

ISSUE DATE:

May 13, 2011



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

PL101128
PL101233
PL101237
PL101238

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

Appellants: See Attachment "1"
Subject: Proposed Official Plan for the Regional Municipality of York
Municipality: Regional Municipality of York
OMB Case No.: PL101128
OMB File No.: PL101128

IN THE MATTER OF subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: 1596630 Ontario Limited
Appellant: Dalton & Alan Faris
Appellant: Eden Mills Estates Inc.
Appellant: Martin Pick, Thomas Pick & 132463 Ontario Inc.
Appellant: Rice Commercial Group of Companies
Subject: Proposed Regional Official Plan Amendment No. 1 (ROPA 1)
Municipality: Regional Municipality of York (Town of East Gwillimbury)
OMB Case No.: PL101233
OMB File No.: PL101233

IN THE MATTER OF subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Sustainable Vaughan
Subject: Proposed Regional Official Plan Amendment No. 2 (ROPA 2)
Municipality: Regional Municipality of York (City of Vaughan)
OMB Case No.: PL101237
OMB File No.: PL101237

IN THE MATTER OF subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Minotar Holdings Inc., Cor-lots Developments, Cherokee Holdings & Halvan 5.5 Investments Limited (collectively referred to as "Minotar")
Appellant: Grace Chinese Gospel Church of North York
Appellant: North Markham Landowners Group
Subject: Proposed Regional Official Plan Amendment No. 3 (ROPA 3)
Municipality: Regional Municipality of York (Town of Markham)
OMB Case No.: PL101238
OMB File No.: PL101238

APPEARANCES:

Registrants

Refer to Attachment "2"

DECISION OF THE BOARD ON THE FIRST PRE-HEARING CONFERENCE DELIVERED BY S.W. LEE AND K. HUSSEY

This is the 1st pre-hearing conference for the proceedings involving the York Region Official Plan-2010 (Region OP) and Regional Official Plan Amendments (ROPA's 1, 2 & 3). Judging from the number of registrants and the proposed matrix of issues, filed by Counsel for the Region as Exhibit 4, it is safe to say that there will be a period of gestation through the PHCs process before the stage is set for the adjudication of the merits. One Counsel, Ms. P. Foran, expressed her anxiety that the Board may get bogged down. She urges the panel to set a definitive hearing date. The Board will not countenance a pre-hearing process that drifts aimlessly over an elephantine time span. However, a commencement date for the 1st phase of the hearing will not be scheduled until the Board is satisfied the parties are ready, the issues well-defined and the organization of the hearing well in place. The targeted aim of commencement in June 2012 does not seem unrealistic. The Board simply needs to know the path that will lead there.

Website & E-notice

As suggested by Counsel for the Region, the Region will set up a website devoted to the dissemination of information for these proceedings, including the scheduling of future hearing events, the publication of deadlines, Board decisions, Board directions distilled from the decisions & anything deemed to be of general interests for these proceedings. The website should be designed with distinct categories for these items set out aforesaid and be updated from time to time. The website address should be communicated to the registrants and appellants.

The request made by the Region for notice by electronic-mails is hereby granted, save and except for those parties and participants who wish to be notified by regular mail. Anyone wishing to be so notified shall inform Counsel for the Region forthwith and the Region shall hereafter serve notice accordingly.

