servicing for settlement areas. Intensification and redevelopment within settlement areas on existing municipal sewage services and municipal water services should be promoted, wherever possible.*

The subject lands are currently serviced by municipal water and sewage.

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**This proposal is consistent with the 2014 Provincial Policy Statement in that it is located within the settlement area, will contribute to the range and mix of housing without incurring adverse effects, and will not require any unwarranted expansion of municipal servicing.**

### Official Plan

The City of Kingston's Official Plan describes goals, policies and objectives intended to guide the City's development over the planning horizon identified in the plan. The Official Plan was updated following the Ministry of Municipal Affairs' Approval of Official Plan Amendment (OPA) 50, which went into effect on August 29, 2017. The May 15, 2019 consolidation of the Official Plan is the most readily available version on the City's website.

The following sections of the OP are reviewed in relation to the proposed zoning:

- / Section 2: Strategic Policy Direction;
- / Section 3: Land Use Designations and Policy;
- / Section 7: Cultural Heritage Resources;
- / Section 9: Administration and Implementation.

### Section 2: Strategic Policy Direction

Section 2 of the Official Plan provides strategic policy direction related to the development of lands within the City. Schedule 2 establishes the intended City Structure, which identifies the broad areas and structural elements of the City, noting areas where growth is anticipated to occur. The subject site is within the Housing District designation on Schedule 2, an area generally intended to remain stable while recognizing opportunities for intensification and infill.

Section 2.2 provides the policy direction for the City Structure identified on Schedule 2. Section 2.2.5 states:

*Housing Districts are planned to remain stable in accordance with Section 2.6 of this Plan but will continue to mature and adapt as the City evolves. Re-investment and upgrading will be encouraged through minor infilling and minor development (i.e. that which can integrate compatibly within the prevailing built form standards of height, density and amenity that are generally found in the neighbourhood). Housing Districts will be designated for residential uses of different types, but will also contain areas of open space, community facilities and commercial uses.*

The proposed development represents an opportunity for minor infill and re-development by creating an additional lot within the current built form on the property. The proposed additional lot will be integrated and compatible with the prevailing built form since no exterior changes to the existing building will occur and the streetscape and residential character of the neighbourhood will remain intact.

Section 2.3 provides policy direction for the City's growth. The goal of this section is to manage future growth within the Urban Boundary in a strategic and efficient manner that optimizes infrastructure and provides a variety of housing options for all residents. The proposed severance represents the opportunity for minor infill and re-development through the creation of an additional lot which is currently serviced by the municipality. The subject property is located within the Urban Boundary and the proposed severance will retain the existing built form, maintaining the existing character and integrity of the streetscape. The additional lot is not anticipated to have any negative impacts on the adjacent residential uses or the neighbourhood as a whole, as the existing built form is being maintained in situ preserving the character of Maitland Street.

Section 2.7 provides policies to ensure that redevelopment and new development are consistent in terms of function and character of developed areas. Section 2.7 also seeks to limit adverse effects and ensure that long term needs of users and occupants are met. Compatibility is defined in the Official Plan as the "*ability of various land uses, buildings, sites, or urban design treatments to co-exist with one another in a manner that will not have*

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*an undue physical or adverse effect on, existing or proposed development in the area, or pose an unacceptable risk to environmental or human health.”*

Section 2.7.4 of the Official Plan contains policies regarding mitigation measures for achieving development and land use compatibility. Section 2.7.4 requires that some or all of the following mitigation measures be put in place:

*a. Ensuring adequate setbacks and minimum yard requirements;*

The existing building on the property will be maintained and the minor variances for setbacks reflect the existing condition.

*b. Establishing appropriate transition in building heights, coverage and massing;*

Given that the existing building will remain on the property at its current height, coverage and massing, no negative impacts are anticipated as a result of the severance or the minor variances.

*c. Requiring fencing, walls or berming to create a visual screen;*

The landscaped area along the frontage of proposed 28 Maitland Street will be enlarged and enhanced with additional trees. Further, existing vegetation on the property will be maintained, where feasible.

*d. Designing the building in a way that minimizes adverse effects;*

The existing building will be maintained, and the design of the exterior façade will be unchanged, as such no adverse effects are anticipated.

*e. Maintaining mature vegetation and/or additional new landscaping requirements;*

Existing vegetation on the subject site will be preserved to the extent possible. Additional vegetation will be added within the enlarged landscaped area proposed for 28 Maitland Street.

*f. Controlling access locations, driveways, service areas and activity areas; and,*

A shared single driveway is proposed for the severed and retained lots, and adequate landscaping can be provided. The required parking spaces for proposed 26 Maitland Street is proposed on the retained lot of proposed 28 Maitland Street. Easements are required over the shared driveway as well as the required parking space for proposed 26 Maitland Street.

*g. Regulating location, treatment and size of accessory uses and structures, lighting, parking areas, garbage storage facilities and signage.*

Any future accessory structures will be subject to the general provisions of the zoning by-law.

