



MEMORANDUM

TO: Committee of the Whole

FROM: Valerie Shuttleworth, Director Long Range Planning

DATE: April 3, 2014

RE: **Appeals to the York Region Official Plan 2010 and ROPA 3
Phase 1 - Decision and Order of the Ontario Municipal Board**

I am pleased to attach the decision delivered by K.J. Hussey and J.E. Sniezek and Order of the Ontario Municipal Board (OMB) in regards to the Phase 1 hearing for appeals to the York Region Official Plan 2010 (YROP-2010) and ROPA 3 (Issue date April 1, 2014).

By Order of the OMB:

For the purposes of Phase 1 of these hearings:

- *The appeals to ROPA 3 are dismissed.*
- *The appeal to the ROP 2010 are allowed in part, to amend the definition of developable area as follows:*

The developable area excludes:

- a. environmental features and areas, where development is prohibited, identified in Places to Grow: Growth Plan for the Greater Golden Horseshoe;*
 - b. The Regional Greenlands System and approved local municipal natural heritage systems where development is prohibited*
- *In all other respects, the appeals to the ROP are dismissed*

This Phase 1 Hearing dealt with Growth Management matters, specifically the Region's land budget work and process as it relates to the quantum of urban expansion lands required for the City of Markham. The thirty-two page decision fully endorsed the Region's approach with numerous statements acknowledging the "extensive, comprehensive and lengthy process in which there was broad public and stakeholder consultations...".

The OMB writes:

"...overwhelming evidence of wide public consultation..."

“... the Region has complied with the numerical requirements of the Growth Plan, has met the objectives to build compact and *complete communities*, and to optimize the use of its lands and infrastructure.”

“The Board therefore sees no need to interfere with the Region’s and Markham’s vision of its growth and development strategy.”

The modifications to the definition of *developable area* are consistent with wording supported by Regional and Provincial witnesses through evidence submitted at the hearing, and therefore, it can be concluded that the Region’s approach was fully endorsed by the OMB.

In summary

- The quantum of land proposed by the Region for urban expansion within the City of Markham (1,010 hectares) is now approved
- Modifications to YROP-2010 policies proposed by the appellants in Phase 1 to support their approach (e.g. modifying the YROP-2010 policy 5.6.1.3 requirement of 20 residential units per hectare to 19 unit per hectare) are denied

Next Steps

- While the Phase 1 decision and Order solidifies the quantum of land as put forth by the Region for ROPA 3, it does not eliminate the need for a Phase 3 hearing.
- Phase 3 is intended to address the appropriate location for the 1,010 ha of urban expansion lands in Markham and policy 7.2.50 (requirement for the conveyance of up to 36 metres for new or realigned Regional Roads).
- Regional staff will be approaching Phase 3 appellants and parties to discuss opportunities for mediation of Phase 3 issues.
- Phase 2 of the hearing (the appropriate location for urban expansion within ROPA 1 - East Gwillimbury) is no longer required as ROPA 1 issues were fully resolved through settlements reached and approved by the OMB early in 2013.
- Update memos will be provided to Council with progress on the remaining YROP-2010 appeal matters.



Valerie Shuttleworth, Director Long Range Planning

SLM

Attachment (1)

ISSUE DATE:

April 01, 2014



Attachment 1

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 (City of Markham)
OMB Case No.: PL101238
OMB File No.: PL101238

APPEARANCES:

Parties

Counsel

Regional Municipality of York

Stephen Waqué, Christel Higgs, Rick Coburn, Ian Mathany

City Of Markham

Chris Barnett

Ministry of Municipal Affairs and Housing

Ken Hare, Li Cheng (Student-at-law)

North Markham Land Owners Group

Patricia Foran, Andrea Skinner

Colebay Investments Inc.,
Highcove investments Inc., Firwood
Holdings Inc., Major McCowan
Developments Limited and
Summerlane Reality Corp. (CHFMS)

Stephen D'Agostino, Roger Beaman

Minotar Holdings Inc., Cor-lots
Developments, Cherokee Holdings
and Halvan 5.5 Investments limited,
(Minotar)

Catherine Lyons, Nicholas Staubitz

DECISION DELIVERED BY K.J. HUSSEY AND J.E. SNIEZEK AND ORDER OF THE BOARD

[1] These are appeals to the York Region Official Plan 2010 (“ROP”) and Regional Official Plan Amendment 3 (“ROPA 3”) brought by Colebay Investments Inc., Highcove Investments Inc., Firwood Holdings Inc., Major McCowan Developments Limited and Summerlane Reality Corp. (collectively “CHFMS”), and by Minotar Holdings Inc., Cor-lots Developments, Cherokee Holdings and Halvan 5.5 Investments limited, (collectively “Minotar”). Minotar and CHFMS, own lands in the Whitebelt area of the City of Markham (“Markham”), the remaining lands with potential development opportunities where urban area boundary expansions may occur. The term Whitebelt was used in this hearing by representatives of the Appellants, the municipalities and the Ministry of Municipal Affairs and Housing (“MMAH”). It is not a defined term but it refers to lands located beyond the present urban boundary of the City of Markham, as designated in the ROP, which are

not located within the area of either the Oak Ridges Moraine Conservation or the Greenbelt Plan. Both Provincial Plans have their own land use designation, which do not allow for Urban Lands.

[2] The Appellants challenge the adequacy of the urban expansion lands proposed by the Region in ROPA 3 for the City of Markham to accommodate its share of the population and employment growth forecasted for the Region in Schedule 3 of the Growth Plan for the Greater Golden Horseshoe (the “Growth Plan”). The Appellants also propose changes to certain policies of the ROP which they argue are necessary for the ROP to conform to the Growth Plan and to be consistent with the Provincial Policy Statement (“PPS”).

[3] The MMAH, the City of Markham and the North Markham Land Owners Group (“NMLG”), support the Region’s proposal and request for approval of the ROP and ROPA 3 in the current forms.

[4] For reasons below, the Board allows in part the appeals to the ROP by amending the definition of *developable area*. In all other respects the appeals to the ROP by CHFMS and Minotar are dismissed. The Board dismisses the appeals to ROPA 3.

Factual Background

[5] York Region is one of the fastest growing areas of the Province, forecasted to have a population of 1,500,000, and employment of 780,000 by the year 2031, which is approximately 26% of the population growth and 28% of employment growth in the Greater Toronto and Hamilton Area (“GTAH”). It occupies an area of 1776 square kilometres, with sixty-nine percent of its land base within the protected areas of the Oak Ridges Moraine Conservation Plan and the Greenbelt Plan. It consists of nine local municipalities.

[6] Like all municipalities within the geographic area of the Greater Golden Horseshoe, the Region is required to update its Official Plan to conform to the Growth Plan that directs how growth is to be managed up to the year 2031. It must ensure availability of sufficient lands.

