



**City of Kingston
Report to Committee of Adjustment
Report Number COA-17-054**

To: Chair and Members of Committee of Adjustment
From: Sajid Sifat, Intermediate Planner
Date of Meeting: November 27, 2017
Application for: Minor Variance
File Number: D13-051-2017/D13-049-2017
Address: 505 Front Road
Owner: Pioneer Hi-Bred Production
Applicant: Eric Turcotte

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding applications for minor variance and consents for the property located at 505 Front Road. The applicant proposes to create three new lots on the subject property and reduce the minimum parking requirement for proposed new lots - 'Lot A' and 'Lot C'. The minor variance application also proposes to reduce the minimum required rear yard setback from the existing industrial building to the proposed rear property line for 'Lot C'. The applicant is seeking relief to allow the creation of 3 new lots and allow an existing development to continue. Existing easements allow vehicular access into each proposed lot. No physical alterations are being proposed as part of these applications.

The proposed 3 lots comply with minimum lot frontage and minimum lot area requirements of the M1 zone in Zoning By-Law Number 76-26. The M1 zone requires a minimum lot area of 1858 square metres and a minimum frontage of 21 metres which complies with the requirement of the zone. 'Lot A' proposes a lot area of 110,641 square metres and a lot frontage of 283.7 metres which meets the minimum requirements of the zone. 'Lot B' proposes a lot area of 21,286 square metres and a lot frontage of 126.5 metres. 'Lot C' proposes a lot area of 36,826 square metres and a lot frontage of 170 metres which also complies with the zone.

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Zoning relief from parking requirements for proposed ‘Lot A’ and ‘Lot C’ and a relief from rear yard setback for ‘Lot C’ will allow the 3 lots to comply with zoning requirements and allow creation of these lots.

The requested minor variances and consent applications are consistent with the general purpose and general intent of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The variance is considered to be appropriate and minor, and meet all four tests under the *Planning Act*.

Recommendations:

1. It is recommended that the minor variance application, File Number D13-051-2017, for the property located at 505 Front Road be approved.

Variance Number 1 (Lot A): D13-051-2017

By-Law Number 76-26: 5(16)(a) – Parking requirement for industrial buildings

Requirement: 289

Proposed: 145

Variance Requested: 144

Approval of the foregoing variance shall be subject to the following conditions:

a) Limitation

That the approved variance applies to a parking reduction on proposed ‘Lot A’ and ‘Lot C’ as shown on Site Plan drawings received on 10/17/2017.

a) 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.

b) Building Permit Application Requirements

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

c) 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

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cease and the site must be secured. The Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132) and the City of Kingston's Planning Division (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 Registrar of Cemeteries Regulation Section of the Ontario Ministry of Consumer Business Services (416-326-8404), the Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132), and the City of Kingston's Planning Division (613-546-4291, extension 3180) must be immediately contacted.

2. It is recommended that minor variances, File Number **D13-049-2017**, for the property located at 461 Front Road be approved.

Variance Number 1 (Lot C): D13-049-2017

By-Law Number 76-26: 5(16)(a) - Parking requirement for industrial buildings

Requirement: 249

Proposed: 99

Variance Requested: 150

Variance Number 2 (Lot C): D13-049-2017

By-Law Number 76-26: 24(2)(c)(ii)(d) – Required rear yard setback

Requirement: 7.62 metres

Proposed: 3.05 metres

Variance Requested: 4.57 metres

Approval of the foregoing variance shall be subject to the following conditions:

d) Limitation

That the approved variance applies to a parking reduction on proposed 'Lot A' and 'Lot C' as shown on Site Plan drawings received on 10/17/2017.

The approved variance also applies to a relief in the rear yard setback for the existing building on 'Lot C' as stated on the cover letter prepared by Urban Strategies, submitted on 10/07/2017

e) 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.

f) Building Permit Application Requirements

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

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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.

g) 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 Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132) and the City of Kingston's Planning Division (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 Registrar of Cemeteries Regulation Section of the Ontario Ministry of Consumer Business Services (416-326-8404), the Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132), and the City of Kingston's Planning Division (613-546-4291, extension 3180) must be immediately contacted.

3. It is recommended that consent application, File Number **D10-049-2017**, for the property located at 461 Front Road be approved.

Approval of the foregoing variance shall be subject to the following conditions:

a) 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 one year of the mailing of this notice. You are advised to consult with the Land Registry Office for preapproval of the Certificate of Official to avoid delays.

The Certificate must be registered within one year 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 your file.

b) Reference Plan

That a digital version of a Reference Plan be provided in a PDF and AutoCAD Windows readable format on a compact disc (CD), USB memory stick or by email, illustrating the easement be prepared and presented to the Secretary-Treasurer, Committee of Adjustment prior to the issuance of the Certificate of Official.

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c) 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.

d) 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 Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132) and the City of Kingston's Planning Division (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 Registrar of Cemeteries Regulation Section of the Ontario Ministry of Consumer Business Services (416-326-8404), the Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132), and the City of Kingston's Planning Division (613-546-4291 extension 3180) must be immediately contacted.

4. It is recommended that consent application, File Number D10-021-2017, for the property shown as 'Lot B' in Exhibit A be approved.

Approval of the foregoing variance shall be subject to the following conditions:**a) 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 one year of the mailing of this notice. You are advised to consult with the Land Registry Office for preapproval of the Certificate of Official to avoid delays.

The Certificate must be registered within one year 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 your file.

b) Reference Plan

That a digital version of a Reference Plan be provided in a PDF and AutoCAD Windows readable format on a compact disc (CD), USB memory stick or by email, illustrating the

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easement be prepared and presented to the Secretary-Treasurer, Committee of Adjustment prior to the issuance of the Certificate of Official.

c) 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.

d) 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 Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132) and the City of Kingston's Planning Division (613-546-4291, extension 3180) must be immediately contacted.

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Authorizing Signatures:

Original Signed by Planner

Sajid Sifat, Intermediate Planner

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

Paige Agnew, Director, Planning, Building & Licensing Services

Lanie Hurdle, Commissioner, Community Services

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Options/Discussion:

On October 17, 2017, two minor variance applications and two consent applications were submitted by Eric Turcotte, on behalf of the owner, Pioneer Hi-Bred Production, with respect to the property located at 461 & 505 Front Road. The applications propose to create three new lots on the subject property and reduce the minimum parking requirement for proposed new lots - 'Lot A' and 'Lot C'. The application also proposes to reduce the minimum required rear yard setback for the existing industrial building to the proposed rear property line for 'Lot C'.

In 2003, a minor variance was granted to 461 & 505 Front Road – DuPont Canada Company providing parking relief from a required 538 parking stalls on-site to 295 parking stalls for the two buildings on the DuPont Property (461 and 505 Front Road). The parking reduction that is requested through these two applications – D13-049-2017 and D13-051-2017 are not requesting additional parking to what was approved in 2003. However, these applications recognize the existing situation and will allow the existing parking variance to be reinstated to each of the proposed new lots in light of the proposed lot severances. The parking serves two existing industrial buildings on site. The existing building on Lot A has an approximate gross floor area of 9,962 square metres shared between manufacturing use and office use. While the existing building on Lot C has an approximate gross floor area of 8,630 square metres shared between manufacturing and office uses.

The proposal to sever the property at 505 Front Road – DuPont Canada Company to 3 lots – one retained and two severed lots requires two consent applications and two minor variance applications (Exhibit A – Key Map).

The minor variance application for the retained lot – 'Lot A' pertains to a parking reduction on the new lot. The other minor variance application is for a parking reduction and rear yard setback reduction on severed lot - 'Lot C'. Severed lot – 'Lot B' will be a vacant lot.

The proposed 3 lots comply with minimum lot frontage and minimum lot area requirements of the M1 zone in Zoning By-Law Number 76-26. The M1 zone requires a minimum lot area of 1,858 square metres and a minimum frontage of 21 metres which complies with the requirement of the zone. 'Lot A' proposes a lot area of 110,641 square metres and a lot frontage of 283.7 metres which meets the minimum requirements of the zone. 'Lot B' proposes a lot area of 21,286 square metres and a lot frontage of 126.5 metres. 'Lot C' proposes a lot area of 36,826 square metres and a lot frontage of 170 metres which also complies with the zone.

