

P. G. Pagé  
Clerk of the City of Ottawa  
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***Notice of Appeal re:***

By-Law No. 2004 - 341, Amendment No. 77 to the Official Plan of the former City of Kanata, and By-Law No. 2004 - 342, Zoning, enacted and passed July 14, 2004.

M. Pagé:

Amendment No. 77 to the Official Plan of the former City of Kanata contains several changes to land use which are inconsistent with policies, plans, study results and agreements which are in existence. Certain changes (as outlined below) will have serious and long-term negative effects on communities living within the City of Ottawa. Because several of the proposed changes have been based on substantially incomplete, inaccurate and even faulty factual information, this By-Law should not have been enacted and passed in the present form.

The existing land use designations and zoning for the lands covered in Kanata Official Plan Amendment No. 77 are based on a 1981 agreement between the City of Kanata and Campeau Corporation, amended 1988. These lands are also subject to further restrictions according to the Kanata Official Plan.

Large tracts of the lands in question have sensitive, rare and ecologically valuable natural features which have been determined to come under various levels of protection from damage and destruction. Amendment 77 proposes to implement a development plan that differs substantially from earlier agreements without just cause and ignores several fundamental principles of natural heritage stewardship, diverges from sound town planning practices and fails to recognise the results of ecological studies carried out in the area by recognised experts. In particular a large unwarranted reduction in the area of forest lands on the Canadian Shield will ensue if this amendment is permitted to pass without revision. Consistent adherence to existing agreements, policies and Official Plan would ensure that these forest lands get the protection that has been prescribed.

***Overall objections***

The amendment is premature in that much of the underlying material and relevant information and prerequisites are not present or available.

Firstly, the 40% Agreement binding upon the City of Ottawa and the KNL Development is a material instrument in determining land use and development layout. Although numerous requests have been made to the City to produce a detailed budget of all land use assignments under this Agreement, dating as far back as September 2003 and July 2002, none of this documentation has been forthcoming. It is impossible to fully assess the merits, implications and accountability of Amendment no. 77 without such documentation.

Secondly, a comprehensive and up-to-date Transportation Study is required by the Official Plan. It is an essential pre-requisite for the proper evaluation of Amendment no. 77, as it may significantly affect the layout, construction sequencing/scheduling and land use considerations pertaining to the area affected by the Amendment. Without the results of such a study being available, any changes to the Official Plan as envisaged in Amendment no. 77 are not appropriate.

### ***Official Plan Amendment Sections being Appealed:***

#### **Section 2.1 - Revisions to Schedule B and Schedule A2**

We object to the assignment of Environmental Protection Area (EPA) designation to extensive areas of the low-lying Kizell Creek valley (tributary of Watt's Creek), originally a man-made drain to service farming operations in the surrounding fields, but now flooded due to lack of drainage maintenance over the last few decades. A small portion of the Kizell Creek immediately west of the Goulbourn Forced Road has been recognised by the Mississippi Valley Conservation Authority (MVCA) as wetlands for which protection from destruction is justifiable. According to a Natural Environment Assessment commissioned by the City of Kanata in 1992 and carried out by the recognised expert in the field, D. Brunton and other studies, the remaining area has very low ecological, social, recreational or any other community value. Thus it cannot be seen to satisfy the conditions required for the EPA designation. It is especially true when this is to the detriment of ecologically deserving areas not being included within the EPA. The southern boundary of this EPA tract must be moved northwards up to the edge of the adjoining forested lands, commonly known as the West Block.

We object to the assignment of RL/RM designation to extensive forested tracts north of the Watt's Creek tributary described by Kizell Creek and Beaverpond between the First Line and Kimmins Court. The Natural Environment Assessment commissioned by the City of Kanata in 1992 and carried out by the recognised expert in the field, D. Brunton ranked these lands no. 2 and no. 3 (after Trillium Woods, no. 1) out of 9 candidates for the proposed KNL development area. While existing EPA designation appropriately includes some of these forests, the northern boundary of the EPA, however, must be extended northwards to more effectively protect the ecologically valuable forested lands from unnecessary and unwarranted destruction.

We object to the re-designation to OS of the RM lands at the southeastern corner of the First Line intersection with the railway in the western corner of the amendment lands. This plot of land is not suitable for use as recreation, nor has its ecological value been established. Therefore this change is without basis and does not have any benefit for present or future communities.

We object to RL and RM designations being extended into the South March Highlands (SMH), immediately to the northwest of the KNL property line and enclosed by the proposed Terry Fox Extension. This part of the South March Highlands is owned by the City of Ottawa and was purchased from funds earmarked for the preservation of natural environment areas. This planned destruction of protected and designated Natural Environment Area is not justified.