[7] The Growth Plan has established a policy framework for the way that growth is to be accommodated within municipalities of the Greater Golden Horseshoe. Its aims are the efficient use of lands and infrastructure, curbing urban sprawl and creating complete communities. It states how those objectives are to be achieved: it directs growth to existing urban areas and it sets intensification and minimum density targets. Revitalization and intensification of urban centres, creating complete, compact, transit supportive communities with a diverse mix of land uses, a range and mix of employment and housing types and high quality public open space, are all stated objectives of the Growth Plan to which all Municipalities must adhere in carrying out the conformity exercise required with their Official Plan updates.

[8] As early as 2004, following the release of the Places to Grow discussion paper by the Ministry of Infrastructure, the Region of York embarked on its growth management and urban development strategy. The Region's conformity exercise culminated in 2009. It was an extensive, comprehensive and lengthy process in which there was broad public and stakeholder consultations including local municipalities, agencies, residents, landowners and developers. The end result of this process was an inventory of vacant lands, an analysis of residential development trends and the preparation of a land budget; there were updates to the infrastructure master plan for transportation, water and wastewater, and to the Natural Heritage Strategy. The Region carried out a 25 year fiscal impact analysis on the implementation of this process. These activities generated many studies and reports for Council's consideration and public consumption. These background studies and reports were all important inputs for the preparation of the ROP and ROPA 3.

[9] The ROP that would implement the growth management and urban development strategy for the Region was adopted by Council on December 16, 2009 and was approved by MMAH on September 7, 2010, subject to modifications. Ongoing discussions with local municipalities regarding land supply determined that additional urban lands were required to support the growth forecasted and so Amendments 1, 2 and 3 to the ROP (ROPA 1, 2, 3,) were proposed to expand three urban boundaries:

ROPA 1 expands the urban area of the Town of East Gwillimbury.

ROPA 2 expands of the urban area of the City of Vaughan and deletes two Hamlet designations within the urban expansion area.

ROPA 3 expands the urban area of the City of Markham.

[10] These amendments were separately adopted by Regional Council on September 23, 2010.

[11] The ROP and all 3 amendments were appealed.

[12] Initially 74 Notices of Appeal were filed, and 178 issues identified. The parties and this Board initiated proceedings that eventually led to a significant reduction in the scope of the appeals. The Board conducted 14 pre-hearing conferences, starting in May 2, 2011. It was determined that mediation would be beneficial and several parties participated in the Board assisted mediation, while others arrived at settlements on their own initiative. These measures resulted in twenty-three Minutes of Settlement being filed, approval of 95% of the residential and 92% of the employment growth policies. Over 90% of the ROP was brought into effect, and ROPAs 1 and 2 were approved.

[13] Of particular note, was the settlement reached between York Region, the MMAH, the City of Markham and NMLG, a group of developers and land owners who control a large portion of land in Markham's Whitebelt area. As previously mentioned, the Whitebelt area consists of the remaining lands within the Region where urban area boundary expansions may occur. The Appellant CHFMS was originally part of NMLG but was not party to the mediation process. NMLG initially filed appeals to the ROP and ROPA 3 on the following grounds:

- a) Certain policy language in the ROP was inadequate or not appropriate to guide future development;
- b) The urban expansion area identified for Markham through the Region's land budget exercise and ROPA 3 was insufficient to meet its needs; and
- c) The location of the urban expansion area was not appropriate.

[14] The settlement attained some policy changes in the ROP, NMLG's acceptance of ROPA 3 as an appropriate urban expansion area for Markham, and the Region's commitment to pursue approval of ROPA 3 (Exhibit 96). A settlement between the Region CHFMS and Minotar eluded the parties and separate issues (as noted below) for these appeals were identified by the Board.

[15] NMLG participated in this hearing. NMLG informed the Board that its role was largely one of monitoring to ensure that its rights and interests, including as set out in the Minutes of Settlement, are respected and protected.

Land Budget and Methodology

[16] The Region prepared a land budget to establish its population and employment requirements to 2031, taking into account the Growth Plan's intensification and density targets, to arrive at the quantum of urban expansion lands. Although the exercise of how to perform a land budget is not defined or prescribed by the Growth Plan, the Board heard that the basic methodology used by the Region in their land budget is not in dispute. It is consistent with the methodology defined by a working group for the GTAH established under the direction of the Regional Planning Commissioners of Ontario. Agreed Statements of Facts relating to the land budget methodology and land budget exclusions were signed by the parties and filed at this hearing as Exhibits 157, 158, and 159. The following are the highlights:

- The forecast method includes a household forecast by unit type for the Region.
- The persons per unit (PPU) figures used by the Region to calculate the 2031 forecast population are appropriate.
- The amount of grade related housing supply remaining within the current settlement area boundary of the City of Markham as set out in the York Region land budget is accepted as being reasonably accurate.
- The parties accept the total employment forecast by type for the Region and Markham

- The exclusions applied in 2010 in accordance with Appendix 3 of the York Region 2031 land budget are appropriate, except for clarification points 2 to 5 on the Exclusions Experts Session- Agreed Statement of Facts, and point 6 where there is no agreement reached and on which they agree to limit the areas of disagreement (Exhibit 158).

[17] Population in the Region's land budget was calculated by applying a region-wide person per unit value by dwelling type to residential unit growth. There are 4 dwelling types: single detached, semi-detached, rows (town houses) and apartments. The apartment category includes low-rise, mid-rise and high-rise apartment units as well as duplex units.

[18] The employment forecast is divided into 3 types:

- a) Employment land employment, which typically requires large areas (industrial or business parks) of vacant designated Greenfield's land along major transportation routes;
- b) Major office employment in office buildings of 20,000 sq. ft. or larger, located within the built up areas along transit routes and in centers and corridors;
- c) Population related employment, such as retail services, education services, municipal government services, social, community and health services, and local office uses. Major retail, which is also classified as population related employment, is calculated as a separate land requirement that contributes to the community land total.

[19] Population and employment growth is distributed into land area categories:

- a) The Built up Area, built up as of June 2006, and defined by the provincially delineated built boundary.
- b) The Designated Greenfield Area, designated "Urban Area" or "Towns and Villages" in the ROP, and is outside of the built boundary.

- c) The Whitebelt area not currently designated “Urban Area” or “Towns and Villages”, and is outside the Greenbelt and of the Oak Ridges Moraine. The Whitebelt area represents the remaining lands with potential development opportunities within the Region where urban area boundary expansions may occur.

[20] None of this is in dispute.

