

2023-06-19



**CONSENT APPLICATION
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
PANEL 2**

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 6950 Notre-Dame Street
Legal Description: Part of Lot 3 Concession 2 (Ottawa Front) former Geographic Township of Gloucester
File No.: D08-02-23B/00115 & D08-02-23B/00117
Report Date: June 16, 2023
Hearing Date: June 20, 2023
Official Plan Designation: Suburban (East) Transect, Neighbourhood, Evolving Neighbourhood Overlay
Zoning: R2N

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **has some concerns with** the application. Staff requested that the applicant provide additional information to assist in their understanding of the significant impacts to the grading, tree canopy, and trees on adjacent property resulting from the proposed development.

DISCUSSION AND RATIONALE

Section 53 (12) of the *Planning Act*, R.S.O. 1990, c .P.13, as amended, permits the criteria for the subdivision of land listed in Section 51 (24) to be considered when determining whether provisional consent may be granted by a committee of adjustment. The criteria under S. 51 (24) must be satisfied regardless of whether information about the subsequent development of that land is provided and/or whether the proposed development is fully compliant with all relevant provisions under the Zoning By-law. However, without relevant contextual information regarding the proposed development, staff cannot undertake a fulsome review of the application against the above criteria, including the requirement that the proposed consent has regard to an official plan.

Staff have significant concerns that the application for consent to sever the lot, to support development of a long semi-detached dwelling containing 6 dwelling units and a 4-car parking lot in the rear yard, does not align with Official Plan policies related to retention of the urban forest canopy and providing adequate soil volume for necessary replacement tree planting. Given that staff require additional information related to proposed site alteration, grading, and tree retention, staff are unable to determine whether the criteria under Section 51 (24) of the *Act* are satisfied.

ADDITIONAL COMMENTS

The proposed consent will permit the lot to be severed in a flag lot configuration for the construction of a long semi-detached dwelling. Per Section 145 (3) of the Zoning By-law, the lands on which a long semi-detached dwelling severed in a flag lot configuration are considered one lot for zoning purposes. No minor variances are required to permit parking for the front lot to be located on the rear/flag lot.

The property is in Area C of Schedule 1A to the Zoning By-law. Per Section 101, Table 101 of the by-law, the minimum parking requirement for a semi-detached dwelling in Area C is one parking space per principal dwelling unit. A long semi-detached dwelling in the R2N zone is permitted one principal dwelling unit per each half of the semi-detached dwelling; therefore, the minimum requirement for the proposed development is two parking spaces. Changes to the *Planning Act* via Bill 23, the *More Homes Built Faster Act, 2022*, permit up to three units as of right on any serviced parcel of land in an urban area. Although no additional parking is required for additional dwelling units, neither the *Planning Act* nor Zoning By-law prohibit parking spaces for additional dwelling units. The application proposes a total of four parking spaces for two principal and four additional dwelling units. A **parking lot** is defined under Section 54 of the Zoning By-law as a lot or place for the parking of four or more motor vehicles; therefore, the four parking spaces are considered a parking lot under the by-law.

The initial site plan submitted with the application indicated minimal soft landscaping along the westerly boundary of the parking lot and proposed a 6.73 metre drive aisle to access the 90-degree angled parking in the rear yard, and a 0.30 metre soft landscaped buffer between the parking spaces and the westerly lot line. The Tree Information Report (TIR) submitted with the initial application proposed a 6.17 metre drive aisle and a 1.01 metre soft landscaped buffer. In previous correspondence with the applicant and in the staff report submitted for the June 6, 2023 hearing, staff requested that the site plan and draft reference plan be revised to reflect the 6.17 metre drive aisle shown in the TIR, but additionally recommended that the drive aisle be further reduced to the 6 metres, which is the minimum requirement under Section 107 (1)(c)(ii) for a drive aisle serving 90-degree angled parking in a parking lot accessory to a residential use. The applicant has since revised the TIR to reflect the larger 6.73 metre drive aisle. It should be noted that increasing the setback between the parking lot and the westerly lot line could decrease the risk of impacting adjacent trees.

Although the revised site plan and corresponding Tree Information Report show a development that is fully compliant with the Zoning By-law with respect to parking space and parking lot provisions, including minimum drive aisle and minimum landscaping requirements, staff require additional information regarding tree retention and proposed grade changes, if any, to determine whether the development is able to satisfy the *Planning Act* criteria applicable to consent applications. Staff echo the Planning Forestry concerns about the proposed development's significant impact to the existing and future tree canopy being contrary to Official Plan policy, and the lack of information about the proposed grade changes required to facilitate the new development.

Infrastructure Engineering

Servicing easements may be required in addition to the access easement.

Staff request that the applicant provide a grading plan given the concern regarding the potential impact of grade changes on the protected boundary tree.

Although the Geotechnical report and a slope stability report have been completed, a related condition has been imposed as the plans appear to have changed from the original concept plan provided with the previous consent and minor variance applications D08-01-20/B-00018 and D08-02-20/A-00017, heard by Panel 2 of the Committee of Adjustment on February 19, 2020.

