



**City of Kingston
Report to Committee of Adjustment
Report Number COA-24-080**

To: Chair and Members of the Committee of Adjustment
From: Chanti Birdi, Intermediate Planner
Date of Meeting: October 21, 2024
Application for: Permission
File Number: D13-067-2024
Address: 196 Concession Street
District: District 9 – Williamsville
Owner: 5019063 Ontario Inc
Applicant: Atif Haider

Council Strategic Plan Alignment:

Theme: 1. Support Housing Affordability

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

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for permission for the property located at 196 Concession Street. The applicant is proposing to increase the number of residential units within the existing legal non-conforming building from 11 units to 12 units.

The requested application for permission under Section 45(2)(a)(ii) of the *Planning Act* 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 proposed addition of one residential unit within the existing apartment building is similar to the existing legal non-conforming use. Therefore, it is recommended that this application for permission under Section 45(2)(a)(ii) of the *Planning Act* be approved.

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Recommendation:

That the application for permission, File Number D13-067-2024, for the property located at 196 Concession Street to increase the number of residential units within the existing legal non-conforming apartment building from 11 units to 12 units, be **Approved**; and,

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-24-080.

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Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

Chanti Birdi, 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 4, 2024, an application for permission was submitted by Atif Haider, on behalf of the owner, 5019063 Ontario Inc, with respect to the property located at 196 Concession Street. The application for permission is requested to increase the number of residential units within the existing legal non-conforming apartment building from 11 units to 12 units.

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

- Site Plan (Exhibit F)
- Floor Plan (Exhibit G)

All submission materials are available online through the Development and Services Hub (DASH) at the following link, [DASH](#), using “Look-up a Specific Address”. If there are multiple addresses, search one address at a time, or submission materials may also be found by searching the file number.

Site Characteristics

The subject property is located on the south side of Concession Street, west of Victoria Street. The property is located within an area that is primarily residential but also contains nearby neighbourhood community and commercial uses (Exhibit B – Key Map). The property abuts a mixed-use building to the west and a house to the east (Exhibit C – Neighbourhood Context Map).

The subject property is designated Residential in the Official Plan (Exhibit D – Official Plan Map) and zoned Urban Residential Zone 5 (UR5) in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map).

Permission Application

Pursuant to Subsection 45(2)(a)(ii) of the *Planning Act*, the Committee of Adjustment may permit the use of any land, building or structure for a purpose that, in the opinion of the Committee, is similar to the purpose for which it was used on the day the zoning by-law was passed or is more compatible with the uses permitted by the zoning by-law than the purpose for which it was used on the day the zoning by-law was passed, so long as the use has continued until the date of the application to the Committee. In determining whether to grant a permission pursuant to Subsection 45(2)(a)(ii), the relevant test is:

- 1) Whether the proposed use is similar to the existing legal non-conforming use; or**
- 2) Whether the proposed use is more compatible with the uses permitted in the zoning by-law than the existing legal non-conforming use.**

Similarity and compatibility are assessed according to the impacts, such as physical or social impacts, created by the proposed use as compared to the existing legal non-conforming use.

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The proposed 12-unit residential building is similar in terms of use, function and compatibility to the existing 11-unit building. There are no proposed increases to building footprint or height. It is not anticipated that the addition of one single-bedroom residential unit will have any negative impacts on the lot or neighbourhood.

Provincial Planning Statement

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

Official Plan

The subject property is designated Residential (Exhibit D – Official Plan Map).

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 existing apartment building was constructed in 1963 as an 11-unit apartment and has continued to function as such since its construction. As such, the apartment building is considered a legal non-conforming use.

The proposal does not conflict with and is not anticipated to disrupt the existing and planned uses within the area. The Residential designation of the Official Plan permits a variety of residential uses including low-rise, mid-rise and high-rise residential uses. At 3 storeys, the building is considered a low-rise residential building. New low-rise residential buildings are subject to the locational criteria of Section 2.6.4. of the Official Plan. It is noted that the building is existing and not new, however, the building does meet the locational criteria established in Section 2.6.4. of the Official Plan.

The subject property is not designated or listed on the City of Kingston's Heritage Property Register, or adjacent to a property which is designated or listed.

No changes to the height or footprint of the building are proposed. The proposal makes use of existing space to convert a storage area to a residential unit.

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The requested permission to increase the number of residential units within the existing legal non-conforming apartment building from 11 units to 12 units meets the general intent and purpose of the City of Kingston Official Plan.

Zoning By-Law

The subject property is zoned Urban Residential Zone 5 (UR5) in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map).

The UR5 zone does not permit apartment buildings, however, the existing apartment building is considered a legal non-conforming use and is permitted to continue to be used as such in accordance with Section 1.8.1. of the Zoning By-Law.

The introduction of one residential unit within the existing building does not necessitate any variances from the requirements of the Zoning By-Law. The site can accommodate the necessary site adjustments for the addition of one residential unit, such as walkway expansion, parking, bike parking and amenity area. The existing legal non-conforming driveway is planned to remain as existing.

