

City of Kingston Report to Committee of Adjustment Report Number COA-22-066

To: Chair and Members of the Committee of Adjustment

From: Sarah Oldenburger, Planner

Date of Meeting: November 21, 2022

Application for: Minor Variance

File Number: D13-038-2022

Address: 88 Helen Street

Owner: Justine Carlone and Jeffrey Di Labio

Applicant: NBS Design Group

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 an application for minor variances for the property located at 88 Helen Street.

The property is zoned Urban Residential Zone 5 'UR5' in Kingston Zoning By-Law Number 2022-62. The property is designated "Residential" under the Official Plan.

The applicant is proposing to expand the existing single detached one and a half storey residential dwelling through the construction of a second storey and a two-storey rear addition, a new covered front porch and uncovered set of stairs, a new exterior door and accompanying set of stairs on the south elevation, and new uncovered rear decks. While the proposed addition complies with the maximum height and minimum north interior setback requirements, the proposed addition requires a reduction in the minimum exterior setback below what would otherwise be permitted in the "UR5" zone. The proposed front porch and rear decks also require

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relief from the minimum exterior setback and the total lot coverage permitted for decks and porches.

The requested minor variances are consistent with the general intent and purpose of both the City of Kingston Official Plan and Kingston Zoning By-Law Number 2022-62. The requested minor variances are desirable for the appropriate development or use of the land, building or structure and are minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval.

Recommendation:

That minor variance application, File Number D13-038-2022, for the property located at 88 Helen Street to expand the existing single detached one and a half storey residential dwelling through the construction of a second storey and a two-storey rear addition, a new covered front porch and uncovered set of stairs, a new exterior door and accompanying set of stairs on the south elevation, and new uncovered rear decks, be Approved, as described below:

Variance Number 1: Minimum Exterior Setback

By-Law Number 2022-62: Section 11.6.1.(6)

Requirement: 4.5 metres Proposed: 2.7 metres Variance Requested: 1.8 metres

Variance Number 2: Decks and Porches

By-Law Number 2022-62: Section 4.20.4.(1): Maximum surface area of floor levels

Requirement: 10% of the lot area Proposed: 14.6% of the lot area Variance Requested: 4.6% of the lot area

Variance Number 3: Decks and Porches

By-Law Number 2022-62: Section 4.20.4.(4): Minimum exterior setback for front porch

Requirement: 4.5 metres Proposed: 2.7 metres Variance Requested: 1.8 metres

Variance Number 4: Decks and Porches

By-Law Number 2022-62: Section 4.20.4.(4): Minimum exterior setback for rear deck

Requirement: 4.5 metres Proposed: 2.8 metres Variance Requested: 1.7 metres

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-066.

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Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

Sarah Oldenburger, Planner

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

Tim Park, Director, Planning Services Meghan Robidoux, Supervisor, Development Approvals

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Options/Discussion

On June 25, 2022, a minor variance application was submitted by NBS Design Group, on behalf of the owner, Justine Carlone and Jeffrey Di Labio, with respect to the property located at 88 Helen Street. The variance is requested to permit the construction of a second storey and a two-storey rear addition, a new covered front porch and uncovered set of stairs, and new uncovered rear decks.

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

- Drawing Package (Exhibit G);
- Cover Letter;
- Zoning Compliance Table for Zoning By-Law Number 2022-62; and
- Owners' Authorization Letter.

All submission materials are available online through the Development and Services Hub (DASH) at the following link, <u>DASH</u>, 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 88 Helen Street and is designated "Residential" in the Official Plan and zoned "UR5" in Kingston Zoning By-Law Number 2022-62. The subject property is located within the Urban Boundary on the northwest corner of the intersection of Helen Street and Mack Street (two local roads) and abuts two single detached residential dwellings, also within the "UR5" zone (92 Helen Street and 17 Alamein Drive). The subject property also abuts the Alamein Drive Heritage Conservation Area under Schedule 9 of the Official Plan.

Application

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

Provincial Policy Statement

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

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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 subject property is designated "Residential" in Schedule 3A of the Official Plan.
 - The subject property is located within a Housing District as noted in Schedule 2 and this proposal does not seek a significant change that will impact the neighbourhood characteristics. The subject property is located in a stable area with well-established land use pattens in terms of density, types of use(s) and activity. The addition of the proposed second storey and two-storey rear addition, covered front porch and uncovered set of stairs, and uncovered rear decks will not negatively impact the neighbourhood.
- 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;
 - Section 2.7.3 discusses land use compatibility matters, such as how structures on one property can affect an abutting property. This application is to expand the existing single detached one and a half storey residential dwelling through the construction of a second storey and a two-storey rear addition, a new covered front porch and uncovered set of stairs, and new uncovered rear decks. In this case, there are no negative off-site impacts that will result from the proposed changes to the property. Due to the fact that the house is well separated from the neighbouring properties and the proposed additions include minimal openings on the north and south elevations, there is no threat of shadowing, loss of privacy due to intrusive overlook, increased levels of light pollution, noise, or odour anticipated from the proposed additions, front porch or rear decks. Eaves troughing has been included in the elevations provided in support of the application (Exhibit G) to ensure that stormwater is managed on the subject property. Mitigation measures are not required.
- The ability of the site to function in an appropriate manner in terms of access, parking for vehicles and bicycles or any other matter and means of improving such function including considerations for universal accessibility;
 - Section 2.7.6. discusses functional needs and supports only development proposals which meet the long-term needs of the residents. The proposed front porch, rear decks, second storey addition and two storey rear addition and are of suitable scale and will expand the existing home to provide additional interior living space and additional

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outdoor amenity space for the residence. The submitted floor plans demonstrate that the residence will continue to function as a single detached house with a total of four bedrooms. The site access and vehicle parking will remain unchanged. The proposal will not negatively impact the functional needs of the current or future residents.

