



December 23, 2022

Via E-Mail

The Honourable Steve Clark, MPP
Minister of Municipal Affairs & Housing
777 Bay Street, 17th Floor
Toronto, ON M5G 2E5

sleisk@cassels.com
tel: +1 416 869 5411
fax: +1 416 640 3218
file # 35977-19

Dear Minister:

**Re: Brookfield Properties
City of Peterborough Official Plan – Referral Request
ERO Number: 019-4969
Ministry Reference Number: 15-OP-165376**

We are the solicitors for Brookfield Properties (“Brookfield”), the owner of lands located on the west side of the City of Peterborough, on the municipal boundary with the County of Peterborough, as shown on the attached schedule as: (1) on the west side of Brealey Drive, generally between Sherbrooke Street and Parkhill Road West (the “Stenson Lands”); (2) on the west side of Brealey Drive, north of Kawartha Heights Boulevard (the “Brealey Lands”); and (3) on the west side of Brealey Drive, south of Sir Sandford Fleming Drive (the “Campbell Lands”) (together, the “Subject Lands”).

On December 10, 2021 and September 16, 2022, we provided our comments to the Minister regarding the City of Peterborough draft Official Plan (“OP”), which was adopted by City Council on November 29, 2021 and forwarded to the Minister for approval. For the reasons that follow, we are writing to reiterate our request that the OP be revised to maintain the existing land use permissions on the Subject Lands and that a Provincial Negotiator be engaged prior to Ministerial approval. In the alternative, we request that the Minister refer the OP to the Ontario Land Tribunal (“OLT”) for a decision, pursuant to its authority under ss. 17(61) of the *Planning Act*.

Maintaining the existing land use permissions on the Subject Lands will facilitate the development of much needed housing and is consistent with the objectives of the recently enacted *More Homes Built Faster Act, 2022*, which encourages the creation of 1.5 million new homes over the next 10 years to address Ontario’s housing crisis.

Brief History

By way of background, Brookfield submitted official plan, zoning by-law and plan of subdivision

applications to permit development of the Brealey Lands in 2011 for residential uses. The applications were subsequently appealed to the former Ontario Municipal Board in 2012 (PL120851). The proposal was to create a development that included lands in the City as well as in the adjacent County of Peterborough. As the proposal was a combined plan for lands in the City and the County, the appeal was held in abeyance to be consolidated with various matters outstanding in the County.

Moreover, as the Province may be aware, the lands subject to the applications were also subject to annexation discussions between the municipalities which took place over years, and for which the Provincial Facilitator was previously engaged.

While Brookfield continues to support a comprehensive solution to planning in the region and the potential annexation of its lands to the City of Peterborough, in the interim, the applications remain pending and Brookfield intends to redevelop such portion of its lands within the City in the near term.

Proposed Down-Designation

The City's proposed OP has significant impacts on the ability to develop the Brealey, Stenson and Campbell Lands and has disrupted annexation discussions. Brookfield actively participated in the City's consultation process and the City has failed to address its concerns, as further set out in our correspondence to the Minister dated December 10, 2021 and September 16, 2022. Copies of our prior correspondence are enclosed.

Brookfield's primary concerns are with respect to the proposed redesignation of the Brealey and Stenson Lands from Residential to Rural Transitional Area, which would effectively remove these lands from their current designated greenfield area status, despite the City's need for additional lands for development over the long term. In addition, the proposed redesignation of the Campbell Lands from Agriculture to Rural Transitional Area is similarly problematic as the current Agriculture designation permits urban development. The Rural Transitional Area designation is proposed to only permit existing uses and a limited range of additional uses and would not permit urban development on the Subject Lands. The only way that development could occur on lands designated Rural Transitional Area is if, through the next municipal comprehensive review, the City and Province support removing the lands from the Rural Transitional designation to an urban use.

Since the applications for the Brealey Lands were filed in 2011, Brookfield has indicated their intent to develop their lands. In fact, supplementary materials were filed with the City on May 17, 2022 in response to staff comments. In the context of the City's policy direction on Rural Transitional Areas, the location of these lands is appropriate for development and development would not be constrained by physical features. For these reasons, these lands should not be redesignated as Rural Transitional Area.

As set out in our December 10, 2021 and September 16, 2022 correspondence, should the

Minister proceed with the approval of the OP, we are writing to reiterate our request that the OP be revised to maintain the existing land use permissions on the Subject Lands, that appropriate transition provisions be included in the OP to address existing applications and that a Provincial Negotiator be engaged prior to Ministerial approval. In our view, the proposed down-designation is entirely inconsistent with the Province's stated intention of constructing 1.5 million homes over the next 10 years to address Ontario's housing crisis.

