

FROM THE OFFICE OF Chris Barnett  
DIRECT LINE 416.365.3502  
DIRECT FAX 416.777.7407  
E-MAIL cbarnett@davis.ca

FILE NUMBER 63034-00001

December 15, 2011

**DELIVERED BY FAX AND COURIER**

Andrew Doersam  
Senior Planner  
Ministry of Municipal Affairs and Housing  
Municipal Services Office - Central Ontario  
777 Bay Street, 2<sup>nd</sup> Floor  
Toronto, ON, M5G 2E5

RECEIVED  
MUNICIPAL SERVICES OFFICE  
DEC 15 2011  
CENTRAL REGION  
MINISTRY OF MUNICIPAL AFFAIRS  
AND HOUSING

Dear Mr. Doersam:

**Re: Notice of Appeal - Regional Official Plan Amendment 38**  
**MMAH File: 24-OP-0027-038**

---

We act on behalf of the South Georgetown Landowners Group (Mewbrook Developments Inc., Darkdagger Holdings Inc., Halton Hills Investment Corporation, Via Pax Et Ltd., Wisplette Investments Inc., Venturon Development (Georgetown) Inc., 1620076 Ontario Ltd. and 1659198 Ontario Limited) (“SGLG”), whose lands are located within the area bounded by 10<sup>th</sup> Side Road to the North, 5<sup>th</sup> Side Road to the South, Trafalgar Road on the West and 9<sup>th</sup> Line on the East.

On behalf of our clients, we appeal Regional Official Plan Amendment 38 in its entirety to the Ontario Municipal Board. The reasons for the appeal, as set out in more detail below and as further set out in our clients’ submissions on ROPA 38 as well as ROPA 39 are that the amount, timing and location of growth do not represent appropriate growth in the Region. An inadequate amount of growth has been allocated to Halton Hills, and the growth that has been allocated does not include our clients lands.

Our clients have been active participants during the entire Sustainable Halton process and its predecessor (Halton Plan) and have provided their comments and expert opinion at every stage of the exercise. Our clients are also parties to Regional Official Plan Amendment 25 (ROPA 25) as Deferral Area D1. This Deferral Area D1 is further acknowledged and defined in the associated Minutes of Settlement issued by the Ontario Municipal Board under file PL040720.

In August 2008, the SGLG submitted their response to Working Paper # 1: Locating New Urban Land entitled the ‘Balanced Growth Concept’ (BGC) which represents the most logical and cost effective growth scenario for the Region of Halton to meet their requirements under the

provincially mandated growth plan. The BGC Report is a comprehensive and detailed submission completed with a Regional perspective to illustrate the logical and most effective distribution of mixed-use/residential and employment land uses that looked far beyond the lands owned by the group. This report was circulated to the Regional Chair, the Mayors, CAO's and Directors of Planning of all four local Municipalities, Regional staff members and the Region's consulting team. Unfortunately, the rationale of this report was largely ignored and does not appear to have been considered during the refinement of the growth scenarios. The response by staff detailed in Report 3.01 Response Document: Staff Analysis of Comments Received on Sustainable Halton Phase 2 Work simply refers to the various reports prepared by the Region's consulting team which were completed in the absence of any public or stakeholder input.

The Phase 2 Reports stated that a "more detailed analysis of servicing options and costs ... will be conducted at the next stage of the planning process. The location and amount of new urban land in Halton Hills will be refined based on the results of this analysis". In meetings with Senior Regional staff on December 8th and 11th, 2008, we were informed that a complete Fiscal Impact Analysis on all growth options would be completed and that it would be released along with the new growth options or shortly thereafter. This was not done.

Upon release of the Phase 3 Reports, Concept # 2 (growth of 20,000 people in Georgetown) was recommended and preferred, and endorsed by Regional staff, and was the main focus of the presentations and discussions at all of the public open houses and stakeholder workshops and appears to have been the biased forgone conclusion as the selected scenario. In this regard, our clients believe that paragraph 8 of the Minutes of Settlement which state "The Comprehensive Work Program will include an open and transparent process" have not been respected, given that any further public and stakeholder consultation was focused on Concept 2, and did not include a comprehensive analysis of all financial and servicing options as required.

The recommendation of Concept # 2, which is now reflected in ROPA 38, was made in the absence of any substantive public or stakeholder input and, we believe, unjustly tainted the review of all of these documents and meetings and completely discounted the openness and transparency of the Sustainable Halton process. In this regard, our client notes that paragraph 12 of their Minutes of Settlement states that "Halton and Halton Hills acknowledge that the Comprehensive Work Program will properly consider the potential designation by the Region of the D1 and D2 lands as "Urban Area"...".

