



**City of Kingston
Report to Committee of Adjustment
Report Number COA-21-002**

To: Chair and Members of the Committee of Adjustment
From: Genise Grant, Intermediate Planner
Date of Meeting: December 14, 2020
Application for: Minor Variance
File Number: D13-053-2020
Address: 63 Elm Street
Owner/Applicant: Charles Brooks

Council Strategic Plan Alignment:

Theme: 2. Increase housing affordability

Goal: 2.1 Pursue development of all types of housing city-wide through intensification and land use policies.

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variance for the property located at 63 Elm Street. The applicant is requesting relief from the maximum permitted residential building depth provision of Zoning By-Law Number 8499, in order to permit the construction of a one-storey rear addition. The addition would accommodate a more functional kitchen and dining space for the existing single-detached dwelling on the property.

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

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Variance Number 1:

By-Law Number: 8499	6.2 (g)(ii)(1)(a): Maximum Permitted Residential Building Depth
Requirement:	11.4 metres
Proposed:	13.7 metres
Variance Requested:	2.3 metres

Recommendation:

That minor variance application, File Number D13-053-2020, for the property located at 63 Elm Street to vary the maximum permitted residential building depth to permit the construction of a one-storey rear addition, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-21-002.

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Authorizing Signatures:



Genise Grant, Intermediate
Planner

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

Paige Agnew, Commissioner, Community Services

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Options/Discussion:

On October 23, 2020, a minor variance application was submitted by the owner, OT Charles Brooks, with respect to the property located at 63 Elm Street. The variance is requested to obtain relief from the maximum permitted residential building depth to permit the construction of a one-storey rear addition. The approximately 20 square metre addition would provide a more functional interior kitchen and dining space for the existing single-detached dwelling on the site.

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

- Site Plan (Exhibit F);
- Concept Elevation (Exhibit G); and
- Concept Floor Plan (Exhibit H).

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

Site Characteristics

The subject property is located on the north side of Elm Street, approximately 40 metres east of Chatham Street. The property is a through lot, approximately 480 square metres in area, with approximately 10.7 metres of frontage onto Elm Street, and 11.9 metres of frontage onto Linton Street. The property is developed with a two-storey single detached dwelling; MPAC data indicates the house was constructed in 1900. A later one-storey garage building is located at the back of the property with access from Linton Street.

The property is surrounded by residential uses. Single detached dwellings border the property to the west and east, though there are a number of semi-detached, triplex, and apartment buildings in the vicinity. Immediately across Elm Street is the location of a recently approved and under construction high-density stacked townhouse development.

The subject property is designated Residential in the Official Plan and zoned the One-Family Dwelling and Two-Family Dwelling ‘A’ Zone in Zoning By-Law Number 8499. The property is not designated or listed under the *Ontario Heritage Act*.

Application

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

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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. The Residential designation is intended to respond to the housing needs of the City's citizens by retaining and augmenting a broad range of housing at all levels of affordability within a safe, convenient and stable setting, organized primarily into neighbourhoods. The property currently contains a single-detached dwelling unit; no changes to the existing use are proposed as part of this application.

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 Official Plan. The following provides these 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 application meets the intent of Section 2 of the Official Plan, as the proposal will allow for the ongoing use of this existing residential building which is located within the urban boundary on full services. The addition will extend the use of this 120-year-old building and will contribute to the maintenance of this stable neighbourhood.

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;

The one-storey, 20 square metre addition at the rear of the existing dwelling will be compatible with surrounding land uses and neighbouring properties. No adverse impacts related to shadowing or intrusive overlook are expected based on the height of the proposed addition.

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;

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The single-detached dwelling has functioned effectively since its construction in 1900. The site provides vehicle access via a right-of-way over the existing driveway. The rear addition will not impede this right-of-way, and will be setback from the driveway further than the existing dwelling.

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;

The single-storey addition will be simple in design and a Building Permit will be required to ensure that its construction complies with the Ontario Building Code. The addition will not be visible from the public realm and is limited in size.

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;

The property is not designated or listed under the Ontario Heritage Act. A Heritage Impact Statement is not required.

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 property is within the defined urban boundary, on full municipal services. No changes to the existing servicing are proposed. Utilities Kingston has reviewed and has no objections to the application.

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 relief required related to building depth for a one-storey rear addition on the existing residential dwelling is appropriately addressed through a minor variance application.

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;

Recommended conditions are included in Exhibit A to this report.

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

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The approval of this application will not set an undesirable precedent for the immediate area. Many surrounding properties already contain rear additions. The proposed addition is limited in size and reasonable for the needs of the occupants. Any subsequent applications would be reviewed based on their own merit and specific context.

