

**DECISION  
CONSENT/SEVERANCE**

<b>Date of Decision</b>	February 16, 2024
<b>Panel:</b>	2 - Suburban
<b>File Nos.:</b>	D08-01-23/B-00226 & D08-01-23/B-00227
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Owner/Applicant:</b>	3150 Hawthorne Road Limited
<b>Property Address:</b>	3150, 3160 and 3170 Hawthorne Road
<b>Ward:</b>	10 - Gloucester-Southgate
<b>Legal Description:</b>	Part of Lot 2, Concession 5 (Rideau Front) Geographic Township of Gloucester
<b>Zoning:</b>	IG3
<b>Zoning By-law:</b>	2008-250
<b>Hearing Date:</b>	February 6, 2024, in person and by videoconference

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

- [1] The Owner wants to subdivide their property into two separate parcels of land. Each parcel will contain existing industrial buildings.

**CONSENT IS REQUIRED FOR THE FOLLOWING**

- [2] The Owner requires the Committee's consent to sever the property and to grant the use of and rights in land for easements/rights of way and joint-use and maintenance agreements. The property is shown as Parts 1 to 10 on a draft 4R-plan and the separate parcels will be as follows:
- [3] The severed land, shown as Parts 4, 5, 6, 9 and 10 on the draft 4R-plan, will have a frontage of 73.28 metres, an irregular depth and lot area of 11,250.3 square metres. This parcel of land will be known municipally as 3160 & 3170 Hawthorne Road and contains an existing industrial building.
- [4] The retained land, shown as Parts 1, 2, 3, 7 and 8 on the draft 4R-plan, will have a frontage of 64.89 metres, an irregular depth, and lot area of 8,508.5 square metres. This parcel of land will be known municipally as 3150 Hawthorne Road and contains an existing industrial building.
- [5] It is proposed to establish easements/right of way as follows:

- Over Part 2 in favour of Parts 4, 5, 6, 9 and 10 for vehicular and pedestrian access.
- Over Part 4 in favour of Parts 1, 2, 3, 7 & 8 for vehicular and pedestrian access.

[6] The applications indicate that the property is subject to existing easements LT641531 and LT1195262.

## **PUBLIC HEARING**

### **Oral Submissions Summary**

- [7] On October 17, 2023, the Committee adjourned the applications to allow time for the Applicant to discuss concerns raised by the City's Planning Department. On October 31, 2023, the Committee further adjourned the applications to allow the applicant to revise their proposal and provide an updated draft 4R-plan.
- [8] At the hearing, Adam Thompson, Agent for the Applicant, stated his acceptance of the conditions requested by the City's Planning Department and Hydro Ottawa.
- [9] City Planner Justin Grift indicated that, after his Planning Report was submitted, it was determined that the requirement to convey land to the City for a corner sight triangle had already been satisfied, and that this condition could therefore be removed.

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

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

- [10] 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**

[11] 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 a planning rationale, plans, photo of the posted sign, and a sign posting declaration.

- City Planning Report received February 1, 2024, with no concerns; received October 27, 2023, with no concerns; received October 13, 2023, requesting adjournment.
- Rideau Valley Conservation Authority email received January 31, 2024, with no objections; received October 26, 2023, with no objections; received October 11, 2023, with no objections.
- Hydro Ottawa email received January 30, 2024, with conditions; received October 10, 2023, with conditions.
- Ministry of Transportation email received February 2, 2024, with no comments.
- Hydro One email received October 27, 2023.

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

- [12] The Committee considered all written and oral submissions relating to the application in making its decision and granted the applications.
- [13] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications.
- [14] 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.
- [15] 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 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. That the Owner(s) satisfies the Chief Building Official, or designate, by providing design drawings or other documentation prepared by a qualified designer, that as a result of the proposed severance to the existing building on Part 5 of Plan 4Rdraft shall comply with the Ontario Building Code, O. Reg. 332/12 as amended, in regard to the limiting distance along the northerly of the proposed property line AND to the existing building on Part 1 of Plan 4R-draft shall comply with the Ontario Building Code, O. Reg. 332/12 as amended, in regard to the limiting distance along the southerly and westerly of the proposed property line. If necessary, a building permit shall be obtained from Building Code Services for any required alterations.
3. Pursuant to Schedule C16 of the City's Official Plan, the Owner acknowledges and agrees to convey to the City, at no cost to the City, an unencumbered road widening across the complete Hawthorne Road frontage of the lands, measuring 22.25 metres from the existing centre line of pavement/the abutting right-of-way. The exact widening must be determined by legal survey. The Owner shall provide a reference plan for registration, indicating the widening, to the City Surveyor for review and approval prior to its deposit in the Land Registry Office. Such reference plan must be tied to the Horizontal Control Network in accordance with the municipal requirements and guidelines for referencing legal surveys. The Owner(s) must provide to the City Surveyor a copy of the Committee of Adjustment Decision and a draft Reference Plan that sets out the required widening. The Committee requires written confirmation from City Legal Services that the transfer of the widening to the City has been registered. All costs shall be borne by the Owner.

The Owner is advised that the required road widening described above may be reduced or waived under certain situations, as described in Schedule C16 s.2.1.1 (c) of the Official Plan or where the right-of-way requirement exceeds the front yard setback or corner side yard setback, or where an existing building or structure encroaches into the required road widening, as of the day the Consent to Sever application was deemed complete, as applicable, and determined by the Director, Transportation Planning, Planning, Real Estate and Economic Development Department.

4. The Owner(s) acknowledge(s) and agree(s) they shall be required to enter into a Maintenance and Liability Agreement with the City for the retained and severed parcels, for all plant and landscaping material, and asphalt placed in the City's right-of-way along Hawthorne Road in accordance with City specifications, and the Maintenance and Liability Agreement shall be registered on title, at the Owner's expense. The Owner(s) shall assume all maintenance and replacement responsibilities in perpetuity. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

5. That the Owner(s) provide a servicing plan or other evidence, to the satisfaction of the Development Review Manager of the South 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 each existing building and/or unit on the severed and retained parcels has its own independent water, sanitary and sewer connection, as appropriate, that are directly connected to City infrastructure and do not cross the proposed severance line. If they do cross or do not connect directly or are not independent, and there is sufficient justification for the service locations to remain, the Owner(s) must register a blanket easement as required for access and maintenance of the services, and must register a Joint Use and Maintenance Agreement, between the Owners of the services, on the title of the property, all at his/her own costs.
6. That the Owner(s) provide a draft of the proposed blanket easements to the satisfaction of the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate and City Legal Services in order to service the proposed lot formed by Parts 4, 5, 6, 9 and 10 on the Draft 4R (3160 Hawthorne Road).

If the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate determines that the blanket easement is no longer necessary based on the submitted servicing plans and/or servicing brief, this condition shall be deemed as fulfilled.

7. 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, common structural elements such as, foundations, servicing infrastructure, 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, 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 South 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.

8. 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 of the South 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 South Branch within Planning, Real Estate and Economic Development Department, or his/her designate.

9. That the Owner(s) grant to Hydro Ottawa, without cost, such easements as may be required, the consent to the registration of which is hereby granted.
10. 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.
11. 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.
12. 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 conveyance and grants of easements/rights of way for which the consent is required.

*Absent*  
FABIAN POULIN  
VICE-CHAIR

*“Jay Baltz”*  
JAY BALTZ  
ACTING PANEL CHAIR

*“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 **FEBRUARY 16, 2024**



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 **MARCH 7, 2024**, 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(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**  
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[Ottawa.ca/CommitteeofAdjustment](http://Ottawa.ca/CommitteeofAdjustment)  
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