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CENTRAL REGION
MINISTRY OF MUNICIPAL AFFAIRS
AND HOUSING

BY COURIER

December 15, 2011

Mr. Andrew Doersam
Senior Planner
Municipal Services Office – Central Ontario
Ministry of Municipal Affairs and Housing
777 Bay Street, 2nd Floor
Toronto, Ontario
M5G 2E5

Dear Mr. Doersam:

**RE: APPEAL OF REGION OF HALTON OFFICIAL PLAN AMENDMENT NO. 38
ON BEHALF OF A LANDOWNER WITH INTEREST IN LANDS LOCATED
BETWEEN 5TH LINE AND 6TH LINE, SOUTH OF DERRY ROAD
IN THE TOWN OF MILTON, REGIONAL MUNICIPALITY OF HALTON
(TRAFALGAR GOLF AND COUNTRY CLUB)
PROVINCIAL FILE NO. 24-OP-0027-038**

I represent Trafalgar Golf and Country Club (“TGCC”) which own lands generally located between 5th Line and 6th Line, south of Derry Road in the Town of Milton.

In accordance with Section 17(36) of the *Planning Act*, I am writing to appeal the Province’s approval of the Region of Halton Official Plan No. 38, as adopted by By-law 162-09, in part as it affects lands located south of Derry Road, between 5th Line and 6th Line (within the Urban Area boundary) of the Town of Milton (see Figure 1). The extent of my appeal includes my client’s lands and adjacent lands.

The TGCC lands are primarily occupied by a golf course, clubhouse and related facilities.

Background

TGCC holds significant landholdings (approximately 63 ha) in the Town of Milton.

Dating back to January 2008, TGCC has been involved in consultation with the Town and Region and has made numerous submissions on essentially three (3) related official plan policy initiatives that have a potential impact on my client’s interest in the land it owns in the Town of Milton, including:

- i) Region of Halton Official Plan Amendment No. 38

- ii) Town of Milton Official Plan Review (OPA 31)
- iii) Town of Milton Derry Green Business Park Secondary Plan (OPA 29)

The following submissions have been made with respect to these three initiatives:

Date	Description of Correspondence	Amendment No.
January 21, 2008	Letter from MHBC to Town of Milton re Derry Green Corporate Business Secondary Plan	OPA 29
September 30, 2008	Letter from MHBC to Region of Halton re Sustainable Halton	ROPA 38
June 22, 2009	Letter from Gord Petch to Town of Milton Council re Sustainable Halton	ROPA 38
June 23, 2009	Letter from MHBC to Region of Halton re Sustainable Halton	ROPA 38
November 6, 2009	Letter from MHBC to Region of Halton re Sustainable Halton	ROPA 38
November 16, 2009	Letter from MHBC to Town of Milton re draft Derry Green Corporate Business Secondary Plan	OPA 29
December 14, 2009	Letter from MHBC to Region of Halton re Sustainable Halton	ROPA 38
February 10, 2010	Letter from MHBC to Region of Halton re Notice of Decision Request re ROPA 38	ROPA 38
May 28, 2010	Letter from MHBC to Town of Milton re draft Town of Milton Official Plan	OPA 31
June 29, 2010	Letter from MHBC to Region of Halton re Notice of Decision Request for OPA 31	OPA 31
September 16, 2010	Letter from MHBC to Region re Notice of Decision Request re Derry Green Corporate Secondary Plan	OPA 29

All of these submissions delivered a consistent message to the Town and Region in relation to TGCC's concerns which are summarized as follows:

Land Use Designation should be Residential (instead of Employment):

An economic and market opinion by Altus Clayton confirmed that the lands in the southern portion of Derry Green Business Park Phase II area, particularly the lands south of Derry Road face a severe competitive disadvantage vis-à-vis other lands in attracting employment uses, particularly with the Town expanding the Urban Boundary and adding employment lands in

closer proximity to 400-series highways. The market opinion confirmed a residential use would be more suitable. From a planning perspective, MHBC have also advised that the presence of environmental features, particularly along the southerly portion of the TGCC lands and the easterly portion of the subject lands, potentially restrict the lands from being used for large business park uses. A union gas corridor also crosses the subject lands and a main tributary of the Sixteen Mile Creek (7-V1-C) defines the boundary of the subject lands to the south.

