



Zelinka Priamo Ltd.

LAND USE PLANNERS

VIA EMAIL

January 24, 2023

Honourable Steve Clark, Minister of Municipal Affairs and Housing
C/O Municipal Services Office – Central Ontario
777 Bay Street, 16th Floor
Toronto, ON
M7A 2J3

Attention: Andrew Doersam

Dear Minister Clark:

**Re: Comments and Request to Modify Region of Durham ROPA 186
ERO # 019-5147 / Ministry Reference # 18-OP-216166
Comments on Behalf of Choice Properties REIT**
Our File: CHO/BOW/21-01

We are the planning consultants for CP REIT Ontario Properties Limited (“CP REIT”) for Envision Durham, the Region of Durham Official Plan Review and the associated Municipal Comprehensive Review (MCR). CP REIT are the owners of lands throughout the Region of Durham, including the approximately 2.43 ha (6.02 ac) lands known municipally as 2375 Highway 2 in Clarington and the approximately 4.86 ha (12.02 ac) lands known municipally as 1792 Liverpool Road in Pickering, which are both developed with a Loblaws supermarket, a seasonal garden centre and associated parking.

CP REIT has participated in the Region of Durham Official Plan Review (Envision Durham) process. Based upon our review of Region of Durham Regional Official Plan Amendment No. 186 (“ROPA 186”), on behalf of CP REIT, we have the comments and a request for modifications to ROPA 186 as outlined below.

REGION OF DURHAM OFFICIAL PLAN REVIEW AND ROPA 186

As part of the Region of Durham Official Plan Review process, on behalf of CP REIT, we provided comments dated February 25, 2021 for the Major Transit Station Areas (MTSAs) – Proposed Policy Directions and discussed our comments with Staff on April 19, 2021. In addition, we provided comments dated August 31, 2021 and November 25, 2021. Our comments are found in Appendix A.

The Region of Durham adopted ROPA 186 on December 22, 2021 by By-law No. 49-2021. Based upon our review of ROPA 186 as adopted, our comments in our letter dated November 25, 2021 were not addressed. **As detailed within this letter, we respectfully request that the Province consider modifications to the OPA 186 policies as outlined below for the reasons outlined herein.**

COMMENTS AND REQUESTED MODIFICATIONS

We have the following comments and requested modifications for ROPA 186:

- Policy 8A.2.10 states “Notwithstanding the land use designations in the vicinity of existing and future GO Stations identified on Schedule ‘A’, the following land uses will be permitted in Protected Major Transit Station Areas: ... f) Commercial uses including retail, both convenience retail and small-scale retail uses, restaurants, personal and professional service shops, and day care uses;”. In our submission for Policy 8A.2.10, where commercial uses including “retail, both convenience retail and small-scale retail uses” are permitted, clarity should be provided that the supermarkets, which would be considered Major Retail Uses due to their gross leasable area continue to be permitted. Accordingly, **Major Retail Uses should be explicitly permitted by changing “Commercial uses including retail, both convenience retail and small-scale retail uses” to “Commercial uses including Major Retail Uses and retail, both convenience retail and small-scale retail uses”;**
- Policy 8A.2.13 (formerly Policy 8A.2.12) states “Development within Protected Major Transit Station Areas will offer convenient, direct, sheltered pedestrian access from high-density development sites to neighbouring Commuter Stations or Transportation Hubs, recognizing matters of accessibility for persons with disabilities, pedestrians, cyclists, and connections to a variety of transportation modes.” In response to comments from the City of Oshawa as to clarification on what “sheltered” means, within Report #2021-P-26 Staff stated “The recommended amendment includes reference to providing convenient, direct, sheltered pedestrian access to stations. The recommended amendment is intended to be broad, in recognition that detailed implementation will occur through area municipal policies, the consideration of development applications and site-specific considerations.” **While Staff state that the policy is intended to be broad, in our submission “Where appropriate,” should be added prior to “Development within” in order to account for site specific context and operational needs;**
- Policy 8A.2.18 states “Area municipal official plans shall include detailed policies, for each Protected Major Transit Station Area, which will: ... h) support the efficient use of land, including requirements for structured parking, and shared parking as part of new development.” **In order to accommodate new additions to existing buildings or new interim infill development prior to comprehensive redevelopment, “where appropriate,” should be added before “requirements for structured parking” to provide clarity that structured parking is not required in such circumstances;**
- Policy 8A.2.18 states “Area municipal official plans shall include detailed policies, for each Protected Major Transit Station Area, which will: ... j) Incorporate Urban Design and Sustainability Guidelines to guide the desired density, built form, building placement, access requirements and approaches for a pedestrian-oriented public realm, that: iii. Require buildings to frame streets, with frequent pedestrian entrances;”. In response to a request from Blackthorn Development Corp that Policy 8A.2.17 (i), (j) and (k) be revised to be less prescriptive, Staff responded within Report #2021-P-26 by stating “Comment noted. Policy 8A.2.18 directs area municipalities to include these considerations within their planning documents. The Region has an interest ensuring that that MTSAs are successful. Place making, transit orientation and pedestrian supportive measures are also of Regional interest.” **In our submission,**

