Our File/N/Réf. (23) 14-95. 0019

Your File/V/Réf.

DATE 25 November 1996

TO/DEST. Co-ordinator, Planning and Environment Committee

FROM/EXP. Planning and Development Approvals Commissioner

SUBJECT/OBJET LOCAL OFFICIAL PLAN AMENDMENT NO. 36

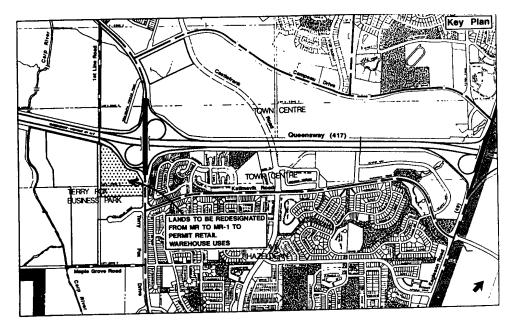
**CITY OF KANATA** 

## **DEPARTMENTAL RECOMMENDATION**

That the Planning and Environment Committee recommend Council direct staff to give notice of its decision to approve Amendment No. 36 to the Official Plan of the City of Kanata as modified on the Approval Page appended as Annex I.

# **BACKGROUND**

The City of Kanata adopted Amendment No. 36 to its Official Plan on March 28, 1995 and subsequently submitted same to the Region for approval under Section 17 of the Planning Act, 1990. Amendment No. 36 was received by the Regional Clerk's Dept. on May 16, 1995 and circulated by Regional Planning staff to internal Departments and external agencies for comment.



Also on May 16, 1995, Regional staff received a request from Aird & Berlis on behalf of IPCF Properties Inc. and the Loblaws Group of Companies, to refer Amendment No. 36 to the Ontario Municipal Board (OMB) [see Annex III]. As the issues involved in Amendment No. 36 were the same as those involved with Kanata's Amendment No. 32, Kanata staff attempted to resolve IPCF et al.'s concerns with Amendment No. 36 while negotiating the withdrawal of IPCF et al.'s OMB referral request on Kanata's Amendment No. 32. Notwithstanding Kanata staff's efforts, IPCF et al. did not withdraw its OMB referral request on Amendment Nos. 36 or 32. As a result, Kanata Council passed a resolution on July 4, 1995 requesting the Region to process IPCF et al.'s OMB referral requests expeditiously and without further mediation. Shortly after receiving Kanata Council's resolution, Kanata staff again asked Regional staff to suspend processing of Amendment Nos. 36 and 32 to give them more time to negotiate a withdrawal of the IPCF et al.'s OMB referral requests.

In order to bring closure to the processing of Amendment Nos. 36 and 32, Regional Planning staff gave Kanata staff until October 31, 1996 to negotiate the withdrawal of IPCF et al.'s OMB referral requests. As of November 1, 1996, IPCF et al. has yet to withdraw their OMB referral request and as such, Amendment No. 36 is now being put before Planning and Environment Committee (PEC) for a decision. It should be noted that the zoning by-law amendment (ZBLA) Kanata Council passed to implement Amendment No. 36 (i.e., ZBLA 34/95) has been appealed to the OMB by IPCF et al.

As Amendment No. 36 was adopted by Kanata Council on March 28, 1995, Section 75(1) of the new Planning Act (i.e., Bill 20) requires that it be processed under the policies and procedures of the Planning Act, 1990 as amended by Bill 163.

## THE AMENDMENT

The purpose of Amendment No. 36 is to permit retail warehouse uses on the Salvation Army's property located in the Terry Fox Business Park on Lots 1 and 2, Concession II in the City of Kanata. At one time, these lands were to be developed as a new location for the Salvation Army's Grace Hospital (see Annex II).

## **AGENCY COMMENTS**

Amendment No. 36 was circulated to a number of external agencies including the Ministry of Natural Resources, the Mississippi Valley Conservation Authority and the Ministry of Transportation (MTO). Further, Amendment No. 36 was circulated to the Regional Environment and Transportation Dept. None of the circulated agencies had any objections to the approval of Amendment No, 36. However, the MTO and the Regional Environment and Transportation Dept. had comments and these are summarised below.

