

# THE CORPORATION OF THE MUNICIPALITY OF MISSISSIPPI MILLS

## STAFF REPORT

**MEETING DATE:** February 11, 2025

**TO:** Committee of the Whole

**FROM:** Melanie Knight, Director of Development Services and Engineering

**SUBJECT:** **Plan of Subdivision – 09-T-22006  
RAMSAY CON 10 PT LOT 4 PLAN;288 LOT 7 RP 26R2678  
PARTS 2;4 7 TO 11 13 15 TO 21 23 TO;25 28 RP 27R9884  
PARTS 1 TO;4 RP 27R11912 PART 1  
Ramsay Ward, Municipality of Mississippi Mills  
Municipally Known as 122 Old Mill Lane**

**OWNER:** Southwell Homes

**APPLICANT:** ZanderPlan Inc

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### **RECOMMENDATION**

**\*deferred from January 28, 2025**

**THAT Committee of the Whole recommend that Council defer a decision of Draft Plan Approval of Subdivision and associated Zoning By-law Amendment for the subject lands to permit a 14 lot privately serviced subdivision in the Village of Appleton, until such time that the subject property has been fully remediated to permit residential uses under the Environmental Protection Act, a Record of Site Condition has been filed in accordance with current provincial standards and the Municipality has received copies of the applicable studies and Record(s) of Site Condition.**

### **PURPOSE AND EFFECT AND PROPOSED DEVELOPMENT**

The proposed draft plan of subdivision was deemed complete by the County on December 8, 2022. A related Zoning By-law Amendment application was filed with the Municipality at the same time, which proposes to implement the subdivision through residential, parkland and open space zones.

The proposed draft plan of subdivision is to create fourteen (14) lots for low density development and seven (7) blocks. The draft plan indicates the blocks are to be used for the following purposes:

- Block 15 private road, proposed to be sold to abutting landowners,
- Block 16 proposed lot addition to abutting land,

- Block 17 proposed future parkland block,
- Block 18 wetlands,
- Block 19 proposed lot addition to abutting land, and
- Block 20 and Block 21 for future streets.

The subject lands propose to access Old Mill Lane and Apple Street, a new local road is also proposed within the draft plan of subdivision. A copy of the most recent Concept Plan is contained in Attachment A. A number of plans and studies have been posted on the Municipality's website as part of the application process and can be accessed [here](#).

### **LOCATION OF SUBJECT LANDS**

The subject lands are vacant, located in the Village of Appleton on the site of a former woolen mill. The property is approximately 18.85 ha in size and has frontage on both Apple Street and the corner of Wilson Street and River Road. The property abuts residential uses and other vacant lands.

**Figure 1: Subject Lands**



## **HISTORY OF THE SUBJECT LANDS**

There was a previous subdivision application filed by the previous property owner in 2015 (File No. 09-T-15005) which was abandoned and replaced with the current subdivision application. As part of the previous application, areas of potential environmental concern were identified on the subject site, resulting from the former use of the property as a woolen mill. Environmental studies and some remediation (“clean up”) of the site was completed. More information regarding the remediation is below.

## **ENVIRONMENTAL SITE ASSESSMENT (ESA) PROCESS**

The ESA process in Ontario is regulated by the Ministry of Environment, Conservation and Parks (MECP), formerly known as the MOE. This process is separated into a series of Phases that are required to meet minimum requirements that are regulated by the Environmental Protection Act and associated Regulations.

### **Phase One Environmental Site Assessment (ESA)**

The primary purpose of a Phase One ESA is to identify potential environmental concerns associated with a property by conducting a comprehensive review of historical records and other research to assess the likelihood of contamination on the property. No physical testing of soil or water is required.

### **Phase Two Environmental Site Assessment (ESA)**

A Phase Two ESA is initiated when a Phase One ESA identifies potential environmental concerns that require further investigation and confirmation. The scope of a Phase Two ESA can involve collecting physical samples, such as soil, groundwater, or building materials, for laboratory analysis to determine the presence, type and extent of contamination. The focus of this testing is to confirm the presence or absence of contaminants and assess the potential risks to human health and the environment. The results of a Phase Two ESA are provided in a detailed report that includes laboratory data, data interpretation, risk assessment, and recommendations for remediation (“cleaned up”) or further actions if contamination is confirmed.

### **Record of Site Condition (RSC)**

A Record of Site Condition (RSC) is a filing process with the Ministry, confirming that a property has no soil or groundwater contamination that exceeds the allowable levels that are set by the Ministry. This confirmation would be provided in two ways:

- The results of the Phase Two ESA indicate that there is no concern of contamination or contaminated levels fall below the allowable levels set by the Ministry; or
- The property has been remediated (“cleaned up”) to meet the Ministry’s standards for its proposed use. The site remediation would be documented, and this documentation would be filed as a Record of Site Condition with the Ministry.

