

2023-09-15



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

PLANNING, REAL ESTATE AND ECONOMIC DEVELOPMENT DEPARTMENT

Site Address: 884 Byron Avenue
Legal Description: Part of Lots 33 and 34, Registered Plan 317
File No.: D08-01-23/B-00126 to D08-01-23/B-00129
Report Date: September 14, 2023
Hearing Date: September 19, 2023
Planner: Solé Soyak
Official Plan Designation: Inner Urban, Neighbourhood, Evolving Neighbourhood Overlay
Zoning: R4UB[2493]

DEPARTMENT COMMENTS

The Planning, Real Estate and Economic Development Department **requests an adjournment of** the applications to give the Applicant time to address Forestry concerns related to the retention of the black walnut tree (tree number 5).

DISCUSSION AND RATIONALE

The Official Plan designates the site as Neighbourhood within the Inner Urban Transect and within the Evolving Neighbourhood Overlay. Development in the Inner Urban Transect will be characterized by low-rise built forms within the Neighbourhood designation and will permit multi-unit dwellings near frequent street transit routes; furthermore, the Neighbourhood designation intends to allow a mix of building forms and densities and encourage more diverse housing forms that will be compatible with the existing built form context of the neighbourhood.

The Official Plan provides strong direction regarding achieving an urban forestry canopy with a target of 40 percent. Section 4.8.2 Policy 3 directs development to maintain the urban forest canopy and its ecosystem services. Furthermore, the Official Plan states that applications before the Committee of Adjustment shall consider the short and long-term and cumulative impacts of development on the urban forest at the neighbourhood and urban-wide scale and prioritize retaining and protecting large, healthy trees over replacement. Although Section 4.8.2, Policy 6 states that a tree permit would not be

denied for development that conforms with the Zoning By-law or for Zoning By-law amendments, variances and consents that conform to the Official Plan. The Committee has the power to refuse an application where the proposal fails to provide sufficient soil for the retention or planting of new trees or when the loss of a tree is considered avoidable.

Forestry raised significant concerns with the proposed design of 880-882 Byron through the Building Permit application, requesting redesign prior to the severance application to account for the retention of tree number five, a significant healthy tree which is privately-owned but outside of the allowable footprint; no revised plans have been received. The site plan does not match the TIR in terms of trees to be retained, and further detail on servicing is needed to assess which trees can be retained. While the severance itself will have no direct impact on trees, the layout of the site and severance lines may.

The Department requests an adjournment to allow the applicant time to explore options for the retention of tree number five, as Planning Forestry is of the opinion that the loss of tree number five is avoidable and prepare plans which adhere both to the Tree Protection By-law and the direction of the Official Plan to both allow for intensification and to retain existing trees.

ADDITIONAL COMMENTS

Right of Way Management

The Right-of-Way Management Department has **no concerns** with the proposed Consent Applications. However, the Owner shall be made aware that a private approach permit is required to construct each of the newly created driveways/approaches.

Transportation Engineering

The site is located within 300m of the O-Train Line 1 / Line 3 rail corridor. The City of Ottawa will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way.

CONDITIONS

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

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 explore opportunities for the protection of tree number five as identified in the Tree Information Report. The Owner(s) further acknowledges and agrees to provide plans or drawings that demonstrate the options considered and that this review may result in changes to the design and locations of proposed elements (services, retaining walls, terraces, parking, etc.) The Owner(s) agrees to revise their plans accordingly to the satisfaction of **Allison Hamlin of the West Branch within Planning, Infrastructure and Economic Development Department, or his/her designate**. The Tree Information Report must be revised to reflect changes to the site plan and to show the accurate tree protection areas and mitigation measures.
3. The Owner/Applicant(s) shall prepare and submit a tree planting plan, prepared to the satisfaction of **Allison Hamlin of the West Branch within Planning, Infrastructure and Economic Development Department, or his/her designate**, showing the location(s) of the specified number of compensation trees (50mm caliper) required under the Tree Protection By-law, assuming that all proposed tree removals are permitted.
4. That the Owner(s) provide evidence (servicing plan), to the satisfaction of **Allison Hamlin of the West Branch within Planning, Infrastructure 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.
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 **Allison Hamlin of the West Branch within 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 **Allison Hamlin of the West Branch within Planning, Infrastructure and Economic Development Department, or his/her designate**.
6. That the Owner(s) enter into 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 **Allison Hamlin of the West Branch within Planning, Infrastructure and Economic Development Department, or his/her designate, and City Legal Services**. The Committee requires written confirmation that the Agreement is satisfactory of **Allison Hamlin of the West Branch within Planning, Infrastructure 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.

7. That the Owner(s) enter into a Development Agreement with the City, at the expense of the Owner(s) and to the satisfaction of **Allison Hamlin of the West Branch within Planning, Infrastructure and Economic Development Department, or his/her designate**, to require that an asphalt overlay will be installed, at the Owner(s) expense, on Edgeworth Ave, fronting the subject lands, over the entire public driving surface area within the limits of the overlay, as shown on the approved Site Grading and Servicing Plan. The overlay must be carried out to the satisfaction of **Allison Hamlin of the West Branch within 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.
8. That the Owner(s) enter into an Agreement with the City, at the expense of the Owner(s), which is to be registered on the Title of the property, to deal with the following covenant/notice that shall run with the land and bind future owners on subsequent transfers:

“The property is located next to lands that have an active railway line now, or may have one in the future, and may therefore be subjected to noise, vibration, and other activities associated with this use.”

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 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;

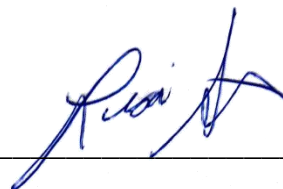
“The property is located next to lands that have an existing source of environmental noise (arterial road), and may therefore be subject to noise and other activities associated with that use.”

The Agreement shall be to the satisfaction of **Allison Hamlin of the West Branch within 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.

10. The Owner(s) shall prepare a noise and vibration attenuation study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of **Allison Hamlin of the West Branch within 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 attenuation measures recommended in the approved study. 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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