

# City of Kingston Report to Committee of Adjustment Report Number COA-25-019

То:	Chair and Members of the Committee of Adjustment
From:	Chris Booth, Senior Planner
Date of Meeting:	January 27, 2025
Application for:	Minor Variance
File Number:	D13-084-2024
Address:	1149, 1173, 1177 Montreal Street
District:	District 7 - Kingscourt-Rideau
Owner:	P&P Land Corporation and Pitcher Randolph D in Trust
Applicant:	Rogers & Trainor

# **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 an application for minor variances for the property located at 1149, 1173, and 1177 Montreal Street. This site obtained minor variance approvals in January 2024 to enable an increase in unit count from 130 to 174, as well as relief to required resident parking and an interior side yard setback. The applicant is now seeking to further increase the unit count to 195, along with relief from the rear yard setback, required number of loading spaces, and – to enable an expanded parking lot – permission to locate parking in the front yard.

As the Committee is unable to consider further relief to a zone provision that has already been varied, this application requests an increase from 130 units to 195 units. It is therefore also necessary to request re-consideration of certain previously-approved variances, specifically relief from the required parking to permit a total of 117 resident parking spaces (0.6 spaces per

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unit). The previous request for a reduction to the interior side yard setback from 7.0 to 6.0 metres for Building B is also being re-requested so that all variances can be contained in a single approval for ease of reference.

The requested minor variances are consistent 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. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval.

# **Recommendation:**

**That** minor variance application, File Number D13-084-2024, for the property located at 1149, 1173, and 1177 Montreal Street to increase the permitted unit count, reduce the parking requirement, reduce the number of required loading spaces, permit parking in a front yard, and reduce side and rear yard setbacks, be approved, as described below:

# Variance Number 1: Maximum Number of Units

By-Law Number 2022-62: E117, Subsection (b) Building A, Subsection (iii)		
Requirement:	Maximum of 63 dwelling units	
Proposed:	Maximum of 102 dwelling units	
Variance Requested:	39 dwelling units	

# Variance Number 2: Maximum Number of Units

By-Law Number 2022-62: E117, Subsection (c) Building B, Subsection (iii)		
Requirement:	Maximum of 63 dwelling units	
Proposed:	Maximum of 93 dwelling units	
Variance Requested:	30 dwelling units	

# Variance Number 3: Parking Spaces

By-Law Number 2022-62: Table 7.1.1 (1) (a) (i)Requirement:Minimum of 0.8 parking spaces per dwelling unitProposed:Minimum of 0.6 parking spaces per dwelling unitVariance Requested:0.2 parking spaces per dwelling unit

# Variance Number 4: Loading Spaces

By-Law Number 2022-62:Section 7.5.3Requirement:One loading space is required per buildingProposed:1 loading space serving two buildingsVariance Requested:1 loading space

# Variance Number 5: Parking Location

By-Law Number 2022-62:	Section 7.4.9 (3)
Requirement:	Resident parking spaces must be located in a rear or interior side
Proposed:	yard Permit resident parking spaces in a front yard

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Variance Requested: Permit resident parking spaces in a front yard

#### Variance Number 6: Rear Yard Setback

By-Law Number 2022-62:	Table 12.3.1 (5)
Requirement:	Rear yard setback is the greater of 7.5 metres or 25% of the lot depth (equivalent to 34.5 metres on the subject site)
Proposed: Variance Requested:	30 metres 4.5 metres

#### Variance Number 7: Interior Side Yard Setback

By-Law Number 2022-62:E117, Subsection (b) Building B, Subsection (v)Requirement:Minimum setback of 7.0 metres to the western interior lot lineProposed:Minimum setback of 6.0 metres to the western interior lot lineVariance Requested:1.0 metre; and

**That** approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-25-019.

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Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

Chris Booth, Senior Planner

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

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

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# **Options/Discussion:**

On October 30, 2024, a minor variance application was submitted by Rogers & Trainor, on behalf of the owners, P&P Land Corporation and Pitcher Randolph D in Trust, with respect to the property located at 1149, 1173, and 1177 Montreal Street.

A Zoning By-Law Amendment (File number D14-015-2021) for the subject lands was previously approved by Council on August 8<sup>th</sup>, 2023 (<u>Report Number PC-23-022</u>), which had the effect of transferring the lands into the Kingston Zoning By-Law and introducing Exception Number E117 to facilitate the development of two, six-storey apartment buildings each accommodating 63 units, and one, two-storey fourplex, for a total of 130 dwelling units on the site. Subsequently, when performing detailed design as part of the Site Plan Control application, the applicant found that a more efficient unit mix and layout was possible for the two apartment buildings.

