



**City of Kingston  
Report to Committee of Adjustment  
Report Number COA-20-042**

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**To:** Chair and Members of Committee of Adjustment  
**From:** Tim Fisher, Planner  
**Date of Meeting:** July 20, 2020  
**Application for:** Consent (lot addition) and Minor Variance  
**File Number:** D10-023-2020 and D13-022-2020  
**Address:** 348 Aragon Road  
**Owner:** George and Marie-Ann Carey  
**Applicant:** The BLVD Group

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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 for the purposes of a lot addition to an abutting agricultural lot from the property located along Aragon Road. The applicant is proposing to sever an 8.9-hectare parcel of undeveloped land with no road frontage and have it merged on title with a land locked parcel to the north. The retained 1.2 hectare parcel of undeveloped land will maintain the existing 11 metres of road frontage on Aragon Road.

The retained parcel is also subject to minor variance application, File Number D13-022-2020, to reduce the minimum lot frontage requirement from 60 metres to 11 metres to recognize the existing road frontage on the retained lot subject to consent application, File Number D10-023-2020.

The subject lot is designated Rural Lands and Prime Agricultural Area in the City of Kingston Official Plan and zoned Restricted Agricultural 'A1' in Zoning By-Law Number 76-26. The

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existing 10.1 hectare parcel of undeveloped land has approximately 11 metres of road frontage of Aragon Road. The lot to receive the lot addition is a 13.5 hectare parcel of land with no road frontage.

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 use on the merged and retained lots.

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. Each resulting 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 lot addition will consolidate the prime agricultural lands with the lot to the north. The merged lot will continue with its agricultural use while the retained lot will be a developable lot.

A shared right-of-way is proposed over the retained lot to provide shared vehicle access 362 Aragon Road and the merged lot. The property municipally addressed as 362 Aragon Road currently has its access from Aragon Road over the retained land. The proposed merged lot will continue to have no road frontage. The shared right-of-way will provide access from Aragon Road over the retained parcel to access the agricultural lot. The shared right-of-way will be registered on title which will provide legal shared access from Aragon Road.

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 technical in nature as it will recognize the existing frontage along Aragon Road. The variance is required as the retained lot will not comply with the minimum road frontage requirement of 60 metres. A variance is requested to recognize the 11 metre frontage along Aragon Road for the retained lot.

The variance will not have any negative impacts regarding entrances from Aragon Road. An Entrance Permit from the Engineering Department will be required for any new or altered entrances along Aragon Road. Future development on each resulting lot is required to comply with the provisions of Zoning By-Law Number 76-26. 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*.

#### **Variance 1**

By-Law Number 76-26:	Section 9(2)(n), Consent Given by Land Division Committee of Residential Lot
Requirement:	60 metres
Proposed:	11 metres
Variance Requested:	49 metres

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**Recommendation:**

**That** consent application, File Number D10-023-2020, for the property located at 348 Aragon Road to sever a 8.9 hectare parcel of land with no road frontage and merged to the abutting agricultural lands to the north, and retain a 1.2 hectare parcel of land with approximately 11 metres of road frontage on Aragon Road, and to create a shared right-of-way, be provisionally approved; and

**That** approval of consent application, File Number D10-023-2020 be subject to the conditions attached as Exhibit A (Recommended Conditions – D10-023-2020) to Report Number COA-20-042; and

**That** minor variance application, File Number D13-022-2020, to reduce the minimum lot frontage requirement to recognize the retained lot through consent application, File Number D10-023-2020, be approved; and

**That** approval of minor variance application, File Number D13-022-2020 be subject to the conditions attached as Exhibit B (Recommended Conditions – D13-022-2020) to Report Number COA-20-042.

