

VIA EMAIL

July 27, 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: Andy Doersam

Dear Minister Clark:

**Re: Comments and Request to Modify Durham Regional Official Plan
ERO # 019-7195 / Ministry Reference 18-OP-237796
Comments on Behalf of Belmont Equity (Rossland Landing) Ajax Ltd.
Request for Conversion of Employment Lands CNR-14
1, 3, 5 and 7 Rossland Road East and 901 Harwood Avenue North
Ajax, Ontario**
Our File: BEP/AJX/19-01

We are the planning consultants for Belmont Equity (Rossland Landing) Ajax Ltd. ("Belmont"), which is the owner of the approximately 3.9 ha (9.5 ac) lands in the Town of Ajax known municipally as 1, 3, 5 and 7 Rossland Road East and 901 Harwood Avenue North (the "Belmont Lands").

Belmont has participated in the Region of Durham Official Plan Review (Envision Durham) process. A request for conversion (CNR-14) was submitted on behalf of Belmont on September 21, 2020 as noted in the context of Region of Durham Staff Report #2020-P-11. On June 9, 2021, Belmont revised the conversion request to the vacant 0.6 ha (1.4 ac) portion of the Belmont Lands (the "Belmont Conversion Request Lands").

Based upon our review of the new Durham Regional Official Plan as adopted, on behalf of Belmont, we have the comments and a request for modifications to the new Durham Regional Official Plan as outlined below.

BACKGROUND

The Belmont Lands

The Belmont Lands are located at the southeast quadrant of Rossland Road East and Harwood Avenue North (see Figure 1). The Belmont Lands currently have site plan approval for an approximately 11,749 sq. m (126,466 sq. ft.) mixed-use commercial development, including an approximately 4,222 sq. m (45,442 sq. ft.) supermarket. The mixed-use commercial development, features a range of commercial uses including supermarket, retail, service commercial, restaurant, fitness Centre and daycare uses. Buildings D and E, as shown on the approved plans as single-storey commercial buildings and totaling approximately 1,371 sq. m (14,750 sq. ft.), have not been built. Accordingly, there remains a vacant 0.6 ha (1.4 ac) portion that is undeveloped.

Figure 1
Locational Setting – Belmont Lands



Note: Boundary and location are approximate

Locational Context

Over time, the area surrounding the intersection of Rossland and Harwood, including the Belmont Lands, has developed into a mixed-use community hub to support the surrounding residential neighborhoods and employment uses. Community uses in the immediate area include the commercial development on the Belmont Lands, the Pickering Christian School (located across Rossland to the North), and the J. Clarke Richardson Collegiate and Notre Dame Catholic Secondary Schools (also to the north). A Tim Hortons restaurant, a Shell gas bar, a 7-Eleven gas bar, a two-storey commercial plaza and beyond this, and a 14-storey residential/retirement home apartment building at 3 Rossland Road West.

The Belmont Lands are isolated from other parts of the Employment Area due to an existing woodlot and stormwater management pond, which are located to the south, and a wetland, which is located along the easterly property line (see Figure 1).

Existing Planning Context

Under the in effect Region of Durham Official Plan, the Belmont Lands are designated Employment Areas according to Schedule A, Map A4 Regional Structure. Resulting from the resolution of appeals related to ROPA 128, there is a site specific exception policy 8C.3.3 for the Belmont Lands that permits major retail uses, as follows:

“Notwithstanding Policies 8C.2.12 and 8C2.14 or any other policies of this Plan to the contrary, the retailing of goods and services and personal service uses, including single uses in excess of 500 m², and major retail uses may also be permitted on the northern 4 hectares (10 acres) of a parcel of land fronting Rossland Road East and Harwood Avenue North ... The inclusion of appropriate designations, policies and provisions to reflect the conversion of the ... lands to permit commercial uses beyond those otherwise permitted in Employment Areas shall be further detailed in the area municipal official plan and zoning by-law.”

