



**City of Kingston  
Report to Committee of Adjustment  
Report Number COA-21-044**

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**To:** Chair and Members of Committee of Adjustment  
**From:** Tim Fisher, Planner  
**Date of Meeting:** June 21, 2021  
**Application for:** Consent (new lot) and Minor Variance  
**File Number:** D10-043-2020 and D13-046-2020  
**Address:** 2355 Horning Road  
**Owner:** Jennifer and Owen Jones  
**Applicant:** Owen Jones

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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 a 10.2-hectare property located at 2355 Horning Road. The applicant is proposing to sever a 1.6-hectare parcel of land with approximately 110 metres of road frontage on Horning Road and will maintain the existing single detached dwelling and detached garage. The retained 8.6-hectare parcel of undeveloped land will have approximately 80 metres of road frontage on Horning Road.

The retained parcel is also subject to minor variance application, File Number D13-046-2020, to reduce the minimum lot frontage requirement from 100 metres to 80 metres to recognize the retained lot subject to consent application File Number D10-043-2020.

The subject lot is designated Rural Lands in the City of Kingston Official Plan and zoned General Agricultural 'A2' in Zoning By-Law Number 76-26. The existing 10.2-hectare parcel of

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land has approximately 190 metres of road frontage of Horning Road. The subject lot is developed with a single-family dwelling and detached garage.

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 existing 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 have 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 Horning Road and is in keeping with the intent of Section 10(2)(m), Consents Given by Land Division Committee for Residential lot. The severed lot (residential lot) is permitted to have a minimum lot frontage of 60 metres while the retained lot (agricultural use) is required to have a minimum of 100 metres of road frontage. The proposed severance reverses the road frontage requirements seeking to permit 110 metres of frontage for the severed lot as a result of the location of the dwelling and detached garage and to permit 80 metres of frontage for the retained lot (Exhibit H – Severance Sketch).

Due to its size, the retained lot will maintain the agricultural uses permitted in the zone. The variance will not have any negative impacts regarding entrances from Horning 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 'A2' zone in 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*.

**Recommendation:**

**That** minor variance application, File Number D13-046-2020 for the property located at 2355 Horning Road to reduce the minimum lot frontage requirement from 100 metres to 80 metres to recognize the retained lot subject to consent application, File Number D10-043-2020, be approved subject to the conditions attached as Exhibit A (Recommended Conditions – Minor Variance) to Report Number COA-21-044; and

**That** consent application, File Number D10-043-2020, to sever a 1.6 hectare parcel of land with approximately 110 metres of road frontage on Horning Road which will maintain the existing single detached dwelling and detached garage, and retain a 8.6 hectare parcel of undeveloped land with approximately 80 metres of road frontage on Horning Road, be provisionally approved

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subject to the conditions included in Exhibit B (Recommended Conditions – Consent) to Report Number COA-21-044.

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**Authorizing Signatures:**



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**Tim Fisher, Planner**

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

Tim Park, Acting Director, Planning Services  
James Bar, Acting Manager, Development Approvals

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**Options/Discussion:**

On April 16, 2021, the applicant Owen Jones on behalf of the owners Jennifer and Owen Jones, submitted a consent application and minor variance application with respect to the property located at 2355 Horning Road. The consent application, File Number D10-043-2020, is to sever a 1.6-hectare parcel of land with approximately 110 metres of road frontage on Horning Road which will maintain the existing single detached dwelling and detached garage, and retain a 8.6-hectare parcel of undeveloped land with approximately 80 metres of road frontage on Horning Road.

A minor variance application, File Number D13-046-2020 was also submitted to recognize the reduced lot frontage of the retained lot.

**Site Characteristics**

The subject property at 2355 Horning Road is located on the south side of Horning Road (Exhibit C – Key Map). The 10.2-hectare parcel of land has 190 metres of road frontage on John Horning Road and is currently developed with a single detached dwelling and detached garage.

The property is designated as Rural Lands in the City of Kingston Official Plan (Exhibit D – Official Plan Map). The subject property is zoned General Agricultural ‘A2’ in Zoning By-Law Number 76-26, as amended (Exhibit E – Zoning By-Law Map). Horning Road is a boundary road between the Township of South Frontenac on the northern side and the City of Kingston on the southern side. The subject property is abutting residential uses to the north, east, south and west.

**Application**

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

- Severance Sketch (Exhibit H).

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.

**Provincial Policy Statement**

The Provincial Policy Statement (PPS) 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 much, the proposal conforms to and is consistent with the PPS.

**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.

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**Official Plan**

The subject property is designated 'Rural Lands' in the City of Kingston Official Plan (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.

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.

