



**City of Kingston
Report to Committee of Adjustment
Report Number COA-21-051**

To: Chair and Members of the Committee of Adjustment
From: Jason Partridge, Planner
Date of Meeting: June 21, 2021
Application for: Minor Variance
File Number: D13-026-2021
Address: 233 Colborne Street
Owner: ELM TOWNS GP INC
Applicant: Peter Sauerbrei

Council Strategic Plan Alignment:

Theme: Policies & by-laws

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 233 Colborne Street. The applicant is requesting relief from the requirements regarding the minimum setback from the rear lot line to legalize an existing under construction 16-unit residential townhouse building on the property. The resulting 16-unit residential townhouse building will be 390 square metres in size and complies with all minimum side yard, height and landscaped open space requirements.

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: Section 571 (d)(v)

Requirement: 5.7 metres

Proposed: 5.59 metres

Variance Requested: 0.11 metres

Recommendation:

That minor variance application, File Number D13-026-2021, for the property located at 233 Colborne Street seeking relief from the minimum setback from rear lot line, in order to legalize a 390 square metres 16-unit residential townhouse building, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-21-051.

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Authorizing Signatures:



Jason Partridge, 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 April 19, 2021, a minor variance application was submitted by Peter Sauerbrei, on behalf of the owner, ELM TOWNS GP INC, with respect to the property located at 233 Colborne Street. The purpose of the application is to legalize an under construction 16-unit residential townhouse building near the rear lot line of the property. The total area of the proposed building is 390 square metres.

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

- Site Plan (Exhibit G)

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 Colborne Street and is situated within an established residential area in Williamsville (Exhibit B – Key Map and Exhibit F – Neighbourhood Context). The site is currently under construction and the 16-unit residential townhouse building will be on full municipal services. The surrounding area includes Single Family Dwellings and Multi-Family Dwellings on municipal owned roads.

The subject property is designated Residential in the Official Plan and zoned B3.571 in Zoning By-Law Number 8499.

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:

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.

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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;

The 16-unit residential townhouse building is for a permitted residential use. Section 2.2.5 (Housing Districts) states that these areas are:

“...planned to remain stable in accordance with Section 2.6 of this Plan but will continue to mature and adapt as the City evolves. Reinvestment and upgrading will be encouraged through minor in-filling and minor development (i.e. that which can integrate compatibility within the prevailing built form standards of height, density and amenity that are generally found in the neighbourhood.

The existing under construction 16-unit residential townhouse building will not have any negative impacts on abutting properties or residential and/or uses or structures. The proposal is compatible with the surrounding residential uses and will not result in significant impacts or changes to the surrounding area.

The 16-unit residential townhouse building represents a reinvestment to the property that will result in a minor development on the subject property. No additional dwelling units are proposed that would violate the zoning on the property. There is no increase in density or intensity of uses. The existing 16-unit residential townhouse building is consistent with the intent of this policy.

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 existing 16-unit residential townhouse building will result in a development that is consistent with the existing rear yard built-form of several residential buildings located north and south of the subject property along Colborne Street. The overall design and scale of the proposal is not anticipated to cause any adverse impacts on the adjacent residential properties.

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 proposal involves the legalization of a residential building within the rear yard of the subject property. There will be no concerns with respect to the parking of vehicles and bicycles or issues relating to accessibility.

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 8.3 – Guiding Principles for Development of Residential Lots

- a. Protect and preserve stable residential communities (in accordance with Section 2.6). As per Section 2.6.2:

- a. A well-established land use pattern in terms of density, type of use(s) and activity level;

The form of residential development is long established. Thus, the overall density, type of use and scale of activity as proposed is consistent with the existing built form of residential buildings along Colborne Street.

- b. A common or cohesive architectural and streetscape character, in terms of massing and built form, architectural expression, age of building stock, and street cross-section;

The existing development will not create intrusive overlook with respect to adjacent residential properties. The 16-unit residential townhouse building is within the rear yard and won't exceed the maximum permitted height in the zoning by-law. The building will also maintain the minimum interior yard setback towards the two adjacent properties. The rear yard of the property also backs on a large parking lot with large separations distance to other buildings. It will also be compatible with the style, colour and massing of other buildings in the area. The proposed variance will not alter the character of the neighbourhood or the existing streetscape.

- c. A stable pattern of land ownership or tenure;

The proposal will result in a stable pattern of land ownership.

- d. A consistent standard of property maintenance with relatively little vacancy in land or building occupancy;

All properties are subject to the City's Property Standards By-Law and Yards By-Law. This proposal does not change the enforcement or applicability of the by-laws.

- e. limited number of applications for development that would alter the established pattern of land assembly and built form.

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The proposed variance will not significantly alter the established pattern of land assembly and built form. A sufficient base of social and physical infrastructure to support existing and planned development; No deficiencies in social infrastructure were identified to limit this application. The appropriate level of physical infrastructure is present to support the development permitted by the draft by-law.

