

**7. Zoning By-law Amendment – 244 Fountain Place**

**Modification du Règlement de zonage – 244, place Fountain**

**Committee recommendation**

**That Council approve an amendment to Zoning By-law 2008-250 for 244 Fountain Place to permit a three-storey low rise apartment building with 20 dwelling units as detailed in Document 2.**

**Recommandation du Comité**

**Que le Conseil approuve une modification du *Règlement de zonage* (n° 2008-250) concernant le 244, place Fountain, pour permettre l'aménagement d'un immeuble d'appartements de faible hauteur comptant trois étages et 20 logements, comme l'explique en détail le document 2.**

**Documentation/Documentation**

1. Director's report, Planning Services, Planning, Infrastructure and Economic Development Department, dated June 15, 2020 (ACS2020-PIE-PS-0067)

Rapport du Directeur, Services de la planification, Direction générale de la planification, de l'infrastructure et du développement économique, daté le 15 juin 2020 (ACS2020-PIE-PS-0067)

2. Extract of draft Minutes, Planning Committee, June 25, 2020

Extrait de l'ébauche du procès-verbal du Comité de l'urbanisme, le 25 juin 2020

**Report to  
Rapport au:**

**Planning Committee  
Comité de l'urbanisme  
25 June 2020 / 25 juin 2020**

**and Council  
et au Conseil  
15 July 2020 / 15 juillet 2020**

**Submitted on 15 June 2020  
Soumis le 15 juin 2020**

**Submitted by  
Soumis par:  
Douglas James,  
Acting Director / Directeur par intérim  
Planning Services / Services de la planification  
Planning, Infrastructure and Economic Development Department / Direction  
générale de la planification, de l'infrastructure et du développement économique**

**Contact Person / Personne ressource:  
Ann O'Connor, Planner / Urbaniste, Development Review Central / Examen des  
demandes d'aménagement centrale  
613-580-2424, 12658, ann.o'connor@ottawa.ca**

**Ward: RIDEAU-VANIER (12)**

**File Number: ACS2020-PIE-PS-0067**

**SUBJECT: Zoning By-law Amendment – 244 Fountain Place**

**OBJET: Modification du Règlement de zonage – 244, place Fountain**

**REPORT RECOMMENDATIONS**

- 1. That Planning Committee recommend Council approve an amendment to**

**Zoning By-law 2008-250 for 244 Fountain Place to permit a three-storey low rise apartment building with 20 dwelling units as detailed in Document 2.**

2. That Planning Committee approve the Consultation Details Section of this report be included as part of the 'brief explanation' in the Summary of Written and Oral Public Submissions, to be prepared by the Office of the City Clerk and submitted to Council in the report titled, "Summary of Oral and Written Public Submissions for Items Subject to *the Planning Act* 'Explanation Requirements' at the City Council Meeting of July 15, 2020," subject to submissions received between the publication of this report and the time of Council's decision.

#### **RECOMMANDATIONS DU RAPPORT**

1. Que le Comité de l'urbanisme recommande au Conseil d'approuver une modification du *Règlement de zonage* (n° 2008-250) concernant le 244, place Fountain, pour permettre l'aménagement d'un immeuble d'appartements de faible hauteur comptant trois étages et 20 logements, comme l'explique en détail le document 2.
2. Que le Comité de l'urbanisme donne son approbation à ce que la section du présent rapport consacrée aux détails de la consultation soit incluse en tant que « brève explication » dans le résumé des observations écrites et orales du public, qui sera rédigé par le Bureau du greffier municipal et soumis au Conseil dans le rapport intitulé « Résumé des observations orales et écrites du public sur les questions assujetties aux 'exigences d'explication' aux termes de la *Loi sur l'aménagement du territoire*, à la réunion du Conseil municipal prévue le 15 juillet 2020 », à la condition que les observations aient été reçues entre le moment de la publication du présent rapport et le moment de la décision du Conseil.

#### **EXECUTIVE SUMMARY**

##### **Staff Recommended Approval**

This report recommends that Council approve an amendment to the Zoning By-law 2008-250, for the development of a three-storey low-rise apartment dwelling containing 20 dwelling units at the property municipally known as 244 Fountain Place, as shown in Document 1.

The requested Zoning By-law amendments include:

- A reduction in lot width, front yard and interior side yard setbacks, and amenity area for a low-rise apartment building; permitted distance balconies may project into yards; walkway provisions;
- Permission for stacked bicycle parking structure and for a garage to be located closer to the front lot line than the front wall of the residential use building;
- Establishing the front lot line to be on Fountain Place, new maximum driveway widths, new maximum garage width, new minimum bicycle aisle width, and a new minimum rear yard setback; and
- A holding zone which stipulates requirements relating to a Road Opening application, a tree health assessment, and drainage from Besserer Park.

### **Applicable Policy**

The proposed development is consistent with the Official Plan, Sandy Hill Secondary Plan, and the Design Guidelines for Low-Rise Infill Development. The primary zoning relief requests reductions to the provisions for low-rise apartment buildings and relief from provisions in the Mature Neighbourhoods Overlay. Infill development in the form of a low-rise apartment building on the subject site is supported by Section 3.6.1 of the Official Plan, Section 5.3.2 and Schedule J of the Sandy Hill Secondary Plan, and the existing R5 (Residential Fifth Density) zoning on the property. While the low-rise apartment dwelling use is permitted as-of-right, the unusual shape of the lot (being long and narrow) and the significant slopes on-site have resulted in the proposed development requiring relief from several provisions associated with this use and provisions within the Mature Neighbourhoods Overlay (Section 139 and 140 of the Zoning By-law). The design of the proposal mitigates the development's impact on adjacent lots and, as per Section 2.5.1 and 4.11 of the Official Plan and Section 5.3.6 of the Sandy Hill Secondary Plan, the proposal demonstrates that it is compatible with the existing and planned context.

### **Other Matters**

In order to allow for access from a public street to the proposed three rear yard parking spaces, on December 20, 2019, the owner applied for an associated Road Opening application to extend Besserer Street eastward. This Road Opening application is on hold, pending the submission of additional material for review.

## Public Consultation/Input

During the application review process two community information sessions were held by the applicant through coordination with Councillor Fleury. The first meeting was held on January 24, 2017 at Patro d'Ottawa and the second meeting was held on March 27, 2019 at the Youville Centre.

Approximately 81 individuals/groups commented on the proposed development during the review process. The vast majority of the public submissions were opposed to the development and expressed concerns such as parking, traffic, reduced setbacks, noise, deforestation, land erosion and slope stability, students, and the overall building mass and density.

## RÉSUMÉ

### Approbation recommandée par le personnel

Dans le présent rapport, on recommande au Conseil d'approuver la modification du *Règlement de zonage* (n° 2008-250), pour permettre l'aménagement d'un immeuble d'appartements de faible hauteur comptant trois étages et 20 logements sur la propriété ayant pour désignation municipale le 244, place Fountain, comme l'illustre le document 1.

La modification du *Règlement de zonage* demandée vise notamment à :

- réduire la largeur du lot, les retraits de cours avant et latérale, ainsi que l'aire d'agrément de l'immeuble d'appartements de faible hauteur, à permettre la projection des balcons dans les cours, et à prévoir des dispositions pour les allées piétonnières;
- permettre l'aménagement d'un système de stationnement superposé pour bicyclettes et d'un garage plus près de la ligne de lot avant que du mur avant du bâtiment résidentiel;
- tracer la ligne de lot avant le long de la place Fountain, fixer de nouvelles largeurs maximales pour les entrées de cour et le garage, une nouvelle largeur minimale pour l'allée cyclable et un nouveau retrait minimal de cour arrière;
- désigner une zone d'aménagement différé, accompagnée d'exigences relatives à la demande d'ouverture de route, à l'évaluation de la santé des arbres et au drainage du parc Besserer.

### **Politique applicable**

L'aménagement proposé est conforme au Plan officiel, au Plan secondaire de la Côte-de-Sable et aux lignes directrices en matière d'aménagements intercalaires de faible hauteur. Les principales demandes de dérogation au zonage visent les dispositions régissant les immeubles d'appartements de faible hauteur et les zones sous-jacentes de quartiers établis. L'aménagement intercalaire du site sous forme d'immeuble d'appartements de faible hauteur est conforme à l'article 3.6.1 du Plan officiel, à l'article 5.3.2 et l'annexe J du Plan secondaire de la Côte-de-Sable, et au zonage actuel de la propriété, « zone résidentielle de densité 5 » (R5). Bien qu'un immeuble d'appartements de faible hauteur soit une utilisation permise d'emblée, la forme inhabituelle du lot (long et étroit) ainsi que les pentes abruptes qui s'y trouvent ont obligé les promoteurs à demander une exemption de plusieurs dispositions sur son utilisation ainsi qu'aux critères de la zone sous-jacente de quartiers établis (articles 139 et 140 du *Règlement de zonage*). Le projet est conçu de façon à réduire les effets de l'aménagement sur les lots adjacents et, conformément aux articles 2.5.1 et 4.11 du Plan officiel et à l'article 5.3.6 du Plan secondaire de la Côte-de-Sable, prouve qu'il s'harmonise avec le voisinage actuel et prévu.

### **Autres questions**

Pour relier la route publique aux trois places de stationnement proposées à l'arrière, le propriétaire a demandé, le 20 décembre 2019, une ouverture de route visant à prolonger la rue Besserer vers l'est. Cette demande a été mise sur la glace en attendant la présentation de documents supplémentaires.

### **Consultations publiques / commentaires**

De concert avec le conseiller Fleury, le demandeur a tenu deux séances d'information communautaires à l'étape d'examen de la demande. La première séance s'est déroulée le 24 janvier 2017, dans les locaux du Patro d'Ottawa, et la deuxième, le 27 mars 2019, au Centre Youville.

Environ 81 personnes et groupes ont formulé des commentaires sur le projet d'aménagement pendant ce processus. La grande majorité s'y opposait, invoquant des arguments en lien avec le stationnement, la circulation, la réduction des retraits, le bruit, la déforestation, l'érosion du sol et la stabilité des pentes, les étudiants ainsi que la masse et la densité du bâtiment.

## BACKGROUND

Learn more about [link to Development Application process - Zoning Amendment](#)

For all the supporting documents related to this application visit the [link to Development Application Search Tool](#).

### Site location

244 Fountain Place

### Owner

TCU Development Corporation (9690000 Canada Inc.)

### Applicant

Fotenn Consultants (Kersten Nitsche and Brian Casagrande)

### Architect

Figurr Architects Collective

### Description of site and surroundings

The site is located on the west side of Fountain Place, a short cul-de-sac beside Cummings Bridge and Rideau River. The lot area is approximately 715 square metres and the lot width along Fountain Place is 13.9 metres. The property is currently vacant with steep slopes rising toward the west and north, away from the street.

Besserer Park abuts the property to the north. To the east, the property faces the Rideau River and the Cummings Bridge. To the south, there is a condominium development consisting of three buildings. To the west, the property slopes upwards toward the end of Besserer Street. The surrounding Sandy Hill neighbourhood is characterized by a variety of residential developments from single detached to high-rise apartment buildings.

### Proposal Details

The proposed development is for a three-storey low-rise apartment building containing 20 dwelling units. Five vehicular parking spaces are provided, two of which are located internal to the building in a garage that is accessed from Fountain Place. The remaining three parking spaces are proposed in the rear yard, to be accessed from an eastward

extension of Besserer Street. The building design also includes an interior garbage room, bicycle parking, amenity space, and balconies (north- and east-facing).

