

MINUTES

PLANNING AND ENVIRONMENT COMMITTEE

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

CHAMPLAIN ROOM

13 JULY 1999

3:00 P.M.

PRESENT:

Chair: G. Hunter

Members: D. Beamish, M. Bellemare, B. Hill, P. Hume, J. Legendre, A. Munter,
W. Stewart and R. van den Ham

CONFIRMATION OF MINUTES

That the Planning and Environment Committee confirm the Minutes of the Meeting of 22 June 99.

CARRIED

POSTPONEMENTS / DEFERRALS PLANNING ITEM

1. PUBLIC MEETING TO CONSIDER DRAFT REGIONAL OFFICIAL PLAN AMENDMENT 6 - ARCHAEOLOGICAL RESOURCES POTENTIAL MAPPING STUDY

- *Deferred from Planning and Environment Committee Meeting of 22 June 1999*
- Planning and Development Approvals Commissioner's report dated 21 May 1999
- The Archaeological Resource Potential Mapping Study of the Region of Ottawa-Carleton issued previously
- Addendum report from Planning and Development Approvals Commissioner dated 30 June 1999

Committee Chair Hunter advised this was a continuation of the public meeting for Regional Official Plan Amendment 6 and, noting there were no speakers' forms submitted for this item, he inquired if there was anyone present who wished to speak. There being no speakers, the Committee approved the staff recommendations.

- Notes:
1. Underlining indicates a new or amended recommendation approved by Committee.
 2. Reports requiring Council consideration will be presented to Council on 8 September 99 in Planning and Environment Committee Report Number 39.

1. That Planning and Environment Committee and Council approve the *Archaeological Resource Potential Mapping Study* (April 1999), under separate cover, to be used as a tool in implementing policies for the protection of archaeological resources, as required in the Provincial Policy Statement, the 1997 Regional Official Plan and the Memorandum of Understanding transferring plan review responsibilities to the Region;
2. That, subject to the public meeting, Planning and Environment Committee recommend that Council enact a bylaw to adopt draft Regional Official Plan Amendment 6 to the 1997 Regional Official Plan, attached as Annex A to this report, to reflect the recommendations of the *Archaeological Resource Potential Mapping Study*.

CARRIED

REGULAR ITEMS

PLANNING ITEM

2. DRAFT PLAN OF SUBDIVISION 06T-99001, LONGWOOD CORPORATION LTD., ELEANOR DRIVE, CITY OF NEPEAN
-Planning and Development Approvals Commissioner's report dated 13 July 1999

Mike Boucher, Planner, Development Approvals Division provided Committee with an overview of the staff report.

Councillor Munter asked for further explanation with respect to the pathway, indicating he did not understand the problem with imposing a condition on the Seminary, which is a party to this agreement. Mr. Boucher explained the existing structure (for the Holy Spirit Seminary) straddles almost the entire property and it would be difficult to get a three meter pathway through there. He noted the Seminary had to secure access from St. Augustine's Church to the west, to provide for vehicular access to the rear of the property. Mr. Boucher said if access is imposed on the Seminary property as a condition, it would require the cooperation of St. Augustine's to allow access at the easterly edge of their property.

Responding to further questions from Councillor Munter, Mr. Boucher advised the first step is securing the pathway, the second step is agreeing on who owns it and how it will be maintained. He pointed out the Regional Legal Department has advised that the Region is not normally involved in local pathways. He went on to say, typically, pathways in municipalities are six meters (to allow for maintenance of the pathway); three meters would be acceptable but would be difficult to maintain. Mr. Boucher indicated Nepean

had not stated they would not maintain a pathway, nor have they stated they would be securing a pathway beyond the extent of what their Committee directed at the public meetings; these issues are still up for discussion.

Councillor Munter then asked what degree of detail a draft condition would have to have in terms of specifying the exact route of the pathway, ownership of the easement, etc. He asked if it would be possible to impose a condition on the Seminary which stated there must be a pathway and leave it to them to sort it out. Mr. Boucher indicated the condition could very well say “to the satisfaction of the Region” and specify a location.

Responding to questions from Councillor Legendre concerning Condition 12, Nick Tunnacliffe, Commissioner, Planning and Development Approvals Department, advised the Condition does not specify a location for the pathway, rather it states a three meter wide easement is to be provided, the location of which is to be negotiated. He confirmed the date specified in the Condition (i.e. 31 December 2000) was decided on by the City of Nepean and could be removed by the Planning and Environment Committee.

Councillor Holmes asked if there had been any discussion with the Church about buying a piece of their land. Mr. Boucher advised no discussions in this regard had yet taken place. He pointed out the report is recommending staff (including OC Transpo staff) be directed to meet with members of the Church to try and reach a compromise. Responding to further questions from the Councillor, Mr. Boucher indicated expropriation is an option but there had not been any serious discussions about it.

Councillor Beamish asked staff if they were aware if the community had spoken directly to the Church concerning a pathway. Mr. Boucher indicated he believed the community had spoken with representatives of the church and pointed out members of the community were present to speak to this issue.

The Committee then heard from the following public delegations.

Don Kennedy representing the Longwood Corporation Ltd., the developer of the subject property, appeared before Committee. He indicated the representatives of St. Augustine’s Church (Mr. Brian Glen) and the Holy Spirit Seminary (Father David Mochuk) were unable to attend the meeting, however, he would be making comments on their behalf.

Mr. Kennedy indicated the developer had submitted with its application, all of the studies (e.g. traffic impact study, tree management study and preliminary storm design plan servicability, etc.) required pursuant to the current Regional Official Plan and their application was deemed complete. As well, Longwood Corporation held two meetings with residents (as requested by Nepean Councillor for the area) at which a number of issues were raised; many of which have been addressed by the requisite studies. Mr.

Kennedy pointed out the site was previously zoned Institutional before this application was made, which would have allowed a retirement home or seniors' residence up to 84 feet in height. The application was made for the ground oriented bungalow townhouse units; the land use was approved and the zoning is in place.

Addressing the issue of the pathway, Mr. Kennedy stressed the developer appreciates and understands the need to support transit. Using a map of the area, Mr. Kennedy illustrated that access to all five bus routes in the area, on both Baseline and Merivale, using City streets as opposed to the pathway, would add only between 170 and 210 meters in walking distance. He noted it was at the Nepean meeting that the developer offered to leave a 3 meter pathway on the subject property, to allow for negotiations with St. Augustine's Church. Mr. Kennedy pointed out if the pathway were to go to the more easterly site (Holy Spirit Seminary) to tie into the subdivision, it would easily equal the distance people would have to walk around the site to the bus stop.

Mr. Kennedy then shared with Committee a conversation he had that morning with Brian Glen (St. Augustine's Church), wherein Mr. Glen indicated the decision of the Parish Council remains the same; they are concerned about past vandalism, about people parking in their lot, walking in the area and about liability issues (as it is a private road).

On behalf of the developer, Mr. Kennedy urged the Committee to support the subdivision so that it could move forward. As well, Mr. Kennedy asked that the Rules of Procedure be waived so that this item could be brought forward to Council at their meeting of 14 July 1999, pointing out the application is 7 months old and the developer would like to move on with the project.

In response to questions from Councillor Munter, Mr. Kennedy indicated either pathway (on the east or west side of the Seminary) would require the approval of St. Augustine's Church and Mr. Glen had indicated the Parish Council has concerns about both. He explained the western pathway would require an easement across the entire Church site and the eastern pathway would require an easement of approximately 20 to 30 meters across the easement granted to the Holy Spirit Seminary by St. Augustine.

Councillor Munter noted the conditions in the report before Committee put the onus on the City and OC Transpo to procure a pathway, whereas if the Committee were to approve a condition that there would be a pathway, the onus would be on the developer to get a pathway. The Councillor asked Mr. Kennedy for his comments in this regard. Mr. Kennedy pointed out St. Augustine's was not party to the application. He advised he had already offered to set up a meeting in September with the Parish Council and the various parties to try to reach an agreement on this issue. He stated the developer wishes to get on with the project and they will do whatever they can to put closure to this. However, if there were no end to the condition and the developer was not successful at convincing the

church to grant an easement on their property for the pathway, it would risk the project not going ahead.

Mr. Kennedy, in response to questions posed by Councillor Legendre, indicated once draft approval was received and the necessary detailed engineering study, Ministry of Environment approval and agreements with the Region and the City were completed, the developer would start immediately to service the property. The speaker noted, the site plan shows a three meter easement and, if at some specific point in time, the pathway becomes a “dead issue”, the land would revert back to the people adjacent to it.

Councillor Legendre questioned what the harm would be in having a path on the subdivision property, even if it did not lead anywhere at this time; he pointed out circumstances could change at some point in the future (e.g. the property to the north could change hands, the Parish Council could change, etc.). Mr. Kennedy stated the three meters could remain as an easement until the access, maintenance and liability issues are resolved and then perhaps a pathway could go in. He said a specific date was requested in an effort to eliminate the uncertainty for the future owners of the proposed development, however, the easement could be maintained for a longer period of time.

