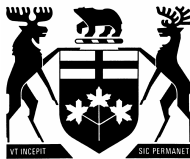


ISSUE DATE:

November 21, 2011



Ontario

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

PL100206

IN THE MATTER OF subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellants: SEE SCHEDULE "1"
Subject: Proposed Official Plan Amendment No. 76
Municipality: City of Ottawa
OMB Case No.: PL100206
OMB File No.: PL100206

APPEARANCES:

Parties

City of Ottawa

Metcalfe Realty Company Limited

Taggart Group of Companies
Tamarack Group of Companies
2226561 Ontario Inc.
Claridge Homes Corporation

Walton Development and Management Inc.

Epscon Limited (Idone)
4840 Bank Street Inc.

Mattamy Group of Companies

Jim Maxwell

Paul Johanis

Rondolfo Mion and M&A Rentals

Greater Ottawa Home Builders Association
Urbandale Corporation
Riverside South Development Corporation
Minto Communities Inc.

Counsel*/Agent

T. Marc* and B. Turner*

J. Meader* and L. Townsend*

S. Zakem*(not present) and P.
Harrington*

R. Mahoney

P. Webber*

M. Flowers* (not present) and K.
Sliwa*

K. Gibson *

M. Chown

A. Cohen*, J. Cohen* and U.
Melinz*

William Davidson
Kanata Research Park Corporation
J.G. Rivard Limited

T. Fleming*

Grace Bell
Ross Bradley
1384321 Ontario Limited

P. Vice *

6095186 Canada Inc.
7089121 Canada Inc

S. Ault*

Greenspace Alliance

E. Dreessen

**MEMORANDUM OF ORAL DECISION DELIVERED BY N. C. JACKSON ON
NOVEMBER 7, 2011 AND ORDER OF THE BOARD**

This is the second prehearing respecting a phased hearing scheduled for January 30, 2012 respecting lands to be included in the Ottawa Urban Boundary expansion of Official Plan Amendment 76. The Parties established in the first prehearing now advance issues and the Procedural Order. In the first prehearing the phased hearing on methodology was scheduled for January 30, 2012.

As preliminaries 6458513 Canada Inc. has withdrawn from these proceedings. Walton Development and Management Inc., the Greater Ottawa Home Builders Association and Rondolpho Mion (M & A Rentals) will not participate in the January 30 hearing.

There is no agreement on early approvals which now must await Motions in later proceedings.

Mattamy alone raises the issue of whether agricultural resource areas lands may be included or excluded by methodology. Dependent on the result of the January 30, 2012 methodology hearing, other parties not participating on January 30, 2012 may seek to advance specific agricultural lands in the last hearing phase set for July of 2012. The intent of the January 30, 2012 first phase is to deal with methodology (including agricultural as a criterion) but not specific lands. The interpretation, identification and weighing of criterion respecting specific properties will take place in the last hearing

phase scheduled for July of 2012. All parties have agreed with a revised paragraph 4 of the draft Procedural Order making it clear that the January 30, 2012 hearing is not for specific properties and issues are to relate to methodology. The Mattamy issue revisions have moved to be more generic (change from specific Mattamy property identified by map now to reference to South Orleans). That is less specific but is not generic in the nature of other issues drafted and redrafted to be consistent with methodology only. The Board agrees with the redraft by the City of the original Mattamy issue, paragraphs 2 and 3, now paragraphs 6 and 7 in the revised issues list but not the reference to South Orleans. That reference and the emphasis "the" are struck from the issues list. Mr. Cohen's suggestion to reference only agricultural lands excluded is not adopted since the issue is not just exclusion. The Board prefers the positive language.

Counsel Ault seeks to exclude Issue 3 from the revised Greenspace issues. Although there is some overlap with Greenspace Issues 1 and 2 respecting watershed planning, Issue 3 is pointed generically to the value of watershed studies. It should remain not for the purpose of one watershed study on one property or group of properties but as an issue as to whether watershed studies ought to have been a consideration in methodology.

