

4. APPEAL TO OMB - DECISION BY
REGIONAL LAND DIVISION COMMITTEE - B29/98

COMMITTEE RECOMMENDATION AS AMENDED

That Council approve the Planning and Development Approvals Department's withdrawal of the appeal to the Ontario Municipal Board of the attached severance B29/98.

DOCUMENTATION:

1. Planning and Development Approvals Commissioner's report dated 26 Jun 98 is immediately attached.
2. Extract of Draft Minute, 14 Jul 98, immediately follows the report and includes a record of the vote.

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON
MUNICIPALITÉ RÉGIONALE D'OTTAWA-CARLETON

REPORT
RAPPORT

Our File/N/Réf.	22-98-0002
DATE	26 June 1998
TO/DEST.	Coordinator, Planning & Environment Committee
FROM/EXP.	Planning and Development Approvals Commissioner
SUBJECT/OBJET	APPEAL TO OMB DECISION BY REGIONAL LAND DIVISION COMMITTEE B29/98

DEPARTMENTAL RECOMMENDATION

That the Planning and Environment Committee recommend that Council confirm the Planning and Development Approvals Department's appeal of the attached severance.

BACKGROUND

Reports on appeals are generally provided to Planning and Environment Committee as an Annex to the quarterly "Summary of Assigned Functions" report. This particular appeal has been brought forward at the request of Councillor Hill because the next quarterly report will not be prepared until next September.

DISCUSSION

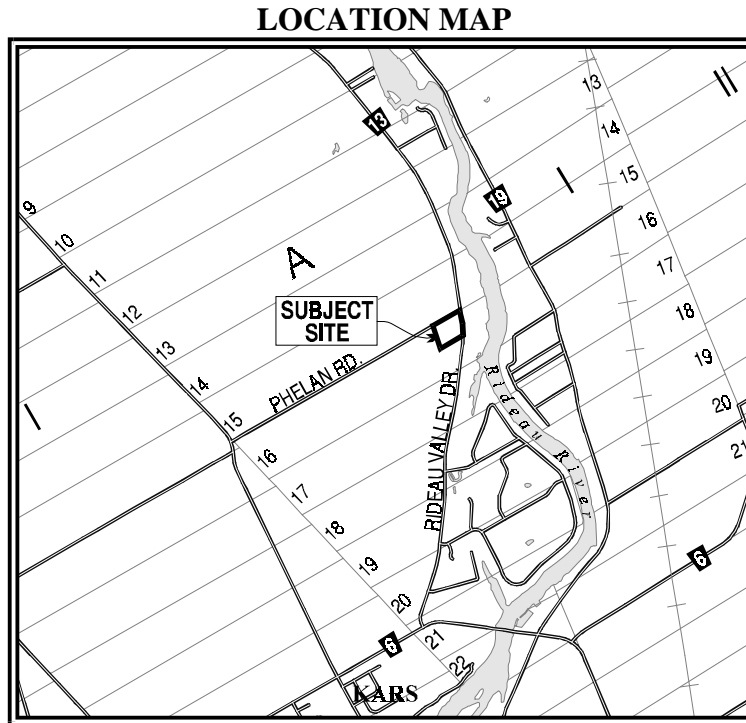
The Regional Land Division Committee has approved the severance of a 1.2 ha (3 acre) parcel from an overall holding of 4.9 ha (12 acres).

The subject property is legally described as Part Lot 16 Concession A (North Gower) Rideau Township. The land is designated "Agricultural Resource Area" in the newly approved Regional Official Plan, the old Regional Official Plan and the Local Official Plan.

The property is located on the north west corner of Phelan Road and Regional Road # 13 (Rideau Valley Drive). To the north and west of the applicant's property much of the land use activity is devoted to large farm operations. These operations range from 17 ha (41 acres) to 49 ha (120 acres) in size. Immediately south with the exception of one lot of record (vacant) and an 11 ha (26 acre) horse operation there is a farm of 94 ha (233 acres) in size. Residential development exists on the opposite side of Regional Road # 13 along the Rideau River.

The Regional Road represents the dividing line between the agricultural activity and the residential uses; both uses have been designated accordingly. In the interpretation section of the Regional Official Plan Regional roads are the defining boundaries between designations.

The only severances permitted in the agricultural area are limited farm-related lot creation, infill or poor pocket severances. The applicant is not a farmer nor is the application farm-related.



Development is limited in the immediate area and therefore an infill severance is not possible. The new Regional Official plan and the Provincial Policy Statement only permit residential lots to be created between two existing non-farm residences which are on separated lots of a similar size and which are situated on the same side of the road and are not more than 100 metres apart.

The LEAR study which was undertaken by the Region to determine agriculture potential rated the applicants property as 130 - 140 (good agricultural potential). In addition the soil capability for agriculture as determined by the Ontario Institute of Pedology rates these lands as class 1 soils. This confirms that the property is correctly designated as Agricultural Resource and precludes a poor pocket severance. Furthermore, the Official Plan of the Township of Rideau has no provisions for severances within areas of poor land as permitted by the Regional Official Plan.

In summary this consent does not fall into any of the categories which would allow for lot creation.

CONSULTATION

The public consultation process was not applicable for this report.

FINANCIAL IMPLICATIONS

This recommendation has no financial implications.

