



**City of Kingston
Report to Committee of Adjustment
Report Number COA-24-087**

To: Chair and Members of the Committee of Adjustment
From: Chris Wicke, Senior Planner
Date of Meeting: October 21, 2024
Application for: Consent
File Number: D10-021-2024
Address: 1668 Victoria Street
District: District 3 - Collins-Bayridge
Owner: Mohamed Khan
Applicant: Fotenn Consultants Inc.

Council Strategic Plan Alignment:

Theme: 1. Support Housing Affordability

Goal: 1.1 Promote increased supply and affordability of housing.

Executive Summary:

This application for consent to create a lot and to establish an easement has been submitted by Fotenn Consultants Inc. on behalf of the owner, Mohamed Khan. The purpose of the application is to create a separately conveyable residential lot and to establish an access easement through the retained lot for to provide vehicular access to the severed lot. The intent of the application is to facilitate the future development of a two-storey single detached dwelling with an additional residential unit on the severed lot. The proposed consent complies with the City of Kingston Official Plan and the provisions of the UR2 zone in Kingston Zoning By-Law 2022-62.

The consent application proceeded through the Delegated Authority process. The City received public comments during the public notification period; therefore, the file has been referred to the Committee of Adjustment for consideration. A new public notice was mailed to all property owners within a 60-metre radius of the property and new signage was posted on the site.

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This report provides a recommendation to the Committee of Adjustment regarding the application for consent. The proposal has regard to the matters under subsection 51(24) of the *Planning Act*, is consistent with the Provincial Policy Statement, conforms with all applicable policies of the Official Plan, is in keeping with the general intent and purpose of the zoning by-law 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 consent application, File Number D10-026-2024, to sever a residential lot with an area of approximately 1,294 square metres and to establish an access easement through the retained lot, be **provisionally approved** subject to the conditions included in Exhibit A (Recommended Conditions) to Report Number COA-24-087.

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Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

Chris Wicke, Senior Planner

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

Tim Park, Director, Planning Services

James Bar, Manager, Development Approvals

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Options/Discussion:

On July 26, 2024, a consent application was submitted by Fotenn Consultants Inc., on behalf of the owner, Mohamed Khan, with respect to the property located at 1668 Victoria Street. The consent is requested to create a new and separately conveyable residential lot and to establish an easement through the retained lot for vehicular access to the proposed severed lot.

The proposed retained lot (Exhibit G – Concept Plan) is to have an area of approximately 556 square metres and approximately 19.4 metres of frontage on Victoria Street. The existing single detached dwelling and detached garage will remain on the retained lot. The proposed severed lot is to have an area of approximately 1,294 square metres and approximately 12 metres of frontage onto Victoria Street. The intent of the application is to facilitate the future development of a two-storey house with an additional residential unit on the severed lot. In addition to the consent application to create the new lot, the applicant is also seeking to establish an easement for access as shown on the concept plan attached in Exhibit G.

The Director of Planning Services, through delegated authority, can process applications for consent that are technical in nature without holding a Public Meeting. All residents within a 60 metre radius of the property were notified through this process, and a letter of objection and concern was received. As such, this consent application is being referred to the Committee of Adjustment for consideration. Revised signage has been posted on the site and public notification of the Public Meeting has been sent to all property owners within a 60 metre radius. A courtesy advertisement has been published in the local newspaper.

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

- Concept (Exhibit G)
- Planning Justification Letter
- Stormwater Management Brief
- Servicing and Grading Plan
- Noise and Vibration Impact Study
- Survey
- Owner's Authorization

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 1668 Victoria Street (Exhibit B – Key Map). The property abuts low density residential uses to the north, west and east and a CN Rail line to the south (Exhibit C – Neighbourhood Context Map).

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The subject property is designated Residential in the Official Plan (Exhibit D – Official Plan Map) and zoned Urban Residential (UR2) in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map).

Planning Act

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 a new lot and an easement for access. 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.

Provincial Planning Statement

The Provincial Planning Statement (2024) 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.

