



**City of Kingston
Report to Committee of Adjustment
Report Number COA-22-058**

To: Chair and Members of the Committee of Adjustment
From: Lindsay Lambert, Senior Planner
Date of Meeting: August 15, 2022
Application for: Minor Variance
File Number: D13-034-2022
Address: 47 MacDonnell Street
Owner: Estate of Audrey Louise Kirkland
Applicant: Fen Laird

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 variance with respect to the property located at 47 MacDonnell Street. The applicant is proposing to reduce the minimum number of off-street vehicle parking spaces from one to zero for a proposed second residential unit within an existing single unit dwelling. The existing dwelling has an attached garage to accommodate the required vehicular parking space for the existing single-unit dwelling, however the depth of the existing driveway is not sufficient to accommodate the minimum dimensions (2.7 metres wide by 6.0 metres) of a vehicular parking space for the proposed second residential unit.

The requested minor variance is consistent with the general intent and purpose of both the City of Kingston Official Plan, Zoning By-Law Number 8499 and Kingston Zoning By-Law Number 2022-62. The requested minor variance is 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.

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Recommendation:

That minor variance application, File Number D13-034-2022, for the property located at 47 MacDonnell Street to reduce the minimum number of off-street vehicle parking spaces from one to zero for a proposed second residential unit within an existing single unit dwelling, be Approved; as described below:

Minor Variance 1A: Minimum Number of Off-Street Parking Spaces for a Second Residential Unit

By-Law Number:	8499	Section 5.3 A.(a)v.
Requirement:		1 parking space per Second Residential Unit
Proposed:		0 parking spaces per Second Residential Unit
Variance Requested:		1 parking space per Second Residential Unit

Minor Variance 1B: Minimum Number of Off-Street Parking Spaces for a Second Residential Unit

By-Law Number:	2022-62	Table 7.1.1, Section 3(b)
Requirement:		1 parking space per Second Residential Unit
Proposed:		0 parking spaces per Second Residential Unit
Variance Requested:		1 parking space per Second Residential Unit; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-058.

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Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

Lindsay Lambert, Senior Planner

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

Tim Park, Director, Planning Services

James Bar, Manager, Development Approvals

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Options/Discussion:

On June 1, 2022, a minor variance application was submitted by Fen Laird, on behalf of the owner, Audrey Louise Kirkland, with respect to the property located at 47 MacDonnell Street. The variance is requested to reduce the minimum number of off-street vehicle parking spaces from one to zero for a proposed second residential unit within the existing single unit dwelling.

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

- Site Plan (Exhibit H).

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 47 MacDonnell Street (Exhibit B – Key Map), which is on the east side of MacDonnell Street, between Hill Street to the north and Union Street to the south.

The subject property is designated Residential in the Official Plan. The property is zoned A4 in Zoning By-Law Number 8499 and is zoned ‘UR9’ in Kingston Zoning By-Law Number 2022-62 (currently under appeal to the Ontario Land Tribunal). The property abuts existing single unit dwellings on either side of it. The overall surrounding neighbourhood is residential in character, generally comprised of single unit dwellings.

The subject property is adjacent to the existing residential development on Vandalay Crescent, which is comprised of fifteen residential properties that are each designated under Part IV of the *Ontario Heritage Act*.

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 which are complemented by local policies addressing local interests. The application being

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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 development is located within the Urban Boundary, the area that is to be the focus of growth within the City and where transit and active transportation supportive land use patterns are encouraged.

- 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 proposal was reviewed against Section 2.7 of the Official Plan which outlines land use compatibility matters. Approval of the application is not anticipated to result in any adverse effects as outlined in 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;

Section 3.3.11g. of the Official Plan states that ‘applications seeking relief in support of a second residential unit must satisfy all of the following locational criteria:

- (i) the residential dwelling lot is within walking distance of an express Kingston Transit bus route;
- (ii) the residential dwelling lot is within walking distance of commercial uses; and
- (iii) the residential dwelling lot is within walking distance of parkland, open space or community facilities.’

The policy indicates that for the purpose ‘...of this subsection, walking distance is to be measured using the actual path of travel.’ Walking distance is defined in the Official Plan as ‘a distance, generally being no greater than 600 metres, which provides convenient access between two points.’

