



**City of Kingston
Report to Committee of Adjustment
Report Number COA-22-014**

To: Chair and Members of the Committee of Adjustment
From: Lindsay Sthamann, Intermediate Planner
Date of Meeting: January 17, 2022
Application for: Minor Variance
File Number: D13-048-2021
Address: 162 Division Street
Owner: 162 Division Street GP Ltd.
Applicant: IBI Group (Mark Touw)

Council Strategic Plan Alignment:

Theme: 2. Increase housing affordability

Goal: 2.2 Build a significant number of new residential units with a range of affordability.

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variances for the property located at 162 Division Street. The applicant is proposing to redevelop the existing building by adding 8 residential units (total of 10 bedrooms). This will involve the addition of a third storey on top of the existing two-storey building. Retail space will be maintained on the ground floor facing Division Street. 9 vehicle parking spaces and 8 bicycle spaces are proposed on the existing paved area. A total of 9 minor variances are requested to address the resulting zoning deficiencies related to parking, amenity area, and setbacks.

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.

January 17, 2022

Page 2 of 16

Variance Number 1: Decrease in Parking Space Number (Non-Residential)

By-Law Number 8499: 5.3A.(b)(ii)
Requirement: 1 space per 28 metres square gross leasable area
Proposed: 1 space per 150 metres square gross leasable area
Variance Requested: from 5 required spaces to 1 required space

Variance Number 2: Decrease in Accessible Parking Space & Aisle Length

By-Law Number 8499: 5.3A.(d)(ii)(a, b, and c)
Requirement: 6.0 metres long
Proposed: 5.8 metres long
Variance Requested: 0.2 metres

Variance Number 3: Decrease in Parking Space Dimensions

By-Law Number 8499: 5.3B.(h)
Requirement: 2.7 metres wide x 6.0 metres long
Proposed: 2.6 metres wide x 5.2 metres long
Variance Requested: 0.1 metres and 0.8 metres

Variance Number 4: Decrease Required Loading Spaces (for all commercial uses)

By-Law Number 8499: 5.4(a)
Requirement: 1 off-street loading space
Proposed: 0 off-street loading spaces
Variance Requested: 1 loading space

Variance Number 5: Decrease in Amenity Area

By-Law Number 8499: 5.27(a)
Requirement: 18.5 metres square per dwelling unit
Proposed: 10 metres square per dwelling unit
Variance Requested: 8.5 metres square per dwelling unit (68 metres square less than required)

Variance Number 6: Decrease in Bicycle Parking Space Width

By-Law Number 8499: 5.3A.(a)(ii)(3) / 4.7A
Requirement: 0.6 metres wide
Proposed: 0.45 metres wide
Variance Requested: 0.15 metres

Variance Number 7: Decrease in Side Yard Setback (North)

By-Law Number 8499: 20.3(b)(iii)
Requirement: 4.8 metres
Proposed: 0 metres
Variance Requested: 4.8 metres

January 17, 2022

Page 3 of 16

Variance Number 8: Decrease in Side Yard Setback (South)

By-Law Number 8499: 20.3(b)(iii)
Requirement: 5.1 metres
Proposed: 3.3 metres
Variance Requested: 1.8 metres

Variance Number 9: Reduced Setback from Midpoint of Division Street

By-Law Number 8499: 20.3(b)(vii)
Requirement: no building will be located closer to the street line of a street which intersects Princess Street than a distance of 10.0metres from the centre line of the street allowance of such an intersecting street
Proposed: 9 metres
Variance Requested: 1 metre

Recommendation:

That minor variance application, File Number D13-048-2021, for the property located at 162 Division Street to introduce 8 residential units, add a third floor, and reconfigure the parking area, be approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-014.

January 17, 2022

Page 4 of 16

Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER _____

Lindsay Sthamann, Intermediate
Planner

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

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

January 17, 2022

Page 5 of 16

Options/Discussion:

On August 4, 2021, a minor variance application was submitted by IBI Group (Mark Touw), on behalf of the owner, 162 Division Street GP Ltd., with respect to the property located at 162 Division Street. The variance is requested to redevelop the existing building by adding 8 residential units (total of 10 bedrooms). This will involve the addition of a third storey on top of the existing two-storey building. Retail space will be maintained on the ground floor facing Division Street. A total of 9 vehicle parking spaces and 8 bicycle spaces are proposed on the existing paved area. A total of 10 minor variances are requested to address the resulting zoning deficiencies related to parking, amenity area, and setbacks.

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

- Site Plan, Elevations and Floor Plans (Exhibit G);
- Owner's Authorization;
- Planning Letter;
- Noise Impact Study;
- Noise Letter;
- Noise Mitigation Permission Letter;
- Grading and Servicing Plan;
- Servicing and Stormwater Report; and
- Phase 1 Environmental Site Assessment

All submission materials are available online through the Development and Services Hub (DASH) at the following link, [DASH](#), using "Look-up a Specific Address". If there are multiple addresses, search one address at a time, or submission materials may also be found by searching the file number.

Site Characteristics

The subject property is located on the west side of Division Street South of Princess Street and North of Brock Street (Exhibit B – Key Map) and is currently developed with a two-storey commercial building and rear parking area.

The subject property is designated 'Main Street Commercial' in the Official Plan (Exhibit E – Official Plan Map) and zoned both 'C - Commercial Uses' and "B – Three to Six Family Dwelling" in Zoning By-Law Number 8499. The existing building is contained within the portion zoned 'C' and most of the parking area is in the portions zoned 'B' (Exhibit F – Zoning By-Law Map). The property abuts other commercial and residential uses (Exhibit C – Neighbourhood Context Map).

162 Division Street has split zoning, the front part is zoned 'C – Commercial Uses' and the rear part is zoned 'B – Three to Six Family Dwelling'. It is unclear why the zoning is split; however, it is anticipated that the property will be fully zoned as a commercial zone under the proposed new Zoning By-Law and that this split zoning will be corrected. The mixed commercial and residential

January 17, 2022

Page 6 of 16

use will be fully contained on the portion of the property currently zoned 'C' and this type of use is permitted in the 'C' zone. Parking related to a residential use is permitted on the portion of the property currently zoned 'B'.

The split zoning has created some existing non-conforming elements on the site. The non-conforming elements listed below are recognized by the City and are not proposed to change as part of this re-development. As such, they are not addressed in this minor variance application.

Existing Non-Conforming Elements:

- 5.3B(h) One entrance lane and one exist lane required (combined entrance/exit existing);
- 5.3B(d)(ii) and 5.3B(f)(ii) No parking permitted in front of the midpoint of the building (parking currently exists in front of the midpoint of the building);
- 13.3(m) 30% landscaped open space required in the 'B' zone (there is no landscaped open space provided); and
- Parking related to a commercial use not permitted in the 'B' zone.

Application

The review of an application for minor variance(s) is not a simple mathematical calculation, but rather a detailed assessment of whether the variance(s) requested, both separately and together, meet the four tests of a minor variance outlined in Subsection 45(1) of the *Planning Act*. The following provides this review:

Provincial Policy Statement

In addition to the four tests of a minor variance detailed above, Subsection 3(5) of the *Planning Act* requires that a decision in respect of the exercise of any authority that affects a planning matter shall be consistent with the Provincial Policy Statement (the PPS). The PPS provides policy direction on matters of provincial interest related to land use planning and development which are complemented by local policies addressing local interests. The application being considered is site specific to accommodate a specific proposal and does not involve any major policy considerations and as such, the proposal conforms to and is consistent with the PPS.

