



August 31, 2020

Laurel McCreight MCIP, RPP

Planner II

Planning Services

Planning, Infrastructure & Economic Development Department

110 Laurier Avenue West, 4<sup>th</sup> Floor

Ottawa ON K1P 1J1

sent by email: [Kanatalakes@ottawa.ca](mailto:Kanatalakes@ottawa.ca)

Dear Ms. McCreight

RE: Rezoning File #D02-02-19-0123; Subdivision Application #D07-16-19-0026  
7000 Campeau Drive – Planning Opinion – Second Submission

I continue to be retained in my capacity as a professional land use planner by the Kanata Greenspace Protection Coalition (KGPC) to provide the Coalition with a land use opinion on the development applications filed to permit the redevelopment of 7000 Campeau Drive (the subject property).

On July 31, 2020, we were advised that ClubLink had responded to the City's comments on the technical and public circulation of these applications. The purpose of this letter is to provide an overview of my opinions on the revised submission for your consideration in the review of the subject applications. However, the KGPC reserves the right to submit additional comments on this and other aspects of these applications should they deem it necessary.

### Revised Development Proposal

The development proposal has been revised to some degree in response to both City and community input. The following table was provided in the Addendum dated July 13, 2020 to the Planning Rationale which summarizes these changes:

**Table 1 – Statistical Comparison**

|                                    | Original Submission<br>(October 2019) | Resubmission<br>(June 2020) |
|------------------------------------|---------------------------------------|-----------------------------|
| Dwelling Units                     | 1,502                                 | 1,544                       |
| Detached                           | 545 (22.76 ha)                        | 630 (24.63 ha)              |
| Front Drive Townhouses             | 498 (11.05 ha)                        | 332 (7.79 ha)               |
| Back-to-Back Townhouses            | 88 (1.02 ha)                          | 70 (0.79 ha)                |
| Stacked Townhouses                 | 0 (0 ha)                              | 76 (0.80 ha)                |
| Medium Density                     | 371 (2.97 ha)                         | 436 (2.91 ha)               |
| <b>Subtotal (Residential land)</b> | <b>37.80 ha</b>                       | <b>36.92 ha</b>             |
| Parks                              | 3 (4.36 ha)                           | 4 (5.91 ha)                 |
| Stormwater Ponds                   | 5 (8.02 ha)                           | 4 (7.31 ha)                 |
| Additional Open Space              | 5.36 ha                               | 5.19 ha                     |
| Landscaped Buffers                 | 1.70 ha                               | 1.65 ha                     |
| <b>Subtotal (Open Space land)</b>  | <b>19.44 ha</b>                       | <b>20.06 ha</b>             |
| Roads                              | 13.65 ha                              | 13.91 ha                    |
| <b>Total Site Area</b>             | <b>70.89 ha</b>                       | <b>70.89 ha</b>             |

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While the move to place small lot single detached housing forms adjacent to large lot existing singles is a positive step from a land use and building form perspective, the end result still represents a less than optimal compatibility. This step is also counter-balanced with an increase in the overall unit count. This has been achieved by the introduction of a greater number of medium density apartment style units along with stacked townhouse units which are new to the design concept. The amount of usable open space (parks and additional open space) has increased from 9.72 hectares to 11 hectares primarily through the addition of one park. However, this remains a far cry from the open space requirements for this neighbourhood based on the 40% Agreement and the policies found in **Section 4.10 Greenspace Requirements** of the Official Plan that were noted in my previous opinion on these applications. The golf course and related open space were and are essential elements of this master planned community and their replacement with the proposed residential development in my opinion, would irrevocably change the nature of the community and cannot be seen as good planning or in the public interest.

### **Overall Opinion on Revised Submission**

Having reviewed the materials submitted in response to the City's technical comments and the community comments, my opinion remains unchanged. I reiterate that the subject applications to redevelop 7000 Campeau Drive should be refused as they do not conform to the policies of the Official Plan, in particular **Section 2.2.2 Managing Intensification Within the Urban Area; 2.3.3 Drainage and Stormwater Management Services; Section 2.5.1 Designing Ottawa; Section 3.6.1 General Urban Area; Section 4.10 Greenspace Requirements** and **Section 4.11 Urban Design and Compatibility**. Further, it is my opinion that these applications would permit a scale and intensity of infill development that has never been contemplated by the Official Plan or any predecessor secondary plans for the subject property so it cannot be considered orderly development. It is not in my opinion, good planning or compatible development given the neighbourhood context and creates the potential for causing undue adverse effects on adjacent properties, the overall built community as well as the natural environment.

With respect to the 40% Agreement, it has been my experience that an application under the Planning Act cannot proceed where there is an outstanding issue of law that relates to the subject lands. To do so would require a condition to be placed on the decision that related to the outcome of the court challenge. While I defer to my legal colleagues for a professional opinion, it would seem improper to me as a professional land use planner that such a condition could be imposed under the Planning Act.

Further to the effect of the Agreement in planning terms, it is also my opinion that notwithstanding the outcome of the current legal challenge, the subject applications cannot be approved without an official plan amendment to **Section 4.10 Greenspace Requirements** the wording of which is directly tied to the wording of the Agreement. The amount of open space proposed to be dedicated is insufficient to satisfy the requirements of this Section of the Plan. Thus, it is my opinion that the subject applications would not and cannot conform to this Section of the Official Plan as currently written. Neither a rezoning nor subdivision application can be approved conditionally on a future official plan amendment.