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The subject property meets all three of the above-noted locational criteria for the consideration of zoning relief in the minimum number of vehicle parking spaces for a second residential unit. There is a path of travel between the subject property and the express transit route located on King Street West that is less than 600 metres. There is a path of travel between the subject property and a commercial use (Bearance's Grocery located at 115 Livingston Avenue) that is less than 600 metres. Finally, there is a path of travel between the subject property and open space (Winston Churchill Public School located at 530 Earl Street) that is less than 600 metres. In addition, the property has a path of travel that is just over 600 metres to Breakwater Park. As the property meets all three of the locational criteria, it is eligible for the consideration of the zoning relief proposed through the subject application.

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 adjacent to the existing residential development on Vandalay Crescent, which is comprised of fifteen residential properties that are each designated under Part IV of the *Ontario Heritage Act*. The scope of the application does not relate to any urban design policies. The nature of the application does not have the potential to impact the adjacent protected heritage resources, therefore a Heritage Impact Statement was not a required document for the subject minor variance application.

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 adjacent to the existing residential development on Vandalay Crescent, which is comprised of fifteen residential properties that are each designated under Part IV of the *Ontario Heritage Act*. However, it has been determined that the nature of the application does not have the potential to impact the adjacent protected heritage resources, therefore a Heritage Impact Statement was not a required document for the subject minor variance application.

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 subject property is not in an area of servicing constraints with respect to adding a second residential unit.

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;

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The application is requesting relief from a single provision of the Zoning By-Law and has been assessed to be an appropriate fit to the minor variance application process, rather than a Zoning By-Law amendment application.

- 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;

The conditions recommended for this application are listed in Exhibit A – Recommended Conditions. 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 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 variance for a reduction in off-street parking spaces for a proposed second residential unit within the existing single-unit dwelling 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 A4 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 A4 zone permits one-family dwellings, two-family dwellings, libraries, art galleries and museums, public or private day schools, community halls, churches, church halls, community homes, and accessory buildings. Section 5.45(i)(a) permits a second residential unit in a one-family dwelling.

In Kingston Zoning By-Law Number 2022-62 that is currently subject of appeal, the subject property is zoned UR9. The UR9 zone permits a duplex, semi-detached house, single detached house, community centre, elementary school, library, museum, place of worship and a secondary school. Section 5.4.2 permits a second residential unit in a single-detached dwelling.

Minor Variance 1A: Minimum Number of Off-Street Parking Spaces for a Second Residential Unit

By-Law Number: 8499	Section 5.3 A.(a)v.
Requirement:	1 parking space per Second Residential Unit
Proposed:	0 parking spaces per Second Residential Unit
Variance Requested:	1 parking space per Second Residential Unit

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Minor Variance 1B: Minimum Number of Off-Street Parking Spaces for a Second Residential Unit

By-Law Number: 2022-62 Table 7.1.1, Section 3(b)

Requirement: 1 parking space per Second Residential Unit

Proposed: 0 parking spaces per Second Residential Unit

Variance Requested: 1 parking space per Second Residential Unit

The zoning provision for the proposed minor variance is the same between Zoning By-Law Number 8499 and Kingston Zoning By-Law 2022-62.

The intent of the minimum requirement of one parking space for a second residential unit is to provide for a zoning compliant transportation option for the use, particularly if the second residential unit is located in an area that is not in proximity to public transit or active transportation infrastructure. By providing an off-street parking space for a second residential unit, it results in less impacts on the neighbourhood in terms of street parking. Section 3.3.11 g. of the Official Plan contemplates that there are instances where it is appropriate to consider waiving the off-street vehicle parking requirement for a second residential unit if it meets locational criteria in terms of proximity to express transit, parkland/open space/community facilities and commercial uses. As a result, the proposed minor variance is seen to maintain the general intent and purpose of the zoning by-law, as there will still be a vehicle parking space on the property for the primary residential unit, it is not expected to create undue adverse impacts on the neighbourhood in terms of street parking and all other zoning requirements related to the second residential unit will be in compliance.

3) The variance is minor in nature

The variance is considered minor as there is no proposed change to the built form of the property. No adverse impacts on neighbouring properties are anticipated to result from the proposed variance.

