

REGION OF OTTAWA-CARLETON  
RÉGION D'OTTAWA-CARLETON

REPORT  
RAPPORT

Our File/N/Réf. Your File/V/Réf.	25 16-99-0141
DATE	9 September 1999
TO/DEST.	Coordinator Planning and Environment Committee
FROM/EXP.	Planning and Development Approvals Commissioner
SUBJECT/OBJET	<b>SITE PLAN APPLICATION 189-199 MONTREAL ROAD AND 258-276 HANNAH STREET PROPOSED BURGER KING RESTAURANT CITY OF VANIER</b>

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### DEPARTMENTAL RECOMMENDATION

**That the Planning and Environment Committee recommend that Council implement Regional Official Plan policies and Schedule C2 which permits right-of-way protection of 11.5 metres from the existing centreline of Montreal Road and this be obtained for the proposed Burger King Restaurant at Hannah Street as a condition of site plan approval and conveyed to the Region at no cost.**

### BACKGROUND

The owners, Mario and Filippa Falsetto, have requested site plan approval from the City of Vanier for a new Burger King Restaurant on the site which presently includes a vacant lot and three residential buildings. A zoning amendment accompanied this site plan application to change the zoning designation for a portion of the lot from R4 - Residential to C2/B Downtown Commercial.

The site plan as shown on Schedule "A-1", shows the applicants have set back the new building to accommodate the road widening requirement of approximately 2.5 metres. However, they have indicated that they object as a principle to providing the land at no charge. They have signed a Site Plan Agreement with the City of Vanier agreeing to convey the road widening to the Region at no cost. However, this was done "under protest".

## DISCUSSION

Under Section 41 of the Planning Act, a regional municipality may at the time of site plan approval require a landowner to provide land, at no expense for widening of roads if the "highway to be widened" and the "extent of the proposed widening" is shown in an Official Plan. Schedules C2 and D2 of the Regional Official Plan indicate the proposed widths of right-of-way for existing Regional roads.

Council's policy as stated in the Regional Official Plan is:

- 1) To protect rights-of-way for Regional roads and public transit whenever possible, by acquiring or reserving the necessary lands at the time of development or redevelopment of adjacent lands through conditions on approval for subdivision, severances, condominiums and site plans.
- 2) Where local municipalities have enacted site plan control by-laws, Council may require landowners to provide land to the RMOC for Regional road widenings as a condition of site plan approval under Section 41 of the Planning Act, based on the following principles:

Land will be conveyed at no expense to the RMOC for Regional road widening as a result of:

- a) new development;
- b) changes in use which generate significant traffic volumes;
- c) additions which substantially increase the size or usability of buildings or structures.

As this proposed development falls within the category of "new development" land for the right-of-way should be conveyed at no expense to the RMOC.

The land requirement is not intended to provide additional vehicle capacity but rather is intended to provide additional space for pedestrians, landscaping, street furniture, snow storage etc. The Region is willing to enter into a Land Use Agreement with the applicants in order to permit a private patio in the widened right-of-way until such time as the Region requires the widening for any of the public purposes noted above.

Staff have discussed this site plan with the applicants and have been unable to achieve an agreement. The applicants have objected to the principle of the conveyance of this land as a condition of site plan approval and want to be compensated at full market value even though the conveyance does not prejudice or require any alterations to the proposed site plan.

It is long established practice of the Region to exercise its authority under the Planning Act and Official Plan to obtain right-of-way at no cost the taxpayers. This is a procedure which is accepted almost without question by every developer both big and small, in 1998, for example, the Region obtained 25 widenings as a condition of site plan approval. Clearly an important principle is at stake for the Region which would undoubtedly be taken as a precedent by other developers should the Region decide not to acquire the widening.

## CONSULTATION

Staff have discussed this site plan with the applicants and have been unable to achieve an agreement. The applicants have objected to the conveyance of this land as a condition of site plan approval in principle and want to be compensated at full market value.

