



**City of Kingston  
Report to Committee of Adjustment  
Report Number COA-20-024**

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**To:** Chair and Members of Committee of Adjustment  
**From:** Tim Fisher, Planner  
**Date of Meeting:** April 20, 2020  
**Application for:** Consent (new lot) and Minor Variance  
**File Number:** D10-004-2020 and D13-002-2020  
**Address:** 1270 John F Scott Road  
**Owner:** Philip and William Thompson  
**Applicant:** Philip and Vanessa Thompson

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**Council Strategic Plan Alignment:**

Theme: 2. Increase housing affordability

Goal: See above

**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 from the property located at 1270 John F. Scott Road. The applicant is proposing to sever a 2 hectare parcel of undeveloped land with approximately 90 metres of road frontage on John F. Scott Road, and retain a 10.8 hectare parcel of undeveloped land with approximately 63 metres of road frontage on John F. Scott Road.

The retained parcel is also subject to minor variance application, File Number D13-002-2020, to reduce the minimum lot frontage requirement from 90 metres to 63 metres to recognize the retained lot subject to consent application, File Number D10-004-2020.

The subject lot is designated Rural Lands, Prime Agricultural and Environmental Protection Area in the City of Kingston Official Plan and zoned Restricted Rural 'A1' in Zoning By-Law Number

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32-74. The existing 12.8 hectare parcel of undeveloped land has approximately 153 metres of road frontage of John F. Scott Road.

The consent complies with the severance policies in Section 9.6 as each 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 on the severed lot and the continued agricultural use on the retained lot. 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, environmental protection area's or has the effect of removing prime agricultural designated lands and hindering existing agricultural uses.

The variance complies with the minor variance policies of 9.5.19 in the Official Plan. The reduction of minimum lot frontage of the retained lot is consistent with existing lot frontages along John F. Scott Road. The retained 'P' shaped lot will be approximately 63 metres in width for approximately 222 metres and then will widen to approximately 200 metres in lot width (Exhibit E – Severance Sketch). The retained lot will maintain its agricultural use and will retain the prime agricultural designated lands thereby maintaining and protecting prime agricultural lands in Kingston (Exhibit C – Official Plan Map). The variance will not have any negative impacts regarding entrances from John F. Scott Road as the retained lot will have sufficient road frontage to locate an entrance, subject to obtaining an Entrance Permit from the Engineering Department. Future development on each resulting lot is required to comply with the provisions of the 'A1' zone in Zoning By-Law Number 32-74. Approval of the variance will not set an undesirable precedent for the immediate area and will be in keeping with the rural character of the neighbourhood.

The proposed reduced lot frontage on the retained lot 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 meet all four tests under the *Planning Act*.

### **Recommendation:**

**That** consent application, File Number D10-004-2020, for the property located at 1270 John F. Scott Road to sever a 2 hectare parcel of land with approximately 90 metres of road frontage on John F. Scott Road, and retain a 10.8 hectare parcel of land with approximately 63 metres of road frontage on John F. Scott Road, be provisionally approved subject to the following conditions:

#### **1. Deadline**

That all conditions are satisfied and the Certificate of Official be presented to the Secretary-Treasurer, Committee of Adjustment for certification under Section 53(42) of the *Planning Act*, R.S.O. 1990 as amended, within one year of mailing of this notice. We suggest that the Land Registry Office be consulted for preapproval of the Certificate of Official to avoid delays.

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The Certificate must be registered within two years from the issuance of the certificate as required under Section 53(43) of the *Planning Act*, R.S.O. 1990, as amended. A copy of the registered transfer certificate shall be provided to the Secretary-Treasurer, Committee of Adjustment to complete the file.

## 2. Reference Plan

That a digital version of a Reference Plan(s) be provided in a PDF and/or AutoCAD Windows readable format on a compact disc (CD), USB memory stick or by email, illustrating the consent as parts on a plan be prepared and presented to the Secretary-Treasurer, Committee of Adjustment prior to the issuance of the Certificate of Official; or

The Land Registry Office may pre-approve an alternative parcel description in writing which can be presented to the Secretary-Treasurer, Committee of Adjustment prior to the issuance of the Certificate of Official.

## 3. Payment of Taxes

The owner/applicant shall contact the Tax Department at [tax@cityofkingston.ca](mailto:tax@cityofkingston.ca) and secure in writing from the Treasurer or the Manager of Taxation and Revenue, proof of payment of current taxes and any special charges (not simply a copy of the tax bill) required to be paid out and a statement of proof that is received and shall be provided to the Secretary-Treasurer Committee of Adjustment, prior to the issuance of the consent certificate. The owner/applicant must pay any outstanding realty taxes and all local improvement charges levied against the property.

## 4. Cash-In-Lieu of Parkland

That \$1,252.37 shall be paid to the City of Kingston as cash-in-lieu of land dedication for park or public recreational purposes for each new building lot being created. The applicant may choose to pay the fee through their DASH application, provide a certified cheque or provide payment at the front desk at 1211 John Counter Boulevard, prior to the issuance of the consent certificate.

## 5. KFL&A Public Health Unit

The applicant shall contact KFL&A Public Health Unit and have an inspection conducted of the property and pay the required review fee. A satisfactory report by the Health Unit in support of the consent shall be provided to the Secretary-Treasurer, Committee of Adjustment, prior to the issuance of the Certificate of Official.

## 6. Hydrogeological Assessment

A hydrogeological assessment is required to be signed off by the Environment Department prior to the issuance of the Certificate of Official. The assessment shall demonstrate adequate potable water supply on both the severed and retained lots.

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Due to groundwater sensitivity in the area and resultant density of lots, the assessment will need to be completed to the City's standard for a full hydrogeological investigation that demonstrates quality, quantity, well construction, and potential for interference with exiting users of the groundwater resource. The assessment must be performed by a Professional Engineer (P.Eng.) or Professional Geoscientist (P.Geo.) licensed to practice in Ontario; and, meet the objectives of Provincial Procedure D-5-5 for long-term, safe yields. Each newly created lot will require confirmation of a well that is constructed to provincial regulation 903 standards. The well water must meet health related parameters without treatment. Dug wells are strongly discouraged and will only be permitted if a drilled well is found to be unsuitable. Evidence from the professional must be submitted in advance when seeking approval to attempt a dug well; or

If the applicant wishes to not establish a well and hydrogeological assessment on the retained parcel, the applicant may apply for a holding "H" provision on the lot until such time that a well and hydro geological assessment is completed to support future development. The holding 'H' application shall be completed prior to the issuance of the Certificate of Official.

## **7. Archaeological Assessment**

An Archaeological Assessment (beginning with a Stage One Assessment) and any subsequent or supporting studies are required on the property as the site falls under several of the criteria for archaeological potential. Any area of development or site alteration, including access routes, on lands containing archaeological resources or areas of archaeological potential will need to be assessed by an archaeologist licensed in the Province of Ontario. The applicant shall contact the Planning Service to confirm their requirements for approval of this condition.

Two (2) copies of the study and all relative information shall be provided to the Secretary-Treasurer of the Committee of Adjustment. The report shall be registered with the Ministry of Tourism, Culture and Sport or an acceptance letter shall be obtained by the Ministry prior to the issuance of the Certificate of Official.

The City relies upon the report of the professional archaeologist as filed, but reserves the right to require further reports should further evidence be uncovered. The applicant may be required to further review the state of archaeological resources on the property depending on the recommendations of the report and subject to input and review from the Ministry of Tourism, Culture and Sport. The City shall not be restricted in its ability to determine requirements related to review, assessment and/or protection should archaeological resources be found on-site. Any costs arising from such requirements of the City, or any other duly authorized Government body, shall be borne solely by the applicant.

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**8. Road Widening**

The applicant shall have their surveyor verify if a road widening of 10 metres from the centreline of road is required along the entire frontage of the severed and retained lot along John F. Scott Road. If a widening is required, then it shall be conveyed to the City prior to the issuance of the Certificate of Official.

The surveyor shall illustrate the widening as a separate part on a reference plan and, after registration of said deed at the expense of the applicant, and prior to issuing the certificate for the severance herein, the solicitor for the applicant shall certify that the title of the municipality to the said strip is free and clear of all encumbrances of every nature and that the municipality has a good and marketable title.

