



**City of Kingston
Report to Committee of Adjustment
Report Number COA-21-053**

To: Chair and Members of the Committee of Adjustment
From: Jason Partridge, Planner
Date of Meeting: July 19, 2021
Application for: Consent
File Number: D10-008-2021 and D10-009-2021
Address: 3321 & 3311 Highway 38
Owner/Applicant: 2672111 Ontario Ltd

Council Strategic Plan Alignment:

Theme: Policies & by-laws

Goal: See above

Executive Summary:

The applications for consent have been submitted by 2672111 Ontario Ltd on behalf of the owner 2672111 Ontario Ltd. The purpose of the application is to sever off two parcels of land at the property located at 3321 & 3311 Highway 38. The severance application for File Number D10-008-2021 will sever off a 1 hectare parcel of land at the northern part of the property and will have approximately 61 metres of lot frontage along Highway 38. The severance application for File Number D10-009-2021 will sever off a 1 hectare parcel of land at the southern part of the property and will have approximately 61 metres of lot frontage along Highway 38. The retained lot will have 11.51 hectares of land with 62 metres of frontage along Highway 38.

The site is situated on the west side of Highway 38. The property is currently a 13.51 hectare parcel of vacant parcel of land. The property is currently designated as Rural in the Official Plan and is zoned 'A2' in Zoning By-Law Number 76-26.

The consent application proceeded through the Delegated Authority process. The City received public comments during the public notification period therefore the file has been referred to the

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Committee of Adjustment for consideration. A new public notice was mailed to all property owners within a 60-metre radius of the property and new signage was posted on the site.

This report provides a recommendation to the Committee of Adjustment regarding the application for consent. 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.

Recommendation:

That consent application, File Number D10-008-2021, to sever off a 1 hectare parcel of land at the northern part of the property, be provisionally approved subject to the conditions included in Exhibit A (Recommended Conditions) to Report Number COA-21-053, and

That consent application, File Number D10-009-2021, to sever off a 1 hectare parcel of land at the southern part of the property, be provisionally approved subject to the conditions included in Exhibit B (Recommended Conditions) to Report Number COA-21-053.

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Authorizing Signatures:



Jason Partridge, Planner

Consultation with the following Management of the Community Services Group:

Tim Park, Director, Planning Services

James Bar, Acting Manager, Development Approvals

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Options/Discussion:

The consent application was submitted on April 12, 2021 by the applicant 2672111 Ontario LTD, and it proceeded through the Delegated Authority process. The City received public comments during the public notification period; therefore the file has been referred to the Committee of Adjustment for consideration. A new public notice was mailed to all property owners within a 60 metre radius of the property and new signage was posted on the site.

Site Characteristics

The subject property is located on the West Side of Highway 38 and is situated within an established rural residential area (Exhibit C – Key Map and Exhibit G – Neighbourhood Context Map). The site is currently developed with two single family dwellings that will be demolished consent approval. The surrounding area is developed with single family dwellings with frontage on municipal roads. A livestock barn is located up the road at 3385 Highway 38.

The subject property is designated Rural in the Official Plan and zoned ‘A2’ in Zoning By-Law Number 76-26.

Application

The Director of Planning Services, through delegated authority, can process applications for consent that are technical in nature without holding a Public Meeting. All residents within a 60 metre radius of the property were notified through this process, however, letters of objection and concerns were received. As such, this consent application is being referred to the Committee of Adjustment for consideration. Revised signage has been posted on the site and public notification of the Public Meeting has been sent to all property owners within a 60-metre radius. A courtesy advertisement has been published in the local newspaper.

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

- Site Plan (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.

Planning Act

This proposal is under Section 53(1) of the Planning Act. The two consent applications requested do not required a plan of subdivision and has regard for provisions of Section 51(24). The appropriate conditions are included in the Conditions of Consent, as permitted under Section 53(12).

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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 severed and retained parcels of land is designated Rural Lands in the Official Plan. The City recognizes the role of Rural Lands in contributing to agricultural production, forestry and mineral resources, natural areas and wildlife habitat, providing opportunities for rural economic development, outdoor recreation, and supporting the appreciation of natural areas that provide a contrast and respite from urban life.

Severances for non-farm residential use may be permitted subject to the policies of Sections 9.6.10 through 9.6.18 and the policies in Section 3.12.9. The proposed retained and severed parcels of land comply with the severance for non-farm residential use as per Section 3.12.9 in the Official Plan. The subject lot has not received any consents to create new lots between November 6, 1997 to present and will exceed the minimum lot area requirement of 1.0 hectares and comply with the requirements of an A1 zone By-Law Number 76-26.

The creation of new lots is subject to the Land Division policies of Section 9.6 of the Official Plan. Development proposals resulting in greater than 3 lots must proceed by way of a plan of subdivision. Proposals resulting in 3 or fewer lots (2 lots plus a retained parcel) may proceed by application for consent. As previously stated within the report, the subject lot has not created any new lots by way of consent or a plan of subdivision from the original land holding from November 6, 1997 to present.

The creation of new lots by consent must have regard to the matters under Section 51(24) of the Planning Act and must meet the following requirements as per Section 9.6.11 of the Official Plan:

- a) minimum lot areas for consents are established within the policies of the Prime Agricultural Area, Rural Lands, Hamlets, Rural Commercial and Rural Industrial designations;

The Rural Lands designation requires any new non-farm residential use lot created by way of consent to have a minimum lot area of 1.0 hectares. The severed lots will meet the minimum requirement and will comply with the minimum lot area and frontage requirements in the 'A2' zone in Zoning By-Law Number 76-26. The retained lot will exceed the minimum requirements for lot area.