- 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 lot and retained lands meet the general intent of the minimum lot area requirement of 1.0 hectare as required in the 'Rural Lands' designation in the Official Plan. The severed 1.6-hectare parcel of land parcel complies with the minimum 1.0-hectare parcel of land which will maintain the existing single detached dwelling and detached garage which is in keeping with the rural character. The severed lot complies with the minimum lot area and frontage requirements of the General Agricultural 'A2' Zone in Zoning By-Law Number 76-26.

The retained 8.6-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 General Agricultural 'A2' zone in Zoning By-Law Number 76-26 requires a minimum lot frontage of 100 metres, however the applicant is requesting a reduction through minor variance application, File Number D13-046-2020, to 80 metres to as a result of the location of the existing dwelling on the severed lot which requires the additional road frontage on the severed lot.

- 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 Horning 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 Horning Road which is a municipal road. Any new or altered

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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 Horning 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.

- 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 does not have direct access from a major road which is controlled outside of the City of Kingston. Horning Road is a boundary road which is partially assumed by the Township of South Frontenac.

- 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. An MDS calculation was completed for the two nearest livestock facilities at 2816 Sydenham Road and 3113 Sydenham Road. The setback from 3113 Sydenham Road was 312 metres while the setback from 2816 Sydenham Road was 402 metres. The subject lot is located outside of each setback area therefore, there will be no negative impacts on the existing livestock facilities.

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- 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 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 will not be serviced by 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 retained lot as a condition of severance. Any conditions or recommendations from the assessment will be included as a clause in the Development Agreement.

### **Zoning By-Law**

The subject property is zoned General Agricultural 'A2' Zone in the City of Kingston Zoning By-Law Number 76-26, entitled "Township of Kingston Restricted Area By-Law", as amended.

The owner/applicant is proposing to sever a 1.6-hectare parcel of undeveloped land with 110 metres of road frontage on Horning Road and retain a 8.6 hectare parcel of undeveloped land with 80 metres of road frontage on Horning Road (Exhibit H – Severance Sketch). The retained lot does not comply with the minimum frontage requirement of 100 metres therefore the applicant is requesting a variance (File Number D13-046-2020) to reduce the minimum frontage requirement from 100 metre to 80 metres. The severed lot complies with the 'A2' zone requirements. Any new development on the resulting lots is required to comply with the 'A2' zone requirements.

The requested lot area and frontages of the severed and retained lots are in keeping with existing lot fabric along Horning 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**

The review of an application for minor variance(s) is not a simple mathematical calculation, but rather a detailed assessment of whether the variance(s) requested, both separately and together, meet the four tests of a minor variance outlined in Subsection 45(1) of the *Planning Act*. The following provides this review:



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**1)The general intent and purpose of the Official Plan are maintained**

The subject property is designated 'Rural Lands' in the City of Kingston Official Plan. 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.

In considering whether this proposed variance is desirable, the Committee of Adjustment will have regard to the nine requirements included in Section 9.5.19 of the Official Plan. The following provides these nine requirements and an assessment of how the proposal is consistent with each.

1. The proposed development meets the intent of Section 2 Strategic Policy Direction, and all other applicable policies of this 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 1.6-hectare parcel of land to be severed and retain a 8.6 hectare parcel of land which will maintain agricultural opportunities in the rural area. 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 'A2' zone in Zoning By-Law Number 76-26.

2. 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 'A2' zone requirements in Zoning By-Law Number 76-26. The 'A2' zone permits a single detached dwelling and agricultural uses on lots exceeding 2 hectares. The severed lot 1.6 hectare parcel of land will be sufficient to maintain the existing single detached dwelling use on private services and the retained 8.6 hectare parcel of land will have sufficient lot area to locate a dwelling on private services and or allow for a small hobby farm.

The road frontages for the severed and retained lots are in keeping with the 'A2' zone requirements for the creation of new lots and are in keeping with the existing frontages of lots along Horning Road. The reduced road frontage of the retained lot will not result in any negative impacts on the abutting land uses or alter the streetscape or character of the rural area.

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3. 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.

4. 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.

5. 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.

6. 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 that demonstrates adequate potable water supply on the retained lot is 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

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found to be unsuitable. Evidence from the professional must be submitted in advance when seeking approval to attempt a dug well.

7. 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.

8. 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. Suggestions conditions are listed in the recommendation in Exhibit A. Conditions may be added, altered or removed at the Committee's discretion

9. 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 of frontage for the retained parcel is in keeping with the intent of the Zoning By-Law and the 'A2' zone and will not result in any negative impacts to adjacent properties or to the neighbourhood.

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

The subject property is zoned 'A2' General Agricultural Zone in the City of Kingston Zoning By-Law Number 76-26, entitled "Township of Kingston Restricted Area By-Law", as amended.

Section 10(2)(m) provides requirements for consents given by land division committee for residential lots.

