



The City of Saint John

Date: February 11, 2022
To: Planning Advisory Committee
From: Growth & Community Services
Meeting: February 15, 2022

SUBJECT

Applicant: Philip Hutchings
Landowner: Debly Enterprises Ltd.
Location: 40 Ashburn Lake Road
PID: 55186902
Plan Designation: Heavy Industrial
Existing Zoning: Medium Industrial (IM)
Application Type: Temporary Approval
Jurisdiction: The Zoning By-law authorizes the Planning Advisory Committee to permit, for a temporary period of up to one year, a development otherwise prohibited by the By-law. The Committee can impose conditions.

EXECUTIVE SUMMARY

The applicant is seeking approval of a Temporary Use to place a tent on the site for use as a temporary venue for a place of worship. The site is designated as Heavy Industrial in the Municipal Plan and zoned Medium Industrial (IM). While PlanSJ discourages the location of non-industrial uses in areas designated as Heavy Industrial to avoid land use conflicts and minimize potential risk to public safety, Staff recommend approval of the temporary use for a

one-year period, given the surrounding neighbourhood context and scope of the proposed use. Additional conditions are recommended related to the scope of the proposed use.

RECOMMENDATION

1. That the Planning Advisory Committee approve, as a temporary use, the use of a tent as a place of worship at 40 Ashburn Lake Road, also identified as PID Number 55186902;
2. That the Planning Advisory Committee define the period of the temporary approval at one year, effective following the delivery of the decision; and
3. That the Planning Advisory Committee, per Section 53 (i) of the *Community Planning Act* impose the following conditions on its approval of the temporary use:
 - a) that the tent only be erected on Sundays between 10 a.m. and 12 p.m. and between 6 p.m. and 8 p.m. and that this use be limited to the worship services as proposed by the applicant;
 - b) that the tent only be erected for use for the Sunday worship services and not remain erected throughout the week; and
 - c) that the applicant prepare and implement a Fire Safety Plan for the operation, and care of the tent, its safety systems, and occupants, and that this Fire Safety Plan be reviewed by the Fire Department.

DECISION HISTORY

On November 17, 2017, the Planning Advisory Committee granted temporary approval to permit a climbing wall facility, located within a portion of a building at 40 Ashburn Lake Road, up until and no later than November 22, 2018. The temporary use was established and a subsequent amendment to the City's Zoning By-law added the use of a recreational facility as a permitted use in select industrial and commercial zones including, the Medium Industrial zone.

On January 13, 2003, the Planning Advisory Committee considered a conditional use application involving a proposed plastics manufacturing plant to be established in the existing industrial building on the subject property. As recommended by City staff no special terms or conditions were imposed.

On September 25, 1985, the Committee approved a conditional use application to establish a bingo hall in a portion of the building. The Committee imposed a condition requiring that notices be posted within the bingo hall warning patrons about the danger of the railway crossing and requiring them to wait clear of the train tracks.

In November 1980, the Committee considered a conditional use application to establish a roller rink at the subject location, the application was subsequently withdrawn by the applicant.

ANALYSIS

Proposal

The applicant is seeking approval to place a tent on the site for use as a temporary venue to operate as a place of worship. It is noted through discussions with the applicant their ultimate intent is to obtain a suitable location for a permanent building. The tent would be erected weekly for worship services on Sunday morning and Sunday evening. Plans submitted with the application note the tent would have a seating capacity of 50 persons with 10 “pods” of four and 10 “individual” seats. Spacing is provided to respect public health requirements. The site is zoned Medium Industrial (IM) which does not permit an assembly use such as the land use proposed.

Site and Neighbourhood

The 3-hectare site contains an existing multi-tenant building that houses a variety of commercial and industrial uses, including an engineering consulting firm, waterworks distributor, plumbing contractor, indoor climbing wall, and crane rental business with some of these uses requiring outdoor storage. Paved parking areas are located on either side of the building. The site is zoned Medium Industrial (IM) with areas along Ashburn Lake Road northwest of the rail line having either Medium Industrial (IM) or Heavy Industrial (IH) zoning with. Uses within the Heavy Industrial (IH) zoned areas including a quarry and asphalt plant north of the site and precast concrete manufacturing facility located west of the site on the opposite side of Ashburn Lake Road. The proposed tent would be in the northern portion of the site to the north of an existing fenced compound.

