



**City of Kingston  
Report to Committee of Adjustment  
Report Number COA-21-073**

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**To:** Chair and Members of the Committee of Adjustment  
**From:** Jason Partridge, Planner  
**Date of Meeting:** October 18, 2021  
**Application for:** Minor Variance and Consent  
**File Numbers:** D10-049-2020 & D13-052-2021  
**Address:** 3224 Creekford Road  
**Owner:** Gordon Lansdown and Paula Bishop-Lansdown  
**Applicant:** Robert Allen

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**Council Strategic Plan Alignment:**

Theme: Policies & by-laws

Goal: See above

**Executive Summary:**

This report provides a recommendation to the Committee of Adjustment regarding applications for minor variance and consent submitted by Robert Allen on behalf of the owner, Gordon Lansdown and Paula Bishop-Lansdown for the property located at 3224 Creekford Road.

The purpose of the consent application (File Number D10-049-2020) is to sever off one parcel of land at the property located at 3224 Creekford Road. The severance application for D10-049-2021 will sever off a 1.02-hectare parcel of land and will have approximately 61 metres of lot frontage along Creekford Road. The retained lot will have 21.47 hectares of land with 88.5 metres of frontage along Creekford Road.

The minor variance (File Number D13-052-2021) is requesting relief from the requirement regarding the lot frontage provisions within an 'A2' zone to permit the consent application for the 21.47 hectare retained lot. Aside from the lot frontage, the retained lot will comply with all other yard setbacks, height and landscaped open space and lot area requirements.

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The site is situated on the north side of Creekford Road. The property is developed with a single family dwelling. The property is currently designated as Rural in the Official Plan and is zoned 'A2' in Zoning By-Law Number 76-26.

The requested minor variance and consent applications are consistent with the Provincial Policy Statement and conform with the general intent and purpose of both the City of Kingston Official Plan and Zoning By-Law Number 76-26. The requested minor variance is desirable for the appropriate development or use of the land, building or structure and is minor in nature. The proposed minor variance application meets all four tests under Subsection 45(1) of the *Planning Act* and is recommended for approval. The requested consent application has regard to the matters set out in subsection 51(24) of the *Planning Act* and a plan of subdivision is not necessary for the proper and orderly development of the property, as such, is recommended for provisional approval.

**Variance 1:**

By-Law Number 76-26:	10(2)(b)(ii) –Lot Frontage
Requirement:	100.6 Metres
Proposed:	88.5 Metres
Variance Requested:	12.1 Metres

**Recommendation:**

**That** minor variance application, File Number D13-052-2021 for the property located at 3224 Creekford Road to reduce the lot frontage measurement requirement for the retained lands, be approved subject to the conditions attached as Exhibit A (Recommended Conditions – Minor Variance) to Report Number COA-21-073; and

**That** consent application, File Number D10-049-2020, to sever off a 1.02-hectare parcel of land located at 3224 Creekford Road which will have approximately 61 metres of lot frontage along Creekford Road, be provisionally approved subject to the conditions included in Exhibit B (Recommended Conditions – Consent) to Report Number COA-21-073.

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**Authorizing Signatures:**



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Jason Partridge, Planner

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

Tim Park, Director, Planning Services

James Bar, Manager, Development Approvals

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**Options/Discussion:**

On August 24, 2021, applications for minor variance and consent were submitted by Robert Allen on behalf of the owner Gordon Lansdown and Paula Bishop-Lansdown for the subject property located at 3224 Creekford Road.

The purpose of the consent application (File Number D10-049-2020) is to sever off one parcel of land at the property located at 3224 Creekford Road. The severance application for D10-049-2021 will sever off a 1.02-hectare parcel of land and will have approximately 61 metres of lot frontage along Creekford Road. The retained lot will have 21.47 hectares of land with 88.5 metres of frontage along Creekford Road.

The minor variance (File Number D13-052-2021) is requesting relief from the requirement regarding the lot frontage provisions within an 'A2' zone to permit the consent application for the 21.47 hectare retained lot. Aside from the lot frontage, the retained lot will comply with all other yard setbacks, height and landscaped open space and lot area requirements.

**Site Characteristics**

The subject property is located on the north side of Creekford Road. The lands are currently developed with a single-family dwelling on private services and abuts similar single-family dwellings. The site has an area of 22.49 hectares and approximately 149.5 metres of frontage along Creekford Road. The subject property is currently developed with a 1 storey single-family dwelling. The surrounding area is predominantly characterized by residential development with some nearby commercial uses. Residential units include one-family dwellings and semi-detached dwellings.

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

**Application**

In support of the applications, 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.

**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

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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.

### 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 A2 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 lot will exceed the minimum lot frontage requirement and will comply with the minimum lot area requirement in the 'A2' zone in Zoning By-Law Number 76-26. The retained lot will exceed the minimum requirements for lot area. However, the retained lot is subject to a minor variance for minimum lot frontage within this application.

