



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

**PLANNING, DEVELOPMENT AND BUILDING SERVICES DEPARTMENT**

Site Address: 6079 McVagh Road & 6105 McVagh Road  
Legal Description: Part of Lot 26 and 27, Concession 8, Geographic Township of Cumberland  
File No.: D08-01-23/B-00279 - B-00280 & D08-01-23/B-00276  
Report Date: July 9, 2024 - revised July 12, 2024.  
Hearing Date: July 16, 2024  
Planner: Stephan Kukkonen  
Official Plan Designation: Rural Transect, Agricultural Resource Area  
Zoning: AG2

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**DEPARTMENT COMMENTS**

The Planning, Development and Building Services Department **has no concerns with** the applications as submitted.

**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 consents.

Applications D08-01-23/B-00279 – B-00280 proposes to convey a portion of land to the neighbouring property known as 6105 McVagh Road, then to subdivide the remaining land to create one new lot for a surplus farmhouse dwelling.

This application was previously heard during the December 12, 2023, Committee of Adjustment hearing. Staff requested adjournment due to the proposed size of the surplus farmhouse dwelling lot as a part of application D08-01-23/B-00279 – B-00280, 6079 McVagh Road. The original proposal included a surplus farmhouse dwelling parcel that was approximately 3.37 hectares, whereas the proposed parcel is now, 2.37 ha. The remainder will be conveyed to the adjacent agricultural parcel, 6105 McVagh road. Staff are now satisfied that the viable agricultural land will be retained as a result of the proposed applications for future agricultural use.

These subject lands are designated as Agricultural Resource Area under the Official Plan and are to be protected for long-term use for agricultural production by limiting development that compromises the productivity of these lands. Agricultural lands are afforded this protection through the requirements of Section 2.3 in the *Provincial Policy Statement*. As a result, there are limited development opportunities for lot creation within agricultural lands. Although Section 2.3.4.1 of the *Provincial Policy Statement* does permit lot creation for surplus farmhouse dwellings, the following criteria must be met:

1. The new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and
2. The planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective.

The protections for agricultural lands described in the *Provincial Policy Statement* are further reinforced in the City's *Official Plan* under Section 9.1.3. Specifically, Section 9.1.3 3) provides the necessary criteria to promote acceptable lot creation within these lands. Lot creation must meet all of the following criteria as follows:

- a) The new lot contains an existing habitable dwelling made surplus through farm consolidation;
- b) As a condition of severance, the retained lands are zoned to prohibit residential uses;
- c) The severed lot is of a size that minimizes the loss of agricultural land;
- d) The new lot can be adequately serviced;
- e) Where the new lot may only contain buildings or structures including a dwelling unit that are accessory or secondary to the principal residential use; and
- f) Where only one lot may be created.

Staff believe, subject to the requested conditions below, that the proposed applications (D08-01-23/B-00279 - B-00280 & D08-01-23/B-00276) meet the above criteria outlined in the *Provincial Policy Statement* and the City's *Official Plan*.

It should be noted that the lot line adjustment portion of the applications shall be completed and finalized first to avoid any situation where a landlocked parcel is created as a result of severance.

## **ADDITIONAL COMMENTS**

### **The Right-of-Way Management Department**

**No concerns** with the proposed consent/minor variance application. However, the Owner shall be made aware that a private approach permit is required to construct any newly created driveway/approach.

## **CONDITIONS**

If approved, the Planning, Development and Building Services Department requests that the Committee of Adjustment impose the following conditions on the applications:

### **D08-01-23/B-00279 – B-00280 – 6079 McVagh Road**

1. That the Owner 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 south, known municipally as 6105 McVagh Road, 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(s) satisfy the **Chief Building Official, or designate**, by providing design drawings or other documentation prepared by a qualified designer, that as a result of the proposed severance the existing buildings on ‘severance and easement plan’ shall comply with the Ontario Building Code, O. Reg. 332/12 as amended, in regards to the limiting distance along the proposed property lines. If necessary, a building permit shall be obtained from Building Code Services for any required alterations.
3. That the Owner(s) provide evidence to the satisfaction of both the Chief Building Official and the Manager of the Development Review All Wards Branch, or their

designates, that both severed and retained parcels have their own independent water, sanitary and storm connection as appropriate, and that these services do not cross the proposed severance line and are connected directly to City infrastructure. Further, the Owner(s) shall comply with 7.1.5.4(1) of the Ontario Building Code, O. Reg. 332/12 as amended. If necessary, a plumbing permit shall be obtained from Building Code Services for any required alterations.

#### **D08-01-23/B-00276 (6105 McVagh Road)**

4. That the Owner(s) provide evidence to the satisfaction of both the Chief Building Official and the Manager of the Development Reviews All Wards Branch, or their designates, that both severed and retained parcels have their own independent water, sanitary and storm connection as appropriate, and that these services do not cross the proposed severance line and are connected directly to City infrastructure. Further, the Owner(s) shall comply with 7.1.5.4(1) of the Ontario Building Code, O. Reg. 332/12 as amended. If necessary, a plumbing permit shall be obtained from Building Code Services for any required alterations.
5. That the Owner(s) satisfy the **Chief Building Official, or designate**, by providing design drawings or other documentation prepared by a qualified designer, that as a result of the proposed severance the existing buildings on 'severance and easement plan' shall comply with the Ontario Building Code, O. Reg. 332/12 as amended, in regards to the limiting distance along the proposed property lines. If necessary, a building permit shall be obtained from Building Code Services for any required alterations.

#### **D08-01-23/B-00279 – B-00280 (6079 McVagh Road) & D08-01-23/B-00276 (6105 McVagh Road)**

6. 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.

7. That the Owner(s) obtain a Zoning By-law Amendment, satisfactory to the General Manager of the Planning, Development and Building Services Department, or their designate, to be confirmed in writing from the Department to the Committee, that re-zones the retained lands to prohibit residential development, with all levels of appeal exhausted.
8. That the Owner(s) provide a copy of a legally binding agreement of purchase and sale or a letter indicating the current owner 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.
9. 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 McVagh 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.
10. That the Owner(s) enter into a Joint Use, Maintenance and Operating Agreement, at the expense of the Owner(s), setting forth the obligations between the Owner(s) and the proposed future owners.

Joint Use, Maintenance and Operating Agreement shall set forth the joint use and maintenance of all common elements including, but not limited to, the common party walls, common structural elements such as roof, footings, soffits, foundations, common areas, common driveways and common landscaping.

The Owner shall ensure that the Agreement is binding upon all the unit owners and successors in title and shall be to the satisfaction of Development Review All Wards Manager within Planning, Development and Building Services Department, or their designate, and City Legal Services. The Committee requires written confirmation that the Agreement is satisfactory to Development Review All Wards Manager of the Development Review All Wards Branch within Planning,



Development and Building Services Department, or their designate, and is satisfactory to City Legal Services, as well as a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.



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