

City of Kingston Report to Committee of Adjustment Report Number COA-21-023

To: Chair and Members of the Committee of Adjustment

From: Tim Fisher, Planner

Date of Meeting: March 22, 2021

Application for: Minor Variance

File Number: D13-065-2020

Address: 124 Baiden Street

Owner: 1809743 Ontario Limited

Applicant: Paul Doherty

Council Strategic Plan Alignment:

Theme: 2. Increase housing affordability

Goal: See above

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variances for the property located at 124 Baiden Street. The purpose and effect of the application is to request variances from Zoning By-Law Number 8499, to reduce the minimum front yard, and side yard width (corner lot) to recognize the existing building footprint to the lot lines. Two additional variances are requested to reduce the projections into yards provisions to permit a new landing and stairs from each unit entrance.

The applicant proposes to demolish the existing 1 1/2 storey single-detached dwelling and rebuild a new 2-storey single-detached dwelling with two units on the existing basement foundation.

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: Section 5.8(c), Projections into Yards (Portsmouth Avenue)

Requirement: 7.5 metres Proposed: 6.3 metres Variance Requested: 1.2 metres

Variance Number 2:

By-Law Number 8499: Section 5.8(c), Projections into Yards (Baiden Street)

Requirement: 7.5 metres Proposed: 3.2 metres Variance Requested: 4.3 metres

Variance Number 3:

By-Law Number 8499: Section 11.3(b), Front Yard Setback (Portsmouth Avenue)

Requirement: 7.5 metres
Proposed: 7.1 metres
Variance Requested: 0.4 metres

Variance Number 4:

By-Law Number 8499: Section 11.3(c)(v), Minimum Side Yard Width (Baiden Street)

Requirement: 7.5 metres (Corner Lot)

Proposed: 2.7 metres Variance Requested: 4.8 metres

Recommendation:

That minor variance application, File Number - D13-065-2020, for the property located at 124 Baiden Street to reduce the minimum front yard, and side yard width to recognize the existing building footprint to the lot lines; and to reduce the projections into yards provisions to permit a new landing and stairs from each unit entrance be Approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-21-023.

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\checkmark	
Tim Fisher, Planner	

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

Paige Agnew, Commissioner, Community Services

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Options/Discussion:

On January 22, 2021, a minor variance application was submitted by Paul Doherty, on behalf of the owner, 1809743 Ontario Limited, with respect to the property located at 124 Baiden Street. The variance is requested to reduce the minimum front yard, and side yard width to recognize the existing building footprint to the lot lines. Two additional variances are requested to reduce the projections into yards provisions to permit a new landing and stairs from each unit entrance.

The applicant proposes to demolish the existing 1 1/2 storey single-detached dwelling and rebuild a new 2 storey single detached dwelling with two units on the existing basement foundation. The existing dwelling contains four (4) bedrooms while the proposal will consist of one unit containing four (4) bedrooms and the second unit containing two (2) bedrooms.

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

- Existing Site Plan (Exhibit F);
- Proposed Site Plan (Exhibit G);
- Existing Floor Plan (Exhibit H); and
- Proposed Elevation and Floor Plans (Exhibit I).

All submission materials are available online through the Development and Services Hub (DASH) at the following link, <u>DASH</u>, 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 site is located at 124 Baiden Street (Exhibit B - Key Map). The property is currently designated as Residential in the Official Plan and zoned One and Two-Family Dwelling 'A5' Zone in Zoning By-Law Number 8499. The property is a corner lot and has road frontage on Portsmouth Avenue and Baiden Street. The site is developed with a single-detached dwelling and a detached garage.

The site is adjacent to single detached dwellings to the north and east, a row house to the south which fronts onto Portsmouth Avenue and St. Lawrence College to the west.

Application

The review of an application for minor variances are 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.

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;

Section 2.2.1 of the Official Plan indicates that focus of growth within the municipality is to occur mostly within the urban boundary. The subject lands are shown as being within a Housing District on Schedule 2 of the Official Plan, with Section 2.2.5 indicating that these areas are planned to remain stable. Section 2.6 establishes criteria for compatible intensification within stable areas and notes that second residential units and development requiring minor variances are generally considered compatible, provided the development complies with the land use compatibility criteria outlined in Section 2.7.