### **Summary of requested Zoning By-law amendment proposal**

The subject property is currently zoned R5B H(19) (Residential Fifth Density, Subzone B, Height Maximum 19 metres). The requested zoning retains the R5B H(19) zone and adds a site-specific exception XXXX and a holding symbol. The amendment is requested to allow for a three-storey low-rise apartment building with 20 dwelling units.

### **Brief history of proposal**

On October 19, 2016, Planning Services received a Zoning By-law Amendment application (D02-02-16-0088) and Site Plan Control application (D07-12-16-0150) for 244 Fountain Place. The proposal, at that time, was for a Planned Unit Development consisting of two low-rise apartment buildings. A total of 22 dwelling units were proposed, all of which were to be one-bedroom apartments. A parking court was proposed to be located between the two buildings to accommodate five parking spaces and a rooftop amenity space was proposed on each building.

Planning Services provided comments to the owner on December 23, 2016, indicating that the proposal was not supported by Planning staff. Staff's concern with the 2016 design included concern with conformity to policies within Section 4.11 in the Official Plan, which relate to design and compatibility with the surrounding existing context. Staff were also concerned with the significance of the requested zoning relief required for the 2016 design.

Over the last three years, the owner submitted multiple sequential proposals for the site, including a six-storey apartment building with underground parking. On October 30, 2018, the owner submitted a new proposal for circulation. The 2018 proposal was for a three-storey low-rise apartment dwelling with 27 dwelling units and no vehicular parking. To respond to feedback on the 2018 proposal, the owner revised the design again, to reduce the dwelling units to 20 and provide five parking spaces on-site.

Since the initial submission, the following major changes to the proposal include:

- reducing the number of buildings from two to one;
- the removal of roof-top amenity areas;
- reducing the building height to three-storeys;



- increasing the rear yard setback from 7.3 metres to 13.5 metres;
- increasing the size of the southern interior side yard to gradually get larger as the building goes deeper into the lot (moving from 1.5 metres to 3.4 metres to 5.9 metres) in order to allow for more space between the proposal and the existing development at 250 Besserer Street;
- moving the location and access to vehicular parking northward, to have less impact on the abutting development to the south, at 250 Fountain Place;
- meeting the Zoning By-law's minimum vehicular parking requirements with five parking spaces (two in a front-facing garage and three in the rear yard); and
- providing a mix of unit types, as now there are twelve two-bedroom units, six one-bedroom units, and two studios.

Image 1 – 2016 Site Plan

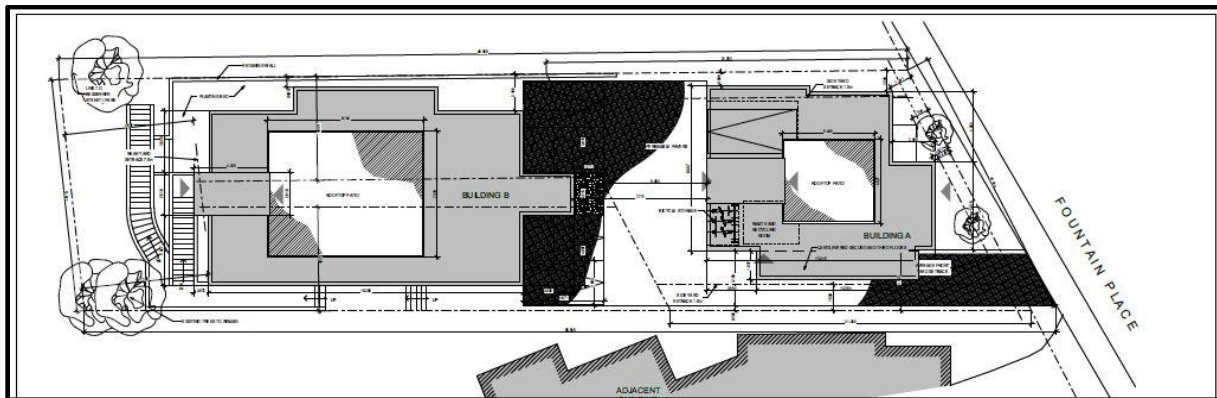


Image 2 – 2018 Site Plan

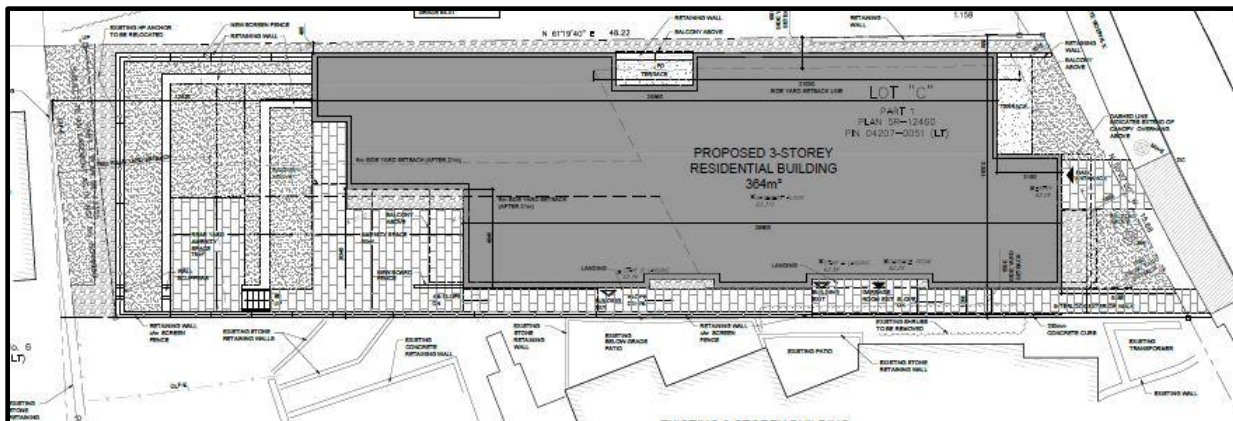
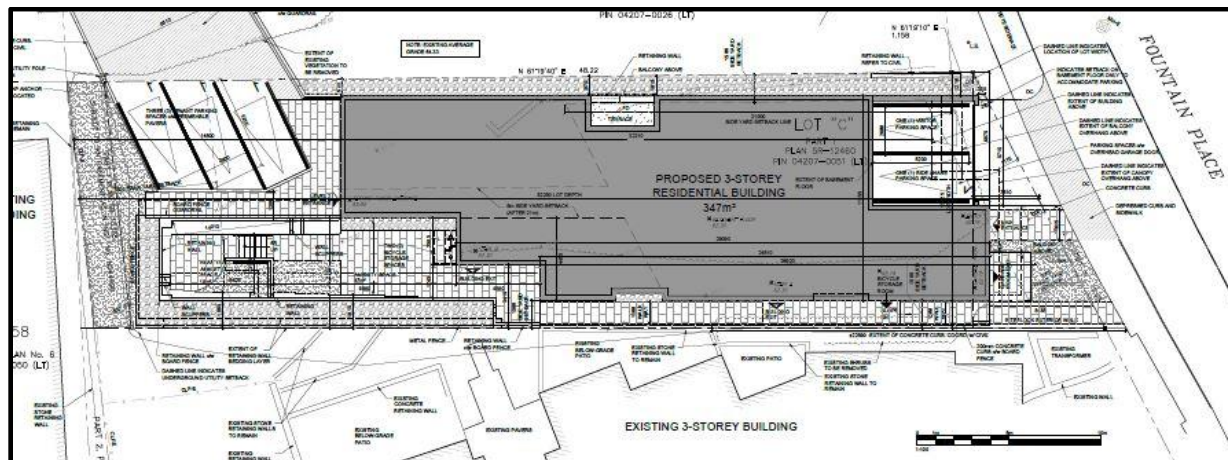


Image 3 – 2020 Site Plan



## DISCUSSION

### Public consultation

During the application review process two community information sessions were held by the applicant through coordination with Councillor Fleury. The first meeting was held on January 24, 2017 at Patro d'Ottawa and the second meeting was held on March 27, 2019 at the Youville Centre.

Approximately 81 individuals/groups commented on the proposed development during the review process. Most of the public submissions were opposed to the development and expressed concerns such as parking, traffic, reduced setbacks, noise, deforestation, land erosion and slope stability, students, and the overall building mass and density.

For this proposal's consultation details, see Document 4 of this report.

### Official Plan designation

The property is designated General Urban Area in Schedule B of the Official Plan.

### Other applicable policies and guidelines

The site is located within the Sandy Hill Secondary Plan, where it is identified on Schedule J – Sandy Hill Land Use as being within a “Medium Profile Residential Area”. The Mature Neighbourhoods Overlay and the Urban Design Guidelines for Low-Rise Residential Infill also apply to this proposal.

## **Urban Design Review Panel**

The property is not within a Design Priority Area and was not subject to the Urban Design Review Panel (UDRP) process.

## **Planning rationale**

### Official Plan

The proposal has been reviewed under the consolidated Official Plan (2003 – OPA76) and in accordance with Council approved amendments contained within Official Plan Amendment 150 (OPA150). The proposed zoning amendment is consistent with the applicable Official Plan policies, including General Urban Area policies (Section 3.6.1) and the Urban Design and Compatibility policies (Section 2.5.1 and 4.11). It provides intensification in a manner that is consistent with the Official Plan.

Pursuant to Schedule B and Section 3.6.1, the property is designated General Urban Area. As outlined in Section 3.6.1, the General Urban Area permits the development of a range of housing types and encourages infill development in a manner that ensures the long-term vitality of communities. Consistent with this policy direction, the proposal provides compatible intensification with a low-rise residential infill development.

The proposal demonstrates compatibility by conforming to the established pattern and built form of the R5 (Residential Fifth Density) zone and surrounding neighbourhood. The planned function of the R5 zone is to allow for a mix of residential building forms ranging from detached to mid-high rise apartment dwellings. This provides a range of housing options, while regulating development in a manner that is compatible with existing land use patterns. The Sandy Hill neighbourhood is currently characterized by a range in housing types on lots of varying sizes. Fountain Place is a cul-de-sac that faces the Rideau River and the Cummings Bridge to the east, with only one developed lot located on the south side. The existing developed lot is a Planned Unit Development (PUD) with two three-storey buildings. This PUD has reduced interior side yard setbacks (as it is partially built up to the northern and southern interior lot lines) and is approximately 6.4 metres from the rear lot line. This pattern is reflected in this proposal; however, greater interior yard setbacks are provided, and the building is located significantly further from the rear lot line (as the rear yard setback is 13.5 metres). The three-storey low-rise built form is also reflected in the proposed new low-rise apartment building with a mix of unit types on this block that is in keeping with the context of the surrounding uses and planned function of the area.

The proposed zoning will allow for a low-rise apartment, a use that is permitted within the zone, on a lot that is 4.1 metres below the lot width required in the by-law. Many of the provisions included in the proposed zoning exception are required due to the site-specific contextual challenges. The property is long (52 metres deep) and narrow (13.9 metres wide) with steep slopes rising toward the west and north, away from the street. The abutting development, located to the south at 250 Fountain Place, is also partially built up to the shared lot line, creating inherent challenges with proximity and privacy. In addition, the site's adjacency to Besserer Park to the north, combined with fact that the site is currently vacant, may create a perception that this property is a City-owned extension of this park, rather than private property suitable for infill development. The proposal has undergone multiple sequential iterations, and the design that Planning Services is now recommending Council approve serves to address the on-site challenges while also allowing for appropriately scaled infill development.