Councillor Hume asked Mr. Kennedy if the developer would be agreeable to changing the 31 December 2000 date (in Condition 12) to some other date, satisfactory to the community. Mr. Kennedy stated they would be amenable to extending the date by a year or so, however, maintaining the easement in perpetuity would be a concern.

Committee Chair Hunter commenting on the developers hesitation to maintain the easement in perpetuity, noted the Region is responsible for ensuring the people moving into the proposed units have reasonable access to OC Transpo Service. In his opinion, the most appropriate access would be a pathway to the north across St. Augustine’s Church, to Baseline Road. The Chair went on to note the Regional Intensification Strategy (based on the FoTenn Study) identified a potential for 496 units in this area. In this regard, should St. Augustine’s decide to sell and/or redevelop thier land, it would be prudent on the Region’s part to protect a pedestrian link in that location in perpetuity so that these communities can be linked. The Chair offered therefore that this pathway is a genuine Regional interest and asked Mr. Kennedy for his comments.

Mr. Kennedy responded the nature of community proposed (i.e. downsized bungalow units) is geared to retired and semi-retired persons who generally do not take the bus during peak hours. He concurred with Chair Hunter as to the importance of having easy access to Baseline Road, however, questioned whether the additional walking distance to reach a bus stop (if the pathway did not exist) would be of any great significance to the residents of the proposed community. Mr. Kennedy also pointed out if redevelopment occurred on the St. Augustine land, it is directly adjacent to Baseline Road.

Chair Hunter pointed out an agreement satisfactory to the community, could be reached if the date of 31 December 2000, were deleted from Condition 12. Mr. Kennedy, after conferring with the property owner, advised they would be agreeable to the date being deleted, contingent upon the ownership, maintenance and liability issues being resolved with respect to the westerly pathway.

David Donaldson appeared before Committee and advised he takes the bus daily and has used the existing pathway every morning for the past 11 years. Mr. Donaldson noted the area around Eleanor Park is the densest in terms of development in the area (i.e. a number of apartment buildings and townhouses in this area) and most of these residents use the bus. He expressed the concern that if the pathway is eliminated many of the residents will move to other areas where bus access is more convenient. He cautioned this could very likely result in new tenants that are more auto reliant, resulting in increased traffic and parking problems in this area. Mr. Donaldson stated although he was not against the rezoning, he felt the application was pre-mature and there were many unanswered questions.

Mr. Donaldson said he agreed the best location for the pathway would be on the west side, however, St. Augustine's has indicated repeatedly, they would not cooperate. As an alternative, the area to the east of Holy Spirit Seminary (which would require the small vestibule to be removed) would be sufficient for a walkway. He felt the Region should use its leverage (prior to the subdivision being approved) to secure a pathway. He pointed out St. Augustine's would be negotiating with the Holy Spirit Seminary and the developer for a sanitary sewer easement and as well, negotiations would be occurring between the developer, Holy Spirit Seminary and Villa Marconi, with respect to the storm water management plan. Mr. Donaldson felt the Region should make it a condition for the development that a "path from A to B" be provided and leave it to the developer to negotiate with the parties while the other negotiations are being conducted.

In concluding his remarks, Mr. Donaldson expressed his agreement with Chair Hunter that this application should not be looked at in isolation. He said he wanted to see a pathway for the current residents as well as for future development and he stated, should Regional Council not look after this matter, the community would be prepared to proceed to the Ontario Municipal Board.

Responding to questions posed by Councillor Munter, Mr. Donaldson stated if a pathway is imposed as a condition for draft approval, the developer will fight hard to put it in the western location because it is the least disruptive in terms of the effect on marketing of that subdivision.

Councillor Munter indicated he would be putting forward an amendment to Condition 12, directing the developer to put in a pathway to Baseline Road, subject to the approval of the Planning Commissioner.

Councillor Legendre noted the current pathway used by residents is an informal one and is not maintained. He asked Mr. Donaldson if this presented a problem in the winter. Mr. Donaldson replied he is not usually out early in the morning and when he gets to the pathway (even after the biggest snow fall), he can walk in his street shoes as the path is so well travelled. He said there has been no need to plow it.

Paul Churchill, President, Fisher Heights and Area Community Association, appeared before Committee. He advised that for more than two and a half decades, the subject property has been used by the community without challenge for recreational space and as a pedestrian thoroughfare. The City of Nepean cultivated the public's impression it was park land by leasing it, installing a ball diamond and maintaining the ground. In defence of its position that the property was never intended to be viewed as public space, the City claims this area is adequately served with parkland. Mr. Churchill stated that although there are six properties in this area the City considers parkland, only three of these are bona fide parks that have recreational facilities (e.g. playground) and flat open space that can be used for sports or general activities.

Mr. Churchill felt the City of Nepean had not taken into account the fact the Seminary property is surrounded by fairly high density housing including a high rise apartment building, low rise apartment buildings and a number of townhouses. He said if the entire Seminary property is redeveloped for housing neither the current residents, nor the residents of the proposed development will have any usable park space.

At this juncture, Chair Hunter reminded Mr. Churchill the Region does not have jurisdiction over the use of the land. He pointed out what was before Committee were the conditions of draft approval for the subdivision.

Mr. Churchill then told Committee his group had obtained a legal opinion that supports the claim of pedestrian access through the Seminary land and St. Augustine's property based on a principle called adverse possession. He noted area residents have been using the property as a pathway for more than 20 years without challenge. In view of this legal opinion and to ensure people have access to Baseline Road and the OC Transpo bus stops, Mr. Churchill asked that the Region to claim an easement through both the Longwood property and St. Augustine's property. Mr. Churchill stated the decision as to whether this would be done by purchasing land, expropriating land or seeking a court order based on adverse possession, would be left to the Region.

Chair Hunter asked the speaker to explain the concept of adverse possession. Mr. Churchill replied, although he was not very familiar with the concept, it was his understanding that because people have been essentially trespassing without challenge over this property for a specific purpose, for a specific period of time, they have a right of access to that property.

Anthony Sroka, advised he was a resident in this community and a registered professional planner and declared his support for the path and the arguments that had been put forth in its defense. Mr. Sroka expressed his belief that the deadline of 31 December 2000 or even an extension by a year, was not reasonable and would “tie the hands” of the community, Regional Council and all of the parties to the negotiations. Instead, Mr. Sroka felt the easement for the pathway should be held in perpetuity. He stated a clear need for the pathway had been established for over twenty years and he pointed out the Regional Official Plan has a requirement that new developments be within 400 meters of a bus stop, where possible. He went on to say many of the people living in this high density area do not have the luxury a car and there is clearly a demand in the neighbourhood for access to transit, which will only grow in the future.

Mr. Sroka opined there is a clear argument for a pathway and he felt the Region should make it a condition of the subdivision approval. He felt the pathway could then be realized by a declaration of the court (i.e. adverse possession), through negotiations with St. Augustine’s Church to acquire the land or by expropriation.

Corey Peabody and Doug Yonson appeared before Committee. Ms. Peabody expressed agreement with her neighbours that the best use of this land would be as open space. She opined this development did not conform with the Regional Official Plan, particularly with regards to the policies related to transportation and she referenced a letter (which addresses this issue) sent by Paul Churchill, President, Fisher Heights Community Association to Pamela Sweet of the Planning and Development Approvals Department (held on file with the Regional Clerk).

Ms. Peabody said her main concern was that a pathway be provided from Eleanor to Baseline to facilitate the use of public transit and to provide a path for bikes. She pointed out, without the addition of the pathway, access to buses on Farlane, Baseline or Merivale, would exceed the 400 meters recommended by OC Transpo in their Vision document. The speaker said she was pleased to see the Transit Services Committee would be looking at this issue and she suggested the Planning and Environment Committee might want to defer approval of this subdivision until the Transit Services Committee has tabled their report. She said the community would like to see approval of this subdivision delayed until a path has been secured from Eleanor to Baseline Road.

Mr. Yonson noted one of the key aspects of an in-fill project, is ensuring it fits as well as possible into the community; he felt the provision of a path would be a very minor element for the proposed development to do so. Mr. Yonson went on to say the community had numerous discussions with the Church and were surprised by their lack of “neighbourliness”, particularly since some of their members use the path to go to church and many in the community are their parishioners. The speaker noted the liability and security issues have existed for as long as the path has been used (i.e. over twenty years).

In Mr. Yonson’s opinion, the developer could negotiate a path with the parties involved, if he really wanted to do so. He expressed his endorsement of Mr. Donaldson’s opinion and Councillor Munter’s suggestion, that the condition simply say a path be put in and let the developer work it out.

Chair Hunter said he did not believe it would be as easy as Mr. Yonson had suggested, for the developer to negotiate a pathway. The Chair urged the Committee to work towards a solution but not dismiss it as “the developer can make it happen”, pointing out there are difficulties with both pathway options. Responding to Chair Hunter’s comments, Mr. Yonson noted the developer had already achieved a great deal through negotiations and the community feels if the pathway were a condition of approval, the developer would be able to procure this as well. He pointed out the Church had already granted the Seminary an easement over the very land that would be an alternative for the pathway on the right hand side of the Seminary property.

