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November 16, 2010

Delivered By Hand

Ministry of Municipal Affairs and Housing
Municipal Services Office - Central Ontario
777 Bay Street, 2nd Floor
Toronto, Ontario
M5G 2E5

RECEIVED
MUNICIPAL SERVICES OFFICE
NOV 16 2010
CENTRAL REGION
MINISTRY OF MUNICIPAL AFFAIRS
AND HOUSING

Attention: Sybelle von Kursell, Team Lead

Dear Ms. Von Kursell:

**Re: Regional Municipality of Durham, Official Plan Amendment 128,
Notice of Appeal, on behalf of G8 Oshawa Investments Limited
("G8") pursuant to Section 17 of the *Planning Act*,
MMAH File No. 18-OP-0012-128**

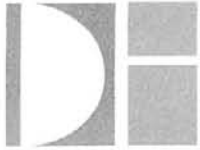
We are counsel to G8 Oshawa Investments Limited ("G8"). Our client is the owner of 103 ha (256 acres) south of Columbus Road and north of Regional Road 3, municipally known as 305 Columbus Road West in the City of Oshawa, Ontario.

On behalf of our client, we appeal the Minister's Decision. Specifically, we have particular concerns with the Minister's "Non-Decision" which includes our client's lands, with respect to the Region of Durham Official Plan Amendment 128 ("ROPA 128"), as depicted on the attached map in the heavy black outlining.

The reasons for our client's appeal are set out in more detail below:

A. Non-Decision

1. The Minister's non-decision with respect to the subject lands is inappropriate and fails to recognize that the lands lie well within the area that should be recognized as urban.
2. G8's lands are capable of being readily serviced and are adjacent to a key element of provincial growth infrastructure, namely Provincial Highway 407.



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3. G8 has been actively involved in the broader planning processes associated with various regional official plan reviews, as well as the statutory process leading up to the Ministry approval of ROPA 128. Further, G8 has made formal submissions through its planning consultants, Bousfield's Inc., in advance of the adoption of ROPA 128.

4. The non-decision in respect of the subject lands is not in the public interest or fair, nor does it represent good and appropriate planning. The Minister has had ample time to make a decision in respect of these lands, but at this point the Minister has decided to withhold his decision.

5. G8 relied on assurances that its lands would be designated "living area" at the culmination of the ROPA 128 process. Set out below is a brief chronology of G8's efforts and the history in this regard, which further supports our client's reasons for appeal of ROPA 128:

- a) In October 2006, G8 appealed Region of Durham Official Plan Amendment 114 ("ROPA 114"), as the G8 lands were included within an area identified as Deferral Area 12, ("D12"). ROPA 114 failed to include policies governing the future development of these lands.
- b) In late 2006 and early 2007, G8 attended a series of meetings with the Region of Durham planning department staff. Through these discussions, G8 was advised that the subject lands were included as part of the urban base calculations of the existing designated Urban Areas. G8 was requested by Staff to withdraw its appeals against ROPA 114 on the basis that the Growth Plan conformity exercise, which the Region was embarking upon, would consider the subject lands as an existing urban area, not as an urban area expansion.
- c) On March 16, 2007, Mr. Roger Saunders, Manager of Policy Planning and Special Studies at the Region of Durham, wrote to G8's planning consultants, Bousfields Inc., requesting G8 to reconsider its appeal of ROPA 114. G8 subsequently withdrew its appeal based on assurances within that letter that:

"it is intended that the D12 issue will be considered once again through the conformity exercise and that ultimately the deferral will be lifted/removed. Once the deferral is lifted this area will enjoy all the same policy permissions as other



designated "Living Areas", with no special policy permissions or recognitions as suggested by your appeal letter".