Parties & Participants

As Exhibit 2 indicates, the number of registrants attending this session is many. The Board requires all registrants to inform Counsel for the Region no later than May 16th its intention to seek party or participant status. Some of the registrants are appellants and as such, they have identified the policies under appeal in their letters under appeal. Out of an abundance of caution, the Board directs the appellants who have registered to affirm their request of the party status to the Counsel for the Region. Registrants who are not appellants and who have not identified their areas of interest are directed to furnish Counsel for the Region the identification of the specific policies of their concern or the sites for which they have interests no later than May 16th 2011. Counsel for the Region is directed to post the lists of requests received on the website. Anyone who wishes to object to the request of the party or participant status are directed to file their intention to object to Counsel of the Region and to the relevant interested parties making the request no later than May 20th 2011. The Board will adjudicate the granting of parties & participants status at the PHC sessions scheduled on May 30th and July 19th 2011. Counsel for the Region is directed to organize these sessions so that what has been agreed to and what is to be adjudicated will be clear to all and sundry prior to the sessions. Unless the matters are complex, the Board does not require filed sworn affidavits and expects to deal with such matters expeditiously, based on submission of Counsel and oral or documentary evidence if the latter is deemed necessary.

Dismissal under Section 17(36) of the *Planning Act*

At the PHC sessions on May 30th & July 19th 2011, the Board will entertain motions of dismissal pursuant to S.17(36) of the *Planning Act*. A number of registrants and appellants will be affected, including the clients of Messrs. B. Horosko, R. Beaman, J. Davies, I. Kagan & Ms. C. Lyon. The Board directs Counsel for the Region to

organise these sessions so that all the parties targeted will be notified and ready and that there will be sufficient time for the adjudications.

Urban Area designation for HW400 North Employment lands-OPA 637

OPA 637 (OMB Case No. PL100850) is the OPA addressing the employment areas in Vaughan in the vicinity of HWY 400 immediately south of the Township of King boundary and north of Teston Road. It is reflective of the approved ROPA 52 generally and is currently being mediated by the Board. Success of this process is expected. While ROPA 52 generally expands the Urban Area, there are two deferral areas at the southerly portion. It is the common wishes of all the parties involved that once OPA 637 comes into force, the consideration of the deferred areas of OPA 637 within the Urban Boundary can be finalised at these proceedings. As soon as Counsel for the Region advises the Board that the parties are ready, the Board will direct notice for such a purpose, which notice may be abridged if necessary.

Allocation of Population & Employment

The Board has been advised that ROPAs 1, 2 & 3 and the Region OP as currently crafted and modified have at least three willing municipal hosts for the respective Urban Expansions. The Board has been requested by Counsel for the Region to set a target date of May 30th 2011 during which session we can ascertain whether there is any party who intends to challenge the allocation of Population and Employment for these municipalities and the Region. The Board is of a view that an alternative date should be given in view of the fact the parties & participants status may not be finalised by that date. We will entertain another date at the May 30th session.

The Legality of O. Reg. 543/06 & 544/06

Mr. D. Donnelly on behalf of the Huron-Wendat Nation advised the Board that he may request the Board to state a case to the Divisional Court to address the legality of the said two regulations for notice. In the alternative, he may simply choose to contest the impugned policies or mediations. The policies his client appears to impugn are fastened to the Cultural Heritage Issue in the Region OP. Messrs. S. Zakem & M. Melling have advised the Board that they may take issue with Mr. Donnelly if the latter is to contest the questions of constitutionality arising from the notice pursuant to these

regulations. The Board directs Mr. Donnelly to inform Counsel for the Region no later than May 30th 2011 as to the choice of remedy he seeks.

Consolidation & Phasing

Before the Board can consider whether the Region OP and ROPAs 1, 2 & 3 are to be consolidated and how in fact the proceedings are to be organised, phased or segmented, there is a need for the interested parties to have more detailed discussions and more soul-searching planning. The Board hereby directs the Counsel for the Region to lead such a dialogue and report back once some tangible results are reached. Threshold matters can be addressed by way of bifurcation. All Growth Plan matters can be consolidated, especially where questions of Urban Boundary, location of Employment areas, locations of major retails and intensification along transit corridors are involved. These areas may cross both OP & ROPAs instruments. With respect to other non-growth related matters, it may be expedient to have those matters spun off in another phase or another segment and that such a segment or phase can be adjudicated by another panel.

