

# The Corporation of the City of Kawartha Lakes

## Committee of Adjustment Report – Denham

Report Number COA2022-077

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### Public Meeting

**Meeting Date:** October 27, 2022

**Time:** 1:00 pm

**Location:** Council Chambers, City Hall, 26 Francis Street, Lindsay

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### Ward 8 – Geographic Township of Emily

**Subject:** The purpose of the consent application is for a correction of title. The purpose of the minor variance application is to permit a reduced lot area as a result of the companion consent. **Relief sought:**

1. Section 15.2.1.1 requires a minimum lot area of 4,000 square metres in the Highway Commercial (C2) Zone; the proposed severed lot is to be 2,727 square metres.

The variance is requested at 4232 Highway 7 (Minor Variance File D20-2022-069 and Consent File D03-2022-025).

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**Author:** Leah Barrie, RPP, Manager of Planning

**Signature:** 

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### Recommendations

**That** Report COA2022-077 – Denham, be received;

**That** minor variance application D20-2022-069 be GRANTED, as the application meets the tests set out in Section 45(1) of the Planning Act.

**That** consent application D03-2022-025 be GRANTED, as the application represents good planning, and is in accordance with Section 53(1) of the Planning Act.

### Conditions of Approval for Minor Variance

- 1) **That** lot configuration related to this approval shall proceed generally in accordance with the sketch in Appendix C submitted as part of Report COA2022-077, which shall be attached to and form part of the Committee's Decision; and,
- 2) **That** lot configuration related to the minor variance shall be completed within a period of twenty-four (24) months after the date of the Notice of Decision, failing which this application shall be deemed to be refused. This

condition will be considered fulfilled upon completion of the companion consent application D03-2022-025.

## Conditions of Provisional Consent

See Appendix D

These approvals pertain to the applications as described in report COA2022-077. Fulfillment of all conditions is required for the Minor Variance to be considered final and binding and for the Consent to be fulfilled.

## Application Summary

Proposal:	To facilitate a correction of title through the severance of 4232 Highway 7 from 4236 Highway 7
Owner:	Patrick Denham
Applicant:	TD Consulting Inc. (Tom deBoer)
Legal Description:	Part Lot 11, Concession 3
Official Plan <sup>1</sup> :	Sand and Gravel Resource (City of Kawartha Lakes Official Plan, 2012)
Zone <sup>2</sup> :	Highway Commercial 'C2' (Township of Emily Zoning By-law 1996-30)
Site Size:	+/- 2,727 sq m (0.67 ac) – parcel to be severed
Site Servicing:	Private individual well and septic system
Site Access:	Provincial Highway
Existing Uses:	Commercial
Adjacent Uses:	Commercial, residential

## Rationale

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

The two adjacent properties municipally known as 4232 Highway 7 and 4236 Highway 7 have historically existed as separate lots of record. The proponent is of the opinion that the lots have merged on title and as such has applied to correct this in an abundance of caution in order to complete a land transfer/sale.

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<sup>1</sup> See Schedule 1

<sup>2</sup> See Schedule 1

The +/- 2,727 sq m parcel to be severed at 4232 Highway 7 historically contained a gas bar and convenience store; gas pumps have been removed and the remaining building is boarded up. The +/- 7,750 sq m parcel to be retained at 4236 Highway 7 contains a car dealership and repair shop. There are no new buildings, structures or uses proposed through the current applications.

The Growth Plan for the Greater Golden Horseshoe, 2019, states that there are significant deposits of mineral aggregate resources within the Greater Golden Horseshoe that require long-term management.

The Provincial Policy Statement, 2020, states that mineral aggregate resources shall be protected for long-term use and, where provincial information is available, deposits of mineral aggregate resources shall be identified.

It is not anticipated that the proposed severance would hinder any new aggregate operations or access given the existing developed nature of the subject lands.

