

Summary of Written and Oral Submissions

Zoning By-Law Amendment – 244 Fountain Place

In addition to those outlined in the Consultation Details section of the report, the following summary outlines the written and oral submissions received between the publication of the report and prior to City Council's consideration:

Number of delegations/submissions

Number of delegations at Committee: 3

Number of written submissions received by Planning Committee between June 15 (the date the report was published to the City's website with the agenda for this meeting) and June 25, 2020 (committee meeting date): 23

Primary concerns, by individual

Gordon Hamilton, on behalf of CCC 539 Board (oral and written submission)

- represents over development of a constrained site and will impact neighbouring buildings of CCC 539, including negative impacts on amenity areas and quality of life
 - the undersized lot requires significant relief from minimum lot width requirements (18 metres to 13.8 metres)
 - because of the proximity of the buildings of CCC 539 to the property line, parts of the proposed structure would only be set back between 1.5 to 3 meters from the amenities of adjacent residential units of CCC539
 - the proposed development is over 11 metres in height, creating a narrow alleyway and loss of daylighting between the proposed development and 250 Fountain Place
 - the garbage room access for the proposed development faces the patio at 250 Fountain Place
- poses risks of differential settlement and drainage damage during and after construction
 - a 7 metre high retaining wall is required for this proposed development, creating significant property damage risks to adjacent properties from vibration, subsidence, differential settlement and liquefaction
 - a 1992 study of this location by engineering firm John D. Paterson & Associates described the slope as "marginally stable", "subject to surficial creep" and having "differential water tables" as well as "low factors of safety"

- suggested that denying the variances sought would not deprive the Applicant of a reasonable use and enjoyment of the subject property and requested the development be scaled back or, if it proceeds as proposed, a site plan condition of approval be implemented to require increased liability insurance to \$15M during and 5 years after construction

Michael Barnes (oral submission)

- it is an oversized development for the area and does not represent good planning precedent in terms of giving up parkland
- it proposes to convert public park land (Besserer Park) for private use, including 3 private parking spaces that will be used for deliveries and services and will disadvantage Besserer residents
- it will impact Besserer Street residents, the surrounding community, and the overall Heritage Conservation District, including increased traffic and parking issues, snow removal issues, risk to pedestrian safety, and loss of parkland
- there are potential litigation issues the City should consider which stem from a previous suit involving house shifting due to land instability; land instability will increase as vegetation is removed from the park for the sake of vehicle parking
- many Sandy Hill residents do not support the application

Josée Berthiaume and Michael Barnes (written submission)

- points addressed in Mr. Barnes' oral submission and other concerns, including:
 - non-transparent process with lack of public information and consultation
 - premature to consider the application until the City has reviewed whether it is necessary to give away parkland for parking
 - developer has an unfavorable development history with the area
 - the loss of parkland will be very detrimental to Besserer and area residents, particularly those without rear yards, and the additional traffic and parking access will result in increased safety risks for children
 - the proposal could make the area less desirable for families and lead to a changing demographic for the area, especially in consideration of additional development on Rideau Street and the potential for spot rezonings that could increase density and traffic while diminishing or impacting green space and neighbourhood liveability
 - disturbing the treed slopes and vegetation of the parkland will cause earth movement and promote erosion and runoff that could cause damage to the park

and nearby houses; the developer should be required to increase the amount of insurance coverage to cover potential off-site third-party damages

- the proposal is not compatible with or respectful of existing neighbourhood character, is inconsistent with Official Plan policy and contravenes the City's Urban Design Guidelines for Low-Rise Infill Housing
- given the challenges associated with the narrow and steep land and parking requirements, it would make more sense to build a smaller development such as a duplex or triplex

Teresa Marquis (written submission)

- the increased traffic from the development will impact street safety in the neighbourhood
- the proposal to turn part of the park into a parking lot seems counter-intuitive, particularly in a time when the vibrancy of cities' downtowns may be a thing of the past unless a concerted effort is made to ensure it
- endorsed the written comments of Josée Berthiaume and Michael Barnes (neighbours)

Kathryn Harper and Daniel Read (written submission)