- b) the minimum lot areas for consents on lands located within the Urban Boundary are governed by the provisions of the applicable zone;

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The subject property is located outside of the Urban Boundary and is subject to the Rural Lands policies of the Official Plan.

- c) conformity to Section 3.13 of this Plan;

The subject property is outside of a recognized Hamlet or settlement area.

- d) the specific consent policies for the land use designations established by this Plan make allowance for consents involving lot consolidation; and,

The Rural Lands designation recognizes the creation of non-farm residential use lots subject to Section 3.12.9 and Sections 9.6.10 through 9.6.18 of the Official Plan. The severed and retained lots comply with the above policies.

- e) Where an application for lot consolidation in Rural Areas is approved, conditions may be imposed requiring that the lots to be consolidated be deeded in the same name.

The proposal is for the creation of two new non-farm residential lot; therefore a consolidation of lands is not proposed.

The creation of individual parcels of land by way of consent are subject to the following criteria in Section 9.6.13 of the Official Plan:

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

The severed and retained parcel conforms to the minimum lot area and frontage requirements in the Official Plan and Zoning By-Law. The undeveloped severed parcels of land will be subject to the setback requirements of the Zoning By-law at time of development. The resulting lots and its frontages and lot areas will be consistent with existing lots along Highway 38.

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

The severed and retained lots are shaped in a way to prevent any environmental impact to the wetlands near the southern part of the property. The recommendation for the shape of the lots was provided by the Cataraqui Conservation Authority.

- 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;

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Each resulting lot will have frontage on an opened and maintained road (Highway 38). The southern severed lot is proposing a mutual driveway with the retained lot. Engineering has reviewed this entrance configuration and is satisfied. A new independent entrance for the southern severed lot is not permitted unless the applicant provides a grading plan prepared by a Professional Engineer that demonstrates that the driveway grades would be within standards and will have to provide a design for how the existing guiderail will be treated.

- 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;

Any new or altered entrances on the severed or retained lots will require an Entrance Permit from the Engineering Department prior to any excavation or work within the road allowance. As mentioned, the southern severed lot will gain access to the municipal road through a shared entrance with the retained lands.

- 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 northern severed lot and retained lands have large road frontages with even grades that create for good sight lines. The southern severed lot will gain access to the municipal road through a shared driveway with the retained lands, unless they can demonstrate that there are suitable conditions to obtain an independent entrance. The severances should not result in any negative traffic hazards.

- f) minor infilling of residential development is permitted except where the new lots would result in ribbon development of more than four houses or other land uses fronting along roads in Rural Areas;

The two severed and one retained lots will not create a ribbon development of more than four houses allow Highway 38.

- g) infill residential development is permitted within Rural Areas where there is a distance of 100 metres or less of frontage between two non-farm residential lots on the same side of the road and the lot can meet all of the other policies of this Plan and requirements of the zoning by-law;

The two severed and one retained lots would not be considered infill residential development. However, the lots will meet the minimum lot frontage and lot area requirements of the zone.

- h) 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;

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An MDS Calculation was completed by The Boulevard Group as being required by the Provincial Policy Statement, Official Plan and Zoning By-Law Number 76-26 due to three Barns being located within 750 metres of the subject property. The location of the proposed new non-farm residential lots exceed the calculated setback requirements for all the barns as part of this overview. The severed and retained lots will not result in any impacts abutting agricultural uses, existing livestock or manure storage facilities.

- i) 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; and

The subject lands have been identified as having composite archaeological potential on the Archaeological Master Plan and as such a Stage 1 and 2 assessments have been completed and submitted. The assessments have cleared the proposed severed lots of archaeological potential. However, we have not received a letter from the Ministry Heritage, Sport, Tourism and Culture Industries confirming their review/clearance Archaeological Report. There are no other heritage concerns.

Cataraqui Conservation staff have no objections to the approval of applications D10-008-2021 and D10-009-2021 based on our consideration for natural heritage, natural hazards and water quality protection policies.

- j) 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 subject lot is located outside of the Urban Boundary and its serviced area therefore development outside of the urban boundary may proceed with private onsite services.

A full hydrogeological assessment will be required as a condition of consent as the severed lots is located in a density of greater than five lots per five hectares and is located in an area of groundwater constraint.

Building Services commented that it will be the responsibility of the owner/installer to determine and provide verification to the building department that the soil conditions would permit a septic system as well to provide a potential design and proposed location for review.

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

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Zoning By-Law

The subject property is zoned ‘A2’ in the City of Kingston Zoning By-Law Number 76-26, entitled "Township of Kingston Restricted Area By-Law", as amended. The ‘A2’ zone permits an accessory dwelling house, a converted dwelling house, a single-family dwelling house. The proposed severed lots will be located within the ‘A2’ zone and would permit a Single-Family Dwelling use.

The ‘A2’ zone requires a minimum lot frontage of 60 metres per residential lot. Both severed parcels and the retained parcel will comply with the lot frontage provisions of the “A2” zone.

Discussion

It is the opinion of the Planning Department that the consent applications to sever two new lots in a rural area are consistent with the Provincial Policy Statement and is in keeping with the intent and purpose of the Official Plan and Zoning By-Law Number 76-26.

Technical Review: Circulated Departments and Agencies

- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Building Division | <input checked="" type="checkbox"/> Engineering Department | <input checked="" type="checkbox"/> Heritage (Planning Services) |
| <input type="checkbox"/> Finance | <input checked="" type="checkbox"/> Utilities Kingston | <input 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 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"/> 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, four public comments were received after the publishing of this report. (Exhibit I)

The public comments received was from residents in the area of 3311 Highway 38 and directly objected to water, environmental and wildlife concerns around their property area.

