

2024-01-11



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

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 5536 Downey Road
Legal Description: Part of Lot 30, Concession 2RF, Geographic Township of Osgoode
File No.: D08-01-23/B-00296 to D08-01-23/B-00298, D08-02-23/A-00277 & D08-02-23/A-00278
Report Date: January 09, 2024
Hearing Date: January 16, 2024
Planner: Stephan Kukkonen
Official Plan Designation: Rural Transect, Rural Countryside Designation, Natural Heritage Feature Overlay
Zoning: RU

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **has no concerns with** the applications as submitted.

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 no concerns with the proposed consent.

Staff have also 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 satisfied that the requested minor variances meet the “four tests”.

At the December 15, 2023, hearing, Staff expressed concerns with the proposed severances and the requested minor variances to reduce the minimum distance separation setbacks required by section 62 of the *Zoning By-law*. Since then, the applicants have adjusted their proposal including the parcel size and shape, as well as the proposed building envelope arrangement. Upon review of the new submissions, Staff are satisfied of their previous concerns.

The proposed severed parcels now measure approximately 1.01 hectares and 1.11 hectares in area. The increased parcel size changes the policy application for Minimum distance separation (MDS) formulae under the *Minimum Distance Separation Document*. Lots greater than 1 hectare in lot size should have the MDS setback measured to a 0.5 hectare building envelope, instead of the proposed lot line (Lots less than 1 hectare in size have the MDS setback measured to the lot line). These changes have increased the setback distance from identified livestock facilities. As a result, the need for one of the minor variance requests was eliminated and the extent of the other variance required was reduced. The applicants are now requesting a minor variance to reduce the required separation distance from an existing livestock facility to a proposed lot line from 182 metres to 151 metres.

Although guideline #43 (in the *Minimum Distance Separation Document*) suggests that MDS setbacks should not be reduced except for limited site-specific circumstances, it is the opinion of Staff that this minor variance request can be seen as acceptable. An Environmental Impact Study which identified 0.2-hectare development envelopes was submitted as a part of the application. It appears that the edge of the development envelope which will contain all future development is now located at the edge of the required setback distance. In this case, it is believed that the requested variance meets the intent of the provincial guidelines and passes the four tests.

ADDITIONAL COMMENTS

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

The Environmental Planner has identified large stands of conifers on site as a high potential fire risk. The Owner is strongly encouraged to refer to the Ontario [Wildland Fire Risk Assessment and Mitigation Reference Manual](#) and implement some of the mitigation measures.

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 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 **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 thin soils and 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 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 17 meters from the existing centerline of pavement/the abutting right-of-way along Mitch Owens Road and 13 meters from the existing centerline of pavement/the abutting right-of-way along Downey 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. That the Owner convey a 5 m x 5 m corner sight triangle located at the intersection of Downey Rd and Mitch Owens Rd to the City, with all costs to be borne by the Owner(s), to the satisfaction of the Surveys and Mapping Branch of the City. This area will be free of all structures, plantings, etc. and will allow a proper sighting distance for motorists when performing turning movements within the intersection. The Committee must receive written confirmation from **City Legal Services** that the transfer of the lands to the City has been registered.
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) enter into an Agreement with the City, to the satisfaction of the **Development Review Manager of the relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, to be placed on title that includes the development envelopes and mitigation measures identified in the “Environmental Impact Statement Land Severance Application 5536 Downey Road, Ottawa, Ontario” provided by GEMTEC and dated January 4, 2024.

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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