

City of Kingston Report to Committee of Adjustment Report Number COA-20-007

To: Chair and Members of Committee of Adjustment

From: Annemarie Eusebio, Intermediate Planner

Date of Meeting: January 20, 2020

Application for: Minor Variance

File Number: D13-052-2019

Address: 107 Resource Road and a portion of Part Lot 12 Concession 3,

former Township of Kingston

Owner: Kingston Monuments Limited and the City of Kingston

Applicant: Josselyn Engineering Incorporated

Council Strategic Plan Alignment:

Theme: 4. Strengthen economic development opportunities

Goal: 4.1 Support new and existing businesses

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for a minor variance for the subject lands which include the property located at 107 Resource Road and a portion of Part Lot 12 Concession 3, former Township of Kingston, which are lands currently owned by the City. The property known as 107 Resource Road is currently 1.03 acres in size and contains an existing industrial building on the property with associated parking and an existing open storage area. The applicant is proposing to add 0.25 acres of land that is currently owned by the City onto 107 Resource Road for a total lot area of 1.28 acres. The City-owned lands are located directly north of 107 Resource Road. A gravel area for additional open storage and parking is proposed on the lands that are currently City-owned. The total area of the entire open storage area on the site will be 1,296 square metres. The proposed open storage area will be screened by fencing.

The subject lands are situated within the Cataraqui Estates Business Park and are located within a site-specific Restricted Industrial 'M6-23' zone and designated General Industrial in the

Page 2 of 12

Official Plan. The Restricted Industrial 'M6' zone in Zoning By-law Number 76-26 indicates that no open storage shall be located in a front or exterior side yard. A variance is requested from Section 28A (2) (I) (ii) of Zoning By-Law Number 76-26 to seek relief to allow open storage on a portion of the front yard of the subject lands. The 'front yard' as defined in Zoning By-Law Number 76-26 means a yard extending across the full width of the lot between the front lot line of the lot and the nearest part of any excavation or main building of the lot. The distance between the front lot line of the subject lands and the existing building on the site is 29.3 metres. The distance from the proposed open storage area to the front lot line is 23 metres. The required minimum front yard depth in the M6-23 zone is 15.24 metres. The proposed open storage area will be located at a distance that is greater than the required minimum front yard depth.

There is an existing Site Plan Control agreement that is tied to the property located at 107 Resource Road. An amending Site Plan Control agreement will be required to allow for the proposed parking and open storage area on the subject lands. It is anticipated that the Cityowned lands known as a portion of Part Lot 12 Concession 3, former Township of Kingston will be transferred to the property known as 107 Resource Road as a lot addition.

The requested minor variance is consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The requested minor variance is desirable for the appropriate development or use of the land, building or structure and is 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:

It is recommended that minor variance application, File Number D13-052-2019, for the property located at 107 Resource Road and portion of Part Lot 12 Concession 3, former Township of Kingston be approved.

Variance:

By-Law Number 76-26: Section 28 A (2) (I) (iii) – Open Storage

Requirement: No open storage shall be located in a front or exterior side yard. Proposed: Open storage may be located within a portion of the front yard at a

distance of at least 23 metres from the front lot line.

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

1. Limitation

That the approved variance applies only to the proposed open storage for the subject lands known as 107 Resource Road and a portion of Part Lot 12 Concession 3, former Township of Kingston as shown on the approved drawings attached to the notice of decision. The approved variance will be subject to the final sale and transfer of the city owned lands to be added to the property known as 107 Resource Road.

Page **3** of **12**

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 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.

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 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.

