



**City of Kingston
Report to Committee of Adjustment
Report Number COA-22-047**

To: Chair and Members of the Committee of Adjustment
From: Jason Partridge, Planner
Date of Meeting: June 20, 2022
Application for: Minor Variance
File Number: D13-023-2022
Address: 991 Sydenham Road
Owner: Susan MacRae
Applicant: Craig MacRae

Council Strategic Plan Alignment:

Theme: Regulatory & compliance

Goal: See above

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for a minor variance for the property located at 991 Sydenham Road. The applicant is proposing to construct a new 91.42 square metre 1 storey detached rear yard accessory building and is requesting relief from the minimum rear and interior lot lines. The new building will comply with all minimum height and landscaped open space requirements.

The requested minor variance is consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The requested minor variances are desirable for the appropriate development or use of the land, building or structure and is 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.

June 20, 2022

Page 2 of 11

Variance - Zoning By-Law Number 76-26

Variance Number 1: Interior Side Yard Width (minima):

By-Law Number 76-26: Section 20 (2)(g) (ii)

Requirement: 9.1 metres

Proposed: 4.3 metres

Variance Requested: 4.8 metres

Variance - Zoning By-Law Number 76-26

Variance Number 2: Rear Yard Width (minimal):

By-Law Number 76-26: Section 20 (2)(h) (ii)

Requirement: 15.2 metres

Proposed: 5.2 metres

Variance Requested: 10.0 metres

Under the new Zoning By-Law Number 2022-062, a minor variance is not required to reduce the minimum interior and rear setbacks for the proposed development because the property is not subject to this By-Law. Zoning By-Law Number 2022-062 carried forward the 2007 site-specific Zoning By-Law amendment as an exemption for 991 Sydenham Road.

Recommendation:

That the minor variance application, File Number D13-023-2022, for the property located at 991 Sydenham Road to construct a new 91.42 square metre detached rear yard accessory building be approved, subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-047.

June 20, 2022

Page 3 of 11

ORIGINAL SIGNED BY PLANNER

Jason Partridge, Planner

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

Tim Park, Director, Planning Services

James Bar, Manager, Development Approvals

June 20, 2022

Page 4 of 11

Options/Discussion:

On April 13, 2022, a minor variance application was submitted by Craig MacRae, on behalf of the owner, Susan MacRae, with respect to the property located at 991 Sydenham Road.

The purpose of the application is to permit the construction of a one storey detached accessory building within the rear yard near the south lot line of the property. The total area of the proposed new one storey accessory building is 91.42 square metres. The purpose of the accessory building is to provide additional storage associated to the permitted one residential dwelling unit on the property.

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

- Site Plan (Exhibit G)

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 at 991 Sydenham Road (Exhibit B – Key Map) and has an area of approximately 1,706 square metres and approximately 38 metres of frontage Sydenham Road. The site is currently developed with a two-storey commercial/residential building.

The subject property is designated Residential in the Official Plan and zoned C3-15 in Zoning By-Law Number 76-26.

The subject property is in proximity to various community and open space uses, local schools and commercial uses. Kingston Transit operates in proximity to the site, with Transit Route 501 and 502 operating along Princess Street to the south of the property.

Minor Variance 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

June 20, 2022

Page 5 of 11

which are complemented by local policies addressing local interests. The application being considered is site specific to accommodate a specific proposal and does not involve any major policy considerations and as such, the proposal conforms to and is consistent with the PPS.

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

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

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

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

The proposed rear yard accessory building will not have any negative impacts on abutting properties or residential and/or uses or structures. The proposal is compatible with the surrounding residential uses and will not result in significant impacts or changes to the surrounding area.

The proposed accessory building is for a permitted residential use. Section 2.2.5 (Housing Districts) states that these areas are:

“...planned to remain stable in accordance with Section 2.6 of this Plan but will continue to mature and adapt as the City evolves. Reinvestment and upgrading will be encouraged through minor in-filling and minor development (i.e. that which can integrate compatibility within the prevailing built form standards of height, density and amenity that are generally found in the neighbourhood.”

The accessory building represents a reinvestment to the property that will result in a minor development on the subject property. No additional dwelling units are proposed. There is no increase in density or intensity of uses. The proposed rear yard accessory building is consistent with the intent of this policy.

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 proposed accessory building will result in a development that is consistent with the existing rear yard built-form of several residential buildings located north and south of the subject property along Sydenham Road. The overall design and scale of the proposal is not anticipated to cause any adverse impacts on the adjacent residential properties.

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;

June 20, 2022

Page 6 of 11

The proposal involves the construction of a one-storey accessory building within the rear yard of the subject property. There will be no concerns with respect to the parking of vehicles and bicycles or issues relating to accessibility. One parking spot is required and provided.

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 subject property is not located within a heritage district. However, the property is adjacent to a listed property under the *Ontario Heritage Act* and is within a character area named Catarauqui Village. The design and materials proposed complement the built form and materials of the existing building and neighbouring properties.

The proposal does not involve a significant alteration to the existing built form on the site and will not cause any adverse impacts on adjacent properties.

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

The subject property is not on the City's Heritage Register as a designated property and as such a Heritage Impact Statement is not required.

