

Subject: Ontario Land Tribunal Settlement – 1047 Richmond Road

File Number: ACS2023-PRE-PS-00136

Report to Planning and Housing Committee on 15 November 2023

and Council 22 November 2023

**Submitted on November 10, 2023 by Derrick Moodie, Director, Planning Services,
Planning, Real Estate and Economic Development**

Contact Person: Lisa Stern, Planner, Development Review West

613-580-2424 ext.21108, lisa.stern@ottawa.ca

Ward: Bay (7)

**Objet: Règlement du Tribunal ontarien de d'aménagement du territoire –
1047, chemin Richmond**

Dossier: ACS2023-PRE-PS-00136

Rapport au Comité de la planification et du logement

le 15 novembre 2023

et au Conseil le 22 novembre 2023

**Soumis le 10 novembre 2023 par Derrick Moodie, Directeur, Services de la
planification, Direction générale de la planification, des biens immobiliers et du
développement économique**

**Personne ressource: Lisa Stern, urbaniste, Examen des demandes
d'aménagement ouest**

613-580-2424 ext.21108, lisa.stern@ottawa.ca

Quartier: Baie (7)

REPORT RECOMMENDATIONS

1. That Planning and Housing Committee recommend Council endorse a position before the Ontario Land Tribunal to support an amendment to the Official Plan in respect of 1047 Richmond Road in accordance with Documents 2 and 3 and an amendment to the zoning by-law in respect of 1047 Richmond Road in accordance with Documents 1 and 4.
2. That Planning and Housing Committee recommend to Council that Council's endorsement of the Official Plan Amendment and Zoning Amendment be conditional upon the applicant executing an agreement, to the satisfaction of the City Solicitor that provides for 15 affordable housing units in each tower for 15 years as described in this report.

RECOMMANDATIONS DU RAPPORT

1. Que le Comité de la planification et du logement recommande au Conseil d'appuyer devant le Tribunal ontarien de l'aménagement du territoire la position visant à soutenir une modification du Plan officiel, conformément aux documents 2 et 3, et une modification du *Règlement de zonage*, conformément aux documents 1 et 5, relativement au 1047, chemin Richmond.
2. Que le Comité de la planification et du logement recommande au Conseil que son appui à la modification du Plan officiel et à la modification du *Règlement de zonage* soit conditionnel à la signature par le requérant d'un accord, à la satisfaction de l'avocat général, qui l'engagera à fournir 15 logements abordables dans chaque tour pendant 15 ans, comme il est décrit dans le présent rapport.

BACKGROUND

Site location

1047 Richmond Road

Owner

Fengate Development Holdings LP

Applicant

Fotenn Planning & Design

Architect

ISI Group Architects (Canada) Inc.

Description of site and surroundings

The subject site is located at the northeast corner of Richmond Road and New Orchard Avenue North. The irregular-shaped corner lot has an area of 10,188 square metres. Currently, the site is occupied by a single-storey commercial building with surface parking.

The Richmond Road corridor includes a variety of commercial, residential, retail, and institutional uses. Abutting the property to the north is a single-storey, mid-rise, residential care facility. To the east of the property are a 28-storey residential building and low-rise commercial buildings containing a drive-thru restaurant, car wash, and automotive dealerships. Directly to the west is a single-storey commercial building and a mix of low-rise and high-rise residential buildings. Low-rise residential properties are located to the south, across Richmond Road.

The Phase 2 of the O-Train light rail transit system is currently under construction and the future New Orchard LRT Station on the expanded Confederation Line is located 100 metres from the site. The tracks will be located below-grade within the Richmond Street right-of-way. The site is also well served by active transportation linkages within the NCC's Capital Pathway Network, located in the federal open space to the north.

Summary of proposed development and application history

The applicant submitted the Official Plan and Zoning By-law amendment applications on February 4, 2022 to develop three high-rise mixed-use buildings consisting of 1,343 residential units and 1,347 square metres of commercial space. The buildings proposed were 36, 38, and 40-storeys high with a six-storey podium, and a Floor Space Index (FSI) of approximately 8.4 based on gross site area. A plan of the original development can be found in Document 5.