Under the Town of Ajax Official Plan, the Belmont Lands are designated Prestige Employment (OPA 51/Area Specific Policy 6.23). Under Town of Ajax Zoning By-law No. 95-2003, as amended, the Belmont Lands are zoned Prestige Employment (PE), with a site specific exception number 180.

While major retail uses are established on the Belmont Lands under the Region of Durham Official Plan, Town of Ajax Official Plan and Zoning By-law No. 95-2003, as amended, the permission for residential uses would represent an employment lands conversion.

REGION OF DURHAM OFFICIAL PLAN REVIEW (ENVISION DURHAM)

Request for Conversion

On September 21, 2020, Zelinka Priamo Ltd. submitted a request for conversion of the Belmont Lands in order to permit residential uses. It is important to note that the existing community-based employment, major retail uses and retail/commercial uses would continue, with the new benefit of adding a residential building on the 0.6 ha (1.4 ac) undeveloped portion of the Belmont Lands. The request for conversion as part of the Envision Durham process became known as “CNR-14”.

In support of the conversion request, a preliminary Concept Design Package was prepared to confirm development feasibility for a 14 storey residential building to be located on the 0.6 ha (1.4 ac) undeveloped portion of the Belmont Lands (see Figures 2 and 3). The 14 storey residential building would provide for approximately 300 units.

Figure 2
Preliminary Site Plan Overlay



Source: Zelinka Priamo Ltd. based on • Rossland Landing – Concept Design, dated September 18, 2020 prepared by Kirkor

Figure 3
Preliminary Rendering



Source: Zelinka Priamo Ltd. based on • Rossland Landing – Concept Design, dated September 21, 2020 prepared by Kirkor

On June 9, 2021, Zelinka Priamo Ltd. requested that the conversion request CNR-14 be amended to reflect only the vacant 0.6 ha (1.4 ac) undeveloped portion of the Belmont Lands. In the context of the conversion request:

- On September 17, 2021, we provided comments for the Housing Intensification Technical Report;
- On October 22, 2021, we provided the comments for the Employment Strategy Technical Report;
- On March 31, 2023, we provided comments for the Draft Regional Official Plan dated February 2023 as reviewed below; and
- On May 15, 2023 we provided comments for the Draft Regional Official Plan dated May 2023 as reviewed below.

Comments for the Request for Conversion

Comments for February 2023 Draft Draft Regional Official Plan

In our comments dated March 31, 2023 for the Draft Regional Official Plan dated February 2023, we reiterated the request for conversion for the Belmont Conversion Request Lands. In the response to our preliminary comments found in Report 2023-P-15, Staff stated “Staff’s position remains unchanged; regarding the requested conversion for CNR-14, also known as the Belmont lands. The Town of Ajax did not support the conversion request. Rossland Road East is a logical boundary between Employment Areas and Living Areas in this location. Existing permitted uses provide an appropriate transition between the Employment Areas to the south and Community Areas to the north. See Report #2021-P-25 regarding Employment Conversion Requests.”

Comments for May 2023 Draft Draft Regional Official Plan

In our comments dated May 15, 2023 for the Draft Regional Official Plan dated May 2023, we stated that as noted in Regional Staff Report 2023-INFO-29 dated April 21, 2023, the Province released a draft Provincial Planning Statement dated April 6, 2023 (“Draft PPS”), which corresponds with changes to the *Planning Act* under Bill 97 including to the new definition for Employment Areas, which relate to the Provincial goal of achieving the construction of 1.5 million new homes by 2031.

The Draft PPS Staff Report 2023-INFO-29 states that “From an economic development and servicing perspective, *Employment Areas would be identified as areas that would be set aside principally for manufacturing, warehousing and goods movement. Major office, retail, and other population-serving uses would be excluded from these more focussed Employment Areas.* [emphasis added] Employment Areas would still be protected and preserved, but conversions would be allowed outside a municipal comprehensive review process” (p. 4).

