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October 21, 2019

**Re: ERO No. 019-0279**  
**Provincial Policy Statement Review – Proposed Policies**  
**Our File No. 13015**

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We are counsel to Penta Properties Inc. (“Penta”). Penta has extensive land holdings in the Region of Halton, particularly focused in the City of Burlington. Penta is the largest landowner in the City. We have been asked to provide comments on the proposed amendments to the Provincial Policy Statement (“PPS”) on behalf of our client.

### **Employment Areas:**

Our client strongly supports the government’s *Housing Supply Action Plan* and, in particular, the objective of increasing the supply of housing to address the serious affordability issue particularly in the Greater Golden Horseshoe area. The current review of the PPS provides a critical opportunity to advance the objectives of the Action Plan.

There are large areas of fully-serviced lands within settlement areas that have been frozen to accommodate exclusively employment uses. These areas remain vacant and contribute nothing to the provincial economy and certainly nothing to advance the Government’s objectives of increasing the supply of housing. There is no issue that these areas should, generally, generate employment opportunities. However, the municipal insistence that these areas remain essentially “land banked” exclusively for employment uses is frustrating the achievement of both employment and residential supply objectives. Except where there are potential land use compatibility issues for heavy industrial uses, it is long past time for municipalities in the Greater Golden Horseshoe to support mixed uses to spur both employment and residential growth.

Unfortunately, provincial policy and, in particular, municipal approaches to interpreting that policy, have frustrated the achievement of vibrant, mixed use areas that would generate substantial employment and residential housing opportunities.

In short, we would respectfully request that the government use the review of the PPS to strengthen opportunities for mixed use areas that generate both employment and housing.

### PPS Policy 1.3 Employment

We note that the proposed modifications include adding “and mixed uses” to the range of uses contemplated in policy 1.3.1(a). This is a very positive direction and we urge the Government to move forward with this change as well as others to strengthen this direction.

We also recognize that the definition of “Employment Area” does not expressly exclude mixed use areas (which by definition would include some residential uses). However, there is no mention of mixed use or residential uses in the “employment area” definition. As a result, municipalities have consistently interpreted this definition as excluding any residential uses even where a mixed use proposal would generate more employment than the existing, lower-density employment uses and obviously more employment than simply leaving lands vacant with employment permissions that will not be fulfilled given market conditions. The “employment area” definition and the related policies should clearly and expressly include mixed uses, including residential uses, where the area would generate a significant amount of employment. Mixed use developments that would meet or exceed the employment densities of more traditional, employment-only uses should be strongly encouraged by the PPS. This limitation on mixed use development is exacerbated by two related policy directions:

- i) **“Conversion” policies.** These policies that limit the conversion of lands within employment areas to non-employment uses except through a comprehensive review. While we understand it is the Government’s position that a conversion only occurs where employment areas are converted exclusively to residential areas, municipalities have consistently interpreted these policies as preventing any residential uses, even in mixed use formats, on lands that have been designated for employment uses.
- ii) **Policy 2.2.5.7(a) of the Growth Plan (2019).** This policy requires municipalities to prohibit residential uses within employment areas. While we recognize that the current consultation only relates to the PPS, in many areas both the PPS and the Growth Plan are applicable provincial policy. Furthermore, Part III of the proposed PPS continues to include comments regarding the relationship of the PPS with provincial plans noting that provincial plans “take precedent” over policies in the PPS to the extent of any conflict. The clear prohibition on residential uses in employment areas within the Growth Plan simply strengthens the resolve of municipalities to prohibit residential uses even in the context of mixed use development. This is highly destructive to advancing development of many of these areas.

Again, we recognize that the Government is proposing to add policies specific to employment areas “plan for industrial and manufacturing uses”. In these areas, residential and institutional uses are to be prohibited to maintain land use compatibility. This is logical. We also appreciate that the (arguably) obvious conclusion is that *other* employment areas not designed exclusively for industrial and manufacturing uses can and should permit residential and institutional uses as part of mixed use developments. However, unfortunately, without clearer provincial direction to encourage mixed use areas that generate significant employment, we anticipate continued resistance and frustration in advancing mixed use projects. Municipalities need clearer direction from the province to actively promote and encourage mixed use development and, particularly, mixed use development that generates significant employment uses along with residential uses.

### **Policies Represent Minimum Standards**

The Government is proposing to maintain the direction in Part III that the PPS merely represents “minimum standards” while municipalities “may go beyond” these minimum standards. While this overall direction may be appropriate in some circumstances, our clients experience is that this broad acceptance of municipalities going beyond so-called “minimum standards” leads to even more restrictive official plan policies that inhibit both employment and residential development. If the Government is intent on leaving this “minimum standards” policy direction in the PPS, it only underscores the importance of greater specific direction in the Employment Areas policies to not only permit but encourage mixed use developments in appropriate locations where those mixed use developments will generate significant employment.

### **Natural Heritage**

The Government does not appear to be proposing significant changes to the natural heritage policies of the PPS. Currently, and as proposed, development and site alteration is prohibited in most natural heritage areas unless “it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.” (see, for instance, Policy 2.1.5)

While this direction may be appropriate in many circumstances, there are situations where provincial policy should allow for development within certain natural heritage features so long as there is a net gain provided elsewhere. There are circumstances where preserving natural features in their current locations can frustrate the achievement of other important provincial objectives. The PPS should allow for the opportunity to at least consider in those circumstances offsetting natural heritage enhancements elsewhere that would provide a net gain in terms of overall ecological function. This opportunity to provide an overall net gain and in ecological function should be done in accordance with guidelines developed by the Province.

Thank you for the opportunity to provide these comments on the proposed amendments to the PPS. We would be pleased to discuss these issues in further detail at your convenience.

Yours truly,



Scott Snider

Cc: Dave Pitblado

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