

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON  
MUNICIPALITÉ RÉGIONALE D'OTTAWA-CARLETON

REPORT  
RAPPORT

Our File/N/Réf. (23) 14-95-0031  
Your File/V/Réf.

DATE 20 August 1997

TO/DEST. Co-ordinator  
Planning and Environment Committee

FROM/EXP. Planning and Development Approvals Commissioner

SUBJECT/OBJET **CITY OF OTTAWA OFFICIAL PLAN AMENDMENT NO. 18 -  
REQUEST TO REFER TO THE ONTARIO MUNICIPAL  
BOARD**

### **DEPARTMENTAL RECOMMENDATION**

That the Planning and Environment Committee recommend that Council refuse the request of Mr. Steven A. Zakem of Aird & Berlis to refer to the Ontario Municipal Board the following modification which Council proposes to insert into Ottawa Official Plan Amendment No. 18:

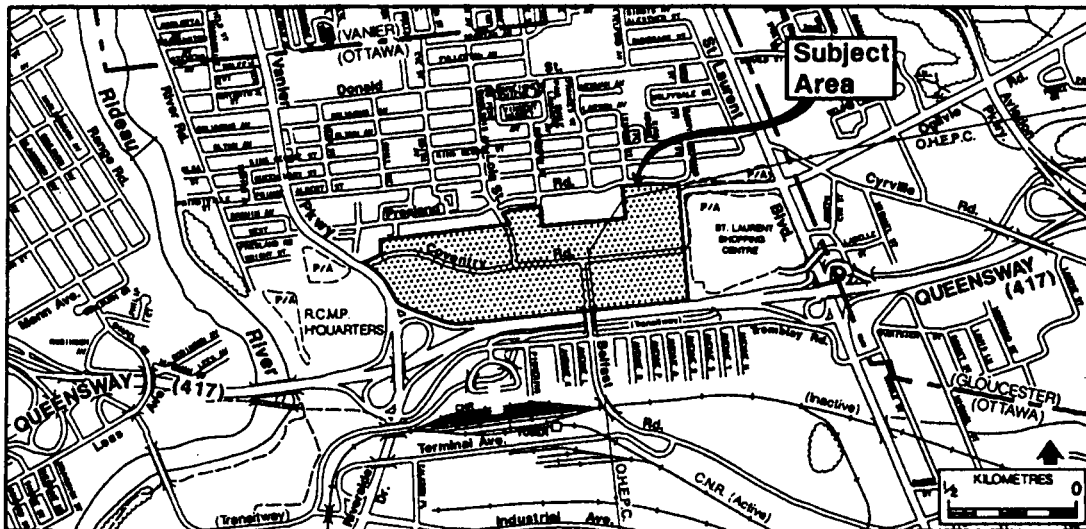
#### **“14.5 Retail Development**

- i) **Retail Development will be encouraged to locate as part of office development. “Stand Alone” retail development shall only be permitted in areas zoned for retail uses up to a cumulative maximum for the whole Coventry Road area of 23,225 sq. metres of GFA and only if traffic impact assessments indicate;**
  1. **the proposed development can be serviced with the transportation network in place at the time of application, or can be improved to adequately service the proposed use, and;**
  2. **will not remove any capacity in the transportation network above that which would be removed by office development, to provide for the full office “build out” development potential of the area;**

- ii) Stand alone retail development in excess of the cumulative 23,225 sq. metres of GFA threshold for the entire Coventry Road area may be considered where the proposed development will not prejudice the achievement of the Official Plan land use designations within the area as specified in the Coventry Road Plan of Development and City Council is satisfied that;
1. applicable studies for the site are completed as per Policy 13.6.1a) of the implementation chapter of the City of Ottawa's Official Plan;
  2. there is sufficient vacant lands available in the Secondary Employment Centre land use designation for employee generating uses, in order to achieve the 2,000-5000 job objective."

## BACKGROUND

Amendment No. 18 pertains to land north of the Queensway, east of the Vanier Parkway, west of the St. Laurent Shopping Centre and south of Presland Road (see location plan). It redesignates the western half of the area to "Secondary Employment Centre" and establishes development policies pertaining to the whole of the area covered by the amendment.



