



**City of Kingston
Report to Committee of Adjustment
Report Number COA-24-084**

To: Chair and Members of the Committee of Adjustment
From: Jacob Slevin, Planner
Date of Meeting: October 21, 2024
Application for: Minor Variance and Consent
File Numbers: D10-028-2024 and D13-063-2024
Address: 101 Charles Street
District: District 11 – King’s Town
Owner: Scott Gordon
Applicant: Scott Gordon

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 Scott Gordon, owner of the property located at 101 Charles Street. The applications for minor variance and consent are requested to facilitate the severance of an existing townhouse structure, creating two separate townhouses.

The purpose of the consent application (File Number D10-028-2024) is to permit a severance along the centreline of the existing lot at 101 Charles Street, dividing the townhouse structure in half. Each new lot would have an area of approximately 165 square metres and an approximate frontage of 4.5 metres.

The minor variance (File Number D13-063-2024) is requested to permit zoning deficiencies which will be created as a result of the consent application. The requested variances include a

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reduction in minimum lot area and minimum lot frontage for both the severed and retained parcels. Additionally, variances are requested to reduce the required front setback to allow the construction of a new front vestibule and to remove vehicle parking requirements for both the severed and retained lots.

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 D13-063-2024 for the property located at 101 Charles Street to permit a reduced minimum lot area, a reduced minimum lot frontage, a reduced front setback, and reduced parking requirements for both the severed and retained parcels, be approved, as described below:

Retained Lot (101 Charles Street):**Variance Number 1: Minimum Lot Area**

By-Law Number 2022-62: Table 11.6.1.1
Requirement: 295 square metres for a townhouse
Proposed: 165 square metres
Variance Requested: 130 square metres

Variance Number 2: Minimum Lot Frontage

By-Law Number 2022-62: Table 11.6.1.2
Requirement: 8 metres for a townhouse
Proposed: 4.5 metres
Variance Requested: 3.5 metres

Variance Number 3: Minimum Front Setback

By-Law Number 2022-62: Table 11.6.1.4(d)
Requirement: 3.85 metres
Proposed: 1.5 metres
Variance Requested: 2.35 metres

Variance Number 4: Number of Parking Spaces

By-Law Number 2022-62: Table 7.1.1.2(b)
Requirement: 1 parking space per lot
Proposed: 0 parking spaces per lot

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Variance Requested: 1 parking space

Severed Lot (103 Charles Street):

Variance Number 5: Minimum Lot Area

By-Law Number 2022-62: Table 11.6.1.1
Requirement: 295 square metres for a townhouse
Proposed: 165 square metres
Variance Requested: 130 square metres

Variance Number 6: Minimum Lot Frontage

By-Law Number 2022-62: Table 11.6.1.2
Requirement: 8 metres for a townhouse
Proposed: 4.5 metres
Variance Requested: 3.5 metres

Variance Number 7: Minimum Front Setback

By-Law Number 2022-62: Table 11.6.1.4(d)
Requirement: 3.85 metres
Proposed: 1.5 metres
Variance Requested: 2.35 metres

Variance Number 8: Number of Parking Spaces

By-Law Number 2022-62: Table 7.1.1.2(b)
Requirement: 1 parking space per lot
Proposed: 0 parking spaces per lot
Variance Requested: 1 parking space; 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-24-084; and,

That consent application, File Number D10-028-2024, to sever an approximately 165 square metre parcel with approximately 4.5 metres of frontage which will be known as 103 Charles Street, to retain an approximately 165 square metre parcel with approximately 4.5 metres of frontage which will be known as 101 Charles Street, and to create a new easement over 103 Charles Street in favour of 101 Charles Street, be **provisionally approved** subject to the conditions included in Exhibit B (Recommended Conditions – Consent) to Report Number COA-24-084.

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Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

Jacob Slevin, Planner

Consultation with the following Management of the Growth and Development Services Group:

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

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Options/Discussion:

On August 6, 2024, applications for minor variance and consent were submitted by Scott Gordon, owner of the subject property located at 101 Charles Street. The subject property is developed with a townhouse building, sharing common party walls with the adjacent properties at 99 Charles Street and 105 Charles Street.

The previous two-storey townhouse structure at 101 Charles Street was severely damaged by a fire in May of 2022. The exterior stone walls of the first storey remain intact; however, the interior of the building and the second storey was destroyed and needs to be entirely rebuilt. The applicant is proposing to retain the existing exterior shell of the building while redeveloping the interior as two separate townhouses. The second storey is proposed to be rebuilt. A new vestibule addition at the front of the building is also proposed. This new front addition would occupy the same space that was previously used as an unenclosed front porch prior to the fire. Additionally, new additions are proposed at the rear of the building to provide space for new kitchen areas in the new townhouse units.

The purpose of the consent application (File Number (D10-028-2024)) is to permit a severance along the centreline of the existing lot at 101 Charles Street, dividing the townhouse structure in half. The eastern half of the lot will be the retained lot and will continue to be addressed as 101 Charles Street. The western half of the lot will be the severed lot and will be addressed as 103 Charles Street. Each new lot would have an area of approximately 165 square metres and an approximate frontage of 4.5 metres. Additionally, a new easement will also be created through the consent process to facilitate access to the rear yards of both the severed and retained parcels.

The minor variance application (File Number D13-063-2024) is requested to permit zoning deficiencies which will be created as a result of the consent application. The requested variances include a reduction in minimum lot area and minimum lot frontage for both the severed and retained parcels. Additionally, variances are requested to permit a reduced front setback to allow for the development of the proposed front vestibule. Variances are also requested to remove parking requirements for both the severed and retained lots.

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

- Concept Plan (Exhibit G)
- Easement Sketch (Exhibit H)
- Survey (Exhibit I)
- Elevations (Exhibit J);

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.

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Site Characteristics

The subject property is located in the North King's Town area of the City, approximately 60 metres west of the intersection of Charles Street and Montreal Street (Exhibit C – Key Map). The property abuts residential uses in all directions. Nearby residential properties on Charles Street are developed with a mix of low rise residential homes, including detached houses, semi-detached houses, and townhouses (Exhibit D – Neighbourhood Context Map). The subject property is within walking distance of several commercial uses along Montreal Street, including a convenience store, a café, and a pharmacy. The property and is located approximately 500 metres to the north of McBurney Park, and approximately 300 metres to the south of Megaffin Park.

The property at 101 Charles Street is developed with a townhouse structure but is currently vacant due to interior fire damage. The parcel containing 101 Charles Street has an area of 341.5 square metres and 9.8 metres of frontage onto Charles Street. As a townhouse with out interior side yards, the rear yard of the subject property is accessed through the house or via an existing easement in favour of 101 Charles Street over a driveway at 109 and 105 Charles Street which provides access to the rear yard. A new easement will be created through this consent application, granting the new retained lot at 101 Charles Street access over the new severed lot at 103 Charles Street.

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

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 much, 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 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 two lots: a retained lot on the eastern half of the existing property which will retain the address of 101 Charles Street, and a severed lot on the western half of the existing property which will be addressed as 103 Charles Street. The proposed consent will also enable the creation of a new easement over the severed lot in favour of the retained lot to ensure that the severed lot will have legal access to the rear yard. The

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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 denotes urban residential land uses that are intended to be on full municipal services. It is the goal of the Official Plan that the Residential designation to respond to the housing needs of the City's citizens by retaining and augmenting a broad range of housing at all levels of affordability within a safe, convenient and stable setting, organized primarily into neighbourhoods.