**9. Civic Address**

The owner/applicant shall contact Planning Services once the Reference Plan has been deposited and provided to the City, and obtain a draft civic address for each new lot created and all appropriate fees shall be paid. The owner/applicant shall provide to the Secretary-Treasurer, Committee of Adjustment, written confirmation from the City that the civic address has been obtained prior to the issuance of the consent certificate.

**10. Associated Variance**

That associated Minor Variance application, File Number D13-002-2020, is approved and all related conditions of approval are fulfilled prior to the issuance of the consent certificate by the Secretary-Treasurer Committee of Adjustment.

**11. Cataraqui Region Conservation Authority**

The owner/applicant is advised that all development and site alteration proposed within 120 metres of the lake is subject to permission under Ontario Regulation 148/06: Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses. This will apply to any development, construction, any associated grading, placement of fill or other site alteration. The application package can be downloaded from <https://crca.ca/wp-content/uploads/PDFs/Planning-Policy/2018-148-06-ApplicationPackage.pdf>.

**12. Development Agreement**

The owner shall enter into a development agreement satisfactory to the City to be registered on title to the severed and retained lands. All legal costs associated with the preparation and registration of the agreement shall be borne by the owner. The applicant shall provide a copy of the registered executed agreement to the Secretary-Treasurer, Committee of Adjustment, prior to the issuance of the consent certificate. The agreement shall contain conditions to ensure:

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- a. That any new septic system on the severed or retained parcels shall conform to the provisions of the City's Official Plan and shall be constructed in accordance with the requirements of the Kingston Frontenac Lennox and Addington Public Health Unit.
- b. Any recommendations resulting from the hydro-geological assessment are included within the development agreement for the lands.
- c. Any recommendations resulting from the Archaeological Assessment shall be included within the development agreement for the lands.
- d. Any recommendations resulting from the Archaeological Assessment shall be included within the development agreement for the lands.
- e. In the event that deeply buried or previously undiscovered archaeological deposits are discovered in the course of development or site alteration, all work must immediately cease and the site must be secured. The Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132) and the City of Kingston's Planning Service (613-546-4291, extension 3180) must be immediately contacted.

In the event that human remains are encountered, all work must immediately cease and the site must be secured. The Kingston Police (613-549-4660), the Registrar of Cemeteries Regulation Section of the Ontario Ministry of Consumer Business Services (416-326-8404), the Cultural Program Branch of the Ministry of Tourism, Culture and Sport (416-314-7132), and the City of Kingston's Planning Service (613-546-4291, extension 3180) must be immediately contacted.

- f. That the owner be advised that the severed and retained lots are located in the rural area and may be adjacent to existing or future agricultural uses. Any new residential development on the severed or retained lands shall be outside of the required calculated Minimum Distance Separation (MDS) setback from any neighbouring livestock facility or manure storage and all other applicable requirements at the time of Building Permit issuance.
- g. That the owner be advised that any new or altered entrance to the site will require an entrance permit from the Engineering Division.
- h. That a Building Permit is required prior to the construction or removal of all structures 10 square metres in area or greater. Issues such as but not limited to O.B.C., grading and servicing will be agreed through the permit review process.
- i. That the owner be advised that the subject property abuts a provincial highway (Highway 401) to the north. In the event of future development on the retained land, the owner should be aware that this property is within the Ministry's permit control area as defined by the Public Transportation and Highway Improvement Act R.S.O. 1990. Therefore Ministry approvals and permits are required prior to the construction and/or demolition of any building and/or structures and prior to the issuance of any municipal Building Permits or approvals as per section 8.(2)(a) of the Building Code Act.

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- j. That the owner acknowledges that a portion of the retained parcel is within an Environmental Protection Area (EPA) and any development shall occur only outside of the defined EPA area and shall be subject to Cataraqui Region Conservation Authority (CRCA) and O.Reg 149/06: Development, Interference within Wetlands and Alterations to shorelines and Watercourses and other Municipal By-Laws and requirements;
- k. That the owner acknowledges and agrees with the City that:
  - i. The severed lands and the retained lands are located outside the limits of the municipal water and sewer service area and are not serviced by the City's water treatment plant or sewage treatment facility;
  - ii. The owner shall be solely responsible for ensuring at all times and by all means that there is an adequate supply of potable water and adequate on-site sewage treatment facility maintained by the owner, for the owner's intended use of the severed lands and retained lands;
  - iii. Despite the Committee of Adjustment approval to sever the lands, or that the City has approved zoning for either or both of the severed lands and retained lands that would permit construction of a building thereon, or that the City has or may at any time in the future issue a Building Permit or approve a site plan for either or both the severed lands and retained lands, the City will have no obligation to extend the municipal water area or provide municipal water services, or to extend the municipal sewer service area or provide municipal sewer services to or for the benefit of either the severed lands or retained lands;
  - iv. Regardless of any order issued by the Ministry of the Environment or by the Kingston Frontenac Lennox and Addington Public Health Unit in the future, the owner shall be solely responsible for the costs associated with any upgrading or extension of any private or municipal services required to be constructed to comply with such order; and

**That** minor variance application, File Number D13-002-2020, for the retained parcel of land, to reduce the minimum lot frontage requirement to recognize the retained lot through consent application, File Number D10-004-2020, be approved.

#### **Variance 1**

**By-Law Number 76-26:** Section 23(2)(b), Minimum Lot Frontage  
**Requirement:** 90 metres  
**Proposed:** 63 metres  
**Variance Requested:** 27 metres

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

#### **1. Limitation**

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That the approved variance applies only to the retained lot as shown on the approved plans attached to the Notice of Decision.

**2. Associated Consent**

That associated Consent Application D10-004-2020, is approved and all related conditions of approval are fulfilled prior to the issuance of the certificate of official by the Secretary-Treasurer Committee of Adjustment.

**3. No Adverse Impacts**

The owner/applicant shall ensure that there are no adverse impacts on neighbouring properties as a result of the development or lot grading/drainage nor shall there be any increased runoff or grade changes to the property as a result of any excavation or downspout orientation.



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**Authorizing Signatures:**

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**Tim Fisher, Planner**

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

Paige Agnew, Commissioner of Community Services

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**Options/Discussion:**

On January 19, 2020, the agents Philip and Vanessa Thompson, submitted a consent application and minor variance application with respect to the property located at 1270 John F. Scott Road. The consent application, file number D10-004-2020, is to sever a 2 hectare parcel of land with approximately 90 metres of road frontage on Bur Brook Road. The retained 10.8 hectare parcel of land will have approximately 63 metres of road frontage on John F. Scott Road.

A minor variance application, File Number D13-002-2020 was also submitted to recognize the reduced lot frontage of the retained lot.

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

- Severance Sketch (Exhibit E); and
- Survey (Exhibit F).

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 John F. Scott Road (Exhibit A – Key Map). The 12.8 hectare parcel of undeveloped land has 153 metres of road frontage on John F. Scott Road and is currently used for agricultural purposes.

The property is designated as Rural Lands within the southern 1/3 of the lot and Prime Agricultural on the remaining northern 2/3 in the City of Kingston Official Plan. A tributary of Stephentown Creek is located along the northern lot line and is designated Environmental Protection Area in the City of Kingston Official Plan (Exhibit B – Official Plan Map). The subject property is zoned Restricted Rural 'A1' in Zoning By-Law Number 32-74, as amended (Exhibit C – Zoning By-Law Map).

**Consent Application**

The review of an application for consent is subject to Section 53 of the *Planning Act*. The Committee of Adjustment may grant a consent if it is satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality. An application for consent was determined to be appropriate for the creation of one new lot.

**Provincial Policy Statement**

The 2014 Provincial Policy Statement (PPS) provides policy direction on matters of Provincial Interest. The *Planning Act* requires that municipal councils be consistent with the PPS in carrying out their responsibilities under the Act. Generally, the PPS encourages efficient, cost effective development and patterns of land use which stimulate economic growth and protect the environment and public health. It encourages redevelopment where this can be accommodated taking into account existing building stock or areas.

