



**City of Kingston
Report to Committee of Adjustment
Report Number COA-22-022**

To: Chair and Members of the Committee of Adjustment
From: Riccardo Peggi, Planner
Date of Meeting: January 17, 2022
Application for: Minor Variance and Consent
File Numbers: D10-037-2021, D13-069-2021, and D13-070-2021
Address: 398 Victoria Street
Owner: 423307 ONTARIO LIMITED
Applicants: Daniel Welsh, Amber Peak Developments Inc.
Youko Leclerc-Desjardins, FOTENN Consultants Inc.

Council Strategic Plan Alignment:

Theme: 2. Increase housing affordability

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

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding applications for minor variance and consent submitted by Daniel Welsh of Amber Peak Developments Inc., on behalf of the owner, 423307 ONTARIO LIMITED for the property located at 398 Victoria Street.

The intention of the applications is to sever a lot from the subject property, retain the existing two-family, eight-bedroom dwelling on the retained lot, demolish the existing garage, and construct a new one-family dwelling with a secondary unit on the new lot. There will be a total of four units and 16 bedrooms across the two lots. Two parking spaces will be provided for each lot in the rear yards that will be accessed by a shared driveway.

The purpose of the consent application (File Number D10-037-2021) is to sever a 371 square metre lot from the 821 square metre subject property, leaving a 450 square metre retained lot and to designate an easement for the shared driveway to the proposed parking in the rear yard.

The first minor variance (File Number D13-069-2021) is requested to vary the minimum lot area, and minimum aggregate side yard zoning provisions for the existing dwelling on the retained lot. It is also requested to alleviate the requirement to provide both an entry lane and an exit lane to the parking area and to have one single access lane.

The second minor variance (File Number D13-070-2021) is requested to vary the minimum interior yard setback, building depth, and exterior wall height zoning provisions for the proposed dwelling on the severed lot.

The site is situated in the Sunnyside neighbourhood on the west side of Victoria Street, and about 15 metres north of Brock Street. The property has an area of approximately 821 square metres with 20 metres of frontage onto Victoria Street. The property is developed with a two-and-a-half storey detached two-unit dwelling and a detached garage. The property is currently designated 'Residential' in the Official Plan and is zoned One-Family Dwelling and Two-Family Dwelling 'A' in Zoning By-Law Number 8499. The subject property is in an area predominantly consisting of one and two-unit dwellings.

The requested minor variance and consent applications are consistent with the Provincial Policy Statement and conform 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 is minor in nature. The proposed minor variance applications meet all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval. The requested consent application has regard to the matters set out in subsection 51(24) of the *Planning Act* and a plan of subdivision is not necessary for the proper and orderly development of the property, as such, is recommended for provisional approval.

Summary of Minor Variances:

Minor Variance A: D13-069-2021 (Proposed Retained Lot)

Variance Number A1: Minimum Lot Area
By-Law Number 8499: Section 6.3(a)
Requirement: 740 square metres
Proposed: 450 square metres
Variance Requested: 290 square metres

Variance Number A2: Minimum Aggregate Side Yard
By-Law Number 8499: Section 6.3(c)(i)
Requirement: 3.3 metres
Proposed: 2.3 metres
Variance Requested: 1.0 metre

Variance Number A3: Entry and Exit Lanes
By-Law Number 8499: Section 5.3B(h)
Requirement: One entry lane and one exit lane
Proposed: One single lane for entry and exit
Variance Requested: One lane

Variance Application B: D13-070-2021 (Proposed Severed Lot)

Variance Number B1: Projections in Yard – Minimum Interior Yard Setback
By-Law Number 8499: Section 5.8(c)
Requirement: 0.6 metres
Proposed: 0.3 metres
Variance Requested: 0.3 metres

Variance Number B2: Building Depth
By-Law Number 8499: Section 6.3(g)(ii)(1)(a)
Requirement: 15.75 metres
Proposed: 17.3 metres
Variance Requested: 1.55 metres

Variance Number B3: Height of the Exterior Wall
By-Law Number 8499: Section 6.3(f)(ii)(2)
Requirement: 7.0 metres
Proposed: 8.0 metres
Variance Requested: 1.0 metre

Variance Number B4: Entry and Exit Lanes
By-Law Number 8499: Section 5.3B(h)
Requirement: One entry lane and one exit lane
Proposed: One single lane for entry and exit
Variance Requested: One lane

Recommendation:

That consent application, File Number D10-037-2021, to sever a 371 square metre lot from the 821 square metre subject property, leaving a 450 square metre retained lot, and to designate an easement for the shared driveway to the proposed parking in the rear yard, be provisionally approved subject to the conditions included in Exhibit A (Recommended Conditions – Consent) to Report Number COA-22-022.

That minor variance application, File Number D13-069-2021 for the property located at 398 Victoria Street to vary the minimum lot area, and minimum aggregate side yard zoning provisions for the existing dwelling on the retained lot, and to alleviate the requirement to provide both an entry lane and an exit lane to the parking area and to have one single access lane be Approved subject to the conditions attached as Exhibit B (Recommended Conditions – Minor Variance) to Report Number COA-22-022;

That minor variance application, File Number D13-070-2021 for the property located at 398 Victoria Street to vary the minimum interior yard setback, building depth, and exterior wall height zoning provisions for the proposed dwelling on the severed lot, and to alleviate the requirement to provide both an entry lane and an exit lane to the parking area and to have one single access lane to construct a building with a maximum of 8 bedrooms, be approved subject to the conditions attached as Exhibit C (Recommended Conditions – Minor Variance) to Report Number COA-22-022.

Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

Riccardo Peggi, Planner

Consultation with the following Management of the Community Services Group:

Tim Park, Director, Planning Services

James Bar, Manager, Development Approvals

Options/Discussion:

On November 1, 2021, applications for minor variance and consent were submitted by Daniel Welsh of Amber Peak Developments Inc., on behalf of the owner, 423307 ONTARIO LIMITED for the property located at 398 Victoria Street.

The intent of the applications is to sever a lot from the subject property, retain the existing two-family dwelling on the retained lot and construct a new one-family dwelling with a secondary unit on the new lot. Two parking spaces will be provided for each lot in the rear yards, accessed by a shared driveway.

