

City of Kingston Report to Committee of Adjustment Report Number COA-21-079

То:	Chair and Members of the Committee of Adjustment
From:	Ian Clendening, Senior Planner
Date of Meeting:	November 15, 2021
Application for:	Minor Variance
File Number:	D13-059-2021
Address:	310 Sydenham Street
Owner:	Lavoie Helene
Applicant:	FOTENN Consultants Inc.

Council Strategic Plan Alignment:

Theme: 2. Increase housing affordability

Goal: 2.1 Pursue development of all types of housing city-wide through intensification and land use policies.

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variances for the property located at 310 Sydenham Street. The applicant is proposing to construct a single storey, detached accessory dwelling containing three bedrooms, measuring 84.4 square metres in size and 5.4 metres in height. The proposed building is to be located 2 metres from the south side lot line; 7.2 metres from the front lot line; and 3.3 metres from the rear lot line, which constitutes the side lot line of the abutting property located at 7 Balaclava Street, a greater distance than that of the existing dwelling from the rear lot line.

The irregularly shaped lot measures 416.6 square metres in lot area which results in a maximum lot coverage of 138.9 square metres or 33.3%, and a maximum coverage for all accessory buildings of 41.7 square metres or 10%. The applicant is proposing a combined lot

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coverage of 173.6 square metres, or 41.7%, with the lot coverage of the detached secondary dwelling unit measuring 84.4 square metres, or 20.3%.

Measurements provided by the applicant indicate a height of 5.4 metres as measured from the average finished grade to top of the ridge line, complies with existing provisions for a secondary dwelling unit set out in Zoning By-Law Number 8499 which establishes a maximum height of 10.7 metres. However, this height would not comply with amendments to the Second Residential Unit provisions of Zoning By-Law Number 8499 as set out in By-Law Number 2021-63 which establishes a maximum height of 4.6 metres.

By-Law Number 2021-63 was approved by Council on April 6, 2021 but was subsequently appealed to the Ontario Land Tribunal. Where an appeal to a Zoning By-Law amendment has been filed Section 34(30) of the *Planning Act* sets out that the by-law does not come into force until all of such appeals have been withdrawn or finally disposed of, whereupon the by-law, [...] shall be deemed to have come into force on the day it was passed. Accordingly, the applicant seeks additional relief from the proposed amendments to Zoning By-Law Number 8499 in regard to the height of the proposed secondary dwelling unit which may come into force depending on the outcome of the matter now before the Ontario Land Tribunal.

The requested minor variances are consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 8499. The requested minor variances are desirable for the appropriate development or use of the land, building or structure and are minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval.

Variance Number 1: Maximum Percentage of Lot Coverage

By-Law Number 8499: 6.3(e) Requirement: 33.3% Proposed: 43% Variance Requested: 9.75%

Variance Number 2: Maximum Lot Coverage for an Accessory Structure By-Law Number 8499: 5.17(b)(ii) Requirement:10% Proposed: 20.3% Variance Requested:10.3%

Additionally, in the event of final approval of By-Law Number 2021-63, amending Zoning By-Law Number 8499, by the Ontario Land Tribunal, the following additional variance is requested:

Variance Number 3: Maximum Height of detached Accessory Dwelling Unit (to highest point of the building) By-Law Number 8499: 5.45(xxiv(a)III Requirement: 4.6 metres Proposed: 5.4 metres Variance Requested: 0.8 metres

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Recommendation:

That minor variance application, File Number D13-059-2021, for the property located at 310 Sydenham Street to vary the required lot coverage and accessory building coverage to construct a detached second residential unit with no more than 3 bedrooms, be approved;

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-21-079.

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Authorizing Signatures:

 \checkmark

Ian Clendening, Senior Planner

In 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 September 27, 2021, a minor variance application was submitted by FOTENN Consultants Inc., on behalf of the owner, Lavoie Helene, with respect to the property located at 310 Sydenham Road. The variances are requested to permit the construction of an accessory dwelling unit with 3 bedrooms which will result in a total lot coverage, and lot coverage of accessory buildings, greater than otherwise permitted, as well as a secondary dwelling unit being greater in height than permitted under recently approved amendments to Zoning By-Law Number 8499 which are currently subject of an appeal to the Ontario Land Tribunal.

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

- Concept Plan (Exhibit G)
- Floor Plans and Elevation (Exhibit H)
- Grading Plan (Exhibit I)
- Compiled Sketch (survey) (Exhibit J)

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 an irregularly shaped lot and is situated on the west side of Sydenham Street approximately 33 metres north of the intersection of Sydenham Street and Bay Street which is within the St. Lawrence Ward Heritage Character Area.

