

# City of Kingston Report to Committee of Adjustment Report Number COA-21-067

To: Chair and Members of the Committee of Adjustment

From: Sarah Oldenburger, Planner

Date of Meeting: September 20, 2021

Application for: Permission

File Number: D13-041-2021

Address: 11 Gardiner Street

Owner: Kristen Brooks and Wesley Brooks

Applicant: Wesley Brooks

#### **Council Strategic Plan Alignment:**

Theme: Business as usual

Goal: See above

#### **Executive Summary:**

A recent permission (File Number <u>D13-002-2021</u>) to expand the existing one storey dwelling to permit a second storey addition, replace the existing porch with a new enclosed mudroom, and add a covered porch and set of stairs on the north elevation of the proposed mudroom was approved by Committee of Adjustment on April 19, 2021 and was not appealed.

This report provides a recommendation to the Committee of Adjustment regarding an application for a subsequent permission for the property located at 11 Gardiner Street. The applicant is proposing to expand the existing residential use by adding a third storey addition with a south facing dormer and a west facing bay window on the first floor of the existing dwelling unit. While the existing dwelling has non-complying status, the existing use requires permission to expand as the existing dwelling does not meet the current minimum side yard width, minimum front yard, and minimum lot width provisions in Zoning By-Law Number 8499.

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The proposed west facing Juliet-style balcony on the second floor would include a railing, would not include a floor area, and appears to be contained within the property line (Exhibit G). As such, the proposed Juliet-style balcony is considered an architectural feature and is not subject to the projections into yards provisions under Section 5.8 of Zoning By-Law Number 8499 and does not require *Planning Act* approval.

The requested application for permission under Section 45(2)(a)(i) of the *Planning Act* satisfies the applicable tests. The proposed third storey addition with a south facing dormer and a west facing bay window on the first floor of the existing dwelling unit are in keeping with the intent of the zoning by-law and represent 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.

#### Recommendation:

**That** the application for permission, File Number D13-041-2021, for the property located at 11 Gardiner Street to add a third storey addition with a south facing dormer and a west facing bay window on the first floor of the existing dwelling unit, be approved; and

**That** approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-21-067.

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| Autho | orizing | Sign | atur | es: |
|-------|---------|------|------|-----|
|       |         |      |      |     |

| $\checkmark$               |  |
|----------------------------|--|
| Sarah Oldenburger, Planner |  |

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

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

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#### **Options/Discussion:**

On June 28, 2021, an application for permission was submitted by Wesley Brooks, on behalf of the owners, Kristen Brooks and Wesley Brooks, with respect to the property located at 11 Gardiner Street. The application for permission is requested to expand the existing noncomplying residential use at 11 Gardiner Street to permit a third storey addition with a south facing dormer and a west facing bay window on the first floor of the existing dwelling unit. The proposed third storey addition with south facing dormer would increase the total floor area of the existing dwelling by approximately 31 square metres. The existing dwelling ranges from 0.84 metres to 0.94 metres from the south interior side lot line which does not comply with the side yard width requirements of the zoning by-law. In addition, the existing dwelling has a front yard that ranges from 2.41 metres to 3.91 metres which does not comply with the minimum front yard requirements of the zoning by-law.

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

- Drawing Package (Exhibit G)
- Survey (Exhibit H)
- Owner's Authorization

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 within the urban boundary, at 11 Gardiner Street (Exhibit B). The subject property is located on the east side of Gardiner Street (a local road), north of King Street West (an arterial road), and south of Union Street (a collector road). The subject property is facing Aberdeen Park, where the Portsmouth Historic Townhall is located, to the west. The subject property is designated "Residential" in the Official Plan and zoned "A5" in Zoning By-Law Number 8499. The property abuts five residential uses also in the "A5" zone: 3 Gardiner Street; 15 Gardiner Street; 585 King Street West; 589 King Street West; and 597 King Street West.

#### **Legal Non-conforming**

Pursuant to Subsection 45(2)(a)(i) of the *Planning Act*, the Committee of Adjustment may permit the enlargement or extension of a legal non-conforming building or structure, but no permission may be given to enlarge or extend the building or structure beyond the original limits of the land where the legal non-conforming building or structure is situated. In considering whether to grant a permission pursuant to Subsection 45(2)(a)(i), the relevant test is:

a. Whether the application is desirable for appropriate development of the subject property; and

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The proposed third storey addition with south facing dormer meets the height requirements of the zoning by-law and would be contained within the property line (Exhibit G). The proposed west facing bay window on the first floor would expand the dwelling westward by approximately 0.46 metres and would be set back approximately 3.45 metres from the front lot line (Exhibit G). The proposed bay window on the western elevation would project less than the previously approved west facing mudroom addition (which will project 1.5 metres from the existing dwelling and will be set back 2.41 metres from the front lot line). The proposed expansion of the existing dwelling would be similar to other residential uses on this section of Gardiner Street which also have front bay windows and/or are three storeys in height. There will be adequate parking space for the primary dwelling. The proposal will not significantly affect the private amenity areas or open space on the site. The proposed expansion of the existing dwelling will increase the functionality of the interior living space while not creating any further zoning deficiencies.

b. Whether the application will result in undue adverse impacts on the surrounding properties and neighbourhood.

