



**City of Kingston
Report to Committee of Adjustment
Report Number COA-21-020**

To: Chair and Members of the Committee of Adjustment
From: Sarah Oldenburger, Planner
Date of Meeting: March 22, 2021
Application for: Minor Variance
File Number: D13-059-2020
Address: 966 Old Front Road
Owner/Applicant: Mary Reid

Council Strategic Plan Alignment:

Theme: Business as usual

Goal: See above

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variance for the property located at 966 Old Front Road. The applicant is proposing to replace the existing front porch, which is in need of repair and add an approximately 21.3 square metre (229 square foot) deck on the front of the principal dwelling unit. The existing porch and set of stairs, currently projects approximately 2.21 metres (7.25 feet) beyond the front of the principal dwelling unit. The proposed deck projects approximately 2.44 metres (8 feet) from the front of the principal dwelling unit. The proposed deck would be 1.22 metres (4 feet) from the front lot line, which necessitates a variance of 2.28 metres (7.5 feet).

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.

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Variance Number 1:

By-Law Number 76-26: Section 5(25)(b)

Requirement: Minimum setback from front lot line is 3.5 metres (11.5 feet) for decks more than 0.6 metres and less than 1.2 metres (i.e. between 2 feet and 4 feet) in height above finished grade.

Proposed: 1.22 metres (4 feet)

Variance Requested: 2.28 metres (7.5 feet)

Recommendation:

That minor variance application, File Number D13-059-2020, for the property located at 966 Old Front Road, be Approved; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-21-020.

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Authorizing Signatures:



Sarah Oldenburger, Planner

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

Paige Agnew, Commissioner, Community Services

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Options/Discussion:

On November 7, 2020, a minor variance application was submitted by Mary Reid, with respect to the property located at 966 Old Front Road. The variance is requested for an approximately 21.3 square metre (229 square foot) deck that has an average height between 0.6 and 1.2 metres (between 2 feet and 4 feet) above finished grade on the southeast elevation of principal dwelling unit. The proposed deck projects approximately 2.44 metres (8 feet) from the front of the principal dwelling unit and will replace an existing porch and set of stairs which require replacement or significant repair.

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

- Cover Letter;
- Site Plan (Exhibit G);
- Surveyor's Plan (Exhibit H); and
- Sketch of the Front of the House.

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 within the Urban Boundary on Old Front Road, which is southwest of the intersection of two arterial roads (Bayridge Drive and Front Road), southeast of the Kingston Airport, with the front of the house facing Horsey Bay, Lake Ontario. The subject property is located at 966 Old Front Road and is designated "Residential" in the Official Plan and zoned "R1" in Zoning By-Law Number 76-26. The property abuts three residential uses also in the "R1" zone: 974 Old Front Road, 962 Old Front Road, and 233 Smuggler's Cove Drive.

Application

The review of an application for minor variance is not a simple mathematical calculation, but rather a detailed assessment of whether the variance requested meets 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 above, 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 (the PPS). The PPS provides policy direction on matters of provincial interest related to land use planning and development which are complemented by local policies addressing local interests. The application being considered is site specific to accommodate a specific proposal and does not involve any major policy considerations and as such, the proposal conforms to and is consistent with the PPS.

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

The subject property is designated “Residential” in the City of Kingston Official Plan.

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 subject property is designated “Residential” in Schedule 3-A of the Official Plan.

The subject property is located within a Housing District as noted in Schedule 2 and this proposal does not seek a significant change that would impact the neighbourhood characteristics. The subject property is located in a stable area with well-established land use patterns in terms of density, types of use(s) and activity. The addition of the proposed deck would not negatively impact the neighbourhood.

The proposal is in compliance with the recommendations set out by Cataraqui Region Conservation Authority (CRCA), ensuring that shoreline protection and the protection of health and safety (as detailed in Section 5.3.) are met by this development. CRCA has no concerns with the proposed deck.

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;

Section 2.7.3 discusses land use compatibility matters, such as how structures on one property can affect an abutting property. This application is to build a deck attached to the primary dwelling in the front yard of the subject property. In this case, there are no negative off-site impacts that would result from the proposed changes to the property. Due to the fact that the house is well separated from the neighbouring properties, there is no threat of shadowing, loss of privacy due to intrusive overlook, increased levels of light pollution, noise, or odour anticipated from the addition of the proposed deck. Existing sight lines are anticipated to remain given the generous eastern side yard setback and the fact that the subject property is located close to the front lot line relative to neighbouring properties. The western neighbour will maintain privacy in the side yard and part of their front yard due to the deck’s placement at the front of the subject property. Mitigation measures are not required. In addition, several properties on Old Front Road have front yard decks or large front yard porches.

