

December 15, 2011

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VIA COURIER

File .

Ministry of Municipal Affairs & Housing
Municipal Services Office – Central Ontario
777 Bay Street
2nd Floor
Toronto, ON M5G 2E5

RECEIVED
MUNICIPAL SERVICES OFFICE

DEC 15 2011

CENTRAL REGION
MINISTRY OF MUNICIPAL AFFAIRS
AND HOUSING

Attention: Andrew Doersam, Senior Planner

Dear Mr. Doersam:

Re: Amendment No. 38 to the Regional Municipality of Halton Official Plan (“ROPA 38”) Notice of Decision dated November 24, 2011 (MMAH File No. 24-OP-0027-038); Notice of Appeal pursuant to Section 17(36) of the Planning Act by Sundial Homes (3rd Line) Limited and Sundial Homes (4th Line) Limited

We are solicitors for Sundial Homes (3rd Line) Limited and Sundial Homes (4th Line) Limited (“the Sundial Companies”). On behalf of our clients, we hereby appeal the above-noted Decision of the Minister in respect of ROPA 38 to the Ontario Municipal Board. This Notice of Appeal applies to the entirety of ROPA 38, as approved with modifications by the Minister.

Our clients, the Sundial Companies, are also members of the Milton Boyne Survey Landowners Group (hereinafter the “MP3 Landowners”). The MP3 Landowners represents a group of landowners within the Boyne Survey Secondary Plan area with respect to financial, cost sharing and development-related matters. These landowners own approximately 750 hectares (1,850 acres) of land, comprising approximately 70% of the Boyne Survey Secondary Plan Area. The Secondary Plan area is bounded by Louis St. Laurent Avenue to the north, James Snow Parkway to the east, Britannia Road to the south and Tremaine Road to the west, and has been part of Milton’s urban area since the introduction of the Halton Urban Structure Plan.

The MP3 landowners are represented by Mr. Mark Noskiewicz of Goodmans and as a result the MP3 Landowners which includes our clients provided comments to the Region of Halton during the processing of ROPA 38, including comments set forth in a letter dated July 7, 2009, and comments set forth in a letter from Glen Schnarr & Associates Inc. (“GSAI”) dated November 12, 2009. Mr. Noskiewicz has provided the background and main concerns of the MP3

Landowners and our client in his letter of appeal filed on the MP3 Landowners' behalf in this matter.

We have become aware of issues and concerns relating to the modifications dealing with application of Minimum Distance Separation ("MDS") Formula within Urban Areas within Section 77(5)(q). These concerns were raised by Ms. Townsend in a letter to her dated January 24, 2011 and to the Region dated May 24, 2011. Our clients are also affected by and interested in the final form of any policies dealing with these issues of MDS Formula within Urban Areas within Section 77(5)(q) and accordingly we have been instructed to file an appeal on behalf of the Sundial companies so that the interests of those companies can be specifically reviewed and addressed.

For the above-noted reasons, and more detailed reasons that will be advanced at the hearing of this appeal, our client hereby appeals ROPA 38 as modified by the Minister, in its entirety, to the Ontario Municipal Board.

The Sundial companies and their advisors are continuing to review the details of ROPA 38 and the Minister's Decision. While this appeal applies to all of ROPA 38, we anticipate being in a position to scope the appeal in due course.

Please find enclosed a completed Appellant Form (A1), as well as a cheque made payable to the Minister of Finance in the order of \$125.00 for the applicable appeal fee.

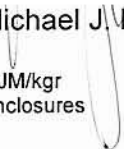
If there is anything else that you require, please do not hesitate to contact the undersigned.

Yours very truly,

WeirFoulds LLP 

Original signed by

Michael J. McQuaid, Q.C.

MJM/kg
Enclosures 



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

Appeal of the entirety of ROPA No. 38
Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier:

Part 3: Appellant Information

First Name: Robert Last Name: Yanowski

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

Professional Title (if applicable): President

E-mail Address: roberty@sundialhomes.com
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: (416) 250-9898 Ext 224 Alternate Telephone #:

Fax #:

Mailing Address: 4576 Yonge Street, Suite 500, Toronto
Street Address Apt/Suite/Unit# City/Town
Ontario M2N 6N4
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: Michael Last Name: McQuaid

Company Name: WeirFoulds LLP

Professional Title: Partner

E-mail Address: mmcquaid@weirfoulds.com
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 416-947-5020 Alternate Telephone #:

Fax #: 416-365-1876

Mailing Address: 130 King Street West, Exchange Tower, Suite 1600, Toronto
Street Address Apt/Suite/Unit# City/Town
Ontario M5X 1J5
Province Country (if not Canada) Postal Code

Original signed by

Signature of Appellant: Date: December 15, 2011

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):

Appeal of the entirety of Regional Municipality of Halton Official Plan Amendment No. 38.

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.

The reasons for this appeal are provided in the attached covering letter. However, they generally relate to modifications dealing with the application of Minimum Distance Separation Formulae within Urban Areas.

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:

Sundial Companies are also members of the MP3 Landowners group. Please see the attached covering letter for details.

Part 8: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day 1 day 2 days 3 days
 4 days 1 week More than 1 week – please specify number of days: Unknown at this time

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
Two expert witnesses are expected

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.):
Land Use Planner and Agricultural Expert

Do you believe this matter would benefit from mediation? YES NO
(Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference? YES NO
(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why? It is possible that the issues may be resolved without the need for a hearing

Part 9: Other Applicable Information **Attach a separate page if more space is required.

Please see the attached covering letter for details.

Part 10: Required Fee

Total Fee Submitted: \$ _125.00_____

Payment Method: Certified cheque Money Order Solicitor's general or trust account cheque

- 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.**