



THE CORPORATION OF NORFOLK COUNTY
COMMITTEE OF ADJUSTMENT

COMMENT REQUEST FORM

FILE NO: BNPL2010058

☒ Building Department
☒ Building Inspector (Sewage System Review)
☒ Forestry Division
☒ GIS Section
☒ Fire/EMS
☒ Public Works - NOTE: If an agreement is required please attach the clauses you require in the agreement.

☐ Railway
☒ Norfolk Power
☒ Ministry of Transportation
☐ Conservation Authority

This Committee has received a consent/minor variance application concerning land within your jurisdiction. The proposal is explained on the attached application. If you require further information, please feel free to contact this office. In order to properly consider this application, the **Committee of Adjustment requires your comments by:**

July 05, 2010

APPLICANT:

WAL-MART CANADA CORP, 1940 ARGENTIA RD, MISSISSAUGA, ON L5N 1P9

AGENT:

TORKIN MANES, LLP, LEONARD RODNESS, 151 YONGE STREET, SUITE 1500, TORONTO, ON M5C2W7

LOCATION: CON 6 PT LOT 3 (160 QUEENSWAY E)

ASSESSMENT ROLL NO.: 3310401005380000000

PROPOSAL:

An application has been received to create an easement having an irregular width of 6.09 m (19.98 ft, an irregular depth of 66.86 m (219.34 ft) and having an area of 0.0384 ha (0.09 ac) for storm sewer purposes.

PLEASE REPLY BY EMAIL DIRECTLY TO:

Pam Duesling, MCIP, RPP, Ec.D
60 Colborne Street S., Simcoe ON N3Y 4H3
519-426-5870 Ext. 1342

EMAIL: pam.duesling@norfolkcounty.ca

COMMITTEE OF ADJUSTMENT DECISION:

If you wish to be notified of the Decision of Norfolk County, Committee of Adjustment in respect of the proposed application, you must make a written request to:

Karen Judd, ACST, Secretary-Treasurer
P.O. Box 128, 22 Albert Street, Langton ON N0E 1G0
Phone: (519) 875-4485 ext 1835; Fax: (519) 875-4789
karen.judd@norfolkcounty.ca

APPEALS TO THE ONTARIO MUNICIPAL BOARD:

If a person or public body that files an appeal of a Decision of Norfolk County Committee of Adjustment in respect of the proposed consent or variance does not make written submission to the Norfolk County Committee of Adjustment, before it gives or refuses to give a provisional consent or variance, the Ontario Municipal Board may dismiss the appeal.

CIRCULATION DATE: June 21, 2010

CONSENT / SEVERANCE

OSSOS not read.

Office Use:

File Number: BNPL2010 058
Related File: _____
Fees Submitted: JUNE 8, 2010
Application Submitted: JUNE 8, 2010
Sign Issued: June 9, 2010
Complete Application: June 9, 2010

This development application must be typed or printed in ink and completed in full. An incomplete or improperly prepared application may not be accepted and could result in processing delays.

Property assessment roll number: 3310- 401-005-38000

- | | |
|---|--|
| <input type="checkbox"/> Creation of a new lot | <input type="checkbox"/> Boundary adjustment |
| <input type="checkbox"/> Surplus Dwelling | <input checked="" type="checkbox"/> Easement |
| <input type="checkbox"/> Farm Split | <input type="checkbox"/> Right-of-way |
| <input type="checkbox"/> Other (lease / charge) | |

A. APPLICANT INFORMATION

Name of Applicant¹ Wal-Mart Canada Corp. Phone # 905-821-2111 ext. 4795
Address 1940 Argentia Road Fax # 905-821-6385
Town / Postal Code Mississauga, ON, L5N 1P9 E-mail Laurie.Crocker@wal-mart.com

¹ If the applicant is a numbered company provide the name of a principal of the company.

AGENT INFORMATION

Name of Agent Torkin Manes LLP / Leonard Rodness Phone # 416-777-5409
Address 151 Yonge Street, Suite 1500 Fax # 1-888-587-9139
Town / Postal Code Toronto, ON, M5C 2W7 E-mail lrodness@torkinmanes.com

OWNER(S) INFORMATION Please indicate name(s) exactly as shown on the Transfer/Deed of Land

Name of Owners² Wal-Mart Canada Corp. Phone # 905-821-2111 ext. 4795
Address 1940 Argentia Road Fax # 905-821-6385
Town / Postal Code Mississauga, ON, L5N 1P9 E-mail Laurie.Crocker@wal-mart.com

² It is the responsibility of the owner or applicant to notify the Planner of any changes in ownership within 30 days of such a change.

