



**City of Kingston  
Report to Committee of Adjustment  
Report Number COA-22-076**

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**To:** Chair and Members of the Committee of Adjustment  
**From:** Ian Clendening, Senior Planner  
**Date of Meeting:** November 21, 2022  
**Application for:** Minor Variance  
**File Number:** D13-063-2022  
**Address:** 597 Davis Drive  
**Owner:** Mark Foster  
**Applicant:** Mark Foster

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**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 for the property located at 597 Davis Drive. The applicant is proposing to reduce the required parking associated with a second residential unit.

The subject property is well situated within an area serviced by commercial uses, parkland and institutional amenities. Bike lanes, both separated and un-separated, exist within the area as well as both express and regular transit routes which provide additional transportation options. The site is designated Residential in the Official Plan and is zoned Urban Residential 2.A (UR2.A) in Schedule 1 of Kingston Zoning By-law 2022-62. The property is situated within Parking Area PA4 under Schedule 2 and is subject to an Exception Overlay, E23, on Schedule E of the Zoning By-law.

The requested minor variance is 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

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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.

**Recommendation:**

**That** minor variance application, File Number D13-063-2022, for the property located at 597 Davis Drive to reduce the required parking for a second residential unit from 1 parking spaces to 0 parking spaces, be Approved, as described below:

**Variance Number 1:**

By-Law Number 2022-62:Table 7.1.1

|                     |  |
|---------------------|--|
| Requirement:        | 1 parking space per second residential unit  |
| Proposed:           | 0 parking spaces per second residential unit |
| Variance Requested: | 1 parking space                              |

**That** approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-076.

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**Authorizing Signatures:**

ORIGINAL SIGNED BY PLANNER

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Ian Clendening, Senior 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 October 3, 2022, a minor variance application was submitted by Mark Foster, with respect to the property located at 597 Davis Drive. The variance is requested to reduce the required parking for a second residential unit from 1 parking space to 0.

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

- Site Plan (Exhibit F); and,
- Letter of Request

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 approximately 200 metres north of Taylor Kidd Boulevard and 200 metres east of Gardiners Road. Approximately 230 metres east of the subject property is Bexley Gate Park, which serves the surrounding community. The rear of the property abuts upon the Austrian Canadian Club which marks the transition from the established residential neighbourhood in which the subject property is situated and the commercial and service area to the south, along Taylor Kidd Boulevard, and west, along Gardiners Road. Direct pedestrian access from Davis Drive to Gardiners Road is made possible by a walking path which flanks the south side of the apartment building located at 649 Davis Drive, approximately 180 metres northeast of the subject property.

Davis Drive, including at this location, is provided with bus service by way of Route 14, “Crossfield Ave. - Waterloo Dr.”, while to the west of the subject property, Gardiner’s Road is serviced by Routes 7, 4, and 11 as well as express route 701/702. To the south Taylor Kidd Boulevard has been outfitted with buffered bike lanes, while further east Centennial Drive has been outfitted with non-separated bike lanes.

The property has been developed with a semi-detached dwelling set back a distance 6.5 metres from the front lot line and a distance of 2.64 metres from the east property line which decreases to a distance of 2.56 metres at the rear of the building (Exhibit F – Site Plan). An additional parking stall was installed in the front yard in contravention of the Zoning By-law, and it is proposed that as a condition of approval this stall will be removed bringing the property back into compliance with the Zoning By-law.

The subject property is designated Residential in the Official Plan and zoned UR2.A in Kingston Zoning By-Law Number 2022-62 and is situated within Parking Area PA4 under Schedule 2 of the Zoning By-law. An Exception Overlay also applies to this property with Exception E.23 allowing for triplexes subject to specific performance criteria.

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## Application

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

## Provincial Policy Statement

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

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

The subject property is designated 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;

Section 2 provides policies to affect the physical structure of the City and direct the organization of future development. The subject property is located within a Housing District. Housing Districts are designated for residential uses of different types and intended to remain stable, but to continue to mature and adapt as the City evolves. This section encourages re-investment and upgrading in Housing Districts through minor infill and minor developments which are compatible with the prevailing built form in the area.

The proposed additional unit facilitated through the requested parking reduction would not impact the built form on the subject property and would provide for a gentle intensification of the area which also happens to be well serviced by transit services.

