

## Request for Decision

### Kelly Lake Holdings – Application for Zoning By-law Amendment in order to permit a fuel depot, 1040 Kelly Lake Road, Sudbury

Presented To: Planning Committee

Presented: Monday, Jan 08, 2018

Report Date: Wednesday, Dec 13, 2017

Type: Public Hearings

File Number: 751-6/17-19

### Resolution

THAT the City of Greater Sudbury approves the application by Kelly Lake Holdings to amend Zoning By-law 2010-100Z by changing the zoning classification from “M2”, Light Industrial to “M2(S)”, Light Industrial Special on those lands described as PIN 73587-0108, Parcel 39057, Part 2, Plan 53R-5357, Lot 9, Concession 2, Township of McKim, as outlined in the report entitled “Kelly Lake Holdings” from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting of January 8, 2018, subject to a condition that the amending zoning by-law contain a site-specific provision permitting a fuel depot on the subject lands in addition to those uses permitted in the “M2”, Light Industrial Zone subject to the following conditions:

1. That prior to the enactment of the amending zoning by-law:
  - a) The owner shall submit a parking plan depicting a minimum of 21 parking spaces to the satisfaction of the Director of Planning Services;
  - b) The owner shall have obtained a driveway entrance permit for the third driveway access onto Kelly Lake Road or shall have removed the driveway and re-instituted parking spaces in this area to the satisfaction of the Director of Planning Services and the General Manager of Growth and Infrastructure; and
  - c) The owner shall install an access chamber (test manhole) on the subject lands as close to the front lot line as possible to the satisfaction of the General Manager of Growth and Infrastructure.
2. That the amending zoning by-law contain the following site-specific provisions:
  - a) That a fuel depot be permitted on the lands in addition to those uses permitted in the “M2”, Light Industrial Zone; and,

#### Signed By

**Report Prepared By**

Glen Ferguson  
Senior Planner  
*Digitally Signed Dec 13, 17*

**Manager Review**

Eric Taylor  
Manager of Development Approvals  
*Digitally Signed Dec 13, 17*

**Recommended by the Division**

Jason Ferrigan  
Director of Planning Services  
*Digitally Signed Dec 13, 17*

**Financial Implications**

Apryl Lukezic  
Co-ordinator of Budgets  
*Digitally Signed Dec 13, 17*

**Recommended by the Department**

Tony Cecutti  
General Manager of Growth and Infrastructure  
*Digitally Signed Dec 14, 17*

**Recommended by the C.A.O.**

Ed Archer  
Chief Administrative Officer  
*Digitally Signed Dec 22, 17*

3. Conditional approval shall lapse on January 23, 2020 unless condition #1 above has been met or an extension has been granted by Council.

### **Relationship to the Strategic Plan / Health Impact Assessment**

The application to amend the Zoning By-law is an operational matter under the Planning Act to which the City is responding.

### **Report Summary**

This application reviews a rezoning application that would permit a fuel depot on the subject lands. The Planning Services Division is recommending that the application be approved subject to those conditions noted in the resolution section of this report.

### **Financial Implications**

Based on the information available, staff is unable to determine the property taxation and development charges implications as the estimated assessed value and size of this building (fuel depot) is unknown at this time.

**Title: Kelly Lake Holdings**

**Date: December 7, 2017**

## **STAFF REPORT**

### **Applicant:**

Kelly Lake Holdings

### **Location:**

PIN 73587-0108, Parcel 39057, Part 2, Plan 53R-5357, Lot 9, Concession 2, Township of McKim (1040 Kelly Lake Road, Sudbury)

### **Official Plan and Zoning By-law:**

#### Official Plan

The subject lands are designated General Industrial in the [Official Plan](#) for the City of Greater Sudbury. Permitted uses in the General Industrial designation include manufacturing, fabricating, processing and assembling of industrial and consumer products, repair, packaging and storage of goods and materials, and related industrial activities. Complimentary uses which do not detract from and are compatible with the operation of industrial uses are also permitted. General Industrial uses are to have minimal environmental impact and uses which may impact surrounding areas and cause nuisance are to be appropriately buffered and screened. Heavy industrial uses may be permitted by rezoning.

The application conforms to the Official Plan for the City of Greater Sudbury subject to a review of the above noted land use planning considerations.