Section 2.7.3 provides example land use compatibility matters to be considered, including: shadowing; loss of privacy due to intrusive overlook; reduction in ability to enjoy a property or the normal amenity associated with it; visual intrusion that disrupts the streetscape or buildings; architectural incompatibility in terms of scale, style or massing.

Section 2.7.6 requires proposed development to be functional for the long-term needs of the intended users, including: appropriate landscaping that meets or improves the characteristic green space amenity of the site and surroundings; clearly defined and safe pedestrian access to the building, parking spaces and appropriate bicycle facilities.

The proposed development would result in the creation of a second residential unit being established. The proposed development will modestly increase the density of the site in a fashion that is compatible with the site and its surroundings and is considered consistent with the Strategic Policy Direction of the Official Plan.

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The proposal is compatible with the surrounding residential uses and will not result in significant impacts of changes to the surrounding area. The proposal will not have any negative impacts on abutting properties or residential uses and/or structures through increased shadowing, loss of privacy, visual intrusion that disrupts the streetscape or buildings or will interfere with the continued use and enjoyment of abutting properties and their intended use.

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:

Rebuilding a new 2-storey single-detached dwelling on the existing basement foundation with new landings and stairs for each entrance will result in a development that is consistent with the existing built form of several residential buildings located along Baiden Street. The overall design and scale of the proposal is not anticipated to cause any adverse impacts on the adjacent residential properties.

The proposed development will result in a two-storey single-family dwelling to be constructed on the existing building foundation. The height of the structure will comply with the maximum height requirement in the 'A5' zone and the dwelling will not be located any closer to the existing lot lines than what currently existing. The variances to the landings and stairs will provide safe access to the principle unit and the secondary residential unit.

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 site will continue to function in an appropriate manner for the residential use. The existing driveway and detached garage are accessed from Portsmouth Avenue. Two parking spaces are maintained on the driveway. The detached garage is used for the storage of residential items and can also be used for secure bicycle parking if needed.

 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 8.3 of the Official Plan references the Design Guidelines for Residential Lots, which has been endorsed by Council. Section 6.6 of this document relates to porches and building projections, such as decks. The guidelines promote the use of decks and stairs to provide access and amenity area and indicate these features should be designed to be large enough to accommodate furnishings and ensure active use. The proposed two-storey dwelling and its stairs and landings for each entrance appears to conform to the Design Guidelines for Residential Lots.

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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 subject property is not a protected heritage property nor is it adjacent to a protected heritage property. The site is identified as having composite archaeological potential, but given that the new structure is being built on the existing foundation, the only potential for new ground disturbance is the construction of the two new sets of stairs. However, the two new sets are located within 3-4 feet of the existing house and foundation and as a result these areas were likely disturbed previously in the construction of the existing house. An archaeological assessment 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 subject property is located within the Urban Boundary and is currently serviced with municipal water and sewer services. The proposed dwelling will reuse the existing services.

The owner/applicant shall be aware that Utilities Kingston will require a servicing plan showing any existing and proposed services at the time of Building Permit. As per City of Kingston by-laws only one service is permitted per property. Any existing services not being retained are required to be abandoned at the main(s). The owner should verify that the existing services are of adequate size for the proposed development. This should be verified by the owners engineer or architect.

If the services require upsizing all costs are to be borne by the owner. If increasing the gas load a Gas Load summary should be filled out and submitted to a Utilities Kingston Service Advisor as well as provided with the application. The applicant is encouraged to contact the Utilities Kingston Conservation Department to discuss their development and inquire as to whether there are any water and gas conservation incentives and energy saving options available. Please contact Caitlin Newey at 613-546-1181 extension 3283 or email cnewey@utilitieskingston.com.

Kingston Hydro has no concerns with the proposed minor variance. The owner/ applicant will need to contact a services advisor at Utilities Kingston (613 546 1181 extension 2285) for a Services Removal request form for existing service if it is to be disconnected. If additional metering is desired for the second unit or if an upgrade is required, a service request will need to be submitted. Service request can be completed online at: https://utilitieskingston.com/Electricity/ServiceRequest

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;

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The effect of the minor variances are to permit a second storey recognizing the existing setbacks of the residential dwelling and to permit the landing and permitted by the zoning by-law and to allow a set of stairs to encroach closer to the rear lot line than permitted by the zoning by-law. The proposed development would not alter the primary use of the property and significantly alter the existing permissions for the subject lands. Accordingly, the proposed development is appropriately dealt with through the minor variance process.