- 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;
 - This proposal is not subject to Site Plan Control. The proposal conforms to the Design Guidelines for Residential Lots which have been approved by Council, and in particular, the guidelines applicable to renovations and additions. The property is not within a Heritage Conservation District and while the property is abutting the Alamein Drive Heritage Conservation District, Heritage Planning staff have indicated that the proposed development is not anticipated to have any negative impacts on the heritage value of the area. The property is within an area of limited archaeological potential. As such, an archaeological assessment is not required.
- 5. If the site is designated under the *Ontario Heritage Act*, the application shall be reviewed by Heritage Kingston for approval. If the property is adjacent to a designated property under the *Ontario Heritage Act* or shown as a Heritage Area feature, or is affected by the protected views shown on Schedule 9 of this Plan, then a Heritage Impact Statement may be required to assist staff to determine if the resulting development is desirable;
 - The property is not designated under the *Ontario Heritage Act*, nor is it abutting listed or designated heritage properties. While the property is abutting the Alamein Drive Heritage Conservation District, Heritage Planning staff have indicated that the proposed development is not anticipated to have any negative impacts on the heritage value of the area.
- The resulting development has adequate municipal water and sewage services within the Urban Boundary, or is capable of providing individual on-site water and sewage services outside the Urban Boundary;
 - The property has access to municipal water and sewage services. As this application proposes to construct a second storey, a two-storey rear addition, a covered front porch and uncovered stairs, and uncovered rear decks, no additional service usage is expected.
- 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 application and cumulative impact of the proposal does not warrant a zoning by-law amendment.
- 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,

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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 Committee of Adjustment may require additional conditions as it deems appropriate to the approval of the application. Recommended conditions are listed in "Exhibit A - Recommended Conditions", attached to this document. 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 approval of the requested variances will not set a precedent for the immediate area, as each minor variance is reviewed independently and judged on its own merits and metrics.

The proposal meets the intent of the Official Plan, as the proposed second storey, twostorey rear addition, covered front porch, uncovered front stairs, and uncovered rear decks 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 "UR5" in the Kingston Zoning By-Law Number 2022-62 as amended. The "UR5" zone permits residential uses including a single detached house.

The proposal requires variances to Section 11.6 and Section 4.20 as outlined below.

Variance Number 1: Minimum Exterior Setback

By-Law Number: 2022-62: Section 11.6.1.(6)

Requirement: 4.5 metres
Proposed: 2.7 metres
Variance Requested: 1.8 metres

Variance Number 2: Decks and Porches

By-Law Number: 2022-62: Section 4.20.4.(1): Maximum surface area of floor levels

Requirement: 10% of the lot area Proposed: 14.6% of the lot area Variance Requested: 4.6% of the lot area

Variance Number 3: Decks and Porches

By-Law Number: 2022-62: Section 4.20.4.(4): Minimum exterior setback for front porch

Requirement: 4.5 metres
Proposed: 2.7 metres
Variance Requested: 1.8 metres

Variance Number 4: Decks and Porches

By-Law Number: 2022-62: Section 4.20.4.(4): Minimum exterior setback for rear deck

Requirement: 4.5 metres

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Proposed: 2.8 metres Variance Requested: 1.7 metres

The purpose and intent of the exterior setback for residential dwellings, decks and porches in the zoning by-law is to provide for a continuous streetwall in relation to abutting front yards and to minimize structures and activities in proximity to the municipal roadway which could result in a safety concern. The exterior setback of the primary building that has been established on the subject property will not be reduced as a result of the proposal. The subject property is well separated from the local road to the south by a generous municipal boulevard and an existing fence on the subject property along the south lot line, both of which would help to maintain open space between the roadway and the property. The proposed changes comply with the landscaped open space provisions of the zoning by-law.

The purpose and intent of the maximum surface area for all decks and porches is to mitigate the potential for loss of privacy and/or overlook that could result in a reduction of the ability to enjoy one's property and to maintain adequate landscaped open space to provide for the management of stormwater on a property. The second storey, two-storey rear addition, covered front porch, and uncovered rear deck are well separated from the abutting properties (given the generous setbacks to the north, west, and east) such that there are no privacy/overlook concerns anticipated from the proposed deck, front porch, second storey or rear addition. Engineering staff have reviewed the application and have no concerns in regards to grading or drainage as a result of the proposal.

The general intent and purpose of Kingston Zoning By-Law Number 2022-62 is maintained.

3) The variance is minor in nature

The variance is considered minor as the deficient exterior side yard setback already exists. The proposed second storey addition, two-storey rear addition, uncovered rear decks, and a covered front porch will not significantly impact the condition of the existing exterior side yard. The proposed changes will not change the fundamental characteristics of the neighbourhood as several dwellings on Helen Street have covered front porches. The proposed second storey and two-storey rear addition, uncovered rear decks, and covered front porch will be well situated on a property given the generous municipal boulevard and the existing fence along the side lot line the which will provide visual screening between the proposed rear deck and the roadway, which will maintain the character of the neighbourhood. The proposed changes are considered minor as they are not anticipated to have any adverse off-site impacts. Heritage Planning staff indicated no concerns with the proposed development.