The proposal meets the intent of the Official Plan, as the proposed addition will allow for the ongoing use of this existing residential property, and will not result in any negative impacts to adjacent properties or to the neighbourhood.

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

The subject property is zoned the One-Family Dwelling and Two-Family Dwelling ‘A Zone in the City of Kingston Zoning By-Law Number 8499, entitled "Restricted Area (Zoning) By-Law of the Corporation of the City of Kingston", as amended. The A zone permits one-family dwellings, two-family dwellings, and a number of community institutional uses. The proposed addition complies with the relevant provisions of the zoning by-law for a one-family dwelling, with the exception of Section 6.2 (g), related to maximum building depth.

The proposal requires a variance to Section 6.2 (g) (ii) (1) (a) of the by-law, which regulates the maximum permitted building depth of residential buildings. The intent of the maximum building depth provision is to regulate building size and promote compatibility between residential properties. Specifically, the provision requires that a residential building be no deeper than the average of the depth of the two adjacent residential properties. This approach ensures that building depths are relative to their specific context, and helps to reduce potential compatibility issues related to intrusive overlook.

In this case, the properties on Elm Street are located on through lots with deep backyards, and as such there remains sufficient space for amenity in neighbouring rear yards that will not be directly adjacent to the building. Elm Street runs at an angle, so the houses are staggered in their positioning along the street. As a result of the positioning of the houses, the property to the west will not be impacted by the proposed relief. The driveway of the property to the east is located adjacent to proposed addition, and provides a separation to the neighbouring amenity space. As such, the one-storey addition with minimal windows will not create intrusive overlook concerns.

Variance Number 1:

By-Law Number: 8499	6.2 (g)(ii)(1)(a): Maximum Permitted Residential Building Depth
Requirement:	11.4 metres
Proposed:	13.7 metres
Variance Requested:	2.3 metres

3) The variance is minor in nature

The variance is considered minor as the property will remain largely consistent with the built form and size of properties in the immediate vicinity, and specifically the adjacent

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residential properties. No adverse impacts on neighbouring properties will result from the one-storey rear addition.

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

The proposed addition will allow for a more functional eat-in kitchen for the existing detached residential building on the property. Elm Street contains an older building stock, and as such many of the properties have been altered over the years to accommodate changing needs of users. It appears that the two adjacent properties already have similar one-storey additions at their rear. The proposed alteration at the subject property will similarly ensure the ongoing use of the existing house on the property. As such, the variance is considered desirable for the appropriate use of the land.

Technical Review: Circulated Departments and Agencies

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

Technical Comments

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

Public Comments

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

Previous or Concurrent Applications

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

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Conclusion

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

Approval of this application will permit the construction of a rear one-storey addition on the subject property.

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 December 14, 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 56 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

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Contacts:

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

Genise Grant, Intermediate Planner, 613-546-4291 extension 3185

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Public Notification Map
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Map
- Exhibit F Site Plan
- Exhibit G Concept Elevation
- Exhibit H Concept Floor Plan
- Exhibit I Neighbourhood Context Map

Recommended Conditions

Application for minor variance, File Number D13-053-2020

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

1. Limitation

That the approved minor variance applies only to the construction of a one-storey rear addition, 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.

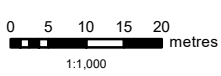


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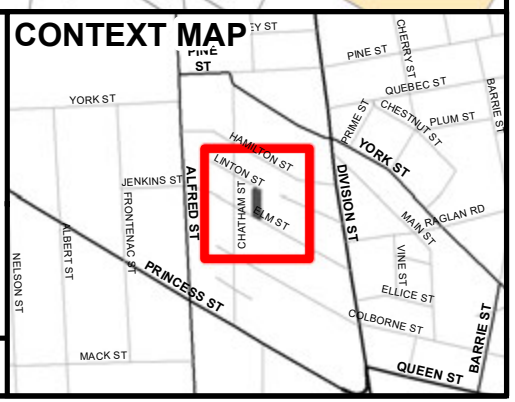