#### Zoning By-law

The subject lands are presently zoned "M2", Light Industrial under [By-law 2010-100Z](#) being the Zoning By-Law for the City of Greater Sudbury. The "M2" Zone permits a general range of light industrial uses under Section 8.2, Table 8.1 – Permitted Uses for Industrial Zones. A fuel depot is not a permitted land use within the "M2" Zone.

### **Site Description & Surrounding Land Uses:**

The subject lands are located on the north side of Kelly Lake Road and to the south of Lorne Street in the community of Sudbury. The lands have a total lot area of approximately 0.79 ha (1.94 acres) with approximately 98 m (324 ft) of lot frontage onto Kelly Lake Road. The lands presently contain two buildings and are separated from one another by a chain link fence. The westerly two-storey building is utilized currently by Praxair as an office, retail/rental store, warehouse and outdoor storage use. The westerly building has a gross floor area of approximately 1,271 m<sup>2</sup> (13,680 ft<sup>2</sup>) not including the unenclosed shipping bay area attached to the west elevation of the building. The easterly building contains a heavy equipment sales and rental use having an approximate gross floor area of 1,115 m<sup>2</sup> (12,000 ft<sup>2</sup>) along with an outdoor yard used to store heavy equipment. The fuel depot use would be located on the westerly portion of the lands and would include the installation of a fuel tank in the rear of the lands.

Surrounding uses to the immediate east and west and along this portion of Kelly Lake Road are light industrial in nature. There is an extractive industrial use further to the west and a more general mix of light industrial and commercial uses along the Lorne Street corridor to the north. Junction Creek is located to the south of the lands.

**Title: Kelly Lake Holdings**

**Date: December 7, 2017**

**Application:**

To amend By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury by changing the zoning classification of the subject lands from “M2”, Light Industrial “M2(S)”, Light Industrial Special.

**Proposal:**

The application would permit a fuel depot to be located on the subject lands.

**Departmental/Agency Circulation:**

Active Transportation, Drainage, the Nickel District Conservation Authority, Operations and Roads and Traffic have each advised that they have no concerns from respective areas of interest. Canadian Pacific Railway was also circulated the application and no comments were received.

Building Services has noted that the storage tanks and support structures require a building permit if not regulated by the Technical Standards and Safety Act (TSSA) and that a change of use permit is required from an “E” occupancy to “F1” occupancy under the [Ontario Building Code](#).

Development Engineering has noted the subject lands are currently serviced with municipal water and sanitary sewer. As a condition of approval, installation of an access chamber (test manhole) is also being requested.

Traffic has clarified in their comments that the existing gate providing access to the lands must be located entirely on private property.

**Neighbourhood Consultation:**

The statutory notice of the public hearing was provided by newspaper along with an initial courtesy mail-out to landowners and tenants within a minimum of 120 m (400 ft) of the subject lands. The owner was advised of the City’s policy recommending that applicants consult with their neighbours, ward councilor and key stakeholders to inform area residents of the application prior to the public hearing. Staff understands that the owner’s agent notified immediately abutting landowners of the proposed rezoning to allow for a fuel depot on the lands. At the time of writing this report, no phone calls or written submissions with respect to this application have been received by the Planning Services Division.

**Planning Considerations:**

Provincial Policy Statement

Municipalities in the Province of Ontario are required under Section 3 of the Planning Act to ensure that decisions affecting land use planning matters are consistent with the [Provincial Policy Statement \(PPS\)](#). The proposed rezoning is consistent with the PPS for the following reasons:

1. Settlement areas are to be the focus of growth and their vitality and regeneration is to be promoted. The community of Sudbury is an identified settlement area in the City’s Official Plan and the addition of a fuel depot is an appropriate use within the context of the industrial character that exists along this portion of Kelly Lake Road and the Lorne Street corridor; and,
2. The lands are located within a designated employment area in the City’s Official Plan where an appropriate mix and range of employment uses are to be promoted. The addition of a fuel depot would not negatively detract from and would contribute positively to the mix and range of employment uses located in this part of Sudbury.