Technical Review: Circulated Departments and Agencies

- Building Services Engineering Heritage Services
- Finance Utilities Kingston Real Estate
- Fire & Rescue Kingston Hydro Environment Division
- Solid Waste Parks Development Canadian National Railways
- Housing District Councillor Ministry of Transportation
- KEDCO Municipal Drainage Parks of the St. Lawrence
- CRCA KFL&A Health Unit Trans Northern Pipelines
- Parks Canada Eastern Ontario Power CFB Kingston
- Hydro One Enbridge Pipelines TransCanada Pipelines
- Kingston Airport

Technical Comments

This application was circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude this

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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 have been received. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

Previous or Concurrent Applications

There are no concurrent or relevant historic planning applications on the subject property.

Conclusion

The requested application for permission under Section 45(2)(a)(ii) of the *Planning Act* 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 proposed addition of one residential unit to the existing building is similar to the existing legal non-conforming use. Therefore, it is recommended that this application for permission under Section 45(2)(a)(i) of the *Planning Act* be approved.

Approval of this application will have the effect of permitting one new residential unit within the existing legal non-conforming apartment building.

Existing Policy/By-Law:

The proposed application was reviewed against the policies of the Province of Ontario and City of Kingston to ensure that the changes would be consistent with the Province's and the City's vision of development. The following documents were assessed:

Provincial

Provincial 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 10 days in advance of the meeting. In addition, notices were sent by mail to a total number of 56 property

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owners (according to the latest Assessment Roll) within 60 metres of the subject property and a courtesy notice was placed in The Kingston Whig-Standard (Exhibit H – Public Notification Map).

Once a decision has been rendered by the Committee of Adjustment, a Notice of Decision will be circulated in accordance with the provisions of the *Planning Act*.

Accessibility Considerations:

None

Financial Considerations:

None

Contacts:

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

Chanti Birdi, Intermediate Planner, 613-546-4291 extension 3273

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Neighbourhood Context Map (2022)
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Map
- Exhibit F Site Plan
- Exhibit G Floor Plan
- Exhibit H Site Photos
- Exhibit I Public Notification Map

Recommended Conditions

The approval of permission application, File Number D13-067-2024, to increase the number of residential units within the existing legal non-conforming building from 11 units to 12 units, shall be subject to the following recommended conditions:

1. Limitation

That the approved permission applies only to the addition of one residential unit within the existing building as shown on the approved drawings attached to the notice of decision.

2. No Adverse Impacts

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

3. Building Permit Application Requirements

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

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

4. Standard Archaeological Condition

In the event that deeply buried or previously undiscovered archaeological deposits are discovered in the course of development or site alteration, all work must immediately cease and the site must be secured. The Archaeology Program Unit of the Ministry of Citizenship and Multiculturalism (archaeology@ontario.ca) and City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted.

In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Office of the Chief Coroner as a part of the Ontario Ministry of the Solicitor General (1-877-991-9959), the Archaeology Program Unit of the Ministry of Citizenship and Multiculturalism (archaeology@ontario.ca), and City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted.

5. Civic Address

A D20 Civic Addressing Application submitted through DASH is required for the new unit. For further information please see the City of Kingston Civic Addressing and Road Naming By-Law 2005-98. Please contact civicaddressing@cityofkingston.ca with any questions regarding the D20 application.

6. Servicing Plan

Utilities Kingston will require a servicing plan showing any existing and proposed services. As per City of Kingston By-Laws only one service is permitted per property. Any existing services not being retained are required to be abandoned at the main(s). It appears this property may have 2 sanitary laterals which would not be in compliance with the City of Kingston Sewer By-Law.

A multi-unit complex can be metered with either a bulk water meter or individual water meters all located in one room at or near the service entrance. If individually metered, each meter shall have its own shut off valve on both sides of the meter and be labeled accordingly. Refer to uploaded UK water meter specifications. Please fill out and submit the water meter sizing form <https://utilitieskingston.com/Water/MeterSizing>.

If additional electrical metering is required, a service request will be required and can be filed at <https://utilitieskingston.com/Electricity/NewServices/ServiceRequest>.

If increasing gas load, a Gas Load summary should be filled out and submitted to a Utilities Kingston Service Advisor as well as provided with the application.

