

**Ontario Land Tribunal**  
Tribunal ontarien de l'aménagement  
du territoire



**ISSUE DATE:** September 02, 2021

**CASE NO(S):** MM210013

The Ontario Municipal Board (the "OMB") and the Local Planning Appeal Tribunal (the "LPAT") is continued under the name Ontario Land Tribunal (the "Tribunal"), and any reference to the Ontario Municipal Board or Board or Local Planning Appeal Tribunal in any publication of the Tribunal is deemed to be a reference to the Tribunal.

**PROCEEDING COMMENCED UNDER** subsection 222(4) of the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended

Appellant:	Old Ottawa East Community Association
Appellant:	Overbrook Community Association
Subject:	By-law No. By Law No. 2021-03 (Ward Boundary) to implement a new ward boundary structure
Municipality:	City of Ottawa
LPAT Case No.:	MM210013
LPAT File No.:	MM210013

**Heard:** July 12, 2021 via video hearing

**APPEARANCES:**

**Parties**

**Counsel\*/Representative**

City of Ottawa

Marc, T.

Overbrook Community Association

Loignon-Giroux, E.

Old Ottawa East Community  
Association

Dance, J.

**MEMORANDUM OF ORAL DECISION DELIVERED BY N. ROBINSON ON JULY 12<sup>th</sup>,  
2021 AND ORDER OF THE TRIBUNAL**

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**BACKGROUND**

[1] The Appellants and Respondent ask the Ontario Land Tribunal (“Tribunal”) to approve a settlement relating to modifications to By-law No. 2021-3 of the City of Ottawa, sought by the Old Ottawa East Community Association and the Overbrook Community Association.

[2] By-law No. 2021-3 is a by-law to establish ward boundaries for the Council of the City of Ottawa. It proposes to divide the City of Ottawa into 24 wards.

[3] The prior comprehensive ward boundary review was in 2005 which established 23 wards.

[4] The boundaries established in the 2005 comprehensive review were anticipated to meet the test of effective representation until 2015.

[5] The intent of the current review having led to the adoption of the By-law concerned by this proceeding was to establish wards that would be used in 2022, 2026, 2030 and possibly 2034. The review was commissioned by Ottawa City Council on June 12, 2019.

**ISSUES AND ANALYSIS**

[6] Ward boundaries, and ward boundary reviews, ensure the fairness of elections at the municipal level. The legislative authority with respect to the composition of Council and the establishment of ward boundaries is found in the Municipal Act, sections 217 and 222.

[7] The guiding principle of the Charter-protected right to vote and thus for the

determination of ward boundaries is to provide “effective representation”. This principle is meant to apply flexibly to ensure that local government is reflective of the population it serves. Reference *Re Provincial Electoral Boundaries (Sask)*. [1991] 2 SCR 158 per McLachlin J. at p. 23 of 37.

[8] The first condition of effective representation is relative parity of voting power:

What are the conditions of effective representation? The first is relative parity of voting power. A system which dilutes one citizen’s vote unduly as compared with another citizen’s vote runs the risk of providing inadequate representation to the citizen whose vote is diluted. The legislative power of the citizen whose vote is diluted will be reduced, as may be access to and assistance from his or her representative. The result will be uneven and unfair representation. Reference *Re Provincial Electoral Boundaries (Sask)*. [1991] 2 SCR 158 per McLachlin J. at p. 23 of 37.

[9] However, in order to achieve effective representation, factors such as geography, community history, community interests and minority representation may need to be taken into account and may justify deviations from relative parity of voting power.

Secondly, such relative parity as may be possible of achievement may prove undesirable because it has the effect of detracting from the primary goal of effective representation. Factors like geography, community history, community interests and minority representation may need to be taken into account to ensure that our legislative assemblies effectively represent the diversity of our social mosaic. These are but examples of considerations which may justify departure from absolute voter parity in the pursuit of more effective representation; the list is not closed. Reference *Re Provincial Electoral Boundaries (Sask)*. [1991] 2 SCR 158 per McLachlin J. at p. 24 of 37.

[10] In the Ottawa ward boundary review leading to By-law No. 2021-3, the following non-exhaustive factors were identified as being relevant to achieving effective representation:

a. Voter parity.