- b. Foster developments that are context appropriate;

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.

- c. Foster attractive developments which add to the existing sense of place;

The proposal will not alter the existing character of the established surrounding residential neighbourhood.

- d. Provide a variety of housing types;

The 16-unit residential townhouse building on the site will provide housing which will assist in meeting the housing demand in the City.

- e. Ensure compact, accessible mixed-use development;

The proposal contributes to the compact nature of the neighbourhood.

- f. Encourage environmentally sustainable development;

The proposal will not create a significant impact on the existing built form along Colborne Street. The subject property is located within a serviced area which supports the sustainable use of lands, infrastructure and resources.

- g. Integrate and highlight cultural heritage resources;

The subject lands are not designated cultural heritage and there are no identified cultural heritage resources in the immediate area.

The existing residential use will be maintained on the subject property. The site is not located within a Heritage District. The site is not identified on the City of Kingston Heritage Register, therefore, there will be no impact on built 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;

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The subject property is not on the City's Heritage Register and as such 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 site is located inside of the Urban Boundary and is developed with sufficient 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 proposed variance is considered minor and the development is consistent with the existing built form along Colborne Street. Therefore, a zoning by-law amendment is not required.

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;

As part of the recommendation, suggested conditions have been listed. 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.

The surrounding residential uses include single family dwellings and multi-family dwellings. The approval of the requested variance is considered minor and will not set a precedent for the immediate area.

The proposal meets the intent of the Official Plan, as the proposed 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 B3.571 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 existing 16-unit residential townhouse building is a permitted use within the 'B3.571' Zone (Exhibit E)

The proposal requires a variance to Section 571 (d)(v)

Variance Number 1:

By-Law Number 8499: Section 571 (d)(v)

Requirement: 5.7 metres

Proposed: 5.59 metres

Variance Requested: 0.11 metres

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A variance is required from Section 571 (d)(v) of Zoning By-Law Number 8499 to seek relief for a building from the minimum setback from the rear lot line Section 571 (d)(v). Within Section 571 (d)(v) the minimum setback from the rear lot line is 5.7 metres. The existing 16-unit residential townhouse will be setback 5.59 metres, which does not comply with the minimum rear yard setback of Section 571 (d)(v). As such, the applicant is seeking a variance of 0.11 metres to legalize the 16-unit residential townhouse building.

The intent of the minimum setback from rear lot line for a building is to reduce concerns about overlook into nearby yards and prevent overdevelopment of a rear yard space. The proposed building maintains a 5.59 metres setback to reduce impact on the neighbouring property. It also proposed a pass-through design which will maintain access to the rear of the property and exceed the interior lot line setbacks. The general intent and purpose of the by-law is maintained.

3) The variance is minor in nature

The existing 16-unit residential townhouse building will result in a development that is consistent with the existing built form of residential development along Colborne Street. The proposed building setback reduction will be located within the rear yard and will not result in intrusive overlook with respect to adjacent residential properties. The minimum interior yard setbacks will be met between the two adjacent properties and the proposed building backs onto a large parking lot area towards the rear yard of the property. The variances will not alter the character of the neighbourhood or the existing streetscape.

The variances are considered minor as there will be no negative impacts on abutting properties or residential and/or uses or structures.

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

The proposed development will provide the functional needs for the existing residential use. The resulting built form satisfies all applicable provisions of the zoning by-law, except for the rear lot line setback.

The proposal is appropriate and compatible with the surrounding residential uses and will not result in significant impacts or changes to the surrounding area.

The variance is desirable and appropriate use of the land.

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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 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 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 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.

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Approval of this application will legalize an existing 16-unit residential townhouse building on the subject property. The proposed rear yard building setback reduction will improve the function of the existing residential use on the site and represents good land use planning.

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 June 21, 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 55 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

Jason Partridge, 613-546-4291 extension 3216

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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 8499, Map 19
- Exhibit F Neighbourhood Context Map (2020)
- Exhibit G Site Plan

Recommended Conditions

Application for minor variance, File Number D13-026-2021

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

1. Limitation

That the approved minor variance applies only to the subject lands located at 233 Colborne Street to legalize the existing 390 square metre 16 unit residential townhouse building 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 Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132) and the 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 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 Services (613-546-4291, extension 3180) must be immediately contacted.




