

City of Kingston Report to Committee of Adjustment Report Number COA-24-033

To: Chair and Members of the Committee of Adjustment

From: Genise Grant, Senior Planner

Date of Meeting: March 18, 2024

Application for: Minor Variance

File Number: D13-012-2024

Address: 900-920 Gardiners Road

District: District 6 - Trillium

Owner: Braebury Properties Co.

Applicant: Braebury Properties Co.

Council Strategic Plan Alignment:

Theme: 1. Support Housing Affordability

Goal: 1.2 Promote increase in purpose-built rental housing.

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for minor variances for the property located at 900-920 Gardiners Road. The variance is requested to obtain relief from minimum privacy yards and visitor parking setbacks to support development of the site with three new 6-storey residential buildings.

The requested minor variances are consistent with the general intent and purpose of both the City of Kingston Official Plan and Kingston Zoning By-Law Number 76-26. The requested minor variances are desirable for the appropriate development or use of the land, building or structure and are minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval.

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Recommendation:

That minor variance application, File Number D13-012-2024, for the property located at 900-920 Gardiners Road to obtain relief from minimum privacy yards and visitor parking setbacks to support development of the site with three new 6-storey residential buildings, be approved, as described below:

Variance Number 1:

By-Law Number 76-26: 15(2)(o)(ii) - Privacy Yards for Parking Area or Driveway

Requirement: 7.6 metres (25 feet)

Proposed: 3 metres Variance Requested: 4.6 metres

Variance Number 2:

By-Law Number 76-26: 15(2)(o)(ii) – Privacy Yards for Pedestrian Access Surface

Requirement: 3.7 metres (12 feet)

Proposed: 1 metre

Variance Requested: 2.7 metres; and

Variance Number 3:

By-Law Number 76-26: 16 (c) – Visitor Parking Location

Requirement: 7.6 metres (25 feet) to streetline and 3.1 metres (10 feet) to side lot line

Proposed: 0.5 metres from streetline and side lot line

Variance Requested: 7.1 metres and 2.6 metres

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-24-033.

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Authorizing Signatures:

Genise Grant, Senior Planner

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

Tim Park, Director, Planning Services Meghan Robidoux, Supervisor, Development Approvals

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Options/Discussion:

On January 29, 2024, a minor variance application was submitted by Braebury Properties Co. with respect to the property located at 900-920 Gardiners Road. The variance is requested to obtain relief from minimum privacy yards and visitor parking setbacks to support development of the site with three new 6-storey residential buildings.

The property obtained approval for minor variances from the Committee in 2023 through File Number D13-046-2023 related to setbacks from the regulatory flood plain and the minimum parking space requirement. Since that time, the applicant has submitted a Site Plan Control preapplication (D02-010-2023) to review further development details and support a future Site Plan Control application. Through technical review of the Site Plan Control pre-application, the variances recommended in this report were identified as required to support the proposed site plan. Staff are supportive of these variances and recommend approval as described further through this report.

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

Site Plan and Elevations (Exhibit F); and

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

Site Characteristics

The subject property is located on the eastern side of Gardiners Road, between Princess Street and Taylor Kidd Boulevard (Exhibit B – Key Map). The property is currently developed with a 7-storey apartment building and surface parking. A watercourse, being the west branch of Little Cataraqui Creek, runs along the southern portion of the property.

The surrounding area is generally characterized by 1-2 storey commercial buildings, including the Cataraqui mall, large box stores, and strip plazas containing smaller units. There are also a number of medium- and high-density residential uses in the area, including apartment buildings along Gardiners Road and a 5-storey retirement home to the northeast on Princess Street. There is a lower-density residential neighbourhood to the south along Davis Drive (Exhibit C – Neighbourhood Context Map).

The subject property is designated Residential in the Official Plan, with an Environmental Protection Area designation applied to the watercourse running along the southern lot line (Exhibit D – Official Plan Map). The property is treated as a "hole" under the new Kingston Zoning By-Law 2022-62 and remains subject to Zoning By-Law 76-26 (being the former Kingston Township By-Law). Zoning By-Law 76-26 applies a site-specific R4-15-H Zone to the site, along with an EPA zone associated with the watercourse (Exhibit E – Zoning By-Law Map).

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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 (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.

