



**City of Kingston
Report to Committee of Adjustment
Report Number COA-20-009**

To: Chair and Members of Committee of Adjustment
From: Tim Fisher, Planner
Date of Meeting: January 20, 2020
Application for: Permission
File Number: D13-064-2019
Address: 819 to 863 Norwest Road
Applicant: Jordan Van Leuken, Braebury Development

Council Strategic Plan Alignment:

Theme: 4. Strengthen economic development opportunities

Goal: 4.1 Support new and existing businesses

The proposed commercial club within the 'C1-3' zone on the subject site will be in keeping with the list of permitted commercial uses already established on the site and will provide further flexibility of uses to support new and existing small scale business which will service the local community.

Executive Summary:

This is a report to recommend approval to the Committee of Adjustment regarding an application for permission for the property located at 819 to 863 Norwest Road. The applicant is proposing to clarify the list of permitted uses within the C1-3 zone in Zoning By-Law Number 76-26 to include a commercial club, which will permit such uses as gyms, yoga studios and other similar uses.

The requested application for permission under Section 45(2)(b) of the *Planning Act* is consistent with the general purpose and general intent of both the City of Kingston Official Plan and Zoning By-Law Number 76-26.

Section 45(2)(b) of the *Planning Act* states that in addition to the powers of the Committee of Adjustment under subsection 45(1), the committee, upon any such application, where the uses of land, buildings or structures permitted in the by-law are defined in general terms, may permit the use of any land, building or structure for any purpose that, in the opinion of the committee, conforms with the uses permitted in the by-law.

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A commercial club within the 'C1-3' zone will be in keeping with the established commercial uses on the subject property and the intent of the zoning by-law. The proposal represents appropriate and desirable use of the commercial lot and will be functional for the continued commercial use. Therefore, it is recommended that this application for permission under Section 45(2)(b) of the Planning Act be approved as it meets the prescribed tests of the Official Plan.

Recommendation:

It is recommended that the Application for Permission submitted by Jordan Van Leuken, Braebury Development for the property located at 819 to 863 Norwest Road, to clarify the list of permitted uses within the C1-3 zone in Zoning By-Law Number 76-26 to permit a commercial club, be approved.

Approval of the foregoing permission shall be subject to the following conditions:**1. Limitation**

That the approval applies only to subject property.

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 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.

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Authorizing Signatures:



Tim Fisher, Planner

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

Paige Agnew, Director, Planning, Building & Licensing Services

Lanie Hurdle, Chief Administrative Officer

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Options/Discussion:

On December 16, 2019, an application for Permission was submitted by Jordan Van Leuken, Braebury Development, with respect to the property located at 819 to 863 Norwest Road. The application for permission is requested to clarify the list of permitted uses within the C1-3 zone in Zoning By-Law Number 76-26 to include a commercial club.

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

- Site Plan (Exhibit E);

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 commercial property is located at 819 to 863 Norwest Road (Exhibit A - Key Map). The property has an area of approximately 11,200 square metres. The property is currently designated 'Arterial Commercial' in the City of Kingston Official Plan. The plaza in the eastern half is zoned 'C2-34' and the western half is zoned 'C1-3' in Zoning By-Law Number 76-26. The application will clarify the list of uses within the western half of the lot within the 'C1-3' zone.

Application (Permission)

As stated in Subsection 45(2)(b) of the *Planning Act*; that in addition to the powers of the Committee of Adjustment under subsection 45(1), the Committee, upon any such application, where the uses of land, buildings or structures permitted in the by-law are defined in general terms, may permit the use of any land, building or structure for any purpose that, in the opinion of the committee, conforms with the uses permitted in the by-law.

In determining whether to permit a use under Section 45(2)(b), the test is not one of reasonableness; rather, the test is established by the statutory criteria of:

- 1) A similarity between the uses; and
- 2) Whether the proposed use is desirable for the appropriate development or use of the land.

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 such, the proposal conforms to and is consistent with the PPS.

Official Plan

The subject property is designated Arterial Commercial in the City of Kingston Official Plan. The Arterial Commercial designation (Section 3.4E) as shown on Schedule 3 is a special purpose designation for a limited range of goods and services, such as hospitality uses, automotive uses, restaurants to serve the travelling public, or uses that require large sites on a major road to display

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specialized goods in an outdoor setting. The Arterial Commercial designation is not intended to accommodate types of retail goods and services that are planned for other designations in the retail hierarchy.

Permitted uses in the Arterial Commercial designation include a range of services that cater to the travelling public, uses that require large sites, or which require outdoor display such as vehicle sales lots or vehicle rental premises, hospitality uses, and automotive uses such as gas bars and service stations. Large floor-plate retail uses intended for a Regional Commercial designation are not included. Outdoor patio restaurants may be permitted in accordance with the policies of Section 3.4.G. Limited convenience commercial goods and services may also be permitted with the size and type of use regulated in the zoning by-law. Office uses are permitted as an accessory use only.