The surrounding area is predominantly residential in character with the exception of an institutional use (Providence Manor nursing home) located southeast of the subject property. The area is walkable to a large number of amenities including Skelton Park which is located ~130 metres distance west of the property.

The subject property is designated 'Residential' in the Official Plan and zoned One-Family Dwelling and Two-Family Dwelling Zone "A" in Zoning By-Law Number 8499. The property abuts four other properties which are located within the same "A" Zoning.

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 'Residential' in the City of Kingston Official Plan.

In considering whether this proposed variance is desirable, the Committee of Adjustment will have regard to the nine requirements included in Section 9.5.19 of the Official Plan. The following provides these nine requirements and an assessment of how the proposal is consistent with each.

1. The proposed development meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of this Plan;

Section 2 provides policies to affect the physical structure of the City and direct the organization of future development. The subject property is located within a Housing District which are designated for residential uses of different types and intended to remain stable but to continue to mature and adapt as the City evolves. The Official Plan encourages re-investment and upgrading in Housing Districts through minor infill and minor developments which can integrate compatibility within the prevailing built form standards of height, density and amenity that are generally found in the neighbourhood.

The proposed increases in lot coverage, measured as a percentage of lot area, would allow for an accessory dwelling unit measuring 84.4 square metres in size to compliment the existing dwelling situated on the property. The proposal is compatible with the surrounding residential uses and will not result in significant impacts or changes to the immediate area.

 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 lot is generally larger than the surrounding lots and can reasonably accommodate the secondary dwelling unit in a manner which compliments the residential character of the area. The height of the proposed accessory dwelling unit is lower than the existing primary dwelling and does not have an overbearing impact either on the subject property or the surrounding area.

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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;

Parking for the property is by way of two existing stalls situated at the south end of the property off Sydenham Street with paving stone measuring a minimum of 1.2 metres being proposed to provide access from the parking area to both the dwelling and secondary dwelling unit. The proposed development appropriately functions to provide internal accessibility and road access.

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;

The property is located within the St. Lawrence Ward Heritage Character Area as identified on Schedule 9 of the Official Plan reflecting its status as is one of the oldest areas of the City with an urban style that has survived since the 1800's. This area has not been designated under the *Ontario Heritage Act*, however; the Official Plan recognizes this Heritage Character Area as having a specific heritage character. Within the St. Lawrence Ward Heritage Character Area, it is the intent of the Official Plan to recognize the heritage character of the area as created through the combination of buildings, street pattern, varying street widths and public spaces. The proposed development has been reviewed by Heritage Kingston for its conformity to the Plan and no objection was raised.

5. If the site is designated under the *Ontario Heritage Act*, the application shall be reviewed by Heritage Kingston for approval. If the property is adjacent to a designated property under the *Ontario Heritage Act* or shown as a Heritage Area feature, or is affected by the protected views shown on Schedule 9 of this Plan, then a Heritage Impact Statement may be required to assist staff to determine if the resulting development is desirable;

The subject property is not designated under Part IV of the *Ontario Heritage Act*. The nearest designated property, Providence Manor at 275 Sydenham Street, is located approximately 50 metres south of the subject property. The property is located within the St. Lawrence Ward Heritage Character Area, and Heritage Planning has not requested a Heritage Impact Statement.

The proposed development is not affected by the protected views shown on Schedule 9 of the Official Plan.

The property is located within an Archaeologically Sensitive Area and the applicant has prepared an Archaeological Assessment as a condition of licensing in accordance with Part VI of the *Ontario Heritage Act* which has been submitted to the Ontario Ministry of Heritage, Sport, Tourism, and Culture Industries.

Heritage Kingston has been circulated on the proposed development and raised no concern with the proposed building but did ask for copies of the assessment report(s) and correspondence from the Ministry of Heritage, Sport, Tourism, and Culture Industries to

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City Heritage Services staff, prior to any ground disturbance based on the site's location within an Archaeologically Sensitive Area.

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 property is within the defined urban boundary, on full municipal services. No changes to the existing servicing are proposed. Utilities Kingston has reviewed and has no objections to the application.

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 relief required related to the construction of a secondary dwelling unit is appropriately addressed through a minor variance application. While the permitted coverage of an accessory buildings is proposed to double (i.e., from 10% to 20.3%), this represents an increase of 42.9 square metres beyond what is permitted and is anticipated to have a negligible impact on the surrounding residential area given that the proposed development constitutes an accessory dwelling unit and does not represent an undue over massing of accessory buildings on the lot and can be assumed to more readily integrate with the surrounding residential area

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;

Conditions of approval have been included for this application.