It is our client's position that the work completed to date does not provide that detailed level of analysis, and the refinement of growth options should not have taken place in the absence of that work. In particular, a full fiscal impact analysis of all of the options should have taken place prior to any decision being made with respect to the amount of location and growth in Halton Hills. The implications in the staff reports released at that time was that a full fiscal impact analysis was only being undertaken with respect to preferred concept upon selection. We

publicly announced our disagreement with that position, as only a full analysis of all options can be used to make a fully informed decision.

On June 27, 2009, in what our client takes the position is in contradiction to the Minutes of Settlement between the Region and our client, which expressly refer in paragraph 5 to the work program including a “comprehensive evaluation of all infrastructure alternatives and financing options”, Option # 2 was recommended as the Preferred Growth Option. We note that this decision has been made expressly in the absence of analysis of the financial impact to the Region and to the Town of Halton Hills on the infrastructure costs associated with servicing such growth both with respect to property taxes, user rates (i.e., water / sewer) development charges and future operating costs.

Having reviewed ROPA 38, our clients continue to maintain their concerns not only with the substance of the document, but also the process that led to it. They maintain their position, backed by their consulting team of industry professionals involved in every discipline of development, that the SGLG lands are the most logical and efficient area for urban expansion in the Town of Halton Hills.

### **Planning**

In our client’s opinion the SGLG lands represent a logical expansion of the existing urban boundary for a variety of reasons, namely:

- The SGLG lands provide an opportunity to strengthen existing commercial, social and cultural facilities in the existing Georgetown community
- The SGLG lands are well located relative to employment growth along the Steeles Avenue Corridor north of the 401.
- The SGLG lands would provide for the appropriate scale of growth and development would be in keeping with the character of the existing community
- The SGLG lands provide for a logical extension of the existing community south towards both the employment and transportation corridors as well as Regional services
- The SGLG lands facilitate the cost effective extension of lake based services to the Georgetown area to provide reliable long term water and sewage capacity for both the existing and future residential and employment areas
- The SGLG lands facilitate the optimum use of the existing and planned transportation and transit networks north of the highway 401 corridor and bring the Town closer to the major intersection of the 400 series of highways including the 401, 403 and 407

- The SGLG lands compliment the future proposed Halton-Peel North/South Highway (HPBATS) and future proposed GTA West Corridor

In our client's opinion, the densities of mixed-use/residential and employment land being proposed in the Reports that support ROPA 38 represent an enormous shift in the historical development pattern in the Region of Halton and a tremendous change to the character of the Town of Halton Hills. It is their opinion that the historical lack of density in employment development across the Region should not be compensated by forcing an increased density on the future mixed-use/residential land because this will simply result in the creation of housing forms which have not traditionally been sought in Halton Hills. To simply reduce the amount of new mixed-use/residential land and increase the amount of new employment land to balance the provincially mandated growth targets is not appropriate in planning for growth as both development types are mutually exclusive.

To allow the future employment land to develop at a density of only 30.5 Persons and Jobs per Hectare (PJ/Ha) which is 39% below the provincially mandated rate while forcing the mixed-use residential land to develop at a density of 66 PJ/Ha which is 32% higher than the provincially mandated rate of 50 PJ/Ha in our view does not represent good planning and does not serve the best interest of the future population of the Region. Higher quality jobs are most often found in higher density employment areas and the Region can promote the development and creation of these future employment opportunities via secondary plans and planning approvals.

For Halton Hills, the currently designated mixed-use/residential Greenfield area is anticipated to develop at a density of 33 PJ/Ha while the future mixed-use/residential Greenfield area is proposed to develop at a density between 52-54 PJ/Ha. This proposed increase in density will totally change the face of the community of Halton Hills as the type of housing form required to achieve this proposed density is not conducive to the surrounding area and the historical development patterns in Halton Hills. Development at this proposed density will not provide the new community with the necessary social infrastructure, amenities and jobs needed to sustain itself without negatively impacting the existing community. The total urban growth land area in Halton Hills should be increased to allow development to proceed at a lower density in keeping with the existing character of the Town and truly provide for a sustainable community.

For the Region of Halton as a whole, the total area of the future mixed-use/residential land should be increased to the levels that were previously projected, if not higher, to provided an appropriate mix of housing types that are suitable for the Greenfield areas and that will be absorbed by the consumer.

Our client reiterates their position that the total quantum of proposed mixed-use/residential land needs to be increased to allow the target population for new Greenfield residential growth to be able to develop at a level more consistent with the historical pattern of the Region.