Ms. Peabody then explained the concept of adverse possession. She said if the community can provide evidence they have used this land for 20 years, uninterrupted; that the Church had knowledge of this; and, they did not allow it through good will, then they would be in a position to obtain a court order against St. Augustine’s Church as well as the development on the Seminary lands, that would require the Church and the development to provide the path where it currently stands.

Tim Marc, Manager, Planning and Environment Law, stated the concept of an “easement by prescription” is well established in law. He confirmed if there is a use that has been going on for 20 years, it is open and notorious, and it was not by permission of the Church then there is a chance at establishing an easement by prescription. Mr. Marc explained that although this would prohibit the Church from taking any action to preclude this use (i.e. they could not block the pathway), the Church would not have to take any active steps to allow this use to continue (i.e. the Church would not have to maintain the pathway). Mr. Marc informed Committee he could not give advice as to whether or not a case could be established in this instance.

Joan DeBordeleben, a resident of the community, advised one of the reasons she purchased her house in this neighbourhood was because of the good bus access. Ms.

DeBordeleben said she was pleased with the direction the Committee seemed to be heading to resolve this matter and she expressed the hope they would take whatever action necessary to ensure the path is actually constructed rather than just the right to do it at some point in the future.

The speaker went on to express her concerns with increased traffic in the area. She noted many of the streets in the area do not have sidewalks and this presents a danger to pedestrians, particularly for children and the elderly. This danger is increased in the winter, and will only further deter people from taking the bus if the pathway is not provided. Ms. DeBordeleben felt the City had not investigated fully, the implications the increased traffic from this proposed development, will have on the community.

Rod Price and Jack Stirling, City of Nepean, appeared before Committee. Mr. Stirling pointed out staff in Nepean had tried to find a resolution to the issue of the pathway but noted the difficulty in requiring a third party (that is not party to the application) to provide access willingly across its land. He acknowledged a pathway has existed for a number of years but it has been recognized the residents were trespassing across private lands. Mr. Stirling noted “No Trespassing” signs were put up but were removed by vandals. He explained the City of Nepean leased a portion of the subject land for park purposes and under the terms of the lease, the land owner has terminated that lease.

Mr. Sterling then pointed out all of the subject land is not in the City of Nepean. Referring to an earlier suggestion that part of the Seminary vestibule be removed to provide for a pathway, Mr. Sterling indicated this portion of the land is in the City of Ottawa. With respect to the suggestion that the lands be expropriated, Mr. Stirling felt such an action would not be defensible. He said the only way a pathway will be acquired through these lands would be through open, positive dialogue. He cautioned these tactics could very likely result in a pathway that does not come anywhere near the existing bus stops and would therefore not meet the needs of the community. The speaker expressed his agreement with comments made by Chair Hunter, that over time re-development in this area will occur and through the planning approvals process, a better solution for providing a pathway will be found. Mr. Stirling stressed it is not the intention of the City of Nepean to own, maintain or take on any legal liability or obligation with respect to this pathway.

Referring to an earlier comment, Mr. Sterling advised in 1994, the City of Nepean put forward a proposal to put sidewalks on Eleanor Drive to assist in pedestrian access, however, this suggestion was rejected by the area residents.

With respect to Condition 12 and the date of 31 December 2000, Mr. Stirling explained the rationale behind this was to try to encourage a resolution through negotiations, while at the same time, the City felt there had to be some conclusion to it. He said it could not remain an open situation because in leaving the ability to negotiate open, the liability and

maintenance aspects are also left open. He said this date would not preclude an opportunity to secure a better location for a pathway in the future, through either a re-development of the Myers or St. Augustine's property.

Councillor Munter asked Mr. Stirling to explain why it would be so complicated to indicate to the Seminary that the pathway must be included as part of the deal and leave it to them to figure out how to achieve this. Mr. Stirling indicated that if the pathway was to be provided on the seminary property, in his opinion this would be appropriate. However, legally, it is not possible to put a condition on the Seminary to provide access on somebody else's property (i.e. St. Augustine's Church) without their agreement. He suggested if the Committee was contemplating such a direction, they should refuse the application on the basis that it does not conform by not providing a pathway.

Councillor Munter clarified his comments by reiterating that the seminary should be told to do it; they would then have the option of doing it on their own property, or negotiating with the Church. Mr. Stirling pointed out a pathway on the east side of the Holy Spirit Seminary is not the preferred location; it is blocked off almost entirely by an existing building and it would raise issues with respect to maintenance and liability.

Responding to questions posed by Councillor Legendre, Mr. Stirling advised the issue of transit service was considered extensively by City of Nepean staff and their Council. He said although Nepean is not responsible for OC Transpo, it has the utmost commitment to supporting the policies of OC Transpo with respect to land use, etc. Mr. Stirling also noted, the first comment received from OC Transpo with respect to this application was "No Comment"; there was no requirement from OC Transpo to look at or require a pathway, because the dimensions, distances, etc. generally fell within their requirements.

Councillor Legendre stated if an easement is not held on the subject property, and something happens in the surrounding properties in ten years time, the Region would not be able to come back on this developer and request an easement. Mr. Stirling said for the purposes of the subdivision agreement and the site plan agreement, the City of Nepean will always have a blanket easement across the property.

Councillor Legendre then referenced Condition 7, which states that the owner agrees to assume the road allowance at Greencrest Place. He asked if a policy existed, either in the Planning Act or at the City of Nepean, that when streets are closed they would first be offered initially to abutting land owners. Mr. Stirling advised the roadway internal to the development will be a private roadway; the City had two options, either retain that little triangle as public or recognize that the balance of the roadway was going to be private and deed it to the applicant. At Councillor Legendre's request, Mr. Marc agreed he would review the relevant legislation (i.e. the Planning Act and the Municipal Act) to determine if there was some requirement to first offer a parcel of land resulting from a road closure, to

the abutting landowner. He stated he would provide this information to the Councillor prior to consideration of this item by Council.

Councillor Holmes asked Mr. Stirling if the City of Nepean had a policy with respect to assuming and maintaining pathways for OC Transpo. Mr. Stirling replied, through Plans of Subdivision, where opportunities are created for pathways that connect to a public roadway, the City of Nepean would assume a pathway and maintain it. He said these paths would be to the standards of the City (i.e. 6 meters) and would be used for the purposes of accessing OC Transpo, as well as other uses. Councillor Holmes then asked the speaker to clarify if it was the width of this particular pathway that was the problem. Mr. Stirling replied it was the width of the pathway, the fact it crosses private property (that it is not party to the application) and also that it enters into the city of Ottawa.

Terence Bell, President, Skyline Orchard Park Community Association and a representative of the Federation of Nepean Community Associations appeared before Committee addressing the transportation and transit issues as they pertain to the pathway. In his opening comments, Mr. Bell indicated he was in agreement with removing the time limit imposed by the City of Nepean for the pathway. He then referenced a comment made by Mr. Stirling that no municipality would want to have a three meter pathway and noted there is a pathway at the southeast corner of Meadowlands Drive and Merivale Road which is approximately 4 meters wide, leads directly to an OC Transpo stop and is maintained by the City of Nepean. As well, there are numerous pathways in the City of Nepean, that the City does not maintain. The subject pathway is used both summer and winter, without any maintenance by the City.

On the issue of right of access through prescription, Mr. Bell stated he had been advised by a lawyer that it would be quite simple to obtain a right of passage because one of the conditions is that the church had to fence this land and have a gate that they could close at least one day a year to eliminate that possibility. Mr. Bell informed Committee that in the past 30 years that gate has not been closed every single year for an entire day, and most times, it has been left wide open. With regards to the transportation issue, Mr. Bell noted there are a large number of people in the Eleanor Park area that do not have personal transportation and rely on OC Transpo daily to get to their jobs and schools and they use this pathway. To deny them the right to this access would put them at a disadvantage.

Mr. Bell went on to say he has been a parishioner of St. Augustine's Church for thirty years. He pointed out many residents of the community walk to the Church and he surmised many of the residents of the proposed development would want to do so as well. On the issue of increased traffic, Mr. Bell pointed out, although the developer has repeatedly said the proposed development would not greatly increase traffic in the area, the potential number of parking spaces to be provided in the development was 162.

In concluding his remarks, Mr. Bell stated the western pathway is the preferred one. He noted the church has expressed concern that a walled pathway would affect their agreement with Myers Motors, which allows employees to park at the Church. Mr. Bell stated it would not be necessary for the pathway to be walled and therefore employees of Myers Motors would still be able to park at St. Augustine's. The speaker went on to opine that St. Augustine is a third party to this application in that they sold the subject property to the seminary. The Church has a vested interest in this community and in maintaining good community relations. In Mr. Bell's opinion, at the very minimum, there is a need to have the pathway in perpetuity and he suggested if legal action were taken to obtain the right of access by prescription, the developer would very quickly go back to the Seminary and negotiate.

Chair Hunter then read a motion put forward by Councillor Munter, to replace Condition 12, with the following: "That the owner provide a pathway to Baseline Road from the subdivision to the satisfaction of the Regional Planning Commissioner".