Official Plan

The subject property is designated Residential in the City of Kingston Official Plan (Exhibit D – Official Plan Map). The goal of the Residential designation is 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 lot size and configuration is appropriate for the proposed residential development of the site and complies with the zoning requirements. The proposed lot has frontage on an assumed road. Due to the lot configuration relative to the public right-of-way, which is a local road, access proposed through this application is via an access easement over the existing driveway of the retained parcel. No impact to the heritage system, natural heritage features, natural hazards, cultural heritage resources, or areas with archaeological potential are anticipated. The site has been previously cleared of archaeological significance.

Technical details relating to the development of the proposed retained lot such as servicing, traffic impacts, stormwater management, and noise have been reviewed through the technical

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review process. There are no anticipated issues with the provision of municipal services for the proposed retained and severed lots.

The proposal meets the intent of the Official Plan, as the proposed new lot is appropriately sized and configured to contain a residential use and the consent and easement are not anticipated to result in any negative impacts to adjacent properties or to the neighbourhood.

Zoning By-Law

The subject property is zoned Urban Residential (UR2) in Kingston Zoning By-Law Number 2022-62 . The Urban Residential zone permits a variety of residential uses including a house, a semi-detached house, and a townhouse. A house is defined as a ground-oriented residential building that is used for the purpose of one or more principal dwelling units on one lot.

The proposed severed and retained lots are zoning compliant, as demonstrated in the following table:

Table 1 – Zone Comparison for Severed and Retained Lots

	Lot Area	Lot Frontage
UR2 Zone Minimum Requirement	No minimum	12 metres
Proposed Severed Lot	1,294 square metres	12 metres
Proposed Retained Lot	556 square metres	19.4

Technical Review: Circulated Departments and Agencies

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

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Technical Comments

This application was circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude this application from moving forward. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

Public Comments

At the time this report was finalized, one public comment was received (Exhibit I – Public Correspondence). Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

Public comments focused on issues related to construction issues such as noise, timing and potential damage to adjacent buildings; creation of drainage issues; removal of mature trees; increased traffic, parking issues, and carbon emissions due to vehicle access to the property; and concerns about the nature of the tenancy of a future home. The public commenter also requests the construction of an eight-foot fence between the proposed severed lot and the adjacent property for reduced noise and increased privacy.

The applicant has responded to these concerns as follows:

- The final building design and construction methods have not been confirmed at this stage. However, if impacts or damage to neighbouring properties occurs through the future construction, the contractor and / or property owner would be responsible.
- A grading plan has been prepared for the proposed severance and has been submitted with the application. The grading plan incorporates a new grass swale along the east property line, which abuts 669 Collins Bay Road, that will convey water along the lot line to the south where an existing ditch exists.
- As shown on the submitted concept plan, some on-site tree removal is anticipated to accommodate the proposed building envelope and driveway extension. The applicant intends to replant trees on-site to replace those removed.
- The application seeks to create one new lot for a single detached dwelling with an additional residential unit. An extension of the existing driveway is proposed to accommodate two new parking spaces. Given the limited scale of development, excess emissions are not anticipated.
- Two on-site parking spaces are proposed to meet future resident needs.
- Future construction on the severed lot would be subject to the City's Noise By-law (2004-52) which states "Construction activity is prohibited from 7 pm to 7 am and on Sundays and holidays."
- The proposed dwelling on the severed lot will be located further south and will have a greater setback from 669 Collins Bay Road than the existing dwelling on the subject property. Any future fence between the properties would comply with the City's fence by-law which allows a fence height up to 6 feet.

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In addition to the applicant's response, a tree permit will be required by the applicant to address the removal or protection of trees within the municipal right-of-way to facilitate access to the proposed severed lot.

Previous or Concurrent Applications

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

Conclusion

The proposal has regard to the matters under subsection 51(24) of the *Planning Act*, is consistent with the Provincial Planning Statement, conforms with all applicable policies of the Official Plan, is in keeping with the general intent and purpose of the zoning by-law and a plan of subdivision is not necessary for the proper and orderly development of the property, as such, is recommended for provisional approval.

Provisional approval of this application will result in the creation of a new residential lot with an easement for access. This will ultimately facilitate the future development of a two-storey single detached dwelling with an additional residential unit on the severed lot.

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 regarding 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 24 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 H – Public Notification Map).