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Water Concerns

The Environmental Divisions has recommended a condition to be placed in the Notice of Decision for a full Hydrogeological Study that demonstrates adequate potable water supply on both the severed and retained lots. 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. If the Hydrogeological Study does not demonstrate adequate potable water supply on both the severed and retained lots then the Consent application will not be approved.

Environmental and Wildlife concerns

The Cataraqui Conservation Authority has reviewed the two consent applications and have no objections towards the approval of the applications. Within the Cataraqui Conservation Authority's review of the application they considered negative impacts towards natural heritage features, natural hazards and water quality protection. In addition, they noted that an Environmental Impact Assessment (EIA) is not needed to support the consent applications.

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 permit the severance of two parcels of land along highway 38. The proposed severance will allow for of a Single Family Dwelling use on each new lot and represents good land use planning.

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

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Zoning By-Law Number 76-26

Notice Provisions:

A Committee of Adjustment Meeting is going to be held respecting this application on July 19, 2021. Pursuant to the requirements of the Planning Act, a notice of 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 number 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.

Once a decision has been rendered by the Committee of Adjustment, 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

Jason Partridge, Planner, 613-546-4291 extension 3216

Other City of Kingston Staff Consulted:

None

Exhibits Attached:

- Exhibit A Recommended Conditions (D10-008-2021)
- Exhibit B Recommended Conditions (D10-009-2021)
- Exhibit C Key Map
- Exhibit D Public Notification Map
- Exhibit E Official Plan Map
- Exhibit F Zoning By-Law Number 76-26, Map 1
- Exhibit G Neighbourhood Context (2020)

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Exhibit H Site Plan

Exhibit I Public Comments

Recommended Conditions

Application for consent, File Number D10-008-2021

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

1. Limitation

That the approved Consent application applies only to the D10-008-2021 consent application on the newly formed lot as shown on the approved drawings attached to the notice of decision.

2. 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. You are advised to consult with the Land Registry Office for preapproval of the Certificate of Official to avoid delays.

The Certificate must be registered within one year 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 your file.

3. 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 easements 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.

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.

4. Payment of Taxes

The owner/applicant shall contact the Tax Department at 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.

5. Building Permit Application Requirements

The owner/applicant shall provide to the Building Services a copy of the decision of the Committee of Adjustment, together with a copy of the approved drawings, when they make application for a Building Permit.

The drawings submitted with the Building Permit application must, in the opinion of the City, conform to the general intent and description of the approved drawing(s), including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. It must be noted that additional planning approvals may be required should further zoning deficiencies be identified through the Building Permit application process.

Prior to the issuance of the Certificate of Official, the owner/applicant the owner of the property must apply for/complete a demolition permit to remove the existing single detached dwelling, barn and accessory buildings (including original farm house).

It will be the responsibility of the owner/installer to determine and provide verification to the building department that the soil conditions would permit a septic system as well to provide a potential design and proposed location for review.

6. Archaeological Conditions

The City of Kingston is in receipt of an Archaeological Assessment for the property located at 3311 Hwy. 38 prepared by Abacus Archaeological Services and dated April 29, 2021. This report is on file with the Ministry of Heritage, Sport, Tourism and Culture Industries. The City has received and 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.

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 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 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 Services (613-546-4291, extension 3180) must be immediately contacted.

7.Engineering

Entrance permits are required for any new or altered entrances.

8.Parks

Cash-in-lieu of parkland will be required as a condition of consent approval for the creation of two new lots. The current rate is \$1,283.29 per lot.

9.Private Well & Hydro-geological Study

Environmental Services will require a full Hydrogeological Study that demonstrates 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 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 (severed and retained) 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.

10. 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.

11.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 Building Services.

b) Any recommendations resulting from the hydro-geological assessment are included within the development agreement for the lands.

c) 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.

d) 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.

e) That the owner be advised that any new or altered entrance to the site will require an entrance permit from the Engineering Services Department.

f) That the owner be advised that the severed and retained lots are located in the rural area and may be adjacent to existing or future agricultural uses. Any new residential development on the severed or retained lands shall be outside of the required calculated Minimum Distance Separation (MDS) setback from any neighbouring livestock facility or manure storage and all other applicable requirements at the time of building permit issuance.

g) That 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 be advised that no further lots will be permitted on the subject lands through the Consent Application process.

i) 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;

J) That the recommendations from the noise impact study prepared by J.E. Coulter Associated Limited dated April 16, 2021 be included.

Recommended Conditions

Application for consent, File Number D10-009-2021

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

1. Limitation

That the approved Consent application applies only to the D10-009-2021 consent application on the newly formed lot as shown on the approved drawings attached to the notice of decision.

2. 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. You are advised to consult with the Land Registry Office for preapproval of the Certificate of Official to avoid delays.

The Certificate must be registered within one year 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 your file.

3. 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 easements 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.

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.

4. Payment of Taxes

The owner/applicant shall contact the Tax Department at 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.

5. Building Permit Application Requirements

The owner/applicant shall provide to the Building Services a copy of the decision of the Committee of Adjustment, together with a copy of the approved drawings, when they make application for a Building Permit.

The drawings submitted with the Building Permit application must, in the opinion of the City, conform to the general intent and description of the approved drawing(s), including any amendments and conditions approved by the Committee of Adjustment, as stated in the decision. It must be noted that additional planning approvals may be required should further zoning deficiencies be identified through the Building Permit application process.

Prior to the issuance of the Certificate of Official, the owner/applicant the owner of the property must apply for/complete a demolition permit to remove the existing single detached dwelling, barn and accessory buildings (including original farm house).