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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;

Section 2.7.6. discusses functional needs and supports only development proposals which meet the long-term needs of the residents. The proposed deck is a suitable scale and will replace an unused front porch which requires replacement or significant repair. The current owner has used the side door as the primary entrance since they purchased the subject property in 2011. The proposed deck is accessed through a door which is level with the kitchen and living room area and will provide additional outdoor amenity space for the residence. The proposal will not negatively impact the functional needs of the current or future residents.

4. 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;

This proposal is not subject to Site Plan Control. The property is not within a Heritage Conservation District and is not abutting/adjacent to any registered or listed properties with cultural heritage value. The property is within an area of composite archaeological potential. However, given the proximity to the existing house and the proposed structure (deck with no foundation), 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 property is not designated under the *Ontario Heritage Act*, nor is it adjacent/abutting listed or designed heritage properties or districts.

6. 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 property utilizes municipal water and sewage services. As this application proposes to build a deck, no additional service usage is expected.

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 application and cumulative impact of the proposal does not warrant a zoning by-law amendment.

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- 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;

The Committee of Adjustment may require additional conditions as it deems appropriate to the approval of the application. Recommended conditions are listed in “Exhibit A - Recommended Conditions”, attached to this document. 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 approval of the requested variances will not set a precedent for the immediate area, as each minor variance is reviewed independently and judged on its own merits and metrics. The proposal meets the intent of the Official Plan, as the proposed deck 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 are maintained

The subject property is zoned “R1” in the City of Kingston Zoning By-Law Number 76-26, entitled "Township of Kingston Restricted Area By-Law", as amended. The “R1” zone permits residential uses (specifically, a single family dwelling house or a converted dwelling house) and non-residential uses (specifically, a home occupation or a public use in accordance of the provisions of Section 5(18) in Zoning By-Law Number 76-26).

The proposal requires a variance to Section 5(25): “Yard, Setback, and Height Encroachment Permitted.”

Variance Number 1:

By-Law Number 76-26:	Section 5(25)(b)
Requirement:	Minimum setback from front lot line is 3.5 metres (11.5 feet) for decks more than 0.6 metres and less than 1.2 metres (i.e. between 2 feet and 4 feet) in height above finished grade.
Proposed:	1.22 metres (4 feet)
Variance Requested:	2.28 metres (7.5 feet)

The purpose of the minimum setback from front lot line regulations in Zoning By-Law Number 76-26 is to control for the: (1) potential neighbouring property privacy/overlook concerns that could result in a reduction of the ability to enjoy one’s property; (2) potential loss of a consistent visual space for the residential community between the subject property and the roadway; (3) potential distraction of drivers which could result in a safety concern; and (4) to move development further from the waterfront which reduces the potential negative impacts of flooding as the subject property is located near Lake Ontario.

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The variance maintains the general intent and purpose of the zoning by-law since: (1) the proposed deck is well separated from the neighbouring properties (given the generous eastern side yard setback and the fact that the subject property is located close to the front lot line relative to neighbouring properties) such that there are no privacy/overlook concerns anticipated from the proposed deck; (2) the location of the existing house is closer to the front lot line than neighbouring properties such that a visual discrepancy already exists, and the proposed deck will only increase the projection into the front yard by approximately 0.23 metres (0.75 feet) when compared to the current front yard porch/stair configuration; (3) Old Front Road is a local street and the amount of vehicular traffic is lower than a collector or arterial street, such that an increased projection into the required 3.5m (11.5 feet) setback will be unlikely to cause distraction to drivers; and (4) the proposed deck has been reviewed by CRCA, the local authority on flooding and environmental hazards, and the CRCA has no concerns with the proposed deck.

The general intent and purpose of the Zoning By-Law Number 76-26 is maintained.

3) The variance is minor in nature

The requested variance to allow a 2.28 metres (7.5 feet) reduction in the minimum setback from the front lot line is considered minor as the proposed deck: (1) is replacing an existing non-complying porch and set of stairs in disrepair which currently project approximately 2.21 metres (7.25 feet) from the main building; (2) does not change the fundamental characteristics of the neighbourhood as the majority of the houses that face Horsey Bay on Old Front Road have a deck on the front their house; (3) would be situated on a property with a large future road allowance area which is well landscaped with a picket fence and hedges which would reduce potential visual discrepancies and enable the deck to appear physically distanced (i.e. have an appropriate setback) from the existing roadway which would maintain the character of the neighbourhood; (4) fulfills all of the other deck policies in Section 5(25)(b); (5) is not anticipated to have any adverse off-site impacts; and (6) CRCA with no concerns regarding the location of the proposed deck.