Mediation & Mediation Assessment

A request is made for two weeks to set aside for mediation, one before the exchange of expert reports (5 days commencing October 19th 2011) and another after the exchange of expert reports (week of February 13th 2012). While this panel is not averse to scheduling mediation time this early, the Board wants to remind parties the challenges associated with multi-parties mediations:

1. It is important to ascertain the number of parties interested and the areas of their interests. If interested parties are many, the scale of such mediations would pose quite a challenge. If the interested parties are few, the perspective is entirely different. Like anything else, mediation requires attention to details and organizational efforts. There is no quick-fix, no *legerdemain* or unexpected stratagem that could substitute planning.
2. Mediation assessment should be undertaken by the Board before mediation is to proceed. It is doubtful that assessment of mediation can be done *en masse* and in one sitting. Where there are matters of common areas, the parties can be grouped in a session and the Board Member can conduct assessment according to subject areas.

in possession of sufficient information to project into the future. The Board will visit that list at the next session and regularly thereafter.

“S.W. Lee”

S.W. LEE
ASSOCIATE CHAIR

“K.J. Hussey”

K.J. HUSSEY
VICE-CHAIR

ATTACHMENT “1”

List of Appellants

- 1 Angus Glen North West Inc. and Angus Glen Holdings Inc.
- 2 E. Manson Investments
- 3 North Leslie Residential Landowners Group Inc.
- 4 North Markham Landowners Group
 - 1212763 Ontario Limited
 - 1463069 Ontario Limited
 - 1512406 Ontario Limited
 - 1612286 Ontario Inc.
 - 4551 Elgin Mills Developments Limited
 - CAVCOE Holdings Ltd.
 - Colbay Investments Inc.
 - First Elgin Mills Developments Inc
 - Firwood Holdings Inc.
 - Glendower Properties Inc.
 - Highcove Investment Inc.
 - Mackenzie 48 Investments Limited
 - Major Kennedy Developments Limited
 - Major Kennedy South Developments Limited
 - Major McCowan Developments Limited
 - Romandale Farms Ltd.; Frambordeaux Developments Inc. and Kennedy Elgin Developments Limited
 - Summerlane Realty Corp
 - Tsialtas, Peter and Cathy
 - Tung Kee Investment Limited Partnership
 - Warden Mills Development Limited
 - ZACORP Ventures Inc
- 5 Loblaw Properties Limited
- 6 Rice Commercial Group of Companies
- 7 Yonge Green Lane Developments Limited
- 8 Mr. Allen Eng
- 9 Mr. John Hayes
- 10 Mr. Paul Jadilebovski
- 11 Mr. Peter Antonopoulos
- 12 Mr. Philip Comartin
- 13 Mr. Shai Perlmutter
- 14 Mr. Steven DeFreitas
- 15 Peat Farmers of Ontario represented by Mr. Phil Comartin
- 16 Property Owners with Rights Association represented by Paul Jadilebovski
- 17 Kau & Associates L.P.
- 18 Block 27 Landowners Group
- 19 Dorzil Developments (Bayview) Ltd.
- 20 Westlin Farms
- 21 Lucia Milani and Rizmi Holdings Limited

22 Daraban Holdings Limited
23 Smart Centres and Calloway Real Estate Investment Trust
24 Yonge Bayview Holdings Inc.
25 583753 Ontario Ltd.
26 775377 Ontario Ltd.
27 Helmhorst Investments Ltd.
28 Aurora 2C Landowners Group Inc.
29 W. J. Smith Gardens Limited
30 Metrus Development Inc.
31 Upper City Corporation and Clear Point Developments
32 Minotar Holdings Inc, Cor-lots Development, Cherokee Holdings and
Halvan 5.5 Investments Limited
33 Dalton and Alan Faris and Eden Mills Estates Inc.
34 John Carlisle and Robert G. Sikura
35 Aurora-Leslie Developments Inc.
36 Fieldgate Developments and TACC Developments
37 Times Group Corporation
38 Memorial Gardens Canada Limited
40 583753 Ontario Ltd.
41 Amir Hessam Limited and 668152 Ontario Ltd.
42 Arten Developments Inc.
43 Sanmike Construction Ltd.
44 Canadian Mortgage and Housing Corporation
46 Mahamevna Bhavana Asapuwa Toronto
47 Mandarin Golf and Country Club Inc. and A V Investments II Inc.
48 Cornerstone Christian Community Church
49 Tesmar Holdings Inc.
50 Sustainable Vaughan
51 Markham Gateway Inc.