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In regards to the PPS, the following was considered regarding the application submitted:

- The existing use is a permitted use within rural lands (1.1.5.2);
- The existing and proposed development is compatible with the rural landscape and can be sustained by rural services (1.1.5.4);
- No new public infrastructure or services are anticipated to be needed as a result of the application (1.1.5.5); and
- The severed and retained lots are within rural lands and subject to a private on-site well and sewage disposal system. The proposal will not result in the expansion of city services outside of the urban boundary (1.6.6.6).

### **Official Plan**

The subject property is designated 'Rural Lands' and 'Prime Agricultural' in the City of Kingston Official Plan. The Rural Lands designation is located within the southern one-third of the property with road frontage on John F. Scott Road. Permitted uses in the Rural Lands designation 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 3.12.4, and detached dwellings in accordance with Section 3.12.10 and that are compatible with adjacent land uses.

The remaining two-thirds of the lot is designated Prime Agricultural in the City of Kingston Official Plan. The City's goal is to protect land suitable for long-term agricultural production from scattered development and other land uses that are unrelated to agriculture, and to preserve and protect its long-term use for agricultural uses, agriculture-related uses, and on-farm diversified uses. Permitted uses in the Prime Agricultural Area designation are limited to agricultural uses, agriculture-related uses, and on-farm diversified uses as defined in Section 1.4 of this Plan. All types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards.

A portion of the lot along the northern lot line abutting the Highway 401 corridor is designated Environmental Protection Area 'EPA'. The EPA designated area is a 30 metre buffer from a tributary of Stephentown Creek located to the north. Any development or site alteration adjacent to the EPA lands is subject to a permit from the Cataraqui Region Conservation Authority 'CRCA' and may be subject to Ontario Regulation 148/06: Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses.

The severed lot will be entirely with the Rural Lands designation while the retained lot will maintain a portion of the Rural Lands designation and the whole of the Prime Agricultural and EPA designated lands.

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.

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- a. The lot frontage, depth and area of any lot created by consent (severed and retained parcel) must be appropriate for the use proposed for the lot, be in compliance with the provisions of the zoning by-law and consistent, where possible, with adjacent lots;

The severed and retained lots meet the general intent of the minimum lot area requirement of 1.0 hectares as required in the 'Rural Lands' designation in the Official Plan. The severed 2 hectare parcel of land parcel complies with the minimum 1.0 hectare parcel of land and may permit a small hobby farm and single detached dwelling which is in keeping with the rural character. The severed lot complies with the minimum lot area and frontage requirements of the Restricted Rural 'A1' Zone in Zoning By-Law Number 32-74.

The retained 10.8 hectare parcel of land will exceed 2.0 hectares which will permit an agricultural use and a single-detached dwelling and therefore will be in keeping with the rural character. The Restricted Rural 'A1' zone in Zoning By-Law Number 32-74 requires a minimum lot frontage of 90 metres, however the applicant is requesting a reduction through minor variance application, File Number D13-002-2020, to 63 metres to accommodate the proposed severance.

- b. Proposed severances that would result in irregularly shaped lots are to be avoided where possible;

The proposed severed and retained lot configurations are in keeping with the existing lot fabric along John F. Scott Road and will maintain the rural character of the area.

- c. Consents may be granted only when each parcel of land has frontage and direct access from an assumed road, except for conservation lands such as those held by the Conservation Authority or a land trust that can be accessed through an easement or right-of-way on abutting lands;

Each resulting lot will have frontage on an opened and maintained road. Each lot will have road frontage on John F. Scott Road which is a municipal road. Any new or altered entrances will require an entrance permit from the Engineering Department. This has been added as a clause to the Development Agreement.

A road widening may be required. The applicant shall have their surveyor verify if a road widening of 10 metres from the centreline of road is required along the entire frontage of the severed and retained lot along John F. Scott Road. If a widening is required, then it shall be conveyed to the City prior to the issuance of the Certificate of Official.

The surveyor shall illustrate the widening as a separate part on a reference plan and, after registration of said deed at the expense of the applicant, and prior to issuing the certificate for the severance herein, the solicitor for the applicant shall certify that the

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title of the municipality to the said strip is free and clear of all encumbrances of every nature and that the municipality has a good and marketable title.

- d. Direct access from Major Roads is limited and is subject to the terms of any permits or approvals required from an agency having jurisdiction, with particular attention to controlled areas subject to Ministry of Transportation review and approval;

The subject property backs onto the Highway 401 corridor. The retained parcel is within the Ministry of Transportation jurisdiction as per the *Public Transportation Highway Improvement Act* 1990, R.S.O. Any development on the retained lot will be subject to the review of MTO and may require a permit. This has been added as a clause to the Development Agreement.

- e. New access points or driveways must be located where they would not create a traffic hazard because of sight lines on curves, grades or corners.

The proposed severance will not result in any traffic hazards due to sightlines on curves, grades or corners.

- f. Minor infilling of residential development is permitted except where the new lots would result in ribbon development of more than four non-farm residential lots that takes the form of a single depth of houses or other land uses fronting along roads in Rural Areas:

The proposed consent is an infill lot as there are not more than 4 residential lots abutting the severed property therefore the consent will not result in ribbon development.

- g. Compatibility and any separation distances required between the proposed land uses for the lot and the neighbouring land uses located in Rural Areas must be considered;

The proposed severed lot will not have any negative impacts on abutting agricultural uses. There are no active or abandoned livestock or manure storage facilities within 300 metres of the subject property. The severed and retained parcels will maintain their existing use and will be compatible with the neighbouring land uses located in the rural area.

- h. Any application for a consent must assess the impact on the natural heritage system, natural heritage features and areas, natural hazards, cultural heritage resources and areas of archaeological potential, or areas of archaeological significance as set out in Sections 5, 6 and 7 of this Plan;

The retained property is partially designated as Environmental Protection Area 'EPA' which represents a 30 metre setback on either side of a tributary to Stephentown

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Creek. A portion of the retained property is identified as contributory woodlands. CRCA staff encourages the preservation of the natural vegetation. A clause has been recommended as part of the Development Agreement to be registered on title which will inform future owners that any development or site alteration adjacent to the EPA lands may be subject to Ontario Regulation 148/06: Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses.

The City's Archeological Master Plan indicates that this property has composite archaeological potential. An archaeological assessment is required as a condition of consent and any warning clauses be added to the Development Agreement which will be registered on title.

- i. The City must be satisfied that any development lots created by consent can be supplied with such municipal services as fire protection, road maintenance, storm drainage and where applicable, water supply and sewage disposal facilities, such that the provision of services does not adversely affect the City's finances.

The severed and retained parcels are located outside of the urban boundary and its municipal services. Any future development on the severed or retained parcel will be developed on private on-site services. The severance will not result in the need to extend municipal services or adversely affect the City's finances. A clause will be added to the Development Agreement. A Hydrogeological Assessment is required for the severed and retained lots as a condition of severance. Any conditions or recommendations from the assessment will be included as a clause in the Development Agreement.

As a condition of consent, the Kingston, Frontenac, Lennox and Addington Public Health Unit will inspect the property regarding the suitability of an on-site sewage disposal system on the severed and retained lot. Any conditions or warning clauses will be included as a clause in the Development Agreement.

### **Zoning By-Law**

The subject property is zoned 'A1' Restricted Rural in the City of Kingston Zoning By-Law Number 32-74, entitled "Township of Pittsburgh Zoning By-Law", as amended.

The owner/applicant is proposing to sever a 2 hectare parcel of undeveloped land with 90 metres of road frontage on John F. Scott Road and retain a 10.8 hectare parcel of undeveloped land with 63 metres of road frontage on John F. Scott Road (Exhibit E – Severance Sketch). The retained lot does not comply with the minimum frontage requirement of 90 metres therefore the applicant is requesting a variance (File Number D13-002-2020) to reduce the minimum frontage requirement from 90 metre to 63 metres. The severed lot complies with the 'A1' zone requirements. Any new development on the resulting lots is required to comply with the 'A1' zone requirements.

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The requested lot area and frontages of the severed and retained lots are in keeping with existing lot fabric along John F. Scott Road and will be in keeping with the character of the rural area and will not result in any new negative impacts on abutting uses.