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

The proposed application will not set an undesirable precedent for the immediate area. This property is unique in its size and configuration and the proposed accessory dwelling will integrate well within the surrounding residential area.

The proposal meets the intent of the Official Plan, as the proposed secondary residential unit will provide for an appropriate degree of intensification within the established neighbourhood and will not result in any negative impacts to adjacent properties or to the neighbourhood.

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

The subject property is zoned One-Family Dwelling and Two-Family Dwelling Zone "A" 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 "A" zone permits one-family dwellings, two-family dwellings, a number of community institutional uses, as well as

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accessory buildings to any use permitted in A Zones, including a Second Residential Unit pursuant to Section 5.45.

The proposal requires a variance to the following Sections:

Variance Number 1: Maximum Percentage of Lot Coverage By-Law Number 8499: 6.3(e) Requirement: 33.3%

Proposed: 43% Variance Requested: 9.75%

Variance Number 2: Maximum Lot Coverage for an Accessory Structure By-Law Number 8499: 5.17(b)(ii) Requirement:10% Proposed: 20.3% Variance Requested:10.3%

Additionally, in the event of final approval of By-Law Number 2021-63, amending Zoning By-Law Number 8499, by the Ontario Land Tribunal, the following additional variance is requested:

Variance Number 3: Maximum Height of detached Accessory Dwelling Unit (to highest point of the building) By-Law Number 8499: 5.45(xxiv(a)III Requirement: 4.6 metres Proposed: 5.4 metres Variance Requested: 0.8 metres

The intent of the maximum percentage of lot coverage provision is to provide a reasonable building area and building scale in relation to the lot area and prohibits the over development of the lot. The proposed secondary dwelling maintains the minimum percentage of landscaped open space of 30% and provides the required parking. The two buildings, while exceeding the maximum percentage of lot coverage does not result in a built form which represents an over development and would not be distinct from other properties within the area.

The intent of the maximum percentage of lot coverage for accessory buildings provision is to ensure that the primary use of the property is distinctive, and not overpowered by the number and extent of accessory buildings. While the proposed secondary dwelling unit would more than double the percentage of the lot area, the additional permission sought represents a footprint of an additional 42.9 square metres which would otherwise not be permitted. Given that the proposed use of the building is residential the increase in permitted coverage would not detract from the primary residential use of the property. As referenced above, the property maintains compliance with the minimum landscaped open space requirements and parking requirements despite the greater lot coverage.

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In the event that the Ontario Land Tribunal either dismisses the appeal of By-Law Number 2021-63, or if the appeal is dropped, the by-law amending various provisions of By-Law Number 8399 including provisions around secondary dwelling units will be deemed to have come into force April 6, 2021. Section 5.45(xxiv(a)III as amended by By-Law Number 2021-63 regulates the maximum height of detached accessory dwelling units, and rather than re-directing the reader to the maximum height provisions of the parent zone as was previously the case, prescribes a maximum height of 4.6 metres or 1 storey – whichever is lesser.

The intent of the maximum height restrictions for a secondary dwelling unit contemplated in amending By-Law Number 2021-63 is to ensure the primacy of built form of the primary dwelling unit and not to give the appearance of two equally massed dwellings on one property. The proposed secondary dwelling unit is one storey, as required, but exceeds the height by 0.8 metres. This height is less than the primary dwelling located on the property and is a marginal increase over what is otherwise permitted by the changes to By-Law Number 8499 set out in By-Law Number 2021-63.

3)The variance is minor in nature

The impact of the proposed variance on the surrounding area is anticipated to be negligible given that the secondary dwelling unit will compliment the existing residential use of the property and provide gentle intensification within the residential neighbourhood. Accordingly, the variances are considered to be minor in nature.

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

The variance is desirable and appropriate use of the land as it is not anticipated that the requested variance would result in any negative on-site or off-site impacts, the proposed secondary dwelling unit would not detract from the primacy of the existing dwelling or detract from the surrounding area in terms of massing and scale.

Technical Review: Circulated Departments and Agencies

- Building Services
- □ Finance
- ⊠ Fire & Rescue
- Solid Waste
- □ Housing
- □ KEDCO
- 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

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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. Based on Comments from Kingston Hydro, a condition is recommended to this Committee requiring that, "the secondary dwelling shall be serviced from the existing residential service connection". 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 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

There are no concurrent or relevant historic planning applications on the subject property.

