

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

**IN THE MATTER OF** subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

**PROCEEDING COMMENCED UNDER** subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: County of Simcoe  
Appellant: Midhurst Development Doran Road Inc. and Carson Road Development Inc.  
Appellant: Midhurst Rose Alliance Inc.  
Appellant: Township of Springwater and others  
Subject: Failure to announce a decision respecting the Official Plan for the County of Simcoe  
Municipality: County of Simcoe  
OMB Case No.: PL091167  
OMB File No.: PL091167  
OMB Case Name: Fellman v. Simcoe (County)

**WRITTEN MOTION RECORD**  
**(3c – Railway Lines and Appendix 2)**

THOMSON, ROGERS  
Barristers and Solicitors  
Suite 3100, 390 Bay Street  
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Lawyers for the Corporation  
of the County of Simcoe

**TO: ALL APPELLANTS/PARTIES LISTED IN ATTACHMENTS "A" AND "B"**  
**WITH A COPY TO ALL PARTICIPANTS LISTED IN ATTACHMENT "C"**

AND TO: **ONTARIO MUNICIPAL BOARD**  
655 Bay Street, 15th Floor  
Toronto, Ontario, M5G 1E5

Attention: Johnpaul Loiacono, Planner  
[johnpaul.loiacono@ontario.ca](mailto:johnpaul.loiacono@ontario.ca)

Phone: 416-326-5598  
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**ATTACHMENT A”**

For Appellant Parties

Anthony-George D’Andrea  
Aynsley Anderson  
Andrea Skinner  
Barry Horosko  
Barnet Kussner  
Chris Barnett  
David White  
Harold Elston  
Ira Kagan  
Isaac Tang  
James Feehely  
Jane Pepino  
Marshall Green  
Meaghan McDermid  
Michael Melling  
Paul DeMelo  
Patricia Foran  
Roger Beaman  
Susan Rosenthal  
Stephen Waqué

**ATTACHMENT “B”**

For Parties

Aynsley Anderson  
Christopher Williams  
Edward Veldboom  
Harold Elston  
Isaac Tang  
John Dawson  
Ken Hare  
Leo Longo  
Mary Bull  
Michael Vaughan  
Mark Joblin  
Paul Peterson  
Quinto Annibale  
Raivo Uukkivi  
Roslyn Houser  
Signe Leisk  
Stephen Waqué  
Susan Rogers  
Tom Halinski  
Ugo Popadic

**ATTACHMENT “C”**

**LIST OF PARTICIPANTS MONITORING  
COUNTY OF SIMCOE OP PL091167**

Mar 29, 2015

No.	Participant or Interest	Lawyer/Agent	E-mail Address
1*[M]	<i>AWARE Simcoe</i>	<i>Sandy Agnew [M] Ann Truyens [M]</i>	<a href="mailto:sagnew@ecomedic.ca">sagnew@ecomedic.ca</a> <a href="mailto:at@iglide.net">at@iglide.net</a>
2*[M]	<i>PURE now ERA - Everett Ratepayers Association</i>	<i>Chantale Gagnon [M] David Perryman [M]</i>	<a href="mailto:chantalegagnon@bell.net">chantalegagnon@bell.net</a> <a href="mailto:dperryman43@sympatico.ca">dperryman43@sympatico.ca</a>
3[M]	Interest in Midhurst	Anna Romano	<a href="mailto:am_romano@hotmail.com">am_romano@hotmail.com</a>
8*[M]	<i>Ontario Farmland Preservation</i>	<i>Bernard Pope [M]</i>	<a href="mailto:bernard@ontariofarmlandpreservation.org">bernard@ontariofarmlandpreservation.org</a>
9*[M]	<i>Simcoe County Federation of Agriculture</i>	<i>Colin Elliott Anne Ritchie-Nahius</i>	<a href="mailto:rockeyno132@gmail.com">rockeyno132@gmail.com</a> <a href="mailto:nahuis@csolve.net">nahuis@csolve.net</a>
11[M]	11a Nutristock Corporation 11b Solmar (Healy) Corporation (re 27a, 27b)	Michael Melling Meaghan McDermid [M]-3a, 3b, 4a, 4b, 5	<a href="mailto:michaelm@davieshowe.com">michaelm@davieshowe.com</a> <a href="mailto:meaghanm@davieshowe.com">meaghanm@davieshowe.com</a>
12[M]	<del>Township of Severn</del>	Andrew Fyfe	<a href="mailto:afyfe@townshipofsevern.com">afyfe@townshipofsevern.com</a>
16*[M]	<i>John Strong</i>	<i>John Strong</i>	No e-mail given; 705-424-9350 6760 Simcoe County Road 21, R.R.#2, Alliston, Ont. L9R 1V2
18*[M]	Re 27a, 27b	Ralph MacKenzie	<a href="mailto:nvf4all@gmail.com">nvf4all@gmail.com</a>
22[M]	R & M Homes Ltd. (Everett) [M]- 2a	David White Anthony-George D'Andrea	<a href="mailto:david.white@devrylaw.ca">david.white@devrylaw.ca</a> <a href="mailto:Anthony-George.D'Andrea@devrylaw.ca">Anthony-George.D'Andrea@devrylaw.ca</a>