In the alternative, and in light of recent amendments to the *Planning Act*, we are writing to request that the Minister refer the OP to the OLT for a decision, pursuant to its authority under ss. 17(61) of the *Planning Act*.

Please provide notice to the undersigned of all Ministerial decisions with respect to this matter.

We are grateful for the opportunity to provide you with our comments. Please do not hesitate to contact us with any questions or concerns.

Yours truly,

Cassels Brock & Blackwell LLP



Signe Leisk
SL/MK/OA
Encl.

CC: Damien Schaefer, Municipal Services Office – Eastern Region



September 16, 2022

Via E-Mail

The Honourable Steve Clark, MPP
Minister of Municipal Affairs & Housing
777 Bay Street, 17th Floor
Toronto, ON M5G 2E5

sleisk@cassels.com
tel: +1 416 869 5411
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Dear Minister:

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City of Peterborough Official Plan – Referral Request**

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Brief History

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Moreover, as the Province may be aware, the lands subject to the applications were also subject to annexation discussions between the municipalities which took place over years, and for which the Provincial Facilitator was previously engaged.

While Brookfield continues to support a comprehensive solution to planning in the region and the potential annexation of its lands to the City of Peterborough, in the interim, the applications remain pending and Brookfield intends to redevelop such portion of its lands within the City in the near term.

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Since the applications for the Brealey Lands were filed in 2011, Brookfield has indicated their intent to develop their lands. In fact, supplementary materials were filed with the City on May 17, 2022 in response to staff comments. In the context of the City's policy direction on Rural Transitional Areas, the location of these lands is appropriate for development and development would not be constrained by physical features. For these reasons, these lands should not be redesignated as Rural Transitional Area.

As set out in our December 10, 2021 correspondence, should the Minister proceed with the approval of the OP, we are writing to reiterate our request that the OP be revised to maintain the existing land use permissions on the Subject Lands, that appropriate transition provisions be included in the OP to address existing applications and that a Provincial Negotiator be engaged prior to Ministerial approval.

In the alternative, and in light of recent amendments to the *Planning Act*, we are writing to request that the Minister refer the OP to the OLT for a decision, pursuant to its authority under ss. 17(61) of the *Planning Act*.

Please provide notice to the undersigned of all Ministerial decisions with respect to this matter.

We are grateful for the opportunity to provide you with our comments. Please do not hesitate to contact us with any questions or concerns.

