

**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-00367
<b>Owner(s):</b>	13890767 Canada Inc.
<b>Location:</b>	3745 St-Joseph Boulevard
<b>Ward:</b>	1 - Orléans East-Cumberland
<b>Legal Description:</b>	Part of Lot 31, Concession 1, Geographic Township of Cumberland
<b>Zoning:</b>	IL H(21)
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	February 15, 2023

**PURPOSE OF THE APPLICATION**

- [1] The Owner wants to establish a maintenance access easement over part of its property, for the benefit of the adjacent property owner to the east, known municipally as 3735 St-Joseph Boulevard.

**CONSENT IS REQUIRED FOR THE FOLLOWING**

- [2] The Owner requires the Consent of the Committee for a Grant of Easement/Right-of-Way.
- [3] It is proposed to create an easement over Parts 1 & 2 on Plan 4R-34549 submitted with the application, in favour of Units 1, 2, 3, 4, 5, 6, on Ottawa-Carleton Standard Condominium Plan No. 1066 (3735 St-Joseph Boulevard).
- [4] The application indicates that the property is subject to existing Easements/Right-of-Ways as in OC790487, OC851072, OC1643786, OC2164673, OC2208830 & OC2300093.

**PUBLIC HEARING**

- [5] The Panel Chair administered an oath to Phil Lalonde, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied.

- [6] City Planners Cass Schlauzero and Siobhan Kelly were also present and confirmed that, despite the equipment located in the proposed easement, the easement agreement could be structured to address this situation.

**DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED**

- [7] The Committee considered all written and oral submissions relating to the application in making its Decision.
- [8] 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):

[9] **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).

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

[11] 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.

[12] 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 an Easement Agreement, at the expense of the Owner(s), setting forth the obligations between the Owner(s) and the proposed future owners.

That 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 Development Review Manager of the East 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 East 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 (which may be evidenced by an undertaking of the Owner's solicitor).

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 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.
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 a Conveyance 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

Absent  
JULIA MARKOVICH  
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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