Regional Council approved Amendment No. 18 with modifications on 9 July 1997. Under the applicable Planning Act (Bill 163) once notice of the decision is given a thirty-day appeal period begins. This period expired on 18 August 1997 and one appeal has been received from a solicitor acting on behalf of Loblaw Properties Limited. The objector asks that the part of the amendment relating to "stand alone" retail development be referred to the OMB (Annex I). His concern is that once the OPA is approved it will bring into effect a zoning by-law which will permit freestanding retail uses to be distributed throughout the area on the basis of lot size. His concern with the by-law is that although it apportions the 23,225 sq. metres on the basis of lot size, if there was lot consolidation it would permit large retail uses. The objector states that this deviates from the original intent of OPA 18 which was to promote office development with a

limited amount of retailing supportive of the office development. The objector states that the OPA will permit a significant amount of additional retail space in the immediate proximity of the St. Laurent Shopping Centre which would constitute a shopping centre node in excess of that permitted by the Regional Official Plan.

## DISCUSSION

The preamble to the Official Plan states that the intent of establishing a Secondary Employment Centre designation is to permit commercial office and limited (emphasis added) retail. However the amendment itself did not contain any reference to a limit on retail and neither did the original accompanying zoning by-law amendment. The impetus for establishing a limit on the amount of retail development came from the Region's concern with regard to roadway capacity. The objector's statement that the modification is contrary to the Regional Official Plan is incorrect. The Regional Official Plan does not restrict where "stand alone" retail (as opposed to Regional Shopping Centres) can locate and, in addition, the zoning by-law for the area covered by the OPA limits the "stand alone" retail to the C1 zone which is west of Belfast Road and not adjacent to the St. Laurent Shopping Centre so it could not be regarded as an expansion of same.

Although the objector is asking that the above quoted modification be referred to the OMB, the modification by setting a cap of 23,225 sq. metres for "stand alone" retail is in fact more restrictive than the original O.P. where no limit was established.

The key consideration in dealing with this request for referral is section 17(29)(b) of the Planning Act which states that the approval authority may refuse to refer a proposed decision to the OMB if:

"the person or public body requesting the referral did not make oral submissions at a public meeting or did not make written submissions to the Council before the plan was adopted and, in the opinion of the approval authority, the person or public body does not provide a reasonable explanation for having failed to make a submission."

Official Plan Amendment No. 18 was adopted by Ottawa City Council on 3 April 1996, prior to which the objector had not made any submissions. Because of this, the objector was asked to address the above quoted section of the Planning Act. He replied that he wrote to the City of Ottawa prior to the adoption of the modification to OPA 18 and also appeared before the Planning and Economic Development Committee on 27 May 1997 to make representations specifically relating to the modification he has asked be referred. No reasons were provided for not making a submission prior to the adoption of the amendment.

With regard to this response, it is not correct to say that Ottawa City Council adopted the modification. The modification was before the Planning and Economic Development Committee on 27 May 1997 but only as an information item when they were considering a report recommending adoption of a revised zoning by-law for the area. Secondly, the objector's letter of 26 May 1997 headed "Zoning Amendments..." (Annex II) addressed what was a zoning report and not a report on the Official Plan Amendment. Thirdly, the Record of Proceedings (Annex III)

indicates that the objector's interest focused on the zoning and that he would like to look at the by-law when adopted. Fourthly, he did not appeal the zoning by-law. Fifthly, he did not make a submission to, or appear before, the Planning and Environment Committee on 24 June 1997 when staff's report on Official Plan Amendment No. 18 was considered.

Staff conclude for all of the above reasons that the objector has not satisfied section 17(29)(b) of the Planning Act.

### PROCEDURE

Regional Council has until 17 September 1997 to deal with the referral request, otherwise the Planning Act provides that referral automatically proceeds to the Ontario Municipal Board. The Procedure By-law, section 28A, as enacted by By-law 56 of 1995 provides that:

Despite clause 28(1)(b) [which requires reports to Council to be distributed at least two clear days in advance of the meeting of Council] reports from the Planning and Environment Committee containing recommendations with respect to:

- e) Requests for referral of all or part of an official plan or official plan amendment of an area municipality,

may be considered by Council provided that the report from staff to Planning and Environment Committee was distributed to all members of Council at least two days in advance of the meeting of Council.

As a result of section 28A, Regional Council will not have to waive the Rules of Procedure to deal with the recommendations of Planning and Environment Committee on this item at the meeting of Council to be held on 10 September 1997.

### CONSULTATION

No consultation is required in considering OMB referral requests.