I find I must also take issue with the way in which the Addendum to the Planning Rationale categorizes the nature and basis of the proposed redevelopment. This document and its parent Planning Rationale



treat these lands as ‘underutilized’ and ‘a unique opportunity for redevelopment’ with no recognition of the existing and well used development of the existing golf course and its accessory function of community open space. The subject lands are not a derelict site that urban development has passed by. The redevelopment of these lands, should it be permitted, must reflect the historic use and role of these lands in shaping the community of Kanata Lakes.

Further to this point, these documents imply the subject property should be viewed as greenfield or new suburban development which in my opinion, is not correct. Such lands are subject to the policies found in **Section 3.6.4 Developing Communities** which relate to *“parts of the city that are undeveloped or substantially underdeveloped.”* These areas are specifically designated on **Schedule B Urban Policy Plan**. The policies in this Section do not apply nor should they be used as examples to guide redevelopment of the subject property.

The subject property is designated under **Section 3.6.1 General Urban Area**. On page 13 of the Addendum in the second full paragraph, there is reference to policies under Section 3.6.1 that refer to the densities in Kanata North and on Huntmar Road and compares these to the subject property. This in my opinion, is not a valid comparison as these areas were the subject of an extensive community design plan process with significant public engagement to provide direction for an area that was not yet developed. The applications currently under consideration went through no such process and are in fact fully integrated into an existing and completely developed community which was based on an earlier concept plan that designated these lands for a golf course and open space.

With respect to the density assumptions and calculations in the Addendum (found on pages 11 and 12) I take issue with the inclusion of any of the lands south of Campeau Drive. These lands are part of the Town Centre and were intended to be all medium and high density in mid to high-rise building forms. Campeau Drive, designed to be a four-lane divided arterial, is a boundary condition between the low to medium density of the residential neighbourhoods and the Town Centre. Any calculation of the existing densities of the adjacent neighbourhood must in my opinion include only those lands north of Campeau Drive when considering issues of compatible densities and building profiles.

With respect to building heights and profiles, it is noted on pages 16 and 22 of the Addendum that the medium density housing types will include apartment buildings between 4 and 6 storeys. While the location of these is proposed on Campeau Drive, this would be a significant departure from the existing development along the north and of the most part, the south side of Campeau Drive. Currently there are no residential buildings taller than two storeys along the north side and on the south side the predominant form of housing are townhouses with a four-storey height limit. I reiterate my previous comment that Campeau Drive was planned as a boundary condition separating the higher density Town Centre from the other low-profile residential neighbourhoods. The inclusion of six-storey mid-rise buildings along the northern side would not be in keeping with this design principle. I would also draw your attention on page 20 to the proposed height limit for the R5 zone for the mid-rise buildings. This sets a height limit of 22 metres which in my opinion is excessive given that most six-storey buildings are



usually zoned based on a height limit between 18 and 20 metres. A height of 22 metres would encourage the design of seven storey buildings.

### **Planning and Regulatory Framework Review**

In my previous opinion, I outlined the review framework that must be followed in the assessment of a development application. Since drafting that opinion, the Provincial Policy Statement (PPS) has been updated by the PPS 2020 which came into effect on May 1<sup>st</sup>. While all other aspects of the review framework are based on the date an application is filed, a change in the PPS must be considered even if it occurs after an application has been filed. As a result, I have updated my previous opinion based on the PPS 2020. In all other respects, the review framework remains based on the various documents in effect at the time the applications were deemed complete.

In this regard, I disagree with the opinions expressed in the Addendum starting on page 6 submitted by the applicant wherein reference is made to the current 5 year review of the City of Ottawa's Official Plan – an initiative known as *Ottawa Next: Beyond 2036*. As I have indicated, an application must be reviewed under the Official Plan in full force on the date the application has been deemed complete. While progress has been made on Council consideration of the recommendations arising from *Ottawa Next: Beyond 2036*, these are not applicable to the applications as filed and should not be considered by City Council even if they are supportive which in my opinion is a questionable position. Any changes to the Official Plan through this update will be subject to potential appeal and so cannot be guaranteed to be in force at any time in the future.

With respect to my previous opinion while the main points remain the same, I have included it here as I have added some minor revisions which are underlined where I have clarified some aspects of the earlier letter. The underlining within italicized quoted sections of various planning documents remains as previously submitted.

### **Criteria from the *Planning Act***

***51. (24) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,***

***(a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in [Section 2](#);***

The **Provincial Policy Statement 2020 (PPS)** provides policy direction on matters of provincial interest related to land use planning and development. In this regard, the *Planning Act* requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the Act. In my review of the subject applications, it is my opinion that there is failure to demonstrate the required consistency with the following sections of the PPS:

*“Section 1.1.1 Healthy, liveable and safe communities are sustained by:*



*c) avoiding development and land use patterns which may cause environmental or public health and safety concerns;”*

This provision remains unchanged in PPS 2020 as does my opinion. It is my opinion that the development of this significant area of open space which forms an integral part of the original community design for Kanata Lakes has the potential to adversely impact the storm water management network in this area through the loss of permeable areas in the watershed. There are also potential public health issues relating to the historic use of fungicides which contained mercury in the management of the golf course that has been identified in the Phase II ESA submitted by the applicants. Additional analysis was carried out as an addendum to the Phase II report in response to the issue of mercury contamination raised in previous comments. From this analysis, it appears the problem is considerably more prevalent than previously identified and possibly requiring remediation of the entire site. It is clear in my opinion that more comprehensive study of this issue is necessary to determine the extent of the hazard before an informed decision that is consistent with this provision of the PPS, can be made on the applications.