Conclusion

The requested variances maintain the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 8499, including By-Law Number 2021-63 amending Zoning By-Law Number 8499 which is currently under appeal. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variance(s) are minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and the application is being recommended for approval, subject to the proposed conditions.

Approval of this application will permit the construction of a detached accessory dwelling occupying a greater proportion of the lot area than otherwise permitted for all buildings and for accessory buildings, as well as to permit a second residential unit to be taller than otherwise proposed through recent amendments to Zoning By-Law Number 8499 which are currently under appeal to the Ontario Land Tribunal.

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

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Municipal

City of Kingston Official Plan

Zoning By-Law Number 8499

Amending By-Law Number 2021-63

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on November 15, 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 17 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, Manager, Development Approvals, 613-546-4291 extension 3213

Ian Clendening, Senior Planner, 613-546-4291 extension 3126

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

Report to Committee of Adjustment

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- Exhibit E Zoning By-Law Number 8499, Map 18
- Exhibit F Site Plan
- Exhibit G Neighbourhood Concept Map (2021)
- Exhibit H Floor Plans and Elevation
- Exhibit I Grading Plan
- Exhibit J Survey

Recommended Conditions for Approval

Application for Permission, File Number: D13-059-2021

Approval of the foregoing permission shall be subject to the following conditions:

1. Limitation

That the approved permission applies only to the construction of a detached secondary dwelling containing a maximum of three bedrooms at 310 Sydenham 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. Civic Address

That prior to applying for a building permit the Owner shall apply for and obtain a sperate civic address in the form of a different unit number than that of the one used for the other building entrance(s). The owner/applicant shall provide to the Secretary-Treasurer, Committee of Adjustment, written confirmation from the City that the civic address has been obtained prior to the issuance of building permit(s).

4. Services

The secondary dwelling shall be serviced from the existing residential service connection.

5. 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.

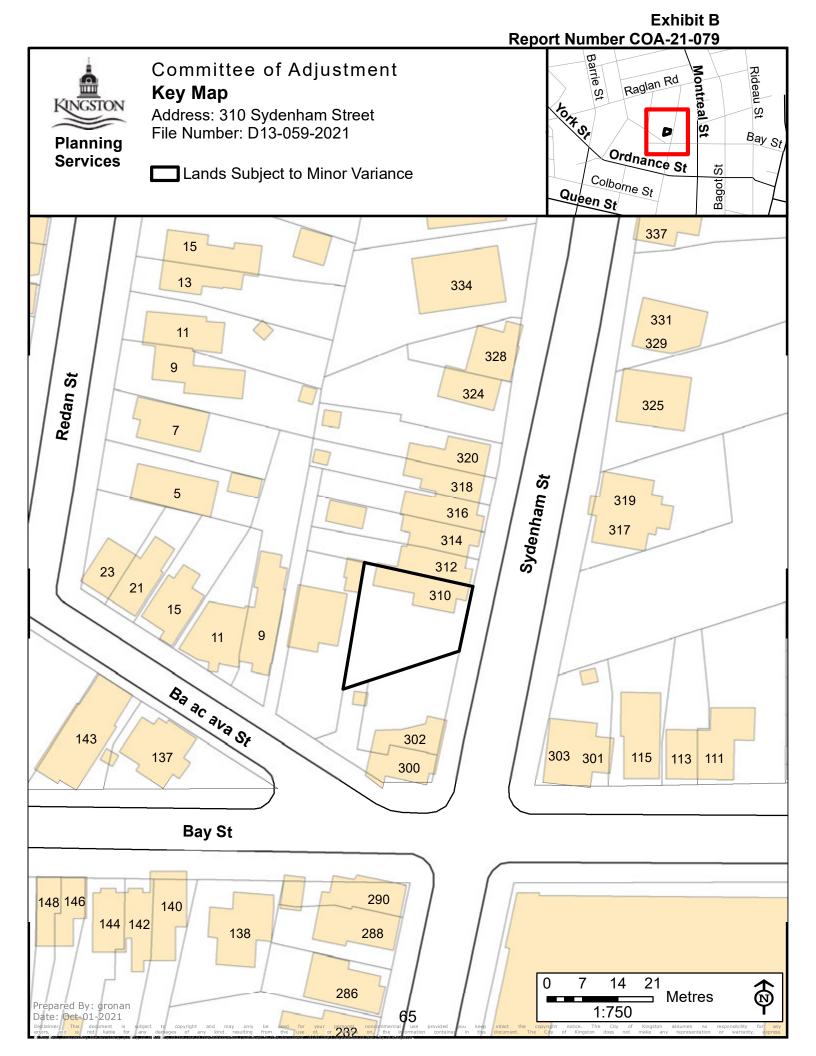
The drawings submitted with the Building Permit application must, in the opinion of the City, conform to the general intent and description of the approved drawing(s), including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. It must be noted that additional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