In regards to the issue of parking, the Official Plan encourages a balance between providing sufficient parking necessary in order to address existing or future requirements, and not oversupplying parking which would act to the detriment of public transit usage and active transportation. To this extent, Section 3.3.11.(g) sets out the evaluation criteria for applications seeking parking relief in support of a second residential unit, which includes:

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- (i) the residential dwelling lot is within walking distance (i.e., less than 600 metres 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.

In addition to the more proximate transit opportunities afforded the subject property, the site is also within 300 metres walking distance of the 701/702 express transit route which is made accessible by way of a City pathway connecting Gardiners Road with Davis Road. Commercial uses which exist along Gardiners Road north of Taylor Kidd Boulevard are found roughly 350 metres walking distance by way of the same pathway. Parkland and community facilities in the form of Bexley Gate Park, Lions Civic Gardens, and the Austrian Canadian Club are situated 320, 280 and 450 metres walking distance from the subject property. Accordingly, the location of the subject property and the surrounding amenities meets the evaluation criteria for reducing parking pursuant to policies set out in the Official Plan.

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 change to the built form is being contemplated, conversely; the owner intends to bring the non-complying driveway, which extends a width greater than the 40% of the property's frontage, into compliance while adding a walkway to access the second residential unit. Both of these features are anticipated to improve the site's compatibility with the surrounding area.

Adverse impacts associated with off-site parking are mitigated by the proximity to transit and the commercial and service amenities located within close proximity to the subject property. To the extent that off-site parking becomes an issue, this can adequately be addressed through by-law enforcement.

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;

The subject property will continue to provide one (1) parking stall and the owner will be providing a 1.2 metre wide walkway linking the second residential unit with the street as required under Kingston Zoning By-law 2022-62.

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 proposed reduction in parking would not have a negative impact on any urban design considerations, heritage or otherwise.

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- 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 designated under the *Ontario Heritage Act* and is not within a Heritage Area.

- 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 second residential unit is located outside of the Second Residential and Third Residential Unit Overlays identified in Schedules D1 and D2, respectively, of Zoning By-law 2022-62. Except for the parking, the proposed development would be allowed 'as-of-right' and it is anticipated capacity exists to service the additional 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;

Section 3.3.11.(g) of the Official Plan establishes criteria for which a reduction in parking can be considered through a minor variance, as discussed in greater detail above. Based on Staff's review of these policies, a minor variance is the appropriate planning mechanism in this situation.

- 8. The Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application for a minor variance including any reasonable requirements, recommendations of City departments, or the submission of studies as listed in Section 9.12 of this Plan that may be required to properly evaluate the application;

Recommended conditions are included in Exhibit A to this report. The conditions may be added to, 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 variance would not set an undesirable precedent for the immediate area.

The proposal meets the intent of the Official Plan, as the proposed parking reduction would 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 UR2.A in Kingston Zoning By-Law Number 2022-62, entitled "Kingston Zoning By-Law", as amended. The UR2.A zone permits a second and third residential unit subject to the parking requirements set out in Section 7 of the Zoning By-

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law. Of note, the Zoning By-law requires one (1) parking stall per second residential unit, but does not require a parking stall for a third dwelling unit.

The proposal requires a variance to Table 7.1.1 as follows:

**Variance Number 1:**

By-Law Number: 2022-62 Table 7.1.1

Requirement: 1 parking space per second residential unit

Proposed: 0 parking spaces per second residential unit

Variance Requested: 1 parking space

The proposed reduction in parking is consistent with the Official Plan criteria for evaluating parking reductions for second residential units as set out in Section 3.3.11.(g) including the extensive presence of commercial, institutional, and recreational amenities within walking distance. Parking minimums are established in the Zoning By-law to minimize undue impacts on the surrounding community which may result in an undersupply and associated 'spillover' onto and in front of abutting properties. In this situation the reduction is for a single parking stall, and alternative transportation options are available as discussed elsewhere in the report.

Accordingly, the proposed variance meets the general intent and purpose of the zoning by-law.

**3) The variance is minor in nature**

The variance is considered minor as there is no change in the built form and the reduction in parking is equivalent to the parking requirement for a third residential unit. Amenities within the area which are within walking distance will reduce the need for on-site parking requirements and associated impact of overflow parking within the surrounding neighbourhood.