According to the Draft PPS related to Employment Areas:

- Draft Policy 2.8.2.2 states “Planning authorities shall designate, protect and plan for all employment areas in settlement areas by: a) *planning for employment area uses over the long-term that require those locations including manufacturing, research and development in connection with manufacturing, warehousing and goods movement, and associated retail and office uses and ancillary facilities* [emphasis added]; b) *prohibiting residential uses, commercial uses, public service facilities and other institutional uses* [emphasis added]; c) *prohibiting retail and office uses that are not associated with the primary employment use*; d) prohibiting other sensitive land uses that are not ancillary to the primary employment use; and [emphasis added] e) including an appropriate transition to adjacent non-employment areas to ensure land use compatibility.”

- Draft Policy 2.8.2.3 states “Planning authorities shall assess and update employment areas identified in official plans to ensure that this designation is appropriate to the planned function of employment areas.”
- The Employment Areas definition is proposed to be updated to reflect Bill 97 to mean “those areas designated in an official plan for clusters of business and economic activities including manufacturing, research and development in connection with manufacturing, warehousing, goods movement, associated retail and office, and ancillary facilities. *Uses that are excluded from employment areas are institutional and commercial, including retail and office not associated with the primary employment use listed above.* [emphasis added]”

According to the Proposed Approach to Implementation of the Proposed Provincial Planning Statement dated April 6, 2023 (“Proposed Implementation Approach”), the “Ministry is proposing to release the final policies for a short period of time before they take effect (targeting fall 2023). Any decision on a planning matter made on or after the effective date of the new policy document would be subject to the new policies”. As to Areas of Employment, the Proposed Implementation Approach states that Bill 97 “will, if passed, *change the definition in the Planning Act of “area of employment” to scope them to only those uses that cannot locate in mixed-use areas and require protection against conversion (e.g., heavy industry, manufacturing, large-scale warehousing, etc.)* [emphasis added]. This change is proposed to take effect on proclamation, to facilitate alignment with the new policy document. *As many municipalities’ existing employment areas currently allow a range of uses, including a mix of office, retail, industrial, warehousing, and other uses, time-sensitive official plan updates will be needed to align with the new definition. Once the proposed legislative and policy changes (if approved) take effect, areas that do not meet the definition would no longer be subject to policy requirements for “conversions” to non-employment uses* [emphasis added]. To maintain the integrity of employment areas that are intended to remain protected over the long-term, municipalities should update their official plans to explicitly authorize the site-specific permission of any existing uses that do not align with the new definition.”

In conclusion, we stated that the Draft PPS represents a significant change to Provincial Employment Areas policies, including the direction that a municipality’s definition of Employment Areas must be consistent with the PPS (and not be more restrictive), including that commercial, retail and office uses would be prohibited from Employment Areas. Under Bill 97 and the Draft PPS, the Belmont Lands that are developed with existing retail and office commercial uses (and not manufacturing and warehousing, and uses accessory or associated with such uses) would no longer fall under the definition of Employment Areas. Due to their size and configuration, as well as surrounding land uses and a location removed from proximity to major transportation corridors and/or goods movement infrastructure, the Belmont Lands are not appropriate for land extensive industrial uses such as manufacturing and warehousing, which is the intention of the Employment Areas designation.