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

The use of the property as a single-unit dwelling with a proposed second residential unit is consistent with the existing Residential land use designation of the Official Plan. As noted earlier in this report, the subject property is located within walking distance of open space, express public transit and a commercial land use, making it an appropriate candidate for the consideration of reducing the minimum off-street vehicular parking requirement for the proposed second residential unit within the existing building.

The variance is desirable and appropriate use of the land.

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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 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 |
| <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

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.

Public Comments

At the time this report was finalized, no pieces of correspondence have been received. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

Previous or Concurrent Applications

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

Conclusion

The requested variance(s) maintain(s) the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Numbers **8499** and **2022-62**. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variance(s) is 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 facilitate the residential intensification of an existing residential property within the City’s urban boundary and supports active transportation for a property in a walkable neighbourhood that is in proximity to open space, public transit and commercial, institutional and employment uses.

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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**

Zoning By-Law Number **2022-62**

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on August 15, 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 51 property owners (according to the latest Assessment Roll) within 60 metres of the subject property and a courtesy notice was placed in The Kingston Whig-Standard.

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

Accessibility Considerations:

None

Financial Considerations:

None

Contacts:

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

Lindsay Lambert, Senior Planner, 613-546-4291 extension 2176

Other City of Kingston Staff Consulted:

None

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Exhibits Attached:

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Neighbourhood Context (2021)
- Exhibit D Public Notification Map
- Exhibit E Official Plan Map
- Exhibit F Zoning By-Law 8499, Map 30
- Exhibit G Zoning By-Law 2022-62
- Exhibit H Site Plan
- Exhibit I Site Photo

Recommended Conditions

Application for minor variance, File Number D13-034-2022

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

1. Limitation

That the approved minor variance applies only to the minimum provision of vehicular parking for a proposed second residential unit within the existing dwelling.

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 when they make application for a Building Permit.