**The variance maintains the general intent and purpose of the Official Plan.**

The Sand and Gravel Resource designation is applied to those lands that have a high potential for sand and gravel extraction. It is the objective of the Plan to protect these resources from land uses incompatible with possible future extraction.

Policy 24.3.7 states that within lands identified as Sand and Gravel Resource, a parcel may be severed by consent into a separate lot if the retained and severed parcels satisfy the abutting Official Plan and Zoning By-law requirements and does not generate any land use compatibility constraints for a potential aggregate operation or licensed aggregate operation. The abutting designation is 'Rural', and the existing uses are permitted to continue.

**The variance maintains the general intent and purpose of the Zoning By-law.**

The existing uses are permitted in the C2 zone. With the exception of the reduced lot area, the severed lot complies with the remaining applicable zone provisions. The reduced lot area is acceptable given the nature of the use, should it be re-activated, and because the sewage system design indicates that there is adequate space to install a Class 4 Septic Tank and Leaching Bed to accommodate a retail use.

As a result of the consent, the retained lot would continue to comply with the 'Highway Commercial Exception Six (C2-6)' Zone provisions.

**The variance is minor in nature.**

There are no anticipated impacts on environmental features; neighbouring properties; or, the function of the municipal right-of-way with respect to access, drainage, or streetscaping and maintenance.

**Other Alternatives Considered:**

None applicable.

## Consultation Summary

Notice of this application was circulated in accordance with the requirements of the Planning Act.

### Agency Comments:

**DS-Building and Septic Division (Septic):** "An application for a sewage system permit has been submitted for review. The application contained a proposal to re-establish a C-store. A sewage system design, compliant with the Ontario Building Code, indicates that there is adequate space to install a Class 4 Septic Tank and Leaching Bed to accommodate the C-store. At this time, this application did not incorporate re-establishment of the gas bar. As such, the Building and Septic Division has no concerns with the proposal with the minor variance to accommodate a convenience store establishment through the correction of title. If the owner/applicant wishes to establish the gas bar proposal as part of the consideration, I would ask that a condition be placed on the minor variance endorsement to satisfy the Supervisor – Part 8 Sewage Systems."

**ECA-Development Engineering Division:** "There is no concern or comment from an engineering perspective."

**Ministry of Transportation:** "MTO has no concerns with the minor variance to allow less than 4000 sq m lot area within the C2 zone. MTO has no concerns with the correction of title for the subject lands. Please note that the subject property is within MTO jurisdiction and MTO permits are required prior to any construction and/or alteration of the land. Additionally, MTO permits are required prior to the issuance of any municipal permits or approvals as per section 8. (2) (a) of the *Building Code Act*. A permit application can be submitted online using the Highway Corridor Management Online Service at: <https://www.hcms.mto.gov.on.ca/> for any future developments."

**Hydro One Networks Inc.:** "We have reviewed the documents concerning the noted Plan and have no comments or concerns at this time. Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only."

### Public Comments:

A letter of concern was received from the abutting property owner west of the site (4230 Highway 7). Concerns include the possibility of fencing being installed resulting in snow blowing and drifting on the neighbour's driveway; and, the possibility of the neighbour's well being impacted by new construction or uses.

Planning staff are not aware of any proposal to construct new buildings, structures or to introduce new uses at this time. As noted in the Supervisor of Part 8 Sewage Systems comments, the sewage system permit application contains a proposal to re-establish a convenience store, but not the gas pumps. Should future development plans include a change in use, a re-activation of use, and/or new

construction, all necessary approvals will need to be in place prior to issuance of permits.