### **Minor Variance 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.

### **Official Plan**

The subject property is designated 'Rural Lands' and 'Prime Agricultural' in the City of Kingston Official Plan. The Rural Lands designation is located within the southern one-third of the property which road frontage on John F. Scott Road. Permitted uses in the Rural Lands designation 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 3.12.4, and detached dwellings in accordance with Section 3.12.10 and that are compatible with adjacent land uses.

The remaining two-thirds of the lot is designated Prime Agricultural in the City of Kingston Official Plan. The City's goal is to protect land suitable for long-term agricultural production from scattered development and other land uses that are unrelated to agriculture, and to preserve and protect its long-term use for agricultural uses, agriculture-related uses, and on-farm diversified uses. Permitted uses in the Prime Agricultural Area designation are limited to agricultural uses, agriculture-related uses, and on-farm diversified uses as defined in Section 1.4 of this Plan. All types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards.

A portion of the lot along the northern lot line abutting the Highway 401 corridor is designated Environmental Protection Area 'EPA'. The EPA designated area is a 30 metre buffer from a tributary of Stephentown Creek to the north. Any development or site alteration adjacent to the EPA lands is subject to a permit from the Cataraqui Region Conservation Authority 'CRCA' and

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may be subject to Ontario Regulation 148/06: Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses.

The severed lot will be entirely with the Rural Lands designation while the retained lands will maintain a portion of the Rural Lands designation and the whole of the Prime Agricultural and EPA designated lands.

The impact of the proposal and the requested variance is deemed minor, and is 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.

- a. The proposed development meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of the Official Plan;

The retained lot and its reduced road frontage meets the intent of Section 2 and all other applicable policies of the Official Plan. The consent and its associated variance will allow for a 2 hectare parcel of land to be severed and retain a 10.8 hectare parcel of land which will maintain agricultural opportunities in the rural area and maintain the prime agricultural lands on the retained parcel of land. The severed and retained lots will provide adequate lot area to provide the functional needs for each intended use on each lot, and will not have any negative impacts on abutting properties or residential and/or agricultural uses or structures. The variance will not hinder future development on the retained lot as any future development is to comply with the requirements of the 'A1' zone in Zoning By-Law Number 32-74.

- b. The proposed development will be compatible with surrounding uses, buildings or structures and development standards associated with adjacent properties, and if necessary, incorporate means of alleviating adverse effects on abutting land uses as recommended in Section 2.7 of this Plan;

The retained lot and its reduced lot frontage will be compatible with the surrounding uses and land fabric. Future development on the subject lot will be required to comply with the 'A1' zone requirements in Zoning By-Law Number 32-74. The 'A1' zone permits a single-detached dwelling and agricultural uses on lots exceeding 2 hectares. The 10.8 hectare parcel of undeveloped land will have sufficient lot area to locate a dwelling on private services and/or an agricultural use.

The reduction in road frontage will be in keeping with the existing parcel fabric and character along John F. Scott Road. Adjacent lots vary in lot frontage and appear to be less than the required 90 metres. The chart below illustrates the abutting lots and their lot frontage (Exhibit A, Key Map):

Civic Address	Lot Frontage
1270 John F Scott Road (subject property)	Retained Lot 63 metres Severed Lot 90 metres



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Civic Address	Lot Frontage
1308 John F Scott Road	48 metres
1300 John F Scott Road	48 metres
1290 John F Scott Road	20 metres
1250 John F Scott Road	53 metres
1246 John F Scott Road	48 metres
1230 John F Scott Road	64 metres
1224 John F Scott Road	64 metres

Based on the above chart, the requested variance to reduce the minimum lot frontage requirement from 90 metres to 63 metres is in keeping with the lot fabric along John F. Scott Road and will not result in any negative impacts on the adjacent land uses.

- c. The ability of the site to function in an appropriate manner in terms of access, parking for vehicles and bicycles or any other matter and means of improving such function including considerations for universal accessibility;

The severed and retained lots will have road frontage on an open and maintained road. Any new or altered entrances will require an Entrance Permit from the Engineering Department. A clause has been added to the development agreement which will be registered on title.

- d. The conformity of the proposal to any applicable urban design policies endorsed by Council, particularly if the site includes or could impact a built heritage resource or is within a Heritage District;

The proposal is not subject to Section 8, Urban Design policies in the Official Plan.

- e. If the site is designated under the *Ontario Heritage Act*, the application shall be reviewed by Heritage Kingston for approval. If the property is adjacent to a designated property under the *Ontario Heritage Act* or shown as a Heritage Area feature, or is affected by the protected views shown on Schedule 9 of this Plan, then a Heritage Impact Statement may be required to assist staff to determine if the resulting development is desirable;

The subject property is not designated under Parts 4 or 5 of the *Ontario Heritage Act*. The City's Archeological Master Plan indicates that this property has composite archaeological potential. An archaeological assessment is required as a condition of consent and any warning clauses be added to the Development Agreement which will be registered on title.

- f. The resulting development has adequate municipal water and sewage services within the Urban Boundary, or is capable of providing individual on-site water and sewage services outside the Urban Boundary;

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The subject property is located outside of the Urban Boundary. The severed and retained parcels will be developed with a private on-site water and sewage system and will not result in the need for extension of city services.

A full hydrogeological assessment is required for the severed and retained lot is developed with an existing single-detached dwelling and private on-site services.

A hydrogeological assessment that demonstrates adequate potable water supply on both the severed and retained lots are required as a condition of consent. Due to groundwater sensitivity in the area and resultant density of lots, the assessment will need to be completed to the City's standard for a full hydrogeological investigation that demonstrates quality, quantity, well construction, and potential for interference with exiting users of the groundwater resource. The assessment must be performed by a Professional Engineer (P.Eng.) or Professional Geoscientist (P.Geo.) licensed to practice in Ontario; and, meet the objectives of Provincial Procedure D-5-5 for long-term, safe yields.

Each newly created lot will require confirmation of a well that is constructed to provincial regulation 903 standards. The well water must meet health related parameters without treatment. Dug wells are strongly discouraged and will only be permitted if a drilled well is found to be unsuitable. Evidence from the professional must be submitted in advance when seeking approval to attempt a dug well.

If the proponent wishes to not complete a well on the agricultural portion of a property, an application to place a holding "H" provision on the lot will have to be finalized prior to the issuance of the certificate of official. The "H" will remain until such time that a well and hydro geological assessment is completed to support future development on the retained parcel.

- g. Whether the application and the cumulative impact of the proposed variances would be more appropriately addressed by a zoning amendment to the applicable zoning by-law;

The application and the cumulative impact of the proposal does not warrant a zoning by-law amendment.

- h. The Committee of Adjustment may attach such conditions as it deems appropriate to the approval of the application for a minor variance including any reasonable requirements, recommendations of City departments, or the submission of studies as listed in Section 9.12 of this Plan that may be required to properly evaluate the application;

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. Conditions may be added, altered or removed at the Committee's discretion.

- i. The degree to which such approval may set an undesirable precedent for the immediate area.

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The approval of the requested variance will not set a precedent for the immediate area.

The proposal meets the intent of the Official Plan, as the proposed reduction in lot frontage of the retained lot will not result in any negative impacts to adjacent properties, streetscape or to the neighbourhood.

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

The subject property is zoned 'A1' General Agricultural in the City of Kingston Zoning By-Law Number 32-74, entitled "Township of Pittsburgh Zoning By-Law", as amended.

The owner/applicant is proposing to sever a 2 hectare parcel of undeveloped land with 90 metres of road frontage on John F. Scott Road and retain a 10.8 hectare parcel of undeveloped land with 63 metres of road frontage on John F. Scott Road (Exhibit E – Severance Sketch). The retained lot does not comply with the minimum frontage requirement of 90 metres therefore the applicant is requesting a variance to reduce the minimum frontage requirement from 90 metre to 63 metres. The severed lot complies with the 'A1' zone requirements. Any new development on the resulting lots is required to comply with the 'A1' zone requirements.

### Variance 1

<b>By-Law Number 76-26:</b>	Section 23(2)(b), Minimum Lot Frontage
<b>Requirement:</b>	90 metres
<b>Proposed:</b>	63 metres
<b>Variance Requested:</b>	27 metres

The severed and retained parcels comply with all other requirements in the Restricted Rural 'A1' zone. Any new development on the resulting lots is required to comply with the requirements of the 'A1' zone.

