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Committee of Adjustment
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City of Ottawa | Ville d'Ottawa
Comité de dérogation

FILE NO: 55230-1000

January 12, 2024

City of Ottawa Committee of Adjustment

Mr. Michel Bellemare, Secretary Treasurer

4th floor - 101 CentrepoinTE Drive

Ottawa, ON K2G 5K7

**REVISED JANUARY 24, 2024
TO REPLACE FIGURES 1 and 2**

**Re: 280 and 300 Montgomery Street, Ottawa ("Subject Property")
Applications for Consent to Create Reciprocal Easements for Access**

We are the solicitors for Riverain Developments Inc. ("**Riverain**"), regarding one primary and one secondary consent application to establish reciprocal easements over the existing parcels known as 280 Montgomery Street and 300 Montgomery Street (Part 4 on Plan 4R-34900), as well as in favour of 3 Selkirk Street (Part 3 on Plan 4R-34900). No new lots will be created, and no minor variances are required.

The lands municipally known as 280 and 300 Montgomery (the "**Subject Properties**"), together with Part 1 on Plan 4R-34900 and 3 Selkirk Street, comprise a 3-phase development, known as the Riverain District, as shown at Figure 1 below. The Riverain District occupies almost the entire city block that is bounded to the north by Montreal Road, to the east by Montgomery Street, to the south by Selkirk Street and the west by North River Road.

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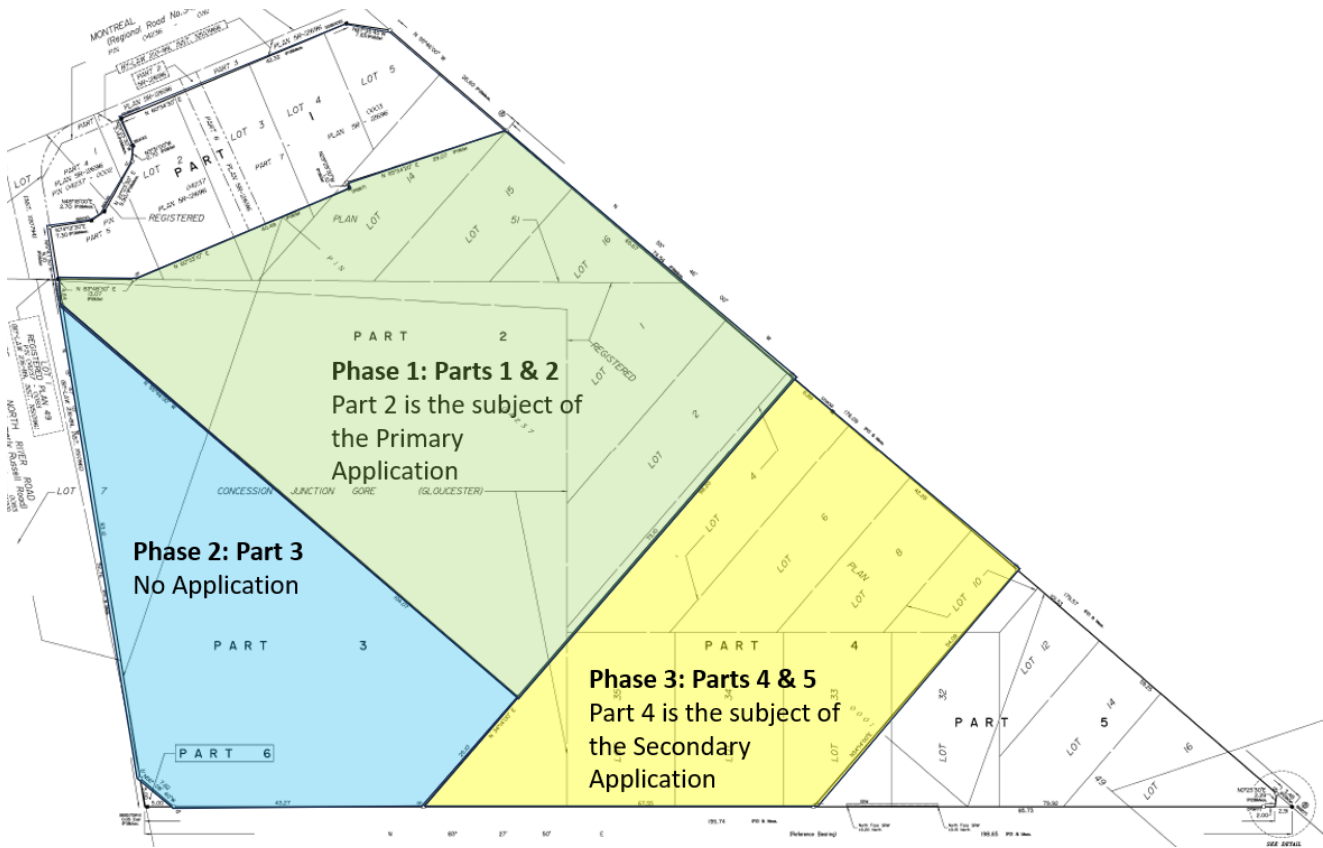