To address the slope rising to the north (toward Besserer Park) and to the west (away from Fountain Place), the applicant prepared a slope stability analysis within the geotechnical report for the north-east portion of the site that demonstrated the slopes in this area are stable. The rest of the slopes on-site are stabilized by engineering solutions including four privately-owned retaining walls located on 244 Fountain Place. Three retaining walls are located on the property lines (north, south, and west) and the fourth retaining wall divides the rear yard into two different sections (a northern section and a southern section).

The retaining wall that divides the rear yard, measured from the rear façade of the building will be approximately 7.34 metres high. The northern section is level with the third floor of the building and Besserer Street and contains three surface parking spaces. The southern section of the rear yard is level with the basement of the building and serves as amenity area. The southern section is also approximately at the same level as the front of the building, facing Fountain Place. This allows, for example, a tenant to walk from Fountain Place to the rear yard to park their bicycle. It should be noted that, even though the building appears to be four-storeys from Fountain Place, due to the average grade of the site, the proposal meets the definition of a three-storey building.

To address drainage and run-off, the owner is required to build a swale on the southern edge of Besserer Park that directs water to the storm sewer on Fountain Place. Planning Services is satisfied that slope and drainage solutions have been provided and

that through the Site Plan Control process, the owner will be required to build according to engineering and landscaping plans that are City approved.

The proximity of the proposal to the existing development to the south (a Planned Unit Development (PUD) located at 250 Fountain Place) was consistently raised as a community concern. Related concerns included: privacy, compatibility, massing and density. The existing PUD contains retaining walls which are built up to the shared property line as well as three north-facing below-grade patios. Section 2.5.1 and 4.11 of the Official Plan provides policy direction for urban design and compatibility. Compatible development generally means development that, although not necessarily the same as or similar to the existing building in the vicinity, nonetheless enhance an established community and does not cause undue adverse impact on surrounding properties.

To respond to the existing condition to the south and respond to compatibility policies in Section 2.5.1 and 4.11, the proposal creates space between the two developments with three different southern side yard setbacks. Each southern side yard setback gets larger as the building goes deeper into the lot, moving west. To provide privacy for the abutting development at 250 Fountain Place, there are no balconies built along this south façade and the proposed height is three-storeys. To reduce the impact of the massing, the southern façade is also designed to be broken-up visually both vertically and horizontally with a light-grey masonry base and a mix of light and dark grey fiber cement panels above. With the proposed gradient of southern side yard setbacks, the absence of balconies, the material variation on the southern façade, and the proposed three-storey height, Planning Services is satisfied that the proposal is compatible with the existing development to the south, while also addressing the planned context by introducing new residential infill on a vacant lot.

#### Sandy Hill Secondary Plan

As per the Sandy Hill Secondary Plan, the proposed land-use conforms to Schedule J, which designates the property as residential medium-profile. While the Secondary Plan would support a higher density development (medium-profile) and the as-of-right zoning permits a maximum height limit of 19 metres, the proposal is for an 11-metre-high, low-rise development. The proposed building complies with this Secondary Plan, despite being less dense than permitted, because there is no minimum required density.

Relevant policies of the Secondary Plan include direction in Section 5.3.2 and 5.3.6, to provide a wide variety of housing, to ensure that new development causes minimal intrusion on the 'sunlight, air and aspect enjoyed by existing adjacent development', to

ensure that new development provide internal and external on-site amenity areas, and to maintain or improve public parks. The low-rise apartment building provides for a variety of housing while also causing minimal intrusion on the adjacent development by incorporating a design with multiple setbacks, a low-rise form, and variation in materiality. Amenity space is also incorporated into the development with north and east-facing balconies and rear and interior yard areas. The maintenance or improvement to public parks requirement identified in the Secondary Plan is met through the proposed swale (improving the grading in Besserer Park), compensation for any loss of trees and parkland, and through cash-in-lieu of parkland. All these funds can be used for park improvements and will be retained through the associated Site Plan Control application required through the holding provision.

#### Urban Design Guidelines for Low-Rise Residential Infill

The Urban Design Guidelines for Low-rise Infill Housing provide a framework to encourage quality design and infill development that is compatible. The sections of these guidelines that specifically apply to this proposal relate to encouraging an enhanced streetscape, a compact urban form to consume less land, and provide new housing designs that offer variety, quality and a sense of identity.

The design of the low-rise apartment dwelling promotes an enhanced streetscape with a front door facing the front lot line (Fountain Place) and frosted glass panels on the garage door and garbage room doors to provide a more reflective surface (rather than a blank wall) along the street. The garbage room has also been constructed to have double-doors, to appear more residential in-nature. The design also allows for a compact urban form, by providing intensification within the urban area on a vacant lot. Lastly, the proposed design, while demonstrating compatibility by adhering to the established pattern and built form of the neighbourhood, offers a variety in architecture and housing design on the block to provide a sense of local identity.

Since these guidelines were created in 2012, Council adopted zoning regulations affecting low-rise residential dwellings through the Mature Neighbourhoods Streetscape Character Analysis (Section 139 and 140 of the Zoning By-law).

#### Mature Neighbourhood Overlay – Streetscape Character Analysis

The Mature Neighbourhoods Overlay applies to this redevelopment. The Mature Neighbourhood regulations are in place to regulate certain aspects of a development to be compatible with the residential character of the neighbourhood. Namely, the front yard landscaping, parking, and main entrance.

The applicant completed a Streetscape Character Analysis, which reflects the established local streetscape character. A Streetscape Character Analysis results in a three-letter summary that represents the dominant character, or "Character Group". In this case, the character type is "B, B, A". This means that Fountain Place is characterized by a landscaped front yard in front of the principal dwelling, driveways are less than or equal to one-third in width than the actual lot width; and principal entranceway is located along the front wall of the dwelling. While this analysis is done by reviewing 21 neighbouring lots, it should be noted that within the context of Fountain Place itself, there is only one other developed lot.

The proposal requires amendments to some of the provisions in the first two-character types due to the unusual shaped lot (long and narrow), the design of the proposal, and conflicts with other provisions in the Zoning By-law. In order to meet the minimum required number of parking spaces on-site for the proposed 20 dwelling units, the proposal includes five parking spaces, three in the rear yard (to be accessed from a Besserer Street roadway extension) and two in a front-facing garage (to be accessed from a double driveway off Fountain Place). The inclusion of these driveways, accessing required parking, and the inclusion and characteristics of the proposed front yard walkways, require amendments to the Mature Neighbourhoods Overlay.

The proposal requires amendments to the first character type (front yard landscaping), because the location and dimensions of the walkways do not comply with the associated requirements. The proposal requires amendments to the second character type (parking) because the driveway in the front yard is a 'double driveway' which is not permitted. The proposal adheres to the third character type (main entrance), as the principal entranceway is located along the front wall of the dwelling, facing Fountain Place. Planning Services supports the requested amendments to the Mature Neighbourhoods Overlay (Section 139 and Section 140 of the Zoning By-law) because the amendments allow for direct pedestrian access into the site, as well as driveway widths that access the minimum required number of parking spaces onsite.

#### Details of Recommended Zoning

As detailed in Document 2 – Details of Recommended Zoning, the proposed Zoning By-law amendment will rezone the site from R5B H(19) to R5B H(19) [XXXX]-h. The following summarizes the site-specific zoning provisions:

- The lot line on Fountain Place is the front lot line.

This provision is proposed to ensure that the lot line on Fountain Place continues to be considered the front lot line should the associated road opening application be approved. The owner has applied for a road opening application to extend Besserer Street eastward by approximately 15 metres (File No. D07-15-19-0005). Should this road opening be approved, the lot municipally known as 244 Fountain Place will have 8.51 metres of frontage on Besserer Street and 13.9 metres of frontage on Fountain Place. A part of the Zoning By-law definition for the front lot line includes describing it as being the lot line which abuts a street for the shortest distance. Should the road opening application be approved, it is desirable to retain the front lot line on Fountain Place to ensure the all other required zoning provisions are properly applied to the proposal.

The owner applied for the road opening application in order to permit access to the proposed three rear yard parking spaces. Currently, the proposed rear yard parking spaces abut Besserer Park to the north. Section 100(5) of the Zoning By-law requires that "all motor vehicle parking spaces must have unobstructed access directly to a public street by: (a) a driveway or private way; (b) an aisle leading to a driveway; or (c) a public lane". Should the road opening application be approved, the property 244 Fountain place will have direct, unobstructed access to Besserer Street, allowing for access to the proposed rear yard parking spaces. The approval of the road opening application is done under delegated authority and the enacting By-law is brought forward to Council.

- The minimum lot width for a low-rise apartment building is 13.9 metres.

While the low-rise apartment dwelling use is permitted in the zone, the existing lot width for the subject site is 13.9 metres, which is 4.1 metres less than the required minimum lot width for this use. Table 164A – R5 Subzone provisions requires a minimum lot width of 18 metres for low-rise apartment dwellings in an R5B – Residential Fifth Density, Subzone B Zone. Due to the angle of the abutting street, the surveyed distance of the lot along Fountain Place is 15.68 metres. The 13.9 metre lot width is measured from the horizontal distance between the side lot lines measured at right angles to the lot depth. Planning Services is satisfied that the requested reduction in lot width is appropriate to permit the low-rise apartment dwelling use. Given the context of the property being centrally located and underutilized, the site is a suitable location for the proposed form of intensification. The initial 2016 proposal contained entirely



one-bedroom apartments. The applicant has since made amendments to further diversify the type of units within the building in response to public feedback, and the 2020 proposal provides 12 two-bedroom units, six one-bedroom units, and two studio units.

- **Front yard setback**

The proposal has a varied front yard setback due to the angle of the street; however, at its closest point, the building is 0.29 metres from the front lot line. The property is subject to the front yard setback in the underlying zone in Table 164 – R5 Subzone, which requires a minimum 3 metre front yard setback. Therefore, the proposal provides 2.71 metres less than what is currently permitted. Planning Services is of the opinion that, given that the Fountain Place streetscape has only one other development with a 0.8 metre front yard setback, and that the street curves south-east, that the proposal's 0.29 metre setback is appropriate.

- **North Interior Side Yard Setback**

The minimum required interior side yard setback for a building of this height is 1.5 metres for the first 21 metres from the front lot line, beyond which it is six metres. From the northern property line (shared with Besserer Park), the building setback varies from 0.9 metres at its most western point to 1.2 metres at its most eastern point.

The subject site's relationship to Besserer Park, to the north, is challenging due to the significant slope rising toward the west and north, and the impact that any development on-site may have to existing City trees located in the park. To address both challenges, Planning Services is recommending Council approve an associated holding provision. Due to the measures that will be taken through the associated holding provision, Planning Services is satisfied with the reduced northern side yard setback. The holding provision will address drainage with a condition requiring the construction of a swale and will address the existing butternut trees in Besserer Park by requiring the owner submit a Butternut Health Assessment to the Ministry of Environment, Conservation and Parks. The holding provision also requires that the owner complete a Site Plan Control application, and through that process they will be required to provide a satisfactory Tree Conservation Report and compensation to Forestry Services for any damaged City trees.