## **Attachments**

Appendix A – Location Map

Appendix B – Aerial Photo

Appendix C – Applicant's Sketch

Appendix D – Proposed Conditions of Provisional Consent

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**E-Mail:** lbarrie@kawarthalakes.ca

**Department Head:** Richard Holy, Director of Development Services

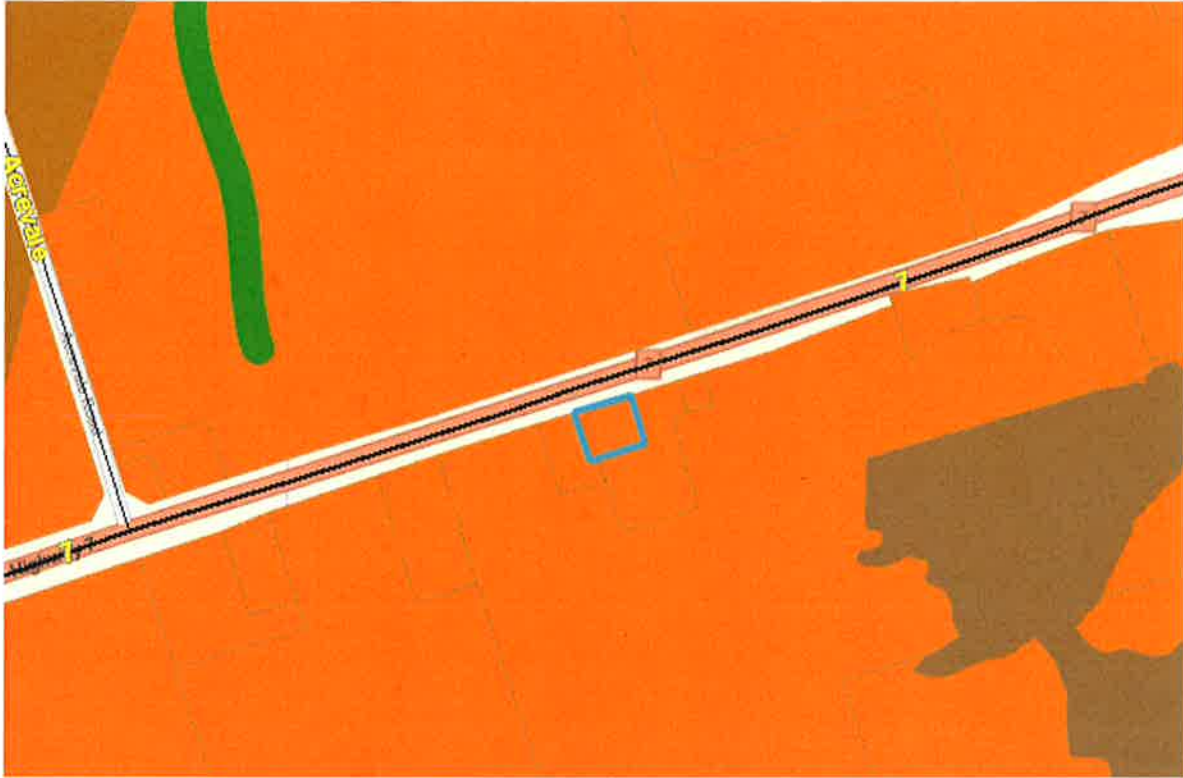
**Division File:** D20-2022-069 and D03-2022-025