Figure 1: Riverain District – Phases 1, 2 and 3

Background:

In 2022 the Committee approved consent applications D08-01-22/B-00187 and D08-01-22/B-00188 to allow the creation of three separate parcels of land for financing purposes. The 2022 consents have been perfected and the separate parcels are as follows:

	Phase 1	Phase 2	Phase 3
Municipal Address	280 Montgomery Street	3 Selkirk Street	300 Montgomery Street
Parts on Plan 4R-34900	1, 2 (Part 1 is owned by 2799338 ONTARIO INC., was not part of the 2022 applications and is not part of the current application)	3, 6 (Part 6 has been dedicated to City as corner sight triangle)	4, 5 (Part 5 has been dedicated to City as parkland)
PIN	PIN 04237-0107 (LT)	PIN 04237-0108 (LT)	PIN 04237-0109 (LT)

Phase 1 – shown in Green:

Phase 1, as shown on Figure 2 below, is comprised of Parts 1 and 2 on Plan 4R-34900 (the “Phase 1 Lands”).

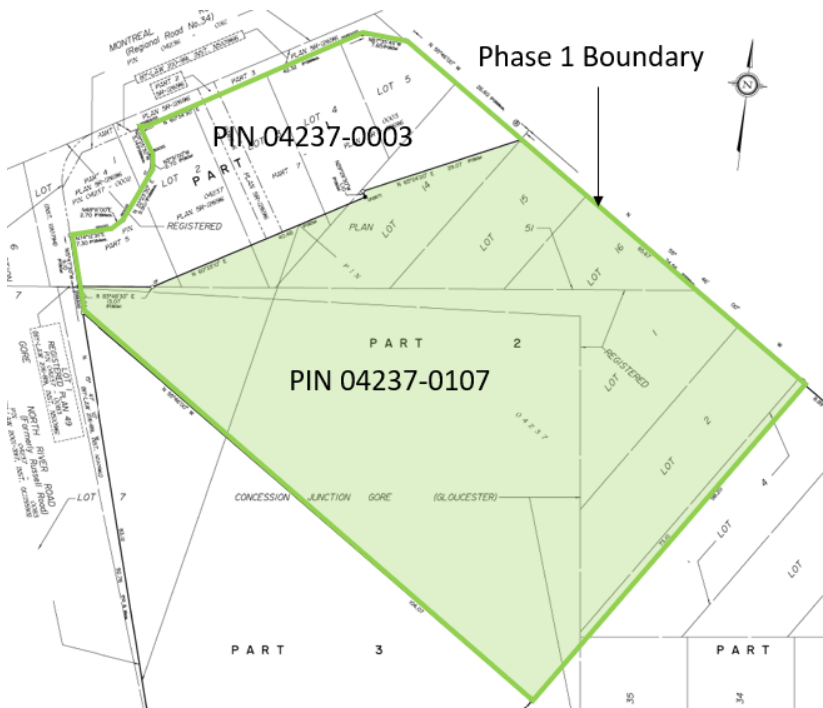


Figure 2: Phase 1 Lands

Riverain is the owner of Part 2 on Plan 4R-34900 (PIN 04237-0107), which is further described as Parts 1, 2 and 3 on the Draft Reference Plan submitted as part of this primary severance application. Parts 1 and 2 on the Draft R-Plan represent drive aisles at grade and within the underground parking garage.

2799338 ONTARIO INC. (“279”) is the owner of Part 1 on Plan 4R-34900 (PIN 04237-0003). Part 1 on Plan 4R-34900 was formerly developed with a gas station and is subject to a Restrictive Covenant registered as OC2300477 on January 7, 2021, the date that the parcel was acquired from Imperial Oil Limited. Part 1 is held in separate ownership from Part 2 to prevent the Restrictive Covenant registered on Part 1 from attaching to Part 2.

279 is an entity fully owned by the same principals as Riverain and subject to the same ownership and development covenants as Riverain, pursuant to the constating documents of each entity. For practical purposes, 279 is a subsidiary of Riverain and acts at its behest. The sole purpose of 279 is to hold beneficial title to Part 1 until Riverain has completed the necessary work under the Site Plan Agreement to complete environmental remediation work, obtain the Record of Site Condition and remove the Restrictive Covenant from Part 1. Such work will be completed as part of the overall development of the Phase 1 Lands.

Site Plan Control approval for Phase 1 was granted on September 29, 2022 to allow the development of a 22-storey mixed-use building with a 2-storey podium and 274 parking spaces provided at grade and in one level of underground parking (File No. D07-12-21-0123). Construction is underway and the Site Plan Agreement was registered on December 18, 2023. The building under construction straddles the property line between Parts 1 and 2 on Plan 4R-34900, which are under separate ownership. The Owners of Parts 1 and 2 on Plan 4R-34900 are both Parties to the Site Plan Agreement, registered on title as OC2658658.

Reciprocal blanket easements over Part 1 on Plan 4R-34900 (PIN 04237-0003) and Part 2 on Plan 4R-34900 (PIN04237-0107) have been registered as OC2659191 and OC2659193 to grant reciprocal access over the entirety of the Phase 1 Lands until Riverain becomes the sole owner. When Riverain becomes the sole owner of the Phase 1 Lands the blanket easements will merge on title and will be deleted.