This resulted in the submission of a minor variance application in November 2023, seeking approval for an additional 44 units spread evenly between the two apartment buildings, amounting to 85 units per apartment building. Including the fourplex, this yielded a total of 174 units onsite. To facilitate this, a reduction to the required parking ratio of 0.8 resident spaces per unit was also sought to allow a rate of 0.6 spaces per unit (for a total of 104 resident spaces), along with a 1 metre reduction to the interior side yard of Building B to enable a slight lengthening of the building. All requested variances were approved by the Committee of Adjustment in its January 22, 2024 meeting (<u>Report Number COA-24-015</u>).

Throughout the past year, the Site Plan Control application has continued to be refined, and the applicant has found further efficiencies in the layout of the apartment buildings. Floorplans have been redesigned to accommodate one new unit on each floor, but one notable change would see half of the lower level of Building A accommodate 9 additional units, which – due to the sloping topography – would be at-grade, similar to a walkout basement in a house. These changes would result in a total of 21 new units, bringing the unit count from 174 (approved through the January 2024 minor variance) to 195.

However, as the Committee cannot further vary a pre-existing variance to add these additional units, the current application must capture the previous variances in addition to the latest request for relief. Therefore, this application requests an increase from 130 residential units (as established in Exception Number E117) to 195 residential units.

The following tables provide a breakdown of the number and type of housing units contemplated at the time of the rezoning as compared to the minor variance approved in January 2024, and to the current proposal:

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Number of Units					
	Original Proposal	2024 Minor Variance	Change from Original	Current Proposal	Change from Original
Building A	63	85	22	102	+39
Building B	63	85	22	93	+30
Fourplex	4	4	0	0 (removed)	-4
Total	130	174	44	195	+65

Unit Type	<b>Original Proposal</b>	2024 Minor Variance	Current Proposal
Studio	0	8	26
One-bedroom	58	44	58
One-bedroom plus den	2	54	63
Two bedroom	62	48	28
Two bedroom plus den	8	20	20
Total aggregate bedrooms	200	262 *	263 *
Total number of units	130	174	195

\* Dens in all two-bedroom-plus-den units meet the definition of a bedroom and have been added to the bedroom count.

To facilitate the increased number of dwelling units while continuing to meet the parking ratio of 0.6 spaces per unit established through the January 2024 minor variance, the proposal seeks to add 6 new resident parking spaces. The site-specific Exception E117 in the Zoning By-Law requires at least 0.8 spaces per unit (resulting in 156 resident parking spaces), whereas the requested variance would see a total of 117 resident parking spaces provided for all 195 units

While the parking ratio would remain unchanged, it is again included in the current minor variance as the number of parking spaces would change to support the unit increase. Given that the increase would continue to remain non-compliant with Exception E117, it is important to assess whether the proposed ratio of 0.6 continues to be appropriate.

The addition of 6 new parking spaces necessitated the removal of the fourplex previously proposed along Montreal Street. As all parking was previously situated to the rear of the fourplex, the building's removal introduces the need for a variance enabling parking in a front yard. Through further detailed review of the revised Site Plan application, it was found that variances were also required to the rear yard setback and number of loading spaces. These had not been previously accounted for and required addressing to ensure that a zone-compliant Site Plan can be approved.

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

- Site Plan (Exhibit F)
- Floor Plans and Architectural Elevations (Exhibit G)

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- Servicing Report
- Traffic Impact Study Addendum
- Planning Justification
- Owner Authorization Letter

All submission materials are available online through the Development and Services Hub (DASH) at the following link, <u>DASH</u>, 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 within the Rideau Heights neighbourhood and is comprised of three parcels known municipally as 1149, 1173 and 1177 Montreal Street (Exhibit B – Key Map). Totaling 1.5 hectares, the site has just over 30 metres of frontage along Montreal Street, which is a major north-south corridor within the urban boundary that is classified in Schedule 4 of the Official Plan as an arterial road. Both express and local transit service are provided on Montreal Street (Routes 801/802 and Route 1 respectively), and dedicated bike lanes exist alongside a sidewalk on both sides of the road. The property abuts low-rise residential properties to the north, south and west, and the CN railway to the east (Exhibit C – Neighbourhood Context Map). Residential apartments exist in close proximity to the south along the west side of Montreal Street, while Shannon Park – a major city park – and Rideau Heights Public School and community centre are approximately 200 metres to the west down MacCauley Street.

