

2023-06-19



**CONSENT APPLICATION
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
PANEL 3**

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 6780 & 6788 Third Line Road
Legal Description: Part of Lot 24, Concession 3 former Geographic Township of North Gower
File No.: D08-01-23/B-00130
Report Date: June 19, 2023
Hearing Date: June 20, 2023
Planner: Jack Graham
Official Plan Designation: Agricultural Resource Area
Zoning: AG2 – Agricultural Zone, Subzone 2

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **recommends refusal** of the application.

DISCUSSION AND RATIONALE

Section 53 (12) of the *Planning Act*, R.S.O. 1990, c .P.13, as amended, permits the criteria for the subdivision of land listed in Section 51 (24) to be considered when determining whether provisional consent may be granted by a committee of adjustment. With respect to the criteria listed in Section 51 (24), staff have concerns with the proposed consent, as it does not comply with the Official Plan or Provincial Policy Statement.

The subject site is designated Agricultural Resource Area on Schedule B9 of the Official Plan. These lands are to be protected as required by the Provincial Policy Statement, and residential development is to be limited. The site is zoned as AG2 – Agricultural Zone, Subzone 2.

The parcel at 6788 Third Line Road was created in 1987 by consent. Several other adjacent parcels were created in 2003, and the parcel known as 6780 Third Line was to be conveyed to the owners of 6788 Third Line Road, as per Committee of Adjustment decision D08-01-03/B-00478. A condition was included that the parcel in question cannot be conveyed by itself without a further Planning Act application, and that it was considered to have merged with 6788 Third Line Road.

The parcel known as 6788 Third Line Road had an existing dwelling. In September 2022, a building permit was issued to create a dwelling on the area known as 6780 Third Line Road. It is the Planning department's position that this building permit should not have been issued, as the two parts merged on title after the consent in 2003, and no further Planning Act application was approved to sever the parts after that. This understanding has been confirmed by City of Ottawa legal staff.

Section 9.1.3 Policy 3 of the Official Plan sets out the requirements for lot creation in the Agricultural Resource Area. 3 (a) states that the lot must contain a dwelling made surplus through farm consolidation. This severance is not due to farm consolidation, so it does not comply with the Official Plan policy. This policy is echoed in the Provincial Policy Statement, Section 2.4.3.1 (c).

In summary, the severance cannot be supported. The lots merged on title in 2003, and no subsequent Planning Act application was approved to sever the lots, as required as a condition of the 2003 conveyance. The current Official Plan and Provincial Policy Statement do not support the severance, therefore staff recommend refusal of the application.

CONDITIONS

If approved, the Planning, Real Estate and Economic Development Department requests that the Committee of Adjustment impose the following conditions on the application:

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 sensitive marine clays 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 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.
4. That the Owner(s) provide evidence that payment has been made to the City of Ottawa for cash-in-lieu of the conveyance of land for park or other public recreational purposes, plus applicable appraisal costs. The value of land otherwise required to be conveyed shall be determined by the City of Ottawa in accordance with the provisions of By-law 2022-280, as amended. Information regarding the appraisal process can be obtained by contacting the Planner.



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