- **South Interior Side Yard Setback**

The minimum required southern interior side yard setback, for a building of this height, is 1.5 metres for the first 21 metres from the front lot line, beyond which it is six metres. For the first 21 metres from the front lot line, the proposal complies with the required southern interior side yard setback, after which the proposal requires relief from the requirement to be six metres from the lot line.

From the southern property line (shared with 250 Fountain Place), the building has three different setbacks, each setback getting larger as the building goes deeper into the lot, moving west. For the first 30 metres from the front lot line, the building is setback 1.5 metres from the southern property line. After which, for a distance of 4.6 metres, the building is setback 3.4 metres from the southern lot line. The third setback from the southern lot line, for the remainder of the building, is 5.9 metres. To provide privacy for the abutting development at 250 Fountain Place, there are no balconies built along this south façade. Planning Services is satisfied with the proposed gradient of southern side yard setbacks.

- **Rear Yard Setback**

The minimum required rear yard setback is 7.5 metres, and the proposal complies with this provision with a setback of 13.5 metres. This provision is included to provide comfort to the neighbouring residents that the owner will be prohibited under this by-law to build deeper into the lot than what is currently illustrated.

- **Bicycle parking**

The proposal complies with the required minimum number of bicycle parking spaces, by providing 10 spaces, eight located internally via a stacked bicycle structure and two located externally. Two zoning provisions are included to ensure the eight internal bicycle parking spaces are permitted to be on a stacked bicycle parking structure and to ensure that the minimum aisle width, providing access to the two external bicycle parking spaces is 1.1 metres.

While stacked bicycle parking is permitted, the stacked bicycle parking structure that the owner may purchase has dimensions that are shorter, or less wide, than the minimum width and length provisions in the by-law. This is typical of stacked

bicycle parking structures and staff are satisfied that the structure can provide the required indoor bicycle parking spots.

The 1.1-metre-wide walkway in the southern interior yard will be used to access two external bicycle parking spaces. Planning Services supports permitting stacked bicycle parking to ensure that the required 10 bicycle parking spaces are provided and supports setting a minimum width of 1.1 metres for access to the external bicycle parking spaces.

- **Amenity Area**

The applicant is seeking to reduce the required amount of amenity area and amend the provisions on communal amenity area. For 20 dwelling units, a total of 192 square metres is required, of which 120 square metres is required to be communal. The proposal includes a total of 129 square metres, of which a minimum of 65 square metres is required to be communal. Therefore, the proposal has 63 square metres less total required amenity area, and 55 square metres less communal amenity area than what the Zoning By-law requires.

The by-law requires that communal amenity area be located at grade and in the rear yard, be landscaped, consist of at least 80 per cent soft landscaping and abut the rear lot line. Due to the steep slopes, the site is proposing to include a retaining wall, which at its highest point is approximately 7.34 metres in height, running east-west in the middle of the rear yard. The northern portion of the rear yard is at a higher height and is proposed to provide three surface parking spaces. The southern portion of the rear yard provides outdoor amenity area for tenants and has varied levels to accommodate on-site grading challenges. Due to the stepped nature of the south-west amenity area, the amenity area is proposed to be exempt from the requirement to be at-grade and have reduced soft landscaping. Planning Services is satisfied that given the site-specific challenges of the property and proximity to Besserer Park, a reduced amount of amenity area and exceptions to the layout are reasonable.

- **Front yard: garage, driveway, and walkway**

As discussed in the Planning Rationale section of this report, the Mature Neighbourhoods Overlay applies to this development. The associated infill provisions, in Section 139 and 140 of the Zoning By-law, serve to regulate development to be compatible with established neighbourhoods. The proposal

requires relief from some infill provisions, to allow for the current garage location, for two walkways in the front yard, and for a double driveway leading to two parking spots in the garage.

The relief being sought from this section of the by-law is a result of conflicts presented by other requirements in the Zoning By-law or as a result of the site-specific context. For example, Section 139(10) and Table 140B prohibits a double driveway; however, in order to meet the minimum vehicular parking requirements in Section 101, the owner is required to provide five parking spaces, two of which require a double driveway to access the garage from Fountain Place. Section 139(16) also prohibits a walkway to extend from the right-of-way to an interior side yard; whereas, the proposal includes a walkway in the southern interior side yard that has direct access from Fountain Place. Due to the grading of the site, this walkway is needed because it is the only way to access the rear yard bicycle parking and amenity area. Planning Services supports the requested relief from Section 139 and 140 and is satisfied that the proposal demonstrates compatibility with the existing and planned context of the neighbourhood.

- **Rear yard parking**

In order to provide access to the three proposed rear yard parking spaces, the owner has applied for an associated Road Opening application. Should this road opening be approved, Besserer Street will be extended eastward to allow 244 Fountain Place to have direct access to Besserer Street. This new frontage on a public street would be considered a corner side yard and would be accessed from a driveway that is 8.51 metres wide.

Section 109(3)(a) prohibits corner side yard parking into a rear yard in an R5 zone and Section 109(10)(a) and Table 140B prohibits the proposed 8.51 metre driveway width. Therefore, to permit the proposed layout, provisions have been included to allow the lot line fronting Besserer Street to be considered a northern interior side lot line, to allow a maximum driveway width of 8.51 metres in this area and permit functional parking in the northern interior side yard and rear yard. Planning staff support these provisions because it allows the development to meet the minimum required parking requirements in Section 101.

- Holding zone

Planning Services is recommending a holding provision to address the associated Road Opening application and Site Plan Control application. The holding zone ensures that City assets within Besserer Park are adequately addressed and reviewed prior to development taking place. Such assets include: the construction of the Besserer Street extension and the construction of a swale and compensation and plan for impacts to trees in Besserer Park. Planning Services supports the inclusion of the holding provision as it provides assurances to Planning staff and the community that the outstanding issues will be addressed through the associated Road Opening and Site Plan Control applications.

### **Provincial Policy Statement**

Staff have reviewed this proposal and have determined that it is consistent with the Provincial Policy Statement of 2014 and 2020.

### **RURAL IMPLICATIONS**

There are no rural implications.

### **COMMENTS BY THE WARD COUNCILLOR**

Councillor Mathieu Fleury provided the following comment:

“As you know, I've had many frustrations and concerns with TC United. These concerns included types of development that cater to the single demographic (maximizing every inch of legal living spaces), not being sensitive to neighbourhood character and not correctly managing properties (maintenance, garbage, tenant parking and support). As for Fountain Place, the application has changed significantly since its initial submission. We appreciate the engagement with my office, and the hired professionals brought on to improve the proposal. Fountain place is a very private area, and the developer at the time was unable to complete the three phases of residential development. TC United acquired the undeveloped segment, wedged in between the existing residential and Besserer Park. I recognize the progress of their submission. However, I remain reserved when it comes to its encroachment to the neighbouring Besserer Park. To that end, I would like special attention placed on the park, including the new access via Besserer street. It is important that forestry and the parks department continue to work

with the applicant to ensure proper tree care, proper replacement and additional tree planting where applicable, as well as general attention to landscaping as a top priority.”

### **LEGAL IMPLICATIONS**

There are no legal impediments to implementing the recommendations of this report.

If the recommendations of this report are carried by Council and an appeal to the Local Planning Appeal Tribunal were to be filed, it is anticipated that such an appeal could be conducted within current staff resources and would require a five-day hearing.

Should Council refuse the application, an outside planner and possibly other subject-matter experts would need to be retained.

### **RISK MANAGEMENT IMPLICATIONS**

There are no risk implications.

### **ASSET MANAGEMENT IMPLICATIONS**

There are two asset management implications with the recommendations of this report related to Besserer Park, abutting 244 Fountain Place to the north. The recommended holding provision addresses the asset implications. The owner will be responsible for the cost implications of changes to Besserer Park and the additional requirements applied through the holding provision that serve to manage the impact to City assets.

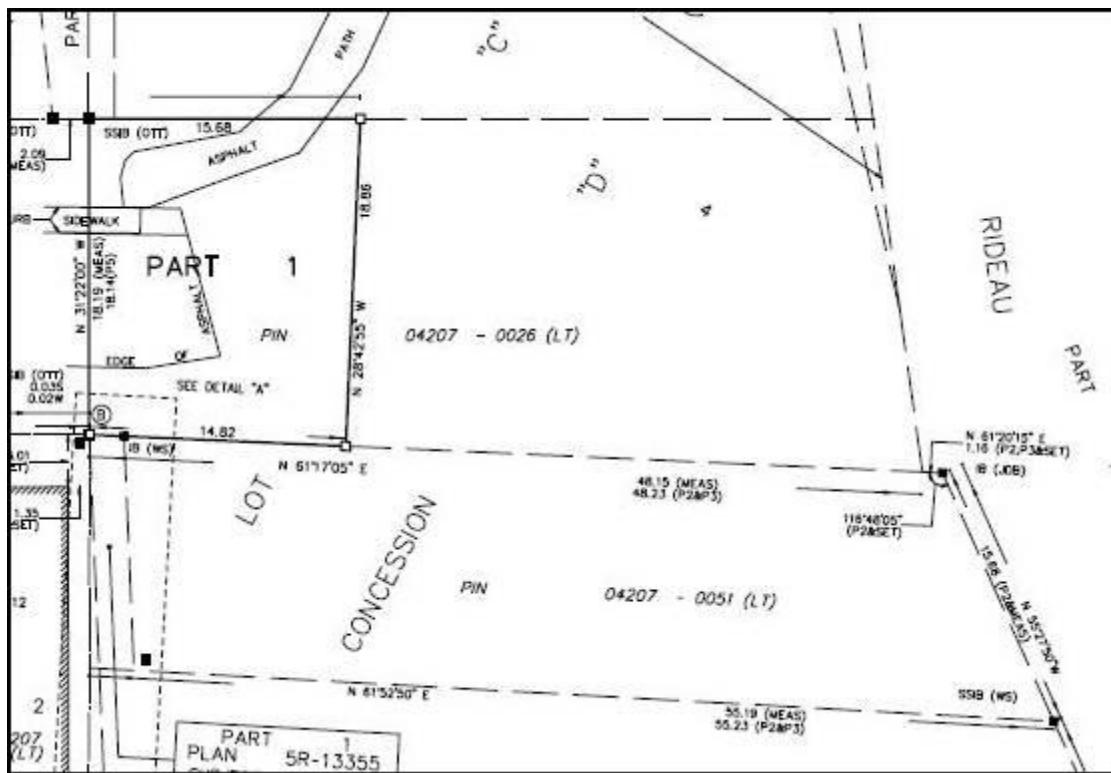
### **Associated road opening application**

On December 20, 2019, the owner applied for an associated Road Opening application to extend Besserer Street eastward. This Road Opening application is on hold, pending the owner's submission of additional material for review. The holding provision associated with the recommended rezoning will not be removed until the associated Road Opening by-law is Council approved and relevant agreement(s) registered

The proposed road opening application will convert a portion of Besserer Park into an easterly extension to the Besserer Street Right-Of-Way to allow for the property at 244 Fountain Place to have frontage on Besserer Street. This frontage on a public road will allow for vehicles access the rear yard of 244 Fountain place. The rear yard access to 244 Fountain Place from Besserer Street is required to allow for legal access to three surface parking spaces proposed in the rear yard, which are required to meet minimum parking requirements for the proposal.

