

**SITE PLAN CONTROL APPLICATION
DELEGATED AUTHORITY REPORT
MANAGER, DEVELOPMENT REVIEW, CENTRAL**

Site Location: 244 Fountain Place

File No.: D07-12-16-0150

Date of Application: October 19, 2016

This SITE PLAN CONTROL application submitted by FOTENN, on behalf of 9690000 Canada Inc., is APPROVED as shown on the following plan(s):

1. **North and South Elevations**, Drawing A-200, prepared by Figurr, dated 01/09/21 revision 12 dated 2022-01-04.
2. **East and West Elevations**, Drawing A-201, prepared by Figurr, dated 01/06/21, revision 12 dated 2022-01-04.
3. **Site Plan**, Drawing No. A105, prepared by Figurr, dated 2018-02-16, revision 17 dated 2021-10-22.
4. **Landscape Plan**, Drawing No. L102, prepared by Stantec, dated 16.08.24, revision 9 dated 22.01.17.
5. **Landscape Details**, Drawing No. L103, prepared by Stantec, dated 16.08.24 revision 9 dated 22.01.17.
6. **Site Servicing Plan**, Drawing No. SSP-1, prepared by Stantec, Project No. 160401234, dated 16.10.14, revision 12, dated 22.01.13.
7. **Grading Plan**, Drawing No. GP-1, prepared by Stantec, dated 16.10.14, revision 12 dated 22.01.13.
8. **Erosion Control Plan and Detail Sheet**, Drawing No. EC/DS-1, prepared by Stantec, dated 16.10.14, revision 12 dated 22.01.13.
9. **Storm Drainage Plan**, Drawing No. SD-1, prepared by Stantec, Project No. 160401234, dated 16.10.14, revision 12, dated 22.01.13.

And as detailed in the following report(s):

10. **Tree Conservation Report**, prepared by Stantec Consulting Ltd., dated October 19, 2016, revised January 17, 2022.
11. **Servicing Report**, prepared by Stantec, Project No. 160401234, dated October 14, 2016, revised December 18, 2020.
12. **Geotechnical investigation**, prepared by Paterson Group, Project No. PG3780-LET.01 Revision 3, dated November 25, 2019.
13. **Noise Impact Study**, prepared by Swallow Acoustic Consultants Ltd., Project No. SW18073.A0, dated February 26, 2018.

And subject to the following General and Special Conditions:

General Conditions

1. **Execution of Agreement Within One Year**

The Owner shall enter into this Site Plan Control Agreement, including all standard and special conditions, financial and otherwise, as required by the City. In the event that the Owner fails to sign this Agreement and complete the conditions to be satisfied prior to the signing of this Agreement within one (1) year of Site Plan approval, the approval shall lapse.

2. **Permits**

The Owner shall obtain such permits as may be required from municipal or provincial authorities and shall file copies thereof with the General Manager, Planning, Real Estate and Economic Development.

3. **Barrier Curbs**

The Owner acknowledges and agrees that the parking areas and entrances shall have barrier curbs and shall be constructed in accordance with the drawings of a design professional, such drawings to be approved by the General Manager, Planning, Real Estate and Economic Development.

4. **Water Supply For Fire Fighting**

The Owner shall provide adequate water supply for fire fighting for every building. Water supplies may be provided from a public water works system, automatic fire pumps, pressure tanks or gravity tanks.

5. **Reinstatement of City Property**

The Owner shall reinstate, at its expense and to the satisfaction of the General Manager, Planning, Real Estate and Economic Development, any property of the City, including, but not limited to, sidewalks, curbs and boulevards, which is damaged as a result of the subject development.

6. **Construction Fencing**

The Owner acknowledges and agrees to install construction fencing, at its expense, in such a location as may be determined by the General Manager, Planning, Real Estate and Economic Development.

7. **Construct Sidewalks**

The Owner shall design and construct sidewalk(s) within public rights-of-way or on other City owned lands to provide a pedestrian connection from or to the site as may be determined by the General Manager, Planning, Real Estate and Economic Development. Such sidewalk(s) shall be constructed to City Standards.

8. **Extend Internal Walkway**

The Owner shall extend internal walkways beyond the limits of the subject lands to connect to existing or proposed public sidewalks, at the sole expense of the Owner, to the satisfaction of the General Manager, Planning, Real Estate and Economic Development.

9. **Completion of Works**

The Owner acknowledges and agrees that no new building will be occupied on the lands until all requirements with respect to completion of the Works as identified in this Agreement have been carried out and received Approval by the General Manager, Planning, Real Estate and Economic Development, including the installation of municipal numbering provided in a permanent location visible during both day and night and the installation of any street name sign on relevant streets. Notwithstanding the non-completion of the foregoing Works, occupancy of a lot or structure may otherwise be permitted, if in the sole opinion of the General Manager, Planning, Real Estate and Economic Development, the aforesaid Works are proceeding satisfactorily toward completion. The Owner shall obtain the prior consent of the General Manager, Planning, Real Estate and Economic Development for such occupancy in writing.