Section 3: Land Use Designations and Policy

Section 3 of the Official Plan establishes and describes the land use designations regulating the character and intended function of lands within the municipality. The subject site is designated Residential on Schedule 3-A Land Use of the Official Plan. This land use designation is intended for a broad range of residential uses including detached, semi-detached or duplex dwellings, townhouses, and apartments.



Figure 8: Official Plan Schedule 3-A Land Use Excerpt (Source: Kmaps)

Section 3.3 of the Official Plan indicates that Residential lands are intended to accommodate residential development in areas that are fully serviced by the municipality. A wide range of residential building types are supported to provide the full range of housing needs. Specific policies relating to the proposed development are discussed below:

Section 3.3.6 refers to existing residential areas that are considered stable and notes that only minor changes to the predominant pattern of housing type, height or density is permitted. Given that the proposed applications maintain the existing building, the built form and height will remain unchanged within the existing residential area.

Section 3.3.7 refers to infill development within stable areas:

*Section 3.3.7 - Within existing stable residential areas, applications for infill must be located and organized to fit with neighbouring properties, including cultural heritage resources, and must satisfactorily address the following criteria:*

*a. confirmation that adequate municipal services can be provided;*

The proposed severed and retained lots will use municipal services. The subject site is located within an area of known or potential servicing constraints for sewer surcharging, as identified on Schedule 11-C Servicing Constraints in the City of Kingston’s Official Plan. A servicing plan will be completed as a condition of the severance and will be reviewed to the satisfaction of Utilities Kingston.



- b. demonstrated suitability of dwelling type, lot size, building height and massing, building materials, and exterior design; and*

Although the proposed development would convert the existing converted multi-unit dwelling to a semi-detached dwelling, the building form will be unchanged and will remain compatible with the surrounding neighbourhood as it maintains the existing building height and massing through the retention of the existing building. The proposed semi-detached dwelling is a permitted use within the Official Plan and zoning by-law and will respect and reinforce the character of the surrounding area given that the exterior of the existing building will be unchanged.

- c. demonstrated ability to achieve compatible use and development of the property taking into account the policies of Section 2.7.*

The existing building on the subject property will be maintained in situ and interior renovations will occur to divide the property into two lots. Given that there are no proposed changes to the exterior façade of the building, the proposed severance will maintain the existing character and streetscape along Maitland Street. Further, the proposed use is permitted within the land use designation of the Official Plan and the current zoning. The proposed development is compatible with the surrounding residential land uses and built form.

Section 3.9.10 of the Official Plan provides the following relevant direction relating to consent authority types:

*The Committee of Adjustment or the approval authority may grant consents to sever land in the City in situations where a plan of subdivision is not considered necessary and subject to the following policies:*

- a. the creation of individual parcels of land by consent will only be permitted in conformity with the policies of this Plan and the provisions of the implementing zoning by-law;*
- b. any application for consent in Rural Areas as shown on Schedule 2 that proposes to create more than 3 new lots (2 severed, 1 retained) being created from an existing lot of record must be processed by way of a plan of subdivision; and*
- c. consents that do not create a new lot will be considered if required for such technical or legal reasons as minor boundary adjustments, easements, rights-of-way, leases in excess of 21 years, validation of title, partial discharge of a mortgage, power of sale, or severance along common party walls.*

The proposed severance will result in two lots (one severed + one retained). The proposed severed and retained lots conform to the policies of the City of Kingston Official Plan. Minor variances are required to By-law 3077 to reflect the setback conditions of the existing built form that was constructed prior to the zoning by-law as well as the proposed lot fabric.

#### Section 7: Cultural Heritage and Archaeology

Section 7 of the Official Plan outlines policies related to cultural heritage and archaeology in the City. Section 7.1 outlines the City's goal is "to conserve and enhance built heritage resources within the City so that they may be accessed, experienced and appreciated by all residents and visitors, and retained in an appropriate manner and setting, as a valued public trust held for future generations". Section 7.1.7 identifies that the City may require a heritage impact statement for any development proposal which may impact a built heritage resource. The subject property is not an individually listed or designated heritage property; however, it is located within a Heritage Conservation District and is therefore designated under Part V of the Ontario Heritage Act. Through the pre-application meeting with City staff, it was determined that a heritage impact statement was not required as part of this application.

Section 7.3.C outlines policies related to development within a Heritage Conservation District (HCD) and states that development must demonstrate that it respects and complements the identified cultural heritage value or interest and heritage attributes of the district or area. The subject property is located within the Old Sydenham Heritage Conservation District. This district is characterized by its mature downtown residential neighbourhood of human scale, bounded by major institutions and the shore of Lake Ontario. Given that the proposed applications

will maintain the exterior façade and built form of the existing building, the relationship of the building to the street, there is not anticipated to be any impact to cultural heritage resources. The character, cultural heritage value and attributes within the Old Sydenham Heritage District remain intact as a result of the proposed severance and no adverse impacts are anticipated.