The existing parking stalls meet the minimum stall dimensions. This application is not subject to the current barrier-free standards since there is no increase in gross floor area, however, the existing barrier free parking stalls are 4.0 metres x 6.0 metres, which was the standard at the time that barrier free parking stalls were installed. Existing easements allow vehicular access onto the proposed 'Lot A' and 'Lot C' as shown on Exhibit C - Site Plan. The easements also allow access to the adjacent property located behind the subject property at 461 Front Road – Invista Canada.

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

- Cover Letter;
- Parking Justification;
- Survey; and
- Site Plan (Exhibit C).

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

Site Characteristics

The subject property is located on the south side of Front Road between Sunny Acres Road and Sandy Bay Lane.

The subject property is designated 'General Industrial' in the Official Plan and zoned 'General Industrial-M1' in Zoning By-Law Number 76-26. The property abuts residential properties to the west, Institutional properties to the north and Industrial properties to the south.

Application

A minor variance is not a mathematical calculation, but rather an assessment of whether the general intent of the Official Plan and zoning by-law are maintained. To do this, the impact of the variance on the surrounding land uses and the appropriateness of the development are considered.

When reviewing applications for minor variance, the approval authority must be satisfied that each of the four tests of the *Planning Act* are met. The following provides this review:

1) **The proposal shall be consistent with the Provincial Policy Statement (PPS) and the general intent and purpose of the Official Plan**

Provincial Policy Statement

The Provincial Policy Statement 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 'Industrial' in the City of Kingston Official Plan.

The City of Kingston Official Plan requires that the four tests of a minor variance as required by the Planning Act be satisfied (Section 9.5.18). These four tests are reviewed in the body of this body of this report.

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As per Section 9.5.19 of the Official Plan, in considering whether the variance is desirable for the appropriate development or use of land, building or structure, the Committee of Adjustment will have regard to the following:

- a. The proposed development meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of this Plan.
 - The subject proposal is in an 'Industrial' designation. This proposal meets the intent of Section 2 by maintaining a use that is permitted in this designation. The four tests that assess the functional characteristics and compatibility of the proposed development are satisfied and discussed below.
- b. The proposed *development* will be *compatible* with surrounding uses, buildings or structures and development standards associated with adjacent properties, and if necessary, incorporate means of alleviating adverse effects on abutting land uses as recommended in Section 2.7 of this Plan;
 - The existing development is a permitted use in the zone and has been operating for decades. Based on the existing situation, the development will continue to operate without any adverse impacts.
- c. The ability of the site to function in an appropriate manner in terms of access, parking for vehicles and bicycles or any other matter and means of improving such function including considerations for universal accessibility;
 - Sufficient on-site parking including barrier free parking exists to service the needs of the development.
- d. The conformity of the proposal to any applicable urban design policies endorsed by Council, particularly if the site includes or could impact a built heritage resource or is within a Heritage District;
 - No urban design guidelines apply to this proposal. This proposal is not within a Heritage District.
- e. If the site is designated under the *Ontario Heritage Act*, the application shall be reviewed by Heritage Kingston for approval. If the property is adjacent to a designated property under the *Ontario Heritage Act* or shown as a Heritage Area feature, or is affected by the protected views shown on Schedule 9 of this Plan, then a Heritage Impact Statement may be required to assist staff to determine if the resulting development is desirable;
 - This property is not designated or adjacent to a designated property.
- f. The resulting development has adequate municipal water and sewage services within the Urban Boundary, or is capable of providing individual on-site water and sewage services outside the Urban Boundary;
 - The proposal is located on a fully serviced lot. A servicing plan has been reviewed to the satisfaction of the city as part of the concurrent consent application.
- g. Whether the application and the cumulative impact of the proposed variances would be more appropriately addressed by a zoning amendment to the applicable zoning by-law;
 - The proposed parking reduction meets the four tests of a minor variance as stated in the *Planning Act* and therefore, minor variance applications are appropriate.
- h. The Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application for a minor variance including any reasonable

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requirements, recommendations of city departments, or the submission of studies as listed in Section 9.12 of this Plan that may be required to properly evaluate the application; and

- Standard set of conditions that are appropriate to this proposal are included in the recommendation of these applications as well as on the notices of decision.
- i. The degree to which such approval may set an undesirable precedent for the immediate area.
- The approval of this variance will not set an undesirable precedent for the immediate area. The applicant is seeking this variance to reinstate an existing minor variance but apply it specific to each of the proposed lots to allow creation of these lots.

The intent of the Official Plan with regards to parking is to ensure that a sufficient amount of parking is provided on-site for each development. Although a parking reduction is requested, the variance relates to an existing situation which meets this intent of the Official Plan by providing a sufficient amount of parking stalls on-site to meet the parking demands of the existing development. The Official Plan also discourages over-supply of on-site parking to balance the use of on-site parking demand with active transportation (Section 4.6.47). A landscape buffer is also provided between the proposed parking areas and the sidewalk (Section 4.6.49).

The 'Industrial' designation aims to minimize impacts on abutting properties and those within the surrounding neighbourhood, by ensuring land use compatibility, providing appropriate separation distances, ensuring the functionality of the site, and integrating design considerations as per the Urban Design policies of Section 8 of the Official Plan.

The proposal meets the intent of the Official Plan, as the proposed parking reduction and rear yard setback reduction and will not result in any negative impacts to adjacent properties or to the neighbourhood.

2) The general intent and purpose of the zoning by-law varied is maintained

The subject property is zoned M1- General Industrial zone in the City of Kingston Zoning By-Law Number 76-26, entitled "Township of Kingston Restricted Area By-Law", as amended. The M1 zone permits a manufacturing plant.

The proposal requires a variance to Sections listed below:

Variance Number 1 (Lot A): D13-051-2017

By-Law Number 76-26: 5(16)(a) – Required parking for industrial buildings

Requirement: 289

Proposed: 145

Variance Requested: 144

Variance Number 1 (Lot C): D13-049-2017

By-Law Number 76-26: 5(16)(a) – Required parking for industrial buildings

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Requirement: 249
Proposed: 99
Variance Requested: 150

Variance Number 2 (Lot C): D13-049-2017

By-Law Number 76-26: 24(2)(c)(ii)(d) – Required rear yard setback

Requirement: 7.62 metres
Proposed: 3.05 metres
Variance Requested: 4.57 metres

The proposed parking variances are required to allow the proposed severances to the property. The proposed variances will not cause any additional reduction in parking. The minor variance applications to reduce parking will reinstate the existing parking variance to each of the newly created lots to allow each newly created lot to function on its own and meet parking demands for each property. These minor variance applications pertaining to parking reduction meet the general intent of the zoning by-law since the zoning by-law requires on-site parking to be provided to serve the needs of the development. Sufficient on-site parking is provided adjacent to each existing building. Proposed 'Lot A' includes 145 parking stalls and proposed 'Lot B' includes 99 parking stalls. A parking study provided by DuPont has confirmed the existing number of parking stalls adjacent to each building have been sufficient in meeting the parking demands of the development.

Given the existing situation and considering the parking study, the existing number of parking stalls adjacent to each existing building is considered sufficient.

The proposed variance to reduce the required rear yard setback for the existing building on 'Lot C' is also an existing situation. The relief in the rear yard setback is required to allow the creation of a new lot and also allow the existing building to be on its own lot. A reduced setback of 3.05 metres is proposed from the existing building to the proposed property line; however, the actual separation from the subject building on 'Lot C' and the adjacent building behind it is much more. This allows the existing building on 'Lot C' to be located well within the confines of the proposed property line and still maintain physical separation from the abutting building on the adjacent property. Therefore, this variance meets the intent of the zoning by-law.