- b. Natural/physical boundaries.
- c. Geographic communities of interest.
- d. Minority interests.
- e. Ward history.
- f. Capacity to represent.
- g. Geographic size and shape of a ward.
- h. Population growth.

[11] The Tribunal finds that the proposed resolution complies with the above-mentioned factors and as such that the proposed amendments to the By-law should be approved by the Tribunal.

## **PROCEDURAL HISTORY**

[12] The City retained a consultant team to conduct the ward boundary review, comprised of Beate Bowron Etcetera, Hemson Consulting Ltd. and The Davidson Group. The proponents of the settlement also filed the Affidavit of Kiel Anderson, a Manager at the Office of the City Clerk of the City of Ottawa, in support of the settlement.

[13] The ward boundary review process included a two-stage engagement and consultation strategy involving Ottawa residents, communities, key stakeholders and Members of Council.

[14] Following the first stage of engagement and consultation, five options were presented to Committee and Council for consultation in the second stage.

[15] Council on July 15, 2020, requested the development of a sixth option. The criteria that Council asked the consultant team to utilize in development of this additional option included the following:

Giving consideration to the 2002 OMB ruling and the 1991 Supreme Court of Canada ruling, which recognized and protected rural and other communities of interest with a view to minimizing, wherever possible, the impact of significant changes to established ward boundaries and communities of interest;

Addressing the impact of significant changes to established ward boundaries and communities of interest, particularly in the urban area as defined in the options report.

[16] This led to the development of Option 6 with a total of 24 wards, being 12 urban wards, nine suburban wards and three rural wards (in comparison to the existing 12 urban, seven suburban and four rural wards). This option minimized ward boundary changes.

[17] The consultation and engagement that took place during the second stage identified a preference for Option 6.

[18] Option 6 was reviewed by the City of Ottawa's Finance and Economic Development Committee on December 1, 2020, during which a walk-on motion purporting to amend Option 6 was presented and approved by resolution.

[19] Subject to refinement by the consultant team, Committee and Council, Option 6 as amended by resolution was adopted by the City on January 27, 2020.

[20] In the appeal period which followed, the two appeals by the appellants in these proceedings were received (i.e. by the Overbrook Community Association and by the Old Ottawa East Community Association).

[21] On April 14, 2021, Council endorsed Legal Services seeking modifications to By-

law No. 2021-3 which accord with the changes sought by the two community associations.

### **PROPOSED SETTLEMENT – APPEAL BY OLD OTTAWA EAST COMMUNITY ASSOCIATION**

[22] The Tribunal relied upon affidavit evidence filed by the parties—including the Affidavits of Kiel Anderson and Royce Fu.

[23] The ward numbers referred to in the within decision are the new numbers by which they are identified in By-law No. 2021-3.

[24] As enacted, By-law No. 2021-3 moved a portion of the boundary between Rideau-Vanier Ward (Ward 17) and Capital Ward (Ward 19).

[25] The boundary in this area goes from being Highway 417 to being the Rideau River to the south and the corridor for the light rail transit line to the west.

[26] The lands within Area B are the Lees Avenue Campus of the University of Ottawa. It is not considered a residential part of the City and there is no population located within this area today.

[27] It is not anticipated that there will be any change to the populations of Rideau-Vanier or Capital Wards from the re-assignment of Area B from Rideau-Vanier Ward to Capital Ward.

[28] The Tribunal thus finds that the question of the relative parity of voting power does not arise with respect to a modification to this boundary.

[29] A 400 series highway and the Rideau River are, the Tribunal finds, two equally identifiable physical boundaries and thus either is equally able to meet the criteria of natural or physical boundaries.

[30] The agent for the Old Ottawa East Community Association in his oral submissions advanced the position that a 400 series highway is a more significant boundary than the light rail transit line. The City of Ottawa shares that position.

[31] One of the criteria for Option 6 was to minimize impact on established wards in the urban area.

[32] Given that there is no impact on relative parity of voting power, and that applying the criterion of natural or physical boundaries as well as the consideration of ward history would support the reassignment of Area B, the Tribunal finds that modifying By-law No. 2021-3 to transfer Area B from Rideau-Vanier to Capital, Ward 17 to Ward 19, is appropriate.

