

June 24, 1999

ACS1999-PW-PLN-0080
(File: OCF3000/110)

Department of Urban Planning and Public
Works

Ward/Quartier
City Wide

- Planning and Economic Development
Committee / Comité de l'urbanisme et de
l'expansion économique
- City Council / Conseil municipal

Action/Exécution

Resolution of Referral No.69 to the City of Ottawa Official Plan.

Règlement du renvoi n° 69 au Plan directeur de la Ville d'Ottawa

Recommendation

That City Council accept the mediated solution to Referral No.69 to the City of Ottawa Official Plan as set out in Document 1 and request the Ontario Municipal Board to modify the Official Plan accordingly.



June 25, 1999 (10:35a)

Edward Robinson
Commissioner of Urban Planning and Public
Works



June 25, 1999 (11:01a)

Approved by
John S. Burke
Chief Administrative Officer

JF:jf

Contact: Jack Ferguson - 244-5300 ext. 1-3122

Financial Comment

Existing City Staff will represent the City at the board meeting at no additional cost. The cost of Advertising will be charged to the 1999 Operating Budget.



June 25, 1999 (10:05a)

for Mona Monkman
City Treasurer

BH:cds

Executive Report

Reasons Behind Recommendation

As part of the consideration and approval of the City of Ottawa Official Plan by Regional Council on April 13, 1994, a number of referrals to the Ontario Municipal Board (the OMB) were made affecting various parts of the Plan. In addition, for a variety of reasons, several parts of the Plan were deferred by Regional Council, usually pending additional study and/or discussion between the City and the affected parties. All but three of the referrals were resolved and disposed of by the OMB following a process of mediation during 1995 and 1996. The majority of the deferrals have been similarly dealt with either through the OMB or Regional Council. Those remaining are being addressed as and when the opportunity presents itself.

The overall intent of the mediation process followed in the case of Referral No.69 is the same as was established in all preceding mediated referrals and may be summarized as follows:

- To communicate with the appellant(s) to better understand their concerns.
- To communicate to the appellants the intent of the Official Plan policies.
- To effect changes which maintain the integrity of the Official Plan.
- To avoid unnecessary OMB hearings.

The subject at hand involves "Referral No.69", until recently "Deferral No.6", which affects Policies 6.6.2 b) and c) of the Waterway Corridors section of the Environmental Management Chapter of the Official Plan. The National Capital Commission (the NCC) originally appealed these policies, seeking a substantially wider range of uses than the policies presently allow. Regional Council deferred approval of these policies in 1994 and discussions with the NCC have occurred off and on during the ensuing years until recently when, prompted by the resolution of NCC and Regional appeals against the new Zoning By-law (By-law 93-98) the City and the NCC reached a settlement on revisions to the wording of the affected policies in the Official Plan. In anticipation of a hearing before the OMB, the NCC had earlier requested Regional Council to lift Deferral No.6 and refer Policies 6.6.2 b) and c) to be heard concurrently with the zoning appeals. On March 10, 1999, Regional Council agreed to refer the policies to the OMB. At that point, Deferral No.6 became Referral No.69 and the matter came before the OMB.

The mediated solution which City Council is being asked to endorse (as set out in Document 1) is considered to be compatible with the agreement reached between the NCC, the Region and the City concerning appeals to By-law 93-98 affecting lands within the Greenway System (of which the Waterway Corridor is a part) as designated on Schedule "A" - Land Use of the City of Ottawa Official Plan. The proposed revisions (which affect Policy 6.6.2 "c") only represent a finer grain of direction as to the type of activity that may be permitted within the Waterway Corridor, while ensuring protection of the primary function of such areas to provide leisure uses and activities and preserving the natural environment, consistent with the overall intent and purposes of the Greenway System.

Document 2 is a letter from the National Capital Commission concurring with the mediated solution.

Consultation

The mediation process is conducted primarily between the City and the appellant.

The Environmental Management Branch (UPPW), the Business Strategy Branch (Corporate Services), and the Office of the City Solicitor were consulted in the development of the mediated solution. The Environmental Management Branch indicated that it is in agreement with the proposed modification to Policy 6.6.2 c) and the Business Strategy Branch did not raise any objections.

Occasionally, when a matter affected by mediation is considered to be of interest to a broader constituency, a limited external consultation is carried out. In this case, the Vice Chairperson of the Environmental Advisory Committee and the Chairperson of the Federation of Community Associations of Ottawa-Carleton (FCA) were provided with a copy of the proposed wording changes. Follow up contact was made within a month and while the FCA has indicated support verbally for the mediated solution, as of the date of writing of this report, no reply has been received on behalf of the Environmental Advisory Committee.

A copy of this report was provided to the Environmental Advisory Committee and to the Federation of Community Associations of Ottawa-Carleton in advance of the Planning and Economic Development Committee meeting.

Disposition

Department of Corporate Services - Statutory Services Branch to notify the appellant (Mr. François Lapointe, Director, Planning Division, Capital Planning and Real Asset Management, National Capital Commission, 202-40 Elgin Street, Ottawa, Ont., K1P 1C7) and the Region of Ottawa-Carleton (Mr. Nigel T. Brereton, Senior Project Manager, Development Approvals Division, Planning and Development Approvals Department, Region of Ottawa-Carleton, 111 Lisgar Street, Ottawa, Ont., K2P 2L7) of City Council's decision.

