



**City of Kingston
Report to Committee of Adjustment
Report Number COA-25-029**

To: Chair and Members of the Committee of Adjustment
From: Chanti Birdi, Intermediate Planner
Date of Meeting: March 24, 2025
Application for: Permission
File Number: D13-006-2025
Address: 8 Orchard Street
District: District 11 – King’s Town
Owner: Jennifer McCluskey
Applicant: Jennifer McCluskey

Council Strategic Plan Alignment:

Theme: Policies & by-laws

Goal: See above

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for permission for the property located at 8 Orchard Street. The applicant is proposing an addition to increase the height of the existing house from 6.4 metres to 8.6 metres.

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

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Recommendation:

That the application for permission, File Number D13-006-2025, for the property located at 8 Orchard Street to increase the height of the existing house from 6.4 metres to 8.6 metres with no expansion in footprint, be **Approved**; and,

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-25-029.

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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

Malcolm Norwood, Supervisor, Development Approvals

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Options/Discussion:

On January 31, 2025, an application for permission was submitted by the owner Jennifer McCluskey with respect to the property located at 8 Orchard Street. The application for permission is requested to increase the height of the existing house from 6.4 metres to 8.6 metres with no expansion in footprint.

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

- Concept Plans and Elevations (Exhibit F)
- Area Photographs (Exhibit G)
- Existing Attic Photographs (Exhibit H)

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 west side of Orchard Street, north of Cataraqui Street and opposite Emma Martin Park (Exhibit B – Key Map). The property abuts existing homes to the north and south. The rear lot line abuts the open space of a residentially-zoned property which is subject to an active *Planning Act* application to establish a Common Element Condominium (Exhibit C – Neighbourhood Context Map).

The subject property is designated Residential and is subject to Site Specific Policy 8 Area within the Official Plan (Exhibit D – Official Plan Map). The property is zoned B1.207 within former Zoning By-law Number 8499 and benefits from the URM4 parent zone in Kingston Zoning By-law Number 2022-62 (Exhibit E – Zoning By-Law Map). The existing house is non-complying with the minimum interior setback and front setback requirements of the URM4 Zone within the Kingston Zoning By-Law Number 2022-62.

Permission Application

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

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

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

The proposed increase in height to the existing house is intended to provide additional storage space within the dwelling. The proposal is considered desirable as it utilizes the existing building footprint and lessens the need to increase the building footprint or introduce an accessory building to fulfill the storage function.

The proposed increase in building height is not anticipated to result in undue adverse impacts on the surrounding properties. As shown in the area photographs provided by the applicant and included in Exhibit G of this report, 2 and 3 storey buildings are not uncommon for the area and no variance for height is required. The proposed degree of change is not considered substantial, given the increase in height is 2.2 metres measured to the highest point. This increase in height is not anticipated to create undue adverse impacts on the adjacent residential uses.

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 and is subject to Site Specific Policy Number 8 Area (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.

Staff are satisfied that the existing house was legally established at the time of construction and has remained in place as a residential use since that time.

The proposal conforms with the intent of the applicable Residential designation, which permits a variety of residential uses, and Section 3.18.8. which outlines policies of the applicable Inner Harbour Site Specific Policy Number 8 area. The proposal will not impact the maximum residential density of the Site Specific Policy Area.

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The proposal is compatible with the existing surrounding uses and zones. Residential uses directly abut the property on three sides and a public park is located across Orchard Street from the subject property. The proposed increase in height is consistent with building massing in the area. Exhibit G provides area photographs, provided by the applicant, displaying 2 and 3 storey built forms in the immediate area.

The proposed increase in building height will not affect other applicable standards such as vehicle parking, bike parking, landscaped open space or walkways. The proposal will have no impact on the potential noise, odour, traffic or other nuisance generated from the site.

The proposal will have negligible impact on municipal infrastructure and services. As shown in Exhibit F of this report, an existing hydro line will require a change in mounting hardware to accommodate the change in roof shape from a hip roof to a gable roof.

The proposed increase in height does not further prevent the establishment of a conforming use than the existing site condition. In order for the property to provide a conforming interior setback, the existing house would need to be partly or wholly removed, and a new house constructed at a different location on the site. At a lot width of approximately 11.89 metres, the width of a new house would need to be reduced from the current 7.9 metres to 6 metres in order to accommodate a 3 metre interior setback on each side of the house.

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. The property is located within an area which would generally require further archaeological study, however, as there will be no ground disturbance related to the proposal, an archaeological study will not be required.

The requested permission to increase the height of the existing house meets the general intent and purpose of the applicable City of Kingston Official Plan policies.

Zoning By-Law

The property is zoned B1.207 within former zoning by-law number 8499 and benefits from the URM4 parent zone in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map).

The applicable URM4 Zone in Kingston Zoning By-Law Number 2022-62 permits a variety of residential and non-residential uses, including apartment buildings and houses. All permitted uses, including a house, require a minimum 1.8 metre setback for 1 storey buildings, and a minimum 3 metre setback for 2 storey buildings. The minimum front setback for permitted uses within the URM4 Zone is 7.5 metres.

The existing house is considered to be legal non-complying in terms of minimum interior and front setbacks as the house was constructed prior to implementation of Zoning By-Law Number 2022-62 at a setback of 0.46 on the north side (adjacent 10 Orchard Street) and a front setback of approximately 2.1 metres. There is some variation in interior setbacks between buildings

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along Orchard Street, with a number of houses appearing to also have an existing non-complying interior setback.

No further reduction of the existing setback is proposed. The proposal would utilize the existing building footprint and increase the height to provide additional storage space. The proposed increase in height is considered appropriate for the area and is not anticipated to create undue adverse impact to the adjacent properties.

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 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.

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

Approval of this application will facilitate the increase in height of the existing house from 6.4 metres to 8.6 metres measured from grade to the highest point of the 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

Former Restricted Area (Zoning) By-Law Of The Corporation Of The City Of Kingston By-Law Number 8499

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on March 24, 2025. 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 19 properties (according to the latest Assessment Roll) within 60 metres of the subject property and a courtesy notice was placed in The Kingston Whig-Standard (Exhibit H – Public Notification Map).