The proposal was circulated for comment by City staff, technical agencies and the public between February 22 and March 22, 2022. The proposal was reviewed by the Urban Design Review Panel (UDRP) on April 1, 2022. Staff provided ten pages of review comments on April 7, 2022 and the UDRP recommendations on May 16, 2022. No further correspondence occurred, and the applicant did not take any actions on the City's feedback. An appeal to the Ontario Land Tribunal (OLT) was filed on July 28, 2022 citing non-decision by Council within the prescribed time.

Subsequently, staff made the recommendation to Planning Committee and Council that the proposed development did not comply with the intent of the compatibility and design policies of the Official Plan nor did the proposal satisfy the vision of the Sherbourne New Orchard Secondary Plan, with respect to requested density, setbacks and impacts to the public realm. In light of this, the department, therefore, recommended that the Official Plan and Zoning By-law amendment applications be refused. On October 27, 2022, and November 9, 2022, the proposal was considered by Planning Committee and City Council respectively. On both occasions Planning Committee and Council agreed with the recommendations of staff and refused the amendments.

In October 2023, after several iterations which did not have staff support, the applicant provided a proposal which staff have found to be appropriate development for the site, considering Official Plan policy and the direction of urban design guidelines. The revised proposal consists of two towers of 38 and 40-storeys height atop a low-rise podiums with 1006 units and 1200 square metres of commercial space. The proposal has an FSI of 5.45 based on gross site area. A 1012 square metre public park will also be provided. A plan of the revised proposal can be found in Document 6.

Summary of Building Changes from Original Proposal:

- Removal of one of three proposed buildings, resulting in;
- two towers of 40 storeys (closest to the New Orchard LRT Station) and 38 storeys (in the eastern part of the site).
- Reduction in tower floorplate from approximately 800 square metres to 750 square metres
- Reduction in podium height from six storeys to three storeys plus mezzanine.
- Increase in setback to Richmond Road from 1.5 metres to 5 metres.
- Increase in setback to New Orchard Street from 3.2 metres to 5 metres.
- The provision of a publicly accessible private open space fronting Richmond Road.
- Elimination of direct vehicular access to Richmond Road.

Official Plan and Zoning By-law Amendments

Schedule C – Density Redistribution of the Sherbourne and New Orchard Area Secondary Plan within Volume 2A of the Official Plan permits a maximum height of 20 storeys. An amendment to this policy is proposed to permit heights up to 40 storeys on the subject site.

The subject site is zoned Traditional Mainstreet, subject to Urban Exception 2494 and with a maximum building height of 25 metres (TM[2494] H(25)). The requested Zoning By-law amendments are with respect to performance standards; the land use is otherwise permitted.

DISCUSSION

Official Plan designation(s)

The subject site is located within the Inner Urban Transect, along a Mainstreet Corridor. The Inner Urban Transect is generally planned for mid- to high-density development, subject to contextual factors such as proximity to LRT. Heights along Mainstreet corridors are anticipated to be up to 40 storeys provided that the site of sufficient size to accommodate an appropriate built form transition. Limits on building heights and massing, their underlying functional design, and the separation of tower elements are to be established through secondary plans.

Sherbourne and New Orchard Area Secondary Plan

The Sherbourne and New Orchard Secondary Plan provides the strategic planning direction to guide future development and redevelopment of lands close to the Sherbourne and New Orchard LRT stations.

The policies envisage that the area will continue to evolve into an attractive and liveable urban community, with prominent green space components as well as a wide mix of uses including a range of housing types and excellent transit service. The policies direct intensification to be compatible and complement adjacent neighbourhoods, with an emphasis on “human-scale” pedestrian interaction to foster and support the Sherbourne and New Orchard LRT stations and the built environment that leads to the stations.

