

2024-01-12



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

**PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT**

Site Address: 4715 Birchgrove Road  
Legal Description: Lot 18, Concession 1, Geographic Township of Cumberland  
File No.: D08-01-23/B-00248  
Report Date: January 09, 2024  
Hearing Date: January 16, 2024  
Planner: Stephan Kukkonen  
Official Plan Designation: Rural Transect, Rural Countryside, Natural Heritage System Core Area  
Zoning: RU

**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.

This application was originally heard at the December 12 hearing, where Staff requested adjournment for the applicant to address concerns with the submitted Environmental Impact Study (EIS), and to prepare and submit a Mineral Resource Impact Assessment (MRIA) and Minimum Distance Separation (MDS) Calculations. In response to the discussion at the hearing, a meeting with the applicant was held on December 22, 2023, to further discuss the submission requirements requested by Staff. During the meeting the applicant provided additional context about the property. Staff re-emphasized the MRIA requirement due to the proximity to the adjacent sand and gravel resource. The EIS requirements were also discussed, and Staff stated that they would consult with the Environmental Planner to confirm this requirement. Since then, the Environmental Planner has confirmed that a revised EIS showing 0.2-hectare development envelopes, located closer to the road and outside of any watercourse setback would be required.

The applicant has submitted MDS calculations, however the other two items remain outstanding.

Currently, Staff are requesting adjournment of the application to allow the applicant time to prepare and submit the requested supporting documents. The following review comments still apply.

The subject property is zoned RU, is designated Rural Countryside under the *Official Plan*, and is subject to the Natural Heritage Systems Core Area Overlay. In accordance with the applicable policies for development within the Natural Heritage System, the applicant has submitted an Environmental Impact Study (EIS) to identify and mitigate potential impacts as a result of the proposed development. The Environmental Planner has reviewed the EIS and provided feedback that requires addressing before it can be accepted. Currently, the submitted EIS identifies development envelopes on the severed and retained parcels that are approximately 0.35 hectares in size. These development envelopes are required to be a maximum of 0.2 hectares and should be located closer to the road to minimize any impacts to the identified natural heritage features.

In addition to the presence of the Natural Heritage System Core Area Overlay, the subject property is also adjacent to a Sand and Gravel Resource Overlay to the south. In the preliminary comments to the applicant, Planning Staff advised the applicant that a Mineral Resource Impact Assessment (MRIA) may be required unless the development area could be located at least 300 metres away from the overlay (as required by *Official Plan* Section 5.6.2.3 3)). Although the proposal has located the new lot more than 300 metres from the Sand and Gravel Resource Overlay, the location for the development envelope on the retained lands as identified by the submitted EIS will fall within the required 300-metre setback. As such, the Planning Department is requesting that the applicants submit an MRIA as a condition of the severance to demonstrate that the proposed development will not conflict with future mineral aggregate extraction.

Finally, Planning Staff have notified the applicant that there appear to be existing livestock facilities within 1 kilometre of the subject site. Minimum Distance Separation (MDS) calculations were submitted for the January 16 hearing. The proposed development will meet the required setbacks in accordance with the Ontario Ministry of Agriculture, Food and Rural Affairs' guidelines.

## **ADDITIONAL COMMENTS**

The subject site is identified as potentially containing sensitive marine clays. Staff request a notice on title identifying this potential be included as a condition of severance.

## **The Right-of-Way Management Department**

**No concerns** with the proposed consent/minor variance application. However, the

Owner shall be made aware that a private approach permit is required to construct any newly created driveway/approach.

## 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(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 **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 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 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 Owners provide a Mineral Resource Impact Assessment report, to the satisfaction of the **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, demonstrating that the existing mineral aggregate operation, and potential future expansion of the operation in depth or extent, will not be affected by the development. The report must include a review of the impact of the development upon the current mineral extraction or future expansion. The report shall be prepared in accordance with the Province of Ontario's Aggregate Resource Policies and Procedures and the City of Ottawa Official Plan.
5. 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 Birchgrove Road and 13 meters from the existing centerline of pavement/the abutting right-of-way along Canaan 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.
6. 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.**

7. That the Owner(s) prepares and submits a revised Environmental Impact Study (EIS) to the satisfaction of the **Development Review Manager of the Rural Branch within Planning, Real Estate and Economic Development Department, or his/her designate.** If the accepted report recommends specific mitigation measures or other requirements, the Owner(s) 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 Rural Branch within Planning, Real Estate and Economic Development Department, or his/her designate,** which is to be registered on the title of the property which includes those recommendations.
  
8. That the Owner(s) provide evidence to the satisfaction of both **the Chief Building Official and Development Review Manager, Planning, Real Estate and Economic Development Department, or designates,** that both severed and retained parcels have their own independent water, sanitary and storm connection as appropriate, and that these services do not cross the proposed severance line and are connected directly to City infrastructure. Further, the Owner(s) shall comply with 7.1.5.4(1) of the Ontario Building Code, O. Reg. 332/12 as amended. If necessary, a plumbing permit shall be obtained from Building Code Services for any required alterations.



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