

RESPONSE TO 1ST TECHNICAL COMMENTS

2285 BATTERSEA ROAD

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January 28, 2020

Mr. James Bar

Senior Planner

City of Kingston Planning, Building and Licensing
1211 John Counter Boulevard, Kingston

Via email: jbar@cityofkingston.ca

**RE: Official Plan Amendment and Zoning By-law Amendment
2285 Battersea Road, Kingston – Unity Farm, Inn & Spa**

Dear Mr. Bar,

Fotenn Planning + Design is pleased to submit this letter and supporting documentation on behalf of BPE Developments for the property municipally known as 2285 Battersea Road, also referred to as Unity Farm, Inn & Spa, in the City of Kingston. This letter provides responses to the following comments:

- / City of Kingston Technical Comments, dated October 24, 2019;
- / Malroz Engineering Inc. Peer Review, dated June 28, 2019;
- / Malroz Engineering Inc. Peer Review, dated October 23, 2019;
- / Ministry of Energy, Northern Development and Mines Comments, dated April 18, 2019;
- / Cataraqui Region Conservation Authority Comments, dated May 3, 2019; and
- / City of Kingston Minimum Distance Separation Memo, dated October 24, 2019.

Revised plans and supporting studies are submitted in support of these applications, as follows:

- / Revised traffic memo;
- / Response to first hydrogeological peer review;
- / Response to second hydrogeological peer review;
- / Revised noise impact study (to be submitted under separate cover);
- / Scoped aggregate impact assessment;
- / Addendum to planning rationale report.

Revisions to Concept Plan

The revised plans and supporting studies reflect a number of revisions to the conceptual site plan. As a result of comments received to date and through a more detailed analysis of the site, numerous changes have been made. Please refer to the Addendum to the Planning Rationale Report for a detailed discussion of these changes.

Response to Technical Comments

We have taken care to review the comments provided in the above-noted documents. We provide this consolidated response letter on behalf of the applicant to identify how each comment pertaining to site plan control matters has been addressed. Technical comments received are bulleted, with responses listed below each item in **bold**.

City of Kingston Technical Comments – Fire

- / 1. Our primary concern will be to ensure that the fire access routes can withstand the weight of fire trucks; are provided with signage and are provided with turn around facilities as specified in the Ontario Building Code. Site signage will also be important to clearly identify which access points are to be used to access various buildings. From an emergency response perspective there will need to be a clearly defined civic addressing strategy for this site. Our office is available for further consultation and would like to participate with any meetings planned with the applicant.

Noted. To be detailed through Site Plan Control.

City of Kingston Technical Comments – Transit

- / 2. No concerns. Proponent should be advised that Transit does not plan to introduce rural service to Battersea Road in the current five-year planning horizon.

Noted.

City of Kingston Technical Comments – Traffic Review

- / 3. The traffic memo has been reviewed and there are no traffic-related concerns with this development. The traffic memo should however be revised to include 1) a map that clearly identifies all access points and 2) more information in Section 3 regarding the accesses. For example, please state that the existing main entrance is on Battersea Road and that the 2 existing farm entrances are on Battersea Road. It should also be noted that all parking requirements for this development must be accommodated on-site.

Noted. See Revised Traffic Memo.

City of Kingston Technical Comments – Stormwater Review

- / 4. Zoning proposal has been reviewed; a detail review of stormwater management planning will be reviewed at site plan application.

Noted.

City of Kingston Technical Comments – Licensing and Enforcement

- / 5. Municipal business license required for all businesses according to By-law 2006-213. Permits are required prior to installation for all temporary signs for marketing/information purposes through the Licensing Office. With any changes to current businesses adding services, square footage, number of rooms, etc., a review of current business license is required.

Noted.

City of Kingston Technical Comments – Noise Review

- / 6. The noise study should be updated to confirm that there will be no stationary noise sources associated with the proposed wastewater treatment plant and/or the maintenance buildings. The study should address potential impacts on the proposed rental cabins due to transportation and/or sanitary noise sources in the vicinity. NPC-300 indicates that a land use that would normally be considered noise sensitive, such as a dwelling, but is located within the property boundaries of the stationary source is not considered a noise sensitive land use but this application consists of 3 separately conveyable parcels so the study should address potential impacts from each of the parcels due to stationary and/or transportation noise sources on the other parcels. The noise study should be updated to address these items for further City review and approval in advance of the requested planning approvals. A detailed noise study will be required at time of site plan application.

An updated noise study is being prepared and will be submitted under separate cover.

- / 7. The noise study indicates that loudspeakers will be located on the patio; it is recommended that the applicable City Department confirm whether an exemption to By-law 2004-52, A By-law to Regulate Noise will be required to permit the amplified noise in a residential area.

Noted.

City of Kingston Technical Comments – Engineering

- / 8. No Engineering concerns with the proposed Official Plan and Zoning By-law Amendment.

Noted.

- / 9. Applicant will have to review easement documents to confirm what is legally permitted on the easements and if required by the easement document obtain any required approvals.

Noted. The site plan has been reviewed and no buildings are located within the existing Hydro Easement. Hydro-One has reviewed the proposed development and supporting documentation and did not cite any concerns.

- / 10. Applicant will be responsible for determining what approvals will be required for the private sewage treatment plant.

Noted. We anticipate that an Environmental Compliance Approval for treatment of more than 10,000L per day of sewage will be required.

- / 11. Proposed entrances, grading and servicing will be subject to detailed review as part of a future site plan control application.

Noted.

- / 12. Please note that should it be determined as part of a future application that modifications to the municipal road allowance are required to facilitate the development of these lands, all costs and associated with the modifications will be the responsibility of the developer.

Noted.

- / 13. The subject lands have been recently reviewed by the City for conformance with the Site Alteration By-Law 2008-128; site activities to date have been found to be exempt from a Site Alteration Permit under 2008-128. The City is currently reviewing any changes to the requirement for a Site Alteration Permit under 2008-128 in light of receiving planning applications D35-003-2019 and will advise the applicant directly.

Noted.

City of Kingston Technical Comments – Heritage Planning

- / 14. The property is subject to an approved Heritage Conservation Easement Agreement (HEA) with the owner and the City of Kingston, pursuant to section 37 of the Ontario Heritage Act. The HEA outlines the heritage attributes of the property and the approved conservation works/alterations associated with these attributes. The details of this agreement was reviewed by Heritage Kingston and approved by City Council. The plans submitted with this application appear to be consistent with those reviewed and approved as part of the HEA. The Heritage Impact Statement submitted however is an earlier version, which was updated in the fall of 2018. The revised version and an associated addendum dated October 29, 2018 has been uploaded to DASH. Staff has no comments to add as part of these applications; further comments will be provided as part of the future site plan control application, including the request for a location for an interpretive installation.

Noted. The updated Heritage Impact Statement has previously been uploaded to DASH.

- / 15. We acknowledge receipt of the Stage 1-2 Archaeological Assessment and request a copy of any correspondence from the Ministry of Tourism, Culture and Sport with respect to their review of the Assessment.

Noted.

City of Kingston Technical Comments – Public Works

- / 16. Public Works Operations has no objections to the applications for Official Plan Amendment and Zoning By-Law Amendment and requests to be circulated for detailed review and comment on future application for Site Plan Control.

Noted.

City of Kingston Technical Comments – Parks

- / 17. Cash-in-lieu of parkland required at site plan approval. Reductions for commercial development on a protected heritage property may apply, as per By-law 2013-107.

Noted.

/ 18. Details of landscape plan and tree preservation to be confirmed at site plan approval.

Noted.

City of Kingston Technical Comments – Environment

/ 19. We have reviewed the initial Hydrogeological study by ASC dated April 5, 2019, and we understand that a peer review has been initiated through our Planning dept.. Planning staff will forward a copy of the completed Peer Review to our department for our review.

Noted.

City of Kingston Technical Comments – Building

/ 20. A "Change of Use" building permit application will be required to be applied for to convert from a SFD to a spa and hotel.

Noted.

/ 21. Development and Impost fees will apply for this conversion

Noted.

City of Kingston Technical Comments – CRCA

/ 22. Comments attached to this document.

Noted.