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 site is located inside of the Urban Boundary and is currently connected to adequate municipal water. The property is currently serviced with an on-site septic system connected to the main building. The accessory building is not proposed to need any additional sewage service for its use.

7. Whether the application and the cumulative impact of the proposed variances would be more appropriately addressed by a zoning amendment to the applicable zoning by-law;

The proposed variance is considered minor and the development is consistent with the existing built form along Sydenham Road. Therefore, a zoning by-law amendment is not required.

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;

June 20, 2022

Page 7 of 11

As part of the recommendation, suggested conditions have been listed. The conditions may be added, altered or removed at the Committee’s discretion.

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

The surrounding residential uses include single family dwellings. The approval of the requested variance is considered minor and will not set a precedent for the immediate area.

The proposal meets the intent of the Official Plan, as the proposed 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 Highway Commercial Zone ‘C3-15’ in the City of Kingston Zoning By-Law Number 76-26, entitled "Township of Kingston Restricted Area By-Law", as amended. The C3-15 zone permits a retail store, restaurant and one dwelling unit uses. A detached accessory building would be considered a permitted use on the property.

The proposal requires a variance to Section 76-26: Section 20 (2)(g)(ii) and 20 (2)(h)(ii)

Variance - Zoning By-Law Number 76-26

Variance Number 1: Interior Side Yard Width (minima):

By-Law Number 76-26:Section 20 (2)(g) (ii)

Requirement: 9.1 metres

Proposed: 4.3 metres

Variance Requested: 4.8 metres

Variance - Zoning By-Law Number 76-26

Variance Number 2: Rear Yard Width (minima):

By-Law Number 76-26:Section 20 (2)(h) (ii)

Requirement: 15.2 metres

Proposed: 5.2 metres

Variance Requested: 10.0 metres

A variance is required from Section 20 (2) (g)(ii) of Zoning By-Law Number 76-26 to seek relief from the minimum setback from the interior lot line. Within Section 20 (2) (g)(ii) the minimum setback from the interior lot line is 9.1 metres. The proposed rear yard accessory building will be setback 4.3 metres, which does not comply with the minimum interior yard setback. As such, the applicant is seeking a variance of 4.8 metres to construct the rear yard accessory building

The intent of the minimum setback from interior lot line is to reduce concerns about overlook into people’s yards and prevent adverse impacts from the permitted commercial uses to the surrounding properties in the area. The proposed rear yard accessory building maintains a 4.3 metres setback to reduce the impact on the neighbouring properties. It

June 20, 2022

Page 8 of 11

also proposes a pass-through design which will maintain access to the interior of the property. The general intent and purpose of the by-law is maintained.

A second variance is required from Section 20 (2) (h)(ii) of Zoning By-Law Number 76-26 to seek relief from the minimum setback from the rear lot line. Within Section 20 (2) (h)(ii) the minimum setback from the rear lot line is 15.2 metres. The proposed rear yard accessory building will be setback 5.2 metres, which does not comply with the minimum rear yard setback. As such, the applicant is seeking a variance of 10.0 metres to construct the rear yard accessory building.

The intent of the minimum setback from rear lot line is to reduce concerns about overlook into people's yards and prevent adverse impacts from the permitted commercial uses on to the surrounding properties in the area. The proposed rear yard accessory building maintains a 5.2 metres setback to reduce the impact on the neighbouring properties. It also proposed a pass-through design which will maintain access to the rear of the property. The general intent and purpose of the by-law is maintained.

Under the new Zoning By-Law Number 2022-062, a minor variance is not required to reduce the minimum interior and rear setbacks for the proposed development because the property is not subject to this By-Law. Zoning By-Law Number 2022-062 carried forward the 2007 site-specific Zoning By-Law amendment as an exemption for 991 Sydenham Road.

3) The variance is minor in nature

The proposed rear yard accessory building will result in a development that is consistent with the existing built form of residential development along Sydenham Road. The proposed accessory building will be located within the rear yard and will not result in intrusive overlook with respect to adjacent residential properties. The proposed rear yard accessory building is intended to store items associated to the permitted residential use only. The rear and interior yards back on to similar residential uses and the proposed accessory building would exceed their zoning setbacks if the accessory building was to be placed on those properties. The variances will not alter the character of the neighbourhood or the existing streetscape. The total area of the proposed accessory building is 91.42 square metres.

The variances are considered minor as there will be no negative impacts on abutting properties or residential and/or uses or structures.

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

The proposed development will add to the functional needs for the existing residential use. The form of residential development is long established. Thus, the overall density, type of use and scale of activity as proposed is consistent with the existing built form of accessory buildings along Sydenham Road

June 20, 2022

Page 9 of 11

The resulting built form satisfies all applicable provisions of the zoning by-law, except for the rear/interior lot line setbacks. The proposal does not involve a significant alteration to the existing built form on the site and will not cause any adverse impacts on adjacent properties.

The proposal is appropriate and compatible with the surrounding residential uses and will not result in significant impacts or changes to the surrounding area.

