



**City of Kingston
Report to Committee of Adjustment
Report Number COA-24-068**

To: Chair and Members of the Committee of Adjustment
From: Niki Van Vugt, Intermediate Planner
Date of Meeting: November 18, 2024
Application for: Minor Variance and Permission
File Number: D13-052-2024
Address: 10 Birch Avenue
District: District 10 - Sydenham
Owner: A.N.D. Estates Inc.
Applicant: The Boulevard Group

Council Strategic Plan Alignment:

Theme: 1. Support Housing Affordability

Goal: 1.1 Promote increased supply and affordability of housing.

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variance and permission for the property located at 10 Birch Avenue. The applicant is proposing to alter the existing legal non-conforming four-unit apartment building by constructing a third storey addition to accommodate for two additional dwelling units.

The purpose of the permission application is to expand the legal non-conforming apartment building on the subject property by raising the height to 9.95 metres through the construction of a third storey addition to increase the total number of dwelling units on-site from four to six dwelling units.

The minor variance is requested to seek relief from select zone provisions of the Kingston Zoning By-Law, including maximum number of bedrooms and minimum number of standard parking spaces.

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The requested minor variance and permission application are consistent with the general purpose and general intent of both the City of Kingston Official Plan and Kingston Zoning By-Law Number 2022-62. The requested permission is desirable for appropriate development of the subject property and will not result in undue adverse impacts on the surrounding properties and neighbourhood. Therefore, it is recommended that this application for permission under Section 45(2)(a)(i) of the *Planning Act* be approved. 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 minor variance application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval.

Recommendation:

That the application for permission, File Number D13-052-2024, for the property located at 10 Birch Avenue to expand the legal non-conforming apartment building on the subject property by raising the height to 9.95 metres through the construction of a third storey addition to accommodate two additional dwelling units, be **Approved**; and

That the application for minor variance, File Number D13-052-2024, for the property located at 10 Birch Avenue to seek relief from select zone provisions of the Kingston Zoning By-Law, including maximum number of bedrooms and minimum number of standard parking spaces, be approved, as described below:

Variance Number 1: Maximum Number of Bedrooms

By-Law Number 2022-62: Section 4.28.1.1.

Requirement: A maximum of 8 bedrooms are permitted per lot, in the aggregate, on any lot in the Urban Residential Zones, DR Zone, and the HCD1 Zone;

Proposed: A maximum of 15 bedrooms are permitted per lot, in the aggregate, on across six dwelling units;

Variance Requested: 7 bedrooms;

Variance Number 2: Minimum Number of Parking Spaces

By-Law Number 2022-62: Table 7.1.1.1.(a)

Requirement: 4 parking spaces;

Proposed: 3 parking spaces;

Variance Requested: 1 parking space; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-24-068.

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Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

Niki Van Vugt, Intermediate
Planner

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

Tim Park, Director, Planning Services
James Bar, Manager, Development Approvals

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Options/Discussion:

On June 24, 2024, a permission and minor variance application was submitted by The Boulevard Group, on behalf of the owner, A.N.D. Estates Inc., with respect to the property located at 10 Birch Avenue.

The purpose of the permission application is to expand the legal non-conforming apartment building on the subject property by raising the height to 9.95 metres to the ridge through the construction of a third storey addition to increase the total number of dwelling units on-site from four to six dwelling units. At present, the four-unit apartment building is developed with four 2-bedroom units resulting in a total of 8 bedrooms aggregate to the site. The existing paved parking lot located in the exterior and front yard of the subject lands includes a total of four surface parking spaces (Exhibit I – Site Photos). No accessible vehicular parking spaces or bike parking spaces are currently provided on the subject property. However, these components are being completed as part of this proposal and will comply with the requirements of the zoning by-law which will improve the existing on-site conditions.

The minor variance is requested to seek relief from select zone provisions of the Kingston Zoning By-Law, including maximum number of bedrooms and minimum number of standard parking spaces to allow for the construction of the addition and enable two additional dwelling units.

The applicant has proposed an addition to the existing two-storey four-unit apartment building, which would have the effect of increasing the total number of dwelling units on the subject property via an upwards expansion and results in an increase of on-site bedrooms from 8 existing to 15 total. The proposed two additional dwelling units will be split into one 3-bedroom unit and one 4-bedroom unit (Exhibit H – Floor Plans).

The applicant has supplied a proposed site plan (Exhibit F) which indicates proposed changes to the existing paved parking lot to ensure zoning compliance with the sight triangle requirements and incorporate the required Type A accessible parking space. A total of three surface parking spaces are proposed, decreasing the total number of spaces from four existing to three total through the proposed development. Additionally, the applicant will be supplying a total of one short-term bike parking space and six long-term bike parking spaces within a secure, weatherproof enclosure. Regarding amenity area, the applicant intends to provide three areas on the property to benefit the existing and future users of the building.

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

- Proposed Site Plan & Amenity Area – prepared by NBS Design Group (Exhibit F)
- Elevations – prepared by NBS Design Group (Exhibit G)
- Floor Plans– prepared by NBS Design Group (Exhibit H)
- Planning Justification Letter dated May 2023, prepared by The Boulevard Group
- Updated Planning Justification Letter dated September 2024, prepared by The Boulevard Group
- Zoning Review Table prepared by The Boulevard Group

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- Servicing Report dated June 13, 2024, prepared by Josselyn Engineering Inc.
- Updated Servicing Report dated August 29, 2024, prepared by Josselyn Engineering Inc.
- Agent Form

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 10 Birch Avenue (Exhibit B – Key Map). The subject lands are approximately 638 square metres in area and located at the corner of Birch Avenue and Collingwood Street resulting in dual frontage with 36.5 metres of frontage on Birch Avenue and 17.2 metres of frontage on Collingwood Street, both of which are considered Local Roads as shown on Schedule 4 of the Official Plan. The lot is currently developed with a 2-storey apartment building constructed in approximately 1915 which contains four dwelling units, with two dwelling units per floor. Within each dwelling unit there are a total of 2 bedrooms which results in a total of 8 bedrooms aggregate to the lot. The property abuts a 2.5 storey building to the east addressed as 8 Birch Avenue, a 1.5 storey building to the south addressed as 291 Collingwood Street and is across the street from a 2.5 storey building addressed as 305 and 307 Collingwood Street (Exhibit C – Neighbourhood Context Map).

The surrounding neighbourhood is primarily made up of lower-rise residential built form (Exhibit I – Site Photos), ranging in heights from 1 storey to 3 storeys, and is in walking distance of various parks (Victoria Park and Churchill Park), and is in close proximity to various community facilities. The subject property is in walking distance of multiple transit stops along Johnson Street and active transportation infrastructure, including the bike lanes along Union Street and Johnson Street.

The subject property is designated Residential as per Schedule 3A – Land Use in the Official Plan (Exhibit D – Official Plan, Existing Land Use Map) and zoned Urban Residential 5 (UR5) Zone in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Kingston Zoning By-Law 2022-62). A residential apartment building is not a permitted use in the UR5 Zone; however, the existing four-unit apartment building appears to have been established in 1915. As the apartment building has been used continuously since that time, the apartment is recognized as a legal non-conforming use under Section 1.8.1. of the Kingston Zoning By-Law 2022-62.

Provincial Planning Statement

The Provincial Planning Statement (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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Permission Application

Pursuant to Subsection 45(2)(a)(i) of the *Planning Act*, the Committee of Adjustment may permit the enlargement or extension of a legal non-complying building or structure, but no permission may be given to enlarge or extend the building or structure beyond the original limits of the land where the legal non-complying building or structure is situated. In considering whether to grant a permission pursuant to Subsection 45(2)(a)(i), the relevant test is:

1) Whether the application is desirable for appropriate development of the subject property; and,

The property is designated for Residential use as per Schedule 3-A Land Use and located in a Housing District as per Schedule 2 of the Official Plan. Although the purpose of the zone is to limit the uses to lower-rise built forms such as a house, townhouse and semi-detached house, the proposal to expand the legal non-conforming four-unit apartment building will serve to enable gentle density on the site through an addition that complies with the height restrictions of the underlying zone. The third storey addition seeks to match the footprint of the existing building and is consistent with a low-rise built form. Therefore, no changes to the existing lot coverage or setbacks are contemplated from a built-form standpoint.