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

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 one 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 in the Official Plan and Zoning By-Law. The severed/retained parcels of land will be subject to the setback requirements of the Zoning By-Law at time of development. However, the retained lot is subject to a minor variance for minimum lot frontage within this application. The resulting lots and its frontages and lot areas will be consistent with existing lots along Creekford Road

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

The severed and retained lots will not result in any irregularly shaped lot.

- 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 (Creekford Road)

- 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.

- 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 severed and retained lots have large road frontages with even grades that create for good sight lines. The severances should not result in any negative traffic hazards. The City of Kingston's Engineering Department has been circulated during the application process and haven't noted any traffic concerns.

- 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 severed and retained lots will not create a ribbon development of more than four houses along Creekford Road.

- 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 severed and retained lots would not be considered infill residential development. However, the lots will meet the minimum 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;

The severed and retained lots and its intended residential use are compatible with similar uses in the rural area and will not result in any impacts abutting agricultural uses or existing livestock or manure storage facilities within 750 metres of newly formed lot lines.

- 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,

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Heritage Services has noted the subject property is within a composite archaeological potential area and will require the following clauses to be included in the Notice of Decision:

- 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.
- That before ground disturbance, archaeological clearance of part of the subject property's composite archaeological potential area, 100 metres north of Creekford Road, is required in the form of an archaeological assessment report(s) in conformity with the Ministry of Heritage, Sport, Tourism, and Culture Industries' Standards and Guidelines for Consultant Archaeologists, and must be submitted to the City heritage planning staff, together with correspondence from the Ministry outlining the results of their review. This composite archaeological potential area can be found in the City of Kingston Archaeological Master Plan, which notes that areas of composite archaeological potential are those areas 200 metres on either side of early transportation routes, such as Creekford Road, however only the northern 100 metres of the area is required to be cleared (Appendix B – Figure 1: Composite Archaeological Potential Layer).

Cataraqui Conservation has no objections to the approval of consent applications D10-049-2021 and D13-052-2021 based on their review of natural hazards, natural heritage and water quality protection policies, provided that the following to be included as clauses in a development agreement for the lots to be severed:

- Use of native species for landscaping and gardening on the retained lot; vegetation clearing outside the bird breeding season (April 15 to August 15) and documentation of any at-risk species.
  - The development envelope where tree clearing can occur should be from Creekford Road up to 100 metres north. The lot clearing and grading should be done to minimize tree removal within the development envelop. Tree clearing and removal should not occur beyond 100 metres north from Creekford Road recommended mitigation measures include limiting development to within 100 m of Creekford Road
- 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



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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 lot 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.

### **Zoning By-Law**

The subject lot is zoned General Agricultural 'A2' in Zoning By-Law Number 76-26. The severed and retained parcels comply with the minimum lot area requirements within the A2 zone. However, the retained lot is subject to a minor variance for minimum lot frontage as the proposed retained lot propose a lot frontage less than the required 100.83 metres. The retained parcels of land will be subject to the setback requirements of the Zoning By-Law at time of development. The severed parcel and its current development comply with the 'A2' zone requirements.

A minor variance is requested to reduce the minimum lot frontage requirement in the 'A2' zone in Zoning By-Law Number 76-26. The variance is requested in order to sever a lot with an area of 1.02 hectares with 61 metres frontage on Creekford Road. The retained parcel will have an area of 21.47 hectares and 88.5 metres frontage on Creekford Road. The severed parcel contains an existing 256.88 square metre one storey single family dwelling.

### **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:

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

The subject property is designated rural in the City of Kingston Official Plan.

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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 proposed development of a new lot will provide additional housing supply outside the City of Kingston urban boundary. The overall scale and massing of the existing single family dwelling on the retained lot is in keeping with the existing one and two story residential dwellings along Creekford Road and any future development will be subject to the 'A2' zone requirements that are applicable to adjacent properties. The site will maintain its outdoor amenity space in the rear yard of both properties.

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 proposed severed/retained lots will result in a development that is consistent with the built form of several residential lots located, east, west and south of the subject property along Creekford Road. The overall design and scale of the proposal is not anticipated to cause any adverse impacts on the adjacent residential properties.

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 proposal involves the severance of one lot from the subject property. There will be no concerns with respect to the parking of vehicles and bicycles or issues relating to accessibility for the retained or severed property. The overall large size of the two lots will allow for the one parking space that is required.

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 size and location of the proposed severed/retained lots has no impact on urban design; and, there are no matters of built heritage on this property.

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;

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The subject property is not on the City’s Heritage Register and as such a Heritage Impact Statement is not required.

- 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 site is located outside of the Urban Boundary and is developed with sufficient private services.

- 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 proposed variance is considered minor and the development is consistent with the existing built form along Creekford Road. Therefore, a zoning by-law amendment is not required.

- 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;

As part of the recommendation, suggested conditions have been listed. The 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 surrounding residential uses include single family dwellings. The approval of the requested variance is considered minor and will not set a precedent for the immediate area.

The proposal meets the intent of the Official Plan, as the proposed 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 are maintained**

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 existing single-family dwelling is a permitted use within the ‘A2’ zone. The proposed newly severed lot would also permit a single-family dwelling use.

