

City of Kingston Report to Committee of Adjustment Report Number COA-24-034

To: Chair and Members of the Committee of Adjustment

From: Genise Grant, Senior Planner

Date of Meeting: March 18, 2024

Application for: Minor Variance

File Number: D13-010-2024

Address: 18 Queen Street and 282 Ontario Street

District: District 11 – King's Town

Owner: 18 Queen Street Holdings

Applicant: Homestead Land Holdings Ltd.

Council Strategic Plan Alignment:

Theme: 1. Support Housing Affordability

Goal: 1.2 Promote increase in purpose-built rental housing.

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variances for the property municipally addressed as 18 Queen Street and 282 Ontario Street in the North Block area of Downtown Kingston. The applicant is requesting relief from mechanical projection provisions of the zoning by-law in order to support the development of the property with a 23-storey mixed-use building. Land use permissions for the development were approved in 2021 by decision of the Ontario Land Tribunal (OLT) which amended the City's Official Plan and zoning by-law, and recognized Minutes of Settlement between the City and the owner.

The applicant has subsequently entered into a Site Plan Control agreement registered on title for development of the lands (File Number D11-022-2022). As approved through that agreement, rooftop mechanical equipment was intended to be provided on both the rooftop of

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the 7-storey podium, as well as on top of the 23-storey tower. As the owners have progressed further through construction and completed a detailed review of the mechanical equipment, they are requesting permission to vary the maximum projection provisions of Zoning By-Law Number 96-259 (which continues to apply to the property) in order to relocate the cooling towers from the podium roof to the roof of the 23-storey tower. This revised approach would more effectively limit views of mechanical rooftop projections from the public realm and represents an improved urban design condition. The applicants have also confirmed through an update to their Noise Impact Study that the relocation would also provide an improved condition from a noise emission perspective.

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 96-259. 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 D13-010-2024, for the property located at 18 Queen Street and 282 Ontario Street to vary maximum rooftop projections provisions to support development of the property with a 23-storey mixed-use building, be approved, as described below:

Variance Number 1:

By-Law Number 96-259:5.19 (i) i) Height Restrictions Exceptions – Maximum Height

Requirement: 3.5 metres Proposed: 5.6 metres Variance Requested: 2.1 metres

Variance Number 2:

By-Law Number 96-259:5.19 (i) ii) Height Restrictions Exceptions – Maximum Area

Requirement: 10% Proposed: 17% Variance Requested: 7%

Variance Number 3:

By-Law Number 96-259:5.1.9 (i) iii) Height Restrictions Exceptions – Maximum Length

Requirement: 50% Proposed: 55% Variance Requested: 5%; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-24-034.

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Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

Genise Grant, 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 January 29, 2024, a minor variance application was submitted by Homestead Land Holdings Ltd. with respect to the property located at 18 Queen Street and 282 Ontario Street. The application requests to vary maximum rooftop projection provisions of Zoning By-Law Number 96-259 to support the functional mechanical needs associated with development of the property with a 23-storey mixed-use building.

The property is currently in receipt of a registered Site Plan Control agreement and a Building Permit for construction of the 23-storey building. As reflected in the approved Site Plan Control agreement, the cooling towers required to serve the building were previously intended to be located on the roof of the 7-storey podium in order to comply with rooftop projection limitations. Through further review of the mechanical needs of the building, the applicant has identified that larger cooling towers are required than were previously proposed. In order to provide a better design condition and screening of the cooling towers from the street, the applicant is proposing to move them to the tower roof, beside the other required mechanical equipment. In order to permit this revised rooftop configuration, relief is required from Section 5.19 of Zoning By-Law Number 96-259.

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

- Site Survey;
- Roof Plans, Elevations Perspectives (Exhibit F);
- Planning Justification; and
- Update to the approved Noise Impact Study Report.

