

Let's Have a Discussion.....
Improving our Built Environment and the Planning Process



MUNICIPALITY OF CLARINGTON
PLANNING SERVICES DEPARTMENT
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www.clarington.net/ourplan

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GLOSSARY OF TERMS

Bill 51	Planning and Conservation Land Statute Law Amendment, 2006
Prescribed	The conditions/parameters as described in a Regulation to an approved Act. "Prescribed" means prescribed by a regulation made under the respective Act
Open House	An opportunity for members of the public to review and ask questions about the information and material made available at the Open House
Official Plan	A document that sets the framework and vision of how land in a community should, or is intended to be used; it includes matters such as goals, objectives, and policies to manage and direct physical change

Acronyms

CIP	Community Improvement Plan
CHC	Clarington Heritage Committee
CA	Conservation Authority
ROP	Durham Region Official Plan
EIS	Environmental Impact Study
GTA	Greater Toronto Area
LAB	Local Appeal Body
LEED	Leadership in Energy and Environmental Design
OMB	Ontario Municipal Board
OP	Official Plan
PPS	Provincial Policy Statement, 2005

Legislation

Planning and Conservation Land Statute Law Amendment, 2006, Bill 51
Planning Act, R.S.O. 1990, c. P.13 as amended
Oak Ridges Moraine Conservation Plan, 2002
Greenbelt Plan, 2005
Places to Grow: Growth Plan for the Greater Golden Horseshoe
Ontario Heritage Act, 2005

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EXECUTIVE SUMMARY

The Municipality of Clarington is currently in the process of reviewing its Official Plan which was originally adopted in 1996. Since that time, Clarington has experienced rapid growth, the Provincial government has introduced major legislation affecting the land use planning process, and the Durham Regional Official Plan has been amended. The Municipality is required to conform to these new Provincial and Regional planning policies. This Discussion Paper discusses the implications of these new policies for Clarington, and identifies proposed directions. It is on these proposed directions that we are seeking public input.

Official Plan amendments are proposed to reflect that Community Improvement Plans are now permitted to address energy efficiency and construction, and to better define the eligible costs for which a municipality can provide grants and loans. A number of CIPs identified in the Official Plan are proposed to be modified. New CIP areas are proposed in Courtice along Highway 2 between Townline Road to east of Courtice Road and in the eastern section of Bowmanville.

To encourage the creation of more community-based employment, the Province has provided stronger policies to protect employment areas from conversion to non-employment. Municipalities are required to achieve higher employment densities. As a result, Chapter 11 (Employment Areas) of the Official Plan is proposed to be amended to, among other matters, restrict the development of low intensity industrial uses on serviced or serviceable industrial lands, include criteria for employment area conversions, and clarify the process for the development and servicing of industrial land.

Amendments to the Official Plan are proposed to enable the Municipality to authorize increases in the height and density of development greater than what is otherwise permitted through the zoning by-law in return for community benefits. Community benefits that could be realized through this provision include public squares or parks, walkways, public parking, and community facilities. The proposed policies would define when the increase in height/density may be considered, and where the use of community benefits may be permitted.

The Official Plan Review is striving to create a greater design-oriented approach to development, through emphasis on urban design and the quality of the built environment. New policies will be incorporated to expand the matters that the Municipality can address through site plan control. Specifically, exterior building design and the provision of sustainable design elements within a road right-of-way, such as plantings and street furniture are recommended policy additions. Urban design policies are proposed that would address such matters as integrated urban and community structure, roads, street patterns and streetscapes, and safety and accessibility.

The existing policies of the Official Plan could be strengthened to take advantage of recent changes to provincial heritage legislation. Policies to protect key heritage areas from incompatible development could be added, including the possible identification of additional heritage conservation districts.

A number of administrative changes related to development review and the approval process are proposed. Recent changes to provincial legislation allow a municipality to specify the information and studies that must be submitted at the beginning of the development review process in order for an application to be considered complete. For instance, changes to the process for the preparation of Environmental Impact Studies (EIS) are proposed. The Municipality would no longer be responsible for the project administration, management and selection of the consultant of these studies; the Municipality would retain the authority to ensure the quality of the work undertaken. This change would make the process for EIS preparation similar to that of other required studies. One exception proposed is that the Municipality continue to administer EIS preparation for subdivision applications on the Lake Iroquois Beach.

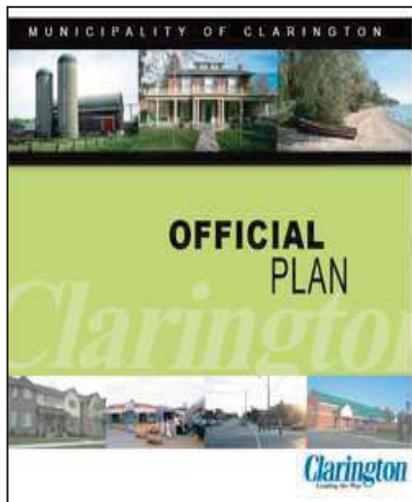
Section 1
Introduction

1.0 INTRODUCTION

Bill 51, the *Planning and Conservation Land Statute Law Amendment Act, 2006* has provided municipalities with a number of additional mechanisms that deal with the land use planning process, as well as new rules pertaining to Ontario Municipal Board (OMB) appeals. The majority of the changes to the *Planning Act* modifies aspects of the land use planning process, provides additional tools for the implementation of provincial policies, and gives further support to sustainable development, urban design, intensification and redevelopment.

The purpose of this Discussion Paper is to present the changes made to the *Planning Act* through Bill 51, and explore the implications of these changes for Clarington. This Paper will also address some of the recent changes made to the Durham Regional Official Plan such as the conversion of employment lands and the information required for complete applications, as well as changes to the *Ontario Heritage Act*.

1.1 Background



The Official Plan is the Municipality's key planning policy document. It provides a framework to guide future land use, development and community decisions over the next 25 years. The Municipality of Clarington is currently in the process of reviewing its Official Plan which was originally adopted in 1996.