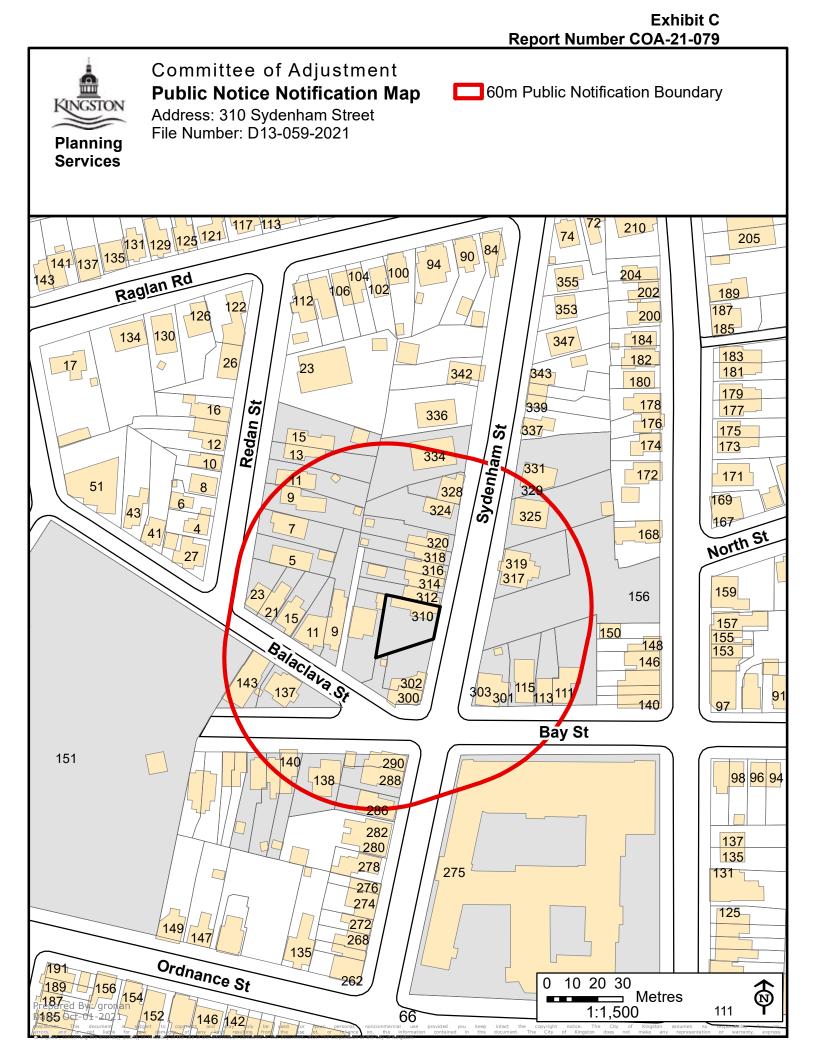
6. Standard Archaeological Condition

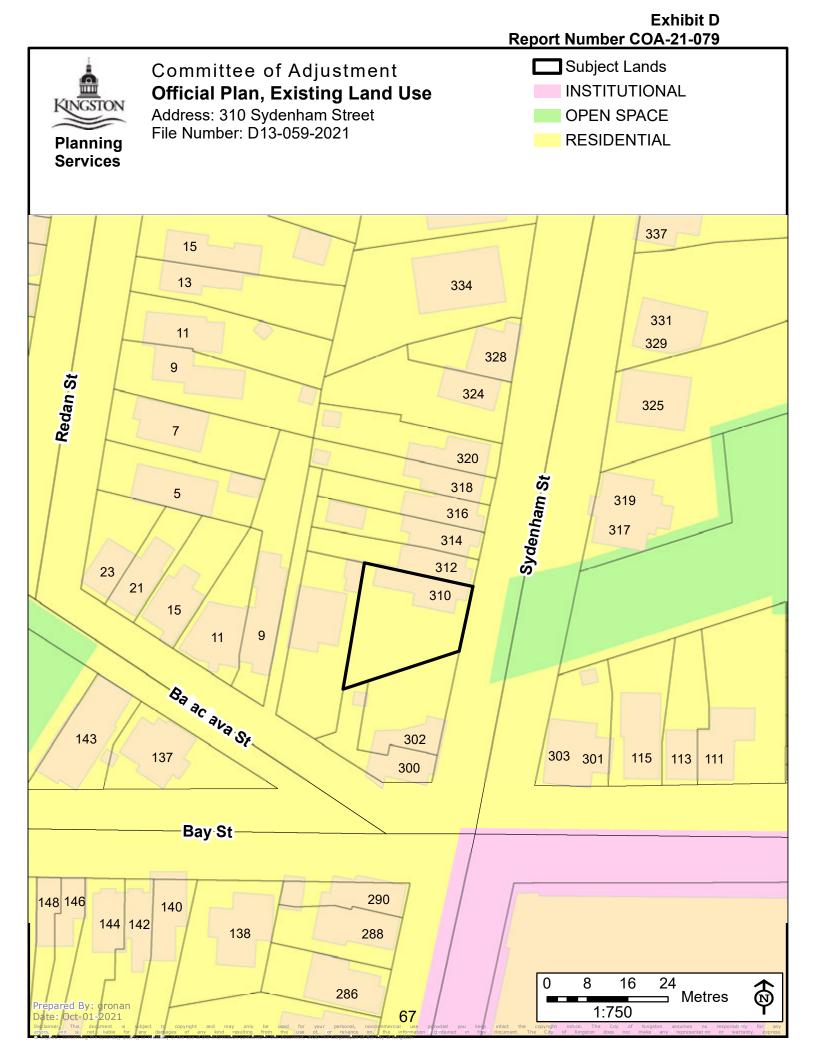
In the event that deeply buried or previously undiscovered archaeological deposits are discovered in the course of development or site alteration, all work must