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 in downtown Kingston in the North Block area, on the south side of Queen Street between King Street East and Ontario Street (Exhibit B – Key Map). The property is approximately 0.4 hectares in size, with frontage on all three streets.

Given its location in the downtown area, the property is surrounded by a mix of uses, including residential, commercial, and community uses, as well as a surface parking (Exhibit C – Neighbourhood Context Map). The North Block area in general is an area of evolving character, being a focus for intensification in the downtown core. While the property itself is not designated under the *Ontario Heritage Act*, it is in close proximity to a number of listed and designated properties, including the Smith Robinson building to the south, and the Public Utilities Commission substation #1 to the north.

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The property is currently being developed with a 23-storey mixed-use building, with construction having recently commenced in accordance with a registered Site Plan Control agreement and OLT-approved Official Plan and zoning permissions.

Provincial Policy Statement

In addition to the four tests of a minor variance detailed below, 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.

Minor Variance Application

The review of an application for minor variances is not a simple mathematical calculation, but rather a detailed assessment of whether the variances 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:

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

The subject property is designated Central Business District in the City of Kingston Official Plan (Exhibit D – Official Plan Map) and is subject to Site Specific Policy Area Number 66. The property is also located within the North Block Area of the Downtown and Harbour Specific Policy Area and is located within the Lower Princess Street Retail Area.

The Central Business District designation intends to provide for the broadest range of suitable commercial activity to support the traditionally diverse role and pedestrian- oriented focus of the downtown core. Medium- and high-density residential uses are permitted in the designation. Site Specific Policy Area Number 66 recognizes the site's special status as an underdeveloped site within the North Block Area and further confirms that the property is intended to accommodate a mixed-use, high-density residential building. The Site Specific Policy Area, among other matters, regulates the maximum height on the property at 76 metres, and stipulates that exemptions to these height limits are to be identified within the implementing zoning by-law. As the zoning by-law already provides permissions for height exemptions from which this application is seeking minor relief, the relief request maintains the general intent and purpose of the 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 proposed development implements the Official Plan permissions established through an Official Plan amendment approved by the Ontario Land Tribunal (OLT) in 2021. As demonstrated through hearing evidence and affirmed by the Tribunal's decision, the 23-storey mixed-use development meets the general intent and purpose of the Official Plan and represents an appropriate and compatible land use. The requested minor variances to allow for a slight

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increase in the size of functional rooftop mechanical equipment does not impact the development's ability to comply with the Official Plan, nor its compatibility with surrounding land uses, as further reviewed in the below sections.

The proposal meets the intent of the Official Plan, as the development will introduce a mix of uses, including retail space, office space, and 150 new homes in a high-density form into the North Block area, being a central area of the city's downtown core that is intended to accommodate redevelopment and intensification.

2) The general intent and purpose of the Zoning By-Law is maintained:

The subject property is zoned a site-specific C1-48 Zone in Zoning By-Law Number 96-259, being the former Downtown and Harbour Area zoning by-law (Exhibit E – Zoning By-Law Map).

The property was formerly subject to applications for Official Plan and zoning by-law amendments which sought permission to redevelop the property with a tall mixed-use building. A non-decision by Council on those applications was appealed by the applicant to the former Local Planning Appeals Tribunal (LPAT). Those applications were subject to two hearings at the Tribunal, which ultimately resulted in approval of amendments to the Official Plan and zoning by-law and execution of Minutes of Settlement between the City and the property owner. These approvals allow for development of the site with a 23-storey mixed-use development with a podium and tower form.