Quantitative or Numerical Requirements of the Growth Plan

[21] The ROP is required to meet the following numeric targets set out in the Growth Plan:

- Population and employment forecasts contained in Schedule 3 for all upper- and single-tier municipalities will be used for planning and managing growth. (Policy 2.2.1)
- By the year 2015 and for each year thereafter a minimum of 40% of all residential development occurring annually within each upper- and single-tier municipality will be within the *built up area*. (Policy 2.2.3.1)
- The *designated greenfield area* of each upper- or single- tier municipality will be planned to achieve a minimum density target that is not less than 50 residents and jobs combined per hectare. (Policy 2.2.7.2)
- Markham Centre; Newmarket Centre; Richmond Hill/Langstaff Gateway and Vaughan Corporate Centre will be planned to achieve, by 2031 or earlier, a minimum gross *density target* of 200 residents and jobs combined per hectare. (Policy 2.2.4.5)
- Municipalities will establish and implement minimum *affordable* housing targets in accordance with Policy 1.4.3 of the PPS (Policy 3.2.6.5). York Region’s affordable housing target is 25%.

The Issues

[22] The Appellant Minotar, which owns 125 ha of lands in the Whitebelt, partially located within the proposed urban expansion area, and the Appellant CHFMS, which owns 145 ha of lands also in the Whitebelt area, have identified the following issues from the Consolidated Issues List *Growth Management and Land Needs Components C and D* originally filed on May 2, 2011 (Exhibit 4) revised on August 4, 2011 (Exhibit 30), October 12, 2012 (Exhibit 95), December 10, 2012 (Exhibits 114A and 114B), and presented at this hearing as Exhibit 166.

Component C

i. Land requirement to accommodate population growth

Land requirements to accommodate employment growth

[23] What is the net amount of land required to accommodate the population and employment growth forecast for the Region to 2031 taking into consideration the relevant factors? (Issue 50)

ii. Land required to accommodate approved ROW requirements

[24] What is the effect of the location and extent of the regional rights-of-way and/or infrastructure requirements on the lands required to be identified as "Urban Area" in the ROP including the maps? (Issue 55)

[25] The Appellants did not challenge the Region's evidence nor did they not lead evidence on Issue 55 or offered submissions on the issue. The Board concludes this issue is abandoned.

iii. Determination of existing supply of land in designated green field areas

[26] What is the capacity for further development of the existing supply of land in Designated Greenfield Area as of June 2006 and currently, what impact does this have on the amount of land required to satisfy Table 1? (Issue 56)

[27] Issues 56, 57 and 58 were resolved before the hearing commenced. (Exhibit 157, item 5)

iv. Determination of the appropriate elements to consider in the net to gross calculation for developable areas in Designated Greenfield Areas and new community areas

[28] What are the appropriate elements to consider in the net gross calculation for *developable areas* in Designated Greenfield Areas and *new community areas*?

[29] Is the proposed definition of *developable area* fair appropriate and justifiable? Should it exclude regional rights-of-way and lands required for stormwater management ponds? (Issue 60)

v. Comprehensive land budget methodology which includes but is not limited to relevant components of the above

[30] Is the requirement in Policy 5.6.3 that *new community areas* be designed to meet or exceed a minimum density of 20 residential units per hectare and the minimum density of 70 residents and job per hectare in the *developable area* realistic, appropriate and achievable?

[31] In light of the foregoing what is the appropriate land budget methodology? (Issue 61)

vi. Determination of amount of land required for settlement area expansion including the consideration of the minima of table 2 for intensification

[32] Do the definition of the *Regional municipal comprehensive review* and associated policies 5.1.12 and 5.1.13, as they relates to the identification of lands necessary for *new community areas*, conform to the Growth Plan and are they consistent with the 2005 PPS (including the PPS definition of “comprehensive review”)?

[33] Does the definition of a *Regional municipal comprehensive review* recognize the different circumstances for its application and, in particular:

- a) do the definition of *Regional municipal comprehensive review* and associated policies 5.1.12 and 5.1.13 as they relates to the identification of lands necessary for new community areas, conform to the Growth Plan

and are they consistent with the 2005 PPS (including the PPS definition of “comprehensive review”)?

- b) Is the definition of the *Regional municipal comprehensive review* (and associated policies 4.3.5, 4.3.7, 4.3.8, 4.3.12 and 4.4.6) as it relates to the consideration of employment land conversions to non-employment land uses, appropriate? Does it conform to the Growth Plan and is it consistent with the 2005 PPS? (Issue 62)

[34] How much land is required to be identified as “Urban Area in the ROP, taking into account the factors C(i) –(v) to satisfy the population and employment growth forecast to 2031, and in particular to satisfy the growth projected for the City of Markham,

- a) as established in Table 1;
- b) considering the intensification targets established in Table 2 of the ROP;
- c) taking into account considerations related to the prudent fiscal management of growth; and
- d) considering long-term planning beyond the 2031 including the build-out of the Markham Whitebelt? (Issue 63)

Component D

- i. **Consideration of growth beyond 2031 as it bears on a retail and employment needs**
- ii. **Consideration of growth beyond 2031 as it bears on transit and transportation**

Consideration of how the official plan should/should not address growth beyond to 2031 as it bears on the organization of land identified to meet growth to 2031

[35] Should the policies and mapping of the ROP 2010 (Including as amended by the ROPAs) acknowledge, anticipate and accommodate population and employment growth beyond to 2030, including the long-term need for additional lands post -2031 for

residential, employment needs (including retail), infrastructure, transit and transportation purposes? (Issue 65)

[36] Should the policies and mapping of the ROP, including as amended by proposed ROPAs 1 and 3, acknowledge and accommodate plans for future growth in the Whitebelt area and ensure the protection of these lands for future urban uses? (Issue 66)

[37] Is it appropriate to identify the Markham “Whitebelt lands” as “Agricultural Area” (as shown on map 8) or should these lands be protected for future urban growth in the non-agricultural designation? If the lands remain designated “Agricultural Area”, what policy changes are required to ensure these lands would be available to satisfy the Region’s long-term planning needs? (Issue 67)

[38] Should the policies in section 7.2 and chapter 5 of the ROP- 2010 recognize and protect for the achievement of a higher-density built form post 2031, while allowing lower density uses pre-2031 (Issue 69).

The Witnesses

[39] The Board heard evidence from 20 witnesses over a period of eight weeks and received 247 Exhibits, including 117 pre-hearing exhibits.

