

DECISION CONSENT/SEVERANCE

Date of Decision	May 12, 2023
File No(s):	D08-01-23/B-00101
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	LSC Developments Ltd.
Property Address:	1044 Secord Avenue
Ward:	17 - Capital
Legal Description:	Part of Lot 21, Registered Plan 527
Zoning:	R3A
Zoning By-law:	2008-250
Hearing Date:	May 3, 2023

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owner wants to divide its property into two separate parcels of land for the construction of a semi-detached dwelling with secondary dwelling units in each dwelling. The existing one and a half-storey single-detached dwelling which will be demolished

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Consent of the Committee for Conveyance.
- [3] The severed land, shown as Part 1 on a draft 4R plan filed with the application, will have a frontage of 7.62 metres, a depth of 30.48 metres and will contain a lot area of 232.30 square metres. This parcel will contain one half of the semi-detached dwelling and be known municipally as 1042 (1042B) Secord Avenue.
- [4] The retained lands, shown as Parts 2 on said draft plan, will have a frontage of 7.62 metres, a depth of 30.48 metres and will contain a lot area of 232.30 square metres. This parcel will contain one half of the semi-detached dwelling and will be known municipally as 1044 (1044B) Secord Avenue.
- [5] Approval of these applications will have the effect of creating two separate parcels of land which, along with the proposed development, will not be in conformity with the requirements of the Zoning By-law and therefore, Minor Variance Applications (D08-02-23/A-00078 & D08-02-23/A-00079) have been filed and will be heard concurrently with these applications.

PUBLIC HEARING

- [6] The Panel Chair administered an oath to Jessica D'Aoust, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied.

Oral Submissions Summary

- [7] Ms. D'Aoust provided an overview of the application and responded to questions from the Committee.
- [8] The Committee also heard oral submissions from the following individual:
- Susan Carbone, Heron Park Community Association, highlighted concerns regarding the anticipated impact of the proposal on the neighbourhood, including garbage storage, tenancy, the number of proposed bedrooms, as well as the scale and footprint of the dwellings.
- [9] The Panel Chair noted that the requested condition requiring an agreement on title warning of noise levels had been revised to include that the condition could be deemed fulfilled if the requested Noise Attenuation Study determines the rail corridor has no significant impact on either of the proposed lots.
- [10] In response to questions from the Committee, City Infill Forester Nancy Young, confirmed that the wording of the condition requiring the location of proposed structures, driveways, and projections to be shown on the Grading and Servicing Plan, could be modified. The Panel Chair highlighted that any approval of the applications would be tied to the plans on file, therefore limiting the amount of change possible to protect the trees. In response, Ms. Young suggested revising the wording of the condition to remove the reference to any 'structures' and to focus on the location of the services.
- [11] Shane Lanigan, representing the Applicant, Linda Gama-Pinto, Heron Park Community Association and City Planners Justin Grift and Erin O'Connell were also present.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Tests

- [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):

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).

Evidence

[13] Evidence considered by the Committee included any oral submissions made at the hearing, as highlighted above, and the following written submissions held on file with the Secretary-Treasurer and available from the Committee Coordinator upon request:

- Application and supporting documents, including a planning rationale, plans, and tree information.
- City Planning Report, received April 28, 2023, with no concerns
- Rideau Valley Conservation Authority, dated April 27, 2023, with no objections
- Hydro Ottawa, email dated April 27 and March 29, 2023, with no concerns
- Hydro One, email dated April 28 and March 24, 2023, with no concerns
- Linda Gama-Pinto, Heron Park Community Association, email dated April 25, 2023, opposed
- Susan Carbone, Heron Park Community Association, email dated May 2, 2023, opposed

Effect of Submissions on Decision

[14] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.

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

[16] 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.