A new exterior staircase on the south side of the building is being contemplated to garner access to the proposed two dwelling units located on the third floor of the building. The subject lands are well situated, being central to downtown Kingston and close to various multi-modal transportation options, and will look to supply a mix of unit types ranging in 2 to 4 bedrooms units. The application will look to improve the subject property through the reconfiguration of the existing paved parking area, located at the corner of Birch Avenue and Collingwood Street, and will ensure that bike parking spaces are provided for the proposed and existing dwelling units which will allow for the encouragement and support towards a modal shift.

2) Whether the application will result in undue adverse impacts on the surrounding properties and neighbourhood

The proposal to expand the legal non-conforming four-unit apartment building by adding two additional dwelling units on the proposed third storey is not anticipated to cause any undue adverse impacts to the surrounding properties developed with houses, semi-detached houses, and townhouses. The proposed height of the building is 9.95 metres to the ridge and the typical maximum height for ground-oriented houses in the surrounding area is 10.7 metres for pitched roofs in the Urban Residential 5 (UR5) Zone. The proposal has been designed to ensure that privacy is appropriately addressed by the location of the future windows, which will solely be located along the north and south elevations (Exhibit G – Elevations). The proposed addition along the existing footprint allows for the existing front yard, exterior yard, interior yard and rear yard setbacks to remain unchanged. Given the existing driveway, established vegetative buffer, and setback on the subject property, the proposed dwelling units in the third storey are not anticipated to create undue adverse impacts or intrusive overlook considering the adjacent residential development located at 291 Collingwood Street. As such, no adverse impacts such as shadowing, overlook, or architectural incompatibility are anticipated.

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Official Plan

The subject property is designated Residential as per Schedule 3A – Land Use under the City of Kingston Official Plan (Exhibit D – Official Plan, Existing Land Use Map). The proposal to expand the legal non-complying four-unit apartment use, to include two additional units, allows for increased housing opportunities and meet the general intent of the underlying designation. Section 2.6.2. of the Official Plan speaks to mid-rise buildings which include small-scale apartments and mixed-use buildings with residential units and identifies development criteria for new mid-rise buildings under Section 2.6.5. Although this is not a new construction, simply an addition to an existing legal non-conforming building, the proposal meets the criteria as it is appropriately located at the corner of two local streets and matches the existing built form in terms of height in the surrounding area, is within walking distance to various commercial areas, is located in an areas that has access to public transit and is within walking distance to parkland, open space and community facilities.

In certain circumstances, it may be desirable to grant the extension, enlargement or relocation of a non-conforming use as provided by the *Planning Act*. When reviewing an application for such extension, enlargement or relocation, the Committee of Adjustment must be satisfied that the legal non-conforming use continued to the date of the application to the Committee, and that the application would not extend such use beyond the area and site owned or used on the day of passage of the implementing zoning by-law. In addition, the Committee of Adjustment may have regard to the eight criteria included in Section 9.5.13 of the Official Plan.

The use of the property for residential purposes within the Urban Boundary is consistent with the Provincial Planning Statement and with the direction of the Official Plan. There are no compatibility concerns with expanding the existing apartment building upwards to accommodate additional housing opportunities. The residential use of the property will remain compatible and consistent with the built form of surrounding residential uses and will be able to meet the height requirements of the underlying zone. Given the on-site characteristics of this lot, being a corner lot located along two Local Streets, the expansion of the existing apartment building to accommodate two additional units is appropriate. The proposed addition has been designed to ensure that the built form provides for privacy from the adjacent properties, given the proposed placement of the windows associated with the two new units and existing setbacks (Exhibit G – Elevations).

The subject lands are suitable for the proposal as adequate accessible parking spaces, amenity area, and landscaped open space are provided on-site. Relief from the standard parking space requirement is discussed within the minor variance portion of this report. It is important to note that the applicant is looking to supply one new accessible Type A parking space and seven bike parking spaces (1 short-term and 6 long-term), for the existing and proposed dwelling units, which exceeds the requirements of the by-law. No adverse impacts such as noise, odour, traffic conflict or other nuisance are anticipated as part of the proposed development.

At the time of writing this report, no comments have been received by the public. The application was circulated to various internal and external reviewers, including Utilities Kingston, Kingston Hydro and Engineering. Through the technical review of this proposal, no concerns were raised

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as it relates to the impact on municipal infrastructure, services and traffic. Based on the City of Kingston's composite archaeological potential mapping the property is in an "Composite Archaeological Potential" and therefore an Archaeological Assessment beginning with a Stage One Assessment is required if ground disturbance is proposed.

No comments by City staff or external agencies have identified any concerns with this proposal. The proposal makes efficient use of the existing legal non-conforming apartment building, while providing other development features such as accessible parking, bike parking, and amenity area which will bring the property into greater conformity with the current Kingston Zoning By-Law 2022-62. The proposal is not anticipated to inhibit conforming uses or create any undesirable precedents.

The requested permission to expand the existing four-unit apartment building to a six-unit apartment building meets the general intent and purpose of the City of Kingston Official Plan.

Zoning By-Law

The subject property is zoned Urban Residential 5 (UR5) Zone in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Kingston Zoning By-Law Number 2022-62). The UR5 Zone permits a house, semi-detached house, and townhouse, but does not permit an apartment building.

The existing four-unit apartment building appears to have been constructed around 1915 and has been continuous in its use since that time. Section 1.8.1. of the new Kingston Zoning By-Law 2022-62 indicates that a use that is not permitted by this By-law, but which was lawfully used for such purpose on the date of passing of this By-law, is considered a legal non-conforming use. Nothing in this By-law applies to prevent a legal non-conforming use, so long as it continues to be used for that purpose.

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 are maintained

The subject property is designated Residential as per Schedule 3A – Land Use in the City of Kingston Official Plan (Exhibit D – Official Plan, Existing Land Use Map). Residential uses are primarily forms of housing including low-rise residential buildings, mid-rise residential buildings and high-rise residential buildings contemplated by Section 2.6 of various types, tenure, and density that respond to a wide range of housing needs. The proposal to add two additional dwelling units into the existing four-unit apartment building, resulting in six units to the building, will assist with responding to the housing needs of the City's citizens by incorporating these units through the construction of a compatible addition which considers the surrounding neighbourhood and context.

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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 subject property is located in a Housing District within the Urban boundary as shown on Schedule 2 of the Official Plan. Housing Districts are planned to continue to mature and adapt as the City evolves in a manner that ensures land use compatibility while supporting the construction of new housing. Re-investment and upgrading will be encouraged through minor infilling and minor development. The proposed upwards expansion of the legal non-conforming four-unit apartment building meets the general intent of Section 2 as it will allow for the gentle increase of density to a site in a manner that remains compatible with the surrounding low-rise neighbourhood.

The proposed addition has been carefully designed to ensure that the built form matches what is existing and allowed as-of-right through the zoning found in the surrounding neighbourhood. The proposed variances to the maximum number of bedrooms and minimum number of required parking spaces will enable the construction of the third storey addition to allow the owner to accommodate two additional dwelling units within the existing legal non-conforming apartment building, providing for a diversity in unit types while ensuring that appropriate active transportation and accessible requirements are being considered. The requested variances will not result in undue adverse effects on the surrounding neighbourhood.

For the functional needs of the site users, the conceptual site plan included in Exhibit F illustrates an improved and clearly defined vehicle parking area at the corner of Birch Avenue and Collingwood Street, accessed from the existing driveway located on Birch Avenue. A total of three surface parking spaces are contemplated, including one accessible Type A space. The applicant has indicated that long-term and short-term bike parking spaces will be located in a secure enclosed area on the west side of the existing building and will look to meet the requirements of Section 7.3. of the by-law. The applicant is proposing a total of 1 short-term bike spaces and 6 long-term bike parking spaces, which exceeds the current requirement for long-term bike spaces under Section 7.3.16. of the By-Law. The existing building and four dwelling units will look to have an access off Birch Avenue, via the existing walkway to the front of the building, and a second access and walkway from the rear of the building for the proposed two new units to be located on the third floor (Exhibit H – Floor Plans).