## FINANCIAL IMPLICATIONS

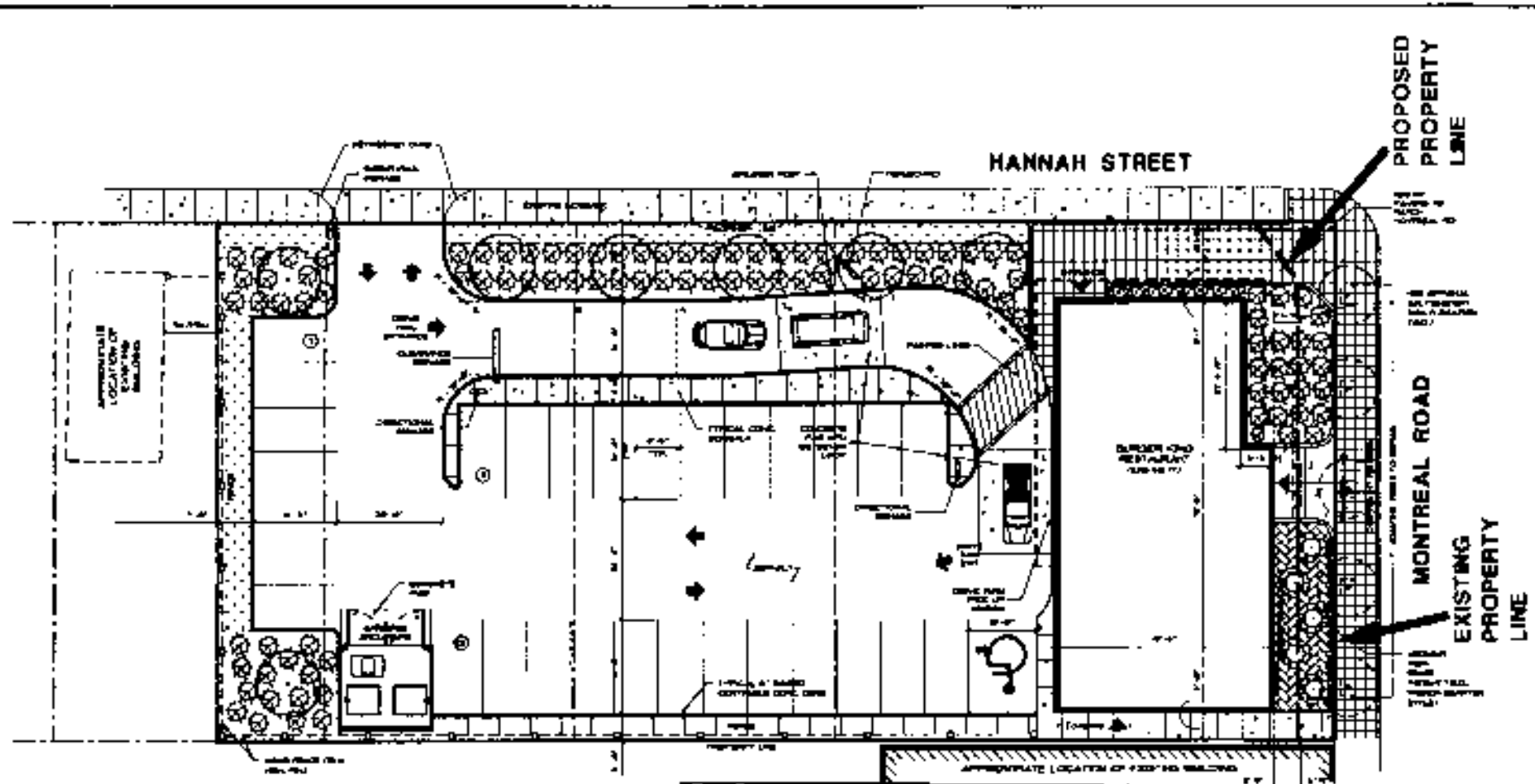
Should the Region be required to provide full market value compensation for this widening, this cost is estimated at approximately \$16,000.00. However, the financial impact of the precedent setting nature of providing compensation will be significant and has not been estimated.

## CONCLUSION

As noted above, staff recommends that this land for the right-of-way should be conveyed at no cost to the RMOC as provided in the Planning Act. To purchase this property is contrary to RMOC policy and would set a dangerous precedent for obtaining future road widening requirements when dealing with similar development applications.

*Approved by  
N. Tunnacliffe, MCIP, RPP*

**SCHEDULE "A-1"**



**LEGEND**

PROPOSED PAVED PLAZA - LANDSCAPE  
 PROPOSED PAVED PLAZA - ASPHALT  
 PROPOSED PAVED PLAZA - GRASS  
 PROPOSED PAVED PLAZA - CONCRETE  
 PROPOSED PAVED PLAZA - OTHER

**NOTE STATUSES**

ALL AREAS TO BE APPROVED BY THE COUNCIL OF THE CITY OF OTTAWA  
 AREAS TO BE APPROVED BY THE BOARD OF ZONING AND LAND-USE REGULATIONS  
 AREAS TO BE APPROVED BY THE BOARD OF ZONING AND LAND-USE REGULATIONS AND THE COUNCIL OF THE CITY OF OTTAWA

**LANDSCAPE LEGEND**

ALL AREAS TO BE APPROVED BY THE COUNCIL OF THE CITY OF OTTAWA  
 AREAS TO BE APPROVED BY THE BOARD OF ZONING AND LAND-USE REGULATIONS  
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**SITE PLAN APPLICATION / DEMANDE DE PLAN D'IMPLANTATION**

INITIAL PLAN / PLAN INITIAL	
DRAFT No. _____ ÉBAUCHE No. _____	
PAC APPROVED / APPROUVÉ PAR LE CCAT	
COUNCIL APPROVED / APPROUVÉ PAR LE CONSEIL	17 AUG 00
PLANNING DIRECTOR'S APPROVAL / APPROBATION DU DIRECTEUR DE L'URBANISME	
SIGNATURE _____	

**DESIGN APPROVAL AND ACCEPTANCE**

BURGER KING RESTAURANTS OF CANADA INC.

BY \_\_\_\_\_  
 DATE \_\_\_\_\_