The proposed variance is considered minor in nature.

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

The variance is desirable and appropriate use of the land as: (1) the owner is seeking to replace the existing stairs and porch (currently in disrepair) with the proposed deck, which will increase the functional amenity space of the residence while not having any adverse off-site impacts as the house is well separated from the neighbouring properties; (2) the proposed deck is compatible with the neighbourhood as the majority of the houses that face Horsey Bay on Old Front Road have a deck on the front their house; and (3) the scale and design of the proposed deck are appropriate for the dwelling size and the design is characteristic of the neighbourhood and surrounding decks/porches.

The proposed variance is desirable and appropriate use of the land.

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Technical Review: Circulated Departments and Agencies

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

Technical Comments

This application was circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude this application from moving forward. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

Public Comments

At the time this report was finalized, February 19, 2021, 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 are no concurrent or relevant historic planning applications on the subject property.

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.

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, 2020

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 March 22, 2021. 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 28 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:

None

Financial Considerations:

None

Contacts:

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

Sarah Oldenburger, Planner, 613-546-4291 extension 3288

Phillip Prell, Planner, 613-546-4291 extension 3219

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

Exhibit A Recommended Conditions

Exhibit B Key Map

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- Exhibit C Public Notification Map
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Number 76-25, Map 5
- Exhibit F Neighbourhood Context Map (2019)
- Exhibit G Site Plan
- Exhibit H Surveyor's Plan

Recommended Conditions for Approval

Application for Minor Variance, File Number: D13-059-2020

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

1. 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.

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 drawings, including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. Additional variances may be required should further zoning deficiencies be identified through the Building Permit application process.

2. 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. Limitation

That the approved variance applies only to the proposed unenclosed deck at 966 Old Front Road as shown on the approved plans attached to the Notice of Decision.