Department of Corporate Services - Office of the City Solicitor to forward the mediated solution to the Ontario Municipal Board and request the Board to issue an Order upon withdrawal of the appeal by the appellant.

List of Supporting Documentation

Document 1 Mediated Solution to Referral No.69.

Document 2 Letter from Vice & Hunter Barristers and Solicitors on behalf of the National Capital Commission, dated April 16, 1999.

Part II - Supporting Documentation

Mediated Solution to Referral No.69 to the City of Ottawa Official Plan

Document 1

Document 1 uses a standardized chart format to summarize the issues and their resolution, consistent with that presented to City Council in all previous referrals and deferrals. The mediated solution is highlighted by a combination of “strike-out” and/or “redlining” to indicate where existing text has been removed and new text has been added to replace or augment the existing policy affected by the referral. It is the mediated solution that is being referenced in Recommendation 1.

<i>Subject:</i> WATERWAY CORRIDOR (ANCILLARY AND COMPLEMENTARY USES)	<i>Referral #</i> 69
<i>Appellant:</i> National Capital Commission	
<p style="text-align: center;"><u><i>Existing Policy</i></u></p> <p>Policy 6.6.2 b) City Council may support the use of, Waterway Corridor for leisure, preferably pathway systems, and water-oriented activities and uses, such as boating and beach facilities. Development associated with the leisure pursuit shall meet the objectives and policies of the Greenway System, particularly the requirements as outlined in Policy 6.2.2 e) of this chapter.</p> <p>Policy 6.6.2 c) City Council may permit uses, ancillary and complementary to the leisure use/activity, within the Waterway Corridor provided that these uses are clearly secondary to, and supportive of the primary leisure resource and it can be demonstrated that such uses are not more appropriately located in another area designated on Schedule A - Land Use.</p>	
<p style="text-align: center;"><u><i>Summary of Issue</i></u></p> <p>The Waterway Corridor designation as written does not support accommodation of capital institutions and ancillary commercial uses.</p> <p>There is a general need to be able to carry out Federal Land Use Plan (now <i>Plan for Canada’s Capital</i>) objectives to link various Capital destinations within the City in a manner that is compatible with the policies of the Greenway System and consistent with the policies of the Regional Official Plan.</p>	

Mediated Solution

No change to Policy 6.6.2 b).

Replace Policy 6.6.2 c) with the following: “

“City Council may permit other uses which benefit or serve the needs of visitors to the Capital, provided these uses contribute to, or are ancillary to, and will not detract from either the leisure uses and activities associated with the Waterway Corridor or its natural environment. These may include such uses as small-scale leisure facilities, small-scale commercial activities, and small-scale institutional uses. In this regard, it must be demonstrated that such uses:

- i) will meet the development guidelines as outlined in Policy 6.6.2 e) of this Chapter; and
- ii) are not more appropriately located in another area designated on Schedule A - Land Use.”

Letter from Vice & Hunter

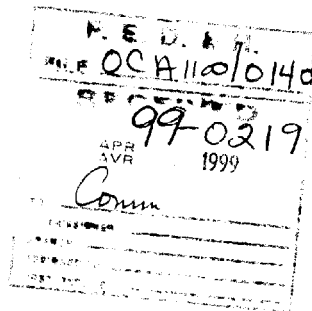
Document 2

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VICE & HUNTER

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**VICE &
HUNTER**
Barristers & Solicitors



John

April 16, 1999
Our File No. 960280

City of Ottawa
Department of Urban Planning
and Public Works
111 Sussex Drive
OTTAWA, Ontario
K1N 5A1

J. Peter Vice, Q.C.

Attention: E.M. Robinson, Commissioner

Dear Mr. Robinson:

William R. Hunter

RE: Referral No. 69 (former Deferral No. 6)
City of Ottawa Official Plan

As you are aware, we act on behalf of the National Capital Commission with regard to the aforementioned matter. Our client has asked that we respond to your letter of March 30th, 1999.

Brenda M. Vice

Firstly, let me say that our client agrees with the modifications to Section 6.6.2 c which staff are prepared to take to City Council. We believe this modification is in the best interests of all parties.

Cindy A. O'Leary

It is the writer's opinion that your suggestion that it would be appropriate for the National Capital Commission to write directly to the Board at this time stating that it wishes to withdraw Referral No. 69, is somewhat premature. You may or may not beware, that Ms. Nader-Merhi and the writer, at a prehearing conference held by the Board on April 7th, 1999, advised the Board member that the parties were hoping to resolve this matter and that the Board agreed to deal with the matter at a later date.

Marc R. Labrosse

Should City Council adopt the staff recommendation with regard to this modification, I will be speaking with Mr. Bellomo as to how the appeal is to be dealt with. In any event, it is in everyone's best interest that the matter get on to Council as soon as possible.

D. Gregory Meeds

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04/16/99 11:05 FAX 613 232 3509

VICE & HUNTER

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**VICE &
HUNTER**
Barristers & Solicitors

Should you have any questions, do not hesitate to give me a call.

Yours very truly,

VICE & HUNTER

per:

J. Peter Vice

JPV/nc
By Fax

c.c. - Mr. Jerry Bellomo, City of Ottawa
Ms. Hana Nader-Merhi, City of Ottawa
Mr. Francois Lapointe, N.C.C.
Mr. Richard Scott, N.C.C.
Ms. Bev Jensen, FoTenn Consultants Inc.