

2024-07-31



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

PLANNING, DEVELOPMENT AND BUILDING SERVICES DEPARTMENT

Site Address:	612 Smith Road
Legal Description:	Part of Lot 10, Concession 10, Geographic Township of Cumberland
File No.:	D08-01-24/B-00119 & D08-01-24/B-00120
Report Date:	July 31, 2024
Hearing Date:	August 6, 2024
Planner:	Elizabeth King
Official Plan Designation:	Rural Transect, Rural Countryside
Zoning:	Rural Countryside, Flood Plan Overlay

DEPARTMENT COMMENTS

The Planning, Development and Building Services 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.

Staff are requesting an adjournment of the application D08-01-24/B-00119 for the creation of a new lot because Minimum Distance Separation (MDS) setbacks need to be provided to demonstrate compliance with the new lot. However, Staff do not have concerns with the application D08-01-24/B-00120 for the lot line adjustment.

Staff have included the separate conditions for each file for the Committee of Adjustment to consider for approval of the applications.

ADDITIONAL COMMENTS

Infrastructure Engineering

- The Planning, Development and Building Services Department will do a complete review of grading and servicing during the building permit process.
- At the time of building permit application, a grading/servicing plan prepared by a Professional Engineer, Ontario Land surveyor or a Certified Engineering Technologist will be required.
- Any proposed works to be located within the road allowance requires prior written approval from the Infrastructure Services Department.
- The surface storm water runoff including the roof water must be self contained and directed to the City Right-of-Way, not onto abutting private properties as approved by Planning, Development and Building Services Department.
- A private approach permit is required for any access off of the City street.
- Existing grading and drainage patterns must not be altered.
- Encroachment on or alteration to any easement is not permitted without authorization from easement owner(s).

Right of Way Management

The Owner shall be made aware that a Private Approach Permit is required to construct any new driveway/private approach.

CONDITIONS

D08-01-24/B-00119:

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

1. That the Owner(s) provide proof to the satisfaction of **Development Review Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, 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.

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 All Wards Manager of the Development Review All Wards Branch within Planning, Development and Building Services 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. The Owner(s) shall prepare a noise and vibration attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of **Development Review All Wards Manager Branch within Planning, Development and Building Services Department, or their designate**. The Owner(s) shall enter into an agreement with the City that requires the Owner to implement any and vibration 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 enter into an Agreement with the City, at the expense of the Owner, which is to be registered on Title to deal with the covenants/notices that shall run with the land and bind future owners on subsequent transfers;

“The property is located next to lands that have an existing source of environmental noise (collector road) and may therefore be subject to noise and other activities associated with that use”

The Agreement shall be to the satisfaction of **Development Review All Wards Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate**. The Committee requires a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title.

5. That the Owner(s) provide a Rail Safety Report prepared by a suitably experienced Professional Engineer or Planner, licensed in the Province of Ontario, to the satisfaction of the **Development Review Manager of the Development Review All Wards Branch within Planning, Development and Building Services**

Department , or their designate, to be confirmed in writing from the Department to the Committee.

The purpose of the report is to consult with the railway or operator, determine the building setbacks for new development, and to design and install the required mitigative measures with regards to rail safety. The report must meet the requirements of the Guidelines for New Development in Proximity to Railway Operations, as amended.

6. 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 Development Review All Wards 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 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 Smith Rd, 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 Owners 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:

- a) That the construction of any new well on the severed parcel is in accordance with the Ministry of the Environment, Conservation and Parks
- b) That the quality of the water meets the Ministry of the Environment, Conservation and Parks Regulations, Standards, Guidelines and Objectives;
- c) That the quantity of water meets all the Ministry of the Environment, Conservation and Parks requirements.
- d) 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 and/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 All Wards Manager Branch within Planning, Development and Building Services Department , or their designate.**

The Report shall be prepared as per Procedure D-5-4 "Technical Guideline for Individual On-Site Sewage Systems: Water Quality Impact Risk Assessment" and Procedure D-5-5 "Technical Guideline for Private Wells: Water Supply Assessment".

9. 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.
10. 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, prepared in accordance with the City of Ottawa Hydrogeological and Terrain Analysis Guidelines, as amended. The Hydrogeological and Terrain Analysis report must demonstrate the following to the City of Ottawa:

- That the construction of any new well(s) on the severed parcel(s) is/are in accordance with the Ministry of the Environment, Conservation and Parks regulation (O.Reg.903) and the City of Ottawa Hydrogeological and Terrain Analysis Guidelines;
- That the quality of the water meets the requirements of the City's Hydrogeological and Terrain Analysis Guidelines;
- That the quantity of water meets all the requirements of the City's Hydrogeological and Terrain Analysis Guidelines;
- That the septic impact assessment meets the requirements of the City's Hydrogeological and Terrain Analysis Guidelines.

A hydrogeologist (P.Geo. or P.Eng. with the required qualifications) must prepare the report. It is the Owner's responsibility to coordinate the person drilling a new well (or wells), if required, and the professional hydrogeologist noted herein in order to properly satisfy this condition.

Lot creation will normally not be approved based on dug wells, unless it can be demonstrated, to the satisfaction of the City, that a drilled well is likely to produce unacceptable water quantity or quality. Technical pre-consultation is mandatory if dug wells are contemplated. The report provided with the application identifies that dug wells are contemplated, which will require technical pre-consultation with the City.

If the approved 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 approved Hydrogeological and Terrain Analysis report recommends specific requirements for well or septic system design and construction, the drilling of a well (or wells) and/or the conveyance of a 30-centimetre reserve shall be required. A potential alternative to conveying a 30cm reserve, for sites with specific recommendations in the approved Hydrogeological and Terrain Analysis report, would be to drill a well on each severed parcel and submit the required confirmation documents, which could include, but is not limited to, a Well Inspection Report (certified by a hydrogeologist, not only the well driller) and a copy of the approved Septic Permit from the Ottawa Septic System Office for each severed parcel, demonstrating compliance with the approved Hydrogeological and Terrain Analysis report.

Both the report and any required Development Agreement shall be prepared to the satisfaction of **the manager of the Development Review All Wards Branch, or their designate.**

11. 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 the Minimum Distance Separation requirements of the Ministry of Agriculture, Food and Rural Affairs have been met.

D08-01-24/B-00120:

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

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 known municipally as 590 Smith 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”.
 - e. 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) enter into an Agreement with the City, to the satisfaction of **the manager of the Development Review All Wards Branch, or their designate**, to be placed on title that includes the mitigation measures identified in the “590 Smith Road Lot Boundary Adjustment Environmental Impact Study” provided by Muncaster Environmental Planning and dated September 7, 2023.
 3. That the Owner(s) provide proof to the satisfaction of **Development Review Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, 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.

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