

**Ontario Municipal Board  
Hearing**

**WITNESS STATEMENT  
of  
Wendy Nott, FCIP, RPP**

**City of Ottawa  
Official Plan Amendment  
No. 76**

**PL 100206**

**December 9, 2011**

**WITNESS STATEMENT  
of  
WENDY NOTT, FCIP, RPP**

**CITY OF OTTAWA  
OFFICIAL PLAN AMENDMENT NO. 76  
OMB CASE NO. PL 100206**

**A Introduction**

1. I am a Senior Principal of Walker, Nott, Dragicevic Associates Limited with over thirty years experience as a consulting land use planner. My experience includes, among other matters, work on behalf of both private and public sector clients in the preparation of comprehensive Official Plans/Official Plan reviews, preparation of Secondary Plans, community master plans, urban design guidelines and plans of subdivision.

I am a Fellow of the Canadian Institute of Planners and a Registered Professional Planner and my curriculum vitae is attached to this Witness Statement as Appendix 'A'.

2. Walker, Nott, Dragicevic Associates Limited was retained by Taggart in March 2010 to assess the appropriateness of the land use policy framework and land use designations proposed within City of Ottawa Official Plan Amendment No. 76 ('OPA76') as adopted by Council on June 24, 2009.
3. Where reports, documents and correspondence, minutes etc. are referenced in this Witness Statement, they will be contained in a consolidated Document Book which will contain materials to be used by all witnesses appearing on behalf of the City of Ottawa and the appellants at the hearing and I may refer to all documents contained therein.
4. I will also provide planning evidence as is necessary to provide context.
5. My testimony will also rely on all documents referred to herein including, but not limited to, Official Plan Amendment No. 76, its attachments and related staff reports, background studies and Committee/Council discussions and dispositions. The documents to which I may refer in my evidence will be contained within a consolidated Document Book.

## **B Background**

6. As necessary, I may provide factual background information regarding the preparation and adoption of OPA 76, if this information has not previously been provided through the witness statements or evidence of the City of Ottawa.

## **C List of Issues to Be Addressed**

This phase of the hearing is to deal only with the methodology applied by the City in identifying and evaluating potential areas for urban expansion to meet the identified need for urban lands to 2031. This phase of the hearing will not deal with the application of the methodology to specific parcels of the land and the relevant scoring and ranking resulting there from. Therefore, pursuant to the Issues List, my evidence will address the following issues

### GreenspaceAlliance 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 watershed studies?
4. Does the methodology to determine gross developable hectares take in account appropriate constraints under the Official Plan and the 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.

## D Context for My Opinion

The following provides a summary of the matters considered at arriving at my overall conclusions.

### D.1 Matters of Provincial Interest

7. The Planning Act (Section 2) identifies an extensive list of matters of Provincial interest (emphasis added) including:

#### **Provincial interest**

2. The Minister, the council of a municipality, a local board, a planning board and the Municipal Board, in carrying out their responsibilities under this Act, shall have regard to, among other matters, matters of provincial interest such as,

- (a) the protection of ecological systems, including natural areas, features and functions;**
- (b) the protection of the agricultural resources of the Province;**
- (c) the conservation and management of natural resources and the mineral resource base;**
- (d) the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest;
- (e) the supply, efficient use and conservation of energy and water;
- (f) the adequate provision and efficient use of communication, transportation, sewage and water services and waste management systems;**
- (g) the minimization of waste;
- (h) the orderly development of safe and healthy communities;**
- (h.1) the accessibility for persons with disabilities to all facilities, services and matters to which this Act applies;
- (i) the adequate provision and distribution of educational, health, social, cultural and recreational facilities;
- (j) the adequate provision of a full range of housing;
- (k) the adequate provision of employment opportunities;
- (l) the protection of the financial and economic well-being of the Province and its municipalities;**
- (m) the co-ordination of planning activities of public bodies;**
- (n) the resolution of planning conflicts involving public and private interests;
- (o) the protection of public health and safety;
- (p) the appropriate location of growth and development;**

(q) the promotion of development that is designed to be sustainable, to support public transit and to be oriented to pedestrians. 1994, c. 23, s. 5; 1996, c. 4, s. 2; 2001, c. 32, s. 31 (1); 2006, c. 23, s. 3.