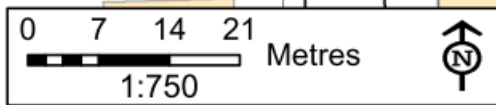
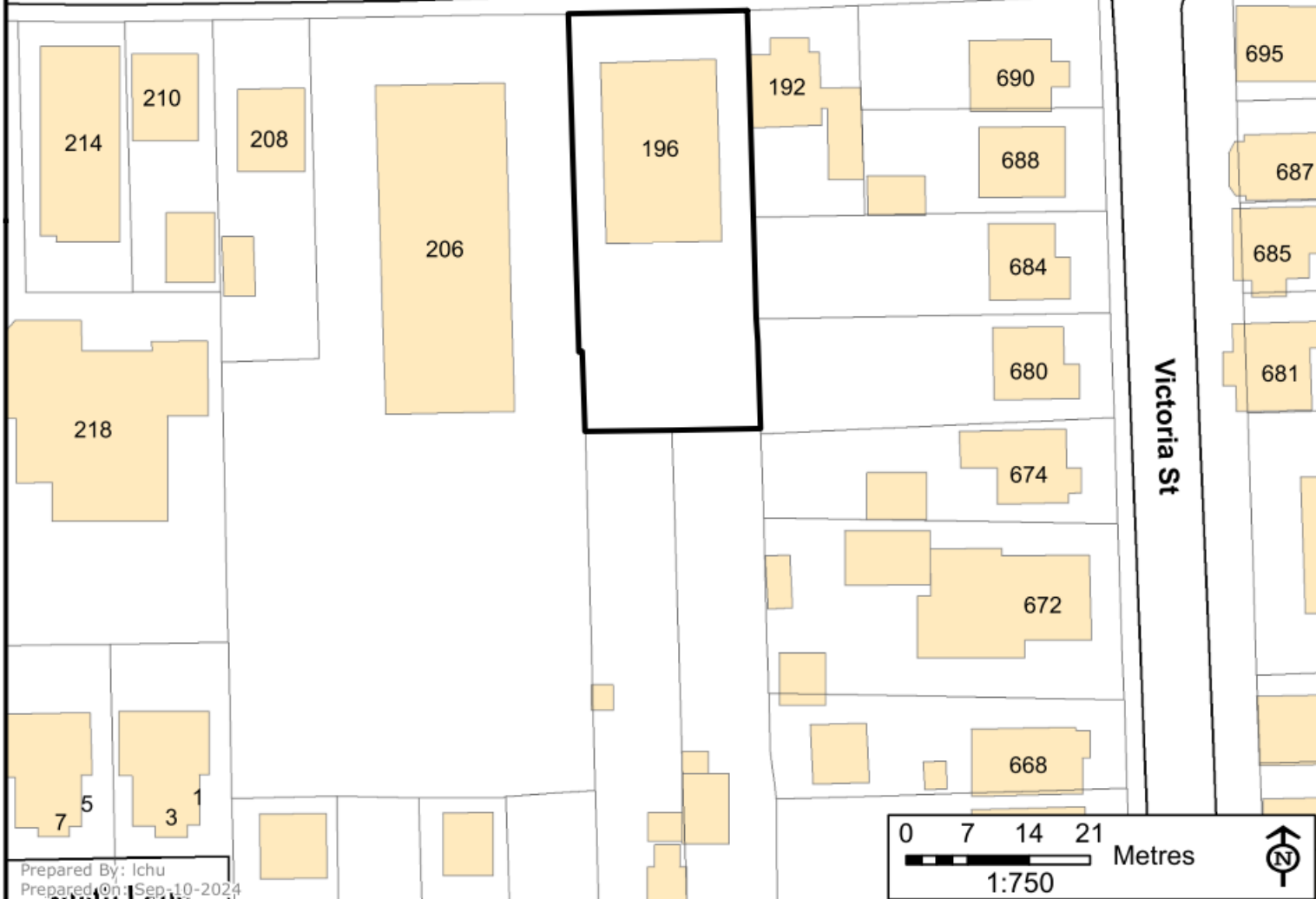
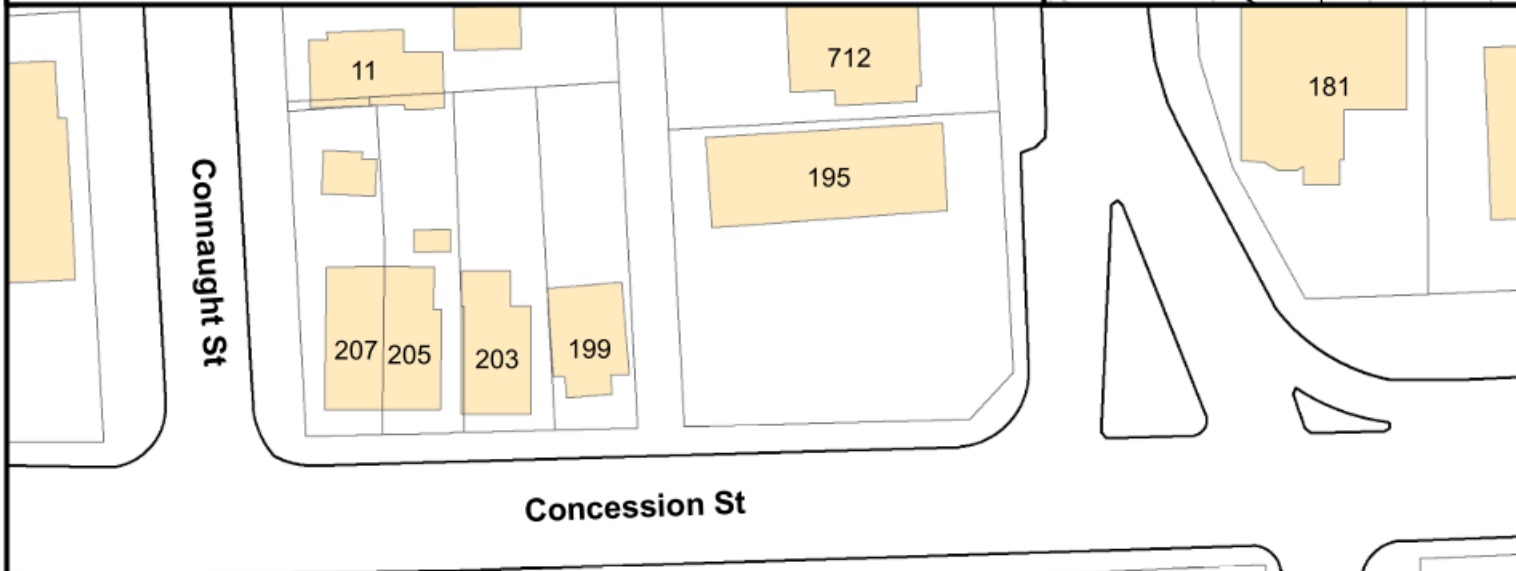
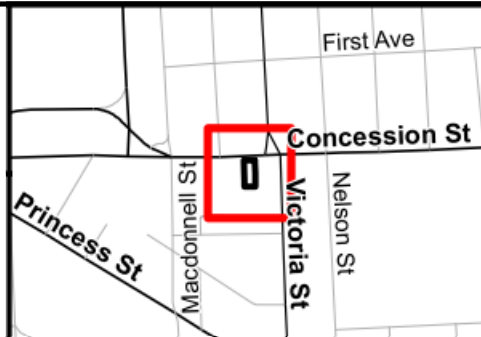
The applicant is encouraged to contact the Utilities Kingston Conservation Department to discuss their development and inquire as to whether there are any water and gas conservation incentives and energy saving options available. Please 613-546-1181 and say "conservation" or email conservation@utilitieskingston.com.



