



**City of Kingston  
Report to Committee of Adjustment  
Report Number COA-24-081**

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**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 Consent  
**File Numbers:** D10-034-2024, D13-070-2024  
**Address:** 22-28 Ellice Street  
**District:** District 11 – King’s Town  
**Owner:** Matt Archibald  
**Applicant:** Fotenn Planning + Design, Matt Archibald

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**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 applications for minor variance and consent submitted by Fotenn Planning + Design and Matt Archibald on behalf of the owner, Matt Archibald, for the property located at 22-28 Ellice Street.

The purpose of the consent application (File Number (D10-034-2024) is to sever an approximately 189.5 square metre lot with 9.7 metres of road frontage on Ellice Street from the existing 708.2 square metre property located at 22-28 Ellice Street. The proposed retained lot will have approximately 518.7 square metres of area, 25 metres of road frontage on Ellice Street, and will maintain the existing four residential dwellings located in the house which resembles a townhouse structure located on the subject property. The applicant notes that proposed severed parcel is to be developed with a new three storey semi-detached house – resembling a townhouse - containing three residential dwelling units, accessed via a communal

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stairway from the front of the building. As part of the consent application, the application seeks to establish a reciprocal access easement to recognize the proposed shared driveway and rear parking and bike area, with the associated walkway for the severed and retained lots (Exhibit G – Site Plan & Easement).

The minor variance (File Number D13-070-2024) is requested to seek relief from the Kingston Zoning By-Law 2022-62 for the future proposed development on the severed lot, to develop the lot with a three-storey semi-detached house containing three residential dwelling units, and to address performance standards associated with the retained lot. Through the minor variance application, the retained lot requires relief from parking requirements and the minimum interior setback for the Urban Residential 5 (UR5) Zone from the Zoning By-Law 2022-62. In addition, relief is being requested for the severed lot from parking requirements under Section 7 and the minimum lot area and minimum landscaped open space of the Urban Residential 5 (UR5) Zone from By-Law 2022-62.

The requested minor variance and consent applications are consistent with the Provincial Planning Statement and conform with the general intent and purpose of both the City of Kingston Official Plan and Kingston Zoning By-Law Number 2022-62. The requested minor variances are desirable for the appropriate development or use of the land, building or structure and are minor in nature. The proposed minor variance application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval. The requested consent application has regard to the matters set out in subsection 51(24) of the *Planning Act* and a plan of subdivision is not necessary for the proper and orderly development of the property, as such, is recommended for provisional approval.

**Recommendation:**

**That** minor variance application, File Number D13-070-2024 for the property located at 22-28 Ellice Street to permit the construction of a new semi-detached house on the severed lot, for a total of three dwelling units with three bedrooms in the aggregate across the severed lot, and to address deficiencies resulting from the proposed severance, be approved, as described below:

**Severed Lot**

**Variance Number 1: Minimum Lot Area for a Semi-Detached House**

By-Law Number 2022-62:	Table 11.6.1.1.(b)
Requirement:	330.0 square metres per lot
Proposed:	187 square metres per lot
Variance Requested:	143 square metres; and,

**Variance Number 2: Minimum Landscaped Open Space**

By-Law Number 2022-62:	Table 11.6.1.9. Minimum Landscaped Open Space
Requirement:	30%
Proposed:	13.9%
Variance Requested:	16.1%; and,

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**Variance Number 3: Location of Vehicular Parking Space**

By-Law Number 2022-62: Section 7.1.1.

Requirement: Parking to be located on the same lot as the building or use.

Proposed: Parking can be located on-site or on an adjacent parcel (retained lot).

Variance Requested: Removing the requirement for the vehicular parking space to be located solely on the same lot as the corresponding use or building and instead enabling it to be located on the adjacent (retained) lot; and,

**Variance Number 4: Location of Bike Parking Space**

By-Law Number 2022-62: Section 7.3.1.

Requirement: Bike parking to be provided on the same lot as the use or building.

Proposed: Bike parking can be located on-site or on an adjacent parcel (retained lot).

Variance Requested: Removing the requirement for the bike parking space to be located solely on the same lot as the corresponding use or building and instead enabling it to be located on the adjacent (retained) lot; and,

**Retained Lot:**

**Variance Number 5: Minimum Interior Setback for Semi-Detached and Townhouse**

By-Law Number 2022-62: Table 11.6.1.7.(b)

Requirement: Where a common party wall is located along a lot line: 0 metres from the lot line with the common party wall and 1.2 metres from the other interior lot line

Proposed: Where a common party wall is located along a lot line: 0 metres from the lot line with the common party wall and 0.7 metres from the other interior lot line

Variance Requested: 0.5 metres from the other interior lot line; and,

**Variance Number 6: Minimum Parking Space – In line with a driveway**

By-Law Number 2022-62: Table 7.4.1.

Requirement: A minimum parking space length of 6.0 metres

Proposed: A minimum parking space length of 5.6 metres

Variance Requested: 0.4 metres; and,

**That** approval of the minor variance application be subject to the conditions attached as Exhibit A (Recommended Conditions – Minor Variance) to Report Number COA-24-081; and,

**That** consent application, File Number D10-034-2024, to sever an approximately 189.5 square metre lot from the existing 708.2 square metre subject property located at 22-28 Ellice Street and to establish mutual access easements over both lots., be **provisionally approved** subject to the conditions included in Exhibit B (Recommended Conditions – Consent) to Report Number COA-24-081.

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**Authorizing Signatures:**

ORIGINAL SIGNED BY PLANNER

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Niki Van Vugt, Intermediate  
Planner

**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 September 5, 2024, applications for minor variance and consent were submitted by Fotenn Consultants and Matt Archibald, on behalf of the owner Matt Archibald, for the subject property located at 22-28 Ellice Street.

The purpose of the consent application (File Number (D10-034-2024)) is to sever an approximately 189.5 square metre lot with 9.7 metres of road frontage on Ellice Street from the existing 708.2 square metre property located at 22-28 Ellice Street. The proposed retained lot will have approximately 518.7 square metres of area, 25 metres of road frontage on Ellice Street, and will maintain the existing four residential dwellings with a total of 12 bedrooms located in the existing house, which resembles a townhouse-built form, located on the subject property. As part of the consent application, the application seeks to establish a reciprocal easement to recognize the proposed shared driveway and rear vehicular and bike parking area, with associated walkways for the severed and retained lots (Exhibit G – Site Plan & Easement).

The minor variance (File Number D13-070-2024) is requested to seek relief from the Kingston Zoning By-Law 2022-62 for the future proposed development on the severed lot, to develop the lot with a three-storey semi-detached house containing three residential dwelling units, and to address performance standards associated with the retained lot. Through the minor variance application, the retained lot requires relief from parking requirements under Section 7 and the minimum interior setback for the Urban Residential 5 (UR5) Zone in Section 11.6. from the Zoning By-Law 2022-62. In addition, relief is also being requested for the severed lot from parking requirements under Section 7 and the minimum lot area and minimum landscaped open space of the UR5 Zone in Section 11.6. from By-Law 2022-62.

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

- Site Plan & Easement (Exhibit G);
- Planning Justification Report dated September 3, 2024;
- Floor Plans (Exhibit J);
- Architectural Elevations (Exhibit K);
- Archaeological Assessment dated May 15, 2023, prepared by Abacus Archaeological Services;
- Heritage Review dated November 24, 2023, prepared by Heritage Studio;
- Stormwater Management Design Brief dated July 8, 2024, prepared by Forefront Engineering Inc;
- Grading and Servicing Plans;
- Turning Movements (Exhibit L);
- Survey dated October 2022, prepared by Hopkins Chitty Land Surveyors Inc;
- Minor Variance Addendum dated September 3, 2024; and
- Noise Impact Study dated February 20, 2024, prepared by J.E. Coulter Associated Limited.