The site is currently vacant and heavily treed, its lands sloping downward from west to east. Its topography and location make it visible from the Rideau Canal, which is a designated UNSECO World Heritage Site. The Canal forms part of the Great Cataraqui River and associated Great Cataraqui Marsh, which sits near the base of the site, along the CN railway line.

The subject property is designated Residential in the Official Plan and is within the Montreal Street South of Greer Site Specific Policy Area, Schedule 3D (Exhibit D – Official Plan Map) and zoned URM2 in Kingston Zoning By-Law Number 2022-62 with Site Specific Exception E117 (Exhibit E – Zoning By-Law Map).

# **Provincial Planning Statement**

In addition to the four tests of a minor variance detailed below, 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.

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## **Minor Variance Application**

The review of an application for minor variance(s) is not a simple mathematical calculation, but rather a detailed assessment of whether the variance(s) requested, both separately and together, meet the four tests of a minor variance outlined in Subsection 45(1) of the *Planning Act*. The following provides this review:

#### 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 D – Official Plan Map). The property is located within the Montreal Street South of Greer Site Specific Policy Area, as set out in Schedule 3D (described in Section 3.17.5) which states that further Site Plan Control or zoning by-law amendments in the area must have regard for the policies set out in Section 3.17.4. These policies seek to ensure that site conditions (especially drainage) and proposed site and building design is adequately reviewed through the provision of assessments by qualified professionals. As the subject site underwent a zoning by-law amendment process in 2023, comprehensive and in-depth assessments were conducted as part of that process. A variety of studies by qualified professionals were submitted in support of the application and accepted by City staff (including archaeological, heritage, environmental, grading, geotechnical, stormwater management, servicing, vibration and noise), thereby demonstrating the suitability of the site for development. These policy requirements have therefore been met.

In considering whether this proposed variance is desirable, the Committee of Adjustment will have regard to the nine requirements included in Section 9.5.19 of the Official Plan.

The proposed development meets the Strategic Policy Direction of the Official Plan by proposing higher density residential development on an underutilized parcel within the Urban Boundary. Making better use of a vacant property along Montreal Street will help the Municipality maximize its infrastructure investments, foster increased use of the public transit system, and encourage active transportation along existing bike lanes. Site design has considered surrounding heritage features and the changes proposed have been deemed suitably minor as to warrant a minor variance as opposed to a new zoning by-law amendment.

Promoting intensification is a significant focus of the Plan, and the City has provided further support and direction through important work such as the Mayor's Task Force on Housing, which produced a final report entitled "A Foundation for the Public Good: Recommendations to Increase Kingston's Housing Supply for All." The goal of this work was to make recommendations that would help increase the supply of a diverse range of housing, and suggested that local planning decisions take into account the City's housing needs.

This report provides a helpful lens through which to review the Official Plan's residential density targets for major residential infill projects (which are to provide at least 37.5 units per hectare). With the Official Plan now being seven years old (and currently undergoing a review and re-write to better reflect current conditions), the above-noted study provides support for enabling additional density well beyond the Plan's stated minimum targets. The proposal on the

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subject lands would raise the approved density of 84 units per hectare to 123 units per hectare, which helps fulfil not only the intent of the Plan, but addresses the more recent housing crisis being experienced in Kingston. Given the additional density proposed, it was necessary for water and sanitary services to be assessed, and so an updated servicing report was supplied by the Applicant and accepted by Utilities Kingston.

The Official Plan establishes informative parameters to provide for responsible growth and ensure that density is provided in a functional and compatible manner. Through specific site-design choices such as locating the six storey buildings on portions of the site that are at lower elevations, the impact of the buildings on existing homes along Montreal Street (which is at a higher elevation) is reduced. The proposed apartment buildings are therefore set as far back on the site as possible, while still adhering to allowable setbacks from the CN railway. While this necessitates a slight (4.5 metre) reduction to the rear yard setback, it still maintains the required buffer from the railway. The proposed minor variances would not result in any height increases or significant exterior changes to the apartment buildings, thus ensuring they remain compatible with surrounding properties.

The site is proposed to take access from Montreal Street via a private road, and residents would have access to 117 vehicular parking spaces, 8 visitor parking spaces, 2 car-share parking spaces, 195 long-term bike parking spaces, and 19 short term bike parking spaces. While only six additional vehicular parking spaces are proposed for the additional 65 housing units, the reduction is offset by an increased amount of long-term bike parking is supported by an updated Traffic Impact Study (TIS), which found that the project would integrate well with the transportation network, and that there would be no need for off-site road modifications. The updated TIS also assessed site functionality, and confirmed that a single loading space would still easily service both buildings thanks to its central location between Building A and B.