The proposed expansion of the existing dwelling is not anticipated to have any adverse impact on the future development or redevelopment of the property, on adjacent properties or the surrounding neighbourhood. The continued residential use on the property will not create any new noise, odour, traffic conflict or other nuisance. There are no identified cultural heritage resources adjacent to or on the subject property. Portsmouth Historic Town Hall is a protected heritage property across the road from 11 Gardiner Street. However, the proposed changes will not have an adverse impact on this heritage resource. The site is not located within a Heritage District. Based on the City of Kingston archaeological potential mapping the property is in an area of "composite archaeological potential", however, an Archaeological Assessment will not be required given the changes proposed. The existing residential use will be maintained on the subject property and will not have any adverse impacts on the natural heritage system.

#### Official Plan

Schedule 3-A of the City of Kingston Official Plan indicates that the subject property is designated "Residential". The predominant use of the "Residential" designation are residential dwellings, including detached, semi-detached or duplex dwellings, townhouses, and apartments of various types, tenure, and density that respond to a wide range of housing needs. Residential uses imply structures typical to such uses (i.e. balconies and bay windows) and may change over time to meet the needs of residents (i.e. additions with dormers).

#### **Zoning By-Law**

The subject property is zoned "A5" in the City of Kingston Zoning By-Law Number 8499, as amended (Exhibit E). The "A5" zone requires a side yard set back of 1.2 metres, a minimum front yard of 7.5 metres, and a lot width of 15.0 metres.

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The existing dwelling does not meet the current side yard width, minimum front yard, and lot width provisions in Zoning By-Law Number 8499. The current structure ranges from 0.84 metres to 0.94 metres from the south interior side lot line, has a front yard depth which ranges from 2.41 metres to 3.91 metres, and a lot width of 11.68 metres. The primary dwelling is considered non-complying as the original dwelling existed prior to the passing of Zoning By-Law Number 8499 in 1975.

The applicant is proposing to expand the existing dwelling to permit a third storey addition with a south facing dormer and a west facing bay window on the first floor of the existing dwelling unit. The proposed expansion of the existing dwelling will be compatible with the abutting residential uses and the character of the neighbourhood. The proposed third storey addition with south facing dormer meets the height requirements of the zoning by-law and is similar to other properties on Gardiner Street which are three storeys tall and/or have dormers. The proposed bay window on the western elevation would not project further than the previously approved west facing mudroom addition (which will project 1.5 metres from the existing dwelling and will be set back 2.41 metres from the front lot line). In addition, a number of other residential uses on this section of Gardiner Street also have front bay windows. The proposed west facing Julietstyle balcony on the second floor would include a railing, would not include a floor area, and would be contained within the property line. Therefore, the proposed Juliet-style balcony is considered an architectural feature and is not subject to the projections into yards provisions under Section 5.8 of Zoning By-Law Number 8499 and does not require *Planning Act* approval. As such, the proposed expansion of the existing non-complying single-family dwelling at 11 Gardiner Street will increase the functionality of the interior living space while not creating any further zoning deficiencies.

#### **Technical Review: Circulated Departments and Agencies**

| $\boxtimes$ | Building Services |                         | $\boxtimes$ | Heritage (Planning Services)            |
|-------------|-------------------|-------------------------|-------------|---|
|             | Finance           | □ Utilities Kingston    | $\boxtimes$ | Real Estate & Environmental Initiatives |
| $\boxtimes$ | Fire & Rescue     |                         | $\boxtimes$ | City's Environment Division             |
| $\boxtimes$ | Solid Waste       | □ Parks Development     |             | Canadian National Railways              |
|             | Housing           | □ District Councillor   |             | Ministry of Transportation              |
|             | KEDCO             |                         |             | Parks of the St. Lawrence               |
| $\boxtimes$ | CRCA              | ☐ KFL&A Health Unit     |             | Trans Northern Pipelines                |
|             | Parks Canada      | ☐ Eastern Ontario Power |             | CFB Kingston                            |
|             | Hydro One         | ☐ Enbridge Pipelines    |             | TransCanada Pipelines                   |
| $\boxtimes$ | 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 recent permission (File Number <u>D13-002-2021</u>) to expand the existing dwelling to permit a second storey addition, replace the existing porch with a new enclosed mudroom, and add a covered porch and set of stairs on the north elevation of the proposed mudroom was approved by Committee of Adjustment on April 19, 2021 and was not appealed.