Parks and Facilities Planning is aware of this road opening application and are satisfied that the road opening is acceptable provided that the associated Road Opening Agreement requires the owner to provide the City with compensation for the loss of parkland. A portion of the area that will be converted from parkland to roadway is already paved and used informally as a roadway extension. Given this existing condition, the impact of converting this area to roadway is minimal.

Image 4: Survey of Road Opening



### Proposed swale along the southern boundary of Besserer Park

The water in Besserer Park also currently drains onto 244 Fountain Place as a result of the existing slopes. To address drainage and run-off, a condition is included in the holding provision that requires the owner to construct and pay for the construction of a swale on the southern edge of the park. This swale will direct water to the storm sewer on Fountain Place. The owner will be required to provide a full analysis of existing capacity through the Site Plan Control application process.

### FINANCIAL IMPLICATIONS

There are no direct financial implications associated with the report recommendations.

Through the holding provision, the owner will be responsible for any drainage and tree compensation costs.

In the event the application is refused, and external subject-matter experts are retained, the expense would be absorbed from within Planning, Infrastructure and Economic Development's operating budget.

### **ACCESSIBILITY IMPACTS**

The proposed building, through building permit review, is required to comply with the *Accessibility for Ontarians with Disabilities Act*. There are elements of the development that are not fully accessible due to the measures taken to address the existing steep slopes rising toward the west and north, away from the street. The southern portion of the rear yard provides outdoor amenity area for tenants and is stepped, with the south-west corner only accessible by steps. While the Site Plan applications do not approve interior spaces of buildings, the applicant has adequately demonstrated that the basement floor of the proposed building is accessible, including common entrances from Fountain Place, sloped interior corridors and barrier-free access to 47 square metres of amenity area. It should be noted that while it is considered a "basement" level, this floor is flush with the grade of Fountain Place (due to the slopes onsite). Staff are satisfied with the measures taken to make this basement level accessible.

### **ENVIRONMENTAL IMPLICATIONS**

There are butternut trees located in Besserer Park that may be impacted by the development. Butternut trees are listed as Endangered Species and are protected by the Ministry of Environment, Conservation and Parks. The holding provision recommends the hold not be lifted until the proposed condition ensures that Ministry requirements are met, and that proper compensation is provided through the Site Plan process. Through the Site Plan Control process, the owner will also be required to provide an updated Tree Conservation Report and retain City trees where possible and provide compensation for City trees impacted by the development.

### **TERM OF COUNCIL PRIORITIES**

This project addresses the following Term of Council Priorities:

- Integrated Transportation: meets the outcome of building development in and around transportation hubs is central to official planning



- Sustainable Infrastructure: the proposal introduces new rental units within the central area that is already serviced, ensuring sustainable infrastructure investment to meet the future growth and service needs of the city.

## **APPLICATION PROCESS TIMELINE STATUS**

The Zoning By-law application (D02-02-16-0088) was not processed by the "On Time Decision Date" established for the processing of Zoning By-law amendments due to a number of proposal revisions and the complexity of review associated with the site-specific challenges of the property.

## **SUPPORTING DOCUMENTATION**

Document 1 Location Map and Zoning Key Plan

Document 2 Details of Recommended Zoning

Document 3 Development Concept Plans

Document 4 Consultation Details

## **CONCLUSION**

The Planning, Infrastructure and Economic Development department supports the proposed Zoning By-law amendment application to permit a three-storey low-rise apartment dwelling containing 20 dwelling units. These amendments and the resulting development allow for compatible infill development in the urban area. The proposal will develop an underutilized, vacant site and provide new housing options. The requested amendments are consistent with the Provincial Policy Statement and conforms to the Official Plan, Sandy Hill Secondary Plan, and Urban Design Guidelines for Low-Rise Residential Infill. The Zoning By-law amendment represents good planning and the Department recommends the requested amendments be approved.

## **DISPOSITION**

Office of the City Clerk, Council and Committee Services to notify the owner; applicant; Krista O'Brien, Tax Billing, Accounting and Policy Unit, Revenue Service, Corporate Services (Mail Code: 26-76) of City Council's decision.

Zoning and Interpretations Unit, Policy Planning Branch, Economic Development and Long Range Planning Services to prepare the implementing by-law and forward to Legal Services.

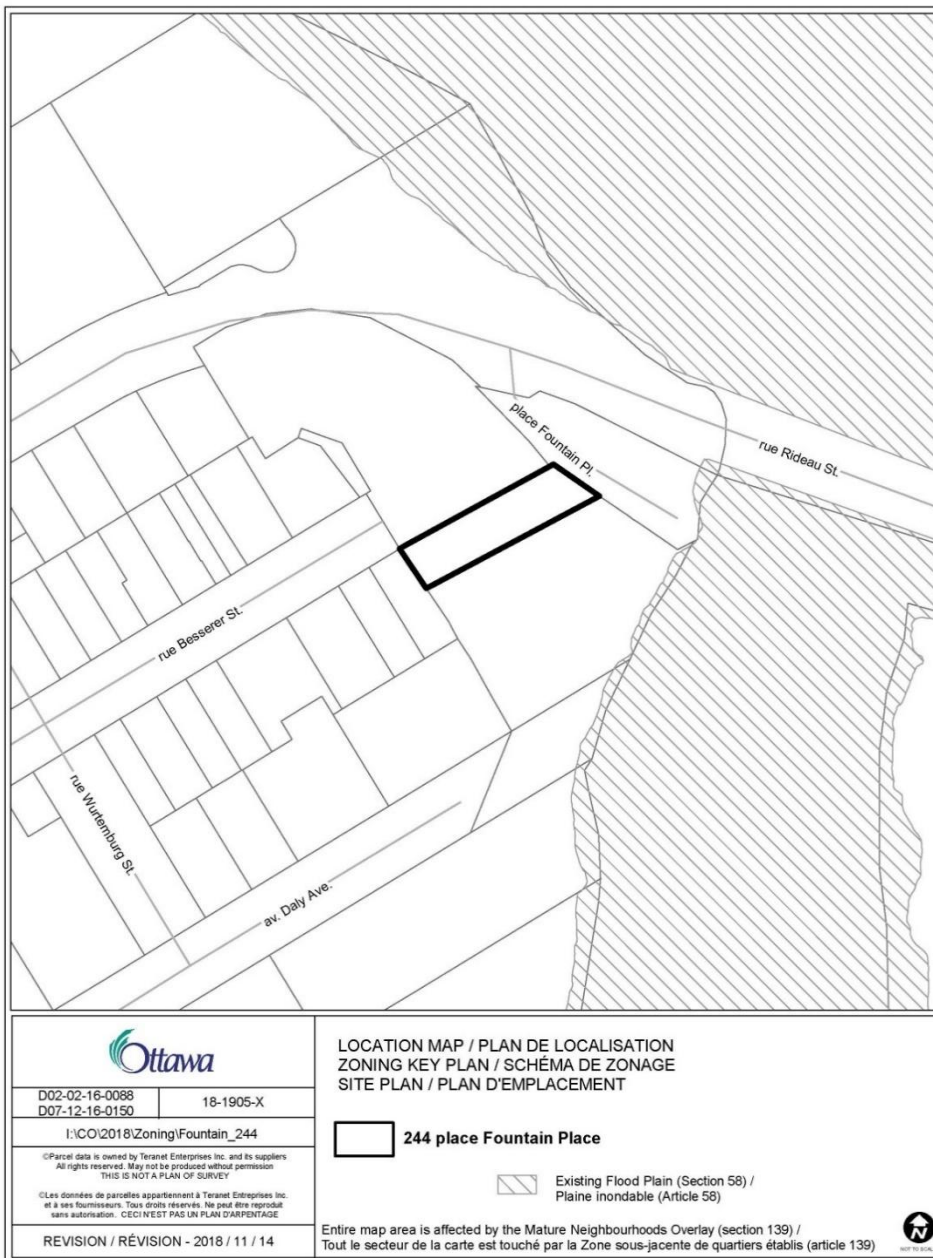
Legal Services, Innovative Client Services Department to forward the implementing by-law to City Council.

Planning Operations Branch, Planning Services to undertake the statutory notification.

## Document 1 – Location Map

For an interactive Zoning map of Ottawa visit [geoOttawa](http://geoOttawa).

The site is located on the west side of Fountain Place, a short cul-de-sac beside Cummings Bridge and Rideau River.



## Document 2 – Details of Recommended Zoning

The proposed change to the City of Ottawa Zoning By-law No. 2008-250 for 244 Fountain Place, as shown on Document 1, is as follows:

1. Rezone the lands shown in Document 1 from R5B H(19) to R5B H(19) [XXXX]-h.
2. Amend Section 239, Urban Exceptions, by adding a new exception [XXXX], with provisions similar in effect to the following:
  - a) In column II add the text: R5B H(19) [XXXX]-h
  - b) In column V add the following text:
    - i. The lot line on Fountain Place is the front lot line.
    - ii. Despite the definition of lot width, the lot width will be calculated as the horizontal distance between the side lot lines measured at right angles to the lot depth, from 3.61 metres from the front lot line.
    - iii. The minimum lot width for a low-rise apartment building is 13.9 metres.
    - iv. The following minimum setbacks apply to a low-rise apartment building:
      - a) Minimum front yard setback is 0.29 metres.
      - b) Minimum northern interior side yard setback is 0.9 metres
      - c) Minimum southern interior side yard setback is 1.5 metres for a distance of 30 metres from the front lot line, after which the southern interior side yard setback is a minimum of 3.4 metres for a distance of 4.6 metres, after which the southern interior side yard setback is a minimum of 5.9 metres.
      - d) The minimum rear yard setback is 13.5 metres.
    - v. Despite Section 65, a balcony may project 2 metres, but no closer than 0.9 metres from the northern lot line.
    - vi. Despite Section 111, stacked bicycle parking structures are permitted.
    - vii. The minimum aisle width providing access to bicycle parking space(s) is 1.1 metres.

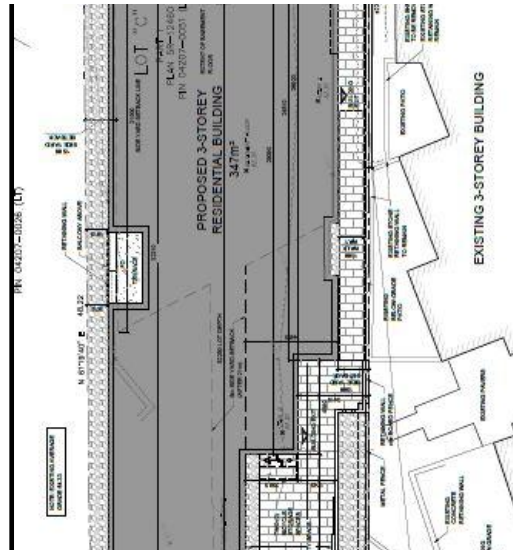
- viii. Despite Section 139, the minimum total required amenity area is 129 square metres, of which a minimum of 65 square metres is required to be communal. The communal amenity area is:
  - a) Not required to be located at-grade;
  - b) To consist of 25 per cent soft landscaping;
  - c) Permitted to be located within an interior side yard, interior yard and the rear yard.
- ix. A double driveway with a maximum width of 5.7 metres is permitted in the front yard.
- x. A garage may be located closer to the front lot line than the front wall of the residential use building.
- xi. A double attached garage is permitted with a maximum door width of 5.7 metres.
- xii. Section 139(16) does not apply.
- xiii. If the property 244 Fountain Place gains direct right-of-way access onto Besserer Street:
  - a) The lot line fronting Besserer Street be considered a northern interior side lot line;
  - b) A maximum driveway width of 8.51 metres is permitted on the northern interior side lot line;
  - c) Parking is permitted in the northern interior side yard and rear yard.
- xiv. The holding symbol (-h) may not be removed until such time as:
  - a) The associated Road Opening by-law is Council approved and the associated Road Opening Agreement is registered;
  - b) An application for Site Plan Control has been approved; and which approval includes:
    - i. A condition requiring the applicant submit a Butternut Health Assessment to the Ministry of Environment, Conservation and

Parks and, if applicable, register the retainable butternut trees with a butternut compensation plan with the Ministry of Environment, Conservation and Parks as per Ontario Regulation 242/08.