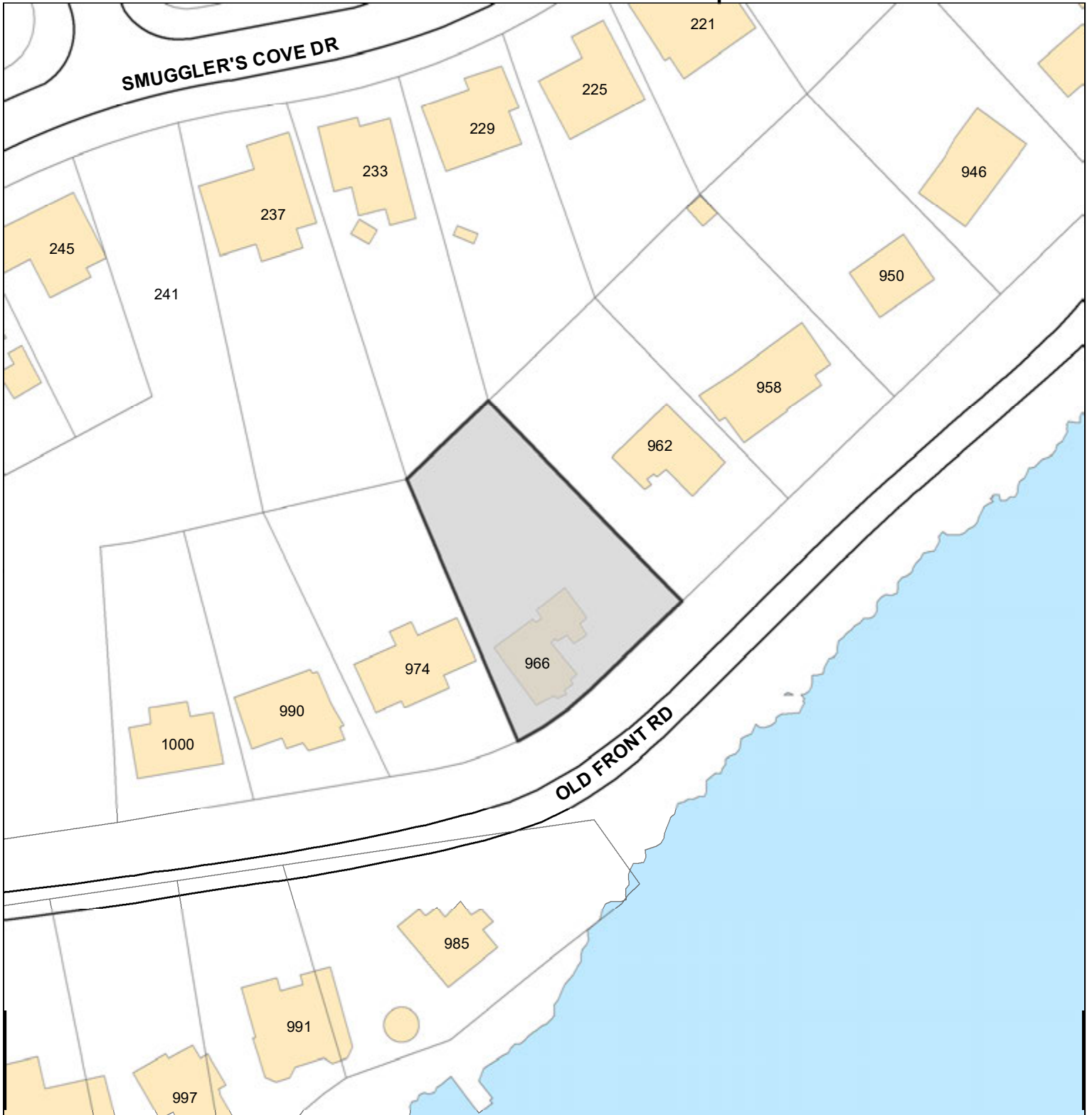
4. No Adverse Impacts

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.

5. Cataraqui Region Conservation Authority

The owner/applicant is advised that all development and site alteration proposed within 120 metres of the lake is subject to permission under Ontario Regulation 148/06: Development, Interference with Wetlands, and Alterations to Shorelines and

Watercourses. This will apply to any development, construction, any associated grading, placement of fill or other site alteration. The application package can be downloaded from <https://crca.ca/wp-content/uploads/PDFs/Planning-Policy/2018-148-06-ApplicationPackage.pdf>.

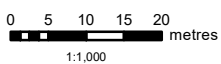


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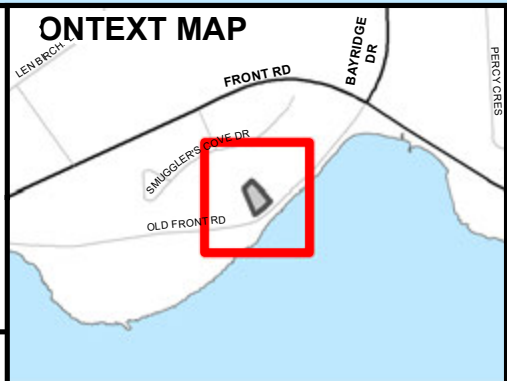
COMMITTEE OF ADJUSTMENT
Key Map