ATTACHMENT “2”

LIST OF REGISTRANTS
YORK REGION OFFICIAL PLAN
REGIONAL OFFICIAL PLAN AMENDMENTS 1, 2 and 3

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Representative	Representative’s Email	Appellant or Other Interested Individual
<p>Aird & Berlis Brookfield Place, 181 Bay Street, Suite 1800, Box 754 Toronto, ON M5J 2T9 Fax: 416-863-1515</p> <p>N. Jane Pepino Tel: 416-865-7727</p> <p>Patricia A. Foran Tel: 416-865-3425</p>	<p>jpepino@airdberlis.com</p> <p>pforan@airdberlis.com</p>	<p>1. Angus Glen North West Inc. and Angus Glen Holdings Inc.</p>
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<p>Aird & Berlis</p>		<p>Landowners Group Inc.</p>
<p>N. Jane Pepino Aird & Berlis</p> <p>Patricia A. Foran Aird & Berlis</p> <p><u>Co-counsel for certain landowners:</u></p> <p>a) Ira Kagan Kagan Shastri LLP 188 Avenue Road Toronto, ON M5R 2J1 Tel: 416-368-2100 ext. 226 Fax: 416-324-4224 (Co-counsel for Warden Mills Developments Limited, Kennedy Elgin Developments Limited, 4551 Elgin Mills Developments Limited, Major Kennedy Developments Limited, Major Kennedy South Developments Limited, Mackenzie 48 Investments Limited)</p> <p>b) Michael Melling Davies Howe Partners (Co-counsel for Romandale Farms Limited)</p> <p>c) Stephen D’Agostino and Roger Beaman Thomas Rogers 390 Bay Street, Suite 3100 Toronto, ON M5H 1W2 Te: 416-868-3100 Fax: 416-863-3134 (Co-counsel for ColebyInvestments Inc., Highcove Investments Onc., Firwood Holdings Inc., Major McCowan Developments Limited, Summerlane Realty Corp.)</p>	<p>jpepino@airdberlis.com</p> <p>pforan@airdberlis.com</p> <p>ikagan@ksllp.ca</p> <p>michaelm@davieshowe.com</p> <p>sdagostino@thomsonrogers.com rbeaman@thomsonrogers.com</p>	<p>4. North Markham Landowners Group</p> <ul style="list-style-type: none"> • 1212763 Ontario Limited • 1463069 Ontario Limited • 1512406 Ontario Limited • 1612286 Ontario Inc. • 4551 Elgin Mills Developments Limited • CAVCOE Holdings Ltd. • Colbay Investments Inc. • First Elgin Mills Developments Inc • Firwood Holdings Inc. • Glendower Properties Inc. • Highcove Investment Inc. • Mackenzie 48 Investments Limited • Major Kennedy Developments Limited • Major Kennedy South Developments Limited • Major McCowan Developments Limited • Romandale Farms Ltd.; Frambordeaux Developments Inc. and Kennedy Elgin Developments Limited • Summerlane Realty Corp • Tsialtas, Peter and Cathy • Tung Kee Investment Limited Partnership • Warden Mills Development Limited • ZACORP Ventures Inc.
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<p>Steven A Zakem Aird & Berlis</p>	<p>szakem@airdberlis.com</p>	<p>6. Rice Commercial Group of Companies (Markham and Richmond Hill)</p> <p>7. Yonge and Green Lane Developments Corp. and Yonge and Green Lane South Developments Corp.</p>
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