



City of Kingston
Report to Committee of Adjustment
Report Number COA-25-035

To: Chair and Members of the Committee of Adjustment
From: Jason Partridge, Planner
Date of Meeting: March 24, 2025
Application for: Permission
File Number: D13-008-2025
Address: 11 The Point Road
District: D13-008-2025
Owner: Ruth Bailey and John Dorland
Applicant: Martin Mack

Council Strategic Plan Alignment:

Theme: Policies & by-laws

Goal: 2.3 Maintain the City's natural heritage and environmental assets.

Executive Summary:

This report provides a recommendation to the Committee of Adjustment regarding an application for permission for the property located at 11 The Point Road. The applicant is proposing to construct a 76.32 square metres second storey addition attached to a non-complying single detached house within the waterbody separation distance setback of the property.

The requested application for permission under Section 45(2)(a)(i) of the *Planning Act* is desirable for appropriate development of the subject property and will not result in undue adverse impacts on the surrounding properties and neighbourhood. Therefore, it is recommended that this application for permission under Section 45(2)(a)(i) of the *Planning Act* be approved.

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Recommendation:

That the application for permission, File Number D13-008-2025, for the property located at 11 The Point Road to construct a second storey addition, be **Approved**; and,

That approval of the application be subject to the conditions attached as Exhibit A (Recommended Conditions) to Report Number COA-25-035.

Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

Jason Partridge, Planner

Consultation with the following Management of the Community Services Group:

Tim Park, Director, Planning Services
Malcom Norwood, Supervisor, Development Approvals

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Options/Discussion:

On January 29, 2025, an application for permission was submitted by Martin Mack, on behalf of the owner, Ruth Bailey and John Dorland, with respect to the property located at 11 The Point Road. The application for permission to expand a non-conforming use is requested to increase the height of an existing single detached house from 6 metres to 8.65 metres in height. The existing single detached house will continue to be situated within its existing building footprint that is located within 30m of a waterbody and will not expand as a result of the second storey addition. The increase in height is proposed to accommodate a 76.32 square metre second storey addition for additional living space within the existing single detached house.

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

- Site Plan (Exhibit F)
- Elevations (Exhibit G)

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 at 11 The Point Road which is located along the shores of St. Lawrence River and south of Canadian Forces Base Kingston (Exhibit B – Key Map). The property abuts similarly shaped residential properties to the east, west and north along The Point Road (Exhibit C – Neighbourhood Context Map).

The subject property is designated Residential in the Official Plan (Exhibit D – Official Plan Map) and zoned 'LSR' in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map).

Permission Application

Pursuant to Subsection 45(2)(a)(i) of the Planning Act, the Committee of Adjustment may permit the enlargement or extension of a legal non-complying building or structure, but no permission may be given to enlarge or extend the building or structure beyond the original limits of the land where the legal non-complying building or structure is situated. In considering whether to grant a permission pursuant to Subsection 45(2)(a)(i), the relevant test is:

1) Whether the application is desirable for appropriate development of the subject property; and,

The proposed height of the second storey addition will result in a dwelling that is approximately 8.65 metres in height, which is within the permitted maximum 9 metre height allowed for buildings in the LSR zone. The proposal also results in a need to upgrade the septic system on

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the property which is proposed to be located at the front of the property and further from the waterbody than the current septic system. This additional setback will assist in offsetting any negative environmental impacts that may result from the additional intensification within the sensitive 30 metre setback area. A recommended condition for the installation of the septic system outside of the 30 metre setback has been placed within the Notice of Decision. This will assist in mitigating any potential impacts to the waterbody area.

2) Whether the application will result in undue adverse impacts on the surrounding properties and neighbourhood.

The proposed second storey addition represents an appropriate development on the subject property in part because a second storey addition is a permitted use to the established single-detached house use on the property.

