

2023-05-16



Consent
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
Panel 3

Site Address: 3575 Paden Road

Legal Description: Part of Lot 14, Concession 2, Former Municipality of Rideau

No.: D08-01-22/B-00325-B-00326

Date: May 11, 2023

Hearing Date: May 17, 2023

Planner: Luke Teeft

Official Plan Designation: Rural Countryside, Greenspace

Zoning: RU – Rural Countryside; EP3 – Environmental Protection, Subzone 3

DEPARTMENT COMMENTS

The Planning, Real Estate, and Economic Development Department **Must Object or request an Adjournment** at this time to the application as submitted.

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, with a portion of the retained lands zoned EP3 – Environmental Protection Zone, Subzone 3 according to the City of Ottawa Zoning By-Law (Sections 184 & 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. The purpose of the Environmental Protection Zone is to recognize lands which are designated in the Official Plan as Significant Wetlands, Natural Environment Areas and Urban Natural Features that contain important environmental resources.

Section 9.2.3 (3) of the Official Plan describes the severance policies for the Rural Countryside. As mentioned, the intent of these policies is to permit limited residential



severances to prevent the fragmentation of rural lands and preserve the health of these lands. 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.

The Planning, Real Estate, and Economic Development Department must Object or request an adjournment at this time to the application as submitted. In the Official Plan, Section 9.2.2 3) clauses a) through h) 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.

The applicant proposes to subdivide the property into three separate parcels of land to create two new lots for future residential development. The proposed lots will both have frontage of 80 metres on Paden Road, a depth of 100.5 metres, and lot areas of approximately 0.8 hectares each. The retained lands will have frontage of 92 metres on Paden Road, a depth of 874 metres, and will contain a lot area of approximately 21.91 hectares. This lot contains an existing detached dwelling and will continue to be known municipally as 3575 Paden Road.

The subject site contains natural features and is a part of a Natural Heritage Systems Core Area within Schedule C11 of the Official Plan. The proposed lots are located within these features, however the Environmental Impact Statement provided with the application identifies 0.2-hectare development envelopes which are deemed satisfactory. As such Planning has no concerns with the proposed lots apart from the discrepancy within the Official Plan Rural Countryside Severances Policy.

The Department has the following additional information to convey to the Applicant:

- The proposed severed lot(s) do not currently contain a driveway/private approach. The applicant will need to design and locate the private approach in accordance with the City of Ottawa's Private Approach By-law in place at the time of construction. The applicant will need to apply for a Private Approach Permit and Road Cut Permit(s) in accordance with the said by-law and pay any



associated application fees. The current Private Approach By-law and associated application information can be found here:

<https://ottawa.ca/en/planning-development-and-construction/construction-right-way/driveways>.

- The EIS provided by Gemtec has the following important information included within:

“The following mitigation measures provided are to be implemented before issuance of a building permit in order to avoid contravention of the Endangered Species Act (ESA):

- *Prior to issuance of a building permit for the retained parcel, an Information Gathering Form should be submitted to the Kemptville District Ministry of Environment, Conservation and Parks (MECP).*
- *The Information Gathering Form is required to outline the proposed development details and avoidance and mitigation measures to be enacted to ensure no adverse effects occur to Blanding’s turtle or its regulated habitat. The Information Gathering Form should be prepared by a qualified professional with experience in species at risk management.”*

It is noted that the report was prepared under the Old Official Plan but is still applicable to this case.

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 enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of **Development Review Manager of the Rural 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 potential thin soils 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

3. 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 Paden 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.
4. 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:

- That the construction of any new well on the severed parcel is in accordance with the Ministry of the Environment, Conservation and Parks
- That the quality of the water meets the Ministry of the Environment, Conservation and Parks Regulations, Standards, Guidelines and Objectives;
- That the quantity of water meets all the Ministry of the Environment, Conservation and Parks requirements.
- 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 Rural Branch within Planning, Real Estate and Economic Development Department, or his/her designate.**

5. That the Owner(s) provide plans, drawings or reports as may be required to demonstrate, to the satisfaction of the **Manager, Right-of-Way, Heritage, and Urban Design Department or his/her designate** that a private approach that conforms with the Private Approach By-law (2003-447) can reasonably be established on the severed land, to be confirmed in writing from the Department to the Committee.



6. That the Owner(s) enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the **General Manager of the Planning, Infrastructure and Economic Development Department, or his/her designate**, which is to be registered on the title of the property, which includes the recommendations included within the Environmental Impact Statement prepared by Gemtec on August 20, 2022.

A handwritten signature in black ink, appearing to read "Luke Teeft".

Luke Teeft
Planner I, Development Review, PRED
Dept.

A handwritten signature in blue ink, appearing to read "Adam Brown".

Adam Brown
Manager, Development Review, PRED
Dept.