

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

REPORT  
RAPPORT

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Our File/N/Réf. (23)14-95.0019  
Your File/V/Réf.

DATE 03 March 1997

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

FROM/EXP. Planning and Development Approvals Commissioner

SUBJECT/OBJET **ONTARIO MUNICIPAL BOARD REFERRAL REQUEST  
LOCAL OFFICIAL PLAN AMENDMENT NO. 36  
CITY OF KANATA**

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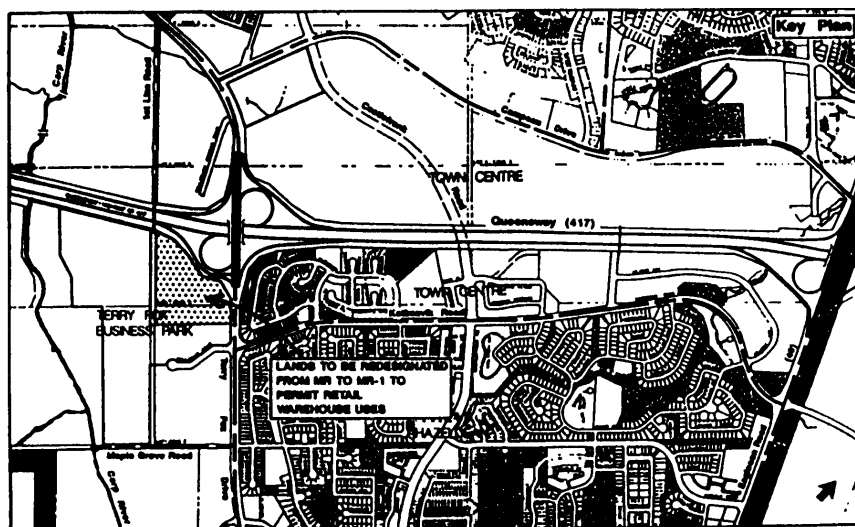
**DEPARTMENTAL RECOMMENDATIONS**

**That the Planning and Environment Committee recommend that Council:**

- 1. Refer Amendment No. 36 to the Official Plan of the City of Kanata to the Ontario Municipal Board as outlined on the addendum Approval Page attached as Appendix I, and;**
- 2. Direct staff to request the Ontario Municipal Board to modify Amendment No. 36 as shown in the notice of decision attached as Appendix III.**

**BACKGROUND**

Regional Council last dealt with Amendment No. 36 on the 22 Jan. 97. At this time, Council directed staff to give notice of its decision to approve Amendment No. 36 as modified



(see Appendix II). Staff issued the notice of decision on Amendment No. 36 on the 3 Feb. 97 consistent with the requirements of the Planning Act, 1990 (i.e., the Bill 163 version) and its associated regulations (see Appendix III). The 30 day notice period expired on the 5 Mar. 97. On the 3 Mar. 97 Loblaws Properties Ltd. (Loblaws) filed a request to refer Amendment No. 36 to the Ontario Municipal Board (OMB) (see Appendix IV). The purpose of this report is to apprise Planning and Environment Committee (PEC) and Council on Loblaws' OMB referral request and determine whether such referral request has merit.

### ONTARIO MUNICIPAL BOARD REFERRAL REQUEST

Loblaws' request to refer Amendment No. 36 to the OMB is based on the following reasons:

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 is 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 under Kanata's industrial designations 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.
3. 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

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 Rds. in the City of Gloucester and West Hunt Club and Merivale Rds. 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 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 the 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 Loblaws 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 consideration of the above, staff have concluded that Loblaws' request to refer Amendment No. 36 has merit and ought not be dismissed for any of the grounds cited in Section 17(29) of the Planning Act, 1990. Further, Council should seek from the OMB the modification to Amendment No. 36 it had previously approved in principle as outlined in the notice of decision attached as Appendix III. By referring Amendment No. 36 to the OMB, Amendment No. 36 would catch-up to the other related matters (i.e., Amendment No. 32 and Zoning By-law Amendments 33/95 and 34/95) that are already before the OMB awaiting a hearing and decision.