Planning Services

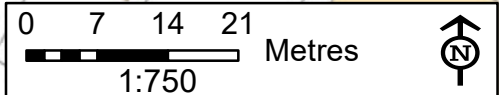
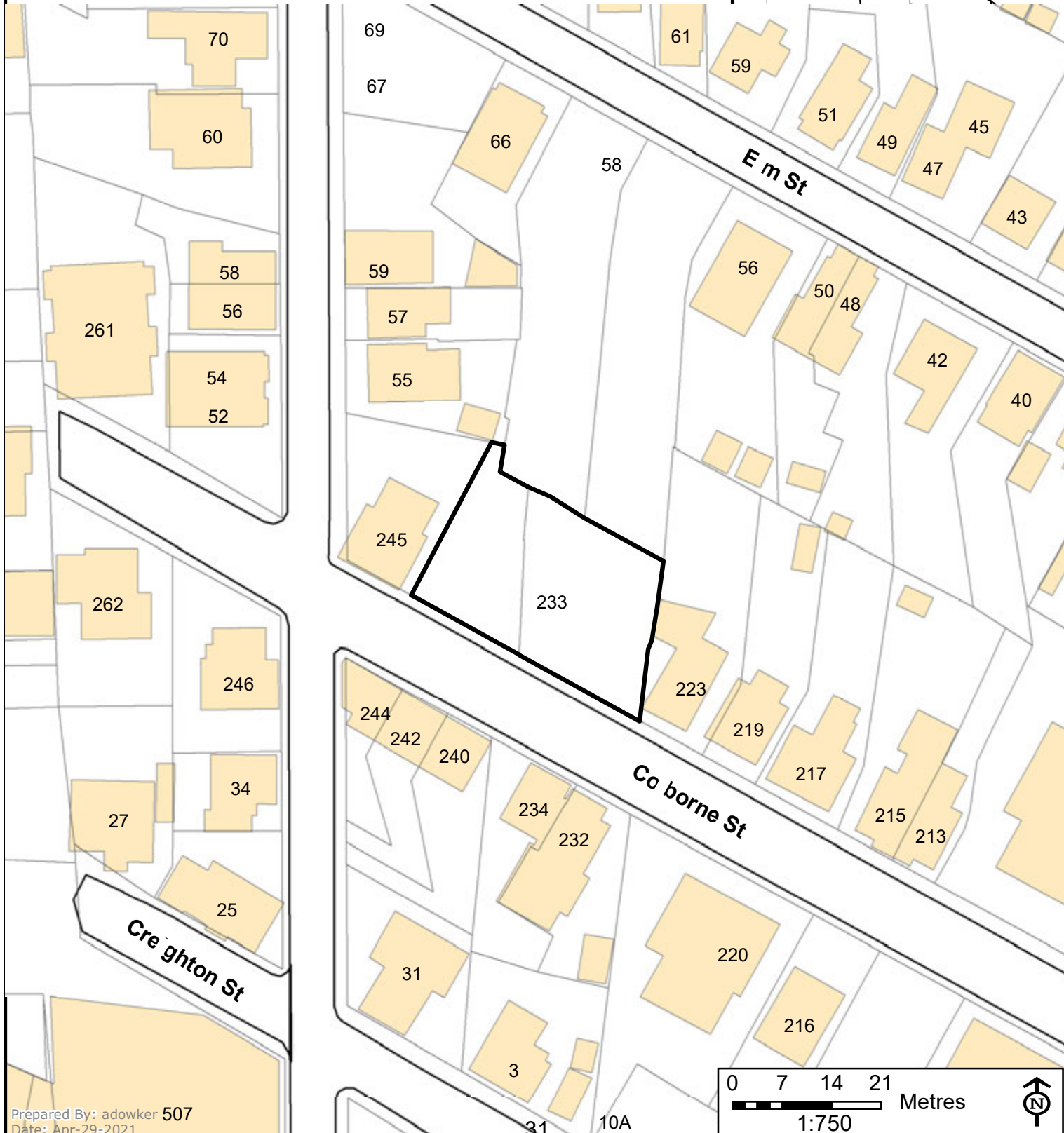
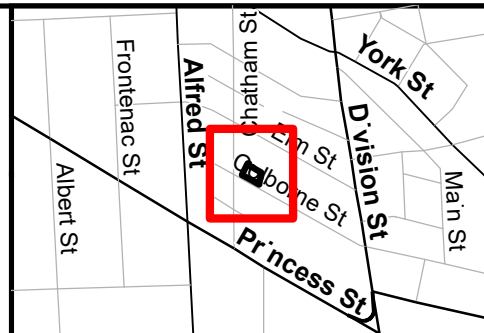
Committee of Adjustment