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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 22-28 Ellice Street (Exhibit C – Key Map). The subject lands are approximately 708.2 square metres in area with 34.8 metres of frontage on Ellice Street. The lot is currently developed with four dwelling units, with a total of 12 bedrooms, in what appears to be the built form of a townhouse on the subject property. However, through the recent administrative amendments approved by Council July 9, 2024, changes were made to the definition section of the By-law.

The approved amendments delete the individual definitions of single detached houses, duplexes and triplexes and replace them with one simplified definition of “house”. The definitions of “semi-detached house” and “townhouse” have been updated to focus on the land division element that is inherent to the Bill 23 changes, with new language recognizing the potential for semi-detached houses and townhouses to be converted in a manner that increases the number of residential units up to 4 per lot. As such, under Section 3.8.14. of the By-Law this existing four unit building falls under the definition of a house but resembles that of a townhouse (Exhibit H – Site Photos).

The property abuts a two storey building that is Part IV designated under the *Ontario Heritage Act* municipally addressed as 34-40 Ellice Street and 227-229 Division Street to the west, a one-storey house addressed as 14 Ellice Street to the east, is across the street from a two-and-a-half house addressed as 31 Ellice Street and three-and-a-half storey apartment addressed as 8 Vine Street to the north, and abuts two-and-a-half to three storey houses addressed as 143, 145 and 149 Colborne Street south of the subject lands (Exhibit D – Neighbourhood Context). As indicated above, the built form in the surrounding neighbourhood ranges from houses, semi-detached houses, townhouses to low-rise apartment buildings.

### **Provincial Planning Statement**

The Provincial Planning Statement (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.

### **Consent Application**

The review of an application for a consent is subject to Section 53 of the *Planning Act* which requires the approval authority be satisfied that a plan of subdivision is not necessary for the

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proper and orderly development of the municipality having regard to the matters addressed in subsection 51(24).

The proposal will result in the creation of an approximately 189.5 square metre separately conveyable residential lot with 9.7 metres of frontage on Ellice Street for the purpose of accommodating additional residential density on the severed parcel, while establishing mutual access easements for the purpose of vehicular and pedestrian egress/ingress into the severed and retained lots. The proposed consent meets the tests set out in the *Planning Act* and plan of subdivision is not required for the proper and orderly development of the property.

### **Official Plan**

The subject property is designated Residential in the City of Kingston Official Plan. The Residential land use designation on Schedule 3-A denotes urban residential land uses that are intended to be on full municipal services. 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 proposed addition to the existing house results in a semi-detached house across both lots, resembling a lower-rise townhouse-built form, is compatible with the underlying designation and allows for increased opportunities for a range of housing options in the Urban Boundary of the City.

The creation of individual parcels of land by way of consent is subject to the consent policies of the Official Plan. In considering whether the proposal is appropriate, the Committee of Adjustment will have regard for the requirements included within the Official Plan, specifically Section 9.6.13 titled: "Criteria for Consent Approval".

The proposed consent will result in the creation of two lots, one severed and one retained, intended to accommodate additional residential density on the severed parcel. The Kingston Zoning By-Law Number 2022-62 requires a minimum lot area of 330.0 square metres per lot for a semi-detached built form for lots in the Urban Residential 5 (UR5) Zone. The proposed area of the severed lot is consistent with nearby residential lots and is appropriate for the future residential use. The severed and retained parcels have been designed appropriately to accommodate the proposed addition on the severed lot and existing built form on the retained lot, subject to obtaining the requested relief through the minor variance application and meeting the requirements of the Kingston Zoning By-Law Number 2022-62 at the time of future development.

The proposal will result in the creation of a new somewhat irregularly shaped lot in the urban area. However, the existing lot fabric of the parcel reflects an irregular configuration which will be improved through this consent process to sever and establish mutual access easements. The severed lot will have approximately 9.7 metres of frontage on Ellice Street, is 23 metres long, will have an area of 189.5 square metres, and will maintain a somewhat rectangular shape. The proposed retained lot will have approximately 25 metres of frontage on Ellice Street and will be 26 metres long, will have an area of 518.7 square metres, and will maintain a

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squarer shape. As indicated above, the lots will retain frontage on Ellice Street, a municipally maintained and Local Road as per Schedule 4 of the Official Plan and will maintain vehicular and pedestrian access through a mutual right-of-way established through the consent process. The severed lands will include the driveway and a portion of the turnaround area to benefit the retained lands and the retained lands containing the two vehicular parking spaces, walkway and bike parking to benefit the severed parcel (Exhibit G – Site Plan & Easement).

Engineering staff were circulated through the application process and have indicated that a road widening was not required along Ellice Street. As part of the Development Agreement associated with these lands, any altered entrances on the severed lot will require an Entrance Permit from the Engineering Department prior to any excavation or work within the road allowance (Exhibit B – Recommended Conditions – Consent). The severance is not anticipated to result in any negative traffic hazards based on the mutual easement and frontage allocated to the severed lot. The applicant has adequately demonstrated that there is sufficient turnaround space to make the proposed two standard vehicular parking spaces functional without the need for someone to reverse onto Ellice Street (Exhibit L – Turning Movements).

The subject property is not designated or listed under Part IV or Part V of the *Ontario Heritage Act* or located within or adjacent to a Heritage Conservation District. However, the subject lands are adjacent to a Part IV designated property under the *Ontario Heritage Act* (33-40 Ellice Street and 227-229 Division Street) and were identified as having composite archaeological potential. As a result, Heritage Services staff were circulated as part of the application process. Staff reviewed the Heritage Review letter, prepared by Heritage Studios, and have no concerns with its findings and no additional comments to provide. In addition, staff are in receipt of the requested Archaeological Assessment for the property prepared by Abacus Archaeological Services, dated May 15, 2023, and the property has been cleared of archaeological resources.

The proposed severed and retained lots are located within the Urban Boundary and will be serviced by municipal services. Utilities Kingston, Kingston Hydro, and Engineering staff have been circulated and reviewed the servicing plan, grading plan, and stormwater management brief. As a condition of provisional consent approval, the applicant/owner will be required to provide written approval from Utilities Kingston to the Secretary-Treasurer Committee of Adjustment, that Utilities Kingston is satisfied that the existing services to the retained lot do not encroach on the severed lot (Exhibit B – Recommended Conditions - Consent). Recommendations from the stormwater management brief and compliance with the servicing and grading plan will be required to be included in the future Development Agreement that will be registered on title (Exhibit B).

The proposal meets the intent of the Official Plan, as the proposed severed and retained lots will not result in any negative impacts to adjacent properties or to the neighbourhood, including areas of archaeological potential, with the application of the recommended conditions of approval.



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## Zoning By-Law

The subject property is zoned Urban Residential 5 (UR5) Zone in Kingston Zoning By-Law Number 2022-62 (Exhibit F – Kingston Zoning By-Law Number 2022-62). The UR5 Zone permits a house, semi-detached house, and townhouse as a residential use as per Table 11.1.2.

Concurrent with this application for consent, minor variances have been requested to facilitate the proposed severance of the subject property and its future redevelopment, as described further in the proceeding section.

## Minor Variance 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:

### 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 (Exhibit E – Official Plan, Existing Land Use).

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 within a Housing District as shown on Schedule 2 of the City of Kingston Official Plan. Section 2.2.5. identifies that 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. Housing Districts will be designated for residential uses of different types, but will also contain areas of open space, community facilities and commercial uses. The proposal is anticipated to supply a range of housing options within an existing established low-rise neighbourhood, while ensuring that the proposed built form accounts for the existing surrounding development.

