



**City of Kingston
Report to Committee of Adjustment
Report Number COA-21-062**

To: Chair and Members of the Committee of Adjustment
From: Lindsay Sthamann, Planner
Date of Meeting: August 16, 2021
Application for: Permission
File Number: D13-040-2021
Address: 45 Napier Street
Owner: Kingston Tennis Club
Applicant: Jason Taylor

Council Strategic Plan Alignment:

Theme: Regulatory & compliance

Goal: See above

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for permission for the property located at 45 Napier Street. The applicant is proposing to renovate the existing clubhouse including a single-storey addition on the north side of the building, removal of the existing shed, and a construction of a new deck. The existing structure is non-conforming, and a permission application is required to expand the building into the north side yard with a proposed setback of 5 metres. No other changes to the site are proposed as part of this application.

The requested application for permission under Section 45(2)(a)(i) of the *Planning Act* is consistent with the general purpose and general intent of both the City of Kingston Official Plan and Zoning By-Law Number 8499. The proposed permission is in keeping with the intent of the zoning by-law and represents appropriate and desirable development of the lot. Therefore, it is recommended that this application for permission under Section 45(2)(a)(i) of the *Planning Act* be approved.

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Recommendation:

That the application for permission, File Number D13-040-2021, for the property located at 45 Napier Street to renovate the existing clubhouse, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-21-062.

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Authorizing Signatures:



Lindsay Sthamann, Planner

Consultation with the following Management of the Community Services Group:

Tim Park, Director, Planning Services

James Bar, Acting Manager, Development Approvals

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Options/Discussion:

On July 12, 2021, an application for permission was submitted by Jason Taylor, on behalf of the owner, Kingston Tennis Club, with respect to the property located at 45 Napier Street. The application for permission is requested to renovate the existing clubhouse including a single-storey addition on the north side of the building.

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

- Site Plan (Exhibit G)
- Floor Plans and Elevations (Exhibit H)
- Stormwater Management Brief
- Planning Justification Letter

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 at 45 Napier Street. The subject property is designated ‘Open Space’ in the Official Plan (Exhibit E – Official Plan Map) and zoned ‘OS2 – Private Open Space’ in Zoning By-Law Number 8499 (Exhibit F - Zoning By-Law Map 8499, Map 26). The property abuts residential uses in the A4 zone on all sides.

The site currently contains seven tennis courts and a two-storey clubhouse building. No parking is provided on-site (Exhibit C - Neighbourhood Context Map (2020)).

Legal Non-conforming

As stated in Subsection 45(2)(a)(i) of the *Planning Act*, where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, the Committee of Adjustment may permit the enlargement or extension of the building or structure, if the use that was made of the building or structure on the day the by-law was passed continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed (Section 45(2)(a)(i)).

Subsection 45(2)(a)(ii) of the *Planning Act* authorizes the Committee of Adjustment to permit the use of such land, building or structure for a purpose that, in the opinion of the Committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, if the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the Committee continued until the date of the application to

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the Committee. In determining whether to permit a use under Section 45(2)(a)(ii), the test is not one of reasonableness; rather, the test is established by the statutory criteria of:

- 1) A similarity between the uses; and
- 2) Whether the proposed expansion is desirable for the appropriate development or use of the land.

Zoning By-Law Number 8499 was passed by Council July 28, 1975 and predates the City of Kingston Official Plan which came into effect in 2010. As a general rule, any land use legally existing at the date of approval of the implementing zoning by-law that does not conform to the policies, provisions or schedules of the Official Plan or the zoning by-law is deemed a non-conforming use and should cease to exist in the long run.

Provincial Policy Statement

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.

Official Plan

The subject property is designated Open Space on Schedule 3-A – Land Use, of the Official Plan. The open space designation permits active and passive recreational uses within the urban boundary.

In certain circumstances, it may be desirable to grant the extension, enlargement or relocation of a non-conforming use as provided by the *Planning Act*. When reviewing an application for such extension, enlargement or relocation, the Committee of Adjustment must be satisfied that the legal non-conforming use continued to the date of the application to the Committee, and that the application would not extend such use beyond the area and site owned or used on the day of passage of the implementing zoning by-law, and that the application complies with the eight criteria as per Section 9.5.13 of the Official Plan regarding the extension or expansion of a non-conforming use. The subject application, requesting permission to redevelop and enlarge the existing clubhouse building, has been reviewed against these policies, provided below.

1. Consistency with provincial policy in effect at the time of the decision, and general conformity of the proposal with the intent of the policies and schedules of the Plan:

The subject lands are located within a settlement area as defined in the Provincial Policy Statement, where growth is to be focused on full municipal services. The addition maintains the Tennis Club use onsite and does not have an impact upon matters of

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provincial interest as outlined in the Provincial Policy Statement including cultural heritage, natural heritage, and servicing.

2. Compatibility of the proposal with existing uses and zones, the natural heritage system, cultural heritage resources, and with future planned uses in accordance with the Plan:

The subject lands are designated Open Space in the Official Plan and zoned for open space uses. The site is not within a natural heritage area as per the Official Plan. The lands are considered an archaeologically sensitive area, however, given the minimal increase in building size an archaeological assessment is not required

3. Compatibility of proposed buildings or structures with existing buildings and structures, with zoning standards of adjacent sites, with any future planned standards as provided in the Plan, and with any urban design guidelines adopted by the City for the area or for the type of development:

The proposed one-storey addition maintains the scale and character of the existing building and shed. The re-developed structure is not anticipated to have increased negative offsite impacts compared to the existing structure.

4. The extent to which the proposal is warranted in this location and the extent to which areas zoned for the proposed use are available for development:

The expansion of the existing clubhouse allows for the renovation to improve the functionality, aesthetics, and area of the building in a zone that permits a private recreational use. The renovation will not change the intensity of the use onsite.

5. The suitability of the site for the proposal, including its ability to meet all usual standards of parking for vehicles and bicycles, open space or amenity areas as well as the lack of any potential for noise, odour, traffic conflict or other nuisance from the proposal:

This application for Permission is only required to consider the expansion of the existing non-complying structure, As the existing building pre-dates the current zone regulations, it was originally constructed with a reduced interior side yard setback. The enlarged clubhouse building will meet all other provisions of the zone.

6. The impact on municipal infrastructure, services and traffic:

There is no anticipated impact to the site's existing service level or infrastructure requirements.

7. Comments and submissions by staff, agencies and the public:

No comments or concerns at the time this report was finalized.

8. The degree to which the proposal may inhibit conforming uses or creates a precedent:

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The proposed clubhouse conforms with all regulations of the OS2 zone aside from the side yard setback. The application for permission is not anticipated to create an undesirable precedent as the addition represents logical expansion of the existing structure.

The requested permission to renovate and expand the existing clubhouse building meets the general intent and purpose of the City of Kingston Official Plan.

Zoning By-Law

The subject property is zoned ‘OS2 – Private Open Space’ in the City of Kingston Zoning By-Law Number 8499, as amended. Tennis courts with an accessory clubhouse building are a permitted use in this zone.

