City of Kingston
Committee of Adjustment
Meeting Number 01-2022
Addendum

Monday, December 13, 2021 at 5:30 p.m.
In a virtual, electronic format

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9. Business

Note: The consent of the Committee is requested for the consideration of Report COA-22-017 in advance of Report COA-22-013.

k) Subject: Supplementary Report (to Report Number COA-22-013)

File Number: D10-034-2021

Address: 3028 Princess Street

Owner: Vishal Valsadia

Applicant: FOTENN Consultants Inc.

The Report of the Commissioner of Community Services (COA-22-017) is attached.

Addendum Pages 1 – 9

Recommendation:

That the recommendation in Report Number COA-22-013 be replaced with the following:

> **That** consent application, File Number D10-034-2021, to sever a 525.1 square metre lot from the existing 3,946.3 square metre lot, be provisionally approved subject to the conditions included in Exhibit A (Recommended Conditions) to Report Number COA-22-017.

13. Correspondence

a) Correspondence received from Dan Commerford, dated December 2, 2021, regarding Application for Minor Variance – 950 Centennial Drive.

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b) Correspondence received from Harold Leroux, dated December 6, 2021, regarding Application for Consent – 3028 Princess Street.

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c) Correspondence received from Kaitlyn Ferguson, dated December 13, 2021, regarding Application for Minor Variance – 853 Development Drive

Addendum Page 22

City of Kingston
Report to Committee of Adjustment
Report Number COA-22-017

To:	**Chair and Members of the Committee of Adjustment**
From:	**Ian Clendening, Senior Planner**
Date of Meeting:	**December 13, 2021**
Subject:	**Supplementary Report to Report Number COA-22-013**
File Number:	**D10-034-2021**
Address:	**3028 Princess Street**
Owner:	**Vishal Valsadia**
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 Supplemental Report is providing recommended conditions which reinforce the expectations outlined in Exhibit A of Report Number COA-22-013. This report includes additional and revised recommended conditions relating to the requirement for a Hydrologic and Hydraulic Analysis, and; that the findings of the Hydrologic and Hydraulic Analysis be incorporated into the previously contemplated Development Agreement as well as a condition specific to this severance that the existing dwelling be removed. No other changes to the report are proposed at this time. The revised recommended conditions are attached to this supplementary report as Exhibit A.

Recommendation:

That the recommendation in Report Number COA-22-013 be replaced with the following:

That consent application, File Number D10-034-2021, to sever a 525.1 square metre lot from the existing 3,946.3 square metre lot, be provisionally approved subject to the conditions included in Exhibit A (Recommended Conditions) to Report Number COA-22-017.

Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

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

Options/Discussion:

This Supplemental Report is providing recommended conditions which would establish, as a condition specific to the severance, that a hydrologic and hydraulic analysis be completed for the severed and retained lands, and further, that the findings of such analysis inform the Lot Grading Plan previously recommended as a condition of the severance, and be implemented in the Development Agreement which was also recommended as a condition in Exhibit A of Report Number COA-22-013. An additional condition that the existing dwelling be demolished prior to the issuance of the Certificate of Official is also put before the Committee. Specifically, the new *and revised conditions (italicized below) read:*

11. Hydrologic and Hydraulic Analysis Required

Prior to the issuance of a Certificate of Official the applicant shall provide a Hydrologic and Hydraulic Analysis for the watercourse located along the west property boundary. The Analysis must assess the extent of flood and erosion risk associated with the existing watercourse in order to ensure development can occur on the proposed lots in accordance with applicable natural hazards policies. The Analysis must also demonstrate that any development at the property and any modifications to the watercourse will not impact flooding and erosion risks for upstream, downstream and adjacent lands. The Analysis must be completed to the satisfaction the City of Kingston and the Cataraqui Region Conservation Authority (CRCA).

12. Demolition Permit

The owner/applicant shall obtain a Demolition Permit through the Building Division for the removal of the existing dwelling located on 3028 Princess Street as identified on the severance sketch dated August 23, 2021. The owner/applicant shall provide the Secretary-Treasurer, Committee of Adjustment, a copy of the Demolition Permit and confirmation that the buildings have been removed prior to the issuance of the Certificate of Official.

13. Site Development Agreement

The owner shall enter into a development agreement satisfactory to the City to be registered on title to the severed and retained lands. All legal costs associated with the preparation and registration of the agreement shall be borne by the owner. The applicant shall provide a copy of the registered executed agreement to the Secretary-Treasurer, Committee of Adjustment, prior to the issuance of the consent certificate. The agreement shall contain conditions to ensure:

a) Any recommendations resulting from the Noise Study are included within the development agreement for the lands.
b) That the recommendations from the Stormwater Brief including any proposed conditions be included in the Development Agreement.

c) That any lot grading be in conformity with the Site Grading Plan*, and conform with the findings and recommendations of the Hydrologic and Hydraulic Analysis,* and subject to any permission required under and O.Reg 149/06: Development, Interference within Wetlands and Alterations to shorelines and Watercourses and other Municipal By-Laws and requirements shall be included within the Development Agreement.

Although Cataraqui Region Conservation Authority's (CRCA) would typically require these Analysis to be conducted prior to any site alteration or development within the regulated area of a watercourse pursuant to O.Reg. 148/06, it was deemed prudent to include the additional and revised conditions as a component of the severance, rather than as a condition of the CRCA permit alone. Including the conditions as worded removes any ambiguity concerning the requirement for the Analysis and the degree rigor associated with it and provides certainty in terms of the expectations of the Lot Grading Plan.

