

**DECISION
CONSENT/SEVERANCE**

Date of Decision	November 24, 2023
Panel:	1 - Urban
File Nos:	D08-01-23/B-00263 to D08-01-23/B-00265
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner/Applicant:	10947342 Canada Inc.
Property Address:	49 Fairmont Avenue
Ward:	15 - Kitchissippi
Legal Description:	Lot 12 & Part of Lot 11, (in Block 1) East Fairmont Avenue, Registered Plan 111
Zoning:	R4UB
Zoning By-law:	2008-250
Hearing Date:	November 15, 2023, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owner wants to subdivide their property into three separate parcels of land to create two new lots for the construction of three long semi-detached dwellings all with two primary and two secondary units. The existing dwelling will be demolished.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Committee's consent to sever land, grants of easements/rights of way and Joint Use and Maintenance agreement. The property is shown as Parts 1 to 9 on a Draft 4R-Plan filed with the applications, the separate parcels will be as follows:

Table 1 Proposed Parcels

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00263	7.10 m	29.76 m	211.30 sq. m	1 & 2	47A & 47B Fairmont Ave.
B-00264	6.49 m	29.76 m	193.10 sq. m	3 to 7	49A & 49B Fairmont Ave.
B-00265	7.14 m	29.76 m	212.40 sq. m	8 & 9	51A & 51B Fairmont Ave.

[3] It is proposed to establish easements/rights-of-way as follows:

- Easement over Part 2 in favor of Parts 3 to 7, for access and maintenance
- Easement over Parts 3 & 4 in favor of Parts 1 & 2, for access and maintenance
- Easement over Parts 6 & 7 in favor of Parts 8 & 9, for access and maintenance
- Easement over Part 8 in favor of Parts 3 to 7, for access and maintenance

[4] 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-00255 to D08-02-23/A-00257) have been filed and will be heard concurrently with these applications.

PUBLIC HEARING

Oral Submissions Summary

[5] The Committee called the application forward to discuss a possible adjournment to allow the Applicant time to provide sufficient information regarding the turning radius shown on the plans. Jessica D'Aoust, Agent for the Applicant, confirmed that the proposed laneway to access the parking spaces was compliant and there would be no issue with cars accessing the proposed parking spaces.

- [6] The Committee agreed to hear the applications without delay.
- [7] Ms. D'Aoust provided an overview of the application and responded to questions from the Committee. She highlighted that, despite the number of requested variances, the overall development demonstrates that the requested variances are minor. Ms. D'Aoust also highlighted that the Official Plan policies support this type of infill.
- [8] City Forester Hayley Murray was also present.
- [9] City Planner Margot Linker highlighted that there was no negative impact on the subject site despite the number of variances being requested.
- [10] Jim Colizza, also acting as Agent for the Applicant, spoke to the turning radius information provided in the application and the fact that despite the number of variances being requested, the proposal fits well with the streetscape.
- [11] H. De Costa, one of the Applicants, confirmed that each of the primary units would contain three bedrooms.
- [12] The Committee also heard oral submissions from the following individuals:
- L. Hoad, of the Hintonburg Community Association, highlighting that there had been extensive consultation with the neighbours and the proposal represents good infill housing while maintaining the streetscape.
- [13] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Applications Must Satisfy Statutory Tests

- [14] 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

[15] 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:

- Applications and supporting documents, including cover letter, plans, tree information, parcel register, photo of the posted sign, and a sign posting declaration.
- City Planning Report received November 10, 2023, with no objections.
- Rideau Valley Conservation Authority email dated November 10, 2023, with no objections.
- Hydro Ottawa email received November 8, 2023, with no concerns.
- Hydro One email received November 13, 2023, with no concerns.
- Ministry of Transportation email received November 14, 2023, with no concerns.
- L. Hoad, Hintonburg Community Association, email received November 13, 2023, with no objections.
- D. Tester, Making Housing Affordable Ottawa, email received November 12, 2023, in support.
- W. Mullett and K. Skoutajan email received November 11, 2023, in support.
- T. Evans email received November 2, 2023, with comments.

Effect of Submissions on Decision

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

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

[18] 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.

[19] 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 the accompanying Minor Variance Applications (. D08-02-23/A-00255 to D08-02-23/A-00257) have been approved, with all levels of appeal exhausted.
2. 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.
3. The Owners agree to provide a revised tree information report to the satisfaction of the **General Manager of the Planning, Real Estate and Economic Development Department, or his/her designate**. This report shall be prepared by an Arborist, identifying all trees protected under the City's Tree Protection by-law, existing trees, and meeting the standards of the City's Tree Information Report Guidelines, including specific mitigation measures where work is proposed within the Critical Root Zone of a protected tree.
4. 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(s) of the specified number of compensation trees (50mm caliper) required under the Tree Protection By-law, assuming that all proposed tree removals are permitted.
5. That the Owners agree that the location of the proposed structures, including the driveways, retaining walls, 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**.
6. That the Owner(s) agree to provide proof that the tree protection fencing around the Critical Root Zone of the protected trees is installed as shown in the Tree

Information Report, prior to demolition, to the satisfaction of the Development Review Manager of the Central Branch within the Planning, Real Estate and Economic Development Department, or his/her designate.

7. That the Owner(s) provide proof to the satisfaction of **the Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, to be confirmed in writing from the Department to the Committee, that the existing dwelling/building has been removed.
8. That the Owner(s) provide evidence to the satisfaction of both the **Chief Building Official and Development Review Manager of the Central Branch within 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.
9. That the Owner(s) provide evidence to the satisfaction of **the Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, to be confirmed in writing from the Department to the Committee, that the existing structure straddling the proposed severance line has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law.
10. That the Owner(s) enter into a Joint Use, Maintenance and Common Elements 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 his/her 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 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.

11. 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 the Development Review Manager the Central Branch within Planning, Real Estate 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 the **Development Review Manager of the Central Branch within Planning, Real Estate and Economic Development Department, or his/her designate**.
12. 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 his/her designate**, to require that an asphalt overlay will be installed, at the Owner(s) expense, on **Fairmont Avenue**, 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 **the Development Review Manager of the Central Branch within Planning, Real Estate 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 **Development Review Manager of the Central Branch within Planning, Real Estate 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.
13. 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.
14. 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.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

"John Blatherwick"
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 **NOVEMBER 24, 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 **DECEMBER 14, 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
cofa@ottawa.ca
613-580-2436



Comité de dérogation
Ville d'Ottawa
Ottawa.ca/Comitedederogation
cded@ottawa.ca
613-580-2436