- d) Throughout the Growth Plan conformity exercise leading to the adoption of ROPA 128, the Region's planning consultant, Regional staff and Regional Council supported the inclusion of the subject lands within the urban boundary. The Council adopted amendment designated the subject lands Living Area, Employment Area, and Natural Heritage Area as shown on Attachment 3 to that Amendment. The Amendment was forwarded to the Ministry of Municipal Affairs and Housing (the "Ministry").
- e) On March 12th, 2010, the Ministry issued its draft decision with respect to ROPA 128. While the Ministry suggested a number of changes to the text policies, some of which were applicable to G8's lands, it did not suggest any changes to the land use designations identified on Schedule 'A' Map A4 for the G8 lands as shown on Attachment 4 to the Amendment.
- f) On June 7th, 2010, Bousfields Inc., on behalf of G8, submitted a letter to the Planning Commissioner of the Region, Mr. A.L. Georgieff, advising him that G8 did not support the land use change proposed by staff, and asking the Planning Committee to confirm the Employment Area designation.
- g) On June 23, 2010, Region of Durham Council adopted the June 8, 2010 recommendations of the Regional Planning Committee regarding the Regional response to the Minister's draft decision. In a complete reversal of its previous position, Council resolved that the Employment Area designation for the G8 lands should be deleted.
- h) G8 advised the Region of its concerns with respect to excluding its lands from the urban boundary well before Council adopted the revised ROPA. Given the many years that Regional Council and staff have supported urban development in the subject area, we can see no basis for the Minister not dealing with the land use designations in a timely fashion.

6. The issues, if any, pertaining to the inclusion of the subject lands within the Living Area and Employment Area designations in the ROPA 128 should be



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addressed fairly and expeditiously at a hearing before the Ontario Municipal Board.

7. Such further and other grounds as counsel may advise and the Board permits.

B. ROPA 128, as approved by the Minister

As the Minister has made no decision with respect to the subject lands, we are appealing all policies and land use Schedules in ROPA 128 as they apply to all of the lands within ROPA 128, except for the lands shown as "A" on the attached mapping (commonly referred to as Seaton).

A firm cheque in the amount of \$125.00 payable to the Minister of Finance which represents the filing fee associated with the filing of this appeal together with the completed OMB Appellant Form (A1) is being enclosed with the delivered copy of this letter.

Yours truly,

DAVIES HOWE PARTNERS

Michael Melling

Encls. Firm Cheque
OMB Appellant Form

Copy: Clients
Lindsay Dale-Harris, Bousfields Inc.

**Environment and Land Tribunals
Ontario**

Ontario Municipal Board

655 Bay Street, Suite 1500
Toronto ON M5G 1E5

Telephone: (416) 212-6349

Toll Free: 1-866-448-2248

Fax: (416) 326-5370

Website: www.elto.gov.on.ca

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

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de l'Ontario

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Site Web: www.elto.gov.on.ca



Ontario

Instructions for preparing and submitting the Appellant Form (A1)

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



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

**APPELLANT FORM (A1)
 PLANNING ACT**

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

Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

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

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

Part 2: Location Information

305 Columbus Road West

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

Municipality/Upper tier: City of Oshawa

Part 3: Appellant Information

First Name: _____ Last Name: _____

G8 Oshawa Investments Limited

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

Professional Title (if applicable): _____

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: _____
(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: Melling

Company Name: Davies Howe Partners

Professional Title: Lawyer

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

Daytime Telephone #: 416-977-7088 Alternate Telephone #: _____

Fax #: 416-977-8931

Mailing Address: 99 Spadina Avenue 5th Floor Toronto
Street Address Apt/Suite/Unit# City/Town
Ontario M5V 3P8
Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: Nov. 16, 2010

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

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

Part 5: Language and Accessibility

Please choose preferred language: English French

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

Part 6: Appeal Specific Information

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

(Please print)

Please refer to attached Notice of Appeal letter.

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 refer to attached Notice of Appeal letter.

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.

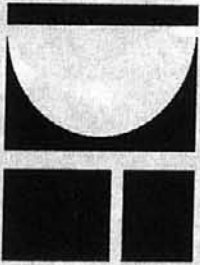
Part 7: Related Matters (if known)

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:

(Please print)