One existing non-conforming ‘OS2’ zone provision will be affected by the proposed expansion of the clubhouse building. The minimum required side yard setback (on the north lot line) is 23.0 metres. The existing side yard setback is approximately 9.9 metres and the applicant is proposing an additional 4.9 metres which results in a proposed side yard setback of 5.0 metres. As the existing structure already exceeds the permitted side yard setback a permission is required to expand the building on this side.

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 checked="" type="checkbox"/> Real Estate & Environmental Initiatives |
| <input checked="" type="checkbox"/> Fire & Rescue | <input checked="" type="checkbox"/> Kingston Hydro | <input checked="" type="checkbox"/> City’s Environment Division |
| <input checked="" type="checkbox"/> Solid Waste | <input checked="" type="checkbox"/> Parks Development | <input type="checkbox"/> Canadian National Railways |
| <input checked="" type="checkbox"/> Housing | <input checked="" type="checkbox"/> District Councillor | <input type="checkbox"/> Ministry of Transportation |
| <input type="checkbox"/> KEDCO | <input checked="" type="checkbox"/> Municipal Drainage | <input type="checkbox"/> Parks of the St. Lawrence |
| <input checked="" 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.

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Public Comments

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

Previous or Concurrent Applications

A minor variance application (File Number D13-029-2015) was approved for this property in 2015. This was to permit the re-location of the clubhouse building to the west side of the lot fronting on Napier Street. This proposal has since been abandoned and the variances are not needed to facilitate the proposed renovation and expansion of the existing clubhouse.

A Site Plan Control application will not be required for the proposed renovation and expansion of the clubhouse building.

Conclusion

The requested application for permission is consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 8499. The proposed renovation and expansion of the clubhouse building maintains the tennis court use with accessory clubhouse building use in a built form that is similar to what exists currently. The proposed addition is desirable as it seeks to improve the overall functionality of the existing use while remaining compatible with the existing built form.

Approval of this application will permit the renovation and expansion of the existing clubhouse building at 45 Napier Street.

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

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Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on August 16, 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 88 property owners (according to the latest Assessment Roll) within 60 metres of the subject property (Exhibit D - Public Notification Map) 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 of Development Approvals, 613-546-4291 extension 3213

Lindsay Sthamann, Planner, 613-546-4291 extension 3287

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Neighbourhood Context Map (2021)
- Exhibit D Public Notification Map
- Exhibit E Official Plan Map
- Exhibit F Zoning By-Law Map 8499, Map 26
- Exhibit G Site Plan

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Exhibit H Floor Plans & Elevations

Recommended Conditions

Application for permission, File Number D13-040-2021

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

1. Limitation

That the approved permission applies only to the proposed renovation and enlargement of the existing clubhouse building as shown on the approved drawings attached to the notice of decision including a 357 square metre one-storey addition on the north side of the building with a 5 metre setback from the North lot line.

2. No Adverse Impacts

The owner/applicant shall demonstrate to the satisfaction of the City that there are no adverse impacts on neighbouring properties as a result of any modifications to on-site grading or drainage.

3. Building Permit Application Requirements

The owner/applicant shall provide to the Building Services a copy of the decision of the Committee of Adjustment, together with a copy of the approved drawings, when they make application for a Building Permit.

The drawings submitted with the Building Permit application must, in the opinion of the City, conform to the general intent and description of the approved drawing(s), including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. It must be noted that additional planning approvals may be required should further zoning deficiencies be identified through the Building Permit application process.

4. Standard Archaeological Condition

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

In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Registrar of Cemeteries at the Ministry of Government and Consumer Services (416-212-7499), the Program and Services Branch of the Ministry of Heritage, Sport, Tourism and

Culture Industries (416-314-7132), and City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted.

5. Tree Protection

All Tree Protection fencing shall be installed to approved specification prior to the commencement of any site construction/alteration activities. Fencing shall have signage attached identifying area as a Tree Preservation Zone and shall remain in place (both fencing and signage) for the duration of the project. Fencing shall not be removed prior to the completion of the project without written consent of Public Works-Forestry.


6. Lighting

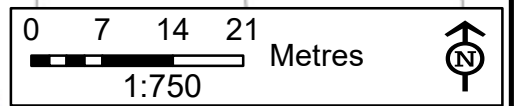
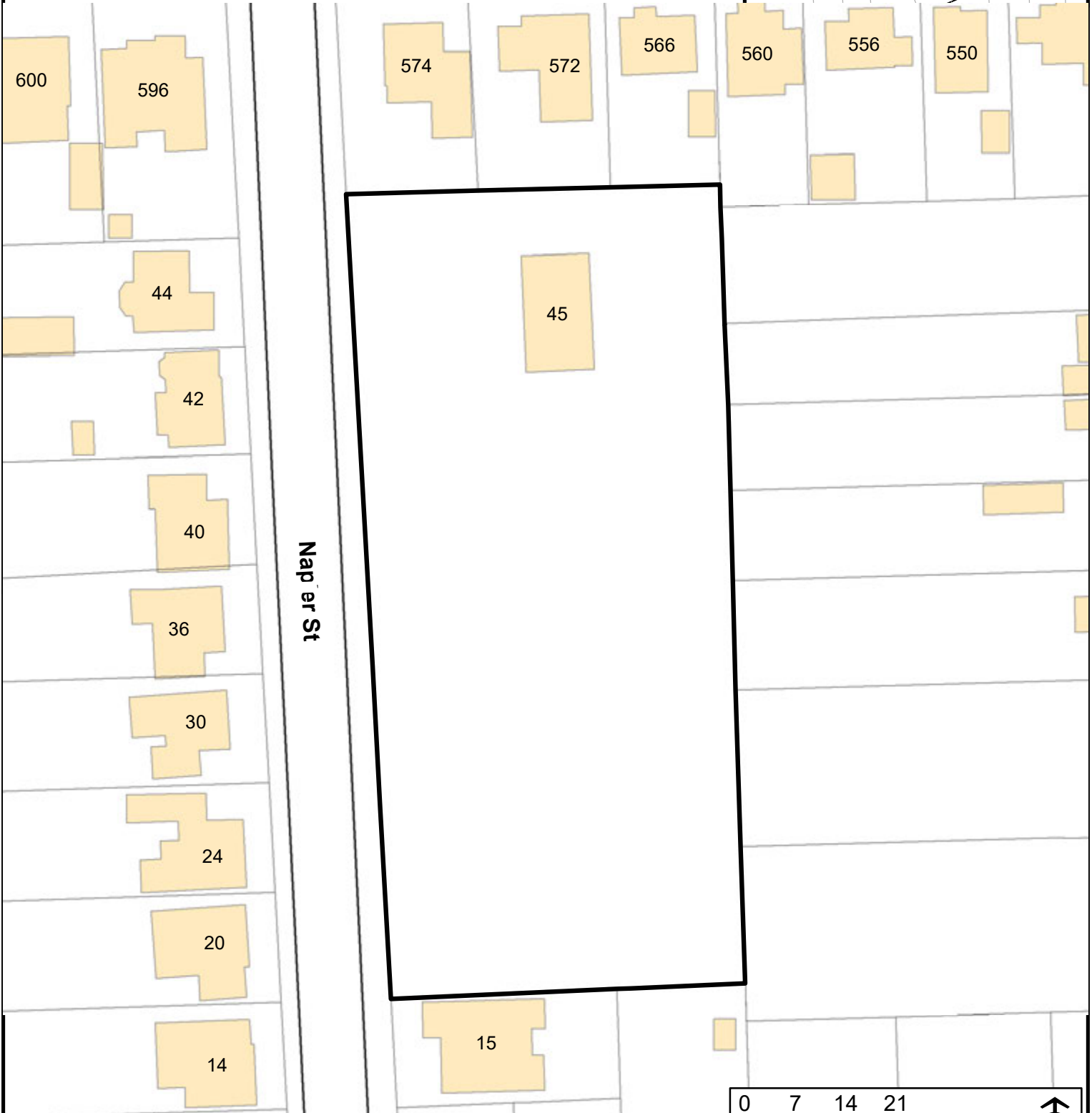
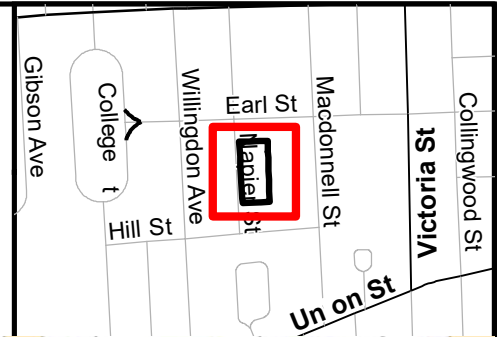
In accordance with City of Kingston By-Law 2005-100, Property Standards By-Law, the applicant shall ensure that the on-site lighting is not positioned so as to cause any impairment of the use or enjoyment of neighbouring properties.



