

**DECISION
CONSENT/SEVERANCE**

Date of Decision: April 11, 2025
Panel: 2 - Suburban
File Nos.: D08-01-25/B-00024 & D08-01-25/B-00025
Application: Consent under section 53 of the *Planning Act*
Applicant: Place Lux II Inc.
Property Address: 1178 Cummings Avenue & 1098 Ogilvie Road
Ward: 11 - Beacon Hill-Cyrville
Legal Description: Part of Lots 26 and 27, Concession 2 (Ottawa Front) Geographic Township of Gloucester
Zoning: TD3 [2643] S418
Zoning By-law: 2008-250
Heard: April 1, 2025, 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 and establish easements as part of a two-phase residential development with the first phase under construction.

CONSENT REQUIRED

[2] The Applicant seeks the Committee’s consent to sever land and grant easements/rights of way.

[3] The property is shown as Parts 1 to 21 on a stratified Draft 4R-plan filed with the applications and the separate parcels and easements will be as follows:

Table 1 Proposed Parcels

| File No. | Part Nos. | Building Elements | Municipal Address |
|----------|----------------------|---|------------------------------|
| B-00024 | 1, 2, 7, 9, 13 to 21 | <ul style="list-style-type: none"> • Tower and lands • Driveway • Ramp to garage • Drive Aisle • Landscaping | 1178 Cummings Phase 1 |

| File No. | Part Nos. | Building Elements | Municipal Address |
|----------|---------------------|--|-----------------------------|
| B-00025 | 3 to 6, 8, 10 to 12 | <ul style="list-style-type: none"> • Driveway • Tower and Lands • Stairwell • Access to Stairwell • Landscaping | 1098 Ogilvie Phase 2 |

- [4] Easements/rights-of way are proposed over Phase 1 in favour of Phase 2 as follows:
- Over Parts 2, 7, 13 and 15 for vehicle and pedestrian access to that portion of the driveway, drive aisle and ramp to garage.
 - Over Part 9 for vehicle access to that portion of the driveway.
- [5] Easements/rights-of way are proposed over Phase 2 in favour of 'Phase 1' as follows:
- Over Parts 3 and 12 for vehicle and pedestrian access to that portion of the driveway.
 - Over Parts 5 and 6 for pedestrian access to the stairwell.
 - Over Part 10 for vehicle access to that portion of the driveway.
- [6] The applications indicate that the property is subject to existing easements as set out in instrument numbers OC2572702, OC2577421, OC2572704, CT224863, OC2572703 N440754, LT730132, NS11419 and NS3927.
- [7] The property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

Oral Submissions Summary

- [8] Joshua Moon, agent for the Applicant, was present and provided an overview of the applications. Responding to the Committee's questions, Mr. Moon clarified that the reason for the applications was to obtain independent financing for each phase and confirmed that both properties were considered one lot for Zoning By-law purposes.
- [9] City Planner Elizabeth King confirmed no concerns with the applications.
- [10] Danyka Simard and Robin Baizana, also acting as agents for the Applicant, were also present.
- [11] Following the public hearing, the Committee reserved its decision.

DECISION AND REASONS OF THE COMMITTEE: APPLICATIONS GRANTED

Applications Must Satisfy Statutory Tests

[12] 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

[13] 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, plans, parcel register abstracts, area certificate, tree information report, photo of the posted sign, and a sign posting declaration.
- City Planning Report received March 27, 2025, with no concerns.
- Rideau Valley Conservation Authority email dated March 26, 2025, with no objections.
- Hydro Ottawa email dated March 21, 2025, with comments.
- Hydro One email dated March 25, 2025, with comments.
- Ontario Ministry of Transportation email dated March 25, 2025, with no comments.
- R. Mohammad, resident, email dated March 20, 2025, with comments.

Effect of Submissions on Decision

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

[15] 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.

- [16] 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.
- [17] 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.
- [18] 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.
- [19] 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 ORDERS** that the applications are granted and the provisional consent is to be given, subject to the conditions set out in Appendix A to this decision.

"Fabian Poulin"
FABIAN POULIN
VICE-CHAIR

"Jay Baltz"
JAY BALTZ
MEMBER

"George Barrett"
GEORGE BARRETT
MEMBER

"Heather MacLean"
HEATHER MACLEAN
MEMBER

Absent
JULIANNE WRIGHT
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **April 11, 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 May 1, 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) 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), must obtain the approval of the Committee to grant easement(s) as required for access and maintenance of the services, 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 **Development Review All Wards Manager of the Development Review All Wards Branch within Planning, Development and Building Services Department, or their designate**.
3. 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 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 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.

4. That the Owner(s) provide evidence to the satisfaction of the **Chief Building Official, or designate**, that the party wall meets the Ontario Building Code, O Reg. 332/12 as amended, which requires a fire separation from the basement through to the underside of the roof. Verification from the Building Inspector is required. If necessary, a building permit shall be obtained from Building Code Services for any required alterations.
5. That the Owner(s) satisfy the requirements of Hydro Ottawa with respect to the provision of a Common Elements Agreement to provide each property with mutual access, maintenance and cost sharing responsibilities for the electrical supplies.
6. 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 severance and grant easements/rights-of way for which the Consent is required.