



**City of Kingston
Report to Committee of Adjustment
Report Number COA-20-059**

To: Chair and Members of the Committee of Adjustment
From: Waleed Albakry, Senior Planner
Date of Meeting: November 16, 2020
Application for: Minor Variance
File Number: D13-039-2020
Address: 230 Frontenac Street
Owner: Henglee Kingston Inc.
Applicant: The Boulevard Group

Council Strategic Plan Alignment:

Theme: 2. Increase housing affordability

Goal: 2.4 Promote secondary suites and tiny homes.

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variances with respect to the property located at 230 Frontenac Street. The applicant is proposing to expand the existing 2.5-storey single family dwelling located on the subject property through the construction of a rear addition which will accommodate a second residential unit. The total gross floor area of the proposed second residential unit is 190 square metres with a building footprint of approximately 69 square metres. The proposed development complies with all applicable zoning performance standards with the exception of the maximum building depth permitted and the requirement to provide a 1.2 metre-wide unobstructed exterior pathway from the front of the principal dwelling to the second residential unit entrance.

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**

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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.

Variance Number 1:

By-Law Number 8499: 6.3(g)(ii)(1)(a) Maximum Permitted Building Depth

Requirement: 17.7 metres

Proposed: 25.6 metres

Variance Requested: 7.9 metres

Variance Number 2:

By-Law Number 8499: 5.45(xvi)

Requirement: A minimum 1.2 metre-wide unobstructed pathway provided from the front of the Principal Dwelling Unit building or the front lot line.

Proposed: Permit the usage of the existing driveway to provide the required unobstructed pathway to an attached second residential unit.

Variance Requested: Permit the usage of the existing driveway to provide vehicular access to the parking spaces in the rear yard and to function as the required minimum 1.2 metre-wide unobstructed pathway to the attached second residential unit.

Recommendation:

That minor variance application, File Number TD13-039-2020, for the property located at 230 Frontenac Street to allow for the development of an attached second residential unit through the development of a rear addition totalling approximately 69 square metres, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-20-059.

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Authorizing Signatures:



Waleed Albarky, Senior Planner

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

Paige Agnew, Commissioner, Community Services

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Options/Discussion:

On September 4, 2020, a minor variance application was submitted by OTThe Boulevard Group, on behalf of the owner, Henglee Kingston Inc., with respect to the property located at 230 Frontenac Street. The variance is requested to allow for the development of an attached second residential unit through the construction of a rear addition totalling approximately 69 square metres. The minor variance application requests increasing the maximum permitted building depth and using the existing driveway to provide the required unobstructed pathway to the attached second residential unit.

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

- Site Plan (Lakeside Drafting) (Exhibit G – Site Plan);
Floor Plans & Elevations (Lakeside Drafting & Design) (Exhibit H – Floor Plans & Elevations);
- Planning Justification Letter (The Boulevard Group Inc.);
- Scoped Heritage Impact Statement (André Scheinman); and
- Stage 1/2 Archaeological Assessment (Abacus Archaeological Services).

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 in the Sunnyside Neighbourhood on the west side of Frontenac Street, between Earl Street to the north and Union Street to the south (Exhibit B – Key Map). The subject property is approximately 504 square metres in area and has an existing residential building containing a single dwelling unit. The existing 2.5 storey building has a gross floor area of 215 square metres with one on-site vehicular parking space in the northern interior side yard (Exhibit I – Photos).

The property is in close proximity to the main campus of Queen’s University and is located immediately across the street from Kingston Collegiate & Vocational Institute (KCVI), which is a designated property under Part IV of the *Ontario Heritage Act* (Exhibit D – Neighbourhood Context Map).

The subject property is designated “Residential” in the City of Kingston Official Plan (Exhibit E – Official Plan Map) and it is located in a One-Family Dwelling and Two-Family Dwelling “A” zone in Zoning By-Law Number 8499, as amended (Exhibit F – Zoning By-Law Map).

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

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together, meet the four tests of a minor variance outlined in Subsection 45(1) of the *Planning Act*. The following provides this review:

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.

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 (OP).

In considering whether this proposed variance is desirable, the Committee of Adjustment will have regard to the nine requirements included in Section 9.5.19 of the OP. The following is a list of the nine requirements and an assessment of how the proposal is consistent with each.

1. The proposed *development* meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of this Plan;

The subject property is designated “Residential” on “Schedule 3-A Land Use Map” of the City of Kingston’s (OP). The predominant use within the “Residential” designation is residential dwellings, including detached, semi-detached or duplex dwellings, townhouses, multi-family dwellings and apartment buildings.

The City of Kingston is divided into general structural elements as illustrated on Schedule 2 of the OP. These elements are not expected to change substantially over the life of the OP. The subject property is in a “Housing District.” In accordance with Sections 2.2.5 and 2.6 of the OP, “Housing Districts” in the OP are intended to remain stable. Remaining stable in this context means witnessing no substantial adverse changes that alter their characters but it does not preclude gentle changes through minor infilling and minor development if the development is compatible with the prevailing built form in the area.

In accordance with Section 2.2.1 of the OP, the focus of growth within the City is envisioned to occur mostly within the Urban Boundary. The proposal involves the construction of a second residential unit at the rear of an existing single detached dwelling and it will result in a moderate increase of the site’s density. The subject property is located within a “Housing District” which in turn is located within the Urban Boundary.

The policies of the OP under Sections 2.4.3 and 2.4.5 recognize the importance of increasing the urban residential density in the built-up residential areas through, among

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other types of development, the expansion or conversion of existing buildings and infill developments.

The proposed development will modestly increase the density of the site in a fashion that is compatible with the site and its surroundings. As a result, it can be concluded that the proposal is consistent with the Strategic Policy Direction Section of the OP, including the key policy consideration regarding focus of growth and increasing residential density in the built-up areas.

2. 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;

Section 2.7.3 of the OP includes standards regarding land use compatibility and potential adverse effects that must be considered and addressed satisfactorily in order for a proposed development and/or land use change to be considered “compatible” as defined by the OP. Below is the standards with an explanation of how they relate to the proposal:

- a. Shadowing;

The massing of the proposed addition is generally consistent with the massing and built form of the existing single-detached dwelling. The proposed exterior wall height and overall building height comply with the maximum permissions under the “A” zone. The building addition will meet the interior side yard setback requirement and the aggregate side yard requirement of the governing zone.

Therefore, it can be concluded that the proposed addition will not result in an increase of the shadow impact on the neighbouring properties.

- b. Loss of privacy due to intrusive overlook;

The rear yard is approximately 20 metres in depth and locating windows to look into the rear yard will not result in loss of privacy. For this reason, most of the windows for the proposed addition are located on the rear wall facing the rear yard to protect the privacy of the neighbouring properties at 226 and 232 Frontenac Street.

The proposed addition has a limited number of windows on the northern side, has no windows on the southern side (**Exhibit H - Floor Plans & Elevations**) and complies with the minimum yard and height requirements of the governing zone.

Accordingly, the proposed second residential unit is not expected to result in a loss of privacy due to intrusive overlook.

- c. Increased levels of light pollution, noise, odour, dust, vibration;

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The applicant is proposing to replace the chain link fence with a solid wood fence along the southern property line in the area corresponding to the location of the parking spaces to reduce the adverse impact of car headlights shining into the neighbouring property to the south (**Exhibit G – Site Plan**). Therefore, the proposal is not expected to result in any increased levels of light pollution, noise, odour, dust or vibration.

- d. Increased and uncomfortable wind speed;

It is not anticipated that the proposed development would result in an increased and/or uncomfortable wind speed.

- e. Increased level of traffic that can disrupt the intended function or amenity of a use or area or cause a decrease in the functionality of active transportation or transit;

The proposed development represents a modest intensification and it will comply with the off-street parking regulations of the governing zone. The addition of a vehicle to the property for parking is not anticipated to result in any adverse effects with respect to traffic. In addition, the neighbourhood is favourable in terms of walkability and access to active transportation routes and public transit.

- f. Environmental damage or degradation;

It is not expected that the proposed second residential unit will result in environmental damage or degradation.