"Notwithstanding the provisions of Section 10(2)(a)(ii) and 10(2)(b)(ii) thereto the contrary, where a consent has been given by the Land Division Committee to create a Residential Lot by way of either the consent granted or the lot retained, such severed lot may be used for a single-family dwelling house provided that such lot has a minimum lot area of 0.8 hectares (2 acres) and a minimum lot frontage of 60 metres (200 feet) and provided further that all other provisions of this by-law are complied with".

The rural lands designation in the Official Plan provides a minimum lot area for the creation of new lots in the rural area of 1 hectare therefore, the minimum lot area of 1 hectare supersedes the 0.8 hectare requirement in the Zoning By-Law for the severed lot. The proposed severed lot complies with the minimum lot area requirement.

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The road frontage of the severed lot is a result of the location of the existing single detached dwelling and detached garage. The severed lot provides 110 metres of road frontage on Horning Road which is typical of a lot for a non-residential use. The severed lot complies with the minimum road frontage requirement.

The retained lot is required to comply with the minimum lot frontage requirement of Section 10(2)(b)(ii) which requires 'other uses' on lots in excess of 2 hectares to have a minimum lot frontage of 100 metres. A variance is requested to reduce the minimum road frontage requirements of the retained lot from 100 metres to 80 metres of road frontage being a reduction of 20 metres.

### **Variance 1**

<b>By-Law Number 76-26:</b>	Section 10(2)(b)(ii), Minimum Lot Frontage
<b>Requirement:</b>	100 metres
<b>Proposed:</b>	80 metres
<b>Variance Requested:</b>	20 metres

The severed lot would comply with the minimum road frontage requirement as it will have 110 metres of road frontage. The proposed frontages are in keeping with Section 10(2)(m) and the character of the rural area. Any new development on the resulting lots is required to comply with the 'A2' zone requirements.

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 lot area and road frontages. The reduction of the road frontage for the retained lot will be in keeping with the established lots along the southern side of Horning 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 Horning Road and each resulting lot will be developed on private on-site services.

In accordance with City of Kingston By-Law Number 2013-107, the Owner shall provide cash-in-lieu of parkland conveyance in the amount of \$1,283.29 as a condition of consent approval.

The variance is desirable and appropriate use of the land.

### **Technical Review: Circulated Departments and Agencies**

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- |   |  |   |
|---|--|---|
| <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 type="checkbox"/> Kingston Airport                  | <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 checked="" type="checkbox"/> Township of South Frontenac |  |   |

### 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.

- **Heritage:** The subject site is not a protected heritage property nor is it adjacent to a protected heritage property. However, it is identified as having composite archaeological potential on the Archaeological Master Plan. Accordingly, an archaeological assessment will be required for the retained lot (lot without the existing residential development) that clears it of archaeological potential.

The applicant is advised that that carrying out a Stage 1 assessment of the severed in addition to the retained lot will likely not affect the cost of the assessment. If a Stage 2 assessment is required for the severed lot they can decide the likelihood of it being redeveloped beyond the existing footprint. The retained lot will require Stage 1 and whatever further is recommended by the qualified archaeologist. There are no other heritage concerns.

- **Environment:** A hydrogeological assessment is required that demonstrates adequate potable water supply on the newly created lot (in this case the retained). Due to groundwater sensitivity in the area 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 qualified 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.

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- **Engineering Services:** A 3.962 metre road widening is required on this side of Horning Road equaling half of the required width to bring the road allowance up to a 20-metre width. Any new and/or altered driveways will require a permit.
- **Stormwater Review:** Any alterations to grades will have to be done in such a way that adjacent properties are not adversely affected.
- **Parks Development:** In accordance with City of Kingston By-Law Number 2013-107, the Owner shall provide cash-in-lieu of parkland conveyance in the amount of \$1,283.29 as a condition of consent approval.

### Public Comments

At the time this report was finalized, there were no written comments or objections received. Any public comments received after the publishing of this report will be included as an addendum to the Committee of Adjustment Agenda.

### Previous or Concurrent Applications

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

### Conclusion

The proposal has regard to the matters under subsection 51(24) of the *Planning Act*, is consistent with the Provincial Policy Statement, conforms with all applicable policies of the Official Plan, is in keeping with the general intent and purpose of the zoning by-law and a plan of subdivision is not necessary for the proper and orderly development of the property, as such, is recommended for provisional approval.

Provisional approval of this application will sever a 1.6-hectare parcel of land with 110 metres of road frontage on Horning Road containing the existing single detached dwelling and detached garage while retaining a 8.6 hectare parcel of land with 80 metres of road frontage on Horning Road.

The requested variances maintain the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The proposal is desirable for the appropriate development or use of the land, building or structure and the requested variances are minor in nature. As such, the proposed application meets all four tests under Subsection 45(1) of the *Planning Act* and the application is being recommended for approval, subject to the proposed conditions.