The new second storey addition is to occupy the original building footprint of the existing single detached house located on the property. The purpose of the increased height for the proposed second storey addition will be to accommodate additional living space that will increase the functionality of the associated single detached house on the property. The presence of surrounding vegetation and the separation of the building relative to surrounding single detached houses will minimize any potential adverse impacts to the surrounding properties.

Accordingly, it is not anticipated that any undue adverse impacts will result from the proposed second storey addition, and the development is appropriate at this location.

Provincial Planning Statement

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 Planning 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.

Official Plan

The subject property is designated Residential (Exhibit D – Official Plan Map).

In certain circumstances, it may be desirable to grant the extension, enlargement or relocation of a non-conforming use as provided by the *Planning Act*. When reviewing an application for such extension, enlargement or relocation, the Committee of Adjustment must be satisfied that the legal non-conforming use continued to the date of the application to the Committee, and that the application would not extend such use beyond the area and site owned or used on the day of passage of the implementing zoning by-law. In addition, the Committee of Adjustment may have regard to the eight criteria included in Section 9.5.13 of the Official Plan.

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The proposed second storey addition with an increased height is compatible with the surrounding uses and is not anticipated to cause any negative impacts. The proposed second storey addition will be associated with the existing single detached house, which exists as a permitted use on the property and would not interfere with the future planned uses proposed in the Official Plan. The presence of surrounding vegetation and the separation of the building relative to surrounding single detached houses will minimize any potential adverse impacts to the surrounding properties.

There is no expectation that the proposed second storey addition will result in any impacts with respect to traffic or noise given that the use will remain that of a single detached house located on the property. The proposed second storey addition is also not anticipated to change the configuration of parking for vehicles and bicycles, open space or amenity areas on the property as the new proposed second storey addition will be using the same building footprint of the existing single detached house.

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.

Heritage Services has reviewed the proposed second-storey addition permission application and have noted that they have no concerns towards the proposed second storey addition. As a result, an archaeological assessment is not required.

Catarauqui Region Conservation Area (CRCA) has reviewed the proposal based on the avoidance of natural hazards (flooding and erosion) associated with the shoreline of the St. Lawrence River. The CRCA has noted that they have no objections to the approval of permission application D13-008-2025 based on their scope of review, which includes avoidance of natural hazards. The CRCA did note the requirement of a permit from them prior to construction of the second storey addition and this has been included as condition within the Notice of Decision.

The Forestry Department was circulated the permission application and noted that the proposed construction of the second storey addition will require a Tree Permit to address tree preservation concerns within the significant woodland portion of the property. A recommended condition for the tree permit has been placed within the Notice of Decision. This will assist in mitigating any potential impacts to the woodland.

The requested permission to construct a second storey addition meets the general intent and purpose of the City of Kingston Official Plan.

Zoning By-Law

The subject property is zoned LSR in Kingston Zoning By-Law Number 2022-62 (Exhibit E – Zoning By-Law Map).

The LSR zone permits residential uses. While the existing single detached house is a legal non-complying building, it does not comply with the waterbody separation distance setback that was

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introduced in Kingston Zoning By-law Number 2022-62. Section 4.23.1 requires any use or building, including any part of a private sewage system to be setback 30 metres from the high-water mark of a waterbody. The applicant intends to install a new septic system which will be located at the front of the property and further from the waterbody than the existing septic system which currently falls within the 30 metre setback from the high water mark. The new septic system will be beyond the required 30 metre setback from the high-water mark. A recommended condition for the installation of the septic system outside of the 30 metre setback has been placed within the Notice of Decision.

The existing single detached house was developed and used in accordance with Zoning By-law 32-74, in force at the time, and was continuously used in this fashion to the current date which now prohibits an accessory building within the front yard of the property.

Provisions related to the location of a single detached house to waterbody are intended to ensure no adverse impacts occur to the waterbody or the surrounding environment. The existing single detached house with a second storey addition is not anticipated to cause any adverse impacts due to its location within the extent of the existing disturbed land, the existing screen of vegetation cover to the east and west, the requirement of a permit from the CRCA and the requirement to apply for a tree permit on the property.