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 to be applied to the approval of the application are provided in Exhibit A – Conditions of Approval. The conditions may be added, altered, or removed at the Committee's discretion.

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

Each application is reviewed on its own merits. The proposed variances are specific for the proposed development on the subject site and will not result in any undesirable precedents for the immediate area.

The proposal meets the intent of the Official Plan, as the proposed two storey single family dwelling with a secondary 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 and Two-Family Dwelling 'A5' Zone in the City of Kingston Zoning By-Law Number 8499, entitled "Restricted Area (Zoning) By-Law of the Corporation of the City of Kingston", as amended. The 'A5' zone permits one and two family dwellings subject to the provisions of Section 11 and Section 5 of the Zoning By-Law.

The proposal requires variances to the minimum front yard and side yard (corner lot) provisions in order for the owner/applicant to construct a second storey over the basement foundation of the existing dwelling. The owner/applicant proposes to reconstruct the first storey and replace the half storey second floor to a full second storey. Additional variances are requested to reduce the projections into yards provision to permit a landing and stairs to be located within the yards fronting on Portsmouth Avenue and Baiden Street.

Variance Number 1:

By-Law Number 8499: Section 5.8(c), Projections into Yards (Portsmouth Avenue)

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Requirement: 7.5 metres Proposed: 6.3 metres Variance Requested: 1.2 metres

Variance Number 2:

By-Law Number 8499: Section 5.8(c), Projections into Yards (Baiden Street)

Requirement: 7.5 metres
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Variance Number 3:

By-Law Number 8499: Section 11.3(b), Front Yard Setback (Portsmouth Avenue)

Requirement: 7.5 metres Proposed: 7.1 metres Variance Requested: 0.4 metres

Variance Number 4:

By-Law Number 8499: Section 11.3(c)(v), Minimum Side Yard Width (Baiden Street)

Requirement: 7.5 metres (Corner Lot)

Proposed: 2.7 metres Variance Requested: 4.8 metres

The proposal complies with all other requirements in the 'A5' zone.

3) The variance is minor in nature

The variances are considered minor as the reconstruction of the dwelling and a full second storey will be constructed on the same foundation as the existing one and a half storey dwelling. The proposal will not be any closer to the lot lines than what currently exists. The height of the dwelling will comply with the maximum height requirement of 10.7 metres. The variances to reduce the maximum projection into yards will provide safe access into the principle unit and the secondary residential unit.

The proposal will not have any anticipated negative impacts on the adjacent residential uses, streetscape or to traffic.

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

The variances are desirable and appropriate use of the land as they will allow for the reconstruction of a single detached dwelling to current building code requirements and allow for a secondary residential unit to be located within the dwelling. The proposal will

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maintain the existing setbacks of the dwelling while recognizing the proposed steps and landings for each unit entrance.

Access and parking will be maintained along the southern property line with its road access from Portsmouth Avenue. Two parking spaces are maintained in the driveway and the existing detached garage will provide storage of household items and bicycle storage if needed.

The scale and massing of the two-storey dwelling will be similar to other one and a half and two storey dwellings in the neighbourhood. The proposal will not have any anticipated negative impacts on the streetscape or the character of the neighbourhood. There are existing deciduous trees on the property and other landscaping which will assist in buffering the dwelling from Portsmouth Avenue and abutting residential uses.

The development will remain functional for its intended residential use as each dwelling unit will have separate entrances and a parking space within the driveway. The variances are desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

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

Technical Comments

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

Public Comments

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

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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 allow the owner to construct a second storey over the existing rebuilt dwelling and provide safe access to the entrance of the principle dwelling unit and the secondary residential unit.

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 March 22, 2021. 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 18 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*.

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Accessibility Considerations:

None

Financial Considerations:

None

Contacts:

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

Tim Fisher, Planner, 613-546-4291 extension 3215

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 Existing Site Plan

Exhibit G Proposed Site Plan

Exhibit H Existing Floor Plans

Exhibit I Proposed Elevation and Floor Plans

Exhibit J Photo

Exhibit K Neighbourhood Context (2019)

Recommended Conditions

Application for minor variance, File Number D13-065-2020

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

1. Limitation

That the approved minor variance applies only to the location of the single detached dwelling and its stairs and landings, 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 at time of building permit.