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

The site is located within an established residential area and the degree of intensification of the existing building is consistent with the plan for this area. The reduction in parking is consistent with the Official Plan policies for such.

The variance is desirable and appropriate use of the land.

**Technical Review: Circulated Departments and Agencies**

- |   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> Building Services | <input checked="" type="checkbox"/> Engineering Department | <input 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              |



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- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> Building Services | <input checked="" type="checkbox"/> Engineering Department | <input type="checkbox"/> Heritage (Planning Services) |
| <input type="checkbox"/> Housing                      | <input checked="" type="checkbox"/> District Councillor    | <input type="checkbox"/> Ministry of Transportation   |
| <input type="checkbox"/> KEDCO                        | <input checked="" 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 public comments had been received in respect to the application. 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 maintains 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 variance 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 allow for a second residential unit in an established neighbourhood.

**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:

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**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 53 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:**

Meghan Robidoux, Supervisor, Development Approvals, extension 1256

Ian Clendening, Senior Planner, 613-546-4291 extension 3126

**Other City of Kingston Staff Consulted:**

None

**Exhibits Attached:**

Exhibit A Recommended Conditions

Exhibit B Key Map

Exhibit C Neighbourhood Context Map (2021)

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- Exhibit D    Official Plan Map
- Exhibit E    Kingston Zoning By-Law 2022-062
- Exhibit F    Site Plan
- Exhibit G    Public Notification Map
- Exhibit H    Site Photos

## Recommended Conditions

### Application for Minor Variance, File Number D13-063-2022

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

#### 1. Limitation

That the approved minor variance applies only to a reduction in parking for a secondary dwelling unit only.

#### 2. Condition for Occupancy

That prior to occupancy of the secondary dwelling unit being granted, including under any permit under the *Ontario Building Code Act*, the owner/applicant shall remove any portion of the driveway which occupies a greater width than 40% of the lot width and provide confirmation of such.

#### 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.

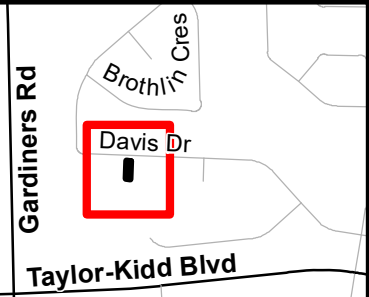
The drawings submitted with the Building Permit application must, in the opinion of the City, conform to the general intent and description of the approved drawing(s), including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. It must be noted that additional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



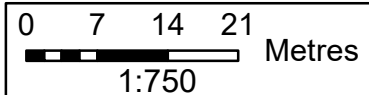
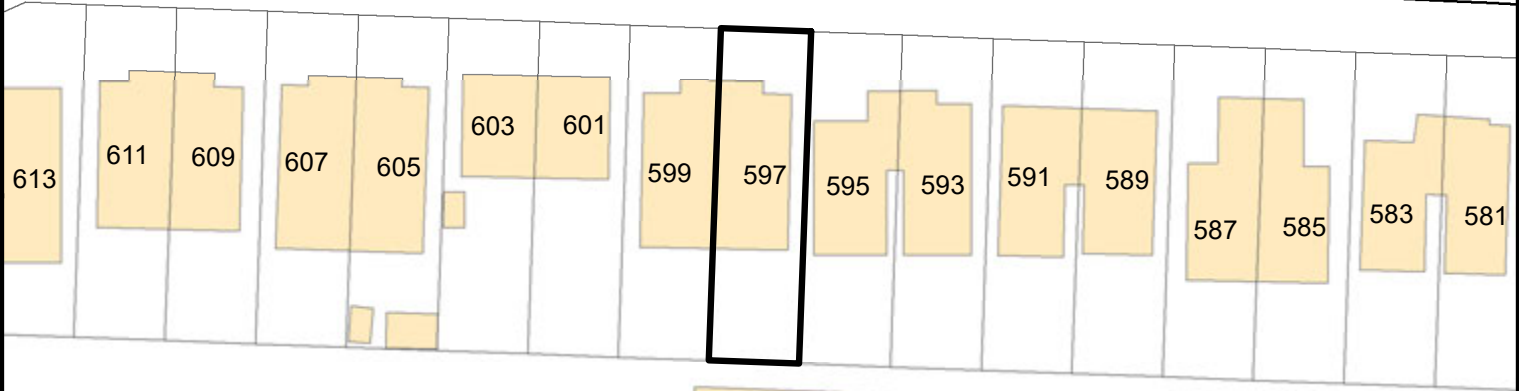
# Committee of Adjustment Key Map