- g. Diminished service levels because social or physical infrastructure necessary to support a use or area are overloaded;

Comments received through the technical circulation process confirmed that there are no concerns with the proposal from an infrastructure servicing perspective. There are existing community and institutional facilities within walking/public transit distance of the site that are not expected to be negatively impacted by the modest increase in density on the subject site.

- h. Reduction in the ability to enjoy a property, or the normal amenity associated with it, including safety and access, outdoor areas, heritage or setting;

The Scoped Heritage Impact Statement (SHIS) accompanying the proposal emphasized that the proposed second residential unit located at the rear of the existing single detached dwelling will not result in any adverse impacts on the heritage character of the area.

The proposal is generally consistent with the OP and the City of Kingston's Residential Design Guidelines for Residential Lots. Currently, the driveway access located within the northern interior side yard functions as the required parking space.

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As part of the proposal, the two parking spaces required will be located in the rear yard and the driveway located within the northern interior side yard will be used to provide vehicular access to the parking spaces in the rear yard and will also function as the required minimum 1.2 metre-wide unobstructed pathway to the attached second residential unit. On-site signage will be placed to prohibit vehicles from parking in the driveway.

Furthermore, the subject property will have more than the required minimum landscaped open space. Therefore, staff is of the opinion that the proposed development does not result in reduction in the ability to enjoy the property, or the normal amenity associated with it, including safety and access, outdoor areas, heritage or setting.

i. Visual intrusion that disrupts the streetscape or buildings;

The proposed rear addition complies with the maximum height provision for the governing zone and it is designed in a manner that respects the heritage character of the area. The rear addition is proposed to extend approximately 8 metres beyond the permitted building depth or 11 metres beyond the rear wall of the directly adjacent residential buildings located north and south of the subject property at 232 Frontenac Street and 226 Frontenac Street, respectively. Although the proposed development exceeds the building depth of the directly adjacent residential buildings located north and south of the subject property, the proposed residential building depth is in keeping with the depths of various other residential buildings within the same block and within the block immediately to the west.

The proposed second residential unit is two and a half storeys in height, consistent with the building height and massing of the existing single detached dwelling as well as other residential development in the immediate vicinity.

Therefore, it is staff's view that the proposal will not cause visual intrusion that disrupts the streetscape or buildings.

j. Degradation of cultural heritage resources;

A SHIS was provided as part of the application submission for the proposed minor variance. The conclusion of the SHIS indicate that the proposed addition will not cause any degradation to the publicly visible heritage aspects of the block/streetscape.

In terms of archaeology, the applicant has completed a Stage 1/2 Archaeological Assessment. The applicant has also submitted a copy of the correspondence with the Ministry of Tourism Culture & Sport.

k. Architectural incompatibility in terms of scale, style, massing and colour;

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As noted, the proposed addition has been designed within the parameters of the existing zoning provisions and the City of Kingston's Residential Design Guidelines for Residential Lots. Although the detailed design has not been completed, it is anticipated that the material used for the façade and the colour will be consistent with those of the existing building.

- I. The loss or impairment of significant views of cultural heritage resources and natural features and areas to residents.

The proposed development does not impact any of the protected views that are set out in Schedule 9 (Heritage Areas, Features & Protected Views) of the OP.

3. 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;

The proposal complies with all minimum zoning provisions with respect to off-street parking. It is proposed that the two parking spaces required be located in the rear yard and that the existing driveway be used to provide vehicular access to the parking spaces and to also function as the required 1.2 metre-wide unobstructed pathway for the second residential unit. To ensure that the driveway will be clear at all times, on-site signage will be placed in the driveway to prohibit vehicles from parking in the driveway.

To conclude, the site is expected to work effectively in terms of meeting the functional needs of the proposed residential land use.

4. 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;

Section 2.6.2 of the OP contains criteria that need to be considered to protect stable areas from incompatible development. The most relevant of these criteria to the proposal are related to the type of development, density, streetscape character and the appropriateness of the proposal. The overall density, type of use and scale of development are consistent with the existing built form of residential development along Frontenac Street and within the surrounding residential neighbourhood. The proposal does not involve a significant alteration to the existing built form on the site and will not cause any adverse impacts on adjacent properties. Although the proposed development exceeds the maximum permitted building depth, the development does not result in adverse impacts such as intensive overlook or shadowing on adjacent residential properties.

The proposed addition complies with the relevant provisions in the "A" zone with respect to minimum side yards, minimum aggregate side yard, maximum height and maximum exterior wall height. With regard to the City's Residential Design Guidelines, the proposed addition is designed to be distinct, complementary to and subordinate to the existing built form on the property. As the subject property is immediately across the street from a

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property designated under Part IV of the *Ontario Heritage Act* (KCVI at 235 Frontenac Street), a SHIS and Addendum to it were provided in support of the application. Municipal heritage planning staff reviewed the SHIS and Addendum and agreed with their assessments.

Therefore, it is staff's view that the proposal demonstrates conformity to the applicable OP policies, the urban design policies and protects heritage resources.

5. 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;

Although the subject property is not designated under the Ontario Heritage Act, it is still required to submit heritage related support documents as it is located immediately across the street from a designated property known as 235 Frontenac Street (KCVI). The applicant provided a SHIS and an Addendum in support of the application. Both the SHIS and the Addendum were reviewed to the satisfaction of municipal heritage planning staff.

6. 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 subject property is not located within a servicing constraint area as set out in Schedule 11-C (Servicing Constraints) of the OP. The proposal was circulated to Utilities Kingston (UK) and UK confirmed that the site has existing access to sufficient water and sanitary servicing to service the proposed second residential unit.

7. 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 proposal seeks to modestly increase the residential density of the neighbourhood through the provision of a second residential unit that would be located within the proposed building addition. The proposal meets all the applicable zoning regulations except for the requested two deviations from the zoning provisions regarding maximum building depth and the utilization of the driveway for the provision of a pedestrian pathway.

For these reasons, the application is considered minor and the Minor Variance process is considered as the appropriate application process under the *Planning Act* for the proposed land use and built form change on the property.

8. 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;

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Staff is recommending that the application be subject to the standard condition with respect to the Building Permit application requirement. Other conditions that are recommended are related to prohibiting the openings in the building addition in areas which are wider than the existing dwelling unless a noise study is submitted for review and approval by the City (Exhibit A – Recommended Conditions). Furthermore, a condition regarding the requirement to apply for a tree permit prior to any site alterations is recommended.

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

The proposal meets the intent of the Official Plan and the majority of the applicable zoning provisions of the governing zone. As a result, the proposed second residential unit 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 One & Two-Family Dwelling “A” 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. In terms of residential uses, the “A” zone permits one & two-family dwellings, subject to a minimum lot area provision of 370 square metres per dwelling unit. City Council recently approved new zoning regulations to permit second residential units on a city-wide basis, subject to performance standards and confirmation that the subject property is not constrained from a servicing perspective. Although the subject lot area is approximately 505 square metres, it still allows for the addition of a second residential unit on the property as second residential units are not subject to the minimum lot area provision.

The proposal requires two variance requests to Section 6.3(g)(ii)(1)(a) regarding the maximum permitted building depth and Section 5.45(xvi) regarding the pedestrian pathway to a second residential unit. Within the “A” zone, the maximum permitted building depth for any permitted residential building is calculated based on the average distance between the established front building line and the established rear building line of the two nearest permitted residential buildings on the nearest lots on the same block on opposite sides of the subject property. The intent and purpose of regulating the building depth is to maintain the character of the residential areas and the existing streetscapes. The subject property is more than 50 metres in depth and can allow for the addition while still allowing for a large landscaped rear yard. Furthermore, the roofline of the building addition would be lower than that of the original building. Therefore, it can be concluded that the proposal maintains the intent and the purpose of the building depth regulation as it is not anticipated to alter the character of the neighbourhood or the existing streetscape.

