

2024-03-01



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

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 3247 Old Almonte Road
Legal Description: Part Lot 10, Concession 7, Registered Plan 5R10828
File No.: D08-01-23/B-00357 & D08-01-23/B-00358
Report Date: February 27, 2024
Hearing Date: March 5, 2024
Planner: Stephan Kukkonen
Official Plan Designation: Rural Transect, Rural Countryside
Zoning: RU

DEPARTMENT COMMENTS

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

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.

The subject application proposes to convey a portion of the subject property to the abutting property to the West, known municipally as 3266 Peskett Road. This application will result in the conveyance of a parcel with a frontage of approximately 152 metres on Howie Road and 229 metres on Peskett Road, a depth of approximately 305 metres, and an area of approximately 4.04 hectares. The parcel contains a small accessory structure. The retained lands will have frontages of 509 metres on Old Almonte Road and 371 metres on Howie Road, an irregular depth and an area of 81 hectares.

The subject property is zoned as Rural Countryside under the Zoning By-law and designated as Rural Countryside under the Official Plan. The property is also identified on Schedule C-11A Natural Heritage System (West) as potentially containing some natural heritage features.

Although the parcel of land to be conveyed appears to include some natural heritage features, this application is a lot line adjustment and both the subject property (3247 Old Almonte Road), and recipient property (3266 Peskett Road) have already been developed. As such, Staff are satisfied that these features will remain protected.

In addition, both the subject lands and recipient lands will remain zoning compliant as a result of the application. Staff have no concerns with the proposed applications subject to the following conditions.

ADDITIONAL COMMENTS

Right of Way Management

The Right-of-Way Management Department has **no concerns** with the proposed consent 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) file with the Secretary-Treasurer of the Committee of Adjustment the following:
 - a. A copy of the Reference Plan and/or legal description of the severed land and the deed or instrument conveying the severed land to the owner of the abutting property to the west, known municipally as 3266 Peskett, so that no new lot is being created, in accordance with paragraph (b) below;
 - b. A Certificate of Official attached to the deed/transfer required by paragraph (a) above containing the following endorsement:

“The lands to be severed are for the purpose of a lot addition only to the abutting lands owned by (*insert name*) described as PIN (*insert property identification number*) being Part(s) (*insert numbers*) on Plan (*insert plan number*), not for the creation of a new lot, and any subsequent transfer, charge or other transaction involving the lands to be severed shall be subject to compliance with Section 50(3) or Section 50(5) of the Planning Act, as applicable. Neither the lands to be severed nor the abutting lands are to be transferred, charged or otherwise re-conveyed in the future without the other parcel unless a further consent is obtained. The Owner shall cause the lands to be severed to be consolidated

on title with the abutting lands and for this condition to be entered on the parcel register for the consolidated parcel as a restriction”;

- c. An Undertaking from a solicitor authorized to practice law in the Province of Ontario, and in good standing with the Law Society of Upper Canada, as follows:

“In consideration of, and notwithstanding the issuance of the Certificate under Section 50(12) of the Planning Act in respect to the subject Application for Consent, I undertake on behalf of the Owner, within **30** days of the registration on title of the transfer document containing the endorsement set out in the Certificate of Official issued by the Committee of Adjustment, to file an Application to Consolidate Parcels including the severed land (Part of PIN (*insert number*)) and the abutting land (*PIN insert number*). This PIN consolidation is intended to reinforce the Planning Act stipulation in the condition outlined above that both parcels have merged on Title and cannot be conveyed separately in the future. I further undertake to forward a copy of the registered Application to Consolidate Parcels and a copy of the Consolidated Parcel abstract page(s) to the Committee office within 21 days of the registration of the Application to Consolidate Parcels”.

- d. Where the parcel consolidation stipulated in paragraph (b) and the solicitor’s Undertaking in paragraph (c) above cannot be reasonably completed because the parcels of land to be merged have different estate qualifiers, an Application to Annex Restrictive Covenant under Section 118 of the Land Titles Act must be registered on the Title of both the severed lands and on the abutting parcel that is to be merged. The Covenant, which is to be to the satisfaction of the Secretary-Treasurer of the Committee, shall advise all future purchasers that the parcels must be dealt with together and not separately, and contain wording set out below or similar wording acceptable to the Secretary-Treasurer of the Committee:

“These lands have been merged and may not be dealt with separately, without applying for a Consent of the Committee of Adjustment”.

In lieu of the Undertaking provided in paragraph (c), a replacement Undertaking by the solicitor must be filed undertaking on behalf of the Owner to register the Restrictive Covenant on both property Titles within 30 days of the registration of the transfer document containing the endorsement of the Certificate of Official issued by the Committee of Adjustment for this application and to file a copy of the registered Restrictive Covenant with the Committee within 21 days of the registration of the document.

2. 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 10 meters from the existing centerline of pavement/the abutting right-of-way along Peskett Road from the intersection with Howie Road to the existing access, 13 meters from the existing centerline of pavement/the abutting right-of-way along Howie Road and 13 meters from the existing centerline of pavement/the abutting right-of-way along Old Almonte Road, pursuant to Section 50.1(25)(c) of the Planning Act and Schedule C16 of the City's new Official Plan, if required. 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.

A. Should the widening be encumbered by a fence on:

- 1) the retained lands zoned a Rural Countryside or Agricultural zone where the fence may be used for livestock the Owner must file a written acknowledgement that they are solely responsible for the maintenance repair and any liability associated with the fence remaining and shall be responsible for its removal should the City require the use of the lands containing the encumbrance for road related works. The Owner further agrees to notify any subsequent purchasers of same. This shall be to the satisfaction of the City Legal Services;
- 2) the severed lands, then the Owner shall remove the fence and provide a draft survey demonstrating that no fence exists. This shall be to the satisfaction of the City Surveyor.



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