Until all requirements with respect to completion of the Works as identified in this Agreement have been carried out and received Approval by the General Manager, Planning, Real Estate and Economic Development, the Owner shall give notice to the City of a proposed conveyance of title to any building at least thirty (30) days

prior to any such conveyance. No conveyance of title to any building shall be effective unless the Owner has complied with this provision.

Nothing in this clause shall be construed as prohibiting or preventing the approval of a consent for severance and conveyance for the purposes of obtaining financing.

10. **Development Charges**

The Owner shall pay development charges to the City in accordance with the by-laws of the City.

Special Conditions

11. **Provision for Future Sidewalk**

The Owner must submit cash, certified cheque, or letter of credit with an automatic renewal clause to compensate for the future sidewalk construction along Fountain Place in accordance with City policy. For the information of the Owner, if more favourable bids are received from the contractor to build the sidewalk, the Owner may do so upon approval by the General Manager, Planning, Real Estate and Economic Development Department. A City Inspector must be present during the construction of the sidewalk and the Owner must submit financial securities to cover the cost of this inspection.

12. **Permanent Features**

The Owner acknowledges and agrees that no permanent features shall be permitted above and below grade within the City's widened right-of-way or corner sight triangle, including commercial signage, except as otherwise shown on the approved Site Plan referenced in Schedule E" herein.

13. **Asphalt Overlay**

Due to the number of road cut permits required to service this development, the Owner shall install an asphalt overlay over the total area of the public driving surface of Fountain Place, fronting the subject lands, as shown on the approved Site Servicing Plan, referenced in Schedule "E" hereto. The overlay shall be carried out to the satisfaction of the General Manager, Planning, Real Estate and Economic Development. The Owner acknowledges and agrees that all costs are to be borne by the Owner.

14. **Noise Study**

The Owner agrees to implement a Noise Study in compliance with the City of Ottawa Environmental Noise Control Guidelines to the satisfaction of the General Manager, Planning, Real Estate and Economic Development Department. The

Owner shall implement the noise control attenuation measures recommended in the approved noise study.

15. **Certification Letter for Noise Control Measures**

- (a) The Owner acknowledges and agrees that upon completion of the development and prior to occupancy and/or final building inspection, it shall retain a Professional Engineer, licensed in the Province of Ontario with expertise in the subject of acoustics related to land use planning, to visit the lands, inspect the installed noise control measures and satisfy himself that the installed recommended interior noise control measures comply with the measures in the Noise Impact Study referenced in Schedule “E” hereto, as approved by the City and/or the approval agencies and authorities (The Ministry of the Environment, Conservation and Parks) or noise thresholds identified in the City’s Environmental Noise Control Guidelines. The Professional Engineer shall prepare a letter to the General Manager, Planning, Real Estate and Economic Development (the “Certification Letter”) stating that he certifies acoustical compliance with all requirements of the applicable conditions in this Agreement, to the satisfaction of the General Manager, Planning, Real Estate and Economic Development.
- (b) The Certification Letter shall be unconditional and shall address all requirements as well as all relevant information relating to the development, including project name, lot numbers, building identification, drawing numbers, noise study report number, dates of relevant documents and in particular reference to the documents used for the building permits and site grading applications. The Certification Letter(s) shall bear the certification stamp of a Professional Engineer, licensed in the Province of Ontario, and shall be signed by said Professional Engineer, and shall be based on the following matters:
 - (i) Actual site visits, inspection, testing and actual sound level readings at the receptors;
 - (ii) Previously approved Detailed Noise Control Studies, Site Plan and relevant approved Certification Letters (C of A) or Noise thresholds of the City’s Environmental Noise Control Guidelines; and
 - (iii) Non-conditional final approval for release for occupancy.
- (c) All of the information required in subsections (a) and (b) above shall be submitted to the General Manager, Planning, Real Estate and Economic Development, and shall be to his satisfaction.

16. **Noise Control Attenuation Measures**

The Owner acknowledges and agrees to implement the noise control attenuation measures recommended in the approved Transportation Noise Assessment, referenced in Schedule “E” of this Agreement, as follows:

- (a) each unit is to be equipped with central air conditioning;
- (b) each unit is to be fitted with a forced air heating system and ducting, and shall be sized to accommodate central air conditioning;
- (c) further to subsection (b) above, the location and installation of any outdoor air conditioning device(s) shall comply with the noise criteria of the Ministry of the Environment, Conservation and Parks' Publication NPC-216 entitled Environmental Noise Guidelines for Installation of Residential Air Conditioning Devices, dated September 1994, as amended, in order to minimize the noise impacts both on and off the immediate vicinity of the subject lands.
- (d) prior to the issuance of a building permit, a review of building components (windows, walls, doors) is required and must be designed to achieve indoor sound levels within the City's and the Ministry of the Environment, Conservation and Parks' noise criteria;
- (e) notice respecting noise shall be registered against the lands, at no cost to the City, and a warning clause shall be included in all agreements of purchase and sale or lease agreements, as detailed in paragraph 18 below.

