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| <p>1. COMMITTEE OF ADJUSTMENT DECISION, 4508 EIGHTH LINE ROAD
DÉCISION DU COMITÉ DE DÉROGATION, 4508, CHEMIN EIGHTH LINE</p> |
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COMMITTEE RECOMMENDATIONS AS AMENDED

That Council:

1. Direct staff to examine excess capacity and allocation in the Carlsbad Trickle Feed System as part of the Rural Review Process and Infrastructure Master Plan update;
2. Approve connections to the Carlsbad Trickle Feed System at 4508 Eighth Line Road and other addresses subject to severance applications before the Committee of Adjustment as of 12 September 2012; and
3. Propose to the Committee of Adjustment that no further connections to the Carlsbad Trickle Feed System be permitted as of 1 January 2013 until such time as the Infrastructure Master Plan is revised and updated.
4. Refer this report to the 12 September 2012 City Council Meeting.

RECOMMANDATIONS MODIFIÉES DU COMITÉ

Que le Conseil:

1. enjoigne au personnel d'examiner la capacité excédentaire et l'affectation du système de distribution d'eau à faible débit de Carlsbad dans le cadre du processus d'examen du secteur rural et de la mise à jour du Plan directeur de l'infrastructure;
2. approuve les raccordements au système de distribution d'eau à faible débit de Carlsbad au 4508, chemin Eighth Line et à d'autres adresses sous réserve des demandes de morcellement déposées devant le Comité de dérogation en date du 12 septembre 2012;

3. propose au Comité de dérogation qu'aucun autre raccordement au système de distribution d'eau à faible débit de Carlsbad ne soit permis à partir du 1^{er} janvier 2013 jusqu'à ce que le Plan directeur de l'infrastructure ait été examiné et mis à jour;
4. soumette le présent rapport à la réunion du Conseil municipal du 12 septembre 2012.

DOCUMENTATION

1. Deputy City Manager's report, Planning and Infrastructure, dated 24 August 2012 (ACS2012-PAI-PGM-0192).
2. Extract of draft Agriculture and Rural Affairs Committee minutes, dated 6 September 2012

Report to/Rapport au:

Agriculture and Rural Affairs Committee
Comité de l'agriculture et des affaires rurales

and Council / et au Conseil

August 24, 2012
24 août 2012

Submitted by/Soumis par : Nancy Schepers, Deputy City Manager/
Directrice municipale adjointe, Planning and Infrastructure/Urbanisme et Infrastructure

*Contact Person / Personne ressource: Don Herweyer, Acting Manager/
Gestionnaire intérimaire, Development Review-Rural Services/Examen des projets
d'aménagement-Services ruraux, Planning and Growth Management/
Urbanisme et Gestion de la croissance
(613) 580-2424, 28311 don.herweyer@ottawa.ca*

Osgoode (20)

Ref N°: ACS2012-PAI-PGM-0192

SUBJECT: COMMITTEE OF ADJUSTMENT DECISION, 4508 EIGHTH LINE ROAD

**OBJET : DÉCISION DU COMITÉ DE DÉROGATION, 4508, CHEMIN EIGHTH
LINE**

REPORT RECOMMENDATIONS

That the Agriculture and Rural Affairs Committee:

- 1. Direct staff to examine excess capacity and allocation in the Carlsbad Trickle Feed System as part of the Rural Review Process and Infrastructure Master Plan update;**
- 2. Recommend that Council defer consideration of a request to connect to the Carlsbad Trickle Feed System at 4508 Eighth Line Road until such time as staff have reviewed capacity and allocation in the Carlsbad Trickle Feed System as part of the Rural Review Process and Infrastructure Master Plan update; and**
- 3. Recommend that Council propose to the Committee of Adjustment that no further connections to the Carlsbad Trickle Feed System be permitted until such time as the Infrastructure Master Plan is revised and updated, and advise the Committee**

of Adjustment that the City intends to appeal severances granted with connections to the Trickle Feed System to the Ontario Municipal Board.