*Approved by
N. Tunnacliffe, MCIP, RPP*

Attach. (3)



Land Division Committee Office
Regional Municipality of Ottawa-Carleton
Ottawa-Carleton Centre
111 Lisgar Street, (Cartier Square) 2nd floor
Ottawa, Ontario, K2P 2L7

THE LAND DIVISION COMMITTEE FOR THE REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

CHAIRPERSON
J.A. FLEWELLYN

SECRETARY-TREASURER
W.D. COOK

SEVERANCE APPLICATION NO. B29/98 DATE RECEIVED APR 01 1998
REGIONAL OFFICIAL PLAN DESIGNATION AGRICULTURAL RESOURCE
LOCAL OFFICIAL PLAN DESIGNATION AGRICULTURAL RESOURCE
ZONING BY-LAW NO. 84-11 ZONE A1 SECTION 21
AUTHORIZATION OF OWNER RECEIVED (if required) YES — NO —
(ABOVE FOR OFFICE USE ONLY)

1) Owner's Name STUART N. EDEY Telephone 692-3038
Address 1202 PHELAN RD. E. RR#2 MANOTICK K4M 1B3

2) **TYPE & PURPOSE OF TRANSACTION:**

Creation of new lot ☒ Addition to a lot (lot line adjustment) () Correction of Title () Mortgage or Charge ()
Partial Discharge of Mortgage () Easement/Right-of-Way () Lease () Other ()

3) If known, name of person(s) to whom land or an interest in the land is to be transferred, charged or leased.
(If family, indicate relationship)

4) **LOCATION OF LAND:**

(a) Municipality R.M.O.C. RIDEAU TWP. (NORTH GOWER)
(b) Lot PT 16 Conc. A
(c) Part No. Reference Plan No.
(d) Lot No. Registered Plan No.
(e) Municipal No. & Street/Road 1202 PHELAN RD.

5) **DIMENSIONS OF LAND PROPOSED TO BE SEVERED:**

(a) Frontage (b) Average Width
(c) Average Depth SEE SKETCH (d) Area 3 ACRES

6) **DIMENSIONS OF LAND PROPOSED TO BE RETAINED:**

(a) Frontage (b) Average Width
(c) Average Depth SEE SKETCH (d) Area 9 ACRES

7) Total number of lots (including retained lots) which are the subject of this application. 2

8) Are there any easements or restrictive covenants affecting the subject land? Yes () No ☒ If yes, explain and easement/covenant MUST be shown on your sketch.

9) **EXISTING USE OF LAND TO BE SEVERED:**

Village () Hamlet () Farm Related Residential () Non-Farm Related Residential ☒ Agricultural ()
Commercial () Industrial () Institutional () Other ()

PROPOSED USE OF LAND TO BE SEVERED:

Village () Hamlet () Farm Related Residential () Non-Farm Related Residential ☒ Agricultural ()
Commercial () Industrial () Institutional () Other ()

Elaborate with particulars on any item(s) designated above:

Number and type of buildings on the land to be severed (a) Existing *0 bungalow*
(b) Proposed *1 bungalow*

10. **EXISTING USE OF LAND TO BE RETAINED:**

Village () Hamlet () Farm Related Residential () Non-Farm Related Residential ☒ Agricultural ()
Commercial () Industrial () Institutional () Other ()

PROPOSED USE OF LAND TO BE RETAINED:

Village () Hamlet () Farm Related Residential () Non-Farm Related Residential ☒ Agricultural ()
Commercial () Industrial () Institutional () Other ()

Elaborate with particulars on any item(s) designated above:

Number and type of buildings on the land to be retained (a) Existing *1 bungalow*
(b) Proposed *NO CHANGE*

11. Is the retained parcel to be used as a "Farm Retirement Lot"? Yes () No ☒

12. Is the purpose of the severance to dispose of a surplus farm residence through farm consolidation? Yes () No ☒

13. **SERVICES (Proposed)**

Municipal Water and Sewers () Municipal Water and Private Sewage System () Municipal Sewer and Well ()
Well and Private Sewage System ☒ Communal Well and Septic () Lake or other Water Body () Other ()

When will proposed services be available?

14. **ACCESS to Severed & Retained Parcels**

Open Municipal road ☒ Regional Road () Provincial Highway () Private R.O.W. () Water () Other ()

If access is by water, indicate the parking and docking facilities to be used and the approximate distance of these facilities from the subject land and the nearest public road.

15. Is there an agricultural operation, including abattoir, livestock or stockyard, within 600 feet? Yes ☒ No
If yes, specify details and show on sketch.
16. Is any part of the land swampy or subject to flooding, seasonal wetness or erosion? Yes () No ☒ If yes, give details
.....
17. Type of Soil (Clay, Gravel, Sand, Rock, etc.) CLAY
18. Is the subject land currently, or has it ever been, the subject of: A Plan of Subdivision () A Minor Variance ()
An Official Plan Amendment () A Zoning By-law Amendment () A Ministers Zoning Order Amendment (Marlborough
Twp.) () Yes () No ☒ If so, and if known, indicate file number, status &/or decision.
19. Has the owner severed any land from the parcel "originally" acquired? Yes () No ☒ If yes, and if known,
indicate the date of transfer, the name of the transferee and the land use.
20. Is the Owner, Solicitor or Agent applying for any additional consents simultaneous to this application? Yes () No ☒

21. SKETCH

Each application must be accompanied by a sketch, preferably to scale, showing:

- the parcel of land that is the subject of the application showing the boundaries and dimensions of the parcel and showing the part of the parcel that is to be severed and the part that is to be retained as well as the location of any land previously severed
- any abutting lands owned by the applicant showing the boundaries and dimensions
- the distance between the subject land and the nearest township lot line or landmark such as a bridge or railway crossing
- the approximate location of all natural and artificial features on the subject land and on the adjacent land that may affect the application (buildings, railways, roads, watercourses, drainage ditches, river or stream banks, wetlands, wooded areas)
- the existing uses on the adjacent land (residential, commercial, agricultural, etc.)
- the location, width and name of any roads within or abutting the subject land, indicating whether it is an unopened road allowance, a public travelled road, a private road or a right-of-way
- the location and nature of any easement/covenant affecting the subject land
- the location and distances of all wells and septic systems (tank & tile bed) from existing and proposed property boundaries. The distance between the well and septic system is also to be shown. If known, indicate if the well is "dug" or "drilled", the depth and the water quality.