3. Building Permit Application Requirements

To ensure the structure complies with both the current *Ontario Building Code* (OBC) requirements and the decision of the Committee of Adjustment, the owner/applicant shall provide to the Building Division a copy of the decision of the Committee of Adjustment, together with a copy of the drawings approved by the Committee of Adjustment in the subject decision, and the Archaeological Assessment sign off.

If the Planning, Building and Licensing Division deems that the drawings submitted for the building permit application do not conform to the general intent and description of the plans approved in the decision, the applicant will be required to resubmit the revised drawings to the Committee of Adjustment for approval. This will require a new application and fee to the Committee of Adjustment.

4. Designated Substance Report

Prior to the issuance of a building permit, in order to protect workers and the public the proponent should be notified that in accordance with Section 30 of the Ontario Occupational Health and Safety Act, Designated Substances and other potentially hazardous building materials must be identified prior to renovation, construction or demolition that may disturb such materials. All designated substances present must be identified to contractors in advance of the initiation of the subject work as defined in the Act. The following designated substances are most commonly encountered in residential renovations and demolition: Asbestos in building materials; Lead in paint applications, concrete, mortar and piping; Mercury in thermometers, pressure gauges, electrical switches and relays; Silica in concrete, masonry, stone, and boiler refractory.

5. Servicing

Prior to the issuance of a Building Permit, Utilities Kingston will require a servicing plan showing any existing and proposed services. As per City of Kingston By-Laws only one service is permitted per property. Any existing services not being retained are required to be abandoned at the main(s).

The owner should verify that the existing services are of adequate size for the proposed development. This should be verified by the owners engineer or architect. If the services require upsizing all costs are to be borne by the owner. If increasing the gas load a Gas Load summary should be filled out and submitted to a Utilities Kingston Service Advisor as well as provided with the application.

The applicant is encouraged to contact the Utilities Kingston Conservation Department to discuss their development and inquire as to whether there are any water and gas conservation incentives and energy saving options available. Please contact Caitlin Newey at 613-546-1181 x.3283 or email cnewey@utilitieskingston.com.

6. Kingston Hydro

Prior to the issuance of a Building Permit, the applicant will need to contact a services advisor at Utilities Kingston (613 546 1181 extension 2285) for a Services Removal request form for the existing service to be disconnected.

If additional metering is desired for the second unit or if an upgrade is required, a service request will need to be submitted. Service request can be completed online at: https://utilitieskingston.com/Electricity/ServiceRequest

7. City Trees

The applicant shall obtain a tree permit prior to the removal of any trees on city property.

8. Standard Archaeological Condition

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

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

Exhibit B Report COA-21-023 Committee of Adjustment Churchill St **Key Map** KINGSTON Address: 124 Baiden Street Baiden St File Number: D13-065-2020 **Planning** King St V Services Lands Subject to Minor Variance 38 41 36 37 34 115 30 123 119 Baiden St 22 124 20 114 120 16 15 Portsmouth Ave 10 9 781 787 783 797 789 .5 0 6.5 Metres Prepared-By: adowker Date: Jan-29-2021 Kng:St:W 750 70



Committee of Adjustment **Public Notice Notification Map**

Address: 124 Baiden Street

File Number: D13-065-2020

- 60m Public Notification Boundary
- Subject Lands
- **Property Boundaries**
- __ Proposed Parcels

