

**DECISION
CONSENT/SEVERANCE**

Date of Decision	June 28, 2024
Panel:	3 - Rural
File No.:	D08-01-23/B-00053
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner/Applicant:	AGinvest Farmland IV Inc and AGinvest Farmland IV LP
Property Address:	5195 Dunning Road
Ward:	20 – Osgoode
Legal Description:	Lots 21 & 22, Concession 4, Geographic Township of Cumberland
Zoning:	AG, AG1 and MR1
Zoning By-law:	2008-250
Heard:	June 18, 2024, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Applicants want to subdivide the property into two separate parcels to create one new lot for a surplus farm dwelling. The existing barns, shed and house on the agricultural land will be demolished or removed.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Applicants require the Committee's consent for a conveyance.
- [3] The property is shown as Parts 1 to 5 and 7 on a 4R-29011 filed with the application and the separate parcels will be as follows:
- [4] The severed land, shown as Part 4 on said plan and will have a frontage of 9.13 metres on Dunning Road, an irregular depth and a lot area of 0.7348 ha. This parcel will contain the surplus farm dwelling and will be known municipally as 5195 B Dunning Road.
- [5] The retained land shown as Parts 1 to 3 and 5 to 7 on said plan will have a total frontage of 369.43 metres on Dunning Road and 303 metres on Clayton Road, an irregular depth, and a lot area of 63.33 ha. This parcel is known municipally as 5195 Dunning Road and will continue to be used for agricultural purposes.

PUBLIC HEARING

Oral Submissions Summary

- [6] Kyle O'Donohue, Agent for the Applicants, highlighted concerns with the imposition of a Mineral Resource Impact Assessment (MRIA) as a condition of approval as requested by the City.
- [7] City Planner Luke Teeft explained that an MRIA is required to support the proposed lot creation within a sand and gravel overlay. However, he confirmed that the City would be agreeable to amending the condition in this instance to require a scoped MRIA.
- [8] With all parties in agreement, the condition was amended accordingly.
- [9] In response to questions from the Committee, Mr. O'Donohue stated that he had no concerns with the imposition of a condition requiring confirmation that the existing private sewage system complies with Ontario Building Code requirements, to the satisfaction of the Ottawa Septic Systems Office.
- [10] City Planner Erin O'Connell was also present.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Tests

- [11] Under the *Planning Act*, the Committee has the power to grant a consent if it is satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality. Also, the Committee must be satisfied that an application is consistent with the Provincial Policy Statement and has regard for matters of provincial interest under section 2 of the Act, as well as the following criteria set out in subsection 51(24):

Criteria

(24) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

- a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;
- b) whether the proposed subdivision is premature or in the public interest;
- c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;

- d) the suitability of the land for the purposes for which it is to be subdivided;
- d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;
- e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;
- f) the dimensions and shapes of the proposed lots;
- g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;
- h) conservation of natural resources and flood control;
- i) the adequacy of utilities and municipal services;
- j) the adequacy of school sites;
- k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;
- l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and
- m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the *City of Toronto Act, 2006*. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2).

Evidence

[12] Evidence considered by the Committee included all oral submissions made at the hearing, as highlighted above, and the following written submissions held on file with the Secretary-Treasurer and available from the Committee Coordinator upon request:

- Application and supporting documents, including a cover letter, minimum distance separation calculations, parcel register abstract, plans, photo of the posted sign, and a sign posting declaration.
- City Planning Report received June 13, 2024, with no concerns.

- South Nation Conservation email received June 10, 2024, with no objections.
- Hydro Ottawa email received June 10, 2024, with no comments.

Effect of Submissions on Decision

- [13] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [14] The Committee notes that the City's Planning Report raises "no concerns" regarding the application, subject to the requested conditions agreed to by the Applicants' Agent.
- [15] The majority of the Committee (Member M. Vervoort dissenting) also finds that, in this instance, the requirement for a scoped MRIA is a reasonable and necessary condition of provisional consent, noting that a residence already exists on the lot to be severed and the remaining land will be rezoned to prohibit future development, and therefore a full MRIA is not needed to address future additional impacts.
- [16] Based on the evidence, the Committee is satisfied that the proposal is consistent with the Provincial Policy Statement that promotes efficient land use and development as well as intensification and redevelopment within built-up areas, based on local conditions. The Committee is also satisfied that the proposal has adequate regard to matters of provincial interest, including the orderly development of safe and healthy communities; the appropriate location of growth and development; and the protection of public health and safety. Additionally, the Committee is satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality. Moreover, the Committee is satisfied that the proposal has adequate regard for the criteria specified under subsection 51(24) of the *Planning Act* and is in the public interest.
- [17] THE COMMITTEE OF ADJUSTMENT therefore grants the provisional consent, subject to the following conditions, **which must be fulfilled within a two-year period from the date of this Decision**:
1. 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 metres from the existing centerline of pavement/the abutting right-of-way along Dunning Road, and 13 metres from the existing centerline of pavement/the abutting right-of-way along Clayton 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.

