

City of Kingston Report to Committee of Adjustment Report Number COA-21-040

To: Chair and Members of the Committee of Adjustment

From: Sarah Oldenburger, Planner

Date of Meeting: May 17, 2021

Application for: Minor Variance

File Number: D13-014-2021

Address: 198, 200 Princess Street and 20 Montreal Street

Owner: Phillip Brown, President of 1709884 Ontario Limited

Applicant: Mac Gervan (Gervan & Associates)

Council Strategic Plan Alignment:

Theme: Business as usual

Goal: See above

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variance for the property located at 198, 200 Princess Street and 20 Montreal Street. The applicant is proposing to convert an existing commercial space on the second storey into a residential unit with two bedrooms within the existing building on the subject property. The applicant is proposing to create six (6) new openings on the building for three (3) new windows, two (2) new Juliet-style balconies, and one (1) new entranceway. The proposed new openings would be on the south, west, and east elevations. The entrance for the proposed apartment would be through the proposed new entranceway on Montreal Street. The existing air conditioner unit on the west elevation would be moved to the roof.

The subject property is unable to provide the one (1) required parking space or the required one (1) bicycle parking space within a Bicycle Parking Area as defined in Zoning By-Law Number 96-259 for the proposed residential unit on site, necessitating minor variances to reduce the required vehicular parking space and the required bicycle parking space.

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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 96-259. The requested minor variances are desirable for the appropriate development or use of the land, building or structure and are minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval.

Variance 1

By-Law Number 96-259: Residential Parking Ratios (Section 5.22.5.2)

Requirement: 1 parking space (1 space per unit)

Proposed: 0

Variance Requested: 1

Variance 2

By-Law Number 96-259: Bicycle Parking Ratios (Section 5.22.8.1)

Requirement: 1 parking space (1 per unit located within a Bicycle Parking Area, Residential)

Proposed: 0

Variance Requested: 1

Recommendation:

That minor variance application, File Number D13-014-2021, for the property located at 198, 200 Princess Street and 20 Montreal Street, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-21-040.

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Authorizing Signatures:

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Sarah Oldenburger, Planner

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

Tim Park, Acting Director, Planning Services James Bar, Acting Manager, Development Approvals

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Options/Discussion:

On March 10, 2021, a minor variance application was submitted by Mac Gervan (Gervan & Associates), on behalf of the owner, Phillip Brown (President of 1709884 Ontario Limited), with respect to the property located at 198, 200 Princess Street and 20 Montreal Street. The applicant is proposing to convert an existing commercial space on the second storey into a residential unit with two bedrooms within the existing building on the subject property. The subject property is unable to provide the one (1) required parking space or the one (1) required bicycle parking space within a Bicycle Parking Area as defined in Zoning By-Law Number 96-259 for the proposed residential unit on site, necessitating minor variances to reduce the required vehicular parking space and the required bicycle parking space.

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

- Drawing Package (Exhibit F)
- Survey (Exhibit G)
- Phase I Environmental Site Assessment
- Planning Justification
- Owner's Authorization Letter

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 subject property is located at 198, 200 Princess Street and 20 Montreal Street which is within the urban boundary at the intersection of Princess Street and Montreal Street, two collector roads, as shown on Schedule 4 of the City of Kingston Official Plan. The subject property is located in a centre, as shown on Schedule 2 of the City of Kingston Official Plan. The subject property is designated "Central Business District" in the Official Plan and zoned "C1-3" in Zoning By-Law Number 96-259. The property abuts one central business district use also in the "C1-3" zone, 202 Princess Street, as well as Opera Lane (over which the City of Kingston has an easement) and Montreal Street (a collector road).

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 "Central Business District" in the City of Kingston Official Plan.