## **Schedule 1**

### **Relevant Planning Policies and Provisions**

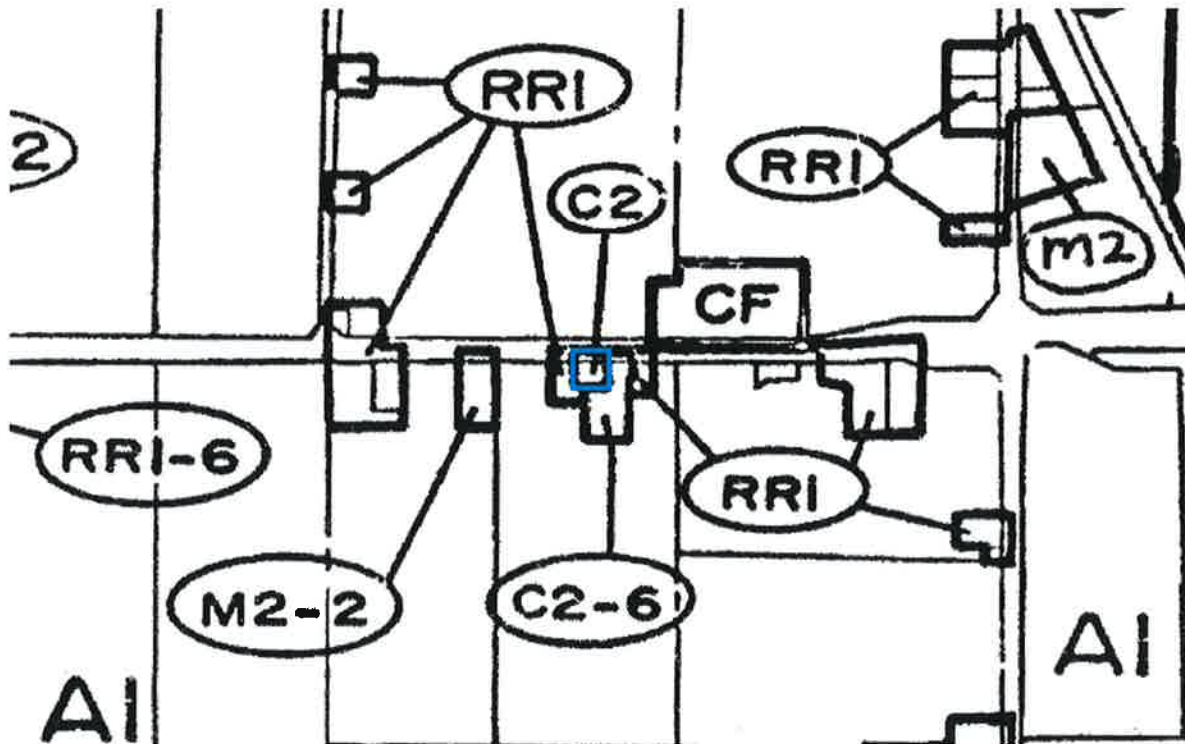
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#### **City of Kawartha Lakes Official Plan**