Councillor Munter then spoke to his amendment. He said there seemed to be a consensus that a pathway would be a good thing, the problem is arriving at who's job it is to get this pathway in place. The Councillor felt it much more appropriate to remove the onus from the Region or City and place it on the developer and he explained his motion does this.

Councillor Legendre expressed disappointment in the Parish Council, as in his view they should see themselves as trustees of a local branch of an organization that exists for the public good (in fact they receive tax benefits on this basis). He said for this organization to be taking a very narrow "property-owner" view of this situation, surprised him.

Referring to a comment made by Mr. Stirling, the Councillor stated he was disappointed that OC Transpo did not recognize from the beginning the Regional interest in this development. He felt this situation was a fine example of a two level planning processes and empathized with the frustration the citizens of the Region experience with such a process. Councillor Legendre indicated he would be supporting Councillor Munter's motion as he felt it to be a direct approach and capable of achieving a speedy resolution.

Councillor van den Ham asked if the condition, as proposed by Councillor Munter, were not met, would the subdivision be allowed to proceed. Nick Tunnacliffe, Commissioner, Planning and Development Approvals Department, explained if the developer had met all other conditions except this one, they would have to come back to the Department, who in turn would bring the matter back to Committee to see whether or not approval for the subdivision could be granted without meeting this condition.

Councillor van den Ham indicated he would not support Councillor Munter's motion but stated he would support Condition 12 as proposed in the staff report. He said although it

would be nice to have a pathway in the appropriate spot (i.e. the west side of the property), he felt the application should not be held up on this condition and he expressed his agreement with the City of Nepean's deadline of 31 December 2000. He felt the worst that would happen is the community would lose their shortcut, noting they would still be within walking distance of bus stops.

Councillor Beamish indicated he could not support Councillor Munter's motion as he felt it would put the developer in a position of having to rely on the "good will of his neighbours" in order for this very worthwhile development to proceed. He said he would be willing to support an easement for a pathway in perpetuity, until someone (e.g. the community, the future residents of the proposed development, etc.) was able to negotiate an agreement with St. Augustine's.

Councillor Holmes stated this type of issue has been problematic for OC Transpo for years, owing to the fact the jurisdictions are split between municipalities and the Region and private land owners. Councillor Holmes felt it to be within the Region's and local municipalities' mandates to obtain as much as possible through subdivision agreements for the good of OC Transpo and for the public good. She suggested the Committee approve Councillor Munter's motion and try to work out a negotiated settlement, however, in keeping with the Region's transit first policy, Committee and Council should be prepared to expropriate the path if necessary.

At Committee Chair Hunter's request, Sean Rathwell, Supervisor, Transit Planning, OC Transpo, indicated OC Transpo's interest is to retain the present ridership and improve transit ridership in the future. He explained one of the ways of ensuring this, is to have the best possible pedestrian connections. Mr. Rathwell went on to say OC Transpo made no comments on the initial subdivision circulation as it appeared to be a landlocked development completely surrounded by private property (except for one entrance). He said when staff became aware of the existing informal pathway, OC Transpo was very interested in seeing it retained.

Mr. Boucher added OC Transpo's initial comment about the pathway was, "While OC Transpo finds all pathways to transit service excellent methods of encouraging public transit, OC Transpo does not assume the responsibility of these pathways or provide them". He said clearly, this pathway was of interest from the outset to OC Transpo, the Region and the City of Nepean. Mr. Boucher explained the staff report attempts to balance the ability to get the pathway and the potential to expose the Region to litigation.

Responding to questions posed by Councillor Hume, Mr. Boucher indicated the easement (a restricted right-of-way) granted by St. Augustines in favour of the Holy Spirit Seminary allows vehicular access to the back of the property. He confirmed the Seminary would have to request that the Church change the easement to allow pedestrian access.

Chair Hunter then read a motion put forward by Councillor Beamish: “That a pathway be maintained in perpetuity, location and width to the satisfaction of the Planning Commissioner so that it may be extended at some time in the future and that regional staff make best efforts to negotiate the pathway extension and that maintenance and ownership issues be resolved among the affected parties and to the satisfaction of the Planning Commissioner.”

Councillor Beamish noted Councillor Munter’s motion said the Seminary would not be allowed to build this subdivision unless they can negotiate an easement or pathway somewhere. He explained his motion states that best efforts are to be used to negotiate a pathway, but the development will not be held up if these negotiations are not successful.

Chair Hunter commented although Councillor Munter’s motion would appear to be a facilitating motion, directing that a pathway be put in, it could (given the Planning Act and other restrictions) have the opposite effect of working to the detriment of the existing community and to the detriment of the best interests of the future residents of the proposed subdivision.

With respect to Councillor Beamish’s motion, Chair Hunter felt although the intent was good, he found it to be too complicated. He would have preferred that Condition 12 be amended to read “that the owner agrees by the subdivision agreement to provide a three meter wide easement on the property to be used as a pedestrian link and that there be an appropriate break in the fence to accomodate the pedestrian link.” He said he was adverse to imposing conditions that require third party agreement as they tend to stall the process and encourage appeals to the Ontario Municipal Board.

There being no further discussion, Councillor Munter’s motion was considered.

Moved by A. Munter

That Condition 12 be replaced with the following:

That the owner provide a pathway or other suitable pedestrian access to Baseline Road from the subdivision, to the satisfaction of the Regional Planning Commissioner.

LOST

NAYS: D. Beamish, M. Bellemare, B. Hill, P. Hume, W. Stewart, R. van den Ham and G. Hunter.....7

YEAS: J. Legendre and A. Munter.....2

The Committee then considered the motion put forward by Councillor Beamish. Chair Hunter noted the Councillor's motion would be a direction to staff and part of that direction would be the removal of the 31 December 2000 date in Condition 12.

Moved by D. Beamish

That a pathway be maintained in perpetuity (location and width to the satisfaction of the Planning Commissioner) so that it may be extended at some time in the future, and that Regional Staff make best efforts to negotiate the pathway extension, and that maintenance and ownership issues be resolved among the affected parties and to the satisfaction of the Planning Commissioner.

CARRIED

YEAS: D. Beamish, P. Hume, J. Legendre, A. Munter, W. Stewart and G. Hunter.....6

NAYS: M. Bellemare, B. Hill and R. van den Ham.....3

The Committee then considered the staff recommendation as amended.

That Council approve Draft Plan of Subdivision 06T-99001 as outlined in the draft approval report attached as Annex 1, as amended by the following:

That a pathway be maintained in perpetuity (location and width to the satisfaction of the Planning Commissioner) so that it may be extended at some time in the future, and that Regional Staff make best efforts to negotiate the pathway extension, and that maintenance and ownership issues be resolved among the affected parties and to the satisfaction of the Planning Commissioner.

CARRIED as amended
(A. Munter dissented)

Moved by P. Hume

That Council be requested to waive the rules of Procedure to consider this item at its meeting of 14 July 1999.

CARRIED
(A. Munter dissented)

3. ONTARIO MUNICIPAL BOARD UPDATE LOCAL OFFICIAL PLAN
AMENDMENTS 45 & 46 CITY OF KANATA

-Planning & Development Approvals Commissioner's report dated 28 June 1999

Andrew Hope, Senior Project Manager, Development Approvals Division provided an overview of the staff report.

Councillor Legendre questioned why the Committee should be concerned whether the gross leaseable area (GLA) for retail warehouses in Kanata is 20,000 or 30,000 square feet. Mr. Hope indicated some believe the higher the number, the more protection afforded to the Regional Shopping Centre (RSC); while others are of the opinion the higher the number, the less likely the RSC will achieve the critical mass expected without the help of a retail warehouse on the RSC site itself.

Mr. Hope explained staff arrived at the 30,000 sq. ft. figure honestly, believing there had been an Ontario Municipal Board (OMB) decision on a development in the Region of Durham (the "Invar" decision). When staff further considered the implications of that decision, they came to the conclusion it did not say precisely what was first thought and are now prepared to agree that 20,000 sq. ft. is a suitable limit for a retail warehouse. He said this does not mean a retail warehouse could not exceed that but rather it is the minimum size for retail warehouses in the City of Kanata business park. If the size of a retail warehouse were to drop below 20,000 sq. ft. then uses which could go into the Regional Shopping Centre, would be going in the business park and this would not be conducive to the maturation of the RSC.

Responding to further questions from Councillor Legendre, Mr. Hope advised staff, in recommending that retail warehouses have a GLA of 30,000 sq. ft., were attempting to create an environment that would lead to the development of the RSC and achieve the objectives in the ROP. He said at 30,000 sq. ft., the retail warehouses would be of a size which would not go into the RSC and staff were of the opinion a defense could be advanced for it. Mr. Hope advised initially staff, in their haste to prepare the report for Committee due to the impending OMB mediation session, had not thoroughly read the Invar decision, but had relied on the opinion of the Region's retail consultant. After a more in-depth review of the Invar decision, staff were less certain of how defensible that argument would be and are now prepared to support a GLA of 20,000 sq. ft. He noted as well, staff have subsequently received a number of similar opinions from credible retail consultants hired by other parties to the OMB hearing.