The amending zoning by-law regulates development of the site through use of a schedule, commonly referred to as a height map. This schedule shows permitted setbacks, stepbacks, and heights. The by-law contains an exemption to these established height limits through Section 7.3.48.2(a)(iv), which allows for projections above the identified height limits for decorative, functional, and mechanical elements. The provision contains broad permissive language but does not explicitly exempt the property from Section 5.19 of Zoning By-Law Number 96-259. Section 5.19 is a general provision allowing for rooftop projections within established quantitative limits. Given the lack of explicit exemption, staff have made the interpretation that Section 5.19 continues to apply to any rooftop projections above the permitted heights established by the site-specific height schedule. It is noted for context that the applicant's planning consultant, who was involved through the LPAT and minutes of settlement process, has indicated their opinion that the site-specific provision was intended to exempt the site from Section 5.19, but recognizes this is not explicit in the by-law wording.

In response to staff's interpretation, the applicant previously designed their rooftop mechanical equipment through the Site Plan Control process to comply with the maximum rooftop coverage permissions of Section 5.19 by relocating some mechanical equipment from the roof of the tower to the roof of the podium. As the applicant has progressed further through construction and reviewed mechanical needs, relief is being sought to accommodate additional mechanical footprint and to relocate the mechanical equipment to the tower rooftop. The requested relief is as follows:

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By-Law Number 96-259:5.19 (i) i) Height Restrictions Exceptions – Maximum Height

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Requirement: 50% Proposed: 55% Variance Requested: 5%

The requested variances maintain the general intent and purpose of the zoning by-law as the revised approach effectively screens the mechanical equipment from views at-grade and provides a more attractive building design and condition for users of the amenity space on the podium roof. Views of the mechanical equipment from grade are illustrated in Exhibit F. As shown, the extent of equipment visible from the public realm is limited.

The intent of rooftop projection provisions in the zoning by-law is to allow for the functional needs of a building while limiting the permitted size of those functional elements. These size limitations aim to ensure that the functional projections do not appear as an additional storey and do not overwhelm the building, particularly as viewed from at-grade. Staff regularly review relief requests from projection provisions, particularly through zoning by-law amendment applications for tall buildings, as it is challenging for applicants to achieve their functional mechanical needs within the City's current by-law provisions. The 10% coverage permissions are achievable on a large building floorplate but become overly restrictive for slim towers. Based on this experience, staff are reviewing as-of-right projection provisions in Kingston Zoning By-Law 2022-62 and are recommending through the recently released City-initiated housing and administrative amendments (File Number D01-002-2024) that the by-law permit 30% roof coverage for rooftop projections up to 5 metres in height as-of-right. The proposed variances for the subject property generally align with these new recommendations, being slightly taller (by 0.6 metres) and smaller (by 13%).

The proposed variances meet the intent of the zoning by-law as the consolidated location provides effective screening of the equipment from at-grade views and the equipment is appropriately sized and located to avoid the appearance of an additional storey.

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3) The variance is minor in nature:

The variance is considered minor as the relocation of mechanical equipment to the tower roof will not have adverse impacts on surrounding properties. The applicant has provided an updated Noise Impact Study to confirm that the relocated mechanical equipment will not impact the development's ability to meet provincial noise criteria and will result in a reduction to the overall noise impact of the building on external receptors. The applicant has also demonstrated through the provision of at-grade perspectives of the building that the rooftop mechanical will be generally screened from view and provides for an attractive condition.

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

The proposed variance is desirable and appropriate to support the functional needs of the building and facilitates development of the property with a 23-storey mixed-use building which will introduce additional commercial floor area and 150 new homes into the Kingston market.

Technical Review: Circulated Departments and Agencies

×	Building Services	×	Engineering	Heritage Services
	Finance		Utilities Kingston	Real Estate
	Fire & Rescue		Kingston Hydro	Environment Division
	Solid Waste		Parks Development	Canadian National Railways
	Housing	×	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 comments have been received on the application. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

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Previous or Concurrent Applications

- Official Plan and Zoning By-Law Amendment (D09-039-2015 & D14-146-2015)
- Site Plan Control (D11-022-2022)
- Hold Removal (D28-013-2022)

Conclusion

The requested variances maintain the general intent and purpose of both the City of Kingston Official Plan and Kingston Zoning By-Law Number 96-259. 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 reconfiguration of the rooftop mechanical equipment to support the functional needs of the permitted 23-storey mixed-use building.