Properties on the opposite side of the rail line have Corridor Commercial (CC) zoning, which permits a range of commercial uses. In addition, there are lands within the vicinity of the site zoned Heavy Industrial (IH).

Municipal Plan and Zoning

Municipal Plan

The site is designated Heavy Industrial in the Municipal Plan and is immediately adjacent to the Commercial Corridor designation. The surrounding area is designated Heavy Industrial due to two long standing, large scale industrial uses, a precast manufacturing plant, located on the opposite side of Ashburn Lake Road from the subject site which has significant outdoor storage and operations, and a quarry with an associated contractor’s operation and asphalt plant, located north of the subject site.

The intent of the Municipal Plan is to limit non-industrial uses in industrially designated areas, primarily to retain lands that are appropriate for industrial development for future industrial use. This is actioned through the listing of permitted uses in the Heavy Industrial (IH) and Medium Industrial (IM) zones in accordance with Policy LU-73 of the Plan.

“Policy LU-73 Establish provisions in the Zoning Bylaw to limit commercial and retail uses in industrial areas and to limit the scale of retail sales associated with industrial uses.”

The City has a limited supply of available industrial land and industrial development has specific locational requirements. These requirements include good roadway access to support shipping of raw materials and finished goods and locations that are removed from other non-industrial activities that may be impacted by sound, emissions, or visual impacts of the industrial development. Given these considerations, Policy LU-73 seeks to protect the availability of land for uses that will build the City's economic base.

Future land uses within the Heavy Industrial land use designation are established through Policy LU-76 of the Plan.

Policy LU-76 Create the Heavy Industrial land use designation on the Future Land Use map (Schedule B). The Heavy Industrial designation is intended to accommodate industrial operations which may have a significant detrimental effect on the safety, use, amenity, or enjoyment of adjacent or nearby sites due to appearance, noise, odour, emission of contaminants, fire or explosive hazards, or dangerous goods. Uses in the Heavy Industrial designation may utilize the City's water and wastewater systems.

Acknowledging that there are potential negative land use impacts and safety risks posed by industrial development within the Heavy Industrial land use designation, Policy LU-77 of the Plan seeks to provide separation distances between incompatible land uses, such as those involving residential uses or providing larger scale public assembly uses.

Policy LU-77 Where there are Heavy Industrial land uses which emit pollution or present possible safety risks Common Council consider the use of the best practice guideline of 1.5 km as an appropriate separation distance and/or buffer from incompatible land uses. Within the 1.5 km buffer, Common Council should consider not increasing the density of existing incompatible land uses adjacent to existing heavy industrial facilities when they are proposed. This will ensure that further intensification of incompatible land uses does not occur around these facilities in the future.

Staff note the Medium Industrial (IM) zone and Light Industrial (IL) zone generally do not permit assembly uses such as a place of worship. The exception being recreational facilities which were added as a permitted use to the Light Industrial (IL) and Medium Industrial (IM) zones through an amendment to the Zoning By-Law in 2018. The basis for the 2018 amendment was to provide for commercial recreational uses that are suited to and/or limited to an industrial or commercial building topology with an open floor plate and high ceilings.

Based on Staff's review of the policies of the Municipal Plan, Staff note that while there are policies that discourage non-industrial uses on the subject site, the applicant is proposing a temporary use which limits the scale of the use. Temporary uses are only permitted for a year in accordance with the *Community Planning Act* but can be extended for an additional year in conjunction with a rezoning of the area for which the temporary use was granted. From a broader

perspective, Staff would likely not be supportive of a rezoning to establish a permanent place of worship on this site or on other industrially zoned lands, or an amendment to incorporate places of worship as a permitted use in an industrial zone given the Municipal Plan policy direction. Places of Worship are listed as a permitted use in the following zones: Neighbourhood Community Facility (CFN), Major Community Facility (CFM), Uptown Commercial (CU), General Commercial (CG), Mixed Commercial (CM), Rural General Commercial (CRG), Regional Commercial (CR), Regional Commercial Residential (CR-R) and Corridor Commercial (CC) zones.

With respect to the separation from hazardous industrial land uses, Staff note the closest use would be an asphalt plant located approximately 500 metres north of the proposed tent. Given that it is highly unlikely the asphalt plant would be operating on a Sunday, this limits the potential risk. In addition, the application was reviewed by the Fire Department and no concerns were raised regarding proximity to hazardous industrial uses.