The proposal has been designed to ensure that the adjacent built heritage resources are properly considered and that the built form remains compatible with the surrounding buildings and development standards. The property is in an area characterised by mature residential neighbourhood and heritage architecture. A Heritage Review was prepared in support of the proposed development as there are known cultural heritage features adjacent to the site. The review demonstrated that the design of the proposed addition will not adversely impact the cultural heritage value and attributes of the adjacent protected heritage property. The architectural features of the proposed development were informed by the existing townhouse dwellings, and the built form was selected to ensure consistency and compatibility across the

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severed and retained lands. The proposed addition is zone compliant with the underlying parent zone, separate from the minimum lot area and landscaped open space for the severed lot and the minimum interior setback for the retained lot (an existing situation), and results in a zone compliant and similar height, built form, and massing of the surrounding area.

In regards to on-site functionality, vehicular access will be afforded via the mutual easement over the severed lands into a rear parking area on the retained lands to provide the required one standard vehicular parking space for both lots. The property is currently located in Parking Area 3 (PA3) which requires 1 standard vehicular parking space per lot for a semi-detached house. This proposal is able to meet the base requirement, subject to seeking relief from the location requirement for the severed lot to allow the parking to be located on the retained lot and the parking space length to ensure adequate turnaround is afforded. Similarly, seven long-term bike parking are provided on the retained lands, with the easement establishing access for the severed lands, to ensure that alternative transportation options are considered through this application. No concerns were raised as it relates to functionality and access through the technical review associated with this application.

The proposed severed and retained lots are located within the Urban Boundary and will be serviced by municipal services. Utilities Kingston, Kingston Hydro, and Engineering staff have been circulated and reviewed the servicing plan, grading plan, and stormwater management brief. As a condition of provisional consent approval, the applicant/owner will be required to provide written approval from Utilities Kingston to the Secretary-Treasurer Committee of Adjustment, that Utilities Kingston is satisfied that the existing services to the retained lot do not encroach on the severed lot (Exhibit B – Recommended Conditions - Consent). Recommendations from the stormwater management brief and compliance with the servicing and grading plan will be required to be included in the future Development Agreement that will be registered on title (Exhibit B).

The proposal meets the intent of the Official Plan, as the proposed severed and retained lots will not result in any negative impacts to adjacent properties or to the surrounding Residential lands, including areas of archaeological potential, with the application of the recommended conditions of approval.

## **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 F – Kingston Zoning By-Law Number 2022-62). The UR5 Zone permits a house, semi-detached house, and townhouse as a residential use as per Table 11.1.2.

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The proposal is seeking the following variances to facilitate the proposed development:

**Variances for Lot Area, Landscaped Open Space, and Interior Setback**

**Severed Lot Variance Number 1: Minimum Lot Area for a Semi-Detached House**

By-Law Number 2022-62: Table 11.6.1.1.(b)  
Requirement: 330.0 square metres per lot  
Proposed: 187 square metres per lot  
Variance Requested: 143 square metres; and,

**Severed Lot Variance Number 2: Minimum Landscaped Open Space**

By-Law Number 2022-62: Table 11.6.1.9. Minimum Landscaped Open Space  
Requirement: 30%  
Proposed: 13.9%  
Variance Requested: 16.1%; and,

**Retained Lot Variance Number 5: Minimum Interior Setback for Semi-Detached and Townhouse**

By-Law Number 2022-62: Table 11.6.1.7.(b)  
Requirement: Where a common party wall is located along a lot line: 0 metres from the lot line with the common party wall and 1.2 metres from the other interior lot line  
Proposed: Where a common party wall is located along a lot line: 0 metres from the lot line with the common party wall and 0.7 metres from the other interior lot line  
Variance Requested: 0.5 metres from the other interior lot line; and,

The severed lot requires a minor variance from the minimum lot area and landscaped open space provision of the UR5 Zone. The Kingston Zoning By-Law requires a minimum lot area of 330 square metres per lot for a semi-detached use in the UR5 Zone. The minimum lot area requirement is generally intended to preserve landscaped open space, ensure that on-site functionality is not impacted (i.e., vehicular and bike parking area), and that overdevelopment of a property does not occur. Despite the reduced lot area, the proposal is adequately able to satisfy the minimum requirements for vehicular and bike parking through the establishment of the mutual easement and landscaped open space required for the retained lot.

As indicated earlier, the applicant/owner was required to submit a stormwater management brief prepared by a qualified individual to describe current drainage conditions and post development conditions. Through the technical review portion of this file, it was determined that the Stormwater Management Design Brief (Forefront Engineering Inc, July 2024) demonstrated it is feasible to provide adequate stormwater controls for the site. Given the reduced landscaped open space on the severed parcel in order to provide consolidated access for the two parcels, it has been demonstrated that there is adequate stormwater management controls to be put in place and recommendations from the requested plans/reports will be incorporated on title through provisional approval of the consent application.

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The UR5 Zone requires a minimum interior setback of 0 metres from the lot line with the common party wall and 1.2 metres from the other interior lot line for a semi-detached house. The intent of the interior setback is to protect the surrounding properties from adverse impacts, such as intrusive overlook and privacy concerns, that could result in a reduction of the ability to enjoy one’s property. The applicant is seeking relief from the minimum interior setback for the other lot line of the retained lot to recognize an existing deficiency and has indicated that the built form on the retained lot is to remain unchanged, with no development being considered at this time (Exhibit G – Site Plan & Easement). Functional access remains feasible through the proposed right-of-way over the severed lot and with the existing 0.7 metre setback for existing and future occupants of the site.

**Variations for Location of Vehicular and Bike Parking Spaces and Vehicular Parking Space Length**

**Severed Lot Variance Number 3: Location of Vehicular Parking Space**

By-Law Number 2022-62: Section 7.1.1.  
Requirement: Parking to be located on the same lot as the building or use.  
Proposed: Parking can be located on-site or on an adjacent parcel (retained lot).  
Variance Requested: Removing the requirement for the vehicular parking space to be located solely on the same lot as the corresponding use or building and instead enabling it to be located on the adjacent (retained) lot; and,

**Severed Lot Variance Number 4: Location of Bike Parking Space**

By-Law Number 2022-62: Section 7.3.1.  
Requirement: Bike parking to be provided on the same lot as the use or building.  
Proposed: Bike parking can be located on-site or on an adjacent parcel (retained lot).  
Variance Requested: Removing the requirement for the bike parking space to be located solely on the same lot as the corresponding use or building and instead enabling it to be located on the adjacent (retained) lot; and,

**Retained Lot Variance Number 6: Minimum Parking Space – In line with a driveway**

By-Law Number 2022-62: Table 7.4.1.  
Requirement: A minimum parking space length of 6.0 metres  
Proposed: A minimum parking space length of 5.6 metres  
Variance Requested: 0.4 metres; and,

The applicant is seeking relief from the locational requirement for vehicular and bike parking to be located on the same lot as the corresponding use for the severed property. The intent of this provision is to ensure that functional needs for the users of the site are adequately met on the premises where the use is found. However, as indicated earlier in the report, a mutual easement will be established through the consent process for the purpose of ensuring that vehicular and bike parking spaces are provided on the retained lot and accessible by the users of the severed

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land (Exhibit G – Site Plan & Easement). Considering the establishment of the easement, there are no concerns with the functional needs of the site being adequately addressed and the requested variances meeting the general intent of the zoning by-law.

In addition, to ensure adequate space is afforded for vehicular users to turn around, relief is being sought from the minimum parking space length under Section 7.4. of the By-law. The minimum parking space dimensions in the Kingston Zoning By-Law vary depending on the type of driveway or drive aisle access and require a minimum length of 6.0 metres where spaces are accessed directly by a driveway. The intent of this length is to ensure that adequate maneuverability and functionality for parking a variety of vehicle types. A 5.5 metre parking space length is permitted when a space is accessed perpendicular to a drive aisle. In this context, of completing a consent to sever one new urban residential lot in an area where the turning movements have been shown to remain functional, permitting a reduced parking space dimension length to 5.6 metres is appropriate.