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 severance would create two new lots, each with approximately 165 square metres of area and 4.5 metres of frontage onto Charles Street. While the proposed lot areas and frontages do not comply with the requirements of the UR5 Zone, they are considered to be appropriate for the proposed use of the lots and consistent with lot fabric of the surrounding neighbourhood.

Charles Street contains a number of older houses that predate the Kingston Zoning By-Law, and as such, many nearby lots are also deficient in terms of lot area and frontage. In particular, undersized lot areas and frontages are especially common for existing semi-detached houses and townhouses on Charles Street. For example, the townhouses at 147 and 149 Charles Street have lot areas of approximately 117 square metres and 112 square metres, respectively. These nearby townhouses also have lot frontages of approximately 4.5 metres. Given this neighbourhood context, the proposed new lots are consistent with the surrounding lot fabric.

Both the severed and retained lots are proposed to be rectangular in shape, with frontage and access from Charles Street, a municipal road. No new driveways or access points are proposed. The subject property can be serviced by existing municipal infrastructure, and the applicant will be required to provide each new lot with separate municipal services.

No adverse impacts are anticipated to natural heritage features or areas, natural hazards, or any built cultural heritage resources. Heritage Planning staff have confirmed that this property is located within an archeologically sensitive area, and as such, archeological clearance of the property will be required prior to building activities to ensure no archeological resources will be impacted.

The proposal meets the intent of the Official Plan, as the proposed severance is consistent with all applicable Official Plan policies and will not result in any negative impacts to adjacent properties or to the neighbourhood.

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Zoning By-Law

The subject property is zoned UR5 in Kingston Zoning By-Law Number 2022-62 (Exhibit F – Zoning By-Law Map). The UR5 Zone permits a variety of residential uses, including a townhouse. As such, the proposal to create two new townhouse units is permitted by the UR5 Zone.

A minor variance is requested to permit a reduced minimum lot area and reduced minimum lot frontage for both the severed and retained lots.

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 in the City of Kingston Official Plan (Exhibit E – Official Plan Map).

In considering whether this proposed variance is desirable, the Committee of Adjustment will have regard to the nine requirements included in Section 9.5.16 of the Official Plan.

The subject property is located within a Housing District as defined by Section 2.2.5 of the Official Plan. Housing Districts are planned to ensure land use compatibility is maintained while supporting the construction of new housing. Section 2 of the Official Plan also encourages the development of all forms of housing to increase the City's overall housing supply. The development of new low-rise residential buildings such as townhouses are encouraged within existing low rise residential areas. As this proposal represents an opportunity for infill townhouse development within an existing low rise residential area, it meets the intent of the Strategic Policy Direction outlined in Section 2 of the Official Plan.

The proposal would be compatible with the surrounding uses and buildings, as directed by Section 2.7 of the Official Plan. The applicant is proposing to primarily maintain the existing shell of the townhouse building at 101 Charles Street and to rebuild the previously existing second storey, with modest new additions proposed at the front and rear of the building. The proposed rear additions be developed as 'bump-outs' additions of the existing building footprint (Exhibit G – Concept Plan). These rear additions would extend the building footprint close to the eastern and western interior lot lines but would not extend the overall footprint of the building closer to the rear lot line. As rear additions to a townhouse, these would not be visible from the perspective of Charles Street. The new front vestibule area would occupy the same footprint as a front porch that was previously in place at the front of the building (Exhibit J – Elevations and Exhibit K – Site Photos).

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Given that the existing townhouse shell is proposed to remain, and the second storey will be rebuilt, the new townhouses will appear visually similar to the previous townhouse building that functioned prior to the fire in May of 2022. The proposed additions to the front and rear are modest in size and will not significantly alter the character of the building.

During the review process of this application, there were discussions regarding how a functional vehicle parking configuration would be best achieved. Given the lack of a driveway on the subject property, the only opportunity for providing parking spaces would be to provide spaces in the rear yard, to be accessed via an existing easement, approximately 3.57 metres in width, over the adjacent properties at 105 and 109 Charles Street (Exhibit I – Survey).

The purpose of this easement is to provide access from Charles Street to the rear yards of the townhouses at 105, 101, and 99 Charles Street. Despite the existence of this easement, the previous townhouse at 101 Charles Street was not developed with a parking space. It is noted that 99 Charles Street is developed with a rear parking space accessed by this same easement, demonstrating access to parking via this easement has proved functional for a similar property. However, as the addition of two parking spaces for each proposed new unit would represent a change compared to the previous townhouse which functioned without a parking space, variances have been requested to exempt both lots from parking space requirements.

It is noted that parking is not being prohibited for the proposed severed and retained lots, and that parking spaces could potentially be added at a future date. Based on the survey of the subject property, there is sufficient space within the rear yard to provide two parking spaces that meet the minimum length and width requirements of the Kingston Zoning By-law. The intent of the requested variances is to allow residents and property owners to determine themselves whether parking spaces will be provided. The requested variances will create the option of developing the proposed townhouses with or without parking spaces. In the event that the townhouses are developed without parking spaces, residents will be able to meet their basic transportation needs without a vehicle parking space, as is demonstrated in more detail on Pages 13-14 of this report.

Regardless of whether parking is provided, the access easement will allow for bicycle access or vehicular access for construction or maintenance purposes. The retained lot will continue to benefit from this easement while the applicant will be required to obtain a new easement for the severed lot to ensure that both new lots can legally access the rear yard. Bicycle parking for the new townhouse units will be required in accordance with the Kingston Zoning By-law, and this will be confirmed at the Building Permit stage.

The proposed new townhouses can be adequately serviced by existing municipal infrastructure. The applicant will be required to demonstrate that there are no adverse impacts from stormwater flows at the Building Permit stage.

The subject property is not designated under the *Ontario Heritage Act* or adjacent to any designated Heritage properties. As such, there will be no impacts to built cultural heritage

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resources. However, archeological clearance of the property will be required prior to any ground disturbance.

The proposed variances are consistent with the intent of the Kingston Zoning By-law, minor in nature, and appropriate for the subject property, as will be expanded upon below. Given that the requested variances satisfy the four tests as required by the *Planning Act*, a minor variance is the most appropriate method for seeking zoning relief and a zoning by-law amendment is not considered necessary in this case. As discussed throughout this report, other properties on Charles Street already have similarly sized lot areas, lot frontages, and front setbacks compared to the proposal for the subject property. Additionally, several properties in this neighbourhood area are developed without parking spaces, such as 137 Charles Street and 125-127 Patrick Street. Considering this neighbourhood context, approval of the requested variances will not set an undesirable precedent.

Recommended conditions have been provided for the Committee’s consideration and are included as Exhibit A and Exhibit B to this report, for the minor variance and consent respectively.

The proposal meets the intent of the Official Plan, as the requested variances are compliant with all applicable Official Plan policies and will not result in any negative impacts to adjacent properties or to the neighbourhood.