#### Conclusion

The requested application for permission under Section 45(2)(a)(i) of the *Planning Act* satisfies the applicable tests as the requested application is desirable for appropriate development of the subject property and will not result in undue adverse impacts on the surrounding properties and neighbourhood.

Approval of this application will allow for a third storey addition with a south facing dormer and a west facing bay window on the first floor of the existing dwelling 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 September 20, 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 25 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.

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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, Manager of Development Approvals, 613-546-4291 extension 3213

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

#### 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 29

Exhibit F Neighbourhood Context Map (2021)

Exhibit G Drawing Package

Exhibit H Survey

# Recommended Conditions for Approval Application for Permission, File Number: D13-041-2021 Approval of the foregoing permission shall be subject to the following conditions:

#### 1. Limitation

That the approved permission applies only to the proposed third storey addition with a south facing dormer and a west facing bay window on the first floor of the existing dwelling unit at 11 Gardiner Street as shown on the approved plans 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. Encroachments

The owner/applicant shall demonstrate to the satisfaction of the City that there will be no encroachments onto the neighbouring property as a result of the proposed addition or any modifications to the existing building.

#### 4. Tree Permit Requirements

The established Tree Preservation Plan is to remain in place for the remainder of the project undisturbed. The fencing is to remain in place with no encroachment or placement of materials inside the fenced area.

#### 5. Building Permit Application Requirements

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 approved drawings.

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 drawings, including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. Additional planning applications may be required should further zoning deficiencies be identified through the Building Permit application process.

#### 6. Standard Archaeological Condition

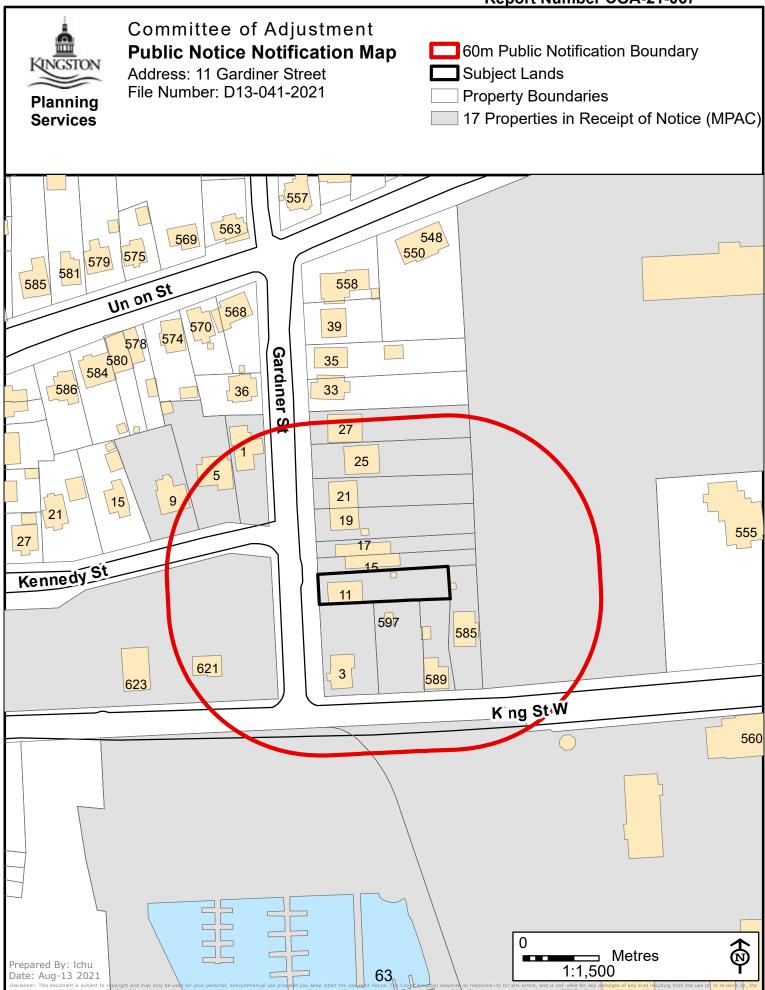
In the event that deeply buried or previously undiscovered archaeological deposits are discovered in the course of development or site alteration, all work must immediately cease and the site must be secured. The Program and Services Branch of the Ministry of Heritage, Sport, Tourism and Culture Industries (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.