The variance is desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

- Building Services
- Finance
- Fire & Rescue
- Solid Waste
- Housing
- KEDCO
- CRCA
- Parks Canada
- Hydro One
- Kingston Airport
- Engineering Department
- Utilities Kingston
- Kingston Hydro
- Parks Development
- District Councillor
- Municipal Drainage
- KFL&A Health Unit
- Eastern Ontario Power
- Enbridge Pipelines
- Heritage (Planning Services)
- Real Estate & Environmental Initiatives
- City’s Environment Division
- Canadian National Railways
- Ministry of Transportation
- Parks of the St. Lawrence
- Trans Northern Pipelines
- CFB Kingston
- TransCanada Pipelines

Technical Comments

This application was circulated to external agencies and internal departments for their review and comment. The property is located within an Area of Composite Archaeological Potential as indicated in the City of Kingston Archaeological Master Plan. An Archaeological Report is required and will be included as a condition on the Notice of Decision. Any further 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 after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

Previous or Concurrent Applications

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

Conclusion

The requested variances maintains the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The proposal is desirable for the appropriate

June 20, 2022

Page 10 of 11

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.

Under the new Zoning By-Law Number 2022-062, a minor variance is not required to reduce the minimum interior and rear setbacks for the proposed development because the property is not subject to this By-Law. Zoning By-Law Number 2022-062 carried forward the 2007 site-specific Zoning By-Law amendment as an exemption for 991 Sydenham Road.

Approval of this application will permit the construction of a new 91.42 square metres 1 storey accessory building within the rear yard of the subject property. The proposed rear yard accessory building will improve the function of the existing residential use on the site and represents good land use planning.

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 76-26

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on June 20, 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 17 property owners (according to the latest Assessment Roll) within 60 metres of the subject property and a courtesy notice was placed in The Kingston Whig-Standard (Exhibit C – Public Notification).

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

June 20, 2022

Page 11 of 11

Financial Considerations:

None

Contacts:

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

Jason Partridge, Planner, 613-546-4291 extension 3183

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Public Notification Map
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Number 76-26, Map 5
- Exhibit F Neighbourhood Context Map (2021)
- Exhibit G Site Plan
- Exhibit H Kingston Zoning By-Law 2022-062 Map

Recommended Conditions

Application for minor variance, File Number D13-023-2022

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

1. Limitation

That the approved minor variance applies only to the subject lands located at 991 Sydenham Road for the proposed rear yard one storey accessory building 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 Condition

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.

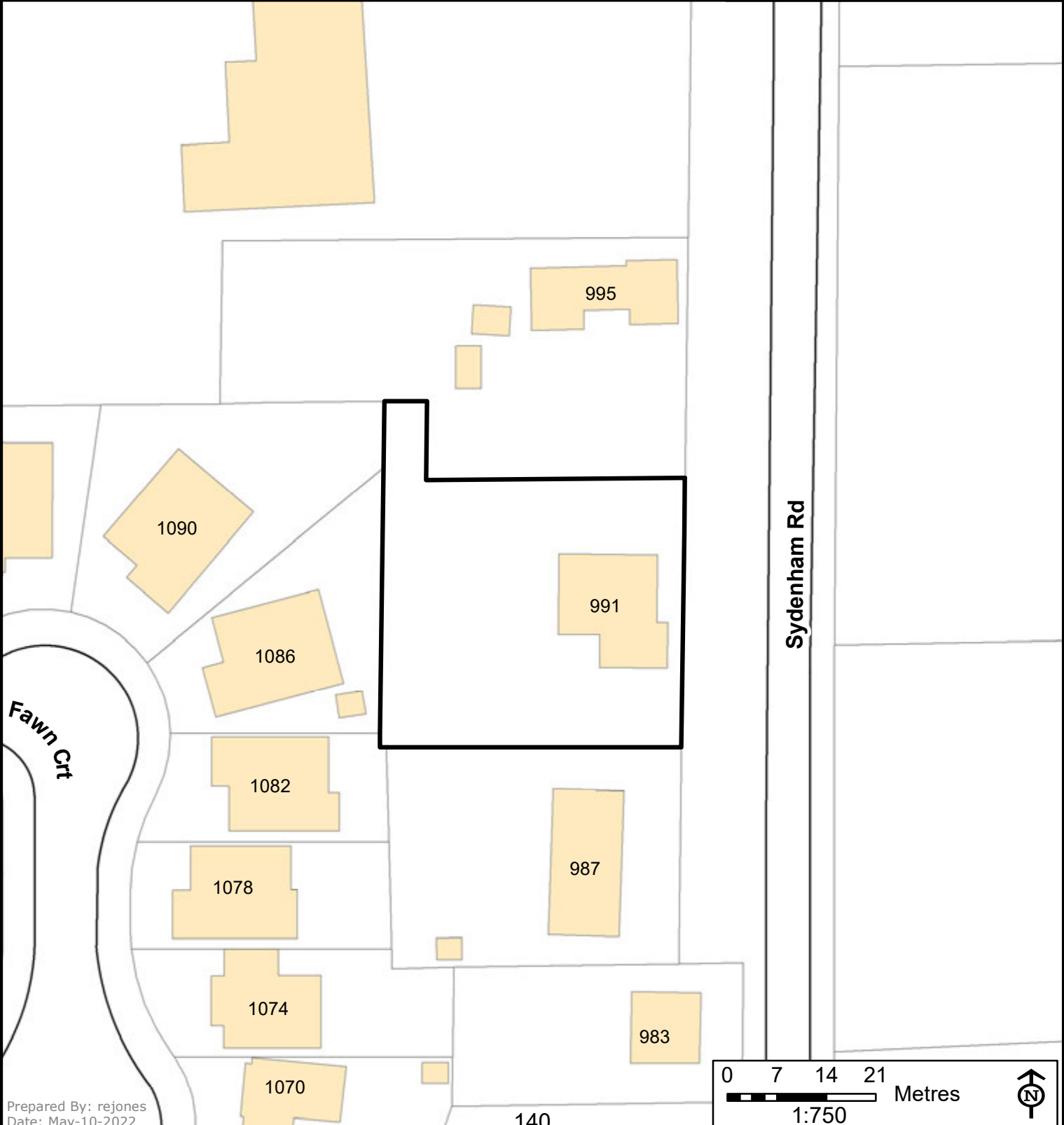
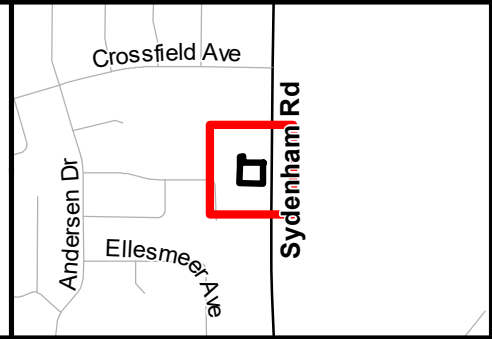
The City relies upon the report of the professional archaeologist as filed, but reserves the right to require further reports should further evidence be uncovered. The applicant may be required to further review the state of archaeological resources on the property depending on the recommendations of 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.