## **Ministry of Transportation**

MTO staff indicated that prior to any development on the subject lands, the owner will be required to submit the traffic impact study required by <u>PART B - THE AMENDMENT</u>, Section a) of Amendment No. 36 for review and approval by the MTO. This traffic impact study shall assess the impact of any development of the subject lands on the operational characteristics of the

adjacent interchange at Highway 417 and Terry Fox Dr. Further, should this study conclude that improvements are required to the Highway 417 Terry Fox Dr. interchange to support the development proposed, the cost for such improvements would be borne by the development proponent(s).

#### Comment

The request of the MTO is proposed to be addressed through Modification No. 1 to Amendment No. 36.

## Regional Environment and Transportation Dept.

Regional Environment and Transportation Dept. (ETD) staff noted that the traffic impact study required by <u>PART B - THE AMENDMENT</u>, Section a) should assume that no direct vehicular access points to Terry Fox Dr. will be granted by the Region for development on the subject lands. Moreover, ETD staff request that the owner of the land impacted by Amendment No. 36 enter into an agreement with the Region to ensure that direct vehicular access from these lands to Terry Fox Dr. will not be applied for now or in the future.

#### Comment

The requirement for the review and approval of any traffic impact study by the ETD is proposed to be addressed through Modification No. 1 to Amendment No. 36.

## OMB REFERRAL REQUEST

IPCF et al.'s request to refer Amendment No. 36 to the OMB is based on the following reasons (see Annex III):

- 1. Amendment No. 36 does not propose to provide any limitation with respect to the density of development and could result in retail warehouse development considerably in excess of the "Primary and Secondary Employment Centre" designations as well as the "Regional Shopping Centre" designation in the Regional Official Plan (ROP) all of which would be contrary to the ROP.
- 2. The policies of Section 6.10 of Kanata's Official Plan implement the policies contained in the ROP and permit "accessory commercial uses" as part of the "Restricted Industrial" designation. Permitting retail warehouses by way of a special policy designation as part of Kanata's industrial policies fails to recognise the true nature of retail warehousing and is an inappropriate policy change that does not fully recognise the retail nature of these uses. This is contrary to both the Region's and Kanata's Official Plans.
- Contrary to the recommendations of Kanata's "Commercial Uses Policy Study", Amendment No, 36 would permit membership warehouse clubs and similar retailers of large food volumes without market studies to demonstrate that such

development will not adversely impact on the planned function of Kanata's other retail facilities.

## STAFF COMMENT

While IPCF et al. has already submitted its OMB referral request, Section 17(22) of Bill 163 requires that Council first give notice of its decision to approve, approve as modified or refuse Amendment No. 36 before any OMB referral request can be considered. After Council gives notice of its decision, any person or public body may request that all or part of Amendment No. 36 be referred to the OMB provided that such request is in writing, reasons for referral are given and the fee prescribed by the Ontario Municipal Board Act is included.

Notwithstanding the process matters associated with Amendment No. 36, Regional staff note the following:

- The lands affected by Amendment No. 36 are designated "Extensive Employment Area" (EEA) in the ROP. The EEA designation permits a mix of uses including retail uses at densities lower than those permitted on lands designated "Primary or Secondary Employment Centre" in the ROP. As retail warehouse uses are typically constructed as low density single storey structures, these uses have been deemed to conform with the policies of the EEA designation. Examples of where retail warehousing has been permitted in the EEA designation include the Price Clubs located at Cyrville and Innes Roads in the City of Gloucester and West Hunt Club and Merivale Roads in the City of Nepean.
- The Region's and Kanata's Official Plans do not impose maximum gross leasable area (GLA) limitations on retail warehousing. While the Region's Official Plan is silent on retail warehousing as a distinct use, Kanata's Amendment No. 32 attempts to define retail warehouse uses by the "sale of products stored and displayed in a warehouse format". Detailed parameters for the structural footprint and elevations of retail warehouse uses are established through Kanata's site plan and zoning provisions.
- Amendment No. 36 seeks to change Kanata's existing Official Plan policies to accommodate retail warehousing only on the Salvation Army's property in the southwest quadrant of the Highway 417 Terry Fox Dr. interchange. The purpose of Amendment No. 36 is consistent with the recommendations of Kanata's "Commercial Uses Policy Study" in that it attempts to direct retail warehouse uses to sites in close proximity to the Highway 417 Terry Fox Dr. interchange. Given the proposed policies articulated by Kanata's Amendment No. 32 as well as the EEA policies of ROP, Regional staff submits that this issue is market related and at present not supported by the positions taken by Regional and Kanata Council.
- Regional staff agree with IPCF et al. that Amendment No. 36 does not implement the
  recommendation of Kanata's "Commercial Uses Policy Study" that retail warehouse
  development be justified on the basis of market studies. Kanata Council elected not to
  include a requirement for a market study to support retail warehouse uses on the