The proposed development will not change the fundamental characteristics of the neighbourhood, as the configuration of the single detached house has existed on the property as a legal non-complying building and The Point Road contains other similar sized single detached houses located within the waterbody separation distance setback.

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

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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 received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

Previous or Concurrent Applications

D13-028-2021. Minor variance application to reduce the minimum setback from a right-of-way from 7.5m to 1.6m and to increase the maximum height from 5 metres to 5.9 metres in order to accommodate a detached garage.

Conclusion

The requested application for permission under Section 45(2)(a)(i) of the Planning Act is desirable for appropriate development of the subject property and will not result in undue adverse impacts on the surrounding properties and neighbourhood. Therefore, it is recommended that this application for permission under Section 45(2)(a)(i) of the *Planning Act* be approved.

Approval of this application will facilitate the orderly development of this property with a new second storey addition.

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 Planning Statement, 2024

Municipal

City of Kingston Official Plan

Kingston Zoning By-Law Number 2022-62

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Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on March 24, 2025. 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 12 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:

Malcolm Norwood, Supervisor, Development Approvals, 613-546-4291 extension 3236

Jason Partridge, Planner, 613-546-4291 extension 3216

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

- Exhibit A Recommended Conditions
- Exhibit B Key Map
- Exhibit C Neighbourhood Context Map (2024)
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Map
- Exhibit F Site Plan
- Exhibit G Elevations

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Exhibit H Site Photos

Exhibit I Public Notification Map

Recommended Conditions

The approval of permission application, File Number D13-008-2025, to permit the construction of a second storey addition to a non-complying single detached house, shall be subject to the following recommended conditions:

1. Limitation

That the approved permission applies only to the 76.32 square metres second storey addition 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.

6. Cataraqui Conservation Authority Condition

Prior to the issuance of a building permit, the owner of 11 The Pont Road must obtain a permit from the Cataraqui Conservation Authority to construct the second storey addition to this existing dwelling on the property.

7. Forestry

Prior to the issuance of a building permit, the owner must apply for a Tree permit to address the tree preservation requirements to protect the significant woodland space from compaction impacts as well as prevention of the staging of materials and equipment during any proposed construction related to this application. Supporting documentation for the Tree Permit shall include a Tree Inventory and Preservation plan prepared as per the Arborist Report guidelines and the Guidelines for Tree Preservation and Protection. The Tree Permit and tree preservation concerns need to be in place and addressed in the field in advance of any building permit issuance.