Page **4** of **12**

Authorizing Signatures:

annemarie Eusebio

Annemarie Eusebio, Intermediate Planner

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

Paige Agnew, Director, Planning, Building & Licensing Services

Lanie Hurdle, Chief Administrative Officer

Page **5** of **12**

Options/Discussion:

On November 13, 2019, a minor variance application was submitted by Josselyn Engineering Incorporated with respect to the subject lands which include the property located at 107 Resource Road and a portion of Part Lot 12 Concession 3, former Township of Kingston, which are lands currently owned by the City. The property known as 107 Resource Road is currently 1.03 acres in size and contains an existing industrial building on the property with associated parking and an existing open storage area. The applicant is proposing to add 0.25 acres of land that is currently owned by the City onto 107 Resource Road for a total lot area of 1.28 acres. The City-owned lands are located directly north of 107 Resource Road (Exhibit A – Key Map). A gravel area for additional open storage and parking is proposed on the lands that are currently City-owned. The total area of the entire open storage area on the site will be 1,296 square metres. The proposed open storage area will be screened by fencing.

The subject lands are situated within the Cataraqui Estates Business Park and are located within a site-specific Restricted Industrial 'M6-23' zone and designated General Industrial in the Official Plan. The Restricted Industrial 'M6' zone in Zoning By-Law Number 76-26 indicates that no open storage shall be located in a front or exterior side yard. A variance is requested from Section 28A (2) (I) (ii) of Zoning By-Law Number 76-26 to seek relief to allow open storage on a portion of the front yard of the subject lands. The 'front yard' as defined in Zoning By-Law Number 76-26 means a yard extending across the full width of the lot between the front lot line of the lot and the nearest part of any excavation or main building of the lot. The distance between the front lot line of the subject lot and the existing building on the site is 29.3 metres. The distance from the open storage area to the front lot line is 23 metres. The required minimum front yard depth in the M6-23 zone is 15.24 metres. The proposed open storage area will be located at a distance that is greater than the required minimum front yard depth.

There is an existing Site Plan Control agreement that is tied to the property located at 107 Resource Road. An amending Site Plan Control agreement will be required to allow for the proposed parking and open storage area on the subject lands. It is anticipated that the Cityowned lands known as a portion of Part Lot 12 Concession 3, former Township of Kingston will be transferred to the property known as 107 Resource Road as a lot addition.

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

- Draft Survey (Exhibit B); and
- Site Plan (Exhibit C).

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 lands are located on the west side of Resource Road Avenue and are situated east of Gardiners Road and south of Highway 401 in the Kingston West Area of the City (Exhibit A –

Page **6** of **12**

Key Map and Exhibit D – Neighbourhood Context). The property known as 107 Resource Road currently contains an existing industrial building on the property with associated parking and an existing open storage area. The lands currently known as a portion of Part Lot 12, Concession 3, former Township of Kingston are owned by the City. The subject lands are located within the Cataraqui Estates Business Park and are surrounded by established general industrial park uses.

The INVISTA Centre is located west of the site. The Cataraqui Estates Business Park Trail System runs to the rear of the property. The subject lands are designated General Industrial in the Official Plan (Exhibit E – Official Plan) and zoned a site-specific Restricted Industrial 'M6-23' zone in Zoning By-Law Number 76-26 (Exhibit F – Existing Zoning).

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:

Provincial Policy 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 Policy Statement (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.

1) The general intent and purpose of the Official Plan are maintained

The subject lands are designated General Industrial within the Official Plan in the City of Kingston Official Plan (Exhibit E – Official Plan). The extent of open storage uses is limited in the zoning by-law to specific zones. The main uses permitted within the General Industrial designation include: manufacturing, assembling, fabricating, and processing operations; construction and transportation activities and facilities; storage, warehousing, and wholesale trade activities; communications facilities and utilities; automotive, heavy equipment, and truck repair facilities, and towing compounds; institutional uses with General Industrial characteristics, as outlined in Section 3.5.3 of the Official Plan; and, municipal works yards and water treatment and sewage treatment facilities, subject to the policies of Section 3.2 of the Official Plan.

The Official Plan also contains development criteria which permit open storage within the General Industrial Park designation. Section 3.6.B.5. (a) of the Official Plan indicates that the extent of open storage uses will be limited in the zoning by-law to specific zones, located in suitable areas and controlled through performance standards to limit visual impact on Business Park Industrial areas, major roads, and non-industrial uses.