Address: 597 Davis Dr  
File Number: D13-063-2022

 Lands Subject to Minor Variance



Davis Dr

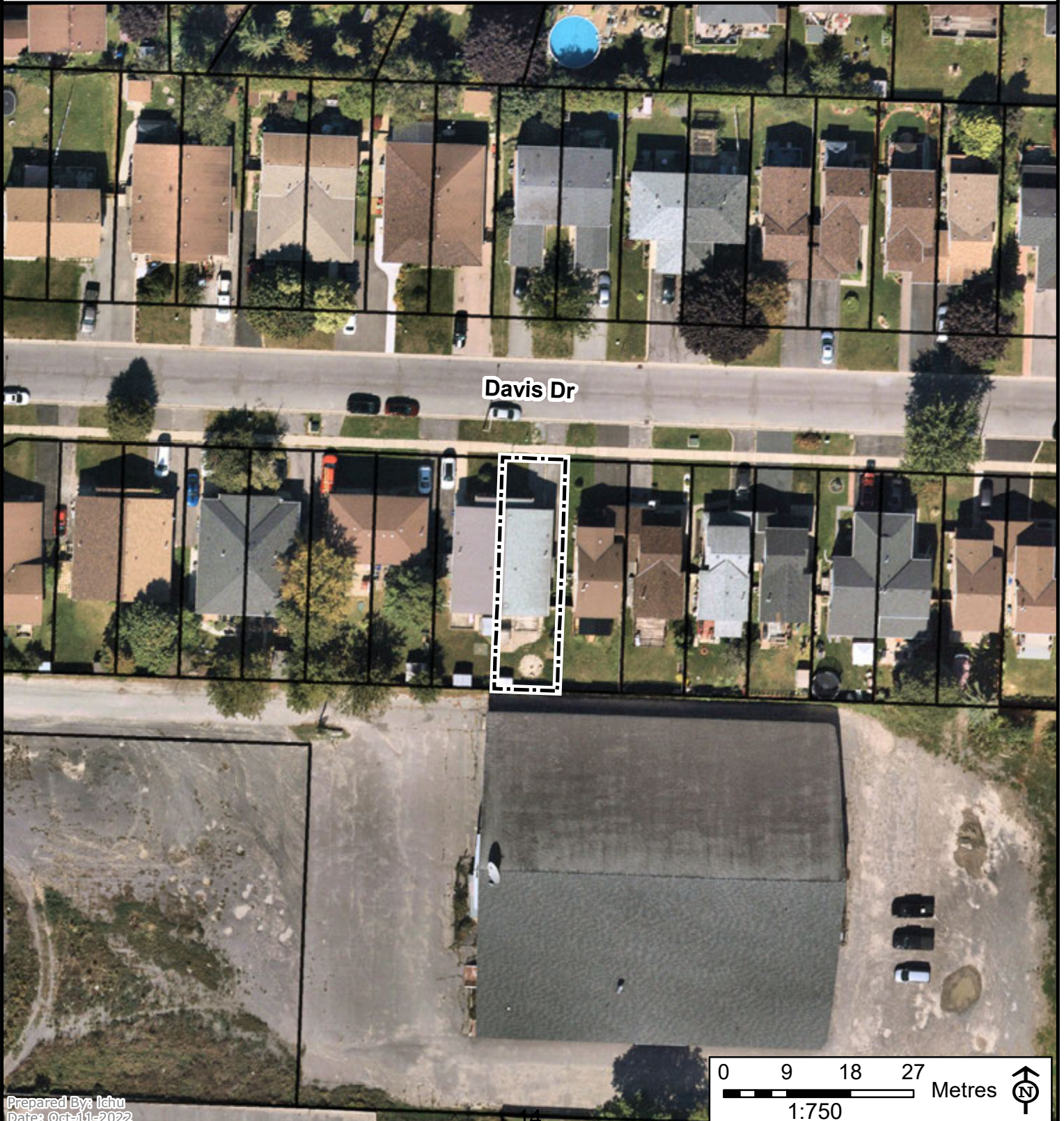




Committee of Adjustment  
**Neighbourhood Context (2021)**

Address: 597 Davis Dr  
File Number: D13-063-2022

