



## COMMITTEE OF ADJUSTMENT OF THE CITY OF OTTAWA

### DECISION CONSENT

(Section 53 of the *Planning Act*)

<b>File No.:</b>	D08-01-22/B-00198 to D08-01-22/B-00202, and D08-01-22/B-00238 & D08-01-22/B-00239
<b>Owner(s):</b>	Wesley Clover International Corporation
<b>Location:</b>	349 and 359 Terry Fox Drive; 525, 535 and 555 Legget Drive; 600 March Road
<b>Ward:</b>	4 - Kanata-North
<b>Legal Description:</b>	Part of Lot 8, Concession 4, Geographic Township of March
<b>Zoning:</b>	ip6
<b>Zoning By-law:</b>	2008-250

Notice was given and a Public Hearing was held on **September 7, 2022**, as required by the *Planning Act*.

#### **PURPOSE OF THE APPLICATION:**

The owner wants to ~~subdivide~~ **sever a portion of** its property at 359 Terry Fox Drive and **a portion of its property** of 525 Legget Drive to create a new ~~combined~~ **6,841 square metres** lot for a proposed 30-storey apartment building. The remaining **retained** parcel at 359 Terry Fox Drive contains a two-storey office building and warehouse. The ~~remaining~~ **retained** parcel at 525 Legget Drive contains the 18-storey Brookstreet Hotel, a stormwater management pond and a five-storey parking structure used by the hotel.

#### **CONSENT IS REQUIRED FOR THE FOLLOWING:**

The Owner requires the Consent of the Committee for Conveyances, Maintenance and Joint Use Agreements and Easements/Rights-of-ways.

The separate parcels will be as follows, as shown on a sketch submitted with the applications:

#### **File B-00198 – 359 Terry Fox Drive**

~~This parcel,~~ **The land to be severed from 359 Terry Fox Drive**, shown as Parts 1, 2, 3 and 4, on the **Draft 4R Plan and** sketch provided, has frontage of 17.59 metres on Terry Fox Drive and an irregular depth of 125 metres and a lot area of 2,296 square

File No.: D08-01-22/B-00198 to D08-01-22/B-00202,  
D08-01-22/B-00238 & D08-01-22/B-00239

metres. This parcel will be added to the portion of land that is to be severed from 525 Leggett Drive (**Part 5**) to create a new parcel for the proposed 30-storey apartment building. It will be known municipally as 353 Terry Fox Drive.

~~The retained portion land to will be~~ **The land to be retained, shown as** the remainder of 359 Terry Fox Drive, which contains **an existing** two-storey office building and warehouse.

It is proposed to create easements, as shown on the ~~plan~~ **sketch** provided, over Part 4 in favour of 359 Terry Fox Drive for sanitary services, over Parts 3 and 4 in favour of 359 Terry Fox Drive for water, and over Parts 3 and 4 in favour of 359 Terry Fox Drive, 525 Legget Drive, 535 Legget Drive, 555 Legget Drive and 600 March Road for stormwater management.

### **File B-00199 – 525 Legget Drive**

~~This parcel,~~ **The land to be severed from 525 Legget Drive**, shown as Part 5, on the **Draft 4R Plan and** has frontage of 17.59 metres on Terry Fox Drive, an irregular depth of 231 metres and a lot area of 6,841 square metres. This parcel will be added to the portion of land that is to be severed from 359 Terry Fox Drive (**Parts 1, 2, 3, and 4**) to create a new property for the proposed 30-storey apartment building. It will be known municipally as 353 Terry Fox Drive.

~~The retained portion will be~~ **The land to be retained, shown as** the remainder of 525 Legget Drive which contains the **existing** 18-storey Brookstreet Hotel, a stormwater management pond and a five-storey parking structure used by the hotel.

It is proposed to create an easement over Part 5, on the sketch provided, in favour of 359 Terry Fox Drive , 525 Legget Drive, 535 Legget Drive, 555 Legget Drive and 600 March Road for stormwater management.

### **File B-00200 – 349 Terry Fox Drive**

This application is for a proposed easement over **Parts 8 and 11 on** 4R-12934 in favour of the newly created **parcel** (353 Terry Fox Drive) as well as 359 Terry Fox Drive, 525 Legget Drive, 535 Legget Drive, 555 Legget Drive and 600 March Road for stormwater management.