Salvation Army lands to avoid a lengthy, expensive and unnecessary OMB hearing on the strengths and weaknesses of such market study.

In order to address the outstanding concerns of the MTO and the ETD, Regional Planning staff propose the following modification:

## Modification No. 1

<u>PART B - THE AMENDMENT</u>, <u>Details</u>, Part a), be modified by deleting the text of Policy 5 in its entirety and replacing it with the following:

"Prior to any development of the lands identified as MR-1 on Schedule "A", a traffic impact study will be required to assess the impact of the proposed development on the functioning of the Highway 417 interchange at Terry Fox Drive as well as the affected Regional and local roads in the vicinity and identify means of rectifying any capacity shortfall. Such study shall be reviewed and approved by the Ministry of Transportation, the Regional Environment and Transportation Department and the City of Kanata."

## **CONSULTATION**

The public notice and meeting requirements of the Planning Act, 1990 were satisfied by the process adhered to by Kanata Council for Amendment No. 36. Nevertheless, Kanata staff were advised of the December 10, 1996 date of the PEC meeting to consider Amendment No. 36. Should Regional staff receive an OMB referral request following Council's notice of decision, a report weighing the merits of such OMB referral request will be prepared for PEC's and Council's consideration.

## FINANCIAL IMPLICATIONS

At this stage in the approvals process, the financial implications of giving notice of Council's decision to approve Amendment No. 36 with a modification is of no Regional consequence. However, if Amendment No. 36 is ultimately referred to the OMB, Regional staff would be required to prepare and give evidence on Council's decision as well as on matters of planning and engineering opinion. Any costs incurred as a result of Regional staff's participation in an OMB hearing on Amendment No. 36 would be absorbed by the Legal and Planning and Development Approvals Depts.' budgets.

Approved by N. Tunnacliffe, MCIP, RPP

## APPROVAL PAGE

## AMENDMENT NO. 36 TO THE OFFICIAL PLAN

## OF THE CITY OF KANATA

I hereby certify that Amendment No. 36 to the Official Plan of the City of Kanata, which has been adopted by the Council of the City of Kanata, was approved by the Council of the Regional Municipality of Ottawa-Carleton on , 1996 under Section 17 of the Planning Act, 1990, except:

A. the following which was modified under Section 17(20) of the Planning Act, 1990:

## Modification No. 1

<u>PART B - THE AMENDMENT</u>, <u>Details</u>, Part a), is modified by deleting the text of Policy 5 in its entirety and replacing it with the following:

"Prior to any development on the lands identified as MR-1 on Schedule "A", a traffic impact study will be required to assess the impact of the proposed development on the functioning of the Highway 417 interchange at Terry Fox Drive as well as the affected Regional and local roads in the vicinity and identify means of rectifying any capacity shortfall. Such study shall be reviewed and approved by the Ministry of Transportation, the Regional Environment and Transportation Department and the City of Kanata."

Dated this	day of	, 1996
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Deputy Clerk, Regi	onal Municipality of Otta	wa-Carleton

#### COMPONENTS

Part A - The Preamble does not constitute part of this Amendment.

<u>Part B - The Amendment.</u> consisting of the following text and map (designated Schedule "A"), constitutes Amendment No.36 to The Official Plan of the City of Kanata.