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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

Chris Wicke, Senior Planner, 613-546-4291 extension 3242

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

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

Recommended Conditions

The provisional approval of consent application, File Number D10-026-2024, to sever an approximately 1,294 square metre lot with approximately 12 metres of frontage on Victoria Street and to establish easements across the retained lot for access, 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 format by email, illustrating the severed and retained parcels be prepared and presented to the Secretary-Treasurer, Committee of Adjustment prior to the issuance of the Certificate of Official. The reference plan must, in the opinion of the City, conform to the general intent and description of the approved drawings attached to the notice of Decision, including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision.

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. Cash-In-Lieu

In accordance with City of Kingston By-Law Number 2022-145, the Owner shall provide cash-in-lieu of parkland conveyance in the amount of \$2428.00 prior to issuance of the Certificate of Official.

5. Civic Address

A new civic address, granted through a D20 Civic Addressing Application, is required for the severed lot. For further information please see the City of Kingston Civic Addressing and Road Naming By-law 2005-98. 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. Please contact civicaddressing@cityofkingston.ca with any questions.

6. Standard Archaeological Notice

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.

7. Utilities Kingston

The owner/applicant is to provide a drawing showing all existing and proposed services and the mains they connect to, and the existing buildings and all proposed and existing property lines, which shall be approved by utilities Kingston. There shall be no encroachment of services (unless easements are created). Contact Utilities Kingston 'Service Advisors' and quote the application number to arrange for a 'Severance locate' to confirm that the location of the existing water and sanitary service for 1668 Victoria Street will not encroach onto the newly created lot.

8. Easements

The Certificate of Official shall include an easement for access as shown on the attached concept plan.

9. Tree Protection

The owner/applicant is required to undertake a Tree Permit application to address the potential removal and / or preservation of existing City-owned tree assets within the road allowance adjacent to the proposed development. Tree preservation requirements and/or conditions will be addressed through the permit.

10. 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 the following conditions:

- a) Compliance with the recommendations as outlined in the Noise Impact Study, prepared by J.E Coulter Associates.
- b) That the provided reporting and supporting Engineering design be implemented to ensure suitable operation of site drainage in perpetuity.
- c) That as per Kingston Zoning By-law 2022-62 and comments from CN Rail, the safety setback of principal buildings from the railway rights-of-way shall be a minimum of 30 metres in conjunction with a safety berm. The safety berm shall be 2.5 metres above grade, with side slopes not steeper than 2.5 to 1, with returns at the ends, along the lot line adjoining and parallel to the railway right-of-way.
- d) That as per Kingston Zoning By-law 2022-62 and comments from CN Rail, the owner shall install and maintain a chain link security fence with a minimum 1.83 metres height along the entire mutual property line adjacent to the railway right-of-way, to be constructed by the owner entirely on private property, and to be installed and maintained at the owner's expense.
- e) That the following clause should be inserted in all development agreements, offers to purchase, and agreements of Purchase and Sale or Lease of each dwelling unit within 300m of the railway right-of-way: "Warning: Canadian National Railway Company or its assigns or successors in interest has or have a right-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way."
- f) That the storm water management facility be designed to control storm water runoff to pre-development conditions including the duration and volume of the flow and accordingly have no impacts on CN right of way, including ditches, culverts and tracks. Any proposed alterations to the existing drainage pattern affecting railway property must receive prior concurrence from CNR and be substantiated by a drainage report to the satisfaction of the Railway.
- g) That the owner be advised of the following:
 - i. A building permit is required for any proposed construction.
 - ii. Spatial separations and construction of exposed building faces are to be considered.