Planning Forestry

The rear half of the site is fully treed. The proposed development impacts all of the existing trees on site and subsequently has a significant impact to the urban tree canopy. Policy 4.8.2 (3) of the Official Plan requires that planning and development decisions, including Committee of Adjustment Decisions, shall address the cumulative impacts to the urban canopy cover. This plan provides neither the ability to retain existing trees nor plant replacement trees per the requirements of the Tree-Protection By-law. The development will also impact and may require the removal of trees on adjacent properties due to the design and location of the proposed parking lot.

The Tree Information Report (TIR) must be updated to account for proposed grading and should include all adjacent trees impacted by the development, including those under 50 centimetres in diameter, to plan appropriately for their retentions and to avoid potential civil action.

Of the three on-site trees that are protected by the By-law, two are proposed for removal due to conflicts with the proposed building envelope. One tree on an adjacent property is proposed to be protected, though with any re-grading of the site it is unlikely that this will be possible. Given the notable existing topography of the site, it is anticipated that development will involve a significant amount of re-grading. Without an accompanying grading plan, Forestry cannot accurately comment on the ability to retain the adjacent protected tree and/or other possible off-site tree impacts. Further detail in terms of proposed grading is required in the TIR with respect to retention of Tree 2, as well as any boundary/adjacent trees including those on the abutting City-owned lands to the south, to ensure that the plan is designed to allow for safe retention and long-term survival. No tree removal permit can be issued without the permission of the adjacent owner; while no permits are required for boundary/adjacent trees less than 50 centimetres in diameter, the plans must account for them and all owners must be made aware of impacts to their property.

With the plan as proposed, six new 50-millimetre trees are required as compensation planting. The planting plan submitted with the application shows that the site plan provides space for only two of the required trees. The site plan must provide adequate

space and soil volume for the compensation trees to be planted, including meeting the landscaping provisions for the parking lot and consideration of all options to increase the amount of soft landscaped area, such as the reduction or relocation of proposed parking spaces.

Section 4.8.2 of the Official Plan provides strong direction to maintain the urban forest canopy and its ecosystem services during intensification, noting that when considering the impacts on individual trees, planning and development decisions, including Committee of Adjustment decisions, shall give priority to the retention and protection of large, healthy trees over replacement plantings and compensation. Applications must address the cumulative impacts on the urban forest, over time and space, and should contribute to the City-wide target of a 40% urban forest canopy cover. Further, the policy states that the City and the Committee of Adjustment may refuse a development application where it deems the loss of a tree(s) avoidable or where an application fails to provide adequate soil volume for existing and/or new trees.

Based on the above, Planning Forestry staff have concerns that the proposed consent application and the subsequent development resulting from a successful consent application does not have consideration for the Official Plan and therefore does not satisfy the criteria under Section 51 (24) of the *Planning Act*. Should the application be approved, the recommended conditions will allow time for the provision of additional information and design modifications to meet the Official Plan policies.

Right of Way

The Right-of-Way Management Department has **no concerns** with the consent application. However, the applicant has been made aware that a Private Approach Permit is required to establish a driveway/private approach on the severed lot.

Transportation Engineering

The plans provided do not provide sufficient detail regarding the proposed driveways to compare against the Private Approach By-Law. Please ensure that the edge of the driveway is at least 0.3 metres from the adjacent property line.

CONDITIONS

If approved, the Planning, Real Estate and Economic Development Department requests that the Committee of Adjustment impose the following conditions on the application:

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(s) provide a combined Grading & Drainage Plan and Site Servicing Plan including, where applicable, the tree locations and protection recommendations from the approved Tree Information Report to the satisfaction

of the **Manager of the East Branch within the Planning, Real Estate, and Economic Development, or his/her designate**, the plans can be shown on one sheet or multiple sheets, but must include the following information:

- a. The Grading and Drainage Plan must be prepared by a qualified professional: Professional Engineer (P.Eng.), Certified Engineering Technologist (CET), Ontario Land Surveyor (OLS), Professional Landscape Architect (OLA), or Professional Architect (OAA) and adhere to the following:
 - i. Minimum Grading and Servicing Plan Specifications Infill Serviced Lots; and
 - ii. City of Ottawa Standard Drawings, By-laws, and Guidelines, as amended.
 - b. The Site Servicing Plan must be prepared by a qualified professional: Professional Engineer (P.Eng.), Certified Engineering Technologist (CET), or Ontario Land Surveyor (OLS) and adhere to the requirements as noted for the Grading & Drainage Plan.
 - c. In the case of a vacant parcel being created, the plan(s) must show a conceptual building envelope to establish that the lot can be graded to a sufficient and legal outlet, has access to services with adequate capacity, and follows the recommendations of the Tree Information Report.
 - d. The following information from the Tree Information Report (TIR) must be included on both the Grading and Servicing Plans to ensure that these elements are designed to follow the recommendations within the TIR:
 - i. Surveyed locations of all protected trees on and adjacent to the subject site;
 - ii. Location of tree protection fencing;
 - iii. Measurements from the tree(s) trunks to nearest limit of excavation or grade changes;
 - iv. Any notes related to excavation or grade changes within the Critical Root Zone, as recommended in the TIR (e.g., use of hydrovac, directional boring, or capping of services outside of the Critical Root Zone); and
 - v. Proposed planting locations from the associated Tree Planting Plan, if provided.
3. 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 the **Manager of the East Branch within the Planning, Real Estate and Economic Development Department, or his/her designate**, and City Legal Services. The Committee requires written confirmation that the Agreement is satisfactory to the Manager of the East Branch within Planning, Real Estate and Economic Development Department, or his/her designate, and is satisfactory to 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.