### FINANCIAL IMPLICATIONS

None.

*Approved by*  
*N. Tunnacliffe, MCIP, RPP*




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**AIRD & BERLIS**


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Barristers and Solicitors

BCE Place  
Suite 1800, Box 754  
181 Bay Street  
Toronto, Canada  
M5J 2T9

Steven A. Zakem  
Direct Line: 865-3440

Telephone: (416) 863-1500  
Fax: (416) 863-1515

**VIA TELECOPY #(613) 560-1380 AND OVERNIGHT COURIER**

August 12, 1997

Our File #58474

Regional Municipality of Ottawa-Carleton  
Clerk's Department  
Cartier Square, 111 Lisgar Street  
Ottawa, Ontario  
K2P 2L7

Attn: Mary Jo Woollam, Regional Clerk

Dear Ms. Woollam:

**Re: Official Plan Amendment No. 18 - City of Ottawa**

We are the solicitors for Loblaw Properties Limited with respect to the above-noted matter. As you know, we originally became aware of Official Plan Amendment No. 18 ("OPA 18") and its corresponding Zoning By-law 69-96 after their adoption by the City of Ottawa, but before the approval of OPA 18 by the Regional Municipality of Ottawa-Carleton.

It was our view that By-law 69-96 inappropriately implemented OPA 18 by permitting retail uses independent of office uses. In particular, the IBP zone would have allowed retail uses contrary to OPA 18. The City of Ottawa recognized this anomaly and corrected it by the implementation of By-law 186-97.

However, By-law 186-97 also introduced a provision in the C1-c zone which would allow freestanding retail uses to be distributed throughout that area on the basis of lot size. This was contrary to the direction of OPA 18 which required any retail uses to be included as part of the office uses contemplated for the site.

In order to allow this to take place, the City of Ottawa adopted a modification to OPA 18 to allow "stand alone retail development" to a cumulative amount of 23,255 m<sup>2</sup> of gross floor area. We believe that this modification to OPA 18 is inconsistent with all of the studies undertaken in support of that amendment and inconsistent with the future anticipated land use framework for the Coventry Road area. We expressed this concern in a letter dated May 26, 1997 which is attached for your information. We also attended at

OTTAWA CARLETON REGIONAL CLERK'S DEPT AUG 13 1997 Received
FILE # 08-97-0049
DOC I.D. # 97-2030
ACTION TAKEN
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August 12, 1997

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the City of Ottawa and make representations with respect to the proposed modification to OPA 18.

Our client does not wish to delay the implementation of an Official Plan and Zoning By-law régime for this area any more than is absolutely necessary to have its concern adjudicated by the Ontario Municipal Board or to have the City of Ottawa revisit the foregoing and to possibly suggest amendments or modifications that would satisfy my client. As such, we hereby request referral of OPA 18 only to the extent that it introduces the permission for "stand alone retail development". If the modifications to OPA 18 are substantially in the form set out in the City of Ottawa Planning Report dated May 16, 1997, our referral would be limited to the new Clause 14.5 added to OPA 18.

As noted above, our reason for requesting this referral is a result of a concern with respect to its deviation from the original intended purpose of OPA 18 which was to foster and promote office development in this area with a limited amount of retailing in conjunction with and supportive of the anticipated office development. The proposed modification would allow a significant amount of additional retail commercial space in the immediate proximity of the St. Laurent Shopping Centre which would effectively constitute a shopping centre node in excess of that permitted by the Region of Ottawa-Carleton Official Plan.

As you will note, our appeal request is limited to the greatest extent possible to allow the Official Plan policy régime and Zoning By-law régime to come into force to the extent not inconsistent with this referral request. We believe this request will allow By-law 69-96, as amended, to come into full force and effect with the exception of those specific provisions which implement the referred portions of OPA 18.

Our firm cheque in the amount of \$125.00 made payable to the Minister of Finance, Province of Ontario is enclosed herewith to cover the Ontario Municipal Board's prescribed fee.

Yours very truly,

AIRD & BERLIS

  
Steven A. Zakem

SAZ/mn



AIRD & BERLIS

August 12, 1997  
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cc: Gavin Goebel  
Nigel Brereton  
Tony Sroka

encl.