2. That the Owner enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the Manager of the Development Review All Wards Branch, 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(s) provide a copy of a legally binding agreement of purchase and sale or a letter indicating the current owner of the retained lands is a licensed farmer, satisfactory to the Manager of the Development Review All Wards Branch, or their designate, to be confirmed in writing from the Department to the Committee, that demonstrates that the newly created lot is being sold.
4. That the Owner(s) obtain a Zoning By-law Amendment, satisfactory to the Manager of the Development Review All Wards Branch, or their designate, to be confirmed in writing from the Department to the Committee, that re-zones the retained lands to prohibit residential development, and rezones the severed parcel to permit a reduced lot width, with all levels of appeal exhausted.
5. That the Owner(s) provide a scoped Mineral Resource Impact Assessment report, to the satisfaction of the Manager of the Development Review All-Wards Branch, 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.
6. That the Owner(s) provide evidence to the satisfaction of the Manager of the Development Review All-Wards Branch, or their designate, to be confirmed in writing from the Department to the Committee, that both the existing storage structures in close proximity to the proposed severance line, and the existing

dwelling on the retained lands have been demolished in accordance with a demolition permit or relocated in conformity with the Zoning By-law.

7. That the Owner(s) provide proof to the satisfaction of both the Chief Building Official and the Manager of the Development Review All Wards Branch, or their designate, to be confirmed in writing from the Department to the Committee, that each existing parcel has its own independent private sewage system, storm/foundation drainage, and well and that they do not cross the proposed severance line. If the systems cross the proposed severance line, are not independent, or do not meet the minimum spacing requirements of the Ontario Building Code and City of Ottawa Hydrogeological and Terrain Analysis Guidelines, the Owner(s) will be required to relocate the existing systems or construct new systems, at their own cost.
8. That the Owner(s) satisfy the Chief Building Official, or their designate, by providing design drawings or other documentation prepared by a qualified designer, that as a result of the proposed severance the existing dwelling on lands to be severed shall comply with the Ontario Building Code, O. Reg. 332/12 as amended, in regard to the limiting distance along the south property line. If necessary, a building permit shall be obtained from Building Code Services for any required alterations/legalization.
9. That the applicant provide confirmation from the Ottawa Septic System Office (OSSO) and the Manager of the Development Review All-Wards Branch, or their designate that setbacks required by the Ontario Building Code have been sufficiently demonstrated.
10. That the Owner(s) file with the Committee a copy of the registered Reference Plan prepared by an Ontario Land Surveyor registered in the Province of Ontario, and signed by the Registrar, **confirming the frontage and area of the severed land. If the Registered Plan does not indicate the lot area, a letter from the Surveyor confirming the area is required.** The Registered Reference Plan must conform substantially to the Draft Reference Plan filed with the Application for Consent.
11. That upon completion of the above conditions, and **within the two-year period outlined above**, the Owner(s) file with the Committee, the “electronic registration in preparation documents” for the conveyance for which the consent is required.

"Jocelyn Chandler"
JOCELYN CHANDLER
ACTING PANEL CHAIR

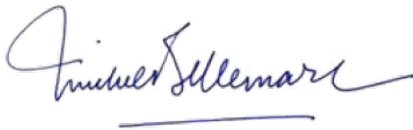
Absent
TERENCE OTTO
MEMBER

"Beth Henderson"
BETH HENDERSON
MEMBER

"Martin Vervoort"
With noted dissent
MARTIN VERVOORT
MEMBER

Absent
WILLIAM HUNTER
VICE-CHAIR

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **June 28, 2024**.



Michel Bellemare
Secretary-Treasurer

NOTICE OF RIGHT TO APPEAL

To appeal this decision to the Ontario Land Tribunal (OLT), a completed appeal form along with payment must be received by the Secretary-Treasurer of the Committee of Adjustment by **July 18, 2024**, delivered by email at cofa@ottawa.ca and/or by mail or courier to the following address:

Secretary-Treasurer, Committee of Adjustment,
101 CentrepoinTE Drive, 4th floor, Ottawa, Ontario, K2G 5K7

The Appeal Form is available on the OLT website at <https://olt.gov.on.ca/>. The Ontario Land Tribunal has established a filing fee of \$400.00 per type of application with an additional filing fee of \$25.00 for each secondary application. Payment can be made by certified cheque or money order made payable to the Ontario Minister of Finance, or by credit card. Please indicate on the Appeal Form if you wish to pay by credit card. If you have any questions about the appeal process, please contact the Committee of Adjustment office by calling 613-580-2436 or by email at cofa@ottawa.ca.

Only the applicant, the Minister or a specified person or public body that has an interest in the matter may appeal the decision to the Ontario Land Tribunal. A "specified person" does not include an individual or a community association.

There are no provisions for the Committee of Adjustment or the Ontario Land Tribunal to extend the statutory deadline to file an appeal. If the deadline is not met, the OLT does not have the authority to hold a hearing to consider your appeal.

If a major change to condition(s) is requested, you will be entitled to receive Notice of the changes only if you have made a written request to be notified.

NOTICE TO APPLICANT

All technical studies must be submitted to the Planning, Development and Building Services Department a minimum of **40 working days** prior to lapsing date of the consent. Should a Development Agreement be required, such request should be initiated **15 working days** prior to lapsing date of the consent and should include all required documentation including the approved technical studies.

Ce document est également offert en français.

Committee of Adjustment
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Ottawa.ca/CommitteeofAdjustment
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613-580-2436



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