Phase 2 – Shown in blue:

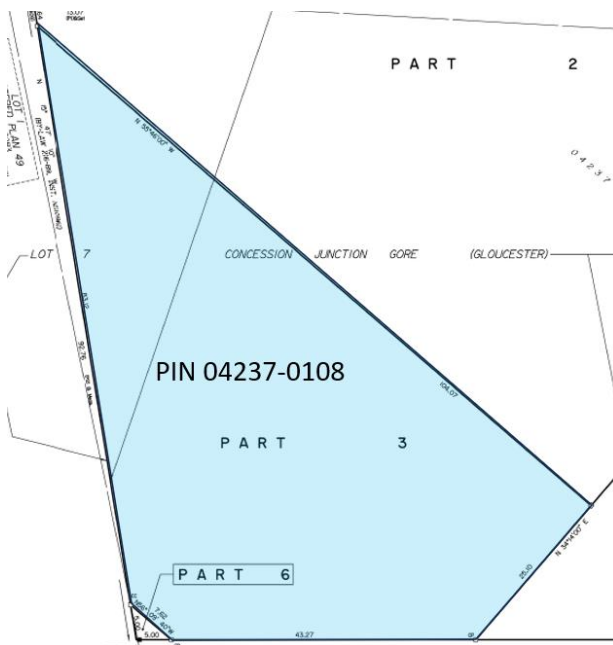


Figure 3: Phase 2 Lands

Ultimately, Phase 2, as shown on Figure 3, will be developed with a 32-storey mixed-use building with underground parking for vehicles and bicycles. Site Plan control has not yet been sought for this phase.

Phase 3 – Shown in yellow:

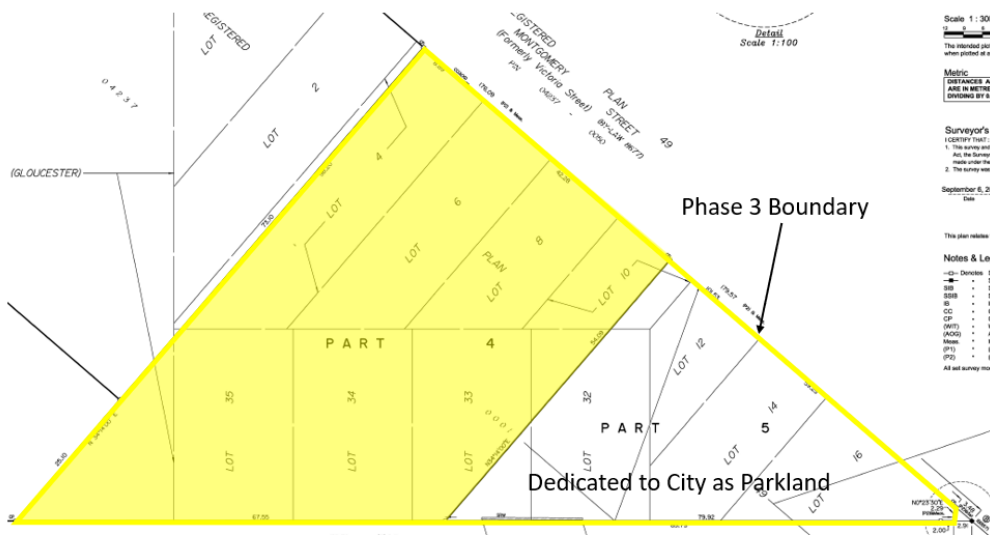


Figure 4: Phase 3 Lands

Phase 3, as shown on Figure 4, is comprised of Parts 4 and 5 on Plan 4R-34900. Part 5 has been dedicated to the City as Parkland, and Part 4 is further described as Parts 4 and 5 on the Draft Reference Plan submitted as part of the secondary consent application. Part 4 on the Draft R-Plan represents a drive aisle at grade and within the underground parking garage.

An application for Site Plan Control approval for Phase 3 has been submitted and the first round of comments has been received (File No. D07-12-23-0087). The approval of the Site Plan Control application will allow the construction of a 28-storey building with 380 rental dwelling units and underground parking for vehicles and bicycles, as well the dedication of the large park (approximately 1,694 m²) at the corner of Montgomery and Selkirk Streets to the City.

Policy Documents

Official Plan

The Subject Property is designated “Neighbourhood”, subject to the “Evolving Neighbourhood Overlay” on Schedule B2, “Inner Urban Transect”, of the City of Ottawa Official Plan 2022 (“**2022 OP**”). Montreal Road is designated as a Mainstreet Corridor on Schedule B2. (See Figure 5 below)



Schedule B2 - Inner Urban Transect




DESIGNATIONS / DÉSIGNATIONS	OVERLAYS / AFFECTATION SUPPLÉMENTAIRE
 Corridor - Mainstreet.	 Evolving Neighbourhood / Quartier en évolution
 Neighbourhood / Quartier	

Figure 5: Official Plan Schedule B2

The 2022 OP directs growth and change to Mainstreet Corridors. The Evolving Overlay policies of the 2022 OP are intended to provide opportunities that allow the City to reach the goals of its Growth Management Framework for intensification through the Zoning By-law, by providing:

- a) Guidance for a gradual change in character based on proximity to Hubs and Corridors,
- b) Allowance for new building forms and typologies, such as missing middle housing;
- c) Direction to built form and site design that support an evolution towards more urban built form patterns and applicable transportation mode share goals; and
- d) Direction to govern the evaluation of development.