The proposed variance is considered minor in nature.

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

The variances are desirable and appropriate use of the land as the owners are seeking to increase the interior living space and functional outdoor amenity space on the property. The proposed second storey and two-storey rear addition, covered front porch and uncovered set of stairs, and uncovered rear deck are compatible with the neighbourhood as the proposed building height complies with maximum height restrictions and a number of houses in the neighbourhood have covered front porches, and rear decks. The scale and design of the proposed second storey and rear addition, covered front porch, and uncovered rear decks are appropriate for the dwelling size and the design is characteristic of the neighbourhood and surrounding houses, decks, and porches.

The variances are desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

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

Technical Comments

This application was circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude this application from moving forward. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

Public Comments

At the time this report was finalized, no public comments were 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.

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Conclusion

The requested variances maintain the general intent and purpose of both the City of Kingston Official Plan and Kingston Zoning By-Law Number 2022-62. 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.

Approval of this application will permit the expansion of the existing single detached one and a half storey residential dwelling through the construction of a second storey and a two-storey rear addition, a new covered front porch and uncovered set of stairs, and new uncovered rear decks.

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

Kingston Zoning By-Law Number 2022-62

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on November 21, 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 42 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

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Financial Considerations:

None

Contacts:

Meghan Robidoux, Supervisor, Development Approvals, 613-546-4291 extension 1256

Sarah Oldenburger, Planner, 613-546-4291 extension 3288

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 2022-62 Map

Exhibit F Drawing Package

Exhibit G Site Photographs

Exhibit H Neighbourhood Context Map (2021)

Recommended Conditions

Application for minor variance, File Number D13-038-2022

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

1. Limitation

That the approved minor variance applies only to the proposed second storey, twostorey rear addition, covered front porch and uncovered set of stairs, and uncovered rear decks, 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 the site, including but not limited to on-site grading or drainage.

3. Encroachments

The owner/applicant shall demonstrate to the satisfaction of the City that there will be no encroachments onto neighbouring properties as a result of the proposed second storey, two-storey rear addition, uncovered rear decks, covered front porch and uncovered set of stairs, or any modifications to the existing building.

4. Tree Permit

The owner/applicant will be required to submit a Tree Permit application to address tree preservation concerns with the existing city owned trees on the Mack Street side of the property that are in close proximity to the proposed works. Tree preservation requirements and/or conditions will be addressed through the permit.

5. 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.

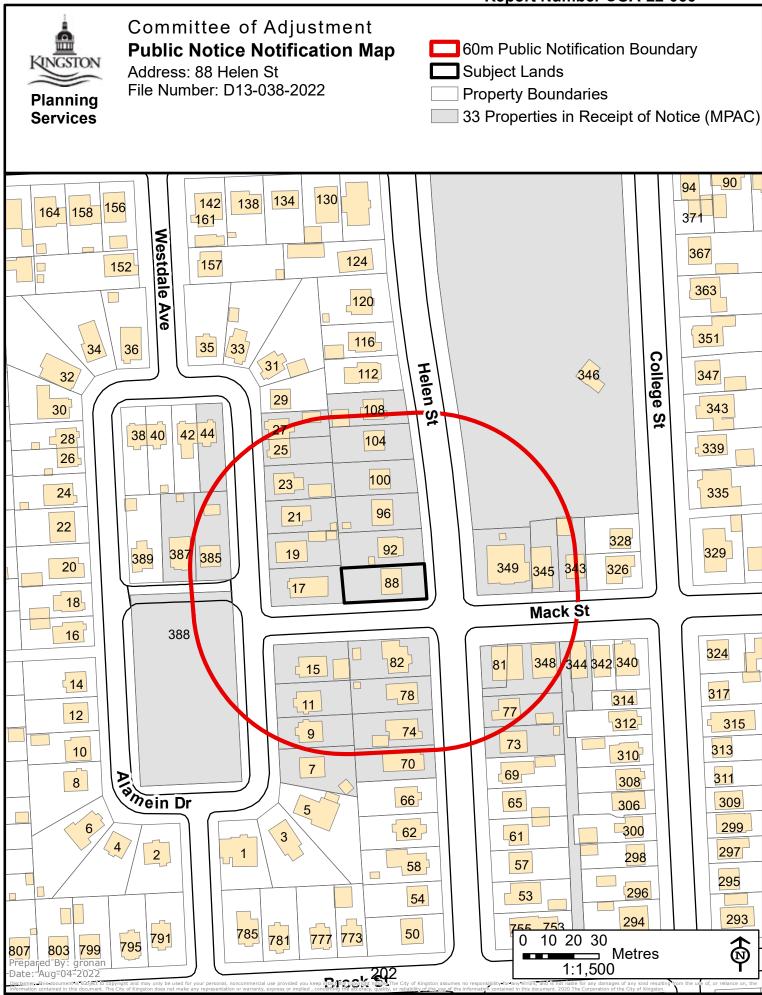
The drawings submitted with the Building Permit application must, in the opinion of the City, conform to the general intent and description of the approved drawing(s), including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. It must be noted that additional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

6. 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.