[33] The criterion of ward history also supports the proposed modification, given that the revised boundary preserves the historical boundary between Rideau-Vanier and Capital Wards.

[34] The Tribunal also recognizes the principle of supporting resolutions reached between parties where it can be considered reasonable to do so.

### **PROPOSED SETTLEMENT – APPEAL BY OVERBROOK COMMUNITY ASSOCIATION**

[35] As enacted, By-law No. 2021-3 also moved a portion of the boundary between Rideau-Vanier Ward (Ward 17) and Rideau-Rockcliffe Ward (Ward 16). The existing boundary follows the historical boundary between the former City of Vanier and the City of Ottawa.

[36] While the consultant team initially recommended, in part, the utilization of McArthur Avenue for the southern boundary between the two wards, City Council, as recommended by the Finance and Economic Development Committee, moved this portion of the boundary to Donald Street.

[37] The consultant team's rationale for the revision of the southern boundary between Rideau-Vanier Ward and Rideau-Rockcliffe Ward to McArthur Avenue was to have a clear, identifiable boundary.

[38] Council endorsed two changes to the boundary between Rideau-Vanier and Rideau-Rockcliffe. These changes were the transfer of Area A-1 from Rideau-Vanier to Rideau-Rockcliffe and the transfer of Area A-2 from Rideau-Rockcliffe to Rideau-Vanier in a manner closely aligned with the current and historical boundary between the two wards.

[39] The revised boundaries proposed by the Overbrook Community Association were drawn by a former professional planner who has been a senior planner with the City of Ottawa. To the extent possible, the revised boundaries utilize roads and avoid utilizing backyards.

[40] These two changes represent a net transfer of 1,200 persons to Rideau-Rockcliffe in 2022 and 1,300 persons in 2030.

[41] The rate of variance from the average ward population decreases for both wards for both years as a result of the revised boundaries.

[42] While the change in population resulting from the proposed modification endorsed by Council in April 2021 is modest, the criterion of the relative parity of voting power, relevant to effective representation, supports the proposed modification.

[43] The boundary of Vanier was established in 1910. Overbrook has a history that goes back to 1910 and it was constituted as a police village in 1922, with an expansion in size since that time. The criterion of ward history accordingly also supports the proposed modification, given that the revised boundary largely preserves the historical boundary between Vanier and Overbrook while accounting for roads and other natural boundaries.



[44] The settlement proposed is supported by the Council of the City of Ottawa, the Overbrook Community Association and the Vanier Community Association, and was moved and seconded by the Councillors of the affected wards.

[45] Vanier is identified with the francophone community of interest. Overbrook is a community that faces socio-economic challenges. The ward boundary proposed in By-law No. 2021-3 as enacted would separate housing that utilizes resources located in Rideau-Rockcliffe Ward. Both the geographic communities of interest and minority interest factors are relevant in the instant case, and support the proposed modification.

[46] The Tribunal finds that, in balancing the criterion of natural/physical boundaries on the one hand with those of relative voter parity, geographic communities of interest, minority interests and ward history on the other, the proposed resolution is appropriate.

[47] The Tribunal recognizes that the Parties have worked cooperatively to arrive at a proportional and fair resolution and believes that the fruits of these discussions are in the public interest.

## **ORDER**

[48] THE TRIBUNAL ORDERS that By-law No. 2021-3 of the City of Ottawa be modified by deleting Schedule A-16 and by replacing it with Attachment “A” to this Order.

[49] THE TRIBUNAL FURTHER ORDERS that By-law No. 2021-3 of the City of Ottawa be modified by deleting Schedule A-17 and by replacing it with Attachment “B” to this Order.

[50] THIS TRIBUNAL FURTHER ORDERS that By-law No. 2021-3 of the City of Ottawa be modified by deleting Schedule A-19 and by replacing it with Attachment “C” to this Order.

[51] THIS TRIBUNAL FURTHER ORDERS that the balance of the appeals be dismissed and By-law No. 2021-3 as modified is affirmed.

