



**City of Kingston
Report to Committee of Adjustment
Report Number COA-22-085**

To: Chair and Members of the Committee of Adjustment
From: Chris Wicke, Senior Planner
Date of Meeting: November 21, 2022
Application for: Minor Variance
File Number: D13-062-2022
Address: 338 Palace Road
Owner: Pablo Morse, Paul Morse and Valentina Pereira
Applicant: Pablo Morse

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.

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 338 Palace Road. The applicant is proposing to add a second residential unit and is seeking a reduction in the required off-street parking for the second unit from one space to zero spaces.

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 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 D13-062-2022, for the property located at 338 Palace Road to reduce the required parking for a second residential unit from one space to zero spaces, be approved, as described below:

Variance Number 1:

By-Law Number 2022-62: Table 7.1.1.3(b) – Required Number of Parking, Visitor and Car-Share Spaces

Requirement: 1 parking space per dwelling unit

Proposed: 0 parking spaces for the second residential unit

Variance Requested: Reduction of 1 parking space

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-22-085.

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Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

Chris Wicke, 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 Pablo Morse, on behalf of the owners, Pablo Morse, Paul Morse and Valentina Pereira, with respect to the property located at 338 Palace Road. The variance is requested to reduce the required off-street parking for a second residential unit from one space to zero spaces.

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 338 Palace Road (Exhibit B – Key Map), which is on the west side of Palace Road, between Brock Street to the south and Carruthers Avenue to the north.

The subject property is designated Residential in the Official Plan and zoned Urban Residential 10 (UR10) in Kingston Zoning By-Law Number 2022-62. The property is a semi-detached unit and it abuts existing semi-detached unit dwellings on either side of it. The overall surrounding neighbourhood is residential in character, and it is generally comprised of a mix of single detached, semi-detached and apartment dwellings. The property backs on to Sir John A. Macdonald Boulevard to the west.

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 with respect to 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 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. No changes are proposed to the exterior of the existing building. 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 3.3.11.g. of the Official Plan states that “Applications seeking parking 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 states that “For the purposes of this subsection, walking distance shall be measured using the actual path of travel, such as along a road network (i.e. sidewalk, cycle lane, etc.) or other publicly accessible space.” 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.”

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

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second residential unit. There is a path of travel between the subject property and the nearest stop that is less than 600 metres to the south on the express transit route located on Palace Road. There is a path of travel between the subject property and commercial uses (Dentistry at Kingston, Smiths Family Dental) that are less than 600 metres to the north, with a Quickie Mart, Petro Canada, and Bank of Montreal adjacent and significant additional commercial use in the Kingston Centre to the north across Bath Road. Finally, there is a path of travel between the subject property and two different parks (Compton Park located on Helen Street and Elder Park located on Alamein Drive) that are less than 600 metres to the east. As the property meets all three of the above-described 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;

As all built form changes proposed are internal to the existing building, the scope of the application does not relate to any urban design policies. The subject property is not adjacent to any properties designated under Part IV of the *Ontario Heritage Act*. As such, the application does not have the potential to impact protected heritage resources, and 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 not adjacent to any properties designated under Part IV of the *Ontario Heritage Act*. As such, the application does not have the potential to impact protected heritage resources, and 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, as shown on Schedule D1 of the zoning by-law

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 is requesting relief from the provision of an off-street parking space for the proposed second residential unit as required by the applicable Zoning By-Law and has been assessed to be an appropriate fit to the minor variance application process,

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rather than a Zoning By-Law amendment application, based in part on its ability to meet the criteria of Section 3.3.11.g of the Official Plan.

- 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 reduction in the required off-street parking from one space to zero spaces for a second residential unit within an existing semi-detached dwelling meets the criteria established in the Official Plan 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 Urban Residential 10 (UR10) in Kingston Zoning By-Law Number 2022-62. The UR10 zone permits uses including residential duplex, semi-detached house, single-detached house, non-residential community centre, elementary school, library, museum, place of worship, and secondary school.

