

2023-04-28



Consent
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
Panel 3

Site Address: 3253 Swale Road

Legal Description: Part of Lot 29, Concession 15, Former Municipality of Osgoode

No.: D08-01-23/B-00079

Date: April 27, 2023

Hearing Date: May 3, 2023

Planner: Luke Teeft

Official Plan Designation: Rural Countryside

Zoning: RU – Rural Countryside

DEPARTMENT COMMENTS

The Planning, Real Estate, and Economic Development Department has **No Concerns** with the application as submitted subject to the following requested conditions.

DISCUSSION AND RATIONALE

The subject property is designated Rural Countryside on Schedule B9 of the Official Plan. The intent of the Rural Countryside designation is to protect and enhance rural character; strengthen the rural economy by permitting a diversity of uses that support the local rural community; limit the fragmentation of rural lands and ensure the preservation of health.

The subject property is zoned RU - Rural Countryside Zone according to the City of Ottawa Zoning By-Law (Section 227). The purpose of the Rural Countryside Zone is to accommodate agricultural, forestry, and country residential lots created by severance and other land uses characteristic of Ottawa's countryside. It recognizes and permits this range of rural-based land uses which often have large lots or distance separation requirements and regulates various types of development in manners that ensure compatibility with adjacent land uses and respects the rural context.

The applicant proposes to convey a portion of the lot at 3253 Swale Road shown as



Part 2 on a draft 4R plan submitted with the application, to the property at 3275 Swale Road. Following the lot line adjustment, 3275 Swale Road will have frontage of 95.36 metres on Swale Road and a lot area of ~1.25 hectares. The retained lot will have 202.39 metres of frontage on Swale Road and an area of 38.07 hectares.

Though the lot line adjustment technically qualifies for an Environmental Impact Statement (EIS) based on its proximity to the unevaluated wetlands and Natural Heritage System Core Area, We do not believe that an EIS is necessary here. The EIS Guidelines provide the authority for the reviewing planner to defer or waive the need for an EIS in the case that “he or she is satisfied that (a) the Scoped EIS would be more appropriately conducted at a later date, or (b) the risk of negative impacts occurring as a result of the proposed project is extremely low to non-existent, such that the completion of the Scoped EIS Form would not afford any useful benefit to the environment, the applicant or the City.”

In this instance, both of these conditions are met. The proposed adjustment has no bearing on the physical features present on site and therefore could not pose any threat of significant negative impact. Additionally, due to the presence of several triggers for an EIS on the site, any proposed development in the future would be required to conduct an environmental review before development could happen.

An EIS is not necessary at this point but may be required for future development on-site.

The department has no further concerns with the application as subject to the following conditions.

CONDITIONS:

1. 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 homeowner.”



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

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 Swale 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.
3. That the Owner file with the Secretary-Treasurer of the Committee of Adjustment the following:
 - a. A copy of the Reference Plan and/or legal description of the severed land and the deed or instrument conveying the severed land to the owner of the abutting property to the southwest, known municipally as 3275 Swale Road, so that no new lot is being created, in accordance with paragraph (b) below;
 - b. A Certificate of Official attached to the deed/transfer required by paragraph (a) above containing the following endorsement:

"The lands to be severed are for the purpose of a lot addition only to the abutting lands owned by (insert name) described as PIN 043080196 being **Part 4** on Plan 4R-29679, not for the creation of a new lot, and any subsequent transfer, charge or other transaction involving the lands to be severed shall be subject to compliance with Section 50(3) or Section 50(5) of the Planning Act, as applicable. Neither the lands to be severed nor the abutting lands are to be transferred, charged or otherwise re-conveyed in the future without the other parcel unless a further consent is obtained. The Owner shall cause the lands to be severed to be consolidated on title with the abutting lands and for this condition to be entered on the parcel



register for the consolidated parcel as a restriction”;

- c. An Undertaking from a solicitor authorized to practice law in the Province of Ontario, and in good standing with the Law Society of Upper Canada, as follows:

“In consideration of, and notwithstanding the issuance of the Certificate under Section 50(12) of the Planning Act in respect to the subject Application for Consent, I undertake on behalf of the Owner, within **30 days** of the registration on title of the transfer document containing the endorsement set out in the Certificate of Official issued by the Committee of Adjustment, to file an Application to Consolidate Parcels including the severed land (Part of PIN 043080198) and the abutting land (PIN 043080196). This PIN consolidation is intended to reinforce the Planning Act stipulation in the condition outlined above that both parcels have merged on Title and cannot be conveyed separately in the future. I further undertake to forward a copy of the registered Application to Consolidate Parcels and a copy of the Consolidated Parcel abstract page(s) to the Committee office within 21 days of the registration of the Application to Consolidate Parcels”.

- d. Where the parcel consolidation stipulated in paragraph (b) and the solicitor’s Undertaking in paragraph (c) above cannot be reasonably completed because the parcels of land to be merged have different estate qualifiers, an Application to Annex Restrictive Covenant under Section 118 of the *Land Titles Act* must be registered on the Title of both the severed lands and on the abutting parcel that is to be merged. The Covenant, which is to be to the satisfaction of the Secretary-Treasurer of the Committee, shall advise all future purchasers that the parcels must be dealt with together and not separately, and contain wording set out below or similar wording acceptable to the Secretary-Treasurer of the Committee:

“These lands have been merged and may not be dealt with separately, without applying for a Consent of the Committee of Adjustment”.

In lieu of the Undertaking provided in paragraph (c), a replacement Undertaking by the solicitor must be filed undertaking on behalf of the Owner to register the Restrictive Covenant on both property Titles within 30 days of the registration of the transfer document containing the endorsement of the Certificate of Official issued by the Committee of Adjustment for this application and to file a copy of the registered



Restrictive Covenant with the Committee within 21 days of the registration of the document.

A handwritten signature in black ink that reads "Luke Teeft".

Luke Teeft
Planner I, Development Review, PRED
Dept.

A handwritten signature in blue ink that reads "Cheryl McWilliams".

Cheryl McWilliams, MCIP, RPP
Planner III, Development Review, PRED
Dept.