In considering whether the proposed variances are 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 subject property is located within a centre as noted in Schedule 2 and this proposal does not seek a significant change that would impact the neighbourhood characteristics. The subject property is located in an area with mixed use and mixed buildings, which include employment, residential, commercial, and supporting uses and facilities. The internal conversion of the second storey commercial space into a residential unit with two bedrooms would not negatively impact the neighbourhood. The requested parking space and bicycle parking space reductions for the one (1) required parking space and the one (1) required bicycle parking space for the proposed residential unit will not negatively impact the neighbourhood given the location in the Central Business District which supports walkability given it's proximity to a range of complementary land uses and is well-serviced by public transit and active transportation facilities.
- 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 discusses land use compatibility matters, such as how structures on one property can affect an abutting property. This application is to add a two-bedroom apartment on the second storey of the existing building on the subject property. The proposed apartment would require six (6) new openings on the building for: three (3) new windows, two (2) new Juliet-style balconies, and one (1) new entranceway. The proposed new openings would be on the south, west, and east elevations. In this case, there would

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be no negative off-site impacts that would result from the proposed internal changes to the subject property. No expansion or enlargement of the existing building is being proposed to accommodate the proposed residential unit. No exterior changes are being proposed apart from the proposed new openings. As such, there are no additional threats of shadowing, loss of privacy due to intrusive overlook, increased levels of light pollution, noise, or odour anticipated from the addition of the proposed two-bedroom apartment unit. The air conditioner unit which currently projects from the west elevation would be moved to the top of the building to address the existing encroachment (as shown in Exhibit F). The proposed new openings, including the Juliet-style balconies and any required fire shutters, will be contained within the property line. Mitigation measures are not required. In addition, several properties in the "Central Business District" have second storey apartments.

- 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;
 - Section 2.7.6. discusses functional needs and supports only development proposals which meet the long-term needs of the residents. The proposed second storey apartment is a suitable scale and will replace an unused commercial space. The subject property is within walking distance of several express bus route stops, a public park, and several commercial areas, which would allow for the efficient use of municipal services, including transit, and would justify the request for a parking space reduction and a bicycle parking space reduction on site. The proposed residential unit would be accessed through a new entranceway on Montreal Street which would enable efficient pedestrian access to the proposed residential unit. Section 4.6.47 of the Official Plan encourages a balance between providing adequate parking while not oversupplying parking to the detriment of active transportation and public transportation use. The subject property is in an ideal location to permit a parking space reduction and bicycle parking space reduction given its proximity to public transportation, commercial, and a public park. The proposal will not negatively impact the functional needs of future residents.
- 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;
 - This proposal is not subject to Site Plan Control. The property is not a protected heritage property. However, the subject property is located within a Heritage Character Area and it is adjacent to Opera Lane, a listed property with cultural heritage value. The proposed external changes will not have an impact on the cultural heritage value or character of Lower Princess Street. The property is within an area of composite archaeological potential. However, given that the proposed changes are occurring within the existing building and ground works are not proposed, an archaeological assessment is not required.
- 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

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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 designated under the *Ontario Heritage Act*. The subject property is located within a Heritage Character Area and it is adjacent to Opera Lane, a listed property with cultural heritage value. A heritage impact statement is not being requested as no expansion or enlargement of the existing building is being proposed to accommodate the proposed residential unit.

 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 utilizes municipal water and sewage services.

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

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;

The Committee of Adjustment may require additional conditions as it deems appropriate to the approval of the application. Recommended conditions are listed in "Exhibit A - Recommended Conditions", attached to this document. 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.

The approval of the requested variances will not set a precedent for the immediate area, as each minor variance is reviewed independently and judged on its own merits and metrics.

The proposal meets the intent of the Official Plan as the proposed one residential unit with two bedrooms, a parking space reduction and a bicycle parking space reduction will not result in any negative impacts to adjacent properties or to the neighbourhood.

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

The subject property is zoned "C1-3" in the City of Kingston Zoning By-Law Number 96-259, entitled "Downtown and Harbour Zoning By-Law of the Corporation of the City of Kingston", as amended. The "C1-3" zone defaults to the commercial uses and non-commercial uses permitted in the "C1" zone, which specifically includes mixed commercial/residential development in Section 7.1, Zoning By-Law Number 96-259.

The proposal requires a variance to Section 5.22: "Off-Street Parking".

Variance 1

By-Law Number 96-259: Residential Parking Ratios (Section 5.22.5.2)

Requirement: 1 parking space (1 space per unit)

Proposed: 0 Variance Requested: 1

Variance 2

By-Law Number 96-259: Bicycle Parking Ratios (Section 5.22.8.1)

Requirement: 1 parking space (1 per unit located within a Bicycle Parking

Area, Residential)

Proposed: 0 Variance Requested: 1

The purpose of the minimum vehicular parking space requirements for residential units in Zoning By-Law Number 96-259 is to: 1. provide appropriate parking to meet the needs of the resident(s) and site user(s); and, 2. ensure that roads and lanes remain clear for their intended use(s) and required servicing.