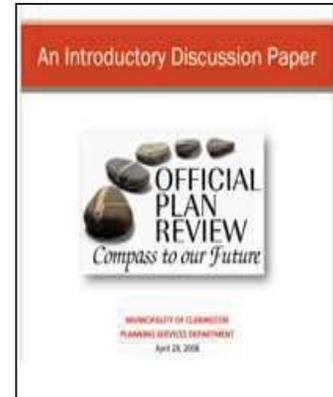
Since that time, Clarington has experienced rapid growth, the Provincial government has introduced major legislation and the Durham Regional Official Plan has been reviewed. The Municipality is required to conform to these new Provincial and Regional planning policies. In addition, we are also in the midst of major structural shifts in the economy and the environment.

Within the last seven years, the Province's initiatives in planning reform include:

- The Oak Ridges Moraine Plan, 2002,
- The Strong Communities Act, 2004(Bill 26),
- The Provincial Policy Statement, 2005,
- The Greenbelt Plan, 2005,
- The Places to Grow Act, 2005
- The Growth Plan for the Greater Golden Horseshoe, 2006,
- The Heritage Act, 2006 and,
- The Planning and Conservation Land Statute Law Amendment Act, 2006 (Bill 51).

On April 30, 2008, the Municipality released an Introductory Discussion Paper setting out the legislative context, as well as the global and planning trends that are shaping our communities. Some of the trends discussed in the Introductory Paper include climate change, renewable energy, healthy communities and New Urbanism.

Following the release of the Introductory Discussion Paper, six Community Sessions were hosted throughout the Municipality. The Municipality also carried out community and business surveys. Major issues revealed at these sessions include:



1. Preservation of the natural environment (e.g., environmental features, open space,).
2. Commitment to creating employment opportunities, not just residential development.
3. Maintenance of the rural, small town character of Clarington (e.g., historic downtowns; agricultural lands).
4. Infrastructure availability (e.g., roads, municipal services) to precede development.
5. Maintenance of affordable housing.
6. Engagement of the public.

1.2 The Process

Clarington's approach to the Official Plan Review is designed to have continuous implementation throughout the process. Each major 'topic' will begin with a Discussion Paper. The purpose of each of the Discussion Papers is to highlight the key issues and to suggest directions for our community.

The proposed themes for the other upcoming Discussion Papers are:

- Growth Management and Intensification,
- Employment Lands,
- Rural/Agriculture, and
- Sustainable and Healthy Communities.

The process will also include three special projects:

- Courtice Main Street,
- Courtice Employment Lands, and
- Parks, Open Space and Trails Plan.



Chart 1. Official Plan Review Discussion Papers

This Discussion Paper is grouped into two major sections - Planning Tools and Policy, and Planning Administration. The Planning Tools and Policy section will explore the tools (e.g. protection of employment lands, exterior design) that have been provided to municipalities in the various pieces of legislation, whereas the Planning Administration section of the Paper will focus largely on administrative type changes such as complete applications.

1.3 The Planning and Conservation Land Statute Law Amendment Act, 2006 (Bill 51)

The *Planning Act* establishes the rules for land use planning in Ontario. It describes how land uses may be controlled in our communities. Land use planning means managing land and resources effectively, providing services efficiently, and ensuring orderly growth patterns. It also means balancing the interests of individual property owners with the wider interests and needs of the whole community.

The land use planning system helps municipalities decide how their communities will grow; where homes, businesses and shopping areas should be built; where parks and schools should be located; and where roads, sewers and other essential services should be provided. It also outlines public notice and application form requirements, and other process details.

Improved land use management contributes to the social, economic and environmental well-being of Ontario's communities. To meet these goals, municipalities have been given the tools they need to influence and reshape our communities so they can develop in compact, integrated and more sustainable ways.

Updating of the planning system was necessary in order to meet the challenges faced by the province's changing and maturing communities, including:

- Managing growth and addressing the consequences of sprawl.
- Preserving valuable green space and natural resources.
- Promoting development where services and infrastructure are already available.

The Bill 51 changes to the *Planning Act* consist of:

- Clearer rules and more accessible planning processes.
- Making more planning and development information available to residents who will have increased opportunities to participate early in the planning process.
- More planning and financial tools so that municipalities are able to meet their compact form, redevelopment, infill and sustainable development goals.
- Reforms affecting the Ontario Municipal Board that include making the planning appeal process more accessible to the public and putting greater emphasis on local decision-making

"People are not there to be planned for; they are to be worked with... There must be one golden rule – we all need to be involved together – planning and architecture are much too important to be left to the professionals". *Charles, Prince of Wales, 1989*

Section 2
Planning Tools & Policy

2.0 PLANNING TOOLS & POLICY

Municipalities, through the Bill 51 planning policy amendments, now have more tools to help manage development in their communities. These new tools will augment the existing Community Improvement Plan, Employment Areas, Community Benefits and Urban Design policies within our Official Plan.

To further support sustainable practices, Community Improvement Plans can now address energy efficiency and construction. To secure existing Employment Areas for the future, new protection provisions have been introduced that make it more difficult for designated employment areas to be converted to other uses.

This section of the discussion paper will discuss each of these topics. The topic will be introduced, current OP policies as well as the recent changes to the legislation will be summarized, and then a discussion of the implications of the changes will be provided. Each section will end with proposed directions to respond to the legislative changes. It is on these proposed directions that we seek public input.

2.1 Community Improvement

A Community Improvement Plan (CIP) is a comprehensive community-based plan that outlines a vision and actions for revitalization of a specific geographical area of the Municipality. CIPs set out goals, objectives and a realistic 'road map' of how to implement the Plan. The *Planning Act* and the *Municipal Act* enable a municipality to designate Community Improvement Project Areas and to prepare a plan for those areas. Upon completion and adoption of the CIP, the municipality has the ability to provide incentives, such as grant and loan programs, development charge reductions and exemptions, land assembly strategies, infrastructure development, and brownfield remediation/redevelopment strategies for that area. CIPs are prepared with participation from residents, merchants and other stakeholder groups.

2.1.1 Current Policy

Section 28 of the *Planning Act* provides the Municipality with the ability to designate a Community Improvement Project Area and prepare a CIP. The Act requires that a municipality have policies within its Official Plan to enable Council to prepare and implement CIPs. The Clarington Official Plan (Chapter 22) sets out the goals, objectives and policies for Community Improvement Project Areas and establishes the framework within which respective CIPs will be completed.