\* Participant has testified [M] Monitoring

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**NOTICE OF WRITTEN MOTION**  
**(Phase 3c – Policy 3.3.23 Railway Lines and Appendix 2)**

**THE CORPORATION OF THE COUNTY OF SIMCOE** is making the within Written Motion to the Ontario Municipal Board under Rule 36 of the Board's Rules of Practice and Procedure pursuant to permission granted by Order of the Board issued August 31, 2015. Any Notice of Written Response by Parties to this proceeding must be served by **Monday, April 18, 2016** and the County may thereafter serve a Written Reply by **Thursday, April 21, 2016**.

THE MOTION IS FOR AN ORDER:

- (a) approving without modification Policy 3.3.23 Railway Lines of the Official Plan for the County of Simcoe ("Official Plan");
- (b) deleting in its entirety Appendix 2 - Guidelines Traffic Impact Studies of the Official Plan; and

- (c) such further and other relief as may seem just and appropriate.

THE GROUNDS FOR THE MOTION ARE:

- (a) Phase 3c of this proceeding dealt with transportation policies including Official Plan policy 3.3.23 (Railway Lines) as well as Appendix 2 – Guidelines Traffic Impact Studies.
- (b) Only Party G1 opposed policy 3.3.23. Party G1 has now withdrawn as a party by Exhibit 176.
- (c) G1 also opposed the use of detailed appendices in an Official Plan and the County undertook to delete the appendices as related policies were approved.
- (d) The transportation policies have been approved and Appendix 2 is redundant and should be deleted.
- (e) Approval of policy 3.3.23 as enacted conforms with the Growth Plan, is consistent with the Provincial Policy Statement, 2014 and represents good planning.
- (f) Such further and other grounds as counsel may advise and this Board may deem necessary.
- (g) *Planning Act*, R.S.O. 1990, c. P.13, as amended, ss. 17(40), 17(45), 17(50).
- (h) The Ontario Municipal Board Rules of Practice and Procedure, Rule 36.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at

the hearing of the motion:

- (a) the Affidavit of Kathy Suggitt sworn April 7, 2016, and the Exhibits attached thereto,
- (b) the pleadings, proceedings and exhibits filed herein,
- (c) such further and other material as counsel may advise and the Board may permit.

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Lawyers for the Corporation  
of the County of Simcoe



## ATTACHMENT "1"

### Railway Lines

**3.3.23** The *County* acknowledges the importance of rail infrastructure and recognizes its critical role in long-term economic growth and the efficient and effective movement of goods and people. The *County* shall ensure the continued viability and ultimate capacity of the rail corridors and yards (if applicable) are protected and shall identify and support strategic *infrastructure* improvements such as targeted grade separations. The *County* encourages protection of non-active rail line corridors from encroachment of *sensitive land use development* to allow for future expansion of rail services.

*Sensitive land uses* are discouraged adjacent to or in proximity to rail facilities.

All proposed residential or other *sensitive land use development* within 300 metres of a railway right-of-way will undertake noise studies as required, to the satisfaction of the *County* or the *local municipality* whichever is the approval authority, in consultation with the appropriate railway, and shall undertake appropriate measures to mitigate any adverse effects from noise that were identified.

All proposed residential or other *sensitive land use development* within 75 metres of a railway right-of-way will be required to undertake vibration studies, to the satisfaction of the *County* or *local municipality*, whichever is the approval authority, in consultation with the appropriate railway, and shall undertake appropriate measures to mitigate or attenuate any adverse effects from vibration that were identified.

