



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

**DECISION
CONSENT**

(Section 53 of the *Planning Act*)

File No.:	D08-01-22/B-00266
Owner(s):	W. A. Spratt & Sons Limited
Location:	4740 High Road
Ward:	20 - Osgoode
Legal Description:	Part of Lots 22 and 23, Concession 3 (Rideau Front) Gloucester
Zoning:	ME1 [1r]-h & O1A[451r]
Zoning By-law:	2008-250

Notice was given and a Public Hearing was held on **September 21, 2022**, as required by the *Planning Act*.

PURPOSE OF THE APPLICATION:

The Owner wants to subdivide its property into two separate parcels of land to create one new parcel of land for future development.

CONSENT IS REQUIRED FOR THE FOLLOWING:

The Owner requires the Consent of the Committee for Conveyance.

The land to be severed, shown as Part 1 on Plan 4R-31376 filed with the application, will have frontage of 0 metres, an irregular depth of 862.2 metres and a lot area of approximately 31.435 hectares. This property is associated lands with the Falcon Ridge Golf club and is anticipated for future development. It will be known municipally as 4728 High Road.

The lands to be retained, shown as Parts 2 to 4 on said Plan, will have frontage of 467 metres on High Road and 245 metres on Albion Road, an irregular depth of 1,034 metres and a lot area of approximately 68.05 hectares. This property contains the Falcon Ridge Golf Club and is known municipally as 4740 High Road.

The application indicates that a blanket easement/right of way will be provided through the retained lands for access to and from High Road and Albion Road for the severed lands and consent of the Committee is not requested for this easement.

Approval of this application will have the effect of creating a separate parcel of land. The proposed parcel will not be in conformity with the requirements of the Zoning By-law and therefore, a Minor Variance Application (D08-02-22/A-00251) has been filed and will be heard concurrently with this application.

PUBLIC HEARING:

The Panel Chair administered an oath to David Renfroe, acting as Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied.

Ted Fobert, one of the Owners of the property, sought clarification that payment of cash-in-lieu of parkland would be based on rural land. He further indicated that if the fees are based on rural lands, they will withdraw their request to change the wording of condition 4 set out in the report from the City's Planning, Real Estate and Economic Development Department (PRED). Sean Harrigan from department (PRED), confirmed that the calculation of for cash in lieu of parkland would be based on rural lands.

Also in attendance was Jaime Posen, also acting as Agent for the Applicant, who requested that the condition relating to the minor variance, set out in the report from PRED, be amended to read:

The Minor Variance approval for Part 1 on Plan 4R-31376 is tied to plan "Sketch Illustrating Parcels Per Pins 04328-0124, 04328-0264 and 04328-1835 Being Part of Lots 22 and 23, Concession 3 (Rideau Front), Geographical Township of Gloucester, City of Ottawa", dated August 27, 2021, revised September 16, 2022, prepared by Annis, O'Sullivan, Vollebakk LTD.

Ursula Melinz, also acting as Agent for the Applicant, confirmed that the change to the condition would tie the variance to the severed lands.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

The Committee considered any written and oral submissions relating to the application 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,

- (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).

The Committee notes that the City's Planning Report raises "no concerns" regarding the application. 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 provide evidence that the accompanying Minor Variance Applications (D08-02-22/A-00251) have been approved, with all levels of appeal exhausted.
2. That the Owner enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the **Development Review Manager of the relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, which provides the following covenant/notice that runs with the land and binds future Owner(s) on subsequent transfers:

"The City of Ottawa has identified that there are potential organic soils, sensitive marine clays within the area that may require site specific detailed geotechnical engineering solutions to allow for development, the City of Ottawa bears no responsibility, financial or otherwise, to provide solutions to the deficiency, such solutions being the sole responsibility of the homeowner."

The Committee requires a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title

3. That the Owner enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, which provides the following covenant/notice that runs with the land and binds future Owner(s) on subsequent transfers:

"The City of Ottawa does not guarantee the quality or quantity of the groundwater. If, at some future date, the quality or the quantity of the groundwater becomes deficient, the City of Ottawa bears no responsibility,

financial or otherwise, to provide solutions to the deficiency, such solutions being the sole responsibility of the homeowner.”

The Committee requires a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title.

4. That the Owner(s) convey, if required, at no charge to the City of Ottawa, sufficient frontage across the severed and retained lands to provide for a road right-of-way measuring 10 metres from the centerline of High Road and 15 metres from the centreline of Albion Road. The Owner(s) must provide to the City Surveyor a copy of the Committee of Adjustment Decision and a draft Reference Plan that sets out the required widening. The Committee requires written confirmation from City Legal Services that the transfer of the widening to the City has been registered. If the Owner's Surveyor determines that the widening condition has already been satisfied, it must be indicated on the Draft Reference Plan and submitted to the City Surveyor for approval. The Committee requires written confirmation from the City Surveyor confirming that the widening is not required. If the Owner(s) wish to temporarily retain the existing fence within the widening lands until the City develops the widening lands, the Owner(s) shall enter into (and register, if necessary) an encroachment agreement and/or letter of tolerance to the satisfaction of the General Manager, Planning, Real Estate, and Economic Development. The Committee requires written confirmation from City Legal Services confirming either that a letter of tolerance/encroachment agreement has been executed (and registered if necessary) or will not be required.
5. That the Owner(s) provide evidence (payment receipt) to the Committee 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. Information regarding the appraisal process can be obtained by contacting the Planner.
6. That the Owner(s) provide evidence, to the satisfaction of the **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, and **City Legal Services** that an Easement Agreement has been registered on title for the severed and retain lands that guarantees access from High Road and/or Albion Road through the retained parcel to the severed lot.
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 a Conveyance 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 Adjustment by **October 20, 2022**, delivered by email at cofa@ottawa.ca and/or by mail or courier to the following address:

Secretary-Treasurer, Committee of Adjustment,
101 CentrepoinTE Drive, 4th 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.

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.

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

File No. / Dossier n°: D08-01-22/B-00266
Owner(s) / Propriétaire(s): W. A. Spratt & Sons Limited
Location / Emplacement: 4740 High 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.

"Fabian Poulin"

**FABIAN POULIN
VICE-CHAIR / VICE-PRÉSIDENT**

"Terence Otto"

**TERENCE OTTO
MEMBER / MEMBRE**

"Steven Lewis"

**STEVEN LEWIS
MEMBER / MEMBRE**

"Martin Vervoort"

**MARTIN VERVOORT
MEMBER / MEMBRE**

"Jocelyn Chandler"

**JOCELYN CHANDLER
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 29, 2022 / 29 septembre 2022**


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