The inclusion of the requirement for the demolition of the existing dwelling, which straddles the proposed lot line, is a way of ensuring the removal prior to final approval to ensure zone compliance. A condition was included in the original lot addition application (File Number D10-048-2019) to demolish the house. This condition was removed through application File Number D10-007-2021 so the owners could keep the house and connect it to municipal services in order for the existing tenants to remain onsite. The amended condition allowed flexibility for the owners and the tenants as they were having difficulty finding new living arrangements for the tenants during the pandemic.

Existing Policy/By-Law:

Please refer to Report Number COA-22-013

Notice Provisions:

Please refer to Report Number COA-22-013

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

Recommended Conditions

The provisional approval of consent application, File Number D10-034-2021, to sever a single residential lot, is subject to the following recommended conditions:

1. **Certificate of Official and Deadline**
   That all conditions are satisfied and the Certificate of Official be presented to the Secretary-Treasurer, Committee of Adjustment for certification under Section 53(42) of the Planning Act, R.S.O. 1990 as amended, within one year of mailing of this notice. We suggest that the Land Registry Office be consulted for preapproval of the Certificate of Official to avoid delays.

   The Certificate must be registered within two years from the issuance of the certificate as required under Section 53(43) of the Planning Act, R.S.O. 1990, as amended. A copy of the registered transfer certificate shall be provided to the Secretary-Treasurer, Committee of Adjustment to complete the file.

2. **Reference Plan**
   That a digital version of a Reference Plan be provided in a PDF and AutoCAD Windows readable format on a compact disc (CD), USB memory stick or by email, illustrating the severed parcel be prepared and presented to the Secretary-Treasurer, Committee of Adjustment prior to the issuance of the Certificate of Official.

3. **Payment of Taxes**
   The owner/applicant shall contact the Tax Department at tax@cityofkingston.ca and secure in writing from the Treasurer or the Manager of Taxation and Revenue, proof of payment of current taxes and any special charges (not simply a copy of the tax bill) required to be paid out and a statement of proof that is received and shall be provided to the Secretary-Treasurer Committee of Adjustment, prior to the issuance of the consent certificate. The owner/applicant must pay any outstanding realty taxes and all local improvement charges levied against the property.

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. **Services**
Prior to the issuance of a Certificate of Official, the applicant shall provide to the satisfaction of Utilities Kingston a sketch showing all existing services and the mains they connect too, and the existing buildings and all proposed and existing property lines.

6. **Mutual Easement Required**
Prior to the issuance of a Certificate of Official, the applicant shall have registered upon each the severed and retained lands an easement to the benefit of the other, of sufficient length and width to accommodate parking and road access, to the satisfaction of the City of Kingston.

7. **Noise Study Required**
Prior to the issuance of a Certificate of Official the applicant shall provide a noise study demonstrating the appropriateness of the proposed use to the satisfaction of the City. The noise study must address potential impacts on the proposed development due to stationary and/or transportation noise sources in the vicinity and is to be prepared by a qualified individual with experience in environmental acoustics and is to demonstrate compliance with NPC-300.

8. **Grading Plan Required**
Prior to the issuance of a Certificate of Official the applicant shall provide a Site Grading Plan for the proposed severed and retained lots to the satisfaction of City of Kingston and the Cataraqui Region Conservation Authority (CRCA).

9. **Cash-in-Lieu of Parkland**
In accordance with City of Kingston By-law 2013-107, the Owner shall provide cash-in-lieu of parkland conveyance in the amount of $1,968.70 prior to issuance of the Certificate of Official.

10. **Storm Water Management Brief Required**
Prior to the issuance of a Certificate of Official the applicant shall provide a Stormwater Management Brief demonstrating how the recommended control targets (pre=post quantity for 2-100 yr events & normal level quality control) will be provided for runoff from the site to the satisfaction of City of Kingston and the Cataraqui Region Conservation Authority (CRCA).

11. **Hydrologic and Hydraulic Analysis Required**
Prior to the issuance of a Certificate of Official the applicant shall provide a Hydrologic and Hydraulic Analysis for the watercourse located along the west property boundary. The Analysis must assess the extent of flood and erosion risk associated with the existing watercourse in order to ensure development can occur on the proposed lots in accordance with applicable natural hazards policies. The Analysis must also demonstrate that any development at the property and any modifications to the watercourse will not impact flooding and erosion risks for

upstream, downstream and adjacent lands. The Analysis must be completed to the satisfaction the City of Kingston and the Cataraqui Region Conservation Authority (CRCA).

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a) Any recommendations resulting from the Noise Study are included within the development agreement for the lands.

b) That the recommendations from the Stormwater Brief including any proposed conditions be included in the Development Agreement.

c) That any lot grading be in conformity with the Site Grading Plan, and conform with the findings and recommendations of the Hydrologic and Hydraulic Analysis, and subject to any permission required under and O.Reg 149/06: Development, Interference within Wetlands and Alterations to shorelines and Watercourses and other Municipal By-Laws and requirements shall be included within the Development Agreement.

From: daniel j commerford [redacted]
Sent: December 2, 2021 5:03 PM
To: Planning Outside Email <Planning@cityofkingston.ca>
Subject: Variance 950 Centennial Drive, D13-068-2021

To: City of Kingston, Planning Services
C/o Secretary Treasure, Committee of Adjustment

Minor Variance (Variance Number 1) rear yard depth. D13-068-2021, for 950 Centennial Drive.

Good Day;

I am writing this letter to ***OPPOSE*** allowing this variance to proceed if it has to do with the new building infringing 10 feet closer to the existing property lines. 10 feet may seem to be minor, but in the long term it is a major amount of land to encroach on existing properties, considering that the initial 50 ft was the required standard for a 7 story building being built adjacent to our backyards. 10 feet is not noticeable on a single level dwelling, but it is a different story when the dwelling is a 7 story apartment building

You also have to take into account the blasting required to dig the hole for the underground parking garage. The additional 10 feet buffer we would lose is enormous in absorbing shock. If this variance proceeds is the city going to pay for any foundation cracks on our homes?