*“h) promoting development and land use patterns that conserve biodiversity and*

*i) preparing for the regional and local impacts of a changing climate.”*

Provision h) was revised in the PPS 2020 by making the portion relating to climate change a separate clause i). However, my opinion regarding a lack of consistency remains the same. The subject property contains both natural and managed open space areas and water features that have played a role in sustaining and encouraging local biodiversity. The subject applications propose a significant reduction in these areas and redevelopment of the balance of the lands for urban residential use which in my opinion will have adverse impacts on this biodiversity as well as reduce the existing tree cover generally which is a critical part of reducing climate change impacts.

***(b) whether the proposed subdivision is premature or in the public interest;***

It is my opinion that the subject applications are premature and not in the public interest for two reasons:

1. Without a decision on the 40% agreement, these applications cannot be considered. As previously noted, a decision to approve or refuse these applications would have to be conditional on the outcome of the legal challenge to the Agreement which in my experience is a condition that could not be imposed under the Planning Act.
2. There has been inadequate study done on the community-wide implications of redeveloping the golf course lands. These lands were designed as an integral component of the broader neighbourhood. The road and pathway network along with the piped infrastructure and storm water management were designed and laid out on the understanding that these lands were to remain in open space use and accessible to the community. As noted in the Planning Rationale submitted by the applicant on page 41, even the building design guidelines for Kanata Lakes

referenced the importance of the golf course lands and the intent that they remain as open space: *“With respect to the golf course, Guideline 3.1.4.1 recommends that elevations which face the golf course or other public open areas must be given the same design emphasis as the street elevation.”*

This is just one example of the importance given to these lands in the context of the overall community. In view of this, it is my opinion that the subject applications cannot be viewed as a simple land use change through zoning and implemented through a plan of subdivision without consideration of this broader context. At a minimum, the consideration of this land use change should be delayed until a community design plan or similar study in accordance with **Section 2.5.6 Collaborative Community Design and Secondary Planning Processes** has been undertaken to fully assess and guide any redevelopment of the subject lands. The removal of this key design element of the community and its proposed development of over 1500 new dwelling units without such guidance cannot in my opinion be considered orderly development; good planning; or be in the public interest.

***(c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;***

It is my opinion that the subject applications do not conform to the Official Plan and cannot be considered a logical or planned extension of the adjacent subdivisions for the following reasons:

**Section 2.2 Managing Growth** provides overall direction on growth and its distribution in the City. Within the built up areas of the City, this growth is primarily by intensification and infill and guided by the built form and neighbourhood context in which it is located. The subject property is designated as General Urban Area and the preamble to Section 2.2 states the following: *“Lands designated General Urban Area will continue to mature and evolve through intensification and infill but at a scale contingent on proximity to major roads and transit, and the area’s planned function. Consideration of the character in the surrounding community is a factor in determining compatibility within a community.”* The subject property is not a designated or targeted area for intensification and in fact represents a key open space feature of an existing master planned community. Therefore, it is my opinion that the proposal would not conform to the general intent of this Section of the Plan.

**Section 2.2.2 Managing Intensification within the Urban Area** provides additional direction to be considered in the review of intensification in areas outside targeted areas. In this regard, it is my opinion the following policies are the most relevant:

22. *“The City also supports compatible intensification within the urban boundary, including areas designated General Urban Area. The City will promote opportunities for intensification in areas determined by the policies in Section 3.6.1. Intensification that is compatible with the surrounding context will also be supported on: brownfield sites that have been remediated; on underdeveloped sites such as current or former parking lots; in extensive areas previously used for outside storage; sites that are no longer viable for the purpose for which they were originally used or intended; and on sites of exhausted pits and quarries in the urban area where the urban design [sic].”*

This policy clearly indicates the need for compatibility with the adjacent neighbourhood. As well, it provides some specific examples of areas to be considered for intensification. In the applicant's submission, it is noted that the subject property should be considered as "*sites that are no longer viable for the purpose for which they were originally used or intended*". In my opinion, the subject property does not qualify under this criterion nor any of the others listed in this section. A functioning and by community standards, well used golf facility and open space that forms a key design component of the neighbourhood remains a viable and sustaining element of this neighbourhood.

*23. The interior portions of established low-rise residential neighbourhoods will continue to be characterized by low-rise buildings (as defined in Figure 2.4). The City supports intensification in the General Urban Area where it will enhance and complement its desirable characteristics and long-term renewal. Generally, new development, including redevelopment, proposed within the interior of established neighbourhoods will be designed to complement the area's desirable character reflected in the pattern of built form and open spaces. The character of a community may be expressed in its built environment and features such as building height, massing, the setback of buildings from the property line, the use and treatment of lands abutting the front lot line, amenity area landscaped rear yards, and the location of parking and vehicular access to individual properties. The City will consider these attributes in its assessment of the compatibility of new development within the surrounding community when reviewing development applications or undertaking comprehensive zoning studies.*"

This policy provides additional guidance on what needs to be considered in determining compatibility. It is my opinion that the proposed development which is characterized by small lot singles, street townhouses and back to back dwelling types, all with much reduced lot areas and widths when compared to adjacent development, is not compatible intensification and does not conform to this section.