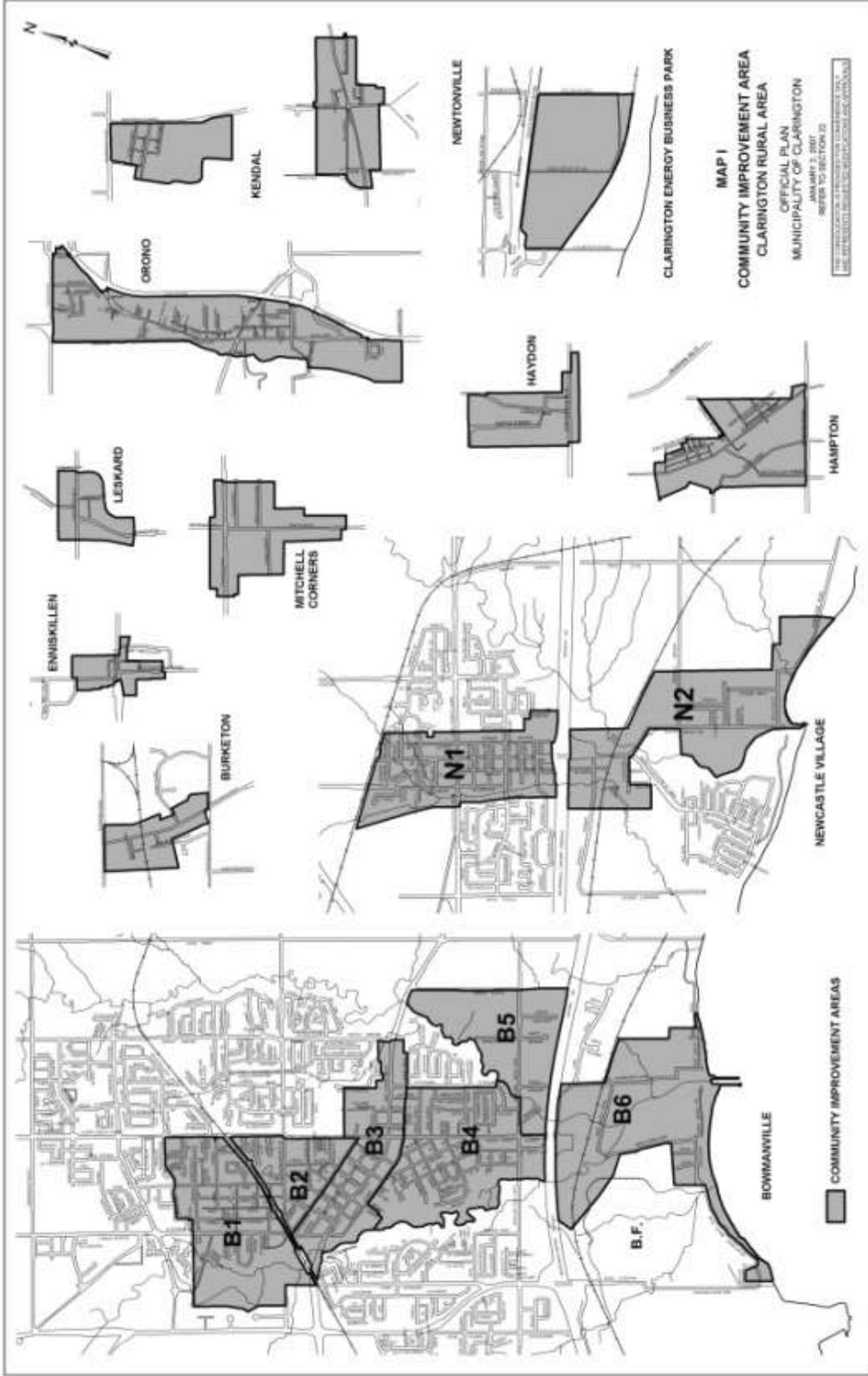


Figure 1. Existing Community Improvement Project Areas, Schedule I, Clarington Official Plan

Clarington's Community Improvement Project Areas were designated in the early 1990s following an extensive review process. Prior to designation and boundary definition, candidate areas were analyzed using a number of topics including land use concerns, building conditions, parks and community facilities, roads, sidewalks, and stormwater management.

To date, the Municipality has adopted and administered three CIPs for the downtown areas of Orono, Newcastle and Bowmanville. The Orono and Bowmanville CIPs were approved in 2005 and Newcastle's was approved in 2008. The success of these CIPs is evident when comparing the before and after effects that the CIP programs have had and in reviewing the overall recommendations of the studies.



Before



After

2.1.2 Discussion

Since the adoption of Clarington's Official Plan in 1996, there have been some changes to the terminology used in the *Planning Act*. However, the most recent amendments, as a result of Bill 51, that most affect Clarington are as follows:

- The definition of 'community improvement' has been expanded to include 'construction' and 'energy efficiency', and
- Eligible costs for which a municipality can provide grants and loans has now been defined.

2.1.3 Proposed Directions

Based on an analysis of the new legislation and the reasons why Community Improvement Project Areas were originally identified, amendments to some of the existing policies in the Clarington Official Plan are being proposed. It is proposed that the project areas with a prepared CIP be identified, that some project areas be eliminated, that additional new project areas be proposed, and other areas be modified.

2.1.3.1 Completed Community Improvement Plans

As noted, three CIPs have been completed for the historic downtowns of Bowmanville, Newcastle Village and Orono. The project areas with completed CIPs will be identified.

2.1.3.2 Deleted and Retained Community Improvement Project Areas

Bowmanville project area B2, which covers the triangular area between Wellington Street, Liberty Street, and the Railway line on the north, is proposed to be eliminated. This area was originally considered a Community Improvement Project Area because it was in need of infrastructure improvements (road resurfacing, sidewalks etc.) This work has now largely been completed, hence the proposed elimination.

The majority of the rural Community Improvement Project Areas are proposed to be eliminated, including Burketon, Enniskillen, Leskard, Kendal and Haydon. However, the three Community Improvement Project Areas already designated are proposed to remain.