City of Kingston Technical Comments – Hydro-One

/ 23. We are in receipt of your Application for Consent D35-003-2019 dated April 12th, 2019. We have reviewed the documents concerning the noted Application and have no comments or concerns at this time. Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only. For proposals affecting 'Low Voltage Distribution Facilities' please consult your local area Distribution Supplier. To confirm if Hydro One is your local distributor please follow the following link: <http://www.hydroone.com/StormCenter3/>. If Hydro One is your local area Distribution Supplier, please contact Customer Service at 1-888-664-9376 or e-mail CustomerCommunications@HydroOne.com to be connected to your Local Operations Centre. Please select "Service Territory Overlay" and locate address in question by entering the address or by zooming in and out of the map

Noted.

City of Kingston Technical Comments – MAAC

/ 24. This application does not meet the Selection Criteria of MAAC. We leave the review of accessible features to the planner. The MAAC review team wishes to reserve the right to review the detailed Site Plans when they are ready since this seems to be a concept drawing.

Noted.

/ 25. "Application Information" states 166 parking spaces which should require 7 barrier free parking spaces. It appears only six are shown on the concept drawing.

The revised concept plan includes 7 barrier free spaces.

/ 26. Barrier-free parking indicated on drawing should include:

- Dimensions
- Which are type A or B
- And signage.

Relief is requested to reduce the required length of the Type A spaces, Type B spaces and the access aisle to 5.2 metres to be consistent with the length of the standard parking spaces. The seven provided accessible parking spaces will comply with all other zoning by-law requirements. This reduction complies with AODA standards, which do not provide a minimum parking stall length.

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- / 27. The 2 barrier-free parking stalls east of Building 'I' should include a curb cut at the top of the access isle to provide accessible access to the sidewalk indicated.

To be considered through Site Plan Control.

- / 28. Any curb cuts/drop curbs should be indicated and include a detail drawing.

To be considered through Site Plan Control.

- / 29. Ensure painted cross walks in parking areas to ensure safe pedestrian routes.

To be considered through Site Plan Control.

- / 30. This comment is outside of the scope of MAAC but if not already addressed, it would be beneficial if a few of the rental cabins were barrier-free/accessible.

Noted.

City of Kingston Technical Comments – KFLAPH

- / 31. We have issued a building permit for a sewage system with a 9750 liter per day Daily Design Sewage Flow. This permit was sought by the applicant to allow work to begin on a 19 room Inn and a 40 seat dining room[originally the applicants consultant applied for a 19 bedroom addition to a single family dwelling], this was discussed with the undersigned and a change was requested to more accurately represent the proposed use of the property going forward. It was also discovered that the original proposal would have exceeded the 10000 litre/day criteria of the Ontario Building Code, due to the number of fixtures being proposed/ square footage involved. Discussions with the building department have lead to request amendments to the system approval to properly reflect the nature of the project. This will result in a reduction in the number bedrooms being added to the single family dwelling, but depending on the building department, may allow for a building permit to be issued. We are awaiting a revised plan from the applicants consultant.

Noted.

- / 32. There is a significant difference between the applied for permit, when the hydrogeological study indicates that the goal is 27 suites [the original assessment was for a regular motel room at 250 l/day, while suites may be allocated 500l/day per person] and a 96 seat restaurant with a further 60 seat seasonal patio.

Noted.

- / 33. It appears that a fairly significant water treatment system is going to be required and proposed, many of these systems produce a significant amount of backwash water which will contain constituents which could affect the quality of the groundwater its disposal should also be considered. It is likely that the water system will be under the purview of KFLA Public Health, and will be a regulated Small Drinking Water System.

Noted.

City of Kingston Technical Comments – MECP

- / 34. Last fall the MECP has met with the applicant's consultant with respect to water taking needs at the site and a sewage system approval.

Noted.

- / 35. Since that time it is my understanding that an approval for a sewage system was issued by the KFL&A HU. I believe this approval only deals with an addition to the main house on the property. As the proposal grows, additional sewage approvals (depending on the amount of sewage generated on each parcel) issued by either the HU or the MECP will be required.

Noted.

- / 36. Also, a Permit to Take Water may be required depending on the water taking needs at the site.

Noted.

- / 37. Has a stormwater management plan been provided? I think it's important for MECP to understand whether an Environmental Compliance Approval under the Ontario Water Resources Act is required for the management of stormwater at the site.

A stormwater management plan was submitted with the application.

City of Kingston Technical Comments – MNRF

- / 38. Wetlands: The subject property has unevaluated wetlands on the landlocked portion. We recommend contacting your local Conservation Authority for more information on approvals that may be required. MNRF recommends that the unevaluated wetland be treated as Provincially Significant Wetland or evaluated by an Ontario Wetland Evaluation System (OWES) certified evaluator.

Noted. Comments submitted by the Cataraqui Region Conservation Authority do not reference any unevaluated wetlands or other concerns regarding the development. A 7.5-metre setback is proposed from the small wetland on the site.

- / 39. ANSIs: There are no ANSIs on or adjacent to the subject properties.

Noted.

- / 40. Aggregate Resources: The properties are on and adjacent to a sand and gravel deposit of tertiary significance. Where an application for development occurs on or within 300 metres of a known unconsolidated deposit (e.g., sand, gravel, clay) or a mineral aggregate pit operation, the applicant should be required to assess the impact of the proposed development on the mineral aggregate resource and the mineral aggregate operation(s). MNRF can provide a terms of reference for completing an impact assessment.

Noted. Refer to the scoped Aggregate Impact Assessment.

- / ****CITY NOTE**** The subject lands are greater than 300 metres from an identified aggregate pit. A northern portion of the lands appear to be within the Sand and Gravel Aggregate Reserve Area (tertiary), on Schedule 12 of the City's Official Plan. The City and MNRF can work with the applicants on the scope of an aggregate impact assessment due to the presence of a reserve area.

Draft Terms of Reference were obtained from the Ministry of Natural Resources and Forestry. The submitted Aggregate Impact Assessment was prepared on this basis.

- / 41. Fish and Wildlife Conservation Act: Please note that the proponent may require a Scientific Collector's Permit from our office if the proponent will be doing any fish or wildlife sampling, collection, salvage, or relocation within Peterborough District. For more information about Scientific Collector's Permits, please contact Julie Formsma, Fish and Wildlife Technical Specialist at 705-755-3296.

Noted. The Environmental Impact Study indicated that there are no significant wetlands, ANSIs, or fish habitat on or adjacent to the subject property.

- / 42. Other Approvals: It is the responsibility of the proponent to acquire all other information and necessary approvals from any other municipal, provincial or federal authority under other legislation. We recommend that you contact your local Conservation Authority, Department of Fisheries and Oceans, Ministry of the Environment Conservation and Parks, Ministry of Tourism, Culture and Sport, etc.

Noted.

- / 43. If you have any questions regarding the above comments, don't hesitate to contact me. Please reference file number: 19-KING-KNG-INF-2997 for any future correspondence.

Noted.

City of Kingston Technical Comments – NDAM

- / 44. Comments attached to this document.

Noted.

City of Kingston Technical Comments – OMAFRA

- / 45. OMAFRA has reviewed the circulated material (in particular the Minimum Distance Separation Study) and would like to provide the following technical input.

Noted.

- / 46. OMAFRA would like to provide some clarification with respect to implementation/intent of Type A and B land uses.

Noted.

- / The report makes a determination as to the type of use (Type A vs. B) the proposal should be processed as. While OMAFRA does not have any particular issues with this this aspect, it is noted that the report also references and utilizes MDS Guideline #12 which involves a making a determination of use(s) as either Type A or B. The report utilizes Guideline #12 to justify an exemption and/or reduction from calculated MDS setbacks from some of the adjacent livestock areas. While guideline #12 may permit development at a reduced setback, there are a number of sub-criteria that need to be satisfied in order to be eligible. As per MDS Guideline #12 bullet 3, the 4 more uses need to be “ - of the same or greater sensitivity (i.e., Type A or Type B in accordance with Implementation Guidelines #33 and #34) as the proposed development or dwelling.” While not abundantly clear, direction in the MDS document to determine how certain land uses should be categorized depends on what is being considered (determining what a proposed use should be categorized vs. what an existing use should be categorized). When considering what a proposed use should be processed as (Type A vs. B), MDS I Guidelines #33 and #34 provide direction on what would qualify. Beyond guidelines #33 and #34, other guidelines in the MDS document (such as Guideline #12) require a determination as to whether something should be considered as either a Type A or Type B use. Implementation of Guideline #12 requires a determination about how existing uses should be categorized (either a Type A or Type B). While MDS I guidelines (#33 and #34) speak to how proposed uses should be categorized, its language does not particularly clarify how existing uses should be categorized. That said, direction on how existing uses are intended to be categorized can be found in MDS guidelines #33 and #34 under the MDS II column.