Also it must be considered that construction will always extend past the allotted space when they start building. So we have to deal with that for the duration of the build. That includes dust, construction noise, trucks reversing horns, alarms, etc…….. So in closing 10 feet is not a minor variance.

Thank you

Dan Commerford
902 Uxbridge Crescent
Kingston, ONT. K7M 8K9

This is also my written request to be notified of the decision of the Committee of Adjustment

December 6, 2021

City of Kingston,
Planning Services,
216 Ontario Street,
Kingston, ON
K7L 2Z3

Attn: Secretary Treasurer, Committee of Adjustment
City of Kingston

Re: Application for Consent to Sever New Lot
File Number: D10-034-2021
Address: 3028 Princess Street

Please consider my comments on the above noted application. I am the owner of the property immediately to the west of the property that is the subject of this application. Please be advised that I am in favour of development of this site but opposed to this overly-aggressive, ill-considered development and therefore opposed to this application. The specific reasons for my opposition are given below.

I read the Report to the Committee of Adjustment for this application with astonishment. The report states ***"The proposal has regard to the matters under subsection 51(24) of the Planning Act, is consistent with the Provincial Policy Statement, conforms with all applicable policies of the Official Plan, is in keeping with the general intent and purpose of the zoning bylaw."*** I find it incredulous that the report could not find even one issue that doesn't conform to the policies of the Official Plan. A review of the specifics of this application will find this report statement impossible to support.

Subsection 50(43) of the Planning Act states, the following:

Lapse of consent

(43) A consent given under this section lapses at the expiration of two years from the date of the certificate given under subsection (42) if the transaction in respect of which the consent was given is not carried out within the two-year period, but the council or the Minister in giving the consent may provide for an earlier lapsing of the consent. 1994, c. 23, s. 32.

From the above excerpt, it would seem that a consent can only be given in respect to a transaction and lapse of that Consent will be determined, at this level, as to whether the transaction in respect of which the Consent was given has transpired. Without a transaction at the heart of the Consent there would be no ability to determine, in this regard, if a lapse of consent has occurred. I see no reference in the application as to what the transaction at the heart of this consent is for this application. It is then suggested the Consent application is incomplete.

This application is requesting a severance of a lot that is itself the subject of a severance for which the conditions have not yet been met according to the Planning Letter by FOTENN Planning + Design. And in relation to that, the Report to the COA makes the following statement with regard to Site Characteristics: ***"It is worth noting that, in the unlikely event that the consent for the rear portion lapses and is not added to the abutting property, there is no substantive impact to the review of the current application, or the commentary set out herein, with the only effect being that the retained, eastern, lot would 'bump out' at the rear of the severed lot."*** From this statement, it appears some doubt exists as to

what piece of land may ultimately be the subject of this application, say, if the initial consent lapses. So what this statement seems to be saying is that, if the parcel of land identified as the subject of this Consent could ultimately not be the actual parcel of land for which the consent will be sought and granted, that that doesn't make any difference to the assessment of this application! I would suggest if a Consent is sought in the severance of a parcel land, it would be pretty fundamental, in any review to that application, to identify, in no uncertain terms, which parcel of land the consent applies to and, in that regard, what the retained lot will be, and that this parcel must remain the subject of the Consent, with no doubt, through any provisional approval process timeframe. As there seems to be potential doubt around this issue, and that is clearly shown in above noted report statement, then on the basis of this doubt alone, it is clearly shown, this application is premature, from the start, in relation to **Section 51(24) (b) of the Planning Act as to whether the proposed subdivision is premature or in the public interest**. It would seem more appropriate that if there is any doubt, whatsoever, and, in fact, there clearly is some doubt raised by the report to the COA, as to which parcel of land will remain the subject of this application, that the previous conditional consent be withdrawn by the applicant and a new Consent be applied for, with consideration to all three potential parcels of land in that Consent application.

The statement from the report to the COA, referenced above, identifies the retained lot as the eastern lot. This differs from the Key Map provided in the Notice of Public meeting which indicates the retained lot to be the western lot. It is fundamental to the assessment of a Consent application to know which is the severed lot and which is the retained lot.

The report goes on to say the following: ***"The size and frontage of the two lots are consistent with other lots within this stretch of Princess Street."*** It is wondered how the the Report to the Committee of Adjustment could make such a statement when the lot frontages proposed for this Consent would be smallest of any other lot in the whole of Outer Princess St. between Bayridge Drive and Collins Bay Road. But more relevant, the area of the retained lot would only amount to approximately 53%, at best, of the smallest lot in the vicinity these lots and well below 50% of the average lot area for all nearby lots. In fact, if this application is approved, it would create the smallest lot ever in the 200 or so years of land registration history for Outer Princess St. with an area less than 60% of the current smallest lot on this stretch of road, that is located well to the west of this lot at Woodbine Park. It seems probable that land may have been purchased from the backs of those lots by the Township for the creation of this park. In any case, how it would be possible to describe these proposed severed lots, from this application, as being consistent with other lots in the area, when they are less than one half the size of the average lot in the area, is beyond understanding. It is precisely for this reason, that being the tendency of some proponents of development applications to take liberties with the charactierization of facts, in this case, the characterization of the smallest lot in an area as being, essentially, an average lot, that a new precedent should not be set.