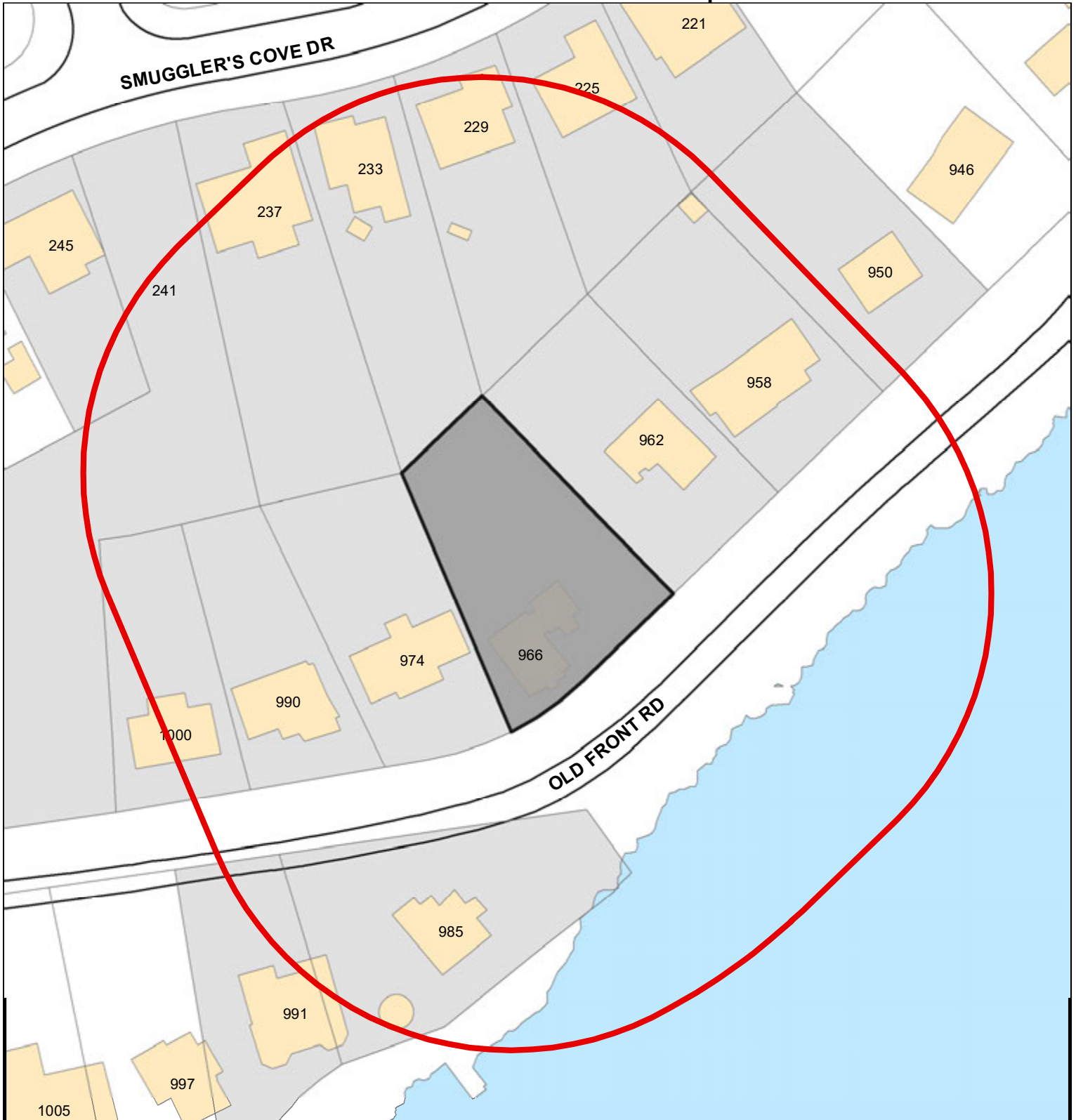
File Number: D13-059-2020
Address: 966 Old Front Rd



DATE: 2020-12-11
PREPARED BY: akeeping

 Lands Subject to Minor Variance

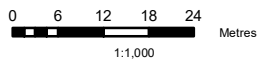




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COMMITTEE OF ADJUSTMENT
Public Notice Notification Map

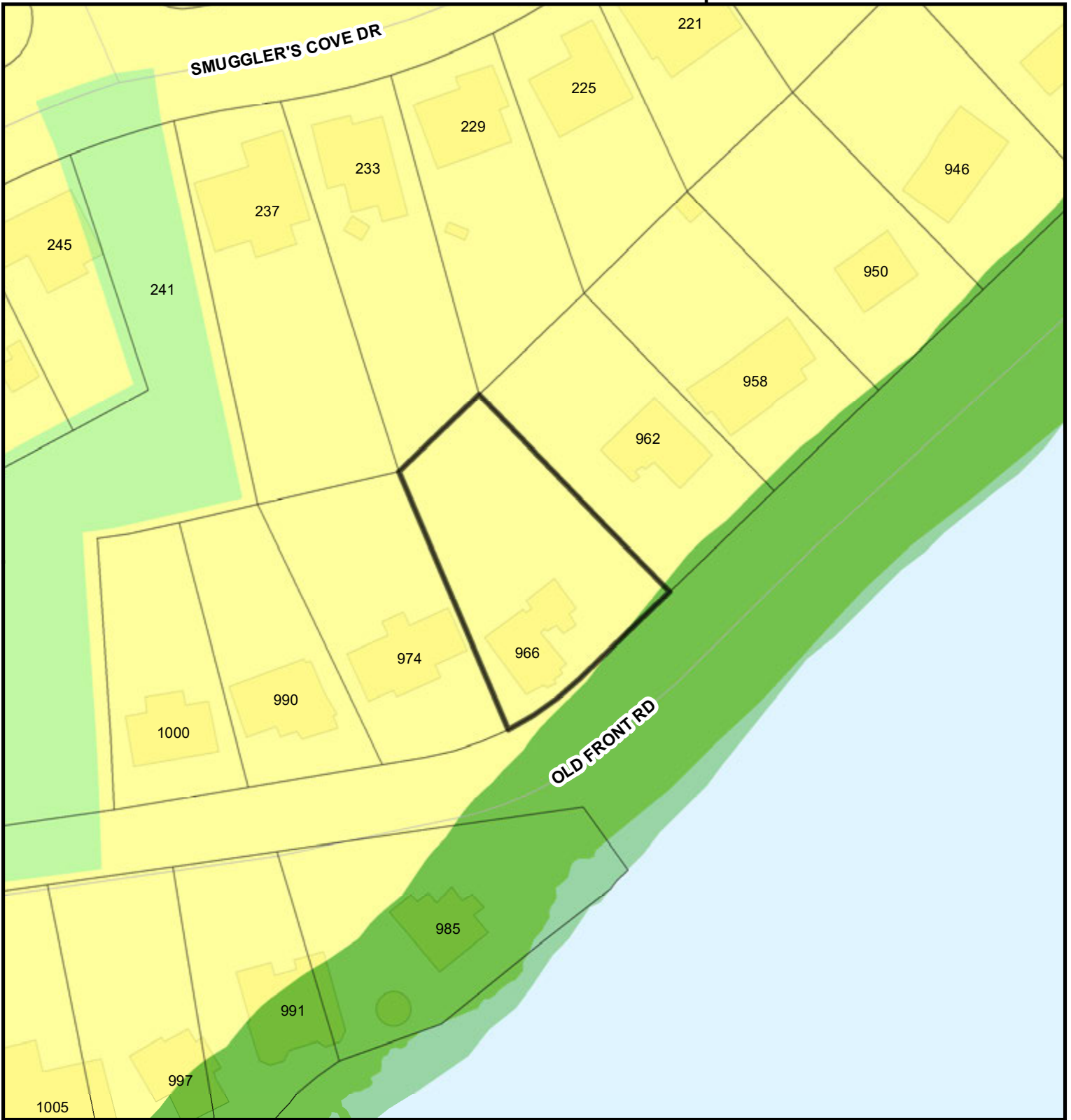
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Legend