Also attached is <u>Part C - The Appendix</u> which does not constitute part of this amendment.

## PART A - THE PREAMBLE

#### 1. Purpose

The purpose of this Amendment is as follows:

 to permit Retail Warehouses on the Grace Hospital lands in the Terry Fox Business Park subject to certain traffic and land use controls.

#### 2. Location

The lands affected by this Amendment are located in Part of Lots 1 and 2, Concession II, of the former Township of March, now part of the City of Kanata. These lands are referred to as the Grace Hospital lands in the Terry Fox Business Park

Supplementary policies applying to the lands affected by this Amendment will be added by changes to Section 10.2.4 regarding the use of a holding provision; by changes to Section 11.3 "Glossary"; by the addition of a new Section 6.10.4 entitled Special Policy Area (MR-1).

#### 3. Basis

In 1993, the City of Kanata commissioned John winter and Associates and Arnold Faintuck and Associates to complete the "Commercial Uses Policy Study". The three primary objectives of the study are as follows:

- i) To complete a Market Impact analysis of proposed retail warehouse uses in the City of Kanata and make recommendations as to the appropriateness of locating these land uses in the City. The study is to assess the impact on both the existing and planned retail centres in the City particularly the Regional Shopping Centre.
- ii) To provide, if appropriate, Official Plan policies that will fit within the context of Kanata's Official Plan. These policies will be used to govern and evaluate retail warehouse land uses in the City of Kanata.

The Study should comment on how the recommended Official Plan policies for retail warehouse landuses will comply with the commercial policies contained in RMOC Official Plan.

iii) To review the City's hierarchy of commercial land use policies and bring them into conformity with the Commercial Policies contained in the Region's Official Plan.

The Study was commenced in 1993 and included open invitations to landowners to express their views on the prospect of Retail Warehousing in the City. Upon the completion of the Study in March 1994, the public were invited to express their views on the Study's recommendations before Council. The final Study was also circulated for public input and a public meeting on an Official Plan Amendment for Retail Warehousing was advertised and held on September 20th 1994.

The Study and these objective have now been completed and the City has implemented a policy framework recommended in the Study that permitted Retail Warehousing on the north side of the Regional Shopping Centre site and in the Terry Fox Business Park with the exception of the Grace Hospital lands. OPA No. 36 now proposes to add Retail Warehousing to the Grace Hospital Lands.

#### PART B - THE AMENDMENT

#### Introduction

All of this part of the document entitled Part B - The Amendment, consisting of the following text and attached map designated Schedule "A" to Amendment No. 36 (Urban Area Land Use) constitutes Amendment No. 36 to the Official Plan of the City of Kanata.

#### **Details**

The following changes are hereby made to the Official Plan for the City of Kanata:

a) Add the following after subsection 4 of Section 10.2.4:

- "5. In the areas designated MR-1 on Schedule "A", a traffic impact study demonstrates that the impact of traffic generated by a proposed retail warehouse will not exceed the traffic volume standard for any street affected by the proposed development."
- b) Add the following after Section 6.10.3:

"6.10.4 Special Policy Area (MR-1)

For the lands designated MR-1 on Schedule "A", in addition to the permitted uses outlined in Section 6.10.2, a Retail Warehouse operation as defined in Section 11.3 may also be permitted and may serve the retail/wholesale trade both in the Terry Fox Business Park and areas beyond. Retail warehouse operations in this location will be subject to the holding provision outlined in Section 10.2.4.

So as to preserve the City's existing and Planned Retail Structure, lands which are designated MR-1 will not be permitted to be used for a supermarket, department store, shopping centre or small retail operation of less than 3,000m² (30,000ft²). Retail warehouse operations will also have a floor area restriction applied to the food component of their operations. As the Terry Fox Business park is a prominent entrance into the City of Kanata, extra design attention will be required to be implemented at the Site Plan and Subdivision stages of approval for Retail Warehouse land uses.

c) Add the lands designated MR-1 on Schedule "A", in addition to the permitted uses outlined in Section 6.10.2, a Retail Warehouse operation as defined in Section 11.3 may also be permitted and may serve the retail/wholesale trade both in the Terry Fox Business Park and areas beyond. Retail warehouse operations in this location will be subject to the holding provision outlined in Section 10.2.4.