It will be the responsibility of the owner/installer to determine and provide verification to the building department that the soil conditions would permit a septic system as well to provide a potential design and proposed location for review.

6. Archaeological Conditions

The City of Kingston is in receipt of an Archaeological Assessment for the property located at 3311 Hwy. 38 prepared by Abacus Archaeological Services and dated April 29, 2021. This report is on file with the Ministry of Heritage, Sport, Tourism and Culture Industries. The City has received and 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.

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 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 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 Services (613-546-4291, extension 3180) must be immediately contacted.

7.Engineering

Entrance permits are required for any new or altered entrances.

8. Private Right of Way

A private right of way will be required from the southern severed lot over the retained parcel subject to the satisfaction of Engineering Department. This will allow the southern severed lot to gain an access entrance to Highway 38. The southern severed lot will not be permitted an access point to Highway 38 across the frontage of the lot.

9.Parks

Cash-in-lieu of parkland will be required as a condition of consent approval for the creation of two new lots. The current rate is \$1,283.29 per lot.

10.Private Well & Hydro-geological Study

Environmental Services will require a full Hydrogeological Study that demonstrates 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 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 (severed and retained) 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.

11. 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.

12. Development Agreement

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

- 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 Building Services.
- b) Any recommendations resulting from the hydro-geological assessment are included within the development agreement for the lands.
- c) 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.
- d) 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.
- e) That the owner be advised that any new or altered entrance to the site will require an entrance permit from the Engineering Services Department.
- f) That the owner be advised that the severed and retained lots are located in the rural area and may be adjacent to existing or future agricultural uses. Any new residential development on the severed or retained lands shall be outside of the required calculated Minimum Distance Separation (MDS) setback from any neighbouring livestock facility or manure storage and all other applicable requirements at the time of building permit issuance.
- g) That 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 be advised that no further lots will be permitted on the subject lands through the Consent Application process.
- i) 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;

j) That the recommendations from the noise impact study prepared by J.E. Coulter Associated Limited dated April 16, 2021 be included.






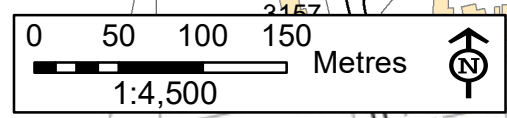
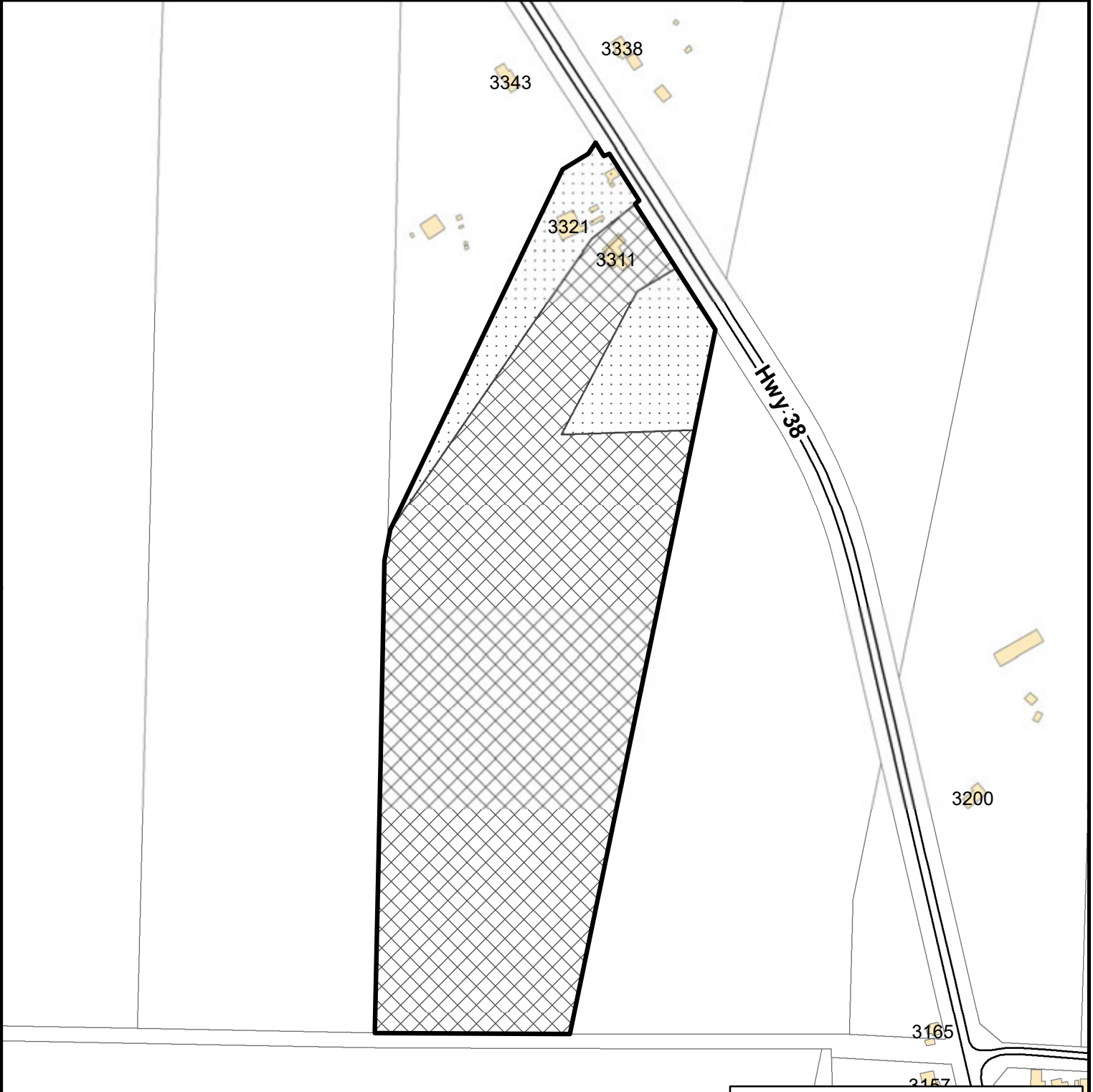
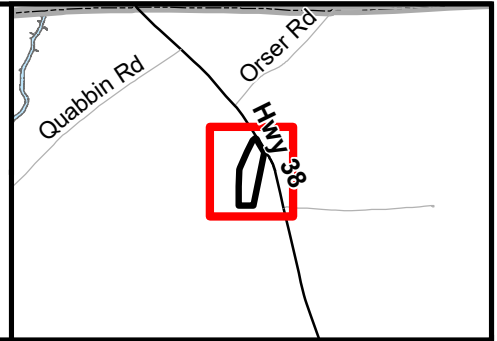
Delegated Authority