Yours truly,

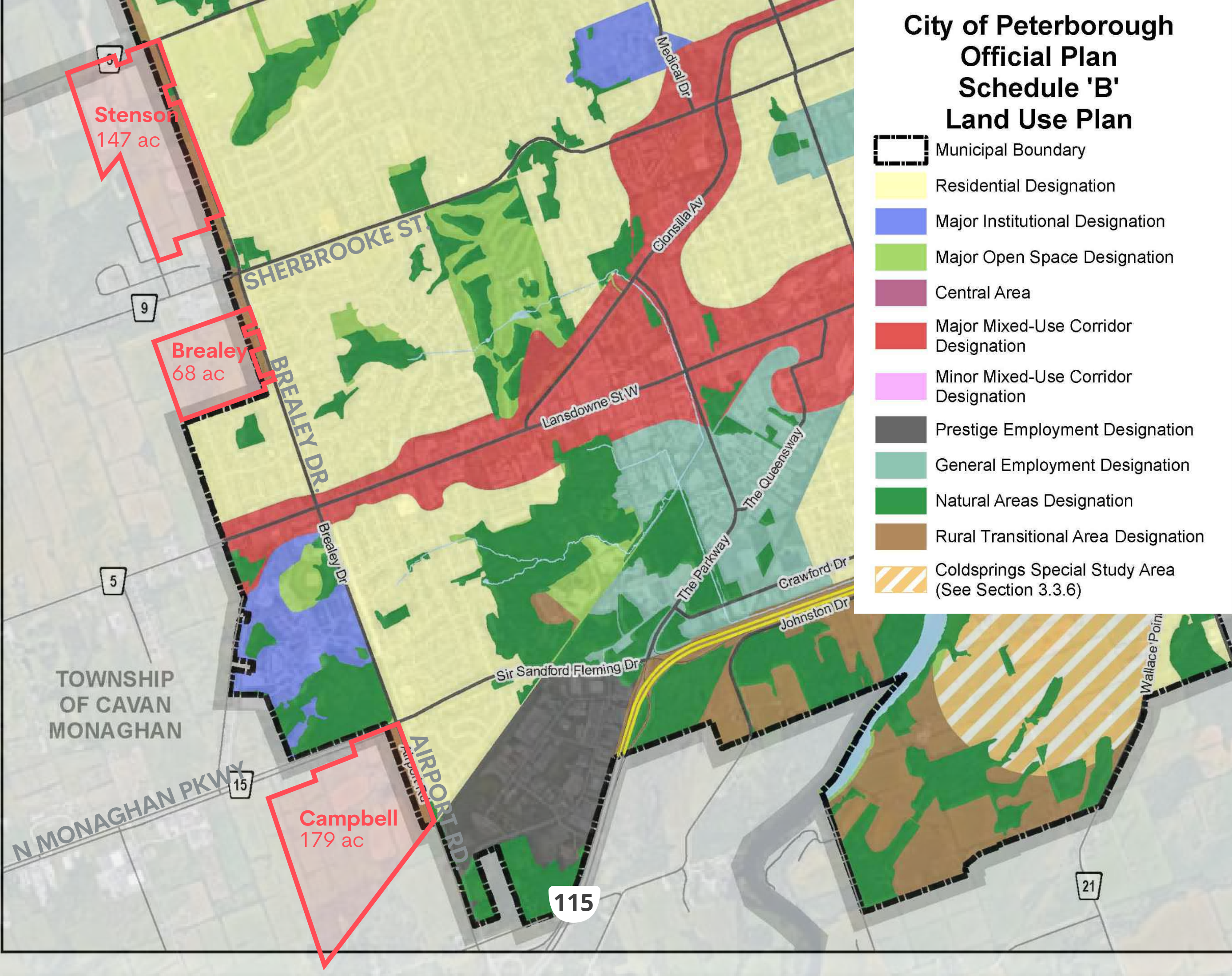
Cassels Brock & Blackwell LLP

A handwritten signature in blue ink, appearing to read 'Signe Leisk', written in a cursive style.

Signe Leisk
SL/MK/OA
Encl.

City of Peterborough Official Plan Schedule 'B' Land Use Plan

-  Municipal Boundary
-  Residential Designation
-  Major Institutional Designation
-  Major Open Space Designation
-  Central Area
-  Major Mixed-Use Corridor Designation
-  Minor Mixed-Use Corridor Designation
-  Prestige Employment Designation
-  General Employment Designation
-  Natural Areas Designation
-  Rural Transitional Area Designation
-  Coldsprings Special Study Area (See Section 3.3.6)



TOWNSHIP
OF CAVAN
MONAGHAN

N MONAGHAN PKWY

Campbell
179 ac

Stenson
147 ac

Brealey
68 ac

115

21



December 10, 2021

Via E-Mail: minister.mah@ontario.ca

The Honourable Steve Clark, MPP
Minister of Municipal Affairs & Housing
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File #35977-19

Dear Minister:

**Re: Brookfield Properties
Proposed Amendments to City of Peterborough Official Plan**

We are the solicitors for Brookfield Properties (“Brookfield”), the owner of lands located on the west side of the City of Peterborough, on the municipal boundary with the County of Peterborough, as shown on the attached schedule as: (1) on the west side of Brealey Drive, generally between Sherbrooke Street and Parkhill Road West (the “Stenson Lands”); (2) on the west side of Brealey Drive, north of Kawartha Heights Boulevard (the “Brealey Lands”); and (3) on the west side of Brealey Drive, south of Sir Sandford Fleming Drive (the “Campbell Lands”) (together, the “Subject Lands”).

We are writing to advise you of our client’s concerns regarding the City of Peterborough draft Official Plan (the “Official Plan”), which was adopted by Council on November 29, 2021 and will be forwarded to the Ministry for approval. For the reasons that follow, we are requesting that the Minister defer its decision with respect to the Official Plan and that a meeting be arranged amongst all key stakeholders.

