

Rural Municipality of Eastern Kings

APPENDIX A

TO: Planning Board
FROM: Michael Olubiyi, Development Officer
APPENDIX A
DATE: April 1, 2022
RE: Subdivision Application PID #273672
APPLICANT: Ian Campbell
LOCATION: Priest Pond
ZONING: Agricultural Zone

PLANNING AUTHORITY:

The Municipality of Eastern Kings 2013 Subdivision and Development Control Bylaw.

SUMMARY OF PROPOSAL:

The applicant applied to subdivide four (4) lots off their property located at priest pond. The application was received on March 3, 2020. The applicant had engaged the Development Officer (DO) at that time on the possibility of the subdivision and setbacks requirement. The applicant, having contacted another development officer for advice, suggested that since the existing cottage on the proposed subdivision was built before the establishment of the 50 m setbacks required in the Bylaw, but greater than 30 m, it might be reasonable to relax the setback to 30 m from the water bodies. He believed that a 30 m setback, while less than the current Eastern Kings standard, would still be considerably larger than the Provincial regulation for a buffer from a wetland of 15m and 18m from a coastal zone.

The applicant discussed with the former Development Officer, who, after a presentation to the Planning Committee, indicated that the Committee would support the application assuming confirmation that the lots are at least one acre, soil suitability test and final approval by the council.

EVALUATION:

According to Subsection 12.2.1(c) of the Subdivision and Development control bylaw (2013), a setback of 60 metres (200 feet) is required for any development adjacent to the priest pond.

12.2. Special Requirements: Setbacks from Watercourses, Embankments and Lakes states;

1. Notwithstanding anything contained in this Bylaw, no person shall erect any building or structure in the Community:

c) 60 metres (200 feet) of the watercourse in North Lake Creek, Priest Pond, Creek west of the highway, the Basin Head area, or East Lake Creek.

Considering the survey plan submitted by the applicant, the proposed lots, if created, would be undevelopable except the lots would be used for buildings or structures used for fishing or bait sheds, aquaculture operations, boat launches, structures or buildings on a wharf, or wharf structures as stipulated in Section 12.2.2.

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The municipality can not create a new lot that the applicant can not develop for the purpose intended - a dwelling. Regarding the existing cottage on the property, it has been grandfathered in; however, it can not be further intensified. Section 5.19 of the Development bylaw addresses legally nonconforming uses of buildings, structures and lands.

Also, in Special Requirements Watercourse Areas and Coastal Areas, subsection 14.5.3(a)(i), a 50 metre (164 feet) buffer is required for subdivision adjacent to coastal and watercourse areas.

Section 14.5.3(a)(i) states; *Where a subdivision is located along a coastal area or watercourse, the subdivision shall include the following:*

i) where adjacent to a beach or a sand dune, a buffer having a minimum width of 50 metres (164 feet), measured from the top of the bank adjacent to the beach or watercourse or from the inland boundary of the sand dune.

The survey plan submitted does not meet the minimum bylaw requirement. The buffer proposed by the applicant indicates 100 feet buffer.

DEVELOPMENT OFFICER RECOMMENDATION:

The applicant has a number of options. They can redesign the subdivision to meet the subdivision and development control bylaw requirements by moving the subdivision further away from the watercourse to have enough space for the buffer zone and setbacks requirements. The applicant can also reduce the number of lots to accommodate the buffer zone and setback requirements.

Also, the applicant may want to apply for a bylaw amendment to change subsection 12.2.1(c) and Section 14.5.3(a)(i) requirements to their proposed size. The subdivision application can be approved if the amendment process is followed and the council approves it. However, the council must consider the erosion rate and advise the applicant to contact the province for erosion and flood risk assessment. The council could approve or deny the amendment application after following due process as enshrined in section 13 of the Bylaw. The decision to amend the Bylaw would affect this property and the whole municipality.

The municipality cannot approve the application as it is without first amending the Bylaw to suit the proposed setbacks. The Development Officer and Council cannot make decisions that would be inconsistent with the subdivision and development control bylaw. Such a decision would open the council up to Irac's appeal.

I will advise that if the applicant wants a decision on the subdivision application based on the survey plan submitted and does not want to review the subdivision plan to meet the Bylaw's requirements or reduce the number of lots, the planning board should recommend that the **Council deny the application.**

COORDINATE LIST
EXPRESSED IN (NAD27) FEET
PEI DOUBLE STEREOGRAPHIC PROJECTION

Point	Northing	Easting
1700	420289.01	710488.82
1701	420351.36	710484.88
1702	420611.76	711214.98
1703	420611.76	711214.98
1704	420683.48	711248.45
1705	420671.65	711287.39
1706	420913.34	711327.61
1707	420908.84	711348.14
1708	420908.84	711348.14
1709	420933.63	711375.35
1710	420931.28	711750.74
1711	420931.28	711750.74
1712	420472.03	711528.89
1713	420518.13	711220.36
1714	420518.13	711220.36
1715	420238.73	711344.47

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- NOTES**
1. THE FIELD WORK FOR THIS SURVEY WAS EXECUTED DURING THE PERIOD OF NOVEMBER 8, 2022.
 2. AZIMUTHS ARE GSD DERIVED AND REFERENCED TO EXISTING SURVEY PLANS AS SHOWN.
 3. ALL DIMENSIONS ARE GIVEN IN FEET, UNLESS NOTED.
 4. FOR THIS SURVEY TO BE VALID, IT IS NECESSARY TO BE APPROVED BY THE APPROPRIATE AUTHORITY.