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- “Generally” should be added before “require buildings” and “where appropriate” should be added after “pedestrian entrances” in order to incorporate flexibility to accommodate site specific context and operational needs and to reflect that the policy relates to Urban Design and Sustainability *Guidelines* [emphasis added] as opposed to requirements;**
- Policy 8A.2.18 states “Area municipal official plans shall include detailed policies, for each Protected Major Transit Station Area, which will: ... j) Incorporate Urban Design and Sustainability Guidelines to guide the desired density, built form, building placement, access requirements and approaches for a pedestrian-oriented public realm, that: iv. Restrict vehicular access to private property from adjacent local roadways;”. **In our submission, “Where appropriate,” should be added before “Restrict” in order to provide flexibility to account for site specific circumstances, operational needs and existing accesses;** and
 - Policy 8A.2.18 states “Area municipal official plans shall include detailed policies, for each Protected Major Transit Station Area, which will: ... j) Incorporate Urban Design and Sustainability Guidelines to guide the desired density, built form, building placement, access requirements and approaches for a pedestrian-oriented public realm, that: ... vi. Require vehicular parking to be located below grade 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;”. **In our submission, “new” should be added before “surface parking” in order to accommodate existing uses and additions to existing buildings or new interim infill development prior to comprehensive redevelopment.**

In our submission, the proposed modifications are consistent with the Provincial Policy Statement, conform with the Growth Plan and represents good planning.

Please kindly ensure that the undersigned is notified of any further studies, modifications, approvals and/or notices with respect to this posting. We reserve the opportunity to provide further comments if additional information becomes available.

Should you have any questions, or require further information, please do not hesitate to contact us.

Yours very truly,

ZELINKA PRIAMO LTD.



Jonathan Rodger, MScPI, MCIP, RPP
Principal Planner

cc. Choice Properties REIT (via email)

APPENDIX A

Letter dated November 25, 2021 Re: Envision Durham (File: OPA 2021-003)



VIA EMAIL

November 25, 2021

Clerks Department
Regional Municipality of Durham
605 Rossland Road East, PO Box 623
Whitby, ON
L1N 6A3

Attention: Mr. Ralph Watson – Region of Durham Clerk

**Re: Envision Durham (File: OPA 2021-003)
Protected Major Transit Station Areas Draft ROPA 186
Planning and Economic Development Committee December 7, 2021
Comments on Behalf of CP REIT Ontario Properties Limited**

Our File: CHO/BOW/21-01

We are the planning consultants for CP REIT Ontario Properties Limited (“CP REIT”) for Envision Durham, the Region of Durham Official Plan Review and the associated Municipal Comprehensive Review (MCR). CP REIT are the owners of lands throughout the Region of Durham, including the approximately 2.43 ha (6.02 ac) lands known municipally as 2375 Highway 2 in Clarington (the “Bowmanville Lands”) and the approximately 4.86 ha (12.02 ac) lands known municipally as 1792 Liverpool Road in Pickering (the “Pickering Lands”), which are both developed with a Loblaws supermarket and associated parking.