The purpose of the minimum bicycle parking space requirements for residential units and their location within a Bicycle Parking Area in Zoning By-Law Number 96-259 is to: 1. provide appropriate parking to meet the needs of the residents; 2. to ensure that the bicycle has an appropriate secure facility that is covered from the elements; and 3. ensure that residents are able to access active modes of transportation.

The variance to the vehicular parking space requirement maintains the general intent and purpose of the Zoning By-Law since: 1. the location of the proposed apartment is within walking distance to an express bus route, commercial area, and a public park making it an ideal location for a new residential unit without a parking space; 2. the proposed residential unit contains a bicycle parking area which reduces the need for a motorized vehicle and encourages the use of active modes of transportation; 3. the subject property is located within walking distance to an off-street parking garage which would provide adequate parking, should the future resident(s) require a vehicular parking space; 4. the minor variance is to reduce the parking requirements by one parking space is unlikely to cause a major strain on the parking facilities in the neighbourhood; and, 5. the proposed mixed commercial/residential use is a permitted in Section 7.1 of Zoning By-Law Number 96-259.

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The variance to the bicycle parking space maintains the general intent and purpose of the Zoning By-Law because the resident(s) will still be able to access active modes of transportation given the walkability of the neighbourhood and the subject property's proximity to commercial areas, an express bus route, and a public park. Given the constraints on site related to the overall lot coverage of the building, there is no opportunity to locate a secure, covered bicycle parking space as per the requirements of the Bicycle Parking Area.

The general intent and purpose of the Zoning By-Law Number 96-259 is maintained.

3) The variance is minor in nature

The variances to allow for the reduction from one (1) to zero (0) required parking spaces and from one (1) to zero (0) required bicycle parking spaces for the proposed residential unit with two bedrooms is considered minor as: 1. the subject property is located within walking distance of to a range of complementary land uses and is well-serviced by public transit and active transportation facilities making it an ideal location for a new residential unit without a parking space or a bicycle parking space; 2. the reduction is being requested for only one parking space and one bicycle parking space; 3. vehicle parking could be accessed at a nearby parking garage (within walking distance), should the site users require vehicle parking space(s); 4. it does not change the fundamental characteristics of the neighbourhood as a number of second storey apartments in the neighbourhood do not have parking spaces or bicycle parking spaces on-site; 5. no adverse off-site impacts are anticipated; and, 6. transportation does not have any concerns with the proposed vehicular parking space reduction.

The proposed variances are considered minor in nature.

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: 1. the owner is seeking to convert an unused commercial area into a residential unit with two bedrooms which will increase the functional use of the subject property; 2. it is not feasible to provide onsite parking or bicycle parking as the existing building covers nearly 100 percent of the lot and the ground floor contains a separate commercial unit; 3. no expansion or enlargement of the existing building is being proposed; 4. the proposed changes would include relocating the existing encroaching air conditioner unit onto the roof of the existing building; 5. the proposed changes, including all entranceways, windows, and Juliet-style balconies, would be contained within the subject property as no encroachments onto neighbouring properties will be permitted; 6. the variances would enable the creation of a new residential unit in a location that is within walking distance of a public park, a number of commercial uses, and a number of express bus routes which stop at the Downtown Transfer Point Platform; and 7. the proposed residential unit with reduced parking and bicycle parking

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requirements is not anticipated to have any negative impacts on the adjacent listed property or on the Lower Princess Heritage Character Area.

The variances are desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

\boxtimes	Building Services		
	Finance	□ Utilities Kingston	⊠ Real Estate & Environmental Initiatives
\boxtimes	Fire & Rescue		
\boxtimes	Solid Waste	□ Parks Development	□ Canadian National Railways
	Housing	□ District Councillor	☐ Ministry of Transportation
	KEDCO		□ 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, April 21, 2021. 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 96-259. 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.

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Approval of this application will permit the creation of one residential unit with two (2) bedrooms with a reduction for the required one (1) vehicular parking space and a reduction for the required one (1) bicycle parking space.