Furthermore, the proposed supply of parking is supported by the results of the City's 2019 Household Travel Survey, which found the Rideau Heights neighbourhood to have higher rates of cycling (nearly 4% of all trips) and public transit use (nearly 10% of all trips) than many other areas of the City. The site is fortunate to benefit from local and express buses operating along Montreal Street, along with bike lanes on both sides of the road, affording residents quick and easy access to alternate modes of travel. Such convenience makes it more likely that residents will use these options, thus reducing the need for automobiles and the associated parking. While overall parking supply may be reduced, seven barrier free spaces are being provided in compliance with the Kingston Zoning By-law.

Reductions in parking were also supported by Parks Canada, who reviews impacts to the UNESCO-designated Rideau Canal and sought to ensure that surface parking did not detract from the visual character of the riverside. This supports the requested reduction in parking, but also informs the requested variance for siting parking in a front yard. Given the need to locate parking away from the river's edge, the parking lot was instead expanded westward, toward Montreal Street. This necessitated the removal of the fourplex and thus triggered the need for relief from the By-law's requirement that all resident parking be located in a side or rear yard.

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The Official Plan (in Sections 4.6.59 and 4.6.60) provides specific guidance for parking that is proposed in the front yard of a residential property, and allows it to be permitted through a minor variance, subject to meeting various requirements. These requirements generally seek to ensure there is an appropriate justification, adverse impacts have been minimized, and appropriate mitigation techniques are employed. A synopsis of how these requirements have been addressed is provided below:

- In this circumstance, it is necessary to locate parking in the front yard as the apartment buildings were previously approved at the rear of the property with parking situated between them and the fourplex on Montreal Street. As previously mentioned, this was a necessary response to a unique combination of site constraints including topography, surrounding residential uses, and the site's location along the UNESCO-designated Rideau Canal. There is effectively no ability to locate parking in a side or rear yard without being inconsistent with approved zoning and the expectations of Parks Canada.
- It is necessary to locate parking in the front yard to ensure a suitable supply of resident parking can be accommodated onsite, rather than on-street in the surrounding neighbourhood. By locating six new parking spaces on the area formerly planned for the fourplex (and maintaining the previously approved 0.6 space-per-unit parking ratio), the applicant is continuing to balance vehicular parking with other modes of transportation.
- The additional spaces are simply an extension of the existing planned parking lot, and appropriate pedestrian connections have already been contemplated in the site design, providing safe and direct access from Montreal Street to the apartment buildings. No deviations to parking space dimensions are necessary, and there will be no disturbance to the Montreal Street right-of-way to accommodate the parking spaces as the parking would be located approximately six metres from the front lot line. The parking area would be accessed from a private lane, requiring no additional entrances from Montreal Street; on-street parking would not be affected as it is not currently allowed on Montreal Street.
- Parking spaces would be located wholly on the subject site and thanks to the landscaped buffer, there would be clear separation between not just the parking area and the road, but also between the parking lot and sidewalk.

A review of the proposal has found the proposed changes to be of low impact, thus making a minor variance a suitable mechanism through which to facilitate development as compared to a zoning by-law amendment. Most of the proposed density and site design were reviewed and approved via a robust zoning by-law amendment process, which culminated in approval by City Council in August 2023. With site modifications being limited to six new parking spaces and a minor lengthening of the apartment buildings (requiring a one-metre reduction to the interior side yard of Building B), there is little in the way of visual change.

The variances to allow a reduced rear yard setback and only one loading space have no visual impact and also enable the buildings to remain sited as previously approved through Exception E117. The severity of the site changes were therefore primarily an assessment of the impact of adding 65 additional units from a traffic and servicing perspective. The submission of the Traffic Impact Study showed there to be no additional impact, and the servicing report and plan demonstrated that 65 new units could be supported. Given these conclusions, another zoning

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by-law amendment would be a lengthy and costly burden to place on the developer, further exacerbating the city's housing and affordability crisis.

Given the site-specific nature of these assessments and the previous zoning by-law amendment that took place, approval of this minor variance would not create an undesirable precedent for the area. Recommended conditions have been provided for the Committee's consideration and are included in Exhibit A of this report.

