

2023-03-30



Consent
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
Panel 3

Site Address: 3 Rock Forest Road, (3780) (3790) Greenland Road
Legal Description: Part of Lot 10, Concession 6, Former Township of Torbolton
File No.: D08-01-21/B-00422 & D08-01-21/B-00423
Date: March 30, 2023 Hearing Date: April 5, 2023
Planner: Sean Harrigan
Official Plan Designation: Rural Countryside
Zoning: RU - Rural Countryside Zone

DEPARTMENT COMMENTS

The Planning, Infrastructure and Economic Development Department has **significant concerns** with the application. At this time an **adjournment sine die** would be an appropriate approach in order to allow time for the Official Plan policies to be amended and for the applicant to revise the required Environmental Impact Statement and relocate the proposed severances.

If the Committee decides to hear this application as presented, the Department will be **objecting** to its approval.

DISCUSSION AND RATIONALE

The subject applications were originally heard on December 8, 2021 and subsequently adjourned sine die to allow time for the applicant to revise their Environmental Impact Statement (EIS) and potentially relocate their proposed severances. The applicant returned on February 1, 2023, however, a revised EIS was not provided and the proposed lot locations did not change. As such, planning staff requested a further adjournment. Planning staff met with the applicant to further clarify our concerns, however, no revisions to the proposed development or EIS have been made at this time. As such, the comments below remain largely unchanged from the previous hearing.

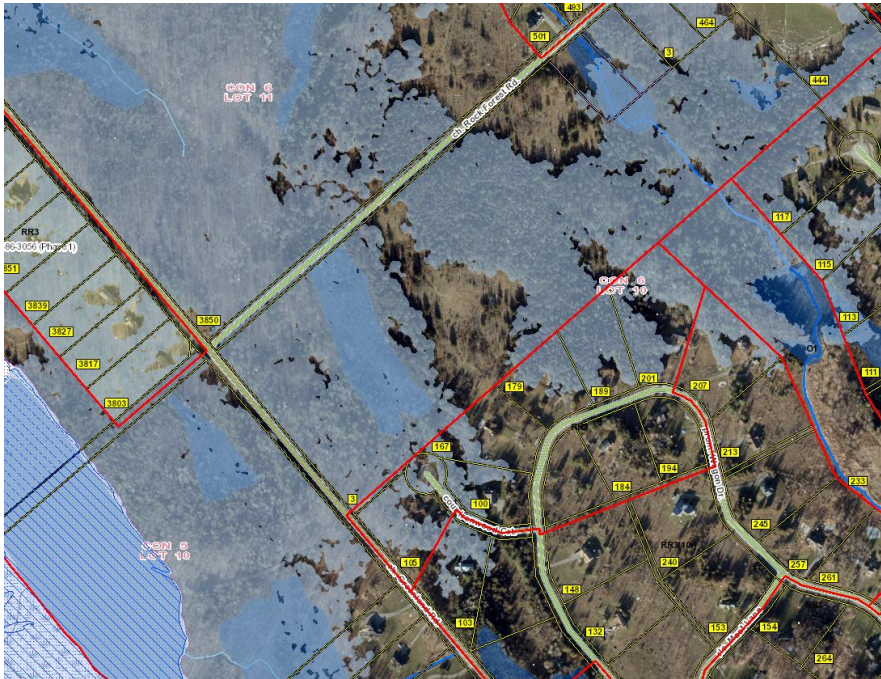
The applications were first heard under the 2003 Official Plan as the initial application was deemed complete before City Council approved the new Official Plan. However,



as the applications were adjourned sine die and in accordance with planning procedure, the application will now be evaluated under whichever Official Plan was applicable when the applications was deemed complete for the purpose of recirculation. In this case, the 2021 Official Plan applies.

The subject site is designated Rural Countryside by Schedule B9 of the Official Plan. The intent of the Rural Countryside designation is to accommodate a variety of land uses that are appropriate for a rural location, limiting the amount of residential development, and support industries that serve local residents and the travelling public, while ensuring that the character of the rural area is preserved.

The subject site is covered almost entirely in Natural Heritage Features, such as significant woodlands and unevaluated wetlands, as identified by Schedule C11-A. The property, and more specifically the proposed severance locations, is also directly across from a Natural Heritage System Core Area. As a result, an Environmental Impact Statement is required in accordance with Official Plan section 5.6.4.1. Staff have reviewed the EIS prepared in 2021 and have significant concerns that no negative impacts to the ecological features and functions has not been demonstrated. The primary concern is that the proposed lot creation is within significant woodlands and a natural heritage system that acts as a natural corridor between the natural features, including Provincially Significant Wetlands, on the property to the west known as 3791 Greenland and the natural features on the property to the north known as 3850 Greenland, as shown on the image below. Staff also note that previous subdivision development to the north and south have drastically reduced this natural connection in size such that this location of the subject site is increasingly important to the ecological functions of this area. As a result, it may not be possible, or at least exceptionally difficult, to demonstrate that development within this area will have no negative impacts to the natural features and their ecological functions. To this regard, Staff note that there is a large and small previous cleared area located approximately 500 and 250 metres from the current severance location that would accommodate the two severances and retained lot's development envelope without disrupting significant woodlands and/or the natural heritage system. The applicant has been made aware of these alternative locations.



