CORPORATION OF THE TOWN OF GANANOQUE

BYLAW NO. 2012-103

BEING A BY-LAW TO AUTHORIZE THE TOWN OF GANANOQUE TO ENTER INTO AN AGREEMENT WITH ONTARIO LOTTERY AND GAMING FOR THE PURPOSE OF SHARING THE NET SLOT REVENUE.

WHEREAS by Section 5 of the Municipal Act, 2001, S.O. 2001, c. 25, the powers of a municipal corporation are to be exercised by its Council;

AND WHEREAS Subsection 2 of Section 11 of the Municipal Act, 2001, S.O. 2001, c. 25, provides that the powers of every Council are to be exercised by Bylaw;

NOW THEREFORE be it resolved that the Council of the Corporation of the Town of Gananoque enacts as follows;

1. That the Council hereby authorizes the Town of Gananoque to enter into an agreement with the Ontario Lottery and Gaming Corporation for the purpose of establishing the net slot revenue that the Ontario Lottery and Gaming Corporation will share with the Town of Gananoque.

2. That the Mayor and Clerk are hereby authorized to execute all documents in regard to said agreement.

READ A FIRST, SECOND, and THIRD TIME, and finally passed this 16th day of October, 2012.

Mayor, Erika Demchuk

Clerk, Bonnie Dingwall

THIS AGREEMENT made this _____ day of _____, 2011.

BETWEEN:

570900 ONTARIO LIMITED

Hereinafter referred to as the **"Owner"**

OF THE FIRST PART

- and -

THE CORPORATION OF THE TOWN OF GANANOQUE

Hereinafter referred to as the **"Municipality"**

OF THE SECOND PART

WHEREAS THE OWNER is the registered owner of the lands described in Schedule "A" attached hereto, and referred herein as the "Said Lands";

AND WHEREAS the Owner warrants that THE OWNER is the only mortgagee of the said lands;

AND WHEREAS the Owner has made application to the Municipality to approve the construction of an addition as per the Site Plan attached as Schedule "C";

AND WHEREAS the parties hereto desire to enter into a Site Plan Control Agreement respecting the development by the Owner of the Said Lands and premises as described in Schedule "A" hereto attached;

WITNESSETH that in consideration of the sum of ONE DOLLAR ($1.00) of lawful money of Canada paid by the Municipality to the Owners (the receipt of which is hereby acknowledged), and in considerations of the covenants herein contained;

1. The provisions of this Agreement shall run with the lands more particularly described in Schedule "A" hereto attached and forming part of this Agreement.

2. Notice of this Agreement shall be registered on title at the land registry office in the City of Brockville at the expense of the Owner against the land more particularly described in Schedule "A" hereto attached.

3. The Owner shall, at the time of execution of this Agreement, provide the Municipality with a letter, directed to the Municipality and signed by an Ontario solicitor, certifying as the names of all owners of the said lands. Schedule "B" of this agreement is to be provided by the Owner to the Municipality as part of the Final Site Plan Agreement.

4. The Owner shall, at the time of the execution of this Agreement, provide the Municipality with a letter, directed to the Municipality and signed by an Ontario Solicitor, certifying as to the names of all mortgagees, if any, of the Said Lands.

5. The owner shall, at the time of execution of this Agreement, pay all Municipal taxes outstanding against the said lands, as set out in Schedule "F".

6. The Owner shall, at the time of execution of this Agreement, pay all charges with respect to existing local improvements assessed against the said lands, as set out in Schedule "F" hereto. Such charges shall include the Municipality's share of any local improvements which serve the said lands.

7. The Owner shall, at the time of execution of this Agreement, pay all drainage charges assessed against the said lands under The Drainage Act, as set out in Schedule "F" hereto.

8. The Owner shall, prior to the issuance of any building permit for the said lands, execute and deliver to the Municipality, or other appropriate Authorities, grants of easement, free and clear of all liens, charges and encumbrances, as set out in Schedule "G" hereto. If further easements are subsequently required for utilities of drainage, the Owner agrees to grant such easements.