Noted.

- / ****CITY NOTE**** The comments above are meant to provide direction on how to classify the existing surrounding land uses as either Type A or Type B for the purposes of calculating a reduction under Guideline 12. Please see the MDS Memo for further clarification.

Noted.

- / 47. There have also been questions raised about the what information should be used to address MDS for the subject application. During review, it is understood that some of livestock operators have indicated a potential desire to expand their operation. MDS calculations should be based on the circumstances/livestock capacity present at time the municipality deems the subject application to be complete. This direction is found within MDS Guideline #2 (copied below)

Noted.

- / “The information used to carry out an MDS I calculation must reflect the circumstances at the time that the municipality deems the planning or building permit application to be complete.”

Noted.

- / ****CITY NOTE**** The comment above is intended to provide direction on what circumstances to consider at the time an application is made. Please see the MDS Memo for further clarification.

Noted.

City of Kingston Technical Comments – Forestry

- / 48. The city owned poplar tree located along the frontage of 2285 Battersea Road has had the back side of its root system excavated by the applicant. The tree had been assessed prior to the excavation occurring and

our department was prepared to prune and retain the tree. On the subsequent inspection the excavation was noted. With this excavation occurring there is now an increased level of risk posed to the main road (Battersea Road). Significant root severance has occurred on the west side of the tree. At this point tree removal is required in order to mitigate the issue. The applicant is responsible for its removal and all costs associated with it.

Noted.

- / An appraisal assessment of the large Eastern Cottonwood tree within the road allowance in front of 2285 Battersea Road has been performed in order to determine a compensation value. As a result of the trenching work performed on the property that has essentially removed all supporting root structure on the west side of the tree, the tree poses a risk to the road allowance that cannot be mitigated outside of removal. The compensation value calculated for the tree using the Trunk Formula Method is \$6,280.00. This equates to approximately 18 replacement trees at \$350.00 per tree. The compensation amount shall be forwarded to the City of Kingston prior to the finalization of any agreements related to planning applications for the site. In addition to the compensation amount of \$6,280.00 to be forwarded to the City of Kingston, the applicant will be required to acquire the services of a private tree contractor to complete the tree removal, including stump removal, remediation of the stump site, and disposal of all debris (both tree and stump) and all costs associated with the contractors services.

Noted.

City of Kingston Technical Comments – Planning, General

- / 49. Studies, reports, and rationales need to consider all proposed uses the entire property, not a specific phase or phases. Phasing of the development and implementation of the servicing can occur through the Site Plan Process and use of Holding Symbols. Please revise the materials to consider all the proposed parcels that are part of this application and all the proposed uses that are part of this application. Additionally, you can amend the application to refine the permitted uses to those which are studied and amend the drawings and reports to exclude uses not considered at this time.

Noted. A summary is provided with the planning rationale addendum describing the changes to the plan. It is no longer proposed to phase the development through holding symbols or site plan control.

- / 50. Where in the process is the application for MECP approvals of the septic system?

This information is to follow. MECP approvals will be undertaken concurrent with Site Plan Control.

- / 51. How does the proposal plan to dispose of the waste brewery water? Will there be onsite treatment for the yeast and suspended solids? Will it be trucked away and processed at a specialized facility? If proposed to be taken by the municipal system, an agreement is required with Utilities Kingston.

Waste brewery water will be disposed through the on-site sewage treatment and will not be trucked away.

City of Kingston Technical Comments – Planning, Planning Justification Report

- / 52. The proposed uses for the site are unclear in relation to the phasing. The report outlines the following as proposed uses:

- A. Inn with 23 suites
- B. Restaurant
- C. 40 guest cabins
- D. Spa
- E. Craft winery
- F. Brewery
- G. Small gift shop
- H. Corporate event venue, and 4 additional suites

Refer to the planning rationale addendum for a summary of the revised proposed uses. The development is now planned to occur in a single phase.

- / Report outlines what uses which are included in Phase 1, 2 and 3, but the winery and brewery are not included in the phasing. Please clearly outline the proposed uses and what phase they are a part of.

The development is now planned to occur in a single phase.

- / 53. There are inconsistencies between the total number of cabins in the description and the phasing. Where 40 guest cabins are proposed in the zoning and descriptions, 43 are proposed in the phasing (3 and 15 and 25). Clarification required.

40 cabins are proposed.

- / 54. What is meant by a corporate event venue? Can other events take place at the facility such as weddings, family reunions, or community events? What are the anticipated operating hours and maximum size of the venue (floor area and number of persons)?

Refer to the Addendum to the Planning Rationale Report. Refer to revised drawings and elevations. It is intended that the event venue be permitted as an “Assembly Hall” as defined in the City’s draft comprehensive zoning by-law, as this use broadly permits assemblies of people.

- / 55. The Planning Report seems to characterize the site as a farm, with the spa, tourist accommodations, and restaurant, as on-farm diversified uses or agriculturally related uses. How does the site meet the criteria for a farm and subsequently an on farm diversified use, and/or an agriculturally related use in the PPS, further explained in Publication 851 - Permitted Uses in Prime Agricultural Areas and the PPS definitions? Proposed land use is a rural commercial use and not an agricultural use, agriculture related use, or on farm diversified use. Please revise the justification to reflect the proposed use as a rural commercial use.

Refer to the Addendum to the Planning Rationale Report.

- / 56. On-farm diversified uses and agriculture related uses are permitted in the Official Plan. On-Farm Diversified uses and agricultural related uses are not permitted uses as-of-right in the zoning by-law through Section 5 (General Provisions) or Section 6 (Zones). In review of MDS Guideline 35 for agriculturally related and on-farm diversified uses, there are no as-of-right permissions in the City’s zoning by-laws for such uses, or other municipal direction for the application of Guideline 35. Zoning By-law Amendment applications for on-farm diversified uses and agriculture related uses would be treated on an application by application basis. Guideline 35 is not applicable to this application for rural commercial development.

Refer to the Addendum to the Planning Rationale Report.

City of Kingston Technical Comments – PPS Justification

- / 57. Section 1.1.4.1.g – Please provide additional justification on how the tourist facility provides an opportunity for sustainable tourism and how it leverages historical, cultural, and natural assets.

Refer to the Addendum to the Planning Rationale Report.

- / 58. PPS Justification 1.1.5.2 - 1.1.5.3 – Please provide additional justification on how the proposed uses are recreational, tourism or other related opportunities, and how are they permitted under the rural lands permitted uses 1.1.5.2?

Refer to the Addendum to the Planning Rationale Report.

- / 59. Section 1.1.5.4 – Please provide additional justification regarding how the development is compatible with the rural landscape, and how it is sustained by rural service levels. Given the list of proposed uses, this section requires a greater understanding to determine compatibility of the proposed development with the surrounding rural landscape and how it is sustained by rural service levels.

Refer to the Addendum to the Planning Rationale Report.

- / 60. Section 1.1.5.6 – Please provide information on how does the development retains an opportunity to expand a land use that requires separation from other uses RE: the adjacent livestock barn. There is an adjacent barn next door that has existing setbacks under the MDS formula. This application proposes a

reduction to the MDS I setback for that barn, which separates livestock operations from new non-farm land uses. The policy is applicable in rural lands as defined by the PPS and was not addressed in the planning justification report.

Refer to the Addendum to the Planning Rationale Report.

- / 61. Section 1.1.5.7 – Please provide further information regarding how the proposed Type B Land Use is sufficiently separated from agricultural uses through the request to reduce the MDS setback for a Type B land use below a Type A setback. It is unclear from the report how this conclusion has been arrived at as the direction in the policy is to direct development to areas where it will minimize constraints on agricultural uses.

Refer to the Addendum to the Planning Rationale Report.

- / 62. Section 1.1.5.8 – Please provide further information regarding how the proposed Type B Land Use promote and protect agricultural uses in accordance with provincial standards when a reduction in the MDS setback is proposed. It is unclear from the report how this conclusion has been arrived at in light of 1.1.5.9 RE: new land uses complying with the MDS formulae.