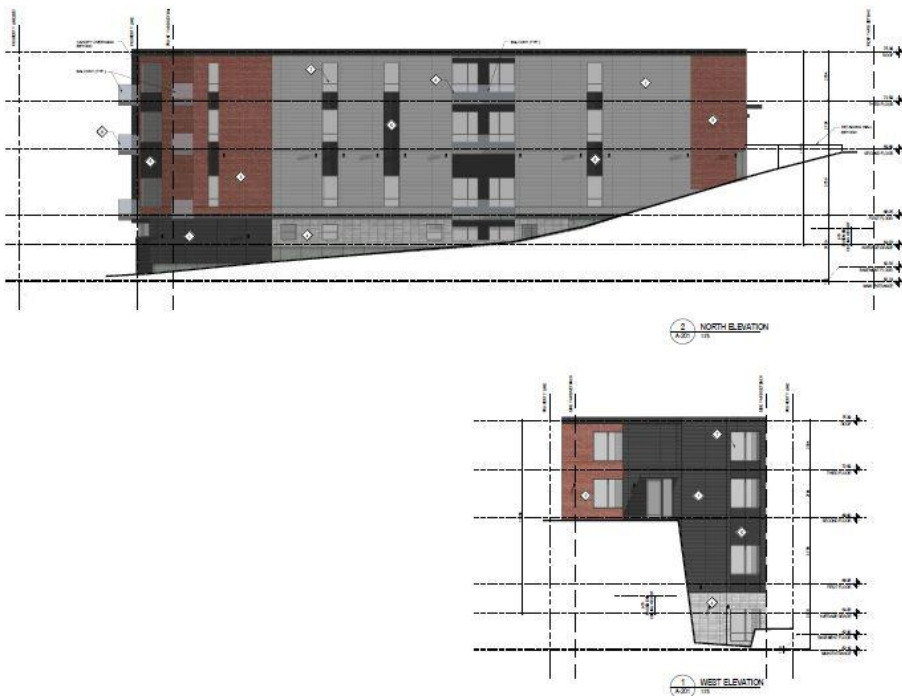
- ii. A condition requiring that, at the owner(s) cost, the owner(s) construct a swale on the southern edge of Besserer Park, to the satisfaction of the General Manager of Planning, Infrastructure, and Economic Development Department.

Document 3 – Development Concept Plans

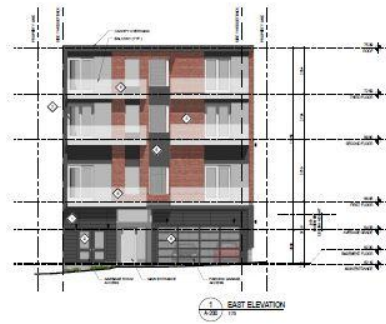
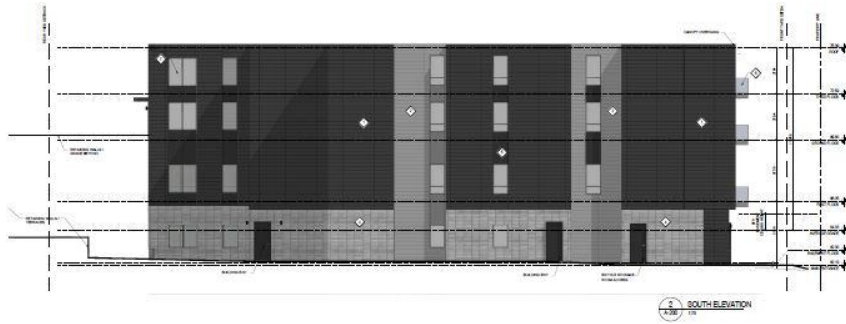
Draft Site Plan



Draft Exterior Elevations (North and West Elevation)



Draft Exterior Elevations (South and East Elevation)





Perspective 1 – View looking south on Fountain Place



Perspective 2 – View looking west on Fountain Place



Perspective 3 – View looking north-west on Fountain Place



Perspective 4 – View looking west from 612 Besserer Street



Perspective 5 – View looking north from 250 Fountain Place



Perspective 6 – View looking south from Besserer Street Extension



## **Document 4 – Consultation Details**

### Notification and Consultation Process

Notification and public consultation were undertaken in accordance with the Public Notification and Public Consultation Policy approved by City Council for Zoning By-law amendments. Two public meetings were also held in the community. The first meeting was held on January 24, 2017 at Patro d'Ottawa and the second meeting was held on March 27, 2019 at the Youville Centre.

Approximately 81 individuals/groups commented on the proposed development during the review process. The vast majority of the public submissions were opposed to the development and expressed concerns such as parking, traffic, reduced setbacks, noise, deforestation, land erosion and slope stability, students, and the overall building mass and density.

## **PUBLIC COMMENTS AND RESPONSES**

The following summarizes, in no particular order, a list of common topics and items raised by members of the public in response to the application. Action Sandy Hill (ASH) did not submit formal comments on this application.

### **General Public**

#### **Parking, Traffic and Access**

- There was concern that no parking was proposed in the 2018 proposal.
- Parking is already limited in the area and there is high-demand for on-street parking.
- There is concern that there is a traffic safety issue. It is difficult to see merging traffic from the entrance to Rideau Street and Cummings Bridge from Fountain Place. There is also no streetlights at this intersection to help manage congestion.
- There is concern that additional vehicular traffic will be disruptive to neighbours.
- There is concern that fire truck access will be problematic.

Response:

The proposal now provides the minimum required number of vehicular parking spaces.

Five parking spaces are provided (two in a front-facing garage) and three in the rear yard. The City's transportation project manager reviewed the proposal and is satisfied that the two additional parking spaces along Fountain Place will not create a safety issue at the intersection of Fountain Place and Rideau Street. No changes to the Right-Of-Way are proposed that would be an impediment to fire trucks.

### **Scale, setbacks, lot width, privacy and noise**

- There is concern with the reduced minimum lot width.
- There is concern with the interior side yard setbacks being too small.
- There is concern with the size of the development on the allocated space.
- There is concern that the proposal will significantly reduce the sunlight and privacy for the residents at 250 Fountain Place.
- There is concern that the outdoor amenity space located at 244 Fountain Place will create noise issues for residents at 250 Fountain Place.

### **Response:**

Given the context of the property being centrally located and underutilized, the site is a suitable location for the proposed form of intensification. As outlined in the Planning Rationale – Zoning Details section of the report, Planning Services is satisfied that the low-rise apartment dwelling use is appropriate for a lot of this width and size. Planning Services is supportive of the lack of balconies on the southern façade and the proposed gradient of southern side yard setbacks as well as the northern side yard setback. Since the initial submission, the rooftop amenity area has been removed, reducing the potential for noise nuisance and increasing privacy for the neighbouring development.

### **Compatibility and heritage**

- There is concern that the proposal will not blend well with the neighbourhood.
- There is concern that the proposal ignores the adjacent Besserer-Wurtemberg Heritage Conservation District. There is concern that the rear of the building, facing Besserer Street and the northern façade, facing Besserer Park would be made of siding that does not respect the heritage character of the area.



Response:

As outlined in the Planning Rationale section of this report, Staff are of the opinion the proposal is compatible with the surrounding area. The proposed use is permitted R5 (Residential Fifth Density) zone and the proposal conforms to the established pattern and built form.

The property at 244 Fountain Place is not designated under the *Ontario Heritage Act* and is not subject to the Heritage Overlay. The vacant lot is adjacent to the Besserer-Wurtemberg Heritage Conservation District (HCD). Besserer Park is not included in the HCD. A Cultural Heritage Impact Statement was not required for this development as heritage staff determined that the development does not have the potential to negatively impact the character of the HCD which is characterized by a mix of housing types including low-rise apartment buildings. The proposed cladding materials (masonry and fibre cement) are compatible with the character of the Besserer-Wurtemberg HCD and are both included in the HCD Plan as appropriate cladding materials for new buildings within the HCD. As such staff do not have any concerns with the use of these materials on a new building adjacent to the eastern boundary of the HCD.

### **Student and Transient users**

- There is concern that the proposal will attract transient residents who do not have incentives or interest in the long-term well-being of the neighbourhood.
- There is concern that the tenants within the proposal will be a combination of student housing, Air BnB, and an unlicensed rooming house.

Response:

The initial 2016 proposal contained entirely one-bedroom apartments. The applicant has since made amendments to further diversify the type of units within the building in response to public feedback, and the 2020 proposal provides 12 two-bedroom units, six one-bedroom units, and two studio units.

The *Ontario Planning Act* does not allow for the consideration of zoning proposals in relation to a segment of the population as this would be discriminatory. This specific issue was recently the subject of a Local Planning Appeal Tribunal (LPAT) appeal, case PL180625 issued May 7, 2019. The decision noted that:

“The issues raised by the Association largely relate to the number of tenants who will reside in the proposed building and the fact that they are likely to be students. However, the Tribunal does not ‘people zone’ by determining who is able to live in a particular building. I find that the issues raised about the potential noise and disorderly conduct focus on student residents and are not matters for consideration by the Tribunal as part of an appeal that focuses on land use planning and are matters for the Association to address with the City through other avenues.”

The Department reiterates that the question of intended users or type of tenure (rental or condo) is not a matter of land use planning. The proposed development is defined as a low-rise apartment building, regardless of potential tenants.

#### **Deforestation and impact to Besserer Park**

- There is concern with deforestation. There is concern with the removal of trees and the shadowing effect the proposal will have on the retained trees in Besserer Park.
- There is concern that the proposal will devalue the park space because it reduces privacy in the park because tenants at 244 Fountain Place will have a view into the park.

Response:

Through the Site Plan process, any City trees impacted by the development will require compensation or new trees to be planted. The existing abutting developments and abutting sidewalks already provide views into the park.

#### **Hill stability and drainage**

- There is concern that the removal of mature trees will cause a shift in soils, causing foundation issues for the uphill properties over time.
- There is concern that runoff from Besserer Park and 244 Fountain Place will negatively affect the abutting 250 Fountain condominium, and potentially 610 and 612 Besserer Street.

Response:

To address the slope rising to the north (toward Besserer Park) and to the west (away

from Fountain Place), the applicant prepared a slope stability analysis within the geotechnical report for the north-east portion of the site that demonstrated the slopes in this area are stable. The rest of the slopes on-site are stabilized by engineering solutions including four retaining walls. To address drainage and run-off, the owner is required to build a swale or a ditch that directs water to the storm sewer on Fountain Place. Planning Services is satisfied with the slope and drainage solutions provided. Through the Site Plan Control process, the owner will be required to build according to engineering plans that are City approved.

