



July 4th, 2017

The Regional Municipality of Durham
Planning and Economic Development Dept.
605 Rossland Road East, Whitby ON, L1N 6A3

Attention: Brian Bridgeman
Commissioner of Planning and Economic Development

RE: Schleiss Development Company Ltd.
Notice of Appeal to the Ontario Municipal Board
Clarington Official Plan Amendment No. 107

Dear Sir,

We are landowners within the Worden Neighborhood in the Municipality of Clarington, generally bounded by Varcoe Road to the west, Farewell Creek to the east, Nash Road to the south, and the Clarington Urban Boundary to the North.

The Municipality of Clarington adopted the Clarington Official Plan Amendment No. 107 on November 1st 2016, which was then sent to the Region of Durham for approval. We actively participated in the planning process leading to the adoption of OPA 107, including speaking at counsel/committee meetings and filing written submissions regarding the negative impacts some of the new policies had on our land.

We are appealing the following sections of Clarington OPA 107:

1. Section 2.2.3 gives Protected Natural Heritage designations precedence over all other considerations within the urban boundary of Clarington. We oppose this in our situation because what Clarington has defined as natural heritage, has been proven to be incorrect in our detailed environmental studies. The EP and Natural Heritage additions in this OPA have been done so through a desktop review, without any field work to confirm this designation. If there is a conflict between a proposed land use and the protection of the natural heritage system, that natural heritage system should be factually defined as such before dismissing said land use proposal.
2. Map A2-EP (Environmental Protection) Land Designations to and around the property owned by Schleiss Development that were added to OPA 107. The EP land designations have been made without background studies on lands located within the built boundary and is improper reliance on an assumption that an area of potential environmental concern is to be designated EP without evidence based planning and a site specific study.
3. Table 3.1 sets out arbitrary vegetation protection zone distances adjacent to EP designations within the built boundary and urban areas. These setbacks should be subject to a site specific study prior to a blanket change that negatively impacts lands and landowners within the built urban boundary. These protection zone distances are generally defined by the environmental authority CLOCA, and having them defined by Clarington is doubling efforts and steps on the toes of CLOCA's review process.

4. Section 3.4.14 – 3.4.17 inclusive, which refers to and gives effect to Table 3-1, such that the Table applies to land within the urban built boundary.
5. Section 23.10.7. This requires dedication of lands identified as EP to the Municipality, without any payment. This is effectively expropriation without compensation.

The OP amendments set out above negatively affect our property, but they also unnecessarily sterilize existing land within the built boundary which should be used for intensification in accordance with the 2014 Provincial Policy Statements 1.1.1-1.1.3 inclusive. In effect, the policies in the amendment unnecessarily down zone currently zoned living areas and lead to expropriation of lands that have not been field studied without compensation.

For these reasons, Schleiss Development Company Ltd. hereby appeals Clarington Official Plan Amendment No. 107 with respect to sections 2.2.3; Map A2; Table 3.1; Sections 3.4.14 – 3.4.17 inclusive; and Section 23.10.7.

Enclosed is the completed OMB Appellant Form (A1) together with our certified cheque for the prescribed filing fee of \$300.00 payable to the Minister of Finance. We trust the above is satisfactory. However, please do not hesitate to contact us if you have any questions or require anything further.

Sincerely,



Ryan Lavender

Schleiss Development Company Ltd.

**Environment and Land Tribunals
Ontario**

Ontario Municipal Board

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

**Commission des affaires municipales
de l'Ontario**

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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 \$300 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. Do NOT send directly to the Ontario Municipal Board.**
- **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.**



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**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

Part 3 40R-14215 and Part 2 10R-2413
 Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: Municipality of Clarington / Regional Municipality of Durham

Part 3: Appellant Information

First Name: Ryan Last Name: Lavender
Schleiss Development Company Ltd.
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

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

Daytime Telephone #: 905 995-4210 Alternate Telephone #: _____

Fax #: _____

Mailing Address: 931 Swiss Heights Oshawa
Street Address Apt/Suite/Unit# City/Town
Ontario LIK 2A7
Province Country (if not Canada) Postal Code

Signature of Appellant: [Signature] Date: July 4/2017
(Signature not required if the appeal is submitted by a law office.)

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

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

Part 4: Representative Information (if applicable)

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

First Name: _____ Last Name: _____

Company Name: _____

Professional Title: _____

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

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

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

Signature of Appellant: _____ Date: _____

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

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

Part 5: Language and Accessibility

Please choose preferred language: English French

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

Part 6: Appeal Specific Information

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

(Please print)
Municipality of Clarington OPA No 107
Sections 2.2.3; Map A2; Table 3.1; Section 3.4.14-3.4.17 inclusive; section 23.10.7

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

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.

Bill 73 - This question applies only to official plans/amendments, zoning by-laws/amendments and minor variances that came into effect/were passed on or after July 1, 2016.

1. Is the 2-year no application restriction under section 22(2.2) or 34(10.0.0.2) or 45(1.4) applicable?
a. No
b. Yes

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)

OMB case PL151017

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?
Three (3)

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

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? Multiple Apellants for similar concerns

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

see attached letter

Part 10: Required Fee

Total Fee Submitted: \$ 300.00

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.