Key Map

Address: 233 Colborne Street

File Number: D13-026-2021

 Lands Subject to Minor Variance

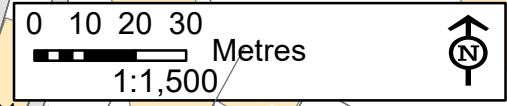
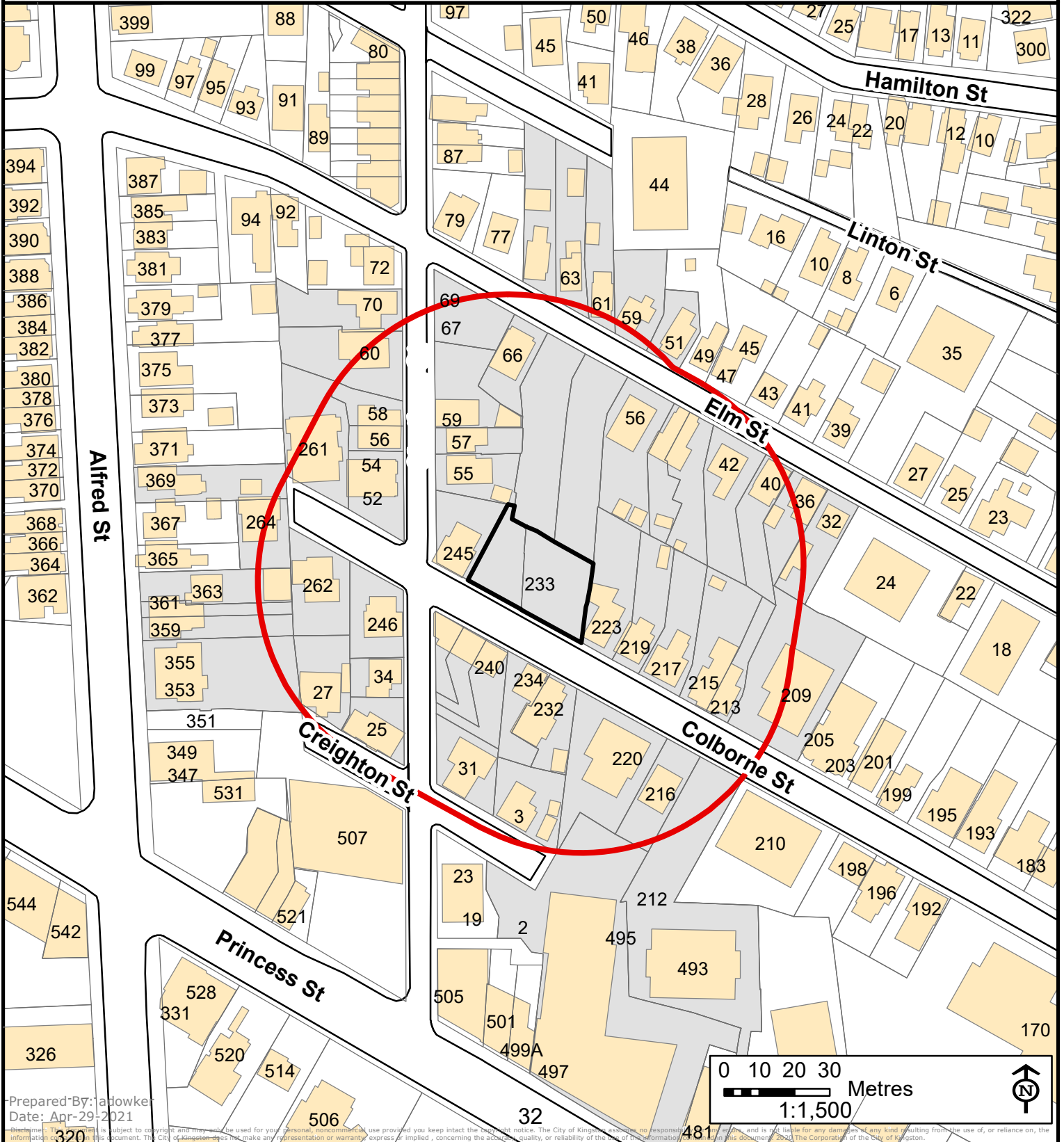




