

ISSUE DATE:

Sept. 18, 2009



PL080959

Ontario
Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Appellants: See Attachment "1"
Subject: By-law No. 2008-250
Municipality: City of Ottawa
OMB Case No: PL080959
OMB File No.: PL080959

APPEARANCES:

<u>Parties</u>	<u>Counsel /Agent*</u>
City of Ottawa	T. Marc
Canadian Tire Corporation Limited and Canadian Tire Real Estate Limited	G. Meeds
TDL Group Corp.	M. Polowin
555 March Road Inc. and DIR Investments Inc.	J. Cohen
HB and GB Investments Ltd. and Kanata Research Park Corporation	G. Ferris
Riotrin Group of Companies	K. Ross
2024644 Ontario Inc., Redeemer Alliance Church, David Rosetti, Richcraft Homes Inc., Strandherd Meadows Inc. and Petro Canada	E. Blanchard
Signature Centre Limited	M. Chown*
Westboro Beach Community Association	D. Stewart*

**MEMORANDUM OF ORAL DECISION DELIVERED BY N. C. JACKSON
ON SEPTEMBER 4, 2009 AND ORDER OF THE BOARD**

This is a continuation in a series of Pre-hearings and Hearings into the Appeals filed against new comprehensive Zoning By-law 2008-250 of the City of Ottawa.

The following Appeals were dealt with as Motion 1:

- Appeal 63 by Canadian Tire Real Estate Limited and Canadian Tire Corporation Limited (Canadian Tire) for an existing store at 8181 Campeau Drive. Retail has been in operation under former Kanata Zoning. City of Ottawa Planner, Elizabeth Desmarais, recommends this change to By-law 2008-250 to permit retail in her affidavit material set out in Exhibit 2. The Board agrees that this appears as an oversight considering the mixed-use designation in the Ottawa Official Plan. Mr. Meeds, Counsel for Canadian Tire, consents to what is a settlement endorsed by the Ottawa Planning Committee and the City Council. The H symbol is removed since the requirement of a transportation study has been met. The Board allows this Appeal in part and orders the amendment of By-law 2008-250 in the form of the By-law set out in Exhibit 2, pages 50 to 54, specifically Section 4. The Appeal is otherwise dismissed.
- Appeal 57 by R. J. Motors is for an existing building, at 34 Edgewater Street. By-law 2008-250 placed a limit on retail space of 300 square metres whereas the existing building is 610 square metres. An earlier Ottawa By-law 2008-18 had recognized the existing larger area. Planner Desmarais recommends the change to permit what exists. Counsel Melinz for the Appellant concurs with this settlement, approved of by the City Planning Committee and Council. The Board allows the Appeal in part and orders the amendment of By-law 2008-250 in the form of the draft By-law set out in Exhibit 2, pages 50 to 54, specifically Section 5. The Appeal is otherwise dismissed.
- Appeals 36 and 54 are by TDL Group Corp. and College Square Properties Inc. for property generally throughout the City. These appeals were intended to seek clarification of what constitutes a parking lot to distinguish parking lot and buffer. Planner Desmarais's affidavit provides definitions proposed. Counsel Melinz and Polowin for the Appellants concur in this settlement. The Board accepts the

amendment as necessary clarification endorsed by the City Planning Committee and Council. The Appeals are allowed in part and By-law 2008-250 is amended as set out in Exhibit 2, pages 50 to 54, Sections 1 and 2. Related appeal grounds are abandoned but both appeals are otherwise continued.