The proposal requires a variance to the following section:

**Variance 1:**

By-Law Number 76-26:	10(2)(b)(ii) –Lot Frontage
Requirement:	100.6 Metres
Proposed:	88.5 Metres

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Variance Requested: 12.1 Metres

A variance is required from Section 10(2)(b)(ii) of Zoning By-Law Number 76-26 to seek relief for the retained lot for the minimum lot frontage 10(2)(b)(ii). Within Section 10(2)(b)(ii) the minimum lot frontage for a lot is 100.6 metres. The retained lot is proposed to be 88.5 metres, which does not comply with the minimum lot frontage of Section 10(2)(b)(ii). As such, the applicant is seeking a variance of 12.1 metres.

The intent of the minimum lot frontage within an 'A2' zone is to protect the surrounding properties from adverse impacts from Agricultural operations, overdevelopment in a rural area and intrusive overlook into people's property. The existing and proposed use is a single-family dwelling on the property. A reduced lot frontage measurement would still maintain the intent of the by-law by preventing intrusive overlook into people's yards and overdevelopment of a rural property. The reduced setbacks would also continue to protect the severed/retained lots from any adverse impacts from neighbouring agricultural uses. The decreased lot frontage measurement maintains the general intent and the purpose of the by-law.

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

The proposed severed/retained lots will result in a development that is consistent with the existing built form of residential development along Creekford Road. The proposed lots will exceed the lot area requirements and will be able to meet the 'A2' building setbacks of the current/future development which will prevent any intrusive overlook with respect to adjacent properties. The variances will not alter the character of the neighbourhood or the existing streetscape. The total area of the proposed severed lot is 1.02 hectares.

The variances are considered minor as there will be no negative impacts on abutting properties or residential and/or uses or structures.

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

The proposed development will provide the functional needs for the existing/future residential use on the two lots. The resulting built form satisfies all applicable provisions of the zoning by-law, except for the lot frontage measurement of the retained lot.

The proposal is appropriate and compatible with the surrounding residential uses and will not result in significant impacts or changes to the surrounding area.

The variance is desirable and appropriate use of the land.

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**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 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 checked="" type="checkbox"/> Hydro One         | <input type="checkbox"/> Enbridge Pipelines                | <input type="checkbox"/> TransCanada Pipelines                   |
| <input type="checkbox"/> Kingston Airport             |                                                            |                                                                  |

**Technical Comments**

The applications were circulated to external agencies and internal departments for their review and comment and there were no comments or concerns raised that would preclude the applications 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, no 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.

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 variance is 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.

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Approval of the consent and minor variance applications will create one new parcel of land and permit an future single-family dwelling on the retain lot. The proposed applications represent good land use planning.

**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

**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 October 18, 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 8 property owners (according to the latest Assessment Roll) within 60 metres of the subject property and a courtesy notice was placed in The Kingston Whig-Standard.

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, Manager, Development Approvals 613-546-4291 extension 3213

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

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**Other City of Kingston Staff Consulted:**

None

**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 2
- Exhibit F Public Notification Map
- Exhibit G Neighbourhood Context Map (2021)
- Exhibit H Site Plan

## **Recommended Conditions**

### **Application for minor variance, File Number D13-052-2021**

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

#### **1. Limitation**

That the approved minor variance applies only to the property located at 3224 Creekford Road for the new severed lot with a reduced lot frontage for the retained lot 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. 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.

#### **4. Archaeological Condition**

That before ground disturbance, archaeological clearance of part of the subject property's composite archaeological potential area, 100 metres north of Creekford Road, is required in the form of an archaeological assessment report(s) in conformity with the Ministry of Heritage, Sport, Tourism, and Culture Industries' Standards and Guidelines for Consultant Archaeologists, and must be submitted to the City heritage planning staff, together with correspondence from the Ministry outlining the results of their review. This composite archaeological potential area can be found in the City of Kingston Archaeological Master Plan, which notes that areas of composite archaeological potential are those areas 200 metres on either side of early transportation routes, such as Creekford Road, however only the northern 100 metres of the area is required to be cleared (Appendix B – Figure 1: Composite Archaeological Potential Layer).



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.

## Recommended Conditions

### Application for consent, File Number D10-049-2020

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

#### 1. Limitation

That the approved Consent application applies only to the D10-049-2020 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](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.

## **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.

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 Condition**

That before ground disturbance, archaeological clearance of part of the subject property's composite archaeological potential area, 100 metres north of Creekford Road, is required in the form of an archaeological assessment report(s) in conformity with the Ministry of Heritage, Sport, Tourism, and Culture Industries' Standards and Guidelines for Consultant Archaeologists, and must be submitted to the City heritage planning staff, together with correspondence from the Ministry outlining the results of their review. This composite archaeological potential area can be found in the City of Kingston Archaeological Master Plan, which notes that areas of composite archaeological potential are those areas 200 metres on either side of early transportation routes, such as Creekford Road, however only the northern 100 metres of the area is required to be cleared (Appendix B – Figure 1: Composite Archaeological Potential Layer).

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.