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

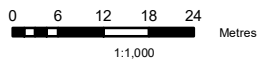




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COMMITTEE OF ADJUSTMENT
Official Plan, Existing Land Use

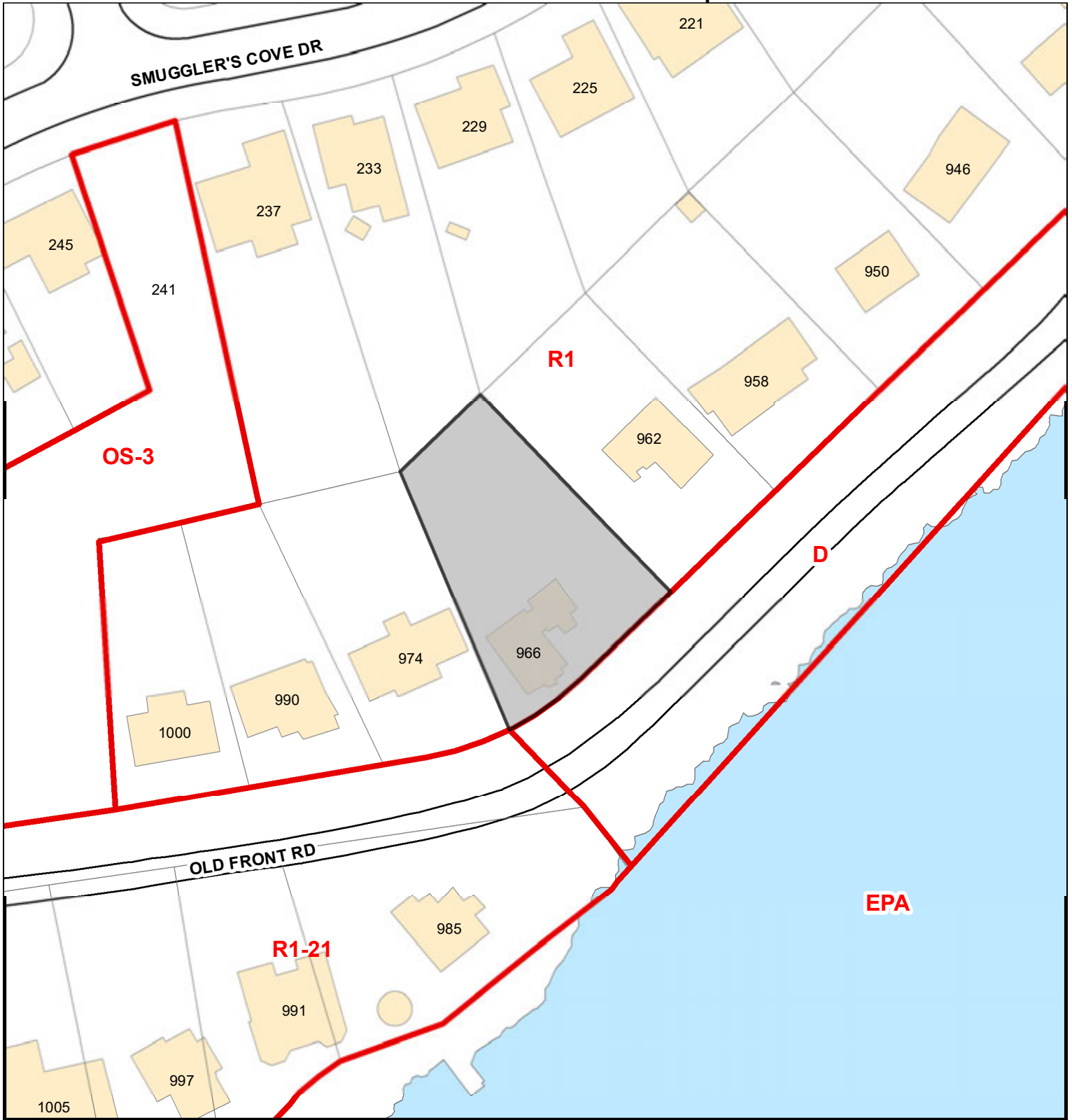
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Address: 966 Old Front Rd



