

2023-07-28



**MINOR VARIANCE APPLICATION
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
PANEL 3**

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 5030 MacHardy Road
Legal Description: Part of Lots 23 & 24, Concession 5, Geographic Township of Fitzroy
File No.: D08-02-23/A-00135
Report Date: July 28, 2023
Hearing Date: August 1, 2023
Planner: Luke Teeft
Official Plan Designation: Rural Transect, Rural Countryside, Greenspace, Natural Heritage System Core Area
Zoning: RU - Rural Countryside; EP3 - Environmental Protection, Subzone 3

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **requests an adjournment of** the application.

DISCUSSION AND RATIONALE

Schedule B9 of the Official Plan designates the subject property as Rural Countryside and Greenspace. The property falls within a Natural Heritage System Core Area. The Official Plan provides policy direction 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 site is zoned RU – Rural Countryside, and EP3 – Environmental Protection, Subzone 3. 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.

Staff have reviewed the subject minor variance application against the “four tests” as outlined in Section 45 (1) of the *Planning Act*, R.S.O. 1990 c. P.13, as amended. Staff are not satisfied that the requested minor variance meets the “four tests”.

The requested relief is deemed incorrect – Zoning By-law Section 67 states that no new building consisting of a dwelling, dwelling units or rooming units may be constructed any closer than:

- a) 150 metres to an ME2 or ME3 - Mineral Extraction Pit Only subzones, or an MR - Mineral Aggregate Reserve **zone boundary**, or
- b) 210 metres to an ME zone

The setback calculations appear to be incorrect, as the proposed dwelling is approximately 95 metres from the closest point of the nearby MR zone boundary to the south, whereas the calculation was made from the property line of the lot zoned ME2 to the southwest. Further details are provided in the engineering comments below.

As the proposed development is located within a Natural System Core Area, a Scoped Owner-completed EIS is required as part of the application. The report must include mitigation measures found within the *Protocol for Wildlife Protection during Construction* and turtle-exclusion fencing must be used during construction.

The proposed development is within the 250-metre buffer of the Renfrew Rail Spur. A detailed noise study pursuant to the *Environmental Noise Control Guidelines* is required. If the proposed location of the dwelling is within 75m of the railway, a Vibration Study will be required. Staff request that the application include a measurement of the distance between the building envelope and the railway.

Given that multiple requested studies have not been submitted in support of the application, staff are not satisfied that the application passes the 4 tests. The proposed setback distances are not accurate and sufficient evidence has not been provided demonstrating no long-term impacts on the potential expansion of the nearby aggregate extraction operation. Staff are requesting that the application be adjourned to give the applicant time to complete and submit the requested studies and reports.

ADDITIONAL COMMENTS

Our engineering staff have reviewed the MRIA prepared by Milestone Aggregate Consulting Services Inc. and have the following comments:

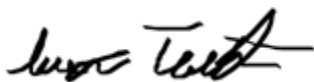
1. In section 2.2, the reporting notes that ‘the mapping on Schedule B9 properly reflects the intended land uses identified in the O.P. policies and the applicable resource mapping done by the province’. This seems to conflict with the MR zoned lands adjacent to the site, which are within the Sand and Gravel Resource Area Overlay as shown in Schedule B9 of the Official Plan.
2. In section 2.2, please note that Schedule B9 includes the lands south and west of the rail line in the Sand and Gravel Resource Area Overlay, in addition to the Agricultural Resource Area noted, and should be contemplated.
3. In section 2.4, when discussing section 67 of the Zoning By-law, please include the full description which notes that no new building consisting of a dwelling, dwelling units or rooming units may be constructed any closer than a) 150 metres to an ME2

or ME3 - Mineral Extraction Pit Only subzones, or an MR - Mineral Aggregate Reserve Zone boundary.

4. In section 2.4, the final two paragraphs discuss the MR zoned lands. The Official Plan and Schedule B9 identify this area as within the Sand and Gravel Resource Area Overlay and the lands are zoned MR, which agree that there are potential sand and gravel resources. Any discussion that there are no resources should be expanded and provided with clear support for any reclassification. Sections 4.0, 5.0, 6.0, 7.0, 8.0, and 9.0 may require revision as they seem to rely on this determination.
5. In section 4.0, the reporting notes that the building envelope is in excess of 600 metres from the edge of the sand and gravel resource area. The discussion must address the OP policy, which identifies that the influence area is the property line of the lands within the Sand and Gravel Resource Area Overlay. It is unclear how there is certainty that the future depth or extent of the operation at the Mills Pit will remain unchanged and not affect the proposed building envelope. The proposed building envelope would be located 130 metres from the ME2 zoned lands and should further discuss whether adequate buffering and/or separation is possible.

Right of Way Management

- The Right-of-Way Management Department has **no concerns** with the proposed Minor Variance Application, as there are no requested changes to the driveway/private approach.



Luke Teeft
Planner I, Development Review, Rural
Planning, Real Estate and Economic
Development Department



Cheryl McWilliams
Planner III, Development Review, Rural
Planning, Real Estate and Economic
Development Department



110 Laurier Avenue West, Ottawa ON K1P 1J1 Mail code: 01-14
110, av. Laurier Ouest, Ottawa (Ontario) K1P 1J1 Courrier interne : 01-14

Visit us: Ottawa.ca/planning
Visitez-nous : Ottawa.ca/urbanisme