

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

<b>Date of Decision</b>	February 24, 2023
<b>File No(s):</b>	D08-01-22/B-00217
<b>Owner(s):</b>	Urbandale Corporation
<b>Location:</b>	5692 Buckles Street
<b>Ward:</b>	20 – Osgoode
<b>Legal Description:</b>	Part of Lot 31, Concession 1, Geographic Township of Osgoode
<b>Zoning:</b>	DR3
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	February 15, 2023

**PURPOSE OF THE APPLICATION**

- [1] The Owner wants to subdivide their property into two parcels of land to establish separate ownership of the existing two-storey detached dwelling and accessory building.

**CONSENT IS REQUIRED FOR THE FOLLOWING**

- [2] The Owner requires the Consent of the Committee for a Conveyance.
- [3] The land to be severed, shown as Part 1 on a Draft 4R-Plan filed with the application, will have a frontage of approximately 57 metres, a depth of approximately 97 metres, and a lot area of approximately 5,529 square metres (approximately 0.6 hectares). This parcel will contain the existing two-storey detached dwelling and accessory building and will be known municipally as 5926 Buckles Street.
- [4] The land to be retained, as shown on a Draft Plan of Subdivision filed with the Committee, will have frontages of 962.79 metres on Buckles Street and 432 metres on Gordon Murdock Road, and a lot area of ~~41.9~~ **42.7** hectares.
- [5] The application indicates that the Property is not the subject of any other current application under the *Planning Act*.

## PUBLIC HEARING

- [6] Prior to the Hearing on January 11, 2023, the Committee received an adjournment request from City Planner Luke Teeft, seeking additional time for consultation between the City and the applicant's agent. The Committee heard from Krista Libman, Agent for the Owner, who agreed to the adjournment. With the concurrence of all parties, the application was adjourned to February 15, 2023.
- [7] At the Hearing on February 15, 2023, the Committee noted that, as highlighted in the Planning Report, the lot area for the retained lands should be amended to read **42.7** hectares. Ms. Libman agreed, and the application was amended accordingly.
- [8] Ms. Libman requested that the Committee not impose the City's requested condition for an Environmental Impact Study (EIS). She referred to aerial photographs, a proposed subdivision plan, and Schedule C11-B of the Official Plan to demonstrate that the severed lot is not located within the Natural Heritage Overlay. She also advised that an EIS would be required through the Plan of Subdivision application process for the retained lands. Mr. Teeft explained that a scoped EIS would provide details of existing features on the subject property and noted that the City's mapping shows significant woodlands and unevaluated wetlands on the parcel edges.
- [9] The Committee agreed that the condition was not necessary in this case, noting that an EIS would be required as a condition of the Plan of Subdivision application.

### **DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED AS AMENDED**

- [10] The Committee considered any written and oral submissions relating to the application in making its Decision.
- [11] 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):

#### [12] **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).

[13] The Committee notes that the City's Planning Report raises "minor concerns," highlighting that, "the subject site contains both natural heritage features and unevaluated wetlands. It is the position of the Planning, Real Estate, and Economic Development Department that lot creation that intersects unevaluated wetlands should generally be avoided." However, the report also indicates that, "given the entire site is zoned for future development as part of the Village of Osgoode, development is allowed to proceed given the protection of existing natural features

as identified in an EIS.” In this case, the Committee agreed that EIS requirements would be appropriately addressed through the Plan of Subdivision application process.

[14] 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.

[15] 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 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 Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, which provides the following covenant/notice that runs with the land and binds future Owner(s) on subsequent transfers:

“The City of Ottawa does not guarantee the quality or quantity of the groundwater. If, at some future date, the quality or the quantity of the groundwater becomes deficient, the City of Ottawa bears no responsibility, financial or otherwise, to provide solutions to the deficiency, such solutions being the sole responsibility of the homeowner.”

The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

2. That the Owner 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 Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, which provides the following covenant/notice that runs with the land and binds future Owner(s) on subsequent transfers:

“The City of Ottawa has identified that there are potential sensitive marine clays and organic soils within the area that may require site specific detailed geotechnical engineering solutions to allow for development, the City of Ottawa

bears no responsibility, financial or otherwise, to provide solutions to the deficiency, such solutions being the sole responsibility of the homeowner.”

The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

3. That the Owner(s) provide proof to the satisfaction of the **Development Review Manager of the Relevant 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 existing parcel has its own independent private sewage system, storm/foundation drainage, and water supply and that they do not cross the proposed severance line. If the systems cross the proposed severance line or are not independent, the Owner(s) will be required to relocate the existing systems.
4. That the Owner(s) obtain a Zoning By-law Amendment, satisfactory to the **General Manager of the Planning, Infrastructure and Economic Development Department, or his/her designate**, to be confirmed in writing from the Department to the Committee, that re-zones the severed lands to a village residential zone, with all levels of appeal exhausted.
5. Pursuant to Section 50.1(25)(c) of the Planning Act and Schedule C16 of the City's new Official Plan, the Owner acknowledges and agrees to convey to the City, at no cost to the City, an unencumbered road widening across both:
  - the complete frontage of the lands on Buckles Street, measuring 10 meters from the existing centerline of pavement/the abutting right-of-way.
  - the complete frontage of the lands on Gordon Murdock Road, measuring 13 meters from the existing centerline of pavement/the abutting right-of-way.

The exact widening must be determined by legal survey. The Owner shall provide a reference plan for registration, indicating the widening, to the City Surveyor for review and approval prior to its deposit in the Land Registry Office. Such reference plan must be tied to the Horizontal Control Network in accordance with the municipal requirements and guidelines for referencing legal surveys. The Owner(s) must provide to the City Surveyor a copy of the Committee of Adjustment Decision and a draft Reference Plan that sets out the required widening. The Committee requires written confirmation from City Legal Services that the transfer of the widening to the City has been registered. All costs shall be borne by the Owner.

6. 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.

7. 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 Consent is required.

*“Fabian Poulin”*  
FABIAN POULIN  
VICE-CHAIR

*“Terence Otto”*  
TERENCE OTTO  
MEMBER

*“Steven Lewis”*  
STEVEN LEWIS  
MEMBER

*“Martin Vervoort”*  
MARTIN VERVOORT  
MEMBER

*“Jocelyn Chandler”*  
JOCELYN CHANDLER  
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **February 24, 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 **March 16, 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**  
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