- Subject Lands
- Property Boundaries
- Proposed Parcels



Prepared By: lchu  
Date: Oct-11-2022




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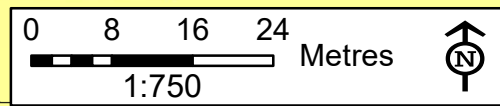
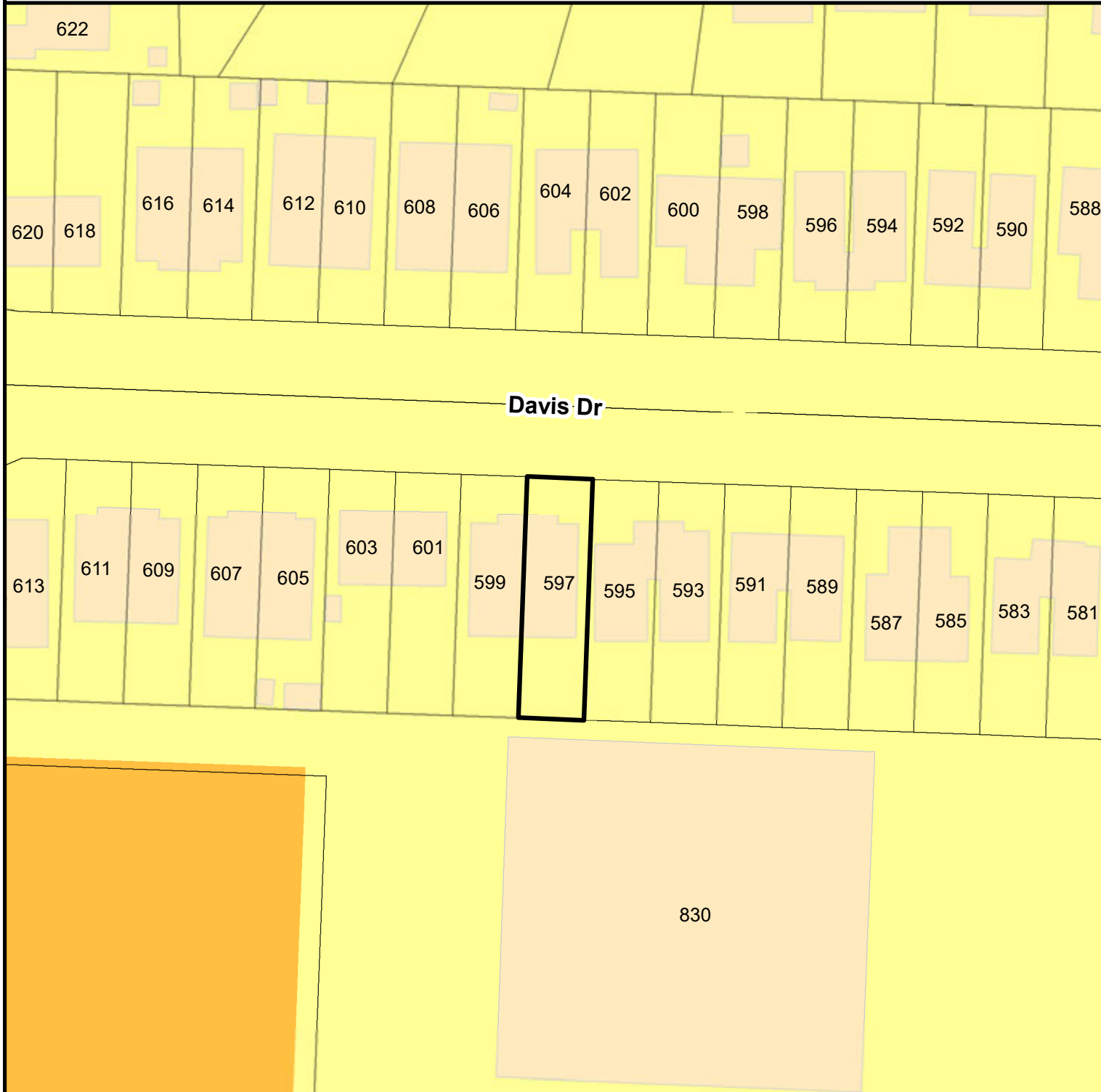