Please specify to whom all communications should be sent³: ☐ Applicant ☒ Agent ☒ Owner

³ Unless otherwise directed, all correspondence, notices, etc., in respect of this development application will be forwarded to the Applicant noted above, except where an Agent is employed, then such will be forwarded to the Applicant and Agent.

Names and addresses of any holders of any mortgagees, charges or other encumbrances on the subject lands:
None.

CONSENT / SEVERANCE

B. LOCATION/LEGAL DESCRIPTION OF SUBJECT LANDS

Geographic Township	<u>Woodhouse</u>	Urban Area or Hamlet	<u></u>
Concession Number	<u>6</u>	Lot Number(s)	<u>Part of Lot 3</u>
Registered Plan Number	<u>37R-8952</u>	Lot(s) or Block Number(s)	<u></u>
Reference Plan Number	<u>37R-8952</u>	Part Number(s)	<u>Prts 1-7, except Prt 1, P1 37R-9122</u>
Frontage (metres/feet)	<u>366.834 metres</u>	Depth (metres/feet)	<u>295.250 metres</u>
Width (metres/feet)	<u>237.896 metres</u>	Lot area (m ² / ft ² or hectares/acres)	<u>6.2655 hectares</u>
Municipal Civic Address	<u>160 Queensway East, Simcoe, Ontario</u>		

For questions regarding requirements for a municipal civic address please contact NorfolkGIS@norfolkcounty.ca.

To obtain your municipal civic address for the severed lands please contact your local building inspector.

Are there any easements or restrictive covenants affecting the subject lands?

☒ Yes ☐ No IF YES, describe the easement or covenant and its effect:

See Schedule "A" attached.

C. PURPOSE OF DEVELOPMENT APPLICATION

Please explain what you propose to do on the subject lands/premises which makes this development application necessary (if additional space is required, please attach a separate sheet):

Grant of easement in perpetuity for storm sewer purposes. See Schedule "B"

for full explanation.

Name of person(s), if known, to whom lands or interest in lands is to be transferred, leased or charged (if known):

1583039 Ontario Inc.

If a boundary adjustment, identify the **assessment roll number** and **property owner** of the lands to which the parcel will be added:

N/A

SCHEDULE "A"

B. Easements or restrictive covenants affecting the subject or retained lands:

- (a) Instrument No. NR304561 is an Agreement for Right-of-Way registered September 26, 1966 to and in favour of Union Gas Company of Canada Limited ("**Union**") granting the right to enter upon and leave at any time and from time to time, either on foot, or with vehicles, machinery, supplies and equipment together with the right to survey, lay, construct, maintain, inspect, alter, remove, replace, reconstruct, repair, use and operate in, through, along and under the subject lands, a pipeline for the transmission of gas, including therewith all such works, equipment, appurtenances, attachments, apparatus and appliances for cathode protection together with the right to keep, use and operate the same on the said lands and to remove the whole or any part thereof whenever Union shall decide to do so;
- (b) Instrument No. NR304561 is an Agreement for Right-of-Way registered September 26, 1966 to and in favour of Union granting the right to enter upon and leave at any time and from time to time, either on foot, or with vehicles, machinery, supplies and equipment together with the right to survey, lay, construct, maintain, inspect, alter, remove, replace, reconstruct, repair, use and operate in, through, along and under the subject lands, a pipeline for the transmission of gas, including therewith all such works, equipment, appurtenances, attachments, apparatus and appliances for cathode protection together with the right to keep, use and operate the same on the said lands and to remove the whole or any part thereof whenever Union shall decide to do so;
- (c) Instrument No. NR574419 is a Transfer registered October 10, 2003 to and in favour of Wal-Mart Canada Corp. ("**Wal-Mart**") which was subject to an easement in favour of Union over Parts 1 and 3 on Plan 37R-8952 as well as an easement in favour of The Corporation of the Town of Simcoe over Parts 3 and 4 on Plan 37R-8952;
- (d) Instrument No. NR574423 is a Transfer registered October 10, 2003 to and in favour of Wal-Mart, which was subject to an easement over Part 6 on Plan 37R-8952; and
- (e) Instrument No. NK8186 is a Transfer of Easement registered December 3, 2007 to and in favour of Wal-Mart granting a non-exclusive temporary easement and right in, on, along, under, and through the subject lands for the purposes of the construction, installation, use, operation, maintenance, repair and replacement of a water drainage culvert.