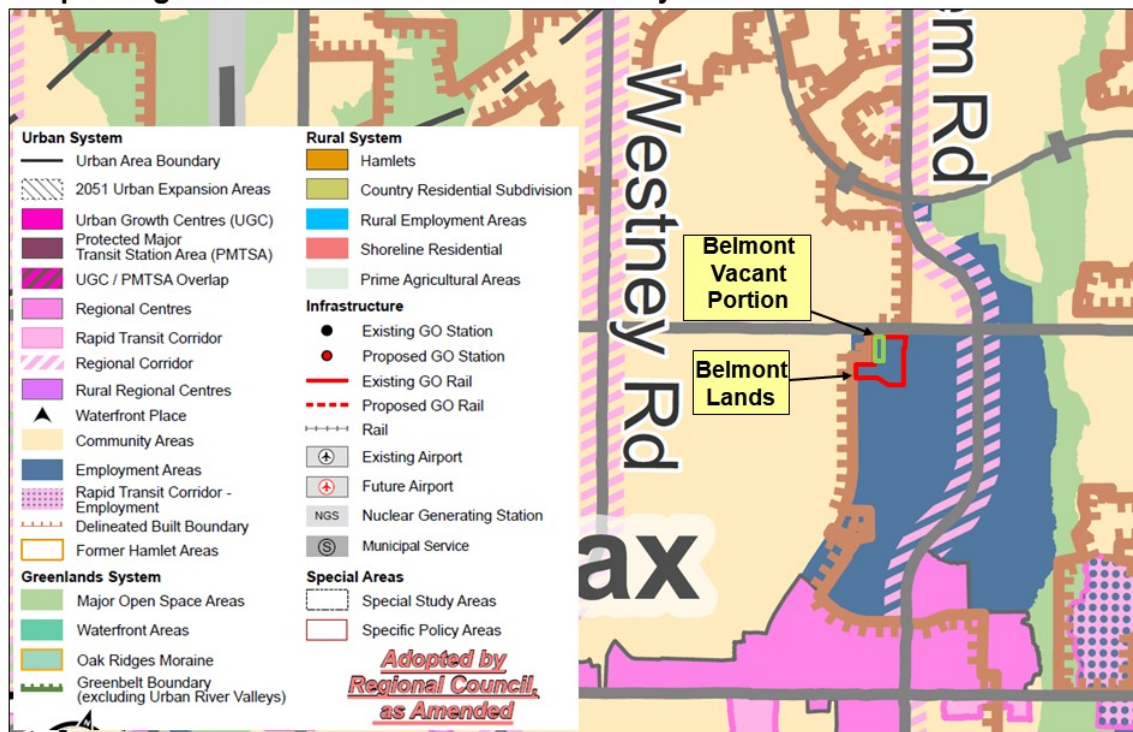
We submitted that within the context of the emerging Provincial Policy and the planning rationale provided for the conversion request, a Community Areas designation permitting the existing uses along with residential uses would be appropriate for the Belmont Lands.

Since providing our comments on dated May 15, 2023, the new definition of “area of employment” under the *Planning Act* has received Royal Assent and is now in force, whereby planning decisions, including for the new Regional Official Plan, should conform to it.

REGIONAL OFFICIAL PLAN AS ADOPTED (MAY 2023)

According to the Region of Durham Official Plan ("ROP") as adopted, on Map 1 Regional Structure – Urban & Rural Systems, the Belmont Lands are shown as Employment Areas (see Figure 4). Accordingly, the Belmont Conversion Request was not accommodated under a Community Areas designation for the Belmont Conversion Request Lands.

Figure 4
Regional Official Plan as Adopted (May 17, 2023)
Map 1. Regional Structure – Urban and Rural Systems