A total of approximately 312 square metres of amenity space are included in the form of outdoor communal spaces as shown on the conceptual site plan in Exhibit F, which exceeds the requirement of 10 square metres per unit as per Section 4.3.2. of the Zoning By-Law for properties located in PA3. The amenity area will be accessed by the required 1.5 metre walkway to ensure that existing and future users of the site have adequate access to these communal areas. As indicated above, the proposed development will result in the creation of additional dwelling units and bedrooms with improvements to be made to the existing paved parking area; however, the development is not anticipated to impact existing infrastructure, services, or traffic. In addition, the subject property is not designated under the *Ontario Heritage Act* and does not directly abut any heritage resources. As such, a Heritage Impact Statement is not required in support of the proposal. However, Heritage Services has confirmed that the property is located within an area of Composite Archaeological Potential and archaeological clearance of the site is

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recommended as a condition of minor variance approval prior to any ground disturbance (Exhibit A).

The requested relief for bedrooms and parking standards satisfy the applicable tests of a minor variance, as detailed further below, and will not set an undesirable precedent for the immediate area. Recommended conditions of minor variance approval are included in Exhibit A.

The proposal meets the intent of the Official Plan by successfully implementing the zoning requirements of the underlying parent zone, while providing for the long-term functional needs of site users and bringing increased residential density to an area where additional housing opportunities is intended to be focused. The proposal 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 5 (UR5) Zone in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Kingston Zoning By-Law Number 2022-62). The UR5 Zone permits a house, semi-detached house, and townhouse. A residential apartment building is not a permitted use and as such, the existing building is legal non-conforming.

In light of the proposed upwards expansion of the existing legal non-conforming four-unit apartment building, to accommodate the two additional dwelling units, the applicant is seeking the following variances to facilitate the proposed development:

Variance Number 1: Maximum Number of Bedrooms

By-Law Number 2022-62: Section 4.28.1.1. Maximum Number of Bedrooms

Requirement:	A maximum of 8 bedrooms are permitted per lot, in the aggregate, on any lot in the Urban Residential Zones, DR Zone, and the HCD1 Zone.
Proposed:	A maximum of 15 bedrooms are permitted per lot, in the aggregate, on across six dwelling units.
Variance Requested:	7 bedrooms;

The purpose of the maximum bedroom provision – limiting properties with up to three dwelling units to 8 bedrooms as a maximum - for properties located on Urban Residential lots is to manage intensity and occupancy, ensure compatibility, and prevent overdevelopment, while accommodating additional opportunities for housing within the City's Urban Boundary. It is important to note that through the recent administrative amendments passed by Council July 9th of 2024, the existing performance standards are largely maintained, with the exception of the maximum number of bedrooms, which were approved to increase to 12 bedrooms per lot only where a fourth unit is constructed to ensure that the bedroom permissions support and align with the expanded unit count for the lower-rise neighbourhoods. Council modified the approach to the bedroom provisions under Section 4.28.2. for lots located in the Sydenham District and Williamsville District identifying a further limitation to a maximum of 10 bedrooms per lot in the aggregate where four dwelling units are constructed in a house, semi-detached house, townhouse, and/or accessory house. This was primarily as a result of development pressures, limitations in on-street parking and heritage compatibility of these particular neighbourhoods.

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The applicant has revised their initial concept from one additional 7-bedroom unit to two additional units, including one 3-bedroom and one 4-bedroom unit, which will allow for an increase in density and occupancy of the site but will still satisfy the functional requirements that would support the implementation of this increase through the improvements to the existing parking area, supplying an excess of bike parking spaces, and include a waste and recycling storage area to ensure that on-site functional needs are appropriately addressed in the absence of Site Plan Control. As noted above, the bedroom limitation is primarily tied to ground oriented low-rise development, whereas this is a unique circumstance where there is an existing multi-unit building located on the edge of a lower-rise neighbourhood. For additional context, if this property were in an Urban Multi-Residential Zone, the maximum bedroom limitation would not apply as there are more than 2 principal dwelling units. In this instance, the proposed increase in dwelling units and bedrooms in the existing legal non-conforming four-unit apartment building has been able to adequately address land use compatibility and servicing constraint concerns which arise from an increase in intensity of use and occupancy levels. The requested variance maintains the general intent and purpose of the zoning by-law.

Variance Number 2: Minimum Number of Parking Spaces

By-Law Number 2022-62: Table 7.1.1.1.(a) Minimum Number of Parking Spaces for an Apartment Building

Requirement:	4 parking spaces
Proposed:	3 parking spaces
Variance Requested:	1 parking space

The purpose of the minimum parking spaces is to ensure that adequate vehicular parking spaces are provided to accommodate the higher density-built form of an apartment building. A reduction in required standard parking spaces from four to three is being sought to allow for the proposed addition to enable two additional dwelling units in the existing legal non-conforming apartment building and ensure that the required accessible parking space is supplied. The revised parking area will be able to accommodate one accessible Type A space with two standard spaces, where it was currently accommodating four standard spaces. This requested change considers universal accessibility and improve the existing situation located on-site. To offset the reduction, the applicant has also proposed to include a total of 1 short-term bike parking spaces and 6 long-term bike parking spaces. This currently exceeds the requirement found in Section 7.3.16. of the By-Law and will encourage the use of active transportation infrastructure in the surrounding neighbourhood.

The requested variance maintains the general intent and purpose of the zoning by-law.

3) The variance is minor in nature

The proposed variances provide for a functional and compatible development that supports gentle infill on a lot that is intended to supply a wide range of housing options and achieves a bedroom ratio that is more viable for the wider housing market. The variances are considered minor as the proposed increase to bedrooms will enable additional housing opportunities that allow the existing built form to remain compatible with the surrounding neighbourhood while

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ensuring that functional needs are met, with improvement made to support universal accessibility.

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

The increased number of bedrooms and reduced parking will not cause any issues of compatibility to the neighbouring residences. The proposed variances will enable the construction of two additional dwelling units to be located in the existing four-unit apartment building, thereby contributing to the City’s housing supply on a serviced residential lot within the Urban Boundary.

The variances are desirable and appropriate use of the land.

Technical Review: Circulated Departments and Agencies

- | | | |
|---|---|--|
| <input checked="" type="checkbox"/> Building Services | <input checked="" type="checkbox"/> Engineering | <input checked="" type="checkbox"/> Heritage Services |
| <input type="checkbox"/> Finance | <input checked="" type="checkbox"/> Utilities Kingston | <input checked="" type="checkbox"/> Real Estate |
| <input type="checkbox"/> Fire & Rescue | <input checked="" type="checkbox"/> Kingston Hydro | <input checked="" type="checkbox"/> Environment Division |
| <input checked="" type="checkbox"/> Solid Waste | <input checked="" type="checkbox"/> Parks Development | <input type="checkbox"/> Canadian National Railways |
| <input 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"/> Forestry | <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 were received with regard 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.

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Conclusion

The requested minor variance is consistent with the general purpose and general intent 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 minor variance application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval, subject to the proposed conditions.

The requested permission is desirable for appropriate development of the subject property and will not result in undue adverse impacts on the surrounding properties and neighbourhood. Therefore, it is recommended that this application for permission under Section 45(2)(a)(i) of the *Planning Act* be approved, subject to the proposed conditions.

Approval of this application will enable the construction of two additional residential units within the proposed third storey addition of the legal non-conforming four-unit apartment building on the subject property.

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 Planning Statement, 2024

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 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 a total number of 61 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 Notice 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:

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

Niki Van Vugt, Intermediate Planner, 613-546-4291 extension 3253

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

Exhibit A Permission and Minor Variance Recommended Conditions

Exhibit B Key Map

Exhibit C Neighbourhood Context Map

Exhibit D Official Plan, Existing Land Use Map

Exhibit E Kingston Zoning By-Law 2022-62

Exhibit F Proposed Site Plan & Amenity Area

Exhibit G Elevations

Exhibit H Floor Plans

Exhibit I Site Photos

Exhibit J Public Notice Notification Map

Recommended Conditions

The approval of minor variance and permission application, File Number D13-052-2024, to permit the upwards expansion of the legal non-conforming four-unit apartment building to enable two additional dwelling units in the proposed third storey addition and seek relief from the maximum number of bedrooms and minimum number of standard parking spaces, shall be subject to the following recommended conditions:

1. Limitation

That the approved minor variance applies only to the maximum bedrooms and minimum standard parking spaces, as shown on the approved drawings attached to the notice of decision.