The City contains a number of older strip plazas that have developed along Arterial Roads that are major arteries into the City. These sites, designated Arterial Commercial, contain a mix of retail, office and service uses in addition to the uses currently permitted in the Arterial Commercial designation. The implementing zoning by-law for those sites may recognize the existing wider range of uses.

When reviewing an application under Section 45(2)(b), the Committee of Adjustment must be satisfied that the proposed use complies with the six (6) criteria as per Section 9.5.17 of the Official Plan regarding the new use or clarification of uses. The subject application, requesting permission introduce a commercial club as a permitted use in the C1-3 zone, has been reviewed against these policies, provided below.

1. The proposed use is similar to the existing or permitted uses or more in conformity with the planned use(s);

The proposed commercial club will permit such uses as gyms, yoga studios and other similar uses to serve the surrounding neighbourhood which conforms with the intent of the Arterial Commercial designation in the Official Plan. The subject lot has dual zoning. The eastern half of the lot is zoned 'C2-34' which permits a commercial club however the western half of the lot is zoned 'C1-3' which does not clearly permit the commercial club use. The proposed commercial club will not be new use on the site as it is already permitted in the 'C2-34' zone.

2. The site or building conditions will be substantially improved by the proposed change of use and can adequately accommodate the proposal;

The subject property is developed with two commercial plazas. The eastern plaza on the lot permits a commercial club while the western plaza does not. The commercial club will help support new and existing business while providing a service to the local neighbourhood. The proposed use will be located in a vacant portion of the commercial plaza and will adequately accommodate the commercial club use.

3. The proposed use is generally compatible with surrounding uses and can meet parking for vehicles and bicycles and other site standards of the general area with accessibility considerations as well as those standards necessary for the proposed use;

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The commercial plaza has ample parking for vehicles and bicycles. The commercial club will not result in any new performance standards and will be compatible with the surrounding land uses and existing commercial uses on the site.

4. The proposed use does not create any noise, traffic or operational nuisance that cannot be mitigated to an acceptable level;

The commercial club will not create any noise, traffic or operational nuisance that cannot be mitigated to an acceptable level similar to the other commercial uses on the subject property. The commercial club will be located within the commercial plaza and its operation will not have any negative effects on the abutting residential uses to the south and west.

5. Municipal infrastructure, roads and access conditions can accommodate the proposed use;

The subject property has frontage on three (3) municipal roads and will maintain its existing road access from Norwest Road. The property is serviced with municipal water and sewer services and will not result in the need to provide new services as the services already exist.

6. The proposed use will not negatively impact surrounding lands or buildings or inhibit them from developing for their intended use.

The proposed use will not negatively impact the apartment complex to the south, residential uses to the west, a commercial plaza to the north and the Cataraqui Mall to the east, nor will it inhibit them from developing for their intended uses.

The subject property is not designated or listed on the City of Kingston's Heritage Property Register, or adjacent to a property which is designated or listed.

Based on the City of Kingston archaeological potential mapping the property is outside of any designated area, therefore an archaeological assessment is not required.

The requested permission to permit a commercial club in the 'C1-3' zone complies with Arterial Commercial designation policies and meets the general intent and purpose of the City of Kingston Official Plan.

Zoning By-Law

The subject property has split zoning. The eastern half of the lot is zoned Special General Commercial 'C2-34' zone while the western half is zoned Special Local Commercial 'C1-3' zone in Zoning By-Law Number 76-26, as amended.

The eastern half and its 'C2-34' zone permits a variety of commercial uses including the listed commercial uses in the 'C2-24' zone. The zones permit such uses as a commercial club, private club, and a personal service shop. The western half and its 'C1-3' zone permits a variety of commercial uses including a business or professional office, and a personal service shop.

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By virtue of the established zones on the site, a commercial club is a permitted use. Extending this use in the 'C1-3' zone will not result in any negative impacts on the existing commercial development on the site or the abutting commercial and residential land uses and their future redevelopment. The commercial club will be limited in gross floor area in the 'C1-3' zone to a maximum of 280 square metres, keeping the scale of the use to a smaller scale neighbourhood use and not a large commercial club.

Any new development will be subject to the requirements of Zoning By-Law Number 76-26.

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 checked="" type="checkbox"/> Finance | <input checked="" type="checkbox"/> Utilities Kingston | <input checked="" type="checkbox"/> Real Estate & Environmental Initiatives |
| <input checked="" type="checkbox"/> Fire & Rescue | <input type="checkbox"/> Kingston Hydro | <input type="checkbox"/> Environment Division |
| <input checked="" type="checkbox"/> Solid Waste | <input checked="" type="checkbox"/> Parks Development | <input type="checkbox"/> Canadian National Railways |
| <input type="checkbox"/> Housing | <input checked="" type="checkbox"/> District Councillor | <input type="checkbox"/> Ministry of Transportation |
| <input checked="" type="checkbox"/> KEDCO | <input type="checkbox"/> Municipal Drainage | <input type="checkbox"/> Parks of the St. Lawrence |
| <input 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 type="checkbox"/> Kingston Airport | | |

Technical Comments

There were no comments or concerns raised by the technical agencies.