The proposal therefore meets the intent of the Official Plan, as there are no anticipated adverse impacts arising from the proposed increase to the permitted unit count from 130 residential units to 195, along with relief to allow 117 resident parking spaces and one loading space. A reduction of the interior side yard setback from 7.0 to 6.0 metres for Building B and a 30-metre rear yard setback for both buildings will not result in any negative impacts to adjacent properties or to the neighbourhood. The siting of six new parking spaces in the front yard is sensitively designed, such that they will not project into the previously defined front yard setback and will be adequately buffered from the street.

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

The subject property is zoned URM2, with Exception E117 in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map). The URM2 zone permits apartment buildings subject to certain provisions.

The applicant is seeking variances to the following zone provisions to provide for the proposed 65 additional dwelling units:

# Variance Number 1: Maximum Number of Units

By-Law Number 2022-62: E117, Subsection (b) Building A, Subsection (iii)		
Requirement:	Maximum of 63 dwelling units	
Proposed:	Maximum of 102 dwelling units	
Variance Requested:	39 dwelling units	

# Variance Number 2: Maximum Number of Units

By-Law Number 2022-62:E117, Subsection (c) Building B, Subsection (iii)Requirement:Maximum of 63 dwelling unitsProposed:Maximum of 93 dwelling unitsVariance Requested:30 dwelling units

Both variances number 1 and 2 relate to the maximum number of dwelling units. As the URM2 zone does not contain a limit on density, Exception E117 established a maximum unit count for each building that was previously approved through the related zoning by-law amendment. As the exception forms part of the Kingston Zoning By-law, the proposed minor variance should be assessed according to the purpose and intent of the amendment as well as the broader by-law. The purpose and intent of Exception E117 was to allow apartments at a much higher density than what was allowed through the former B1.226 zoning established under Zoning By-law 8499 (being 27 units per hectare). Given the standard URM2 zone does not identify a unit limit, the

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amendment established one for the purpose of ensuring responsible and orderly development. The minor variance is in keeping with the purpose and intent of this approach by ensuring a limit continues to remain, and that it is supported by appropriate studies.

Furthermore, the Kingston Zoning By-law seeks to ensure that higher density development occurs in conjunction with the provision of suitable amounts of amenity space at the rate of 18.5 square metres per dwelling unit. With more than 4,588 square metres of amenity area proposed on the subject site, the proposed minor variance to add 65 dwelling units would significantly exceed the required 3,607.5 square metres. The proposal therefore meets the purpose and intent of the Kingston Zoning By-law in ensuring residents have abundant recreation opportunities onsite, and even goes a step further by providing both indoor and outdoor space.

# Variance Number 3: Parking Spaces

By-Law Number 2022-62:	Table 7.1.1 (1) (a) (i)
Requirement:	Minimum of 0.8 parking spaces per dwelling unit
Proposed:	Minimum of 0.6 parking spaces per dwelling unit
Variance Requested:	0.2 parking spaces per dwelling unit; and

This variance pertains to the amount of required resident parking spaces. While parking is required for residential development in this area of Kingston at the rate of 0.8 to 1.0 parking space per unit under the Kingston Zoning By-Law, the City continues to transition to lower parking requirements when it is demonstrated to be appropriate. This transition stems from the City's 2021 discussion paper entitled The Power of Parking: A new Parking Paradigm for Kingston (Report Number PC-21-040). The paper explores the impacts of parking (which include significantly higher building costs that subsequently contribute to more expensive housing) and recommends new paths forward that emphasize greater use of alternative modes of transportation, such as public transit and cycling. The Kingston Zoning By-law introduced in 2022 implemented many of these recommendations, but further reductions can be achieved when certain conditions are met – namely the presence of existing public transit and cycling infrastructure.

As previously described, the subject site is in close proximity to express and local transit, and dedicated bicycle lanes on Montreal Street. The proposal takes advantage of this infrastructure and compensates for the reduction in automobile parking by providing 19 more long-term bike parking spaces than are required. This supports the purpose and intent of the Zoning By-law in ensuring new development makes use of, and is easily accessed through, surrounding transportation infrastructure (whether that be roads, transit routes, or cycle lanes). The proposal therefore provides a balance of automobile and bike parking and makes public transit an attractive and viable option.

The reduction is further informed by heritage considerations from the nearby UNESCOdesignated Rideau Canal, and is supported by Parks Canada, who is tasked with maintaining that designation and mitigating potential threats. Reductions in parking were expressly desired and necessary to ensure their support.

