



January 24, 2020

Ms. Julia Douglas
Clerk
Standing Committee on Finance and Economic Affairs
Queen's Park, Whitney Block, Room B-304
Toronto, Ontario M7A 1A2
comm-financeaffairs@ola.org

RE: 2020 Pre-Budget Consultations

Dear Ms. Douglas:

Penta Properties is pleased to have the opportunity to provide input and recommendations for Ontario's 2020 Budget.

As background, Penta Properties is a major property developer in the GTA and Hamilton-Niagara regions. With a broad range of residential, retail and industrial properties, Penta also owns and manages the buildings it develops in order to optimize maintenance and taxation expenses. Current tenants include companies such as McDonalds, Loblaws, Tim Hortons, Maple Leaf Foods Inc., the City of Hamilton and Service Canada.

Penta Properties holds a number of significant and well-placed properties in the GTA and Hamilton-Niagara regions. In particular, Penta Properties owns several properties in the Halton Region (specifically within the municipality of Burlington) that are currently zoned as employment lands and are within major transit station areas and/or mobility hubs.

Penta Properties' recommendations are focused on the suite of legislation, regulations and policies making up Ontario's planning and development regime. In particular, our recommendations are with respect to provisions in the *Planning Act*, the Provincial Policy Statement (PPS) and the Growth Plan for the Greater Golden Horseshoe. As will be explained in further detail below, there are some provisions within this Act and policies that leave some negative possibilities for interpretation by municipalities, with the result that the planning and development regime is not necessarily applied uniformly across the province, there is the potential for provincial objectives to be frustrated in the process and many needless appeals to the Local Planning Appeal Tribunal being made. We believe clarity on a few provisions can help to avoid this situation.

Penta Properties recommends:

- 1) In the *Planning Act* definition of "employment area," it be made explicit such areas can include mixed-uses (which explicitly includes institutional, residential and employment) in appropriate locations where it can be demonstrated the lands will still generate a significant amount of employment (at minimum, must meet provincial targets for employment & population numbers).

- 2) Make clear, in Provincial Policy Statement s. 4.6, that part of being consistent with provincial policy is not being more restrictive than what provincial policy establishes.
- 3) To reflect modern realities of the workplace and the workforce, "employment" within growth targets (and employment areas) should be defined as including all industrial, office, retail, institutional and commercial jobs. A job is a job - and this should be made explicit.
- 4) Make explicit in a definition of "mixed uses" that this includes commercial, residential, institutional, employment and any combination thereof.

Slightly Differing Language Can Create Confusion Regarding Employment Areas

We believe current policy could be strengthened and made more explicit regarding what is contemplated for employment areas, so as to avoid situations where developers and municipalities have differing interpretations of what is allowed in such areas. In the PPS, "employment area" is defined as "those areas designated in an official plan for clusters of business and economic activities including, but not limited to, manufacturing, warehousing, offices, and associated retail and ancillary facilities." Some municipalities have interpreted areas zoned for employment uses to only be allowed to host 'employment' uses (which doesn't include any residential or institutional uses and, generally, only limited and/or ancillary retail uses).

Based on the PPS definition, some municipalities choose to ignore the phrase "including, but not limited to." They have interpreted this definition to indicate only the types of use explicitly mentioned in the definition (in other words, manufacturing, warehousing and offices) are allowed in employment areas. Areas zoned for employment uses may only host employment uses (which doesn't include any residential or institutional uses and, generally, only limited and/or ancillary retail uses). Retail and ancillary services may or may not be allowed. Certainly, any residential use (to enable live-work-play, or complete communities, as envisioned in the Growth Plan for the Greater Golden Horseshoe) is refused by these municipalities.

Particularly since the realities of the modern economy and modern workforce mean there is usually more intense use of employment areas, due to more office employment rather than industrial or manufacturing employment, current and future uses of employment areas can be preserved within generally smaller envelopes of land than previously planned for. Explicit direction regarding how employment areas are to be utilized today and in the future will remove the differing interpretations of these sections and the allowed uses for such properties.

Our understanding of optimal planning and development has evolved – we recognize integrating mixed uses, including employment, residential and other uses within an area is more effective in creating healthy, liveable and safe communities and in supporting economic growth than exclusively clustering employment uses together separate and apart from residential and other uses. Unfortunately, some municipalities take a "complete community" to refer to an entire city, not an individual neighbourhood or project. With the emphasis on complete communities and live-work-play opportunities, we believe explicitly stating that mixed uses (including residential and institutional) are allowed in employment areas would be helpful.