Issues have now been generalized as to generic criterion for the January 30, 2012 hearing.

All parties agree on dates in the Procedural Order for the production of witness lists on or before November 30, 2011, expert witness statements on or before Friday December 9, 2011 and reply on or before December 22, 2011.

At the request of the Parties the Board has reserved another week for the January 30, 2012 hearing so that it now has a block of five (5) weeks reserved. The Hearing in July respecting specific properties will commence on Tuesday, July 3, 2012 at 10:00 a.m. at Ottawa City Hall. A further prehearing at the call of the Parties will precede the July date.

The Board approves of the revised Procedural Order in the form of Exhibit 11 revised and issues it with this Decision as Attachment 1.

So Orders the Board.

"N.C. Jackson"

N.C. JACKSON
VICE-CHAIR

SCHEDULE "1"

COUNSEL*/AGENT	PARTY
Tim Marc* Bruce Engell*	City of Ottawa
Michael Polowin*	Metcalfe Realty Kanata Research Park Simon Fuller 7089191 Canada Inc. 1633799 Ontario Inc. 3223701 Canada Inc.
Steven A. Zakem*	Taggart Realty Management Inc. Taggart Investments Inc. Tamarack (Queen Street) Corporation Tamarack (Nepean) Corporation Tamarack (Nepean South) Corporation 2226561 Ontario Inc.
Mark R. Flowers*	Mattamy (Mer Bleue) Limited Mattamy (Tenth Line) Limited Mattamy (Trim) Limited
Ken McRae	Ken McRae
Alan Cohen* Douglas B. Kelly* Ursula Melinz*	Greater Ottawa Home Builders Association (GOHBA) Riverside South Development Corporation (RSDC) Minto Communities Inc & South Nepean Development Corporation (SNDC)
Douglas B. Kelly* Ursula Melinz*	Thomas Cavanagh Construction Ltd. Karson Holding Inc. (In association with Greg Winter, Novatech Engineering) 6458513 Canada Inc. Amazon Land Development (In association with Debbie Belfie)
Alan Cohen*	Arnon Corporation
Steven Cunliffe	Idone, Epscon Limited
Janet E. Bradley* Emma Blanchard*	Dirk Yzenbrandt Richcraft Homes Zbigniew Hauderowicz James Maxwell Castor Creek and Airport Golf Lands Limited Gib Patterson Enterprises and Gib Patterson Claridge Homes Corporation
R. Boxma* I. Schacter*	The Ministry of Municipal Affairs and Housing
Amy Kempster	Friends of the Greenspace Alliance
A. Pritchard*	Ottawa Macdonald Cartier International Airport
J. Farber*	Trinity Properties Holdings Ltd.
M. Noskiewicz*	Walton Development and Mining
Dr. Ranjit Perera	Humanics Universal Inc.
R. Brockelbank	The Federation of Citizen Associations of Ottawa Carleton
M. Chown	Rondolfo Mion and M&A Rentals

Paul Johanis	
William Davidson	
S. Belle-Isle	

ATTACHMENT 1

**ONTARIO MUNICIPAL BOARD
COMMISSION DES AFFAIRES MUNICIPALES DE L'ONTARIO**

IN THE MATTER OF subsection 17 (36) of the *Planning Act*, R.S.O. 1990, c.P.13, as amended

Appellants: Greater Ottawa Homebuilders Association, Zbigniew Hauderowicz, Karson Holdings Inc., Ken McRae; and others
Subject: Proposed Official Plan Amendment No. OPA #76
Property Location: All lands within the City of Ottawa
Municipality: City of Ottawa
OMB Case No.: PL100206
OMB File NO.: PL100206

PROCEDURAL ORDER-Phase 2A (Methodology)

1. The Board may vary or add to these rules at any time, either on request or as it sees fit. It may alter this Order by an oral ruling, or by another written Order.