That the approved permission applies only to the height and two additional dwelling units being added to the existing residential apartment at 10 Birch Avenue, 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

Archaeological clearance of the subject property is required, beginning with a Stage One Archaeological Assessment and including any subsequent assessments as required by the Ministry's 'Standards and Guidelines for Consultant Archaeologists', as amended from time to time, prior to any soil disturbance.

One digital copy of the assessment report(s) and any acceptance letter(s) from the Ministry of Citizenship and Multiculturalism shall be provided to the Secretary-

Treasurer of the Committee of Adjustment, prior to the issuance of the building permit.

The City relies upon the report of the professional archaeologist as filed, but reserves the right to require further reports should further evidence be uncovered. The applicant may be required to further review the state of archaeological resources on the property depending on the recommendations of the report and subject to input and review from the Ministry Citizenship and Multiculturalism. The City shall not be restricted in its ability to determine requirements related to review, assessment and/or protection should archaeological resources be found on site. Any costs arising from such requirements of the City, or any other duly authorized Government body, shall be borne solely by the applicant.

5. Tree Preservation

The owner/applicant is to acquire a Tree Permit to address required conditions surrounding tree preservation concerns for the existing municipally owned tree at the southwest corner of the subject site. The Tree Permit is to be acquired prior to building permit issuance and any site alteration or construction activity.

Supporting documentation for the Tree Permit shall consist of a Tree Preservation and Protection fencing detail constructed of 2x4 timber framing with 1.2-meter snow fencing affixed to the frame, placed at 1.5 meters beyond dripline (canopy limit). Details and notes related to storage of materials, equipment, etc. shall be included with the fencing detail as per the Guidelines for Tree Preservation and Protection available through either Planning or Public Works-Forestry.

6. Parking Area

The owner/applicant is to provide proof, to the satisfaction of Planning Staff, that the asphalt parking area has been reconfigured to meet the approved drawings.

7. Civic Addressing


The Owner shall ensure that the building's civic address identification is displayed in conformance with City of Kingston By-Law Number 2005-098, *A By-Law to Direct the Orderly Addressing of Buildings and Properties and Appropriate Naming of Roads Within the City of Kingston*, as may be amended from time to time.

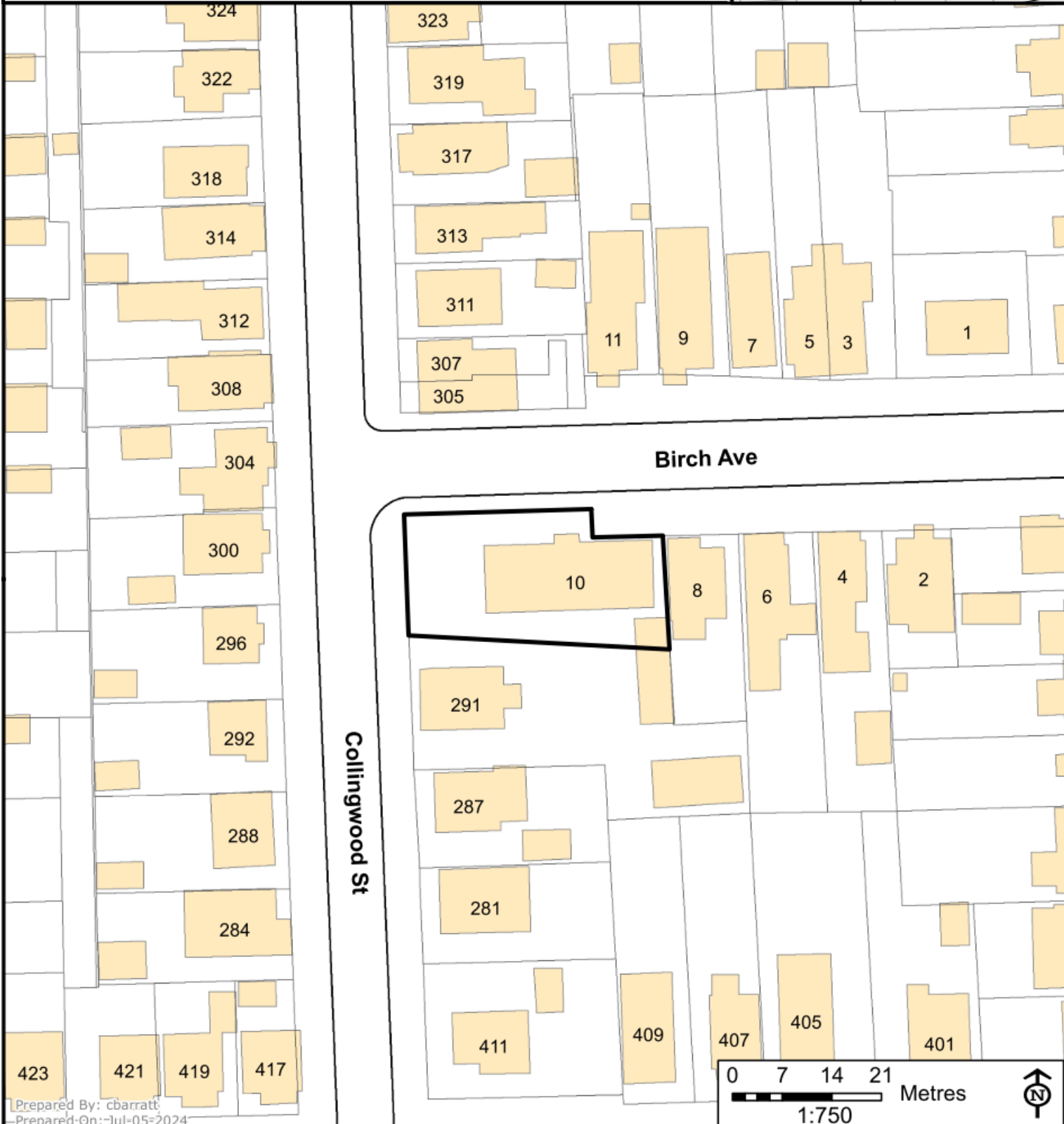
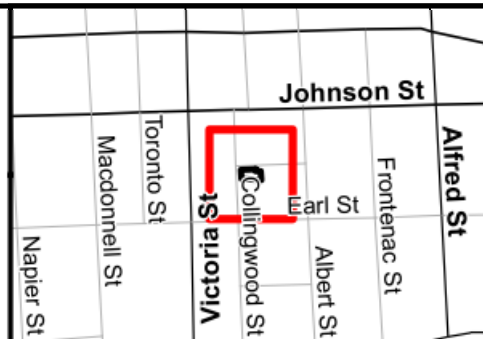


Committee of Adjustment

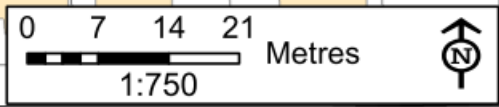
Key Map

Address: 10 Birch Avenue
File Number: D13-052-2024
Prepared On: Jul-05-2024

 Lands Subject to Minor Variance and Permission



Prepared By: cbarratt
Prepared On: Jul-05-2024



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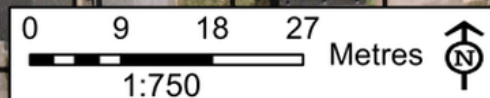
Committee of Adjustment Neighbourhood Context