8. These matters of Provincial interest are also to be addressed in municipal Official Plans, key among which are several matters of Provincial interest relevant to this phase of the hearing on OPA 76 (those with emphasis added above).
9. Section 1.1 of the Official Plan indicates that the Plan is also intended to address and implement matters of Provincial interest as set out in Section 2 of the Planning Act, noted above.
10. Planning Act (Section 16.1) further requires that an Official Plan contain goals, objectives and policies established primarily to manage and direct (emphasis added) physical change and the effects on the social, economic and natural environment. The Official Plan intent, as expressed in Section 1.1, suggests that the Official Plan will implement this requirement of the Planning Act.

## **D.2 Provincial Policy**

11. As the City's previous Official Plan was adopted/approved prior to the establishment of the 2005 Provincial Policy Statement ('PPS'), a (statutory) component of the Official Plan review which culminated in OPA 76 is to ensure Official Plan consistency with the broad range of policy matters addressed by the 2005 PPS.
12. Part I of the 2005 PPS requires that both Provincial plans and municipal official plans provide a framework for comprehensive, integrated and long-term planning that supports and integrates the principles of strong communities, a clean and healthy environment and economic growth, for the long term. The PPS is a key part of the Province's policy-led planning system and anticipates that local municipal policies will implement the PPS and further, as required by Section 4.5, the local Official Plan will be the "*most important vehicle for implementation of the PPS*". This policy-led Provincial planning system is therefore intended to be implemented by a local policy-led planning system of which a primary implementation vehicle would be a municipal Official Plan.
13. Part III of the PPS also supports a comprehensive, integrated and long-term approach to planning, and recognizes the linkages among policy areas addressed by the PPS and

recognizes the complex inter-relationships among environmental, economic and social factors in land use planning. The relevant portions of the PPS are intended to be read and applied in their entirety (Part III and Section 4.3).

14. Part V, Section 1.0 of the PPS establishes a framework for building strong communities, including, among other matters: the support for long-term economic prosperity; the determination of land supply requirements for a range of land uses; the role of settlement areas as the focus of growth; land use patterns; the role and function of rural areas within municipalities; the coordination of planning initiatives; and, the provision of infrastructure and public service facilities.
15. The PPS provides a specific framework to address when and where a settlement area boundary expansion may occur (Section 1.1.3.9).
16. Part V, Section 2.0 of the PPS sets out a policy framework whose objectives are to protect natural heritage, water, agricultural, mineral and cultural heritage/archaeological resources for their economic, environmental and social benefits.
17. Section 2.1 addresses which natural heritage features and areas are of Provincial significance and directs their protection through restrictions on development therein.
18. Section 2.3 similarly provides policies to protect prime agricultural areas for long-term use for agriculture.
19. Prime agricultural areas are defined as *“areas where prime agricultural lands predominate” and such areas may include prime agricultural lands and associated Canada Land Inventory Classes 4 – 7 soils and additional areas where there is a local concentration of farms which exhibit characteristics of ongoing agriculture. “*
20. Prime agricultural lands area defined as *“land that includes specialty crop areas and/or Canada Land Inventory Classes 1, 2 and 3 soils in this order of priority for protection.”*
21. The identification of prime agricultural areas may be undertaken by the Province (using an evaluation procedure established by the Province), or through an alternative agricultural land evaluation system, approved by the Province.
22. The PPS provides a specific framework to address when and where prime agricultural areas may be used for expansions of a settlement area (Section 2.3.5).

23. Section 2.1 provides policies that protect natural features and areas for the long term and specify where development and site alteration shall not be permitted and where development and site alteration on adjacent lands may be considered.
24. Section 2.5 similarly provides policies to protect mineral aggregate resources for long-term use.
25. The PPS also provides policies (Section 1.7) which protect sensitive land uses from uses that may have an adverse effect from odour, noise and other contaminants and to minimize risk to public health and safety. Sensitive land uses are defined by the PPS as “... *buildings, amenity areas or outdoor spaces where routine or normal activities .... would experience one or more adverse effects from contaminant discharges generated by a nearby major facility.*” Adverse effects as defined by the PPS include, among other matters, “*harm or material discomfort to any person*” or “*an adverse effect on the health of any person*”.
26. The above-noted policies within the PPS, among other matters, were considered by the City of Ottawa through its Official Plan Review process since, as noted above, a key component of this Official Plan review was to secure consistency with the 2005 PPS.