8. Relocation of the septic system

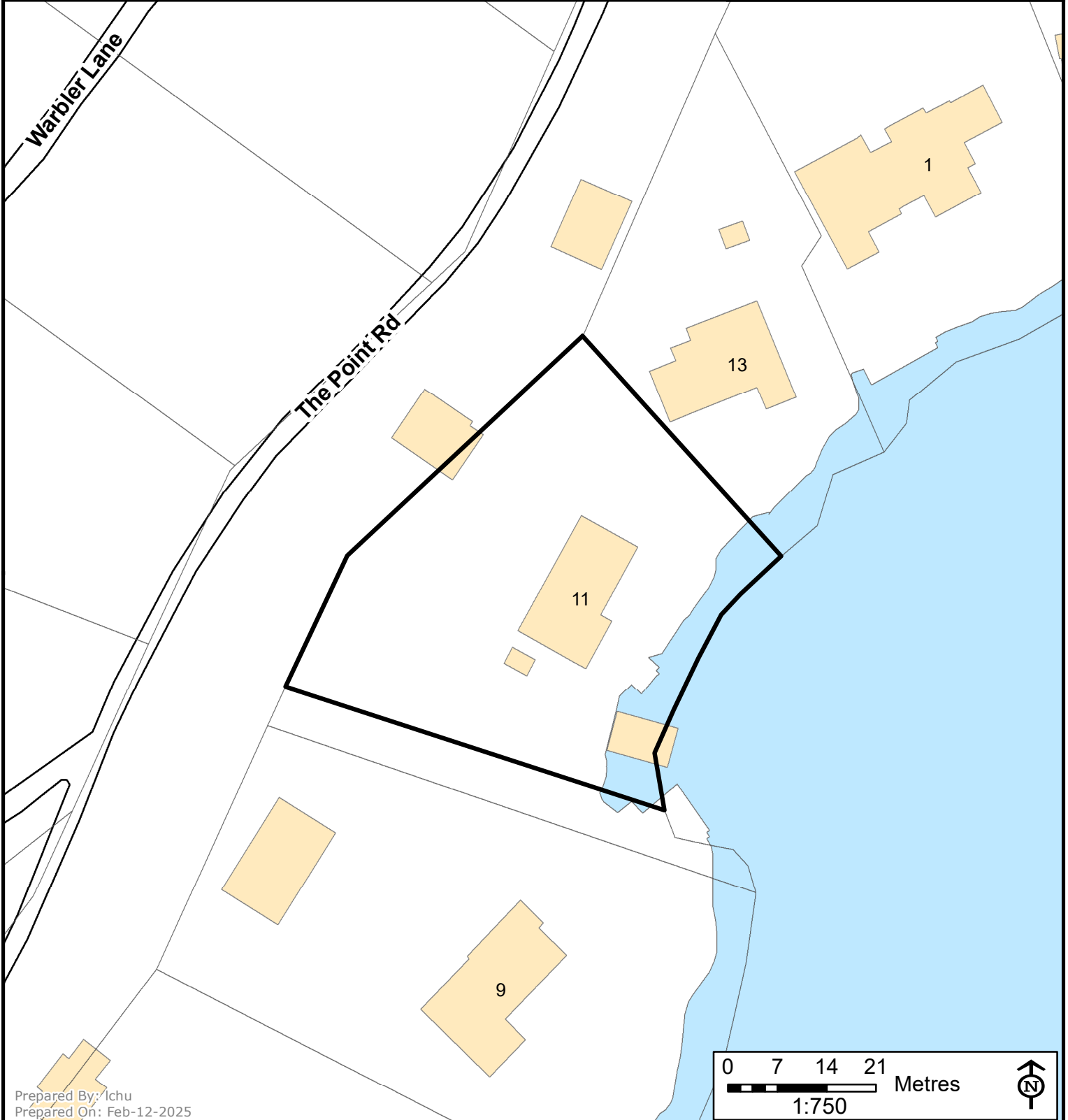
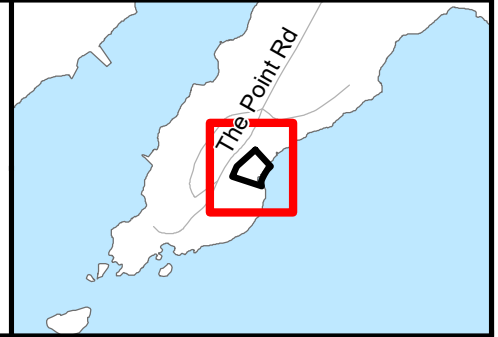
The owner of 11 The Point Road must obtain a permit to relocate the existing septic system as shown on the approved drawings attached to the notice of decision before, or concurrently with, obtaining a building permit for the second floor addition.