- same text as letter submitted by Josée Berthiaume and Michael Barnes

Céline Leblanc and Jim Millar (written submission)

- endorsed the written comments of Josée Berthiaume and Michael Barnes (neighbours)

Brian Hierlihy & Dominique Thériault (written submission)

- the development would result in a loss of green space and trees, block existing parkland views for neighbouring properties, and potentially lead to property damage for neighbouring properties as a result of slope instability and soil subsidence
- resubmitted concerns expressed in November 2019 relating to:
 - lack of consideration for existing conditions, previous land instability and potential damage from increased land instability due to construction on the parkland;
 - insufficient consideration of the neighbourhood impact from the proposed parking, including issues with snow removal and parking congestion;
 - inadequate landscaping plan and tree remediation

Matt Armstrong & Catherine Deri Armstrong (written submission)

- removal of greenspace for parking impacts safety for children in the area

- any proposal for the site should have to work within the limits of the available space and should respect all by-laws, and not occur at the expense of the local community

Dr. Freida Hjartarson (written submissions)

- endorsed the written comments of Josée Berthiaume and Michael Barnes (neighbours)
- submitted questions about the staff report in respect of:
 - previously identified unfavorable history of the Developer
 - recommending a proposed building that does not fit the lot size
 - incorrect representation of building height
 - recommending approval of a south side setback that is not in keeping with City zoning provisions and would impact neighbouring property
 - exploration of previous hill instability and lack of risk management
 - approving the extension of the development into Besserer Park in light of its importance to residents' health and given the impacts the parking spaces will have on the area
 - giving away green space when there are several large condos under construction in the ward
 - insurance required of the Developer to insure the stability of the surrounding taxpayers' housing foundations

Louise Dube-Martel (written submission)

- inaccurate representation of site presented in staff report
- lack of information about previous legal settlement regarding soil erosion
- loss of parkland for vehicle parking spaces

Professor Rita Abrahamsen and Professor Michael C. Williams (written submission)

- endorsed the written comments of Josée Berthiaume and Michael Barnes (neighbours)

Susan Young (written submission)

- questioned the message the committee would be sending if it approved an application by a developer of bunkhouses and notoriously irresponsible landlord, for a building that cannot meet a single zoning performance requirement, and agrees to take away public park land, in a highly non-transparent manner, to accommodate parking

Philip Cutfield (written submission)

- reason for opposition not indicated but submission of Josée Berthiaume and Michael Barnes was attached

Anna Piekarczywski and Daragh Byrne (written submission)

- assessments of proposals such as the one in question, and any associated variances, exceptions, and amendments, should be undertaken on a principled basis with a view to fully weighing the costs and benefits, which provides reasonable certainty for property owners and prospective purchasers
 - It should be the case that existing bylaws, rules and regulations will generally be followed and that any exceptions or variances will be granted on a principled basis and not on an arbitrary ad-hoc basis to accommodate the particular demands of one stakeholder at the expense of others; allowing such an arbitrary ad-hoc approach would incentivize developers to make risky land and property investments with the expectation that they will automatically be granted variances in order to achieve a high rate of return
 - in the case of the three parking spaces proposed adjacent to Besserer Street and Besserer Park, the costs include those of deforestation of a public park, potential erosion, and increased traffic; it is hard to imagine how the private benefit to the developer of being able to meet the parking requirements for this parcel of land in the least costly way could exceed the associated costs to the neighbourhood and its residents
 - there is a clear alternative that would not impose the same high costs: underground parking, but the developer has previously made it clear that the barrier to providing underground parking was the expense of doing so rather than feasibility from an engineering perspective
 - it is unacceptable that the needs of the neighborhood in terms of green space and liveability be put behind the profits of a private developer when there is a clear alternative that would not encroach on the park, i.e. providing underground parking
 - disappointed that several of the concerns they had with the proposal in Spring 2018 are still present with the revised proposal, such as the set-back variance being requested and the deforestation of Besserer Park to accommodate the drive-in access through Besserer, which will result in a drastic reduction in green space on the street and in the rear of the building, and associated parking being visible from Besserer Street; denying these exceptional requests would allow for tree cover to be maintained and ideally to have a tree line between the street and the rear of any building constructed at 244 Fountain Place