17. **Notice on Title – Noise Control Attenuation Measures**

The Owner, or any subsequent owner of the whole or any part of the subject lands, acknowledges and agrees that all agreements of purchase and sale or lease agreements shall contain the following clauses, which shall be covenants running with the subject lands:

Type D – Central Air Conditioning

“The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledges being advised that this dwelling unit has been supplied with a central air conditioning system which will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the City of Ottawa's and the Ministry of the Environment, Conservation and Parks' noise criteria.”

Ending Paragraph

“The Purchaser/Lessee covenants with the Vendor/Lessor that the above clauses, verbatim, shall be included in all subsequent agreements of purchase and sale, and lease agreements for the lands described herein, which covenant shall run with the said lands.”

18. **Slope Stability**

The Owner shall have a Professional Structural Engineer and a Soils Engineer, licensed in the Province of Ontario to inspect and confirm the constructed retaining walls have been constructed in accordance with the approved Slope Stability Analysis Report and the Approved Retaining Wall Plan.

19. **Geotechnical Investigation**

The Owner acknowledges and agrees that it shall retain the services of a geotechnical engineer, licensed in the Province of Ontario, to ensure that the recommendations of the Geotechnical Investigation report (the "Report"), referenced in Schedule "E" herein, are fully implemented. The Owner further acknowledges and agrees that it shall provide the General Manager, Planning, Real Estate and Economic Development with confirmation issued by the geotechnical engineer that the Owner has complied with all recommendations and provisions of the Report, prior to construction of the foundation and at the completion of the Works, which confirmation shall be to the satisfaction of the General Manager, Planning, Real Estate and Economic Development.

20. **Retaining Wall**

The Owner agrees to submit to the General Manager, Planning, Real Estate and Economic Development, prior to issuance of a building permit, details of the retaining walls which are greater than one metre in height, as shown on the approved Landscape Plan referenced in Schedule "E" hereto, which shall be designed and prepared by a Professional Structural Engineer, licensed in the Province of Ontario, to the satisfaction of the General Manager, Planning, Real Estate and Economic Development. The Owner shall provide confirmation to the General Manager, Planning, Real Estate and Economic Development that the Professional Structural Engineer has inspected and confirmed that the retaining walls have been constructed in accordance with the approved retaining wall details.

21. **Retaining Wall - Stability**

The Owner acknowledges and agrees to install the proposed retaining walls in accordance with the approved Retaining Wall Design for Back of this site and as shown on the approved Site Plan, both referenced in Schedule "E" hereto. The Owner shall provide written confirmation, satisfactory to the General Manager, Planning, Real Estate and Economic Development, that a Geotechnical Engineer/Professional Structural Engineer, licensed in the Province of Ontario, has inspected and confirmed that the retaining walls have been constructed in accordance with the said approved Retaining Wall Design for this site. The Owner further acknowledges and agrees to provide an Internal Compound Stability (ICS) analysis from a Geotechnical Engineer / Professional Structural Engineer, licensed in the Province of Ontario, that all retaining walls, which are greater than one metre in height have been checked for global stability, have a factor of safety of at least 1.5 for static conditions (as calculated through SLIDE) and 1.1 for seismic

conditions is achieved, which shall be to the satisfaction of the General Manager, Planning, Real Estate and Economic Development. The report shall provide structural details of the retaining wall(s).

The Owner further acknowledge and agrees to retain the services of a Professional Structural Engineer and a Soils Engineer, licensed in the Province of Ontario, to inspect any retaining walls on the subject lands and confirm that the retaining walls have been constructed in accordance with the approved retaining wall details.

22. **Groundwater Management**

The Owner acknowledges and agrees to retain an environmental consultant to test groundwater to be removed from the site during and after redevelopment. If through further testing the groundwater samples are found to be contaminated, all contaminated groundwater must be removed, managed or treated in accordance with appropriate Ontario regulations and/or discharged in accordance with the City's Sewer Use By-Law, being By-law No. 2003-514, as amended.

23. **Re-Grading and Maintenance of Ditch**

The Owner acknowledges and agrees it shall be responsible for various grading and maintenance measures along North side of this site, which include the following:

- (a) Re-grade the shoulders of the ditch abutting the subject lands, to the satisfaction of the General Manager, Planning, Real Estate and Economic Development Department;
- (b) Maintain a grass cover within the said ditch abutting the subject lands, to the satisfaction of the General Manager, Planning, Real Estate and Economic Development Department.