The subject site is designated Station Area by the Area Site-Specific Policies within Schedule A – Planning Area and Land Use. Sherbourne and New Orchard are neighbourhood stations located in established neighbourhoods. They are not key transfer stations.

Within Schedule B – Public Realm, the site is the conceptual location for a future Urban Park. Section 6, Policy 3 calls for the public plaza spaces at this location to provide multi-functional public spaces with hard surface treatments, landscaping and seating areas. New Orchard Avenue North is shown as a Greenstreet, which is to provide canopy trees lining the street, and active frontages are required along the site’s road frontages. Redevelopment of under-utilized land within this area is encouraged in a way

that integrates the existing tower into proposed redevelopments and complements the adjacent urban fabric.

The site is shown as being appropriate for density redistribution on Schedule C – Density Redistribution, provided conditions within Section 4, Policy 6 are met, but to a maximum height of 20 storeys. The proposal does not comply with this policy.

Other applicable policies and guidelines

The Urban Design Guidelines for Transit Oriented Development apply to all development within a 600-metre walking distance of a transit station (New Orchard Transit Station). These guidelines state that people are more likely to choose transit if they can easily walk between destinations at the beginning and end of their trip. This can be achieved through providing increased densities, mixed-uses and pedestrian-oriented design within easy walking distances of high-quality transit. The guidelines speak to land use, site layout, built form, pedestrians and cyclists, vehicles and parking, and streetscape and the environment.

Also applicable to the site are the Urban Design Guidelines for High-Rise Buildings. Particularly relevant to the proposal are the guidelines specific to building orientation, human-scale, building mass, active at-grade uses, public realm, tower separation and floor-plate size.

Planning rationale

Staff is satisfied that the request to increase heights and densities beyond what was anticipated in the Sherbourne New Orchard Secondary Plan is appropriate and meets the objectives of the Secondary Plan and the policies of the underlying Mainstreet Corridor Designation.

The revised design represents a significant improvement over the initial submission. The elimination of one tower and lowering of the podiums has greatly reduced shadowing impacts on the public realm and surrounding properties. The increased setbacks proposed to Richmond Road and New Orchard Street now ensure that significant tree planting can be provided along the roadway frontages in alignment with the Green Street policies of the Secondary Plan (Section 5: Public Realm). With the exception of tower heights, the proposal maintains the design expectations of the Secondary Plan (Section 4 Built Form) and Urban Design Guidelines for High-Rise buildings as both towers will have a maximum floor plate of 750 square metres and provide for a minimum 22.5 metres tower separation between sites. Further a Publicly Accessible Private Open Space (POPS) is proposed fronting Richmond Road in

alignment with Section 4 policy 6 of the Secondary Plan and a public park is provided at the corner of Richmond Street and New Orchard Avenue in alignment with Section 6 policy 3.

Whereas the Secondary Plan permits heights up to 20 storeys on the site through a redistribution of permitted density, the applicant has proposed to increase density and height requiring amendment to the Secondary Plan. The proposal includes heights up to 40 storeys on the site.

Staff are satisfied that the proposed increase in tower height beyond what is anticipated by the Secondary Plan is appropriate. As above, the site is located less than 200 metres from the New Orchard LRT station, the Official Plan and Secondary Plan prioritize the tallest buildings and highest densities on sites closest to rapid transit. An appropriate transition is provided to the to Low Rise buildings on the south side of Byron Avenue as the site is separated by Richmond Road, the Byron Linear Park and New Orchard Station, and Byron Avenue; a distance of over 50 metres. The proposed towers are further setback from Richmond Road a minimum of 22 metres. The roadways, linear park and transit infrastructure provide a visual and physical barrier between the proposed development and the residential neighbourhood to the south. As the site is located on the north side of Richmond Road, the towers are oriented with the narrow side to the south, shadow impacts are minimal on surrounding neighbourhoods. Given the site's location in this unique secondary planning area and physical context, staff are in the opinion that the proposed increase in heights are appropriate.