Prior to the stamping of the deeds the applicant shall provide a noise study to address potential impacts on the proposed development due to transportation and stationary; including impulsive; noise sources in the vicinity. The study is to be prepared by a qualified individual with experience in environmental acoustics and is to demonstrate compliance with NPC-300

## **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 \$1968.70 per lot.

## **9. Private Well & Hydro-geological Study**

Environmental Services will require a 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.

## **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) Cataraqui Conservation will require the owner to:

- Use of native species for landscaping and gardening on the retained lot; vegetation clearing outside the bird breeding season (April 15 to August 15) and documentation of any at-risk species.
- The development envelope where tree clearing can occur should be from Creekford Road up to 100 metres north. The lot clearing and grading should be done to minimize tree removal within the development envelope. Tree clearing and removal should not occur beyond 100 metres north from Creekford Road recommended mitigation measures include limiting development to within 100 m of Creekford Road

- j) 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;
- k) That the recommendations from the required Noise Study condition be included






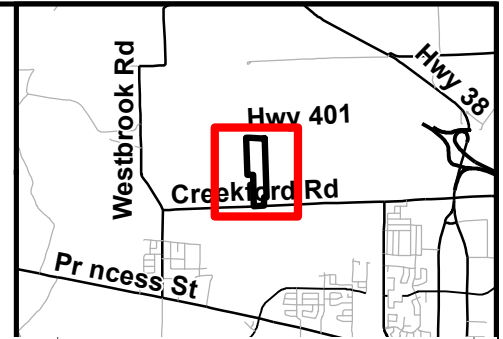
### Committee of Adjustment

### Key Map

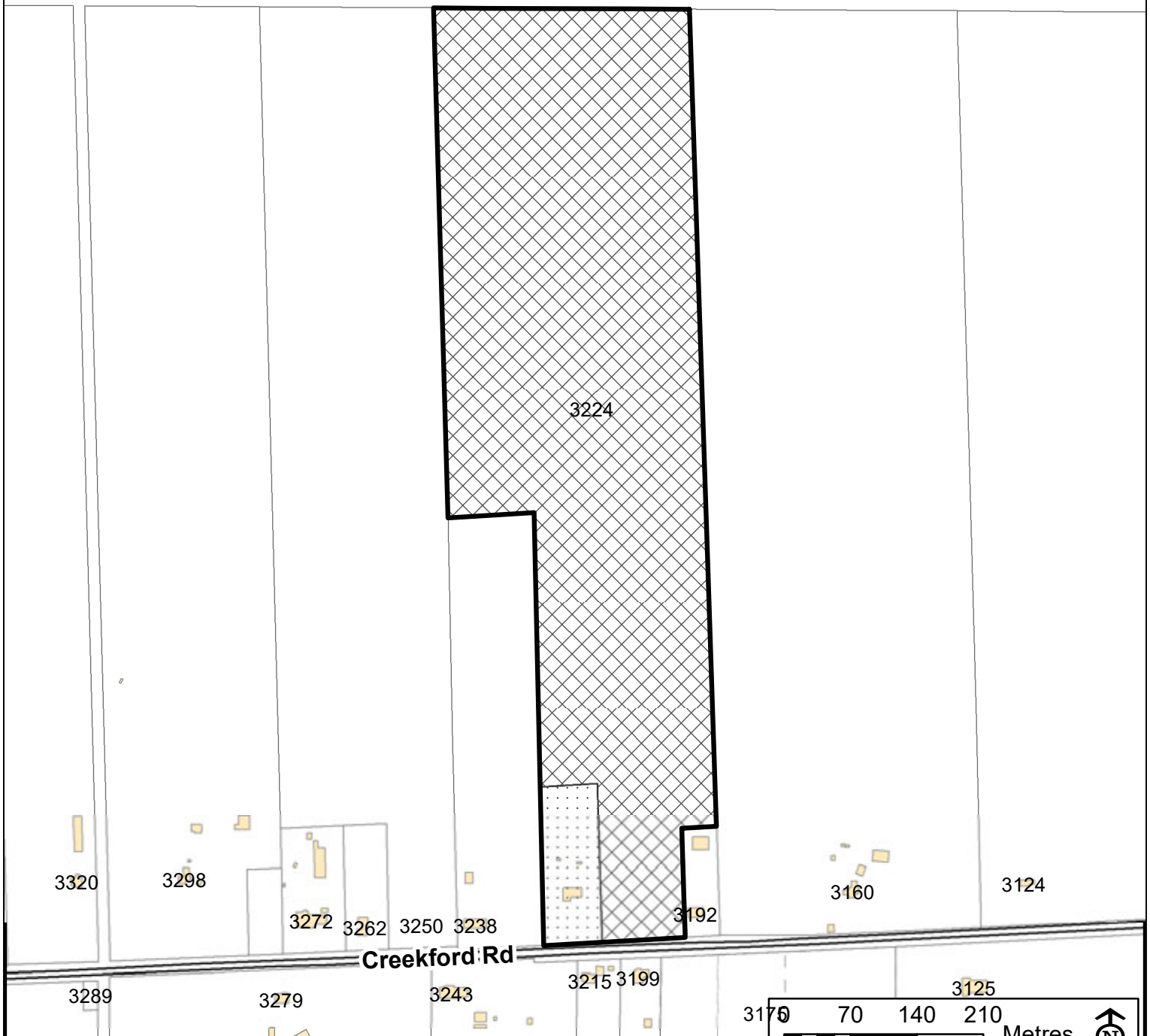
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File Number: D10-049-2020 & D13-052-2021