COMPLETENESS OF THE APPLICATION

Ontario Regulation 41/95 made under The Planning Act sets out mandatory information for consent applications. In addition, further information may be requested by the Approval Authority. This additional information is indicated in "italics" within the application form. Should your application be for the purpose of creating a retirement lot or for the severance of a surplus farm residence, an additional "Farm Data" form must be completed. If the mandatory information and fee are not provided, the office of the Land Division Committee will return the application or refuse to further consider the application until the information and fee have been provided.

ONE COPY OF THE APPLICATION SHOULD BE COMPLETED IN DARK BLUE &/OR BLACK INK AND SUBMITTED TO THE OFFICE OF THE LAND DIVISION COMMITTEE ACCOMPANIED BY A FEE OF \$595.00. CHEQUES ARE TO BE MADE PAYABLE TO THE "TREASURER, " R.M.O.C."

AS OF APRIL 1, 1995, THE CONSERVATION AUTHORITIES ASSUMED THE RESPONSIBILITY FOR APPROVING SEPTIC SYSTEMS. AS OF APRIL 1, 1997, A NEW FEE SCHEDULE HAS BEEN IMPOSED. FOR EACH SEVERANCE APPLICATION FILED, THAT RESULTS IN THE CREATION OF A NEW LOT, A \$150.00 FEE IS APPLICABLE. A CHEQUE MADE PAYABLE TO "CONSERVATION PARTNERS" MUST ACCOMPANY THIS APPLICATION.

Freedom of Information and Privacy Act - Personal information on this form is collected under the authority of The Planning Act and will be used to process this application.

Name of Owners Solicitor (if any)

Address Telephone Number

Name of Authorized Agent (if any) CHARLES E. STONEHOUSE

Address 1073 ISLANDVIEW DR. MANOTICK K4M 1N8 Telephone Number 692-4097

Please specify to whom all communications should be sent:

Owner ✓ Agent ✓ Solicitor

IF APPLICATION IS TO BE SIGNED BY AN AGENT OR SOLICITOR ON BEHALF OF THE OWNER, THE FOLLOWING AUTHORIZATION MUST BE COMPLETED AS SET OUT IN SECTION 53(1) OF THE PLANNING ACT.

Authorization of Owner for Agent to Make the Application

STUART & MARY EDEY are the owner of the land that is the subject of this application

for a consent and I authorize C. E. Stonehouse to make this application on my behalf.

Date 10.3.98 Signature of Owner [Signature]

IF THE OWNER IS A CORPORATION, THE APPLICATION SHALL BE SIGNED IMMEDIATELY BELOW BY AN OFFICER EMPOWERED TO BIND THE CORPORATION.

Date Signature
(I have the Authority to bind the Corporation)

AFFIDAVIT OR SWORN DECLARATION (This section must be completed in the presence of a Commissioner of Oaths)

I CHARLES STONEHOUSE of the TOWN of MANOTICK

in the Regional Municipality of Ottawa-Carleton solemnly declare that all above statements and the statements contained in all of the exhibits transmitted herewith are true and I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me at the CITY of NEPEAN