Committee of Adjustment Key Map

Address: 196 Concession Street
File Number: D13-067-2024
Prepared On: Sep-10-2024

 Lands Subject to Permission



Prepared By: Ichu
Prepared On: Sep-10-2024



Committee of Adjustment Neighbourhood Context

Address: 196 Concession Street
File Number: D13-067-2024
Prepared On: Sep-10-2024

- Subject Lands
- Property Boundaries
- Proposed Parcels



Prepared By: Ichu
Prepared On: Sep-10-2024

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Planning Services

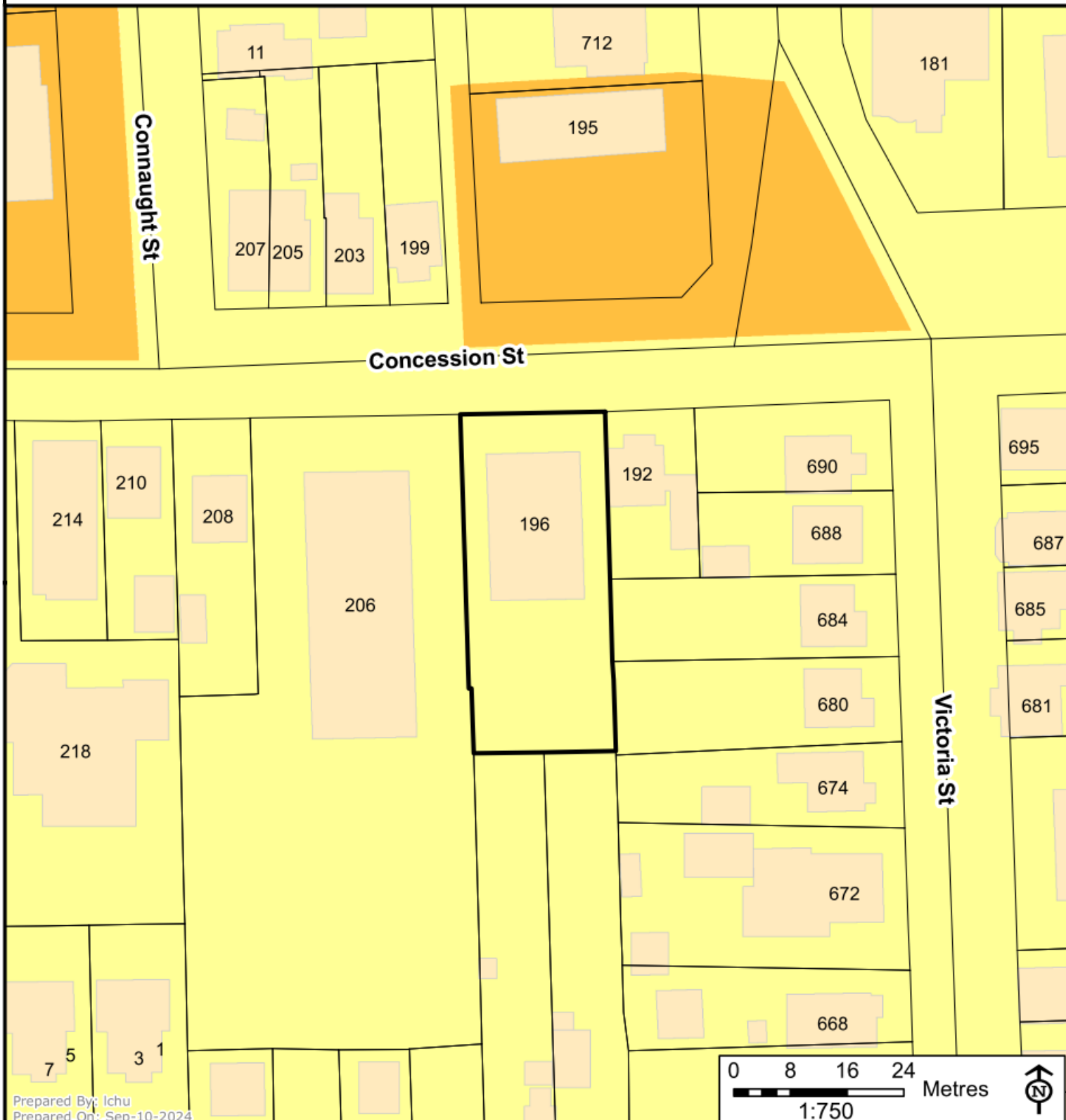
Committee of Adjustment Official Plan, Existing Land Use