With regard to the regularity of the lots to be formed by this severance as a criteria for consent approval under 9.6.13 of the Official Plan, the City Report to the COA states, in as many words, that these lots will be 'standard rectangular' unless they are not. And then even if they are not regular, it is okay, as they would be irregular in a regular way!? As part of this description of the regularity of the lots the report notes that if the previous Consent lapses, and the north part lot of that severance must be joined with the retained lot of this severance, it would only be a minor "bulb out." Well that minor "bulb-out" would be greater than 6 times the area of the retained lot from this severance, at 2948 m^2 for the minor "bulb out" versus 476 m^2 for the retained lot. To accept this comment, it would seem, we would need a new definition for the word "minor"?

What is being requested is a Technical Consent. The meaning of a Technical Consent is outlined in the Fees and Charges By-Law. In that by-law it states "The term 'Technical Consent' shall apply to: (i) an application for the creation of a new lot, which complies with the zoning by-law and Official Plan;…" A simple consent approval implies more than the simple division of land. "As-of-right" a granted serverance implies the right to construct, in this case, a single family dwelling on each lot. To that end the applicant has submitted a Concept Plan. It would therefore follow that this plan must also comply with the City Zoning By-Law 76-26 and the Official Plan for the Consent to be granted.

The proponent of this application submitted a "site-specific" re-zoning application for this very lot last year. In that previous submission the applicant noted that it was their intention to ultimately sever the lot but only after approval of the re-zoning application. However, there were many, many issues with regard to that application, so much so, that it seemed that it was not well received by the Planning Committee at the Public Meeting and, as such, was ultimately withdrawn by the proponent. Now it seems the applicant appears to be approaching the development of this lot from a different angle, by first requesting the severance. However, many of the issues raised in the previous re-zoning application remain and will be addressed below.

The Concept Plan submitted with regard to this Consent application is in many regards similar to the Conceptual Plan for the previous re-zoning application for this very site. One similarity is the quantity of impervious, hard surfaced areas. From the scaling of the Concept Plan drawing and the existing Site Survey, ignoring the temporary fabric shelters, it is estimated the Concept Plan has hard, impervious sufaced areas, including buildings, concrete walkways and asphalt surfaced driveways and parking spaces, that amount to approximately 6 times the current hard surfaced area, that is essentially comprised of only the existing building itself. This is expected to result in, at least, double the stormwater runoff from this site based on the run-off coefficients provided in the Stormwater Management report submitted with the previous re-zoning application. It is requested that this relevant Stormwater Management report be included in the file for this application.

2.1.4 Development Review of the Official Plan provides sustainable development criteria to which any development would be assessed. Two of the criteria are as follows:

a. design which reduces or eliminates discharge into the storm sewers through incorporating stormwater management practices including low impact design and stormwater re-use.

c. design, landscaping, and streetscaping practices that reduce the quantity of impermeable surfaces;

It would seem that this development would rank at the lowest end of the scale because it increases the quantity of impermeable surfaces by 6 times and does absolutely nothing to reduce discharge into the storm drainage ditch along the west lot line and along Princess St. Yet the Report to the COA contends that this development conforms to all applicable policies of the Official Plan.

As mentioned, the drainage of this site is by the ditch that runs along the west side of this lot and by the ditch along Princess St. to the south. These ditches are inconspicuously shown on the survey by Leslie M. Higgins Surveying Inc. but can be seen if close attention is paid. The capacity of these ditches to handle this stormwater runoff for the 100 yr storm is unknown. **But it is known that, perhaps, some 20 years ago or so, a late fall storm overwhelmed the ditches along Princess St and flooded every residential property basement along Outer Princess St. including the property owned by the author.** The Cataraqui Region Conservation Authority submitted comments on the previous application by this developer. In it they made, among others, the following comments:

"Our main interest in the watercourse [ditch] is avoidance of associated natural hazards (flooding and erosion).

We do not have engineered flood plain mapping for this section of Upper Highgate Creek. The remnant piece of creek on the subject property is not anticipated to present significant flood risk but it does clearly convey enough runoff to form a fairly well-defined channel.

It is not clear in the proposal how the watercourse channel will be managed. From the conceptual plans, it appears the western triplex building will be immediately adjacent, if not over top of the watercourse. The conceptual servicing plan shows a grassed swale in the approximate location of the watercourse.

In lieu of engineered flood plain mapping, Cataraqui Conservation, under Ontario Regulation 148/06, may apply a generic 30 metre setback from the top of bank of a watercourse for all new development. Alternatively, CRCA may require a flood plain analysis to determine the extent of the 100 year flood plain associated with a watercourse."

"1. We request that the applicant confirm what, if any, changes are proposed to the existing watercourse [ditch] located along the west lot boundary of 3028 Princess Street." and

"3. We request that a Stormwater Management Brief be provided in support of the current proposal at 3028 Princess Street demonstrating how the recommended control targets (pre=post quantity for 2-100 yr events & normal level quality control) will be provided for runoff from the site."

Additional comments with regard to this ditch and stormwater management were also made by the CRCA in their submission to this applicant's "site-specific" re-zoning application for the property at 950 Woodhaven Drive, that is located immediately north and north-west of the subject property, and that impacts this very ditch. It is, therefore, requested that these two submissions by the CRCA under file numbers **D14-019-2020** and **D35-004-2020** be included in the file for this application for reference.

The reference to the watercouse located along the west lot boundary in the above comments is to the ditch between this property and the one to the west. A sump pump in the building to the west of the subject property discharges into this ditch. Likewise stormwater from this adjacent property also drains overland into this ditch. The proposed building on the westerly, retained lot shown on the Concept Plan submitted with this application, runs right along the bank of this ditch, similarly to the triplex building in the previous re-zoning application and referenced in the comments by the CRCA above. So the questions raised in the CRCA submission have not been addressed in this application. Although no legal opinion has been sought, due to the historical nature and continuous use of this ditch as a drainage path for the neighboring property it would seem almost certain that some **prescriptive easement** exists for this ditch in favour of the lot to the west. No consideration of this has been given by the applicant, specifically with regard to how the proposed development will impact this ditch.