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 96-259

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on May 17, 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 42 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:

James Bar, Acting Manager, Development Approvals, 613-546-4291 extension 3213

Sarah Oldenburger, Planner, 613-546-4291 extension 3288

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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 Number 96-259, Map 1

Exhibit F Neighbourhood Context Map (2020)

Exhibit G Drawing Package

Exhibit H Survey

Recommended Conditions

Application for minor variance, File Number D13-014-2021

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

1. Limitation

That the approved minor variance applies only to the proposed one (1) residential unit with two (2) bedrooms and reduced parking requirements for the one (1) vehicular parking space and the one (1) bicycle parking space within a bicycle parking area required by the proposed one (1) residential unit at 198, 200 Princess Street and 20 Montreal Street 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 subject property or as a result of the requested parking space reduction.

3. Encroachments

The owner/applicant shall demonstrate to the satisfaction of the City that there will be no encroachments onto neighbouring properties as a result of any modifications to the existing building, and that any existing encroachments will be addressed.

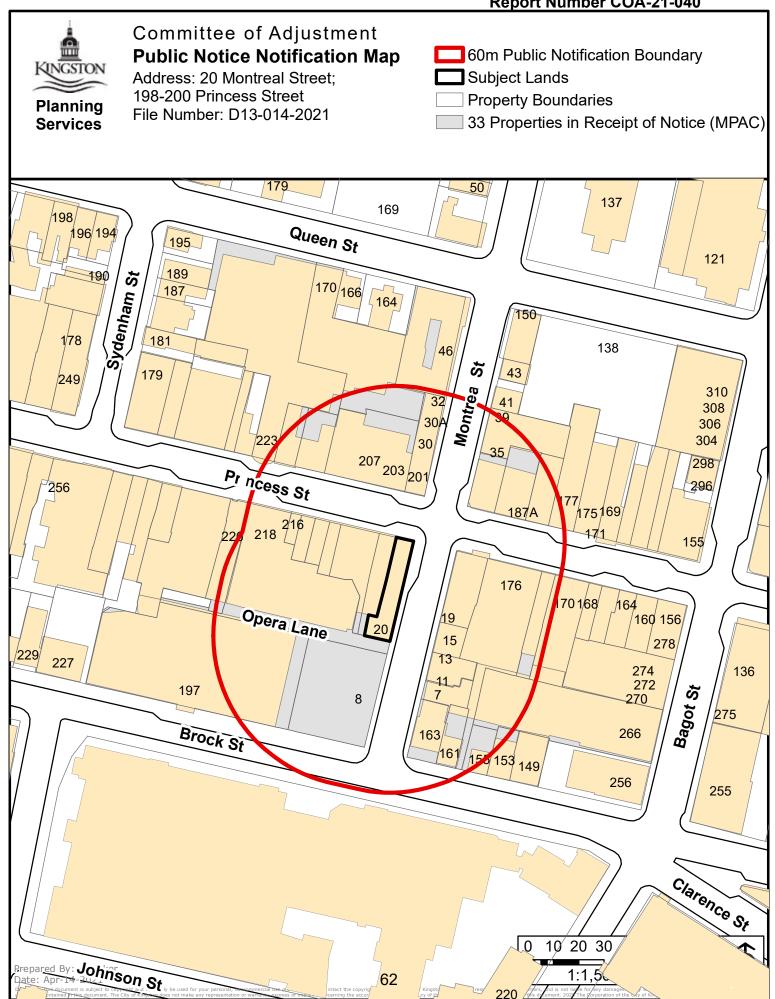
4. Building Permit Application Requirements

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.

Exhibit B Report Number COA-21-040 Queen St Committee of Adjustment Princess St **Key Map** KINGSTON Address: 20 Montreal Street; 198-200 Princess Brock St Street St E **Planning** File Number: D13-014-2021 Johnson St **Services** Clarence St/ Lands Subject to Minor Variance William St 41 32 30A 39 231 229 227 225 Montreal S_t 37 223 30 35 221 217 215 213 211 207 203 201 193 189 Princess St 191 187 185 183 177 187A 230 226 218 212 210 208 214 206 204 202 186 184 182 176 170 19 Opera Lane 20 15 13 11 7 8 163 Brock St 161 149 0 21 Metres Prepared By: adowker Date: Apr-14-2021 1:750 61