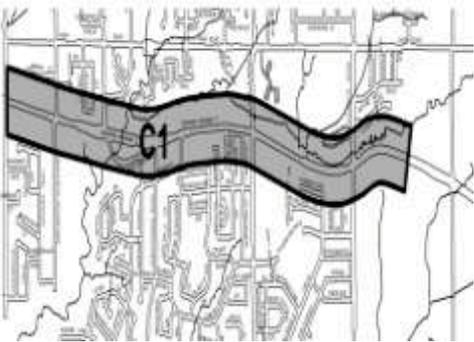
1. Mitchell Corner's. The community of Mitchell Corner's will likely be impacted by the construction of Highway 407, in particular the higher traffic volumes on Regional Road 34 and Taunton Road (Regional Road 4). One possible solution is to widen Taunton Road and to construct a link between the two sections of Regional Road 34 (Courtice Road and Enfield Road).
2. Hampton. This Hamlet has issues with flooding and deteriorating soil conditions making it difficult to support wells and septic systems.
3. Newtonville. The development potential for Newtonville, possibly some intensification and the redevelopment of the school site, supports the case for Newtonville to remain as a Community Improvement Project Area. However, growth in this Hamlet will depend on the availability of municipal water supply.

It is felt that the Community Improvement Plans for these hamlets will help establish the necessary policy framework within which solutions can be developed and implemented.

2.1.3.3 Proposed New Community Improvement Project Areas

One new Community Improvement Project Area has been identified in Courtice, while two have been identified in Bowmanville .

The proposed Courtice Community Improvement Project Area stretches between Townline Road in the west to the Highway 407 Link in the east, and extends both north and south of Durham Highway 2. It covers approximately the same area as the Courtice Main Street Study Area. This area is proposed because it is anticipated that the Courtice Main Street Study will make infrastructure and urban design



recommendations for the existing built up areas. The CIP would be one mechanism to assist with the implementation of these recommendations.

Figure 2. Proposed Courtyce Community Improvement Project Area

The proposed 'East Corridor' CIP area in Bowmanville (B7) is located between Mearns Avenue and Bennett Road and extends both north and south of Durham Highway 2. This area has been identified by the Region of Durham as a Regional Corridor. This area, which serves as the eastern gateway to Bowmanville, has been proposed as a community improvement project area to assist with the restoration of the culturally historic buildings in the area and to implement the land use planning policies of the Durham Regional Official Plan for Regional Corridors.

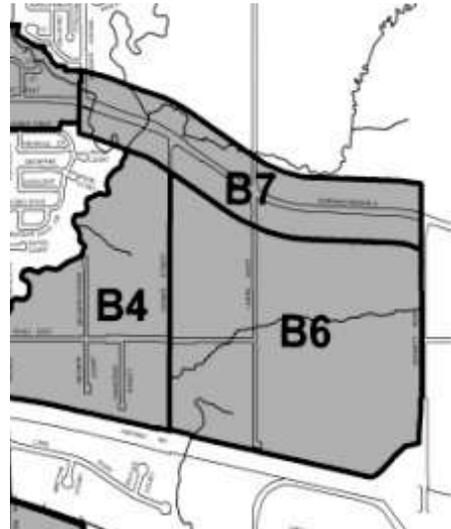


Figure 3. Proposed Bowmanville Community Improvement Project Areas.

The other proposed CIP in Bowmanville (B6 on the above map), the proposed Technology Park, extends between Haines Street and Bennett Road. Its southern boundary is Highway 401 and its northern boundary is the East Corridor community improvement project area. This area is contemplated as a community improvement project area because the area is in transition from agriculture to urban, and is one of the priorities of Council to generate employment in Clarington.

2.1.3.4 Modified Community Improvement Project Areas

Orono

- The Orono project area is to be reduced to coincide with the boundaries of the completed CIP.

Bowmanville

- The name of the community improvement project areas will change because of the proposed elimination of one project area.
- The B6 project area is to be expanded to include more of the Bowmanville Creek Valley in addition to some lands from B4.

Newcastle

- The boundary of N1 will be modified to coincide with the boundary of the completed CIP.
- N2 is to be reduced in size. The northern boundary is proposed to be Metcalfe Street instead of Highway 401, and the Graham Creek valley is to be eliminated from the project area.

Courtice

- The Clarington Energy Business Park is to be renamed.

The existing Official Plan policies are general in nature so there is no need to update the definition of 'community improvement' to include construction and energy efficiency. However, during the preparation of subsequent CIPs, consideration will be given to including construction and energy efficiency as being eligible for funding. Some minor text changes are also required to reflect changes in terminology.

2.2 Protection of Employment Areas

It is the intention of the Provincial government to ensure that municipalities can maintain their long-term economic competitiveness through the protection of employment areas. The Bill 51 legislation has given Clarington the ability to protect areas of employment by removing an applicant's right of appeal to the OMB when conversion of the employment area is not supported by Council¹. This provision helps to ensure the availability of adequate lands in strategic locations for short and long-term economic investment. The legislation also allows municipalities to protect against the pressure from other uses such as low density housing and big box retail.

Bill 51 has changed the definition of an area of employment; it is now defined in the *Planning Act* as "an area of land designated in an official plan for clusters of business and economic uses." including, without limitation, the uses defined in the Act (manufacturing, warehousing, office, and associated retail and ancillary uses).

2.2.1 Current Policy

As noted in the Provincial Policy Statement (PPS), municipalities may only permit the conversion of lands within employment areas to non-employment uses through a comprehensive five-year Official Plan Review or via an Official Plan amendment initiated by the municipality, where it has been demonstrated that the land is not required for employment purposes over the long-term and that there is a need for the conversion.

¹The Bill 51 legislation regarding employment area conversion does, however, allow all parties to have full appeal rights to the OMB at the time of the five-year Official Plan Review, or at any time when a municipality decides to alter employment land designations and policies.

The current Official Plan envisions Clarington as a place for people to live, work and play in a safe, vibrant, healthy and prosperous environment. This vision is consistent with provincial and regional guiding principles of building complete communities and supporting strong and competitive economies. In order to become a complete community, Clarington should encourage a diversified economy that will attract new employment opportunities, allowing residents to work locally. This can be accomplished through continued support and enhancement of the existing policies in Chapter 11, Employment Areas. The goal of the policies within this section are to provide a variety of economic and employment opportunities in the Municipality.

2.2.2 Discussion

Currently, there is a significant inflow of labour into Clarington, but a more significant outflow of labour from Clarington to other communities. Based on the 2006 Census, only 8,925 persons residing in Clarington reported working at fixed places of employment in the community – this represents only about 22% of Clarington’s employed labour force. As such, Clarington is a significant exporter of labour to other areas at the same time as a significant amount of designated employment lands in the community remains undeveloped.