Committee of Adjustment Key Map

Address: 11 The Point Road
File Number: D13-008-2025
Prepared On: Feb-12-2025

 Lands Subject to Minor Variance



Prepared By: Ichu
Prepared On: Feb-12-2025






Planning Services

Committee of Adjustment Neighbourhood Context

Address: 11 The Point Road

File Number: D13-008-2025

Prepared On: Feb-12-2025

-  Subject Lands
-  Property Boundaries
-  Proposed Parcels



Prepared By: Iehu
Prepared On: Feb-12-2025

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**Planning
Services**

Committee of Adjustment Official Plan, Existing Land Use

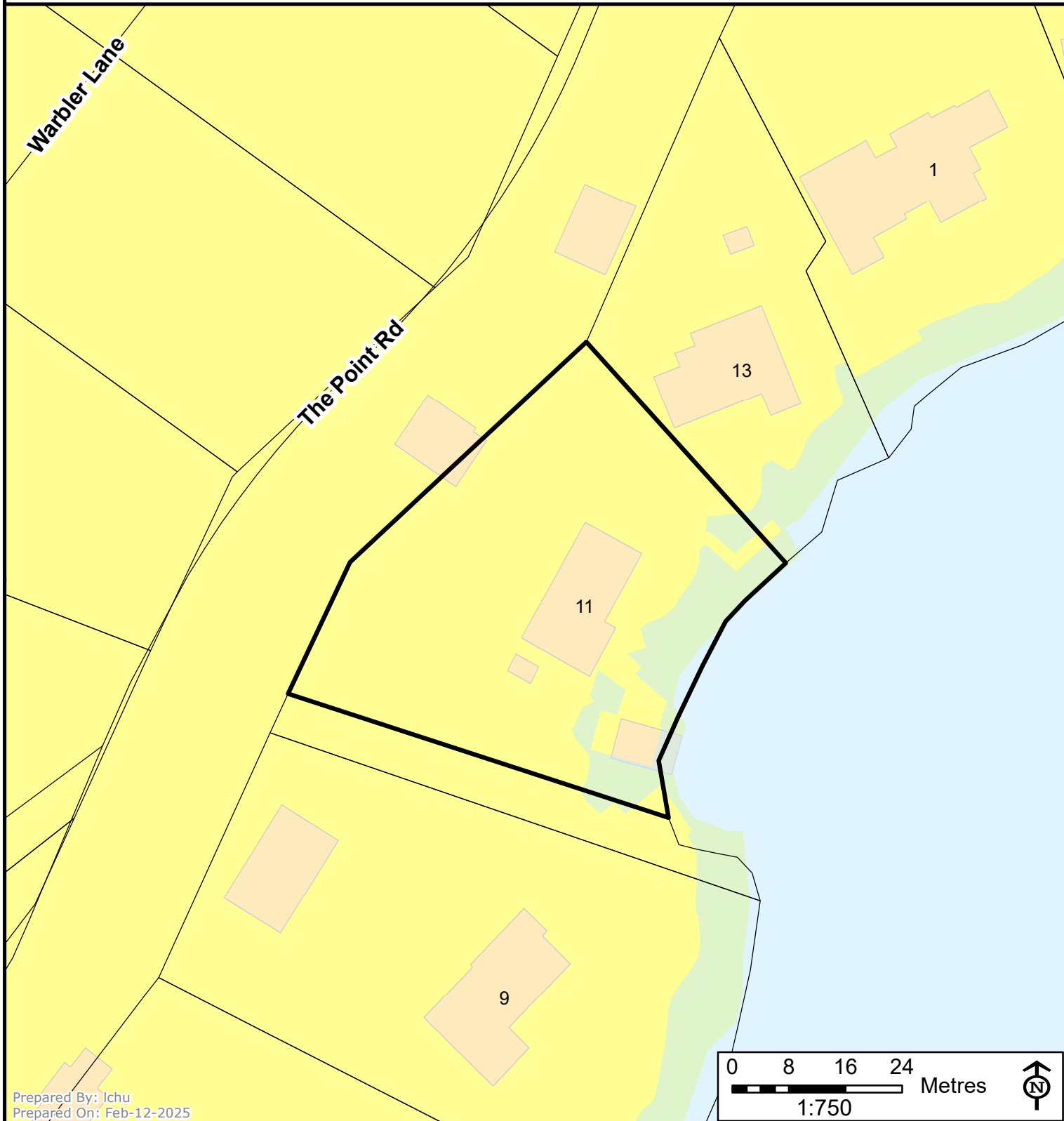
Address: 11 The Point Road

File Number: D13-008-2025

Prepared On: Feb-12-2025

 Subject Lands

 Residential



Prepared By: Ichu
Prepared On: Feb-12-2025



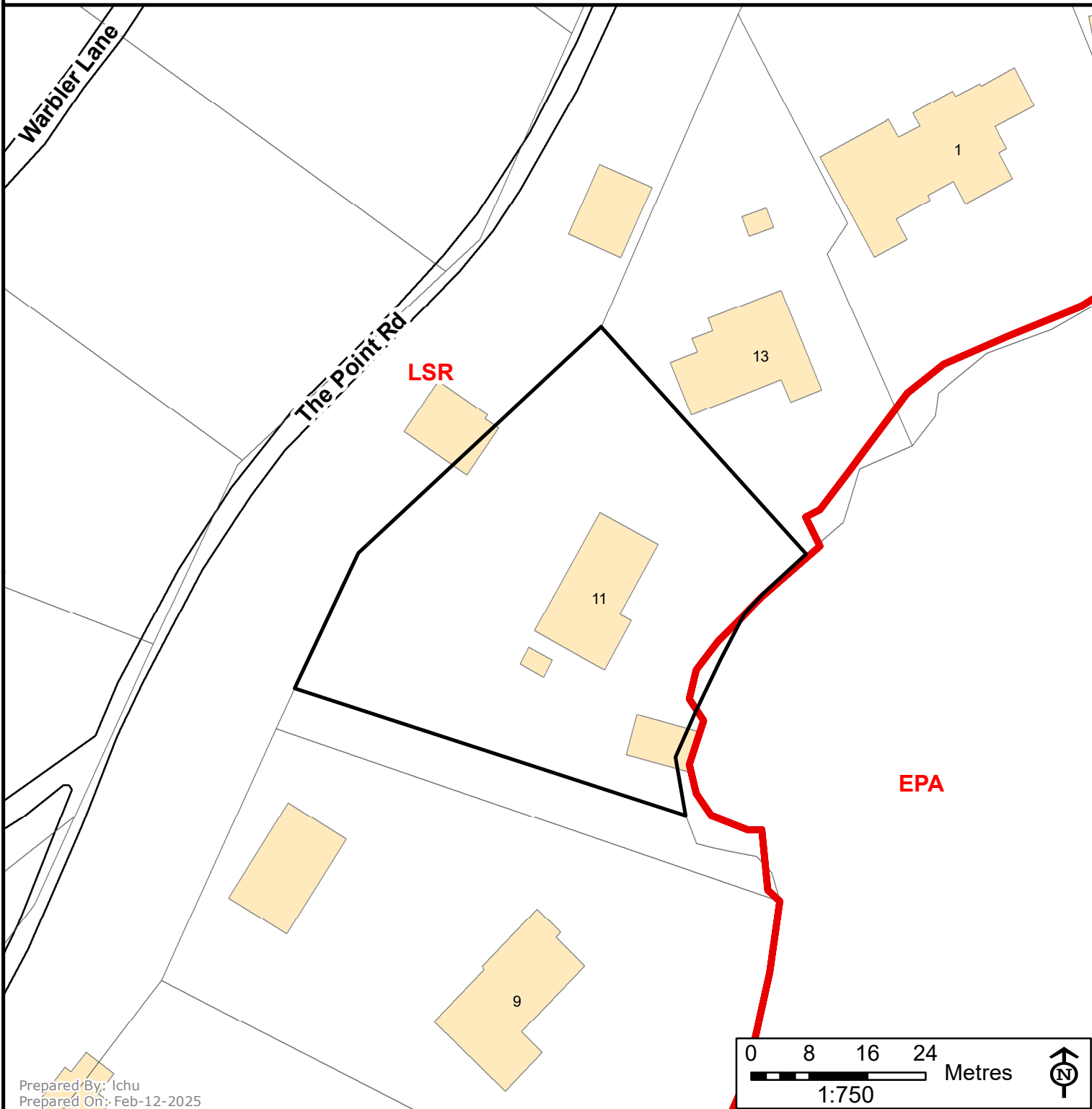
Planning Committee
Existing Zoning
Kingston Zoning By-Law 2022-62