Key Map

Address: 3311, 3321 HWY 38

File Number: D10-008-2021; D10-009-2021






-  Subject Lands
-  Severed Lands
-  Retained Lands

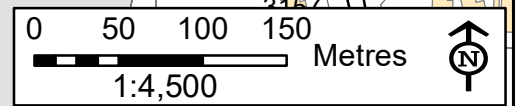
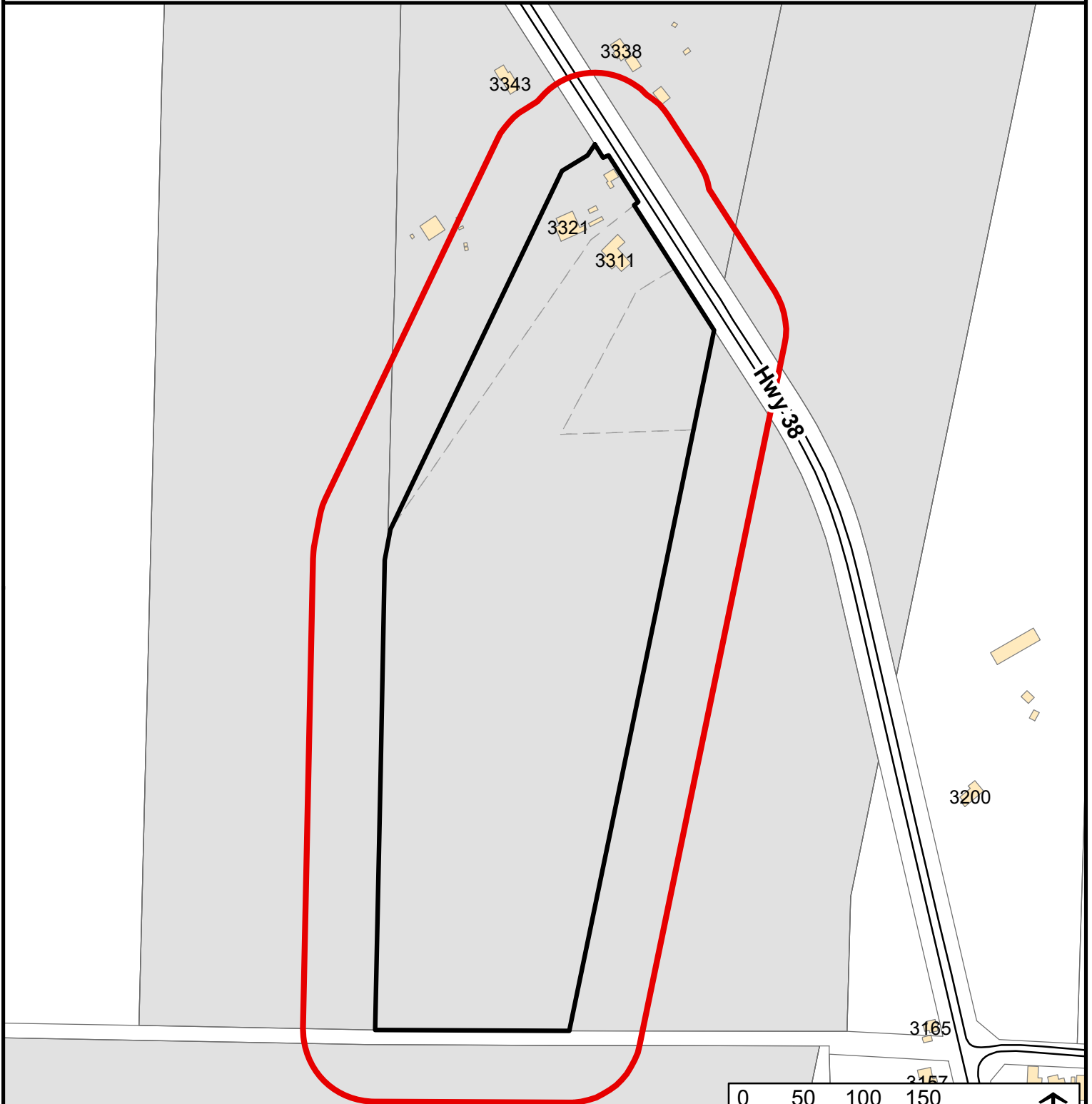