The Ministry’s acceptable contamination levels vary depending on the (proposed) sensitivity of use of the property with agricultural and residential uses being the most

sensitive requiring the strictest limits. Commercial or industrial uses are considered less sensitive and therefore have lower limits for remediation.

Filing a Record of Site Condition for a property is required in a few circumstances, such as when the proposed development of the property is going from a less sensitive use to a more sensitive. This application is one such circumstance, where the use of the site is going from an industrial use to a residential use.

### **History of Environmental Site Assessments (ESAs) and Records of Site Condition**

ESAs were completed, and remediation of the property occurred between April 2007 to October 2010 by the previous property owner. Two Records of Site Condition (RSC #97711 and RSC #102721) were filed with the Ministry in 2010.

These Records of Site Condition were filed prior to July 1, 2011, which was before new regulations for Records of Site Condition were introduced by the province. It is staff's understanding that the change on July 1, 2011, to the provincial regulations introduced stricter requirements for site remediation and higher standards for sensitive land uses. This is why the County's environmental consultant (Stantec) has recommended that a new Record of Site Condition be filed for the proposed development. The applicant has agreed to file a new Record of Site Condition.

### **STATUS OF APPLICATION:**

#### **Plan of Subdivision Process**

For clarity, a Plan of Subdivision proceeds through the County's circulation process for the proposed subdivision while any associated Zoning By-law Amendment proceeds through the Municipality's Zoning By-law Amendment circulation process. Both circulation processes include public notification of the applications.

The Municipality holds a public meeting for both applications (non-statutory for the Subdivision application) once most of the technical comments related to the proposed development had been addressed. This process ensures that the public has an opportunity to provide comments at the beginning of the application process and can see the evolution of the proposed development as public and agency comments are addressed. At this time, a public meeting has not yet been held because staff wanted to ensure that the applications were at the point where there was a comfort level with the proposed development and the technical requirements of the proposed development were addressed.

Staff note that the applicant has addressed many of the technical requirements of the proposed development including environmental site assessments, an environmental impact study for the adjacent wetlands, and a hydrogeological study assessing groundwater. This included many resubmissions addressing many of the concerns related to the historical contamination of the site, including responding to peer review comments from the County's consultants.

As part of the completion of additional environmental site investigation and revisions to the environmental assessments, the Municipality requested that the applicant provide a Remedial Action Plan. A Remedial Action Plan is a costed, detailed plan outlining the requirements for remediation (“clean up”) that the applicant would be required to undertake to satisfy the minimum requirements of the Ministry and file a Record of Site Condition to proceed with the proposed residential development. The purpose of requesting the Remedial Action Plan was to assist staff in understanding the extent of the remediation required because the proposed development includes parkland and a public street, both of which would be conveyed to the Municipality as part of the development. Additionally, staff wanted to further understand the feasibility for the extent of remediation and next steps that the applicant would need to take to remediate the site and file the Record of Site Condition with the Ministry.

Attachment B includes the applicant’s Remedial Action Plans prepared by their environmental consultant (Paterson). The Remedial Action Plan dated February 14, 2024, includes a cost estimate of \$207,800 to \$318,650. This Plan was updated in October 2024 as part of a subsequent resubmission based on additional environmental site investigation, with a revised cost estimate for remediation of \$635,000 to \$968,000.

Attachment C is the latest peer review document provided by the County’s environmental consultant (Stantec). This is a peer review of the most recent Remedial Action Plan from October 2024 and includes several recommendations which is further detailed below along with staff’s analysis and recommendation to defer a decision on draft approval for the subdivision application.

## **EVALUATION**

### **Planning Act and Provincial Planning Statement**

Section 51 of the Planning Act provides the legislative framework for subdivision development; specifically, Section 51(24) provides the criteria that must be met for a Plan of Subdivision application:

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

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;*
- (b) whether the proposed subdivision is premature or in the public interest;*
- (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;*
- (d) the suitability of the land for the purposes for which it is to be subdivided;*
  - (d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;*

*(e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;*

*(f) the dimensions and shapes of the proposed lots;*

*(g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;*

*(h) conservation of natural resources and flood control;*

*(i) the adequacy of utilities and municipal services;*

*(j) the adequacy of school sites;*

*(k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;*

*(l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and*

*(m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act...*

Section 51 of the Planning Act is considered with every application. The Municipality's Official Plan contains the policy framework, implementing the requirements of the Act to evaluate each Subdivision application which is expanded on in the following section of this report.