**Title: Kelly Lake Holdings**

**Date: December 7, 2017**

### Official Plan

With respect to those General Industrial land use policies contained in Section 4.5.1 of the Official Plan, staff is satisfied that a fuel depot is a land use appropriately directed to the General Industrial designation. Existing uses in the immediately surrounding area are generally lighter industrial uses however it is noted that there is a larger mix and range of heavy, extractive and disposal industrial uses in the general area. Staff have no concerns with the appropriateness of allowing for a fuel depot along this portion of Kelly Lake Road and note that no expansions to the building or existing facility are being proposed beyond the locating of a new propane tank in the rear yard. Staff is also satisfied that given the character of the area, no negative impact or nuisance is expected to occur on abutting properties should a fuel depot be a permitted use on the lands.

### Zoning By-law

The owner is requesting that the subject lands be rezoned from "M2", Light Industrial to "M2(S)", Light Industrial Special in order to permit a fuel depot to be located on the subject lands. Staff has reviewed the request and has no concerns with the requested zone category, which would add a fuel depot as a site-specific land use permission. Staff does note however that there is an existing site plan control agreement applicable to the subject lands that was registered on June 26, 1987, which depicts the two existing buildings on the lands along with 21 parking spaces located on the westerly portion of the lands. A copy of Schedule "A" to the existing site plan control agreement is attached to this report.

Staff note that there is a third driveway now accessing the lands which appears to have removed at least four parking spaces from the approved site plan. Another four parking spaces along the easterly edge of the original building also appear to have been removed. These parking spaces appear to have been relocated along the westerly property line. Staff recommend that the owner obtain either a permit for the third driveway or remove it prior to the enactment of the amending by-law. Further, prior to the enactment of the amending by-law the owner should submit a parking plan to the satisfaction of the Director of Planning Services. Staff is not recommending that the existing site plan control agreement be amended, however, the owner should demonstrate and provide appropriate parking and driveway entrances on the lands as it pertains to the portion of the lands that will contain the fuel depot as an added and permitted use.

### **Summary:**

Staff has reviewed the development proposal and is satisfied that it conforms to the Official Plan for the City of Greater Sudbury. The development proposal is also consistent with the land use planning policy directions identified in PPS. Staff has no concerns with the requested zone category which would allow for a fuel depot as a permitted use in addition to those uses permitted already in the "M2" Zone. Staff does note however that a third driveway has been installed without benefit of an entrance permit which impacts the parking areas and spaces on the lands and it is recommended that a parking plan be submitted prior to passing the amending zoning by-law. Further, the owner should obtain an entrance permit for the third driveway or remove it, prior to the passing of the amending by-law. The Planning Services Division therefore recommends that the rezoning be approved subject to the resolution section of this report.

# Appendix 1

## Departmental & Agency Comments

**File: 751-6/17-19**

**RE: Application for Rezoning – Kelly Lake Holdings – PIN 73587-0108, Parcel 39057, Part 2, Plan 53R-5357, Lot 9, Concession 2, Township of McKim (1040 Kelly Lake Road, Sudbury)**

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### Building Services

The storage tank and support structure requires a building permit if not regulated by the Technical Standards and Safety Act (TSSA).

A change of use permit is required from an “E” occupancy to a “F-1” occupancy.