Delegated Authority
Public Notice Notification Map

Address: 3311, 3321 HWY 38
File Number: D10-008-2021; D10-009-2021




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

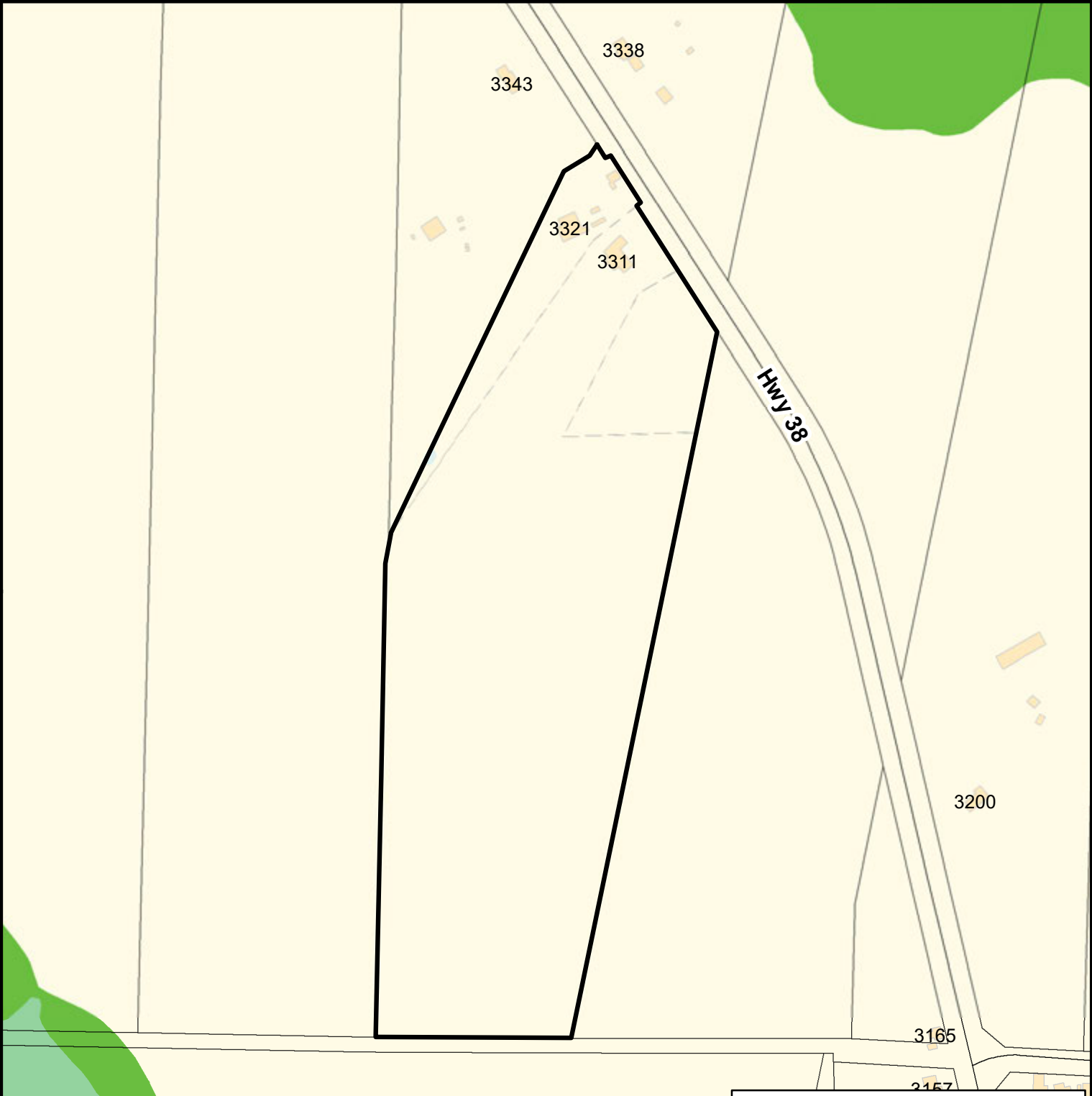




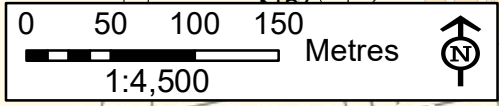
Delegated Authority
Official Plan, Existing Land Use