[40] CHFS led evidence from three witnesses:

1. Paul Lowes, Land Use Planner
2. Jeanette Gillezeau, Economist
3. Brian Henshaw, Ecologist, whose evidence focussed on the need for a land allowance related to the habitat of threatened and endangered species

[41] Minotar called:

4. Elizabeth Howson, Land Use Planner

[42] The Region of York called the following witnesses:

5. Paul Bottomley, Land Use Planner
 6. Herman Kircher, Retail Economist
 7. Michael Skelly, Land Use Planner, Senior Planner with the Long Range Planning Branch , York Region, with expertise in Land Budget work
 8. Nick McDonald, Land Use Planner, focus on Employment Land Strategy
 9. Sean Hertell, Land Use Planner, focus on planning and delivery of community services and facilities
 10. David Clark, Real Estate Developer, with expertise in transit
 11. Sandra Malcic, Ecologist
 12. Sameer Dhalla, Water Resouces Engineer
 13. Mark Schollen, Landscape Architect
 14. Sarah Cameron, Planner with the Long Range Planning Branch , York Region, expertise in GIS
 15. Brian Hollingsworth, Engineer, special expertise in transportation planning and engineering
 16. Mirek Sharp, Ecologist
 17. Russell Mathew, Land Economist
 18. David Butler, Land Use Planner
- [43] The City of Markham called
19. John Gladki, Land Use Planner.
- [44] MMAH called
20. Sybelle Von Kursell, Senior Planner, Municipal Services Offices, Central Region of the Municipal Services Division of the MMAH

Evidence and Analysis

[45] We have considered the Appellants' assertion that the Region's land budget has no status because it was never adopted by Council. The Board disagrees. In our opinion, the suggestion is a "red herring". We agree with MMAH's submission that there is no legal requirement for a land budget. The requirement is for the ROP to conform to the Growth Plan. The land budget is but one of the tools, albeit an important tool, used by the Region in its conformity exercise. The land budget is used to determine how the population and employment numbers that were adopted by Council would be distributed to meet the numerical targets of the Growth Plan. That was an ongoing process, requiring further adjustments after the adoption of the ROP to reflect the modifications by MMAH, and again, during the proceedings to expand the urban boundaries that were proposed in ROPAs 1, 2, and 3. Council did not formally adopt a "land budget" document after 2010, but that is not an essential consideration for this Board; what is essential is whether Council supports the strategy laid out in the land budget to achieve the vision of the Region and its local municipalities, while fulfilling the requirements of the Growth Plan. We find that to be the case.

The Housing Mix

[46] Notwithstanding the sizable issues list, the Appellants' primary concern, from which all other issues emanate, is the mix of dwelling types proposed in the Region's land budget, and as a corollary, the amount of expansion lands needed in the City of Markham to accommodate its population and employment forecast to the year 2031. Put simply, the land requirement differs depending on the dwelling type: certain dwelling units have greater land needs than others. Both Appellants in their submissions declared that as their focus or as described by Minotar the "heart of the matter" before the Board.

[47] The Appellants argue that to be consistent with the PPS and to conform with the Growth Plan, the Region needs an additional 212 ha of expansion lands, not including a 5% to 10% allowance for significant habitat of threatened and endangered species, to provide an appropriate range and mix of housing to meet the requirements of current and future residents of Markham. The Appellants' specific concern is that there are not sufficient ground related units in the Region's land budget. They argue that the Region

will run out of this housing type before the end of the forecast period because of the unreasonable shift to apartments in its unit mix.

[48] The Appellants have proposed an alternative land budget prepared by Altus Group which they ask the Board to prefer. Essentially, the Altus land budget proposes to remove apartment units out of the *built up area*, and substitute all but 10% with low density units in the Whitebelt area. The Appellants also propose a density reduction in the greenbelt and Whitebelt areas from 20 units per ha to 19. These two schemes would necessitate a larger urban area expansion.

The Region’s Land Budget

[49] Because this matter is directed at unit distribution in Markham, the Board has used excerpts from the Region’s land budget in its analysis, to show the distributions to the Region as a whole and to Markham.

[50] The Population and employment allocations for Markham are 421,600 people and 240,400 jobs, set out in Table 1 of the ROP, which is approved and in effect. The land budget estimates that 231,260 households units are needed to accommodate the Region’s population growth, of which 61,370 units are allocated to Markham. The units are distributed by dwelling types, based on PPU figures which the parties agree are appropriate. The distribution process, described by several witnesses as iterative, is a demand and supply analysis with population and employment inputs that are designed to meet the Growth Plan numerical targets:

	Single	Semis	Row	Apt	Total
York	81,588	17,593	40,714	91,360	231,260
Markham	15,190	3,680	11,720	30,780	61,370

[51] The land budget increases the Region’s share of all new apartments in the GTAH to 25% where previously it was approximately 10%. Ground related housing is reduced from previous levels, but remains the largest component of the housing share up to 2031. Markham’s ground related units would be approximately 63.3%, down from approximately 82.9% in 2006.

[52] The units are distributed by land categories:

Unit distribution

1. *Built up Area*

[53] The residential intensification allocations for the *built-up areas* of each municipality are set out in Table 2 of the ROP which is approved and in effect. Markham’s allocation is 31,590 units.

[54] Region-wide, there are 16,050 low density singles and semi-detached units in the vicinity of major transportation corridors, located along the edges of the *built up areas* that have not been included in the intensification targets; the equivalent number in Markham is 3,670. The Region’s position is that large scale low density units do not meet the intent of the Growth Plan intensification policies and ought not to be included in the *built up area* intensification count. It is also the Region’s position that because those units are planned to be built out by 2015 they are not available to be counted towards intensification (Policy 2.2.3).

[55] The Appellants object to the Region’s treatment of those low density units and argue that all housing units are to be included in the intensification target. The Appellants argue that without counting the low density units, the level of intensification is significantly understated and therefore the amount of land required to accommodate growth throughout the forecast period is also underestimated. The Altus land budget proposes to remove 3,666 apartment units out of the *built up area*, which is roughly equivalent to the number of low density units not counted in Markham’s *built up area*.

[56] The Board accepts the Region’s position that because they will be built out before 2015 the 3,670 low density units need not be included in the future growth forecasts for urban land needs. This is consistent with the approach used by the Region in other municipalities.

Allocation by dwelling type in the *Built up Area*:

	Single	Semis	Row	Apt	Total
York	11,620	4,429	16,938	57,736	90,720
Markham	3,067	600	4,847	23,075	31,590

[57] The Region's evidence is that in order to create a functional plan to meet the minimum intensification target of 40%, its land budget process took into consideration the special capacity of the local municipalities. Allocating population to housing unit type was therefore critical to the process. Different intensification rates were assigned across the Region, with the more urbanized municipalities having a higher intensification rate than rural based municipalities. The rate across the Region ranged from 4% to 54%. Markham's share was assigned at 52%, and was among the highest in the Region. Markham requested a higher intensification rate than was originally assigned. The Region approved Markham's preferred growth alternative at a 60% intensification target.

[58] The evidence of Paul Bottomley, Manager, Growth Management of the Long Term Planning Branch, is that Markham, like the Town of Richmond Hill and the City of Vaughan, has a larger population and employment base, an existing built-up urban area that can accommodate higher a concentration of intensification, and a Regional Centre that is required to meet a density target of 200 people and jobs per ha by 2031 or earlier.

[59] Markham Regional Centre is located along the planned Yonge Street/Highway 7 Viva rapid transit corridor. The Region argued that there can be no compromise on meeting the intensification target as the financial commitment to its transit system is significant, and importantly, the Growth Plan directs increased residential and employment densities that support and ensure the viability of existing and planned transit service levels. The shift towards that level of intensification and to a more compact form of housing is necessary towards achieving its ends.