in the Regional Municipality of Ottawa-Carleton this 24th

day of MARCH 19 98

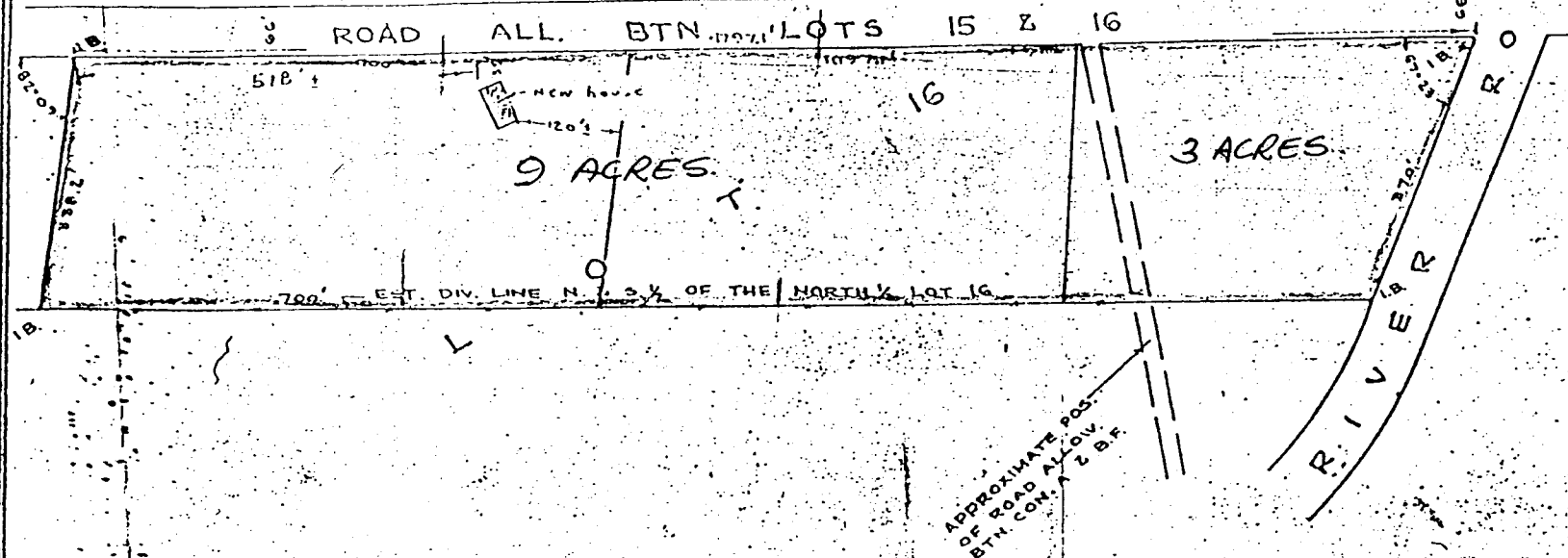
[Signature]
Commissioner of Oaths

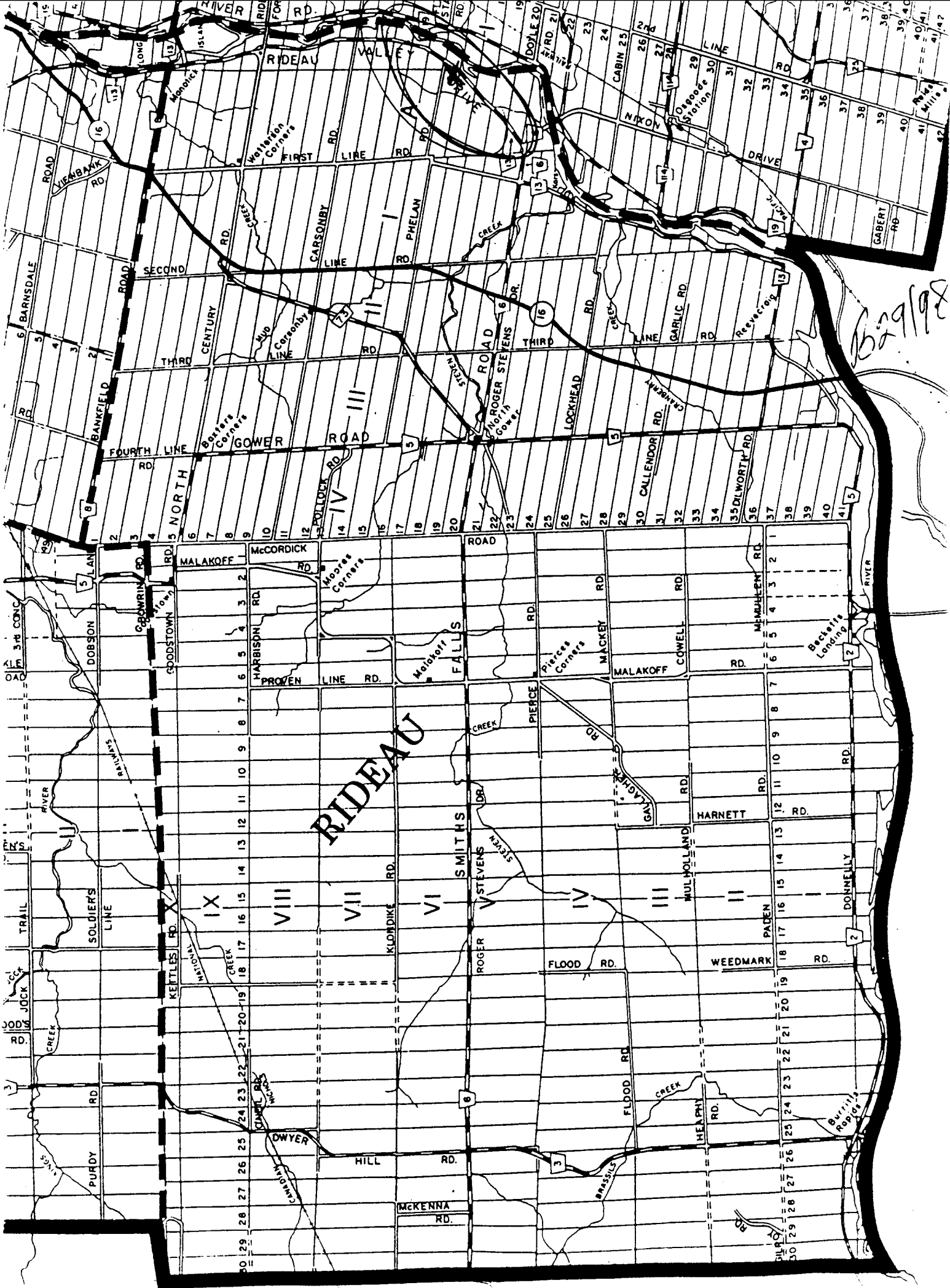
[Signature]
Signature of Owner, Agent, or Solicitor

$1^{\circ} = 200^{\circ}$

Q.L.2.

Revised July 5, 1960





REGIONAL MUNICIPALITY OF OTTAWA CARLETON
MUNICIPALITÉ RÉGIONALE D'OTTAWA CARLETON

MEMORANDUM
NOTE DE SERVICE

Our File/N/Réf. B29/98
Your File/V/Réf.

DATE 16 June 1998

TO/DEST. Tim Marc, Legal Department

FROM/EXP. Barry Edgington, Director, Development Approval Division
Planning and Development Approvals Department

SUBJECT/OBJET **APPEAL TO OMB**
DECISION BY REGIONAL LAND DIVISION COMMITTEE
RIDEAU TOWNSHIP (APPLICANT STUART EDEY)

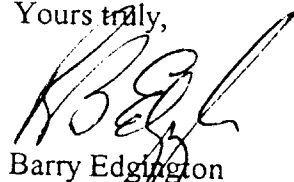
On 03 June, 1998 the Land Division Committee approved consent application B29/98; the last day to appeal is 23 June, 1998 (copy of notice attached).

The lands are legally described as Part of Lot 16 Concession A, Rideau Township (North Gower). The application was for a 1.2 ha. (3 ac.) non farm related residential lot to be severed from an overall holding of 4.9 ha. (12 ac.). Non farm related residential lots are not permitted in areas designated "Agricultural Resource" in the Regional and local Official Plans unless they meet the criteria for infill. This application does not meet those requirements as defined by the ROP and the Provincial Policy Statement.