**2.3.3 Drainage and Stormwater Management Services** provides direction on this critical element of community development. Historically sections of the Kanata community have experienced significant issues with storm water management, both localized flooding due to network capacity issues and downstream environmental impacts such as erosion of ponds and overland drains. The original design concept for this community relied upon the permeable nature of the golf course lands to act as an active element in storm water management. In fact, overland drainage from lots adjacent to the golf course was evident in the grading of these lots. As well, it is indicated in the applicant's submission that the existing golf course lands had no direct outlet to the City managed storm water system. Thus both the historic use of these lands for direct infiltration as well as the new flows to be created through urbanization will have a profound impact which can only be truly understood through a comprehensive review of the original subwatershed plan as required in this section.

The resubmission contains considerably more analysis of this important issue. However, the applicant indicates that many of the issues raised by the City and community are not necessary to support a rezoning application and can be addressed through the technical review of the subdivision as well as future site plan applications. To be clear, the applications under review include both zoning and subdivision and therefore it is my opinion, these studies cannot be put off. An approval of the rezoning would signal that the premise of redevelopment has been accepted as being in conformity with the Official Plan. This would open the door to the sale of the lands which would shift the focus of review to technical matters that may not be resolvable. Thus, I reiterate that this level of scrutiny must be undertaken now. To not do so, in my opinion is not good planning given the ongoing issues with storm water management recently been identified in the KNL development lands. I would also draw your attention to **Section 2.4.3 Watershed and Subwatershed Plans** which provides additional guidance on this important consideration in the land development process and in my opinion has not been adequately addressed in the applicant's submissions.

**2.4 - Maintaining Environmental Integrity** provides guidance on the holistic planning and management of our environmental systems. The following excerpt from the preamble to this section is relevant to the subject applications: *"The challenge in planning for the environment is to anticipate how these processes and interactions are affected by human activity and to act so that their integrity can be preserved under changing conditions."* The subject applications have not taken this holistic approach but rather have treated the subject lands as a 'greenfields' area which had always been contemplated for urban development. The focus of the subject applications is on how to redevelop the lands in that greenfields context and not on the fact that the open space nature of the lands was a key guiding principle of the original master planned neighbourhood. In my opinion, this approach is not in conformity with this section.

**2.4.5 Greenspaces** provides guidance on these important areas in our community. The following excerpts from the preamble are particularly relevant to the subject applications: *"While greenspaces and woodlands in Villages and in the urban area may serve natural functions, they are also valued for serving more human needs: a green retreat, a living classroom and laboratory, and a place for outdoor recreation. Greenspaces and woodlands in urban areas and Villages also help create a sense of place and provide physical boundaries, features and buffers within and between communities. They moderate climate and provide a place to grow food in community gardens."*

In this regard Policy 2.4.5.1 b) states: *"Encouraging a high quality of urban design, consistent with the objectives and principles of Section 2.5.1, where natural lands and open space and leisure areas are used as integral elements in the design;"* is particularly relevant to the subject applications. While the City chose not to properly designate the subject lands as major open space as contemplated in Policy 2.4.5.1 a) at the time of the original development, these lands were zoned in an open space land use designation. This zoning designation clearly recognized the role of these lands in the overall design of





the community. As a result, it is my opinion that any attempt to rezone and redevelop these lands would not be in conformity with this policy.

As well, Policy 2.4.5.2 states: *“The City will acquire land in the urban area where public ownership is required to secure land for greenspace purposes, in keeping with the acquisition policies in Section 5.2.1.”* It is my opinion that the City, in view of the 40% Agreement, did not see the need to acquire the subject lands at the outset of the development of the area pursuant to this policy as they would be ‘protected’ by that Agreement. Notwithstanding the outcome of the legal challenge to the Agreement, Policy 2.4.5.4 states: *“Privately-owned open spaces such as marinas, campgrounds and golf courses contribute to greenspaces in Ottawa. When reviewing an application to amend a zoning by-law in these locations, the City will consider opportunities to maintain the Greenspace Network through the area and otherwise reduce the impact of the loss and may consider acquisition of the land in accordance with Section 5.2.1 policy 6 of this Plan.”* In my opinion, given the important and defining design role these lands play in the Kanata Lakes neighbourhood, this policy provides the necessary authority to acquire these lands to maintain their role in the Greenspace network.

**Section 2.5 Building Liveable Communities** and in particular **Section 2.5.1 Designing Ottawa** provides guidance on the important elements necessary to building sustainable and complete urban neighbourhoods and ensuring the components of these communities benefit from urban design considerations. The following excerpts from the preamble summarize the intent of this guidance:

*“Community design generally deals with patterns and locations of land use, relative densities, street networks, and the allocation of community services and facilities. Urban design is more concerned with the details relating to how buildings, landscapes and adjacent public spaces look and function together. As the City grows and changes over time, design of these elements should work together to complement or enhance the unique aspects of a community’s history, landscape and its culture. Encouraging good urban design and quality and innovative architecture can also stimulate the creation of lively community places with distinctive character that will attract people and investment to the City. The components of our communities where urban design plays a key role include:*

- **Built form**, including buildings, structures, bridges, signs, fences, fountains, statues and anything else that has been constructed, added or created on a piece of land;
- **Open spaces**, including streets, parks, plazas, courtyards, front yards, woodlots, natural areas and any other natural or green open areas that relate to the structure of the city;
- **Infrastructure**, including, sidewalks, bike paths, transit corridors, hydro lines, streetlights, parking lots or any other above- or below-grade infrastructure that impacts upon the design of the public realm.”