### **D.3 Ottawa Official Plan**

27. At the commencement of the Official Plan Review process which led to OPA 76, the in-force City of Ottawa Official Plan was founded on a number of guiding principles (Sections 1.3 and 1.6) which were retained for the purposes of the Review. Similarly, the strategic directions on which the Official Plan is based were retained (Section 2.1) with limited revision.
28. Where additional urban land needs have been identified (as has been approved by a previous decision of the Ontario Municipal Board), the Official Plan (Section 2.2.1 Policy 4) provides policy framework for the assessment of locating such additional urban lands (such framework having had limited revisions through the OPA 76 process). This evaluation framework included, among other matters: the ability of existing/planned infrastructure to support the development of the expansion area; the preservation of the Greenbelt; agricultural areas; mineral resource areas; and, the natural heritage system.

29. Specially, the evaluation framework noted that where urban expansions were to be considered in these areas, that there must be “... *sufficient evidence that there are no reasonable alternative locations that avoid these designations.*” In addition, for agricultural areas (designated ‘Agriculture Resource Areas’ in the Official Plan) further justification would be required to demonstrate that there are “... *no reasonable alternatives that make use of poorer soils in the designation.*”
30. These approved Official Plan policies are of relevant to the establishment of the City’s methodology for the evaluation potential locations for urban area expansion as a result of the most recent Official Plan review.
31. The Ottawa Official Plan establishes two primary land uses designation for areas outside the urban area: ‘General Rural Area’ (Section 3.7.2) and ‘Agriculture Resource’ (Section 3.7.3) with the former designation being areas containing a variety of land uses (including residential uses where such uses will not preclude agricultural uses) and the latter designation being intended to protect prime agricultural areas from loss of lands to other uses due to their importance to farm production and related economic activity. While the policies related to these designation were subject to some revisions through the OPA 76 process, their intent and objectives were not subject to substantial revision.
32. Similarly, the Ottawa Official Plan contains a ‘Mineral Resources’ (Section 3.7.4) designation which is intended to protect non-renewable aggregate resources of good quality/quantity in locations close to markets and provides a policy framework intended to protect the resources for future use and to protect the resources from incompatible activities.
33. The City’s Natural Environment policies (Section 3.2) are applied to areas of environmental significance (such as wetlands) or areas of high environmental value (as determined by federal, provincial or municipal studies) within both the urban and rural components of the municipality. The intent of these policies is to protect/preserve such features and to set out, among other matters: permitted uses; where development/site alteration will not be permitted; requirements for environmental studies; and so on.

### **D.3 Ottawa Official Plan Review**

34. For the purposes of the Official Plan Review, a methodology was established to identify potential urban expansion areas as set out in a number of staff reports prepared during the Official Plan Review process.
35. This methodology established an initial level of screening (the 'essential criteria') that excluded certain areas from consideration; in particular, lands with 'Agriculture Resource' (i.e. prime agricultural areas), Natural Resource Area, Mineral Resource Area designations in the in-force Official Plan were excluded from consideration, as were lands subject to airport noise and in proximity to a significant waste disposal site.
36. The lands remaining after this initial screening were then assessed for the presence of natural heritage features in order to determine an area of developable lands therein for the purposes of a quantification of the potential land supply in the context of the identified urban land demand.
37. A more detailed matrix of evaluation criteria (the 'desirable' criteria) was then established and a scoring program developed which would assign a mathematical ranking for each parcel of land considered as a potential urban expansion area. Ultimately, recommendations as to areas for urban expansion were put forth based on the relative scoring of areas based on the methodology. The bases of these criteria were refined during the review process based on information and comments received.
38. The City also considered various options for distributing the required urban expansion lands such as a singular location; distribution based on historical land absorption; geographic distribution by historic absorption rates within the City's west, south and east urban areas; and, geographic distribution (west, south, and east).
39. Over 2,000 hectares of lands were considered under the City's methodology as potential areas for urban expansion. The City's initial 2009 evaluation was updated in 2011 after the Ontario Municipal Board decision establishing the quantum of 2031 urban land requirements although there was no change to the criteria or the method of analysis.
40. Public submissions regarding the methodology and subsequent ranking of candidate urban expansion areas were made through the Official Plan review process and its most recent update and responses to oral/written submissions provided by staff through reports and meetings.