**Exhibit B Report Number COA-21-067** Union St Committee of Adjustment Mowat Ave **Key Map** KINGSTON Address: 11 Gardiner Street File Number: D13-041-2021 King St W **Planning** Services Lands Subject to Minor Variance 33 36 27 25 5 21 19 Kennedy St 17 15 11 Gardiner St 597 585 621 589 K ng St W Prepared By Ichu Date: Aug-13-2021 62

Exhibit C Report Number COA-21-067

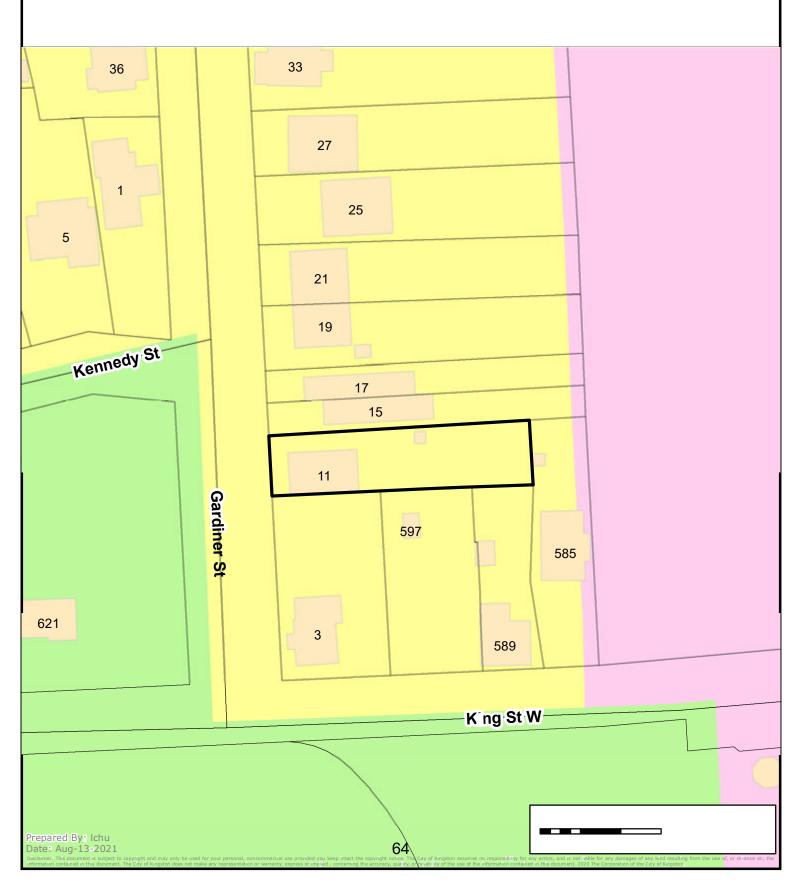


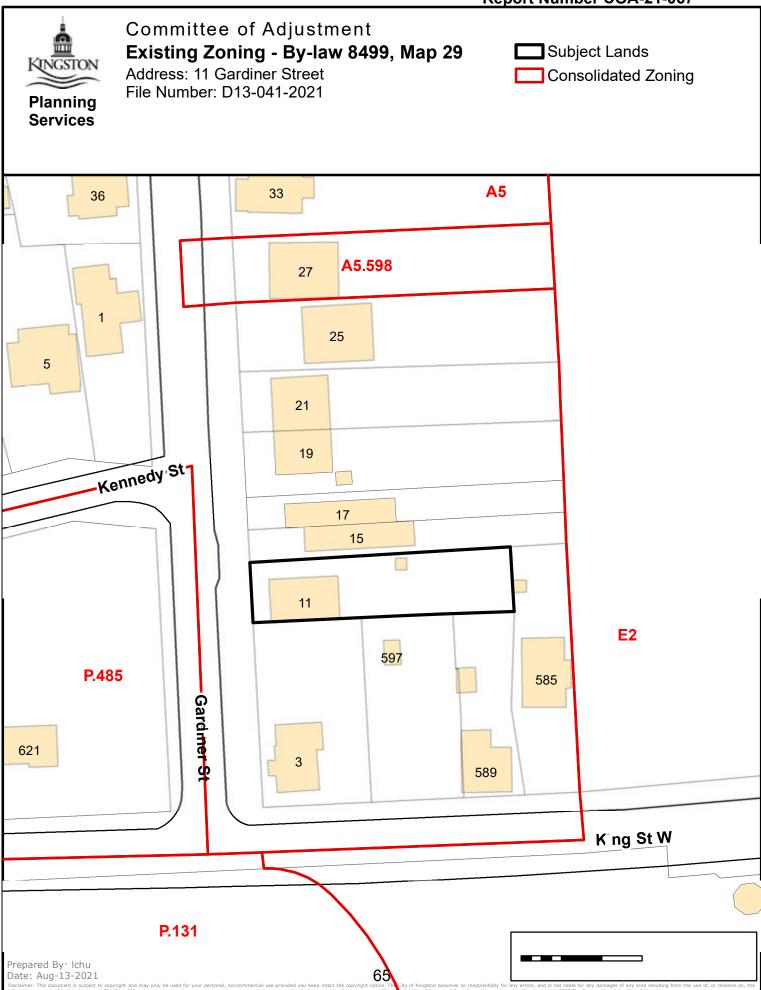


