

## DECISION CONSENT/SEVERANCE

<b>Date of Decision</b>	June 30, 2023
<b>Panel:</b>	2 - Suburban
<b>File No(s):</b>	D08-02-23/B-00115 & D08-02-23/B-00117
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Owner(s)/Applicant(s):</b>	137082225 Canada Inc.
<b>Property Address:</b>	6950 Notre Dame Street
<b>Ward:</b>	2 – Orléans West-Innes
<b>Legal Description:</b>	Part of Lot 3 Concession 2 (Ottawa Front) Geographic Township of Gloucester
<b>Zoning:</b>	R2N
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	June 20, 2023, in person and by videoconference

### APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The applications were originally scheduled to be heard on June 6, 2023. They were rescheduled for a hearing on June 20, 2023, due to a public notification error.
- [2] The Owner wants to subdivide their property into two separate parcels of land for the construction of a long semi-detached dwelling.

### CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Owner requires the Committee's consent for Conveyances. The property is shown as Parts 1 to 8 on a Draft 4R-Plan filed with the applications and the separate parcels will be as follows:

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00115	9.3 m	28.23 m	266.9 sq. m	1 & 2	<b>6950</b> Notre Dame
B-00117	3.02 m	65.68 m	542.4 sq. m	3 to 8	6948 Notre Dame

- [4] It is proposed to establish Easements/Rights-of-way as follows:

- Over Part 3, 5 & 7 in favour of Parts 1 & 2 to provide vehicular access to and from Notre Dame Street and parking.
- Over Part 6 in favour of Parts 1 & 2 to provide pedestrian access to and from the parking and rear yard area.
- Over Part 2 in favour of Parts 3 to 8 to provide pedestrian access from Notre Dame Street.

## **PUBLIC HEARING**

### **Oral Submissions Summary**

- [5] Alison Clarke, Agent for the Applicant, provided an overview of the applications, highlighting that prior to the scheduled hearing on June 6, 2023, the City had no concerns with the proposed applications. Ms. Clarke advised the City's concerns now relate to proposal's potential impact on the tree canopy. She highlighted that the City's requested conditions address tree protection concerns and that her client accepts all provisional consent conditions as proposed.
- [6] In response to questions from the Committee, Ms. Clarke confirmed that compensated trees will be planted in place of the removal of healthy trees. She also stated that the application is for a severance only and that the proposed development is permitted under the Zoning By-law.
- [7] The Committee also heard oral submissions from the following individual:
- S. Cliché, area resident, highlighted concerns relating to loss of trees and greenspace, snow removal, impact on the streetscape character, and noise as a result of rear yard parking.
- [8] City Forester Nancy Young, responding to the Committee's questions, confirmed the jointly owned tree #2 on the tree location plan is in good condition and would be significantly impacted by the proposed development. She was also concerned about providing notification to the adjacent owner regarding the removal of any shared tree.
- [9] In response to Ms. Young's concerns, Ms. Clarke advised that the Applicant also owns the adjacent property and intends to retain the shared tree.
- [10] City Planner Cass Sclauzero was also present.
- [11] Following the public hearing, the Committee reserved its decision.

## **DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED**

### **Applications 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 all 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, plans, tree information, tree placement plan, photo of the posted sign, and a sign posting declaration
- City Planning Report received June 19, 2023, with some concerns; received June 2, 2023, with no concerns
- Rideau Conservation Authority email dated June 15, 2023, with no objections; dated May 31, 2023, with no objections
- Hydro Ottawa email dated June 13, 2023, with comments; dated May 31, 2023, with comments

### **Effect of Submissions on Decision**

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

[15] The Committee notes that the City's Planning Report raises "some concerns" regarding the applications, highlighting that "the application for consent to sever the lot, to support development of a long semi-detached dwelling containing 6 dwelling units and a 4-car parking lot in the rear yard, does not align with Official Plan policies related to retention of the urban forest canopy and providing adequate soil volume for necessary replacement tree planting."

[16] Based on the evidence, the majority of the Committee (Member G. Barrett dissenting) 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 majority of 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 majority of 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 majority of 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 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 of By-Law No. 2022-280, as amended. Information regarding the appraisal process can be obtained by contacting the Planner.
2. That the Owner(s) provide a combined Grading & Drainage Plan and Site Servicing Plan including, where applicable, the tree locations and protection recommendations from the approved Tree Information Report to the Satisfaction of the **Manager of the East Branch within the 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 qualified 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; and
    - ii. City of Ottawa Standard Drawings, By-laws, and Guidelines, as amended.
  - b. The Site Servicing Plan must be prepared by a qualified 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

capacity, and follows the recommendations of the Tree Information Report.