Section 9: Administration and Implementation

Section 9 of the Official Plan describes the general administration and implementation policies. Included among these are policies regarding lot creation, described in Section 9.6 Land Division. Section 9.6.13 provides the following Criteria for Consent Approval:

*a. the lot frontage, depth and area of any lot created by consent (severed and retained parcel) must be appropriate for the use proposed for the lot, be in compliance with the provisions of the zoning by-law and consistent, where possible, with adjacent lots;*

The proposed consent will result in a total of two lots, one severed parcel and one retained parcel. Minor variances are required for the lot frontage and lot area given the irregular shape of the lots and the location of the existing building. The proposed lots are compatible with the surrounding neighbourhood and lot fabric. The shape of the lots is logical given the proposed reconfiguration of the existing dwelling and alignment with the common party wall as well as entrances to the units.

*b. proposed severances that would result in irregularly shaped lots are to be avoided where possible;*

The proposed severed and retained lots will be generally rectangular in shape. The severed lot is slightly irregular in shape given the existing lot fabric in the surrounding area and the jog that occurs in the property line to 16 Maitland Street.

*c. consents may be granted only when each parcel of land has frontage and direct access from an assumed road, except for conservation lands such as those held by the Conservation Authority or a land trust that can be accessed through an easement or right-of-way on abutting lands;*

The severed and the retained lots will have frontage on Maitland Street and will gain direct access from the municipal street through a shared driveway, across which easements will be established.

*d. direct access from major roads is limited and is subject to the terms of any permits or approvals required from an agency having jurisdiction, with particular attention to controlled areas subject to Ministry of Transportation review and approval;*

*e. new access points or driveways must be located where they would not create a traffic hazard because of sight lines on curves, grades or corners;*

Both lots will be accessed via a shared driveway onto Maitland Street. It is understood that entrance permits will be required for the relocated driveway entrance from the City's Engineering Department and any entrance improvements will be subject to review and approval by the City.

*f. minor infilling of residential development is permitted except where the new lots would result in ribbon development of more than four non-farm residential lots that takes the form of a single depth of houses or other land uses fronting along roads in Rural Areas;*

*g. infill residential development is permitted within Rural Areas where there is a distance of 100 metres or less of frontage between two non-farm residential lots on the same side of the road and the lot can meet all of the other policies of this Plan and requirements of the zoning by-law;*

*h. compatibility and any separation distances required between the proposed land uses for the lot and the neighbouring land uses located in Rural Areas must be considered;*

Items f., g., and h. would not be affected as the proposed severance is not located in a Rural Area.

*i. any application for a consent must assess the impact on the natural heritage system, natural heritage features and areas, natural hazards, cultural heritage resources and areas of archaeological potential, or areas of archaeological significance as set out in Sections 5, 6 and 7 of this Plan; and,*

The proposed severance is not adjacent to any natural heritage features or areas, natural hazards or significant environmental features. The subject property is not designated under Part IV of the Ontario Heritage Act but is located within a Heritage Conservation District and is therefore designated under Part V of the Ontario Heritage Act. It was determined by staff at the pre-application meeting that a Heritage Impact Statement was not required for the proposed development and as stated previously in this letter, the proposed applications maintain the intent and cultural heritage attributes of the HCD given that the existing building will remain intact and only interior modifications will occur as a result of the development. An Archaeological Assessment will be required as a condition of approval for the consent application.

*j. the City must be satisfied that any development lots created by consent can be supplied with such municipal services as fire protection, road maintenance, storm drainage and where applicable, water supply and sewage disposal facilities, such that the provision of services does not adversely affect the City's finances.*

The proposed severance will be reviewed by all relevant departments at the City.

The proposed severance is suitable to the area context, conforms to the City of Kingston's Official Plan, and is appropriate for the lands and surrounding context.

**City of Kingston Restricted Area By-law 3077**

The subject property is within the One-Family Dwelling and Two-Family Dwelling Zone (A) of the City of Kingston's Zoning By-law 3077. By-law 3077 is an older by-law which pre-dates Zoning By-law 8499, which is the zoning by-law which regulates most of the former pre-amalgamation City of Kingston limits, with the exception of the central business district. The existing building on the property was built prior to zoning by-law 3077 and relief is required for a number of provisions relating to the existing built form and the proposed lot fabric. The following table provides a review of the zoning applicable to the proposed lots.

Provision	Requirement	Proposed Retained Lot 28 Maitland	Proposed Severed Lot 26 Maitland	Compliance
<b>By-law 3077</b>				
<b>"A" – One family and two family</b>				
<b>Permitted Uses (2.2)</b>	A one-family dwelling A two-family dwelling: for the purpose of this definition, 'two family dwelling' shall include a duplex house, or a semi-detached house. An accessory building	Semi-detached dwelling	Semi-detached dwelling	Yes
<b>Line of Setback (2.4)</b>	(a) subject o Clauses (b) and (c) of this Article, no building or part thereof shall be so situated on the lot that any such part except eaves or uncovered	66ft 20.3m	73.8ft 22.7m	Yes