The site is located immediately adjacent to the New Orchard LRT Station and is well connected to cycling infrastructure. Further, the applicant has demonstrated that there is adequate drinking water and sanitary capacity to service the proposed development. Proposed fire flows rely on either water upgrades not anticipated to be completed until 2025 or mitigation measures to be incorporated into the construction of the building. As a result, the proposed zoning bylaw amendment includes a holding provision to ensure that appropriate fire flows are available prior to the issuance of a building permit. As such, the site is well served by infrastructure and no transportation or infrastructure impacts are anticipated as a result of development.

At this time, it has not been demonstrated that wind impacts on the public park and the public sidewalks meet the criteria for their intended use as identified in the Wind Study Terms of Reference. A hold is recommended to ensure that wind impacts on the public realm can be reviewed and mitigated through building design measures implemented through Site Plan Control.

The Official plan supports and promotes the provision of affordable housing within the City. As part of the settlement, the Owner has agreed to provided 15 units per building defined as affordable for a 15-year term. The affordability definition agreed to is, "A dwelling unit for which a household at or below the 60th percentile of household income pays 30 per cent or less of its gross income towards shelter cost." Specific details on administration of the affordable housing will be outlined in the site plan agreement.

Staff Conclusion

It is the opinion of staff that the concerns raised in the original report have been addressed in the revised proposal submitted by the applicant submitted in October 2023. The revised proposal meets the intent of the Provincial Policy Statement, Official Plan and represents good planning.

Provincial Policy Statement

Staff have reviewed this proposal and have determined that it is consistent with the 2020 Provincial Policy Statement.

Affordable Housing

In achieving a settlement of this matter, it has been agreed with the applicant that it is appropriate to ensure that there should be affordable units in each tower. The applicant has agreed to provide 15 affordable units in each tower for at least 15 years. The units are to meet the definition of affordability set forth in the Official Plan being:

- a) A dwelling unit for which a household at or below the 60th percentile of household income pays 30 per cent or less of its gross income towards shelter costs.

RURAL IMPLICATIONS

Not applicable

COMMENTS BY THE WARD COUNCILLOR(S)

The Ward Councillor is aware of this report.

LEGAL IMPLICATIONS

This settlement has resulted from further submissions by the applicant and subsequent discussions between the applicant and the City. If endorsed by Council, the Official

Plan Amendment and Zoning amendment will be submitted to the Ontario Land Tribunal in December for approval.

Were the settlement not approved, the City would need to seek to retain an external planning witness. It is also unlikely that the applicant would agree to provide the affordable housing units.

RISK MANAGEMENT IMPLICATIONS

There are no risk management implications

FINANCIAL IMPLICATIONS

If endorsed by Council, there will be no cost to the City as it is anticipated that the City will be able to conduct the hearing. If it is not endorsed by Council, it would be necessary to retain an external Planner. This expense would be funded from within Planning Services' operating budget.

TERM OF COUNCIL PRIORITIES

This project addresses the following Term of Council Priorities:

- has affordable housing and is more liveable for all;
- is more connected with reliable, safe and accessible mobility options

SUPPORTING DOCUMENTATION

Document 1 Zoning Key Map

Document 2 Details of Recommended Official Plan Amendment

Document 3 Amendment to Schedule C - Density Redistribution Plan of the Sherbourne and New Orchard Secondary Plan