Refer to the Addendum to the Planning Rationale Report.

- / 63. Section 1.1.5.9 – We have concerns with the proposal to reduce the MDS I setback for the proposed Type B land use and the ability of the application to be consistent with the Provincial Policy Statement. Please review the attached MDS Memo.

Noted. Refer to the Addendum to the Planning Rationale Report.

- / 64. Please provide justification through the Planning Report for all applicable PPS policies. Policy areas still to be addressed include but are not limited to:

- 1.1.5.6 – Rural Lands – opportunity to expand uses
- 1.6.6.4 – Individual onsite water and wastewater systems
- 1.6.6.7 – Stormwater Management
- 2.2.2 – Water
- Other sections should be addressed as required.

Refer to the Addendum to the Planning Rationale Report.

City of Kingston Technical Comments – OP Justification

- / 65. Section 2.1.2.a) – Thank you for providing the addendum to the hydro-geological study that provided a full water balance for the site. Please see the attached comments for the hydrogeological study.

Noted.

- / 66. Section 2.1.2.e – While the justification has touched on some of the proposed sustainable practices, please provide further justification regarding how the uses support the rural area and are compatible with the rural area given the resource based local economy uses in close proximity.

Refer to the Addendum to the Planning Rationale Report.

- / 67. Section 2.3.12 – The application proposes to reduce the MDS setback for an existing barn MDS setback. Please see the attached MDS Memo.

Noted. Refer to the Addendum to the Planning Rationale Report.

- / 68. Section 2.7.2 and 2.7.3 – The review of compatibility matters are to include, but are not limited to items a – l. What are the elements of rural compatibility that need to be considered as part of this development that are not included in 2.7.3 a-l? How does the proposed development fit into the character of the area? This section could link to or draw from the new development design policies under Section 8.6.

A review of Section 2.7.3.a.-l. is provided on pages 33 to 35 of the Planning Rationale Report. Refer to the Addendum to the Planning Rationale Report for details related to the updated plans. The rural character of this area is eclectic. Agricultural properties largely consist of multiple buildings with greater footprints,

building heights and yard setbacks than rural residential dwellings in the area, which generally consist of 1-2 storey dwellings with accessory buildings. There are also 1-2 storey institutional buildings in the immediate area with large footprints and parking areas. The design of the addition to the existing farmhouse is heavily influenced by the heritage conservation intent of the proposal and is reviewed in detail in the HIS. The design of the new inn and spa building at the northwest corner of the property also balances the rural character (e.g. a contemporary interpretation of a traditional barn design for the spa, reception area, cafe) with a design that blends into the landscape for the 20 proposed suites. Given the significant separation of this building from the adjacent rural residential and agricultural properties, no additional mitigation measures are necessary as no negative impacts are anticipated.

- / 69. Section 2.7.4.f – The proposed C3 Zone allows for a maximum of 4 entrances. A more centralized entrance plan that reduces the total number of entrances could create a grand entrance into the site and internalize movements between the proposed uses. Please provide additional rationale on why 5 entrances are appropriate and required to support the development.

Please refer to the addendum to the planning rationale.

- / 70. Section 2.7.5.c – Please provide justification to address this section of the Official Plan. There is no mention of this OP policy in Section 5 of the report which reviews the appropriateness of the MDS setback reduction. Please see the attached MDS Memo.

See page 36 of the Planning Rationale Report. Please also refer to the planning rationale addendum which provides updated consideration and review of MDS as it relates to the revised plan.

- / 71. Section 2.7.8 – issues of rural compatibility and the protection of farming practices. Please see the attached MDS Memo.

Noted.

- / 72. Section 3.14.8.a) – Please see the attached MDS Memo.

Noted.

- / 73. Section 4.4 – Please see the peer review comments on the hydrogeological study and addendum.

Noted.

- / 74. How do you propose to recognize the buffer area around the butternut trees? Have you given consideration to use of an Environmental Protection (EP) Zone or use of a Hold on the development zone for that feature, or will the trees be removed as part of the application? The butternut tree area should be recognized through the amended zone if the exclusion area be required.

A Holding Symbol or EP Zone is not proposed as the trees are in declining health. If necessary, a setback distance from the trees may be applied through a site-specific zoning provision which can be enforced through site plan control. Given that there is a recommendation from the EIA relating to the butternut trees, it is proposed to utilize site plan control to implement the EIA recommendations and ensure adequate separation as long as it is needed.

- / 75. Section 8.6.a-e) – Please provide additional rationale to describe how the proposed development is visually compatible with / fits into the characteristics of the surrounding neighbourhood. The review should include but is not limited to: existing surrounding context; how the proposed development is set back from existing uses; how the proposed uses are arranged on site; the scale, massing, setbacks, landscape treatment, and exterior design features.

Rationale regarding compatibility with the surrounding context is provided throughout our Planning Rationale Report and further examined through the Addendum to the Planning Rationale Report. It should be noted that the surrounding area is an eclectic rural area with varying uses including institutional, agricultural, and residential, and is comprised of varying building heights and building types. The proposed setbacks and arrangement of buildings on the site is inspired by other agricultural clusters of buildings.

The cabins and inn/spa are proposed within the wooded area of the site where any visual impact will be mitigated by setbacks and through the maintenance of tree cover.

/ 76. Section 9.3.c) – Please see the considerations contained below in the Zoning Section.

Noted.

/ 77. Section 9.3.2.g) – The policy in the Official Plan outlines the following: “the degree to which approval of the amendment would establish an undesirable precedent.” Please provide further rationale on why the application, given its site specific considerations for a reduction in the MDS I setback and the proposed private services, to permit the Rural Commercial designation land use change in this area, does not set precedence.

Refer to the Addendum to the Planning Rationale Report.

/ 78. Section 9.3.2.h) – Consistency with the PPS. Please provide additional information through the PPS justification section on how the proposed development is consistent with the PPS.

Refer to the Planning Rationale Report and the Addendum to the Planning Rationale Report.

/ 79. Please review Section 9.5.9 of the Official Plan as it was not reviewed as part of the planning justification report.

Refer to the Addendum to the Planning Rationale Report.

City of Kingston Technical Comments – Zoning

/ 80. Please be advised that only the uses studied will be considered for the site specific zone. Any additional uses will require a reconsideration of the water / wastewater demands for the site and thereby the zoning for the property.

Noted.

/ 81. For rural commercial development, the zone regulations shall reflect the different uses proposed for the site. Please provide an updated draft by-law that breaks down the specific zone considerations for each of the proposed uses in accordance with the comments contained in this section. Please provide a definition for each proposed use that is not defined in By-law 76-26.

Refer to the Addendum to the Planning Rationale Report. A single zone and relevant provisions, including holding symbols related to MDS, are proposed.

/ 82. Rental cabins – what are the site specific zone regulations proposed for the cabins (maximum gross floor area, height, setbacks from lot lines, etc.)? While the report requests that the maximum size will be 65 square metres (700 square feet), the presentation at the public meeting noted that they are 200-300 square feet. At 65 square metres, the cabins are more characteristically a tiny house rather than a small rental cabin. Larger cabin sizes may not conform to the anticipated water demands in the hydro-g report. Please update the proposed site specific zone to reflect the proposed cabins.

The original proposal sought to permit 600-700 sq ft cabins. During the public meeting, it was noted that the applicant may be interested in reducing the size to 200-300 sq ft. Upon further review, it is proposed to reduce the maximum area of each cabin to 500 sq ft (46.5 sq m) in the updated submission. The proposed yard setbacks would apply to the cabins as a primary permitted use, and the maximum height would be limited to 7.6 metres, as originally proposed.

/ 83. Brockville’s zoning by-law only permits micro-winery and micro-brewery in commercial and mixed use zones, located on urban services. This site is proposed in a rural area. Please review and propose definitions and regulations for the proposed winery and brewery use that is appropriate for a rural area. A cidery was also indicated in the list of uses on site visit on June 21, 2019. How will a cidery captured in the definitions and regulations? Please be aware that the Alcohol and Gaming Commission of Ontario (AGCO) requires that a winery have a vineyard with a minimum of 2 hectares (5 acres) planted grapes or fruit. Please consult OMAFRA Publication 815 – Starting a Winery in Ontario for further details.

