



July 29, 2020

Ontario Growth Secretariat
Ministry of Municipal Affairs and Housing
777 Bay Street, Suite 2304
Toronto, Ontario
M5G 2E5

*** Sent via email to: sandra.bickford@ontario.ca ***

Dear Sir / Madame:

Re: Proposed Amendment 1 to A Place to Grow: Growth Plan for the Greater Golden Horseshoe (ERO#019-1680)

We are pleased to submit for your review and consideration our comments on Proposed Amendment 1 to A Place to Grow: Growth Plan for the Greater Golden Horseshoe. We applaud and support the Provincial government's efforts to manage growth and plan for complete communities within the Greater Golden Horseshoe. By allowing for mixed-use developments to be initiated faster around Major Transit Station Areas (MTSAs), the government has introduced an important amendment in its policy that should go a long way to addressing the government's objective of intensification around MTSAs.

Penta Properties is fully supportive of the Province's objectives and wants to work with the Province and our local communities to ensure an adequate supply of housing and employment lands for the growth Ontario has and will continue to experience. It is in this spirit that we highlight there are some inconsistencies in some Provincial planning documents that have and can continue, despite this proposed policy amendment, to frustrate the Province's ability to achieve its planning and development objectives. We have serious concerns that if these inconsistencies persist, the Province will be unable to achieve its objectives, even with planning proposals that are in the public interest and that advance Provincial interests. As a result, we recommend:

- 1) Strengthen the proposed section 2.2.5.10(c) by providing clearer direction regarding whether the relevant municipality shall approve applications to convert existing employment areas within a MTSA;
- 2) Allow for appeals of relevant conversion requests that are rejected; and
- 3) In addition to amending language to strengthen the proposed section 2.2.5.10(c), amend certain sections in Provincial planning documents that can create inconsistencies that may frustrate the Province's ability to achieve its objectives. These amendments will provide greater guidance and make more explicit (in the proposed policy 2.2.5.10(c) as well as certain other provisions to be discussed further below) what is contemplated for employment areas within a MTSA, so as to avoid situations where developers and municipalities have differing interpretations of what is allowed in such areas.

To be specific, our concern arises with how inconsistencies may be exploited by certain municipalities, such as Burlington (and Halton Region), that do not appear to be interested in

advancing these Provincial objectives. Officials in these municipalities selectively choose which sections they emphasize in their interpretations – interpretations that are often anti-development and seemingly do not fully consider Provincial planning policies. The result is an extremely adversarial relationship where nothing gets accomplished without long, expensive multi-year battles at the LPAT. In using this past behaviour to predict how these officials will act in the future, we recommend greater clarity in this Growth Plan amendment in order to ensure the goals of the Province are achieved.

In Proposed Amendment 1, policy 2.2.5.10.(c) is being amended to read:

“Notwithstanding policy 2.2.5.9, until the next municipal comprehensive review, lands within existing employment areas may be converted to a designation that permits non-employment uses, provided the conversion would not include any part of an employment area identified as a provincially significant employment zone unless the part of the employment area is located within a major transit station area as delineated in accordance with the policies in subsection 2.2.4.”

Based on the proposed amending language, we understand this policy change creates an opportunity for landowners within the major transit station areas to submit conversion requests to the local municipality for consideration in advance of the Municipal Comprehensive Review. We recognize the Province making an amendment of this kind should be taken as a strong signal of the Province’s desire for intensification in MTSAs – and thus the need for residential and retail uses, among other uses beyond just employment uses, in such areas. That being said, the amending language leaves open how the municipality is to treat such requests. It does not, for example, require the municipality to give these requests any serious consideration, let alone to approve such requests. A municipality that does not wish to approve any conversion requests, regardless of the property in question or the proposal put forward, has a number of Provincial planning policies to cite in support of their decision, such as section 2.2.5.6 and 2.5.5.7 of the Growth Plan, as well as other sections in the *Planning Act* and the Provincial Policy Statement.

Of particular concern is that these requests would be submitted outside of any formal planning process, so there is no appeal option should the request be denied. Our company owns significant land holdings within two of Burlington’s major transit station areas, also known as Mobility Hubs, and have been actively seeking to develop mixed-use, complete communities within these areas for well over 20 years, to no avail. Most of the land surrounding the major transit station areas is presently designated as employment, and Burlington and Halton Region have demonstrated strong opposition to approving any type of mixed-use that includes residential and/or retail uses, let alone converting any employment land in these areas.