### CONSULTATION

The public notice and meeting requirements of the Planning Act were satisfied by the process adhered to by Kanata Council for Amendment No. 36. Kanata staff and Aird and Berlis (Loblaws' solicitor) have been advised that PEC will consider Loblaws' Amendment No. 36 OMB referral request on 25 Mar. 97.

### FINANCIAL IMPLICATIONS

If Amendment No. 36 is 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 Departments' budgets.

*Approved by*  
*R.B. Edgington on behalf of*  
*N. Tunnacliffe, MCIP, RPP*

## APPENDIX I

**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 was adopted by the Council of the City of Kanata on 28 Mar. 95, was referred to the Ontario Municipal Board by the Council of the Regional Municipality of Ottawa-Carleton under Section 17 of the Planning Act, 1990, as follows:

Referral No. 1

Amendment No. 36, in its entirety, is referred to the Ontario Municipal Board.

Dated this                      day of                      1997

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Deputy Clerk, Regional Municipality of Ottawa-Carleton

**PLANNING AND ENVIRONMENT REPORT NO. 50**

1. CITY OF OTTAWA OFFICIAL PLAN AMENDMENT NO. 21  
HERON/WALKLEY AREA

**COMMITTEE RECOMMENDATION**

**That Council approve Official Plan Amendment No. 21 to the City of Ottawa Official Plan according to the Approval Page attached as Annex II.**

**“CARRIED” on a division of 13 yeas to 4 nays as follows:**

**YEAS: Councillors Hill, Hume, Kreling, Hunter, Cantin, Beamish, McGarry, Loney, Pratt, Bellemare, van den Ham, Meilleur and Chair Clark...13**

**NAYS: Councillors Legendre, Stewart, Davis and Cullen...4**

2. LOCAL OFFICIAL PLAN AMENDMENT No. 36  
CITY OF KANATA

**COMMITTEE RECOMMENDATION**

**That 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.**

**“CARRIED”**

3. PROVINCIAL AIRPORT POLICY REVIEW - POLICY OPTIONS

**COMMITTEE RECOMMENDATION AS AMENDED**

**That Council forward the following report to the Ministry of Municipal Affairs and Housing as Council’s position on the Provincial Airport Policy Review as amended by the following:**

**Be it resolved that the RMOC believes that any lands currently designated as “Residential” in any approved Official Plans should be “grandparented” and exempted from the effects of any new Provincial Policies regarding land uses around airports, and that staff forward this position to the Provincial Ministry.**

**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**

**PART B - THE AMENDMENT, Details, 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, Regional Municipality of Ottawa-Carleton

## COMPONENTS

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

Part B - The Amendment, 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 Part C - The Appendix which does not constitute part of this amendment.

### PART A - THE PREAMBLE

#### 1. Purpose

The purpose of this Amendment is as follows:

- a) 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 land uses will comply with the commercial policies contained in RMO 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."~~

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

- 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 3,000m<sup>2</sup> (30,000ft<sup>2</sup>). 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 3,000m<sup>2</sup> (30,000ft<sup>2</sup>). 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.



## 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.

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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.

