

**DECISION
CONSENT/SEVERANCE**

Date of Decision:	February 28, 2025
Panel:	1 - Urban
File No(s):	D08-01-24/B-00250
Application(s):	Consent under section 53 of the <i>Planning Act</i>
Applicant(s)	80 Nelson Holding Inc.
Property Address:	78, 80 Nelson Street
Ward:	12 - Rideau-Vanier
Legal Description	Part of Lots 11 and 12, Registered Plan 43586
Zoning	R4UD [2923]-c
Zoning By-law:	2008-250
Heard:	February 19, 2025, in person and by videoconference

APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATION

- [1] The Applicant wants to establish an easement/right of way in favor of 253 York Street, as shown on the plans filed with the application.
- [2] This application was heard concurrently with related consent applications for 253 York Street (D08-01-24/B-00251 and D08-01-24/B-00251).

CONSENT REQUIRED

- [3] The Applicant seeks the Committee's consent to a grant of easement/right-of-way.
- [4] The property is shown as parts 3, 4, 5, 8, 9, 10, 13, and 14 on the draft 4R-plan filed with the application.
- [5] It is proposed to establish an easement/right-of-way over Parts 3, 4, 5, 8, and 9, in favour of Parts 1, 2, 6, 7, 11, and 12 (253 York Street) for access to egresses, shared bicycle parking, bicycle repair station, and communal space.
- [6] The property is the subject of a Site Plan Control application (File No. D07-12-21-0135).

PUBLIC HEARING

Oral Submissions Summary

- [7] Gillian Henderson, agent for the Applicant, and City Planner Penelope Horn, were present.
- [8] There were no objections to granting this unopposed application as part of the Panel's fast-track consent agenda.

DECISION AND REASONS OF THE COMMITTEE: APPLICATION GRANTED

Application Must Satisfy Statutory Tests

- [9] 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

[10] 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, deed of land, parcel abstract information, tree information, photo of the posted sign, and a sign posting declaration.
- City Planning Report received February 12, 2025, with no concerns.
- Rideau Valley Conservation Authority email dated February 13, 2025, with no objections.
- Hydro One email dated February 13, 2025, with no comments.
- Ontario Ministry of Transportation email dated February 12, 2025, with no comments.
- T. Passafiume, resident, email dated January 25, 2025, with comments.

Effect of Submissions on Decision

- [11] The Committee considered all written and oral submissions relating to the application in making its decision and granted the application.
- [12] 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.
- [13] 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.
- [14] 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.
- [15] 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.
- [16] 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.
- [17] **THE COMMITTEE OF ADJUSTMENT ORDERS** that the application is granted and the provisional consent is to be given, subject to the conditions set out in Appendix A to this decision.

"Ann M. Tremblay"
ANN M. TREMBLAY
CHAIR

"John Blatherwick"
JOHN BLATHERWICK
MEMBER

Absent
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 **February 28, 2025**

“Michel Bellemare”

MICHEL BELLEMARE
SECRETARY-TREASURER

NOTICE OF RIGHT TO APPEAL

To appeal this decision to the Ontario Land Tribunal (OLT), a completed appeal form and the filing fee must be submitted via one of the below options and must be received no later than **3:00 p.m. on March 20, 2025**.

- **OLT E-FILE SERVICE** – An appeal can be filed online through the [E-File Portal](#) . First-time users will need to register for a My Ontario Account. Select [Ottawa (City): Committee of Adjustment] as the Approval Authority. To complete the appeal, fill in all the required fields and provide the filing fee by credit card.
- **BY EMAIL** - Appeal packages can be submitted by email to cofa@ottawa.ca. The appeal form is available on the OLT website at [Forms | Ontario Land Tribunal](#). Please indicate on the appeal form that payment will be made by credit card.
- **IN PERSON** – Appeal packages can be delivered to the Secretary-Treasurer, Committee of Adjustment, 101 CentrepoinTE Drive, 4th floor, Ottawa, Ontario, K2G 5K7. The appeal form is available on the OLT website at [Forms | Ontario Land Tribunal](#). In person 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.

Please note only one of the above options needs to be completed. If your preferred method of appeal is not available at the time of filing, the appeal must be filed with one of the other two options.

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.

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 you have any questions about the appeal process, please visit [File an Appeal | Ontario Land Tribunal](#)

NOTICE TO APPLICANT

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.

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APPENDIX A

1. That the Owner(s) enter into a Joint Use and Maintenance Agreement, at the expense of the Owner(s), setting forth the obligations between the Owner(s) and the proposed future owners with respect to the joint use and maintenance of all common elements including, but not limited to, the common walkways, the bicycle repair station, bicycle parking and common landscaping.

The Owner shall ensure that the Agreement is binding upon all unit owners and successors in title and shall be to the satisfaction of **Manager of Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate, or City Legal Services**. The Committee shall be provided written confirmation that the Agreement is satisfactory to the Manager of Development Review All Wards Branch 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 registered on title.

2. That the Owner(s) provide a servicing plan or other proof, to the satisfaction of the **Manager of Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate**, 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) may be required to obtain an Environmental Compliance Approval (ECA) from the Ministry of Environment, Conservation and Parks, the approval of the Committee to grant easement(s) for access and maintenance of the services, and/or to register on title, a Joint Use and Maintenance Agreement, between the Owners of the services, which shall be at their own costs.

3. The Owner(s) may be required to enter into a Development Agreement with the City, at the expense of the Owner(s), to cover these required items as well as all engineering, administrative and financial matters. The Committee shall be provided a copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title.
4. That the Owner(s) provide proof 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, delineating the existing and proposed grades for both the severed and retained lands has been provided to the satisfaction of the **Manager of Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate**.
5. 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.

5. 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 grant of easement/right-of-way for which the Consent is required.