



**City of Kingston  
Report to Committee of Adjustment  
Report Number COA-17-018**

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**To:** Chair and Members of Committee of Adjustment  
**From:** Tim Fisher, Planner  
**Date of Meeting:** June 26, 2017  
**Application for:** Consent (new lot) and Minor Variance  
**File Number:** D10-012-2017 and D13-011-2017  
**Address:** 90 Aragon Road  
**Owner:** Rusian Yakoviychuk  
**Applicant:** Fotenn Consultants Inc.

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**Executive Summary:**

This is a report to recommend approval to the Committee of Adjustment regarding applications for Minor Variance and Consent to create a new lot for the property located at 90 Aragon Road. The applicant is proposing to sever a 2 hectare parcel of land with 63.7 metres of road frontage on Aragon Road, and retain a 2 hectare parcel of land with 63.7 metres of road frontage on Aragon Road through consent application, File Number D10-012-2017. The retained parcel is subject to minor variance application, File Number D13-011-2017, to reduce the minimum road frontage from 100 metres to 63.7 metres.

The subject lot is designated Rural in the City of Kingston Official Plan and zoned 'A1' Restricted Agricultural in Zoning By-Law Number 76-26. The 4 hectare parcel of land has 127.4 metres of road frontage of Aragon Road and is developed with a single family dwelling.

The consent complies with the severance policies in Section 9.6 as the lot will have frontage on an open and maintained road and the lot area and frontage is suitable for the intended single family dwelling use. The subject lot is located within the rural area and each lot will be serviced with a private on-site well and sewage disposal system. The proposed new lot will not have any negative impacts on any existing agricultural uses or structures.

The variance complies with the minor variance policies of 9.5.19 in the Official Plan. The reduction of road frontage is consistent with existing lot frontages along Aragon Road and will

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not have any negative impacts on the streetscape or on the abutting residential land uses. Future development on each resulting lot is required to comply with the provisions of the 'A1' zone in Zoning By-Law Number 76-26. Approval of the variance will not set an undesirable precedent for the immediate area.

The proposed reduced lot frontage complies with the policies of the Official Plan and is in keeping with the general intent of the zoning by-law. The variance is considered to be appropriate and minor, and to meet all four tests under the *Planning Act*.

**Recommendation:**

It is recommended that consent application, File Number D10-012-2017, for the property located at 90 Aragon Road to sever a 2.0 hectare parcel of land with 63.7 metres of road frontage and retain a 2.0 hectare parcel of land with 63.7 metres of road frontage, be approved subject to the conditions as per the attached draft Notice of Decision (Exhibit E).

It is recommended that minor variance application, File Number D13-013-2017, for the property located at 90 Aragon Road, to reduce the minimum frontage requirement to recognize the retained lot through consent application, File Number D10-012-2017, be approved.

**By-Law Number 76-26:** Section 9(2)(b)(ii), Lot Frontage

**By-Law Requirement:** 100.5 metres

**Proposed Standard:** 63.7 metres

**Variance Requested:** 36.8 metres

**Approval of the foregoing variance shall be subject to the following conditions:****1. Limitation**

That the approved variance applies only to the retained lot frontage as per consent application D10-012-2017, as per the plans attached to the Notice of Decision.

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**Authorizing Signatures:**

*Original Signed by Planner*

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**Tim Fisher, Planner**

**In Consultation with the following Management of the Community Services Group:**

Paige Agnew, Director, Planning, Building & Licensing Services

Lanie Hurdle, Commissioner, Community Services

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**Options/Discussion:**

On March 7, 2017, Minor Variance and a Consent application were submitted by Fotenn Consultants Inc. on behalf of, Rusian Yakoviychuk, with respect to the property located at 90 Aragon Road. The consent application is to sever a 2.0 hectare parcel of land with 63.7 metres of road frontage and retain a 2.0 hectare parcel of land with 63.7 metres of road frontage. The variance is requested to reduce the minimum frontage requirement to recognize the retained lot through consent application, File Number D10-012-2017.

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

- Site Plan (Exhibit D);
- Justification Letter (Exhibit E);

All submission materials are available online through the Development and Services Hub (DASH) at the following link, [DASH](#), using "Look-up a Specific Address". If there are multiple addresses, search one address at a time, or submission materials may also be found by searching the file number.

