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## MEMORANDUM

To: Kelly Rhodenizer, Colonnade Bridgeport  
Alex Gordon, Colonnade Bridgeport

Date: June 6, 2025

Re: ***2000 City Park Drive***  
***Our File No. 48585-1***

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I have reviewed the Proposed plans filed in support of the zoning application for the vacant lands located on City Park Drive. We offer the following comments in support of the revised zoning submission with the City of Ottawa.

### **Title and Severance**

We refer in this report to the “Vacant Land” (2000 City Park Drive) as comprising the whole of the lands to be developed under proposed zoning and site plan applications, and the “Office Parcel” (1900 City Park Drive) as comprising the adjacent lands that may or may not be subject to future redevelopment, depending on market conditions and the long term interests of existing tenants.

The applicant filed an application for severance to readjust the existing lot line between the Office Parcel and the Vacant Land such that the boundary will follow the easterly limit of the existing shared private access road.

The boundary of the Vacant Land and the Office Parcel has been the subject of prior adjustments under common ownership, by way of consent under the Planning Act. Based on the terms of the prior lot line adjustments, it is not possible to simply revert to the original block descriptions. It is noted however that the Vacant Land and the Office Parcel, subject to the lot line adjustments, have always functioned as two parcels.

We know that CMHC and institutional lenders require severance to separately finance two or more buildings in common ownership. They will not accept a severance for the limited purpose of financing (which may otherwise be an option if there is no intention to undertake a future conveyance). The objective is therefore to create five parcels of land within the Vacant Land (“Development Blocks”), each of which can be separately financed. One of the five Development Blocks would contain the proposed shared private road and servicing within the road. The park block is to be conveyed to the City and does not require a severance.

There is an underlying plan of subdivision that would allow for the creation of the Development Blocks by way of one or more applications for part lot control exemption (PLCE). Severance by application to the Committee of Adjustment is another option if there is no intention to transfer

the Development Blocks to site corporations that might be created for the development and financing of each of the blocks.

PLCE is preferable from a procedural perspective. Block A would include the proposed shared private road and servicing within the road.

Shared property and the manner in which title to shared property should be held is a matter distinct from the means of severance to create the development parcels and is addressed below.

### **Description of the Project**

The plans filed in support of the zoning application and the proposed site plan for the Vacant Land comprises five towers, accessed by a shared private “L-shaped Road” off City Park Drive (the “Shared Private Road”) connecting with the existing shared private access road along the boundary of the Vacant Land and the Office Parcel.

Parkland for the project fronts on City Park Drive.

Garage access to each building is via the Shared Private Road and/or the existing private access road.

All servicing mains will be located in the Shared Private Road. Ownership of the Shared Private Road will be held by the owner of the first Development Block to be constructed, currently intended to be Block A, with all obligations resting with that one institutional/corporate owner. The remaining Development Blocks will enjoy easements and have corresponding obligations to contribute to the costs of operation, maintenance, repair and replacement pursuant to a JUMA.

### **Description and Extent of Shared Property**

Based on the site plan drawings we have determined the following:

- All Development Blocks will enjoy easements over the Shared Private Road for pedestrian and vehicular access and for connection to the servicing mains that will remain in the ownership of Block A as owner of the Shared Private Road. Beyond the road and the services within the road, and storm water systems, there is no other shared property as between all of the proposed Development Blocks.
- Any shared storm systems that benefit all Development Blocks (as with those within the Shared Private Road) would be operated, maintained, and repaired by the owner of the Shared Private Road.
- Any shared access ramps or other services *as between two buildings* would be governed by a separate building JUMA. So, if Buildings A and B were to share an access ramp, with Building B accessing its private garage through the Building A garage, Building B would enjoy easements over the drive aisles of the Building A garage for this purpose. Depending on fire separations across garage openings, the two buildings may also share a common life safety system. All of this would be governed in the normal course through building JUMAs imposed as a condition to PLCE based on the final site plan for the project.

The Office Parcel is not part of the proposed site plan and will be developed as a second principal phase of the overall development, under a separate site plan that may create further shared property between the two principal phases, as in the case of the existing shared private access road.

Some easements over the Office Parcel are pre-existing and can be the subject of a separate report following further consultations. It is possible to move the severance line between the two principal phases so that the existing shared private road access on the Office Parcel becomes part of the Vacant Land (Phase I lands) title.

### **Is A Common Element Condominium Appropriate and Justified in the Circumstances?**

It is understood that if there are to be multiple parties owning and sharing private infrastructure (roads, sewer, water, etc.), there needs to be a process in place to properly manage and operate that infrastructure. In some instances, this may justify a common element condominium, but not in every instance. Common element condominium adds a level of administration, regulation and expense that is unnecessary in circumstances where only a few corporate entities hold title to each of the development parcels, where there is limited or no severed low rise development (townhomes), where there is a clear understanding of the shared property and who is responsible for its operation, maintenance and repair, and where any easements required to facilitate use of shared property among the development parcels are in place. In my opinion a common element condominium is not necessary in the circumstances of the proposed development.