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 the creation of a residential lot in a location that is intended to supply a wide variety of housing options through various built forms and is in close proximity to transportation and commercial opportunities, parks and community facilities. The severed parcel is proposed to be developed with a total of three residential dwelling units, containing a total of three bedrooms aggregate to the lot in compliance with Section 4.28.1.1 of Kingston Zoning By-Law Number 2022-62. The development is consistent with the surrounding neighbourhood and the requested variances contemplate the site-specific constraints of the subject lands. The applicant has placed careful consideration into the design of the proposed development, through the placement of building and setbacks for the proposed three-unit semi-detached building on the severed lot to ensure that potential overlook and privacy concerns are mitigated. The variances are considered minor as there are no anticipated negative off-site impacts.

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

The variance is desirable and appropriate use of the land. The proposed severed lot, while conceding the minimum lot area and vehicular and bike parking location requirements of the zoning by-law, remains similar to the existing built form in the surrounding area. The applicant has contemplated the inclusion of the mutual easement to ensure that the vehicular and bicycle parking requirements can be met for the severed and retained lots. The setbacks of the proposed semi-detached building on the severed lot complies with the Kingston Zoning By-Law Number 2022-62 and the relief sought for the existing deficient setback on the retained lot will recognize the existing deficiency, with no development being contemplated on the retained lot at this time. The proposed development provides the minimum required vehicular and bike parking

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rates for the proposed built form and is able to accommodate a walkway which complies with the standards of the By-Law. The variances are desirable and appropriate use of the land.

**Technical Review: Circulated Departments and Agencies**

- |   |   |  |
|---|---|--|
| <input checked="" type="checkbox"/> Building Division | <input checked="" type="checkbox"/> Engineering         | <input checked="" type="checkbox"/> Heritage Services    |
| <input type="checkbox"/> Finance                      | <input checked="" type="checkbox"/> Utilities Kingston  | <input 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 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 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 checked="" type="checkbox"/> Forestry             |
| <input type="checkbox"/> Hydro One                    | <input type="checkbox"/> Enbridge Pipelines             | <input type="checkbox"/> TransCanada Pipelines           |
| <input type="checkbox"/> Kingston Airport             |   |  |

**Technical Comments**

The applications were circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude the applications 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 were received with regard to the applications. 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 minor variance and consent applications are consistent with the Provincial Policy Statement and conform 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(s) **are** desirable for the appropriate development or use of the land, building or structure and **are** minor in nature. The proposed minor variance application meets all four tests under Subsection 45(1) of the *Planning Act* and is being recommended for approval, subject to the proposed conditions.

The requested consent application has regard to the matters set out in subsection 51(24) of the *Planning Act* and a plan of subdivision is not necessary for the proper and orderly development

November 18, 2024

Page 15 of 16

of the property. As such, the requested consent application is recommended for provisional approval.

Provisional approval of these applications will permit the creation of one new lot, along with a reciprocal access easement, and facilitate the development of the three-storey semi-detached building, containing three residential dwelling units, on the severed lot while addressing performance standards associated with the retained lot.

**Existing Policy/By-Law:**

The proposed applications were 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 October 21, 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 14 days in advance of the meeting. In addition, notices were sent by mail to a total number of 59 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 I – 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*.

**Accessibility Considerations:**

None

**Financial Considerations:**

None

November 18, 2024

Page 16 of 16

**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 Recommended Conditions – Minor Variance

Exhibit B Recommended Conditions – Consent

Exhibit C Key Map

Exhibit D Neighbourhood Context

Exhibit E Official Plan, Existing Land Use

Exhibit F Kingston Zoning By-Law Number 2022-62

Exhibit G Site Plan

Exhibit H Site Photos

Exhibit I Public Notice Notification Map

Exhibit J Floor Plans

Exhibit K Architectural Elevations

Exhibit L Turning Movements



## Recommended Conditions

The approval of minor variance application, File Number D13-070-2024, to seek relief from the Kingston Zoning By-Law 2022-62 for the future proposed development on the severed lot, to develop the lot with a three-storey semi-detached building containing three residential dwelling units, and to address performance standards associated with the retained lot, shall be subject to the following recommended conditions:

### 1. Limitation

That the approved minor variance applies only to the severed lot and the retained lands 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

The City of Kingston is in receipt of an Archaeological Assessment for the property located at 22-28 Ellice Street prepared by Abacus Archaeological Services dated May 15, 2023. This report is on file with the Ministry of Citizenship and Multiculturalism. The City has received and 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 of 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.

## Recommended Conditions

The provisional approval of consent application, File Number D10-034-2024, to sever an approximately 189.5 square metre lot with 9.7 metres of road frontage on Ellice Street from the existing 708.2 square metre property located at 22-28 Ellice Street and establish a reciprocal access easement to recognize the proposed shared driveway and rear vehicular and bike parking area with the associated walkways for the severed and retained lots, shall be subject to the following recommended conditions:

### 1. Certificate of Official and Deadline

That all conditions are satisfied and the Certificate of Official be presented to the Secretary-Treasurer, Committee of Adjustment for certification under Section 53(42) of the Planning Act, R.S.O. 1990 as amended, within two years of mailing of this notice. We suggest that the Land Registry Office be consulted for preapproval of the Certificate of Official to avoid delays.

The Certificate must be registered within two years from the issuance of the certificate as required under Section 53(43) of the Planning Act, R.S.O. 1990, as amended. A copy of the registered transfer certificate shall be provided to the Secretary-Treasurer, Committee of Adjustment to complete the file.

### 2. Reference Plan

That a digital version of a Reference Plan be provided in a PDF and AutoCAD Windows readable format on a compact disc (CD), USB memory stick or by email, illustrating the consents and easements as parts on a plan prepared and presented to the Secretary-Treasurer, Committee of Adjustment prior to the issuance of the Certificate of Official.

### 3. Payment of Taxes

The owner/applicant shall contact the Tax Department at [tax@cityofkingston.ca](mailto:tax@cityofkingston.ca) and secure in writing from the Treasurer or the Manager of Taxation and Revenue, proof of payment of current taxes and any special charges (not simply a copy of the tax bill) required to be paid out and a statement of proof that is received and shall be provided to the Secretary-Treasurer Committee of Adjustment, prior to the issuance of the consent certificate. The owner/applicant must pay any outstanding realty taxes and all local improvement charges levied against the property.

### 4. Standard Archaeological Condition

The City of Kingston is in receipt of an Archaeological Assessment for the property located at 22-28 Ellice Street prepared by Abacus Archaeological Services dated May 15, 2023. This report is on file with the Ministry of Citizenship and Multiculturalism. The City has received and 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 of 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. Associated Minor Variance**

That associated Minor Variance Application D13-070-2024 is approved and all related conditions of approval are fulfilled.

**6. Cash-in-Lieu of Parkland**

That \$2,428.00 shall be paid to the City of Kingston as cash-in-lieu of land dedication for park or public recreational purposes for each new building lot being created. The applicant may choose to pay the fee through their DASH application, provide a certified cheque or provide payment at the front desk at 1211 John Counter Boulevard, prior to the issuance of the Certificate of Official.

**7. Civic Address**

The owner/applicant shall contact the Planning Division once the Reference Plan has been deposited and provided to the City, and obtain a draft civic address for each new lot created and all appropriate fees shall be paid. The owner/applicant shall provide to the Secretary-Treasurer, Committee of Adjustment, written confirmation from the City that the civic address has been obtained prior to the issuance of the consent certificate.

**8. Building Permit Application Requirements**

The owner/applicant shall provide to the Building Division a copy of the decision of the Committee of Adjustment, together with a copy of the approved drawings.

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 drawings, including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. Additional variances may be required should further zoning deficiencies be identified through the Building Permit application process.

**9. Utilities Services**

Prior to the issuance of the Certificate of Official, the owner/applicant shall provide written approval from Utilities Kingston to the Secretary-Treasurer Committee of Adjustment, that Utilities Kingston is satisfied that the existing services to the retained lot do not encroach on the severed lot.