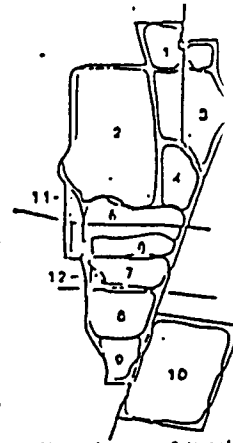
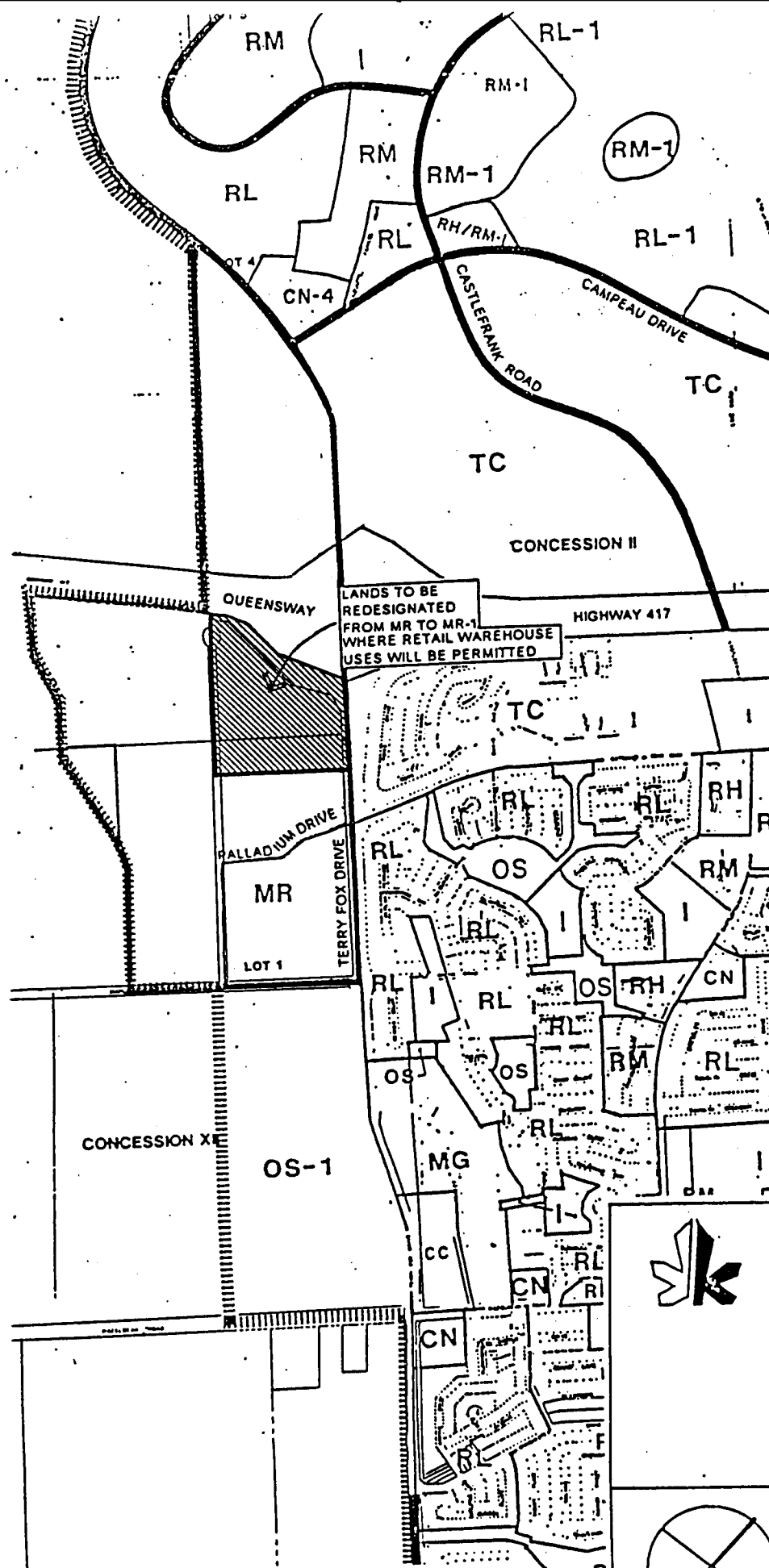
CARRIED  
(on a later vote)

- 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	X	
Councillor Flood	X	
Councillor Cripps	X	
Councillor James	X	

CARRIED (unanimously)