Committee of Adjustment Public Notice Notification Map

Address: 233 Colborne Street
File Number: D13-026-2021

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

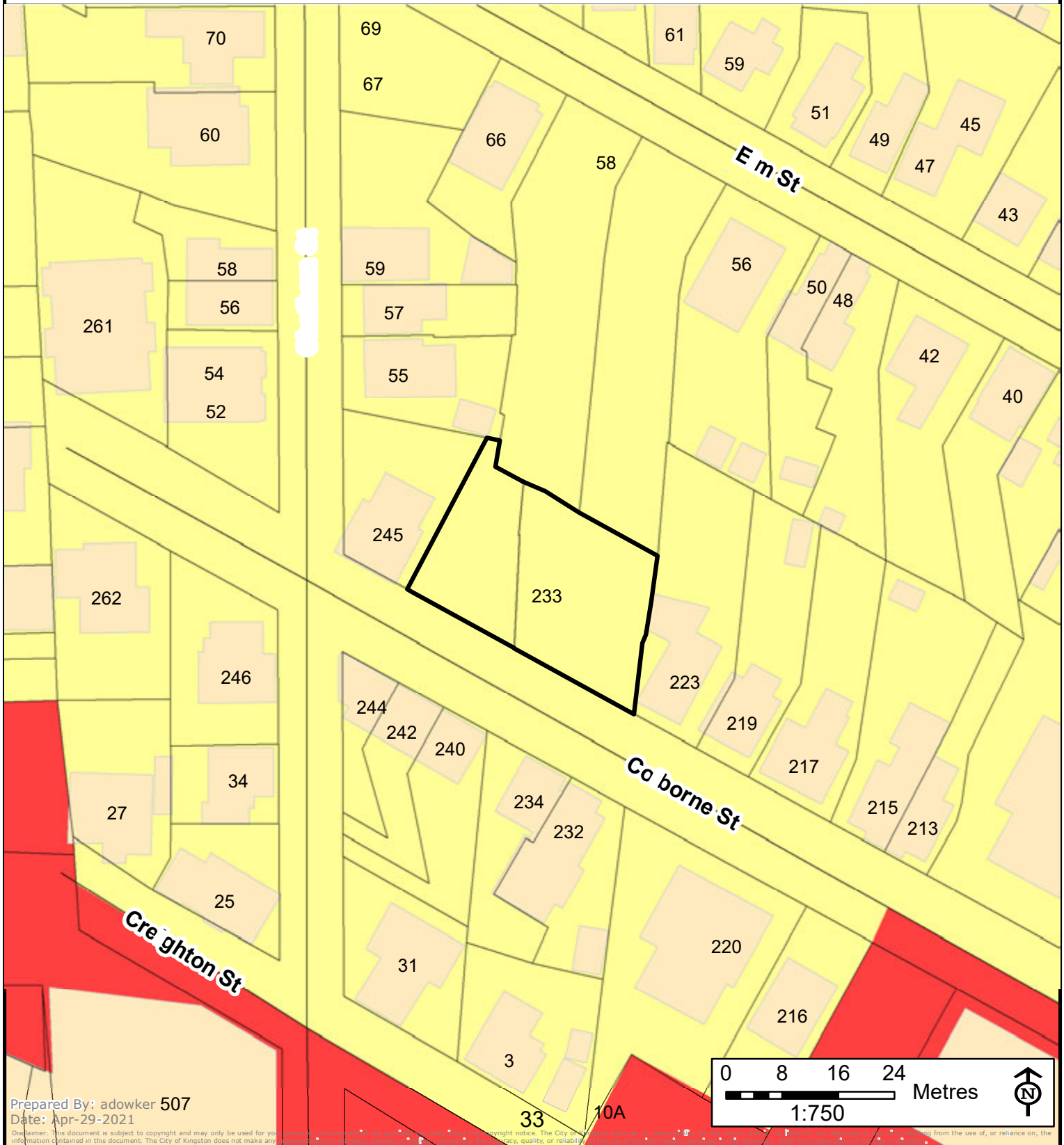




Committee of Adjustment Official Plan, Existing Land Use