RECOMMANDATIONS DU RAPPORT

Que le Comité de l'agriculture et des affaires rurales :

- 1. demande au personnel d'examiner les capacités de production excédentaires et la répartition du système de distribution d'eau « à faible débit » de Carlsbad dans le cadre du processus d'examen du secteur rural et de la mise à jour du Plan directeur de l'infrastructure;**
- 2. recommande au Conseil municipal de retarder l'examen d'une demande de branchement au système de distribution d'eau « à faible débit » de Carlsbad du 4508, chemin Eighth Line jusqu'à ce que le personnel ait pu examiner les capacités et la répartition du système de distribution d'eau « à faible débit » de Carlsbad dans le cadre du processus d'examen du secteur rural et de la mise à jour du Plan directeur de l'infrastructure; et**
- 3. recommande au Conseil municipal de proposer au Comité de dérogation qu'aucun autre branchement ne soit permis au système de distribution d'eau « à faible débit » de Carlsbad jusqu'à ce que le Plan directeur de l'infrastructure soit révisé et mis à jour et informe le Comité de dérogation que la Ville a l'intention d'en appeler des détachements accordés avec des branchements au système de distribution d'eau « à faible débit » devant la Commission des affaires municipales.**

BACKGROUND

On May 2, 2012, the owner of 4508 Eighth Line Road applied to the Committee of Adjustment to subdivide the property into two separate parcels of land. The location of the subject property is shown on Document 1.

The property is located in a Public Service Area that is serviced by the Carlsbad Trickle Feed System. The System was commissioned in 1996 to supply safe potable water to existing dwellings in proximity to the Village of Carlsbad Springs and the surrounding area. The City's Infrastructure Master Plan does not permit the creation of new lots which are serviced by the Carlsbad Trickle Feed System as the original purpose of the Trickle Feed System was to respond to a public health related issue and provide safe drinking water to existing lots of record only.

Carlsbad Springs is an area that historically has been affected by poor water supply and contamination issues. In the past, potable groundwater has only been found in small, permeable surface aquifers which are unreliable as a supply and easily contaminated. Septic system effluent has proven to be a problem also as it was either trapped on the surface by underlying clay soil where sand is not found or, in sandy soils, traveled quickly to the aquifer where water was being withdrawn, taking with it both the nutrient load and untreated contaminants from old, poorly maintained or inadequate septic systems.

The provision of a low flow system by the former Region of Ottawa-Carleton (i.e. the Carlsbad Trickle Feed System), was given Provincial support to address the local health issues that could not be remedied by other means.

The last phase of the system was operational in 2002. In the early stages of the implementation, additional capacity was identified for 52 dwellings. However, since that time, additional connections have been denied.

The Planning and Growth Management Department recommended that the severance application be denied as the creation of a new lot on the Trickle Feed System contravenes the policies outlined in the Provincial Policy Statement, the Official Plan and the Infrastructure Servicing Master Plan.

The Committee of Adjustment approved the severance application on May 2, 2012 subject to the following condition:

- 1) *That the Owners receive permission from the Agricultural and Rural Affairs Committee to receive a connection to the trickle feed system.*

The owner and his agent appeared before the Agricultural and Rural Affairs Committee on May 31, 2012 during the "Open Mike" session to request a connection to the Carlsbad Trickle Feed System. The Agricultural and Rural Affairs Committee directed staff to provide a report on the issue and present it to the Agricultural and Rural Affairs Committee.

DISCUSSION

Provincial Policy Statement

The Provincial Policy Statement requires that municipalities utilize infrastructure and services in a sustainable manner and provides clear direction on the use of partial services. Section 1.6.4.5 of the Policy states as follows:

"Partial services shall only be permitted in the following circumstances:

- a) *Where they are necessary to address failed individual on-site sewerage service and individual on site water services in existing development; and*
- b) *Within settlement areas, to allow for infilling and rounding out of existing development on partial services provided that:*
 1. *The development is within the reserve sewage system capacity and reserve water system capacity; and*
 2. *Site conditions are suitable for the long-term provision of such services.”*

The area serviced by the Carlsbad Trickle Feed System (west of Carlsbad Springs) is not a settlement area per the Provincial Policy Statements. The Provincial Policy Statement is clear that the extension of existing partial services in the rural area shall only be considered where needed to address failed individual systems and not to provide an opportunity for new development.

