

2023-09-28



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

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 1444 Dwyer Hill Road
Legal Description: Part of Lot 5, Concession 11, Geographic Township of Goulbourn
File No.: D08-01-23/B-00230 & D08-01-23/B-00231
Report Date: September 28, 2023
Hearing Date: October 3, 2023
Planner: Jack Graham
Official Plan Designation: Rural Countryside, Greenspace
Zoning: RU – Rural Countryside Zone, EP3 – Environmental Protection Zone, Subzone 3

DEPARTMENT COMMENTS

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

The subject site is designated primarily as Rural Countryside and zoned as RU – Rural Countryside Zone. The northwest corner of the site is designated as Greenspace and zoned as EP3 – Environmental Protection Zone, Subzone 3, due to the presence of significant wetlands. There are also significant wetlands across Dwyer Hill Road. Environmental planning staff requested that an owner-provided scoped EIS be provided. The EIS was provided and reviewed and has addressed environmental concerns.

The applicant is proposing to sever two parcels from the existing property. The first parcel to be a size of 20.97 hectares and the second parcel to be a size of 2.85 hectares. The proposed severed and retained lots meet the size requirements for severances in Section 9.2.3 Policy 3. City Council has recently approved amendments to the rural severance

policies to correct an error that prevented support from City staff. The Official Plan amendment is still in the appeal period, until October 11, 2023. Staff cannot support applications caught by this error until that date lapses without any appeals.

The subject site has a small portion of land designated as Significant Wetlands. The portion is in the northwest corner of the site. Any development located near that area must comply with setback requirements and regulation limits of the Conservation Authority. There is a small watercourse on the site. None of the proposed lot lines bisect any of the natural features.

The proposed part 3 parcel is within 250 metres of a proposed highway, and the proposed retained lot is within 300 metres of a proposed or existing rail corridor. Due to the presence of these features, a Noise Study is required as a condition of approval. Ministry of Transportation of Ontario (MTO) approval may be required for site works and an entrance within the MTO permit control area, for both severed lots.

The owner has requested that only the severed parcels be surveyed as part of the survey requirement. Due to the requirement for road widening dedication along the severed and retained parcels, the survey must show the entire frontage of all properties.

With the requested conditions, staff's only concern is with the rural severance policies that have yet to be fully approved and included in the Official Plan.

CONDITIONS

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

1. 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 No. 2022-280, as amended. Information regarding the appraisal process can be obtained by contacting the Planner.
2. 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 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.

3. 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 has identified that there is potential karst topography 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 homeowner.”

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

4. 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 15 meters from the existing centerline of pavement/the abutting right-of-way along Dwyer Hill Road and 10 meters from the existing centerline of pavement/the abutting right-of-way along Crawford Side 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.
5. The Owner(s) shall prepare a Noise Attenuation Study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the **Development Review Manager of the Relevant 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 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. The study shall address concerns related to the highway for the proposed lot 3. The study shall address concerns related to the railway corridor for the proposed retained lot.

6. That the Owner(s) 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.**



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