In addition to the environmental concerns noted above, the Official Plan policy governing severances within the Rural Countryside designation (policy 9.2.3(3)) clearly states under criteria (h):

“All development on the lot shall be restricted to areas away from mature vegetation or natural features, and a development agreement may be required as a condition of severance to ensure the protection of these natural features; and”

Locating the proposed severances within the significant woodlands when there is sufficient space away from the mature vegetation and natural features is directly contrary to the Official Plan severance policy.

Planning staff have identified potential thin soils, bedrock outcrops, organic soils, and karst topography within the area. As a result, the Department requests a condition of approval requiring the owner(s) enter into a development agreement with the City to be registered on title that states potential thin soils, bedrock outcrops, organic soils, and karst topography are identified within the area and additional geotechnical engineering solutions may be required for future development, and the City bears no responsibility, financial or otherwise, to provide solutions. The Planning Department also requests a Geotechnical Investigation Report as a condition of approval to demonstrate that all parcels to be created are or can be made suitable for residential purposes. The Department requires this additional action pertaining to geological



concerns due to the combination of thin soils, organic soils, and bedrock outcrops with karst topography which is anticipated to be more frequent on the subject site than the immediate surrounding area.

Official Plan Severance Policy:

The Planning, Real Estate, and Economic Development Department must also object to the application due an error where multiple severance policies were combined into a single overly restrictive policy. In the Official Plan, Section 9.2.2 3) clauses a) through i) must all be met in order to sever. Sections a) through c) are the clauses which would have been intended to support the lot creation subject to this application. Clauses d), e) and h) are applicable to all consents in the Rural Countryside designation and clauses f) and g) relate to infill severances. The list, as written, indicates all clauses must be met, which this and most other ones cannot. It is Development Review staff's understanding that the Official Plan team will be preparing an amendment to clarify this, as the Province had been requested to, but did not. While it seems to have been Council's intent that the relevant severance policies for the subject application dictate that up to two residential lots may be created provided the retained lands will have a minimum area of 10 hectares and a minimum area of 0.8 hectares for the severed lands, the actual policy reads differently.

Staff note that the subject applications as presented will not adhere to this severance policy even after an Official Plan Amendment has been completed as the applications fail to satisfy criteria (h).

Conclusion

The Department concludes that the provided EIS has not demonstrated no negative impacts to the natural features and their ecological functions. In addition, the current wording of the Official Plan policies do not support the severances. As a result, the Planning Department requests an adjournment until the next available hearing date to allow time for the applicant to revise the lot placement and EIS.

Additional Information

Staff have requested a Geotechnical Investigation Report as a condition of approval to ensure the created lots are developable as staff have identified, based on Ontario Geological Survey and Geological Survey of Canada mapping, known thin soils and Karst topography on the subject site that may significantly impact development potential. Staff have also requested a notice on title warning any future land owners about the thin soils and Karst topography, as well as the potential for organic soils and bedrock outcrops within the area.



Should the Committee approve the applications despite the Department's objection, the Department requests the following conditions be imposed on the applications.

1. That the Owner(s) prepares and submits a revised Environmental Impact Statement (EIS) to satisfaction of the **Development Review Manager of the relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**. If the accepted report recommends specific mitigation measures or other requirements, the Owner shall enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the **Development Review Manager of the relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, which is to be registered on the title of the property, which includes those recommendations.
2. That the Owner enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of **Development Review Manager of the relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, which provides the following covenant/notice that runs with the land and binds future Owner(s) on subsequent transfers:

"The City of Ottawa does not guarantee the quality or quantity of the groundwater. If, at some future date, the quality or the quantity of the groundwater becomes deficient, the City of Ottawa bears no responsibility, financial or otherwise, to provide solutions to the deficiency, such solutions being the sole responsibility of the home owner."

The Committee requires a copy of the Agreement and **written confirmation from City Legal Services** that it has been registered on title.

3. That the Owners provide a report, to the satisfaction of the City of Ottawa, demonstrating the adequacy of the aquifer with respect to quality and quantity to support the proposed development, failing which the Owners construct a new well on the severed lot and provide a report, to the satisfaction of the City of Ottawa, to demonstrate the adequacy of the aquifer with respect to quality and quantity to support the proposed development. The report must include a septic impact assessment to evaluate the water quality impact of the on-site septic system on the receiving aquifer.