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 96-259

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on March 18, 2024 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 owners of the 18 properties (according to the latest Assessment Roll) within 60 metres of the subject property and a courtesy notice was placed in The Kingston Whig-Standard (Exhibit H – Public Notification Map).

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*.

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Accessibility Considerations:

None

Financial Considerations:

None

Contacts:

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

Genise Grant, Senior Planner, 613-546-4291 extension 3185

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

Exhibit A Recommended Conditions

Exhibit B Key Map

Exhibit C Neighbourhood Context Map

Exhibit D Official Plan Map

Exhibit E Zoning By-Law Map

Exhibit F Roof Plan, Elevations and Perspectives

Exhibit G Site Photos

Exhibit H Public Notice Map

Recommended Conditions

The approval of minor variance application, File Number D13-010-2024, to vary maximum rooftop projections provisions to support development of the property with a 23-storey mixed-use building, shall be subject to the following recommended conditions:

1. Limitation

That the approved minor variance applies only to size and location of rooftop mechanical equipment to support the 23-storey mixed-use building, as shown on the approved drawings attached to the notice of decision.

2. No Adverse Impacts

The owner/applicant shall demonstrate to the satisfaction of the City that there are no adverse impacts on neighbouring properties as a result of any modifications to on-site grading or drainage.

3. Building Permit Application Requirements

The owner/applicant shall provide to the Building Services a copy of the decision of the Committee of Adjustment, together with a copy of the approved drawings, when they make application for a Building Permit.

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

4. 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 Archaeology Program Unit of the Ministry of Citizenship and Multiculturalism (archaeology@ontario.ca) 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 Office of the Chief Coroner as a part of the Ontario Ministry of the Solicitor General (1-877-991-9959), the Archaeology Program Unit of the Ministry of Citizenship and Multiculturalism (archaeology@ontario.ca), and City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted.

Exhibit B Report Number COA-24-034 Committee of Adjustment **Key Map** KINGSTON Address: 18 Queen St & 282 Ontario St File Number: D13-010-2024 **Planning** Prepared On: Feb-16-2024 **Services** Lands Subject to Minor Variance 29 23 21 19 17 11 Queen St 390 18 King St E 375 282 373 371 369 275 Ontario St 367 365 267 53 51 49 41 265 263 261 27 259 Princess St 257 0 14 21 repared By: rejones // repared On: Feb 16-2024 Metres 1:750