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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 May 24, 2020, the agent The BLVD Group, submitted a consent application and minor variance application on behalf of the owners George and Marie Ann Carey, with respect to the property located at 348 Aragon Road. The consent application, File Number D10-023-2020, is to sever an 8.9-hectare parcel of land with no road frontage and have it merged with an abutting lot to the north. The retained 1.2 hectare parcel of land will have approximately 11 metres of road frontage on Aragon Road and is subject to a shared right-of-way for access purposes.

A minor variance application, File Number D13-022-2020 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 F); and
- Survey (Exhibit G).

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 (Exhibit C – Key Map). The 11.1 hectare parcel of undeveloped land has 11 metres of road frontage on Aragon Road and is currently used for agricultural purposes.

The property is designated as Rural Lands and Prime Agricultural Area in the City of Kingston Official Plan and zoned Restricted Agricultural ‘A1’ in Zoning By-Law Number 76-26, as amended (Exhibit E – Zoning By-Law Map).

The property to receive the lot addition is a land locked parcel of land north of the subject lot. The property is designated as Prime Agricultural in the Official Plan and zoned Restricted Agricultural ‘A1’ and General Agricultural ‘A2’ in Zoning By-Law Number 76-26.

**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 lot addition.

**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

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the environment and public health. It encourages redevelopment where this can be accommodated taking into account existing building stock or areas.

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 Area' in the City of Kingston Official Plan. The Rural Lands designation is located within the southern portion of the lot which is subject to the 11 metre wide shared right-of-way. The remainder of the lot is designated as Prime Agricultural Area.

The severed lot will be entirely with the Prime Agricultural Area designation and will be merged with lands entirely within the Prime Agricultural Area designation. The retained lot will be located within the Prime Agricultural Area and Rural Lands designation (Exhibit D).

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. 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 the Plan. All types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards.

The creation of individual parcels of land by way of consent (new lots or lot addition) 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.

- 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 8.9 hectare parcel of severed land will be merged with the abutting 13.5 hectare parcel of land to the north creating an agricultural lot with a total of 22.4 hectares. The

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merged lot will not have direct road frontage on an open and maintained road however a shared right-of-way is proposed over the retained lot to provide legal road access from Aragon Road.

The 1.2 hectare retained lot is intended for residential development and will maintain the existing 11 metres of road frontage on Aragon Road. The retained lot complies with the minimum lot area requirement of 1 hectare for a new rural lot for non-agricultural purposes.

The lot area of the severed and retained parcels comply with the minimum lot area requirement in the 'A1' zone in Zoning By-Law Number 76-26. The existing road frontage of 11 metres does not comply with the minimum road frontage requirement of 60 metres however the existing lot has non-complying status as it was created prior to the passing of Zoning By-Law Number 76-26. A variance is required in order to recognize the road frontage of the retained lot as it is no longer the original lot and thus loses its non-complying status.

- 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 Aragon Road and will maintain the rural character of the area while protecting prime agricultural lands as larger tracks of land intended for agricultural purposes.

- 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;

The subject lot has 11 metres of road frontage on Aragon Road while the lot to receive the lot addition is a land locked parcel of land. The lot addition will sever an 8.9 hectare parcel of land with no road frontage and merge it with the parcel to the north. The newly merged lot will maintain no direct road frontage. A shared right-of-way is proposed over a portion of the retained parcel which will provide legal road access to the newly merged lot. The shared right-of-way will also provide shared access to 362 Aragon Road.

Each resulting lot will have road access on an opened and maintained 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 Aragon Road. If a widening is required, then it shall be conveyed to the City prior to the issuance of the Certificate of Official.

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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.

- 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 lot as access to Aragon Road which is a Local Road under the municipality's jurisdiction.

- 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 lot addition 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 for the purpose of a lot addition is not a creation of a new lot. The application will result in the adjustment of the shared lot lone between two abutting parcels of land. The retained lot will be reviewed based on typical "new lot" creation as it is intended for residential 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 resulting lots 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.

- 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 subject property is not within any natural hazard or natural heritage areas as per Schedules 7B and 8B in the Official Plan.