The general intent and purpose of the zoning by-law is maintained.

## 3) The variance is minor in nature

The subject lot is located in an area with existing lots with similar road frontages. The reduction of the road frontage for the retained lot will be in keeping with the established lots abutting the subject lot on John F. Scott Road. The variance is considered minor as the requested reduction in road frontage on the retained lot will have no impacts on the abutting lots or future development of the lot.

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

The requested variances will not create any adverse effects on abutting properties or on their continued use. Access will be maintained on John F. Scott Road and each resulting lot will be developed on private on-site services.

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Cash-in-Lieu of Parkland will be required prior to the issuance of the certificate of official for the creation of one new residential lot. The current cash-in-lieu fee is \$1,252.37. This has been recommended as a condition of consent.

The variance is desirable and appropriate use of the land.

### Technical Review: Circulated Departments and Agencies

- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> Building Division | <input checked="" type="checkbox"/> Engineering Department | <input checked="" type="checkbox"/> Heritage (Planning Service)             |
| <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 checked="" 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 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 type="checkbox"/> Enbridge Pipelines                | <input type="checkbox"/> TransCanada Pipelines                              |
| <input type="checkbox"/> Kingston Airport             |  |   |

### Technical Comments

This application was circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude this application from moving forward. Any technical comments that are received after the publishing of this report will be included as an addendum to the Committee of Adjustment agenda.

### 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 32-74. 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:

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**Provincial**

Provincial Policy Statement, 2014

**Municipal**

City of Kingston Official Plan  
Zoning By-Law Number 32-74

**Notice Provisions:**

A Committee of Adjustment meeting is going to be held respecting this application on March 23, 2020. 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 14 days in advance of the meeting. In addition, notices were sent by mail to a total of 8 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:**

None

**Financial Considerations:**

None

**Contacts:**

Tim Park, Manager of Development Approvals 613-546-4291 extension 3223

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 Official Plan Map

Exhibit C Zoning By-Law Map

Exhibit D Public Notice Notification Map

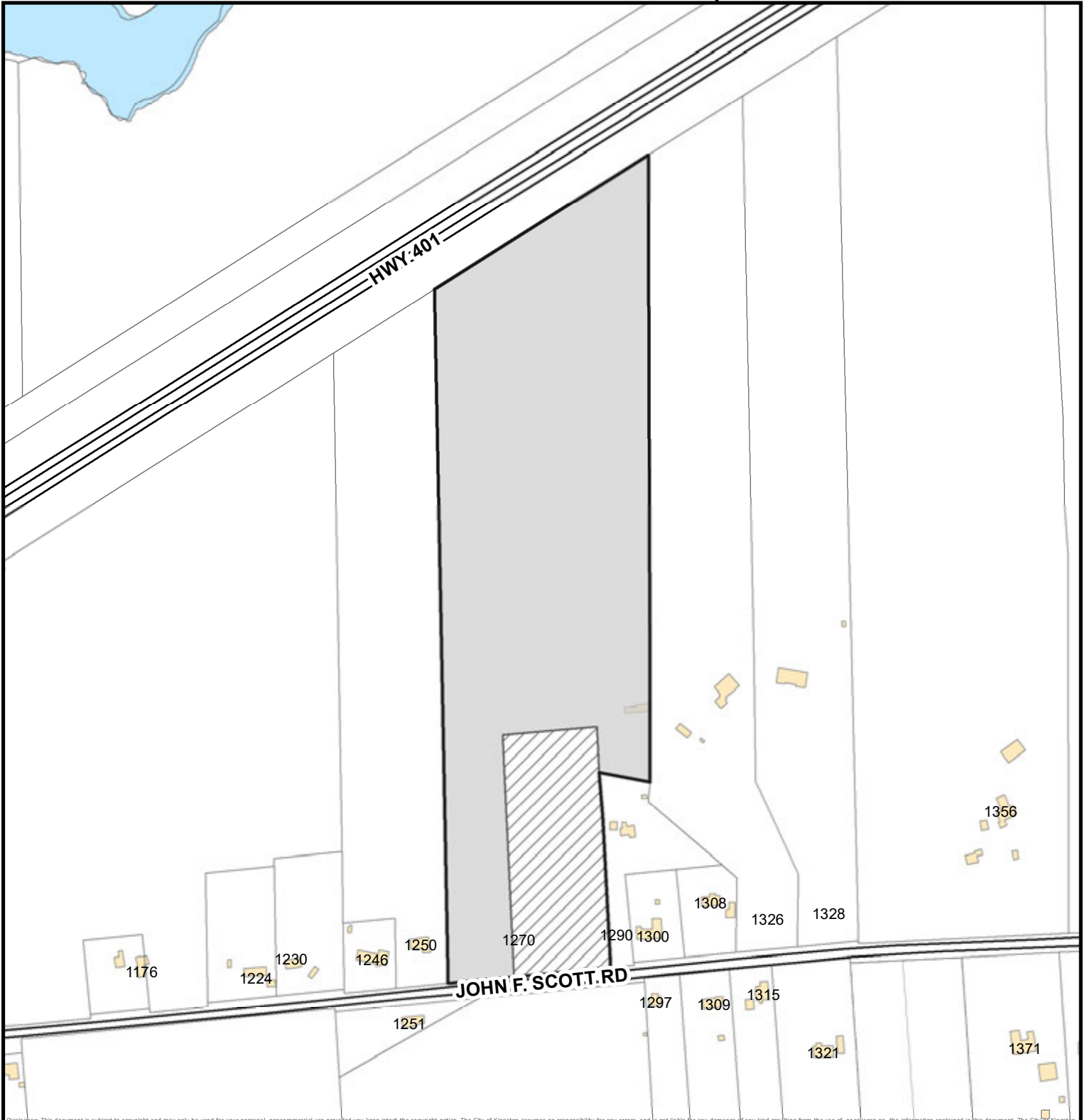
**April 20, 2020**

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Exhibit E Severance Sketch

Exhibit F Survey

Exhibit G Photo



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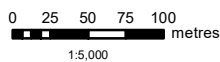