Public Comments

At the time this report was finalized, there were no written concerns or objections received.

Previous or Concurrent Applications

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

Conclusion

The requested application for permission is consistent with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The use complies with the general intent of the Arterial Commercial zone and its permitted uses in the Official Plan and the commercial club is already a permitted use on the eastern portion of the subject property.

Approval of this application will permit a commercial club to be established within the western portion of the lot within the 'C1-3' zone.

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:

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Provincial

Provincial Policy Statement, 2014

MunicipalCity 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 the 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 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. If the application is approved, 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

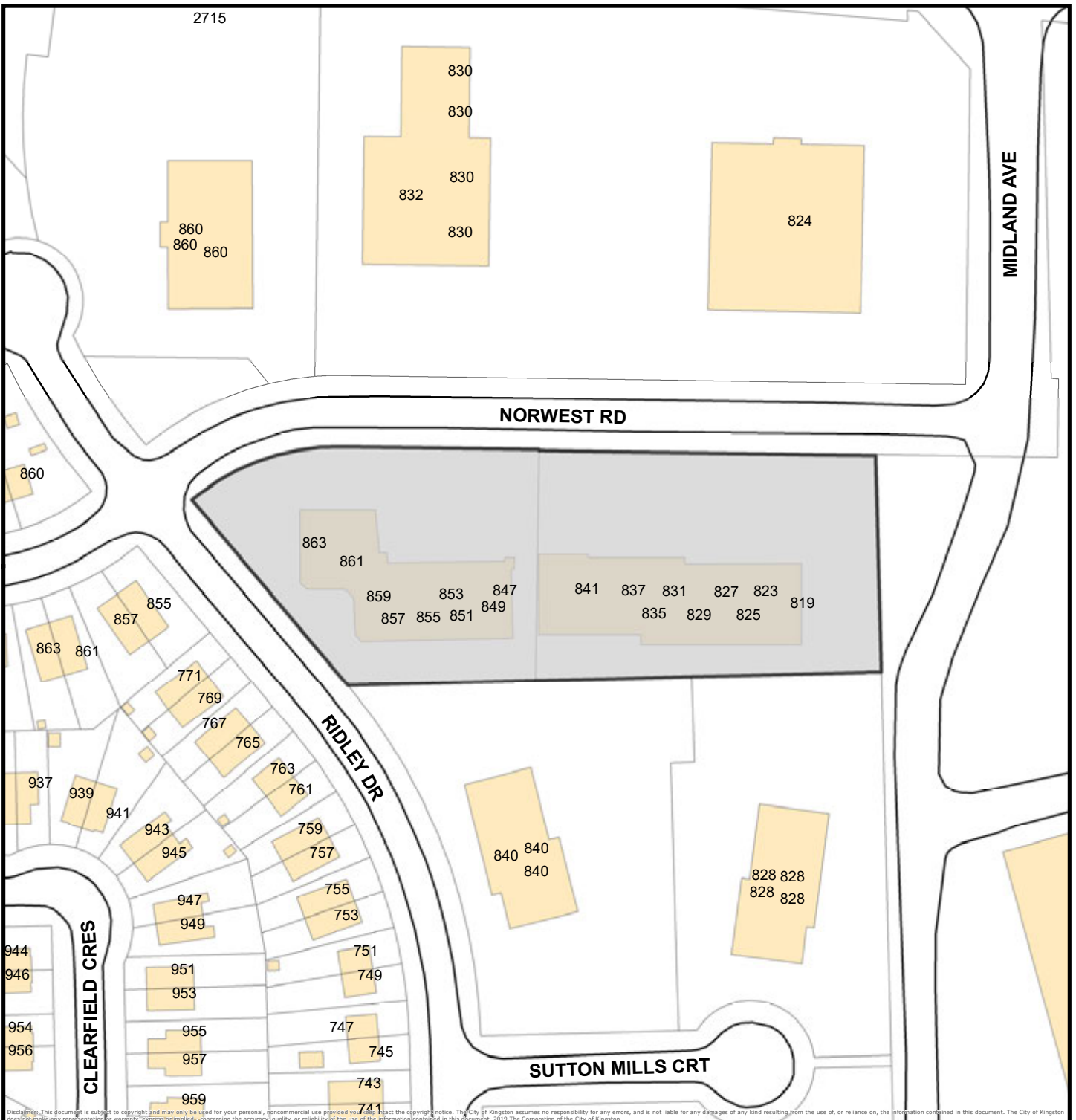
Tim Fisher, Planner 613-546-4291 extension 3215

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 within this report.

