

February 2, 2023

Andrew Doersam  
Municipal Services Office - Central Ontario  
Ministry of Municipal Affairs & Housing  
Province of Ontario  
777 Bay Street, 16th floor  
Toronto, Ontario  
M7A 2J3

Dear Mr. Doersam:

**RE: SUBMISSION ON DURHAM REGION OPA 186 – ERO #019-5147; MINISTRY #18-OP-216166  
680 LAVAL DRIVE & 642 CHAMPLAIN AVENUE, OSHAWA  
601-619 VICTORIA STREET WEST, WHITBY  
OUR FILE: 07132'FE'**

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On behalf of our clients, SmartREIT (Oshawa South li) Inc.; Oshawa South Developments Inc., Oshawa South Self Storage Inc. and Calloway REIT (Whitby Shores) Inc. (collectively “SmartCentres”) please accept this submission regarding the Region of Durham’s Official Plan Amendment 186 (“OPA 186”). Our client is the owner of two shopping centres, Oshawa South Power Centre located at 680 Laval Drive and 642 Champlain Avenue in Oshawa (**Figure 1**) and Whitby Shores Plaza located at 601-619 Victoria Street West in Whitby (**Figure 2**).

The purpose of OPA 186 is to establish the limits of Protected Major Transit Station Areas (“PMTSA”) and to set out land use policies thereto. The land use policies include permissions for intensification within the PMTSAs as well as prohibition on uses.

These two shopping centres contain a variety of commercial uses including large scale retail uses (WalMart, Lowes), medium and small scale retail (Metro, SmartStop, LCBO, Dollarama) and service commercial uses (Tim Horton’s, RBC, Scotiabank, Starbucks, Dairy Queen) many with drive through facilities.

**Our client is concerned that the language of OPA 186 will result in many of the uses on their properties being “prohibited”, leading to many of the uses which support the surrounding community (and the future intensification) becoming legal non-conforming. In addition, our client has concerns regarding some of the implementation policies. Lastly our client requests that the Thornton’s Corners PMTSA limit be extended to include their full property.**