41. The staff reports note that the overall objective was to “... *select areas that make the best use existing available infrastructure capacity and community resources.*” and to identify parcels that would be “... *developable within a reasonable period of time such as the next 5 to 10 years.*” given that the Official Plan is reviewed every five to years.
42. A draft Official Plan Amendment which reflected the results of the methodology for identifying appropriate urban expansion areas was initially introduced in January and March 2009.
43. The City proposed different designations for inclusion of new lands within the urban area depending on the scale and development complexity of particular areas (i.e. ‘Urban Expansion Study Area’ and ‘Developing Community (Expansion Area)’).

## **E Response to Issues**

Pursuant to the Issues List, my evidence will address my response to the issues set out in Section C of this Witness Statement, as generally summarized below.

The issues have been aggregated into general topic areas within the methodology where possible.

### **Natural Heritage (Issues 1, 2, 3 and 4)**

44. The City's methodology was predicated an initial screening-out of lands already designated as Natural Environment Area on the basis that Provincial and City policies were directed at protecting and preserving these areas. In addition, there are other environmental features (such as Urban and Rural Natural Features) which form part of the natural heritage system but where development within or adjacent to such areas would be assessed as to the potential for impact.
45. Accordingly, the City recognized that (Urban and Rural) Natural Features could be accommodated within an urbanized area and provided for their retention by excluding such lands from the urban land base (i.e. these lands may be brought into the urban area but would not form part of the developable land supply). While the determination of the precise boundaries, features and functions of a particular natural feature would be the subject of more detailed, site-specific studies, the City appropriately provided for their retention as predominantly natural areas notwithstanding that they may form part of the urban area by excluding such areas from the calculation of developable lands.
46. The City's Official Plan and development approvals process provides for the further evaluation and consideration of natural features through the planning process and it is not, in my opinion, necessary to have that detailed level of site/area-specific evaluation (including sub-watershed studies) completed in order to consider lands for inclusion in the urban area as further planning and studies will be required prior to actual development. As a result, Provincial and municipal policies and objectives regarding such features can be addressed and secured through those processes. However, the level of screening for the purposes of estimating gross developable area is appropriate and the actual developable area would be refined through subsequent studies and planning approvals.

## **Agriculture Resource**(Issue 5, 6 and 7)

47. Based on Provincial and approved City policy, designated Agriculture Resource areas were excluded from consideration as potential urban expansion areas with minor exception. Implementation of such Provincial and municipal policy regarding prime agricultural areas is a key parameter in the determination of candidate urban expansion areas.
48. The PPS is explicit that settlement (i.e. urban) area expansions into prime agricultural areas should only be considered where it has been demonstrated that: there are no specialty crop lands involved; there are no reasonable alternatives which avoid prime agricultural lands; and, there are no reasonable alternatives on lower priority agricultural lands in prime agricultural areas. In this regard, staff noted that there were substantial opportunities for urban expansion on lands designated General Rural Area so as not to require consideration of urban expansion onto prime agricultural lands.
49. While both Provincial and municipal policy frameworks of necessity contain a broad and diverse range of goals, objectives and policies that must be balanced and interpreted within the context of each other in this instance, the availability of non-prime agricultural lands of sufficient quantity and in appropriate locations did not necessitate the need to prevent a fulsome application of these Provincial and municipal policies.
50. The City relied on a previous (1997) evaluation of agricultural land capability ('LEAR') of non-urban designated lands to identify such prime agricultural areas.
51. The City was open to the consideration of designated Agriculture Resource areas based on specific circumstances (e.g. the Fernbank CDP lands' 'hole in the donut'); notwithstanding their LEAR classification and/or land use designation, and did not universally exclude all such lands. In addition, the City received submissions from landowners regarding the LEAR evaluation on specific lands which could have affected their classification as prime agricultural areas and therefore, their consideration through the City's review process.
52. Should the City have completed its initial screening which generally excluded lands that were designated Agriculture Resource and where the total resultant area of the identified candidate lands for urban expansion did not meet the projected requirements, then it would have been reasonable for the City to proceed with a further evaluation. This further evaluation would have considered as candidate urban areas, prime agricultural lands or

areas of lower priority agricultural lands within prime agricultural areas (i.e. Agriculture Resource designated lands), in order to accommodate the projected land requirements. In this instance, the City was able to identify sufficient lands to meet projected requirements without need to consider prime agricultural areas or lower priority agricultural lands within prime agricultural areas which is consistent with the PPS and the approved Official Plan.