Accordingly, it was recommended that as part of a municipal comprehensive review, the Town (and the Region) consider whether a Residential designation would be more appropriate for lands south of Derry Road, in light of this economic, market and planning opinions and the lack of services available in this area.

Despite numerous submissions making this request, the Town adopted OPA 31 (Official Plan Review and Conformity Exercise) and OPA 29 (Derry Green Business Park Secondary Plan) that continue to designate the lands as Employment with minimal flexibility on land use permissions.

OPA 31, in particular, provides the appropriate municipal comprehensive review for considering this request. However, OPA 31 and the Derry Green Secondary Plan need to conform to ROPA 38. ROPA 38 provides the overall framework within which the Town's OPA 31 and Derry Green Secondary Plan need to follow. As ROPA 38 identifies the subject lands as "Employment Area" on Map 1, TGCC appeals all Maps and policies of ROPA 38 that deal with "employment".

This is how the three policy initiatives are effectively intertwined. Accordingly, it is TGCC's intention to appeal and consolidate all three of these initiatives to ultimately seek to have the said lands removed from the Employment designation and replaced with a Residential Use designation.

We also ask that the Employment Area overlay be removed from the lands subject of this appeal on Map 1 of ROPA 38 and that the lands be designated "Residential" in the Town of Milton Official Plan, through the Town's OPA 31 and reflected in the Town's OPA.

Employment Area overlay be removed from Map 1, Regional Structure, of ROPA 38

As discussed in MHBC's letter of December 14, 2009, to the Region, ROPA 38 should provide employment and population forecasts and overall policy / criteria for locating strategic employment areas that will be implemented by lower-tier municipalities in their Official Plans. Detailed mapping of employment lands should be identified in lower-tier Official Plans and not included in the Regional Official Plan, as proposed by ROPA 38.

This triggers a duplicative and unnecessary need for an amendment to the Regional Official Plan for a matter that can be effectively addressed through a local Official Plan Amendment. The Region is the approval authority for all lower-tier Official Plans and any associated amendments, allowing them to make sure that appropriate Regional reviews and interests are

appropriately implemented in the lower-tier Official Plans (similar to the approach taken by York Region).

Accordingly, we request that the Employment Area overlay be removed from Map 1 and all reference to same in the text of the amendment be deleted (see below for full description).

Environmental Policies

Two tributaries of Sixteen Mile Creek cross the TGCC property. These watercourses have been identified in the Town's subwatershed plan (Phillips, 2000) as BP-1-A and BP-1-B representing the northern and southern watercourses respectively.

As determined by Golder Associates in a Preliminary Environmental Overview (report submitted to the Town and Region previously), the northern watercourse is approximately 700 metres (m). While the tributary is above ground north of Derry Road, the greater part of the length of this tributary was piped some time ago and would not be considered a 'permanent or intermittent stream'. The open channel portion is characterized as an overland swale with banks comprised primarily of terrestrial grasses. Golder's assessment of this watercourse suggests that its function is likely limited to conveyance from upstream tile drained agricultural lands, although flood related assessments may still be required under the Conservation Halton Generic Regulation.

Both tributaries are designated *Regional Natural Heritage System* on Map 1 and *Key Features* on Map 1G.

As approved by the Province, the Official Plan states that *Key Features* specifically include natural heritage and hydrologic features including "permanent and intermittent streams" and "fish habitat" (115.3).

While it is acknowledged a detailed Environmental Impact Assessment is appropriate at the time of any redevelopment plans to confirm whether the watercourse is a key feature, the preliminary overview prepared by Golder suggests that this is likely not the case.