**Site Characteristics**

The subject property is located on the north side of Aragon Road. The 4.0 hectare parcel of land has 127.4 metres of road frontage on Aragon Road and is developed with a single family dwelling on private on-site services and a detached garage.

The property is designated as 'Rural' in the City of Kingston Official Plan and zoned 'A1' Restricted Agricultural in Zoning By-Law Number 76-26.

**Application**

A minor variance is not a mathematical calculation, but rather an assessment of whether the general intent of the Official Plan and zoning by-law are maintained. To do this, the impact of the variance on the surrounding land uses and the appropriateness of the development are considered.

When reviewing applications for minor variance, the approval authority must be satisfied that each of the four tests of the *Planning Act* are met. The following provides this review:

- 1) The proposal shall be consistent with the Provincial Policy Statement (PPS) and the general intent and purpose of the Official Plan**

**Provincial Policy Statement**

The Provincial Policy Statement provides policy direction on matters of provincial interest related to land use planning and development which are complemented by local policies addressing local interests. The application being considered is site specific to accommodate a specific proposal and does not involve any major policy considerations and as such, the proposal conforms to and is consistent with the PPS.

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**Official Plan**

The subject property is designated 'Rural' in the City of Kingston Official Plan. Permitted uses in the Rural Area include all agricultural uses and agriculture-related uses as permitted in the Prime Agricultural Area designation, sports and outdoor recreation activities in accordance with Section 3.13.4, and detached dwellings in accordance with Section 3.13.10 and that are compatible with adjacent land uses. The Rural designation aims to minimize impacts on abutting rural properties and developed with residential and/or agricultural uses, by ensuring land use compatibility, providing appropriate separation distances.

The existing single family dwelling is recognized as a permitted uses in the 'Rural' designation.

The creation of individual parcels of land by way of consent is subject to the consent policies of the Official Plan. In considering whether the proposal is appropriate, the Committee of Adjustment will have regard for the requirements included within the Official Plan, specifically 9.6.13.

1. The severed and retained lots exceed the minimum lot area requirement of 1.0 hectares as required in the 'Rural' designation in the Official Plan. The intent of the severance is to sever the lot into two equal halves. The severed lot will comply with the minimum road frontage requirement in the 'A1' zone in Zoning By-Law Number 76-26 of 60.96 metres however the retained lot is required to provide 100.58 metres of road frontage. The applicant has submitted a variance application to reduce the minimum road frontage requirement for the retained lot from 100.58 metres to 63.7 metres. Any future development on the resulting lots is required to comply with the 'A1' zone requirements.
2. The proposed severed and retained lots have regular lot configurations.
3. Each resulting lot will have frontage on an opened and maintained road. A road widening is required as a condition of severance.
4. Aragon Road is a municipal road; therefore any new or altered entrances will require an entrance permit from the Engineering Department.
5. The proposed severance will not result in any traffic hazards due to sightlines on curves, grades or corners.
6. The proposed consent is minor infilling of residential development and will not result in ribbon development.
7. The proposed severed lot will not have any negative impacts on abutting agricultural uses. There are no livestock or manure storage facilities within 300 metres of the subject property.
8. The City's Archeological Master Plan indicates that this property has composite archaeological potential. An archaeological assessment is recommended on the

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proposed severed parcel (building lot) prior to any ground disturbance. This has been added as a condition of severance.

9. The City must be satisfied that any development lots created by consent can be supplied with water supply and sewage disposal facilities. The subject lot is in an area of high constraint for water and is located adjacent to more than 5 lots; therefore a Full Hydro Geological Assessment is required for the vacant lot. This has been added as a condition of approval.
10. KFL&A Public Health Unit is satisfied that the severed lot has flexibility to locate a sewage disposal system dependent on the proposal submitted through an Application to Construct a Sewage System prior to the issuance of a permit for development on the vacant lot or renovations or redevelopment to the existing single family dwelling.

The impact of the proposal and the requested variance is deemed minor, and are therefore not subject to a zoning by-law amendment application process. In considering whether the proposal is desirable, the Committee of Adjustment will have regard for the requirements included within the Official Plan, specifically Section 9.5.19.