When the idea of Mobility Hubs was first brought up in Burlington, the concept was to allow for the construction of complete communities where people could live, work and play all within close proximity to major transit stations, thereby reducing the dependence upon motor vehicles and maximizing the Province’s significant transit infrastructure investments. The initial vision fully aligned with the Provincial goals, even though Official Plans designated the lands around major transit stations as employment lands. Twelve years on, though, the municipality refuses to consider any uses other than employment for these properties. As a result, there are many vacant employment lands in Burlington – some in quite close proximity to a transit station. These lands have been vacant for many years and, in our experience, municipal officials are not particularly concerned about these lands remaining vacant for literally decades to come, rather than even

entertain a mixed-use, complete community on what are currently designated as employment lands. These major transit station areas under Burlington's vision will sit empty during the evenings and weekends. Hardly what one would consider a vibrant or complete community.


As previously indicated, we are concerned in spite of provincial efforts to promote job growth, economic development and housing affordability, the fact that inconsistencies exist in Provincial planning policies provides municipalities like Burlington the ability to selectively interpret them and frustrate Provincial objectives. Now more than ever in light of the financial crisis created by COVID-19, stronger efforts to promote and actually achieve economic growth and investment are needed.

In spite of the clear announcement of Provincial objectives, there remain some provisions or language that municipalities can point to as justifications for frustrating the growth and development the Province is seeking. Further, because of these seemingly inconsistent provisions, it is not certain how the LPAT will rule should a developer appeal a municipality's decision or non-decision (in the instances where such an appeal is allowed, and despite the added expense and time to achieve the desired development this appeal route requires). We include as an appendix a compendium of sections we believe to be problematic and should be amended to provide greater clarity with respect to the treatment of employment lands.

The impact of leaving these inconsistencies in terms of growth, economic development, job creation, and development and tax revenues for the municipality, the Region and the Province are immense. For Penta Properties alone, we have two development projects that would be impacted by this proposed Amendment 1. These projects have construction budgets of around \$3B, which translate to approximately 32,500 jobs (person years of employment), about \$1.5B in labour income and nearly \$500M in development charge revenues for Burlington and Halton Region. To date, the municipality has sought to delay or frustrate the development. Our goal here is to work with the Province to ensure much needed stimulus, like Penta's 2 projects, can move forward without further obstruction to spur Ontario's economic recovery. That is why we recommend there can be no ambiguity, no room for alternative interpretations.

Should you have any questions regarding any of our comments, or wish to discuss any of these comments further, please contact us at (905) 632-6036.

Yours truly,
PENTA PROPERTIES INC.



Angelo Paletta
President

Appendix – Recommended Additions and Amendments

A Place to Grow: Growth Plan for the Greater Golden Horseshoe

(Addition) **Section 2.2.5.6.1**

Mixed uses including residential shall be permitted in *employment areas* where it can be demonstrated that:

- a) the proposed uses would not adversely affect the overall viability of the *employment area*;
- b) there are existing or planned *infrastructure* and *public service facilities* to accommodate the proposed uses; and
- c) the proposed uses maintain a significant number of jobs on those lands through the establishment of development criteria in accordance with the Growth Plan.

(Amendment) **Section 2.2.5.7**

Municipalities will plan for all *employment areas* within *settlement areas* by:

- a) permitting residential uses and other *sensitive land uses* that are not ancillary to the primary employment use, provided the proposed uses meet the requirements of subsection 2.2.5.6.1;
- b) permitting *major retail* uses or establishing a size or scale threshold for any *major retail* uses that are permitted, provided the proposed uses meet the requirements of subsection 2.2.5.6.1.

(Further Amendment) **Section 2.2.5.10**

Notwithstanding policy 2.2.5.9, until the next *municipal comprehensive review*, lands within existing *employment areas* may be converted to a designation that permits non-employment uses, provided the conversion would not include any part of an *employment area* identified as a *provincially significant employment zone* unless the part of the *employment area* is located within a *major transit station area* as delineated in accordance with the policies in subsection 2.2.4 and in accordance with the policies in subsections 2.2.5.6.1 and 2.2.5.7.

Planning Act

(Deletion) **Section 22(7.3)**

Provincial Policy Statement

(Amendment) **Section 1.3.2.3**

Within *employment areas* planned for industrial or manufacturing uses, planning authorities shall permit residential uses provided the part of the *employment area* is located within a *major transit station area*. *Employment areas* located within a *major transit station area* may be converted to a designation that permits non-employment uses. Planning authorities may limit other sensitive land uses that are not ancillary to the primary employment uses in order to maintain land use compatibility,