CP REIT have been participating in the Envision Durham process. On behalf of CP REIT, we provided comments dated February 25, 2021 for the Major Transit Station Areas (MTSAs) – Proposed Policy Directions and discussed our comments with Staff on April 19, 2021. In addition, we provided comments dated August 31, 2021 as attached. It is our understanding from the Region of Durham Decision Making Staff Report 2021-P-** dated December 7, 2021 that as part of the Region’s Official Plan Review and MCR, Draft ROPA 186 to establish the policy framework for protected MTSAs is recommended for adoption. **We note that as part of Staff Report 2021-P-**, Regional Staff did *not* respond to our comments dated August 31, 2021.** Based upon our review of Draft ROPA 186, on behalf of CP REIT we have preliminary comments as outlined below and will continue to review Draft ROPA 186 in more detail and may provide further comments as required.

At this time, our preliminary comments for the Draft ROPA 186 are as follows:

- Policy 8A.2.10 states “Notwithstanding the land use designations in the vicinity of existing and future GO Stations identified on Schedule ‘A’, the following land uses will be permitted in Protected Major Transit Station Areas: ... f) Commercial uses

- including retail, both convenience retail and small-scale retail uses, restaurants, personal and professional service shops, and day care uses;”. We reiterate our comment from our August 31, 2021 letter that in our submission for Policy 8A2.10, where commercial uses including “retail, both convenience retail and small-scale retail uses” are permitted, clarity should be provided that the supermarkets, which would be considered Major Retail Uses due to their gross leasable area continue to be permitted. Accordingly, **Major Retail Uses should be explicitly permitted by changing “Commercial uses including retail, both convenience retail and small-scale retail uses” to “Commercial uses including Major Retail Uses and retail, both convenience retail and small-scale retail uses”;**
- Policy 8A2.13 (formerly Policy 8A2.12) states “Development within Protected Major Transit Station Areas will offer convenient, direct, sheltered pedestrian access from high-density development sites to neighbouring Commuter Stations or Transportation Hubs, recognizing matters of accessibility for persons with disabilities, pedestrians, cyclists, and connections to a variety of transportation modes.” In response to comments from the City of Oshawa as to clarification on what “sheltered” means, Staff stated “The recommended amendment includes reference to providing convenient, direct, sheltered pedestrian access to stations. The recommended amendment is intended to be broad, in recognition that detailed implementation will occur through area municipal policies, the consideration of development applications and site-specific considerations.” **While Staff state that the policy is intended to be broad, we reiterate our comment from our August 31, 2021 letter that in our submission “Where appropriate,” should be added prior to “Development within” in order to account for site specific context and operational needs;**
 - Policy 8A.2.18 (formerly Policy 8A2.17) states “Area municipal official plans shall include detailed policies, for each Protected Major Transit Station Area, which will: ... h) support the efficient use of land, including requirements for structured parking, and shared parking as part of new development.” **We reiterate our comment from our August 31, 2021 letter that in order to accommodate new additions to existing buildings or new interim infill development prior to comprehensive redevelopment, “where appropriate,” should be added before “requirements for structured parking” to provide clarity that structured parking is not required in such circumstances;**
 - Policy 8A.2.18 (formerly Policy 8A2.17) states “Area municipal official plans shall include detailed policies, for each Protected Major Transit Station Area, which will: ... j) Incorporate Urban Design and Sustainability Guidelines to guide the desired density, built form, building placement, access requirements and approaches for a pedestrian-oriented public realm, that: iii. Require buildings to frame streets, with frequent pedestrian entrances;”. In response to a request from Blackthorn Development Corp that Policy 8A.2.17 (i), (j) and (k) be revised to be less prescriptive, Staff responded “Comment noted. Policy 8A.2.18 directs area municipalities to include these considerations within their planning documents. The Region has an interest ensuring that that MTSAs are successful. Place making, transit orientation and pedestrian supportive measures are also of Regional interest.” **We reiterate our comment from our August 31, 2021 letter that “Generally” should be added before “require buildings” and “where appropriate” should be added after “pedestrian entrances” in order to**