Minor Variance Application

The review of an application for minor variances is not a simple mathematical calculation, but rather a detailed assessment of whether the variances 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:

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

The subject property is mostly designated Residential in the City of Kingston Official Plan, with the watercourse along the southern edge of the property being designated Environmental Protection Area (Exhibit D – Official Plan Map). The proposed residential intensification on the site is supported by the designation. The lands are also within a Centre on Schedule 2-A of the Official Plan, which is where intensification is to be focused and where the greatest densities of residential and non-residential development are permitted.

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

The proposed development, and the associated variances, comply with the direction of the Plan. The application will facilitate intensification of the subject lands with purpose built rental units in a fully serviced, residentially designated area. The lands are in walking distance to commercial uses, parks, community services, and the Cataraqui Centre transfer point which provides express and local transit service throughout the City. The development will comply with height and density permissions for the lands and will be compatible with existing built forms in the area, while increasing the overall density along an arterial road.

The proposed reductions to minimum visitor parking setbacks will not create land use compatibility impacts as the adjacent property is commercially zoned and currently accommodates a vehicle-focused use with parking built to the front and side lot lines. The reduction to minimum privacy yard requirements does not impact adjacent properties and relates to the functional design of the subject lands. As further reviewed through the below section, the reduction continues to provide for sufficient separations and thoughtful site design to promote attractive ground-level residential units.

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The requested relief is minor in nature and is appropriately addressed through the minor variance process as described through this report. The final site design will be closely reviewed and regulated through the Site Plan Control process, with an agreement registered on title and securities held by the City to ensure approved works are adequately constructed.

The proposal meets the intent of the Official Plan, as the proposed residential development is supported by the residential designation and will not result in any negative impacts to adjacent properties or to the neighbourhood. The proposal will introduce a significant number of new residential homes into the local housing market.

2) The general intent and purpose of the Zoning By-Law are maintained:

The property is treated as a "hole" under the new Kingston Zoning By-Law 2022-62 and remains subject to Zoning By-Law 76-26 (being the former Kingston Township By-Law). Zoning By-Law 76-26 applies a site-specific R4-15-H Zone to the majority site, with an EPA zone associated with the watercourse applied to the southern portion of the lot (Exhibit E – Zoning By-Law Map).

The R4-15-H zone permits apartment buildings, a number of commercial uses, and public uses. The EPA zone permits various passive and open space uses. Residential uses and other main buildings are prohibited within the EPA zone.

The proposal requests a variance to Sections 5 and 15 of Zoning By-Law 76-26 in order to facilitate the proposed site plan. The first two variances requested relate to the privacy yard requirements of the parent R4 Zone. Privacy yards were included in some of the former preamalgamation by-laws, including Zoning By-Law 76-26, which continues to apply to the property. Privacy yard provisions were intended to provide physical separation between habitable ground floor windows and more broadly accessible pedestrian and vehicular access areas. Of note, privacy yard requirements were not carried forward into the Kingston Zoning By-Law, as there are a number of site and building design approaches that can achieve similar levels of privacy, such as reflective glass, internal blinds, and landscaping. It is in a developer's interest to ensure options for privacy of residents to create desirable units, however through the Kingston Zoning By-Law the City has taken the approach that this is a site-design decision that does not need to be regulated by zoning. Nonetheless, the privacy yard provisions do remain in the former by-law in effect for this property. Relief from these provisions is requested for redevelopment of this site, as follows:

Variance Number 1:

By-Law Number 76-26: 15(2)(o)(ii) – Privacy Yards for Parking Area or Driveway

Requirement: 7.6 metres (25 feet)

Proposed: 3 metres Variance Requested: 4.6 metres

Variance Number 2:

By-Law Number 76-26: 15(2)(o)(ii) – Privacy Yards for Pedestrian Access Surface

Requirement: 3.7 metres (12 feet)

Proposed: 1 metre

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Variance Requested: 2.7 metres

The R4 zone requires that apartment buildings providing more than 10 dwelling units incorporate privacy yards for both vehicular access areas and joint pedestrian pathways. The required privacy yard widths are 7.6 metres and 3 metres, respectively. Each of the 3 new proposed buildings provide some units with habitable rooms on the ground floor (being a living room or bedroom).