The second variance request is regarding the pedestrian pathway. A pedestrian pathway is required and it is defined as “a hard surface treated path that is separately delineated from

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the driveway and provide pedestrian access.” The pedestrian pathway is also required not to have obstructions to a height of up to 2.3 metres. The intent and purpose of this regulation is to provide second residential units with a pedestrian pathway for emergency purposes and also for moving in and out of the second residential units. The proposed second residential unit will have a 3-metre wide northern interior side yard setback. The northern interior side yard will be used as a driveway and on-site signage will be placed which restricts residents from parking on the driveway thereby maintaining an unobstructed 3.0 metre-wide side yard which may be used by pedestrians and vehicles. Therefore, pedestrians and emergency services will be provided sufficient space to access the second residential unit. As such, the proposed variance regarding the pedestrian pathway maintains the intent and the purpose of the zoning by-law.

Apart from the requested two variances, all other applicable provisions of Zoning By-Law Number 8499 are being met. The resultant built form will be similar and compatible to other lots within the block and the surrounding area. Consequently, the proposal maintains the general intent and purpose of the zoning by-law.

Variance Number 1:**By-Law Number 8499:** 6.3(g)(ii)(1)(a) Maximum Permitted Building Depth**Requirement:** 17.7 metres**Proposed:** 25.6 metres**Variance Requested:** 7.9 metres**Variance Number 2:****By-Law Number 8499:** 5.45(xvi)**Requirement:** A minimum 1.2 metre-wide unobstructed pathway provided from the front of the Principal Dwelling Unit building or the front lot line.**Proposed:** Permit the usage of the existing driveway to provide the required unobstructed pathway to an attached second residential unit.**Variance Requested:** Permit the usage of the existing driveway to provide vehicular access to the parking spaces in the rear yard and to function as the required minimum 1.2 metre-wide unobstructed pathway to the attached second residential unit.**3) The variance is minor in nature**

The requested variances are considered minor as there will be no negative impacts on abutting properties. Although the proposed development exceeds the building depth of the directly adjacent residential buildings located north and south of the subject property, the proposed residential building depth is similar to the depths of other residential buildings within the same block and within the block immediately to the west.

In addition to the building depth, a relief is requested from Section 5.45(xvi) of the applicable zoning by-law. Section 5.45(xvi) requires the second residential unit to be accessed by a minimum 1.2 metre-wide unobstructed pathway provided from the front of the principal dwelling unit building or the front lot line. Due to the configuration of the

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existing single-family dwelling on the subject property, it is not possible to construct a second residential unit at the rear and provide a 1.2 metre wide unobstructed pedestrian access aisle in the southern interior side yard. Therefore, the proposal requests to vary Section 5.45(xvi) of the applicable zoning by-law to permit the utilization of the existing driveway in the northern side yard as the required vehicular access as well as the required pedestrian pathway.

The proposed second residential unit will be setback a minimum of 3.0 metre from the northern interior lot line to allow for the extension of the existing driveway to the proposed two parking spaces in the rear yard (Exhibit G – Site Plan). On-site signage will be placed to restrict residents from parking in the driveway thereby maintaining an unobstructed pedestrian pathway provided from the front lot line. As such, it is staff's view that the variance respecting unobstructed pedestrian pathway is minor in nature.

In conclusion, the proposed reliefs from the two applicable zoning provisions are considered minor and they will assist in achieving residential intensification in a modest form through a second residential unit. Increasing residential density through the addition of second residential units is a goal that is supported by provincial and local policies.

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

The proposed development represents a gentle residential intensification through the addition of a second residential unit on a site located within the Urban Boundary. The proposed scale, massing and form of the development is consistent with that of the existing single detached dwelling on the subject property as well as the surrounding neighbourhood.

This report demonstrated that the proposed minor variances are consistent with the policies in Sections 2.7 and 9.5.19 of the OP. The site is located within the Urban Boundary and within close proximity to Queen's University, commercial amenities and public transit.

The subject site is an appropriate candidate for a second residential unit from an infrastructure servicing perspective and will contribute to an enhanced use of existing available municipal water and sanitary servicing available to the site.

Therefore, it can be concluded that the variance will result in a desirable and appropriate use of the land. The proposed variance related to the building depth is not deemed to alter the character of the neighbourhood or the existing streetscape. The proposed variance related to the unobstructed pedestrian pathway to the proposed second residential unit is desirable because the driveway can function both as a vehicular access and a pedestrian pathway to the second residential unit.

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Technical Review: Circulated Departments and Agencies

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

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 comments from the public have 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 variances 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 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 facilitate modest intensification through the addition of a second residential unit to the property in a manner that is compatible with the neighbourhood and streetscape, while minimizing adverse effects.

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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, 2020

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 November 16, 2020. 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 45 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:

None

Financial Considerations:

None

Contacts:

Tim Park, Manager, Development Approvals, 613-546-4291 extension 3223

Waleed Albakry, Senior Planner, 613-546-4291 extension 3277

Other City of Kingston Staff Consulted:

None

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Exhibits Attached:

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Public Notification Map
- Exhibit D Neighbourhood Context Map, 2019
- Exhibit E Official Plan Map
- Exhibit F Zoning By-Law Map, Map 30
- Exhibit G Site Plan
- Exhibit H Floor Plans & Elevations
- Exhibit I Photos

Recommended Conditions

Application for minor variance, File Number D13-039-2020

Approval of the foregoing application shall be subject to the following recommended conditions:

1. Limitation

That the approved minor variance applies only to second residential unit as shown on the approved drawings 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.

3. Building Permit Application Requirements

The owner/applicant shall provide to the Building Services a copy of the decision of the Committee of Adjustment, together with a copy of the approved drawings, when they make 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 Program and Services Branch of the Ministry of Heritage, Sport, Tourism and Culture Industries (416-314-7132) and City of Kingston's Planning Services (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 at the Ministry of Government and Consumer Services (416-212-7499), the Program and Services Branch of the Ministry of Heritage, Sport, Tourism and Culture Industries (416-314-7132), and City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted.

5. Grading Plan

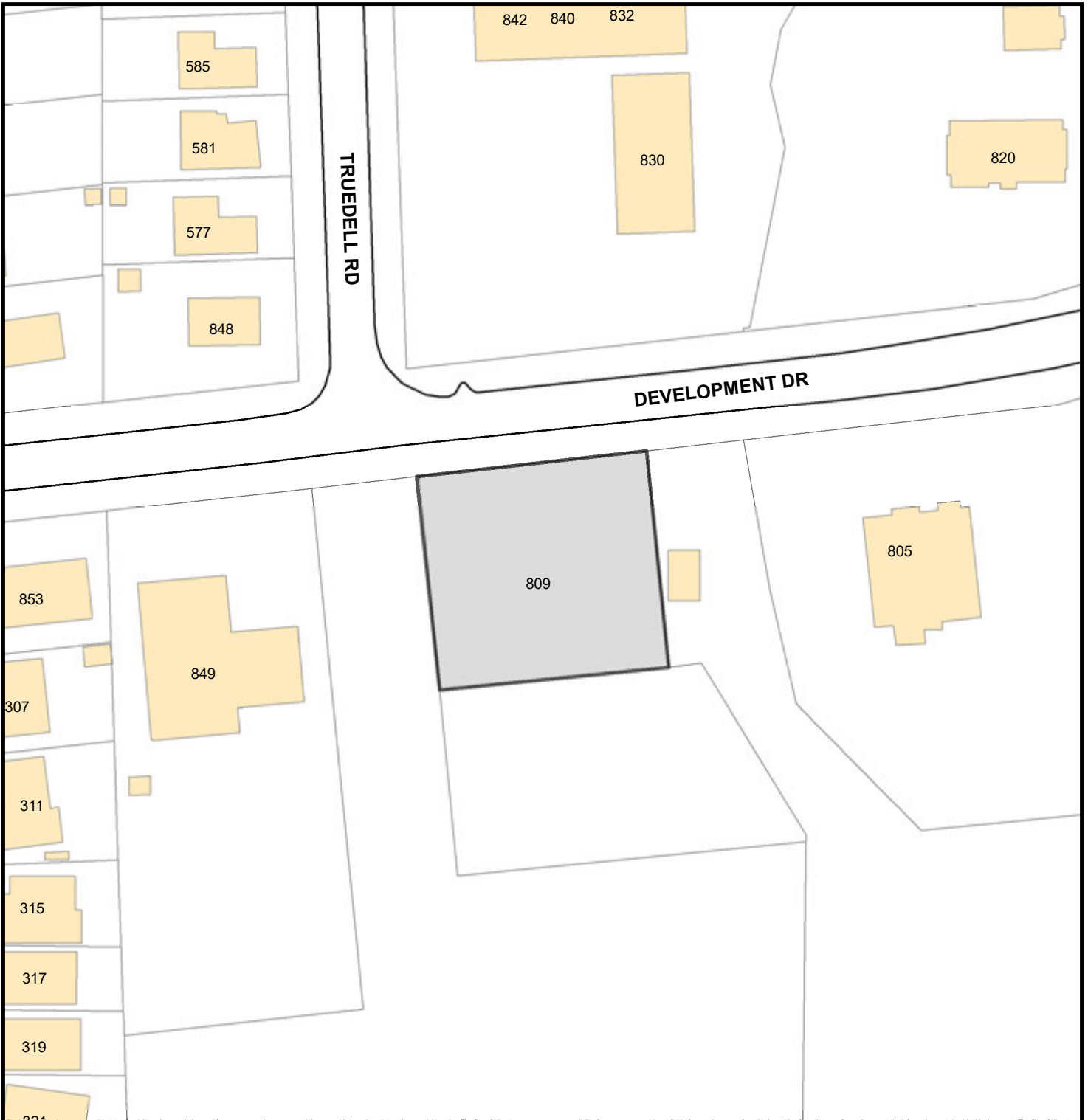
A grading plan prepared by a professional engineer is required. The grading plan must show sufficient grading information in the form of existing and proposed grades to demonstrate that proposed grading of the property will not adversely impact existing drainage patterns and/or adjacent properties.