Official Plan

Policy 2.3.2(10), 'Water and Wastewater Services', states that development may be permitted on private services in public service areas if such development:

- a. Is proposed in circumstance where public services are not currently technically or reasonably available;
- b. Can adequately be services by private individual services in accordance with Section 4.4

Section 4.4 states that ensuring a reliable supply of good quality water is an important consideration in the development review process. Carlsbad Springs in an area that has historically been affected by water supply and contamination issues. The quality of water in the Carlsbad aquifer is of poor quality with mineral content in excess of accepted levels. Given the water quality issues that exist in the Carlsbad Spring area, a new lot could not be adequately serviced by a private well.

Infrastructure Master Plan

The Trickle Feed System is identified in the Infrastructure Master Plan in order “...to provide the rural area west of Carlsbad Springs with a safe water supply. The small diameter trickle feed system provided a cost effective means to deliver water as a remedy for a health problem...” Section 6.1.2 of the Infrastructure Master Plan states that “the Carlsbad Springs Water Service Area provides a low pressure “trickle feed” to a specified number of lots in a defined service area. System capacities and connection permission are limited to lots of record at the time of implementation of the system”. The total number of dwellings was limited to 775 with no additional connections allowed. Therefore, the proposed severance is not consistent with the Infrastructure Master Plan

and would create a precedent that does not conform to the Plan for other properties in the area. Section 2.3.2.5 (e) of the Official Plan states that *“the City will discourage future growth on the basis of partial services, particularly where City water is provided to resolve a groundwater contamination issue”*.

If connections to the Trickle Feed System are going to be permitted, the Plan must be updated to permit them. The recommendations contained within this report request that the Agricultural and Rural Affairs Committee direct staff to make the necessary changes to the Infrastructure Master Plan. The revisions to the Plan will be based on the examination of the excess capacity available in the Trickle Feed System and where this capacity should be allocated. The Committee of Adjustment has approved two severances with connections to the trickle feed system in June 2010 and in May 2012. Until such time that the excess capacity and allocation has been examined, the Department recommends that the Agriculture and Rural Affairs Committee and Council recommend the Committee of Adjustment that it no longer permit further severances that require connections to the trickle feed system.

RURAL IMPLICATIONS

Connections to the Carlsbad Trickle Feed System are not supported by the policies contained within the Provincial Policy Statement, the Official Plan and the Infrastructure Master Plan. If connections to the Carlsbad Trickle Feed System are granted, this will encourage further applications for lots to be created by severance based on connection to the system.

CONSULTATION

Notice of the severance application was carried out in accordance with the Committee of Adjustment Notification and Consultation Policy. Residents of the Carlsbad area questioned how new lots could be created with a connection to the trickle feed system, as many understood that the system was meant for existing lots of record only.

COMMENTS BY THE WARD COUNCILLOR

The Ward Councillor is aware that this report is being brought forward to the Agricultural and Rural Affairs Committee.

LEGAL IMPLICATIONS

There are no legal implications associated with this report. In the event the recommendations are approved, the condition for the severance will not be able to be

met and the severance therefore would not occur. If Recommendation 1 is amended to permit the connection, then the severance could proceed.

RISK MANAGEMENT IMPLICATIONS

There is a risk associated with granting connections to the system as it is in contravention of City policies. While residual capacity has been identified in the system, the risk of allowing new lots to connect could potentially limit the system's ability to function. Residents have expressed concerns about the original purpose of the system and why the Agricultural and Rural Affairs Committee is allowing connections to the system. The City does not have clear direction on where the additional capacity in the system should be allocated and sufficient attention is not being devoted to monitor the risk associated with granting these connections.

FINANCIAL IMPLICATIONS

There are no direct financial implications.