Address: 10 Birch Avenue
File Number: D13-052-2024
Prepared On: Jul-05-2024

- Subject Lands
- Property Boundaries
- Proposed Parcels



Prepared By: cbaratt
Prepared On: Jul-05-2024



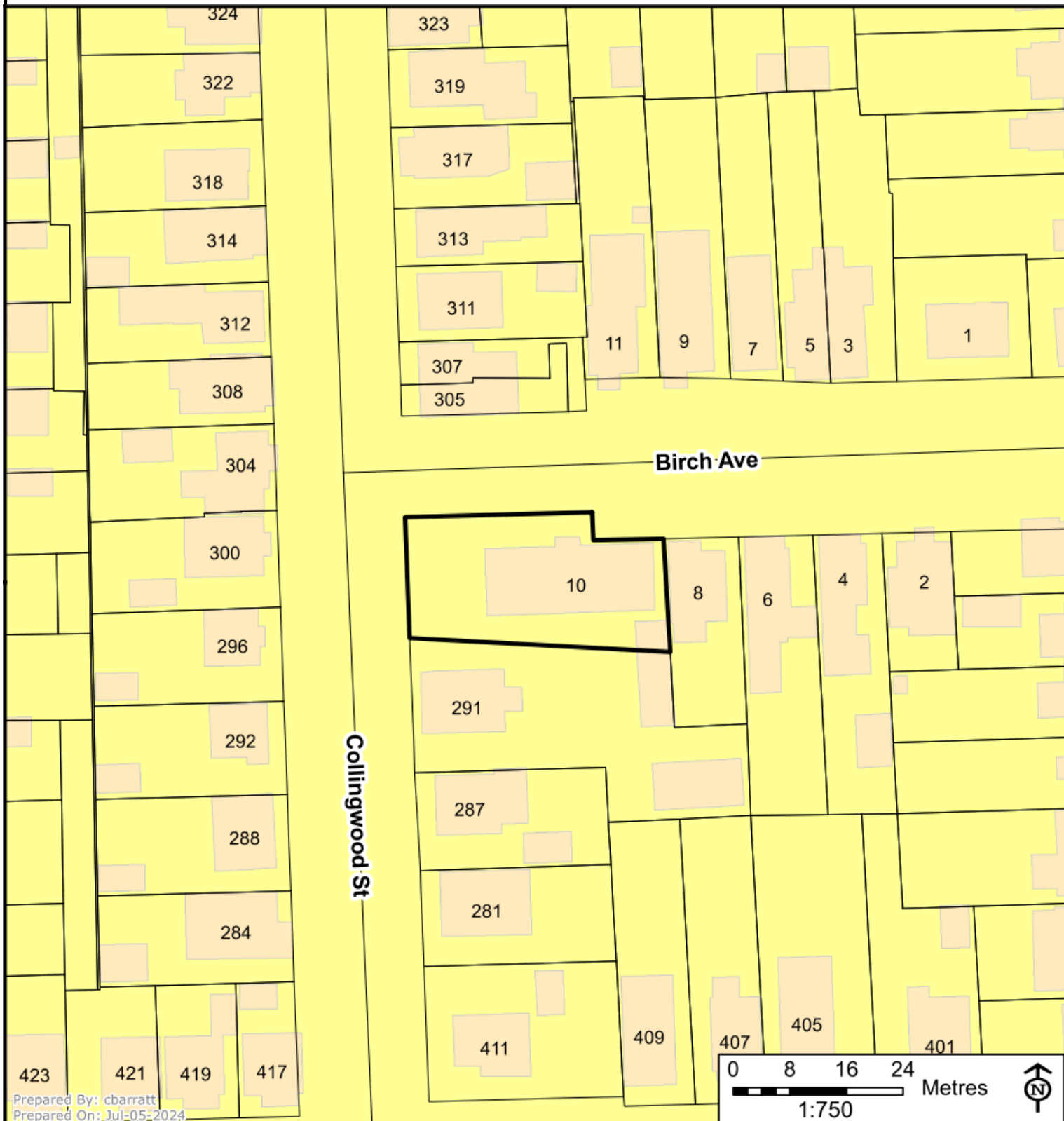
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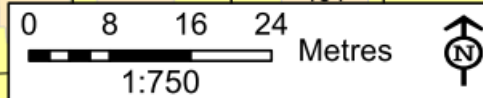
Committee of Adjustment Official Plan, Existing Land Use

Address: 10 Birch Avenue
File Number: D13-052-2024
Prepared On: Jul-05-2024

Subject Lands
 RESIDENTIAL



Prepared By: cbarratt
Prepared On: Jul-05-2024





Committee of Adjustment

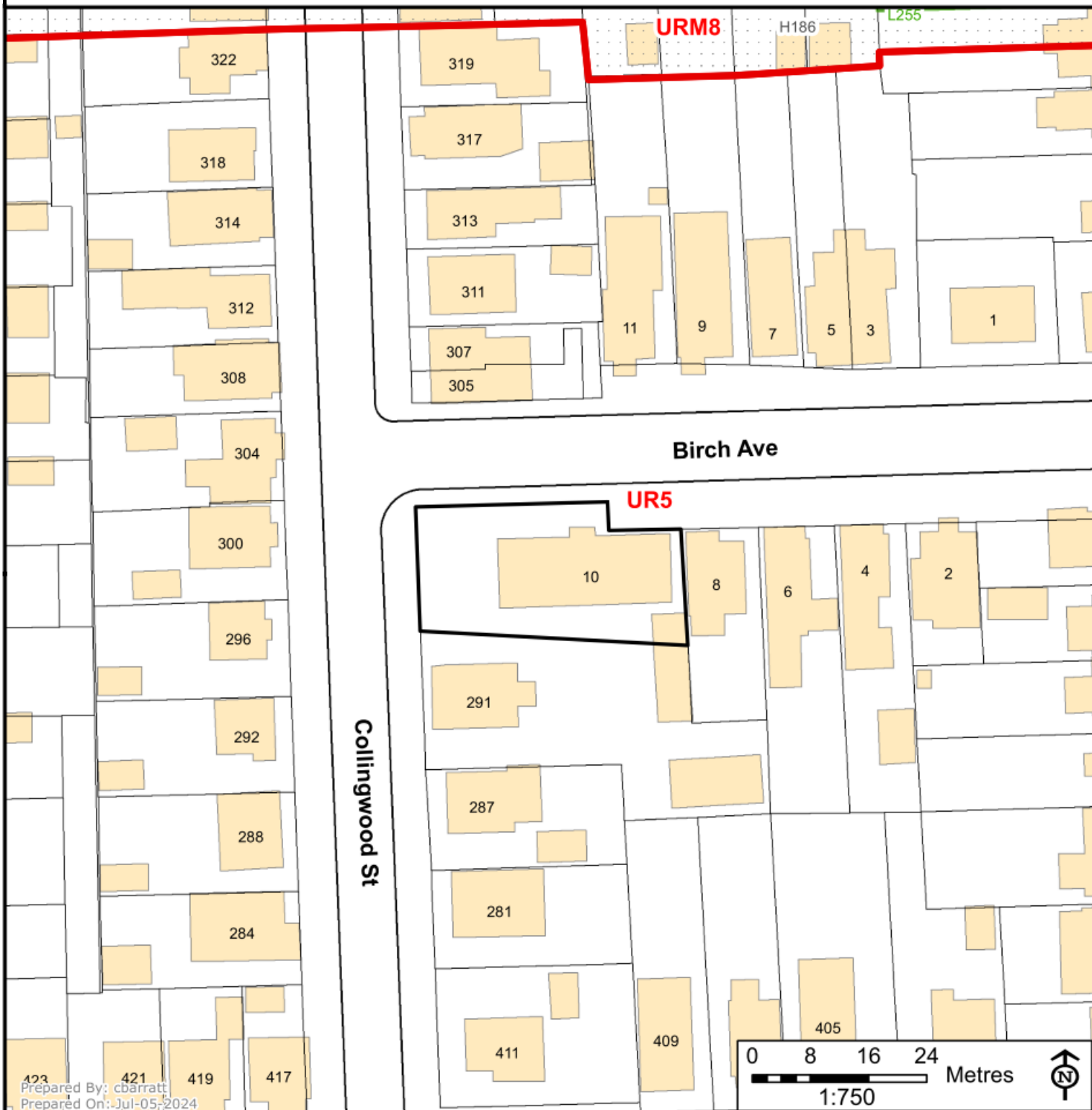
Kingston Zoning By-Law 2022-62

Planning Services

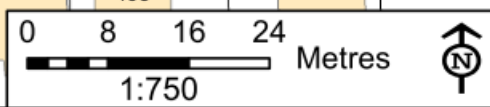
Address: 10 Birch Avenue
File Number: D13-052-2024
Prepared On: Jul-05-2024