Organization of the Hearing

2. The hearing will begin on **Monday the 30th day of January, 2012**, at 10:00 a.m. in the Keefer Room, Ottawa City Hall, 110 Laurier Avenue West, City of Ottawa.
3. The length of the hearing will be five (5) weeks.
4. This Phase 2A hearing will address methodology. Scoring will be addressed in Phase 2B, commencing in July 2012. In Phase 2A, parties will not argue for inclusion or exclusion of specific properties and issues must refer to methodology (identification of candidate areas, definition of gross residential ha or evaluation criteria).
5. The parties and participants identified at the prehearing conference are listed in Attachment 2 to this Order. The order of evidence at the hearing is listed in Attachment 3 to this Order.
6. The Issues are set out in the Issues List attached as Attachment 4. There will be no changes to this list unless the Board permits, and a party who asks for changes may have costs awarded against it.
7. Any person intending to participate in the hearing should provide a telephone number to the Board as soon as possible. Any such person who will be retaining a representative should advise the other parties and the Board of the representative's name, address and phone number as soon as possible.

Requirements Before the Hearing

8. Expert witnesses in the same field shall have a meeting on or before **Monday January 16th, 2012** to try to resolve or reduce the issues for the hearing. The experts must prepare a list of agreed facts and the remaining issues to be addressed at the hearing, and provide this list to all of the parties and to the Board.
9. A party who intends to call witnesses, whether by summons or not, shall provide to the Board and the other parties, a list of the witnesses and the order in which they will be called. This list must be delivered on or before **Wednesday November 30th, 2011**.
10. An expert witness shall prepare an expert witness statement which shall list any reports prepared by the expert, or any other reports or documents to be relied on at the hearing. Copies of this must be provided as in section 13. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Board may refuse to hear the expert's testimony. For greater certainty, each expert witness statement must comply with the minimum content requirements specified in Rule 21 of the Board's *Rules of Practice and Procedure*. If the expert witness has prepared any report(s) that he/she intends to rely on at the hearing, and which did not form part of the submissions made to the City such report(s) shall be provided to the other parties at the same time as the delivery of expert witness statements, as in section 13.
11. A participant must provide to the Board and the parties a witness or participant statement on or before **Friday December 9th, 2011**, or the witness or participant may not give oral evidence at the hearing. For greater certainty, participant statements or witness statements are to include the information in Attachment 1 to this Procedural Order.
12. Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the party calling them must file a brief outline of the expert's evidence, as in section 13.
13. On or before **Friday December 9th, 2011**, the parties shall provide copies of their witness and expert witness statements to the other parties. Because of the extensive amount of materials in these proceedings, the parties may direct other parties to a webpage for purposes of accessing and receiving materials with hard copies available on request. Otherwise, the provisions of Paragraph 19 shall apply.
14. On or before **Monday January 16th, 2012**, the parties shall provide copies or webpage links of their visual evidence to all of the other parties. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.
15. Parties may provide to all other parties a written response to any written evidence on or before **Thursday December 22nd, 2011**.
16. Upon receiving the documents in sections 11,13 and 15 above, the City Solicitor shall present this information and material to City of Ottawa Council and give Council an opportunity to reconsider its decision regarding which lands will be included in the 850

ha urban boundary expansion.

17. A person wishing to change written evidence, including witness statements, must make a written motion to the Board.

(See Rules 34 and 38 of the Board's Rules, which require that the moving party provide copies of the motion to all other parties 10 days before the Board hears the motion).

18. A party who provides a witness' written evidence to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the Board at least 7 days before the hearing that the written evidence is not part of their record.
19. Documents may be delivered by personal delivery, email, by a webpage link, facsimile, or registered or certified mail, or otherwise as the Board may direct. For documents delivered by email or available by webpage link, a hard copy shall be provided to those that request it. Material delivered by mail shall be deemed to have been received five business days after the date of registration or certification.
20. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Board's Rules 61 to 65 apply to such requests.
21. The parties shall cooperate in preparing a Joint Document Book for the hearing, with the costs to be shared by the parties who request hard copies.