### Existing Policy/By-Law:

The proposed applications were 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

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**Municipal**

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

**Notice Provisions:**

A Committee of Adjustment meeting is going to be held respecting this application on June 21, 2021. 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 4 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:**

James Bar, Acting Manager, Development Approvals 613-546-4291 extension 3213

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.

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**Exhibits Attached:**

- Exhibit A Recommended Conditions – Minor Variance
- Exhibit B Recommended Conditions – Consent
- Exhibit C Key Map
- Exhibit D Official Plan Map
- Exhibit E Zoning By-Law Number 76-26, Map 1
- Exhibit F Public Notice Notification Map
- Exhibit G Neighbourhood Context Map (2020)
- Exhibit H Severance Sketch
- Exhibit I Photo



## Recommended Conditions

### Application for minor variance, File Number D13-046-2020

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

#### 1. Limitation

That the approved minor variance applies only to road frontage of the retained lot in Consent Application Number D10-043-2020, as shown on the approved drawings attached to the notice of decision.

#### 2. No Adverse Impacts

The owner/applicant shall demonstrate to the satisfaction of the City that there are no adverse impacts on neighbouring properties as a result of any modifications to on-site grading or drainage.

#### 3. Standard Archaeological Condition

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 Program and Services Branch of the Ministry of Heritage, Sport, Tourism and Culture Industries (416-314-7132) and City of Kingston's Planning Services (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 at the Ministry of Government and Consumer Services (416-212-7499), the Program and Services Branch of the Ministry of Heritage, Sport, Tourism and Culture Industries (416-314-7132), and City of Kingston's Planning Services (613-546-4291, extension 3180) must be immediately contacted.

#### 4. Associated Consent Application

That associated Consent Applications D10-043-2020 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.

## Recommended Conditions

The provisional approval of consent application, File Number D10-043-2020, to sever a 1.6 hectare parcel of land with approximately 110 metres of road frontage on Horning Road which will maintain the existing single detached dwelling and detached garage. The retained 8.6 hectare parcel of undeveloped land will have approximately 80 metres of road frontage on Horning Road, is subject to the following recommended conditions:

### 1. Certificate of Official and 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 be provided in a PDF and AutoCAD Windows readable format on a compact disc (CD), USB memory stick or by email, illustrating the severed parcel be prepared and 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. Standard Archaeological Condition

Archaeological clearance of the severed and retained parcels is required, beginning with a Stage One Archaeological Assessment and including any subsequent assessments as required by the Ministry of Heritage, Sport, Tourism, and Culture Industries' Standards and Guidelines for Consultant Archaeologists, as amended from time to time, prior to any soil disturbance.

One digital copy of the assessment report(s) and any acceptance letter(s) from the Ministry of Heritage, Sport, Tourism, and Culture Industries shall be provided to the Secretary-Treasurer of the Committee of Adjustment, 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 Heritage, Sport, Tourism, and Culture Industries. 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.

**5. Cash In Lieu of Park Land**

That \$1,283.29 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.

**6. 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 Horning Road. If a widening is required, then it shall be conveyed to the City prior to the issuance of the Certificate of Official. The applicant 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.

**7. Private Well & Hydro-geological Study**

In order to review the hydro-geological conditions in support of the proposed severance, a well shall be constructed, or confirmation shall be provided of an existing well, on the severed and retained parcel, in accordance with current standards described in Ontario Regulation 903 or as amended.

A Full Hydro-geological Assessment shall be completed in accordance with the City of Kingston's "Interim Standard Hydro-geological Assessments in Support of (1-3) Rural Land Severances" to ensure that the new well(s) or existing unused wells satisfy the City's criteria for construction, water quantity, water quality, and interference with surrounding wells. The applicant shall contact the Environment Division to confirm their requirements for approval of this condition.

Two (2) copies of the study in PDF format and all relative information shall be provided to the Secretary-Treasurer of the Committee of Adjustment to be forwarded to the Environment Division for their review and further to confirm compliance to current City standards. Written acceptance of this study and its conclusions shall be provided by the Environment Division to the Secretary-Treasurer of the Committee of Adjustment prior to the issuance of the consent certificate.

Recommendations made by the Environment Division as a result of this assessment may be required to be included within a Development Agreement which is to be registered against the title to the lands.

## **8. Civic Addressing**

The owner/applicant shall contact the Planning Division 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.

## **9. 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 City of Kingston, Building Services.
- 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 Division (613-546-4291, extension 3180) must be immediately contacted.
- e) 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 Division (613-546-4291, extension 3180) must be immediately contacted.