Page **7** of **12**

The subject lands are situated in the Cataraqui Estates Business Park and are within a site-specific Restricted General Industrial 'M6-23' zone in Zoning By-Law Number 76-26. The Cataraqui Estates Business Park is generally bounded by Centennial Drive to the north, Gardiners Road to the west and Venture Drive to the south. The proposed open storage area will be located within a portion of the front yard. The adjacent properties are zoned General Industrial and the nearby areas that are zoned Business Park Industrial will not be negatively impacted. The subject lands do not abut residential uses. As such, the proposed open storage use will not create an adverse visual impact on the existing business park industrial areas, major roads and non-industrial areas.

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 following provides these nine requirements and an assessment of how the proposal is consistent with each.

- 1. The proposed development meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of this Plan;
 - The proposal is to add a gravel area for open storage and parking on the subject lands. The subject lands are located within the Cataraqui Estates Business Park and are within the urban boundary. The proposal promotes employment opportunities that will enhance local skills. The proposal will not result in significant impacts to the surrounding area.
- 2. 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 proposed open storage area and parking is not anticipated to cause any adverse impacts on the existing general industrial park uses which are located along the Resource Road. Fencing will be implemented for the proposed open storage use which will be located on a portion of the front yard of the subject lands.
- 3. 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;
 - There will be no concerns with respect to the parking of vehicles and bicycles or issues relating to accessibility.
- 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;
 - The subject lands are not located within a Heritage District. The subject lands are not identified on the City of Kingston Heritage Register, therefore, there will be no impact on

Page 8 of 12

built heritage resources. This property has been cleared of archaeological potential. As such, an Archaeological Assessment is not required.

- 5. 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;
 - The subject lands are not on the City's Heritage Register and as such a Heritage Impact Statement is not required.
- 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 resulting development has adequate municipal water and sewage services as the subject lands is located within the Urban Boundary.
- 7. 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 variance is considered minor as the development is compatible with the existing general industrial park uses along Resource Road. The proposed open storage area will be adequate fenced and setback from Resource Road and as such, the visual impact will be minimized. Therefore a zoning by-law amendment is not required.
- 8. 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 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;
 - As part of the recommendation, suggested conditions have been listed. The conditions may be added, altered or removed at the Committee's discretion.
- 9. The degree to which such approval may set an undesirable precedent for the immediate area;
 - The surrounding area includes general industrial uses. The proposed storage area will be an accessory use to the existing industrial building which contains a warehouse. The approval of the requested variance is considered minor and will not set a precedent for the immediate area.

The proposal meets the intent and purpose of the Official Plan, as the proposal will not result in any negative impacts.

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

Page **9** of **12**

The subject lands are located within a site-specific Restricted General Industrial 'M6-23' in the City of Kingston Zoning By-Law Number 76-26, entitled "Township of Kingston Restricted Area By-Law", as amended (Exhibit F – Existing Zoning).

The uses permitted within the site-specific Restricted General Industrial zone include an assembly plant; a business or professional office, but notwithstanding the provisions of Section 5(1) (a) herein, shall not include a primary or accessory retail use; a dry-cleaning or laundry plant; a fabricating plant; a manufacturing plant; a processing plant; a public use, in accordance with the provisions of Section 5(18) hereof; a warehouse.

The Restricted General Industrial 'M6' zone contains provisions with respect to open storage areas. No open storage of goods or materials shall be permitted, except in accordance with the following provisions:

- i. Every open storage use shall be accessory to the main use of the lot.
- ii. Every open storage use shall comply with the yard and setback provisions of Section 5(20) and Section 28A(2)(c) hereof as if such open storage use were a building or structure provided, however, that such use complies with Section 28A(2)(1)(i) hereof. (80-11).
- iii. Notwithstanding paragraph (ii) above, no open storage use shall be located in a front or exterior side yard.
- iv. Every open storage use shall be enclosed by a wall or fence which is not less than 6 feet in height, which is constructed of uniform materials, which is maintained in good condition and which is not located within any required yard. Where such open storage use is to be situated in a location such that it will be visible from a public street, the portion of such open storage use which would otherwise be visible from the public street shall be appropriately screened from such view by a buffering device of suitable composition and height. Such buffering device may be used in lieu of the wall or fence required in this paragraph and such device may be deemed to fulfill all or a portion of the planting strip requirements of Section 28A (2)(e) hereof. (78-18).