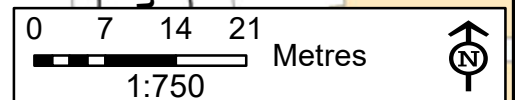
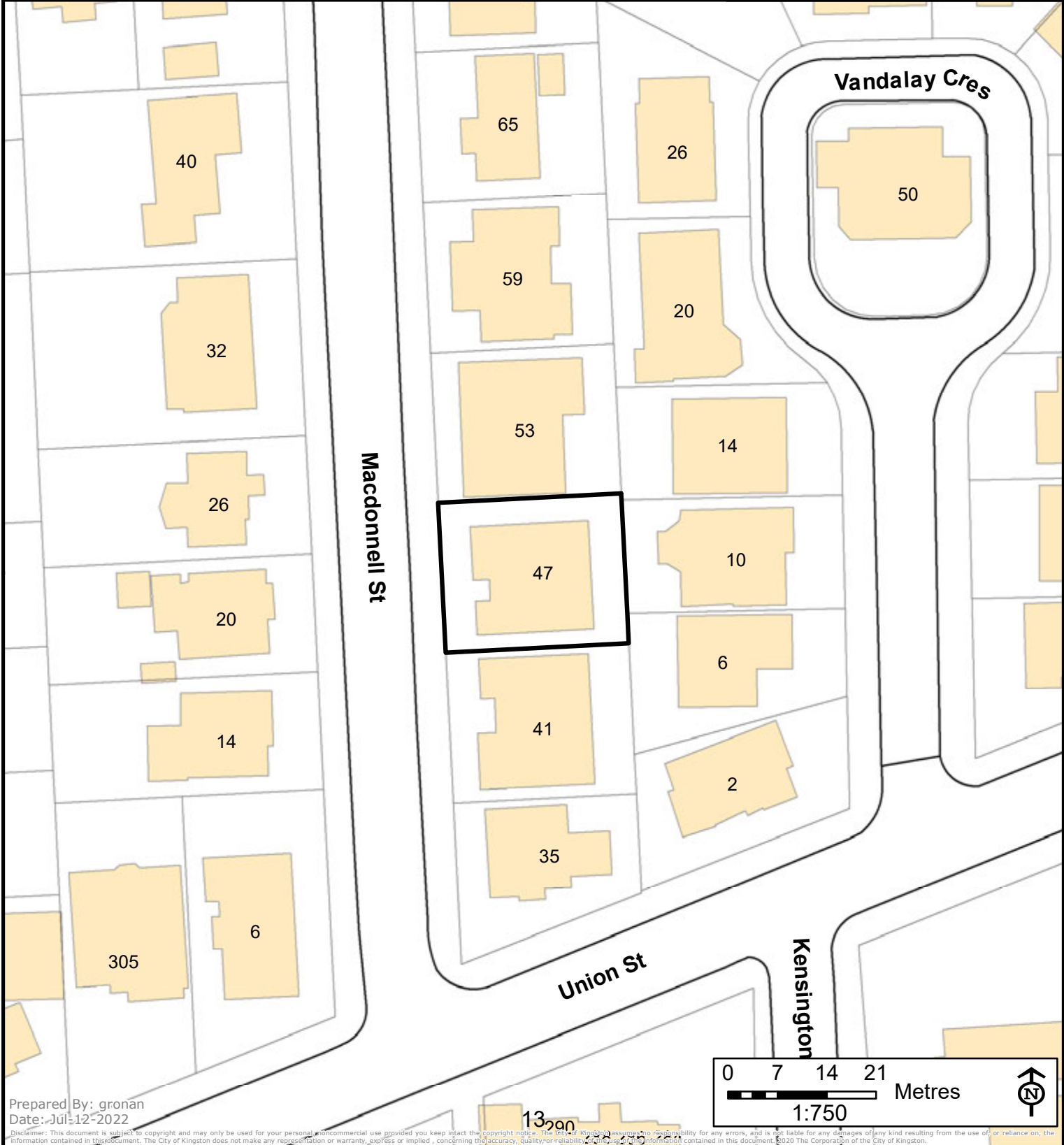
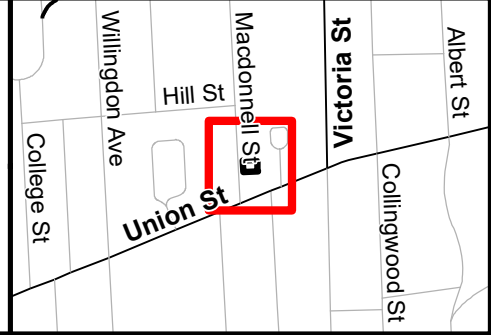
The drawings submitted with the Building Permit application must, in the opinion of the City, conform to the general intent and description of the approved minor variance, including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. It must be noted that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