3) **The variance is minor in nature**

The variance is considered minor as it is formalizing and allowing an existing situation to continue. There are no physical alterations required to the property. The existing variances for parking and rear yard setback are being carried forward to each resulting lot to allow the creation of the new lots. From a parking standpoint, parking areas adjacent to each existing building - 461 Front Road and 505 Front Road serve the parking demand generated by the uses of each building. This means that each existing building and the adjacent parking area already function as its own site and therefore, separating each building onto its own lot will not have any negative impacts on the adjacent buildings/properties. A parking study provided by the applicant also confirms that the

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existing number of parking stalls provided on site is sufficient to meet the demands of the development.

The rear yard setback is also minor in nature since there will be no negative impacts from this reduction.

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

The proposed variances will allow the 3 new parcels of land to be created; this will permit each lot to be owned separately. The proposed ‘Lot B’, which will be a vacant lot initially, will create opportunity for future industrial developments, thereby creating increased density and intensifying the use of the existing site. Allowing new lots for infill industrial development and intensifying the use of fully serviced existing lots is supported and encouraged by the land-use policy framework including – Provincial Policy Statement and City of Kingston Official Plan. Future development on ‘Lot B’ will also fill in the existing street-wall and provide for a more consistent streetscape.

Technical Review: Circulated Departments and Agencies

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Building Division | <input checked="" type="checkbox"/> Engineering Department | <input checked="" type="checkbox"/> Heritage (Planning Division) |
| <input type="checkbox"/> Finance | <input checked="" type="checkbox"/> Utilities Kingston | <input type="checkbox"/> Real Estate & Environmental Initiatives |
| <input checked="" type="checkbox"/> Fire & Rescue | <input checked="" type="checkbox"/> Kingston Hydro | <input checked="" type="checkbox"/> City’s Environment Division |
| <input type="checkbox"/> Solid Waste | <input checked="" type="checkbox"/> Parks Development | <input checked="" type="checkbox"/> Canadian National Railways |
| <input type="checkbox"/> Housing | <input checked="" type="checkbox"/> District Councillor | <input type="checkbox"/> Ministry of Transportation |
| <input type="checkbox"/> KEDCO | <input type="checkbox"/> Municipal Drainage | <input type="checkbox"/> Parks of the St. Lawrence |
| <input checked="" type="checkbox"/> CRCA | <input type="checkbox"/> KFL&A Health Unit | <input type="checkbox"/> Trans Northern Pipelines |
| <input type="checkbox"/> Parks Canada | <input type="checkbox"/> Eastern Ontario Power | <input type="checkbox"/> CFB Kingston |
| <input type="checkbox"/> Hydro One | <input type="checkbox"/> Enbridge Pipelines | <input type="checkbox"/> TransCanada Pipelines |
| <input checked="" type="checkbox"/> 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 input was 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

This property is also subject to two-consent applications that are also included in this report.

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Conclusion

The requested variance is consistent with the general purpose and general intent of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The variance meets all four tests under the *Planning Act* and as such the application is being recommended for approval, subject to the proposed conditions.

Approval of these applications will support the existing situation and allow each building to continue to function and operate on its own 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 Policy Statement, 2014

Municipal

City of Kingston Official Plan
Zoning By-Law Number 76-26

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on November 27, 2017. 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 29 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.

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:

Not applicable

Financial Considerations:

Not applicable

Contacts:

Paige Agnew, Director, Planning, Building & Licensing Services 613-546-4291 extension 3252

Marnie Venditti, Manager, Development Approvals 613-546-4291 extension 3256

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Sajid Sifat, Intermediate Planner 613-546-4291 extension 3126

Other City of Kingston Staff Consulted:

The application was circulated to the relevant internal departments and external agencies for review and comment. The responses to the technical circulation have been addressed in the technical review and included in this report.

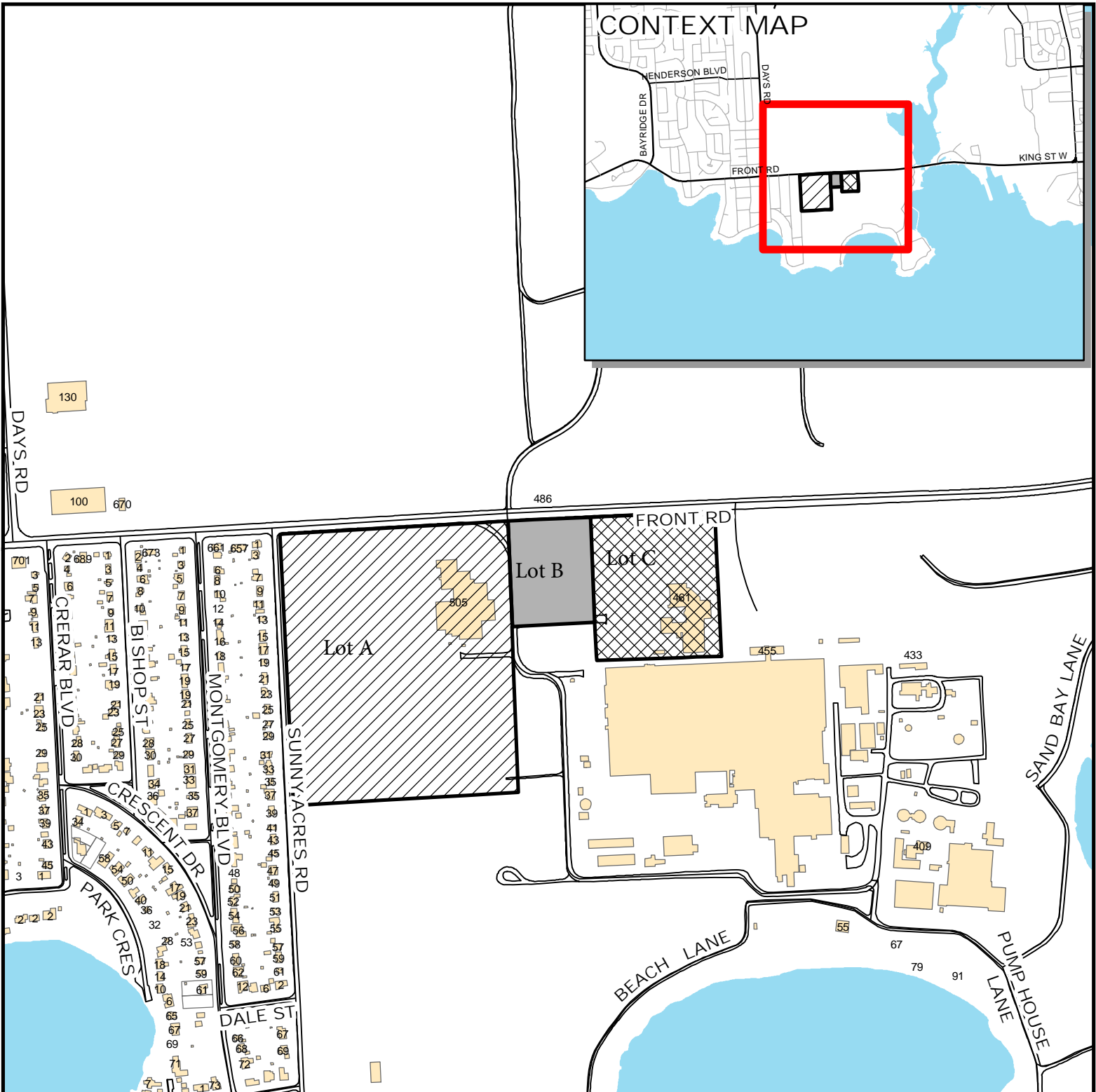
Exhibits Attached:

Exhibit A Key Map

Exhibit B Public Notification Map

Exhibit C Site Plan

Exhibit D Cover Letter






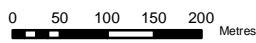
DELEGATED AUTHORITY CONSENT APPLICATION

KEY MAP

Applicant: Eric Turcotte
 Owner: PIONEER HI-BRED PRODUCTION C
 File Number: D10-021-2017 & D10-046-2017 &
 D13-049-2017 & D13-051-2017
 Address: 505 Front Road