## Committee of Adjustment Official Plan, Existing Land Use

Address: 11 Gardiner Street File Number: D13-041-2021









# Committee of Adjustment **Neighbourhood Context (2021)**

Address: 11 Gardiner Street File Number: D13-041-2021

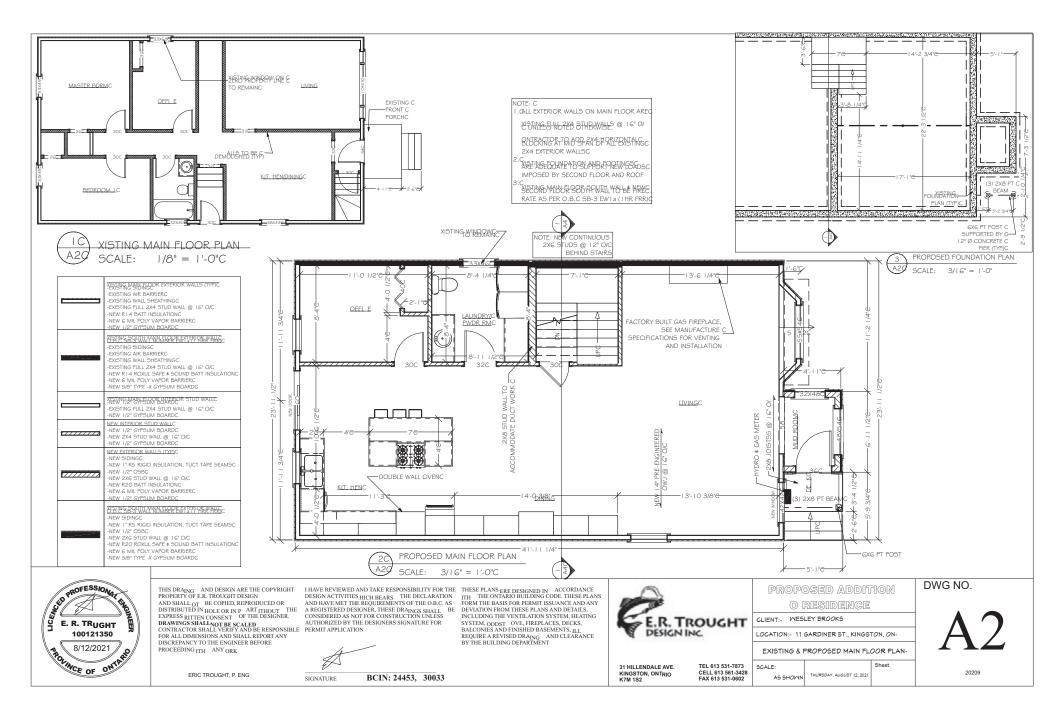
| ί <u>.                                    </u> | Subject Lands              |
|--|----------------------------|
|  | <b>Property Boundaries</b> |
|  | Proposed Parcels           |