At Councillor Legendre's request, Alexia Taschereau-Moncion, Solicitor, Regional Legal Department advised the Invar decision initially seemed to reflect a higher proportion than 20,000 sq. ft. however, upon reading the decision in greater depth, it did indicate that 20,000 sq. ft. was a suitable amount of GLA. For this reason, and after

entering into the OMB mediation session, staff are recommending the GLA be changed. She confirmed the Invar decision related to a municipality similar in size to the Region.

Councillor Munter noted staff had previously advised that an operation of 20,000 sq. ft. should not go in the business park, but rather it should go in the RSC. He felt staff, in recommending the GLA of 20,000 sq. ft. were now "caving in". Mr. Hope disagreed staff were caving in but rather were trying to forge a compromise acceptable to all concerned. He felt it would not be a constructive use of staff time to continue to argue for the 30,000 sq. ft. when they were not confident the OMB would support it, based on the precedent of its previous decisions.

Michael Polowin, Solicitor for Sun Life Assurance Company. of Canada, owners of the Hazeldean Mall and for CIBC Development Corporation owners of land in the Terry Fox Business Park. Mr. Polowin expressed support for staff's position. He said his clients had no particular position with respect to the 20,000 sq. ft. GLA versus the 30,000 sq. ft. however, he was before Committee to ensure there were no changes to the wider issues contained in the modifications approved by the Committee in February.

Robert Howe, Solicitor, Goodman, Phillips & Vineberg appeared before Committee on behalf of Pen-Ex Kanata Limited the owners of the vacant portion of the Regional Shopping Centre in Kanata. Mr. Howe informed Committee his client had no objection to the staff recommendation. Mr. Howe reserved the right to address Committee, should any portion of the Amendment previously approved by Committee, be reopened.

Councillor Munter advised he would be dissenting on Recommendation 1. He said although the actions of all parties to reach a compromise were commendable, he felt the goal of channeling the smaller retailers into the Town Centre was still very important.

The Committee then considered the staff recommendations.

- 1. That the Planning and Environment Committee delete Modification No. 2 from its 23 February 1999 recommendation to Council on Amendment No. 46 to the City of Kanata's Official Plan.**
- 2. That Planning and Environment Committee continue to defer Council consideration of the recommendations on Amendment No. 46 to the City of Kanata's Official Plan until after the Ontario Municipal Board has concluded its mediation process.**

CARRIED

(A. Munter dissented on recommendation no. 1)

4. LOCAL OFFICIAL PLAN AMENDMENT 51 CITY OF KANATA
- Planning & Development Approvals Commissioner's report dated 28 June 1999

Councillor Munter noted this Amendment would be going to the Ontario Municipal Board (OMB) and he felt the report was "overly negative" towards the City of Kanata's position. The City of Kanata, as the report notes, has put a number of restrictions in place which the Councillor felt were appropriate. He said he wanted to ensure the Region, while it is supporting LOPA 51 will not go to the OMB "damning with faint praise", suggesting the restrictions are too severe and supporting the developer.

Andrew Hope, Senior Project Manager, Planning and Development Approvals Department, stated he would be at the OMB hearing (if a hearing is required) representing the Region as its witness. He explained the comments he had made in the report on Amendment 51 were merely to point out that some of the restrictions on built-form within the Regional Shopping Centre (RSC), which Kanata has proposed, are unusual if not unreasonable, given what is accomplishable through the Planning Approvals process.

Councillor Munter explained he wanted to ensure staff would appear at the OMB hearing as a "cheerleader" for LOPA 51 as opposed to making comments which really undermine the City of Kanata's position. Mr. Hope confirmed staff would be at the hearing in support of LOPA 51, noting it captures what Kanata Council truly wants to see on that site. He said he could not say that some of the policies included in LOPA 51 are defensible from a Planning Act standpoint. Councillor Munter indicated, if necessary, he would move a motion to delete the second paragraph on page 53 of the staff report, which he felt undermined the position of the City of Kanata.

Councillor Legendre stated although he could understand Councillor Munter's position, he pointed out the staff report is a public document and deleting portions of it would not accomplish the Councillor's intent.

At Committee's request, Tim Marc, Manager, Planning and Environment Law, stated if the Councillor wished a specific position to be taken on specific policies, then the appropriate action would be an amendment to the actual recommendation outlining what position the Councillor would like staff to take. He said if Mr. Hope could not defend that position, an outside consultant would be retained who could.

Councillor Beamish stated he did not feel the Committee could not ask a professional planner to change his professional opinion and he said he wanted staff's best professional opinion on this.

Councillor Munter explained if Committee and Council were going to take the position that it supports the City of Kanata's LOPA 51, he would want the Region's representative to go to the Board and relay that support and not to provide a catalogue of reasons why the City of Kanata's position is unreasonable. Councillor Munter then indicated he would be moving an amendment to the staff recommendation directing staff to support Kanata's approach to moving towards an enclosed mall.

Robert Howe, Goodman, Phillips & Vineberg, representing Pen-Ex Kanata Limited, the owners of the vacant portion of the Regional Shopping Centre in Kanata. Mr. Howe advised his client, while not objecting to the recommendations contained in the staff report, is opposed to some of the restrictions that Kanata Council is recommending for LOPA 51. He said there was some consensus in terms of the general approach taken by the City of Kanata (i.e. his client would be permitted the flexibility to initially proceed with development in an unenclosed format provided that it would be allowed to be enclosed over time) however, there are more specific restrictions that concern his client.

In response to questions posed by Councillor Hume, Councillor Munter advised the issue is that the City of Kanata is working very hard to try to develop a built form that is consistent with what is in the Regional Official Plan (ROP) as the vision of a Town Centre and more of a transit oriented use as opposed to a big box, car oriented use. He said he would like the Region to go to the hearing and support that, as opposed to staff saying the City of Kanata has put restrictions in place that are unusual, unreasonable and unnecessary. He felt the City of Kanata was making an effort to fulfill the goals of the ROP and the Region owed it to them to support that.

The Committee then considered the following.

Moved by A. Munter

That the following be added to the staff recommendation: "and that staff be instructed to support the City of Kanata's approach to moving towards an enclosed mall."

CARRIED

YEAS: P. Hume, J. Legendre, A. Munter and W. Stewart.....4

NAYS: D. Beamish, B. Hill and G. Hunter.....3

The Committee then considered the staff recommendation as amended.

That Council approve Amendment 51 to the City of Kanata's Official Plan as outlined on the Approval Page attached as Annex 1 and that staff be directed

to issue the required “notice of decision” and that staff be instructed to support the City of Kanata’s approach to moving towards an enclosed mall.

CARRIED as amended

Mr. Hope requested, in order to have this matter go forward and be consolidated with the other matters before the Board for mediation and a hearing if necessary, the Committee request that Council waive the Rules of Procedure to consider this item at their meeting the next day.

Moved by A. Munter

That Council be requested to waive the Rules of Procedure to consider this item at its meeting of 14 July 1999.

CARRIED

REFERRAL / ENVIRONMENTAL SERVICES ITEM

5. RICHMOND SEWAGE PUMPING STATION AND FORCEMAIN STUDY

- *Referred back to Planning and Environment Committee by Council at their meeting of 23 June 1999*
- Director, Engineering Division, Environment and Transportation Department report dated 25 May 1999

Nicholas Patterson, offered his opinion the proposal to spend \$800,000 on this project is ridiculous and is a microcosm of spending habits of Regional Council. He said the Region has the highest property taxes and the highest per capita debt in the entire Country, second only to Montreal. He opined it would be ludicrous to spend \$800,000 to prevent a minor environmental event, that occurs only 3 times, for a short period of time each time, over a decade. He felt the Jock River was a fast moving river and had the capacity to absorb a few hours of pollution once every two to three years. Mr. Patterson went on to say the Ministry of the Environment (MOE) has, compared to previous regimes at Queen’s Park, “wised up” and are unlikely to levy huge fines for minor infractions. He felt there could be no justification whatsoever for the Region spending this money on this project.

Robert Haller, Clerk, Township of Goulbourn thanked the Committee for revisiting this issue. He said he understood that Councillor Stewart would be putting forward motions that address a few outstanding concerns with regards to fencing, screening and access to the site for research, that will meet both the Township’s and the Region’s requirements. Mr. Haller however, noted the one concern still outstanding related to Condition 12, which addresses cost sharing and the expectation of the Township to pay \$40,000 towards

a pump. He said the Township fully expected, when it entered into this shared use agreement, these costs would be covered by the Region. He voiced the Township's view that given they have ownership of the site, and are willing to allow the Region to use Cell C, \$40,000 as compensation towards the pump was a reasonable request.

Committee Chair Hunter noted Councillor Stewart had put forward four amendments, which had been distributed to members of the Committee.

Councillor Stewart speaking to her motions, noted three of them applied to Appendix A of the original report (the Regional response to the township conditions for the shared use agreement). The Councillor exhorted the importance of the Richmond Conservation Area to the people in Richmond and noted it has the potential to draw people (as a birding area) to Richmond. She felt the potential for this area to be a generator of economic activity could not be ignored nor should this solution to the Region's problem of sewer overflows or breaks in the forcemain, compromise the viability of the birding.

