

ISSUE DATE:

December 13, 2012



PL101128
PL101233
PL101238

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: 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: 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

BEFORE:

S. W. LEE
ASSOCIATE CHAIR

K.J. HUSSEY
VICE-CHAIR

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Thursday, the 13th day of
December, 2012

THIS MATTER having come on for a public hearing on December 10, 2012;

THE BOARD having received the following Regional Official Plan Amendment No. 1 ("ROPA No. 1") Minutes of Settlement, filed in these proceedings:

- a. Minutes of Settlement between the Region and Yonge Green Lane GP Inc., DDR Green Lane Bayview GP Inc., DDR GL West GP Inc., DDR GL East GP Inc., Green Lane North Realty Inc., North Markham 404 GP Ltd., 11160 Woodbine Avenue Limited, and DDR Major Mac Richmond GP Inc., known as Rice Commercial Group of Companies ("Rice Group"), executed September 20, 2012, filed as Exhibit 79;
- b. Minutes of Settlement between the Region and EdenMills Estates Inc., ("Eden Mills") executed September 19, 2012, filed as Exhibit 80; and
- c. Minutes of Settlement between the Region and Martin Pick, Thomas Pick and 1324534 Ontario Inc., (collectively referred to as "Pick"), executed September 20, 2012, filed as Exhibit 81.

AND THE BOARD having received the Motion Record of the Region, which was filed and marked as Exhibit 87, as well as the Affidavit of Service of Sarah Schmidt as to the notice provided to landowners within 120 metres of the proposed ROPA No. 1, filed as Exhibit 88 in the proceedings;

AND THE BOARD having received the affidavit evidence of Barbara Jeffrey, MCIP, RPP (sworn October 2, 2012), contained at Tab 2 of Exhibit #87 pertaining to the proposed approval of ROPA No. 1, filed on behalf of York Region;

AND THE BOARD having received the Notice of Response and the Affidavit of Service from the Rice Group, which were filed as Exhibits 90 and 89, respectively; and, the Notice of Response of the appellants Pick, which was filed as Exhibit 91, relating to the proposed approval of ROPA No. 1;

AND THE BOARD having heard the submissions of counsel for the Region relating to the proposed approval and bringing into force of ROPA No. 1 as modified by Minutes of Settlement, marked as Exhibits 79, 80 and 81 at the September 21, 2012 prehearing conference, for inclusion in the York Region Official Plan – 2010 as modified ("ROP – 2010");

AND THE BOARD having heard the submissions of counsel for the appellants, Rice Group and having heard the submissions of counsel for the appellants, Pick, relating to the proposed approval of ROPA No. 1;

AND THE BOARD having been advised that the parties consent to an Order approving ROPA No. 1, provided that the issuance of the Order is withheld until such time as various conveyances have been completed, as detailed below;

AND WHEREAS appellant Yonge Green Lane GP Inc. (a member of appellant Rice Group) purchased property owned by appellants, Dalton and Alan Faris, (collectively "Faris") and Yonge Green Lane GP Inc., assumed the Faris appeal, as identified in Exhibit 79;

AND WHEREAS by letter dated April 27, 2011, the appellant, 1596630 Ontario Limited, withdrew its appeal of the ROP-2010 and ROPA No. 1;

THE BOARD ORDERS that:

1. In accordance with Section 17(50) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, ROPA No. 1, as modified by the New ROPA 1 Boundary Map, marked as Exhibit 82 in these proceedings and which modifications are more particularly described in the following: paragraph 2 to Exhibit 79 and identified on the map marked as Exhibit 4 to Exhibit 79; paragraph 2 to Exhibit 80 and identified on the map marked as Exhibit 2 to Exhibit 80; and, paragraph 2 to Exhibit 81 and identified on the map marked as Exhibit 2 to Exhibit 81, is hereby approved, however a Board Order bringing this amendment into force (save and except as provided below) will be withheld pending completion of the following conveyances:
 - a. As provided in the Minutes of Settlement in respect of Rice Group, marked as Exhibit 79 in these proceedings, Rice Group shall convey to the Region, free of all costs and encumbrances, a fee simple interest in lands identified as Part 2 on Plan 65R-33429, and a permanent easement interest in lands identified as Parts 3 and 4 on Plan 65R-33429; and
 - b. As provided in the Minutes of Settlement in respect of Pick and marked as Exhibit 81 in these proceedings, Pick shall convey to the Region the following, free of all cost and encumbrances:

- i. A temporary easement interest in lands identified as Part 1 on Plan 65R-33533, for the construction of a new road access for a period not longer than 3 years;
 - ii. A permanent easement interest in lands identified as Part 2 on Plan 65R-33533, for slope maintenance, bridge maintenance and utility access; and
 - iii. A fee simple interest in lands identified as Part 3 on Plan 65R-33533.
2. In addition to the requirement set out in paragraph 1 above, the Order bringing into force ROPA No. 1 shall be further withheld until the urban-related policies of the ROP 2010 have been approved by the Board (save and except for those outstanding appeals which are scoped to site specific application of those policies and maps). For purposes of clarity, the urban-related policies constitute the entirety of the ROP-2010, save and except Chapter 6, unless otherwise agreed by the Region and the ROPA 1 parties. In the event the Region and the ROPA 1 parties cannot agree, as provided for in paragraph 2 herein, the Board may be spoken to about implementation of this Order.
3. The Board expressly reserves its jurisdiction to, at any time, and at the request of the Region or any ROPA 1 party, revisit completion of the conveyances provided for in paragraph 1 above as a precondition of its Order being issued in final form and will consider issuing partial approval of ROPA No. 1, as amended, with respect to lands not involved in the conveyances and/or with respect to lands where the conveyance(s) has been completed where appropriate to allow the planning process to advance.
4. Upon issuance of the ROPA No. 1 approval order in accordance with paragraph 1 herein, the following appeals will be completely resolved through the approval of ROPA No. 1 (including where applicable through Minutes of Settlement that have been entered into) and those appeals are accordingly allowed in part with respect to mapping modified on appeal, and are otherwise dismissed in their entirety:
 - a. Pick; and
 - b. Eden Mills (including its appeal of the ROP-2010).
5. Upon issuance of the ROPA No. 1 approval order in accordance with paragraph 1 herein, the following appeal will be partially resolved through the approval of ROPA No. 1 and/or through Minutes of Settlement that have been entered into. That appeal is hereby allowed in part with respect to policies, provisions and mapping modified on

appeal and is otherwise scoped to the following portions of the ROP 2010 which remains under appeal:

- a. Rice Group - remaining site specific appeal relating to the Major Mac Lands, as defined in paragraph 14 of Exhibit 79: Section 4.3, Section 4.4, Policy 5.5.3(b), Policy, 7.2.73 (formerly Policy 7.2.72) and Policies 8.4.15 to 8.20 and all related definitions, maps, schedules and appendices.
6. Notwithstanding the approval herein, and in accordance with paragraph 13 of the August 23, 2012 Order for Partial Approval, the Board retains jurisdiction to consider and approve additions to approved maps, policies, figures, definitions, graphics and associated preambles and sidebar text, as they may relate to the issues then before the Board.
7. York Region will not call evidence, or make submissions to the Board, that the partial resolution of the ROP – 2010 upon the consent of the affected parties is, or should be found by the Board to be, an admission or acceptance in itself by the parties of the planning merits of the maps, policies, figures, definitions, graphics and associated preambles and sidebar text approved by the Board pursuant to this Order.
8. The Board may be spoken to should any matters arise respecting the implementation of this Order.

A handwritten signature in black ink, appearing to read "Jennie Hogg". The signature is written in a cursive, flowing style with a period at the end.