Address: 196 Concession Street

File Number: D13-067-2024

Prepared On: Sep-10-2024

-  Subject Lands
-  ARTERIAL COMMERCIAL
-  RESIDENTIAL



Prepared By: Ichu
Prepared On: Sep-10-2024
Smith Lane

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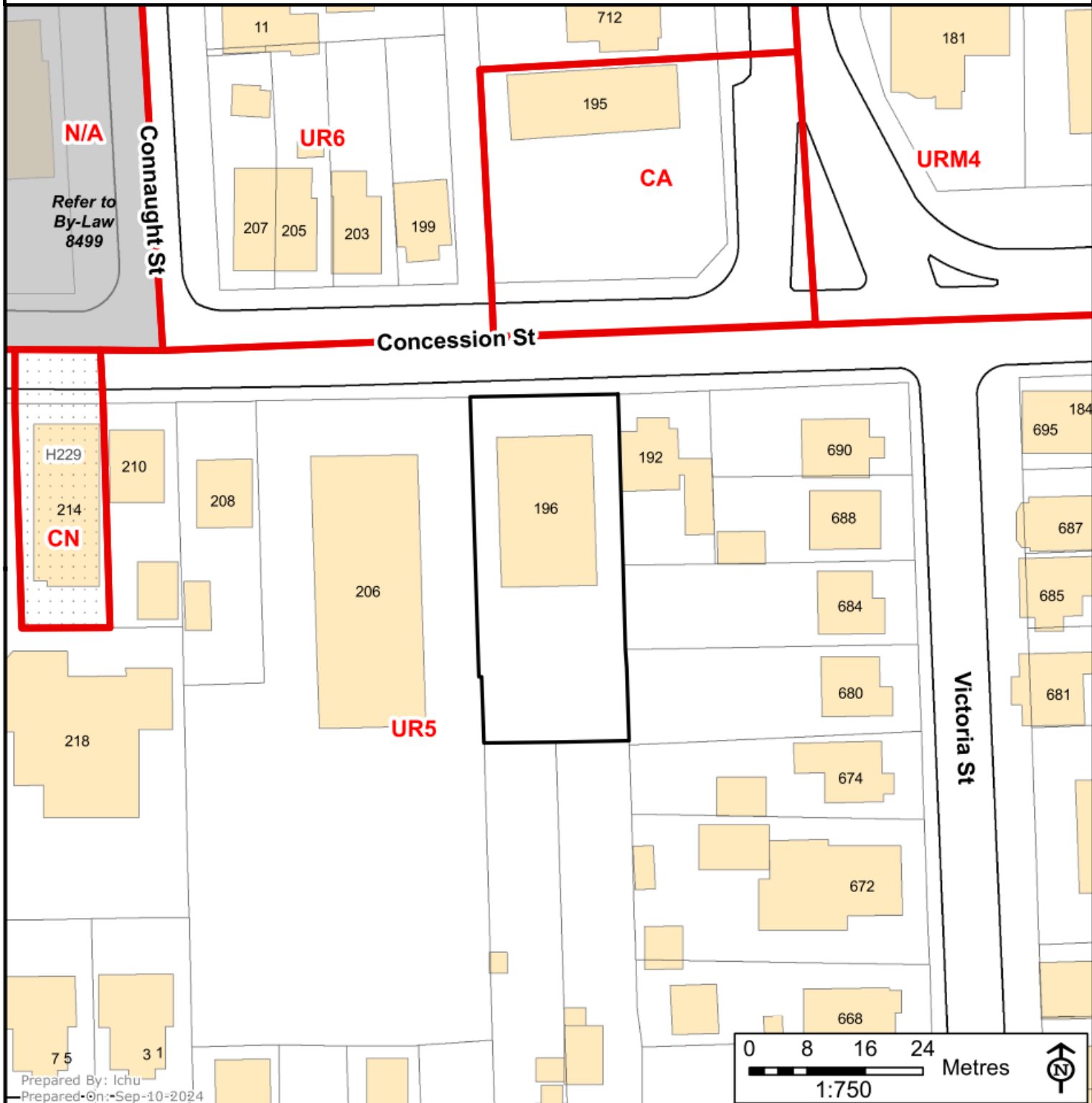