The Councillor noted staff (Legal and ETD) had reviewed her proposed amendments, and were in agreement. The first amendment clarified the intent of being able to pump water that is stored in Cell B to Cell C during the summer, which will be necessary occasionally after sewage is removed from Cell C. Councillor Stewart advised the second amendment related to screening. She noted the Regional Official Plan designates the Richmond Conservation Area as waterfront open space and she felt it behooved the Region to seriously protect its waterfront open space and screen any floatables.

The third motion, related to the staff recommendation 1(d) which addressed the issue of fencing around Cell C. Councillor Stewart referred to a memo from the Medical Officer of Health, which stated there is no public health hazard either from pathogens or drowning. She felt her amendment allowed the safety concerns to be met in harmony with the need of the public to continue to participate in the recreational opportunities. The Councillor's last amendment related to the Regional response for access and she stressed the importance of the Richmond Conservation Area Management team having access to Cell C for the purposes of monitoring and habitat maintenance management. She said if they could not access it occasionally, then the conservation area would fail and there would be no point in going ahead with this project.

The Committee then considered the motions put forward by Councillor Stewart.

Moved by W. Stewart

That the Regional Response on Condition 12 be revised to assure the RCAS that it is the RMOC's intent to allow for pumping from Cell B to Cell C by adding the following: "and from Cell B to Cell", after "the lagoons..." to

read “The Region is prepared to pump water from the Jock River to the lagoons, and from Cell B to Cell C, based on 4 to 5 pumping operations per year.....”.

CARRIED
(J. Legendre dissented)

Moved by W. Stewart

That the second sentence of the Region Response on Condition 10 be amended to read: “The Region will undertake to research and determine the requirements of screening of sewage discharges into the lagoons with a view to implementation, will continue its public awareness program.....”.

CARRIED

Moved by W. Stewart

That Recommendation 1 (d) be deleted and replaced with the following: “In consultation with the Township of Goulbourn, develop methods of restricting access to Richmond Lagoon Cell C, including fencing, which address safety concerns whilst satisfying the objectives of the RCA Management Plan, including aesthetics, habitat maintenance requirements, and unobstructed viewing of the wetland birds.

CARRIED

Moved by W. Stewart

That the RMOC’s response to Condition 8 be deleted and replaced with the following: “That RCAMT members will be permitted to access Cell C, on a controlled basis, in conjunction with staff’s ongoing activities (4-5 per year) and subject to agreed upon protocols and waivers, for the purposes of habitat monitoring and maintenance. Access at other times will be subject to cost recovery and availability of Regional staff.

CARRIED

At Chair Hunter’s request, Vice-Chair Stewart took the Chair and Councillor Hunter then put forward a motion that the Region assume the cost (approximately \$40,000.00) for the pumping station improvements.

Councillor Munter noted in the financial comments the Region is coming up with \$810,000, he extrapolated therefore that the net cost would be \$850,000 (including the \$40,000) and Councillor Hunter’s motion would have the effect of the Region paying

100% of the cost. Doug Brousseau, Deputy Commissioner, Environment and Transportation Department confirmed this.

Councillor Hunter noted credit was not being given to the Township of Goulbourn and what they had paid over the last number of years, particularly what the Village of Richmond had paid to the Ministry of the Environment for the lagoons,. Mr. Haller noted Richmond had purchased the site for approximately \$130,000 and then assumed the debt, (approximately \$700,000). As well, all taxes-in-lieu for the site have been waived. He said there is a significant dollar value that has been placed on that site, as well as the investment that the Township has put in time and development of the conservation area.

The Committee then considered Councillor Hunter's motion.

Moved by G. Hunter

That the Region pick up the cost (approximately \$40,000.00) for the pumping station improvements.

CARRIED

YEAS: B. Hill, A. Munter, W. Stewart, R. van den Ham and G. Hunter....5

NAYS: D. Beamish and J. Legendre.....2

The Committee then considered the recommendations as amended.

That the Planning and Environment Committee recommend that Council:

1. Approve the recommendations as outlined in the May 1999 Environmental Screening Report for the above study, namely:

- a) **undertake capital works needed to permit the infrequent use of Richmond Lagoon Cell C for temporary storage of sewage flows as a contingency for the Richmond Pumping Station;**
- b) **carry out improvements to the 500 mm forcemain, including twinning where it crosses underneath the Jock River and construction of a new valve chamber;**
- c) **undertake modifications to the Richmond Pumping Station to permit pumping of Jock River water to the lagoons for the purposes of enhancing the Richmond Conservation Area;**

- d) in consultation with the Township of Goulbourn, develop methods of restricting access to Richmond Lagoon Cell C, including fencing, which address safety concerns whilst satisfying the objectives of the RCA Management Plan, including aesthetics, habitat maintenance requirements, and unobstructed viewing of the wetland birds.
 - e) the Region and Township of Goulbourn enter into a joint use agreement for the Richmond Lagoon area;
 - f) the Region decommission the old Richmond Pumping Station.
2. Confirm the Regional Staff response to the Township of Goulbourn's conditions for a Shared Use Agreement of the Richmond Lagoons, as amended by the following:
- a) That the Regional Response on Condition 12 be revised to assure the RCAS that it is the RMOC's intent to allow for pumping from Cell B to Cell C by adding the following: "and from Cell B to Cell", after "the lagoons..." to read "The Region is prepared to pump water from the Jock River to the lagoons, and from Cell B to Cell C, based on 4 to 5 pumping operations per year....".
 - b) That the second sentence of the Regional Response on Condition 10 be amended to read: "The Region will undertake to research and determine the requirements of screening of sewage discharges into the lagoons with a view to implementation, will continue its public awareness program....".
 - c) That the RMOC's response to Condition 8 be deleted and replaced with the following: "That RCAMT members will be permitted to access Cell C, on a controlled basis, in conjunction with staff's ongoing activities (4-5 per year) and subject to agreed upon protocols and waivers, for the purposes of habitat monitoring and maintenance. Access at other times will be subject to cost recovery and availability of Regional staff.
 - d) That the Region pick up the cost (approximately \$40,000.00) for the pumping station improvements (reference Condition 12).

CARRIED as amended

Moved by B. Hill

That Council be requested to waive the Rules of Procedure to consider this item at its meeting of 14 July 1999.

CARRIED

ENVIRONMENTAL SERVICES ITEMS

6. NEPEAN LANDFILL CONTAMINATED GROUNDWATER & TRAIL ROAD LANDFILL LEACHATE TREATMENT AND DISPOSAL
- Director, Engineering Division Environment and Transportation Department
report dated 30 June 1999

Pat McNally, Director, Solid Waste Division and Jim Miller, Director, Engineering Division provided Committee with an overview of the staff report (copy of the slide presentation is held on file with the Regional Clerk).

Councillor van den Ham asked staff if they felt it was necessary for the Region to invest this amount of money to initiate work on emerging technologies or should the Region wait for private industry or other agencies to develop these technologies. Mr. McNally advised the work being done by other municipalities or the private sector, with respect to issues such as contaminated groundwater or leachate, would tend to be specific to the nature of the liquid they are dealing with, however, some general concepts and broad lessons could be learned from these projects. Mr. McNally advised, if the intention is to pre-treat either the contaminated groundwater from Nepean or the leachate from Trail Road, bench scale testing and pilot testing would be necessary and then a decision on whether or not to enter into a full scale operation would have to be made.

Councillor McGoldrick-Larsen stated she felt the staff report was rather negative towards the wetland operations. She noted it stated there was no process performance data for the Dignard Dairy Farm, when in fact it had been studied, and both the Alfred Agricultural College and the Ministry of Environment (MOE) are very satisfied with it as a pilot project. As well, the Dairy Farm is being used as an example at international conferences on wetland construction. Mr. Miller confirmed this however, he stated staff had not had the opportunity to peruse the data.

Councillor McGoldrick-Larsen referring to Councillor van den Ham's comments with respect to the investment of dollars into researching pretreatment of leachate, suggested this investment should be looked at as a possibility for saving significant dollars in the future. As well, the Councillor felt the treatment of leachate and groundwater

contamination should be looked at as two separate issues and the financial analysis should be done separately so that the exact costs of each can be known.

The Committee then heard from the following delegations.

Joe King, indicated Roger Pyper was unable to remain at the meeting and read a statement on his behalf and on behalf of the Barrhaven Sewer Action Committee (BSAC).

In his statement, Mr. Pyper relayed the South Nepean community's frustration with the length of time (i.e. in excess of five years) the issue of leachate contaminated groundwater and the problems associated with it, had been going on. Mr. Pyper spoke of contaminants that are not treated effectively at the R.O. Pickard Environmental Centre. Specifically, he noted arsenic is released on a regular basis into the Ottawa River and is a constituent of the contaminated groundwater that surfaces around the Trail Road Landfill. Arsenic is not degraded in River water or groundwater nor does it settle out, rather, arsenic accumulates over time in the brain and he emphasized this was not acceptable to the community.