The proposal requires a variance to Section 7.1.1 as follows:

Minor Variance Number 1:

By-Law Number 2022-62: Table 7.1.1.3(b) – Required Number of Parking, Visitor and Car-Share Spaces

Requirement:	1 parking space per dwelling unit
Proposed:	0 parking spaces for the second residential unit
Variance Requested:	Reduction of 1 parking space

The intent of the zoning by-law in requiring 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 a reduced potential for adverse impacts on the neighbourhood in terms of on-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 proximity to three factors: express transit; parkland / open space / community facilities; and commercial

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uses. As a result, the proposed minor variance maintains the general intent and purpose of the zoning by-law, as there will still be one vehicle parking space on the subject property for the primary residential unit, and the proposed parking reduction is not expected to create undue adverse impacts on the neighbourhood in terms of on-street parking, especially as it would be feasible to live at this location without access to a private vehicle. 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. The second residential unit will be entirely contained within the existing dwelling. In addition, the existing parking space for the primary dwelling unit will be retained. 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 semi-detached dwelling with a proposed second residential unit is consistent with both the existing Residential land use designation of the Official Plan and the Urban Residential 10 (UR10) zoning. As noted in this report, the subject property is located within walking distance of express transit, parkland and commercial land uses, making it an appropriate candidate for the consideration of a reduction to 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.

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 checked="" 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 checked="" 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 checked="" type="checkbox"/> Kingston Airport | | |

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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.

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.

The minor variance will result in a reduction in the required parking spaces for the second residential unit from one space to zero spaces, which will permit the establishment of a second residential unit at this location, increasing the City’s overall housing supply and providing a greater range of housing choice. Approval of this application will facilitate the residential intensification of an existing residential property within the City’s Urban Boundary and support active transportation for a property in a walkable neighbourhood that is in proximity to parkland, express transit, and commercial and employment opportunities.

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

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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 25 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, 613-546-4291 extension 1256

Chris Wicke, Senior Planner, 613-546-4291 extension 3242

Other City of Kingston Staff Consulted:

None

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 2022-62 Map
- Exhibit G Site Plan

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Exhibit H Site Photos

Recommended Conditions

Application for minor variance, File Number D13-062-2022

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.




Planning Services

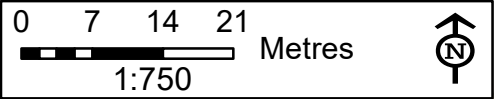
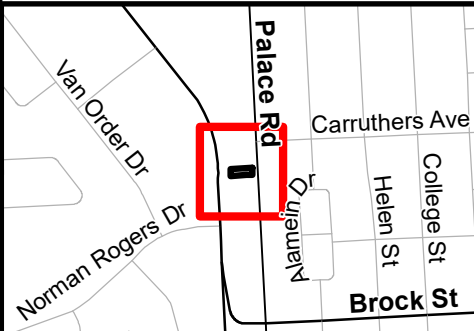
Committee of Adjustment

Key Map

Address: 338 PALACE ROAD

File Number: D13-062-2022

 Lands Subject to Minor Variance








Planning
Services

Committee of Adjustment
Neighbourhood Context (2021)