Given the temporary nature of the use, in addition to the surrounding neighbourhood context and the amount of time during the week where the use would be active, staff can support the application subject to conditions relating to the length of approval and hours of operation. Staff also recommend a condition that the tent be disassembled and not remain erected throughout the week.

Traffic and Infrastructure

The application was circulated to the City's Infrastructure Development Service Area and the City's Traffic Engineer. No traffic concerns were noted; however, a stormwater management plan will be required in accordance with the City's Drainage By-Law should the tent not be disassembled following the Sunday services.

Fire and Emergency Services

The Fire Department has no objection to the overall concept and notes the tent size and proposed use meet the definition of 'place of assembly' in the *Fire Prevention Act*. This requires the applicant to submit plans to the Office of the Fire Marshal prior to occupancy. The Fire Department will follow-up on the requirements provided in the Office of the Fire Marshal Plans Review. Prior to occupancy, the applicant must prepare and implement a Fire Safety Plan for the operation, and care of the tent, its safety systems, and occupants. The Fire Department will review the plan for completeness and provide comments to the applicant.

Conclusion

The proposed temporary use can be supported subject to conditions related to the duration of the approval and activities of the use.

ALTERNATIVES AND OTHER CONSIDERATIONS

No alternatives were assessed for the application.

ENGAGEMENT**City**

In accordance with the Committee's Rules of Procedure, notification of the proposal was mailed to landowners within 100 metres of the subject property on February 3, 2022.

APPROVALS AND CONTACT

| Author | Manager/Senior Planner | Commissioner |
|---------------------------------------|--------------------------------------|--|
| Mark Reade , P.Eng., MCIP, RPP | Jennifer Kirchner , MCIP, RPP | Jacqueline Hamilton , MCIP, RPP |

Contact: Mark Reade
Telephone: (506) 721-0736
Email: Mark.Reade@saintjohn.ca
Application: 21-0229