The proposed definition does not contain terminology specific to either rural or urban areas, but is a generic definition. The intent of this use is to allow the production, sale, and distribution of wine, beer or cider on the site. No site-specific policies are proposed beyond the zoning provisions for the uses.

- / 84. What are the proposed setbacks, height, and floor area for the brewery / winery building? Please include specifics for the building.

The brewery, winery and cidery are now proposed to be located within the addition to the farmhouse. Refer to revised floorplans.

- / 85. What are the proposed setbacks, height, and floor area, for the event centre? Please include specific zone regulations for the building including a definition of what an event centre is.

The City's Draft Comprehensive Zoning By-law provides a definition for 'Assembly Hall' and 'Banquet Hall' as follows. *"Assembly Hall means the use of any lot, building or structure, or part thereof, in which facilities are provided for the gathering of persons for civic, political, travel, religious, social, educational, recreational or similar purposes or for the consumption of food or drink. This definition includes an auditorium, banquet hall or similar use where the principal focus of the use is assembly"*.

***"Banquet Hall means the use of any lot, building or structure, or part thereof, for the purpose of catering to banquets, weddings, receptions or similar functions for which food and beverages are prepared and served"*.**

It is proposed to utilize the Assembly Hall use and definition as it is broader and inclusive of the Banquet Hall use. The event centre will be located within a separate building but specific zone provisions for each individual building are not proposed. As is typical for a multi-building development, we are proposing performance standards for the site as a whole, with each building required to meet the same standards. Site plan control will provide a suitable mechanism for reviewing the design and arrangement of buildings and uses on the site.

- / 86. What are the proposed setbacks, height, and floor area of the retail store on site? Where will this use be located?

The retail store use will be located in the renovated farmhouse building. This is intended to be similar to local grocery stores that form part of the applicant's group of companies. Products for sale will be sourced locally and will support local producers. See Revised Draft Zoning By-law Amendment text.

- / 87. In the parking calculations, what is the difference between the beverage room under the Tourist Establishment parking calculations, and the restaurant parking calculations? Please include the brewery, winery, and corporate event centre, in the parking calculations.

Refer to the Addendum to the Planning Rationale Report.

- / 88. At a meeting with City Staff on July 12, 2019, it was mentioned that the spa would be for exclusive use of the guests staying at the resort. If there were vacancies in the accommodations, then general members of the public would be permitted to use the spa for day-use. How is this being captured or regulated through the zoning and hydrogeological study? The parking calculations include a number for the spa outside of the accommodation units.

See Hydrogeology Study as consideration is given to the spa use. Parking for the spa is included under personal service shop parking calculations.

- / 89. While the three lots are proposed to be considered one lot for the purposes of zoning, will the lots be merged together to form one lot for the purpose of the development? The large parcel is landlocked and the City does not permit development on landlocked parcels.

The City has previously permitted a landlocked parcel to be developed as part of a larger development, for example the lands shown on Schedule 3-D as Site-Specific Policy Area 19 located in Barrett Court on

Highway 15 where the City allowed the creation of a lot with no road frontage provided that access by an easement could be provided and incorporated into the site planning for the various relevant properties. The land-locked parcel in this development already possesses an access easement to Battersea Rd and additional access will be provided through site plan control from the southerly properties that form part of the proposed development. Since the lot already exists, it is not proposed to apply additional site-specific policy as it is not required.

- / 90. There are three entrances located in close proximity to one another along Battersea Road and they all share an internal connection to one another. There is an opportunity to reduce the number of entrances for the site to the maximum regulated by the by-law or less. A consolidated entrance would help to create a more central and grand entrance to the site.

Noted. Refer to the Addendum to the Planning Rationale Report.

- / 91. Please include all uses in the reporting, justification, required studies, and site specific zone considerations. A Holding zone can be used to phase in development. If using a holding zone, please provide details of the Hold in the proposed zone. The Hold zone can be broken down to reflect different phases and consideration (H1, H2, H3, etc.).

Refer to the Addendum to the Planning Rationale Report and revised draft zoning by-law amendment text.

City of Kingston Technical Comments – Minimum Distance Separation (MDS)

- / 92. Please see the attached MDS Memo reviewing the Minimum Distance Separation components of the application.

Noted.

City of Kingston Technical Comments – Hydro-G Report

- / 93. Please see the attached hydrogeological study peer review comments.

Noted.

- / 94. The City's Building Department has reviewed the Theoretical Flow Calculations on page 3 of the Response to Draft Technical Comments, and provides the following:

- / a) The main issue would be the 37,279L of flow per day that they are saying is what they will draw from the onsite wells. This number is what will be discharged to the septic system. For example the 8000L for daily spa make up water with 100% diverted to grey water storage. The 8000L will still be drawn from the well as grey water cannot be used for makeup water for a spa.

No grey water will be used as make up water for the spa, well water will be used for spa make-up water. Based on occupancy and referencing Ontario Regulation 495/17: Public Spas, Section 7.(1), 2,400 litres per day will be required for make-up water.

- / b) The application proposes using grey water for flushing of toilets and for doing laundry. 7.1.5.3.(2) of the Ontario Building Code states that storm sewage or grey water is only permitted to supply water to water closets, urinals, sub-surface irrigation and trap seal primers.

No untreated grey water re-use is proposed for the facility. Twenty percent of "treated" grey water is proposed for re-use, in toilets only.

- / c) An area of concern is the numbers provided for the cottages. The OBC outlines that the water demand for a cottage should be 500L per person, not 250L per cabin.

Note that the cabins are not cottages but are designed to be single rooms in the woods. The proposed 1-bedroom/bachelor cabins, shown in the north west quadrant of the Concept Plan, will incorporate a footprint of 300 - 500 sq ft; including a ¾ piece bathroom (toilet, sink and shower). The footprint is comparable to a standard hotel/motel one-bedroom with no additional amenities and on that basis considering the size and proposed purpose of the cabins we believe that OBC Section 8.2.1.3.A 5.a) Hotels

and Motels (excluding bars and restaurants) – Regular, per room is a reasonable categorization for the proposed cabins.

/ The values for the brewery and winery are other area for concern as the values provided seem quite low.
Water taking requirements for production/brewing/cleaning processes are expected to be approximately 3.5 L water/1 L of beer (Craftbrewers.com) to 5 L water/1 L beer (MacKinnon Brothers Brewing Company - <http://www.mackinnonbrewing.com/beers/> and Labatt Breweries of Canada (Cresto B.C.)).

/ Additionally there were no allowances for plumbing fixtures in the calculation for the brewery/winery, only water that will be used in production. Any values based on occupant load could not be verified as I do not have access to any of that information.

Beer and wine staff (2 staff - 75 lpd per person – 150 lpd) – Referencing O.B.C 8.2.1.3 A. 12 h) ii) Food Service Operations – Take Out per employee per 8-hour shift.

/ d) In conclusion, the value of 37,279L is the discharge to the septic system, not the flow requirements for the domestic water system. This table will need to be revised with the proper values and recalculated.

The daily flow requirements are shown on Table 1, ASC-458 103I, dated January 27, 2020.

City of Kingston Technical Comments – Summary and Moving Forward

/ 95. The applications as submitted are not consistent with the PPS and do not conform to the Official Plan, specifically as it relates to Minimum Distance Separation. There are still outstanding comments on the hydrogeological works that need to be addressed. There is an opportunity on site to satisfy the requirements of MDS through classifying the proposed land uses as either Type A land uses (such as the winery and tasting room, agricultural uses) or Type B land uses (such as the spa and inn, event centre, cabins) in accordance with Guideline 33 and 34 of the MDS Guidelines, and locating uses outside of the applicable MDS setbacks. Consider how a rearrangement/refinement of land uses would be compatible with the rural character of the area and the surrounding development. Technical studies are required to reflect and support the proposed applications.

Refer to the Planning Rationale Report and the Addendum to the Planning Rationale Report. Further consideration of the revised proposal continues to support our opinion that the applications are consistent with the PPS and conform to the Official Plan.