LEGEND

-  Retained Parcel/Minor Variance (D13-051-2017)
-  Severed Parcel (D10-021-2017)
-  Severed Parcel/Minor Variance (D10-46-2017/
D13-049-2017)

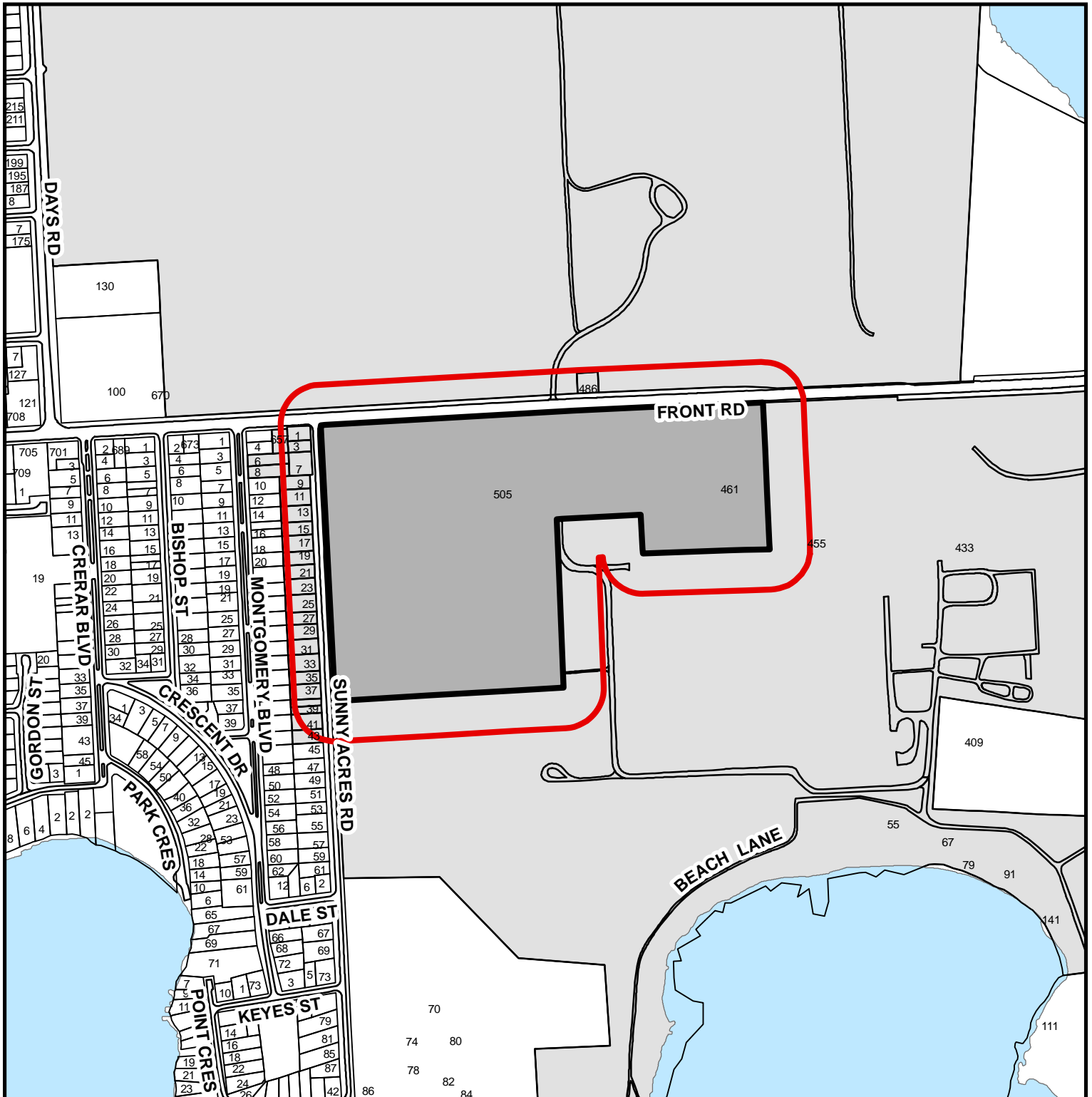


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Planning, Building & Licensing Services
 a department of
 Community Services

PREPARED BY: J.Partridge
 DATE: 11/7/2017







Planning, Building & Licensing Services

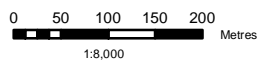
a department of Community Services

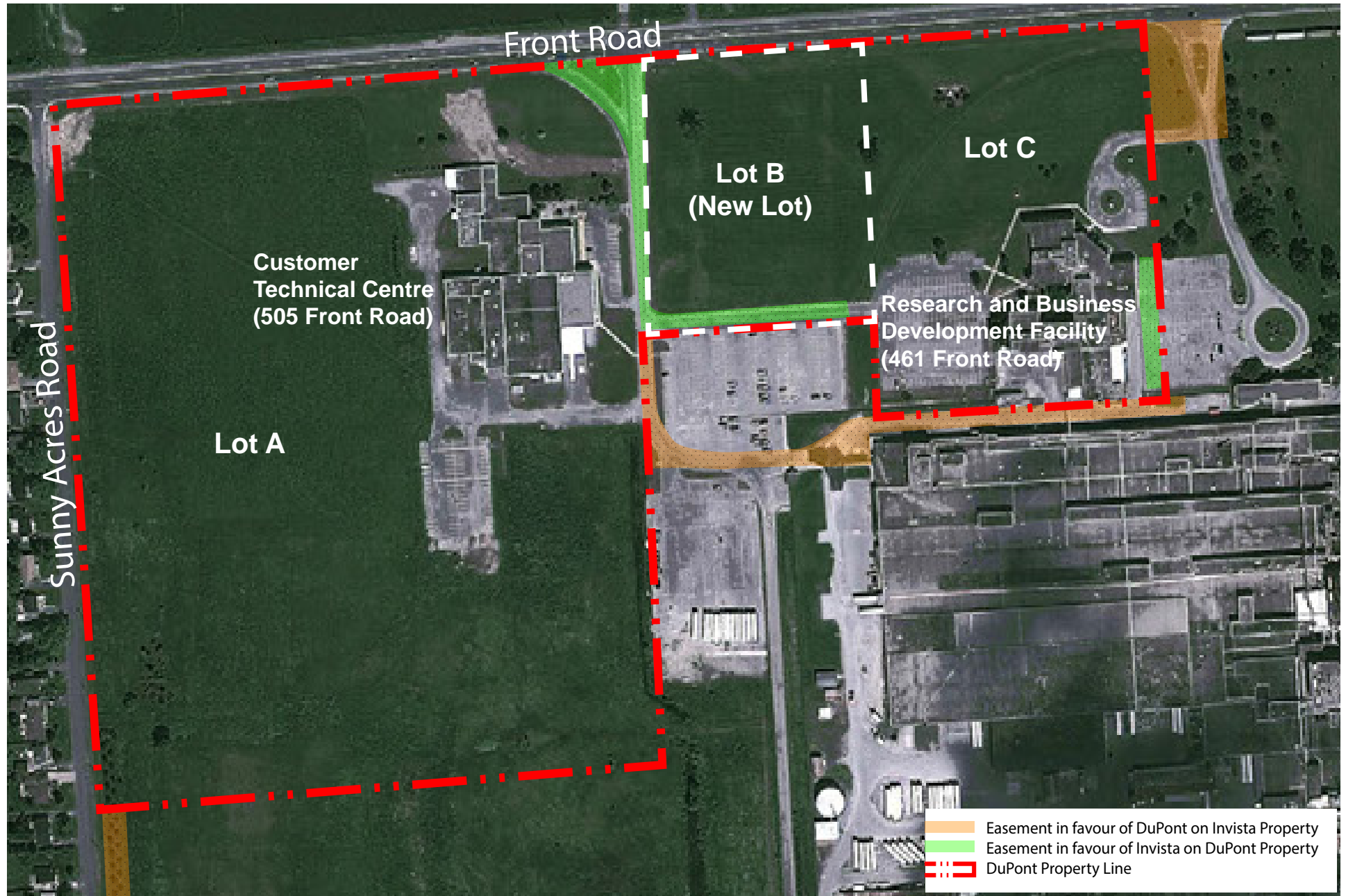
COMMITTEE OF ADJUSTMENT
PUBLIC NOTICE NOTIFICATION MAP

Applicant: Eric Turcotte
Owner: PIONEER HI-BRED PRODUCTION C
File Number: D13-049-2017 & D13-051-2017
Address: 505 Front Road

