

**DECISION
CONSENT/SEVERANCE**

Date of Decision:	November 15, 2024
Panel:	3 - Rural
File No.:	D08-01-23/B-00248
Application:	Consent under Section 53 of the <i>Planning Act</i>
Applicants:	Richard Tremblay and Johanne Mongrain
Property Address:	4715 Birchgrove Road
Ward:	19 – Orléans South-Navan
Legal Description:	Lot 18, Concession 1, Geographic Township of Cumberland
Zoning:	RU
Zoning By-law:	2008-250
Heard:	November 5, 2024, in person and by videoconference

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Applicants want to subdivide their property into two separate parcels of land to create a new lot for future residential development.
- [2] On December 12, 2023, and January 16, 2024, the Committee adjourned the hearing of the application to allow the Applicants time to submit a revised Environmental Impact Study, a Mineral Resource Impact Assessment and Minimal Distance Calculations. The Applicants now want to proceed with their application.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [3] The Applicants require the Committee's consent to sever the land. The property is shown on a sketch filed with the application and the separate parcels will be as follows:
- [4] The severed land will have a frontage of 83.8 metres, an irregular depth and a lot area of 6.15 hectares. This vacant parcel of land will be known municipally as 4625 Birchgrove Road.
- [5] The retained land will have a frontage of 227.55 metres, an irregular depth and a lot area of 62.27 hectares. This vacant parcel of land will remain municipally known as 4715 Birchgrove Road.
- [6] The property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

Oral Submissions Summary

- [7] Prior to the hearing, the Committee received an adjournment request from City Planner Stephen Kukkonen, requesting a revised Environmental Impact Study (EIS) with reduced development envelopes.
- [8] At the outset of the hearing, the Panel Chair called Mr. Kukkonen forward to explain the adjournment request. He advised that the revised EIS was required at the request of the City's environment planner to show a reduced building envelope of 0.2 hectare and move them closer to the front lot line.
- [9] The Committee also heard from Richard Tremblay, the Applicant, who explained that it was his preference that the hearing proceed based on the materials filed. The Committee agreed to hearing the application without further delay.
- [10] Mr. Tremblay stated that the Environmental Impact Study should address the concerns raised in the City's Planning report considering the size of the development envelope is not a requirement under the Official Plan. He further advised that much of the forest at the rear of the property was destroyed by a derecho in 2022.
- [11] In response to the Committee's questions, Mr. Tremblay confirmed that he would be willing to reduce the size of the development envelopes to 0.2 hectares but was not willing to move them closer to the road.
- [12] Mr. Kukkonen reiterated that it was the City's current practice to require that the development envelopes be 0.2 hectares maximum as they need to be specific in where they are shown to show what lands will be developed. He further confirmed that they would need to be moved closer to the front property line to avoid any development taking place in the Natural Heritage System Core Area, which is a highly protected area and to have similar setbacks to the road of the neighbouring properties.
- [13] In response to the damage to the forest, Mr. Kukkonen advised that the City's environmental planner agreed that, while there is significant damage to the trees, this does not take away from the designation of Natural Heritage System Core Area and the overall function of the designation.
- [14] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application(s) Must Satisfy Statutory Tests

- [15] 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

[16] 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, environmental impact statement, parcel abstract, minimum distance photo of the posted sign, and a sign posting declaration.
- City Planning Report received October 31, 2024, requesting an adjournment.
- South Nation Conservation Authority email received November 4, 2024, with no comments.
- Hydro Ottawa email received November 1, 2024, with no comments.
- Ontario Ministry of Transportation email received October 18, 2024, with no comments.

Effect of Submissions on Decision

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

[18] The Committee finds that, with the modifications agreed to by the Applicant that the development envelope sizes be reduced to 0.2 hectares in the Environmental Impact Study, as part of condition 6, some concerns outlined in the Planning report would be alleviated.

[19] 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.

[20] 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 All Wards Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate**, which provides the following covenant/notice that runs with the land and binds 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 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 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 (arterial road, highway, airport, etc) 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.

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 13 meters from the existing centerline of pavement/the

abutting right-of-way along Birchgrove, and 13 meters from the existing centerline of pavement/the abutting right-of-way along Canaan 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 Owners provide a report, to the satisfaction of the City of Ottawa, demonstrating the adequacy of the aquifer with respect to quality and quantity to support the proposed development, failing which the Owners construct a new well on the severed lot and provide a report, to the satisfaction of the City of Ottawa, to demonstrate the adequacy of the aquifer with respect to quality and quantity to support the proposed development. The report must include a septic impact assessment to evaluate the water quality impact of the on-site septic system on the receiving aquifer.

The Owners' report must demonstrate the following to the City of Ottawa:

- That the construction of any new well on the severed parcel is in accordance with the Ministry of the Environment, Conservation and Parks
- That the quality of the water meets the Ministry of the Environment, Conservation and Parks Regulations, Standards, Guidelines and Objectives;
- That the quantity of water meets all the Ministry of the Environment, Conservation and Parks requirements.
- 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.

If the accepted report recommends specific mitigation measures or design requirements, the Owners shall enter into a Development Agreement with the City, at the expense of the Owners, which is to be registered on the title of the property, which includes those recommendations. In instances where the subject site has sensitive soils, the drilling of a well and/or the conveyance of a

30-centimetre reserve may be required. Both the report and any required Development Agreement shall be prepared to the satisfaction of Development Review All Wards Manager Branch within Planning, Development and Building Services Department, or their designate.

6. That the Owner(s) prepares and submits a revised Environmental Impact Study (EIS), which will include the development envelopes identified in the study being reduced to 0.2 hectares, to the satisfaction of the **Development Review Manager of the Development Review All Wards Branch within Planning, Development and Building Services, or their designate**. If the accepted report recommends specific mitigation measures or other requirements, the Owner(s) shall enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the **Development Review Manager of the Development Review All Wards Branch within Planning, Development and Building Services, or their designate**, which is to be registered on the title of the property which includes those recommendations.
7. That the Owner(s) provide evidence to the satisfaction of both **the Chief Building Official and Development Review Manager of the Development Review All Wards Branch within Planning, Development and Building Services, or their designate**, 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 with 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.
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.

“Terence Otto”
TERENCE OTTO
VICE-CHAIR

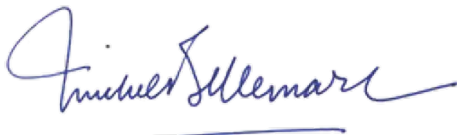
“Gary Duncan”
GARY DUNCAN
MEMBER

Absent
BETH HENDERSON
MEMBER

“Martin Vervoort”
MARTIN VERVOORT
MEMBER

Declared Interest
JOCELYN CHANDLER
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **November 15, 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 **December 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)

Should a Development Agreement be required, such request should be initiated 30 working days prior to lapsing date of the consent and should include all required documentation including that related to transfers, easements, and postponements, and all approved technical studies. If you do not fulfill the conditions of provisional consent within the two-year period, the *Planning Act* provides that your application “shall be deemed to be refused”.

Ce document est également offert en français.

Committee of Adjustment
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Ottawa.ca/CommitteeofAdjustment
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