Exhibits Attached:

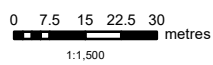
- Exhibit A Key Map
- Exhibit B Public Notice Notification Map
- Exhibit C Official Plan Map
- Exhibit D Zoning By-Law Map
- Exhibit E Site Plan



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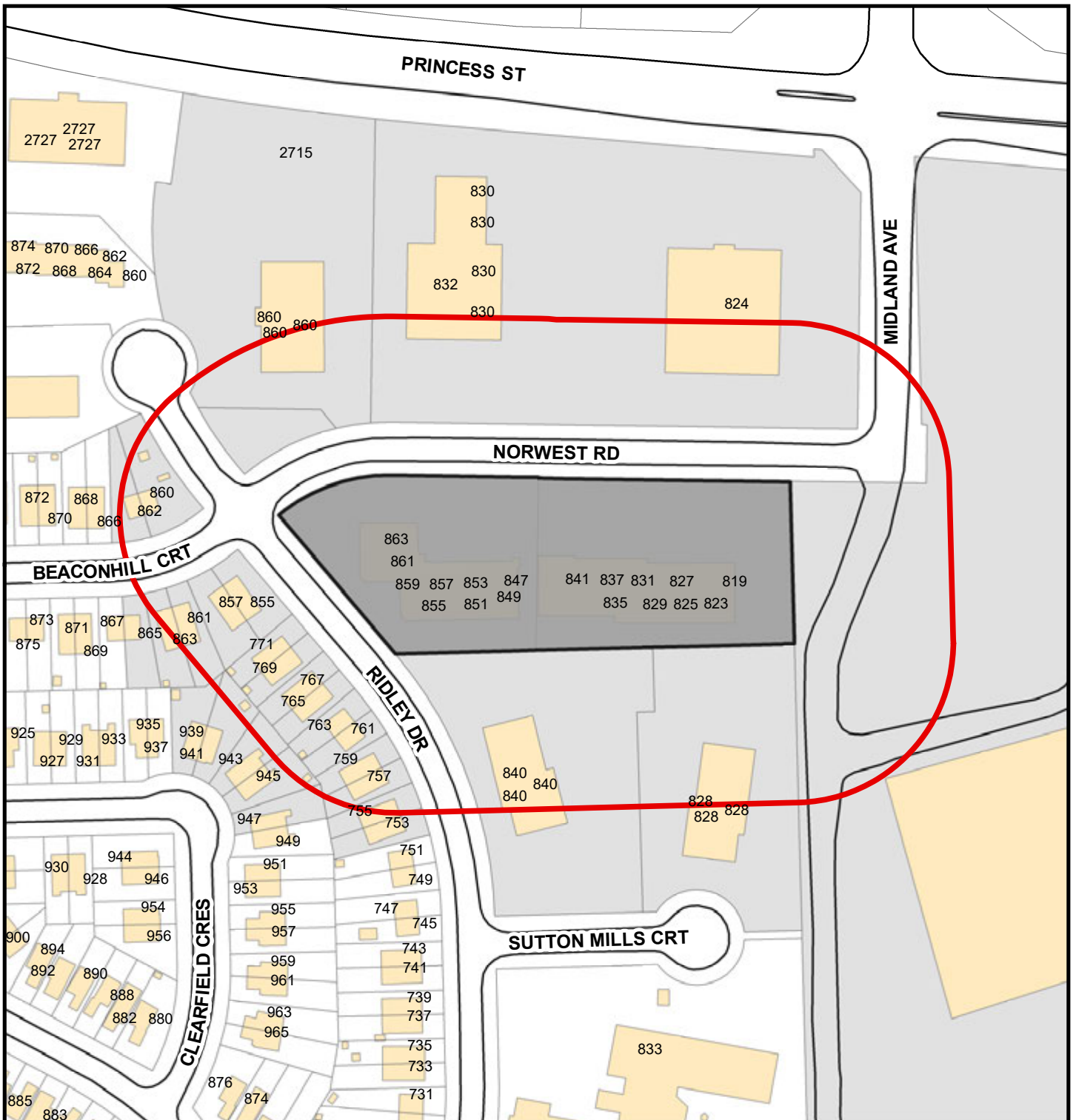
COMMITTEE OF ADJUSTMENT
Key Map
File Number: D13-064-2019
Address: 819-863 NORWEST RD