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

The subject property is zoned UR5 in Kingston Zoning By-Law Number 2022-62 (Exhibit F – Zoning By-Law Map). The UR5 Zone permits residential uses, including townhouses. For a lot containing a townhouse, the UR5 Zone requires a minimum lot area of 295 square metres and a frontage of 8 metres.

To accommodate the proposed severance and infill development of two new townhouses, minor variances are required to provide relief from the minimum lot area and minimum lot frontage requirements, to reduce the required front setback, and to reduce parking requirements. Details on each of the requested variances and an assessment of how these variances maintain the intent and purpose of the Kingston Zoning By-Law are provided below.

Variance Number 1: Minimum Lot Area (Retained Lot – 101 Charles Street)

By-Law Number 2022-62:	Table 11.6.1.1
Requirement:	295 square metres for a townhouse
Proposed:	165 square metres
Variance Requested:	130 square metres

Variance Number 5: Minimum Lot Area (Severed Lot – 103 Charles Street)

By-Law Number 2022-62:	Table 11.6.1.1
Requirement:	295 square metres for a townhouse
Proposed:	165 square metres
Variance Requested:	130 square metres

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Both the severed and retained lots are proposed to have an area of approximately 165 square metres, while the UR5 Zone requires a minimum area of 295 square metres for lots developed with a townhouse. The intent of the minimum lot area requirement is to ensure that a property has sufficient area to accommodate required setbacks, landscaped open space, access and to ensure overall site functionality. The requested variance maintains the intent of this zoning provision, as the newly created lots will have sufficient space to be functional and to comply with other zoning provisions and development standards.

The UR5 Zone does not require minimum interior setbacks for lots developed with townhouses that share a common party wall. Given that the subject property shares a common party wall with the adjacent townhouses at 99 Charles Street and 105 Charles Street, the reduction in minimum lot area will have no effect on the ability of the newly created lots to meet interior setback requirements. The proposed rear additions will comply with the rear setback and maximum building depth provisions. Lastly, both new lots will maintain a sufficient amount of landscaped open space to meet the zoning requirements. Given the above, the proposed reduction in minimum lot area will not inhibit the new lots in terms of functionality or their ability to comply with other relevant zoning requirements.

Variance Number 2: Minimum Lot Frontage (Retained Lot – 101 Charles Street)

By-Law Number 2022-62: Table 11.6.1.2
Requirement: 8 metres for a townhouse
Proposed: 4.5 metres
Variance Requested: 3.5 metres

Variance Number 6: Minimum Lot Frontage (Severed Lot – 103 Charles Street)

By-Law Number 2022-62: Table 11.6.1.2
Requirement: 8 metres for a townhouse
Proposed: 4.5 metres
Variance Requested: 3.5 metres

Both the severed and retained lots are proposed to have a minimum lot frontage of approximately 4.5 metres each. The intent of the minimum lot frontage requirement is to provide separation between parcels, safe driveway separation, and a consistent lot fabric throughout the neighbourhood. As mentioned earlier in this report, numerous surrounding properties on Charles Street contain lot frontages that below the zoning requirements. In this context, the requested variances to permit reduced lot frontages would not be inconsistent with the surrounding parcel fabric. Additionally, there is no driveway on the subject property at 101 Charles Street, with access to the rear yard provided via an easement over the adjacent lands at 109 and 105 Charles Street. With access configured in this manner, concerns about maintaining driveway separation are not applicable in this case.

Variance Number 3: Minimum Front Setback (Retained Lot – 101 Charles Street)

By-Law Number 2022-62: Table 11.6.1.4(d)
Requirement: 3.85 metres
Proposed: 1.5 metres

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Variance Requested: 2.35 metres

Variance Number 7: Minimum Front Setback (Severed Lot – 103 Charles Street)

By-Law Number 2022-62: Table 11.6.1.4(d)

Requirement: 3.85 metres

Proposed: 1.5 metres

Variance Requested: 2.35 metres

For existing buildings in the UR5 zone developed prior to the enactment of the Kingston Zoning By-law, the existing front setback is considered to be the required front setback. The existing front setback of the townhouse building on the subject property is approximately 3.85 metres from the front lot line (Exhibit I – Survey). The intent of the front setback provision is to provide an appropriate distance from the municipal right-of-way and to ensure that a consistent development pattern is maintained while recognizing existing setbacks on developed lots. Given that the required front setback is identical to the existing front wall of the townhouse, the new front vestibule area proposed by the applicant requires a variance to allow any expansion of the building towards the front lot line.

The proposed vestibule would be setback approximately 1.7 metres from the front lot line, and as such the addition would be sufficiently setback to avoid encroachment onto municipal property. Numerous properties on Charles Street have similar front setbacks to the requested 1.7 metres. For example, 106 Charles Street, 108 Charles Street, 117 Charles Street, and 126 Charles Street appear to have front setbacks of approximately 0 metres from the front property lines. In terms of built form, 106 and 108 Charles Street are developed with front vestibules similar to what is proposed on the subject property. Given the built form and existing setbacks of nearby properties, approval of the requested variance would not create an inconsistent development pattern on Charles Street. Furthermore, as the proposal would maintain an adequate setback from municipal property, the requested variance meets the intent and purpose of the front setback requirement.

Variance Number 4: Number of Parking Spaces (Retained Lot – 101 Charles Street)

By-Law Number 2022-62: Table 7.1.1.2(b)

Requirement: 1 parking space per lot

Proposed: 0 parking spaces per lot

Variance Requested: 1 parking space

Variance Number 8: Number of Parking Spaces (Severed Lot – 103 Charles Street)

By-Law Number 2022-62: Table 7.1.1.2(b)

Requirement: 1 parking space per lot

Proposed: 0 parking spaces per lot

Variance Requested: 1 parking space

For townhouses in the urban area, the Kingston Zoning By-law requires that one parking space is provided per lot. As many City residents are car owners, the provision of vehicle parking spaces is intended to help these residents meet their regular transportation needs by providing

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adequate space for vehicle parking. Some primary transportation needs are considered to be access to commercial uses, access to public spaces, and allowing residents to travel to any desired destination within the City.

The requested variance to exempt the proposed severed and retained lots from the requirement to provide a parking space is appropriate in this case and meets the intent of the Kingston Zoning By-law. Prior to the fire that damaged the previous townhouse on the subject property, the townhouse at 101 Charles Street had functioned without a parking space. The rear yard was developed with a storage shed, and not used for parking purposes. The subject lands are located in an area where private vehicle ownership is not considered necessary for meeting the transportation needs of a future resident.

The subject lands are within walking distance of numerous commercial uses, City parks, and a Kingston Transit bus stop serviced by numerous routes. Nearby commercial uses include a convenience store (235 Montreal Street), a pharmacy (240-246 Montreal Street), a café (303 Montreal Street), and a grocery store (61-63 John Street). City Parks within walking distance include McBurney Park, Hillside Park, and Megaffin Park. Additionally, the bus stops at the intersection of Charles Street and Montreal Street are serviced by Kingston Transit Routes 1 and 31, as well as Express Transit Routes 801 and 802.

Given these nearby amenities, provision of a vehicle parking space is not considered to be necessary to meet the standard transportation needs of future residents. It is also noted that the subject property is approximately 160 metres from a privately owned commercial parking lot at 568 Bagot Street, which has parking spaces available for rent. As such, even vehicle owning residents of the proposed townhouses would have parking options. Considering the neighbourhood's walkability, nearby bus stop, and options for private parking space rental, the requested variance to relieve parking requirements for these lots is considered to meet the intent of the zoning by-law.