LEGEND

-  Lands Subject to Minor Variance
-  60 m Public Notice Boundary
-  Property Boundaries
-  29 Properties in Receipt of Notice







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Tim Fisher
 Planner, Secretary-Treasurer Committee of Adjustment
 Planning Division
 City of Kingston
 1211 John Counter Boulevard
 613-546-4291 x 3215
 tfisher@cityofkingston.ca

RE: Lot Severance and Minor Variance Request for 461 and 505 Front Road, Kingston

Background

DuPont currently owns a 49 acre property located at Front Road & Sunny Acres Road in Kingston, Ontario. The property includes DuPont's Research & Business Development Facility ("Research facility") which has an address of 461 Front Road and DuPont's Customer Technical Centre ("CTC facility") which has an address of 505 Front road. DuPont wishes to sever this 49 acre property into three parcels (see Figure 1, attached).

Site Description

DuPont's property is located in the western portion of Kingston's waterfront. The site is located at the northern edge of an industrial area on the City's waterfront. To the south and east of the site is a plant that produces nylon yarn. This plant was formerly owned and operated by DuPont, however the current DuPont facilities were severed from the plant in 2003 in order to convey the retained lot to its current owner and operator, Invista. Southeast of the Invista plant is the Kingston West Sewage Treatment plant and Carruthers Point Girl Guides camp. Other recreational uses line the waterfront. To the west is Reddendale, an established residential neighbourhood. To the north of the site is the Collins Bay Penitentiary, a multilevel correctional facility owned and supervised by Correctional Services of Canada. The City of Kingston Official Plan identifies the penitentiary lands as a potential major redevelopment site over the longer term, as Corrections Canada has identified the facility for potential closure.

The site currently consists of two facilities owned and operated by DuPont: a research facility located at 461 Front Road and the CTC Centre located at 505 Front road. The research facility is a two storey building with an approximate building footprint of 4,610 square metres (~49,640 square feet) and approximate GFA of 9,290 square metres (~100,000 square feet). The CTC facility is also a two storey building with an approximate footprint of 6,850 square metres (~73,700 square feet) and approximate GFA of 9,960 square metres (~ 107,200 square feet). Combined, the facilities have a gross floor area of approximately 19,250 square metres (~ 207,200).

The site is currently accessed by two driveways off Front Road. The first and more frequently used driveway is accessed via a signalized intersection at Front Road, located between the two facilities. It leads to parking areas east and south of 505 Front road, and west of 461 Front Road. This driveway is also used by Invista through an easement to access their facility. The second driveway is located on Invista's lands (with access granted through an easement in favour of DuPont). It is accessed via a non-signalized intersection located east of the 461 Front Road facility, and leads to a drop off area with 10 parking spaces. DuPont also has an access



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easement on the western edge of Invista’s property (adjacent to Sunny Acres Road) to access Lake Ontario. All easements are illustrated on Figure 1.

Both facilities are connected to municipal servicing, however many of these are indirectly accessed via the Invista property. The CTC facility receives electricity from the Invista Facility and is connected to municipal sewers, potable water, and natural gas lines from Front and Sunny Acres Road. The research facility receives natural gas from Front Road and accesses water, sewer and electricity via the Invista facility.

Policy Framework

The entire subject site is designated “Business District” on Schedule 2 (City Structure) and “General Industrial” on Schedule 3A (Land Use (Central)) of the City of Kingston Official Plan (see Figures 2 and 3). Business Districts are areas primarily intended to accommodate major employment uses including industrial, business parks, waste management and limited commercial. They are areas for employment uses that require locations removed from living areas and other sensitive uses due to traffic, noise, odour, and other impacts. Areas designated “General Industrial”, similarly, provide for employment uses such as manufacturing, warehousing, construction, and transportation activities. Complementary uses such as offices and daycares that support the primary use are also permitted in areas designated General Industrial. Moreover, the Official Plan encourages the redevelopment of older industrial areas to improve facilities, establish new uses and relocate incompatible uses to more appropriate locations. One method to redevelopment older industrial areas is described in Policy 3.6.14a which states that “rationalization of the land ownership pattern is encouraged through the land assembly, subdivision, and consolidation to create parcels of a size and configuration appropriate to contemporary industrial requirements”.

The subject site’s zoning regulations are described in the former Kingston Township’s Zoning By-Law 76-28. The by-law designates the majority of the site as General Industrial (M1), while an approximate 75 metre (250 foot) buffer adjacent to the eastern edge of Sunny Acres Road and the rest of the site is designated General Open Space Zone (OS) (See Figure 4). The Open Space designation is a result of a Site Plan Agreement between DuPont and the Township of Kingston dating back to 1991. The following table summarizes the key development controls for areas designated M1 in the zoning by-law:

Lot Area	Minimum 20,000 square feet
Lot Frontage	Minimum 21 metres
Front Yard Depth	Minimum 50 feet (abutting industrial zone) & 80 feet (abutting any other zone)
Interior side yard width	Minimum 10 feet (abutting industrial zone) & 20 feet (abutting any other zone)
Rear yard depth	Minimum 25 feet (abutting industrial zone) & 50 feet (abutting any other zone)
Minimum landscaped open space	Minimum 10%
Lot Coverage	Maximum 70% (for lots served by sanitary sewers)
Building Height	Maximum 40 feet (If any structure is erected higher than 40 feet, for any 1 foot in excess of 40)

Table 1 - Key M1 Development Controls in Zoning By-law 76-28

Two minor variances to the zoning by-law are currently in place on DuPont's property. They are the result of a 2003 land severance which severed the existing DuPont property from the existing Invista property to the south. The two variances were granted to permit relief from two by-law provisions related to parking. The first variance granted a 187 space reduction in parking from the 485 spaces as required under Section 5(16). The second variance granted the placement of parking in the front yard area (currently considered the area between the 505 Front Road and Sunny Acres Road), which is otherwise prohibited under Section 5(16)(c) of the zoning by-law.

Lot Severance Proposal

DuPont wishes to apply for a land severance in order to permit the creation of three new lots out of the existing lot fronting Front Road. The three lots are illustrated on Figure 1. Lot A comprises those lands at the western portion of the subject site and are proposed to be divided from Lot B at the eastern extent of the current driveway (and underlying easement) extending south from the signalized intersection at Front Road. Lot B comprises those lands in the middle of the subject site, extending from the eastern extent of Lot A and the western boundary of Lot C. The southern boundary of Lot B is proposed to be the southern extent of the driveway providing access to the parking lot at the rear of 461 Front Road (and its underlying easement in favour of Invista which provides access to the same parking lot). Lot C comprises those lands at the eastern portion of the subject site and are proposed to be divided from Lot B at the western edge of the rear parking area that services the facility at 461 Front Road. The northern boundaries of all three lots will remain the same as the existing northern property line. The sizes of the resulting three parcels are approximately:

Lot A – 1,524,600 sft.

Lot B – 229,125 sft.

Lot C – 396,396 sft.

Discussion

Conformity with the Kingston Official Plan

It is our opinion that the proposed severance generally satisfies the criteria necessary to obtain a consent to sever as described in the Kingston Official Plan. As per Policy 9.6.1, a consent to sever rather a plan of subdivision is required when a proposal results in three or fewer lots (two lots plus a retained parcel); the proposed land division creates three lots where one exists. The criteria for obtaining consent to sever are described in Policy 9.6.13:

- a. the lot frontage, depth and area of any lot created by consent (severed and retained parcel) must be appropriate for the use proposed for the lot, be in compliance with the provisions of the zoning by-law and consistent, where possible, with adjacent lots;

Several minor variances from the zoning by-law will be required to permit the severance (see following section).