9. The Owner shall, prior to the issuance of any building permit or prior to the development of the site for the said lands, provide the Municipality with a copy of an approved site plan and supplemental drawings, drawn to an appropriate scale and properly dimensioned. Such approved site plan shall be attached hereto as Schedule "C" and shall show thereon:
    a. all boundary dimensions of the said lands;

b. the location and dimensions of all residential sites, buildings, structures and uses existing on the said lands;
c. the location and dimensions of all buildings, structures and uses proposed on the said lands;
d. the location and dimensions of all yards, drainage, garbage storage areas, landscaped open spaces and planting strips proposed on the said lands;
e. the location and dimensions of all parking areas, loading spaces, driveways (including the direction of traffic thereon) and curbs proposed on the said lands;
f. the location of emergency access routes on the said lands;

10. The Owner shall provide an estimate of cost of all municipal works to be done, including drainage works, sanitary and municipal water connections and roads works (entrance). The estimated values shall be reasonable and acceptable to the Town of Gananoque. Based on the said estimate, a deposit shall be made by the Owner in the form of a certified cheque or alternative bond acceptable to the Municipality. The deposit to be returned to the Owner upon satisfactory inspection an acceptance of the completed "works" by the Municipality. Alternatively, the deposit may be used by the municipality to complete the work upon 30 days notice by personal service or registered mail to the Owner. The said bond must be in place prior to Building Permit issue.

11. Upon signing and registration of the agreement, the site plan and supplemental drawings will be deemed approved. Should any changes, deletions or amendments be determined by the Municipality during development of the site, a separate or amending agreement may be required at the discretion of the Municipality.

12. The Owner shall provide, prepared by and certified by a Consulting Engineer, plan and profile drawings complete with supporting documentation for all municipal and civil site work (onsite and exterior to the site) demonstrating that the "works" have been designed in accordance to current municipal and provincial standards. These drawings and specifications will be reviewed and approved by the Municipality and will form part of this agreement. On completion and before acceptance of the "works" by the Municipality, the Owner will submit to the Municipality "as built" drawings as part of the acceptance process.

13. If, in the opinion of the Municipality,
    a. the Owner is not performing, or causing to be performed, the work as required in connection with this Agreement within the specified time, or so that it may be completed within the specified time, or is improperly performing the work; or
    b. should the owner neglect or abandon any of the work before its completion, or unreasonably delay the work; or
    c. should the Owner be executing the work carelessly or in bad faith; or
    d. should the Owner neglect or fail to renew or again perform such work as may be rejected by the Municipality as being or having become defective or unsuitable; or
    e. should the owner fail to carry out any maintenance required under this Agreement; or
    f. should the Owner in any manner, in the opinion of the Municipality, default in the performance of any of the terms of this agreement,

    then in any such case, the Municipality shall notify promptly the Owner in writing of such default, failure, delay or neglect, an if such notification be without effect for two (2) clear days after such notice, then in that case the Municipality shall thereupon have full authority and power immediately to purchase such materials, tools and machinery and to employ such workers as in his/her opinion shall be required for the proper completion of the works at the cost and expense of the Owner or its security or both. When in the opinion of the Municipality the case is one of emergency, then the work may be done without notice. The cost of such work shall be calculated by the Municipality, whose decision shall be final and shall include a management fee of thirty (30) percent of the labour and material value, and further, a fee of thirty (30) percent of the value for the administration by the Municipality as a result of such default, failure, delay or neglect on the part of the Owner, it being hereby declared and agreed that the assumption by the Owner of the obligations set out in this clause is a consideration without which the Municipality would not have executed this Agreement. Nothing in this clause shall require the Municipality to carry out any such work or maintenance whatsoever.

14. If at any time before the site plan works have been deemed complete by the Municipality, or any of the works do not function properly, that in the opinion of the Municipality it is necessary to make repairs immediately to prevent damage or hardship to persons or property and there is insufficient time to give notice to the Owner, the Municipality may enter upon the lands and make whatever repairs the Municipality may deem necessary, and the Owner agrees to reimburse the Municipality for any expenses incurred in making the repairs.