Throughout the site, a 3-metre separation is provided between any habitable room and a drive aisle or parking space. This separation provides sufficient room for intervening pathways and landscaping and provides physical separation between vehicles and the building. The conceptual floor plans for the buildings indicate that, where very limited habitable ground floor rooms are provided adjacent to vehicular areas in the majority of the buildings, the ground floor of building "F", being the building facing Gardiners Road, has a number of units on the ground floor. To provide an improved privacy condition, the ground floor will be slightly elevated above the level of the parking area, with planters provided adjacent to the windows. This condition will ensure that headlights are not shining directly into windows and that direct views into windows from the parking area are not provided. This condition effectively achieves the intent of the privacy yard provision. It is noted that the majority of parking for residents will be provided underground in a secure garage, and thus parking at-grade is expected to be mostly limited to visitors and less frequent, shorter-term parking.

The site will provide minimum 1-metre wide privacy yards between any ground floor window and a joint pedestrian pathway. This width provides sufficient room for intervening landscaping and ensures that neighbours are not grazing or leaning on habitable room windows and achieves the intent of the zoning by-law provision. The main pedestrian connection on the site, being the enhanced pathway providing a public easement through the site, does not generally abut any habitable room windows.

The third recommended variance pertains to the location of visitor parking on the site. Zoning By-Law 76-26 allows visitor parking to be located in the front yard, with all other parking required to be located in side or rear yards, or in a structure. The site will provide the majority of resident parking in a below-grade structure, with some parking provided at grade between and around the buildings. Visitor parking is proposed to be located in the front yard, in front of building "F". While the visitor parking location is supported by the by-law, request is recommended to permit the current configuration as it relates to setbacks of the parking area, as follows:

Variance Number 3:

By-Law Number 76-26: 16 (c) – Visitor Parking Location

Requirement: 7.6 metres (25 feet) to streetline and 3.1 metres (10 feet) to side lot line

Proposed: 0.5 metres from streetline and side lot line

Variance Requested: 7.1 metres and 2.6 metres

The zoning by-law requires visitor parking areas to be setback 7.6 metres from the streetline, defined as the line separating a lot from a street. This provision intends to protect the ability of

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the City to obtain road widenings by limiting physical encumbrances on lands within a potential widening area. It also intends to allow sufficient space for physical separation between parking areas and sidewalks, and to allow landscaping to be incorporated and have sufficient room for tree roots. In this case, through technical review of the Site Plan Control application it has been confirmed that no road widening is being requested for this site. Further, the road allowance along Gardiners Road is wide, and a 9.8 metre physical separation is provided between the curb and the closest portion of proposed parking. In this intervening space, the applicant will be constructing a public sidewalk and incorporating additional tree plantings through the future Site Plan Control agreement. As such, the relationship between the street and the parking area will achieve the intent of the zoning by-law provision. It is noted that the existing apartment building on the site provides resident parking in front of the building along Gardiners Road, and as such this visitor parking location will be a continuation of the existing long-standing condition on the site.

The by-law also requires any part of a parking area to be setback 3.5 metres from a side lot line to promote compatibility with adjacent land uses. The site plan ensure that parking spaces are setback 3.5 metres from the northern side lot line, however the functional turn area will extend into this setback. This area will be limited in use to the two northernmost parking spaces. The adjacent property to the north accommodates a commercial automotive-related business with parking provided up to the shared lot line, and as such the reduced setback on the subject property will be compatible with the adjacent land use. The visitor parking location thus aligns with the intent of the zoning by-law.

3) The variances are minor in nature:

The variances are considered minor in nature as they will not result in adverse impacts to surrounding properties and will continue to provide a functional site layout. As described above, the reduced privacy yards will continue to provide sufficient physical separation between habitable windows and joint-accessed pathways and vehicular spaces. The site can effectively use other design approaches, such as grade changes, glass selection and internal blinds, to provide safe and attractive units for residents. The relief to visitor parking setbacks will not impact adjacent uses or the ability of the City to protect its road allowance. The site design will provide physical separation and landscaping between sidewalks and parking areas.

4) The variances are desirable for the appropriate development or use of the land, building or structure:

The variances are desirable for the appropriate development of the land as they will support a functional site layout in order to significantly increase the residential density on the centrally located, serviced lands.

Technical Review: Circulated Departments and Agencies

×	Building Services	☐ Engineering	☐ Heritage Service	es
	Finance	☐ Utilities Kingston	☐ Real Estate	

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×	Building Services	☐ Engineering	Heritage Services
	Fire & Rescue	☐ Kingston Hydro	Environment Division
	Solid Waste	□ Parks Development	Canadian National Railways
	Housing	 District Councillor 	Ministry of Transportation
	KEDCO	☐ Municipal Drainage	Parks of the St. Lawrence
	CRCA	☐ KFL&A Health Unit	Trans Northern Pipelines
	Parks Canada	☐ Eastern Ontario Power	CFB Kingston
	Hydro One	☐ Enbridge Pipelines	TransCanada Pipelines
	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 comments on the application had been received. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

Previous or Concurrent Applications

- D13-046-2023 Minor variance for floodplain setbacks and minimum parking ratio
- D02-010-2023 Pre-Application (Site Plan Control)

Conclusion

The requested variances maintain the general intent and purpose of both the City of Kingston Official Plan and Kingston 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(s) are minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and the application is being recommended for approval, subject to the proposed conditions.

Approval of this application will facilitate intensification of the site with three new residential apartment buildings.

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

Kingston Zoning By-Law Number 76-26

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on March 18, 2024 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 21 property owners (according to the latest Assessment Roll) within 60 metres of the subject property and a courtesy notice was placed in The Kingston Whig-Standard (Exhibit H – Public Notification Map).

Once a decision has been rendered by the Committee of Adjustment, a Notice of Decision will be circulated in accordance with the provisions of the *Planning Act*.

Accessibility Considerations:

None

Financial Considerations:

None

Contacts:

Meghan Robidoux, Supervisor, Development Approvals, 613-546-4291 extension 1256

Genise Grant, Senior Planner, 613-546-4291 extension 3185

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

Exhibit A Recommended Conditions

Exhibit B Key Map

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Exhibit C Neighbourhood Context Map

Exhibit D Official Plan Map

Exhibit E Zoning By-Law Map

Exhibit F Site Plan and Elevations

Exhibit G Site Photos

Exhibit H Public Notice Map

Recommended Conditions

The approval of minor variance application, File Number D13-012-2024, to obtain relief from minimum privacy yards and visitor parking setbacks to support development of the site with three new 6-storey residential buildings, shall be subject to the following recommended conditions:

1. Limitation

That the approved minor variance applies only to intensification of the property with three new apartment buildings, as generally shown on the approved drawings attached to the notice of decision.

2. No Adverse Impacts

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

3. Building Permit Application Requirements

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

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

4. Standard Archaeological Condition

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

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



Committee of Adjustment **Neighbourhood Context**

Address: 900 Gardiners Road File Number: D13-012-2024 Prepared On: Feb-05-2024

Subject Lands
Property Boundaries
Proposed Parcels



675

36

640

801

887

883

879

875

886

60

885

20

40

1:2,000

888

890

Metres

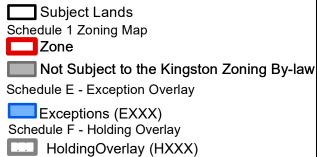


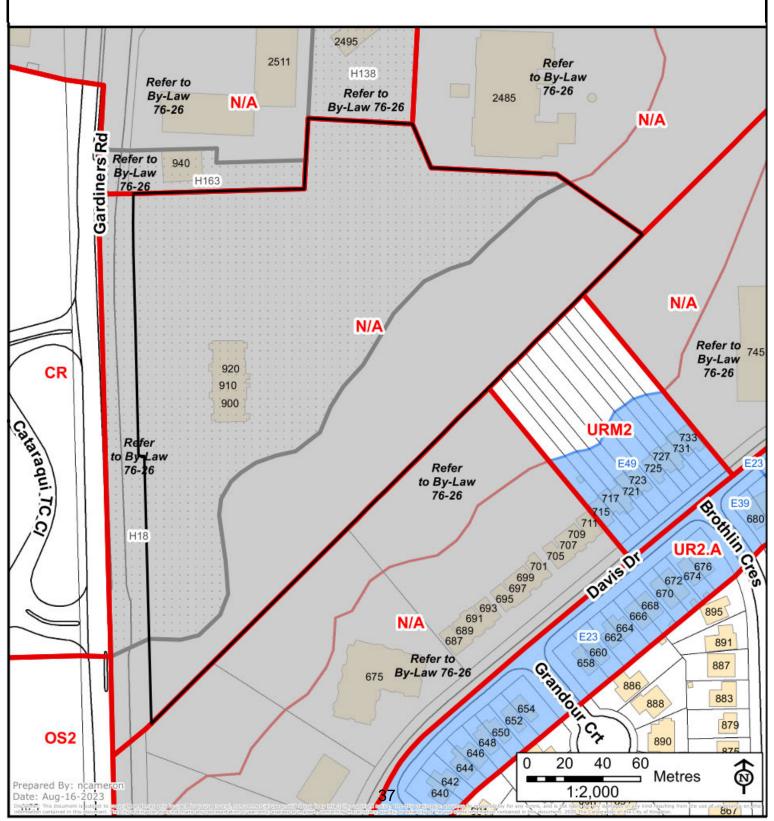
Planning Committee

Existing Zoning Kingston Zoning By-Law 2022-62

Planning Services