1. The proposal meets the intent of Section 2 of the Official Plan as each resulting lot will exceed the minimum lot area requirement of 1.0 hectare and will provide adequate lot area to provide the functional needs for the proposed residential use on each lot, and will not have any negative impacts on abutting properties or residential and/or agricultural uses or structures. The reduced lot frontage of the retained lot will exceed the minimum frontage requirements for a severed lot in the 'A1' zone and will therefore be in keeping with the intent of the 'A1' zone provisions for residential uses.
2. The intended residential use of each resulting lot is compatible with the Country Area and will not have any negative impacts on the abutting residential uses, and any agricultural uses or existing livestock facilities or manure storage facilities in the area. There are no existing livestock facilities or manure storage facilities within 300 metres of the subject property.
3. The site will continue to function in an appropriate manner, road access will be maintained from Aragon Road.
4. The proposal is not subject to Section 8, Urban Design policies in the Official Plan.
5. The subject property is immediately adjacent to a listed property at 204 Aragon Road. The proposed consent application will have minimum impact on this identified resource; a Heritage Impact Statement is not required.

The City's Archeological Master Plan indicates that this property has composite archaeological potential. An archaeological assessment is recommended on the proposed severed parcel (building lot) prior to any ground disturbance. This has been added as a condition of severance.

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6. The site is developed with private onsite water and sewage system and will not result in the need for extension of city services.
7. The application and the cumulative impact of the proposal does not warrant a zoning by-law amendment.
8. The Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application. Suggested conditions are listed in the recommendation above. The conditions may be added, altered or removed at the Committee's discretion.
9. The approval of the requested variance will not set a precedent for the immediate area.

The proposal conforms to the policies of the Official Plan.

## **2) The general intent and purpose of the zoning by-law being varied is maintained**

The subject property is zoned 'A1' Restricted Agricultural in the City of Kingston Zoning By-Law Number 76-26, entitled "Township of Kingston Restricted Area By-Law", as amended.

The owner/applicant is proposing to sever a 2.0 hectare parcel of land with 63.7 metres of road frontage on Aragon Road. The severed lot complies with the minimum lot area and frontage requirements in Section 9(2)(n).

The retained lot is required to have a minimum lot area of 2.0 hectares and lot frontage of 100.58 metres. The applicant is requesting variance to reduce the minimum lot frontage of the retained lot from 100.58 metres to 63.7 metres being a reduction of 36.88 metres. The requested frontage of the retained lot will be in keeping with the minimum frontage requirement for severed lots in the 'A1' zone of 60.96 metres.

The 'A1' zone requires a retained lot to have a minimum of 100.58 metres of frontage and exceed 2.0 hectares of lot area as retained lots are intended to be maintained for agricultural purposes. The increased lot area and frontage assists in separation between adjacent land uses and structures. Each resulting lot will not be capable of establishing a livestock facility based on the proximity of the adjacent dwellings; therefore the lots are limited to residential uses.

The subject property is located across the street from 'R1' zoned properties which are developed with single family dwellings on lots with approximately 45 metres of road frontage. The reduction of road frontage for the retained lot will be consistent with the established road frontage of lots along Aragon Road.

The proposal complies with all other requirements in the 'A1' zone. Any new development on the resulting lots is required to comply with the requirements of the 'A1' zone.

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**3) The variance is minor in nature**

The variance is considered minor as the requested reduction in lot frontage will have no impact on abutting lots.

The subject property is located across the street from 'R1' zoned properties which are developed with single family dwellings on lots with approximately 45 metres of road frontage. The reduction of road frontage for the retained lot will be in keeping with the established road frontage of lots along Aragon Road.

**4) The variance is desirable for the appropriate development or use of the land, building or structure**

The requested variance will not create any adverse effect on abutting properties or on their continued use. Access will be maintained on Aragon Road and each resulting lot will be on private on-site services.