*“Introducing new development and higher densities into existing areas that have developed over a long period of time requires a sensitive approach and a respect for a community’s established characteristics. Development of large areas of undeveloped land or redevelopment of brownfield sites provides opportunity to create new communities. This Plan provides guidance on measures*



*that will mitigate differences between existing and proposed development and help achieve compatibility of form and function. Allowing for some flexibility and variation that complements the character of existing communities is central to successful intensification.*

*In general terms, compatible development means development that, although it is not necessarily the same as or similar to existing buildings in the vicinity, can enhances [sic] an established community through good design and innovation and coexists with existing development without causing undue adverse impact on surrounding properties. It 'fits well' within its physical context and 'works well' with the existing and planned function. Generally speaking, the more a new development can incorporate the common characteristics of its setting in the design, the more compatible it will be. Nevertheless, a development can be designed to fit and work well in a certain existing context without being 'the same as' the existing development. Planned function refers to a vision for an area which is established through a community design plan or other similar Council-approved planning exercise, or the Zoning By-law. The planned function may permit development that differs from what currently physically exists; addressing compatibility will permit development to evolve toward the achievement of that vision while respecting overall community character.*

This section contains seven design objectives which “are broadly applicable, to plans and development in all land use designations, and from a city-wide to a site-specific basis.” Policy 2.5.1.1 is the operative part of this section and states: “In the preparation of community design plans, the review of development applications, studies, other plans and public works undertaken by the City, the Design Objectives set out above will apply, as applicable. Proponents of new development or redevelopment will also be required to demonstrate how their proposal addresses the Design Objectives.”

In my opinion, the subject applications, and the development they would permit are not in conformity with these design objectives. The original urban design principles for the Kanata Lakes neighbourhood were premised on the open space areas contained within the subject lands. The layout of roads; the location of houses around its perimeter; the interconnecting pathways and informal accessibility of the lands; the diversity and density of the housing mix; and the management of storm water, all of these were a direct result of this overall design. Further it is my opinion that the proposed mix and density of housing, particularly where it directly backs onto existing housing, is not compatibility in lot size and setbacks. As such, it represents over development of the lands even if the over-arching issue of the loss of open space was not in play.

The subject property is designated as **General Urban Area** under **Section 3.6.1** of the Plan. This designation is quite broad and applies to many areas of the City of Ottawa so the land use permissions are wide ranging and their implementation is left to the zoning by-law to control based on the neighbourhood context. The following excerpt from the preamble to the section indicates how it is to be applied: “Subject to the policies below, the City supports infill development and other intensification within the General Urban Area in a manner that enhances and complements the desirable characteristics



*and ensures the long-term vitality of the many existing communities that make up the city.”* In this regard the following policies are relevant to the review of the subject applications:

*“3.6.1.2 The evaluation of development applications, studies, other plans and public works undertaken by the City in the General Urban Area will be in accordance with Section 2.5.1 and Section 4.11.”*

*“3.6.1.5 The City supports intensification in the General Urban Area where it will complement the existing pattern and scale of development and planned function of the area. The predominant form of development and intensification will be semi-detached and other ground-oriented multiple unit housing. When considering a proposal for residential intensification through infill or redevelopment in the General Urban Area, the City will:*

- a. Assess the compatibility of new development as it relates to existing community character so that it enhances and builds upon desirable established patterns of built form and open spaces;*
- b. Consider its contribution to the maintenance and achievement of a balance of housing types and tenures to provide a full range of housing for a variety of demographic profiles throughout the General Urban Area;*

In considering the subject applications, it is my opinion that they do not conform to these policies. As previously noted, while these lands are designated as General Urban Area, the historic intent of these lands as outlined in the 40% Agreement, was and continues to be, open space. Any attempt to change this original design element of the neighbourhood to permit urban redevelopment as proposed cannot be considered to *enhance or build upon the desirable established patterns of open spaces*”. In my opinion the planned function for the subject lands is open space as currently regulated by the existing zoning.

**Section 4.10 Greenspace Requirements** is part of **Section 4 - Review of Development Applications** which provides direction in the review of the subject applications. Section 4.10 in particular provides policy guidance on the location and use of greenspace throughout the City. From this section, the following policies are most relevant:

*“Policy 4.10.5 Notwithstanding policies 2, 3 and 4 above, parkland dedication requirements for development or redevelopment on land in:*

- b. The area of Kanata Lakes defined in the Parkland Dedication By-law: the parkland requirements for all development that is subject to the legal agreement to provide 40% greenspace, will be determined based upon that agreement.”*

*“Policy 4.10.9 The Parkland Dedication By-law will identify those uses that will be exempt from parkland dedication requirements, such as development or redevelopment by the Governments of Canada, Ontario or agencies thereof. The Parkland Dedication By-law will also identify and address all other policies listed above.”*