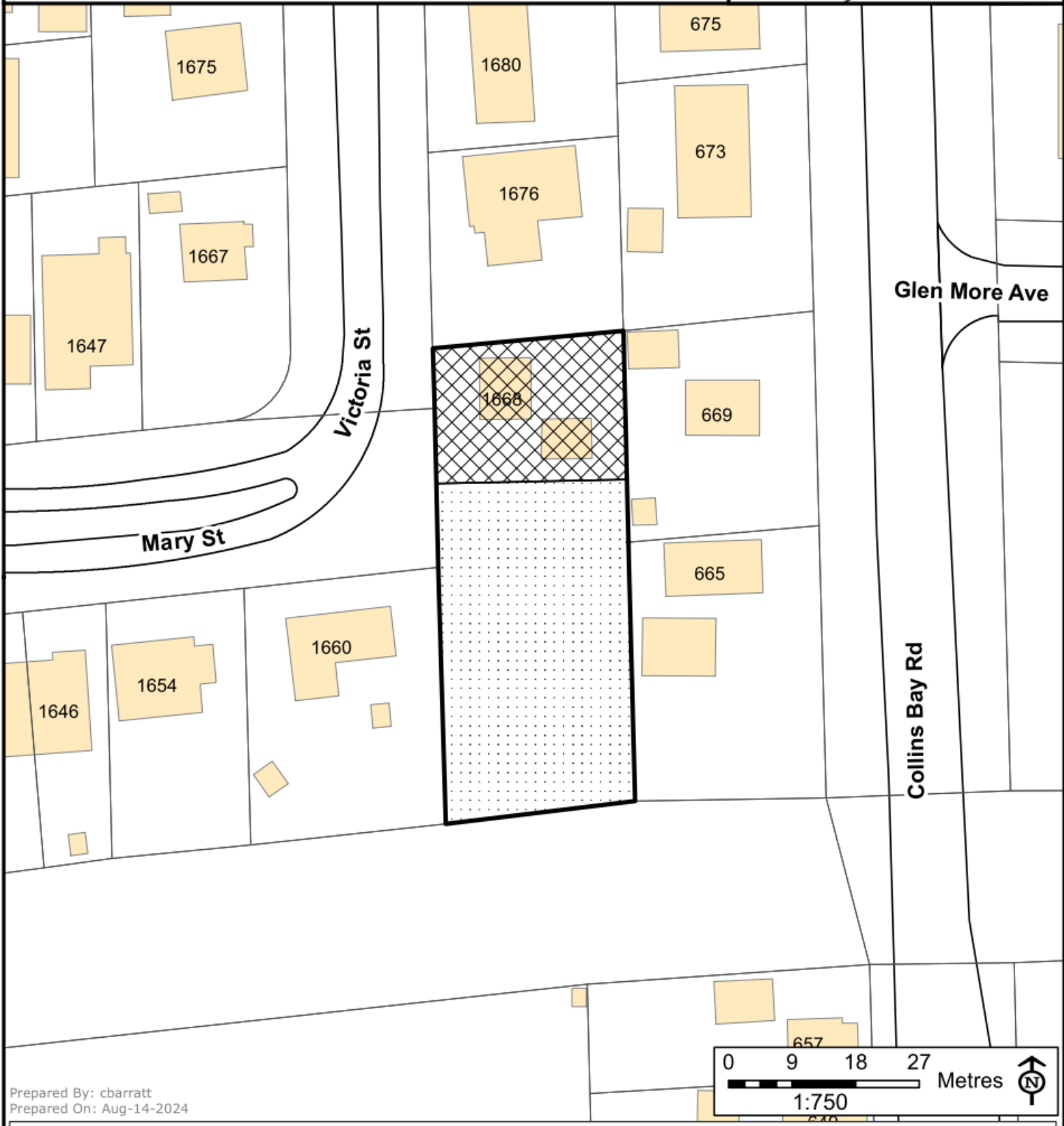
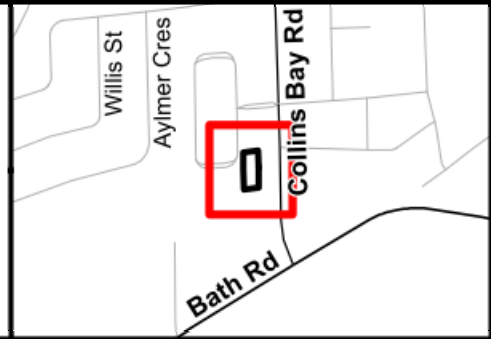
- iii. Development and impost charges will be applicable.
- iv. Proposed construction, building size and construction type will be assessed for fee purposes.
- v. Building shall be located, or the building site graded, so that water will not accumulate at or near the building and will not adversely affect adjacent properties.
- vi. The building designer is required to have BCIN with Small Buildings, if more than 2 units are proposed in the building.



