

DECISION**CONSENT**Section 53 of the *Planning Act*

Date of Decision	December 16, 2022
File No(s):	D08-01-22/B-00307 & D08-01-22/B-00308
Owner(s):	Ken Gordon Holdings Inc.
Location:	1156 and 1162 River Road
Ward:	20 – Osgoode
Legal Description:	Part of Lot 3, Concession Broken Front, Geographic Township of Osgoode
Zoning:	RR8
Zoning By-law:	2008-250
Hearing Date:	December 7, 2022

PURPOSE OF THE APPLICATIONS

- [1] The Owner wants to subdivide its property into two separate parcels of land for separate ownerships of two existing detached dwellings.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Consent of the Committee for Conveyances. The property is shown as Parts 1 and 2 on a Draft 4R-Plan filed with the applications, and the separate parcels will be as follows:

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00307	34.09 m (River Rd.)	irregular	2,147 sq. m	1	1156 River Rd. (existing detached dwelling)
B-00308	34.09 m (River Rd.)	irregular	2,578 sq. m	2	1162 River Rd. (existing detached dwelling)

- [3] The applications indicate that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [4] Prior to the Hearing on November 16, 2022, the Committee received an adjournment request from the City's Planning, Real Estate and Economic Development Department (PRED), to allow the applicant time to file an Environmental Impact Statement (EIS) and to address other concerns raised by the municipality and the Rideau Valley Conservation Authority (RVCA). Nikita Jariwala, Agent for the Applicant, agreed with the adjournment request and confirmed that two weeks would be sufficient time for discussions between the Applicant, PRED and the RVCA regarding the requested EIS. Ms. Jariwala stated that if, through those discussions, an EIS continued to be deemed necessary, a further adjournment would be requested. With the concurrence of all parties the application was adjourned to December 7, 2022.
- [5] At the Hearing, on December 7, 2022, the Panel Chair administered an oath to Ms. Jariwala who confirmed that the statutory notice posting requirements were satisfied. In her presentation to the Committee, Ms. Jariwala advised that the applications seek to recognize current development and that there are no proposed changes to the existing dwellings.
- [6] Timothy Chadder, also acting as Agent for the Applicant, requested the condition for an Environmental Impact Statement be deleted. Mr. Chadder explained that there are two existing dwellings on the lot proposed to be severed, each with an existing well and septic tank, demonstrating the capacity of the site to handle two dwellings. He also requested that the requested condition relating to cash-in-lieu not be imposed as no additional development is proposed which would require parkland. It was Mr. Chadder's opinion that the property is part of a historical settlement area.
- [8] City Planner Jack Graham advised that the proposed lots do not meet the criteria for a historic settlement area nor the 0.8 -hectare minimum size, and therefore do not conform with the Official Plan. Also, City Planner Sean Harrigan advised that while both lots are currently serviced that does not demonstrate that the houses have the required servicing. Additionally, Mr. Harrigan stated that an existing situation is not justification to deviate from the Official Plan and the requirements for demonstrating adequate services.
- [9] The Committee indicated that lot creation would trigger the requirement for the cash in lieu of parkland condition, however they were in agreement that the condition relating to the EIS requirement should not be imposed.
- [10] Also in attendance was Eric Lalande, of the Rideau Valley Conservation Authority, who stated that he had received information indicating there would be sufficient building envelopes for the properties.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

- [11] The Committee considered any written and oral submissions relating to the applications in making its Decision.
- [12] 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):

[13] **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).

[14] The Committee notes that the City's Planning Report "objects" to the applications as the proposed lots do not meet the 0.8 hectare minimum size and cannot adequately support private services. However, in this instance, the Committee is of the opinion that in this unique situation the severances are appropriate as they are existing dwellings and meet the requirements of the Zoning By-law.

[15] 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.

[16] THE COMMITTEE OF ADJUSTMENT 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 enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of **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.

2. 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 15 metres from the centreline of River 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 **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**. 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.

3. That the Owner enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of **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 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 home owner."

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) provide proof to the satisfaction of **Development Review Manager of the Relevant 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 each existing parcel has its own independent private sewage system, storm/foundation drainage, and well and that they do not cross the proposed severance line. If the systems cross the

proposed severance line, are not independent, or do not meet the minimum spacing requirements of the Ontario Building Code and City of Ottawa Hydrogeological and Terrain Analysis Guidelines, the Owner(s) will be required to relocate the existing systems or construct new systems, at his/her own cost.

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) 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.
7. 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.

"Fabian Poulin"
FABIAN POULIN
VICE-CHAIR

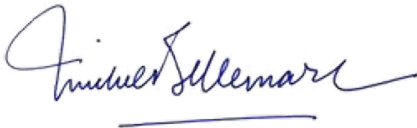
Absent
TERENCE OTTO
MEMBER

"Steven Lewis"
STEVEN LEWIS
MEMBER

"Martin Vervoort"
MARTIN VERVOORT
MEMBER

"Jocelyn Chandler"
JOCELYN CHANDLER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **December 16, 2022**.



Michel Bellemare
Secretary-Treasurer

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 **January 5, 2023**, 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 Ontario Land Tribunal 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 the applicant, the Minister or a specified person or public body that has an interest in the matter may appeal the decision to the Ontario Land Tribunal. A "specified person" does not include an individual or a community association.

There are no provisions for the Committee of Adjustment or the Ontario Land Tribunal 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.

If a major change to condition(s) is requested, you will be entitled to receive Notice of the changes only if you have made a written request to be notified.

NOTICE TO APPLICANT(S)

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.

Ce document est également offert en français.

Committee of Adjustment
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