1) The general intent and purpose of the Official Plan are maintained

The subject property is designated 'Main Street Commercial' in the City of Kingston Official Plan. The planned function of the Main Street Commercial designation is to serve surrounding neighbourhoods with a broad range of uses. Hospitality uses, financial and personal services, community uses, and small office buildings or upper storey office uses are located within the distinctive "main street" design parameters of the designation, thereby contributing to the area character, pedestrian orientation, and function. The goal of the Main Street Commercial designation is to provide retail and other commercial services for surrounding neighbourhoods in a setting that is street oriented and pedestrian focused,

January 17, 2022

Page 7 of 16

including a mix of compatible residential and small-scale office or community uses and services.

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

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

The subject property is located within the City's defined Urban Boundary, and more specifically is within a Corridor, as shown on Schedule 2 – City Structure, of the Official Plan. The City's Corridors are mixed-use areas where intensification is intended to be focused. The property is within the Main Street Commercial land use designation, as shown on Schedule 3A, and described above. High density residential uses are permitted within the designation on upper floors, and the subject property satisfies the location criteria outlined in Section 3.3.C.3. The conversion will maintain the existing ground floor commercial use fronting on Division Street.

2. The proposed development will be compatible with surrounding uses, buildings or structures and development standards associated with adjacent properties, and if necessary, incorporate means of alleviating adverse effects on abutting land uses as recommended in Section 2.7 of this Plan;

The introduction of eight residential units and the third floor addition within the existing building footprint will not have adverse impacts on adjacent properties or on the public realm. The height, which is consistent with what existing on the block will not result in increased shadowing, wind or intrusive overlook. The application will be subject to Site Plan Control, at which time aspects such as noise, lighting and drainage will be further reviewed.

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;

Section 2.7.6. discusses functional needs and supports only development proposals which meet the long-term needs of the residents. The proposed third storey addition is a suitable scale. The subject property is within walking distance of several express bus route stops, a public park, and several commercial areas, which would allow for the efficient use of municipal services, including transit. One vehicle parking space and one bicycle parking space is provided for each proposed unit. The proposed residential units would be accessed through a new entranceway on Division Street which would enable efficient pedestrian access to the proposed residential units. The proposal will not negatively impact the functional needs of future residents.

January 17, 2022

Page 8 of 16

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 not a protected heritage property. Built heritage resources will not be negatively impacted by this proposal. The property is within an area of composite archaeological potential. However, given that the proposed changes are occurring within the existing building footprint, an archaeological assessment is not required.

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 site is not designated under the *Ontario Heritage Act* nor is it adjacent to a site designated under the *Ontario Heritage Act*.

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 City's Urban Boundary. Further details related to servicing will be reviewed through the Site Plan Control process by Utilities Kingston to ensure the residential units will be adequately serviced.

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;

As per Section 2.2.7, the City's existing Corridors will be the areas where intensification will be focused and where greater densities of residential and non-residential development will be focused. The proposed conversion aligns with the intent of both the Official Plan and Zoning By-Law and does not represent an over development of the site. The relief requested is adequately addressed through a minor variance process, as described throughout this report.

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;

Recommended conditions are included in Exhibit A. The proposal will also be subject to Site Plan Control approval.

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

This type of residential conversion is desirable and fulfills many objectives of the City's planning policy framework and of recent Council priorities. As such, this type of project

January 17, 2022

Page 9 of 16

sets a positive precedent for the adaptive reuse City's downtown buildings. Any similar application would be reviewed based on its own merits to determine whether the proposed development is appropriate and desirable within its own context.

The proposal meets the intent of the Official Plan, as the proposed residential units and third floor will provide residential intensification within the city's Corridor area, while continuing to provide an at-grade commercial use on the site 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 both 'C – Commercial Uses' and "B – Three to Six Family Dwelling' in the City of Kingston Zoning By-Law Number 8499, entitled "Restricted Area (Zoning) By-Law of the Corporation of the City of Kingston", as amended. The existing building is contained within the portion zoned 'C' and most of the parking area is in the portion zoned 'B'. The 'C' zone permits multiple family dwellings along with various commercial uses. The 'B' zone permits parking related to a residential use. The proposal requires nine variances to the Zoning By-Law.

Variance Number 1: Decrease in Parking Space Number (Non-Residential)

By-Law Number 8499: 5.3A.(b)(ii)

Requirement: 1 space per 28 metres square gross leasable area

Proposed: 1 space per 150 metres square gross leasable area

Variance Requested: From 5 required spaces to 1 required space

The applicant is proposing that 8 parking spaces be dedicated to the residential component of the project, which is 1 space per unit as required by the Zoning By-Law and that 1 additional space be allocated to the commercial component which is a rate of 1/150 m² of gross leasable area. This is a reduction of 5 required commercial parking spaces to 1 required space. The City's parking requirements are intended to ensure that adequate on-site parking is provided so as not to create issues with illegal parking and to ensure that the needs of tenants and residents are met. This area is easily accessible by public transit and other modes of active transportation. It is not anticipated that the reduced commercial parking spaces will create undue impacts on parking in the area. As the tenant is unknown and likely to change over time, the request is to apply the varied standard of 1 space per 150 m² to all commercial uses. On this basis, it is anticipated that the intent of the zoning by-law to ensure adequate parking is provided will be satisfied.

Variance Number 2: Decrease in Accessible Parking Space & Aisle Length

By-Law Number 8499: 5.3A.(d)(ii)(a, b, and c)

Requirement: 6.0 metres long

Proposed: 5.8 metres long

Variance Requested: 0.2 metres

The standard barrier free parking space depth is 6.0 metres in the Zoning By-Law but the Accessibility for Ontarians with Disabilities Act (AODA) has identified that an appropriate

January 17, 2022

Page 10 of 16

minimum parking space depth for barrier free parking spaces is 5.2 metres (noting that a depth of 5.8 metres is proposed), and this reduced standard has been regularly implemented in the City as a result.

Variance Number 3: Decrease in Parking Space Dimensions

By-Law Number 8499: 5.3B.(h)

Requirement: 2.7 metres wide x 6.0 metres long

Proposed: 2.6 metres wide x 5.2 metres long

Variance Requested: 0.1 metres and 0.8 metres

The intent of the Zoning By-Law in establishing minimum dimensions for parking stalls is to ensure that they are functional. The requested relief from the minimum stall length and width requirements for a standard parking space is consistent with previously approved development of this size in the City of Kingston and appears to be functional based on those other developments, taking into account provision of adequately sized and appropriately shaped driving aisle for maneuvering.

Variance Number 4: Decrease Required Loading Spaces (for all commercial uses)

By-Law Number 8499: 5.4(a)

Requirement: 1 off-street loading space

Proposed: 0 off-street loading spaces

Variance Requested: 1 loading space

The Zoning By-Law requires one loading space for retail uses of the size such as the one proposed. It is understood the building formerly accommodated retail uses without a formal loading space. Given the size of the proposed retail area and given the location, a formal loading space is not an efficient use of space on this site and is not anticipated to negatively impact the functionality of the site.

Variance Number 5: Decrease in Amenity Area

By-Law Number 8499: 5.27(a)

Requirement: 18.5 metres square per dwelling unit

Proposed: 10 metres square per dwelling unit

Variance Requested: 8.5 metres square per dwelling unit (68 metres square less than required)

The amenity space provisions of the Zoning By-Law are to ensure that adequate amenity space is provided for tenants of the building on-site. The by-law requires that amenity space be provided at 18.5 metres square per unit whereas 10 metres square per unit is proposed. The C4 Zone, which is the zoning for the adjacent Williamsville Main Street Area permits 10 metres square per unit. This reduced rate is also permitted in the downtown area, directly across the street on the east side of Division Street. The subject site is located directly adjacent to both of these areas and in the Princess Street intensification corridor. The reduced amenity area requirement for the Williamsville and

January 17, 2022

Page 11 of 16

downtown area is understood to be a balancing of the desire for intensification in appropriate locations with minimum standards for functional developments.

