

**DECISION
CONSENT/SEVERANCE**

Date of Decision	October 13, 2023
Panel:	2 - Suburban
File Nos.:	D08-01-23/B-00208, D08-01-23/B-00219
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner/Applicant:	Ottawa Salus Corporation (Under Agreement to Purchase and Sale)
Property Address:	56 Capilano Drive
Ward:	9 – Knoxdale-Merivale
Legal Description:	Part of Lot 15 Registered Plan 353
Zoning:	R4Z[2840]-h
Zoning By-law:	2008-250
Hearing Date:	October 3, 2023, in person and by videoconference

APPLICANT PROPOSAL AND PURPOSE OF THE APPLICATIONS

[1] The Owner wants to subdivide their property into two separate parcels of land. It is proposed to construct a new **54-unit** low-rise apartment building on one parcel and a four-unit townhouse block on the other parcel, as shown on plans filed with the Committee.

CONSENT IS REQUIRED FOR THE FOLLOWING

[2] The Owner requires the Committee's consent to sever the land and to grant easements/ rights of way. The property is shown as Parts 1 to 5 on a Draft 4R-Plan filed with the applications and the separate parcels will be as follows:

Table 1 Proposed Parcels

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00208	31.86 m	23.45 m (irregular)	682 sq. m	1 & 5	56 Capilano Drive (townhouse block)
B-00219	13.0 m	61.58 m (irregular)	2091 sq. m	2, 3 & 4	58 Capilano Drive (apartment building)

It is proposed to establish easements/rights of way as follows:

- Easement over Parts 3 and 4 in favour of Parts 1 & 5 for access to vehicle parking, servicing, and stormwater management.
- Easement over Part 5 in favor of Parts 2, 3 & 4 for pedestrian access.

Approval of these applications will have the effect of creating separate parcels of land that will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance applications (File Nos D08-02-23/A-00201 & D08-01-23/A00217) have been filed and will be heard concurrently with these applications.

The applications indicate that the property is the subject of a Site Plan Control Application under the *Planning Act* (D07-12-23-0028).

PUBLIC HEARING

Oral Submissions Summary

- [3] Bria Aird, Agent for the Applicant, provided an overview of the application and responded to questions from the Committee. She confirmed that the consent applications should be amended in accordance with the City's Planning Report and correspondence on file from the Applicant, as follows:

Table 1 Proposed Parcels

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00208	31.86 m	23.45 m (irregular)	681 sq. m 682 sq. m	1 & 5	58 Capilano Drive (apartment building) 56 Capilano Drive (townhouse block)
B-00219	13.0 m	61.58 m (irregular)	2092 sq. m 2091 sq. m	2, 3 & 4	56 Capilano Drive (townhouse block) 58 Capilano Drive (apartment building)

The applications were amended accordingly.

- [4] Christa McIntosh of Ottawa Salus Corporation, Danna See-Har of the City's Affordable Housing Development Branch, Alex Sargent, the project architect, and Lindsay Blair, Cat Carkner, and Alessandro Guarna, also acting as Agents for the Owner, were also in attendance.
- [5] Ms. Aird also provided an overview of the project financing and related time constraints.
- [6] City Planner Samantha Gatchene confirmed that the City had no concerns with the applications.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Application Must Satisfy Statutory Tests

- [7] 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

[8] 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, revised plans, information regarding project financing, tree information, a photo of the posted sign and a sign posting declaration.
- City Planning Report received September 28, 2023, with no concerns.
- Rideau Valley Conservation Authority email dated September 27, 2023, with no objections.
- Hydro One email dated September 28, 2023, with no comments or concerns.
- Ministry of Transportation email dated September 21, 2023, with no comments.

Effect of Submissions on Decision

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

[10] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications.

[11] 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.

[12] 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) enter into Joint Use, Maintenance and Common Element, 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 West Branch within Planning, Infrastructure 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 West Branch within Planning, Infrastructure and Economic Development Department, or his/her designate within Planning, Infrastructure 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.

2. 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.
3. 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 conveyances and grants of easements/rights of way for which the consent is required.

"Fabian Poulin"
FABIAN POULIN
VICE-CHAIR

"Jay Baltz"
JAY BALTZ
MEMBER

"George Barrett"
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 **OCTOBER 13, 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 **NOVEMBER 2, 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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