



**City of Kingston
Report to Committee of Adjustment
Report Number COA-24-011**

To: Chair and Members of the Committee of Adjustment
From: Amy Didrikson, Intermediate Planner
Date of Meeting: December 11, 2023
File Number: D10-020-2022
Address: 4085 and 4091 Bath Road
District: District 3 – Collins Bay, Bayridge
Subject: 4085 Bath Road - Change to Provisional Consent Conditions

Council Strategic Plan Alignment:

Theme: Policies & by-laws

Goal: See above

Executive Summary:

This report recommends the removal of a road widening condition from the consent application provisionally approved by the Committee of Adjustment on June 19, 2023 ([Report Number COA-23-037](#)). As a result of further internal review, the width of the existing municipal road allowance is unclear based on available title and survey information, and as a result, the required width to satisfy the road widening requirements of the Official Plan is unclear at this juncture. Staff recommend that the road widening condition be removed from the provisional approval of the consent application, as the road widening can be pursued as part of the required Site Plan Control application. This will allow additional time to obtain survey details for the existing width of the municipal road allowance without holding up final consent approvals.

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Recommendation:

That the Committee of Adjustment remove Condition 5 of the Notice of Decision for consent application, File Number D10-020-2022, pertaining to a required road widening.; and

That a new Notice of Decision be prepared reflective of the conditions approved as outlined in Report Number COA-23-037 and amended as per Report Number COA-24-011.

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Authorizing Signatures:

ORIGINAL SIGNED BY PLANNER

Amy Didrikson, Intermediate
Planner

In Consultation with the following Management of the Growth & Development Services Group:

Tim Park, Director, Planning Services
Meghan Robidoux, Supervisor, Development Approvals

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Options/Discussion:

A lot addition application at 4085 Bath Road was provisionally approved by the Committee of Adjustment on June 19, 2023 ([Report Number COA-23-037](#)), and there were no appeals received in the associated appeal period. The provisional approval includes seven conditions detailed in Exhibit A, including a required road widening as condition number five.

Road widenings are commonly required through consent applications in accordance with the Official Plan. Table 1 of the Official Plan details road allowance widths for specific roads, as well as general road allowance widths for Local, Collector and Arterial Roads. Station Street is a Local Road, which is intended to have a road allowance of 20 metres according to Table 1.

The intent of the provisional consent is to consolidate lands to facilitate future residential development. Related applications for Official Plan and Zoning By-Law Amendment (City File D35-014-2021) are currently undergoing technical review, which propose over 200 dwelling units, including single-detached dwellings and stacked townhouse units. If the Official Plan Amendment and Zoning By-Law Amendment application is approved, the proposal will also require a Site Plan Control application and Final Plan of Condominium application.

As a result of further internal review, the width of the existing municipal road allowance is unclear based on title and survey information available, and as a result, the required width to satisfy the road widening requirements of the Official Plan is unclear at this juncture. It is recommended to remove the road widening condition from the provisional approval of the consent application, as the road widening can be pursued as part of a future Site Plan Control application. This will allow additional time to obtain survey details for the existing width of the municipal road allowance without holding up final consent approvals.

This change does not alter the planning opinion contained within Report Number COA-23-037.

Under section 53(23) of the *Planning Act*, an approval authority has the ability to change conditions of consent at any time before a consent has been granted. In this case, the change to conditions of consent is considered minor and appropriate, as the required condition can be fulfilled as part of the Site Plan Control approval process, to allow additional time to determine the required road widening to upgrade Station Street.

Existing Policy/By-Law

Please refer to Report Number COA-23-037.

Notice Provisions

The applicant and prescribed persons and public bodies will be notified in accordance with section 53 (24) and (26) of the *Planning Act* of the Committee's decision.

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Accessibility Considerations:

None

Financial Considerations

None

Contacts:

Meghan Robidoux, Supervisor, Development Approvals, 613-546-4291 extension 1256

Amy Didrikson, Intermediate Planner, 613-546-4291 extension 3296

Other City of Kingston Staff Consulted:

Alexis Vienneau, Junior Associate Legal Counsel, Legal Services

Exhibits Attached:

Exhibit A – Notice of Decision, City File Number D10-020-2022, Approved June 19 2023

Exhibit B – [Report Number COA-23-037](#)

Notice of Decision

In respect of Application D10-020-2022 submitted by Armitage Homes Limited on behalf of the owner Frances H. Day, at the property municipally addressed as **4085 Bath Road**, to sever an approximately 4.24 hectare portion of land from the parcel known municipally as 4085 Bath Road and add it to the neighbouring property located at 4091 Bath Road.