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The City's Archeological Master Plan indicates that this property has composite archaeological potential. An archaeological assessment is required as a condition of consent for the retained lot and any warning clauses be added to the Development Agreement which will be registered on title. The applicant may wish to consider clearing the merged lot at the same time.

- 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 merged lot or the 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 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 an 8.9 hectare parcel of undeveloped land no road frontage and have it merged with an abutting agricultural parcel of land to the north. The retained 1.2 hectare parcel of undeveloped land will maintain the existing 11metres of road frontage on Aragon Road subject to a shared right-of-way for access purposes to benefit the merged lot and 362 Aragon Road (Exhibit F – Severance Sketch). The retained lot does not comply with the minimum frontage requirement of 60 metres therefore the applicant is requesting a variance (File Number D13-022-2020) to reduce the minimum frontage requirement from 60 metre to 11 metres. Any new development on the resulting lots is required to comply with the 'A1' zone requirements.

The requested lot area and frontages of the merged and retained lots are in keeping with existing lot fabric along Aragon Road, will consolidate prime agricultural designated lands and will be in keeping with the character of the rural area and will not result in any new negative impacts on abutting uses.

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**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 Area' in the City of Kingston Official Plan. The Rural Lands designation is located within the southern portion of the lot which is subject to the 11 metre wide shared right-of-way. The remainder of the lot is designated as Prime Agricultural.

The severed lot will be entirely within the Prime Agricultural designation and will be merged with lands entirely within the Prime Agricultural designation. The retained lot will be located within the Prime Agricultural and Rural Lands designation (Exhibit D).

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. 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.

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;

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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 the merged lot to obtain legal access to Aragon Road and maintain the existing entrance for 362 Aragon Road.

The variance is technical in nature as it is to recognize the existing lot frontage of the lot subject to consent application, File Number D10-023-2020. Each resulting lot complies with all other provisions of the 'A1' zone

- 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 reduced road frontage will recognize the existing road frontage for the retained lot. The 11 metre wide road frontage will provide shares access to the merged lot, 362 Aragon Road and preserve access to the retained lot. The variance will not hinder future development on the retained or merged lot.

- 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 merged and retained lot 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.

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- 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;

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 (merged lot), 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.

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

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. 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 an 8.9 hectare parcel of undeveloped land no road frontage and have it merged with an abutting agricultural parcel of land to the north. The retained 1.2-hectare parcel of undeveloped land will maintain the existing 11 metres of road frontage on Aragon Road subject to a shared right-of-way for access purposes to benefit the merged lot and 362 Aragon Road (Exhibit F – Severance Sketch). The retained lot does not comply with the minimum frontage requirement of 60 metres therefore the applicant is requesting a variance (File Number D13-022-2020) to reduce the minimum frontage requirement from 60 metre to 11 metres. Any new development on the resulting lots is required to comply with the ‘A1’ zone requirements.

The requested lot area and frontages of the merged and retained lots are in keeping with existing lot fabric along Aragon Road, will consolidate prime agricultural designated lands and will be in keeping with the character of the rural area and will not result in any new negative impacts on abutting uses.

**Variance 1**

<b>By-Law Number 76-26:</b>	Section 9(2)(n), Consent Given by Land Division Committee of Residential Lot
Requirement:	60 metres
Proposed:	11 metres
Variance Requested:	49 metres

The merged and retained parcel comply with all other requirements in the Restricted Agricultural ‘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

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

The subject lot is located in an area with existing lots with a variety of road frontages. The reduction of the road frontage for the retained lot is technical in nature and will be in keeping with the existing frontage of the lot along Aragon Road. The variance is only required as the retained lot is no longer the original lot, and the retained must comply with the provisions of the 'A1' zone. 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 variance will not create any adverse effects on abutting properties or on their continued use. Access will be maintained on Aragon Road and each resulting lot will be developed on private on-site services.