Document 4 Details of Recommended Zoning

Document 5 Original Proposal

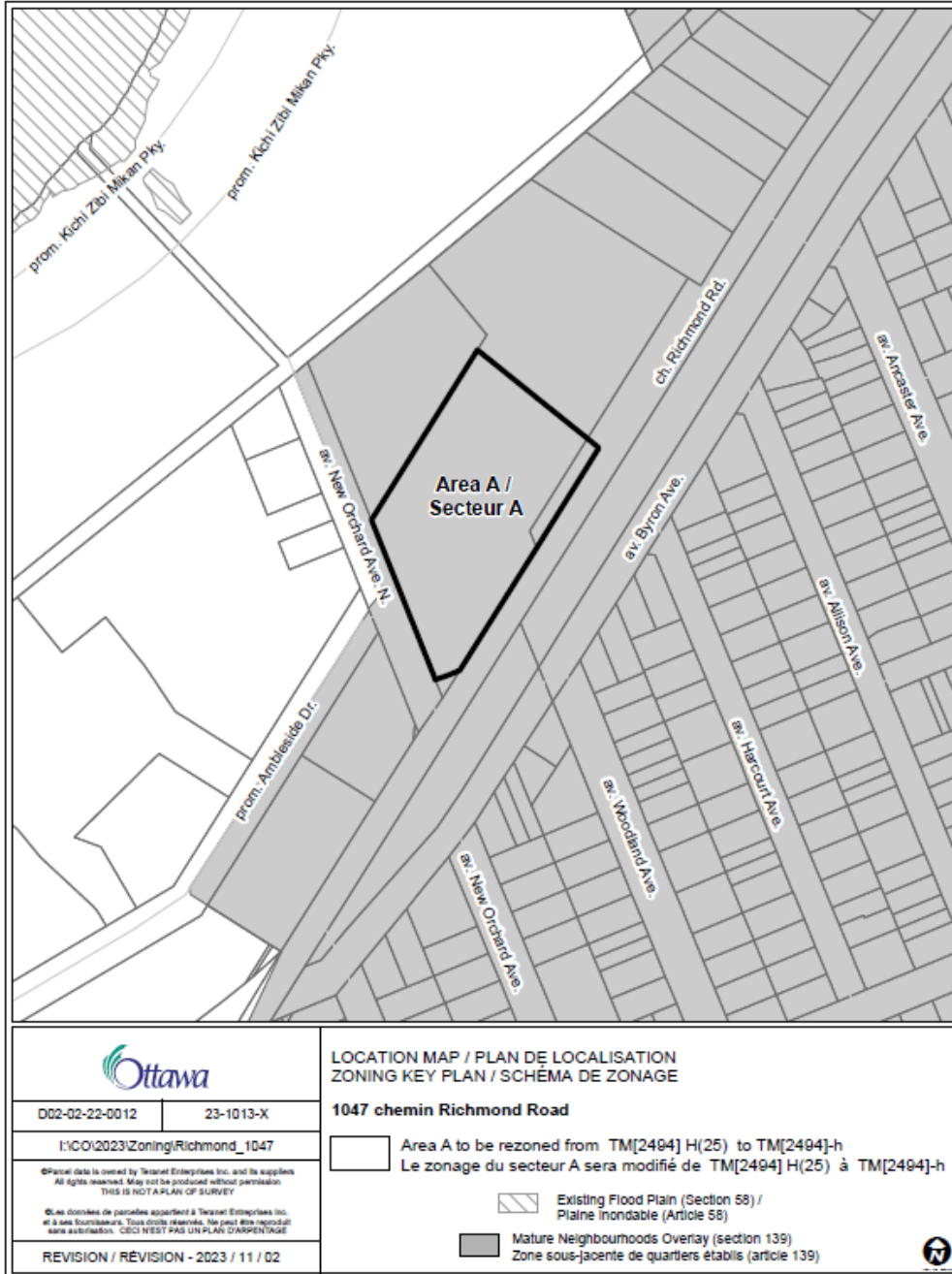
Document 6 Revised Proposal

DISPOSITION

Office of the City Clerk, Council and Committee Services to notify the owner; applicant; Ottawa Scene Canada Signs, 13-1920 Merivale Road, Ottawa, ON K2G 1E8; Krista O'Brien, Program Manager, Tax Billing & Control, Finance and Corporate Services Department (Mail Code: 26-76) of City Council's decision.

