Consent
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
Panel 3

Site Address: 6305 Dobson Lane
Legal Description: Part of Lot 22, Concession 2, former Township of Goulbourn
File No.: D08-01-22/B-00306
Date: June 28, 2023 Hearing Date: July 4, 2023
Planner: Sean Harrigan
Official Plan Designation: Rural Countryside, Natural Systems Core Area Overlay
Zoning: RU – Rural Countryside Zone

SYNOPSIS OF APPLICATION

The Owner wants to subdivide its property into two separate parcels of land to create one new lot for future residential development.

The Owners require the Consent of the Committee for Conveyances.

The severed land, shown as Part 1 on a Sketch filed with the application, will have a frontage on Richland Drive of **0 metres**, a depth of 220.8 metres, and will contain a lot area of 2.01 hectares. This vacant parcel will be municipally known as 6311 Dobson Lane.

The retained land, shown as Part 2 on the sketch, will have a frontage of **0 metres** on Richland Drive, an irregular depth of 810 metres and a lot area of 46.38 hectares. This vacant parcel will beknown municipally as 6305 Dobson Lane.

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **Objects** to the applications.

DISCUSSION AND RATIONALE

Application History:
The subject application was heard on January 11, February 15, March 15, and May

3, 2023 and subsequently adjourned each time in order to discuss planning staff's comments. The applications have not changed since the original hearing date and as such, the comments below remain largely unchanged since the last hearing.

The subject applications were deemed a complete submission on December 12, 2022 by the Committee of Adjustment. As this is after the Ministers approval of the new Official Plan on November 4, 2022, the applications must be reviewed under the new Official Plan. City Legal Services have confirmed this position in response to a letter from the applicant's lawyer questioning which Official Plan is applicable.

Discussion:

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 currently vacant with the majority of the property consisting of natural features including some designated Natural Heritage Systems Core Area by Schedule C11-B. The proposed road extension and severance are located entirely within this designation. Development within this designation shall maintain or enhance the integrity, biodiversity, and ecosystem services of the area, and not compromise the potential for long term enhancement of restoration of the ecological integrity, biodiversity, and ecosystem services of the area. The subject site currently does not have access to a maintained public road as the Right-of-Way (ROW) allowance located on the property's southern lot line is not maintained. The road and proposed lot lie within proximity of an active rail corridor.

The proposed development consists of one severance located near the northern lot line along a new road allowance extending from Richland Drive. There is also a proposed concept plan that shows Richland Drive branching off the new extension to facilitate potential Village expansion. Richland Drive is currently a dead-end street contained entirely within the Village of Richmond.

Extending a street outside the Village boundary to facilitate new development is considered expansion of the Village boundary. The Village of Richmond is a

settlement area as defined by the Provincial Policy Statement (PPS) and as such, this application must adhere to PPS section 1.1.3.8 and 1.1.3.9. The subject applications cannot satisfy these PPS policies and as such, they are not appropriate development.

Under Official Plan policy 9.2.2.(3), development within 1km of a Village boundary will be reviewed to ensure it shall not impede the expansion of the settlement area and all of the follow criteria shall be considered:

a) The use is a compatible use with a village or urban area;
b) The development has frontage on an existing public road;
c) The site shall consider future multi-modal connections and be designed to accommodate these along with street trees in the future; and
d) The use can be adequately serviced by on-site systems and will not place demand on the extension of public services for any reason, including fire suppression or contaminated groundwater.

The proposed development does not have frontage on an existing public road and therefore fails to satisfy this policy. Also, while the residential use is compatible within the Village, the size of the proposed residential use is not. Furthermore, given the significant environmental and engineering constraints, it is unknown whether the proposed severance and road location are appropriate and do not impede potential Village expansion.

As per the Secondary Plan, any new development in Richmond must connect to the central wastewater collection system. While the proposed severances are outside the Village boundary, the necessary road extension and lifting of the 30cm reserve would occur within the Village boundary and corresponding policies. As a result, it is unclear whether extension of these services would be required with the extension of Richland Drive.