Rideau Township staff also recommended against the application for similar reasons (report attached).

The subject consent application does not conform to the Regional and local Official Plans and therefore the Planning and Development Approvals Department is requesting that the Legal Department launch an appeal to the Ontario Municipal Board.

Yours truly,



Barry Edgington

Attach. (3)

cc: Councillor Betty Hill
Brian Faddies, DAD

Regional Municipality of Ottawa-Carleton
Ottawa-Carleton Centre, Cartier Square
111 Lisgar Street, Ottawa, Ontario K2P 2L7

Office of Land
Division Committee
Tel. (613) 560-1231
Fax. (613) 560-6006



Municipalité régionale d'Ottawa-Carleton
Centre Ottawa-Carleton, Place Cartier
111, rue Lisgar, Ottawa (Ontario) K2P 2L7

Bureau du Comité
des lotissements
Tél. (613) 560-1231
Télécopieur (613) 560-6006

June 3rd, 1998

Mr. Chuck Stonehouse
1073 Island View Drive
Manotick, Ontario
K4M 1J8

Dear Applicant:

Re: Application for Severance B29/98 - Stuart Edey

Attached herewith please find a copy of the decision of the Land Division Committee on your application for severance. Should you wish to appeal against the decision or against any condition imposed, notice of appeal, setting out written reasons, must be filed by **June 23rd, 1998** with:

Mr. W.D. Cook, Secretary-Treasurer
Land Division Committee
Planning & Development Approvals Dept.
Reg. Mun. of Ottawa-Carleton
111 Lisgar Street, 2nd Floor
Ottawa, Ontario K2P 2L7

The Ontario Municipal Board Act has set a fee of \$125.00 for a primary appeal and \$25.00 for each related appeal. Cheques or Money Orders are to be made payable to the "Minister of Finance".

Only individuals, corporations and public bodies may appeal decisions in respect of applications for consent to the Ontario Municipal Board. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group.

You will be notified should an appeal be filed by any of the agencies or persons to whom a notice of the decision has been sent.

If additional information is required, please contact this office between the hours of 8:00 a.m. and 4:00 p.m..

Yours sincerely

A handwritten signature in dark ink, appearing to be 'W.D. Cook', written over a horizontal line.

W.D. Cook
Secretary-Treasurer
Land Division Committee

copy to: Brian Humphrys, Twp. of Rideau
J. Ostafichuk, Regional Planning Dept.
G. McDonald, RVCA
Bev D'Aoust, Regional Legal Dept.
Stuart Edey

Application for Severance B29/98

Pursuant to Subsection 17 of Section 53 of the Planning Act, R.S.O. 1990, Chapter P.13, as amended, your application for consent, to sever a 3 ac. residential lot, as defined in Subsection 50(1), has been granted by the Land Division Committee.

The following conditions must be complied with on or before **June 3rd, 1999**, failing which the application for consent shall be deemed to have been refused as set out in Subsection 53(41) of the Planning Act, R.S.O. 1990, Chapter P.13, as amended.

Conditions Precedent:

That executed deeds transferring title be submitted, in triplicate, to the office of the Land Division Committee on or before the above mentioned 1999 date.

That 6 original copies of a reference plan, duly signed by the Registrar, be filed with the office of the Land Division Committee when deeds are submitted for endorsement. The plan shall conform substantially to the sketch filed with the application.

The applicant must provide certification to the RMOC of the following:

- a) that the well has been constructed in accordance with MOEE guideline "Water Wells and Ground Water Supplies in Ontario",
- b) that the quality of the water meets the MOEE "Ontario Drinking Water Objectives" and
- c) that there is sufficient quantity for the intended use.

The certification must be prepared by a Professional Engineer. (This condition applies to all vacant parcels resulting from the severance application.)

NOTE: Should you not wish to proceed with the drilling of the well at this time, an Agreement with the RMOC may be entered into and registered on title.

That the title transfer deeds contain the following notice on "Schedule S" where the Certificate of Consent is placed: "This property is located in an agricultural area and may, therefore, be subjected to noise, odours or other nuisances associated with the agricultural industry."

That both the severed & retained parcels be rezoned by the Twp. of Rideau with all levels of appeal exhausted.

That sufficient frontage from the severed portion be deeded, at no charge, to the RMOC to provide for a road right-of-way measuring 15m from the centreline of the existing regional road unless the reference plan demonstrates that the widening is not required. If required, deeds to the Region must be registered by their Legal Department prior to endorsement of consent on the title deeds. In addition, if a widening is required, the reference plan must be tied to the Horizontal Control Network in accordance with the municipal requirements and guidelines for referencing legal surveys. No permanent features are permitted within the road widening.

That the applicant pay to the Twp. of Rideau \$750.00 cash-in-lieu of parkland charges.

B29/98

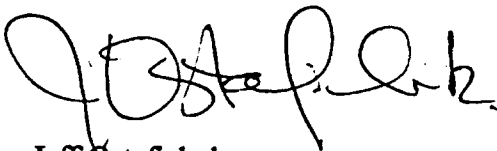
Edey

The proposed severance is located in an area designated "Agricultural Resource" in the Regional Official Plan and "Agricultural Resource" in Rideau Township's Official Plan.

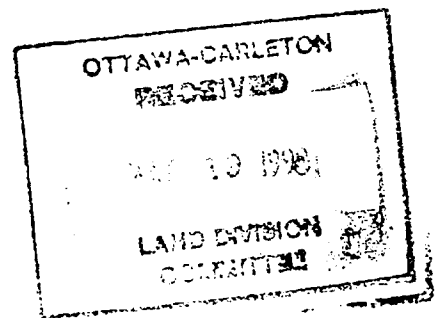
The applicant wishes to sever a 1.2 ha (3 ac.) lot for residential use while retaining a 3.6 ha (9ac.) parcel.