For the reasons described above, the requested variances all maintain the general intent and purpose of the zoning by-law.

3) The variances are minor in nature

The variance is considered minor as this proposal is largely technical in nature, with only modest building expansions proposed for the front vestibule and at the rear of the property for each new townhouse unit. The requested reductions in required minimum lot area and lot frontage are technical changes, given that they are requested solely to facilitate the severance of the property which would allow the townhouse units to be conveyed to separate owners. As discussed above, the front vestibule enabled through the requested front setback reduction is in keeping with the neighbourhood character. Other than these additions, the townhouse building will be rebuilt in a manner that will appear visually similar to the previous townhouse structure.

The applicant intends to retain the walls of the existing townhouse shell in their current location while redeveloping the interior of the building to accommodate two new townhouses separated

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by a common party wall. Despite the fact that two townhouse units will be created where one had existed previously, the new townhouses will appear visually similar to the previous townhouse building when viewed from Charles Street. The variances to remove parking requirements are also considered to be minor, given that the previous townhouse had functioned without use of parking. The removal of parking requirements will not impede residents from meeting their basic transportation needs, as described above.

4) The variances are desirable for the appropriate development or use of the land, building or structure

The requested variances are desirable and appropriate, as they would facilitate the creation of two new townhouse units through an infill development that would be compatible with the character, lot fabric, and built form of the surrounding residential area. This application proposes to redevelop a property that has been vacant and unused since sustaining severe fire damage over two years ago. This redevelopment of a damaged property would improve the visual quality of the streetscape and create more housing units, while also maintaining an overall built form relatively similar to what had existed prior to the fire. Furthermore, creating two new townhouse units and allowing them to be conveyed separately will allow for the acquisition of these properties at a lower cost than if the property were redeveloped as a single townhouse unit.

For the reasons described above, the requested variances are considered to be an appropriate and a desirable 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 checked="" 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 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 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

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.

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Public Comments

At the time this report was finalized, Planning staff have engaged in discussions with nearby property owner on the subject of this application. Topics for discussion included the status of the damaged townhouse structure on the subject property, overall timelines for the application with regards to when construction on the property might begin, and the functionality of a potential parking area at the rear of the property. As a result of these discussions, additional variances were included in the application to exempt the proposed severed and retained lots from the requirement to provide parking spaces. These variances will create the option for the proposed townhouses to be developed without parking spaces.

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

Provisional approval of these applications will enable the proposed severance of the subject property at 101 Charles Street, creating an opportunity for infill development of two new townhouse units.

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

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

Jacob Slevin, Planner, 613-546-4291 extension 2176

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 Map

Exhibit E Official Plan Map

October 21, 2024

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- Exhibit F Zoning By-Law Map
- Exhibit G Concept Plan
- Exhibit H Easement Sketch
- Exhibit I Survey
- Exhibit J Elevations
- Exhibit K Site Photos
- Exhibit L Public Notification Map

Recommended Conditions

The approval of minor variance application, File Number D13-063-2024, to permit a reduced minimum lot area, minimum lot frontage, and front yard setback for an enclosed porch for the proposed severed and retained parcels, shall be subject to the following recommended conditions:

1. Limitation

That the approved minor variance applies only to the severed and retained lots 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 of Citizenship and Multiculturalism'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 Certificate of Official.

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 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. Approval of Consent Application (File Number D10-028-2024)

That the associated Consent Application (File Number D10-028-2024) is approved and all attached conditions of approval are fulfilled.

Recommended Conditions

The provisional approval of consent application, File Number D10-028-2024, to sever the existing townhouse building at 101 Charles Street and create a severed and retained parcel with approximately 165 square metres of area for each lot, 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 severed parcel be 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 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

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 of Citizenship and Multiculturalism's Standards and Guidelines for Consultant Archaeologists, as amended from time to time, prior to any soil disturbance.

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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 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. 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 consent certificate.

6. Separate Services

Each lot will require separate non-encroaching services. Prior to the issuance of a Certificate of Official it shall be necessary for the applicant to provide and for Utilities Kingston to approve a drawing showing all existing services and the mains they connect too, and the existing buildings and all proposed and existing property lines. It is recommended that the applicant contact Utilities Kingston 'Service Advisors' to arrange for a 'Severance locate' to confirm that the location of the existing water and sanitary services are not encroaching onto other property prior to, and once the severance has been completed.

7. Civic Addressing

As this application creates a new property, the applicant will be required to submit a D20 Civic Addressing application to obtain new addresses for the severed and retained lots prior to receiving a Certificate of Official.

8. Easement to be Registered on Title

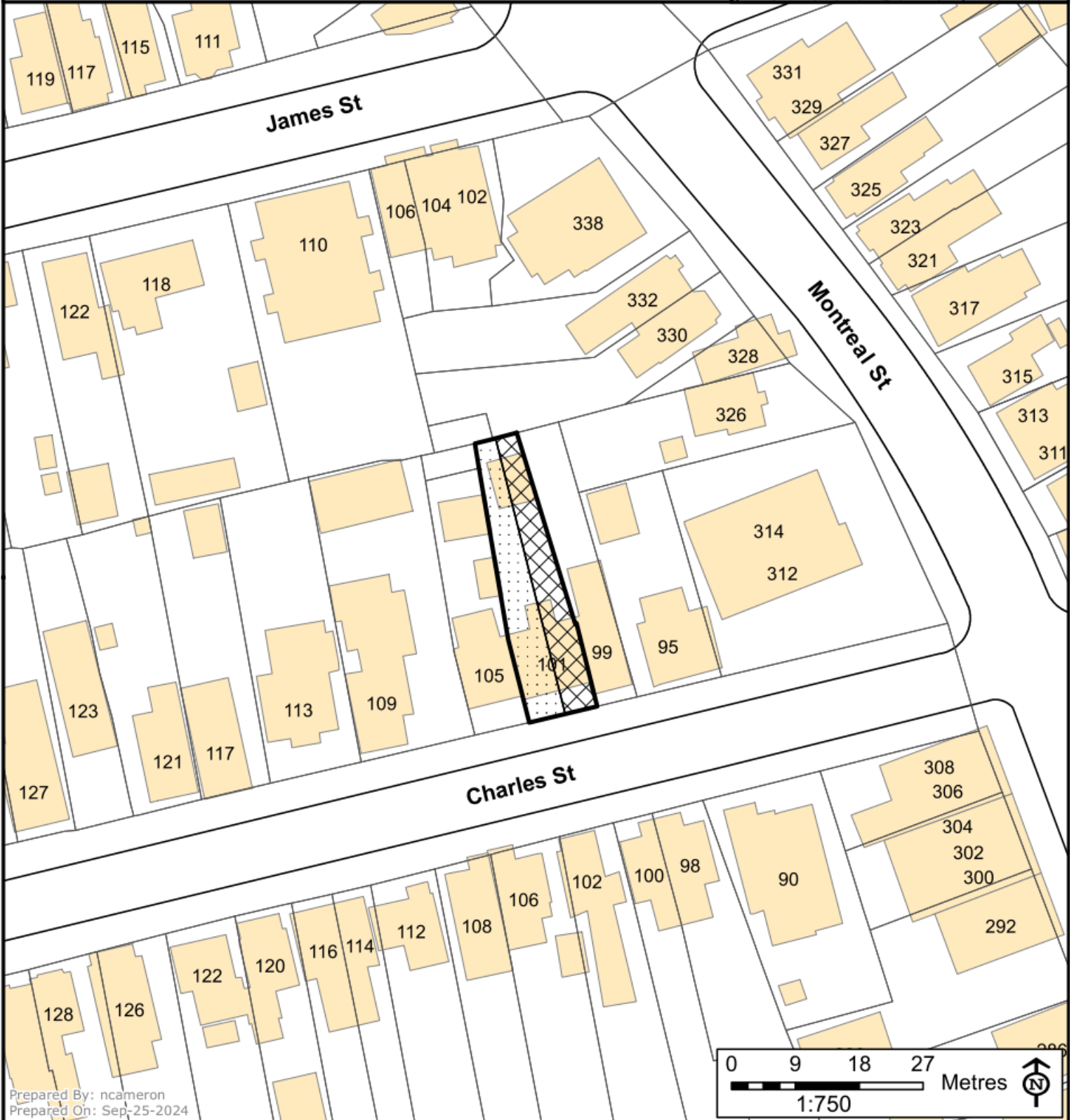
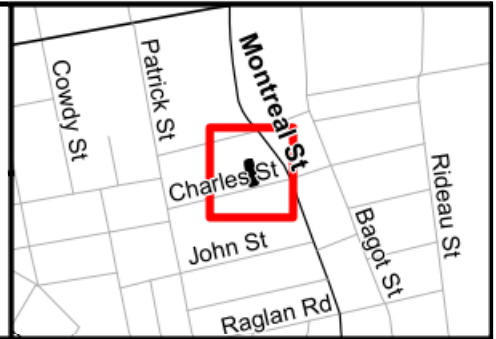
Prior to the issuance of the Certificate of Official, the owner shall provide a draft transfer easement for the City to review as it relates to the required access easement over the severed parcel in favor of the retained parcel. The applicant shall be required to register the proposed easements on title, as shown on the approved drawing attached to the notice of decision.