Additionally, this constitutes an extension of the urban boundary, which is a matter requiring appropriate consultations and processes. To surreptitiously include such an extension is a questionable erosion of due process and not in the style becoming a respectable municipality such as Ottawa.

We object to the loss of value to the community caused by the removal of Terry Fox Drive extension from the KNL-owned lands as originally planned in the developer's own Concept Plan

and since embedded in the Official Plan of the City of Kanata. This constitutes a subsidy of about 20 acres to the developer by the City, which is not justified nor warranted, because the community receives nothing in return. In addition because the incursion of Terry Fox Drive into the SMH will destroy more than 6 acres of natural environment lands, it should be routed on the KNL property in accordance with their own Concept Plan.

We object to introducing OS designation to a buffer along the south side of the railway between the First Line and close to Goulbourn Forced Road. The Official Plan requires that the buffering be included in deeper housing lots which abut the railway. Thus it is the responsibility of the developer to provide such buffering. It is totally inappropriate to shift this responsibility onto the City in this manner.

We also object to the lands to the south of the railway line west of Goulbourn Forced Road being designated as open space to create an artificial fish habitat. This fish habitat was not included in the Concept Plan of 1988 or the land allocation in the 40% Agreement. We believe that the land allocation for this use, if required, should come from the developer and not from the City. In this case other significant environmental areas are being sacrificed for the fish habitat at no cost to the developer. This is precedent setting as it does not seem to be the situation in other developments.

### Section 2.3 – Marchwood-Lakeside Neighbourhood Structure

The amendment calls for removing elementary schools and recreational facilities from subsection 5.3.1.4. The effect of this change is to reduce the developer's responsibility to implement sound neighbourhood planning practices. Thereby the very fabric that the Kanata Lakes community has been designed around for the past decade or more would be seriously eroded.

In addition, city staff did not discuss or explain the need for this change with the community. The reasons for introducing it were not presented. As it can be expected to have a major impact on the community, they should have been consulted in a more proactive manner.

### Sections 2.4 and 2.6 – Preservation of Black Cherry trees

The lands affected by this amendment contain many rare and sensitive species of trees, as ecological expert studies have indicated. The Black Cherry, to be found in several locations on the north side of Kanata Pond, locally known as Beaverpond, is but one such species which is significant not only locally, but also regionally.

City staff experts on natural environment matters failed to identify and demarcate the specific locations affected by this section. They have also failed to give sound ecological reasons of why the protection afforded this species under the Official Plan should be lifted.

Furthermore, the term "wetland boundaries" does not conform to the local conditions. None of the lands affected by this amendment carry the designation "Wetlands" in the provincially defined sense. Protection of the widely prevalent cattail swamps in the Kizell Drain area and landscaped banks of the Beaverpond compares very poorly on an ecological scale with the tree species such as the Black Cherry. Therefore the substitution of ill-defined "wetlands" for known valuable tree species has no tenable ecological basis and proposed changes should not be made to subsections 5.3.5.2 and 6.4.2.2 of the Kanata Official Plan.

## Sections 2.5 – Transportation Study

Early transportation studies about 20 years ago indicated that a road connection to the north-east of the amendment lands is important for proper traffic flow. Since then many unplanned and additional developments and changes have transpired.

It is inconceivable that an urban development of the size of the KNL proposal with about 3,250 housing units and population of 10,000 can be approved without a thorough and extensive Transportation Study. It is reasonable to expect that the impact of this development on local and regional traffic will be huge, not only on the ultimate flow pattern, but also during the construction phase.

For comparison, developers of another recent urban development in the area with a considerably smaller housing unit count of 700 to 800 were appropriately required by the City to present a Transportation Study before Draft Plan approval was granted. It is only fair and just to expect that all developers receive equal treatment by City staff unless there are serious reasons for permitting an exception. City staff has not presented extenuating circumstances or other grounds for dispensing with this Official Plan requirement. In view of the extensive size of the development, the Transportation Study requirement should be especially diligently enforced to avoid far-reaching and costly problems to City residents in the future. Therefore, this amendment cannot be permitted to proceed before a Transportation Study has been carried out and approved.

## Sections 2.8 – School Sites

This section of the amendment reduces the number of Public Elementary School sites to be provided from 4 to 2, Separate Elementary from 2 to 1, while Public High School sites remain the same.

While it is recognised that a Separate High School site has been added (and already built and near capacity in 2004) that was not originally shown in the Official Plan, the reduction of Elementary School Sites by 50% can be seen as a drastic measure. It is totally out of touch with the harsh reality experienced day to day by most parents, that elementary schools are presently overpopulated while the demand is steadily increasing.

It would be irresponsible to permit a reduction of elementary school sites under the present circumstances.

