

DECISION CONSENT/SEVERANCE

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| Date of Decision: | August 16, 2024 |
| Panel: | 1 - Urban |
| File Nos: | D08-01-23/B-00350 to D08-01-23/B-00353 |
| Application: | Minor Variance under section 45 of the <i>Planning Act</i> |
| Applicants: | Donald Wright and Michael Szczygiel |
| Property Address: | 263 St. Laurent Boulevard |
| Ward: | 13 – Rideau-Rockcliffe |
| Legal Description: | Lot 105, Registered Plan 344 |
| Zoning: | R3B |
| Zoning By-law: | 2008-250 |
| Heard: | August 7, 2024, in person and by videoconference |

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] On February 21, 2024, the Committee adjourned these applications to allow the Applicants time to address a zoning deficiency and to continue discussions with City staff regarding tree preservation.
- [2] The Applicants want to subdivide the property into four separate parcels of land and construct four townhouse dwellings, one on each newly created parcel, as shown on the plans filed with the Committee. The existing dwelling and shed will be demolished.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Applicants require the Committee's consent to sever land and to grant easements/rights-of-ways. The property is shown as Parts 1 to 7 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-00350 | 9.72 m | 15.24 m | 148 sq. m | 7 | 315 Mart Circle Proposed townhouse dwelling |

| File No. | Frontage | Depth | Area | Part No. | Municipal Address |
|----------|----------|---------|-----------|----------|--|
| B-00351 | 7.52 m | 15.24 m | 114 sq. m | 6 | 317 Mart Circle Proposed townhouse dwelling |
| B-00352 | 7.52 m | 15.24 m | 114 sq. m | 4, 5 | 319 Mart Circle Proposed townhouse dwelling |
| B-00353 | 11.51 m | 15.27 m | 172 sq. m | 1, 2, 3 | 321 Mart Circle Proposed townhouse dwelling |

[4] It is proposed to establish easements/rights-of-ways as follows:

- Easement over Part 5 in favour of Part 6 for access.
- Easement over Part 2 in favour of Parts 4, 5, and 6 for access.

[5] Approval of these applications will have the effect of creating separate parcels of land. The parcels of land and the proposed development will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance applications (D08-02-23/A-00323 to D08-02-23/A-00326) have been filed and will be heard concurrently with these applications.

[6] The subject property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

Oral Submissions Summary

- [7] The Committee noted that, prior to the hearing, the City revised its requested conditions of provisional consent.
- [8] Jacob Bolduc, Agent for the Applicant, and City Planner Margot Linker indicated their agreement to the revised conditions.
- [9] There were no objections to granting these unopposed applications as part of the Panel's fast-track consent agenda.

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:

- Application and supporting documents, including cover letter, plans, tree information report, photos of the posted sign, and a sign posting declaration.
- City Planning Report received August 1, 2024, with no concerns; received February 16, 2024, requesting adjournment.
- Rideau Valley Conservation Authority email received August 2, 2024, with no objections; received February 14, 2024, with no objections.
- Hydro Ottawa email received August 2, 2024, with comments; received February 14, 2024, with comments.
- Hydro One email received July 24, 2024, with no comments.
- Ontario Ministry of Transportation email received February 14, 2024, with no 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 agreed to by the Applicant's agent.

[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 the accompanying Minor Variance Applications (D08-02-23/A-00323 to D08-02-23/A-00326) 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. That the Owner/Applicant(s) provide a tree planting plan, prepared to the satisfaction of the Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or their designate(s), showing the location(s) and species or ultimate size of all compensation trees required under the Tree Protection By-law and/or one new tree (50 mm caliper) per lot, whichever is greater.
4. That the Owner(s) provide proof to the satisfaction of the Development Review 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 all existing dwellings/buildings have been removed or relocated in conformity with the Zoning By-law.
5. That the Owner(s) provide evidence to the satisfaction of both the Chief Building Official and Development Review Manager, 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 to 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.
6. 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 Development Review All Wards Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate.

7. That the Owner(s) submit a Site Servicing Brief prepared by a Professional Civil Engineer licensed in the Province of Ontario, for approval by the Development Review 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, outlining the municipal servicing requirements for each unit and indicating, if required, that capacity exists within existing City infrastructure.
8. That the Owner(s) enter into an Infrastructure Agreement with the City of Ottawa to extend the municipal services on Mart Circle Street at his/her own costs and post the necessary securities for the work on the City Right-of-Way to the satisfaction of the City's Planning, Real Estate and Economic Development Department's Infrastructural Approvals Branch and to the satisfaction of City Legal Services. The Owner(s) must also receive the approval of the Ontario Ministry of the Environment Conservation and Parks for the extension of the municipal services. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.
9. That the Owner convey a 3 m x 9 m corner sight triangle located at the intersection of St-Laurent Blvd. and Mart Circle 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.
10. That the Owner(s) enter into a resurfacing agreement with the City to the satisfaction of the Program Manager, Right of Way Branch within Planning, Development and Building Services Department, or their designate, and provide financial security in accordance with the Road Activity By-law, as amended, to install an asphalt overlay over the roadway surface of Mart Circle, fronting the subject lands, to the limits shown on the approved Site Servicing Plan. Where the approved Site Servicing Plan demonstrates that resurfacing is not required based on the City's Road Cut Resurfacing Policy, the Development Review Manager of the All-Wards Branch within Planning,

Development and Building Services Department, or their designate, shall deem this condition satisfied.

11. That the Owner(s) enter into a Joint Use, Maintenance and Operating Agreement, 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 Development Review All Wards Manager within Planning, Development and Building Services Department, or their designate, and City Legal Services. The Committee requires written confirmation that the Agreement is satisfactory to Development Review All Wards Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, or their 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.

12. The Owner(s) shall prepare a noise attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of Development Review All Wards Manager Branch within Planning, Development and Building Services Department, or their designate. The Owner(s) shall enter into an agreement with the City that requires the Owner to implement any noise control attenuation measures recommended in the approved study. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

13. That the Owner enter into an Agreement with the City, at the expense of the Owner, which is to be registered on Title to deal with the covenants/notices that shall run with the land and bind future owners on subsequent transfers:

“The property is located next to lands that have an existing source of environmental noise (Collector St-Laurent Blvd.) and may therefore be subject to noise and other activities associated with that use.”

The Agreement shall be 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. The Committee requires a copy of the Agreement and written confirmation from City Legal Services that it has been registered on title.

14. That the Owner/Applicant(s) 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 relevant branch 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 IFS Associates, dated July 31, 2024, and associated securities for tree protection. The securities, which will be based on the value of the tree(s) to be protected (Tree(s) 11 and 14) 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 relevant Branch within Planning, Real Estate, and Economic Development, the report indicates that any tree is declining and must be removed due to impacts related to the construction of the development, the Security for that tree, in its entirety, will be forfeited.
15. 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 of the electrical supplies.
16. 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.
17. 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.

Ann M. Tremblay
ANN M. TREMBLAY
CHAIR

John Blatherwick
JOHN BLATHERWICK
MEMBER

Simon Coakeley
SIMON COAKELEY
MEMBER

Arto Keklikian
ARTO KEKLIKIAN
MEMBER

Sharon Lécuyer
SHARON LÉCUYER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **August 16, 2024**.



Matthew Garnett
Acting 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 **September 5, 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 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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