

DECISION CONSENT/SEVERANCE

Date of Decision	September 29, 2023
Panel:	1 - Urban
File No(s):	D08-01-23/B-00178
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Chelsea Realty Investments Inc.
Property Address:	11 & 13 Acacia Avenue, 131 Putman Avenue
Ward:	13 – Rideau-Rockcliffe
Legal Description:	Lot 82, Registered Plan M-43
Zoning:	R4UC
Zoning By-law:	2008-250
Hearing Date:	September 20, 2023, in person and by videoconference

APPLICANT(S)' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] On May 19, 2021, the Committee conditionally approved a Consent Application to subdivide the property into two lots. The conditions were not fulfilled within the statutory timelines and the approval has lapsed.
- [2] The Owner is now re-applying to subdivide its property into two lots, to create a new vacant lot for future residential development. The existing two-storey residential building will remain on the other lot. It is also now proposed to create an easement over the vacant lot.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Owner requires the Committee's consent to subdivide the property and to establish an easement/right-of-way.
- [4] The severed land is shown as Parts 3 to 8 on Plan 5R-35335, will have frontage of 13.22 metres on Putman Avenue, to an irregular depth of 22.57 metres and will contain a lot area of 243.2 square metres. This lot is vacant and will be known municipally as 131 Putman Avenue.
- [5] The retained land is shown on Parts 1 and 2 on Plan 4R-35335, will have frontage of 12.22 metres on Acacia Avenue, to an irregular depth of 20.79 metres and will contain a lot area of 253.1 square metres. This lot contains the existing two-storey residential building known municipally as 11 & 13 Acacia Avenue.

- [6] It is proposed to establish an easement/right-of-way for access over Parts 6 & 7 in favour of the owner of the retained lands.
- ~~[7] The application indicates that Parts 4 and 5 are subject to an existing easement in favour of Bell.~~
- [8] **It is proposed to establish an easement/right-of-way over Parts 2, 4, 5, & 8 in favour of Bell.**

PUBLIC HEARING

Oral Submissions Summary

- [9] At the hearing on September 6, 2023, the Committee noted that, based on revisions recommended in the City's Planning Report, the requested easements should be amended as follows:
- ~~[10] The application indicates that Parts 4 and 5 are subject to an existing easement in favour of Bell.~~
- [11] **It is proposed to establish an easement/right-of-way over Parts 2, 4, 5, & 8 in favour of Bell.**
- [12] The application was amended accordingly.
- [13] The Committee also heard from Dave Crapper, Agent for the Applicant, who presented arguments related to the status of the previously approved Consent Application, which he submitted had not lapsed. He also highlighted that the City's Planning Report included payment of cash-in-lieu of parkland as a requested condition of provisional consent, which had not been required as a condition of the previous approval.
- [14] With the concurrence of all parties, the Committee adjourned the hearing to September 20, 2023, to obtain clarification from City's Legal Services regarding the status of the previous application.
- [15] On September 20, 2023, Mr. Crapper provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. He raised additional arguments in support of his position that the previous application had not lapsed.
- [16] Mr. Crapper also questioned the justification for requiring payment of cash-in-lieu of parkland as a condition of provisional consent, noting again that it was not requested or imposed on the previous application.
- [17] Responding to the Panel's inquiry concerning the status of the previously granted provisional consent, Committee staff confirmed that, because the Applicant did not fulfill all conditions within the statutory two-year time period, the approval had

lapsed and the application was deemed to be refused, as confirmed by City's Legal Services and highlighted in the City's Planning Report.

[18] City Planner Margot Linker stated that the requirement for payment of cash-in-lieu of parkland is a standard condition requested by the City where new development is proposed, including lot creation. She also explained that a noise attenuation study was requested due to the proximity to Beechwood Avenue and Acacia Avenue.

[19] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Tests

[20] 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

[21] 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 a cover letter, plans, a parcel register, tree information, a letter to the Committee, a photo of the posted sign, and a sign posting declaration.
- City Planning Report received August 31, 2023, with no concerns; received September 14, 2023, with no concerns.
- City Legal Services email received September 18, 2023, with comments.
- Rideau Valley Conservation Authority email dated August 31, 2023, with no objections; received September 14, 2023, with no objections.
- Hydro Ottawa email dated September 1, 2023, with comments; received September 20, 2023, with comments.
- Hydro One email dated September 14, 2023, with no comments.

- Ottawa International Airport Authority email dated August 22, 2023, with no comments.
- J. Steele, neighbour, email dated September 5, 2023, opposed.

Effect of Submissions on Decision

- [22] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [23] The Committee notes that the City's Planning Report raises "no concerns" regarding the application.
- [24] 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.
- [25] 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. 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 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.
 3. That the Owner(s) provide evidence to the satisfaction of the Central Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate, and City Legal Services, to be confirmed in

writing from the Department to the Committee, that the accessory structure has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law.

4. That the Owner(s) provide a servicing plan or other evidence, to the satisfaction of the Central Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate, and City Legal Services, 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.
5. That the Owner(s) enter into a Development Agreement with the City of Ottawa, registered on both the Severed and Retained lands:

Acknowledging the existing retaining wall on the property and, if required by the City as a result of development of either the Severed and/or Retained lands, committing to relocate, modify, or remove said retaining wall at his/her own cost to address drainage, grading and structural integrity as well as the joint use and maintenance of such solution according to a plan prepared by a qualified Civil Engineer licensed in the Province of Ontario, an Ontario Land Surveyor or a Certified Engineering Technologist, and submitted to the satisfaction of the Manager, Development Review, Planning Infrastructure and Economic Development Department, or his/her designate.

The Owner shall also post the securities for the above-noted work(s) to the satisfaction of the General Manager of the Planning, Infrastructure and Economic Development Department, or his/her designate and to the satisfaction of City Legal Services. 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 must relocate the Bell Canada utility pole and if applicable the associated bell easement at the Owner(s) expense to a location that will not negatively impact the future development of the land to be severed. All to the satisfaction of the Central Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate, and City Legal Services to be confirmed in writing from the Department to the Committee.
7. The Owner(s) shall:
 - a) prepare a noise attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the Central Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate, and City Legal Services. 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 Central Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate, and City Legal Services. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.;

or

- b) 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:

Notices-on-Title respecting noise:

- 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." (50m from Arterial Road (Beechwood and property front Collector Road)
8. 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.

9. 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 the conveyance and easement/right of way for which the consent is required.

“Ann M. Tremblay”
ANN M. TREMBLAY
CHAIR

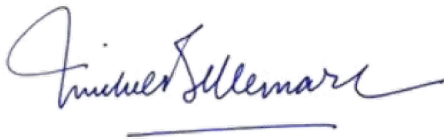
Absent
JOHN BLATHERWICK
MEMBER

“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 **September 29, 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 **October 19, 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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