Planning Services

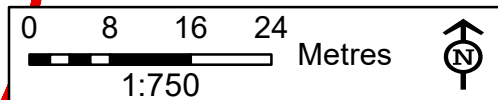
Address: 11 The Point Road
File Number: D13-008-2025
Prepared On: Feb-12-2025

Subject Lands
Schedule 1 Zoning Map
Zone

Schedule E - Exception Overlay
Legacy Exceptions (LXXX)
Exceptions (EXXX)
Schedule F - Holding Overlay
Holding Overlay (HXXX)



Prepared By: Ichu
Prepared On: Feb-12-2025



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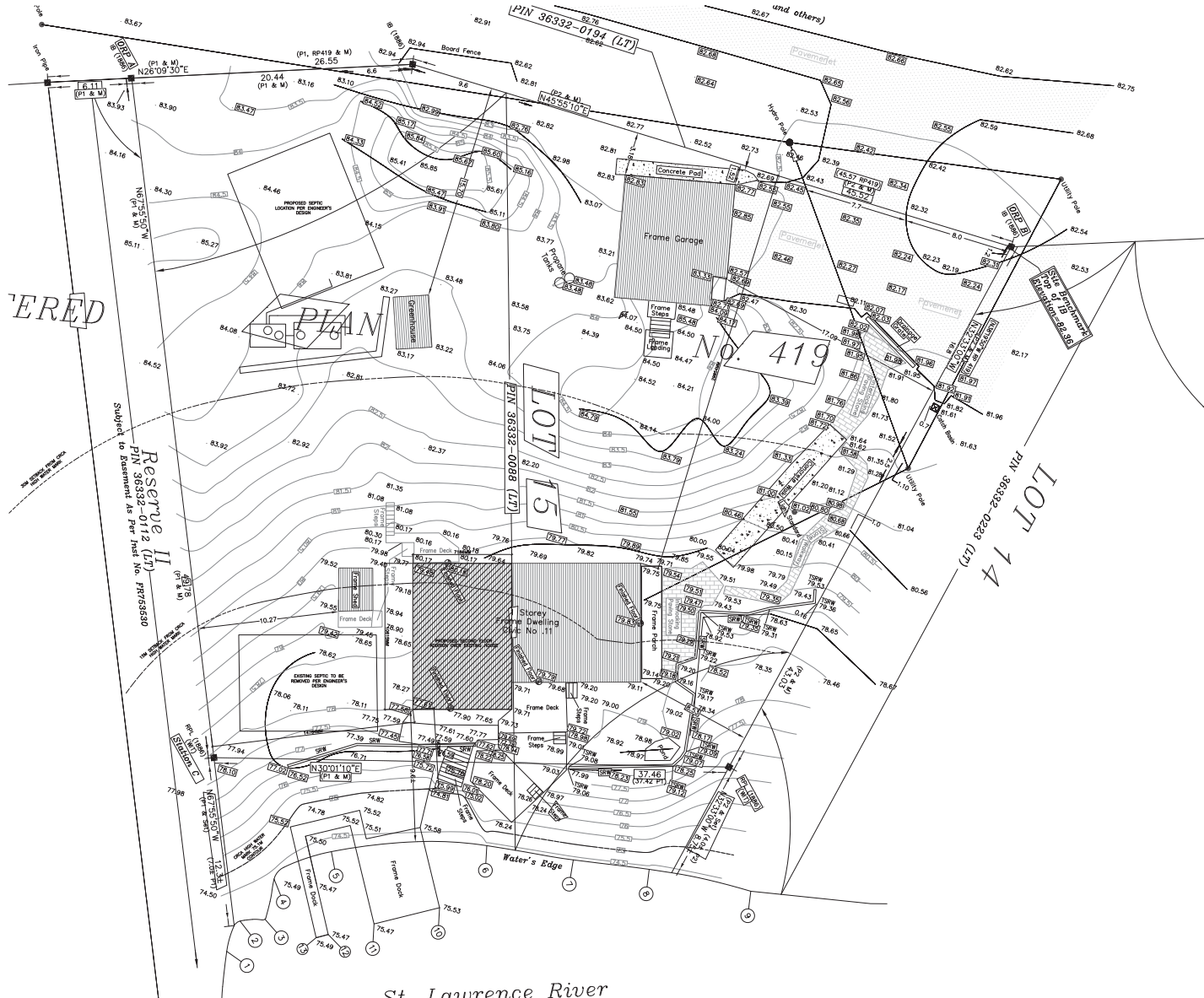
ZONING INFORMATION