The purpose of the consent application (File Number D10-037-2021) is to sever a 371 square metre lot from the 821 square metre subject property, leaving a 450 square metre retained lot, and to designate an easement for the shared driveway to the proposed parking in the rear yard.

Minor Variance A (File Number D13-069-2021) is requested to vary the minimum lot area, and minimum aggregate side yard zoning provisions for the existing dwelling on the retained lot. Minor Variance B (File Number D13-070-2021) is requested to vary the minimum interior yard setback, building depth and exterior wall height zoning provisions for the proposed dwelling on the severed lot. This proposed dwelling will contain a primary unit and a purpose built second unit. There will be a total of 8 bedrooms in the aggregate.

A shared parking area is located at the rear of the lots that will serve both the severed and retained. A variance has been included for both lots to relieve the requirement for a two-way access lane.

Site Characteristics

The site is situated in the Sunnyside neighbourhood on the west side of Victoria Street, and about 15 metres north of Brock Street (Exhibits D). The property has an area of approximately 821 square metres with 20 metres of frontage onto Victoria Street. The property is developed with a two-and-a-half storey, detached two-unit dwelling containing eight bedrooms, a detached garage, and a parking lot with approximately 11 spots. The parking lot is currently underutilized, as the applicant suggests only one of the spots is currently being rented.

The property is currently designated 'Residential' in the Official Plan (Exhibit F) and is zoned One-Family Dwelling and Two-Family Dwelling 'A' in Zoning By-Law Number 8499 (Exhibit G). The subject property is in an area predominantly consisting of one and two-unit dwellings, interspersed with neighbourhood commercial uses (Exhibit E). The site is located within walking distance of the Princess Street corridor (500 metres), Victoria Park (400 metres) and Churchill Park (400 metres), and Rideau Public School (350 metres) and Winston Churchill Public School (500 metres). The site is also within near proximity to Queens University, St. Lawrence College, and Downtown Kingston.

Application

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

- Site Plan, Floor Plans and Elevations (Exhibit I);
- Grading and Servicing Plan;
- Noise Impact Study;
- Planning Justification Letter; and
- Servicing and Stormwater Report

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.

Provincial Policy Statement

The Provincial Policy Statement (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 much, the proposal conforms to and is consistent with the PPS.

Consent Application

The proposed severance meets the tests set out in the *Planning Act*. The proposed severance is for one additional lot within the serviced urban area. In this instance, a plan of subdivision is not required for the proper and orderly development of the property as per subsection 53(1) of the *Planning Act*.

In general, the proposed consent has proper regard for the criteria in Section 51(24) of the *Planning Act*. The proposed consent:

- is consistent with the policies of the Provincial Policy Statement and City of Kingston Official Plan;
- will not negatively impact natural or cultural heritage resources;
- is within the City’s serviced urban area with access to transit and public service facilities;
- contributes to the efficient use of infrastructure and public service facilities without requiring any expansion of existing infrastructure;
- proposes cash-in-lieu of parkland;
- proposes a severed and retained lot which are consistent in shape and size to surrounding lots, and has frontage onto a municipal road; and
- generally contributes to the efficient use of land and municipal services.

Official Plan

The subject property is designated Residential in the City of Kingston Official Plan. The Residential land use designation denotes urban residential land uses that are intended to be on full municipal services, and include a range of housing types that respond to a wide range of housing needs. It is the goal of the City of Kingston to provide new opportunities for growth and investment within Kingston in a manner that ensures compatible development and land use.

The creation of individual parcels of land by way of consent is subject to the consent policies of the Official Plan. In considering whether the proposal is appropriate, the Committee of Adjustment will have regard for the requirements included within the Official Plan, specifically section 9.6.13 titled: "Criteria for Consent Approval". The following lists these requirements and is an assessment of how the proposal is consistent with each relevant policy.

1. The lot frontage, depth and area of any lot created by consent (severed and retained parcel) must be appropriate for the use proposed for the lot, be in compliance with the provisions of the zoning by-law and consistent, where possible, with adjacent lots;

While relief is required to meet zoning provisions for both the severed and retained lot, the dimensions of the proposed lots are appropriate for the proposed uses, neighbourhood context, and zoning by-law provisions. The applicant has demonstrated in the Planning Justification Report that the proposed lot widths are consistent with the lot widths found on surrounding lots.

2. Proposed severances that would result in irregularly shaped lots are to be avoided where possible

The proposed lots are rectangular in shape which are consistent with surrounding lands.

3. Consents may be granted only when each parcel of land has frontage and direct access from an assumed road, except for conservation lands such as those held by the Conservation Authority or a land trust that can be accessed through an easement or right-of-way on abutting lands;

Both proposed lots will have frontage and access onto Victoria Street, a municipal road.

4. Direct access from major roads is limited and is subject to the terms of any permits or approvals required from an agency having jurisdiction, with particular attention to controlled areas subject to Ministry of Transportation review and approval;

Both proposed lots will have shared access onto Victoria Street which is designated as a 'Collector Road' in the Official Plan. Collector roads permit full access to abutting properties.

5. New access points or driveways must be located where they would not create a traffic hazard because of sight lines on curves, grades or corners;

Given that the proposed lots will have shared access onto Victoria Street, no additional access is proposed. The application has been circulated to all relevant departments and

agencies, including Engineering and Transportation Services. No concerns have been raised to the access point.

6. Minor infilling of residential development is permitted except where the new lots would result in ribbon development of more than four non-farm residential lots that takes the form of a single depth of houses or other land uses fronting along roads in Rural Areas;
The subject site is located within the urban boundary and therefore this is not applicable.
7. Infill residential development is permitted within Rural Areas where there is a distance of 100 metres or less of frontage between two non-farm residential lots on the same side of the road and the lot can meet all of the other policies of the Plan and requirements of the zoning by-law;
The subject site is located within the urban boundary and therefore this is not applicable.
8. Compatibility and any separation distances required between the proposed land uses for the lot and the neighbouring land uses located in Rural Areas must be considered;
The subject site is located within the urban boundary and therefore this is not applicable.
9. Any application for a consent must assess the impact on the natural heritage system, natural heritage features and areas, natural hazards, cultural heritage resources and areas of archaeological potential, or areas of archaeological significance as set out in Sections 5, 6 and 7 of the Plan; and

The site is not in proximity to any natural heritage features or areas, natural hazards or significant environmental features as identified on Schedules 7-A and 8-A of the Official Plan.