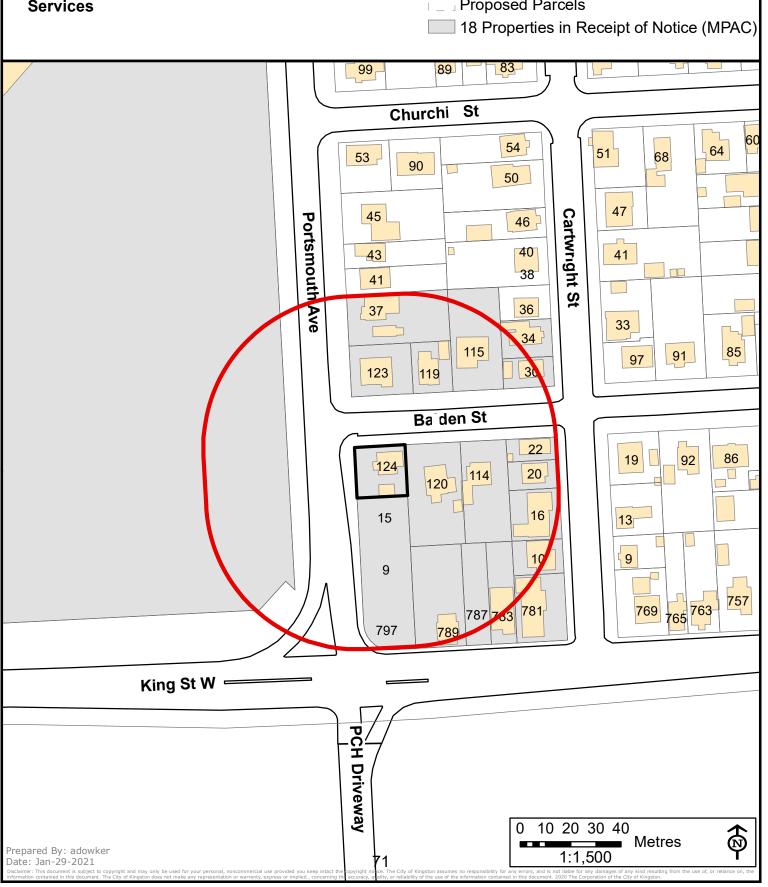


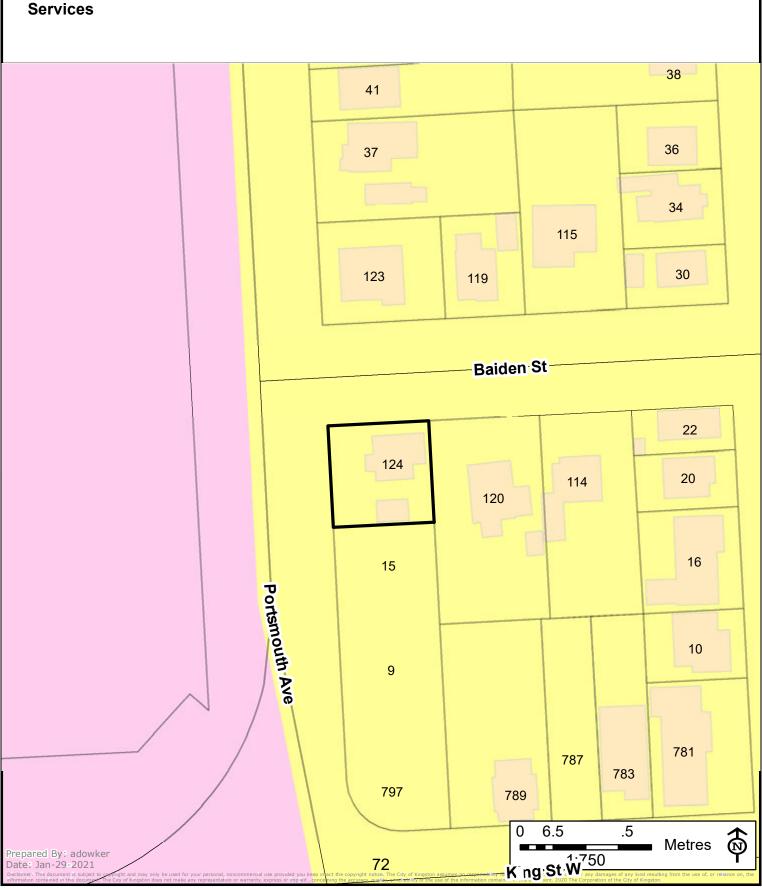
Exhibit D Report COA-21-023



Committee of Adjustment Official Plan, Existing Land Use

Address: 124 Baiden Street File Number: D13-065-2020

Subject Lands