Malroz Peer Review (June 28, 2019) – Servicing Options

/ 1. On Page 7, second-to-last paragraph of the hydrogeologic study, the consultant identifies that for the long-term provision of private on-site services from groundwater, it must be shown to be safe and sustainable. The consultant further identifies that trucking of water, to site, will be undertaken to supply water for certain aspects of the proposed development. The proponent should outline all water supply needs for the site and evaluate the provision of onsite services to support the full proposed development.

/ 2. The consultant does not identify how, should offsite water sources be permitted, the offsite water will be separated from onsite sources.

Refer to the response letter from the hydrogeologist.

Malroz Peer Review (June 28, 2019) – Groundwater Quantity

/ 3. Section 1.4 of the hydrogeological study identifies a peak daily water demand of 75,375 litres, in accordance with the Ontario Building Code. The report further identifies that 29,960 litres per day will be recycled, resulting in a peak daily water taking from groundwater of 45,415 litres.

- During the site visit, the proposed development was identified to include a brewery, a winery and potentially an open loop groundwater geothermal system. The hydrogeologic study considered for this review does not evaluate for a water demand beyond those outlined on Page 4, in the Table titled 'Anticipated Flow Calculations Based on Site Use for Phase 1 and Phase 2 of Development' which does not include a winery, open loop geothermal system or brewery.

- The anticipated flow calculations indicate that the spa, with bathhouse, showers and toilets, will have a demand of 150 litres per day. This appears to be low and the peak number of patrons to the spa should be re-evaluated.
 - Page 37, item 8, identifies that the re-use water will supply toilets and laundry. Supporting calculations on the demand for toilet water is not provided (laundry is shown as 7,500 litres per day) and should be included.
 - A Permit to Take Water (PTTW) from the MECP is required for water takings of 50,000 litres or more in any 24 hour period. As well, both closed and open-loop groundwater geothermal system can require approvals and/or licensed installers through the MECP.
 - Considering the site is projecting a peak of 45,415 litres per day of groundwater takings and that there are potential additional water supply needs for tubs, a brewery and winery, or other uses, the proponent should consider the requirement to obtain a PTTW and other approvals. Should additional groundwater uses beyond those identified on Page 4, in the Table titled 'Anticipated Flow Calculations Based on Site Use for Phase 1 and Phase 2 of Development', further adequate study should be undertaken.
- / 4. Page 44 recommends a groundwater monitoring program for during and post-site development. However, a detailed monitoring program was not provided in the report. The proponent should provide a proposed monitoring program for review. The monitoring program should include a protocol for responding to water taking concerns from the construction phase and operations phase of the development.
- / 5. Groundwater monitoring in on-site and off-site wells was undertaken as a part of the hydrogeologic assessment. The following details should be provided in the pumping test and water level monitoring data tables (eg: Appendix F) to facilitate evaluation:
- i. water level measurements from a datum (eg. metres below ground, metres below top of casing, etc.),
 - ii. depth of well,
 - iii. clarification regarding the units of numbers stated in cell following "pumping started at".
- / 6. The consultant describes the pumping test at TW02 as lasting 48 hours, however, although field water quality monitoring data for 48 hours was provided (table D1), the groundwater monitoring data only reflected 24 hours (table D2 and Figure 1 TW2 Pumping Test Drawdown). The consultant should clarify and provide the additional data, if available.
- / 7. The report does not identify whether additional water supply wells are considered or not. Should additional wells be installed at the site, we recommend that they be assessed for water, quantity, and interference by a qualified hydrogeologist.

Refer to the response letter from the hydrogeologist.

Malroz Peer Review (June 28, 2019) – Groundwater Quality

- / 8. During the site visit, it was noted that a water treatment system will be installed at the site to treat and condition the groundwater. Considering that the site will be open to the public, as a commercial operation, the proponent must seek the appropriate approval from the MECP and/or health unit for the drinking water system. We recommend that this information be provided to the City.
- / 9. Should additional wells be installed at the site, we recommend that they be assessed for water quality by a qualified hydrogeologist, considering the reported water quality.

Refer to the response letter from the hydrogeologist.

Malroz Peer Review (June 28, 2019) – Terrain Analysis

- / Considering the design of the wastewater system is outside of the scope of the hydrogeologic study and subject to MECP approval, we offer no comment on it. We recommend that the hydrogeologic study and any further assessment be considered in the design of the system.

Refer to the response letter from the hydrogeologist.

Malroz Peer Review (October 23, 2019) – Servicing Options

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- / 1. The consultant provided additional detail on the water usage for Phase I, II and III of the development using wastewater flows from the Ontario Building Code (OBC). This included details on the initialization of water takings that are proposed to be phased in at 15,000 litres/day into storage onsite storage tanks of approximately 50,000 litres.
 - / Peak daily water usage from all three phases appears to total approximately 61,000 litres.
 - / The proponent should outline which water uses in the Theoretical Flow Calculations are part of what phase of the development.
 - / The Theoretical Flow Table should link the identified Building Parts to the occupancies specified in OBC Table 8.2.1.3.B. We understand the City plumbing department is evaluating the Theoretical Flows and building uses and the table may be subject to further revision based on that review.
 - / The spa make-up water should be included in the flows.
 - / Considering the Building Part in the Theoretical Flow Calculations include uses where grey water use may not be permissible, such as for potable water, it is unclear where and how grey water will be reused within the system to mitigate water takings. The consultant must detail how and where the grey water will be reused to justify whether 30% diversion and reuse is expected to be feasible.
 - / The net daily flow volume does not include spa make-up water, which would be supplied via the well water distribution system and should for the purposes of evaluating peak daily water usage.
 - / Our understanding is that the development is proposed in stages and as a result the peak daily flow contemplated in the report may not be possible until full buildout of the proposed uses in the Theoretical Flow Calculation Table. Considering the Phasing of the development and the anticipated water demand we recommend that a monitoring program during the operations phase of the development include metering of groundwater extraction, wastewater treatment, and grey water usage, on a daily basis.
 - / 2. Clarification was provided by the consultant that the spa make-up water will be separated from the domestic and grey water storage systems. No further comment required.

Refer to the response letter from the hydrogeologist.

Malroz Peer Review (June 28, 2019) – Groundwater Quantity

- / 3. Clarification was provided in comment one on the anticipated daily water takings for the proposed uses of Phases I, II and III of the development, including the spa, winery and brewery. Furthermore, the consultant identified that an open loop groundwater geothermal system is not proposed for the development.
- / On page 7 of the report the consultant identified that upon commencing operations, water taking will commence at approximately 25,000 litres per day. On page 2 the report identifies that initial water takings for storage purposes will be approximately 15,000 litres per day. The consultant should clarify the noted flows, though both water takings are below the volumes triggering a Permit to Take Water.
- / The consultant concurred where water takings are above 50,000 litres per day a PTTW is required. Considering the request for a break down in what uses are proposed for each phase of the development, it is unclear if the initial water demand, excluding the contemplated grey water re-use is anticipated to be in excess of 50,000 litres per day or not. As noted in comment one, an operations phase monitoring program should include metering of total daily water taking.
- / 4. Consideration should be given to off-site groundwater sampling at the initiation of the monitoring program from a sub-set of off-site wells to establish baseline water quality measurements.
- / 5. The consultant provided additional documentation in the response report. Table D3 should include whether the datum for water level measurements was the top of the well casing or ground surface. The Groundwater Elevation table showing monitoring in August, September, November, December and January with data from on- and off-site wells indicates that the elevations are referenced to a geodetic datum. The consultant should clarify how the geodetic elevations were determined.
- / 6. The data showing approximately 48 hours of pumping and monitoring data was provided. No further comment requested.
- / 7. The consultant provided additional clarification that additional wells are not anticipated at this time and that should they be contemplated in the future, they concurred with the recommendation provided in the peer review comment.

Refer to the response letter from the hydrogeologist.

Malroz Peer Review (June 28, 2019) – Groundwater Quality

- / 8. The consultant concurred with the peer review comment. No further comment required.
- / 9. The consultant concurred with the peer review comment. No further comment required.

Noted.

Ministry of Energy, Northern Development and Mines Comments

- / 1. Mineral Occurrences: The Ontario Geological Survey's Mineral Deposits Inventory (MDI) database was checked. There is one mineral occurrence, the Fairmount Quarry #2, MDI point #MDI31C08SW00019, a limestone quarry located in the southern half of the proposed project area as shown in Figure 1. The location may not be accurate, as the MDI point plots in the farm field, with no visual evidence of an abandoned quarry. However, the MDI record indicates the quarry location as lot 33, concession 6, Kingston Township (Ontario Geological Survey, 2018).