[60] The Region and Markham both presented evidence that Markham has the capacity to successfully accommodate the proposed level of growth and intensification and to develop as a complete community. This unique situation presented itself because the 1978 Parkway Belt West Plan reserved a large portion of land in the centre of Markham until the mid-1990s, and reserved unbuilt Parkway Belt lands provided the City with an opportunity to intensify vacant land in the centre of its developed urban area. The benefit brought by that situation led to Markham's reputation as a leading municipality in implementing compact, mixed-use and sustainable communities: a Canadian pioneer in conceptual planning because of communities like Cornell and

Markham Centre. The Region submits that those communities now serve as the benchmark within Markham for new community development.

[61] In the opinion of several expert witnesses including Land Economist Russell Matthew, land use planners Paul Bottomley, Michael Skelly, David Buttler, Sybelle Von Kursell and John Gladki, the Land Use Planner retained by the City of Markham, the densities proposed for Markham in the Region’s land budget are achievable and within reach.

[62] The Board accepts the evidence on Markham’s capacity to achieve the proposed intensification target. That evidence was unchallenged.

2. *Designated Greenfield Area*

[63] The minimum density required by the Growth Plan for the *designated greenfield area* is 50 people and jobs per developable hectare, measured on a gross land area basis; major natural features that are identified in local or provincial plans are excluded. The Region set a minimum of 20 units per ha to achieve the equivalent of 70 people and jobs per ha on the basis of a demand and supply analysis for residential and employment growth. The potential unit supply by dwelling type is estimated as follows in the land budget:

Allocation by dwelling type in the *Designated Greenfield Area*:

	Single	Semis	Row	Apt	Duplex	Total
York	56,341	10,438	15,600	5,788	9,065	97,232
Markham	6,191	1,891	3,315	416	2,430	14,243

[64] Based on the combined capacity of the *built-up area* and the *designated greenfield area*, the Region determined that the total residential units needed for the forecasted growth could not to be accommodated within the available urban lands and expansion into the Whitebelt area was necessary.

3. *Whitebelt Area*

[65] The land budget assumption is that new community areas in Markham’s Whitebelt would be developed at the same density as the Greenfield, that is, at 20 units per developable hectare to achieve 70 persons and jobs per hectare. On that basis, the

shortfall of 11,870 units would require 1010 ha, proposed by ROPA 3, to be divided as follows:

Residential Community Area	607
Major Retail	75
Employment Land	328
Total	1,010 ha

[66] The mix of dwelling type would be 50% single detached, 10% semi-detached, 30% row houses and 10% apartments:

Allocation by dwelling type in the Whitebelt Area

	Single	Semis	Row	Apt	Total
Markham	5,940	1,190	3,560	1,190	11,870

[67] Altus' land budget proposes adding 3,666 units that were removed from the *Built up Area* to the *Whitebelt Area*, and distributing 3,299 as low density units and 367 as apartment units. Accommodating these additional units would require more expansion lands. Based on the PPU's of the additional singles and semis, the Table 2 numbers would be exceeded, as would the Schedule 3 Growth Plan population forecast if there were no further adjustments.

The Employment Component

[68] There was no substantial challenge by the Appellants to the Region's land requirement and supply proposed for the forecasted employment growth.

[69] The Appellants initially raised objections to the exclusion of Major Office Employment in the Markham *Whitebelt Area* but ultimately, did not extensively pursue the issue and eventually conceded the reasonableness of assigning Major Office development to the existing urban area, a small proportion to designated Greenfield employment lands and the greater share to *Built-Up areas*, in Regional Centres and Regional Corridors. In any event, the unchallenged evidence of Mr. Kircher and Mr. McDonald satisfied the Board that ample employment lands are available to meet the forecasted employment numbers for Markham, and additional amounts would likely be available from surplus allocation for major retail, including in the Whitebelt area, based on changing retail patterns to smaller facilities and greater warehousing.

20 units per hectare

[70] The Appellants argued that an upward adjustment in the employment density per ha, would provide for a more appropriate mix of housing types while still meeting the Growth Plan requirement of 50 persons and jobs per hectare. The Appellants further argued that there is no specific policy direction to achieve density of 20 units per ha; it is simply a calculated figure that makes up for the lower density in the employment lands. They proposed density at 19 units per hectare.

[71] The Board finds that there is no evidence to support the utility of that approach except to increase the need for expansion lands. The Board is satisfied based on the evidence of Michael Skelly, Senior Planner with the Long Range Planning Branch, that the community density of 20 units per developable hectare and 70 people and jobs per developable hectare as set out in the Land Budget is reasonable, represents good planning and is already being achieved in the Region.

[72] According to Mr. Skelly an analysis of Secondary Plan areas in York Region was undertaken to provide examples of how the 20 units per hectare density could be achieved. The analysis indicated that areas such as Cornell, Wismer and Cathedral in Markham have achieved or are close to the 20 units per hectare and 70 people and jobs per hectare density standard. There was no evidence to contradict Mr. Skelly's conclusions. The Board finds no support for the Appellants' adjustment.

[73] The evidence presented is that the density rate was calculated to achieve the Growth Plan requirement for 50 persons and jobs per hectare. The reduction proposed by the Appellants would not meet the Region's density target requirement for the new community development, and would therefore not conform with the Growth Plan.

Consistency with the PPS and conformity with the Growth Plan

[74] The Appellants argue that the Region's land budget is not consistent with the PPS and does not conform to the qualitative policies of the PPS or the Growth Plan, because of the unreasonable assumption that the Region will accommodate one quarter of all new apartments built in the GTA over the 2016 to 2031 period, and because of its assumption that there will be a diminishing demand for ground related housing. The

Appellants argue that those assumptions are detrimental to other municipalities, affecting their ability to achieve Growth Plan intensification and /or density targets.

[75] The Appellants argue that the land budget is inconsistent with the PPS in a number of ways including the following:

- It ignores the requirement for a coordinated and integrated approach that is to be used when dealing with planning matters that cross municipal boundaries, including managing growth and housing projections.
- It does not provide for an appropriate range of housing types to meet the requirements of current and future residents.
- It does not maintain a supply of ground related units for the forecast period to meet the needs of future residents.
- It ignores the qualitative policies of the PPS and the Growth Plan.
- It fails to provide an allowance for the habitat of threatened and endangered species.

[76] The Appellants argue that the level of intensification proposed, which is greater than the Growth Plan requirement, triggers Policy 5.4.1.5 of the Growth Plan, which states:

The policies and targets of this Plan will represent minimum standards. Planning authorities and decision-makers are encouraged to go beyond minimum standards established in specific policies and targets, unless doing so would conflict with any policy of this Plan, the applicable PPS, or any other provincial plan.