**10. Easement or Right-of-Way**

Prior to the issuance of the Certificate of Official, the owner/applicant shall provide a draft transfer (easement) to the City for its review and approval as it relates to the

- (a) easement on the severed lands benefitting the retained lands for the purposes of pedestrian and vehicular ingress and egress; and
- (b) the easement on the retained lands benefitting the severed lands for the purposes of pedestrian and vehicular ingress and egress, a vehicular and bike parking area with associated walkways.

After the issuance of the Certificate of Official, the owner/applicant's solicitor shall register the transfer (easement).

## **11. Development Agreement**

The owner shall enter into a development agreement satisfactory to the City to be registered on title to the severed and retained lands. All legal costs associated with the preparation and registration of the agreement shall be borne by the owner. The applicant shall provide a copy of the registered executed agreement to the Secretary-Treasurer, Committee of Adjustment, prior to the issuance of the consent certificate. The agreement shall contain conditions to ensure:

- (a) The Owner shall complete all works on the Owner's Lands in accordance with the stormwater management brief prepared by Forefront Engineering Inc and dated July 8, 2024.
- (b) The Owner shall complete all works on the Owner's Lands in accordance with the approved grading and servicing plan prepared by Forefront Engineering Inc and dated October 16, 2024.
- (c) Any recommendations resulting from the Noise Impact Study prepared by J.E. Coulter Associates Limited dated February 20, 2024, and its proposed conditions be included in the Development Agreement.
- (d) Any recommendations resulting from the Archaeological Assessment shall be included within the development agreement for the lands.
- (e) The maximum number of bedrooms and maximum number of units permitted on the property shall be as per the zoning by-law.
- (f) 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.
- (g) 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.
- (h) That the owner be advised that any new or altered entrance to the site will require an entrance permit from the Engineering Division.

(i) That a Building Permit is required prior to the construction or removal of all structures 15 square metres in area or greater. Issues such as but not limited to O.B.C., grading and servicing will be agreed through the permit review process.

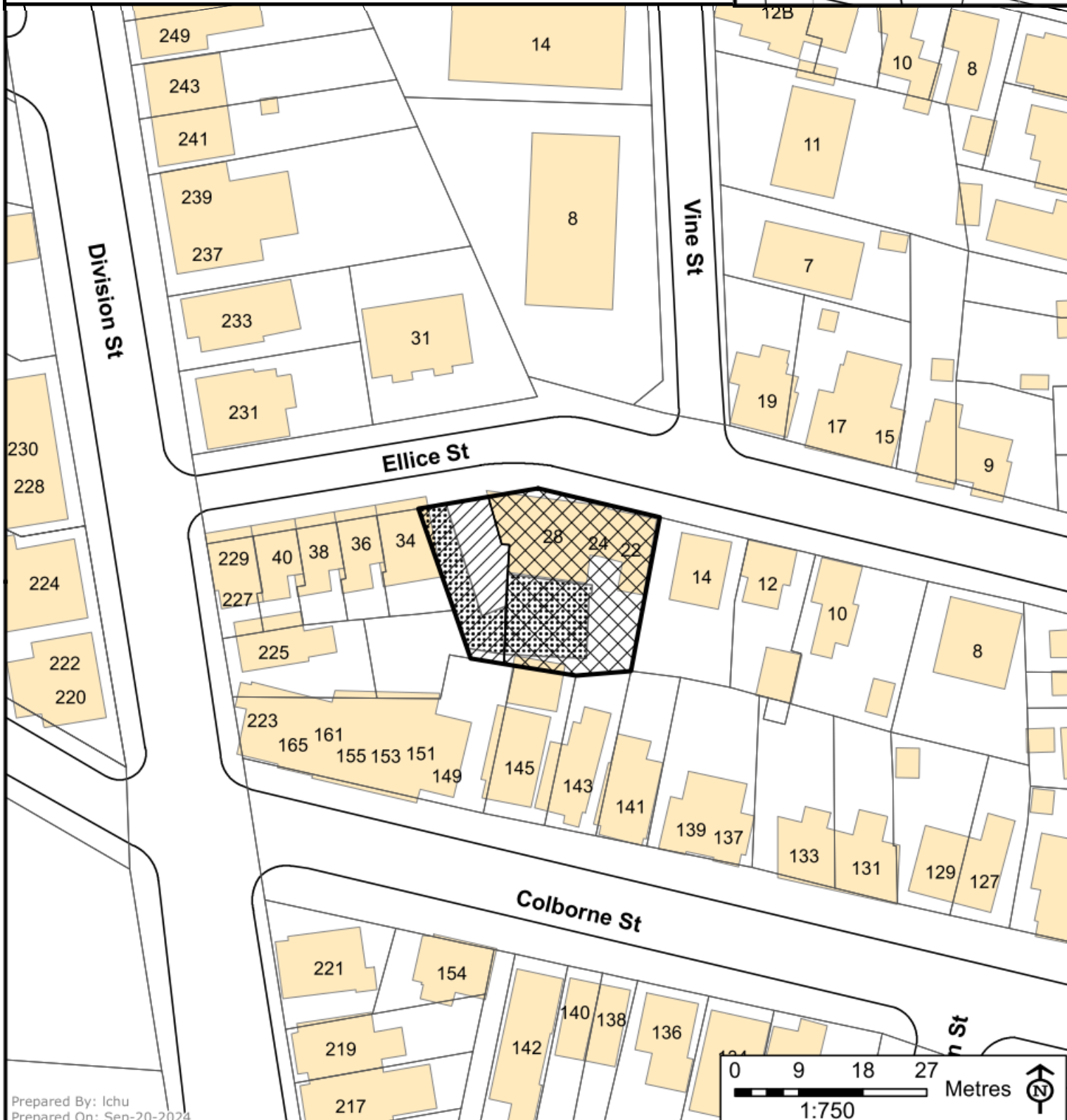


### Committee of Adjustment

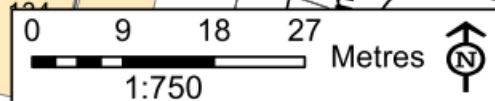
### Key Map

Address: 22-28 Ellice Street  
File Numbers: D10-034-2024 & D13-070-2024  
Prepared On: Sep-20-2024

- Subject Lands
- Retained Lands
- Severed Lands
- Easement



Prepared By: Ichu  
Prepared On: Sep-20-2024



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Committee of Adjustment  
**Neighbourhood Context**