15. That the Owner agrees and covenants that prior to construction a building permit be obtained from the Building Department.

16. When the Municipality has issued a building permit to the Owner, the Owner covenants and agrees;
    a. To begin construction within twelve (12) months from the date on which the building permit is issued;

    b. To develop the lands in strict accordance with the said plans and drawings referred to in Clause 9 as approved by the Municipality;

c. To provide or arrange to be provided all easements and agreements with adjacent owners to permit the location of and discharge of storm drainage and access to all utilities and services required for the construction and on going use of the buildings and associated uses to be constructed in accordance with Schedule "C", and;
d. That all work as outlined on the plans referred to in Clause 9 filed with the Municipality shall be completed, in accordance with OPSS and OPSD standards where applicable.

17. The Owner hereby grants to the Municipality, its servants, agents and contractors, the license to enter the lands described in Schedule "A" hereto attached for the purpose of;
    a. Inspecting all works and facilities mentioned herein, and;
    b. Performing at the sole expense of the Owner such work as may be required as a result of a default by the Owners under the terms of this Agreement.

18. All facilities and works pertaining to the premises of the Owner and all matters referred to in this Agreement as being the responsibility of the Owner shall be provided and maintained by the Owner at the Owner's sole risk and expense, and to the satisfaction of the Municipality, and in default thereof the provisions of the Municipal Act. S.O. 2001, as amended shall apply.

19. This Agreement and the burdens and benefits contained herein shall be binding upon and shall ensure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns, and to the benefit of all Owners of land situated within the limits of the Town of Gananoque.

20. Every provision of this Agreement by which the Owner is obligated in any way shall be deemed to include the words **"at the expense of the Owner"** unless the context otherwise requires. The Owner shall reimburse the Municipality forthwith on demand for all administrative, planning, legal, engineering, inspection and/or other costs whatsoever incurred by the Municipality, or in any of its agents, in connection with the review, approval and registration of this Agreement.

21. The due dates of any sum of money payable herein shall be thirty (30) days after the date of the invoice. Interest, at the rate of one and one-half per cent (1.5%) per month, shall be payable by the Owner to the Municipality of its sums of money payable herein, which are not paid on the due dates, calculated from such due dates.

22. If any notice is required to be given by the Municipality to the Owner in respect of this Agreement, such notice shall be mailed or delivered to:

    570900 Ontario Limited
    108 Perth Street
    P.O. Box 1925
    Brockville, ON K6V 6N4

    or such other address of which the Owner has notified the Municipality in writing. Any such notice mailed or delivered shall be deemed good and sufficient notice under the terms of this Agreement and shall be deemed to have been given as the date of mailing or delivery.

23. Any controversy or claim arising out of or relation to this contact, or the breach thereof, shall be settled by arbitration in accordance with the "Rules of Procedure for the Conduct of Arbitrations" of the Arbitration and Mediation Institute of Ontario pursuant to the Arbitrations Act, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

24. The following Schedules, which are identified by the signatures of the Parties of this Agreement and which are attached hereto, together with all provisions contained therein, are hereby made a part of this Agreement as fully and all intents and purposes as though recited in full herein:

SCHEDULE A	-	LEGAL DESCRIPTION OF SAID LANDS
SCHEDULE B	-	SURVEY OF PROPERTY
SCHEDULE C	-	SITE PLAN
SCHEDULE D	-	WORKS TO BE PROVIDED BY OWNER
SCHEDULE E	-	ESTIMATED COST OF WORKS
SCHEDULE F	-	FINANCIAL REQUIREMENTS
SCHEDULE G	-	LAND DEDICATION AND EASEMENTS
SCHEDULE H	-	GRADING / DRAINAGE / SERVICING PLAN
SCHEDULE I	-	LANDSCAPE PLAN
SCHEDULE J	-	TIME SCHEDULE AND PHASING FOR THE WORKS

25. Preliminary Approval: When any of the site plan works have been completed to such degree that preliminary approval could reasonable be given, then the owner may call upon the Municipality to give such preliminary approval and if the works have been completed in accordance with the specifications and standards stipulated by this Agreement, then the Municipality shall give such preliminary approval by written notice to the owner, and the Municipality shall thereupon release its financial security with respect to such work.