After considering the above-mentioned application for consent, the Committee of Adjustment decided to **provisionally approve** the application subject to the following conditions:

1. **Deadline**

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

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

2. **Reference Plan**

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

3. **Payment of Taxes**

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

4. **Archaeological Condition**

The City of Kingston is in receipt of a Stage 1 & 2 Archaeological Assessment for the property located at 4085, 4091 and 4097 Bath Road prepared by Abacus Archeological Services Inc. dated December 1, 2021. 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.

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City of Kingston**

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 Citizenship and Multiculturalism. The City shall not be restricted in its ability to determine requirements related to review, assessment and/or protection should archaeological resources be found on site. Any costs arising from such requirements of the City or any other duly authorized Government body shall be borne solely by the applicant.

5. Road Widening

The owner/applicant shall convey to the City Parts 1 and 2 on Reference Plan 13R-12428 to achieve the City's desired road allowance width on Station Street. That a road widening be conveyed to the City for Station Street, being Parts 1 and 2 on Reference Plan 13R-12428, prior to the issuance of the Certificate of Official. After registration of said deed at the expense of the applicant, and prior to issuing the certificate for the severance herein, the solicitor for the applicant shall certify that the title of the municipality to the said widening is free and clear of all encumbrances of every nature and that the municipality has a good and marketable title.

6. Servicing Plan

The owner/applicant shall provide a drawing, to the satisfaction of Utilities Kingston, showing all existing services and the mains they connect too, and the existing buildings and all proposed and existing property lines.

7. Lot Addition

That the lands herein conveyed shall be consolidated with the adjacent lands described as 4091 Bath Road and any subsequent conveyance or transaction of the said lands shall be subject to the part lot control provisions of Subsection (3) or (5) of Section 50 of the *Planning Act*, R.S.O. 1990 as amended. Failure to consolidate the subject lands shall render this consent null and void.

Effect of Public Input on this Decision:

A summary of written submissions received relating to the application, staff responses to the submissions, and how the submissions were reflected in the staff recommendation are included in the staff report (Report Number COA-23-037). The staff report and additional written and oral submissions received after the completion of the report were considered by the Committee, and through consideration of the report and submissions, the Committee choose to approve the applicaiton without amendments

**Committee of Adjustment
City of Kingston****Notice of Appeal:**

Please note this decision, when not appealed, does not become final and binding until 20 days have elapsed from the date of this notice. The applicant, the Minister, or a specified person or public body may file a Notice of Appeal of the Decision of the Committee of Adjustment. The last date for filing a Notice of Appeal of the Decision of the Committee of Adjustment is **July 13, 2023**

A Notice of Appeal must be filed with the Secretary-Treasurer of the Committee of Adjustment, at 1211 John Counter Boulevard, Kingston, Ontario, K7K 6C7, or the City Clerk at 216 Ontario Street, Kingston, Ontario, K7L 2Z3, during regular business hours. A Notice of Appeal must set out the reasons for the appeal and must be accompanied by a fee, payable to the Minister of Finance, of \$400.00 for the initial consent and/or minor variance appeal and, if applicable, \$25.00 for each additional appeal filed by the same appellant against related consent or variance applications.

Only individuals, corporations and public bodies may appeal decisions in respect of applications for consent to the Ontario Land Tribunal. A Notice of Appeal may not be filed by an unincorporated association or group. However, a Notice of Appeal may be filed in the name of an individual who is a member of the association or group on its behalf.

You will be entitled to receive notice of any changes to the conditions of the provisional consent if you have made a written request to be notified of changes to the conditions of the provisional consent.

The property is also the subject of an application for consent under the *Planning Act* (City File Number D10-021-2022), and an Official Plan Amendment and Zoning By-Law Amendment (City File Number D35-014-2021).

Committee of Adjustment
City of Kingston



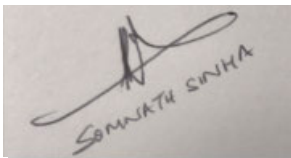
Peter Skebo, Chair



Ken Dakin, Member

absent

Aniz Kheraj, Member



Somnath Sinha, Member

opposed

Jordan Tekenos-Levy, Member



David Morton, Vice-Chair



Peter O'Hare, Member

I hereby certify this to be a true copy of the decision of the Committee of Adjustment and this decision was concurred in by a majority of the members who heard the application.