The 2022 OP provides direction to the Committee in Section 11.5 of the Implementation section. Specifically, policy 5 of Section 11.5 states:

The Committee of Adjustment shall consider strata severance applications, for both vertical and horizontal division, as it is authorized to do according to the Planning Act. Strata severance applications shall be assessed according to planning principles applicable to severances.

The 2022 OP confirms the established legal principle that the Committee has the authority to grant strata severances.

Montreal Road District Secondary Plan

The Subject Property is designated “West Gateway” in the Montreal Road District Secondary Plan.

In the Montreal Road District Secondary Plan, the West Gateway (Section 1.3.1) is the gateway to the Montreal Road District from the west with a strategic view to and from Cummings Bridge. This

gateway has potential for residential intensification and mixed-use development. The gateway also serves as the linkage between the Montreal Road District and the west side of the Rideau River.

The Subject Property was subject to an Official Plan Amendment in 2020 (File No. D01-01-20-0009), and as a result is specifically addressed in Policy 11 of Section 1.3.1 of the Secondary Plan that states: “on the lands known as 2 Montreal Road and 3 Selkirk Street, building heights of 32 storeys are permitted. New buildings that face North River Road will have window and door entrances that will occupy at least 40% of the building facades. Blank facades facing any street will not be permitted. A minimum building height of 10 metres or two-storeys is required abutting Montreal Road. [Amendment #257, August 10, 2021]”.

The proposed severances sought at this time conform to the applicable official plan policies.

City of Ottawa Comprehensive Zoning By-law No. 2008-250

The Subject Property is zoned Traditional Mainstreet Subzone 3 with a site-specific exception and height and setback schedule (“TM3[2719] S441”) in the City of Ottawa Zoning By-law 2008-250 (the “**By-law**”). It is also subject to the Mature Neighbourhood Overlay.

The Subject Property was subject of a zoning by-law amendment in 2020 that resulted in the site-specific zoning that currently applies (File No. D02-02-20-0044; By-law 2021-225). This site-specific zoning designation was crafted to permit the proposed development. Exception 2719 allows numerous additional permitted uses and contains site specific provisions as detailed in **Appendix A**. The most relevant for the purpose of the consent applications is that:

- The Subject Lands are considered as **one lot for zoning purposes**.

Schedule 441 (**Appendix B**) is a Zoning Schedule that sets maximum building heights and minimum setbacks to allow the proposed phased development.

The approval of the requested consents would not result in any non-compliance with the applicable zoning and no minor variances are required.

The Current Applications

The Subject Properties as well as the Phase 2 Lands will be developed in phases but will function as one development with reciprocal access across the site both at grade and underground at the P1 level. As noted above, Phase 2 has not yet been planned to a sufficient degree of detail in order to be included in this submission. An application for consent to establish access easements over the Phase 2 lands, in favour of the Phase 1 and 3 lands, will follow if required.

The easements requested as part of the current consent applications are described in the table below and illustrated on the coloured Draft Reference Plan below at Figures 6 and 7. The Draft Reference Plan is a strata plan comprised of 3 Sheets:

Sheet 1 shows the proposed easements over Parts 2 and 4 at ground level;
 Sheet 2 shows the proposed easements over Parts 1, 2 and 4 at the P1 level; and
 Sheet 3 illustrates sections showing the extent of Parts 1, 2 and 4 at different elevations.

Part 1 (P1 level only) is shown in purple,
 Part 2 (ground floor and P1 level) is shown in red, and
 Part 4 (ground floor and P1 level) is shown in orange.

Parts on 4R-34900	Phase	PIN/Address	Subject To	Together With	Site Plan Control Status
1	Phase 1	280 Montgomery Street PIN 04327-0003 Part 1 on Plan 4R-34900	No consent application at this time	Easement over Part 4 (at ground floor and P1 level) on Draft R-Plan (Phase 3)	Site Plan Agreement pending registration
2		280 Montgomery Street PIN 04327-0107 Parts 1, 2, 3 on Draft R-Plan	PRIMARY APPLICATION (1) Easement over Parts 1 (at P1 level) and 2 (at ground floor and P1 level) on Draft R-Plan in favour of Part 3 on Plan 4R-34900 (Phase 2) (2) Easement over Parts 1 (at P1 level) and 2 (at ground floor and P1 level) on Draft R-Plan in favour of Part 4 on -Plan 4R—34900 (Phase 3)	Easement over Part 4 (at ground floor and P1 level) on Draft R-Plan (Phase 3)	
3	Phase 2	3 Selkirk Street PIN 04327-0108	No consent application at this time	(1) Easement over Parts 1 (at P1 level) & 2 (at ground floor and P1 level) on Draft R-Plan (Phase 1)	Site Plan Application to be filed in the future.
6				(2) Easement over Part 4 (and ground floor and P1 level) on Draft R-Plan (Phase 3)	
4	Phase 3	300 Montgomery Street PIN 04327-0109	SECONDARY APPLICATION (1) Easement over Part 4 (and ground floor and P1 level) on Draft R-Plan in	Easement over Parts 1&2 on Draft R-Plan (Phase 1)	First round of circulation comments as been received