DATE: 2019-12-19
PREPARED BY: lchu

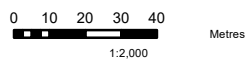


Lands Subject to Minor Variance



CITY OF KINGSTON
Public Notice Notification Map

File Number: D13-064-2019
Address: 819-863 NORWEST RD



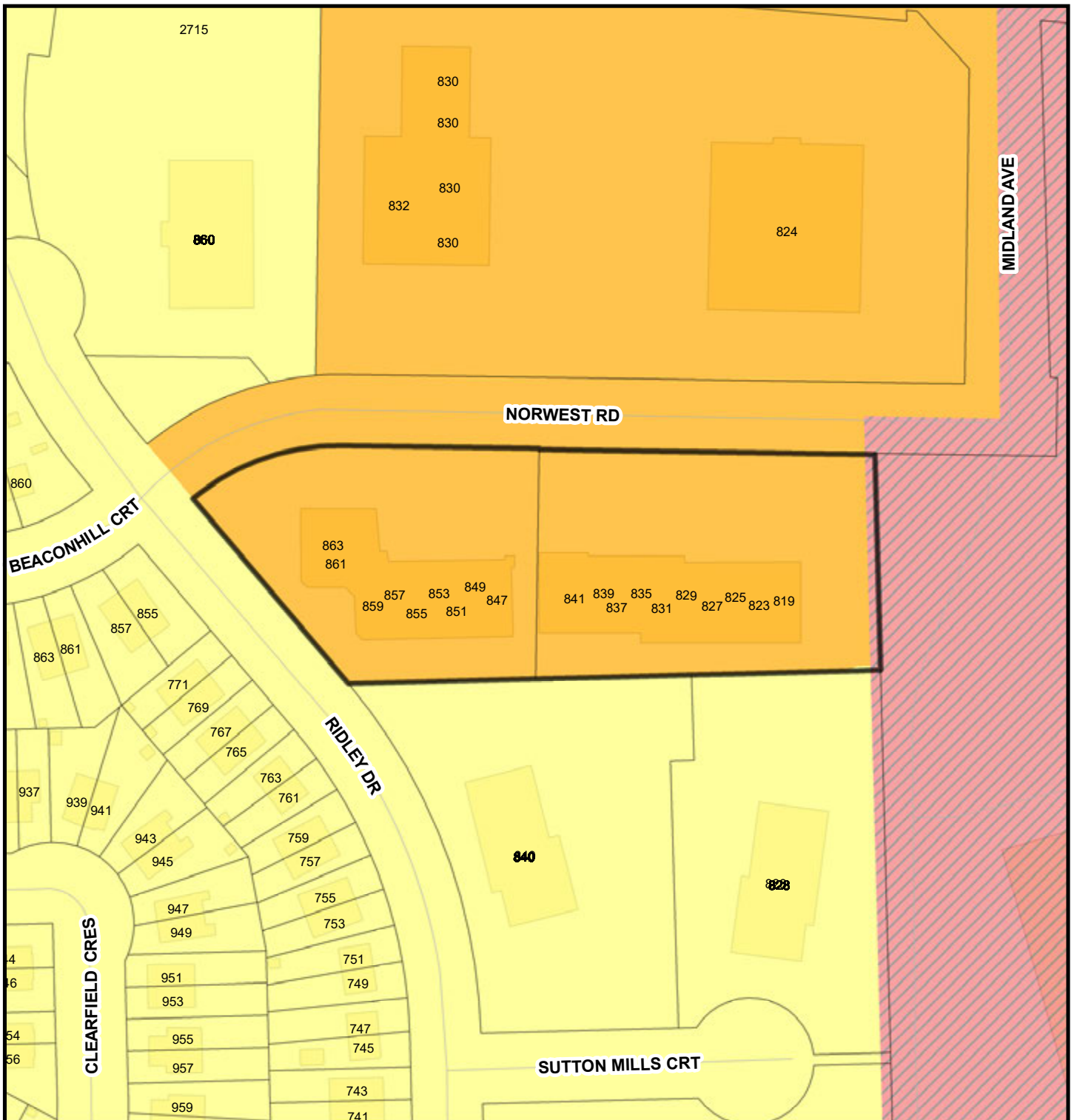
Legend

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



PREPARED BY: Ichu
DATE: 2019-12-19

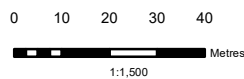
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Planning, Building & Licensing Services
a department of
Community Services