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#### Variance Number 4: Loading Spaces

By-Law Number 2022-62: Section 7.5.3		
Requirement:	One loading space is required per building	
Proposed:	1 loading space serving two buildings	
Variance Requested:	1 loading space	

This variance would grant relief from the requirement to provide two loading spaces, allowing the site to function with a single loading space. The By-Law requires that for buildings containing between 51 and 399 units, a single loading space can be provided, while the need for two loading spaces is only necessary for a building with more than 400 units. While the site as a whole does not have enough units to require a second loading space, Section 7.5.3 stipulates that on sites where more than one building is proposed, each building must be treated as if it were on its own lot for the purposes of calculating the required number of loading spaces.

The intent of the provision is to ensure that multi-building sites provide adequate space for garbage pick-up, as well as residents moving in and out of a building. As the proposed loading space is centrally located between Building A and Building B and accessed via sidewalks, it can easily serve both buildings. This was further confirmed through the submitted Traffic Impact Study addendum, which assessed the functionality of the site with a single loading space. It is worth noting that garbage pick-up is not required to occur from the loading space, and can also occur from the curbside of the private road, directly in front of each building. The TIS demonstrates that the private road has been adequately designed to accommodate either method.

#### Variance Number 5: Parking Space Location

By-Law Number 2022-62: Section 7.4.9 (3)		
Requirement:	Resident parking spaces must be located in a rear or interior side yard	
Proposed:	Permit resident parking spaces in a front yard	
Variance Requested:	Permit resident parking spaces in a front yard	

This variance would permit resident parking spaces to be located in a front yard. As previously described, the Official Plan allows such a variance to occur subject to meeting specific criteria. In addition to satisfying the Plan's criteria, this variance also meets the intent of the zoning provision, which is to ensure that large amounts of vehicular parking do not dominate front yards at the expense of an animated streetscape. Critical to this assessment is the fact that the By-Law does not prohibit parking in a front yard; visitor parking spaces are expressly allowed so long as appropriate setbacks are provided.

It is good planning to minimize the impact and dominance of cars in favour of pedestrians and other modes of active transportation. The shape of the property and design of the parking areas ensure that there would be minimal impact on the pedestrian experience when walking along Montreal Street. The parking area is oriented perpendicular to the street (and slopes down towards the river), such that most of the parking spaces in the front yard would be unnoticeable from the street or sidewalk. The parking area would also be set back 5 to 6 metres from the front lot line (which is itself about 4 metres back from the sidewalk), and this setback area would be

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landscaped to provide a more aesthetically pleasing buffer for pedestrians. The planting details for this area have been designed and submitted as part of Site Plan Control and currently contemplate seven trees of three varieties. This buffer area would be required as a condition of approval of the minor variance.

This setback also ensures that the western edge of the parking area would align with the front façades of the neighbouring buildings, thus forming a consistent built-up edge. In practical terms, it would mean that the parking lot will not project out beyond the front face of neighbouring buildings along Montreal Street. Also worth noting is that the approved zoning (Exception E117) established a 3.8 metre front yard setback for the fourplex; the parking area would be set back even further. The parking area has therefore been designed in such a way that it meets the intent of the By-Law in ensuring that parking does not negatively infringe upon, or detract from, the front yard.

# Variance Number 6: Rear Yard Setback

By-Law Number 2022-	62: Table 12.3.1 (5)
Requirement:	Rear yard setback is the greater of 7.5 metres or 25% of the lot depth
	(equivalent to 34.5 metres on the subject site)
Proposed:	30 metre
Variance Requested:	4.5 metres

This variance relates to the rear yard setback. The building positions were reviewed and approved through Exception E117, which afforded an opportunity to ensure that they were appropriately sited. A site-specific rear-yard was not established in Exception E117, instead relying on the rear yard setback in the Urban Multi-Residential Type 2 (URM2) zone. The rear yard provision in the URM2 zone is written such that the setback is deemed to be whichever is greater: 7.5 metres or 25% of the lot depth. 25% of the lot depth would equal 34.5 metres, making it the necessary setback. When assessing the building locations, consideration was given to their potential impact on the UNESCO designated Rideau Canal, along with potential impacts arising from the railway. Parks Canada had no concerns with their location, and the setback was deemed appropriate by CN, which requires a minimum setback of 30 metres from rail lines.

Measuring the rear setback as a percentage of lot depth is typically most relevant to infill development where neighbours are present to the rear, and is a method of ensuring that new development fits sensitively within its context. In this case, the only neighbour to the rear is CN, which has already been involved in the review and recommends approval of the site as designed. The variance therefore meets the intent of the Zoning By-Law.