APPENDIX

Map 1: **Aerial Photography**

Map 2: **Future Land Use**

Map 3: **Zoning**

Attachment 1: **Site Photography**






Submission 1: **Site Plans**

Submission 2: **Floor Plan**

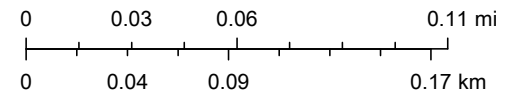
40 Ashburn Lake Road - Air Photo



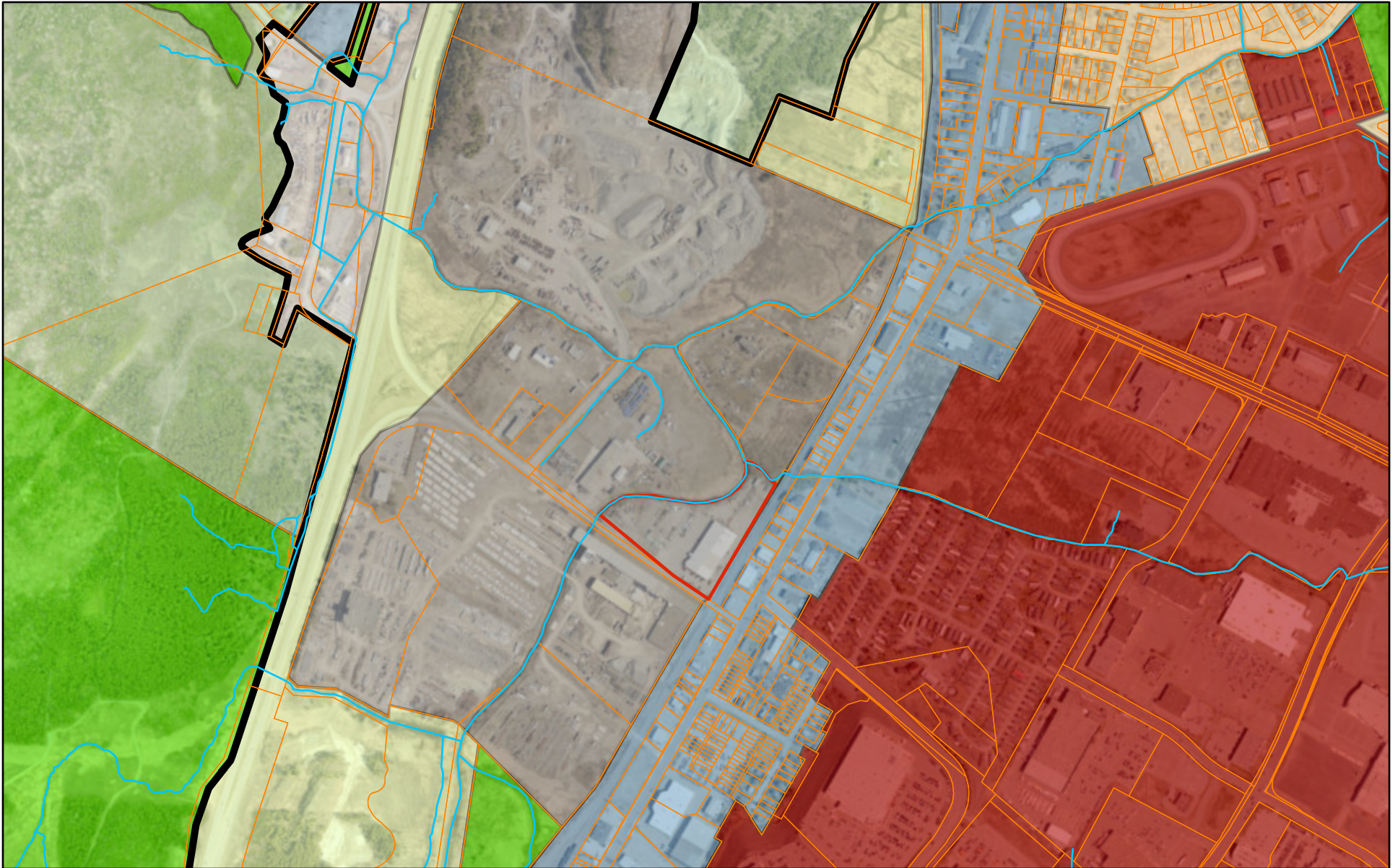
2022-01-20

-  Streams
-  Subject Site
-  Property Parcels
-  Primary Development Area
-  Civic Addresses