- |                      |             |
|----------------------|-------------|
| 1 South March 1      | 7 Harold    |
| 2 Alder Village      | 8 Old C.    |
| 3 Marchwood-Lakeside | 9 South E   |
| 4 North Kanata       | 10 Business |
| 5 Business Park      | 11 Terry F  |
| 6 Greenbrook         | 12 Business |
| 8 Town Centre        | 13 Edgewood |

#### Urban

- |     |                            |
|-----|----------------------------|
| RL  | Low Density Residential    |
| RM  | Medium Density Residential |
| RH  | High Density Residential   |
| OS  | Park and Open Space        |
| CG  | General Commercial         |
| CC  | Community Commercial       |
| CO  | Office Commercial          |
| CH  | Neighbourhood Commercial   |
| CHY | Highway Commercial         |
| I   | Institutional              |
| MG  | General Industrial         |
| RI  | Restricted Industrial      |
| RU  | Rural                      |
| -1  | Special Policy Area        |
| H   | Hazard Lands               |

- Future Pedestrian L
- Proposed Roads
- Urban Area Boundary

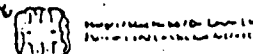
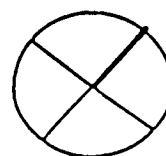


SCHEDULE 'A' to  
AMENDMENT No. 1

City of Kanata

OFFICIAL PLAN  
SCHEDULE B

URBAN AREA  
Land Use



**LANDS TO BE REDESIGNATED  
FROM MR TO MR-1**

**Regional Municipality of Ottawa-Carleton**  
Ottawa-Carleton Centre, Cartier Square  
111 Lisgar Street, Ottawa, Ontario K2P 2L7

Planning and Development Approvals  
Department  
Tel. (613) 560-2053  
Fax. (613) 560-6006



**Municipalité régionale d'Ottawa-Carleton**  
Centre Ottawa-Carleton, Place Cartier  
111, rue Lisgar, Ottawa (Ontario) K2P 2L7

Service de l'urbanisme et de l'approbation des  
demandes d'aménagement  
Tél. (613) 560-2053  
Télécopieur (613) 560-6006

3 February 1997

File: (23) 14-95.0019

See List

Dear

**Re: Notice Under Section 17(22) of the Planning Act  
Local Official Plan Amendment No. 36  
City of Kanata**

### **INTENT**

In accordance with Section 17(22) of the Planning Act, you are hereby notified that Regional Council intends to approve Amendment No. 36 to the Official Plan of the City of Kanata as outlined on the Approval Certificate attached.

### **EXPLANATION**

The purpose of Amendment No. 36 is to permit retail warehouse uses on the Salvation Army's property located on Lots 1 and 2, Concession II, (Terry Fox Business Park).

### **INFORMATION**

Information on Amendment No. 36 can be obtained from the Regional Planning and Development Approvals Department at 111 Lisgar Street, 2nd Floor Carleton Building by contacting Andrew Hope, MCIP, RPP (phone 560-2053), or through the Planning Department of the City of Kanata by contacting Rob McKay (phone 592-4281). A copy of the Regional Planning and Development Approvals Commissioner's report containing the proposed decision on Amendment No. 36 is available for public inspection between 8:30 a.m. and 4:30 p.m. in the Regional Planning and Development Approvals Department.

## **REFERRAL REQUESTS**

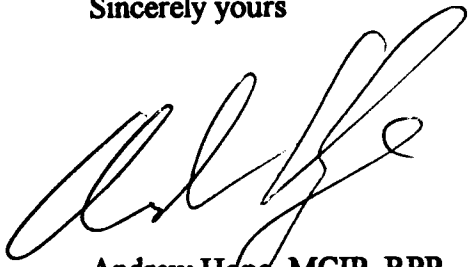
Pursuant to Section 17(24) of the Planning Act, any person or public body may not later than 4:30 p.m. on 5 March 1997, request in writing that the Region refer all or part of Amendment No. 36 to the Ontario Municipal Board (OMB). Such referral request must identify, in writing, which section(s) of Amendment No. 36 is/are being referred and the reasons for doing so. All referral requests must also be accompanied by a certified cheque in the amount of \$125 to cover the OMB's prescribed fee. Please note that only an individual, corporation or public body may request a referral of a proposed decision of an official plan amendment to the OMB. A referral request may not be made in the name of an unincorporated association or group. However, a referral request may be made in the name of an individual who is a member of the association or group. If no referral request is received by 5 March 1997, the proposed decision of Regional Council is final.