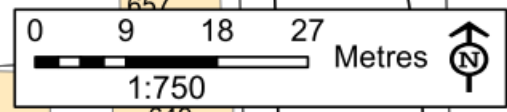
Delegated Authority Key Map

Address: 1668 Victoria Street
File Number: D10-026-2024
Prepared On: Aug-14-2024

- Subject Lands
- Severed Lands
- Retained Lands



Prepared By: cbarratt
Prepared On: Aug-14-2024






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Delegated Authority Neighbourhood Context

Address: 1668 Victoria Street
File Number: D10-026-2024
Prepared On: Aug-14-2024

-  Subject Lands
-  Property Boundaries
-  Proposed Parcels






Prepared By: ebarratt
Prepared On: Aug-14-2024

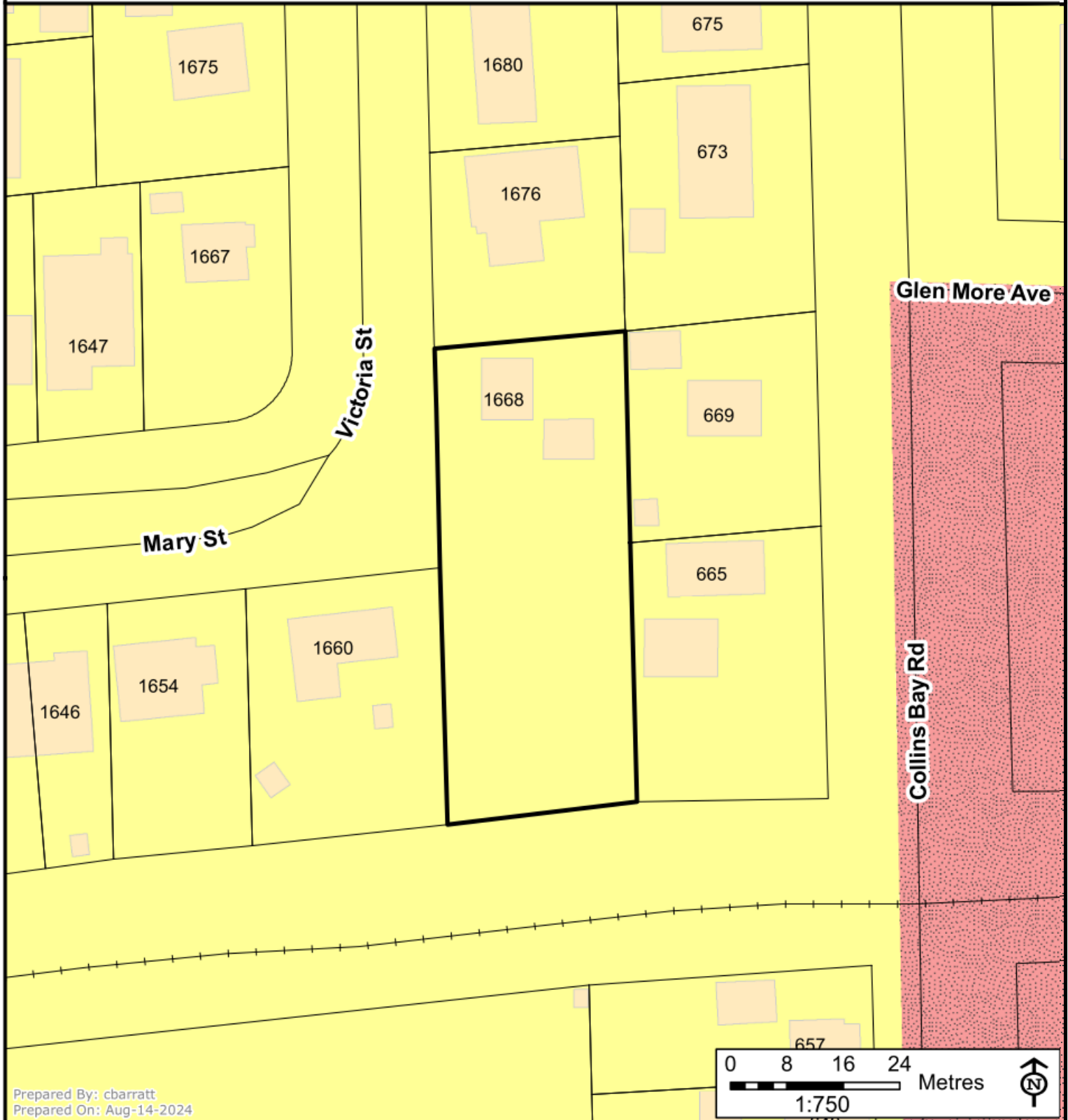
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Delegated Authority
Official Plan, Existing Land Use