Delegated Authority Key Map

Address: 101 Charles Street
File Number: D10-028-2024

- Subject Lands
- Severed Lands
- Retained Lands



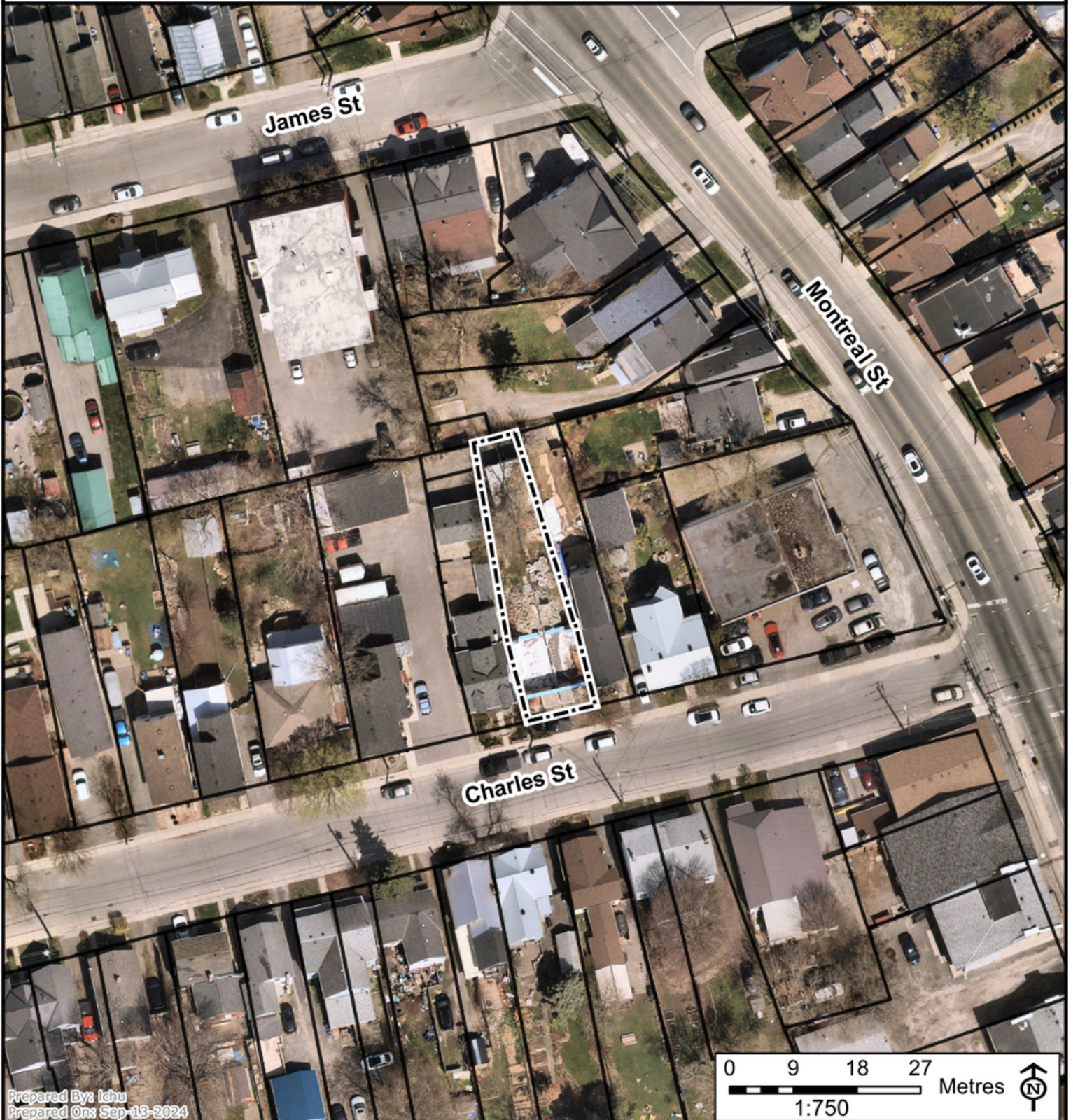
Prepared By: ncameron
Prepared On: Sep-25-2024