ACCESSIBILITY IMPACTS

There are no accessibility implications associated with this report.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

TECHNOLOGY IMPLICATIONS

There are no technology implications associated with this report.

TERM OF COUNCIL PRIORITIES

There are no Term of Council priorities that support the proposed severance. In particular, the proposed severance does not align with the Governance Planning and Decision making objective of "making sustainable choices".

SUPPORTING DOCUMENTATION

Document 1 Location Map

Document 2 Committee of Adjustment Notice of Decision

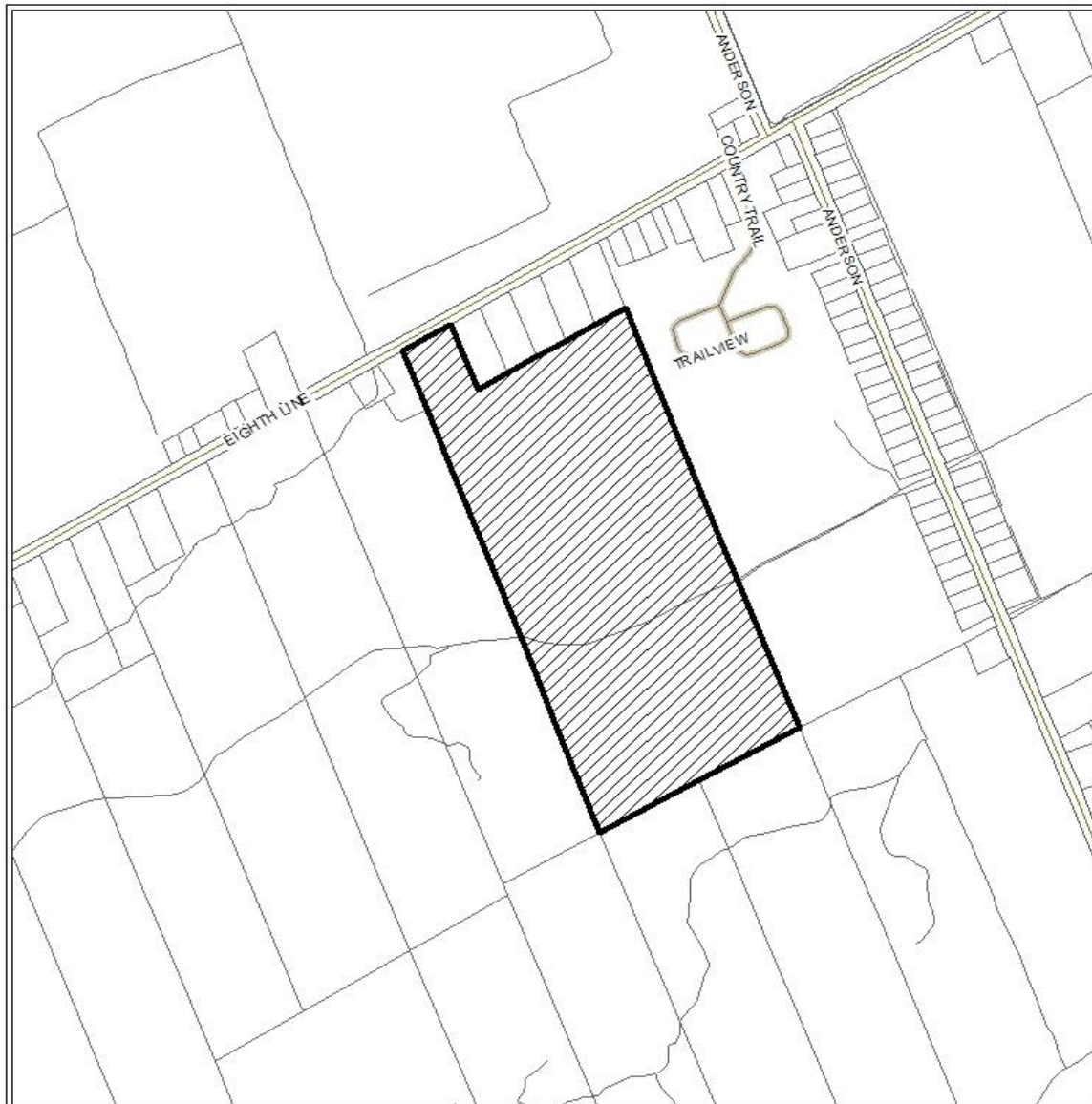
DISPOSITION

City Clerk and Solicitor Department to notify the owner, applicant, and Derrick Moodie, Development Review (Rural), Planning and Growth Management (Mail Code: 01-14) of City Council's decision.