26. Final Acceptance: When the site plan works have been completed, the Owner shall at its expense correct any and all deficiencies and malfunctions and generally maintain and keep in a good state of repair each part of the works for a period of twelve (12) months from the date of preliminary approval as set out in the immediate preceding paragraph. Upon expiry of the twelve (12) month period the Municipality shall promptly determine whether the said part is in a proper state of maintenance with all deficiencies and malfunctions corrected and is so satisfied, in accordance with the standards herein stipulated, will promptly accept the same and will give written notice of such final acceptance to the Owner, and the Municipality shall release its financial security with respect to such work.

27. This Agreement shall inure to the benefit of and be binding upon all of the Parties hereto and its, his or her respective heirs, executors, administrators, successors and assigns

28. The Owner shall indemnify and save the Municipality harmless from any and all actions, claims or demands made or brought against the Municipality by any person or persons for damages arising out of the negligent act, or omissions, or breach of this Agreement by the Owners, its agents, servants, workmen, and sub-contractors, and assigns in respect of its obligations under this Agreement. It is expressly acknowledged that the Municipality does not warrant the quality of work performed on behalf of the Owner.

IN WITNESS WHEREOF the Owner has hereunto fixed its Corporate Seal attested by the proper officer(s) authorized in that behalf, and the Municipality has hereunto affixed its Corporate Seal under the hands of its Mayor and Clerk-Administrator.

OWNER(S):