Committee of Adjustment Key Map

Address: 47 MacDonnell St
File Number: D13-034-2022

 Lands Subject to Minor Variance

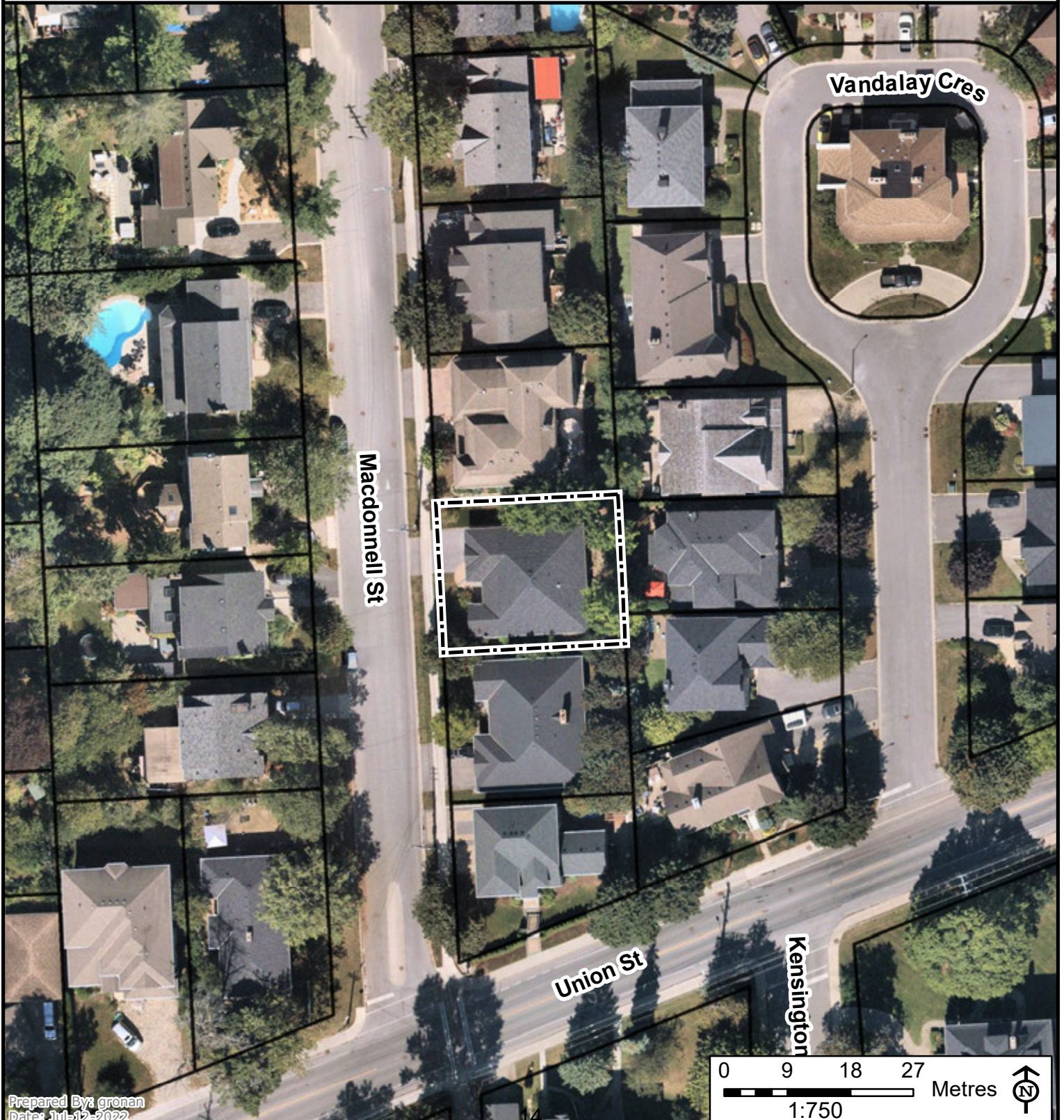




Committee of Adjustment
Neighbourhood Context (2021)