Both the Regional and Rideau Official Plans do not permit non farm related residential uses in the agricultural resource areas.

The Planning and Development Approvals Department requests that this application be denied.



Jeff Ostafichuk
Development Approvals Division



Extract of Draft Minutes
Planning and Environment Committee
14 July 1998

APPEAL TO OMB - DECISION BY
REGIONAL LAND DIVISION COMMITTEE - B29/98
- Planning and Development Approvals Commissioner's report
dated 26 Jun 98

Jeff Ostafichuk, Planning Approvals Officer, Development Approvals Division, Planning and Development Approvals Department, gave a brief overview of the staff report.

Referring to a map of the area, Mr. Ostafichuk explained for Councillor Legendre that although the land west of Rideau Valley Drive was agricultural, there were a number of residential lots, many of them Lots of Record, which might have been created from farm retirement lots or farm help lots back in the 1960's and 1970's according to various policies in effect at the time. He said these had been accounted for during the Land Evaluation and Agricultural Review (LEAR) Study.

Mr. Ostafichuk also clarified for Councillors van den Ham and Munter that there were two houses on the west side of the road, one north and one south of the subject site. He noted the one to the north was a farm related residence, and the one to the south was part of a horse operation of approximately 26 acres or 11 hectares in size. Mr. Ostafichuk also said there was a Lot of Record immediately to the south of the applicant's land about which the Department had no information. He suspected it may have been created before the Regional Land Division Committee, and may have been a farm related lot in the past.

Mr. Jeff Meek addressed Committee on behalf of his family and in-laws, landowners Mary and Stuart Edey. (On file with the Regional Clerk)

Mr. Meek confirmed for Councillor Legendre that although Rideau Township staff had not recommended the severance, their report had added that an argument could be made that the creation of the lot would in no way exacerbate or change the character of the area. Councillor Munter, referencing Mr. Meek's photocopied aerial photo, which the speaker had used to indicate the area was not generally viable in terms of agriculture, observed that much of the area seemed to be farmed. The Councillor said the photos Mr. Meek had circulated to Committee members indicated houses on the east side of Rideau Valley Drive, but noted this side was designated Rural Residential.

Mr. Meek clarified his intention had been to give an idea of the proximity of the residence to the south by showing the lot line looking westward from the Regional Road, which on a handout provided by staff had been shown to be a vacant piece of land.

Councillor Munter felt the speaker was using the photos to argue the abundance of residential use, but the Councillor emphasized this residential use was on land designated for residential purposes on the east side of the road, which seemed substantively different from the west side.

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Mr. Meek said this was understandable, however, noted there were residences on three sides of the proposed severance and a road on the fourth side, and that it was in no way bounded by agricultural land.

Committee Chair Hunter felt this parcel, south of Phelan Road and fronting on the west side of Rideau Valley Drive, was an anachronistic area within the Agricultural Resource zone. He felt this was probably as much caused by the Fines Flowers land as by anything else. The Chair pointed out the Fines land had been sold to a numbered company a number of years ago and said he had expected to see the present owners leading a charge from area residents to redesignate the land to a General Rural type of designation from Agricultural Resource as there was not a great deal of active farming or agricultural resource usage taking place.

Mr. Meek confirmed the land was sitting idle and was going fallow.

Chair Hunter acknowledged the land was good, and of a high class, but that no real farming had been taking place as far as the municipal drain, adjacent to the Maiers' family property, where Committee had allowed an infill severance a number of years ago.

The speaker pointed out the municipal drain cut through his front field, and said his proposal had been to sever the front half, as it was too small to be economically viable for farming.

The Committee Chair offered that if the whole parcel had been looked at as a unit, perhaps the most easterly portions of the concession south of Phelan Road should have been designated General Rural. As this had not happened, and as no one had made a request for a change, an Agricultural Resource designation had remained.

Mr. Meek said that even with this in mind, the proximity of the residence to the south, approximately fifty metres south of the lot line, made it close enough to the property line of the proposed severance to allow his particular lot to qualify as an infill.

Councillor Hill reminded Committee members of the amendment to Section 1.5 of the Regional Official Plan (ROP), Interpretation of the Plan, which she had moved at the time of the ROP review. It read, "*The boundaries on all appropriate schedules in the rural areas are approximate and shall be considered as general except where they coincide with major roads, railways, Hydro transmission lines, rivers and other clearly recognisable physical features. Therefore, amendments to this Plan will not be required in order to make minor adjustments to the approximate land use boundaries provided the general intent of the Plan is preserved.*"

The Councillor said if the Region had first studied which lands were in agricultural production and which were not, the line would not have extended to where it did, resulting in the present dilemma.

Councillor Hill also emphasized that although technically, Rideau Township staff could not approve the severance, they could accept the argument that the creation of this one additional lot would not exacerbate the existing situation nor change the character of the area. She

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14 July 1998

acknowledged the agricultural policies only had two areas which allowed residential lots, but noted that residential infill severances were permitted. Although Councillor Hill recognized Regional staff felt they had no alternative in abiding by the policies of the Plan, she asked Committee not to support staff's appeal to the Ontario Municipal Board (OMB).

Councillor Munter expressed a concern that approval of this severance would lay the groundwork for other marginal operations to make the same argument, based on the precedent that would be set.

The Committee Chair said the precedent already existed, and had been set when the Maier severance had been granted in the early 1990's.

Responding to a question from Councillor Munter, Mr. Ostafichuk said that any lot creation in residential form was of concern to staff. He believed there was a cumulative effect, and that residential development eventually took over and took away from agricultural areas in Ottawa-Carleton. Mr. Ostafichuk said staff recognized there were smaller lots in the agricultural resource area, and that both this pocket of land and the former Fines property were accounted for in the LEAR Study. He said the matter was not one of whether or not the parcel was viable on its own, but of subsequent severance applications once a precedent had been set.