## **Transportation**

The SGLG lands represent the optimum use of the existing and planned transportation and transit networks north of the highway 401 corridor and provide for:

- The best location to bring the Town closer to the major intersection of the 400 series of highways including the 401, 403 and 407
- The best location to access the existing Georgetown GO Station
- The best location to access the proposed service enhancements to the Georgetown Rail Corridor
- The best location to access the future proposed Halton-Peel North/South Highway (BATS)
- The best location to access the future proposed GTA West Corridor

For Georgetown to accommodate any future growth the Town will need to have an alternate transportation route. Ninth Line (Mountainview Road) is the direct link and main route to the heart of the Georgetown community for access to the existing major commercial and employment areas. Ninth Line also provides an excellent opportunity to develop a mixed-use corridor that compliments the existing uses located within the urban boundary along Mountainview Road and provides the opportunity for an intra-regional public transit connection to Milton and Oakville. We note that in the recently approved Transportation Master Plan the Region has indicated that both of the main roads that flank the SGLG lands, being Trafalgar Road and Ninth Line, have been identified as being upgraded to 4 Lanes which our clients consider entirely appropriate.

## **Servicing**

After detailed independent analysis on the current state of the groundwater system in the Town of Halton Hills completed by Dr. Ken Howard, PHD, University Professor and Groundwater Consultant, entitled Georgetown Area Groundwater Assessment (July 2008), it has been revealed that, while the current groundwater system has served the Town well over the last 50 years it now shows signs of stress and additional supplies are proving elusive therefore a lake-based water source is essential if growth is to be supported.

The SGLG lands represent the cost effective extension of lake based services to the Georgetown area to provide reliable long term water and sewage capacity for both the existing and future residential and employment areas. These lands represent the appropriate scale of growth in Georgetown so that it can be planned to maximize and efficiently use lake-based services. And further, our client points out that the alignment of the route of the lake-based service extension traverses the frontage of the SGLG lands with the proposed water main being constructed along Trafalgar Road and the proposed wastewater main being constructed through the centre of the groups block along 8<sup>th</sup> Line which would allow the development of our lands to minimize the gap of services to the current urban boundary by providing contiguous block of urban land in the direction of the delivery of services. The SGLG lands could also utilize the planned and budgeted infrastructure for the area including a future water main to be constructed on Trafalgar Road up to 5th Side Road and a future reservoir to be located on lands at the same intersection by over-sizing and relocating the reservoir farther north. Ultimately, the new services and infrastructure that are necessary for whichever concept is selected needs to be planned for the ultimate build-out scenario to facilitate a cost effective approach to minimize the burden on the existing and future community and, we note, in the Region's recently approved Water and Wastewater Master Plan the provision for the over-sizing of services to accommodate larger growth has been made which our clients consider entirely appropriate.

Our clients maintain that Concept # 3 (growth of 40,000 people in Georgetown) has not been given proper consideration. Including the SGLG area in the urban expansion area represents the most logical and practical choice for future development and provides the most cost efficient use of development levies while still maintaining affordable rates. Obviously, there was difference in cost amongst the three growth options being provided by the Region for consideration and we do not understand how Regional Council or staff made a fully educated decision without understanding what impact it will have on future generations.

### **Fiscal Affordability Analysis**

In late October of 2009, the Region released their Fiscal Affordability Analysis (FAA) prepared by Watson & Associates Economists Ltd. Upon review of this document, our client believes that the Region has made grave errors in the preparation of this report as it simply builds upon a myriad of high level assumptions in order to assess the tax rate, capital spending and development charge rates of Sustainable Halton Process which is the growth between the 2021 - 2031 time period.

Furthermore, the report does not address the availability of servicing for the existing residents of the Halton Hills community nor the over-sizing for future urban development. Growth will not stop at 2031 and it is our client's opinion that this should be taken into consideration upon any Master Servicing works to be completed in the future. The report also notes it has not addressed the fiscal impacts of intensification. Given our earlier comments regarding density of development, the FAA falls short of addressing a key objective of Sustainable Halton.

Our clients do not believe that the above noted FAA addresses the requirements in the Minutes of Settlement for the comprehensive analysis of all infrastructure alternatives and financing options.

Our client's deferral and associated Minutes of Settlement pertaining to ROPA 25 are very clear in what was required of the Region of Halton and Town of Halton Hills during the Comprehensive Work Program and our client does not believe that their deferral and minutes of settlement have been honoured. The work carried out by our clients clearly justifies the Balanced Growth Concept, and that concept is not reflected in ROPA 38.

Please find enclosed a cheque in the amount of \$125.00 payable to the Minister of Finance, in payment of the required fee.

