

**DECISION  
CONSENT/SEVERANCE**

<b>Date of Decision</b>	October 27, 2023
<b>Panel:</b>	2 - Suburban
<b>File Nos.:</b>	D0-01-23/B-00234 & 237
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Owner/Applicant:</b>	12711664 Canada Inc.
<b>Property Address:</b>	4 Huron Ave
<b>Ward:</b>	15 - Kitchissippi
<b>Legal Description:</b>	Lot 539, Registered Plan 152206
<b>Zoning:</b>	R3T
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	October 17, 2023, in person and by videoconference

**APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS**

- [1] The Owner wants to subdivide their property into two parcels of land to create separate ownerships for each half of an existing long semi-detached dwelling.

**CONSENT IS REQUIRED FOR THE FOLLOWING**

- [2] The Owner requires the Committee's consent to sever land and to establish easements/rights-of-way, and for a joint-use and maintenance agreement. The property is shown as Parts 1 to 6 on the Draft 4R-Plan filed with the application, and the separate parcels will be as follows:

*Table 1 Proposed Parcels*

<b>File No.</b>	<b>Frontage</b>	<b>Depth</b>	<b>Area</b>	<b>Part No.</b>	<b>Municipal Address</b>
B-00234	8.63 m	16.32 m	141.49 sq. m	2	4A Huron Ave N (front unit)
B-00237	1.45 m	38.92 m (Irregular)	250 sq. m	1, 3, 4, 5, 6	4B Huron Ave N (rear unit)

- [3] It is proposed to create easements/rights-of-way over Parts 1, 3, 5, and 6 on said plan for access, recycling and compost storage, and parking.
- [4] Approval of these applications will have the effect of creating two separate parcels of land, one of which will not be in conformity with the requirements of the Zoning By-law and therefore, a minor variance application (D08-02-23/A-00223) has been filed and will be heard concurrently with these applications.

## **PUBLIC HEARING**

### **Oral Submissions Summary**

- [5] Jennifer Murray, Agent for the Applicant, provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. Ms. Murray requested that the Committee not impose a condition requiring payment of cash-in-lieu of parkland in this case, which had been requested by the City in its Planning Report on file, based on her understanding that payment is not required where dwelling units are already occupied.
- [6] City Planner Jerrica Gilbert explained that this condition could be cleared with evidence that payment was previously collected by the City, but proposed that it be modified to allow the Owner, as an alternative, to provide evidence of an exemption to the requirement for payment of cash-in-lieu.
- [7] Following the public hearing, the Committee reserved its decision and advised that a written one with reasons would be issued within ten days.

## **DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED**

### **Applications Must Satisfy Statutory Tests**

- [8] 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**

- [9] 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, parcel register, and a sign posting declaration.
- City Planning Report received October 12, 2023, with no concerns.
- Rideau Valley Conservation Authority email dated October 11, 2023, with no objections.
- Hydro Ottawa email dated October 10, 2023, with requested condition.
- Hydro One email dated October 12, 2023, with no comments.

### **Effect of Submissions on Decision**

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

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

[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) 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.

OR

That the Owner(s) provide evidence of an exemption from the requirement for payment of cash-in-lieu of the conveyance of land for park or other public recreational purposes, to the satisfaction of the Development Review Manager

within the Planning, Real Estate and Economic Development Department, or their designate.

2. 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 their 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.
3. That the Owner(s) enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or their designate, to require that an asphalt overlay will be installed, at the Owner(s) expense, on Huron Avenue North, 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 the Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or their 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 Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or their designate determines that a Development Agreement requiring an asphalt overlay is no longer necessary, this condition shall be deemed as fulfilled.

4. That the Owner(s) enter 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 their 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 their 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 (arterial road, highway, airport, etc) 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 their 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) 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 Agreement shall be to the satisfaction of the Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or their designate. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

7. 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 their designate, showing the location(s) of the specified number of compensation trees (50mm caliper) required under the Tree Protection By-law.
8. That the Owner(s) satisfy the requirements of Hydro Ottawa with respect to the provision of a Common Elements Agreement to provide each property owner with mutual access, maintenance, and cost sharing responsibilities for the electrical supplies.
9. 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.

10. 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, Grants of Easements/Rights of Way and Joint-Use and Maintenance Agreement for which the Consent is required.

*Absent*  
FABIAN POULIN  
VICE-CHAIR

*"Jay Baltz"*  
JAY BALTZ  
MEMBER

*"George Barrett"*  
GEORGE BARRETT  
ACTING PANEL CHAIR

*"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 27, 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 **NOVEMBER 16, 2023**, delivered by email at [cofa@ottawa.ca](mailto:cofa@ottawa.ca) and/or by mail or courier to the following address:

Secretary-Treasurer, Committee of Adjustment,  
101 Centrepointe Drive, 4<sup>th</sup> 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](mailto: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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