Planning Committee
Existing Zoning
Kingston Zoning By-Law 2022-62

Planning Services

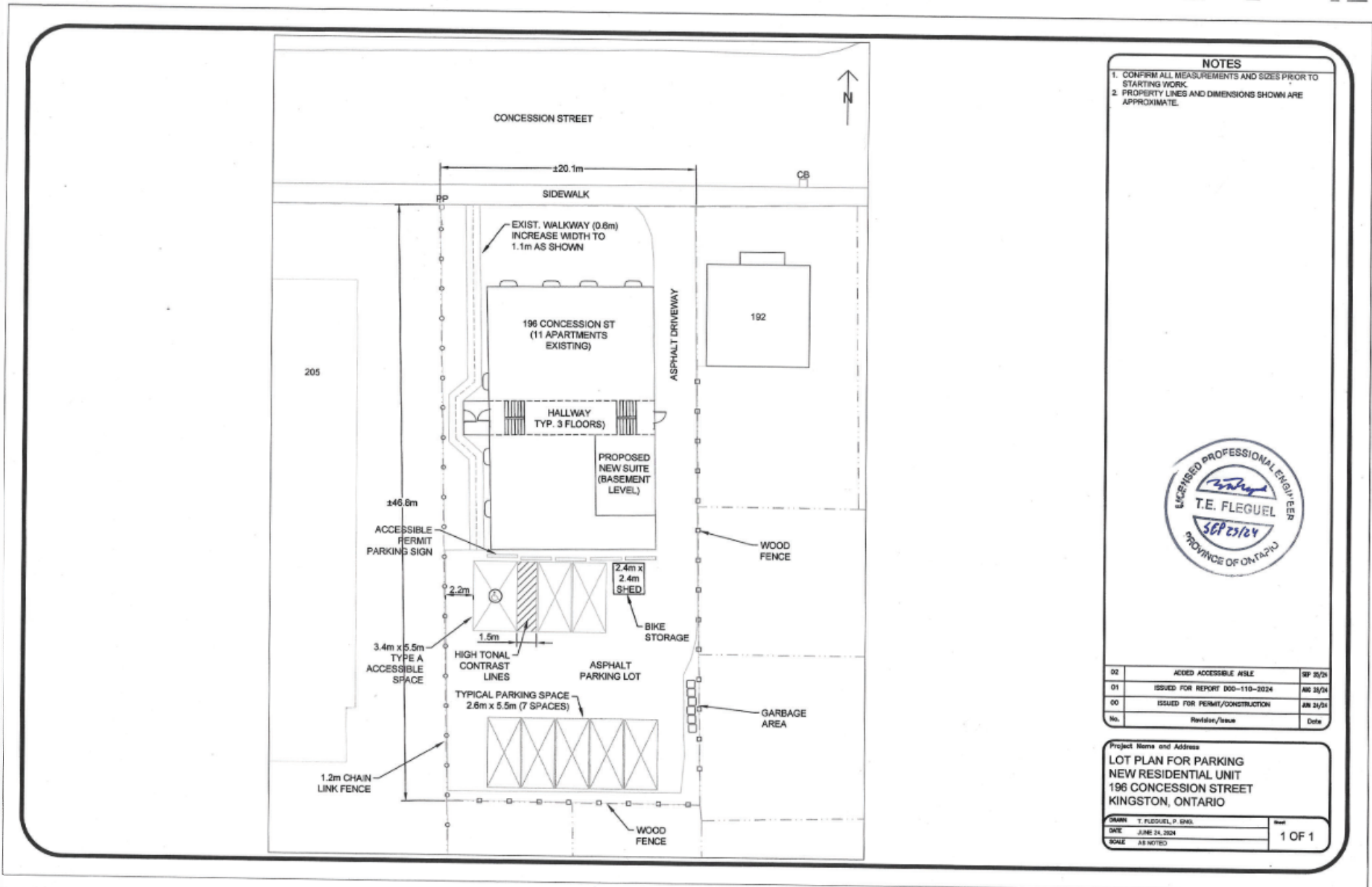
Address: 196 Concession Street
File Number: D13-067-2024
Prepared On: Sep-10-2024

- 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
- Holding Overlay (HXXX)