- Appeal 19 by Signature Centre Ltd, located at 499 Terry Fox Drive. According to Ottawa Counsel, Timothy Marc, and Ottawa Planner, Elizabeth Desmarais, By-law 2008-250 inadvertently did not permit certain commercial uses on the site of an existing shopping centre including restaurants, and are now being proposed to be added. Agent Chown concurs in this settlement that has been approved of by the Planning Committee and City Council. The Board allows the Appeal in part and amends By-law 2008-250 in the form of the draft by-law in Exhibit 2, pages 50 to 54, Section 3. The Appeal is otherwise dismissed.
- Appeals 2, 67 and 76 are by HB and GB Investments Ltd. and Kanata Research Park Corporation. Counsel Marc and Planner Desmarais confirm the need to make the zoning conform to the Official Plan, Enterprise designation. The settlement approved by the City does so and Counsel Ferris, for the Appellants, concurs in this settlement. The amendment imposes an H symbol for public notification in the site plan process for 940 Klondike Road and for 915 Klondike Road. For 915 Klondike an Environmental Impact Statement is also required prior to the lifting of the H symbol. The Board was assured that the Official Plan in broad language permits a Hold for such purposes and that there was public notice of this settlement in the newspaper.

The Board Orders Appeal 2 be allowed in part and amends By-law 2008-250 in the form of the draft By-law in Exhibit 2, Pages 50 to 54, and Sections 6, 7 and 8. Appeals 67 and 76 are dismissed.

The By-law amendments (pages 50 to 54) are made as Attachment "A".

Motion 1 is allowed.

Motion 2 respecting Appeal 36 by TDL is set over to September 2009, scheduled for the Hearing of Appeal 36.

The Board will also deal with other settlements and Procedural Issues on September 8, 2009.

At the request of Counsel, a further Pre-hearing for other appeal matters is scheduled for October 28, 2009, at 10:00 a.m. at Ottawa City Hall. No further notice is required. Ottawa has reserved room space.

The Board so Orders.

“N. C. Jackson”

N. C. JACKSON
MEMBER

ATTACHMENT "1"

Kanata Research Park Corporation (various properties)
Kanata Research Park Corporation (940 and 945 Klondike Road)
HG & GB Investments – 915 Klondike Road
Thomas Cavanagh Construction Ltd. (Almonte Quarry & Kinburn Quarry)
Urbandale Corporation
Urbandale Corporation & KNL Developments Inc.
Signature Centre Ltd. (c/o Taggart Realty Management)
The TDL Group Corp.
College Square Properties Inc.
Campanale Homes
595799 Ontario Limited
Rockcliffe Park Residents Association
555 March Road Inc. and DIR Investments Inc. (555 and 591 March Road)
Emparrado Corporation
Loblaws Properties Ltd.
Timburwal Developments Inc.
Greater Ottawa Home Builders Association
Sunset Lakes Developments (1374421 Ontario Inc) and Sunset Lakes Owners Association Inc.
David Rossetti
Denis Labelle
Canadian Tire Real Estate Limited & Canadian Tire Corporation Limited
Trinity Property Holdings Inc.
Richcraft Homes Ltd.
Central Canadian District of the Christian and Missionary Alliance in Canada (“Redeemer Alliance Church”)
Strandherd Meadows Inc. & Petro Canada Inc.
Capital Parking Inc.
2024644 Ont. Inc.
Claridge Homes (Centretown) Ltd.
Minto Commercial Properties Inc. (1926 St. Joseph Boulevard)
Mildred Marshall

James & Pamela Cain
RJ Motors (168672 Ontario Inc.)

Timothy & Edith Fauquier
Zena Kinder Holdings Limited

Riotrin properties (Hazeldean)

Riotrin properties (Belcourt)

Woodway Developments Limited

Riotrin properties (Merivale)

Riotrin properties (Orleans)

Riotrin properties (Barrhaven) and 2024201 Ontario Ltd.

Gary Underwood & Stephen Shingler

DIR Investments Inc.

ATTACHMENT "A"

BY-LAW FOR CONSIDERATION BY
THE ONTARIO MUNICIPAL BOARD

A by-law of the City of Ottawa to amend By-law No. 2008-250 of the City of Ottawa to amend technical anomalies and to resolve appeals to the Ontario Municipal Board as described in Planning and Environment Committee Report entitled "Comprehensive Zoning By-law 2008-250: Anomalies and Minor Corrections to Resolve Appeals (Seventh Report)".