CITY OF KINGSTON
Official Plan, Existing Land Use

File Number: D13-064-2019
Address: 819-863 NORWEST RD



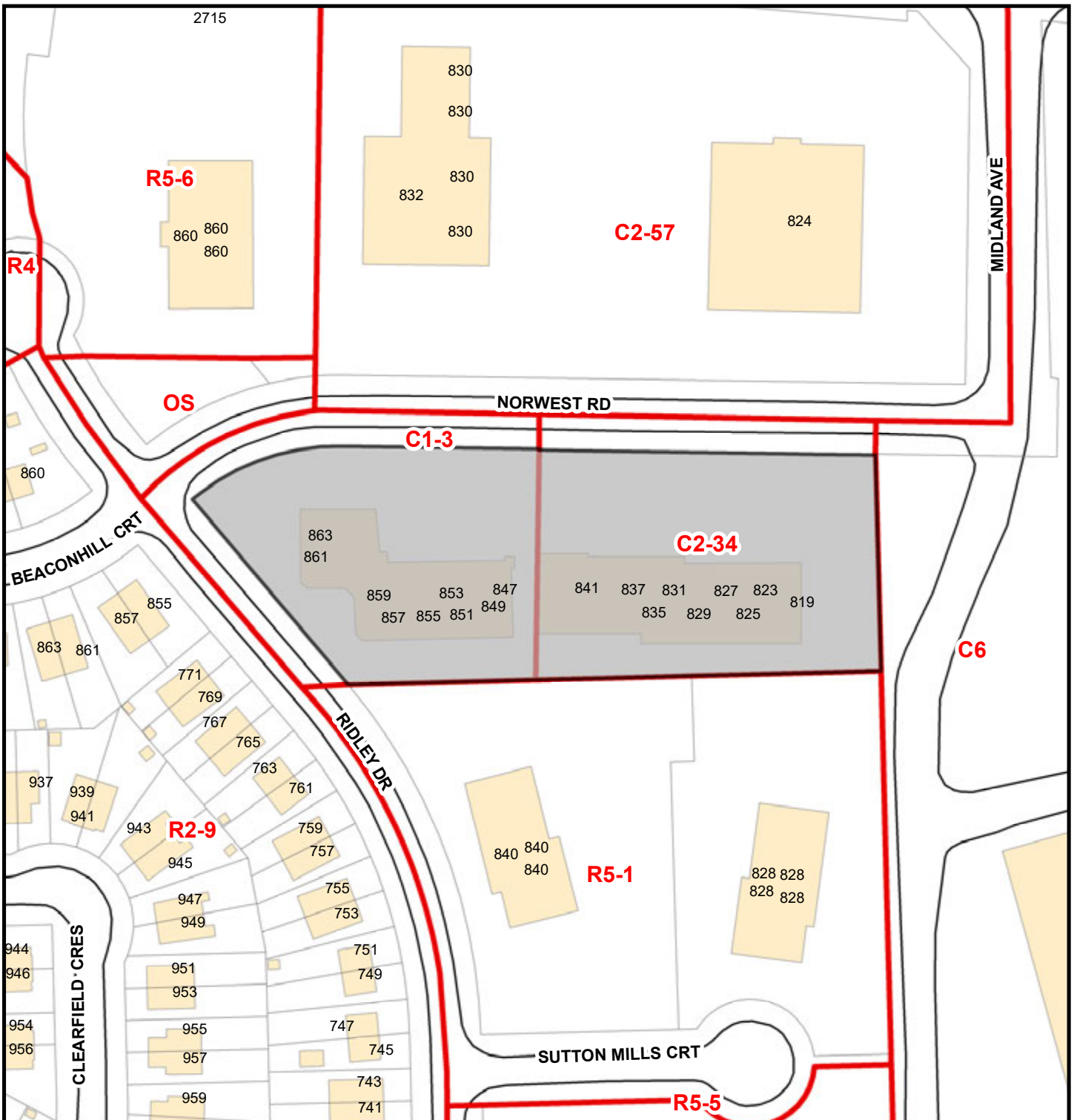
Legend

- Subject Lands
- ARTERIAL COMMERCIAL
- REGIONAL COMMERCIAL
- RESIDENTIAL



PREPARED BY: lchu
DATE: 2019-12-18

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Planning, Building & Licensing Services
a department of
Community Services