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.

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**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, 2020

**Municipal**

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

**Notice Provisions:**

Pursuant to the requirements of the *Planning Act*, a notice of the Statutory Public Meeting was provided by advertisement in the Kingston Whig Standard at least 14 days in advance of the Public Meeting. A courtesy notice was also placed in The Kingston Whig-Standard.

**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:**

None

**Exhibits Attached:**

Exhibit A Recommended Conditions – D10-023-2020

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- Exhibit B Recommended Conditions – D13-022-2020
- Exhibit C Key Map
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Map
- Exhibit F Severance Sketch
- Exhibit G Survey Sketch



## Recommended Conditions

### Application for consent, File Number D10-023-2020

**Approval of the foregoing application shall be subject to the following recommended 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.

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. 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.

## 5. Hydrogeological Assessment

A full 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.

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 existing 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.

## 6. Archaeological Assessment

An Archaeological Assessment (beginning with a Stage One Assessment) and any subsequent or supporting studies are required on the **Retained Lot** as the site falls under several of the criteria for archaeological potential. The owner may wish to clear the retained and merged lot. 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.

**7. Right-of-Way**

That the legal description of the severed and retained lot include a shared right-of-way for access from Aragon Road over a portion of the retained parcel of land as described as a part or parts on a reference plan, to benefit the merged lot and 362 Aragon Road.

**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 Aragon 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 D13-022-2020, 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 a waterbody 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. Lot Addition**

That the lands herein conveyed shall be consolidated with the adjacent lands owned by George Carey and described as PT Lot 36 CON 5 KINGSTON AS IN FR676098 (PARCEL 1) S/T FR104385 AMENDED BY RP1064; S/T FR271102; KINGSTON and any subsequent conveyance or transaction of the said lands shall be subject to the part lot control provisions of Subsection (3) or (5) of Section 50 of the Planning Act, R.S.O. 1990 as amended. Failure to consolidate the subject lands shall render this consent null and void

**13. 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:

- 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. 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.

- e. 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.

- f. That the owner be advised that any new or altered entrance to the site will require an entrance permit from the Engineering Division.
- g. 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.
- h. That the owner acknowledges that a portion of the severed 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;
- i. 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

## Recommended Conditions

### Application for minor variance, File Number D13-022-2020

Approval of the foregoing application shall be subject to the following recommended conditions:

**1. Limitation**

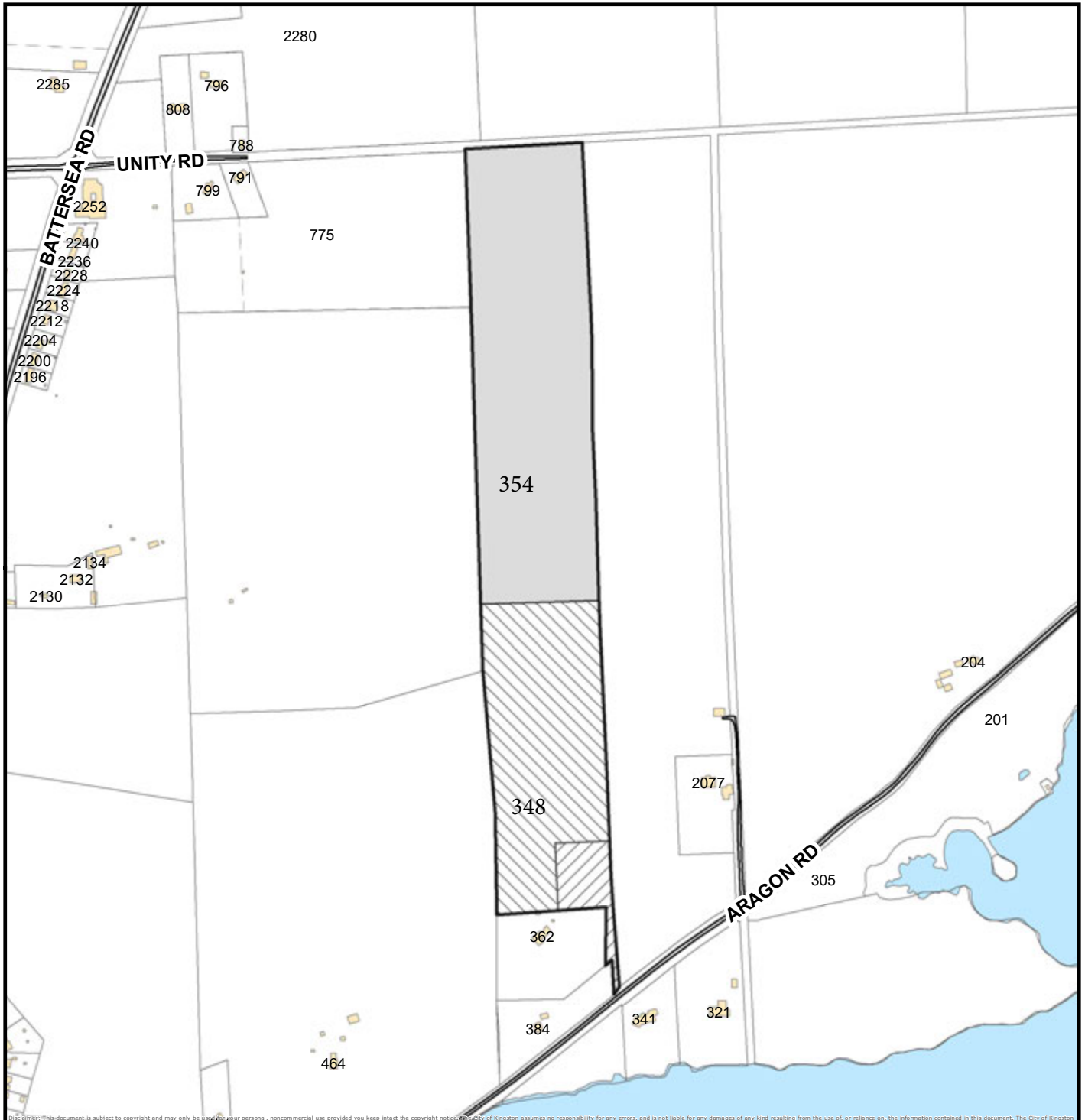
That the approved variance applies only to the retained lot as shown on the approved plans attached to the Notice of Decision.

**2. Associated Consent**

That associated Consent Application D10-023-2020, 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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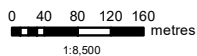