6. Openings


Openings will not permitted in the areas which are wider than the existing dwelling unless a noise study is submitted for review and approval by the City.

7. Tree Permit

Prior to any site alteration or development, the Owner shall obtain a tree permit to address preservation concerns around the city owned tree in front of the house.

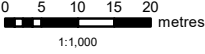


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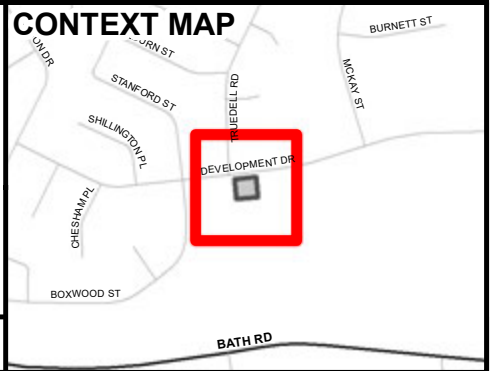
COMMITTEE OF ADJUSTMENT
Key Map

File Number: D13-030-2020
Address: 809 Development Drive



DATE: 2020-08-28
PREPARED BY: rrochefort

 Lands Subject to Minor Variance





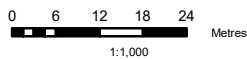
Corporation of the City of Kingston






Planning Services
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COMMITTEE OF ADJUSTMENT
Neighbourhood Context (2019)

File Number: D13-030-2020
Address: 809 Development Drive



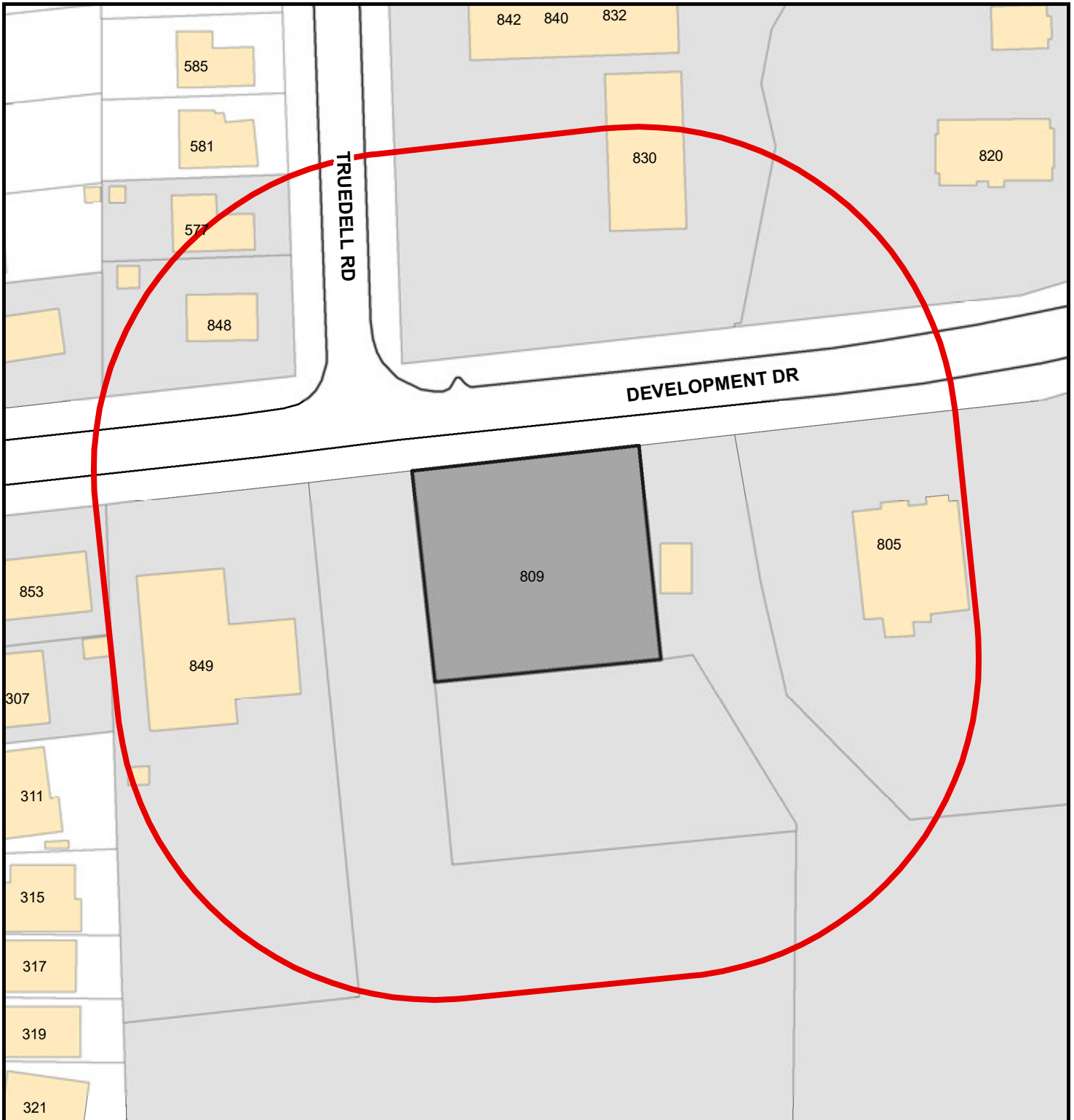
Legend

-  Subject Lands
-  Property Boundaries
-  Proposed Parcels



PREPARED BY: rochefort
DATE: 2020-08-28

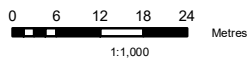
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COMMITTEE OF ADJUSTMENT
Public Notice Notification Map