The proposed development includes a consolidated area of indoor amenity area as well as two private balconies. Given the small number of bedrooms relative to unit count (10 bedrooms over 8 units), the proposed reduced amenity area is anticipated to be adequate, and provides a per person/occupant rate that is comparable to other amenity area requirements in the area.

Variance Number 6: Decrease in Bicycle Parking Space Width

By-Law Number 8499: 5.3A.(a)(ii)(3) / 4.7A

Requirement: 0.6 metres wide

Proposed: 0.45 metres wide

Variance Requested: 0.15 metres

The reduced bicycle parking space width is proposed at 0.45 metres rather than the 0.60 metres required in the Zoning By-law. This will still allow for a functional bike parking space as a standard bike rack is typically 0.30 – 0.45 metres per bike space. This allows bikes to be parked front-to-back or on either side of the rack, thus maximizing space, particularly within urban infill sites.

Variance Number 7: Decrease in Side Yard Setback (North)

By-Law Number 8499: 20.3(b)(iii)

Requirement: 4.8 metres

Proposed: 0 metres

Variance Requested: 4.8 metres

Variance Number 8: Decrease in Side Yard Setback (South)

By-Law Number 8499: 20.3(b)(iii)

Requirement: 5.1 metres

Proposed: 3.3 metres

Variance Requested: 1.8 metres

With respect to the requested variances for the side yard setbacks (both north and south), the footprint of the existing two-storey building is not proposed to change. The variances are triggered because different setbacks apply to commercial and residential buildings in the 'C' zone. The existing commercial building complies with the side yard setbacks for a commercial use. The proposed residential use on the second and third floors do not comply with the second set of side yard setbacks applicable to residential uses.

The reduction from 4.8 metres to 0 metres on the north and 5.1 metres to 3.3 metres on the south is not anticipated to result in any incompatibility with respect to adjacent uses. The planned development directly to the north has a similar minimum setback of 0 metres along the shared lot line and is to be developed with a 6-storey mixed-use building.

January 17, 2022

Page 12 of 16

With respect to the south side yard reduction, there are windows on the south wall of the proposed second and third floor of the building, but they do not provide a view into any adjacent amenity area or residential windows on adjacent properties. The area where the south side yard setback variance is requested is the laneway/driveway between the subject property and the property to the south (156 Division Street), and for the majority of the south side yard the setback is met.

Variance Number 9: Reduced Setback from Midpoint of Division Street

By-Law Number 8499: 20.3(b)(vii)

Requirement: No building will be located closer to the street line of a street which intersects Princess Street than a distance of 10.0 metres from the centre line of the street allowance of such an intersecting street

Proposed: 9 metres

Variance Requested: 1 metre

The intention of the Zoning By-Law in requiring a minimum setback from the centreline of a road is to ensure that the public right-of-way is wide enough to accommodate the travelled portions of the public road, sidewalks, boulevard for utilities, street furniture, etc. The Zoning By-Law requires a minimum 10 metres setback from the centreline Division Street to ensure that a minimum right-of-way width of 20 metres can be achieved.

In the case of the subject property, the ROW width along this section of Division Street is only 18 metres wide, and the existing building is located on the street line with a minor encroachment of 17 millimetres at the northeast corner. Based on this existing 9metres setback for the first and second floor a minor variance is required to allow the proposed third floor to align with those below it.

Any new encroachment beyond the property line and into the City road allowance will require an encroachment agreement with the City and will be addressed through the Site Plan Control process. This proposed variance will permit the third floor to be built at a zero metres setback from the front lot line (9 metres from the centre line of Division Street).

The position of the existing building and the upper floor addition is consistent with the setback of buildings to the south along Division Street. Engineering has expressed no concerns with the proposed variance. It is not anticipated that a physical road widening is required, as it has not been requested as part of the application process.

3) The variance is minor in nature

The determination of whether a variance can be considered minor in nature is not based on a specific number or percentage of relief, but rather on the effect of that relief on the functionality of the site. The variances requested are considered minor in nature as they will allow for the introduction of functional and desirable residential units within the existing building footprint and are required to address the split zoning, irregular lot shape, and existing built form on the site. The applicants have confirmed through the submitted documents that the site will function effectively for users at the density proposed and the

January 17, 2022

Page 13 of 16

subsequent site plan control application will be used to regulate additional details on the site.

In terms of visual impacts, given the types of variances requested, no negative visual impacts are anticipated. The variances support reinvestment in the subject property which will also enable a revitalization of the tired and worn front façade. The addition of a third storey also provides for some transition from the new six-storey building abutting the property to the north.

Functionally, no adverse impacts are anticipated. The requested parking reduction is consistent with other recently approved reductions in this area that have demonstrated no adverse impacts on parking in the surrounding area. It is noted that the site is located just outside of the commercial zone (Princess and Division Street boundary) where no on-site parking is required for commercial uses. The proposed vehicle and bike parking space dimensions and accessible parking space depth have proven to still be functional on other sites across the City and will not negatively impact the internal functionality of the parking area. The rear parking area is of sufficient size to accommodate intermittent small deliveries. It is not anticipated that these deliveries would interfere with residents or commercial on-site parking given the traffic volume on-site is anticipated to be low given the site’s location and the scale of development.

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

The variances as a whole will allow the site to be developed with a 3-storey mixed-use building, as contemplated by the Official Plan given its location within the ‘Main Street Commercial’ designation, which is intended to be a mixed-use corridor with medium and high-density residential uses.

The proposed variances are desirable and appropriate as the requested variances should not result in any negative impacts and the proposed addition improves the functionality and use of the property. The addition is compatible with existing development in the area and has been appropriately designed to complement the existing building.

The proposal represents gentle residential intensification which will not have negative impacts on neighbouring properties and will contribute to the vitality of the Corridor area. The variances, if approved, will facilitate a desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> Building Services | <input checked="" type="checkbox"/> Engineering Department | <input checked="" type="checkbox"/> Heritage (Planning Services) |
| <input type="checkbox"/> Finance | <input checked="" type="checkbox"/> Utilities Kingston | <input checked="" type="checkbox"/> Real Estate & Environmental Initiatives |
| <input checked="" type="checkbox"/> Fire & Rescue | <input checked="" type="checkbox"/> Kingston Hydro | <input checked="" type="checkbox"/> City’s Environment Division |
| <input checked="" type="checkbox"/> Solid Waste | <input checked="" type="checkbox"/> Parks Development | <input type="checkbox"/> Canadian National Railways |
| <input checked="" type="checkbox"/> Housing | <input checked="" type="checkbox"/> District Councillor | <input type="checkbox"/> Ministry of Transportation |

January 17, 2022

Page 14 of 16

- KEDCO
- Municipal Drainage
- Parks of the St. Lawrence
- CRCA
- KFL&A Health Unit
- Trans Northern Pipelines
- Parks Canada
- Eastern Ontario Power
- CFB Kingston
- Hydro One
- Enbridge Pipelines
- TransCanada Pipelines
- 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.

Engineering

The Engineering Department has noted that any changes/additions to the structure that encroach onto City property will require an encroachment permit prior to issuance of a Building Permit.