Typically, a common element condominium is not necessary in certain circumstances:

- Where there are six or fewer parcels sharing the components in question
- Where there are appropriate easements and shared property agreements in place
- Where there is one contact entity for the City to engage with should there be issues with shared private infrastructure that are brought to the attention of the City
- Where there is one owner that is responsible in first instance for the maintenance, repair and operation of the shared infrastructure, subject to contributions from other owners who enjoy the use of the shared property through easement rights
- Where the owners of each parcel are corporate entities that hold a particular parcel in single ownership
- Where the buildings are separately serviced from mains off one of the parcels to be created, supported by easements – in other words the ownership of the service mains are unified in a single parcel, subject to easements in favour of the others
- Where MOECP certificate(s) of approval are obtained in the case of private services crossing property lines, where required by law
- Where it is possible to provide the City with a very clear understanding of the components that will be shared as between the parties and where shared infrastructure may be confined to a private road and storm services

- Where the whole of the development is governed by a single site plan and the whole of the property is treated as a single lot for the purposes of zoning and therefore a comprehensive approach to planning has been applied in the site plan approval process

### **Extent of the Shared Property in this Proposal**

Based on the limited extent of shared property in this proposal and the proposed ownership of all shared elements in one or two corporations, a common element condominium is, in our opinion, not justified or appropriate.

The operation of the shared facilities as between dominant owners (who benefit from them) and servient owners (where the shared amenity is located) are then governed by a contract between them (referred to as a Joint Use and Maintenance agreement or JUMA). The Master JUMA would apply to all property shared between multiple development blocks only – the Shared Private Road, the service mains beneath the Shared Private Road and the existing private access road that is shared with the Office Parcel.

Often, there is shared property as between two high-rise buildings. Where this occurs, each parcel will be subject to and have the benefit of blanket easements for the purpose of access to, use and operation of the shared property, including any shared water entry rooms, mechanical rooms, hydro vaults, the garage ramps, drive aisles and exit stairs, etc. In this instance we understand that each building to be constructed on the Development Blocks will have independent servicing from a main within the Shared Private Road. The road and the service main will remain in single ownership with easements in favour of each Development Block to be created. Each building will have separate rooms for water entry, hydro, etc. However, in circumstances where two buildings were to share such components, a building JUMA between the two affected owners would apply as a condition to the relevant severance. The Building JUMA would be limited in its effect to the two buildings that may share services.

Given the limited extent of shared property, the fact that the shared property will be largely located within a single parcel of land (the Shared Private Road) subject to easements in favour of the others, it is our opinion that a common element condominium is not necessary or appropriate. It is our opinion, given the corporate ownership, the absence of an intention to sever to create condominium units, and the proposed operation of the shared facilities by the servient owner (Building A) alone for the benefit of all of the owners of the dominant lands (who benefit from them) can be properly governed by a Master JUMA between all of the development blocks.

Shared elements that will benefit the whole of the proposed development will likely include the following:

- Shared Private Road
- Existing private access road serving the Vacant Land and the Office Parcel
- Storm and sanitary systems, cistern(s), etc. (from points where each building connects to private mains in the Shared Private Road)
- Exterior site lighting, (excluding lighting on buildings) for roadways and pathways

Secondary *building* JUMAs would apply to the following if shared:

- Mechanical facilities and equipment that service more than one tower (limited)
- Garage ramp that services Buildings D and E
- Any shared hydro vault (if any)
- Any shared water entry room (if any)
- Life safety systems for buildings with connected underground parking (if any)
- Mechanical and electrical rooms and life safety systems for buildings with connected garages to the extent that the two buildings share equipment and systems

**Anticipated conditions to Severance *or* PLCE, and site plan approval**

Whether the application proceeds by way of application for PLCE or by application to the Committee of Adjustment for Consent, the conditions imposed should include the following:

- Certificate of Approval of MOECP where required by law [i.e. exceptions may apply under the *Building Code Act* and *Ontario Water Resources Act*, typically only available where the two or more towers that are held in separate title are constructed over a connected garage below the towers.]
- Easements and JUMAs for all shared property [Note: we use blanket easements for a stated limited purpose to ensure that the easements created will properly support the rights and obligations under the JUMA]
- Possible covenants to neutralize (some of) the prior consents granted
- Maintenance and Liability Agreement with respect private water services and hydrant (similar to a condominium agreement)
- Evidence that the lot remains one for the purpose of zoning (such that set-backs are unaffected and limiting distance provisions apply as between the towers constructed on the podium) notwithstanding the proposed severances
- Evidence that taxes have been paid to date
- Deposit of a reference plan to define the Development Blocks to be created (Note: we do not need to describe the easements, but rather grant and reserve blanket easements for this purpose in the severance Transfer)

In our opinion, the creation of four or five Development Blocks, one of which would include the Shared Private Road, plus the block to be conveyed to the City for parkland, with shared private property as indicated above, does not justify the creation of a common element condominium to hold title to, maintain and repair the shared private roads and service mains on behalf of the corporate owner of the same and those who enjoy easements over them. A JUMA between the benefitting owners and the corporate owner of the roadway should suffice in the circumstances.