

2024-02-29



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

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 6435 Fallowfield Road
Legal Description: Part of Lot 21, Concession 8, Geographic Township of
Goulbourn
File No.: D08-01-24/B-00008 & D08-02-24/A-00008
Report Date: February 29, 2024
Hearing Date: March 05, 2024
Planner: Luke Teeft
Official Plan Designation: Rural Transect, Rural Countryside, with Unstable Slopes,
Flood Plain and Natural Heritage Features Overlay
Zoning: RU, Floodplain Overlay

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **requests an adjournment of** 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 concerns with the proposed consent. The proposed new lots are in close proximity to lands zoned for mineral extraction and an acceptable MRIA has not yet been submitted.

Staff have 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 not satisfied that the requested minor variances meet the “four tests” due to the reasons noted above.

The subject property contains natural features including significant woodlands, unevaluated wetlands and a watercourse. The property also includes lands identified as a floodplain and an unstable slope hazard. Staff have reviewed the submitted EIS and are generally in agreement that the proposed development would not have any negative impacts on the natural features provided the recommended mitigation measures are

adhered to. It is requested that the EIS be updated to show the extent of the floodplain on the property in relation to the development envelopes. Generally, it needs to be demonstrated that the lot is appropriate for development.

The applications seek minor variances to the setback requirements from the parcel zoned ME2 with a licensed operation to the east, and ME3[1r]-h parcel to the south. Additional rationale would be required to support the creation of two additional sensitive receptors within 120 meters of the active licensed operation to the east, and future potential operation to the south. The creation of the lots would, undoubtedly, increase the difficulty for the processing of the future application on the ME3 lands.

The requested variances (25 and 81.25 metres) are for setbacks which are significantly less than the 150m required under the Zoning By-law. Staff have additional concerns with the MRIA report as detailed below.

ADDITIONAL COMMENTS

- The floodplains present on the property should be identified by the mapping within the EIS report.

The following comments address the MRIA report submitted in support of the application:

- The reference to the Noise Feasibility Report does not seem to include consideration for the potential operation on the parcel to the south. (Excludes a potential extraction operation across Fallowfield Road (30m ROW)). It is anticipated that mitigation measures would be required for the potential operation to the south, which were not identified in the MRIA.
- The MRIA uses existing residential development as a rationale for allowing further residential development – staff do not agree with this methodology as the intent of the provincial policies is to reduce the number of sensitive uses in close proximity to existing and potential extraction operations.
- The application does not include an evaluation of provincial resource mapping in proximity to the proposed development (ARIP 191).
- The referenced Hydro-G report did not monitor well recovery to 95%.
- The conclusion regarding the future operation on the ME3 parcel to the south regarding the current owner not pursuing an extraction operation at this time is not relevant. A future owner could immediately start the ARA license process and would immediately be hindered by the current proposal.

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 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. The Owner(s) shall prepare a noise attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of **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.
4. That the Owner(s) submit a Phase 1 Environmental Assessment prepared by a qualified person who meets the qualifications prescribed by the regulations, for approval by the **Development Review Manager of the Relevant Branch within Planning, Infrastructure and Economic Development Department, or his/her designate**, to be confirmed in writing from the Department to the Committee,

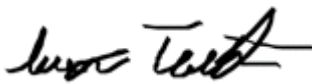
outlining the assessment of the property and determining the likelihood that one or more contaminants have affected any land or water, in or under the property.

5. 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
6. That the Owner provide a Geotechnical Report prepared by a Professional Civil Engineer licensed in the Province of Ontario, that is satisfactory to both Select Manager of **the 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, as a minimum, determine the limit of organic soils/karst topography/sensitive marine clays present on the severed parcel and provide recommendations for construction methods based on the soil types encountered

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 Fallowfield 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.

8. That the Owner(s) prepares and submits an Environmental Impact Study (EIS) to satisfaction of the **General Manager of the Planning, Infrastructure and Economic Development Department, or his/her designate**. If the accepted report recommends specific mitigation measures or other requirements, the Owner shall enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the **General Manager of the Planning, Infrastructure and Economic Development Department, or his/her designate**, which is to be registered on the title of the property, which includes those recommendations.



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