

DECISION CONSENT/SEVERANCE

Date of Decision	April 28, 2023
File No(s):	D08-01-23/B-00080 to D08-01-23/B-00082
Application:	Consent under Section 53 of the <i>Planning Act</i>
Owner(s)/Applicant(s):	Ethos Infill & Developments Inc.
Property Address:	153 Sanford Avenue
Ward:	16 - River
Legal Description:	Lot 40, Registered Plan 512
Zoning:	R3F
Zoning By-law:	2008-250
Hearing Date:	April 19, 2023

APPLICANTS' PROPOSAL AND PURPOSE OF THE APPLICATIONS

- [1] The Owner wants to subdivide their property into three separate parcels of land to construct three townhouse dwellings with secondary dwelling units. The existing detached dwelling is to be demolished.

CONSENT IS REQUIRED FOR THE FOLLOWING

- [2] The Owner requires the Consent of the Committee for Conveyances and Grants of Easements/Rights-of-Way. 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:

File No.	Frontage	Depth	Area	Part Nos.	Municipal Address
B-00080	3.66 m	22.86 m	274.9 sq. m	Parts 1 & 2	157 Sanford Ave.
B-00081	7.88 m	22.86 m	180.2 sq. m	Parts 3, 4 & 5	155 Sanford Ave.
B-00082	9.79 m	22.86 m	223.8 sq. m	Parts 6 & 7	153 Sanford Ave.

[3] It is proposed to establish easements/ rights-of-way as follows:

157 Sanford Avenue:

- Over Part 1 in favour of Parts 3 to 7 for pedestrian access.

155 Sanford Avenue:

- Over Parts 3 & 5 in favour of Parts 1 & 2 and Parts 6 & 7 for pedestrian access.

153 Sanford Avenue:

- Over Part 7 in favour of Parts 1 to 5 for pedestrian access.

[4] The applications indicate that the Property is not the subject of any other current application under the *Planning Act*.

PUBLIC HEARING

[5] The Panel Chair administered an oath to Rosaline Hill, Agent for the Applicant, who confirmed that the statutory notice posting requirements were satisfied.

Oral Submissions Summary

[6] Ms. Hill provided a slide presentation, a copy of which is on file with the Secretary-Treasurer and available from the Committee Coordinator upon request. Ms. Hill explained that the applications proposed to sever three fully complaint lots for the construction of three townhouses, with each townhouse containing one principal unit and two additional dwelling units, for a total of nine units. She indicated that the development could accommodate up to 36 bedrooms and that tenants would likely be Carleton University students.

[7] The Committee also heard oral submissions from the following individuals:

- Elizabeth Anderson, Carleton Heights & Area Residents' Association, noting concerns with the public notification process, the number of proposed dwelling units, the potential for the development to be operated as a rooming house, the potential for illegal on-street parking and related challenges with snow removal, and anticipated property standards issues.
- Elizabeth Costello, Carleton Heights & Area Residents' Association, noting the lack of available public transit in the area and concerns about illegal parking, as well as grading and drainage issues, which she had observed with other recent developments.
- Rick Palmer, 1360 Lexington Street, noting concerns about the compatibility of the proposal with existing development in the area, and the timeline for the construction of future transit stations and its impact related to parking in the interim.

- [8] City Planner Siobhan Kelly was also present and responded to the Committee's questions, explaining that, with the recent adoption of Bill 23, the *Planning Act* now allows two additional dwelling units per lot as of right. Ms. Kelly confirmed that the proposed development is fully zoning compliant, including as it relates to parking, the requirement for which is reduced due to the site's proximity to two planned transit stations.
- [9] In response to questions from the Committee, Ms. Kelly confirmed that the condition requested in the Planning Report requiring a Stormwater Management Brief had been revised to remove the reference to "stormwater events up to and including the 100 year storm event."

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 any 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, a cover letter, plans, and tree information
- City Planning Report received April 14, 2023, with no concerns
- City Planner Siobhan Kelly, email dated April 19, 2023, revising the wording of condition 2 (Stormwater Management Brief).
- Rideau Valley Conservation Authority email dated April 17, 2023, with no objections
- Hydro Ottawa email dated April 13, 2023, with no comments
- Elizabeth Anderson, President, Carleton Heights & Area Residents' Association, email dated April 17, 2023, requesting an adjournment

- Councillor Riley Brockington, email dated April 18, 2023, requesting an adjournment
- Janet Murray, email dated April 7, 2023, with concerns
- Victor Samuel, email dated April 19, 2023, with concerns