Prepared By: Ichu
Prepared On: Sep-10-2024

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NOTES

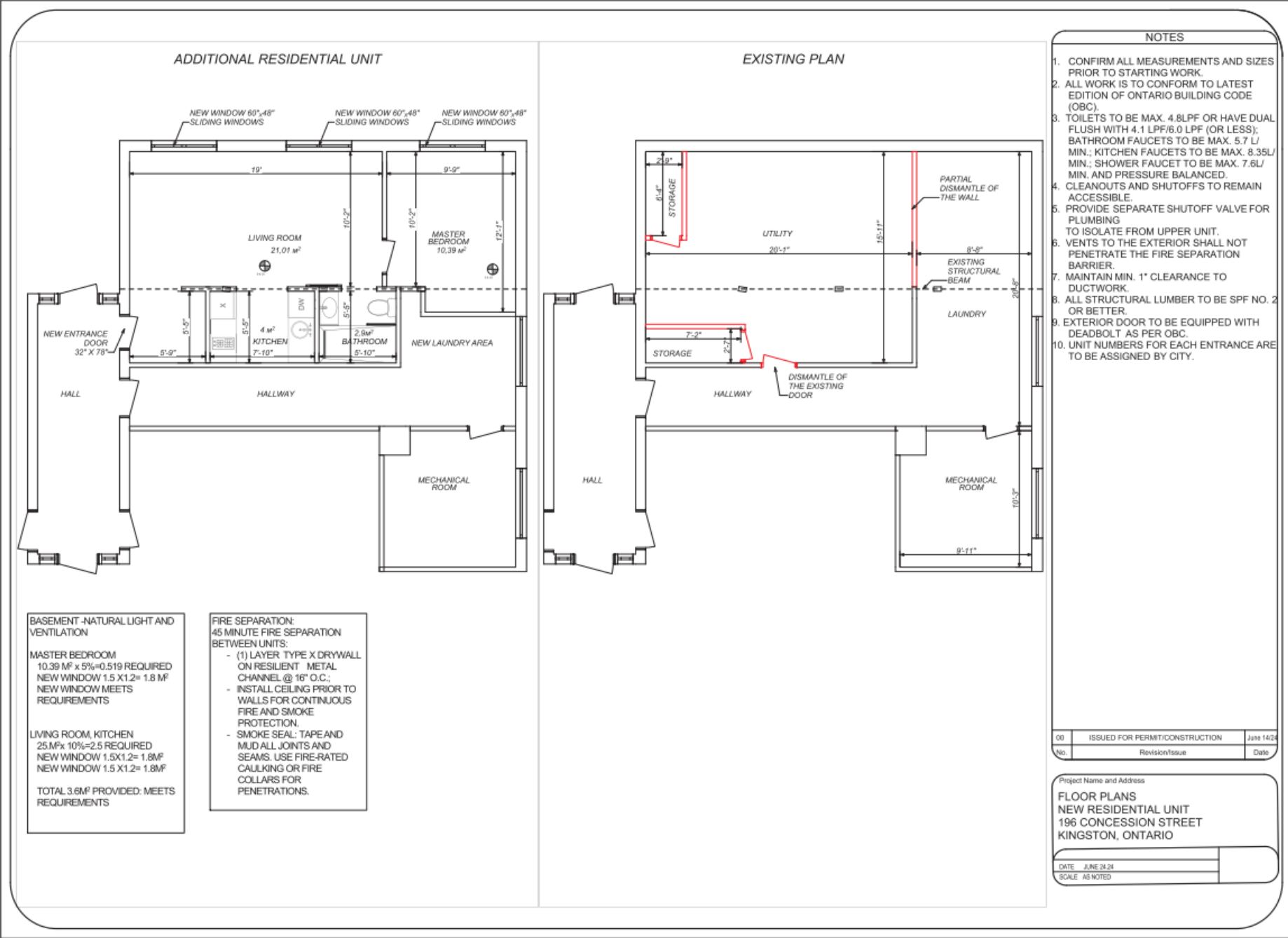
1. CONFIRM ALL MEASUREMENTS AND SIZES PRIOR TO STARTING WORK.
2. PROPERTY LINES AND DIMENSIONS SHOWN ARE APPROXIMATE.



No.	Revised/Issue	Date
02	ADDED ACCESSIBLE ASILE	SEP 25/24
01	ISSUED FOR REPORT D00-110-3024	AUG 28/24
00	ISSUED FOR PERMIT/CONSTRUCTION	JUN 24/24

Project Name and Address
**LOT PLAN FOR PARKING
 NEW RESIDENTIAL UNIT
 196 CONCESSION STREET
 KINGSTON, ONTARIO**

DRAWN: T. FLEGUEL, P. ENG.	Sheet
DATE: JUNE 24, 2024	1 OF 1
SCALE: AS NOTED	



NOTES

1. CONFIRM ALL MEASUREMENTS AND SIZES PRIOR TO STARTING WORK.
2. ALL WORK IS TO CONFORM TO LATEST EDITION OF ONTARIO BUILDING CODE (OBC).
3. TOILETS TO BE MAX. 4.8L/PF OR HAVE DUAL FLUSH WITH 4.1 L/PF/6.0 L/PF (OR LESS); BATHROOM FAUCETS TO BE MAX. 5.7 L/ MIN.; KITCHEN FAUCETS TO BE MAX. 8.35L/ MIN.; SHOWER FAUCET TO BE MAX. 7.6L/ MIN. AND PRESSURE BALANCED.
4. CLEANOUTS AND SHUTOFFS TO REMAIN ACCESSIBLE.
5. PROVIDE SEPARATE SHUTOFF VALVE FOR PLUMBING TO ISOLATE FROM UPPER UNIT.
6. VENTS TO THE EXTERIOR SHALL NOT PENETRATE THE FIRE SEPARATION BARRIER.
7. MAINTAIN MIN. 1" CLEARANCE TO DUCTWORK.
8. ALL STRUCTURAL LUMBER TO BE SPF NO. 2 OR BETTER.
9. EXTERIOR DOOR TO BE EQUIPPED WITH DEADBOLT AS PER OBC.
10. UNIT NUMBERS FOR EACH ENTRANCE ARE TO BE ASSIGNED BY CITY.

BASEMENT-NATURAL LIGHT AND VENTILATION

MASTER BEDROOM
10.39 M² x 5%=0.519 REQUIRED
NEW WINDOW 1.5 X1.2= 1.8 M²
NEW WINDOW MEETS REQUIREMENTS

LIVING ROOM, KITCHEN
25.M²x 10%=2.5 REQUIRED
NEW WINDOW 1.5X1.2= 1.8M²
NEW WINDOW 1.5 X1.2= 1.8M²

TOTAL 3.6M² PROVIDED: MEETS REQUIREMENTS

**FIRE SEPARATION:
45 MINUTE FIRE SEPARATION
BETWEEN UNITS:**

- (1) LAYER TYPE X DRYWALL ON RESILIENT METAL CHANNEL @ 16" O.C.
- INSTALL CEILING PRIOR TO WALLS FOR CONTINUOUS FIRE AND SMOKE PROTECTION.
- SMOKE SEAL: TAPE AND MUD ALL JOINTS AND SEAMS. USE FIRE-RATED CAULKING OR FIRE COLLARS FOR PENETRATIONS.