Address: 338 PALACE ROAD

File Number: D13-062-2022

-  Subject Lands
-  Property Boundaries
-  Proposed Parcels



Prepared By: rejoncs
Date: Oct-26-2022





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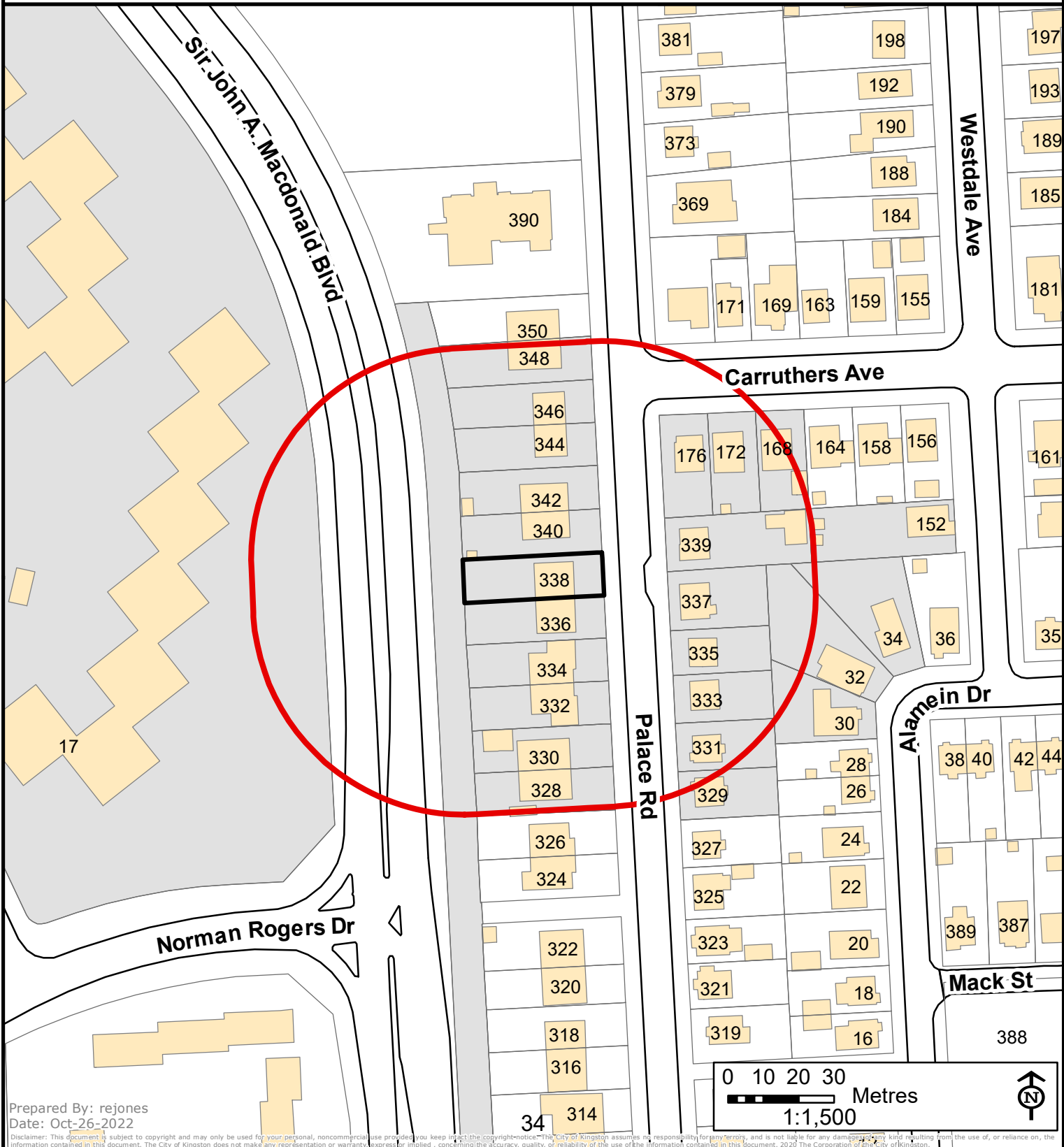


Planning
Services

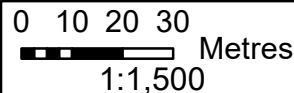
Committee of Adjustment Public Notice Notification Map