Committee of Adjustment **Neighbourhood Context**

Address: 18 Queen St & 282 Ontario St

File Number: D13-010-2024 Prepared On: Feb-16-2024

Subject Lands
Property Boundaries
Proposed Parcels





Committee of Adjustment
Official Plan, Existing Land Use

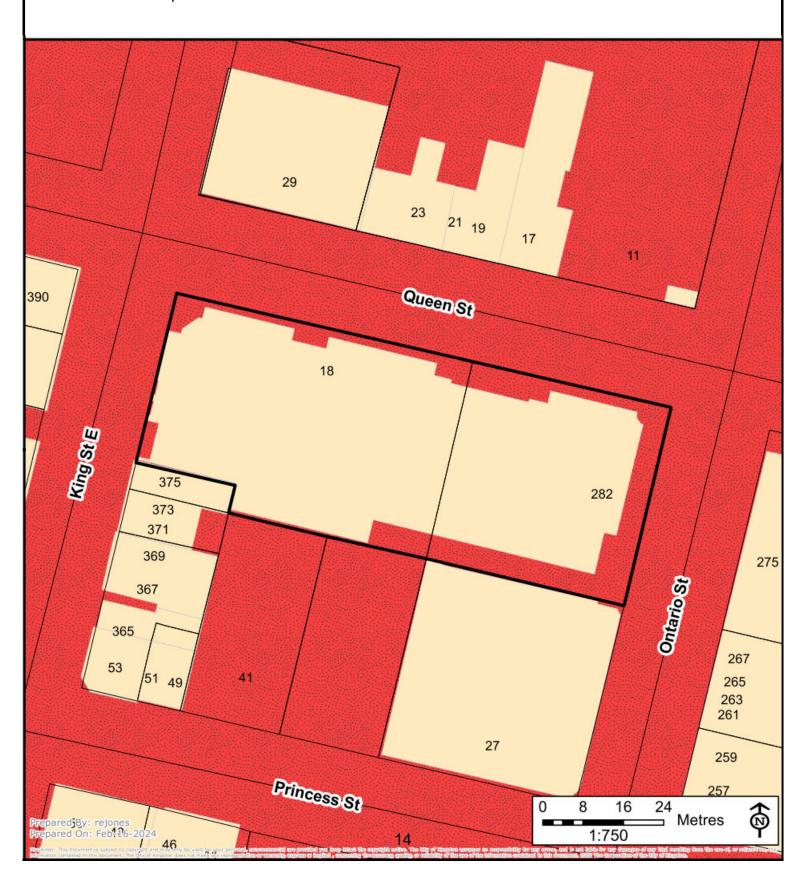
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File Number: D13-010-2024 Prepared On: Feb-16-2024









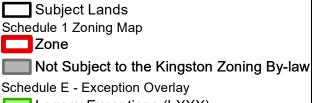
Planning Committee

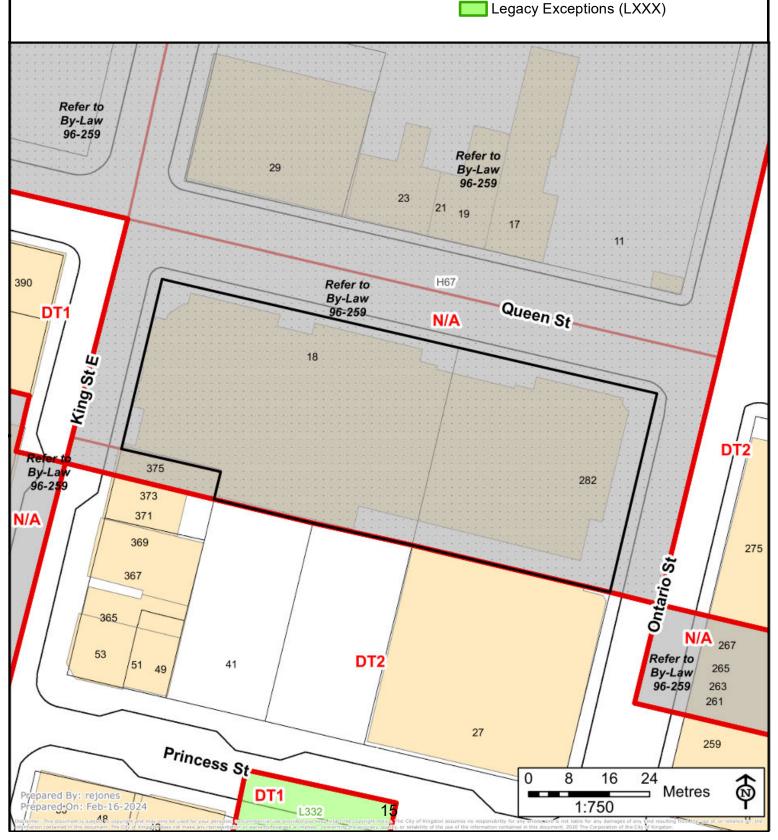
Existing Zoning Kingston Zoning By-Law 2022-62