During the Official Plan Review first phase of public consultation, residents raised concerns over Clarington’s lack of local employment opportunities and suggested that the Municipality encourage investment to allow for economic growth and new industry. Benefits of local employment include shorter commuting times and distances, lower traveling expenses and higher disposable incomes, all resulting in an increased tax base for the Municipality.

To build a “complete community”, it is also essential to link population and employment growth. Conservative projections anticipate that Clarington’s population will increase by 58,000 to a total of 140,000 inhabitants by 2031, requiring the creation of an additional 18,000 jobs during that time period (Growing Durham, 2009). This further demonstrates the need for the Municipality to explore new policies that encourage investment in the local employment base and to protect designated employment lands.

The Bill 51 provision for protecting employment lands will help ensure that Clarington’s designated areas of employment remain available for the anticipated growth and economic investment. Establishing criteria for the conversion of employment lands will protect the land base necessary for job location and growth.

In addition to amending the Official Plan to incorporate the Bill 51 policies, the OP Review includes the Courtice Employment Lands study. The objectives of this study are (a) to identify a vision and strategy for the area which is based on a realistic assessment of its market potential, and (b) to prepare a Secondary Plan for the area including land use and urban design policies to protect the lands for the envisioned type of development.

2.2.3 Proposed Direction

Bill 51 and the Provincial Growth Plan for the GGH have provided stronger policies to protect employment area from conversion to non-employment uses. The Growth Plan also requires municipalities to achieve higher employment densities to efficiently use the land that is available, as well as the roads and other services required. The Municipality recently used these policies to successfully defend against an appeal on its decision to deny an application for a low intensity auto auction use in a General Industrial Area.

Not only is the policy context changing, the Municipality is on the verge of having servicing provided to industrial lands. There is the danger that prime employment sites could be occupied with land extensive “dry” industrial uses (not requiring municipal services) that could forestall the progressive extension of services. Rather than reaching the provincial targets for more employment intensive uses, there could be a continuation of similar low intensity development proposals.

Future phases of the OP Review will be examining this matter in greater detail. In the interim it is recommended that policies be established that reflect the Provincial Growth Plan and the Municipality’s objectives to attract higher employment generating land uses.

Chapter 11, Employment Areas will be updated to include the following provisions;

- What areas constitute employment areas in terms of provincial policy.
- When an employment area conversion may take place.
- The criteria that must be met for employment area conversions.
- The process for sequential development to servicing.
- Efficient use and timely construction of infrastructure.
- An emphasis on compact built form and quality of building design.
- Identify specific low intensity uses that would not be suitable for serviced industrial lands.
- Clarify requirements for each industrial application to construct the portion of the arterial and collector road system on the development parcel that is the subject of the application.
- Deleting “refining” and “storage” as permitted uses and clarifying that processing activities are for the “processing of raw materials.
- Requiring that outside storage in the General Industrial Area be limited to 50% of a building’s floor area rather than 50 % of the lot area.

- Clarifying that development of industrial areas shall proceed by registered plan of subdivision and specifying the conditions where land severances would be permitted, and
- Clarifying that industrial development is to be on full municipal services and only in very limited cases will industrial uses be permitted on partial servicing systems.

2.3 Community Benefits

Section 37 of the Planning Act provides tools for Municipalities to be able to share in the increased value of a development project. This section of the Act provides that a municipality may authorize increases in the height and density of a development that are greater than otherwise permitted through the zoning by-law in return for community benefits. Community benefits that could be realized through this provision include:

- Provision of public squares or parks, walkways and places,
- Provision of public parking,
- Protection of historic buildings,
- Provision of community and open space facilities including community centres, fire halls and libraries, and
- Enhancement of natural features beyond the requirements of the Official Plan.

The legislation allows for an exchange between the developer and the Municipality, all in the context of good planning. The conditions set out in the Official Plan allow an increase to height and/or density, which increases a development's profit; however, for the developer to take advantage of this provision there must be a community benefit that serves the greater good and is considered to be a public amenity. All development proposals, including those with increased height or density, must be based on sound planning decisions.

Although this provision has been in the *Planning Act* since 1983, it is a complicated provision that has not been widely used with the exception of the City of Toronto. The Act assumes that there is a competitive market for higher density development. This has not been the case in Clarington. The Community benefits provisions in the Act have not been supplemented by either regulations or guidelines as with other sections of the Act.

2.3.1 Current Policy

The Municipality of Clarington currently does not have policies within the Official Plan that would allow for the use of the community benefits provisions although the former Town of Newcastle Official Plan had provisions for the Courtice West Shopping district for a few years.

2.3.2 Discussion

A municipality can decide to use Section 37 of the *Planning Act* when a project constitutes good planning, such as for a development proposal within an existing built up area that is deficient in parkland. Although the developer is required to provide cash in lieu of the park land dedication, the Municipality could decide that cash in lieu is not sufficient to offset the deficiency in parkland in the immediate area. Through the community benefits provisions, a contribution (of an agreed to amount) could be made into a fund that the Municipality has established to acquire parkland in the same geographic area. In return for the contribution the municipality would support a rezoning application to permit an increase in the density of the development beyond the limit permitted by the existing zoning by-law.

In using the Section 37 provision, the Municipality may negotiate items that are over and above those typically funded through development charges and other standard contributions. For example, the developer may agree to the construction of enhanced pedestrian connections or the installation of public art. Alternatively, a monetary contribution may be more appropriate. In such cases, the funds obtained through Section 37 agreements may be used by the Municipality towards these or similar items or objectives. Therefore, it can be used for public parking, public art, affordable housing, green space over and above the required parkland contribution, conservation of heritage features and other amenities.

The use of increased heights and densities in exchange for community benefits may only be utilized if there is an Official Plan policy in place.

2.3.3 Proposed Direction

A Municipal wide framework for the implementation of height and/or density incentives under Section 37 of the *Planning Act* should be considered. The framework is needed to ensure that Council, staff and the development community have clear and consistent direction on the use of Section 37 and the objectives that would be achieved through its utilization. The framework will also act as a tool to ensure that Municipal negotiations with members of the development community are transparent, consistent and accountable.