### **History of 244 Fountain Place and vibrations**

- There is concern that, given the history of the area, the proposal will result in costly legal activity that taxpayers will be responsible for covering.
- There is concern that, due to the size of the proposed structure, the use of blasting to cut into the bedrock and the associated vibrations will put the foundation of abutting properties at risk.

Response:

The comment referring to the “history of the area” refers to history around the creation of the lot now known as 244 Fountain Place. In 1988, the property now known as 244 Fountain Place was severed from the property now known as 250 Fountain Place. Planning Services has been advised that this severance and sale of 244 Fountain Place may have been the result of the owner of 250 Fountain Place being declared bankrupt due to a costly litigation with a property on Besserer Street, whose foundation had been damaged due to changes to the slope located on 250 Fountain Place. Due to Covid-19, it is prohibitive for City staff to access to the records regarding the historical claims on the neighbouring properties.

The community concern with the 1980s severance and litigation, is that history may repeat itself in the development of 244 Fountain Place and that the changes to the western slope on 244 Fountain Place will cause damage to the foundations on Besserer Street, which will incite a legal dispute.

At site plan approval stage, the owner will be required to provide proof of insurance and this insurance will cover off-site third-party damage. This insurance (of not less than five million) will cover the type of damage the neighbours are concerned about. The City will also take financial securities through the Site Plan process to ensure all on-site works are done according to the approved plans and studies. All approved plans and studies

are required to satisfy the City's infrastructure project manager and meet City requirements. Such approved studies and plans include a Geotechnical Report, Servicing Report, and Erosion Control, Grading, Servicing, and Stormwater Management plans.

### **Approach**

- There is concern that the 2018 proposal was a 'misdirection'; that by providing a design that will not have community support, it will be used as leverage to turn back to one of the earlier designs, none of them agreeable to the community.
- There is concern that allowing this development will result in an arbitrary ad-hoc approach to development, incentivizing developers to make risky investments with the expectation that they will receive automatic approval.
- There is concern that the plans and studies ignore the surrounding context and impact to the surroundings.

Response:

While Planning Services cannot speculate on the intentions of the developer, each proposal the owner has provided has been reviewed by City staff along with the community. Staff's recommendation to approve this rezoning is a result of Planning Services now being satisfied with the proposed zoning and associated proposal, not a result of staff's lack of satisfaction with the previous proposals. Staff are also satisfied that any Site Plan Control issues will be required to be addressed prior to Site Plan Control approval.

### **Comments from the Carleton Condominium Corporation No. 539 (Located at the adjacent development to the south, 250 Fountain Place)**

**Re: Files D02-02-16- 0088 and D07-12-16-0150**

### **Objections to the proposed development on lot 244 Fountain Place, Ottawa (December 2019)**

1. Carleton Condominium Corporation 539 (hereinafter referred to as "CCC 539") is a residential development consisting of blocks of three-story townhouse structures, totalling 25 units. CCC 539 was constructed in 1990 and is now municipally known as 250 Fountain Place.



2. In recent years CCC 539 has appeared before city authorities or otherwise made formal representations in opposition to various development applications for the lot at 244 Fountain Place (most recently in November 2016, February 2009 and November 2004). City authorities have subsequently refused variances sought by various developers on at least three occasions since 2001.
3. CCC 539 opposes the zoning bylaw amendments currently sought by TC United Group (and/or 969000 Canada Inc., hereinafter referred to as "the applicant") in the application now before city authorities for the reasons set out below.

**A) The variances sought are not minor and would have major impacts on neighboring properties. (see Appendix B for site photos and drawings)**

4. The requested variances collectively are not minor and represent a significant departure from zoning rules and intent. As such they would have major impacts on neighboring properties and their residents significantly reducing both residents' quality of life and the value of neighboring properties.
5. The most egregious request is the proposal to seek a variance to allow for a low-rise apartment building on a lot-width reduced from the required 18 metres to 13.8 metres. That is 24.7 per cent less than the zoning requirement. The small lot is already undersized, and this makes it totally inappropriate for the development of low-rise apartment as confirmed by the City's zoning by-laws. The narrow width makes the lot completely inappropriate for the development of this type.
6. Because of the proximity of the buildings of CCC 539 to the property line, parts of the proposed structure would only be two meters from residential units of CCC539. Importantly, this narrow gap would be between the amenity areas of units of CCC539 and the walls of the proposed development. Indeed, the two metre gap between the South walls of the proposed development and the North wall of 250 Fountain Place is so limited that there are fire rating requirements to prevent fire from spreading from 244 Fountain Place to 250 Fountain Place. The Servicing Report prepared for the proposed development on page 3.3 indicates, "A two-hour fire separation will be required on the southern and western side of the building to minimize fire flow requirements for the site". This requires one of three modifications; no windows on the south side of the development, a two-hour fire shutter on a fusible link that would close the shutter in the event of fire, or a "deluge" sprinkler system. The servicing report recognizes this requirement and indicates that, "The proposed building is to be complete with a sprinkler system conforming to NFPA 13."

7. Overall the proposed development is 13.5 metres in height creating a narrow 2 metre strip between the proposed development and 250 Fountain Place. This proposal will have an unacceptable adverse impact on CCC 539, as it will deprive most units on the north side of the enjoyment of their existing amenity areas by depriving them of sunlight, ventilation, views, privacy, quiet and comfort.
8. The elevation drawings indicate that there will be nine dwelling windows on the south wall of the 244 development. These windows will overlook private amenity areas of CCC539 and directly face dwelling unit windows of CCC 539 at 2 metres (See Appendix B) The City of Ottawa Urban Design Guidelines for Low-rise Infill Housing require that buildings be oriented so that “their amenity spaces do not require sound attenuation walls and that noise impacts are minimized. Design amenity areas such as second floor balconies and roof top decks to respect the privacy of the surrounding homes.”
9. As the Planning Rationale points out, the proposed development meets neither the total amenity area requirement not the communal amenity requirement. In fact, the communal amenity space is approximately 50 per cent of the zoning for the proposed building.
10. Building any structure in this narrow, enclosed site on a short dead-end street would effectively prevent on-street parking for the duration (there’s nowhere else to store containers and materials) and would effectively make CCC 539 residents live in the middle of a construction site.
11. The proposal outlined in the applicant’s documents contains inaccurate info. Appendix A provides a non-exhaustive list of inaccuracies in those supporting documents.
12. Collectively, these impacts are very significant to the residents of CCC 539 and so the long list of variances sought by the applicant (which cover most of the Zoning Conformity criteria) could never be considered minor in nature or in effect.
13. It bears mentioning that no similar variances have been granted on Fountain Place for previous construction and no precedents were established for setback, including for the CCC 539 buildings at 250 Fountain Place: that property originally included both the 250 lot and the 244 lot (thus ensuring appropriate setback), but the lots were subdivided when the first developer declared bankruptcy.

**B) There are long-standing issues with the stability of the terrain at 244 Fountain Place.**

1. The existing slope (which ensures the stability of Besserer Park) has been showing signs of increasing erosion: over the last few years, part of the root system on the slope has died and parts of the old stone retaining walls have collapsed.
2. As per the applicant's online documents, the proposed buildings require excavating most of this already weakened slope to a maximum depth of 7.8 meters and replacing the extensive soil and root system with series of retaining walls holding back the hillside.
3. The applicant's technical drawings show that this project would result in all but a handful of the trees onsite to be cut down (including most of the larger ones) or see their survival compromised by a large retaining wall to be built less than a meter from their critical root systems. The current plan, with the proposed parking access off the end of Besserer Street requires more trees to be removed than in previous iterations. This amounts to deforestation of a city park and will promote slope instability.
4. The attempt to build a large retaining wall immediately adjacent to dwellings on Besserer Street will create significant likelihood of damage to neighboring properties through differential settling. If sheet piles are used to retain the slope during the construction of the retaining wall, there will be an increased risk of damage to adjacent properties through vibrations.
5. There are no indications that the applicant is willing or has the financial means to guarantee (through posted bonds) the over \$15 million of potential damages resulting from construction to existing properties around the site. The City of Ottawa has already been required to settle for costs and damages suffered by a Besserer Street resident following construction on Fountain Place as a result of differential settling. So, there is precedent for recourse by CCC 539 residents in the case of damages which could not be covered by the applicant.

**C) This property has marginal development potential at best, and this proposal is not a desirable development.**

1. This site has marginal potential for any construction other than a single home or duplex that is fully compliant with zoning regulations. It is unsuitable for a proposed high-density building, where safety and quality of life for new residents is essential.

Table 3 on page 21 of the Planning Rationale summarizes that the proposed development is non-compliant against many of the Zoning Requirements.

2. The applicant's supporting documents and plans indicate that there will be 20 units, with a potential occupancy of 40 persons. The applicant's proposal provides a total of five parking spaces, including guest parking. Other than the limited parking available on Fountain Place, which must also serve as guest parking for the 25 units in CCC 539, the nearest parking is on Besserer Street over 200m distant by foot. It should be noted that one-hour parking on Besserer Street would not address the parking insufficiency of this development proposal. Fountain Place is the sole location for parking permits, and they could not provide enough parking for a development of this size.
3. The proposal does not constitute orderly development and is contrary to the intent and purpose of the Official Plan.
4. The intent and purpose of the performance standards in the Zoning By-law is to ensure that properties will enjoy amenities such as sunlight, ventilation, views, privacy, quiet and comfort. The variances requested are contrary to the intent and purpose of the By-law.
5. Most reasons invoked by city authorities in prior refusals of other projects on the same site (including D08-02-04/A-00357 in Nov. 2004 and another refusal in 2009) apply to this project, including that "the proposed building will result in an unacceptable adverse impact on the adjacent properties".
6. Denying the variances sought would not deprive the Applicant of a reasonable use and enjoyment of the subject property. The applicant could still build something that fits within the zoning conditions, avoids the potential destabilization of the hillside in the West side of the lot and fits in with the characteristics of the immediate vicinity and neighbouring heritage conservation district on Besserer Street.

## **Appendix A – Deficiencies in the Support Documents**

### **Planning Rationale**

Page 8: The statement "The two-building proposal was met with objections from the residents of the neighbouring condominium over the potential for light pollution from cars in the courtyard, erosion in the rear yard, and privacy concerns. Attempts to further develop this concept with input from the community were frustrated by the neighbouring

residents' refusal to meet." is inaccurate and requires correction. The neighbours in CCC539 were primarily concerned with:

- The gross variance of the proposed development from the lot width requirement for the type of development and the resulting proximity of the building to their units and amenity areas, and the related loss of sunlight and privacy;
- The absence of suitable resident and guest parking that would dump the parking needs of the development into Fountain Place.

After participating in public meetings with the developer, homeowners of CCC539 declined to meet with the developer over minor details of the development, given that the scale was completely out of proportion with the very limited lot size.

This development is so out of scale and damaging to 250 Fountain Place that we have been advised by a leading real estate broker that the potential impact on property values at 250 Fountain Gate could be in the order of a 20 per cent-50 per cent devaluation and that selling units at Fountain Gate could become difficult – both during construction of 244 Fountain Place and subsequently. This would result in an economic loss of up to \$4 - \$5.5 million or up to \$220,000 per condominium unit!