Planning Services

# Committee of Adjustment Official Plan, Existing Land Use

Address: 597 Davis Dr  
File Number: D13-063-2022

-  Subject Lands
-  ARTERIAL COMMERCIAL
-  RESIDENTIAL



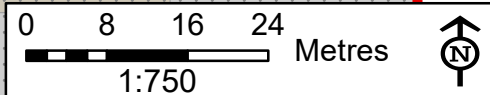
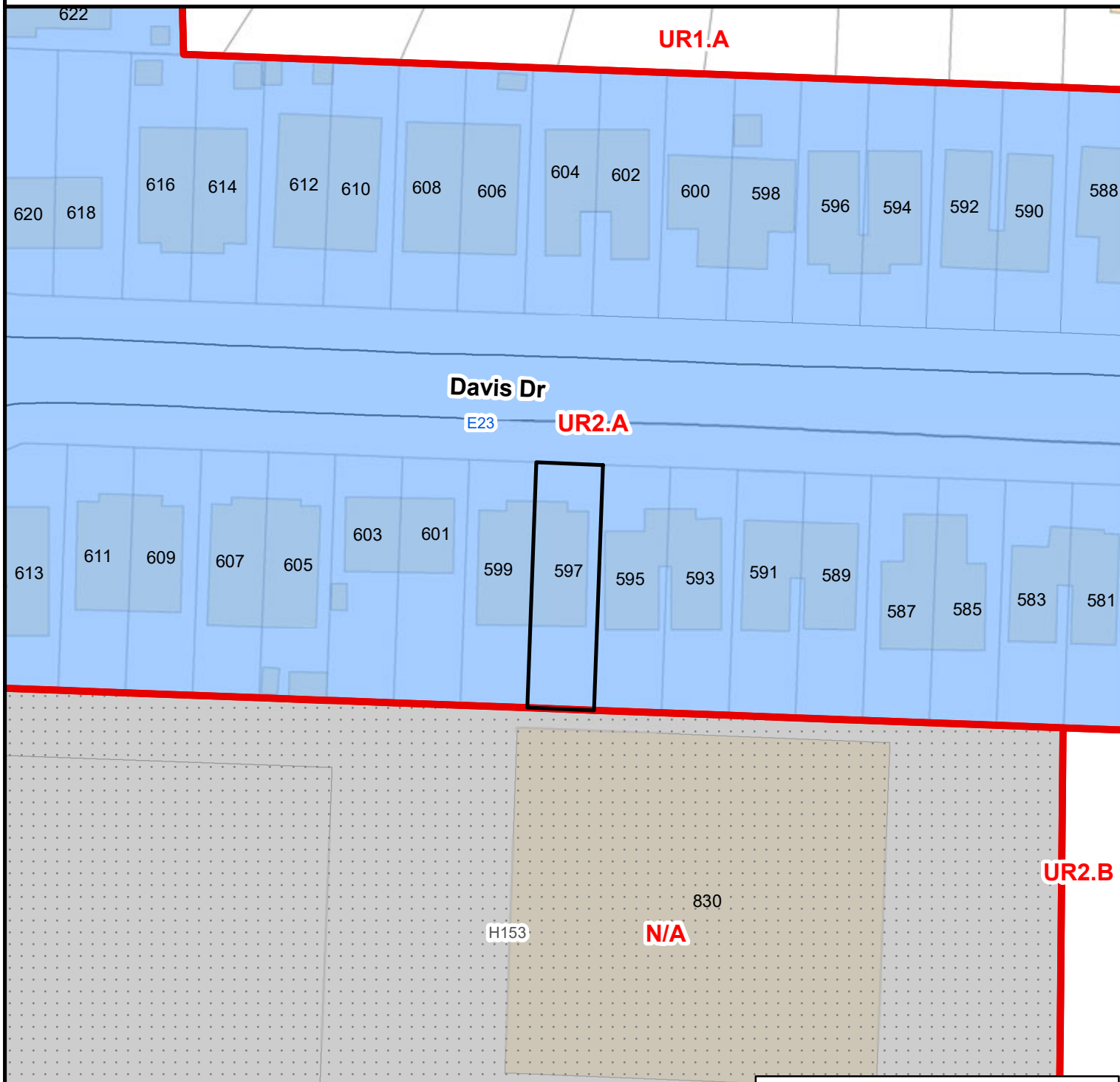