The framework also provides direction regarding where, when, and how Section 37 is to be used and establishes a consistent relationship between the cost to the developer in providing public benefits and the value to the developer of the increased density or height. Clarification of what public benefits are to be secured, including the achievement of an appropriate balance between local and community wide benefits, should also be part of the framework.

In anticipation of the community benefits framework, the Official Plan must be amended to include enabling provisions to allow for Section 37, Community Benefits to be utilized.

Policies are proposed to:

- Enable the use of Community Benefits,
- Define when the increase in height/density may be considered,
- Describe how the community benefits provision will be controlled – through a site specific study,
- Define what a site specific study will address,
- Determine where the use of community benefits may be permitted, and,
- State that the proponent must enter into an agreement with the Municipality to be registered against the title of the property regarding the community benefits.

2.4 Urban Design

Urban design varies in both how it is defined and how it is put into practice. Historically, urban design combined the key components of urban planning with architecture, but most recently it has borrowed from other intellectual fields such as art history, civil engineering, anthropology, human geography and health studies. Urban design has a concern for three-dimensional space and as much consideration for the public areas between or beneath buildings as for the buildings themselves. It is about making places that are well liked and well used by people.

More specifically, urban design is about creating a sense of place in a community where people feel comfortable, such as distinct town centres, safe neighbourhoods, beautiful parks, trails and public squares.

Implementing good urban design is an ongoing and creative process that requires a common vision and cooperative efforts amongst many people and professions. Planners, developers, architects, landscape architects, engineers, artists, politicians, community groups, business owners and residents all have a role and responsibility toward creating and maintaining highly functional and beautiful communities. It is about creating a sense of place within a community. Urban design focuses on the interrelationships between the street, the buildings and the people.

2.4.1 New Powers for Site Plan Approval

Recognizing the need for high quality development as the urban areas intensify, and the need to create a culture of conservation, Bill 51 provides new powers to Municipalities by adding exterior building design to the list of matters which a municipality can address through the site plan control process. These matters include, character, scale, appearance and design features, as well as sustainable design. This new provision provides municipalities with further strength and a greater degree of control in matters related to exterior building design.

The second matter added to site plan control allows municipalities to require the provision of sustainable design elements within the road right-of-way, for example, plantings, street furniture, bicycle racks, waste containers and ramps on a public right of way. This will enable the Municipality to achieve streetscape objectives, as well as transit-supportive and environmentally sensitive designs.

2.4.1.1 Current Policy

Currently, the achievement of Municipal objectives with respect to exterior building design and sustainable design elements has largely occurred through the cooperation of developers. Urban design principles and guidelines already exist in various locations within the Clarington Official Plan, but there are no policies within the Official Plan that will enable the Municipality to take advantage of the new provisions in the *Planning Act*.

2.4.1.2 Discussion

Adding policies related to exterior design and sustainable design elements for site plans helps to reinforce the higher level guidance that is characteristic of an Official Plan. Although the Municipality has some urban design guidelines, implementing a guidance approach is sometimes challenging. There is the perception that ‘guidelines’ can be ignored because they are not ‘policy’ enshrined under the powers of the *Planning Act*. Some urban design principles are enshrined in the Zoning By-law but there is concern that if policies become too prescriptive, they become less flexible, and this can limit creativity.

2.4.1.3 Proposed Directions

It will be necessary to incorporate new Official Plan Policies related to site plan control to take advantage of the new tools provided to municipalities by Bill 51 related to exterior building design and sustainable design. Following the adoption of the appropriate Official Plan policies, the Site Plan Control By-law will also be amended to reflect these changes.

By including exterior design and sustainable design policies in the Official Plan and Site Plan Control By-law, staff and Council will have greater degree of control over the design of our built environment. The existing Site Plan Control policies (specifically 23.8.2) require that a proponent demonstrate how the proposed design and the organization of the site and buildings will implement the urban design policies of the Official Plan and the Secondary Plans.

The Official Plan Review will seek to take a design-oriented approach with greater emphasis on the quality of the built environment. Every building, road, utility and public use contributes to our sense of place – the elements create something greater than the sum of the parts. It serves not only the need of the occupant or user but the community as a whole by framing and giving character to the spaces we enjoy or we do not enjoy.

To further secure the ability to influence the place-making principles with a ‘pedestrian and exterior design first’ approach, additional urban design policies are proposed to be added. This new chapter is detailed policies that are intended to address matters of:

- integrated urban and community structure,

- compatibility,
- sustainability,
- roads, street patterns and streetscapes,
- sense of community,
- safety and accessibility, and
- site planning and building design.

The urban design policies within the existing Official Plan will remain.

2.5 Heritage and Culture

Cultural Heritage is one of the most notable features that residents identify with in a community. Cultural heritage resources can be built and/or natural features; they include buildings and structures, neighborhoods, landscapes, archival collections, folktales and traditional crafts and skills. History is visible in the landscape. Whether in bustling urban areas or secluded rural environments, buildings and structures which have stood the test of time contribute to creating a sense of place and community stability.



2.5.1 Current Policy

The existing Official Plan includes goals and objectives for the protection, conservation and enhancement of cultural heritage resources based on the work that has been carried out by the Clarington Heritage Committee and its predecessor, the Local Architectural Conservation Advisory Committee.

Clarington's current Official Plan supports cultural heritage with the goal "to promote cultural achievements, foster civic pride, strengthen the local economy and enhance the quality of life for Clarington residents in the preservation, restoration and utilization of the Municipality's heritage resources".

The Provincial Policy Statement lists a number of resources which provide important environmental, economic and social benefits with cultural heritage and archaeological resources being included as one. "The wise use and management of these resources over the long term is a key provincial interest".

The *Ontario Heritage Act* was originally approved in 1975. In 2005 comprehensive amendments to the Act to strengthen and improve heritage conservation in Ontario received Royal Assent. Since the Official Plan already addressed cultural heritage it was not necessary to recommend any policy changes at that time. The changes to the Act affected the Municipality's abilities to prevent demolition and manage heritage conservation resources within the Planning process but did not change the direction of the policy framework.

Over the past five years the provincial government has been harmonizing its provincial



legislation to provide a more consistent and stronger basis for Municipalities to conserve cultural heritage resources. Many provincial statutes and plans contain references to the conservation of cultural heritage resources; these include the *Planning Act*, the *Environmental Assessment Act*, the *Greenbelt Plan*, and the Growth Plan for the Greater Golden Horseshoe in addition to the Provincial Policy Statement and the *Ontario Heritage Act*.