So as to preserve the City's existing and Planned Retail Structure, lands which are designated MR-1 will not be permitted to be used for a supermarket, department store, shopping centre or small retail operation of less than 3,000m² (30,000ft²). Retail warehouse operations will also have a floor area restriction applied to the food component of their operations. As the Terry Fox Business park is a prominent entrance into the City of Kanata, extra design attention will be required to be implemented at the Site Plan and Subdivision stages of approval for Retail Warehouse uses.

MODIFICATION No. 1 UNDER SECTION 17 (20) OF THE PLANNING ACT

#### **Implementation**

The Implementation and Interpretation of this Amendment shall be in accordance with the definition's provided and the respective policies of the Kanata Official Plan.

# PART C - THE APPENDIX

#### APPENDIX 1 - PUBLIC MEETING

In accordance with the requirements of Sections 17 and 21 of the Planning Act, as amended from time to time, the City provided notice of this Amendment in the Kanata Kourier Standard, February 17, 1995.

2. 64-03-95 - Proposed Official Plan Amendment No. 36, Retail Warehouse Uses, Grace Hospital Lands.

## MOVED by P. Cripps

- 1. That the By-law which forms a part of Official Plan Amendment No. 36 to the City of Kanata's Official Plan, as shown as Attachment A to Report 64-03-95, being an amendment to permit Retail Warehousing on the Grace Hospital Lands in the Terry Fox Business Park as illustrated on Schedule "A" to the proposed amendment, be listed for adoption on the March 28th agenda of City Council.
- 2. That the By-law which forms Attachment B to Report 64-03-95, being an amendment to By-law 138-93, the Terry Fox Business Park Zoning By-law to permit Retail Warehousing subject to a building height limitation as well as the Holding provision for traffic analysis, be listed for adoption on the March 28th agenda of City Council.
- 3. That the By-law which forms Attachment C to Report 64-03-95, being an amendment to By-law 138-93, the Terry Fox Business Park Zoning By-law to permit Light Industrial, Select (M1A) land uses on the Grace Hospital lands, be listed for adoption on the March 28th agenda of City Council.

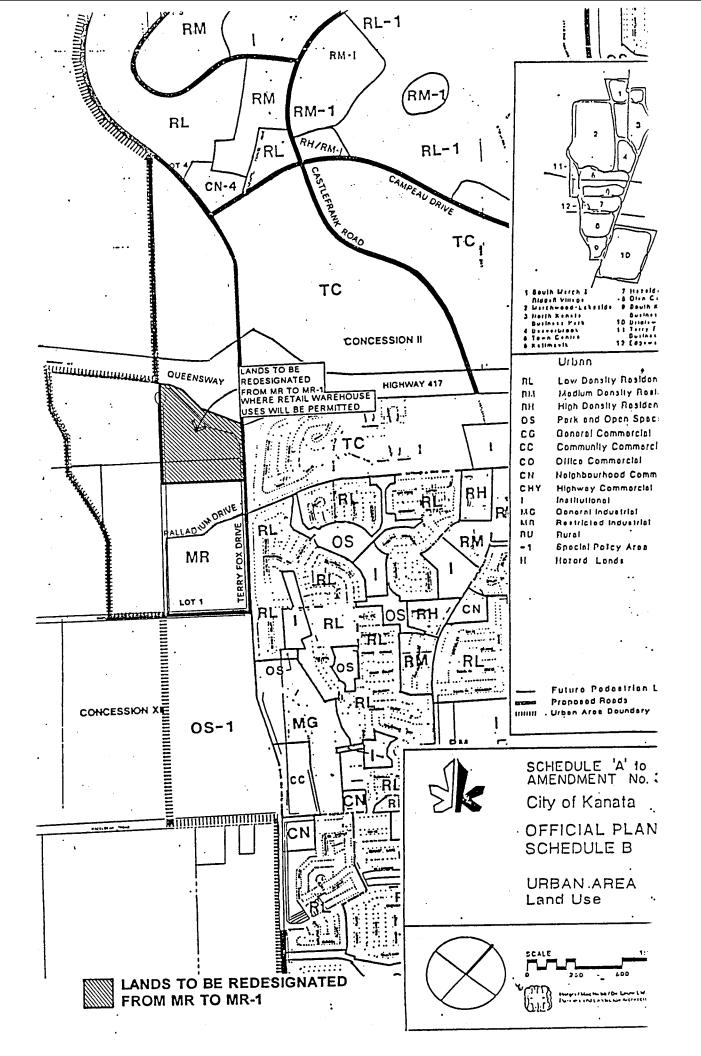
CARRIED (on a later vote)