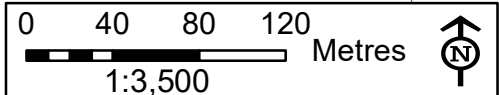
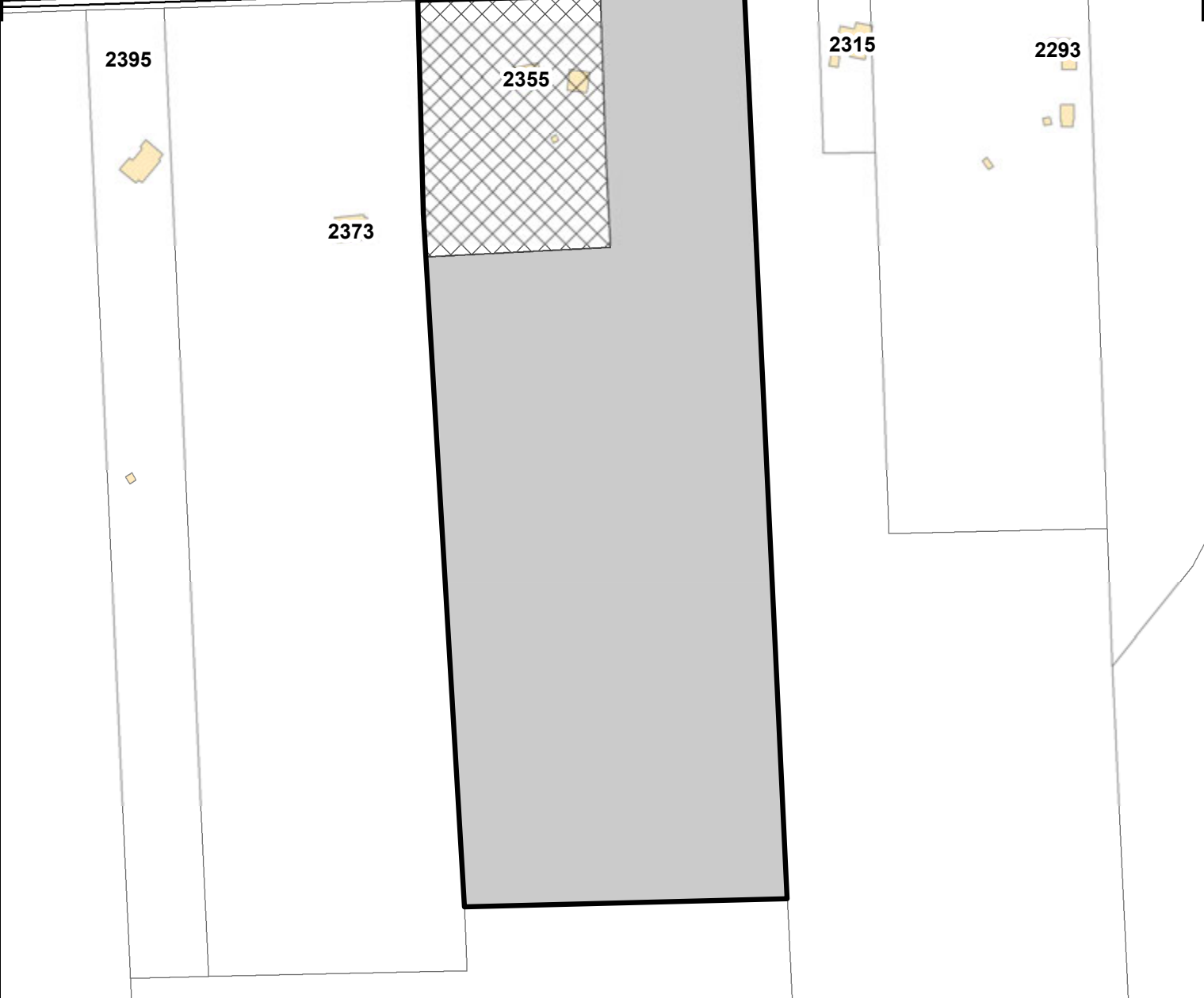
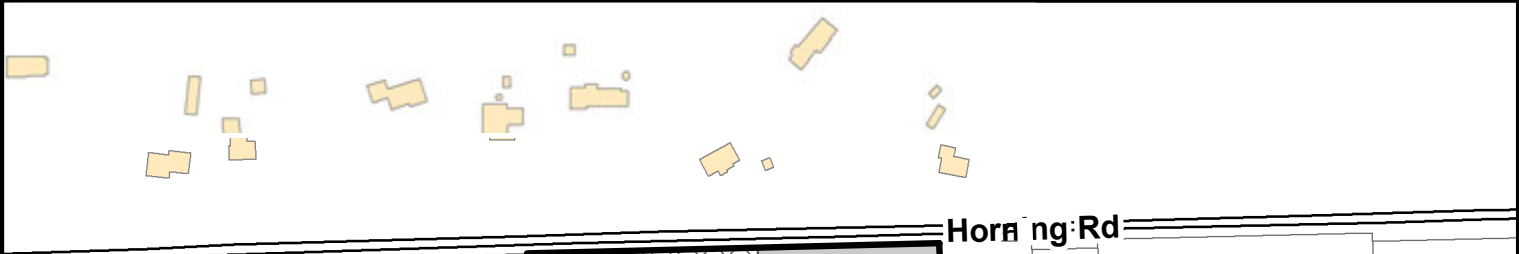
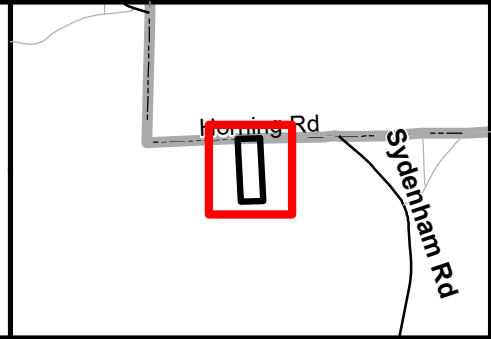
- f) That the owner be advised that any new or altered entrance to the site will require an entrance permit from the Engineering Division.
- g) The property is also the subject of an application for a minor variance under the Planning Act (City File Number D13-046-2020).
- h) That the owner be advised 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.
- i) 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.
- j) That the owner be advised that no further lots will be permitted on the subject lands through the Consent Application process.
- k) That the owner acknowledges and agrees with the City that:
  - a. 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;
  - b. 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;
  - c. 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;
  - d. 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.