It is clear in these policies that the subject property and Kanata Lakes in general are given special treatment with respect to greenspace dedication requirements and the importance of the 40% Agreement is enshrined in the Official Plan for determining the necessary quantities of lands. This policy is also reflected in the parkland dedication by-law as noted in this excerpt from the applicant's Planning Rationale on page 37:

*"It is noted that Section 8 of the City's Parkland Dedication By-law 2009-95 provides that the rates described in Table 1 "do not apply to that area of Kanata shown on Schedule 1 of this by-law where there is an agreement between the developer and the City to provide forty percent (40%) of the total land area being developed as open space".*

Notwithstanding the outcome of the legal challenge to the 40% Agreement, it is my opinion that this Section of the Official Plan ensures that the operative provisions of the Agreement continue as part of the Plan until amended. In my opinion, these policies, supported by the implementing Parkland Dedication By-law, can only be interpreted as requiring the subject lands to be maintained as greenspace. In view of this, the subject applications to rezone and develop the lands for urban residential purposes do not conform to the Plan and would necessitate an amendment to the Plan should the 40% Agreement not be upheld.

**Section 4.11 Urban Design and Compatibility** provides specific guidance on the review of the subject applications to determine whether they represent good planning. The following excerpts from the preamble provide insight into the intent of the section:

*"It is recognized that because land use designations such as General Urban Area, Mainstreets and Employment Area contain broad use permissions, it will be necessary for the zoning by-law to establish more specific permitted use lists and development regulations within areas and on individual sites in a manner that achieves compatibility among proximate uses and built forms.*

*At the scale of neighbourhoods or individual properties, issues such as noise, spillover of light, accommodation of parking and access, shadowing, and micro-climatic conditions are prominent considerations when assessing the relationships between new and existing development. Often, to arrive at compatibility of scale and use will demand a careful design response, one that appropriately addresses the impact generated by infill or intensification. Consequently, the issue of 'context' is a dominant theme of this Plan where it speaks to compatibility and design.*

The applicants have submitted a Design Brief pursuant to Policy 4.11.1 to address the requirements of this section. It is my opinion that the Design Brief suffers from a fatal flaw in that it starts with a premise that this is a greenfields site adjacent to developed lands and not part of an overall master planned community that was based on a very different set of guiding principles. As such, it is my opinion that it does not and I would go so far as to say it cannot, address the requirements of this section and thus is inadequate. An appropriate approach, in my opinion, would have been to start with the original master plan for Kanata Lakes and from there determine where and how much if any, new development could be added without adversely impacting the principles of the original design. In my opinion, the original

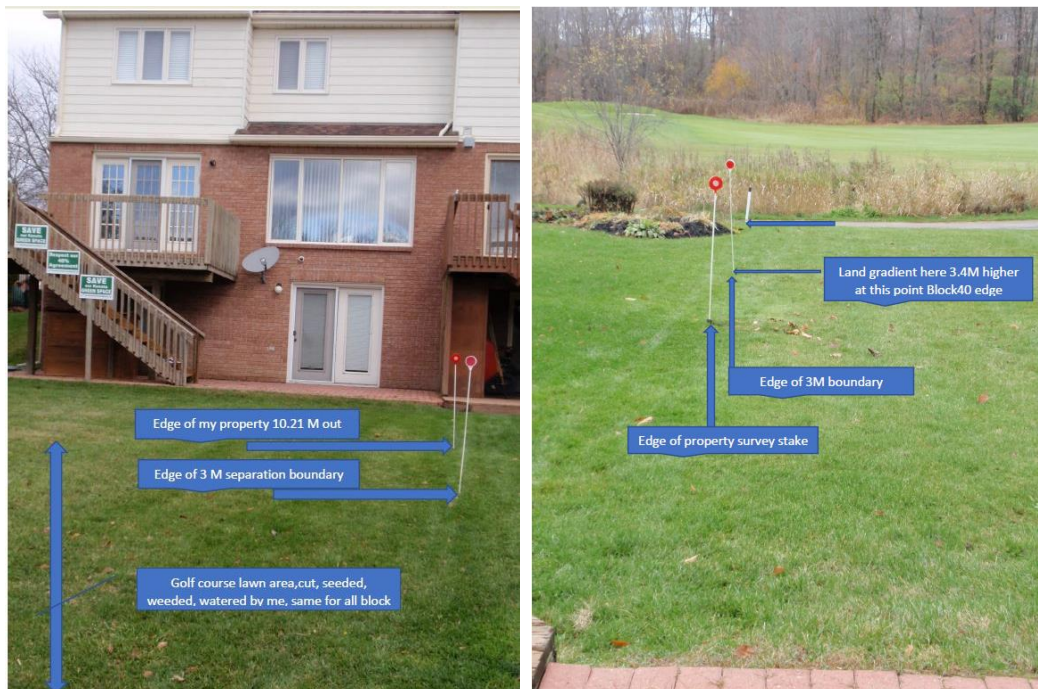


master plan was a community design plan in the context of the Official Plan which requires compliance with the intent of Policy 1 c) which states:

*“A Design Brief will be required as part of a complete application, except where identified in the Design Brief Terms of Reference. The focus of this Brief will vary depending on the nature of the development. The Brief shall evaluate consistency and demonstrate that the following content is considered and/or incorporated into the development proposal with:*

*c) The design provisions of a community design plan or secondary plan.”*

Policies 4.11.5 to 8 and .19 and .20 provide more detailed design considerations relating to building types, street orientations, setbacks and outdoor amenity among other things. The Design Brief does speak to these matters but again does so without in my opinion, the necessary perspective and principles that underlie the existing adjacent development. This is particularly evident when one considers the original housing was designed to open up onto the golf course with large windows and walk out basements with their rear yards blending seamlessly with the golf course lands. Under the proposed development, this open vista with no overlook impacts on privacy in outdoor amenity spaces or views into rear windows will now be replaced by a row of new housing in close proximity separated only by a newly planted vegetative buffer and in some cases a public pathway which raises additional security risks as an unsupervised area. The following images from 47 Windeyer Crescent provide an example of this intrusion.