Committee of Adjustment Key Map

Address: 45 Napier Street
File Number: D13-040-2021

 Lands Subject to Minor Variance

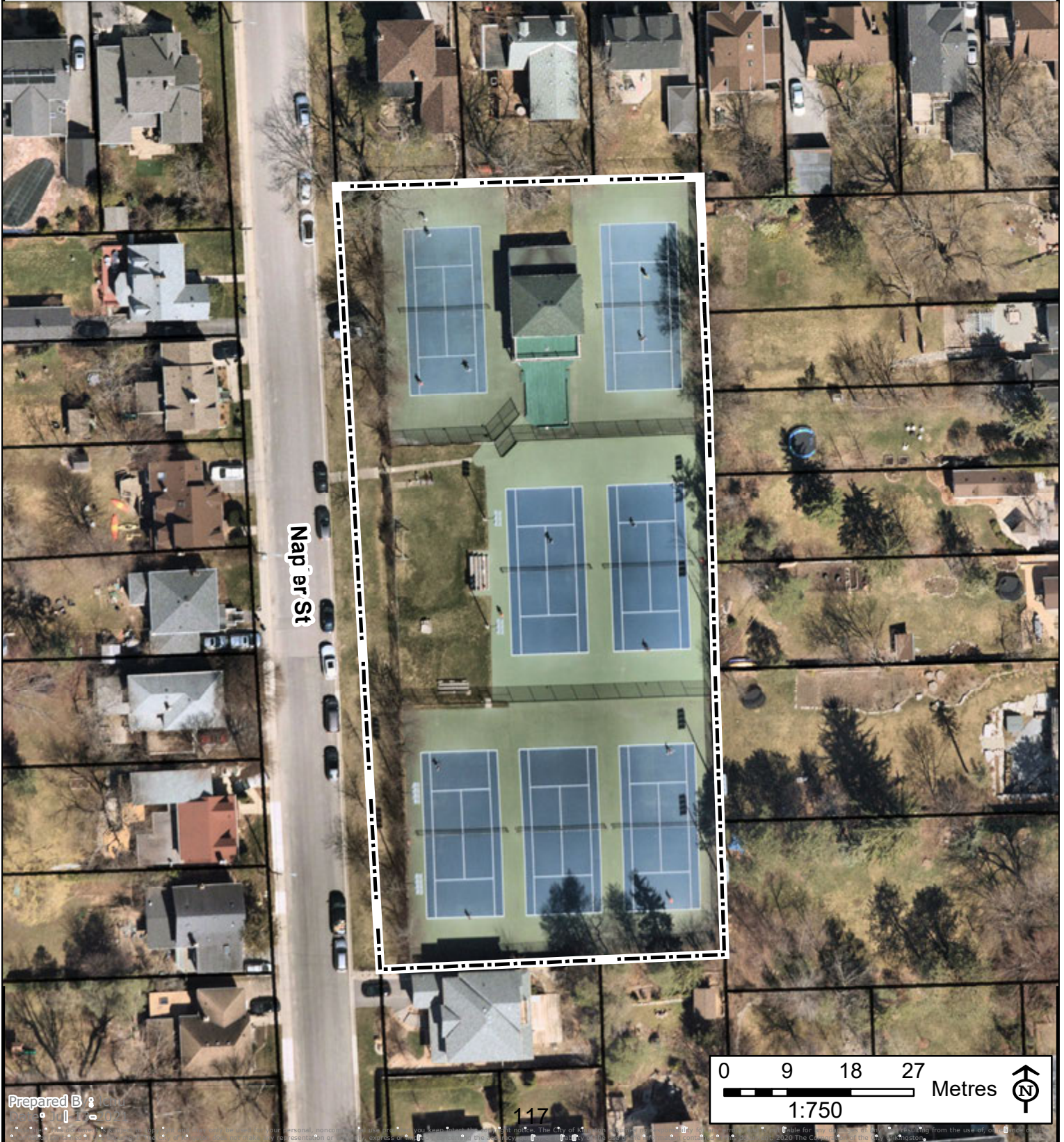




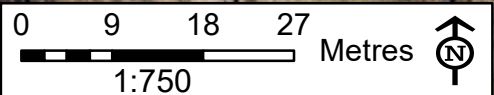
Committee of Adjustment Neighbourhood Context (2021)