Name: 570900 Ontario Limited

Name: 570900 Ontario Limited

I/We have authority to bind the Corporation

THE CORPORATION OF THE TOWN OF GANANOQUE

Erika Demchuk
MAYOR

Bonnie Dingwall
CLERK

I/We have authority to bind the Corporation

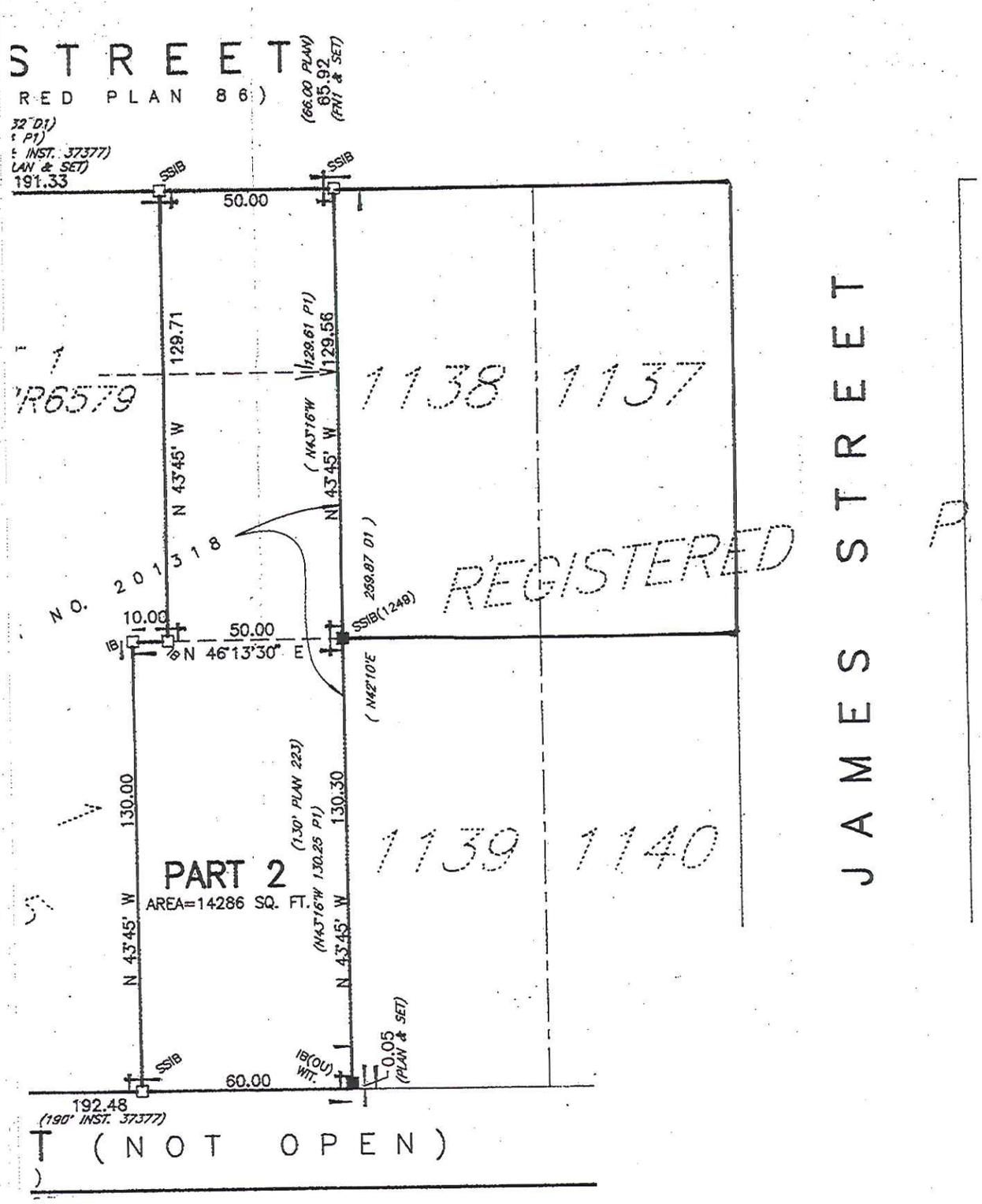
SCHEDULE A
LEGAL DESCRIPTION OF SAID LANDS

Description of lands to which this Agreement applies:
399 King Street East
Lot 1137, Lot 1138 Plan 223, Plan 28R-7427 Part 2
Town of Gananoque