#### **24. Sand and Gravel Resource Designation**

**Township of Emily Zoning By-law 1996-30**



Part 15 Highway Commercial (C2) Zone

15.2.1.1 Lot Area (min.) 4000 sq. m

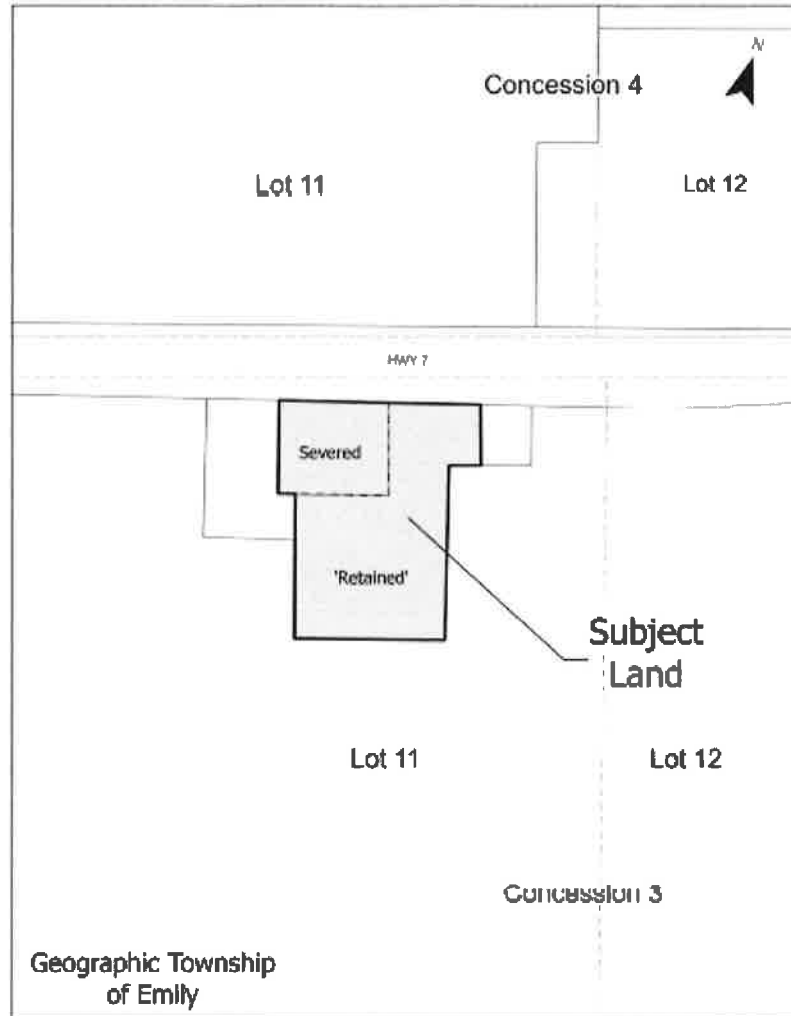
to

REPORT COA2022-077

FILE NO: D20-2022-069; D03-2022-025

**LOCATION MAP**

**D03-2022-025**





to

REPORT COA2022-077

FILE NO: D20-2022-069; D03-2022-025

**AERIAL PHOTO**

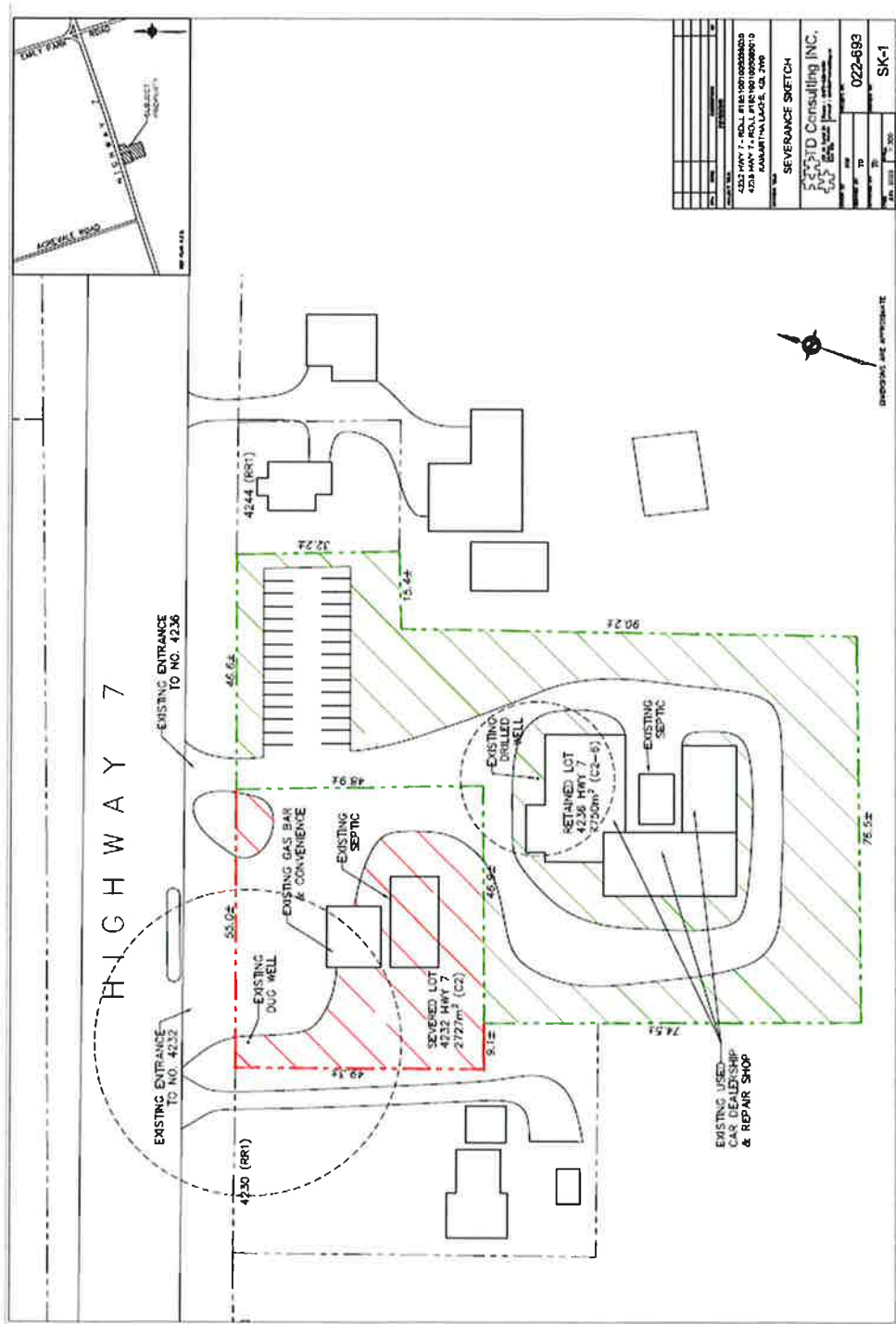


to

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FILE NO: D20-2022-069; D03-2022-025

### APPLICANT'S SKETCH



to

REPORT COA2022-077FILE NO: D20-2022-069; D03-2022-025**PROPOSED CONDITIONS OF PROVISIONAL CONSENT****Recommendation:**

**THAT** the +/- 2,727 sq m parcel to be severed at 4232 Highway 7 and the +/- 7,750 sq m parcel to be retained at 4236 Highway 7 be **GRANTED**:

**Proposed conditions of provisional consent: D03-2022-025**

1. This approval applies to the transaction applied for, and is contingent on approval of companion Application **D20-2022-069**.
2. The owner shall obtain a Minor Variance addressing a reduced minimum lot area on the subject lands, and that the variance be in effect.
3. Submit to the Secretary-Treasurer one copy of the preliminary reference plan of survey of the lot to be severed for review and endorsement and the subsequent registered reference plan of survey or, alternatively, the applicant's solicitor or an Ontario Land Surveyor shall provide a legal description that can be tendered for registration and meets the intent of the consent as applied for.
4. Submit to the Secretary-Treasurer payment of all past due taxes and charges added to the tax roll, if any, at such time as the deeds are stamped.
5. Payment to the City of Kawartha Lakes of the stamping fee prevailing at the time the deeds are stamped, for the review and clearance of these conditions. The current fee is \$476.00. Payment shall be by certified cheque, money order, or from a lawyers trust account.
6. Submit to the Secretary-Treasurer a deed in triplicate for endorsement with the certificate of consent which deed shall contain a registerable description of the parcel of land described in the decision.
7. The owner shall pay all costs associated with the registration of the required documents.
8. The owner's solicitor shall provide a written undertaking to the Secretary-Treasurer confirming, pursuant to Subsection 53(43) of the Planning Act, that the deed in respect of this transaction shall be registered in the proper land registry office within six months from the date that the Secretary-Treasurer's certificate is stamped on the deed, failing which the consent shall lapse.
9. The owner's solicitor shall also undertake to provide a copy of the registered Transfer to the Secretary-Treasurer as conclusive evidence of the fulfillment of the above-noted undertaking.
10. All of these conditions shall be fulfilled within a period of two years after the giving of the Notice of Decision, failing which, pursuant to Subsection 53(41) of the Planning Act, this consent shall be deemed to be refused.