

2023-07-28



**CONSENT & MINOR VARIANCE APPLICATION
COMMENTS TO THE COMMITTEE OF ADJUSTMENT
PANEL 1**

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 470 Mutual Avenue
Legal Description: Lot 131 and Part of Lot 130, Registered Plan 300
File No.: D08-01-23/B-00169, B-00170 & B-00173
D08-02-23/A-00154, A-00155 & A-00159
Report Date: July 27, 2023
Hearing Date: August 2, 2023
Planner: Margot Linker
Official Plan Designation: Inner Urban Transect, Neighbourhood, Evolving
Neighbourhood Overlay
Zoning: R3A (Residential Third Density, Subzone A)

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **has some concerns with** the application.

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. With respect to the criteria listed in Section 51 (24), staff have no concerns with the proposed consent to accommodate the three-unit townhouse.

Staff have reviewed the subject minor variance application against the “four tests” as outlined in Section 45 (1) of the *Planning Act*, R.S.O. 1990 c. P.13, as amended.

The subject site is located within the Inner Urban Transect Policy Area and designated Neighbourhood within the Evolving Neighbourhood Overlay. The Inner Urban Transect is generally planned for mid- to high-density development, with residential intensification focused in areas including Neighbourhood designations that are adjacent to Corridors as shown on Schedule B2. Form-based regulation, such as requirements for articulation, setbacks, and landscaped areas, in neighbourhoods will have regard for local context and character of existing development and appropriate interfaces with the public realm.

The site is within the R3A (Residential Third Density, Subzone A) zone, which allows a mix of residential building forms ranging from detached to townhouse dwellings and aims to regulate development in a manner that is compatible with existing land use patterns to maintain or enhance the mixed dwelling residential character of the neighbourhood.

Staff have some concerns with the requested reduction in front yard soft landscaping for Part 1 and Part 3&4. On these lots, there are two areas of soft landscaping: one on either side of the driveway. However, only one area of the provided soft landscaping can be included in the calculation for each lot as the Zoning By-law specifies that the required amount be aggregated to accommodate future tree planting. The large overall soft landscaping coverage on each lot will provide on-site infiltration in the front yard. However, since this area is not aggregated, staff have some concerns regarding the available soil volume for future tree planting and survival. Staff encourage the applicant to pair the driveways of unit 2 and 3 to create a larger aggregate landscape area on the east side of unit 3. Doing so will allow an additional tree to be planted along the street line while likely eliminating the need for a landscaped area variance for unit 3.

Staff have no concerns with the proposed setback of the garage from the principal entrance for all three lots. This provision is intended to ensure that the front door is more dominant than the garage by having it located closer to the street. Staff recognize that the proposed design includes a porch and façade treatments that project into the required front yard as well as second-storey balconies and large amounts of glazing to emphasize the living space, which reduces the visual impact of the permitted attached garage.

Staff have no concerns with the requested reduced lot width and driveway on an undersized lot width for Part 2. Lot widths are prescribed for this use to ensure elements such as soft landscaping, appropriate interior side yard setbacks, and driveways can be adequately accommodated on the site. When there isn't sufficient lot width, elements such as soft landscaping should be considered before driveways are introduced. The subject lot exceeds the minimum front yard soft landscaping requirements, and complies with the Private Approach By-law by occupying less than 50% of the lot frontage.

ADDITIONAL COMMENTS

Infrastructure Engineering

1. The **Planning, Real Estate and Economic Development Department** will do a complete review of grading and servicing during the building permit process.
2. Any proposed works to be located within the road allowance requires prior written approval from the Infrastructure Services Department.
3. The surface storm water runoff including the roof water must be self-contained and directed to the City Right-of-Way, not onto abutting private properties as approved by **Planning, Real Estate and Economic Development Department**.
4. Existing grading and drainage patterns must not be altered.

5. Existing services are to be blanked at the owner's expense.
6. Asphalt overlay would be required if three or more road-cuts proposed on City Right of way. This includes the road cut for blanking of existing services, and any other required utility cuts (ie, gas, hydro, etc.).
7. Provide a minimum of 1.5m between the proposed driveway and the utility pole.
8. Service lateral spacing shall be as specified in City of Ottawa Standard S11.3.

Planning Forestry

The Tree Information Report notes that there are no trees on the property impacted by the proposed development. There is one spruce in the rear yard of an adjacent property which must be protected throughout construction. If the existing hedges are jointly-owned, permission is required from all owners prior to removal. The City's strong preference is to plant one new large-growing tree per lot, within the Right of Way, where space allows. Forestry does not support the requested reduced landscape area for lots 1 and 3, as it appears that alternative driveway arrangements which would provide appropriate aggregated space for at least 2 new large trees in the Right of Way would be possible.

Right of Way Management

The Right-of-Way Management Department has **no concerns** with the proposed Minor Variance Application or the proposed Consent Application. However, the owner shall be made aware that a private approach permit is required to establish a driveway/private approach for each of the newly created units.

CONDITIONS

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

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. The owners agree to provide a revised site and/or grading plan with the driveways, services, retaining walls, and grading situated to provide sufficient soil volume to plant new medium or large-growing trees in the ROW, 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.
3. 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 of one new 50mm tree to be planted on each lot

following construction, with a minimum of 2 in the property frontage or right-of-way, to enhance the urban tree canopy and streetscape.

4. That the Owner(s) provide proof to the satisfaction of the **Development Review Manager of the Central 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/building has been removed.
5. That the Owner(s) provide evidence to the satisfaction of the **Development Review Manager of the Central 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 accessory structure has been demolished in accordance with the demolition permit or relocated in conformity with the Zoning By-law.
6. 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 **Development Review Manager of the Central Branch within Planning, Real Estate 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 Select Branch within Planning, Real Estate and Economic Development Department, or his/her designate**.
7. That the Owner(s) provide a servicing plan or other evidence, to the satisfaction of the **Development Review Manager of the Central 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 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.
8. 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 **Development Review Manager of the Central Branch within 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 Mutual 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 **Development Review Manager of the Central 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.

If the **Development Review Manager of the Central 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.

9. That the Owner(s) enter into a Joint Use, Maintenance and Operating 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 **Development Review Manager of the Central Branch within 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 **Development Review Manager of the Central 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.

10. The Owner(s) shall prepare a noise attenuation study (*or noise and vibration attenuation study if applicable*) in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the **General Manager, Planning, Infrastructure and Economic Development Department, or his/her designate**. The Owner(s) shall enter into an agreement with the City that requires the Owner to implement any noise control (*and vibration if applicable*) attenuation measures recommended in the approved study. The Agreement will also deal with any covenants/notices recommended in the approved study, that shall be registered on the land title and bind future owners on subsequent transfers, warning purchasers and/or tenants of expected noise levels due to the existing source of environmental noise (within 100m of Transit Priority Corridor on McArthur Ave, and within 100m of stationary noise sources (car dealerships) located at 435 McArthur Ave and 440 McArthur Ave.) The Agreement shall be to the satisfaction of the **General Manager, Planning, Infrastructure 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.

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