The proposal requires a variance to Section 28A (2) (I) (iii) – Open Storage of Zoning By-Law Number 76-26. In accordance with the open storage provisions as noted above, no open storage is permitted in the front or exterior side yard. The open storage area is proposed to be located within a portion of the required front yard. The distance between the front lot line of the subject lot and the existing building on the site is 29.3 metres. The distance from the open storage area to the front lot line is 23 metres. The required minimum front yard depth in the M6-23 zone is 15.24 metres. The proposed open storage area will be located at a distance that is greater than the required minimum front yard depth.

Variance:

By-Law Number 76-26: Section 28A (2) (I) (iii) – Open Storage

Requirement: No open storage shall be located in a front or exterior side yard

Page 10 of 12

Proposed: Open storage located within a portion of the front yard at a

distance of at least 23 metres from the front lot line

The open storage area will be an accessory use to the existing industrial building which currently functions as a warehouse. The open storage area will be enclosed by a fence which will be 1.8 metres in height (Exhibit C-Site Plan). The open storage area will be appropriately screened as to not impact the existing streetscape along Resource Road, which is a public street. Further landscaping requirements will be managed through the Site Plan Control application process. There will be no negative visual impacts on the surrounding properties within the existing Cataraqui Estates Business Park. The proposal meets the intent and purpose of the zoning by-law provisions with respect to open storage areas.

3) The variance is minor in nature

The variance is considered minor as the proposed open storage use is an accessory use to the existing warehouse use on the subject lands and will have no negative impacts on abutting properties, uses or structures. Fencing will be used to provide a buffer from the open storage use.

The proposal will result in a development that is consistent with the existing general industrial park uses that exist within the Cataraqui Estates Business Park. The variance will not alter the character of the business park.

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

The proposed open storage area will have minimal visual impacts on Resource Road. The proposal is appropriate and compatible with the surrounding business park industrial uses and will not result in significant impacts or changes to the surrounding area.

Technical Review: Circulated Departments and Agencies

\boxtimes	Building Division			
	Finance	□ Utilities Kingston	□ Real Estate & Environmental Initiative	/es
\boxtimes	Fire & Rescue	☐ Kingston Hydro	☐ City's Environment Division	
	Solid Waste	☐ Parks Development	□ Canadian National Railways	
	Housing	□ District Councillor		
	KEDCO	☐ Municipal Drainage	□ Parks of the St. Lawrence	
	CRCA	☐ KFL&A Health Unit	☐ Trans Northern Pipelines	
	Parks Canada	☐ Eastern Ontario Power	□ CFB Kingston	
\boxtimes	Hydro One	□ Enbridge Pipelines	☐ TransCanada Pipelines	
	Kingston Airport			

Page **11** of **12**

Technical Comments

This application was circulated to external agencies and internal departments for their review and comment. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

Public Comments

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

Previous or Concurrent Applications

There is an approved site plan control application for an industrial building and a registered site plan agreement for the property known as 107 Resource Road (File Number D11-053-2019).

Conclusion

The requested variance maintains the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variance is 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 is consistent with the general purpose and intent of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The proposed application represents good land use planning.