Noise Review

The Engineering noise review noted that mitigation measures will be required to address noise from an air conditioner unit at 156 Division Street. The applicant has submitted a letter outlining a noise blanket option to be installed at 156 Division Street and Engineering has accepted this solution. A condition has been added to Exhibit A regarding noise mitigation. Mitigation will occur at the site plan control stage.

Environment

The proposed construction of residential space outside of the existing constructed building is a prohibited change of land use according to Ontario Regulation 153.04. Prior to the issuance of Building Permits, the proponent will be required to produce a Record of Site Condition (RSC) filed with Ontario's Ministry of Environment, Conservation, and Parks indicating that the site meets provincial standards for residential development. The RSC must be completed by a qualified person and in accordance with all requirements of O.Reg. 153/04 and as amended. fThe Environment Department acknowledges that the RSC is underway and that it is not required prior to approval of the minor variance application.

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.

January 17, 2022

Page 15 of 16

Previous or Concurrent Applications

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

Conclusion

The requested variance(s) maintain(s) the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 8499. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variance(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 applicant to introduce 8 residential units, add a third floor, and reconfigure the parking area of the existing two-storey commercial building.

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 January 17, 2022. 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 50 property owners (according to the latest Assessment Roll) within 60 metres of the subject property (Exhibit D – Public Notice Map) and a courtesy notice was placed in The Kingston Whig-Standard.

Once a decision has been rendered by the Committee of Adjustment, a Notice of Decision will be circulated in accordance with the provisions of the *Planning Act*.

January 17, 2022

Page 16 of 16

Accessibility Considerations:

None

Financial Considerations:

None

Contacts:

James Bar, Manager, Development Approvals, 613-546-4291 extension 3213

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

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Neighbourhood Context Map (2021)
- Exhibit D Public Notification Map
- Exhibit E Official Plan Map
- Exhibit F Zoning By-Law Number 8499, Map 19
- Exhibit G Site Plan, Elevations and Floor Plans
- Exhibit H Site Visit Photos

Recommended Conditions

Application for minor variance, File Number D13-048-2021

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

1. Limitation

That the approved minor variance applies only to the proposed 3 storey building with 8 residential units and 1 commercial unit as shown on the approved drawings attached to the notice of decision.

2. No Adverse Impacts

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

3. Building Permit Application Requirements

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

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

4. Standard Archaeological Condition

In the event that deeply buried or previously undiscovered archaeological deposits are discovered in the course of development or site alteration, all work must immediately cease and the site must be secured. The 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. Encroachment Permit

An encroachment permit is required for any alterations that encroach into the City road allowance.

6. Noise Mitigation

While the applicant has demonstrated the feasibility of required noise mitigation measures to support the proposal, these mitigation measures are proposed on adjacent lands not owned by the Applicant; to this end, the applicant shall be responsible to demonstrate project compliance with NPC-300 as part of Site Plan Control approval.

7. Record of Site Condition


Prior to the issuance of building permits, the proponent will be required to produce a record of site condition (RSC) filed with Ontario's Ministry of Environment, Conservation, and Parks indicating that the site meets provincial standards for residential development.

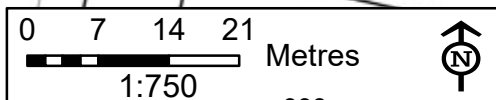
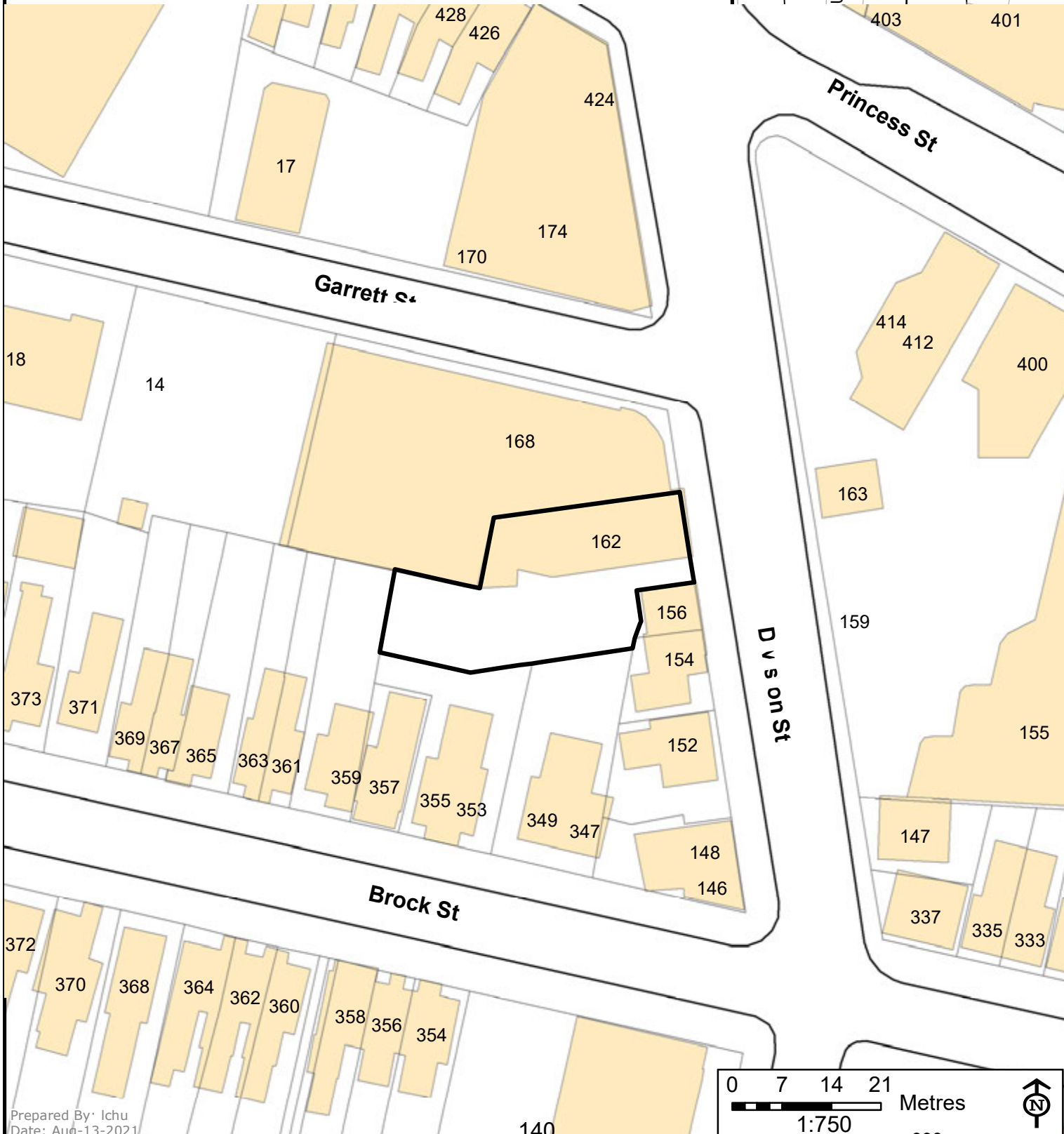
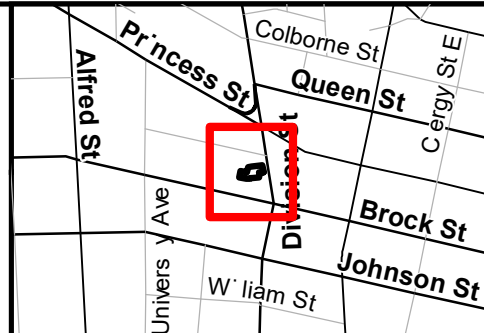