Given the current wording of Policies 116.1, 118(2), 118(2.1), and 118(2.2), it can be interpreted that no portion of the Regional Natural Heritage System may be removed without an Amendment to the Regional Official Plan (only refined). This process would be onerous for site-specific eliminations justified through detailed assessment and agency approval and should not trigger the need for an amendment to the Regional Official Plan in order to meet Provincial Policy or Regional Plan objectives.

Further to previous submissions made on behalf of TGCC, it is requested that policy in ROPA 38 be modified further to provide clarity that the tributary (BP-1-A) may be realigned, piped and/or completely eliminated provided a detailed Environmental Impact Assessment is completed and demonstrates that relocation and/or elimination of the tributary does not negatively impact any key feature and any necessary mitigation measures are provided to

ensure the quality and quantity of flows into any other watercourse (i.e. Sixteen Mile Creek) are maintained and flood risk is minimized.

SUMMARY OF APPEAL

Accordingly, pursuant to ss. 17(36) of the *Planning Act, R.S.O. 1990, c. P.13*, as amended we hereby appeal to the Ontario Municipal Board the following sections and Schedules of ROPA 38:

Employment Policies

- Sections 26, 31, 47, 51, 52, 54, 55, 72, 74, 75, 76, 77, 78, 80, 81, 87-89, 139, 153, 169, 170, 172, 229.1, 259.4;
- Map 1, Map 1G, Map 5; and,
- Table 1.

Environmental Policies:

- Sections 27, 51, 52, 54, 63.1, 71, 77, 113, 114, 115, 116, 117, 118, 139(12), 145, 200, 201, 202, 212.3, 212.4, 227, 253.4, 260.1, 288.1;
- Map 1, Map 1B, Map 1C, Map 1D, Map 1E, Map 1F, Map 1G, Map 3, Map 4, Map, 5

In support of this appeal, please find enclosed the following:

1. A cheque in the amount of \$125.00 payable to the Minister of Finance representing the Board's appeal fee;
2. A completed Appellant Form; and,
3. A map of the lands subject to this appeal.

If you have any questions, please feel free to contact the undersigned.