- Subject Lands
- Schedule 1 Zoning Map
- Zone

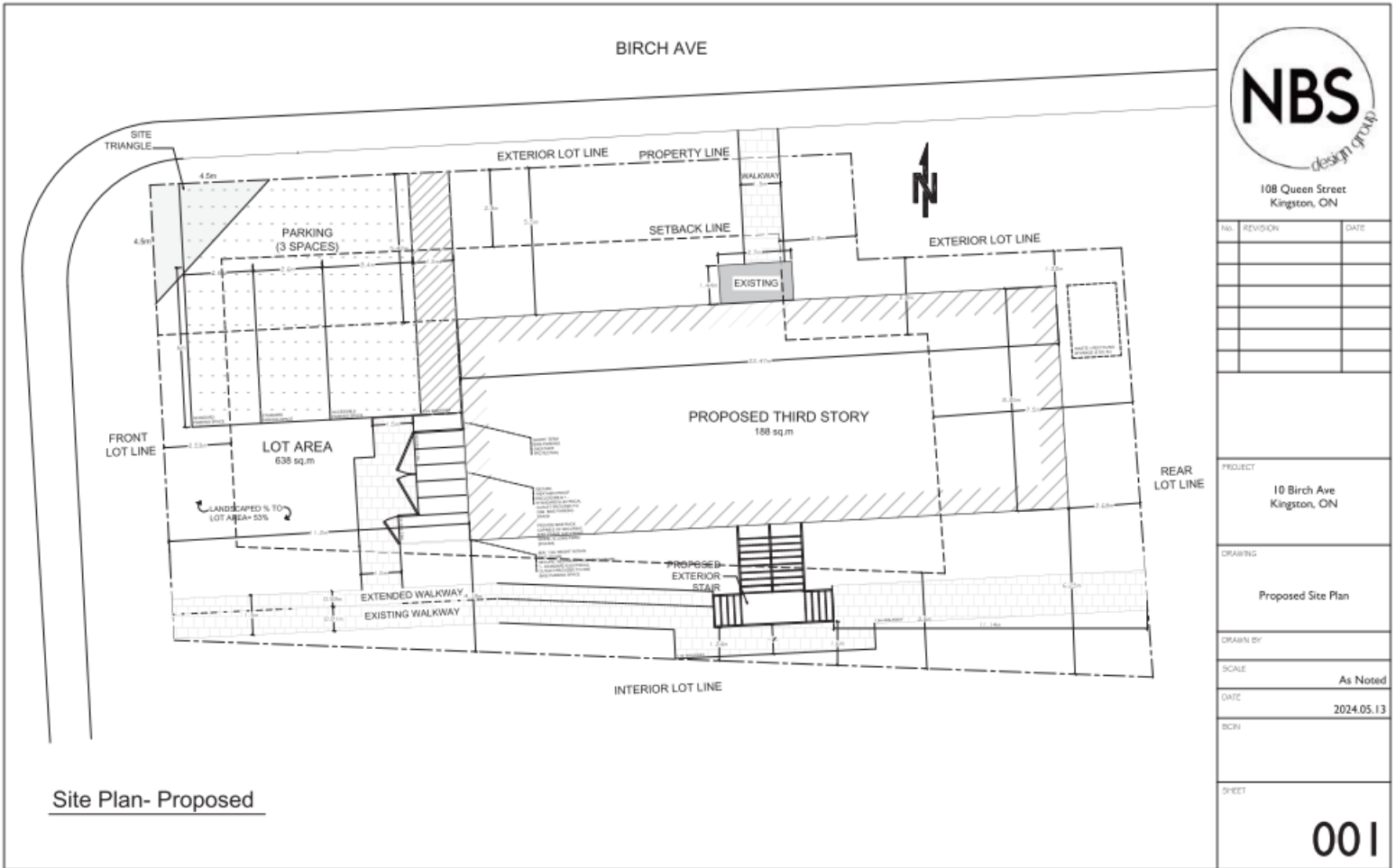
- Schedule E - Exception Overlay
- Legacy Exceptions (LXXX)
- Exceptions (EXXX)
- Schedule F - Holding Overlay
- Holding Overlay (HXXX)