# Committee of Adjustment Key Map



Address: 2355 Horning Road  
File Number: D10-043-2020, D13-046-2020

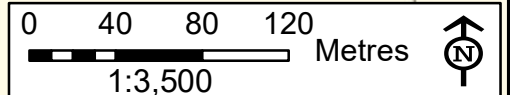
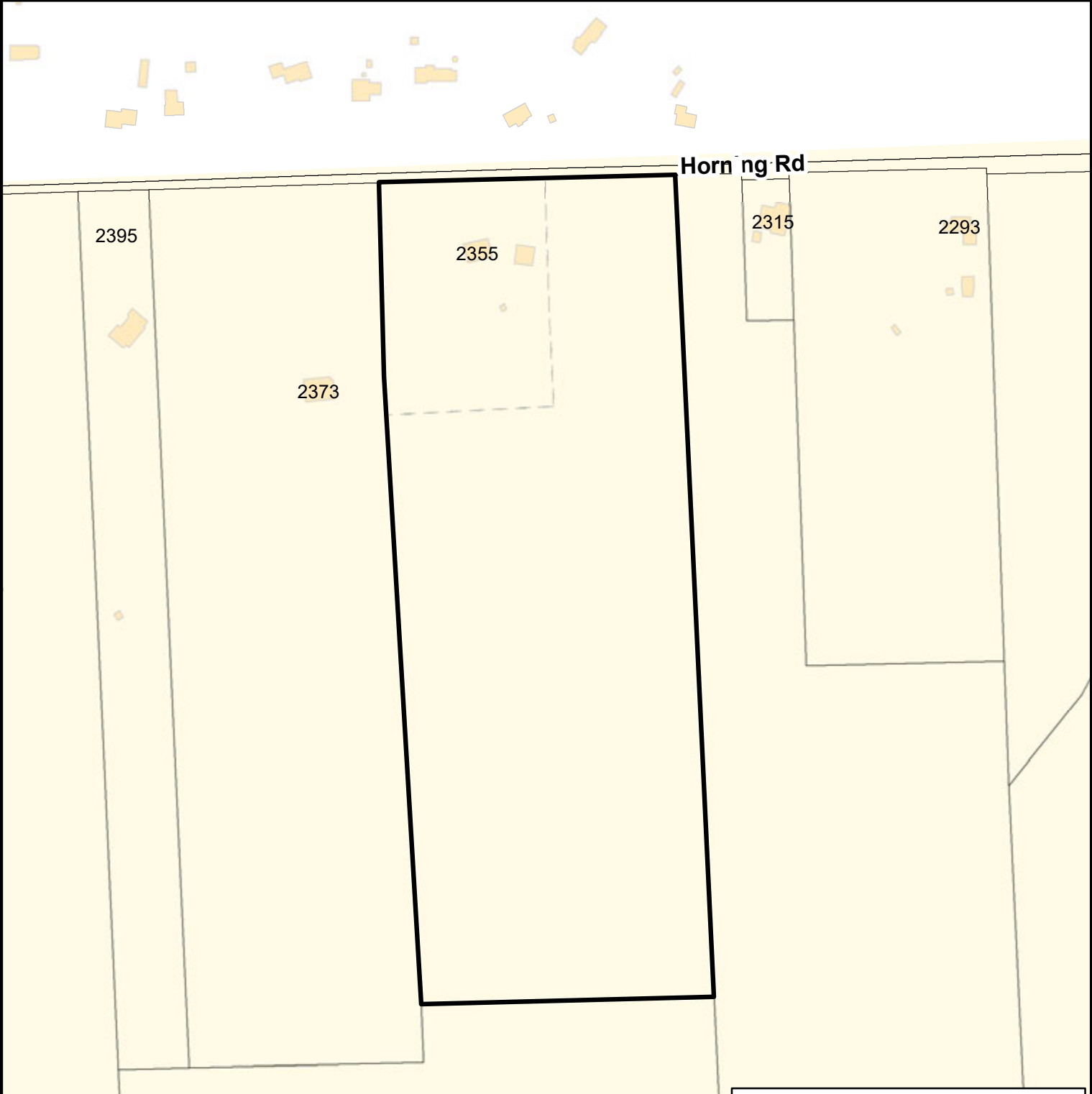
- Subject Lands
- Severed Lands
- Retained Lands





