

**DECISION
CONSENT/SEVERANCE**

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| Date of Decision | July 28, 2023 |
| Panel: | 3 - Rural |
| File No(s): | D08-01-23/B-00167 & D08-01-23/B-00168 |
| Application: | Consent under Section 53 of the <i>Planning Act</i> |
| Owner(s)/Applicant(s): | 1514947 Ontario Inc. |
| Property Address: | 1500 Thomas Argue Road |
| Ward: | 5 – West Carleton-March |
| Legal Description: | Part Lots 12, 13, 14 And 15, Concession 3, Huntley, Part Lots 13 And 14, Concession 4, Huntley, Part of the Road Allowance Between Concession 3 And 4, Huntley, City of Ottawa |
| Zoning: | T1B |
| Zoning By-law: | 2008-250 |
| Hearing Date: | July 18, 2023, in person and by videoconference |

APPLICANT’S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owner wants to subdivide the property into two separate parcels of land to create a new lot for future commercial / industrial use, as shown on the plans filled with committee.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Consent of the Committee for Conveyances and Grant of Easement/Rights of Way.
- [3] The severed land, shown as Parts 1 to 4 on a draft 4R plan filed with the application, will have a frontage of 99.91 metres, an irregular depth and will contain a lot area of 1.21 hectares. This parcel will be vacant and will be known municipally as 1508 Thomas Argue Road.
- [4] The retained lands, Part of Lots 12, 13, 14 and 15, Concession 3 and Part of Lots 13 and 14, Concession 4 and Part of the Road Allowance between Concession 3 and 4, will have a frontage of 177 metres on Thomas Argue Road, 140 metres on Wingover Private, 324 metres on Huisson Road and 231 metres on Carp Road and will contain a lot area of 133 hectares. This parcel will contain the Carp Airport

operations building, its associated parking lot, hangers and runways and will be known municipally as 1500 Thomas Argue Road.

- [5] It is proposed to create an easement, shown as Part 3 and 4 on the draft 4R Plan, in favour of the retained lands for maintenance and access to private underground hydro lines.
- [6] The application indicates there is an existing easement as in OC2117895.

PUBLIC HEARING

Oral Submissions Summary

- [7] Miranda Virginillo, Agent for the Applicant, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request.
- [8] With respect to the conditions requested by the City in its Planning Report on file, Ms. Virginillo questioned the need for the road widening, private approach and Zoning Bylaw amendment conditions.. She asserted that the private approach permit and Zoning Bylaw amendment were premature at this time as no development was currently proposed for the parcel. It was also her understanding that the road widening condition had already been satisfied
- [9] Greg Winters, also representing the Applicant, also questioned the need for the City's requested condition for a notice on title regarding sensitive marine soils. He believed that this condition would be redundant once the parcel was the subject of a Site Plan Control application in the future.
- [10] City Planner Jack Graham advised that the road widening and Zoning Bylaw amendment conditions did not need to be imposed but requested that the conditions for the notice on title and private approach permit remain.
- [11] Following the public hearing, the Committee reserved its decision and advised that a written one with reasons would be issued within ten days.

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:

- Application and supporting documents, including cover letter, a consent and easement application, Hydrogeological Investigation and Terrain Analysis, plans, a photo of the posted sign, and a sign posting declaration.
- City Planning Report received July 14, 2023, with no concerns.
- Mississippi Valley Conservation Authority email dated July 11, 2023, with no objections.
- Hydro Ottawa email dated July 13, 2023, with no comments.
- Ministry of Transportation email dated July 6, 2023, with no comments.

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 applications as the "lots are of a sufficient size" but as a condition of the severance, "it must be demonstrated that the lots can be adequately serviced and the lot creation will not adversely affect the water and wastewater systems of the adjacent developments."

[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 Majority of the Committee (Member Vervoort and Member Henderson dissent) agree not impose the conditions relating to road widening and a zoning bylaw amendment as requested by the Agent for the Applicant and with the concurrence of the City.

[18] 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 enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or his/her designate, which provides the following covenant/notice that runs with the land and binds future Owner(s) on subsequent transfers:
 - a. "The City of Ottawa does not guarantee the quality or quantity of the groundwater. If, at some future date, the quality or the quantity of the groundwater becomes deficient, the City of Ottawa bears no responsibility, financial or otherwise, to provide solutions to the deficiency, such solutions being the sole responsibility of the owner."
 - b. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.
2. That the Owner enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of Development Review Manager of the Rural Branch within Planning, Real Estate and Economic Development Department, or his/her designate, which provides the following covenant/notice that runs with the land and binds future Owner(s) on subsequent transfers:
 - a. "The City of Ottawa has identified that there are potential sensitive marine clays within the area that may require site specific detailed geotechnical engineering solutions to allow for development, the City of Ottawa bears no responsibility, financial or otherwise, to provide solutions to the deficiency, such solutions being the sole responsibility of the owner."
 - b. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.
3. That the Owners provide a report, to the satisfaction of the City of Ottawa, demonstrating the adequacy of the aquifer with respect to quality and quantity to support the proposed development, failing which the Owners construct a new well on the severed lot and provide a report, to the satisfaction of the City of Ottawa, to demonstrate the adequacy of the aquifer with respect to quality and

quantity to support the proposed development. The report must include a septic impact assessment to evaluate the water quality impact of the on-site septic system on the receiving aquifer.

- a. That the Owners' report must demonstrate the following to the City of Ottawa:
 - i. That the construction of any new well on the severed parcel is in accordance with the Ministry of the Environment, Conservation and Parks
 - ii. That the quality of the water meets the Ministry of the Environment, Conservation and Parks Regulations, Standards, Guidelines and Objectives;
 - iii. That the quantity of water meets all the Ministry of the Environment, Conservation and Parks requirements.
 - iv. That the septic impact assessment meets the Ministry of the Environment, Conservation and Parks requirements.
 - b. A qualified Professional Engineer or Professional Geoscientist must prepare the report. It is the Owner's responsibility to coordinate the person drilling a new well, if required, and the professional noted herein in order to properly satisfy this condition. If the accepted report recommends specific mitigation measures or design requirements, the Owners shall enter into a Development Agreement with the City, at the expense of the Owners, which is to be registered on the title of the property, which includes those recommendations. In instances where the subject site has sensitive soils, the drilling of a well or the conveyance of a 30-centimetre reserve may be required. Both the report and any required Development Agreement shall be prepared to the satisfaction of Development Review Manager of the Rural Branch within Planning, Real Estate and Economic Development Department, or his/her designate.
4. 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.
 5. 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 the severed land, to be confirmed in writing from the Department to the Committee.

6. 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.
7. 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.

“William Hunter”
WILLIAM HUNTER
VICE-CHAIR

“Terence Otto”
TERENCE OTTO
MEMBER

“Beth Henderson”
BETH HENDERSON
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 **July 28, 2023**.



Cheryl Williams
Acting 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 **August 17, 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

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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