Planning Services

Committee of Adjustment Key Map

Address: 162 Division Street
File Number: D13-048-2021

 Lands Subject to Minor Variance



Prepared By: Ichu
Date: Aug-13-2021

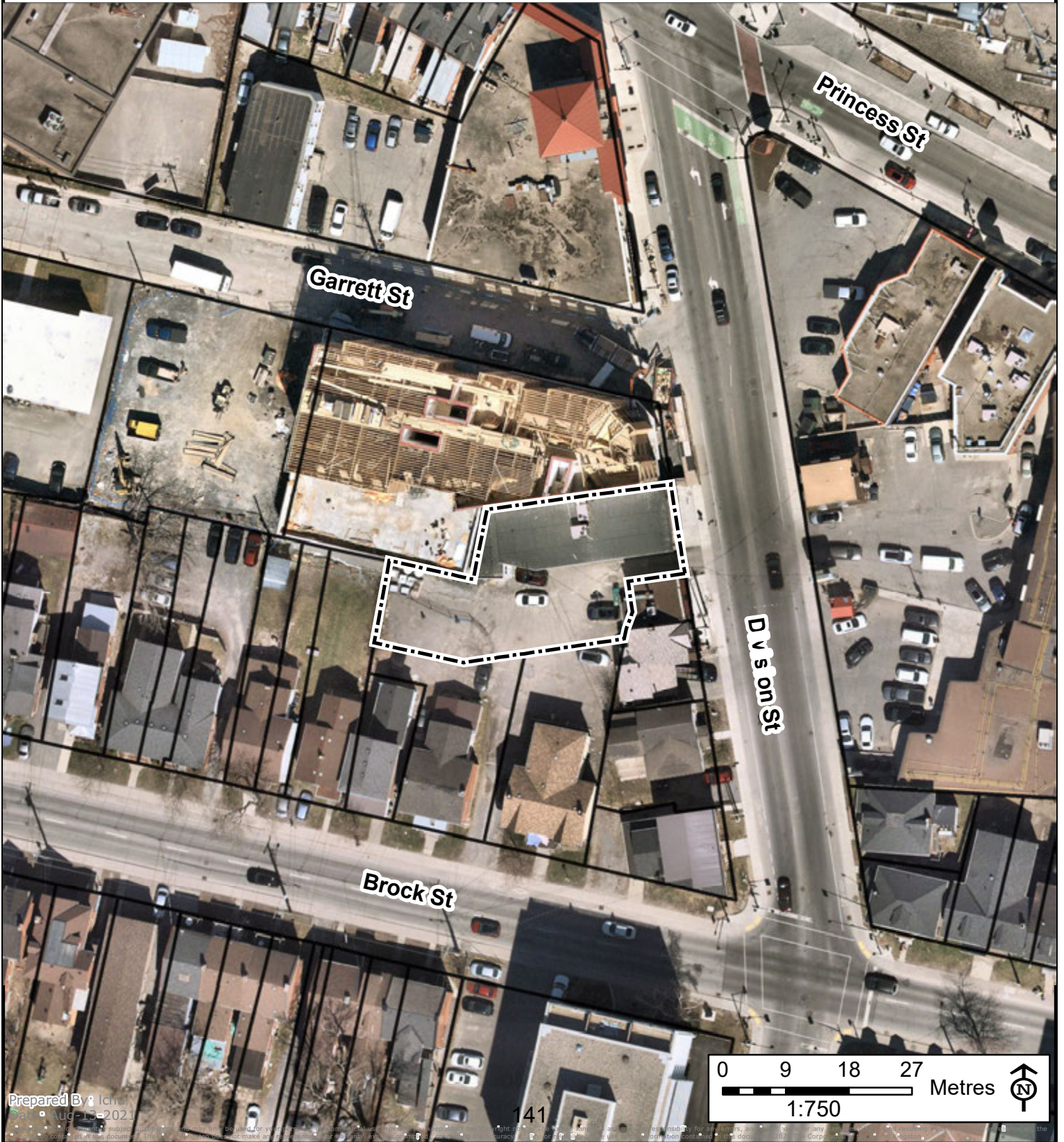
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Committee of Adjustment
Neighbourhood Context (2021)