As mentioned above, the subject site is entirely within the Natural Heritage Systems Core Area overlay as shown on Schedule C11-B of the Official Plan. As per Official Plan policy 5.6.4.1(1)(a), development or site alteration shall maintain or enhance the integrity, biodiversity, and ecosystem services of the area; and, not compromise the potential for long-term enhancement and restoration of the ecological integrity, biodiversity and ecological services of the area. Construction a new road through

natural features along with the proposed development envelopes means a considerable amount of natural features are removed and compromises the potential for long-term enhancement and restoration. Staff have reviewed the Environmental Impact Statement (EIS) submitted in support of the applications and have significant concern that the proposed development does not maintain or enhance the natural features. As such, staff must oppose this application at this time.

In addition to the environmental policies above, the rural severance policy in Official Plan section 9.2.3(3) clearly states under criteria (h) that 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. While nearly the entire property is covered is natural features and subject to the Natural Core Systems Area Overlay, there are areas of land near the southern lot line that are previously disturbed and removed of mature vegetation and natural features. As of right now, the applications fail to satisfy this policy.

The proposed severances are within proximity of an active railway line and as such, a noise study is required to ensure the appropriateness of the proposed development. In accordance with the Official Plan, staff have requested a noise study as a condition of approval.

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 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. 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 applications will not adhere to criteria (h) after the anticipated Official Plan amendment.

Conclusion:
The Planning, Real Estate, and Economic Development Department must object to the application. Extending Richland Drive from within to outside the Village boundary is contrary to the PPS and Official Plan regarding expansion of settlement areas, development within proximity of a settlement area, and protection of natural heritage features. The proposed severances are not appropriate development.

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

The Planning Department has identified potential sensitive marine clays, organic soils, and thin soils within the area. As a result, the Department has requested a condition of approval that requires the Owner enter into agreement with the City that is to be placed on title stating that additional studies and/or reports may be required to address the potential sensitive marine clays, organic soils, and thin soils and the City bears no responsibility, financial or otherwise, for providing solutions.

Based on geological survey information sensitive marine clays are likely to be found in the location of the application. The application shall follow the City of Ottawa's Trees in Clay Soils Policy as shown here https://ottawa.ca/en/city-hall/planning-and-development/community-plans-and-design-guidelines/design-and-planning/completed-guidelines/tree-planting-sensitive-marine-clay-soils-2017-guidelines.

Should the Committee decide to hear the* application *as scheduled, the Planning Department requests the following conditions be imposed 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 home owner."

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 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”.

3. 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. 2022-280, as amended. Information regarding the appraisal process can be obtained by contacting the Planner.

4. The Owner shall provide written confirmation to the **General manager, Right-of-Way, Heritage, Urban Design Department** that the one-foot reserve on Richland Drive has been lifted to allow vehicular access to the severed and retained lands.

5. That the Owner enter into an 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 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 clay soils, organic soils, and thin 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

6. 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, Infrastructure 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, Infrastructure and Economic Development Department, or his/her designate**, which is to be registered on the title of the property, which includes those recommendations.

7. That the Owner(s) complete a Road Opening Application, at the owner(s) expense and to the satisfaction of the **Development Review Manager of the relevant Branch within Planning, Infrastructure and Economic Development Department, or his/her designate**, to extend Richland Drive in accordance with the approved applications and such that each severed and retained lot is zoning compliant. The road must be constructed to a point that an in-service memo has been issued by the City and that each severed and retained lot can obtain a private approach permit before this condition can be cleared.

8. The Owner(s) shall prepare a noise study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the **Development Review Manager of the Rural Branch within Planning, Real Estate and Economic Development Department, or his/her designate**. The Owner(s) shall enter into an agreement with the City that requires the Owner to implement any noise control and vibration attenuation measures recommended in the approved study. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

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