## Sections 2.9 – Phasing of Development in Marchwood-Lakeside

As mentioned under section 2.5. for a development of this size, the total absence of a development phasing control is untenable and unthinkable. The intent of subsection 9.1.5 of the Official Plan is to provide for an orderly progression of development while ensuring that the impact on existing communities is minimised.

If subsection 9.1.5 is struck from the Official Plan, protection for the surrounding communities from the adverse effects of construction will be greatly reduced. This issue is too large to be delegated to city staff. It requires careful planning, including adequate consultations with residents and communities to permit them to plan their events accordingly, and council approval.

For these reasons we object to the outright deletion of subsection 9.1.5 from the Kanata Official Plan.

## Sections 2.10 – Housing Density

The 50% increase in housing density from 99 to 150 units per net hectare (Table 2) for RH designation in Lakeside requires justification, because this change is substantial. So far, no such justification has been presented. The increase does not appear to be reasonable nor warranted and should be excluded.

### Historical

We would like to draw the attention of the City to some unfulfilled commitments that are outstanding with respect to the existing Marchwood-Lakeside (Kanata Lakes) community.

No plans have been announced to the community for the commencement of construction of a Community building, complete with associated facilities, which Campeau Corporation made a commitment to build (some time before 1988) to Kanata Parks and Recreation. It is doubtful whether any such plans have been made, although the existing Kanata Lakes community is substantially populated, and community facilities, commensurate with the new population, is already a pressing issue. KNL as the inheritor of Campeau must be required to fulfill this commitment before approvals for further developments are granted.

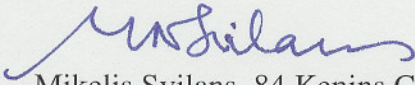
Additionally, the three houses existing before the start of the development, now encompassed by Kenins Crescent and Witherspoon Crescent have not been adequately screened from adjoining land uses. The remnants of rock blasting have left steep rockfaces which constitute a safety hazard to the surrounding residents, especially children playing in the vicinity. A corner of one of the existing lots (owned by the Tierney family) has been blasted away without the consent of the landowners, but not repaired or secured. The road grade of Witherspoon Crescent has been raised almost 2 meters above the rear yards of 2 owners (Families Puetz and Svilans) reducing the privacy these families enjoyed before the development. In addition, the said yards are now subject to invasion by trespassers, nuisance light from passing cars, snow, road salt and other debris. It is unacceptable for further development approvals to be granted if prior commitments remain unresolved. As part of such a further approval process, Amendment no. 77 should be placed on hold until all commitments which are detracting from the value and enjoyment of existing property owners have been satisfactorily addressed.

### ***Zoning By-Law being Appealed***

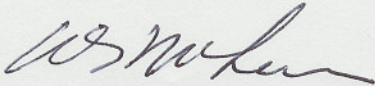
By-law 2004 – 342 is also appealed for the same reasons as above.

In addition the appellants reserve the right to raise such additional matters as may be deemed relevant.

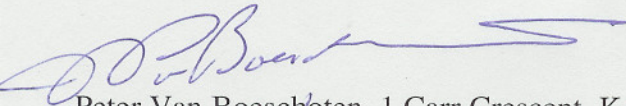
Sincerely,



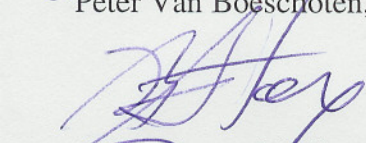
Mikelis Svilans, 84 Kenins Crescent, KANATA, Ontario K2K 3E5, Tel. (613) 592 1153



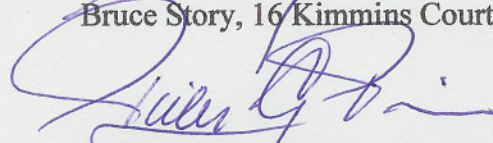
Keith McLean, 10 Zokol Crescent, KANATA, Ontario K2K 2K5, Tel. (613) 592 2808



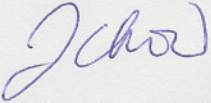
Peter Van Boeschoten, 1 Carr Crescent, KANATA, Ontario K2K 1K3, Tel. (613) 591 5610



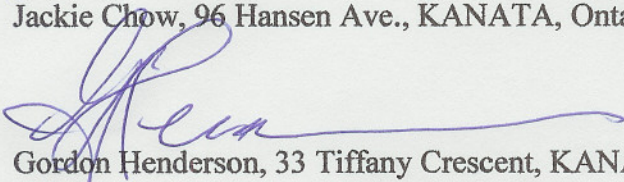
Bruce Story, 16 Kimmins Court, KANATA, Ontario K2K 2M4, Tel. (613) 592-5104



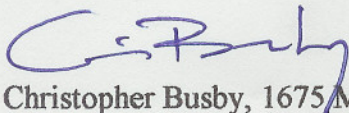
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