

2023-04-14



Consent
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
Panel 3

Site Address: 1980 Phelan Road W

Legal Description: Part of Lot 16 and 17, Concession 2, Former Township of North Gower

File No.: D08-01-23/B-00038

Date: April 14, 2023

Hearing Date: April 19, 2023

Planner: Sean Harrigan

Official Plan Designation: Agricultural Resource Area

Zoning: AG – Agricultural Zone and RC[56r] – Rural Commercial Zone, Exception 56

Application Synopsis (Revised April 13, 2023)

The Owner wants to subdivide the property into two separate parcels of land to create a new lot for agricultural **farm consolidation purposes**.

The Owner requires the Consent of the Committee for a Conveyance, a Partial Discharge of Mortgage/Charge and a Mortgage/Charge.

The severed land, shown on a sketch filed with the application, will have **combined** frontages of ~~598.07~~ **651.47** metres, an irregular depth, and a lot area of ~~36.84~~ **approximately 62** hectares. This vacant parcel will continue to be used for agricultural purposes and will be known municipally as 6645 Third Line Road.

The retained land, also shown on said sketch, will have frontage of 490.32 metres, an irregular depth, and a lot area of ~~36.48~~ **approximately 10** hectares. This parcel will contain the existing business use ("Strathmere" wedding and hospitality) and associated buildings known municipally as 1980 Phelan Road.

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **objects** to the application.

DISCUSSION AND RATIONALE



Application History

The subject application was first heard on March 15, 2023 and subsequently adjourned to allow time for the applicant to discuss planning staff's concerns with the application. The application was heard again on April 5, 2023 and adjourned following comments from the Panel members. The applicant has since returned with a revised application to sever the existing commercial business from the vacant agricultural fields.

Rationale

The subject site is designated Agricultural Resource Area by Schedule B9 of the Official Plan. The intent of the Agricultural Resource Area designation is to protect farmland for long-term use for agricultural production. Severances within this designation are significantly limited by the Provincial Policy Statement (PPS) section 2.3.4 and Official Plan section 9.1.

The subject site is currently 72 hectares and consists of primarily agricultural fields along with an events and wedding venue facility along Phelan Road. Almost the entire property is anticipated to be covered by the updated RVCA floodplain mapping.

The proposed severance application seeks to sever the existing wedding venue commercial operation from the agricultural fields so the farming operation can be consolidated. To this regard, the application falls between the agricultural related severance policies and surplus farmhouse severance policies of the Official Plan and PPS in that the applicant proposes the severance of a commercial operation surplus to the farming operation. This application clearly does not meet the PPS and Official Plan policy requirements for either the agricultural related severance policies or surplus farmhouse severance policies due to the fact that a surplus dwelling is not being severed and the wedding venue does not fit the requirements or description of agricultural related uses. However, staff note that the intent of both policies is to protect agricultural lands for long-term agricultural use. Severing the vacant agricultural lands from the commercial operation allows for farm consolidation thereby contributing to the long-term protection of these lands for continued agricultural use. Furthermore, staff have requested a condition of approval that requires the rezoning of the proposed vacant farmland to prevent residential development thereby allowing for greater adherence to the PPS and Official Plan policies and general intent. Staff have also requested a condition of approval that requires proof of sale/purchase of the vacant agricultural fields to a bonified farmer to ensure consolidation of farming operations.



In addition to the comments above, staff generally have concerns with the fragmentation of currently cropped agricultural fields. The revised application notes that the agricultural fields proposed to be retained with the commercial operation are necessary for the food production associated with the commercial operation. However, staff have concerns that extent of currently cropped land proposed to be kept with the retained land exceed the demand of the commercial operation.

The Department requests the following conditions be imposed on the application.

1. That the Owner, or any subsequent owners, provides written confirmation acknowledging that the private approach, including temporary construction access to the severed land, shall be designed and located in accordance with and shall comply with the City's Private Approach By-Law, being By-law No. 2003-447, as amended, and shall be subject to approval of the **Right-of-Way Management Department** and the **General Manager, Planning, Real Estate and Economic Development**. Furthermore, if required, the Owner shall submit a letter of written permission from the area **Conservation Authority**, which confirms that the construction of the temporary or permanent private approach conforms to the legal standards set out in the Conservation Authority Acts.
2. 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 along Phelan Road West, measuring 15 meters from the existing centerline of pavement/the abutting right-of-way along Prince of Wales Drive, and 13 meters from the existing centerline of pavement/the abutting right-of-way along Third Line Road South, 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.

3. That the Owner(s) obtain a Zoning By-law Amendment, 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**, to be confirmed in writing from the Department to the Committee, which rezones the severed vacant agricultural lands to prevent residential development, with all levels of appeal exhausted.
4. That the Owner(s) provide proof, to the satisfaction of the **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, of the purchase of the lands to be consolidated by the farm operator or a legally binding agreement of purchase and sale.
5. That the Owner(s) provide evidence, to the satisfaction of the **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, that the Site Plan Control agreement currently registered on title will remain with the retained commercial parcel only.

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