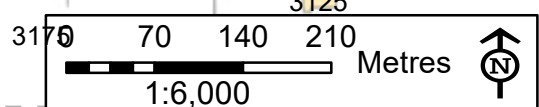
-  Subject Lands
-  Severed Lands
-  Retained Lands



Hwy 401



Creekford Rd



Prepared By: Jchu  
Date: Sep-10-2021







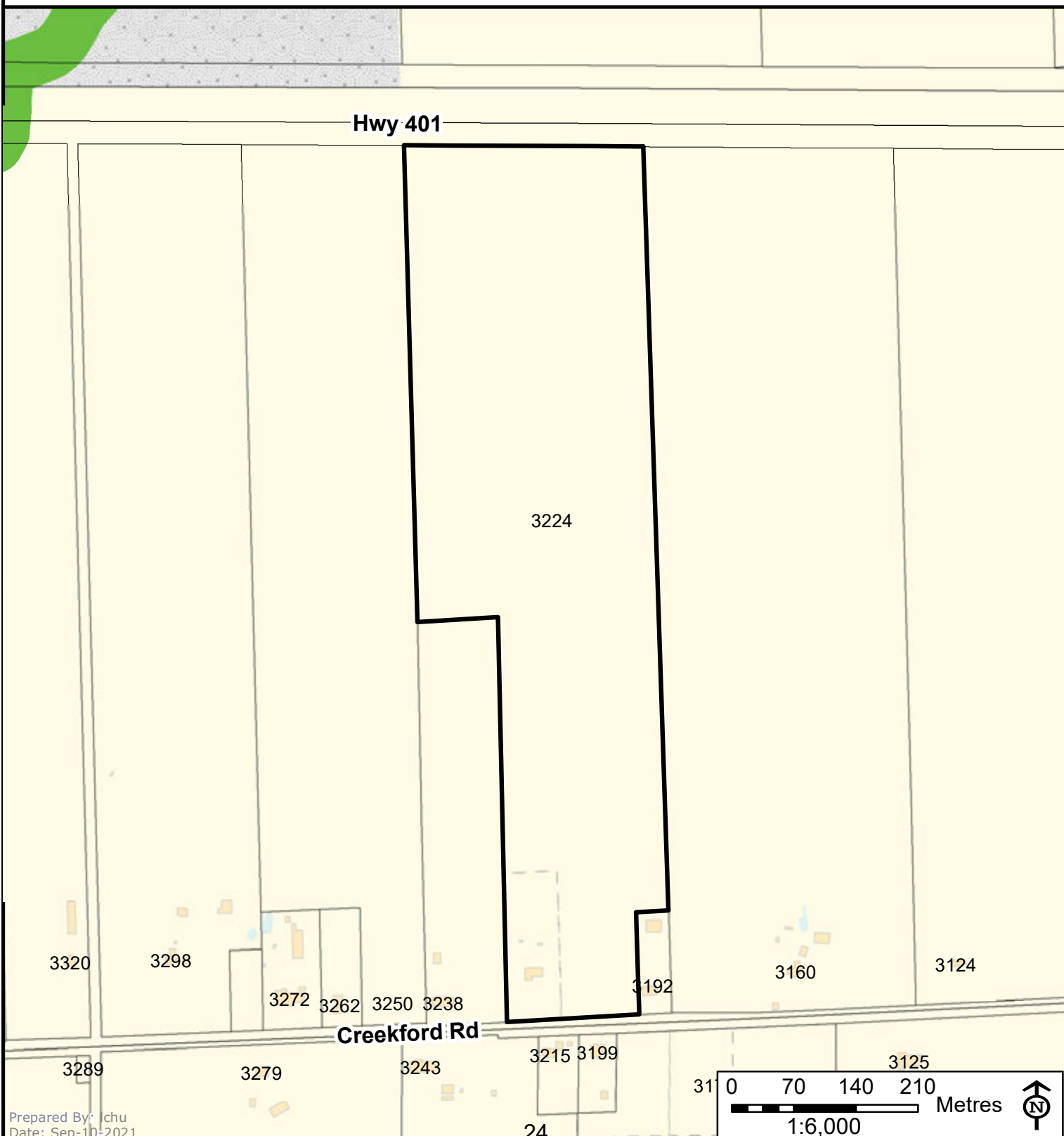
Planning Services

Committee of Adjustment  
Official Plan, Existing Land Use

Address: 3224 Creekford Road

File Number: D10-049-2020 &  