File Number: D13-030-2020
Address: 809 Development Drive



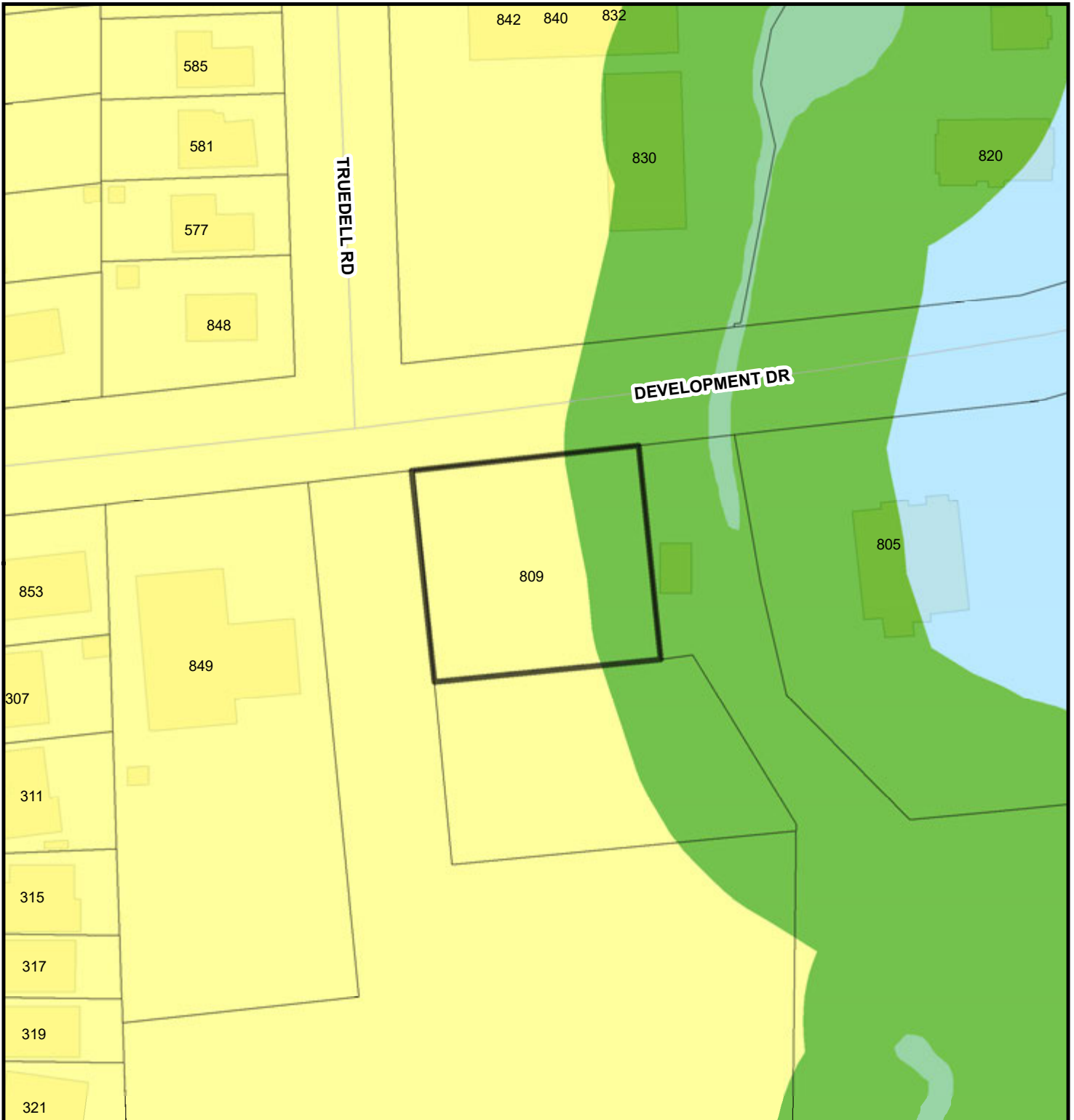
Legend

- 60m Public Notification Boundary
- Subject Lands
- Property Boundaries
- Proposed Parcels
- 11 Properties in Receipt of Notice (MPAC)



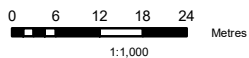
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COMMITTEE OF ADJUSTMENT
Official Plan, Existing Land Use

File Number: D13-030-2020
Address: 809 Development Drive



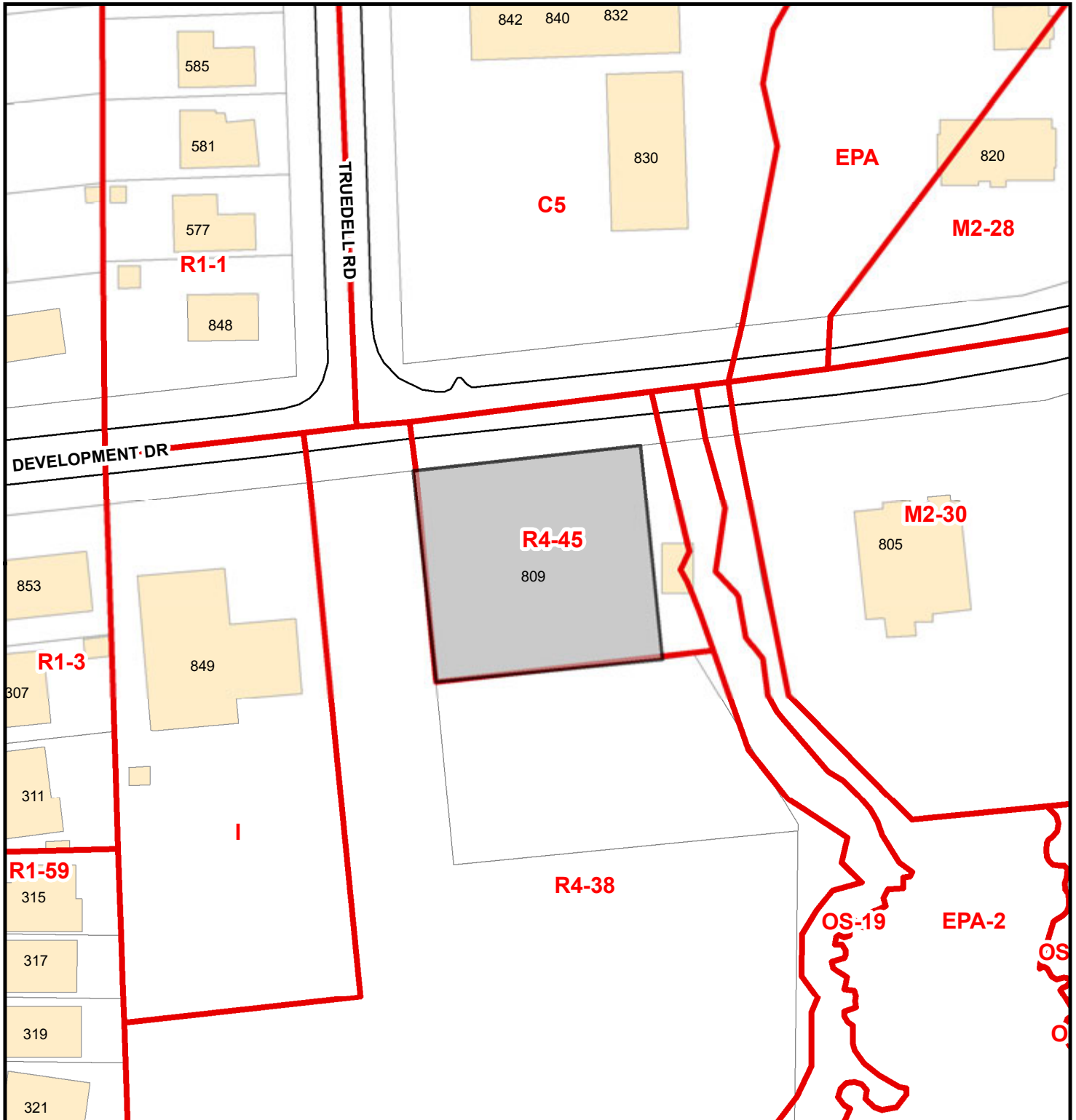
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- Subject Lands
- ENVIRONMENTAL PROTECTION AREA
- GENERAL INDUSTRIAL
- RESIDENTIAL



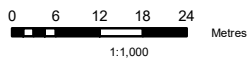
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COMMITTEE OF ADJUSTMENT
Existing Zoning - By-law 76-26, Map 5