COMMITTEE OF ADJUSTMENT
Key Map

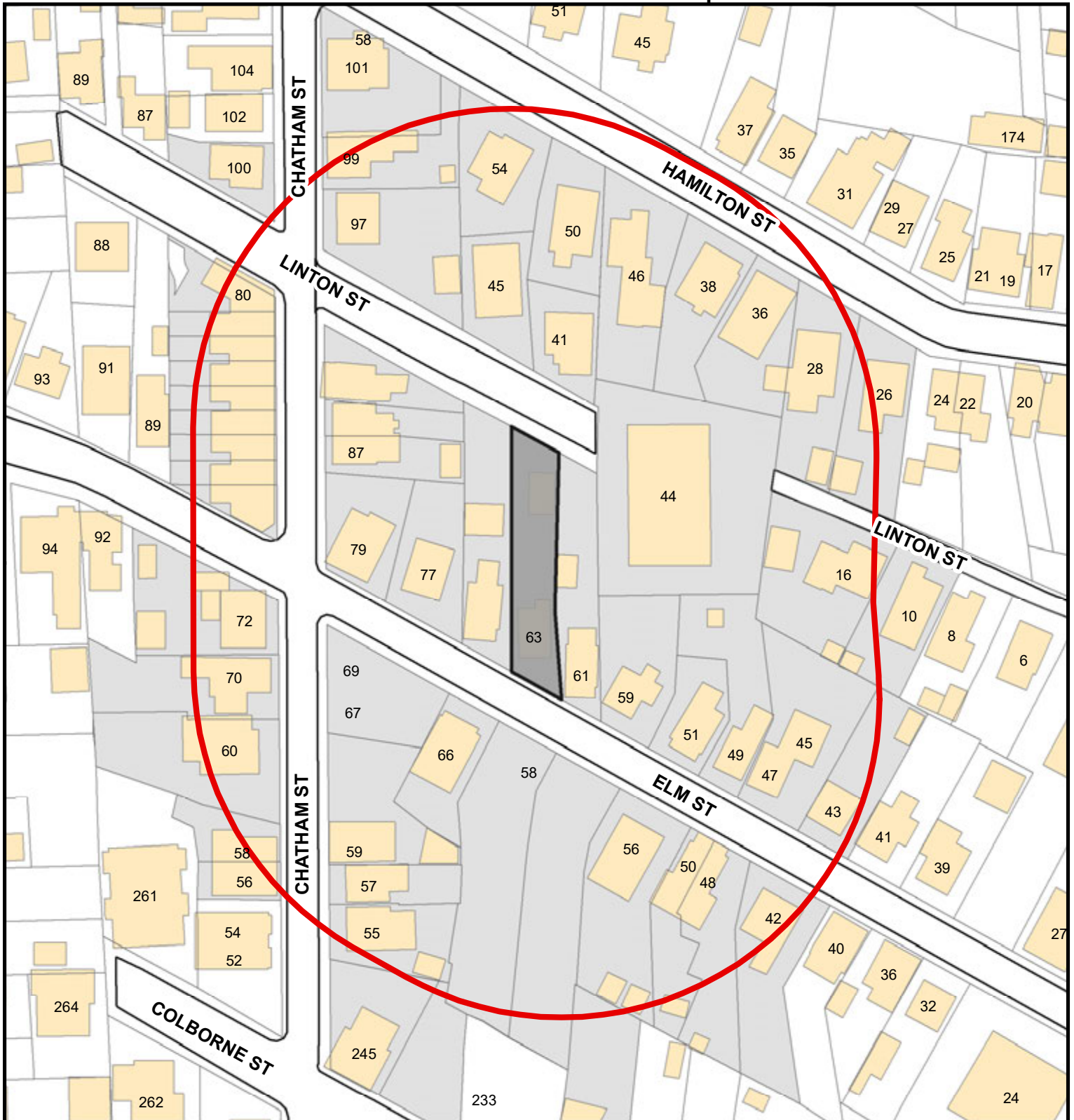
File Number: D13-053-2020
Address: 63 Elm Street