Address: 45 Napier Street
File Number: D13-040-2021

- Subject Lands
- Property Boundaries
- Proposed Parcels



Napier St

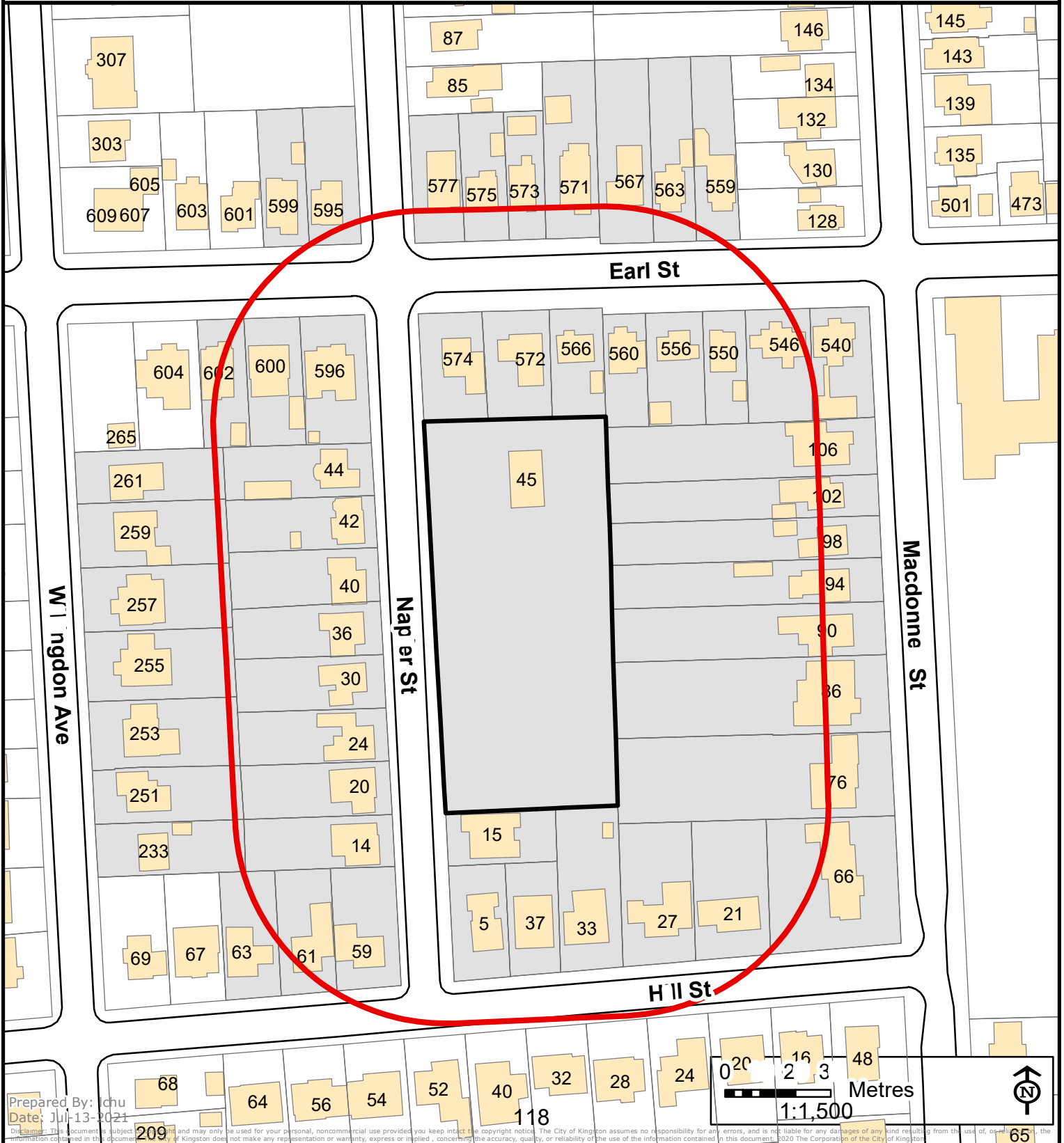




Committee of Adjustment
Public Notice Notification Map

Address: 45 Napier Street
File Number: D13-040-2021

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

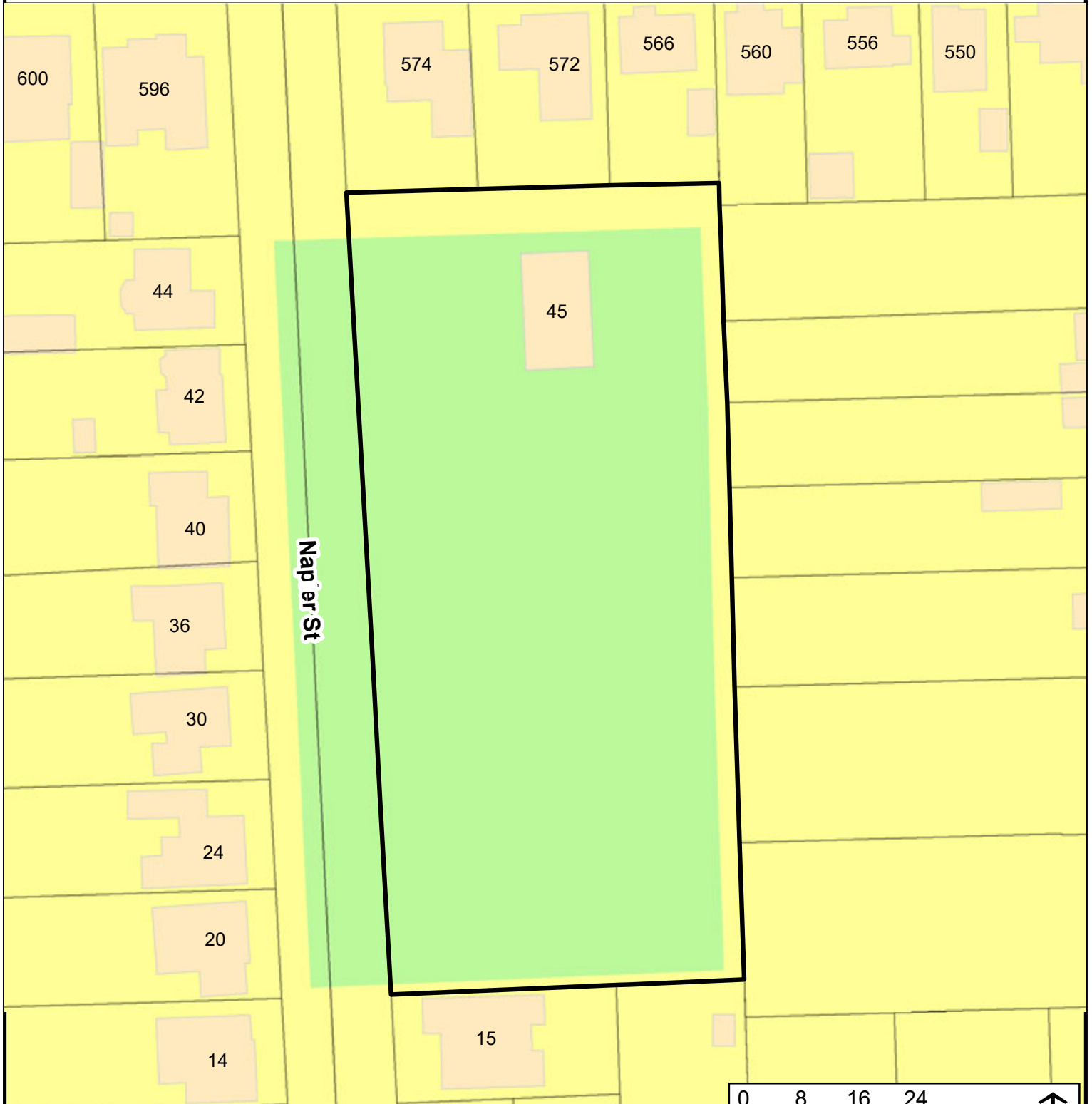




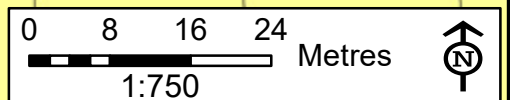
Committee of Adjustment Official Plan, Existing Land Use