Parts on 4R-34900	Phase	PIN/Address	Subject To	Together With	Site Plan Control Status
			favour of Part 1 on 4R-34900 (Phase 1) (2) Easement over Part 4 (at ground floor and P1 level) on Draft R-Plan in favour of Part 2 on Plan 4R-34900 (Phase 1) (3) Easement over Part 4 on Draft R-Plan in favour of Part 3 on Plan 4R-34900 (Phase 2)		
5		Transferred to City as Parkland			

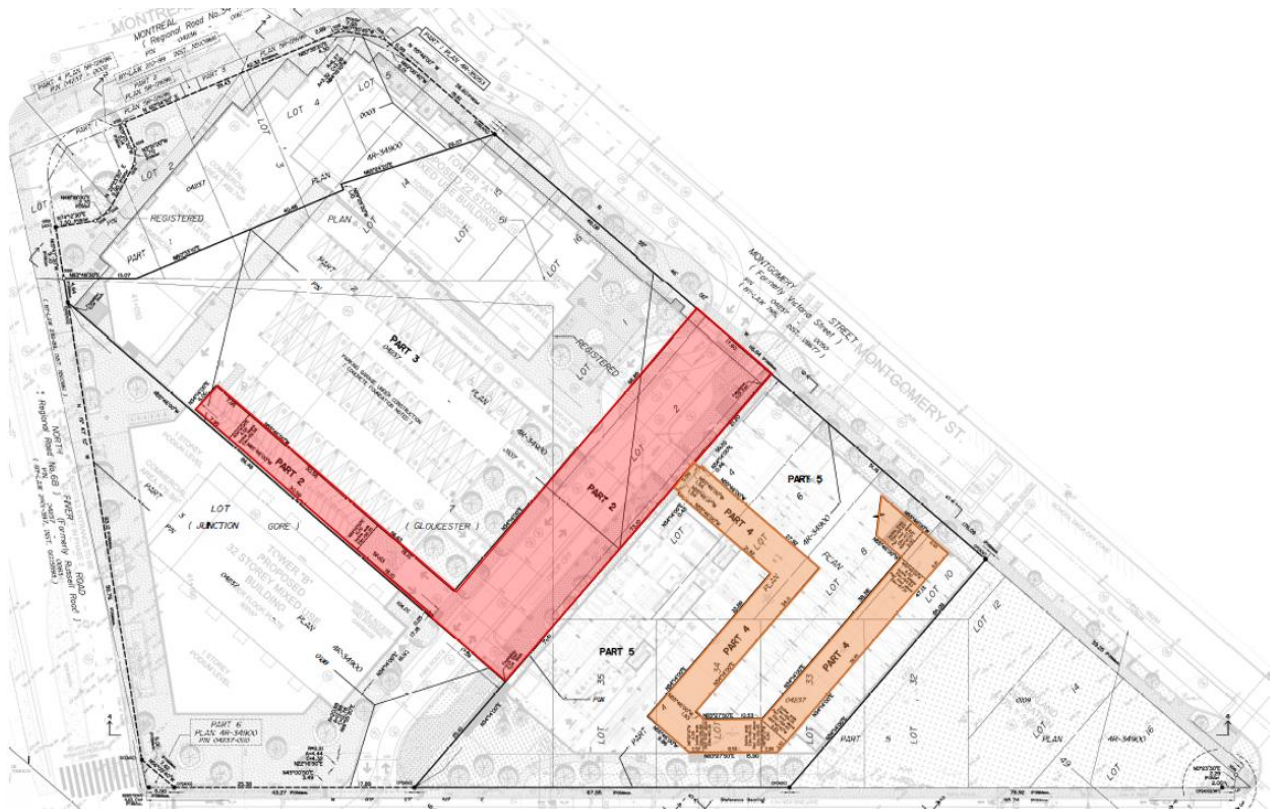


Figure 6: Draft R-Plan, Ground Level (Elevation 57.10)