SCHEDULE "B"

Purpose of this Application:

Wal-Mart Canada Corp. ("**Wal-Mart**") is the owner of a shopping centre located at Queensway East and Ireland Road, Simcoe and legally described as Part of Lot 3, Concession 6, Geographic Township of Woodhouse, being designated as Parts 1 to 7 on Plan 37R-8952, save and except Part 1 on Plan 37R-9122 (the "**Property**"). The Property is being used for commercial retail purposes.

Wal-Mart has agreed with 1583039 Ontario Inc. ("**1583039**"), the owner of an adjacent parcel to allow it to drain storm water through a storm sewer which runs through the Property to a storm water management pond located on the Property. In order to legally cement this right, Wal-Mart has agreed to grant to 1583039 an easement in perpetuity.

The location of the proposed easement is shown on the enclosed reference plan prepared by Archibald, Gray & McKay Ltd., Ontario Land Surveyors dated July 9, 2009 which was deposited in the Land Titles Division of the Land Registry Office for Norfolk County (No. 37) as Instrument No. 37R-10044 (the "**Reference Plan**") as Parts 1, 3 and 4.

Subsection 50(3) of the *Planning Act* provides that no person shall enter into an agreement which has the effect of granting the use of or a right in land for 21 years or more (including rights of renewal), subject to certain exceptions, none of which apply in this case. A grant of easement in perpetuity between non-public entities is subject to Section 50(3) of the *Planning Act*.

In order to comply with provisions of the *Planning Act*, Wal-Mart is seeking consent to the grant of easement.

Wal-Mart requests that a consent be granted in respect of this Easement in order to comply with Subsection 50(3) of the *Planning Act*.

In our submission, the consent should be granted for the following reasons:

- (a) The easement puts into effect the scheme of drainage and management of storm water for these properties, which has been approved by the County of Norfolk
- (b) It is in accordance with the planning principles, policies and concerns of the County of Norfolk.

Accordingly, Wal-Mart requests that the application for consent be granted without conditions.

CONSENT / SEVERANCE – N/A

Description of land intended to be **SEVERED**:

Frontage (metres/feet)	_____	Depth (metres/feet)	_____
Width (metres/feet)	_____	Lot area (m ² / ft ² or hectares/acres)	_____
		PROPOSED FINAL LOT SIZE (if boundary adjustment)	_____

Existing use: _____

Proposed use: _____

Number and type of buildings and structures **EXISTING** on the land to be severed, please describe in metric units, the setback from the front lot line, rear lot line and side lot lines, the height of the building or structure and its dimensions or floor area:

Number and type of buildings and structures **PROPOSED** on the land to be severed, please describe in metric units, the setback from the front lot line, rear lot line and side lot lines, the height of the building or structure and its dimensions or floor area:

Description of land intended to be **RETAINED**:

Frontage (metres/feet)	_____	Depth (metres/feet)	_____
Width (metres/feet)	_____	Lot area (m ² / ft ² or hectares/acres)	_____

Existing use: _____

Proposed use: _____

Number and type of buildings and structures **EXISTING** on the land to be retained, please describe in metric units, the setback from the front lot line, rear lot line and side lot lines, the height of the building or structure and its dimensions or floor area:

Number and type of buildings and structures **PROPOSED** on the land to be retained, please describe in metric units, the setback from the front lot line, rear lot line and side lot lines, the height of the building or structure and its dimensions or floor area:

Description of proposed **RIGHT OF WAY/EASEMENT**:

Frontage (metres/feet)	<u>6.09m</u> (19.98')	Depth (metres/feet)	<u>66.86m</u> (219.34')
Width (metres/feet)	<u>Irregular +/- 66.856 metres</u>	Lot area (m ² / ft ²)	<u>Irregular +/- 28.259 metres</u>
			<u>0.0384 hectares (0.095ac)</u>

Proposed use: Storm Sewer

CONSENT / SEVERANCE

D. PROPERTY INFORMATION

Present official plan designation(s): Shopping Centre Commercial 4.9.3.1

Present zoning: Commercial Shopping Centre

Has the owner previously severed any lands from this subject land holding or any other lands the owner has interest in since August 24, 1978?

