

November 16, 2010

Michael J. McQuaid, Q.C.  
T: 416-947-5020  
mcquaid@weirfoulds.com

VIA COURIER

File 13808.00002

Ministry of Municipal Affairs and Housing  
777 Bay Street, 2nd Floor  
Toronto, ON M5G 2E5

Attention: Sybelle von Kursell

Dear Sirs:

Re: **Notice of Appeal**  
**Regional Official Plan Amendment 128**  
**Brooklin Development General Partner Ltd.**

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

We are solicitors for Brooklin Development General Partner Ltd. ("**Brooklin**"). Brooklin owns approximately 269.105 acres of land located on the northwest corner of Highway 7 and Ashburn Road, Town of Whitby, in the Regional Municipality of Durham, Ontario. Their property is identified in the attached drawing.

On June 3, 2009 the Region of Durham adopted Regional Official Plan Amendment No. 128 ("**ROPA 128**") which, among other things, included Brooklin's land within the proposed Urban Area Boundary. ROPA 128 also designated Brooklin's lands in a combination of Living Area and Employment area designations. Some confusion has occurred, however, concerning the portion of the Brooklin lands in the area circled on the attached map and marked "Area in Question." Although this area is shown as Employment in the June 3 version of ROPA 128 as formally passed by Council, in a subsequent staff report dated June 8, 2010 the lands in this area are shown as outside the Urban Area Boundary and designated "Prime Agricultural Areas". In a schedule attached to the Minister's letter of October 27, 2010, the area circled is hatched, which suggests the area is developable, but the area may also be part of the "Non-Decisions" area as shown on Exhibit A, A4 to ROPA 128.

While Brooklin is part of the Brooklin North Landowners Group represented by Ms. J. Pepino of Aird & Berlis LLP and fully supports the positions respecting the boundaries and policies appealed by that group, Brooklin wishes to ensure that its land use designation and associated policies are and remain acceptable throughout the approval process, including that the area of land outlined on the attached is designated Employment rather than being outside of the Urban

Boundary in some undesignated future development category. In addition, Brooklin wishes to receive all recently modified ROPA policies to ensure that modifications to the policies affecting Employment Areas or other previously approved policies do not compromise the viability of such a designation. Brooklin and its planning consultant are reviewing the modifications carefully and will provide further detail respecting any other policies which may compromise Brooklin's interest in its Employment Area.

Accordingly, on behalf of our client, we hereby appeal ROPA 128 to the Ontario Municipal Board pursuant to subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, specifically with respect to:

1. The lack of a decision on the final land use designations on the Brooklin lands.

We are also appealing ROPA No. 128 under Section 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13 as amended, specifically as it related to:

1. All policies within ROPA No. 128 impacted by a Provincial non-decision; the land use designations of Schedule 'A' and population/employment numbers (Section 7.3.3) provide the basis for future land requirements and designations. Until the final land uses and numbers are resolved, all policies associated with the non-decisions cannot be approved as its implications are unknown; and
2. Sub-section 8C – Employment Areas; Brooklin has general concerns with this entire Section including, but not limited to, the restrictive nature of permitted uses within Employment Areas and the limiting of Highway 401/407 corridors for employment uses only.

We also note that Brooklin is also appealing all issues outlined in the Aird & Berlis LLP ROPA No. 128 appeal submission filed in support of the Brooklin North Landowners Group.

Enclosed please find a certified cheque in the sum of \$125 as per the Board's requirements.

We also note that as Brooklin's lands are located within a "Non-Decisions" area. In the event that the Minister may make any subsequent decision in relation to ROPA 128, we respectfully request that notice of any such subsequent decisions by the Minister be given to:

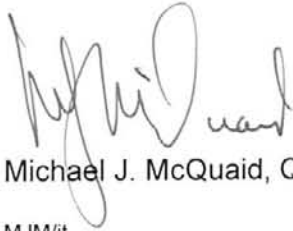
WeirFoulds<sup>LLP</sup>  
130 King Street West, Suite 1600  
Toronto, ON M5X 1J5  
**Attention: Michael J. McQuaid, Q.C.**

Brooklin Developments Partnership Limited  
c/o Genstar Development Company  
300 The East Mall, #300  
Toronto, ON M9B 6B7  
**Attention: Stanley S. Lee, MCIP**

Kindly acknowledge the receipt and sufficiency of this Notice of Appeal.

Yours very truly,

**WeirFoulds LLP**



Michael J. McQuaid, Q.C.

MJM/jt  
Encl.

