

**DECISION
CONSENT/SEVERANCE**

Date of Decision:	February 16, 2024
Panel:	2 - Suburban
File Nos.:	D08-01-23/B-00347 & D08-01-23/B-00348
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner/Applicant:	14298179 Canada Inc.
Property Address:	95 Rita Avenue
Ward:	8- College
Legal Description:	Lots 723, 724, 725, 726 on Registered Plan 375
Zoning:	R1FF[632]
Zoning By-law:	2008-250
Hearing Date:	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 to construct two detached dwellings, each with additional dwelling units. The existing detached dwelling and garage will be demolished.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Committee's consent to sever and grant rights in land for easements/rights-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:

Table 1 Proposed Parcels

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00347	16.91 m	28.98 m	490.2 sq. m	1, 2	95 Rita Avenue
B-00348	13.43 m	28.97 m	389.1 sq. m	3, 4	93 Rita Avenue

- [3] It is proposed to create reciprocal easements/rights-of-way over Part 2 in favour of Parts 3, 4 and 6 and over Part 3 in favour of Parts 1, 2 and 5 for a shared driveway access and parking.
- [4] Approval of these applications will have the effect of creating two new lots that will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance applications (D08-02-23/A-00319 & D08-02-23/A-00320) have been filed and will be heard concurrently with these applications.

PUBLIC HEARING

Oral Submissions Summary

- [5] Arjan Soor, 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. He stated he agreed with the City's requested conditions of consent.
- [6] City Planner Samantha Gatchene advised that the City had no concerns with the applications. Ms. Gatchene also explained the effect of Zoning By-law Exception 632, which allows the owners of lots on Plan 375 to use a portion of the rear lane for the purpose of calculating lot area, though it remains City-owned land and construction within the lane is not permitted.
- [7] City Planning Forester Julian Alvarez-Barkham advised that he had no concerns with the applications, subject to the imposition of the requested consent conditions.
- [8] The Committee also heard oral submissions from the following individuals:
- N. Wilson, City View Community Association, noted concerns with the absence of construction plans, the extent of the requested variances, particularly for the interior lot, the compatibility of the proposed lots within the neighbourhood, the accuracy of the lot pattern evidence provided by the Applicant, and the adequacy of existing infrastructure to support development.
 - J. Prot, City View Community Association, noted additional concerns with the proposed shared driveway and rear yard parking, the incompatibility of the parking solution with the existing neighbourhood character, the adequacy of existing infrastructure to support development, and the importance of preserving greenspace. Ms. Prot's submissions were read by resident W. Davidson.
 - C. Dufault, resident, noted potential drainage, runoff and flooding concerns, and requested that the existing cedar hedge on the east side of the property be retained to preserve his privacy, or alternatively replaced with a privacy fence.
 - A. Gervasi, resident, noted concerns with the impacts of rear yard parking on her privacy and enjoyment of her property, the potential impacts of construction on

the cedar trees in the rear lane, the increase in impermeable surfaces, and the proposed lot sizes and their incompatibility with the neighbourhood.

- W. Davidson, resident, noted concerns related to the inadequacy of local school capacity to support intensification, the inadequacy of nearby public park space to rationalize using the proposed rear yards for parking, and drainage issues.

[9] Murray Chown, also acting as Agent for the Applicant, noted that drainage would be appropriately addressed through conditions of approval requested by the City's Planning Department, and that the proposed rear yard parking solution is encouraged by the City and complies with the Zoning By-law.

[10] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Application(s) Must Satisfy Statutory Tests

[11] 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

[12] 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, building envelope sketch, draft reference plan, parcel register, tree information, photo of the posted sign, and a sign posting declaration.
- City Planning Report received February 2, 2024, with no concerns.
- Rideau Valley Conservation Authority email received January 31, 2024, with no objections.
- Hydro Ottawa email received January 30, 2024, with no concerns.

- Ottawa International Airport Authority email received January 22, 2024, with comments.
- Ministry of Transportation email received February 2, 2024, with no comments.
- M. Kennedy MacQueen, resident, email received February 2, 2024, opposed.
- A. and M. Gervasi, residents, email received February 4, 2024, opposed.
- M. Riopelle, resident, email received February 5, 2024, opposed.
- N. Wilson, City View Community Association, email received February 5, 2024, opposed.
- A. Peace, resident, email received February 5, 2024, with concerns.