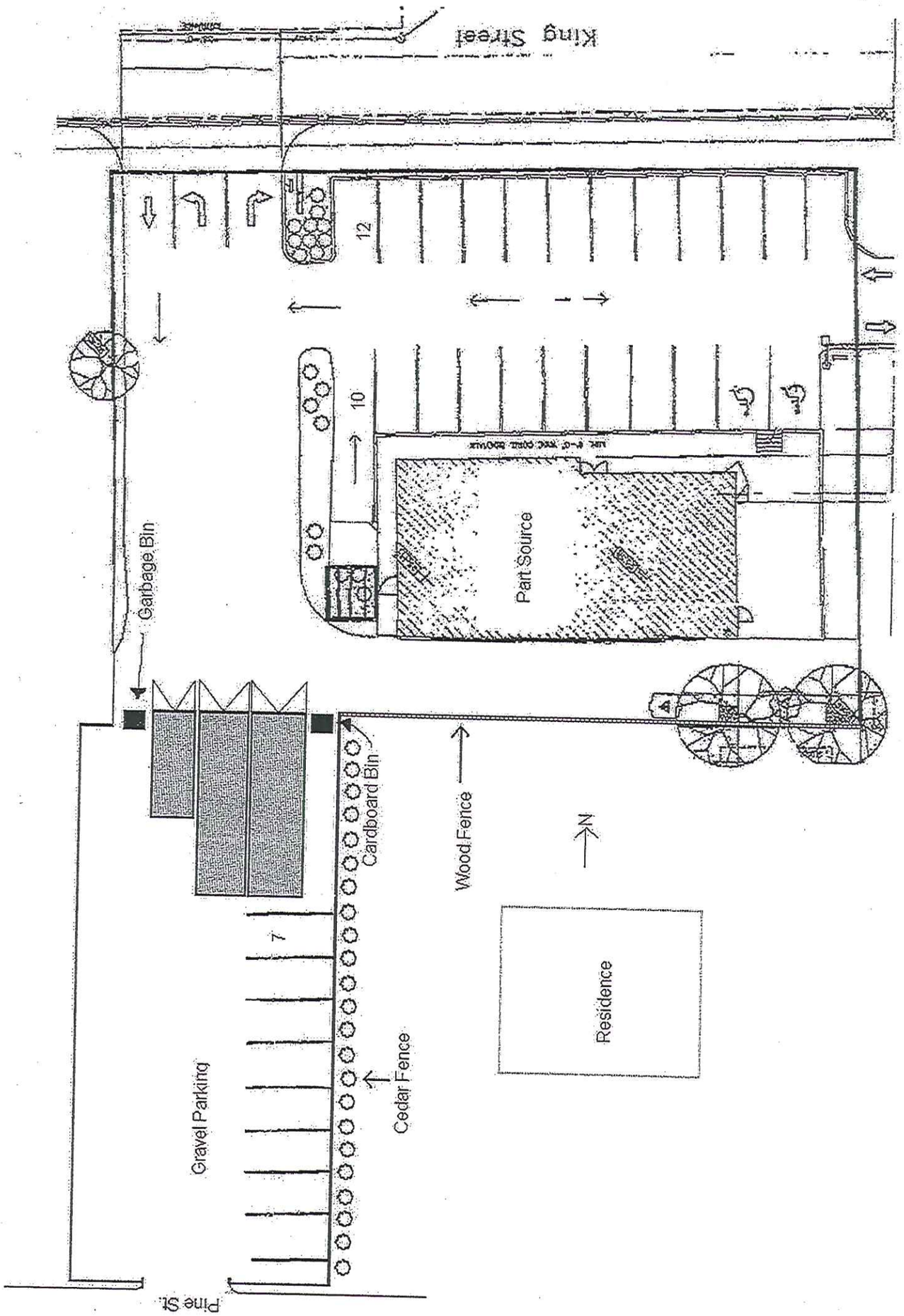
SCHEDULE B
SURVEY OF PROPERTY

Site Survey

Lot 1137, Lot 1138 Plan 223, Plan 28R-7427 Part 2
Not to Scale



SCHEDULE C
SITE PLAN



SCHEDULE D
WORKS TO BE PROVIDED BY OWNER

All of the following pertains to the site plan and supplemental design drawings as approved by the Town of Gananoque.

1. ROADS
   a. All the roads within the site plan shall be constructed and paved in accordance with the specifications set out in Schedule H.
   b. Any work on Municipal roads shall be constructed in accordance with the specifications set out in Schedule H.

2. PARKING AREAS
   a. All the parking areas in the site plan shall be constructed with a paved surface, to be used year-round.

3. STORM DRAINAGE
   a. Road ditches and road culverts shall be provided for in the site plan agreement and storm drainage shall be provided where necessary, all in the accordance with the specifications set out in Schedule H.

4. SEWERS – Schedule H
   a. The Owner shall construct a sanitary and storm drainage system, including lot sewer services from the sewers to the street line inclusive of all appurtenances to service the lands in the approved Site Plan and approved detailed design drawings according to the design and specifications of the Town of Gananoque and the Ministry of Environment. The Owner shall maintain such sewers, including clearing of any blockages until acceptance is granted by the Municipality. The construction and installation of such sewers shall be subject to approval of the Director of Public Works, Culture and Recreation. All sewers shall be of sufficient size, depth and at locations within the limits of the site plan or on adjacent road allowances, to service lands outside the site plan which will in the opinion of the Director of Public Works, Culture and Recreation require the use of the site plan sewers as trunk outlets.