By way of background, Brookfield submitted official plan, zoning by-law and plan of subdivision applications to permit development of the Brealey Lands in 2011 and subsequently appealed the applications to the former Ontario Municipal Board in 2012 (PL120851). The proposal was to create a development that included lands in the City as well as in the adjacent County of Peterborough. The development was planned to include a mix of residential uses and provided townhouses on the lands within the City. These townhouses would front onto Brealey Drive. As the proposal was a combined plan for lands in the City and the County, the appeal was held in abeyance to be consolidated with various matters outstanding in the County. Moreover, as the Province may be aware, the lands subject to the applications were also subject to annexation discussions between the municipalities which took place over years, and for which the Provincial Facilitator was previously engaged.

While Brookfield continues to support a comprehensive solution to planning in the region and the potential annexation of its lands to the City of Peterborough, in the interim, the applications remain pending and Brookfield intends to redevelop such portion of its lands within the City in the near term.

The City's proposed Official Plan has significant impacts on the ability to develop the Brealey, Stenson and Campbell Lands, and has disrupted annexation discussions. Brookfield actively participated in the City's consultation process and the City has failed to address its concerns, as further set out in the attached submissions of Bousfields.

Brookfield's primary concerns are with respect to the proposed redesignation of the Brealey and Stenson Lands from Residential to Rural Transitional Area, which would effectively remove these lands from their current designated greenfield area status, despite the City's need for additional lands for development over the long term. In addition, the proposed redesignation of the Campbell Lands from Agriculture to Rural Transitional Area is similarly problematic as the current Agriculture designation permits urban development. The Rural Transitional Area designation is proposed to only permit existing uses and a limited range of additional uses and would not permit urban development on the Subject Lands. The only way that development could occur on lands designated Rural Transitional Area is if, through the next municipal comprehensive review, the City and Province support removing the lands from the Rural Transitional designation to an urban use.

Since the applications for the Brealey Lands were filed in 2011, Brookfield has indicated their intent to develop their lands and has been regularly involved in discussions across all municipalities. In the context of the City's policy direction on Rural Transitional Areas, the location of these lands is appropriate for development and development would not be constrained by physical features. For these reasons, these lands should not be redesignated as Rural Transitional Area.

The proposed down-designation of the Brealey, Stenson and Campbell Lands has significant repercussions. In addition to the Subject Lands, we understand that multiple lands have been down-designated without proper justification, landowner consent or consultation with adjacent municipalities. The proposed re-designation also has significant impacts on the availability of employment lands in the region and annexation discussions between the municipalities.

We note that County Council recently passed a resolution on November 17, 2021 to seek further mediation and reappointment of the Provincial Negotiator to address the significant need for employment lands in the region, and for these lands to be annexed to the City. These lands include the Campbell Lands. Notwithstanding the foregoing, the City refused to defer consideration of the Official Plan and engage with impacted municipalities. The City's new Official Plan should not be approved until these issues are resolved, appropriate land needs identified, and appropriate resulting designations included in the new plan.

We understand that the City remains willing to negotiate with the Township and County on annexation to create new serviced employment lands, notwithstanding the adoption of the Official Plan, and that if an annexation is successfully negotiated, the Official Plan can be updated accordingly prior to approval by the Minister. On this basis, Brookfield requests that the Provincial Negotiator be engaged prior to Ministerial approval of the Official Plan.

In the alternative, should the Minister proceed with the approval of the Official Plan, we request that the Official Plan be revised to maintain the existing land use permissions on the Subject Lands. In addition, we request that appropriate transition provisions be included in the Official Plan to address existing applications.

We are grateful for the opportunity to provide you with our comments and would be pleased to discuss in more detail.

Please do not hesitate to contact us with any questions or concerns.