10. The City must be satisfied that any development lots created by consent can be supplied with such municipal services as fire protection, road maintenance, storm drainage and where applicable, water supply and sewage disposal facilities, such that the provision of services does not adversely affect the City's finances.

The consent application has been circulated to relevant departments at the City. It has been determined that the property is adequately serviced to support the proposal.

The proposal meets the intent of the Official Plan, as the proposed severance will not result in any negative impacts to adjacent properties or to the neighbourhood.

Minor Variance Applications

The review of an application for minor variances is not a simple mathematical calculation, but rather a detailed assessment of whether the variances 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:

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

The subject property is designated 'Residential' in the City of Kingston Official Plan.

In considering whether the proposed variances are 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 variances meet the intent of Section 2 of the Official Plan, as the proposed variances on the severed lot and retained lands are appropriate for the area. The proposal would add a new residence within the existing urban and residential area, while providing adequate amenity space, landscaped open space, and parking on the retained lot. A re-designed parking area and new entrance for the retained lands maintains the residential use in a more functional layout. The proposal meets strategic directions such as intensification and added density, as well as compatibility with the surrounding area.

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;

No significant changes are proposed to the building on the retained parcel which might impact neighbouring properties.

The scale, type and function of the proposed development on the newly severed lot is not anticipated to have any adverse impacts with any abutting land uses. The development will not result in any of the land use compatibility matters listed under Section 2.7.3. of the Official Plan.

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;

Two parking spaces are proposed at the back of the property on both lots. The shared parking area will include enough space to turn around as required. Although the shared access laneway will only be one lane as opposed to two as required by the zoning, it is anticipated that the parking onsite will function adequately.

There will be secured bike parking stalls located in the rear yard for use by the residents.

For the retained lands, pedestrian access to the parking spots is provided via the back door entrance to the rear unit or via the shared driveway for the front door unit. Pedestrian access from the street is provided from the road for the front unit, and via the shared driveway for the rear unit.

For the severed lot, pedestrian access to the parking spots is provided via the back door entrance to the rear unit or via the shared driveway for the front door unit. Pedestrian access from the street is provided from the road for the front unit, and via a separate entrance pathway for the rear unit.

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;

No changes are proposed to the structure of the existing dwelling on the retained lot. The new building generally conforms to applicable urban design policies, as outlined in Section 8 of the Official Plan. The proposed dwelling is designed to be consistent with the character of the neighborhood and is compact and accessible.

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* or adjacent to properties 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 proposed severed lot and retained lands is located within the Urban Boundary with municipal water and sanitary services. The application was circulated to Utilities Kingston through technical review and appropriate water and sanitary services have been confirmed.

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;

Both minor variance applications meet the four tests of a Minor Variance as outlined in the *Planning Act* and described herein.

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;

Minor Variance A: Recommended conditions are included in Exhibit B to this report.

Minor Variance B: Recommended conditions are included in Exhibit C to this report.

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

The proposal is in keeping and compatible with the existing development in the surrounding area and will not set an undesirable precedent.

The proposal meets the intent of the Official Plan, as the proposed Minor Variances will enable the construction of a single unit residence with a secondary unit for a total of eight new bedrooms and will not result in any negative impacts to adjacent properties or to the neighbourhood.

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

The subject property is zoned One-Family Dwelling and Two-Family Dwelling Zone "A" in the City of Kingston Zoning By-Law Number 8499, entitled "Restricted Area (Zoning) By-Law of the Corporation of the City of Kingston", as amended. The "A" zone permits one- and two-family dwellings, as well as other cultural or social uses such as schools, churches and community halls.

The proposal requires seven variances:

Minor Variance A: D13-069-2021 (Proposed Retained Lot)

Variance Number A1: Minimum Lot Area
By-Law Number 8499: Section 6.3(a)
Requirement: 740 square metres
Proposed: 450 square metres
Variance Requested: 290 square metres

The existing dwelling is a two-family dwelling which requires a total lot size of 740 square metres (370 square metres per unit). The intent of the minimum lot area provision is to ensure that each unit has sufficient access to amenity space, parking, and landscaped open space. In this instance, there is sufficient space on the lot to provide one car parking spot and one secure bike parking spot per unit. Sufficient landscaped area is provided, and each unit has the benefit of a patio for amenity space.

Variance Number A2: Minimum Aggregate Side Yard
By-Law Number 8499: Section 6.3(c)(i)
Requirement: 3.3 metres
Proposed: 2.3 metres
Variance Requested: 1.0 metre

The consent application will reduce the aggregate side yard to below the required minimum. The north side yard is existing and will not change as a result of this proposal. The southern side yard includes the shared access driveway with the proposed new dwelling. The intent of the aggregate side yard provision is to enable sufficient access to the rear yard for cars and pedestrians. In this case, access to the rear yard is available through the shared driveway. The intent of the aggregate side yard provision is therefore maintained.

Variance Number A3: Entry and Exit Lanes

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

Requirement: One entry lane and one exit lane

Proposed: One single lane for entry and exit

Variance Requested: One lane

The By-Law requires that a six-metre-wide laneway with entry and exit lanes is required to access four parking spots. In this case, a large volume of traffic is not expected to utilize the laneway as only four parking spots are proposed. A six-metre-wide laneway is also not reasonable for the development of the site and would impact the landscaped open space and amenity area for both the proposed and retained lots.

Variance Application B: D13-070-2021 (Proposed Severed Lot)

Variance Number B1: Projections in Yard – Minimum Interior Yard Setback

By-Law Number 8499: Section 5.8(c)

Requirement: 0.6 metres

Proposed: 0.3 metres

Variance Requested: 0.3 metres

Entry to the rear unit on the proposed dwelling is to be located on the south side of the building, via a step-up entrance pad. The relief is for 0.3 metres and the entrance pad would enable a clearly defined entrance to the second unit of the proposed dwelling.