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

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Accessibility Considerations:

None

Financial Considerations:

None

Contacts:

Malcolm Norwood, Supervisor, Development Approvals, 613-546-4291 extension 3236

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 Concept Plans and Elevations
- Exhibit G Area Photographs
- Exhibit H Existing Attic Photographs
- Exhibit I Public Notification Map

Recommended Conditions

The approval of permission application, File Number D13-006-2025, to increase the height of the existing house from 6.4 metres to 8.6 metres, shall be subject to the following recommended conditions:

1. Limitation

That the approved permission applies only to and increase in height of the existing house, including existing footprint, to 8.6 metres 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.



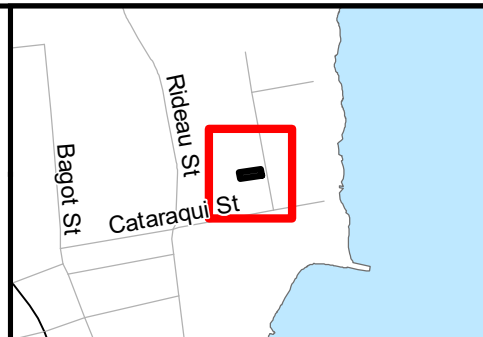
Planning Services

Committee of Adjustment

Key Map

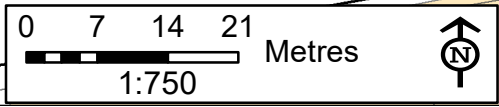
Address: 8 Orchard Street
File Number: D13-006-2025
Prepared On: Feb-13-2025

 Lands Subject to Permission



Prepared By: Ichu
Prepared On: Feb-13-2025

Cataraqui St



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Committee of Adjustment Neighbourhood Context

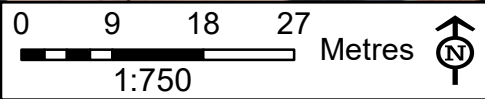
Address: 8 Orchard Street
File Number: D13-006-2025
Prepared On: Feb-13-2025

- Subject Lands
- Property Boundaries
- Proposed Parcels



Prepared By: lchu
Prepared On: Feb-13-2025

Cataraqui St



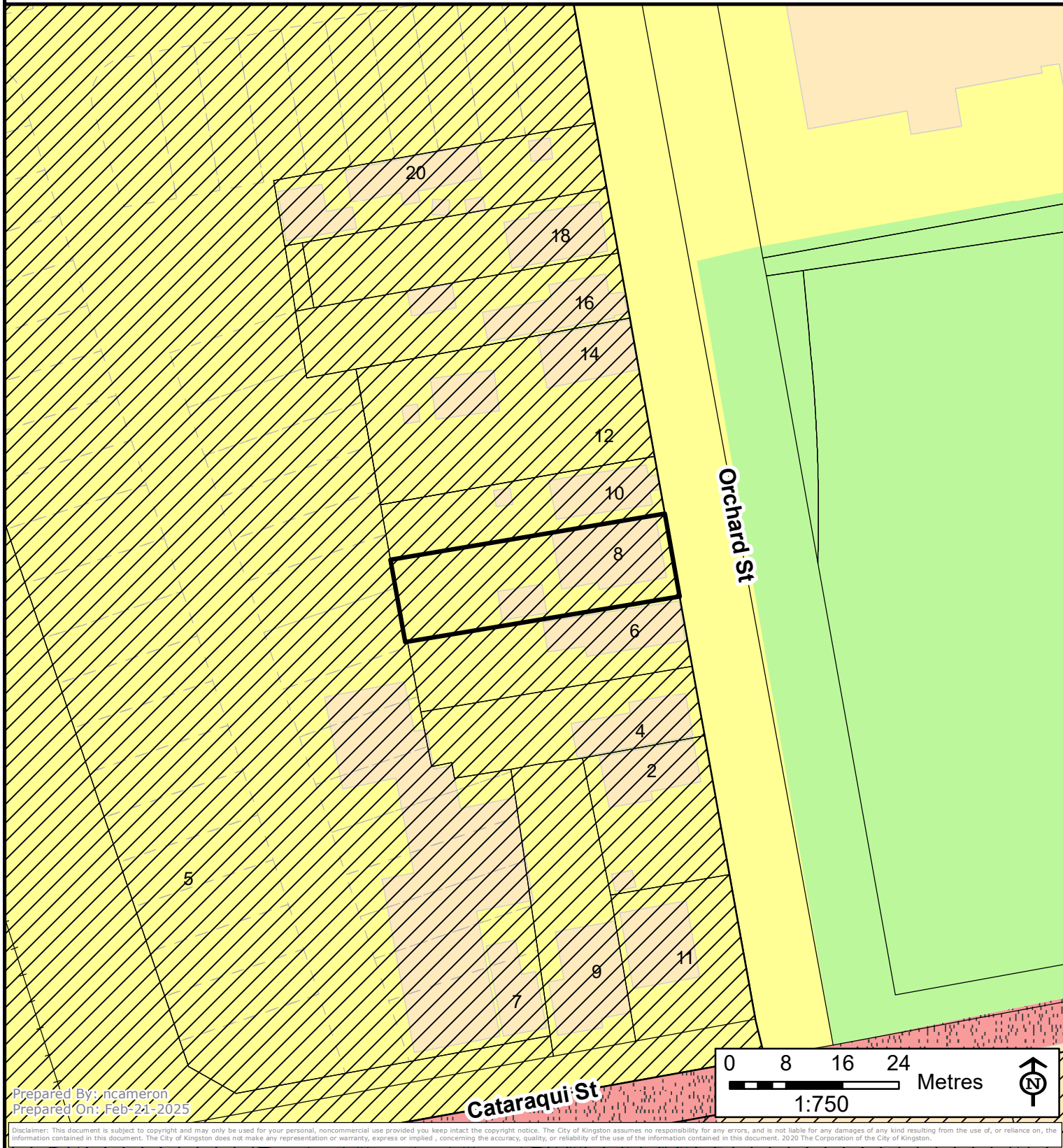
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Committee of Adjustment Official Plan, Existing Land Use