Address: 22-28 Ellice Street

File Numbers: D10-034-2024 & D13-070-2024

Prepared On: Sep-13-2024

- Subject Lands
- Property Boundaries
- Proposed Parcels



Prepared By: lchu  
Prepared On: Sep-13-2024

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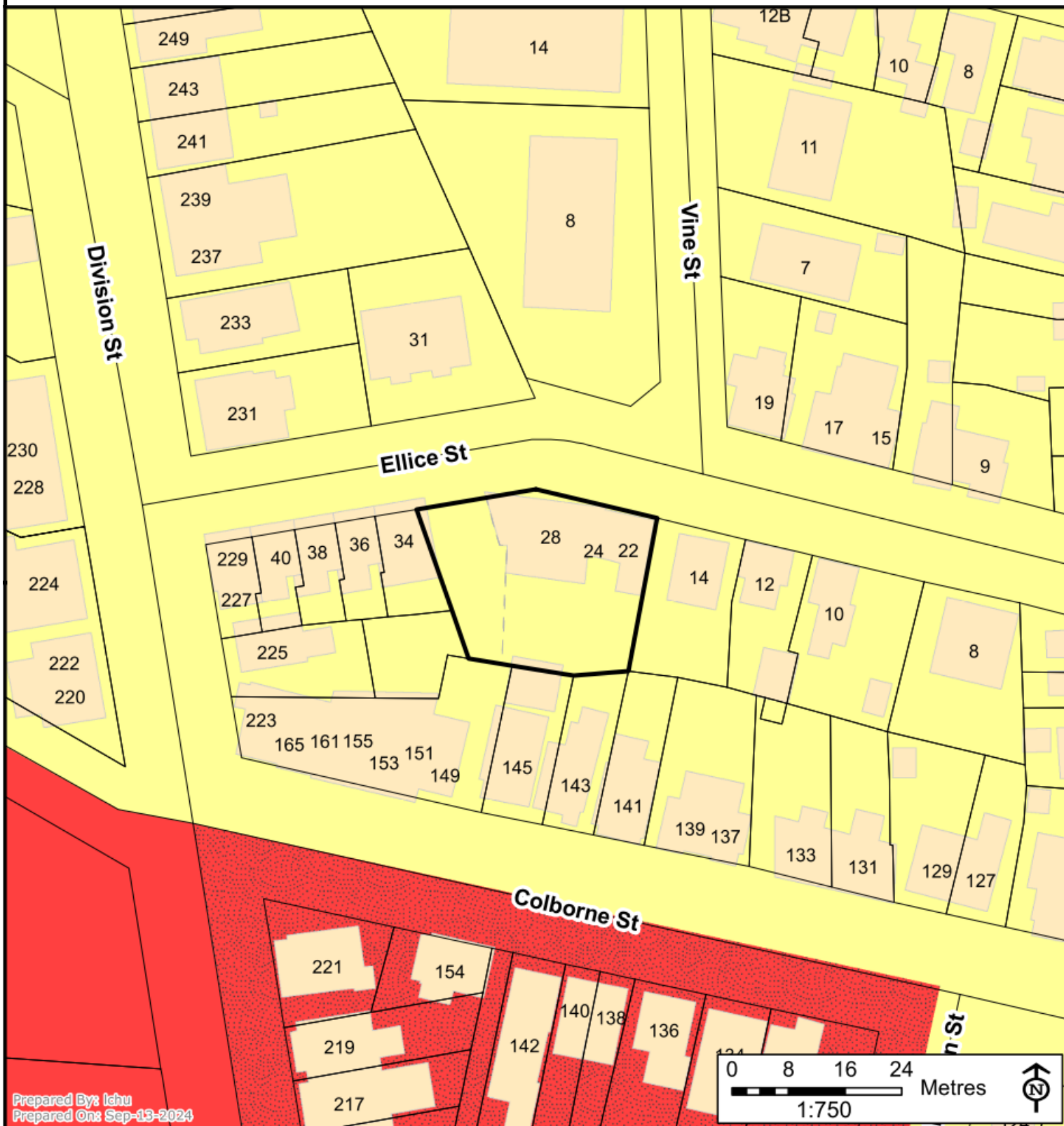


Kingston  
Planning  
Services

Committee of Adjustment  
**Official Plan, Existing Land Use**

Address: 22-28 Ellice Street  
File Numbers: D10-034-2024 &  
D13-070-2024  
Prepared On: Sep-13-2024

-  Subject Lands
-  CENTRAL BUSINESS DISTRICT
-  MAIN STREET COMMERCIAL
-  RESIDENTIAL



Prepared By: Ichu  
Prepared On: Sep-13-2024

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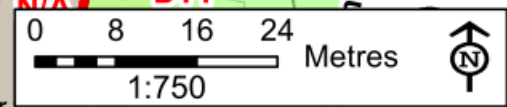
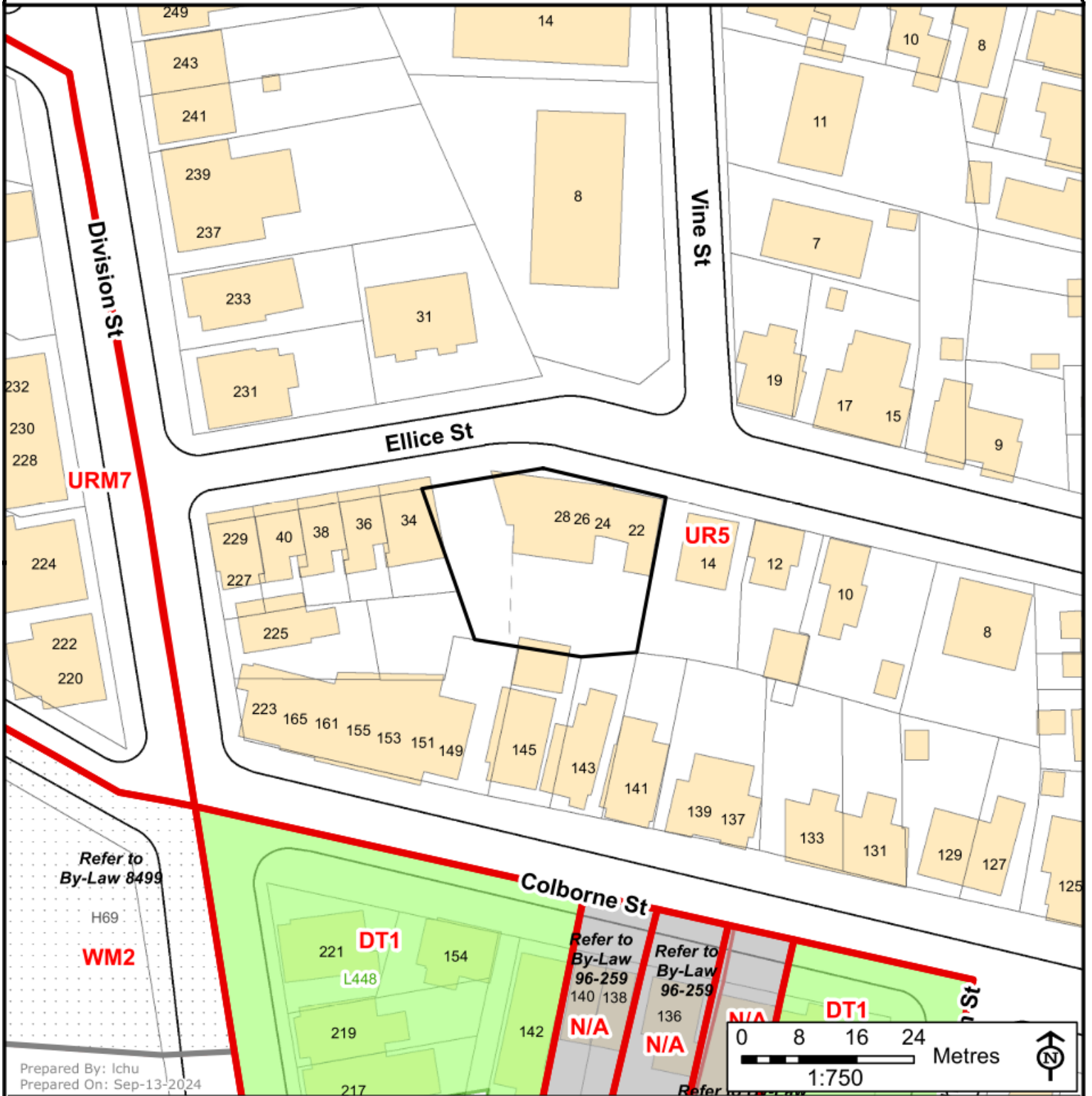


Planning Services

Committee of Adjustment  
Kingston Zoning By-Law Number  
2022-62

Address: 22-28 Ellice Street  
File Numbers: D10-034-2024 & D13-070-2024  
Prepared On: Sep-13-2024

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



Prepared By: Ichu  
Prepared On: Sep-13-2024

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**Site Photos – 22-28 Ellice Street**

City Files D13-070-2024 & D10-034-2024



**Figure 1:** Front facing view of the of the subject property at 22-28 Ellice Street, taken from the north side of Ellice Street (September 26, 2024).