This in my opinion does not represent good planning nor is it in the public interest. With this I conclude my opinion on issue of conformity with the Official Plan required by this provision of the Act.

**(d) the suitability of the land for the purposes for which it is to be subdivided;**

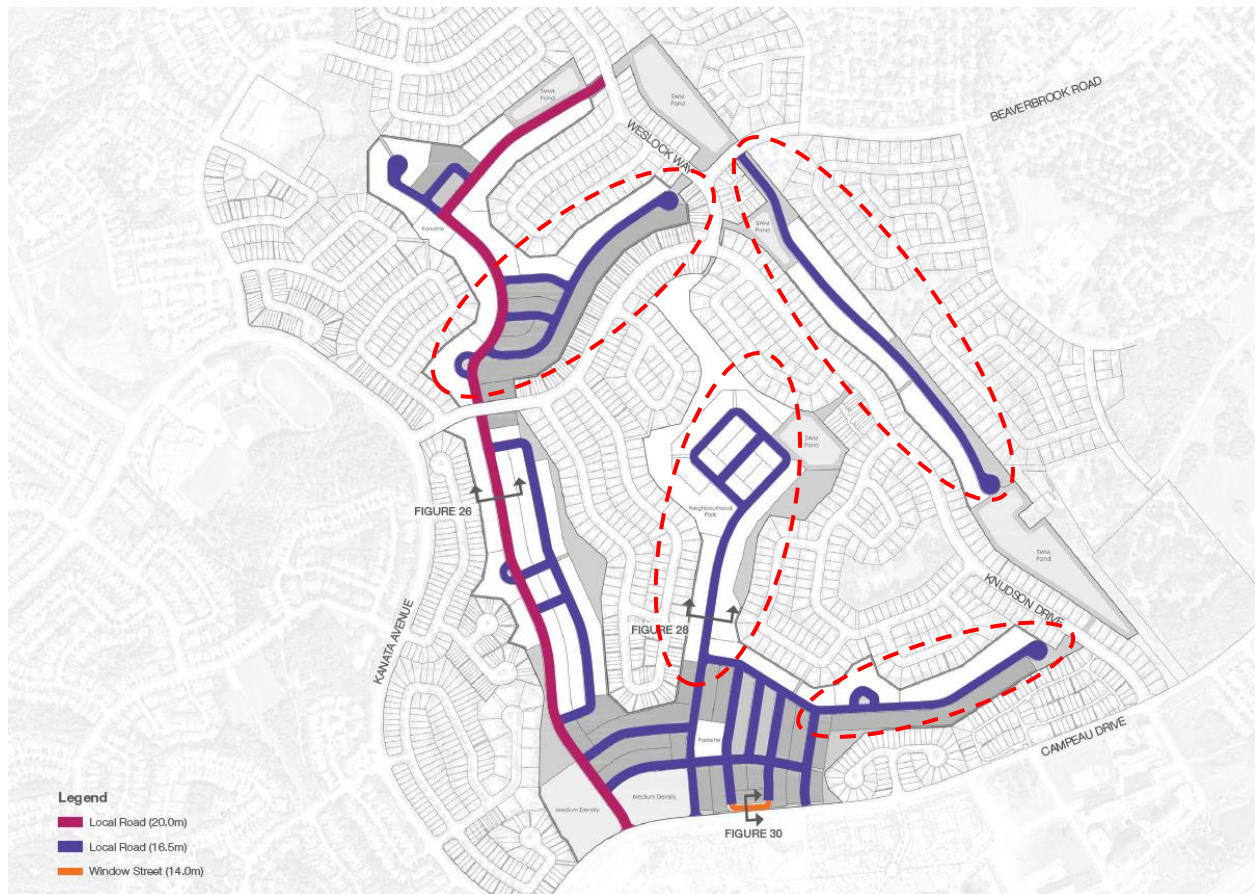
While this provision of the *Planning Act* is generally applied to the physical nature of the land, it is my opinion the intent of the section can be extended to include the context in which the land is located within. In this regard, the over-arching response to the land's suitability for subdivision must be tied back to the original master plan for this community and as outlined in the 40% Agreement. In these documents, the lands were never intended for any form of development other than open space and recreational uses to be shared with the neighbouring residents. As such, it is my opinion that the lands are not suitable for the subdivision as proposed.

**(d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;**

Affordability is addressed by the applicant and I have no opinion on this issue.

**(e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;**

The subject applications propose the following roadway network to support the development.