Address: 45 Napier Street
File Number: D13-040-2021

- Subject Lands
- OPEN SPACE
- RESIDENTIAL



Prepared By: Ichu
Date: Jul-13-2021

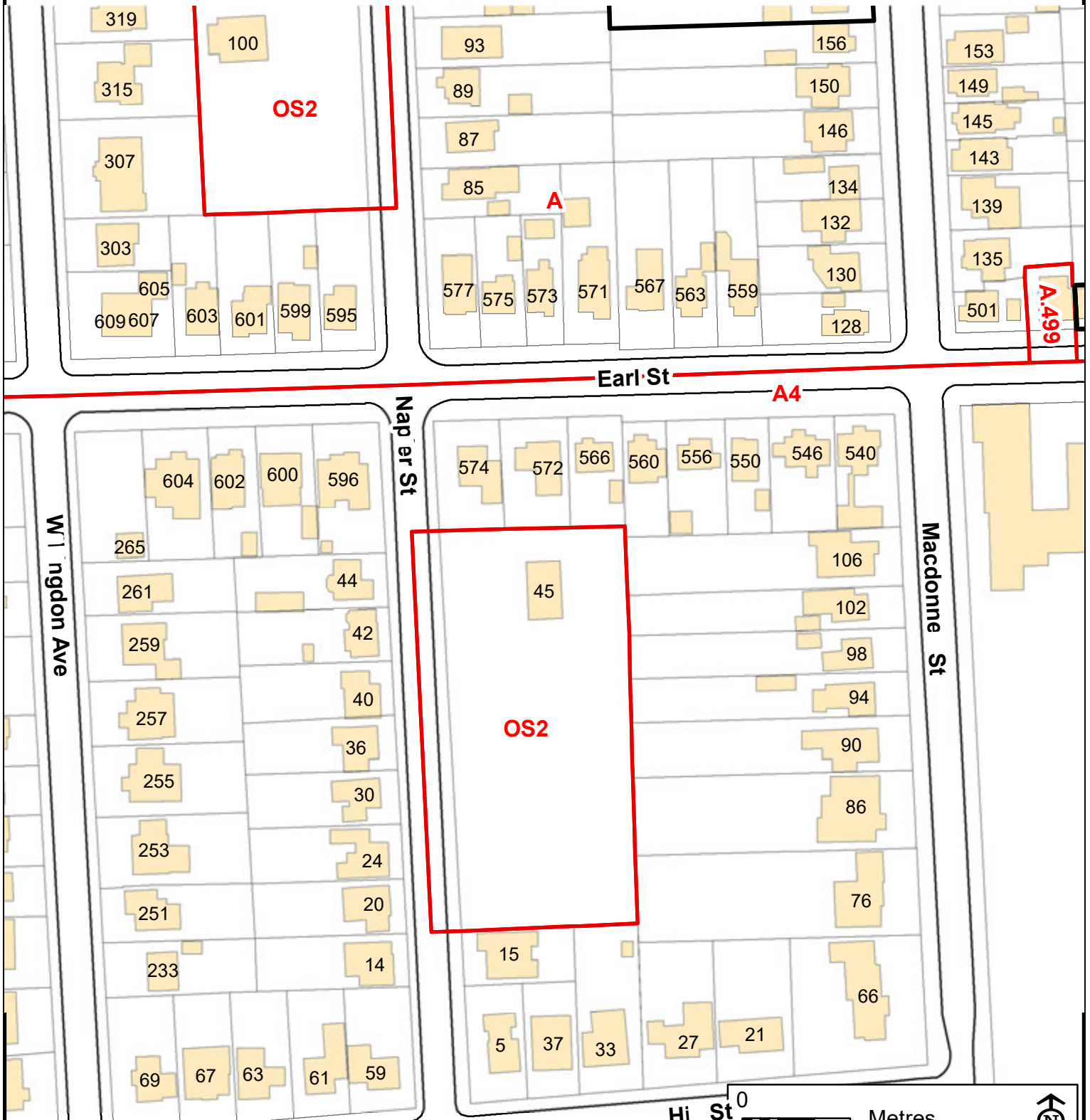


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CITY OF KINGSTON
Existing Zoning - Bylaw 8499, Map 26
Address: 45 Napier
File Number: D13-040-2021

Subject Lands
 Consolidated Zoning



Prepared By: Uchu
Date: 11-13-2021



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Shaw and Zahack Architects Ltd.



Certificate of Practice Number: 2458
4 Cornwall Street, Suite 206, Kingston, ON K7L 1G1
Tel: 613 541 0776
www.shawandzahack.com