Address: 47 MacDonnell St
File Number: D13-034-2022

- Subject Lands
- Property Boundaries
- Proposed Parcels







Prepared By: gronan
Date: Jul-12-2022

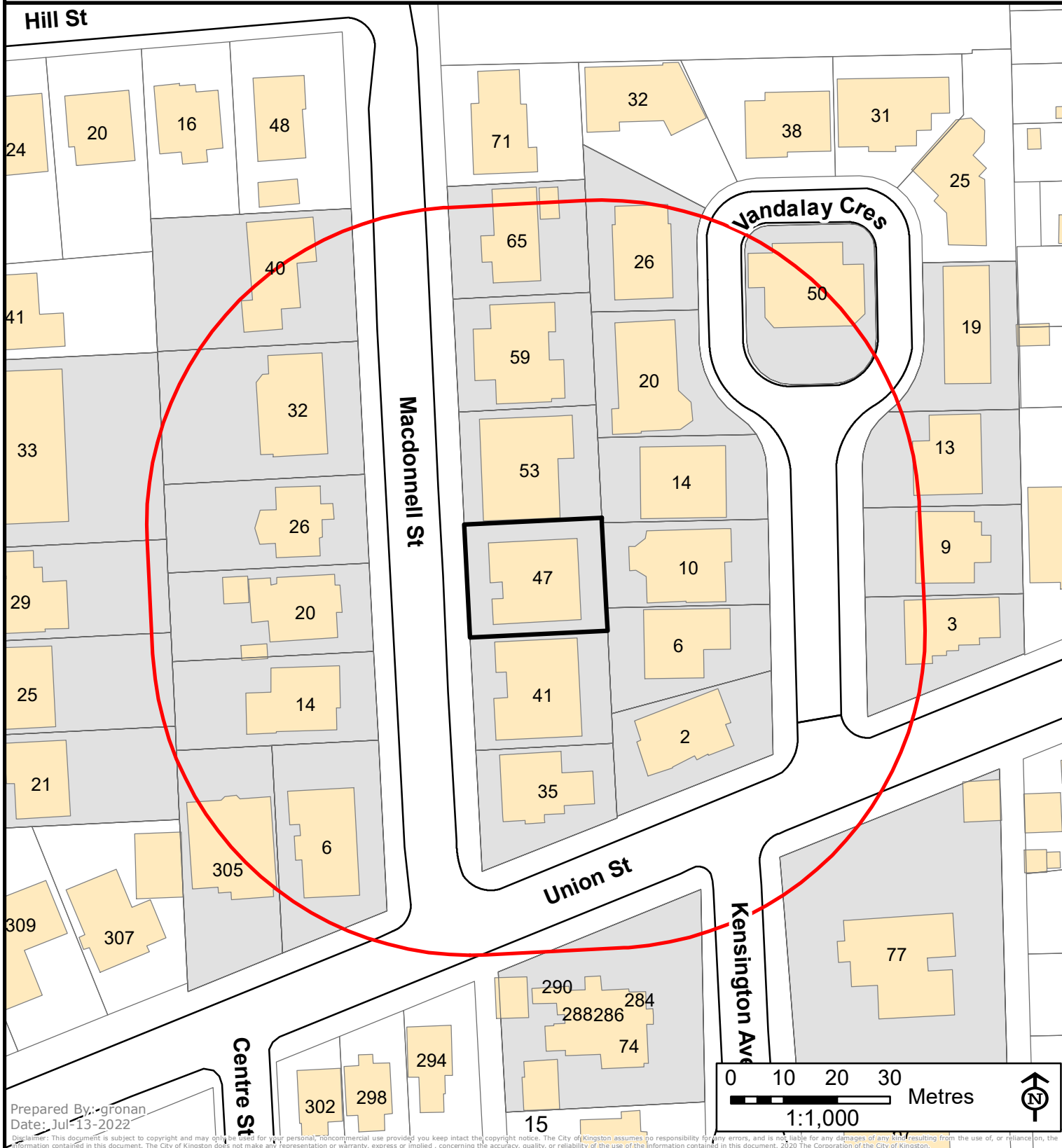


Planning Services

CITY OF KINGSTON Public Notice Notification Map

Address: 47 MacDonnell St
File Number: D13-034-2022

-  Subject Lands
-  Property Boundaries
-  60m Public Notice Boundary
-  30 Properties in Receipt of Public Notice



Prepared By: gfonan
Date: Jul-13-2022



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Planning Services

Committee of Adjustment Official Plan, Existing Land Use

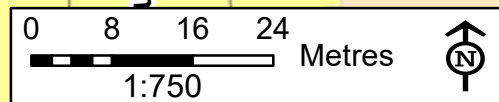
Address: 47 MacDonnell St
File Number: D13-034-2022