The Clause 5(6)(b) of the City zoning by-law 76-26 prohibits construction of any building within 25 ft of a flood plain. Sentence **9.6.13.i.** of the Official Plan states that any application for a consent must assess the impact on natural hazards. This would include flooding. The CRCA has clearly stated that it doesn't have flood plain mapping for this Upper Highgate Creek property. Therefore it is not known whether the proposed single family dwellings are within the flood plain. Notwithstanding this issue, 4.3.1 of the Official Plan states, ***"Stormwater management techniques must be used in the design and construction of all new development to control both the quantity and quality of stormwater runoff."*** The application does not address how the increased run-off, as noted above, will be dealt with, so that the quantity of stormwater runoff from the site post-development approaches pre-development values. Clearly if the location of the flood plain is unknown then the zoning by-law would disallow construction of

a building on these lots. If it cannot be shown that the lots meet the Zoning By-Law nor the Official Plan then this application cannot be approved as a Technical Consent.

So with regard to issues noted above, this application does not satisfy the Planning Act requirement of ***51(24) (i) adequacy of utilities and municipal services,*** specifically with regard to the adequacy of the ditches to accommodate stormwater runoff from the site for the 100yr storm event. In addition **Schedule 1 of O. Reg 197/97 Consent Applications sets out "INFORMATION AND MATERIAL TO BE INCLUDED IN AN APPLICATION FOR CONSENT UNDER SUBSECTION 53 (2) OF THE ACT.** Unfortunately on the provided sketches by the applicant for this development to the City, in support of this application, with the exception of their inconspicuous inclusion on the Site Survey, the ditches in question are not shown. In addition, **9.12.2. Development Applications: Required Information and Material** of the Official Plan states that among other submissions "a description and/or sketch of the natural and artificial features on the subject lands and within 500 metres of the subject lands (e.g. …, roads, watercourses, **drainage ditches**, …, etc.)." Yet no sketch of these ditches has been provided by applicant and this seems to be of no concern to City Planning. Surely it is not the intention of the Planning Act that the Committee of Adjustment, without any direction or indication to do so, should have to examine in detail the Site Survey to root out what relevant information may reside in this document. No! It is the intent of the Act under regulation 0.Reg. 197/97 that this information be clearly identified on any sketch provided with the application for a Consent. As such, this application is not a complete application and must be rejected.

With regard to trees on site a Tree Preservation Plan was submitted under the previous re-zoning application for this site. It showed 22 trees on site. Not all trees are shown on the Concept Plan for this application, as such, the precise number of trees to be removed is not known with certainty. But this development is somewhat similar in footprint to the proposed development of the previous re-zoning application. The number of trees to be cut down to accommodate this development is likely in the order of 15 of the 22 trees on the site. The applicant should be request to provide a Tree Preservation Plan.

As part of the previous re-zoning application for 3028 Princess a Noise Impact Study was performed. The conclusion of the report was that the traffic noise levels, coming from Princess St., at the back of the, then, triplex, now, two storey residential building, exceeded MOECP guidelines, so much so, that an 2.1 m high acoustic barrier fence was recommended, along with the requirement to provide forced air heating and the inclusion of a warning clause in any agreement of purchase and sale acknowledging the excess sound levels. One part of this fence ran partly along the west lot line of the property where the ditch is located, then across this ditch. It is not understood how this fence could ever have been built without filling in the ditch which drains the adjacent property. And if it were built, according to requirements of the author of that study, it would have to extend tight to the ground to be effective, and this would also interfere with the natural, historical stormwater drainage flows for the adjacent lot into this ditch and with any flow within the ditch. One wonders why this issue has not been raised in the Planning Letter by FOTENN Planners. In any case, it is recommended that this study also be included in the file for this application.

All of these issues are very well known to the applicant and his consultant because they were raised as concerns in the previous "site specfic" re-zoning application. The applicant's planning consultant in his Planning Letter to the City in support of this application has referenced an assessment report by Ecological Services undertaken to support the previous consent and re-zoning applications in relation to **Section 51(24)(h) conservation of natural resources and flood control** of the Planning Act. However, although "conservation of natural resources" was addressed in the Planning Letter, flood control was,

once again, conveniently omitted. How could such an important and known issue not be addressed in this application? It seems that it is not addressed because it would reflect badly on the application.

On page 7 of the City's report to the COA under item no. 5, it acknowledges CRCA's concerns regarding the flood plain issue and the requirement for a Stormwater Management Brief and then proceeds to state ***"Accordingly, the proposed severance will not cause any adverse impacts on the natural heritage system, natural heritage features and areas or natural hazards."*** So this report acknowledges the issue and then, on the other hand, dismisses it as having no impact on natural hazards and on the severance. Without the Stormwater Management Brief, without flood plain mapping and without knowledge of the capacity of the ditches, how is it possible to make a statement that this will not have any impact on natrurual hazards? How can potentially allowing the construction of a building in a flood plain not have any impact on a severance? How can allowing twice the stormwater runoff with absolutely no controls be deemed to meet the Official Plan that requests controls on Stormwater runoff per 4.3.1 as noted above. It is not clear why the City's report is not defending the Official Plan and the Zoning By-Law, adherence to which is one of the most fundamental issues in the assessment of any development application. Coincidentally under this same issue, that is, ***(h) conservation of natural resources and flood control;*** the Planning Letter from the applicant's consultant has appeared to totally ignore the issue of flooding and stormwater management altogether. Later it states "***The proposed consent is within the Urban Boundary and not on any natural or human-made hazard lands."*** As mentioned a number of times in this submission that the CRCA's concern with regard to the flood plain is known to all parties and it will be left up to the COA to conclude why the planning consultant is making this statement.