24. **Protection of City Sewers**

- (a) Prior to the issuance of a building permit, the Owner shall, at its expense:
 - (i) provide the General Manager, Planning, Real Estate and Economic Development with the engineering report from a Professional Engineer, licensed in the Province of Ontario, which report shall outline the impact of the proposed building's footing and foundation walls, on the City sewer system, that crosses the Fountain Place and Besser Street frontages (the "City Sewer System") and the impact of the existing City Sewer System on the building's footing and foundation walls;
 - (ii) obtain a legal survey acceptable to the General Manager, Planning, Real Estate and Economic Development and the City's Surveyor, showing the existing City Sewer System within Fountain Place and

Besser Street and the location of the proposed building and its footings in relation to the City Sewer System;

- (iii) obtain a video inspection of the City Sewer System within Fountain Place and Besser Street prior to any construction to determine the condition of the existing City Sewer System prior to construction on the lands and to provide said video inspection to the General Manager, Planning, Real Estate and Economic Development.
- (b) Upon completion of construction on the lands, the Owner shall, at its expense and to the satisfaction of the General Manager, Planning, Real Estate and Economic Development:
- (i) obtain a video inspection of the existing City Sewer System within Fountain Place and Besserer Street to determine if the City Sewer System sustained any damages as a result of construction on the lands; and
 - (ii) assume all liability for any damages caused to the City Sewer System within Fountain Place and Besserer Street and compensate the City for the full amount of any required repairs to the City Sewer System.

25. **Inlet Control Devices (ICDs)**

The Owner acknowledges and agrees to install and maintain in good working order the required roof-top stormwater inlet control devices, as recommended in the approved Servicing Report, referenced in Schedule "E" herein. The Owner further acknowledges and agrees it shall assume all maintenance and replacement responsibilities in perpetuity. The Owner shall keep all records of inspection and maintenance in perpetuity, and shall provide said records to the City upon its request.

26. **Professional Engineering Inspection**

The Owner shall have competent Professional Engineering inspection personnel on-site during the period of construction, to supervise the Works, and the General Manager, Planning, Real Estate and Economic Development, shall have the right at all times to inspect the installation of the Works. The Owner acknowledges and agrees that should it be found in the sole opinion of the General Manager, Planning, Real Estate and Economic Development, that such personnel are not on-site or are incompetent in the performance of their duties, or that the said Works are not being carried out in accordance with the approved plans or specifications and in accordance with good engineering practice, then the General Manager, Planning, Real Estate and Economic Development, may order all Work in the project to be stopped, altered, retested or changed to the satisfaction of the General Manager, Planning, Real Estate and Economic Development.

27. **Stormwater Works Certification**

Upon completion of all stormwater management Works, the Owner acknowledges and agrees to retain the services of a Professional Engineer, licensed in the Province of Ontario, to ensure that all measures have been implemented in conformity with the approved Plans and Reports, referenced in Schedule "E" herein. The Owner further acknowledges and agrees to provide the General Manager, Planning, Real Estate and Economic Development with certificates of compliance issued by a Professional Engineer, licensed in the Province of Ontario, confirming that all recommendations and provisions have been implemented in accordance with the approved Plans and Reports referenced in Schedule "E" herein.

28. **Site Dewatering**

The Owner acknowledges and agrees that while the site is under construction, any water discharged to the sanitary sewer due to dewatering shall meet the requirements of the City's Sewer Use By-law No. 2003-514, as amended.

29. **Private Storm Sewer Connection to City Sewer System**

The Owner acknowledges and agrees that any new storm sewers to be installed as part of this development shall not be connected to the City's existing storm sewer system until such time as either:

- (a) a certificate of conformance and Record Drawings have been received from a Professional Engineer, licensed in the Province of Ontario, certifying that all required inlet control devices have been properly installed to City Standards or Specifications, and that the storm sewer system has been installed in accordance with the approved engineering drawings for site development and City Sewer Design Guidelines. The inlet control devices shall be free of any debris; or
- (b) a flow limiting orifice plate, designed by a Professional Engineer licensed in the Province of Ontario and to the satisfaction of the City, has been installed at the storm water outlet prior to connecting any upstream storm sewers. Such orifice plate shall not be removed until subsection (a) above has been satisfied and approved by the General Manager, Planning, Real Estate and Economic Development.

30. **Use of Explosives and Pre-Blast Survey**

The Owner acknowledges and agrees that all blasting activities will conform to the City's Standard S.P. No. F-1201 entitled Use of Explosives, as amended. Prior to any blasting activities, a pre-blast survey shall be prepared as per S.P. No. F-1201, at the Owner's expense, for all buildings, utilities, structures, water wells and facilities likely to be affected by the blast, in particular, those within seventy-five (75) metres of the location where explosives are to be used. The standard inspection procedure shall include the provision of an explanatory letter to the owner or occupant and owner with a formal request for permission to carry out an inspection.

- (a) The Owner acknowledges and agrees that all blasting activities will conform to the City's Standard S.P. No. F-1201 entitled *Use of Explosives*, as amended. Prior to any blasting activities, a pre-blast survey shall be prepared as per S.P. No. F-1201, at the Owner's expense, for all buildings, utilities, structures, water wells and facilities likely to be affected by the blast, in particular, those within seventy-five (75) metres of the location where explosives are to be used. The standard inspection procedure shall include the provision of an explanatory letter to the owner or occupant and owner with a formal request for permission to carry out an inspection (the "Notification Letter").
- (b) The Owner acknowledges and agrees that the Notification Letter(s) shall be in compliance with City Standard S.P. No. F-1201 and to the satisfaction of the General Manager, Planning, Real Estate and Economic Development. Pursuant to City Standard S.P. No. F-1201, the Owner or its agents, contractors and subcontractors shall provide written notice to all owners and tenants of any building and/or facility located within a minimum of one hundred and fifty (150) metres from the blasting location at a minimum of fifteen (15) business days prior to any blasting. The Owner further acknowledges and agrees that it shall provide a copy of the Notification Letter(s) to the General Manager, Planning, Real Estate and Economic Development prior to any blasting activities.