SECRETARY

Attachment 1 – List of Appellants

York region Official Plan – PL101128 (ROP) Appellants	Counsel
Angus Glen North West Inc. and Angus Glen Holdings Inc. (Appellant 1)	Patricia A. Foran/N. Jane Pepino pforan@airdberlis.com / jpepino@airdberlis.com
E. Manson Investments (Appellant 2)	Patricia A. Foran/N. Jane Pepino pforan@airdberlis.com / jpepino@airdberlis.com
North Leslie Residential Landowners Group Inc. (Appellant 3)	Patricia A. Foran/N. Jane Pepino pforan@airdberlis.com / jpepino@airdberlis.com
North Markham Landowners Group (Appellant 4): <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. • EL-EN Packaging Company Limited • EL-EN Realty Limited • First Elgin Mills Developments Inc. • Glendower Properties Inc. • Haremar Plastic Manufacturing Limited • Haremar Realty Limited • Mackenzie 48 Investments Limited • Major Kennedy Developments Limited • Major Kennedy South Developments Limited • Frambordeaux Developments Inc. and Kennedy Elgin Developments Limited • Tsialtas, Peter and Cathy • Tung Kee Investment Limited Partnership • Warden Mills Development Limited • ZACORP Ventures Inc. 	Patricia A. Foran/N. Jane Pepino pforan@airdberlis.com / jpepino@airdberlis.com
Romandale Farms Ltd. (<i>part of Appellant 4</i>)	Michael Melling/Raj Kehar michaelm@davieshowe.com / rajk@davieshowe.com Assistant: Jules Calzavara julesc@davieshowe.com
Loblaw Properties Limited (Appellant 5)	Steven A. Zakem szakem@airdberlis.com
Rice Commercial Group of Companies (Non-East Gwillimbury Lands) (Appellant 6)	Ira T. Kagan ikagan@ksllp.ca
Yonge Green Lane Developments Limited (Appellant 7)	Steven A. Zakem szakem@airdberlis.com
Mr. Allen Eng (Appellant 8)	
Mr. John Hayes (Appellant 9)	
Mr. Paul Jadilebovski (Appellant 10)	

York region Official Plan – PL101128 (ROP) Appellants	Counsel
Mr. Peter Antonopoulos (Appellant 11)	
Mr. Philip Comartin (Appellant 12)	
Mr. Shai Perlmutter (Appellant 13)	
Mr. Steven DeFreitas (Appellant 14)	
Peat Farmers of Ontario represented by Mr. Phil Comartin (Appellant 15)	
Property Owners with Rights Association represented by Paul Jadilebovski (Appellant 16)	
Kau & Associates L.P. (Appellant 17)	
Bloek 27 Landowners Group (Appellant 18)	
Dorzil Developments (Bayview) Ltd. (Appellant 19)	John M. Alati johna@davieshowe.com
Westlin Farms (Appellant 20)	Michael Melling michaelm@davieshowe.com
Lucia Milani and Rizmi Holdings Limited (Appellant 21)	Michael Melling/Raj Kehar michaelm@davieshowe.com / rajk@davieshowe.com Assistant: Jules Calzavara julesc@davieshowe.com
Daraban Holdings Limited (Appellant 22)	Mark Flowers Email : markf@davieshowe.com
SmartCentres and Calloway Real Estate Investment Trust (Appellant 23)	Mark Flowers markf@davieshowe.com
Yonge Bayview Holdings Inc. (Appellant 24)	Mark Flowers markf@davieshowe.com
583753 Ontario Ltd. (Appellant 25 and 40)	Susan Rosenthal susanr@davieshowe.com
775377 Ontario Ltd. (Appellant 26)	Susan Rosenthal susanr@davieshowe.com
Helmhorst Investments Ltd. (Appellant 27)	Susan Rosenthal susanr@davieshowe.com
Aurora 2C Landowners Group Inc. (Appellant 28)	Chris Barnett / Laura Bisset cbarnett@davis.ca / lbisset@davis.ca Assistant: Simone Oliveira soliveira@davis.ca
W. J. Smith Gardens Limited (Appellant 29)	Neil G. Davis neil.davis@daviswebb.com
Metrus Development Inc. (Appellant 30)	David Bronskill/Jennifer Drake dbronskill@goodmans.ca / jdrake@goodmans.ca
Upper City Corporation and Clear Point Developments (Appellant 31)	Roslyn Houser rhouser@goodmans.ca
Minotar Holdings Inc, Cor-lots Development, Cherokee Holdings and Halvan 5.5 Investments Limited (Appellant 32)	Catherine A. Lyons clyons@goodmans.ca
Dalton and Alan Faris and Eden Mills Estates Inc. (Appellant 33)	Susan Rosenthal susanr@davieshowe.com
Eden Mills Estates Inc. (initially part of Appellant 33)	Bobby Bhoola bobby@ballantryhomes.com
John Carlisle Robert G. Sikura (Appellant 34)	Patricia Foran / Jane Pepino pforan@airdberlis.com / jpepino@airdberlis.com
Aurora Leslie Developments Inc. (Appellant 35)	Ira T. Kagan ikagan@ksllp.ca
Fieldgate Developments and TACC Developments (Appellant 36)	Ira T. Kagan ikagan@ksllp.ca
Times Group Corporation (Appellant 37)	Ira T. Kagan ikagan@ksllp.ca