Address: 338 PALACE ROAD
File Number: D13-062-2022

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



Prepared By: rejonas
Date: Oct-26-2022





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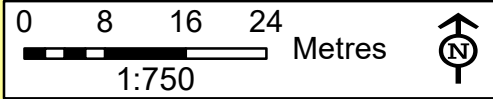
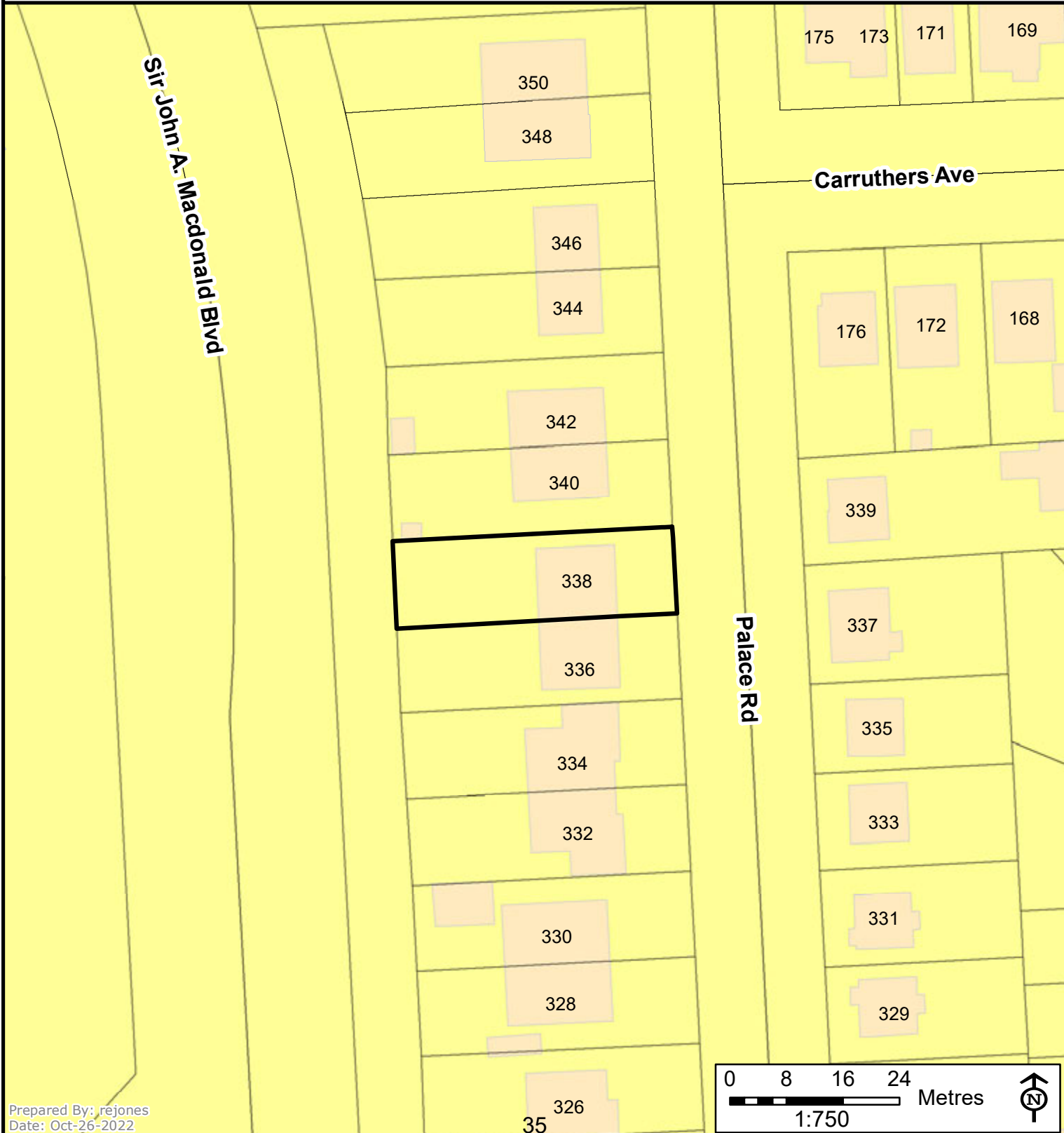


Planning
Services

Committee of Adjustment
Official Plan, Existing Land Use

Address: 338 PALACE ROAD
File Number: D13-062-2022

 Subject Lands
 RESIDENTIAL





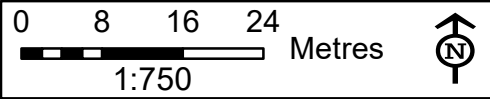
Planning Services

Planning Committee Reference Kingston Zoning Bylaw

Address: 338 PALACE ROAD
File Number: D13-062-2022

Subject Lands
 Schedule 1 Zoning Map
 Zone

Schedule E - Exception Overlay
 Legacy Exceptions (LXXX)
 Exceptions (EXXX)
 Schedule F - Holding Overlay
 Holding Overlay (HXXX)



Prepared By: rejoncs
Date: Oct-26-2022

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I REQUIRE THIS PLAN TO BE DEPOSITED UNDER PART II OF THE REGISTRY ACT.

25 JULY 1975
DATE

William H. Card
WILLIAM H. CARD
ONTARIO LAND SURVEYOR

PLAN OF SURVEY
OF PARTS OF
LOT 517 REGISTERED PLAN N^o 1158
CITY OF KINGSTON
COUNTY OF FRONTENAC

SCALE: 1" = 20'
1975

RECEIVED AND DEPOSITED AS
PLAN 13 R-1426
July 25, 1975
DATE
Paula Greenwell
LAND REGISTRAR FOR
THE REGISTRY DIVISION OF
FRONTENAC N^o 13

CAUTION "THIS PLAN IS NOT A PLAN OF SUBDIVISION WITHIN THE MEANING OF SECTION 29, 32 OR 33 OF THE PLANNING ACT."