# Planning Committee Reference Kingston Zoning Bylaw

Address: 597 Davis Dr  
File Number: D13-063-2022

Planning  
Services

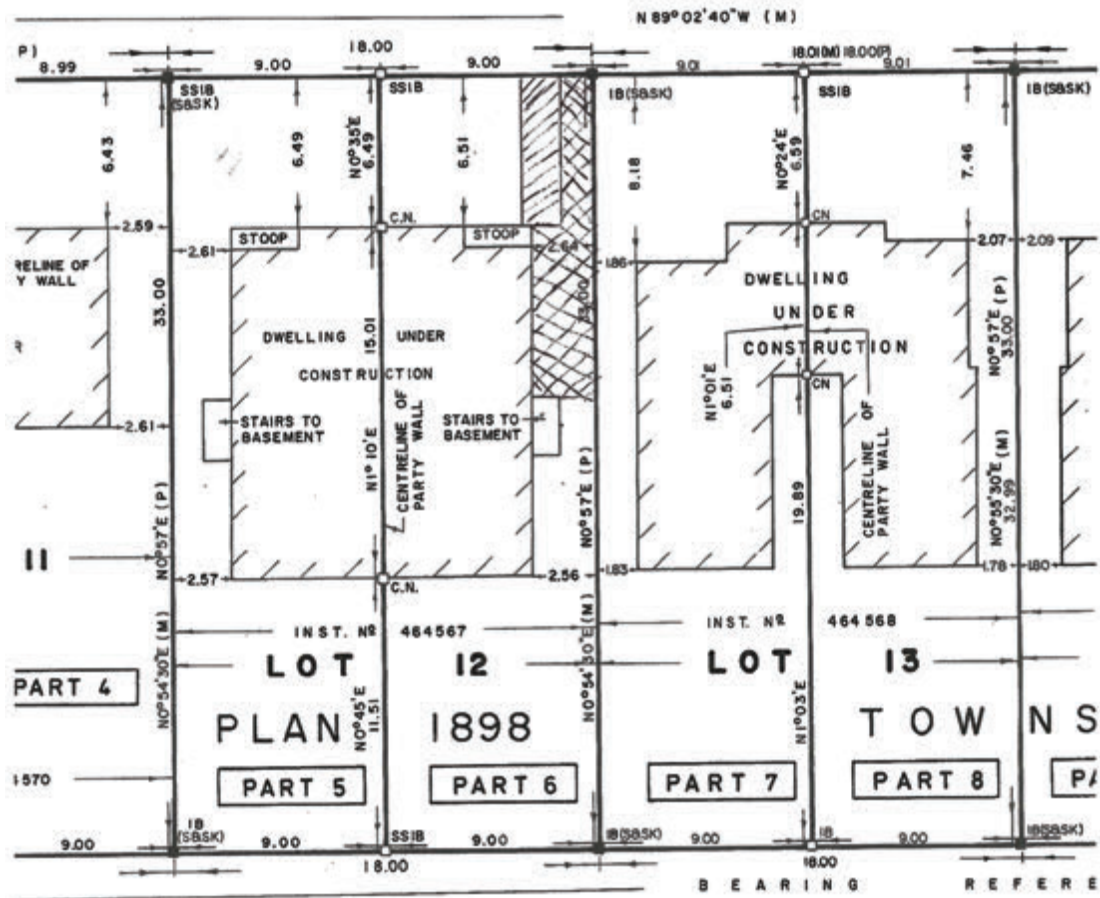
- Subject Lands
- Schedule 1 Zoning Map
- Zone
- Not Subject to the Kingston Zoning By-law
- Schedule E - Exception Overlay
- Legacy Exceptions (LXXX)
- Exceptions (EXXX)
- Schedule F - Holding Overlay
- Holding Overlay (HXXX)





