

2024-02-01



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

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 2770 Eagleson Road
Legal Description: Part of Lots 26 and 27, Concession 4, former Geographic Township of Goulbourn
File No.: D08-01-23/B-00315
Report Date: January 29, 2024
Hearing Date: February 06, 2024
Planner: Stephan Kukkonen
Official Plan Designation: Rural Transect, Agricultural Resource Area
Zoning: AG1

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **recommends refusal 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 application seeks to create one new agricultural parcel. The severed parcel will have approximately 661.7 metres of frontage along Eagleson Road, a depth of 1019.5 metres, a lot area of approximately 49.9 hectares and contains agricultural lands. The retained lands will have 297.1 metres of frontage along Shea road, an irregular depth, a lot area of approximately 2.4 hectares, and also contains agricultural lands.

Section 9.1.3 of the Official Plan provides policy direction for severances in Agricultural Resource Area designated lands. Under the guidance of the Provincial Policy Statement, the Official Plan policies aim to limit opportunities for new lot creation to protect farmland from uses that would impede productivity. Lot creation within this designation can only occur under three circumstances:

1. A surplus farmhouse dwelling severance.

2. Lot creation for the purpose of agriculture-related uses. This type of severance is only permitted in areas of poor soils. The applicant must identify that the land is a part of a poor pocket of soil at least 10 hectares in area and that the lands is not being used or not capable of being used as a part of an existing agricultural operation.
3. Lot creation for the purpose of establishing a new agricultural use, provided that both the severed and retained parcels are a minimum of 36 hectares in lot area. The minimum size is to ensure flexibility for any future changes in the type and size of the agricultural operations.

Given that the proposed application does not meet any of the above criteria, as required by the Official Plan, Staff recommend refusal of the application. The proposed severance is not deemed appropriate development for lands within the Agricultural Resource Area. Furthermore, the entirety of the proposed severed lands is subject to Flood Plain Overlay. Section 10.1.1 policy 1) of the Official Plan states that development and site alteration shall not be permitted in the 1 in 100-year flood plain. Lot creation is considered development and therefore shall not be permitted. Otherwise, the proposed severance would result in creating a parcel with severely limited building opportunities resulting from the Flood Plain provisions in Section 58 of the Zoning By-law.

ADDITIONAL COMMENTS

The subject site is identified in the City's GIS mapping as containing unstable slopes and sensitive marine clays. Staff are requesting that a geotechnical report is prepared as a condition of severance due to the proximity of the unstable slope. A notice on title identifying the potential presence of sensitive marine clays is also requested as a condition of severance.

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 private approaches. However, the Owner shall be made aware that a private approach permit is required to construct any newly created driveway/approach, or, to remove an existing private 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 provide evidence 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 confirmed in writing from the Department to the Committee, that the development of the retained lands demonstrates compliance with the severance policies under Section 9.1.3 of the *Official Plan* and all applicable zoning.
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 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.

4. That the Owner provide a Geotechnical Report prepared by a Professional Civil Engineer licensed in the Province of Ontario, that is satisfactory to both Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate and to the Rideau Valley Conservation Authority to be confirmed in writing from the PREDD and the Authority to the Committee, demonstrating the following:
 - a) That all parcels to be created by this application are or can be made suitable for residential purposes (slope stability, erosion protection, and building limits adjacent to slopes);
 - b) That there are no adverse environmental impacts.

The Geotechnical Report shall, at a minimum, determine the limit of sensitive marine clays present on the severed parcel and provide recommendations for construction methods based on the soil types encountered.

5. 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.

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 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 Eagleson Road and 13 meters from the existing centerline of pavement/the abutting right-of-way along Shea 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.



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