Committee of Adjustment  
**Official Plan, Existing Land Use**  
Address: 2355 Horning Road  
File Number: D10-043-2020, D13-046-2020

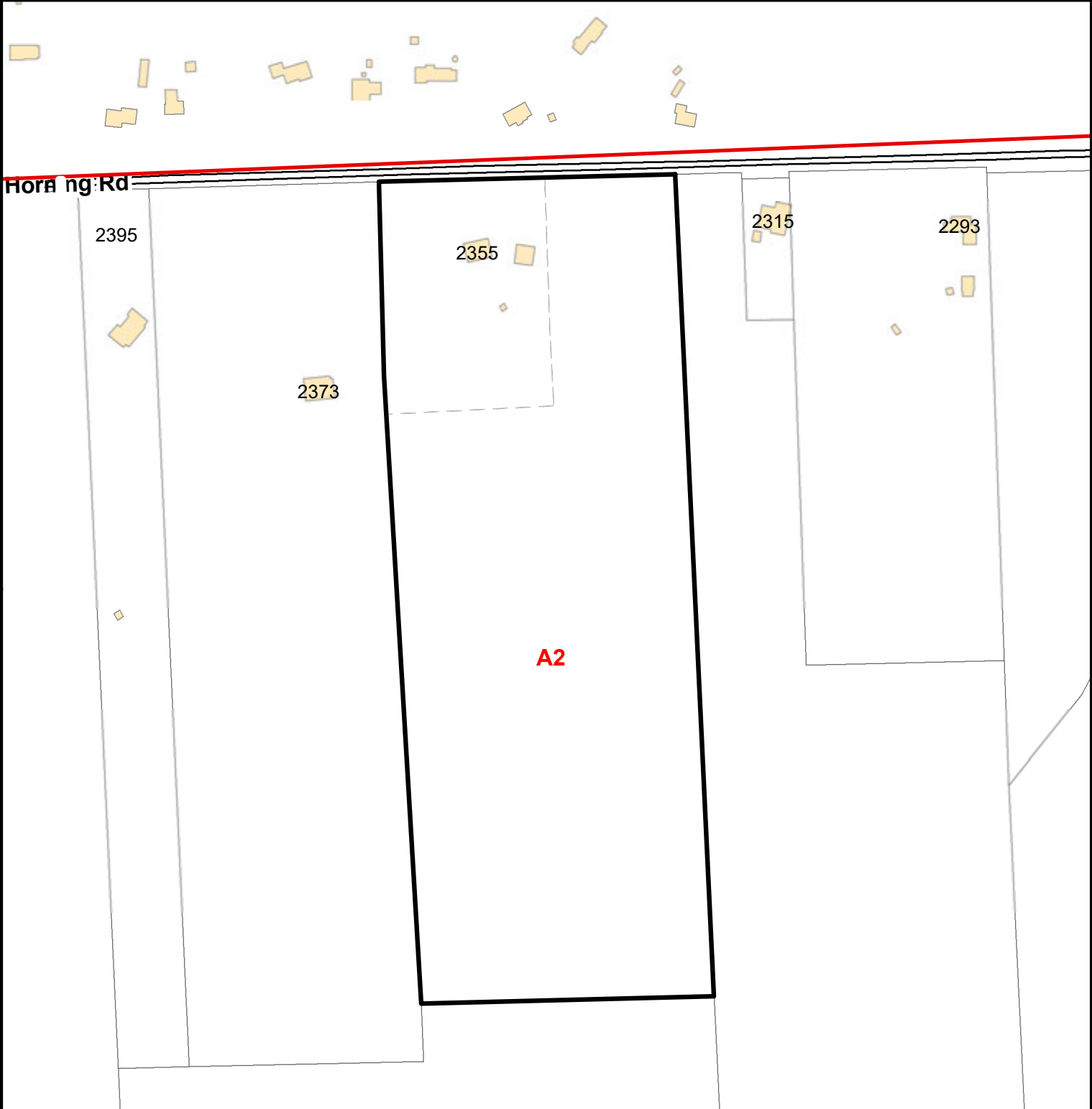
 Subject Lands  
 RURAL





Committee of Adjustment  
**Existing Zoning - By-law 76-26, Map 1**  
Address: 2355 Horning Road  
File Number: D10-043-2020, D13-046-2020