Provision	Requirement	Proposed Retained Lot 28 Maitland	Proposed Severed Lot 26 Maitland	Compliance
	steps will be closer to the street line than 15ft (4.5m). (b) where the adjacent buildings have been built less than 15ft from the street line, new buildings may conform to the line thus established.			
<b>Rear Yards (2.5)</b>	(a) a rear yard shall be provided having a depth such that the distance from the rear lot line to any wall of the main building that is nearest to such line, will not be less than the height of such rear wall, provided that in no case shall such distance be less than 25% of the lot depth, but need not exceed 25ft (7.6m).	6ft 1.9m	6ft 1.9m	<b>No</b>
<b>Side Yards (2.6)</b>	(a) Subject to clauses (b) and (c) a side yard shall be provided on each side of the main building. The minimum width of each side yard shall be 2 ft (0.6m), provided that the aggregate width shall not be less than three tenths of the width of the lot but need not exceed 12ft (3.6m). (b) Subject to Clauses (d) and € of this article, a clear space of at least 6ft shall be provided between any wall containing a window or windows and the nearest lot or property line. (c) in computing the width of the side yard of any building on a lot which has a lane at the side or right-of-way over which the owner of the said lot has legal access, one-half of the width of such lane or right-of-way may be deemed to be a portion of that lot. (d) the 6ft clearance mentioned in (b) may be reduced to 4ft with respect to the lots or parcels which comply with any one or	0ft 0m	North side: 0ft South Side: 9.5ft 2.9m	<b>No</b>

Provision	Requirement	Proposed Retained Lot 28 Maitland	Proposed Severed Lot 26 Maitland	Compliance
	more of the following provisos and conditions: i) provide such lot is an interior lot having a width less than 40ft and has been laid out on a plan registered prior to Mar 31, 1942.			
<b>Height (4.2)</b>	The height of any building shall not exceed 40ft (12.2m), nor shall it exceed twice the horizontal distance from the centre of the street upon which the building fronts to the face of the street wall fronting upon such street.	+ - 7.3m	+ - 7.3m	Yes
<b>Percentage of Lot Occupancy (4.3)</b>	(a) no building shall occupy more than 50% of the area of the lot upon which it is situated.	42.1%	43.9%	Yes
<b>Residential Uses Permitted (4A.13)</b>  <b>Schedule of Bulk Regulations</b>	Lot area for each unit of a two-family dwelling: 4,500 sq. Ft (418sq.m)  Interior Lot width for each unit of a two-family dwelling or a group: 20ft, 6m Side yards Total both sides: 12ft, 3.6m Minimum one side: 4ft, 1.2m Rear yard: 20ft, 6m	411.6m2  36ft 11m  0ft 0m  6ft 1.9m	212.3m2  4ft 1.2m  North side: 0ft South Side:9.5ft 2.9m 6ft 1.9m	<b>No</b>  <b>No</b>  <b>No</b>  <b>No</b>
<b>Parking Provisions (4A.21)</b>	One parking space for one dwelling unit	One parking spaces	One parking space located on proposed 28 Maitland	Yes
	(2) the parking space provided and maintained for each dwelling unit on a lot used for one- or two-family dwellings or a group of dwellings shall not be located in the front yard	located in front yard	Located in the front yard of proposed 28 Maitland	<b>No</b>
<b>Extension of Non-</b>	Any use made of buildings or lands at the date of enactment of this by-law may be	Minor variance sought	Minor variance sought	Yes

Provision	Requirement	Proposed Retained Lot 28 Maitland	Proposed Severed Lot 26 Maitland	Compliance
<b>conforming uses (9.3.3)</b>	continued, although not conforming with the regulations of the use zone in which they are located, or such use may be extended throughout the building, provided, in either case, no structural alterations, other than those provided in Item 9.3.1, or as may be required by existing law or by-law, are made therein, and that no new building or extension to such building is erected.			
<b>9.4.11</b>	Parking of recreational vehicles, watercraft and trailers, parking space location and configuration and driveway widths for properties that have individual driveways on Maitland Avenue within Zone "A" shall be subject to the provisions of Section 5.3 B(j), 5.3.B(k) and 5.3B(m) of By-law 8499	Refer to sections below		
<b>By-law 8499</b>				
<b>Driveway widths 5.3B(k)</b>	(i) in a residential zone, the minimum width of a driveway shall be 3m	Shared driveway is 3.3m wide	Shared driveway is 3.3m wide	Yes
<b>Parking in a Driveway 5.3B(l)</b>	(i) a parking space may be located in a permitted driveway in a front yard (ii) a parking space in a driveway within the required front yard shall not be permitted parallel to the street line.	Parking space located in the front yard and is not parallel to the street line.	Parking space located in the front yard and is not parallel to the street line.	Yes

The following variances are required to facilitate the proposed development:

- / **Variance 1: Rear Yard Setback** Reduction to the minimum rear yard requirement of 7.6 m (25ft) to 1.9m (6ft). The existing building is currently setback 1.9m (6ft) of the rear lot line, both proposed lots require a rear yard setback reduction to address the existing condition. (Section 2.5 and 4A.13 of By-law 3077)
- / **Variance 2: Side Yard Setback** Reduction to the minimum side yard requirement of 0.6m (2ft) provided the aggregate width is three tenths of the width of the lot but shall not be exceed 3.6m (12ft). Proposed 28 Maitland has a 0m (0ft) side yard setback on both the north and proposed south property line. The 0m north side yard setback is a result of the existing condition and the proposed 0m south side yard setback results in the proposed lot line creation for a semi-detached built form. Proposed 26 Maitland contains a