Planning Services

Address: 18 Queen St & 282 Ontario St

File Number: D13-010-2024 Prepared On: Feb-16-2024







CITY OF KINGSTON

Existing Zoning - Bylaw 96-259, Map 1 Lands Subject to Minor Variance

Address: 18 Queen St & 282 Ontario St

File Number: D13-010-2024 Prepared On: Feb-16-2024

By-law 96-59 Zoning In Effect

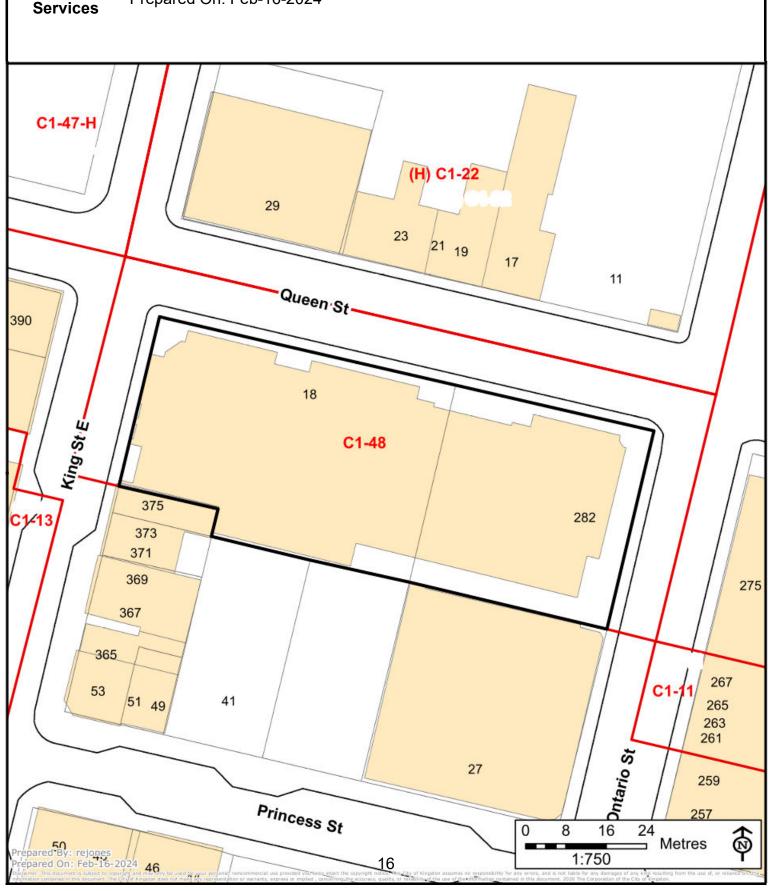


Exhibit F Report Number COA-24-034