DATE: 2020-11-18
PREPARED BY: Ichu

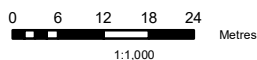


 Lands Subject to Minor Variance



COMMITTEE OF ADJUSTMENT
Public Notice Notification Map

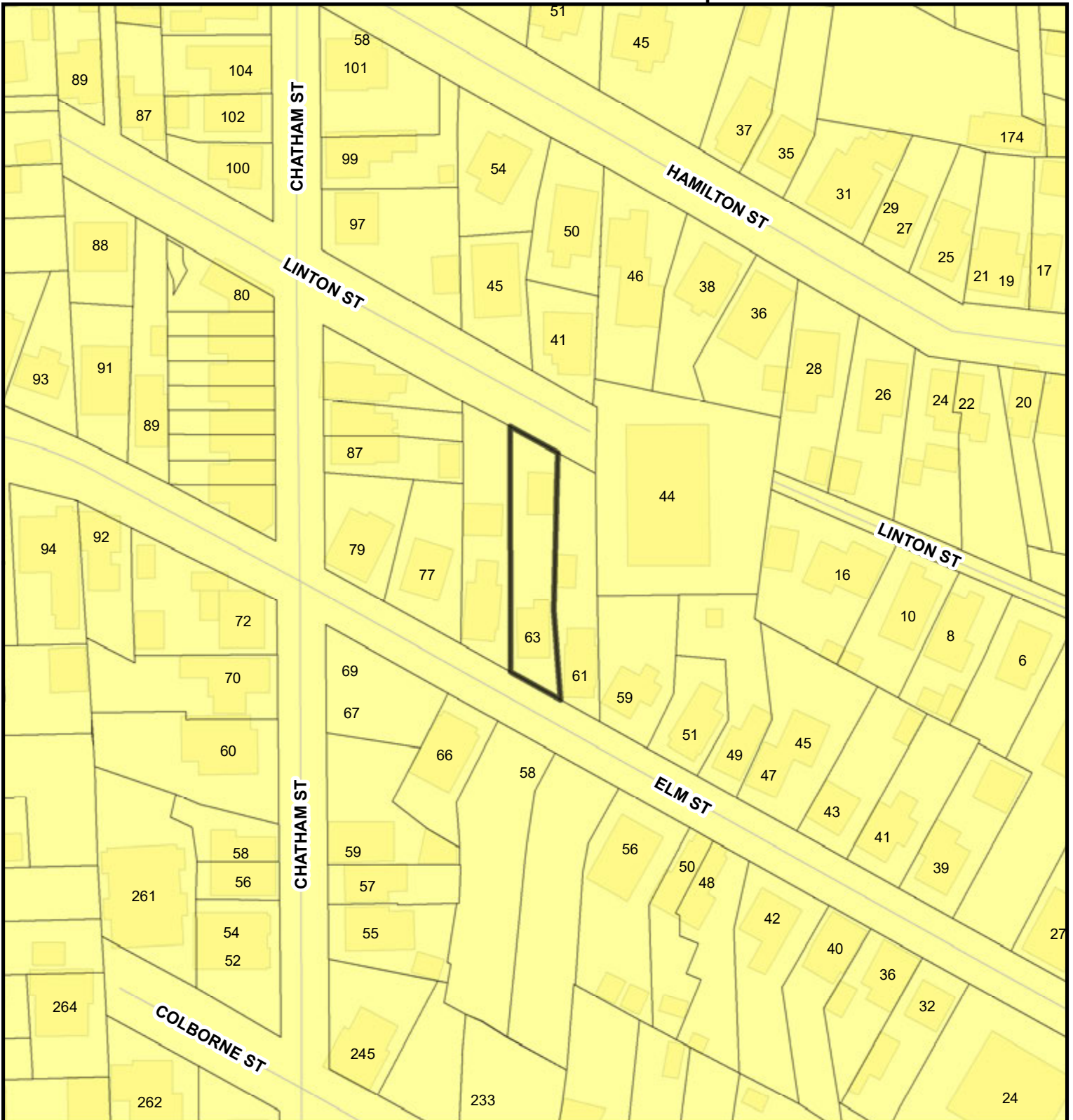
File Number: D13-053-2020
Address: 63 Elm Street