Planning Services

a department of  
Community  
Services

COMITTEE OF ADJUSTMENT  
**Key Map**

File Number: D10-004-2020 and D13-002-20202  
Address: 1270 John F. Scott Road

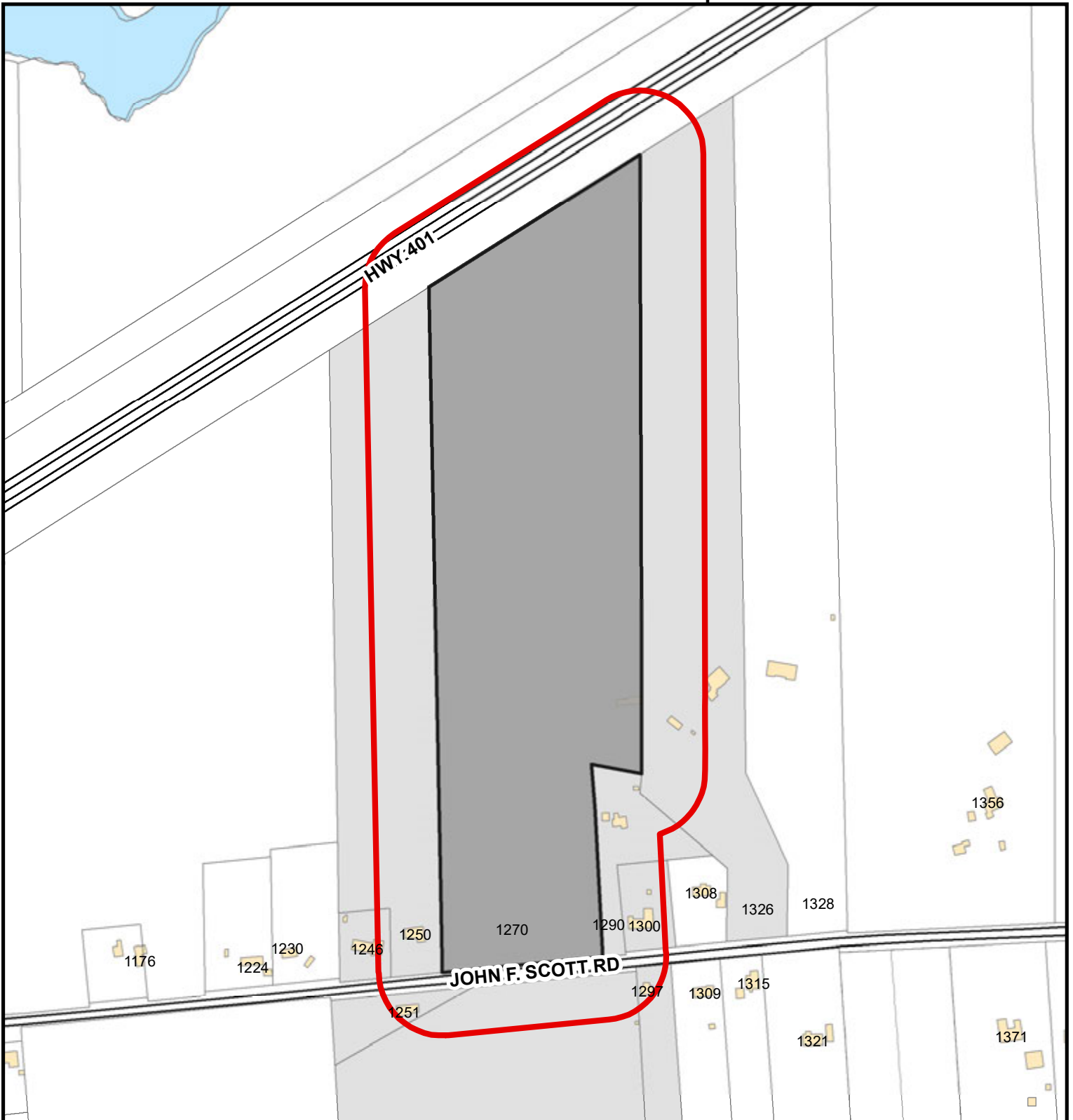


DATE: 2020-02-06  
PREPARED BY: akeeping

**CONTEXT MAP**



Subject Lands Retained Lands Severed Lands

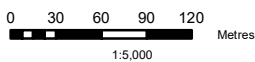


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COMITTEE OF ADJUSTMENT  
**Public Notice Notification Map**

File Number: D10-004-2020 and D13-002-2020  
Address: 1270 John F. Scott Road



**Legend**

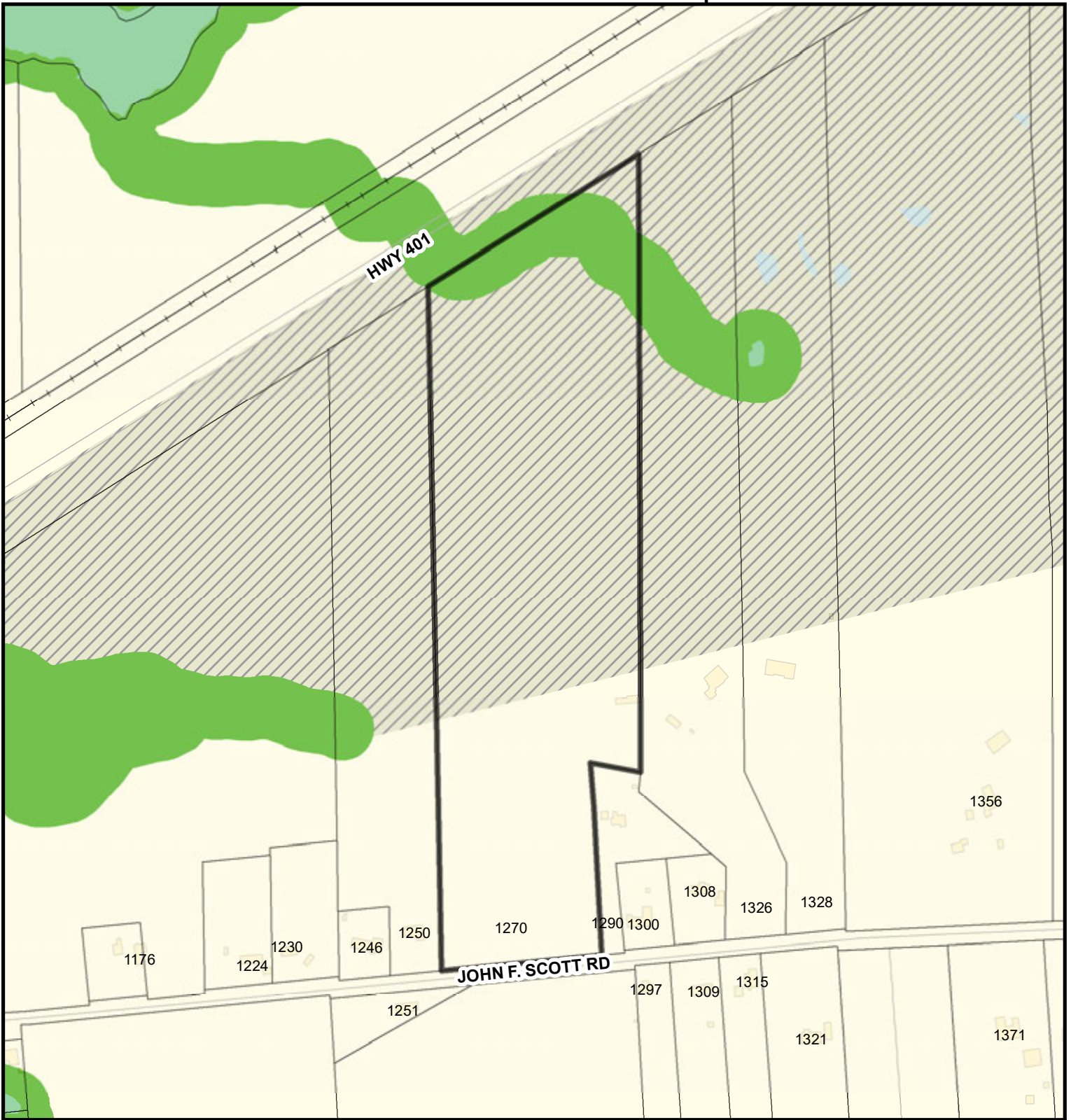
- 60m Public Notification Boundary
- Subject Lands
- Property Boundaries
- Proposed Parcels
- 8 Properties in Receipt of Notice (MPAC)



PREPARED BY: akeeping  
DATE: 2020-02-06

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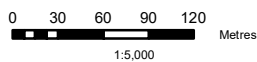


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COMITTEE OF ADJUSTMENT  
**Official Plan, Existing Land Use**