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AIRD & BERLIS



**AIRD & BERLIS**

Barristers and Solicitors

Steven A. Zakun  
Direct Line: 865-3440

Telephone: (416) 863-1500  
Fax: (416) 863-1515

BCE Place  
Suite 1800, Box 754  
181 Bay Street  
Toronto, Canada  
M5J 2T9

**VIA TELECOPY #(613) 244-5417**

May 26, 1997

City of Ottawa  
Clerk's Department  
111 Sussex Drive  
Ottawa, Ontario  
K1N 5A1

Our File #58474

Attn: Pierre Pagé, City Clerk and  
Director of Council and Statutory Services

Dear Mr. Pierre Pagé:

**Re: Zoning Amendments - Coventry Road/Belfast Road/Lola Street**

We are the solicitors for Loblaw Properties Limited with respect to the above-noted matter and have had an opportunity to review the report prepared by the Department of Planning, Economic Development and Housing dated May 16, 1996 with respect to the above-noted matter. The proposed changes appeared to address the concern expressed by my client with respect to the zoning anomaly in the IBP-x zone of the City of Ottawa Zoning By-law.

We have also had an opportunity to consider the proposed modification to OPA No. 18 which would establish a site specific policy that would limit the amount of "stand alone" retail development up to 23,225 m<sup>2</sup> within the Coventry Road Planning Area. We do have some concern with respect to this departure apparent from the original intent of OPA No. 18 which was to allow retail development only as part of office development. We do not understand the need for this departure and do not believe it is necessary.

At a minimum, any permission to allow freestanding retail uses to develop should, within the Official Plan Amendment, prohibit supermarkets and department stores and other traditional anchors to exist in commercial centres. Steps should also be taken to amend the relevant sections of the By-law to be consistent with whatever modifications are made to



City of Ottawa  
May 26, 1997  
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Subject to the foregoing, we believe our client's concerns have been adequately addressed and would appreciate receiving copies of the actual text of the proposed Zoning By-law Amendment and Official Plan Amendment modifications as soon as the same are available. Finally, could you provide us with formal notice of the adoption of the foregoing.

Yours very truly,

AIRD & BERLIS

  
Steven A. Zakon

SAZ/mn

cc: Anthony V. Sroka  
Nigel Brereton

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RECORD OF PROCEEDINGSPLANNING AND ECONOMIC DEVELOPMENT COMMITTEE - MAY 27, 1997Ref. No. ACS1997/1301-100 PD1C0687

Zoning Amendments - Coventry Road/Belfast Road/Lola Street

PARTIES WHO APPEARED

After a presentation by staff, the Committee heard from the following:

Steven Zakem  
for Loblaw's  
Aird & Berlis  
BCE Place  
Suite 1800, Box 754  
181 Bay Street  
Toronto, Ontario  
M5J 2T9

Mr. Zakem addressed the Committee as a lawyer on behalf of Loblaw Properties Ltd. who own and operate the Loblaw's Supermarkets and the Independent Grocers Supermarkets.

He forwarded a letter to the Clerk on May 26, 1997 and provided copies for the Committee.

He indicated he generally supported the proposal. Concerns were previously raised to the Region and the City with respect to the anomaly mentioned by staff in the business park designation and strongly support the proposed amendment to the by-law to fix that anomaly. That anomaly would have permitted large freestanding retailing that was never intended and not appropriate for the IBP Zone.

He indicated generally because there was still a concern about the permission for freestanding retail uses in the employment area designation. The intent of OPA 18, as they read it, is that commercial development will be permitted in conjunction with office development in that area. This has been discussed with staff and is still in the process of satisfying that that permission would not unduly undermine existing retail areas. He does not want to indicate today that there is an objection to it, but would like to look at the by-law, as it is adopted, to ensure that it does implement OPA 18 and would like to reserve their rights in that regard.

David Donaldson  
Agent for Canada Life  
Adason Properties Ltd.  
16 Northview Road  
Nepean, Ontario  
K3E 5A3

Mr. Donaldson addressed the Committee on behalf of Canada Life, who owns the site at 330 Coventry Road, which is immediately adjacent to the stadium site. Canada Life is generally in concurrence with the by-law and getting on with it, having been involved in the process since 1991. Presently, there are two by-laws that govern the street, commercial and industrial. Effectively, the gold area on the map is frozen which concerns Canada Life specifically related to developing or marketing their site.

There are some areas of concern, one of which is the cap. Canada Life understands the reasons for it, the intent of the plan of development and where the Region stands and reason for limiting both overall development and retail development in the area. They are not sure what the formula for retail