- Subject Lands
- Consolidated Zoning










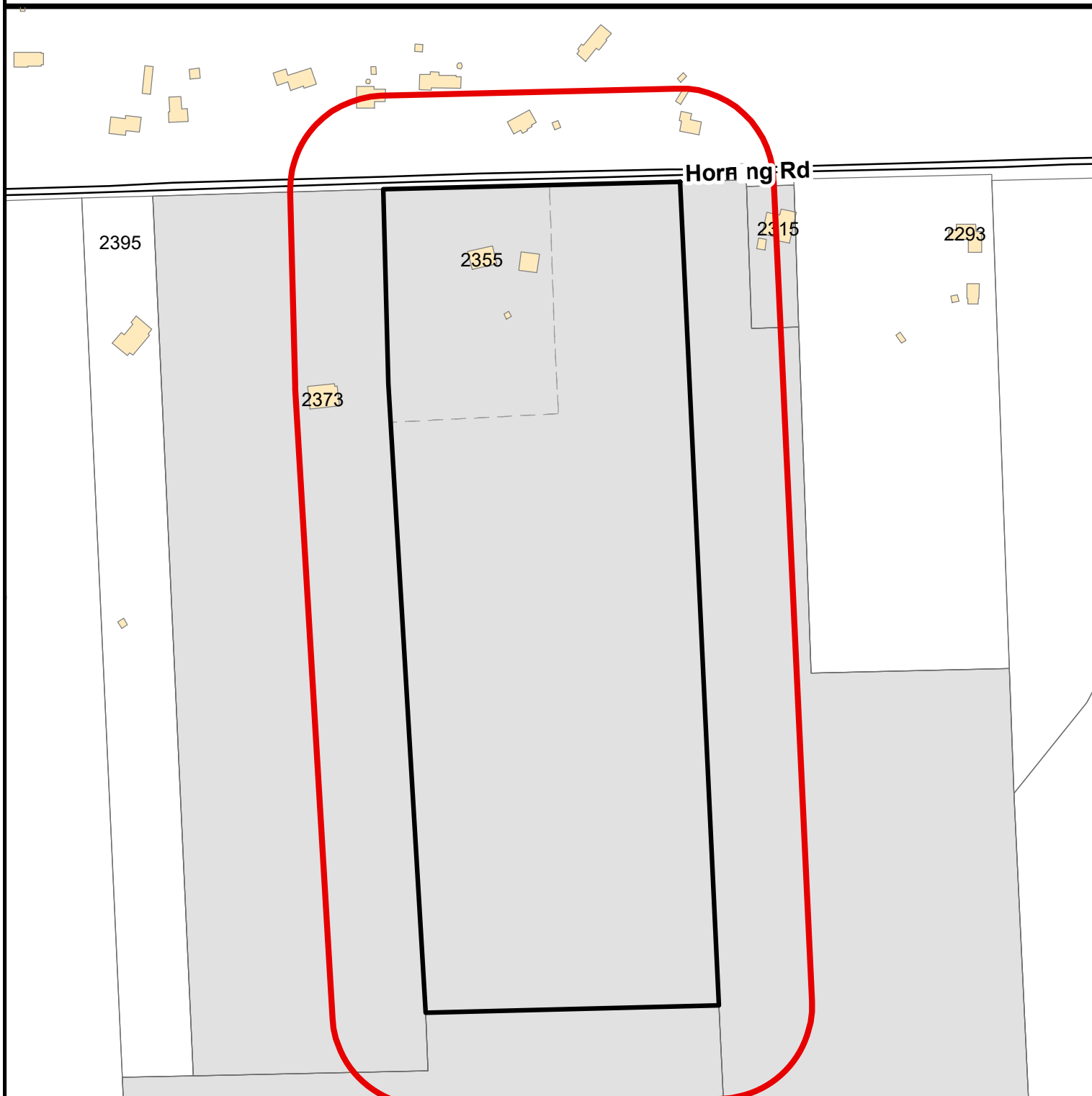


Planning  
Services

# Committee of Adjustment Public Notice Notification Map

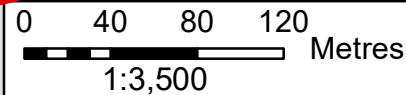
Address: 2355 Horning Road  
File Number: D10-043-2020,  
D13-046-2020

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



Prepared By: adowker  
Date: Apr-16 2021

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Committee of Adjustment  
**Neighbourhood Context (2020)**  
Address: 2355 Horning Road  
File Number: D10-043-2020, D13-046-2020

- Subject Lands
- Property Boundaries
- Proposed Parcels