0m side yard setback on the northern property line as a result of the proposed lot line creation for the semi-detached built form. The south side yard setback for proposed 26 Maitland is 1.7m (5.5 ft) and a variance is required. (Section 2.6 and 4A.13 of By-law 3077)

- / **Variance 3: Minimum Lot Area** Reduction to the lot area for a two-family dwelling which requires a minimum area per unit of 418 m<sup>2</sup> (4,500ft<sup>2</sup>). Proposed 28 Maitland has a lot area of approximately 411m<sup>2</sup> (4,423ft<sup>2</sup>) whereas proposed 26 Maitland has an area of 212m<sup>2</sup> (2,281ft<sup>2</sup>). (Section 4A.13 of By-law 3077)
- / **Variance 4: Minimum Lot Width** Reduction in the required interior lot width for a two-family dwelling from 6m (20ft) to 1.2m (4ft) for proposed 26 Maitland. (Section 4A.13 of By-law 3077)
- / **Variance 5: Parking Provisions** To permit the required parking space for proposed 26 Maitland to be located on the adjacent property on proposed 28 Maitland. (Section 4A.21 of By-law 3077)

The above noted variances have been assessed in terms of the four tests of a minor variance outlined in Section 45(1) of the Planning Act and section 9.5.18 of the Official Plan:

- a. the general intent and purpose of the Official Plan are maintained;*
- b. the general intent and purpose of the by-law being varied are maintained;*
- c. the variance is minor in nature; and,*
- d. the variance is desirable for the appropriate development or use of the land, building, or structure.*

**Maintains the General Intent and Purpose of the Official Plan**

As noted previously in this letter, the subject property is designated Residential in the City of Kingston Official Plan. The Residential designation permits a range of residential dwelling types including semi-detached dwellings. The proposed minor variances seek to facilitate the creation of a new lot for the purpose of dividing the subject property to allow the conversion of the multi-unit dwelling to a semi-detached dwelling.

The subject property is also located within the Urban Boundary where the official plan directs the majority of growth and infill to occur. Although the property is located within a stable area, moderate growth is permitted. The proposed application seeks to reconfigure the site by increasing the number of lots while reducing the overall unit count.

Further, the subject property is located within a heritage conservation district established under Part V of the Ontario Heritage Act. The proposed application seeks to maintain the existing building/structure on the property and intends to make interior renovations to create the separate unit. As such, the appearance of the building along the street and within the heritage conservation district will remain unchanged. The character of the area and the relationship of the existing building to the surrounding neighbourhood will remain intact.

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

**Maintains the General Intent and Purpose of the Zoning By-law.**

The subject property is zoned One and two Family (A) in Zoning By-law 3077. The permitted uses within this zone include one- and two-family dwellings which include a duplex or semi-detached house. The proposed semi-detached dwelling is a permitted use within the A zone.

The existing building was constructed prior to the enactment of the By-law 3077 and as such a number of legal non-conforming standards exist. The majority of the requested minor variances are as a result of the existing setback conditions of the existing dwelling. The existing dwelling has a minimal rear yard and side yard setbacks and the proposed variances seek to address these conditions. The proposed variances will recognize the long-standing built form on the site.

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Proposed 28 Maitland is requesting relief to the minimum required lot area from 418 m<sup>2</sup> to 411 m<sup>2</sup>. The proposed lot is rectangular in shape and is compatible with the surrounding area. The proposed lot for 26 Maitland provides for an increased landscape area within the front yard and is able to accommodate the required parking for both proposed 28 Maitland and 26 Maitland. The requested variance to the lot area represents a minor deficiency to the zone standard.

Proposed 26 Maitland is requesting relief for the minimum required lot area as well as the minimum required lot width. The requested variance for the minimum required lot width is required as a result of the irregular shape of the existing lot. There is a jog in the lot fabric between 28 Maitland and 16 Maitland and it occurs in front of a portion of the existing building. The 1.2m lot width proposed is to provide the property with frontage and access onto Maitland Street and the lot width expands and increases after the jog in the property line. If the jog in the property line was not present, then proposed 26 Maitland would be able to provide the minimum required lot width for semi-detached units. Subsequently, proposed 26 Maitland is requesting relief from the minimum lot area as a result of the irregular lotting fabric of the existing property.

Overall, the requested relief from the zoning by-law will have little impact to the streetscape and character of the neighbourhood given that the existing building will be maintained in situ. The requested variances are compatible with the surrounding area and reflect the existing setback conditions of the property.