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 January 20, 2020. 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 9 property

Page 12 of 12

owners (according to the latest Assessment Roll) within 60 metres of the subject lands 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:

None

Financial Considerations:

None

Contacts:

Tim Park, Manager, Development Approvals, 613-546-4291 extension 3223

Annemarie Eusebio, Intermediate Planner 613-546-4291 extension 3183

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 Draft Survey

Exhibit C Site Plan

Exhibit D Neighbourhood Context

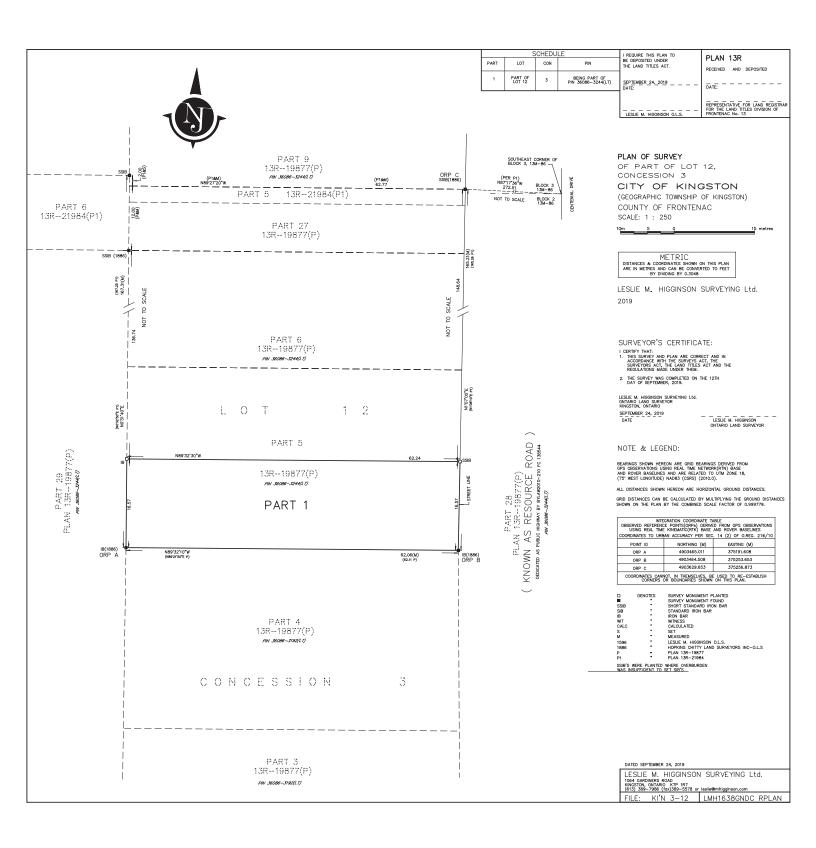
Exhibit E Official Plan

Exhibit F Existing Zoning

Exhibit G Site Photos

Exhibit H Public Notification

Exhibit A Report Number COA-20-007 718 125 119 706 RESOURCE RD 700 107 694 688 682 676 101 VENTURE DR 670 CONTEXT/MAP* **®** COMMITTEE OF ADJUSTMENT CREEKFORD RD **Key Map** File Number: D13-052-2019 Planning, Building & Licensing Services 0 Address: 107 Resource Road and a portion of Part Lot 12 Concession 3, former Township of Kingston a department of 0 7.5 15 22.5 30 metres Community DATE: 2020-01-02 PREPARED BY: Ichu Services ւ հուր թյերբել գե դիկ արդարել թեր իներ իներ և հերանական և բարարել և հերանական և հերանակա 13