- detrimental impacts on the neighbourhood should be taken into account in making a principle-based assessment of the proposal; impacts include potential land erosion, increased traffic and parking demands on Besserer Street, snow removal issues where the 3 parking spaces are proposed; reduction in greenspace and the addition of a driveway in this well-used public green space
- detrimental impacts that would be imposed on the neighbourhood and its residents require special consideration given the historic nature of the Besserer-Wurtemberg Heritage Conservation District (Conservation District)
 - while the Fountain Place properties are not currently part of the Conservation District, the revised proposal would create a substantial connection between 244 Fountain Place and the Conservation District because the rear of the building and the proposed parking spaces would be visible as well as accessible from the street, and this would be even more so the case were Besserer Street allowed to be opened; the rear façade of the building would consist of siding that does not respect the heritage character of Besserer Street

David Balson and Fran Balson-Nugent (written submission)

- supports appropriate infill development on this site, such as a single family home or a duplex, not 20 units on an undersized lot, on an unstable slope and with endangered trees at peril
- it is urgent that a complete review of this property be done prior to any consideration of this application; restricted access to the files due to Covid is not a sufficient reason for ignoring this; as has been pointed out previously, lawsuits due to damage from excavating this area resulted in the bankruptcy of the developer at 250 Fountain Place
- Ottawa could and should be a world class city; to become a world class city requires a vision where citizens are the focus not the interests of developers

Sylvie-Anne Lavigne and Mario Villemaire (written submission)

- same text as letter submitted by Josée Berthiaume and Michael Barnes with the additional assertion that the section on Besserer Street from Wurtemberg to the cul-de-sac cannot accommodate additional parking spaces, especially during the winter months, and in light of the approved development at the corner of Charlotte Street and Rideau Street, which has reduced parking

François Larocque (written submission)

- endorsed the submission of Josée Berthiaume and Michael Barnes (neighbours)

- found it inconceivable that the City would grant all kinds of exemptions and concessions to the developer in question, including giving up a precious green space, to the detriment of the safety of residents from the area
- attached the Ontario Municipal Board decision in the matter of 244 Rideau Place, which directly impacted the rights of local residents and in particular of the late Dr June Rogers of Besserer Street

Bared Mirican and Karine Khatchadourian (written submission)

- the requested zoning changes would accommodate a development that neither improves the character of the neighborhood nor incites stability
 - ❖ the proposed development is simply too big for the site in question, and the City is recommended to concede on numerous restrictions and limitations to allow it to proceed instead of the developer being guided towards a project that would fit well with the community; the balance between intensification and neighborhood development (character, stability, green space) has been completely shifted towards intensification at the total compromise of the other elements
 - ❖ thought that the mission of the review process is to ensure that a balance is kept between following the rules and adjusting for deviations, but in this instance, it would appear that the City is content with shifting that balance towards gross deviations, or where not possible, acceptance of false statements or those that are blurred with technical definitions and not real human perceptions
 - ❖ the proposed development is an apartment building being embedded into a pocket of mature development of single homes or condos; when encouraging intensification hence opening the door to certain compromises to the existing rules does also open the door to considering the protection of existing communities and green spaces to keep the balance
 - ❖ considering the proposed layouts of the units, it would seem the target clientele being sought is mainly intended for transient residents, and would very unlikely be conducive to neighborhood stability; there is clearly a misleading tone in the application stating that the layouts have been modified so to address this concern
 - ❖ the driving force of the development being proposed seems to be maximizing unit counts with rental space not necessarily suitable for family living, hence causing a multitude of impacting compromises
 - ❖ the planning rationale notes 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, which is clearly another method to maximize unit counts whilst making it look like it fits the permissible limits; this is this sort of tactics that ignore the citizens perceptions and hide behind technicalities that frustrate acceptance of such development