The Owners' report must demonstrate the following to the City of Ottawa:



- a. That the construction of any new well on the severed parcel is in accordance with the Ministry of the Environment, Conservation and Parks
- b. That the quality of the water meets the Ministry of the Environment, Conservation and Parks Regulations, Standards, Guidelines and Objectives;
- c. That the quantity of water meets all the Ministry of the Environment, Conservation and Parks requirements.
- d. That the septic impact assessment meets the Ministry of the Environment, Conservation and Parks requirements.

A qualified Professional Engineer or Professional Geoscientist must prepare the report. It is the Owner's responsibility to coordinate the person drilling a new well, if required, and the professional noted herein in order to properly satisfy this condition.

If the accepted report recommends specific mitigation measures or design requirements, the Owners shall enter into a Development Agreement with the City, at the expense of the Owners, which is to be registered on the title of the property, which includes those recommendations. In instances where the subject site has sensitive soils, the drilling of a well or the conveyance of a 30-centimetre reserve may be required. Both the report and any required Development Agreement shall be prepared to the satisfaction of **Development Review Manager of the relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate.**

The Report shall be prepared as per Procedure D-5-4 "Technical Guideline for Individual On-Site Sewage Systems: Water Quality Impact Risk Assessment" and Procedure D-5-5 "Technical Guideline for Private Wells: Water Supply Assessment".

4. That the Owner acknowledges and agrees to convey to the City, at no cost to the City, an unencumbered road widening across the complete frontage of the lands, measuring 13 meters from the existing centerline of pavement/the abutting right-of-way on Greenland Road and 10 meters from the existing centerline of pavement/the abutting right-of-way on Rock Forest Road, pursuant to Section 50.1(25)(c) of the Planning Act and Schedule C16 of the City's new Official Plan. The exact widening must be determined by legal survey. The Owner shall provide a reference plan for registration, indicating the widening, to the City Surveyor for review and approval prior to its deposit in the Land Registry Office. Such reference plan must be tied to the Horizontal



Control Network in accordance with the municipal requirements and guidelines for referencing legal surveys. The Owner(s) must provide to the City Surveyor a copy of the Committee of Adjustment Decision and a draft Reference Plan that sets out the required widening. The Committee requires written confirmation from City Legal Services that the transfer of the widening to the City has been registered. All costs shall be borne by the Owner.

The Owner is advised that the required road widening described above may be reduced or waived under certain situations, as described in Schedule C16 s.2.1.1 (c) of the Official Plan or where the right-of-way requirement exceeds the front yard setback or corner side yard setback, or where an existing building or structure encroaches into the required road widening, as of the day the Consent to Sever application was deemed complete, as applicable, and determined by the Director, Transportation Planning, Planning, Real Estate and Economic Development Department.

5. That the Owner convey a 5 m x 5 m corner sight triangle located at the intersection of Rock Forest Road and Greenland Road to the City, with all costs to be borne by the Owner(s), to the satisfaction of the Surveys and Mapping Branch of the City. This area will be free of all structures, plantings, etc. and will allow a proper sighting distance for motorists when performing turning movements within the intersection. The Committee must receive written confirmation from **City Legal Services** that the transfer of the lands to the City has been registered.
6. That the Owner(s) provide evidence (payment receipt) to the Committee that payment has been made to the City of Ottawa of cash-in-lieu of the conveyance of land for park or other public recreational purposes, plus applicable appraisal costs. The value of the land otherwise required to be conveyed shall be determined by the City of Ottawa in accordance with the provisions of By-Law No. 2009-95, as amended. Information regarding the appraisal process can be obtained by contacting the Planner.
7. That the Owner enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of **Development Review Manager of the relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, which provides the following covenant/notice that runs with the land and binds future Owner(s) on subsequent transfers:



“The City of Ottawa has identified that there are known thin soils and karst topography as well as potential bedrock outcrops and organic soils, within the area that may require site specific detailed geotechnical engineering solutions to allow for development, the City of Ottawa bears no responsibility, financial or otherwise, to provide solutions to the deficiency, such solutions being the sole responsibility of the home owner.”

The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title

8. That the Owner provide a Geotechnical Report prepared by a Professional Civil Engineer licensed in the Province of Ontario, that is satisfactory to **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, to be confirmed in writing from the **PREDD** to the Committee, demonstrating the following:
 - (a) That all parcels to be created by this application are or can be made suitable for residential purposes (slope stability, erosion protection, and building limits adjacent to slopes);
 - (b) That there are no adverse environmental impacts.

The Geotechnical Report shall, as a minimum, determine the limit of karst topography present on the severed parcel and provide recommendations for construction methods based on the site conditions encountered.

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