Address: 3311, 3321 HWY 38
File Number: D10-008-2021; D10-009-2021

-  Subject Lands
-  ENVIRONMENTAL PROTECTION AREA
-  RURAL



Prepared By: adowker
Date: May-11-2021



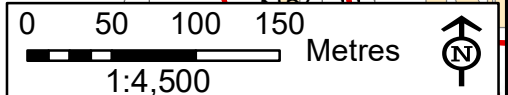
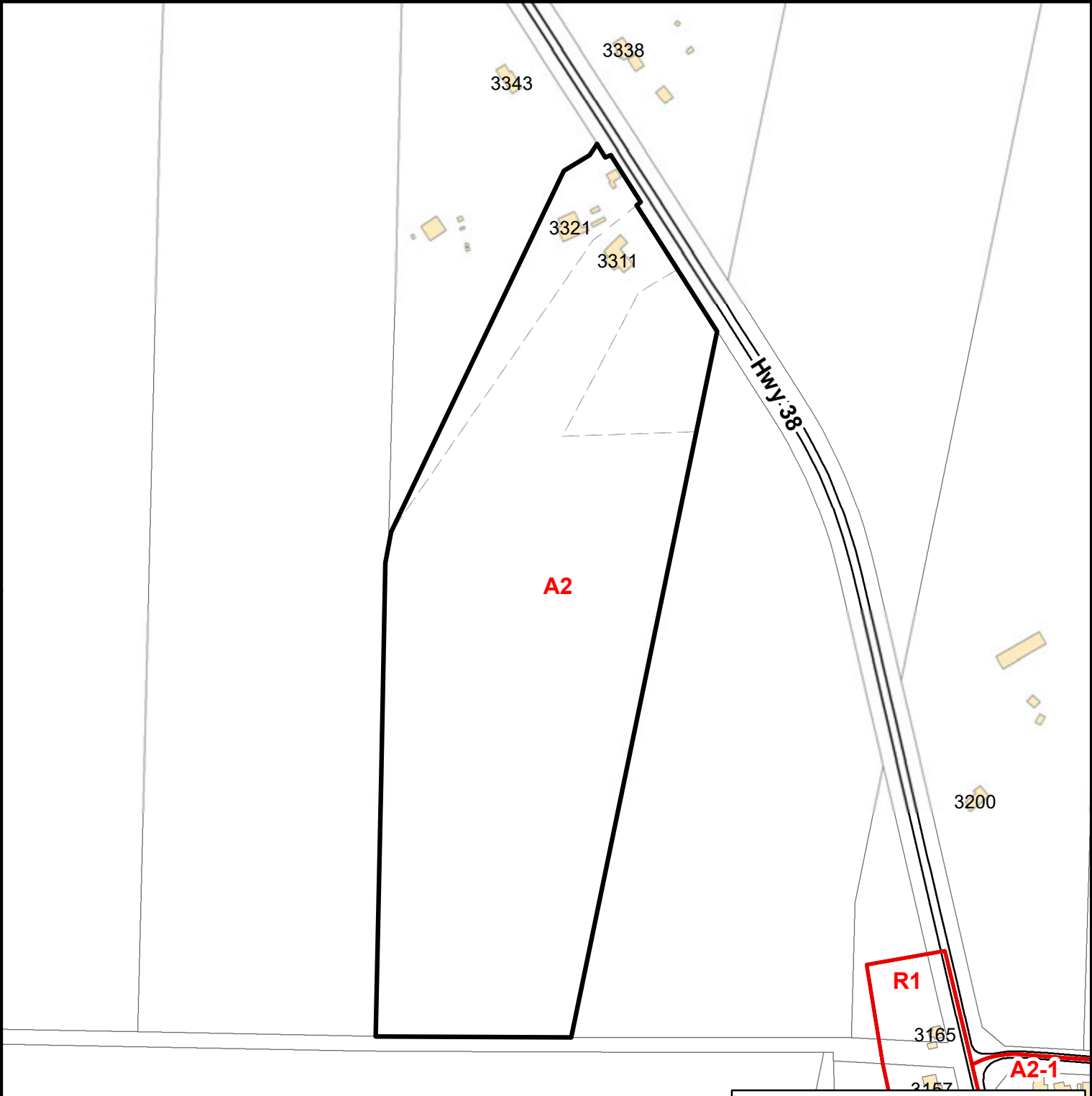
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Delegated Authority
Existing Zoning - By-law 76-26, Map 1

Address: 3311, 3321 HWY 38
File Number: D10-008-2021; D10-009-2021

- Subject Lands
- Consolidated Zoning

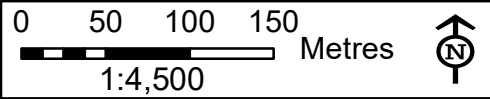




Delegated Authority Neighbourhood Context (2020)

Address: 3311, 3321 HWY 38
File Number: D10-008-2021; D10-009-2021

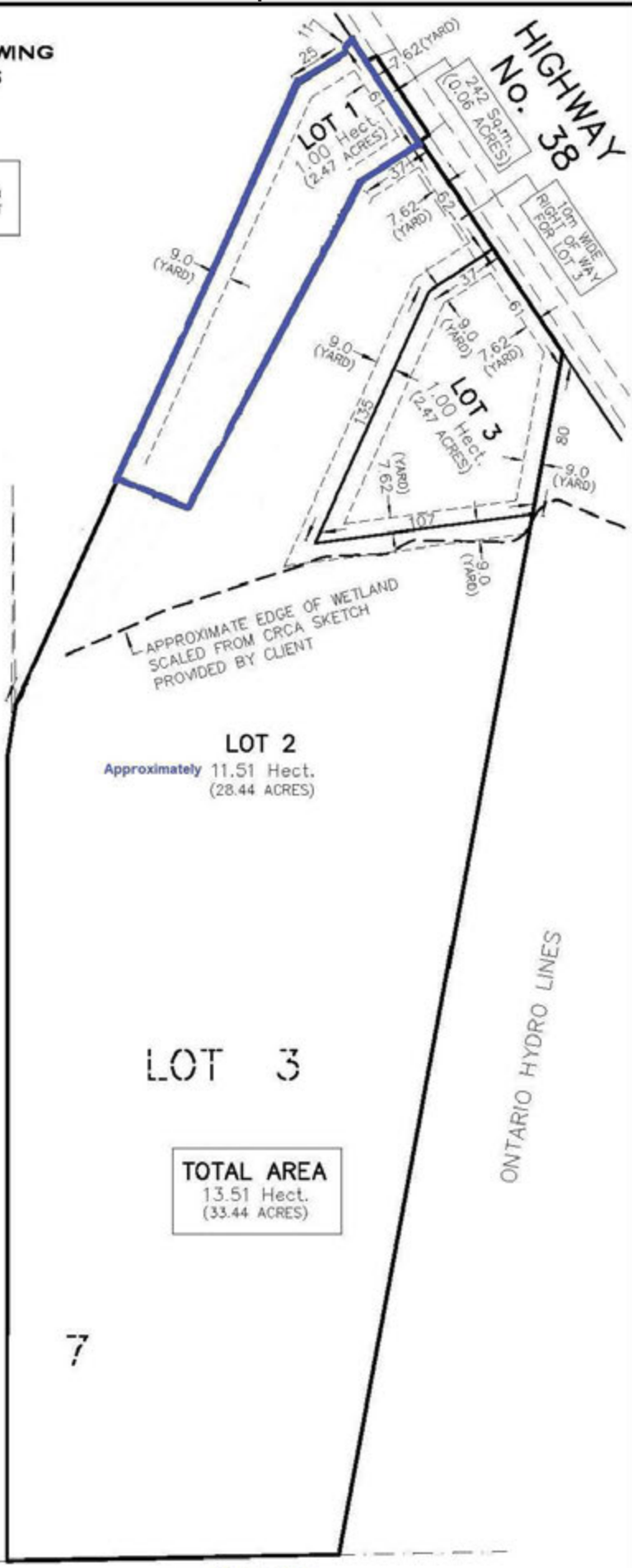
- Subject Lands
- Property Boundaries
- Proposed Parcels