Exhibit B Report Number COA-22-066 Committee of Adjustment Carruthers Ave **Key Map** Palace Rd College St KINGSTON Address: 88 Helen St Mack St File Number: D13-038-2022 **Planning** Helen **Services** Brock St Lands Subject to Minor Variance St Johnson St Alamein 29 108 Helen St 27 44 104 25 100 23 96 21 92 19 385 349 345 88 17 Mack St 82 348 81 15 78 77 74 73 0 14 21 70 Metres 7 Prepared By: gronan Date: Aug-04-2022 1:750 201





Committee of Adjustment Official Plan, Existing Land Use

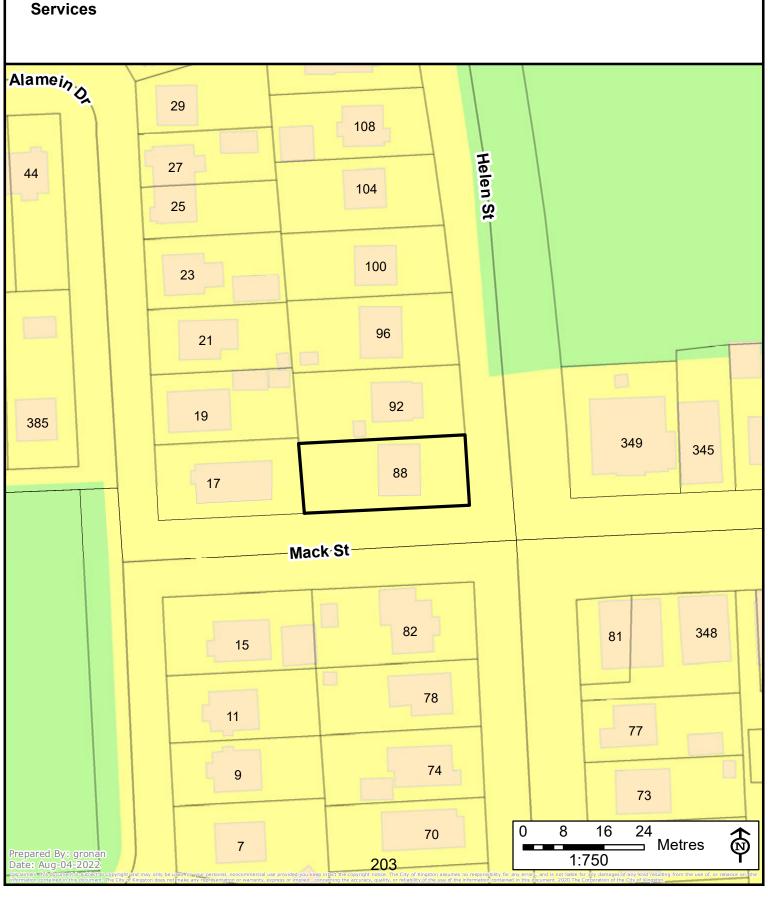
Address: 88 Helen St

File Number: D13-038-2022

Subject Lands

OPEN SPACE





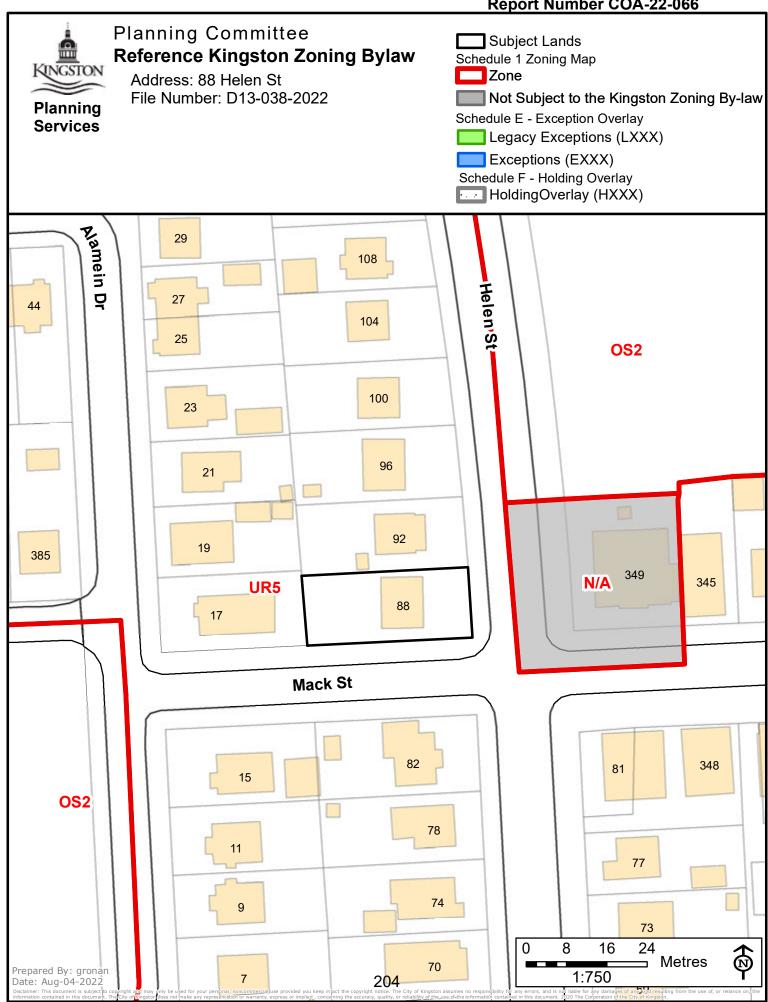
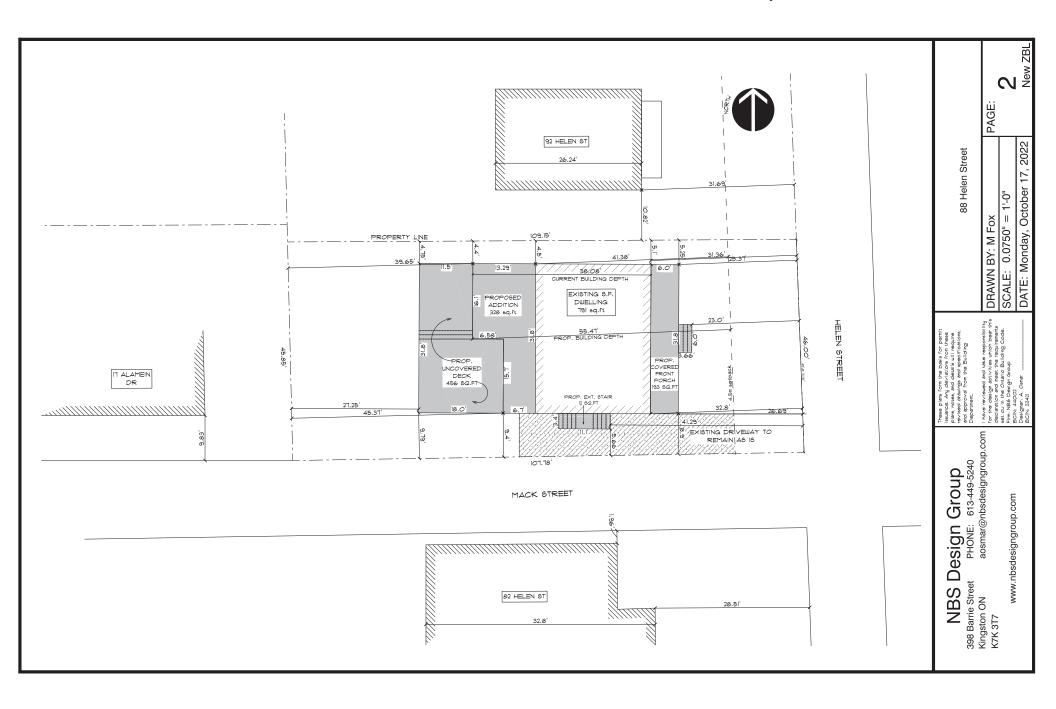
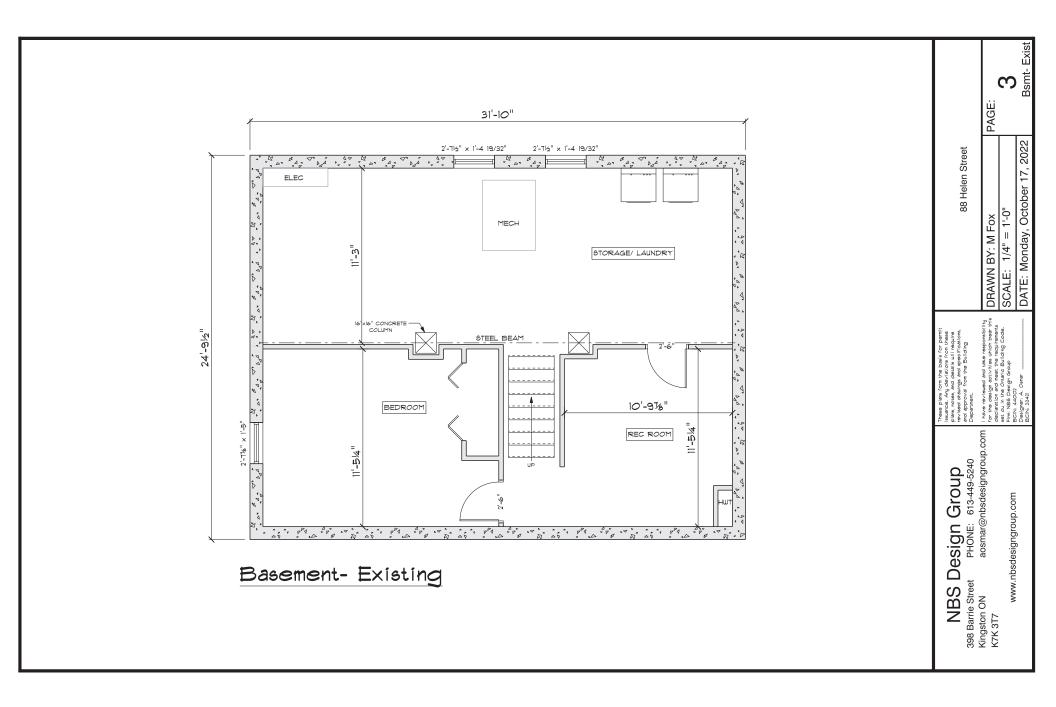
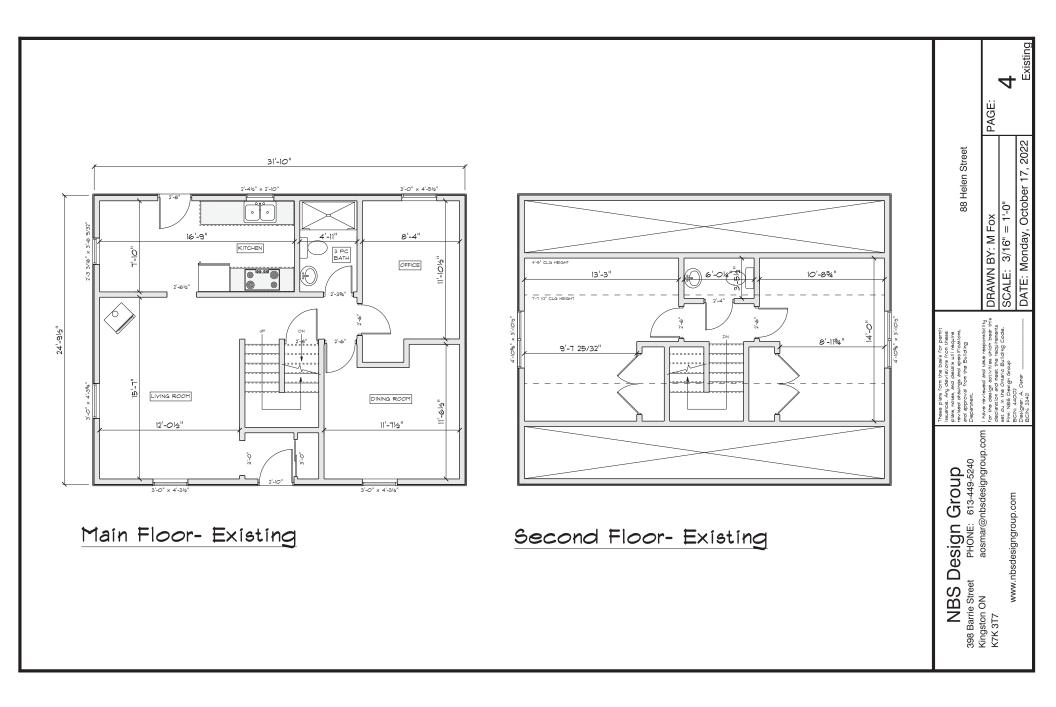