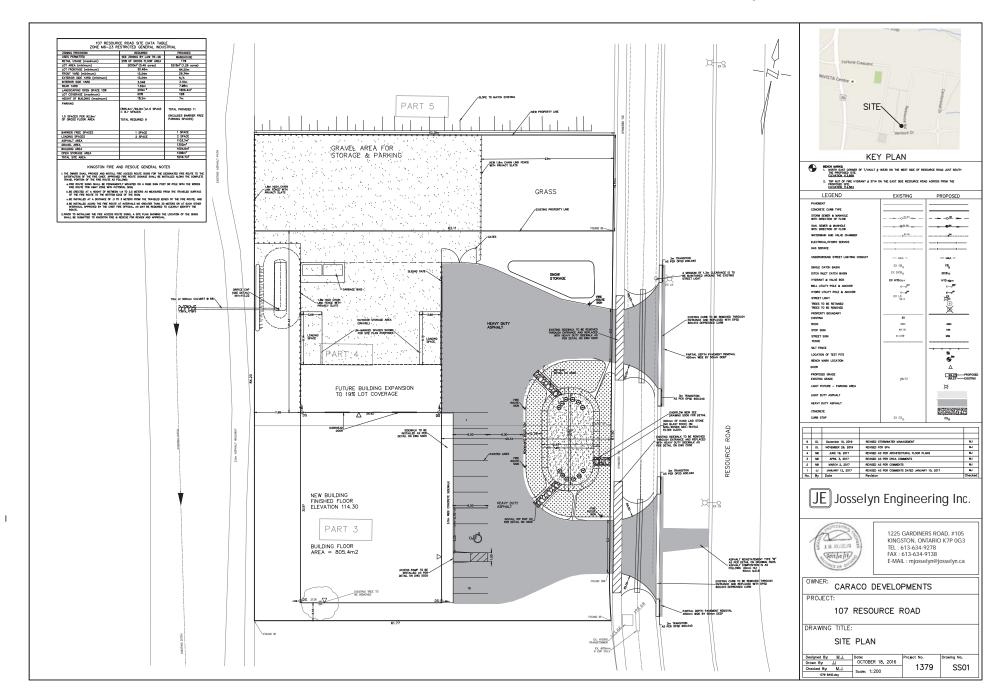


Exhibit D Report Number COA-20-007





Planning, Building & Licensing Services

a department of Community Services

PREPARED BY: Ichu DATE: 2020-01-03

CITY OF KINGSTON

Neighbourhood Context (2018)

File Number: D13-052-2019

Address: 107 Resource Road and a portion of Part Lot

12 Concession 3, former Township of Kingston

0 9.5 19 28.5 38

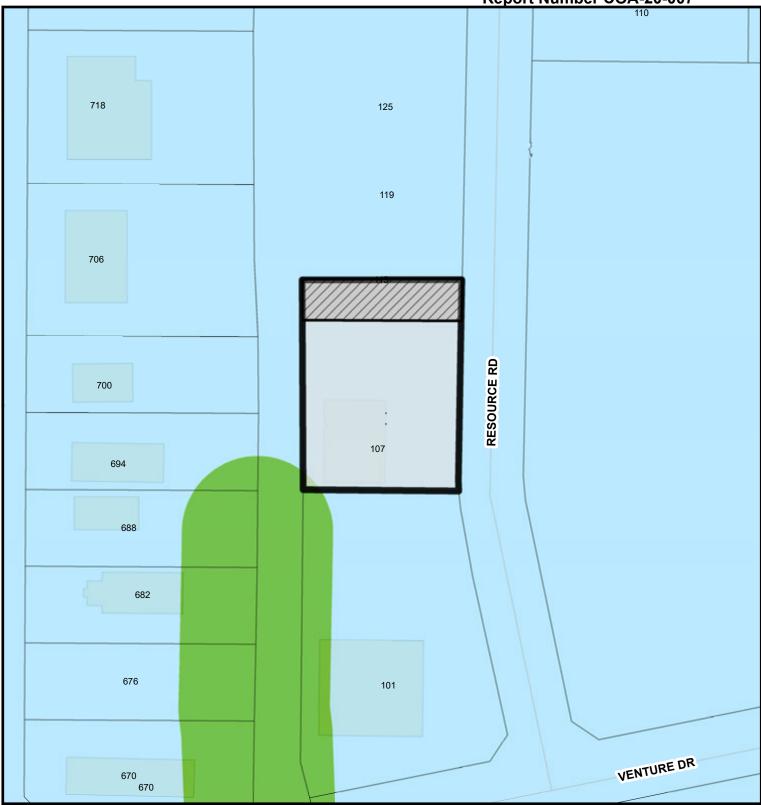
Legend

[___] Lands Subject to Minor Variance

City Owned Lands to be Added to

Subject Property

Exhibit E **Report Number COA-20-007**





Planning, Building & Licensing Services

a department of Community Services

PREPARED BY: Ichu DATE: 2020-01-03

CITY OF KINGSTON

Official Plan, Existing Land Use

File Number: D13-052-2019

Address: 107 Resource Road and a portion of Part Lot 12 Concession 3, former Township of Kingston