## **RELATED ZONING BY-LAW AMENDMENT**

The lands associated with Amendment No. 36 are also subject to City of Kanata Zoning By-law Amendment (ZBLA) 34/95. ZBLA 34/95 has been appealed to the OMB by IPCF Properties Inc. and the Loblaw's Group of Companies.

Dated the 3rd February 1997.

Sincerely yours



Andrew Hope, MCIP, RPP  
Senior Project Manager  
Development Approvals Division

AH/hic

Attach. (1)

List: City of Kanata  
Steven A. Zakem, Aird & Berlis  
Martin D. Owens, Bell, Baker

Steven A. Zakem  
Direct Line: 865-3440

**VIA TELECOPY #(613) 560-6006 AND COURIER**

March 3, 1997

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

Our File #51858

Dear Ms. Woollam:

**Re: Local Official Plan Amendment No. 36**  
**City of Kanata**

As you know, we are the solicitors for Loblaw Properties Limited (formally IPCF Properties Inc.) with respect to this matter. As noted in your proposed Notice of Decision dated February 3, 1997, my client has requested appeal of the Zoning By-laws which would implement Official Plan Amendment No. 36. Those Zoning By-law Amendments are currently before the Ontario Municipal Board.

In addition, the Regional Municipality of Ottawa-Carleton has referred, at my client's request and at the request of others, Official Plan Amendment No. 32 which proposes to implement the same Official Plan policy régime for lands within the Terry Fox Business Park, immediately in the area of the lands the subject of Official Plan Amendment No. 36.

Finally, in addition to written representations made to the City of Kanata and in addition to our referral of Official Plan Amendment No. 32, our client filed a referral request with respect to Official Plan Amendment No. 36, understanding that this Amendment was made under the pre-Bill 163 legislation. It would appear that the Region now takes the position

Regional Council  
March 3, 1997  
Page 2

that the Amendment was adopted pursuant to Bill 163. In any event, our client hereby requests referral of Official Plan Amendment No. 36 for the reasons set out in our previous letter of referral which is attached hereto for your information. We hereby request referral of the entire Amendment and enclose our firm's cheque in the amount of \$125.00 made payable to the Minister of Finance in satisfaction of the necessary fee.

Should you require additional information, please do not hesitate to contact us.

Yours very truly,

AIRD & BERLIS



Steven A. Zakem

SAZ/mn

cc: Andrew Hope, Senior Project Manager, Development Approvals Division  
Planning and Development Approvals Department  
Peter Vice, Q.C.  
David Silverson

encl.

Steven A. Zakem  
Direct Line: 865-3440

**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

Our File #51858

Dear Ms. Woollam:

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

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 above-noted 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

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

consideration of our referral to allow these discussions to take place in an effort to resolve the matter outside the Ontario Municipal Board process.

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

COPY

Steven A. Zakem

SAZ/mn

attach.



Steven A. Zakem  
Direct Line: 865-3440

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

January 3, 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

Our File #51858

COPY

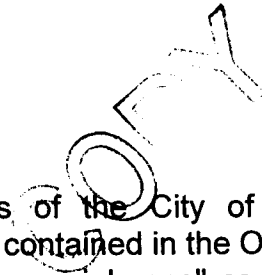
Dear Ms. Woollam:

**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.

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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

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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. 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

COPY

Steven A. Zakem

SAZ/mn