J. Midwinter, Canderel, stated that he was in support of the Official Plan Amendment and Zoning By-law Amendments. He asked for a status on the O.M.B. appeals with respect to other lands in the Terry Fox Business Park. D. Krajaefski indicated that 2 of 3 Appeals had been resolved, but that this application would be subject to it's own appeal process, should this occur.

# RECORDED VOTE

	YEAS	NAYS
Councillor McKee Councillor Flood Councillor Cripps Councillor James	X X X	

**CARRIED** (unanimously)





BCE Place Suite 1800, Box 754 181 Bay Street Toronto, Canada M5] 2T9

Steven A. Zakem Direct Line: 865-3440

Telephone: (416) 364-1241 Fax: (416) 364-4916 Telex: 06-22702

Our File #51858

TO

# VIA TELECOPY #613-560-1380 AND REGULAR MAIL

May 11, 1995

Regional Chairman and Members of Council c/o Ms. Mary Jo Woollam, Regional Clerk Regional Municipality of Ottawa-Carleton Cartier Square
111 Lisgar Street
Ottawa, Ontario
K2P 2L7

Dear Ms. Woollam:

Re: City of Kanata Official Plan Amendment No. 36 ("OPA 36") (adopted by By-law No. 32-95)

OTTAWA CARLETON
REGIONAL CLERK'S DEPT

MAY 1 6 1995

RECOVER

DOSS

FILE # 08-95-0046

DOC 1.D. # 95- 1911

ACTION SOUT TO A. HORE
TAKEN PLANNING -

We are the solicitors for IPCF Properties Inc. and the Loblaws Group of Companies which owns and operates a number of supermarket facilities in the area of the City of Kanata. On January 3, 1995 we requested referral, on behalf of our client, to the Ontario Municipal Board, of OPA 32. Attached hereto is a copy of that letter for ease of reference. We have recently been provided by the City of Kanata with notice of passage of OPA 36 which would purport to apply the OPA 32 policies to an additional area of land in the Terry Fox Business Park area. These policies are similar to those policies contained in OPA 32 and, for the same reasons set out in the letter of January 3, 1995, we hereby request that the abovenoted OPA also be referred to the Ontario Municipal Board.

We should also advise you that we are in the process, through our planning consultants, of attempting to provide comments on, and proposed revisions to, the OPA and Zoning By-law documents for which we have requested referral and appeal. These discussions will be held over the next several week and will hopefully result in proposed modifications and amendments which would satisfy both the City of Kanata and our client, and any other parties who are interested in this matter. As such, we have no objection to the Region withholding consideration of our referral to allow these discussions to take place in an effort to resolve the matter outside the Ontario Municipal Board process.

Regional Chairman and Members of Council May 11, 1995 Page 2

Should you have any comments or questions or wish to require further detail with respect to this matter, please do not hesitate to contact the undersigned at your convenience.

Yours very truly,

AIRD & BERLIS

SA7/mn

attach.