### **File B-00201 – 535 Legget Drive**

This application is for a proposed easement over Parts 4 and 5 on 4R-17106 in favour of 555 Legget Drive and 600 March Road for stormwater management.

File No.: D08-01-22/B-00198 to D08-01-22/B-00202,  
D08-01-22/B-00238 & D08-01-22/B-00239

**File B-00202 – 555 Legget Drive**

This application is for a proposed easement over Part 1 on 4R13076 and Part 1 on 4R-17106 in favour of 600 March Road for stormwater management.

**File B-00238 – 359 Terry Fox Drive (retained lands)**

This application is for a proposed easement over Parts 1, 4 and 7 on 4R12934 in favour of 525 Legget Drive, 535 Legget Drive, 555 Legget Drive and 600 March Road for stormwater management.

**File B-00239 – 525 Legget Drive (retained lands)**

This application is for a proposed easements over Part 11 4R-17106 in favour of the newly created **parcel** (353 Terry Fox Drive) for sanitary sewer. And a proposed easement over Parts 6, 11 and 15 on 4R17106 in favour of the newly created **parcel** (353 Terry Fox Drive), 359 Terry Fox Drive, 535 Legget Drive, 555 Legget Drive and 600 March Road for stormwater management.

Approval of these applications will have the effect of creating a new parcel of land which will not be in conformity with the requirements of the Zoning By-law and therefore, Minor Variance Application (D08-02-22/A-00182) has been filed and will be heard concurrently with this application.

The applications also indicate that the Property is subject of a current Official Plan Amendment Application (D01-01-22-0007), a current Zoning Plan Amendment Application (D02-02-21-0123) and a Site Plan Control Application (D07-12-21-0160) under the *Planning Act*.

**PUBLIC HEARING:**

The Chair administered an oath to James Ireland, Agent for the Owner, who confirmed that the statutory notice posting requirements were satisfied. Mr. Ireland appeared along with Greg Winters, also representing the Owner, and provided the Committee with a brief presentation.

The Chair acknowledged that the City's Planning Report proposed several technical corrections to the public notice. The Committee heard from Siobhan Kelly of the City's Planning, Real Estate and Economic Development Department, who explained that these corrections were proposed to provide greater clarity in the summary of the applications. The Committee therefore agreed to amend the summary of the applications in accordance with the Planning Report filed and Committee of Adjustment date-stamped September 6, 2022.

File No.: D08-01-22/B-00198 to D08-01-22/B-00202,  
D08-01-22/B-00238 & D08-01-22/B-00239

It was also noted that, based on correspondence filed by Mr. Ireland, Consent Application D08-01-22/B-00200 for 349 Terry Fox Drive should be amended as follows:

This application is for a proposed easement over ~~Part~~ **Parts 8 and 11 on 4R-12934** in favour of the newly created **parcel** (353 Terry Fox Drive) as well as 359 Terry Fox Drive, 525 Legget Drive, 535 Legget Drive, 555 Legget Drive and 600 March Road for stormwater management.

The application was amended accordingly.

Ms. Kelly also explained that, while the City had initially raised concerns regarding the location of existing services in relation to the proposed easements, City Engineering staff had since reviewed a General Plan of Service filed with the Site Plan Control Application and as-built plans for the properties, and were satisfied that the proposed easements provide adequate space for access and maintenance of services.

The Committee also noted a comment submitted by the Mississippi Valley Conservation Authority (MVCA), requesting that any approval of these applications be conditional upon obtaining the appropriate permits from the MVCA and providing an as-built survey of the site. Mr. Winters confirmed that, further to his discussions with the MVCA, both conditions would be appropriately addressed through the concurrent Site Plan Control Application.

In response to a question from the Chair, Mr. Winters also agreed to the imposition of a “one-time conveyance” condition, to prevent the individual portions of the proposed new parcel to be known as 353 Terry Fox Drive from being conveyed independently in the future.

#### **DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED**

The Committee considered any written and oral submissions relating to the applications in making its Decision.

Under the *Planning Act*, the Committee has the power to grant a consent if it is satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality. Also, the Committee must be satisfied that an application is consistent with the Provincial Policy Statement and has regard for matters of provincial interest under section 2 of the Act, as well as the following criteria set out in subsection 51(24):

#### **Criteria**

(24) 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,

File No.: D08-01-22/B-00198 to D08-01-22/B-00202,  
D08-01-22/B-00238 & D08-01-22/B-00239

- (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 or subsection 114 (2) of the *City of Toronto Act, 2006*. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2).

