

# The Corporation of the City of Kawartha Lakes

## Committee of Adjustment Report – Webster

Report Number COA2022-086

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### Public Meeting

**Meeting Date:** December 1, 2022

**Time:** 1:00 pm

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

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### Ward 3 – Geographic Township of Fenelon

**Subject:** The purpose of the consent application is to create a +/- 778.8 square metre easement in favour of the abutting lands (48 Finch Street) for the purpose of obtaining legal access to an improved public street.

Permission for consent is requested at **(Vacant lands) Lakebreeze Road** (File D03-2022-026).

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**Author:** Megan Peck, Planner II

**Signature:**



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### Recommendations

That Report COA2022-086 – Webster, be received;

That consent application D03-2022-026 be GRANTED, as the application represents good planning, and is in accordance with Section 53(1) of the Planning Act.

### Conditions of Provisional Consent

- 1) That lot configuration related to this approval shall proceed generally in accordance with the sketch in Appendix C submitted as part of Report COA2022-086, which shall be attached to and form part of the Committee's Decision; and,
- 2) See Appendix D

This approval pertains to the application as described in report COA2022-086. Fulfillment of all conditions is required for the Consent to be fulfilled.

### Application Summary

**Proposal:** To create an easement for access from Lakebreeze Road across the retained lands in favour of 48 Finch Street.

Owner: Alan Webster

Applicant: Alan Webster (Victor Webster Farms Ltd)

Legal Description: Part of Lot 27, Concession 8 (being Part of Private Drive on Plan 201)

Official Plan<sup>1</sup>: Waterfront (City of Kawartha Lakes Official Plan, 2012)

Zone<sup>2</sup>: Limited Service Residential 'LSR' (Township of Fenelon Zoning By-law 12-95)

Site Size: +/- 5,989.4 sq m (1.48 ac) – parcel subject to easement

Site Servicing: Vacant lot, no site servicing present

Site Access: Lakebreeze Road (improved road);  
Finch Street/Heart Lane Right of Way (unimproved road)

Existing Uses: Vacant lot;

Adjacent Uses: Residential; rural

## Rationale

This application proposes a consent to establish a deeded right of way (easement) for the benefiting lands located at 48 Finch Street. This easement will resolve a title error previously made during land conveyance.

The property located at 48 Finch Street will be benefitting from this easement (known as the dominant tenement), and previously had deeded access across the abutting Finch Street right of way, which constitutes a portion of the original subdivision plan (Plan 201). This right of way provided the property with legal access to an improved public street (Lakebreeze Road). This deeded and legal access was removed in error when the benefitting lot was conveyed to its current owner, Alan Webster. The purpose of this application is to ameliorate this error and reinstate access.

An extension of the Finch Street right of way (Hart Lane) appears to transverse the lot subject to easement (known as the subservient tenement or 'retained lands'), perpendicularly in the east-west direction, providing the waterfront lots that make up Plan 201 with deeded access to Lakebreeze Road. The proposed application for consent will recognize this existing right of way by creating a +/- 778.8 square metre easement in favour of the abutting lands (48 Finch Street) for the purpose of legal access. The proposed easement has +/- 6 metres of frontage on Lakebreeze Road, and constitutes a portion of the Finch Street Right of Way on Plan 201.

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<sup>1</sup> See Schedule 1

<sup>2</sup> See Schedule 1

### **Conformity with the 2020 Provincial Policy Statement and 2019 Growth Plan;**

The Subject Property is located outside of a rural settlement area, as per Schedule A-3 in the City of Kawartha Lakes Official Plan (2012). Section 1.1.5 and 1.1.4.1 of the Provincial Policy Statement (PPS) express the desire to promote and sustain development that is compatible with the rural landscape through the conservation and redevelopment of the existing rural housing stock and by using rural infrastructure and public service facilities efficiently.

The benefiting lot is an existing lot on record, and the proposed easement will allow for the lot's continued and uninhibited use now and in the future, preserving the existing rural housing stock; ergo, upholding Provincial Policy.

### **Conformity with the official plan and compatibility with adjacent uses of land**

The Subject Property is designated 'Waterfront' in the City of Kawartha Lakes Official Plan, 2012. Section 20.3.2. of the Official Plan permits single detached dwellings in the 'Waterfront' designation, and Section 28.6.7. permits lot access via an unimproved road for lots zoned Limited Service.

The transportation policies, under Section 28.6. of the Official Plan, indicate where lots do not have direct access onto a maintained year round municipal road or provincial highway, the City will not permit development to take place. This policy is implemented through a provision in the zoning by-law. The proposed consent for easement will rectify the lot's issue of access by providing egress to an improved road (Lakebreeze Road), upholding Official Plan policy.