[77] The Board is required to make decisions that are consistent with the PPS and conform to the Growth Plan. Both documents provide directions on how they are to be read. The PPS states that the provision for Ontario's land use planning system may be further articulated through planning direction for specific areas of the Province issued through Provincial Plans. The Growth Plan is such a document, specifically aimed at the geographical area of the GTAH. The Growth Plan states that the PPS provides overall policy directions on matters of Provincial interest and the Growth Plan should be read in conjunction with the PPS; they are intended to work together.

[78] However, where there is a conflict, Policy 1.4 of the Growth Plan provides that the policies of the Growth Plan will prevail except for policies relating to the natural environment or human health. It is therefore reasonable to infer that where policies overlap, if there is conformity with the Growth Plan the less stringent PPS's standard would also be met. The Board cannot conclude, as the Appellants have submitted, that in the absence of references to the PPS in the conformity exercise, the PPS was ignored by the Region.

Co-ordination

[79] Both documents contain policies for a co-ordinated approach when matters cross municipal boundaries. The more specific policy regarding allocation of population, housing and employment projections based on *Regional Market Areas* that cross municipal boundaries, is found in the Growth Plan.

[80] Has the Region failed to comply with the Growth Plan policy on Co-ordination when dealing with cross-jurisdictional matters?

The Growth Plan provides the following in Policy 5.4.2:

1. A co-ordinated approach will be taken both within the Government of Ontario, and in its dealings with municipalities and other related planning agencies, to implement this Plan, in particular for issues that cross municipal boundaries.

[81] The PPS does not mention the role of the Government of Ontario in its Coordination policies, unlike the Growth Plan which is specific on where the responsibility lies.

[82] The MMAH is the reviewing and approving authority for new Official Plans, Growth Plan conformity amendments, and five year Official Plan reviews. Sybelle Von Kursell, Senior Planner, Municipal Services Offices, Central Region of the Municipal Services Division of the MMAH, testified that she was a member of the team that reviewed and recommended approval of the ROP. Ms. Von Kursell testified that the Province had no concerns about coordination because growth is allocated by Schedule 3 of the Growth Plan and it is up to each municipality to determine how to accommodate

its share of growth. She reiterated that the Province agrees with the Region's approach, has no issue with table 2 of the ROP, which is approved and in effect, and supports the higher intensification targets proposed.

[83] There was no evidence presented by the Appellants that other municipalities would be unable to meet their targets because of the Region's increase in its complement of apartment units.

[84] The Board finds no inconsistency with the PPS in this regard and finds that the Region has conformed to Policy 5.4.2 of the Growth Plan and is consistent with the PPS.

Quantitative and Qualitative policies of the PPS and the Growth Plan

[85] It is not disputed that the Growth Plan contains policies that can be broadly characterized as qualitative and other policies that are quantitative. The Appellants argued there is more to the Growth Plan than meeting numerical targets; the Region tested only the quantitative requirements but did not test or evaluate the budget on the qualitative requirements of the Growth Plan or the PPS. Appellants argue that the level of intensification that is proposed conflicts with policies in both documents. In this case, the Region has exceeded the intensification minimum for the *Built up Area*, which the Appellants' argue activates Policy 5.4.1.5 of the Growth Plan because it fails to provide an appropriate range and mix of houses.

[86] Much of this hearing was absorbed by opinions on how to interpret the Growth Plan and the PPS. MMAH presented extensive evidence in this regard. MMAH submitted that in understanding provincial policies it is useful to consider them as qualitative and quantitative: the PPS has few quantitative policies, whereas the Growth Plan has many; both contain a number of qualitative policies.

[87] MMAH argued that in light of the "conform with" implementation standard, decision makers are required to implement the minimum or maximum standard prescribed by the Growth Plan; the application of qualitative policies cannot therefore detract from the application of minimum quantitative standards, nor can PPS policies be used to justify going below or beyond the Growth Plan standards. MMAH further argued that the application of Growth Plan qualitative policies provides opportunities to shape

and improve on minimum Growth Plan standards, for example objectives regarding urban form such as transit supportive development (Policy 2.2), housing (Policies 2.2.2.1, 2.2.3.6, 3.2.6), efficient use of infrastructure (Policies 2.2 and 3.2), providing a range of employment opportunities (Policy 2.2.6) and complete communities (Policies 2.2.2, 2.2.7, 3.1 and 3.2.6).

[88] Do the ROP and ROPA 3 conform to the qualitative policies of GP and are they consistent with the qualitative policies in the PPS? For reasons below, the Board finds that they satisfy both Provincial requirements.

Appropriate Range and Mix of Houses

[89] The Appellants' assertion that there are insufficient ground related houses in the Region, and Markham in particular, is based expressly on the assumption that the Region and Markham would continue to provide their historical supply of ground related housing, 84% of all housing in the Region, and 73% in Markham. The expectation that this trend would continue leads to the Board to conclude that the Appellants gave little heed to the changes required by the Growth Plan towards greater intensification and optimization of land use, and little attention to the need for affordable housing in Markham, as required by the ROP, PPS and the Growth Plan.

[90] The Region submits that it made a deliberate decision to shift its housing strategy so that home ownership could be more affordable to 60% of its population.

[91] The Region's evidence is that its housing strategy arose after a decade-long undertaking of detailed studies that included the following information:

- The existing housing supply
- The cost by unit type
- Analyses of income levels and employment profiles
- Contributing factors in the decline of affordability
- The percentage of income spent on housing and trends in income compared to housing costs

[92] Based on this information it became clear that much of the Region's work force commute each day because they cannot to afford to live where they work. Currently, the Region has the second lowest live/work ratio in the GTA.

[93] The Board finds that the situation is contradictory to the Growth Plan's vision of a *complete community*.

[94] The unchallenged evidence presented by Mr. Bottomley is that housing cost increased by approximately 56% between 2002 and 2010 compared to median wages that increased by 20%. Mr. Bottomley testified that by applying the PPS definition of low-income and moderate-income owner households, those in the lowest 60% of the income distribution for the *regional market area*, the average affordable house would cost approximately \$411,000. The average resale price for a single detached house in Markham was \$676,225, compared to row housing at \$403,680 and condominium unit at \$317,694. Only 21% of home sales were under \$400,000 in 2011. Greater emphasis therefore had to be placed on providing a more balanced mix of unit types by shifting away from single detached to more apartments and rows, if housing was to become more affordable for the majority of the Region's population.

[95] The Appellants recognised that the outcome they seek is unaffordable to a large percentage of the Region's and Markham's population; Ms. Gillezeau acknowledged that single and semi-detached dwellings are more expensive. Nonetheless, the Board is asked to prefer the Altus budget, which, in the Board's view is wholly out of step with the intention of the Growth Plan.

- It substitutes 3299 affordable units for housing that is out of reach to the 80% of Markham's population, which has the lowest income level and the largest percentage of low income earners in the Region.
- It requires more lands when it has been ably demonstrated by the Region that the forecasted growth can be accommodated within a smaller expanse by using lands more efficiently;
- It removes 7,259 people from the Built up area (3,666 apartment units x 1.98 PPU) thereby reducing support of the transit system. Planning for

transit supportive densities is a fundamental component of many Growth Plan and PPS policies, as well as the ROP.