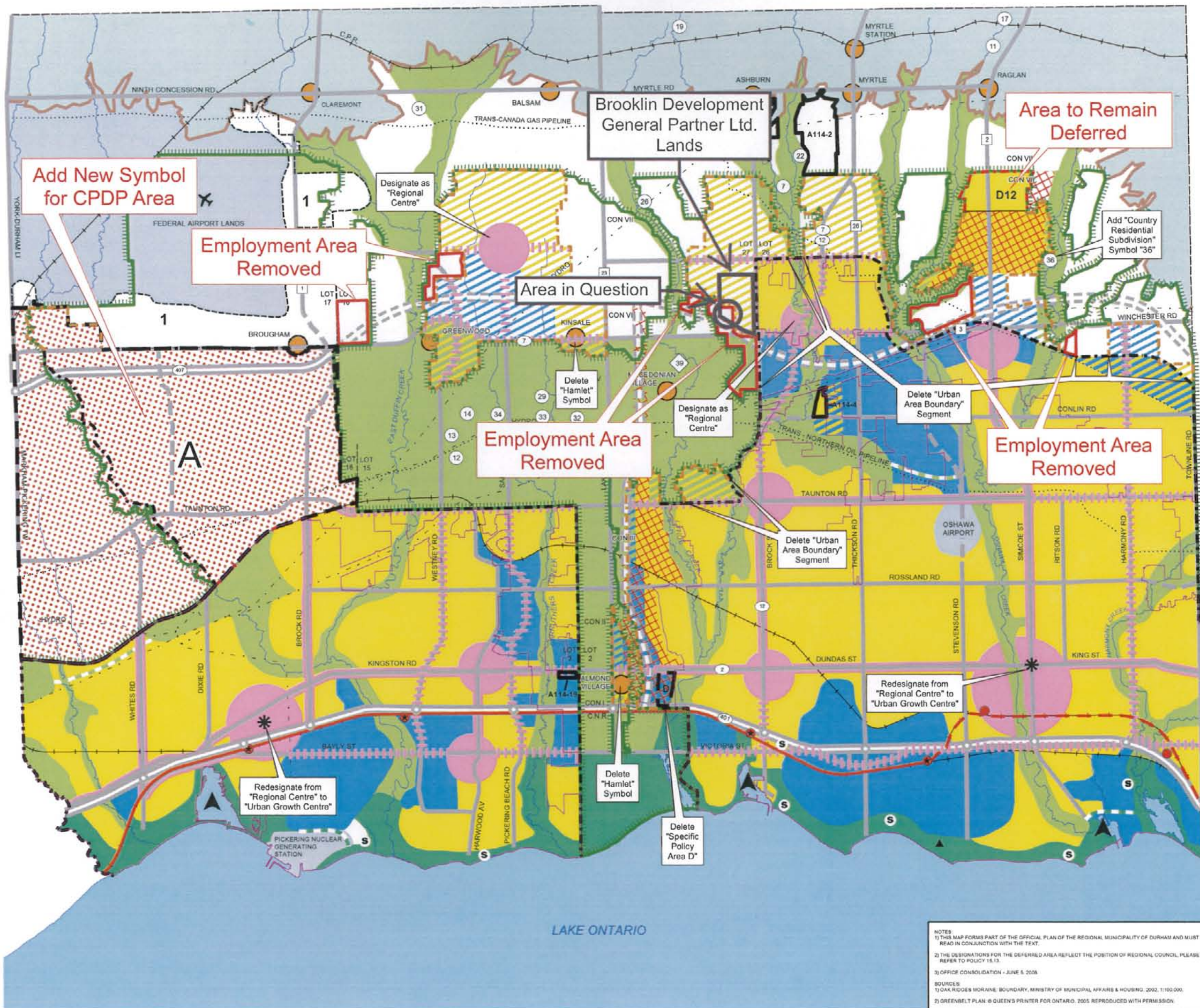
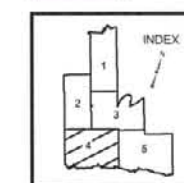
Cc: S. Lee  
P. LeBlanc  
D. Given

3038876.3

**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
  - REGIONAL CENTRE
  - LIVING AREAS
  - AREAS DEVELOPABLE ON FULL/PARTIAL MUNICIPAL SERVICES
  - AREAS DEVELOPABLE ON PRIVATE WELLS & MUNICIPAL SEWER SYSTEMS
  - MUNICIPAL SERVICE
  - URBAN AREA BOUNDARY DEFERRED
  - REGIONAL CORRIDOR
  - EMPLOYMENT AREAS
  - AREAS DEVELOPABLE ON MUNICIPAL WATER SYSTEMS & PRIVATE WASTE DISPOSAL SYSTEMS
  - AREAS DEVELOPABLE ON PRIVATE WELLS & PRIVATE WASTE DISPOSAL SYSTEMS
- 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
  - WATERFRONT AREAS
  - OAK RIDGES MORAINÉ BOUNDARY
  - RECREATIONAL /TOURIST ACTIVITY NODE
  - OPEN SPACE LINKAGE
  - OAK RIDGES MORAINÉ AREAS
  - GREENBELT BOUNDARY
  - WATERFRONT PLACE
  - WATERFRONT LINKS
- TRANSPORTATION SYSTEM**
- SEE SCHEDULE C FOR DESIGNATIONS
- THE FOLLOWING IS SHOWN SELECTIVELY, FOR EASE OF INTERPRETATION OF OTHER DESIGNATIONS ONLY.
- |                 |               |
|-----------------|---------------|
| <b>EXISTING</b> | <b>FUTURE</b> |
| ARTERIAL ROAD   | ARTERIAL ROAD |
| FREWAY          | FREWAY        |
| GO RAIL         | GO RAIL       |
| GO STATION      | GO STATION    |
- SPECIAL AREAS**
- SPECIAL STUDY AREA
  - DEFERRED BY MINISTER OF MUNICIPAL AFFAIRS
  - SPECIFIC POLICY AREA
  - APPEALED TO O.M.B.