INSTITUTIONAL
RESIDENTIAL





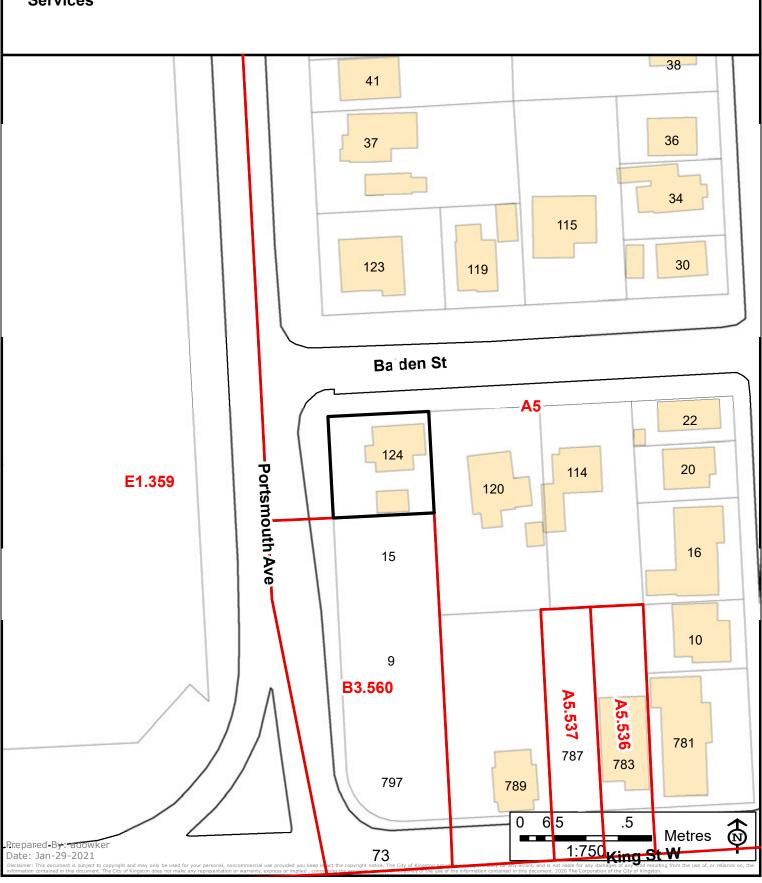
Committee of Adjustment

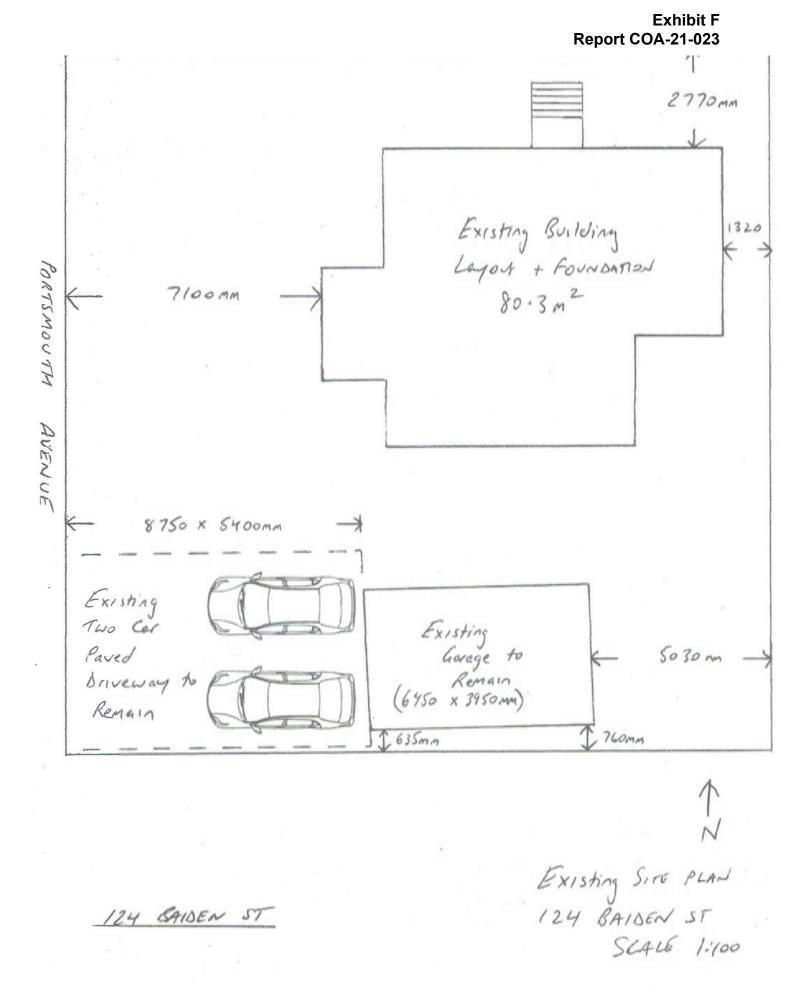
Existing Zoning - By-law 8499, Map 28

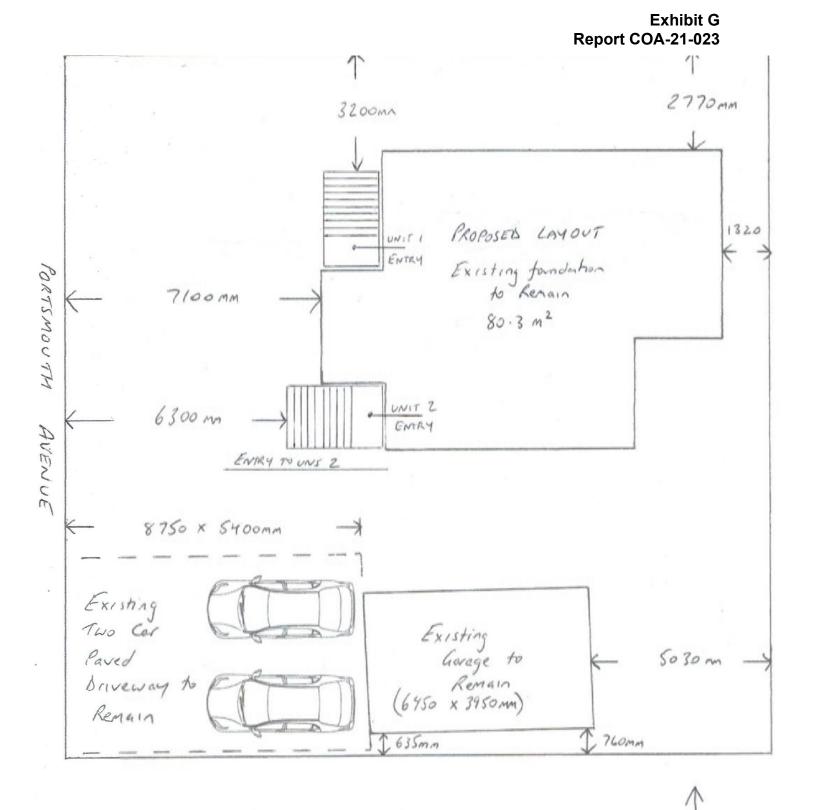