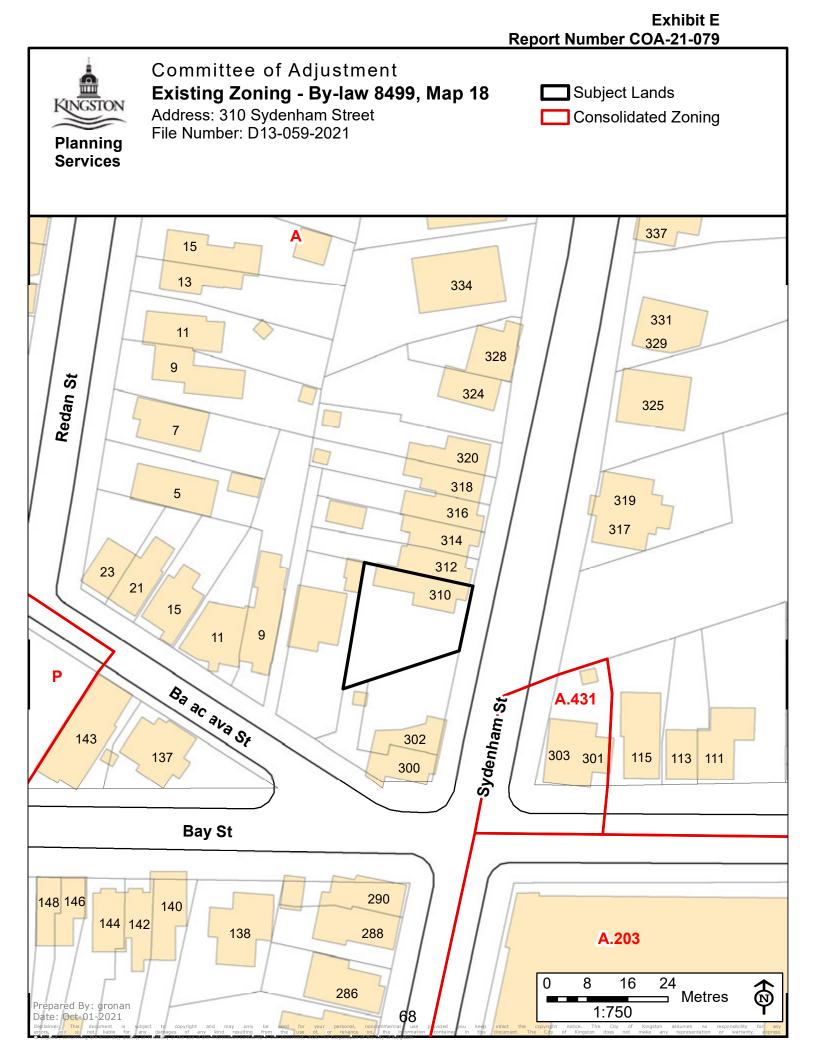
immediately cease and the site must be secured. The Program and Services Branch of the Ministry of Heritage, Sport, Tourism and Culture Industries (416-314-7132) and City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted.