Yours truly,

Cassels Brock & Blackwell LLP

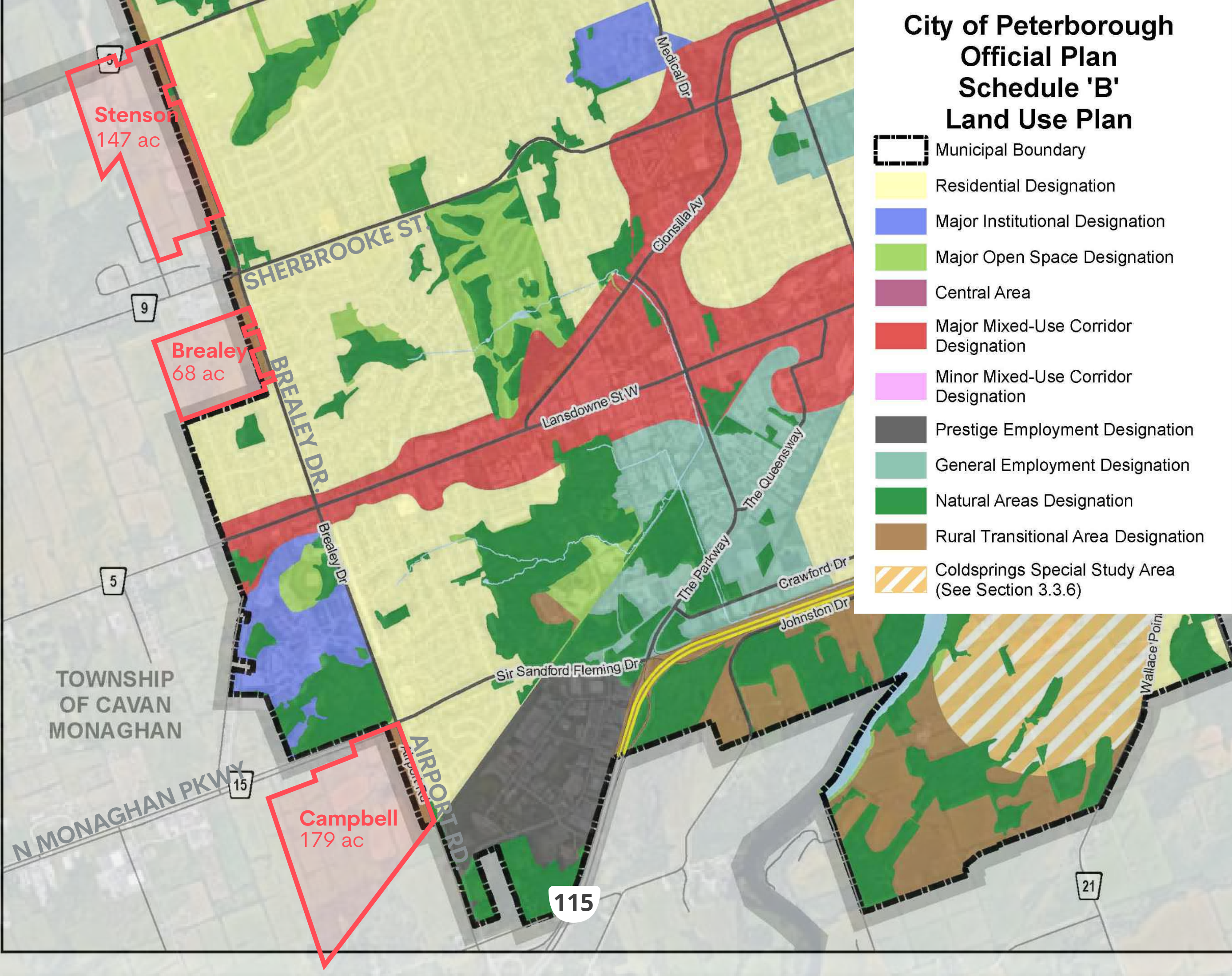
A handwritten signature in blue ink, appearing to read "S. Leisk", written in a cursive style.

Signe Leisk
Partner

SL/MK/cm
Enclosures

City of Peterborough Official Plan Schedule 'B' Land Use Plan

-  Municipal Boundary
-  Residential Designation
-  Major Institutional Designation
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-  Natural Areas Designation
-  Rural Transitional Area Designation
-  Coldsprings Special Study Area (See Section 3.3.6)





November 1, 2021

City of Peterborough,
General Committee
500 George Street North
Peterborough ON
K9H 3R9

Dear Members of Committee,

Re: *General Committee Meeting, November 1, 2021*
Item 8.a Adoption of the new Official Plan for the City of Peterborough

We are writing on behalf of Brookfield Residential Properties and BPH Development Ltd. ("Brookfield/BPH") with respect to City of Peterborough General Committee Meeting Item 8.a (Adoption of the new Official Plan for the City of Peterborough) at the November 1, 2021 meeting. Bousfields Inc. are planning consultants for Brookfield/BPH with respect to their lands in the City of Peterborough and in the Township of Cavan Monaghan in the County of Peterborough.

Brookfield/BPH has been talking to the City, County and Township about their desire to develop their lands, including lands on the west side of the city, for over 10 years. In support of this, Brookfield/BPH has been participating in the City's municipal comprehensive review and has reviewed the city's draft policies for the new Official Plan. Although some of their comments have also been provided collectively with other landowners in the city, Brookfield/BPH has particular concerns with the draft direction in the new Official Plan related to their lands on the west side of Brealey Drive and the west side of Airport Road, as outlined below.