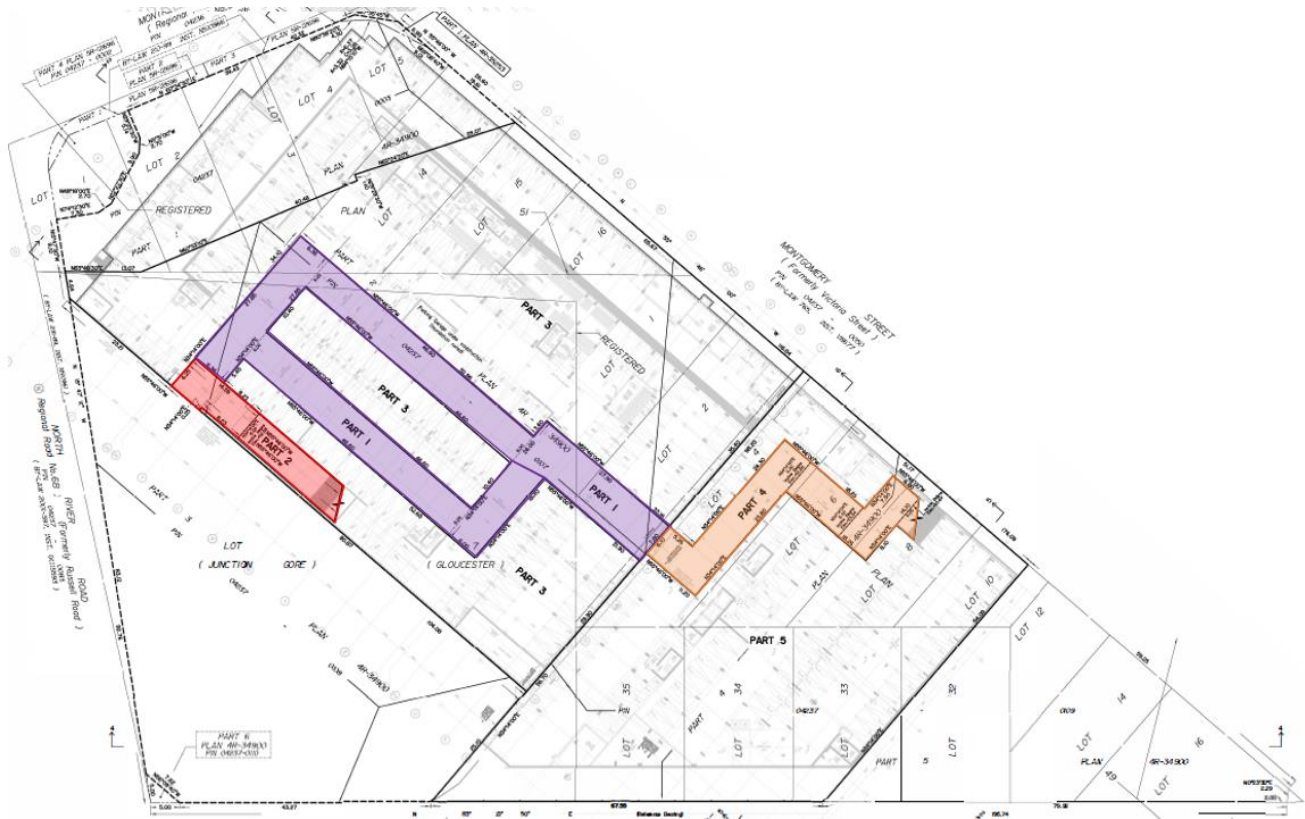


Figure 7: Draft-R Plan, Parking Level P1 (Elevation 53.75)

Tree Information Report

We have discussed the applications with Nancy Young, PRED Infill Forester, who has confirmed that a Tree Information Report was submitted through the Site Plan Control approval process (D07-12-21-0123 and D07-12-23-0087) and it is, therefore, not necessary to submit any additional information as part of these applications (See Appendix "C" the letter/email so confirming).

Authority & Rationale

The Committee has the authority to grant the consent for the requested easements pursuant to sections 50(3)(f) and 53 of the Planning Act as follows:

Subdivision control

50. (3) No person shall convey land by way of a deed or transfer, or grant, assign or exercise a power of appointment with respect to land, or mortgage or charge land, or enter into an agreement of sale and purchase of land or enter into any agreement that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more unless,

(f) a consent is given to convey, mortgage or charge the land, or grant, assign or exercise a power of appointment in respect of the land or enter into an agreement in respect of the land.

Consents

53. (1) An owner of land or the owner's agent duly authorized in writing may apply for a consent as defined in subsection 50 (1) and the council or the Minister, as the case may be, may, subject to this section, give a consent if satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality. 1994, c. 23, s. 32.

Section 50(3) states that a transfer may occur if consent is given and a consent may be given if a plan of subdivision is not necessary. We submit that both conditions are satisfied in the attached applications.

As noted above, the 2022 OP confirms the established legal principle that the Committee has the authority to grant strata severances, which includes strata easements.