Exhibit C Report Number COA-21-040



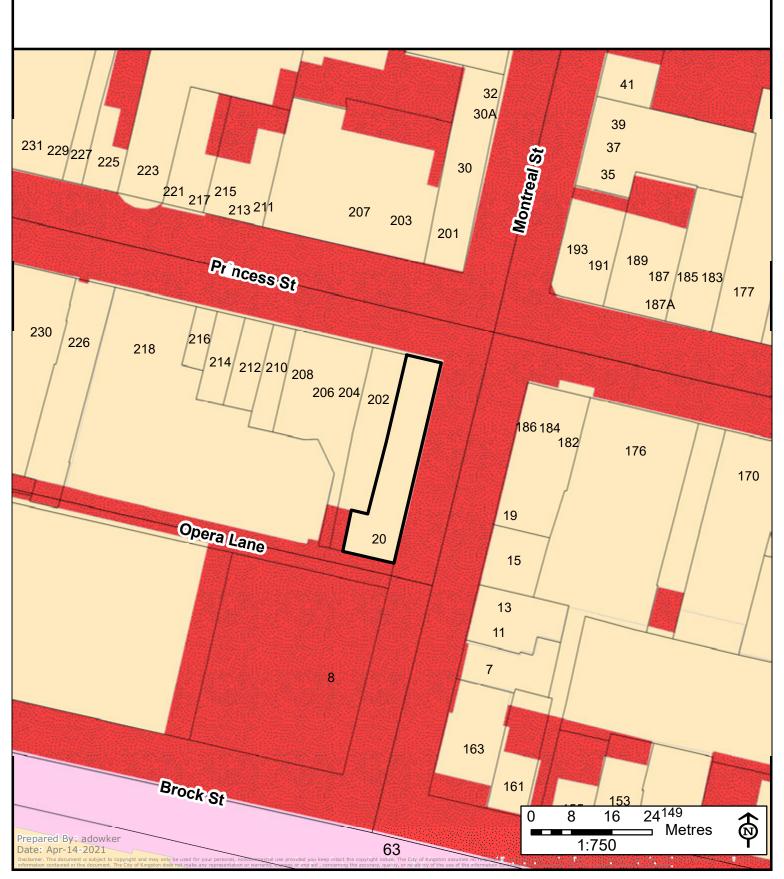


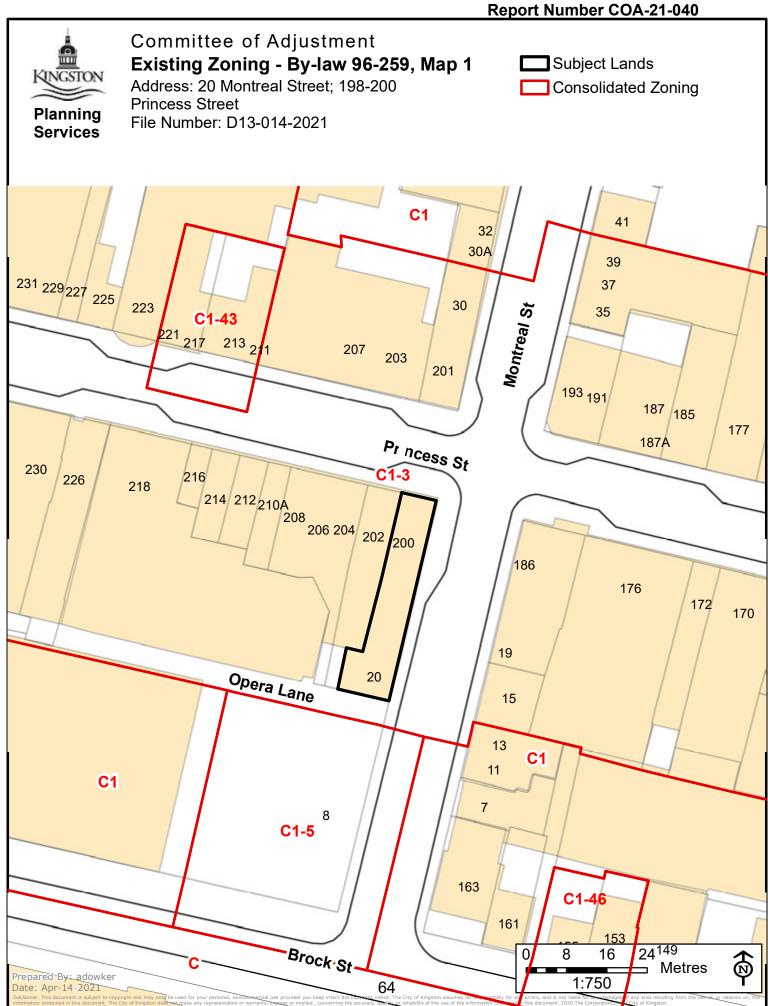
Committee of Adjustment Official Plan, Existing Land Use