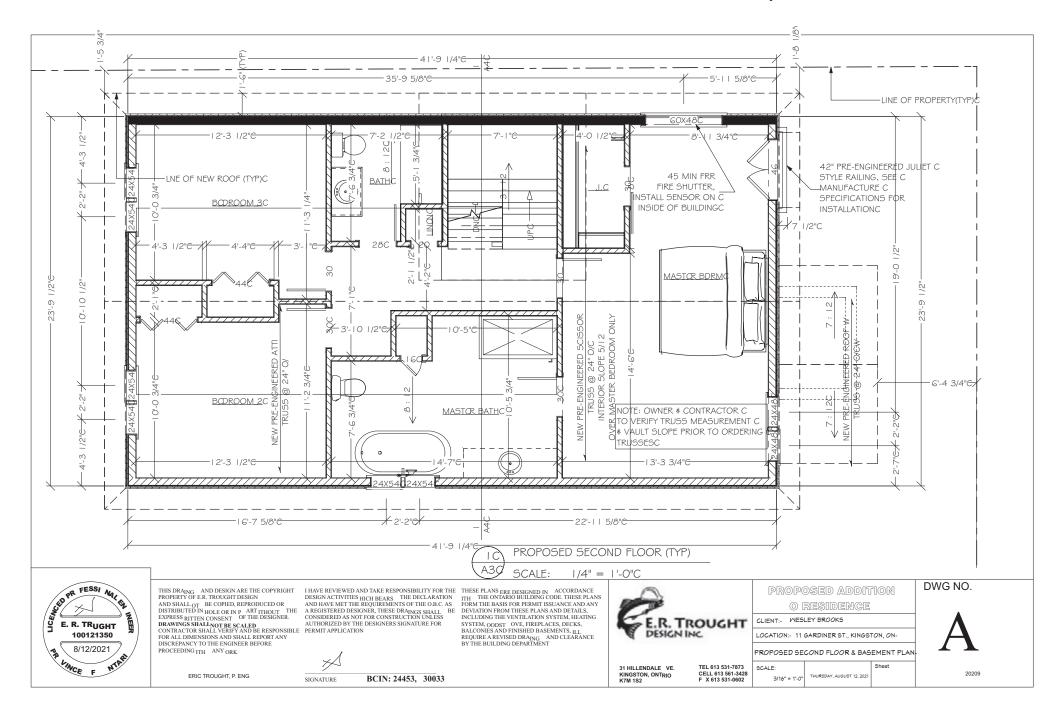


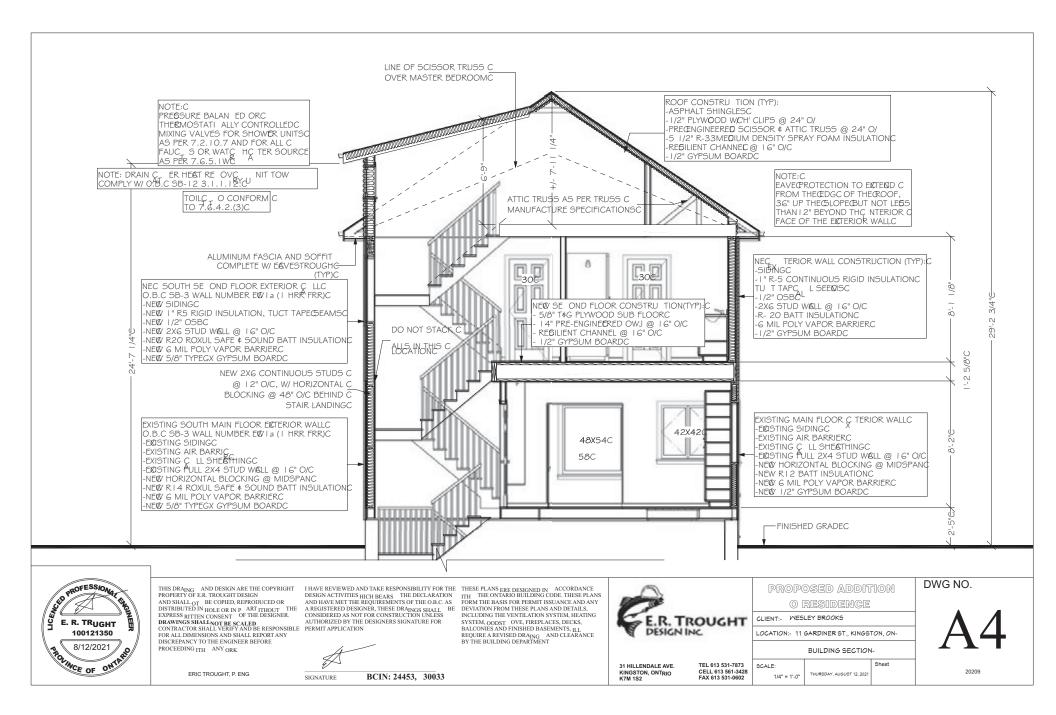
### Exhibit G Report Number COA-21-067



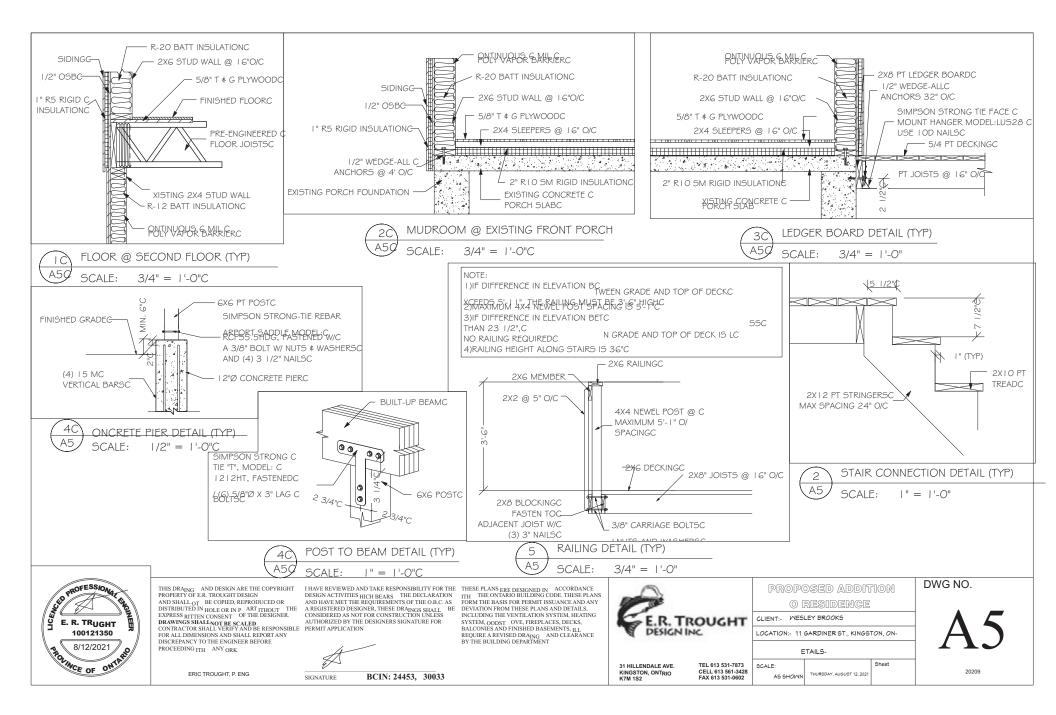
### Exhibit G Report Number COA-21-067

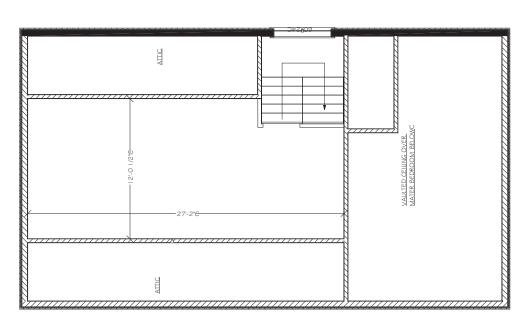






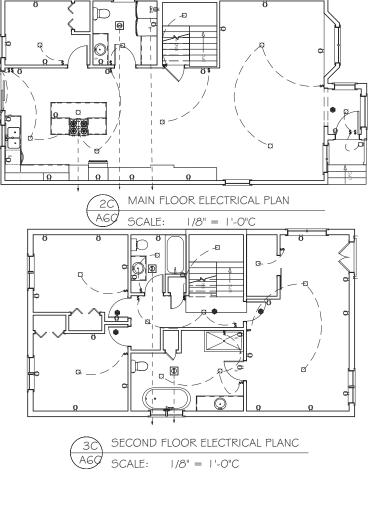
### Exhibit G Report Number COA-21-067

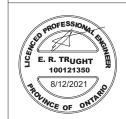




THIRD FLOOR PLANC 3/16" = 1'-0"CSCALE:

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|---|--|--|
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| ⊗   | BROAN I IO CFM CH AUST FAN MODEL: QTXECIOC   |  |
| eiling Mounted Light Fixtures: Surface/PendantC |  |  |
| ğ   | Wall Mounted Light Fixtures: Flush Mounted,C   |  |