Legend

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





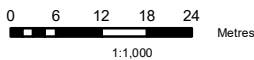


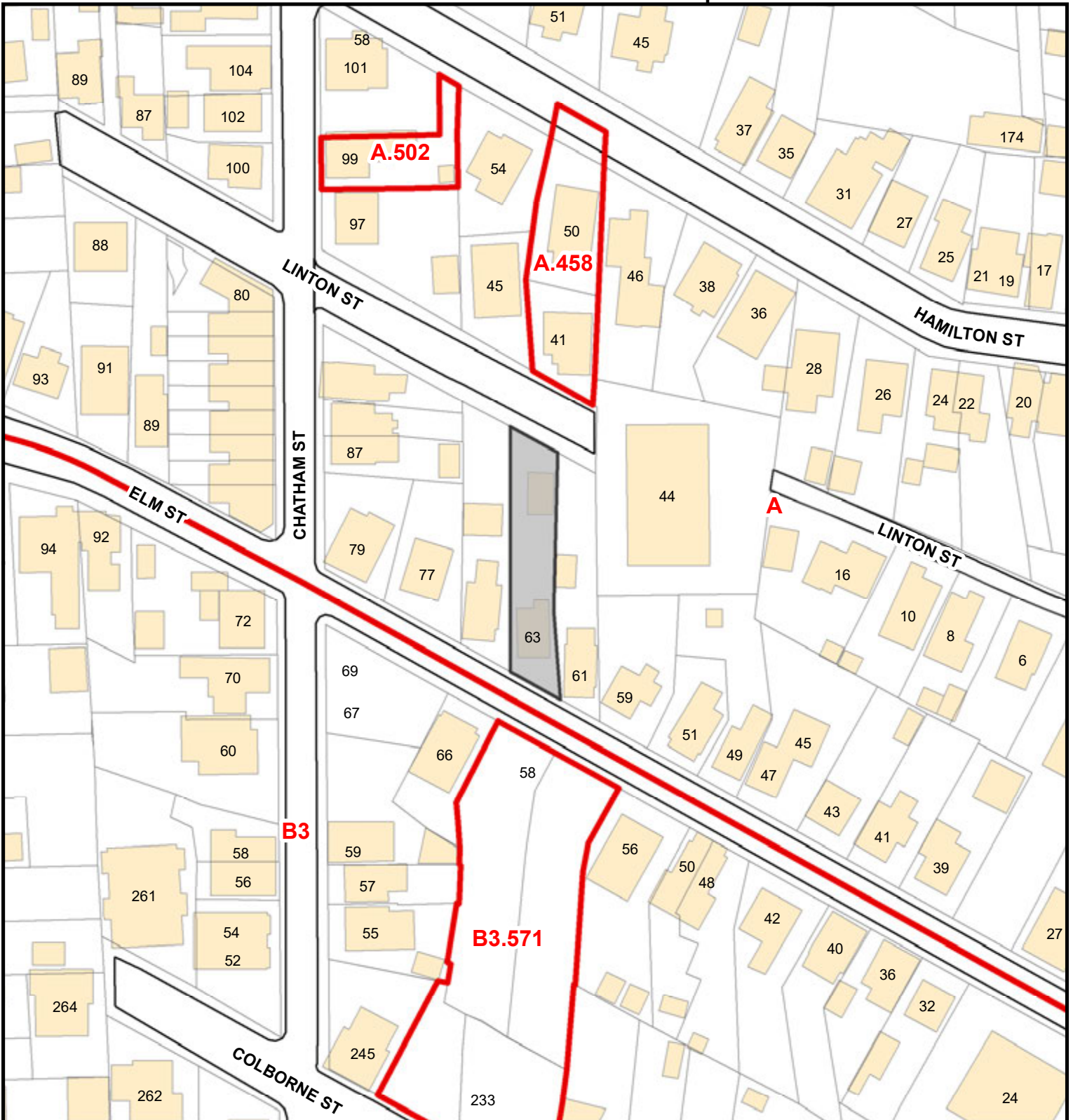
COMMITTEE OF ADJUSTMENT
Official Plan, Existing Land Use

File Number: D13-053-2020
Address: 63 Elm Street

Legend

-  Subject Lands
-  RESIDENTIAL





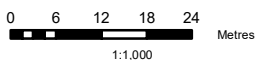
Planning Services
a department of
Community
Services