While the PPS is clear, in for example proposed section 4.6 and the preamble of the PPS, that municipal official plans must conform with the PPS, certain sections, such as those in section 1.3, have been interpreted by municipal planners as allowing municipalities to take a more restrictive approach, while

developers (encouraged by explicitly established provincial objectives, as set out in the Housing Supply Action Plan and the measures passed in the *More Homes, More Choice Act*) have taken the same provisions as guidance on factors to consider in implementing the provincial policy.

A further source of misinterpretation comes from PPS section 1.2.3.4, which enables planning authorities to consider their long-term needs when considering conversion of lands, but is not explicit about the time horizon that constitutes long-term. At the same time, PPS section 1.3.2.7 allows for planning beyond a 25-year horizon. But again, what is reasonable for such a time horizon is left to individuals' discretion. An explicit provision making clear that part of being consistent with provincial policy is not being more restrictive than what provincial policy establishes will help to clarify these existing sources of differing interpretations.

Provincial Objectives and Lands Zoned For Employment Uses

Based on the various legislation and policies being introduced, Penta understands the province's planning and development objectives are, among other things, to increase the housing supply, to more intensely locate jobs and employment in proximity to major transportation infrastructure assets and to establish adequate measures to ensure appropriate employment lands in Ontario for today and future years. For example, the Growth Plan for the Greater Golden Horseshoe is explicit in the desire to build complete communities (i.e. live-work-play). The PPS, for example in s. 1.1.1(b) and s. 1.3.1(c) is clear that mixed uses are allowed in areas where employment is planned for, in order "to support liveable and resilient communities." The recommendations made above will help to achieve each of these objectives.

With the evolved planning principles discussed above to encourage mixed-uses as a better way to stimulate economic development, rigidly applying municipal zoning classifications can be problematic. Increasingly, the goal is to build complete communities that are appropriate to their community contexts (and completeness of the community is not just based on the overall municipality) and support live-work-play opportunities. Such communities mean that there is an intermingling of uses (some residential, some office, some retail, etc.), making strict zoning application difficult.

At the same time, the Province is making massive public investments in public transit projects. For this investment to yield its greatest return, it is critical properties within major transit station areas are developed with transit-oriented development in mind. This requires intensification (in employment and/or housing).

Similarly, our economy is dominated by services. From an employment perspective, service-oriented institutions are far more likely to support more jobs than a warehouse. This situation is likely only to grow in years to come. So, preserving lands to ensure sufficient space for needed employment likely needs to have a more expansive scope than we have had in years past.

There is a marked difference between converting employment lands into exclusively residential use and in including some residential uses within a mixed-use development that includes other uses, such as employment and institutional. Clarity would help to ensure municipalities understand what is considered to be a conversion and that some residential uses are allowed within employment areas.

For example, PPS section 1.3.2.7 indicates "[p]lanning authorities shall plan for, protect and preserve employment areas for current and future uses..." This wording has been interpreted to mean that

residential uses are not allowed in employment areas, despite what is contained in other sections of the PPS.

PPS s. 4.6 recognizes the important role municipalities play in translating and implementing provincial objectives at the local level. As this section notes, municipal Official Plans must be up-to-date and consistent with provincial policy “in order to protect provincial interests.”

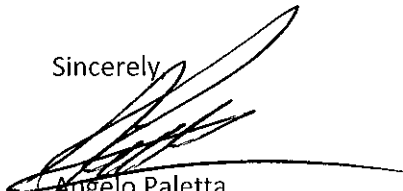
Ultimately, clarity regarding what uses are allowed in employment areas, what uses constitute ‘employment’ as consistent with today’s workplace and workforce and what uses are allowed in ‘mixed-use’ areas will help ensure the Province is able to achieve its planning and development objectives.

Implications Of This Confusion

In Penta’s experience, the constant differing interpretations of these provisions between municipalities and developers has a significant cost. In Penta’s case in Burlington alone, development representing tens of thousands of units and thousands of jobs are being held up unnecessarily. At the same time, this confusion is holding back billions of dollars of economic activity in Ontario. At the legal level, this lack of clarity means more development applications must be settled and/or approved at the Local Planning Appeal Tribunal. Which means development is taking longer and is more expensive (driving up consumer prices) than necessary.

For these reasons, Penta Properties believes implementing the 4 recommendations set out above will have a significant and positive impact on Ontario’s economy. These are amendments that can be made without a cost to the provincial treasury and will allow Ontario’s private sector to thrive and to drive economic prosperity.

Sincerely,



Angelo Paletta
President