The proposed easement is compatible with the adjacent residential land uses that have existing legal access over the Finch Street right of way as per Plan 201.

### **Compliance with zoning by-law**

Both the subservient tenement (0 Lakebreeze Road) and the dominant tenement or 'benefitting lands' (48 Finch Street) are zoned 'Limited Service Residential (LSR) Zone' under the Township of Fenelon Zoning By-Law 12-95. Section 3.6 of the By-law prohibits the establishment of a building, structure or use on any lot unless access for vehicular traffic is provided from an abutting improved street. The proposed easement appears to be in keeping with the general purpose and intent of the By-law by improving the lot's access to a municipally improved street.

### **Suitability of the land for the proposed purpose, including the size and shape of the lot(s) being created;**

The shape and size of the severed lands subject to easement is considered suitable for the purpose of the application, as it encompasses the existing traveled path of the Finch Street/Hart Lane right of way.

There are no anticipated impacts on environmental features; neighbouring properties; or, the function of the existing private 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:**

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**DS-Building, Plans Examiner:** “No comment”

**Bell Canada:** “Bell Canada does not have any comments or concerns regarding this application.”

**Public Comments:**

No comments received as of the writing of the staff report.

**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:** mpeck@kawarthalakes.ca

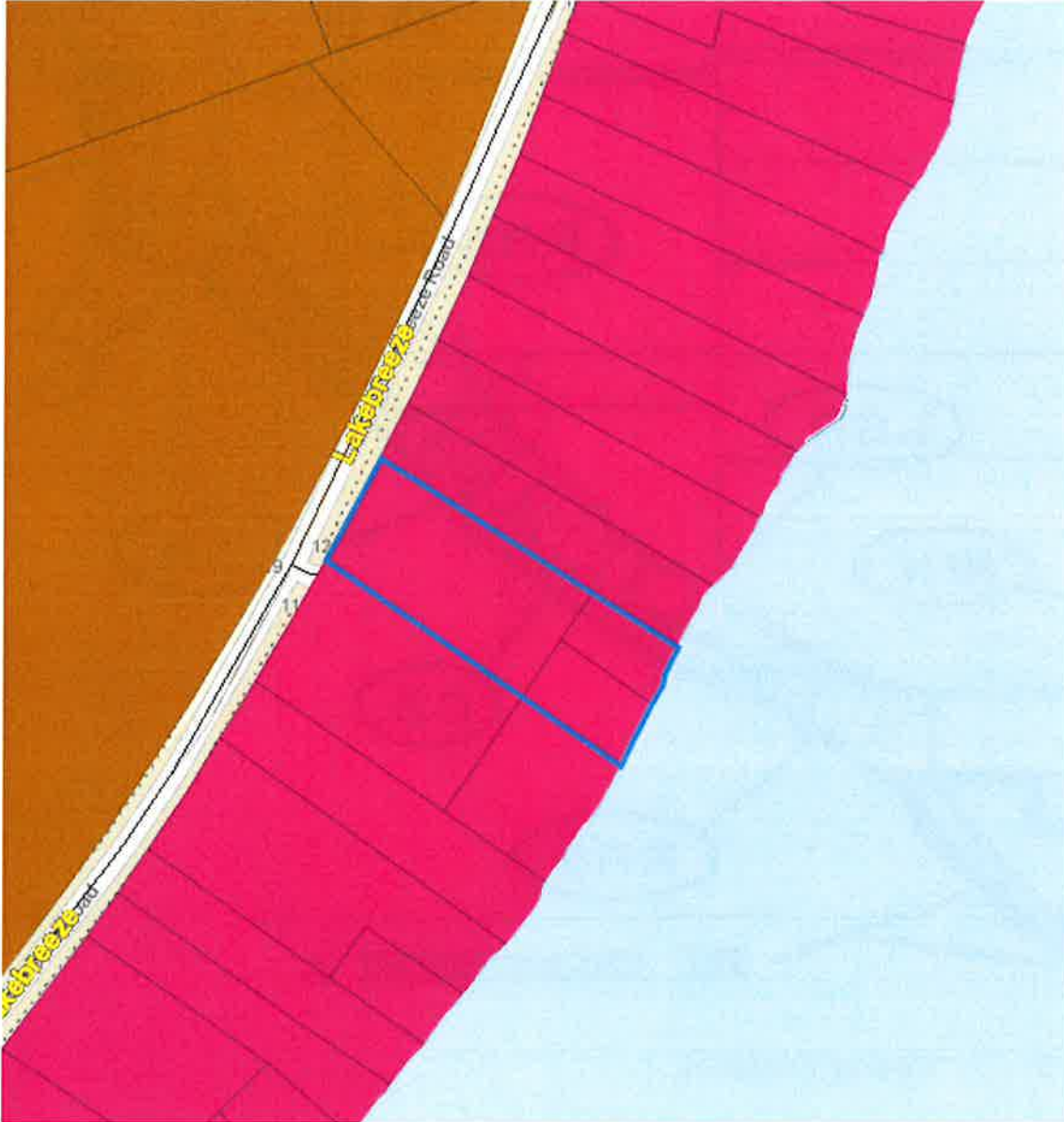
**Department Head:** Richard Holy, Director of Development Services