The new Provincial Planning Statement (PPS) 2024 provides many policies which support development in rural settlement areas such as the Village of Appleton including the promotion of the redevelopment of brownfield sites.

Section 5.3 Human Made Hazards of the PPS speaks to contaminated sites. Specifically, Policy 2 states:

*2. Sites with contaminants in land or water shall be assessed and remediated as necessary prior to any activity on the site associated with the proposed use such that there will be no **adverse effects**.*

**Adverse effect** is defined in the PPS as:

*...defined in the Environmental Protection Act, means one or more of:*

*a) impairment of the quality of the natural environment for any use that can be made of it;*

*b) injury or damage to property or plant or animal life;*

*c) harm or material discomfort to any person;*

*d) an adverse effect on the health of any person;*

*e) impairment of the safety of any person;*

*f) rendering any property or plant or animal life unfit for human use;*

*g) loss of enjoyment of normal use of property; and*

*h) interference with normal conduct of business.*

As detailed below, staff are of the opinion that at this stage of the application process, adverse effects remain a possibility for the proposed residential use.

### **Community Official Plan (COP)**

The property is designated Rural Settlement Area and Floodplain in the Official Plan. The Floodplain designation does not support new residential development; however, the area proposed for residential development is within the Rural Settlement Area designation, which permits low density residential uses as well as non-residential uses including local commercial, institutional and recreational uses.

Section 3.6.1.3 of the Official Plan provides a policy framework to evaluate development on contaminated sites, as follows:

*It is the intent of this Plan to ensure that proper decommissioning and clean-up of contaminated sites takes place prior to their development or re-use. The policies governing contaminated sites are as follows:*

- 1. The Municipality shall attempt to create and maintain an inventory of sites within the municipality where existing and/or past use may have contributed to the presence of contaminants.*
- 2. In order to ensure that there will be no adverse effects from any proposed development or redevelopment, environmental site assessments and remediation of contaminated sites are required by this Plan prior to any activity or development occurring on the site that is known or suspected to be contaminated. The Municipality will require the proponent of development of such sites to determine the nature and extent of contamination and the necessary remediation measures in accordance with the policies below.*
- 3. The Municipality will require all applications for development in areas known or suspected of former land use activities that may lead to soil contamination be supported by a Phase I Environmental Site Assessment (ESA).*
- 4. Where a Phase I ESA reveals that a site may be contaminated, a Phase II ESA will be required. A Phase I or II ESA is an assessment of property conducted in accordance with Part XV.1 of the Environmental Protection Act of Ontario Regulation 153/04, or their successors by or under the supervision of a qualified person to determine the location and concentration of one or more contaminants on the site proposed for development.*
- 5. Prior to a development being approved on a site where information reveals that the site may be or is contaminated, the applicant will provide a Record of Site Condition in accordance with Part XV.1 of the Environmental Protection Act and Ontario Regulation 153/04 or their successors. The Record of Site Condition, which details requirements related to site assessment and cleanup, must be*

*uploaded to the Electronic Brownfields Registry, confirming that the site has been made suitable for the proposed use. The Record of Site Condition and MOECP acknowledgment will be provided to the Municipality. If a Certificate of Property Use (CPU) is required, it must be registered on title.*

*6. If contamination has spread beyond the affected property, the Municipality shall require that an “Off-Site Management Plan” and “Remedial Action Plan” be implemented.*

*7. Where a gasoline station site is being redeveloped and there is no change in use to a more sensitive use, the Municipality shall require a letter of continued use from the Technical Standards and Safety Authority.*

*8. All contaminated sites shall be subject to site plan control as a measure to manage site decommissioning and remediation.*

*9. Sites known to be contaminated may be placed in a holding category in the Zoning By-law to ensure that they are properly decommissioned prior to development. The holding symbol may be removed when the site is decommissioned according to the site remediation plan. A Record of Site Condition acknowledged by the Ministry of Environment, Conservation and Parks may also be required.*

With respect to the policies above, Policies 2 to 5 and Policy 9 applies to the proposed subdivision application.

#### Section 3.6.1.3 Policy 9

Policy 9 allows for the use of a holding zone on the property to ensure that the site is properly decommissioned. This holding zone could be implemented at the time of draft approval, if staff were comfortable with recommending draft approval at this point in the application process. Staff are of the opinion, that due to the proposed sensitive land use (residential) and the extent of the contamination identified in the studies, a holding zone is not a tool that should be implemented at this time. If Council were to direct staff to proceed with draft approval at this time, staff would recommend the use of a holding zone subject to conditions of site remediation.