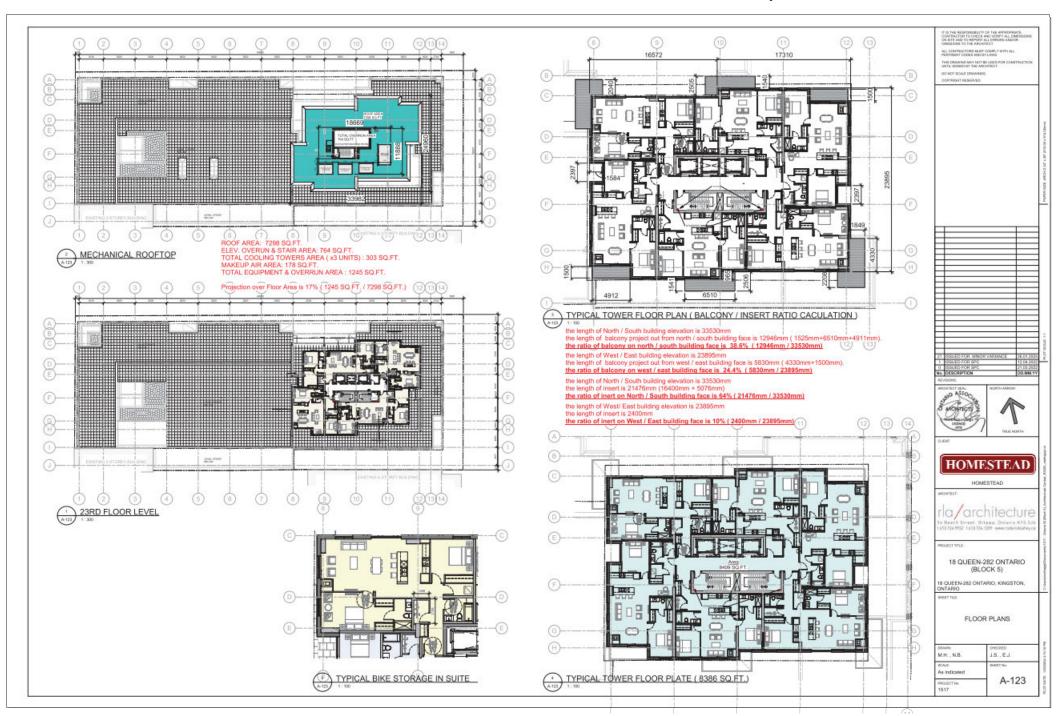
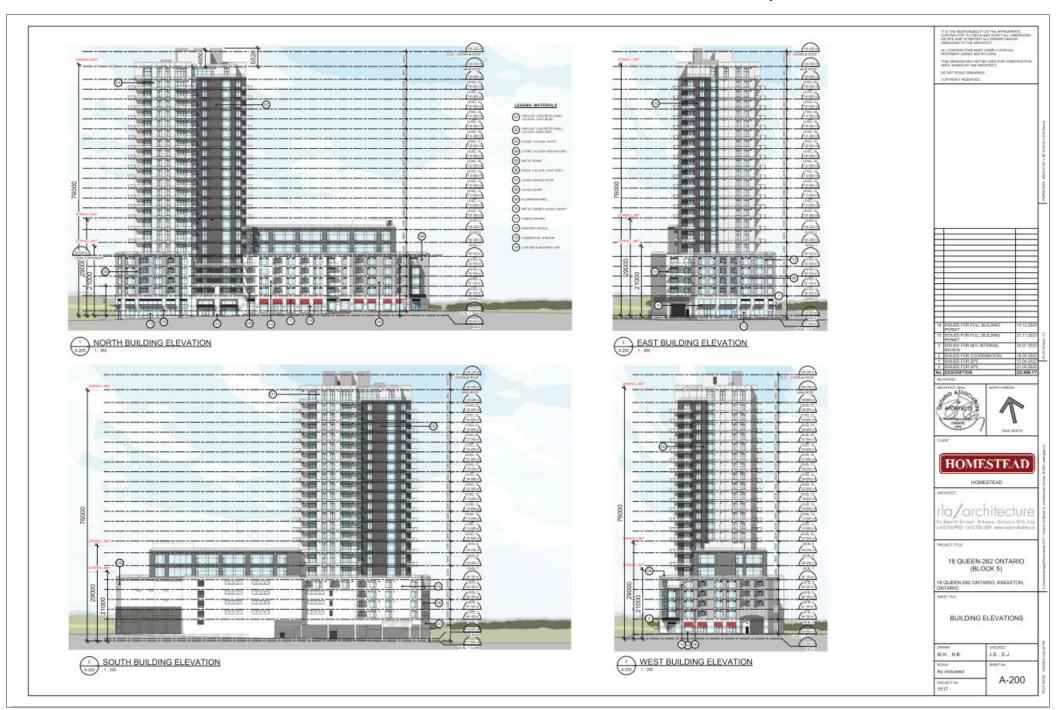


Exhibit F Report Number COA-24-034



Exhibit F Report Number COA-24-034



Google Map Image – Looking towards site from Queen Street and King Street intersection, prior to construction:



Google Map Image – Looking towards the site from Queen Street and Ontario Street Intersection, during construction:

