



**City of Kingston
Report to Committee of Adjustment
Report Number COA-24-061**

To: Chair and Members of the Committee of Adjustment
From: Jacob Slevin, Planner
Date of Meeting: July 15, 2024
Application for: Minor Variance
File Number: D13-040-2024
Address: 780 Gardiners Road
District: District 6 - Trillium
Owner: 2832719 Ontario Inc.
Applicant: The Boulevard Group

Council Strategic Plan Alignment:

Theme: Regulatory & compliance

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 780 Gardiners Road. The applicant is seeking a minor variance to exempt a proposed automatic car wash from the requirement to provide a loading space.

The property at 780 Gardiners Road currently contains an unused commercial building. The applicant has proposed to demolish the vacant building and redevelop the site for use as an automatic car wash. This proposal is currently going through technical review as part of a Site Plan Control application ([File Number D11-009-2024](#)). The Kingston Zoning By-law specifies that commercial uses with between 300 and 2,500 square metres of gross floor area, a minimum of one loading space must be provided. The new car wash building would have a gross floor area of more than 494 square metres, and as such a loading space is required by

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the Kingston Zoning By-Law. Despite this zoning requirement, the applicant has advised that a loading space is not necessary for the proposed automatic car wash. The proposed commercial activities on site are limited to a car wash and several vacuum cleaning units. Given the nature of the proposed use, a dedicated space for the loading and unloading of vehicles on site is considered to be unnecessary in this case.

The requested minor variance is consistent with the general intent and purpose of both the City of Kingston Official Plan and Kingston Zoning By-Law Number 2022-62. 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:

That minor variance application, File Number D13-040-2024, for the property located at 780 Gardiners Road to exempt a proposed automatic car wash from the requirement to provide a loading space, be approved, as described below:

Variance Number 1:

By-Law Number 2022-62:Table 7.5.1

- Requirement: 1 loading space required for commercial uses with 300 to 2,500 square metres of gross floor area
- Proposed: 0 loading spaces required for commercial uses with 300 to 2,500 square metres of gross floor area
- Variance Requested: 1 loading space; and

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-24-061.

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Authorizing Signatures:



Jacob Slevin, Planner

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

Tim Park, Director, Planning Services

James Bar, Manager, Development Approvals

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Options/Discussion:

The applicant is proposing to develop an automated car wash on the property at 780 Gardiners Road. A site plan control application to permit the proposal is currently undergoing a technical review by City Staff (File Number D11-009-2024). Staff advised the applicant that for commercial developments with a gross floor area between 300 and 2,500 square metres, the Kingston Zoning By-Law requires that a loading space be provided on the property to allow a dedicated space for the loading and unloading of vehicles. Given the nature of the proposed car wash use a loading space is considered to be unnecessary for this form of development. Instead of providing an unnecessary loading space, the applicant intends to seek an exemption from the loading space requirement through a minor variance.

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

- Site Plan (Exhibit F)
- Owner Authorization Form

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, known municipally as 780 Gardiners Road, is located at the northeast corner of the intersection of Gardiners Road and Taylor-Kidd Boulevard (Exhibit B – Key Map). The property has an approximate area of 3983 square metres, with roughly 177 metres of frontage onto Taylor-Kidd Boulevard and 51 metres of frontage onto Gardiners Road. Vehicular access to the property is provided from the Gardiners Road frontage.

The property is surrounded by commercial land uses to the north, south, east and west. The built form of these uses primarily consists of individual one-storey commercial buildings and commercial plazas. The RioCan Centre, a major shopping centre containing numerous commercial uses, is located to the south (Exhibit C – Neighbourhood Context Map).

The subject property is designated Arterial Commercial in the Official Plan (Exhibit D – Official Plan Map) and zoned General Commercial (CG) in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map). The proposed car wash at 780 Gardiners Road is a permitted use for the CG zone and the Arterial Commercial land use designation. The subject lands are serviced using municipal water and wastewater infrastructure. The property is within walking distance of multiple bus stops, which provides access to Kingston Transit Routes 11 and 14, as well as Express Route 701.

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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 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:

The general intent and purpose of the Official Plan are maintained

The subject property is designated Arterial Commercial in the City of Kingston Official Plan (Exhibit D – Official Plan Map). 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 site at 780 Gardiners Road is within a designated Business District on Schedule 2 – City Structure of the Official Plan. The primary intention of Business Districts is to create opportunities for employment opportunities and service commercial uses which serve business activities. The applicant's proposal for a car wash at this site is a service commercial use and is therefore consistent with the intention of the Official Plan. The removal of the requirement for a loading space will help to facilitate the development of this proposed car wash use. Additionally, as the proposal would involve the conversion of an unused commercial property into an active business, this proposal supports the Official Plan's economic development policies as expressed in Section 2.9.

The proposed car wash development is expected to be compatible with the surrounding land uses. Commercial uses are the predominant land use for the area surrounding the subject property, and as such the addition of another commercial use such as a car wash would be suitable for the character of the area. Nothing relating to the proposed removal of the loading space requirement is anticipated to raise concerns with any of the land use compatibility matters listed in Section 2.7.

Nothing in this proposed variance will inhibit the functionality of the site in terms of access, parking, or accessibility. The applicant has proposed adequate parking and accessible parking spaces for a car wash, and bicycle parking is not required for a car wash intended to service vehicles. Accessibility matters will continue to be assessed in greater detail through the ongoing Site Plan Control application. Given that the site has limited area and requires adequate space

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to allow for functional circulation of vehicles, the provision of an unnecessary loading space could disrupt the flow of vehicles through the site. As such, the removal of a loading space requirement contributes to an improvement in the site’s functionality.

The property at 780 Gardiners Road is fully serviced with municipal infrastructure and sewage services. The property is not designated under the *Ontario Heritage Act*, contains no archeological resources, and is not adjacent to any built heritage resources or any heritage districts.

The proposed car wash complies with all applicable provisions of the Kingston Zoning By-Law aside from the loading space requirement. As the sole purpose of this application is to exempt the applicant from the requirement to provide a single loading space while complying with all other zoning requirements, a minor variance is considered to be a more appropriate means of seeking zoning relief, rather than a zoning by-law amendment.

The proposal to relieve the applicant from the requirement to provide a loading space is not anticipated to set an undesirable precedent. For this type of commercial use, a loading space is not needed and would be superfluous to the functioning of the proposed car wash. For other types of commercial uses, such as a retail or grocery store, loading and unloading of goods would clearly be necessary element of the use. As such, relief from loading space requirements would not be applicable to such commercial uses that actually require a dedicated loading space, and therefore this proposal will not set any undesirable precedents.

The proposal meets the intent of the Official Plan, as the proposal to remove the requirement for a loading space for this automatic car wash development will not result in any negative impacts to adjacent properties or to the neighbourhood.

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

The subject property is zoned General Commercial (CG) in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map). The CG zone permits a car wash, which the applicant has proposed to develop on the subject property.

The proposal requires a variance to Section 7.5.1, which directs that for commercial developments with 300 to 2,500 square metres of gross floor area, a loading space is required.

Variance Number 1:

By-Law Number 2022-62:Table 7.5.1

Requirement:	1 loading space required for commercial uses with 300 to 2,500 square metres of gross floor area
Proposed:	0 loading spaces required for commercial uses with 300 to 2,500 square metres of gross floor area
Variance Requested:	1 loading space

The intent of the loading space requirements established in the Kingston Zoning By-law is to ensure that sites containing employment and commercial uses can function effectively. Many

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commercial and employment uses, such as warehouses or retail stores, require the frequent loading and unloading of trucks and vehicles in order to keep these businesses supplied. The purpose of the loading space requirement is to ensure that a given commercial or employment use will have a dedicated area on site to be used specifically for loading and unloading.

Given that the intent of the loading space requirement is to ensure that delivery vehicles do not interfere with the functioning of a site containing an employment or commercial use, the applicant's proposal to remove the loading space requirement for the proposed car wash is consistent with the intent of the zoning by-law because a car wash use does not require regular loading and unloading of any goods. There is no retail component to the automatic car wash, the applicant's Site Plan indicates that the only services on site will be an automatic car wash and a vacuum cleaning service. The nature of these services does not require frequent loading and unloading of goods, and therefore a dedicated loading space is unnecessary to ensure site functionality in terms of maintaining open customer parking spaces and unobstructed flow of vehicles.

As such, the requested variance maintains the general intent and purpose of the zoning by-law.

The variance is minor in nature

The variance is considered minor as the removal of a loading space requirement for the car wash development is not expected to have any effect on the functioning of the car wash use, nor will there be any effect on any adjacent properties. Since a loading space is not necessary to ensure the functioning of the proposed car wash, the removal of the loading space requirement will not alter the operations of the car wash in any way. Based on a review of the applicant's Site Plan, all other applicable zoning provisions are being complied with by the proposed development and the only variance requested is to remove the requirement for the one required loading space.

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

The proposed variance is desirable, as it will help to facilitate the redevelopment of an under-utilized commercial property. The site at 780 Gardiners Road is located at a key intersection between two arterial roads, Gardiners Road and Taylor-Kidd Boulevard. Despite this location, the property is currently vacant and unused. Approval of this variance will advance the redevelopment process of this site and avoid any delays associated with revising the applicant's plans to provide a loading space which is not necessary to the functioning of the car wash. Additionally, the applicant has proposed to design the site in a manner that permits the smooth flow of traffic throughout the site. A requirement to provide a loading space could complicate efforts to ensure that the car wash maintains a functional vehicular flow if the internal drive aisles needed to be narrowed or re-arranged to accommodate a loading space. Considering that a loading space is not needed to ensure site functionality, it is more desirable to remove the requirement for an unnecessary loading space and maintain the more efficient site design that is currently proposed.

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As such, the variance is desirable and will support an appropriate use of the land.

Technical Review: Circulated Departments and Agencies

- Building Services Engineering Heritage Services
- Finance Utilities Kingston Real Estate
- 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 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

A Zoning By-Law Amendment for the subject property was approved for the subject property by City Council on April 2, 2024 ([File Number D14-001-2024](#)). Prior to this rezoning, the subject property was zoned as C2-25, a commercial zone in the former Kingston Township Zoning By-Law 76-26. The property was rezoned to the current General Commercial (CG) zoning in the Kingston Zoning By-Law to encourage redevelopment by rezoning to a more modern commercial zone which allowed for a wider range of permitted uses.

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A Consent application for the subject property received provisional approval on April 5, 2024 ([File Number D10-003-2024](#)). The purpose of this application is to facilitate a lot addition to the adjacent property at 790 Gardiners Road. The property at 780 Gardiners Road is irregularly shaped with a triangular portion of land to the east of the lot, and the effect of this Consent application would be to regularize the lot fabric of the area by transferring this unnecessary triangular portion to the adjacent lot. This Consent has received provisional approval and will come into effect when all conditions of approval are fulfilled.

The proposal for a new car wash is currently subject to a Site Plan Control application ([D11-009-2024](#)). The applicant will be required to obtain a completed Site Plan Control agreement prior to obtaining a building permit and developing this car wash.

Conclusion

The requested variance maintains the general intent and purpose of both the City of Kingston Official Plan and Kingston Zoning By-Law Number 2022-62. 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 will help to facilitate the development of a new car wash at the property at 780 Gardiners Road, which is currently unused. Removing the requirement to provide a loading space for this project will enable the applicant to proceed with obtaining approval for the proposed car wash through the existing Site Plan Control application (File Number D11-009-2024).

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, 2020

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Municipal

City of Kingston Official Plan

Kingston Zoning By-Law Number 2022-62

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on July 15, 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 14 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:

James Bar, Manager, Development Approvals, 613-546-4291 extension 3213

Jacob Slevin, Planner, 613-546-4291 extension 2176

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

Exhibit A Recommended Conditions

Exhibit B Key Map

Exhibit C Neighbourhood Context Map

Exhibit D Official Plan Map

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Exhibit E Zoning By-Law Map

Exhibit F Site Plan

Exhibit G Site Photos

Exhibit H Public Notification Map

Recommended Conditions

The approval of minor variance application, File Number D13-040-2024, to exempt a proposed car wash at 780 Gardiners Road from the requirement to provide a loading space, shall be subject to the following recommended conditions:

1. Limitation

That the approved minor variance applies only to the proposed car wash development at 780 Gardiners Road as 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.

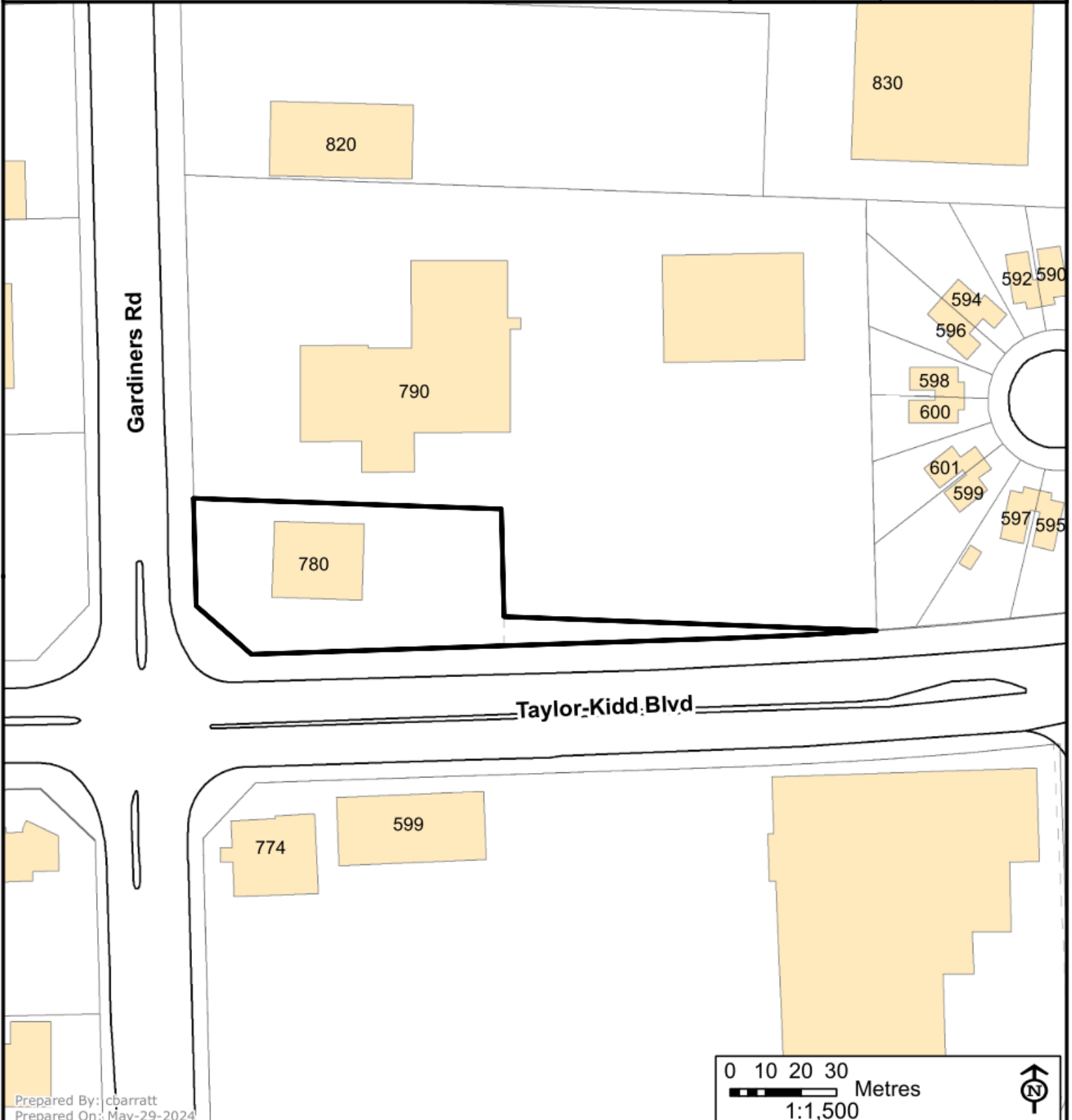
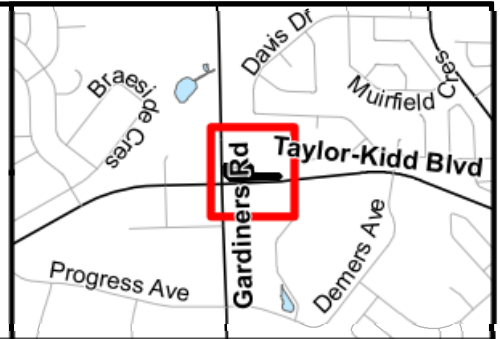
In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Office of the Chief Coroner as a part of the Ontario Ministry of the Solicitor General (1-877-991-9959), the Archaeology Program Unit of the Ministry 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 Key Map

Address: 780 Gardiners Road
File Number: D13-040-2024
Prepared On: May-29-2024

 Lands Subject to Minor Variance



Prepared By: cparratt
Prepared On: May-29-2024






Planning Services

Committee of Adjustment Neighbourhood Context

Address: 780 Gardiners Road

File Number: D13-040-2024

Prepared On: May-29-2024

-  Subject Lands
-  Property Boundaries
-  Proposed Parcels







Prepared By: ebarratt
Prepared On: May-29-2024

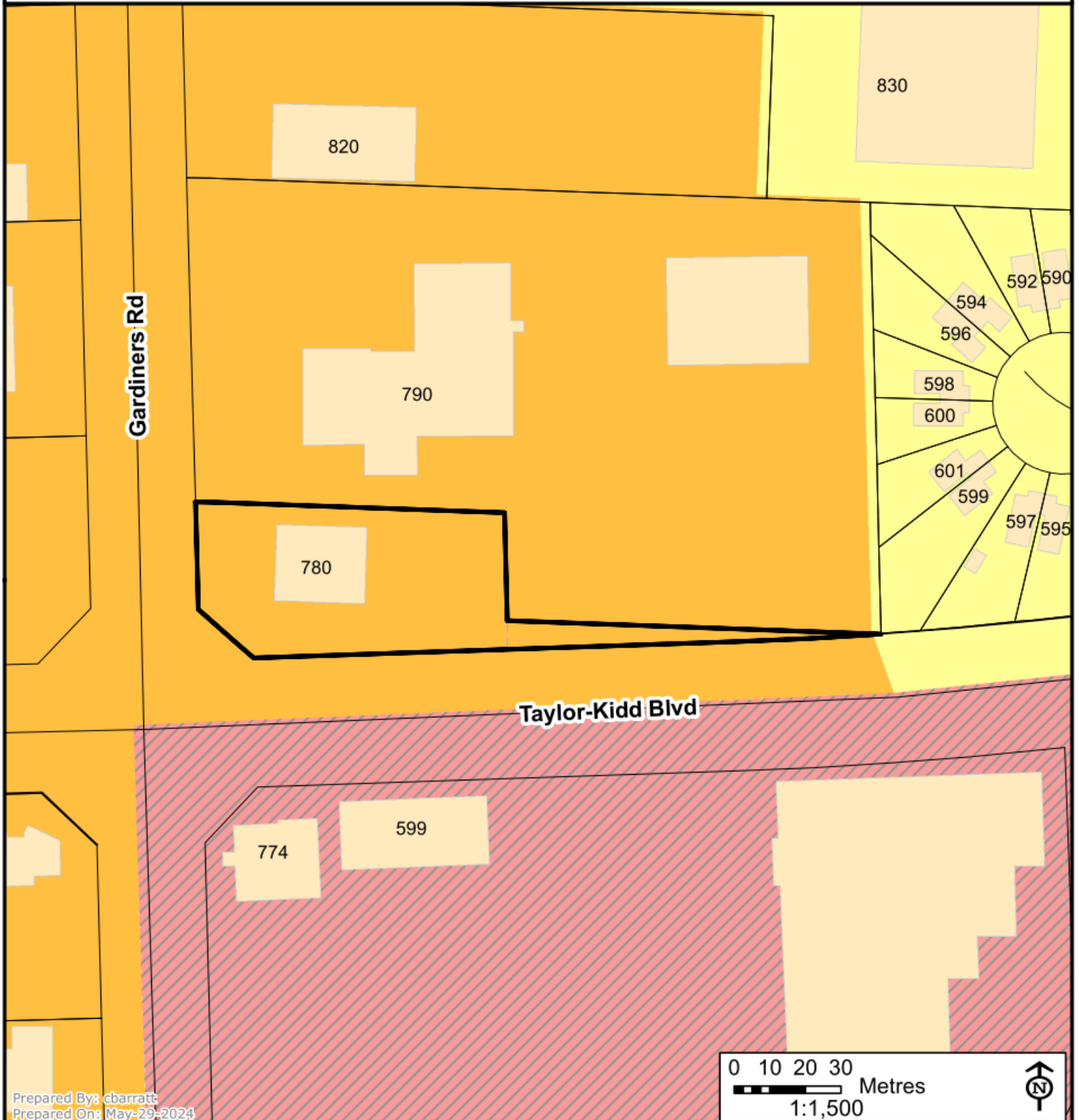
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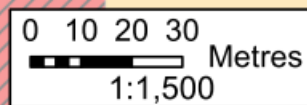
Committee of Adjustment Official Plan, Existing Land Use

Address: 780 Gardiners Road
File Number: D13-040-2024
Prepared On: May-29-2024

-  Subject Lands
-  ARTERIAL COMMERCIAL
-  REGIONAL COMMERCIAL
-  RESIDENTIAL



Prepared By: cbarratt
Prepared On: May-29-2024



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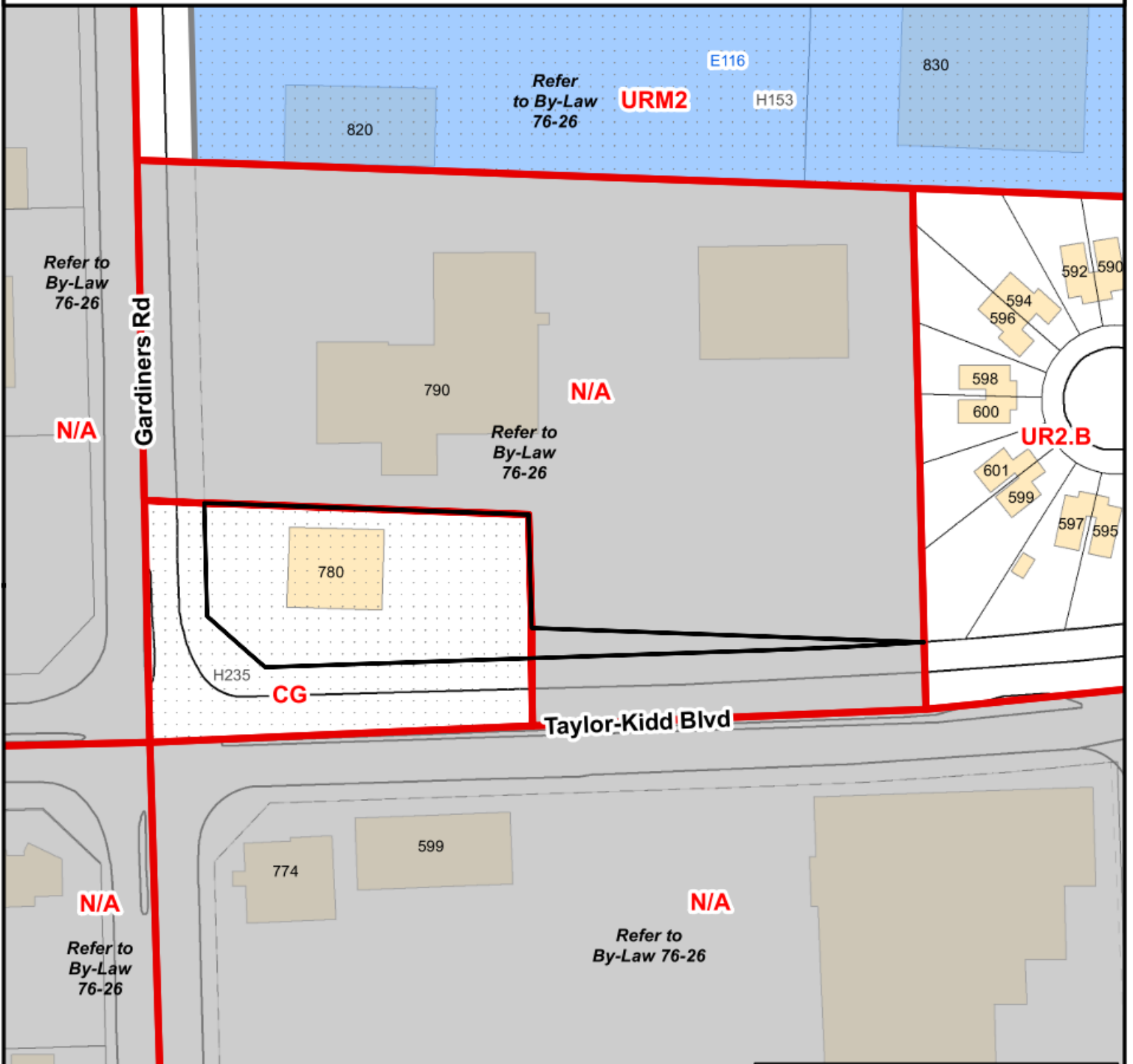


Committee of Adjustment Existing Zoning Kingston Zoning By-Law 2022-62

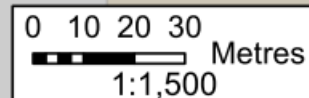
Planning Services

Address: 780 Gardiners Road
File Number: D13-040-2024
Prepared On: May-29-2024

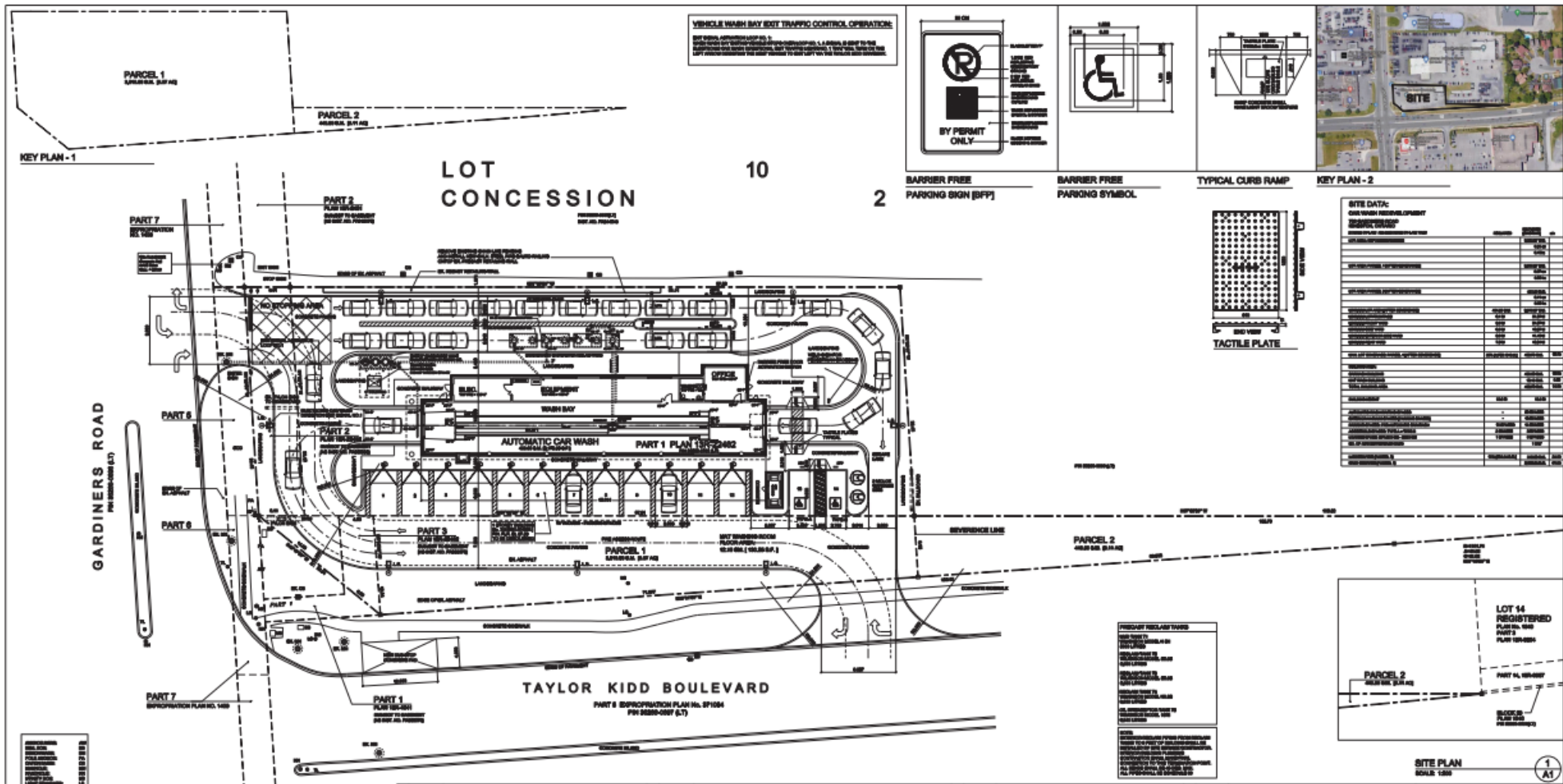
- Subject Lands
- Schedule 1 Zoning Map
- Zone
- Not Subject to the Kingston Zoning By-law
- Schedule E - Exception Overlay
- Legacy Exceptions (LXXX)
- Exceptions (EXXX)
- Schedule F - Holding Overlay
- Holding Overlay (HXXX)



Prepared By: cbarratt
Prepared On: May-29-2024



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REVISIONS

NO.	DATE	DESCRIPTION
1	04-10-2023	ISSUED POLYLINE CONIC APPLICATION
2	04-20-2023	CENTRAL UNDERGROUNDING ADDED
3	04-20-2023	SITE PLAN UPDATE
4	04-20-2023	UPDATED SITE PLAN
5	04-20-2023	UPDATED SITE PLAN
6	04-20-2023	UPDATED SITE PLAN
7	04-20-2023	UPDATED SITE PLAN
8	04-20-2023	UPDATED SITE PLAN

A1

2023-12



Figure 1: Frontal view of the subject property at 780 Gardiners Road. Existing building was formerly used as an automotive centre and is currently vacant.



Figure 2: View of the rear and side of the existing vacant building from the sidewalk adjacent to Taylor-Kidd Boulevard. Existing building will be demolished before the construction of the new car wash.



Figure 3: View of the adjacent auto dealership use at 790 Gardiners Road. A previous Consent application (File Number D10-003-2024) seeks to transfer the irregular triangular lot portion at the east of 780 Gardiners Road to this adjacent property at 790 Gardiners Road to regularize the irregular parcel fabric.



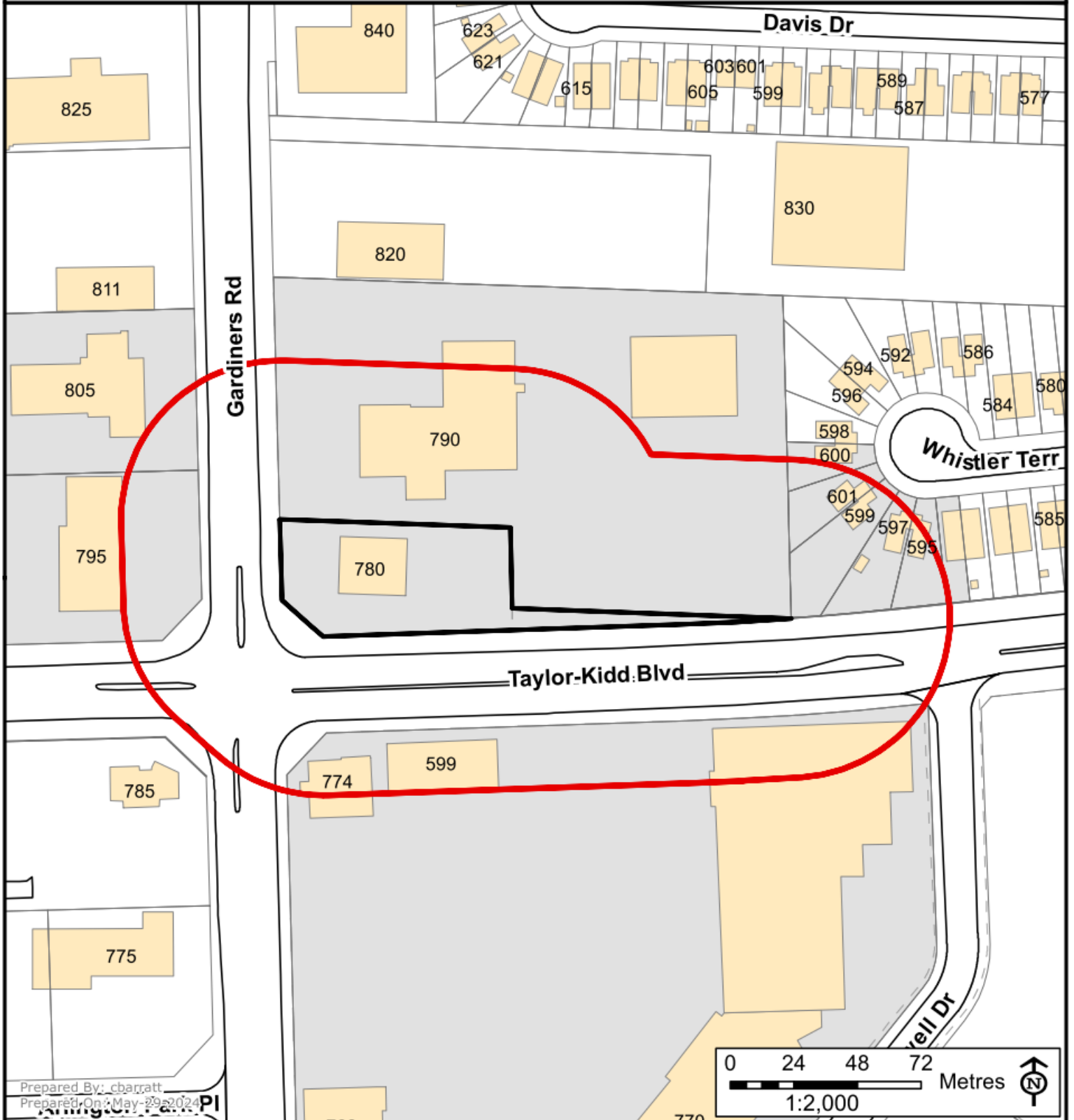
Figure 4: View of other commercial properties at 795 Gardiners Road, across the road from the subject property.



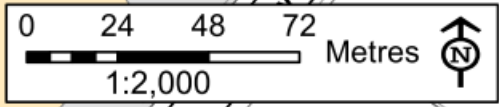
Committee of Adjustment Public Notice Notification Map

Address: 780 Gardiners Road
File Number: D13-040-2024
Prepared On: May-29-2024

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



Prepared By: cbarratt
Prepared On: May-29-2024



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