#### Section 3.6.1.3 Policies 2 to 5

Policy 2 provides the overall direction for development to proceed in accordance with Policies 3 to 5.

Staff are of the opinion that Policy 3 has been met with the completion of a Phase One ESA.

Staff are of the opinion that Policy 4 has not yet been completely satisfied based on the Recommendation Section of the most recent peer review contained in Attachment C, which recommends that revisions to the current Phase Two ESA are required. The



required update to the Phase Two ESA could occur, and the applicant could satisfy this requirement in due course.

With respect to Policy 5, this policy provides direction on when the Municipality should require a Record of Site Condition (emphasis added):

*“Prior to a **development being approved** on a site where information reveals that the site may be or is contaminated, **the applicant will provide a Record of Site Condition** in accordance with Part XV.I of the Environmental Protection Act and Ontario Regulation 153/04 or their successors.*

The Official Plan does not define “development” nor provide further direction as to the explanation of ‘development being approved’. The Provincial Planning Statement 2024 defines “development” as the following:

*Development: means the creation of a new lot, a change in land use, or the construction of buildings and structures requiring approval under the Planning Act...”*

For the purposes of Section 3.1.6.3 Policy 5 above, staff are of the opinion that “*prior to a development being approved*” means prior to draft approval of this Subdivision application. Staff acknowledge that this is the strictest interpretation of Policy 5 as it relates to a Subdivision application and are of the opinion that it is appropriate primarily because each individual lot would be serviced by private water and sewer (septic) and the feasibility to remediate the site for residential uses may not be reasonable from a land development perspective.

#### Groundwater Concerns

With respect to staff’s concerns regarding private services, the peer review of the current Remediation Action Plan acknowledges that the studies to assess the groundwater “...supported the potential redevelopment of the Site for residential use” (Section 1.2.1 in Attachment C).

Staff also requested that information be provided if the development were to proceed with 14 lots with 14 individual wells. In essence, staff’s concern is that the groundwater sampling results in the submitted environmental assessments and studies is not a direct comparison to 14 homes with individual wells using water on a daily basis for the foreseeable future. Information from the peer review provided the following information (see Section 1.2.1 last paragraph in Attachment C, emphasis added):

*With respect to concerns for drawdown of impacts in shallow soil into deeper groundwater being used for water supply, this was not considered to be a significant concern because of the depth to groundwater relative to the generally shallow extent of soil impacts, and the typically low potential for significant migration of discontinuous PAHs and metals impacts in the soil.*

While the consultants have no significant concerns with respect to the future of potable water for the development, staff are aware of other developments on private services where contamination have impacted property owner's private wells. While it is the opinion of the subject matter experts that there this limited potential for contamination of drinking water, this issue still concerns staff because if this were to occur, the Municipality would ultimately be involved. Staff are not raising this involvement from a legal/liability perspective (although this is not out of the realm of possibility), rather from the perspective of the important role that a Municipality plays for its residents.

The County requested that the applicant address the potential for the presence of the chemicals from firefighting foam from a fire that occurred on the site in 2007. There was no testing of groundwater to confirm the presence of any chemicals; rather the Remedial Action Plan included a letter from Mississippi Mills Fire Department indicating that the Fire Department has no knowledge of firefighting foam being used to fight the fire of 2017 (see page 15 of Attachment B). Section 1.2.2 of the peer review recommends that documentation of groundwater analyses be provided to confirm that there are no firefighting chemicals in the groundwater.

As noted below, further information be provided related to groundwater. Based on the foregoing, staff are not satisfied that the Subdivision application should proceed to draft approval until the recommendations of the peer review are satisfied and the site has been remediated with a Record of Site Condition filed with the Ministry.

#### Soil Contamination

With respect to soil contamination, the peer review indicates that the results of the soil testing indicate areas where site remediation is required and that the extent of this site remediation is not clearly delineated. An excerpt from page 3 of 8 is as follows (emphasis added):

*It is noted that the **estimate of soil volumes to be removed that was presented in the previous RAP (Paterson, 2024a) increased by a factor of more than 20 following the test pit investigation in 2024 (Paterson, 2024b).** Stantec notes that the identified impacted soil zones remain undelineated in some portions of the Site, and **the estimated volumes should therefore be treated as preliminary and subject to further increase.** Stantec recommends further delineation of the impacted soil zones be completed to better understand the extents of impacted soil at the proposed excavation areas.*

As previously mentioned, the Remedial Action Plan dated February 14, 2024, includes a cost estimate of \$207,800 to \$318,650. This Plan was updated in October 2024 as part of a subsequent resubmission, with a revised cost estimate for remediation of \$635,000 to \$968,000. Staff are concerned that the feasibility of development of the site for residential use may be limited due to the unknown costs for remediation.