City Clerks to forward Committee recommendation(s) to City Council for approval.


LOCATION MAP

DOCUMENT 1




Produced by Infrastructure Services
and Community Sustainability
Produit par Services d'infrastructure
et Viabilité des collectivités

D08-01-12/B-00144 & D08-02-12/A-00145	12-1043-L
I:\CO\2012\Loc\EighthLine4508	
JULY 19, 2012	
REVISION DATE / DE RÉVISION	

 **Location Map / Plan de révision
4508 Eighth Line Road**

Échelle
N.T.S.
Mètres



Scale
N.T.S.
Metres

COMMITTEE OF ADJUSTMENT NOTICE OF DECISION

DOCUMENT 2



**COMMITTEE OF ADJUSTMENT
FOR THE CITY OF OTTAWA**

**COMITÉ DE DÉROGATION
POUR LA VILLE D'OTTAWA**

DECISION/DÉCISION

CONSENT/AUTORISATION

(Section 53 of the *Planning Act*)

(Article 53 de la *Loi sur l'aménagement du territoire*)

File No./Dossier n°:	D08-01-12/B-00144
Owner/ Propriétaire:	Keith McRoberts & Kathleen Noel
Legal Description//Description officielle: Property Address/Adresse de la propriété :	Part Lot 17, (OF), Part 1 on 5R-14093 (4494), 4508 Eighth Line Road
Zoning/Zonage: By-Law/Règlement:	RU 2008-250
Ward/ Quartier: Former Municipality/Ancienne municipalité:	20 - Osgoode Gloucester

Notice was given and a Public Hearing was held on May 2, 2012, as required by the *Planning Act*.

PURPOSE OF THE APPLICATION/OBJET DE LA DEMANDE :

The Owners want to subdivide their property into 2 separate parcels of land in order to create 1 new residential lot.

CONSENT IS REQUIRED FOR THE FOLLOWING/AUTORISATION REQUISE:

In order to do this, the Owners require the Consent of the Committee for a Conveyance. The land to be severed will have a frontage of 49.21 metres on Eighth Line Road, to a depth of 165 metres and will contain a lot area of 8119 square metres. This parcel is vacant and will be known municipally as 4494 Eighth Line Road.

The land to be retained will have a frontage of 50 metres on Eighth Line Road, to an irregular depth of approximately 965 metres and will contain a lot area of 34 hectares. There is a one-storey detached dwelling located on this parcel known municipally as 4508 Eighth Line Road.

Approval of this application will have the effect of creating 2 separate parcel of land, one of which will not be in conformity with the requirements of the Zoning By-law and therefore, Minor Variance Application (D08-02-12/A-00146) has been filed and will be heard concurrently with this application.

At the Hearing, Mr. D. Johnson, who appeared on behalf of the Owners, along with Mr. K. McRoberts one of the Co-Owners of the property, indicated that there have been approximately 20 to 25 infill lots created along the trickle system since its inception, including the Harvest House, the Anderson Park Seniors Living Community, the Lynwood Mobile Home Park, as well as, a couple of golf courses. In this connection, Mr. Johnson indicated that there have been numerous studies undertaken demonstrating that there is still ample capacity in the existing Trickle feed system. In reference to the City's Official Plan, Mr. Johnson explained that the language of the policy does not preclude future hook-ups to the trickle system, but does however discourage them. He referenced a 1990 Ontario Municipal Board decision, whereby Judge Granger stated that the efficient use of municipal services is a matter of public interest and that it's unfair to leave unutilized capacity dormant. Mr. Johnson indicated that the Owner would be prepared to dig a well in the event that they were denied a connection to existing trickle feed system. He also explained that the McRoberts' property is located at the start of the trickle feed system and that several other property owners along the route have chosen not to hook up to the trickle feed system in favour of dug wells, with no adverse impacts on the adjacent properties.