Responding to a question from Councillor Munter as to whether he felt it would be a reasonable concern that others along the west side of the road might come forward to make arguments similar to his own, Mr. Meek said he could not speak for them. He did not believe the property to the south would qualify for infilling, as a septic system on its north side would not allow enough room to create another lot. Regarding the other properties, Mr. Meek said there would be no access, as they had already been broken up into smaller pieces and residential units.

To a query from Councillor van den Ham, Mr. Ostafichuk replied that although he had not studied the matter closely, the possibility did exist that if this severance were granted, a situation could be created for another infill along Phelan Road. He stated the infilling policies allowed for a lot to be created between two non farm related uses where they are on separated lots and the structures are no more than 100 metres apart.

Councillor van den Ham noted the Land Division Committee's request, on page 42 of the report, that should the severance go through, both the severed and retained parcels be rezoned by the Township of Rideau with all levels of appeals exhausted. He asked Mr. Ostafichuk if the intent was to exclude further severances between the newly created lot and the existing residence.

Mr. Ostafichuk said this was possible, and that the local Township could rezone the retained parcel to allow no further residential development. He said this was something Regional staff could ask for, and had, in past severances in General Rural areas.

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The Councillor said he raised this issue because if a severance were granted at the east end of the property, a few acres in the middle would remain. Although he offered it was not the applicant's intent to further sever, he noted that this possibility existed, and that it was also possible to request, in the rezoning process, the elimination of this possibility. Councillor van den Ham wondered if there was any need to rezone other than to get in writing that the applicants would not apply for any further severance or residential construction on the retained parcel.

Chair Hunter believed the matter dealt with minimum lot sizes in particular zones in Townships. He said he was not familiar with them all, but believed that three acres seemed small for an agricultural resource zone.

Mr. Ostafichuk verified the present designation on the parcel as A1, Restricted Rural, of which the minimum lot size (in the Zoning By-Law) is ten hectares. He elaborated the Zone provisions for Restricted Rural Zone A1 were ten hectares for a lot area for anything outside of a cemetery, communications tower, home occupation, etc.

The Committee Chair noted the lot did not conform to use because it was undersized by the minimum lot size in the zone, and was being further severed. He asked if a variance from the Township was required as well, or whether this was the purpose of the rezoning.

Mr. Ostafichuk believed the purpose of the rezoning on the severed and the retained parcel would be to bring both into conformity with the Zoning By-Law.

Councillor Bellemare quoted page 32 of the report, which stated "*In the interpretation section of the ROP Regional Roads are the defining boundaries between designations.*" He also noted the applicant had quoted page 48 of the ROP, Section 3.b, "*Features such as rivers, creeks and roads may be used to define the extent of development*". The Councillor wondered if local roads qualified in defining boundaries, and if staff had taken into account the property was bounded by a Regional Road and a local road to the north.

Mr. Ostafichuk explained that between two different designations, as in the case with residential development on one side of a road and a resource on the other, the road, as a major feature, could be used to define the boundary. Mr. Ostafichuk noted, however, that this statement was contained in the General Rural policies for areas designated General Rural, and allowed for some flexibility for this type of lot creation to take place, whereas the Agricultural Resource policies did not. In this case, although the road was a major feature, the Agricultural Resource designation carried over from Phelan Road, therefore this policy did not apply.

Further clarifying for Councillor Bellemare, Mr. Ostafichuk stated that although the Regional Official Plan provided for an element of discretion in terms of determining the extent of development, it was necessary to remember there were two infill policies in the Official Plan, one for Agriculture and one for General Rural. It was the General Rural infilling policy which was more flexible.

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While acknowledging the LEAR Study had rated the applicant's property as having good agricultural potential, Councillor Bellemare pointed out that the applicants had stated this was considered unsuitable on an economic basis. The Councillor wondered if the Region took factors such as economic unsuitability into consideration when evaluating these types of applications for severances.

Mr. Ostafichuk outlined that every factor was broken down and looked into when studying possibilities of creating non farm related residential units in agricultural resource areas, and said that two aspects of the resource had to be studied; first, the quality of soils and the parcel sizes; and second and most important, the protection of the existing resource. He outlined that the infilling policy was reviewed, and that staff were guided by the Provincial Policy Statement which implied what infilling should be. Both the poor pockets aspect and the question of economic viability of a stand-alone operation or as a consolidation to a neighbouring operation were also reviewed.

He explained the nature of the Ministry of Agriculture's Minimum Distance Separation formula, used when creating both new residential areas and new farms. This distance separation, taken from barns, manure storage, type of animals, crops under cultivation, etc., restricted the resource when creating residential areas; a farm operation wishing to expand or change its type operation would fall under this Minimum Distance Separation, and would be restricted as a result of bringing in more non farm related uses into the area.

Mr. Ostafichuk noted poor pockets were determined by soil classification. He said the applicant's soil was Class 2, and that much of Ottawa-Carleton's agricultural practices were under Class 2. Mr. Ostafichuk added there was very little Class 1 soil. He also added another feature of poor pockets is that most of the parcels mapped usually consisted of 25 acres or more, so that on a poor pocket of this size, lot creation would be allowed on a minimum sized lot of two hectares, but emphasized it had to be part of a larger parcel and not just a specific lot within the poor pocket.

Councillor Bellemare noted that both the Provincial Policy Statement and the new ROP only permitted residential lots to be created between two existing non farm residences which are on separate lots of a similar size and are situated on the same side of the road and are not more than 100 metres apart. He then made reference to the non-farm residence south of the subject property, not more than 100 metres away.

Mr. Ostafichuk explained that was the Lot of Record.

The Councillor then asked if "*on the same side of the road*" referred to a Regional Road or a local road.