- b. proposed severances that would result in irregularly shaped lots are to be avoided where possible;

The proposed lots are regularly shaped.

- c. consents may be granted only when each parcel of land has frontage and direct access from an assumed road except for conservation lands such as those held by the Conservation Authority or a land trust;

Each of the proposed lots has direct access from Front Road and from the existing driveways on the subject site.

- d. direct access from major roads is limited and is subject to the terms of any permits or approvals required from an agency having jurisdiction;

No additional access from Front Road is contemplated. Access to proposed Lot B can be provided from the existing driveways internal to the subject site.

- e. new access points or driveways must be located where they would not create a traffic hazard because of sight lines on curves, grades or corners;

No additional access from Front Road is contemplated.

- f. minor infilling of residential *development* is permitted except where the new lots would result in ribbon *development* that takes the form of a single depth of houses or other land uses fronting along roads in the Country Area;

No residential development or permissions are contemplated.

- g. *infill* residential *development* is permitted within the Country Area where there is a distance of 100 metres or less of frontage between two non-farm residences on the same side of the road and the lot can meet all of the other policies of this Plan and requirements of the zoning by-law;

No residential development or permissions are contemplated.

- h. compatibility and any separation distances required between the proposed land uses for the lot and the neighbouring land uses located in the Country Area must be considered;

The proposed lots are not located in the Country Area.

- i. any application for a consent must assess the impact on the *natural heritage system*, areas of environmental sensitivity, natural hazards, *significant* environmental features or areas of archaeological significance as set out in Sections 5, 6 and 7 of this Plan; and,

The proposed lots are not located in proximity to the *natural heritage system*, areas of environmental sensitivity, natural hazards, *significant* environmental features or areas of archaeological significance.

- j. the City must be satisfied that any *development* lots created by consent can be supplied with such municipal services as fire protection, road maintenance, storm drainage and where applicable, water supply and sewage disposal facilities, such that the provision of services does not adversely affect the City's finances.

Proposed Lots A and B are currently serviced. As per Figure 5, Lot B has the ability to be serviced from existing lines on the subject site.

Furthermore, as per Policy 3.6.14 which states "rationalization of the land ownership pattern is encouraged through the land assembly, subdivision, and consolidation to create parcels of a size and configuration appropriate to contemporary industrial requirements", it is our opinion that given that subject site is one of the larger industrial parcels within Kingston, the proposed new lot configuration is appropriate to contemporary requirements and will support the economic development of the city.



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We would like to confirm with the City of Kingston our understanding and interpretation of the City of Kingston’s Official Plan policies as they relate to the proposed severance of the subject site.

Compliance with Zoning By-law 76-28

The measurements of the proposed lots were performed using AutoCAD software based on a site survey produced by Smith and Smith Ontario Land Surveyors as part of the 2003 severance which created Invista’s property to the south of the subject site. As a result, the measurements provided in this letter are accurate, but may require further verification through an updated site survey should one be required by the City of Kingston.

Table 2 describes the proposed lots’ measurements against the requirements of zoning by-law 76-28:

Zoning Requirement		OS Zone	Lot A	Lot B	Lot C
Lot Area	Minimum 20,000 square feet	333,670 sft.	1,190,930 sft.	229,125.6 sft.	396,396 sft.
		1,524,600 sft.			
Lot Frontage	Minimum 21 metres	Approx. 76.2 m.	Approx. 283.7 m	Approx. 126.5 m	Approx. 170 m
		Approx. 360 m.			
Front Yard Depth	Minimum 50 feet (abutting industrial zone) & 80 feet (abutting any other zone)	N/A	180 ft.	N/A	320 ft.
Interior side yard width	Minimum 10 feet (abutting industrial zone) & 20 feet (abutting any other zone)	N/A	525 ft. (from OS zone) // 760 ft. (from Sunny Acres Road)	N/A	227 ft.
Rear yard depth	Minimum 25 feet (abutting industrial zone) & 50 feet (abutting any other zone)	N/A	737 ft.	N/A	10ft.
Building Footprint	-	N/A	79,675 sft.	N/A	52,880 sft.
Surface Parking + Paved Area	-	N/A	~ 93,000 sft.	~ 15,475 sft.	~ 76,600 sft.
Minimum landscaped open space	Minimum 10%	N/A	~ 85.5%	~ 93%	~ 66%
Lot Coverage	Maximum 70% (for lots served by sanitary sewers)	N/A	~ 14.5%	~ 7%	~ 33%
Parking	Office: 3.2 spaces / 100 sqm	N/A	105 spaces	N/A	146 spaces
	Manufacturing: 2.69 spaces / 100 sqm				
Note: An existing minor variance permits DuPont to provide less parking than required (see below)					

Table 2 – Conformity with Zoning By-Law 76-28

Our calculations indicate that the severance of the subject site would potentially create one conformity issue with regard to the existing zoning by-law requirements. A minor variance from the rear yard depth requirement would be required due to the fact that the new lot configuration would result in changes to what portion of the lot(s) are considered the “rear yard”. When the current property was severed from the Invista property to the south, the distance between the building at 461 Front Road and the property line was considered the side yard, which has a minimum width of 10 feet, because the property was considered a corner lot with Sunny Acres Road and Front Road defining the “corner”. Since the proposed severance will result in the frontage with Front Road becoming the front lot line (the line dividing the lot from the street), the existing side yard becomes a rear yard with regard to the zoning requirements. We would like to confirm the number and nature of the minor variances that will be required to support the severance of the DuPont property into three lots.

We also note that a minor variance from the zoning by-law may be required to permit relief from the parking requirements described in the zoning by-law. We would like to confirm with the City of Kingston our understanding that the existing minor variance granting a 187 space reduction in parking from the 485 spaces as required on DuPont’s property under Section 5(16) will continue to apply. We would also like to confirm our interpretation that the second existing minor variance which grants the placement of parking in the front yard area (currently considered the area between the 505 Front Road and Sunny Acres Road), which is otherwise prohibited under Section 5(16)(c) of the zoning by-law, does not apply any longer given that the new front yard area will now be the area between Front Road and the building frontage of the CTC facility at 505 Front Road.

Land Use

Although this does not directly pertain to the land severance proposal directly, we note that DuPont is in the process of selling the property at 505 Front Road and leasing space within the CTC facility. They will continue to own the facility and property at 461 Front Road. The portion of the building that will be leased for use by DuPont amounts to approximately 32,669 square feet, of which approximately 2800 square feet is utilized for office purposes. The portion of the building that will be utilized by the new owners amounts to approximately 74,530 square feet, of which approximately 25,800 square feet is utilized for office purposes. We note that currently, a business office is only permitted in an M1 zone if it is “accessory” to a permitted use. It is our opinion that, given the ratio of office use gross floor area to other use gross floor area, the office uses remain accessory to the primary use in both the new owner’s portion of the building and DuPont’s retained/leased portion of the building. Significant portions of both the tenant’s and DuPont’s building areas remain for uses permitted in the M1 designation including warehousing, manufacturing, and assembly and their associated mechanical and utility building infrastructure. As such, we do not believe a rezoning or any additional permissions are required to ensure that the leased space remains a conforming use to the zoning by-law. We would like to confirm this interpretation with the City of Kingston.

Summary

We look forward to discussing the application for consent to sever DuPont's property at 461 and 505 Front Road. In summary, we would like to confirm and clarify the following issues:

- Conformity with the Kingston Official Plan
- Compliance with Zoning By-law 76-28
- Confirmation of identified minor variances required
- Confirmation of continuation of existing minor variance(s) related to parking supply and location
- Clarification of potential issues arising from leasing of a portion of 505 Front Road

We attach following the figures described in the letter above as an appendix.