☐ Yes ☒ No ☐ Unknown

If yes, indicate the file number and the status/decision: _____

Has any land been severed from the parcel originally acquired by the owner of the subject lands?

☐ Yes ☒ No ☐ Unknown

If yes, indicate the file number and the status/decision: N/A

Number of separate parcels that have been created: N/A

Date(s) these parcels were created: N/A

Name of the transferee for each parcel: N/A

Uses of the severed lands: N/A

If this application proposes to sever a dwelling made surplus through farm amalgamation, when were the farm properties amalgamated? N/A

Date of construction of the dwelling proposed to be severed: N/A

Date of purchase of subject lands: October 10, 2003

E. PREVIOUS USE OF THE PROPERTY

Has there been an industrial or commercial use on the subject lands or adjacent lands?

☒ Yes ☐ No ☐ Unknown

If yes, specify the uses: The property is currently used for commercial retail purposes.

Has the grading of the subject lands been changed through excavation or the addition of earth or other material?

☒ Yes ☐ No ☐ Unknown

Has a gas station been located on the subject lands or adjacent lands at any time?

☐ Yes ☒ No ☐ Unknown

Has there been petroleum or other fuel stored on the subject lands or adjacent lands at any time?



CONSENT / SEVERANCE

G. PROVINCIAL POLICY

Is the requested application consistent with the provincial policy statements issued under subsection 3(1) of the *Planning Act, R.S.O. 1990, c. P. 13*?

☒ Yes ☐ No

If no, please explain:

Are the subject lands within an area of land designated under any provincial plan or plans?

☐ Yes ☒ No

If yes, does the requested application conform to or does not conflict with the provincial plan or plans:

Are any of the following uses or features on the subject lands or within 500 metres (1,640 feet) of the subject lands, unless otherwise specified? Please check the appropriate boxes, if any apply.

Use or Feature	On the Subject Lands		Within 500 Metres (1,640 feet) of Subject Lands (Indicate Distance)	
Livestock facility or stockyard (if yes, complete Form 3 – available upon request)	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No _____ distance
Wooded area	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No <u>500m</u> distance
Municipal landfill	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No _____ distance
Sewage treatment plant or waste stabilization plant	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No _____ distance
Provincially significant wetland (class 1, 2 or 3) or other environmental feature	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No _____ distance
Floodplain	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No _____ distance
Rehabilitated mine site	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No _____ distance
Non-operating mine site within one kilometre	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No _____ distance
Active mine site within one kilometre	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No _____ distance
Industrial or commercial use (specify the use(s))	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No _____ distance
Active railway line	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No _____ distance
Seasonal wetness of lands	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No _____ distance
Erosion	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No _____ distance
Abandoned gas wells	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No _____ distance

H. SERVICING AND ACCESS

WATER SUPPLY

Municipal piped water

SEVERED

☒

RETAINED

☒

Communal Wells

☐

☐

Individual Wells

☐

☐

Other means (describe) _____

CONSENT / SEVERANCE

SEWAGE TREATMENT

SEVERED

RETAINED

Municipal Sewers

☒☒

Communal System

☐☐

Septic tank and tile bed

☐☐

Other means (describe) _____

STORM DRAINAGE

SEVERED

RETAINED

Storm Sewers

☒☒

Open ditches

☐☐

Other (describe) Storm Water Management Pond

Have you consulted with Public Works & Environmental Services concerning stormwater management?

☒

Yes

☐

No

Has the existing drainage on the subject lands been altered?

☐

Yes

☒

No

Does a legal and adequate outlet for storm drainage exist?

☒

Yes

☐

No

☐ Unknown

Existing or proposed access to the **RETAINED** lands:

☐ Unopened road

☒

Provincial highway

☐ Municipal road maintained all year

☐

Right-of-way

☐ Municipal road maintained seasonally

☐

Other (describe below)

If other, describe: _____

Name of road/street: _____

Existing or proposed access to **SEVERED** lands:

☐ Unopened road

☒

Provincial highway

☐ Municipal road maintained all year

☐

Right-of-way

☐ Municipal road maintained seasonally

☐

Other (describe below)

If other, describe: _____

Name of road/street: _____

I. OTHER INFORMATION

Is there a time limit that affects the processing of this development application?