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.











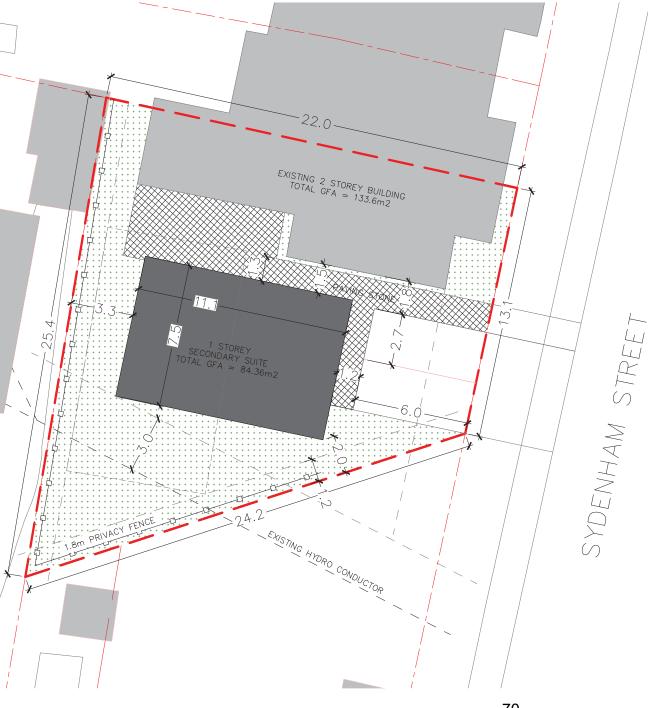
Committee of Adjustment Neighbourhood Context (2021)

Planning Services Address: 310 Sydenham Street File Number: D13-059-2021 **L**. Subject Lands Property Boundaries

Proposed Parcels



Exhibit G Report Number COA-21-079



SITE INFORMATION

ZONING

SITE AREA			
Fotal Site Area:416.6 m ²			
SETBACKS	EV	o v	D V
SETBACKS	F.Y.	S.Y.	R.Y.
Required	4.5 m	1.2 m '	3.0 m

Required	4.5 m 1.2 m 3.0 m
Provided	7.2 m 1.9 m 3.3 m

MAXIMUM LOT COVERAGE Maximum 33.33% (416.6 m² x 33.3% = 138.7 m²) Provided 41.7% (173.6 m²)

 $\frac{MAXIMUM \ LOT \ COVERAGE \ (SECOND \ RESIDENTIAL \ UNIT)}{Maximum \ 10\% \ (416.6 \ m^2 \ x \ 10\% \ = \ 41.6 \ m^2)} \\ Provided \ 20.3\% \ (84.4 \ m^2)$

MAXIMUM FSI

Maximum 1.0 (includes detached secondary residential unit) Provided 0.52

MINIMUM LANDSCAPED OPEN SPACE Minimum 30% (416.6 m² x 30% = 124.9 m²) Provided 50.3% (209.7 m²)

MAXIMUM BUILDING DEPTH Maximum 14.2 m Provided 11.1 m

MAXIMUM BUILDING HEIGHT (SECOND RESIDENTIAL UNIT) Maximum 4.6 m

Provided 5.4 m

PARKING Minimum = 2 spaces (2.7 m x 6.0 m) Provided = 2 spaces (2.7 m x 6.0 m)

NOTES

 The base plan (lot lines, existing roads and surrounding areas) is based on the City's Open Data and aerial images. The site area is approximate and all dimensions need to be confirmed by a proper survey.