Yours very truly,
URBAN STRATEGIES INC.



Eric Turcotte, MCIP, RPP, OAA, OAQ, MRAIC, LEED AP BD+C

Figure 1: Proposed Conceptual Lot Creation

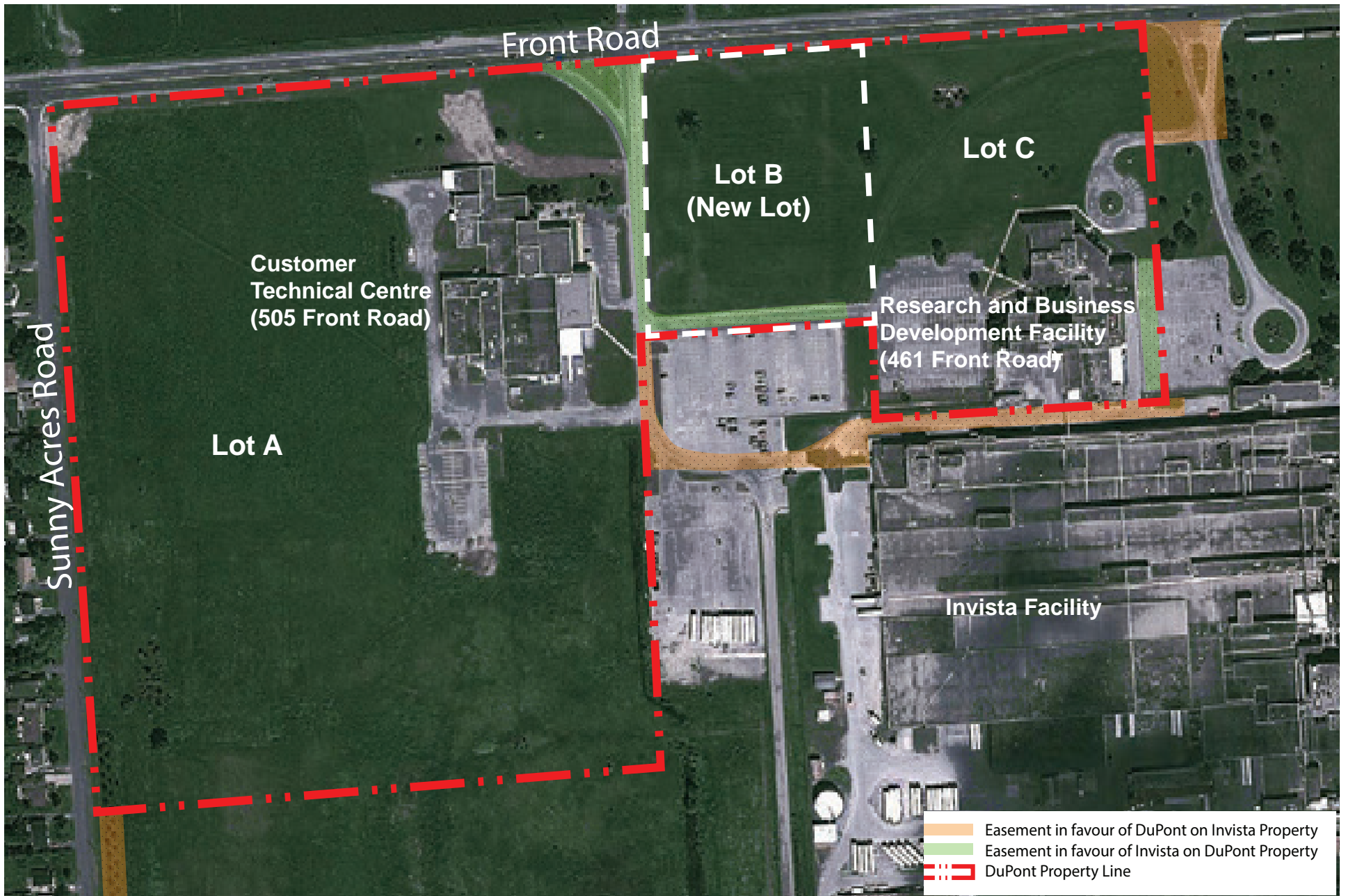


Figure 2: City Structure, Schedule 2 from City of Kingston Official Plan