Address: 162 Division Street
File Number: D13-048-2021

- Subject Lands
- Property Boundaries
- Proposed Parcels

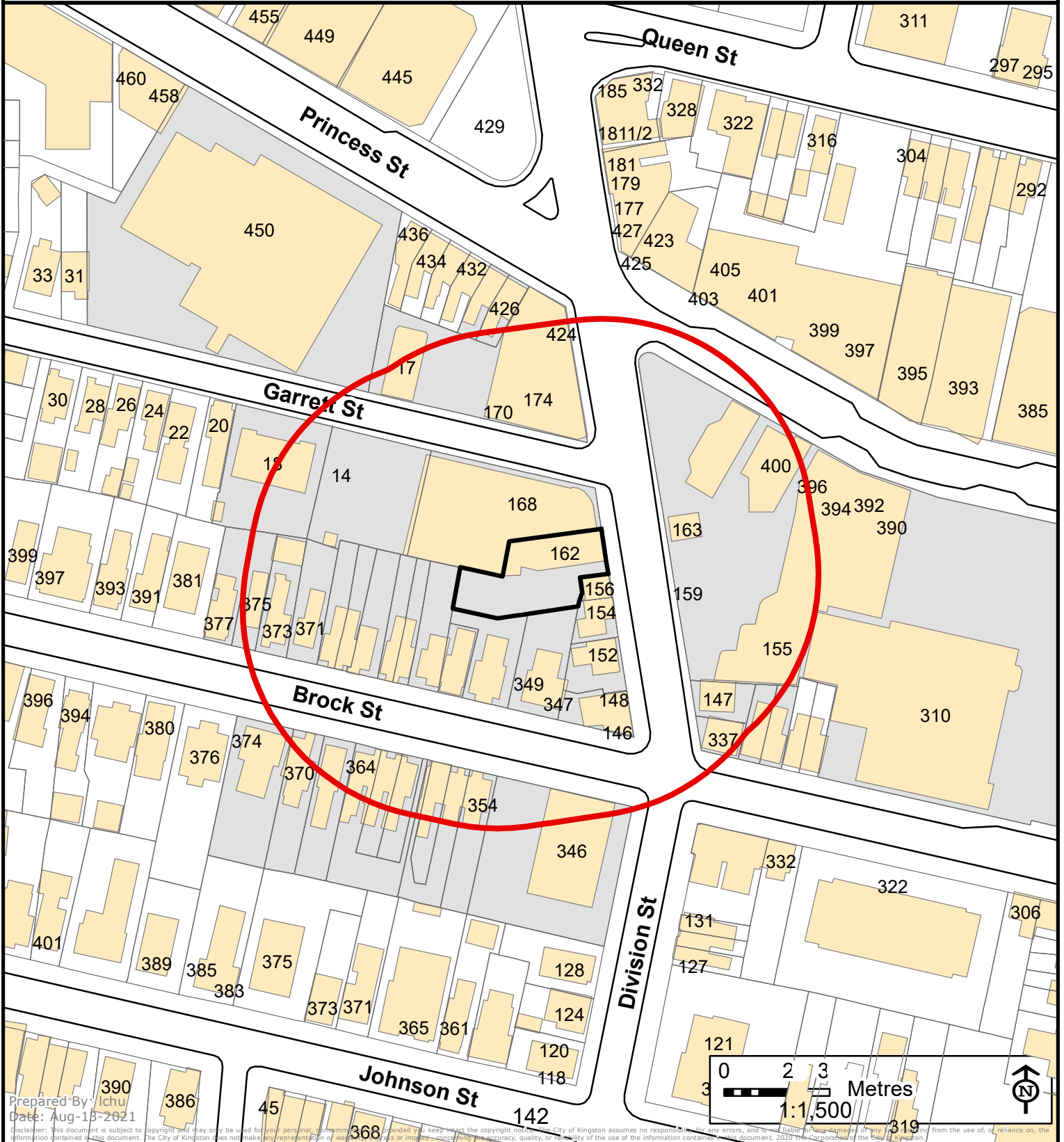




Committee of Adjustment Public Notice Notification Map

Address: 162 Division Street
File Number: D13-048-2021

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



Prepared By: Ichu
Date: Aug-13-2021



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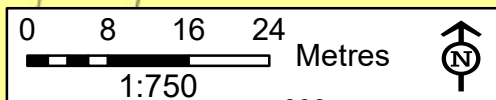
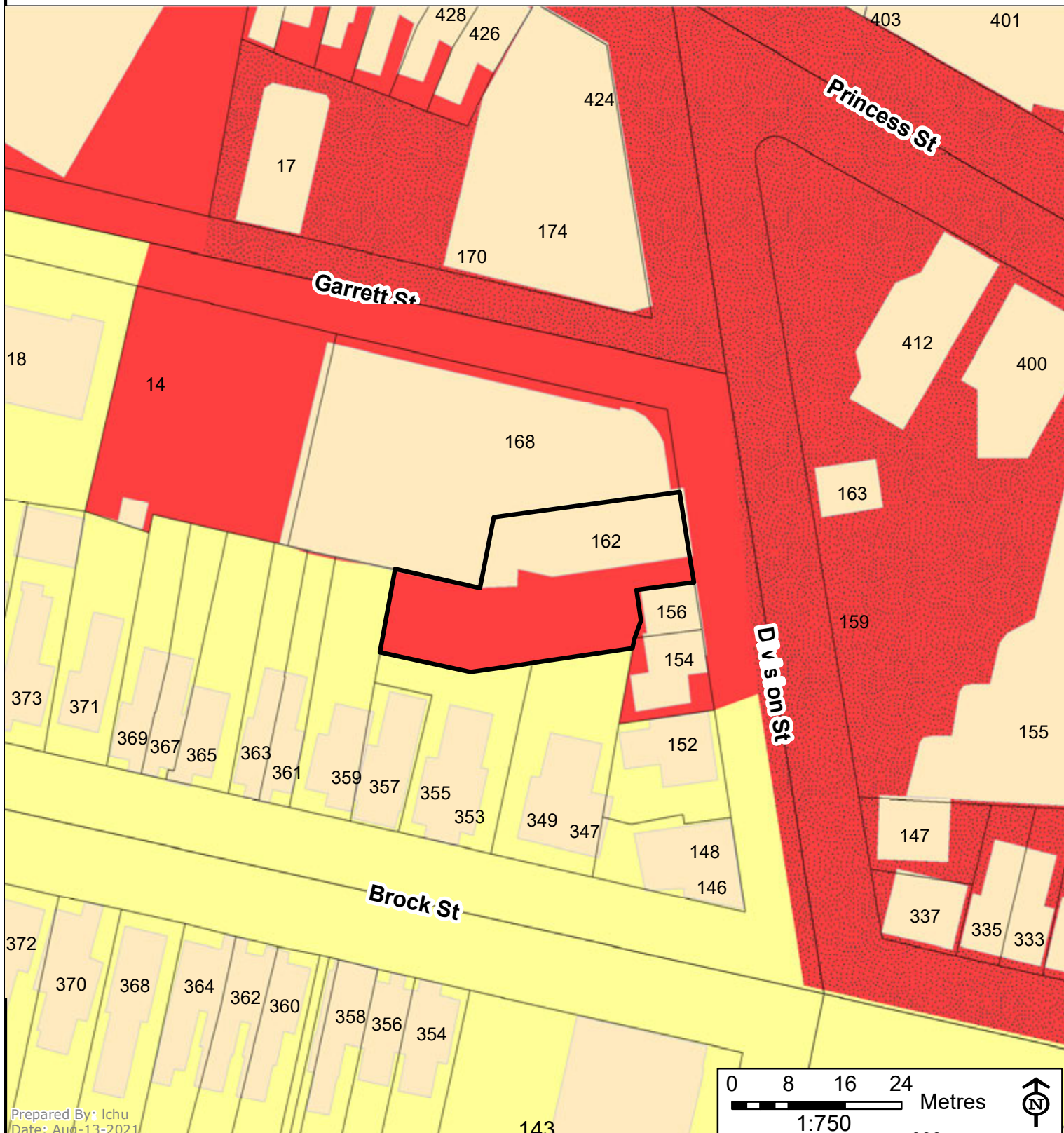