A Down-designation will Prevent Brookfield from Developing Their Lands

Brookfield/BPH's lands in the City are located on the west side of Airport Road, south of North Monaghan Parkway and on the west side of Brealey Drive, south of Parkhill Road West (refer to **Figures 1a and 1b**) as well as lands west of Brealey Drive, south of Sherbrooke. The draft Official Plan proposes to remove the permission to develop ("down-designate") on both of Brookfield/BPH's land areas by applying the new rural transitional area designation. The rural transition area designation is proposed to only permit the existing uses and a limited range of additional uses and would not permit urban development on these lands. The only way that development could occur on lands designated rural transition area is if, through the next municipal comprehensive

review, the city and province support removing the lands from the rural transitional designation to an urban use.

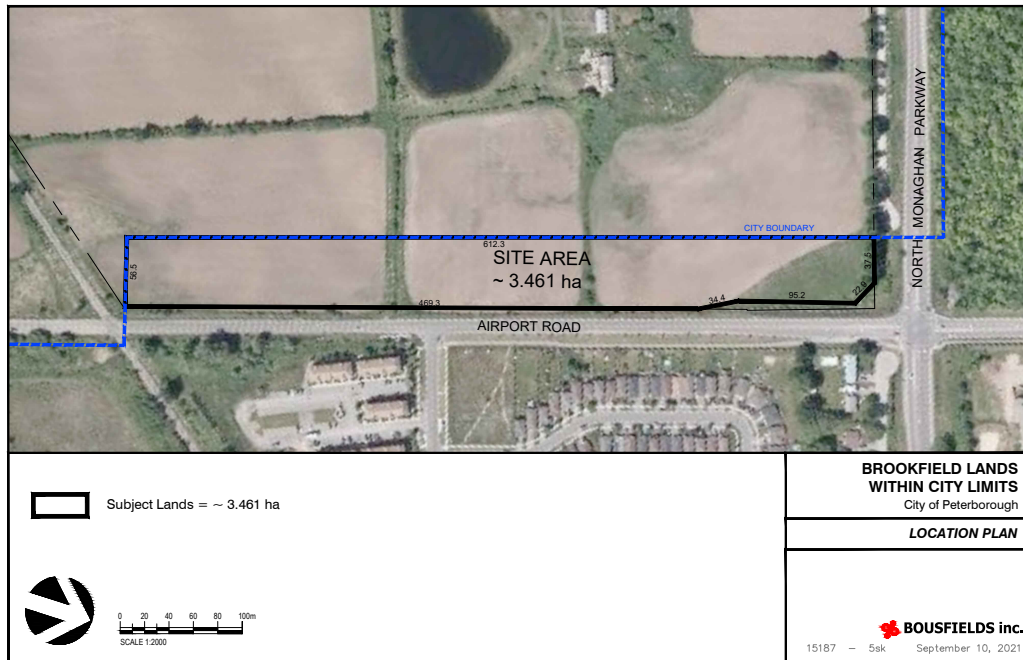


Figure 1a. Location of Brookfield/BPH's Airport Road Lands in the City

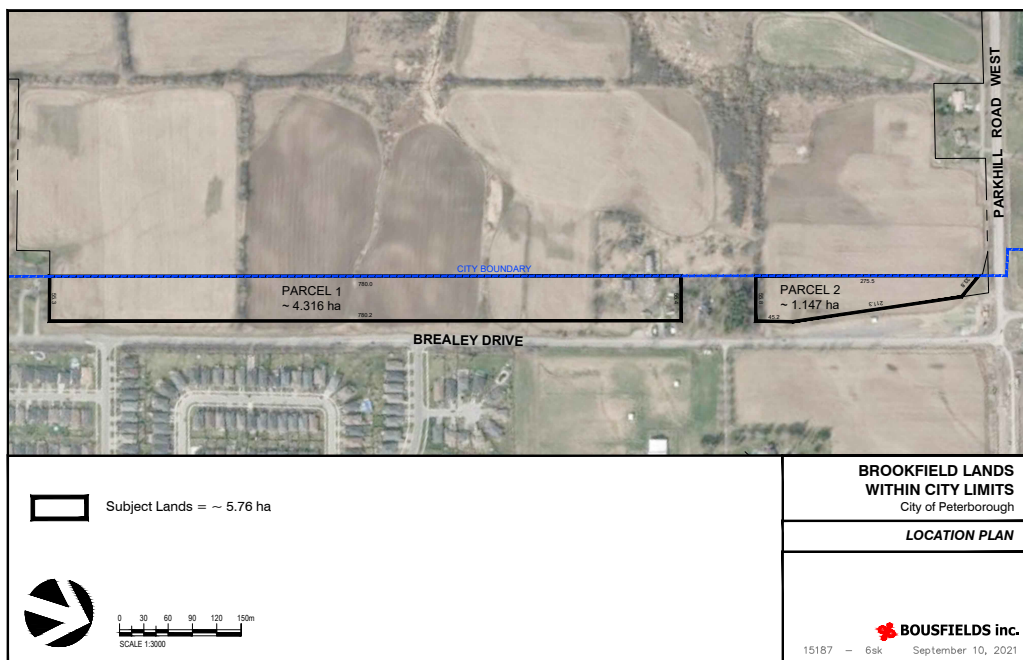


Figure 1b. Location of Brookfield/BPH's Brealey Drive Lands in the City