Planning Services  
a department of  
Community  
Services

COMITTEE OF ADJUSTMENT

**Key Map**

File Number: D10-023-2020 and D13-022-2020  
Address: 348 Aragon Road



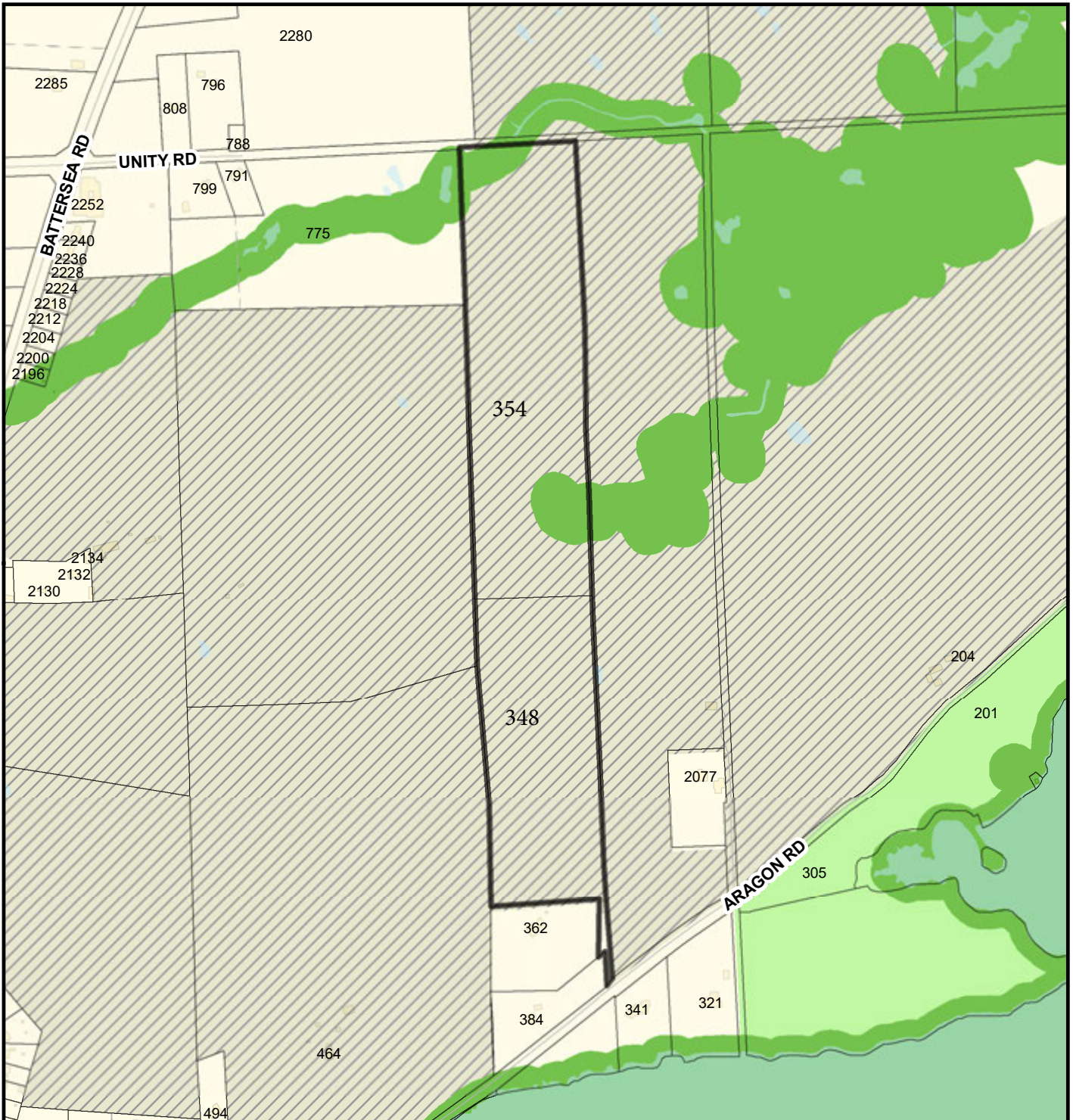
DATE: 2020-06-16  
PREPARED BY: rochefort

**CONTEXT MAP**



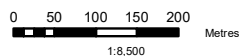
- Subject Lands
- Lot Addition
- Retained Lands
- Severed Lands