Note: Boundary and location are approximate

REQUESTED MODIFICATIONS TO THE REGIONAL OFFICIAL PLAN AS ADOPTED

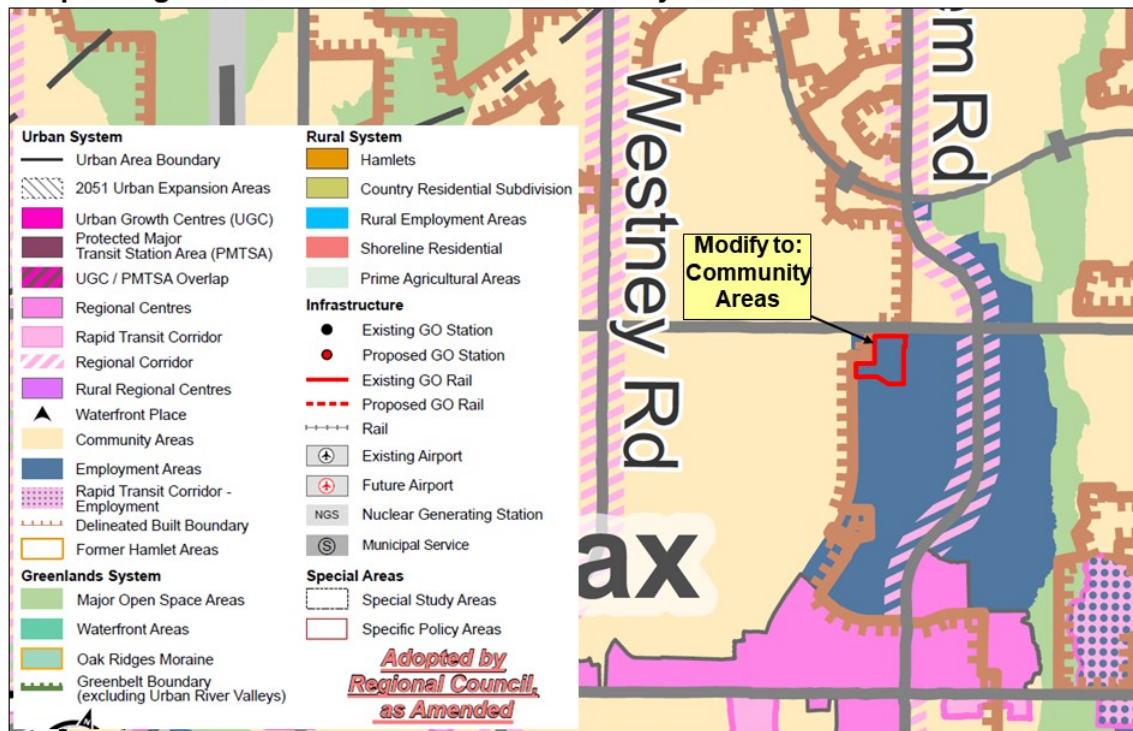
Requested Modifications

Further to our comments to the Region of Durham as part of the Official Plan Review, on behalf of Belmont, we request that prior to approval, Map 1 Regional Structure – Urban & Rural Systems of the new Region of Durham Official Plan be modified to include the Belmont Lands (approximately 3.9 ha) within the Community Areas designation (see Figure 5) and that the site specific Policy 10.3.9 applicable only to the Belmont Lands be renumbered to 10.3.4 (with a renumbering of the policies thereafter) and modified as follows:

Permit **and encourage**, notwithstanding ~~Policies 5.5.12, 5.5.20 and 5.5.21~~ or any other policies of this Plan to the contrary, **residential intensification in the form of high-rise apartments as defined in the area municipal plan**, the retailing of goods and services and personal service uses, including single uses in excess of 500 square metres, and major retail uses may also be permitted on the northern 4 hectares of a parcel of land fronting Rossland Road East and Harwood Avenue North, municipally known as 1 Rossland Road East, being Part of Lot 7, Concession 2, in the former Township of Pickering, in the Town of Ajax, identified as Assessment #18-05-020-015-01400. The inclusion of appropriate designations, policies and

provisions to reflect the ~~permitted residential, including high-rise apartments, and conversion of the above-noted lands to permit~~ commercial uses ~~beyond those otherwise permitted in Employment Areas~~ shall be further detailed in the area municipal official plan and zoning by-law.