COMMITTEE OF ADJUSTMENT
Existing Zoning - By-law 8499, Map 19

File Number: D13-053-2020
Address: 63 Elm Street

Legend

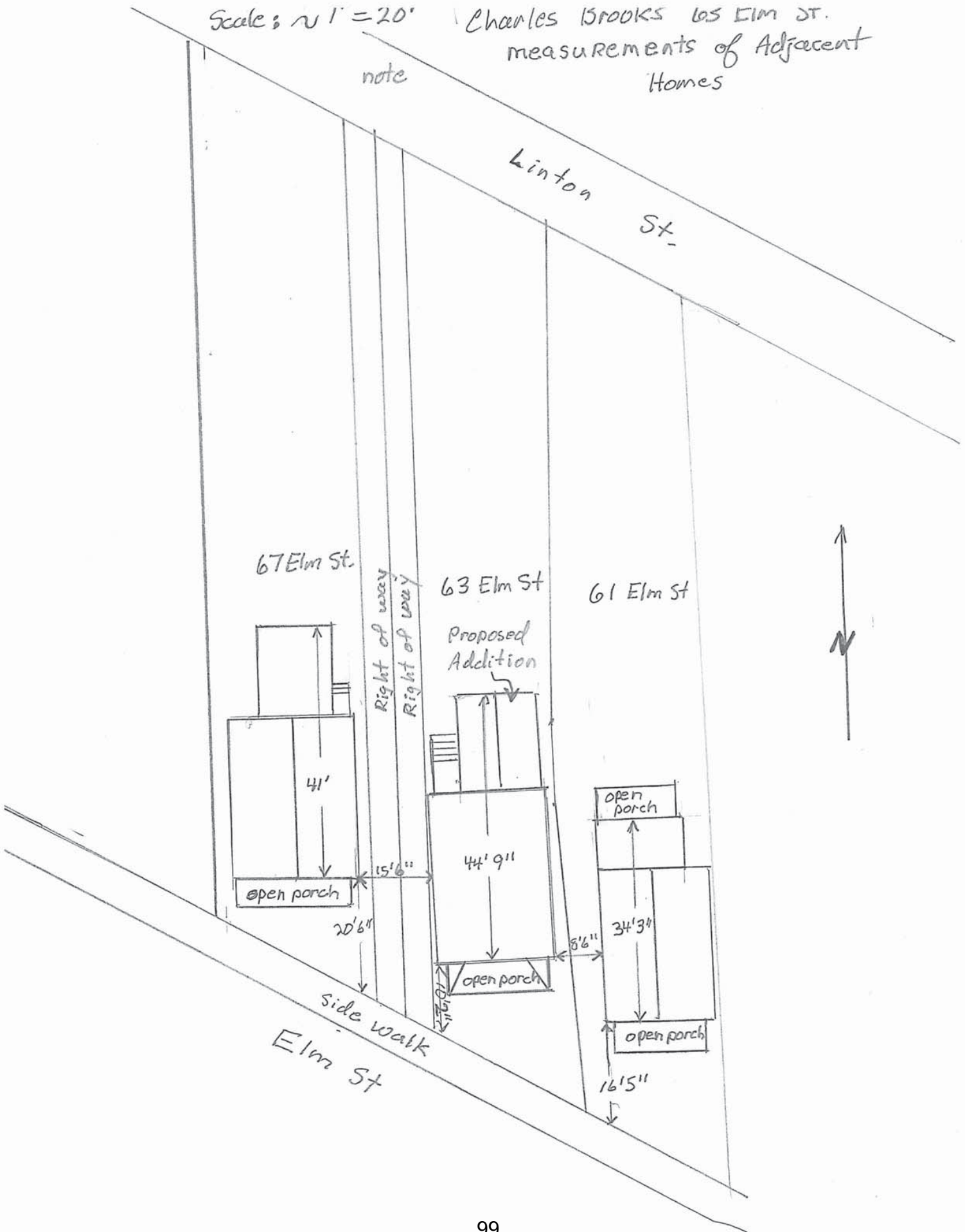
- Subject Lands
- Consolidated Zoning



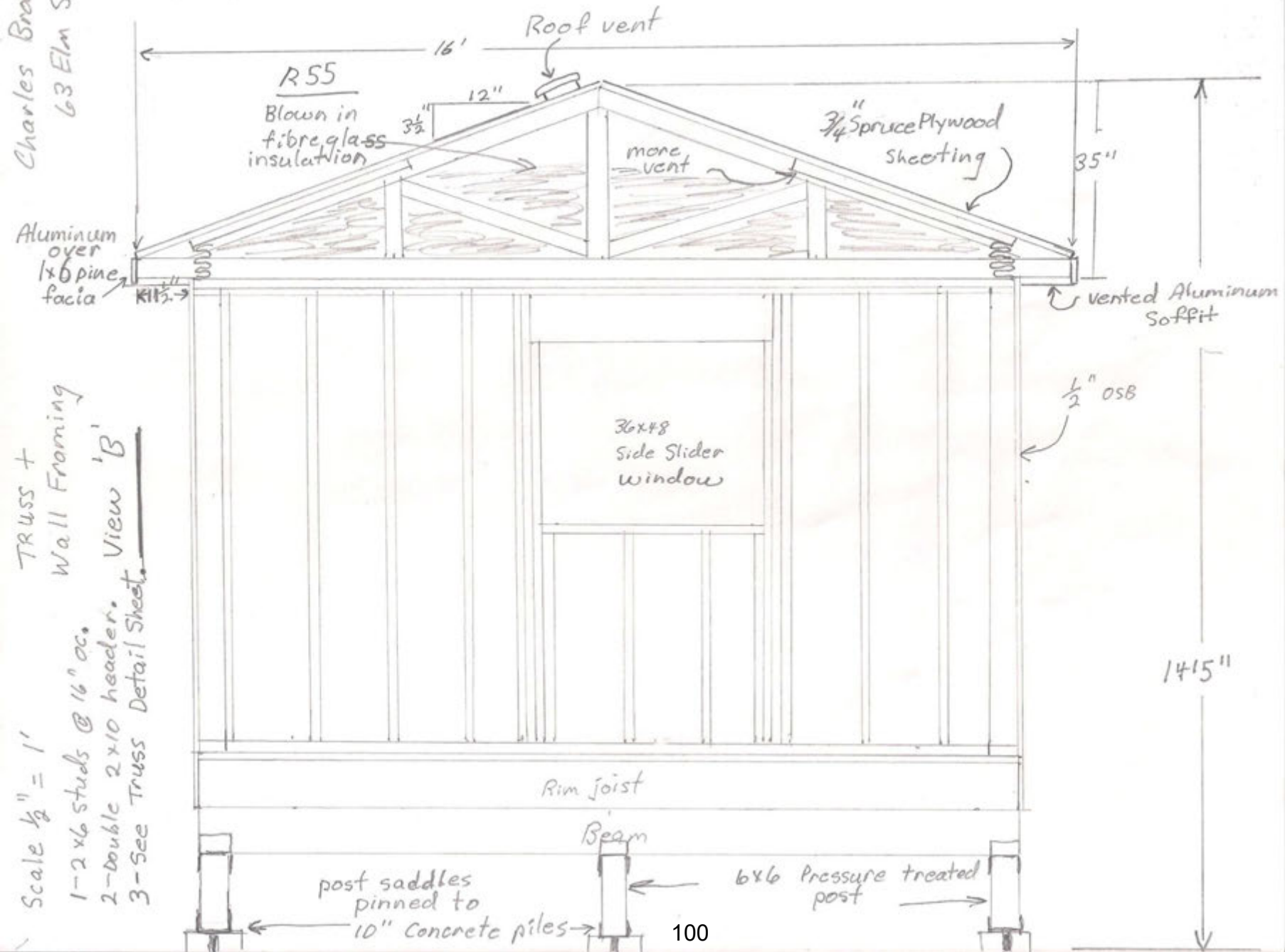
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Charles Brooks 65 Elm St.
measurements of Adjacent
Homes