-  Subject Lands
-  RESIDENTIAL



Prepared By: gronan
Date: Jul-12-2022

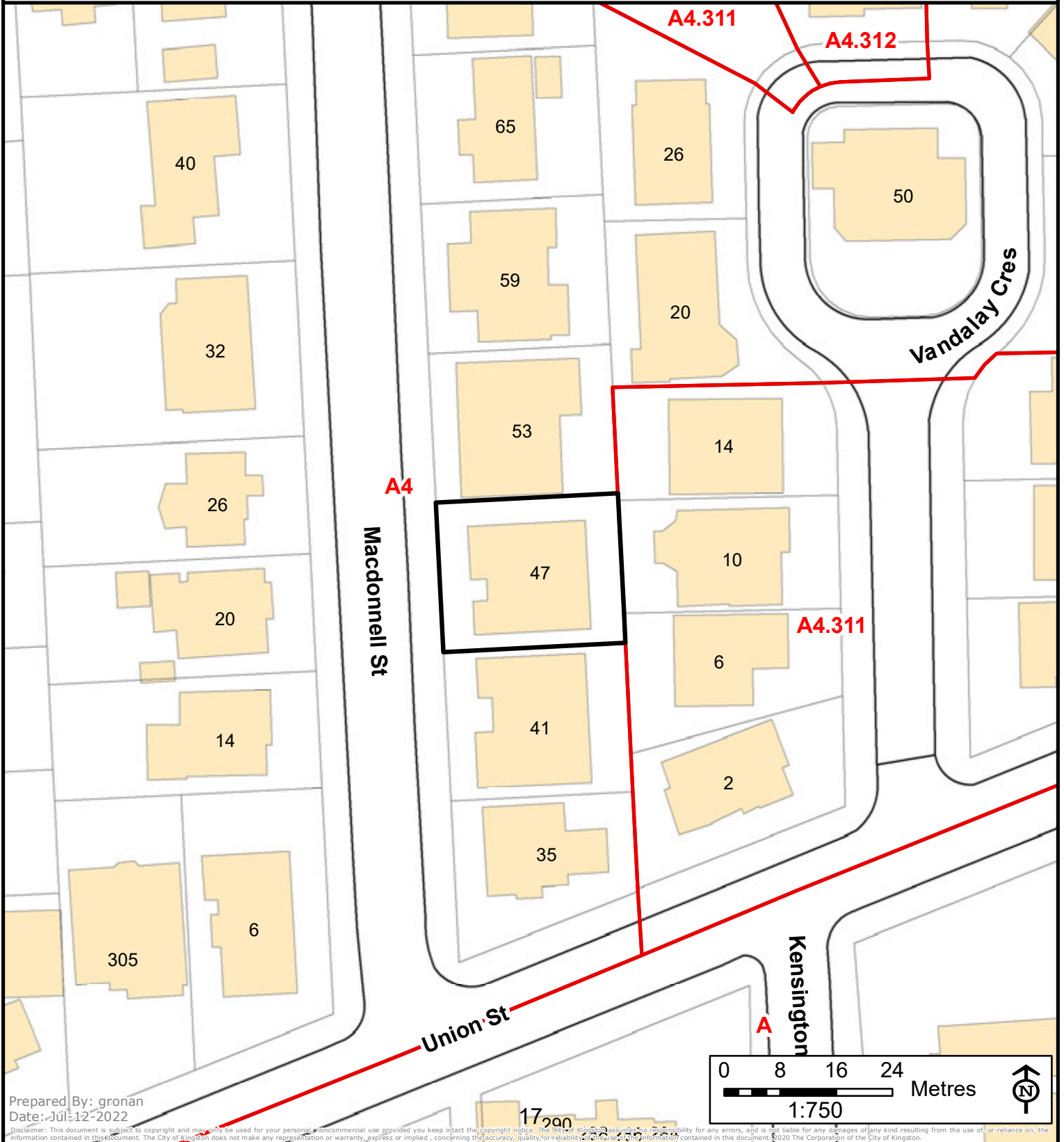
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Committee of Adjustment
Existing Zoning - By-Law 8499, Map 30
Address: 47 MacDonnell St
File Number: D13-034-2022