Address: 124 Baiden Street File Number: D13-065-2020

Subject Lands

Consolidated Zoning







PROPOSED SITE PLAN

SET BACKS

124 BAIDEN ST

SCALE 1:100

Exhibit H Report COA-21-023

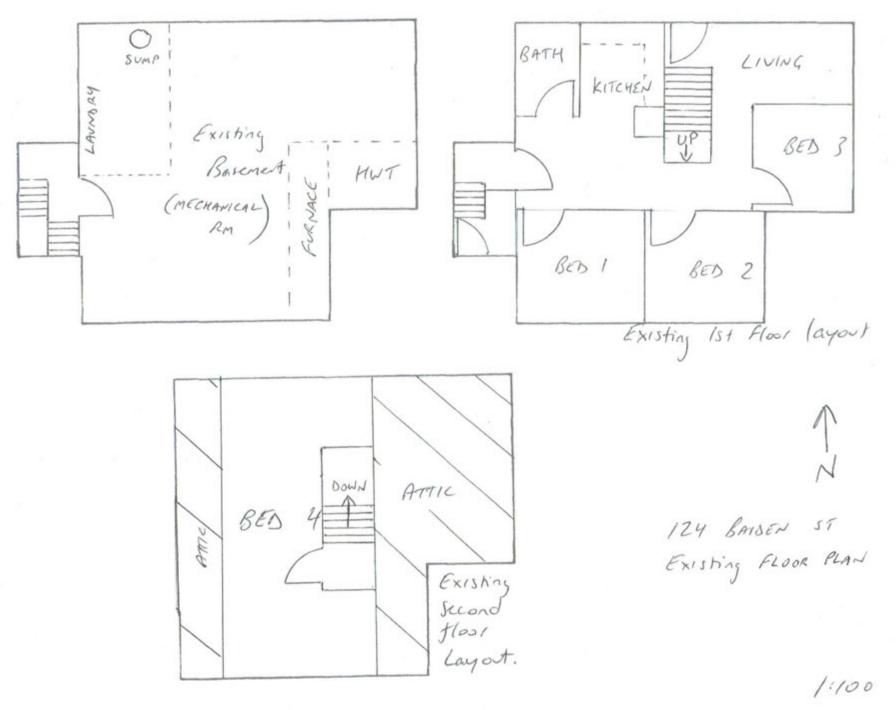
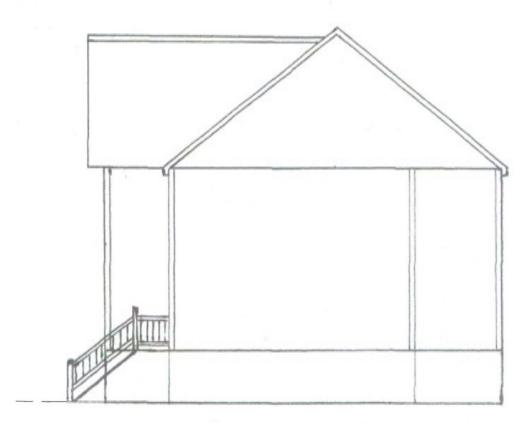