*“Nicholas P. Robinson”*

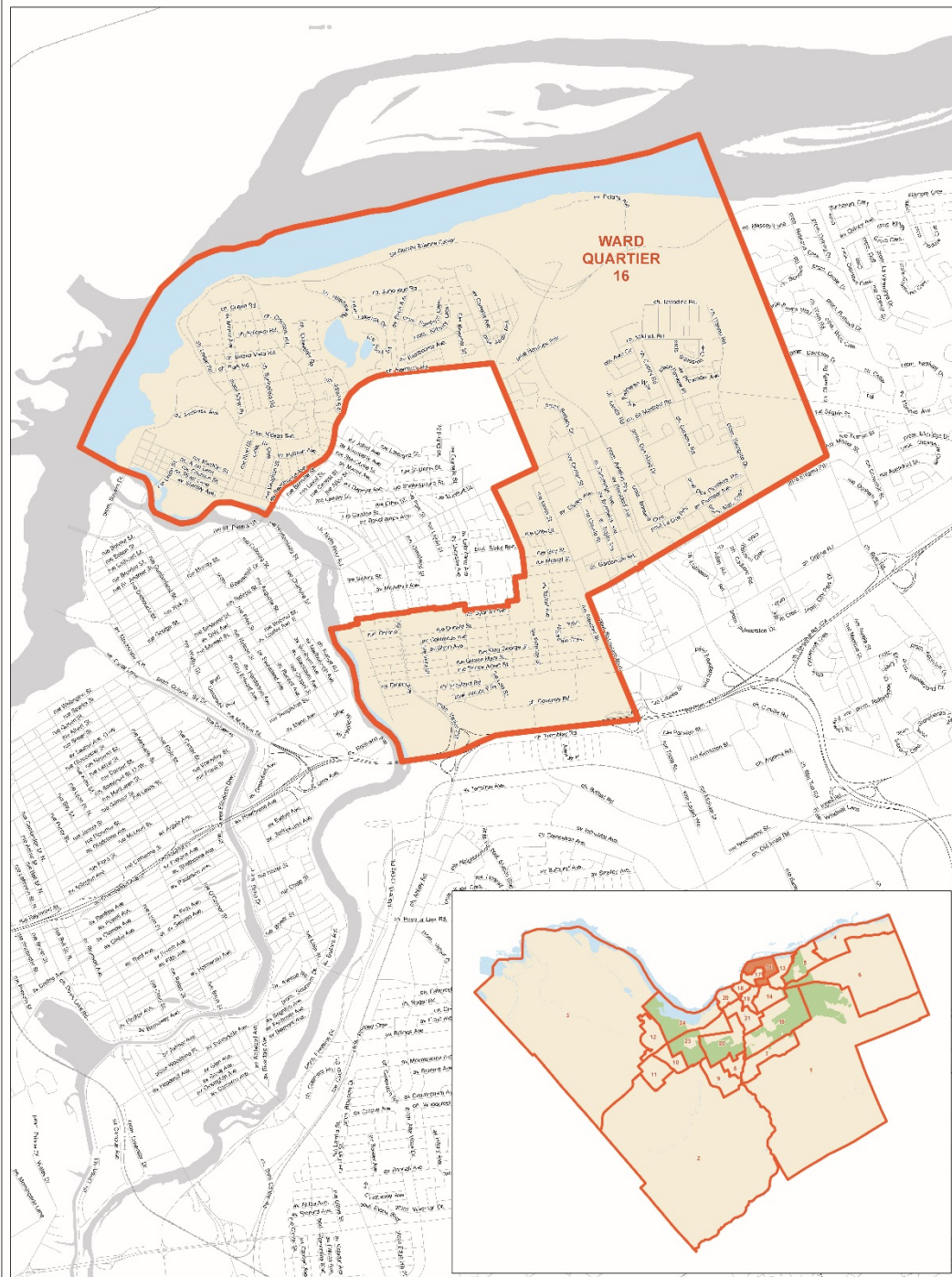
N.P. ROBINSON  
MEMBER

**Ontario Land Tribunal**

Website: [olt.gov.on.ca](http://olt.gov.on.ca) Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