31. **Site Lighting Certificate**

- (a) In addition to the requirements contained in clause 19 of Schedule "C" hereto, the Owner acknowledges and agrees, prior to the issuance of a building permit, to provide the City with a certificate from an acceptable professional engineer, licensed in the Province of Ontario, which certificate shall state that the exterior site lighting has been designed to meet the following criteria:
 - (i) it must be designed using only fixtures that meet the criteria for full cut-off (sharp cut-off) classification, as recognized by the Illuminating Engineering Society of North America (IESNA or IES);
 - (ii) and it must result in minimal light spillage onto adjacent properties. As a guideline, 0.5 fc is normally the maximum allowable spillage.
- (b) The Owner acknowledges and agrees that, upon completion of the lighting Works and prior to the City releasing any associated securities, the Owner shall provide certification satisfactory to the General Manager, Planning, Real Estate and Economic Development, from a Professional Engineer, licensed in the Province of Ontario, that the site lighting has been constructed in accordance with the Owner's approved design plan.

32. **Exterior Elevations Drawings**

The Owner acknowledges and agrees to construct the proposed building in accordance with the approved Elevations Plans, referenced in Schedule "E" herein. The Owner further acknowledges and agrees that any subsequent proposed changes to the approved Elevations Plans shall be filed with the General Manager, Planning, Real Estate and Economic Development and agreed to by both the Owner and the City prior to the implementation of such changes. No amendment to this Agreement shall be required.

33. **Waste Collection**

The Owner acknowledges and agrees that waste collection and recycling collection will not be provided by the City and it shall make appropriate arrangements with a private contractor for waste collection and recycling collection at the Owner's sole expense. The Owner shall consult a private contractor regarding any access requirements for waste and/or recycling collection.

34. **Maintenance and Liability Agreement for Landscaping**

The Owner acknowledges and agrees it shall be required to enter into a Maintenance and Liability Agreement with the City, for all plant and landscaping material (except municipal trees), and pavers placed in the City's right-of-way along Fountain Place in accordance with City Specifications, and the Maintenance and Liability Agreement shall be registered on title, at the Owner's expense, immediately after the registration of this Agreement. The Owner shall assume all maintenance and replacement responsibilities in perpetuity.

35. **Tree Permit**

The Owner acknowledges and agrees to abide by the City's Tree Protection Bylaw, being By-Law No. 2020-340, as amended and that any trees to be removed shall be removed in accordance with an approved Tree Permit and the Tree Conservation Report referenced in Schedule "E" hereto.

36. **Tree Protection**

The Owner acknowledges and agrees to abide by the City's Tree Protection Bylaw, being By-Law No. 2020-340, as amended and that all retained trees will be protected in accordance with an approved Tree Conservation Report referenced in Schedule "E" hereto.

37. **Replacement Trees on City property**

The Owner acknowledges and agrees that for the trees that are to be removed from City property, the Owner agrees to provide replacement plantings in accordance with the approved Landscape Plan and shall also pay \$11,524.00 in monetary compensation, as agreed upon with the City's Forestry Services Branch. The

Owner further acknowledges and agrees that the City will plant the replacement trees as part of the City's annual planting program.

38. **Easement**

Prior to the registration of this Agreement, the Owner shall grant to the City, at no cost to the City, an unencumbered 2.3 - 2.6 metres wide easement, located between Besserer Park and 244 Fountain Place, that will be encumbered by the temporary and permanent altered by the tiebacks and drainage infrastructure, as shown on the approved Site Servicing Plan referenced in Schedule "E" hereto, to the satisfaction of the City. The Owner shall provide a Reference Plan for registration, indicating the area of the easement, to the City Surveyor for review and approval prior to its deposit in the Land Registry Office. Such reference plan must be tied to the Horizontal Control Network in accordance with the municipal requirements and guidelines for referencing legal surveys. The Owner acknowledges and agrees to provide an electronic copy of the Transfer and a copy of the deposited reference plan to the City Clerk and Solicitor prior to registration of the easement. All costs shall be borne by the Owner.

39. **Easement Agreement**

That the Owner enter into an easement agreement with the Corporate Real Estate Office for the area of Besserer Park that will be encumbered by the temporary and permanent altered by the tiebacks and drainage infrastructure.