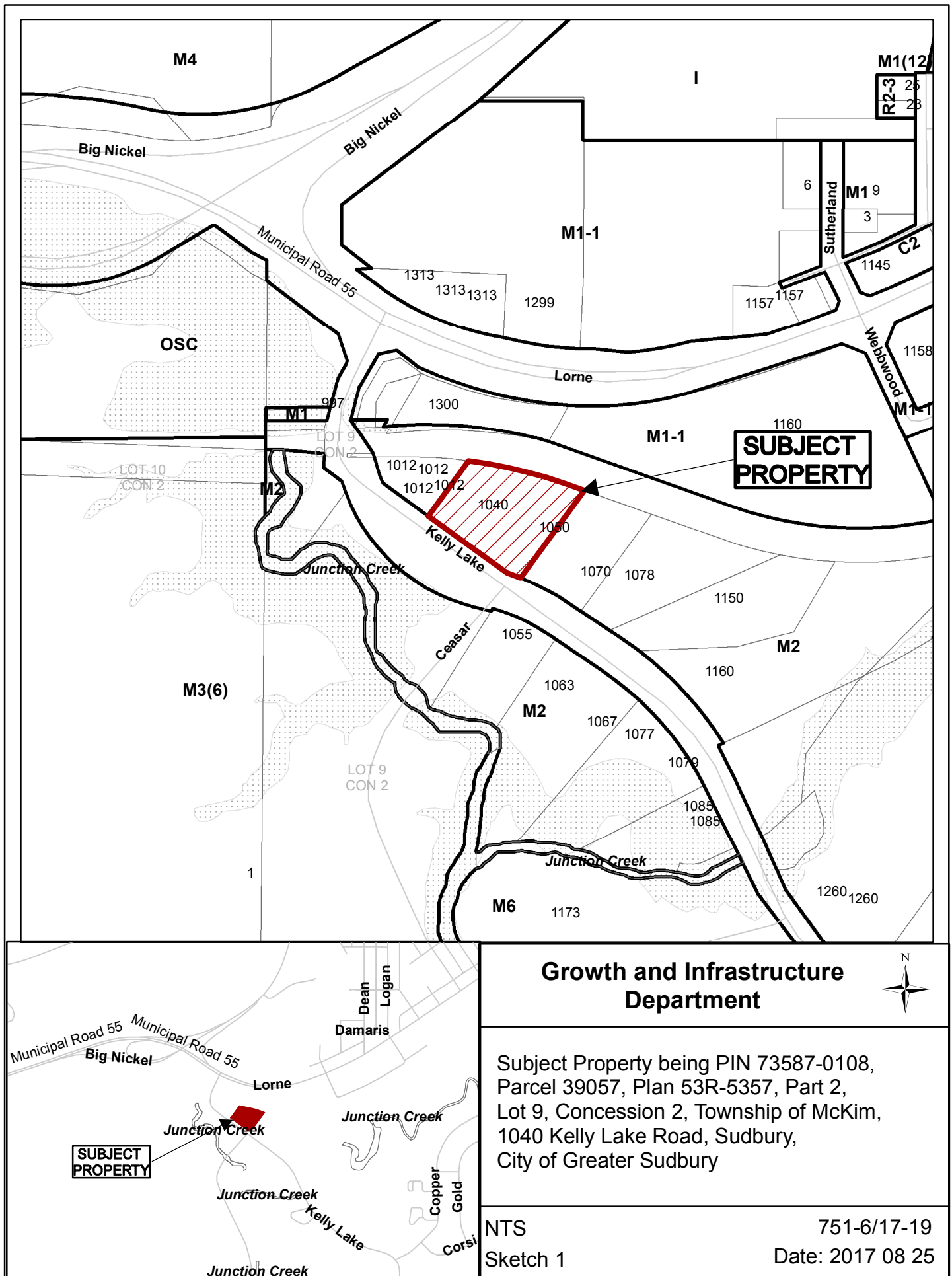
### Development Engineering

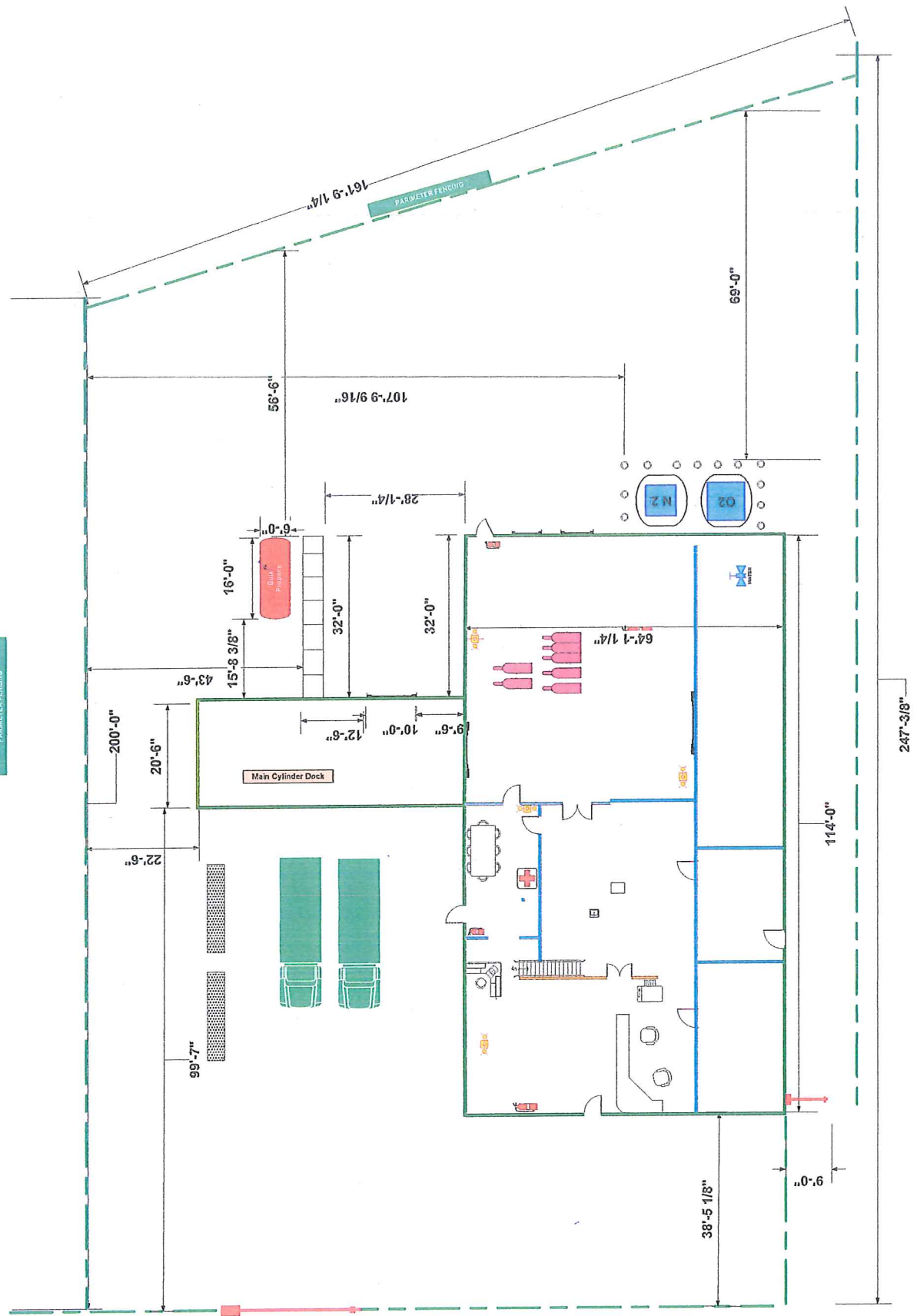
This site is currently serviced with municipal water and sanitary sewer.

It is required that an access chamber (test manhole) be installed on the owners property located as close to the property line as possible.

### Traffic

From the sketch provided, it is unclear if the applicant is proposing to install the gate in the City's right-of-way. The owner is requested to locate the gate on private property.