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

File Number: D10-023-2020 and D13-022-2020  
Address: 348 Aragon Road



**Legend**

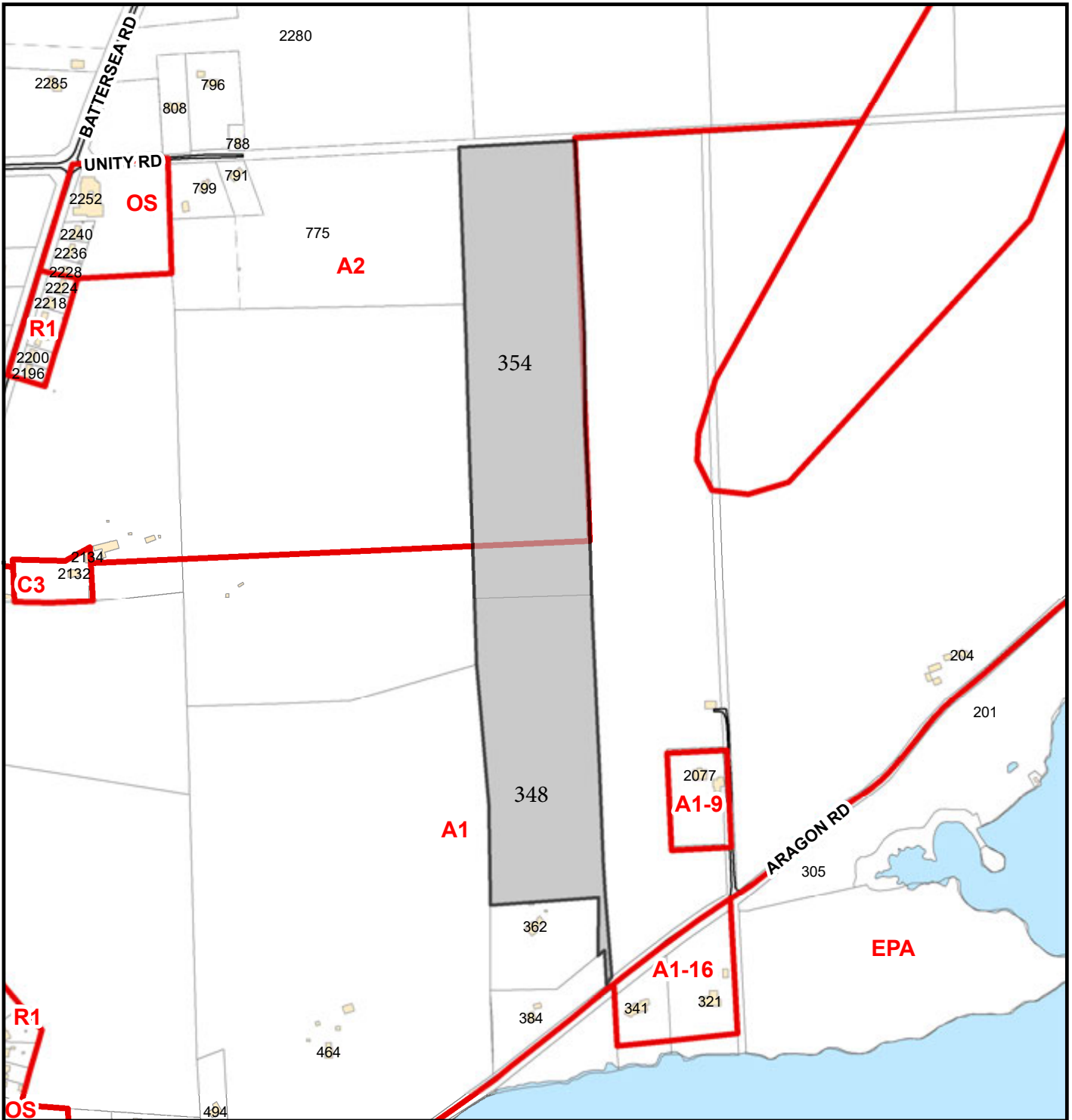
- Subject Lands
- PRIME AGRICULTURAL
- ENVIRONMENTAL PROTECTION AREA
- OPEN SPACE
- RURAL



PREPARED BY: rochefort  
DATE: 2020-06-16

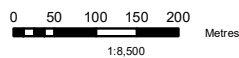
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



COMITTEE OF ADJUSTMENT  
**Existing Zoning - By-law 76-26, Map 1**

File Number: D10-023-2020 and D13-022-20202  
Address: 348 Aragon Road



**Legend**

-  Subject Lands
-  Consolidated Zoning