Page 17: Table 1 - "The proposed development is not anticipated to have significant shadow impact on surrounding properties. Shadowing will be limited to the parkland to the north and will have less impact than as-of-right development that could include a taller building." If the buildings were distant from 250 Fountain Place, this statement could be valid, but its proximity means that a dark well two meters wide will be created in some areas between 250 Fountain Place and the proposed development.

Page 18: the statement that "The only adjacent property on Fountain Place shares the same zoning as the subject site and is a planned unit development of similar massing and scale as the proposed development, with small setbacks and a minimal rear yard." ignores the fact that 250 Fountain Place is on a much larger property where the total lot area is appropriate. The fact that 250 Fountain Place is close to the property line on the north side is not a precedent for 244. Originally 250 and 244 were to be developed as a single condo development. When the development went into bankruptcy during construction, the 244 property was severed. 250 Fountain Place did not breach side yard zoning requirements through variance.

Page 21. Table 3 has the following errors:

- Line 1 – Minimum Lot Width -indicates that the lot width is compliant. It is non-compliant
- Line 3 – indicates that the building is 11m high. It is 13.45m in height as shown on the elevation drawings.
- Line 6 – Minimum Interior Yard Setback – is for a building of less than 11m, but the building elevation is 13.45m at the SE corner. For a building of this elevation the wrong requirement is stated (the stated requirement is for buildings of 11m or less)

Page 22: the statement that, “On the south side, an increased setback (from 1.5m to 6.34m) is provided from the lot line at a point 29.6m from the front lot line in order to provide daylighting to amenity areas of the neighbouring property.” is a confusing way of acknowledging that the proposed development does not meet the set-back requirements. In addition, contrary to the bylaw requirement, it does prevent daylighting to amenity areas of the neighbouring property for more than 8 meters beyond the set-back.

### **Servicing Report**

The storm water study indicates that the site drains East, but contours would indicate flow is Southeast into 250 Fountain Place and indeed there have been drainage issues from the vacant lot at 244 into the 250 Fountain Place property. Run-off would flow onto 250 Fountain Place.

### **Tree Conservation**

The proposed retaining wall is not simply a replacement for the existing stone wall. The property line is one to five meters north of the wall and the new wall will be on this property line and much higher in many areas (up to 7.8 metres vs two metres today). Deep excavation immediately adjacent to the mature trees in the park is likely to destroy these trees.

### **Parking**

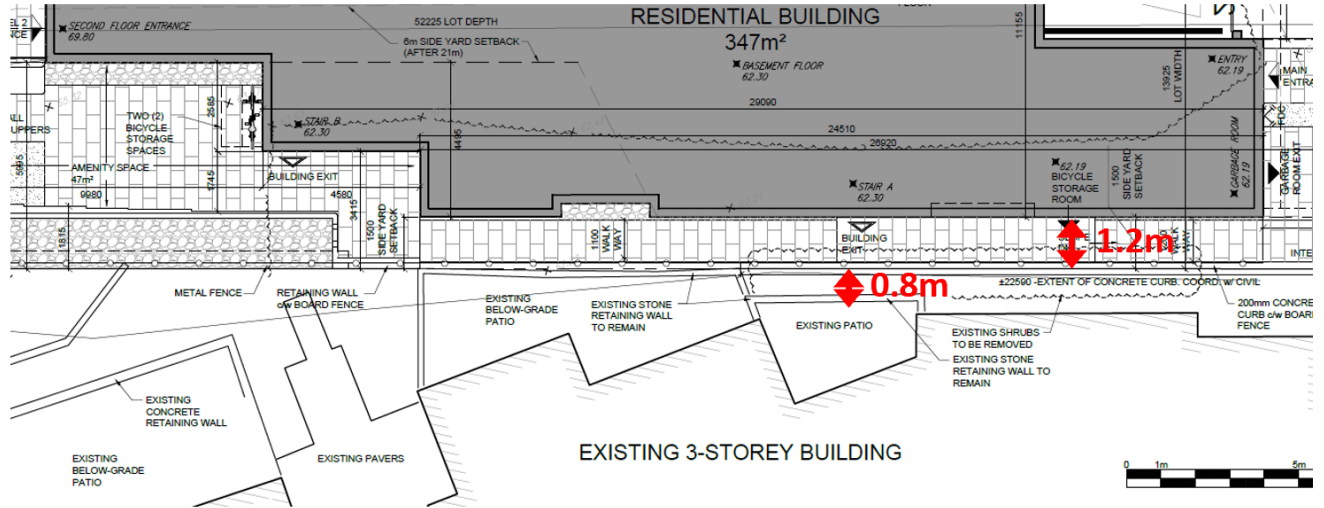
The underlying premise of the parking study is that providing the minimum requirement for parking on-site will not unduly burden the neighbourhood, yet Statistics Canada reports that 57 per cent of urbanites 18 to 24 years old (the target market for this

development) make one or more trips per day by car. With occupancy of this building in the 40-person range, it can be anticipated that as many as 20 cars will be associated with the tenants.

**Appendix B - Drawings and Photos Illustrating the Proximity of 244 to Existing Buildings**

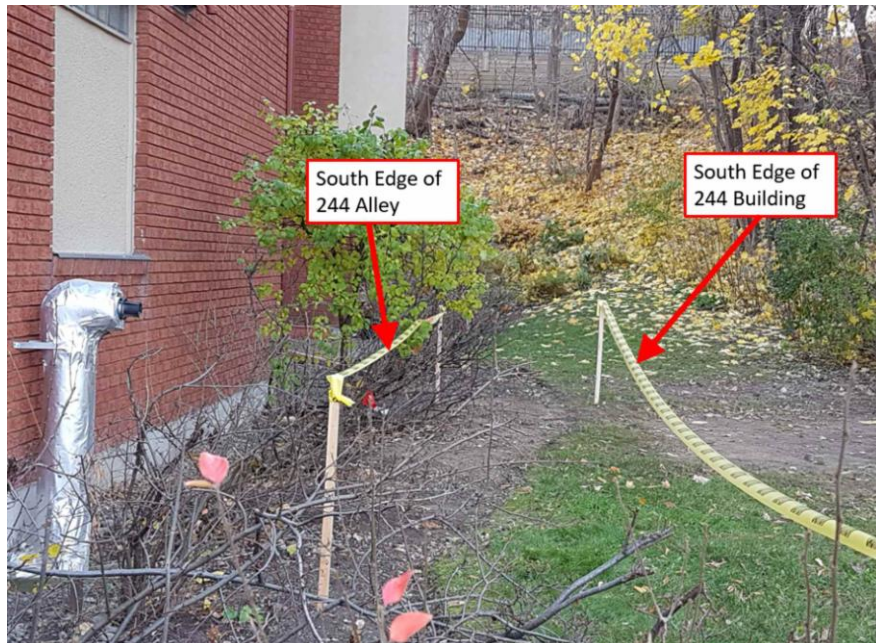
Exhibit B-1 shows that the South edge of the 244 building is two metres from the most Northern portion of 250 Fountain Place.

Exhibit 1. Site Plan Showing Dimensions



Exhibits B-2 and B-3 are photos highlighting the proximity of the proposed 244 Fountain Place to the North wall of 250 Fountain Place.

Exhibit B-2. Photo Looking West Showing Location of South Edge of 244 Building, South Edge of 244 Access Alley and North Wall of 250 Fountain





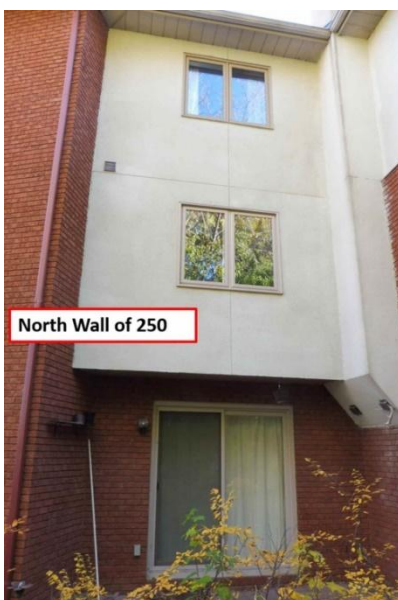
**Exhibit B-3. Photo Looking East Showing Location of South Edge of 244 Building, South Edge of 244 Access Alley and North Wall of 250 Fountain**



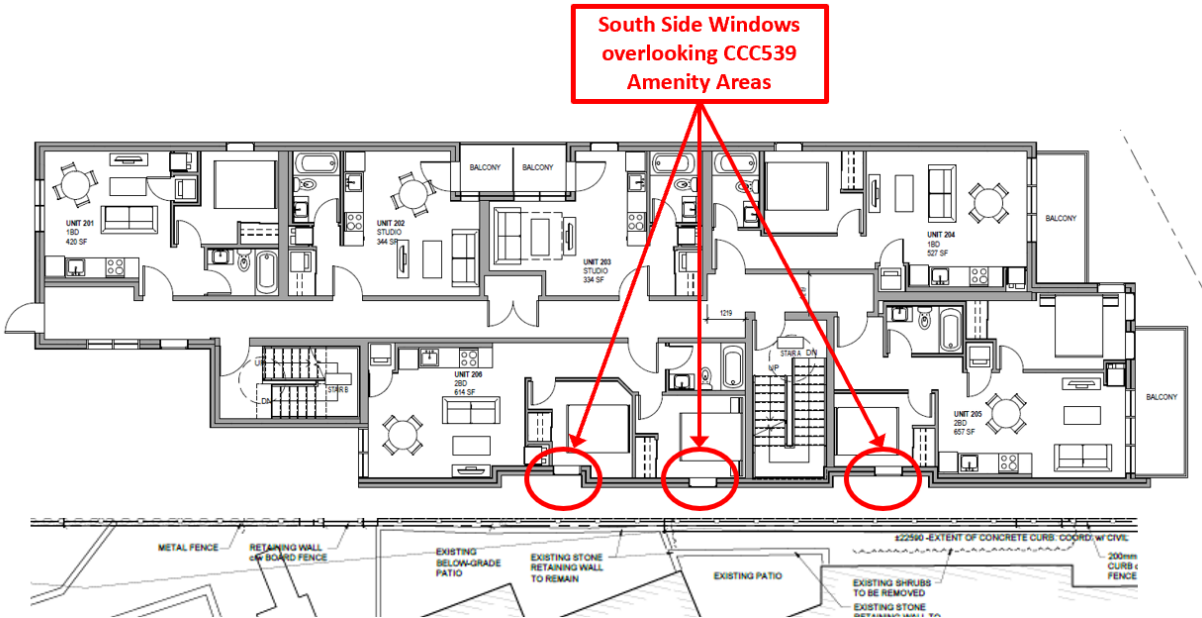
Note that the proposed access alley runs along the edge of the window well of 250 Fountain.

Exhibit B-4 illustrates the North wall of 250 Fountain, which will be faced by the windows of 244 at a distance of 2-3m. Exhibit B-5 illustrates the proposed South wall of 244.

**Exhibit B-4. North Wall of 250 Fountain Place**



**Exhibit B-5. South Facing Windows on Proposed Development 244**



**Response:**

The concerns outlined in the CCC 539 were echoed by the general public comments, and a departmental response to these concerns are addressed in that section as well as within the Planning Rationale section of this report.