The site in question is not serviced by City bus service and there are no sidewalks along this stretch of Princess St and access to any park would require walking along Princess, a most dangerous endeavour especially when the shoulder of the road is used as a right turning lane at Woodhaven Drive and the road is lined with ditches on both sides. This development could only be considered a **car centric** development. There is no other safe way to get to this site. With regard to this issue in the Official Plan under **Urban Areas – Focus of Growth 2.1.1.** it states ***"Most growth will occur within the Urban Boundary, shown on Schedule 2, where development will be directed to achieve greater sustainability through i.) parks that are planned to be accessed by urban residents within a ten minute walk and situated in locations that lessen the need for pedestrians to cross an arterial road or major highway;"*** Well Woodbine Park is often cited by this applicant's consultant as being within 475m of this site. Unfortunately it cannot be accessed on foot without crossing an arterial road that is completely unsafe to walk along. Commericial areas are not within safe walking distance either, as no distance walked along this stretch of Princess St can be considered safe. The City's report to the COA makes the following statement: "…***should the severance be approved which would allow for a greater degree of intensification along this Arterial Street that accommodates express transit."*** I can only assume this is a **If you build it they will come**! kind of statement. I don't think three (3) additional residential units will be cause for the City to provide bus service to this site. The reality is there is no bus service, no sidewalks, no safe means for Active Transportation, and approving this severance would only lead to more motorized vehicle use, therefore more pollution, not less. Clearly this would **not** be, at all, aligned with the City's goal of being one of the most sustainable Cities on the continent, which statement is embedded in the Official Plan under section 2.1 Sustainable Development.

With regard to the Concept Plan submitted with the application, it states **"Each lot is proposed to be developed with a two-storey single detached dwelling with a second residential unit on the upper**

floor." The City website literature describes what is meant by a second residential unit, as follows: ***A Second Residential Unit, also known as a basement apartment, secondary suite, or in-law suite is a self-contained accessory dwelling located … within a single-detached…house…. .*** What is being proposed in the Concept Plan is one residential unit entirely above another. In the Zoning By-Law matrix included in the Planning Letter by FOTENN Planners, it indicates that the gross floor area of the upper second residential unit is less than the primary unit below but no hard data is provided. It is not known to what extent that this is the case. But from scaling the Concept Plan, ignoring what seems to be the space occupied by stairs to the second level, the areas of the upper and lower level would appear to be identical because the scaled area of the footprint is approximately one half of the gross floor area shown on this Concept Plan. So if there is a difference it would appear to be marginal. If the difference is marginal, as seems to be the case, although characterized as a single family dwelling with a Second Residental Unit, it may be, for all intents and purposes, more equivalent to a duplex than a single family dwelling with an in-law suite. As duplexes are not allowed in a residential, R1, zone, it is feared the applicant is using the wording of the Official Plan to circumvent the Zoning By-Law. A duplex is allowed under R2 zoning but in that case the lot area, lot coverage, and interior side yard, as proposed in the Concept Plan, would all be in violation of the Zoning By-Law.

The New City Wide Zoning By-Law although not in force yet would, however, show the City's current thinking on zoning matters. This proposed by-law defines a Second Residential Unit as follows:

3.19.2. Second Residential Unit means an additional residential unit, which is the first accessory dwelling unit located on the same lot as the principal dwelling unit.

And it defines Accessory as follows:

3.1.3. Accessory means subordinate and naturally, customarily and normally incidental to and exclusively devoted to a principal use or building, and located on the same lot.

With the second residential unit occupying, it would seem, for all intents and purposes, the complete second floor area of the concept plan, it doesn't feel like it is incidental and exclusively devoted to the principal use. This same applicant attempted to get approval for two triplexes on this very site but such development appeared to not be warmly received by the Planning Committee. So it is no wonder the author of this submissioin is fearful this same applicant is attempting to achieve the same result through other means. So we are asking, that if severance is granted on the basis of a single family dwelling with a Second Residential unit, that in the decision that it is stated that Consent was granted on the basis that the development on this lot remain as a single family dwelling and that further intensification will not be sought in the future for these lots. If the true intention of the applicant is to develop as per the sketches submitted there should be no objection to this.

The report to the COA makes the following statement: ***The proposed lot creation will result in a development that is consistent with the built form of existing residential buildings within the area.*** Built form refers to the function, shape and configuration of buildings, as well as, their relationship to streets and open spaces. Only a preliminary plan view of the concept of the building has been provided? The shape cannot be assessed without elevation drawings being provided? It would therefore appear that this is more of an unfounded opinion, gratuitously offered to the Committee of Adjustment, than a factual statement. So the question is, why does the City Planner seem obliged to make such a comment on behalf of the applicant when the applicant's own planning consultant has not made such a claim?

The Concept Plan shows two parking spaces in the back of each building. It must be pointed out that the parking spaces closest to the buildings have no separation whatsoever from a post that supports the stair landing to the second level. It would be considered a certainty, in this scenario, that a vehicle would eventually impact one of these posts at some point, most likely resulting in the collapse of the

landing onto the offending vehicle. Clearly the parking spaces must be separated from the supports to the second level landing by some distance that will ensure that such an impact cannot occur and that some protection for this post be provided. Also, the separation between the parking spaces on the two lots does not meet the requirements for parking spaces as laid out in Schedule 'C' of the zoning by-law. The by-law requires a 6.5 m separation and only a 6m is provided. Although the first of these issues may be deemed to be a Site Plan Control issue, the Planning Letter by FOTENN planners to the City has indicated that this development would not be under the Site Plan Control By-Law, but, in any case, if addressed, would increase the hard surfaced area to levels even more than noted above.