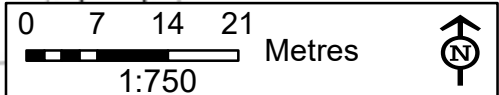
Committee of Adjustment Key Map

Address: 991 Sydenham Road
File Number: D13-023-2022

 Lands Subject to Minor Variance



Prepared By: rejonas
Date: May-10-2022



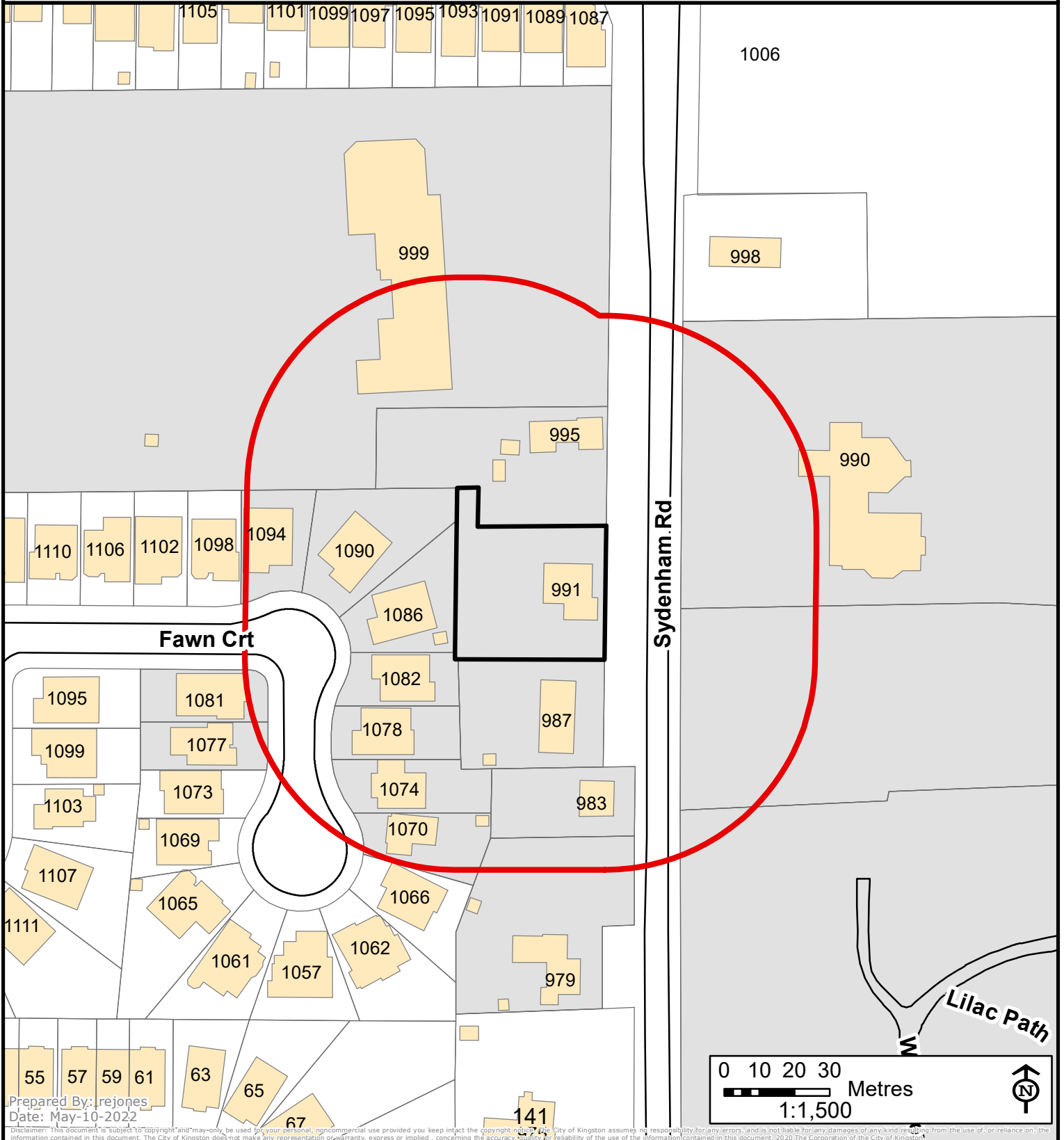
Disclaimer: This document is subject to copyright and may only be used for your personal, noncommercial use provided you keep intact the copyright notice. The City of Kingston assumes no responsibility for any errors, and is not liable for any damages of any kind resulting from the use of, or reliance on, the information contained in this document. The City of Kingston does not make any representation or warranty, express or implied, concerning the accuracy, quality, or reliability of the use of the information contained in this document. © 2020 The Corporation of the City of Kingston.