1:4,506



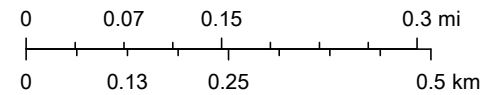
Future Land Use 40 Ashburn Lake Road



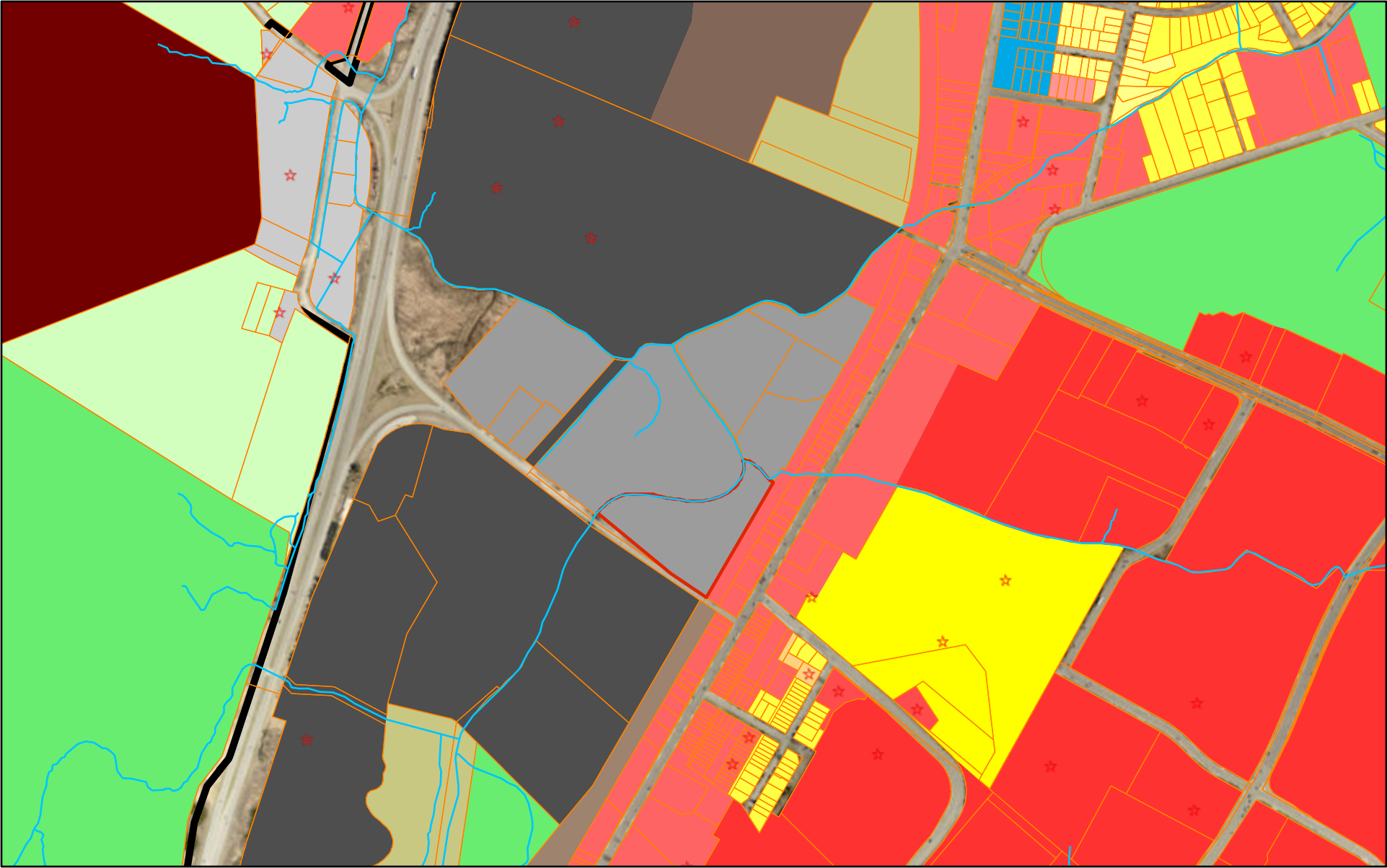
2022-02-11

- | | | | |
|------------------|--------------------------|---------------------|-----------------------|
| Streams | Primary Development Area | Heavy Industrial | Rural Resource |
| Subject Site | Future Land Use | Light Industrial | Park and Natural Area |
| Property Parcels | Regional Retail Centre | Commercial Corridor | Stable Residential |

1:13,256



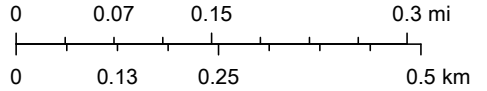
Zoning 40 Ashburn Lake Road

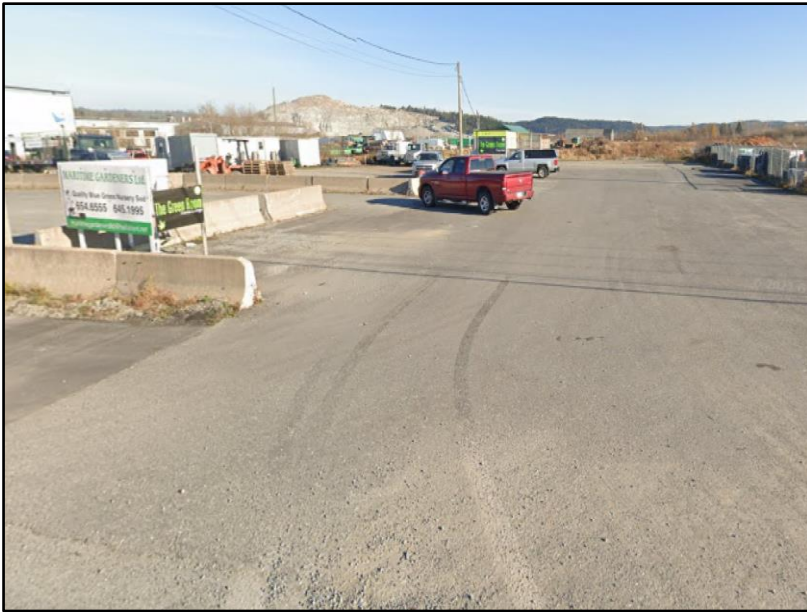


2022-02-11

- ★ Conditional Zoning
 - Streams
 - Subject Site
 - Property Parcels
- | | | | | |
|--------|----|------|----|--------------------------|
| Zoning | R1 | CG | T | FD |
| | RL | CR | IL | PQ |
| | RP | CR-R | IM | CFN |
| | R2 | CC | IH | P |
| | | | | Primary Development Area |

1:13,256





View of site showing proposed tent location.