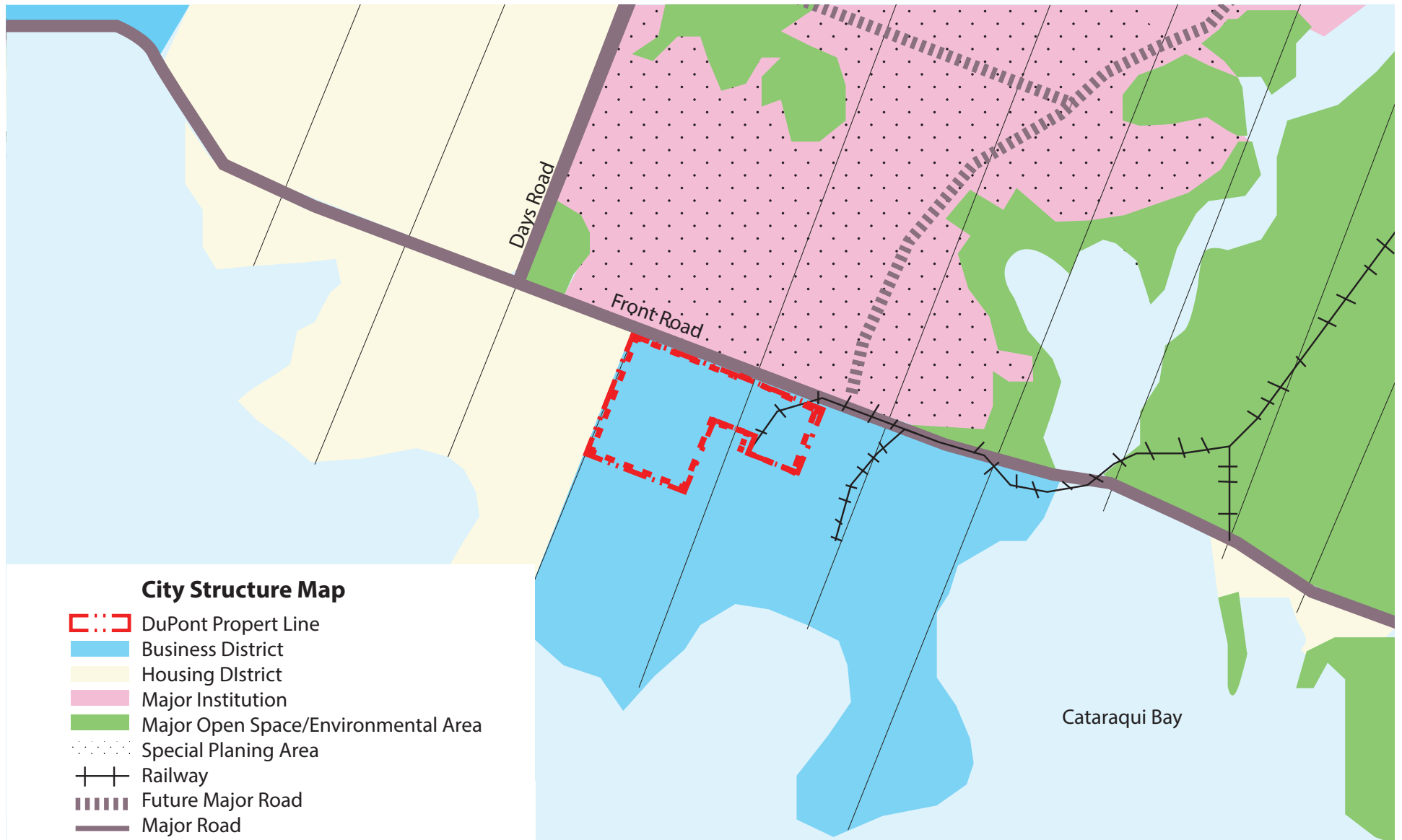


Figure 3: Land Use (Central), Schedule 3A from City of Kingston Official Plan

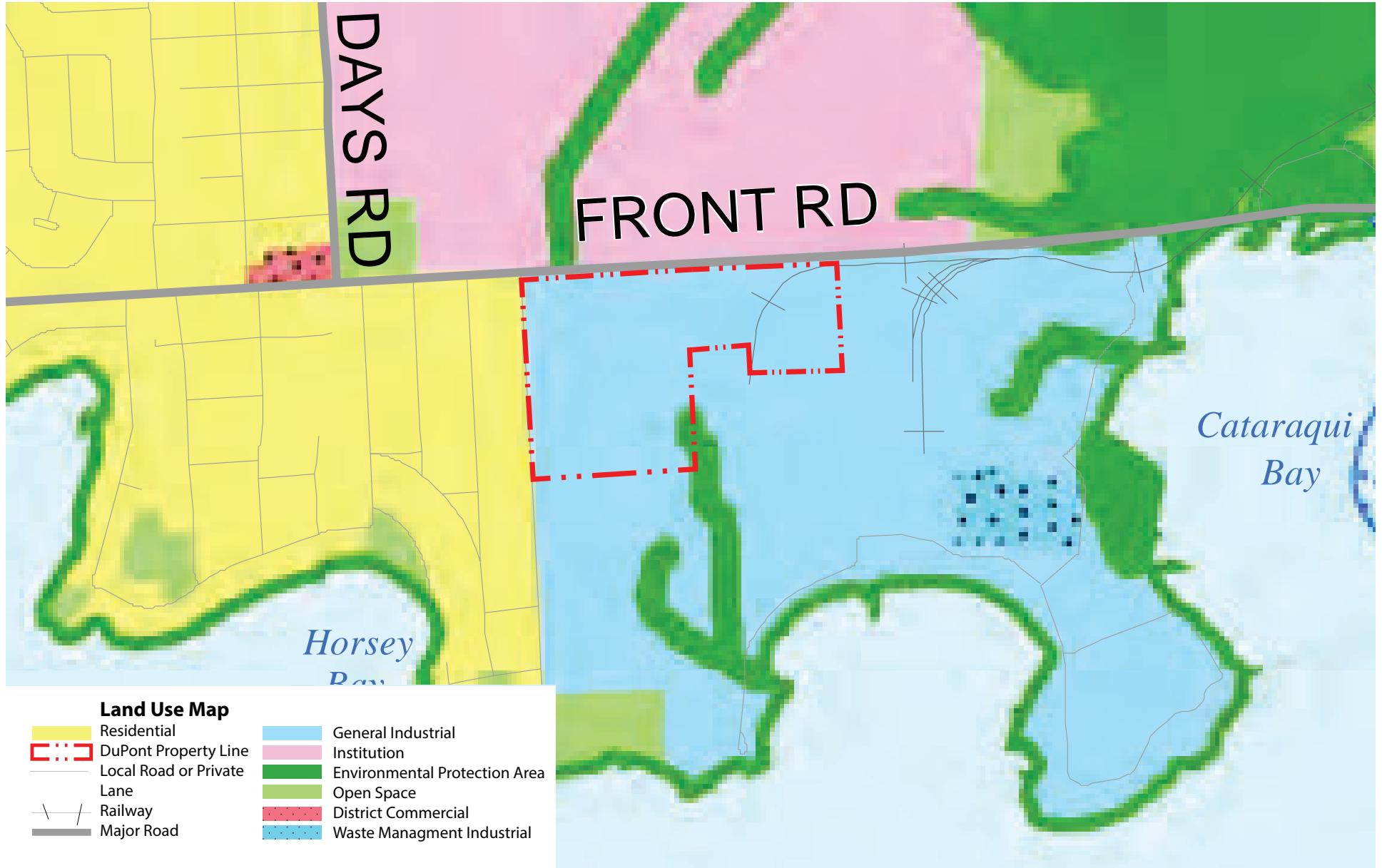


Figure 4: Zone Map from Kingston Township Zoning By-Law 76-28

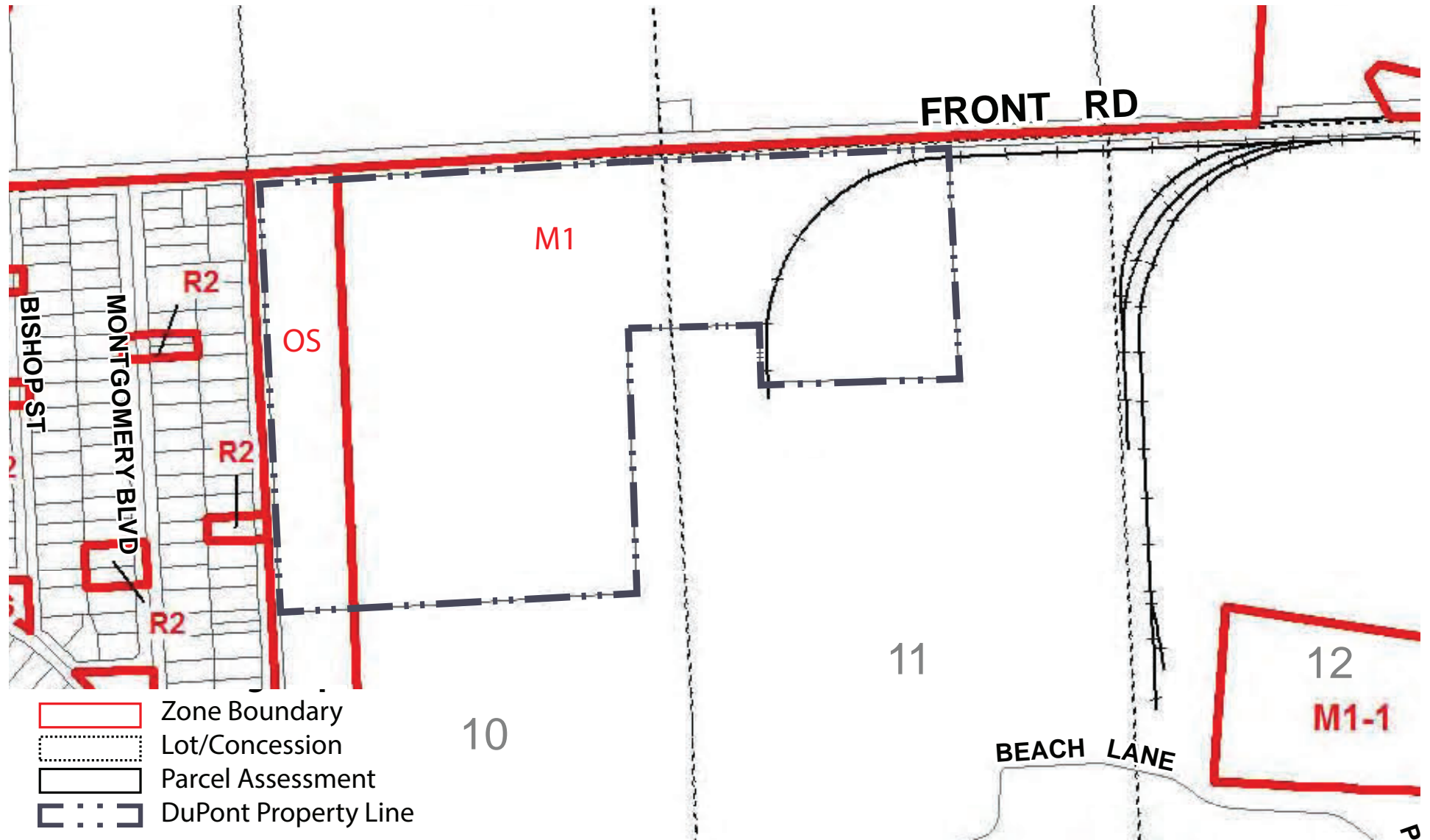


Figure 5: Existing Utility Map