- incorporate flexibility to accommodate site specific context and operational needs and to reflect that the policy relates to Urban Design Guidelines [emphasis added];**
- Policy 8A.2.18 (formerly Policy 8A2.17) states “Area municipal official plans shall include detailed policies, for each Protected Major Transit Station Area, which will: ... i) Incorporate Urban Design and Sustainability Guidelines to guide the desired density, built form, building placement, access requirements and approaches for a pedestrian-oriented public realm, that: ... iv. Restrict vehicular access to private property from adjacent local roadways;”. **We reiterate our comment from our August 31, 2021 letter that “Where appropriate,” should be added before “Restrict” in order to provide flexibility to account for site specific circumstances, operational needs and existing accesses;**
 - Policy 8A.2.18 (formerly Policy 8A2.17) states “Area municipal official plans shall include detailed policies, for each Protected Major Transit Station Area, which will: ... i) Incorporate Urban Design and Sustainability Guidelines to guide the desired density, built form, building placement, access requirements and approaches for a pedestrian-oriented public realm, that: ... vi. Require vehicular parking to be located below grade 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;”. **We reiterate our comment from our August 31, 2021 letter that “new” should be added before “surface parking” in order to accommodate existing uses and additions to existing buildings or new interim infill development prior to comprehensive redevelopment;**
 - Policy 8A.2.18 (formerly Policy 8A2.17) states “Area municipal official plans shall include detailed policies, for each Protected Major Transit Station Area, which will: ... l) Include sustainable transportation policies that: ... ii. Support active transportation through safe, well-designed and direct connections between and amongst component uses and transit stations”. **We reiterate the request for confirmation from our August 31, 2021 letter as to what is intended by “well-designed and direct connections between and amongst component uses and transit stations”;** and
 - Policy 8A.2.19 (formerly Policy 8A2.18) “The Region and the respective area municipality may require the coordination of development applications through measures such as Master Development Agreements or other similar approaches, to ensure an orderly, coordinated and phased approach to the provision of transportation, servicing and other infrastructure requirements are provided prior to or coincident with development.” **We reiterate the request for confirmation from our August 31, 2021 letter that flexibility is provided under the “may require” language in order ensure that development applications for additions to existing buildings or new interim infill development prior to comprehensive redevelopment do not trigger the need for the coordination of development applications.**

We would welcome the opportunity to meet with Staff to discuss our comments further.

Please kindly ensure that the undersigned is notified of any further meetings with respect to this matter as well as notice of the adoption of the Official Plan Amendment.

Should you have any questions, or require further information, please do not hesitate to call.

Sincerely,

ZELINKA PRIAMO LTD.



Jonathan Rodger, MScPI, MCIP, RPP
Senior Associate

cc. CP REIT (Via Email)



VIA EMAIL

August 31, 2021

Clerks Department
Regional Municipality of Durham
605 Rossland Road East, PO Box 623
Whitby, ON
L1N 6A3

Attention: Mr. Ralph Watson – Region of Durham Clerk

**Re: Envision Durham – Proposed ROPA 2021-003
Policy & Delineations for Protected MTSAs (File: OPA 2021-003)
September 7, 2021
Comments on Behalf of CP REIT Ontario Properties Limited**

Our File: CHO/BOW/21-01

We are the planning consultants for CP REIT Ontario Properties Limited (“CP REIT”) for Envision Durham, the Region of Durham Official Plan Review and the associated Municipal Comprehensive Review (MCR). CP REIT are the owners of lands throughout the Region of Durham, including the approximately 2.43 ha (6.02 ac) lands known municipally as 2375 Highway 2 in Clarington, ON (the “Bowmanville Lands”) and the approximately 4.86 ha (12.02 ac) lands known municipally as 1792 Liverpool Road in Pickering, ON (the “Pickering Lands”), which are both developed with a Loblaws supermarket and associated parking.