Committee of Adjustment Public Notice Notification Map

Address: 991 Sydenham Road
File Number: D13-023-2022

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







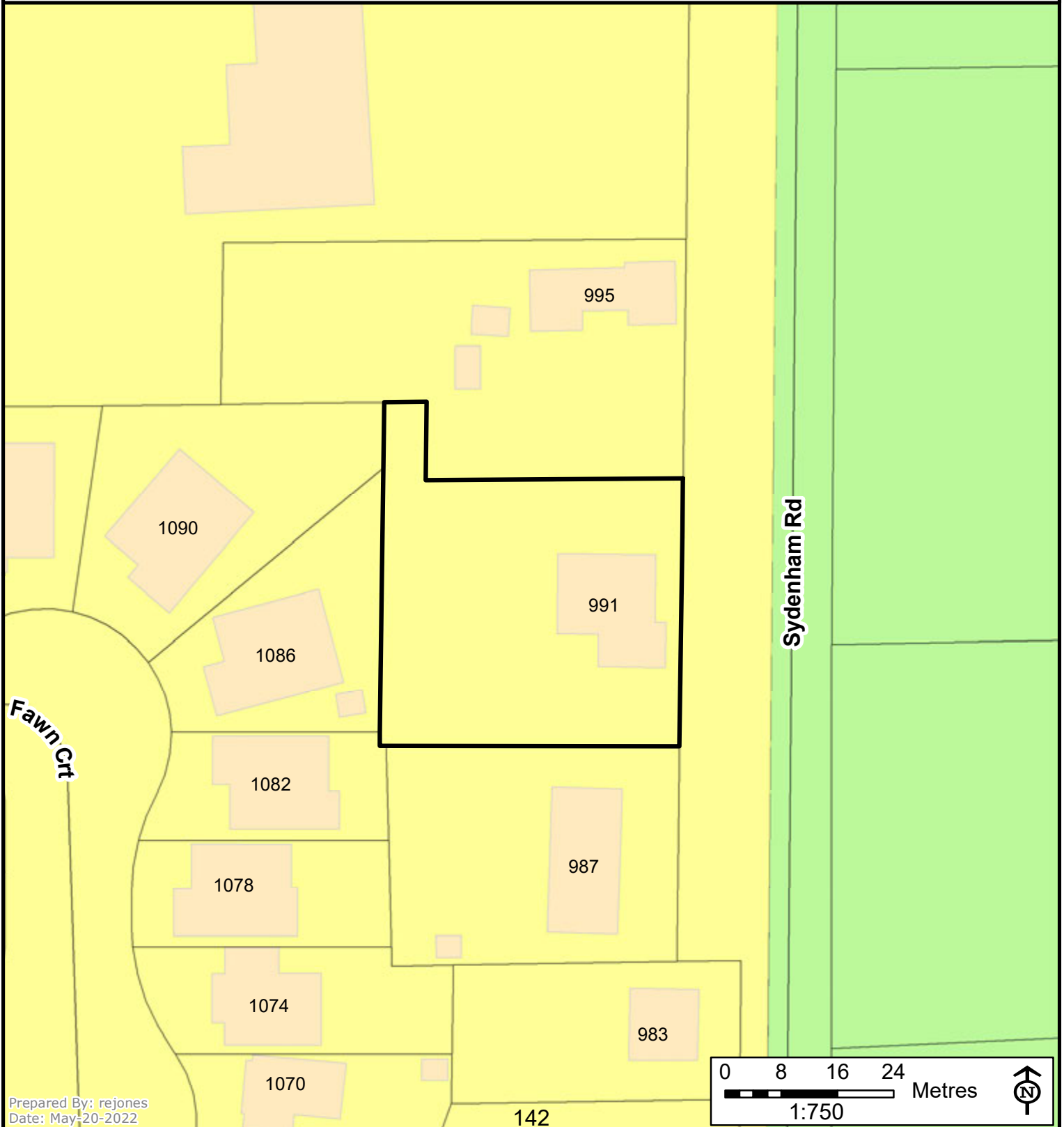
Prepared By: lrejonés
Date: May-10-2022

Disclaimer: This document is subject to copyright and may only be used for your personal, noncommercial use provided you keep intact the copyright notice. The City of Kingston assumes no responsibility for any errors, and is not liable for any damages of any kind resulting from the use of, or reliance on, the information contained in this document. The City of Kingston does not make any representation, warranty, express or implied, concerning the accuracy, quality or reliability of the use of the information contained in this document. ©2020 The Corporation of the City of Kingston.

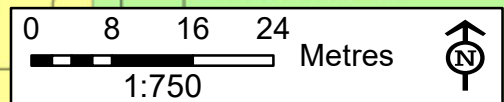