Variance Number B2: Building Depth

By-Law Number 8499: Section 6.3(g)(ii)(1)(a)

Requirement: 15.75 metres

Proposed: 17.3 metres

Variance Requested: 1.55 metres

The maximum building depth is calculated based on averaging the building depth of the two neighbouring properties either side of the proposed lot and dwelling. The building on the retained lot has a depth of 17.5 metres, and the building at 392 Victoria Street is approximately 14 metres, meaning the maximum building depth for the proposed lot is 15.75 metres.

The purpose of the building depth provision is to enable sufficient parking and landscaped open space in the rear yard of the property and to maintain the character of a given area. In this case, the proposed dwelling will comply with minimum landscaped open space requirements and provide a sufficient parking area. The rear yard will also continue to be functional with parking and outdoor amenity area.

Variance Number B3: Height of the Exterior Wall

By-Law Number 8499: Section 6.3(f)(ii)(2)

Requirement: 7.0 metres

Proposed: 8.0 metres

Variance Requested: 1.0 metre

Exterior wall height is calculated exclusive of the end gable. The requirement in By-Law Number 8499 Section 6.3(f)(ii)(2) requires an exterior wall height of 7.0 metres. The proposed height is 8.0 metres. The applicant makes the case that the additional 1.0 metre is minor “because the orientation of windows, amenity space, and parking will ensure there will be no reduction in the ability to enjoy nearby properties”. Further, it should also be noted that the overall building height of the proposed dwelling complies with the maximum permitted height requirement.

The requirement for exterior wall height is to maintain the character of the existing built form in the area. In this case, the design of the building is generally consistent with the surrounding built form, and the overall height of the building is consistent with the zoning requirements.

Variance Number B4: Entry and Exit Lanes

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

Requirement: One entry lane and one exit lane

Proposed: One single lane for entry and exit

Variance Requested: One lane

The By-Law requires that a six-metre-wide laneway with entry and exit lanes is required to access four parking spots. In this case, a large volume of traffic is not expected to utilize the laneway as only four parking spots are proposed. A six-metre-wide laneway is also not reasonable for the development of the site and would impact the landscaped open space and amenity area for both the proposed and retained lots.

3)The variances are minor in nature

The variances are considered minor as the proposed development will be consistent with the built form in the area, and the property will still be able to function to provide adequate parking, amenity space, and landscaped open space. No adverse impacts on neighbouring properties are anticipated to result from the proposed variances.

4)The variances are desirable for the appropriate development or use of the land, building or structure

Minor Variance A:

The minor variances are necessary to enable the development of an additional residence. The addition of a new residence is supported through Official Plan policies to intensify and infill development within the urban boundary in a way that is compatible with the existing neighbourhood. The existing dwelling will be maintained and will continue to function adequately to support the residents that live there.

Minor Variance B:

The proposed residence is within a designated residential area and will maintain the character of the existing neighbourhood. The area proposed for the severed lot is currently developed as an underutilized parking lot. The proposed residence is to be located at the

street frontage of the property with the parking stalls located behind. The residence will maintain or improve the visual aesthetic of the streetscape.

The variances are desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Building Division | <input checked="" type="checkbox"/> Engineering Department | <input checked="" type="checkbox"/> Heritage (Planning Services) |
| <input type="checkbox"/> Finance | <input checked="" type="checkbox"/> Utilities Kingston | <input type="checkbox"/> Real Estate & Environmental Initiatives |
| <input checked="" type="checkbox"/> Fire & Rescue | <input 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 type="checkbox"/> Housing | <input checked="" type="checkbox"/> District Councillor | <input type="checkbox"/> Ministry of Transportation |
| <input type="checkbox"/> KEDCO | <input type="checkbox"/> Municipal Drainage | <input type="checkbox"/> Parks of the St. Lawrence |
| <input type="checkbox"/> CRCA | <input type="checkbox"/> KFL&A Health Unit | <input type="checkbox"/> Trans Northern Pipelines |
| <input type="checkbox"/> Parks Canada | <input type="checkbox"/> Eastern Ontario Power | <input type="checkbox"/> CFB Kingston |
| <input type="checkbox"/> Hydro One | <input type="checkbox"/> Enbridge Pipelines | <input type="checkbox"/> TransCanada Pipelines |
| <input type="checkbox"/> Kingston Airport | | |

Technical Comments

The applications were circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude the applications 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.

Public Comments

At the time this report was finalized, no public comments were received with respect to these applications. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

Previous or Concurrent Applications

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

Conclusion

The 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 by-law and a plan of subdivision is not necessary for the proper and orderly development of the site, as such, is recommended for provisional approval.

Provisional approval of this application will enable the construction of a new single unit residence with a secondary unit on an underutilized lot.

The requested variances maintain 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 variances 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.

Existing Policy/By-Law:

The proposed applications were 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 14 days in advance of the meeting. In addition, notices were sent by mail to a total number of 71 property owners (according to the latest Assessment Roll) within 60 metres of the subject property (Exhibit H) and a courtesy notice was placed in The Kingston Whig-Standard.

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

Accessibility Considerations:

None

Financial Considerations:

None

Contacts:

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

Riccardo Peggi, Planner, 613-546-4291 extension 3237

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

- Exhibit A Recommended Conditions – Consent
- Exhibit B Recommended Conditions – Minor Variance D13-069-2021 – Retained Lot
- Exhibit C Recommended Conditions – Minor Variance D13-070-2021 – Severed Lot
- Exhibit D Key Map
- Exhibit E Neighbourhood Context Map (2021)
- Exhibit F Official Plan Map
- Exhibit G Zoning By-Law Number 8499, Map 19
- Exhibit H Public Notification Map
- Exhibit I Conceptual Site Plan, Floor Plans and Elevations

Recommended Conditions

The provisional approval of consent application, File Number D10-037-2021, to sever a to sever a 371 square metre lot from the 821 square metre subject property, 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. 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.

6. 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.