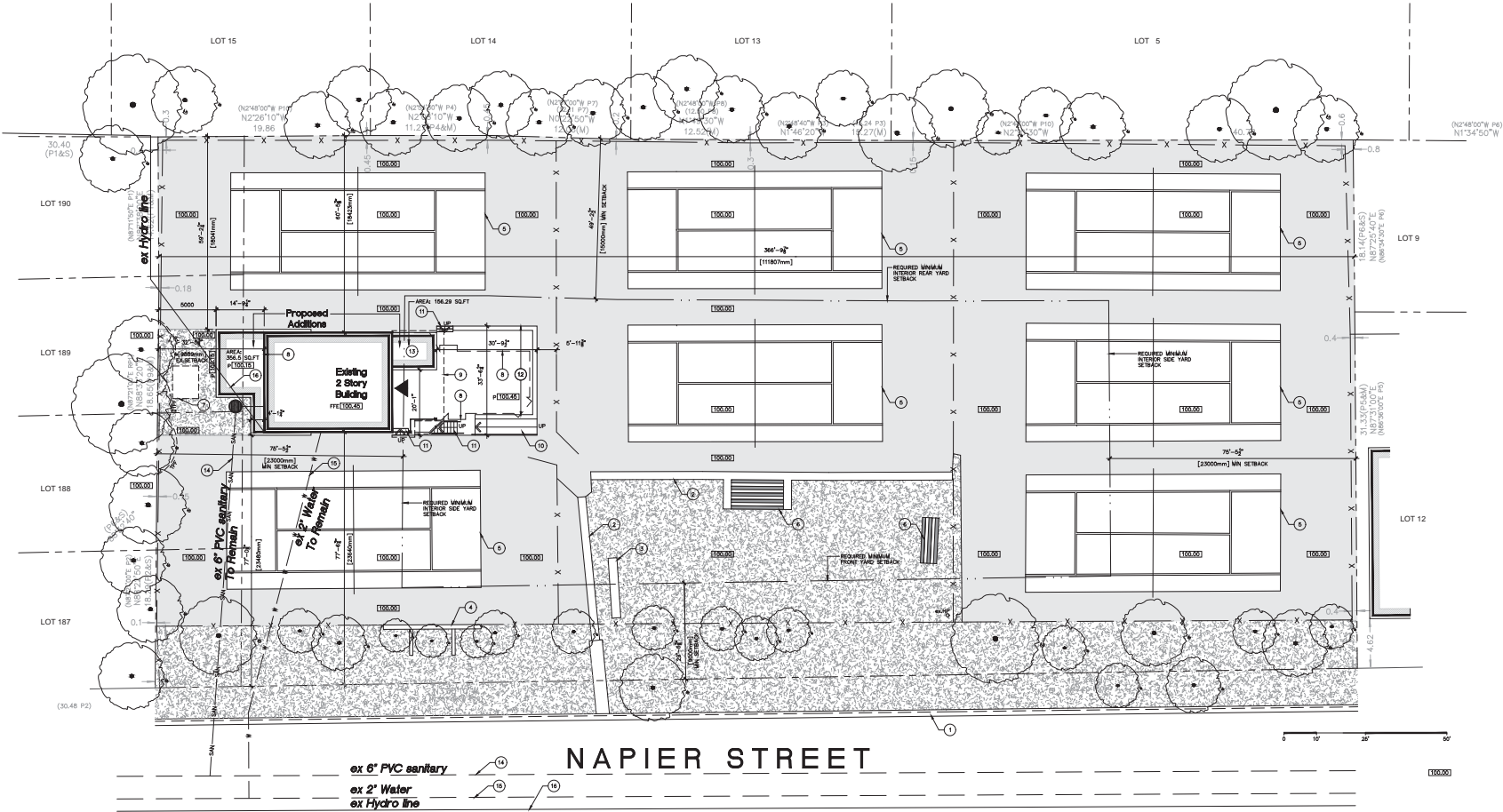
This is a copyright drawing and design and shall not be used, reproduced or otherwise without written permission. The Contractor shall check and verify all dimensions and report all errors and omissions to the architect prior to commencing work. These drawings are not to be used, any deviation in construction from the information shown on these drawings without written approval of the Architect is at the responsibility of the Contractor.

Drawing Notes:

1. CONCRETE CURB
2. EXISTING DRIVEWAY
3. EXISTING REAR STORAGE
4. EXISTING RETAINING WALL
5. EXISTING CURB
6. EXISTING SITTING BENCH
7. EXISTING SHED TO BE REMOVED
8. INDICATES EXISTING DEMOLISHED BUILDING/WOODEN DECK OUTLINE
9. LINE INDICATES THE BALCONY ABOVE
10. NEW STAIR
11. NEW WOODEN DECK
12. NEW WOODEN DECK
13. NEW WOODEN DECK
14. EXISTING 6" SANITARY TO REMAIN
15. EXISTING 2" WATER TO REMAIN
16. EXISTING HYDRO LINE TO REMAIN

Legend

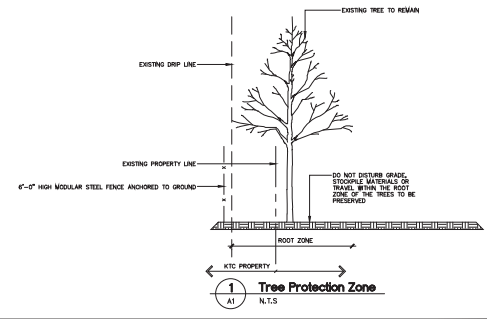
- ASPHALT HARDCOURT (EXISTING)
- LAWN (EXISTING)
- PROPERTY LINE
- TREE PROTECTION FENCE, SEE DETAIL 1/A1
- EXISTING CHAIN LINK FENCE
- TRAFFIC ARROW
- EXIT ENTRANCE ARROW
- EXISTING TREE
- EXISTING HYDRO POLE
- EXISTING MANHOLE
- EXISTING GRADE
- PROPOSED GRADE
- FINISHED FLOOR



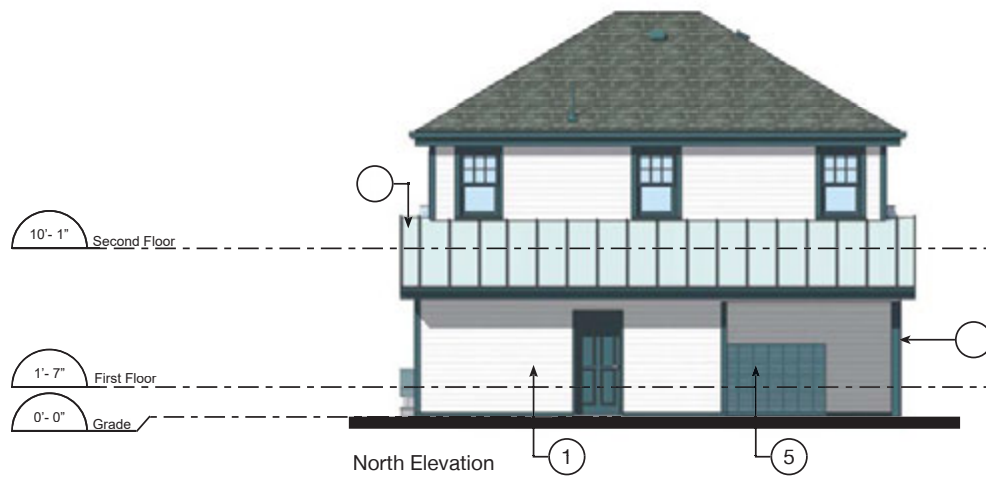
SITE STATISTICS (45 NAPIER STREET, KINGSTON)

CITY OF KINGSTON - ZONING BY-LAW NO. 8499
PART II - RESIDENTIAL ZONE
SECTION 06 - PRIVATE OPEN SPACE "OS2"

