

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

Date of Decision December 16, 2022
File No(s): D08-01-21/B-00383 & D08-01-21/B-00384
Owner(s): 2728622 Ontario Inc.
Location: 1127 (1129) Avignon Court
Ward: 1-Orléans
Legal Description: Part of Block F, Registered Plan 4M-205; City of Ottawa, Part 24 on Registered Plan 4R-3100
Zoning: R3V V[708]
Zoning By-law: 2008-250
Hearing Date: December 7, 2022

PURPOSE OF THE APPLICATION

- [1] The Owner wants to subdivide its property into two separate parcels of land to create one new lot for future residential development.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Consent of the Committee for Conveyances and a Grant of Easement/Right-of-Way. The property is shown as Parts 1 to 3 on 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-00383	6.19 m 6.09 m	30.48 m	183.8 sq. m	1	1127 Avignon Court (existing townhouse)
B-00384	8.95 m (Avignon) 30.48 m (Jeanne D'Arc)	30.48 m	275.5 sq. m	2 & 3*	(1129) Avignon Court (future residential development)

- [3] It is proposed to create an easement/right-of-way over Part 3 for the benefit of Part 1 to provide access to the rear yard.
- [4] The applications indicate that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [5] The Chair administered an oath to Jillian Simpson, Agent for the Owner, who confirmed that the statutory notice posting requirements were satisfied. Ms. Simpson appeared along with Miguel Tremblay, also representing the Owner.
- [6] The Chair noted that, as identified in the Planning Report filed by the City's Planning, Infrastructure and Economic Development Department, the frontage for the parcel shown as Part 1, containing the existing townhouse, should be **amended to read 6.19 metres**. With the agreement of Mr. Tremblay, the application was amended accordingly.
- [7] Siobhan Kelly, City Planner, was in attendance. In response to questions from the Committee, Ms. Kelly indicated that only a townhouse dwelling would be permitted on the proposed new parcel, and that access would be required to be located off of Jeanne d'Arc Boulevard North.
- [8] The Committee heard from Paul Somers of 1125 Avignon Court and Yves Cuillerier of 1128 Avignon Court. Further to his written submission, Mr. Somers questioned how soft landscaping would be reinstated in the rear yards, which had been previously filled with stone dust. Mr. Somers and Mr. Cuillerier also raised concerns regarding existing soil conditions, the width of the existing driveway and the limited space available for soft landscaping and snow storage.
- [9] In response to these concerns, Mr. Tremblay noted that the rear yards of both parcels would need to be returned to natural conditions to comply with the City's grading and drainage requirements. He also noted that the proposal would fully comply with the requirements of the Zoning By-law, including as it relates to minimum lot size and setbacks, as well as maximum driveway area.
- [10] The Chair noted that existing soil conditions would need to be addressed as a condition of any forthcoming approval.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED AS AMENDED

- [11] The Committee considered any written and oral submissions relating to the applications in making its Decision, including the comments made by Mr. Somers and Mr. Cuillerier.

- [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 raises "no concerns" regarding the applications.

[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(s) provide evidence that payment has been made to the City of Ottawa for cash-in-lieu of the conveyance of land for park or other public recreational purposes, plus applicable appraisal costs. The value of land otherwise required to be conveyed shall be determined by the City of Ottawa in accordance with the provisions of By-law 2022-280. Information regarding the appraisal process can be obtained by contacting the Planner.
2. That the Owner(s) provide a soil investigation prepared by a Qualified Person as defined by Ontario Regulation 153/04 and a report summarizing the findings. At a minimum, the samples shall be analyzed for metals, petroleum hydrocarbons (PHCs), benzene, toluene, ethylbenzene, and xylenes (BTEX), and polycyclic aromatic hydrocarbons (PAHs). The report should include the Qualified Person's assessment of potential impacts, reasoning for the location and number of soil samples and laboratory submissions, and a summary of the results. The final report shall also include laboratory summary tables, a figure indicating sample locations, and borehole/test pit logs describing the soil encountered during the

investigation.

Should the investigation report confirm the presence of soils with exceedances of the appropriate standards, a Remedial Action Plan to address these impacts will be required.