note



Charles Brooks
63 Elm St.



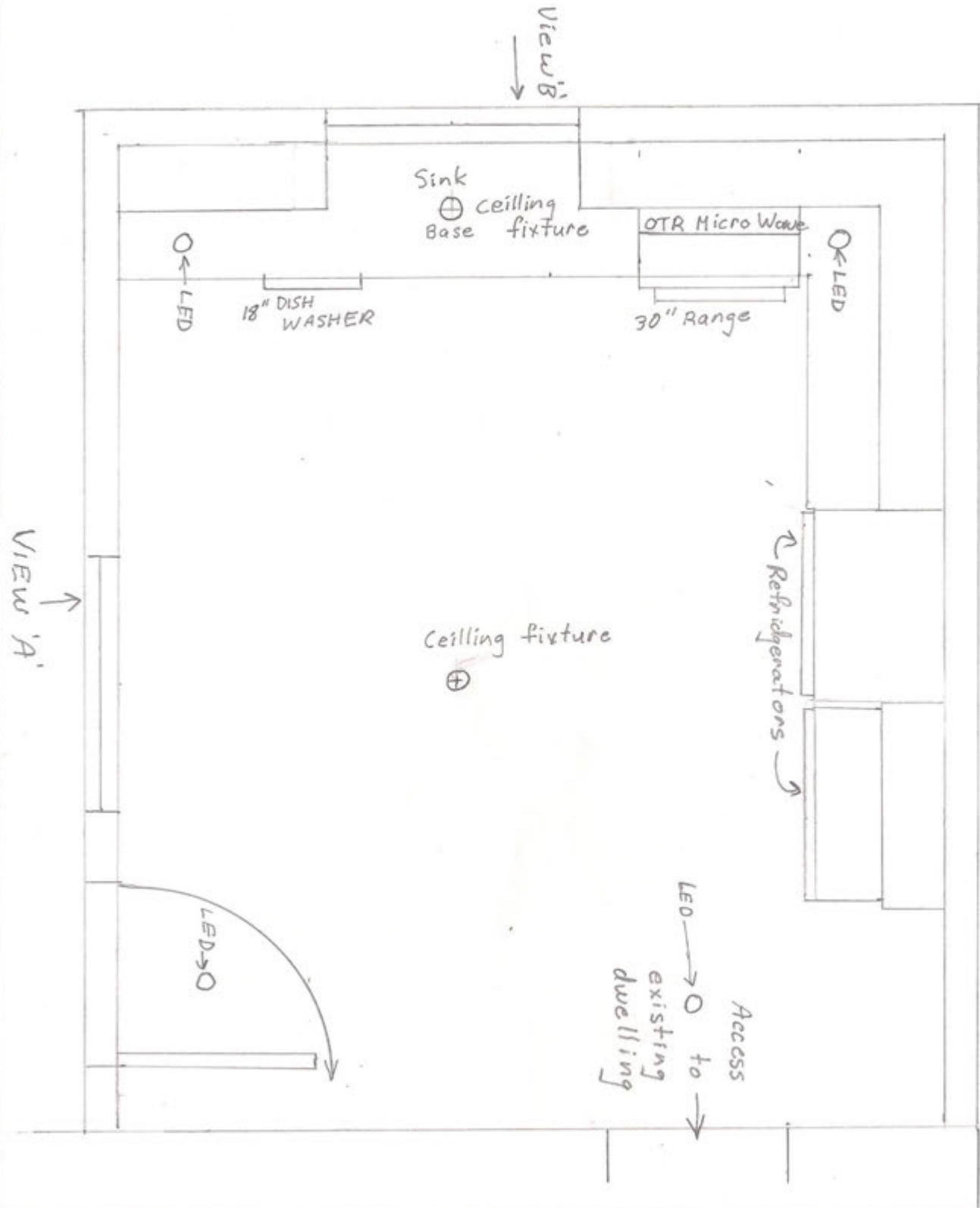
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2-double 2x10 header. View 'B'
3-See Truss Detail Sheet.

