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Barristers and Solicitors

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September 22, 2010

File No. 102653

BY EMAIL and REGULAR MAIL

Regional Chair and Members of Regional Council
The Regional Municipality of York
York Region Administrative Building
17250 Yonge Street
Newmarket, ON L3Y 6Z1

Dear Sirs and Mesdames:

**Re: Regional Official Plan Amendment 3
September 23, 2010 Council Meeting – Agenda Item #6 – Report No. 6 of
the Planning and Economic Development Committee**

We are the solicitors for the North Markham Landowners Group and each of its constituent landowners. Members of the group own or control approximately a quarter of the land in Markham's whitebelt area.

We have had an opportunity to review the Staff Report which was released September 7, 2010 respecting Regional Official Plan Amendment 3 ("ROPA 3"). We note with significant concern that this amendment is being processed under section 17 of the *Planning Act*. ROPA 3 represents the completion of the Region's Growth Plan conformity exercise, which has been acknowledged by your Staff in their report of May 5, 2010. As such, it is our view that it is required to be processed under section 26 of the *Planning Act*, which includes a specific public process and necessitates approval by the Minister of Municipal Affairs and Housing. The issue of provincial plan conformity amendments has been addressed by the Ontario Municipal Board recently in *SmartCentres Inc. v. Toronto (City)*, [2010] O.M.B.D. No. 486 where the Board has confirmed that section 26 (and not section 17 as advised by your Staff) applies to Growth Plan conformity amendments.

As Council is also aware, our clients' consultants, Malone Given Parsons, provided to you for the public meeting in June of this year, detailed submissions as well as a comprehensive report prepared by our clients' multi-disciplinary team, which has outlined for Regional Staff and Council our clients' response to the proposal for an urban boundary expansion in Markham. In particular, our clients have substantiated their recommended urban boundary for the Markham whitebelt lands, which represents a comprehensive vision for the entire whitebelt area, and addresses all land uses necessary for a complete community.

Clearly, that planning vision is not the same as what has been presented to you by your Staff respecting ROPA 3. As noted in the report filed on behalf of our clients, servicing, planning, environmental and economic considerations have supported that the

appropriate urban boundary to 2031 is as illustrated in Attachment A appended to this letter.

ROPA 3 does not include all of the land area identified by your Staff as necessary to satisfy the Town of Markham's growth allocation to 2031. It is the Region's obligation to expand the urban boundary to accommodate the Table 1 forecasts under your adopted Official Plan. ROPA 3 is deficient in that it does not identify all of the land that your land budget indicates is required to address growth needs in Markham to 2031.

In particular, the lands identified in ROPA 3 are not sufficient to accommodate projected needs for major retail uses. Additionally, the land area identified does not address or provide for deductions from the developable land area resulting from the new provincial regulations for new species at risk, including redbelt dace. The urban boundary configuration presented to you by our clients has contemplated all of these issues.

Furthermore, the location of the expansion presented to you in ROPA 3 does not address historical development patterns in Markham nor the approved York Region Water/Wastewater Master Plan. The alternative presented on behalf of our clients last June does that.

We note that your Staff have not presented to you any analysis of our clients' vision and supporting study. In fact, the response by your Staff produced on September 7, 2010, simply repeats a standard response that was provided to other comments presented by other stakeholders, respecting ROPA 3. It is our clients' position that a comprehensive review requires a consideration of alternatives in order to properly address provincial policy objectives.

Additionally, our clients are very concerned about the comments from the Ministry of Municipal Affairs and Housing respecting the MZO for the Pickering airport. We concur with Staff's observations that the data upon which that MZO was promulgated is outdated. However, we do not agree that the suggested insertion of the policy requiring change or removal of the MZO (suggested policy 7.2.89) is appropriate. In fact, the Pickering Airport Site Zoning Regulations registered by the Federal Government in September of 2004 address land use in the vicinity of the Pickering Airport site effectively rendering the MZO redundant. The Federal regulations protect the lands from inappropriate development as it relates to the Pickering site which is the intended purpose of the MZO. Because the MZO is based upon data and information that is antiquated and has been replaced by better analysis and Federal Regulation, there is no justification for proposed policy 7.2.89 to be included in ROPA 3. At a minimum, we would urge Council to delete the policy prior to adoption of any ROPA.

Our clients also note with concern the rights-of-way imposed for Regional roads outlined in sections 9 and 10 of proposed ROPA 3. ROPA 3 does not identify the rationale for increased regional road allowances or the additional burden on landowners to accommodate transit facilities which have necessitated increased rights-of-way. These latter changes are new and have not previously been the subject of public consultation.