This is of particular concern for Brookfield/BPH's lands on Brealey Drive which currently have an in-force Residential designation. Since 2011, when an application to develop the lands was submitted to the City, Brookfield/BPH has indicated their intent to develop these lands with residential and commercial uses. That plan included lands in the Township but clearly indicated that the blocks in the City were of a sufficient size to be developed independently for townhouses (as shown on **Figure 2**). The matter was appealed and has been held in abeyance while the municipal comprehensive review process was completed by the County, Township and City. Brookfield/BPH is proceeding to advance approvals for the lands within the City independently from the Township/County and a resubmission is imminent. **As such, Brookfield/BPH requests that Council direct staff to revise the draft Official Plan to continue to permit the existing land use permissions on Brookfield/BPH lands and to remove the rural transitional area from these lands that Brookfield/BPH has clearly indicated an intent to develop.**

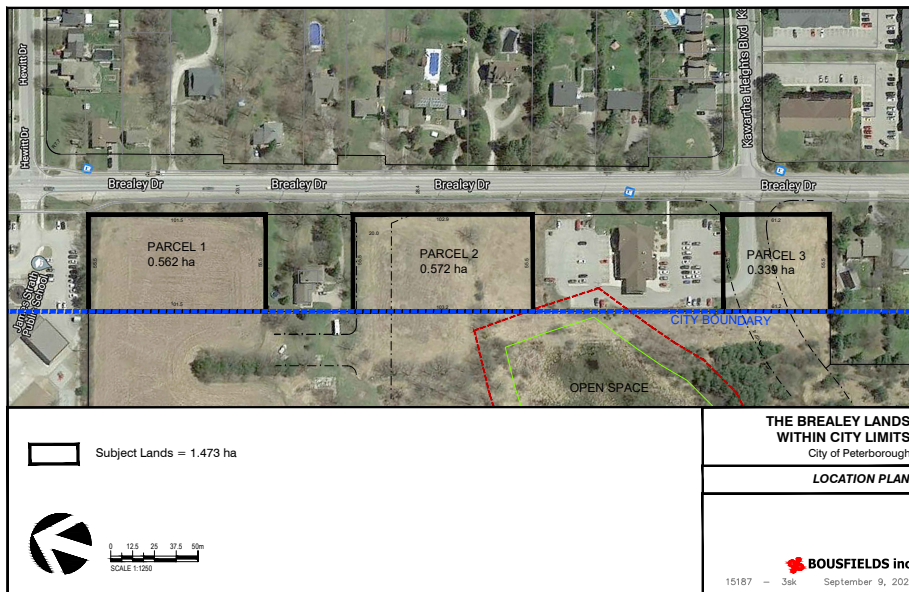


Figure 2. Brookfield/BPH's Brealey Drive Application Lands

Confirming that there is Enough Land for the City to Grow

We have concerns with the use of minimum forecasts and targets for growth in the draft Official Plan and the analysis in the Land Needs Assessment used to justify how and where growth will occur in the City.

