

**DECISION
CONSENT/SEVERANCE**

Date of Decision	August 11, 2023
Panel:	1 - Urban
File No(s):	D08-01-23/B-00162
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	DAR Artis Corporation and HNC Development Inc.
Property Address:	160 Prince Albert Street
Ward:	13 – Rideau-Rockcliffe
Legal Description:	Part of Lot 859B and Lots 860 and 861 on Plan 342
Zoning:	R3M
Zoning By-law:	2008-250
Hearing Date:	August 2, 2023, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owners want to subdivide their property into two separate parcels for a semi-detached dwelling, each with a secondary unit, currently under construction.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owners require the Committee's consent to sever the property shown as Parts 1 and 2 on a Draft 4R-Plan filed with the application and the separate parcels will be as follows:

The severed land, shown as Part 1 on the draft 4R plan filed with the application, will have a frontage of 7.93 metres, a depth of 30.24 metres and will contain a lot area of 239 square metres. This parcel will contain one half of the semi-detached dwelling and be known municipally as 160 Prince Albert Street.

The retained land, shown as Part 2 on the said plan, will have a frontage of 7.93 metres, a depth of 30.24 metres and will contain a lot area of 239 square metres. This parcel will contain one half of the semi-detached dwelling and be known municipally as 162 Prince Albert Street.

PUBLIC HEARING

Oral Submissions Summary

- [3] S. Almadani, Agent for the Applicants, questioned the need for a noise warning registered on title requested by the City in its Planning Report. She believed that given the location of the subject lands in relation to Highway 417 the condition was not applicable to the development.
- [4] In response to questions from the Committee, City Planner Basma Alkhatib confirmed that the City had requested a noise warning registered on title as a condition, based on the subject site's proximity to Highway 417, but that she was in agreement with removing the condition. The majority of the members agreed that any approval would be subject to all the City's requested conditions, including a noise warning registered on title.
- [5] Ms. Alkhatib confirmed that the proposed application meets the criteria set out in section 51 (24) of the *Planning Act*.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Tests

- [6] 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

[7] 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, plan, tree information, photo of the posted sign, and a sign posting declaration.
- City Planning Report received dated July 27, 2023 with no concerns.
- Rideau Valley Conservation Authority email dated July 27, 2023, with no objections.

- Hydro Ottawa email dated July 28, 2023, with no comments.
- Hydro One email dated July 24, 2023 with no comments or concerns.
- Ministry of Transportation email dated August 1, 2023, with no comments.

Effect of Submissions on Decision

- [8] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [9] The Committee notes that the City’s Planning Report raises “no concerns” highlighting that “The proposed severance will facilitate the establishment of separate ownership of each principal unit of the proposed semi-detached”.
- [10] 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.
- [11] 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. The Owner/Applicant(s) shall prepare and implement 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 of one new 50mm tree to be planted on the property frontage or right-of-way of each lot following construction, to enhance the urban tree canopy and streetscape.
 2. That the Owner(s) provide evidence to the satisfaction of the **Chief Building Official**, or designate, that the party wall meets the Ontario Building Code, O Reg. 332/12 as amended, which requires a 1-hour fire separation from the basement through to Page 3 of 4 the underside of the roof. Verification from the Building Inspector is required. If necessary, a building permit shall be obtained from Building Code Services for any required alterations.

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 each existing parcel has its own independent storm, sanitary and water services connected to City infrastructure and that these services do not cross the proposed severance line. If they do cross or are not independent, the Owner(s) will be required to relocate the existing services or construct new services from the City sewers/watermain, at his/her own cost.
4. That the Owner(s) enter into 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 Development Review Manager of the Central 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 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.

5. That the Owner 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;

“The property is located next to lands that have an existing source of environmental noise (**Highway 417**) and may therefore be subject to noise and other activities associated with that use.”

The Agreement shall be to the satisfaction 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.

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.

“Ann M. Tremblay”
ANN M. TREMBLAY
CHAIR

“John Blatherwick”
JOHN BLATHERWICK
MEMBER

“Simon Coakeley”
SIMON COAKELEY
MEMBER

“Arto Keklikian”
ARTO KEKLIKIAN
MEMBER

“Sharon Lecuyer”
SHARON LECUYER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **August 11, 2023**.



Matthew Garnett
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 31, 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
City of Ottawa
Ottawa.ca/CommitteeofAdjustment
cofa@ottawa.ca
613-580-2436



Comité de dérogation
Ville d'Ottawa
Ottawa.ca/Comitedederogation
cded@ottawa.ca
613-580-2436