Address: 8 Orchard Street
File Number: D13-006-2025
Prepared On: Feb-21-2025

- Subject Lands
- District Commercial
- Open Space
- Residential
- Site Specific Policy 8 Area



Prepared By: ncameron
Prepared On: Feb-21-2025

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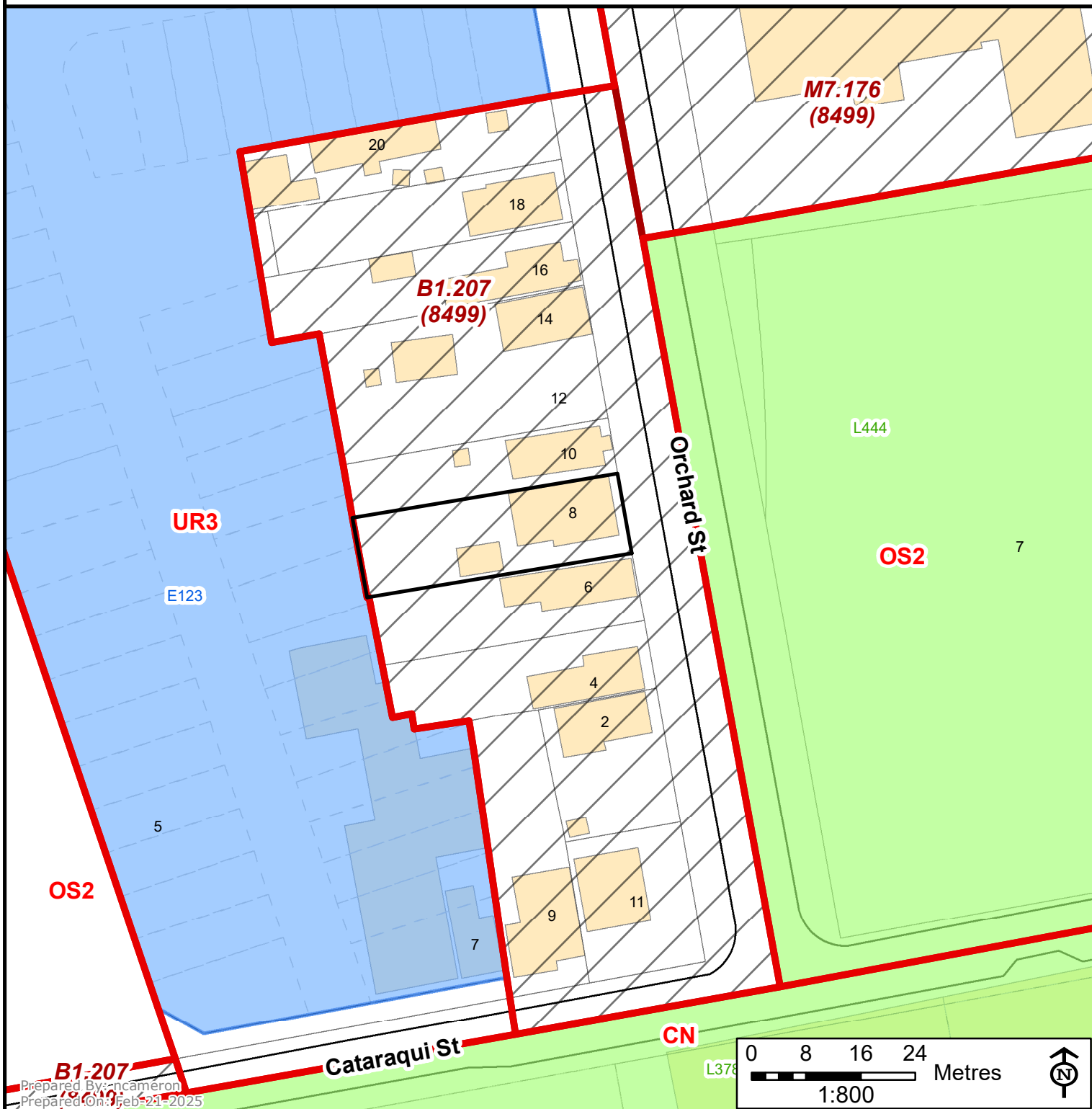