**Technical Review: Circulated Departments and Agencies**

- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> Building Division | <input checked="" type="checkbox"/> Engineering Department | <input checked="" type="checkbox"/> Heritage (Planning Division)            |
| <input checked="" type="checkbox"/> Finance           | <input type="checkbox"/> Utilities Kingston                | <input checked="" type="checkbox"/> Real Estate & Environmental Initiatives |
| <input checked="" type="checkbox"/> Fire & Rescue     | <input type="checkbox"/> Kingston Hydro                    | <input checked="" type="checkbox"/> City's Environment Division             |
| <input checked="" type="checkbox"/> Solid Waste       | <input checked="" type="checkbox"/> Parks Development      | <input type="checkbox"/> Canadian National Railways                         |
| <input type="checkbox"/> Housing                      | <input checked="" type="checkbox"/> District Councillor    | <input type="checkbox"/> Ministry of Transportation                         |
| <input type="checkbox"/> KEDCO                        | <input type="checkbox"/> Municipal Drainage                | <input type="checkbox"/> Parks of the St. Lawrence                          |
| <input checked="" type="checkbox"/> CRCA              | <input checked="" type="checkbox"/> KFL&A Health Unit      | <input checked="" type="checkbox"/> Trans Northern Pipelines                |
| <input type="checkbox"/> Parks Canada                 | <input type="checkbox"/> Eastern Ontario Power             | <input type="checkbox"/> CFB Kingston                                       |
| <input type="checkbox"/> Hydro One                    | <input checked="" type="checkbox"/> Enbridge Pipelines     | <input checked="" type="checkbox"/> TransCanada Pipelines                   |
| <input type="checkbox"/> Kingston Airport             |  |   |

**Technical Comments**

**Engineering Department:** A road allowance widening along the severed parcel is required to achieve the City's desired road allowance width of 20 metres. The applicant shall convey to the City sufficient lands along the Aragon road allowance fronting the property to meet the requirements of the City for road widening (10 metres from centerline of the road allowance). An Ontario Land Surveyor will need to add the road widening as parts on a legal survey. An entrance permit may be required for access to the severed property.

**Building Division:** New construction of a single family dwelling on the new parcel will require a Building Permit and will be subject to Development Fees. Health Unit approval will be required for a septic system prior to a Building Permit being issued.

**Parks Division:** Cash-in-Lieu of Parkland is required for the creation of a new residential lot, at a rate of \$1201.26 per lot.



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**Environment Division:** The proposed newly created residential lot will require the installation of a well or confirmation of an existing well, constructed to current standards described in O.Reg. 903. Due to a resultant lot density of greater than five lots per five hectares, the proponent will need to satisfy the conditions of the City's Standard for Hydrogeological Assessments for water quality, quantity, interference, and well construction.

The report must be completed by a professional engineer or professional geoscientist and demonstrate that conditions for water quality, quantity, interference, and well construction have been met.

**KFL&A Public Health Unit:** The severed and retained lots will require additional suitable granular soil to construct a sewage disposal system. Specific requirements for additional soil will be indicated on an Application to Construct a Sewage System prior to site development. Each site is capable of providing flexibility in siting a sewage disposal system, dependent on the proposal submitted through an Application to Construct a Sewage System.

#### **Public Comments**

At the time this report was finalized, there were no written comments or objections received.

#### **Previous or Concurrent Applications**

There are no concurrent or relevant historic planning applications on the subject property.

#### **Conclusion**

The requested minor variance and consent are consistent with the general purpose and general intent of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The minor variance meets all four tests under the *Planning Act* and as such the application is being recommended for approval, subject to the proposed conditions.

#### **Existing Policy/By-Law:**

The proposed application was reviewed against the policies of the Province of Ontario and City of Kingston to ensure that the changes would be consistent with the Province's and the City's vision of development. The following documents were assessed:

##### **Provincial**

Provincial Policy Statement, 2014

##### **Municipal**

City of Kingston Official Plan  
Zoning By-Law Number 76-26

#### **Notice Provisions:**

A Committee of Adjustment meeting is going to be held respecting this application on June 26, 2017. Pursuant to the requirements of the *Planning Act*, a notice of the Statutory Public Meeting was provided by advertisement in the form of signs posted on the subject site 10 days in

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advance of the meeting. In addition, notices were sent by mail to a total of 21 property owners (according to the latest Assessment Roll) within 60 metres of the subject property and a courtesy notice was placed in The Kingston Whig-Standard. If the application is approved, a Notice of Decision will be circulated in accordance with the provisions of the *Planning Act*.

**Accessibility Considerations:**

Not applicable

**Financial Considerations:**

Not applicable

**Contacts:**

Paige Agnew, Director, Planning, Building & Licensing Services 613-546-4291 extension 3252

Marnie Venditti, Manager, Development Approvals 613-546-4291 extension 3256

Tim Fisher, Planner 613-546-4291 extension 3215

**Other City of Kingston Staff Consulted:**

The application was circulated to the relevant internal departments and external agencies for review and comment. The responses to the technical circulation have been addressed in the technical review and included within this report.