**Division File:** D03-2022-026

## Schedule 1 Relevant Planning Policies and Provisions

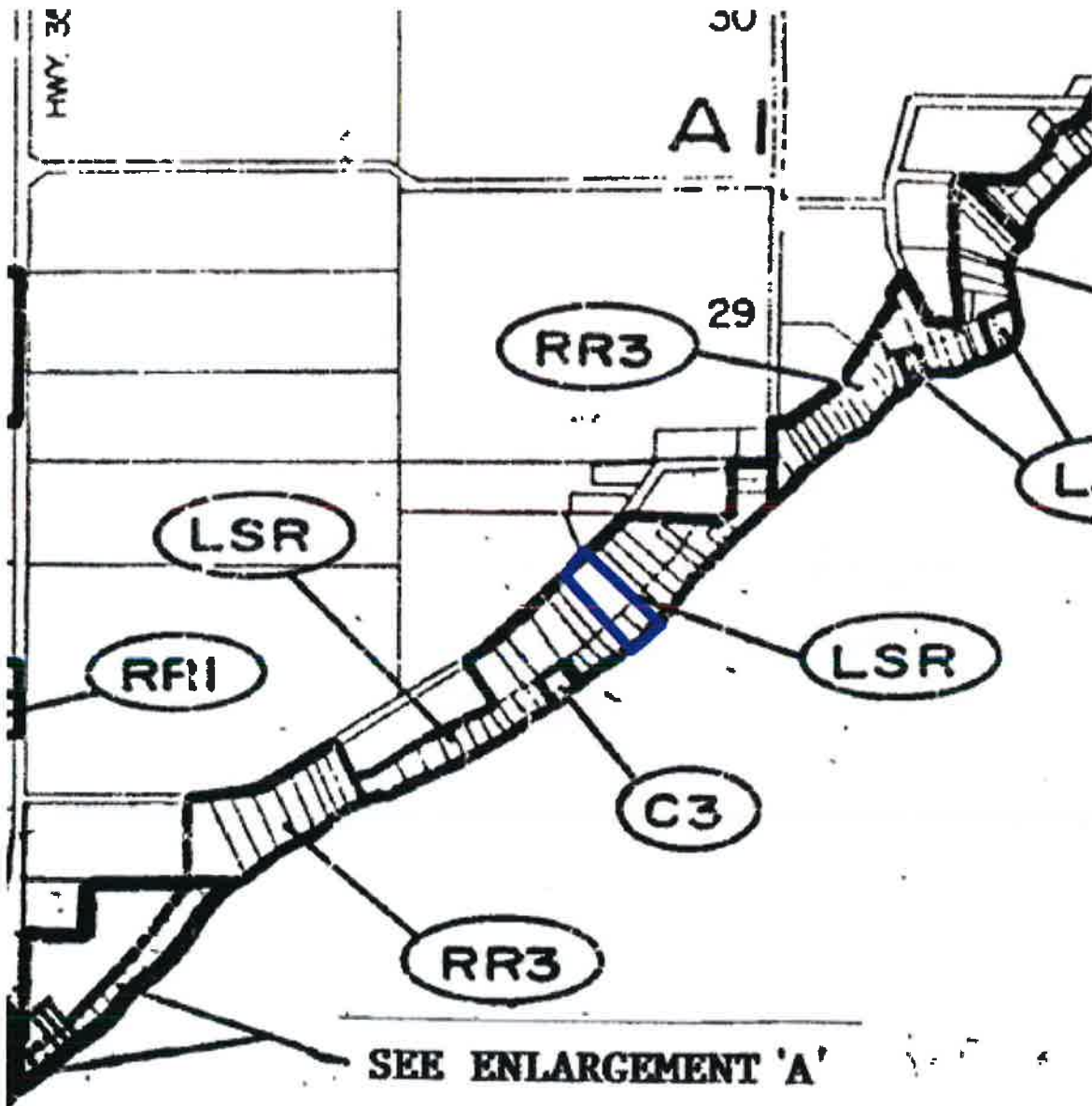
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### City of Kawartha Lakes Official Plan