CITY OF KINGSTON
Existing Zoning - By-law 76-26, Map 5

File Number: D13-064-2019
Address: 819-863 NORWEST RD



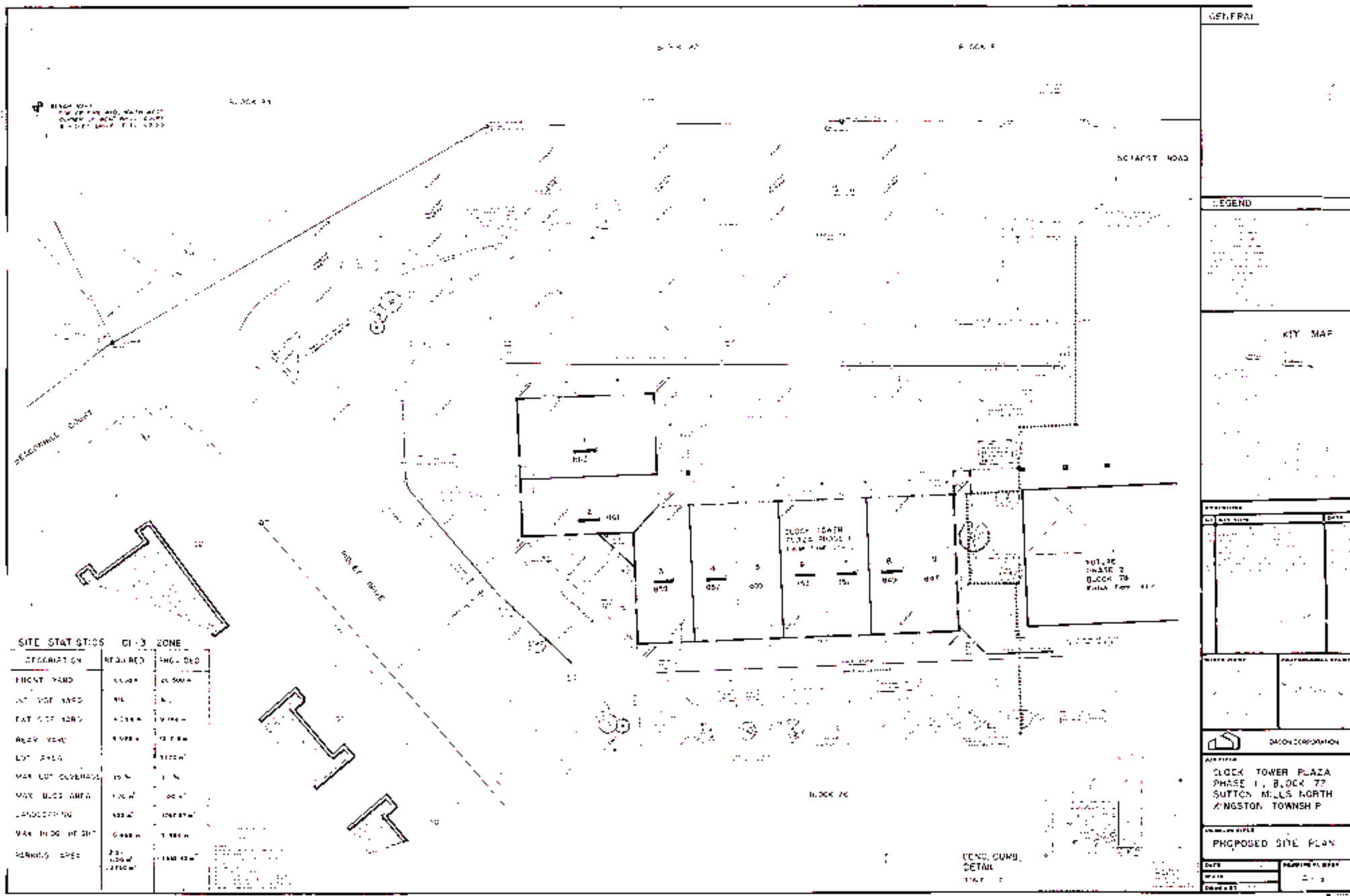
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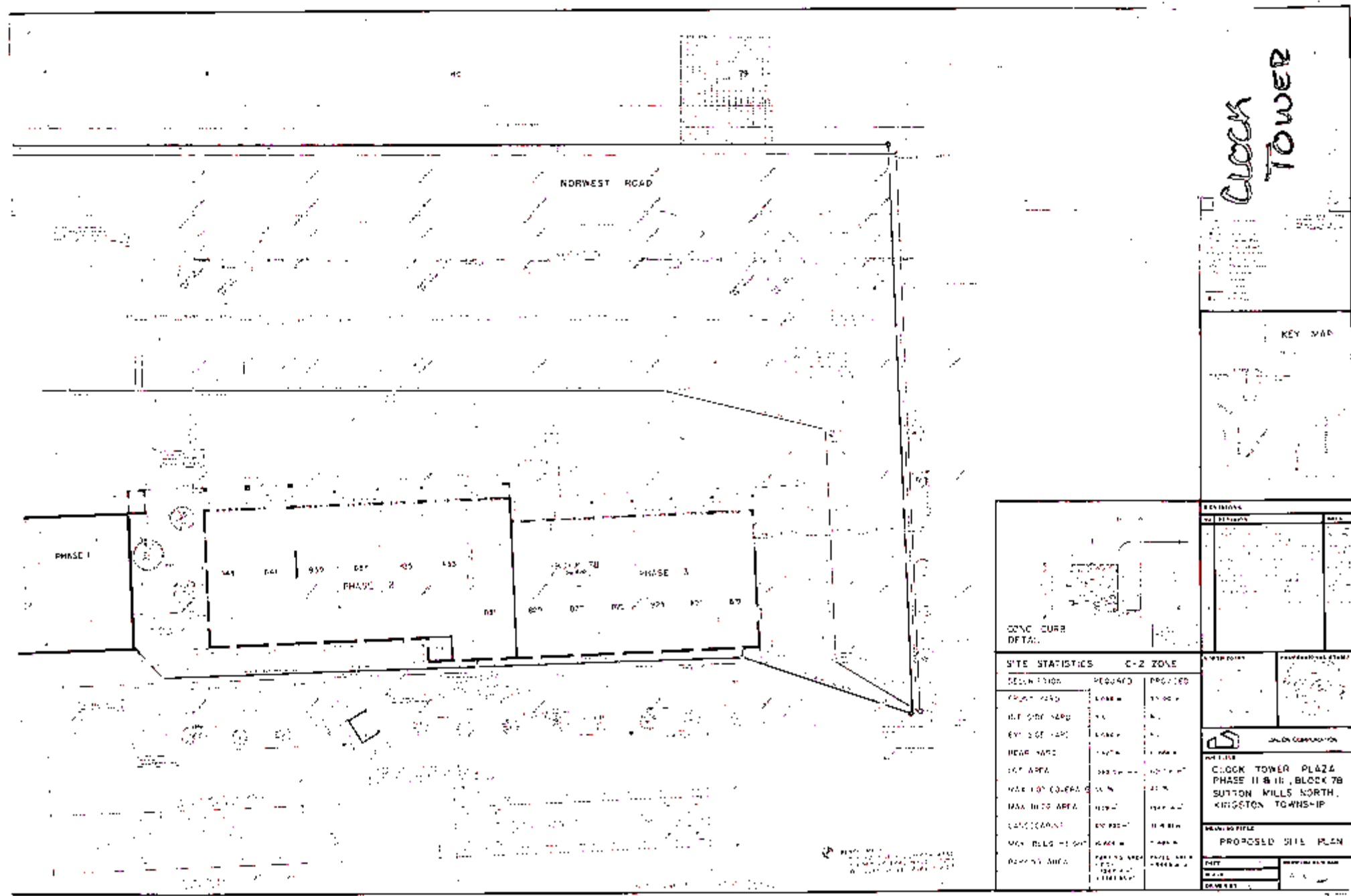
- Subject Lands
- Consolidated Zoning