**Exhibits Attached:**

Exhibit A Key Map

Exhibit B Zoning By-Law Map

Exhibit C Public Notice Notification Map

Exhibit D Site Plan

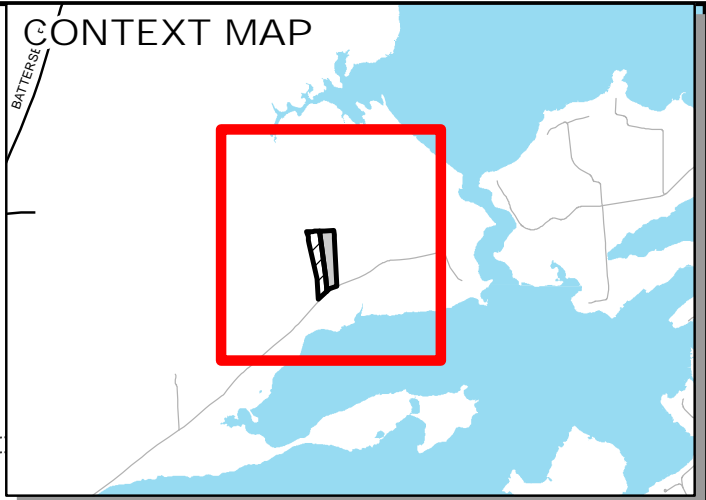
Exhibit E Justification Letter

Exhibit F Site Photos

Exhibit G Notice of Decision, D10-012-2017

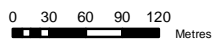
Exhibit H Notice of Decision, D13-011-2017

CONTEXT MAP



COMMITTEE OF ADJUSTMENT  
**KEY MAP**



Applicant: Fotenn Consultants Inc.  
Owner: Ruslan Yakoviychuk  
File Number: D13-011-2017/D10-012-2017  
Address: 90 Aragon Road



1:6,000

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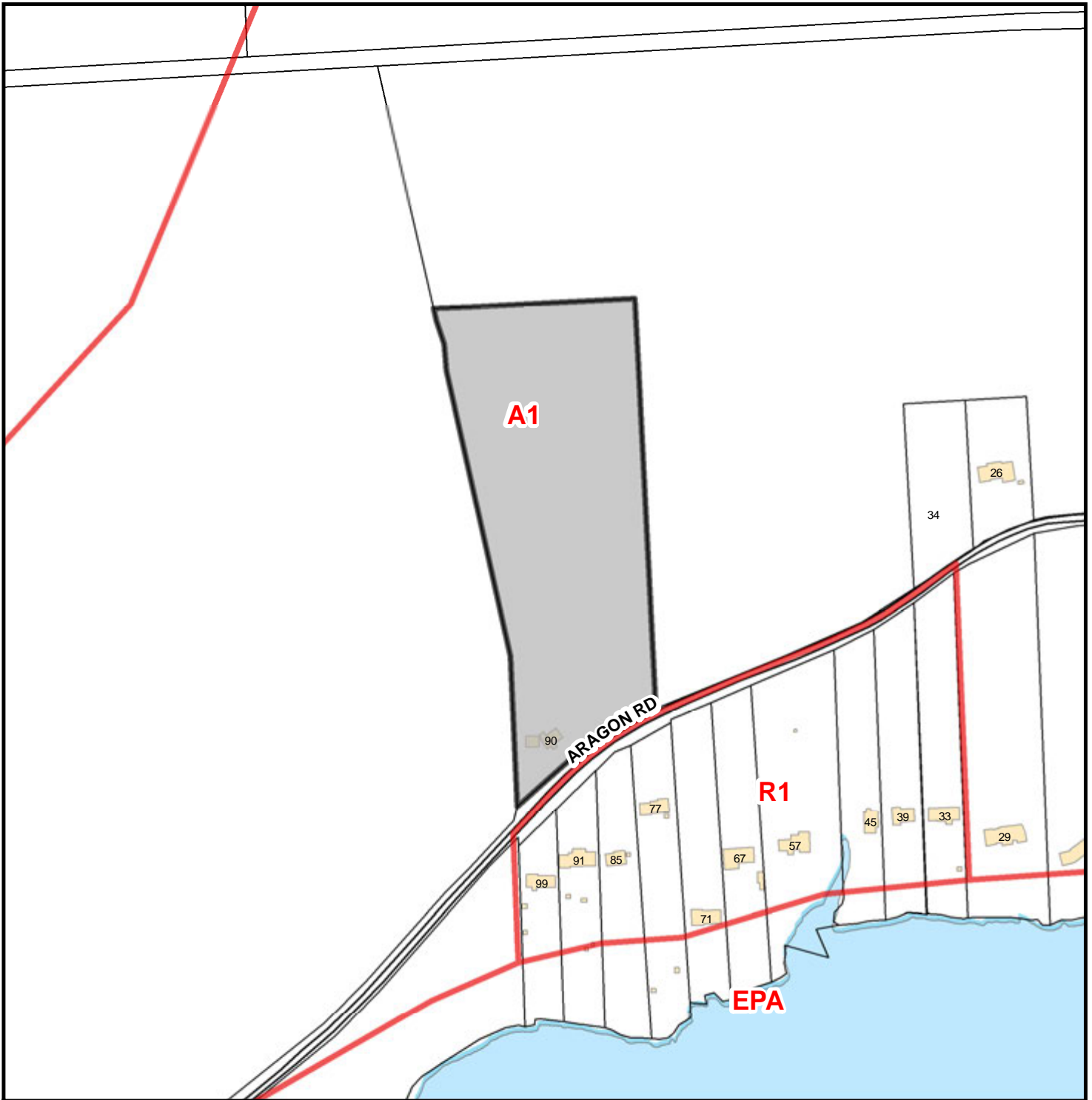
**LEGEND**