Exhibit F Report Number COA-22-066







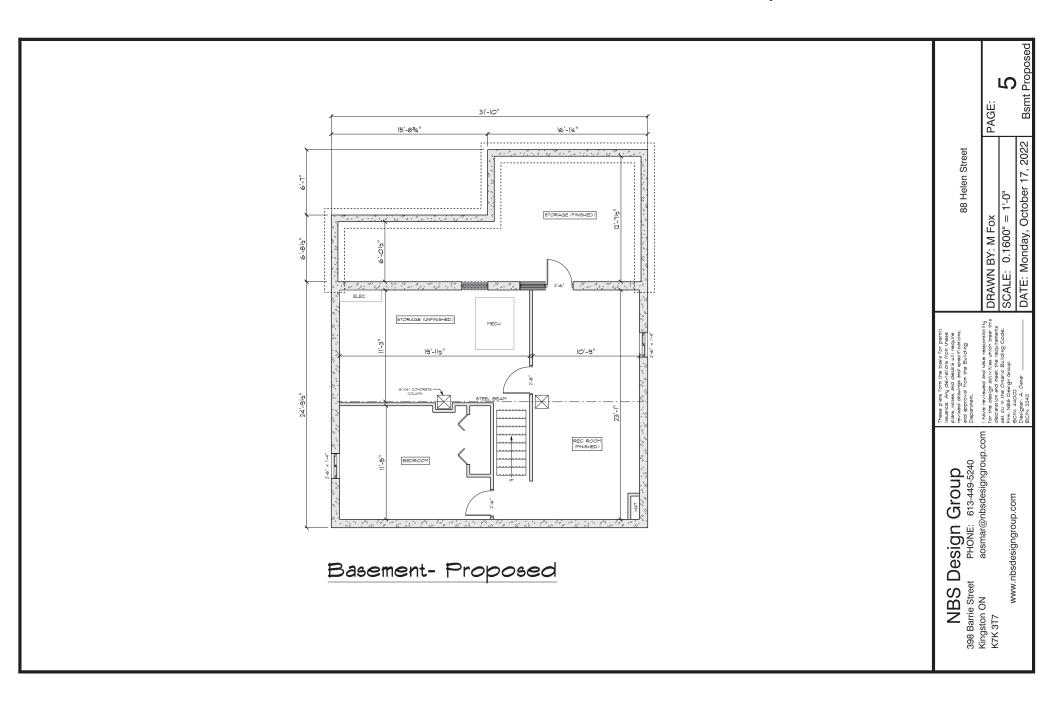


Exhibit F Report Number COA-22-066