3. That the Owner(s) enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction of Development Review Manager of the East Branch within Planning, Real Estate and Economic Development Department, or his/her designate, to require a site plan for the existing and proposed townhouse dwelling units which demonstrates, (a) compliance with the Zoning By-law and (b) the proposed active frontage on Jeanne d'Arc Boulevard North. This site plan may be amended provided the revision maintains the requirements. 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 to the City, at no cost to the City, a 0.30 metre reserve on Avignon Court of the Draft 4R-Plan, to the satisfaction of the Development Review Manager of the East Branch within Planning, Real Estate and Economic Development Department, or his/her designate. The Transfer must be registered by City Legal Services. The Committee requires written confirmation from City Legal Services that the land for the reserve has been conveyed to the City.
5. That the Owner(s) prepare and submit a tree planting plan, prepared to the satisfaction of the **General Manager, Planning, Real Estate and Economic Development Department, or his/her designate**, showing the location of one new 50mm tree to be planted on each lot following construction, to enhance the urban tree canopy and streetscape.
6. That the Owner(s) provide evidence (i.e., servicing plan), to the satisfaction of the **General Manager East Branch, Planning, Real Estate and Economic Development Department, or his/her designate**, that both the severed and retained parcels have their own independent water, sanitary and sewer connection, as appropriate, and that these services do not cross the proposed severance line and are connected directly to City infrastructure. If they do cross the proposed severance line, or they are not independent, the Owner(s) will be required to relocate or construct new services from the city sewers and/or watermain at his/her own costs.
7. That the Owner(s) provide a grading and drainage plan, prepared by a qualified Civil Engineer licensed in the Province of Ontario, an Ontario Land Surveyor, or a Certified Engineering Technologist, to the satisfaction of the **General Manager, Planning, Real Estate and Economic Development Department, or his/her designate**. The grading and drainage plan shall delineate existing and proposed

grades for both the severed and retained properties, to the satisfaction of the Development Review Manager of the East Branch within the Planning, Infrastructure, and Economic Development Department, or his/her designate.

8. That the Owner(s):

- a. Prepare a noise attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the **General Manager, Planning, Real Estate and Economic Development Department, or his/her designate**. The Owner(s) shall also enter into an agreement with the City that requires the Owner to implement any noise control attenuation measures recommended in the approved study. The Agreement will also deal with any covenants/notices recommended in the approved study, that shall be registered on the title and bind future owners on subsequent transfers, warning purchasers and/or tenants of expected noise levels due to the existing source of environmental noise. The Agreement shall be to the satisfaction of the General Manager, Planning, Real Estate and Economic Development Department, or his/her designate. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

OR

- b. Design the dwelling units with central air conditioning and enter into an Agreement with the City, at the expense of the Owner, which is to be registered on title to deal with the covenants/ notices that will bind future owners on subsequent transfers, warning purchasers and/or tenants of expected noise levels due to the existing source of environmental noise. The following two conditions will be included in the above-noted Agreement.

Notices-on-Title respecting noise:

- i. "The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledge being advised that this dwelling unit has been supplied with a central air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the City of Ottawa's and the Ministry of the Environment and Climate Change's noise criteria."
- ii. "The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledge being advised that despite the inclusion of noise control features in this development and within building units, noise levels from increasing roadway traffic may be of concern, occasionally interfering with

some activities of the dwelling occupants as the outdoor sound level exceeds the City of Ottawa's and the Ministry of the Environment and Climate Change's noise criteria."

9. That the Owner convey a 5m x 5m corner sight triangle located at the intersection of Avignon Court and Jeanne d'Arc Boulevard N to the City, with all costs to be borne by the Owner(s), to the satisfaction of the Surveys and Mapping Branch of the City. This area will be free of all structures, plantings, etc. and will allow a proper sighting distance for motorists when performing turning movements within the intersection. The Committee must receive written confirmation from **City Legal Services** that the transfer of the lands to the City has been registered.
10. That the Owner(s) enter into 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. 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 the **Development Review Manager of the East Branch within Planning, Real Estate and Economic 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 East Branch within Planning, Real Estate and Economic 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.

11. 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.
12. 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 and Grant of Easement/Right-of-Way for which the Consent is required.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

"Kathleen Willis"
KATHLEEN WILLIS
MEMBER

"Scott Hindle"
SCOTT HINDLE
MEMBER

"Colin White"
COLIN WHITE
MEMBER

Absent
JULIA MARKOVICH
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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