Legend

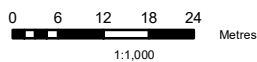
- Subject Lands
- ENVIRONMENTAL PROTECTION AREA
- OPEN SPACE
- RESIDENTIAL







COMMITTEE OF ADJUSTMENT
Existing Zoning - By-law 76-26, Map 5

File Number: D13-059-2020
Address: 966 Old Front Rd



Legend

-  Subject Lands
-  Consolidated Zoning

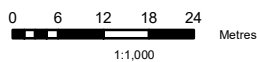






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COMMITTEE OF ADJUSTMENT
Neighbourhood Context (2019)

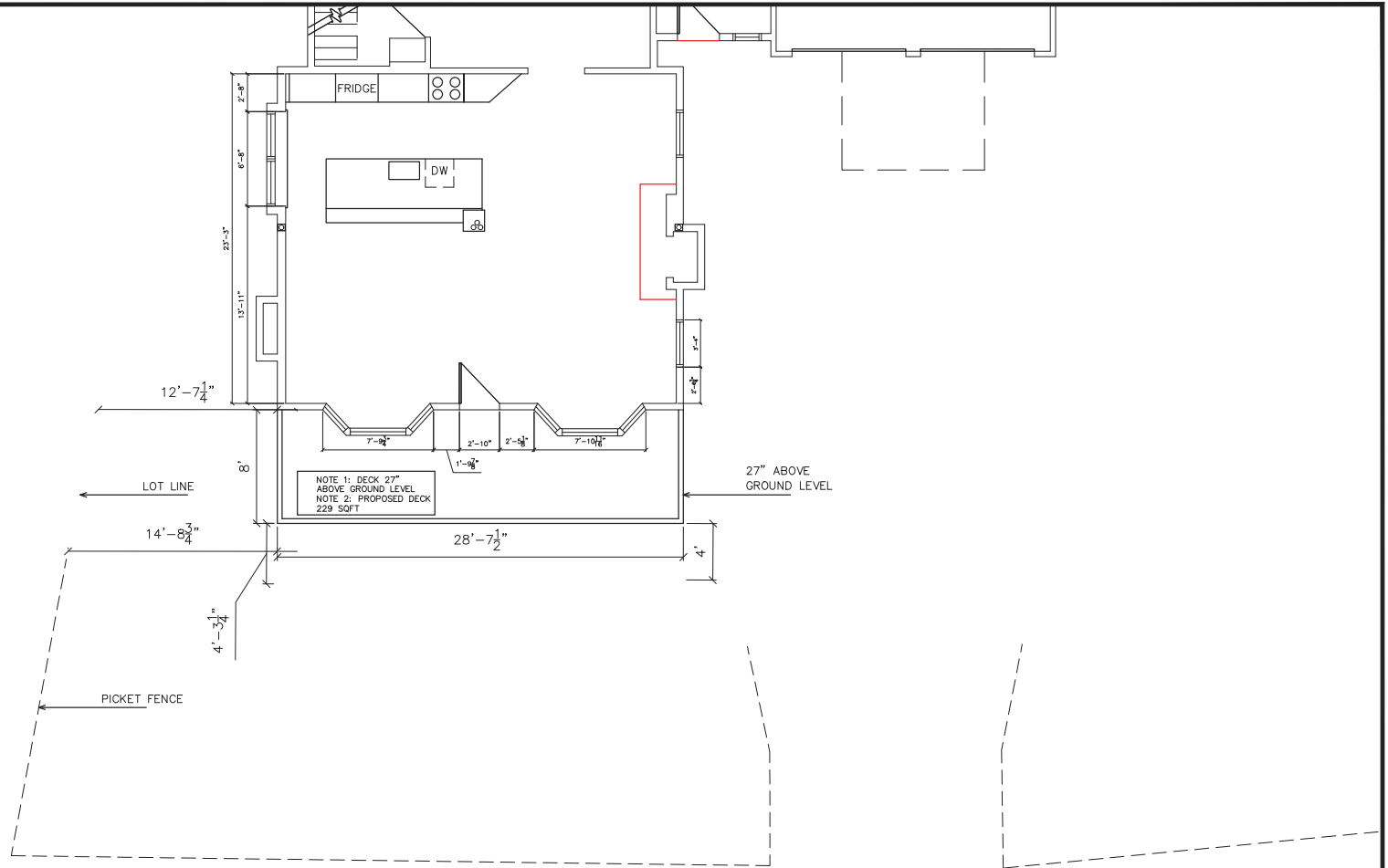
File Number: D13-059-2020
Address: 966 Old Front Rd