#### 20. Waterfront Designation

**Township of Fenelon Zoning By-law 12-95**



Part 3      General Provisions

Part 15     Limited Service Residential (LSR) Zone

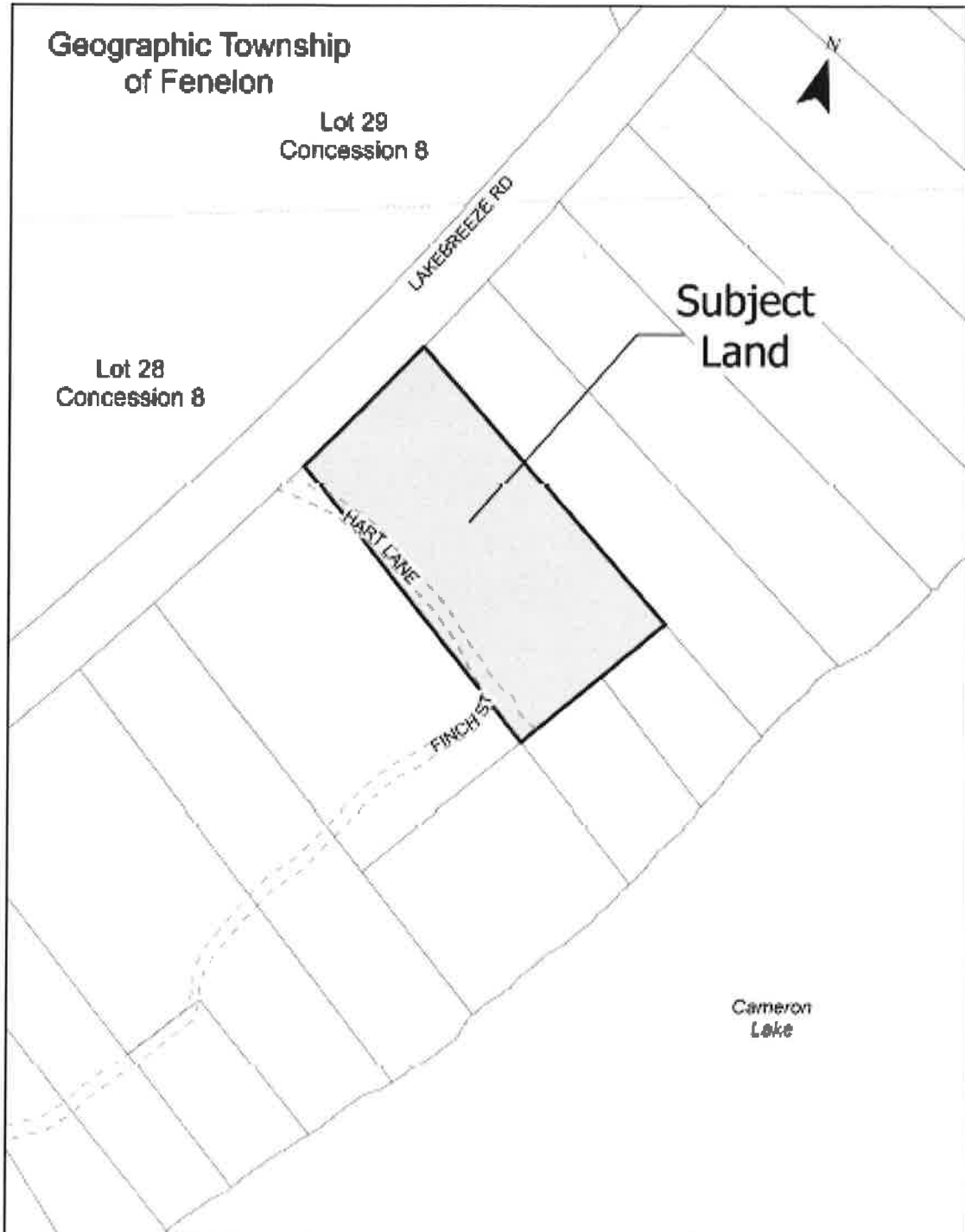
to

REPORT COA2022-086

FILE NO: D03-2022-026

**Location Map**

# D20-2022-077



to

REPORT COA2022-086

FILE NO: D03-2022-026

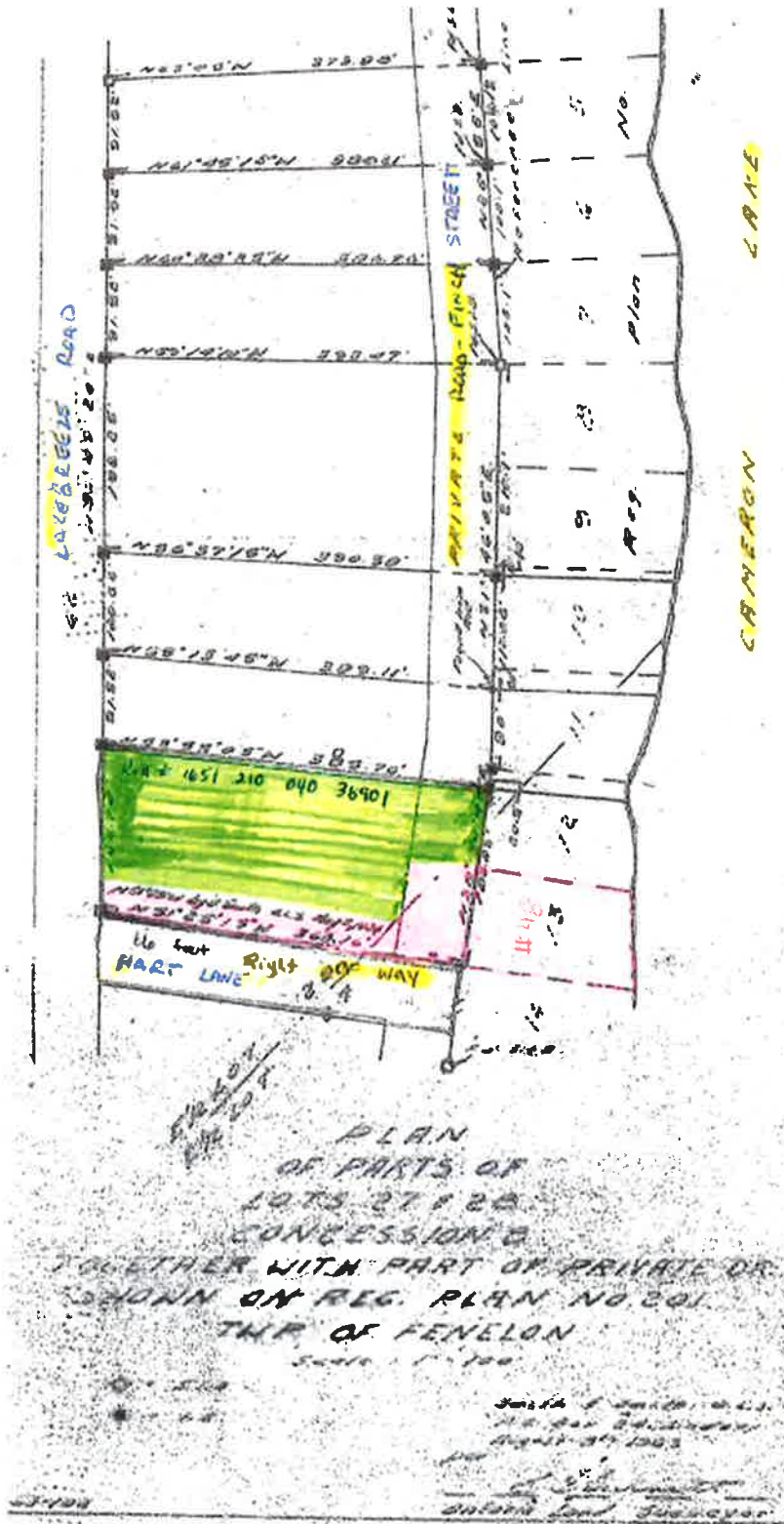
**Aerial Photo**





to

**Applicant's Sketch**



to

REPORT  COA2022-086 FILE NO:  D03-2022-026 **Proposed Conditions of Provisional Consent****Recommendation:**

**THAT** the +/- 778.8 sq m parcel to be severed for easement at 0 Lakebreeze Road (ARN: 165121004038901) be **GRANTED**:

**Proposed conditions of provisional consent: D03-2022-026**

1. This approval applies to the transaction applied for.
2. 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.
3. 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.
4. 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.
5. 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.
6. The owner shall pay all costs associated with the registration of the required documents.
7. 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.
8. 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.
9. 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.