7. 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.

8. 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) Recommendations resulting from the Noise Study completed by J.E. Coulter Associates Limited, dated October 18, 2021, be included within the development agreement for the lands.

Recommended Conditions

Application for Minor Variance, File Number D13-069-2021

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

1. Limitation

That the approved minor variance applies only to vary the minimum lot area, and minimum aggregate side yard zoning provisions for the existing dwelling on the retained lot 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.

Recommended Conditions

Application for minor variance, File Number D13-070-2021

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

1. Limitation

That the approved minor variance applies only to vary the minimum interior yard setback and exterior wall height zoning provisions for the proposed dwelling containing a maximum of eight bedrooms in the aggregate on the severed lot 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. Archaeological Assessment

An Archaeological Assessment (beginning with a Stage One Assessment) and any subsequent or supporting studies are required on the property prior to the issuance of a Building Permit, as the site falls under several of the criteria for archaeological potential. Any area of development or site alteration, including access routes, on lands containing archaeological resources or areas of archaeological potential will need to be assessed by an archaeologist licensed in the Province of Ontario. The applicant shall contact the Planning Division to confirm their requirements for approval of this condition.

Two (2) copies of the study and all relative information shall be provided to the Building Division. The report shall be registered with the Ministry of Tourism,

Culture and Sport or an acceptance letter shall be obtained by the Ministry prior to the issuance of a Building Permit.

The City relies upon the report of the professional archaeologist as filed, but reserves the right to require further reports should further evidence be uncovered. The applicant may be required to further review the state of archaeological resources on the property depending on the recommendations of the report and subject to input and review from the Ministry of Tourism, Culture and Sport. The City shall not be restricted in its ability to determine requirements related to review, assessment and/or protection should archaeological resources be found on site. Any costs arising from such requirements of the City, or any other duly authorized Government body, shall be borne solely by the applicant.



Planning Services

Committee of Adjustment

Key Map

Address: 398 Victoria Street

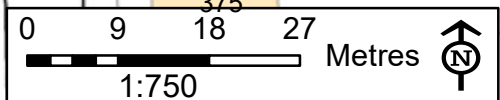
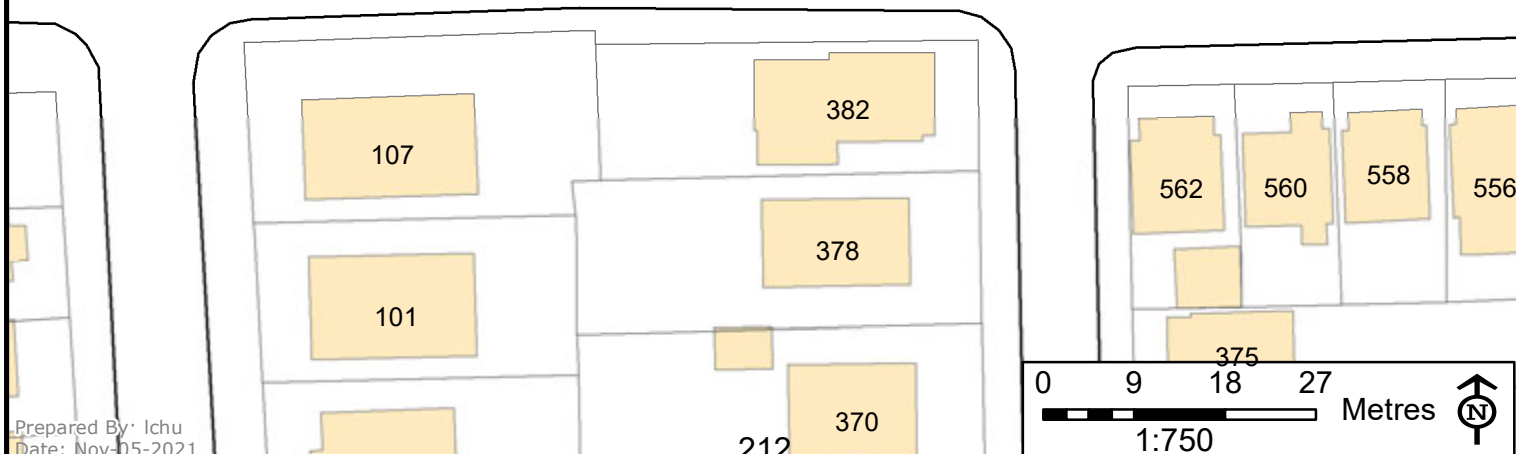
File Number: D10-037-2021

- Subject Lands
- Severed Lands
- Retained Lands

Dundas St	Macdonnell St	Toronto St	Victoria St	Albert St
Mack St				
Brock St				
Johnson St				






Brock St





Committee of Adjustment Neighbourhood Context (2021)