**Figure 2:** Existing sidewalk and walkways located along the front of the subject property along the Ellice Street frontage (September 26, 2024).



**Figure 3:** Existing apartment building located at 8 Vine Street, north of the subject property (September 26, 2024).



**Figure 4:** Existing built form directly adjacent and located east of the subject property addressed as 14 Ellice Street (September 26, 2024).



**Figure 5:** Existing vehicular access along Ellice Street to the gravel parking area, located west on the subject property (September 26, 2024).





**Figure 6:** Existing landscaped open space at the rear of the subject property (September 26, 2024).



**Figure 7:** Existing built form located north of the subject property at 31 Ellice Street (September 26, 2024).



**Figure 8:** East facing view of the subject property along the south side of Ellice Street, showing examples of existing built form in the surrounding area (September 26, 2024).



**Figure 9:** Adjacent heritage property addressed as 34-40 Ellice Street, located west of the subject property (September 26, 2024).



**Figure 10:** Existing built form in the surrounding area, properties addressed as 228-232 Division Street (September 26, 2024).



**Figure 11:** Existing built form in the surrounding area, properties addressed as 220-224 Division Street (September 26, 2024).



**Figure 12:** Bus Stop located along Division Street, near the intersection of Colborne Street, located within walking distance of the subject property (September 26, 2024).



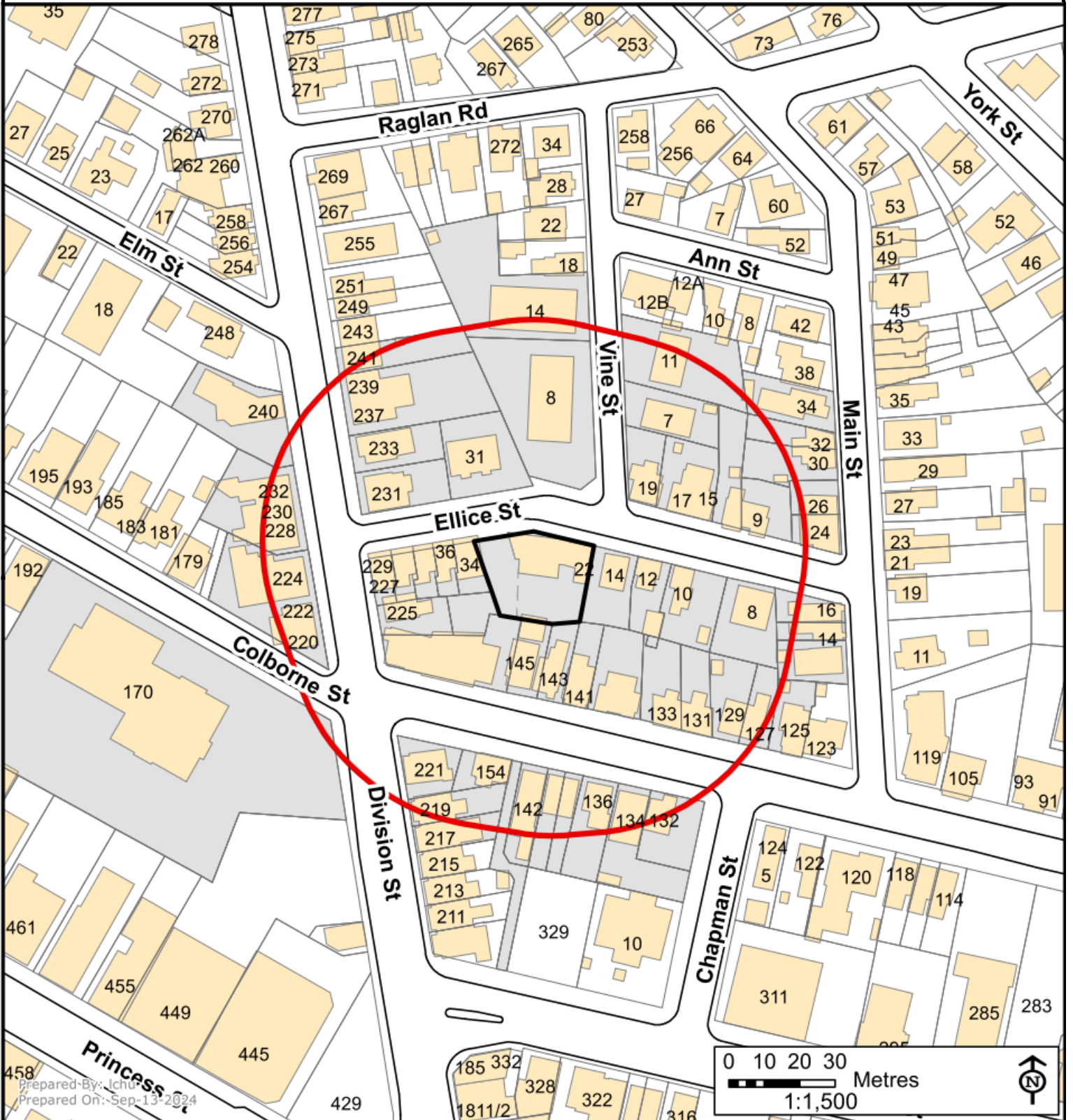
**Figure 13:** Existing built form south and located adjacent to the subject lands addressed as 143 and 145 Colborne Street (September 26, 2024).





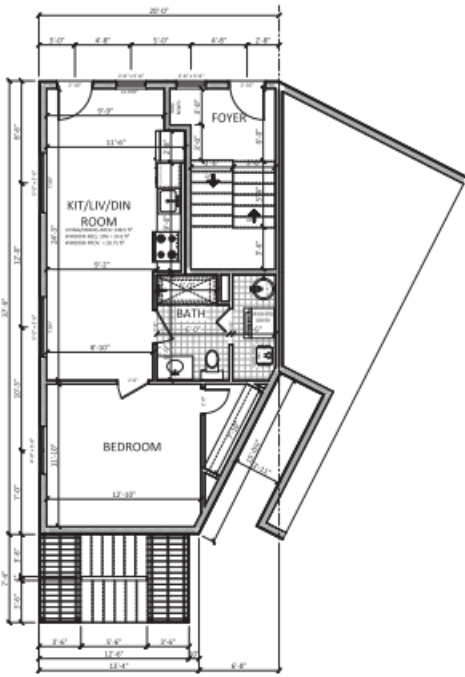
Committee of Adjustment  
**Public Notice Notification Map**  
Address: 22-28 Ellice Street  
File Numbers: D10-034-2024 &  
D13-070-2024  
Prepared On: Sep-13-2024

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

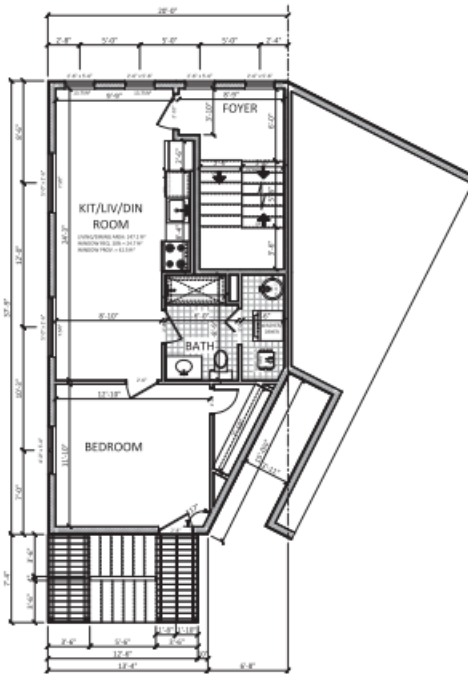


Prepared By: Jchu  
Prepared On: Sep-13-2024

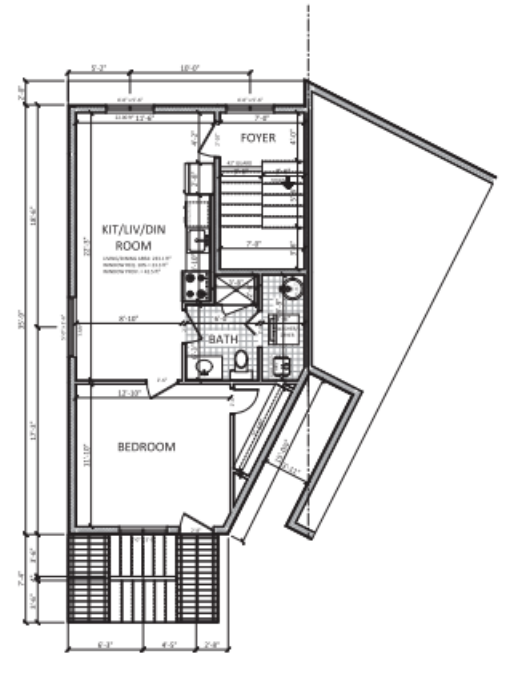
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GROUND FLOOR