File Number: D13-030-2020
Address: 809 Development Drive



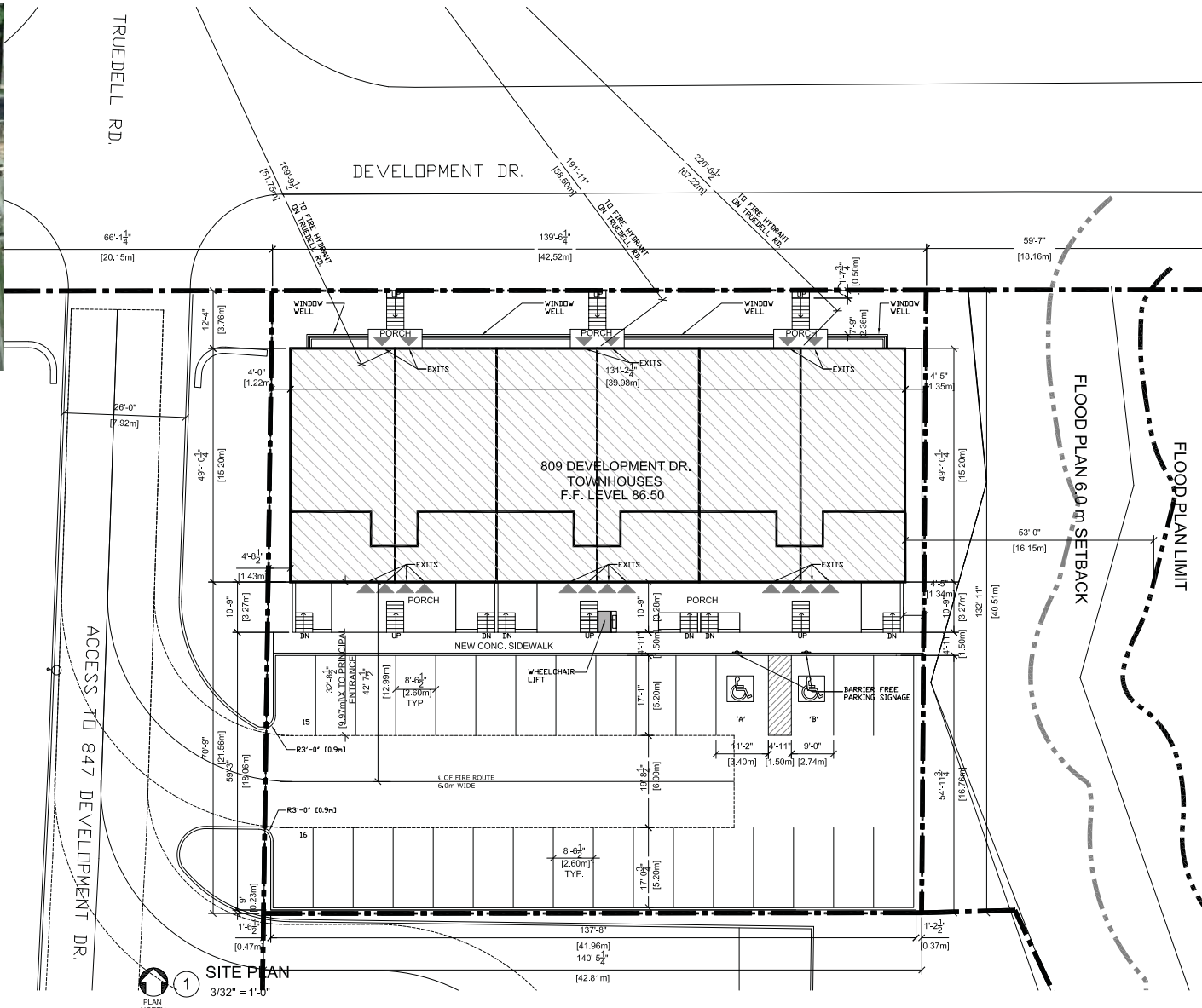
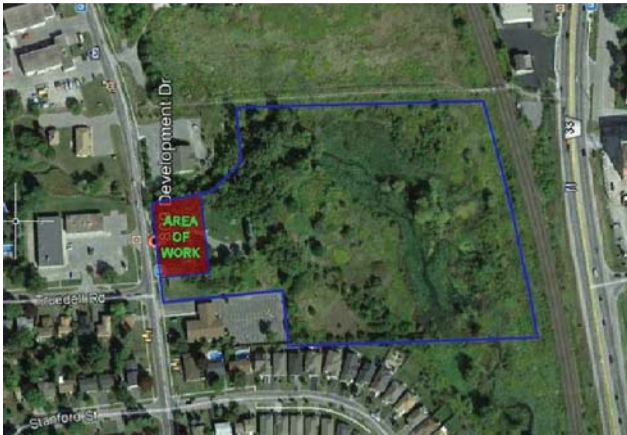
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-  Subject Lands
-  Consolidated Zoning



PREPARED BY: rochefort
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SITE STATISTICS - TOWNHOUSES

KINGSTON TOWNSHIP BY-LAW 76-26
R4-45 ZONE

ZONING PROVISIONS	SECTION	REQUIRED	PROVIDED
PERMITTED USE	SECTION 15 (3)(r)(2)	DWELLING HOUSE	16-UNIT DWELLING HOUSE
LOT AREA (MINIMUM)	SECTION 15 (3)(r)(3)	232.26m ² (2,500 ft ²)	1,729m ² (18,607ft ²)
LOT FRONTAGE (MINIMUM)	SECTION 15 (3)(r)(4)	5.49m (18'-2")	42.5m (139'-2")
FRONT YARD DEPTH (MINIMUM)	SECTION 15 (3)(r)(6)	3.5 m (11'-4")	3.76 m (12'-4")
FRONT YARD DEPTH-PROJECTIONS	DECK	SECTION 15 (3)(r)(6)	1.2 m MAX ABOVE GRADE
	BALCONY	SECTION 15 (3)(r)(6)	2.0 m MIN TO THE FRONT LINE
	STAIRS	SECTION 15 (3)(r)(6)	0.5 m MIN. TO THE FRONT LINE
EXTERIOR SIDE YARD DEPTH (MIN.)	SECTION 15 (3)(r)	6.0m (20'-0")	N/A
INTERIOR SIDE YARD DEPTH (MIN.)	SECTION 15 (3)(r)	1.22m (4'-0") PROVIDED THAT AN END WALL CONTAINS NO HABITABLE ROOM WINDOWS	1.22m (4'-0") *END WALL CONTAIN NO HABITABLE ROOM WINDOWS
REAR YARD DEPTH (MINIMUM)	SECTION 15 (3)(r)	7.62m (25'-0")	21.6m (70'-0")
DWELLING UNIT AREAS (MINIMUM)	SECTION 15 (3)(r)	83.61m ² (900ft ²)	100.1m ² (1,078ft ²)
LANDSCAPE OPEN SPACE (MIN. %)	SECTION 15 (3)(r)(13)	NOT APPLICABLE	391.2m ² (4,211ft ²) = 22.62%
LOT COVERAGE (MAX. %)	SECTION 15 (3)(r)(14)	44% OF 1,729m ² = 760.7m ²	606.93m ² (6,538ft ²) = 35.10%
HEIGHT OF BUILDING (MAX.)	SECTION 15 (3)(r)(8)	12.5m (41'-0") TO ROOF MIDPOINT	11.4 m (37'-5") TO ROOF MIDPOINT
AMENITY AREAS (MINIMUM)	SECTION 15 (3)(r)(15)	16.5m ² X 16 UNITS = 333m ² (3,584ft ²)	382.8 m ² (4,120.2 ft ²)
		- BACK PORCHES	80.3 m ² (864.1 ft ²)
		- FRONT PORCHES	27.0m (291ft ²)
		- FRONT GRASS AREA	112.8m ² (1214 ft ²)
		- ROOF TOP AMENITY	162.7m ² (1,751ft ²)
		TOTAL	382.8 m ² (4,120.2 ft ²)
PARKING REQUIRED (MIN.)	SEC. 15 (3)(r)(16(a))	16 (1 PER TOWNHOUSE)	31 SPACES PROVIDED
PARKING SPACE	SEC. 15 (3)(r)(16(a))	2.6 m X 5.2 m STANDARD SPACE	2.6 m X 5.2 m
ACCESSIBLE PARKING	SECTION 5 (16)(a)	4% OF PARKING	1 TYPE 'A' PROVIDED
		4% OF 31 = 1.24 = 2 B.F. SPACES	1 TYPE 'B' PROVIDED
		TOTAL = 2 REOED	TOTAL = 2 PROVIDED
ADDITIONAL SETBACK	SEC. 15 (3)(r)(12)	6.0 m FROM 1:100 FLOODPLAIN OF LITTLE CATARAQUIG CREEK	16.15 m