Prepared By: cbarratt
Prepared On: Jul-05-2024



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Site Plan- Proposed



108 Queen Street
 Kingston, ON

NO.	REVISION	DATE

PROJECT
 10 Birch Ave
 Kingston, ON

DRAWING
 Proposed Site Plan

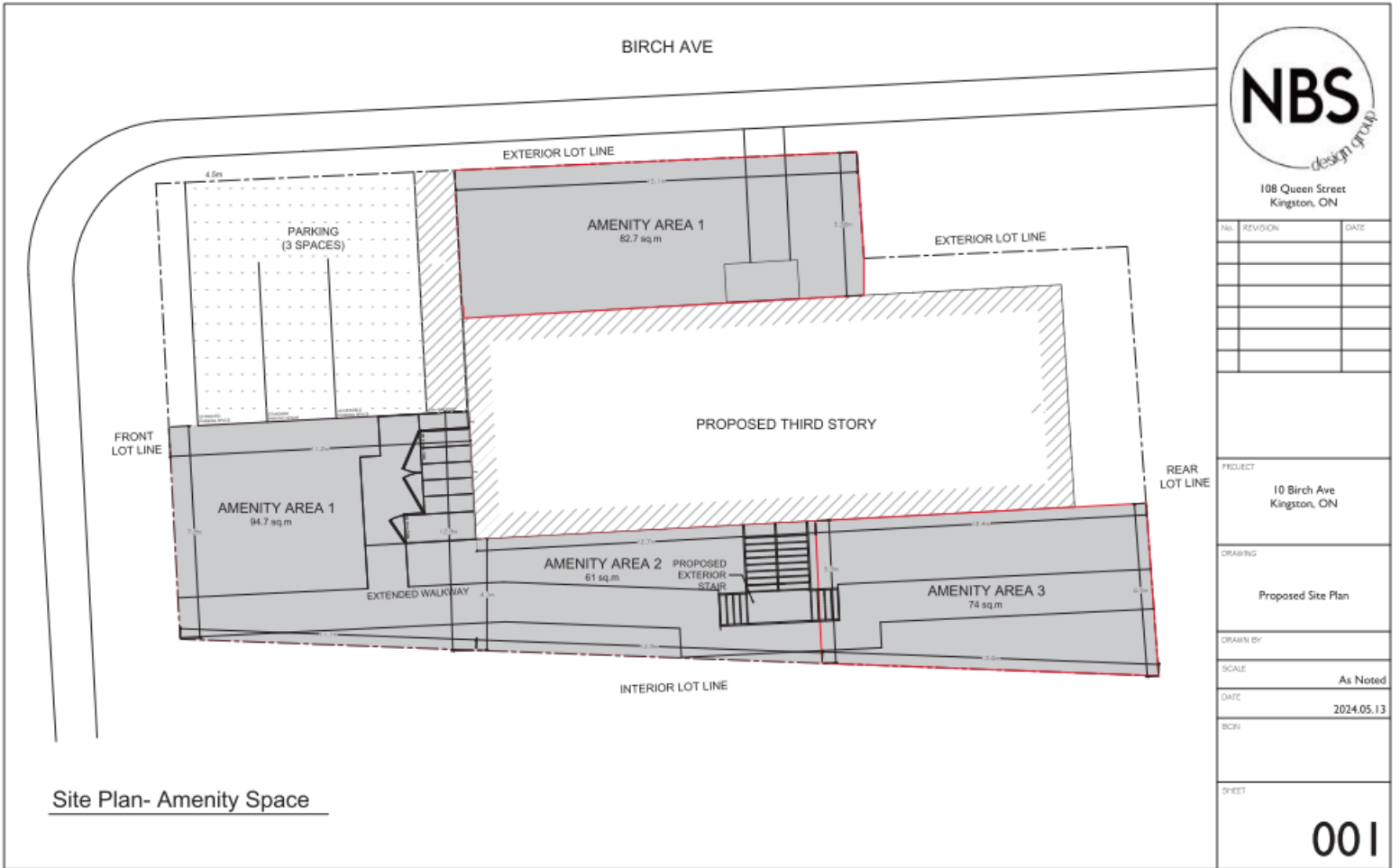
DRAWN BY

SCALE
 As Noted

DATE
 2024.05.13

BCIN

SHEET
 001



108 Queen Street
 Kingston, ON

NO.	REVISION	DATE

PROJECT
 10 Birch Ave
 Kingston, ON

DRAWING
 Proposed Site Plan

DRAWN BY

SCALE As Noted

DATE 2024.05.13

BCIN

SHEET
001

Site Plan- Amenity Space



108 Queen Street
 Kingston, ON

No.	REVISION	DATE

PROJECT
 10 Birch Ave
 Kingston, ON

DRAWING
 North Elevation
 Proposed

DRAWN BY

SCALE
 As Noted

DATE
 2024.05.13

BCIN

SHEET
 005



North Elevation- Proposed
 Scale: $\frac{1}{8}'' = 1'-0''$



108 Queen Street
 Kingston, ON

No.	REVISION	DATE

PROJECT
 10 Birch Ave
 Kingston, ON

DRAWING
 East/ West Elevation
 Proposed

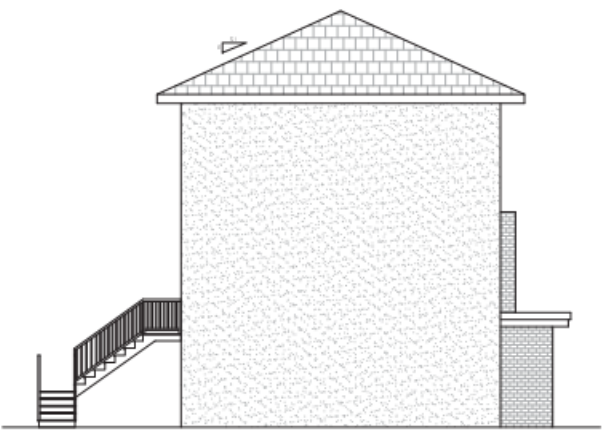
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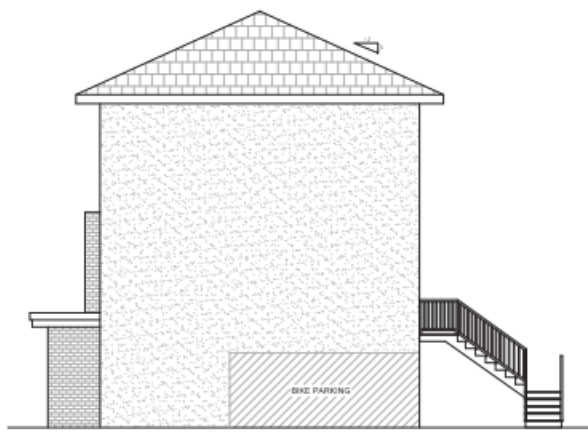
DATE 2024.05.13

BCIN

SHEET
 006



East Elevation- Proposed
 Scale: 3/8" = 1'-0"



West Elevation- Proposed
 Scale: 3/8" = 1'-0"



108 Queen Street
 Kingston, ON

No.	REVISION	DATE

PROJECT
 10 Birch Ave
 Kingston, ON

DRAWING
 South Elevation
 Proposed

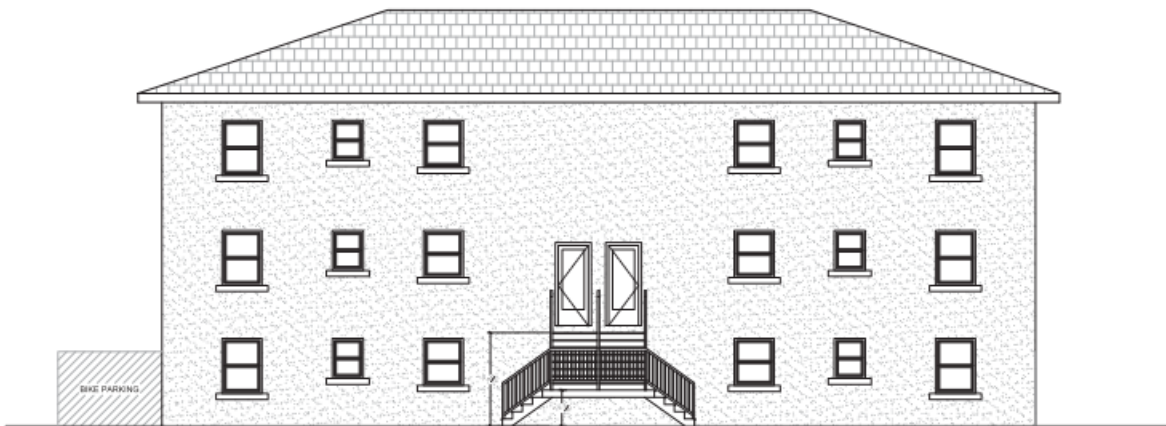
SCALE
 As Noted

DATE
 2024.05.13

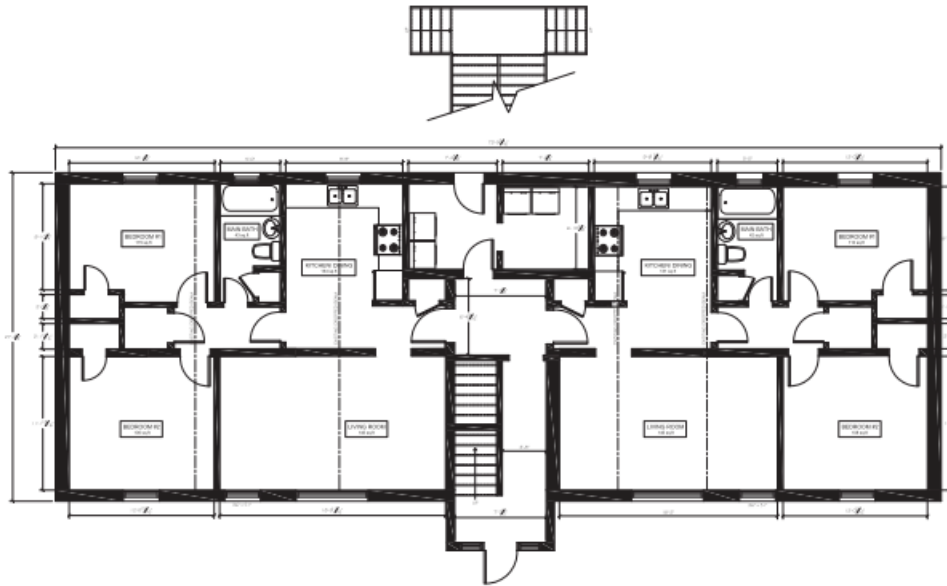
BCIN

SHEET

007



South Elevation- Proposed
 Scale: 1/4" = 1'-0"



108 Queen Street
 Kingston, ON

NO.	REVISION	DATE

- EXISTING PARTITION
- NEW PARTITION
- DEVICE

PROJECT
 10 Birch Ave
 Kingston, ON

DRAWING
 Main Floor
 Proposed

DRAWN BY

SCALE As Noted

DATE 2024.05.13

BCN

SHEET
002

Main Floor- Proposed
 Scale: $\frac{1}{8}'' = 1'-0''$



108 Queen Street
 Kingston, ON

NO.	REVISION	DATE

	EXISTING PARTITION
	NEW PARTITION
	DEVID

PROJECT
 10 Birch Ave
 Kingston, ON

DRAWING
 Second Floor
 Proposed

DRAWN BY

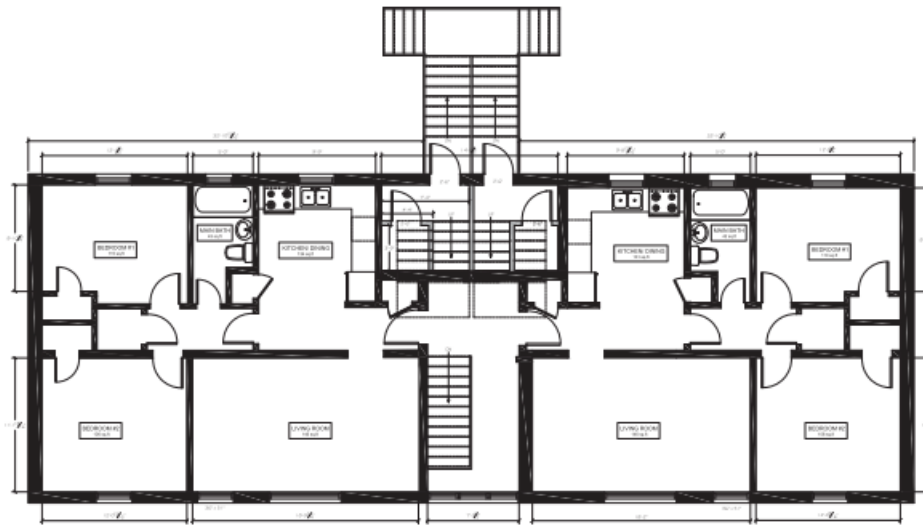
SCALE **As Noted**

DATE **2024.05.13**

BCN

SHEET

003



Second Floor- Proposed

Scale: 1/8" = 1'-0"