See Aggregate Impact Assessment. Lot 33, Concession 6, Kingston Township is bounded by Unity Road the south, Mount Chesney Road to the north, the western lot boundary of the subject site to the west. The east boundary is not specific, however it is a north-south boundary approximately 390 metres east of the western boundary site. The MNRF's topographical mapping was reviewed and the boundary of Lot 33, Concession 6, Kingston Township was plotted in relation to the subject site. While the site is located within this boundary, it is unlikely that Fairmont Quarry #2 is located within the subject site as identified by the MNRF, due to the more appropriate topography located in the northern portion of Lot 33.

- / 2. Bedrock Geology: The project area is underlain by Paleozoic (Ordovician age) limestone of the Gull River Formation, Simcoe Group (Armstrong and Dodge, 2007).

Noted.

- / 3. Aggregate Potential: Aggregate resource mapping of the area (Aggregate Resources Inventory of the County of Frontenac – ARIP187) indicates low potential for sand and gravel resources. However, two licenced aggregate pits are located within 400 to 600 metres west of the property boundary within an area of tertiary significance for sand and gravel potential (Marich 2012). The property lies within a large area with good potential for bedrock aggregate, in which Gull River Formation limestone is overlain by less than 1 metre of overburden (Figure 2).

Refer the Aggregate Impact Study and the hydrogeology study. Test pits showed that soil depths were at least 1.7 metres.

- / 4. Mining Lands Status: There is no Crown Land within 1 km of the project area and no history of mineral exploration or development other than the previously-mentioned limestone quarry.
- / 5. Mineral Potential: The property does not lie within an area of Provincially Significant Mineral Potential.
- / 6. Karst: Groundwater Study 5, Karst of Southern Ontario and Manitoulin Island (Brunton and Dodge 2008) indicates that the property lies within an area of "inferred karst" in bedrock, surrounded by areas of "potential karst" (Figure 3).
- / 7. Abandoned Mines Hazards: The Abandoned Mines Hazard status of the former Fairmount Quarry #2 is not available in the ENDM Abandoned Mines Information System (AMIS) database.

Noted.

- / To summarize, ENDM has no concerns regarding mineral occurrences and mineral potential in the project area. However, the area lies within an area of good potential for bedrock aggregate resources and within an area of inferred and potential karst development in bedrock. Concerns regarding active sand and gravel extraction west of the site, bedrock aggregate potential and condition of the abandoned limestone quarry at the site should be addressed by the Ministry of Natural Resources and Forestry.

See the Aggregate Impact Assessment. The subject site is located approximately 385 metres east of the existing sand and gravel operation and is not anticipated to be impacted. Residential and other sensitive uses are located between this operation and the subject site. The site does not contain any aggregate

extraction potential as a result of cultural, natural, and man-made constraints located on and in proximity to the site as well as necessary buffering. As well, it is unlikely that the subject site is the location of the Fairmont Quarry #2 operation within Lot 33, Concession 6, Kingston Township due to the more appropriate topography located in the northern portion of Lot 33.

Cataraqi Region Conservation Authority Comments – Natural Heritage

- / Staff are satisfied with the finding of the EIS as it relates to significant woodlands – that the development will have no negative impact on significant woodlands and adjacent lands.

Noted.

Cataraqi Region Conservation Authority Comments – Species at Risk

- / Staff are satisfied with the methodology and findings of the Environmental Impact Study and it is our opinion that the report has adequately demonstrated no negative impact in accordance with the 2014 Provincial Policy Statement and City of Kingston Official Plan.
- / To ensure proper protections and mitigation measures are implemented prior to and during development, the specific recommendations from page 17-18 of the EIS should be incorporated through the site plan control process.

Noted.

Cataraqi Region Conservation Authority Comments – Surface Water Features

- / The EIS concludes that the ecological value of these features is limited. CRCA staff recommend preservation of these features to allow their ecological and hydrologic function, while limited, to remain. It is our understanding that the proponent has made design changes to retain the wetland areas and have shown a 7.5 m development setback on the concept plan.

Correct.

Cataraqi Region Conservation Authority Comments – Stormwater Management

- / 1. The SWM Report indicates that the development proposal incorporates Area #1 (7.0 ha) and Area #2 (6.78 ha), however, the report and drawings focus on Area #1 only. Page 4 states that the Phase 2 stormwater management will be discussed in a separate document. In order to complete our review of the proposed development on the full site, the SWM plan for the entire property is required.
- / 2. Section 3.1 discusses drainage areas, catchments and a wet pond that do not appear on the drawings. Please submit the supporting plans and documents including any design sheets.
- / 3. Section 4.1 indicates that the IDF curves are provided by MTO. The CRCA prefers the Environment Canada, Kingston data to be used.

Noted. An updated stormwater management report and plan will be prepared following this round of review. The original report determined that suitable stormwater management is feasible.

- / 4. A full Erosion and Sediment Control Plan is required.

To be submitted as part of the Site Plan Control submission.

Cataraqi Region Conservation Authority Comments – Source Water Protection

- / As mandated by the *Clean Water Act*, 2006, the Cataraqi Source Protection Plan identifies specific activities that are considered to be drinking water threats within an HVA and SGRA. As per Section 5.5.1 of the Plan, certain activities such as the handling or storage of large quantities of dense non-aqueous-phase liquids, organic solvents, commercial fertilizer, pesticide, liquid fuel, etc. are considered a potential risk within an HVA and/or SGRA. Section 5.5.1 of the Plan states that proposals (through the *Planning Act*) involving a risk activity should incorporate measures/management practices to adequately manage the risk to groundwater associated with the activity.
- / It is our understanding that the proposed development does not include potential risk activities such as those noted above. Nonetheless, for due diligence, we recommend review of Source Protection resources, such as the following Risk Management Measures Catalogue provided by the Ministry of the Environment and Toronto

and Region Conservation Authority: <http://www.trcagauging.ca/RmmCatalogue/QualityThreat.aspx>. For further information on the Cataraqui Region's Source Protection Plan, please visit <http://www.cleanwatercataraqui.ca/publications.html>, where the plan is available in pdf format, or contact the undersigned.

Noted.

Cataraqui Region Conservation Authority Comments – Recommendation

- / Staff generally have no concerns in principle with the proposed Official Plan and zoning by-law amendment application based on our consideration of natural hazards, natural heritage and water quality protection policies. However, we recommend deferral of these amendments until such time that a complete Stormwater Management Report and plans can be submitted so that staff can complete our preliminary review.

Noted. Further stormwater management design will be undertaken through site plan control.

City of Kingston Minimum Distance Separation Memo – Guideline 6 and 12

- / The requirement to meet MDS I is something that should be assessed at the time when considering finding alternative sites to locate development. MDS I setbacks are required to be measured from all existing barns on lots surrounding a development application that are reasonably expected to impact the proposed application (MDS Guideline 6). The MDS Guidelines outline that all barns within 1500 metres of an application for a new or expanding Type B land use shall be investigated and calculations undertaken where warranted.
- / The barns within the 1500 metre review area are comprised of a mix of horses, beef cattle, dairy cattle, and one vacant barn. The vast majority of livestock facilities within the review area are horse barns. Horses are considered livestock in the MDS Guidelines and therefore horse barns and their manure storage facilities generate an MDS setback.
- / Planning Staff have reviewed land uses between the barns and the subject lands and concluded that there are not four or more intervening Type B land uses to support a reduction under Guideline 12 and the MDS Guidelines.

We acknowledge that our interpretation of Implementation Guideline #12 differs from OMAFRA's. We will accept OMAFRA and the City's interpretation and adopt the City's interpretation. We also accept the City's review provided in the MDS Memo insofar as it relates to the subject site complying with the necessary MDS setbacks for the other reviewed properties.

City of Kingston Minimum Distance Separation Memo – Guideline 40 and 43

- / The submitted Planning Rationale and MDS Study did not identify other concerns such as environmental, public health, or hazards on the subject lands. Both the Rationale and Study did not cite any of the provided examples under Guideline 43 as the basis for the reduction, but rather that the reduction was required because of how MDS setbacks are measured for Type B land uses (measured to the area being rezoned).