Mr. Pyper went on to speak of the community's "lack of confidence" in Regional staff. He noted staff had stated they do not have expertise in constructed wetlands or in new and emerging technologies for the sustainable management of leachate or contaminated groundwater. Mr. Pyper offered the community's recommendation that the Committee first source professional, experienced, objective and unbiased information and stated the community was ready to assist the Committee in its deliberations. Finally, Mr. Pyper asked that the Committee go back to the Dillon report, review it and proceed with due diligence and speed.

Mr. King then provided his own comments (copy held on file with the Regional Clerk.). He pointed out a number of areas in the staff report, with which he took exception. They were as follows:

- the Region's household waste facility produces a leachate stronger than that of industrial regions such as Hamilton-Wentworth and Windsor-Essex;
- the projected cost of a wetland and on-site treatment for leachate and groundwater (i.e. 1.2 million) is less than half the cost of the pipeline;
- staff's concerns about process upsets in a constructed wetland are unfounded. Constructed wetlands are more shock resistant than aqueous sludge processing plants;
- in the report, staff refer to the operation of constructed wetlands as both complex and simple;
- the testing staff cite as needing to be done, has already been done by both the private and public sector;
- staff have accepted the findings of the consultant with respect to there being an aquitard north of the landfill that protects the river from the landfill contaminants;

- recommended that contaminated groundwater be removed at the leading edge of the plumb. Treated water could then be fed back into the groundwater at or near the source of the contamination;
- staff have dismissed the use of an anaerobic digester for on-site pretreatment as recommended in the Gore and Storie report;
- concerned about the suspended chlorides in the leachate and their link to cancer;
- urged Committee to read the MOE letter carefully. MOE is prepared to accept a “made in RMOC” solution and are interested in due diligence and speed;
- staff are recommending Council approve spending money on a system that is not environmentally sustainable;
- a detailed constructed wetland proposal specific to Trail Road groundwater that was presented two years ago by Nepean staff to RMOC staff, was “squashed”.

Councillor Munter asked the speaker to clarify what it was he wanted the Committee to do. Mr. King stated the community wants (and the MOE requires) the Region to move quickly to bring this issue to conclusion. He requested that the Dillon report be brought back and presented to the Committee, as was discussed by Council in April.

Councillor Legendre referring to the speaker’s comments that the staff report spoke of both the simplicity and complexity of operating a constructed wetland, asked staff to provide an explanation. Mr. Miller noted from a design point of view, staff believe constructed wetlands are complex; they are generally part of a treatment process and have to be specific to the waste. The intention is to use the natural, biological process without induced energy and in most cases without induced chemicals and that is where the natural systems give the impression they are simple. Mr. Miller went on to say this is an emerging technology and staff are not experts in this area, but the track record indicates more work is required, specific to the characteristics of Trail Road Landfill site.

Mr. McNally noted he had received a telephone call from Mr. Richard Hill, the closest neighbour to the landfill and he conveyed to the Committee his comments. Mr. Hill indicated he had too many things on the go and could not attend the meeting. He remains concerned about the impact of a wetland on the value of his property and he advised that he had put his house up for sale. He commented that despite assurances and suggestions that he should work within the system, he has expressed frustration with the results to date and he said if the wetland does go ahead, perhaps an alternate location could be looked at.

Ernie Lauzon and Werner Daechsel, The Citizen Review Committee for Waste Management of Ottawa-Carleton appeared before the Committee and provided copies of their submission (held on file with the Regional Clerk). Mr. Lauzon expressed his committee’s support in principle, for the staff recommendations. He said however, the work plan must be reviewed by the public and Council prior to its implementation.

Mr. Lauzon went on to review a number of omissions from the staff report, that his committee felt should be included. They were:

1. that treated leachate for recharging the aquifer from which the contaminated groundwater is taken;
2. that treated leachate for on or near site forest irrigation; and
3. that an anaerobic digester be provided to pre-process leachate which is captured in the landfill liner of Stages 3 and 4 before returning it to the cell from which it is taken or further on-site or off-site processing.

Mr. Lauzon stated the Review Committee feels there is a research scam. He said the staff report creates a bias that negates the opportunity for real research by ruling out full on-site treatment through the insistence that the central sewage plant has to be included. He felt there were many preconceptions, such as, that for most contaminants, ROPEC would be superior to a constructed wetland; that ROPEC without tertiary treatment would outperform a well designed, constructed wetland with respect to biologically reestablishing itself in the event of a process upset; and that sub-surface constructed wetland would not perform adequately for the Trail Road site specific conditions during the winter period.

In conclusion, he felt a committee should be established involving Councillors, staff and the public. He said every time the Region undertakes a study, it is tendered and then it comes back to the public and that is not what the public wants. He suggested it would be much more beneficial to get the public involved at the outset.

Councillor Stewart noted the Committee had just heard that the public and the MOE want to move ahead on this issue. She asked if what the speaker was suggesting would take any more time. Mr. Lauzon stated he was sure that everyone had the same objectives and involving the public at the front end would not take any more time than what is currently proposed by staff.

Responding to questions from Councillor Stewart, Mr. Miller stated on some projects, where it was appropriate, liaison committees have been used. He said staff are very much predisposed to the appropriate level of public consultation and are committed to dealing with this as rapidly as possible. He confirmed it was staff's intent to keep the community and the advisory committee informed and on side, for the remainder of the process.

Mr. Daechsel expressed his opinion that the Region "went off kilter" when, after the Dillon report was adopted, nothing happened. Subsequently, another very expensive report was commissioned, which he felt was not as good as the Dillon report with respect to the issue of contaminated groundwater. Mr. Daechsel urged the Committee to proceed with both the Dillon report and the Gore & Storie report, on a parallel basis.

Councillor Stewart asked staff to advise on the status of the Dillon report. Mr. McNally replied the Dillon report was presented as an information report to Committee in November, 1996 and staff advised the implementation of the recommendations contained therein could take two to three years. He said the report was very much a preliminary feasibility study that suggested a wetland could adequately treat contaminated groundwater. As staff were dealing with the issue of contaminated groundwater, it became evident there was also a problem with leachate being produced at Stage 3. In June, 1998, staff came forward with the pipeline solution which they felt would solve both problems. Since that time, there has been ongoing debate on these issues.

Councillor Munter indicated he would be moving a motion to amend recommendation 1 by adding the words “on-site” before the word “treatment” and by adding to the end, “and that the workplan for this program be the subject of a report to Planning and Environment Committee and be circulated for comment”.

Councillor McGoldrick-Larsen urged the Committee to support this motion. She said she was pleased to hear that staff intend to have regular dialogue with the community and she asked that staff treat the community group that has been participating in this issue all along, as a working group. She felt all of the parties involved have to be willing to work together and that the community should acknowledge the Region’s (staff, Committee and Council’s) willingness to move forward on this matter.

Moved by A. Munter

That Recommendation 1 be amended to read:

- 1. The creation of a programme to investigate new and emerging technologies for the on-site treatment of leachate from the Trail Road Landfill site and leachate contaminated groundwater from the Nepean Landfill site; and that the workplan for this program be the subject of a report to Planning and Environment Committee and be circulated for comment.**

CARRIED

The Committee then considered the report recommendations as amended.

That the Planning and Environment Committee recommend to Council:

- 1. The creation of a programme to investigate new and emerging technologies for the on-site treatment of leachate from the Trail**

Road Landfill site and leachate contaminated groundwater from the Nepean Landfill site; and that the workplan for this program be the subject of a report to Planning and Environment Committee and be circulated for comment;

- 2. That staff be directed to include a submission of \$500,000 in the 2000 Capital Budget to fund this programme.**

CARRIED as amended

7. TRAIL ROAD LANDFILL ASSET MANAGEMENT AND LANDFILL OPTIMIZATION STUDY - INCINERATION OPTION

-Director, Solid Waste Division, Environment and Transportation Department
report dated 28 June 1999

Pat McNally, Director, Solid Waste Division provided a brief overview of the staff report.

Councillor Legendre noted he had asked staff about high-temperature incineration and Mr. McNally had provided him with a report. Mr. McNally advised he could make copies of this report available to anyone that was interested.

The Councillor went on to say the plant referred to in the report is in Gloucester and he noted it stated it is still in development stage. Councillor Legendre advised he had visited the plant between 1991 to 1994 and expressed surprise it had not progressed beyond the development stage. Mr. McNally confirmed this and noted staff have been out to see the operation and in fact have assisted with the operation by supplying them municipal solid waste. He said the plant is now trying to move forward and make it a more viable commercial operation but as the consultant identified there are no large municipal solid waste operations using that technology at this time. Councillor Legendre suggested staff should organize a visit to the facility for members of Council.