-  Lands to be Retained/Subject to Minor Variance
-  Lands to be Severed



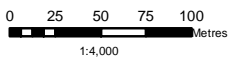
Planning, Building  
& Licensing Services  
a department of  
Community  
Services

PREPARED BY: J. Partridge  
DATE: 3/23/2017






COMMITTEE OF ADJUSTMENT  
**ZONING BY-LAW 76-26, Map 1**

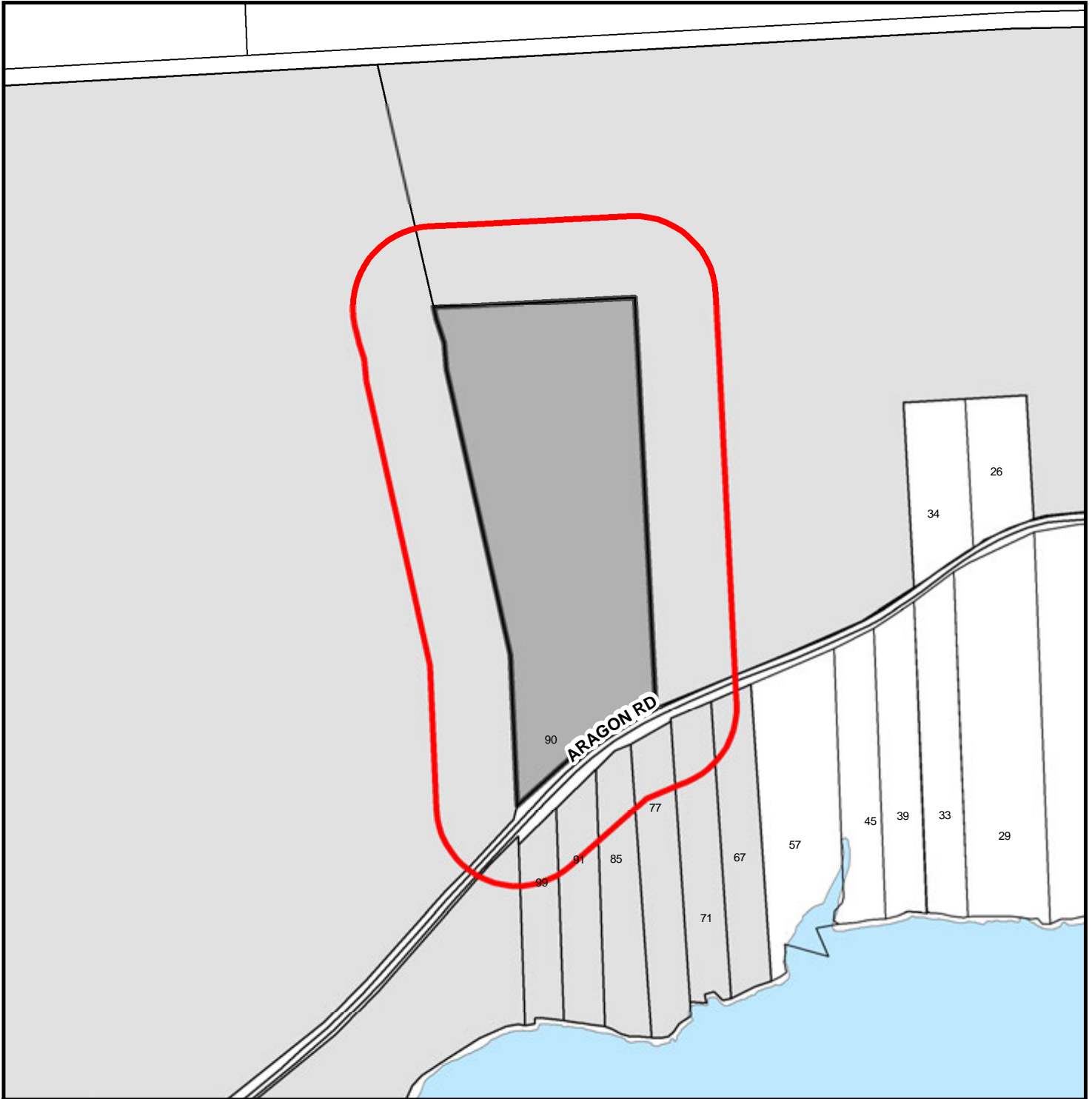
Applicant: Fotenn Consultants Inc.  
 Owner: Ruslan Yakoviychuk  
 File Number: D13-011-2017/D10-012-2017  
 Address: 90 Aragon Road



