

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

Date of Decision	January 20, 2023
File No(s):	D08-01-22/B-00349
Owner(s):	West Ottawa Holdings Inc.
Location:	3075 Palladium Drive, 201 & 101 Nipissing Court
Ward:	4 – Kanata-North
Legal Description:	Block 1, Registered Plan 4M-1566 and Blocks 3 & 4, Registered Plan 4M-1642, Former Township of Huntley
Zoning:	GM[2167]
Zoning By-law:	2008-250
Hearing Date:	January 11, 2023

PURPOSE OF THE APPLICATION

- [1] The Owner wants to establish access and servicing easements over portions of its property in favour of abutting property owners. An owner of neighbouring lands (1000019871 Ontario Inc.) has also filed a Consent Application (D08-01-22/B-00350) to establish permanent easements in favour of the subject and neighbouring lands.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Consent of the Committee for Grants of Easements/ Rights-of-Way. The property is shown on a Draft 4R-Plan and Plan 4R-33025 filed with the application, and the proposed easements/ rights-of-way are as follows:
1. An easement for Hydro works over Parts 1 & 2 on the Draft 4R-Plan in favour of Part 1 on Plan 4R-28887.
 2. An access easement over Part 3 on the Draft 4R-Plan in favour of: Part 1 on Plan 4R-28887; Block 14 on Plan 4M-1566 (1000019871 Ontario Inc.); Part of Block 2 on Plan 4M-1566 save and except Parts 1 to 4 on Plan 4R-33022 & Part 1 on Plan 4R-34709; Parts 1 to 4 on Plan 4R-33022; Part 1 on Plan 4R-34709.

3. An access easement over Parts 4, 14 & 15 on Plan 4R-33025 in favour of Block 14 on Plan 4M-1566 (1000019871 Ontario Inc.).
- [3] The application indicates that the property is subject to existing easements and restrictive covenants, as follows:
- [4] Block 1, Registered Plan 4M-1566, Former Township of Huntley:
1. Instrument No. OC1470184 registered April 23, 2013, being restrictive covenants in favour of the Tanger Outlet Mall whereby the subject lands will not be used for factory outlet stores or any uses in the nature of obnoxious uses.
 2. Instrument No. OC1720687 registered September 10, 2015 as amended by Instrument No. OC1840611 registered October 28, 2016, and by Instrument No. OC2259296 registered September 21, 2020, being a mutual easement and operating agreement between Cabela's Retail Canada Inc. and West Ottawa Land Holdings Inc.
 3. Instrument No. OC1776587 registered April 4, 2016 in favour of Rogers Communications Inc., being a blanket easement over the subject lands to permit a distribution system for communication services.
 4. Instrument No. OC1808376 registered July 21, 2016 in favour of Hydro One Networks Inc. being an easement over Part 1 on Plan 4R-29646 for the purpose of maintenance and operation of the hydro line.
 5. Instrument No. OC1857392 registered December 29, 2016, as amended by Instrument No. OC2259102 and Instrument No. OC2259366 registered September 21, 2020, being a retail lands mutual easement and operating agreement between Kanata West Centre Inc. and West Ottawa Land Holdings Inc.
 6. Instrument No. OC2018817 registered July 31, 2018, being a notice to annex a restrictive covenants agreement in favour of McDonald's Restaurants of Canada Limited, as amended by an amending agreement, notice of which was registered on February 1, 2019 as Instrument No. OC2075301.
 7. Instruments No. OC2259232 and OC2259233 registered September 21, 2020, being access and servicing easements in favour of Cabela's Retail Canada ULC and Kanata West Centre Inc., respectively.
 8. Instruments No. OC2434885 and OC2434886 registered December 13, 2021 being, respectively, access and servicing easements in favour of 1000019871 Ontario Inc. and an easement and cost-sharing agreement between 1000019871 Ontario Inc. and West Ottawa Land Holdings Inc.

- [5] Blocks 3 & 4, Registered Plan 4M-1642, Former Township of Huntley:
1. Instruments No. OC2434885 and OC2434886 registered December 13, 2021, being, respectively, access and servicing easements in favour of 1000019871 Ontario Inc. and an easement and cost-sharing agreement between 1000019871 Ontario Inc. and West Ottawa Land Holdings Inc.
 2. Instrument No. OC1776587 registered April 4, 2016 in favour of Rogers Communications Inc., being a blanket easement over the subject lands to permit a distribution system for communication services.
 3. Instrument No. OC1808376 registered July 21, 2016 in favour of Hydro One Networks Inc. being an easement over Parts 6 & 7 on Plan 4R-29646 for the purpose of maintenance and operation of the hydro line.
- [6] The application indicates that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [7] The Chair administered an oath to Alex Turner, Agent for the Owner, who confirmed that the statutory notice posting requirements were satisfied. Anne Curtis, solicitor for the Owner, provided the Committee with a brief presentation.
- [8] City Planner Cass Scлаuzero of the Planning, Real Estate and Economic Development Department was also in attendance.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

- [9] The Committee considered any written and oral submissions relating to the applications in making its Decision.
- [10] Under the *Planning Act*, the Committee has the power to grant 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) 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 Owner(s) 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 West 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 satisfactory to Development Review Manager of the West Branch within 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.

2. 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 area of the easement land. If the Registered Plan does not indicate the 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.
3. 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 Grants of Easements/ Rights-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

"Julia Markovich"
JULIA MARKOVICH
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 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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