- (a) The Owner, and all subsequent owners of the Property, acknowledge and agree that the City shall not be held liable for any future failure of the wall that could be potentially caused by normal park activities and vegetation growth. It is expressly acknowledged that the City shall not be held liable for any damages to the Property and that any repair will be the sole responsibility of the Owner.
- (b) The Owner, and all subsequent owners of the Property, acknowledge and agree that the City shall not be held liable for any and all actions, causes of actions, suits, claims or demands whatsoever which arise directly or by reason of this Agreement and the maintenance or the improper or inadequate maintenance of the wall or slope on the Property (244 Fountain) by the Owner where such it meets the City's property at (615 Besserer)
- (c) The Owner, and all subsequent owners of 244 Fountain, acknowledge and agree that it, nor any invitee or occupant of the Property, shall make any claim or complaint against the City for any and all future damages that may be attributed to maintenance on 615 Besserer.

40. **Compensation for the Encumbered Lands**

Upon acceptance and confirmation of the Easement Reference Plan by the City and Owner, the Owner shall initiate providing the compensation that shall be determined by the City Corporate Real Estate Office (CREO) in accordance with current policies and requirements associated with an encumbrance easement. The compensation and agreement will need to be provided prior to the issuance full building permit by City Building Code Services.

Unless otherwise directed by City Policy requirements, the compensation funds shall be directed to a disposal fund.

41. **Notice on Title – existing parkland**

The Owner, or any subsequent Owner of the whole or any part of the subject lands, acknowledges and agrees that all agreements of purchase and sale or lease agreements shall contain the following clauses, which shall be covenants running with the subject lands:

“The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledges being advised that the existing parkland within the vicinity of the subject lands may have active hard and soft surface recreational facilities and may include lit facilities.”

“The Purchaser/Lessee covenants with the Vendor/Lessor that the above clauses, verbatim, shall be included in all subsequent agreements of purchase and sale, and lease agreements for the lands described herein, which covenant shall run with the said lands.”

42. **Cash-in-Lieu of Parkland**

The Owner shall pay cash-in-lieu of parkland in accordance with the Parkland Dedication By-law of the City of Ottawa, as well as the fee for appraisal services. The monies are to be paid at the time of execution of the Site Plan Agreement.

43. **On-Site Parking**

(a) The Owner acknowledges and agrees that units within the proposed building(s) may not/will not be provided with on-site parking. In the event any future tenant or purchaser wishes to have parking, the Owner acknowledges that alternative and lawful arrangements may/will need to be made to address parking needs at an alternate location and such arrangements are solely the responsibility of the person seeking parking. The Owner further acknowledges and agrees the availability and regulations governing on-street parking vary; that access to on-street parking, including through residential on-street parking permits issued by the City cannot be guaranteed now or in the future; and that a tenant or purchaser intending to

rely on on-street parking for their vehicle or vehicles does so at their own risk.

- (b) The Owner acknowledges and agrees that a notice-on-title respecting on-site parking, as contained in Clause 45 below, shall be registered on title to the subject lands, at the Owner's expense, and a warning clause shall be included in all agreements of purchase and sale and lease agreements.

44. **On-Site Parking - Notice on Title**

The Owner, or any subsequent owner of the whole or any part of the subject lands, acknowledges and agrees that all agreements of purchase and sale or lease agreements shall contain the following clauses, which shall be covenants running with the subject lands:

"The Purchaser/Lessee for himself, his heirs, executors, administrators, successors and assigns acknowledges being advised that the unit being sold/rented may not/will not be provided with any on-site parking. Should the Purchaser/Lessee have a vehicle for which they wish to have parking, alternative and lawful arrangements may/will need to be made to address their parking needs at an alternate location and that such arrangements are solely the responsibility of the person seeking parking. The Purchaser/Lessee acknowledges that the availability and regulations governing on-street parking vary; that access to on-site street parking, including through residential on-street parking permits issued by the City of Ottawa cannot be guaranteed now or in the future; and that the Purchaser/Lessee intending to rely on on-street parking for their vehicle or vehicles does so at their own risk."

"The Purchaser/Lessee covenants with the Vendor/Lessor that the above clause, verbatim, shall be included in all subsequent agreements of purchase and sale and lease agreements for the lands described herein, which covenant shall run with the said lands."

45. **Pre-construction Meeting and Construction Plan**

- (a) The Owner agrees to host a pre-construction meeting with the adjacent neighbours on Fountain Place and Besserer Street, City staff, and the Ward Councillor's office prior to the start of excavation and construction on the Site.
- (b) The Owner acknowledges and agrees to submit a construction plan, to the satisfaction of the General Manager, Planning, Real Estate and Economic Development Department, prior to the start of excavation and construction of the proposed development. The construction plan is to include:
 - (i) an outline of construction phasing and estimated timeline for completion of works
 - (ii) a Site Plan which shows:
 - (a) Location of fencing to delineate the extent of the site works and to protect Besserer Park.

- (b) Pedestrian access maintained from Besserer Street to Besserer Park, and a continuous pathway maintained through the Besserer Park from Besserer Street to Rideau Street
- (c) Staging area locations for construction works and vehicles.

