

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

Date of Decision December 16, 2022
File No(s): D08-01-22/B-00277 to D08-01-22/B-00279
Owner(s): 2447474 Ontario Inc.
Location: 3440 Woodroffe Avenue
Ward: 22 - Gloucester-South Nepean
Legal Description: Part of Lot 12, Concession 2 (Rideau Front)
Geographic Township of Nepean
Zoning: R1E
Zoning By-law: 2008-250
Hearing Date: December 7, 2022

PURPOSE OF THE APPLICATION

- [1] At its hearing on October 19, 2022, the Committee adjourned these applications to allow additional time for the City's new Official Plan to be approved by the Ministry of Municipal Affairs and Housing. The Owner now wants to proceed with its applications to subdivide the property into four separate parcels of land. It is proposed to create three new parcels future development and the existing two-storey detached dwelling is to remain on the fourth parcel.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Consent of the Committee for Conveyances and Grants of Easements/Rights-of-Way. The property is shown as Parts 1 to 6 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-00277	33.13 m (Howard)	63.25 m	1,654.1 sq. m	6	(18) Howard Court
B-00278	22.5 m	51.84 m	1,050 sq. m	2 & 3	(3442) Woodroffe Avenue

B-00279	20 m	51.82 m	1,022.1 sq. m	4 & 5	(3444) Woodroffe Avenue
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- [3] The lands to be retained, shown as Part 1 on said plan, will have frontage of 28.57 metres, a depth of 66.5 metres and a lot area of 2,138.6 square metres. This parcel will contain the existing two-storey detached dwelling and sheds, and is known municipally as 3440 Woodroffe Avenue.
- [4] It is proposed to establish easements and rights-of-way as follows:
- Over Part 3 in favour of Part 6 for municipal services.
 - Over Part 4 in favour of Part 6 for municipal services.

PUBLIC HEARING

- [5] The Chair administered an oath to Tyler Yakichuk, Agent for the Owner, who confirmed that the statutory notice posting requirements were satisfied.
- [6] Siobhan Kelly of the City's Planning, Real Estate and Economic Development Department, was also in attendance. In response to questions from the Committee, Ms. Kelly confirmed that the policies contained in the South Nepean Area Secondary Plan were no longer applicable as they were not carried forward in the new Official Plan.
- [7] In reference to the City's Planning Report on file, the Chair questioned the wording of the condition requiring a servicing plan. It was suggested that the stipulation that the services do not cross the property line be removed, since in this case the services would be located within easements along a proposed lot boundary. With the agreement of Ms. Kelly and Mr. Yakichuk, the Chair indicated that any approval would be subject to this amended condition.
- [8] The Committee also heard from Mac Prescott representing the Hearts Desire Community Association, who confirmed that since the proposal conformed to the requirements of the Zoning By-law, the community association was not opposed to the applications. It was further noted that many of the community's concerns regarding grading and drainage and tree protection would be addressed through the conditions outlined in the City's planning report.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

- [9] The Committee considered any written and oral submissions relating to the applications in making its Decision, including the written and oral submissions made by the Hearts Desire Community Association.
- [10] 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):

[11] 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).

[12] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications.

[13] 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.

[14] 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 evidence, to the satisfaction of the **Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, to be confirmed in writing from the Department to the Committee, outlining the municipal servicing requirements for each unit and demonstrating that capacity exists within the existing City infrastructure.
3. That the Owner(s) provide evidence (i.e., Servicing Plan), to the satisfaction of the **Development Review Manager of the South 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 the severed and retained parcels have their own independent water, sanitary and sewer connection, as appropriate, and that these services are connected directly to City infrastructure.

4. That the Owner(s) provide evidence, to the satisfaction of the **Development Review Manager of the South 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:
 - i. The existing well has been decommissioned in accordance with O. Reg. 153/04 from a well driller currently licensed in Ontario by the Ministry of the Environment, Conservation and Parks; and,
 - ii. The existing septic system has been decommissioned in accordance with and to the satisfaction of the Ottawa Septic System Office.
5. That the Owner(s) shall provide evidence that 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, has been submitted to the satisfaction of the **Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate**. The grading and drainage plan shall delineate existing and proposed grades for the severed and retained properties, to the satisfaction of the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate.
6. That prior to the issuance of a building permit, the Owner(s) shall enter into a Development Agreement with the City of Ottawa, at the expense of the Owner/Applicant(s), and to the satisfaction of the **Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate**. The development agreement shall be registered on Title of the properties.
 - i. The Owner(s) agrees to implement the tree protection and mitigation measures outlined in the Tree Information Report prepared by IFS Associates and dated August 26, 2022, for the retention of all protection of trees.
 - ii. The Owners agree that the location of the proposed structures, including the driveways, retaining walls, projections, etc. shown on the Grading & Servicing Plan, will be determined based on the least impact to protected trees and tree cover, and the full protection of the jointly owned tree #3. The Owner(s) further acknowledges and agrees that this review may result in relocation of these structures

and agrees to revise their plans accordingly to the satisfaction of the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate.

- iii. The Owner/Applicant(s) shall prepare and submit a tree planting plan, prepared to the satisfaction of the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate, showing the location of one new 50mm tree to be planted on the property frontage or right-of-way of each lot following construction, to enhance the urban tree canopy and streetscape.

7. That the Owner provide a Slope Stability Report prepared by a Professional Geotechnical Engineer currently licensed in the Province of Ontario, that is satisfactory to the **Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate** and to be confirmed in writing from the Department demonstrating that all parcels to be created by this application are, or can be made, suitable for residential purposes.

Once the grading design for the property is finalized and approved, the **Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate** may determine that a Slope Stability Report is no longer necessary.

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(s) provide evidence to the satisfaction of the **Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate** that the 0.30 metre reserve along Howard Court has been lifted. The Committee requires written confirmation from **City Legal Services** that the reserve has been lifted and dedicated as a public highway or conveyed to the abutting property owner.
10. 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 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 South 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 to the Department and Legal Services' satisfaction, a copy of the Agreement, and written confirmation from City Legal Services that it has been registered on title.

11. 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 South Branch within Planning, Real Estate and Economic Development Department, or his/her designate, to require that an asphalt overlay will be installed, at the Owner(s) expense, on Woodroffe Ave., fronting the subject lands, over the entire public driving surface area within the limits of the overlay, if the approved Site Servicing Plan shows three or more cuts within the pavement surface. The overlay must be carried out to the satisfaction of the Development Review Manager of the South Branch within 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.

If the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate, determines that a Development Agreement requiring an asphalt overlay is no longer necessary, this condition shall be deemed as fulfilled.

12. 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.
13. 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 Conveyances and Grants of Easements/Rights-of-Way 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 Centrepoin 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
City of Ottawa
Ottawa.ca/CommitteeofAdjustment
cofa@ottawa.ca
613-580-2436



Comité de dérogation
Ville d'Ottawa
Ottawa.ca/Comitedederogation
cded@ottawa.ca
613-580-2436