Address: 1668 Victoria Street
File Number: D10-026-2024
Prepared On: Aug-14-2024

-  Subject Lands
-  DISTRICT COMMERCIAL
-  RESIDENTIAL



Prepared By: cbarratt
Prepared On: Aug-14-2024



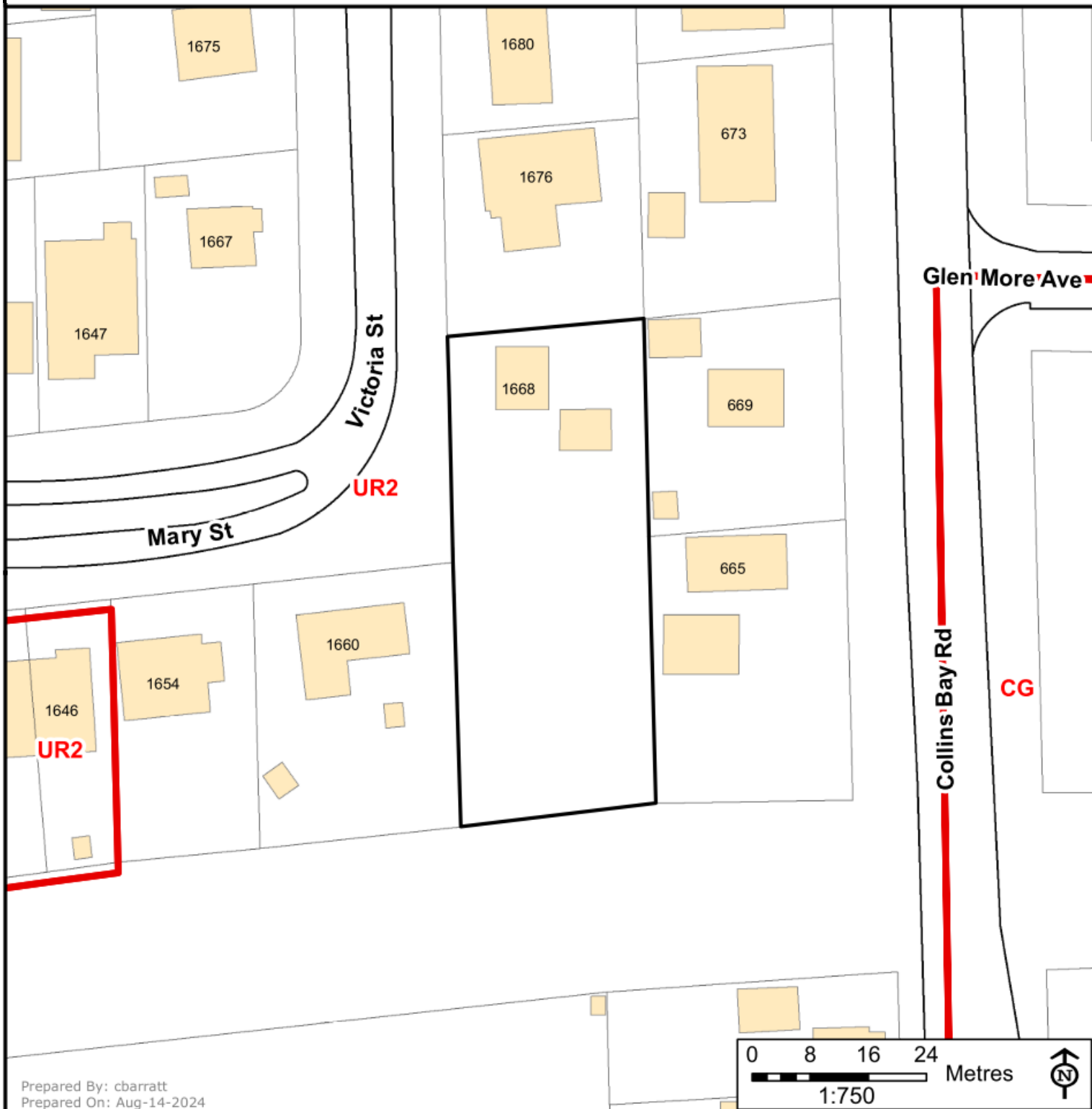
Planning Committee
Existing Zoning
Kingston Zoning By-Law 2022-62

