

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

Appellant: James Maxwell
Subject: Proposed Official Plan Amendment No. OPA # 76
Property Location: Lands within the City of Ottawa with specific reference to part of 1f, being James Maxwell's property (1225 March Valley Road)
Municipality: City of Ottawa
OMB Case No. PL100206
OMB File No. PL100206

AFFIDAVIT OF JAMES PATRICK MAXWELL

I, James Patrick Maxwell, of the City of Ottawa, Province of Ontario, make oath and say:

1. I am a life-long farmer in the City of Ottawa, particularly in the area designated as 1f in the lands considered for urban expansion in the northern part of Kanata. The lands designated as 1f and 1g abut the westerly boundary of March Valley Road, immediately adjacent to the westerly boundary of the Connaught Rifle Range located on NCC land abutting the Ottawa River.
2. During the 2009 review of the criteria for allowing expansion of the urban envelope on the above-referenced lands 1f and 1g, the representative of DND wrote to the City of Ottawa objecting to such inclusion on the basis that the rifle range produced noise pollution and as a result, the lands in the areas 1f and 1g should not be considered for residential development because the trees located on those lands formed a "buffer" to insulate the existing residential development from noise generation activities on the rifle range.
3. Although the DND correspondence refers to the DND property as an explosives range, it is in fact used primarily for firearms practice and a small area is designated as a grenade test facility. There is no use of artillery or any other heavy armament on the property.

4. The actual firing range is far removed and at least a kilometre from March Valley Road and DND has built a nine foot chain link fence with barbed wire on top at the property line. Inside the fence it has planted trees to act as noise abatement and there is more than adequate room for more planting if DND considers it necessary. For over thirty years my family and I have cultivated many of the hay fields within the range and reseeded them with alfalfa mixture. I am completely familiar with the activities on the range in every season and during the entire year. The range is used primarily, if at all, during daylight hours, and to a very limited amount during the winter months. In the not too distant past, DND made no objection when the property immediately to the south of 1f was included in the urban envelope and the trees in the woodland located on that property were clear cut to the extent of approximately 30% in order to allow for the establishment of storm water ponds to service the Brookside subdivision which abuts on two sides, the property known as 1f. Immediately to the south of the lands on which are located the storm water ponds, is The Marshes golf course, which is also included in the urban envelope and on which there is located very little tree cover. The golf course is in constant use during summer months with golfers. The area around the golf course and along March Valley Road is a favourite recreational path for hikers, bikers and runners.
5. DND has not claimed that the activities on the range constitute any threat or risk to people in the area. It has simply indicated that the noise generated on the rifle range could be ameliorated by retaining the tree cover on the lands designated as 1f and 1g. The tree cover has been removed from a portion of those lands, such removal completed with the permission of the City of Ottawa.
6. DND correspondence requested that the City of Ottawa consider the lands 1f and 1g as having no residential development potential, notwithstanding that there already exists several estate lots developed along the westerly boundary of March Valley Road and on which are located very substantial single family residential homes. DND comments go so far as to indicate that the establishment of residential development on the said lands might interfere with the migration of deer from the DND lands on which the rifle range is located. It is somewhat anomalous that the property would be considered appropriate for wildlife sanctuary but not for human habitation. In preparation for these proceedings, I caused enquiries to be made at

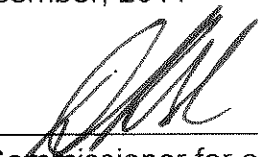
DND to establish whether or not the comments were official in nature and had been authorized by the appropriate DND authorities. Enquiries conducted through the Judge Advocate General Branch were unsuccessful in determining if the comments were officially sanctioned and in attempting to obtain clarification as to the real position of DND, I was met with refusal to have further discussions on the subject.

7. DND did not provide any in-person comment at any of the public participation forums regarding this process, nor did they provide any documentary or oral representations to substantiate the concerns outlined in their correspondence. There has been no approach made by DND personnel or any representative of DND, to obtain ownership of the subject land in order that DND could provide its own buffer zone on property that it owns.
8. In the initial assessment conducted by City of Ottawa in 2009, the properties known as 1f and 1g were considered for inclusion in the urban envelope and an evaluation criterion was initially attributed to the subject properties, but after comments by DND the subject properties were removed from consideration due to proximity to an "explosives range". It was therefore determined that the lands 1f and 1g had zero developable area, notwithstanding that the planners' comment in the City of Ottawa reports was that the lands could be developed for an urban employment zone some time in the future.
9. The stated methodology for the evaluation criteria clearly indicates that lands may be excluded due to aircraft noise and/or proximity to the Trail Road disposal site. In my view, Connaught Rifle Range is in no way similar to an airport or a waste management site, both of which activity is 24 hours a day every day on the respective properties. There is no reference in the methodology to "explosives range" and there is no indication that the land would be excluded from consideration due to proximity to an explosives range. I would assume that such a criteria would exclude all lands near quarries where explosives are used to help mine the aggregate.
10. My understanding of the criteria utilized in the study was that where there was a potential conflicting land use, it would impact on the weighted score, but it would not totally exclude the property from consideration.

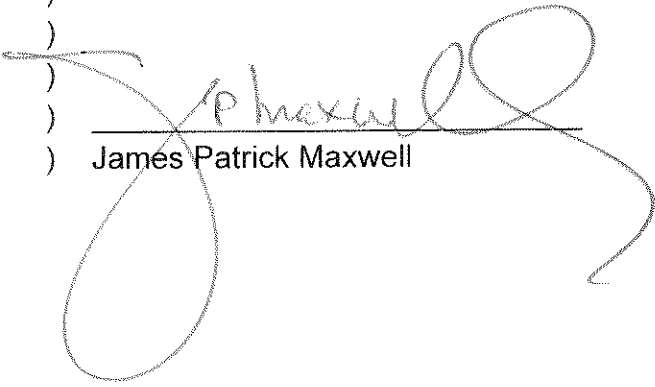
11. When I learned of the concerns expressed by DND, I completely refuted each of the concerns expressed by DND. At that time, I attempted to address each one of the concerns with the facts as I knew them from my long association with the rifle range and in the abutting properties. I was never given an opportunity to question any DND personnel or representatives with respect to their stated concerns, nor was I ever given the opportunity to address fully the fact that abutting properties had been summarily excluded from consideration.
12. I do not understand why properties in separate ownership have been combined in the designations for consideration, i.e. 1f is a combination of lands owned by Metcalfe Realty and by me. Given the cost of servicing urban development land and the fact that the methodology actually provides criteria for assessing costs, it seems anomalous that lands which are abutted on two sides by existing urban development and by existing services in the ground, are combined with lands which at some points, are at least a kilometre away from existing infrastructure. There does not seem to have been any consideration given to the difference in utility of lands which are immediately developable because they immediately abut existing infrastructure and lands which may be ten years from obtaining urban services.
13. My information is that upon receipt of comments from DND, City of Ottawa personnel accepted all of the comments as valid and at face value, and made no attempt to conduct an enquiry or elicit any verification of the allegations contained in the communication. My understanding is that this is as a result of an expedited process and limited resources which made such verification and enquiry difficult if not impossible.
14. Attached hereto and marked as Schedule "A", is an excerpt from the City of Ottawa study showing the lands indicated as 1f and 1g in the Area 1 – North Kanata Urban Area.

I make this oath for the purpose of the appeal to the Ontario Municipal Board,
and for no improper purpose.

SWORN before me at the
City of Ottawa in the Province
of Ontario this 9th day of
December, 2011



A Commissioner for oaths

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) James Patrick Maxwell

Schedule "A"



MAXWELL LAND