Planning for minimum growth is not the direction in the Growth Plan and has significant implications with respect to the lands that are required for growth. In the most recent amendments to A Place to Grow: The Growth Plan for the Greater Golden Horseshoe (the “Growth Plan”), the Province clarified that the policies represent minimum standards and that policy makers are encouraged to go beyond these minimum standards, per the introduction section of the Growth Plan. References in the Growth Plan to population and employment forecasts as well as density targets all refer to minimums. Expecting only minimum growth in the City means that the City’s plan would not provide enough land for any more than the minimum. This assumption contributes, in part, to the concerning down-designation of significant portions of the existing greenfield lands in the draft Official Plan. ***Brookfield/BPH requests that Council direct staff to remove the rural transitional area designation, in particular from Brookfield/BPH’s lands.***

This is further compounded by assumptions regarding intensification and densities for designated greenfield areas. We have concerns that the proposed intensification target seems too high for the City of Peterborough. If this assumption cannot be achieved, it will mean that in reality, a greater proportion of the growth would need to be accommodated through greenfield growth. ***Brookfield/BPH requests that Council direct staff to revise the intensification target and to share the details of their analysis with the public.***

Further, the density target for designated greenfield areas is proposed to be a minimum of 50 residents and jobs per hectare. That density target is applied to all greenfield development from the time that the Growth Plan was first brought into effect in 2006 and does not just apply to new development on greenfield lands after the new Official Plan is in force. Because that density will be averaged across the existing and newly developed greenfield lands, new development will actually need to be considerably higher to bring up the historically lower average density. Using a much higher greenfield density target than what exists today, may also make the land needs seem lower than needed. ***Brookfield/BPH requests that Council direct staff to revise the designation greenfield area density target and to share the details of their analysis with the public.***

The assumptions regarding the housing mix in the land needs assessment are also of concern because many of the singles and semi’s that would typically have been constructed have been shifted to apartment units. This raises a concern with respect to the land needs assessment in general because it departs significantly from Hemson’s technical background work that underpins the Growth Plan’s population and employment forecasts and which should be the City’s starting point for a “market-based housing mix”. Further, the City’s assumptions regarding the housing mix in the

municipal comprehensive review are not consistent with the 2019 Development Charges Background Study which did not rely on a significant number of apartment units to the 2031 period that applies. Using the same assumptions for people per unit (“PPU”) that is used in the Development Charges Background Study and extrapolating to 2051, there would be a shortfall of nearly 5,000 people with respect to the growth that is anticipated and therefore a corresponding need for more land. This could require an additional 110 hectares of land at a density of 50 residents per hectare. Further, the City’s work appears to accommodate 35% of the Employment Land employment in Community Areas, which does not seem to be consistent with the Provincial methodology and would impact the ability to accommodate housing on those Community Area lands, further impacting the lands that the City is considering ‘excess’.

All of these factors combined (population and employment forecast minimums; high intensification targets; high designated greenfield area densities, a significant departure from the Hemson technical background work on forecasts; housing mix that is not market based; and counting Employment Lands in Community Areas) could mean that the City has underestimated the amount of land that it will need to accommodate growth. This is demonstrated through the approach in the draft Official Plan to remove many of the city’s existing greenfield areas and redesignate them as rural transitional areas. If the City finds later that it needs more land, it will need to go through another municipal comprehensive review to add the down-designated lands back in. ***Brookfield/BPH requests that Council direct staff to revise the population and employment forecast as well as the intensification and density targets and to remove the rural transitional area designation .***

There is Still Time to Revise the draft Official Plan

Finally, it is unclear why the City is moving quickly towards adoption of the Official Plan (November 2021), when there are several matters yet to resolve. A Place to Grow: Growth Plan for the Greater Golden Horseshoe directs that the date that municipalities need to conform with the policies of A Place to Grow is July 1, 2022. There remain 7 - 8 months to resolve these matters. ***Brookfield/BPH requests that Council direct staff to revise the project schedule for the City to adopt the Official Plan to address Brookfield/BPH’s concerns.***

Conclusion

Bousfields Inc. would like to thank the City of Peterborough for the opportunity to provide comments throughout the draft Official Plan process. ***On behalf of Brookfield/BPH, we request that Council direct staff to remove the rural transitional area designation, particularly from Brookfield/BPH’s lands, to revise***

the forecasts, intensification target and designated greenfield area targets, and if required, make the necessary requests to the Province to change the targets.

We would be pleased to meet to discuss our comments in more detail and request that we be kept apprised of this important process as it evolves. If you have any questions regarding these comments, please do not hesitate to contact the undersigned.

Yours very truly,

BOUSFIELDS INC.



Emma West, MCIP, RPP

cc: Ken Hetherington, Chief Planner, City of Peterborough
Brad Appleby, City of Peterborough
Pete Schut, Brookfield Residential
Jennifer Haslett, Brookfield Residential