When considering a consent application, the criteria stated in section 51(24) of the Planning Act must be considered. In this case, ***all the criteria are satisfied:***

Planning Act section 51(24)	Rationale
Criteria <u>(24)</u> 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,	-No present or future inhabitant will be negatively impacted by the proposed easements, and health and safety issues are not created. -The proposed easements will allow access across the current phases of the phased development which will promote the efficient use of the land, the properties and the proposed buildings.
(a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;	- None of the provincial interests enumerated in section 2 of the Planning Act are negatively impacted by the proposed easements.
(b) whether the proposed subdivision is premature or in the public interest;	- The easements are not premature and are in the public interest. The site-specific zoning is in place, Site Plan Control Approval has been granted for Phase 1 and is underway for Phase 3.
(c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;	-The easements conform to the 2022 OP in that they facilitate the efficient use of lands for development in accordance with the policies of the Montreal Road District Secondary Plan -Adjacent plans of subdivision are not impacted.
(d) the suitability of the land for the purposes for which it is to be subdivided;	-The site-specific zoning is in place, and the land is suitable for the ultimate purpose though as the consents are for easements only, no development will result from their approval.
(d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing.	-Not applicable to the easements requested.
(e) the number, width, location and proposed	-The applications are for easements only. No new roads

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;	are proposed. Any widenings or dedications will be/have been identified as part of the site plan approval process.
(f) the dimensions and shapes of the proposed lots;	-No new lots are proposed. The applications are for easements only.
(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;	-No restrictions are required or are an issue at this time.
(h) conservation of natural resources and flood control;	- Not applicable to the creation of easements.
(i) the adequacy of utilities and municipal services;	- The subject property is located within the downtown core and is fully served by municipal infrastructure and services as well as public utilities.
(j) the adequacy of school sites;	- Not applicable to the creation of easements.
(k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;	- Parkland has been provided through the Site Plan Control approval process.
(l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and	-The Site Plan Control approval process will ensure any proposed development makes efficient use of the available energy.
(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 <i>City of Toronto Act, 2006</i> . 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4).	-The proposed easements will assist in the implementation of the site circulation through the three phases established through the Site Plan Control process.

Accordingly, we request that the easements requested be granted.

Enclosures

In support of the Applications, please find enclosed the following:

1. A completed Authorization signed by Daniel Byrne on behalf of Riverain;
2. Completed Consent Application Forms (1 copy of each);
3. Parcel Abstracts for PIN 04237-0003; PIN 04237-0107; PIN 04237-0108 and PIN 04237-0109;
4. PIN Map;
5. Registered blanket access easements OC2659191 and OC2659193;
6. Draft Reference Plan (1 full-sized copy, 1 reduced);
7. Approved Site Plan for Phase 1;
8. Draft Site Plan for Phase 3;
9. Our client's cheque in the amount of \$5,279 for the Committee of Adjustment applications.

We look forward to the assignment of a Hearing date on the Committee's next available Agenda. Please let us know if you require anything further.

Yours very truly,



Krista Libman
UKM/KML/

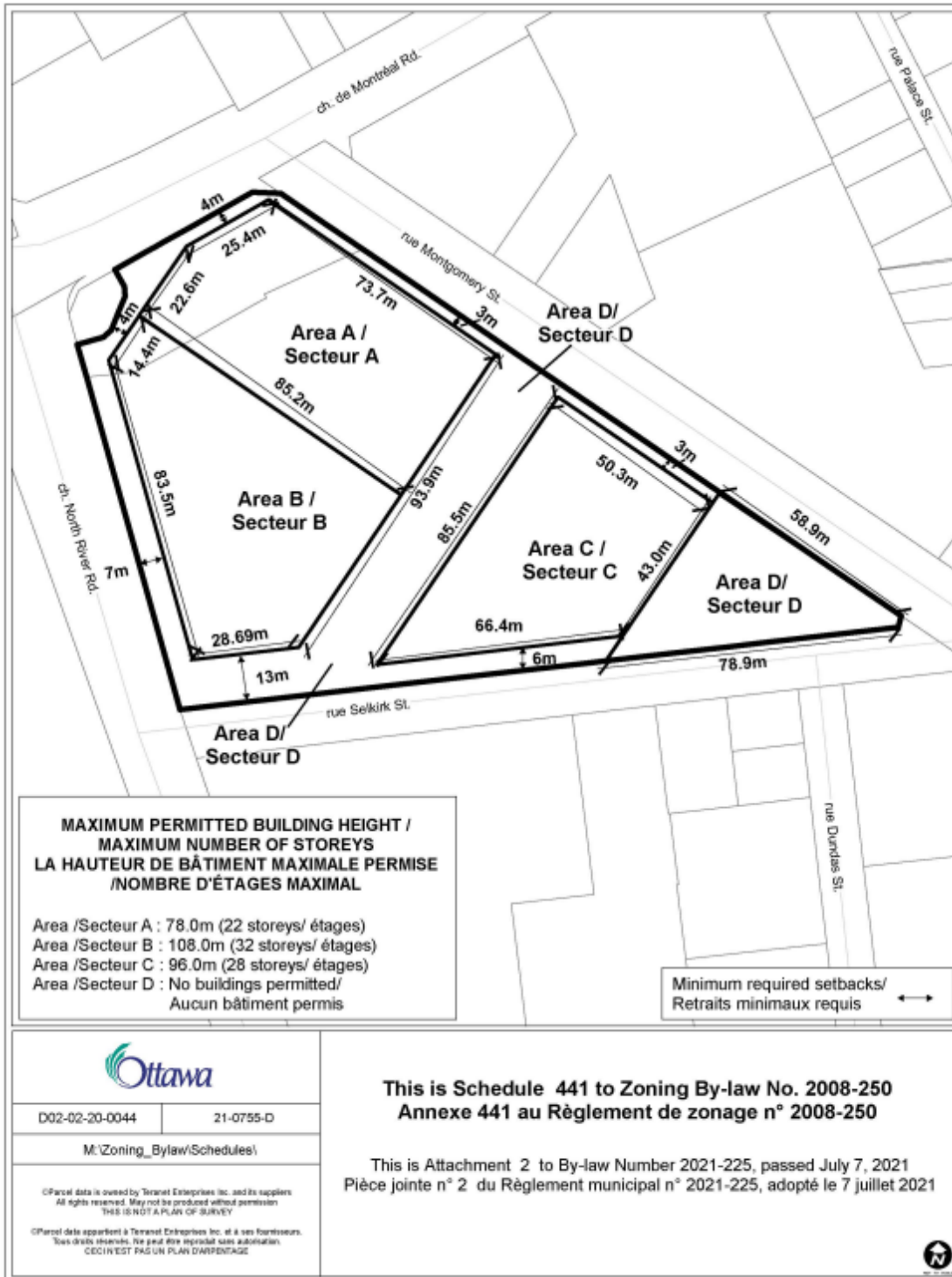
Appendix A - Zoning By-law No. 2008-250, Exception 2719