Planning Services

Address: 1668 Victoria Street
File Number: D10-026-2024
Prepared On: Aug-14-2024

Subject Lands
Schedule 1 Zoning Map
Zone

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



Prepared By: cbarratt
Prepared On: Aug-14-2024

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SITE INFORMATION

ZONING		UR1A
SITE AREA		
Total Site Area:		1,850 m ²
LOT AREA		
Severed Lot:		1,294 m ²
Retained Lot:		556 m ²
LOT FRONTAGE		
Severed Lot:		12.0 m
Retained Lot:		19.4 m
SETBACKS:		FRONT SIDE REAR
Severed Lot:		6.0 m 6.5 m & 32.6 m 7.5 m
Retained Lot:		6.6 m 2.4 m & 8.7 m 13.4 m
RAILWAY SEPARATION DISTANCE		34.3 m
PARKING		Required: Provided:
Single detached dwelling:		2 2
BIKE PARKING		Required: Provided:
Single detached dwelling:		2 2
LANDSCAPED OPEN SPACE		
Severed Lot:		1,087 m ² (84%)
Retained Lot:		379 m ² (68%)

1668
VICTORIA STREET
KINGSTON
Concept Plan



LEGEND

- EXISTING BUILDING
- PROPOSED BUILDING
- WALKWAY
- LANDSCAPED OPEN SPACE
- PROPOSED DRIVEWAY
- SUBJECT PROPERTY BOUNDARY
- PROPERTY SEVERANCE LINE
- PROPERTY BOUNDARY
- 30m RAILWAY SEPARATION
- MINIMUM SETBACKS
- HYDRO LINE
- DITCH
- HYDRO POLE
- EXISTING/PROPOSED TREE
- TREE TO BE REMOVED
- PROPOSED EASEMENT

0 1m 2m 5m 10m

CLIENT
Mohamed Khan

FOTENN
Planning + Design

OTTAWA: 395 Cooper Street, Suite 303, Ottawa, ON K2P 2H7 613.730.9709
KINGSTON: 4 Cataract St., Suite 215, Kingston, ON K7K 1Z7 613.842.8454
TORONTO: 174 Spadina Ave., Suite 304, Toronto, ON M5T 2C2 416.789.4530

www.fotenn.com

DESIGNED	GK
REVIEWED	TS
DATE	2024-02-02

P1



Figure 1: Looking east at existing dwelling on the subject property.



Figure 2: Looking southeast at proposed location of the lot to be severed and proposed dwelling.



Figure 3: Adjacent property to the west of the subject property.



Figure 4: Adjacent property to the north of the subject property.



Figure 5: Looking south along Victoria Street toward the frontage of the subject property.