The Council of the City of Ottawa, pursuant to Section 34 of the *Planning Act*, R.S.O.1990, enacts as follows:

1. Section 54, Definitions of By-law No. 2008-250, entitled the "City of Ottawa Zoning By-law" is amended as follows:
 - (a) the definition of "Parking Lot" is amended by adding the words "which includes the parking spaces, aisles and driveways, but excludes the interior landscaped islands and medians, the required perimeter landscaped buffer to a lot line, and" immediately after the words "four or more motor vehicles" and by deleting the words "but excludes";
 - (b) the definition of "Landscape Buffer" is amended by inserting the words "inside and" immediately following the word "located".
2. Section 110 of the said By-law No. 2008-250 is amended as follows:
 - (a) clause 110(1)(a) is amended by deleting the words "along the full perimeter of the parking lot" and replacing them with the words "between the perimeter of the parking lot and a lot line";
 - (b) clause 110(1)(b) is amended by deleting the words "in the form of" and replacing them with the words "including various";
 - (c) the title of Table 110 is amended by deleting the word "in" and replacing it with the word "of".
3. Exception 221 of Section 239 – Urban Exceptions of the said By-law No. 2008-250 is amended as follows:
 - (a) Column IV is amended by deleting the uses:

restaurant, full service
restaurant, take out

and by inserting in alphabetical order following the words "all uses

except”, the uses:

- convenience store
- drive-through facility
- instructional facility
- restaurant
- service and repair shop
- small batch brewery

4. Exception 410 of Section 239 – Urban Exceptions of the said By-law No. 2008-250 is amended as follows:

- (a) Column II is amended by deleting the symbol “-h”.
- (b) Column V is amended by inserting the following provisions immediately before the words “-minimum front yard setback”:
 - 1. notwithstanding clause 204(7)(a), a retail store may include the sale of automobile parts and accessories;
 - 2. clauses 203(2)(a), (b) and (c) and subsection 203(4) do not apply to the uses permitted in subsection 203(2);
 - 3. subclause 204(7)(d)(i) does not apply;
 - 4. for the purposes of clauses 204(7)(j) and (k), retail store is as outlined in subclause 204(7)(d)(ii).
- (c) Column V is amended by deleting the words “for retail store” from the last provision, so that the provision reads “- minimum parking rate – 2.8 spaces per 100 square metres of gross floor area”.

5. Exception 1539 of Section 239 – Urban Exceptions of the said By-law No. 2008-250 is amended by inserting the following provision:

“- uses listed in Column III are limited to a maximum gross floor area of 610m²”