CP REIT have been participating in the Envision Durham process. On behalf of CP REIT we provided comments dated February 25, 2021 for the Major Transit Station Areas – Proposed Policy Directions and discussed our comments with Staff on April 19, 2021. It is our understanding from the Region of Durham Staff Report 2021-P-** dated September 7, 2021 that as part of the Region’s Official Plan Review and MCR, the Draft ROPA with proposed policies and delineations for protected MTSAs was released for public comment. We note that as part of Staff Report 2021-P-**, Regional Staff responded to our comments dated February 25, 2021. Based upon our review of the Draft ROPA 2021-003, on behalf of CP REIT we have preliminary comments as outlined below and will continue to review the Draft ROPA 2021-003 in more detail and may provide further comments as required.

At this time, our preliminary comments for the Draft ROPA 2021-003 are as follows:

- Policy 8A2.10 states “Notwithstanding the land use designations in the vicinity of existing and future GO Stations identified on Schedule ‘A’, the following land uses will be permitted within the delineated Protected Major Transit Station Areas: ... f) Commercial uses including retail, both convenience retail and small-scale retail

- uses, restaurants, personal and professional service shops, and day care uses; ... h) Recreational uses, amenities, and public art;”. In our letter dated February 25, 2021 for the associated Land Use Policy Direction 8.3.1, we commented that “Retail uses that are not small-scale or convenience retail provide retail anchors that support a complete community. In our submission, clarity should be provided to ensure that retail uses including the supermarket, which is not a convenience retail or small-scale retail use, continue to be permitted” and the Staff Response was “Comment noted”. The policies proposed through the amendment are not intended to preclude existing uses from continuing.” Under the existing Regional Official Plan, Major Retail Use “means large-scale, retail operations and commercial facilities, having a gross leasable area of 2,000 m² or greater”. In our submission for Policy 8A2.10, where commercial uses including “retail, both convenience retail and small-scale retail uses” are permitted, clarity should be provided that the supermarkets, which would be considered Major Retail Uses due to their gross leasable area continue to be permitted. Accordingly, Major Retail Uses should be explicitly permitted by changing “Commercial uses including retail, both convenience retail and small-scale retail uses” to “Commercial uses including Major Retail Uses and retail, both convenience retail and small-scale retail uses”. In addition, we request clarification as to whether “public art” is intended as a land use;
- Policy 8A2.12 states “Development within Protected Major Transit Station Areas will offer convenient, direct, sheltered pedestrian access from high-density development sites to neighbouring Commuter Stations or Transportation Hubs, recognizing matters of accessibility for persons with disabilities, pedestrians, cyclists, and connections to a variety of transportation modes.” In our submission we suggest that “Where appropriate,” should be added prior to “Development within” in order to account for site specific context and operational needs;
 - Policy 8A.2.17 states “Area municipal official plans shall include detailed policies, for each Protected Major Transit Station Area, which will: ... b) Establish minimum density, population, employment and housing targets; c) Establish minimum job requirements for Protected Major Transit Station Areas;” In our letter dated February 25, 2021 for the associated Land Use Policy Direction 8.3.4, we commented that “We request clarification as to what is intended by “minimum job requirements” that are encouraged to be established” and the Staff Response was “The area municipalities will be required, through subsequent work, to identify a minimum jobs target for their respective Protected Major Transit Station Area to ensure a balance of jobs and population.” In our submission, the “minimum job requirements” should be changed to “minimum job targets” in order to reflect the policy intent by Staff;
 - Policy 8A.2.17 states “Area municipal official plans shall include detailed policies, for each Protected Major Transit Station Area, which will: ... h) support the efficient use of land, including requirements for structured parking as part of new development.” In order to accommodate new additions to existing buildings or new interim infill development prior to comprehensive redevelopment, in our submission “where appropriate,” should be added before “requirements for structured parking” to provide clarity that structured parking is not required in such circumstances;