File No.: D08-01-22/B-00198 to D08-01-22/B-00202,  
D08-01-22/B-00238 & D08-01-22/B-00239

The Committee notes that the City's planning report raises "no concerns" regarding the applications. Based on the evidence, the Committee is satisfied that the proposal is consistent with the Provincial Policy Statement that promotes efficient land use and development as well as intensification and redevelopment within built-up areas, based on local conditions. The Committee is also satisfied that the proposal has adequate regard to matters of provincial interest, including the orderly development of safe and healthy communities; the appropriate location of growth and development; and the protection of public health and safety. Additionally, the Committee is satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality. Moreover, the Committee is satisfied that the proposal has adequate regard for the criteria specified under subsection 51(24) of the *Planning Act* and is in the public interest.

The Committee therefore grants the provisional consent, subject to the following conditions, **which must be fulfilled within a two-year period from the date of this Decision:**

1. That the Owner(s) provide evidence that the accompanying Minor Variance Application (D08-02-22/A-00182) has been approved, with all levels of appeal exhausted.
2. That the Owner(s) provide evidence to the satisfaction of the **Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate** that Official Plan Amendment D01-01-22-0007 is in full force and effect with all levels of appeal exhausted.
3. That the Owner(s) provide evidence to the satisfaction of the **Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, to be confirmed in writing from the Department to the Committee, that all required approvals from the Ontario Ministry of the Environment and Conservation and Parks for sewers and/or facilities servicing multiple properties have been obtained.
4. That the Owner(s) enter a Joint Use, Maintenance and Common Elements Agreement, at the expense of the Owner(s), setting forth the obligations between the Owner(s) and the proposed future owners.

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

File No.: D08-01-22/B-00198 to D08-01-22/B-00202,  
D08-01-22/B-00238 & D08-01-22/B-00239

The Owner shall ensure that the Agreement is binding upon all the unit owners and successors in title and shall be to the satisfaction of **Development Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, and **City Legal Services**.

The Committee requires written confirmation that the Agreement is satisfactory to the Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate, and is satisfactory to City Legal Services, as well as a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

5. That the Owner file with the Secretary-Treasurer of the Committee of Adjustment the following, in connection with Consent Application D08-01-22/B-00198:

a. A copy of the Reference Plan and/or legal description of the severed land and the deed or instrument conveying the severed land to the same purchaser of the severed lands under Consent Application D08-01-22/B-00199, so that only one new parcel of land is created, to be known municipally as 353 Terry Fox Drive, in accordance with paragraph (b) below;

b. A Certificate of Official attached to the deed/transfer required by paragraph (a) above containing the following endorsement:

“The lands to be severed are being created in conjunction with a parcel of land also being created from the property to the [*cardinal direction*], being Part(s) [*insert numbers*] on Plan [*insert plan number*], for the creation of one new parcel of land, and any subsequent transfer, charge or other transaction involving the lands to be severed shall be subject to compliance with Section 50(3) or Section 50(5) of the Planning Act, as applicable. Neither the lands to be severed nor the abutting lands are to be transferred, charged or otherwise re-conveyed in the future without the other parcel unless a further consent is obtained. The Owner shall cause the lands to be severed to be consolidated on title with the abutting lands and for this condition to be entered on the parcel register for the consolidated parcel as a restriction”;

c. An Undertaking from a solicitor authorized to practice law in the Province of Ontario, and in good standing with the Law Society of Upper Canada, as follows:

“In consideration of, and notwithstanding the issuance of the Certificate under Section 50(12) of the Planning Act in respect of the subject Application for Consent, I undertake on behalf of the Owner, within 60 days of the registration on title of the transfer document containing the

File No.: D08-01-22/B-00198 to D08-01-22/B-00202,  
D08-01-22/B-00238 & D08-01-22/B-00239

endorsement set out in the Certificate of Official issued by the Committee of Adjustment, to file an Application to Consolidate Parcels including the severed land (Part of PIN *insert number*) and the abutting land (PIN *insert number*). This PIN consolidation is intended to reinforce the Planning Act stipulation in the condition outlined above that both parcels have merged on Title and cannot be conveyed separately in the future. I further undertake to forward a copy of the registered Application to Consolidate Parcels and a copy of the Consolidated Parcel abstract page(s) to the Committee office within 21 days of the registration of the Application to Consolidate Parcels”.