Committee of Adjustment
Existing Zoning
Kingston Zoning By-Law 2022-62

Planning Services

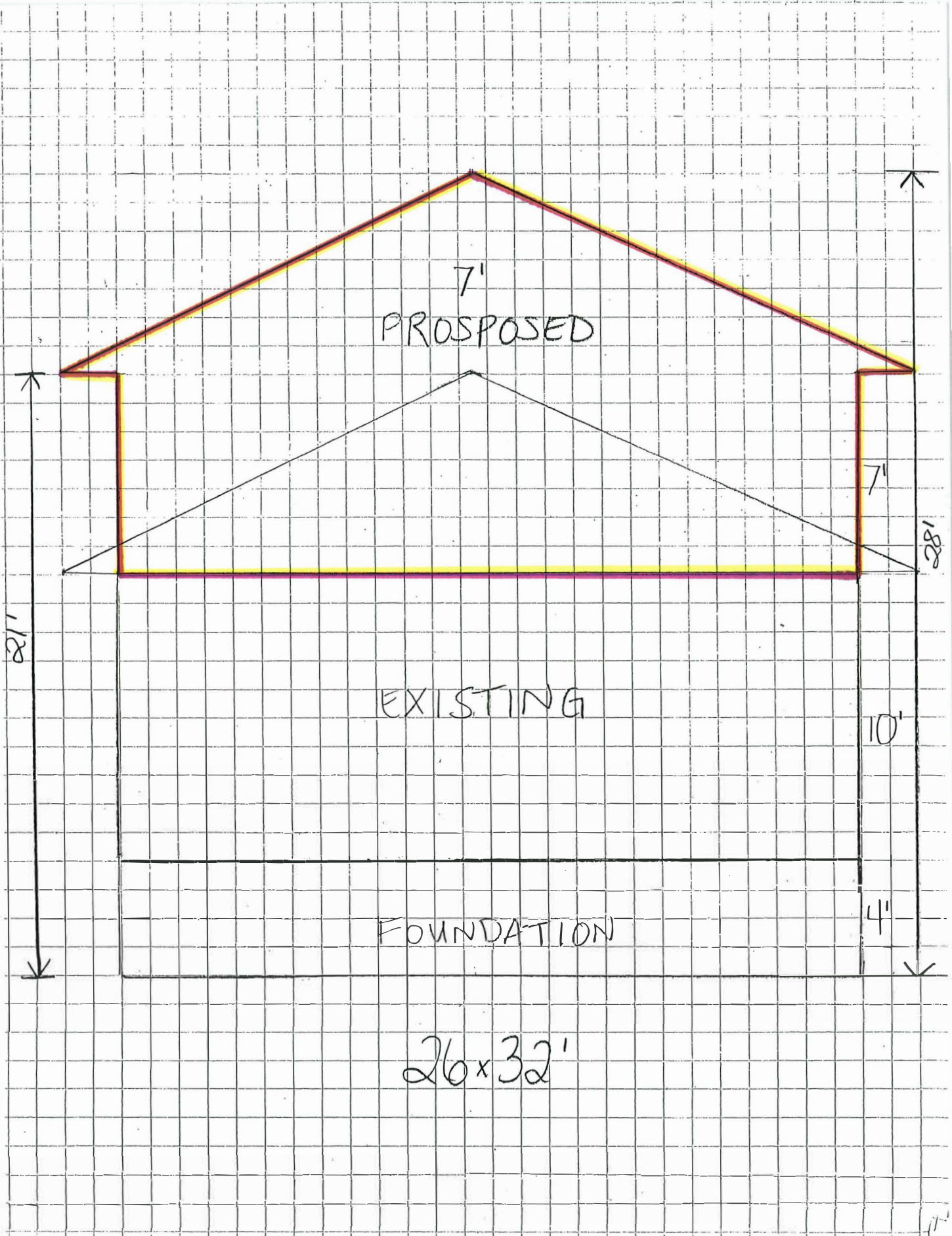
Address: 8 Orchard Street
File Number: D13-006-2025

- Subject Lands
- Schedule 1 Zoning Map
- Zone
- Red Exception
- Schedule E - Exception Overlay
- Legacy Exceptions
- Exceptions (EXXX)
- Schedule F - Holding Overlay
- Holding Overlay



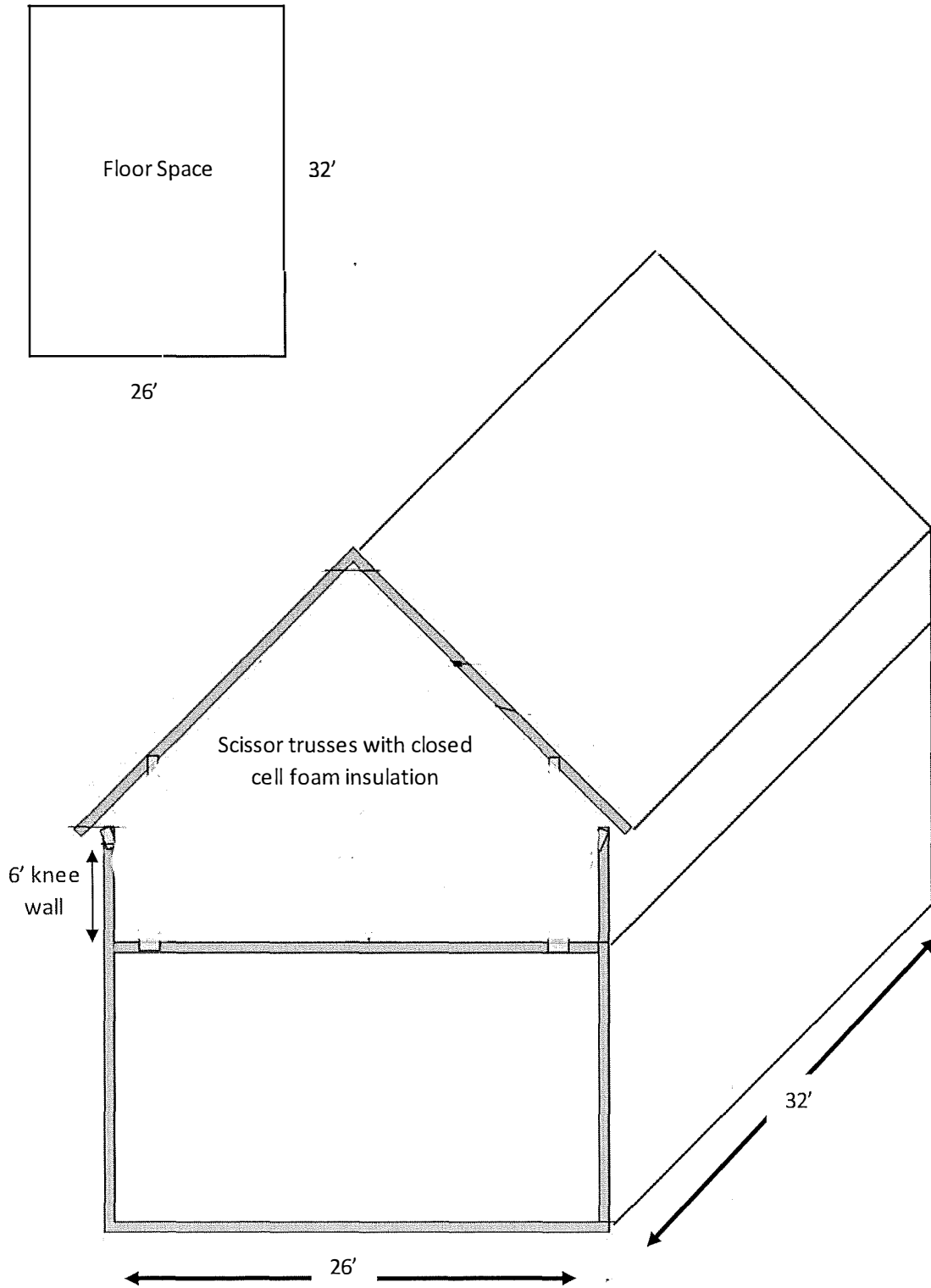
Prepared By: ncameron
Prepared On: Feb 21 2025