D13-052-2021

-  Subject Lands
-  ENVIRONMENTAL PROTECTION AREA
-  MINERAL RESOURCE
-  RURAL



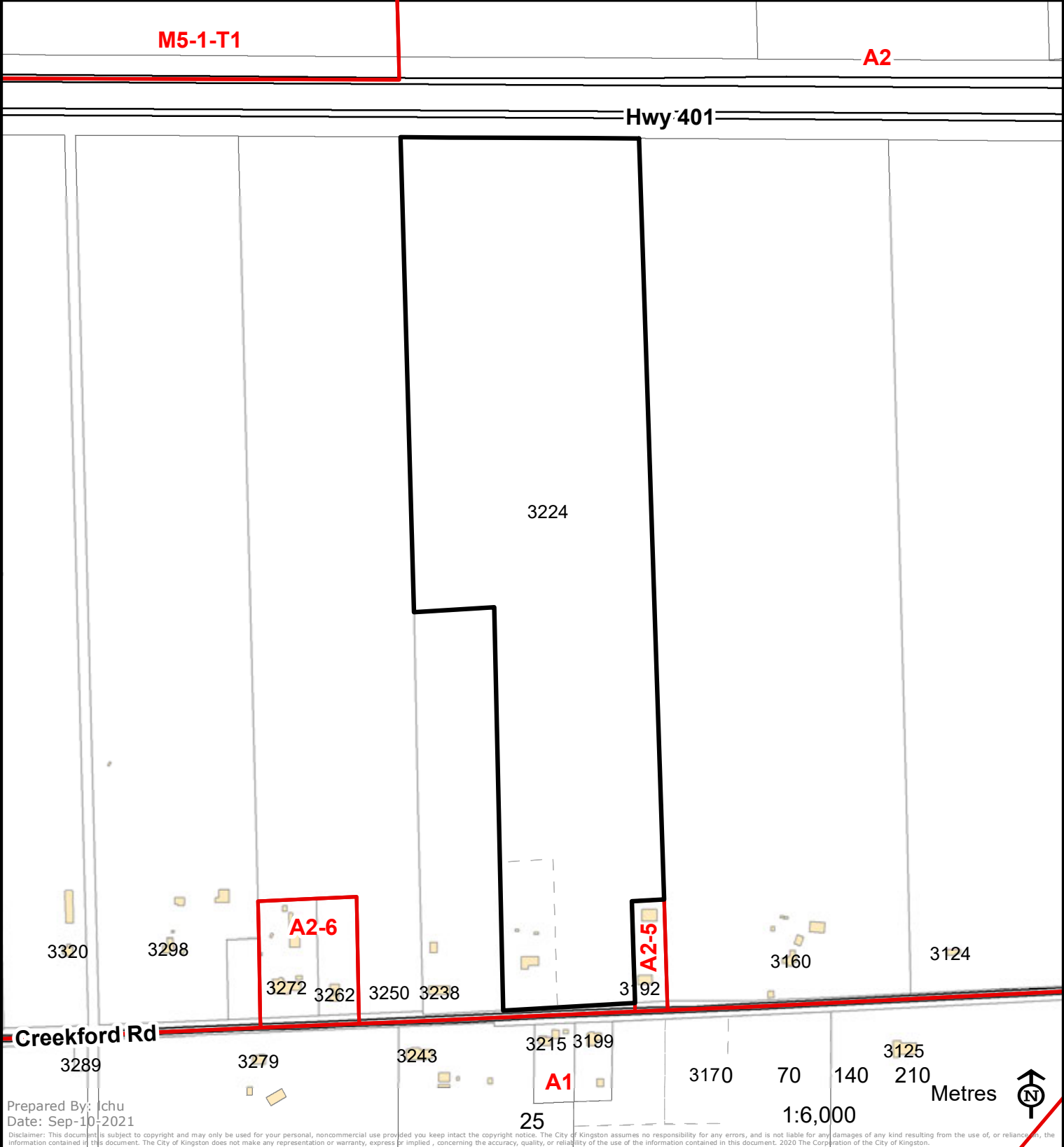
Prepared By: jchu  
Date: Sep-10-2021





Committee of Adjustment  
**Existing Zoning - By-law 76-26, Map 2**  
Address: 3224 Creekford Road  
File Number: D10-049-2020 & D13-052-2021