5. WATER SYSTEM – Schedule H
   a. The Owner shall construct watermains, if required, including lot services from the watermain of the street lines inclusive of all appurtenances to service the lands in the site plan according to the design and specifications of the Town of Gananoque and the Ministry of Environment. The construction and installation of such watermains/services shall be subject to approval of the Director of Public Works, Culture and Recreation. All watermains/services shall be of sufficient size, depth and at locations within the limits of the site plan or on adjacent road allowances, to service lands outside the site plan which will in the opinion of the Director of Public Works, Culture and Recreation require the use of the site plan watermains/services.

6. UTILITY SERVICE – Schedule H
   a. The owner shall enter into an electrical distribution agreement with the appropriate authority to provide for underground services, to arrange with telephone and cablevision carriers for the installation of such underground services to the site plan and for the provision of easements with respect to such installations at no expense to the Municipality and in accordance with the terms, conditions and specifications laid down by the said authority.

7. CIVIC ADDRESS
   a. All civic address for use within the Site Plan shall be allocated by the Municipality. The Owner shall furnish the Municipality with a reduced copy of the Site Plan as approved, upon which the Municipality will designate the proper number or numbers for each unit. It shall be the responsibility of the Owner to post and inform the subsequent purchaser of the correct street number(s).

8. LOT GRADING – Schedule H
   a. A Lot Grading certificate is to be provided prior to acceptance of the works by the Municipality.

9. AS-BUILT DRAWINGS
   a. As-built drawings are to be provided for all drainage and road works prior to acceptance of the works by the Municipality. As-built drawings are to clearly outline the final elevations and horizontal alignment of all sewers and appurtenances, watermains and appurtenances including laterals, culverts and drainage ditches as well as cross-sections of the sub-base, granular base and asphalt surface. In particular, all changes from the original drawings are to be clearly noted. As-built drawings are to be clearly identified as such, with two (2) prints and an electronic version in AutoCad format supplied. This requirement shall be to the satisfaction of the Director of Public Works, Culture and Recreation.

SCHEDULE D Con't
WORKS TO BE PROVIDED BY OWNER

All of the following pertains to the site plan and supplemental design drawings as approved by the Town of Gananoque.

9. THE OWNER FURTHER COVENANTS AND AGREES:

    1. Relocate storage containers (Total 3) to rear parking area

SCHEDULE E
ESTIMATED COST OF WORKS

SECURITY - CERTIFIED CHEQUE OR LETTER OF CREDIT FOR 100% OF THE ESTIMATED COST OF THE OUTSIDE WORKS

On-site:

a.	Removals	$ n/a
b.	Storm	$ n/a
c.	Watermain	$ n/a
d.	Concrete	$ n/a
e.	Asphalt (Parking Improvements)	$ n/a
f.	Gravel	$ n/a
g.	Landscaping (including gravel, line painting etc)	$ n/a
h.	Line Painting	$ n/a
	TOTAL ESTIMATED COST OF WORKS	$ n/a

Upon Final Acceptance of the works, the Municipality will maintain a fifteen (15) percent holdback of the Total Estimated Cost of Works for a period of twelve (12) months to ensure that the works have been maintained and kept in a good state of repairs.

SCHEDULE F
FINANCIAL REQUIREMENTS/CHARGES AGAINST SAID LANDS

APPLICABLE PRIOR TO REGISTRATION OF AGREEMENT

a.	Municipal Taxes	$ nil
b.	Outstanding Utilities	$ nil
c.	Local Improvement Charges	$ nil
d.	Drainage Charges	$ nil
e.	Water and Sewer Services	$ nil
f.	Administration Fee	$ nil
TOTAL:		$ nil

SCHEDULE G
LAND DEDICATION AND EASEMENTS

Grants of Easement(s) Registered on Title	n/a
Conveyances	n/a

SCHEDULE H
GRADING / DRAINAGE / SERVICING PLAN

n/a

SCHEDULE I
LANDSCAPE PLAN

See SCHEDULE C SITE PLAN

SCHEDULE J
TIME SCHEDULE AND PHASING FOR THE WORKS

The Owner shall commence construction and installation of the site plan works within twelve (12) months of the date of this agreement; and shall complete construction of the approved site plan works within twelve (12) months thereafter.