Planning Services

Committee of Adjustment
Official Plan, Existing Land Use

Address: 162 Division Street
 File Number: D13-048-2021

- Subject Lands
- CENTRAL BUSINESS DISTRICT
- MAIN STREET COMMERCIAL
- RESIDENTIAL



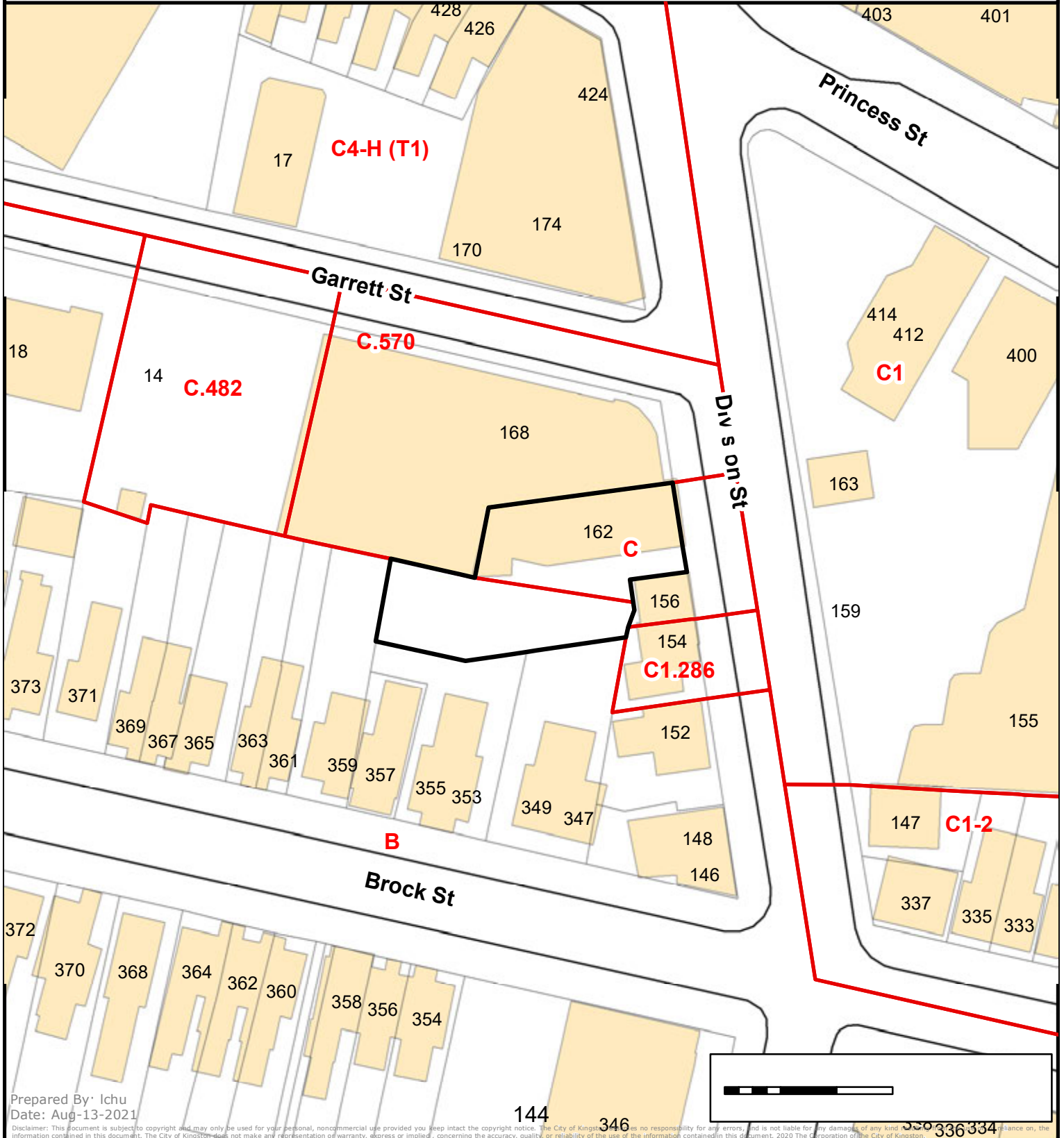
Prepared By: Ichu
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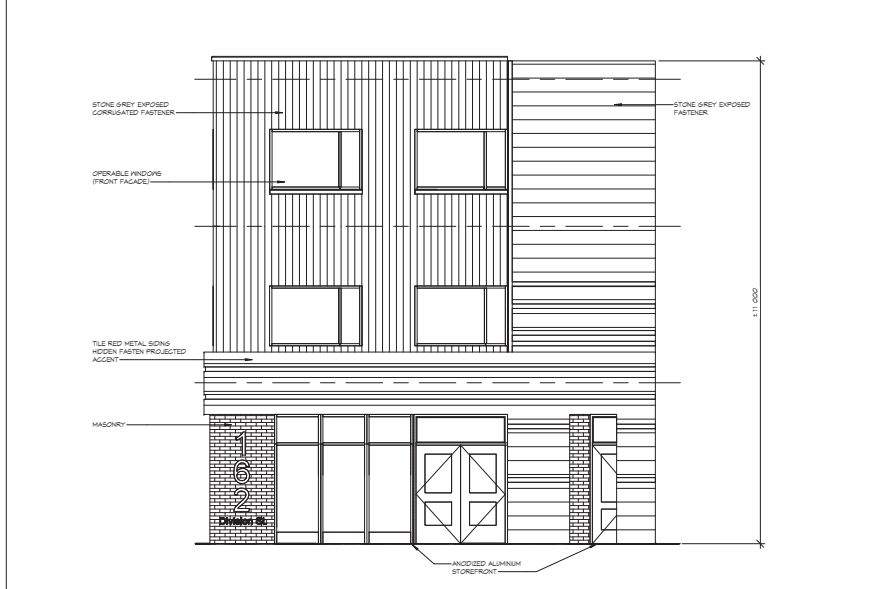


Committee of Adjustment
Existing Zoning - By-law 8499, Map 19
Address: 162 Division Street
File Number: D13-048-2021

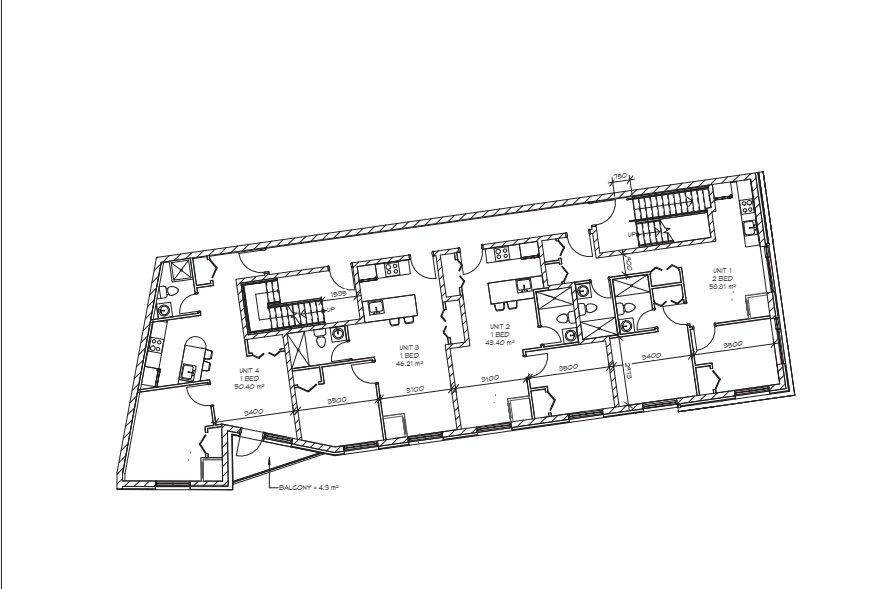
- Subject Lands
- Consolidated Zoning



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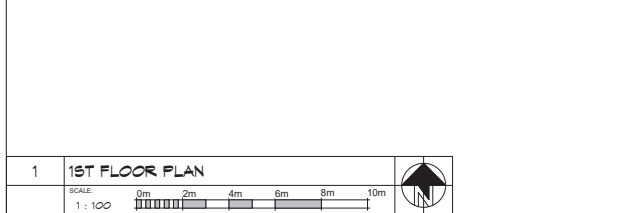
3 FRONT ELEVATION
SCALE: 1 : 50
0m 1m 2m 3m 4m 5m



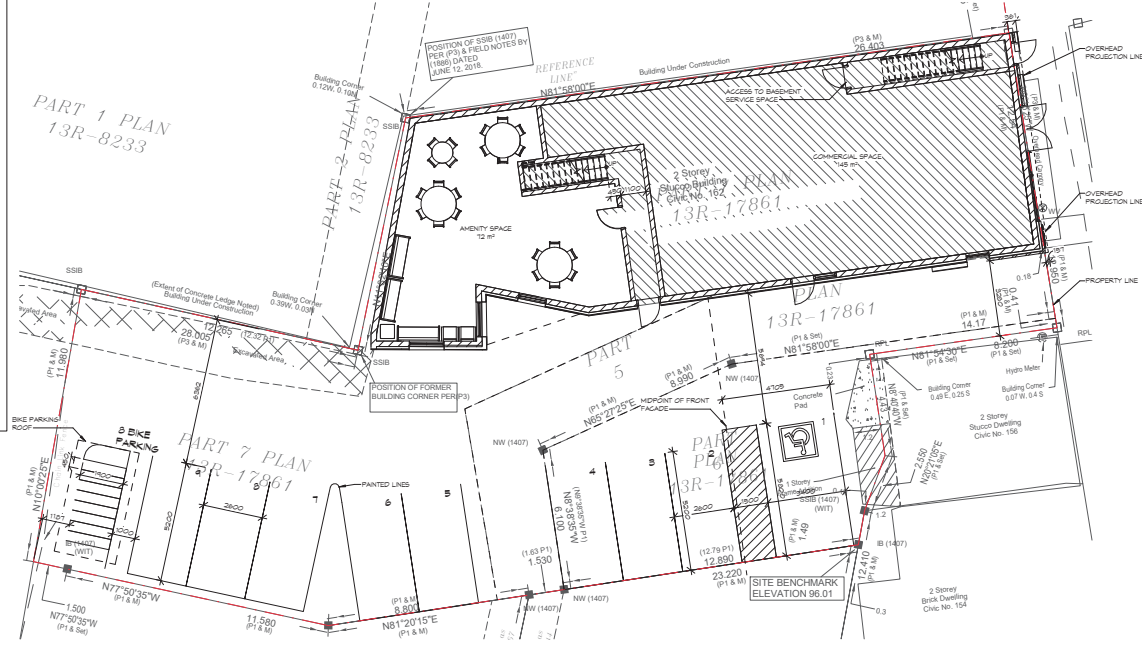
2 2ND FLOOR PLAN
SCALE: 1 : 100
0m 2m 4m 6m 8m 10m