- d. Where the parcel consolidation stipulated in paragraph (b) and the solicitor’s Undertaking in paragraph (c) above cannot be reasonably completed because the parcels of land to be merged have different estate qualifiers, an Application to Annex Restrictive Covenant under the *Land Titles Act* must be registered on the Title of both the severed lands and on the abutting parcel that is to be merged. The Covenant, which is to be to the satisfaction of the Secretary-Treasurer of the Committee, shall advise all future purchasers that the parcels must be dealt with together and not separately, and contain wording set out below or similar wording acceptable to the Secretary-Treasurer of the Committee:

“These lands have been merged and may not be dealt with separately, without applying for a Consent of the Committee of Adjustment”.

In lieu of the Undertaking provided in paragraph (c), a replacement Undertaking by the solicitor must be filed undertaking on behalf of the Owner to register the Restrictive Covenant on both property Titles within 60 days of the registration of the transfer document containing the endorsement of the Certificate of Official issued by the Committee of Adjustment for this application and to file a copy of the registered Restrictive Covenant with the Committee within 21 days of the registration of the document.

6. That the Owner file with the Secretary-Treasurer of the Committee of Adjustment the following, in connection with Consent Application D08-01-22/B-00199:
  - e. A copy of the Reference Plan and/or legal description of the severed land and the deed or instrument conveying the severed land to the same purchaser of the severed lands under Consent Application D08-01-22/B-00198, so that only one new parcel of land is created, to be known municipally as 353 Terry Fox Drive, in accordance with paragraph (b) below;



File No.: D08-01-22/B-00198 to D08-01-22/B-00202,  
D08-01-22/B-00238 & D08-01-22/B-00239

- f. A Certificate of Official attached to the deed/transfer required by paragraph (a) above containing the following endorsement:

“The lands to be severed are being created in conjunction with a parcel of land also being created from the property to the [*cardinal direction*], being Part(s) [*insert numbers*] on Plan [*insert plan number*], for the creation of one new parcel of land, and any subsequent transfer, charge or other transaction involving the lands to be severed shall be subject to compliance with Section 50(3) or Section 50(5) of the Planning Act, as applicable. Neither the lands to be severed nor the abutting lands are to be transferred, charged or otherwise re-conveyed in the future without the other parcel unless a further consent is obtained. The Owner shall cause the lands to be severed to be consolidated on title with the abutting lands and for this condition to be entered on the parcel register for the consolidated parcel as a restriction”;

- g. An Undertaking from a solicitor authorized to practice law in the Province of Ontario, and in good standing with the Law Society of Upper Canada, as follows:

“In consideration of, and notwithstanding the issuance of the Certificate under Section 50(12) of the Planning Act in respect of the subject Application for Consent, I undertake on behalf of the Owner, within 60 days of the registration on title of the transfer document containing the endorsement set out in the Certificate of Official issued by the Committee of Adjustment, to file an Application to Consolidate Parcels including the severed land (Part of PIN *insert number*) and the abutting land (PIN *insert number*). This PIN consolidation is intended to reinforce the Planning Act stipulation in the condition outlined above that both parcels have merged on Title and cannot be conveyed separately in the future. I further undertake to forward a copy of the registered Application to Consolidate Parcels and a copy of the Consolidated Parcel abstract page(s) to the Committee office within 21 days of the registration of the Application to Consolidate Parcels”.

- h. Where the parcel consolidation stipulated in paragraph (b) and the solicitor’s Undertaking in paragraph (c) above cannot be reasonably completed because the parcels of land to be merged have different estate qualifiers, an Application to Annex Restrictive Covenant under the *Land Titles Act* must be registered on the Title of both the severed lands and on the abutting parcel that is to be merged. The Covenant, which is to be to the satisfaction of the Secretary-Treasurer of the Committee, shall advise all future purchasers that the parcels must be dealt with together and not

File No.: D08-01-22/B-00198 to D08-01-22/B-00202,  
D08-01-22/B-00238 & D08-01-22/B-00239

separately, and contain wording set out below or similar wording acceptable to the Secretary-Treasurer of the Committee:

“These lands have been merged and may not be dealt with separately, without applying for a Consent of the Committee of Adjustment”.