6. Section 239 – Urban Exceptions of the said By-law No. 2008-250 is amended by adding the following exceptions:

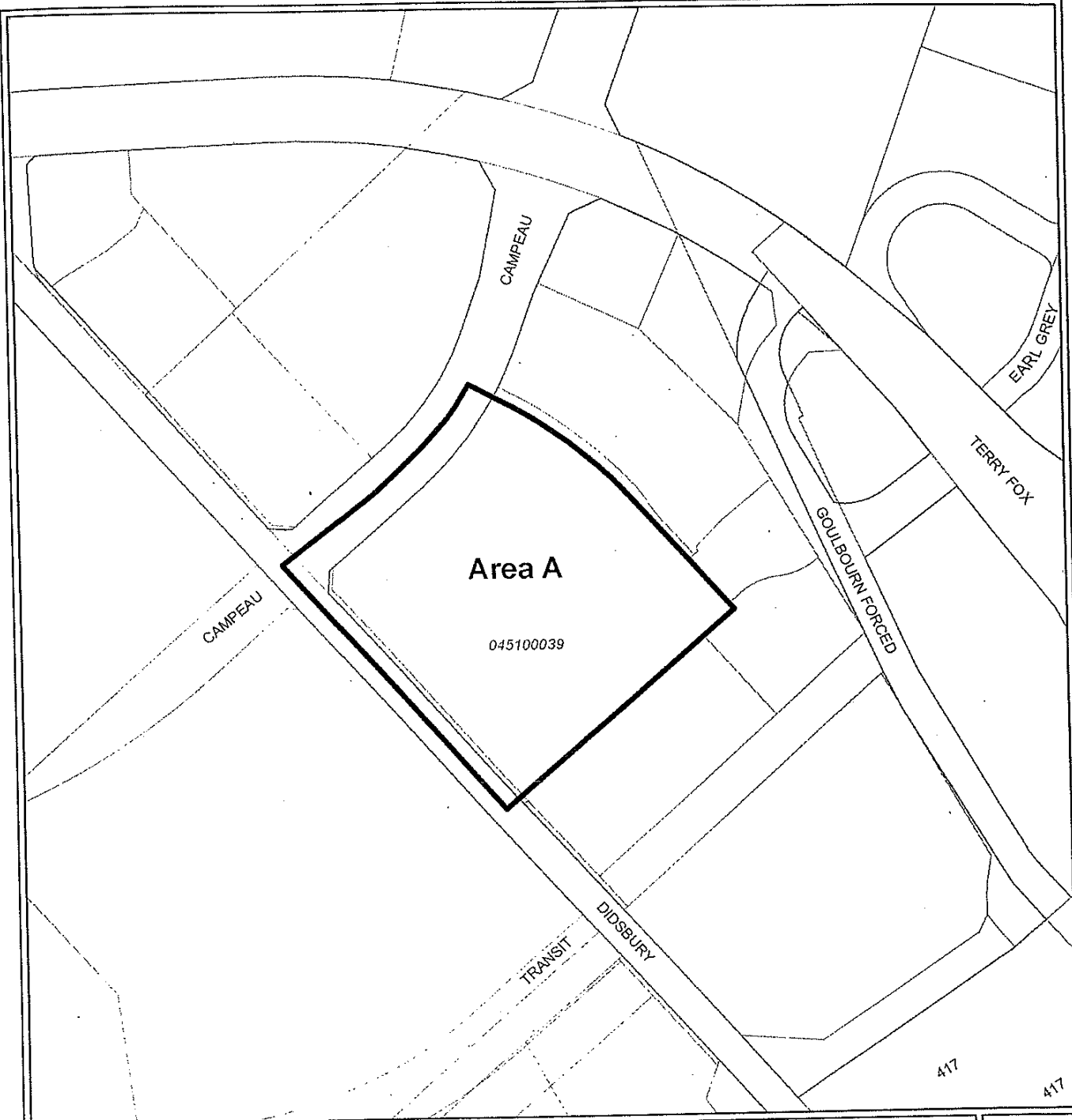
I Exception Number	II Applicable Zone	Exception Provisions		
		III Additional Land Uses Permitted	IV Land Uses Prohibited	V Provisions
1707	IP8[1707] H(15)-h			- the holding zone may only be removed following public consultation during the site plan control application process for the first proposal for the lands
1709	IP8[1709] H(15)-h			- the holding zone may only be removed following:

				i) public consultation during the site plan control application process for the first proposal for the lands; and ii) submission of an Environmental Impact Statement to determine the environmental value of the site, applying the Urban Natural Areas of Environment Evaluation Study evaluation criteria at the time of development review
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7. The Zoning Map of the said By-law No. 2008-250 is amended by rezoning the lands shown as Area A on Attachment 1 to this by-law from IL7[410]-h to IL7[410].

8. The Zoning Map of the said By-law No. 2008-250 is further amended by rezoning the lands shown as Area A on Attachment 2 to this by-law from DR to IP8[1707] H(15)-h and by rezoning Area B from DR to IP8[1709] H(15)-h.

APPROVED by the Ontario Municipal Board on _____, 2009



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**Lands Affected Part of
 The Zoning Map
 of By-law No. 2008-250**