Address: 233 Colborne Street
File Number: D13-026-2021

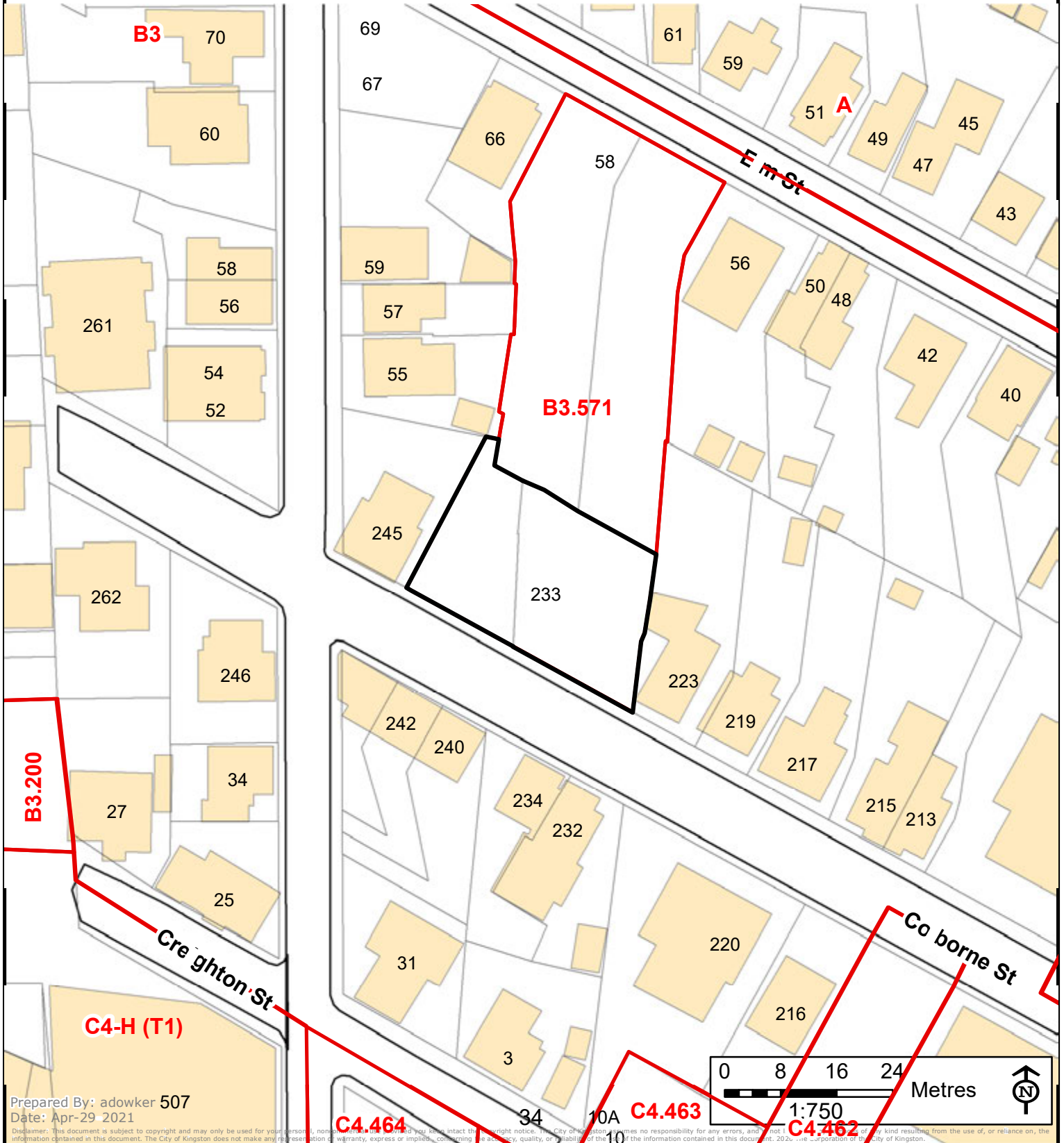
- Subject Lands
- MAIN STREET COMMERCIAL
- RESIDENTIAL





Committee of Adjustment
Existing Zoning - By-law 8499, Map 19
Address: 233 Colborne Street
File Number: D13-026-2021