	REQUIRED ALLOWED	PROPOSED	RELIEF REQUIRED		REQUIRED ALLOWED	PROPOSED	RELIEF REQUIRED
30.2 (B) PARKS, GOLF COURSES, PLAYGROUNDS, PARKWAYS, TENNIS COURTS, BOWLING GREENS AND SWIMMING POOLS (BUT NOT COMMERCIALLY OPERATED STANDING, DRIVING, TREE, FRAMES OR HOLE OR GARD)			NOT REQUIRED	(3) PARKING AS PROVIDED IN SECTION 6.3 OF THIS BY-LAW. 6.3 OFF-STREET VEHICLE PARKING FACILITIES SHALL BE PROVIDED AS FOLLOWS: A. OFF-STREET VEHICLE PARKING FACILITIES SHALL BE PROVIDED AS FOLLOWS: (i) NON-RESIDENTIAL: 1. IN THAT PART OF THE C ZONE WEST OF DIVISION STREET AND IN ALL OTHER ZONES PARKING FACILITIES FOR NON-RESIDENTIAL USES SHALL BE PROVIDED AS FOLLOWS: BOWLING GREENS, TENNIS COURTS, 11 PARKING SPACE FOR EVERY 100 SQ. FT. OF GROUND AREA. (ii) ACCESSIBLE PARKING (a) IN ANY ZONE, THE REQUIRED NUMBER OF PARKING SPACES SHALL INCLUDE THE PROVISION OF ACCESSIBLE PARKING SPACES IN THE MINIMUM QUANTITY SPECIFIED BELOW: (b) ALL OTHER USES: ACCESSIBLE PARKING SPACE ARE PROVIDED AT A RATE OF 4% OF THE REQUIRED PARKING SPACES. MINIMUM ONE TYPE A SPACE IS REQUIRED. EQUAL IN NUMBER OF TYPE A SPACES ACCESSIBLE AND TYPE B IF NOT REQUIRED. (c) THE ADDITIONAL SPACE MAY BE EITHER TYPE.			NOT REQUIRED
(H) ACCESSORY BUILDINGS TO ANY USE PERMITTED IN OS2 ZONES. (By-Law Numbers 8499 - 1976, 79-0 - 1979)							
30.3 (A) MAXIMUM HEIGHT	23 m	---	NOT REQUIRED				
(B) MINIMUM FRONT YARD (BY-LAW NUMBERS 8499 - 1976, 79-174 - 1979)	9 m	33.48 m	NOT REQUIRED				
(C) MINIMUM SIDE YARD (i) A SIDE YARD SHALL BE PROVIDED ON EITHER SIDE OF THE MAIN BUILDING. (BY-LAW NUMBER 8499 - 1976) (ii) THE MINIMUM AGGREGATE SIDE YARD WIDTH SHALL BE NOT LESS THAN 61.00. (iii) EACH SIDE YARD SHALL NOT, AT ANY POINT IN ITS LENGTH BE A LESSER WIDTH THAN 23.00.	23 m	9 m	REQUIRED				
(D) MINIMUM REAR YARD	15 m	18.04 m	NOT REQUIRED				
(E) MINIMUM LOT WIDTH	91 m	115.8 m	NOT REQUIRED				
(F) MINIMUM LOT AREA EXCEPT TENNIS COURTS, PLAYING FIELDS, PARKS, PUBLIC AND SEM-PUBLIC UTILITIES OR SERVICES.	0.8 ha	5664.607 m ² 0.87 ha	NOT REQUIRED				



Rev.	Description	Date
1	Kingston Tennis Club Renovations	
	Location: 45 Napier Street	
	City: Kingston, ON	
	Client: Kingston Tennis Club	
Drawings: Site Plan		
Drawn by:	Date:	
20084 - Site Plan	2021-07-08	
Client Project #	Scale:	
20084	1/8" = 1'-0"	
Project #	Revision #	
20084		A1

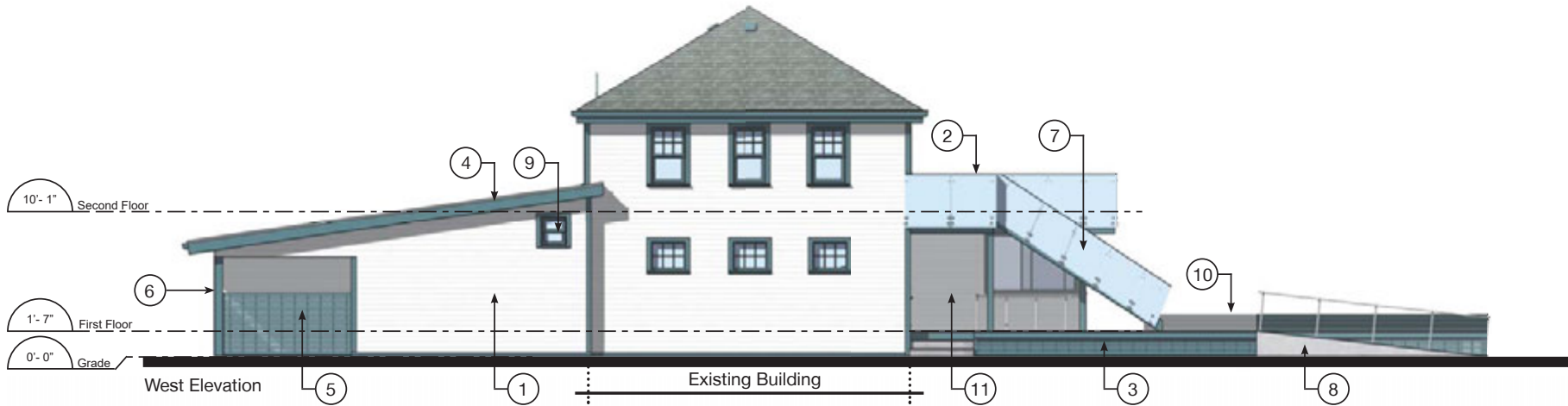
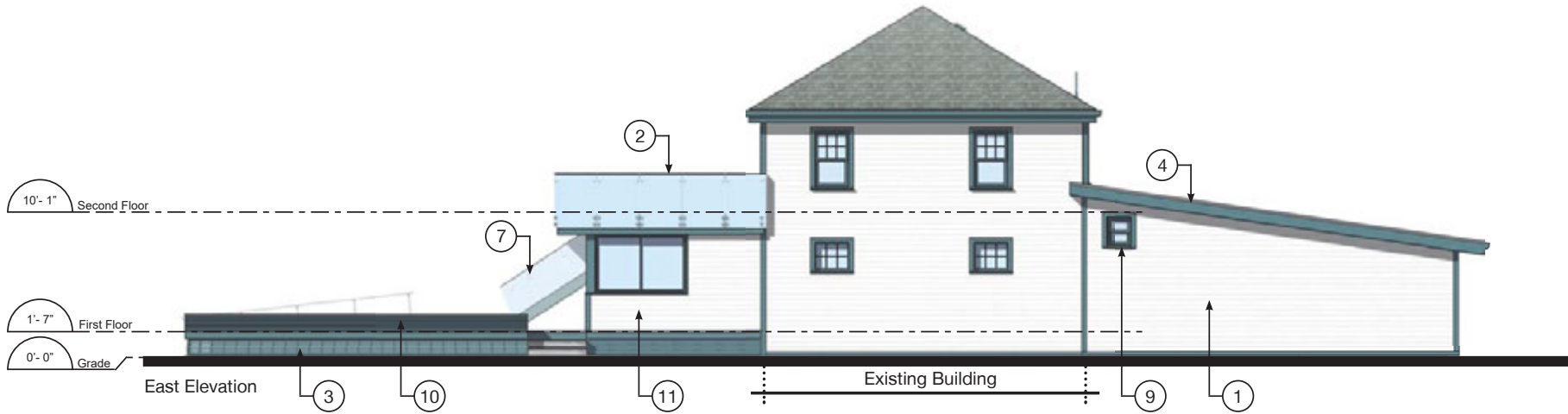