4. That the Owner(s) enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction of the **Manager of the East Branch within the Planning, Real Estate and Economic Development Department, or his/her designate**, to require that an asphalt overlay will be installed, at the Owner(s) expense, on Notre Dame Street, fronting the subject lands, over the entire public driving surface area within the limits of the overlay, if the approved Site Servicing Plan shows three or more cuts within the pavement surface. The overlay must be carried out to the satisfaction of the **Manager of the East Branch within the 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.

If the **Manager of the East Branch within Planning, Real Estate and Economic Development Department, or his/her designate**, determines that a Development Agreement requiring an asphalt overlay is no longer necessary, this condition shall be deemed as fulfilled.

5. That the Owner provide a Geotechnical Report prepared by a Professional Civil Engineer licensed in the Province of Ontario, that is satisfactory to both the **Manager of the East Branch within the Planning, Real Estate and Economic Development Department (PREDD), or his/her designate**, and the **Conservation Authority** and to be confirmed in writing from the PREDD and the Authority to the Committee, demonstrating the following:
 - a. That all parcels to be created by this application are or can be made suitable for residential purposes (slope stability, erosion protection, and building limits adjacent to slopes); and
 - b. That there are no adverse environmental impacts.

The Geotechnical Report shall, as a minimum, determine the limit of organic soils/karst topography/sensitive marine clays present on the severed parcel and

provide recommendations for construction methods based on the soil types encountered.

6. That the Owner provide a Slope Stability Report prepared by a Professional Geotechnical Engineer currently licensed in the Province of Ontario, that is satisfactory to the **Development Review Manager of the East Branch within Planning, Real Estate and Economic Development Department (PREDD), or his/her designate** and to the **Conservation Authority** to be confirmed in writing from PREDD and the Authority to the Committee, demonstrating that all parcels to be created by this application are, or can be made, suitable for residential purposes.
7. That the Owner(s) enter into an Infrastructure Agreement with the City of Ottawa to extend the municipal services on Notre Dame Street at his/her own costs and post the necessary securities for the work on the City Right-of-Way to the satisfaction of the City's **Planning, Real Estate and Economic Development Department's Infrastructural Approvals Branch** and to the satisfaction of City Legal Services. The Owner(s) must also receive the approval of the Ontario Ministry of the Environment Conservation and Parks for the extension of the municipal services. 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) agree to provide a revised site and grading plan with the driveways, services, retaining walls, and grading situated to reduce any excavation within the Critical Root Zones of protected trees to allow for their safe retention, and to provide sufficient soil volume to plant new trees, 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**. The Tree Information Report must be revised to reflect these changes, to provide detailed mitigation strategies, and to show the accurate tree protection areas.
9. That the Owner/Applicant(s) shall provide a signed letter of permission from the owner of identified adjacent or boundary tree(s), for the proposed removal or operations impacting the tree(s). The applicant acknowledges that a tree removal permit cannot be issued without the permission of all owners of a tree, and that the development plan must be revised to allow for the retention and protection of the adjacent or boundary trees if this letter cannot be produced.
10. That the Owner/Applicant(s) shall prepare and submit a tree planting plan, prepared 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**, showing the location(s) of the specified number of compensation trees (50-millimetre caliper) required under the Tree Protection By-law, assuming that all proposed tree removals are permitted.
11. That the Owner(s) provide evidence to the satisfaction of the **Chief Building Official, or designate**, that both parcels have their own independent water,

sanitary and storm connection and shall comply with 7.1.5.4.(1) of the Ontario Building Code, O. Reg. 332/12 as amended.

12. That the Owner(s) enter into a Limiting Distance Agreement at the expense of the Owner(s), where the limiting distance for the exposing easterly building face of the property known municipally as 6946 Notre Dame St (Parts 1 & 2) shall be measured from the easterly property line of property known municipally as 6948 Notre Dame St (Parts 3, 4, 5, 6, 7 & 8).

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 **the Chief Building Official, or his/her designate, and City Legal Services**. The Committee requires written confirmation that the Agreement is satisfactory to the **Chief Building Official, or his/her designate**, and is satisfactory to **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.



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