**It is our professional opinion that the proposed development and application maintains the general intent and purpose of the Zoning By-law**

#### **Variations are Minor in Nature**

The proposed variances relating to the existing built form reflect the legal non-conforming standards of the dwelling. The other proposed variances are required to facilitate the proposed land division. The rear and side yard setback variances reflect the current setbacks of the existing building and the proposed reduction in lot width and lot area are a result of the irregular parcel shape of the existing property. These variances are technical in nature given that the proposal is also seeking to create a separate lot. A two-family dwelling could exist on the property without creating a new lot and would result in a similar configuration without the need for variances. The creation of the lot does not affect the appearance of the building along the street and the required standards for access both pedestrian and vehicular are being maintained through easements.

The proposed variances are not anticipated to have an adverse impact on the character of the surrounding area or on adjacent properties given that the proposed application will be maintaining the existing built form on the property with only minor interior renovations to create the separate unit.

**It is our professional opinion that the proposed variances are minor in nature.**

#### **Desirable for the Appropriate Development of the Lands**

The proposed development and application addresses the Official Plan policy directives by achieving a minor infill development within the Urban Boundary that is compatible with the surrounding area. The proposal retains the existing built form on the property and proposes interior renovations to create the separate unit. The relationship of the building to the streetscape remains unchanged and reinforces and preserves the neighbourhood character of the area. Further, there are no anticipated adverse impacts associated with the proposed development given that there is very little change occurring to the existing built form. The proposed variances and severance represent a compatible form of development which is in keeping with the surrounding neighbourhood character.

**It is our professional opinion that the proposed development is desirable for the appropriate development of the lands.**



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## Conclusion

The applicant is seeking approval from the City of Kingston to create one new lot from the subject lands at 28 Maitland Street and to permit a number of minor variances from Zoning By-law 3077 relating to the existing built form, the proposed lot fabric, and the parking arrangement. The proposal is consistent with the Provincial Policy Statement, conforms to the Official Plan and maintains the general intent and purpose of the zoning by-law. Further, the proposed variances meet the four tests as outlined in the Planning Act and the City of Kingston's Official Plan.

It is our opinion that the proposed consent and minor variances are appropriate for the subject property in question and represent good land use planning. Should you have any questions or comments, please do not hesitate to contact me at 613.542.5454 x 224 or [leclerc@fotenn.com](mailto:leclerc@fotenn.com).

Respectfully submitted,



Youko Leclerc-Desjardins, MCIP RPP  
Senior Planner  
Fotenn Planning + Design

# 28 MAITLAND STREET

## MEMORANDUM REVISIONS TO APPLICATION

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March 19, 2020

**Ms. Annemarie Eusebio**  
Planning, Building & Licensing Services  
City of Kingston

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

**RE: Minor Variance Application D13-011-2020**  
**Revisions to Minor Variance Application**  
**28 Maitland Street**

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Dear Ms. Eusebio,

This letter is prepared by Fotenn Planning + Design on behalf of Anne and James Mathers regarding minor variance application D11-011-2020 submitted in February 2020 for the property municipally known as 28 Maitland Street in the City of Kingston. The intent of this letter is to update the minor variance application following discussions with Planning staff.

The minor variance application has been reviewed by City Planning Staff and, as a result, it has been determined that changes to the application are needed to reflect the appropriate variances. It has been determined that some variances are no longer required, certain variances must be updated, and additional variances are needed.

The following variances are no longer required or proposed:

- / **Variance 2: Aggregate Side Yard Setback** Relief for 26 Maitland Street is no longer required because the aggregate side yard requirement of 1.75 metres is met by the aggregate setback of 2.9 metres. The aggregate side yard requirement of 1.75 metres is based on the average of the three lot widths on the property (1.2 metres, 7.5 metres and 8.8 metres). The proposed aggregate side yard setback is 2.9 metres, therefore, relief is not required (Section 2.6 of By-law 3077). The original application sought relief as the requirement was calculated on the basis of the narrowest portion of the lot rather than as the average or mean of the three lot width dimensions.
- / **Variance 3: Minimum Lot Area** Relief is not required for either 26 or 28 Maitland Street because this section of the zoning by-law does not apply to the subject site (Section 4A.13 of By-law 3077).
- / **Variance 4: Minimum Lot Width** Relief is not required because this section of the zoning by-law does not apply to the subject site (Section 4A.13 of By-law 3077).
- / **Variance 5: Parking Provisions** Relief is not required because this section of the zoning by-law does not apply to the subject site (Section 4A.21 of By-law 3077).