All proposed *development* adjacent to railways shall ensure that appropriate safety measures such as setbacks, berms and security fencing are provided, to the satisfaction of the *County* or *local municipality*, whichever is the approval authority of the application, in consultation with the appropriate railway. Where applicable, the *County* will ensure that sightline requirements of Transport Canada and the railways are addressed.

Implementation and maintenance of any required rail noise, vibration and safety impact mitigation measures, along with any required notices on title such as warning clauses and/or environmental easements, will be secured through appropriate legal mechanisms, to the satisfaction of the *County* or the *local municipality*, whichever is appropriate, and the appropriate railway.

**ONTARIO MUNICIPAL BOARD**

**NOTICE OF WRITTEN MOTION  
(3c – Railway Lines and Appendix 2)**

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(050873 RTB/aph)

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**AFFIDAVIT OF KATHY SUGGITT, MCIP, RPP**

**Phase 3c – Railway Lines and Appendix 2**

**I, KATHY SUGGITT, MCIP, RPP, of the City of Barrie, in the Province of Ontario,  
MAKE OATH AND SAY AS FOLLOWS:**

1. I am the Manager of Policy Planning in the Planning Department at the County of Simcoe (the "County"). As such, I have knowledge of the matters deposed to herein.
2. I am a Full Member of the Canadian Institute of Planners and a Registered Professional Planner in the Province of Ontario. I have over 25 years of experience in private and public sector planning. A copy of my Curriculum Vitae has previously been filed in these proceedings as attachment A to Motion Record Exhibit 7.
3. I have been directly involved in matters respecting the County's updated Official Plan at all stages of the process since August 2008 leading to its adoption by the County on November 25, 2008 through to the endorsement of the proposed modified Plan by County Council on January 22, 2013 and to the present including OMB proceedings to date.

**Phase 3c – Railway Lines Policy 3.3.23 and Appendix 2**

- 4. Except for policy 3.3.23 and Appendix 2 – *General Guidelines for Traffic Impact Studies*, the other policies dealing with transportation in Phase 3c were approved by the Ontario Municipal Board (“OMB”) by order issued February 20, 2015. Policy 3.3.23 remained unapproved at the time because of concerns raised by Party G1.
- 5. By letter dated March 16, 2016 filed as Exhibit 176, Party G1 withdrew as a Party to these proceedings.
- 6. I have subsequently reviewed policy 3.3.23 to determine if any changes are warranted in the policy as proposed by the County. It is my professional planning opinion that policy 3.3.23 as proposed is appropriate and in conformity with relevant Provincial policy. The policy is consistent with the Provincial Policy Statement, 2014, conforms with the Growth Plan and represents good planning.

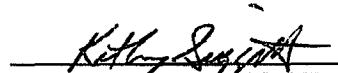
**Proposed Modification Deleting Appendix 2**

- 7. Appendix 2 deals with *General Guidelines for Traffic Impact Studies* and was also of concern to Party G1. Early in this proceeding, I concluded that a policy direction, if found in an appendix, was more appropriately included in the Official Plan itself as policy. Therefore, the appendices were determined to be redundant and should be removed from the Official Plan as experts’ meetings occurred on each Phase of the hearing. Consequently, the County now seeks deletion of Appendix 2.
- 8. I make this Affidavit in support of the County’s request for an order of the Board to allow the appeal of the Official Plan in part to approve policy 3.3.23 as proposed and as shown in **Exhibit “A”** attached and to delete Appendix 2 from the Official Plan.

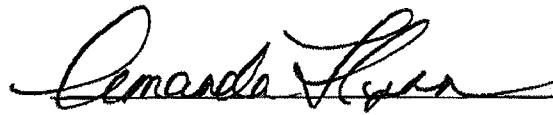
**SWORN BEFORE ME** )  
 at the Township of Springwater )  
 in the County of Simcoe )  
 this 7th day of April, 2016. )

  
**Commissioner for Taking Oaths, etc.**

Amanda Flynn, Deputy Clerk  
 A Commissioner for the  
 Corporation of the  
 County of Simcoe

  
**KATHY SUGGITT**

THIS IS EXHIBIT "A" REFERRED TO IN THE AFFIDAVIT  
OF KATHY SUGGITT SWORN BEFORE ME THIS  
7th DAY OF APRIL, 2016.

A handwritten signature in black ink, appearing to read "Amanda Flynn". The signature is written in a cursive style with a horizontal line underneath.

A Commissioner, etc.

Amanda Flynn, Deputy Clerk  
A Commissioner for the  
Corporation of the  
County of Simcoe

## Exhibit "A"

### Railway Lines

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