Figure 5
Regional Official Plan as Adopted (May 17, 2023) – Requested Modifications
Map 1. Regional Structure – Urban and Rural Systems



Planning Rationale Provided for the Requested Modifications

- The Belmont Lands represent an opportunity to achieve new residential development in a suitable location that will achieve the Region of Durham objectives under the ROP as adopted. Under ROP as adopted Policy 10.3.9, the existing major retail uses on the Belmont Lands are permitted and effectively represent a de facto conversion of employment lands, although not for residential uses. Unlike other employment uses such as manufacturing and warehouse uses, major retail uses do not require separation from residential uses. Through the proposed conversion of the Belmont Lands to a Community Areas designation on Map 1 of the ROP as adopted, the Belmont Lands would effectively represent a “Mixed Use Employment Area” where the employment function and jobs would be maintained, while a residential component would be accommodated on the 0.6 ha (1.4 ac) undeveloped portion;
- The vacant portion of the Belmont Lands if developed with high-density residential uses would add to the diversity of housing types in a neighbourhood node well served by public transportation and within walking distance to the mix of retail and community-based employment businesses, schools, the woodlot to the south and community uses;
- The ROP as adopted reflects the conversion of the approximately 40 ha Additional Area 2 - North Harwood Cluster lands to Community Area immediately north of the

Belmont Lands. In our submission, it does not make sense to convert this Additional Area 2, while leaving the Belmont Lands at the south-east corner of the intersection as the only remaining employment area at Rossland Road and Harwood Avenue. As the Belmont Lands are located at the western edge of the Employment Area and are separated from the Employment Area by the adjacent woodlot, stormwater management pond and wetland to the south and west, the Belmont Lands are an isolated parcel of Employment Areas lands under the ROP as adopted;

- Due to their size at 0.6 ha and configuration, as well as surrounding land uses and a location removed from proximity to major transportation corridors and/or goods movement infrastructure, the vacant portion of the Belmont Lands are not appropriate for land extensive industrial uses such as manufacturing and warehousing, which is the intention of the Employment Areas designation;
- The Belmont Lands satisfy the criteria for conversion under Policy 2.2.5.9 of the Growth Plan (2019):

- Criteria a) “there is a need for the conversion”

The Region’s Land Needs Assessment concluded that there is a shortfall of Community Area lands. In our submission, the Belmont Lands can help fulfill the need for additional Community Area lands while maintaining retail and prestige employment uses at grade and provide for additional prestige employment uses on the second floor with residential above as components of a mixed-use building.

- Criteria b): “the lands are not required over the horizon of this Plan for the employment purposes for which they are designated”

The Belmont Lands are shown as “Built” under the Region’s Employment Lands Inventory (2018). Therefore, their conversion will not have an impact on the supply of underutilized or vacant Employment Area lands and the Region’s ability to achieve the employment forecasts. The total job yield on the entirety of the Belmont Lands will be maintained with the conversion, as the existing commercial uses will remain, while the vacant portion of the Belmont Lands will maintain retail and prestige employment uses at grade and provide for additional prestige employment uses on the second floor with residential above as components of a mixed-use building.

- Criteria c) “the municipality will maintain sufficient employment lands to accommodate forecasted employment growth to the horizon of this Plan”

In our submission, the vacant 0.6 ha portion of the Belmont Lands that are considered “Built” under the Region’s Employment Lands Inventory (2018) are insignificant in the context of the 1,171 ha of land within Urban Employment Areas needed to accommodate anticipated job growth to 2051 (based on the Durham Region Growth Management Study (G.M.S.) – Phase 2 dated October 17, 2022). The vacant 0.6 ha portion of the Belmont Lands are unlikely to develop for industrial or office uses.

- Criteria d) “the proposed uses would not adversely affect the overall viability of the employment area or the achievement of the minimum intensification and density targets in this Plan, as well as the other policies of this Plan”

The Belmont Lands are separated from the main body of the Employment Area to the south and east due to the existing mixed-use commercial development on the Belmont Lands as well as the woodlot, stormwater management pond

and wetland. The 40 ha Additional Area 2 - North Harwood Cluster lands to the north are shown as Community Areas under the ROP as adopted. While located in the Designated Growth Area and not the Built-up Area, the Belmont Conversion Request Lands will still help to fulfill a market need to provide a diverse range of housing options.

