

**DECISION  
CONSENT/SEVERANCE**

<b>Date of Decision</b>	June 14, 2024
<b>Panel:</b>	2 - Suburban
<b>File Nos.:</b>	D08-01-24/B-00053 & D08-01-24/B-00074
<b>Application:</b>	Consent under Section 53 of the <i>Planning Act</i>
<b>Owner/Applicant:</b>	9604430 Canada Inc.
<b>Property Address:</b>	121 & 125 Marketplace Avenue
<b>Ward:</b>	3 – Barrhaven West
<b>Legal Description:</b>	Block 3 & 4, Registered Plan 4M-1438
<b>Zoning:</b>	MC [2388] and R5AA [2389]
<b>Zoning By-law:</b>	2008-250
<b>Heard:</b>	June 4, 2024, in person and by videoconference

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

- [1] The Applicant wants to subdivide their property into two separate parcels of land. The property contains two existing retirement home buildings, and one building will be located on each new lot.

**CONSENT IS REQUIRED FOR THE FOLLOWING**

- [2] The Applicant requires the Committee’s consent to sever land and for mortgages/charges, grants of easements/rights of way, and a joint-use and maintenance agreement. The property is shown as Parts 1 to 6 on a survey plan filed with the applications and the separate parcels will be as follows:

*Table 1 Proposal*

File No.	Frontage	Depth	Area	Part No.	Municipal Address
B-00074	55.95 m	69.19 m (irregular)	2439.5 sq. m	1 and 3	125 Marketplace (existing 9-storey retirement home building)
B-00053	106.24 m	69.19 m (irregular)	6776.1 sq. m	2, 4, 5, and 6	121 Marketplace (existing 8-storey retirement home building)

- [3] It is also proposed to establish reciprocal easements/rights of way over Parts 1 and 3 in favour of Parts 2, 4, 5 and 6, and over Parts 2, 4, 5, and 6 in favour of Parts 1 and 3, for vehicular and pedestrian access, connection to shared servicing

systems, access to and use of shared amenity areas, access for maintenance and repair, and for encroachments of buildings and/or services.

- [4] The applications indicate that the property is considered one lot for Zoning By-law purposes.

## **PUBLIC HEARING**

- [5] At the hearing, the Panel Chair administered an oath to Debbie Bellinger, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied.

### **Oral Submissions Summary**

- [6] Ms. Bellinger provided an overview of the applications and responded to questions from the Committee. She asked that the City's requested condition in the Planning Report for a servicing plan be amended to include Environmental Compliance Approval only "if required".
- [7] City Planner Samantha Gatchene agreed to the amendment for the servicing plan condition.
- [8] In responding to questions from the Committee, Ms. Bellinger, explained that the irregular proposed severance line was to accommodate the existing surface level parking, keeping it as part of the mid-rise apartment building ownership. Ms. Bellinger also confirmed that no minor variances would be required as a result of these applications, further noting that this property is 'one lot for By-law' purposes.
- [9] Following the public hearing, the Committee reserved its decision.

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

### **Application(s) 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 cover letter/Planning rationale, plans.
- City Planning Report received May 30, 2024, with no concerns.
- Rideau Valley Conservation Authority email received May 29, 2024, with no objections.
- Hydro Ottawa email received May 30, 2024, with comments.
- G. Provost, resident, phone call received May 21, 2024, with comments.

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

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

[13] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications subject to the requested conditions, as amended as requested by the by the Applicant's Agent and agreed to by the City.

[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 a servicing plan or other evidence, to the satisfaction of the Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, or their 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 the services are shared and there is sufficient justification for the service locations to remain, the Owner(s) must obtain Ontario Ministry of the Environment and Conservation and Parks (Environmental Compliance Approval – ECA) if required by law and must register a Joint Use and Maintenance Agreement, between the Owners of the services, on the title of the property, all at their own costs.

2. 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 Development Review All Wards Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, or their 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 Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate.
3. 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.
4. That the Owner(s) satisfy the requirements of Hydro Ottawa with respect to the relocation of the existing overhead services or grant an easement as required, the consent to which is hereby granted.
5. A common element agreement shall be prepared and include the existing electrical services.
6. 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, mortgages/charges, grants of easements/rights of way, and a joint-use and maintenance agreement for which the consent is required.

*“Fabian Poulin”*  
FABIAN POULIN  
VICE-CHAIR

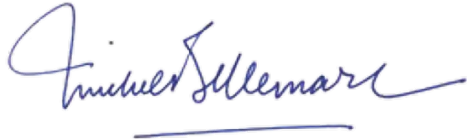
*“Jay Baltz”*  
JAY BALTZ  
MEMBER

*“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 **June 14, 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 **July 4, 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 the Planning, Development and Building Services 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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