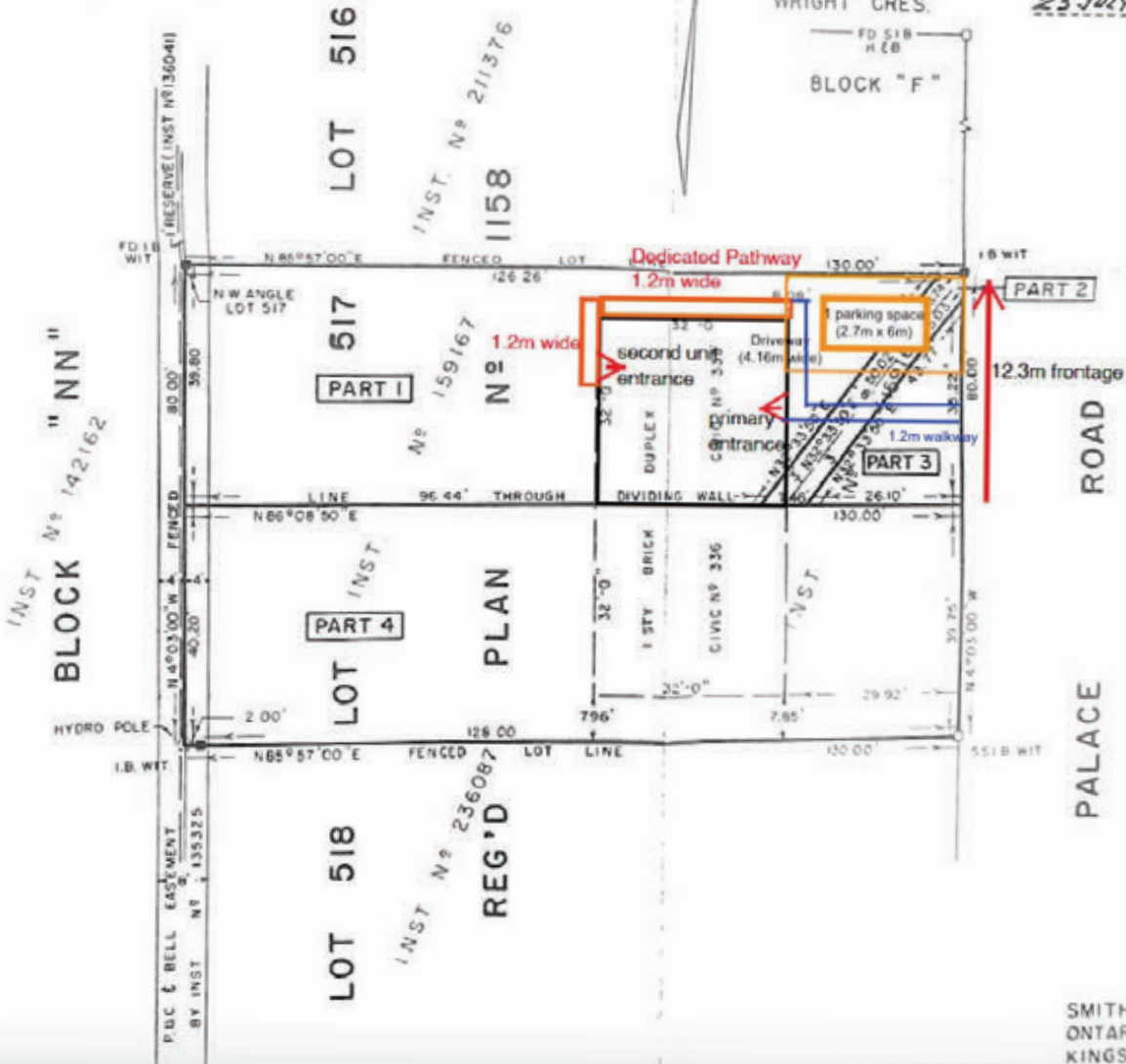
ALL HANGING LINES SHOWN ON THIS PLAN HAVE BEEN VERIFIED.

BEARINGS ARE ASTRONOMIC AND REFERRED TO REGISTERED PLAN N^o 1158

MATERIAL: .003" POLYESTER FILM.
SPECIAL "T" INK.

SURVEYOR'S CERTIFICATE
I HEREBY CERTIFY THAT
1 THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT AND THE REGISTRY ACT AND THE REGULATIONS MADE THEREUNDER
2 THE SURVEY WAS COMPLETED ON THE 22ND DAY OF JULY, 1975

25 JULY 1975 *William H. Card*
WILLIAM H. CARD
ONTARIO LAND SURVEYOR



SMITH & SMITH KINGSTON LTD
ONTARIO LAND SURVEYORS
KINGSTON, ONTARIO



Looking west at subject property at 338 Palace Road.



Looking north of subject property on west side of Palace Road.



Looking south of subject property along Palace Road.



Compton Park to the east which is less than 600 metres walking distance from subject property.



Express Bus stop south on Palace Road less than 600 metres from subject property.



Commercial uses north on Palace Road less than 38600 metres from subject property.