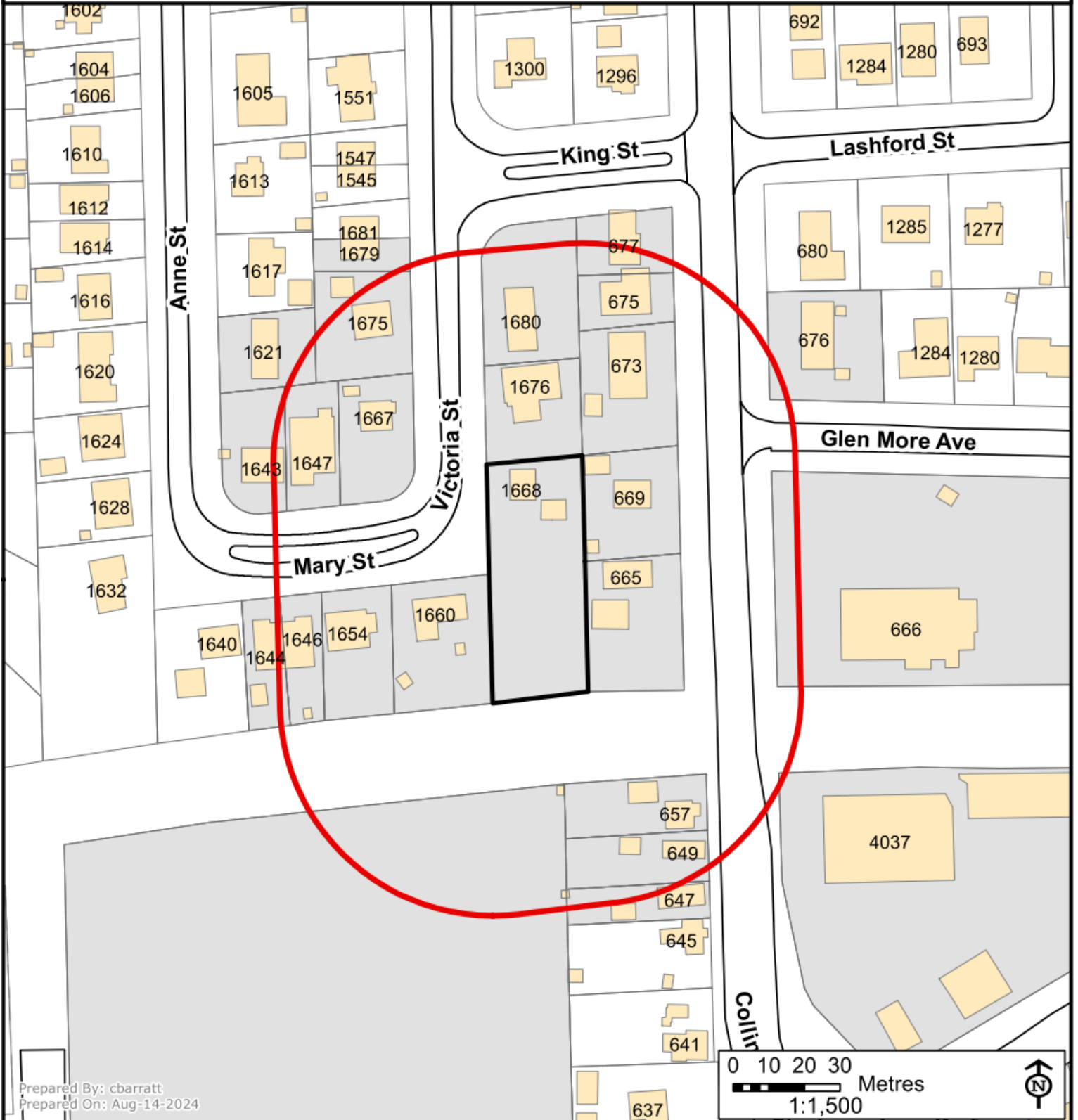
Figure 6: Looking west to the southern edge of the property past the adjacent land and rail lines.



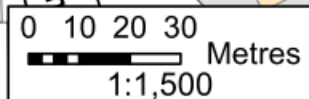
Delegated Authority Public Notice Notification Map

Address: 1668 Victoria Street
File Number: D10-026-2024
Prepared On: Aug-14-2024

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



Prepared By: cbarratt
Prepared On: Aug-14-2024



From: [REDACTED]
To: [Wicke,Chris](#)
Subject: Application for Consent to Sever New Lot & Create an Easement/File Number: D10-026-2024/Address: 1668 Victoria St., Kingston ON K7M 5H3
Date: September 3, 2024 1:59:11 PM

Caution: This email is from an external source. Please exercise caution when opening attachments or clicking links, especially from unknown senders.

Please accept the following written comments in respect to the proposed above application:

- Concerned when fracking of the ground takes place may cause damage to my foundation and other infrastructure (i.e. sewer & water) as house was built in 1946. Who will be responsible if this happens?
- Drainage issues at back of property.
- Mature trees will be removed.
- Excess carbon emissions due to vehicle access to the property.
- More traffic on small street with minimal parking.
- Current residence is being utilized as a rooming house. Concerned if application is approved that work on new dwelling will be done after hours (night time) and on weekends as in the past with current residence.
- If application moves forward, request that an 8ft fence be built between properties to avoid noise, have privacy from new rental dwelling by home owner at 1668 Victoria St., Kingston ON.

Thank you,

Michael & Leisha Woods
669 Collins Bay Rd.
Kingston ON K7M 5G7