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BCE Place Suite 1800, Box 754 181 Bay Street Toronto, Canada MSJ 219 Steven A. Zakem Direct Line: 865-3440 Telephone: (416) 364-1241 Fax: (416) 364-4916 Telex: 06-22702

# VIA TELECOPY #613-560-1380 AND REGULAR MAIL

January 3, 1995

**K2P 2L7** 

Regional Chairman and Members of Council c/o Ms. Mary Jo Woollam, Regional Clerk Regional Municipality of Ottawa-Carleton Cartier Square
111 Lisgar Street
Ottawa, Ontario

Our File #51858

Dear Ms. Woollam:

Re: City of Kanata Official Plan Amendment No. 32 ("OPA 32")
(adopted by By-law No. 135-94)

We are the solicitors for IPCF Properties Inc. and the Loblaws Group of Companies which owns and operates a number of supermarket facilities in the area of the City of Kanata. On behalf of our client, we hereby request referral of the above-noted Official Plan Amendment to the Ontario Municipal Board for a number of reasons including the following:

1. The subject lands are designated "Extensive Employment Area" in the Regional Municipality of Ottawa-Carlton Official Plan ("Regional OP") and are adjacent to the "Regional Shopping Centre" designation. The "Extensive Employment Area" designation in the Regional Official Plan permits retail uses "provided that the density of development is relatively low as compared to "Primary and Secondary Employment Areas". OPA 32 would not propose to provide any limitation with respect to the density of development and could result in retail warehouse development considerably in excess of the "Primary and Secondary Employment Areas" and, indeed, in excess of those permitted in the "Regional Shopping Centre" designation, all of which would be contrary to the Regional OP.

Regional Chairman and Members of Council January 3, 1995 Page 2

- 2. The industrial policies of the City of Kanata Official Plan (s.6.10) implement the policies contained in the Ottawa-Carleton Official Plan and permit "accessory commercial uses" as part of a "Restricted Industrial" designation which is the designation that applies to the subject properties. Permitting retail warehouses by way of "Special Policy" designation as part of the industrial policies fails to recognize the true nature of big box retailing and is an inappropriate policy change that does not fully recognize the retail nature of these uses. This is contrary to both the Regional OP and City of Kanata Official Plan.
- 3. The policies of the City of Kanata Official Plan, including policies 2.1.5, 2.2.4, 5.7.4.2, 5.7.5.1, 5.7.5.3, 6.6.3, 9.1.8 all speak to the careful approach that the City of Kanata takes with respect to additional commercial development including the requirement for market studies to be undertaken in order to ensure that an oversupply of commercial facilities does not exist in the City. In this respect, the City retained John Winter Associates Limited to undertake a "Commercial Uses Policy Study on Retail Warehouses Kanata, 1993", which report is dated March, 1994 and forms the basis for OPA 32.

Mr. Winter specifically noted that Kanata was "very well-served by supermarket - oriented plazas. In almost every other area, Mr. Winter noted that Kanata was deficient in facilities resulting in outflow of expenditures from the City of almost \$200 million in sales each year to other municipalities. Mr. Winter went on to recommend a retail park of approximately 100 acres which would allow large big box retailers to locate in the City of Kanata. However, Mr. Winter went on to note that supermarkets, department stores and membership warehouse clubs should not be permitted unless supported by a positive impact statement prepared by an independent consultant and not one hired by the proponent. He also recommended that retailers under 5,000 ft<sup>2</sup> in size not be permitted to locate in such a retail park so as to ensure that the plaza based to consumer of commerce planned for the City would not be adversely impacted.

Contrary to the recommendations of Mr. Winter, the City of Kanata in OPA 32 would permit membership warehouse clubs and similar retailers of large food volumes. This could result in adverse impact on the planned function of retail facilities.

In conclusion, OPA 32 fails to conform with the Official Plan for the Regional Municipality of Ottawa-Carleton, the Official Plan for the City of Kanata and risks upsetting or impacting the commercial hierarchy or a part thereof within the City, such that the planned function of one or more facilities could be adversely affected.

AIRO & BIRLIS

Regional Chairman and Members of Council January 3, 1995 Page 3

Once we have had an opportunity to retain professional consultants with respect to this matter, we may have additional reasons and grounds for such a referral. Please acknowledge receipt of this correspondence and advise us of when the Regional Council will be considering the matter.

Yours very truly,

AIRD & BERLIS

Steven A. Zakem

SAZ/mn

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AIRD & BERLIS