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Mr. Ostafichuk said the Provincial Policy Statement and the ROP referred only to a road. He said it did not matter; the term applied to both a Regional Road and a local road, and that it must simply be a road *allowance*.

Responding to questions from Councillor Legendre about the Maier severance, Mr. Ostafichuk said although he could not remember the details, he believed it had been granted in 1991 or 1992, for compassionate reasons. Mr. Ostafichuk noted the property was not a large parcel of land, was covered with rock and rock outcroppings, and therefore was not potentially very good. He said he did not believe it had met the infill policy requirements, and that staff had been against granting the severance at the time.

Councillor Legendre then asked if it was considered a poor pocket in terms of agriculture.

Mr. Meek offered that the Maier property may have been a poor pocket in terms of size and location, but not in terms of soil type, as according to the planners' drawings and schedules, they were the same as his own.

Councillor van den Ham pointed out that Mr. Edey's property was designated the same as a 200 acre cash crop farm. He asked the speaker if he had made any money off of his Class 2 property, and whether any farmer had made an offer to purchase.

Mr. Edey replied that he had not made much money; in no way enough to make a living, and that in 32 years of residence, nobody had offered to purchase his land.

The Councillor said he had raised these questions to emphasize the intent of the policy; namely, to protect agricultural land that can be accumulated, or that abuts an existing farm and can be used for agricultural operations, and to protect viable farms and farmland. Councillor van den Ham said these criteria did not apply to this area. He said he did not believe the approval of this consent would set a bad precedent, and would simply be an extension of common sense. The Councillor encouraged Members not to support the staff recommendation, and allow the referral to the OMB.

In response to questions from Chair Hunter regarding rezoning of the property, Mr. Meek informed that an application for rezoning had not yet been made, although it had been made clear to Land Division Committee and Rideau Township that the applicants had no problem in trying to meet their conditions.

The Committee Chair also asked if the applicants had had any discussion with Rideau Township Planning staff to determine the rezoning terminology.

Mr. Meek informed that the applicants had not met with Township Planning staff since the launch of the appeal. The speaker also confirmed for Chair Hunter that the two parcels would have a zoning designation which would allow the particular lot size and that, in going for a

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municipal rezoning, there would be an appeals process, and that the Region would be circulated.

Chair Hunter felt the viability of the land as an agricultural operation had ended when it was severed from the original 200 acres, and that at best, it would be a hobby farm, as were some of the properties in the neighbourhood. However, the Chair also felt that changing a designation based on a claim that a small acreage would not allow someone to make a living on them as a farm would argue against the creation of smaller 25 or 10 acre parcels. He also took note of the argument that, if having a side lot on a road disqualified the lot for infill because there was no house on the other side of the road, then perhaps the road should classify as a house. The Committee Chair felt that in the end, the decision should come not from a Province-appointed official, but through a local zoning process, with circulation to neighbours. He felt that if the neighbours did not have a problem with the severance and with the rezoning, and if the municipality could go along with the rezoning to allow this to take place, then he could go along with it as well.

At Councillor Hill's request, Tim Marc, Regional Solicitor, clarified that if Committee wished staff to withdraw the appeal, a Motion that staff be directed to do so would be in order.

Councillor Hill said she would put forth a Motion to this effect.

Councillor Legendre said he could not support withdrawal of the appeal. He felt staff had been thorough, had acted properly, and had looked at everything that might possibly have been used to the applicant's advantage. The Councillor acknowledged the rationale that the Meeks wished to raise their children in the same rural environment as Mrs. Meek had enjoyed during her childhood, but felt there was nothing to keep them from doing this irrespective of Committee's decision, as lots and residential properties in the area would eventually come up for sale, although he did recognize it might be cheaper to do it this way.

Mr. Meek estimated that allowing the severance would save them approximately \$50,000.00 to \$60,000.00.

Councillor Legendre felt that going against the staff position would confer a large economic value on land that had a certain appropriate value as agricultural land. He felt Township staff had made the right decision, and that the rationale was contained in the ROP and in the Township's Official Plan. The Councillor felt there was a defensible boundary, and that if Committee allowed itself to be swayed, the end result would be a chipping away of the boundaries. He said there was enormous pressure to do so, which would increase, if the staff position were not supported. Councillor Legendre also suggested that letting neighbours decide what was appropriate, through the zoning process, was wrong. He felt neighbours might have an interest in supporting the severance, as the economic value of their own land would improve significantly should they hope for rezoning in future. The Councillor felt this pressure could lead toward the erosion of the Official Plan through the zoning process.

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Councillor Hill emphasized the ROP did not deal with the value of lands or surrounding lands, and that Committee had never discussed such an issue. She noted the issue was that of a gentleman and his wife in their seventies who had lived in the area for over 30 years who wished to have their family nearby to help with the maintenance of their land, and said this was an opportunity for them to do so. The Councillor said Committee's objectives were to protect agricultural lands, but felt what had been overlooked was that farm *operations* should be encouraged rather than just talk about protection of farm *land*. Councillor Hill noted the twelve acres in question had never been farmed and were not a viable operation. She felt nothing was being done to harm the character of the community, and that nothing was being done against the intention of the ROP. The Councillor also pointed out that Committee and Council often made decisions that were not always in line with Regional Policies, but changed with time. She offered that in a Region in which 90 percent of the land was rural, 1.2 hectares would not make a disaster out of the ROP. Councillor Hill then submitted her Motion asking that staff withdraw their appeal of the severance.

Committee then considered the staff recommendation as amended.

Moved by B. Hill

That the Planning and Environment Committee recommend that Council approve the Planning and Development Approvals Department's withdrawal of the appeal to the Ontario Municipal Board of the attached severance B29/98.

CARRIED as amended

YEAS: D. Beamish, M. Bellemare, B. Hill, R. van den Ham, G. Hunter....5
NAYS: J. Legendre, A. Munter....2