Committee of Adjustment
Official Plan, Existing Land Use
Address: 991 Sydenham Road
File Number: D13-023-2022

-  Subject Lands
-  OPEN SPACE
-  SECONDARY PLAN AREA
- Cataraqui North Secondary Plan
-  RESIDENTIAL



Prepared By: rejonas
Date: May-20-2022

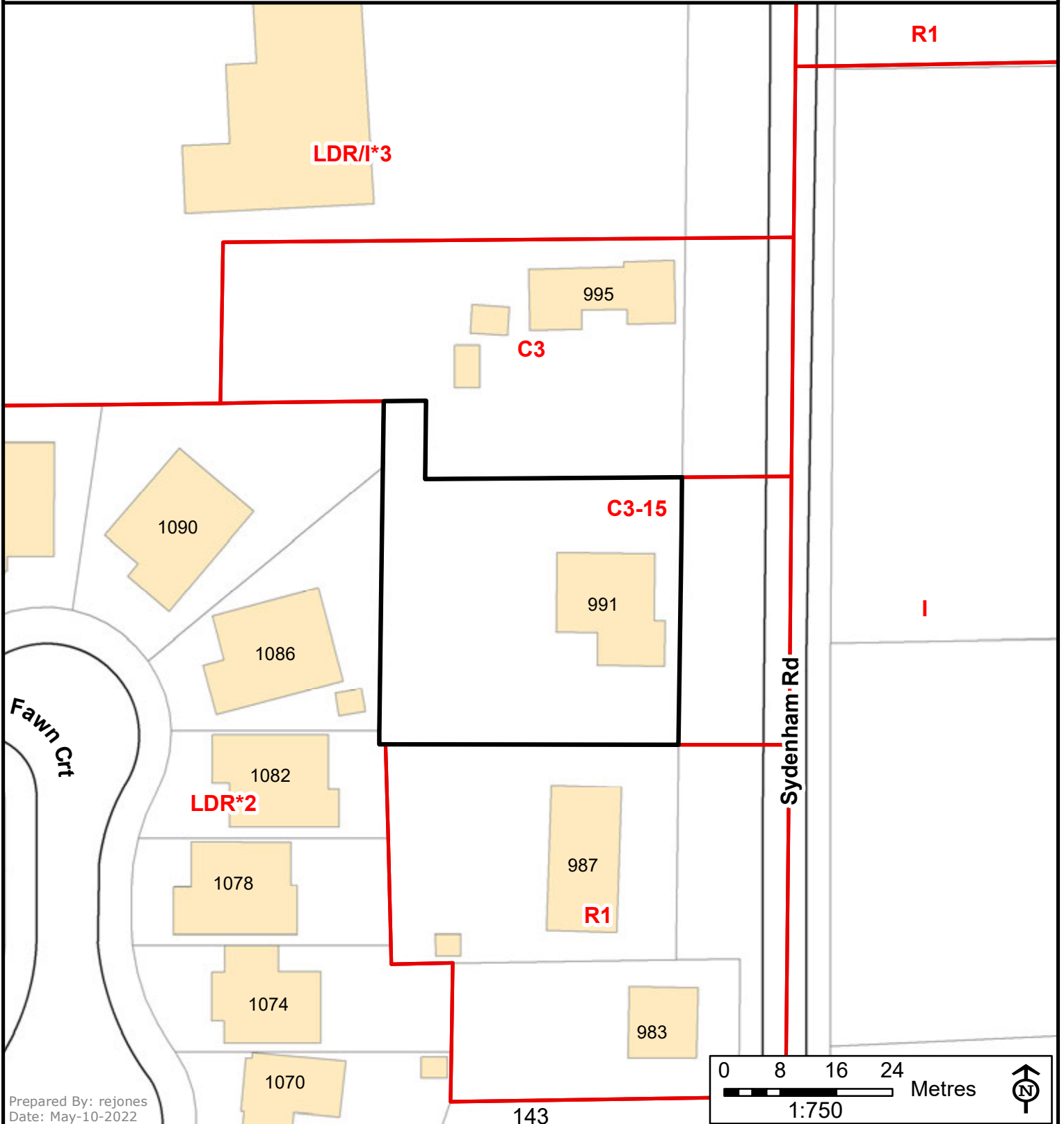


Disclaimer: This document is subject to copyright and may only be used for your personal, noncommercial use provided you keep intact the copyright notice. The City of Kingston assumes no responsibility for any errors, and is not liable for any damages of any kind resulting from the use of, or reliance on, the information contained in this document. The City of Kingston does not make any representation or warranty, express or implied, concerning the accuracy, quality, or reliability of the use of the information contained in this document. ©2020 The Corporation of the City of Kingston.