Effect of Submissions on Decision

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

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

[15] 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.

[16] 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. That the Owner/Applicant(s) shall enter into a Development Agreement or a Letter of Undertaking (LOU) with the City of Ottawa, at the expense of the Owner/Applicant(s), and to the satisfaction of the Manager of the West within Planning, Real Estate, and Economic Development Department, or their designate(s). A Development Agreement is to be registered on Title of the property (where applicable). The agreement will include the mitigation measures outlined in the approved Tree Information Report, prepared by Dendron Forestry Services, dated Nov. 14th, 2023, and associated securities for tree protection. The securities, which will be based on the value of the tree(s) to be protected (Trees 2, 3, 4, & 5) shall be retained for 2 years following issuance of an occupancy permit and thereafter returned to the owner only upon the City having received a report from an arborist or appropriate professional confirming that the identified tree(s) is/are healthy, retainable, and remain(s) structurally stable. The Owner(s) acknowledge(s) and agree(s) that if, in the opinion of the City Forester and/or the Manager of the West within Planning, Real Estate, and Economic Development, the report indicates that any tree is declining and must be removed, the Security for that tree, in its entirety, will be forfeited.
3. That the Owner(s) provide(s) a Grading and Servicing Plan/Site Plan with the locations of proposed structures (driveways, retaining walls, projections, etc.) determined based on the least impact to protected trees and tree cover, as well as a Tree Information Report reflecting these changes to the satisfaction of the Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or their designate(s).
4. That the Owner(s) provide a Grading and Servicing Plan or Existing Conditions, Removals, and Decommissioning plan showing the existing services and the capping location, to be determined based on the least impact to existing protected trees, to the satisfaction of the Manager of the West Branch within the Planning, Real Estate and Economic Development Department, or their designate.
5. That the Owner(s) provide proof to the satisfaction of the Development Review Manager of the West 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 has been removed, that the existing sewer services are capped at the sewer and that the existing water service is blanked at the watermain.
6. That the Owner(s) provide evidence (servicing plan), to the satisfaction of the Development Review Manager of the West 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 both the severed and

retained parcels have their own independent water, sanitary and sewer connection, as appropriate, and that these services do not cross the proposed severance line and are connected directly to City infrastructure. If they do cross the proposed severance line, or they are not independent, the Owner(s) will be required to relocate or construct new services from the city sewers and/or watermain at his/her own costs.

7. 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 Manager of the West 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 Manager of the West Branch within Planning, Real Estate, and Economic Development Department, or his/her designate.
8. That the Owner convey a 3m x 9 m corner sight triangle located at the intersection of Rita Ave and Cordova Street to the City, with all costs to be borne by the Owner(s), to the satisfaction of the Surveys and Mapping Branch of the City. This area will be free of all structures, plantings, etc. and will allow a proper sighting distance for motorists when performing turning movements within the intersection. The Committee must receive written confirmation from City Legal Services that the transfer of the lands to the City has been registered.
9. 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 Manager of the West 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 Rita Ave and Cordova St, 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 Manager of the West 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 Manager of the West 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.

10. That the Owner(s) convey, if required, at no charge to the City of Ottawa, sufficient frontage across the severed and retained lands to provide for a road

right-of-way measuring 12 meters from the centreline of Cordova Street. 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.

- a) Pursuant to Section 50.1(25)(c) of the Planning Act and Schedule C16 of the 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 frontage of the lands, measuring 12 metres from the existing centreline 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.
 - b) The Owner is advised that the required road widening described in 10(a) 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.
11. That the Owner(s) agree to reinstate the Rita Avenue roadside ditch fronting the proposed development(s) designed to receive drainage from the proposed properties, the roadway, and the upstream tributary area. The design is to be prepared by a Professional Civil Engineer licensed in the Province of Ontario, and for approval by the Development Review Manager of the West Branch within Planning, Real Estate and Economic Development Department, or his/her designate.
 12. 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.

13. 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 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 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/Comitedederoigation
cded@ottawa.ca
613-580-2436