00	ISSUED FOR PERMIT/CONSTRUCTION	June 14/24
No.	Revision/Issue	Date

Project Name and Address

FLOOR PLANS
NEW RESIDENTIAL UNIT
196 CONCESSION STREET
KINGSTON, ONTARIO

DATE: JUNE 24/24
SCALE: AS NOTED

Site Photographs – September 20, 2024



Figure 1- Front of building from Concession Street



Figure 2- Existing walkway from rear parking lot. To be expanded to 1.1 metres from existing width.



Figure 3- Rear parking lot (facing north).



Figure 4- Rear parking lot (facing south)



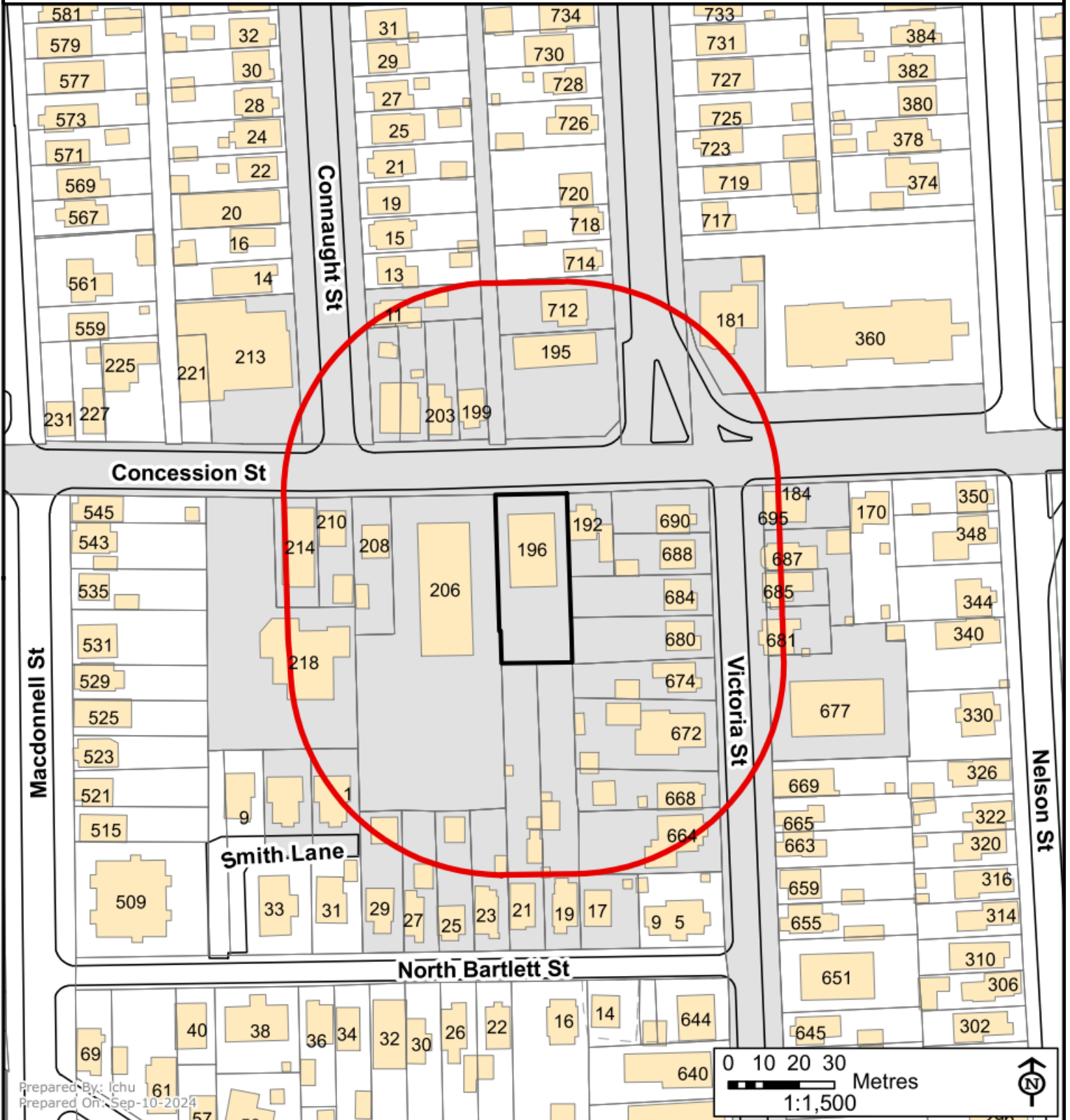
Figure 5- Existing driveway on east side of existing building.



Committee of Adjustment Public Notice Notification Map

Address: 196 Concession Street
File Number: D13-067-2024
Prepared On: Sep-10-2024

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



Prepared By: Ichu
Prepared On: Sep-10-2024