| 240<br><b>(</b> )                               | 240V ReceptacleC   |  |
| ρ   | I I OV Receptacles: Duplex,C   |  |
| GFI P   | GFI: Ground Fault Receptacles  |  |
| \$  | \$ Single Pole SwitchC   |  |
| ³\$   | \$ 3-Way SwitchC   |  |
| •   | Smoke Alarms w/ visual signalingC component as per O.B.C 9.10.19.1.(2) C and CO2 detectorC |  |





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31 HILLENDALE AVE. KINGSTON, ONT<sub>RIO</sub> K7M 1S2

TEL 613 531-7873

CELL 613 561-3428 FAX 613 531-0602

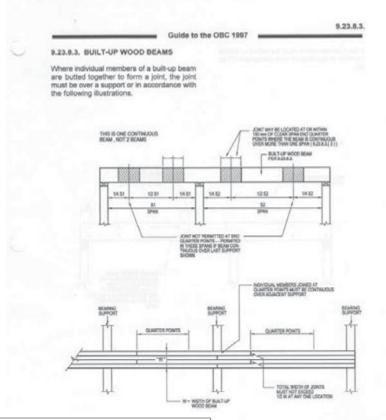
PROPOSED ADDITION O RESIDENCE CLIENT:- WESLEY BROOKS LOCATION:- 11 GARDINER ST., KINGSTON, ON-ELECTRICAL PLANS-

SCALE: THURSDAY, AUGUST 12, 2021 DWG NO.