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- Policy 8A.2.17 states “Area municipal official plans shall include detailed policies, for each Protected Major Transit Station Area, which will: ... i) Incorporate Urban Design Guidelines to guide the desired density, built form, building placement, access requirements and approaches for a pedestrian-oriented public realm, that: ... iii. Require buildings to frame streets, with frequent pedestrian entrances;”. In our letter dated February 25, 2021 for the associated Land Use Policy Direction 8.3.2.3, we commented that “in our submission “generally” should be added after “Buildings will” and “where appropriate” should be added after “pedestrian entrances” in order to incorporate flexibility to accommodate site specific context and operational needs” and the Staff Response was “Comment noted.” In our submission, “Generally” should be added before “require buildings” and “where appropriate” should be added after “pedestrian entrances” in order to incorporate flexibility to accommodate site specific context and operational needs and to reflect that the policy relates to Urban Design *Guidelines* [emphasis added];
 - Policy 8A.2.17 states “Area municipal official plans shall include detailed policies, for each Protected Major Transit Station Area, which will: ... i) Incorporate Urban Design Guidelines to guide the desired density, built form, building placement, access requirements and approaches for a pedestrian-oriented public realm, that: ... iv. Restrict vehicular access to private property from adjacent local roadways;” In our submission, “Where appropriate,” should be added before “Restrict” in order to provide flexibility to account for site specific circumstances, operational needs and existing accesses;
 - Policy 8A.2.17 states “Area municipal official plans shall include detailed policies, for each Protected Major Transit Station Area, which will: ... i) Incorporate Urban Design Guidelines to guide the desired density, built form, building placement, access requirements and approaches for a pedestrian-oriented public realm, that: ... vi. Require vehicular parking to be located below grade 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;”. In our letter dated February 25, 2021 for the associated Land Use Policy Direction 8.3.2.6, we commented that “we suggest that “new” be added before “surface parking” in order to provide clarity for accommodating existing uses prior to redevelopment” and the Staff Response was “Comment noted. The policies proposed through the amendment are not intended to preclude existing uses (such as existing surface parking lots) from continuing.” In our submission, “new” should be added before “surface parking” in order to accommodate existing uses and additions to existing buildings or new interim infill development prior to comprehensive redevelopment;
 - Policy 8A.2.17 states “Area municipal official plans shall include detailed policies, for each Protected Major Transit Station Area, which will: ... k) Include sustainable transportation policies that: ... ii. Support active transportation through safe, well-designed and direct connections between and amongst component uses and transit stations”. We request clarification as to what is intended by “well-designed and direct connections between and amongst component uses and transit stations”; and
 - Policy 8A.2.18 states “The Region and the respective area municipality may require the coordination of development applications through measures such as Master Development Agreements or other similar approaches, to ensure an

orderly, coordinated and phased approach to the provision of transportation, servicing and other infrastructure requirements are provided prior to or coincident with development.” We request confirmation that flexibility is provided under the “may require” language in order ensure that development applications for additions to existing buildings or new interim infill development prior to comprehensive redevelopment do not trigger the need for the coordination of development applications.

We would welcome the opportunity to meet with Staff to discuss our comments further.

Please kindly ensure that the undersigned is notified of any further meetings with respect to this matter as well as notice of the adoption of the Official Plan Amendment.

Should you have any questions, or require further information, please do not hesitate to call.

Sincerely,

ZELINKA PRIAMO LTD.



Jonathan Rodger, MScPI, MCIP, RPP
Senior Associate

cc. CP REIT (Via Email)