Delegated Authority Neighbourhood Context

Address: 101 Charles Street
File Number: D10-028-2024
Prepared On: Sep-13-2024

- Subject Lands
- Property Boundaries
- Proposed Parcels



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

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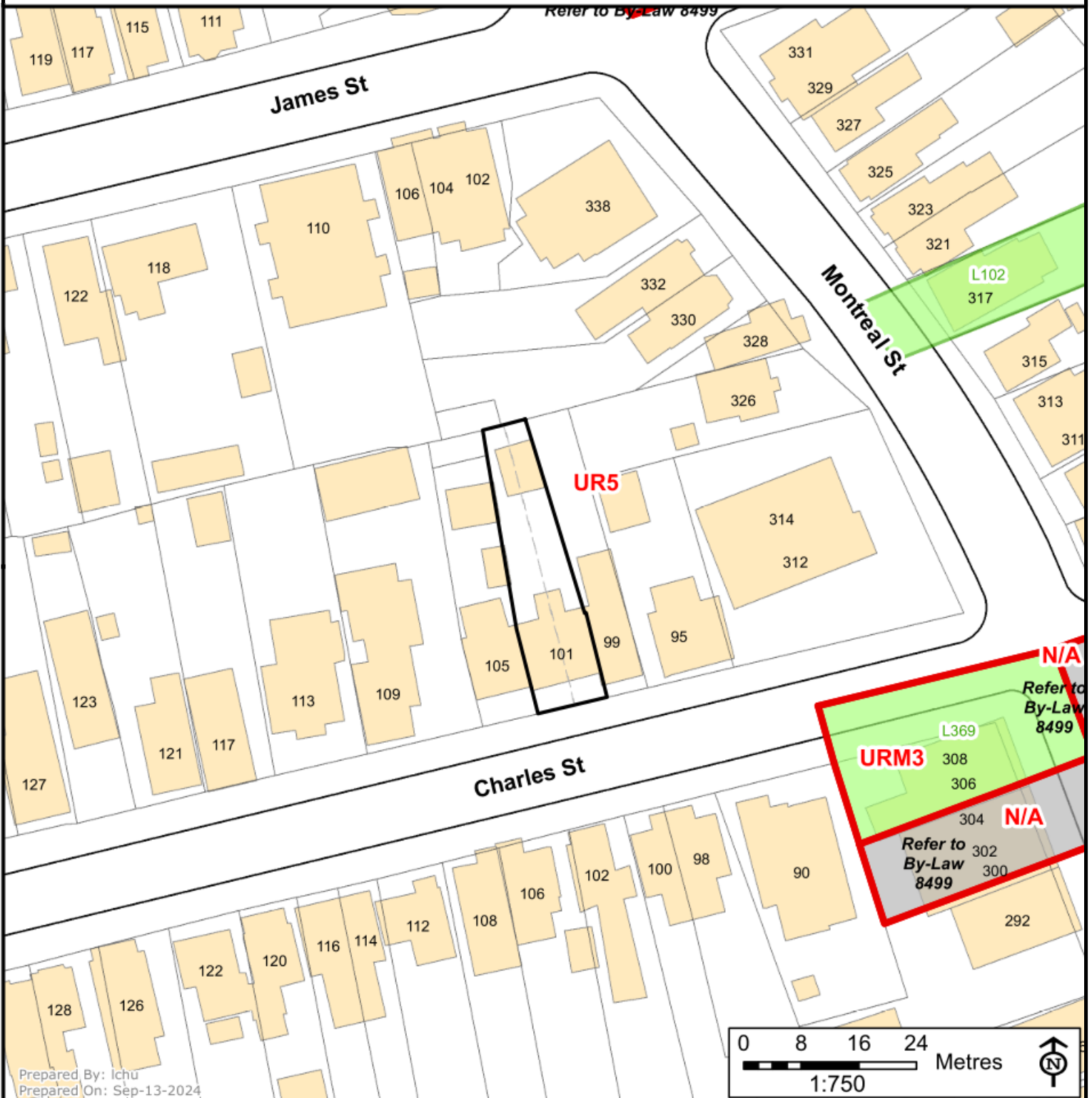


Planning Committee
Existing Zoning
Kingston Zoning By-Law 2022-62

Planning Services

Address: 101 Charles Street
File Number: D10-028-2024
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)

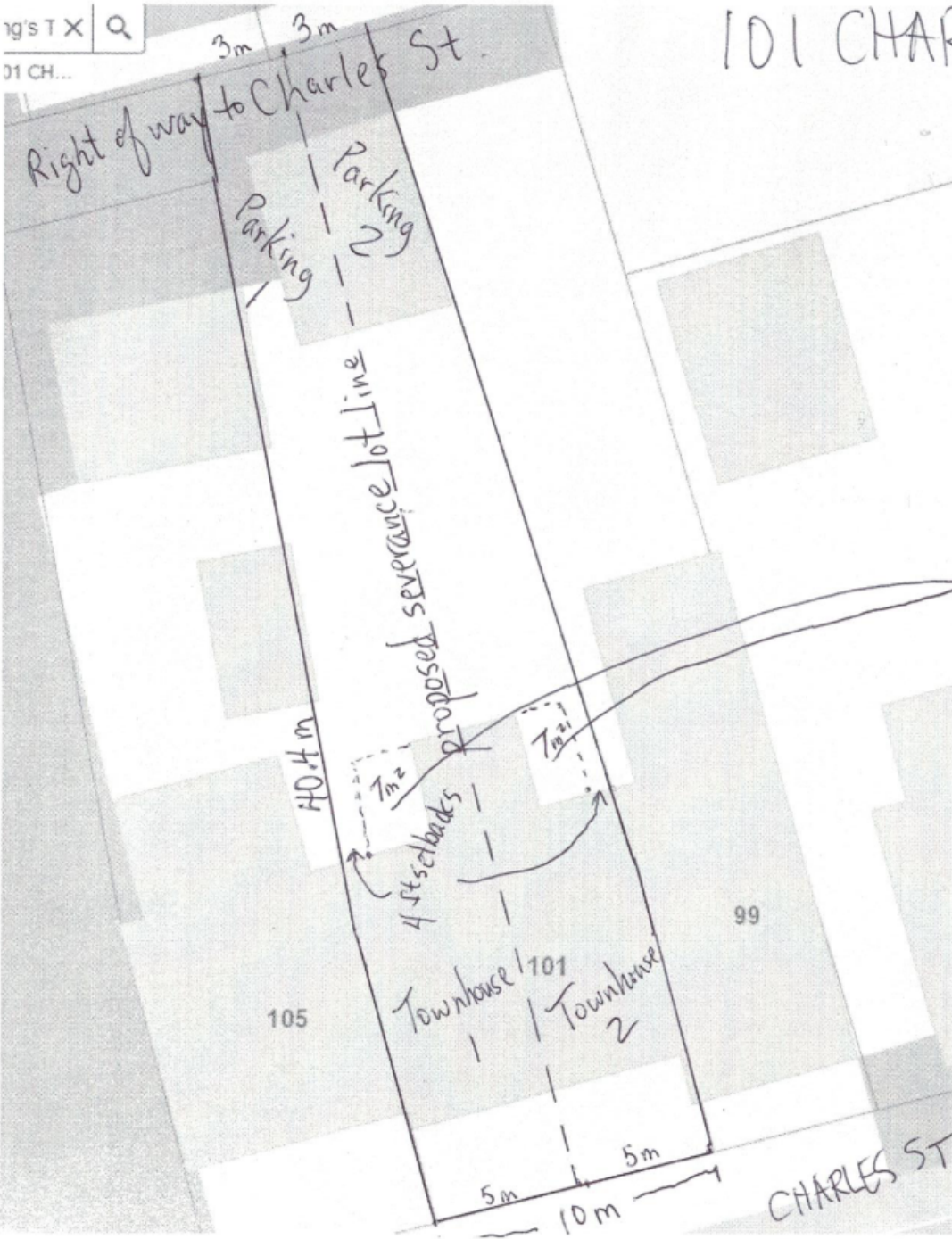


Prepared By: Ichu
Prepared On: Sep-13-2024

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101 CHARLES ST CONCEPT PLAN

101 CHARLES ST



Total area of original lot = 344 m²

Total area of each[^] proposed new lot = 172 m² (severed + retained)