**LEGEND**

-  Consolidated Zoning
-  Lands Subject to Minor Variance
-  Property Boundaries

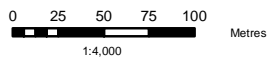








Planning, Building & Licensing Services  
a department of Community Services

COMMITTEE OF ADJUSTMENT  
**PUBLIC NOTICE NOTIFICATION MAP**

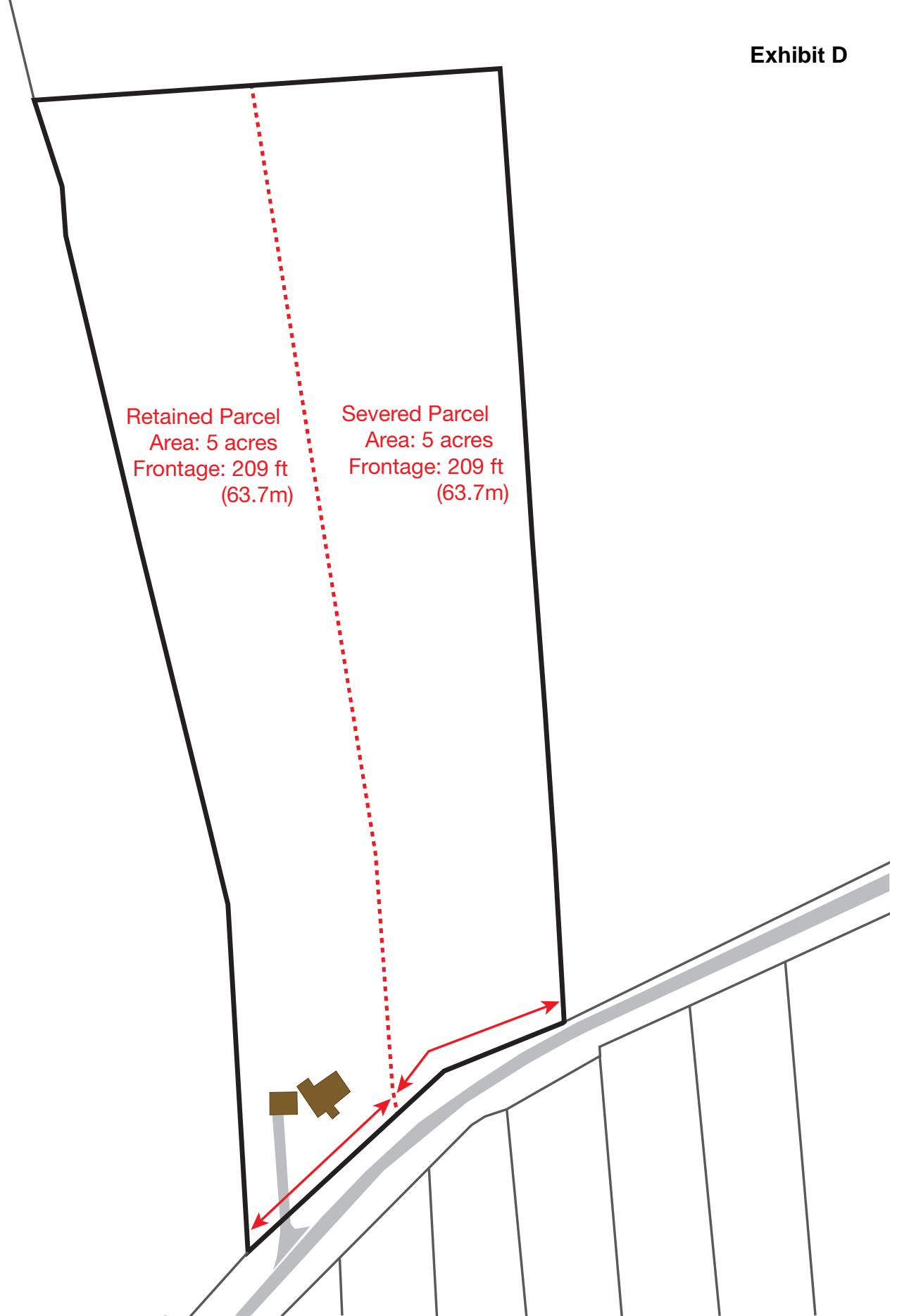
Applicant: Fotenn Consultants Inc.  
Owner: Ruslan Yakoviychuk  
File Number: D13-011-2017/D10-012-2017  
Address: 90 Aragon Road



**LEGEND**

-  Subject Property
-  60 m Public Notice Boundary
-  Property Boundaries
-  10 Properties in Receipt of Notice





Drawing Title: 90 Aragon Road Severance Sketch	Scale: 0 40m 	Revision:	
Applicant: RY Contractor	Date: February 13, 2017	Prepared by: YL Checked by: MK	<b>FOTENN</b>

**KINGSTON**

The Woolen Mill  
6 Cataraqui St, Suite 108  
Kingston, ON K7K 1Z7  
T 613.542.5454

**fotenn.com**

March 7, 2017

**Mr. Tim Fisher**

Planner & Secretary-Treasurer, Committee of Adjustment  
Planning Division, City of Kingston  
1211 John Counter Boulevard  
Kingston, ON

**RE: Applications for Consent and Minor Variance  
90 Aragon Road, Kingston**

Dear Mr. Fisher,