Legal Services to submit revised Official Plan Amendment and Zoning to Ontario Land Tribunal for approval

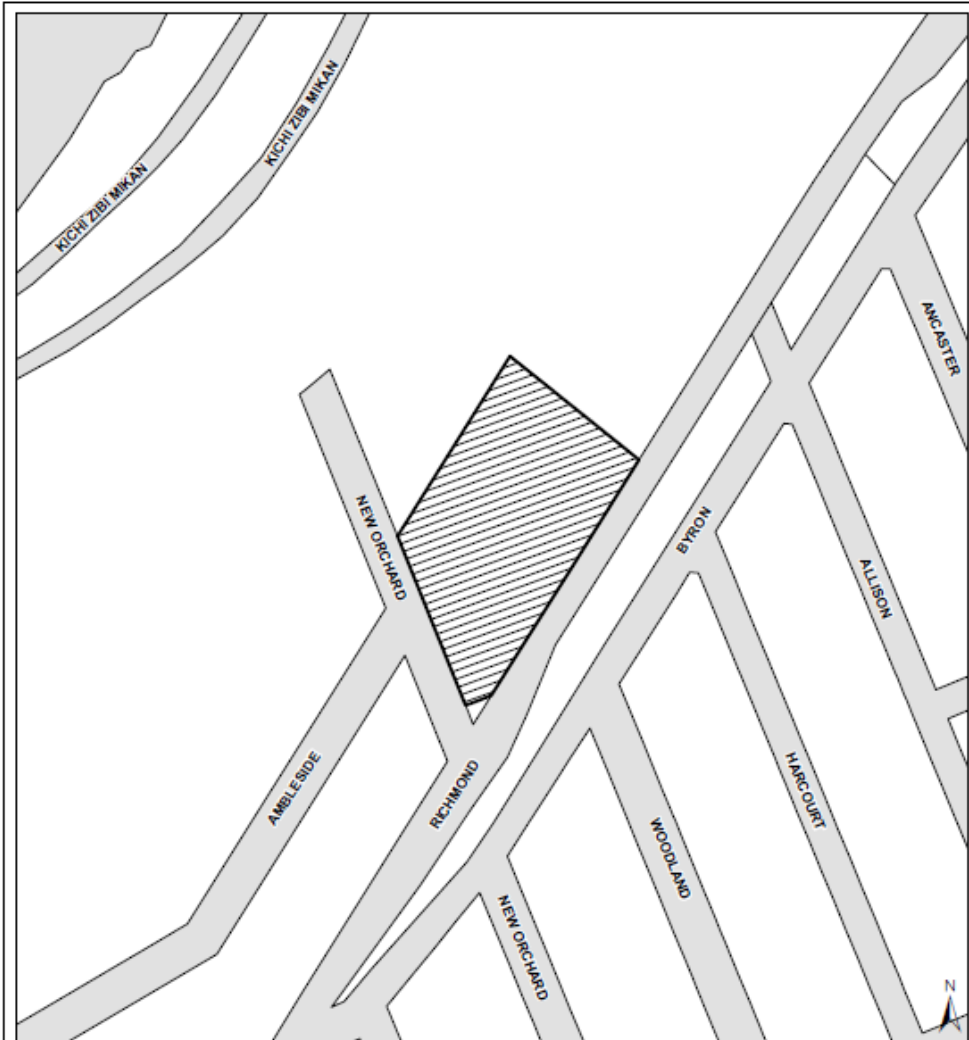
Document 1 – Zoning Key Map




Document 2 – Details of Recommended Official Plan Amendment

1. Amend the Sherbourne New Orchard Secondary Plan in Volume 2A as follows:
 - a. Remove Section 3 policy 4 a “Be with buildings up to 20 storeys in height...” and replace with the following:
 - i. Be with two towers of a maximum of 38 and 40 storeys on 1047 Richmond Road. The proposed development shall provide a minimum 200 square metres of Privately Owned Public Space.
 - b. Amend Policy 4.1. to read “High-rise buildings are limited in the plan area between 10 to 30 storeys, with the exception of 1047 Richmond Road which will be in accordance with Section 3.4 a”
 - c. Redesignate the property from “Maximum 20 storeys after density redistribution” to “Areas not appropriate for on-site density redistribution” on Schedule C.