**This Member is [not] seized
So orders the Board.**

ATTACHMENT 1

Purpose of the Procedural Order and Meaning of Terms

*The Board recommends that the parties **meet to discuss this sample Order before the pre-hearing conference** to try to identify the issues and the process that they want the Board to order following the conference. The Board will hear the parties' comments about the contents of the Order at the conference.*

Pre-hearing conferences usually take place only where the hearing is expected to be long and complicated. If you are not represented by a lawyer, you should prepare by obtaining the Guide to the Ontario Municipal Board, and the Board's Rules, from the Board Information Office, 15th Floor, 655 Bay Street, Toronto, M5G 1E5, 416-326-6800, or from the Board website at www.omb.gov.on.ca.

Meaning of Terms Used in the Procedural Order:

***Party** is an individual or corporation permitted by the Board to participate fully in the hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other parties, and making submissions on all of the evidence. If an **unincorporated group** wishes to become a party, it must appoint one person to speak for it, and that person must accept the other responsibilities of a party as set out in the Order. Parties do not have to be represented by a lawyer, and may have an agent speak for them. The agent must have written authorization from the party.*

***NOTE** that a person who wishes to become a party before or at the hearing, and who did not request this at the prehearing conference, must ask the Board to permit this.*

***Participant** is an individual, group or corporation, whether represented by a lawyer or not, who may attend only part of the proceeding but who makes a statement to the Board on all or some of the issues in the hearing. Such persons may also be identified at the start of the hearing. The Board will set the time for hearing this statements. **NOTE** that such persons will likely not receive notice of a mediation or conference calls on procedural issues. They also cannot ask for costs, or review of a decision as parties can. If a participant does not attend the hearing and only files a written statement, the Board will not give it the same attention or weight as submissions made orally. The reason is that parties cannot ask further questions of a person if they merely file material and do not attend.*

***Written and Visual Evidence:** **Written evidence** includes all written material, reports, studies, documents, letters and witness statements which a party or participant intends to present as evidence at the hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material. **Visual evidence** includes photographs, maps, videos, models, and overlays which a party or participant intends to present as evidence at the hearing.*

***Witness Statements:** A **witness statement** is a short written outline of the person's background, experience and interest in the matter; a list of the issues which he or she will discuss and the witness' opinions on those issues; and a list of reports that the witness will rely*

on at the hearing. An **expert witness statement** should include his or her (1) name and address, (2) qualifications, (3) a list of the issues he or she will address, (4) the witness' opinions on those issues and the complete reasons for the opinions and (5) a list of reports that the witness will rely on at the hearing. A **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a list of the issues which the participant will address and a short outline of the evidence on those issues; and a list of reports, if any, which the participant will refer to at the hearing.

Additional Information

Summons: A party must ask a Board Member or the senior staff of the Board to issue a summons. This request must be made before the time that the list of witnesses is provided to the Board and the parties. (See Rules 45 and 46 on the summons procedure) If the Board requests it, an affidavit must be provided indicating how the witness' evidence is relevant to the hearing. If the Board is not satisfied from the affidavit, it will require that a motion be heard to decide whether the witness should be summoned.

The order of examination of witnesses: is usually direct examination, cross-examination and re-examination in the following way:

- direct examination by the party presenting the witness
- direct examination by any party of similar interest, in the manner determined by the Board
- cross-examination by parties of opposite interest
- re-examination by the party presenting the witness; or
- another order of examination mutually agreed among the parties or directed by the Board

ATTACHMENT 2

LIST OF PARTIES and PARTICIPANTS

COUNSEL/AGENT LIST- OPA 76

COUNSEL*/AGENT	PARTY	
Tim Marc* Beth Turner*	City of Ottawa	
Lyn Townsend* Jennifer Meader*	Metcalfe Realty Company Ltd	
Steven A. Zakem * Patrick Harrington*	Taggart Realty Management Inc. Taggart Investments Inc. Tamarack (Queen Street) Corporation Tamarack (Nepean) Corporation Tamarack (Nepean South) Corporation 2226561 Ontario Inc. Claridge Homes Corporation	
Mark Noskiewicz *	Walton Development and Management Inc.	
Paul Webber *	Idone, Epscon Limited	
Mark Flowers * Katarzyna Sliwa*	Mattamy	
Ken Gibson* Nicole Salloum	James Maxwell	
Paul Johanis		
David Silverson* Murray Chown	Rondolfo Mion M & A Rentals	
Alan Cohen* Ursula Melinz* January Cohen*	Greater Ottawa Home Builders Association Minto Communities Inc.	
TBA	Urbandale Corporation Riverside South Development Corporation	
Tony Fleming*	William Davidson (Area 6) Kanata Research Park	