SITE PLAN
3/32" = 1'-0"
PLAN NORTH

PROGRESSIVE ARCHITECTS, LTD.
3100 TEMPLE DR. SUITE 100, WINDSOR ON. 519-919-7490

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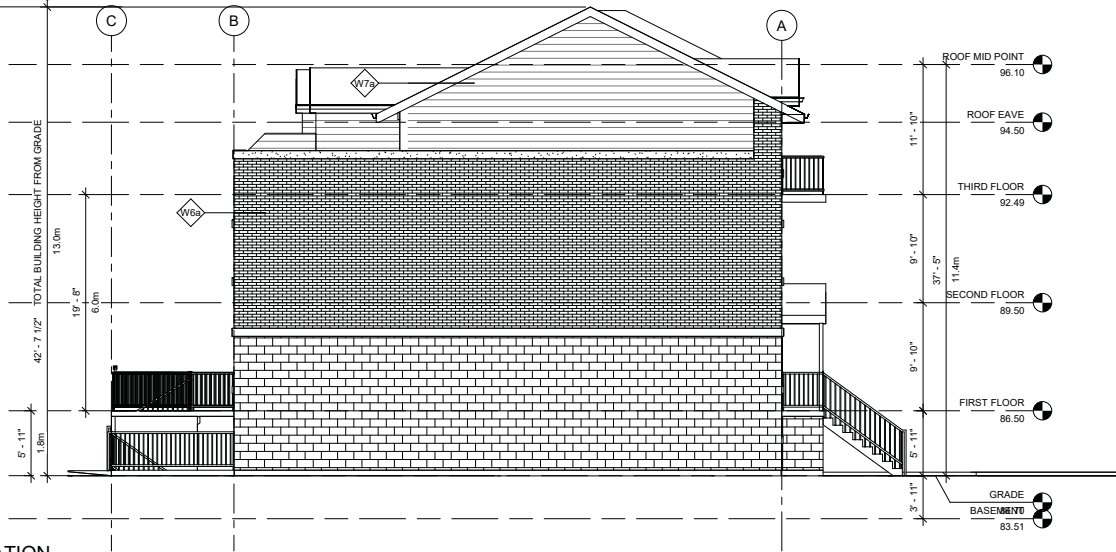
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4		12	
3	JUL 03.20	SPA	11
2	MAY 18.20	SPA	10
1	APR. 26.20	PERMITS	9
rev.	date	Issued for	rev. date Issued for

project: **CLIFFSIDE PROPERTIES**
address: 809 DEVELOPMENT DR., KINGSTON, ON
sheet name: **SITE PLAN**

project no.: **20-0002**
sheet no.: **A002**



1 NORTH ELEVATION
1 : 64



2 EAST ELEVATION
1 : 64



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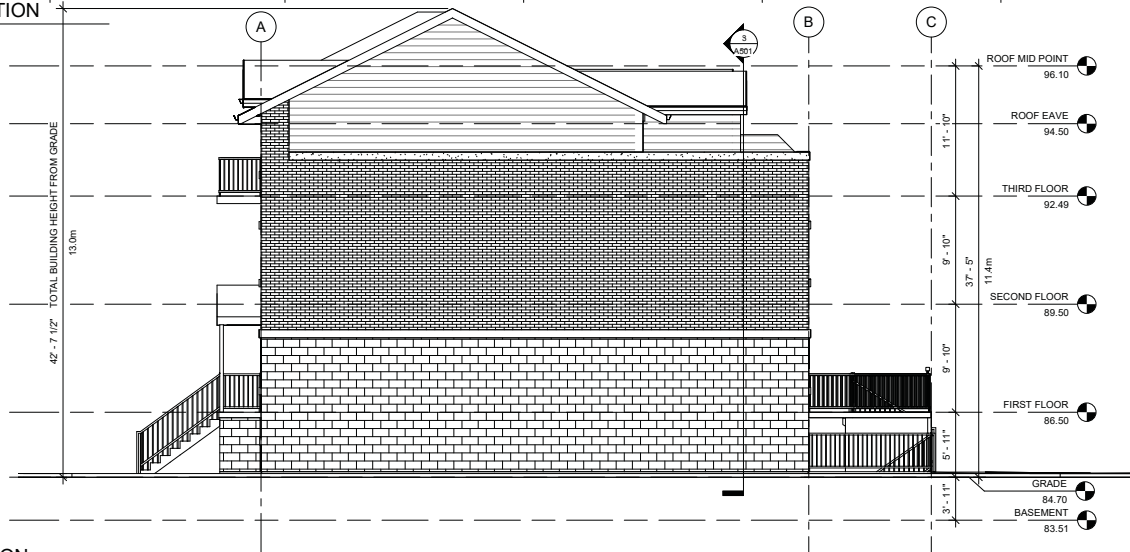
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rev.	date	issued for	rev. date issued for

project:
CLIFFSIDE PROPERTIES
address: 809 DEVELOPMENT DR., KINGSTON, ON
sheet name:
EXTERIOR ELEVATIONS

project no.:
20-0002
sheet no.:
A401



1 SOUTH ELEVATION
1 : 64



2 WEST ELEVATION
1 : 64



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CLIFFSIDE HOLDINGS

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2	JUL 03.20	SPA	10
1	APR 26.20	PERMITS	9
rev.	date	issued for	rev. date issued for

project:
CLIFFSIDE PROPERTIES
address: 809 DEVELOPMENT DR., KINGSTON, ON
sheet name:
EXTERIOR ELEVATIONS

project no.:
20-0002
sheet no.:
A402



IBI GROUP
650 Dalton Avenue
Kingston ON K7M 8N7 Canada
tel 613 531 4440
ibigroup.com

July 6, 2020

Ms. Lindsay Sthamann
Planner
City of Kingston
1211 John Counter Blvd
Kingston, Ontario K7L 2Z3

Dear Ms. Sthamann:

**APPLICATION FOR MINOR VARIANCE
809 DEVELOPMENT DRIVE - TOWNHOUSES**

1.0 Introduction

On behalf of 809 Development Drive Inc. (the “owner”), we are please to submit the enclosed Application for Minor Variance for the lands located at 809 Development Drive in the City of Kingston (the “subject lands”). The subject lands recently rezoned (D14-034-2018) to permit the development of stacked townhouses and are currently in the Site Plan Control Application process. The owner is looking to resolve an issue that arose during the detailed site plan design before responding to the latest SPC comments, specifically the desire to increase the proportion of the basement that is above grade to allow for larger windows and more light in these lower units. This will involve raising the building by 2 feet (0.6m).

The area of the proposed townhouse development on the subject lands is designated Residential as shown on Schedule 3A of the City of Kingston Official Plan and is within a site specific R4-45 Zone (By-Law Number 2020-11) in Zoning By-law 76-26. Based on a review of the applicable zoning and email correspondence with City Staff, we understand two variances from Zoning By-Law 76-26 are required including front porch height and accessible parking space depth. The rezoning application did not account for the increased porch height and the site-specific rezoning allowed standard spaces to be reduced to 5.2 metres but did not decrease the accessible space depth. The requested variances to permit the above development are outlined in **Table 1** below.