Committee of Adjustment
Existing Zoning - By-law 76-26, Map 3
Address: 991 Sydenham Road
File Number: D13-023-2022

- Subject Lands
- Consolidated Zoning






Prepared By: rejonas
Date: May-10-2022

Disclaimer: This document is subject to copyright and may only be used for your personal, noncommercial use provided you keep intact the copyright notice. The City of Kingston assumes no responsibility for any errors, and is not liable for any damages of any kind resulting from the use of, or reliance on, the information contained in this document. The City of Kingston does not make any representation or warranty, express or implied, concerning the accuracy, quality, or reliability of the use of the information contained in this document. ©2020 The Corporation of the City of Kingston.

Committee of Adjustment
Neighbourhood Context (2021)

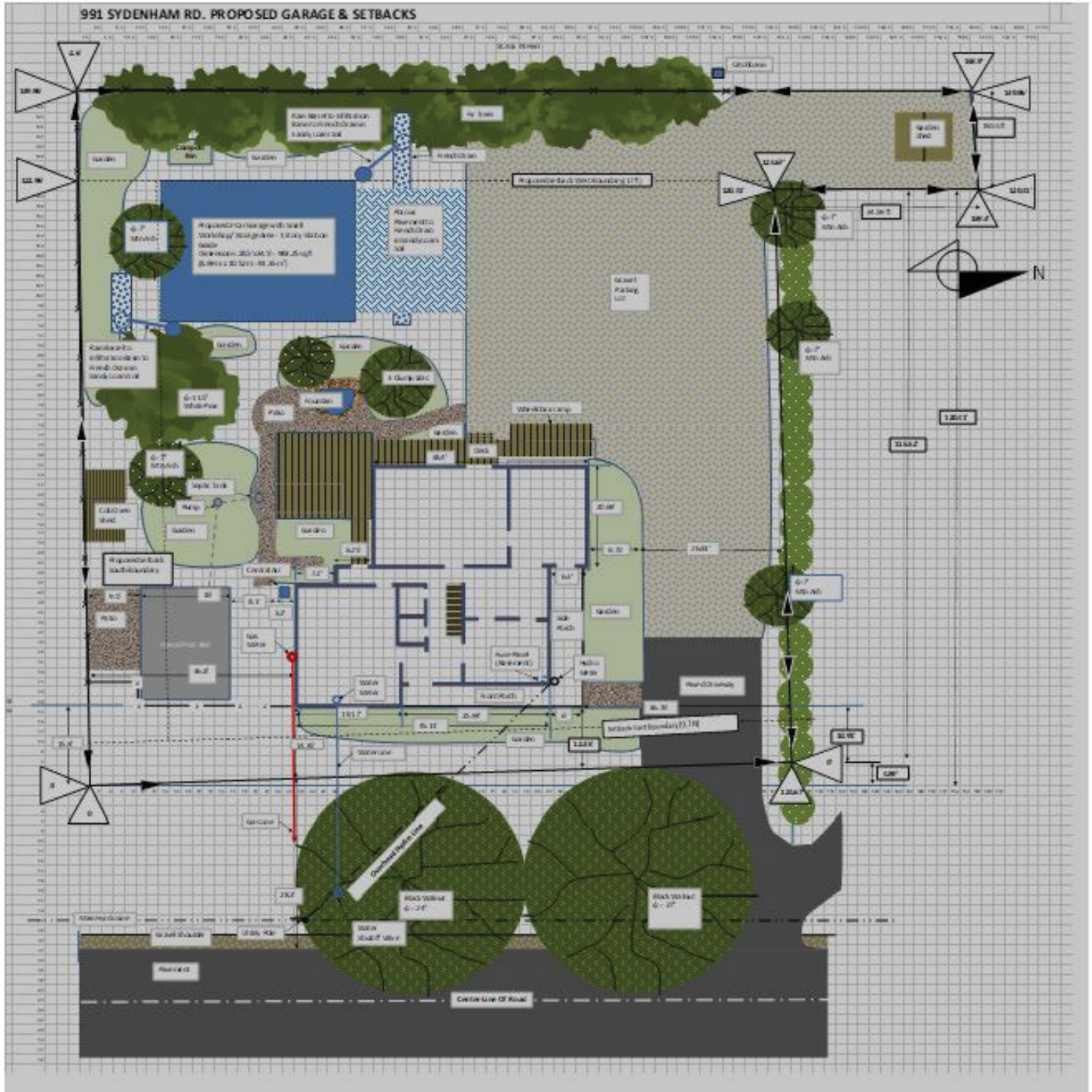
Address: 991 Sydenham Road
File Number: D13-023-2022

-  Subject Lands
-  Property Boundaries
-  Proposed Parcels



PROPOSED SETBACKS:







- c) Rear Yard 17 ft (5.18 m); and,
- d) Interior Side Yard 14 ft (4.27 m).