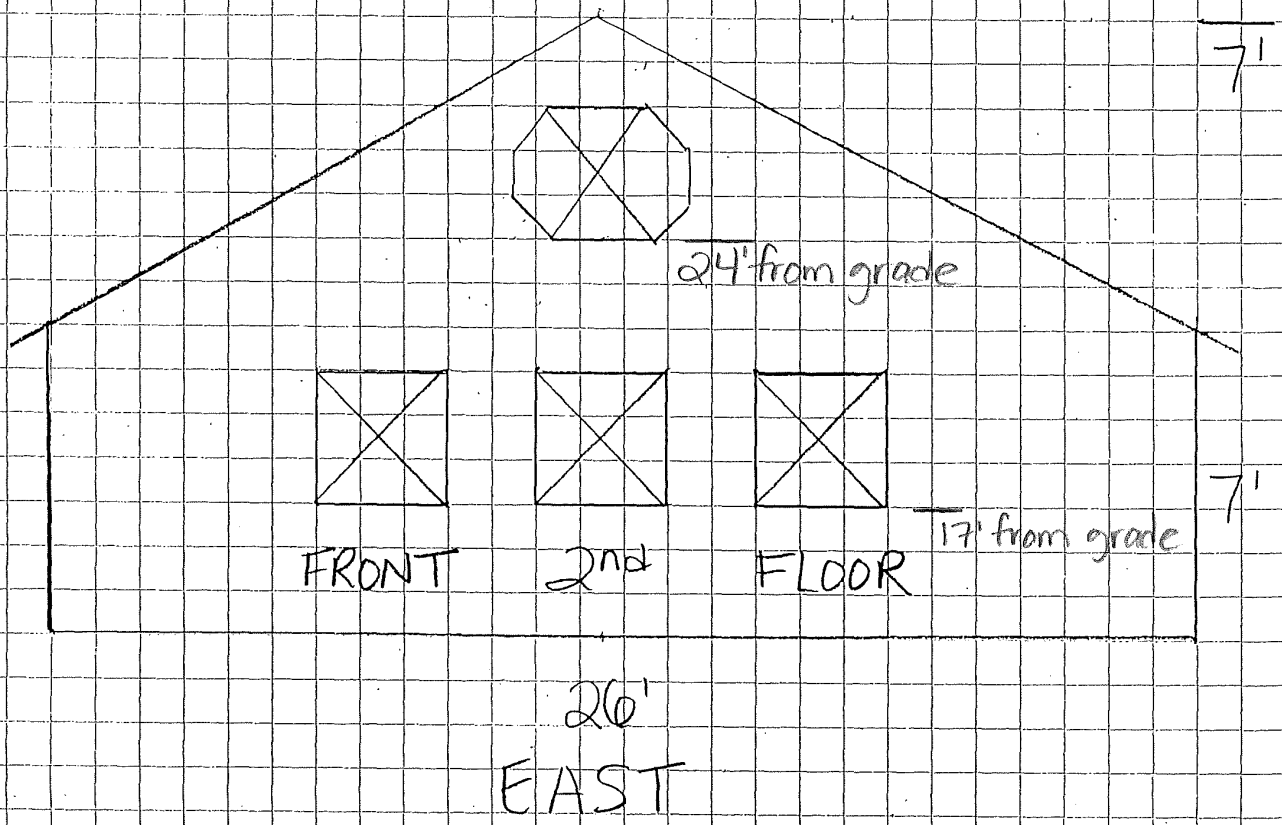
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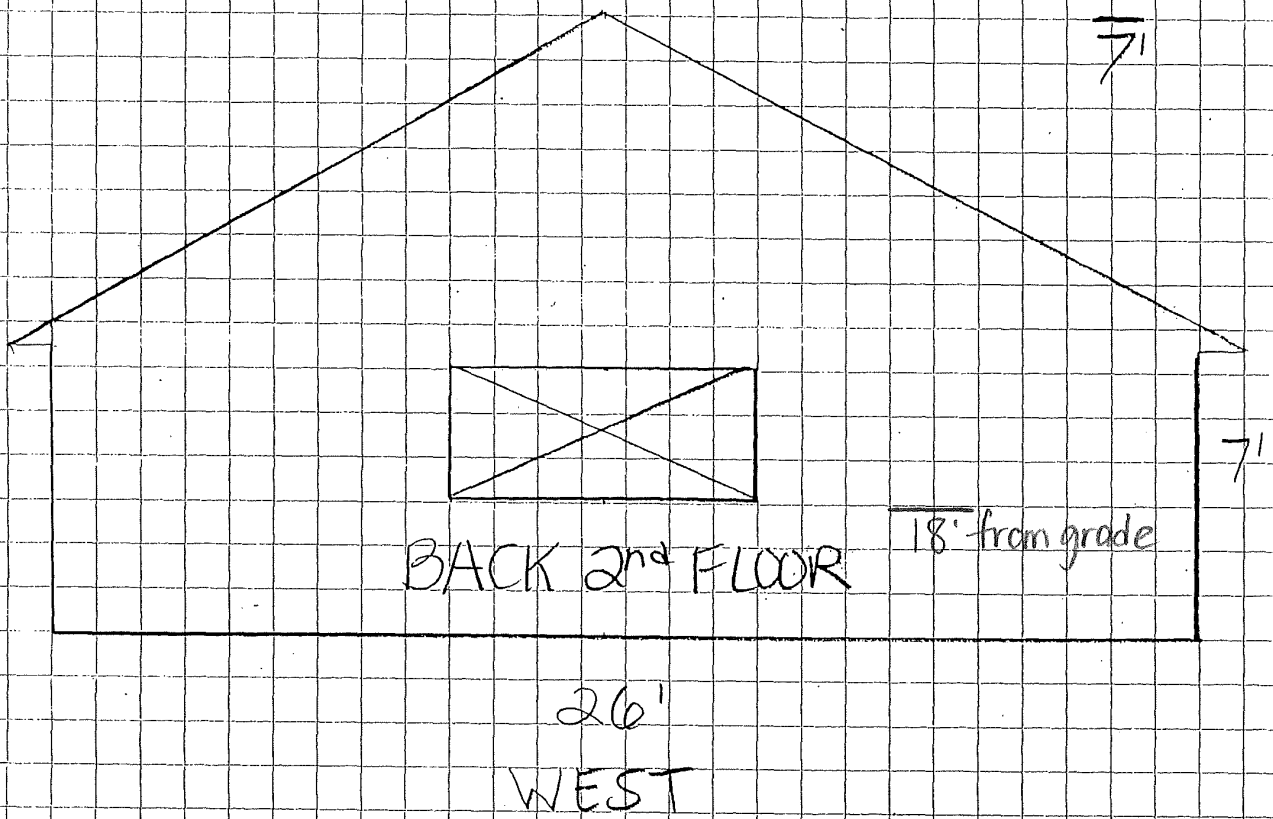