Lindsay Sthamann
Secretary Treasurer, Committee of Adjustment

SKETCH SHOWING
PROPOSED LOT ADDITION
OF PIN 36126-0180

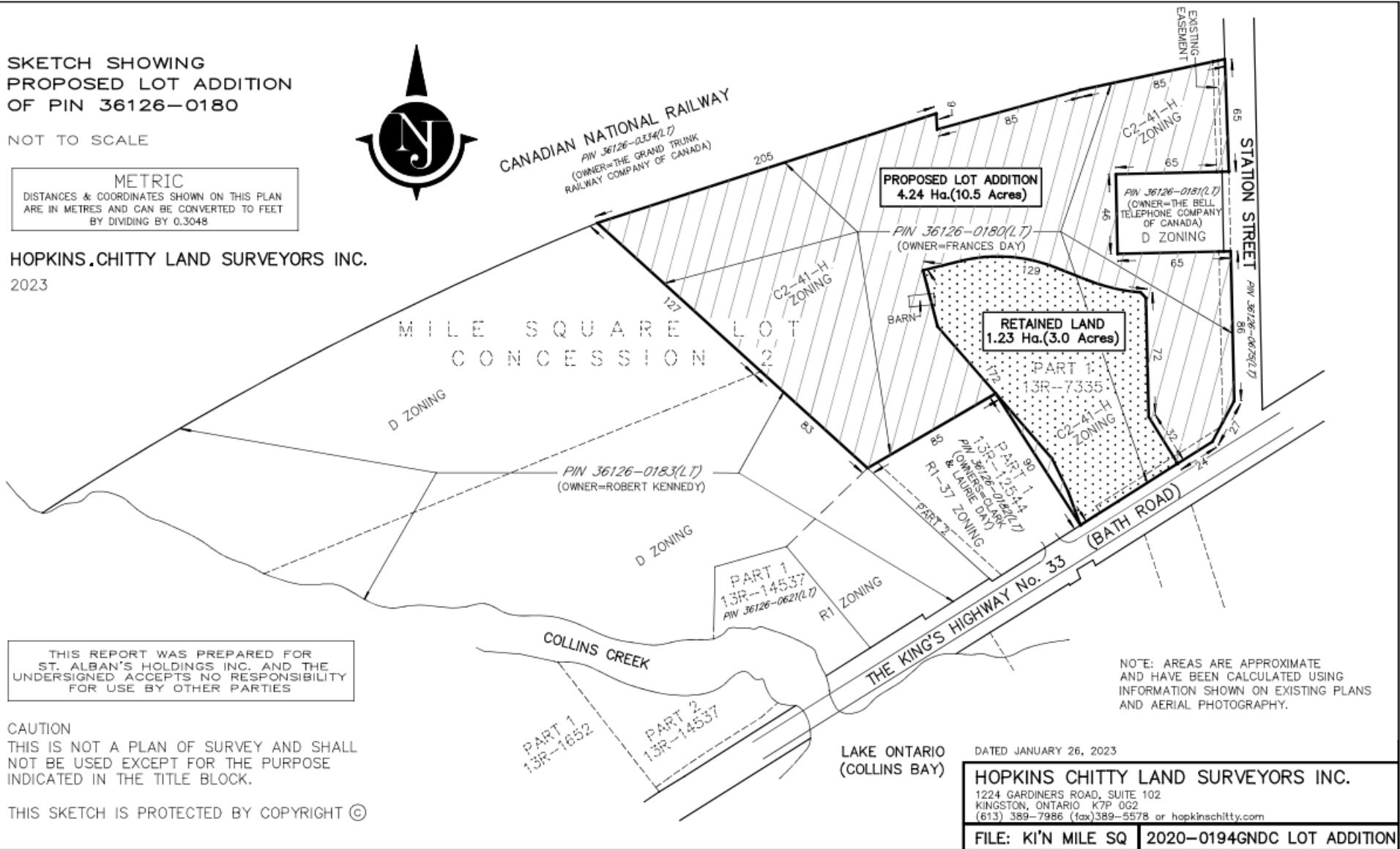
NOT TO SCALE

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.
2023



CANADIAN NATIONAL RAILWAY
PIN 36126-0334(LT)
(OWNER=THE GRAND TRUNK
RAILWAY COMPANY OF CANADA)



THIS REPORT WAS PREPARED FOR
ST. ALBAN'S HOLDINGS INC. AND THE
UNDERSIGNED ACCEPTS NO RESPONSIBILITY
FOR USE BY OTHER PARTIES

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

THIS SKETCH IS PROTECTED BY COPYRIGHT ©

NOTE: AREAS ARE APPROXIMATE
AND HAVE BEEN CALCULATED USING
INFORMATION SHOWN ON EXISTING PLANS
AND AERIAL PHOTOGRAPHY.

DATED JANUARY 26, 2023
HOPKINS CHITTY LAND SURVEYORS INC.
1224 GARDINERS ROAD, SUITE 102
KINGSTON, ONTARIO K7P 0G2
(613) 389-7986 (fax) 389-5578 or hopkinschitty.com
FILE: KI'N MILE SQ | 2020-0194GNDC LOT ADDITION