Fotenn Consultants Inc. has been retained by RY Contractor to submit applications for consent and minor variance to allow the severance of the subject property at 90 Aragon Road into two equally-sized lots. The subject property is located in the rural area north of Kingston's urban boundary. The site is designated 'Rural' in the City of Kingston Official Plan and zoned 'A1: Restricted Agricultural Zone' in Township of Kingston Zoning By-law 76-26.

The minimum lot area in the A1 zone is two hectares (five acres) and the minimum lot frontage is +/- 100.5 metres (330 feet). Subsection 9(2)(n) of the zoning by-law allows a reduced lot frontage of 60 metres (200 feet) when a new residential lot is created by consent.

The subject property is approximately four hectares (10 acres) in area, with a lot frontage of approximately 127.4 metres (418 feet) on Aragon Road. The intent of the proposed severance is to create two lots, one retained and one severed, each with an area of two hectares (five acres) and a frontage of 63.7 metres (209 feet) as shown on the enclosed sketch.

In accordance with your voicemail from February 24, 2017, we are also submitting an application for minor variance to allow a reduction in the minimum lot frontage from 100.5 metres to 60 metres.

Sincerely,



Youko Leclerc-Desjardins, M.Pl.  
Planner  
Fotenn Consultants Inc.

CC: RY Contractor

