

**DECISION
CONSENT/SEVERANCE**

Date of Decision	May 24, 2024
Panel:	3 - Rural
File No.:	D08-01-21/B-00398
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner/Applicant:	Dilworth Developments Inc
Property Address:	2095 Dilworth Road
Ward:	21 – Rideau-Jock
Legal Description:	Part of Lot 35, Concession 3, former Township of North Gower
Zoning:	RU
Zoning By-law:	2008-205
Heard:	May 14, 2024, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owner/Applicant wants to subdivide their property into two separate parcels of land to create one new lot for future residential development.
- [2] At the scheduled hearing on November 17, 2021, the application was adjourned *sine die* to allow the Applicant time to address the concerns raised by the City and the Conservation Authority. The Applicant subsequently provided additional documentation to proceed with the application.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Applicant requires the Committee's consent to sever land.
- [4] The severed land, shown as Part 1 on a Sketch filed with the application, will have a frontage of 83.5 metres on Dilworth Road and 43.5 metres on Third Line Road, an irregular depth of 320 metres and a lot area of 2.06 ha. This parcel is currently vacant and will be known municipally as 2059 Dilworth Road.
- [5] The retained land shown as Part 2 on said sketch will have frontage of 765 metres, a depth of 405 metres, and a lot area of 35.26 ha. This parcel contains an existing single-family dwelling and garage and is known municipally as 2095 Dilworth Road.

PUBLIC HEARING

Oral Submissions Summary

- [6] Rod Price, Agent for the Applicant, confirmed that he had consulted with the neighbours to address their concerns and it was his understanding that all except one were now satisfied with the proposal. Mr. Price further also confirmed that development would occur outside the flood plain.
- [7] City Planner Luke Teeft confirmed that he had no concerns with the application.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application(s) 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 cover letter, plans, Environment Impact Assessment, Rideau Valley Conservation Authority letter of permission, parcel abstract, photo of the posted sign, and a sign posting declaration.
- City Planning Report received May 8, 2024, with no concerns, received April 10, 2024, with no concerns, received November 10, 2021, with objections.
- Mississippi Valley Conservation Authority email received May 10, 2024, with no objections.
- Rideau Valley Conservation Authority email received April 4, 2024, with no objections.
- Hydro Ottawa, email received April 10, 2024, with no comments; received November 10, 2021, with no comments.

- Bell Canada, email received November 10, 2021, with no comments.
- K. Quilty, resident, email received May 8, 2024, with comments; received April 15, 2024, with comments; received November 13, 2021, with comments.
- J. Garbo, R. Clouthier and S. Lehman, residents, email received May 13, 2024, with comments; received April 15, 2024, with comments.
- W. Ferraro and T. Bibby, residents, email received April 7, 2024, in support.
- W. and M. Duff, residents, email received April 15, 2024, with comments.
- A. Merrell, resident, email received April 15, 2024, with comments; received November 14, 2021, with comments.
- S. Lehman, resident, email received November 14, 2021, with 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 application, subject to the requested conditions agreed to by the Applicant's Agent.
- [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.

Information regarding the appraisal process can be obtained by contacting the Planner.

2. That the Owner enter into an Agreement with the City, at the expense of the Owner(s) and to the satisfaction of **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or their designate**, which provides the following covenants/notices that run with the land and bind future Owner(s) on subsequent transfers:

“The City of Ottawa does not guarantee the quality or quantity of the groundwater. If, at some future date, the quality or the quantity of the groundwater becomes deficient, the City of Ottawa bears no responsibility, financial or otherwise, to provide solutions to the deficiency, such solutions being the sole responsibility of the homeowner.”

“The property is located next to lands that have an existing source of environmental noise (arterial and collector road) and may therefore be subject to noise and other activities associated with that use.”

“The City of Ottawa has identified that there are potential sensitive marine clay soils and organic soils within the area that may require site specific detailed geotechnical engineering solutions to allow for development. The City of Ottawa bears no responsibility, financial or otherwise, to provide solutions to the deficiency, such solutions being the sole responsibility of the home owner.”
The Committee requires a copy of the Agreement and **written confirmation from City Legal Services** that it has been registered on title.

3. That the Owner(s) submit a **Phase 1 Environmental Assessment** prepared by a qualified person who meets the qualifications prescribed by the regulations, for approval by the **Development Review Manager of the Relevant Branch within Planning, Infrastructure and Economic Development Department, or their designate**, to be confirmed in writing from the Department to the Committee, outlining the assessment of the property and determining the likelihood that one or more contaminants have affected any land or water, in or under the property.
4. That 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 15 meters from the existing centerline of pavement/the abutting right-of-way along Dilworth Road, and 13 metres from the existing centraline of pavement/the abutting right-of-way along Third Line Road, pursuant to Section 50.1(25)(c) of the Planning Act and Schedule C16 of the City’s new Official Plan, if required. 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.

5. That the Owner(s) enter into an Agreement with the City, to the satisfaction of the **Development Review Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or their designate**, to be placed on title that includes the development envelope and mitigation measures identified in the "Environmental Impact Statement, Land Severance Application, 2095 Dilworth Road" provided by Gemtec and dated October 4, 2021.
6. That the Owner(s) provide a Hydrogeological Evaluation and Terrain Analysis, prepared by a Professional Civil Engineer or Professional Geoscientist licensed in the Province of Ontario, demonstrating the adequacy of the aquifer with respect to quality and quantity of groundwater to support the proposed development, and that the lot areas are sufficient for private sanitary sewage systems, to the satisfaction of **Relevant Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or their designate**, to be confirmed in writing from the Department to the Committee. The Owners' report must demonstrate the following to the City of Ottawa:
 - a) That the construction of any new well on the severed parcel is in accordance with the Ministry of the Environment, Conservation and Parks
 - b) That the quality of the water meets the Ministry of the Environment, Conservation and Parks Regulations, Standards, Guidelines and Objectives;
 - c) That the quantity of water meets all the Ministry of the Environment, Conservation and Parks requirements.
 - d) That the septic impact assessment meets the Ministry of the Environment, Conservation and Parks requirements.

A qualified Professional Engineer or Professional Geoscientist must prepare the report. It is the Owner's responsibility to coordinate the person drilling a new well, if required, and the professional noted herein in order to properly satisfy this condition.

The Report shall be prepared as per Procedure D-5-4 "Technical Guideline for Individual On-Site Sewage Systems: Water Quality Impact Risk Assessment" and Procedure D-5-5 "Technical Guideline for Private Wells: Water Supply Assessment".

7. That the Owner(s) provide proof to the satisfaction of the **Development Review Manager of the Relevant Branch within Planning, Real Estate and Economic Development Department, or their designate**, to be confirmed in writing from the Department to the Committee, that each existing parcel has its own independent private sewage system, storm/foundation drainage, and well and that they do not cross the proposed severance line. If the systems cross the proposed severance line, are not independent, or do not meet the minimum spacing requirements of the Ontario Building Code and City of Ottawa Hydrogeological and Terrain Analysis Guidelines, the Owner(s) will be required to relocate the existing systems or construct new systems, at their own cost.
8. 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.
9. 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.

“William Hunter”
WILLIAM HUNTER
VICE-CHAIR

“Terence Otto”
TERENCE OTTO
MEMBER

“Beth Henderson”
BETH HENDERSON
MEMBER

“Martin Vervoort”
MARTIN VERVOORT
MEMBER

“Jocelyn Chandler”
JOCELYN CHANDLER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **May 24, 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 **June 13, 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
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