LEGEND

LANDS DEALT WITH BY THIS PLAN

FOUND SURVEY MARKER

CALCULATED POINT

TREE/VEGETATION

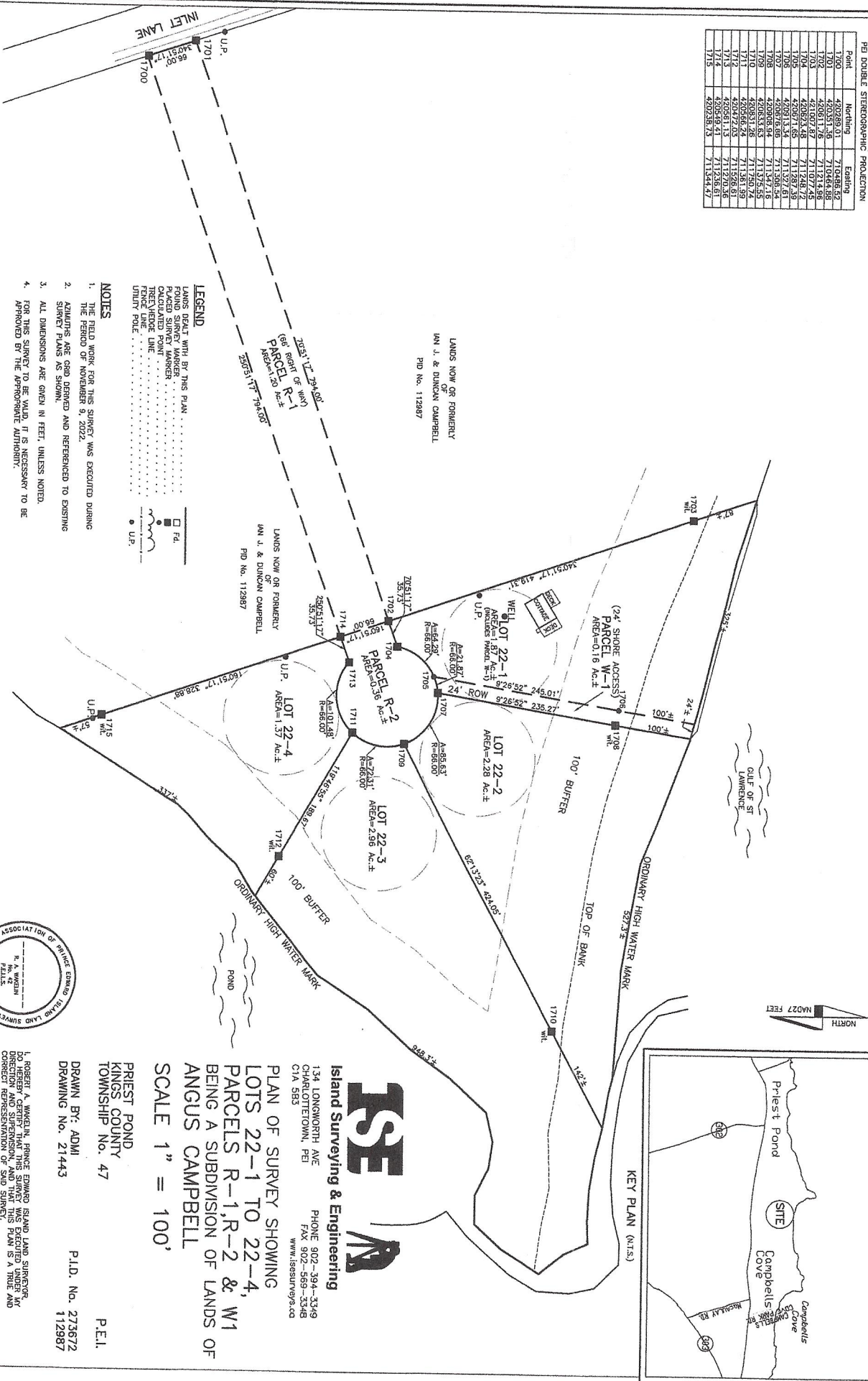
UTILITY POLE

U.P.

FD.

LANDS NOW OR FORMERLY
IAN J. & DUNCAN CAMPBELL
PID No. 112987

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ISE

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PLAN OF SURVEY SHOWING
LOTS 22-1 TO 22-4,
PARCELS R-1, R-2 & W1
BEING A SUBDIVISION OF LANDS OF
ANGUS CAMPBELL

SCALE 1" = 100'

PRIEST POND
KINGS COUNTY
TOWNSHIP No. 47

DRAWN BY: ADMI

P.I.D. No. 273672
112987

DATE: FEBRUARY 7, 2022