Address: 398 Victoria Street
File Number: D10-037-2021

-  Subject Lands
-  Property Boundaries
-  Proposed Parcels







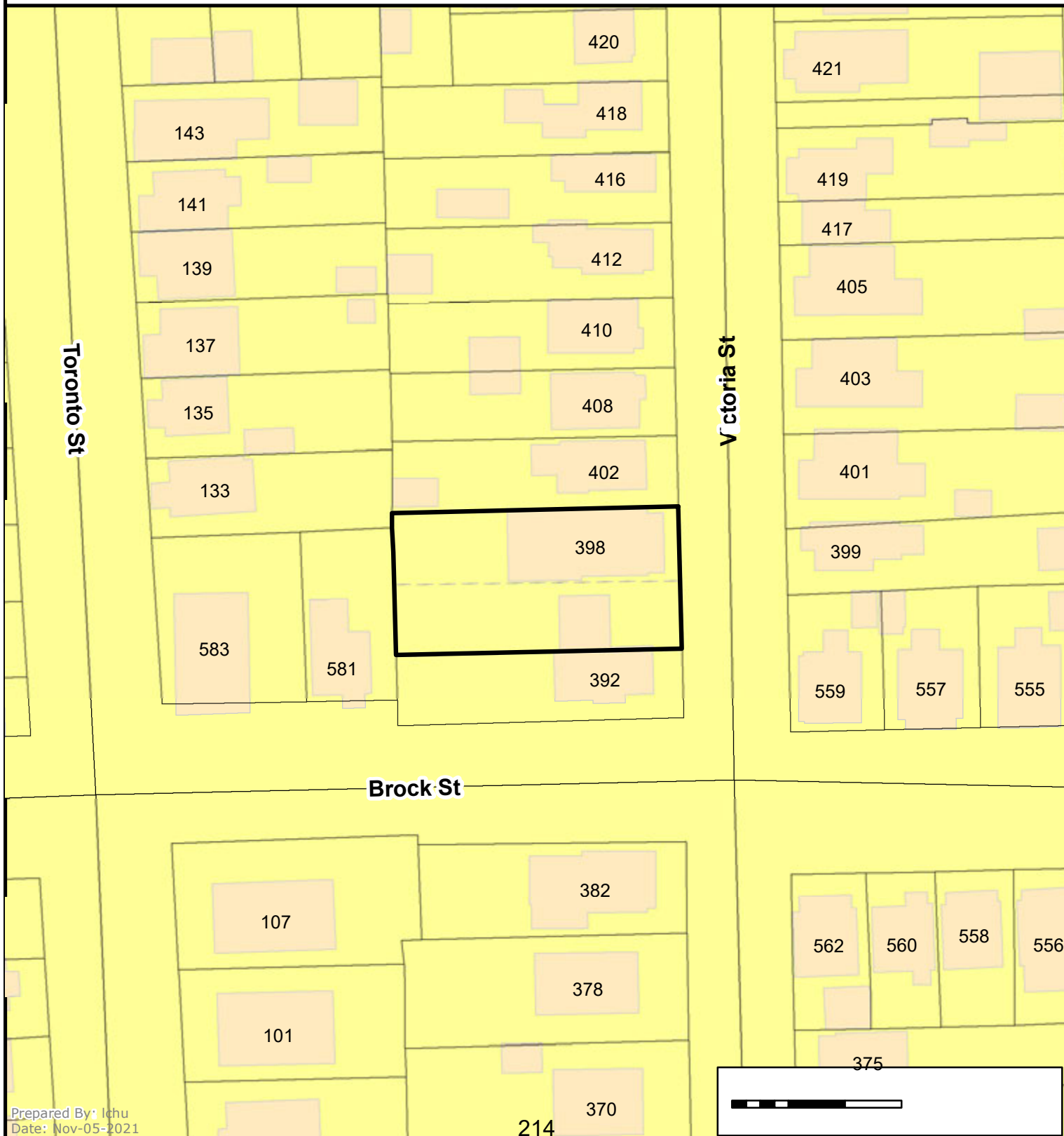
Planning Services

Committee of Adjustment Official Plan, Existing Land Use

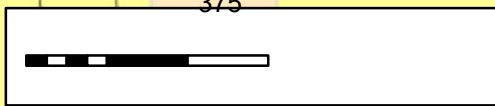
Address: 398 Victoria Street

File Number: D10-037-2021

-  Subject Lands
-  RESIDENTIAL



Prepared By: lchu
Date: Nov-05-2021



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Planning Services