53. The City is currently proceeding on a process to update its LEAR evaluation by 2014 in preparation for the next Official Plan review. This LEAR review which will allow it to consider where conditions have changed that would result in areas no longer being considered as meeting the parameters for inclusion as prime agricultural lands.
54. The City will also prepare a further review of its supply and demand for various land uses by 2014 which may identify a need for further urban area expansions beyond those contemplated through OPA 76. Where areas are no longer classified as prime agricultural areas as a result of the updated LEAR review noted above, they may be considered as candidate urban expansion areas in the next Official Plan Review.
55. In my opinion, the preservation of prime agricultural areas (consistent with the PPS and in conformity with the City's in-force Official Plan) is an important planning policy objective and the PPS is explicit in directing urban expansions onto such lands only where reasonable alternatives on non-prime agricultural areas or lower-priority agricultural lands within prime agricultural areas do not exist. Given the quantum of opportunities to consider urban expansion onto non-prime agricultural areas (i.e. lands designated General Rural Area), I support the City's methodology to exclude prime agricultural areas as candidate areas for urban expansion.

**Land Use Compatibility** (Issues 8, 9 and 10)

56. The required expansion to the urban area was primarily to accommodate the City's demands for additional residential lands to 2031. While the City reports initially indicated airport noise and landfill site operating characteristics as conditions which would preclude the consideration of the urban area in close proximity to such uses, it is my understanding that the City subsequently excluded lands affected by other significant, known noise sources.

57. It is usual for certain noise sources (such as industrial operations) to be controlled as to their noise generation through Certificates of Approval issued by the Ministry of the Environment so that compatibility with sensitive land uses in proximity may be achieved. It is my understanding that the noise source affecting the Maxwell lands (being a federal explosives range) is not controlled in this manner.
58. In my opinion, this is consistent with the PPS which seeks to protect sensitive land uses from uses that may have adverse effects from odour, noise and other contaminants. The City's Official Plan Review was required to be consistent with this PPS policy (among other policies). Further, the City's approved Official Plan includes a policy framework regarding environmental noise control (Section 4.8.8) which similarly intends to protect residents and their property from excessive noise levels (as applied, in this instance, to the potential effect on future residents/residential properties on the Maxwell lands). Therefore, the initial screening out of the Maxwell lands is appropriately founded in Provincial and municipal policy related to land use compatibility.

#### **Other Comments**

59. As previously noted, the Planning Act (Section 16.1) requires that an Official Plan contain goals, objectives and policies established primarily to manage and direct (emphasis added) physical change and the effects on the social, economic and natural environment. Therefore, the City's Official Plan will, of necessity, make choices between a number of growth management options and such choices are, in my opinion, appropriately informed through the consideration of the relative merits of a number of alternatives.
60. While both Provincial and municipal policy frameworks contain a broad and diverse range of goals, objectives and policies that must be balanced and interpreted within the context of each other, there could be situations where certain criteria (e.g., proximity to incompatible land uses) would negate the positive attributes of a candidate area on a relative basis. Accordingly, the City's methodological framework appears reasonable.

#### **G Recommendations to the Ontario Municipal Board**

61. The purpose of this phase of the hearing to review the methodology established by the City to identify and evaluate potential urban area expansion alternatives and not to review the application of the methodology to any particular property or area.
62. It is my professional planning opinion that the methodological framework established by the City to consider geographic urban expansion alternatives is appropriate; is consistent with Provincial policy; advances and conforms to the in-force Official Plan; and, represents good planning



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Wendy Nott, FCIP, RPP

December 9, 2011

Executive Vice-President & Senior Principal  
Walker, Nott, Dragicevic Associates Limite

**APPENDIX 'A'**

**CURRICULUM VITAE OF WENDY NOTT, FCIP, RPP**