June 14, 2022

Date



Andrew McCreight
Acting Manager, Development Review, Central
Planning, Real Estate and Economic
Development Department

Enclosure: Site Plan Control Application approval – Supporting Information

SITE PLAN CONTROL APPROVAL APPLICATION SUPPORTING INFORMATION

File Number: D07-12-16-0150

SITE LOCATION

244 Fountain Place, and as shown on Document 1.

SYNOPSIS OF APPLICATION

- Planning staff reviewed several iterations of the proposed development since it was first submitted in November 2016.
 - The first concept was for a pair of low-rise apartment buildings in a planned unit development with an internal parking courtyard.
 - The second concept was for a six-storey apartment building
 - The proposal evolved into a single low-rise apartment building in 2018.
 - Between 2018-2022, the number of units within the proposed residential building was reduced from 20 to 16 units.
 - Previous iterations also proposed to extend Besserer Street into the Besserer Park to provide vehicular access to the proposed development. The final proposal will not have vehicular access off of Besserer Street.
- The proposed development now consists of a 16-unit low-rise apartment building with two parking spaces. The proposed spaces will be in a two-car garage facing Fountain Place. Access to the parking spaces will be exclusively off Fountain Place.
- Butternut trees are identified near the proposed development. These trees were evaluated by the Ontario Ministry of Environment, Conservation and Parks during the review process.

DECISION AND RATIONALE

This application is approved for the following reasons:

- The site is designated General Urban Area in the Official Plan and is consistent with these policies.
- The proposal conforms to the policies of the Sandy Hill Secondary Plan.
- The Ontario Ministry of Environment, Conservation and Parks has reviewed the butternut trees and proposed development. They have determined that

registration or an authorization under the *Endangered Species Act, 2007* is not required.

- Conditions of approval have been applied to this site to ensure the development meets the applicable Infrastructure and Planning approval requirements.
- As the proposed development conforms with applicable policies and guidelines, the site design represents good planning.

PARKLAND DEDICATION

Parkland dedication, in accordance with By-law 2009-95, is being satisfied within this approval through the taking of cash-in-lieu of parkland as detailed in the above conditions.

CONSULTATION DETAILS

Councillor's Concurrence

Councillor Mathieu Fleury was aware of the application related to this report. Councillor has concurred with the proposed conditions of approval.

Public Comments

This application was subject to public circulation under the Public Notification and Consultation Policy. There were public comments received online and staff considered these comments.

Summary of public comments and responses

Parking, Traffic and Access

- Parking is already limited in the area and there is high-demand for on-street parking. Insufficient parking proposed.
- Others commented they were generally against parking and would prefer a no-parking solution.
- Traffic safety issue. It is difficult to see merging traffic from the entrance to Rideau Street and Cummings Bridge from Fountain Place. There are also no streetlights at this intersection to help manage congestion.
- Additional vehicular traffic will be disruptive to neighbours.
- fire truck access will be problematic.

Response:

The proposal now provides the minimum required number of vehicular parking spaces required by the Zoning By-law. Two parking spaces are provided for 16 residential units in a garage off Fountain Place. Visitor parking is not required for this development.

Staff are satisfied that the two 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.

Development on this lot

- This lot should remain treed. Besserer park should be expanded to this lot
- Concern with the setback and lot with the size of the development on the allocated space.

Response:

The site is privately-owned and staff are satisfied that the lot is a suitable location for the proposed form of intensification. The property is zoned to permit a low-rise apartment building.

Sunlight, noise and privacy concerns with adjacent property (250 Fountain Place)

- Proposal will reduce sunlight on adjacent property
- Concern with potential noise from the proposed outdoor amenity space for residents at 250 Fountain Place.
- Four storeys of windows on the south side of the 244 development that directly overlook the outdoor amenity areas of the 250 Fountain Place development at a distance of 2 metres. Will there be changes or are we forced to accept this ongoing intrusion into our privacy?

Response:

The proposed development received Zoning By-law Amendment approval to permit the built form, and amenity areas proposed on site. Through the various revisions, the applicant made revisions to mitigate any potential noise and privacy concerns to the neighbouring development. There are no balconies on the southern façade and no rooftop patio. The proposed gradient of southern side yard setbacks as well as the northern side yard setback provides further separation between adjacent buildings. The portion of the building closest to the adjacent property will contain only smaller windows, the larger windows along the south side of the building are setback more 5.9 metres from the southern side property line.

Compatibility and heritage

- The proposal will not blend well with the neighbourhood.
- There is concern that the proposal ignores the adjacent Besserer-Wurtemberg Heritage Conservation District.
- 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:

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 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.

Tenants

- proposal will attract transient residents who do not have incentives or interest in the long-term well-being of the neighbourhood.

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.

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

Impact to Besserer Park

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

Response

The applicant has abandoned the proposal to extend Besserer Street, and more trees can now be retained. The Landscape Plan shows a Reforestation plan. The City will also be receiving compensation and planting replacement trees as part of the City's annual planting program.

The proposed development will provide 'eyes on the park', improving natural surveillance and safety of Besserer 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.

Fire Sprinkler

- Concern that no sprinkler or other fire management steps are required.

Response:

As noted in the Servicing Report, there is sprinkler system in this proposed building. On the Servicing Plan, there is a Siamese shown which is for the sprinkler used when it is connected to the Fire Truck.