Address: 20 Montreal Street; 198-200 Princess Street File Number: D13-014-2021 Subject Lands

CENTRAL BUSINESS DISTRICT

INSTITUTIONAL







Committee of Adjustment Neighbourhood Context (2020)

Address: 20 Montreal Street; 198-200

Princess Street

File Number: D13-014-2021

Property Boundaries
Proposed Parcels



Exhibit G Report Number COA-21-040



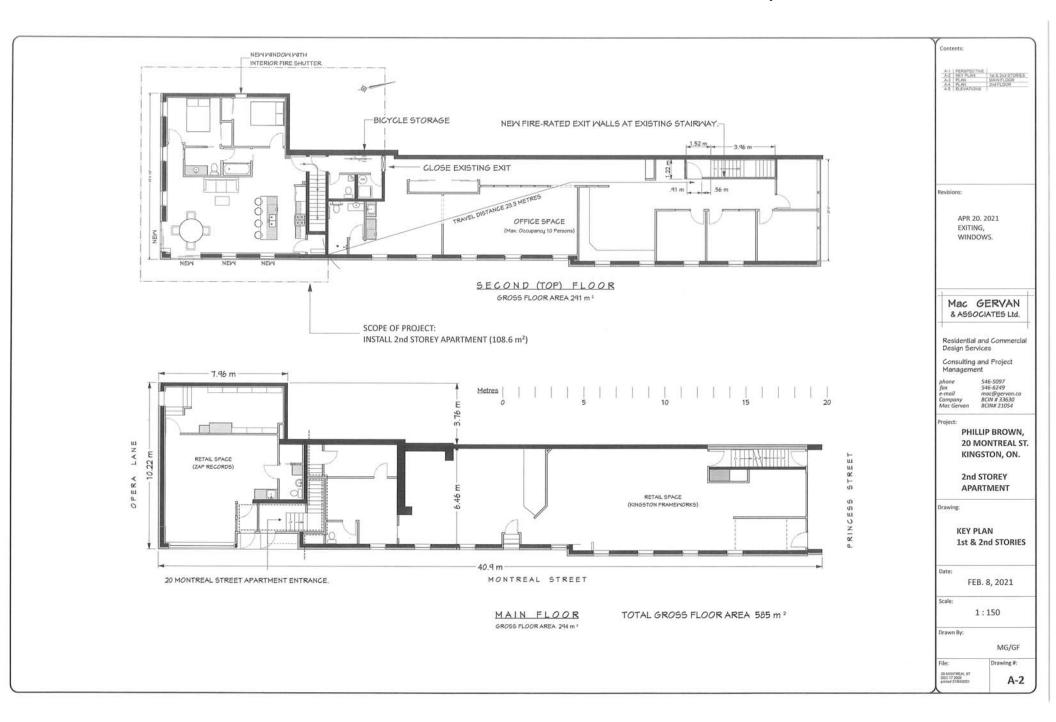


Exhibit G Report Number COA-21-040

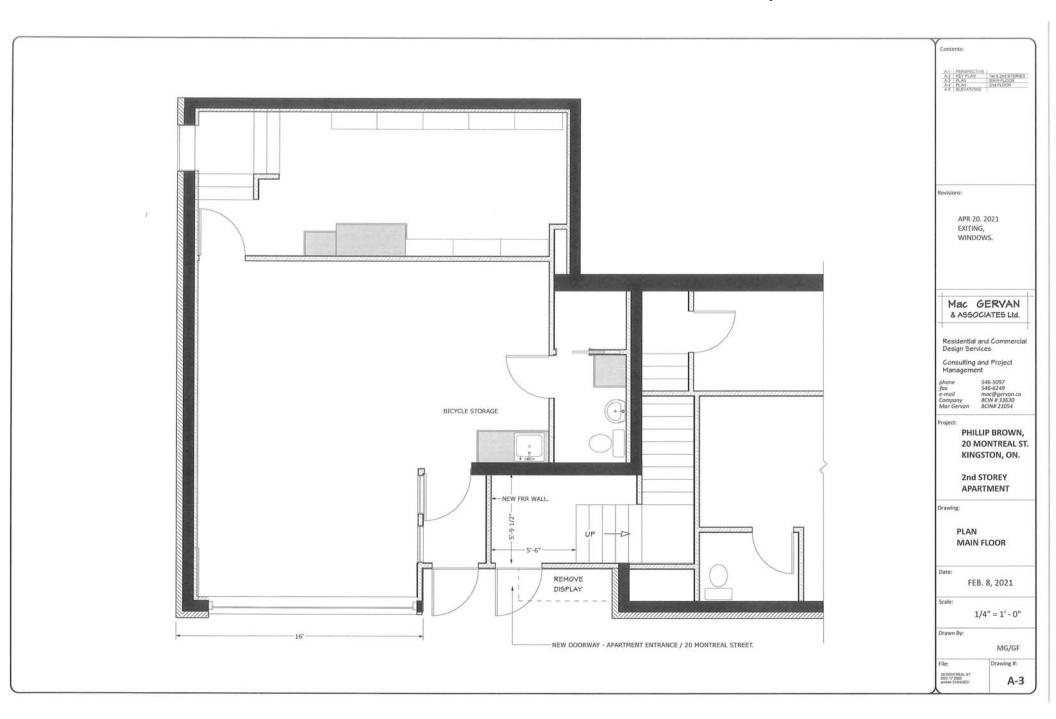


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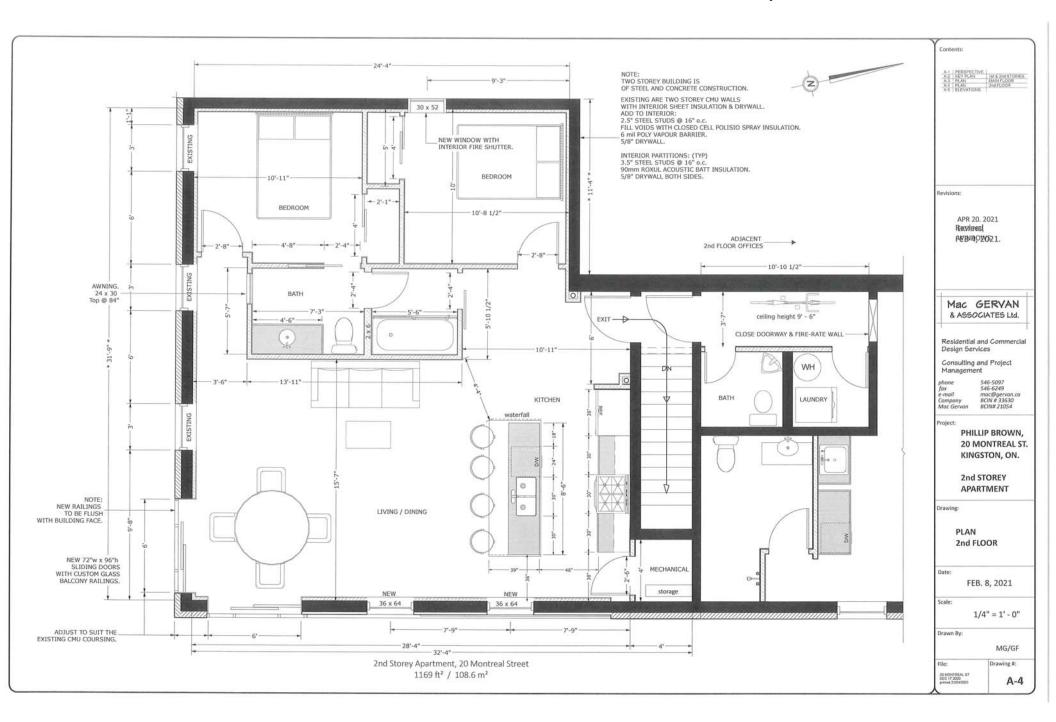


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