**DAVIS LLP**

Per: 

Original signed by

Chris Barnett  
CMB/s

**Environment and Land Tribunals  
Ontario**

Ontario Municipal Board

655 Bay Street, Suite 1500

Toronto ON M5G 1E5

Telephone: (416) 212-6349

Toll Free: 1-866-448-2248

Fax: (416) 326-5370

Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca)

**Tribunaux de l'environnement et de  
l'aménagement du territoire Ontario**

Commission des affaires municipales  
de l'Ontario

655 rue Bay, suite 1500

Toronto ON M5G 1E5

Téléphone: (416) 212-6349

Sans Frais: 1-866-448-2248

Télécopieur: (416) 326-5370

Site Web: [www.elto.gov.on.ca](http://www.elto.gov.on.ca)



## **Instructions for preparing and submitting the Appellant Form (A1)**

- Complete one form for each type of appeal you are filing.
- Please print clearly.
- A filing fee of \$125 is required for each type of appeal you are filing. To view the Fee Schedule, visit the Board's website.
- The filing fee must be paid by certified cheque or money order, in Canadian funds, payable to the Minister of Finance.
- If you are represented by a solicitor the filing fee may be paid by a solicitor's general or trust account cheque.
- Do not send cash.
- Professional representation is not required but please advise the Board if you retain a representative after the submission of this form.
- Submit your completed appeal form(s) and filing fee(s) by the filing deadline to either the Municipality or the Approval Authority as applicable.
- The Municipality/Approval Authority will forward your appeal(s) and fee(s) to the Ontario Municipal Board.
- The *Planning Act* and the *Ontario Municipal Board Act* are available on the Board's website.



Environment and Land Tribunals Ontario  
**Ontario Municipal Board**  
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5  
 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248  
 FAX: (416) 326-5370  
 www.elto.gov.on.ca

**APPELLANT FORM (A1)  
 PLANNING ACT**

**SUBMIT COMPLETED FORM  
 TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

**Part 1: Appeal Type (Please check only one box)**

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Official Plan or Official Plan Amendment	<input checked="" type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

**Part 2: Location Information**

Lands located within the area bounded by 10<sup>th</sup> Side Road to the North, 5<sup>th</sup> Side Road to the South, Trafalgar Road on the West and 9<sup>th</sup> Line on the East.  
 Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier:

**Part 3: Appellant Information**

First Name: Mark Last Name: Pavkovic

South Georgetown Landowners Group (Mewbrook Developments Inc., Darkdagger Holdings Inc., Halton Hills Investment Corporation, Via Pax Et Ltd., Wisplette Investments Inc., Venturon Development (Georgetown) Inc., 1620076 Ontario Ltd. and 1659198 Ontario Limited) ("SGLG")

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): \_\_\_\_\_

E-mail Address: mp@nationalhomes.com

By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: (905) 669-9199 Alternate Telephone #: \_\_\_\_\_

Fax #: (905) 660-9894

Mailing Address: 291 Edgeley Blvd. Suite 1, Concord  
Street Address Apt/Suite/Unit# City/Town  
Ontario L4K 3Z4  
Province Country (if not Canada) Postal Code

Signature of Appellant: \_\_\_\_\_ Date: \_\_\_\_\_  
(Signature not required if the appeal is submitted by a law office.)

*Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.*

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

**Part 4: Representative Information (if applicable)**

I hereby authorize the named company and/or individual(s) to represent me:

First Name: Chris Last Name: Barnett

Company Name: Davis LLP

Professional Title: Lawyer

E-mail Address: cbarnett@davis.ca

By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 416.365.3502 Alternate Telephone #: \_\_\_\_\_

Fax #: 416.777.7407

Mailing Address: 100 King Street West 6000 Toronto  
Street Address Apt/Suite/Unit# City/Town  
Ontario M5X 1E2  
Province Country (if not Canada) Postal Code

Original signed by

Signature of Appellant: \_\_\_\_\_ Date: \_\_\_\_\_

*Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.*

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

**Part 5: Language and Accessibility**

Please choose preferred language:  English  French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

**Part 6: Appeal Specific Information**

1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print)  
Please see that attached correspondence.

2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). \*\*If more space is required, please continue in Part 9 or attach a separate page.

(Please print)  
Please see the attached correspondence.

**THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE *PLANNING ACT*.**

a) **DATE APPLICATION SUBMITTED TO MUNICIPALITY:** \_\_\_\_\_  
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:  
\*\*If more space is required, please continue in Part 9 or attach a separate page.

**Part 7: Related Matters (if known)**

Are there other appeals not yet filed with the Municipality? YES  NO

Are there other planning matters related to this appeal? YES  NO   
(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:



- The payment must be in Canadian funds, **payable to the Minister of Finance.**
- **Do not send cash.**
- **PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.**