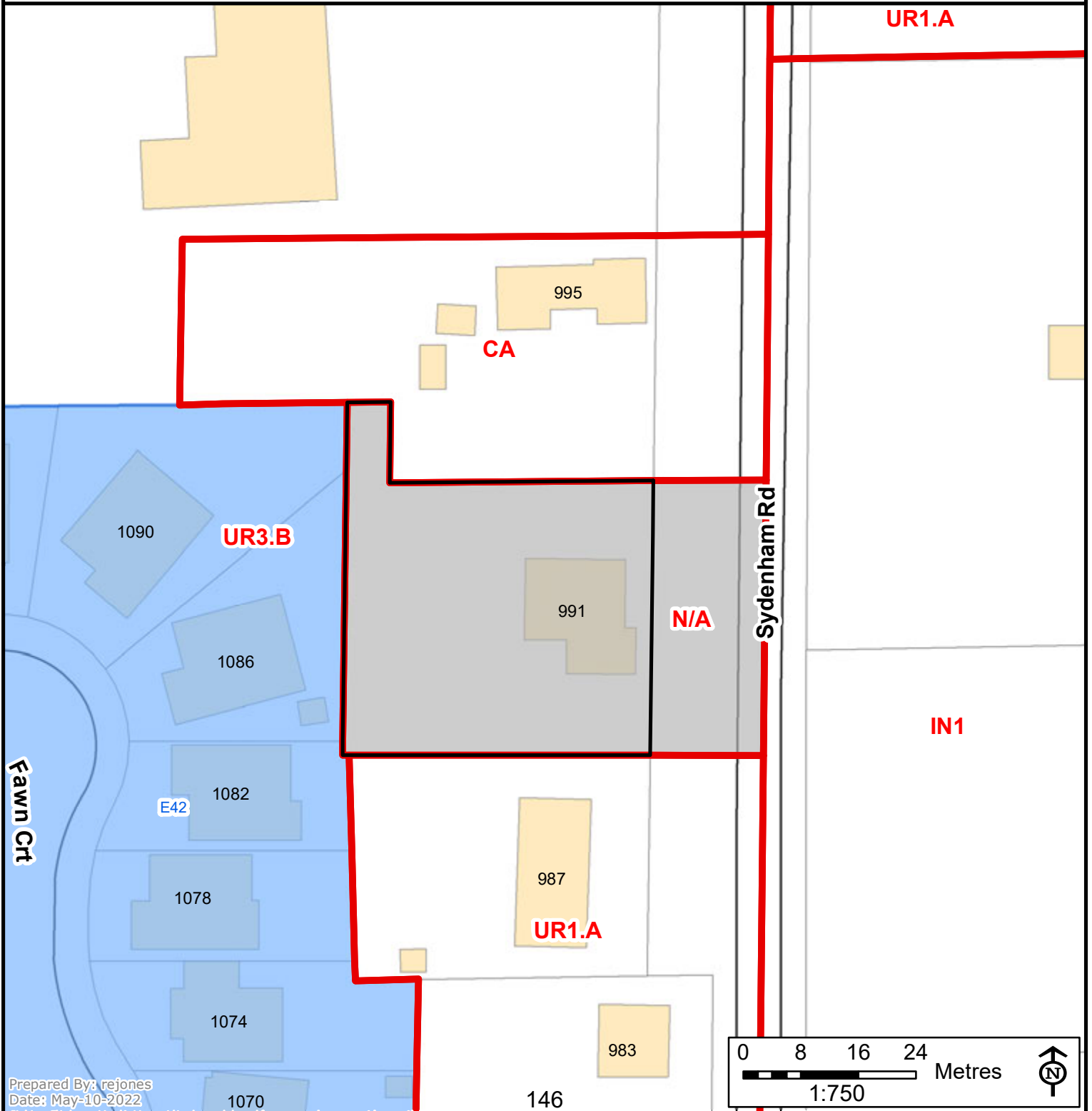




CITY OF KINGSTON
Reference Kingston Zoning Bylaw

Address: 991 Sydenham Road
 File Number: D13-023-2022

-  Subject Lands
- Schedule 1 Zoning Map
-  Zone
-  Not Subject to the Kingston Zoning By-law
- Schedule E - Exception Overlay
-  Legacy Exceptions (LXXX)
-  Exceptions (EXXX)
- Schedule F - Holding Overlay
-  Holding Overlay (HXXX)



Prepared By: rejonas
 Date: May-10-2022

Disclaimer: This document is subject to copyright and may only be used for your personal, noncommercial use provided you keep intact the copyright notice. The City of Kingston assumes no responsibility for any errors and is not liable for any damages of any kind resulting from the use of, or reliance on, the information contained in this document. The City of Kingston does not make any representation or warranty, express or implied, concerning the accuracy, quality and reliability of the information contained in this document. © 2020 The Corporation of the City of Kingston.