- 3 m wide Driveway
- 1.2 m wide walkway opens up to 2.64m past house

# D A V I S D R I

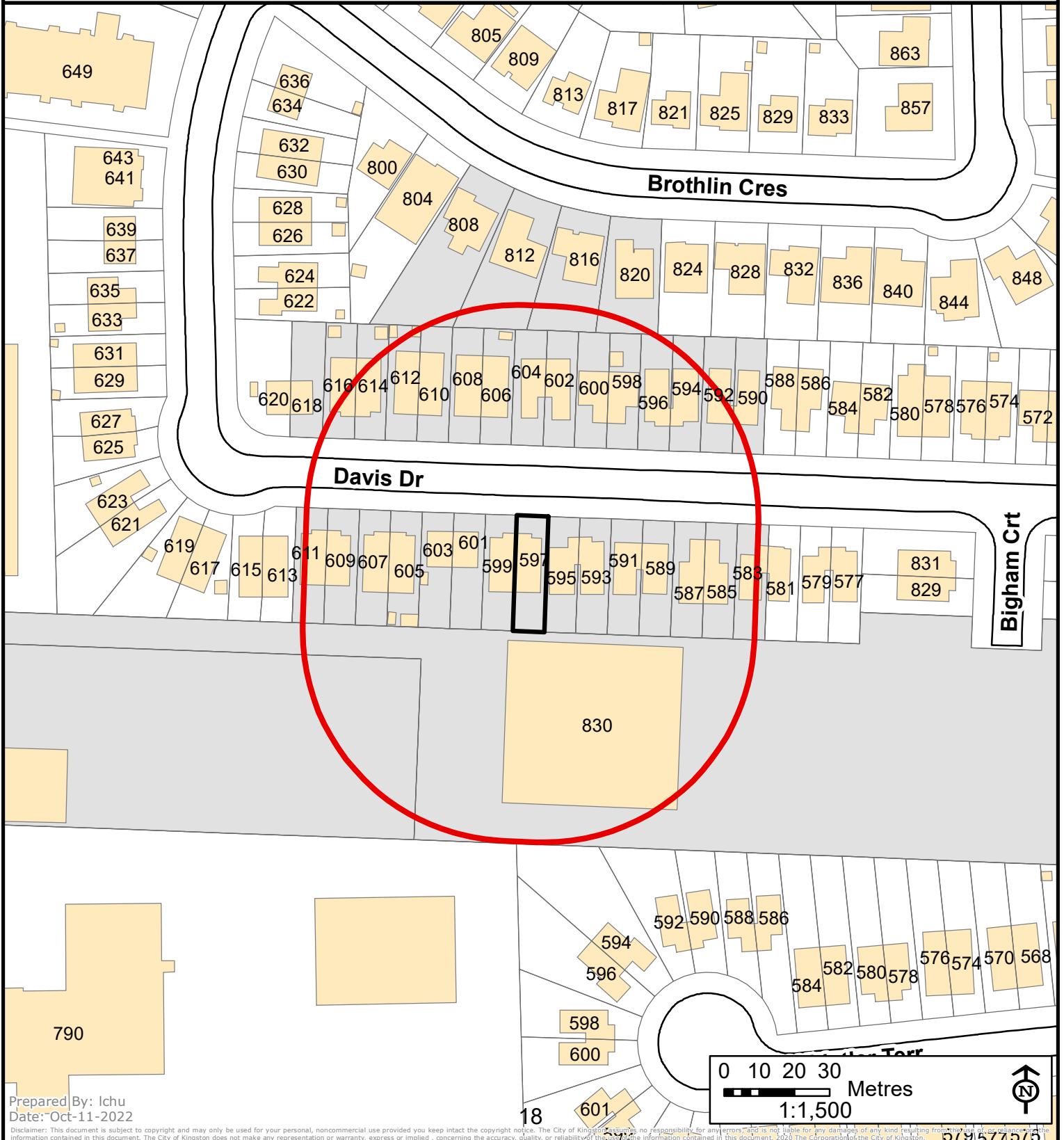




# Committee of Adjustment Public Notice Notification Map

Address: 597 Davis Dr  
File Number: D13-063-2022

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



**Site Photos**

**View from Davis Drive looking south towards subject property**



Image Courtesy of Google Streetview

**View from Davis Drive looking west towards subject property and adjacent area**



Image Courtesy of Google Streetview