York region Official Plan – PL101128 (ROP) Appellants	Counsel
Memorial Gardens Canada Limited (Appellant 38)	W. Thomas Barlow tbarlow@fasken.com
Amir Hessam Limited and 668152 Ontario Ltd. (Appellant 41)	Susan Rosenthal susanr@davieshowe.com
Arten Developments Inc. (Appellant 42)	
Sanmike Construction Ltd. (Appellant 43)	John A.R. Dawson jdawson@mccarthy.ca
Canadian Mortgage and Housing Corporation (Appellant 44)	
Mahamevna Bhavana Asapuwa Toronto (Appellant 46)	
The Mandarin Golf and Country Club Inc. and AV Investments II Inc. (Appellant 47)	Richard R. Arblaster rick@arblasterlaw.com
Cornerstone Christian Community Church (Appellant 48)	
Tesmar Holdings Inc. (Appellant 49)	Michael Melling/Raj Kehar michaelm@davieshowe.com / rajk@davieshowe.com Assistant: Jules Calzavara julesc@davieshowe.com
Sustainable Vaughan (Appellant 50)	
Markham Gateway Inc. (Appellant 51)	
CHFMS aka Trinison (Appellant 52): <ul style="list-style-type: none"> • Colebay Investments Inc. • Firwood Holdings Inc. • Highcove Investment Inc. • Major McCowan Developments Limited • Summerlane Realty Corp <i>(initially part of Appellant 4 but now separately represented)</i>	Stephen J. D'Agostino sdagostino@thomsonrogers.com

Amendment 1 – Urban Expansion in the Town of East Gwillimbury – OMB Case No. PL101233 (ROPA 1)	
Appellant	Counsel
Dalton and Alan Faris	Susan Rosenthal susanr@davieshowe.com
Eden Mills Estates Inc.	Bobby Bhoola bobby@ballantryhomes.com
Martin Pick, Thomas Pick and 132463 Ontario Inc.	Mark Flowers markf@davieshowe.com
Rice Commercial Group of Companies	Susan Rosenthal susanr@davieshowe.com

Amendment 2 – Urban Expansion in the City of Vaughan – OMB Case No. PL101237 (ROPA 2)	
Appellant	Counsel
Sustainable Vaughan	

Amendment 3 - Urban Expansion in the Town of Markham – OMB Case No. PL101238 (ROPA 3)

Appellant	Counsel
Minotar Holdings Inc., Corlots Developments, Cherokee Holdings and Halvan 5.5 Investments Ltd.	Catherine A. Lyons clyons@goodmans.ca
Grace Chinese Gospel Church of North York	Richard R. Arblaster, rick@arblasterlaw.com
North Markham Landowners Group: <ul style="list-style-type: none"> ▪ 1212763 Ontario Limited ▪ 1463069 Ontario Limited ▪ 1512406 Ontario Limited ▪ 1612286 Ontario Inc. ▪ 4551 Elgin Mills Developments Limited ▪ CAVCOE Holding Ltd. ▪ First Elgin Mills Developments Inc. ▪ Glendower Properties Inc. ▪ Kennedy Elgin Developments Limited ▪ Mackenzie 48 Investments Limited ▪ Major Kennedy Developments Limited ▪ Major Kennedy South Developments Limited ▪ Frambordeaux Developments Inc. ▪ Tsialtas, Peter and Cathy ▪ Tung Kee Investment Limited Partnership ▪ Warden Mills Developments Limited ▪ ZACORP Ventures Inc. 	Patricia A. Foran/N. Jane Pepino pforan@airdberlis.com / jpepino@airdberlis.com
Romandale Farms Limited	Michael Melling/Raj Kehar michaelm@davieshowe.com raj@davieshowe.com Assistant: Jules Calzavara julesc@davieshowe.com
CHFMS aka Trinison: <ul style="list-style-type: none"> • Colebay Investments Inc. • Firwood Holdings Inc. • Highcove Investment Inc. • Major McCowan Developments Limited • Summerlane Realty Corp 	Stephen J. D’Agostino: sdagostino@thomsonrogers.com