Ms. K. Goslett, of the City's Planning and Growth Management Department reiterated that any future connections to the existing trickle feed system contravene the policies contained in the City's Infrastructure Master Plan, as well as the Provincial Policy Statement. She clarified that the City acknowledges that there is additional capacity available in the existing system, however, in her opinion, any additional capacity should be reserved for existing lots of records and not for the servicing of infill lots. In order to not offend the policies Ms. Goslett suggested that the Owner either file for an Official Plan amendment or prepare a community design plan in order to address the system's capacity and to allocate any future connections fairly and effectively. In terms of alternatively drilling of a well, Ms. Goslett indicated that the water quality would be subjected to the standards of both the Ministry of Environment and the City of Ottawa. The Chair indicated that should the Committee be inclined to granting provisional consent, the standard set of conditions pertaining to the creation of a rural residential would be imposed, in addition to a condition requiring connection to the trickle feed system or alternatively the drilling of a well. In this regard, Ms. Goslett undertook to provide the Committee staff with an appropriate set of conditions applicable to this application.

**DECISION AND REASONS OF THE COMMITTEE:
DÉCISION ET MOTIFS DU COMITÉ:**

**APPLICATION GRANTED
DEMANDE ACCORDÉE**

The Committee, having considered the evidence presented and reviewed the correspondence on file and despite the concerns raised by the City's Planning & Growth Management Department, is of the opinion that the primary issue in whether or not these applications should be approved relates to the requirement to provide water services for the proposed lot. While recognizing that they are not bound by precedent, and that each application is evaluated on its own merits, it is the opinion of the Committee, that the creation of this new residential lot will not be out of character with other lots in the area, will not have any adverse impact on the existing trickle feed system and any outstanding concerns related to servicing requirements will be adequately addressed through conditions imposed in its Decision.

Therefore, based on the foregoing, the Committee, having had regard to the matters set out in Section 51(24) of the Planning Act, R.S.O. 1990, c.P.13, as amended, is satisfied that, in this instance, a plan of subdivision is not necessary or desirable for the proper and orderly development of the Municipality. The Committee therefore grants the provisional consent, subject to the following conditions, **which must be fulfilled within a one-year period from the date of this Decision:**

- 1 (i) That the Owners receive permission from the Agricultural and Rural Affairs Committee to receive a connection to the trickle feed system, OR
- (ii) That the Owners construct a well on the severed portion and provide a report to demonstrate the adequacy of the aquifer with respect to quality and quantity to support the proposed development.

The Owners' report must provide certification of the following to the City of Ottawa:

- a. That a well has been constructed in accordance with the Ministry of Environment requirements;
- b. That the quality of the water meets the Ministry of Environment Regulations, Standards, Guidelines and Objectives;
- c. That there is sufficient quantity for the intended use.

The certification must be prepared by a qualified Professional Engineer, or Professional Geoscientist and it is the Owner(s) responsibility to coordinate the person drilling the well and the professional noted herein in order to properly satisfy this condition.

2. If condition 1(i) cannot be fulfilled, the Owners enter into an Agreement with the City, at the expense of the Owner(s), which is to be registered on the Title of the property, to deal with the following covenants/notices that shall run with the land and bind 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 home Owner(s)".