Ernie Lauzon and Werner Daechsel, The Citizen Review Committee for Waste Management of Ottawa-Carleton (CRC) addressed the Committee and provided a written submission of their comments (held on file with the Regional Clerk). Mr. Lauzon stated a number of years ago, a cylinder was proposed to burn waste on the corner of Walkley and Russell Road and at that time, he had the "NIMBY" (not in my back yard) syndrome. He said through research, the CRC has found (even currently) there is no new research in this area. He said as his Committee had not received any of the background information on this, they had come to the conclusion that incinerators are the same as they were back in the 1980's and it is not an option, as far as the CRC is concerned. Mr. Lauzon advised if Council decides to use incineration he will be bringing out his "troupes" and will fight it all

the way. He asked that he be provided with a copy of the background report referred to by Councillor Legendre.

The Committee then considered the staff recommendation.

That the Planning and Environment Committee and Council:

- 1. Receive for information, the preliminary analysis on the cost of incineration in comparison to optimization and;**
- 2. Confirm the original direction to pursue the options as outlined in the *Trail Road Landfill Asset Management and Landfill Optimization Study*.**

CARRIED

COUNCILLOR'S ITEM

8. PROTECTING THE RIGHT OF CONDOMINIUM OWNERS TO FLY THE CANADIAN FLAG
-Councillor Alex Munter's report dated 24 June 1999

That Planning and Environment Committee recommend that Council approve that a condition be included, as one of the standard conditions in the registration of all new condominium corporations, stating that condominium by-laws may not ban the flying of the Canadian flag and can only regulate the display of the flag to ensure it is done in a safe manner that does not interfere with the reasonable use of the other units by their tenants/owners.

CARRIED
(G. Hunter dissented)

9. Appeals of Residential Provisions of City of Ottawa Zoning By-Law 93-98
-Planning and Development Approvals Commissioner's report 29 June 1999

Chair Hunter advised Councillor Holmes had asked (and Councillor Legendre had agreed to move a motion) that this item be moved to the regular agenda for discussion as the matter would be the subject of an Ontario Municipal Board hearing later in the summer.

Councillor Holmes explained the Region was not an appellant but staff had asked for (and received) party status because there was concern about the City of Ottawa down-zoning and how it might affect the Region's ability to bring in the number of housing units needed

to meet the goals of the Regional Official Plan (ROP), specifically in the central city wards. In their report, staff are now advising that the Region does not need to maintain its party status and this was of concern to the Councillor.

Moved by J. Legendre

That the Rules of Procedure be waived to consider this item currently listed under the “Information Previously distributed” Section of the Agenda.

CARRIED

Councillor Holmes explained staff initially asked for party status because many of the groups that were appealing the City’s by-law, claimed the objectives of the ROP would not be materialized because of the down-zonings and the loss of unit potential in the City of Ottawa. Staff are now advising the Region does not need to take part in the appeals before the OMB because they feel it is not a regionally significant reduction. The Councillor noted Centretown Non-profit Housing Corporation is continuing to appeal because of the down-zonings in Centretown, Dalhousie, Sandy Hill and Hintonberg. In Centretown it has been a height reduction; the zoning has remained the same (R-5 which allows apartments). In the other communities of Sandy Hill, Hintonberg and Dalhousie it has gone from an R-5 to an R-4 which allows only townhouses and stacked townhouses.

Councillor Holmes advised she was asking that the Committee request the Planning and Development Approvals Department to remain with its party status at the OMB to assist mainly the Centretown Non-Profit Housing corporation in their appeal of the City of Ottawa’s Zoning By-law and the down zoning that has resulted.

At Committee’s request, Tim Marc, Manager, Planning and Environment Law noted advised he had distributed to members of the Committee an extract of their notes of appeal and also a map showing the central area of the City where the Centretown Ottawa Citizens Association (COCC) is looking for support from the Region.

Carol Christensen, Senior Project Manager, Land Use, Policy and Planning Branch, noted when staff were considering whether or not to maintain party status with regard to the down-zonings, they examined the areas which had been subject to the downzonings in the context of both Regional and Local Official Plan policies. She noted the ROP directs infill and redevelopment primarily to areas where there is high frequency transit service and rapid transit stations. The Local Official Plan directs the major development to selected areas along arterials and then moderate plus major collectors. Staff concluded that, with a few exceptions, most of these areas do not fall within the described locations in the ROP and therefore did not feel the Region could argue a strong case of Regional interest and any issue of ROP conformity.

Committee Chair Hunter opined cutting building heights in half from Elgin to O'Connor, Lisgar to Gilmour, would have a significant effect on the ROP objectives, noting they were based on the FoTenn report which called for a considerable amount of high-rise development. Ms. Christensen noted her comments concerned areas which had been zoned from R-5 to R-4 which meant low rise apartments (up to four stories) which had previously been permitted were no longer permitted. She noted the CCOC had not appealed the changes regarding height limits in Centretown and therefore the Region is not in a position to be party to an appeal on their part in the change of the height limit. She stated there are other appellants who did appeal this but it is not clear whether they will be maintaining their appeals or not. The vast majority of the area where the height limit has been changed, is not under appeal and therefore not in front of the Board. Ms. Christensen advised when the issues of heritage conservation are taken into account for the two to three block area where the height limits are changed, there are not many sites that could be argued are a loss of potential.

Dennis Carr, Centretown Citizens Ottawa Corporation (CCOC) advised CCOC is a private, non-profit housing corporation with a 25 year history of building and managing affordable housing in the central areas of the city. Mr. Carr advised CCOC is not the only appellant to the downzonings and he said he was not aware of any developer to that appeal that has pulled out. He did say however, most of these developers have been satisfied by the amendments recently passed by the City.

Mr. Carr said although these amendments would appear to have satisfied the concerns of Regional staff, he felt they were not correct with respect to the issue of downzonings. He noted it is a large area and almost the exact area that the City and Regional Official Plans call for intensification, affordable housing, a mix of housing types and tenures, and better use of the existing services. He opined these objectives would be undermined by the downzonings. Mr. Carr questioned, if these areas are downzoned, where the compensating up-zonings in the City or the Region would be and also how the Region would achieve its ROP policies.

Committee Chair Hunter advised that Councillor Munter had put forward a motion that Regional staff continue to participate in the appeal of Ottawa's zoning by-law.

Mr. Marc said he understood, from the discussion at the meeting, the meaning of Councillor Munter's motion however, he said it would be of assistance if the motion were more specific and referred to "Item 1 of the CCOC appeal".

Committee Chair Hunter questioned the reason for being so specific and asked why staff would not want to be party to the whole appeal. Mr. Marc noted many parties were looking to the Region for leadership on this issue and the extent to which we stay involved

will be a significant factor according to which other parties stay involved. He said there would be no appeal on the entire by-law, unless the Region wants there to be. Mr. Marc noted he had spoken with the solicitors representing the other major developers and they knew this item was before Committee and had chosen not to participate.

Councillor Munter stated he could not understand why the specificity is required, when the Region has already been granted broad party status to the appeal. He said his motion merely confirms the Region's continued participation in the process. Mr. Marc advised the matter is scheduled for a hearing on August 31, 1999; the scope of that hearing will depend on what the appellants are prepared to bring forward and this will depend on what the Region is willing to carry the ball on.

Ms. Christensen added when staff appeared at the pre-hearing and requested party status, they were clear to the Board it was because the issue had been raised and staff needed to investigate further. Staff then commissioned the work by FoTenn, who advised there was not an overall Regional Development Strategy issue in terms of unit potential and this has since been communicated to the Board. FoTenn did identify problems with the apartment zones (R-5 and R-6 zones) and the downzonings. The City commissioned another piece of work by another consultant on the general provisions that govern the R5 and R-6 zones, which the Region had evaluated by Katz, Webster, Clancey and they have concluded the changes in the provisions governing the R-5 and R-6 zones have restored any development potential that was lost under the new by-law. She said while it was perfectly appropriate for the Committee to direct staff to maintain a concern with the downzonings, it would be very difficult for Mr. Marc to argue on some of these other issues, given the work that has been done to date.

Mr. Carr noted the consultants report done for the City, did not address the issue of downzonings, nor did the Region's Katz, Webster, Clancey report.

The Committee then considered the following motion.

Moved by A. Munter

That Planning and Environment Committee recommend that Council confirm staff's continued participation in the appeal of Ottawa's zoning by-law to protect the Regional interest in ensuring the implementation of the Regional Official Plan, with particular respect to Item #1 of the CCOC appeal.

CARRIED

Moved by A. Munter

That Council be requested to waive the rules of Procedure to consider this item at its meeting of 14 July 1999.

CARRIED

INQUIRIES

Councillor Beamish submitted the following written inquiry.

“One of my constituents, Mr. Victor Grostern, owner of Econome Inc., located on Belgreen Drive in Gloucester, has received warnings and fines from Regional staff for not complying with Regional By-laws requiring that he install a sewage monitoring station. Mr. Grostern contends that the policies and by-laws are unfair and would like to raise the issue with Planning and Environment Committee. Could staff prepare a report on the matter, addressing the issues that Mr. Grostern has raised in his correspondence, and be prepared to respond to Mr. Grostern who would like to make a presentation at the Planning and Environment Committee meeting on the 4th Tuesday in September (i.e. 28 Sep 99)”.

ADJOURNMENT

The meeting adjourned at 8:05 p.m.

COMMITTEE COORDINATOR

COMMITTEE CHAIR