Committee of Adjustment
Existing Zoning - By-law 8499, Map 19

Address: 398 Victoria Street
File Number: D10-037-2021

- Subject Lands
- Consolidated Zoning

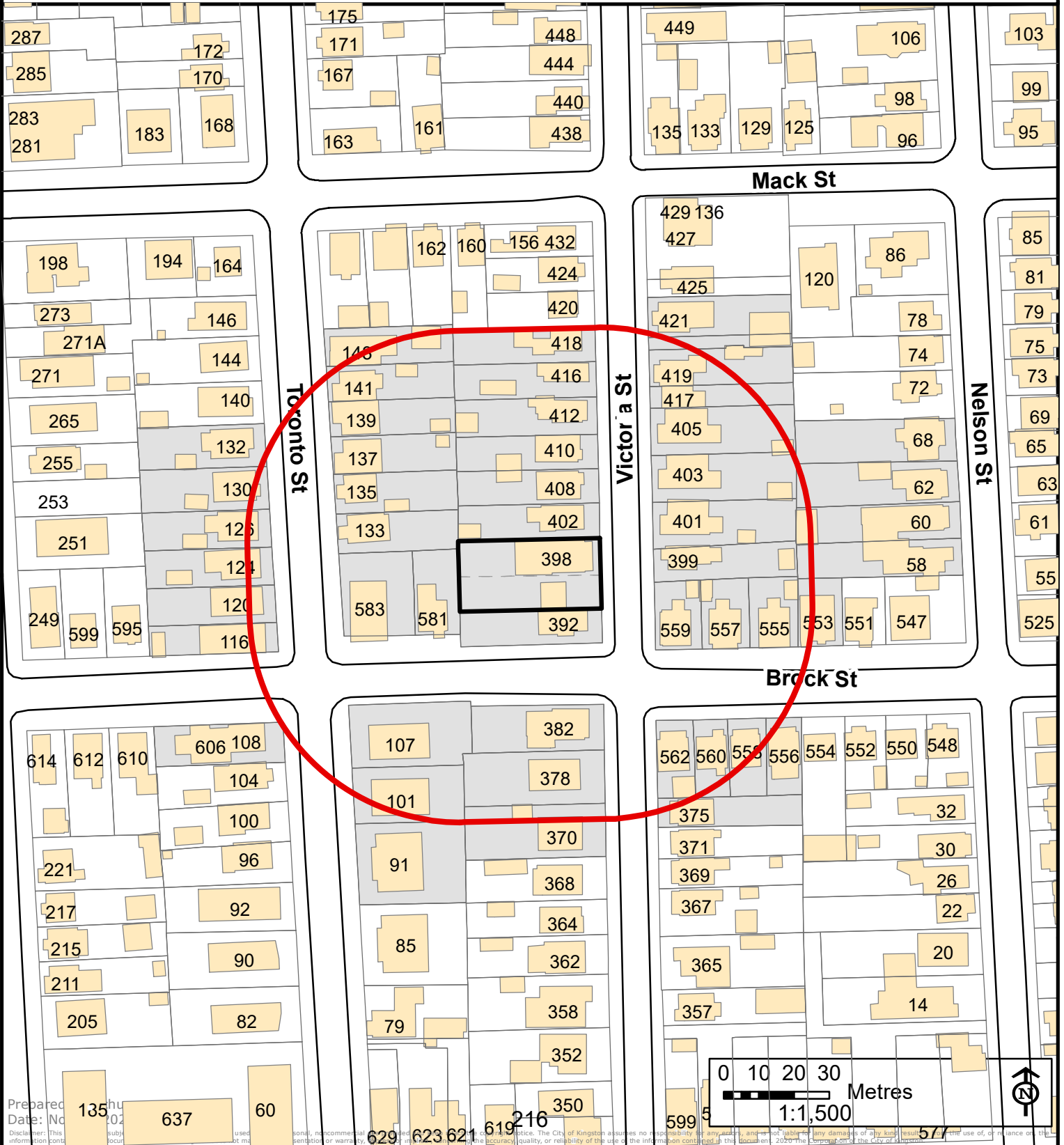


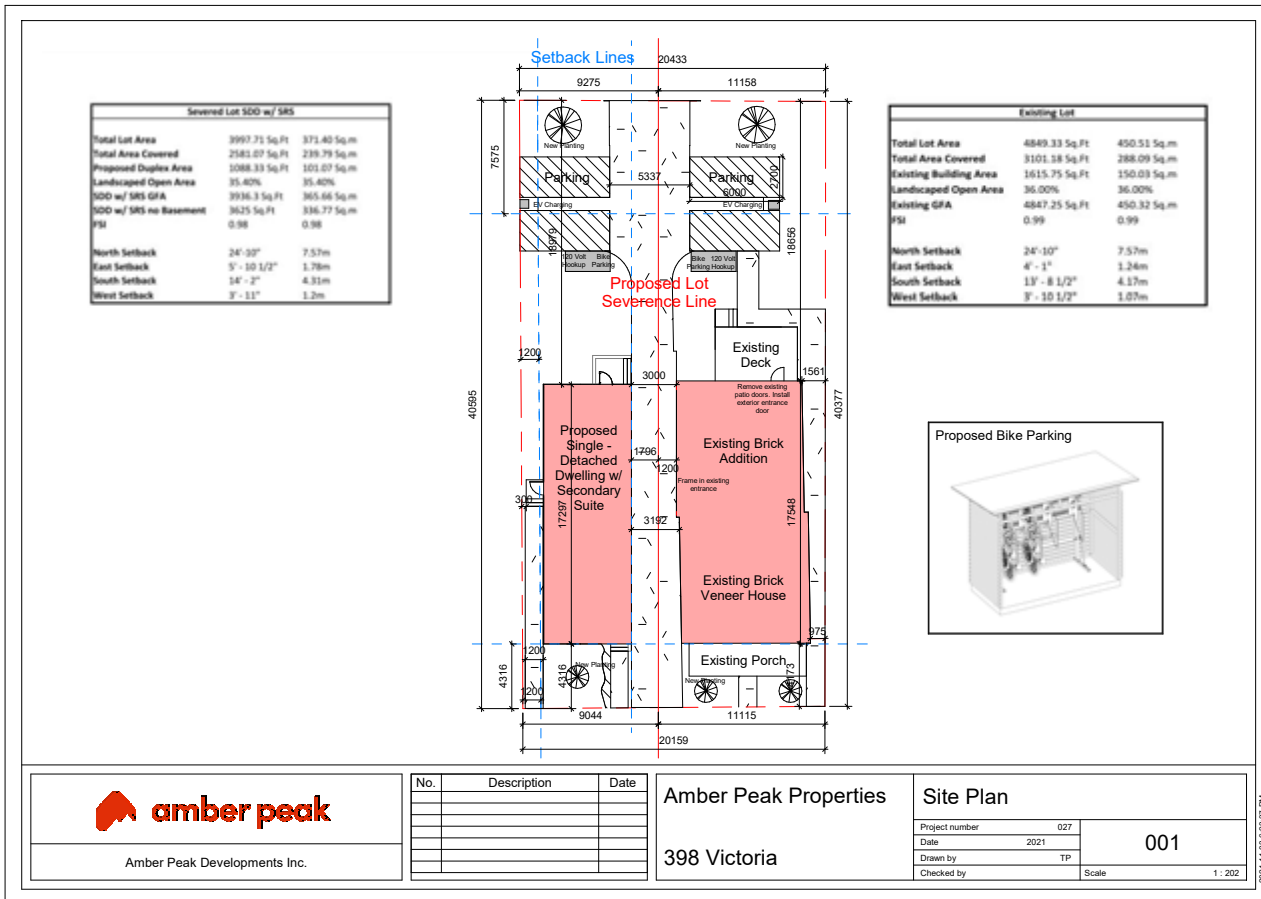


Committee of Adjustment
Public Notice Notification Map

Address: 398 Victoria Street
File Number: D10-037-2021

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





Amber Peak Developments Inc.