	Corporation (Area 1) J. G Rivard Limited (Area 1)	
Steve Ault*	6095186 Canada Inc. (Junic/Multivesco) 7089121 Canada Inc.	
J. Peter Vice, Q.C.* Greg Meeds*	Grace Bell Ross Bradley 1384321 Ontario Limited	
Erwin Dreessen	Friends of Greenspace Alliance	

ATTACHMENT 3

ORDER OF EVIDENCE-Methodology

1. Summary of Methodology by City
2. Idone, Epscon Limited
3. Friends of Greenspace Alliance
4. James Maxwell
5. Mattamy
6. Any other party in opposition to City
7. City of Ottawa
8. Parties in support of City
9. Reply (from parties listed 2-6 above)

ATTACHMENT 4

ISSUES LIST

GREENSPACE ALLIANCE ISSUES

1. Are the criteria and weighting employed by the City consistent with the Provincial Policy Statement policies regarding watershed planning and protection of linkages between natural areas?
2. Are the criteria and weighting employed by the City respectful of Official Plan policies regarding watershed planning and protection of linkages between natural areas?
3. Was appropriate consideration given to subwatershed studies?
4. Does the methodology to determine gross developable hectares take in account appropriate constraints under the Official Plan and Greenspace Master Plan?

MATTAMY

5. Should lands designated "Agricultural Resource Area" be considered as candidate areas for inclusion in the City's Urban Boundary?

CITY OF OTTAWA

6. Were there reasonable alternatives, within the meaning of the Provincial Policy Statement, such that further designation of prime agricultural lands for urban purposes was not appropriate?
7. Was the exclusion of parcels of prime agricultural land as candidates for urban expansion consistent with the objectives of the Provincial Policy Statement?

JAMES MAXWELL

8. Where the stated methodology for evaluation criteria clearly states the basis for identifying lands having no residential potential due to i.e. "aircraft noise and proximity to the Trail Road disposal site, is it within the scope of the study to disqualify other lands for other not previously identified reasons?
9. Where one of the named criteria for evaluation is as #13, Potential Conflicting Land Uses, which assigns a weighted score, is it within the scope of the study to completely disqualify a parcel because one abutting owner claims a conflict?

10. Where there is an intention to summarily disqualify a particular property even before the scoring evaluation takes place is it in conformity with "fair hearing" requirement under the Planning Act to do so without affording the owner the opportunity to address in a fulsome manner the basis for the disqualification?

4840 BANK STREET LIMITED

11. Does the City's methodology provide appropriate consideration of the planned function of Urban Areas and/or communities?
12. Does the City's methodology provide appropriate consideration of applicable Community Design Plans?
13. Should there be criteria and weighting assigned to lands that can be developed in the next 5 years? (Also raised by Jim Maxwell)
14. Should there have been a criteria and weighting for the question of adjacency to the existing Urban Area?
15. Is the description of Accessibility - Transit applied by the City the appropriate description for this criterion?
16. Is the description of Accessibility to existing or planned retail /commercial area applied by the City the appropriate description for this criterion?
17. Is the description of Accessibility-Arterial and Collector Roads appropriate or should the test be one of sufficient access?
18. Is the definition of Major Recreational Facility appropriate as it has been applied by the City?
19. Why does the City's methodology include depth of bedrock as a measurement tool when this forms part of the landowners cost of development?
20. Was the City's application of historical land absorption rate an appropriate means for applying this criterion?