☐

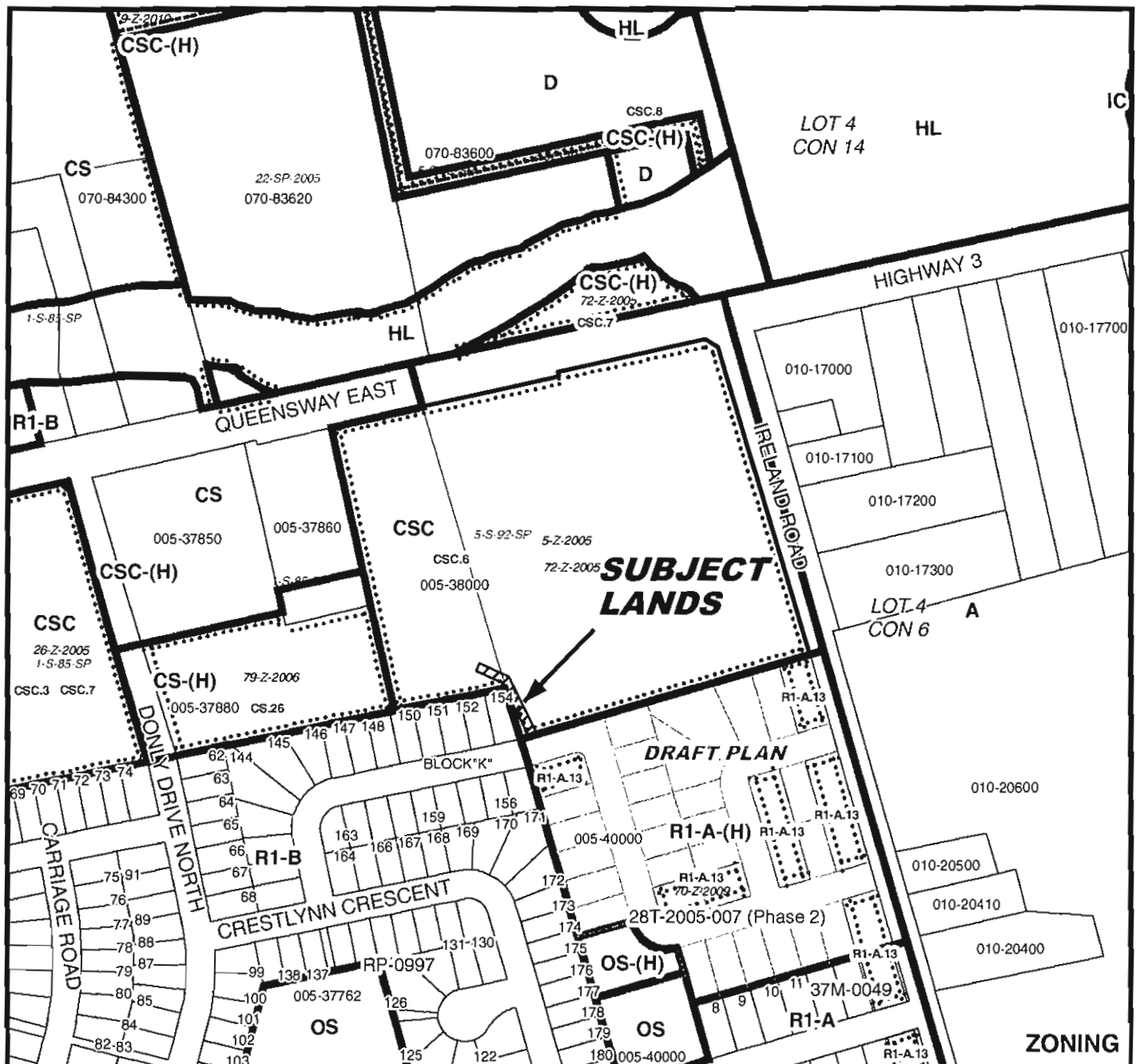
Yes

☒

No

If yes, describe: _____

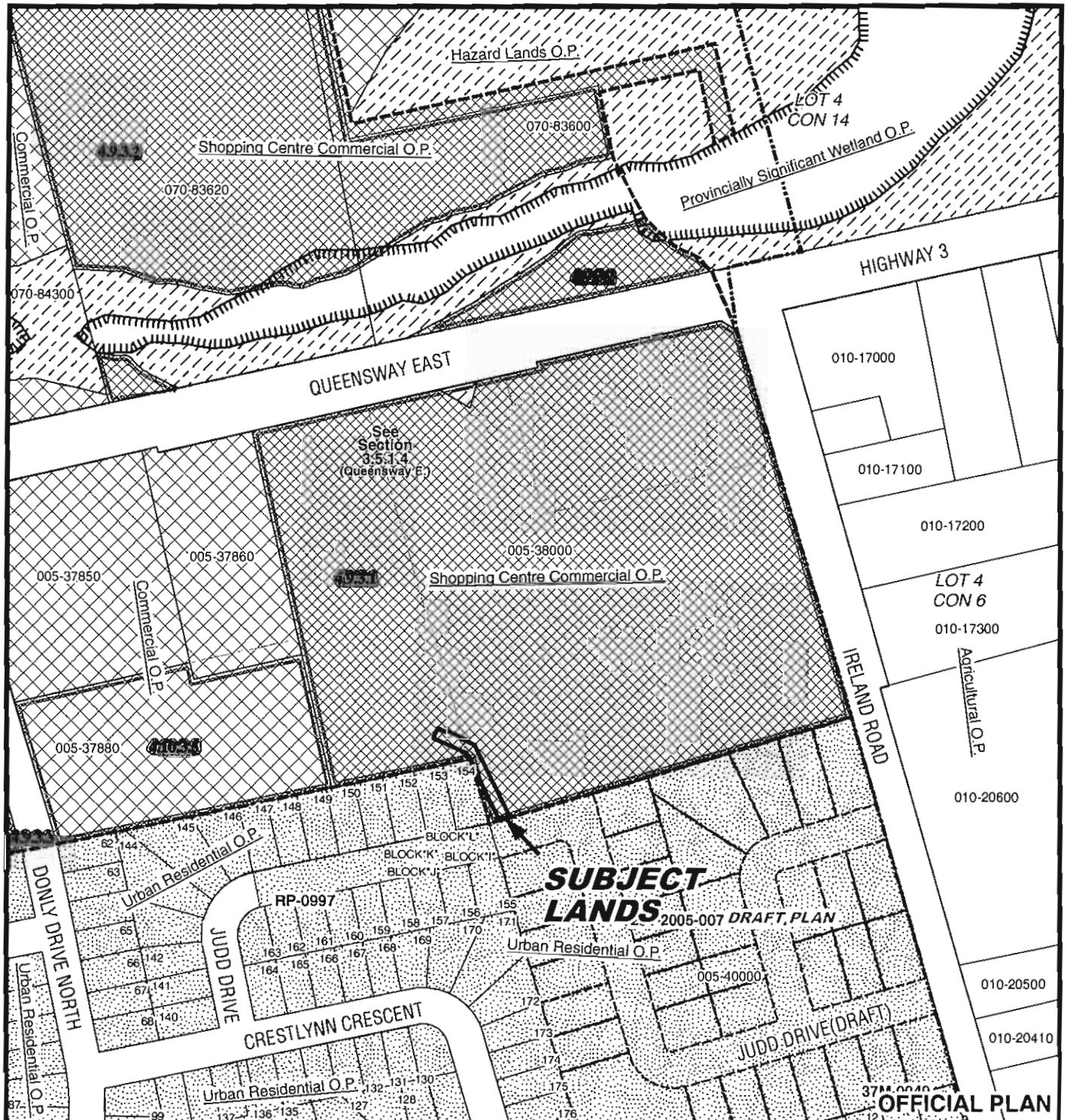
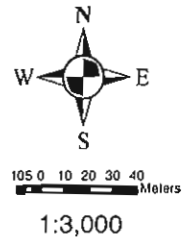
Is there any other information that you think may be useful in the review of this development application? If so, explain below or attach on a separate page.



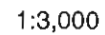
MAP 2

File Number: BNPL2010058

Urban Area of SIMCOE



Urban Area of SIMCOE



Urban Area of SIMCOE