The driveways for each lot are built right up against the lot line with no separation between them. In the Planning Letter by the planning consultant, it indicates that these driveways will be shared amongst the two lots. No easement agreement is reflected in this application. It would be thought that the details of the agreement may be purtenant to this Consent application. If an easement were to be granted the wording of such an easement should lay out the responsiblities of each owner and depending on the wording, it would seem, contentious issues can easily arise. For instance what if one owner doesn't clear the snow from their driveway and simply uses the other owner's driveway. Or what if upkeep of one of the driveways is not maintained? Or what if cars are parked in one of the driveways. The sharing of driveways seems like an ill conceived plan that would appear to only lead to unnecessary conflict in the future. Good development should be the interest of all citizens even if not directly affected.

When the previous re-zoning application, similar to this one, was presented to the Planning Committee, one member of the committee indicated that parking for visitors to this site on Princess St. would be unacceptable. No visitor parking spaces are shown in this car centric proposed development. It is presumed the lack of a visitor parking space would still be deemed unacceptable to the Planning Committee and therefore the City and therefore to the Committee of Adjustment. So where will visitors, who can only get safely to this site by car, park? Parking is required and it can't be allowed on one of the major arterial roads in Kingston. More discussion on this issue is provided below.

The current amenity area for the residents of 3036 Princess St. is in the small side yard which borders the west lot line of this, for all intents and purposes, 'duplex'. It is not clear whether windows would be proposed along the west wall of this building. If so this may be considered an intrusive overlook especially if all the trees are cut down which seems to be the necessary case.

Finally, it cannot be imagined why the City would view this as a site for residential intensification by Consent. From a review of kmaps (attached to this document) there are no other lots along Outer Princess St. with a 50 ft frontage. This would set a new precedent. And if future developers would request similar lot frontages it would seem perfectly within their rights to do so, once a precedent is set. Thus it would turn Outer Princess St. into a subdivision road with driveways, accessing it, every 50 ft. One must ask if this is the vision for Outer Princess St. No other newer arterial road, including Bayridge Drive, Centennial Drive, or even older ones like Collin Bay Road allows residential access directly to the road. The case of Outer Princess St. is unique and historical and it is unlikely in the interests of the City to promote further direct residential access, mainly due to the impact on traffic flow and as a traffic safety issue. In fact, this very issue is referenced in 9.6.13 Criteria for Consent Approval of the Official Plan which states as one of the criteria for approval that ***"d. direct access from major roads is limited…".*** Princess St. is one of the major roads in Kingston. It was the former King's Highway No.2. Princess St is a Gateway to the City, as well as, an Emergency Detour Route for the 401 in this location. Councilor Osanic in one council meeting this year, with regard to turtle fencing, a short distance west of this site, stated that 10,000 cars use this road every day.

It is understood that this proposed development, at least, as presented in this application, will only contribute perhaps three (3) additional vehicles to Princess St. traffic, which is negligible. However it is not so much the number of additional vehicles but that the trend is going in the wrong direction, in that direct access to and from individual residential driveways from outer Princess St. should not be increased from current levels. Surely increasing direct access to this stretch of Princess will only lead to increased traffic mishaps. It is suggested that future access to this stretch of road should only be through feeder streets with traffic lights. The alternative, it is felt, would be going in the wrong direction with unfortunate consequences. There are many negative aspects to this proposed development and insufficient positive aspects to warrant acceptance of increased access to this major arterial road.

Therefore based on all of the above it is clear, severance of this lot to create the smallest lot in both lot frontage and area ever on Outer Princess St., with the intention of very minor intensification as proposed, without addressing all the concerns with regard to the flood plain, stormwater management, enviromental concerns with respect to trees, noise levels on-site, impact on ditches that serve neighbouring lots, and with the simple lack of municipal services including storm sewers, sidewalks and bus service, and an increase in car traffic, however modest, with the potential of parking on Princess St., will violate the Zoning By-Law for certain of these issues and will not adhere to, nor align with the City of Kingston's Official Plan for others. As such with regard to this severance it is, therefore, not a Technical Consent based on the above and this application must be considered premature and not in the public interest in reference to **Section 51(24) (b) whether the proposed subdivision is premature or in the public interest** of the Planning Act. As such, I request it be denied.