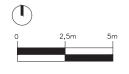


310 SYDENHAM

STREET

Concept Site Plan

LEGEND PROPOSED BUILDING Image: State of the s



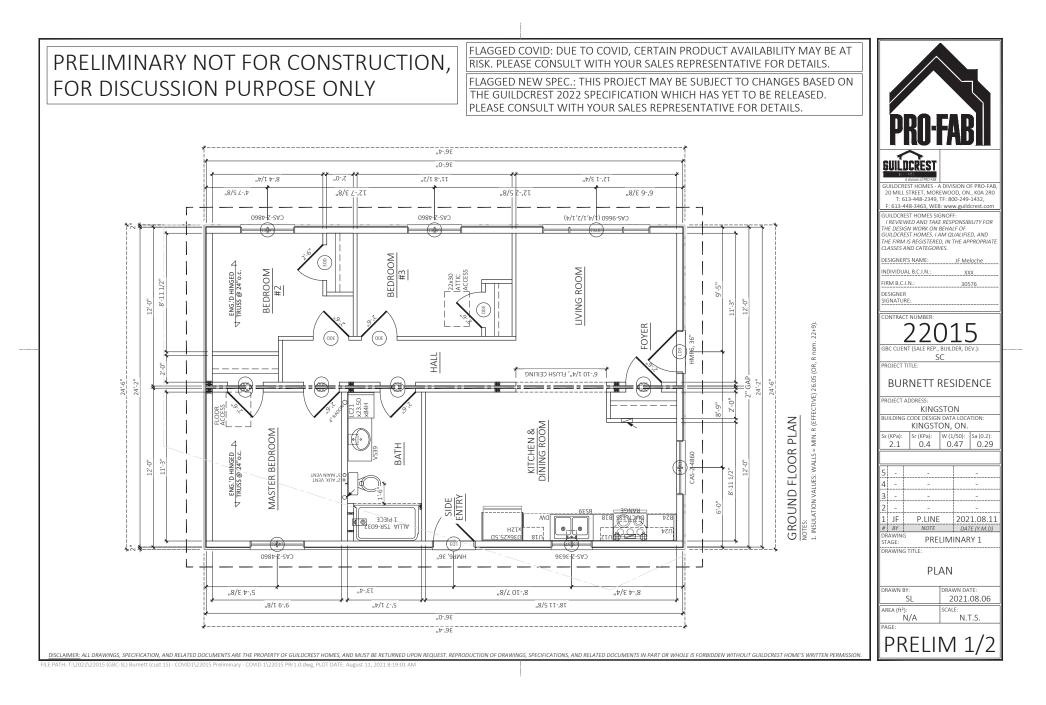
1 – – – <u>No. REVISION DATE BY</u> <u>CLIENT</u>

STEPHEN BURNETT



4 Cataraqui Street, Suite 315, Kingston ON K7K 1Z7 613,542,5454 www.fotenn.com

DESIGNED BL/KJ REVIEWED UMG/MK DATE 2021.09.13



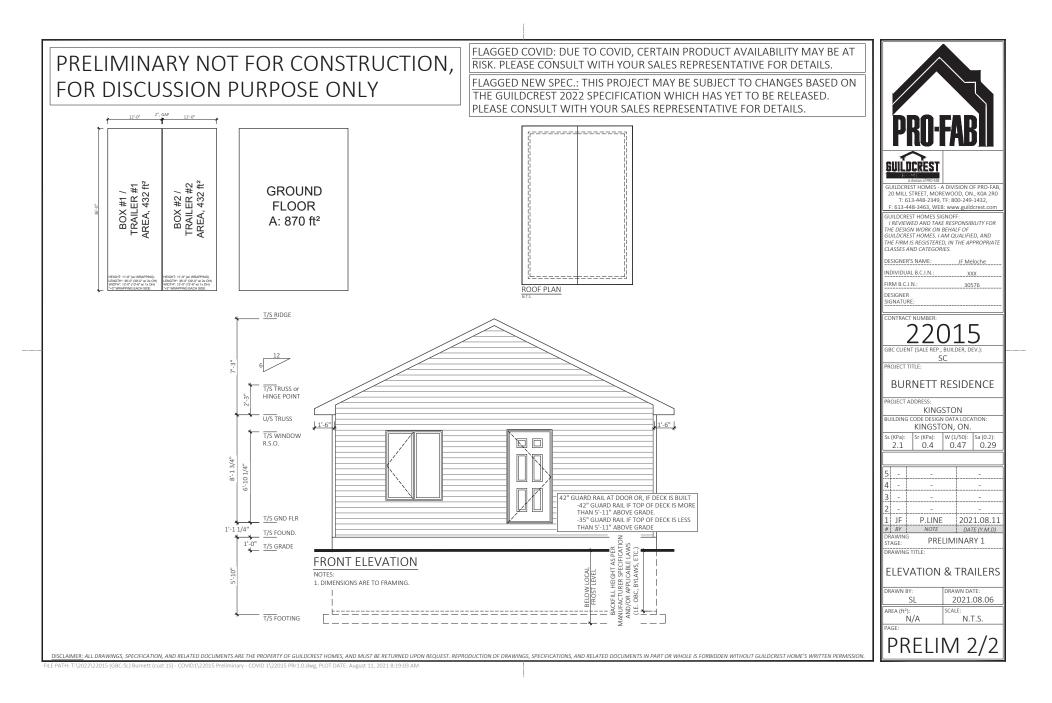


Exhibit I Report Number COA-21-079