→ proposed increase of original foot print for new kitchens (new square meters 7m² for each unit)

right of way 103 Charles
 right of way 101 Charles
 (easement over 103 needed)



101 CHARLES ST CONCEPT
 103 CHARLES ST

Total area of original
 344 m²

Total area of each^(sever) new lot = 172 m²

proposed increase of
 foot print for new
 (new square meters
 for each unit)

PLAN of SURVEY of
Part of LOTS 7&8, REGISTERED PLAN B-30,
North Side of Charles Street,
City of KINGSTON
COUNTY of FRONTENAC
SCALE=1:200

5m 0 5 10 15 20m
HOPKINS & CORMIER SURVEYING LIMITED
-2001-

METRIC

Distances Shown on This
Plan are in Metres and
can be Converted to Feet
by Dividing by 0.3048

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

DATE: NOVEMBER 9th, 2001

Dan Cormier
DAN J CORMIER
ONTARIO LAND SURVEYOR

Plan 13R-162/3

RECEIVED AND DEPOSITED

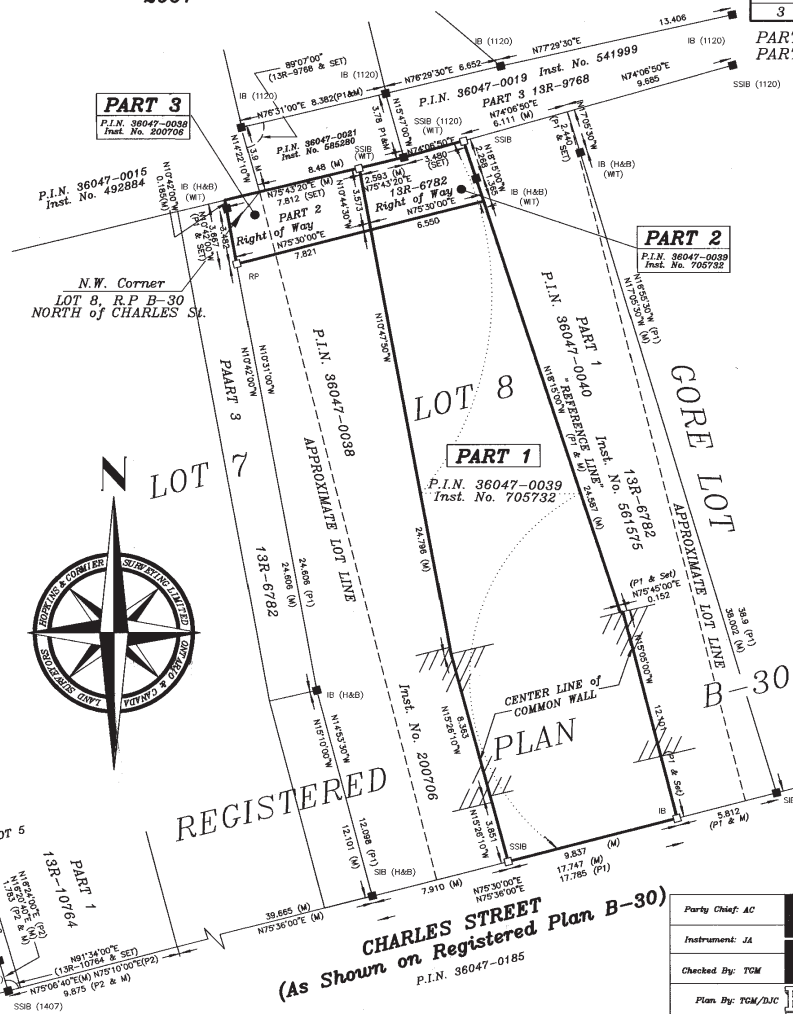
DATE: November 15, 2001

Maureen M. Shea
SIGNATURE

LAND REGISTRAR FOR THE
REGISTRY DIVISION OF
(13R) FRONTENAC

SCHEDULE					
PART	LOT	Registered Plan	INST. No.	PIN No.	AREA ha
1	8	B-30	705732	36047-0039	0.045
2	8	B-30	705732	36047-0039	0.002
3	7&8	B-30	200706	36047-0038	0.003

PART 1 & 2 COMPRISE ALL OF P.I.N. 36047-0039
PART 3 COMPRISE PART OF P.I.N. 36047-0038



NOTES:

BEARINGS ARE ASTRONOMIC DERIVED FROM THE
WESTERLY LIMIT OF PART 1 ON PLAN 13R-6782
HAVING A BEARING OF N18°15'00"W AND DESIGNATED
HEREON AS "REFERENCE LINE"

LEGEND:

- denotes Planted Survey Monument
- Found Survey Monument
- SIB Standard Iron Bar
- SSIB Short Standard Iron Bar
- IB Iron Bar
- IB# Iron Bar (round)
- RB Rock Bar
- RP Rock Post
- (WT) Witness
- (M) Measured
- (R.P.) Registered Plan
- (HP) Hydro Pole
- (1120) James A. Minnes - OLS
- (1407) Peter M. Allen - OLS
- (H&B) Humphries & Burgham - OLS
- (P1) 13R-6782

SURVEYOR'S CERTIFICATE:

I CERTIFY THAT:

1. This Survey and Plan are correct and in accordance with the SURVEYS ACT, the SURVEYORS ACT and the REGISTRY ACT and the REGULATIONS made under them.
2. The SURVEY was completed on the 12th day of October, 2001

HOPKINS & CORMIER SURVEYING LIMITED

DATE: NOVEMBER 15th, 2001

Dan J Cormier
DAN J CORMIER - O.L.S.

Party Chief: AC
Instrument: JA
Checked By: TCM
Plan By: TCM/DJC



HOPKINS & CORMIER SURVEYING LIMITED
Ontario & Canada Land Surveyors

P.O. Box 207, K0H-2H0
MILLHAVEN ROAD, ODESSA ONT.
Fax (613)-386-7302
Tel. (613)-386-7395

PROJECT No. 2001-153
LOT 8 - RP B-30
KINGSTON (CITY)