Yours truly,



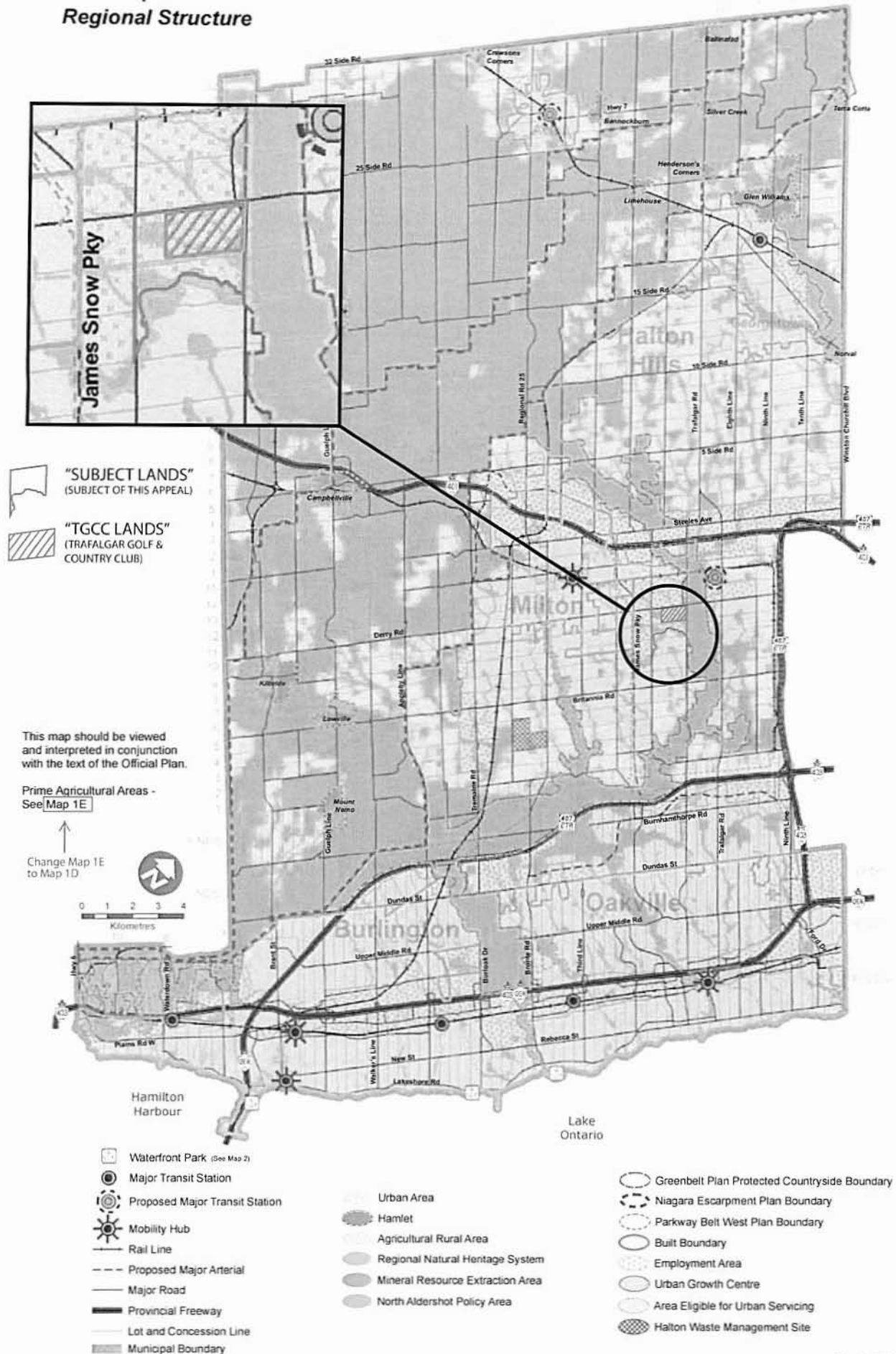
Original signed by

GORDON L. ...

GEP/pt

cc: Martha Watson, Trafalgar Golf and Country Club (By Email)
Debra Kakaria, MHBC (By Email)

Map 1 Regional Structure





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

Address and/or Legal Description of property subject to the appeal: _____

Municipality/Upper tier: _____

Part 3: Appellant Information

First Name: Gordon Last Name: Petch

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

Professional Title (if applicable): Lawyer

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

Daytime Telephone #: 416 955 9530 Alternate Telephone #: 416 720 7103

Fax #: 416 955 9532

Mailing Address: 1 Adelaide St. E. Suite 2340, P.O. Box 189 Toronto
Street Address Apt/Suite/Unit# City/Town
Ontario Province Country (if not Canada) Postal Code
MSC 2V9

Signature of Appellant: _____ Date: December 15/11
(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: _____ Last Name: _____

Company Name: _____

Professional Title: _____

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

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: _____
Street Address Apt/Suite/Unit# City/Town
Province Country (if not Canada) Postal Code

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)

Decision by Regional Municipality of Halton on Regional Official Plan Amendment No. 38 (ROPA 38) - File No. 24-OP-0027-038

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 attached cover letter for specific description of land-use planning reasons.

Employment Policies: Sections 26, 31, 47, 51, 52, 54, 55, 72, 74 to 78, 80, 81, 87 to 89, 139, 153, 169, 170, 172, 229.1, 259.4, Map 1, Map 16, Map 5 and Table 1.

Environmental Policies: Sections 27, 51, 52, 54, 63.1, 71, 77, 113 to 118, 139(12), 145, 200 to 202, 212.3, 212.4, 227, 253.4, 260.1, 288.1, maps 1, 1B, 1C, 1D, 1E, 1F, 16, 3 and 4

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.

[Empty box for explanatory note]

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:

(Please print)

Town of Milton Official Plan Amendment No. 31 (adopted only)
Town of Milton Official Plan Amendment No. 29 (adopted only)