- Criteria e) “there are existing or planned infrastructure and public service facilities to accommodate the proposed uses”

Any enhancements for existing and planned infrastructure needed for the vacant 0.6 ha portion of the Belmont Lands would be in the context of enhancements required for new development within the approximately 40 ha adjacent Additional Area 2 - North Harwood Avenue Cluster (Ajax) lands to the north that are shown as Community Areas under the ROP as adopted.

- The conversion request is supported in the context of the existing Regional Official Plan. In our submission, the conversion request is supported by the ROP as adopted policies as well, including as follows:
 - In general, the goals and policies of the ROP as adopted focus on providing a wide range of diverse housing options with additional residential units on vacant or underdeveloped lands such as the vacant 0.6 ha portion of the Belmont Lands and planning for complete communities that improve the quality of life for residents including through encouragement of the creation of residential units above commercial uses. According to Section 3.3, the Region is committed to building complete communities that are walkable, well-connected, age-friendly and have a mix of housing options that foster community safety and well-being;
 - ROP as adopted Policy 3.3.1 supports the development of healthy, sustainable and complete communities that incorporate a mix of housing options, employment opportunities and community hubs (a clustering of community uses, services, facilities, and shopping), which would be represented by the Belmont Lands with the addition of residential uses on the vacant 0.6 ha portion of the Belmont Lands;
 - The addition of residential uses on the vacant 0.6 ha portion of the Belmont Lands would make efficient use of existing and planned infrastructure, including transit, municipal water and sewage services, and public service facilities by representing development on a Local Corridor along Rossland Road (ROP as adopted Policy 5.1.8 states “Strive to ensure development within Urban Areas makes efficient use of land, and supports the efficient use of existing and planned infrastructure, including transit, municipal water and sewage services, and public service facilities, by prioritizing and promoting intensification, redevelopment and growth within: ... b) ... Local Corridors”); and
 - The addition of residential uses on the vacant 0.6 ha portion of the Belmont Lands would contribute to the creation of a complete community that would include a mix and diversity of uses and amenities on the Belmont Lands, where the vacant 0.6 ha portion of the Belmont Lands is underutilized (ROP as adopted Policy 5.1.15 states “Support the planning and development of Urban Areas as complete communities ... Development within Urban Areas will be supported on the basis of the following principles: ... b) logical and sequential development patterns, with new development generally taking place adjacent to existing developed areas ... c) a mix and diversity of uses and amenities offering convenient access to local amenities, community hubs, parks, trails,

open spaces and other recreational facilities, services, shopping, job opportunities and public service facilities; ... f) existing underutilized shopping centres and plazas are encouraged to redevelop at higher densities with a mix of uses including residential uses, incorporating transit supportive and pedestrian-oriented built form”.

In our opinion, the proposed policy modifications are consistent with the Provincial Policy Statement, conform with the applicable policies of the Growth Plan and represent good planning to ensure sustainable growth in the Region of Durham.

CONCLUSION

In summary, through Bill 97 the new definition of “area of employment” under the *Planning Act* has received Royal Assent and is now in force, whereby planning decisions, including for the new Regional Official Plan, should conform to it. Under the Draft PPS, the Belmont Lands that are developed with existing retail and office commercial uses (and not manufacturing and warehousing, and uses accessory or associated with such uses) would no longer fall under the definition of Employment Areas. Due to their size and configuration, as well as surrounding land uses and a location removed from proximity to major transportation corridors and/or goods movement infrastructure, the Belmont Lands are not appropriate for land extensive industrial uses such as manufacturing and warehousing, which is the intention of the Employment Areas designation. **In our submission, within the context of the existing and emerging Provincial Policy and the planning rationale provided for the conversion request, a Community Areas designation permitting the existing uses along with residential uses under the requested modifications is appropriate for the Belmont Lands.**

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 in the event that additional information becomes available.

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

Sincerely,

ZELINKA PRIAMO LTD.



Jonathan Rodger, MScPI, MCIP, RPP
Principal Planner

cc. Belmont Equity (Rossland Landing) Ajax Ltd. (via email)
Aird & Berlis LLP (via email)