Elevations Notes:

- | | | |
|--------------------------|--------------------------------|---------------|
| 1. Fiber Cement Board. | 6. Corner Post. | 11. New Kiosk |
| 2. Glass Guard. | 7. New Stair With Glass Guard. | |
| 3. New Wooden Deck. | 8. New Ramp With Handrail. | |
| 4. New Metal Slope Roof. | 9. New Window. | |
| 5. Wood Screen. | 10. New Wooden Bench. | |

North and South Elevations Scale: 1:100

20064 - Kingston Tennis Club Renovations



Elevations Notes:

- | | | |
|--------------------------|--------------------------------|---------------|
| 1. Fiber Cement Board. | 6. Corner Post. | 11. New Kiosk |
| 2. Glass Guard. | 7. New Stair With Glass Guard. | |
| 3. New Wooden Deck. | 8. New Ramp With Handrail. | |
| 4. New Metal Slope Roof. | 9. New Window. | |
| 5. Wood Screen. | 10. New Wooden Bench. | |

East and West Elevations Scale: 1:100

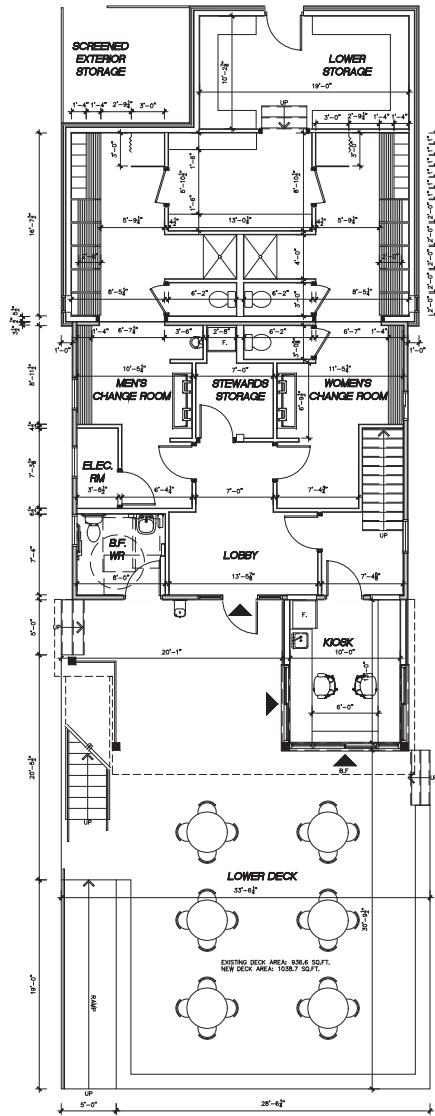
20064 - Kingston Tennis Club Renovations

GZA
Stantec and Zahne Architects Ltd.

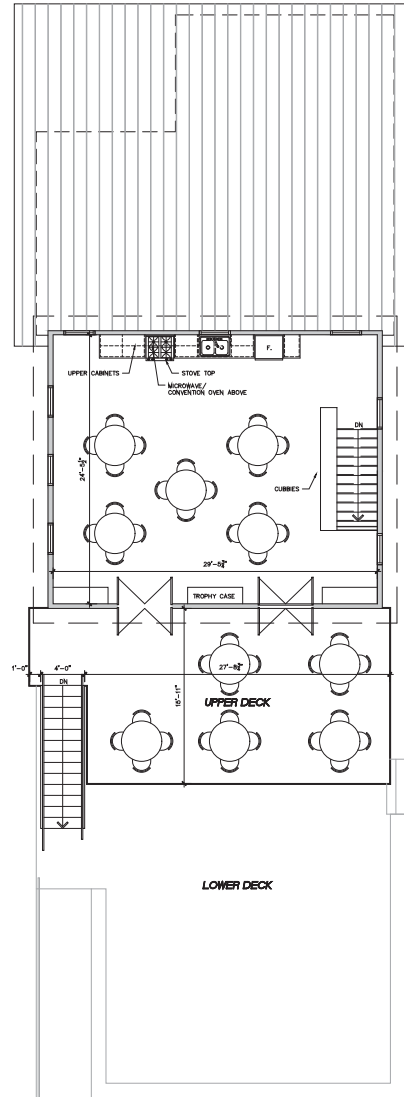


PROJECT NORTH
Certificate of Practice Number: 243
Date: 07/12
4 Colborne Street, Suite 200, Kingston, ON
Tel: 613 541 0776
www.gza.com
Fax: 613 541 0804
www.zahne.com

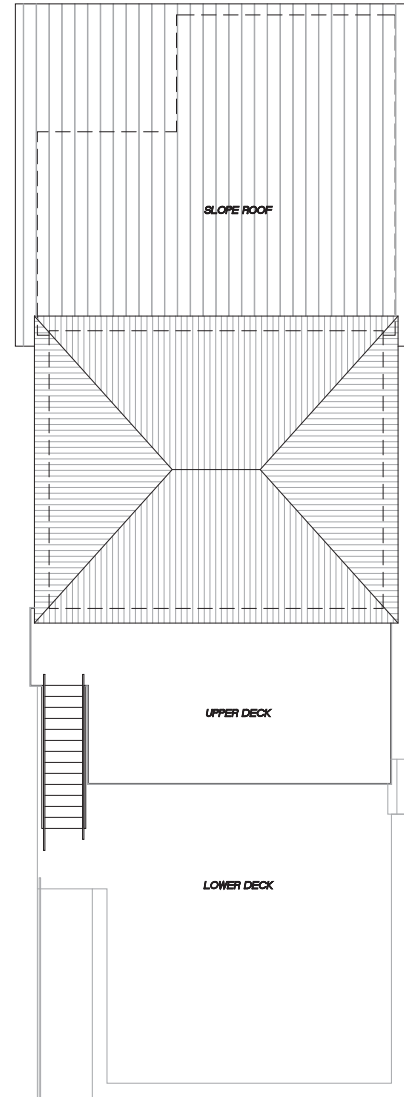
This is a copyright drawing and design and shall not be used, reproduced or altered without written permission. The contractor shall check and verify all dimensions and report all errors and omissions to the architect prior to commencing with work. These drawings are not to be used, any deviation in construction from the information shown on these drawings without written approval of the Architect is solely the responsibility of the Contractor.



1 First Floor Plan
3/10'-1/8"



2 Second Floor Plan
3/10'-1/8"



3 Roof Plan
3/10'-1/8"

0 3' 6' 20'

Rev.	Description	Date
1	Kingston Tennis Club Renovations	

Location:
45 Napier Street
Kingston, ON

Client:
Kingston Tennis Club

Drawing:
Floors & Roof Plan

Drawn by	Date
Client/Project #	Scale
Project/Revision #	Sheet/Number
210064	A2