**NOTES**

- THIS MAP FORMS PART OF THE OFFICIAL PLAN OF THE REGIONAL MUNICIPALITY OF DURHAM AND MUST BE READ IN CONJUNCTION WITH THE TEXT.
- THE DESIGNATIONS FOR THE DEFERRED AREA REFLECT THE POSITION OF REGIONAL COUNCIL, PLEASE REFER TO POLICY 15.13.
- OFFICE CONSOLIDATION - JUNE 5, 2008.

**SOURCES:**

- OAK RIDGES MORAINÉ BOUNDARY, MINISTRY OF MUNICIPAL AFFAIRS & HOUSING, 2002, 1:100,000.
- GREENBELT PLAN © QUEEN'S PRINTER FOR ONTARIO, 2005. REPRODUCED WITH PERMISSION.



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 checked="" 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**

**Part of Lot 27, Concession 6 – 330 Winchester Road West**  
 Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: **Whitby, Durham Region**

**Part 3: Appellant Information**

First Name: **Stanley** Last Name: **Lee**

**Brooklin Development General Partner Limited**

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

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

E-mail Address: **slee@genstar.com**

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

Daytime Telephone #: **(416) 232-2280 Ext 215** Alternate Telephone #: \_\_\_\_\_

Fax #: **(416) 232-2392**

Mailing Address: **300 The East Mall**  
Street Address

**#300**  
Apt/Suite/Unit#

**Toronto**  
City/Town

**Ontario**  
Province

Country (if not Canada)

**M9B 6B7**  
Postal Code

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

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

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

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

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

First Name: **Michael** Last Name: **McQuaid**

Company Name: **WeirFoulds<sup>LLP</sup>**

Professional Title: **Barrister and Solicitor**

E-mail Address: **mcquaid@weirfoulds.com**

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

Daytime Telephone #: **(416) 947-5020** Alternate Telephone #: \_\_\_\_\_

Fax #: **(416) 365-1876**

Mailing Address: **130 King Street West**  
Street Address

**1600**  
Apt/Suite/Unit#

**Toronto**  
City/Town

**Ontario**  
Province

Country (if not Canada)

**M5X 1J5**  
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)

**Regional Official Plan Amendment No. 128**  
**Ministry of Municipal Affairs and Housing File No.: 18-OP-0012-128**  
**Region of Durham By-law No. 32-2009**

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)

**See attached letter dated November 16, 2010**

**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)

**Part 8: Scheduling Information**

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

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?  
1

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.):

**Land-Use Planner**

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

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

If yes, why? **There is likely to be a number of other appeals on this matter**

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

See attached letter dated November 16, 2010

**Part 10: Required Fee**

Total Fee Submitted: \$ 125.00

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

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

MP THIS DOCUMENT CONTAINS SECURITY FEATURES - SEE REVERSE (CE DOCUMENT CONTIENT DES CARACTÉRISTIQUES DE SÉCURITÉ - VOIR À L'ENDOS MI)

**BROOKLIN DEVELOPMENT LP**

300 THE EAST MALL, SUITE 300  
ETOBICOKE, ON M9B 6B7  
Tel: (416) 232-2280

*R.I.*

NOV 10 2010

PAY



3868 Bloor Street West 0235

TO: ~~ETOBICOKE~~ **ETOBICOKE** Minister of Finance

ORDER

OF

**CERTIFIED CHEQUE**  
**DO NOT DESTROY**

TD CANADA TRUST  
TORONTO-DOMINION CENTRE BRANCH  
55 KING ST. W. & BAY ST.  
TORONTO, ONTARIO M5K 1A2

00001305

Date: 11 10 2010

MM DD YYYY

\$\*\*\*\*\*125.00

\*\*\*\*\*ONE HUNDRED TWENTY FIVE AND 00/100

TD CANADA TRUST **12500¢**

BROOKLIN DEVELOPMENT LP

PER

PER

⑈001305⑈ ⑆10202⑈004⑆ 0690⑈ 3060⑆