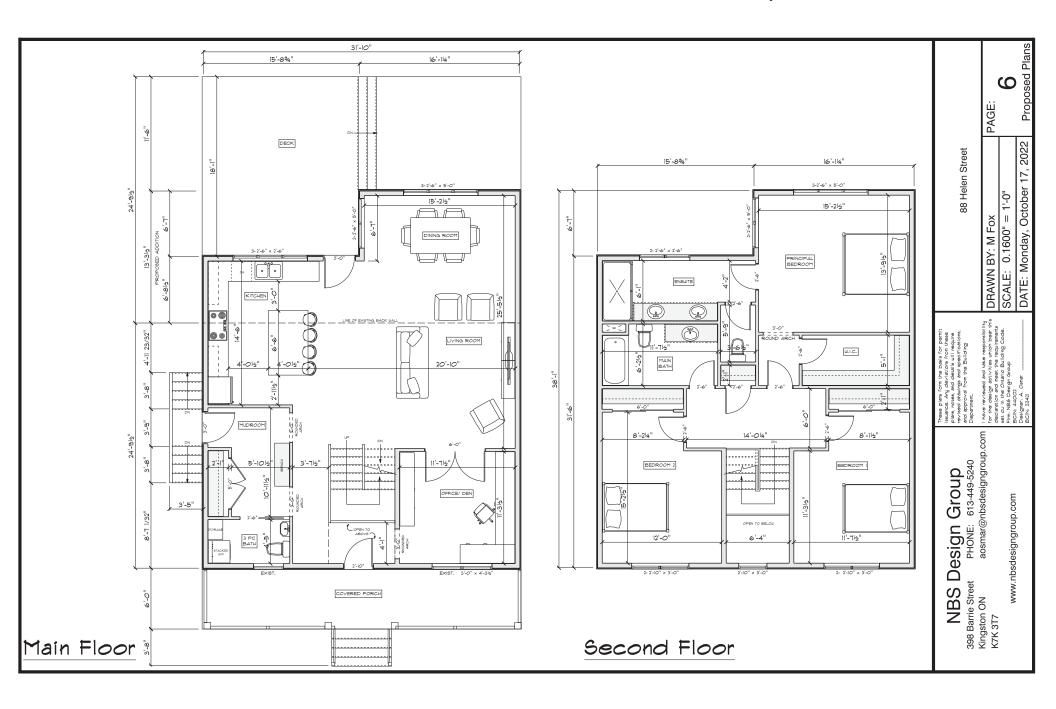
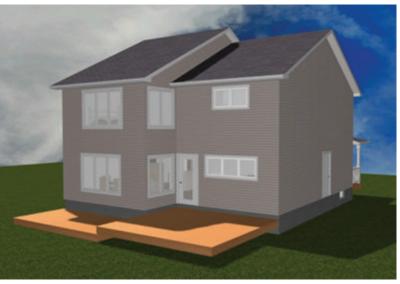
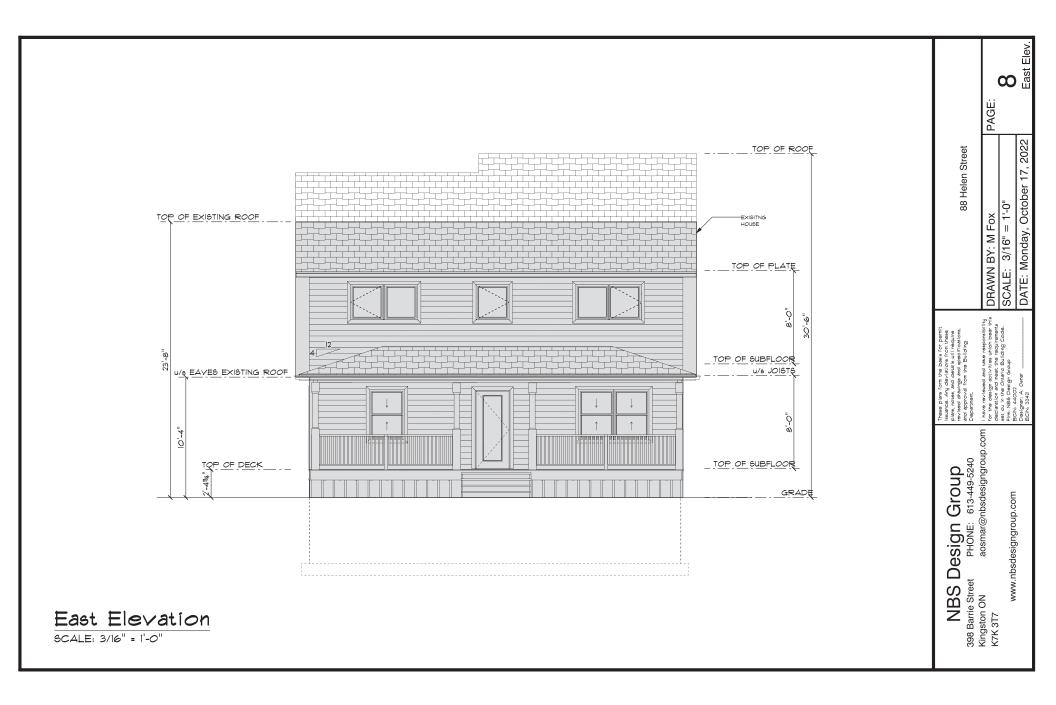