8 Orchard Street, Kingston, ON, K7K 2Z4:

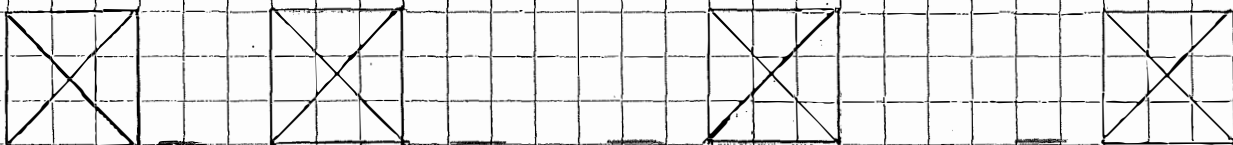
The house currently has a hip roof, I would like to install a gable roof.







ROOF



18
from grade

18
from grade

18
from grade

18
from grade

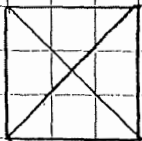
32'

SOUTH
2nd FLOOR

7'

7

ROOF

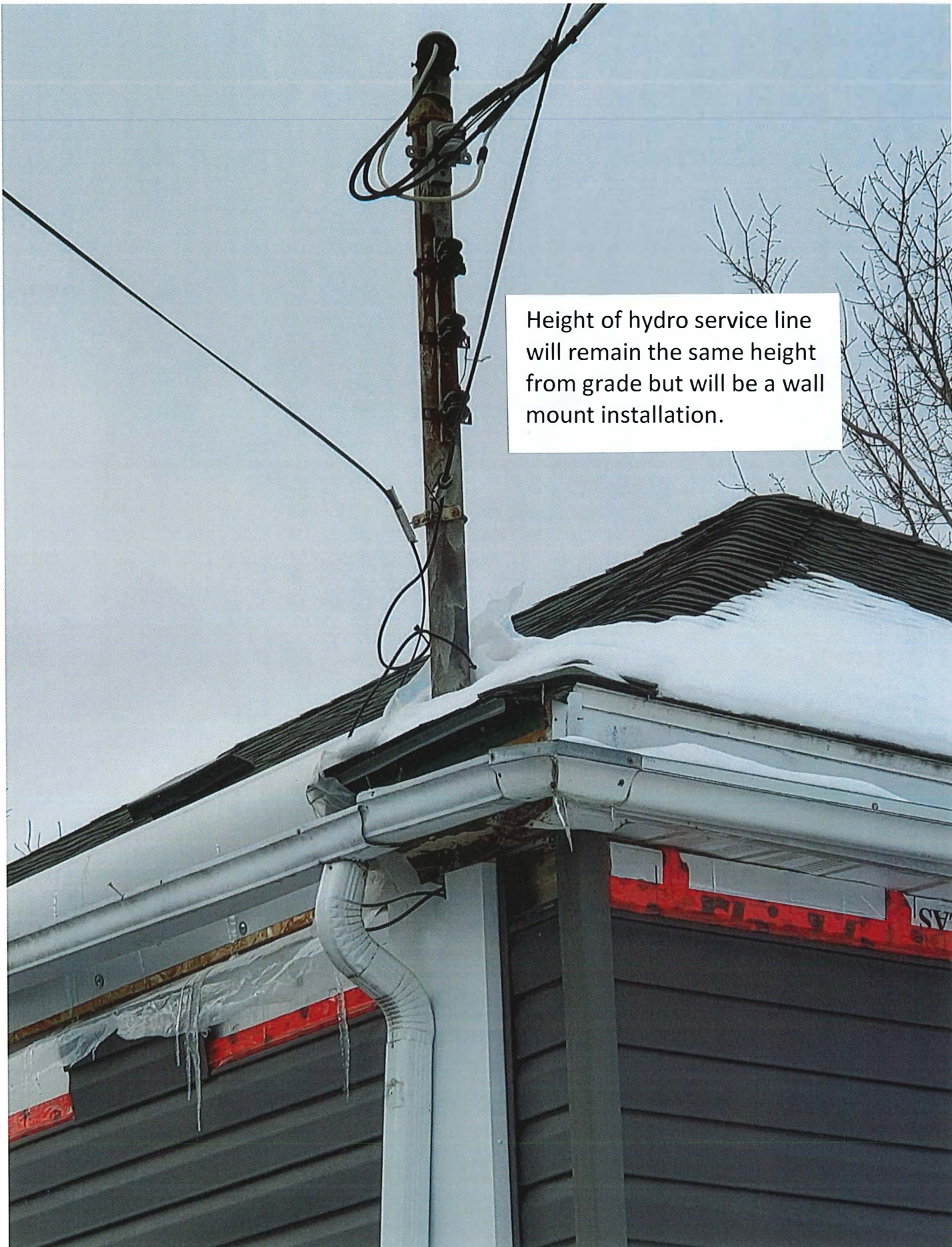


18
from grade

7'

32'

INCRIT
2nd FLOOR



Height of hydro service line will remain the same height from grade but will be a wall mount installation.