# ATTACHMENT A



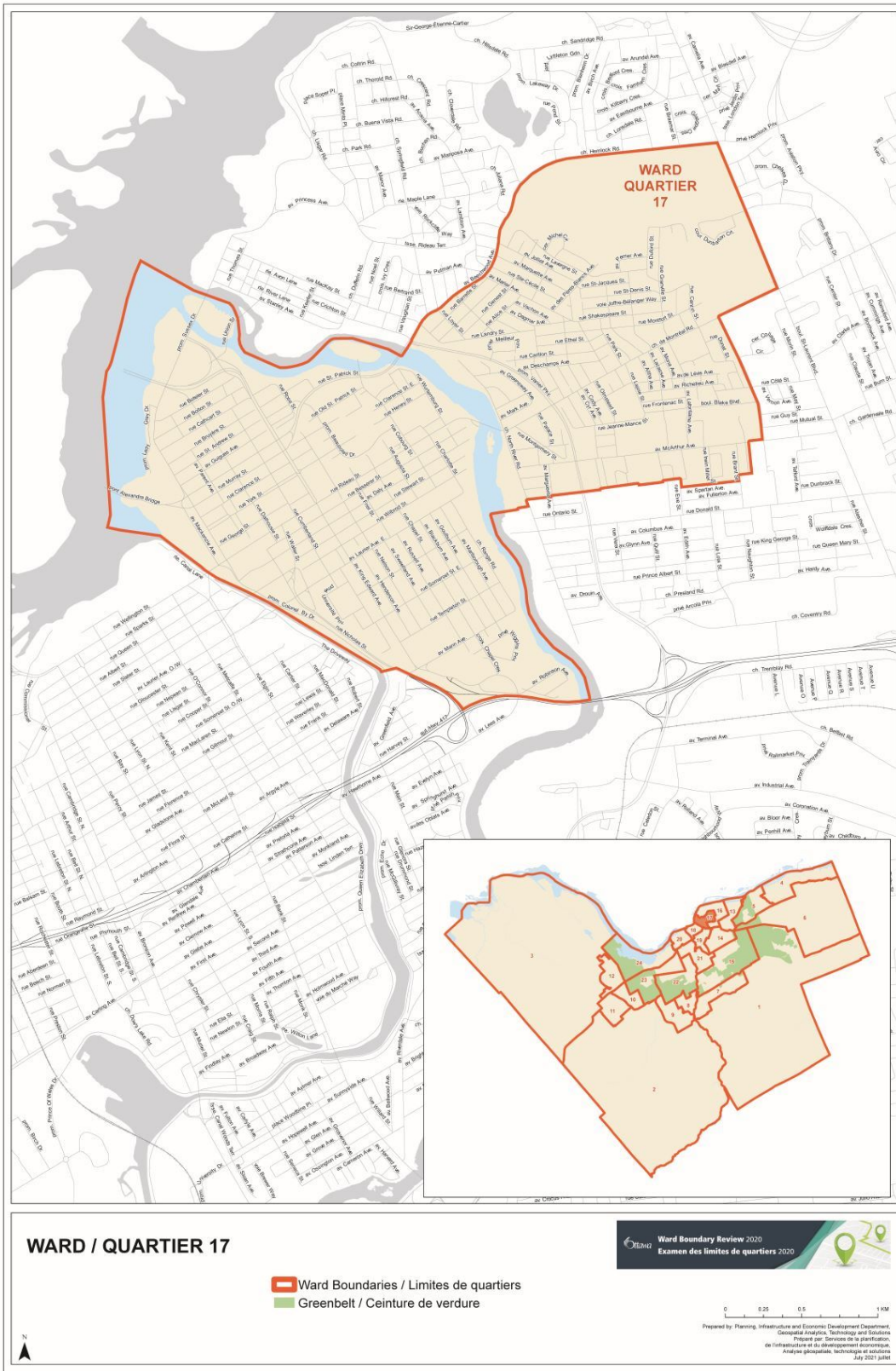
**WARD / QUARTIER 16**

- Ward Boundaries / Limites de quartiers
- Greenbelt / Ceinture de verdure

Ward Boundary Review 2020  
Examen des limites de quartiers 2020

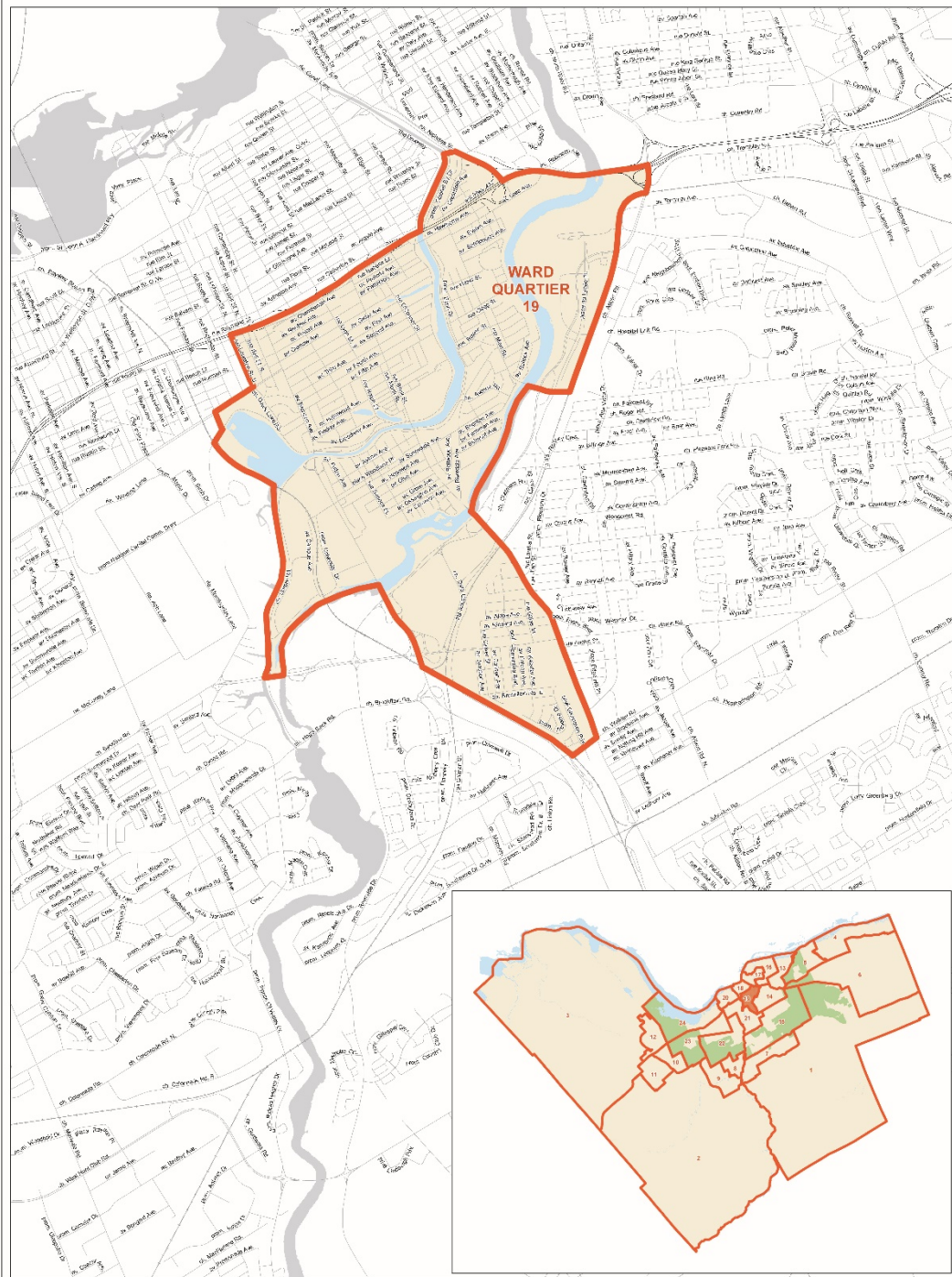
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# ATTACHMENT B



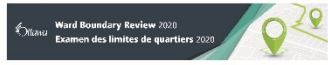


# ATTACHMENT C



## WARD / QUARTIER 19

- Ward Boundaries / Limites de quartiers
- Greenbelt / Ceinture de verdure



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