Yours very truly,

AIRD & BERLIS LLP



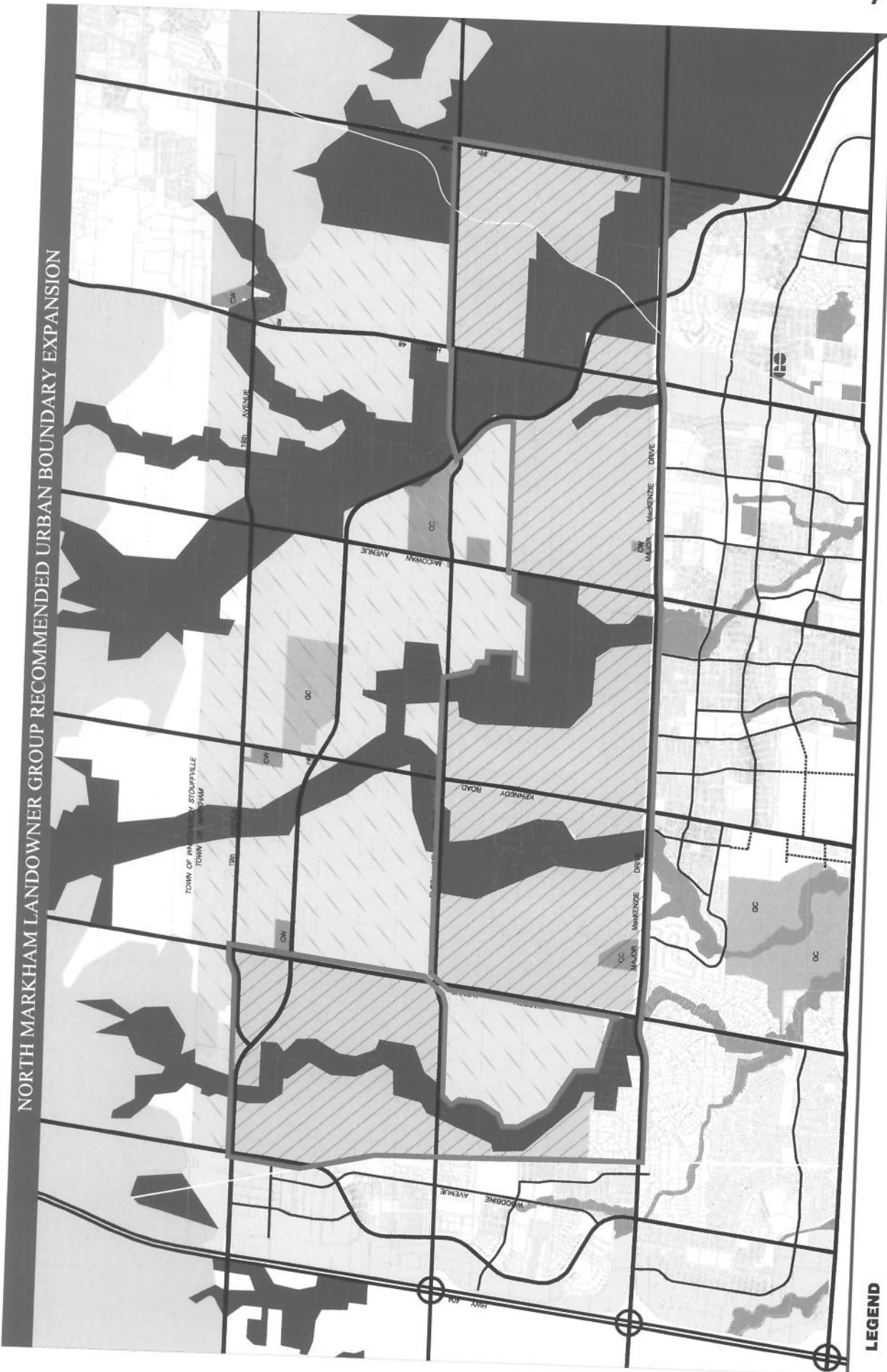
Patricia A. Foran

PAF/jag
Encl.

- c. Bryan Tuckey, Region of York
Ministry of Municipal Affairs and Housing
North Markham Landowners Group and its members
Ira Kagan, Kagan Shastri
Roger Beaman, Thomson, Rogers
Michael Melling, Davies Howe Partners

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NORTH MARKHAM LANDOWNER GROUP RECOMMENDED URBAN BOUNDARY EXPANSION



LEGEND

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| <ul style="list-style-type: none"> PROPOSED URBAN EXPANSION BOUNDARY TO 2031 URBAN BOUNDARY EXPANSION LANDS TO 2031 FUTURE URBAN AREA | <ul style="list-style-type: none"> OAK RIDGES MORaine PROVINCIAL GREENBELT CW CEMETERIES, PLACES OF WORSHIP CC COMMUNITY CENTRE / FAIRGROUNDS ARTERIAL ROAD NETWORK | <h4>EXISTING USES & DESIGNATIONS</h4> <ul style="list-style-type: none"> RESIDENTIAL EMPLOYMENT MIXED USE OPEN SPACE GC GOLF COURSES |
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MALONE GIVEN PARSONS LTD.

September 22, 2010

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