- Subject Lands
- Consolidated Zoning








Prepared By: Jchu  
Date: Sep-10-2021

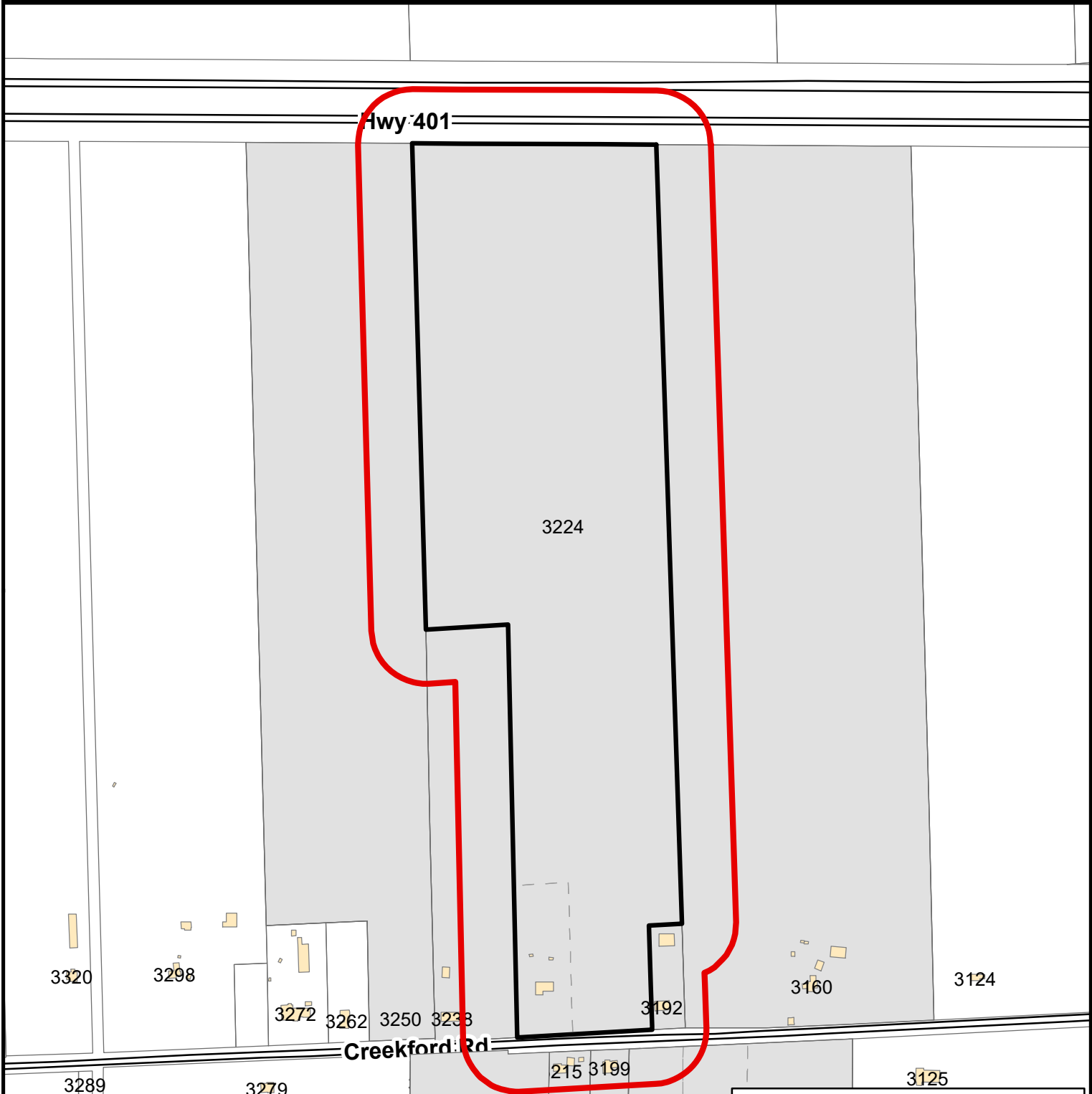
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Committee of Adjustment  
**Public Notice Notification Map**

Address: 3224 Creekford Road  
File Number: D10-049-2020 & D13-052-2021

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



Prepared By: ichu  
Date: Sep-10, 2021



Committee of Adjustment  
**Neighbourhood Context (2021)**

Address: 3224 Creekford Road  
File Number: D10-049-2020 & D13-052-2021

- Subject Lands
- Property Boundaries
- Proposed Parcels



CAUTION  
 THIS IS NOT A PLAN OF SURVEY AND SHALL  
 NOT BE USED EXCEPT FOR THE PURPOSE  
 INDICATED IN THE TITLE BLOCK.

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SKETCH SHOWING  
 PROPOSED SEVERANCE  
 OF PARCEL AT  
 3224 CREEKFORD ROAD  
 NOT TO SCALE