Zoning Bylaw Exception 2719 allows numerous additional permitted land uses and contains site-specific provisions, as follows:

I Exception number	II Applicable zones	III Exception Provisions - Additional land uses permitted	IV Exception Provisions - Land uses prohibited	V Exception Provisions - Provisions
2719 (By-law 2021-225)	TM3[2719] S441	<ul style="list-style-type: none"> • Apartment dwelling, High-rise • Apartment dwelling, Mid-rise • Apartment dwelling, Low-rise • Broadcast studio • Cinema • Home-based business • Home-based daycare • Hotel • Museum • Place of assembly • Recording studio • Retirement home • Theatre 		<ul style="list-style-type: none"> • Maximum Height and minimum yard setbacks as per Schedule 441. • Maximum Floor Space Index – 3.7 • A maximum of one tower is permitted within Area A, B and C on Schedule 441. • The subject lands are considered one lot for zoning purposes. • Tower floor plate size shall not exceed 900 m². • Minimum tower separation - 20m • Buildings facing North River Road will at least 40% of the ground/floor or storeys facade consisting of clear glazing (window and door entrances). • Section 111(8, 9, 10 and 11) do not apply with respect to Bicycle Parking Space Provisions. • Stacked bicycle systems are permitted. • Setback abutting an O1 zone – 0m • Minimum width of landscaped area, abutting Selkirk Street: 3m • Minimum width of landscaped area, all other cases: 0m • Section 197(1)(d) does not apply to a parking garage located in area C of Schedule 441. • Section 197(4) sub (c), (d) and (e) do not apply. • Despite Section 197(13), the façade facing the main street must include at least one active entrance serving either residential or non-residential use occupying any part of the ground floor. • Despite Section 101 and 102, a minimum of 35 spaces are required for a combination of visitor and non-residential parking. • A temporary surface parking lot is permitted within Area A and Area B of Schedule 441 until such time as a building permit has been issued for that portion of the site. • A temporary surface parking lot must be screened at grade from a public street through a combination of soft landscaping, required landscaped areas and/or fencing. Temporary surface parking may not abut Montreal Road. • Minimum height of a building abutting Montreal Road in Area A and B of Schedule 441 – 10m or two storeys.

Appendix B -Zoning By-law No. 2008-250, Schedule 441

Schedule 441 sets out the Maximum Height and Minimum Setbacks for the Subject Property.



Appendix C

Email correspondence with Nancy Young, Infill Forester

Krista Libman

From: Young, Nancy <Nancy.Young@ottawa.ca>
Sent: Wednesday, October 18, 2023 11:47 AM
To: Krista Libman
Subject: RE: Consent at 2 Montreal Road / 3 Selkirk Street

Thanks Krista,

This helps with the context. Nothing further is required regarding trees with your COA application.

Cheers,
Nancy



Nancy Young, RPF

Planning Forester
Natural Systems and Rural Affairs, PRED
110 Laurier Ave W, Ottawa, ON K1P 1J1
nancy.young@ottawa.ca 613-580-2424 ext. 13581

From: Krista Libman <klibman@solowaywright.com>
Sent: October 18, 2023 11:03 AM
To: Young, Nancy <Nancy.Young@ottawa.ca>
Subject: RE: Consent at 2 Montreal Road / 3 Selkirk Street

CAUTION: This email originated from an External Sender. Please do not click links or open attachments unless you recognize the source.

ATTENTION : Ce courriel provient d'un expéditeur externe. Ne cliquez sur aucun lien et n'ouvrez pas de pièce jointe, excepté si vous connaissez l'expéditeur.

Hi Nancy,
The attached TCR is for all 3 Phases (downloaded from DevApps).
The current consent/easement applications deal with underground and at-grade easements on Phase 1 (Site Plan Approved) and Phase 3 (D07-12-23-0087 – in process).
Site Plan application for Phase 2 (the corner of Selkirk and North River Road) has not yet been submitted.
Let me know if you need anything else.
Thanks!
Krista