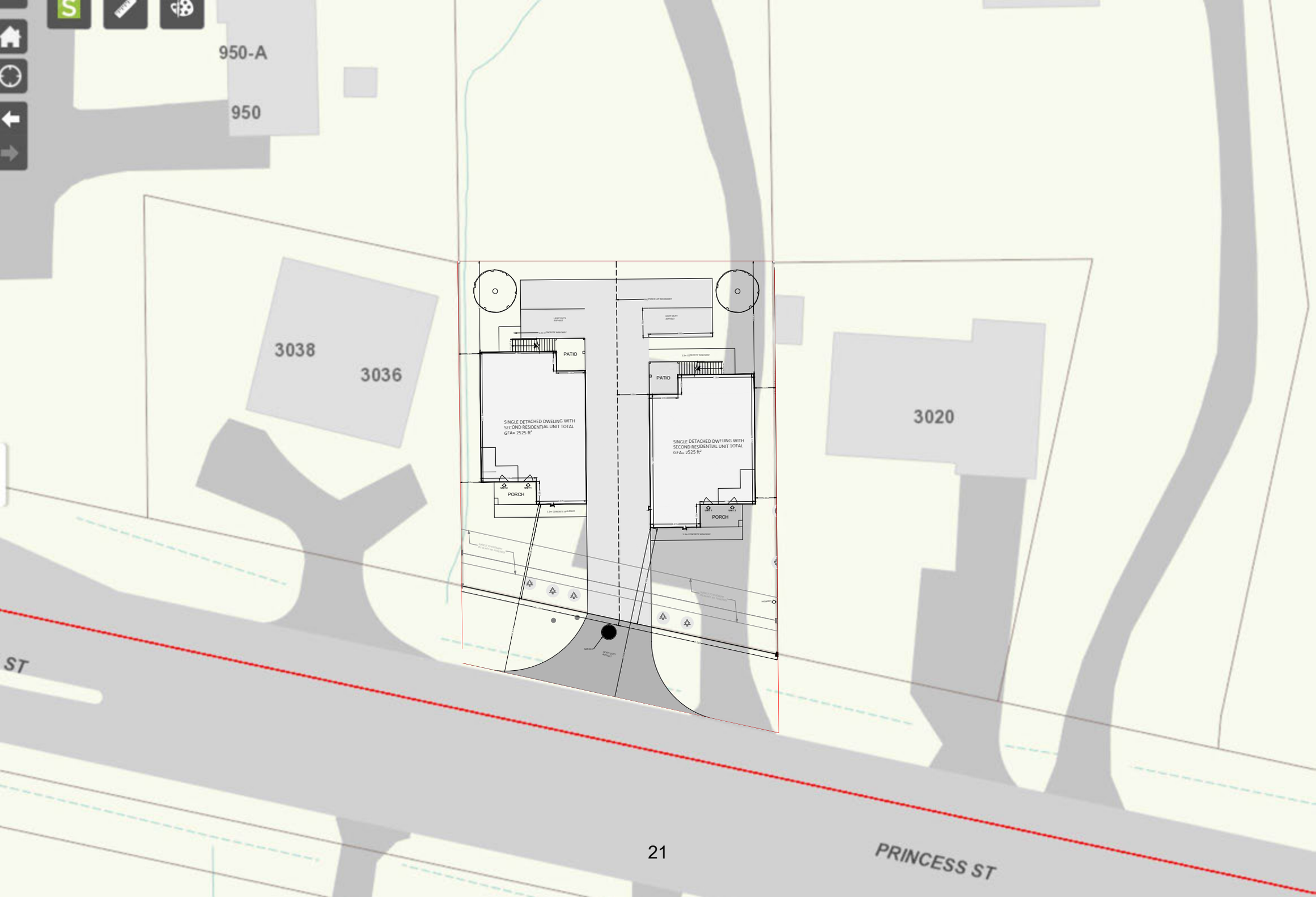
With a Consent such as this, the only time for public input is before the granting of the Consent. If a Provisional Consent is granted with conditions that, say, a Stormwater Management Brief or a Noise Impact Study be submitted, then the public will not be given a reasonable opportunity to review and comment on these submissions because notification of their availability for review does not have to be given to the public under the provisions of the Planning Act. As a result, it can be assured from past experience, no notification will be given. The only other notification that need be given to the public is a Notice of Decision and, at that point, of course, the decision will have been made and the only recourse to dispute the findings of any these submissions would be in front of the Local Planning Appeal Tribunal at a cost of $400.

If these were unknown issues one could understand why these documents were not submitted with the application. But these issues are known to the Applicant and the City and, in fact, as noted above, a Noise Impact Study was completed for the previous re-zoning. Of course, a simple submission of a Study is not a sufficient condition for approval, but such approval must be based on the adequacy and sufficiency of the findings of these reports to address the issues to which they relate. It is assumed that conditions attached to a Provisional Consent are with regard to issues that would not materially factor into the very decsion itself, but are incidental to those factors. For instance if a building exists on site, a condition to the Consent that it must be demolished or, be connected to the City sewer would not be an unknown factor as to whether a Consent should be granted or not, but would be more of a necessary execution condition to satisfy known factors in the Consent. However, if it is not known if the lots in question exist within a flood plain, say, then that information is fundamental to the decision making process and, it is suggested, should <u>not</u> be the subject of a condition to be determined after the fact of the decision. Likewise if it is not known if the capacity of the drainage ditches is sufficient to convey stormwater from the site then that also should not be left as a condition of Consent because, if it were known at the time of the decision that the capacity of the ditches was insufficient, Consent would not be

granted. In conclusion, I would ask that, if after all of the above is considered, that, if still, a Provisional Consent is granted, as a minimum, one of the conditions be that, if reports are requested, that notification of the readiness of these reports for review be given to parties who have made oral or written submissions to the Committee at the Pubilic Meeting and that a sufficient timeframe for a response to the Committee with regard to the findings of these reports be provided in this notification, prior to a further decision by the Committee is considered.

Respectfully submitted,

Harold Leroux, M.Eng, P.Eng.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From: Kaitlyn Ferguson [redacted]
Sent: December 2, 2021 4:43 PM
To: [redacted]; Planning Outside Email <Planning@cityofkingston.ca>
Subject: Planning meeting invite regarding 853 development drive property

Hello there,

I am emailing in response to a Public Meeting for 853 Development drive property, file number D13-066-2022.

On behalf of Pier Drouin and I, we have no concerns with the enclosed sunroom being built. Although, Pier and I are both moving and will no longer be the owners of 307 Boxwood. Our house closes on the 10th and a new owner will take ownership that day. Due to this, we will not be attending the virtual meeting or have any comments going forward with the request.

Warm regards,

Kaitlyn Ferguson