Legend



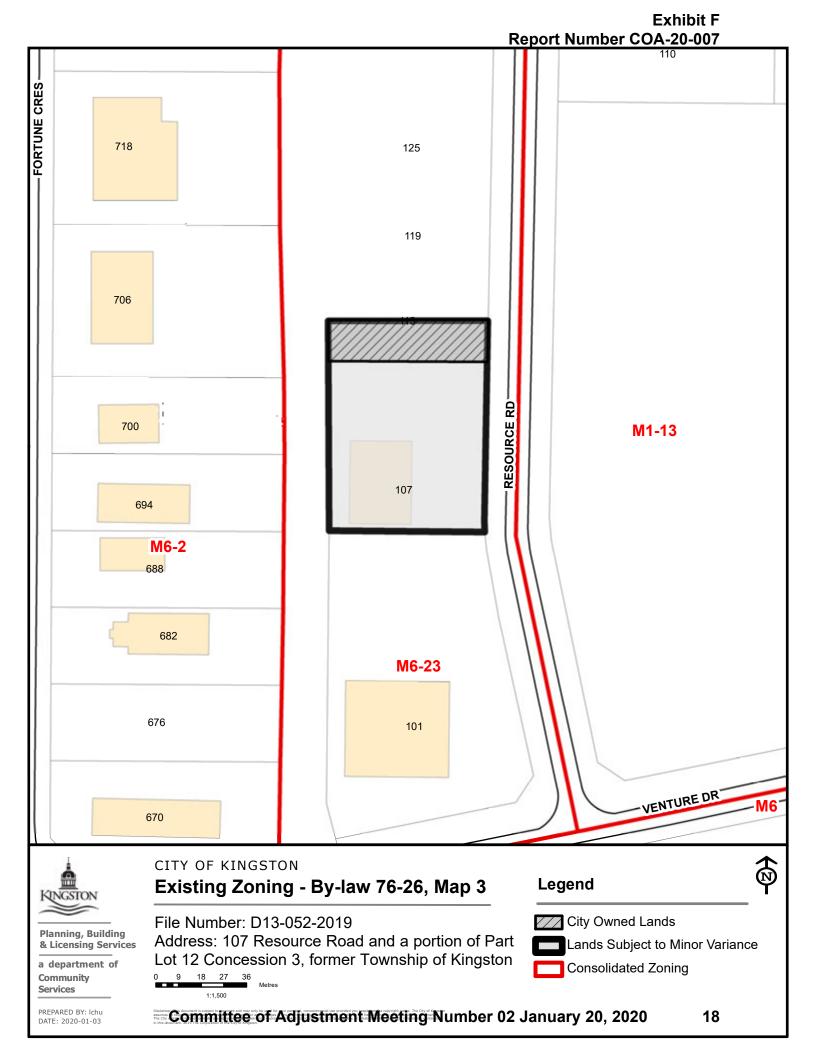
Lands Subject to Minor Variance

ENVIRONMENTAL PROTECTION AREA

17







Site Photo



Exhibit H Report Number COA-20-007 718 125 119 706 RESOURCE RD 700 107 694 688 682 676 101 VENTURE DR 670 CITY OF KINGSTON Legend **Public Notice Notification Map** 60m Public Notification Boundary File Number: D13-052-2019 Address: 107 Resource Road and a portion of City Owned Lands Planning, Building & Licensing Services Part Lot 12 Concession 3, former Township of Lands Subject to Minor Variance



Property Boundaries 9 Properties in Receipt of Notice (MPAC)

20

Committee of Adjustment Meeting Number 02 January 20, 2020