The MDS formulae contemplated by the PPS are provided in Publication 853 and include the definitions, implementation guidelines and factor tables (i.e. calculations). The additional information in Publication 853, including section 8, provides additional information to assist with interpretation of the implementation guidelines but does not form part of the MDS formulae. The examples provided under Guideline 43 are not presented as an exhaustive list, rather they serve as examples of the types of reasons that could support a reduction in MDS setbacks.

Section 8.2 does not form part of the MDS formulae for PPS purposes. "The intent of MDS I is to minimize nuisance complaints associated with livestock facilities and anaerobic digesters due to odour and thereby reduce potential land use conflicts." The proposed application seeks to reduce MDS conflicts in combination with warning clauses, an approach that will satisfy the intent of the MDS formulae.

Section 8.2 further states, "it is only appropriate to consider reductions to MDS I setbacks when reasonable alternative locations are limited, and where there is an attempt to reduce potential odour conflicts while balancing or mitigating against other potential concerns, such as environmental impacts, public health and safety or natural and human-made hazards...The list of questions does not represent an exhaustive list, as

other site specific circumstance might be relevant..” Other provincially significant considerations, such as cultural heritage, are relevant to the proposed application. The site includes a built heritage resource which will be maintained and integrated in the proposed development. Further, the feasibility of moving the proposed event venue building (a Type B use) has been considered and will result in land use conflicts due to increasing the proximity to a rural residential use which is not appropriate, as well as altering the relative relationship between that building (which is in the location of the existing barn) with the heritage farmhouse. While the location of the building will not be altered, the zoning by-law amendment will restrict uses within the MDS setback area. Overall, the proposal balances cultural heritage considerations and application of MDS guidelines with potential conflicts and concerns.

- / The proposal to incorporate a warning clause on title about the presence of the barn, and allowing guests to submit complaints to management of the proposed commercial use, does not reduce the potential for nuisance complaints and does not exempt the property from the requirements of MDS. Therefore, the application is not consistent with the PPS’s direction that new land uses shall comply with the MDS formulae.

Warning clauses are an appropriate method of reducing complaints, in a similar way as they are used for noise concerns to reduce complaints. See response above for rationale related to reducing the required MDS setback and also see the addendum to our planning rationale.

City of Kingston Minimum Distance Separation Memo – Guideline 35

- / The application argued that the proposed development includes characteristics that are consistent with agriculture-related uses and agri-tourism uses, which under Guideline 35, may be exempt from the requirements of MDS. Because Zoning By-law 76-26 does not explicitly identify a requirement to apply MDS I setback for these uses, the Planning Rationale argues that an MDS I setback is not required for these types of uses.

Noted.

- / The justification in the Planning Rationale attempts to characterize the proposed land uses as agriculture-related and on-farm diversified uses to support the reduced MDS I setback. The application proposes to re-designate the lands from Rural to Rural Commercial to facilitate the development. The applicant did not review their proposed use against the tests for agriculture-related and on-farm diversified uses contained in the PPS and further explained through Publication 851 – Guidelines for Permitted Uses in Ontario’s Prime Agricultural Areas. The application of MDS Guideline 35 is not applicable as the applicants are not proposing the uses as agriculturally related or as on on-farm diversified use. Additionally, the uses proposed for the site, uses that are characterized by a higher density of human occupancy or activity, such as food service, accommodation, retail operation, and agri-tourism uses, are specifically identified within Guideline 35 as uses that may lead to conflicts with surrounding agricultural uses and therefore should require an MDS setback.

Refer to the Addendum to our Planning Rationale Report.

City of Kingston Minimum Distance Separation Memo – Official Plan

- / The City’s Official Plan contains policies that outline the physical separation of livestock facilities and sensitive land uses (2.5.7c, 2.7.8.) as the primary form of mitigating land use conflict and protecting normal farming practices. One of the criteria to consider in the introduction of a new Rural Commercial use is that the location of newly designated lands, wherever possible, be on the least productive agricultural lands, and on sites that will not hinder agricultural operations (3.14.8.a). Agricultural uses are defined in the Official Plan as including the raising of livestock.

Noted.

- / Approval of the reduced setback would create a hindrance on the adjacent agricultural operation, as the new use would be located closer to the barn than what is currently permitted by the MDS I setback creating difficulties for its expansion in the future. The application therefore does not conform to the City’s Official Plan where distance is the primary form of mitigation and new Rural Commercial uses shall be located on sites that do not hinder agricultural operations.

Refer to the Addendum to the Planning Rationale Report.

City of Kingston Minimum Distance Separation Memo – Case Study Review

- / No examples were found where a reduction to an MDS I setback for a new Type B land use was supported. The only examples where the MDS I setback was reduced was for single detached dwellings (Type A land uses) where the MDS I setback pushed the building envelope into environmental constraints or unbuildable areas. The setback reductions were supported in the examples reviewed because the landowner was able to demonstrate that a reduced setback was locating the dwelling outside of environmental features (swamp, water feature, flooding hazard, or other environmental constraint) while being located as far as possible from the adjacent barn. There were no examples of cultural heritage considerations or other planning arguments outside of the examples cited in Guideline 43 (mitigate environmental or public health and safety concerns, or avoid natural or human made hazards) and Section 8 of the MDS Guidelines, used as justification to support a reduced MDS I setback.

The City of Kingston has previously approved a reduction of MDS I Type B setbacks for a rural commercial use (D14-275-2012). The application reduced the required MDS I Type B setback from approximately 300 metres to 145 metres to permit the development of a gas station and fast food restaurant in proximity to an existing livestock barn on the adjacent property. We have been unable to find a planning rationale for the reduction but note that the recommendation was provided by the planning department and supported by both Planning Committee and Council.

City of Kingston Minimum Distance Separation Memo – Land Use Rearrangement

- / There is land available outside of the MDS I setbacks on the subject lands. These lands present an opportunity to consider a different land use configuration that would move the commercial uses such as the spa, cabins, restaurant, event centre, and inn outside of the Type B setback, and therefore comply with MDS Guidelines. Type A land uses such as agricultural uses and uses related to the agriculture could be located within the Type B setback areas.

Please refer to the addendum to our planning rationale.

City of Kingston Minimum Distance Separation Memo – Summary and Options Moving Forward

- / Based on the above review of application D35-003-2019 as submitted, the proposal is not consistent with the Provincial Policy Statement, 2014, and it does not conform to the City's Official Plan. To address consistency with the PPS and conformity to the City's Official Plan, the official plan amendment and zoning by-law amendment need to be made compliant with the MDS setbacks.
- / We would be happy to work with you to review the proposed uses and consider alternative arrangements for the proposed uses on site. You should consider categorizing the proposed land uses into separate Type A and Type B land uses. The site can then be split zoned to allow the different uses on site in accordance with the applicable MDS I setback.

Policy 1.1.5.9 of the Provincial Policy Statement states “*New land uses, including the creation of lots, and new or expanding livestock facilities, shall comply with the minimum distance separation formulae*”. Publication 853 includes the definitions, implementation guidelines and factor tables (i.e. calculations) which collectively make up the MDS formulae referenced in the Provincial Policy Statement. Additional information is provided in Publication 853 to assist with the interpretation and application of the MDS formulae, including appropriate scenarios for the reduction of MDS setbacks. The MDS formulae does not consist solely of calculated MDS setbacks. Therefore, compliance with the MDS formulae does not necessarily require compliance with calculated MDS setbacks, as the formulae allow reductions to the setback requirement. As such, the proposal is consistent with the PPS, MDS Formulae and conforms to the City's Official Plan. The Addendum to the Planning Rationale Report considers two holding provisions to limit development within 120 metres of the barn located at 896 Unity Road and to limit development within 120 to 240 metres to Type A permitted uses in the proposed site-specific zone. A minor reduction from 240 metres to 221 metres is proposed from the barn located at 896 Unity Road to the corporate event venue. As discussed in the Addendum to the Planning Rationale Report, this reduction will only slightly limit

the expansion of the barn as the second nearest Type B use (Institutional use located 2245 Battersea Road) is located 230 metres from the barn at 896 Unity Road.

We trust these responses address the concerns identified in the correspondence received. If you have any questions or would like to discuss further, please feel free to contact us at 613.542.5454.

Respectfully,



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