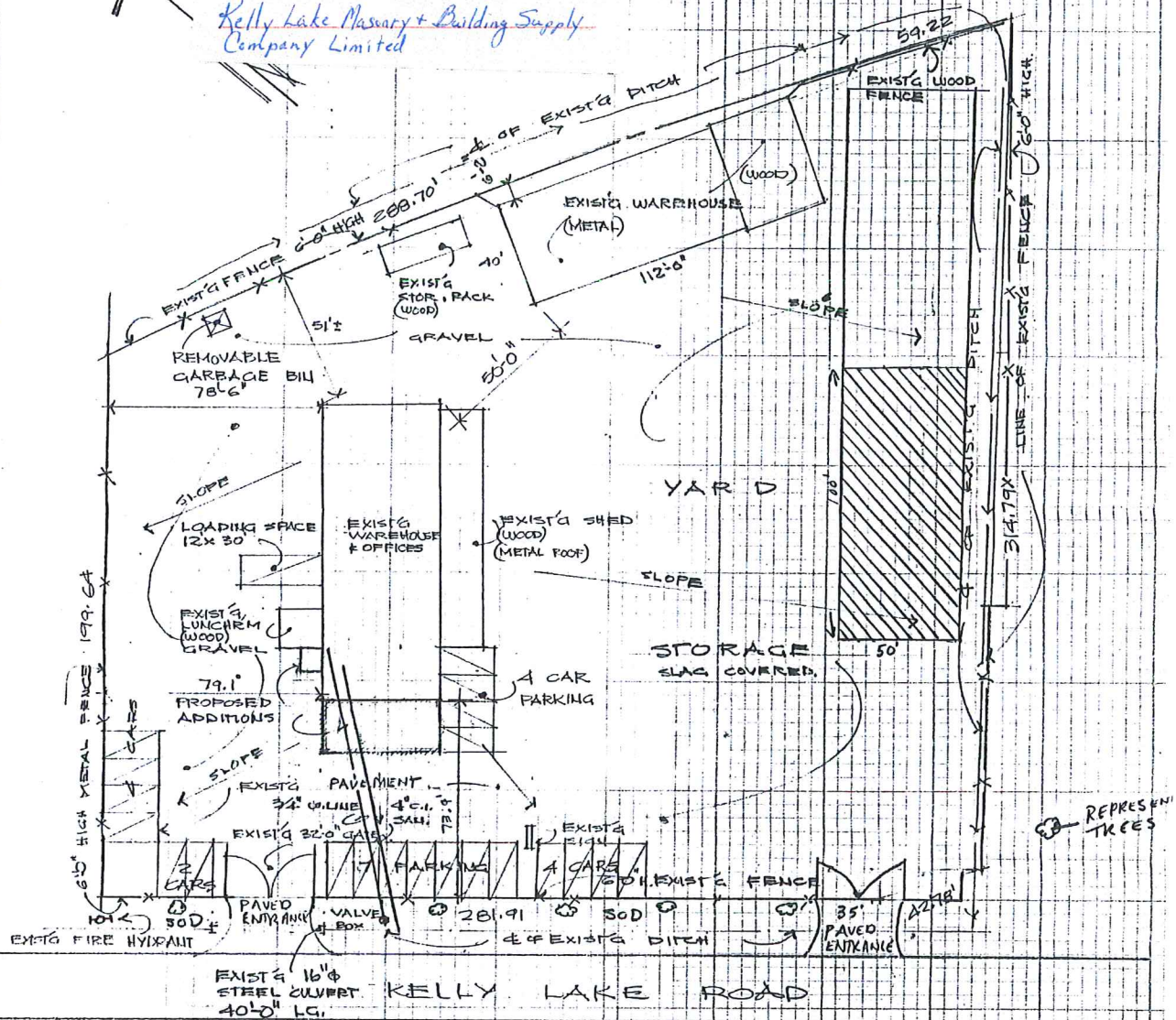


KELLY LAKE ROAD





Kelly Lake Masonry + Building Supply  
Company Limited



# SITE PLAN

SCALE 1" = 40' 0"

PLAN OF SURVEY OF  
PART 2 PLAN 53R-5357  
BEING PART OF LOT 9  
CONCESSION 2 CITY OF  
SUDBURY DISTRICT OF SUD-  
BURY, TAKEN FROM SURVEY  
PREPARED BY M.R. NAHER O.L.S.  
DATED JULY 4 /74

TOTAL PARKING  
LOT SIZE

21 CARS  
\$3,000 S.F.

## REVISIONS

a) FIRE HYDRANT & JAW & WATER LINE

PROPOSED BUILDING ADDITION  
KELLY LAKE MASONRY &  
BUILDING SUPPLY LTD.  
1040 KELLY LAKE RD. SUDBURY

PR. BY R.C.C

DATE JULY 21

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SP-1.

REVISED 84-08-29

18' X 20' ADDITION - SHIPPERS OFFICE

Planning and Development Department

NOV 2 1988

RECEIVED





PHOTO 1 SUBJECT LANDS AS VIEWED FROM KELLY LAKE ROAD  
LOOKING NORTH



PHOTO 2 APPROXIMATE LOCATION FOR STORAGE TANK IN THE  
REAR YARD OF THE SUBJECT LANDS



PHOTO 3 EXISTING LIGHT INDUSTRIAL USES TO THE WEST OF THE  
SUBJECT LANDS FRONTING KELLY LAKE ROAD



PHOTO 4 EXISTING LIGHT INDUSTRIAL USES TO THE EAST OF THE  
SUBJECT LANDS FRONTING KELLY LAKE ROAD

751-6/17-19 PHOTOGRAPHY NOVEMBER 29, 2017