No.	Description	Date

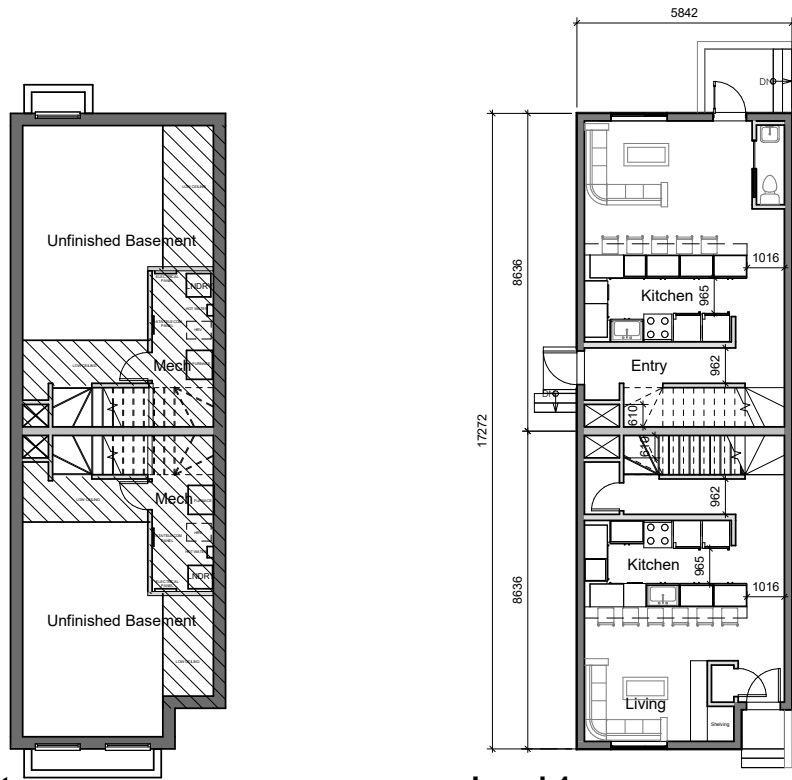
Amber Peak Properties

398 Victoria

Site Plan

Project number	027	001
Date	2021	
Drawn by	TP	
Checked by	Scale	
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Basement
1 : 96

Level 1
1 : 96



Amber Peak Developments Inc.

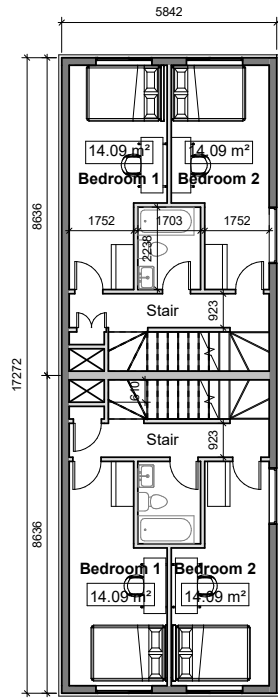
No.	Description	Date

Amber Peak Properties
398 Victoria

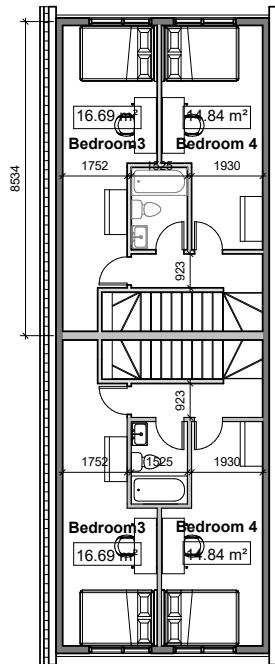
Basement & Ground Level

Project number	027	002
Date	2021-08-11	
Drawn by	Author	
Checked by	Checker	
Scale		1 : 96

2021-11-03 02:23:38 PM



Level 2
1 : 96



Level 3
1 : 96



Amber Peak Developments Inc.

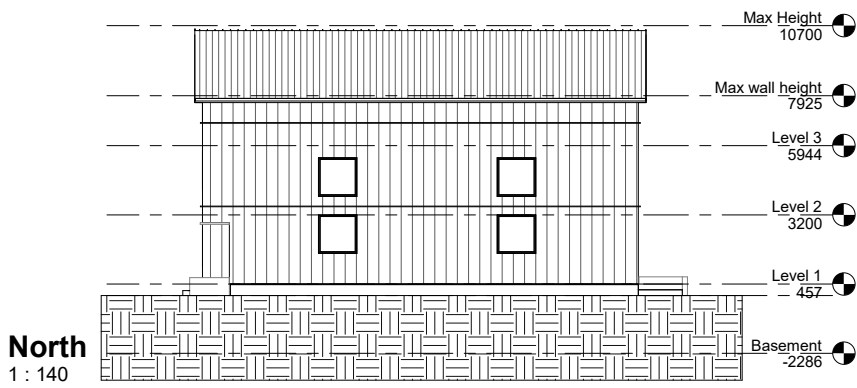
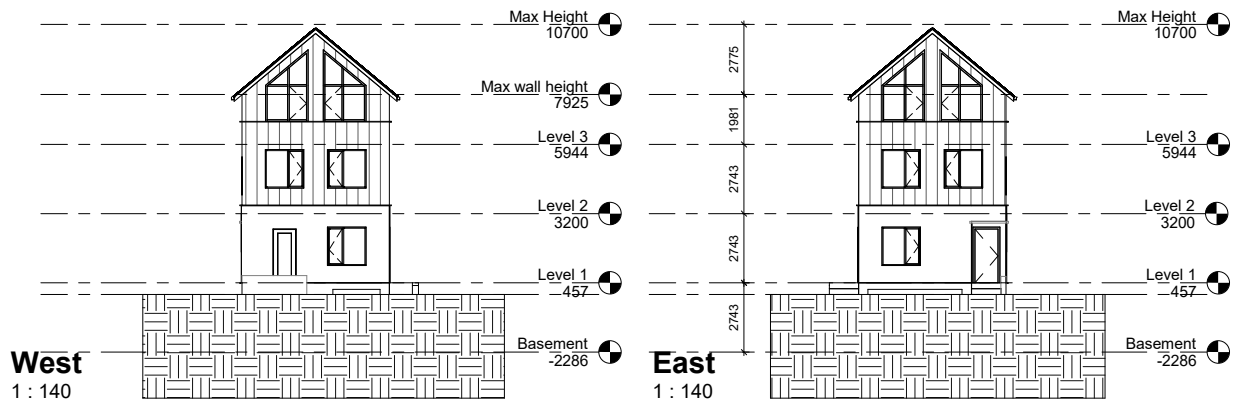
No.	Description	Date

Amber Peak Properties
398 Victoria

Level 2 & 3

Project number	027	003
Date	2021-08-11	
Drawn by	Author	
Checked by	Checker	
Scale		1 : 96

2021-11-03 02:23:39 PM



Amber Peak Developments Inc.

No.	Description	Date

Amber Peak Properties

398 Victoria

Elevations

Project number	027	004
Date	2021-08-11	
Drawn by	Author	
Checked by	Checker	
Scale		1 : 140

2021-11-03 02:34:00 PM