

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

<b>Date of Decision</b>	January 20, 2023
<b>File No(s):</b>	D08-01-22/B-00342 & D08-01-22/B-00345
<b>Owner(s):</b>	DRJ Canada Investments Inc.
<b>Location:</b>	107-109 Carruthers Avenue
<b>Ward:</b>	15 - Kitchissippi
<b>Legal Description:</b>	Part of Lot 13 (East Carruthers Avenue), Registered Plan 35, Parts 6, 7, 8, 9 & 10 on 4R-31607
<b>Zoning:</b>	R4UD
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	January 11, 2023

**PURPOSE OF THE APPLICATIONS**

- [1] The Owner wants to subdivide its property into two separate parcels of land to create separate ownership for each half of an existing long semi-detached dwelling.

**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 6 to 10 on 4R-31607. The separate parcels will be as follows:

File No.	Frontage	Depth	Area	Part Nos.	Municipal Address
B-00342	6.26 m	12.42 m	79.0 sq. m	6 & 7	107 Carruthers Ave.  (Front unit of the long semi-detached dwelling)

File No.	Frontage	Depth	Area	Part Nos.	Municipal Address
B-00345	1.50 m	30.6 m (irregular)	154.3 sq. m	8, 9* & 10*	109 Carruthers Ave.  (Rear unit of the long semi-detached dwelling)

- [3] It is proposed to establish easements/rights-of-way as follows:
- [4] Over Parts 8 and 10 in favour of Parts 6 and 7 for access and parking. Over Part 8 in favour of the Owners of 103 Carruthers Avenue for access.
- [5] Approval of these applications will have the effect of creating two separate parcels of land. The proposed parcel for 109 Carruthers Avenue will not be in conformity with the requirements of the Zoning By-law and therefore, Minor Variance Application (D08-02-22/A-00325) has been filed and will be heard concurrently with these applications.

## **PUBLIC HEARING**

- [6] The Panel Chair administered an oath to Roger Leavoy, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied.
- [7] In response to questions from the Committee, Mr. Leavoy confirmed that the units are contained within the property lines with no overhead connection. He also confirmed that he was aware of the concerns of the Mechanicsville Community Association regarding a private fencing matter between the Applicant and a neighbour, an issue not before the Committee.
- [8] City Planner Margot Linker was also present.

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

- [9] The Committee considered all written and oral submissions relating to the applications in making its Decision.
- [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 the accompanying Minor Variance Application (D08-02-22/A-00325) has been approved, with all levels of appeal exhausted.
2. To address the Infill Tree Planting Deposits paid with the building permit, the Owner/Applicant(s) shall provide one of the following documents, to the satisfaction of the **Development Review Manager of the relevant Branch within the Planning, Real Estate, and Economic Development Department or his/her designate**: a landscape plan showing the location of one new 50mm tree to be planted on each lot, or proof that the required number of trees have been planted, or confirmation that it is not possible to plant in this location.
3. That the Owner(s) provide evidence to the satisfaction of the **Chief Building Official, or designate**, that both severed and retained parcels have their own independent water, sanitary and storm connection and shall comply to 7.1.5.4(1) of the Ontario Building Code, O. Reg. 332/12 as amended. If necessary, a plumbing permit shall be obtained from Building Code Services for any required alterations.
4. That the Owner(s) provide evidence (servicing plan), to the satisfaction of the **Development Review Manager of the relevant Branch within the Planning,**

**Real Estate and Economic Development Department, or his/her designate,** to be confirmed in writing from the Department to the Committee, 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.

5. That the Owner(s) enter into a Joint Use, Maintenance and Common Elements, 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 **City's Development Review Manager of the relevant Branch within the 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 **City's Development Review Manager of the relevant Branch within the 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.

6. That the Owner 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 shall run with the land and bind future owners on subsequent transfers, warning purchasers and/or tenants of expected noise levels due to the existing source of environmental noise (Transit Way). 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.
7. That the Owner(s) satisfy the requirements of Hydro Ottawa with respect to the provision of a Common Elements Agreement to provide each property owner with mutual access, maintenance and cost sharing responsibilities for the electrical supplies.

8. 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.
9. 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 Conveyances and Grants of Easements/Rights-of-Way for which the Consent is required.

*“John Blatherwick”*  
JOHN BLATHERWICK  
VICE-CHAIR

Absent  
STAN WILDER  
MEMBER

*“Heather MacLean”*  
HEATHER MACLEAN  
MEMBER

*“Bonnie Oakes Charron”*  
BONNIE OAKES CHARRON  
MEMBER

*“Michael Wildman”*  
MICHAEL WILDMAN  
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **January 20, 2023**.



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 **February 9, 2023**, 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 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](mailto: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](http://Ottawa.ca/CommitteeofAdjustment)  
[cofa@ottawa.ca](mailto:cofa@ottawa.ca)  
613-580-2436



**Comité de dérogation**  
Ville d'Ottawa  
[Ottawa.ca/Comitedederogation](http://Ottawa.ca/Comitedederogation)  
[cded@ottawa.ca](mailto:cded@ottawa.ca)  
613-580-2436