

2023-10-26



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

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 1380 Howie Road
Legal Description: Lot 13, Concession 7, Former Geographic Township of West Carleton
File No.: D08-01-23/B-00214 and D08-01-23/B-00215
Report Date: October 26, 2023
Hearing Date: October 31, 2023
Planner: Luke Teeft
Official Plan Designation: Rural Countryside
Zoning: RU – Rural Countryside Zone

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 application was previously heard on October 3, 2023 and was adjourned to give the applicant time to revise their submission and for staff to review the submitted studies and reports.

Comments for Both Severances

The subject site is designated as Rural Countryside and zoned as RU – Rural Countryside Zone. The site is adjacent to several sites designated as Sand and Gravel Resource Areas. The site is covered with the Natural Heritage System (NHS) Linkage overlay, and contains watercourses, unevaluated wetlands, and forested area designated with the Natural Heritage Features Overlay. The applicant is proposing to sever two new lots from the existing parcel.

Section 9.2.3 Policy 3 of the Official Plan outlines the requirements for severances in the rural area. The proposed severed and retained lots meet the size requirements for severances in Section 9.2.3 Policy 3. City Council has recently approved amendments to the rural severance policies to correct an error that prevented support from City staff. The Official Plan amendment is still in the appeal period, until October 11, 2023. Staff cannot support applications caught by this error until that date lapses without any appeals.

The site is fully covered by the NHS Linkage overlay. Development in this area must *maintain or enhance the integrity, biodiversity and ecosystem services of the area; and, not compromise the potential for long- term enhancement and restoration of the ecological integrity, biodiversity and ecosystem services of the area* as per Section 5.6.4.1, Policy 1(a). The site is also covered by forest, and identified in the Natural Heritage Features overlay. The applicant prepared and submitted an Environmental Impact Study to address the natural features on site. This has not yet been reviewed by staff, so a condition has been requested that it meets the requirements of the City.

Staff also requested a Phase 1 ESA due to the presence of a former landfill at 1470 Howie Road. This has been submitted, but has not yet been reviewed by staff, so a condition has been requested that it meets the requirements of the City.

A geotechnical investigation was requested by staff due to potential karst topography and thin soils. The study has been submitted, but has not yet been reviewed by staff, so a condition has been requested that it meets the requirements of the City.

A noise study was requested by staff due to the proximity of a licensed aggregate pit. The study has been submitted, but has not yet been fully reviewed by staff, so a condition has been requested that it meets the requirements of the City.

Severance 1

The parcel identified as Proposed Severance 1 is at the northern corner of the lot, at the end of Bearhill Road. The proposed lot does not currently have any frontage on an open and maintained public road.

Section 9.2.3 Policy 3(d) states that the lot must have frontage on a public road. As the lot does not currently have frontage, the applicant must construct the road to City standards, to match the existing right-of-way. A condition has been included that the applicant design and construct the extension, to City standards. The road must be complete within the 2-year period allowed for completion of conditions.

The proposed lot is adjacent to an active sand and gravel pit at 1300 Bearhill Road. The applicant has completed a Mineral Resource Impact Assessment (MRIA) and Noise Study to address the adjacent pit. Staff have not yet had the opportunity to fully review the

studies, so conditions have been requested that the studies meet the City's requirements. The ME2 Zone requires a setback of 150 metres to a residential building. The proposed lot is 191 metres, allowing for a residential building to be built outside of the required setback.

Proposed Severance 2

The parcel identified as Proposed Severance 2 contains an existing dwelling and accessory buildings. It is adjacent to a sand and gravel pit at 1371 Howie Road. As severances are considered development for the purpose of Official Plan policies, this new lot must also adhere to the policies relating to sand and gravel pits, and thus the Noise Study and MRIA were to consider the effects at both new lots. As stated, the reports have been prepared but have not yet been fully reviewed.

Retained Lands

The retained lands of the site contain undeveloped lands that contain sand, aggregate and fill stockpile areas, heavy equipment storage areas and vacant land comprised of treed and wetland areas. The RU Zone does not permit industrial uses such as storage yards. The applicant must demonstrate that the retained lands are zoning compliant, and are developable for the existing designation and zoning. A condition has been requested to ensure that the retained lands meet the City's Official Plan and Zoning By-law requirements.

In summary, staff's request for an adjournment is due to the rural severance policy error and to allow for time to review the reports before providing a final position.

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 their 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 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 Howie 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.
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 their 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. The Owner(s) shall prepare a Noise Attenuation Study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of Select Manager of the **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or their 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.

6. That the Owner(s) submit a Phase 1 and Phase 2 Environmental Site 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 their 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.
7. That the Owner(s) 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, Infrastructure and Economic Development Department, or their designate** and to the **Mississippi 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 and karst topography present on the severed and retained parcels and provide recommendations for construction methods based on the soil types encountered.
8. That the Owner(s) 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 their designate.**

9. That the Owner(s) prepares and submits an Environmental Impact Study (EIS) to the satisfaction of the **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or their 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 **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or their designate,** which is to be registered on the title of the property, which includes those recommendations.
10. That the Owner(s) complete a Road Opening Application, at the owner(s) expense and to the satisfaction of the **Development Review Manager of the relevant Branch within Planning, Infrastructure and Economic Development Department, or their designate,** to extend Bearhill Road in accordance with the approved applications and such that the severed lot at the northern corner of the parcel is zoning compliant. The road must be constructed to a point that an in-service memo has been issued by the City and that each severed and retained lot can obtain a private approach permit before this condition can be cleared.
11. That the Owner(s) demonstrate that the uses on the retained lands meet the Zoning By-law to the satisfaction of the **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or their designate.**

OR

That the Owner(s) obtain a Zoning By-law Amendment, satisfactory to the **Development Review Manager of the Relevant Branch within Planning, Infrastructure and Economic Development Department, or their designate,** to

be confirmed in writing from the Department to the Committee, to rezone the retained lands to permit the existing uses.



Luke Teeft
Planner I, Development Review, Rural
Planning, Real Estate and Economic
Development Department

Cheryl McWilliams
Planner III, Development Review, Rural
Planning, Real Estate and Economic
Development Department