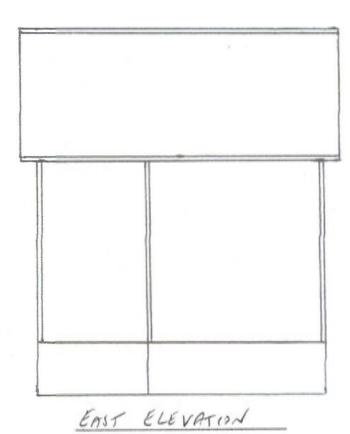
Exhibit I Report COA-21-023



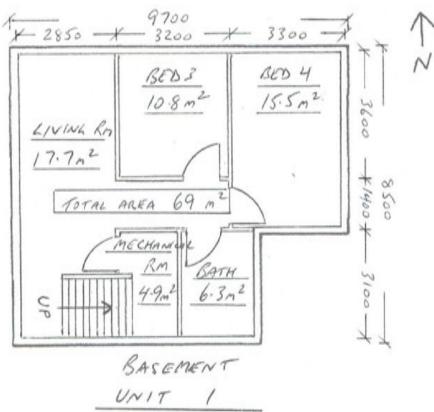


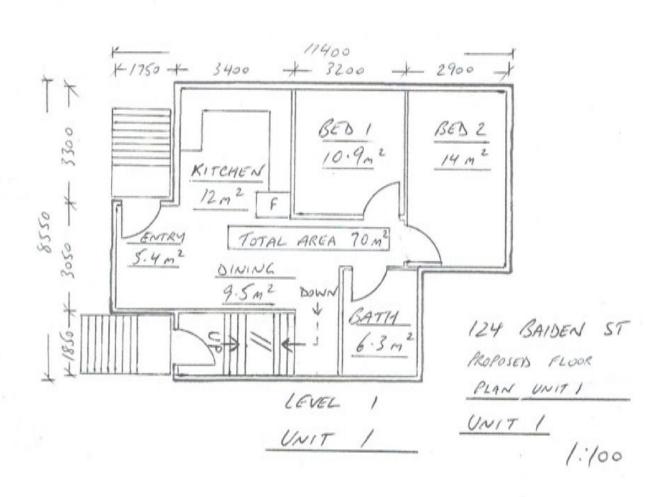
SOUTH ELEVATION

124 BAIDEN ST ELEVATIONS 1:(00



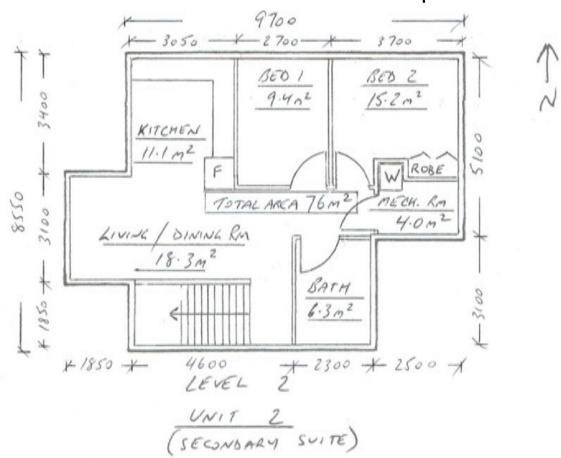






PORTSMOUTH AVE

Exhibit I Report COA-21-023



124 BAIDEN ST PROPOSED FLOOR PLAN UNIT 2



ABOVE: View from Baiden Street.

BELOW: View from Portsmouth Avenue -





Committee of Adjustment Neighbourhood Context (2019)

Address: 124 Baiden Street File Number: D13-065-2020

Subject Lands
Property Boundaries
Proposed Parcels