SCHEDULE				
PART	LOT	CON/ PLAN	PARCEL INST/PIN	REMARKS
1	11,12,13,14	B-3	INST. No. FR678649	BEING PART OF
	1 TO 9	D-10	INST. No. FR657609	PIN 36001-0129(R)
			INST. No. FR446787	BEING PART OF
LANE 8' WIDE	D-10	PIN 36001-0129(R)	PIN 36001-0357(R)	BEING ALL OF
		PIN 36001-0357(R)	PIN 36001-0121(R)	BEING ALL OF
		PIN 36001-0121(R)	PIN 36001-0123(R)	BEING ALL OF
18 TO 28 MATHEWS ST. LANE RESERVED ONE FT. WIDE	C-13	PIN 36001-0123(R)	PIN 36001-0124(R)	BEING ALL OF
		PIN 36001-0124(R)	INST. No. FR446787	BEING PART OF
		INST. No. FR446787	PIN 36001-0129(R)	BEING PART OF
			PIN 36001-0125(R)	PIN 36001-0129(R)
			INST. No. FR720190	BEING ALL OF
				PIN 36001-0125(R)
	13	B-3	INST. No. FR454196	BEING PART OF
			PIN 36001-0129(R)	PIN 36001-0129(R)
	11	B-3	INST. No. FR678841	BEING PART OF
			PIN 36001-0113(R)	PIN 36001-0113(R)
	11	B-3	INST. No. FR456536	BEING PART OF
			PIN 36001-0356(R)	PIN 36001-0356(R)
	11	B-3	INST. No. FR497215	BEING PART OF
			PIN 36001-0117(R)	PIN 36001-0117(R)
	11	B-3	INST. No. FR497215	BEING PART OF
			PIN 36001-0117(R)	PIN 36001-0117(R)
	11	B-3	INST. No. FR620537	BEING PART OF
			PIN 36001-0116(R)	PIN 36001-0116(R)

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

PLAN 13R [7627]

RECEIVED AND DEPOSITED

SEPTEMBER 29, 2003
DATE:

September 30, 2003
DATE:

L.M. Higginson
L.M. HIGGINSON, O.L.S.

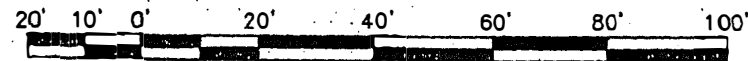
[Signature]
LAND REGISTRAR FOR
THE REGISTRY DIVISION OF
FRONTENAC No. 13

PLAN

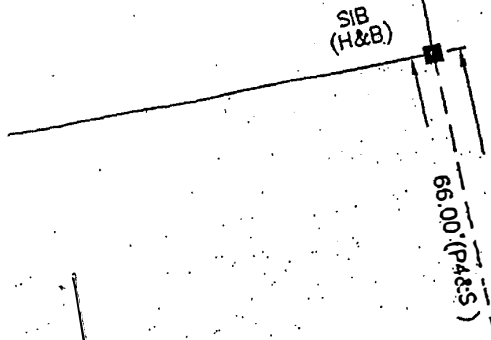
PROPERTY OF THE
REGISTRY OFFICE

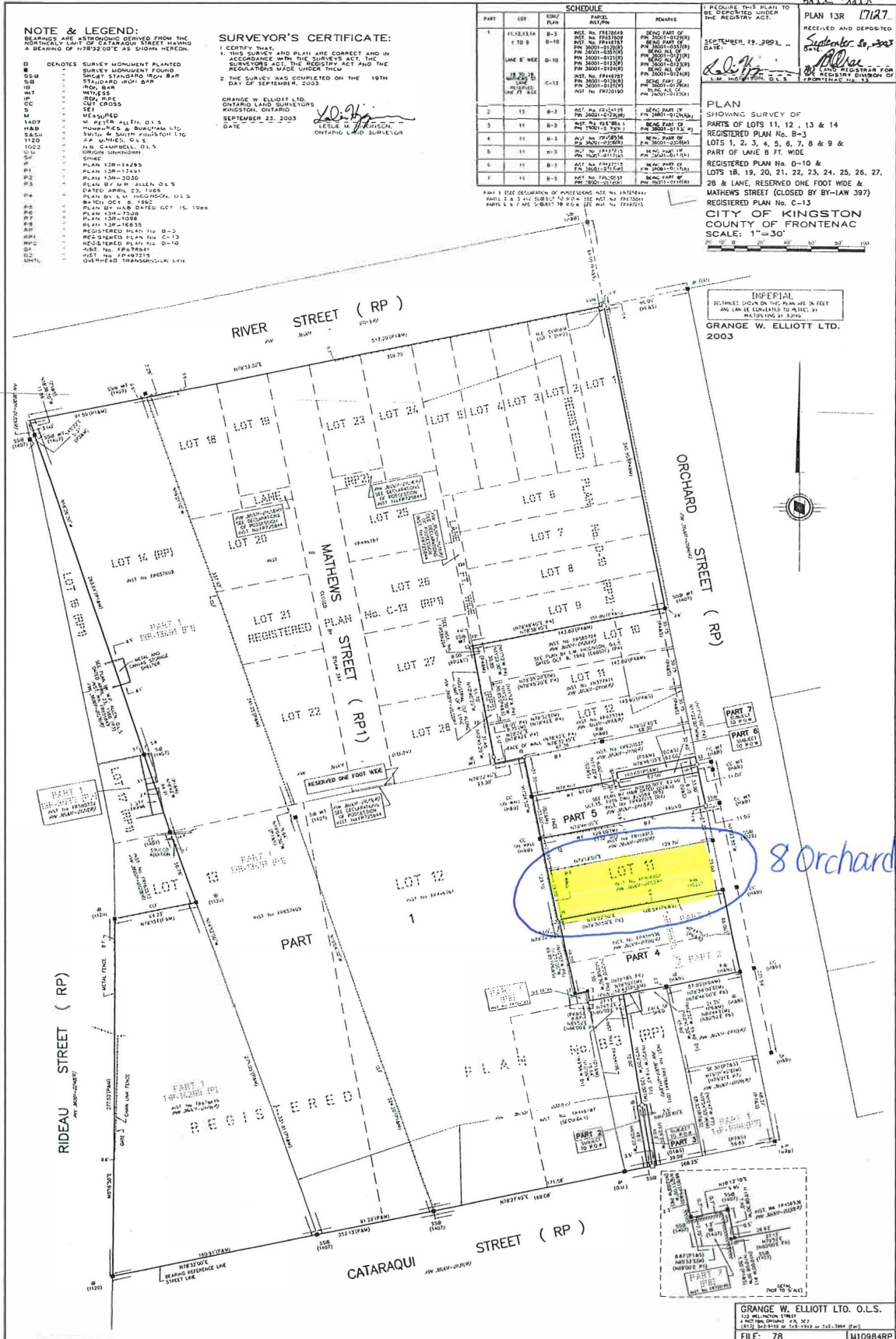
SHOWING SURVEY OF
PARTS OF LOTS 11, 12, 13 & 14
REGISTERED PLAN No. B-3
LOTS 1, 2, 3, 4, 5, 6, 7, 8 & 9 &
PART OF LANE 8 FT. WIDE
REGISTERED PLAN No. D-10 &
LOTS 18, 19, 20, 21, 22, 23, 24, 25, 26, 27,
28 & LANE, RESERVED ONE FOOT WIDE &
MATHEWS STREET (CLOSED BY BY-LAW 397)
REGISTERED PLAN No. C-13