SECOND FLOOR



THIRD FLOOR

THE UNDERSIGNED HAS REVIEWED AND TAKES THE RESPONSIBILITY FOR THIS DESIGN, HAS QUALIFICATIONS AND MEETS THE REQUIREMENTS SET OUT IN THE BUILDING CODE TO BE A DESIGNER  
 HEAD DRAFTING & DESIGN 40545  
 FIRM BCPI  
 DESIGNER *Jordan Van Leuken* 38999 BCPI

**FLOOR PLANS**

THESE PLANS FOR THE BASIS FOR PERMIT ISSURANCE AND ANY DEVIATION FROM THESE PLANS AND DETAILS, INCLUDING THE VENTILATION OR HEATING SYSTEMS, WOOD STOVES, FIREPLACES, DECKS, BALCONIES AND FINISHED BASEMENT, WILL REQUIRE A REVISED DRAWING AND CLEARANCE BY THE BUILDING INSPECTION DEPARTMENT

AREA 0000.0 ft<sup>2</sup>

THIS PLAN IS DESIGNED AND IS TO BE BUILT IN ACCORDANCE WITH THE 2012 ONTARIO BUILDING CODE

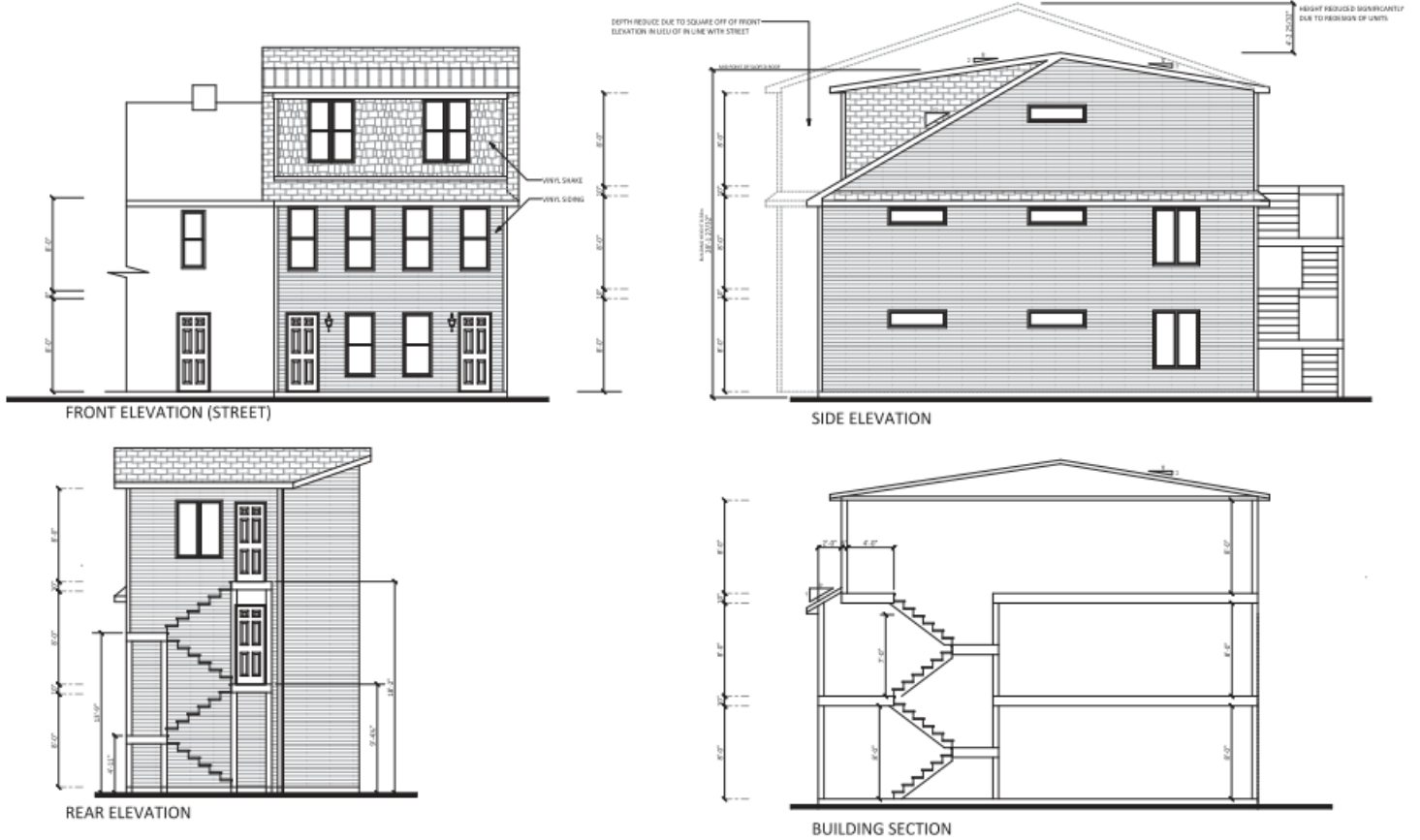
LOCATION  
 ELLIS STREET  
 KINGSTON, ONTARIO

SCALE 1/8" = 1'-0"

DATE NOVEMBER 20, 2023

DRAWN BY JORDAN VAN LEUKEN

**A1**  
1 of 1



<p>THE UNDERSIGNED HAS REVIEWED AND TAKES THE RESPONSIBILITY FOR THIS DESIGN, HAS QUALIFICATIONS AND MEETS THE REQUIREMENTS SET OUT IN THE BUILDING CODE TO BE A DESIGNER.</p> <p>HMD DRAFTING &amp; DESIGN 401845 FIRM BCN</p> <p>DESIGNER <i>Jordan Van Leuken</i> 38922 BCN</p>	<p><b>ELEVATIONS</b></p> <p>THESE PLANS FOR THE BASIS FOR PERMIT ASSURANCE AND ANY DEVIATION FROM THESE PLANS AND DETAILS, INCLUDING THE VENTILATION OR HEATING SYSTEMS, WOOD STOVES, FIREPLACES, DECKS, BALCONIES AND FINISHED BASEMENT, WILL REQUIRE A REVISED DRAWING AND CLEARANCE BY THE BUILDING INSPECTION DEPARTMENT</p>	<p>AREA 0000.0 ft<sup>2</sup></p> <p>THIS PLAN IS DESIGNED AND IS TO BE BUILT IN ACCORDANCE WITH THE 2012 ONTARIO BUILDING CODE</p>	<p>LOCATION <b>ELLIS STREET KINGSTON, ONTARIO</b></p>	<p>SCALE 1/8" = 1'-0"</p> <p>DATE JUNE 6, 2024</p> <p>DRAWN BY JORDAN VAN LEUKEN</p>	<p><b>A2</b> 1 of 1</p>
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