In lieu of the Undertaking provided in paragraph (c), a replacement Undertaking by the solicitor must be filed undertaking on behalf of the Owner to register the Restrictive Covenant on both property Titles within 60 days of the registration of the transfer document containing the endorsement of the Certificate of Official issued by the Committee of Adjustment for this application and to file a copy of the registered Restrictive Covenant with the Committee within 21 days of the registration of the document.

7. That the Owner(s) file with the Committee a copy of the registered Reference Plan prepared by an Ontario Land Surveyor registered in the Province of Ontario, and signed by the Registrar, **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 Registered Reference Plan must conform substantially to the Draft Reference Plan filed with the Application for Consent.
8. That upon completion of the above conditions, and **within the two-year period outlined above**, the Owner(s) file with the Committee, the “electronic registration in preparation documents” for the Conveyances, Maintenance and Joint Use Agreements and Easements/Rights-of-ways for which the Consent is required.

**The Consent lapses two years from the date of this Decision.**

All technical studies must be submitted to Planning, Real Estate and Economic Development Department a minimum of **40 working days** prior to lapsing date of the consent. Should a Development Agreement be required, such request should be initiated **15 working days** prior to lapsing date of the consent and should include all required documentation including the approved technical studies.

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:**

To appeal this decision to the Ontario Land Tribunal (OLT), a completed appeal form along with payment must be received by the Secretary-Treasurer of the Committee of

File No.: D08-01-22/B-00198 to D08-01-22/B-00202,  
D08-01-22/B-00238 & D08-01-22/B-00239

Adjustment by **October 6, 2022**, delivered by email at [cofa@ottawa.ca](mailto:cofa@ottawa.ca) and/or by mail or courier to the following address:

Secretary-Treasurer, Committee of Adjustment,  
101 CentrepoinTE Drive, 4<sup>th</sup> floor, Ottawa, Ontario, K2G 5K7

The Appeal Form is available on the OLT website at <https://olt.gov.on.ca/>. The OLT has established a filing fee of \$400.00 per type of application with an additional filing fee of \$25.00 for each secondary application. Payment can be made by certified cheque or money order made payable to the Ontario Minister of Finance, or by credit card. Please indicate on the Appeal Form if you wish to pay by credit card. If you have any questions about the appeal process, please contact the Committee of Adjustment office by calling 613-580-2436 or by email at [cofa@ottawa.ca](mailto:cofa@ottawa.ca).

Only individuals, corporations and public bodies may appeal Decisions in respect of applications for consent to the OLT. 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.

Please note that there are no provisions for the Committee of Adjustment or the OLT to extend the statutory deadline to file an appeal. If the deadline is not met, the OLT does not have the authority to hold a hearing to consider your appeal.

**NOTICE TO APPLICANT:**

Applicants are advised to take note of comments received from City departments and other technical agencies like Hydro Ottawa and to consult where appropriate.

File No.: D08-01-22/B-00198 to D08-01-22/B-00202,  
D08-01-22/B-00238 & D08-01-22/B-00239

**DECISION SIGNATURE PAGE  
PAGE DE SIGNATURE DE LA DÉCISION**

**File No. / Dossier n°:** D08-01-22/B-00198 to D08-01-22/B-00202, and  
D08-01-22/B-00238 & D08-01-22/B-00239

**Owner(s) / Propriétaire(s):** Wesley Clover International Corporation

**Location / Emplacement:** 349 and 359 Terry Fox Drive; 525, 535 and 555 Legget  
Drive; 600 March Road

We, the undersigned, concur in the decision and the reasons set out by the Committee of Adjustment.

Nous, soussignés, souscrivons à la décision et aux motifs rendus par le Comité de dérogation.

*“Ann M. Tremblay”*

**ANN M. TREMBLAY  
CHAIR / PRÉSIDENTE**

*“Kathleen Willis”*

**KATHLEEN WILLIS  
MEMBER / MEMBRE**

*“Scott Hindle”*

**SCOTT HINDLE  
MEMBER / MEMBRE**

*“Colin White”*

**COLIN WHITE  
MEMBER / MEMBRE**

*“Julia Markovich”*

**JULIA MARKOVICH  
MEMBER / MEMBRE**

I certify that this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa.

Je certifie que celle-ci est une copie conforme de la décision rendue par le Comité de dérogation de la Ville d’Ottawa.



***Date of Decision / Date de la décision***  
**September 16, 2022 / 16 septembre 2022**

**Michel Bellemare**  
**Secretary-Treasurer / Secrétaire-trésorier**