# Variance Number 7: Interior Yard Setback

By-Law Number 2022-	62: E117, Subsection (b) Building B, Subsection (v)
Requirement:	Minimum setback of 7.0 metres to the western interior lot line
Proposed:	Minimum setback of 6.0 metres to the western interior lot line
Variance Requested:	1.0 metre

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This variance pertains to the required interior side yard setback. Setbacks from neighbouring properties are established for the purpose of ensuring that there are no adverse impacts to privacy, as well as ease of maintenance around the sides of a building, and adequate fire separation (which is further complemented by, and enforced through, the Ontario Building Code). The proposed one metre reduction still affords a functional setback area, and there is still adequate room for landscaping. Impacts to privacy from overlook are effectively mitigated due to the building's orientation, and the depth of the adjacent residential properties. The requested variance maintains the general intent and purpose of the Zoning By-Law.

#### The variance is minor in nature

The variances are considered minor as the subject site was already rezoned to accommodate a high-density residential development and the addition of 65 new units is not anticipated to increase the impacts beyond what was assessed and approved in the rezoning. Through a review by City staff, the added density merely warranted updates to existing studies, as opposed to comprehensive new reports. Furthermore, those updates did not find there to be a need for any upgrades to surrounding infrastructure to accommodate the density, thereby making it suitably minor.

The subject site's location makes the addition of this new density more palatable, owing to its location along a major arterial hosting local and express transit routes as well as two-way cycling infrastructure. Surrounding water and sanitary services have also been deemed sufficient, and where density can be supported in these ways, the impacts of new units is less likely to be felt and perceived, making such site modifications suitably minor.

The variances necessary to facilitate this increase in density are also considered minor in nature. The slight lengthening of the apartment buildings only result in a one-metre reduction to an interior side yard setback for Building B – a change that will not be appreciably noticeable on or off-site. The reduction of the rear yard setback by 4.5 metres does not change the building location and still maintains the required 30 metre buffer from the adjacent rail line. It is not, in effect, a new deviation as the building locations were previously approved in the 2023 rezoning; it was not discovered until detailed design review occurred through the Site Plan Control application, and is required to ensure a zone-compliant Site Plan approval. Similarly, the necessary relief to allow a single loading space was also discovered through the latter stages of detailed Site Plan review, and it too is minor as site functionality is unaffected thanks to its central location.

The request for relief to allow resident parking in the front yard is likewise minor, as the edge of the parking area still respects the front yard setback outlined through Exception E117 for the previously planned fourplex. While parking may technically be proposed in the front yard now that the apartment buildings are planned to be the sole principal buildings onsite, it would not protrude any further toward the street than neighbouring buildings and would be generally in line with their front façades, making it suitably minor.

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

The proposed minor variances would see a currently vacant and well-serviced parcel of land within the City's urban limits better utilized. The site has already undergone a rezoning process through which a high-density residential proposal was deemed appropriate for the land, and the addition of further density is supported by existing services and transportation infrastructure. As the 65 new units would be contained within the two apartment buildings and not result in any significant changes beyond a slight lengthening of each building, the increase will be compatible with the surroundings. The rear yard setback for the apartment buildings has already been assessed through the re-zoning process and so has been deemed appropriate.

The proposed change in density is facilitated through the addition of six new parking spaces to ensure the previously approved parking ratio is maintained, and the removal of the fourplex to accommodate these spaces. This is a reasonable and balanced response for a site that is afforded close and easy access to the City's express transit routes and bike lanes. The applicant has taken advantage of the latter by providing more bike parking than is required, thus further advancing the City's goals for encouraging active transportation. Allowance for parking in the front yard and a single, centrally located loading space helps ensure an efficient use of land and enables the site to be developed in accordance with the approved zoning.

The proposed minor variances will be a helpful step towards addressing Kingston's current housing crisis, and are a desirable and appropriate use of the land.

# **Technical Review: Circulated Departments and Agencies**

- Building Services
- □ Finance
- □ Fire & Rescue
- Solid Waste
- □ Housing
- □ KEDCO
- $\boxtimes$  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

- ⊠ Heritage Services
- □ Real Estate
- ⊠ Environment Division
- ☑ Canadian National Railways
- □ Ministry of Transportation
- □ Parks of the St. Lawrence
- □ Trans Northern Pipelines
- □ CFB Kingston
- □ TransCanada Pipelines

**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.

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#### **Public Comments**

At the time this report was finalized, no public comments had been received. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

#### **Previous or Concurrent Applications**

There are two concurrent and one relevant historic planning application on the subject property. As referenced above, the site was subject to a zoning by-law amendment to rezone the lands from B1.226 in Zoning By-law 8499 to URM2 with Site Specific Exception E117 in the new Kingston Zoning By-law (File number D14-015-2021). This application was approved by Kingston City Council in August 2023. The owner's agent submitted an application for Site Plan Control concurrent with the re-zoning application (File number D11-032-2021), which is still under review and will continue to advance pending the outcome of the minor variance application. As the Site Plan review process has nearly concluded, an application has also been submitted to lift the Hold still in place on the property (File number D28-001-2024); this is currently being processed.