4 KEY PLAN
SCALE: 1 : 1500
0m 30m 60m 90m 120m 150m

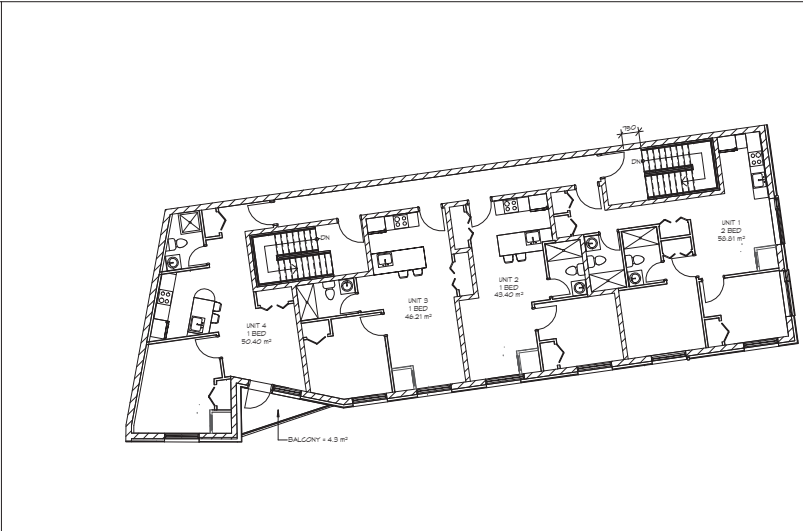


1 1ST FLOOR PLAN
SCALE: 1 : 100
0m 2m 4m 6m 8m 10m



PRELIMINARY
NOT FOR CONSTRUCTION

2	RIGHT ISSUED FOR MINOR VARIANCE	24/05/21
NO.	BY PROFESSIONAL/SUBMISSIONS	DATE
PROJECT		
162 DIVISION STREET		
162 DIVISION STREET, KINGSTON, ON		
DRAWING		
PLANS AND ELEVATION		
SCALE		
AS INDICATED		
PROFESSIONAL SEAL	DRAWN	DATE
	RP	APRIL 2021
	CHECKED	PRINTED
	RHM	2021/04/04
	DESIGNED	DRAWING
RHM		
NOT FOR CONSTRUCTION WITHOUT SEAL AND SIGNED NOTE		
PROJECT NO.	20096	301



1 3RD FLOOR PLAN
SCALE: 1 : 100
0m 2m 4m 6m 8m 10m

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PRELIMINARY
NOT FOR CONSTRUCTION

1	RHM ISSUED FOR MINOR VARIANCE APPLICATION	06/03/21
NO.	BY PROFESSIONAL SUBMISSIONS	DATE

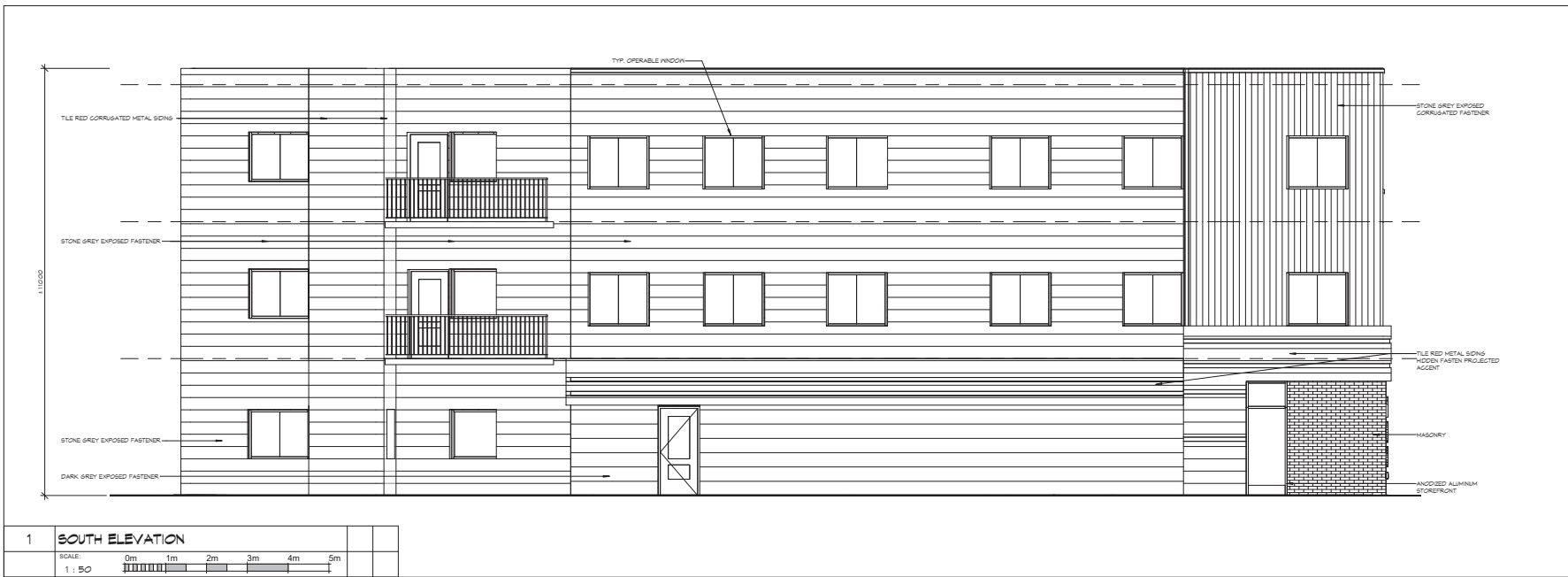


PROJECT
162 DIVISION STREET

162 DIVISION STREET, KINGSTON, ON
DRAWING
FLOOR PLAN AND 3D VIEWS

SCALE
1 : 100

PROFESSIONAL SEAL	DRAWN RP	DATE APRIL 2021
	CHECKED RHM	PRINTED 2021/06/25
	DESIGNED RHM	DRAWING NO.
	PROJECT NO. 20056	302



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PRELIMINARY
NOT FOR CONSTRUCTION

1	RHM ISSUED FOR MINOR VARIANCE APPLICATION	06/05/21
NO.	BY PROFESSIONAL SUBMISSIONS	DATE



PROJECT
162 DIVISION STREET

162 DIVISION STREET, KINGSTON, ON
DRAWING
PLAN AND ELEVATION

SCALE
1:50

PROFESSIONAL SEAL	DRAWN CG	DATE APRIL 2021
	CHECKED RHM	PRINTED 05/05/21
	DESIGNED RHM	DRAWING NO.
	PROJECT NO. 20056	303
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