Technical Agency/Public Body Comments

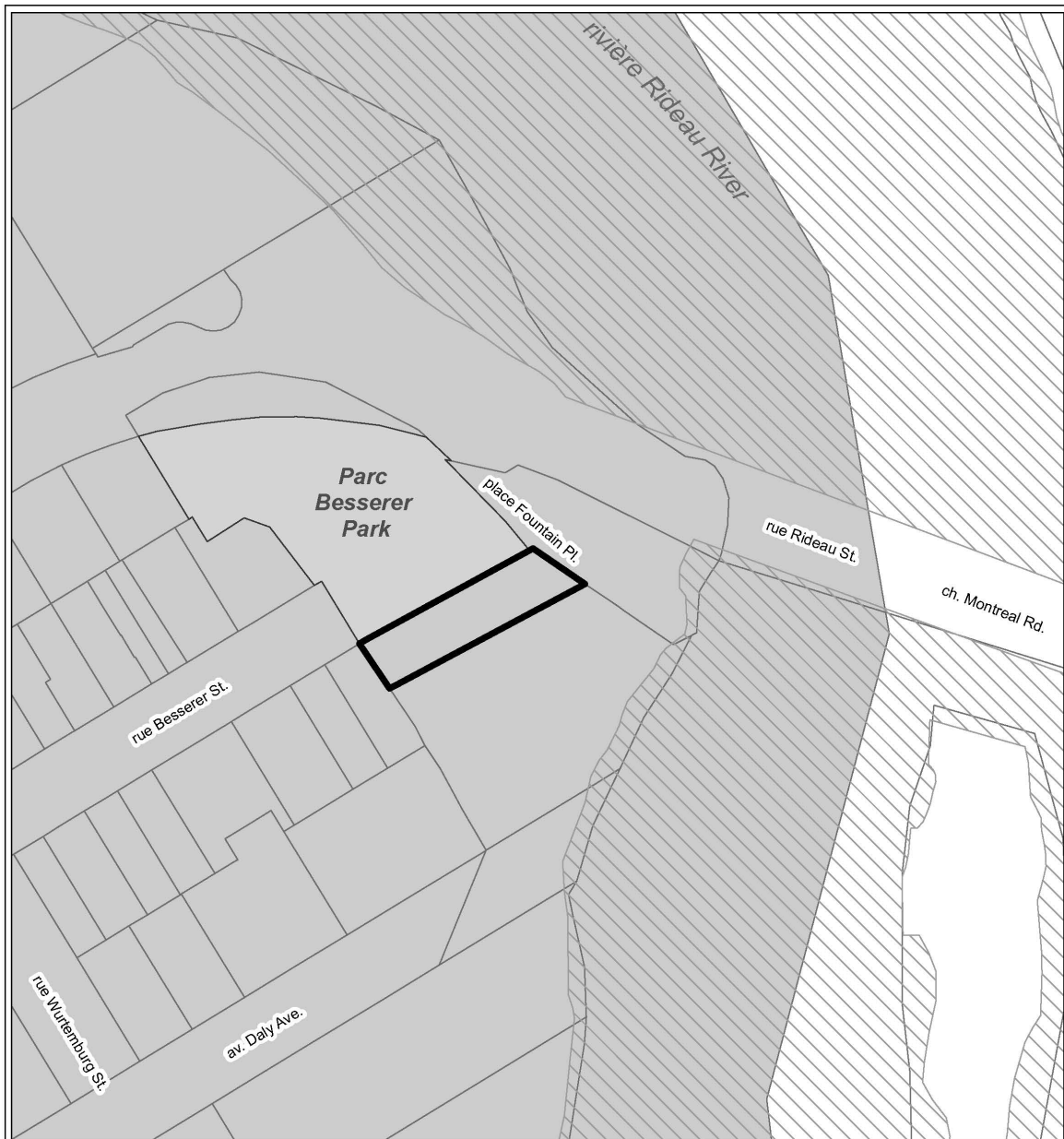
All technical agency correspondence was forwarded to the applicant, and the applicant was advised to contact technical agencies directly for additional information and requirements.

APPLICATION PROCESS TIMELINE STATUS

This Site Plan application was not processed by the On Time Decision Date established for the processing of an application that has Manager Delegated Authority due to the number of revisions and reviews required for this project.

Contact: Kimberley Baldwin Tel: 613-580-2424, ext. 23032 or e-mail: Kimberley.Baldwin@ottawa.ca

Document 1 – Location Map



D02-02-16-0088
D07-12-16-0150

16-1372-Y

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REVISION / RÉVISION - 2016 / 10 / 25

LOCATION MAP / PLAN DE LOCALISATION
ZONING KEY PLAN / SCHÉMA DE ZONAGE
SITE PLAN / PLAN D'EMPLACEMENT



244, place Fountain Place



Existing Flood Plain (Section 58) /
Plaine inondable (Article 58)



Mature Neighbourhoods Overlay (section 139)
Zone sous-jacente de quartiers établis (article 139)