Effect of Submissions on Decision

- [12] The Committee considered all written and oral submissions relating to the application in making its decision and granted the applications.
- [13] The Committee notes that the City's Planning Report raises "no concerns" regarding the applications, highlight that "the severance application will create three lots for townhouse dwellings, a low rise-built form contemplated in the Outer Urban Transect and Carleton Heights Secondary Plan area." Moreover, the report indicates that, "as proposed, the lots exceed the minimum lot size requirements for townhouse dwellings in the R3F zone."
- [14] The Committee also notes that the concerns raised by area residents in their written and oral submissions relate primarily to the design and occupancy of the proposed development, as well as parking, and these considerations were central to the adjournment requests it received. However, the applicant has requested consent to create three zoning compliant lots, which the Committee must evaluate based only on the relevant statutory tests. Concerns related to the appropriateness of applicable zoning standards are beyond the Committee's purview, and any future construction proposal will be subject to a comprehensive zoning review conducted by City staff as part of the building permit application process.
- [15] 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.
- [16] 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 2022-280. Information regarding the appraisal process can be obtained by contacting the Planner.
2. That the Owner(s) submit a Stormwater Management Brief prepared by a Professional Civil Engineer licensed in the Province of Ontario, for approval by the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate, to be confirmed in writing from the Department to the Committee, demonstrating a design for post-development stormwater peak flows controlled to the satisfaction of the **Development Review Manager of the South Branch, or his/her designate**.

The Owner(s) acknowledges and agrees to enter into a Development Agreement with the City to construct the required stormwater system, including posting required securities. A copy of the Agreement and written confirmation from **City Legal Services** that it has been registered on title, shall be forwarded to the Committee of Adjustment.

If applicable, the Owner(s) shall obtain an Environmental Compliance Approval from the Ontario Ministry of Environment, Conservation and Parks. The Owner(s) acknowledges and agrees that should the stormwater management system cross property lines or access to the system be over multiple properties, that the owner shall obtain approval of the Committee to grant easement(s) for access and maintenance of the stormwater system or register a Joint Use and Maintenance Agreement on title of the properties, all at the owner(s) costs.

3. a) The Owners agree that the location of the proposed services and structures, including the driveways, retaining walls, projections, etc. shown on the Grading & Servicing Plan, will be determined based on the least impact to protected trees and tree cover as detailed in the Tree Information Report prepared by Dendron Forestry Services on January 17, 2023. The Owner(s) further acknowledges and agrees that this review may result in relocation of these structures and agrees to revise their plans accordingly to the satisfaction of the **Development Review Manager of the South Branch within the Planning, Real Estate and Economic Development Department, or his/her designate**.
- b) The Owner(s) agrees to provide proof to the satisfaction of the **Development Review Manager of the relevant Branch within the Planning, Real Estate and Economic Development Department, or his/her designate**, that the tree protection fencing around the Critical Root Zone of the protected tree is installed as shown in the Tree Information Report, prior to capping of services, to prevent any excavation within this zone. The sanitary and storm services, if present, must

be abandoned and capped outside of the Critical Root Zone of the City tree as clearly demonstrated on the Grading & Servicing Plan.

4. That the Owner(s) provide evidence (servicing plan), to the satisfaction of the **Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, to be confirmed in writing from the Department to the Committee, that both the severed and retained parcels have their own independent water, sanitary and sewer connection, as appropriate, and that these services do not cross the proposed severance line and are connected directly to City infrastructure. If they do cross the proposed severance line, or they are not independent, the Owner(s) will be required to relocate or construct new services from the city sewers and/or watermain at his/her own costs.

That the Owner(s) provide proof to the satisfaction of the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate, to be confirmed in writing from the Department to the Committee, that the existing dwelling has been removed, that the existing sewer services are capped at the sewer and that the existing water service is blanked at the watermain.

5. 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 the **General Manager of the Planning, Infrastructure and Economic Development Department, or his/her 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 the Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate.
6. That the Owner(s) provide evidence to the **Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, to be confirmed in writing from the Department to the Committee, that the existing structure straddling the proposed severance line has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law.
7. That the Owner(s) enter a Joint Use, Maintenance and Common Elements 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 **City Legal Services** and the **Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate**. The Committee requires written confirmation that the Agreement is satisfactory to Planning, Real Estate and Economic Development Department 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.

8. 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 the **Development Review Manager of the South Branch within Planning, Real Estate and Economic Development Department, or his/her designate**. 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 3 m corner sight triangle located at the intersection of Sanford Ave. and Morley Blvd. 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) 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.
11. 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


"Kathleen Willis"
KATHLEEN WILLIS
MEMBER

"Scott Hindle"
SCOTT HINDLE
MEMBER

"Colin White"
COLIN WHITE
MEMBER

Absent
JULIA MARKOVICH
MEMBER

I certify this is a true copy of the Decision of the Committee of Adjustment of the City of Ottawa, dated **April 28, 2023**.



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 **May 18, 2023**, 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 Planning, Real Estate and Economic Development 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
City of Ottawa
Ottawa.ca/CommitteeofAdjustment
cofa@ottawa.ca
613-580-2436



Comité de dérogation
Ville d'Ottawa
Ottawa.ca/Comitedederogation
cded@ottawa.ca
613-580-2436