File Number: D10-004-2020 and D13-002-2020  
Address: 1270 John F. Scott Road



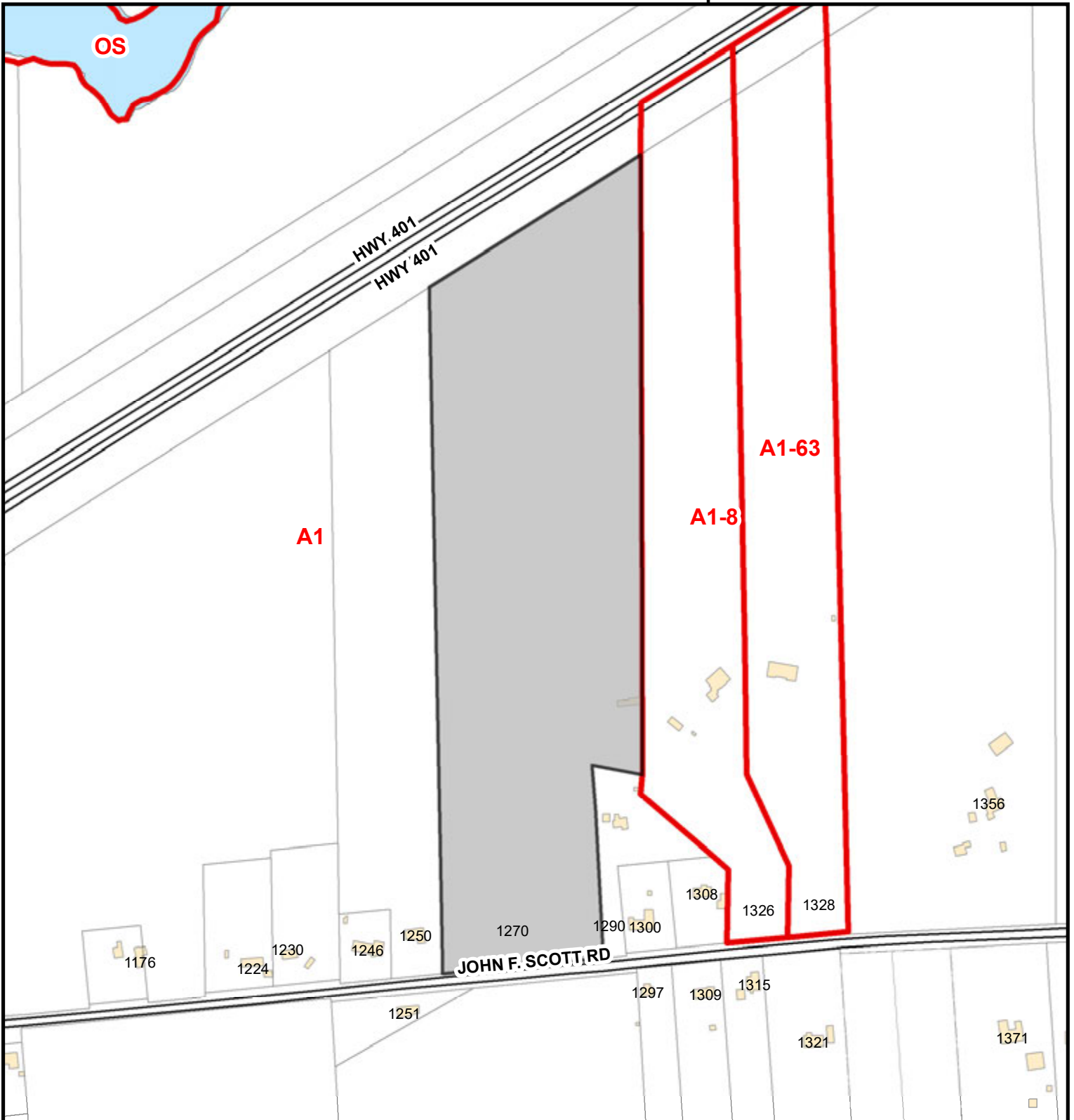
**Legend**

- Subject Lands
- PRIME AGRICULTURAL
- ENVIRONMENTAL PROTECTION AREA
- RURAL



PREPARED BY: akeeping  
DATE: 2020-02-06

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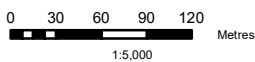
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Community Services

COMITTEE OF ADJUSTMENT  
**Existing Zoning - By-law 32-74, Map 1**

File Number: D10-004-2020 and D13-002-2020  
Address: 1270 John F. Scott Road

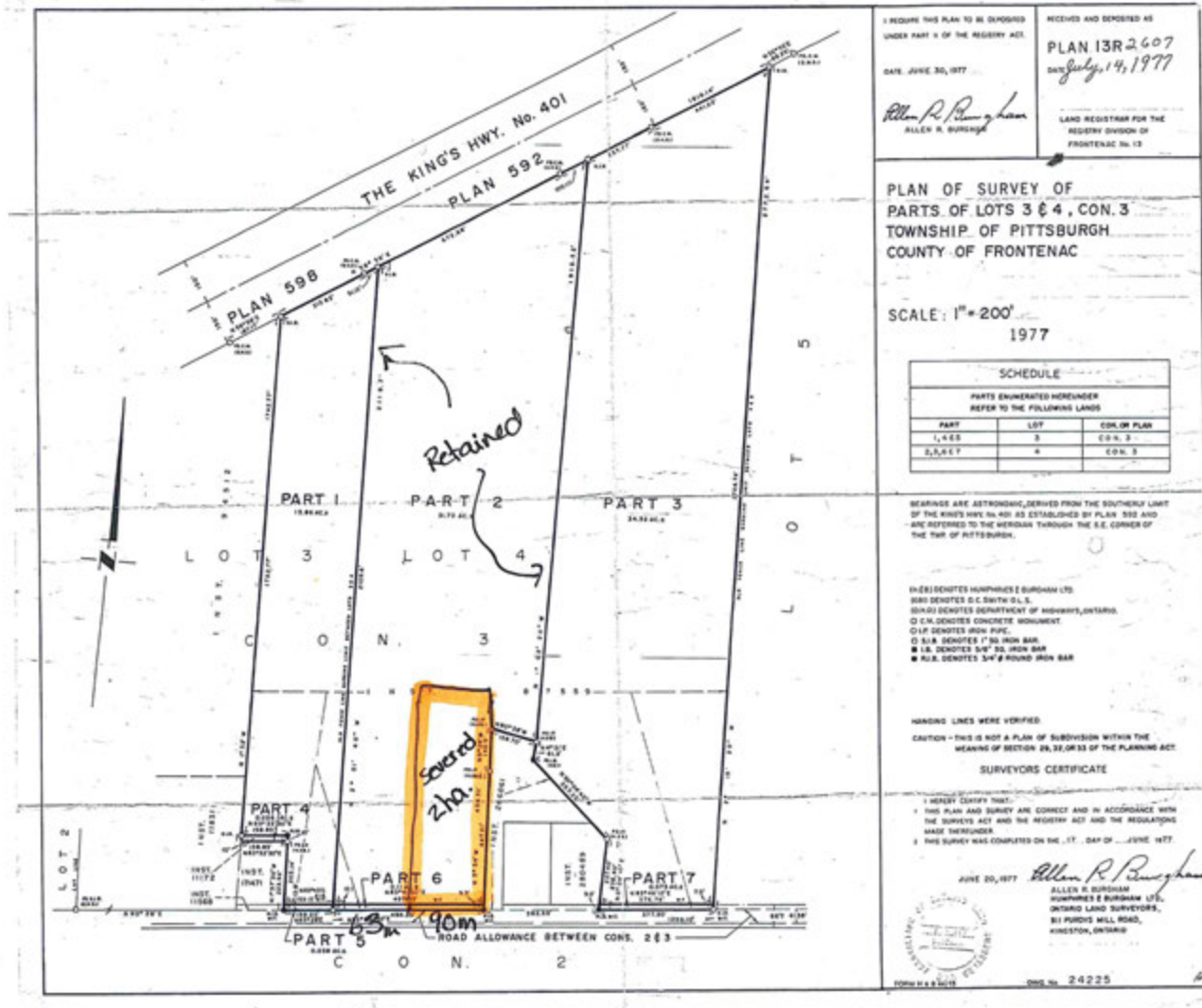
**Legend**

-  Subject Lands
-  Consolidated Zoning



PREPARED BY: akeeping  
DATE: 2020-02-06

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I DEPOSE THIS PLAN TO BE DEPOSITED UNDER PART 4 OF THE REGISTRY ACT.  
DATE: JUNE 30, 1977  
*Allen R. Burgham*  
ALLEN R. BURGHAM

RECEIVED AND DEPOSITED AS  
**PLAN 13R 2607**  
DATE: July 14, 1977  
LAND REGISTRAR FOR THE  
REGISTRY DIVISION OF  
FRONTENAC No. 13

PLAN OF SURVEY OF  
PARTS OF LOTS 3 & 4, CON. 3  
TOWNSHIP OF PITTSBURGH  
COUNTY OF FRONTENAC

SCALE: 1" = 200'  
1977

SCHEDULE

PARTS ENUMERATED HEREUNDER REFER TO THE FOLLOWING LANDS

PART	LOT	CON. OF PLAN
1, 4 & 5	3	CON. 3
2, 3, 6 & 7	4	CON. 3

BEARINGS ARE ASTROMONOMIC, DERIVED FROM THE SOUTHERLY LIMIT OF THE KING'S HWY. No. 401 AS ESTABLISHED BY PLAN 592 AND ARE REFERRED TO THE MERIDIAN THROUGH THE S.E. CORNER OF THE TAIL OF LOT 3 BURGHAM.

