

**DECISION
CONSENT/SEVERANCE**

Date of Decision	October 13, 2023
Panel:	2 - Suburban
File Nos.:	D08-01-23/B-00057 & D08-01-23/B-00058
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner/Applicant:	Royal S.M.S. Construction Inc.
Property Address:	25 Pennard Way
Ward:	10 – Gloucester-Southgate
Legal Description:	Part of Block 13, Registered Plan 4M-997
Zoning:	R4S [923]
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 its property into three separate parcels of land for the construction of a long semi-detached dwelling and a detached dwelling.
- [2] On June 6, 2023, the Committee adjourned these applications to allow the Owner time to revise its plans and requested variances.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Applicant requires the Committee's consent to sever and grant an easement/right-of-way. The property is shown as Parts 1 to 4 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-00057	12.26 m	13.36 m (irregular)	165 sq. m	1	22 Inverkip Avenue (long semi-detached dwelling unit)

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00058	12.03 m	14.57 m	175.2 sq. m	2 & 4	25 Pennard Way (long semi-detached dwelling unit)

The retained lands, shown as Part 3 on the draft 4R-plan, will have a frontage of 19.8 metres, an irregular depth of 16.06 metres and a lot area of 329 square metres. This parcel will contain the proposed detached dwelling and be known municipally as 20 Inverkip Avenue.

The application indicates that the property is subject to existing easements and rights-of-way as in Instrument Nos. OC30350, OC30353, OC32903, OC37321, OC103259, OC103259, and OC103259.

It is proposed to establish an easement/ right-of-way over Part 4 for servicing.

Approval of these applications will have the effect of creating three separate parcels of land. The proposed development on one of the parcels will not be in conformity with the requirements of the Zoning By-law and therefore a Minor Variance Application (D08-02-23A-00110) has been filed and will be heard concurrently with these applications.

PUBLIC HEARING

Oral Submissions Summary

- [4] C. McCuaig, Agent for the Applicant, provided an overview of the application and responded to questions from the Committee. Ms. McCuaig noted that, based on discussions with City staff, it was agreed that condition 8 of the City's Planning Report requiring the conveyance of land to the City for a corner sight triangle was not necessary, since one had already been taken.
- [5] City Planner Justin Grift confirmed that the condition could be removed.
- [6] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION(S) GRANTED

Application(s) 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, site map, plans with revisions, parcel register, tree information, and a sign posting declaration.
- City Planning Report received June 1, 2023 requesting adjournment & September 28, 2023, with no concerns.
- Rideau Valley Conservation Authority emails dated May 31, 2023 & September 27, 2023, with no objections.
- Hydro One email dated September 28, 2023, with no comments or concerns.
- Hydro Ottawa email dated May 31, 2023 with no concerns.
- Ministry of Transportation email dated September 21, 2023 ,with no comments.
- A. Meere emails dated June 5 & October 2, 2023, with objections.
- E. Soto email dated June 5, 2023 with concerns.
- A. Shrestha email dated June 6. 2023 with concerns.

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 application.

[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) 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. Prior to the issuance of a building permit, the Owner/Applicant(s) shall prepare a Letter of Undertaking (LOU) with the City of Ottawa, at the expense of the Owner/Applicant(s), and to the satisfaction of the **General Manager of the Planning, Real Estate, and Economic Development Department, or his/her designate**. A development agreement is to be registered on Title of the property (where applicable), which will include the mitigation measures outlined in the approved Tree Information Report, prepared by Dendron Forestry Services, dated March 27, 2023, and associated security for tree protection. The Development Agreement shall be 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**.
 - a. The Owner(s) agree to provide securities for a period of 2 years following the final occupancy permit, which is equivalent to the value of the trees to be protected (tree #s 1,3,4, 6 and 7). The Owner(s) agree that the security shall be returned to the owner only upon the City having received a report from an arborist or appropriate professional confirming trees # 1,3,4,6 that they are in good health and condition and remain structurally stable. The Owner(s) acknowledge and agree that if, in the opinion of the City Forester and/or the General Manager, Planning, Infrastructure, and Economic Development, the report indicates that trees # 1,3,4, 6 or 7 is declining and must be removed, the Security, will be forfeited for the relevant tree(s).
 - b. That the Owners agree that the location of the proposed structures, including the driveways, retaining walls, services, projections, etc. shown on the Grading & Servicing Plan, will be determined based on the least impact to protected trees and tree cover. The Owner(s) further acknowledges and agrees that this review may result in relocation of these

structures and agrees to revise their plans accordingly 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.**

3. That the Owner(s) provide evidence to the satisfaction of both the **Chief Building Official and Development Review Manager, Planning, Real Estate and Economic Development Department, or designates**, that both severed and retained parcels have their own independent water, sanitary and storm connection as appropriate, and that these services do not cross the proposed severance line and are connected directly to City infrastructure. Further, the Owner(s) shall comply with 7.1.5.4(1) of the Ontario Building Code, O. Reg. 332/12 as amended. If necessary, a plumbing permit shall be obtained from Building Code Services for any required alterations.

In the case of a vacant parcel being created, the Owner(s) shall provide evidence (servicing plan), to the satisfaction of the Development Review Manager of the Select Branch within Planning, Infrastructure and Economic Development Department, or his/her designate, to be confirmed in writing from the Department to the Committee, that the parcel has access to sufficient services with adequate capacity.

4. That the Owner(s) shall provide evidence that a grading and drainage plan, prepared by a qualified Civil Engineer licensed in the Province of Ontario, an Ontario Land Surveyor or a Certified Engineering Technologist, has been submitted to the satisfaction of **Lily Xu of the South Branch within Planning, Infrastructure and Economic Development Department, or his/her designate** to be confirmed in writing from the Department to the Committee. The grading and drainage plan shall delineate existing and proposed grades for both the severed and retained properties, to the satisfaction of **Lily Xu of the South Branch within Planning, Infrastructure and Economic Development Department, or his/her designate.**
5. That the Owner(s) enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction of **Lily Xu of the South Branch within Planning, Infrastructure and Economic Development Department, or his/her designate**, to require that an asphalt overlay will be installed, at the Owner(s) expense, on Pennard Way, 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 **Lily Xu of the South Branch within Planning, Infrastructure 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 Lily Xu of the South Branch within Planning, Infrastructure 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.

6. 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 South 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 Select Manager of the Select Branch 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.

7. That the Owner(s) enter into an Agreement with the City, at the expense of the Owner(s), which is to be registered on the Title of the property, to deal with the following covenant/notice that shall run with the land and bind future owners on subsequent transfers:

“The property is located next to lands that have an active railway line now, or may have one in the future, and may therefore be subjected to noise, vibration, and other activities associated with this use.”

The Committee requires a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title.

7. 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.
8. 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.

"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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