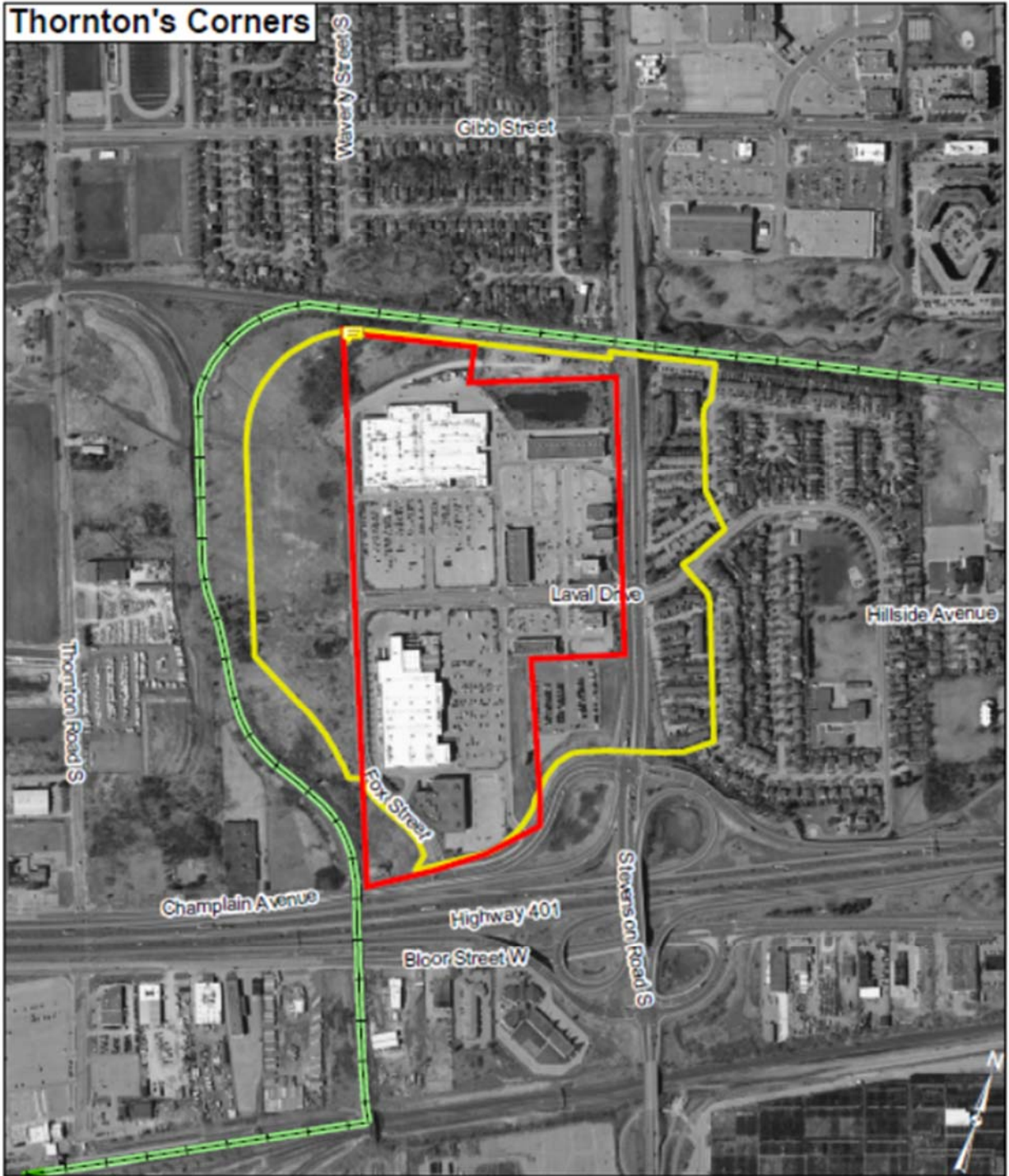


Figure 1: Oshawa Power Centre (in red) as located within the proposed PMTSA



Figure 2: Whitby Shores Plaza (in red) as located within the proposed PMTSA

### ISSUES WITH OPA 186

We note the following concerns with OPA 186 as adopted.

1. As noted above, in Item 27 of Table 1 of OPA 186 (Policy 8A.2.10), the Region sets out specific land use permissions. Our client is supportive of the intensification of the lands as provided for in the land use permissions. However, Provision f) reads:

- “f) Commercial uses, including retail, both convenience retail and small-scale retail uses, restaurants, personal and professional service shops, and day care uses;”

The concern with this statement is it is unclear. While “Commercial uses, including retail...” are permitted, it appears that it specifies that said retail is limited to “...both convenience retail and small-scale retail uses,....”. Given there are retail uses on both properties which would by their nature or size not be considered “convenience retail” or “small-scale retail uses”, we would suggest that this provision instead read (bold representing additions, strikeouts representing deletions):

- “f) Commercial uses, including **but not limited to, all forms and scale of** retail, ~~both convenience retail and small-scale retail uses~~, restaurants, personal and professional service shops, and day care uses;”

This change would clarify the permission, allowing all forms and scale of retail uses to occur in the PMTSAs. Given that there are numerous instances where retail is incorporated into intensified urban built form (including large scale retail uses), we feel that this modification is appropriate and reasonable.

- 2. Item 28 of Table 1 of OPA 186 (Policy 8A.2.11) represents an attempt by the Region to implement Policy 2.2.4.6 of the Growth Plan which states:

“Within major transit station areas on priority transit corridors or subway lines, land uses and built form that would adversely affect the achievement of the minimum density targets in this Plan will be prohibited.”

Item 28 of Table 1 (Policy 8A.2.11) states:

“The following land uses will be prohibited in Protected Major Transit Station Areas:

- a) Automobile-oriented uses such as drive-through establishments, gasoline stations, service stations, and car washes; and
- b) Land extensive uses such as automobile dealerships with outdoor vehicle storage and display areas, warehouses and storage facilities, including self-storage facilities.”

Our client disagrees with this broad prohibition of uses for the following reasons:

- a) The policy as written would effectively create a legal non-conforming situation for its two plazas which include the uses being prohibited, specifically drive-through establishments and self-storage facilities. There is a need to include a mechanism to continue to legally permit these land uses as well as to allow for minor expansions or enlargements to occur without the prohibition being triggered.
- b) These uses can be incorporated into either multi-storey or mixed-use projects with compact built form and appropriate densities resulting. For example, there are numerous examples where self-storage facilities have been developed in mixed use or multi-storey built form. Examples include the SmartStop facility at 1120 Dupont Street in Toronto and the SmartStop at 50 Cityview Boulevard in Vaughan (photos below).