Table 1: Requested Variances

	SECTION	REQUIRED	PROPOSED
1)	15(3)(rr)(6) Porch Height	1.2 m	1.6 m
2)	5(16)(a)(ii)(a) & (b) Accessible Parking Space Depth	6.0 m	5.2 m

2.0 Planning Act, R.S.O. 1990, c.P.13

In support of this application, the following section outlines how the proposed variances satisfy the four (4) tests prescribed by Section 45(1) of the Planning Act. These four tests are as follows:

1. Is the variance minor in nature?
2. Is the variance desirable and appropriate?
3. Does the variance maintain the general intent and purpose of the Official Plan?
4. Does the variance maintain the general intent and purpose of the Zoning By-law?

3.0 Justification

Variance 1: Porch Height

Section 15(3)(rr)(6) of the Zoning By-law requires a maximum front porch height of 1.2 metres whereas a height of 1.6 metres is proposed. The owner is proposing to bring up the building height by 2 feet (0.6 metres) to increase the proportion of the basement that is above grade to allow for larger windows and more light in these lower units. The building will still be under the maximum allowable height at 11.5 metres (12.5 metres permitted), but this will increase the height of the main floor, which requires taller porches and more steps to provide access to the main floor units. Additional steps will be required, but steps are permitted to encroach into the yards and will continue to meet the 0.5 metre front yard setback required by the by-law.

1. Is the variance minor in nature?

The determination of whether an application is minor is not based on the degree of the variance requested, but rather on whether the impact of granting the request(s) is minor. This includes how the variance could impact the existing or planned functionality of the subject lands and/or the surrounding lands. The proposed increase in porch height will allow for safe access to the main floor units while providing larger windows and more light in the basement units. The townhouses will still be under the maximum allowable height at 11.5 metres (12.5 metres is permitted) and the steps will continue to meet the 0.5 metre front yard setback requirement. If there is a concern about the visual aesthetic of a taller front porch, landscaping around the porch can be provided to soften the appearance from the public sidewalk. As such, the proposed increase in porch height is minor in nature.

2. Is the variance desirable and appropriate?

The proposed variance is desirable and appropriate as it will allow for larger windows and more light in the proposed basement units. It is noted that the proposed building will still be under the maximum allowable height and within the required setbacks outlined by the site-specific zoning. As such, the proposed variance is desirable and appropriate as it facilitates the development of a permitted use and will increase the natural light in the proposed basement units.

3. Does the variance maintain the general intent and purpose of the Official Plan?

The proposed variance meets the intent of the Official Plan to promote residential intensification and to meet the functional needs of site users. The principle of the proposed townhouse development has been previously justified through the rezoning application process (D14-034-2018). The proposed increase in porch height will allow for functional access to be provided to the main floor units while increasing the size of windows in the basement units to provide more light for tenants. As such, it is our opinion that the proposed variance maintains the general intent and purpose of the Official Plan.

4. Does the variance maintain the general intent and purpose of the Zoning By-law?

The subject lands are subject to site specific zoning provisions and the Kingston Zoning By-law 76-26. The proposed variance meets the intent of the by-law to provide appropriate setbacks and heights for development. The site specific rezoning did not account for increasing the proportion of the basement that is above grade to allow for larger windows and more light in these lower units. The proposed increase in porch height is consistent with the intent of the zoning by-law as the townhouse buildings will still be under the maximum allowable height at 11.5 metres (12.5 metres is permitted) and the steps will continue to meet the 0.5 metre front yard setback requirement. If there is a concern about the visual aesthetic of a taller front porch, landscaping around the porch can be provided to soften the appearance from the public sidewalk. The variance is requested in order to facilitate the development of a permitted use in the R4-45 Zone and is, in our opinion, consistent with the intent of the Zoning By-law.

Variance 2: Accessible Parking Space Depth

Section 5(16)(a)(ii)(a) and Section 5(16)(a)(ii)(b) requires that Type A and Type B accessible parking spaces have a depth of 6.0 metres whereas a depth of 5.2 metres is proposed. The site-specific zoning allowed standard parking spaces to be reduced to 5.2 metres but no reduction on depth of the two required accessible spaces was requested. The parking spaces located on the north side of the parking area were proposed to be 6.0 metres to be continuous with the 6.0 metre depth of the accessible parking spaces. However, increasing the proportion of the basement that is above grade to allow for larger windows requires increasing the height of the main floor, which requires taller porches, which requires more steps that will extend further into the front and rear yards, thus reducing the amount of space available to provide 6.0 metre parking space depth for the accessible parking spaces while providing required fire route access.

1. Is the variance minor in nature?

The determination of whether or not an application is minor is not based on the degree of the variance requested, but rather on whether the impact of granting the request(s) is minor. This includes how the variance could impact the existing or planned functionality of the subject lands and/or the surrounding lands. The proposed reduction in accessible parking space width is consistent with AODA standards and other recently approved developments in the City of Kingston. Given the relatively small size of the parking area and minimal turn-over associated with a residential development of this size and nature, it is expected that if a larger accessible vehicle requiring rear loading is using the parking area, there would not be a safety concern about the vehicle extending a further 0.8 m into the double-lane driving aisle during those times of loading/unloading from the rear of the vehicle. As such, we are of the opinion that the proposed reduction in accessible parking space depth is minor in nature.

2. Is the variance desirable and appropriate?

The proposed variance is desirable and appropriate as it will allow for larger windows and more light in the proposed basement units while providing safe access to the main floor units. The reduction in accessible parking space depth to 5.2 metres is consistent with the AODA standards and is not anticipated to negatively impact the functionality of the site given that the additional depth would be most likely utilized with a rear loading accessible vehicle, and then only during the times of loading/unloading. Given the modest number of units and parking

spaces, the proposed reduction is not anticipated to impede access to the parking spaces or parking area. As such, the proposed variance is desirable and appropriate.

3. Does the variance maintain the general intent and purpose of the Official Plan?

The proposed variance meets the intent of the Official Plan to provide for the functional needs of site users and meets the intent of the OP policies related to accessibility. The proposed reduction in accessible parking space depth is not anticipated to negatively impact the functionality of the accessible parking spaces and is consistent with AODA Standards for accessible parking. In this case, the reduction to the accessible parking space depth is only requested to provide for a more liveable basement unit, which is also a desirable outcome according to OP policies. Given the relatively small size of the parking area and minimal turn-over associated with a residential development of this size and nature, it is expected that if a larger accessible vehicle requiring rear loading is using the parking area, there would not be a safety concern about the vehicle extending a further 0.8 m into the double-lane driving aisle during those times of loading/unloading from the rear of the vehicle. As such, it is our opinion that the proposed variance maintains the general intent and purpose of the Official Plan, as safe access and egress is provided and the liveability of the basement units will be improved as a result.

4. Does the variance maintain the general intent and purpose of the Zoning By-law?

The proposed variance meets the intent of the by-law to provide accessible parking spaces of a sufficient size. The variance is requesting to reduce the length of the accessible parking spaces to 5.2 metres, consistent with the approved length of standard parking spaces for the development, and with a width consistent with the AODA standard. The proposed width of accessible parking space and access aisle comply with the by-law. It is noted that parking space length is not identified in the O. Reg 191/11 Integrated Accessibility Standards and an accessible parking space length of 5.2 metres is consistent with other projects in the City of Kingston. As noted above, given the relatively small size of the parking area and minimal turn-over associated with a residential development of this size and nature, it is expected that if a larger accessible vehicle requiring rear loading is using the parking area, there would not be a safety concern about the vehicle extending a further 0.8 m into the double-lane driving aisle during those times of loading/unloading from the rear of the vehicle. As such, the requested variance maintains the intent of the zoning by-law.

4.0 Closing

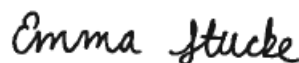
It is our professional opinion that the requested variances satisfy the four test under Section 45 of the *Planning Act*, constitutes good land use planning, and should be approved.

Should you have any questions or require further information, please do not hesitate to contact the undersigned.

Sincerely,
IBI Group



Mark Touw | MCIP, RPP
Associate Director



Emma Stucke | BCD
Planner