- d. The following information from the Tree Information Report (TIR) 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); and
  - v. Proposed planting locations from the associated Tree Planting Plan, if provided.
3. That the Owner(s) enter 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.

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 the **Manager of the East Branch within the 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 **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.

4. 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 **Manager of the East Branch within the 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 Notre Dame 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 **Manager of the East Branch within the 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 **Manager of the East 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.

5. That the Owner provide a Geotechnical Report prepared by a Professional Civil Engineer licensed in the Province of Ontario, that is satisfactory to both the **Manager of the East Branch within the Planning, Real Estate and Economic Development Department (PREDD), or his/her designate**, and the Conservation Authority and to be confirmed in writing from the PREDD and the Authority to the Committee, demonstrating the following:
  - a. That all parcels to be created by this application are or can be made suitable for residential purposes (slope stability, erosion protection, and building limits adjacent to slopes); and
  - b. That there are no adverse environmental impacts.

The Geotechnical Report shall, as a minimum, determine the limit of organic soils/karst topography/sensitive marine clays present on the severed parcel and provide recommendations for construction methods based on the soil types encountered.

6. That the Owner provide a Slope Stability Report prepared by a Professional Geotechnical Engineer currently licensed in the Province of Ontario, that is satisfactory to the **Development Review Manager of the East Branch within Planning, Real Estate and Economic Development Department (PREDD), or his/her designate** and to the Conservation Authority to be confirmed in writing from PREDD and the Authority to the Committee, demonstrating that all parcels to be created by this application are, or can be made, suitable for residential purposes.
7. That the Owner(s) enter into an Infrastructure Agreement with the City of Ottawa to extend the municipal services on Notre Dame 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 Committee requires a copy of the

Agreement and written confirmation from City Legal Services that it has been registered on title.

8. That the Owner(s) agree to provide a revised site and grading plan with the driveways, services, retaining walls, and grading situated to reduce any excavation within the Critical Root Zones of protected trees to allow for their safe retention, and to provide sufficient soil volume to plant new trees, to the satisfaction of the **Development Review Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or his/her designate**. The Tree Information Report must be revised to reflect these changes, to provide detailed mitigation strategies, and to show the accurate tree protection areas.
9. That the Owner/Applicant(s) shall provide a signed letter of permission from the owner of identified adjacent or boundary tree(s), for the proposed removal or operations impacting the tree(s). The applicant acknowledges that a tree removal permit cannot be issued without the permission of all owners of a tree, and that the development plan must be revised to allow for the retention and protection of the adjacent or boundary trees if this letter cannot be produced.
10. That the Owner/Applicant(s) shall prepare and submit a tree planting plan, prepared to the satisfaction of the Development Review Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or his/her designate, showing the location(s) of the specified number of compensation trees (50-millimetre caliper) required under the Tree Protection By-law, assuming that all proposed tree removals are permitted.
11. That the Owner(s) provide evidence to the satisfaction of the **Chief Building Official, or designate**, that both parcels have their own independent water, sanitary and storm connection and shall comply with 7.1.5.4.(1) of the Ontario Building Code, O. Reg. 332/12 as amended.
12. That the Owner(s) enter into a Limiting Distance Agreement at the expense of the Owner(s), where the limiting distance for the exposing easterly building face of the property known municipally as 6946 Notre Dame St (Parts 1 & 2) shall be measured from the easterly property line of property known municipally as 6948 Notre Dame St (Parts 3, 4, 5, 6, 7 & 8).

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 **Chief Building Official, or his/her designate**, and **City Legal Services**. The Committee requires written confirmation that the Agreement is satisfactory to the **Chief Building Official, 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*  
FABIAN POULIN  
VICE-CHAIR

*“Jay Baltz”*  
JAY BALTZ  
ACTING PANEL CHAIR

*Dissent*  
GEORGE BARRETT  
MEMBER

*“Heather MacLean”*  
HEATHER MACLEAN  
MEMBER

*“Julianne Wright”*  
JULIANNE WRIGHT  
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **June 30, 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 20, 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**  
City of Ottawa  
[Ottawa.ca/CommitteeofAdjustment](http://Ottawa.ca/CommitteeofAdjustment)  
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