[17] 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 the accompanying Minor Variance Applications (D08-02-23/A-00078 & D08-02-23/A-00079) have been approved, with all levels of appeal exhausted.
2. 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 Page 6 of 9 of By-law 2022-280. Information regarding the appraisal process can be obtained by contacting the Planner.
3. That the Owner(s) provide proof 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 be confirmed in writing from the Department to the Committee, that the existing dwelling/building has been removed.
4. That the Owner(s) provide a Grading & Servicing Plan, based on the least impact to protect trees and tree cover. The Owner(s) further acknowledges and agrees that this review may result in relocation of underground services and agrees to revise the plan accordingly to the satisfaction of the **Development Review Manager of the Central Branch within the Planning, Real Estate and Economic Development Department, or his/her designate**.
5. The Owner(s) provide proof that the tree protection fencing around the Critical Root Zone of the protected tree is installed as shown in the Tree Information Report, prior to capping of services, to prevent any excavation within this zone. The sanitary and storm services if present, must be abandoned and capped outside of the Critical Root Zone of the City tree as clearly demonstrated on the Existing Conditions, Removals, and Decommissioning plan to the satisfaction of the **Development Review Manager of the Central Branch within the Planning, Real Estate and Economic Development Department, or his/her designate**.
6. That the Owner(s), prior to the stamping of the deed(s), shall enter into a Development Agreement or a Letter of Undertaking (LOU) with the City of Ottawa, at the expense of the Owner/Applicant(s), and to the satisfaction of the **Development Review Manager of the Central Branch within the Planning, Real Estate and Economic Development Department, or his/her designate**. A development agreement is to be registered on Title of the property (where applicable), which will include the mitigation measures outlined in the approved Tree Information Report, prepared by Dendron Forestry Services, dated November 17, 2022, and associated security for tree protection. The securities,

which will be based on the value of the trees to be protected Tree # 1 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.

7. That the Owner(s) provide a servicing plan or other evidence, 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 be confirmed in writing from the Department to the Committee, that each existing building and/or unit on the severed and retained parcels has its own independent water, sanitary and sewer connection, as appropriate, that are directly connected to City infrastructure and do not cross the proposed severance line.
8. That the Owner(s) shall provide evidence that 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, has been submitted 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 be confirmed in writing from the Department to the Committee. The grading and drainage plan shall delineate existing and proposed grades for both the severed and retained properties, to the satisfaction of the Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate.
9. 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 Central 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 Secord Avenue, 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 of the **Development Review Manager of the Central 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 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. The Owner(s) shall prepare a noise attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the **General Manager, Planning, Infrastructure 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 attenuation measures recommended in the approved study. The Agreement will also deal with any covenants/notices recommended in the approved study, that shall be registered on the land title and bind future owners on subsequent transfers, warning purchasers and/or tenants of expected noise levels due to the existing source of environmental noise (arterial, highway, airport, etc.). The Agreement shall be to the satisfaction of the General Manager, Planning, Infrastructure 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.

11. That the Owner(s) enter into an Agreement with the City, at the expense of the Owner(s), which is to be registered on the Title of the property, to deal with the following covenant/notice that shall run with the land and bind future owners on subsequent transfers:

“The property is located next to lands that have an active railway line now, or may have one in the future, and may therefore be subjected to noise, vibration, and other activities associated with this use.”

The Committee requires a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title. However, 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 the covenant/notice to be registered on the Title of the property is no longer necessary, through a noise attenuation study, this condition shall be deemed as fulfilled.

12. That the Owner(s) enter into 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, 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 **Central Manager of the Select 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 Central Manager of the Central 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.

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 a Conveyance for which the Consent is required.

Absent
JOHN BLATHERWICK
VICE-CHAIR

“Stan Wilder”
STAN WILDER
MEMBER

Absent
HEATHER MACLEAN
MEMBER

“Steven Lewis”
STEVEN LEWIS
MEMBER

“Michael Wildman”
MICHAEL WILDMAN
ACTING CHAIR

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **May 12, 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 **June 1, 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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