2.5.2 Discussion

In an effort to sustain resources for future generations, governments are striving to move “from a culture of waste to a culture of conservation” (McGuinty, 2004). For heritage in particular, there is now a range of legislative tools, policies and initiatives to identify and protect both built and natural heritage.



The Growth Plan directs municipalities to intensify by targeting 40% of new residential units to be developed within already built up areas. However, there remains a clash between built heritage and intensification with risks of demolition, inappropriate alteration of heritage resources, and incompatibility of new construction with the existing character of established areas. One of the challenges in land use planning is providing the necessary flexibility to ensure that heritage structures and facilities can take on adaptive reuses while not compromising

other principles of the Official Plan. Adaptive reuse is the process of adapting old structures for new uses while preserving their historically significant features.

Heritage tourism can stimulate local economies. A recent trend in commercial economic development and heritage tourism “has been towards visiting and experiencing “authentic” downtowns,” which, in turn, “encourages downtown renewal and the conservation of heritage structures” (City of Hamilton, 2008). Other areas like the Distillery District in Toronto have reused the industrial structures for an arts and culture purposes.

The *Ontario Heritage Act* enables municipalities to create an inventory of their properties of cultural heritage value or interest. Properties on this inventory list are considered to be “listed” properties. Clarington has established three categories for its basic inventory list which are Primary, Secondary, and Heritage Merit. Primary

properties are those that are the best example of a particular style of architecture. Secondary properties are those that were constructed with a vernacular interpretation of a particular style of architecture. Heritage Merit properties are those buildings generally built between 1900 and 1955 which still retain the majority of their original architectural features.

Any of these properties can be designated under the *Ontario Heritage Act* or listed on the Municipal Register. Designated properties are those that have either been individually designated under Part IV of the Act or those that are part of a heritage conservation district under Part V of the Act. In each case a designation by-law is passed by Council and the by-law is registered on the title of the property. The Municipal Clerk is required to keep a list of these properties, which is referred to as the Municipal Register. Designated properties that are listed in the Register must contain a legal description of the property, the name and address of the owner, and a statement explaining the cultural heritage value or interest of the property and a description of the heritage attributes of the property. Seventy individual properties in Clarington have been formally designated by by-law under Part IV of the *Ontario Heritage Act*. In 2006, Clarington approved its first heritage conservation district under Part V of the Act.

The Municipal Register may also contain a property that is not formally designated by by-law. The *Ontario Heritage Act* states that Council, after consulting with its heritage committee, can add properties to the Register that they believe to be of cultural heritage value or interest. The Register only needs to contain the street address of these non-designated properties.

As a result of being on the Municipal Register, a demolition permit is not automatically issued. The owner of the property must give Council 60 days notice in writing of their intentions to demolish or remove a building. Council can ask for detailed plans and any information they may require to assist with their decision. Within the 60 day period Council can decide to initiate the designation process, which would prohibit a demolition permit from being issued, or Council can determine that any or all of the buildings on the property can be demolished.

2.5.3 Proposed Directions

The current Clarington Official Plan heritage policies, contained in Chapter 8, Cultural Heritage require minor wording amendments. In addition, the policies could be strengthened by including the provincial directions regarding the context of heritage sites and adjacent properties.

Since the writing of the existing Official Plan, there have been some new developments such as the creation of the heritage conservation district on Beech Avenue. Potential future heritage conservation districts such as the historic downtowns, requiring further study should be identified. This is more important in consideration of the intensification directions of provincial policy and the need to protect key heritage areas from potentially incompatible development.

To assist with interpretation of the Provincial Policy Statement revised definitions are proposed for the following terms: built heritage resources, cultural heritage landscapes, heritage attributes, protected heritage properties, significant, and conserved.

Section 3
Planning
Administration

3.0 PLANNING ADMINISTRATION

3.1 Pre-Submission Consultation

The most recent amendments to the Planning Act emphasize a broadening of the range of information available for approval authorities to consider when reviewing an application. The requirements for the submission of supporting information have been shifted to the front end of the planning process. These amendments are collectively referred to as a complete application.

A complete application has two sets of information requirements. The first are the provincial requirements, or prescribed information. These requirements are outlined in the various Regulations that have been enacted under the Planning Act. The second are the municipal requirements which are legislated in the Planning Act as other information. Other information must be specified through provisions in the Clarington Official Plan.

3.1.2 Current Policy

Currently the municipality uses a similar approach to that that has now been formalized through Bill 51. Our made in Clarington approach usually begins with a “one stop” meeting. It is attended by municipal staff, the proponent and his/her consultants as well as staff from the various agencies (Conservation Authority, Region) that have an interest in the proposed application. At this “one stop” or pre-submission meeting, all of the information or studies that would be needed as part of the application package, as well as throughout the process are discussed. Upon receipt of the agreed to information, as well as the completed application form and fees, a planning application is deemed complete and the review begins.

The existing Official Plan has identified approximately 35 different studies that could be requested in support of a development application. These studies are identified throughout the entire document and many are repetitions of studies either required by the Regional Official Plan or Provincial Plans. This is reflective of the lower tier responsibility to implement provincial policy and plans

3.1.3 Discussion

Prescribed and other information must be submitted concurrently with the planning application to enable Council or its designate to make informed decisions within the prescribed period of time. It also aims to ensure that the public and other stakeholders have access to all the relevant information earlier in the planning process.

If any required information is incomplete or is not submitted concurrently with the planning application, Council or its delegate may refuse to accept or further consider an application. The prescribed time period in which a decision must be made does not begin until such time as all the required information and materials have been submitted

by the applicant and the application has been deemed complete. Once an application is submitted to the Planning Services Department, the Municipality has 30 days to confirm the receipt of a complete application with the applicant.

As a result of Bill 51, proponents are required to provide more than administrative type details, such as name, location of property and adjacent land uses. Statements of consistency with the Provincial Policy Statement, conformity with Provincial Plans, servicing considerations, identification of related planning applications, archaeological plans and an explanation as to how the application conforms to the Official Plan are also required. This information is referred to as 'prescribed'.