PREPARED BY: Ichu
DATE: 2019-12-19

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Clock Tower

KEY MAP

<p>CONC CURB DETAIL</p>		<p>REVISIONS</p> <table border="1"> <tr> <th>NO.</th> <th>REVISION</th> <th>DATE</th> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>	NO.	REVISION	DATE																													
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<p>SITE STATISTICS C-2 ZONE</p> <table border="1"> <thead> <tr> <th>DESCRIPTION</th> <th>REQUIRED</th> <th>PROVIDED</th> </tr> </thead> <tbody> <tr> <td>FRONT YARD</td> <td>100% W</td> <td>15.00 W</td> </tr> <tr> <td>REAR YARD</td> <td>15%</td> <td>15%</td> </tr> <tr> <td>LEFT SIDE YARD</td> <td>100% W</td> <td>15%</td> </tr> <tr> <td>RIGHT SIDE YARD</td> <td>100% W</td> <td>15%</td> </tr> <tr> <td>LOT AREA</td> <td>388.00 SQ FT</td> <td>388.00 SQ FT</td> </tr> <tr> <td>MAX LOT COVERAGE</td> <td>35%</td> <td>21%</td> </tr> <tr> <td>MAX BLDG AREA</td> <td>135.80 SQ FT</td> <td>81.48 SQ FT</td> </tr> <tr> <td>LANDSCAPE</td> <td>50.00 SQ FT</td> <td>11.48 SQ FT</td> </tr> <tr> <td>MAX BLDG HEIGHT</td> <td>35.00 FT</td> <td>14.00 FT</td> </tr> <tr> <td>PERMITTED AREAS</td> <td>PERMITTED AREAS</td> <td>PERMITTED AREAS</td> </tr> </tbody> </table>	DESCRIPTION	REQUIRED	PROVIDED	FRONT YARD	100% W	15.00 W	REAR YARD	15%	15%	LEFT SIDE YARD	100% W	15%	RIGHT SIDE YARD	100% W	15%	LOT AREA	388.00 SQ FT	388.00 SQ FT	MAX LOT COVERAGE	35%	21%	MAX BLDG AREA	135.80 SQ FT	81.48 SQ FT	LANDSCAPE	50.00 SQ FT	11.48 SQ FT	MAX BLDG HEIGHT	35.00 FT	14.00 FT	PERMITTED AREAS	PERMITTED AREAS	PERMITTED AREAS	<p>CONC CURB DETAIL</p> <p>PROPOSED SITE PLAN</p> <p>PROJECT TITLE CLOCK TOWER PLAZA PHASE II & III, BLOCK 78 SUTTON MILLS NORTH, KINGSTON TOWNSHIP</p> <p>PROJECT FILE PROPOSED SITE PLAN</p> <p>DATE DRAWN BY CHECKED BY</p>
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