As can be seen, the network is constrained by the elongated and disconnected nature of the development parcels. As a result, there are a number of overly long cul-de-sac links proposed which are highlighted on the drawing. In my opinion, these street links are not good planning from the perspective of emergency access/egress; do not promote interconnectivity; and so do not conform to this provision of the Act.

***(f) the dimensions and shapes of the proposed lots;***

Both the Planning Rationale and the Design Brief provide considerable detail on the proposed lot and building configurations proposed. While the unit types are similar to what is found in the community, to quote from the Design Brief page 6 they: *“Incorporate a Variety of Built Form that is Unique, yet Fosters a Harmonious Environment with the Existing Community;”* This uniqueness coupled with the significantly smaller lot sizes and frontages, particularly for single detached dwelling types, will introduce an incompatible change in streetscape character. The maximum width of the proposed lots for single detached is 43 feet while the existing lot fabric is primarily 60 to 70 foot lot widths. Similar reductions in lot widths between the proposed and existing can be found in the street townhomes. This dramatic change in both streetscape and the relationship of back yards will have adverse impacts on overall neighbourhood character and is not in conformity with the intent of this provision of the Act.

***(g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;***

The description of the conceptual building standards found in the Design Brief is typical of new, greenfields, suburban development but does not reflect the performance standards of the adjacent lands. In my opinion, this results in an incompatible built form relationship between the proposed and existing communities.

In the original submission, there was a proposal for a separate landscape buffer of 3 metres which was not part of the lot where new lots abut existing properties. The ownership and management of this proposed buffer was not detailed however, there was an implied intention that it be conveyed to the municipality which in my opinion was not a plausible proposal given the access, maintenance and liability associated with such a buffer. In this re-design, the buffer has been replaced by a proposed zoning requirement that will restrict the use of the last 3 metres of the lot to soft landscaping only. The Design Brief (pg. 42) suggests that this strip will be planted with shrubs or landscape vegetation to form a screen between abutting properties. This 3 metre strip would be part of the lot deeded to the occupant but would not be a usable portion based on a zoning provision for a 6 metre rear yard setback to be measured from the edge of this 3 metres thus creating a 9 metre back yard. It is my opinion that this approach is fraught with even more problems than the previous proposal which would have vested this 3 metre buffer in the name of the municipality. I have seen similar attempts to regulate the use and maintenance of rear yards of residential properties for drainage purposes in former Nepean. While a good idea in principle, enforcement is all but impossible in practice. These areas become de facto extensions of the owner’s yard with issues such as 1.maintenance of landscaping as the homeowners don’t want to pay to maintain something they can’t use; and 2. No one wants to put their shed partway



to the back of the yard so it is placed in the 3 metre reserve. Given that pre-fab sheds don't need a permit and that by-law enforcement is on complaint only, over time the 3 metres is gradually eroded away or at a minimum, falls victim to poor maintenance and dead or dying trees and shrubs.

***(h) conservation of natural resources and flood control;***

Given that the intent of the subject applications is to convert lands developed for open space purposes to a residential subdivision, there is limited opportunity to conserve existing natural resources. As previously noted, there are existing issues with storm water management and related flood control during storm events. Storm water management in particular requires a broader review possibly at the subwatershed level to ensure this issue is adequately addressed. Currently these lands allow for significant natural infiltration and serve as an informal outlet for drainage from the adjacent developed lands. It is my opinion that the applicant's submissions in this regard do not satisfy the intent of this provision of the Act.

***(i) the adequacy of utilities and municipal services;***

I am not qualified to offer an opinion on these matters.

***(k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;***

The following table taken from the applicant's submission provides a comparison of alternatives for land dedication.

Parkland Area Comparison

| <i>Scenarios</i>         | <i>Area (ha.)</i> | <i>Area (ac.)</i> | <i>%</i> |
|--------------------------|-------------------|-------------------|----------|
| Current Plan*            | 19.44             | 48.04             | 27.4%    |
| Minimum 5% Requirement** | 3.54              | 8.76              | 5.0%     |
| 1ha/300unit target***    | 5.01              | 12.37             | 7.1%     |
| 40% Agreement            | 28.36             | 70.07             | 40.0%    |

*\*Based on Subtotal Park Area as noted above*

*\*\*Based on Total Gross Area as noted above*

*\*\*\*Based on Total Unit Count as noted above*

While there have been some changes to the amount of open space provided in the second submission, these changes do not materially alter the ratios depicted in this table. In view of this my opinion on this issue remains unchanged. Given that the City has enshrined in both its Official Plan and its Parkland Dedication By-law the principles of the 40% Agreement previously noted in this letter, it is my opinion that anything less than the 40% would not conform to the Official Plan or to this provision of the Act. Thus, the proposed dedication does not conform to this provision of the Act.

***(l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and***

I have no opinion to offer on this provision.

***(m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control***





area designated under [subsection 41 \(2\)](#) of this Act or [subsection 114 \(2\)](#) of the [City of Toronto Act, 2006](#). 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2).

I have no opinion to offer on this provision.

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This concludes my review of the subject applications as revised by the second submission. In summation, it is my professional opinion that the subject applications should be refused as they do not conform to the Official Plan of the City of Ottawa or to the various provisions of Section 51 (24) of the *Planning Act R.S.O. 1990*.

Yours truly

*Dennis Jacobs*

Dennis Jacobs MCIP, RPP  
Principal Planner

Cc Kanata Greenspace Protection Coalition