CITY OF KINGSTON
COUNTY OF FRONTENAC
SCALE: 1"=30'



RT 1 (SEE DECLARATION OF POSSESSIONS INST. No. FR725844)
RTS 2 & 3 ARE SUBJECT TO R.O.W. SEE INST. No. FR678841
RTS 6 & 7 ARE SUBJECT TO R.O.W. SEE INST. No. FR497215





Street View



Aerial View Of Property































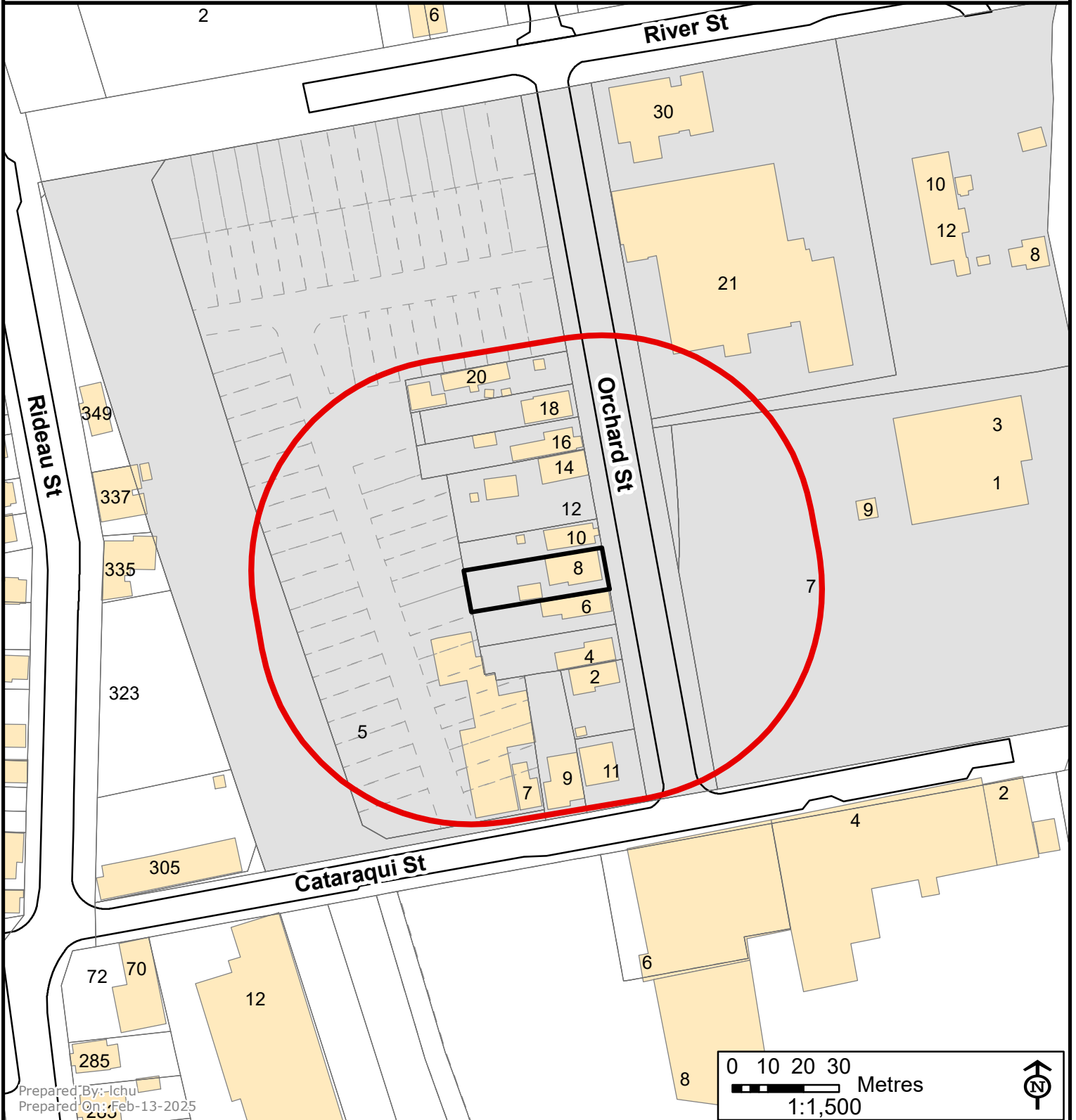




Committee of Adjustment Public Notice Notification Map

Address: 8 Orchard Street
File Number: D13-006-2025
Prepared On: Feb-13-2025

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



Prepared By: Jchu
Prepared On: Feb-13-2025

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