The following variances **continue to be sought**:

- / **Variance 1: Rear Yard Setback** Reduction to the minimum rear yard requirement of 7.6 metres (25 feet) to 1.9 metres (6 feet). The existing building is currently setback 1.9 metres (6 feet) of the rear lot line, both proposed lots require a rear yard setback reduction to address the existing condition. (Section 2.5 of By-law 3077)
- / **Variance 2: Side Yard Setback** Reduction to the aggregate side yard setback for 28 Maitland Street from the required 3.1-metre setback to 1.3 metres from the front entry. Relief related to the 0-metre (0 feet) side yard setback on both the north and proposed south property line. The 0-metre north side yard setback is a result of the existing condition and the proposed 0-metre south side yard setback results in the proposed lot line creation for a semi-detached built form continue to be sought for 28 Maitland Street. (Section 2.6 of By-law 3077)

- / **Variance 3: Side Yard Setback** Relief related to the 0-metre side yard setback on the northern property line as a result of the proposed lot line creation for the semi-detached built form continues to also be sought for 26 Maitland Street. (Section 2.6 of By-law 3077)

Below, justification and analysis are provided for newly proposed minor variances related to side yard setback reduction for 28 Maitland Street and minimum driveway width reductions for 26 and 28 Maitland Street. The newly proposed variances have been assessed in terms of the four tests of a minor variance outlined in Section 45(1) of the Planning Act and section 9.5.18 of the Official Plan:

- a. the general intent and purpose of the Official Plan are maintained;
- b. the general intent and purpose of the by-law being varied are maintained;
- c. the variance is minor in nature; and,
- d. the variance is desirable for the appropriate development or use of the land, building, or structure.

The following **new variances** are being sought:

- / **Variance 4: Side Yard Setback** Reduction to the side yard setback from 1.8 metres (6 feet) to 1.3 metres (4.2 feet) for a wall containing a window, being the wall with the window above the main entrance. This variance is required to recognize the existing built form and is needed to allow the proposed lot fabric and for the entrance and main front stairs at 28 Maitland Street to be located on the same lot. The variance related to the side yard setback to the window located above the front door is technical in nature in order to recognize the existing built form and proposed lot fabric.

Relief is also required to reduce the setback to the north property line from 1.8 metres (6 feet) to 0 metres. Relief requested for the 0-metre north side yard setback is necessary to recognize the existing condition. Fire shutters are proposed on the windows on this side of the dwelling to comply with fire safety requirements (Section 2.6(b) of By-law 3077).

- / **Variance 5: Minimum Driveway Width** Relief is required for the minimum driveway widths at 26 Maitland Street and 28 Maitland Street. Relief is required to reduce the driveway width from 3.0 metres to 1.2 metres at 26 Maitland Street and reduce the driveway width from 3.0 metres to 2.1 metres at 28 Maitland Street. The proposed redevelopment seeks to provide a shared driveway with a combined width of 3.4 metres, which meets the minimum driveway width requirement. The proposed relief is technical in nature and is necessary to reduce the amount of hardened driveway surface while maximizing the amount of landscaped frontage at the street where buffering is proposed for the front yard parking. It is not feasible to achieve a 3.0-metre wide driveway at 26 Maitland Street due to the proposed lot width of 1.2 metres at the street. As a result, the proposed 1.2-metre width utilizes the entirety of the available frontage on that property. The balance of the proposed driveway, 2.1 metres, is proposed to be provided on the 28 Maitland Street lot. The proposed driveway width will allow an unobstructed access to the front entry for 28 Maitland Street on the proposed easement over the 26 Maitland Street property, as parking will not be permitted on this portion of the driveway.

The proposed variances maintain the general intent and purpose of the Official Plan in that they continue to provide appropriate access to the site to meet the functional needs of users and support landscaped buffering from the limited front yard parking that is proposed.

The variances to minimum driveway width maintain the general intent and purpose of the zoning by-law in that the minimum driveway width of three metres is satisfied when considering the combined lot frontages and the shared driveway. These provisions are intended to ensure adequate access and to prevent the overdevelopment of lot frontages with driveway surfaces. When viewed as a combined driveway, the width of 3.37 metres represents about 27% of the combined lot width of 12.37 metres.

The assessment of whether a variance is minor is not a mathematical exercise but is rather a matter of determining the impact. The proposed variances will allow a reduction in the amount of driveway at the street along Maitland and will therefore contribute positively to the streetscape.

The proposed driveway width variances are appropriate for the development of the land in that pedestrian access will be provided along the driveway leading to the dwelling, which will remain unobstructed to meet user needs. The variances support the greening of the streetscape as well.

In summary, the following original and new variances are proposed to facilitate the proposed development:

- / **Variance 1: Rear Yard Setback** Reduction to the minimum rear yard requirement of 7.6 metres (25 feet) to 1.9 metres (6 feet). The existing building is currently setback 1.9 metres (6 feet) of the rear lot line, both proposed lots require a rear yard setback reduction to address the existing condition. (Section 2.5 and 4A.13 of By-law 3077)
- / **Variance 2: Side Yard Setback** Reduction to the aggregate side yard setback for 28 Maitland Street from the required 3.1 metre setback to 1.3 metres from the front entry. Relief related to the 0 metres (0 feet) side yard setback on both the north and proposed south property line. The 0 metre north side yard setback is a result of the existing condition and the proposed 0 metre south side yard setback results in the proposed lot line creation for a semi-detached built form continue to be sought for 28 Maitland Street (Section 2.6 and 4A.13 of By-law 3077).
- / **Variance 3: Side Yard Setback** Relief related to the 0 metre side yard setback on the northern property line as a result of the proposed lot line creation for the semi-detached built form continues to also be sought for 26 Maitland Street (Section 2.6 and 4A.13 of By-law 3077).
- / **Variance 4: Side Yard Setback** Reduction to the side yard setback from 6 feet (1.8 metres) to 4.2 feet (1.3 metres) for a wall containing a window, the window above the main entrance, to the side lot line at 28 Maitland Street (Section 2.6(b) of By-law 3077).
- / **Variance 5: Minimum Driveway Width** Reduction to the minimum driveway width is requested for 26 Maitland Street and 28 Maitland Street. Relief is required to reduce the driveway width from 3.0 metres to 1.2 metres at 26 Maitland Street and reduce the driveway width from 3.0 metres to 2.1 metres at 28 Maitland Street (Section 5.3B(k) of By-law 8499, as referenced in section 9.4.11 of By-law 3077).