# Conclusion

The requested variances maintain the general intent and purpose of both the City of Kingston Official Plan and Kingston Zoning By-Law Number 2022-62. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variances are minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and the application is being recommended for approval, subject to the proposed conditions.

Approval of this application will facilitate the responsible and orderly infilling of an underutilized parcel of land in a form compatible with the surrounding development.

#### **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

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# **Notice Provisions:**

A Committee of Adjustment Meeting is going to be held respecting this application on January 27, 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 55 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, Manger, Development Approvals, 613-546-4291 extension 3213

Chris Booth, Senior Planner, 613-546-4291 extension 3215

# Other City of Kingston Staff Consulted:

None

# **Exhibits Attached:**

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Neighbourhood Context Map (2022)
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Map
- Exhibit F Site Plan
- Exhibit G Building A and B Floor Plans and Elevations
- Exhibit H Site Photos

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Exhibit I Public Notification Map

# **Recommended Conditions**

The approval of minor variance application, File Number D13-084-2024, to vary the maximum number of dwelling units per building, reduce a rear and interior side yard setback, reduce the minimum required car parking and loading spaces, and allow parking in the front yard shall be subject to the following recommended conditions:

#### 1. Limitation

That the approved minor variance applies only to the proposed apartment buildings (Building A and B), limited to a maximum of 195 dwelling units, and built in a manner consistent with the plans depicted on the approved drawings attached to the notice of decision.

#### 2. No Adverse Impacts

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

#### 3. Building Permit Application Requirements

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

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

#### 4. Standard Archaeological Condition

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

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

#### 5. Number of Bike Parking Spaces

The owner/applicant shall provide a minimum of 195 long-term bike parking spaces for the 195 dwelling units to compensate for the reduction in vehicle parking spaces.

#### 6. Maximum Number of Bedrooms

The apartment buildings on the subject property shall contain a maximum, in the aggregate, of 263 bedrooms.

#### 7. Landscape Buffer

A landscaped buffer shall be provided between the Montreal Street right-of-way and the parking lot, as shown on the Landscape Plan submitted for Site Plan Control.





# Committee of Adjustment Neighbourhood Context

Planning Services Address: 1177 Montreal Street File Number: D13-084-2024 Prepared On: Dec-13-2024 **\_\_\_**Subject Lands

Property Boundaries

Proposed Parcels







## Exhibit F Report Number COA-25-019



# Exhibit G Report Number COA-25-019







RIVERSIDE HOUSING BUILDING B

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Drawing No.	A100	









# 1 WEST ELEVATION



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> Revisions Date p-



RIVERSIDE HOUSING BUILDING A

1177 MONTREAL ST. KINDSTON, ONTARIO, K7K 3K9 Dealey

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#### Exhibit G Report Number COA-25-019



# Site Photos

Due to winter conditions and seasonal constraints at the time of writing, the subject site and its surroundings are best represented through the following photographs, taken July 28, 2023.

Site Photograph



**Figure 1:** The upper portion of the subject site (foreground, with zone-change sign shown), viewed from along Montreal Street, looking south. A neighbouring property containing a small grocer is shown beyond.



**Figure 2:** Montreal Street, looking north, at the intersection with MacCauley Street. A pedestrian crosswalk leads from the subject site (at the far right) to amenities down MacCauley Street such as the Rideau Heights Community Centre, major parkland, and Rideau Heights Public School. Cycle lanes exist on both sides of the road, providing connectivity throughout the city.



**Figure 3:** The site affords views of the Great Cataraqui River and marshland, situated to the immediate east of the site. As this waterway carries a UNESCO designation, redevelopment of the site has been carefully considered from a heritage perspective.



**Figure 4:** The site is heavily vegetated, and slopes down to the east and south, toward the CN rail line and Great Cataraqui River beyond. The proposal would see more new trees planted than are being removed.



**Figure 5:** The CN rail line, looking south, abuts the eastern boundary of the site, pictured here to the right. The development will be set back 30 metres from the rail corridor, within which a treed berm is proposed for enhanced safety measures, along with the already significant grade change between the property and the railway.



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