

**DECISION
CONSENT/SEVERANCE**

Date of Decision	September 29, 2023
Panel:	2 - Suburban
File No(s):	D08-01-23/B-00190
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Kanata West Centre Inc.
Property Address:	8605 Campeau Drive
Ward:	4 – Kanata North
Legal Description:	Block 6, Registered Plan 4M-1566 and Part of Lot 3, Concession 1, Geographic Township of Huntley
Zoning:	MC[2598] H(18)
Zoning By-law:	2008-250
Hearing Date:	September 19, 2023, in person and by videoconference

APPLICANT’S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Owner wants to convey a portion of its property to the abutting property owner to the east, known municipally as 8555 Campeau Drive and 3000 Palladium Drive.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the consent of the Committee for a Lot Line Adjustment and Grant of Easement/Right of Way.

The severed land, shown as Parts 2 & 3 on Plan 4R-30499 filed with the application, will have a frontage of 28.8 metres, an irregular depth and contain a lot area of 264.4 square metres. This land will be merged with the properties to the east, known municipally as 8555 Campeau Drive and 3000 Palladium Drive.

The retained land, shown as Parts 1, 6, 7 & 8 on Plan 4R-30499 filed with the application, will have a frontage of 261.4 metres, an irregular depth and will contain a lot area of 9065.5 square metres. This parcel is known as 8605 Campeau Drive.

It is proposed to create an easement over Part 2 on 4R-30499, in favour of Parts 1, 6, 7 & 8 on 4R-30499 for vehicular and pedestrian access.

The application indicates the property is subject to existing easements as in OC1776587.

PUBLIC HEARING

Oral Submissions Summary

- [3] Alex Turner, Agent for the Applicant, provided an overview of the application and advised that the proposed development on the adjacent lands would also have access from the drive aisle.
- [4] Anne Curtis, the Applicant's lawyer, highlighted that condition 2 requested in the City's Planning report is not necessary because a Joint Use and Management Agreement was submitted along with the application. Ms. Curtis asked that the requested condition be altered to refer to the submitted agreement and allow it to be registered immediately after the transfer without any review by the City's Legal Services.
- [5] In response to the request, City Planner, Samantha Gatchene, objected to altering the requested condition's wording, highlighting that the City's Legal Services review notably ensures that any agreement registered on title does not create any liability issues for the municipality.
- [6] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION 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 cover letter, plans, Joint Use and Management Agreement, document stating the legal description for entire subject parcel, document stating the existing easements and restrictive covenants, parcel registers, email proposing revised wording of condition 2, photo of the posted sign, and a sign posting declaration.

- City Planning Report received September 14, 2023, with no concerns.
- Mississippi Valley Conservation Authority email dated September 12, 2023, with no objections.
- Hydro One email dated September 14, 2023, with no concerns.
- Hydro Ottawa email dated September 19, 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 application.
- [10] The Committee notes that the City's Planning Report raises "no concerns" regarding the application.
- [11] The Committee agrees with the Applicant's request for revised wording of the requested condition for a Joint Use and Maintenance Agreement
- [12] 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.
- [13] 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) file with the Secretary-Treasurer of the Committee of Adjustment the following:
 - a. A copy of the reference plan and/or legal description of the severed land and the deed or instrument conveying the severed land to the owner of the abutting property, known municipally as 8555 Campeau Drive, so that no new lot is being created, in accordance with paragraph (b) below
 - b. A Certificate of Official attached to the deed/transfer required by paragraph (a) above containing the following endorsement:

“The lands to be severed are for the purpose of a lot addition only to the abutting lands owned by (insert name) described as PIN (insert property identification number) being Part(s) (insert numbers) on Plan (insert plan number), not for the creation of a new lot, and any subsequent transfer, charge or other transaction involving the lands to be severed shall be subject to compliance with Section 50(3) or Section 50(5) of the Planning Act, as applicable. Neither the lands to be severed nor the abutting lands are to be transferred, charged, or otherwise re-conveyed in the future without the other parcel unless a further consent is obtained. The owner(s) shall cause the lands to be severed to be consolidated on title with the abutting lands and for this condition to be entered on the parcel register for the consolidated parcel as a restriction.”

- c. An undertaking from a solicitor authorized to practice law in the Province of Ontario, and in good standing with the Law Society of Upper Canada, as follows:

“In consideration of, and notwithstanding the issuance of the Certificate under Section 50(12) of the Planning Act in respect to the subject Application for Consent, I undertake on behalf of the Owner, within 30 days of the registration on title of the transfer document containing the endorsement set out in the Certificate of Official issued by the Committee of Adjustment, to file an Application to Consolidate Parcels including the severed land (Part of PIN (insert number) and the abutting land (PIN insert number). This PIN consolidation is intended to reinforce the Planning Act stipulation in the condition outlined above that both parcels have merged on Title and cannot be conveyed separately in the future. I further undertake to forward a copy of the registered Application to Consolidate Parcels and a copy of the Consolidated Parcel abstract page(s) to the Committee office within 21 days of the registration of the Application to Consolidate Parcels”.

- d. Where the parcel consolidation stipulated in paragraph (b) and the solicitor’s undertaking in paragraph (c) above cannot be completed because the parcels of land to be merged have different estate qualifiers, an application to annex restrictive covenant under Section 118 of the Land Titles Act must be registered on the title of both the severed lands and on the abutting parcel that is to be merged. The covenant, which is to be to the satisfaction of the Secretary-Treasurer of the Committee of Adjustment, shall advise all future purchasers that the parcels must be dealt with together and not separately, and contain wording set out below or similar wording acceptable to the Secretary-Treasurer of the Committee of Adjustment:

“These lands have been merged and may not be dealt with separately, without applying for a consent of the Committee of Adjustment.”

In lieu of the undertaking provided in paragraph (c), a replacement undertaking by the solicitor must be filed undertaking on behalf of the owner(s) to register the restrictive covenant on both property titles within 30 days of the registration of the transfer document containing the endorsement of the Certificate of Official issued by the Committee of Adjustment for this application and to file a copy of the registered restrictive covenant with the Committee of Adjustment within 21 days of the registration of the document.

2. That the Owner(s) enter into the Joint Use and Maintenance Agreement, at the expense of the Owner(s), in the form provided and approved by the Committee, setting forth the obligations between the Owner(s) and the proposed future owners and which executed agreement shall be attached to an undertaking from a solicitor authorized to practice law in the Province of Ontario and in good standing with the Law Society of Ontario to register the Joint Use and Maintenance Agreement on the severed and retained lands immediately after registration of the transfer of the severed lands to the proposed future owners.
3. 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.
4. 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

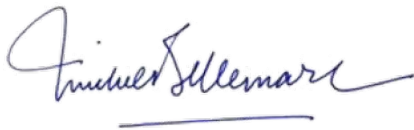
“Jay Baltz”
JAY BALTZ
MEMBER

“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 **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
City of Ottawa
Ottawa.ca/CommitteeofAdjustment
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613-580-2436



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