The changes to the proposed minor variance application are consistent with the Provincial Policy Statement, maintain the general intent and purpose of the official plan and zoning by-law, are desirable for the development of the subject lands, and are minor in nature. The proposed changes to the minor variance application therefore continue to meet the four tests as outlined in the Planning Act and the City of Kingston's Official Plan.

It is our opinion that the proposed changes to the minor variance application are appropriate for the subject property in question and represent good land use planning. Should you have any questions or comments, please do not hesitate to contact me at 613.542.5454 x 224 or [leclerc@fotenn.com](mailto:leclerc@fotenn.com).

Respectfully submitted,



Youko Leclerc-Desjardins, MCIP RPP  
Senior Planner  
Fotenn Planning + Design

The Corporation of the

City of Kingston

Re: By-Law Number 2019-151

A By-Law to Amend By-Law Number 3077 "A Restricted Area (Zoning) By-Law for the City of Kingston" (Residential Parking and Driveways)

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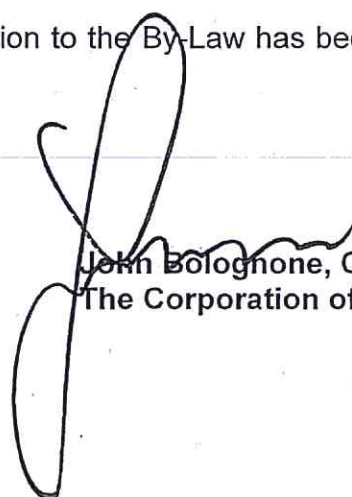
Effective Date: October 1, 2019

**Declaration**

I, **John Bolognone** hereby certify that the notice for **By-Law Number 2019-151** of The Corporation of the City of Kingston, passed by the Council of The Corporation of the City of Kingston on the **1st day of October, 2019** was given in the manner and form and to the persons prescribed by Ontario Regulation 545/06, made by the Lieutenant Governor in Council under subsection 34 of the Planning Act, R.S.O. 1990, c. P.13. I also certify that the 20 day appeal period expired on the 24th day of October, 2019 and to this date no notice of appeal setting out an objection to the By-Law has been filed in the Office of the City Clerk

Dated at Kingston, Ontario  
this 29th day of October, 2019

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**John Bolognone, City Clerk**  
**The Corporation of the City of Kingston**

**By-Law Number 2019-151****A By-Law to Amend By-Law Number 3077 “A Restricted Area (Zoning) By-Law for the City of Kingston” (Residential Parking and Driveways)**

Passed: October 1, 2019

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

**Whereas** the Council of The Corporation of the City of Kingston deems it advisable to amend By-Law Number 3077, as amended, of the former City of Kingston;

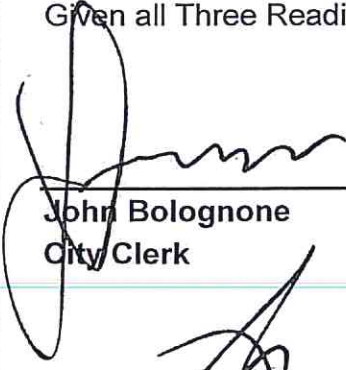
**Therefore be it resolved that** the Council of The Corporation of the City of Kingston hereby enacts as follows:

1. By-Law Number 3077 of The Corporation of the City of Kingston, entitled “A Restricted Area (Zoning) By-Law for the City of Kingston”, as amended, is hereby further amended as follows:
  - 1.1. By amending Section 4A.21(2) Supplementary Provisions by adding the words, “, except in a permitted driveway” after the words “front yard”.
  - 1.2. By adding a new Section 9.4.11 as follows:

“9.4.11 Parking of recreational vehicles, watercraft and trailers, parking space location and configuration, and driveway widths for properties that have individual driveways on Maitland Avenue within Zone “A” shall be subject to the provisions of Sections 5.3 B.(j), 5.3 B.(k), 5.3 B.(l) and 5.3 B.(m) of By-Law Number 8499, “Restricted Area (Zoning) By-Law of the Corporation of the City of Kingston.”


2. That this By-Law shall come into force in accordance with the provisions of the *Planning Act*.

Given all Three Readings and Passed: October 1, 2019



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**John Bolognone**  
City Clerk



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**Bryan Paterson**  
Mayor