**DAVIES HOWE PARTNERS
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TORONTO, ONTARIO M5V 3P8

CANADIAN IMPERIAL BANK OF COMMERCE
ONE QUEEN STREET EAST
TORONTO, ONTARIO M5C 2W5

18931

013

*** One Hundred Twenty Five *****

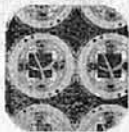
DOLLARS 00/10

November 15, 2010

\$125.00

PAY
TO THE
ORDER OF

MINISTER OF FINANCE



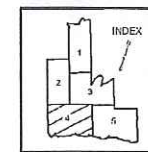
PER

DAVIES HOWE PARTNERS LAWYERS
GENERAL ACCOUNT

⑈018931⑈ ⑆00902⑈010⑆ 31⑈03412⑈

EXHIBIT 4 TO REGIONAL OFFICIAL PLAN AMENDMENT NO.128

OFFICIAL PLAN OF THE REGIONAL MUNICIPALITY OF DURHAM



SCHEDULE 'A' - MAP 'A4' REGIONAL STRUCTURE

LEGEND

URBAN SYSTEM

- URBAN AREA BOUNDARY
- URBAN AREA BOUNDARY DEFERRED
- REGIONAL CENTRE
- REGIONAL CORRIDOR
- LIVING AREAS
- EMPLOYMENT AREAS
- AREAS DEVELOPABLE ON FULL/PARTIAL MUNICIPAL SERVICES
- AREAS DEVELOPABLE ON MUNICIPAL WATER SYSTEMS & PRIVATE WASTE DISPOSAL SYSTEMS
- AREAS DEVELOPABLE ON PRIVATE WELLS & MUNICIPAL SEWER SYSTEMS
- AREAS DEVELOPABLE ON PRIVATE WELLS & PRIVATE WASTE DISPOSAL SYSTEMS
- S MUNICIPAL SERVICE
- Lands Subject to Central Pickering Development Plan - See Schedule "F"

RURAL SYSTEM

- PRIME AGRICULTURAL AREAS
- RURAL SETTLEMENTS:
 - HAMLET
 - RURAL EMPLOYMENT AREA (SEE TABLE E3 FOR DESCRIPTION)
 - COUNTRY RESIDENTIAL SUBDIVISION (SEE TABLE E2 FOR DESCRIPTION)
 - SHORELINE RESIDENTIAL
- ▲ REGIONAL NODE (SEE SECTION 9C FOR DESCRIPTION)
- ◆ AGGREGATE RESOURCE EXTRACTION AREA (SEE TABLE E1 FOR DESCRIPTION)

GREENLANDS SYSTEM

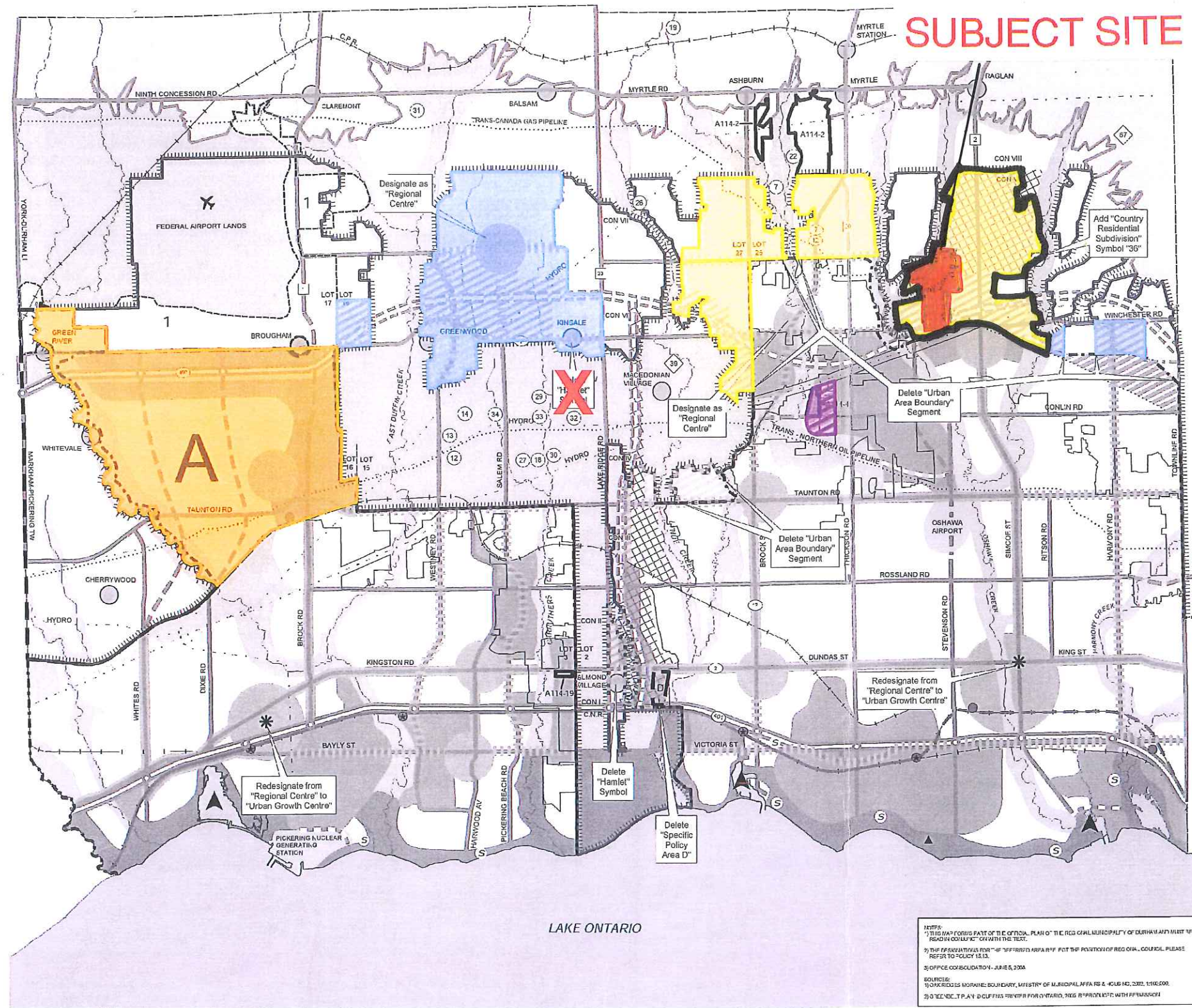
- MAJOR OPEN SPACE AREAS
- OAK RIDGES MORaine AREAS
- WATERFRONT AREAS
- OAK RIDGES MORaine BOUNDARY
- GREENBELT BOUNDARY
- ▲ RECREATIONAL /TOURIST ACTIVITY NODE
- ▲ WATERFRONT PLACE
- OPEN SPACE LINKAGE
- WATERFRONT LINKS