- IN (E) DENOTES HUMPHRIES & BURGHAM LTD.
- SM (S) DENOTES S.C. SMITH O.L.S.
- SO (S) DENOTES SIGNIFICANCE OF HIGHWAYS, ONTARIO.
- C.M. DENOTES CONCRETE MONUMENT.
- O.I.P. DENOTES IRON PIPE.
- I.S.B. DENOTES 1" DIA. IRON BAR.
- L.B. DENOTES 3/4" DIA. IRON BAR.
- R.I.B. DENOTES 3/4" DIA. ROUND IRON BAR.

BOUNDARY LINES WERE VERIFIED.  
CAUTION - THIS IS NOT A PLAN OF SUBDIVISION WITHIN THE MEANING OF SECTION 29, 32, OR 33 OF THE PLANNING ACT.

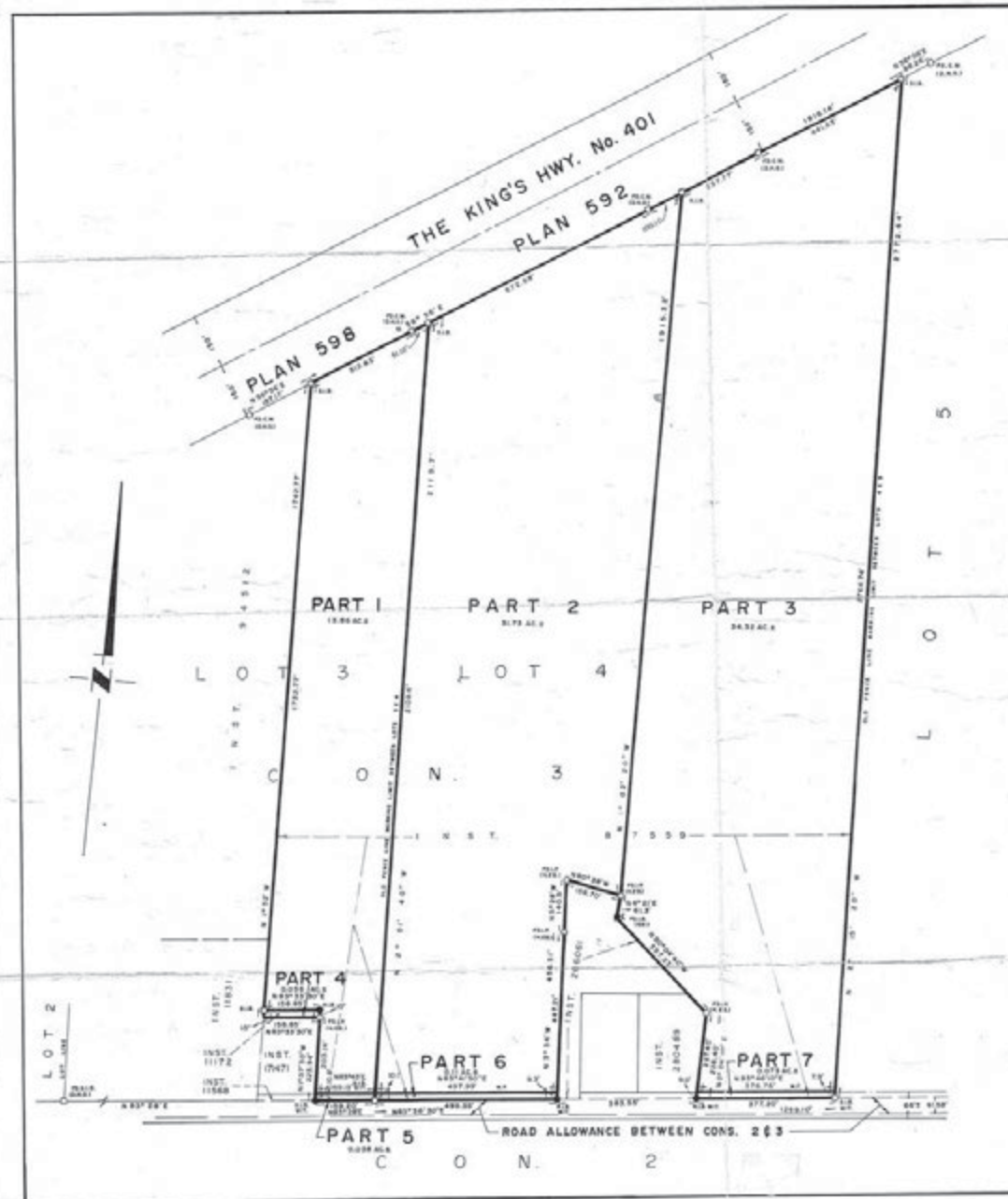
SURVEYORS CERTIFICATE

I HEREBY CERTIFY THAT:  
1. THIS PLAN AND SURVEY ARE CORRECT AND IN ACCORDANCE WITH THE SURVEY ACT AND THE REGULATIONS MADE THEREUNDER.  
2. THIS SURVEY WAS COMPLETED ON THE . . . DAY OF . . . JUNE, 1977.

JUNE 30, 1977  
*Allen R. Burgham*  
ALLEN R. BURGHAM  
HUMPHRIES & BURGHAM LTD.  
ONTARIO LAND SURVEYORS,  
81 PURDIE MILL ROAD,  
KINGSTON, ONTARIO

FORM 13-R (REV. 1975) DMS. NO. 24225





I REQUIRE THIS PLAN TO BE DEPOSITED UNDER PART II OF THE REGISTRY ACT.  
 RECEIVED AND DEPOSITED AS  
**PLAN 13R 2607**  
 DATE *July 14, 1977*  
 DATE JUNE 30, 1977  
*Allen R. Burgham*  
 ALLEN R. BURGHAM  
 LAND REGISTRAR FOR THE REGISTRY DIVISION OF FRONTENAC No. 13

PLAN OF SURVEY OF  
 PARTS OF LOTS 3 & 4, CON. 3  
 TOWNSHIP OF PITTSBURGH  
 COUNTY OF FRONTENAC

SCALE: 1" = 200'  
 1977

SCHEDULE		
PARTS ENUMERATED HEREUNDER REFER TO THE FOLLOWING LANDS		
PART	LOT	CON. OR PLAN
1, 4 & 5	3	CON. 3
2, 3, 6 & 7	4	CON. 3

BEARINGS ARE ASTROMOMIC, DERIVED FROM THE SOUTHERLY LIMIT OF THE KING'S HWY. No. 401 AS ESTABLISHED BY PLAN 592 AND ARE REFERRED TO THE MERIDIAN THROUGH THE S.E. CORNER OF THE TW. OF PITTSBURGH.

- (H.S.) DENOTES HUMPHRIES & BURGHAM LTD.
- (S.S.) DENOTES D.C. SMITH O.L.S.
- (S.H.O.) DENOTES DEPARTMENT OF HIGHWAYS, ONTARIO.
- (C.C.M.) DENOTES CONCRETE MONUMENT.
- (I.P.) DENOTES IRON PIPE.
- (I.B.) DENOTES 1" SQ. IRON BAR
- (S.B.) DENOTES 3/8" SQ. IRON BAR
- (R.B.) DENOTES 3/4" Ø ROUND IRON BAR

HANGING LINES WERE VERIFIED  
 CAUTION - THIS IS NOT A PLAN OF SUBDIVISION WITHIN THE MEANING OF SECTION 29, 32, OR 55 OF THE PLANNING ACT

SURVEYORS CERTIFICATE

I HEREBY CERTIFY THAT:  
 1. THIS PLAN AND SURVEY ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT AND THE REGISTRY ACT AND THE REGULATIONS MADE THEREUNDER.  
 2. THIS SURVEY WAS COMPLETED ON THE 17. DAY OF JUNE 1977.

JUNE 20, 1977 *Allen R. Burgham*  
 ALLEN R. BURGHAM  
 HUMPHRIES & BURGHAM LTD.,  
 ONTARIO LAND SURVEYORS,  
 91 PURDYS MILL ROAD,  
 KINGSTON, ONTARIO



FORM H & S 4/75 DWS No. 24225



Photo of subject property -