Subject Lands
 Consolidated Zoning

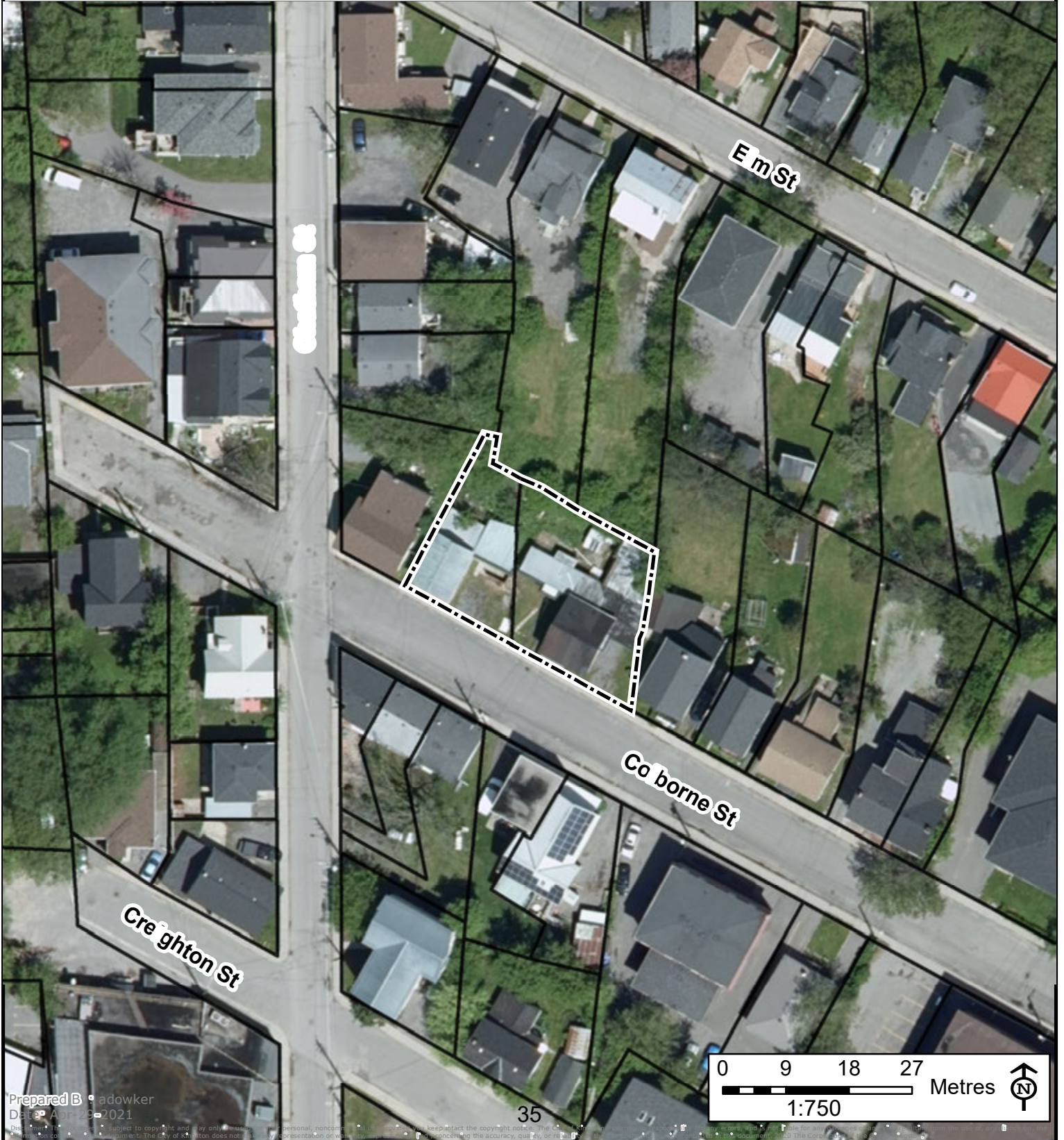


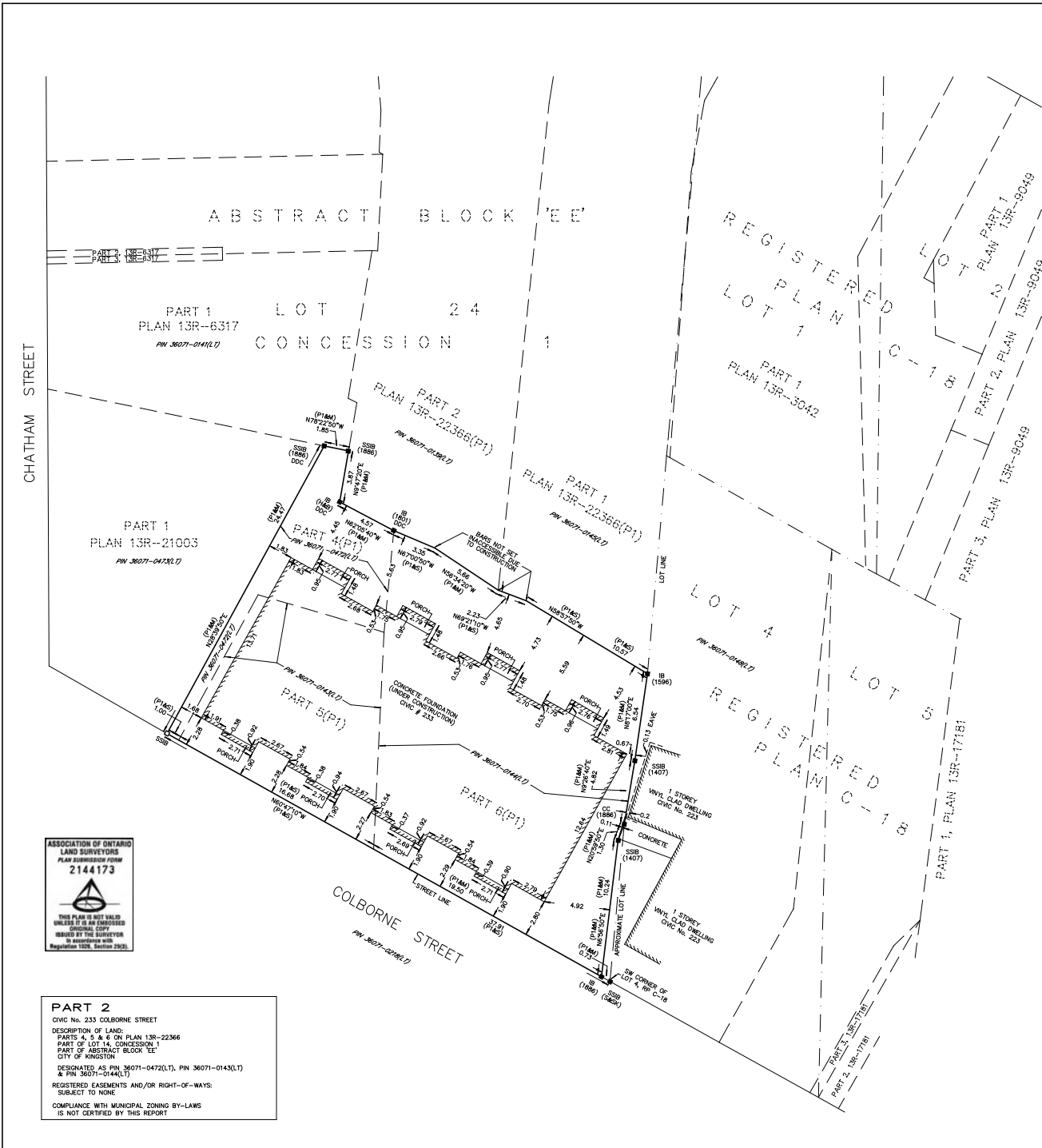


Committee of Adjustment
Neighbourhood Context (2020)