- parking spaces allotted from Besserer Park mean that Besserer street dead-end to Besserer park will now become a mini traffic bottleneck to an otherwise completely quiet dead-end street that beautifully leads into a park
 - ❖ roughly 2 dozen kids live on Besserer, between the park and the next main street Charlotte, with Wurtenburg being in this stretch but not giving vehicular access to Rideau, this creates a safer zone for these kids to ride their bikes on this patch and use the park
 - ❖ when considering that 20 units will be served by three spaces, one can imagine the amount of traffic there will end up being due to deliveries and residents, not to mention that people would end up driving onto the street, and when realizing that the spaces are occupied, would have to do a somewhat difficult U turn and try to find alternate parking on Besserer or surrounding streets creating unnecessary car traffic on a dead end street
- the statement about inability of staff to review documents due to Covid-19 restrictions, with respect to a past claim and a costly settlement of a neighboring resident where there were massive problems relating to the slope stability of the land in question, is very inappropriate management of the highlighted risk; Covid-19 brought the world to a halt, maybe it should have also halted the review of this application until such diligence was done and the risk assessed
- urged the City to deny approval for this proposal and consider allowing a development that will be suitable in size and minimal impact to the community, such as a true 3 storey building with larger but lesser number of units such as a duplex or triplex or a quadruplex if it fits

Dean Corno and Sonia Granzer (written submission)

- supported the comments of (neighbours) Josée Berthiaume and Michael Barnes and shared their concerns, in particular regarding the proposed extension of Besserer Street to accommodate the parking contemplated by the proposal
 - ❖ appreciating that the General Urban Area encourages infill development and that this proposal includes parking, the proposal fails to demonstrate how the infill does so "in a manner that ensures the long-term vitality of communities"; cutting down the two large maple trees at the front of their property (one of the largest fronting properties on Besserer Street) and covering their existing

front lawn area with pavement to allow for more parking on the property, would not likely be viewed as supporting the long-term vitality of the community by their neighbours, for the sake of 3 additional parking spaces

- those in the neighbourhood are being asked to make compromises by the proponents of the proposal and they will be adversely affected; while the proponents of the project may benefit, it's not clear whether the individuals who will rent the units will benefit
 - ❖ destroying the character of the park will not be an improvement for anyone other than the proponents
 - ❖ the proposal is not a conventional infill that satisfies the City's broad development objectives; it may support intensifying population density, but does not appear to respect environmental obligations, reducing auto traffic/parking pressures, and given the proposed design would not enhance the quality and character of the neighbourhood
 - ❖ not just any project should be permitted anywhere in the City, least of all in a neighbourhood that has so many homes with such strong heritage value

Linda Wiens (written submission)

- supported the comments of Josée Berthiaume and Michael Barnes

Christine Le Blein (written submission)

- the site is not suited to a project of this scope; the major zoning exceptions being requested would have significant impact on the community, including a permanent encroachment on Besserer Park, an extension that would be financed by taxpayers
- surprised at the City's lack of concern about the impacts on the quality of life and psychological health for area residents, particularly during construction so close to their homes while so many have to work from home because of the current Covid-19 pandemic
- no sufficient guarantee has been given about the stability of the slope on which the developer will be excavating to build retaining walls and no sufficient plan or guarantee about who would be responsible for any damage and loss to surrounding properties
- the City is exhibiting a serious lack of vision in failing to protect the greenspace of Besser Park, especially in light of global warming and at a time of pandemic where greenspace is so valuable to the health of city dwellers; the City should give thought to instead building a community garden or a play area for children, or one of many other possible projects that would be harmonious with the area and focus on conserving greenspace and respecting the area and people it serves

Primary reasons for support, by individual

Kersten Nitsche, Fotenn (applicant) (note: Brian Casagrande, Fotenn, and Melissa Du Plessis, Figurr were also present for the applicant/owner to answer questions)

- provided an overview of the proposal, indicating that the proposed parking provisions and the building height work well with the lot and are within existing zoning regulations
- indicated they will continue to work with staff and can address some concerns through the site plan process

Effect of Submissions on Planning Committee Decision: Debate: The Committee spent 42 minutes on this item

Vote: The committee considered all submissions in making its decision and carried the report recommendations as presented

Ottawa City Council

Number of additional submissions received by Council between June 25 (Planning Committee consideration date) and July 15, 2020 (Council consideration date): 0

Effect of Submissions on Council Decision:

Council considered all written submissions in making its decision and carried the report recommendations without amendment.