Document 3 – Density Redistribution Plan of the Sherbourne and New Orchard Secondary Plan



Prepared by Planning, Infrastructure and Economic Development / Préparé par le Service de la planification, de l'infrastructure, des transports et du développement économique



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Revision:


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Plan de redistribution de la densité

Scale - N.T.S. / Echelle N.A.E.

SCHEDULE A to AMENDMENT NO.
 to the OFFICIAL PLAN for the CITY OF OTTAWA
Amending Sherbourne and New Orchard Secondary Plan
 Schedule C - Density Redistribution Plan

ANNEXE A de L' AMENDEMENT No.
 au PLAN OFFICIEL de la VILLE D'OTTAWA
Modification du plan secondaire Sherbourne et New Orchard
 Annexe C - Plan de redistribution de la densité

 LANDS TO BE REDESIGNATED FROM "MAXIMUM 20 STOREYS AFTER DENSITY REDISTRIBUTION" TO "AREAS NOT APPROPRIATE FOR ON-SITE DENSITY REDISTRIBUTION"

TERRAINS REDESIGNÉS DE « 20 ÉTAGES MAXIMUM APRÈS REDISTRIBUTION DE LA DENSITÉ » À « ZONES NON APPROPRIÉES POUR UNE REDISTRIBUTION DE LA DENSITÉ SUR PLACE ».

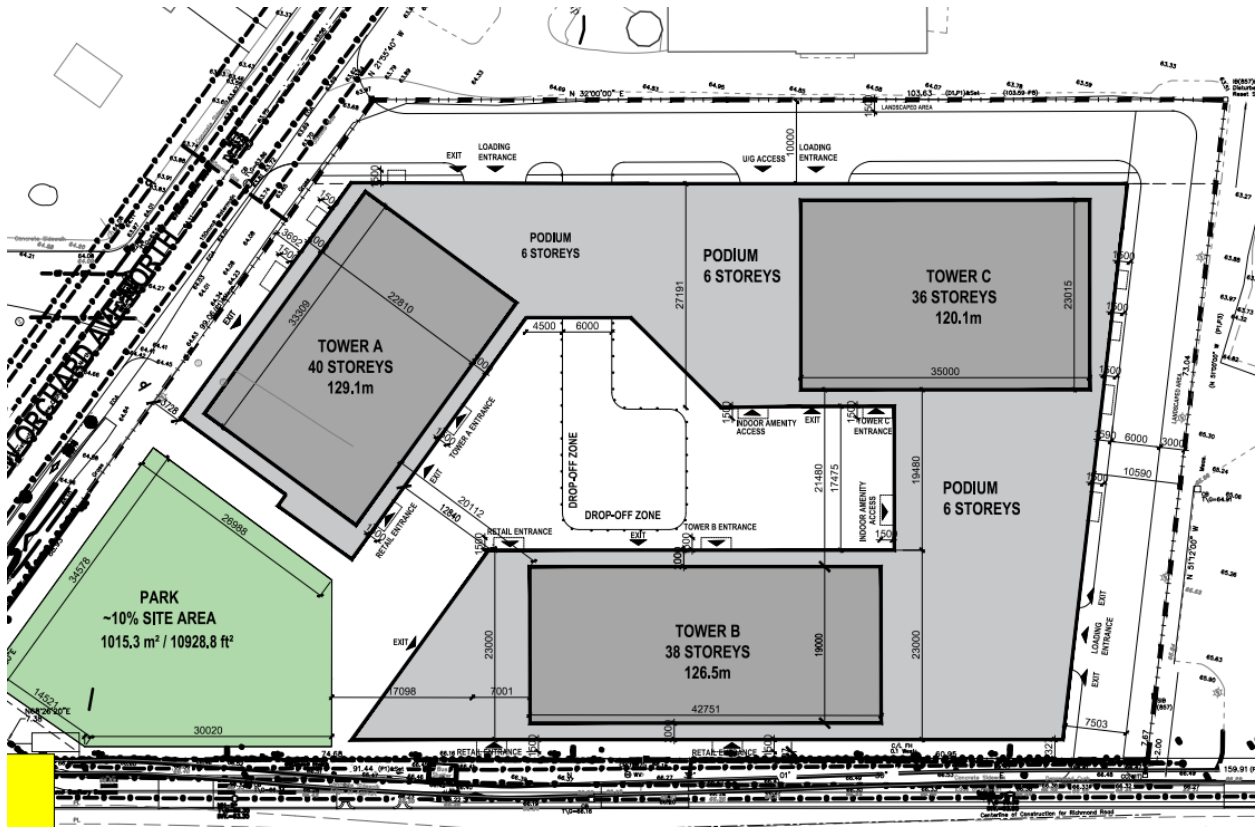
Document 4 -Details of Recommended Zoning