Address: 233 Colborne Street
File Number: D13-026-2021

- Subject Lands
- Property Boundaries
- Proposed Parcels





SURVEYOR'S REAL PROPERTY REPORT PART 1
 PLAN OF SURVEY OF
 PART OF LOT 24, CONCESSION 1
 PART OF ABSTRACT BLOCK 'EE'
 CITY OF KINGSTON
 COUNTY OF FRONTENAC
 SCALE: 1 : 150



METRIC
 DISTANCES & COORDINATES SHOWN ON THIS PLAN
 ARE IN METRES AND CAN BE CONVERTED TO FEET
 BY DIVIDING BY 0.3048

LESLIE M. HIGGINSON SURVEYING Ltd.
 A DIVISION OF HOPKINS CHITTY LAND SURVEYORS INC.
 2021

THIS REPORT WAS PREPARED FOR
 ANGLIN GROUP LTD. & THE
 UNDERSIGNED ACCEPTS NO RESPONSIBILITY
 FOR USE BY OTHER PARTIES



SURVEYOR'S CERTIFICATE:

- I CERTIFY THAT:
 1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM.
 2. THE SURVEY WAS COMPLETED ON THE 13TH DAY OF JANUARY, 2021.

FEBRUARY 11, 2021
 DATE _____
 LESLIE M. HIGGINSON
 ONTARIO LAND SURVEYOR

NOTE & LEGEND:

BEARINGS SHOWN HEREON ARE GRID BEARINGS DERIVED FROM GPS OBSERVATIONS USING REAL TIME NETWORK (RTN) BASE AND ROVER BASELINES AND ARE RELATED TO UTM ZONE 18, (75° WEST LONGITUDE) NAD83 (CSRS) (2011.0).
 COMPARISONS SHOWN IN BRACKETS ARE TO ASTROMETRIC BEARINGS.
 ALL DISTANCES SHOWN HEREON ARE HORIZONTAL GROUND DISTANCES.
 GRID DISTANCES CAN BE CALCULATED BY MULTIPLYING THE GROUND DISTANCES SHOWN ON THE PLAN BY THE COMBINED SCALE FACTOR OF 0.999765.

□	DENOTES	SURVEY MONUMENT PLANTED
■		SURVEY MONUMENT FOUND
SSB		SHORT STANDARD IRON BAR
SIB		STANDARD IRON BAR
IB		IRON BAR
CC		CUT CROSS
RIB		ROUND IRON BAR
IP		IRON PIPE
WT		WITNESS
CALC		CALCULATED
SET		SET
M		MEASURED
1986		PHIL. W. CHITTY O.L.S.
1407		M. PETER ALLEN O.L.S.
565K		SMITH & SMITH KINGSTON
1352		BRIAN W. KEER O.L.S.
H&B		HUMPHRIES & BURGHAM LTD.
OU		ORIGIN UNKNOWN
P1		PLAN 13R-22366
DOC		DESTROYED DURING CONSTRUCTION

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DATED FEBRUARY 11, 2021
 LESLIE M. HIGGINSON SURVEYING Ltd.
 A DIVISION OF HOPKINS CHITTY LAND SURVEYORS INC.
 1064 GARDINERS ROAD
 KINGSTON, ONTARIO, K7P 1R7
 (613) 389-7996 (FAX) 389-5578 or leslie@mhigginson.com
 FILE: CITY C-18 | 2020-0266 GNDC SRPR COLBORNE



PART 2
 CIVIC No. 233 COLBORNE STREET
 DESCRIPTION OF LAND:
 PARTS 4, 5 & 6 ON PLAN 13R-22366
 PART OF LOT 14, CONCESSION 1
 PART OF ABSTRACT BLOCK 'EE'
 CITY OF KINGSTON
 DESIGNATED AS PIN 36071-0472(LT), PIN 36071-0143(LT)
 & PIN 36071-0144(LT)
 REGISTERED EASEMENTS AND/OR RIGHT-OF-WAYS:
 SUBJECT TO NONE
 COMPLIANCE WITH MUNICIPAL ZONING BY-LAWS
 IS NOT CERTIFIED BY THIS REPORT