108 Queen Street
 Kingston, ON

NO.	REVISION	DATE

- EXISTING PARTITION
- NEW PARTITION
- DEMO

PROJECT
 10 Birch Ave
 Kingston, ON

DRAWING
 Third Floor
 Proposed

DRAWN BY

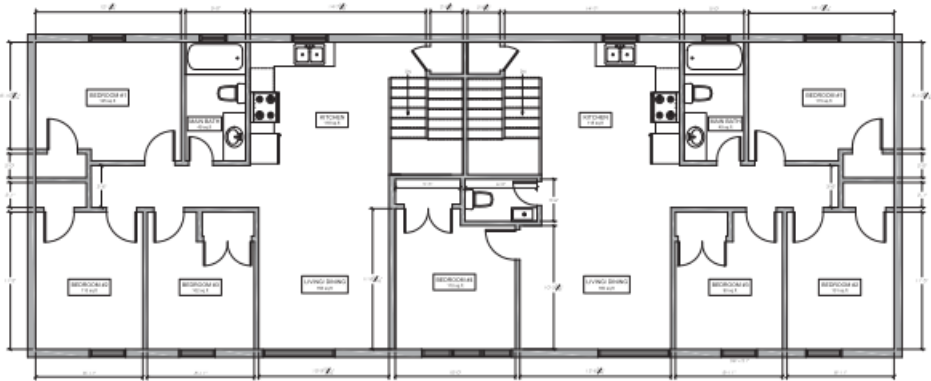
SCALE **As Noted**

DATE **2024.05.13**

BCN

SHEET

004



Third Floor- Proposed
 Scale: $\frac{1}{8}'' = 1'-0''$

Site Photos – 10 Birch Avenue

City File D13-052-2024



Figure 1: Front facing view of the existing legal non-conforming two-storey four-unit apartment building on the subject property at 10 Birch Avenue (October 22, 2024).



Figure 2: Adjacent property to the east of the subject lands, located at 8 Birch Avenue (October 22, 2024).



Figure 3: Existing built form examples located on the south side of Birch Avenue, east of the subject property (October 22, 2024).



Figure 4: South facing view along the Birch Avenue frontage showing the existing parking lot with four vehicular parking spaces located at the northwest corner of the subject property, near the Collingwood Street and Birch Avenue intersection (October 22, 2024).



Figure 5: South facing view along the Birch Avenue frontage of the subject property taken October 22, 2024.



Figure 6: View of the rear of the subject property illustrating the existing on-site conditions, photo taken from the Collingwood Street frontage (October 22, 2024).



Figure 7: Adjacent property to the south located at 291 Collingwood Street (October 22, 2024)



Figure 8: Example of existing built form at 300-307 Collingwood Street, located north of the subject lands (October 22, 2024).



Figure 9: Example of existing built form found along Collingwood Street, addressed as 314 Collingwood Street, located northwest of the subject lands (October 22, 2024).



Figure 10: Example of existing built form found along Collingwood and Johnson Street, addressed as 574 Johnson Street, located north of the subject lands (October 22, 2024).



Figure 11: Examples of various apartment built forms found along Johnson Street, addressed as 577 and 583 Johnson Street, located north of the subject lands (October 22, 2024).



Figure 12: West facing view of the existing bike lanes located on Johnson Street, within walking distance of the subject property (October 22, 2024).



Figure 13: East facing view of the existing bike lanes located on Johnson Street, within walking distance of the subject property (October 22, 2024).



Figure 14: Examples of various built forms found along Birch Avenue, northeast of the subject lands (October 22, 2024).



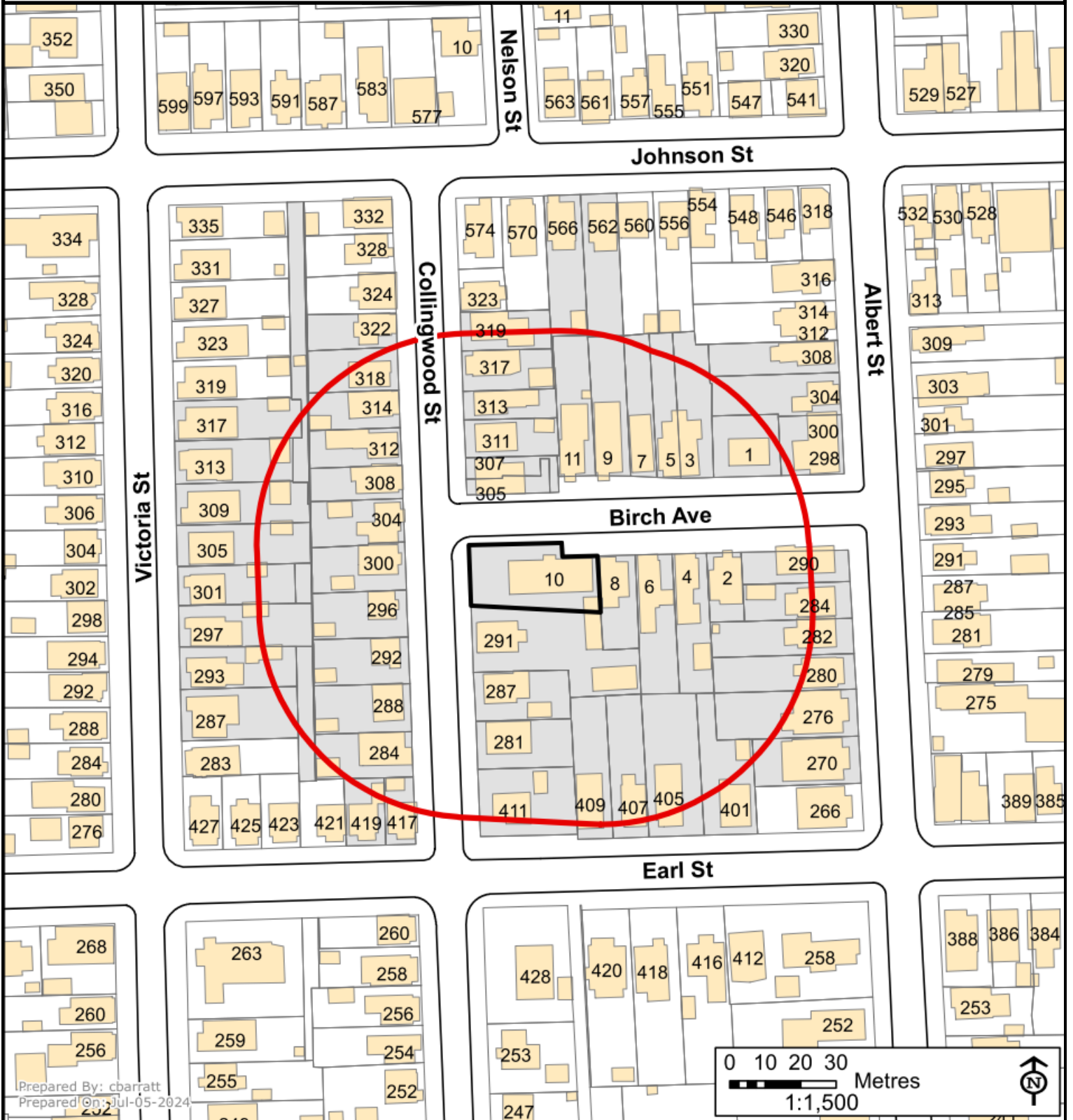
Figure 15: Examples of various built forms found along Birch Avenue, east of the subject lands (October 22, 2024).



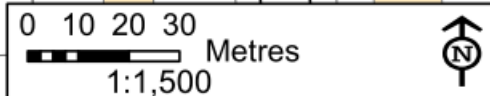
Committee of Adjustment Public Notice Notification Map

Address: 10 Birch Avenue
File Number: D13-052-2024
Prepared On: Jul-05-2024

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



Prepared By: cbarratt
Prepared On: Jul-05-2024



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