Subject Lands
 Consolidated Zoning





Planning Services

Planning Committee
Reference Kingston Zoning By-Law

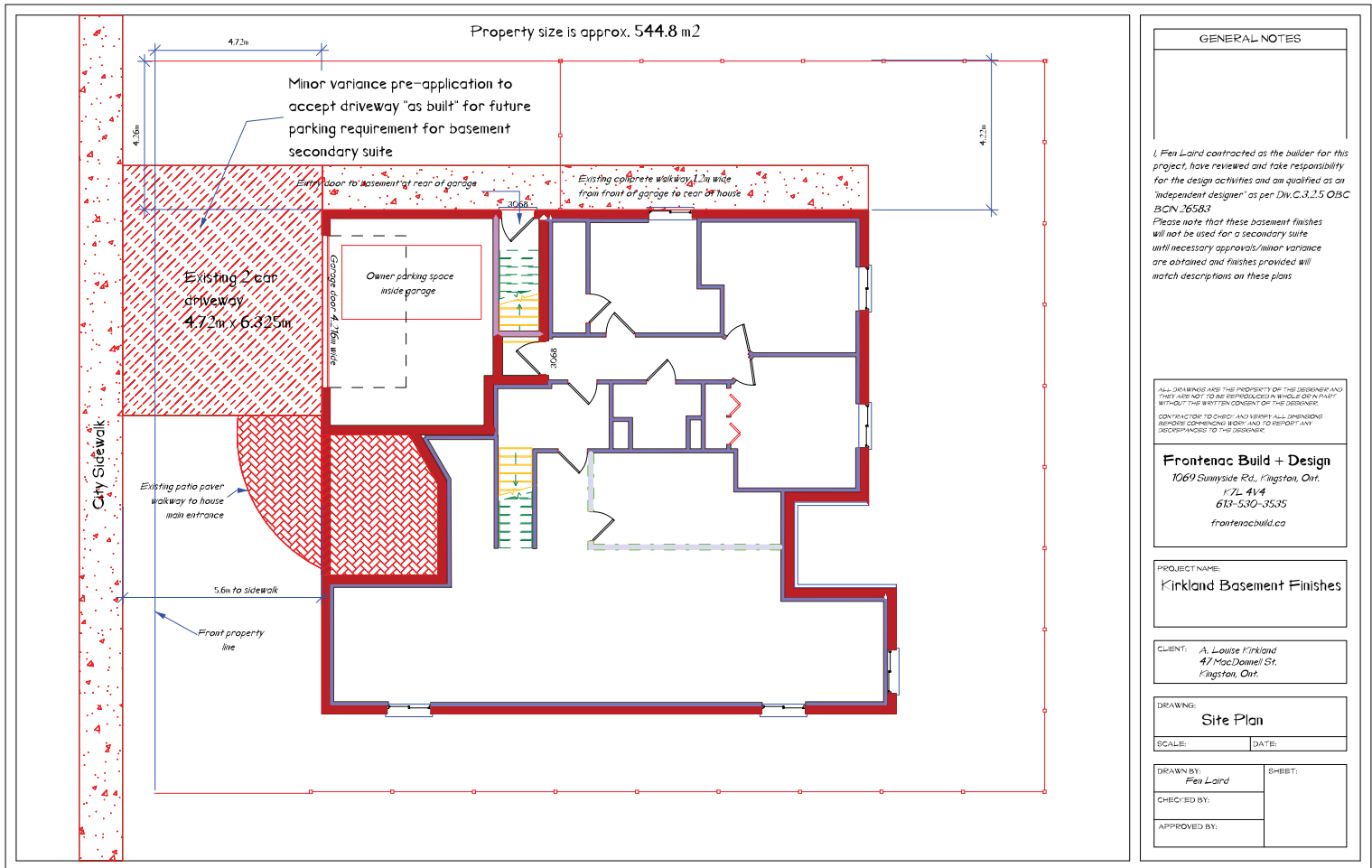
Address: 47 MacDonnell St
File Number: D13-034-2022

- 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: gronan
Date: Jul-12-2022

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GENERAL NOTES

I, Fen Laird contracted as the builder for this project, have reviewed and take responsibility for the design activities and am qualified as an "independent designer" as per Div.C.3.2.5 OBC BCN 26583
Please note that these basement finishes will not be used for a secondary suite until necessary approvals/minor variance are obtained and finishes provided will match descriptions on these plans

ALL DRAWINGS ARE THE PROPERTY OF THE DESIGNER AND THEY ARE NOT TO BE REPRODUCED IN WHOLE OR IN PART WITHOUT THE WRITTEN CONSENT OF THE DESIGNER.
CONTRACTOR TO CHECK AND VERIFY ALL DIMENSIONS BEFORE COMMENCING WORK AND TO REPORT ANY DISCREPANCIES TO THE DESIGNER

Frontenac Build + Design
1069 Sainside Rd., Kingston, Ont.
K7L 4V4
613-530-3535
frontenacbuild.ca

PROJECT NAME:
Kirkland Basement Finishes

CLIENT: A. Louise Kirkland
47 MacDonnell St.
Kingston, Ont.

DRAWING:
Site Plan
SCALE: DATE:

DRAWN BY: Fen Laird	SHEET:
CHECKED BY:	
APPROVED BY:	