Maintaining a supply of Ground related housing

[96] The Appellants argue that the Altus budget adjustments are necessary for consistency with PPS which requires at least a 10 year supply of ground related housing. The Appellants rely on Policy 1.4.1, which states:

1.4.1 To provide for an appropriate range of housing types and densities required to meet projected requirements of current and future residents of the *regional market area* identified in policy 1.4.3, planning authorities shall:

- a) maintain at all times the ability to accommodate residential growth for a minimum of 10 years through *residential intensification* and *redevelopment* and, if necessary, lands which are designated and available for residential development...

[97] The Board finds no conflicts with this provision. The Region, consistent with the policies of the PPS that allocation of population and units by the upper tier municipality shall reflect *provincial plans* where these exist, has a plan to accommodate its population up to the 2031 planning horizon. The Region's land budget provides a housing mix of 40% apartments and 60% of ground related units to be constructed between 2006 and 2031. Notwithstanding its shift to more apartment units, there is still a significant proportion of ground related units available to current and future residents from potential re-sales and new construction. Combined, that would be 73% of available dwelling units. The issue is whether 10 years supply of ground related units ought to be available at all times. On a careful reading of the related policies in the PPS (Policies 1.4.1, 1.4.2 and 1.4.3) the Board is unable to find any such requirement, and similarly the Board has considered the policies in the Growth Plan referring to planning for a range and mix of housing, and again, there is no requirement for a 10 year supply of ground related units.

[98] Nevertheless, the Region presented evidence that it did undertake a 10 year ground related housing demand/supply analysis which concluded that there is 10 to 12 years supply in the Region as a whole. Mr. Bottomley testified that the Region's estimate is conservative and his numbers showed a 13.2 years' supply, which does not include the additional 3 year supply in the expansion areas. Further, Mr. Bottomley

testified that by using a 20 year forecast, he found that the supplies would extend to 2031.

[99] Based on this information the Board finds that York Region has considered the employment and accommodation needs of its population, and is able to meet the requirements for at least 10 years. In doing so the Region has complied with the numerical requirements of the Growth Plan, has met the objectives to build compact and *complete communities*, and to optimize the use of its lands and infrastructure. The Region has accomplished this by an achievable blueprint in the form of its land budget.

Comprehensive Review

[100] The Appellants have argued that the Region did not conduct a *comprehensive review* under the PPS nor did the Region conduct a *municipal comprehensive review* under the Growth Plan required for a settlement boundary expansion. The Appellants argued that the Region did not take the mathematical inputs from the land budget and review them using the qualitative policies of the Growth Plan, instead the Region simply adopted Markham's preferred growth alternative. The Appellant argued that the Region failed to carry out an analysis on whether its numerical inputs would create a complete community.

[101] The Board is unable to come to that conclusion. The Board finds that the Region applied the policies of the PPS, Growth Plan and the ROP in determining the quantum of expansion lands necessary to accommodate its land budget needs.

[102] The Board received overwhelming evidence of wide public consultation, input by local Council, studies that were involved in the land budget and urban boundary expansion process, detailed reports which were available to the public and which Council considered in adopting ROPA 3.

[103] Mr. Gladki testified that the Markham Growth Management Strategy consultation was initiated in November 2007 and following a lengthy period of public consultation, study and analysis. Markham's Preferred Growth Alternative which included mapping outlining the areas to be considered for future urban expansion was endorsed by Council on May 11, 2010. These areas are consistent with the ROPA 3 lands. Part of Council's consideration was to increase the residential intensification target to 60%

within the built boundary after 2015, which meant moving Markham's housing market preferences for ground related housing towards increased numbers of medium and high density units. Mr. Gladki provided the Board with an extensive list of matters that were considered to support Markham's Growth Management Strategy. Mr. Gladki testified that of the many studies that were conducted as input into determining Growth Alternative to 2031, three were pivotal for assessing the quantity of lands for future urban area, namely the Agricultural Assessment Study, the Employment Lands of Strategy, and the Housing Stock Analysis.

[104] Mr. Gladki's opined that the process and criteria for expanding the settlement area boundaries required by the PPS and the Growth Plan were undertaken by Markham. Based on the evidence presented the Board concurs with Mr. Gladki's opinion and finds no support for the Appellants assertions.

[105] The Board finds no disparity in the policies of the revised and approved policies of the ROP, the PPS and the Growth Plan for settlement area boundary expansion

Allowance for Habitat of Threatened and Endangered Species.

[106] The Appellants argue that the land budget is inconsistent with Policy 2.1.3 of the PPS and not in conformity with Policy 2.2.7.3 of the Growth Plan, which prohibit development in the habitat of threatened and endangered species. The Appellants submit that failure to provide for such an allowance means that there will be insufficient lands to accommodate growth. The Appellants seek 5 -10% exclusion or based on Ms. Gillezeau's estimates, approximately 61- 122 hectares from the *Designated Greenfield Area* to allow for the habitat of threatened and endangered species. The Appellants are particularly concerned about three species: the Eastern Meadowlark, Barn Swallows and the Bobolink, all listed as Threatened.

[107] The Region has excluded lands from its budget for certain features that have been identified, and to which the Appellants agree.

[108] The evidence of Brian Henshaw, Ecologist retained by the Appellants is that the three grassland species of concern occur in the North Markham area. The Bobolink primarily uses hayfields, forage crops and upland old fields. In North Markham, the Ontario Breed Birding Atlas recorded Bobolinks in 12% of randomized point counts and

it was Mr. Henshaw's opinion that it is certain some Bobolinks would be found in the area. This species was recently found breeding at an urban site in Markham. Mr. Henshaw estimated that their typical habitat extent would be around 5% to 10% of the developable landscape.

[109] The Eastern Meadowlark is similar to the Bobolink and uses the same habitat but also extends its habitat preferences on lands that are more scrub covered. It was found in almost every 10 sq. km south of the Canadian Shield except in certain areas in the extreme southwest in Ontario. In North Markham, Eastern Meadowlarks were recorded in 21% of randomized point counts. Mr. Henshaw opined that it is therefore certain that some Bobolinks would be found in this area, and like the Bobolink, the Meadowlark was recently found breeding at the urban site in Markham. He estimates that 10% to 15% of the open country landscape should be protected for this species.

[110] Mr. Henshaw noted that the general habitat of the Barn Swallow would be almost every bridge, barn and tractor shed in the rural landscape especially those with livestock. They are ubiquitous and occur in almost every 10 sq. km in southern Ontario, other than a few exceptions. Mr. Henshaw opined that given the widespread nature of this species it would seem reasonable to estimate that the typical extent of the habitat would be around 20% to 50% of open country lands that is not otherwise constrained from a natural heritage perspective.