#### Exhibit G **Report Number COA-21-067**

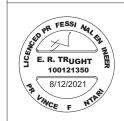
#### GENERAL NOTES:C

- I. CONNECT ALL SMOKE AND CARBON MONOXIDE DETECTORS TO ALARM, ANY DETECTION WILL SOUNDC ALL ALARMS.C
- 2. CSTAIRS AND HANDRAILS TO CONFORM WITH SECTION 9.8, O.B.C.C
- 3. ŒAVE PROTECTION TO CONFORM WITH SECTION 9.26.5. I O.B.C. C
- 4. CALL LINTELS ARE (2)2X10, UNLESS NOTED OTHERWISEC
- 5. INSTALL ATTIC VENTILATION TO CONFORM WITH SECTION 9.19.1. O.B.C.C
- 6.ŒNSURE THAT THERE IS A MINIMUM CLEARANCE OF 17 3/4" TO ANY COMBUSTIBLE MATERIAL AT EITHERC SIDE OF THE KITCHEN STOVE RANGE, AS WELL AS 30" CLEAR HEIGHT ABOVE THE RANGE UNLESSC OTHERWISE PROTECTEDC
- 7. CALL WOOD USED FOR DECKS, EXTERIOR STAIRS AND EXTERIOR RAILINGS TO BE PRESSURE TREATED.C
- 8. CALL GIRDER TRUSSES TO BE SUPPORTED BY A MINIMUM NUMBER OF STUDS FORMING A COLUMNC INSIDE THE STUD WALL AS INDICATED ON TABLE A-35 O.B.C. P287. ALL GIRDER TRUSSES REQUIRE AC MINIMUM BEARING LENGTH OF 140mm UNLESS SPECIFIED OTHERWISE BY THE TRUSS MANUFACTURER.C
- 9.0F ANY GIRDER TRUSSES BEAR ON A LINTEL OR TRANSFER THE APPLIED LOAD FROM THE GIRDER TRUSSC DOWN TO A LINTEL, THE CONTRACTOR MUST CONTACT PROFESSIONAL ENGINEER TO VERIFY LINTELC SIZING.C
- I O.QF TILE IS TO BE PLACED AROUND TUB/SHOWER UNITS, ENSURE MOISTURE RESISTANT BACKING ISC PROVIDED AS PER THE REQUIREMENTS OF THE O.B.C.C
- II. BLOCKING SHALL BE PROVIDED IN BATHROOMS FOR FUTURE INSTALLATION OF GRAB BARS AS PERC O.B.C.C
- I 2. CALL DIMENSIONS TO BE CONFIRMED BY CONTRACTOR PRIOR TO ORDERING MATERIALSC
- 13. CALL ELECTRICAL TO BE CONFIRMED BY OWNER PRIOR TO ORDERING ELC
- 14.CSMOKE ALARMS ARE TO CONFORM TO THE REQUIREMENTS 18.5.3. OFFINE AND APPROXIMATION OF 18.1(2)C O.B.C



| BUILT-UP WOOD COLUMNS AND BEAMS |                           |
|---------------------------------|---------------------------|
| MEMBERC                         | MIN. 3 1/2" NAIL SPACINGC |
| 2X4C                            | 2 NAILS @ 16" O/C         |
| 2X6C                            | 3 NAILS @ 16" O/C         |
| 2X8C                            | 3 NAILS @ 16" O/C         |
| 2X10C                           | 4 NAILS @ 16" O/C         |
| 2X12C                           | 4 NAILS @ 16" O/C         |
|                                 |                           |

VERY SET OF NAILS ARE STAGGEREDC



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TEL 613 531-7873 CELL 613 561-3428 F X 613 531-0602

PROPOSED ADDITION T O RESIDENCET CLIENT:- WESLEY BROOKS-LOCATION:- 11 GARDINER ST., KINGSTON, ON-GENERAL NOTES SCALE:

THURSDAY, AUGUST 12, 202

DWG NO.

20209

9-285

BY THE BUILDING DEPARTMENT