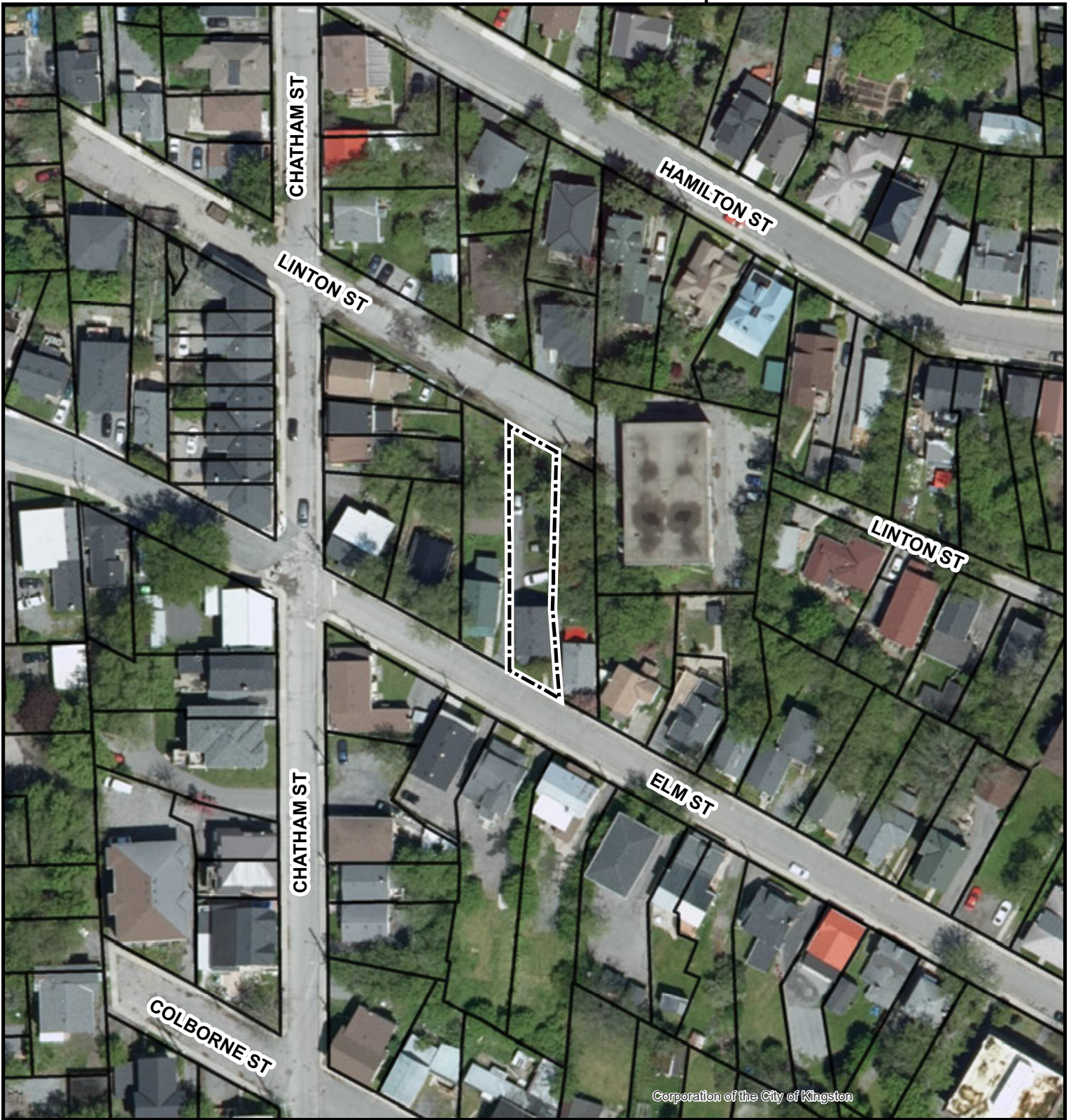
TRUSS +
Wall Framing

Scale : $\frac{1}{2}'' = 1'$

Floor Plan

Charles Brooks
63 Elm St.





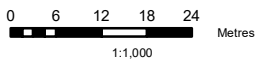
Corporation of the City of Kingston





Planning Services
a department of
Community
Services

COMMITTEE OF ADJUSTMENT
Neighbourhood Context (2019)

File Number: D13-053-2020
Address: 63 Elm Street



Legend

-  Subject Lands
-  Property Boundaries

