

DECISION CONSENT/SEVERANCE

Date of Decision	June 16, 2023
File No(s):	D08-01-23/B-00118 & D08-01-23/B-00119
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	2325483 Ontario Ltd.
Property Address:	2765 Palladium Drive
Ward:	6 - Stittsville
Legal Description:	Block 242, Plan 4M-1687
Zoning:	GM [2654]
Zoning By-law:	2008-250
Hearing Date:	June 6, 2023

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owner wants to subdivide the property into two separate parcels of land to create one new lot for a powersports dealership. The property is currently vacant.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Committee's consent to sever. The property is shown as Parts 1 to 3 on a Draft 4R-Plan filed with the applications and the separate parcels will be as follows:

File Nos.	Frontage	Depth	Area	Part Nos.	Municipal Address
B-00118	119.53 m	78.5 m	9730.18 sq. m	1 & 2	425 Culdaff Road
B-00119	148.33 m	85.23 m	15940.04 sq. m	3	2765 Palladium Drive

PUBLIC HEARING

Oral Submissions Summary

- [3] The Committee heard from Serene Shazadeh, agent for the Applicant, who questioned the need for the City's requested conditions requiring a noise attenuation study and proof that a private approach permit could be obtained. She asserted that these conditions would be addressed at the time of future development through a Site Plan Control Application.
- [4] In response to questions from the Committee, Ms. Shazadeh and Eric Bays, also acting as agent for the Applicant, stated that a noise attenuation study was likely prepared at an earlier date as part of the Plan of Subdivision, and believed that any prior noise study should be sufficient to address the City's requested condition.
- [5] Luke Teeft, City Planner, advised that the private approach and noise study conditions were requested to ensure that they would be captured, in the event that future development would not be subject to a Site Plan Control Application. He also advised that a previous noise study would indeed satisfy the City's requested condition.
- [6] The Committee agreed that any approval would be subject to all conditions requested in the City's Planning Report, with modified wording for the noise attenuation study condition to recognize that a past noise study would be sufficient.
- [7] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Applications Must Satisfy Statutory Tests

- [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):

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

- [9] 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:

- Applications and supporting documents, including cover letter, parcel register, plans, surveyor's certificate, tree information report, and a sign posting declaration.
- City Planning Report received June 5, 2023, with no concerns.
- Mississippi Valley Conservation Authority email dated May 30, 2023, with no objections.
- Hydro Ottawa email dated May 31, 2023, with no comments.
- Ministry of Transportation email dated May 24, 2023, with no comments.

Effect of Submissions on Decision

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

[11] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications, highlighting that the proposal poses no risk or complications, and provides an opportunity for increased density and diversity of uses on the subject property.

[12] 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.

[13] 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 plans, drawings or reports as may be required to demonstrate, to the satisfaction of the **Manager, Right-of-Way, Heritage, and Urban Design Department or his/her designate** that a private approach that conforms with the Private Approach By-law (2003-447) can reasonably be established on both the retained and severed parcels, to be confirmed in writing from the Department to the Committee.

2. 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. 2009-95, as amended. Information regarding the appraisal process can be obtained by contacting the Planner.

3. That the Owner(s) prepare, if required, 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**, or confirmation that a noise attenuation study was previously undertaken as part of the Plan of Subdivision. The Owner(s) shall also 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. 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.;

or

Design the dwelling units with the provision for adding central air conditioning at the occupant's discretion and enter into an Agreement with the City, at the expense of the Owner, which is to be registered on title to deal with the covenants/ notices that shall run with the land and bind future owners on subsequent transfers, warning purchasers and/or tenants of expected noise levels due to the existing source of environmental noise. The following two conditions will be included in the above-noted Agreement:

- i) "The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns, acknowledges being advised that this dwelling unit has been fitted with a forced air heating system and the ducting, etc. was sized to accommodate central air conditioning. Installation of central air conditioning by the Purchaser/Lessee will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the City of Ottawa's and the Ministry of the Environment and Climate Change's noise criteria;" and

- ii) "The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledges being advised that noise levels due to increasing roadway traffic may be of concern, occasionally

interfering with some activities of the dwelling occupants as the outdoor sound level exceeds the City of Ottawa's and the Ministry of the Environment and Climate Change's noise criteria.

4. 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.
5. 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
WILLIAM HUNTER
VICE-CHAIR

"Terence Otto"
TERENCE OTTO
MEMBER

"Beth Henderson"
BETH HENDERSON
MEMBER

"Martin Vervoort"
MARTIN VERVOORT
ACTING PANEL CHAIR

"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 **June 16, 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 **July 6, 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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Ottawa.ca/CommitteeofAdjustment
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613-580-2436



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