As previously mentioned, the peer review of the current Remediation Action Plan (see page 5 of Attachment C) provides several other recommendations to be satisfied, which would require an updated Phase Two ESA prior to the remediation of the site and the

filing of a Record of Site Condition with the Ministry. Staff acknowledge that the applicant has fulfilled the requests of the Municipality and County with respect to addressing peer review comments over the past two years of technical review of the subdivision; however, staff remain concerned with the extent of the unknown contamination and if there could be any long-term impacts to well water with respect to the individual 14 wells. In addition, staff are concerned with the feasibility of the proposed residential development considering the latest peer review indicating that the remediation costs contained in the Remedial Action Plan should be considered *minimum costs* until such time that the area of soil contamination is clearly delineated.

### **Request for Draft Approval**

The applicant has requested that the Municipality (and County) move to the draft approval stage with conditions of draft approval that would address any outstanding requirements, studies and steps to fully complete the remediation (clean up) of the site. In essence, the applicant has requested that the remaining requirements for the proposed residential development be deferred to after draft approval of the subdivision has been granted. This means that the applicant will be required to satisfy any outstanding issues and requirements before the subdivision can proceed to the registration stage where a Subdivision Agreement is entered into between the Municipality and the owner of the lands, roads are constructed, parkland is conveyed to the Municipality, lots can be created and building permits can be issued.

While staff acknowledge that both the applicant's and the County's consultants are of the opinion that groundwater impacts are not a significant concern, neither consultant could guarantee that there would be no groundwater impacts as it relates to the proposed 14 residential lots. In addition, the full extent of remediation of the site and costs are unknown at this time, other than they are likely greater in area and higher in cost than what is indicated in the Remedial Action Plan, which calls into question the feasibility of the site to be remediated for residential uses.

If draft approval is granted at this stage in the application process staff are of the opinion that there is no inherent risk in terms of liability with respect to the contaminated lands for the Municipality. The subdivision approval process is set up so that the application satisfies the minimum requirements for the proposed development with achievable draft plan conditions, to the satisfaction of an approval agency (ex. County, Municipality, utility, conservation authority). Draft approval is also granted with a specified time limit for the applicant to satisfy these draft conditions, which is typically three (3) years.

The Municipality could request to the County that the time limit to satisfy draft conditions be reduced from three (3) years to one (1) year, incentivizing the applicant to remediate the site quickly; however, the Planning Act allows for applicants to request extensions of draft approval. Based on information provided by the Municipality's legal counsel, once draft approval is granted, it is unlikely that it would be "taken away" if the applicant requested extension(s) to the draft approval. Even if an extension request was not supported by the Municipality and refused by the County, the applicant can appeal this

decision to the Ontario Land Tribunal (OLT). Staff are of the opinion that given the large amount of area and cost of remediation required, that it is likely that the applicant could make a reasonable argument (to the County or OLT) to extend any draft approval, regardless of the original time limit given is one (1) or three (3) years.

The impact to the Municipality if draft approval is granted prior to the remediation of the site is that after further site assessment, there is a possibility that the feasibility of developing the site for residential uses may not be realized. As mentioned above, staff assume that the draft approval would/could be extended, unless the applicant abandons the application and allows the draft approval to expire. If draft approval were to remain, it carries forward with the property and any new property owner could also request extension(s) to draft approval. Any future planning analysis related to growth of the Village of Appleton would consider these draft approved 14 lots, which could impact any future changes to the boundary of the village or future expansion of the village.

After careful consideration of the application and the technical plans and studies, staff are of the opinion that a decision regarding draft approval should not be granted until after the site has been remediated and a Record of Site Condition has been filed with the Ministry.

### **SUMMARY**

Staff are not satisfied with the application at this stage due to the outstanding issues raised by the latest peer review and are not satisfied that the development is feasible from a land development perspective as outlined in this report. Having reviewed and assessed the application, Staff are not satisfied that the proposal conforms to the intent of the Community Official Plan.

It is the professional opinion of the Planning Department that a decision of draft approval is premature at this stage in the application process and recommend that Council defer any decision on draft approval until after the subject property has been remediated for the proposed residential development and a Record of Site Condition is filed with the Ministry and copies are provided to the Municipality.

All of which is respectfully submitted by,      Approved by,



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Melanie Knight, MCIP, RPP  
Director of Development Services and  
Engineering



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Ken Kelly  
CAO

**ATTACHMENTS:**

1. Attachment A – Concept Plan
2. Attachment B – Remedial Action Plans
3. Attachment C – Peer Review (Stantec)