Photo of SmartStop at 1120 Dupont Street, Toronto



Photo of SmartStop at 50 Cityview Boulevard, Vaughan

The Greater Toronto Area is experiencing intensification of urban areas and the growth of the self-storage industry. Living spaces are becoming more efficient and have increased the demand for self-storage facilities. Over the past decade, the design of storage facilities has been evolving to meet the demand of smaller homes as well as provide storage for small business incubators and independent professionals. In addition, the built-form of self-storage

facilities has increased in density and height to provide for a more efficient use of land. To meet the changing lifestyles and work-lives of end-users, self-storage facilities are being located at strategic locations that optimize access to major road networks, residential communities and employment areas.

Similarly, drive-through establishments can also be incorporated into mixed-use, multi-storey format development.

Lastly, automobile dealerships are increasingly being designed and developed in multi-storey or mixed use formats – intensifying the lands and providing significant amounts of well paid, highly trained employees.



Photo of multi-storey automobile dealership (Audi Midtown) at 175 Yorkland Boulevard, Toronto

It is therefore our request that Item 28 of Table (Policy 8A.2.11) be revised as follows (bold representing additions):

“The following land uses will be prohibited in Protected Major Transit Station Areas:

- a) **New** automobile-oriented uses such as drive-through establishments, gasoline stations, service stations, and car washes **except where located in multi-storey and / or mixed use developments;** and
- b) **New** land extensive uses such as automobile dealerships with outdoor vehicle storage and display areas, warehouses and storage facilities, including self-storage facilities **except where located in multi-storey and / or mixed use developments;**
- c) **Notwithstanding the above prohibition on land uses, buildings and structures that legally existed prior to the adoption of this Plan shall be permitted to continue; however, they are ultimately intended to be redeveloped and used in conformity with this Plan. Where existing lawful uses, buildings or structures are not in conformity with the objectives and policies of this Plan, such uses will**

**be encouraged to redevelop over time in a manner that is consistent with this Plan.**

- d) Enlargements, extensions, additions and alterations of existing lawful buildings and structures as well as new buildings and structures for an existing lawful use may be permitted up to 10% of the gross floor area of the building or structure, without amendment to the Plan.**
- e) The replacement or repair of a lawfully existing building or structure may be permitted without amendment to this Plan where the damage or destruction was beyond the control of the landowner provided:**
  - a. the replacement or repair commences within 2 years of the damage or destruction; and**
  - b. the reconstruction or repair does not increase the footprint or the gross floor area of the former building or structure, nor does it increase zoning by-law non-compliance beyond that of the former building or structure."**

With these modifications, our clients concerns will be addressed relative to Item 28 of Table 1 of OPA 186.

- 3. Several of the implementation policies cause our client concern, given that they do not recognize existing conditions or are not flexible in their application. To this effect our client requests that the following policies be modified as shown :
  - a) Item 35, Policy 8A.2.18 h) "~~Support the efficient use of land, including the requirements for~~ **encouragement of the use of** structured parking, and shared parking **requirements** as part of new development;"
  - b) Item 35, Policy 8A.2.18 j) vi) "~~Require~~ **Encourage** new vehicular parking to be located below grade **or located in structured parking, where feasible,** or located in a manner to minimize the visual impact on streets, parks, open spaces, pedestrian walkways and other land uses. With the exception of bus parking, surface parking will be minimized."
  - c) Adding a new section to Item 35, Policy 8A.2.18 after j) ix. which reads "**The above guidelines will not be utilized to change existing conditions, except where major redevelopment is occurring. They will not be utilized where an expansion to an existing legally existing building, structure or use of land is occurring or the replacement or repair of a lawfully existing building or structure as set out in Policy 8A.2.11 d) and e).**"
  - d) Item 36, Policy 8A.2.19 "The Region and the respective area municipality may require the coordination of development applications through measures such as Master Development Agreements or similar approaches, to ensure an orderly, coordinated and phased approach to the provision of transportation, servicing and other infrastructure are provided prior to or coincident with development. **Nothing will**

**prevent said agreements or other instruments from being modified to reflect revised or new development proposals.”**

4. Our client has requested that the Thornton's Corner's PMTSA limit be extended to include the entirety of their land holdings, which are within the 800 m radius as set out in the Growth Plan for the delineation of MTSA's. To this effect, we request that the southwest corner of the PMTSA limit extend to include the lands on the west side of Fox Street, south to Champlain Avenue, east of the railway (see purple hatched area on **Figure 3** below).



**Figure 3:** Requested expansion area to Thornton's Corner's PMTSA

Please feel free to contact us if you have any questions or wish to discuss in further detail.

Thank you.

Yours Truly,

**MHBC**

A handwritten signature in black ink, appearing to read "David McKay".

David A. McKay, MSc, MLAI, MCIP, RPP  
Vice President and Partner

cc: Clients