

## DECISION CONSENT/SEVERANCE

<b>Date of Decision:</b>	September 27, 2024
<b>Panel:</b>	1 - Urban
<b>File Nos.:</b>	D08-01-24/B-00128, D08-01-24/B-00131
<b>Application:</b>	Consent under section 53 of the <i>Planning Act</i>
<b>Applicant:</b>	NCTL Investments Inc.
<b>Property Address:</b>	342, 344, 346 and 348 Queen Mary Street
<b>Ward:</b>	13 – Rideau-Rockcliffe
<b>Legal Description:</b>	Part of Lots 678 and 684, Lots 679, 680, 681, 682 and 683, Registered Plan 342
<b>Zoning:</b>	R4UC & R4UC [2480]
<b>Zoning By-law:</b>	2008-250
<b>Heard:</b>	September 18, 2024, in person and by videoconference

### APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Applicant wants to construct eight townhouse dwellings, each with two additional dwelling units (24 units in total). It is proposed to create two easements for pedestrian access. The existing four semi-detached dwelling units will be demolished.

### CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Applicant requires the Committee's consent to grant easements/rights of way.
- [3] It is proposed to establish easements/rights of way as follows:
- Over Part 1 on the draft 4R-plan, (342A & 342B Queen Mary), in favour of Part of Lots 681 and 682, Registered Plan 342 (344A & 344B Queen Mary) for pedestrian access.
  - Over Part 2 on the draft 4Rplan, (348A & 348B Queen Mary), in favour of Part of Lots 679 and 681 and Lot 680, Registered Plan 342 (346A & 346B Queen Mary) for pedestrian access.

- [4] Approval of these applications will have the effect of creating eight separate parcels of land that will not be in conformity with the requirements of the Zoning By-law and therefore, minor variance applications (File Nos. D08-02-24/A-00188 to -A--00191) have been filed and will be heard concurrently with these applications.

## **PUBLIC HEARING**

### **Oral Submissions Summary**

- [5] Chris Jalkotzy, Agent for the Applicant, provided an overview of the applications and responded to questions from the Committee, and addressed concerns from the neighbourhood community association and residents.
- [6] Mr. Jalkotzy confirmed that the Applicant would be providing eight new trees, a lighter colour for the wall at the rear of the property, and designated areas for parking, bicycles and garbage.
- [7] The Committee also heard oral submissions from the following individual:
- J. Baelde and R. Seguin, neighbours, highlighted concerns regarding the impact the height will have on their property, including privacy and reduced natural light. They also highlighted concerns with the distance of the proposed pedestrian easement from their lot line, suggested problems from increased street parking, more people, and more garbage. Mr. Seguin questioned the type of housing proposed in relation to the streetscape as well.
- [8] Mr. Jalkotzy confirmed that the proposed buildings are further forward than the existing semi-detached buildings, and that the end units do not have living spaces that overlook neighbouring properties. He also confirmed that the proposed easements would be contained on the subject property.
- [9] City Planner Penelope Horn confirmed that the permitted uses for the subject zoning designation are single detached dwellings to low rise apartments. She also confirmed that no parking is required.
- [10] Mr. Jalkotzy requested that the City requested conditions 1, 2 & 4, not be imposed as conditions of provisional consent, as no severance is being requested at this time.
- [11] City Planner Erin O'Connell spoke to the City's requested condition of provision consent regarding a parking notice being registered on title to notify future owners of the parking situation in the area.
- [12] Ms. O'Connell confirmed that the City would agree to not imposing conditions 1, 2, and 4 as part of the provisional consent.

## DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

### Application(s) Must Satisfy Statutory Tests

[13] 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**

[14] 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, tree information, parcel register, and a sign posting declaration.
- City Planning Report received September 12, 2024, with no concerns.
- Rideau Valley Conservation Authority email received September 16, 2024, with no objections.
- Hydro One email received September 9, 2024, with no comments.
- Ontario Ministry of Transportation email received September 9, 2024, with no comments.
- Ottawa-Carleton District School Board, Planning Department email received September 5, 2024, with no objections.
- Overbrook Committee Association email received September 17, 2024, with no objections.

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

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

[16] 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.

[17] 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.

[18] 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 (D08-02-24/A-00188 to D08-02-24/A-00191) have been approved, with all levels of appeal exhausted.
2. That the Owner(s) provide evidence to the satisfaction of the **Development Review Manager of 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 the accessory structure(s) have been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law.
3. That the Owner(s) enter into a Joint Use, Maintenance and Common Elements, 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**, or **City Legal Services**. The Committee requires written confirmation that the Agreement is satisfactory to **Development Review All Wards Manager within Planning, Development and Building Services Department, or their designate**, or is satisfactory to **City Legal Services**, as well as a copy of the Agreement and confirmation that it has been or will be registered on title.

4. 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 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 within Planning, Development and Building Services Department, or their designate**.
5. 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 Queen Mary Street, 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.
6. 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.
7. The Owner acknowledges and agrees that a notice shall be registered on title to the subject lands, at the Owner's expense. The Owner further acknowledges and agrees that such notice on title, or the clauses as written directly below, shall be included in all agreements of purchase and sale and lease agreements to inform prospective purchasers and tenants of these matters. The notice on title shall include, but not be limited to, the following:

The Owner, or any subsequent owner of the whole or any part of the subject lands, acknowledges and agrees that all agreements of purchase and sale or lease agreements shall contain the following clauses, which shall be covenants running with the subject lands:

"The purchaser/lessee for themselves, their heirs, executors, administrators, successors and assigns, acknowledges being advised that the unit being sold/rented will not be provided with any on-site parking. Should the purchaser/lessee have a vehicle for which they wish to have parking, alternative and lawful arrangements will need to be made to address their

parking needs at an alternate location and that such arrangements are solely the responsibility of the person seeking parking. The purchaser/lessee acknowledges that the availability and regulations governing on-street parking vary; that access to on-site street parking, including through residential on-street parking permits issued by the City of Ottawa, cannot be guaranteed now or in the future; and that the purchaser/lessee intending to rely on on-street parking for their vehicle or vehicles does so at their own risk.”

“The purchaser/lessee covenants with the vendor/lessor that the above clauses, verbatim, shall be included in all subsequent agreements of purchase and sale and lease agreements for the lands described herein, which covenant shall run with the said lands.”

The Agreement shall be to the satisfaction of Development Review All Wards Manager 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.

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 grants of easement/right-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 **September 27, 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 **October 17, 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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