View of existing building.



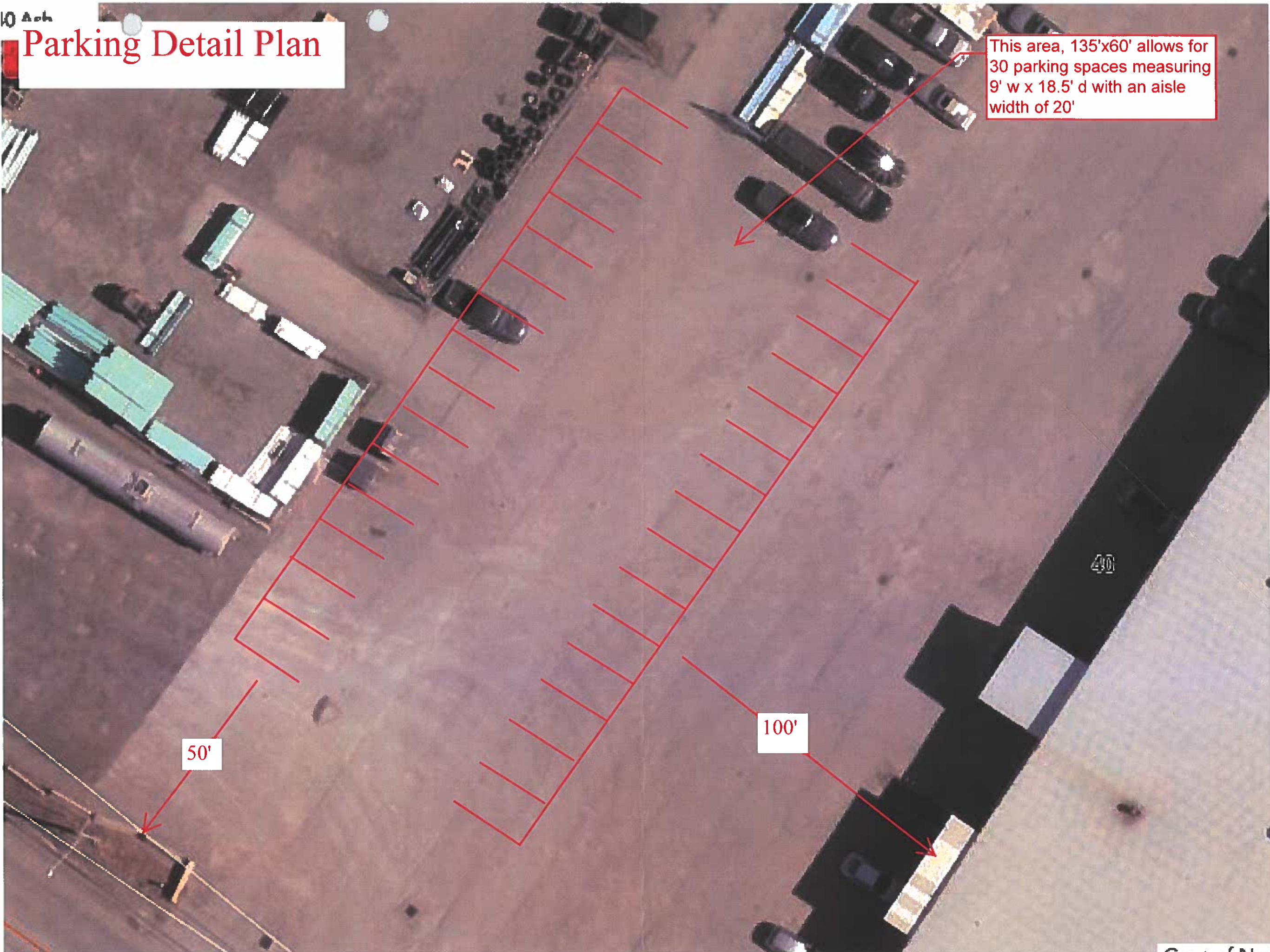
Parking Detail Plan

This area, 135'x60' allows for 30 parking spaces measuring 9' w x 18.5' d with an aisle width of 20'

50'

100'

40



Floor Plan - seating for 50 with social distancing