Address: 920 Gardiners Road File Number: D13-046-2023







Committee of Adjustment

Existing Zoning - By-law 76-26, Map 5

Address: 920 Gardiners Road File Number: D13-046-2023

Subject Lands

Consolidated Zoning

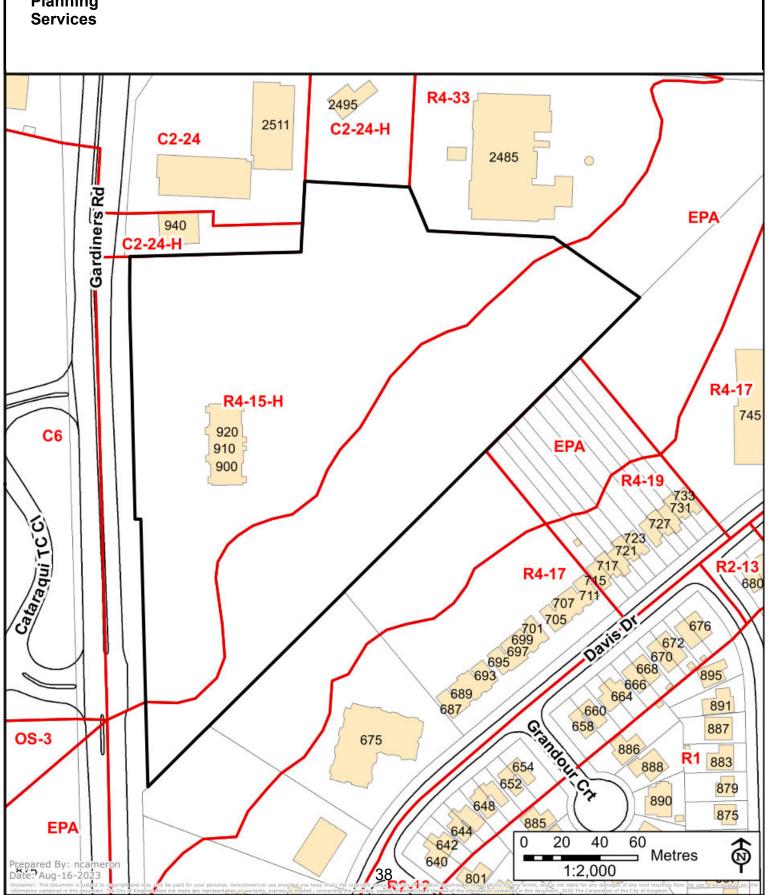
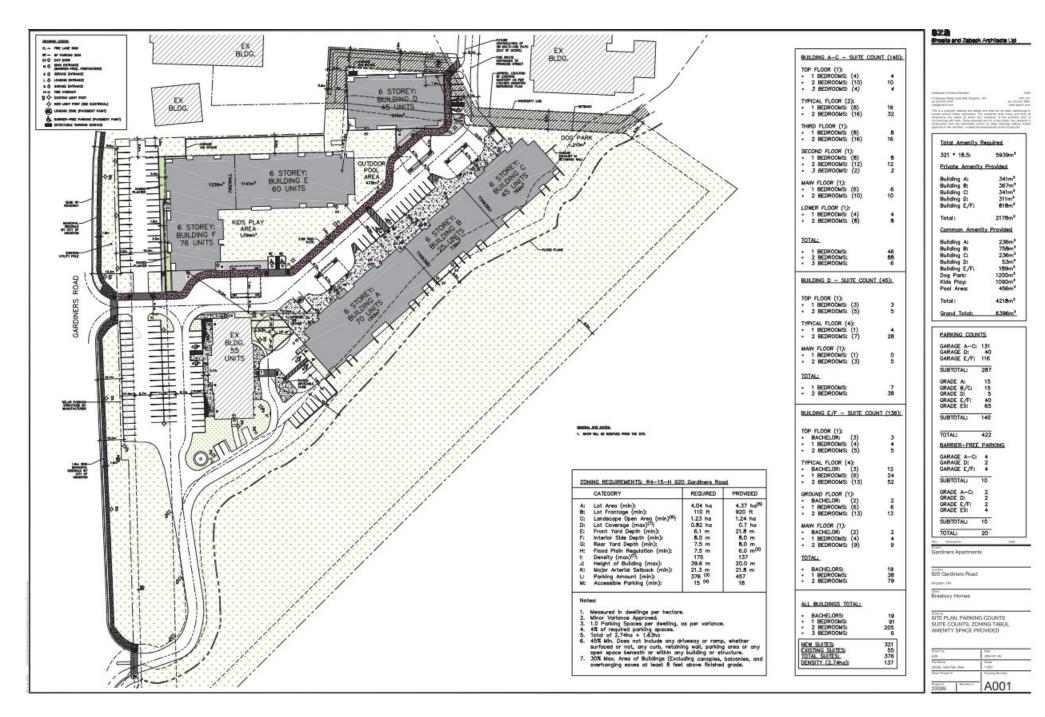
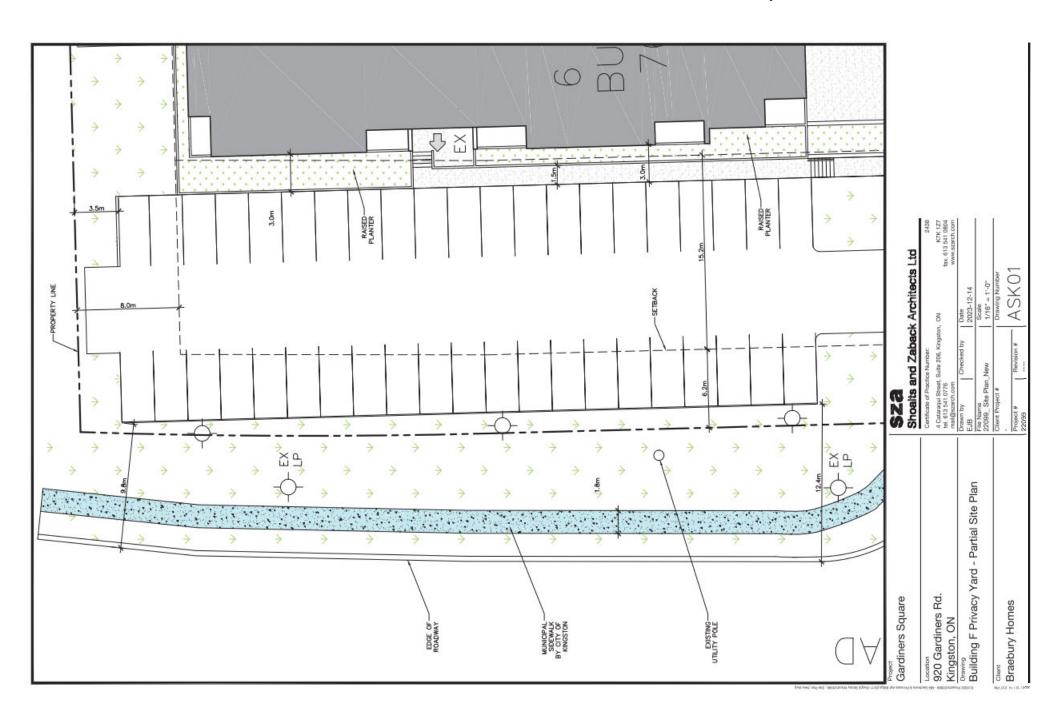


Exhibit F Report Number COA-24-033









Site Photos - Taken from Google Images



From Gardiners Road looking east, with existing apartment building and parking area to the right and vacant portion of the lands to the left.



From Gardiners Road looking southeast, with existing apartment to the right and adjacent automotive use to the left:



Committee of Adjustment

Public Notice Notification Map

Address: 900 Gardiners Road File Number: D13-012-2024

60m Public Notification Boundary

Subject Lands

Property Boundaries

