

DECISION CONSENT

Section 53 of the *Planning Act*

Date of Decision	February 24, 2023
File No(s):	D08-01-23/B-00020 to D08-01-23/B-00022
Owner(s):	Jennifer McGahan
Location:	1835 Stittsville Main Street
Ward:	6-Stittsville
Legal Description:	Part of Lot 22, Concession 9, Geographic Township of Goulbourn
Zoning:	RU
Zoning By-law:	2008-250
Hearing Date:	February 15, 2023

PURPOSE OF THE APPLICATIONS

- [1] The Owner wants to subdivide her property into three separate parcels of land to create two new residential lots.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Consent of the Committee for Conveyances and Grants of Easements/Rights-of-Ways. 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 Nos.	Municipal Address
B-00020	41.3 m	40 m (irregular)	3,346 sq. m	1 and 2	1835 Stittsville Main Street
B-00021	21.7 m	40 m (irregular)	984.5 sq. m	3 and 4	1831 Stittsville Main Street (vacant parcel)

File No.	Frontage	Depth	Area	Part Nos.	Municipal Address
B-00022	56.5 m	40 m (irregular)	989.7 sq. m	5 and 6	1827 Stittsville Main Street (vacant parcel)

[3] It is proposed to establish reciprocal drainage easements, as follows:

- Easement over Part 2 in favour of Parts 3 to 6.
- Easement over Part 3 in favour of Parts 1, 2, 5 and 6.
- Easement over Part 5 in favour of Parts 1 to 4

[4] The applications indicate that the property is also the subject of a Zoning By-law Amendment application (D02-02-22-0016) under the *Planning Act*.

PUBLIC HEARING

[5] The Panel Chair administered an oath to Thomas Freeman, Agent for the Owner, who confirmed that the statutory notice posting requirements were satisfied.

[6] The Committee noted that the wording for the condition requested in the City's Planning Report concerning private approaches had been revised in correspondence from City Planner Sean Harrigan, with the intent of clarifying the City's requirements. Mr. Freeman agreed to the revised wording.

[7] Mr. Freeman also requested that the condition requiring a noise attenuation study not be imposed in this case, noting the substantial separation distance between the proposed lots and the road, as well as the existing vegetation that would mitigate noise. Jaime Posen, also acting as Agent for the Owner, added that the Committee had previously waived this condition for applications proposing low-density development close to public roads, where the anticipated impact of noise would be clear to purchasers.

[8] City Planner Sean Harrigan explained that a noise study would provide a comprehensive analysis of potential risks and sensitivities and would include recommendations for construction and building design to mitigate noise issues in the future.

[9] The Committee agreed that the condition was not necessary in this case, noting that the impact of traffic-related noise would be clear for properties fronting on Stittsville Main Street.

[10] Jennifer McGahan, Owner of the property, was also present.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

- [11] The Committee considered all written and oral submissions relating to the applications in making its Decision.
- [12] 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):

[13] **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).

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

[15] 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.

[16] 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) obtain a Zoning By-law Amendment, 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**, to be confirmed in writing from the Department to the Committee, which rezones the severed and retained lands such that all properties are zoning compliant, with all levels of appeal exhausted.

If the Zoning By-law Amendment places a holding provision(s) on any or all of the subject properties, the Owner(s) shall lift the holding provision(s) before this condition can be cleared.

2. That the Owner(s) provide evidence to the satisfaction of the **Development Review Manager of the Relevant Branch within Planning, Real Estate, and**

Economic Development Department, or her/his designate, that the severed and retained lots can establish a private approach in accordance with the Private Approach By-law. The Committee requires written confirmation from the Department that this condition has been satisfied.

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 private services are decommissioned.
4. That the Owner(s) provide evidence to the satisfaction of both the **Chief Building Official** and the **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designates**, that both severed and retained parcels have their own independent water, sanitary and storm connection as appropriate, and that these services do not cross the proposed severance line and are connected directly to City infrastructure. Further, the Owner(s) 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.

If they do cross or do not connect directly or are not independent, the Owner(s) must obtain Ontario Ministry of the Environment and Conservation and Parks (Environmental Compliance Approval – ECA), must obtain the approval of the Committee to grant easement(s) as required for access and maintenance of the services, and must register a Joint Use and Maintenance Agreement, between the Owners of the services, on the title of the property, all at his/her own costs. The Owner(s) also agree to enter into a Development Agreement with the City to cover these required items as well as all engineering, administrative and financial matters. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

In the case of a vacant parcel being created, the Owner(s) shall provide evidence (servicing plan), to the satisfaction of the Development Review Manager of the West 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 parcel has access to sufficient services with adequate capacity.