Legend

-  Subject Lands
-  Property Boundaries





- The contractors shall verify all on site dimensions, elevations and conditions and be responsible for the accuracy of same.
- This drawing shall not be scaled.
- This project includes drawings, specifications, and tender documents by the designer, structural, electrical and mechanical engineers. All documents shall be read in conjunction with each other.
- All contractors must comply with all pertinent codes and by-laws.
- Copyright reserved. This drawing is the exclusive property of REID & SIEMONSEN DESIGN GROUP and shall not be used in any manner whatsoever without the consent of the design consultant.
- All drawings, specifications, and tender documents shall be returned to REID & SIEMONSEN DESIGN GROUP on request.

NO.	DATE	ISSUED	BY

**REID & SIEMONSEN
DESIGN GROUP**

350 Bagot Street, Kingston, Ontario
K7K 3B7

Tel: (613) 548-7891
Fax: (613) 546-2702

PROJECT NORTH:



SCALE:
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20012021

PROJECT NAME:
REID

DRAWN BY:
EMILY
CHECKED BY:

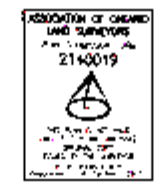
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EXTERIOR DECK

DRAWING NO.:

SHEET NO.:

Surveyor's Real Property Report (PART 1)
PLAN of LOT 2, REGISTERED PLAN No. 457
Geographic Township of Kingston
CITY of KINGSTON
COUNTY of FRONTENAC
SCALE = 1:250

HOPKINS CHITTY LAND SURVEYORS INC.
- 2020 -



PART 2
This Plan must be filed in a public office in the County of Kingston.
Date November 5, 2020
This Report was prepared for Mark Ward and the undersigned accepts its legal liability for use by other Parties.

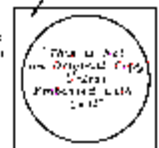
BEARING NOTE:
BEARINGS AND DISTANCES TAKEN FROM THE POINTS OF BEGINNING AND FROM THE INTERSECTION OF THE LINES TO WHICH THEY REFER.
FOR NEARLY CONJECTURES A CORRECTION OF 0.0000000000 WAS APPLIED TO BEARINGS IN 1992.
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CORRECTIONS FOR CURVATURE AND FOR REFRACTION WERE NOT APPLIED TO BEARINGS OR DISTANCES.
DISTANCES WERE MEASURED BY ELECTRONIC DISTANCE MEASUREMENT AND ARE CONSIDERED TO BE CORRECT TO 1:250,000.

- LEGEND:**
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 - 100. Surveyor's Office

SURVEYOR'S CERTIFICATE:
I, the undersigned, being a duly qualified and licensed Surveyor, do hereby certify that the above is a true and correct copy of the original plan as shown to me by the client, and that the same has been filed in the public office in the County of Kingston, Ontario, on the 5th day of November, 2020.

HOPKINS CHITTY LAND SURVEYORS INC.
DATE NOVEMBER 5, 2020

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