The proposed change to the City of Ottawa Zoning By-law No. 2008-250 for 1047 Richmond Road:

1. Rezone the site from TM[2494] H(25) to TM[2494]-h
2. Amend Section 239, Urban Exceptions, by amending exception 2494 with provisions similar in effect as follows:
 - a. In Column V, include provisions similar in effect to the following:
 - i. Front Yard, Corner Side Yard, Interior side yard,
 1. Minimum setback to storeys 1-4 up to 15 metres in height, whichever is lesser:
 2. 5 metres from any property line
 3. 3 metres abutting a park
 - ii. Balconies may not project any closer than 3 metres to an interior yard or a yard abutting the park.
 - iii. Minimum Tower Setback:
 1. 12.5 metres from a rear and interior side property line.
 2. 7 metres from yard abutting New Orchard Street
 3. 6.5 metres abutting a park.
 4. 22 metres from Richmond Road
 - iv. Minimum tower separation :
 1. 25 metres between two towers on the same property.
 - v. Maximum number of towers : 2
 - vi. Maximum FSI: 6.3 (net of conveyances to the City)
 - vii. Maximum Building height:
 1. 15m and 4 storeys with the exception of:
 - a. Eastern Tower: 121 metres (38 storeys)
 - b. Western Tower: 127 metres (40 storeys)
 - viii. Maximum Tower Floor Plate : 750 square metres of Gross Floor Area
 - ix. A minimum 1000 square metre park shall be provided at the corner of Richmond Road and New Orchard Street
 - x. A minimum 200 square metre POPS shall be provided and have frontage on Richmond Road.
 - xi. Minimum non-residential space at grade: 1000 square metres
 - xii. Loading spaces may not abut Richmond Road or New Orchard Street
 - xiii. No driveway is permitted from Richmond Road

- xiv. Facades facing Richmond Road must include at least one active entrance to each non-residential use occupying the ground floor and abutting the front yard.
 - xv. The following sections are not applicable: Table 197 (c), (d), (e), (g), (h) and Sections 197 (4) and (13).
 - xvi. The area of the exception is considered One Lot for Zoning Purposes
 - xvii. the holding symbol may only be removed at such time as the following has been completed to the satisfaction of the General Manager of Planning Real Estate and Economic Development.:
 - 1. Site Plan Control Approval which include the demonstration that required fire flows for the development can be met.
 - 2. Site Plan Control Approval which include the demonstration that wind conditions on the surrounding public realm are suitable for their intended use. Any mitigation measures required, shall be implemented on the subject property.
 - 3. Partial removal of the holding symbol may be considered to provide for phased development. The submission and approval of an application to lift the holding provisions on a phased basis may be considered provided the requirements for that development phase satisfy the requirements for the lifting of the holding zone specified above
3. This by-law shall come into full force and effect on the date of passing subject to the provisions of the *Planning Act*, R.S.O., 1990, as amended.

Document 5 – Original Proposal



Document 6- Revised Design