[111] His overall conclusion is that it would be prudent to apply a conservative 5% to 10% significant habitat allowance to address those lands that are otherwise not protected that support the species that are endangered or threatened, in addition to any allowance made by the Region for Redside Dace.

[112] MMAH submits that the quantum of land proposed for the allowance is speculative, while the Growth Plan Policy 2.2.7.2 requires that exclusion actually represents lands where development is prohibited. MMAH further submits that if it is determined in the future that certain lands are a habitat of threatened and endangered species, the lands can be excluded in accordance with Growth Plan Policy 2.2.7.2 at that time. It is therefore premature to provide an allowance at this time.

[113] The Region also does not accept that additional take out is necessary until the lands are at the development stage. Further the Region argues that there is no mapping

of the threatened and endangered species for which the Appellants seek a contingency allowance, and no fieldwork has been done to support that position. Mirek Sharp, ecologist retained by the Region informed the Board that Mr. Henshaw's information was based on coarse estimates from 2007 data. Based on the uncertainty of the area of habitat that may be removed and the changes which may occur in the area of habitat for some species as a result of changing land-use practices, he could see no basis for the 5% to 10% exclusion requested by the Appellants.

[114] The Board accepts Mr. Sharp's evidence and finds that the Appellant's proposal for 5% to 10% allowance for threatened and endangered species is premature.

Proposed Word Changes

[115] The Appellants have proposed amendments to certain policies the ROP (Exhibit 214). The Board has considered the proposals and except for an amendment to the definition of *developable area*, the Board denies the request.

[116] The Appellants' request to amend the definition of *developable area* is supported by Sandra Malcic, the Region's ecology witness and by MMAH. Both requested further modifications to the ROP's definition of *developable area*. The Board, pursuant to Section 17(50) of the *Planning Act*, approves the modification requested by the Appellants and the further requests to modify to subsections (b) (c) to the definition of *developable area* as follows:

[117] The *developable area* excludes:

- a. environmental features and areas, where development is prohibited, identified in Places to Grow: Growth Plan for the Greater Golden Horseshoe;
- b. The Regional Greenland System and approved local municipal natural heritage systems where development is prohibited

[118] The Board finds no reason to change the other policies in the ROP as proposed by the Appellants. The Board finds the Region's policies conform to the GP, are consistent with the PPS, are clear and reasonable, and should not be modified on a piecemeal or ad hoc basis. The Board finds that the MMAH submissions which set out a

table of the Appellants' proposed changes and the MMAH's response to be most helpful to the Board in arriving at this conclusion. For each proposal the table of the MMAH was able to illustrate how the proposed policy change could give rise to non-conformity to the Growth Plan, confusion to the reader and potential ambiguity.

Conclusion

[119] The Board finds that the Region's land Budget is achievable. The building permits issued from 2006 to 2011 is indicative that the density targets for Markham in particular, are not overly ambitious. The Board is satisfied there are monitoring systems in place to respond to changes that may occur. The Board is also satisfied that there are contingencies built into the land budget to ensure sufficient lands will be available for the Region and Markham to implement its growth strategy, even if further take outs become necessary. The undisputed evidence is that the changing patterns of the retail sector could make available additional lands; higher PPU values based on the 2011 census, also means that less land may be necessary to accommodate the population growth, and the Region's conservative approach to employment density could also yield additional lands. The Board finds that there is room in the land budget for the Region to make adjustments as necessary. The Board finds no fundamental error in the Region's assessment of its land needs and no breach of the Planning process. The Board therefore sees no need to interfere with the Region's and Markham's vision of its growth and development strategy.

[120] For all the reasons above, the Board finds that ROP and ROPA 3 (subject to the aforesaid modification) conform to the Growth Plan and are consistent with the PPS in accordance with Section 3 (5) of the *Planning Act*.

ORDER

[121] The Boards orders as follows:

For the purposes of Phase 1 of these hearings:

- The appeals to ROPA 3 are dismissed.
- The appeals to the ROP 2010 are allowed in part, to amend the definition of *developable area* as follows:

The *developable area* excludes:

- a. environmental features and areas, where development is prohibited, identified in Places to Grow: Growth Plan for the Greater Golden Horseshoe;
- b. The Regional Greenland System and approved local municipal natural heritage systems where development is prohibited
- c. In all other respects the appeals to the ROP are dismissed.

“K.J. Hussey”

K.J. HUSSEY
VICE CHAIR

“J.E. Snizek”

J.E. SNIEZEK
MEMBER

Attachment “1”

List of Appellants

York Region Official Plan – OMB Case No. PL101128

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 Holding Ltd.
 - First Elgin Mills Development Inc.
 - Glendower Properties Inc.
 - Mackenzie 48 Investments Limited
 - Kennedy Elgin Developments Limited
 - Major Kennedy Developments Limited
 - Major Kennedy South Developments Limited
 - Romandale Farms Ltd.; Frambordeaux Developments Inc.
 - 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. 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. Canada Mortgage and Housing Corporation
46. Mahamevna Bhavana Asapuwa Toronto
47. The Mandarin Golf and Country Club Inc. and AV Investments II Inc.
48. Cornerstone Christian Community Church
49. Tesmar Holdings Inc.
50. Sustainable Vaughan
51. Markham Gateway Inc.
52. CHFMS
 - Colebay Investments Inc.
 - Highcove Investments Inc.
 - Firwood Holdings Inc.
 - Major McCowan Developments Limited
 - Summerlane Realty Corp.

Amendment 1 – Urban Expansion in the Town of East Gwillimbury – OMB Case No. PL101233

- Dalton and Alan Faris
- Eden Mills Estates Inc.
- Martin Pick, Thomas Pick and 132463 Ontario Inc.
- Rice Commercial Group of Companies

Amendment 2 – Urban Expansion in the City of Vaughan – OMB Case No. PL101237

- Sustainable Vaughan

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

- Minotar Holdings Inc., Corlots Developments, Cherokee Holdings and Halvan 5.5 Investments Ltd.
- Grace Chinese Gospel Church of North York
- North Markham Landowners Group
 - 1212763 Ontario Limited
 - 1463069 Ontario Limited
 - 1512406 Ontario Limited
 - 1612286 Ontario Inc.
 - 4551 Elgin Mills Developments Limited
 - CAVCOE Holding Ltd.
 - First Elgin Mills Development Inc.
 - Glendower Properties Inc.
 - Mackenzie 48 Investments Limited
 - Major Kennedy Developments Limited
 - Major Kennedy South Developments Limited
 - Romandale Farms Ltd.; Frambordeaux Developments Inc. and Kennedy Elgin Developments Limited
 - Tsialtas, Peter and Cathy
 - Tung Kee Investment Limited Partnership
 - Warden Mills Development Limited
 - ZACORP Ventures Inc
 - CHFMS
 - Colebay Investments Inc.
 - Highcove Investments Inc.
 - Firwood Holdings Inc.
 - Major McCowan Developments Limited
 - Summerlane Realty Corp.