TRANSPORTATION SYSTEM

- SEE SCHEDULE C FOR DESIGNATIONS
- THE FOLLOWING IS SHOWN SELECTIVELY, FOR EASE OF INTERPRETATION OF OTHER DESIGNATIONS ONLY.
- | EXISTING | FUTURE |
|-------------------|--------------|
| --- ARTERIAL ROAD | --- FREEWAY |
| --- GO RAIL | --- GO RAIL |
| ● GO STATION | ● GO STATION |

SPECIAL AREAS

- 2 SPECIAL STUDY AREA
- A SPECIFIC POLICY AREA
- D2 DEFERRED BY MINISTER OF MUNICIPAL AFFAIRS
- APPEALED TO O.M.B.



SUBJECT SITE



NOTES:
 1) THIS MAP FORMS PART OF THE OFFICIAL PLAN OF THE REGIONAL MUNICIPALITY OF DURHAM AND MUST BE READ IN CONJUNCTION WITH THE TEXT.
 2) THE POSITION OF THE BOUNDARY OF THE REGIONAL MUNICIPALITY OF DURHAM IS SHOWN BY A DASHED LINE.
 3) OFFICE CONSULTATION - APRIL 2004
 SOURCE:
 1) OAK RIDGES MORaine BOUNDARY, MINISTRY OF MUNICIPAL AFFAIRS & HOUSING, 2002, 1:100,000
 2) REGIONAL PLAN OF DURHAM FOR QUANTRO, REG. PLAN 1072, WITH AMENDMENT

Attachment 1

- Urban Area Boundary Expansions Refused
- Non-Decision — Employment Land Conversions Opposed by MMAH (Subject to OMB Case PL100386)
- Employment Land Conversions Refused
- Non-Decisions

Produced by: Information Integration and Analysis Section, Information Management and Planning Branch, Community Services I&T Cluster. Information provided by the Ministry of Municipal Affairs and Housing, under licence with the Ministry of Natural Resources. Background image taken from Annotated Consolidation of Regional Official Plan Amendment No.128 Page 54. © Queen's Printer for Ontario, 2010