Prepared By: adowker
Date: May-11-2021

**COMPILED SKETCH SHOWING
PROPOSED SEVERANCES
3311 HIGHWAY No. 38**
NOT TO SCALE

METRIC
DISTANCES & COORDINATES SHOWN ON THIS PLAN
ARE IN METRES AND CAN BE CONVERTED TO FEET
BY DIVIDING BY 0.3048



DATED 05 July 2021

Partridge,Jason

From: Myers,Cheryl
Sent: Thursday, May 20, 2021 7:18 AM
To: Partridge,Jason
Cc: Planning Outside Email
Subject: FW: File # D10-008-2021/D10-009-2021

Hi Jason,

Could you please address this email regarding your files D10-008-2021 and D10-009-2021?

Thank you,
Cheryl

From: Carl Goodsell
Sent: May 19, 2021 6:51 PM
To: Planning Outside Email <Planning@cityofkingston.ca>
Subject: File # D10-008-2021/D10-009-2021

Good Afternoon,

Our neighbour has shown us the Notice of Technical Consent that he received for the above mentioned File Number located at 3311 Highway 38.

We are sending this email as we have some concerns about this Notice. Our Primary Concern is the water consumption/usage with the addition of these new lots as we have noticed a significant change in our water since the farm has taken over at 3439 Highway 38, not to mention the noise, odour and what I feel is inhumane treatment of the amount of cattle on such a small residential piece of land.

Thank you for your attention to this matter.

Carl Goodsell
3397 Hwy 38

Partridge,Jason

From: rick farrell
Sent: Tuesday, May 18, 2021 9:22 AM
To: Partridge,Jason
Subject: notice of technical consent for address 3311 highway 38 Kingston onl

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

D10-008-2021 and D10-009-2021

Dear Mr. Partridge:

As per our conversation this morning we are writing to advise you of our wish to oppose the severance of 3311 highway 38.

We have several issues with the severance of said land. And would like to present them to the governing body that will be making the decision.

In brief we have concerns regarding : Water, Environmental concerns and public safety concerns.

We wish to be advised of any and all meetings or any decisions made ,

We look forward to hearing from you.

Thanks

Sincerely,

Richard Farrell, Louise Farrell
Property owners of
3385 Highway 38
Kingston, on
K0h 1m0

Telephone:

Attn: Jason Partridge – Planner
City of Kingston , Planning Services
216 Ontario Street, Kingston , Ontario

This letter is a dispute of the severance of land located at 3311 Highway 38. I am the home owner at 3390 Highway 38 my name is Cheryl Murphy . Which is a home built by my In-laws over 45 years ago. With 9 acres of land. Family homestead.

This parcel of land at 3311 Hwy 38 is a piece of land which is surrounded by hobby farms, and is designated as Rural and Environmental Protection Area as stated in the letter, so why would there be a consideration of severance of this property.

This area should be protected and not become some what of a residential setting. We are Rural home owners and respect and treasure the wild life we have , there are numerous animals (deer, coyotes, porcupine, raccoons, fox, squirrels, blue herons have a huge nesting area in the back behind this land line), it is just heartbreaking to think this will push them all out of the area.

And to build homes on it and put three more laneways going out on the highway which has such high volume of traffic already.would just be a huge mistake. There have been so many accidents within this stretch of highway between Van Order Road and Orser Road. And a fatality just metres past this proposed property in the last year.

There is also a concern of having more wells added in our area of it doing damage to our water levels, as rural home owners is always a concern.

As Rural residents we treasure our property, there is a respect between rural residents for our homes, property and all the benefits of having that beautiful nature to enjoy and relax. As we all know is so hard to find in this day and age.

So please consider not allowing the severance this property.

Thank you for your time, and kindest regards

Cheryl Murphy
(3390 Highway Elginburg, ON)

From: [Mark & Jen Coulas](#)
To: [Planning Outside Email](#)
Cc: [Partridge, Jason](#)
Subject: severance application of the D10-008-2021 and D10-009-2021 3311 Highway 38 Objection.
Date: Thursday, May 20, 2021 7:52:41 PM

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To Whom it may Concern:

This letter is to formally object to the severance application of the D10-008-2021 and D10-009-2021, address of 3311 Highway 38.

I have major concerns over the development of this land. Some of the concerns I have include; removal of wildlife habit rich in Deer, Bears, Turkey, Turtles, and other species. Other issues include health reasons, such as increased septic, heavy burden on the current water table that is extremely limited and delicate in this area. Also, there are many safety concerns that I have as well.

Please notify me in advance of any meetings and/or discussions of this hearing.

Thank you

Mark & Jen Coulas
3370 Highway 38
Elginburg, ON
K0H 1M0