

DECISION CONSENT

Section 53 of the *Planning Act*

Date of Decision	January 20, 2023
File No(s):	D08-01-22/B-00274 to D08-01-22/B-00276
Owner(s):	Muhanad Joudeh
Location:	2492 Clover Street
Ward:	17 - Capital
Legal Description:	Lot 27, Reg. Plan No. 301
Zoning:	R3A
Zoning By-law:	2008-250
Hearing Date:	January 11, 2023

PURPOSE OF THE APPLICATIONS

- [1] The Owners want to subdivide their property into three separate parcels of land for the construction of three new long semi-detached dwellings. The existing dwelling and garage will be demolished.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owners require the Consent of the Committee for Conveyances and Grant of Easement/Right-of-Ways. The property is shown as Parts 1 to 12 on Draft 4R-Plan filed with the applications, and the separate parcels will be as follows:

File No.	Frontage	Depth	Area	Part Nos.	Municipal Address
B-00274	10.14 m	30.52 m	309.47 sq. m	1 & 2	2492 Clover Street. (proposed long semi-detached dwelling)
B-00275	10.16 m	30.52 m	310.08 sq. m	3 to 7	2490 Clover Street (proposed long semi-detached dwelling)

File No.	Frontage	Depth	Area	Part Nos.	Municipal Address
B-00276	10.16 m	30.52 m	310.08 sq. m	8 to 12	2488 Clover Street (proposed long semi-detached dwelling)

- [3] The Applications indicate that Parts 2, 6 and 9 are subject to an Easement as in Instrument # OC977157.
- [4] It is proposed to establish an Easement/Right-of-Way over Part 7 for pedestrian and vehicular access and servicing in favor of Parts 8, 9, 10, 11 and 12.
- [5] It is proposed to establish an Easement/Right-of-way over Part 8 for pedestrian and vehicular access and servicing in favour of Parts 2, 3, 4, 5, 6 and 7
- [6] The applications indicate that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

- [7] Prior to the Hearing on November 2, 2022, the Committee received an adjournment request from Siobhan Kelly of the City's Planning, Real Estate and Economic Development Department, to allow the applicant time to file a revised Tree Information Report and revised site plan.
- [8] At the Hearing, the Committee heard from Muhanad Joudeh, Owner of the property, who agreed to the adjournment. With the concurrence of all parties, the application was adjourned to the hearing scheduled for January 11, 2023.
- [9] At the renewed Hearing, the Chair administered an oath to Mr. Joudeh, who confirmed that the statutory notice posting requirements were satisfied.
- [10] The Chair noted that, as identified in the City's Planning Report, the proposed easement over Part 8 should be amended as follows:
- It is proposed to establish an Easement/Right-of-way over Part 8 for pedestrian and vehicular access and servicing in favour of Parts 2, 3, 4, 5, 6 and 7
- [11] With the agreement of Mr. Joudeh, application D08-01-22/B-00276 was amended accordingly.
- [12] The Committee also heard from Renso Vettoretti, representing Vincent Vettoretti of 2489 Junction Avenue, who raised concern regarding potential drainage issues. In

response, Mr. Joudeh offered to share the approved grading and drainage plan with Mr. Vettoretti.

- [13] When questioned by the Committee, Ms. Kelly explained that the City had some concerns with the size of the proposed servicing easement but indicated that these concerns would be addressed through the conditions requested in the Planning Report on file.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED AS AMENDED

- [14] The Committee considered any written and oral submissions relating to the applications in making its Decision.
- [15] 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):

[16] **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).

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

[18] 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 Owners(s) submit a revised Draft 4R Plan with a 3.4 metre servicing easement over Part 7 & 8 or provide a servicing plan to the satisfaction of the **Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, demonstrating that the common servicing trench complies with the City Standard Detail and the Sewer Connection By-law 2003-513.
3. That the Owner(s) enter into an Infrastructure Agreement with the City of Ottawa to extend/upgrade the municipal services on Clover Street at his/her own costs and post the necessary securities for the work on the City Right-of-Way to the satisfaction of the **Planning, Real Estate and Economic Development Department's Infrastructural Approvals Branch** and to the satisfaction of **City Legal Services**. The Owner(s) may also require the Ontario Ministry of the Environment Conservation and Parks' approval for extending the municipal services. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that the Agreement was registered on title.
4. That the Owner(s) provide a servicing plan to the satisfaction of the **Development Review Manager of the Central Branch within 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.

If the site servicing brief and the servicing plan demonstrate that the existing City infrastructure has capacity and that services will not cross property lines, then the **Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate** may at their discretion, determine that an Infrastructure Agreement is no longer necessary, and this condition shall be deemed as fulfilled.

5. That the Owner(s) enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the **Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate** to address the following:
 - a. The Owner(s) agrees to provide a revised site plan and/or grading plan to the satisfaction of the Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development

Department, or his/her designate. The revised site plan and/or grading plan shall locate driveways, services, parking, projections, retaining walls, and grading to reduce excavation within the Critical Root Zones of protected trees. The Tree Information Report must be revised to show the accurate tree protection areas and to reflect these changes.

- b. That the Owner(s) provide a signed letter of permission from the owner(s) of the adjacent or boundary tree(s) for the proposed removal or operations impacting the tree(s). The applicant acknowledges that the City cannot issue a tree removal permit without the permission of all owners. If a tree removal permit cannot be issued, the proposed development must be revised to allow for the retention and protection of the adjacent or boundary trees.
 - c. The owner(s) shall prepare and submit a tree planting plan prepared to the satisfaction of the Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate, showing the location(s) of the specified number of compensation trees (50mm caliper) required under the Tree Protection By-law.
6. That the Owner(s) provide evidence to the satisfaction of the **Chief Building Official**, or his/her designate, that the existing detached dwelling and garage were demolished or relocated under the authority of a building permit.
 7. That the Owner(s) shall submit 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 **Development Review Manager of the Central 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 both the severed and retained properties.
 8. The Owner(s) shall provide a noise and vibration attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the **Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate**. The Owner(s) shall enter into an agreement with the City that requires the Owner to implement any noise control and vibration attenuation measures recommended in the approved study. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.
 9. That the Owner(s) enter into a Development Agreement with the City to require the installation of an asphalt overlay on Clover Street, at the expense of the

Owner(s), 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 **Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate** and must front the subject lands over the entire public driving surface area within the limits of the overlay. 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 Central 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.

10. That the Owner(s) enter 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, common driveways and common landscaping.

The Owner shall ensure that the Agreement is binding upon all the unit owners and successors in title. The Committee requires written confirmation that the Agreement is to the satisfaction of the **Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, and **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. 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 Grants of Easement/Right-of-Ways for which the Consent is required.

[19] **The Consent lapses two years from the date of this Decision.**

[20] 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.

[21] Please note that if a major change to a condition or conditions is requested, you will be entitled to receive Notice of the changes only if you have made a written request to be notified.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR / PRÉSIDENTE

"Kathleen Willis"
KATHLEEN WILLIS
MEMBER

"Scott Hindle"
SCOTT HINDLE
ACTING VICE-CHAIR

"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.

Ce document est également offert en français.

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