Council or its designate, usually the Director of Planning Services, can now also require that other information or material, be submitted as part of a complete application package. This other information usually includes background studies or reports such as an EIS or a Traffic Impact Analysis. Requiring studies and detailed information on a development proposal to be submitted at the beginning, rather than later in the review process which has been the traditional approach, represents a significant change. This however, can only be exercised if the Official Plan contains provisions relating to such requirements. In addition, the requirements for specific studies to be submitted in support of a site plan application must also be identified in the Municipality's Site Plan Control By-law.

Not all of the studies that may be required in the development approval process are required in the initial stages of a planning application review. Some very specific types of studies, such as illumination, are more appropriately considered in conjunction with the review of detailed site or servicing plans and may be required through a condition of draft plan of subdivision approval or as a requirement for site plan approval.

It is during a pre-submission meeting that the other information or studies that will be required to make a complete application will be identified. The studies that may be required later in the process should also be identified early. Council passed By-law (By-Law No. 2007-132) in June 2007 that requires a pre-submission meeting for all Official Plan Amendments, Plans of Subdivision/Condominium, Zoning By-laws and Site Plans applications. From the pre-submission meeting a formal record is prepared by the applicant and submitted to Municipal staff for concurrence with an expiration date.

It must be remembered that the identification of studies needed as part of a complete application are not intended to preclude the Municipality or commenting agency from requiring additional studies that may be identified during the planning process. It is also imperative to note that the receipt of a report or study as part of a complete application should not be interpreted to mean that the content of the report/study is acceptable. The quality of the report shall be determined as the planning process proceeds.

3.1.4 Proposed Direction

It is intended that all of the current planning application forms be updated to include the information and material that is to be provided as part of a complete application as described in the various Regulations issued under the Planning Act.

It is recommended that one section within “Section 23 Implementation” identify all of the potential studies, reports and information that may be required of all Official Plan Amendments, Zoning By-Law Amendments, Site Plan Applications, Draft Plans of Subdivision and Draft Plans of Condominium applications. This section will also note that the Municipality must review and approve the terms of reference for all proposed studies prior to the preparation of the study.

It is also recommended that some minor housekeeping amendments that would make the existing Official Plan policy sections more consistent with the new proposed complete application policies and the Bill 51 provisions be prepared.

3.2 Environmental Impact Studies

Clarington’s residents have always placed protection of the natural environment as one of their top priorities. This was reflected in the environmental policies of the current Official Plan adopted in 1996. A key tool for the municipality to ensure the protection of the environment is the use of Environmental Impact Studies (EIS). An EIS identifies the anticipated negative impacts of a proposal on a significant natural area or feature, and recommends ways to avoid or minimize these effects and if feasible, enhance the area or feature.

3.2.1 Current Policy

The Clarington Official Plan (Section 4.4.35) requires that an EIS be prepared for any development application located on or adjacent to a Natural Feature identified on the Natural Features Maps of the Official Plan. However the policy goes further and specifies that the Municipality will select and retain qualified professionals to carry out the EIS.

3.2.2 Discussion

Prior to 1996, the applicant for a proposed development was responsible for preparing an EIS. As a result, these studies were completed to varying standards. To ensure consistency and objectivity in EIS studies, policies requiring the Municipality to administer the EIS preparation were introduced into the Official Plan in 1996. The proponent provided the funding to the Municipality and the Municipality engaged the consultant on behalf of the proponent. The Municipality developed Guidelines to guide EIS preparation and maintained a roster of qualified consultants to undertake the studies.

The EIS Guidelines have been modified a number of times since 1996, all with the intention of making the process more efficient and effective. In March of 2007, the Guidelines were further modified to be consistent with the requirements of a “complete application” as defined in Bill 51. As a result of these changes, the Municipality now requires that the following happen prior to a development application being deemed complete.

- a mutually agreed to terms of reference for the study be prepared,
- a proposal to complete the EIS by a consultant from the approved Municipal roster be submitted, and
- the development proponent has paid for the EIS to be undertaken.

This modification to the Guidelines was not intended to be permanent; further amendments are proposed to bring the EIS process into greater consistency with the requirements for a complete application as set out in Bill 51.

Although the current system has worked well to ensure high quality EIS studies are prepared, it has also proven to be inefficient in terms of both time and staff resources. The process needs to be changed to be more effective and efficient, while still maintaining quality standards for EIS preparation.

3.2.3 Proposed Direction

The change proposed to the Official Plan Policy would make the process for EIS preparation similar to that for all other studies required for a development application. Specifically, the hiring of a qualified consultant will become the responsibility of the proponent. The Municipality and Conservation Authority will be involved in developing the terms of reference for the EIS and the review of the EIS results. Should the Municipality or Conservation Authority not be satisfied with the EIS details or its recommendations, the Municipality will have the option to have the study peer reviewed at the expense of the development proponent. This change will also require the EIS Guidelines to be amended.

The only exception to this proposed approach would be for subdivision applications located on the Lake Iroquois Beach. The existing Official Plan highlights the environmental significance of this natural feature, which is characterized by multiple environmental functions such as groundwater recharge and discharge and high quality wildlife habitat. The Lake Iroquois Beach is also subject to intense development pressure given its location within and adjacent to urban areas. The public interest would be best served by continuing the existing process for EIS preparation on the Lake Iroquois Beach to ensure a multi-disciplinary approach to the study.

4.0 Next Steps

Clarington Council wants to consult with the public at all stages of the Official Plan Review process, to meet Council's goal for public participation, we are offering you many opportunities to provide input throughout the process.

We encourage you to contact us with your comments regarding the concepts and proposed directions proposed in this paper. The Official Plan Review website www.clarington.net/ourplan has been designed to accept written submissions or if you prefer you may call us at 905-623-3379 extension 353.

We also invite you to a Public Information Session to be held on December 9, 2009 at the Garnet B. Rickard Recreation Complex in Bowmanville. At this session, you will have the opportunity to learn more about the proposed directions, ask staff questions and offer your comments.

In addition, a Statutory Open House is being planned for February 2010. At this meeting, the proposed Official Plan Amendments will be presented. The amendments will reflect the public input received. This Open House will be followed by a Public Meeting before the General Purpose and Administration Committee of Council where you could also express your opinion on the amendments to Council. It is anticipated that a recommendation report to approve the Official Plan Amendments will follow in May 2010.