NOTE:
DATA TAKEN FROM LEGAL SURVEY PREPARED BY
HOPKINS CHETTY LAND SURVEYORS INC. ON THE 6TH
DAY OF DECEMBER, 2024 AND AS-FOUND PLANS
PREPARED BY RENEW DESIGN & CONSTRUCTION
DRAWINGS ON THE 2ND DAY OF DECEMBER, 2024

ZONING INFORMATION

LEGAL DESCRIPTION OF PROPERTY:
LOT 15 REGISTERED PLAN 419 TOWNSHIP OF PITTSBURGH

	LSR ZONE	EXISTING	PROPOSED
1 LOT AREA	MINIMUM AS EXISTING ON DATE OF BY-LAW PASSING	2665.78 M ²	2665.78 M ²
2 COVERAGE	15% MAXIMUM	157.60 M ² (HOUSE) 89.24 M ² (GARAGE) 227.34 M ² -8.5%	157.60 M ² (HOUSE) 89.24 M ² (GARAGE) 227.34 M ² -8.5%
3 TOTAL AREA OF HOUSE	N/A	157.60 M ² (GR FLR) 157.60 M ² (2ND FLR)	157.60 M ² (GR FLR) 157.60 M ² (2ND FLR)
4 BUILDING HEIGHT	9 M MAXIMUM	6 M	6.65 M
5 FRONT YARD SETBACK	7.5 M	29.85 M	29.85 M
6 REAR YARD SETBACK	7.5 M	9.6 M	9.6 M
7 INTERIOR SIDE YARD SETBACK	4.5 M	14.8 M & 8.53 M	14.8 M & 8.53 M
8 HIGH WATER MARK SETBACK	30 M	5.8 M	5.8 M



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NOTE: THE DRAWING SCALE INDICATED REFERS TO THE SHEET PRINTED AT A SIZE OF 34" X 22".

DATE	DESCRIPTION	BY	NO.
02/25/24	ISSUED FOR REVIEW	SV	001
02/25/24	ISSUED FOR REVIEW	SV	002
02/25/24	ISSUED FOR REVIEW	SV	003
02/25/24	ISSUED FOR REVIEW	SV	004
02/25/24	ISSUED FOR REVIEW	SV	005
02/25/24	ISSUED FOR REVIEW	SV	006
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02/25/24	ISSUED FOR REVIEW	SV	019
02/25/24	ISSUED FOR REVIEW	SV	020



SIXTEEN DEGREE STUDIO
architecture + design

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Email: info@sixteendegree.com

PROJECT
THE POINT HOUSE
11 THE POINT ROAD
KINGSTON ON K7K 2E2

TITLE
SITE PLAN

SCALE
1:150

DRAWN BY
SV

DATE
25.01.03

DESIGNED
HD/SV

STATUS
ISSUED

FILE NO.
A002

JOB NO.
PR2407

DATE
2024

DRAWING NO.
A002

Site Photo – 11 The Point Road

City File D13-008-2025



West facing view of the proposed second storey addition (February 21, 2025).



Committee of Adjustment Public Notice Notification Map

Address: 11 The Point Road
File Number: D13-008-2025
Prepared On: Feb-12-2025

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



Prepared By: lchu
Prepared On: Feb-12-2025