5. That the Owner(s) enter into an Infrastructure Agreement with the City of Ottawa to extend the municipal services on Stittsville Main 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 City's **Planning, Real Estate and Economic Development Department's Infrastructural Approvals Branch** and to the satisfaction of **City Legal Services**. The Owner(s) must also receive the approval of the **Ontario Ministry of the Environment Conservation and**

Parks for the extension of the municipal services. The Owner(s) must construct these services to the satisfaction of the City's Planning, Real Estate and Economic Development Department's Infrastructural Approvals Branch. The Committee requires a copy of the Agreement, written confirmation from City Legal Services that it has been registered on title, and an in-service memo confirming that the municipal services have been constructed and are available to connect for the severed and retained lots.

6. 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 for the easement along the rear lot lines.

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 **Development Review Manager of the Relevant 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 the **Development Review Manager of the Relevant 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.

7. 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 for the laneway between Stittsville Main Street and the subject properties.

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 **Development Review Manager of the Relevant 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 the **Development Review Manager of the Relevant 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.

8. That the Owner(s) enter into a Development 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**, to require that an asphalt overlay will be installed, at the Owner(s) expense, on Stittsville Main Street, 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 Relevant 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 **Relevant 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.
9. That the Owner(s) provide evidence (payment receipt) to the Committee that payment has been made to the City of Ottawa of cash-in-lieu of the conveyance of land for park or other public recreational purposes, plus applicable appraisal costs. The value of the land otherwise required to be conveyed shall be determined by the City of Ottawa in accordance with the provisions of By-Law No. 2022-280, as amended. Information regarding the appraisal process can be obtained by contacting the Planner.
10. That the Owners provide a combined Grading and Drainage Plan and Site Servicing Plan including, where applicable, the tree locations and protection recommendations from the approved final Tree Information Report, to the satisfaction of the Managers of the relevant branches **of Planning, Real Estate, and Economic Development, or his/her designate**, the plans can be shown on one sheet or multiple sheets, but must include the following information:
 - a. The Grading and Drainage Plan must be prepared by a relevant professional: Professional Engineer (P.Eng.), Certified Engineering Technologist (CET), Ontario Land Surveyor (OLS), Professional Landscape Architect (OLA), or Professional Architect (OAA) and adhere to the following;
 - i. Minimum Grading and Servicing Plan Specifications Infill Serviced Lots

- ii. City of Ottawa Standard Drawings, By-laws, and Guidelines, as amended.
 - b. The Site Servicing Plan must be prepared by a relevant professional: Professional Engineer (P.Eng.), Certified Engineering Technologist (CET), or Ontario Land Surveyor (OLS) and adhere to the requirements as noted for the Grading & Drainage Plan.
 - c. In the case of a vacant parcel being created, the plan(s) must show a conceptual building envelope to establish that the lot can be graded to a sufficient and legal outlet, has access to services with adequate
 - d. The following information from the Tree Information Report must be included on both the Grading and Servicing Plans to ensure that these elements are designed to follow the recommendations within the TIR:
 - i. Surveyed locations of all protected trees on and adjacent to the subject site
 - ii. Location of tree protection fencing
 - iii. Measurements from the tree(s) trunks to nearest limit of excavation or grade changes
 - iv. Any notes related to excavation or grade changes within the Critical Root Zone, as recommended in the TIR (e.g. use of hydrovac, directional boring, or capping of services outside of the Critical Root Zone).
 - v. Proposed planting locations from the associated Tree Planting Plan.
11. That the Owner(s) prepare a revised Tree Inventory Report (TIR), at the owner(s) expense and to the satisfaction of the **Development Review Manager within the Relevant Branch of Planning, Real Estate, and Economic Development Department, or his/her designate**. The Owner(s) shall enter into a Development Agreement registered on title for the severed and retained lots, or a Letter of Undertaking (LOU) if deemed appropriate by the City, with the City of Ottawa, at the expense of the Owner(s) and to the satisfaction of the **Development Review Manager within the Relevant Branch of Planning, Real Estate, and Economic Development Department, or his/her designate**, which includes the recommendations and/or mitigation measures of the approved TIR and associated securities if necessary for tree protection. The securities, which will be based on the value of the protected trees with excavation proposed within their Critical Root Zone(s) shall be retained for 2 years following completion of construction, and returned to the owner only upon the City having received a report from an arborist or appropriate professional confirming that the trees identified are in good health and condition, and remain structurally stable.

12. That the Owner(s) prepare and submit a Tree Planting Plan, prepared to the satisfaction of the **Development Review Manager within the Relevant Branch of Planning, Real Estate, and Economic Development Department, or his/her designate**, showing the location(s) of one new tree for each severed and retained lot, to be planted in the City Right-of-Way if possible, and the specified number of compensation trees (50mm caliper) required under the Tree Protection By-law, assuming that all proposed tree removals are permitted.
13. 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.
14. 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 Easements/Rights-of-Ways 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 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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