This is Attachment 1 to By-law Number _____, passed _____, 2009

Lands Affected by By-law

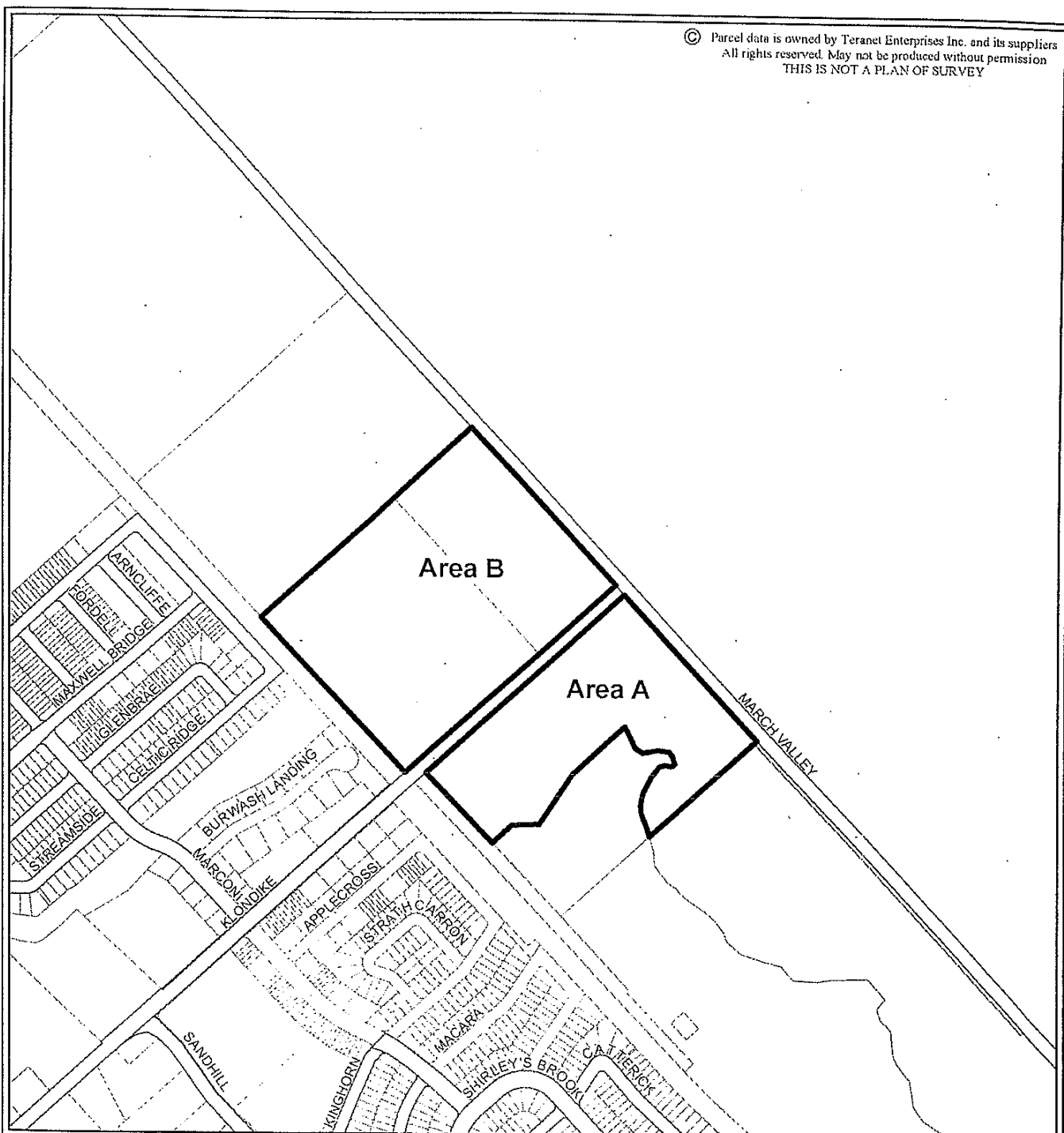
Area A Rezoned from IL7[410]-h to IL7[410]

045100039 Denotes Teranet-Polaris Parcel Identification Number

Échelle
 N.T.S.
 Mètres

Scale
 N.T.S.
 Metres

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et Viabilité des collectivités

09-0910

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**Lands Affected Part of
The Zoning Map
of By-law No. 2008-250**

This is Attachment 2 to By-law Number _____, passed _____, 2009

Lands Affected by By-law

Area A Rezoned from DR to IP8[1707] H(15)-h
Area B Rezoned from DR to IP8[1709] H(15)-h

Échelle
N.T.S.
Mètres

Scale
N.T.S.
Metres