FRONT ELEVATION

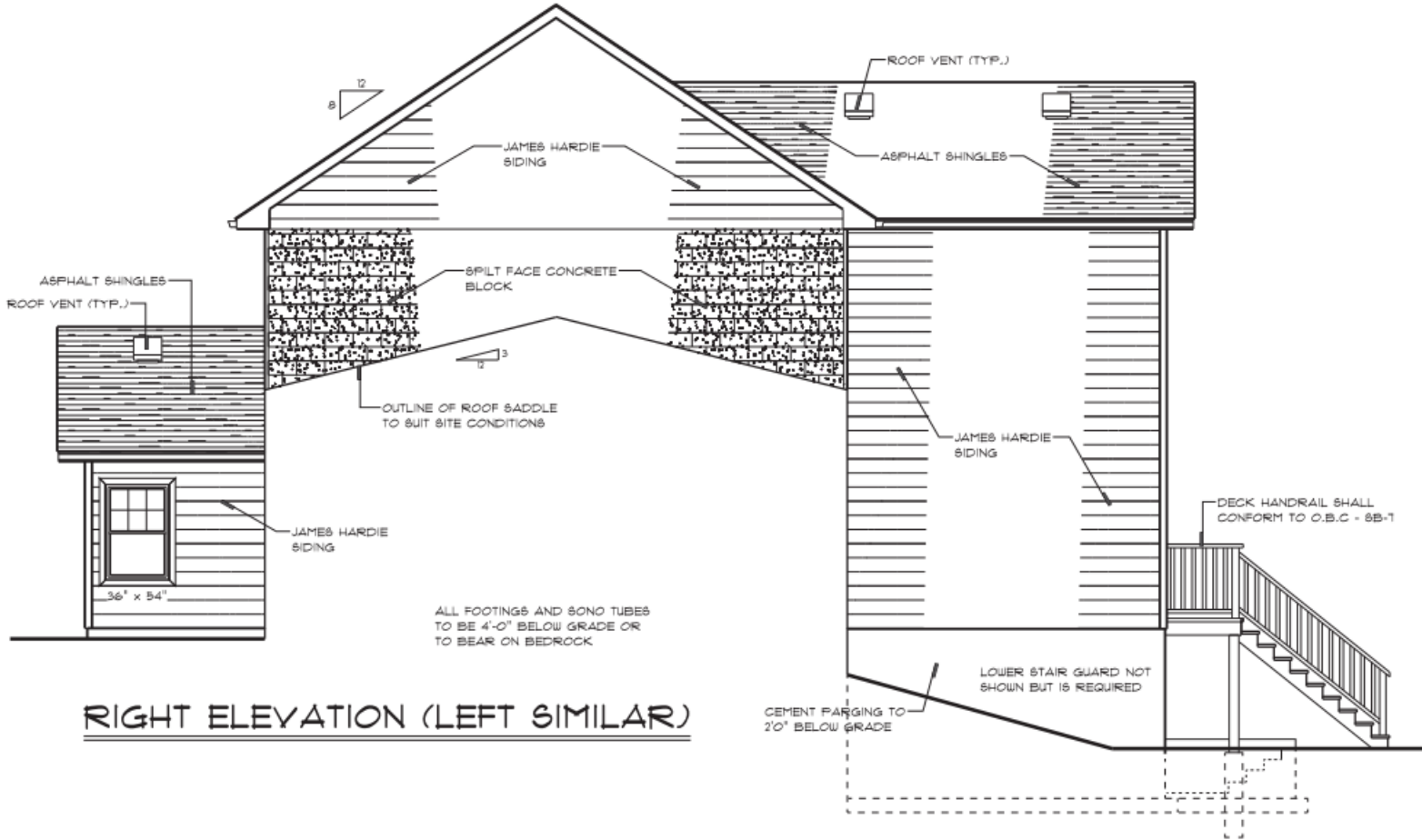




Figure 1: Frontal view of the existing townhouse walls at 101 Charles Street. The second storey that had previously existed was destroyed by fire. Applicant has proposed to rebuild the structure as two separate two-storey townhouses.



Figure 2: Rear view of the townhouse structure. Applicant proposes to divide the townhouse evenly in half to create two townhouse units. An addition is proposed at the rear of the building to provide the new units with more floor space.



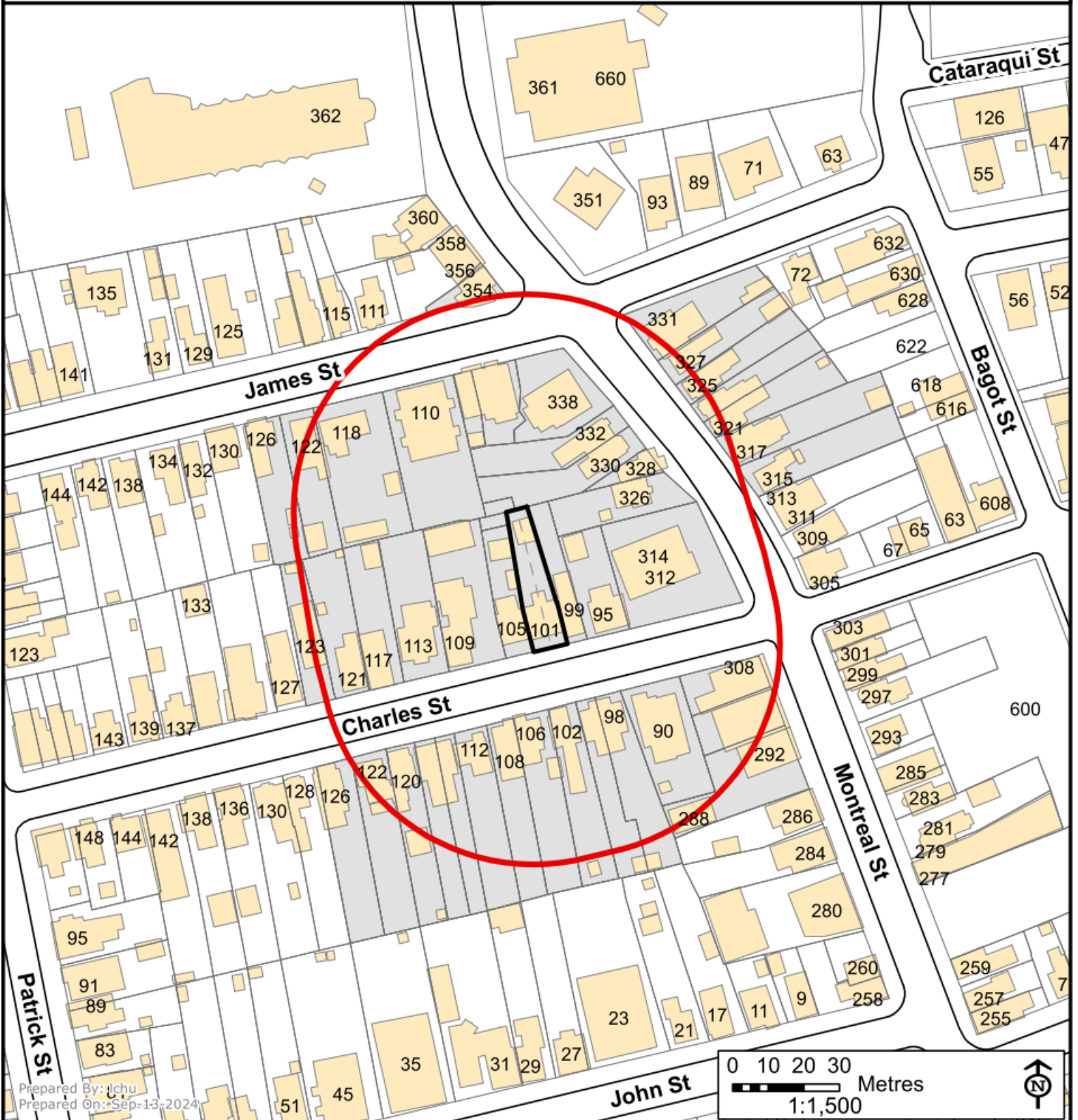
Figure 3: Proposed parking area at the rear of the property. The existing shed shown here is to be removed and replaced with a parking area which can accommodate two parking spaces, allowing one space per townhouse unit.



Delegated Authority Public Notice Notification Map

Address: 101 Charles Street
File Number: D10-028-2024
Prepared On: Sep-13-2024

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



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