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

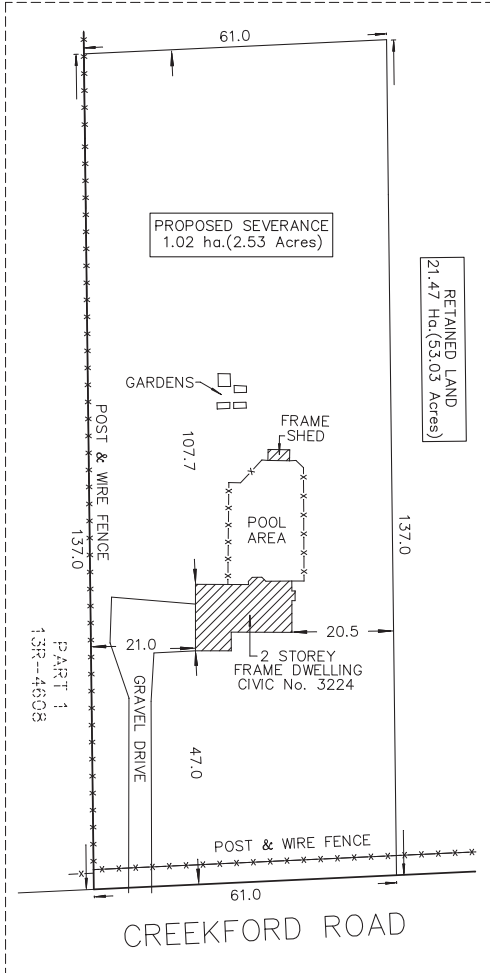
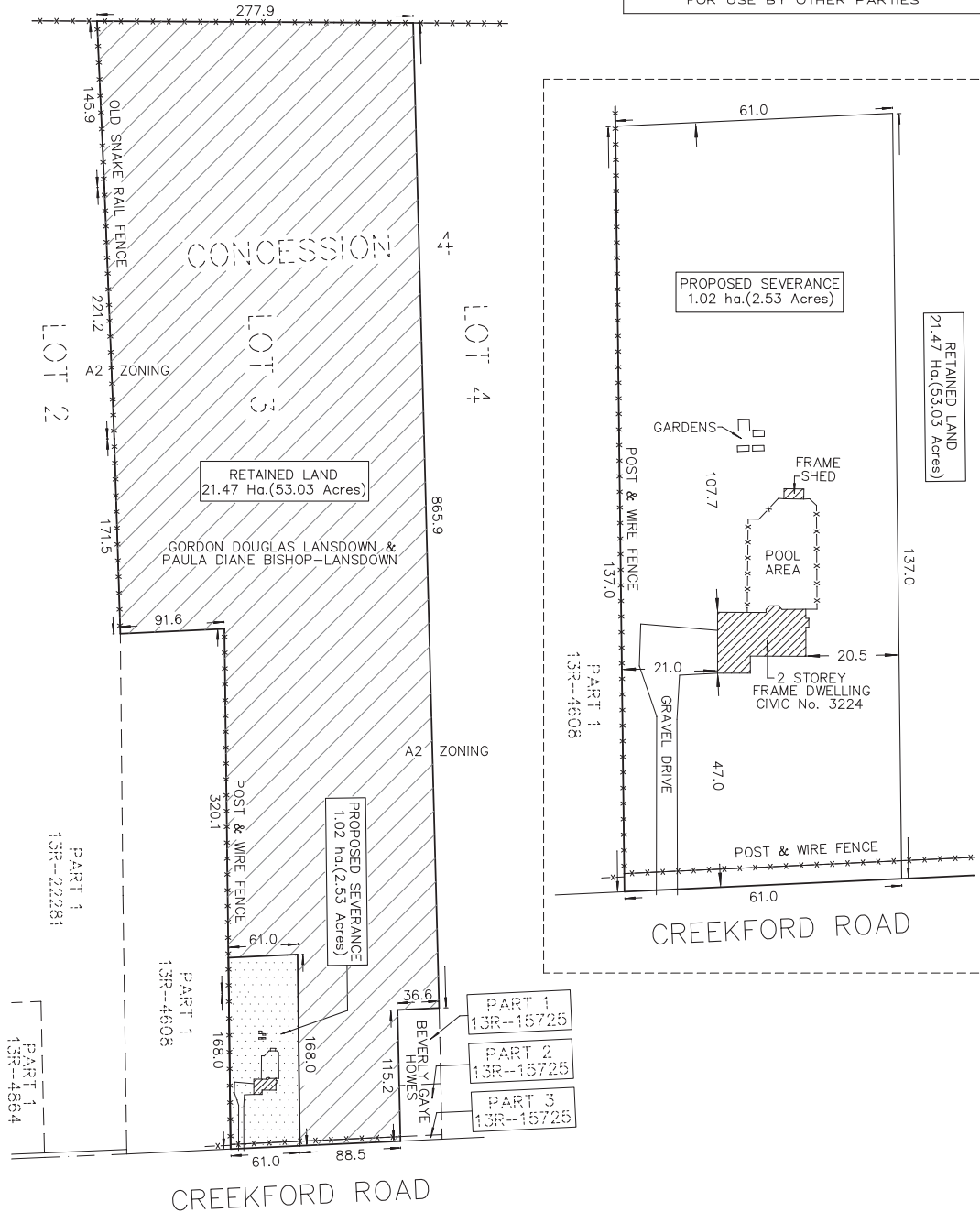
HOPKINS CHITTY LAND SURVEYORS INC.  
 2021

THIS REPORT WAS PREPARED FOR  
 ROBERT ALLEN & THE  
 UNDERSIGNED ACCEPTS NO RESPONSIBILITY  
 FOR USE BY OTHER PARTIES



HIGHWAY No. 401

ORDER -- IN -- COUNCIL FR520397  
 PLAN 615 (P--3036--13)



- PART 1  
13R-15725
- PART 2  
13R-15725
- PART 3  
13R-15725

REVISED APRIL 6, 2021  
 DATED MARCH 3, 2021

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FILE: KI'N 4-3      2021-0044GND SEV