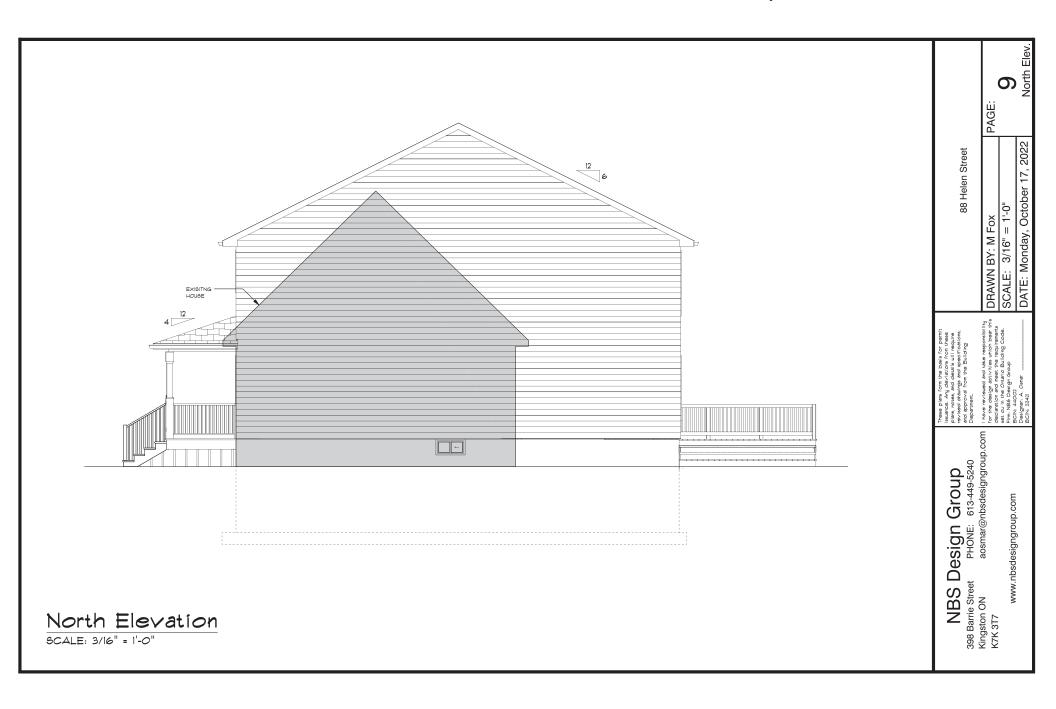
Exhibit F Report Number COA-22-066





Ext Renders PAGE: DATE: Monday, October 17, 2022 88 Helen Street DRAWN BY: M Fox SCALE: As Noted NBS Design Group
398 Barrie Street PHONE: 613-449-5240
Kingston ON aosmar@nbsdesigngroup.com
K7K 3T7 www.nbsdesigngroup.com





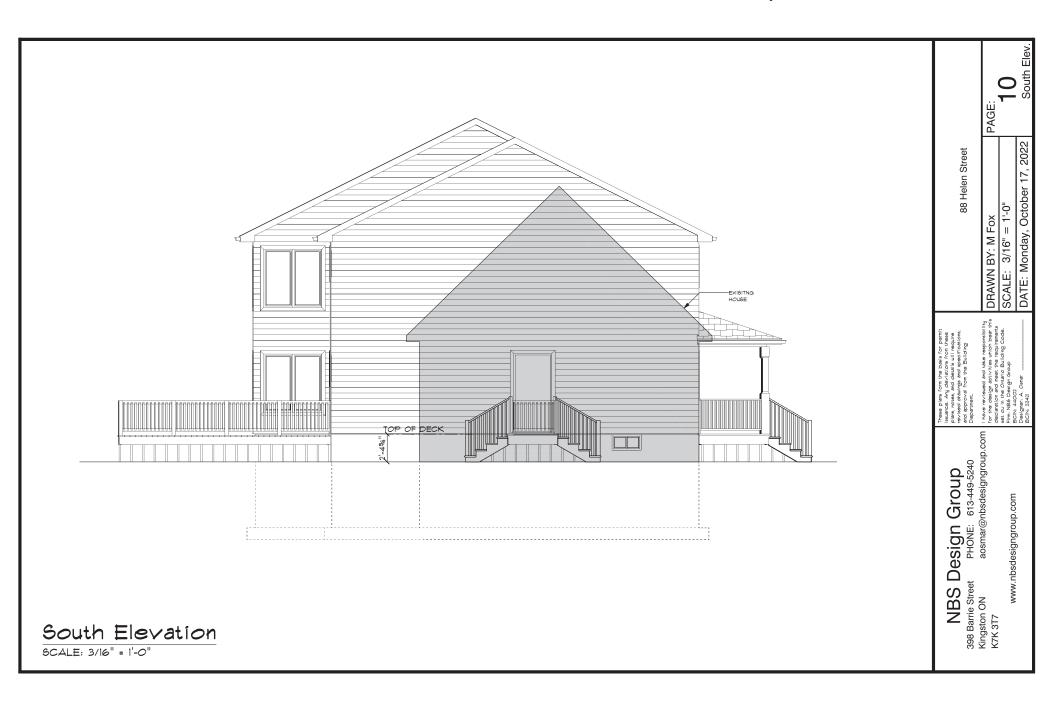


Exhibit F Report Number COA-22-066





Exterior Side (South) Elevation



Front (East) Elevation



Interior Side (North) Elevation



Committee of Adjustment Neighbourhood Context (2021)

Address: 88 Helen St File Number: D13-038-2022 Subject Lands
Property Boundaries
Proposed Parcels