3. That the Owners provide evidence that payment has been made to the City of Ottawa of cash-in-lieu of the conveyance of land for park or other public recreational purposes, plus applicable appraisal costs. The value of the land otherwise required to be conveyed shall be determined by the City of Ottawa in accordance with the provisions of By-Law No. 2009-95, as amended.
4. That the Owners provide evidence that the accompanying Minor Variance application (D08-02-12/A-00146) has been approved, with all levels of appeal exhausted.
5. That the Owners file with the Committee a copy of the registered Reference Plan, prepared by an Ontario Land Surveyor registered in the Province of Ontario, 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 Reference Plan must conform substantially to the sketch filed with the Application for Consent.**
6. That upon completion of the conditions as outlined above, **and within a one-year period from the date of this Decision**, the Owner(s) file with the Committee, the "electronic registration in preparation documents" for the Conveyance for which the Consent is required.

The Consent(s) lapses one year from the date of this Decision.

Please note that if a major change to a condition or conditions is requested, you will be entitled to receive Notice of the changes only if you have made a written request to be notified.

NOTICE OF RIGHT TO APPEAL/AVIS DE DROIT D'APPEL:

To appeal this Decision to the Ontario Municipal Board, a letter, outlining the reasons for appeal, must be filed with the Secretary-Treasurer of the Committee of Adjustment by the **31st day of May 2012**. The OMB has established a filing fee of \$125.00 for an appeal with an additional filing fee of \$25.00 for each secondary application. A cheque payable to the Ontario Minister of Finance must accompany the Notice of Appeal. If you have any questions about the appeal process, please contact the Committee of Adjustment office.

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 on its behalf.

**EXTRACT OF DRAFT
AGRICULTURE AND RURAL
AFFAIRS COMMITTEE
MINUTES 24
6 SEPTEMBER 2012**

COMMITTEE OF ADJUSTMENT DECISION, 4508 EIGHTH LINE ROAD
ACS2012-PAI-PGM-0192 OSGOODE (20)

REPORT RECOMMENDATIONS:

That the Agriculture and Rural Affairs Committee:

- 1. Direct staff to examine excess capacity and allocation in the Carlsbad Trickle Feed System as part of the Rural Review Process and Infrastructure Master Plan update;**
- 2. Recommend that Council defer consideration of a request to connect to the Carlsbad Trickle Feed System at 4508 Eighth Line Road until such time as staff have reviewed capacity and allocation in the Carlsbad Trickle Feed System as part of the Rural Review Process and Infrastructure Master Plan update; and**
- 3. Recommend that Council propose to the Committee of Adjustment that no further connections to the Carlsbad Trickle Feed System be permitted until such time as the Infrastructure Master Plan is revised and updated, and advise the Committee of Adjustment that the City intends to appeal severances granted with connections to the Trickle Feed System to the Ontario Municipal Board.**

Kate Goslett, Planner, gave a brief PowerPoint presentation on this report which is held on file with the City Clerk's office.

Following the presentation the Committee heard from the following delegations:

- 1) Dwight Johnson who spoke against the staff recommendations.
- 2) Douglas Stubbs requested further clarification on the amendment motion introduced by Councillor Blais and stated that although his application is not in to the Committee of Adjustment, could he do so and get connected under the new motion.

The Committee members requested legal clarification from Tim Marc, Senior Legal Counsel on Councillor Blais' motion and if this could cause a sudden influx of applications due to the deadline date. Mr. Marc stated that this was a possibility. The Committee requested that the report rise to Council on 12 September rather than 26 September 2012.

MOTION No. ARA 24/2

Moved by Councillor S. Blais

That the Agriculture and Rural Affairs Committee:

- 1. Direct staff to examine excess capacity and allocation in the Carlsbad Trickle Feed System as part of the Rural Review Process and Infrastructure Master Plan update;**
- 2. Recommend that Council approve connections to the Carlsbad Trickle Feed System at 4508 Eighth Line Road and other addresses subject to severance applications before the Committee of Adjustment as of 12 September 2012; and**
- 3. Recommend that Council propose to the Committee of Adjustment that no further connections to the Carlsbad Trickle Feed System be permitted as of 1 January 2013 until such time as the Infrastructure Master Plan is revised and updated.**
- 4. Refer this report to the 12 September 2012 City Council Meeting.**

CARRIED

The amended report recommendation was then put to Committee and CARRIED as amended by Motion ARA 24/2.